UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS
SECOND SESSION

VOLUME 118—PART 27

OCTOBER 12, 1972 TO OCTOBER 14, 1972

(PAGES 35219 TO 36624)

AUG 13 1974

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1972

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 92^d CONGRESS, SECOND SESSION

SENATE—*Thursday, October 12, 1972*

The Senate met at 8:30 a.m. and was called to order by Hon. Philip A. Hart, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our Father, who has watched over this Nation from the beginning until now and has made us stewards of Thy great gifts, grant us the wisdom and the will to use what Thou hast given us for the betterment of mankind.

We thank Thee for Thy mercies which are new every morning. Let Thy blessing be upon Thy servants in this place as they offer the toil of their minds and hands in service to Thee. Encompass them with Thy spirit. Preserve them from unrelieved weariness, from taut emotions, from numbed nerves, from easy despair, and from doing less than their best. Reinforce all human strength by the greater energy of Thy spirit. Help them so to open their minds and hearts, that being assisted by divine grace, they may be instruments for bringing a measure of Thy kingdom on earth.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

> U.S. Senate,
> President pro tempore,
> *Washington, D.C., October 12, 1972.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. Philip A. Hart, a Senator from the State of Michigan, to perform the duties of the Chair during my absence.
>
> James O. Eastland,
> *President pro tempore.*

Mr. HART thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, October 11, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. Fannin) is recognized for not to exceed 15 minutes.

WELFARE PROPOSALS COMPARED

Mr. FANNIN. Mr. President, President Nixon set his welfare policy in the second month of his administration when he said:

> The blight of poverty requires priority attention. It engages our hearts and challenges our intelligence. It cannot and will not be treated lightly or indifferently, or without the most searching examination of how best to marshal the resources available to the Federal Government for combating it.

The President has put forward a program and has stood by it.

Senator McGovern, in 4 years in the House of Representatives and 9 years in the Senate, has treated welfare, in fact, lightly and with apparent indifference. In all these years, he sponsored precisely three bills on the subject—and all three are still pending in their respective Senate committees. He has cosponsored 16 welfare bills, of which seven were passed. Almost two-thirds of his proposed welfare legislation was announced after he began his race for the U.S. Presidency.

As a presidential candidate, Senator McGovern pronounced the heart of the McGoverntine doctrine on January 19, 1972:

> I propose that every man, woman and child receive from the Federal Government an annual payment . . . At the present time a payment of almost $1,000 per person would be required.

In June 1972, Senator McGovern told the New York Times:

> The $1,000 per-person figure is only "one suggestion and it may have been a mistake."

But Senator McGovern had also previously proposed a $6,500 welfare plan for a family of four. It is my privilege to serve on the Finance Committee. We had that bill before us. It was introduced by Senator McGovern for Senator McGovern, without any stipulation that anybody else was involved.

According to the Congressional Record of July 29, 1971, he said:

> When I return to Washington this afternoon I am introducing H.R. 7257—demanding a minimum income of $6,500 for a family of four—the bill introduced and fought for by the Black Caucus and their supporters, a bill to provide an adequate income for every American, on the floor of the U.S. Senate.

Yet, when confronted with this proposal by the titular leader of the Democratic Party, Senator Humphrey, Senator McGovern again reversed his position, in these words:

> The organization came to me after Senator (Eugene) McCarthy left the Senate, and said there was no one that they could get to introduce the bill. I told them there was no chance to get a measure through the Senate that would require a payment of $6,500 to a family of four, but I would introduce the bill so that at least it would have a hearing. I did that . . . the proposals that I have made have nothing to do with that specific proposal of the Welfare Rights Organization.

On June 30, 1972, Senator McGovern finally admitted:

> I've spent more time trying to broaden my understanding of economics than any other field . . . But it is true that I find the monetary and economic issues difficult.

And he added that—

> The American people want economic policies that work more than once every 4 years

In a more recent phase of his campaign, the Senator proposed a third welfare plan.

The key feature was a guaranteed annual income of $4,000 per year to a family of four. This would involve an implementation cost of approximately $14 billion. The yearly cost of operating this third scheme has yet to be determined.

The Associated Press, September 1, 1972, indicated that in many instances the specifics of McGovern's program are "still to be determined" or "have not been worked out."

Under Senator McGovern's third welfare proposal—$4,000 per year for a family of four—no provision is made for the "working poor." Some even say it is better to be on welfare than to go to work—and even if this is an exaggeration, it is true that there is no work requirement in the McGovern proposal.

It is impossible to estimate exactly how many additional Americans would be added to the welfare rolls. But it was estimated that for a similar plan offered last year by Senator Fred Harris of Oklahoma, there might have been an increase in the welfare rolls from 15 million at present to more than 80 million in 1974:

Senator Hubert Humphrey has commented:

> People don't want welfare. They want jobs, J-O-B-S. They don't want all that nonsense . . . They, the McGovern camp, say two years' transition, and we'll give you unemployment compensation. That's a lot of bunk.

And President Nixon, in his radio speech from Camp David the other day, said that, and I quote:

> I have refused to compromise my welfare reform program to meet the demands of those who favor higher welfare payments. I want this Nation to be as generous as possible in helping those who cannot help themselves, but I shall also be guided by this principle: I shall oppose any program which increases payments to those who do not work if it requires an increase in taxes for those who do work.

Adding up McGovern's complete economic package—and this is more than just welfare spending—I find it might well result in a $126 billion deficit in fiscal year 1974 if fully implemented.

How would Senator McGovern raise the money? Middle-income families earning $12,000 a year or more would have their taxes increased by from 46 percent to nearly 100 percent.

A husband and wife whose combined earnings totaled $18,000 would experience a 73 percent tax increase.

A single person earning $8,000 would have a 155 percent tax increase.

Mr. President, I am opposed to a program which would take more money from hard-working Americans to provide incomes for able-bodied but nonworking members of our society. That is exactly what Senator McGovern has suggested.

It should be called "wreck-o-nomics."

CHILD DEVELOPMENT AND DAY CARE

Mr. FANNIN. Mr. President, one program that is involved in and has been under consideration as far as the campaign between Senator McGovern and President Nixon is concerned, which illustrates the difference between the thinking of the two candidates, concerns child development and day care.

George McGovern, in a press release of July 1972, said:

> When he became President in 1969, Richard Nixon called for a "national commitment to provide all American children an opportunity for a healthful and stimulating development during their first five years of life." No program was initiated by the President, the Congress initiated comprehensive child development legislation.

Senator McGovern also said, in a speech at Carbondale, Ill.:

> We need . . . a bill that President Nixon vetoed and that is the family-related Child Development Bill that was killed by one of the worst vetoes in this administration.

I call to the attention of my colleagues that this is the bill referred to earlier that would cost $20 billion by 1974.

Once again, McGovern's criticism of the President's record is unwarranted and flatly erroneous. The legislation to which McGovern referred was the Economic Opportunity Amendments of 1971 that, contrary to McGovern's charges, followed by 2 years the President's own day-care proposals.

Within H.R. 1, proposed in August 1969, the President included a $750 million appropriation for day-care facilities for welfare recipients and the working poor. Also, the President actively supported and signed the Revenue Act of 1971, providing a Federal subsidy for day care to families where both parents are employed.

Furthermore, the President had several sound reasons for vetoing the day care provisions of the OEO bill, citing:

The fiscal irresponsibility of spending at minimum $2 billion—and potentially $20 billion—for a program whose effectiveness has not yet been demonstrated;

The undesirability of creating a program leading to the dissolution of the family structure and parental authority;

The possibility of a whole "new army of bureaucrats;" each community of 5,000 or more would have been able to run a program with "its own plan, its own council, and its own version of all the machinery."

Nor, as McGovern has suggested, has the President ignored child development in general. In 1969, the President established the Office of Child Development within HEW to deal with the "physical, social, and intellectual" growth of young children.

Headstart and its day-care programs fall under the auspices of this office, as does "Sesame Street."

Nutritional assistance and medical care for young children has been improved under President Nixon; nutrition programs have doubled—from $600 million to $1.2 billion—since 1968.

The final irony of McGovern's criticism of the President is that—although he had cosponsored the 1971 child care bill—he was absent on June 20, 1972, for the vote on the Headstart and comprehensive child development bill.

Mr. President, President Nixon does care, and certainly his record shows that he has done a great deal regarding child care. I am sure that as the programs go along, a great deal more will be done.

WHERE DO WE DRAW THE LINE AGAINST INCREASING TAXES?

Mr. FANNIN. Mr. President, today I also wish to address a question that will occupy much of the Senate's time for the next 4 years and is of central concern to all Americans today.

Since World War II, the American people have been faced with an almost yearly increase in the amount of money they must pay to support their local, State and Federal Governments. With these increases has come a rising tide of frustration as people sense they are paying more and more for less and less.

The question now before us is simply this: where do we draw the line against increasing taxes?

This week, I hope, those of us in this Chamber will have an opportunity to answer this question when President Nixon's proposal for a spending ceiling is brought to a vote.

And less than 4 weeks from now, the American people will have a chance to answer when they select their next President.

For the moment, I would like to direct your attention to the choice to be made on November 7, for surely this is one of the most critical decisions before our country and will guide our course of action in the Senate for many years to come.

The great English jurist, Edmund Burke, once wrote:

> To tax and to please, no more than to love and be wise, is not given to men.

Nevertheless, taxes are what we pay for civilized society. They are the lifeblood of government. Politicians dislike taxes as much as taxpayers do; but we all know they are necessary. President Nixon knows they are necessary, although he dislikes them as much as any man. He, perhaps more than any other President, has had to grapple with existing laws and expenditure programs already straining Government resources. In his determination to avoid higher taxes, he is determined to fight the runaway rise in Government spending which sparked the inflation from which we are only now recovering and which would surely necessitate tax increases next year and perhaps for many years to come if allowed to go unchecked.

The ACTING PRESIDENT pro tempore. The time of the Senator from Arizona has expired.

Mr. FANNIN. I ask unanimous consent to proceed for 3 more minutes.

Mr. MANSFIELD. Mr. President, I would have to object, but will the Senator from Wyoming be recognized and yield him the time?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. Hansen) is recognized.

Mr. HANSEN. Mr. President, I yield the Senator from Arizona such time as he may require.

Mr. FANNIN. President Nixon is determined to curb runaway Federal spending while his opponent is encouraging it with proposals that would necessitate additional Federal expenditures variously estimated at $85 billion to $150 billion a year.

Before we go into Senator McGovern's proposals as best we can, and, indeed, it is difficult to piece them together in coherent fashion and present them coherently, I would like to review briefly President Nixon's achievements on tax reform In my opinion, they have promoted economy in Government by cutting wasteful Federal spending programs led to increasing prosperity for our Nation, and at the same time made our tax system more equitable.

True to his commitments to tax reform in the 1968 campaign, the President within 90 days of his inauguration, proposed major and fundamental reform in our tax system. The factual results of that reform dispute much of the current campaign rhetoric of his opponent that the administration favors a "soak the poor, pamper the rich" approach to taxes.

Now, what are the real facts? Simply these:

The President has achieved substantial tax reform through the Tax Reform Acts of 1969 and 1971, which have lightened the tax burden on millions of Americans;

In the 4 calendar years 1969 to 1972, 12 million low-income Americans have been dropped from the tax rolls;

Over the past 4 years, Federal taxes on individuals have dropped by $22 billion; while taxes on corporations have risen by $5 billion;

Substantial tax cuts for lower and middle income families have enabled a married couple with two children with a yearly wage income of $5,000 to pay 66 percent less Federal income tax in 1972 than it did in 1969. Similarly, a family of four earning $10,000 from wages paid 26 percent less Federal income tax last year than it did 3 years ago;

The President's firm economic policies have cut the rate of inflation in half. It was over 6 percent when he took office, and now it is down to 2.5 percent. And even while Federal taxes on individuals have been cut, their real wages, especially after taxes, have been rising rapidly—a total of 4 percent over the past 12 months, the best increase in years.

Under President Nixon, we are correcting the consequences of past errors in economic policy, both domestic and international. We are entering into a period of economic prosperity, the like of which this country has rarely seen. We can continue on that road, a road which has led us to increasing price stability, reductions in the unemployment rate, rising productivity, and rapidly rising real incomes; or we can choose another road, a road charted by Senator McGovern, which would detour this Nation into a period of inflation, more runaway Federal spending, increased taxes and economic stagnation.

I said earlier Senator McGovern's economic proposals have been estimated to require additional Government expenditures ranging from $85 billion to $150 billion a year. The lower estimate was reached in a study published on September 27 for the American Enterprise Institute, a private Washington, D.C., based research group. It charitably assumed that McGovern and his economic advisers do not mean everything they have said.

The $150 billion figure is based on our own estimates and we assume, perhaps unkindly, that the Senator and his advisers do mean everything they have said.

Incredible as these figures may seem, let us examine what they would include. The lower figure of $85 billion estimates expenditures of about $60 billion for health insurance; $15 billion for grants to States on education; almost $10 billion for expanded welfare benefits and many smaller items. The higher total takes the Senator at his word and includes full funding for all authorized Federal nondefense programs, among other items.

To offset these increased Federal expenditures, the Senator has so far proposed a $22 billion tax increase. If we are charitable, we can take the lower total and still figure that this leaves the Senator $63 billion short. There is no way to raise this $63 billion or the $128 billion balance, if we assume full funding, exclusively or even largely from the rich. What then are we to assume? We assume something the Senator has thus far failed to stress: that if this money is to be raised at all, it will have to be collected from the average American in the form of higher taxes.

I shudder to think of what these higher taxes will do to families across the Nation.

Let me illustrate the point by talking about an average family in my home State of Arizona—a family of four earning $10,000 a year.

Under current law, that family already pays approximately $1,215 a year in income taxes to local, State, and Federal sources.

If the McGovern proposals were accepted at full funding, their Federal taxes would double and their total income taxes would soar to a figure no less than $2,120.

To my way of thinking, that is a staggering and absolutely outrageous increase, and I do not think the people of my State will stand for it. It is inconceivable to me that they will support any measure increasing their income taxes from 12 percent of their total income to over 21 percent.

What we need in this country, as President Nixon has said, is not more tax increases, but tax relief.

Mr. President, our Federal Government is already asking for $250 billion of our income each year. It does not need more. What we need is tax relief.

THE TAX ISSUE

Mr. FANNIN. Mr. President, I rise today to address an issue of fundamental importance to our Nation.

As all of us know, one of the most turbulent currents in the political waters this year is the issue of taxes. The American people were taken for a long ride during the 1960's, and they are now sick and tired of higher taxes, higher prices, and little return for their money.

It is to these situations that President Nixon has responded with his tax plans—and responded quite successfully. In a normal election year a sensible opposition candidate would proceed to other issues.

But this year seems certain to be one noted for Senator McGovern's lack of sense of judgment. He has not only continued to pursue this subject but has ignored the facts which point to the widescale improvements underway. He has proposed the most hair-brained schemes imaginable in this area. And he has spewed the inflated rhetoric of unreason and discord over any reasonable attempt to make things better still. Not only the direction of his remarks but their hyperbole as well cloud the subject and besmear honest efforts further to improve matters.

Let me try to set things in reasonable perspective for just a moment.

When President Nixon took office this Nation had the highest rate of inflation of any major industrial nation in the world. That rate has been cut in half—and it is today the lowest rate of inflation of any major industrialized nation in the world.

What do these figures mean? Quite simply, more real earnings for every worker in America. In fact, for the first time in 6 years, workers' real earnings have risen sharply—by more than 4 percent.

In addition, the American economy is not only strong, it is growing stronger. Today the United States has one of the highest economic growth rates of any nation in the world, second only to that miraculous little country, Japan—all as the result of the hard working Americans and President Nixon's new economic policy.

What is even more impressive is the Nixon record on taxes, particularly when it is compared with the suggestions proffered by Senator McGovern.

Contrary to the inflated promising we hear from the opposition, the President has a record of solid and impressive performance to back up his promises. Under President Nixon, through the Tax Reform Acts of 1969 and 1971:

About 12 million low income Americans have been dropped from the tax rolls;

Federal taxes on individuals have been lowered by $22 billion and taxes on corporations have been raised by $5 billion;

And taxes on middle income families have been dramatically decreased as well. In fact, the average family of four earning $10,000 a year pays 26 percent less in taxes under the 1972 rate compared to the 1969 rate. For a family of four earning $5,000, the reduction is two-thirds or 66 percent.

On the basis of this record of accomplishment the President can be believed when he says that even more will be done in the years ahead. And he has already told the American people some of what must be done.

Perhaps the worst tax in this country today is the local property tax. And President Nixon has promised relief from its burden—a crushing burden which is literally bleeding dry many million Americans today. Hardest hit are older Americans who have worked all their lives and are now retired on fixed or low incomes. One million retired persons in this country earn less than $2,000 a year—and in the Northeast, for example, they pay a property tax of 33⅓ percent, or one-third, on that income. One-third. That is unconscionable. And you had better believe the President when he says that it will not be allowed to continue.

In addition, the President has made a pledge to the American people that he will not seek a tax increase if he wins a second term, but will instead keep taxes down by cutting wasteful spending from the budget. He knows full well that it is Federal spending which has the greatest affect on Federal taxes. And he has urged the Congress to help him to keep taxes down by enacting a $250 billion ceiling on Federal spending.

Clearly, there are only two ways to go. You can either control spending or increase taxes. President Nixon has urged that we control spending—and the American people surely know that the only other alternative is to increase taxes. Senator McGovern, far from proposing a limit on spending proposes to inflate spending. And that will mean increased taxes—for everyone.

So that is the record. Under President Nixon, taxes on individuals have been lowered. Inflation has been cut. Production has expanded. And individual wage earners have experienced the first growth in real spendable income in years.

Senator McGovern has not only refused to face these facts, but has also proposed some very questionable alternatives which, instead of improving on this record, would destroy it—and with it the hopes of individual Americans.

In his fanciful flights to never-never land, he has denied the progress which has taken place and preached the doctrine of economic damnation for every working man and woman in America. The Senator's whimsical programs, based on distortion to begin with, would have no hope of success.

Let us look at what Senator McGovern has proposed. Or maybe I should say, "Let us try to discover what he has proposed."

Senator McGovern has proposed new Federal spending programs which will cost over $155 billion. This is a conservative estimate and does not include a price tag for his promised assistance to the working poor or subsidies for defense workers whom his budget cuts would put out of work.

The Senator has told us that he will finance these additional programs by cutting defense spending by some $32 billion and by closing tax loopholes which he claims will raise an additional $22 billion. That makes $54 billion.

Where do we get the remaining $100-odd billion—and I use the phrase "odd billion dollars" advisedly?

He would have to increase taxes. In fact, he would have to double individual tax revenues to foot the bill. That means an average family of four earning $10,000 per year which now pays $1,000 in taxes would have to pay $2,000 in taxes.

Senator McGovern's tax reform proposals would hit the average wage-earning family hardest. And his proposals to further increase taxes on American corporations would make them less competitive in the world at a time when President Nixon is trying to make them more competitive. This would make American products too expensive to compete in the world's markets and would most likely result in hundreds of thousands of people being put out of work.

In addition, Senator McGovern's call for the repeal of the investment tax credit, depreciation rules, and other corporate "tax loopholes" as he puts it, is marked with more than a few tinges of hypocrisy. He himself voted for the Revenue Act of 1971 which only last year reemphasized their value to the economy and the wage-earner.

Putting it in the simplest terms possible, the spending programs which the Senator has proposed—when added to his announced intention to eliminate wage price controls within 90 days of his election and his proposed schemes to eliminate tax breaks for corporations—would mean higher taxes, higher prices, a higher rate of inflation, and reduced earning power for the American worker.

What Senator McGovern is asking people to vote against is a program which is working and can be made to work even better with some added congressional cooperation. What he is asking the people to vote for is a set of schemes based upon a politically distorted view of reality—and hence of dubious potential and likely harm to every American's income.

In the face of such promises it seems little wonder that people would prefer Richard Nixon's performance and trust his promises. And it seems that the slogan "Nixon now more than ever" is appropriate in the fact of the ravenous appetite of the sheepishly clothed programs proposed by Senator McGovern.

I have spoken today as a U.S. Senator and have therefore focused on the effects which could be expected nationwide as a result of these issues. But I am also a representative of the people of Arizona and it is incumbent upon me to address my constituents as well.

Let us put the case in its simplest terms by discussing the family budget for a family of four, earning $10,000 a year—indeed, a very typical family.

Under current law, that family now pays $1,260 a year in income taxes to local, State, and Federal sources.

If the tax reform plans enacted earlier in this administration had not been passed, that same family would now be paying $1,580. So the net savings under the Nixon administration is some $320 a year.

But compare that savings with the tax increase that would occur if Senator McGovern's budgetary proposals were adopted.

Under his programs, Federal income taxes would have to be doubled for this family so that their income taxes would rise dramatically to $2,165—an increase of no less than $905.

He is really making outrageous demands upon taxpayers, and I can assure you that they deeply resent it.

Now let us carry the argument a step farther.

Let us assume our average family also owns a $30,000 house with some $3,000 in furnishings, car, and so on—what we call intangibles.

Social security payments add another bite—some $468 in fact under 1972 laws if all of the family income is earned by the head of the household.

Now what does it all add up to?

Simply this: if the McGovern budget is adopted by the next Congress, the total taxes for a family would go sky high—all the way up to $4,557 on an income of only $10,000.

As you can see, that is close to 50 percent of the family's income just to support Government services—never mind personal services for the family like food and housing.

As everyone knows, that 50 percent bite out of personal income sure would buy a lot of shiny, new schoolbuses.

And that, Mr. President, is almost precisely what we seem to be promised by these shiny, new programs from the opposition camp.

Mr. HANSEN. Mr. President, I compliment the distinguished Senator from Arizona for his very perspective comments. I think he has rendered a great service to the country by putting into clear and accurate perspective what the facts are.

WELFARE REFORM

Mr. HANSEN. Mr. President, the members of the Senate Finance Committee worked for more than 3 years on welfare reform. Although the committee recommended a number of changes in the administration proposal, the test program approved by the Senate in H.R. 1 did include both the administration plan, the committee plan, and another plan.

And I fully agree with the President's proposals that programs for the needy, the aged and the blind would be totally financed by the Federal Government. This would provide needed financial assistance to States already overburdened with welfare costs.

The idea of the welfare program in the first place was to offer people the opportunity of becoming self-sufficient.

Most of the Finance Committee, along with the President believe able-bodied people who are physically and mentally endowed with the attributes and capabilities of taking care of themselves should take care of themselves and would if encouraged and given the opportunity. They are not physically or mentally handicapped and, therefore according to our proposal would not be eligible for aid to the aged, blind, or disabled.

I do not question the changing times, Mr. President, nor do I question the need or absolute necessity of true welfare reform, and I firmly believe the President's new economic plan will go far toward undoing the damage of the ruinous inflation he inherited from the previous administration and restore the economy to a sound basis of progress, prosperity, and job development.

Job development is the answer to the problem rather than a continued sapping of the economy by bleeding the American taxpayer to death.

The President's proposals would raise social security benefits to a level one-third higher in fiscal year 1973 than just 4 years earlier. Social security benefits would be rendered inflation-proof, and the $5.60 monthly premiums now charged under part B of medicare would be removed.

President Nixon's plan would increase the incomes of the elderly alone by $5½ billion.

President Nixon's proposal will work—because this is a realistic man who thinks things through, analyzes the situation, obtains the best possible advice before he makes his decisions. Once he makes his decisions, he is therefore able to carry them out. And look at the results. Since his new economic policy was announced here are some of the results:

The rate of increase in the cost of living, which had been cut by one-third before the freeze, has now been cut in half.

There are 2.5 million more civilian jobs now than there were a year ago.

The unemployment rate has declined from about 6 to 5½ percent.

Our economy is growing at a rate of about 9 percent a year, the highest since 1965.

Industrial production is reaching record levels, and, for August, was 8.2 percent above that of a year ago.

Workers' real weekly spendable earnings have risen 4 percent in the last year, three times the average rate from 1960 to 1968. This is the equivalent of two weekly paychecks—everywhere in America.

By contrast, look at the leader of the McGovernites. This man characterized the new economic policy as "Insane."

Then he went on to electrify the country, or so he thought, with his own welfare plan. In 13 years as a legislator, he had sponsored only three bills on the subject—and none became law. But on January 19, 1972, he said:

> I propose that every man, woman and child receive from the Federal Government an annual payment . . . At the present time a payment of almost $1,000 per person would be required.

In June 1972, Senator McGovern told the New York Times:

> The $1,000 per-person figure is only "one suggestion and it may have been a mistake."

On June 30, 1972, Senator McGovern admitted:

> I've spent more time trying to broaden my understanding of economics than any other field . . . But it is true that I find the monetary and economic issues difficult.

Since then, the McGovernites have come up with a new welfare proposal. They are now offering a guaranteed annual income of $4,000 per year to a family of four. This would involve an implementation cost of approximately $14 billion. The yearly cost of operating this third McGovernite scheme has yet to be determined.

There is no work requirement in whatever it is Senator McGovern is proposing today. And it is impossible to estimate exactly how many additional Americans would be added to the welfare rolls. But it was estimated that for a similar plan offered last year by Senator Fred Harris of Oklahoma there might have been an increase in the welfare rolls from 12 million at present to more than 80 million in 1974.

President Nixon has called this election "the clearest choice of the century." And nowhere is the contrast clearer than on welfare. On the one hand, we have the President's proven record. It is a record of compassionate accomplishment, based on moderate, free enterprise principles.

On the other hand, we have Senator McGovern's hastily drafted—and constantly changing—programs to overheat the economy, push up inflation and taxing middle-income Americans at an ever-increasing rate. Above all, he would put millions more of Americans on welfare—because he does not think there is anything wrong about it.

Sometimes, I think the new left hates our free enterprise economy, our land of opportunity, so much that they would like to put everyone on welfare, all of us.

The McGovernites' so-called income redistribution program, which began as a $1,000-a-head joke, would, according to the McGovernites' guessing game, cost an additional $27 billion a year. That would be on top of the $100 billion in additional costs for their other domestic proposals.

When prominent economists, including Ways and Means Committee Chairman Wilbur Mills, whom he wants of all things to be his Treasury Secretary, said the welfare plan would cost between $43 to $76 billion, Senator McGovern did his usual trick and backed away.

But he did not back away from the idea behind the plan. He still wants to replace our American work ethic with an alien welfare ethic. That is, he still wants to increase taxes on working people to lavish tax dollars on those who do not work.

The McGovernites really want to remove the incentive among the great majority of American workers to work harder, to compete, to save, and to get ahead. They want to penalize the quest for achievement and success. They want to destroy the sense of pride of millions of our people in their hard work and their accomplishments.

I endorse President Nixon, an idealist who says:

> I want this Nation to be as generous as possible in helping those who cannot help themselves, but I shall also be guided by this principle: *I shall oppose any program which increases payments to those who do not work if it requires an increase in taxes for those who do work.*

President Nixon summed up a very great deal about the future when he said in his acceptance speech at Miami Beach:

> The choice in this election is between change that works and change that won't work.

Mr. President, in less than 4 weeks' time, the American people will render their judgment upon the merits of the two economic proposals now before us. They will render their judgment on their estimation of the ability of the two candidates for the office of President of the United States as regards their considered opinion on who can best keep this country of ours on the right track.

I have no doubt that it may seem easy for a politician to speak out of both sides of his mouth, to be talking all the time, to speak from a position of not knowing the facts, almost speaking, at times, from a position of ignorance and to think that he may be fooling the people of this country, but I do not believe that will happen this year. If the polls are any indication of today's sentiment stirring in this country I believe that come November 7 we will find more and more Americans will give their stamp of approval to the basic soundness of the proposals that have been put into practice by President Nixon during the past nearly 4 years.

They will give their stamp of approval to the work ethic, to the position that each individual who is able, should try first to care for himself and his family, should seek help from the Government only when he is unable to care for himself and his family; and that the essence of free enterprise is the willingness on the part of Americans to try to produce, to try to contribute, and who are willing to undertake the responsibilities which have been the hallmark of American philosophy for nearly 200 years.

I believe that they will return President Nixon to the high office he now holds for 4 more years.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Stevenson). The time of the Senator from Wyoming has expired.

Under the previous order, the distinguished Senator from New Jersey (Mr. Williams) is now recognized for not to exceed 15 minutes.

ON CIVIL LIBERTIES

Mr. WILLIAMS. Mr. President, on July 4, 1776, this Nation was born out of a promise that "governments are instituted among men" to secure the inalienable rights of "life, liberty, and the pursuit of happiness."

The birth of this Nation was premised on a rebellion against the tyranny of a distant government.

In the almost 200 years which have passed since that glorious day in the history of free man, the freedoms so painfully gained have been slowly eroded.

I speak this morning as one who has a direct tie to that great American Revolution.

I had an opportunity as a youngster to sit with my grandfather and learn from him about the country as it was when he was a boy.

He was born before the Civil War.

He, as a young man, had an opportunity to sit with his grandfather and learn about the country as it was in the beginning.

His grandfather was born during the American Revolutionary War.

So in this brief span of time—a grandson, his grandfather and his grandfather—I have spanned the history of the country.

I suggest that the miracle of the American Revolution is that with the promise of liberty of the individual as the basic principle, this land has become the pinnacle of the aspirations of all people for freedom.

We aspire to be free in our homes from the unwarranted intrusions of government just as our ancestors rebelled against the instruction of King George in their humble dwellings.

We aspire to be free in our thoughts, in our associations, and in our way of life.

But, during the course of the past 4 years, we have witnessed a willingness to accelerate the erosion of those guiding principles which have been the genius of America; which have breathed life into the very spirit of individual freedom.

And this erosion has been all the more insidious because it has happened one step at a time; because it has been perpetrated by those who enjoy the unsuspecting trust of a great people for the highest offices of the land; and because it has been masked in the disguise of emergency.

Mr. President, if I may state at this point, it is appropriate to pay tribute to one man who has stood in this body almost as an individual barrier to the threatened onslaught; the completely dedicated gentleman from North Carolina (Mr. ERVIN).

For him, we all have the greatest respect.

His preeminence in constitutional law is nationally renowned.

And I, for one, rely heavily on his judgment.

And I, for one, believe his vigil must no longer be a lonely one.

The most serious threats to individual liberty during these past 4 years have recently been outlined by our colleague from North Carolina in a thought-provoking article I strongly recommend to all of my colleagues: "Constitutional Casualties in the War on Crime," Denver Law Journal, 1971.

He enumerates the following:

First. Preventive detention.

Second. No-knock.

Third. Postal inspections.

Fourth. Wiretapping.

Fifth. Data banks.

When examined in abstract, that is, without relation to the Constitution, a plausible argument might be made for this package.

And when each item is treated separately, their logic seems even more powerful.

But we are not dealing in abstractions, we are dealing in our fundamental individual freedoms.

And these are not individual pinpricks aimed at an invulnerable bastion, but a body blow being swung at one of mankind's most delicate creations.

We must view this assault as a whole, for that is the only way one can stand back and take an objective reading of what has happened in 4 short years.

This administration has proposed that law enforcement officers be authorized to detain persons arrested of crime with minimal regard to the likelihood that they would commit additional crimes prior to their trials.

They have proposed that law enforcement officers be permitted to break into private homes for purposes of search and seizure, without regard to tested and honored constitutional safeguards.

They have proposed that Postal Service officers be permitted to open sealed mail to individuals from abroad without even providing those individuals with notice.

They have proposed an inherent right of the Government to wiretap telephones in the interest of preserving domestic security.

And they have established national data banks in which to obtain and collate information on millions upon millions of American citizens.

I believe I understand the apprehensions of our society.

Threatening street crime seems to be ever increasing, causing great fear among the populace.

Who can fail to understand the apprehension of an elderly widow facing the prospect of a mugging each time she ventures from her public housing apartment?

As one who has been the subject of criminal attack, I can understand the fear, the desire to insure that it will never happen again, the bitterness against the assailant, and, if he is a member of an identifiable racial or ethnic minority, the prejudice which flows so easily.

I can understand the frustrations of a law enforcement officer when the suspect he has arrested is allowed to go free on bail or on his own recognizance.

But we must not let these frustrations and fears lead us into an irreversible and irrevocable surrender of that which is most dear and vital to our way of life; our own individual liberties.

In my judgment our civil liberties must be defended against all challenges, for that is what the great American Revolution was and still is all about.

This is especially true where so many viable alternatives to the administration's proposals are available.

So, for example, if we are legitimately afraid that the man who is arrested and charged with a crime may commit another crime prior to his trial; why is not our immediate answer to insure a speedy trial as guaranteed by the Bill of Rights?

Think about it for a moment.

By establishing preventive detention, all we have guaranteed is that someone, possibly not even the guilty individual, is detained in jail.

For all we know, the criminal is roaming the city streets free to perpetrate another crime.

Yet, if our alternative were a speedy trial, we would at least know that it is the criminal who is in jail.

Not only is preventive detention an outrageous infringement on our civil liberties, it is counterproductive.

Or let us examine wiretapping.

We sit back and pretend that we need not fear the prospect of an invasion of our privacy.

But the wiretapping that we so graciously have accepted over the years in foreign affair matters and on questions of organized crime is now being turned against all of American society.

It has been used on the legislative branch of Government and the administration has tried to turn it on every American who it believes is threatening domestic security.

But how has this power been helpful to society?

I, for one, cannot think of one person, dangerous to our society, who has been placed in prison as a result of this serious invasion of our constitutional rights.

But I can recall conversations in which I have detected a sad note of fatalism about the inevitable need to be guarded in telephone conversations.

Mr. President, this is tragedy in the making.

For it is in the nature of a people caught up in the day-to-day struggle of making a living, to accept and adjust to conditions over which they believe they have no control.

The burden of pointing out what they have at stake falls on us, their elected representatives, and on the press, supposedly insulated from intimidation.

But even here, we are witnessing a concentrated and orchestrated attack by the executive branch on the legislative branch of Government and on the fourth estate.

When the administration implicitly threatens the radio and TV media with its power of licensing, when the administration threatens the press sources of information by subpena and grand jury proceedings, when the administration takes us backward 200 years by imposing the first prior restraints on newspapers which seek to publish documents embarrassing to the administration, freedom is in mortal danger.

Who suffers when we impose limitations on the freedom of the press?

Perhaps there is immediate political gain for those in a position to impose such restraints.

But certainly every community in the United States regardless of its attitude toward its local news media suffers irreparable harm from such restraints.

I can understand the frustrations of the public official who feels the barbs of what he may consider to be an unfair press.

But, can we, as a society, afford to know only what our rulers choose for us to know?

Can freedom survive a press cowed into submission?

We all know the answer to that.

No people, no matter how much liberty they have previously enjoyed, can remain free without free public debate.

Past liberties no more guarantee future liberties in the political field, than do past victories guarantee future victories on the athletic field.

And now we have the outrageous spectacle of the administration attempting to gag and punish aides of this very body for assisting U.S. Senators in publishing materials used in a legislative hearing.

The administration has argued successfully before the courts to limit the rights of this body to make known, and therefore the rights of the public to know, that information which we, as elected representatives of the people, decide is vital to the legislative process.

Most citizens of this country see these developments only in a piecemeal fashion and then only as threats to others.

After all, we say, the elected leaders will not abuse the authority we give them.

They will only use the authority to sweep crime off the streets of our cities.

I will say this is the peak of naive and wishful thinking.

The same people who run this Nation's Department of Justice in nonelection years are the people responsible for the illegal political invasion of the headquarters of the Democratic Party.

And with each passing day the newly disclosed extent of the White House private secret war on the Democratic Party grows uglier and uglier.

And the worst part of it all is that the absolute contempt for the basic principles upon which this Nation was founded is being exhibited by a duly elected administration, rather than, as has always been feared, an extralegal army of usurpers devoted to fomenting dissensions in order to seize power.

Fraudulent telephone calls, forged letters, breaking and entering, wiretapping—is this the future of American politics?

And if it is, what an awful price we shall pay for it.

For this is neither more nor less than the politics of fear.

Do we really need to fear the foreign totalitarian or is he right here in Washington?

It is wrong, terribly wrong for this society to react to the violence and the dissension by stripping ourselves of our own liberty.

It is morally wrong for the leadership of this country to feed on our fears and worse yet to provide sustenance to an ever-widening circle of fear.

It is an immediate and present danger to all of us.

As so well stated by the senior Senator from North Carolina:

> The justification for these assaults on individual rights has been as always, the existence of a crisis . . . All that need be said about necessity as a justification for abridging liberty was said by William Pitt in a speech to the House of Commons on November 18, 1783: Necessity is the plea for every infringement of human freedom. It is the argument of tyrants. It is the creed of slaves.

Mr. President, in the last few weeks I have risen on the Senate floor to speak of my disagreements with the present Administration in areas involving jobs, worker safety, housing, urban problems, mass transit and others.

These statements involved disagreements over the use of the constitutional powers of the President.

And I fully concede to the President the powers which are rightfully his, no matter how much I disagree with his use of those powers.

But, Mr. President, today I express my disagreement over the abuse of these powers.

An abuse which, if perpetuated and expanded, will leave us only with the wreckage of a once great democracy.

This tragedy must end.

The tide must be turned.

As pointed out by the senior Senator from North Carolina in the article that I mentioned before, the alien attacks upon human freedom and individual liberty, Mr. President give us a dark day today; but as all hardship and wrong that come to the people of this country in our resilience and in our fight for our rights, this, too, will be overcome.

Mr. President, I ask unanimous consent to have printed in the RECORD the article, "Constitutional Casualties in the War on Crime."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSTITUTIONAL CASUALTIES IN THE WAR ON CRIME

(By SAM ERVIN)

INTRODUCTION

Over 100 years ago John C. Calhoun warned the Senate that "it is harder to preserve than to obtain liberty." Calhoun's warning, made in a period of great political unrest and instability in the 19th century, is especially valid today when violence is fast becoming a part of our daily life. We have been experiencing a tremendous increase in common criminality which has placed our urban citizens in a state of constant fear and insecurity. The fear of crime has affected our entire population. It has produced the widespread demand for safety, for "law and order," which has dominated our political scene in recent years and preoccupied the Congress and the Administration since 1968.

At the same time we have also been experiencing a steady deterioration of that tolerance for differing points of view which is the very fiber of a society based upon liberty. Rhetoric is fast replacing reason in political discourse. Totalitarian attitudes have infected more and more of our social and political disputes, converting opponents into mortal enemies and eliminating compromise as an acceptable solution. Whereas just a few years ago we were debating the social and philosophical validity of peaceful civil disobedience, a form of political action that numbers Gandhi, Christ, and the Hebrew Prophets among its adherents, today many groups openly advocate violence as a political instrument, and a few have begun to practice terrorism.

These are very recent developments, and they are unique in our history. Our society has experienced violence before, but it has never sanctioned it as a political instrument in a holy war against those who disagree. Nor has violence ever reached a point where large parts of our society live in a state of siege in their own homes. It is in this context that our traditions of individual freedom and civil liberties are once again being tested.

The twin evils of criminal and political violence stand as a threat to our liberty in two ways. Liberty cannot survive in anarchy. But neither can it survive if our nation's leaders and people come to feel that the only path to security lies in suspending constitutional freedoms "for the duration." As Justice Davis said in *Ex parte Milligan:*[1]

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it, which are necessary to preserve its existence; as has been happily proved by the result of the great effort to throw off its just authority"[2]

The sorry fact is that by word and deed, many leaders of our country seem to be as ignorant of Calhoun's warning as they are of Justice Davis' truth. In an effort to deal with the crisis of violence, they have proposed a series of laws and have taken other steps which demonstrate at least a sympathy with the belief that the only way to deal with lawlessness is by sacrificing hard won but fragile pillars of individual freedom. Their approach has been largely motivated by the political dividends to be gained by stressing the dangers of lawlessness and the need for tough anti-crime moves. They have ignored the time-consuming, expensive reforms which do not produce votes but which eventually show results. The justification for these assaults on individual rights has been, as always, the existence of a crisis. In this case, it is the crisis of "law and order." All that need be said about necessity as a justification for abridging liberty was said by William Pitt in a speech to the House of Commons on November 18, 1783: "Necessity is the plea for every infringement of human freedom. It is the argument of tyrants. It is the creed of slaves."

The catalog of recent Administration efforts on behalf of law and order is a long one, and different people will cite different examples of what they think illustrates the current official insensitivity to constitutional principles. The following examples are typical of the current approach.

I. LAW AND ORDER LEGISLATION

Over the past year the Administration proposed and successfully had enacted two laws giving police the right to enter private homes by stealth or violence in the same way as common thieves and burglars in order to aid the execution of search and arrest warrants.[3] This "no-knock" search authority flies in the face of the constitutional guarantee that all Americans are to be secure against unreasonable searches. The fourth amendment is an expression of our traditional belief in privacy and security. It is symbolic of the restraints that we place upon government efficiency in the name of a higher value. "No-knock" searches destroy the security of what Faulkner called the "last vestige of privacy without which man cannot be an individual." The principle that "every man's home is his castle" is more than a slogan. It is an expression of one of the greatest longings of the human heart. The longing for a place where man can flee from the world, where he can converse freely with his family and his God, at peace, free from the fear of molestation by others or by his government. In the words of the Prophet Micah: "But they shall sit every man under his vine and his fig tree; and none shall make them afraid; for the mouth of the Lord of hosts has spoken it."

Anglo-American tradition has consistently upheld the sanctity and security of the home against recurring pleas of government necessity. As long ago as 1603, in Semayne's Case, the court laid down the rules:

"In all cases where the King . . . is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K.'s process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors. . . ."[4]

And when the claim was made that the excise tax on cider could not be collected unless custom's officers could enter homes without notice to search for the contraband, William Pitt said:

"The poorest man may, in his cottage, bid defiance to all the forces of the crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement."

The predilection of English customs officers to execute general writs of assistance against American colonists played a major role in the American Revolution and was one of the direct antecedents of the fourth amendment. John Adams said the controversy "breathed into this nation the breath of life. . . . Then and there the child Independence was born."[5]

The rule of prior notice enunciated in Semayne's Case has been maintained down

---

Footnotes at end of article.

to this day. It has long been written into federal statutory law[6] and has been incorporated in the fourth amendment.

The leading case which discusses the law of no-knock searches is Ker v. California,[7] in which the Supreme Court unanimously agreed that the fourth amendment includes the requirement of prior notice by the police of their identity and purpose before they may enter a home to execute a search or arrest. The Ker case has no Court opinion because the Justices divided on whether the facts in the case were sufficient to bring it within one of the recognized exceptions to the rule of prior notice. They were, however, in substantial agreement on the limited nature of those exceptions. Justice Brennan summarized the exceptions as follows:

"Even if probable course exists for the arrest of a person within, the Fourth Amendment is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose, or (2) where the officer's are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that the escape or the destruction of evidence is being attempted."[8]

The exceptions—prior knowledge by the people in the house that officers are outside, danger to the officers or someone inside, or imminent escape or destruction of evidence—all focus attention on the moment the search is to be performed. They are dependent on prior knowledge by the inmates of the house of the presence of the police outside plus emergency or exigent circumstances not known or knowable until the police are actually present to execute the warrant. These circumstances quite naturally render advance notice both superfluous and dangerous and thus justify a no-knock entry.

The no-knock legislation makes two changes in common law. First, it lowers the degree of necessity, or the burden of justification, that is needed to uphold a no-knock entry. The constitutional standard is strict. It requires the police to have probable cause to believe that their presence is known and that an emergency situation exists. The new statutory standard speaks of "probable cause to believe that such notice is likely" to result in danger to the police or another listed exception.[9] The piling of one probability upon another lowers the standard below the "probable cause" requirement of the Constitution, and to this extent, at least, the provision is defective under the fourth amendment.

Second, and more significant, the statute empowers the judge to authorize a no-knock entry when the search warrant is issued. This means that the police officer and the judge must speculate on the possible circumstances that will exist miles away and perhaps days later when the warrant is executed. This is mere prophesy. The police can offer no more than their fears of what perhaps may take place. The judge has only the policeman's anticipation of what might occur. Neither can know whether these conditions will in fact exist. The ability to authorize entry without notice undercuts the whole theory of emergency conditions and the limited nature of the exceptions to the constitutional rule. It creates a situation where the exception devours the rule. Rather than placing a judge between the police and the door, as its proponents suggested, it serves to immunize the police from subsequent judicial scrutiny whatever the conditions actually present when the warrant is executed. The statutory authority to issue advance no-knock warrants means that the principle that police must give notice before entering is now an empty promise. No-knock repudiates a tradition of liberty more than 350 years old.

Despite the fervor with which no-knock was advanced by the Justice Department, it is by no means uniformly or enthusiastically supported by rank and file police. The outcry from some community groups that they would defend their homes with force against nighttime intruders who might be burglars as well as police produced an undercurrent of disquiet among many law enforcement officers. They do not welcome yet another irritant to the increasing community distrust that police have been meeting in recent years. Nor do they or their wives look forward to the danger that confronts policemen from armed and frightened city dwellers who already feel insecure in their homes. The limited value of no-knock was exemplified in the statement of Washington, D.C. Police Chief Jerry Wilson a few days after "no-knock" was enacted for the District; he expected that it would be used perhaps a dozen times a year. This gap between political rhetoric and practical utility characterizes much of the "anti-crime" proposals of the past 2 years. We cannot even say that the weakening of constitutional principles has been matched by any significant improvement in law enforcement, small comfort though that would be.

Preventive detention, which the Administration was also successful in having enacted in 1970, has similarly been advertised as a necessary weapon in the war against crime. Preventive detention is an authorization to judges to deny bail to defendants who are thought to pose a danger of committing additional crimes if released between arrest and eventual trial. Under most formulations, including the version proposed by the Justice Department, the detention is limited to certain classes of defendants who may be detained for a period of 60 days, by which time they supposedly will have tried.[10]

While on its face, preventive detention appears to be an effective, albeit drastic, remedy for pretrial recidivism, in reality it is neither effective nor necessary. Pretrial recidivism, which is defined as the incidence of rearrests of persons released on bail during the pretrial period, has been found to occur in about 11 percent of all cases. Eliminating or even substantially reducing this 11 percent figure does not justify resort to preventive detention even if it could be shown to be effective. Professor Hans Zeisel found that the 11 percent rearrest rate could be reduced to 4.5 percent by the simple device of trying all cases within a 60-day period, as the Administration bill assumes will be done. The addition of preventive detention for defendants charged with so-called dangerous or violent crimes would reduce that rate to 3.8 percent, or a net decrease of only 0.7 percent. This is explained in part by the fact that while the overall recidivism rate is 11 percent, this figure includes all arrests for misdemeanors and nonviolent felonies as well as for dangerous crimes. The recidivism rate for the dangerous categories is only 6 percent, and it is to this class of cases alone that the Department bill would apply.[11]

While 60-day detention would make only a limited contribution to reducing pretrial recidivism as compared with a 60-day trial rule, perhaps the greatest defect in the Administration bill is that judges are simply unable to distinguish between defendants who will commit additional crimes and those who will not. There are no reliable tests for judges to use in determining which defendants are likely to be dangerous and which are not. None of the factors recited in the legislation have been shown to have any value as a device for predicting future criminal conduct. In fact, there are no reliable predictive systems anywhere else in the criminal system. Even in parole and probation cases where judgments are based on extensive knowledge of the individual and long periods of observation, the failure rate is still high. By contrast, the judge in a detention hearing has little information to go on. This hearing takes place a few hours or days after arrest. The judge will be informed of the charge; the nature of the evidence against the defendant; some information gathered by a bail agency concerning the defendant's ties with the community, his employment, family, and the like; and perhaps some inaccurate and incomplete information about his prior record. None of this is evidence in the legal sense, and little of it can be considered highly reliable.

What this means is that the judgment made in the preventive detention hearing about the future conduct of the defendant is merely a guess, and not a very educated one. One study made in the District of Columbia demonstrates the inability of judges to predict future criminality. Two judges, known for their radically different attitudes toward pretrial release, were examined over a period of time to trace the validity of their bail decisions. Judge A, considered a lenient judge who followed the Bail Reform Act in an effort to maximize the number of defendants free during the pretrial period, released 167 defendants on personal recognizance out of a total of 226. In all, about 80 percent of the defendants appearing before him were released. About 9 percent were rearrested while on bail, or of 180. Judge B, a strict judge who quite explicitly made his bail decisions on the basis of his judgment of the dangerousness of the defendant before him, released only 49 percent, or 141 of 285. He had no more ability to predict potential recidivists than had the first judge. There were 12 subsequent arrests among those he considered not dangerous, i.e., 8 percent.[12]

There is every reason to believe that preventive detention under the new law will not work. Assuming that the 6 percent rearrest figure for dangerous defendants accurately describes the portion of defendants for whom preventive detention is justified by the statute's standards, this means that judges must be able to identify the proper six out of every 100 potential cases presented to them. This they are manifestly unable to do with any kind of accuracy. A conscientiously and carefully administered program of preventive detention will result in no measurable reduction in pretrial crime simply because the chances of detaining the right defendants are small.

On the other hadn, if preventive detention is used for wholesale denial of bail, then we can be better assured that the dangerous will be detained, along with the nondangerous and the innocent as well. If all persons subject to preventive detention were detained, this would result in an increase in detained defendants of 46 percent. Even aside from the injustice of such a program, there is still a limit to the number of people who can be detained. With the much-maligned Bail Reform Act in effect in Washington, D.C., the local jails are nonetheless severely overcrowded and trial delays are excessive. Preventive detention cannot be used against all defendants potentially subject to it simply because there is no place to put them once they are off the streets. The local District of Columbia jail has a capacity of 3,053; yet at the time that preventive detention was being enacted by Congress, it housed 3,275 inmates. More than 1,400 persons were in jail awaiting trial. Nearly half of these had been waiting over 60 days, and 10 percent had been there for over one year.

Footnotes at end of article.

The average detention was more than four months.[13]

This situation is not peculiar to Washington, D.C., detention facilities all over the country are outmoded and overcrowded, and conditions are deplorable. The recent jail riots in New York dramatically illustrate the consequences of a criminal justice system which practices preventive detention. Despite efforts of organizations like the Vera Institute which has tried to encourage bail and court reform, New York still relies heavily on money bond. It has been estimated that there are about one quarter million arrests each year, and a backlog variously estimated at between 90,000 and 345,000 cases. While not all of these cases involve defendants who have been detained awaiting trial, it is estimated that about 40 percent of the city's jail population have been detained because they are unable to raise bail. About 43 percent of these have been waiting over one year, and the average pretrial detention period is over 5 months.[14] In addition, it is estimated that there are a thousand felony defendants who have been out on bail for up to 7 years but who are as yet untried. This, plus the jail riots, is the picture of a criminal justice system which relies on preventive detention and which has neglected its problems past the breaking point. And no one claims that New York is a significantly safer city because of its widespread preventive detention practices.

Whatever marginal increase in public safety that preventive detention might offer, its cost in constitutional principles is high. First, preventive detention is constitutionally suspect under the eighth amendment provision that "excessive bail shall not be required." This provision is probably one of the most obscure in the Bill of Rights. It has never been conclusively determined whether the amendment confers an absolute right to bail in all noncapital cases or whether it merely guarantees reasonable bail in those cases for which Congress authorizes the setting of bail. One reason for this confusion—in addition of course to the extraordinary ambiguity of the constitutional phrase itself—is that federal law has by statute guaranteed the right to bail in all noncapital cases ever since the Judiciary Act of 1789.

Whether this statute is simply a legislative declaration of bail policy which has been maintained for 180 years or whether it is an elaboration of the eighth amendment which has achieved constitutional dimensions is a subject open to much dispute. The fact that the same Congress which proposed the eighth amendment also enacted the Judiciary Act strongly suggests that the amendment was intended to incorporate the statutory principle and was viewed as an implementation and elaboration of the statute, unorthodox as that may seem. The Northwest Ordinance of 1787 also formulated the right to bail as absolute in noncapital cases and is further evidence of the content of the right to bail at the time the amendment was framed. Added to this support is the fact that state constitutions written at the time explicitly define the right to bail in the terms used in the Judiciary Act. At present, the broad right appears in 40 state constitutions. Until the preventive detention controversy arose, the only exception to this view was in New York.

Because federal statutory law has always guaranteed bail in noncapital cases, the United States Supreme Court has not had much occasion to examine the question. The Court has considered the eighth amendment right to bail in only two significant cases, both decided during the 1951–52 term and argued within five weeks of each other. In one *Carlson* v. *Landon*,[15] the Court appeared to be of the view that bail was not an absolute right but was subject to legislative restriction. Yet, the same Court a few months earlier said in *Stack* v. *Boyle*,[16] that the only purpose of bail was to assure the defendant's presence at trial and that any bail imposed above the amount necessary to achieve this purpose was unconstitutionally "excessive" under the eighth amendment.[17]

This seeming contradiction disappears when the cases are examined more carefully. In particular, the *Carlson* case, which has been cited to support legislative restrictions on the right to bail such as preventive detention, must not be read out of context. Justice Reed, who wrote the Court opinion, was very careful to base his constitutional argument on the fact that this was an administrative deportation case involving aliens.

"The power to expel aliens, being essentially a power of the political branches of government, the legislative and executive, may be exercised entirely through executive officers, 'with such opportunity for judicial review of their action as Congress may see fit to authorize or permit.' This power, is of course, subject to judicial intervention under the 'paramount law of the Constitution.'

"Deportation is not a criminal proceeding and has never been held to be punishment. No jury sits. No judicial review is guaranteed by the Constitution . . .[18]

Discussing the application of the eighth amendment to these proceedings, the Justice said.

"Here we meet the argument that the Constitution requires by the Eighth Amendment . . . the same reasonable bail for alien Communists under deportation charges as it accords citizens charged with bailable criminal offenses. Obviously the cases cited by the applicants for habeas corpus fail flatly to support this argument. We have found none that do.

"The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The eighth amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the amendment fails to say all arrests must be bailable. We think, clearly, here that the eighth amendment does not require that bail be allowed under the circumstances of these cases.[19]

It is clear that Justice Reed was referring to the legislative power to grant or deny bail in noncriminal cases. Both Justice Black's dissent and the Justice Department's brief make this obvious.[20] Whatever one's views may be on the application of the eighth amendment to noncriminal detention, it is a mistake to read the case as sanctioning denial of bail in criminal cases with the exception of capital cases.

The forceful words of Chief Justice Vinson in the contemporaneous *Stack* v. *Boyle*[21] decision demonstrate the Court's view of the eighth amendment in criminal cases.

"From the passage of the Judiciary Act of 1789, 1 Stat. 73,91, to the present Federal Rules of Criminal Procedure, Rule 46 (a) (1), federal law has unequivocally provided that a person arrested for a noncapital offense shall be admitted to bail. This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. . . . Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning.[22]

The Court's reference to the unhampered right to prepare a defense, the prevention of punishment prior to conviction, and the presumption of innocence suggest strongly that preventive detention which denies bail altogether is a violation of the eighth amendment, no less than bail in excess of what is required to assure the defendant's presence at trial.

The final argument against an interpretation of the amendment which allows Congress to deny bail absolutely is simply that it proves too much. Such a reading would mean that the eighth amendment is subject to legislative abridgment and even repeal by the simple process of defining away the cases in which bail is permitted. That interpretation would make this provision the only constitutional guarantee which exists at legislative sufferance. In Justice Black's words, it reduces a constitutional guarantee to the level of a "pious admonition." It is difficult to believe that the First Congress proposed a Bill of Rights to secure individual liberties against governmental power and included in that document a guarantee which has no more permanence than a simple statute.

However one resolves the ambiguity of the eighth amendment, there is no question that preventive detention violates due process. The notion that citizens can be deprived of liberty because of the possibility they may commit a crime in the future strikes at the roots of our system of justice. We predicate our view of individual freedom on the idea that government may limit it only by preestablished, clearly defined, rules of behavior. No citizen can lose his freedom unless he commits acts which contravene these rules. The proof of this violation is subject to strict procedural limitations, severely limiting rules of evidence, and the imposition of a high burden of proof on the government. We have always rejected the idea that government can punish criminal predeliction in the absence of specific criminal misconduct. Preventive detention—by focusing on future, possible, but as yet uncommitted criminal behavior, i.e. "likelihood of danger to the community"—serves as a fundamental repudiation of our oldest traditions of due process. It imprisons for crimes not yet committed, nor even suspected, but only feared.

Such a theory places every citizen at the mercy of the state.

Preventive detention has been defended on the grounds that those subject to it are charged with having committed crimes and that this charge may be the basis for imprisonment. The "probable cause" found by the police in the arrest, by the prosecution in the charge, by the grand jury in the indictment, and by the judge at the preventive detention hearing itself establish guilt sufficiently to justify imprisonment. This argument challenges the fundamental principle that every individual is presumed innocent until proven guilty at trial. Advocates of preventive detention reply that this presumption is a "mere rule of evidence assigning the burden of proof to the government at the trial itself." If this is true, then much, if not all, of the protections and procedures of the criminal trial process lose their meaning. If a man is not presumed innocent and if he is probably guilty merely by reason of accusation, then the government's power to deal with him as it chooses between arrest and trial is greatly increased. If we accept mere accusation as the justification for imprisonment, we can begin to question the need for the restrictions we place upon government at the investigatory stages of the case and at the trial. These restrictive rules have meaning because we operate under the assumption that it is a free and innocent man that stands before the bar of justice.

Any system of preventive detention must resolve the question of what procedures it will employ in the preventive detention hearing. Certainly the most efficient method is to dispense with an elaborate hearing procedure and simply authorize the judge

---

Footnotes at end of article.

to deny release upon his estimate that the defendant is dangerous. This approach is, of course, patterned after the existing practice in setting bail bonds. This summary process makes the least demands on court time. However, it is clearly defective as a denial of procedural due process. On the other hand, the more procedural rights afforded the defendant in the detention hearing, the closer it approaches the complexity and formality of the trial itself.

The Administration bill did not elect a summary detention procedure. Instead it prescribes a hearing which offers the fórms of procedural rights. Specifically, in order to impose preventive detention, the judge or magistrate must find (1) that the defendant before him is the person charged; (2) that the offense falls within the category of offenses for which preventive detention may be imposed; (3) that there is substantial probability that the defendant committed the charged offense; and (4) that no other bail conditions will asure the safety of the community. The defendant is permitted the assistance of an attorney, he may present evidence, and he may cross-examine prosecution witnesses. The defendant's testimony is privileged only as to the issue of guilt; it may be used for bail violation proceedings, impeachment, and perjury. Further, the rules of evidence do not apply in a preventive detention hearing.[23] Yet while such a hearing offers the forms of procedural rights, it offers no substance. Theoretically, the hearing is a dress rehearsal of the trial itself, except of course that the defendant has had no time to prepare a defense or gather witnesses; he does not have the protection of the rules of evidence; he threatens to disclose his line of defense to the prosecution if he submits opposing testimony; his testimony can be used against him for all purposes except the issue of guilt; the issue is whether he committed the offense, rather than whether he is legally guilty or will be convicted; and the government's burden of proof has been lowered from "beyond a reasonable doubt" to a "substantial probability." A defendant placed in such a proceeding has the choice of submitting quietly or of prejudicing his case irrevocably. To the extent that he contests his detention, the greater will be the weight that can be assigned to the judicial determination of "danger" and "probable guilt," and consequently the greater the prejudice and "presumption of guilt" he will have to overcome at trial. In a very practical way, the preventive detention hearing serves to shift the burden of proof to the defendant when he faces the jury.

The so-called "due process procedures" of the Administration's preventive detention law are a mockery of due process; yet, they will result in a complicated charade of form over substance and the addition of yet another procedural obstacle to the main purpose of determining guilt or innocence at trial. The Administration's preventive detention law, with its opportunities for extended procedural manuevering by the parties and the complications of appeals, delays, and judicial refinements of the ambiguous statutory language, amounts to the creation of a preliminary "trial" on the merits at the very beginning of the criminal process. It will greatly burden a court system already largely incapable of accomplishing the primary objective of a speedy trial on the merits. Preventive detention was originally offered as a panacea to reduce the crime caused in large part by the breakdown of the judicial process. In all likelihood it will aggravate this problem, deprive countless people of their rights, and yet not produce any more "law and order."

A particularly unfortunate aspect of the debate on preventive detention is that the Administration for the most part ignored arguments based on effectiveness or on unconstitutionality and relied primarily on the emotional appeal of "law and order." For much of the time that preventive detention was an issue, the Department of Justice did not submit reliable evidence of the need for this bill. No studies were offered to show that certain types of defendants or certain types of crimes could be statistically correlated to patterns of rearrests in the pretrial period. There was not even an accurate assessment of the amount of pretrial crime that existed, the causes, or an examination of alternative means to deal with it. Support for the bill consisted largely of recitations of individual cases in which defendants were continually rearrested while released on bail. Yet even most of those cases on close examination would not have been prevented by the Administration's bill.

Only after repeated demands for a scientific analysis of preventive detention did the Justice Department commission a study by the National Bureau of Standards. Significantly, this study was not authorized until August 1969, after the Department had already submitted its preventive detention bill. The study was released in April 1970, after the Department had succeeded in getting its legislation added to the District of Columbia Crime Bill. At first, the Department was tempted to suppress the study but decided simply to ignore it. The Department's reaction is understandable since the National Bureau of Standards analysis showed that many of the assumptions upon which the proposal was based could not be supported and that there was no accurate way for a judge to predict who the "dangerous" defendants would be. The Bureau of Standards study also showed that the number of rearrests between release and trial increased with the amount of trial delay. Very few rearrests were made during the first 60-day period following release.[24] This is particularly significant because the preventive detention bill authorizes detention only for the first 60-day period after which the defendant presumably is to be released in accordance with the provisions of the Bail Reform Act.[25]

Regrettably, the Department's approach to the study was emulated by the Congress when the issue came for a vote. There was little effort on the part of preventive detention advocates to join in a debate. There was not even much formal speech-making in support of the proposal. The main argument used was that this was an "anti-crime" proposal. That was all that was said and all that needed to be said. "Law and order" had become such a powerful political slogan that very little could be done to any proposal championed in its name. Almost by the day the ranks of those who would dare cite the Constitution to defeat or amend anti-crime bills had evaporated. It became almost impossible to oppose a proposition which was labeled "anti-crime." In the end, the D.C. Crime Bill, with preventive detention and no-knock, passed the House by a vote of 332 to 64 and the Senate by a vote 54 to 33.[26]

Preventive detention and no-knock are the two most objectionable provisions of the now well-known District of Columbia Crime Bill. The bill contains innumerable other changes in procedural criminal law which reflect on ignorance of or an animosity to constitutional rights and sound criminal law rarely exhibited by Congress in the past. The bill was conceived as a vehicle for reversing unfavorable interpretations of criminal procedure by the courts. It is a grab bag of prosecution briefs on esoteric questions of law. The number of times cases raising these issues will again come before the courts and the number of added convictions that will result from these legislative reversals will be few. The bill's major value is as a legislative vindication of unsuccessful prosecution interpretations of criminal procedure. Its great danger is as a model for the country of conviction-dominated criminal law.

Yet another Administration anti-crime proposal (of which there has been little notice taken in Congress or elsewhere) would give the police the authority to detain but not "arrest" citizens for the purpose of subjecting them to tests and experiments and other so-called "nontestimonial identification procedures."[27] The permitted tests include lineups, blood tests, fingerprinting, photographs, saliva samples, handwriting samples, hair samples, voiceprints, footprints, measurements, and the like. In order to perform such tests, the police officer must submit an affidavit sufficient for the judge or magistrate to find that there is probable cause to believe an offense had been committed and that there are "reasonable grounds, not amounting to probable cause to arrest, to suspect" that the person named in the affidavit committed the offense. No doubt such tests would be helpful to the police in a number of cases. Yet to authorize such a gross violation of personal dignity on the basis of a suspicion by the police which does not even amount to cause for arrest is a flagrant example of callousness to constitutional principles.

II. LAW AND ORDER IN THE EXECUTIVE BRANCH

These bills do not exhaust the series of questionable legislative proposals offered by the Administration to fight crime. Nor are these legislative proposals the only illustrations of the attitude toward constitutional rights that these troubled times have produced. No too long ago the nation's press was subjected to sharp criticism for its supposed anti-administration views. One does not have to get bagged down in a debate as to whether the first amendment gives Administration officials just as much right to speak their minds as it does the press. And we can concede that the press or some parts of it does have a bias. Still, the official attack was a clear attempt to bully the press into changing its attitudes. The Administration assaulted the very integrity of the press and called into question its right to disagree with official views. Other administrations have had a hostile press, but other administrations have been content to complain or cajole. This time the very *bona fides* of the press were put in issue.

Another Administration action directed at the press came with an effort to subpoena notes and tapes of reporters who had covered groups which the Justice Department was investigating. The problem of requiring newsmen to reveal confidential sources of information is a recurring one and is handled differently in various states. Until the Justice Department announced its new policy of dragnet subpoenas, the problem had been handled on an ad hoc, informal, and cooperative basis. Apparently, a fairly well-established spirit of accommodation had been reached which satisfied both the press and the Justice Department.

For that reason, the new tough attitude by the Department, coming as it did in an atmosphere of mutual antagonism and suspicion, raised considerable fears. The law on this question is vague and untested. The press was afraid that a first amendment claim of privilege would not be upheld by the;[28] yet the practice of subjecting newsmen to interrogation by grand juries would have the effect of cutting off their access to many sources of views. It would be especially effective in preventing the press from having access to those groups which are sensitive to official surveillance. If the press lost its access to these groups, the result would be a further isolation from the mainstream of society and encouragement of the tendencies in many of them to turn to lawlessness and violence. While violence cannot be tolerated, the doors to peaceful, legitimate

---

Footnotes at end of article.

avenues of political action should always be open. Whatever one's views on the policies advocated by these groups, the preservation of our democratic society requires that we encourage them to work within the system for the accomplishment of their ends. It also requires that the press have independent access to them so that the public can be kept informed of their activities.

Yet another recent act by the government in the name of "law and order" must be added to this recital. Not long ago it was reported that law enforcement officers, in this case Treasury agents, were visiting public libraries to check on the names of individuals who had borrowed books on explosives, guerrila war, and other so-called subversive literature. This produced a wave of protest from Congress as well as from others, and the practice was apparently stopped.

One can justify an investigation of library records to determine whether a particular suspect in a bombing case had access to literature which gave instructions on how to build a bomb. Such evidence would be just as valuable in building a case as would be evidence of the suspect's access to the physical components of a bomb. But there is no justification for a wholesale injury into the reading habits of an entire community. This is thought control. It is reminiscent of the deplorable events of the early 1950's, when the voicing of unconventional or merely disapproved views brought about official and unofficial retribution. That era was a low point in the history of political freedom in our country. The idea that government is reviewing the reading habits of the people and creating categories of what it considers "subversive" reading material is likely to result in widespread feeling that the former era is returning.

Other Administration attacks on individual liberty in the name of "law and order" induce a proposal by the Post Office that it be permitted to open sealed first-class mail from abroad without notice to the writer or the addressee. This assault on the right to exchange private thoughts without fear of government intrusion was undertaken in the interests of controlling obscenity, lottery tickets, and drugs.

In another action, the Attorney General a few months ago asserted the "inherent right" of government to wiretap phones in the interests of preserving domestic security. This authority, according to the Attorney General, is independent of any statutory authority from Congress and presumably independent of the first and fourth amendment as well.

No discussion of the "law and order" syndrome which now afflicts our country is complete without at least brief mention of the proliferation of intelligence and security data banks and the application of computers to law enforcement. Computers are rapidly being introduced into the private and government sectors, and it is a rare field of human endeavor which is immune from its benefits or blandishments. Already it is evident that computers will have an impact on our society in coming years which will equal in magnitude or even surpass the changes brought about by the automobile. The exact nature of these changes can be perceived only dimly at present. We do know the impact will be felt within a very short time span, and like other examples of progress, the computer age will be a mixed blessing. Nowhere is the debit side of the computer more evident than in the area of individual liberty and personal privacy.

The ability of computers to receive, store, analyze, and retrieve large amounts of data has naturally resulted in its increasing utilization in the large numbers of personal dossiers maintained by our government. With the advent of the computer, these information systems can now be improved, expanded in scope and depth, and utilized more easily and by more people. The computer for the first time gives the government the ability to gather and use large amounts of information on large numbers of people. The sheer bulk, inefficiency, and dispersion which characterizes old-fashioned paper files and thereby imposes some practical limits on their usefulness and their dangerousness no longer exists with the introduction of this new technology. Computers provide the potential for collating all the diverse information about citizens which is now stored in different government files and for making such information accessible on very short notice to very large numbers of people. If at present it is beyond a computer's capability to keep under daily surveillance all persons of "security interest," certainly all important personal information about them and their activities and associations can be noted, stored in a computer, retrieved upon demand, and circulated or made available to other agencies which might be interested.

The advent of the computer into government operations has served to stimulate its insatiable hunger for information. As a result the number of intelligence data gathering operations is expanding enormously. In the area of criminal law enforcement and domestic security we already have.[29]

1. An intelligence reporting system and data bank, partly computerized, established within the Army to record the peaceful political activities of ordinary American citizens and groups. Although some aspects of this political surveillance system have reportedly been stopped, it is unclear whether some or all of these functions are still performed by the Army or by the Justice Department.

2. A computerized data bank maintained by the Secret Service containing names of persons thought to be potential threats to the President. The information is gathered from a wide variety of police sources, and the Service has made a special effort to include as many persons of a "security interest" as it can to err on the side of safety. Included in this category are "gatecrashers," persons who make embarrassing" statements about government officials and those who make "anti-government" or "anti-American" statements.

3. A civil disturbance computer operation in the Justice Department containing the names of 13,000 persons and organizations involved in political activities which have developed into disorders or which have had the potential for a disorder. The name file is tied to an incident file listing 14,000 civil disturbance events.

4. A Justice Department file system, now being computerized, on organized crime containing intelligence information on some 200,000 individuals, including their habits, associations, business connections, and other information useful in controlling organized crime.

5. The computerized National Crime Information Center operated by the FBI, which contains information on wanted persons and which serves as a national center to aid in the apprehension of fugitives.

6. A Civil Service Commission card index file on 2,000,000 persons who may be ineligble for government employment on security grounds.

7. A Commission card index file of every security investigation conducted by the government since 1939. There are over 10,000,000 cards in this index.

8. A project to create a central communications center to permit the exchange of criminal law information between state computer data centers. This project SEARCH, sponsored by the LEAA, has just successsfully completed its demonstration stage.

Each of these data bank and computer systems varies greatly in its potential for harm and abuse, just as each varies greatly in the kinds of information gathered, the sources tapped, the reliability and accuracy of the information, the uses to which the system is put, and the persons who have access to them. With the notable exception of Project SEARCH which devoted considerable attention to questions of privacy, confidentiality, and security, these systems are generally lacking in controls designed to safeguard individual rights and prevent abuses. Collectively, these data banks provide the framework for a comprehensive system of record-keeping and surveillance of large numbers of American citizens.

Such a system can result in great personal injury to the innocent in the form of social ostracism, loss of employment, and of course loss of liberty. It also has the effect of discouraging legitimate political activity by those who fear that their views and acts will be recorded by government and stored for some future use. This fear is not restricted to so-called "nervous nellies." Knowledge that the government is engaged in surveillance of its citizens creates an atmosphere of fear which is inimical to freedom. It stifles political discusson and leads to a cowed and subservient population which does not dare disagree with government policy or accepted wisdom. Democracy cannot survive if the people are sullen, scared, and rebellious.

CONCLUSION

There has been much public discussion about whether the present Administration is "repressive" or whether certain of its actions amount to "repression." In some circles, talk of repression has become an epithet which is casually applied to every act or statement which is disapproved. Such casual use of the term is a disservice, for it dulls political perception and converts analysis and discussion into sloganeering. There is no clear line between freedom and repression. Freedom is a fluid, intangible condition of our society. It thrives at some periods and is beset at others. It is lost not all at a time but by degrees.

The past 2 years have not produced a repressive society. But they have resulted in an atmosphere in which freedom is on the defensive. The balance is shifting decisively toward the acceptance of harsher laws and the cutting of constitutional corners which impede this search for security. The Administration has not been sensitive to this changing atmosphere. Rather, it has nurtured, encouraged, and fostered it. It has taken a political approach to the very real dangers of crime, violence, and political unrest and has made it an intensely partisan issue. Its policy has increased public fear, intolerance, and division; it has produced a mood in the country which is extremely receptive to harsh, punitive, and draconic measures in the name of security.

This is a dangerous game. It produces a situation in which fear breeds fear and in which the government is encouraged to use its powers even more freely. Ours is not a country in which government can become a tyranny against the will of the people. But tyranny can come just as surely if the people are willing to deliver over their freedom in search for safety. It is incumbent on every citizen to resist the temptation to excuse constitutional excesses in the name of "law and order."

FOOTNOTES

[1] Wall. 2 (1866).

[2] *Id.* at 120–21.

[3] "No-knock" was proposed by the Justice Department in two bills in the 91st Congress: S. 2601, 91st Cong., enacted as District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91–358, § 23–591 O.C.C.E., 84 Stat. 473 (D.C. Crime Bill, July 29, 1970); and S. 3246, 91st Cong., 2nd Sess., enacted as Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91–513, § 509, 84 Stat. 1236 (Oct. 27, 1970). In the D.C. Crime Bill, the "no-knock" provision is authorized for any search or arrest; in the latter bill, it is limited to narcotics cases.

[4] 5 Coke 91 a, 91 b, 11 ERC 629, 77 Eng. Rep. 194, 195 (1603).

[5] A summary of the writs controversy may be found in SCHARTZ, *Rights of the Person,* 3 COMMENTARY ON THE CONSTITUTION OF THE UNITED STATES 178–80 (1968).

[6] 18 U.S.C. § 3109 (1948).

[7] 374 U.S. 23 (1963).

[8] *Id.* at 47.

[9] In their final versions, "no-knock" differs in the drug bill and in the D.C. Crime Bill. In the former, the standard is "probable cause" to believe that prior notice "will" result in the destruction of the evidence: Pub. L. No. 91–513, § 509(1)(A), 13 U.S.C.C.A.N. 5308 (Oct. 27, 1970). In the D.C. Crime Bill, the standard is "probable cause" to believe that destruction of the evidence is "likely" to occur: Pub. L. No. 91–358, § 23–591 D.C.C.E., 8 U.S.C.C.A.N. 2698 (Aug. 20, 1970).

[10] Preventive detention was introduced on behalf of the Justice Department in S. 2600, a bill which would have amended the Bail Reform Act of 1966 and which would have applied to all federal courts. It was later attached to the D.C. Crime Bill, S. 2601, and as enacted applies only to the District of Columbia. See Pub. L. No. 91–358, §§ 23–1328–32 D.C.C.E., 8 U.S.C.C.A.N. 2713–23 (Aug. 20, 1970).

[11] Estimates of pretrial recidivism vary greatly. The only scientific study of preventive detention was done by the National Bureau of Standards. The study, "Composition and Use of Criminal Court Data in Relation to Pretrial Release of Defendants," project number 4314410, report number 10181, is dated March, 1970. It is published in *Hearings on Preventive Detention Before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee,* 91st Cong., 2nd Sess. 765 (1970) [hereinafter cited as *1970 Hearings*]. Professor Zeisel's analysis begins in *1970 Hearings, supra,* at 144.

[12] This study was conducted by the D.C. Bail Agency in 1968. It appears in *Hearings on Amendment to the Bail Reform Act of 1966 Before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee,* 91st Cong., 1st Sess. 71 (1969).

[13] The figures are from a report of the D.C. Department of Corrections to the Constitutional Rights Subcommittee. *See 1970 Hearings, supra,* note 11, at 756.

[14] These figures were reported in various news reports at the time of the October New York City jail riots. *See* Irvin, *Rebelion in the Jails—The Alternative to Bail Reform and Speedy Trial,* 116 CONG. REC. 17720 (daily ed. Oct. 12, 1970).

[15] 342 U.S. 524 (1952).

[16] 342 U.S. 1 (1951).

[17] *Id.* at 5.

[18] 342 U.S. 524, 537 (1952).

[19] *Id.* at 544–46.

[20] *Id.* at 557.

[21] 342 U.S. 1 (1951).

[22] *Id.* at 4

[23] Pub. L. No. 91–358, § 23–1322(c)(5) D.C.C.E., 8 N.S.C.C.A.N. 2715–17 (Aug. 20, 1970).

[24] My analysis of the study was set forth in a speech entitled *Fact or Fancy; The Department of Justice Preventive Detention Study and the Department of Justice Preventive Detention Bill,* 116 CONG. REC. 7291, daily ed. May 18, 1970).

[25] There is considerable doubt as to the procedure to be followed at the conclusion of the first 60-day detention period. The statute provides that the defendant is to be treated in accordance with § 23–1321, which authorizes preventive detention under procedures set forth in succeeding sections. The Department of Justice denied that the bill permitted renewable detention orders, but did not say that the defendant had a right to be released. Pub. L. No. 91–358, § 23–1321 D.C.C.E., 8 U.S.C.C.A.N. 2713 (Aug. 20, 1970).

[26] The House vote on the conference bill took place on July 15, after 1 hour's debate. The Senate vote, on July 23, followed 5 day's debate.

[27] S. 3563, introduced Mar. 9, 1970. The bill was not reported by the Senate Judiciary Committee during the 91st Congress.

[28] Very recently a Ninth Circuit decision upheld Earl Caldwell of the *New York Times* in his refusal to comply with a subpoena to testify before a grand jury on the grounds the subpoena was an unnecesary infringement on the "public's right to know," a right it said was protected by the First Amendment. Caldwell v. U.S.L.W. 2281 (9th Cir. Nov. 17, 1970).

[29] This information is from an as yet unpublished survey of the Constitutional Rights Subcommitee into federal data banks and computers and their impact on constitutional rights.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

SCALPING THE FIRST AMENDMENT—PART A

Mr. MOSS. Mr. President, on three previous occasions in the last 18 months, I have arisen from the floor of the Senate to describe the administration's penchant for media censorship. I feel it incumbent upon me to describe, once again, another case of the Nixon administration's disregard for our constitutional right of freedom of the press.

Apparently NBC's Cassie Mackin incurred the displeasure of the White House in describing her impressions after 2 weeks on the campaign trail with President Nixon. White House communications czar Herb Klein and has assistant made three calls to NBC officials to complain about the "fairness" of a broadcast Miss Mackin made during the week of September 25.

Miss Mackin's crime? She reported that the President had distorted Senator McGOVERN's stands on the issues of defense spending, welfare, and tax reform. For example, she said:

> On tax reform, the President says McGovern is calling for "confiscation of welfare" which is not true.

The White House censor immediately picked up the phone and called NBC to protest. Later, to a Washington Post reporter, the Nixon censors commented:

> She, in effect, called the President a liar. We didn't ask that she be fired or removed from covering or reprimanded. We didn't ask anything. We just wanted to register our protest that she was inaccurate.

But according to published reports, another administration satrap has stated that a retraction was demanded by the administration and was refused by the network.

Other reports have indicated that Sander Vanocur, who has been sharply criticized from the administration for his allegedly liberal views, will not hold his job with the Public Broadcasting Service after his contract expires in December. If true, is this part of a scheme of the Nixon administration to pack the Corporation for Public Broadcasting?

The administration's concern for the first amendment apparently lies in its solicitude for the sellers of soapsuds, rather than the maintenance of journalistic integrity. Any comments emanating from regulatory agencies or social critics concerning advertising results in a predictable White House response speaking for its moneyed constituents. For example, when the Federal Trade Commission proposed to its sister agency, the Federal Comunications Commission, that it provide limited access to the broadcast media for counteradvertising, including paid and unpaid time, Nixon's Director of the Office of Telecommunications Policy readily attacked the Federal Trade Commission and its proposal. This is not the first time this Nixon office has attempted to interpret the first amendment. Apparently, the first amendment according to the Nixon way of thinking reads something like this:

> The public is entitled to access only to the best opinions money can buy. Paid advertisements must not be cluttered up with contrary facts. Soapsud spiels on television are to be protected vigorously from contradiction. Indeed they are fully entitled to be as free from criticism as the utterances of the President.

Who is this censor? The Office of Telecommunications Policy? Did the Congress create it? Does the Constitution provide for it? Then, what is its role? For whom does it speak?

The Congress, as we all know, created a Federal Communications Commission to regulate the airwaves, and we gave the President the power to appoint the Commissioners, with advice and consent. He was authorized to set budgetary priorities of the Agency. But the President has now seen fit unilaterally to preempt the intent and will of the Congress.

It is the right of all Americans, the President and journalists alike, to speak out on matters affecting the American people. But to institutionalize a "Monday morning quarterback" for a legislatively created independent regulatory agency, is to toll the death bell for all regulatory agencies.

Although the Congress, through the Commerce Committee, has prodded the FCC to act on cable television, for instance, the Office of Telecommunications Policy has preempted the FCC. Although the Federal Trade Commission has offered an interesting and positive contribution to the Federal Communications Commission concerning counteradvertising, the Office of Telecommunications Policy has issued its negative decree. The institutionalization of a Nixon censor meddling in the affairs of the independent regulatory Agency is tantamount to the destruction of our system of checks and balances.

The first amendment provides for the right to develop, shape and disseminate news and public affairs programing free of the yoke of bureaucratic harassment, free of the chilling threat of administration overview, and free of the surge toward thought control by a President exhibiting fear, suspicion, and disapproval of a free and undomesticated press.

The first amendment guards the integrity of a broadcast journalist with precisely the same fierce jealousy as it guards William F. Buckley and Nicholas Von Hoffman. Those programs which are the object of the administration's ire fall well within the boundaries of the very forms of speech which the first amendment was designed to guard.

This passion for straightjacketing the press was part of a calculated effort launched by the Vice President in Des Moines in November 1969. In an attempt to inhibit analysis and criticism of Presidential proclamations, the Vice President struck right at the core of press freedom. Mao Tse-tung in his country can command and enforce press silence. SPIRO T. AGNEW in this country cannot.

The current administration's inquisition into the journalistic process represents a bold abuse of governmental power which cannot be tolerated.

Plainly the interests of this and other administrations in avoiding criticism would have been best served by the suppression of news from Indochina, but would the overriding interest to a free society have been equally well served?

I suppose we would all have been much happier if we had not had to confront the horror, the meaninglessness of the slaughter, the perversion of our principles, the sadness for the deaths of thousands of young Americans and young and old Asians. We would have been happy, that is, until it was too late to comprehend our errors and to alter our course of conduct. Would the interests of a free society be served by that?

The administration has no right to subpena working papers of television documentaries, no right to question nor to dictate editorial decisions. It has no right to enforce the disclosure of news sources. If we cannot stand the heat generated by free press, then we cannot stand the responsibilities of a free society.

The first amendment, battered and assaulted throughout its history, has stood us well. Its message to politicians who have tampered with it remain essentially simple. Hand off.

The Vice President, communications czar Herb Klein and other learned "interpreters of the first amendment" insist that columnists and news commentators are allergic to the truth. But between the administration and Walter Cronkite, I know where I would place my money if I had to select that version of a newsstory which most closely approximates objective reporting. This administration stands four square for secrecy, whether bureaucratic or corporate, and four square against the public's right to know, whether it be the whole truth about Vietnam or the secret plotting leading up to the Watergate caper. And it stands four square for the political aspirations of a few desperate people clinging on to the coattails of a secretive President.

Our forefathers, 196 years ago, gave us these immortal words:

> A prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Censorship, secrecy, arrogance, lust for power were actions which they denounced.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time taken out of the time of the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask that the time be charged against the time allotted to me under the order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

Mr. ALLEN. I thank the Chair.

Mr. President, I have not engaged in a great deal of discussion of the unfinished business before the Senate, that is, H.R. 13915, other than at the time designated for the question of whether or not cloture should be invoked, feeling that it was the responsibility of those who are carrying on this filibuster to carry the burden of the discussion. But, Mr. President, that policy has prevented the proponents of the legislation from discussing the important question of the constitutionality of this legislation, and I have a number of exhibits that I would like to put into the RECORD, articles of eminent legal authorities, and testimony of witnesses during the hearing that would clearly indicate the constitutionality of each and every section of the bill. I would like to discuss that issue at this time.

At the very least, I trust that we will be able to isolate the real constitutional questions and issues.

Mr. ROBERT C. BYRD. Mr. President, the Senator may have some additional time from the order allotted to me, if he wishes.

Mr. ALLEN. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield 8 minutes of my time to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from West Virginia for his kindness and his courtesy.

Mr. President, in my opinion, few, if any, bills have reached the Senate floor in this century which have had a greater potential for far-reaching political consequences than House-passed H.R. 13915, erroneously referred to as an antibusing bill, which reached the Senate on August 18, 1972.

It is not an exaggeration to say that this bill is a political time bomb. Time is of the essence. If the Senate fails to take final action before the November elections, I anticipate a political reaction which may drastically reshape the membership of this body and possibly jurisdiction of the U.S. Supreme Court.

It is unquestioned that a very substantial majority of persons from every region of the United States are opposed to forced busing of schoolchildren—yet, State and Federal courts continue to compel it. Parents and others who have responsibility for the education of our children are making noises like a nest of swarming hornets. They have a right to feel resentment. Why should they not be angered when judicial and Federal bureaucrats descend upon their communities and neighborhoods and start issuing orders and decrees which require that their children be bused all over the countryside on the basis of some half-baked, sociological theories as to what constitutes a proper basis for assignment of schoolchildren to public schools? Why should they not organize and let their complaints be heard when agents and agencies of the Federal Government usurp the inherent power and responsibility in parents for making decisions in matters that vitally affect the health, safety, welfare, and education of their children? Who does not feel resentment when agencies of the Federal Government disregard the will and wishes of parents and local school officials in the implementation of school programs which produce disruptions, hardships, and chaos in local public school systems?

Mr. President, it was suggested in the House that it would be desirable if the forced busing issue could be debated in an atmosphere free of emotionalism. I disagree. I suggest that a part of the problem is a direct result of an inability on the part of some Members of Congress, Federal judges, and Federal bureaucrats to demonstrate a compassionate concern for the plight in which parents and schoolchildren find themselves. In my judgment, we have had too much cold, impersonal, and dispassionate discussion of the problem and not enough concern for the welfare of parents and children.

It is totally unrealistic for us to believe that we can treat abuses of power in areas affecting children in the same manner that scientists might sit down and discuss dry bones of some prehistoric fossil. Neither can we duck and dodge the insistent demand for relief. It would be politically suicidal for Members of the Senate to stick their heads in the sand and hope that the demand will disappear.

A failure on the part of agents and agencies of government to give adequate consideration to human values and the human condition has brought about current demands for redress and relief. The problem to which this proposed legislation is addressed is one of abuses and usurpations of power involving a coerced disposition of other people's children on command of the State. The need for rerelief and the demand for action transcends in importance any other question relating to this bill which we could possibly debate. An irate and aroused citizenry demand no less than an honest evaluation and action by the Senate before the November elections. Let us assume that the Senate takes no action or that it rejects the bill or waters it down with debilitating amendments—then what? The question is worth considering.

Mr. President, we will soon celebrate the 200th anniversary of the signing of the Declaration of Independence. It may be useful to refresh our memories with respect to the duty of the sovereign people as set out in the Declaration, in the face of abuses of power by agents and agencies of government. The Declaration provides in part as follows:

> All Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security.

Fortunately, our forefathers had the wisdom to provide political means whereby the people of future generations could curb abuses and usurpations of power without the necessity of resort to violence or revolutions. In summary, the people may seek relief in courts of law; they may seek relief from the Executive and they may turn to Congress for relief. If all of these approaches fail, the people will be compelled to resort to a constitutional amendment. Let us briefly examine each of these recourses as they relate to forced busing.

Obviously no help can be expected from Federal courts. It is relief from the usurpation of power by the Federal courts that the people are seeking.

Turning now to the possibility of help from the President, it is reasonable to expect relief from that source. The problem is national in scope and many bureaucrats under the direction of the President are also responsible for abuses complained of. There has been some initiative from the President. The bill before us is not precisely what President Nixon recommended, but it contains the basic thrust of his recommendations. Furthermore, the President can and he should curb abuses of power on the part of agents or agencies of the bureaucracy in the desegregation process. Whether the President will or will not act to correct these abuses remains to be seen. Nevertheless, it is worth noting that the Republican Party platform, which the President has embraced, expresses opposition to busing to achieve "racial balance" although it is difficult to know precisely what this last term means. "Racial balance" is a cryptic term with concealed meanings, and it has been used to gut certain laws which Congress has previously enacted and which the public thought would place curbs on excessive busing and the assignment of children to schools solely on the basis of race rather on the traditional basis of neighborhood and community schools.

Nevertheless, the U.S. Supreme Court deciphered the term "racial balance" to mean "de facto segregation" in certain situations. Thus, the use of the term "racial balance" in the Republican Party platform could be an expression used merely to indicate opposition to busing to break up de facto segregation. The people are entitled to clarification of the intended meaning as used in the Republican platform and also in our statutes.

It is ironic that some of those who were responsible for the employment of the words and phrases with hidden meanings in the Civil Rights Act of 1964 spent considerable time among members of the black community beating their breasts in pious indignation about the evils of segregation and in support of busing of other peoples children to overcome segregation.

This cynical attitude is all the more appalling when it is considered that far more segregation existed and still exists in the public schools in some of the cities and communities of their own States than existed in the Southern States. They did not tell their black constituents that they had cleverly concocted a scheme to deny blacks a statutory right to file suits to desegregate schools and to prevent the U.S. Attorney General from entering their States to bring suits to compel desegregation. Nor did they tell their black constituents that they had cleverly used this phrase to prevent the use of Federal funds for busing to desegregate schools in their States.

Consequently, I find it extremely difficult to understand how some Members of Congress can face their black constituents and admit that they were parties to laws which insured that there would be no Federal intervention or messing around with the problem of desegregation in their States. But that is another problem. In any event, I am skeptical of political party platform promises, and I am skeptical of the possibility of curbing abuses of power by Federal bureaucrats independently of an act of Congress. This brings us to a consideration of the next possibility for the people to effect a remedy by an act of Congress.

The House of Representatives is answerable to the people as a body every 2 years and is, therefore, receptive to the will of the people, as was intended by the Founding Fathers. The House has worked its will. It has sent to us a bill designed in part to curb forced busing. I am convinced that President Nixon will sign the bill if it passes the Senate. Accordingly, one cannot escape the conclusion that the U.S. Senate is the end of the line—the buck stops here from the standpoint of legislative relief.

I am inclined to believe that in the minds of the people, a vote for or against this bill will be interpreted as an indication of a willingness on the part of the Senate to attempt a legislative solution. So, from a political standpoint, votes for or against the bill will serve to identify those who either do not recognize the existence of abuses of judicial and bureaucratic powers or who else favor the dehumanizing desegregation process as currently in effect.

If the Senate fails to vote on the merits of this bill before the November elections—then the sovereign people may have no other recourse than to resort to a constitutional amendment as a source of relief. They have available the two methods of amendment provided for in article V of the Constitution. It may well be that the ultimate solution to the problems will require a constitutional amendment to deprive Federal courts of jurisdiction of all cases involving questions concerning rights of individuals as they relate to public school assignments and to the operation and management of local public schools.

I realize the difficulty of effecting a constitutional amendment. However, the people have at their disposal a power to change the composition of Congress in a way to assure the submission of such an amendment for ratification by the States. I believe it would be a grave mistake if the Senate underestimated the potential power in the people who are now demanding action by the Senate.

I have personally received thousands of expressions of sentiment on the forced busing issue in the form of letters, postal cards, telegrams, petitions, phone calls and visits by delegations from all regions of the United States.

I am convinced of the sincerity of these people. I know and I share the feeling of deep concern for the welfare of their children. I know the depth of their feeling and the intensity of their resentment, and I know that they are determined to get action. I know, too, that they have the quality of leadership and a capacity for coordinated effort that will be required to effect their will.

In my judgment, these people have a potential for forming the most numerous bloc of voters in the United States. It is a potential for amending the Constitution and it is a potential for drastically altering the composition of Congress in a manner to assure that Congress will be responsive to the will of the people.

Mr. President, members of the Senate can talk until they are blue in the face about certain aspects of the bill before us. They can debate its wisdom, its finding of fact, statements of policy, efficacy of remedies and priorities, questions of constitutionality, or any other aspect of the bill. In so doing, they will miss the point. I repeat that the issue is an abuse of power on the part of Federal judges and Federal bureaucrats. The vast majority of the people, black and white, are painfully aware that they have been made victims of a sociological experiment and that they want this experiment stopped. Debate on any other issue is sound and fury that signifies nothing.

Yet, I am aware that some Senators cannot conscientiously yield to political pressure in matters that affect a profound conviction concerning a constitutional principle. In deference to these Senators, I think it is appropriate to address a few remarks to questions concerning the constitutionality of this proposal. At the very least, I trust that it will serve to isolate the real constitutional question at issue. With this object in mind, and in the interest of conserving time, I believe it will be helpful to point out certain constitutional issues which are not raised by provisions of the bill before us.

For example, there is no constitutional question involving the substantive jurisdiction of the U.S. Supreme Court or of U.S. district courts.

In other words, this is not a case of withdrawing jurisdiction from the Federal courts, as was the thrust of some legislation that has been before the U.S. Senate.

In fact, the bill specifically recognizes the jurisdiction of U.S. District Courts in desegregation cases which involve violations of the equal protection clause, which heretofore, has been the only jurisdictional basis claimed by the Supreme Court for invoking equity powers to shape remedies in school cases. In addition, the bill before us creates a new right of action based on denials of "equal educational opportunity" separate and apart from those stemming from violation of equal protection of the laws. Under provisions of the bill, U.S. District Courts are vested with jurisdiction in these cases. Furthermore, the Attorney General is empowered to intervene in such cases on behalf of plaintiffs. The point is that there is no substantive jurisdictional question raised by any of the provisions of this bill.

So that can be laid aside. This is not involved.

Neither does the bill undertake to establish a moratorium on new busing orders pending the enactment of this legislation, such as was originally proposed by President Nixon. So we can skip that issue.

I might say parenthetically, Mr. President, that the President of the United States has stated strongly and unequivocally to Members of the Senate who visited with him the day before yesterday that he strongly supports the pending bill, that he recommends that the Senate pass it without amendment, that he recommends that cloture be invoked, that he urges Senators, even though they may be opposed to the legislation, to vote to invoke cloture in order that the Senate may have an opportunity to vote up or down, to take a stand, on this most vital legislation.

Actually, Mr. President, this legislation provides a state of affairs that the presidential moratorium was to precede. In other words, the moratorium under the President's theory was to be put into effect pending the passage of the Equal Educational Opportunities Act of 1972.

So if this legislation is passed, then there would be no need for the moratorium, because this legislation would create a state of affairs that was the end result pending which the moratorium would be effective. So this takes care of both pieces of legislation recommended by the President back in March of this year. And a little later today, in the cloture argument, I shall point out that this legislation has been pending in the U.S. Senate since March 22, 1972, and before the committee, where it has not moved very far since its introduction in the Senate.

Neither is there a provision in the bill relating to the grant of stays to court orders pending disposition of appeals taken in cases where U.S. district courts have ordered new busing.

So, Mr. President, this is an entirely new approach. It is not a withdrawal of jurisdiction. It is a restriction or limitation on remedies, but it is not a withdrawal of jurisdiction. It does not provide a moratorium. It does not provide a stay. What it does is to set up guidelines binding upon every Federal court for the application of remedies that the court may use in ordering the desegregation process in the public schools under its jurisdiction and the subject of litigation before it.

Senators will recall that a "stay" is already authorized in certain cases under provisions of title VIII, section 803 of Public Law 92-318 for which most Senators voted. Unfortunately, applications for stays have been rejected by separate Supreme Court Justices in several instances in which the above law was invoked in support of the application. I do not agree with the reasoning advanced to deny the stay, but that is another question. The point is that this issue is not involved in the bill before us.

To elaborate on that somewhat, Mr. President, on June 23 of this year, I believe it was, Public Law 92-318 became effective. But on September 1 of the year, Mr. Justice Powell, to all intents and purposes, completely nullified the intended effect of that bill insofar as it sought to provide for a stay of busing orders entered in the desegregation process, because the conference committee came in with language which provided for a stay of busing orders entered for the purpose of achieving racial balance.

The Supreme Court has already ruled that they cannot order racial balance. They have said, yes, they can take it as a starter and build on that in providing for desegregation orders, but they cannot apply a strict racial balance. They say that racial imbalance means de facto segregation. So the very purpose intended to be accomplished by the legislation went for naught under that language.

That is what makes it absolutely essential that this legislation be enacted by Congress to put some reasonable limitation on the use of massive forced busing in the desegregation process, not as in the language of Public Law 92-318, which says that a stay can be applied for on orders for busing to achieve racial balance. That is something we do not even want. So that section of the law is absolutely worthless. Therefore, Congress has a duty to act in this regard.

Neither is there a question concerning the power of Congress to prevent all busing. This question was raised in the form of a proposed amendment from the floor of the House. The question was disposed of in the negative. So, that question is not before us.

All busing is not to be prevented. It is true that certain priorities are established, and steps they must take before they can get down to issuing orders, and then it is provided that busing cannot be ordered beyond the nearest or the next nearest school to the school from which the child is being transferred by bus.

Under the circumstances, only one substantive constitutional question remains to be answered. The answer to this question will dispose of other procedural questions remains to be answered. The answer to this question will dispose of other procedural questions such as the "reopener" provisions of the bill. The substantive question is raised by opponents of this bill in the form of a contention that Congress is without power under the Constitution to limit the exercise of discretionary equity powers of U.S. District Court Judges in shaping remedial decrees in school desegregation cases and, by necessary implication, in other cases involving constitutionally protected rights. If Congress has no power over remedies, obviously there would be no field of operation for reopening cases for modifications consistent with legislative guidelines and priorities. Under such circumstances, the subject of remedies would be left to the discretion of Federal judges in the exercise of their equity powers.

Let us put the constitutional question in perspective. To do so we must go back to the U.S. Supreme Court decision in Brown II. There, the Court considered the question of an appropriate mode of enforcing its ruling that State-imposed racial segregation in public schools is unconstitutional.

Mr. President, what mischief the Supreme Court of the United States could have avoided if it had decided the Brown case as it did and stuck by that ruling, because the Brown ruling in 1954 was logical, it was fair, and it correctly—in the judgment of the Senator from Alabama—construed the Constitution as requiring that the equal protection of the laws be guaranteed to all of our citizens, and that no State can deny the equal protection of the laws to any person.

In the Brown case, the Supreme Court ruled that the State may not, cannot, and must not make assignments of pupils to the public schools on the basis of race.

That is all right; that is fair; that is proper. We would not be before the Senate today if that ruling had been allowed to stand. I do not say they have overruled it. I am not stating that. But they have changed that ruling by a change of course of 180 degrees, because now they say that the State must assign on the basis of race.

Mr. President, that is one of the causes, one of the bases, of the disillusionment and dissatisfaction of the people in rulings of the Supreme Court of the United

States. That is the present ruling of the Supreme Court—the States must assign by race; whereas, originally the court ruled that the States could not assign by race.

The question of enforcement is in essence a question of remedies, and the Court left the problem of devising remedies to separate school systems to the extent that they had power to remedy the situation. However, the Court vested a supervisory and supplementary responsibility in U.S. district court judges who were directed to invoke discretionary equity powers to fashion remedies in the separate school systems to conform to constitutional requirements. Viewing the problem at this juncture, we have discretionary equity remedies but no statutory remedies. The bill before us addresses itself to the specific problem of providing statutory remedies, and that is all it does.

Mr. President, let me summarize the points which I believe will conclusively demonstrate the constitutionality of H.R. 13915.

First. Congress has the power under section 5 of the 14th amendment to enact appropriate legislation to enforce rights protected by the 14th amendment.

Second. Equity will not intervene when there is an adequate remedy at law.

Third. The remedies provided by H.R. 13915 provide adequate remedies at law.

Fourth. If the remedies are inadequate, the bill is not, for that reason alone, unconstitutional. Equity may still provide such remedies as may be necessary to protect constitutional rights.

Fifth. The test of adequacy of remedies, whether equitable or statutory, is their effectiveness in assuring that public school authorities exclude no pupil from any school, directly or indirectly, on account of race.

Sixth. The limitations on transportation provided in the bill are consistent with good conscience and commonsense and are not inconsistent with anything which has been held by the U.S. Supreme Court in regard to State-imposed segregation.

Mr. President, let me elaborate on these points. No one can seriously question the power of Congress to legislate in this area. The specific grant of power is contained in section 5 of the 14th amendment. Congress exercised that power in the enactment of the Civil Rights Act of 1964.

It is exercising that power in proposing this bill. It must be emphasized that the bill does not prescribe new or different or inconsistent remedies than heretofore imposed by courts of equity. The effect of enactment of this bill will be that the authority for imposing remedies will become statutory rather than discretionary under authority of equity powers.

In this connection, we must recall that equity will not intervene when there is an adequate remedy at law. This is a traditional principle of equity. In Swann the Court said:

> In fashioning and effectuating the decrees, the courts will be guided by equitable principles . . . (consistent with) these traditional attributes of equity power.

Of course, at the time of the Brown I and II decisions, there were no adequate remedies at law nor can there ever be statutory remedies available under circumstances where the U.S. Supreme Court overrules an earlier binding precedent, as it did in Brown I. Congress cannot anticipate such sudden and abrupt reversals of what the law of the Constitution requires. Consequently, the Supreme Court in Brown II had no other recourse but to resort to remedial powers of equity to enforce its decision. It cannot reasonably be argued that the absence of remedies at law preclude a subsequent enactment of remedies by Congress. The question is, Do the statutory remedies in H.R. 13915 provide an adequate remedy at law?

If the proposed statutory remedies are adequate, no one can seriously contend that the bill is unconstitutional.

Accordingly, the question boils down to one which can be answered only by an evaluation of the totality of proposed statutory remedies. The test of adequacy of equitable remedies is their effectiveness. The same test is applicable to statutory remedies.

A brief review of the proposed statutory remedies will demonstrate beyond reasonable doubt that they are adequate to assure the U.S. Supreme Court objectives expressed in Swann:

> Our objective in dealing with the issues presented by these cases is to see that school authorities exclude no pupil of a racial minority from any school, directly or indirectly, on account of race;

Furthermore, the Court said it could not embrace in its ruling all problems which "contribute to disproportionate racial concentration in some schools," and "there is no substantive constitutional right to any particular degree of racial balance or mixing." More specifically:

> The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.
>
> In the same context:
>
> In the light of the above, it should be clear that the existence of some small number of one race or virtually one race schools within a district is not in and of itself the mark of a system that still practices segregation by law.

The Supreme Court has thus limited equitable remedies as to the objectives to be achieved by the remedies. The same limits are applicable to statutory remedies. With these Supreme Court refinements as to objectives in mind, we can test the adequacy of the proposed remedies provided by the bill before us.

The proposed remedies are set out in section 402. It must be remembered that the remedies apply only to situations where court orders and desegregation plans require transportation of students. Transportation of students presume assignments to schools. Thus, busing may be ordered in each and every one of the remedies set out in this section. When these remedies are expressed in the affirmative, transportation may be ordered in the following sequence or combinations as may be necessary to desegregate schools:

First. Transportation may be ordered to the school closest to the place of residence of the students, which offers the appropriate grade level and course of study, taking into account overcrowding and natural barriers such as mountains and rivers. This remedy is applicable in situations where under dual school systems children residing in the same neighborhood or community were assigned to separate schools solely on the basis of race. In some instances, this remedy coupled with a compliance with requirements set out in section 201 relating to unlawful practices might be adequate to meet the constitutional objective.

Second. Transportation may be ordered to the school closest to the place of residence taking into account only the factor of overcrowding. With reference to those two remedies, the Supreme Court said in Swann that:

> Where dual school systems had been operated . . . the first remedial responsibility of school authorities is to eliminate invidious racial distinctions. With respect to such matters as transportation, supporting personnel and extra curricular activities, no more than this would be necessary.

Indeed many schools have been desegregated by correcting invidious discrimination and in maintaining all schools on an equal basis as to maintenance of buildings and distribution of equipment. So, the statutory remedies and equitable remedies are quite the same in these two instances.

Third. Transportation may be ordered where it is necessary to implement the Supreme Court mandate to provide transportation to implement a request for a transfer of a student from a school in which his race is a majority to a school in which his race is a minority.

Fourth. Transportation may be ordered when it is an incident to gerrymandering attendance districts which, as the Supreme Court has said may be "bizzare" and that such attendance zones be neither compact or contiguous and may be on opposite ends of a city, or if required by clustering or pairing schools and grades, which the Supreme Court has frequently upheld as legitimate tools of desegregation.

Fifth. Transportation may be ordered as a result of closing schools or building new schools. This remedy has also been upheld as a proper exercise of equity powers of courts.

Sixth. Transportation may be ordered as a result of construction of or establishment of magnet schools. This remedy is new, to the best of my knowledge, and therefore an additional tool for desegregation.

Seventh. Transportation may be ordered if necessary to the development or implementation of "any other plan" which is educationally sound and administratively feasible. This includes a multitude of weird remedies and combinations of remedies.

Mr. President, there are several observations which should be made in reference to the proposed statutory remedies I have just mentioned. The first is that the hysterical clamor alleging that this is an antibusing bill is bunk, pure and simple. Secondly, each of these proposed statutory remedies, except that one which relates to construction of or the establishment of magnet schools, has been specifically approved by the U.S. Supreme Court in the Swann decision as equitable remedies which may be applied in the discretion of a U.S. district court judge.

Turning now to the question of the adequacy of these remedies, it will be noted that there are no limits placed upon the extent of transportation which may be required. The Supreme Court said by way of comment in Swann that:

> No fixed or even substantially fixed guidelines can be established as to how far a *court* can go, but it must be recognized that there *are limits*. (Emphasis added.)

And with specific reference to transportation of students, the Court said:

> The scope of permissible transportation of students as an implement of a remedial decree has never been defined by this court and by the very nature of the problem it cannot be defined with precision.

The statutory remedies do not define with precision the scope of permissible transportation of students. However, it does provide in section 403 that any student may not be bused to a school beyond the one "next closest to his place of residence which provides the appropriate grade level and type of education."

As previously indicated, when the statutory remedies of gerrymandering school districts; pairing schools and grades; closing schools; and constructing schools are considered, it is entirely possible that a school providing an appropriate grade level which is next closest to a students place of residence may well be located in an entirely different town or city in rural areas or in the center of a city in the case of pupils who reside in suburbs. It stands to reason that this limitation on transportation of students is not a limitation on the time and distance of travel which may be required of a sudent to reach a school which offers an appropriate grade level and type of education required by such student.

This same section imposes another limitation on transportation of students. This limitation has been recognized as valid by the U.S. Supreme Court. In short, transportation shall not be required if it poses a risk to the health of a student or constitutes a significant impingement on the educational process with respect to such student. This limitation is consistent with the findings as set out in section 3(a) (4) and (5) of this bill with respect to what constitutes excessive transportation. These findings are in substance as follows:

Fourth. Transportation is excessive if it creates serious risks to the health and safety of students; disrupts the educational process carried out with respect to such students; and impinges significantly on their educational opportunity.

With respect to finding No. 5, Congress has said:

> The risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades.

This last finding is based on what the U.S. Supreme Court has said with reference to the importance of considering the age of children in determining whether or not the time and distance of travel by bus transportation is excessive.

In summary, finding No. 4, is that busing is excessive when it creates a serious risk to the health and safety of students. Finding No. 5 is that the risks and harms are particularly great for children in the first six grades. This last observation does not detract from the validity of finding No. 4 which designates additional elements of excessive busing which are applicable to all ages.

In evaluating the reasonableness of findings with respect to excessive busing, it should be emphasized that if Congress does not undertake to determine what constitutes excessive busing—then this decision is left to the judgment of a single U.S. district court judge, in the exercise of his discretion. No Federal judge has the power to impose on an individual serious risk to his health and safety. It does not matter if the individual is a pupil in the first grade or the 12th grade or if an individual is a parent, employee, or whatever.

It is simply a contradiction of the meaning of the word "equity" and the history of equity jurisprudence to assert that a judge, in his discretion, may impose remedies which subject individuals to serious risks to their health and safety. Even condemned criminals are protected from such abuses of power. Why should children not have the same protection?

The same can be said with respect to the equity power of a judge to command transportation of schoolchildren if the transportation disrupts the schools and educational process. There are no powers under equity jurisdiction to do anything which violates the dictates of common sense and conscience. Court ordered transportation of schoolchildren which results in disruptions of schools and the educational process is not equity. Neither is there a power in judges to require transportation which impinges on the educational opportunities of the children involved—such orders are the antithesis of equity.

There is yet another limitation of equitable remedies which involve transportation only indirectly. This is contained in section 404, which provides in substance that Federal court judges may not, in their discretion, under authority of equity powers of their courts ignore or alter the boundary lines drawn by a State in subdividing its territory into separate school districts. In short, the courts may not disregard the boundary lines of political subdivisions of counties and cities as it did in the Richmond and Detroit cases in formulating remedies to desegregate schools. The fact that Federal court judges could ever conceive that equity powers were so broad as to vest such a decision in the discretion of a judge is an enlightening commentary on the abuses of equity powers which we have witnessed over the past two decades.

So we return to the question of adequacy of the statutory remedies provided by this bill. If we recall that a racial balance is not required; that the existence of some all-white or all-black schools is not in and of itself an indication of the existence of State-imposed segregation; and when we consider the unlawful practices set out in section 201 of this bill, there can be no reasonable question of doubt but that the statutory remedies provided are adequate to meet all constitutional standards.

It cannot be said, in reason, that schools cannot be desegregated, or that dual systems cannot be eliminated or that constitutional standards cannot be met without subjecting schoolchildren to serious risk of their health and safety. Neither can it be said, in reason, that a U.S. district court judge can, in his discretion, order transportation which constitutes a significant impingement on the educational process with respect to such student. The U.S. Supreme Court has recognized such a limitation on equity powers of U.S. district court judges. This bill concurs in that judgment.

In this connection, Congress has said with respect to the funds which are authorized to be appropriated and used in implementation of this bill:

> No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

This quotation is from title VIII, section 802(a) of Public Law 92-318. I heard no constitutional argument against this provision when the bill was before the Senate.

With respect to desegregation plans, it is provided in subsection (b):

> No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

I heard no constitutional argument against this provision when the bill was before the Senate.

I think that reasonable men will agree that constitutional requirements as they relate to the desegregation process can be met without subjecting schoolchildren to risks of health and safety and without significantly impinging on the educational process.

But, for the sake of argument, let us assume that in some few isolated instances, of which I cannot conceive, the statutory remedies prove inadequate.

That does not mean that the statute is unconstitutional. It would merely mean that the remedy is inadequate and thus provide grounds for invoking an equitable remedy. So this is not a constitutional argument at all. The inadequacy of remedies at law is ground for invoking equity jurisdiction and thus equitable remedies to meet any inadequacy.

Mr. President, let us turn now to the reopener provision in section 406. Much in the way of objections has been heard to this provision. The section states:

> On the application of an educational agency, court orders, or desegregation plans under Title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this Act. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

Again, it is necessary to bear in mind that decrees entered by U.S. district courts are subject to limitations imposed by longstanding principles of equity. One of those principles is that equity follows the law. If the proposed remedies as passed by the bill are adequate, and courts of equity have entered decrees which have been declared excessive by Congress, then such courts will gladly reopen cases to modify their decrees to make them consistent with the law.

From the standpoint of equity and good conscience, it would not matter if 1,000 or 10,000 cases were reopened. Simple justice demands modification of any degree which compels excessive transportation of students.

Furthermore, the right to reopen is not contingent on statutory authority. Courts of equity will always reopen cases to modify decrees consistent with changed circumstances and conditions.

Mr. President, I hate to belabor this point, but some people who should know better insist that Congress simply does not have power under the Constitution to limit the extent of busing which may be ordered by U.S. district court judges. I regret the necessity of taking up time to refute this contention but I feel it must be done.

Mr. Chief Justice Burger put his finger on the problem in Swann with reference to the Civil Rights Act of 1964. He said:

> In short, there is nothing in the Act which provides us with material assistance in answering the questions of remedy for state imposed segregation in violation of Brown I.

Mr. President, this is precisely what the bill before us does. From the standpoint of the power of Congress to provide remedies, the U.S. Supreme Court noted in the case of Katzenbach versus Morgan that Congress had far greater factfinding and interest-weighing ability than the courts and observed that Congress could go so far as to disregard Supreme Court rulings, and create a right which the Court had previously held not protected under the equal protection clause of the 14th amendment. It was said in the opinion:

> Correctly viewed, Section 5 (of the Amendment) is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and *what legislation is needed to service the guarantees of the 14th Amendment.* (Emphasis added.)
>
> It is for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the Congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it is.

If Congress has such power involving substantive constitutional rights, what can we infer with respect to the power of Congress to provide civil remedies and penal sanctions to enforce rights under the amendment?

With further reference to civil remedies, Mr. Justice Powell has clearly indicated, in denying an application for a "stay" of a lower court order from Augusta, Ga., that if Congress had desired that stay orders be granted in cases involving State-imposed segregation "it could have used clear and explicit language appropriate to that result." This observation is a clear acknowledgment that if Congress desires to prohibit all stay orders in the desegregation process, it has the power to do so and needs only to use language appropriate to that result.

This conclusion is reinforced by the further observation by Mr. Justice Powell that in the preceding section of Public Law 92–318, Congress had, in fact, prohibited the use of Federal funds either to redress "racial imbalance," meaning de facto segregation, or to carry out any plan of desegregation. Mr. Justice Powell went on to say:

> Congress intended to proscribe the use of Federal funds for transportation of students in any desegregation plan.

Of course, Mr. Justice Powell did not rule on the validity of this provision. Nor was it necessary that he do so. We know perfectly well that Congress may or may not in its own good judgment appropriate funds for purposes which may seem fit and proper. There is nothing in the constitution to compel Congress to appropriate money to implement a desegregation plan whether it be to pay for the cost of busing, building new schools, or in fact, to do anything to enforce rights which Congress may recognize as being entitled to enforcement under the 14th amendment.

Furthermore, I think that all of us will acknowledge that even the broad equity powers of U.S. District Courts cannot be stretched to include the power to compel Congress to appropriate funds for any purpose Federal courts may direct. In short, no constitutionally protected right is violated by a failure or refusal of Congress to appropriate funds to overcome State imposed segregation.

After all, the right to attend public schools at public expense is not a constitutional right. It is a right created and implemented by the States. The right to be transported to public schools is not a constitutional right but one created by the States. The Constitution requires only that State laws in this regard be operated in a manner not inconsistent with equal protection of its citizens.

It is incomprehensible to me how opponents of this bill can uphold the right of Congress to limit enforcement of constitutionally protected rights in States outside of the South, by busing or otherwise, as it did in titles IV and VI in the Civil Rights Act of 1964 and yet insist that Congress does not have the power to limit busing by establishing a priority of remedies to be applied in desegregation cases in the Southern States. It is not only a paradox but it is also cynical in the extreme because the bill before us does not pretend to prevent all busing.

In fact, it authorizes busing and provides courts of equity with many tested devices to desegregate public schools including busing. I seriously question that any court would find it necessary to exhaust the remedies provided in this bill in order to establish a unitary school system, defined by Supreme Court opinions and by this bill, as a school system in which no person is effectively excluded from any school because of his race, color, or national origin. Neither are all of the remedies needed to remove vestiges of a dual school system.

Furthermore, the bill does not pretend to protect the rights of parents to send their children to a neighborhood school. School assignments are not limited to walk-in schools. The bill merely provides that the neighborhood school is an appropriate basis for pupil assignments and shall be taken into account in the assignment of pupils by judicial decrees or otherwise. It does not prevent but rather authorizes closing neighborhood and community schools and grotesque gerrymandering of attendance districts all of which may require busing of pupils to the next nearest school.

Of course, there is an alternative to assignment of pupils on the basis of neighborhood schools. The alternative is assignment on the basis of socioeconomic status. Some Members of Congress may prefer this as a basis for assignment and may prefer the additional excessive busing that would be required to implement assignments on this basis. But this is not a constitutional question.

Returning to the constitutional issue, it seems to me that what has purposely been overlooked is that the U.S. Supreme Court has long and consistently distinguished between substantive constitutional rights protected by the Constitution and the question of remedies which is left to the discretion of Congress.

The power of Congress to prescribe and, therefore, to repeal, withdraw, and modify particular remedies available to Federal courts, particularly when they are sitting as courts of equity, has been exercised throughout the history of the Republic and has rarely been challenged.

This conclusion was stated, and is supported by a substantial number of citations, by Prof. Charles Alan Wright in testimony before the House Committee on the Judiciary in the course of hearings on proposed amendments to the Constitution relating to transportation of pupils. He also observed that in many of the cited cases, parties were asserting constitutionally protected rights. Furthermore, former Justice Harlan raised the question of whether or not "A judicial remedy for the vindication of a Federal constitutional right is placed by the Constitution itself exclusively in Congress hands."

Mr. President, I want to conclude my remarks on the substantive constitutional question with this observation. The U.S. Supreme Court will be the ultimate arbiter of the questions raised. The House has passed this bill. In the meantime, pressing unfinished business is before the Senate and unless we act now, we may be confronted with the necessity for a lame duck session of Congress.

Our problem continues to be one of demonstrating a willingness to offer a legislative solution to the problem—and before the general elections in November. My final argument to illustrate the need for legislation to curb judicial and bureaucratic abuses of power relates to some of the sociological and psychological premises underlying the massive forced busing programs which have been imposed on the people.

In this connection, there is an article in the summer, 1972, issue of the Public Interest, by Prof. David J. Armor, in the form of a research report entitled "The Evidence on Busing." Professor Armor is a noted sociologist who specializes in research methods and social projects involving evaluations of the effects of busing on black studnts. In the article Dr. Armor points out:

> Few persons . . . know of the role played by the social sciences in helping to sustain the forces behind desegregation. It would be an exaggeration to say that they are responsible for the busing dilemmas facing so many communities today, yet without the legitimacy provided by the hundreds of sociological and psychological studies, it would be hard to imagine how the changes we are witnessing could have happened so quickly. . . .
>
> And yet, the relation between social science and public policy contains a paradox in that the conditions for adequate research are often not met until a policy is in effect, while the policy itself often cannot be justified until supported by the findings of science. . . . Furthermore, this can mean that later evaluation research of a social action program may undo the very premises on which the action is based—as is the case somewhat in the Coleman Report on the effect of schools on achievement. . . .

In short, all of this forced busing madness has been a case of getting the cart before the horse. The conclusions reached after an evaluation of data on the effects of busing are extremely significant from the standpoint of policy implications. I will not attempt to explain all of the implications, but merely quote certain conclusions with the hope and expectation that Senators will read the article.

I read the following brief excerpts from the article:

> The most serious question is raised for mandatory busing (or induced integration) programs. If the justification for mandatory busing is based upon an integration policy model like the one we have tested here, then that justification has to be called into question. The data do not support the model on those counts.
>
> Although the data may fail to support mandatory busing as it is currently justified, these findings should not be used to halt voluntary busing programs.
>
> The available evidence thus indicates that busing is not an effective policy instrument for raising the achievement of black students or for increasing inter-racial harmony.
>
> Decisions must be based upon feelings of the black community as well as the white community. Many liberal educators have been so intent on selling integration to reluctant white communities that they risk the danger of ignoring the opinion of the black community.
>
> The available evidence on busing, then, seems to lead to two clear policy conclusions. One is that massive mandatory busing for purposes of improving student achievement and inter-racial harmony is not effective and should not be adopted at this time.
>
> With a more complete knowledge than we now possess of this complicated matter, we shall hopefully be in a better position to design effective public education policies that are known in advance to work to the benefit of all Americans, black and white.

Mr. President, some of the findings leading to these conclusions are as follows:

> None of the studies were able to demonstrate conclusively that integration has had an effect on academic achievement as measured by standardized tests. . . . To date there is no published report of any strictly educational reform which has been proven substantially to affect academic achievement; school integration programs are no exception.
>
> In the METO study, we found that there were no increases in educational or occupational aspiration levels for bused students. . . . On the contrary, there was a significant decline for the bused students. . . . The control panel actually increased its college aspirations over the same period.
>
> One of the central sociological hypotheses in the integration policy model is that integration should reduce racial steretoypes, increase tolerance, and generally improve race relations. Needless to say, we were quite surprised when our data failed to verify this axiom. Our surprise was increased substantially when we discovered that, in fact, the converse appears to be true.
>
> Integrated schools per se are not the real issue; if schools in the black community provided education of the same quality as those in white communities, blacks would not be so interested in busing programs. In fact, when we asked students in the METO program this question, almost 75 percent said they would prefer to attend their own community school if it were as good as the suburban school.

Mr. President, I do not want to leave the impression that these few quotations represent anything like an adequate presentation of Dr. Armor's views. In some respects, the views expressed in his article are more startling than is indicated by the quotations and I urge Senators to carefully read the article.

Professor Armor is supported in his conclusions by a massive evaluation of the Coleman report conducted at Harvard University by a host of experts including Frederick Mosteller, Daniel P. Moynihan, Christopher S. Jencks, Thomas F. Pettigrew, James S. Coleman, and Professor Armor, to name a few of the 80 scholars who participated. The papers deriving from the study have been published in a book entitled "On Equality of Educational Opportunity," by Mosteller and Moynihan, published by Random House, Inc., in March 1972. Many informative articles and editorials have since been published on various aspects of the study. I have yet to find one which rejects Professor Armor's conclusions.

One of the participants in the study, scholar-journalist Christopher Jencks, has recommended a vast socialistic overhaul of our economic institutions as the only way to get equality. The Washington Evening Star-News editorialized on this and related views of Professor Jencks in an editorial of Friday, September 22, 1972, entitled "Inequality and Schools."

There is nothing particularly novel in the recommended economic approach to socialistic equality. It is a basic premise of Marxist socialism. What is novel, is that this Socialist goal can be implemented by Federal courts under existing concepts of equity powers in Federal courts and with powers of punishment for failure to abide by court decrees in class action suits. If Congress cannot limit remedies imposed by Federal courts in equity cases, then Congress will have legitimized the the concept of unlimited discretionary power in the Federal judiciary. We will have returned to the Dark Ages in man's continuing struggle against the enslaving effects of royal prerogative now confronting us in the guise of unlimited discretionary powers in Federal judges.

Mr. President, I want to sum up by saying that our public school systems are in an undesirable state of confusion. This confusion is a direct result of abuses of power by the Federal judiciary and Federal bureaucrats undertaking to implement a sociological hypothesis which has since been abandoned. In the process of testing hypothesis and theories, the courts and Federal bureaucrats have used our schools and our schoolchildren as guinea pigs—white and black alike, and the people resent it. The dehumanizing effects of the mechanized and computerized approaches used in these experiments should give every thinking person cause for profound concern.

The U.S. Supreme Court, in its second Brown decision, observed with particular reference to remedies that, traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and recognizing public and private needs. Who would ever have then imagined that equity powers of Federal courts would be stretched to encompass a power in the State to conduct sociological and psychological experiments involving millions of parents and schoolchildren in the United States?

If we were to read the Court literally, the language would imply that it is within the power of Federal courts, sitting in equity, to determine and enforce in the discretion of the judge, a superior claim of the State to control the lives of individuals in our society. In short, it would establish the premise of socialism plus means of achieving it by use of the coercive power of Federal court judges in class actions affecting the lives of literally tens of millions of people.

When we consider also that U.S. district courts have used their discretionary power to issue mandatory injunctions to compel local public officials and individuals to obey under threats of trial for contempt of court and the imposition of confiscatory fines and imprisonment without benefit of trial by jury, we can begin to understand the scope of the usurpation and abuse of judicial powers. We can begin to understand also how far U.S. district courts have departed from the specific caveats on the exercise of equity powers imposed by the Supreme Court in Brown II, where the Court said: "In fashioning and effectuating the decrees, the courts will be guided by equitable principles," and "the exercise of traditional attributes of equity power."

U.S. district courts have not been inhibited by traditional principles of equity. Neither have the courts been inhibited by fundamental considerations respecting the separation of powers and constitutional structure and allocation of powers in our government. Neither has the U.S. Supreme Court seen fit to inhibit U.S. district court judges in their abuses and excesses in the exercise of traditional attributes of equity power.

This is the nature of the evil which must be remedied. I confess that the bill does not provide adequate relief. Neither am I sure that the bill will pass, but I am sure that the American people have had their fill of judges and bureaucrats ordering them to load their children on buses with no more regard for their feelings and welfare than if they were chattels. I am equally certain that a substantial majority of the people of the United States are demanding that this bill be voted up or down and disposed of on its merits before the elections in November.

Mr. President, I had intended to ask unanimous consent that certain exhibits be printed in the Record. They are quite voluminous, and I merely am going to give the bibliography, for the purpose of enabling any person researching the question to refer to these matters.

Exhibit 1: The hearings before Subcommittee No. 5 of the Committee on the Judiciary, House of Representatives, 92d Congress, 2d Session, serial No. 32, part 3, printed for the use of the Committee on the Judiciary.

Exhibit 2: A publication entitled "The Public Interest," No. 28, summer 1972.

Exhibit 3: An editorial published in the Washington Evening Star on Friday, September 22, 1972, entitled "Inequality and Schools."

Exhibit 4: The Supreme Court decision of Mr. Justice Powell, No. A–250, Drummond against Acree, decided September 1, 1972.

Exhibit 5: A pamphlet entitled "Constitutionality of the President's Busing Proposals," Robert H. Bork, American Enterprise Institute for Policy Research.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Stevenson) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, until 10 a.m.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare and the Committee on Foreign Relations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1226, 1227, 1228, and 1229, which have been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD WAR I PENSION ACT OF 1972

The Senate proceeded to consider the bill (S. 3070) to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "World War I Pension Act of 1972".

Sec. 2. That (a) chapter 15 of title 38, United States Code, is amended by adding after section 507 a new section as follows:

"§ 508. Special provisions relating to veterans of World War I and to widows and children of veterans of World War I

"(a) The amount of pension to which any veteran of World War I is entitled under section 521 (b) or (c) of this title and the amount of pension to which any widow of a veteran of World War I is entitled under section 541 of this title shall be increased by 10 per centum.

"(b) The monthly rate payable to any veteran of World War I under section 521(d) for regular aid and attendance shall be increased by $15.

"(c) The monthly rate payable to any veteran of World War I under section 521 (e) shall be increased by $6.

"(d) The monthly rate to which any child or children of a veteran of World War I is entitled under section 542 of this title shall be increased by $8 in the case of one child and by $1 for each additional child."

(b) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by adding immediately below

"507. Disappearance."

the following:

"508. Special provisions relating to veterans of World War I and to widows and children of veterans of World War I.".

Sec. 3. This Act shall take effect on January 1, 1973.

Mr. THURMOND. Mr. President, we owe a great debt to our World War I veterans. They are now few in number and up in age, and most of them are living on a fixed income. With the rising cost of living, it has been hard for them to maintain their accustomed standard of living.

Consequently, I sponsored S. 3070 to provide a 10-percent increase in monthly pensions.

This bill, S. 3070, will provide increased annual income limitations equal to that provided in S. 4006, and will amend title 38, U.S.C., by adding a new section which will provide to a World War 1 veteran and his widow, an increase in monthly pension benefit by 10 percent.

The veterans of World War I faced many problems and insurmountable odds when they returned to these shores following their service. Many veterans did not have the privilege of going back to their former place of employment or even finding employment in those troubled times. There were no laws regarding preference for the veteran in any field. If they could not find employment, many were forced to sell apples on the street. To add to their chagrin, they lived through the depressions which often wiped out any small savings or business they had.

Many veterans of World War I were not covered by social security benefits effective January 1, 1937, or if they were covered, the wages at that time did not provide benefits commensurate with those of today's standards. Today, they are unfortunately too old to be hired in the job market or able to supplement their meager income with salaries or wages. So, increased income limitations are not always beneficial to these older veterans.

Mr. President, due to the rising cost of living and increased need for medication, they need greater monthly benefits to enable them to keep body and soul together. This generation of American citizens is too proud to go on welfare or accept public charity; however, they are very appreciative of the pension they receive from this great Nation, and look forward to this pension to grant them additional benefits so they may live their remaining days with dignity.

In many instances it has been stated that the veterans of World War I were never afforded the benefits comparable to those provided to veterans since that time. It is also known that pension benefits have always been paid according to need, but many of these older veterans believe they were entitled to additional benefits comparable to those provided veterans of later wars. Taking all evidence into consideration, this could be another reason for increasing benefits for this group of individuals.

Accordingly, Mr. President, I am proud to sponsor S. 3070, and I express my appreciation to the members of the Veterans' Affairs Committee who unanimously reported this bill.

Mr. President, the average age of today's World War I veteran is 77.5 years, and there are now less than 1,400,000 veterans left from that war; however, only about half of these draw pensions. We are losing them at a rate of about 6,000 per year.

Estimates based on Veterans' Administration statistics show the first full year cost of S. 3070 to be $109 million, decreasing gradually to $99.1 million at the end of 5 years.

Mr. President, I am proud to sponsor S. 3070, and hope it receives prompt and favorable attention.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend title 38, United States Code, to provide for a special addition to the pension of veterans of World War I and to the pension of widows and children of veterans of World War I."

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORATORIUM ON COAL LEASING IN MONTANA

The Senate proceeded to consider the resolution (S. Res. 377) to provide a temporary moratorium on Federal coal leasing in the State of Montana, and for other purposes.

Mr. MOSS. Mr. President, I reluctantly accept the fact that there is small likelihood of a comprehensive surface mining bill this session. As the chairman of the Interior Committee said when he filed his amendment in the nature of a substitute to S. 630 on Friday last, there are two very different bills pending before the Congress. H.R. 6482 which was passed last night by the House differs vastly from S. 630 and its various amendments. The chairman of the House Interior Committee filed separate views with regard to the House bill (H.R. 6482) in which he carefully and realistically set forth the types of problems which he sees with the legislation. I share his concern that any legislation must be broad enough to be applied across the entire sweep of the Nation.

On the Senate side, I had hoped, until the last several days, that we would be able to mark up S. 630, adding amendments which Senator Jackson, Senator Metcalf, and I had proposed in July. I have received wires from environmental groups which would support this, and I ask unanimous consent that they be included in these remarks.

There being no objection, the telegrams were ordered to be printed in the Record, as follows:

Washington, D.C.,
August 2, 1972.

Senator Frank Moss,
Senate Office Building,
Washington, D.C.:

Your bill on strip mining with the proposed amendments of Senator Jackson and the Interior Committee staff would go far toward correcting the serious problems associated with surface mining. We urge you and your colleagues to press forward and to report out the bill as amended.

Very truly yours,

Peter Borrelli,
Eastern Representative, Sierra Club, Washington.

San Francisco, Calif.,
August 3, 1972.

Senator Frank Moss,
Senate Office Building,
Washington, D.C.

Dear Senator Moss: Sierra Club commends you for proposing amendments to Interior Subcommittee strip-mining legislation. We support additions together with committee staff recommending contour mining ban to vastly strengthen committee print. We strongly urge quick committee adoption of package.

Michael McC. Loskey,
Executive Director, Sierra Club.

Mr. MOSS. Mr. President, in addition, my esteemed colleague, Senator Jordan, ranking minority member of the subcommittee who has worked valiantly beside me for many months on this legislation has received from the administration a letter of support for S. 630, with a recommendation for several amendments which are well taken and should be considered by our committee.

Consistent with the amendments which I offered in July to S. 630 I have prepared further amendments which I am ready to offer on the floor of the Senate. However, in view of the lateness of the hour and the apparent impass which we face between the House version and the still emerging version on the Senate side, such action would appear to be a hollow gesture and would achieve nothing in this session of the Congress. Surface mining legislation appears to be doomed in this session for many reasons, not the least of which is the obvious and fundamental differences between the House and the Senate versions of the bill.

I recognize the fact that the distinguished Members of this body should not be expected to mark up and finish the work of the Interior Committee on the floor of the Senate and I also recognize the fact that there are many new concepts embodied in the chairman's amendment in the nature of a substitute which deserve careful consideration and detailed analysis—that such consideration and analysis demands further committee hearings and discussions and that we have run out of time.

State officials in Kentucky and Tennessee charged with supervising reclamation efforts in their States told me when I visited them in February of this year that they needed assistance in techniques of reclamation and particularly in Federal assistance in enforcing existing laws. It appears unlikely that this Congress will be able to do that. Westerners, on the other hand, have viewed Appalachia with dismay and plead with members of their delegations to halt pending coal operations in the West until a carefully orchestrated plan involving a thorough study of the land ownership pattern, natural resources, water and land uses and the sociological and economical impact of the proposed gargantuan mining development operations can be completed.

To that end, Senator Metcalf, Senator Mansfield, Senator Burdick, and I introduced a joint resolution urging the Secretary to suspend coal mining activities on Federal lands—comprising nearly 50 percent or more of the coal lands of the West—until such time as the Congress has completed action on surface mining legislation. A modified version of that resolution was reported from the Interior Committee to the Senate on October 6. This resolution states the sense of the Senate that Federal leasing be held in abeyance in Montana for a period of 1 year, or until we enact appropriate legislation to control surface mining. I earnestly urge your consideration of this measure.

The need for this resolution presses especially upon my colleagues from Montana. If the power developments proceed as planned in Montana they face a population increase during the next 15 years of another 280,000 to 912,000 and the population of the entire State was only 694,409 in the 1970 census.

The House bill does not take effect for 6 months.

Montana needs time for a study and planning of these population problems alone. The Secretary of the Interior has authority to do all that we ask him to do by this resolution. The added impetus is simply that the Senate urges him to do it. Now.

The sense of the Senate resolution declares that going slow is not enough and that withdrawal of the lands involved and suspension of activities is necessary to protect the lands until appropriate planinng and long-range studies can take place including a study of the landownership, natural resources, water and land uses, and the sociological and economical impact of the mining activity on the total community.

Mr. President, I urge adoption of this sense of the Senate resolution for a temporary moratorium on coal leasing activities in the State of Montana. I would further ask that the article from the Los Angeles newspaper entitled "Great Coal Rush—Will It Ravage Montana's Land?" which I entered in the Record October 5, 1972, be reprinted as part of these remarks. It is an excellent article and states the problems facing the residents of Montana most eloquently and succinctly.

There being no objection the article was ordered to be printed in the Record as follows:

Surface Mining Reclamation and Regulation

Mr. Moss. Mr. President, for over a year and a half the Committee on Interior and Insular Affairs and my subcommittee on minerals, materials, and fuels, in particular, have been wrestling with the problems of surface mining regulation.

Ten bills were introduced in the 92d Congress and the committee has now produced four committee prints representing the combined efforts of the subcommittee membership and that of the chairman. Even at this late date in the session we are still seeking the best solution to a very difficult and complicated problem and we are urgently, actively and most sincerely working toward a bill which will protect the environment and allow us to obtain the minerals necessary to the operation of our society.

The need for legislation is clearly illustrated in a newspaper story from the Los Angeles Times of September 29, using the State of Montana as the stage upon which the drama of control of surface mining is now focused. I ask unanimous consent that the story be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Great Coal Rush: Will It Ravage Montana's Land?

(By Joan Sweeney)

SOME RANCHERS BATTLE TO SAVE RANGE BUT LAW FAVORS MINING COMPANIES

SARPY CREEK, MONT.—Thirty miles from Custer's Last Stand, rancher John T. Redding is staging one of his own to keep the isolated, unpredictable land he has worked for the past 56 years.

Lawyers tell him his stand is as futile as Custer's.

His land lies in the path of the great coal rush that has swept eastern Montana, a sparsely populated area where skies are breathtakingly blue and water is precious.

The region is in danger of having its relaxed, rural way of life altered drastically by coal strip mining and proposed power projects to supply electricity not only for the area but for states as far away as Missouri and Iowa.

At Sarpy Creek, Westmoreland Resources wants to strip-mine Redding's land, for the low-sulphur coal beneath it.

LAW ON ITS SIDE

And Westmoreland has Montana law on its side.

Redding, like many other ranchers and farmers in eastern Montana, owns only the surface. At Sarpy Creek, the Crow Indians hold the mineral rights and have leased 30,876 acres to Westmoreland.

Under Montana law, private mining companies can seize the surface land through condemnation if the owner will not sell.

Redding was 12 years old back in 1916 when he and his family walked miles through snow, 2 and 3 feet deep, to reach their homestead.

Through good years and bad, through deadly winters and even deadlier drought, Redding stuck it out. During the depression, he watched as his neighbors abandoned their parched land for the greener fields of Washington and Oregon, but he stayed.

WANTS TO CONTINUE

He still wants to stay, but he says Westmoreland's agents have told him to sell at its price or have his land condemned. So far he has refused.

"They said, 'If you don't take this offer, we will take you to court, condemn you and you won't have anything,'" Redding's son, John R., said bitterly.

Westmoreland does not want all of his land, but Redding said he would be left with only hilltops and no water.

Lawyers that the Reddings consulted advised them to sell. Some of their neighbors, like Merle Cox, already have.

Cox is a taciturn bachelor, seemingly emotionless, his face weathered by 23 years on his ranch. "They said if I didn't sell they'd condemn it and take it, so I went and seen a lawyer. He said they could do it. It looked like selling was the only thing I could do," Cox said.

Montana law, written before statehood when mining was the territory's only industry, gives private companies holding the mineral rights the power of eminent domain to condemn the surface lands. The 1961 Montana legislature expanded the law to include strip mining.

A company can bring action in state district court to condemn a piece of land, and the judge then appoints three commissioners to assess the damages to be paid the owner.

John W. Northey, deputy Montana attorney general, said it had never been determined by the state's Supreme Court whether the mining company must pay the value of the land or merely for damage to it.

When the U.S. government opened eastern Montana land to homesteaders, it generally retained the mineral rights. The Indians, the Burlington Northern Railroad and the state also own mineral rights to extensive tracts.

The homesteaders knew when they claimed the land that they did not own mineral rights.

"At that time, I don't think anybody ever heard of strip mining," the younger Redding said. "If there was going to be mining, it would be underground, and it didn't worry them."

A spokesman for Westmoreland headquarters in Billings declined to discuss the firm's present or future operations.

POLLUTION LAWS

Some other mining officials believe that the only reason the ranchers refuse to sell is to try to extract a higher price for their land. And it is true that, although some ranchers see strip mining as destroying their way of life, others are happy to sell.

The national energy shortage, pollution laws banning high sulfur fuels and new technology have combined to suddenly make western coal, which is low in sulfur, sodium and ash, highly attractive. Also important is its vast quantity—an estimated 1.45 trillion tons within 6,000 feet of the surface in the Fort Union formation of Eastern Montana and Wyoming and the western Dakotas alone.

Economics dictates that this coal, which lies in thick seams relatively near the surface, should be removed by the cheaper method of strip mining, which uses giant shovels that can gulp 114 cubic yards of earth with one bite.

Opponents fear the mining could trigger an environmental crisis.

DAMS PROPOSED

They say that not only would strip mining chew up land now devoted to agriculture, the area's present economic mainstay, but that proposed energy plants with their enormous needs for water could stymie other industrial and agricultural development in the semiarid area. An Environmental Defense Fund study calculates that the mean annual flow of the Yellowstone, the main river, could be reduced as much as 81% by such plants' needs. And in dry years, the river's flow is only half of its average.

To supply enough water for the plants, the Bureau of Reclamation proposed damming the Yellowstone, building as many as nine reservoirs, and constructing an extensive network of large aqueducts.

"The Yellowstone River is an exceptional trout fishery and the only major uncontrolled river in Montana," said James Posewitz of the Montana Fish and Game Department. "One of the major issues is going to be whether we dam the Yellowstone."

POWER NEEDS SEEN

The North Central Power Study, a joint project of the U.S. Bureau of Reclamation and some 35 utilities, proposed 42 mine mouth, coal-burning power plants—21 in eastern Montana, 15 in Wyoming (which would require Montana water), four in southeastern North Dakota and one small plant in both South Dakota and Colorado.

The plants would produce 53,000 megawatts of power.

Even with the coal's low sulfur content and proposed federal standards for such plants, they would still produce approximately 2.1 million tons of sulfur dioxide a year, according to the EDF study.

"This material will, in turn, yield an as yet unspecified mixture of sulfurous and sulfuric acids to be deposited downwind on farmland and communities," the study added.

It calculated the plants would produce anywhere from 94,500 to 787,500 tons of fly ash a year and as much as 1.87 million tons of nitrogen dioxide.

The prevailing wind most likely would carry the pollution eastward across the wheat fields and prairies toward the Black Hills.

"The Black Hills—they'll be black, black with soot," said Rep. George Darrow, a member of the Montana House of Representatives, the chairman of the state's Environmental Quality Council and a geologist.

Montana Power is constructing two 350-megawatt units at Colstrip, Mont., where its subsidiary, Western Energy, is strip-mining. It is using the first of the proposed mine mouth plants.

An alternative to these plants, which some consider obsolete and inefficient, is gasification plants that turn the coal into synthetic pipeline gas. Steam generators convert only 30–40% of the coal's energy into electricity while gasification has a 60% efficiency rate. Possible pollution from gasification plants includes sulfur compounds, ammonia, hydrogen cyanide and hydrogen chloride.

PLANTS PLANNED

Two gasification plants are under consideration for Dawson County, one near Hardin and another near Sarpy Creek, all in southeastern Montana.

Another possibility, given additional technology development, is multiproduct complexes that produce electricity, liquid and gas fuels and petrochemicals. Their coal and water demands would be enormous.

It is the multiproducts complexes that could touch off a population explosion. A Bureau of Reclamation memo estimated the area's population could increase during the next 15 years by another 280,000 to 912,000 persons. The population of the entire state was only 694,409 in the 1970 census.

The amount of strip mining already under way is small—primarily in the Decker Birney area and near Colstrip where both Western Energy and Peabody Coal Co. have pits—but it is expected to mushroom in the next few years.

Most of the coal is shipped out of state, sometimes a long way out. Burlington Northern recently transported 20,000 tons of coal 1,730 miles from Colstrip to a Tennessee Valley Authority plant.

State Lands Commissioner Ted Schwinden said, "This represents a continuation of what has been the traditional history of Montana—exploitation of its resources with a minimum of economic benefit to the state.

"We are left with a hole in the ground and the resource is gone forever."

Strip mining is not new to Montana. In 1923, the Northern Pacific Railroad (now Burlington Northern) began strip-mining coal for its steam locomotives at Colstrip and continued until 1958.

PLANNING URGED

South of Colstrip, the old NP spoils banks still rise like giant lumps of white dough, arid and eroded, against the blue sky. Only occasional tufts of weeds decorate them. Some fear these are a harbinger of eastern Montana's future landscape.

Rep. Darrow believes the coal development "has to be done with far more advance planning and forethought" than there has been.

"The mining could be accomplished with a minimal amount of land disruption," he said. "We don't need to open up a dozen mines simultaneously and have scattered fragmented exploitation."

Only now is some effort beginning toward finding answers and toward planning for what most regard as the inevitable.

TASK FORCE FORMED

Mrs. John Cross of Glendive told a meeting of the Economic Development Assn. of Eastern Montana: "Events are happening so fast that few Montanans fully realize what effect the so-called coal development is going to have on their lives and on their environment. We will soon be in the position of locking the barn after the horse is stolen."

A task force of state agencies was recently formed to provide comprehensive planning that would consider social, economic and environmental factors.

The Bureau of Land Management, meanwhile, is delaying action on lease applications.

"Why lease further areas when you don't know what you are doing?" one Bureau official in Billings said.

No such concern is expressed by the Bureau of Indian Affairs, which has granted leases and options on nearly 600,000 acres of Crow and Northern Cheyenne Indian land in Eastern Montana.

M. W. Babby, Indian Affairs assistant area director in Billings, indicated he feared that unless the coal was exploited now it would become valueless when new energy sources were found.

"We are going ahead and leasing it," he said. "It is an asset, and there are indications coal will be a salable product for only a few years."

A recent General Accounting Office report noted that the BIA takes the position the Environmental Protection Act does not apply to Indian lands and environmental impact statements are not required for coal exploration and mining projects.

The report criticized both the BLM and the BIA for failing to comply with Interior Department and environmental regulations for coal leasing and reclamation.

Perhaps the biggest question is whether the land can be reclaimed at all without constant and endless care and fertilization.

Optimists point to the experiment of Richard L. Hodder of the Montana Agricultural Experiment Station, financed by Western Energy at its Colstrip mine. He is studying various combinations of contouring, surface shaping, fertilizing and vegetation.

Hodder believes strip mining and reclamation can be one continuous process. In his method, when earth is removed to get at coal, it is used to fill any adjacent hole where a vein already has been mined. The spoil banks are then contoured, fertilized and planted as part of the reclamation project.

"I think reclamation is very possible over the long haul," he said. "Certainly I have demonstrated that it is on the short haul . . . I think the potential is very great for producing more than what the area produced previous to mining."

But a rancher in the area said, "With the amount of fertilizer they are spreading on, I could grow grass on a roof."

Hodder said, "We are trying to reproduce a country similar to what is here now—not the flat-topped buttes—but less high highs rounded in such a irregular fashion that they will fit into the natural landscape."

Hodder warned that reclamation work had to start before extraction did and continue simultaneously. Core samples must be analyzed to determine whether topsoil should be stockpiled and what kind of vegetation will grow best on it.

The Burlington Northern has begun reclaiming the old NP spoil banks at Colstrip and estimates it will cost $1 million for one thousand acres—$1,000 an acre.

Montana law required that companies post bonds to guarantee reclamation. But Northey said the maximum limit is $500 an acre. This could be less than the cost of reclamation.

Mr. MOSS. Mr. President, it now appears there is little possibility of Senate action on surface mining legislation before adjournment. If the Senate does not act on the surface mining measure this year, I call upon the leadership to make the consideration of such legislation the No. 1 priority of the 93d Congress.

I pledge to you, as chairman of the Subcommittee on Minerals, Materials and Fuels that I will do all I can to report to the Senate a strong balanced measure by March 1 of next year. H.R. 6482, S. 63, and the Jackson amendment give an excellent basis upon which to begin.

Mr. MANSFIELD. Mr. President, I have listened to the remarks of the able Senator from Utah (Mr. Moss) with great interest and I recognize he is accurate in his analysis of the current situation on surface mining legislation. I hope that Congress will take the initiative in adopting strong surface mining legislation this year. I appreciate the efforts of the Senate Interior Committee in reporting the resolution which would place a temporary moratorium on coal leasing and development on public lands in Montana.

The issue of surface mining and the consequences associated with this method has created a most difficult problem in the West. Because of projected power shortages, many interests see development of these vast coal deposits as new, untapped sources of energy. This must be approached cautiously. I believe too little attention is being given to conservation of our energy sources. Commercial exploration of these coal resources in Montana, Wyoming, the Dakotas, and other neighboring States without appropriate controls can lead to ultimate disaster far exceeding anything experienced in Appalachia.

I have given considerable thought to this issue in recent months and I have come to the conclusion that the only way the interests of my State can be fully protected is to adopt an absolute moratorium on all new strip mining on Federal lands until such time as it can be demonstrated that the developers have and will use appropriate technology to achieve necessary reclamation of these mined lands for future generations. Such a moratorium is necessary in view of the inability of the Congress, the Executive, and the individual States to adopt appropriate safeguards.

I believe the various Federal agencies involved in administering the vast acreage of Federal lands in the West have been derelict in refusing to issue regulations governing surface mining. These agencies were put on notice some 2 years ago but, to date, they have offered nothing in the way of constructive programs. The Congress has addressed itself to this situation but, because of the very serious conflicts between industry and environmental interests, we have not been able to muster sufficient support. It is an issue that must be given a position of priority in the 93d Congress.

I also believe that the individual State legislatures are going to have to address themselves to this issue. In the State of Montana, large coal development companies are acquiring surface rights without concern for the individual. The landowner is forced to accept the offered price because of State laws. Private companies holding mineral rights have the power of eminent domain. A large portion of eastern Montana was settled under the Homestead Act. At the time the United States patented land to homesteaders, I am convinced that it was not contemplated that these lands would be subjected to strip mining.

We in the Congress have the responsibility of protecting the individual rights. I do not want to see the ranchers and farmers of eastern Montana forced off their land in the name of coal development which would leave the eastern part of the State an ugly eyesore to plague future generations. We sympathize with the most difficult situation facing our friends in Appalachia who live with the disastrous effects of uncontrolled strip mining. We have a responsibility to see that this part of our Nation is given all possible support in its efforts to redevelop.

Mr. President, again I wish to recommend as strongly as I can the need for a total ban on all new strip mining on Federal lands until we have a satisfactory program of reclamation. I believe that new laws governing reclamation of mined lands should not only apply to Federal leases but also to any private lands from which coal or other minerals enter interstate commerce. I am as interested in the economic development of Montana as any resident of the State but I certainly am opposed to uncontrolled destruction of the land. I might point out that the ultimate benefit from the proposed mining power generation program will not be in Montana. Power generation is designed to meet the increased demands of the urban areas far away from eastern Montana

I have discussed this issue many times with my colleague, Senator LEE METCALF, whom I know shares my concern as a major proponent of strong surface mining legislation. I want to go on record today stating that Congress will hear more on this subject from the Senators from Montana in 1973.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 377) was agreed to as follows:

Resolved, That it is the sense of the Senate that the Secretary of the Interior exercise his authority under existing law and withdraw temporarily from prospecting and exploration, lease, or other disposal subject to valid existing rights, deposits of coal owned by the United States in the State of Montana which can only be mined by surface mining methods, suspend pending applications for coal permits and, in accordance with the provisions of the Mineral Leasing Act of 1920 (30 U.S.C. 209), suspend all coal leases for surface mine operations not in actual production, or in diligent prosecution leading toward production, for a period of one year from the effective date hereof, or until Congress enacts legislation for the control of surface mining prior to the expiration of such one year period.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN-MEXICAN BOUNDARY TREATY ACT OF 1972

The Senate proceeded to consider the bill (H.R. 15461) to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes, which had been reported from the Committee on Foreign Relations with an amendment on page 6, after line 19, strike out:

Sec. 109. For purposes of chapter 1 of the Internal Revenue Code of 1954, any property or business or interest therein, located in the same general area as the property acquired by purchase or condemnation under paragraph (2) of section 101 of this title shall be treated as property similar or related in service or use to the property so acquired.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SALE OF CERTAIN RESERVED MINERAL INTERESTS

The bill (H.R. 10556) to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar at this time.

HOHOKAM PIMA NATIONAL MONUMENT

Mr. FANNIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8756.

The PRESIDING OFFICER laid before the Senate H.R. 8756, to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown Archaeological Site, Ariz., and for other purposes, which was read twice by its title.

Mr. FANNIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

Mr. FANNIN. Mr. President, this matter has been cleared on both sides. On October 9, the Senate Interior Committee reported an identical bill, S. 1927, Calendar No. 1225. This bill is identical in every way to the provisions of H.R. 8756. Therefore, in order to send this measure to the White House, I move the passage of H.R. 8756.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 8756) was ordered to a third reading, read the third time, and passed.

Mr. FANNIN. Mr. President, I ask unanimous consent that S. 1927 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, S. 1927 will be indefinitely postponed.

UNANIMOUS-CONSENT AGREEMENT ON S. 3342, A BILL TO AMEND TITLE IV OF THE CLEAN AIR ACT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a unanimous-consent request and ask unanimous consent that it be agreed to. It has been cleared on all sides.

The PRESIDING OFFICER. The unanimous-consent request will be stated.

The assistant legislative clerk read as follows:

Unanimous-Consent Agreement

Ordered, That when and if S. 3342 or its House passed counterpart H.R. 11021 is brought before the Senate, debate on the Brooke amendment shall be limited to 2 hours, and debate on any other amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill; *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Prvided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Program Requirements for Antarctic Research

A letter from the Acting Director of the National Science Foundation submitting a table showing the reprograming requirements for Antarctic Research (with accompanying papers); to the Committee on Appropriations.

Disposal of Surplus Federal Property

A letter from the Secretary of the Interior transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for park and recreation purposes (with accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FANNIN (for Mr. Long), from the Committee on Finance, with amendments:

H.R. 1467. An act to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans (Rept. No. 92–1290).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendment:

H.R. 17034. An act making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1297).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 10384. An act to release certain restrictions on the acquisition of lands for recreational development and for the protection of natural resources at fish and wildlife areas administered by the Secretary of the Interior (Rept. No. 92–1291).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 4039. A bill to amend Public Law 90–553 concerning an international center for sites for chanceries for foreign embassies (Rept. No. 92–1293).

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, with an amendment:

H.R. 14911. An act to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes (Rept. No. 92–1294).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 15965. An act to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers and for other purposes (Rept. No. 92–1295).

By Mr. BENNETT, from the Committee on Finance, with amendments:

H.R. 16810. An act to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973 (Rept. No. 92–1292), together with minority views.

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, without amendment:

S. 3237. A bill to authorize an additional Deputy Secretary of Defense, and for other purposes (Rept. No. 92–1296).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Frank H. Freedman, of Massachusetts, to be a U.S. district judge for the district of Massachusetts;

Hernan G. Pesquera, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico;

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida;

Joseph L. Tauro, of Massachusetts, to be a U.S. district judge for the district of Massachusetts;

H. Emory Widener, Jr., of Virginia, to be a U.S. circuit judge, fourth circuit;

Kevin Thomas Duffy, of New York, to be U.S. district judge for the southern district of New York;

Robert J. Ward, of New York, to be a U.S. district judge for the southern district of New York; and

James C. Turk, of Virginia, to be a U.S. district judge for the western district of Virginia.

Mr. MAGNUSON. Mr. President, as in executive session, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the Congressional Record and to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Donald M. Thomson, Jr., and sundry other officers, for promotion in the U.S. Coast Guard.

Mr. FULBRIGHT. Mr. President, as in executive session, from the Committee on Foreign Relations, I report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Charles S. Ahlgren, of Iowa, and sundry other persons, for promotion in the diplomatic and foreign service.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY:

S. 4089. A bill to amend the National Housing Act to provide counseling and related services to homebuyers and to deny certain benefits to persons engaging in unethical practices in the sale of federally assisted housing. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAYH:

S. 4090. A bill to amend the Internal revenue Code to encourage the continuation of small family farms, and for other purposes. Referred to the Committee on Finance.

By Mr. MONDALE:

S. 4091. A bill for the relief of Victor DiBello. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 4092. A bill to impose annual quotas on the quantity of potassium chloride or muriate of potash which may be imported into the United States. Referred to the Committee on Finance.

By Mr. MONDALE:

S. 4093. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents. Referred to the Joint Committee on Atomic Energy.

By Mr. BENNETT:

S. 4094. A bill for the relief of Elsa Bibiana Paz Soldan. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4095. A bill for the relief of Mrs. Sabir Dairkee; and

S. 4096. A bill for the relief of Mrs. Fay Caleb. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 4089. A bil to amend the National Housing Act to provide counseling and related services to homebuyers and to deny certain benefits to persons engaging in unethical practices in the sale of federally assisted housing. Referred to the Committee on Banking, Housing and Urban Affairs.

ACTION ON BEHALF OF THE HOMEOWNER

Mr. PERCY. Mr. President, Federal programs for low- and moderate-income housing, particularly the so-called interest subsidy programs, continue to be, and rightly so, one of the most widely discussed and hotly debated domestic topics.

I had the privilege last April to appear before the annual convention of the National Association of Building Manufacturers to discuss our housing programs. I proposed then that the Federal Housing Administration undergo a fundamental, top-to-bottom reorganization into a consumer-oriented agency dedicated first and foremost to delivering a quality product to the homebuyer and not to protecting the financial health of the mortgage banker. Nothing short of a basic change in attitude and approach on the part of FHA, including the abandonment once and for all of what some regard as the Agency's outmoded philosophy of caveat emptor, will be sufficient to reestablish public trust and confidence in this Agency.

In my address I suggested some specific steps that FHA might take to accomplish a thoroughgoing reform. I followed this address by introducing in August a bill to strengthen provisions for compensating homeowners who unwittingly had purchased a defective or shoddily constructed home. Furthermore, I wrote to George Romney, the Secretary of the Department of Housing and Urban Development, about his authority to implement my reform proposals by Executive action.

Today I am proposing a Homeowner's Protection Act to provide the Secretary with the necessary tools to bring about a transformation in the FHA. This new authority will complement that which the Secretary feels he now possesses to act on behalf of the housing consumer. So that there will be no doubt where the Congress stands on this matter, I am also submitting a resolution urging the Secretary to make full use of existing authority.

I want to emphasize that Secretary Romney has been most candid in acknowledging the existence of and accepting responsibility for severe problems in the administration of many programs within his jurisdiction. By word and deed, the Secretary and his associates have admitted that FHA is, in the words of one unnamed aide, "a debacle where it—FHA—is needed—in the cities."

To his credit, the Secretary did not try to hide or obscure the facts. He did not suppress the now-famous HUD audit reports that pinpointed laxity in the management of the 235 and 236 programs, but rather made them public. He ordered his subordinates to cooperate fully with various grand jury investigations. And he took several significant steps to protect the homebuyer from fraud and abuse by tightening up the procedures for the issuance of FHA mortgage insurance, particularly with respect to appraisals of inner-city properties, and by making appropriate changes in the training and assignment of FHA personnel.

I welcome and applaud these efforts by the Secretary as well as his statement to me that "HUD needs to become more consumer-oriented." The Secretary has outlined for me several areas in which immediate steps may be taken on behalf of the homeowner and I want to pass this information along to my colleagues. In these cases the authority to act exists. If the commitment to the consumer is present, and if the authority to act in his behalf is available, then there is no excuse for delay in implementing basic changes in FHA's operations.

HUD area offices, the day-to-day operating area of FHA, have authority to refuse to do business with a builder, developer, real estate broker, mortgage banker, "project packager," or any other participant in the homebuying process if there is "substantial evidence" that he has acted illegally or unethically in violation of law or regulation.

They have the authority to require that all new or existing homes insured by FHA comply with all State and local codes as well as Federal standards.

HUD has the authority to impose the same standards required of HUD-acquired properties rehabilitated for resale on properties to be insured under all FHA programs. In many cases the same standards are applied.

HUD does have the authority to conduct pre- and post-purchase counseling of both homebuyers and renters. And this is being done on a limited scale through demonstration projects in a number of areas across the country.

HUD has authority to conduct post-purchase inspections of new and existing properties to aid the consumer in identifying and making repairs. It is presently using the authority only in "unusual problem cases" because of potential additional workload.

HUD does have the authority to decentralize its operations. Several new area offices equipped to provide information about available housing and related matters as well as counseling services have been established recently.

HUD has the authority and has taken steps recently to assure a long-term commitment on the part of sponsors and management agencies of 236 multifamily projects. A training program for housing managers is being developed under a nonprofit, private institution called the National Center for Housing Management.

It is reassuring to know that the authority exists for the Secretary and the FHA to take decisive action in so many areas. A question remains at this juncture, however, about how fully and how effectively the Secretary and other Department officials will use the power they possess to change fundamentally the orientation of the FHA. My own position is clear: I urge the Secretary to use every shred of his authority now, without delay and without equivocation.

If the Secretary does move decisively on this issue, then I believe he will have the complete and enthusiastic support of all Members of the U.S. Senate. In order to demonstrate this support in the clearest possible manner, I am introducing today a resolution calling upon the Secretary to take all necessary steps and to use all existing authority to put FHA on the side of the consumer.

Some tools for accomplishing this objective are not presently available to HUD, and Congress must provide them. For one thing, HUD can do little now to require that real estate brokers disclose to prospective homebuyers full information about all properties available in a particular area and show to the consumer all those properties which he requests to see. My Homeowner's Protection Act will give the Department this authority.

In addition, my bill authorizes the Department to carry the process of decentralization to its logical conclusion by setting up neighborhood offices in areas of intense mortgage activity to provide full information, assistance, and counseling to the consumer. Some may question this action because of the additional personnel which would be required. The manpower problem may already account for HUD's reluctance to undertake a large scale in-house counseling program as well as a program of post-purchase inspection.

But are we really gaining anything by rigid economies in government when the end result of not adequately staffing the area offices, of not providing badly needed counseling services and post-purchase inspections, of not, in other words, meeting the legitimate needs of the consumer at the local level, is default, foreclosure, abandonment, and the further decay of our great cities? The answer it seems to me, is obvious.

Mr. President, I am sure my colleagues will agree that we have reached the point of diminishing returns with respect to committee investigations and staff studies. We all have a clear idea of what the problems are and the range of possible solutions.

I for one believe the programs are sound, but that FHA has taken too passive a role in implementing them, particularly with respect to properties located in the inner cities. It is not too late for FHA to assume a new posture or to accelerate the movement that has begun. I urge Secretary Romney to do what he can to achieve this objective. I urge my colleagues to join with me in providing the Secretary with the authority and the funds he may require to do the job.

By Mr. BAYH:

S. 4090. A bill to amend the Internal Revenue Code to encourage the continuation of small family farms, and for other purposes. Referred to the Committee on Finance.

FAMILY FARM INHERITANCE ACT

Mr. BAYH. Mr. President, I am pleased to introduce today for appropriate reference, the Family Farm Inheritance Act.

Agriculture is a vital segment of our economy, as every American realizes. It is still the No. 1 industry in this country, employing more Americans than any other field. Indeed, more people are employed in agriculture than in the transportation, steel, and automobile industries combined. One out of every $10 of our gross national product is directly attributable to the food industry. And the American people buy their food for a far smaller portion of their income than any other people in the world.

But while the American people have benefited from the size and efficiency of our farm industry, the individual farmer has been having a progressively harder time making ends meet. Fifty years ago there were about 32 million Americans—more than 30 percent of the entire population—living on the farm; today there are only about 9 million Americans—slightly more than 4 percent of our population—still on the farm. This number is decreasing steadily. Moreover, it is the small farmer, the family farmer, who is being forced off the farm into our already overcrowded cities. In fact, every day about 300 family farms in this country have to be abandoned by their owners because they are no longer viable.

The reasons for the demise of the family farmer are evident. While food prices in this country have gone up along with everything else, the farmer often has not shared in this increase. Food price increases have gone to retailers and middlemen, but too many farmers have seen their share of the retail food dollar remain constant, and at times, decline. At the same time, while the average American non-farm-worker labors an average of only 37 hours a week, the average farmer works 50 hours a week and earns less for his time. Farmers receive an average of only 5.4 percent return on their investment whereas there is a 10 to 12 percent return on investment in industry.

Perhaps one of the greatest problems faced by farm families is the estate tax—a tax which is uniquely burdensome for farmers because it is usually based on the exorbitant real estate value of the land rather than on its far lower farming value of profitability. Children who have spent years working the farm with their parents are suddenly confronted with a large tax when the owner of their operation dies. For a small farmer, estate taxes are particularly severe because most of his assets are generally nonliquid: his farm, his farmhouse, his livestock, his crops, and equipment comprise the bulk of his assets and they are all essential to the profitable operation of the farm. Nonfarmers, if only because their return on investment is usually greater, normally have a greater percentage of liquid assets with which they can meet estate taxes.

To illustrate the problem faced by family farmers, let us take the hypothetical case of a Mr. Jones, Jr., who is left a 300-acre farm valued at $700 an acre, plus farm equipment, crops, and farmhouse, for a total valuation of $280,000. At the prevailing tax rate, he would have to pay $56,700 in Federal estate taxes. An average small farmer, Mr. Jones makes only about $10,000 a year from his farm; the income is already stretched thin to cover new farm equipment and family expenses. Assuming that Mr. Jones does not have large savings, he would be forced to either take out a mortgage on the farm—if it is not already mortgaged—or sell part of his land in order to pay the estate tax on his father's farm. Either way, he would decrease by a considerable margin the already small profit he is able to make from the farm. Furthermore, the burden of estate taxes could very possibly be so great that Mr. Jones, Jr., might find out that he can no longer make enough money on the farm to support his family. Thus he would be forced to sell the farm and look for work elsewhere.

Unless we want to see a continuing decline in the number of family farmers, and an eventual domination of the farm industry by large corporate farms, it is essential to help small farmers meet what are now unbearably high estate taxes.

The bill I am introducing today excludes the first $200,000 in value of the family farm from the taxable estate of those farmers who have managed their own farms during their lives and have willed it to relatives who plan to carry on this tradition. All such family farms must be actively used to raise agricultural crops of livestock for profit rather than as a hobby. To be specific, in order to qualify for the exemption, the decedent must have owned the farm for at least 5 years and must have exercised substantial management and control over the farm before he died. Those who inherit must not only continue to exercise substantial management and control over the farm, but must also maintain ownership and live on the farm for at least 5 years. In the event that a farm is willed to several children, all inheritors are covered by the bill if one of them meets the residency and management qualifications set forth in the bill.

As to the problem of Mr. Jones, Jr., under this bill he would qualify for the $200,000 farm exemption in addition to the standard $60,000 exemption granted to all citizens. Thus, Mr. Jones, Jr. would pay a total of $1,300 of estate taxes on $20,000 worth of his father's $280,000 farming estate. In the event that a family farm is willed as part of a larger estate, taxes would still be paid at the regular rate on all nonfarming portions of the estate.

Mr. President, I am introducing this legislation today because I intend to seek comments from my colleagues, the Department of Treasury, and others during the congressional recess. As you know, tax reform will be considered next session. After reevaluating my proposal on the basis on all received suggestions, I plan to introduce the bill in January and seek consideration of it along with other tax reform measures. I believe this proposal deserves serious study on the part of all Senators who are concerned about the declining interest in farming and the resulting concentation of agriculture. Unless rural living is presented as an equally sustaining and appealing career possibility for young people, this Nation will too soon be a homogeneous collection of crowded city dwellers. Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Farm Inheritance Act."

SEC. 2. Part IV of Chapter 11B of the Internal Revenue Code of 1954 (relating to deductions from the gross estate) is amended by adding at the end thereof the following new section:

"§ 2057. Interests in Family Farming Operations.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the lesser of (1) $200,000, and (2) the value of the decedent's interest in a family farming operation continually owned by him or his spouse during the five years prior to the date of his death and which passes or has passed to an individual or individuals related to him or his spouse.

"(b) SUBSEQUENT DISQUALIFICATION RESULTS IN DEFICIENCY.—The difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been paid on that transfer had the interest in a family farming operation not given rise to the deduction allowed by paragraph (a) shall be a deficiency in the payment of the tax assessed under this chapter on that estate unless, for at least five years after the decedent's death—

"(1) the interest which gave rise to the deduction is retained by the individual or individuals to whom such interest passed, and

"(2) the individual or any of the individuals to whom the interest passed resides on such farm, and

"(3) such farm continues to qualify as a family farming operation.

"(c) DEATH OF SUBSEQUENT HOLDER.—In the case of the subsequent death of an individual to whom the interest in a family farming operation has passed, his successor shall be considered in his place for purposes of paragraph (b).

"(d) DEFINITIONS.—

"(1) FAMILY FARMING OPERATION.—A "family farming operation" is a farm:

"(A) actively engaged in raising agricultural crops of livestock 'for profit', within the meaning of section 183, and

"(B) over which the owner or one of the owners exercises substantial personal control and supervision.

"(2) RELATIONS.—An individual is 'related' to the decedent or his spouse if he is that person's father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

By Mr. MONTOYA:

S. 4092. A bill to impose annual quotas on the quantity of potassium chloride or muriate of potash which may be imported into the United States. Referred to the Committee on Finance.

IMPORT QUOTA BILL FOR POTASH

Mr. MONTOYA. Mr. President, some weeks ago I expressed to the Senate my concern over a threat to the U.S. potash industry from Canada. I indicated at that time that the Saskatchewan potash industry, which had been found guilty of dumping potash into this country in 1969, had since been restrained by the Saskatchewan government which instituted a strict program of production prorationing and price control. I also indicated that the Saskatchewan program might come under serious legal attack by one Saskatchewan producer. I am sorry to report that this has since occurred.

I am advised that opinion in Canada is divided as to whether the Saskatchewan government program will survive this legal attack. It is clear, however, that there is a very real danger that the program will be destroyed and that the independent potash producers in Saskatchewan will return to full production and to unrestrained efforts to import potash into this country at any price.

If this occurs, the result will be chaos and irreparable damage to an industry vital to the United States. Our own Tariff Commission found in 1969 that substantial injury had been done to the industry by the unrestrained sale here of Saskatchewan potash before the prorationing program was instituted.

Since that time, the capacity of the producers in Saskatchewan has increased markedly. We cannot afford to let such a blow fall again on this industry. A number of jobs would be lost, our balance of payments would suffer, and after much of our industry has been driven out of business, we could confidently expect prices to rise again since there would be no motive to offer potash at cut rate prices as there would no longer be a viable domestic industry with which the Canadians could compete. The United States would gain nothing in the long run—and valuable deposits of ore would be wasted as well as the investment of many Americans in the potash mines and facilities in New Mexico.

I am therefore, reintroducing at this time a bill to limit imports of potash to historical levels, a bill very similar to one which I introduced in 1969. Changes have been made to reflect the continued growth of imports since that time. I will submit this bill again during the next session of Congress, but I believe that it is important to introduce it now so that time will be permitted for its consideration before the next session of Congress. If the Saskatchewan program is defeated in the Canadian courts before Congress reconvenes, action will be needed very quickly in January.

Legislation such as this, which affects trade with an important trading partner, should not be necessary and would not be necessary if Canadian authorities could find a way to continue to exercise control over their own industry. By requiring controls up to this time, Canada concedes that such control is needed. But if the Canadian Government does not continue to control their potash production, the United States has no alternative but to act forthrightly to protect our domestic producers.

By Mr. MONDALE:

S. 4093. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents. Referred to the Joint Committee on Atomic Energy.

Mr. MONDALE. Mr. President, I am today introducing a bill to amend the Atomic Energy Act to enable States to exercise concurrent regulatory authority with the Atomic Energy Commission over the release and disposal of radioactive wastes from atomic energy facilities.

An identical bill is being introduced in the House of Representatives by my colleague from Minnesota, Representative DONALD M. FRASER.

This proposal would empower States to impose more stringent controls over the discharge of wastes from nuclear powerplants than the regulations set by the AEC. It reflects the widely shared view of public officials of the State of Minnesota, including Gov. Wendell R. Anderson and the Minnesota Pollution Control Agency, and of officials of many other States, that State regulation of atomic energy facilities is often necessary to enable States to carry out their responsibilities for protection of the public health, safety, and the environment.

In the State of Minnesota, intense concern exists among private citizens and public officials over the release of radioactive emissions from nuclear powerplants. This concern stems from major questions as to the adequacy of the AEC's regulatory program. By law, the Atomic Energy Commission is charged with dual responsibility for the promotion and regulation of atomic energy installations. This results in a conflict of interest between these functions, permitting promotional activities to predominate over regulatory functions.

Minnesota's right to set standards over radioactive discharges—beyond the standards set by the AEC—was contested in Federal courts on the grounds that the Federal Government had preempted such regulatory authority. The Supreme Court ruled on April 3, 1972, that the Federal Government under the Atomic Energy Act does have sole authority to regulate radioactive releases from nuclear powerplants.

Last May, following the Supreme Court's decision, the Senate narrowly rejected and amendment offered by the Senator from Pennsylvania (Mr. SCHWEIKER), which I cosponsored, to enable States to enter into agreements with the Atomic Energy Commission for more stringent regulation of radioactive emissions. The Schweiker amendment provided for the discontinuance of the AEC and the assumption of State regulatory authority for regulation of radioactive discharges into the environment.

The bill I offer today is designed to achieve the same objective as the measure I cosponsored with Senator SCHWEIKER—to give the States the right to impose more stringent controls over radioactive emissions. However, my proposal would use an alternative approach, providing for concurrent Federal and State regulatory authority. Before the Supreme Court's ruling last April, the State of Minnesota had argued that Federal law did not preclude the right of States to exercise such concurrent authority.

My bill would retain the existing regulatory program of the Atomic Energy Commission over the discharge or disposal of radioactive wastes. However, it would permit States to strengthen the Federal program through the concurrent application of more restrictive State standards.

State regulations, would be subject to the limitation that they are for protection of the public health and safety and that action permitted by the State with respect to discharge or disposal of radioactive effluent is not specifically forbidden by the Commission.

This bill would thus give full recognition to the legitimate interests and responsibilities of the States in protecting the health and safety of their citizens nuclear facilities.

I would like to point out that a number of States have shown support for this kind of State authority. The following States submitted a friend of the court brief in the Minnesota case: Illinois, Maryland, Michigan, Missouri, Pennsylvania, Vermont, Virginia, and Wisconsin. In addition, the Southern Governors Conference presented a brief on behalf of the States of Arkansas, Delaware, Mississippi, and West Virginia.

I feel very strongly that States should have the power to assure that every possible protection is afforded their citizens from the release of radioactivity, and I am hopeful of obtaining affirmative action on my bill to achieve this objective.

Mr. President, I ask unanimous consent that the full text of my proposal be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) the control by the several States of the emission of radioactive effluents from facilities regulated by the Atomic Energy Commission is compatible with the development of atomic energy and its regulation on a national scale;

(2) current law does not sufficiently enable the several States to regulate such radioactive emissions in order to protect the public and safety; and

(3) it is the intent of this Act to establish the concurrent authority of the several States to regulate such radioactive emissions, including the authority to enforce standards for such radioactive emissions, which permit lesser quantities of such emissions from such facilities than do the standards established by the Commission.

SEC. 2. Section 274 of the Atomic Energy Act of 1954 is amended—

(1) by striking out paragraph (6) of subsection a, and inserting in lieu thereof the following:

(6) to give full recognition to the legitimate interest and responsibility of each State in matters pertaining to the public health and safety.";

(2) by striking out "No agreement" in subsection c. and inserting in lieu thereof "Subject to subsection o., no agreement"; and

(3) by adding at the end thereof a new subsection as follows:

"o. Nothing in this Act shall be construed to prevent any State from regulating concurrently with the Commission and the discharge of disposal of radioactive effluents from the site of a utilization or production facility in such State, if—

"(1) the requirements or standards imposed by such State are for the protection of the public health and safety, and

"(2) action permitted or tolerated by such State with respect to the discharge or disposal of such effluents is not specifically prohibited by the Commission".

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3882

At the request of Mr. MONDALE, the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maryland (Mr. BEALL), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 3882, to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees.

S. 3909

At the request of Mr. MONDALE, the Senator from Hawaii (Mr. INOUYE), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3909, the "Youth Programs Act of 1972."

SENATE RESOLUTION 378—SUBMISSION OF A RESOLUTION CONCERNING THE OPERATIONS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. PERCY submitted the following resolution:

S. RES. 378

Whereas the Federal Housing Administration of the Department of Housing and Urban Development administers programs designed to promote homeownership among low- and middle-income individuals and families; and

Whereas the doctrine of *caveat emptor* has too often prevailed in the operations of the Department of Housing, particularly the Federal Housing Administration; and

Whereas the hardships which many individuals and families have experienced in purchasing badly constructed, unsafe, or otherwise defective homes could have been prevented in numerous cases if the Federal Housing Administration had effectively carried out its responsibilities; and

Whereas many of the defaults, abandonments, and foreclosures occurring in some Federal homeownership programs could be prevented by a greater involvement with and concern for the home purchaser in the administration of such programs by the Department of Housing and Urban Development: Now therefore, be it

Resolved, That it is the sense of the Senate that the Department of Housing and Urban Development should be primarily concerned with the housing consumer; that the Department's movement toward an activist consumer orientation should be accelerated; that the Secretary of Housing and Urban Development should use fully the power and authority he now possesses to act on behalf of the homebuyer, the homeowner, the tenant, and all other groups of housing consumers with which the Department deals; and that the Department of Housing and Urban Development should obtain such additional personnel as may be necessary to accomplish these objectives.

TEMPORARY INCREASE IN LIMITATION ON PUBLIC DEBT—AMENDMENT

AMENDMENT NO. 1751

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. MONDALE, and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 16810) to extend the debt limit and provide for a 1973 spending limitation of $250 billion.

AMENDMENT NO. 1753

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 16810), supra.

CERTAIN EXEMPTIONS FOR AMERICAN SAMOANS—AMENDMENT

AMENDMENT NO. 1752

(Ordered to be printed and to lie on the table.)

Mr. CHURCH. Mr. President, I submit an amendment to H.R. 1467, and ask that it be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1752

At the end of the bill insert the following new section:

SEC. . (a) section 170(e) of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended—

(1) by inserting after "the amount of gain" in paragraph (1)(A) "(or, in the case of a contribution described in paragraph (3), 50 percent of the amount of gain)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME PROPERTY.—For purposes of paragraph (1)(A), 50 percent of the amount of gain shall apply with respect to a contribution only if the use by the donee of the property contributed is related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)); and shall not, in any case, apply to—

"(A) a contribution to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E), or

"(B) a contribution by a taxpayer described in section 1221(3) of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while he held an office under the Government of the United States or of any State or political subdivision thereof, and which was related to, or arose out of, the performance of the duties of such office."

(b) The amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, but only with respect to contributions of property after such date.

Mr. CHURCH. Mr. President, this amendment has been approved by both the chairman and the ranking minority member of the Senate Finance Committee and has, I understand, the approval of the Department of the Treasury. It is a technical change in the Tax Reform Act of 1969 which will correct what my studies indicate was an inadvertent mistreatment of authors and artists under that law.

As some Members will recall, it was during the consideration of the 1969 Tax Reform Act that it came to light that some political figures, both Democratic and Republican, would reap large tax benefits by donating their public papers to libraries or universities. It was the feeling of the Congress that, inasmuch as the taxpayers had, in a sense, already paid for the making of these papers, they should not once again be asked to subsidize them, via the tax deduction route, when they were given away by a public office holder at the conclusion of his career.

In an attempt to solve that problem, Congress changed the tax law. However, in so doing, Congress swung too broad an ax. It not only eliminated the deduction allowable for the donation of public papers of public men, but eliminated the deduction, based on fair market value, which had previously been granted to authors and artists.

The result has been that acquisitions by libraries, museums, and art galleries have been seriously harmed. My amendment would partially reinstate the tax treatment given to authors and artists prior to the passage of the Tax Reform Act of 1969 for up to 50 percent of the fair market value of their works. The amendment makes it clear that this tax advantage will not be granted to public officials.

The intent of the Congress will thus be carried out, and the oversight in the original act, in part at least, will be corrected.

I would personally prefer total reinstatement of the prior law as to authors and artists, but have been advised that the Treasury Department will not support that much of a change. Due to the lateness of the session, I feel compelled to accept the half-loaf offered rather than have no loaf at all.

SURFACE MINING ACT—AMENDMENT

AMENDMENT NO. 1754

(Ordered to be printed and to lie on the table.)

Mr. HANSEN. Mr. President, I send to the desk an amendment to section 13 of H.R. 6482 and ask that it be printed following my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, the most serious environmental problem at this moment which faces us in the State of Wyoming is in the city of Rock Springs, where large areas of the town, and the property situated in those areas, is shifting and buckling because it is above long-abandoned underground coal mines.

This environmental problem is especially serious because it has already had a tremendously adverse effect on the people of Rock Springs. It has damaged their homes and property, and their economic security has been threatened, because of the property damage.

We are not talking about a situation where a possible adverse environmental impact might occur some years in the future, or where esthetics might be jeopardized. We are talking about an environmental problem that already exists, that has already adversely affected the citizens, that requires immediate resolution, and that logically should be a part of any bill aimed at reclaiming mined areas.

The problem in Rock Springs, familiar to many residents of Pennsylvania and Appalachian States, because that is where it is also critical, is called subsidence. In Rock Springs, it has meant to a number of families that their homes, which they worked all their lives to buy, have crumbled and become uninhabitable as the ground beneath them continues to shift and buckle.

The Federal Government is authorized to undertake backfilling projects and to fund corrective measures to control and prevent subsidence—but only in the Appalachian area where anthracite coal is mined. The Government does not now have the authority to backfill underground mine voids which are causing subsidence and the resultant damage in Wyoming, and in a number of other States outside of Appalachia.

In Rock Springs, the Bureau of Mines did fund a project to backfill a tiny portion of the subsidence area in the heart of the city, but this project was a part of a research effort.

If it makes sense for the Government to assist the citizens of Appalachia in meeting the critical problem of subsidence—and I think it does make sense—it certainly makes sense for the Government to extend this same assistance to States outside of Appalachia.

Mr. President, I was pleased the Senate Interior Committee agreed to accept my amendment to the Senate legislation on mined land reclamation to extend the Government's authority to assist with subsidence control in all the States.

The mined land reclamation legislation passed by the House of Representatives contains no such provision, and that is why I am introducing this amendment. I believe it is justified, that it makes sense, and that it surely is in harmony with the overall goal of this legislation—to facilitate the reclamation of mined areas.

AMENDMENT NO. 1754

On page 71, line 4, add the following new subsection (1):

(1) (1) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health and safety. The Secretary, at the request of the Governor of any State, is authorized to use money from the Reclamation Fund referred to in Section 12 of this Act to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health and safety.

(2) The Secretary may acquire by purchase, donation or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1691

At the request of Mr. JACKSON, the Senator from Alaska (Mr. GRAVEL) and the Senator from Iowa (Mr. MILLER) was added as a cosponsor of amendment No. 1691 intended to be proposed to the bill (S. 2620), the East-West Trade Relations Act of 1971.

ADDITIONAL STATEMENTS

SENATOR JOHN SHERMAN COOPER

Mr. BUCKLEY. Mr. President, I am happy to join Senators in paying tribute to our beloved colleague JOHN SHERMAN COOPER, who will be retiring shortly. It is customary on such occasions, I know, to praise our departing colleagues in the most glowing terms, to liken their contributions to the commonwealth to those of the great heroes of the Republic, to string out a long series of superlative adjectives and add the name of the particular honored gentleman at the end. There is much in such tributes that is heartfelt, but much also that is fluff and tinsel. But today, it is different. The praise will come forth, and the good works of JOHN COOPER will be extolled; but the difference will be that absolutely everyone will mean absolutely every word he says. For the truth is that no Member of this body has more friends and fewer enemies than has the distinguished senior Senator from Kentucky. To know JOHN COOPER is to be charmed by him. He has, simply by being himself, managed to weave his way into all our hearts; and come next January, all of us, to a man, are going to feel a little lonely. His sense of integrity, his unfailing courtesy, his infectious good humor, and his total congeniality are qualities that few men possess in as much abundance as JOHN SHERMAN COOPER.

The most convincing testimony to the determination of JOHN SHERMAN COOPER is the chronology of his election to the Senate. In 1946, Senator COOPER was elected to fill an unexpired term and then was defeated in 1948. So in 1952 he tried again, and once again was elected to fill an unexpired term, and subsequently, in 1954, defeated. But JOHN COOPER was quite aware of the role destined for him, and he knew full well that he belonged in the Senate of the United States. In 1956, he was again elected to fill an unexpired term, and elected in 1960 for a full term. And now, JOHN SHERMAN COOPER is retiring after completing the term of office for which he was elected in 1966.

I may say that as a member of the Committee on Public Works, I have had the opportunity to work, at the committee level, with Senator COOPER. I know how much his rare ability to penetrate to the heart of any matter, his dedication and gentleness will be missed on that committee. Without any doubt, his impact on the shape of legislation per words spoken holds some kind of record.

The Senator from Kentucky and I have a number of things in common. We both serve on the Committee on Public Works, we both are World War II veterans, both graduates of Yale. We are both members of the bar.

I hope very much that it will be my privilege to serve in the U.S. Senate for approximately the same number of years as has the Senator from Kentucky. Though I must confess, as I started in politics a little later in life, that I would much prefer my years to be served consecutively.

And I also hope that in those years of service I will be able to contribute one-half as much to the Nation and to the Senate as has that amiable, intelligent, sensitive, and quite essentially gentle man—JOHN SHERMAN COOPER.

RECENT DEVELOPMENTS IN THE MIDDLE EAST

Mr. JACKSON. Mr. President, I would like to commend to my colleagues two timely and astute analyses of the Middle East situation by Prof. Bernard Lewis recently published in the London Times.

Professor Lewis has been professor of history of the Near and Middle East at the University of London since 1949. He is one of the world's leading authorities on the political history of the Middle Eastern area.

Professor Lewis addresses himself in these two articles to the implications of the closer relationship that has developed between the United States and Israel—in terms of Israel's defense needs and diplomatic posture—and the Russian withdrawal from Egypt. His conclusion, which I share, is that—

> The two events are not coincidental but are connected, and the second is in large measure a consequence of the first.

I ask unanimous consent that Professor Lewis' articles, "America's Superior Patronage in the Middle East" and "Dignity or Territory? Egypt is Marking Time," be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Times, London, Sept. 20, 1972]

A REVIEW OF DEVELOPMENTS IN THE ATTITUDES OF TWO SUPERPOWERS TOWARD ISRAEL AND THE ARABS—AMERICA'S SUPERIOR PATRONAGE IN THE MIDDLE EAST

(By Bernard Lewis)

(*The author is a professor at the School of Oriental and African Studies, University of London.*)

There have been two major developments in the Middle East in recent months. The first is the closer relationship between the United States and Israel, manifested in American willingness to meet Israel's requests for the supply of arms and to support Israeli political positions far more than ever before. The second change is the Russian withdrawal from Egypt.

Some observers have seen in this an unfortunate coincidence and have suggested that if both super powers had disengaged at the same time, peace would have become easier. This is based on a misunderstanding. The two events are not coincidental but are connected, and the second is in large measure a consequence of the first.

It has long been an article of faith, especially in the Arab countries and among many in this country, that American policy on the Palestine question is determined by the influence—financial and electoral—of the Jewish community in the United States. When the United States had little concern and no direct involvement in the affairs of the Middle East, this view was largely—though never entirely—true. Besides the pro-Zionist Jewish lobby, there was also a pro-Arab oil lobby, with associated interests. This too was politically active in Washington and elsewhere. But though they astutely managed at times to convey the impression that the pursuit of profits from Arabs was somehow more national and more patriotic than the pursuit of votes from Jews, they were never as effective as the Jewish lobby.

The direct involvement of the United States as a super power in the affairs of the Middle East has changed all this. The pro-Arab and pro-Israel lobbies are still active—the latter obstreperously so in the present election. But neither can now really determine United States policy, which is based on a calculation of United States interests in the area and in the world as a whole. When President Eisenhower found it necessary in 1956 to take firm action against Israel, he did so—even in an election year.

Conversely when Richard Nixon judged it necessary to support Israel he too did so, though he had not enjoyed and is unlikely to gain any substantial measure of Jewish support. His lack of concern with this aspect of United States domestic politics is shown by his virtual suppression of what had become, by convention, the Jewish seat on the Supreme Court of the United States. If President Nixon were as much concerned about gaining Jewish votes as some have suggested, he would surely have given more attention to this and some other sensitive points.

Nevertheless President Nixon has gone very much further than such notoriously pro-Israel presidents as Truman and Johnson in his support for Israel, and in his willingness to risk the displeasure of Arab governments for this reason. One must ask why.

There have for some time been broadly two views of the significance of Israel for the American policy in the Middle East. According to one of these Israel is America's greatest handicap—a burden which she must bear for domestic political reasons, and which holds her back in her dealings with the Arabs, giving a perpetual advantage to adversaries not so impeded. That is one version. According to the other Israel is not a handicap but an asset—one reliable ally in an area where all is shifting and uncertain. According to this view, the friendship of Arab states is a will-of-the-wisp—difficult to gain, impossible to retain, and of dubious value while one has it. A strong and self-reliant ally in the Middle Eastern area is thus a useful source of strength, not a weakness. Supporters of this view have been heard to remark that they wish that America had a few more Israels in other parts of the world, for example in Western Europe and in South East Asia. Of late it is the latter view which appears to have prevailed in the councils of the White House. America has given strong support to Israel in almost every significant respect, and has been prepared to defy both the Russians and the Arabs in this matter.

American closeness to Israel has also been accompanied, and indeed preceded, by a certain severity toward Arab countries. America has remained unmoved by Egyptian threats and blandishments alike and has indicated her lack of interest in such devices as the Jarring mission of four-power talks. A consequence of this attitude, surprising only to ideologues, is an improvement in relations between the United States and Arab countries. Existing friendships have not suffered, and new relationships are beginning even with such countries as the Sudan and Algeria. In such situations it is better not to court, but to create a situation in which one is courted.

Both the Russians and the Arabs have drawn their own somewhat different inferences from this American posture. The Russians, in accordance with their usual practice, push at points of weakness and draw back from points of strength. Once convinced that America is firm in her commitment to Israel, the Russians have carefully refrained from provoking a situation of confrontation, or from allowing the Egyptians to do so—even from giving the Egyptians the possibility of doing so. The Egyptians for their part have also drawn their inference—that the Israelis have a good patron, while they themselves have a bad one. Israel's patron is trustworthy and reliable, and provides what the protegé wants; Egypt's patron on the other hand has failed her in almost every respect, and has left her significantly worse off than she was before, militarily, politically, strategically and economically. It is hardly surprising that in these circumstances with the growing and by now overwhelming unpopularity which the Russians have gained for themselves inside Egypt—that President Sadat should have thought it necessary at last to take steps against them.

To close observers of the Middle Eastern scene there have been signs for some time of an impending breach. On the one hand there were the occasional hints of discord between Cairo and Moscow, carefully concealed in the esoteric language used in communiqués from both capitals; on the other there were the periodic rumours, usually leaked from Soviet sources, of a possible rapprochement between the Soviet Union and Israel and even of a resumption of diplomatic relations, not with a full exchange of embassies but through representation in the embassies of the protecting powers.

Now the breach has become open, and President Sadat has told the Russians to go. Moreover, to general astonishment, they actually appear to be going. At first it was thought that the Russians would leave only from those points in which they were helping in the defence of Egypt against Israel, while retaining their own naval and air bases required for the maintenance of their position in the Mediterranean. From the start this seemed unlikely. One can hardly imagine that President Sadat or any other Egyptian leader would have chosen a form of expulsion whereby the Russians would have left Egypt in all those capacities where Russia was serving Egypt but remained in all those capacities where Egypt was serving Russia.

President Sadat was no doubt fully aware of this distinction. Russia retains powerful weapons against Egypt, through the immense debts—estimated at £5,000m—owed by Egypt to Russia and through the ability to withhold or continue the supply of spare parts and replacements. But a debt of this kind, as the late President Nasser once aptly remarked, gives the debtor a hold on the creditor, more than the reverse. Egypt also enjoys some leverage through the port facilities which she is offering to the Russian fleet, but can reduce or suspend at will.

Why the Egyptians have taken this action against Russia is not difficult to see. Disillusionment with Russian support, unfavourable comparisons between the value of American and Russian patronage, and above all the proceedings of the Russians in Egypt, brought matters to a point where President Sadat either had to dismiss them or to give way to a government that would. His actions had the appearance of a measure of desperation rather than a carefully planned move, but they seem to have been effective for the time being in heading off his domestic political opposition.

A more crucial question is what the Russians are going to do about it. Clearly the withdrawal of their forces from Egypt represents a serious setback for them—both for the interests of the Soviet Union in the world, and for the interests of the ruling group within the Soviet Union. Both of these will be adversely affected by what can only be seen, internationally and domestically, as a defeat—and moreover a defeat following on an immense effort and expenditure already deeply resented among Soviet citizens.

What however could the Russians do in Egypt? Their preferred course would no doubt have been to engineer the overthrow of Sadat and his replacement by another Egyptian faction more amendable to Russian needs. It might have been possible for them to find Egyptian politicians or officers—even avowedly anti-Russian ones—willing to play this game. But there were several insuperable obstacles. For one they had lost the element of surprise necessary for such a coup. For another anti-Russian feeling in Egypt had become so strong that it is doubtful whether any pro-Soviet faction coming to power in this way would have been able to maintain itself.

The second possibility, what one might call the Prague gambit, is clearly excluded. While it might just have been technically possible for the Russians, using the air and sea facilities which they at that moment enjoyed in Egypt to land the necessary armed forces to impose their will to do so would have been politically unthinkable. What remains is the method of political and economic pressure, and we may no doubt expect to see the application of this during the coming weeks and months.

A major aspect of the problem is the decreasing importance of Egypt to Russia. That importance has by no means disappeared, and the loss of Egyptian bases will be a serious blow. But the Russians have long since ceased to regard Nato as their main adversary, and know perfectly well that no danger threatens them from the Western side. It is now not with the West but with China that Russian planners are principally concerned, and the nature of their interest in the Middle East has changed accordingly. Russian interest is moving from the western or Mediterranean part of the Middle East, to the eastern part of the Middle East, that which leads to eastern and southern Arabia, to the Persian Gulf and Indian Ocean, and above all to the Indian sub-continent, which seems likely in the immediate future to be the main arena of Russo-Chinese rivalry.

It is in this context that we may view the recent but rapid establishment of Russian influence in Iraq. From the Russian point of view Iraq offers many advantages. It lies directly on the southern frontiers of Turkey and Iran, and thus offers a useful means of pressure on two Cento powers allied to the West. It adjoins Syria, Jordan, and the Arabian peninsula, and thus provides an entry to all these countries, which could be exploited in a number of ways. In contrast, Iraq has no common frontier with Israel, and the Russians can therefore establish themselves there without running the risk of direct involvement in the Arab-Israel problem, except of course at the harmless Iraqi verbal level.

Internally too Iraq appears to offer certain advantages as compared with Egypt. Egypt is a centrally administered, well-governed country, with a strong sense of national and patriotic identity, and a largely homogeneous population. Iraq on the other hand is a comparatively modern creation, loosely and often indirectly administered, with an insecure regime, and with a heterogeneous population of Arabs and Kurds, Sunnis and Shia, townsmen and tribesmen as well as other smaller groups. Such a country would appear to offer obvious advantages for the Russian method of infiltration and penetration. A further advantage that Iraq offers is that it has a far smaller population and far greater resources than Egypt, and is therefore less likely to become a crippling financial liability. Most important of all, Iraq opens a route to the Persian Gulf and Indian Ocean, the importance of which becomes ever greater in Russian planning.

[From the Times, London, Sept. 21, 1972]

DIGNITY OR TERRITORY? EGYPT IS MARKING TIME

(By Bernard Lewis)

(*The author is a professor at the School of Oriental and African Studies.*)

The withdrawal of the Russians from Egypt and the shift of Russian interest to the eastern half of the Middle East obviously brings important changes to the situation in the Arab-Israel conflict, and may well affect the prospects of a settlement. The principal issue is now, clearly and unmistakably, that between Israel and Egypt.

The situation on the West Bank has settled down. The Palestinian organizations, despite terrorism abroad, are politically insignificant at home, and their present desperation springs not from the lack but from the fear of a solution. A *modus vivendi* has developed between Israel, the occupied territories and the kingdom of Jordan which may with the passage of time evolve into some new political order. This is more likely to happen spontaneously and by natural evolution, rather than by deliberate planning or preparation, and would be the more effective and successful for that reason.

Betwen Israel and Egypt there remains the question of Sinai, and of the continued Israeli occupation of the peninsula.

The withdrawal of the Russians has undoubtedly weakened Egypt's military position *vis-a-vis* Israel. This is however less important than might at first sight appear. Clearly, the Israelis have no intention of crossing the canal and attacking the Delta—to do so would be military and political lunacy. Equally, the Egyptians, were in no position to attempt a serious armed crossing of the canal eastwards, even while the Russians were still there. And so in both respects the real situation is not much changed. The departure of the Russians does however remove one of Israel's main fears, and should therefore make it easier for the Israeli Government to agree to some accommodation. General Dayan has already indicated as much.

Despite his war-like talk, President Sadat knows perfectly well that his only hope of getting the Israelis away from the canal is by negotiation, and that his only hope of achieving this, short of dealing directly with Israel, is through some form of American mediation, persuasion, or pressure in Jerusalem. Pressure on Israel and financial aid to Egypt are indeed the two trump cards which America has to play in Cairo. It is however extremely unlikely that the Americans would be willing to waste their two trump cards on a leader as unstable and insecure as President Sadat, especially when associated with Colonel Gaddafi, nor that the Israelis would be willing to trust an Arab leader who was a proud and self-declared collaborator of the Nazis during the war, and who is one of the very few major Arab figures (there are many minor ones) whose public utterances sometimes echo the tones of European-style racial anti-semitism. A successor government in Egypt, however, might find both the Americans and the Israelis more amenable.

One point on which the Israelis are unlikely to give way is that of direct negotiation—or at the very least close proximity talks. The importance of this to Israelis is not fully appreciated in the Western world. After conflicts it is customary to reach a settlement by direct negotiation between the parties, of which India and Pakistan have provided the most recent example. The steadfast Arab refusal to negotiate with Israel goes back to prewar times, when the Arab Higher Committee in mandatory Palestine always refused to enter into direct discussions with Palestinian Jewish bodies or the Jewish Agency.

The refusal of direct negotiation has always meant and still means a refusal to recognize the existence of Israel—and as long as the dispute is about the existence of Israel rather than its extent, Israelis will obviously be adamant on retaining maximum security borders. To Western observers, Arab talk—lessened of late but by no means ended—of destroying Israel sounds like rhetorical hot air. To the ruling generation of Israelis, still dominated by the memory of a vast, sustained and almost successful attempt at the physical extermination of the Jewish people in Europe, such threats cannot be taken lightly. Such Israeli fears are recalled by the role which at various times Nazi émigrés have played in the new Egypt. They have not forgotten, for example, the kitbag edition of *Mein Kampf*, in Arabic translation, found in the possession of captured Egyptian officers in 1956. They are revived by the utter ruthlessness displayed by some of the Commando organizations.

If however the Egyptians are to relinquish their objection to direct or almost direct negotiation, the Israelis must be prepared to offer something substantial in return. Here, from recent reports, there seem to be broadly two possibilities. That the Israelis would be willing to withdraw from part—probably the greater part—of Sinai seems certain. It is however equally certain that they would refuse to withdraw from Sharm al-Shaykh, which they regard as vital to the safety of Elat, their only outlet to the Red Sea and the East.

As the Israelis see it, Sharm al-Shaykh is a desolate outpost, of no value whatsoever to the Egyptians except to threaten Israel. It should therefore be retained by Israel to prevent such a threat. As the Egyptians see it, it is sovereign Egyptian territory, and whether it is of use to them and what use if any is entirely their own affair. It is doubtful if any Egyptian government, whether President Sadat or a successor, would find it easy to agree to the formal cession of Egyptian sovereign territory to Israel. There are however other possibilities, in the form of a sale, a lease or some other diplomatic device, which could be explored. The Israelis would then withdraw from the greater part of the Sinai peninsula, retaining only Sharm al-Shaykh with the necessary strip of land giving them access to it from southern Israel. If agreement could be reached along these lines, this could form the basis of a genuine peace between the two countries and would undoubtedly be followed before long by some settlement between Israel and her eastern neighbour.

The other possibility which is being canvassed is that of an interim solution, a proposal brought up and then dropped on several previous occasions. According to this, negotiation would aim not at a final settlement but at an interim arrangement whereby the Israelis would withdraw a certain distance—that which is most commonly mentioned is 25 miles—from the east bank and allow the Egyptians to cross and resume the operation of the canal. It has also been suggested that such Egyptian forces might be lightly (but visibly) armed. The immediate advantages of such an interim solution to Egypt would be obvious, the reopening of the canal and the repopulation of the cities on the west bank being the most important.

The reopening of the canal is also an urgent Russian need, to strengthen their position in the Indian Ocean, and might win Russian support for such a plan. By calling it an interim arrangement, the humiliation of signing away sovereign Egyptian territory would be avoided, and a period of tranquility could be obtained which might in time lead to a permanent settlement.

If a government of Egypt were willing to negotiate on either of these lines, there would thus seem to be two possibilities. By the one the Egyptians would recover the greater part of Sinai but lose some face; by the second they would lose the greater part of Sinai, but would retain face. It would be interesting to see which if either of these solutions President Sadat will choose.

President Sadat himself seems unlikely to choose either. At the moment he is exploring other possibilities, none of which is likely to produce any result. His new association with Libya, or rather with the mercurial Colonel Gaddafi, will bring him substantial financial support, but at a price of continuing the conflict.

His attempts to conjure up Western Europe as a counter-weight to the Soviet Union and the United States are obviously futile. Western Europe may in the course of time once again play a major role in world politics comparable with that of the superpowers. At the moment, the states of the EEC are far too divided and uncertain in their policies, and the leading state too obviously dominated by unenlightened self-interest, to accomplish very much. Western Europe has neither the means nor the capacity nor even it would seem the desire to devise, let alone impose, a solution of the Middle Eastern problem. Nor will America do much to help President Sadat, for obvious reasons. For the moment therefore all that President Sadat can do is wait, Micawber-like.

PUERTO RICO—FREE PEOPLE IN A FREE SOCIETY

Mr. BROCK. Mr. President, the ridiculous United Nations investigation of Puerto Rico's status as a "colony" is one of the most flagrant examples of double standards and manipulation within the world peacekeeping apparatus I have witnessed. The inquiry represents an attempt to divert the U.N. from the mission of achieving a peaceful world and is unworthy of consideration by any of its committees.

The irrationality of the U.N. investigation is clearly revealed by the results of several movements for either statehood status or complete independence. In 1967 the island voted in referendum to maintain its Commonwealth status by a clear majority—favoring this status were 425,081, for statehood, 273,315, and 4,205 for independence. I would suggest that it be appropriate for the U.N. panel to call for such a referendum under their supervision in Cuba or any of the eastern European Communist-bloc nations.

The United States has for years sought to lessen world tension through its support of the United Nations. This support has been generous and freely given with no strings attached. Yet, when the U.N. allows itself to become a forum for political sparring such as with the investigation of Puerto Rico, it forces every American to reconsider whether our overgenerous share of U.N. funding is serving the interest of peace.

Mr. President, I ask unanimous consent that an editorial from the Sarasota Herald-Tribune on the subject of the U.N. and Puerto Rico be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The U.N. and Puerto Rico

It is amusing to hear that the United States delegation, which simultaneously was asking for a reduction in the share of U.N. costs paid by this country, was "embarrassed" by a Cuban-instigated demand for an investigation of the status of Puerto Rico.

If anything were needed to show how preposterous it is for this country to be carrying nearly one-third of the U.N.'s expense, this exhibition of ideological harassment demonstrates it.

In case anyone has forgotten, Puerto Rico is officially, by constitution and statute, a free commonwealth associated with the United States. It drafted its own constitution—similar to ours, as it turned out—in 1952, ratified it by popular vote, and saw it approved by the U.S. Congress the same year. President Harry S. Truman thereupon signed the measure.

Several times there have been movements for either statehood status or independence, and in 1967 the various sentiments were shown quite clearly by a referendum. Commonwealth status was favored by 425,081; statehood by 273,315, and independence by 4,205.

Now, at Cuba's behest, Iraq has won a 12-0 vote in the United Nations' Special Committee on Colonialism to investigate Puerto Rico's status as a "colony." (The committee has already declared, prejudicially, that the island should be independent.)

Were it not for billions of dollars invested in Puerto Rico, a free flow of American citizens (including Puerto Ricans) back and forth depending on employment opportunities, and the fact that the island commonwealth has a higher standard of living than any other Latin-American jurisdiction of whatever size or location, we suppose the United States might not object.

The 10 nations which abstained from the U.N. committee vote point out that this same question came before the General Assembly last year and was decisively dumped. Of course. But to ideologues that appears to make little difference.

Some of the nations which voted along with the sponsors of the resolution are real experts: Bulgaria and Czechoslovakia, for instance, which are both, to all extents and purposes, colonies of the Soviet Union; Russia itself, whose dead hand of colonization has fallen on all its neighbors starting far back in history with the Ukraine, Byelorussia, the Crimean Tartars, Outer Mongolia—you name it.

Then there is the People's Republic of China, which has gobbled Tibet and threatens Indian and Pakistani territory. And, strangely, India too, whose recent secondhand "conquest" of East Pakistan is still fermenting and whose grab of Goa was not that long ago and whose activities in Kashmir are at least questionable.

It's quite a list—and the one common factor among them all is a charming willingness to make trouble for the country that pays an outsize share of the U.N. bills.

As our State Department pointed out, the resolution is "an insult to the people of Puerto Rico who have chosen to live in a democracy under a constitution of their own choosing in free association with the United States."

What is utterly ironic, of course, is that Cuba should be in back of this malicious needling—Cuba, which has placed itself in colonial bondage to the Soviet Union by cha-cha communism, insane spending and incoherent totalitarianism. That functionaries of such a regime as Fidel Castro's should cast any kind of aspersions on others, let alone this particular assertion of colonialism, is almost beyond belief.

Puerto Rico's Gov. Luis Ferre hit the nail on the head when he said the U.N. should offer a declaration favoring freedom for Cuba instead of meddling in Puerto Rican affairs.

But, as with other U.N. posturings and mouthings, delegates on the Colonialism Committee would prefer to take an utterly meaningless swing at a democratic situation satisfactory to the great majority concerned than to tackle anything really significant and useful.

Thus the U.N. estranges itself once again from those who pay its bills and who try to find health or hope in it.

TELEVISION SPORTS BLACKOUT

Mr. GURNEY. Mr. President, I have just received word that WTEV television of New Bedford, Mass., has been blacked out of televising the November 6 Monday night football game involving the New England Patriots. WTEV has received a telegram from ABC informing them that they will now be blacked out, apparently because they are within the NFL's 75-mile radius, although until now they had been planning to televise the game. In fact, to date WTEV has never been blacked out of televising a Patriots home game.

Mr. President, it is not a matter for glee or gloating now that the people of Massachusetts have joined those of Florida and other States across the Nation in being deprived of the opportunity to watch their favorite teams on television due to the arbitrary and unreasonable 75-mile rule the NFL has perpetrated upon the sporting public. Rather, it is just another good reason for the Senate to act on my amendment No. 1658 to the basketball merger bill—S. 2373—to reduce the blackout area to 50 miles.

We have too long permitted the NFL to interpret the antitrust laws as it pleases, to the detriment of the millions of fans who through their patronage have made professional athletics the profitable enterprise it is today. Incredible as it sounds, the NFL would have us believe there is no blackout problem at all.

NFL Commissioner Pete Rozelle even testified in a Senate hearing that:

> The fact is that it is not a blackout issue at all. NFL home territories are no longer blacked out on television on Sunday afternoons even when the home team is playing a game at home; two or three NFL games are telecast in each home territory each Sunday afternoon.

Praise for these crumbs would be laughable were it not so palpably misleading and burlesque. I hope Mr. Rozelle will tell the people of Miami there is no blackout problem, because as their Senator I cannot. I suppose there is no reason for Miamians to have to travel nearly 200 miles to watch a Dolphins game.

Mr. President, this session is drawing to a close, but the television sports season has just gotten underway. The Nation needs the immediate relief my amendment provides, and I urge the Senate leadership to make every effort to see that this issue is brought to a vote as quickly as possible. The time for action now.

MILWAUKEE: A DEVELOPING CITY

Mr. PROXMIRE. Mr. President, an article in this month's Nation's Business describes the efforts that Milwaukee's leaders have been making to attract new industrial development. Back in 1963, Milwaukee became the first major city in the Nation to establish a land bank. The bank's function was to buy unimproved acreage for industrial expansion.

Initially, the bank was to be used strictly for expansion by existing Milwaukee firms. Now there is a new philosophy—that of competing for new industry along with private planners of industrial parks.

The man in charge is the commissioner of city development, Kenneth Fry. His is a farsighted concept of economic development:

> Our concept of economic development included not only commercial and industrial growth, but also promotion of cultural, recreational, tourist, convention, health and educational development. In other words, the attainment and continuation of a well-rounded quality of life, which also produces jobs and income. I think Milwaukee is about five to 10 years ahead of the general trend.

Other city officials, including Milwaukee's outstanding Mayor Henry Maier, feel the same way. They are working actively to convert some of the sections of land bank acreage into industrial parks and to compete actively in selling the land.

Leading Milwaukee businessmen are also involved. Robert Foote, board chairman of Universal Foods Corp. and president of the Association of Commerce, and Richard E. Vogt, chairman of KCS Industries, and participating actively in these efforts. As Foote notes:

> What we're campaigning for is improving the climate for investment.

Mr. President, I ask unanimous consent that the article entitled "Milwaukee: Branching Out With the Land Bank" from the October 1972 issue of Nation's Business be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREE CITIES TURN THE CORNER—MILWAUKEE: BRANCHING OUT WITH THE LAND BANK

Milwaukee, a city of 717,000 on the western shore of Lake Michigan, is famous for its beer, Old World charm, cleanliness—and its solid citizens' thrift.

"The people here," says one long-time resident, "have deep pockets and short arms."

These days they're being asked to shorten the distance between their fingertips and their cash. It's a must, city officials say, if Milwaukee is to be a viable competitor for new industry.

The city almost a decade ago began buying unimproved acreage for a "land bank"—whose intended use was for expansion as needed by existing Milwaukee firms. Attracting newcomers was essentially left to private developers.

Now a major change in philosophy is taking place. The city's Economic Development Department is asking to be turned loose to compete for new industry with private planners of industrial parks.

City planners also want "seed money" to help embryonic firms that could share facilities in the city's older downtown buildings. Once established and growing, they would move to newer and bigger facilities.

"We hope to bring a marketing concept to government," says Kenneth Fry, commissioner of city development. "You might call it city capitalism."

Observers don't expect it will be easy for the city to change course. Says a veteran Milwaukee politician: "The people here expect a lot out of government, but with little government involvement."

Milwaukee aspires to become a growing regional center, and it has some gilt-edged assets. Among them are a highly skilled work force and a fine quality of life.

But it also has lots of competition. Chicago is only 60 miles to the south, and the aggressive Twin Cities, Minneapolis and St. Paul, are not far to the northwest.

In addition, Milwaukee is hemmed in on all sides by incorporated suburbs and is located in a state whose tax rates are among the highest in the nation.

NO ZONING?

The city fathers and businessmen recognize that their existing assets are not enough.

"Our major problem," says Mr. Fry, "is zoning restrictions."

Would he favor no zoning laws?

"I'd swap our tight zoning for no zoning in a minute," he replies.

But he knows there's little possibility of that—even though it would make his job easier. For his Economic Development Department is a conglomerate agency, handling the city's housing, urban renewal, relocation, planning, conservation and other related responsibilities—all of which zoning affects.

Mr. Fry feels that an agency such as his, handling all facets of city development, is a necessity for all major cities.

"Our concept of economic development includes not only commercial and industrial growth, but also promotion of cultural, recreational, tourist, convention, health and educational development," he says. "In other words, the attainment and continuation of a well-rounded quality of life which also produces jobs and income. I think Milwaukee is about five to 10 years ahead of the general trend."

While this may be true, he recognizes that the competition for new businesses has grown much tougher. When he organized his department in 1961, Mr. Fry estimates, there were some 200 such agencies nationwide. Now there are over 15,000.

Which prompts Mr. Fry to bring up two more problems.

"Most of these have land available to them," he says, "and most have the use of tools such as industrial revenue bonds and tax freeze powers that Milwaukee doesn't have. Milwaukee must get those tools to become more aggressive in its industrial development efforts."

MONEY FOR THE BANK

In September he asked the City Council for $1.8 million for the land bank program.

Milwaukee established the land bank, the first of any major city in the nation, in 1963. Since then the bank has bought 690.7 acres.

Of that total some 152 acres have been sold to industrial customers, most of them local, for new plants that have created some 600 jobs. For a city with a manufacturing work force of over 200,000, that's not a wall-banger performance.

In the fall of 1971, four-term Mayor Henry Maier, Mr. Fry and area business leaders were having second thoughts.

Mr. Fry organized a citizens committee to evaluate the way the city was waging its economic development campaign. This past summer the group came out with a finding and with recommendations. The finding: There had been less development than could have been expected.

Among the recommendations was one to drop the basic philosophy of maintaining industrially zoned land in the raw and of passive selling so as not to compete with private developers.

Now the group feels Milwaukee should turn some sections of the land bank acreage into fully developed industrial parks and sell aggressively against all competition.

Also, Mr. Fry wants some of that extra land bank money to go into acquisition of underused property. Inadequate structures would be torn down, and new ones built, to make the property more attractive to industry.

THE SOUTH AND THE SUBURBS

The basic purpose of the land bank, originally—to provide firms already in Milwaukee with expansion room—was in line with past experience: Large manufacturing firms had expanded in the city itself.

In the mid-60's, however, it was obvious that new plants, especially those that were labor-intensive, tended to be built in the South or overseas.

Also, the citizens committee, reviewing the situation regionally, noted that construction of freeways and lower suburban taxes gave suburbs an advantage. It said:

"The city must treat industrial development as a business enterprise in an increasingly competitive marketplace that no longer stops at state or even national boundaries."

Added one member, bluntly: "Milwaukee must decide if it is in the industrial development business or not."

One goal of a six-year economic development plan, announced by the mayor in 1968, was to make Milwaukee a "transactional center." And the central business district, considered dead in the Fifties, has been making real progress.

In the 1960–1970 period over two million square feet of net rental space were built. Today, Milwaukee sees a new landmark rising above the city—a 42-story, $50 million skyscraper for the First Wisconsin National Bank, the state's largest financial institution.

However, businessmen want more industry as well as more service firms to locate in Milwaukee, and they emphasize two factors—taxes and labor costs—as inhibitors of industrial development.

TALKING TURKEY

These days it's not unusual to see business leaders, government officials and labor bigwigs dining together in the city's famed German restaurants. The businessmen talk turkey over the liver dumpling soup.

"It's ridiculous for businessmen, government officials and labor leaders to be adversaries," says Robert Foote, chairman of Universal Foods Corp. and president of the Metropolitan Milwaukee Association of Commerce. "What we're campaigning for is improving the climate for investment."

In short, he says there is a need to put the brakes on taxes and demands for higher wages.

Though Mr. Foote isn't able to cite much progress on the wage demand front, he does note that taxes in suburban jurisdictions are rising faster than in the city.

So does Richard E. Vogt, board chairman of KCS Industries, Inc. He recently convinced the directors that the firm should stay in the city. KCS bought a site from the land bank on which to build a production facility for operations now housed in three separate downtown buildings.

Mr. Vogt spent many months evaluating the attractions of suburban industrial parks before making his decision.

"The tax differentials are becoming narrower," he says.

"I was persuaded that the advantages of suburban industrial parks have diminished and that the city itself offers a package of services and benefits not readily duplicated elsewhere."

A key factor in the decision was a desire to hold onto the skilled labor force that produces the firm's many point-of-purchase items. "We're in a highly competitive business." Mr. Vogt says. "So we didn't want to move away from our employees."

THE NEED FOR PRISON REFORM

Mr. BROOKE. Mr. President, for 2 days, the District of Columbia has been held in the grip of a prison drama which seemed to equal that at Attica a year ago.

Today, we have learned with relief and thanksgiving, that there was a difference. Attica left 41 men dead, and uncounted others scarred for life. In the District of Columbia, all of the hostages were released unharmed after rebelling inmates got what they wanted most—a hearing.

Much credit for the peaceful outcome is due to District of Columbia Corrections Commissioner Kenneth L. Hardy. Ken Hardy and I attended high school together; I have know him most of my life. And I have never known him to be other than a wise, fair, and reasonable man. These qualities, and the trust and respect they have engendered during his years of service to the District, were largely responsible for sparing this city a bloody tragedy this week.

But there is another, larger tragedy which continues every day: it is the inhuman conditions in which our prison population is held. The District of Columbia jail was built—more than 100 years ago—to house 550 men. Today it houses 1,200, or nearly twice its capacity.

The District of Columbia jail was built for adult offenders. Yet when inmates took over the notorious cellblock 1, early Wednesday morning, they required young inmates—some as young as 15 years old—to leave the premises for their own safety. So-called "hardened criminals" had achieved on their own one of the primary requisites of effective prison reform—the segregation of youth from adult offenders. As a result of the uprising yesterday, this segregation will continue under a court order.

Mr. President, I hold no brief for those who chose the path of potential destruction to achieve their ends. But before we condemn those involved, and advocate harsher measures to control them, we should realize that these actions are the product of long-contained frustrations.

In reading over the newspaper accounts of this near tragedy, I was struck by the words of one inmate spokesman, a young man with whom I happen to be acquainted. Appearing before Judge William B. Bryant at U.S. District Court late yesterday afternoon, Albert McCoy summed up succintly the essential invisibility of men in prison:

> I wrote you three or four letters. I never received a reply. What can I do? You say "come properly." I tried.

Mr. President, we must listen to these men, and to those in charge of them. Kenneth Hardy and his colleagues in the Department of Corrections are coping effectively and courageously with a most difficult situation. So that all of my colleagues may understand the caliber of the man in charge of the District of Columbia Department of Corrections, I ask unanimous consent that several articles from this morning's Washington Post be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 12, 1972]

JAIL REBELS FREE ALL HOSTAGES

(By Haynes Johnson)

Armed inmates at D.C. jail early this morning released unharmed 11 hostages they had held for almost 24 hours in a rebellion that had transformed the ancient city jail into an arena of intense conflict between inmates and Washington officials.

The hostages, all jail guards, were held during a day and night of negotiations, demands and threats of death and an extraordinary court session that inmates later said was a key element in their releasing the hostages and ending the revolt. The court hearing was due to resume today at 9:30 a.m. in U.S. District Court.

Until their release city officials had maintained only nine guards were being held hostage, in addition to D.C. Corrections Department head Kenneth L. Hardy who was held hostage for much of the day. Hardy was stricken ill during the court session and admitted to George Washington University Hospital.

Of the guards city officials said, "They're fine, they're all fine." One guard told reporters "They treated us nice and well."

The long ordeal ended at 12:30 a.m. today after a handwritten note from Hardy—who was a key negotiator with inmates as well as the key hostage—was read to more than 100 prisoners in the jail's smoke-filled rotunda visiting room.

The note promised "no reprisals of any kind (or) court action against any inmate."

Inmates also told reporters, admitted at the inmates' request, just prior to release of the hostages, that U.S. District Court Judge William B. Bryant's promise to send lawyers in to talk with inmates also was a factor in ending the uprising. There were about 40 attorneys still talking with inmates in the rotunda when the hostages were released.

Jail officials were searching for weapons used in the uprising early this morning and jail superintendent Anderson McGruder said at least one loaded pistol was found.

Corrections Director Hardy left the courtroom shortly after 8 p.m. looking shaken, his eyes watering. He was escorted to the lawyers' lounge on the fourth floor of the U.S. District Court building, then transported to George Washington University Hospital.

He was reported "resting comfortably" early this morning. A doctor at the hospital said Hardy had suffered chest pains suggesting an attack of angina pectoris. It was Hardy who had been in continual negotiations inside the jail with the prisoners since about 5 a.m. yesterday. Repeated threats on his life had been made, and often during the day he was brought to the jail windows with a pistol pointed at his head.

The 11 other hostages had been held all day and night in the jail's Cellblock 1, where the uprising occurred.

The cellblock housed about 180 prisoners, but only about 50 were reported to have been actively involved in the rebellion.

After the inmates seized control of the cellblock and took the 11 guards hostage, 132 other prisoners there asked to be separated and housed elsewhere in the jail. Later in the day they were removed to other locations in the jail.

There are about 1,100 inmates in the jail, housed in four main cellblocks.

The court action, before Judge William B. Bryant, followed hours of ultimatums, maneuvering and negotiations. As the day wore on the prisoners had changed their demands—and their tactics—in an attempt to take their case beyond police and prison authorities to the courts.

Acting as intermediaries were such officials as Congresswoman Shirley Chisholm (D-N.Y.); Del. Walter E. Fauntroy (D-D.C.); Marion Barry, D.C. school board president, and aides to Mayor Walter E. Washington. Another who was involved was Julian Tepper, a negotiator during the Attica prison riot situation.

Judge Bryant took a number of actions last night. He ordered wholesale segregation of juveniles from adults at the D.C. jail.

He also ordered no reprisals for the day's events and requested the public defender service to go immediately to the jail to make lawyers available to all inmates who request them. Although the order affecting juveniles appeared to have met a major demand, some of the six prisoners present at the hearing did not seem satisfied.

As William Brown, one of the inmates, said while heading for the courtroom door after the recess: "Come on marshals and corrections officers, take us back to where we belong."

Both Hardy and the prisoners addressed the judge. Hardy said the D.C. penal system is "now facing a population explosion." Among the problems he cited was the handling of juvenile offenders. He also said "there must be a massive input for the courts . . . much more sensitivity."

A prisoner, Albert McCoy, also made a special plea for juvenile offenders. "You take a 16-year-old kid and stick him in there with someone who's been in Leavenworth or Atlanta for 30 or 40 years and it ruins the kid. Then, they're in there with homosexuals."

While the D.C. jail situation was easing, other trouble broke out last night at the city's women detention center on North Capitol Street. Police were called to the center after approximately 85 of the center's 106 women inmates staged a sit-in after finishing dinner in the second-floor dining hall.

They too, presented grievances and demanded to be heard. Fights were reported and glass panels there were broken. But there were no reports of injuries.

But the main focus of the day remained on the D.C. jail where the inmates' initial demand was for immediate freedom. After hours of desperate negotiations and repeated threats, hopes were first raised for a solution when a bus carrying Hardy, six inmates, Fauntroy and several others left the jail late in the afternoon for the court.

In the words of Mrs. Chisholm, the inmates were going to court because "they want to go before a judge and actually tell him what goes on in prison."

She added:

"I expect some amelioration if the conditions are heard out."

She also said the convicts told her "they won't harm the hostages. They are not interested in hurting anyone. Once their grievances are aired, the hostages probably will be released."

Once at the court, one of the prisoners called out: "You want to search us? Search us in the courtroom." He then stripped to the skin. The other prisoners followed suit.

The plan at that time was to return the prisoners and Hardy back to the jail. Then another 20 prisoners would take the same bus ride to the court and present their demands.

For the prisoners, the court action coming as it did late in the day was a significant change in tactics. They had begun the long ordeal at the jail by issuing an ultimatum with only two alternatives—freedom or death. They threatened repeatedly to kill Hardy if their demands were not met.

As the day progressed and the prisoner demands escalated, the nature of the negotiators also changed. From first dealing exclusively with Hardy and police officials, the prisoners were later talking with such people as Mrs. Chisholm, Marion Barry, D.C. school board president; Fauntroy, Julian Dugas, and Charles Duncan, aides of Washington's Mayor Walter E. Washington. Also present was Julian Tepper who helped negotiate the Attica prison riot.

Mayor Washington was in constant touch with the situation from his command post downtown. Although the prisoners had demanded to see him, Police Chief Jerry V. Wilson said he did not want the mayor exposed to possible violence.

Mayor Washington played a key role in arranging last night's court session that helped to defuse the tension.

The prisoners—all young men, and all blacks—seized control of Cellblock 1 in the jail sometime between 1 and 2 a.m. yesterday. One-half of their cellblock is reserved exclusively for prisoners who have been placed on what prison authorities call "deadlock"—either for violation of prison regulations or because they are considered dangerous or. disruptive to other inmates.

Once in control of the cellblock, where they then held 11 prison guards, the convicts demanded to see Hardy and William L. Claiborne, a Washington Post Reporter who has written extensively about jail conditions.

Hardy and Claiborne came to the jail, talked to the prisoners, and then Claiborne was released to act as go-between. Hardy remained hostage.

Other hostages listed by officials during the day were Lt. Charles Wren, Isaac Webb, Wilbert Roberts, John Crause, Bernard Holmes, James Saunders, David Michelow, and Crawford Lowery.

Police said all but Wren appeared to have been uninjured. Wren was struck in the nose and head.

The tone of the remarks earlier in the day was consistently angry and emotional. The prisoners said repeatedly they were prepared to die. It was freedom or nothing. They stressed that their act was one of revolution. It was not a riot.

In their words, they touched on a whole litany of problems, not only in the D.C. jail but in other prisons across America. They referred to the bloody Attica uprising of September, 1971, of the deaths of the Jackson brothers, George and Jonathon, in California, of wrongs in the courts and in American society.

Their action was a new reminder that the prison problem has flared into acts of violence and disturbances throughout the nation in the past few years. These conditions in turn have led prison guards—including these at D.C. jail—to mount their own strikes and demands.

The D.C. inmates not only referred to common prison problems across the country, but specifically related their grievances to the way other jail situations here have been handled. One of their major complaints, as expressed to a number of persons who talked with them inside the jail yesterday, dealt with the settlement of a prison strike late last month at the Lorton reformatory.

Hardy had taken a major part in ending the strike. He had been quoted as thanking the prisoners there for their cooperation in the negotiations. Yesterday, some jail inmates expressed bitterness at Hardy for dealing with the Lorton convicts but, in their view, ignoring their problems.

One of the most emotional scenes of an emotional day came early in the afternoon when relatives of the inmates were taken to the jail. They stood inside the fences, in a courtyard next to the prison, and conducted a lengthy and loud conversation with the prisoners in Cellblock 1. Some women cried. Others screamed. They were there, they said, to urge a course of reason.

At that point, the prisoners were still reacting strongly. Hardy was brought to a window inside the cellblock and the prisoners shouted back their original demand—freedom.

Hardy was pulled back out of sight. One of the convicts shouted: "We're going to cut his head off if we don't get what we want. His head is coming off."

It was a day of contrasts, of autumn beauty and prison terror, of death threats and attempts at peaceful negotiations. Before the day had ended, virtually everyone in Washington from public officials to private citizens had been caught up in the minute-by-minute drama unfolding at the old D.C. jail.

The jail itself personified the contrasts. It is a massive and ugly building constructed of dull red bricks and sandstone a century ago. Surrounding it are two chain link fences topped with strands of barbed wire. It is sandwiched in between the D.C. General Hospital and the D.C. Armory, not far from the stadium where the Redskins play to cheering, capacity crowds.

But the jail is a place apart from the normal life of Washington. Until yesterday, it was removed from the general public consciousness.

Yet while the tense hours were passing at the jail there were reminders of the other sides of Washington.

Only a few blocks away from the jail yesterday, workmen were constructing the monumental platform on the east steps of the Capitol that will serve as the inaugural stand for the next President of the United States.

On Pennsylvania Avenue, halfway between the Capitol and the White House, a construction sign proclaimed the building of the J. Edgar Hoover Building. The new FBI quarters are a symbol of national law and order, just as the ancient jail represents another kind of symbol—that serious problems afflict the system of justice at a basic level in the prisons.

But it was the prison situation, not the monumental side of Washington, that attracted attention yesterday.

Earlier in the day, the crowds that lined the streets around the jail had been good natured with only an occasional undercurrent of ill will. As police contingents marched two abreast in a long column to relieve others on duty inside the fences, the crowd broke into a chant and a few jeers.

"Let's hear it from this here team no Rah-Rah-Rah."

But after standing for hours, the mood changed. As night approached, a restive group of some 150, many of them teen-agers, began milling against police ropes. Some bottles and other objects were thrown. No one was reported injured. Three young men were arrested.

The life-and-death drama at the massive, century-old jail came after a number of recent incidents that once again thrust the prison problem onto center stage in the nation's capital.

Just nine days ago, eight prisoners, including three of the most widely known criminals in Washington, escaped through an attic skylight and then fled after sliding five stories down a fire hose and climbing two chain link fences topped with barbed wire. Among those who escaped was one prisoner convicted of murder and three others indicted on murder charges.

It was the largest breakout in the history of the jail.

In the aftermath of the escape, three guards were relieved of duty and a U.S. grand jury and special team of federal and District investigators began a priority investigation. Those prisoners are still at large.

The jail break followed an emotional and bitter five-day strike last month by the 1,800 inmates of the Lorton reformatory, Washington's correctional facility located in suburban Fairfax County.

Lorton prisoners ended their strike only three days before the D.C. jail escape. They won concessions on about two-dozen grievances and then gave top corrections officials a standing ovation.

The concessions focused principally on such things as improved food service, more medical care, reforms in visiting procedures, notification and representation in disciplinary action cases.

Earlier this year the conditions at the D.C. jail were the subject of an emotional and controversial report by the American Civil Liberties Union. The ACLU report charged that the jail is a "filthy example of man's inhumanity to man." It also spoke of brutality by guards, insanitary living conditions, lack of proper medical care, overcrowding, idleness and infestation by rats and roaches.

But none of these events contained all the elements of yesterday's open rebellion at the jail.

What the prisoners repeatedly called their revolution began between 1 and 2 o'clock in the morning when the 11 corrections officers were seized in Cellblock 1. How the prisoners seized control, and how they obtained at least one gun they have employed throughout the long ordeal, is not clear. Only the inmates and the hostages knew that.

The first indication of trouble came about 3 a.m. when prisoners passed a note through a peephole in a steel door leading to their cellblock. The peephole, measuring about four inches by four inches, normally is covered with glass. The prisoners smashed the glass and passed out a note demanding to see Hardy and Post reporter Claiborne.

There was a lapse of about an hour before Claiborne was contacted at his home in Northwest Washington. At about 4:30 a.m. a police squad car picked up the reporter and sped him to the jail where he met Hardy.

Hardy showed him the note. "Are you willing to talk with them?" he asked Claiborne. The reported said yes. They walked through a large rotunda that serves as a visiting room and approached the steel door to Cellblock 1. Dimly, through the peephole, they saw a group of faces surrounding Lt. Wren.

The prisoners were holding a snubnosed revolver, either of .32 or .38 caliber, on Wren. From time to time, as they talked, they pointed the pistol at both Hardy and Claiborne.

Hardy asked the prisoners to come into the rotunda and discuss the situation. They refused. "You're coming in; we're not coming out," one of them shouted.

Then the prisoners demanded that policemen clustered in the background be removed. They left. Again, Hardy and Claiborne conferred briefly. They agreed to enter the cellblock and talk to the prisoners.

Claiborne entered first. He climbed over what was left of the barricade—and was then pulled forward through the narrow opening of the door by a group of prisoners.

He was immediately thrust against a wall and frisked for weapons. Then he was led by about 20 or 30 prisoners down a long, dim corridor past a series of cells toward a table at the end. The atmosphere inside the cellblock was oppressive; the single bulbs covered by wire mesh at intervals in the ceiling gave off little light. In the early hours before dawn, the cellblock was cold and dank. A strong smell of urine permeated the entire cellblock, which consists of five tiers of cells, each tier with 17 cells and each cell housing two men.

For several minutes Claiborne was alone with the most vocal of the prisoners. One of the most vociferous gave him a long, emotional lecture on the situation and the stakes involved.

"This is a revolutionary act, man," he was told. "This is an act of rebellion against the system. This is an act for respect and for us to be treated like men, not like animals in a cage. This is a positive action."

Another prisoner interrupted to refer to other prison incidents elsewhere:

"We remember what happened to George Jackson. We remember what happened to Jonathan Jackson, his brother."

Others spoke about the tragedy at Attica prison a year ago in New York, where more than 40 prisoners and hostages were killed. "We remember what happened at Attica after the negotiations," one prisoner said.

The shootings there followed all kinds of promises, he was told. Someone else called out:

"We want the mayor, we want (Police Chief Jerry V.) Wilson, we want the Attorney General."

Lorton was also referred to repeatedly—and also, by implication, so was the jail break of only a few days ago. "You read in the papers about the niggers escaping," one convict said, "but you don't know why."

While this tense dialogue was taking place, Hardy was being taken into the cellblock. He is a larger man than Claiborne. It took the prisoners more time to pull him in.

Before Hardy arrived, the prisoners again mentioned Lorton. One of them had an editorial from The Washington Star-News referring to the Lorton negotiations and settlement. He threw the editorial on the table and, pounding on it with his fist, shouted: "Why didn't Hardy think of us when he negotiated with Lorton? This is still his plantation."

When Hardy finally was escorted down the same long corridor, he was told to sit in a chair. Lt. Wren, his nose bloody, his head cut, sat on the table. Again, the revolver was waved back and forth at the men

The convicts addressed themselves to Hardy, "We will accept only one alternative," one man said. "That we will die here or we will have our freedom, because death is being given out every day in the courts."

Another voice cut through the din: "We're tired, man. We're tired of fighting. We only have one alternative—to die here on the sidewalk."

Continually, they struck the same theme: this was not a riot. This was a revolution.

They also expressed another common thought: they were prepared to die, they were entirely fatalistic.

"I have accepted death," one prisoner said. "They're going to kill me when they open that door."

Then they issued their first demands:

Remove all police from the jail.

Permit the prisoners to leave four at a time.

(One convict disagreed. "You tell them that we're coming out six at a time," he said.)

It was 5:45 a.m. Claiborne left the cellblock after what was probably the longest 35 minutes of his life. It was still dark outside. Hardy and the other hostages remained in the cellblock.

Claiborne said it was impossible to determine who the inmate leader was, if indeed there was one. Neither was it possible then to say how many prisoners the group spoke for, what their ultimate goal was, nor what kind of solutions eventually would be acceptable.

As dawn broke, crowds of curious citizens, attracted as always by morbid fascination over a real life-and-death story, began to gather slowly on the streets around the jail. Police had cordoned off the intersections to keep them back. The blocks surrounding the jail had been transformed into an armed camp of police cruisers and men carrying rifles, tear-gas canisters, pistols and nightsticks.

The situation settled into a stalemate. Officials came and went. There were more conferences between the prisoners and the officials, more conversations between Claiborne standing outside the cellblock windows and the convicts inside, more uncertainty about what, if anything, to do.

Delegations of prisoners from Lorton and relatives of the hostages were brought to jail. From time to time, the prisoners would appear at the cellblock windows to shout down at those gathered below.

Occasionally, they brought Hardy with them, still covered by the pistol. Once, he was seen with what appeared to be a crudely fashioned knife held close to him.

One of the more dramatic moments came about noon when Hardy was again brought to the window. The prison official called out: "I don't want bloodshed. There are people here with a lot of problems. They have treated me decently. I don't want any CDU (police civil disturbance unit) action. I don't want that kind of action. I don't want bloodshed. This is not a criminal action. This is a revolution. This is real."

Hardy was then yanked back from the window. One of the prisoners shouted, "We're going to cut his head off if we don't get what we want. His head is coming off. You'd better believe that."

Shortly after that, a blood-spattered white shirt, said by officials to belong to Lt. Wren, was dropped out of a cellblock window. It fluttered slowly to the ground.

(Note.—Contributing to today's articles on the D.C. jail incident were Donald P. Baker, William L. Claiborne, B. D. Colen, Martha Hamilton, Jon Katz, Claudia Levy, Grayson Mitchell, Peter Osnos, Margaret Pala, Paul Ramirez, Ken Ringle, Kirk Scharfenberg, J. Y. Smith, Ron Taylor, Paul W. Valentine, Ed Walsh, and Toby J. A. Wolff.)

They Led Me Into a Hall, Saying "Don't Hurt Him"

(Note.—William L. Claiborne is a Washington Post staff writer assigned to cover corrections in the District of Columbia. When inmates took hostages at D.C. jail early yesterday, they asked that two people come inside: the head of the corrections department and Claiborne. This is Claiborne's account of his nine-hour experience as go-between.)

The telephone rang loudly in my home at 4:15 a.m. and the message from Kenneth L. Hardy, corrections director, was frightening. The inmates at D.C. jail had a gun and were holding guards hostage.

Hardy himself called a moment later. His voice was heavy.

"Mr. Claiborne, they have taken Cellblock 1 and they are holding nine of my men as hostages. They want to talk to you. Can you come down here?"

I said it would take 10 or 15 minutes to drive there and I would come. He said: "Mr. Claiborne, we only have 10 minutes. I'll send someone."

I hurriedly dressed and told my wife and daughter where I was going. A police scout car arrived at my home in 10 minutes and took me, at high speed, with lights and sirens going, to the D.C. jail. We almost got lost once, and ended up going the wrong way around Robert F. Kennedy Stadium.

I walked into a darkened office. Hardy and two other top corrections officials were sitting there, drinking coffee and talking. Hardy handed me a piece of yellow legal paper with a message from the inmates: "We want to negotiate with Hardy and Claiborne."

Hardy said an unknown number of inmates had seized nine hostages at approximately 2 a.m. He asked whether I wanted to go in and talk with them. "OK," I said. We walked to a steel door off the visitors' rotunda that rises to the full four-story height of the jail. We then entered a small alcove and the steel door shut behind us. There we faced another steel door with a small peephole, through which we could see a number of inmates. One held a snubnosed revolver to a guard's head. The glass in the peephole had been broken and we could see their faces clearly.

One of the inmates said through the peephole, "Mr. Claiborne, we want you to understand one thing very clearly. This is not a riot, it's a revolution, you understand?" I said I understood. But I'm not sure I did. My impression was that he meant by a revolution something more serious—a fight to death, perhaps.

Hardy and I talked with the inmates in an effort to get them to come into the alcove or send several representatives into the rotunda to negotiate.

"We're not coming out this door, you're coming in," was the response.

The inmates could see a large number of metropolitan policemen in the rotunda, some with shotguns and one with a pepper fog (type of tear gas) machine.

Hardy ordered the police to leave, then turned to me and said, "Do you want to go in?"

"I'll go in," I said.

The inner steel door was heavily barricaded with tables, chairs, fire extinguishers and other equipment and the inmates removed enough of the barricade to allow the door to be opened about a foot. One of the inmates pointed at me and said, "All right, you first."

I squeezed through the door and climbed up on top of the barricade. An inmate grabbed me by the wrist and pulled me in while several encouraged me, saying, "You can make it, man, come on, you can make it."

They led me up into a dimly lighted hallway. Several inmates were shouting at other inmates, saying, "Don't hurt him, man, don't hurt him. If you hurt anybody, don't hurt him. We need him." There were about 30 inmates in the corridor.

Several faced me up against a wall, frisked me, and led me down a dark corridor about 50 feet.

Hardy had more trouble getting through the door because he's larger than I am and while they struggled to help him into the cellblock and over the barricade, one inmate told me to take out paper and pencil. He gave me a lecture on revolution.

I noticed that my notebook was one I had hurriedly snatched from a desk at home, and that my 7-year-old daughter had block-printed "W.L.C.," my initials, address and telephone number.

I thought an inmate standing at my side noticed the writing on the cover of the notebook, but I also thought that he didn't understand the meaning it had to me at that moment. I was scared.

He said, "This is a revolutionary act, man, this is an act of rebellion against the system. This is an act for respect, and for us to be treated as men and not as animals in animal-like cages."

It seemed to take five minutes to squeeze Hardy through the door. During that time the inmate continued to talk. "We remember what happened to George Jackson. We remember what happened to Jonathan Jackson, his brother. We remember Mark Clark and Fred Hampton. We remember what happened at Attica after the negotiations."

The inmate doing most of the talking at that moment was extremely agitated and said the 1970 D.C. court reorganization, was an "act of genocide." He said the inmates believed they had only one alternative: "That we will die or we will have our freedom because death is being given out every day in the courts."

While the inmates were still helping Hardy through the door one of them slammed a newspaper editorial on a table and began hitting it with his fists. The editorial dealt with reforms instituted at the Lorton reformatory that were negotiated by inmates and Hardy and other corrections officials.

Why didn't Hardy think of us when he negotiated with Lorton This is still his plantation," the inmate, a tall man in his middle twenties demanded. He kept slamming his fist on the table.

Inmates shouted several references to Attica, one say, "We feel totally that fear has gripped us because of Attica."

Another said, "We only have one alternative. To die here or on the sidewalk out front."

"This is it, it's all over," he said.

At that point they brought Hardy down the corridor and seated him at a table alongside Lt. Charles Wren.

Wren, a guard, had apparently been beaten. There was blood on his nose and head. Seated opposite him were two inmates, while still another stood by the table, alternately waving a gun at Hardy and me, or pointing it at Lt. Wren.

Once, the inmate holding the gun placed it on the table next to Hardy, but another prisoner quickly picked it up and again held it to Wren's head.

Over and over again the inmates emphasized that this was a revolution. The inmate doing most of the talking said, "I done accepted death, they're going to kill me when they open the doors."

Hardy tried repeatedly to begin negotiations on conditions at the jail. But the inmates—for the first time—said they were not interested in negotiating. They had only one demand: freedom. It was a one-way conversation. They were talking at us, and they didn't seem to expect any response.

Almost as an aside, several inmates did complain then of brutality, poor sanitary conditions in the dining hall, poor food and other things. But it was only to lead up to their single demand. "We want the area cleared," one said, "we want to go out four at a time."

One said to me, "You tell them that we're coming out six at a time."

Hardy and I had entered the cellblock about 5:10 a.m. About 5:45 a.m., they said, "OK, you go out there and tell them what we want. We're keeping Hardy."

Hardy sat at the table with his arms folded, staring straight ahead. I hadn't expected this, I doubt that he had. One inmate took me by the arm and started leading me down the hall.

I turned back once to look at Hardy. Leaving him there, I felt then and now, was the hardest thing I've ever had to do. He was still looking straight ahead as I squeezed through the door.

Hardy's decision to go into Cellblock 1 had been made quickly, with a snubnose revolver pointing through the peephole at both of us. There was no discussion over terms, such as whether he would be released or how long he would talk with the inmates.

There wasn't much time for him to think about being held a hostage himself. He simply asked me if I was willing to go into the cellblock with him and I said I was. But I knew the inmates had a specific use for me, and that was to convey to the authorities their demand for freedom and the terms under which they would leave the jail. And they needed me to tell their side of the story to the public.

Hardy could have had no such understanding. But we hadn't discussed the prospect of his being kept hostage.

Throughout my 35 minutes inside the cellblock the prisoners desperately tried to convince me of their singlemindness of purpose—not to negotiate for better conditions inside the jail. but simply to negotiate the method in which they were to leave the jail.

But the announcement that they planned to keep Hardy as a hostage took both Hardy and me by surprise. It was made almost casually, and I couldn't tell whether they had planned it in advance.

The next seven hours I acted as a go-between for the inmates and the jail administration. Our talks were conducted through a window overlooking a courtyard and facing 19th Street SE.

Shortly after I left the cellblock the inmates yelled out the window that they wanted the police to come to the window.

Insp. Theodore Zanders, who was in charge until Police Chief Jerry V. Wilson arrived, told me, "I think the corrections people ought to talk to them, not us."

Zanders said through a bullhorn that he could hear the inmates from behind a fence 30 yards away and that he wasn't going to the window. Hardy then appeared at the window and said, "I'm asking you to come up to the window. I'm ordering you to come up to the window."

The police refused.

About 6:20 a.m., Hardy telephoned to the rotunda from the cellblock and pleaded with the police to remove their cars from 19th Street.

Zanders told me he was reluctant to move the cars because he didn't know what the inmates' next demand would be. But he moved some.

The next hour Hardy came to the window repeatedly, pleading that police remove the cars and turn out the lights that were shining on the cellblock windows. His voice quavering, he said, "Turn those damn lights out. This is Hardy. Turn those lights off. Now move that thing out of the way," he said referring to a police truck parked on 19th Street.

No one moved the trucks immediately and Hardy continued to plead through the window, begging the police to leave the area.

At one point he shouted, "Go home. Go on, get that damn truck out. Come on, clear the area. Move it. Get away from this jail. Come on, move that detail out of there. I've got a gun against my head, please move it," he pleaded.

At 7 a.m. the prisoners began yelling out the windows that they wanted to see me again. When I got to the window one of them shouted, "We got Mr. Hardy and nine guards. We want this whole area cleared. Don't plan any mother . . . tricks on us." They also told me to tell prison authorities they wanted Mayor Walter E. Washington there in 15 minutes.

At 7:15, inside the rotunda, a Capt. Robinson received a telephone call from inside the cellblock. It was Hardy pleading for someone to bring the mayor. About that time, Chief Wilson arrived.

At 7:30 a.m. Charles M. Rodgers, deputy corrections director, talked with the mayor on the telephone. Marion Barry, D.C. school board president, also acting as a go-between, talked to the mayor and then said, "The mayor wants them to work through Rodgers and them."

At 8:15 a.m. Barry and I went to the window again briefly, and the inmates demanded that we bring the mayor there. They also wanted a doctor inside the cellblock to treat an inmate who had cut his arm and demanded that the police be removed from the area immediately.

As soon as we returned to the rotunda, Chief Wilson said, "OK, they're moving."

"The trouble is," Wilson told me, "they got a gun. I don't want the mayor shot. If you or I get shot, that's OK, but it wouldn't do to get the mayor shot."

The first time I went to the window, an inmate pointed the gun at me. But as I returned for subsequent talks the gun did not appear.

I went to the window several more times and finally at 8:30 a.m., the inmates shouted to me their single demand—freedom.

"We don't want nothin' but the sidewalk. What do you think we want, better food? Bull . . . We want the sidewalk, man."

"We're dead now, we're better dying out there than in here. We don't give a —. There's nothing you can do but let us out of here. Go tell them that. There's nothing you can do but let us out of here. What is better than freedom, man, you tell me. What's better than freedom?" the inmates told Barry and myself.

One inmate said, "This is a death play or a freedom play. Tell them to kill us."

Another shouted, "We ain't bitches, man. We don't mind dying for the—cause".

And another: "When this is all over and the other brothers come along, make it better for them. . . . That's all we are asking for is to die out on the sidewalk. They can kill us right there."

Over and over again the inmates complained from the window about the negotiations at Lorton two weeks ago, saying at one point, "Mr. Hardy negotiated for the brothers at Lorton, how about us? You read in the paper about niggers escaping, but you don't know why. We have come to the conclusion that we're going to die."

At noon the inmates again came to the window and shouted for me to come talk to them. One of them said that Hardy was about to make a statement from the window to the effect that there would be no reprisals or action taken against the inmates in the cellblock.

Hardy came to the window and pleaded for police to leave the area. He said, "I don't want any bloodshed. We got people here with lots of problems. They have treated me decently," he said. "I don't want any CDU (the police civil disturbance unit) in here. I don't want that kind of action. I don't want bloodshed."

He was drawn and appeared nervous but not injured. An inmate held what I thought was a knife to his head and shouted, "His head is coming off, you better believe that."

Other inmates pulled Hardy away from the window and one of them threw out a white shirt saying that it belonged to the injured guard, Lt. Wren. The front was covered with bloodstains. The inmates then shouted out the window, "Get them out of the rotunda," referring to the police. "You better get those ——— out of the rotunda now."

There were only a few policemen in the rotunda and they left.

As early as noon, the inmates were asking me if I was "playing tricks" on them. They demanded to know why I hadn't brought the mayor to the window.

Later in the afternoon, it became obvious that my effectiveness as a go-between was lessening. They didn't seem to need me anymore, particularly after the arrival of Julian Tepped—who negotiated at Attica prison—and Rep. Shirley Chisholm.

Later as I was about to return to the office to write my story, I heard that a pool of reporters was being formed to go back into the jail's recreation yard, outside Cellblock 1, to talk to young inmates who wanted no part of the uprising and were allowed to leave the cellblock.

I wanted to make sure that The Post had a reporter in that pool and I broke through police lines to try to reach "Hunk" Anderson, a corrections department official.

A big policeman grabbed me by the shoulders and pushed me to the curb, swearing at me and telling me to get back with the rest of the reporters. I told him I had been inside the cellblock since 4 in the morning, but he said, "I don't care who the hell you are, get behind that line." And he pushed me again.

I yelled and finally got Anderson's attention and he came and talked to me and we got a Post reporter in the pool. After that, I went back to the office.

YOUNG PRISONERS TELL OF RATS, ROACHES IN D.C. JAIL

(By Donald P. Baker and Grayson Mitchell)

The young prisoners were the first to leave cellblock where the hostages were being held. The older men insisted that they go, because they were not part of the protest.

There were 19 of them, and as the afternoon wore on, 113 older prisoners who did not wish to protest also left the cellblock, leaving about 50 inmates behind.

As the young men walked into the recreation yard between the front of D.C. Jail and the chain link and barbed-wire fence along the sidewalk, Petey Greene saw them and began to cry. With tears streaming down his face, the ex-convict and ex-dope addict who now helps other ex-convicts and dope addicts, said:

"You've got a bunch of babies here."

For about 20 minutes they talked to a group of reporters who had been allowed inside the fence. One of them, who said he was John Ferguson, 17, said:

"We don't even belong here."

He was referring he said, to the fact that younger prisoners were being kept with older prisoners.

Across the street from the jail fence was a crowd. Many claimed to be relatives of prisoners. Police allowed some of them to go up to the fence and call to prisoners in the windows above. By midafternoon, however, police confined them to the sidewalk across the street, and there were occasional pushing and shoving matches between members of the crowd and police as the afternoon wore on.

As Greene, one of those chosen to negotiate with the prisoners in Cellblock 1 who were holding D.C. Corrections Director Kenneth L. Hardy and 11 guards, stood with tears rolling down his lean face, the young prisoners talked to a group of newsmen who had been permitted inside the fence.

Clarence Moore, 19, said he was in jail awaiting trial on a burglary charge.

"I came over here with (VD), and didn't get treated for a month," he said. "The food is bad. There are roaches crawling in it."

A prisoner named Johnson who said he was 17, said: "The rats are jumping all over our heads in there, and the roaches race all over."

Johnson said he was suffering from a skin rash when he was sent to the jail about three weeks ago, and that he had never been treated for it. He removed his shirt to show reporters scars on his chest and what appeared to be a rash.

After the young prisoners were removed from Cellblock 1, other prisoners began to leave. By late afternoon, 132 inmates had left the block and only 53 remained, according to School Board President Marion Barry, another negotiator.

Barry and Charles Rodgers, deputy commissioner of corrections, held a curb-side conversation with the crowd across the street from the jail. A voice from the crowd said:

"When will we get to see the prisoners?"

"The families will not get in there today," Rodgers replied.

Earlier, in response to appeals broadcast through the news media, a few relatives of prisoners began to gather at Eastern High School.

William J. Saunders, the principal of Eastern, told a reporter he had not received permission from the school board to allow the relatives to use the school auditorium.

In any case, reporters at the school counted only seven persons who appeared to have responded to the appeal. Three young men who said they were friends of the prisoner-negotiators told the seven not to talk to the press, and escorted them to a station wagon driven by D.C. corrections officials.

They were driven to the jail where corrections officials said they would be allowed to communicate with prisoners by shouting through the windows. It could not be learned whether any had actually been admitted to the jail.

From the crowd across the street, meanwhile, other voices called other questions: Who are the 50 prisoners? Are they armed? Have the prisoners received meals?

"We don't know who they are," Barry said in answer to one question. "We'll go back and ask if they'll tell us, 'cause their families are here."

None of the 132 men who voluntarily left the cellblock was armed, Rodgers said. Barry added that "we're not sure" about the remaining 50.

As for Kenneth Hardy, Barry said: "Mr. Hardy is free to roam around. He's making calls. The prisoners want us to support him. They want community support, because they said, he's the best they've ever had."

At about 5 p.m., a bus carrying Hardy, six prisoner-negotiators and officials left the jail so the prisoners could tell their complaints to a judge.

The crowd across the street, which numbered about 200, surged against the rope along the sidewalk and the line of policemen.

As the bus drew away, people in the crowd shouted, "Remember Attica!" and other slogans. They waved their arms in the clenched-fist black power salute.

From the bus, some prisoners shouted back and waved their fists. The crowd shouted, "Right on!"

SIX IMPLORE JUDGE TO END FAULTS AT JAIL

(By Ronald Taylor and B D. Colen)

Six prisoners bused from D.C. jail appeared before U.S. District Judge William B. Bryant in an extraordinary session last night to tell him about the conditioning of their incarceration.

One of their principal spokesmen was Kenneth L. Hardy, director of the D.C. department of corrections. Hardy was one of 12 hostages the prisoners, and some 30 to 40 fellow inmates who did not accompany them to the courthouse, had held for more than 15 hours before the extraordinary courtroom hearing began at 6:30 p.m.

At 9:30 p.m. Judge Bryant recessed the hearing. By that time, he had already ordered the segregation of younger inmates from older ones at the jail. Also, by that time, Hardy had become ill and was taken to a hospital.

Hardy, who spoke in a voice that was almost inaudible, first testified that the city's penal system was "now facing a population explosion." He said he wished it were possible to insure that young suspects being tried under the Youth Corrections Act spent no more than 24 hours in the jail.

Then the prisoners began to argue their own cases.

The first to speak was Albert McCoy, who earlier received a 5-to-15-year sentence from Bryant upon his conviction for manslaughter.

"You take a 16-year-old kid and stick him in there with someone who's been in Leavenworth, or Atlanta for 30 or 40 years . . . and it ruins the kid," McCoy said. He added: "Then, they're in there with the homosexuals . . ."

"We want some help. That's what we're screaming for. Maybe it's too late for me . . . I got a little brother, I don't want him to go through there (D.C. jail). But who's going to help him? I'm screaming for help."

Judge Bryant replied by explaining that the only thing he could do was consider matters that fall within the scope of a civil suit on jail conditions over which he has presided, and in which he ordered various conditions at the jail changed in favor of the prisoners as a group.

"Whatever (individual) grievances you have can only be brought effectively before the court, and properly before the court, by a lawyer," Bryant said.

McCoy replied: "I wrote you three or four letters. I never received a reply. What can I do? You say come properly. I tried."

Bryant assured McCoy that he would see to it that "a lawyer talks to you tonight."

But in speaking to McCoy and to prisoners who pleaded their personal cases later, the judge made it clear that he could act only on issues that fall within the range of the civil suit, and not on their personal grievances.

In McCoy's case, he pointed out that he had sentenced him more than two years ago. He said that, as a matter of law, a judge loses control over a prisoner's sentence 120 days after the sentence is handed down.

Hardy was represented at the hearing by Julian Tepper, an attorney who was a negotiator in the Attica prison tragedy in New York.

Asked by a reporter when the trouble at D.C. jail began, Tepper replied:

"It started 200 years ago. What the public doesn't understand is that the inmates are in control anyway. Any power over them they give by consent. The people just don't understand it . . .

"You cannot make that place humane," he said of the jail.

Negotiations over the hearing before Bryant dragged into the late afternoon. The Court proceeding was set as a result of the intervention of Tepper and the rest of the negotiating team, acting as go-betweens for the protesting prisoners and the city administration.

Charles Duncan and Julian Dugas, longtime confidants of Mayor Walter E. Washington, entered the jail shortly after noon. Only Duncan was seen again after the bus that conveyed the prisoners and Hardy and other officials to the court had left.

The shadows were lengthening and the autumn sunshine giving way to chill when the crowd of some 500 onlookers across 19th Street from the D.C. jail saw the first sign of a break in the siege.

It was the green prison bus, its windows barred, rolling out the sliding door in the prison parking lot, carrying six prisoners toward U.S. District Court, along with Corrections Director Hardy and several newsmen.

Among the newsmen was a pool of black reporters allowed by the rebelling inmates to enter the jail yard for a time during abortive negotiations inside and then to ride with the six prisoners in the bus to court.

The crowd, many of them friends or relatives of those inside the gates, raised a cheer as the bus rolled by. It was 4:15 p.m.

A police motorcycle escort led the way downtown and the bus unloaded its passengers at the John Marshall Place entrance to the court.

There the prisoners, flanked by guards, marshals and reporters, and trailing a small army of photographers, television sound technicians and cameramen, made their way through the hall and up the elevators to the sixth-floor courtroom.

They entered the main doors, followed by lawyers, relatives, legal secretaries and reporters and sat down at one of two tables perpendicular to the judge's bench. Across from them, at the other table, sat their guards.

At about 5:15 p.m., after some discussion, the guards and attorneys started to walk the prisoners through a door beside the judge's bench, apparently to search them.

The group stepped halfway into the hall beyond the bench and then returned to the courtroom.

"You want to search us?" said one prisoner. "Search us in the courtroom. Search us in the courtroom." he said again, and proceeded to strip to the skin.

The other prisoners followed suit, as some women in the courtroom averted their eyes and others among the spectators crowded forward to see what was happening.

"This is the way they do it at the jail," said one of the prisoners. "This is the way they do it at the jail. This is the way they do it at the jail. This is a shakedown."

The marshals and guards watched as the prisoners stripped but did not approach them. Then the prisoners put their clothes back on and everybody sat down to wait some more.

One of the six guards accompanying the prisoners told a reporter in the courtroom that they, too, wished to give testimony about their problems at the jail—including pay, hours and including off-duty hours.

He said they had a list of demands signed by 80 guards calling for an immediate pay raise, retirement at the end of 20 years' service, improvement in jail security, and authority to carry guns around the clock, including off-duty hours.

The guard, who did not give his name, said that if these demands were not met the jail guards, following release of those now held hostage, would walk off the job. "The inmates can keep the jail," he said.

Hardy Continues To Be Involved

(By J. Y. Smith)

It was by choice that Kenneth L. Hardy became a hostage yesterday of the prisoners whose custody is his main responsibility.

It was a choice that in some ways typifies Hardy's career since he became director of the D.C. corrections department in 1967. He has worked to try to rehabilitate prisoners through the use of community-based halfway houses, and he has repeatedly stressed programs that were meant to help former prisoners become full-fledged members of society.

Just last month, he negotiated for four days to end a strike by the 1,800 inmates of the Lorton reformatory, the city's correctional facility in suburban Fairfax County. He had risked community criticism by agreeing to negotiate freely with the assembled prisoners in an open forum in the Lorton prison yard, without being forced into the meeting by the threat of violence.

The climax of that work-stoppage came when Doolum Johnson, a leading inmate negotiator, told Hardy:

"Because you have established your credibility with us, we do not feel the need for continuing the strike."

Obviously moved, Hardy replied to Johnson and the assembled crowd of prisoners: "Men of Lorton, I want to thank you."

The talks, which centered on such issues as better food and medical and dental care and lights in the visitors parking lot, had showed "how a segment of the community which has been rejected has not lost their manhood . . . and their ability to be gentlemen," he said.

Hardy continued: "I know my career is on the line right now. There are those who want me to leave this job . . . I do not run from a fight. I want change . . . and I will stay and try to bring about that change."

Given these convictions and coming fresh from his Lorton success, the 54-year-old Hardy's decision to join the nine guards being held by the prisoners who took over Cellblock 1 at D.C. jail yesterday is at least partly understandable.

According to William L. Claiborne, a Washington Post staff writer who accompanied Hardy yesterday and who was himself held by the inmates for a time, Hardy made the decision on the spur of the moment.

But at the time, he knew the prisoners were holding the guards, and he knew the prisoners were armed.

While Hardy was willing to talk to prisoners face-to-face under tense circumstances, he has also often said there were some men whom the prison system could not rehabilitate.

Speaking about a recent proposal for a $65 million expansion of the Lorton complex, Hardy said: "I have to be pragmatic as director of the department. The (criminal) population is becoming more and more sophisticated in terms of crime. So I don't need anyone to tell me to tear down the walls and build no new prisons."

Hardy has frequently come under criticism from persons who thought some of his rehabilitative programs, particularly the community-based halfway houses, were too permissive.

Others attacked him for running a system that allegedly tolerated needlessly repressive policies. The American Civil Liberties Union won a court order earlier this year under which prisoners received more privileges.

Winston Moore, the head of the jail system in Cook County, Ill., and a long time friend of Hardy, said in a telephone interview that he thought the ACLU suit had resulted in Hardy and other officials losing control over the D.C. jail.

"He got caught in the class action," Moore said. "At this point he lost command of his institution. That is what happens when the courts and the do-gooders interfere."

Hardy has spent his entire professional career in the corrections field in the District of Columbia. He was born here, and graduated from Armstrong High School and Howard University. He did post-graduate work at Howard, Boston, American and George Washington Universities.

During World War II, he served four years in the Army, rising to the rank of captain. In 1948, he went to work as a parole officer with the D.C. parole board. In 1955, he joined the department of corrections.

At that time, the department was headed by the late Donald Clemmer, who is credited with undertaking major reforms within the system to eliminate racism and other indignities to which prisoners were customarily subjected.

Hardy has frequently expressed his admiration for Clemmer and his desire to continue reforms along the lines charted by him.

When he has time, Hardy likes to relax by painting. He and his wife, Anna, are also interested in tropical fish, and they maintain an aquarium in their home. The couple have two sons by a former marriage of Mrs. Hardy.

Mrs. Hardy said yesterday her husband has had little time in recent years for his hobbies. In fact, she said, she met him "in jail," because she is a parole examiner herself.

"He lives his job not eight hours a day but 24 hours a day—this is the Ken Hardy I know," she said. "He is a dedicated man, and I have known this for a long time. I have learned to live with his work as well as with the man."

Mrs. Hardy Tells Husband: "Be Cool"

(By Margaret Pala and Jon Katz)

"I've often wondered when it would happen," Anna Hardy said. "I've learned to live with the work as well as the man."

Mrs. Hardy, a former D.C. corrections department official herself, remembered that when her husband, Corrections Director Kenneth L. Hardy, walked out of their Southwest Washington home shortly before 3 a.m. yesterday, she told him to "be cool."

She said it wasn't an expression she often uses, but it seemed fitting then. To Mrs. Hardy and her husband, it was just another early morning phone call about some difficulty in the prison system.

Mrs. Hardy didn't find out that this one was quite different until Alan Avery, a D.C. government official, called her at 6 a.m. to ask what had happened to her husband. When she said she didn't know, Avery called back 15 minutes later to tell her Hardy and 11 others were being held hostage by prisoners at the D.C. jail.

"I have faith," said Mrs. Hardy yesterday afternoon at home after more than 12 hours of waiting. "I have faith that there will be someone within that situation who will show him the kind of humanity he has shown in his work."

Mrs. Hardy, who is now a D.C. parole board examiner, said it was also a time "for us to show our humanity not only to this man (her husband) but also for the families of the hostages and the prisoners."

Mrs. Hardy tried to maintain a normal routine in the townhouse on 6th Street SW. She sent her son, Jake, to classes at Coolidge High School, where he is a senior, and she appeared outwardly calm.

The only signs that something unusual was happening were the neighbors who came to sympathize and help, and the incessant phone calls, from the press, from friends, from Mayor Walter E. Washington, and from corrections department officials who wanted to know if her husband was all right, since she was the only person Hardy was allowed to contact.

It wasn't until 3:45 p.m. that a phone call eased the tension. It was from her husband, saying "things are looking up," that he was unharmed but still being held hostage.

Within minutes, Deputy Mayor Graham Watt called to say the situation was improving, and that Hardy had agreed to help the prisoners speed up their lengthy court proceedings.

"I have accepted as a sad fact of life that in his role Kenneth becomes the goat for the entire system," said Mrs. Hardy. "They've needed money for expansion for a long time, and maybe now they'll listen," she said.

Shortly after noon, Jake returned home, and Mrs. Hardy's other son, Sgt. David Roach, called from a North Carolina Air Force base. Both are Mrs. Hardy's sons by a previous marriage.

Across the city, another wife was listening to the radio and trying to learn through the excitement and confusion if her husband was all right.

Josephine Wren, wife of another hostage, corrections officer Lt. Charles Wren, said her husband had left as usual for work on the midnight to 8 a.m. shift.

Mrs. Wren, who lives with her husband on Minnesota Avenue NE, said a cousin called at 8:30 a.m. and said he was listening to the radio and heard Charles had been taken hostage and injured.

"I turned on the television and they were saying my husband had been taken hostage and that he was hurt," she said.

Mrs. Wren said that throughout the day, no one from the jail, the police or the city government called to tell her that her husband was actually a prisoner.

"Then I started getting phone calls. I've been so nervous," she said shortly after 4 p.m. "I've got to do something. Nobody will tell me what's happening."

Mrs. Wren said her husband has been a corrections officer for 18 years and has loved the work. He loves any job he has.

"I never minded his working there until this thing with the eight escapees two weeks ago. Then I started to get nervous," she said.

She said Wren was promoted to lieutenant two months ago, and is 55 years old.

"I just hope when this thing is over that he gives it up," she said. "I can't see getting all choked up by a group of hoodlums."

Families of other hostages rushed to the jail, but were held back by police cordons.

BUSING—LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. JAVITS. Mr. President, nearly 3,000 black elected officials, clergymen, and community leaders have told Roy Wilkins, executive director of the NAACP and Vernon Jordan, executive director of the National Urban League, that they support bus transportation to achieve quality integrated education. Last spring, Wilkins and Jordan, in an effort to test black sentiment on busing, solicited the views of a sampling of black elected officials, clergymen, and community leaders. About 500 black elected officials from 36 States and the District of Columbia, 600 clergymen from 38 States and the District of Columbia and 1,900 community leaders from 44 States and the District of Columbia signed the following statement:

> I want quality integrated education for all children and I support bus transportation as one of the ways to achieve it.

More recently, at the PUSH Exposition held in Chicago last month, nearly 1,800 persons signed petitions which stated their support of busing when necessary to achieve quality integrated education.

This expression of black sentiment far outweighs the much touted polls that opponents of busing have tried to take comfort in. For example, the March 1972 Louis Harris survey which shows that only 52 percent of Blacks favor busing was based on a survey of only 160 blacks who were asked "Would you favor busing or oppose busing schoolchildren to achieve racial balance?" But "racial balance" is not the issue; desegregating illegally segregated schools is. Similarly, a February 1972 Gallup poll showed that 45 percent of blacks favor busing, 40 percent oppose it, and 15 percent have nc opinion. This poll, however, was based on a survey of only 48 black persons and asked the question: "Do you favor or oppose compulsory busing of some children so that school desegregation can be achieved?"

Mr. President, I ask unanimous consent that the announcement of this action by the Leadership Conference on Civil Rights be printed in the Record.

There being no objection, the announcement was ordered to be printed in the Record, as follows:

ANNOUNCEMENT BY LEADERSHIP CONFERENCE ON CIVIL RIGHTS

> The Conference announced today (October 10) that pro-busing statements had been signed by three thousand black elected officials, clergymen and community leaders. They supported bus transportation as one of the ways to achieve quality education for all children.
>
> The statements were adressed to LCCR Chairman Roy Wilkins, Executive Director of the NAACP, and Vernon Jordan, Executive Director of the Urban League. Included are the signatures of 500 black officials in 36 states and the District of Columbia, 600 clergymen in 38 states and the District of Columbia, plus 1,900 community leaders across the country.

CHILD NUTRITION PROGRAM FUNDING NEEDS

Mr. HUMPHREY. Mr. President, on September 13 the Congress approved H.R. 14896, a bill to expand and strengthen the school lunch and child nutrition programs.

This bill passed both Houses of Congress unanimously. The vote in the House was 372 to 0 and a unanimous-voice vote in the Senate.

In passing this bill, we did make certain clear and unequivocal commitments. We promised to provide funds over the amounts already appropriated for this fiscal year in order to:

First. Increase the general level of support for all lunches served to children from 6 to 8 cents.

Second. Increase the number of needy children eligible for free and reduced price lunches by raising the income standards for free lunches to 125 percent of the poverty income guidelines and the standard for reduced price lunches to 150 percent of the poverty guidelines.

Third. Permit any school to participate in the school breakfast program, thus removing all the restrictions that had been previously placed on a school's eligibility to take part in this very important program.

Fourth. Make it possible for schools in low-income areas to buy the necessary equipment in order to initiate a food service program. In this case, we increased the appropriations authorization for this fiscal year from $15 to $40 million.

I fervently hope and trust that these will not be empty promises. The money needed to provide increased general support for the program, service of free and reduced-price lunches to the needy children, and the expansion of the breakfast program must be provided early in the next session of Congress. However, the funds needed to purchase equipment are needed now, as soon as possible, so that we no longer deny lunches to needy children in some 4,000 schools who have no access to a lunch at school. It takes time to plan and establish a food service program. Hungry children are waiting. It is time that we acted.

I have already commented with respect to one provision of H.R. 14896 which was adopted by the conferees. This provision relates to the specific authorization made by the Congress so that any sort of competitive food service could be operated in the school lunchroom in direct competition to the school lunch program.

By law and legislative intent and policy, we have sought to make the school lunch program available to all children on an equal and nondiscriminatory basis. Needy children receiving a free lunch may not be identified in any way from their classmates.

But now, however, we seem to be encouraging two lunch programs in every school. One of these programs will be offering a complete nutritious lunch. The second will be offering whatever variety of food items the child desires to purchase. The needy child will be able to participate in the first program, because the Federal Government will subsidize his participation. In the second he cannot participate because he has no money. This, in no uncertain terms is discriminatory.

I think that here we are violating nationally established principles and policies. The next Congress must take a close and careful look at this situation we have created and take whatever corrective measures that are necessary.

In conclusion, I call upon the administration as well as the Congress to faithfully carry out the commitments contained in H.R. 14896 and to see to it that the nutritional objectives of the child nutrition programs are in no way endangered.

THE REPUBLIC OF CHINA

Mr. BROCK. Mr. President, the 10th day of the 10th month, October 10, marked the 61st anniversary of one of our Nation's stanchest allies—the Republic of China.

Mr. President, I wish to take these few moments to extend congratulations and heartfelt good wishes for continued growth and prosperity of their great nation to President Chiang Kai-shek and the 15 million people of this courageous free nation.

They have struggled under adversity through the years, and have never succumbed to the tremendous pressure from the outside. Even today, with strong challenges to its sovereignty, the government and people of the Republic of China stand strong, dedicated, and united among the nations of the free world.

They are to be congratulated. I wish to thank them for years of steadfast devotion to the freedom of all men, and extend my personal wishes and the wishes of the American people that they remain an outstanding example to free nations everywhere.

OMB FEDERAL ASSISTANCE REVIEW MOVES FORWARD ON THE STANDARDIZATION OF GRANT-IN-AID REQUIREMENTS

Mr. ROTH. Mr. President, on August 1 of this year I stated in the Record my support for the efforts of the Office of Management and Budget to bring more uniformity to the administrative requirements associated with Federal grants-in-aid to State and local governments. At that time I stressed the general need to make our vast array of categorical grants more readily usable by State, local, and private applicants, as well as more easily administered by Federal agencies. The Federal Assistance Review, initiated by President Nixon and being carried on by the OMB has been doing very important work in accomplishing these ends. I hope in the future that these rather unexciting, yet really essential undertakings, will be given wider recognition and endorsement in Congress and elsewhere.

On September 8, 1972, OMB promulgated the final two attachments to circular No. A–102, the basic circular directed at standardizing administrative requirements for programs. Other attachments had earlier been promulgated on October 19, 1971, and January 25, 1972. The various attachments to circular No. A–102 deal with the following aspects of program requirements:

First. Cash depositories.

Second. Bonding and insurance.

Third. Retention and custodial requirements for records.

Fourth. Waiver of single State agency requirements.

Fifth. Program income.

Sixth. Matching shares.

Seventh. Standards for grantee financial management systems.

Eighth. Financial reporting requirements.

Ninth. Monitoring and reporting of program performance.

Tenth. Grant payment requirements.

Eleventh. Budget revision procedures.

Twelfth. Grant closeout procedures.

Thirteenth. Standard forms for applying for Federal assistance.

Fourteenth. Property management standards.

Fifteenth. Procurement standards.

While these are all important reforms, there is still much that remains to be done in rationalizing our Federal aid apparatus. The standardization of program and project-specific requirements could well be the next goal of the FAR team working in this area. While this category of requirements will necessarily vary more than the administrative sort, there is probably much duplication and needless variety here too. Program information for grant users, as envisioned by my Program Information Act, passed by the Senate during the last two Congresses, is another area where energies could constructively be applied.

Grant consolidation and other grant reform devices, such as contained in the intergovernmental cooperation legislation introduced in both Houses of Congress, also address themselves to making grants-in-aid more usable and manageable. While this legislation passed the Senate recently, it has not yet been acted upon by the House. In the future we might also give consideration to establishing a "data bank" for grant information required of States and communities by Federal agencies. This development would relieve State and local bodies from the need to expend efforts and money in supplying the same information in several applications to different Federal offices.

In summary, I wish again to congratulate the Federal Assistance Review of OMB for a job well done and urge it to continue its efforts to make Federal domestic assistance a more positive contribution to our Federal system of government.

GENOCIDE CONVENTION DOES NOT USURP CONSTITUTIONAL GUARANTEES

Mr. PROXMIRE. Mr. President, two of the principal objections raised against the Genocide Convention are that it would be self-executing and that it might infringe upon the first amendment guarantee of free speech and press. In a 1970 report of the American Bar Association's Standing Committee on World Order Through Law, both of these objections are completely dismissed.

With regard to the self-executing argument, the standing committee ably points out that this Convention itself requires the participating nations to enact enabling legislation. Under our Constitution, no treaty could support criminal approval and action.

In the area of first amendment guarantees of free speech, in spite of the fact that the Convention makes incitement to commit genocide a crime, it must be remembered that only Congress can make a crime punishable under U.S. law. Moreover, there is an important distinction between advocacy, which is protected by the first amendment, and incitement, which is not so protected.

In the words of the standing committee's report:

> Another objection to the ratification asserted is that the treaty would be self-executing. The result, it is claimed, would be to impose a law upon the citizens of this country without the Congress having enacted any implementing legislation. Article I does designate Genocide as "a crime under international law." But Article V requires the parties "to enact, in accordance with their . . . Convention and . . . to provide effective penalties . . ." Could anything be clearer?
>
> Even in the absence of the requirement of Article V, a treaty cannot support a criminal prosecution in the absence of Congressional action.
>
> Because Article III makes "direct and public incitement to commit Genocide" a crime, it is claimed the treaty would constitute an infringement of first Amendment Constitutional guarantees of free speech and press. It should be noted again that the convention is not self-executing and does not make any act punishable under U.S. law. Only Congress can do this.

Mr. President, I urge the Senate of the United States to give this treaty its most conscientious attention that it may be considered in the next session of Congress.

A TALE OF TWO CAMPAIGNS

Mr. GOLDWATER. Mr. President, one of the most interesting aspects of the presidential campaign to date is the anguish and frustration being shown by members of the liberal press, because the American people have not taken seriously their charges of corruption in the Nixon administration.

These experts in the art of the double standard would like to see President Nixon held personally accountable for the Watergate incident and every other irregularity that has occurred during his term in office. They would like the public to believe that in some sinister way one of the greatest Presidents this country has ever had was personally pulling strings to have his campaign workers engage in illegal pursuits.

In effect, they make something of a superman out of the President in this respect. They depict a man who is not busy enough opening the door to Communist China, conferring in Moscow with Soviet leaders, winding down the war in Vietnam, placing the national economy on the road to prosperity, and attempting a massive reform of the Federal bureaucracy. They would have us believe the President is so energetic and efficient that he also has time to pass on every move made by every person engaged in the campaign to reelect him for 4 more years.

Liberal newsmen, on TV, on the radio, and in the newspapers have consistently bemoaned the fact that the Watergate affair has not convinced the American people that they should dump President Nixon and elect a man who would undo every bit of good that has been accomplished at home and abroad in the past 4 years.

This is a question on which I feel I have special qualifications to comment. This is true because the liberals who are today complaining because the public is not inclined to hold President Nixon personally accountable for every act committed by Republican workers are the same people who went all the way for the reelection of President Lyndon Johnson despite the crimes committed by his personal Senate protege, Bobby Baker. Although President Johnson, when he was in the Senate, often referred to Baker as the nearest thing to a son he had ever had, the liberals saw nothing strange in the fact that Mr. Johnson knew nothing about Baker's widespread and long-term felonious activities.

Here was a situation where criminal actions were taken by a man very close to the President of the United States, but a man whose activities the liberals and the voting public never even considered holding against Mr. Johnson. I am not suggesting that President Johnson had any knowledge of Baker's activities, nor am I suggesting that President Johnson condoned these activities. What I am saying is that Mr. Johnson had a much greater opportunity to know what Baker was up to than President Nixon had to know what the Watergate buggers were up to.

Mr. President, 8 years ago, the liberal press, especially those parts of it located in Washington, D.C., had no interest in harping continually on Mr. Johnson's close relationship to Bobby Baker. In fact, that aspect of Mr. Johnson's career was seldom even mentioned. But today, we find the liberal press demanding that every last detail of the Watergate affair be aired before the election because of "the people's right to know." Leading the campaign, with stories editorials and cartoons, is, of course, the Washington Post. I submit that the Post, in its hysterical and righteous complaints about the Nixon campaign, has got to have set some kind of an alltime record for political hypocracy. This is the newspaper which, in 1964, was so negligent of the public's right to know that it deliberately suppressed news about the arrest of one of President Johnson's top assistants at the direct request of Mr. Clark Clifford and Mr. Abe Fortis—both close friends of President Johnson. It will be recalled that it was not until Republican National Chairman Dean Birch got wind of this development and charged the news media with suppressing legitimate news that the story was printed.

In other words, Mr. President, the people who today are charging a political coverup by the Nixon administration were actually a part of the coverup by the Johnson administration in the 1964 presidential campaign.

And if memory serves me correctly, the Washington Post, which is so horrified at the possibility of political espionage, some years ago paid hundreds of dollars for information supplied by a man it thought was employed by a Senate committee headed by the late Joseph McCarthy. Apparently, where the liberal press is concerned, the end justifies the means. Because the Washington Post felt that McCarthy was the worst thing that ever happened in Congress, it apparently felt that any kind of methods, legal or illegal, were justified in obtaining confidential information. One wonders, in the light of this, why the Post is so agitated by the Watergate incident.

There is no attempt here to defend the people responsible for the Watergate affair. This is merely an attempt to draw the whole thing into better perspective in relation to the presidential election campaign.

The argument of Senator McGovern that President Nixon's administration is the most corrupt in the Nation's history is, of course, complete hogwash uttered by a candidate so far behind that he has become frantically superlative.

And when everything is said and done, the few incidents of alleged corruption McGovern alludes to have nothing to do with the conduct of governmental affairs which directly affect the lives of 208 million Americans, to say nothing of policies having to do with the future peace of the world. It is ridiculous on its face to suggest that President Nixon is somehow responsible for the Watergate affair. He has proven many times over that he is a completely honorable man deserving of reelection to 4 more years.

I believe the American people are to be congratulated on their maturity and poise in not letting the arch liberals get away with their sordid attempts to inject false issues into the presidential campaign. The time is now past when the liberal politicians and their allies in the communications media could hoodwink the electorate into voting against its own best interests.

In this connection, I believe the liberal commentators are doing the American people a grave injustice when they claim that the refusal of the public to become as exercised as the liberals over the Watergate affair, stems from a nationwide cynicism generated by the war in Vietnam. Just the reverse is true. The American people have learned to differentiate between fact and partisan ranting.

SENATOR GEORGE AIKEN'S POEM ON SENATOR SAM ERVIN

Mr. ALLEN. Mr. President, some evenings ago, Mr. and Mrs. Eugene Rietzke, of McLean, Va., gave a birthday dinner in honor of our colleague, Senator Sam J. Ervin, Jr., of North Carolina. I was among those who had the happy privilege of being present. The highlight of the occasion was the reading by the newly emerged northeast poet, Senator George Aiken, of a poem which he had written for the occasion. This poem, which proves that Senator Aiken is a worthy successor to Longfellow, Bryant, and Robert Frost, merits preservation along with other great literary productions such as those of William Shakespeare. For this reason, I ask unanimous consent that a copy of this poem be printed at this point in the body of the Record.

There being no objection, the poem was ordered printed in the Record as follows:

My Efforts at Writing a Poem for Sam Ervin

1

From Pacific to Atlantic,
He drives school bus fellows frantic.

2

Smart boys tangling with Sam Ervin
Find his tactics most unnerving.

3

The years he put in as a judge
Now make him very hard to budge.

4

The way the Sioux mistreated Custer
Is how Sam works the filibuster.

5

Sam speaks with an accent very Southern
And never never never talks like George McGovern.

6

Tho representing the Tar Heel State
His worth to the Nation is simply great.

7

To sing Sam's praises is never hard,
But for writing poetry I am no bard.
So I give up.

By: George D. Aiken.

SENATOR JOHN SHERMAN COOPER

Mr. GURNEY. Mr. President, when the next session of Congress convenes in January, it will be without a man who has served with great distinction in the Senate for 20 years, the distinguished senior Senator from Kentucky, John Sherman Cooper.

As one who has served with him in the Senate for the last 4 years and in Congress the last 10, I can say that he will certainly be missed. He is a man with the courage of his convictions and a deep dedication to the job of representing the people of Kentucky—something he has been doing ever since he was first elected to the Kentucky State Legislature in 1928.

Senator Cooper — in the tradition of Kentucky statesmen such as Henry Clay and Alben Barkley, has put his stamp on American history as a member of the Senate Foreign Relations Committee. His opinions were universally respected and his courage widely admired even by Senators who may have held contrary views.

He has always done what he believed was best for America and has served this Nation well—as a legislator, a judge, a soldier, an Ambassador and, for the last 16 years, a U.S. Senator.

It is typical of Senator Cooper that he would choose to retire at a time when many others would choose to run again. I am sure I speak for all my colleagues in wishing him the very best in the months and years to come. The people of Kentucky, and the people of America, will certainly miss him and whoever is fortunate enough to be elected to the seat in November will have a big pair of shoes to fill.

PREVENTION OF NATURAL DISASTERS

Mr. CRANSTON. Mr. President, I invite the attention of the Senate to the fine program being developed by the California Institute of Technology's Center for Research on the Prevention of Natural Disasters.

Although we commonly speak of earthquakes, fires, floods, and tornadoes as acts of God or natural disasters, the damage they cause is in large part man arranged. The widespread structural damage caused by the 1971 San Fernando Valley earthquake in California, and the severe flooding resulting from Hurricane Agnes, for example, have tragically demonstrated the inadequacy of present disaster planning and building methods to reduce property damage and loss of life.

The California Institute of Technology has demonstrated unusual strength in research related to natural disasters. Profs. George Housner, Donald Hudson, Paul Jennings, Wilfred Iwan, and Ronald Scott have conducted extensive research on engineering problems of destructive earthquakes. Profs. Frank Marble and Edward Zukoski have been working actively on problems of fire and conflagrations. Profs. Anatol Roshko and D. E. Coles conducted in-depth study of destructive windstorms, and Profs. V. A. Vanoni, Fredric Raichlen, and T. Y. Wu have worked on problems of flood hazards and tsunamis.

The cooperation of this distinguished faculty in the operation of the disaster research center has provided a source of expertise which would be difficult to equal elsewhere, and their program is one which I am confident will pay great dividends in helping to reduce the high loss of life and property damage which natural disasters now cause. It is my hope that the center for research on the prevention of natural disasters, and programs like it, will receive strong and enthusiastic public support.

Mr. President, I ask unanimous consent that the abstract of the disaster research center's proposal to the National Science Foundation be printed in the Record.

There being no objection, the abstract was ordered to be printed in the Record, as follows:

Proposal for a Program of Research on the Prevention and Control of Natural Disasters

ABSTRACT

This is an interdisciplinary program of research in the prevention and control of natural disasters. The program will be handled at the California Institute of Technology by the Center for Research on the Prevention of Natural Disasters. It will involve thirteen professional staff members who have been doing research in the fields of earthquakes, fires, winds, and floods. Based on a broad technical foundation in these fields, the program will study those aspects of the earthquake, fire, wind and flood problems that lead to disasters, and will examine and develop means for preventing or controlling disasters.

Particular attention will be given to disasters that may result from combined actions, such as, earthquake and fire, fire and wind, earthquake and tsunami flooding.

An important component of the program is the formation of a disaster information center which will serve as a library of pertinent publications on natural disasters, as a storage of general information, and as a data bank. This will serve as the main unifying element of the program. The disaster information service will also be a source of data and information for others concerned with natural disasters. It should be especially helpful to government agencies, private organizations, and practicing engineers who are involved with problems of natural disasters.

Another important element of the program involves short-term interdisciplinary studies, of two to six weeks duration, during which a particular problem or event will be studied by a group of faculty, research fellows, students, and a much larger number of active participants who can contribute special knowledge, and who have special need to solve problems posed by natural disasters.

The basic objectives of the program are to determine why natural events lead to disasters and by what efficient means they can be controlled or prevented.

EDITORIAL COMMENTS ON SALT INTERIM AGREEMENT

Mr. JACKSON. Mr. President, since the passage of my amendment to the SALT interim agreement resolution, considerable editorial comment has come to my attention, some of it published during the Senate debate on the amendment. I am encouraged to note how much of the comment supports our effort to secure passage of the amendment and recognizes that our demand for equality in intercontinental strategic forces in any future strategic arms limitation agreement is in the best interests of a sound and prudent national security posture for the United States.

Mr. President, I ask unanimous consent that a representative selection of the editorial comment be printed at this point in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Columbus (Ga.) Ledger, Aug. 23, 1972]

Senator Jackson Is Right—Equality in Missile Strength

There can be no sound argument advanced against the position Sen. Henry Jackson (D-Wash.) has taken on the October renewal of Strategic Arms Limitations Talks with the Soviet Union.

Sen. Jackson has offered a new preamble to the interim agreement ratified by the Senate as a result of the first round of SALT. Essentially, it urges the United States to seek equality with the Soviets in levels of intercontinental strategic forces during the October phase of negotiations.

Senators backing the Jackson guidelines are remarkable for their political diversity. Senators Barry Goldwater, Strom Thurmond and Gale McGee of strong views on defense have joined such senators as Robert Packwood, Lawton Chiles and David Gambrell, none of whom are particularly known as hard liners on defense matters. Sen. Jackson has, by what amounts to an individual crusade, found 30 co-sponsors for his resolution, a tribute to his ability to educate his fellow senators and draw support.

The Jackson measure says that we can't rely on the negotiators of the first round of SALT to produce a satisfactory deal on offensive weapons, an equal number of missiles, for each side, unless there is strong congressional opinion forcing them to do it. The deal which allows Russia numerical superiority in missiles and submarines is his target. Equality in numerical strength is his goal.

Welcome as the news of successful negotiations with Russia on this complex subject was to all Americans, there is rational opposition to the particular quotas of weaponry which are involved in possible agreements on offensive missiles and submarines. We believe Sen. Jackson is correct.

We believe equality is the minimum requirement for American security in any deal with Russia or any other major potential enemy. We prefer superiority but if equality is accompanied by improved and beneficial relations with potential enemies which makes them become potential friends, we support that much of a gamble because we believe the future of mankind and the world demands it.

We can't support agreements which would make us subject to potential blackmail if we allow ourselves to assume an inferior position to Russia or anyone else, however. Sen. Jackson has done well and he is correct. We believe he must achieve support of enough people to influence enough more of his fellow senators to get his guidelines made official.

[From the Greensburg (Pa.) Tribune-Review, Aug. 25, 1972]

Arms Inferiority—SALT Stacked Deck Against U.S. Security

(By W. J. Griffith III)

For a man who prides himself on being an excellent poker player, President Nixon has managed to stack the deck against himself—and the security of the United States.

That's the basic assessment of Sen. Henry M. Jackson, D-Wash., regarding the antiballistic missile treaty and the five-year nuclear weapons "moratorium" agreement which evolved from the Strategic Arms Limitation Talks between the United States and the Soviet Union. Noting that the U.S. SALT negotiators themselves admitted the "moratorium" is unsatisfactory as a premanent solution, Jackson has proposed a resolution which would put the Senate on record opposing any more SALT agreements locking the United States into arms inferiority.

Jackson charges that the "moratorium" is onesided, limiting the United States to the present 42 nuclear submarines and 1,054 land-based intercontinental ballistic missiles while permitting the Soviets to continue construction of both weapons systems until they have 62 nuclear subs and 1,618 land-based ICBMs stationed in permanent silos. The Washington senator adds that while Washing unilaterally renounced construction of mobile ICBMs, Moscow is free to build as many as it wants without violating the agreement, as Secretary of Defense Melvin Laird acknowledged.

Further, Dr. John S. Foster Jr., Pentagon chief of research and engineering, warned: "Although the United States has a lead in deployed technology that now offsets this imbalance, (in numbers), Soviet exploitation of their numbers and throw-weight capability could adversely effect the strategic balance."

Nevertheless, Laird contends that both sides gave up something in the disarmament negotiations. Laird says that "we are stopping our momentum in the ABM field. They are stopping their momentum in the offensive weapons area." Foster offered a different analysis in June–July hearings before the Senate Armed Services Committee.

Sen. Howard W. Cannon, D-Neb., asked Foster: "Is it not true that the Soviets will not have to exercise restraint in their momentum, that is, they will not have to curtail their current building rate of submarines for at least three years and perhaps more?" Foster: "Yes, sir; that is correct."

Cannon: "On the other hand, the United States has agreed to give up something this year, and that is work on three ABM sites at the Minuteman missile installations. In fact, we will actually be dismantling work already started at Malmstrom Air Force Base . . ." Foster's reply: "Yes, that is correct."

In the hearings, Jackson asked Gerard Smith, chief U.S. SALT negotiator, how much Soviet momentum in offensive nuclear weapons had been slowed by the "moratorium." Smith answered: "I do not think you can answer that . . . I do not think you can get a specific answer to that question."

Smith couldn't answer a number of other questions, as well, about what the United States agreed to in SALT. Jackson asked Smith what "under construction" meant in regard to submarine production. Smith's answer: "We do not have an agreed definition."

Further, the chief negotiator admitted that "we were not able to negotiate a definition of what constitutes a heavy missile." Yet the USSR is allowed 313 heavy missiles while the U.S. is permitted none.

The "moratorium" is vague on other matters, too. For example, Jackson asked: "Did you try to negotiate a throw-weight freeze?" (Throw-weight is the payload a missile can throw or carry.) Smith answered: "No, sir."

Jackson asked why there was no limit on diesel subs which carry nuclear missiles. Smith replied: "I don't consider a 700- or 400-mile SLBM (submarine launched ballistic missile) a modern missile."

Adm. Elmo Zumwalt, chief of Naval operations, stated, however, that "a 700-mile range missile could do catastrophic damage to a substantial portion of our people and cities whereas it could do very little damage to theirs."

When Jackson tried to find out what, exactly, the United States bargained away during the negotiations, Smith refused to answer, stating that "I would not like to identify publicly what our position was."

Jackson presented figures he said represented the American position on Aug. 4, 1970: The United States demanded parity on all long-range missiles but eventually settled for 1,710 while giving the Soviets 2,358. Originally the Nixon administration proposed 250 heavy missiles for both sides but finally agreed to build none while Moscow was granted 313.

U.S. SALT negotiators two years ago demanded a ban on all mobile land-based ICBMs. Washington announced in May it would build none but the Soviets can construct as many as they want.

Dr. William Van Cleve, a SALT adviser for the U.S. from 1969 to 1971, agrees with Jackson's assessment of what the Nixon administration gave up. Van Cleve was the only person outside the government who was called upon to testify before the Senate Armed Services Committee in the June-July hearings.

"Those agreements," Van Cleve noted, "do not resemble those deemed acceptable in 1969 or 1970," which was nuclear equality. In fact they don't resemble what Laird thought was acceptable four months before they were signed. Last February, Laird warned that "if we were placed in an inferior position where the Soviet Union would have substantially more ballistic missile submarines than the United States had . . . this could have a tremendous effect upon the future course of the United States."

[From the Greenburg (Pa.) Tribune-Review, Sept. 6, 1972]

Only One Winner

Sen. Henry Jackson, D-Wash., has received a powerful assist from organized labor in their battle to prevent any more White House agreements, accepting American military inferiority.

The AFL-CIO executive council states: "American labor is firmly opposed to a treaty on offensive weapons that would limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union."

The Washington Democrat has jointly sponsored a bi-partisan Senate amendment to the five-year "moratorium" on offensive weapons which grew out of the Strategic Arms Limitation Talks. This agreement lays the groundwork for a treaty which would permanently freeze levels of nuclear arms.

Jackson has pointed out that the "moratorium" is basically unilateral. The Soviet Union is free to go on building up a tremendous edge in both nuclear missile submarines and intercontinental ballistic missiles while the United States has agreed to maintain its present levels. Even if the Kremlin should honor the "moratorium," at the end of five years it would have three ICBMs and nuclear missile subs for every two of ours. The AFL-CIO warns: "If these disparities were made the basis for a follow-on treaty in this period of rapidly changing technology, the United States would be placed in a position of strategic inferiority."

Organized labor, in fact, is understating the danger. As Dr. John S. Foster Jr., director of Pentagon research, acknowledges, Soviet weapons technology could surpass that of the United States before the five-year period has expired, which would further endanger American security.

Up until recent years, the United States had always maintained nuclear superiority—a strategy that has prevented a major war between the free world and the Communist bloc. It is a policy that should not be abandoned, even for a short span.

In the arms race there is only one winner; the rest are losers.

[From the New York Post, Sept. 12, 1972]

A Critical Hour

(By William F. Buckley, Jr.)

When on accepting the renomination of his party at Miami Beach a few weeks ago Richard Nixon said that he would never negotiate an arms limitation agreement from a position of inferiority, he ran a terrible risk. The risk was that someone would read out to him from the transcript of the various press conferences in Moscow in which Henry Kissinger gave out the details of the SALT Treaty.

I counted *seven* times that Mr. Kissinger defended relegation of the U.S. to inferiority on the grounds that after all we were talking not about an ideal situation but about the current situation. Mr. Kissinger's point was that the Soviet Union has been going hell-bent for strategic armament for three years while we have been coasting, and that we are better off more or less freezing the situation than waking up a year or two from now to find the Soviet lead drastically lengthened.

In other words, we negotiated from inferiority.

The scandal of creeping American arms inferiority is easily the best kept secret in the world, notwithstanding that the facts are widely available and have been remarked by the Chiefs of Staff and by the Reader's Digest, who between them cover just about everybody. Fortunately, the facts are well known to a group of senators who are right this minute engaged in one of the toughest and most important parliamentary maneuvers of the decade.

They are fighting for what we call the Jackson-Scott-Allott amendment to the Interim Agreement. Now that amendment does several things. But mostly what it does is to address the President of the U.S. thusly:

Friend, when you come back to us in a couple of years with SALT II—the treaty that is supposed to incorporate a permanent lessening of the strategic potential of the Soviet Union and the United States—do not present this chamber with a document that grants the Soviet Union superiority.

As things now stand under SALT I, the Soviet Union has a 50 per cent advantage in launching sites and a 400 per cent advantage in payload, once they are done Mirving. Meanwhile, between now and the time you come back to us with the treaty, we in the Senate will from time to time question the Executive on what strides are being made to narrow the gap between the Soviet Union and the United States, within the terms of the current agreement. What kind of research are you doing, for instance? And when we say equality with the Soviet Union, we mean equality of the kind spelled out for instance in the ABM Treaty, not the fancy-talk equality by which such as Sen. Fulbright transmogrify a 4 to 1 disadvantage into equality, on the nice metaphysical principle that every Russian can only die once.

The doves, sensing a great danger to their vision of a disarmed America, are horrified to note that Sen. Jackson's got himself 44 cosponsors for his amendment. With 44 cosponsors, one can assume a great many others will vote with the 44 easily enough for a swollen majority. What will be left over is a highly visible minority who actually are voting against American equality in strategic arms, not the most attractive record to offer their constituents in an election year.

The doves then fought back with a Mansfield amendment about playing fair under the rules of SALT I, but the Jackson people completely outwitted them by going for it 100 per cent (the vote was 85 to 1) on the grounds that the language of the proffered amendment was totally harmonious with that of the Jackson amendment—thus stripping it of any real meaning. The doves talk now about throwing out the Jackson amendment at a conference with the House (which did not come through with a complementary measure), but the Senate strategists don't particularly care. SALT II is projected as a treaty, and is subject therefore to ratification by the Senate. By two-thirds of the Senate.

Richard Nixon is actually encouraging the Senate realists. He desires them to tie down his hands, and why should he not? Richard Nixon is not the only American who knows what the Russians have been secretly up to in recent weeks and months in the field of arms research and development. Hubert Humphrey also knows about it. It is only the American people who don't know about it but, inevitably, will know about it soon. They can reasonably demand to know how their Senators voted on the Jackson amendment at that critical hour.

[From the Kansas City Times, Sept. 14, 1972]

Afoul of Mistrust on Arms Pact

The Soviets are on weak grounds in objecting to the views of the Pentagon and of Sen. Henry M. Jackson (D–Wash.) on the arms control agreement signed in Moscow last May. A statement by Izvestia, the government newspaper, charges the U.S. secretary of defense, Melvin R. Laird, with violating the spirit of the Soviet-American pacts limiting strategic arsenals and thus jeopardizing the effectiveness of the agreements. Izvestia specifically accuses Laird of pressing for the development of U.S. offensive systems.

Laird is indeed working for that purpose. He is asking Congress for funds to finance accelerated development of the new, longer-range Trident underwater missile and the B–1 strategic bomber. The terms of the Moscow treaty on offensive weapons do not forbid such programs. In fact the pact asserts the right of both the U.S. and Russia to pursue weapons development during a 5-year interim period before a full-fledged agreement is reached.

Why, then, are the Russians complaining? It is a fair question, particularly since the 5-year freeze applies to *numbers* of offensive nuclear weapons. But it does not prevent the Russians from proceeding with their as yet untested version of the SS9 multiwarhead missile, believed capable of carrying three warheads, each with a punch of 5 million tons of TNT. The U.S. has no comparable weapon.

What the Soviets apparently want is for the U.S. to deny itself more advanced weapons, as permitted in the temporary treaty, while they move ahead to establish an advantage. In seeking an advantage they strengthen the skepticism of those Americans who are wary of accepting any arms control understanding with the Soviet Union.

Senator Jackson has warned that the interim agreement is subject to unilateral interpretations. The Soviet protest tends to bear out Jackson's point. He is therefore trying to attach a rider that would require future agreements to be based on the principle of equality of forces. His proposal would not alter the treaty in its present form. And it might facilitate Senate approval of the treaty—something that needs to be done promptly so that the two governments can proceed next month with further arms control negotiations. It is in this round of talks that any objections by Moscow can be properly dealt with.

[From the Oregonian, Sept. 15, 1972]

Testing the Russians

The Senate's adoption of Sen. Henry M. Jackson's amendment requiring the United States to seek in a permanent treaty with the Soviet Union equality in "intercontinental strategic forces" is a proper action after a month-long debate which has produced a new awareness in Congress and the nation.

Once that hurdle was passed, after rejection of substitute amendments by Sen. J. W. Fulbright and other Foreign Relations Committee doves that would have weakened the directive to "over-all equality, parity and sufficiency," approval of the five-year interim agreement signed by President Nixon and Chairman Brezhnev in Moscow May 26 was a foregone conclusion.

We see no danger and some benefit in the Jackson amendment holding the Russians' feet to the fire as a test of their sincerity in Phase II of the Strategic Arms Limitation Talks. If the Russians really want a stand-off permitting reduction in the insane arms race, rather than a threatening dominance in offensive power, this is the time to find out.

The principle of equality in defensive weapons was recognized in the treaty limiting deployment in both the United States and the Soviet Union of anti-ballistic missiles, already ratified by the Senate. All that Sen. Jackson asked was that the U.S. negotiators be instructed to insist on equality in offensive weapons.

There are differences of opinion and in statistical reports on the relative missile power of the two nations at present, and the potential for each under the five-year interim agreement. Sen. Jackson has demonstrated, however, that the Soviet Union could build 62 nuclear submarines of the Polaris type under the interim agreement while the United States would be limited to 44. He has shown that the Russians could replace their obsolete SS–7 and SS–8 ICBMs with new submarine-launched missiles on a one-for-one basis, but the United States, which has already retired its Atlas and Titan I missiles, has no such trade-in privilege. He has said the Russians are developing new ICBMs which would increase their "throw weight" advantage without going beyond the 1,618 ICBMs permitted under the interim agreement.

Sen. Jackson may be overly impressed with the statistics of overkill, but his opponents were even less realistic in favoring what amounts to a U.S. policy of unilateral arms limitation based on faith in the Russians. The American negotiators of the next step in SALT are certainly aware of the statistics of offensive capabilities, of first-strike dangers and of second-strike limitations. It should strengthen the hands of the diplomats, however, that Congress has added its voice to that of the Nixon Administration in demanding treaty equality in offensive weapons. No less will be accepted by the American people.

[From the New York Daily News,
Sept. 16, 1972]

SALT Makes the Grade

The five-year interim agreement between the U.S. and the USSR on limitation of strategic weaponry was approved Thursday by the Senate, but only after adoption of a common sense amendment put forward by Sen. Henry Jackson (D-Wash.).

This proviso urges President Richard M. Nixon, in the next phase of SALT negotiations, not to settle for less than numerical equality in major arms with the Soviets.

American bargainers settled for less than parity in the present pact, conceding Moscow sizeable margins in land-based and undersea missile strength. Superior U.S. technology, particularly in multiple warheads, is supposed to make good the deficit in numbers.

But this nation would assume a foolish risk if it depended, as Sen. J. William Fulbright (D-Ark.) contends it should, on maintaining its scientific edge indefinitely. Fulbright apparently has learned nothing from the quick Russian catch-ups in development of A-bombs, H-bombs and long-range missiles.

DEFENSE BUDGET

We're happy the Senate heeded the far more hardheaded and realistic Jackson in this case, and we hope the rider will survive the coming Senate-House conference on the SALT resolution. Favorable House action on the Defense budget indicates the lower chamber may be more than willing to go along. In okaying the $74.5 appropriation bill on Thursday, the House gave Mr. Nixon just about every cent he requested for development of the Trident submarine missile system and the new B–1 manned bomber.

Lack of those advanced weapons, as the President has stressed repeatedly, would greatly handicap our negotiators in trying to obtain a long-range treaty on arms ceilings.

The notion that new defense programs will offend the Communist enemy is absurd. Time and time again. the Kremlin has shown that it respects strength and determination, just as it despises and exploits weakness.

[From the Ogden, Utah, Standard-Examiner,
Sept. 16, 1972]

Senate OK's SALT

The U.S.-Soviet agreement on strategic arms limitations (SALT) is a more realistic document as it leaves the Senate than it was when originally drafted at the Kremlin.

The agreement, as approved late Thursday by an 88–2 vote in the Senate, includes Sen. Henry M. Jackson's amendment requiring numerical equality in intercontinental weapons that carry nuclear warheads.

This, if accepted by the U.S. House of Representatives and authorities in the U.S.S.R., would modify the original pact that had taken into consideration the American superiority in multiple warheads.

Sen. Jackson argued, and we agree, that this U.S. advantage could easily be wiped out by Russian advances during these next five critical years.

The goal of SALT from the start has been to curtail the arms race in nuclear weapons—including both land and sea missiles and aircraft.

This objective can better be achieved under the Jackson amendment than in the treaty as signed in Moscow during President Nixon's historic visit to the Soviet Union. Once in force, SALT's agreement will be in the best interests of world peace.

[From the Birmingham News, Sept. 16, 1972]

Jackson's Firm Stand

A healthy skepticism regarding Soviet military intentions and determination on the part of Sen. Henry M. Jackson (D-Washington) has resulted in a sounder Soviet-American approach to slow the arms race.

The Senate approved the five-year pact which President Nixon brought home from the Moscow summit, but served notice that the temporary agreements, specifically regarding numbers of nuclear warheads, would not be acceptable to serve as a basis for a permanent treaty.

Approved overwhelmingly by a vote of 87 to two, the agreement for the first time set limits on the number of offensive missiles deployed by the United States and the Soviet Union at least for the next five years.

Sen. Jackson, from the beginning of the debates, worked long and hard for the amendment which demanded strict, numerical equality in missiles for the two countries.

Jackson's logic for numerical equality is sound. "The present U.S. advantage in strategic weapons technology, which now offsets Soviet numerical superiority," Jackson argued on the floor of the Senate, "cannot be assured in a long-term treaty. What would be a tolerable basis for an interim agreement, therefore, would be intolerable as the basis for (permanent) treaty."

Jackson also asked the Senate to join with him in calling upon the Soviet Union to "reverse its weapons build-up and content itself with equality with the United States in strategic offensive weapons."

The senators who opposed Jackson's amendment did so out of fear that instead of the Russians reducing number of nuclear submarines and missiles to the U.S. levels, the U.S. would accelerate its nuclear program to reach the same numbers the Russians project, and that this see-sawing back and forth would result in another uncontrollable arms race.

The doves also have bought the "doctrine of strategic sufficiency"; that is, the U.S. needs only sufficient missiles to assure the destruction of the Soviets in case of nuclear attack. Anything more, they argue, is foolishness and waste.

The problem with the "doctrine of sufficiency" is that more and more sophisticated defense technology can radically alter what is sufficient to knock out a potential enemy.

Jackson argued that Russia's numerical superiority in numbers of weapons would, in only a matter of time, be supported by a technology equal or even more advanced than that of the United States.

The amendment Jackson pushed and which was backed by the White House should present no insoluable problem for the Soviets, if their real intention is peace.

If their real intention is not peace, and they are simply seeking time to achieve an insurmountable superiority, it is best we discover it now.

Sen. Jackson has served his nation well in doggedly insisting that the administration, the Congress and the Soviets confront what could be a key issue in the pursuit of a new era of peace.

[From the Daily Oklahoman, Sept. 17, 1972]

Arms Equality With Russia

Sen. Henry Jackson's misgivings about Russian intentions in the strategic arms race are widely shared and altogether justified by the record.

While the Russians were spinning out the strategic arms limitation talks (SALT) at Helsinki and Vienna, they were continuing to deploy land-based and submarine-launched ballistic missiles until they had acquired their present advantage which is frozen into the interim agreement the United States Senate approved the other day.

But the persistent Jackson was successful in attaching to the agreement an administration-backed amendment which calls on President Nixon to seek equality in "levels of intercontinental strategic forces" in negotiations for a permanent treaty.

Jackson had observed that the interim treaty gave the Soviets "more of everything; more light ICBMs (intercontinental ballistic missiles), more heavy ICBMs, more submarine-launched missiles, more submarines, more payload, even more ABM (anti-ballistic missile) radars." He had said the Soviet advantage in offensive weapons covered by the interim agreement was "on the order of 50 per cent."

Opponents of his amendment—notably Chairman J. W. Fulbright of the Senate Foreign Relations Committee, Sen. Jacob K. Javits, R-N.Y., and Sen. Stuart Symington, D-Mo.—argued that this country's forward bases in Europe and its superiority in missile accuracy and multiple warhead technology gave it an overall advantage.

It's true that the Russians haven't yet developed a MIRV (multiple independently targetable re-entry vehicle) capability. But they're working on it, and Sen. Jackson correctly points out that the U.S. advantage in this respect is temporary.

He has said that if the Russians "were to aggressively pursue a silo-killing MIRV program for their force of SS–9 type heavy missiles, they could, within the lifetime of the interim agreement, develop the capability to destroy virtually all of our land-based missile forces."

The interim agreement has a five-year life. Senate foes of the Jackson amendment argue that insistence on numerical equality with the Soviet Union would jeopardize the prospects for a permanent treaty on strategic arms limitation.

But to permit the Russians to widen their superiority would lessen their need for any kind of understanding. Worse still, it would lay this country open to nuclear blackmail five years from now.

[From the Dallas Times-Herald, Sept. 17,
1972]

A Vote for Security

One rejoices that the Senate backed Henry Jackson in his call for U.S.-Soviet equality in number of missiles. Not that we are out of the woods, of course, in our effort to negotiate a satisfactory arms control treaty with the Russians.

But passage of the so-called Jackson Amendment was absolutely vital to U.S. security. Under the SALT agreement (which is not a treaty in final form), the United States over the next five years is permitted 1,054 land-based ICBM missiles and 710 underwater launchers; the Russians can have 1,618 ICBMs and 950 underwater launchers.

This is scarcely the kind of military inferiority which most Americans would like to see written into treaty form. Therefore, Jackson urged the Senate to demand in advance a treaty that provides numerical equality in intercontinental weaponry.

With the President's backing, Jackson last Thursday shepherded the amendment through the Senate. A conference committee could scrap the amendment. But Jackson says this doesn't matter. It is the Senate whose opinion counts, inasmuch as any future treaty will be submitted only to the Senate, not the House.

Predictably, Sen. Fulbright, the Ozark oracle, protested against the Jackson Amendment, basically because we have more nuclear warheads than the Russians, even if we have fewer missiles. Yet Donald G. Brennan of the Hudson Institute estimates that the Soviets have the capability of deploying "ten thousand or more MIRV (Multiple Independent Re-entry Vehicle) warheads on their allowed booster force within the lifetime of this agreement"—enough to "wipe out virtually all of our Minuteman force . . ."

Moreover, Jackson notes how "People and nations attach meaning to the relative strategic position of the two superpowers." It is not necessarily how strong we *are* that matters; it is how strong we *look*. That is what weighs with our allies no less than our enemies.

A good arms limitation treaty—one that does not create too many advantages for the Soviet Union—is going to be hard to negotiate. It will be immensely harder if the Soviets think us inclined to accept nuclear inferiority. They may think this of us anyway, but they are much less likely to now that the U.S. Senate has upheld Henry Jackson.

[From the Augusta, (Ga.), Chronicle-Herald, Sept. 17, 1972]

Will To Survive

The U.S. Senate's vote, 56 to 35, calling for quantitative equality for the United States in any future arms agreements with the Soviet Union, was a victory for practical men who desire intensely the survival of the United States in an age of flagrant Communist aggression.

The overall interim agreement on arms, approved 87–2, is not affected by the controversial amendment. The effect of approval is to ratify the freeze President Nixon negotiated a few months ago in Moscow. This interim agreement, to last only five years, permits a marked lead for Russia in the number of missiles and submarines, by approving the number now completed or under construction.

The disparity in numbers that will result lies in the phrase, "or under construction." It means that the United States stands still, while Russia goes ahead with what are being built, the final approved figures being 1,618 intercontinental missiles for Russia as contrasted to only 1,054 for the U.S.; and with 62 Russian nuclear submarines, equipped with 950 missile launchers, in contrast to the United States' 44 submarines and 710 launchers.

The numerical-equality amendment which has just won 56–35 Senate approval was opposed by Sen. J. William Fulbright (D-Ark.) and others who have objected to stronger U.S. defenses. Their claim was that since we have superior technology, the capabilities of our missiles and submarines are equal to the far greater numbers which the interim agreement authorizes for the Communists.

Sen. Henry M. Jackson (D-Wash.), whose support for the numerical-equality amendment won White House support, replies that the U.S. technological advantage is temporary. In five years' time, he points out, a continuation of the numerical advantage for Russia can mean an advantage in first-strike effectiveness which would threaten the security—indeed the very existence—of America. Thus, he argues, the only safe policy is to set up now a policy of future parity in numbers of strategic weapons.

With all due acknowledgement of the idealistic dedication to absolute equality by Senator Fulbright and others who follow his lead, we must conclude that Senator Jackson's concern seems more than justified. The security of the United States is too urgent an issue for our government to indulge in armament guessing games that might prove to be wrong. We must remember that Russia has not agreed to any inspection system, nor does it show any indication of doing so. And we may doubt the permanence of satellite reconnaissance ability to keep tabs.

Agreements on arms limitations with Communist powers committed to our destruction are a hazardous matter at best. The least we can do is what a substantial majority of the Senate vote demanded—give away nothing to aggressor states in the way of military advantage.

[From the Pittsburgh (Pa.) Press, Sept. 17, 1972]

Senate Serves Notice

After more than a month of heavy debate, the U.S. Senate has approved a five-year missile-limitation agreement between the Soviet Union and the United States—with the Jackson "rider" included.

The Jackson rider was what the long debate was all about.

In the end, Sen. Henry M. Jackson of Washington succeeded in persuading the Senate to his resolution. It merely says it is the opinion of the Senate that in future arms negotiations with the Soviet Union, the United States should not consent to any arrangement which leaves this country with inferior numbers of offensive strategic weapons.

The five-year, or interim, agreement was reached by President Nixon and Soviet leaders on Mr. Nixon's trip to Moscow last May. Its chief purpose, apparently, is to hold the line on weapons developments until a new round on negotiations on arms limitations can get under way.

Both Senate and House now have approved this five-year agreement, but the House resolution does not include the Jackson rider. In the compromise between the two houses the rider may get dumped.

But, as Sen. Jackson says, no matter.

It is the Senate which acts on treaties, and the 56–35 vote by which the Senate adopted the Jackson rider serves notice on both Soviet and U.S. negotiators that the Senate is not apt to okay a treaty which could leave the United States in an inferior position.

In short, the Senate announces that the seeming advantages which Mr. Nixon granted the Soviet Union in an effort to get more arms-control negotiations under way is not to be taken as a precedent on which to base future treaties. And that is a useful service.

[From the Tucson (Ariz.) Daily Citizen, Sept. 18, 1972]

Nuclear Treaties Open New Era

Following more than a month's debate, the U.S. Senate has ratified the second of two arms control treaties signed by President Nixon during his visit to the Soviet Union. This one places limitations on each country's offensive strategic weapons.

More than a month ago, the Senate gave approval to the Antiballistic Missile Treaty. This pact—of unlimited duration—restricts each nation to two defensive ABM systems, one "centered in the party's national capital," and the other elsewhere.

Verification of each party's compliance will be "through national technical means," that is, spy satellites.

Senate ratification of the second treaty, an interim agreement on offensive weapons, was delayed as a result of a proposal by Sen. Henry M. Jackson, which was finally adopted.

Sen. Jackson wanted the Senate to go on record as reserving to the United States the right to scrap the agreement if future Soviet actions threaten to wipe out a major part of our deterrent force.

According to Sen. Jackson, a sound critic of strategic arms limitation accords, the interim agreement gives the Soviets an advantage in offensive weapons "on the order of 50 per cent," based on the highly complex rules of nuclear arithmetic.

Under the interim accord, which is to last five years, the Soviets are allowed a numerical superiority in intercontinental ballistic missiles and missile-launching sites.

Although many military experts regard the United States as having a big lead in what is described as multiple-warhead technology, Sen. Jackson does not want any treaty which "would limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union."

The House of Representatives earlier had approved the second treaty, without provisions contained in the Jackson amendment. Now it goes to a House-Senate conference.

[From the Denver Post, Sept. 18, 1972]

A Step Toward Disarmament

The Senate's approval of a five-year U.S.-Soviet interim agreement setting limits on offensive nuclear weapons is an overdue, but welcome, action.

It now remains for a Senate-House conference committee to work out the differences which include a Senate amendment calling for parity on strategic arms.

The White House had expressed concern that further delays in approving the interim agreement—carefully worked out earlier this year by President Nixon and Soviet leaders in historic strategic arms limitation talks (SALT)—could impede other U.S.-Soviet accords.

The Senate gave overwhelming support to the first part of the SALT agreements by ratifying on Aug. 3 a treaty setting limits on defensive missile units. Since then the Senate had been debating the arms parity amendment principally by Sen. Henry M. Jackson, D-Wash.

The Nixon administration would have preferred no amendments, but went along with a revised version of the Jackson amendment deemed more conciliatory to the Russians.

Under the circumstances, this was a sound move for the administration to make. The Jackson amendment should help calm fears that the Soviet Union will gain a strategic advantage through the SALT accords.

It remains to be seen whether the amendment approved by the Senate will survive the conference committee deliberations.

But it is really an academic question because the interim agreement on offensive nuclear arms, which requires approval by both houses of Congress, is intended to be succeeded by a treaty which only the Senate can ratify. The potential treaty, therefore, will not be a matter for House action, and the administration and the Senate have now made clear where they stand on the issue.

Only experience gained during the next five years can determine what shape such a treaty will take—or even if there will be a treaty.

More permanent limitations on strategic arms will be considered during the SALT 2 discussions, which are expected to get under way in Geneva during the fall.

Final approval of the interim agreement by both houses of Congress ought to help launch SALT 2 in the right channel.

[From the Detroit News, Sept. 18, 1972]

In Nuclear Arms Pact—Parity Is U.S. Goal

Senate approval of the U.S.-USSR agreement to limit offensive nuclear weapons assures congressional adoption of the five-year pact. But it does not halt the arms race or the Soviet Union's efforts to achieve superiority over this country.

In fact, the interim agreement assures the Soviet Union a lead in some weapons. It freezes intercontinental ballistics missiles to those deployed or under construction, an estimated 1,618 for the USSR and 1,054 for the United States; limits the Soviet submarine force to 62 with 950 missile launchers, and restricts the U.S. underwater fleet to 44 submarines and 710 launchers.

Most of the debate in the Senate came over an amendment by Senator Henry Jackson, Washington Democrat, which finally was adopted. It calls upon the President to seek a future treaty on offensive nuclear weapons that "would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union."

In negotiating the agreement, U.S. officials had accepted the higher figures for the Soviet Union on the grounds that the United States is ahead in multiple warheads (MIRV's) for each missile, U.S. submarines have forward bases which improve their relative efficiency and the United States has a numerical superiority in bombers, carriers and fighter-bombers based in Europe and the Far East and not subject to the new treaty.

However, Robert W. Bowie, director of the Harvard Center for International Affairs, has pointed out that while the agreement achieves a rough parity between the USSR and the United States at present, that status is "not likely to endure." He said that within three to five years, the Soviets can be expected to perfect their own MIRV's and then could take advantage of their much larger and more numerous launchers. In addition, new Soviet subs with longer radius would reduce the advantage of U.S. bases.

"In short, the existing parity is likely to be eroded as the Soviets catch up in technology in view of their 50 percent or greater edge in launchers," he wrote recently. "For the interim needed to negotiate a permanent treaty these are satisfactory risks but this would not be a satisfactory basis for a permanent treaty."

Even if the present U.S. deterrents were sufficient to avoid war with the USSR, nobody knows what kind of political leverage and blackmail the USSR might impose on other nations if it achieved superiority over the United States. So what Jackson really was asking for, and the Senate adopted, was a statement of warning to the then president to maintain parity when the permanent U.S.-USSR pact comes up for negotiation and adoption.

[From the McKeesport (Pa.) News, Sept. 18, 1972]

Expected Action

Senate approval of the U.S.-Soviet interim agreement on offensive arms limitations was a foregone conclusion following earlier approval of a defensive missiles pact.

It is elementary that one treaty alone is worthless, for to curb defensive weapons solely without a similar limitation on offensive missiles would set off a staggering arms race and invite a first strike.

Approval of the five-year offensive agreement freezes ICBMs to those deployed or under construction, an estimated 1,618 for the Soviet Union and 1,054 for the United States. The pact also limits Russia to 62 submarines and 950 submarine missile launchers, and the United States to 44 submarines and 710 launchers.

It was the numerical edge given the Soviets that caused a delay in approval by the Senate by a 88–2 vote. The House had approved the agreement earlier. The Senate dispute was resolved by adopting an amendment calling for equality in long-range weapons in any future agreement.

The treaty had been viewed with some apprehension by some lawmakers, notably Sen. Henry Jackson who is noted for his deep concern over U.S. defenses. This group read into the terms a decided advantage for Russia. Such an interpretation understandably breeds misgivings. Other lawmakers saw the U.S. with a decided superiority in missile accuracy and multiple warhead technology.

Apparently the White House has no serious objections to the amendment since a spokesman says that President Nixon "obviously was very pleased" with approval of the agreement.

Jackson, author of the amendment, voiced unconcern whether or not the "equality" amendment would survive a Senate-House conference since what is involved is a future treaty upon which the Senate alone will act.

There is reason to regard Jackson's reservations about the interim pact as a contribution to a rational defense posture. And his amendment puts the Soviets on notice that when the next round of strategic arms negotiations gets under way that American Senators, who have the final say, will be keeping a close eye on developments.

[From the Kansas City Star, Sept. 20, 1972]

Postscript to the Moscow Pact

Superiority or inferiority, no. Equality, yes. That, greatly simplified, was the majority position of the U.S. Senate when it came to approving the offensive arms agreement signed by President Nixon in Moscow last May 26.

The handling of this pact in Congress was unusual for two reasons. First, President Nixon is not required by law or the Constitution to obtain the sanction of Congress for an executive agreement such as the one covering offensive weapons. Second, the controversial amendment by Sen. Henry M. Jackson (D-Wash.) calling for equal strategic strength has no direct bearing on the 5-year accord with Russia. Instead it is intended as a guide to the kind of permanent arms control understanding that the U.S. will work for in the coming SALT II negotiations with the Soviet Union.

The Senate line-up for and against Jackson's proposal in general followed the pattern of voting on Senator McGovern's recent attempt to cut the military spending bill by $4 billion. The Democratic nominee lost that one by a margin of 59 to 33. The vote on Jackson's amendment was 56 to 35. Whereupon the Senate approved by 87 to 2 the actual 5-year arms agreement whose terms were not changed by the Jackson amendment.

Thus the group of liberal Democratic senators who embrace what has been called "the Proxmire philosophy" on defense spending continues to be thwarted. There are enough Republicans and Southern Democrats in Congress to knock down any move that smacks of 1-way disarmament. The majority, by approving funds for the advanced Trident submarine and the B–1 bomber to replace the overage B–52, has said that the improvement of weapons systems, as permitted by the temporary Moscow pact, is still necessary.

That position was the essence of the Jackson amendment in so far as any early meaning it may have. By not forfeiting strategic strength now, the U.S. will have much greater bargaining power at the next round of SALT. But the results of SALT I are now certain of final ratification by both houses of Congress. Thus a limited measure of progress on international arms control has been chalked up with the way open to further and more comprehensive agreement.

HEARINGS ON LIFE-THREATENING MEDICAL EXPERIMENTS

Mr. TAFT. Mr. President, I am pleased to read on page 34466 of the Record of October 10 that the chairman of the Health Subcommittee, the senior Senator from Massachusetts (Mr. Kennedy), expects to hold hearings early next year on the subject of life-threatening medical experiments. I have urged such hearings for almost 2 years, in part because of totally unsubstantiated statements and charges made by Senate staff members and the press relating to a total body radiation project carried on at the University of Cincinnati Medical College. These statements have been damaging to professional men of the highest caliber, to a fine institution, and possibly to some of the patients involved. My prior statements on this question are set out in volume 117, part 36, pages 40749–47052; pages 250–256, January 19, 1972; pages 26237–26235, August 1, 1972; page 33162, October 2, 1972, of the Congressional Record.

It is therefore more in sorrow than in anger that I note another totally erroneous statement of the Senator from Massachusetts reported on page 34466 to the effect that the Cincinnati project made patient care secondary to experimentation. The project was thoroughly reviewed and given a complete vindication against such charges by a comprehensive peer review of the American College of Radiology, a report of which is set out on page 250 of the Record of January 19, 1972.

In view of this, I believe that the hearing planned should now also undertake an investigation of irresponsible, inaccurate, and preconceived staff actions and statements of Senate committee and staff employees.

BOMBING OF HANOI

Mr. KENNEDY. Mr. President, news reports over the past 24 hours strongly suggest that American bombs are responsible for the damage to the French and Algerian legations in Hanoi, and the personal injury and the loss of life that has apparently occurred.

Just 2 weeks ago, on September 28, the Judiciary Subcommittee on Refugees, which I serve as chairman, held a hearing on the impact on civilians of the air war over North Vietnam. In both open and closed sessions, administration witnesses assured us again and again—but without much proof—that what officials call "collateral damage" was minimal and that every precaution is taken to avoid air strikes over civilian and nonmilitary areas. In this connection, Hanoi and other cities in North Vietnam were singled out by the witnesses. Maj. Gen. John W. Pauly, Vice Director for Operations for the Joint Chiefs of Staff, had this to say about Hanoi in the closed session:

> Hanoi city area has been relatively untargeted. The only things that have been

targeted at all are those that are in the fringe at 4 or 5 miles out from town that I have mentioned. These are the war-making facilities.

The only exception to this are the two bridges I mentioned that were taken out with LGB's. We have verified that there was no collateral damage. When we have a sensitive siuation, we will be looking specifically for collateral damage. Those were taken out clean and the downtown Hanoi area, as we will mention later, has relatively no damage. The only collateral damage that we have been able to identify in the specifics that have been provided (by the subcommittee) have been tied in the immediate vicinity of a strike against nearby military targets in which a stray bomb had gone off or where the strike force had, in fact, for various reasons, missed their target.

And so, Mr. President, there is "collateral damage" in Hanoi—and, based on testimony before the subcommittee, a great deal more, including several disastrous mistakes, in Haiphong, and Nam Dinh, and other cities and towns in North Vietnam.

In this connection, let me say that the much emphasized smart bombs are hardly used. The Defense Department informed me yesterday, in response to questions raised in the hearing, that:

> The percentage of smart bombs dropped in North Vietnam since the current campaign began in May is 1.77 percent.

The growing collateral damage in North Vietnam raises troubling questions about the purposes of the President's air war over North Vietnam, and about the rules of engagement covering the bombing and shelling over all of Indochina.

Our country is apparently responsible for another disastrous mistake. For most Americans today the whole war is a mistake—and each day that this carnage is allowed to go on simply compounds that mistake.

DEATH OF FORMER SENATOR BUSH

Mr. WEICKER. Mr. President, upon the death of former Senator Prescott S. Bush, many newspapers throughout the State of Connecticut expressed the deep respect which all of us in the State have long felt for this fine man. I ask unanimous consent that nine of the editorials which have appeared over the last several days be included in the Record at this point.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Greenwich (Conn.) Time]

Editorial

Prescott S. Bush died Sunday at the age of 77. Thus ended a life remarkable for its many contributions to society and mankind.

Mr. Bush epitomized the characteristics associated with the idealized version of the public official candor, integrity, consistency, dedication. And another, which perhaps many of his constituents weren't as aware of—deep, human compassion and an unshakable sense of justice. In the rough and tumble arena of politics, the humanitarian persuasions of Pres Bush weren't as widely known. A deeply religious man, it could be said of him he was one of the rare ones who tried to carry through the precepts of his religion into his everyday life.

To list the accomplishments of this neighbor of ours can be done if you have sufficient space to catalogue a staggering array of achievements in many, many diverse fields. To him, the pinnacle of his career was the U.S. Senate, which he loved and served so well. In Greenwich, we also insist on placing high on the record the 15 years that Pres Bush served as Moderator of the Representative Town Meeting, a towering presence of firmness and fairness as he presided over the sometimes turbulent sessions. His dignity, authority, grace and—praise be, a good sense of humor—had a lot to do with the shaping of this community during those important years.

Pres Bush, as everyone knows, got his political indoctrination by heading Republican fund-raising efforts in the state. When he was persuaded to try for state office he was still not very well known.

He made his first run in 1950 but was defeated by Bill Benton by a slim majority of 1,000 votes. He liked his first taste of big league politics, good naturedly listened to the advice and ribbing of friends who felt they had to guide him into the "realities" of politics and bridge the gap between "the people" and the patrician world in which Bush moved. These friends quickly found out that Pres Bush was inately a good "people" man because he too began to enjoy his expanded association with various types and groups he probably never would have been exposed to had he not plunged into the political picture.

He once told a friend visiting him in his Senate office: "I've been very fortunate in my life and I've enjoyed it. But I love this United States Senate job more than anything I've done. It gives me a chance to try to be of real service to the people of the state and my country. But most of all, it's taken me out of the routine so familiar to all of us in Greenwich and I have been enriched by meeting and getting to know some wonderful people all over this state—ethnic groups, upstate farmers, Portuguese fishermen—you name it, we've got it in Connecticut.

This was a dimension of Pres Bush that not everyone got to know, for his general demeanor was dignified and restrained. Some, in the way folks tend to stereotype people in the public eye, even though he was stand-offish and aloof. No point to quarrel now—how could they know, as did those close to him, what a warm and vivacious man he could be. A fine singer (former Whiffenpoof) witty parodist, quick to appreciate a good line or anecdote, a man with a twinkle in his eye.

Friend and golfing associate of the late President Eisenhower, Pres Bush moved in the top echelons of power politically, socially and in the business world. His manner and attitude were the same in any milieu. He operated with the graceful ease of a man whose upbringing and career were almost of story-book nature: Yale, baseball at Yale, Whiffenpoofs, national senior golf champion in 1951, tennis player, swimmer, World War I captain, partner in Brown Brothers Harriman & Co., prominent civil leader, club man, successful party fund-raiser, head of a fine family. If such a shiny life should tempt a man to self-complacency, it didn't have that effect on Pres Bush. He plunged into the political arena with gusto. He took his first defeat, bounced off the floor and waded right in again. Next time he ran for the Senate he won, handing Abe Ribicoff one of the few defeats that worthy has ever sustained.

Pres Bush was an excellent Senator. He was reelected to a full term in 1956 and probably would have been reelected in 1962 had he not decided to eschew the run because of health problems.

Frankly, it is extremely difficult for us to contemplate a Greenwich minus Prescott Bush. Reality says we must. The great contributions he made to our town and state are part of our very fiber. But we'll miss more than that—we'll miss a great human being, a friend, a wise counselor, a man who cared a great deal, a man of probity and honor, a man of character.

We take some solace in seeing several sons in the political vineyard, so the name and the high purposes of Senator Bush will be carried on. To them, to the wonderful widow, Dottie, to all who have lost a fine friend and respected fellow townsman, our condolences. We are all truly the poorer today for his loss.

[From the New Haven (Conn.) Register, Oct. 10, 1972]

Editorial

During his years in the U.S. Senate, Prescott S. Bush had performed to the fullest measure of his abilities, as any good man in office does, but with many essential differences that set him apart from many of the household names of his day:

His achievements were without fanfare or self-glorification.

Mr. Bush, a tall, regal looking man with an aura of ivy league about him, with fashionable Greenwich as his home and a Wall Street career as an investment banker, was as unlikely a poltiician as one would expect to find in ethnic-conscious industrial Connecticut.

He was a relative political amateur when he first bobbed to attention in a 1950 race for the Senate, but he made it close enough to gain a second chance two years later, when he went on to victory.

Mr. Bush was more than a man for his time. Hard working and vigorous, a man of deeply felt convictions, the Senator was not one to seize upon issues of the moment, but to perceive and put his energies behind issues that were of moment.

He recognized fully the urban blight that beset the cities and rallied early to their cause, playing a major hand in the shaping of the father of all redevelopment legislation, the Housing Act of 1954. He championed urban renewal at every turn. Beyond promoting and supporting legislation in Washington, Mr. Bush took the lead in bringing the message of urban renewal home to Connecticut's cities and towns, and played a vital role in New Haven's urban renewal fortunes.

The former Senator was among the first to recognize the danger of Joe McCarthyism, and his mark was that he could oppose the latter, but in never but a gentlemanly fashion. The other tactics were alien to Mr. Bush's character.

Mr. Bush's deep interest in urban renewal was matched by his equal deep concern for civil rights, better education, a strong U.S. military posture and fiscal responsibility in federal government, including the control of inflation. He predated much of the later day civil rights struggle with his battles against racial discrimination in FHA Housing and in employment, the latter among both management and unions. His humaneness showed in his persistant efforts on behalf of flood and storm victims. He was an advance man for ecology interests with his involvement in flood control and beach erosion problems.

Mr. Bush, a Yale graduate who had served 12 years as a member of the Yale Corp., was in retirement when he passed away Sunday at the age of 77. He will be remembered as a man of compassion and integrity whose distinguished service for his state and country will offer challenge to others to emulate.

[From the Waterbury (Conn.) Republican]

Editorial

Prescott S. Bush was a distinguished gentleman who looked and acted like a U.S. Senator. He was a great credit to the State of Connecticut and to the entire Congress during the decade he served.

Mr. Bush left a career on Wall Street to seek office in Connecticut. He made the transition successfully. One of his distinguishing characteristics was his ability to communicate with rank and file voters and with local politicos without letting his business background interfere.

Initially, Mr. Bush's political interests were on the local level in Greenwich, where he lived. He later became State Republican Finance Chairman and ran for U.S. Senator in 1950. He was defeated by only 1,000 votes. Two years later, after the death of Democratic Senator Brien McMahon, Mr. Bush was nominated for the unexpired term and was elected. He was re-elected in 1956.

He was a friend of the late President Eisenhower, often playing golf with Ike. His White House friendship helped increase his stature in the Senate.

The Naugatuck Valley benefited from his interest in the flood control program. Mr. Bush helped get both the authorization and financing for the floor protection system through the Senate.

Although he has not been active politically in some years, he has set the kind of example which should be followed by candidates for public office. He demonstrated concern for people, integrity and high principle.

[From the Ansonia (Conn.) Evening Sentinel]

PRESCOTT S. BUSH

Connecticut lost a man of high purpose Sunday with the death of its former United States Senator Prescott S. Bush in New York.

During his eleven years in the Senate, Bush gained a reputation as an authority on the national economy and government finance. He saw service as a member of the Public Works, Armed Services, and Banking and Currency Committees.

An Ohio native, Bush came to Connecticut in 1913 to study at Yale where he obtained a degree in history. An artillery captain in World War I, Bush began in politics in 1933 as a member of the Greenwich Representative Town Meeting, serving as moderator for 17 years.

He entered state politics in 1947, chairing the GOP Finance Committee. In 1952 he defeated Abraham A. Ribicoff, the current senior Senator for the unexpired term of Brien McMahon and, in 1956, won a second term by trouncing Thomas J. Dodd by a resounding 131,894 votes.

As a Senator, Bush took special interest in urban renewal, flood and hurricane control projects, and helped create the interstate highway system. His practical, conservative politics won him the confidence of President Dwight D. Eisenhower. Bush was, in fact, the chief draftsman of Eisenhower's platform at the 1956 GOP national convention.

Long after Bush declined to run for another Senate term in 1962, he kept up his ties with Yale and only last April, at age 77 he resigned as an Associate Fellow of Yale's Calhoun College to protest a speaking appearance there of Daniel Ellsberg, who was indicted for leaking the "Pentagon Papers." Bush wrote Calhoun College: "I can hardly think of anyone who is less deserving of such an honor."

Until his death, Bush remained the man of honor—unafraid to speak his mind. Yale and Connecticut will miss him.

[From the Hartford (Conn.) Courant]

EDITORIAL

When Yale, his alma mater, gave Prescott Bush a richly deserved honorary Doctorate of Laws, the University's citation said in part: "Loyal to your friends, faithful to your constituents, true to yourself . . . you have personified the best in both political parties." And as the thousands who knew and, almost inevitably, liked and admired Pres Bush, the citation was no inflated campus oratory. He was a man of immense personal dignity and complete competence, yet one who could relax in the company of friends and, as the occasion served, poke fun at himself.

He was a prodigious worker in a broad spectrum of activities. When he was a director of the Greenwich Boys' Club it was said that he spent more time with the boys in the clubhouse than any young member did. When he golfed, he played hard and well: at 55 he set a record for 66 for 18 holes that still stands for the U.S. Senior Championship.

He was a tireless and effective campaigner; one recalls many individual calls paid to the Courant to relax after political meetings. When he succeeded the late Thomas E. Dewey as National President of the United Service Organization in 1942, he took it on as a full time job. His energy and enthusiam for the USO were not diminished by the fact that his oldest son, now the United States Ambassador to the United Nations was a Navy pilot who was shot down by the Japanese over the Pacific.

He was one of the early enthusiasts for General Eisenhower's nomination and election. As chairman of the Platform Committee at the Republican Convention, a witty observer said, he had one difficult, self-imposed task: to take one word and expand it to 5,000. That one word, of course, was "Ike." The two men maintained their mutual regard and affection until President Eisenhower's death.

As President Nixon observed, Pres Bush established a fine example of devoted lifelong public service to his town, his state and his nation. He deserves to be long remembered.

[From the Hartford (Conn.) Times]

PRESCOTT S. BUSH

The public career of Prescott S. Bush fulfilled the promise his intimates saw in him while he was still a student at Yale University. Ruggedly handsome, charming and pleasant to know, he had obviously potential as a politician—a potential he did not fully realize until his mid-fifties.

But his more valuable qualities were what made him a good public servant. He proved to be a hard worker in the Senate.

He had a good grounding in economics, in part the result of his work in Wall Street, and he served on the Senate Committee on Banking and Currency and on the Joint Economic Committee of Congress. He earned national respect on both those committees.

Senator Bush recognized early the implications to Connecticut of Federal involvement in urban renewal. His guidance in this "then" new and unfamiliar area of governmental responsibilities was invaluable to many a Connecticut community.

He had considerable influence on the national policies of the Republican Party. He was chairman of the Platform Committee for the National Convention in 1956 and of the Subcommittee that drafted the planks on the economy, business and labor for the 1960 Convention. He was a friend and confident of President Eisenhower.

A friend says of him that he furnished a good example of how the people benefit from electing a gentleman to high office. He was indeed a gentleman, not merely in that he had a gentleman's education but far more in his unshakeable integrity and devotion to principle.

[From the New Britain (Conn.) Herald]

EDITORIAL

If a man is the sum total of all his experiences, then former United States Senator Prescott Bush, who died Sunday, was a very complete man.

But Mr. Bush was more than that: he was a dedicated and driven man who gave meaning to his experience—a man who brought his own uniqueness to his work and to those who served.

Republican politics, congress, higher education, the military, and his family were only a few of his varied interests. A list of his accomplishments is too long to be cited here—and it need not be: his contributions to Connecticut and the nation are well known and Mr. Bush will be remembered for a long time to come.

We join the many local, state and national leaders who mourn his passing.

[From the Norwich (Conn.) Bulletin]

EDITORIAL

President Nixon's description of former U.S. Senator Prescott S. Bush as a citizen of exceptional honor and integrity finds warm acceptance with all who were privileged to know him as a friend or as a long time public servant. Mr. Bush died this week at the age of 77.

"His years of distinguished service in the Senate were marked by high principle, consistently sound judgement and a deep devotion to the country" is the way the president tells of the Greenwich resident's career. Mr. Bush had many close acquaintances in Eastern Connecticut as a result of his varied and substantive contribution to the public welfare.

Prescott Bush was a member of the U.S. Senate ten years, the first four of which were filling an unexpired term and the last six on his own election. This was in the period of the 1950s and early 60s.

Senator Bush's principal interest in government were an urban renewal flood and hurricane protection. He was coauthor of the bill that brought the interstate highway system.

From a start in politics in his hometown he rose to great stature in the state and federal government circles; also contributing greatly to the promotion of numerous civic and charitable activities in a fulfilling life.

[From the Willimantic (Conn.) Daily Chronicle]

EDITORIAL

It is for his example of energy and devotion in the service of Connecticut, the flair of a strong personality coupled with unfailing courtesy, that one remembers Prescott Bush.

A political figure of the first order, he still lost his first attempt at election as Senator by 1,000 votes; then from 1952–1963 he held office. He brought a quality of competence to the area of affairs that identified him particularly among leadership figures. He campaigned hard, but with a list of humor that spared him, and his public, from the drudgery of drab and dull partisan contest.

Senator Bush was one of hte originators of Federal slum clearance and urban redevelopment legislation; he also was a notable supporter of legislation dealing with flood and hurricane relief, and the protection against such catastrophes. As a financier, his judgment on governmental financial matters was continually sought.

As sportsman, soldier, and one involved in educational, and civic agencies and efforts, Senator Bush enjoyed many friendships.

Connecticut always liked him, and it will miss him.

FARM BUREAU MEMBERSHIP IN 1972

Mr. GURNEY. Mr. President, on September 11, 1972, the Farm Bureau News offered its salute to those States which, through their drive and determination, more than doubled their Farm Bureau membership in 1972. I was very pleased to see that my home State of Florida was ranked among the top three in membership increase and would like to request that a list of the States with the biggest membership increases be included at the end of my remarks.

Mr. President, I think it most appropriate at this time to take a look at both the background and benefits of this fine organization. The American Farm Bureau Federation, the largest U.S. farm organization, is an outgrowth of the country farm bureau movement. Shortly before World War I, the idea of using county demonstration agents, agricultural experts, or extension workers to provide farmers with the results of scientific study was adopted in a number of areas. In many localities these agents were supported by local groups of farmers who constituted country committees or bureaus.

Due at least in part to lack of Federal authorization for funds supporting county agent work during this early period, local farm bureau groups organized over a number of States. Their principal purpose was to take the lead in hiring and utilizing the services of those men later known as county agents.

With the passage of the Smith-Lever Act in 1914, authorizing the extension service, the bureau idea was given added impetus. Originally, the chief activity of the farm bureaus was to act as a local sponsor for county agents and as long as farm bureaus were organized only on a county basis, their primary interest was agricultural education. Before the end of the war, county farm committees in several States got together and formed State organizations.

Although most extension supporters viewed the State federations primarily as aids to extension work, the State organizations showed an early interest in commercial and legislative action. In November 1919, at a meeting in Chicago, the American Farm Bureau Federation was organized. Its constitution, which stated that its purpose was "to promote, protect, and represent the business, economic, social, and educational interests of the farmers of the Nation and to develop agriculture," was ratified and accepted by representatives of 28 States the following year.

The Farm Bureau currently has a membership of some 2,157,665 farm families in all 50 States working within the framework of a "free, independent, nongovernmental voluntary organization of farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity, and social advancement, and thereby, to promote the national well-being."

With this type of goal it is no wonder that membership in this fine organization increased so sharply. As a member of the local farm bureau, one has the opportunity to meet and discuss problems and goals with persons having similar interests and common problems, such as rural health, farm management, and community betterment. Out of such discussions emerges a feeling of being a part of a coordinated effort, involving more than 2 million farmers throughout the country, to translate the ideas of American agriculture into positive action. Such programs as marketing, nutrition, production, and distribution—all of whch bring to the individual vital information on better farming practices—have been a beacon to which the farmers of our Nation have turned for guidance in fulfilling their needs.

Mr. President, I am sure that there are many of us here today who have at one time or another wondered what type of Government organization could have possibly fulfilled such a task, in such a short period of time, on such a limited budget. Our State farm bureaus deserve a lot of credit for their efforts on behalf of American agriculture.

The list of farm bureaus follow:

TOP 20 STATE FARM BUREAUS IN PERCENTAGE OF 1972 MEMBERSHIP QUOTAS

Pennsylvania.
Virginia.
Florida.
Maryland.
New York.
Nevada.
West Virginia.
Kentucky.
Louisiana.
Montana.
Maine.
Idaho.
Massachusetts.
Arkansas.
Nebraska.
Mississippi.
Indiana.
Oklahoma.
Delaware.
Utah.

POLICE LIVES AT STAKE BECAUSE OF CONGESTED TWO-WAY, MOBILE RADIO CHANNELS

Mr. PERCY. Mr. President, many of us have come to visualize the two-way police radio as one of the most invaluable of tools for law enforcement officers. Yet, as was tragically illustrated by a case in the Chicago area just a few days ago, even the two-way radio system can be crippled by overcrowded air waves—creating a potential threat to the lives of policemen and to public safety in general.

Today radio frequencies assigned to police and other emergency public safety departments are frequently so crowded with transmissions that an officer's radio call can literally be knocked off the air. That is exactly what happened in the Chicago area on October 1 when Hillside Patrolman Anthony Raymond, 24, stopped an auto that was driving erratically on the Eisenhower Expressway. Raymond attempted to broadcast the car's license plate number but his transmission was cut off by a broadcast from another of the 17 suburban police departments using the same radio frequency. Another car was sent to help Raymond. It arrived 2 minutes later, to find the patrol car empty and the officer apparently abducted. The officer, father of two small children, had still not been found a week later.

A research engineer who has studied the suburban police radio problem in the Chicago-Cook County area commented to the Chicago Daily News that the radio network used by the Hillside police force was the "second or third worst" in the county in terms of how busy it is. The system averages 600 messages every hour. However, in the South suburban area the problem of saturated calls is even worse where 35 suburbs share a single radio band for police calls.

Allen H. Andrews, executive director of the Illinois Law Enforcement Commission, called the case involving Patrolman Raymond, "a single and dramatic example of the need for a better system of police radio communications."

When such radio frequency saturation occurs, it is virtually impossible to get even as much as 10 seconds of exclusive use to transmit a radio call. Often, in the scramble for free air time, mobile units and base stations can knock out a transmssion already in progress without even realizing another unit may be transmitting. This was apparently the case with Patrolman Raymond.

According to the Federal Communications Commission, this situation is not unique to the Chicago metropolitan area, but is something that is going on in and around the top five metropolitan areas of the Nation.

Mr. President, this is clearly a problem of national proportions and one which should be dealt with promptly if we mean to minimize the many difficulties which law enforcement officers face in today's troubled times.

The air waves are a public resource which cannot be expanded. Clearly, then, better use must be made of the available broadcast space as well as providing additional frequencies where possible.

Mr. President, I believe the two-way communications systems of our police are among their most valuable assets. To safeguard police lives as well as insure that the general public can be protected by the prompt dispatch of patrol cars, all agencies of Government should be at work to assure that clear air channels are available to the police in our metropolitan areas.

Failure to act will only mean an increased threat to public safety and more tragic repetitions of the story of Patrolman Anthony Raymond.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks, articles from the Chicago Daily News of October 3, 1972, and from the Chicago Tribune of October 8, 1972, respectively entitled: "Jammed Police Radios a Problem in the Suburbs" and "Traffic Jam Fouls Cop Radio Bands."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Daily News, Oct. 5, 1972]

"JAMMED" POLICE RADIOS A PROBLEM IN SUBURBS

(By Phillip J. O'Connor)

The kidnaping of Hillside Patrolman Anthony Raymond has spotlighted a chronic problem among suburban police—overcrowded police radio bands.

Hillside is on the same police radio band as 16 other suburbs and officers from these communities must take turns using the bands as they patrol in squad cars.

Sometimes one department will accidentally cut in on another and drown out a message. This happened to Raymond and has made it more difficult to trace the kidnap-ers because he was able to broadcast only three digits of an auto license number.

While the plight of Hillside and the other 16 suburbs sharing the same band is bad, it is not as serious as in the south suburban area where 35 suburbs must share a single radio band.

The Chicago-Cook County Criminal Justice Commission and the Illinois Law Enforcement Commission are moving to correct the overcrowding.

Bernard Ebstein, research engineer for ITT Research Institute, a part of the Illinois Institute of Technology, recently completed an $18,000 study on suburban police radio problems for the Chicago-Cook County commission.

"I would say the police radio band used by Hillside is the second or third worst in the county in terms of how busy it is," said Ebstein.

"That (Raymond's case) is exactly what happens on a very busy channel. Different users cut each other off. Often, they don't hear the other officer broadcasting a message."

Ebstein said the Federal Communications Commission has made available more ultra * * * Chicago area for land-based vehicles, such as police cars and taxi companies.

Ebstein said he has recommended that 23 of these additional channels be allocated to suburban police, who now have only 17 bands to serve Cook County's suburban area.

Ebstein said he is in the midst of grouping suburbs into groups to share the new total of 40 radio bands in a manner that would permit any suburban officer to have a clear channel to broadcast a message in from 5 to 15 seconds.

Ebstein said this should cut the number of police departments on a single band down to five or six in most instances.

Arthur Bilek, chairman of the Illinois Law Enforcement Commission, which distributes anti-crime funds in Illinois, and William Lacey, executive director of the Chicago-Cook County commission, both said the present suburban police radio network is unbelievably bad.

Ebstein said that other suburbs on the same channel with Hillside are Bellwood, Berkeley, Broadview, Elmwood Park, Forest Park, Franklin Park, Harwood Heights, Maywood, Melrose Park, Norridge, Northlake, River Forest, River Grove, Schiller Park, Stone Park and Westchester.

These 17 western suburbs have a combined population of 300,000, Ebstein added.

The 35 south suburbs on the same police radio band have a combined population of 460,000. They are:

Alsip, Blue Island, Burnham, Calumet City, Calumet Park, Chicago Heights, Chicago Ridge, Country Club Hills, Crestwood, Dixmoor, East Chicago Heights, Evergreen Park.

Also Hazel Crest, Hometown, Markham, Matteson, Merrionette Park, Midlothian, Oak Forest, Oak Lawn, Olympia Fields, Orland Park, Palos Heights, Palos Hills, Palos Park.

And Park Forest, Posen, Richton Park, Robbins, South Chicago Heights, Steger, Tinley Park, Westhaven, Worth and Crete. Crete is in Will County.

Bilek said virtually all suburban police cars are equipped with a second radio that connects them to what is known as the Illinois State Police Emergency Radio Network. All suburban departments hear messages on this network.

However this is designed for use by officers only when an emergency occurs, not prior to one. Bilek said that once Raymond stepped out of his car, he was unable to use this system to call for help.

[From the Chicago Tribune, Oct. 8, 1972]

Traffic Jam Fouls Cop Radio Bands

(By William Gaines)

Uninterrupted radio transmission from Hillside Patrolman Anthony Raymond would have been a vital aid in the investigation of the disappearance of the policeman last week.

But as Raymond radioed his station, the transmission was cut out by another message.

Overcrowded and undercoordinated police radio channels in the suburbs have been a growing concern of law enforcement officials in recent years. The incident in Hillside came at a time when the solution to the problem was near.

NEW CHANNELS RELEASED

The Federal Communications Commission has released 23 new channels for police broadcasting in the Chicago area, and federal grants from the Omnibus Crime Bill of 1968 are being made for new equipment in police radio rooms.

The occurrence in Hillside was "a single and dramatic example of the need for a better system of police radio communications," said Allen H. Andrews, executive director of the Illinois Law Enforcement Commission.

The commission received federal funding for studies in Cook and Du Page Counties on how to sort out the suburban police radio stations on the new frequencies and balance the waiting time of a policeman who needs to send a message.

The study of Cook County by the Illinois Institute of Technology showed that six of the 17 suburban police channels were so saturated with calls that it was almost a mathematical impossibility to get 10 seconds of exclusive use, said David Goldberg, communication specialist for the state commission.

"The result is that departments either do not transmit all of the necessary information or just override others in a free-for-all for radio time," he said.

THIRTY SEVEN SUBURBS COMPETE

The most overcrowded radio channel is the South Cook network, where 37 suburbs compete to be heard. Statistics in the study showed that the channel has an average of 1,139 messages of an average duration of 10 seconds for every hour. Complete saturation of a channel is reached when there are 360 messages per hour.

The 35 communities have a population of 464,858. By 1985, the study showed, they will have 643,975 people and, if the same system were continued, they would have 1,303 radio messages an hour.

Oak Lawn, population 60,305, is the largest suburb on the channel. Calumet City, Chicago Heights, Blue Island, Oak Forest, Evergreen Park, and Park Forest are communities of over 20,000 which share the channel.

Others are Alsip, Burnham, Calumet Park, Chicago Ridge, Country Club Hills, Crestwood, Dixmoor, East Chicago Heights, Hazel Crest, Hometown, Markham, Matteson, Merrionette Park, Midlothian, Olympia Fields, Orland Park, Palos Heights, Palos Hills, Palos Park, Posen, Richton Park, Robbins, South Chicago Heights, Steger, Tinley Park, Westhaven, Worth, and Crete.

Midlothian, one of the suburbs in the geographic center of the most congested channel, has discontinued routine use of the radio for reports of license numbers because of the improbability of being heard, said Police Chief John Ward.

LIKE A "PARTY LINE"

"It is as if a large town had everyone on a country party line," Ward said. "There's a constant clamor and the situation is worsening."

When the present system was started 15 years ago, Midlothian had just one squad. It now has as many as 10 on the street at one time. Some of the other villages on the channel did not exist when the channel was set up, he said.

Also contributing to the congestion on the suburban channels is the inclination of suburban departments to answer calls that might be considered petty in a large city, he said.

There are 16 suburbs which share the West Cook network with Hillside. There are 600 messages every hour, almost double the saturation level.

Among the other suburbs on the West Cook network, only Stone Park and Berkeley are smaller than Hillside, which has 9,600 people. Hillside must also compete with Bellwood, Elmwood Park, Franklin Park, Maywood, Melrose Park, Northlake, and Westchester, all over 20,000 population, and Broadview, Forest Park, Harwood Heights, Norridge, River Forest, River Grove, and Schiller Park, all over 10,000.

SERVES NINE SUBURBS

The Northwest Cook network has nine communities with a total of 318,992 residents. It includes Arlington Heights, Buffalo Grove, Elgin, Morton Grove, Mount Prospect, Niles, Palatine, Rolling Meadows, and Wheeling.

Radio operators on the Northwest Cook network have called transmission a "madhouse" between 4 p.m. and midnight.

The channel is so congested that the village of Buffalo Grove has installed a second radio in police squads with the frequency of the village public works vehicles to assure police communication with the station in emergencies.

Buffalo Grove is working on an application for a federal grant for conversions to the new system proposed by the law enforcement commission. Arlington Heights, Elk Grove Village, and Mount Prospect have applied for grants for joint use of one of the new frequencies. Oak Park, Forest Park, and River Forest also have applied for such a grant. Each group would have a common radio room.

The new groupings would mean that, on an average, no department would have to wait for more than 15 seconds before being able to transmit.

BETTER CONTACT SEEN

Oak Park will give up an exclusive channel to test the system because "it will mean that the police departments of the three villages will be able to keep in contact more readily," said Wilbur Reichardt, police chief.

A West Suburban Network serving 267,694 people; South Cook Network Two, which serves 172,455; and a North Shore Network, for 223,000, are beyond saturation.

Bartlett, Hodgkins, Justice, Lemont, Roselle, Willow Springs, Cary, Algonquin, Fox River Grove, East Dundee, Sleepy Hollow, West Dundee, Lockport, and Bloomingdale, all suburbs under 10,000, must compete on the West Surburban Network with the larger suburbs of Bedford Park, Bridgeview, Hanover Park, Hickory Hills, Hoffman Estates, Streamwood, Summit, Romeoville, Carpentersville, and Bolingbrook. The University of Illinois Chicago Circle Campus police are also on the band.

Dolton, Harvey, Homewood, Riverdale, and South Holland share the second south frequency with the smaller suburbs of Glenwood, Phoenix, Flossmoor, Thornton, New Lenox, Frankfort, and Mokena.

COSTS $2.6 MILLION

The overcrowded North Shore Network serves Evanston, Glencoe, Glenview, Kenilworth, Lincolnwood, Northbrook, Northfield, Wilmette, and Winnetka.

Implementation of the new Cook County system would cost $2.6 million. The Du Page study has not been completed.

Booster stations to relay local car transmissions would be included in the equipment. The relay system has solved Lake County's problem with inadvertent coverage of signals, such as that which occurred in Hillside, said Jay McClasky, director of the Lake County Police Radio Network.

Waiting time is still long because there are 34 stations on the channel, but the relay amplifies dispatches from a squad or walkie-talkie so that the base station and individual calls are equal in strength.

The signals are received by all stations and policemen who are on the band, thereby eliminating the chance of a unit transmitting because the other was not heard.

SENATOR BAYH ANNOUNCES ALLOCATION OF FEDERAL REVENUE-SHARING GRANTS TO INDIANA CITIES AND TOWNS FOR 1972

Mr. BAYH. Mr. President, the Joint Committee on Internal Revenue Taxation recently made available a breakdown of the 1972 revenue-sharing grants which they expect will be sent to Indiana cities and towns in the near future. In rough terms, Indiana will receive $104.3 million, of which $34.8 million will be for the use of the State government. The remaining $69.5 million will be distributed directly to local governments within the State. Because this information will be of great interest to my Hoosier constituents, I ask unanimous consent that this county-by-county breakdown of the fund allocation—including a listing of the funds to be distributed to the larger cities—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Revenue sharing funds for Indiana

[In dollars]

Total State grant to all locals	69, 541, 107
Amount returned to Indiana State government is	0
County and Total Grant	
Adams County area	271, 819
Adams County government	127, 837
Total to all cities over 2,500	103, 944
Total to all cities under 2,500	15, 656
Total to all townships	24, 381
Berne City	8, 365
Decatur City	95, 580
Allen County area	3, 563, 693
Allen County government	1, 148, 901
Total to all cities over 2,500	2, 174, 268
Total to all cities under 2,500	30, 896
Total to all townships	209, 629
Fort Wayne City	2, 137, 708
New Haven Town	36, 561
Bartholomew County area	898, 233
Bartholomew County government	443, 681
Total to all cities over 2,500	378, 394
Total to all cities under 2,500	42, 653
Total to all townships	28, 504
Columbus City	376, 801
Edinburg Town (part)	1, 593
Benton County area	134, 359
Benton County government	73, 312
Total to all cities over 2,500	14, 813
Total to all cities under 2,500	21, 146
Total to all townships	25, 088
Fowler Town	14, 813
Blackford County area	223, 233
Blackford County government	110, 800
Total to all cities over 2,500	77, 391
Total to all cities under 2,500	19, 263
Total to all townships	15, 780
Dunkirk City (part)	2, 694
Hartford City	74, 697
Boone County area	295, 096
Boone County government	186, 021
Total to all cities over 2,500	62, 333
Total to all cities under 2,500	34, 862
Total to all townships	11, 879
Lebanon City	62, 333
Brown County area	91, 555
Brown County government	77, 992
Total to all cities over 2,500	0
Total to all cities under 2,500	2, 119
Total to all townships	11, 444
Carroll County area	215, 250
Carroll County government	121, 213
Total to all cities over 2,500	17, 437
Total to all cities under 2,500	17, 552
Total to all townships	49, 048
Delphi City	17, 437
Cass County area	486, 105
Cass County government	237, 765
Total to all cities over 2,500	184, 087
Total to all cities under 2,500	32, 850
Total to all townships	31, 403
Logansport City	184, 087
Clark County area	682, 642
Clark County government	316, 770
Total to all cities over 2,500	339, 851
Total to all cities under 2,500	2, 668
Total to all townships	23, 354
Charlestown City	23, 896
Clarksville Town	68, 941
Jeffersonville City	232, 568
Sellersburg Town	14, 446
Clay County area	342, 401
Clay County government	192, 990
Total to all cities over 2,500	90, 610
Total to all cities under 2,500	32, 068
Total to all townships	26, 733
Brazil City	90, 610
Clinton County area	389, 612
Clinton County government	198, 670
Total to all cities over 2,500	122, 152
Total to all cities under 2,500	30, 473
Total to all townships	38, 317
Frankfort City	122, 152
Crawford County area	155, 960
Crawford County government	87, 786
Total to all cities over 2,500	0
Total to all cities under 2,500	15, 876
Total to all townships	52, 298
Daviess County area	387, 613
Daviess County government	176, 750
Total to all cities over 2,500	78, 552
Total to all cities under 2,500	24, 268
Total to all townships	28, 042
Washington City	78, 552
Dearborn County area	477, 550
Dearborn County government	334, 125
Total to all cities over 2,500	101, 376
Total to all cities under 2,500	16, 409
Total to all townships	25. 640
Aurora City	49, 044
Greendale Town	10, 131
Lawrenceburg City	42, 202
Decatur County area	335, 016
Decatur County government	178, 079
Total to all cities over 2,500	71, 662
Total to all cities under 2,500	23, 070
Total to all townships	62, 206
Greensburg City	71, 662
De Kalb County area	364, 777
De Kalb County government	188, 822
Total to all cities over 2,500	103, 801
Total to all cities under 2,500	53, 029
Total to all townships	19, 126
Auburn City	61, 696
Garrett City	42, 106
Delaware County area	1, 466, 825
Delaware County government	533, 181
Total to all cities over 2,500	677, 240
Total to all cities under 2,500	72, 330
Total to all townships	184, 074
Muncie City	677, 240
DuBois County area	383, 728
DuBois County government	102, 106
Total to all cities over 2,500	147, 828
Total to all cities under 2,500	27, 486
Total to all townships	86, 308
Huntingburg City	50, 581
Jasper City	97, 247
Elkhart County area	1, 131, 879
Elkhart County government	455, 415
Total to all cities over 2,500	583, 717
Total to all cities under 2,500	35, 175
Total to all townships	57, 571
Elkhart City	426, 946
Goshen City	124, 187
Nappanee City (Part)	32, 584
Fayette County area	423, 587
Fayette County government	207, 390
Total to all cities over 2,500	204, 050
Total to all cities under 2,500	0
Total to all townships	12, 146
Connersville City	204, 050
Floyd County area	616, 391
Floyd County government	238, 931
Total to all cities over 2,500	338, 628
Total to all cities under 2,500	16, 613
Total to all townships	22, 220
New Albany City	338, 628
Fountain County area	237, 586
Fountain County government	133, 270
Total to all cities over 2,500	53, 587
Total to all cities under 2,500	30, 896
Total to all townships	19, 832
Attica City	41, 560
Covington City	12, 028
Franklin County area	179, 546
Franklin County government	127, 221
Total to all cities over 2,500	18, 709
Total to all cities under 2,500	11, 053
Total to all townships	22, 564
Brookville Town	16, 220
Batesville City (part)	2, 489
Fulton County area	247, 224
Fulton County government	173, 734
Total to all cities over 2,500	38, 996
Total to all cities under 2,500	16, 883
Total to all townships	17, 610
Rochester City	38, 996
Gibson County area	338, 036
Gibson County government	196, 178
Total to all cities over 2,500	90, 243
Total to all cities under 2,500	28, 778
Total to all townships	22, 836
Fort Branch Town	10, 543
Oakland City Town	20, 881
Princeton City	58, 819
Grant County area	976, 735
Grant County government	319, 997
Total to all cities over 2,500	545, 974
Total to all cities under 2,500	70, 765
Total to all townships	40, 000
Fairmount Town	40, 084
Gas City City	31, 024
Marion City	463, 719
Upland Town	11, 147
Greene County area	348, 763
Greene County government	240, 138
Total to all cities over 2,500	42, 658
Total to all cities under 2,500	28, 336
Total to all townships	37, 631
Bloomfield Town	14, 628
Linion City	28, 030
Hamilton County area	383, 673
Hamilton County government	252, 510
Total to all cities over 2,500	78, 147
Total to all cities under 2,500	34, 055
Total to all townships	18, 961
Carmel Town	17, 589
Noblesville City	60, 559
Hancock County area	194, 226
Hancock County government	80, 885

Total to all cities over 2,500	43, 512
Total to all cities under 2,500	23, 978
Total to all townships	45, 852
Greenfield city	43, 512
Harrison County area	221, 851
Harrison County government	144, 138
Total to all cities over 2,500	16, 457
Total to all cities under 2,500	10, 895
Total to all townships	50, 362
Corydon town	16, 457
Hendricks County area	366, 916
Hendricks County government	236, 457
Total to all cities over 2,500	91, 650
Total to all cities under 2,500	19, 784
Total to all townships	19, 025
Brownsburg town	24, 094
Danville town	21, 310
Plainfield town	46, 245
Henry County area	605, 894
Henry County government	287, 815
Total to all cities over 2,500	202, 688
Total to all cities under 2,500	87, 906
Total to all townships	27, 485
New Castle city	202, 688
Howard County area	1, 171, 655
Howard County government	353, 303
Total to all cities over 2,500	724, 120
Total to all cities under 2,500	30, 746
Total to all townships	63, 486
Kokomo city	724, 120
Huntington County area	395, 107
Huntington County government	179, 103
Total to all cities over 2,500	153, 466
Total to all cities under 2,500	41, 837
Total to all townships	20, 700
Huntington city	153, 466
Jackson County area	374, 103
Jackson County government	182, 005
Total to all cities over 2,500	127, 699
Total to all cities under 2,500	46, 166
Total to all townships	18, 233
Seymour city	127, 699
Jasper County area	269, 531
Jasper County government	187, 253
Total to all cities over 2,500	44, 533
Total to all cities under 2,500	17, 479
Total to all townships	20, 266
Rensselaer city	44, 533
Jay County area	352, 853
Jay County government	175, 531
Total to all cities over 2,500	124, 713
Total to all cities under 2,500	35, 414
Total to all townships	17, 195
Dunkirk City (part)	39, 911
Portland City	84, 802
Jefferson County area	432, 523
Jefferson County government	218, 906
Total to all cities over 2,500	170, 605
Total to all cities under 2,500	41, 910
Hanover Town	14, 459
Madison City	156, 146
Jennings County area	246, 858
Jennings County government	163, 902
Total to all cities over 2,500	59, 633
Total to all cities under 2,500	5, 726
Total to all townships	17, 597
North Vernon City	59, 633
Johnson County area	470, 024
Johnson County government	250, 329
Total to all cities over 2,500	179, 783
Total to all cities under 2,500	19, 488
Total to all townships	20, 423
Edinburg Town (part)	13, 316
Franklin City	109, 366
Knox County area	750, 602
Knox County government	414, 255
Total to all cities over 2,500	268, 428
Total to all cities under 2,500	43, 205
Total to all townships	24, 713
Bicknell City	15, 070
Vincennes City	253, 359
Kosciusko County area	450, 796
Kosciusko County government	228, 795
Total to all cities over 2,500	95, 926
Total to all cities under 2,500	72, 123
Total to all townships	53, 953
Nappanee City (part)	280
Warsaw City	80, 062
Winona Lake Town	15, 584
Lagrange County area	245, 554
Lagrange County government	175, 101
Total to all cities over 2,500	0
Total to all cities under 2,500	41, 200
Total to all townships	29, 952
Lake County area	10, 605, 451
Lake County government	4, 756, 601
Total to all cities over 2,500	5, 804, 820
Total to all cities under 2,500	44, 031
Total to all townships	0
Crown Point City	60, 231
Dyer Town	26, 683
East Chicago City	912, 151
East Gary Town	69, 629
Gary City	3, 069, 017
Griffith Town	48, 652
Hammond City	1, 203, 934
Highland Town	66, 806
Hobart City	91, 871
Lowell Town	10, 281
Munster Town	44, 223
Schererville Town	19, 980
Whiting City	140, 700
Cedar Lake Town	40, 661
La Porte County area	1, 358, 327
La Porte County government	374, 953
Total to all cities over 2,500	897, 409
Total to all cities under 2,500	39, 571
Total to all townships	46, 393
La Porte City	226, 527
Long Beach Town	8, 602
Michigan City City	634, 184
Trail Creek Town	9, 596
Westville Town	18, 500
Lawrence County area	426, 269
Lawrence County government	213, 314
Total to all cities over 2,500	174, 892
Total to all cities under 2,500	11, 759
Total to all townships	26, 304
Bedford City	157, 976
Mitchell City	16, 915
Madison County area	1, 519, 196
Madison County government	481, 011
Total to all cities over 2,500	825, 388
Total to all cities under 2,500	103, 741
Total to all townships	109, 056
Alexandria City	33, 944
Anderson City	666, 454
Chesterfield Town	15, 464
Elwood City	109, 526
Marion County area	10, 710, 110
Marion County government	3, 414, 961
Total to all cities over 2,500	7, 148, 179
Total to all cities under 2,500	0
Total to all townships	146, 970
Beech Grove City	58, 604
Indianapolis City	6, 983, 136
City of Lawrence	66, 121
Speedway Town	40, 319
Marshall County area	449, 705
Marshall County government	259, 527
Total to all cities over 2,500	102, 296
Total to all cities under 2,500	49, 423
Total to all townships	38, 460
Bremen Town	27, 561
Plymouth City	74, 735
Marin County area	212, 962
Marin County government	90, 602
Total to all cities over 2,500	16, 240
Total to all cities under 2,500	7, 578
Total to all townships	98, 542
Loogootee City	16, 240
Miami County area	551, 692
Miami County government	272, 905
Total to all cities over 2,500	185, 667
Total to all cities under 2,500	46, 459
Total to all townships	46, 661
Peru City	185, 667
Monroe County area	757, 613
Monroe County government	344, 900
Total to all cities over 2,500	358, 399
Total to all cities under 2,500	16, 027
Total to all townships	38, 286
Bloomington City	358, 399
Montgomery County area	379, 734
Montgomery County government	200, 296
Total to all cities over 2,500	105, 894
Total to all cities under 2,500	46, 551
Total to all townships	26, 992
Crawfordsville City	105, 894
Morgan County area	337, 311
Morgan County government	213, 587
Total to all cities over 2,500	85, 768
Total to all cities under 2,500	12, 235
Total to all townships	25, 722
Martinsville City	70, 236
Mooresville Town	15, 532
Newton County area	225, 329
Newton County government	163, 319
Total to all cities over 2,500	0
Total to all cities under 2,500	45, 066
Total to all townships	16, 945
Noble County area	367, 843
Noble County government	174, 044
Total to all cities over 2,500	117, 822
Total to all cities under 2,500	44, 983
Total to all townships	30, 994
Kendallville City	87, 509
Ligonier City	30, 313
Ohio County area	72, 155
Ohio County government	44, 503
Total to all cities over 2,500	0
Total to all cities under 2,500	19, 875
Total to all townships	7, 777
Orange County area	229, 775
Orange County government	147, 677
Total to all cities over 2,500	25, 334
Total to all cities under 2,500	37, 241
Total to all townships	19, 523
Paoli Town	25, 334
Owen County area	186, 606
Owen County government	130, 487
Total to all cities over 2,500	19, 742
Total to all cities under 2,500	5, 351
Total to all townships	31, 025
Spencer town	19, 742
Parke County area	265, 748
Parke County government	186, 163
Total to all cities over 2,500	25, 922
Total to all cities under 2,500	25, 738
Total to all townships	27, 925
Rockville town	25, 922
Perry County area	345, 227
Perry County government	203, 132
Total to all cities over 2,500	91, 204
Total to all cities under 2,500	32, 823
Total to all townships	18, 067
Tell City city	91, 204
Pike County area	219, 077
Pike County government	135, 192
Total to all cities over 2,500	42, 703
Total to all cities under 2,500	20, 821
Total to all townships	20, 360
Petersburg city	42, 703
Porter County area	658, 560
Porter County government	191, 912
Total to all cities over 2,500	368, 180

Revenue sharing funds for Indiana—Cont.

[In dollars]

Total to all cities under 2,500	50,431
Total to all townships	48,037
Chesterton town	34,267
Porter town	19,116
Valparaiso City	169,207
Portage Town	145,590
Posey County area	359,477
Posey County government	197,973
Total to all cities over 2,500	77,800
Total to all cities under 2,500	34,211
Total to all townships	49,493
Mount Vernon city	77,800
Pulaski County area	224,120
Pulaski County government	155,351
Total to all cities over 2,500	0
Total to all cities under 2,500	38,527
Total to all townships	30,242
Putnam County area	335,702
Putnam County government	221,132
Total to all cities over 2,500	65,465
Total to all cities under 2,500	21,943
Total to all townships	27,163
Greencastle City	65,465
Randolph County area	302,479
Randolph County government	159,706
Total to all cities over 2,500	76,991
Total to all cities under 2,500	43,868
Total to all townships	21,914
Union City City	38,006
Winchester City	38,986
Ripley County area	224,527
Ripley County government	108,714
Total to all cities over 2,500	31,418
Total to all cities under 2,500	41,797
Total to all townships	42,598
Batesville City (part 1)	31,418
Rush County area	354,473
Rush County government	194,402
Total to all cities over 2,500	107,075
Total to all cities under 2,500	22,389
Total to all townships	30,608
Rushville City	107,075
St. Joseph County area	3,846,454
St. Joseph County government	1,327,370
Total to all cities over 2,500	2,191,867
Total to all cities under 2,500	108,357
Total to all townships	218,860
Mishawaka City	342,363
South Bend City	1,849,503
Scott County area	185,773
Scott County government	135,774
Total to all cities over 2,500	34,913
Total to all cities under 2,500	0
Total to all townships	15,086
Scottsburg City	34,913
Shelby County area	381,704
Shelby County government	193,049
Total to all cities over 2,500	151,669
Total to all cities under 2,500	8,420
Total to all townships	28,565
Shelbyville City	151,669
Spencer County area	275,647
Spencer County government	217,883
Total to all cities over 2,500	17,229
Total to all cities under 2,500	17,733
Total to all townships	22,802
Rockport City	17,229
Starke County area	270,947
Starke County government	179,710
Total to all cities over 2,500	42,842
Total to all townships	17,971
Knox City	42,842
Steuben County area	248,645
Steuben County government	120,281
Total to all cities over 2,500	38,379
Total to all cities under 2,500	20,791
Total all townships	69,194
Angola City	38,379
Sullivan County area	362,251
Sullivan County government	249,622
Total to all cities over 2,500	40,579
Total to all cities under 2,500	46,090
Total to all townships	25,961
Sullivan City	40,579
Switzerland County area	122,430
Switerzland County government	102,647
Total to all cities over 2,500	0
Total to all cities under 2,500	8,958
Total to all townships	10,825
Tippecanoe County area	1,125,435
Tippecanoe County government	368,552
Total to all cities over 2,500	664,942
Total to all cities under 2,500	16,169
Total to all townships	75,772
Lafayette City	518,129
West Lafayette City	146,813
Tipton County area	212,877
Tipton County government	146,866
Total to all cities over 2,500	36,509
Total to all cities under 2,500	14,341
Total to all townships	15,160
Tipton City	36,509
Union County area	75,294
Union County government	45,736
Total to all cities over 2,500	0
Total to all cities under 2,500	18,979
Total to all townships	10,578
Vanderburgh County area	3,021,321
Vanderburgh County government	1,112,955
Total to all cities over 2,500	1,863,003
Total to all cities under 2,500	0
Total to all townships	45,363
Evansville City	1,863,003
Vermillion County area	194,106
Vermillion county government	115,630
Total to all cities over 2,500	32,038
Total to all cities under 2,500	27,340
Total to all townships	19,098
Clinton City	32,038
Vigo County area	2,107,724
Vigo County government	995,421
Total to all cities over 2,500	1,091,645
Total to all cities under 2,500	20,658
Total to all townships	0
Terre Haute City	1,039,147
West Terre Haute City	52,498
Wabash County area	495,009
Wabash County government	227,900
Total to all cities over 2,500	227,354
Total to all cities under 2,500	21,988
Total to all townships	17,766
North Manchester Town	39,924
Wabash City	187,430
Warren County area	155,243
Warren County government	119,385
Total to all cities over 2,500	0
Total to all cities under 2,500	17,718
Total to all townships	18,140
Warrick County area	391,080
Warrick County government	288,575
Total to all cities over 2,500	39,735
Total to all cities under 2,500	41,972
Total to all townships	20,798
Boonville City	39,735
Washington County area	221,457
Washington County government	143,116
Total to all cities over 2,500	37,132
Total to all cities under 2,500	18,452
Total to all townships	22,758
Salem City	37,132
Wayne County area	981,427
Wayne County government	358,265
Total to all cities over 2,500	464,409
Total to all cities under 2,500	122,206
Total to all townships	36,547
Richmond City	464,409
Wells County area	208,163
Wells County government	121,475
Total to all cities over 2,500	60,234
Total to all cities under 2,500	16,792
Total to all townships	9,663
Bluffton city	60,234
White County area	254,568
White County government	151,920
Total to all cities over 2,500	36,801
Total to all cities under 2,500	40,580
Total to all townships	25,267
Monticello City	36,801
Whitley County area	236,718
Whitley County government	146,183
Total to all cities over 2,500	39,560
Total to all cities under 2,500	25,890
Total to all townships	25,085
Columbia City city	39,560

DEFENSE AND INTERNATIONAL ISSUES—ADDRESS BY ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS

Mr. TOWER. Mr. President, I am pleased today to bring to the attention of my colleagues, an address by the Assistant Secretary of Defense for International Security Affairs, Mr. G. Warren Nutter, before the American Legion's 54th annual National Convention in Chicago on August 22. In order that all Senators may have an opportunity to review these remarks on Defense and International issues, I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

DEFENSE AND INTERNATIONAL ISSUES

It is a great pleasure for me to participate again in the program of the American Legion. I am particularly pleased to be here today, for the Legion has always supported a strong and viable national security policy. Your support on this vital issue is needed now more than ever before.

I have been asked to speak on defense and international issues. This subject is one which, in this election year, we will hear a great deal about. Over the next several months all of us will be subjected to a wide variety of speeches—most of them highly partisan—about the state of the world and our place in it. Today I will address those same questions. But my remarks will not be partisan in nature. Rather, I shall attempt to give you an overview of the problems that underlie military planning and that we in the Department of Defense must therefore take into account.

Many factors have shaped our foreign policy over the past three years, but none has been so important, or so affected our thinking and planning, as the great increase in Soviet strategic power. This generation of Americans must face—and cope with—a Soviet Union that is now approaching a state of virtual strategic parity with the United States. The fact that the Soviets have been able to build the world's second most powerful military machine, and have now reached the stage where they can project that power worldwide, is largely the result of three factors.

First, it is now reasonably clear that the results of the Cuban missile crisis profoundly influenced both the military and civilian leadership of the Soviet Union. They apparently made a conscious decision, after their backdown in Cuba, never to be placed in such a situation again. The great surge in their missile and naval construction programs dates from shortly after that crisis.

The second factor was the decision in the mid-1960's to forgo the heavy expenditures that would have been necessary to maintain US nuclear superiority in the face of the Soviet buildup.

Third, the Vietnam War, as it reached its peak in the 1966–68 period, drew ever more heavily on both our attention and our resources. The billions we were pouring into that war meant less for our strategic forces.

Nor was the only legacy of the war in Vietnam. As 1969 began, America was torn by internal dissension over the neglect of our domestic needs and the future course we should pursue in Southeast Asia. It is an irony of history that, at precisely the time the Soviets were moving into the role of a world power, backed by a full panoply of nuclear weapons, our own people were coming to doubt both the reality of the Soviet threat and the necessity for America's own world role.

It was against this background that the President announced the Nixon Doctrine. Its purpose was to set a new course for American foreign policy, a course based on changes in the world that made this policy not only desirable, but also necessary. These changes are well known, but are often not considered as we discuss and debate international affairs. Recognition of these changes now forms the basis for our new foreign and national security policies. The President outlined, these changes in his foreign policy report to the Congress:

The recovery of economic strength and political vitality by Western Europe and Japan.

The increasing self-reliance of the states created by the dissolution of colonial empires.

The break-up of unity in the Communist Bloc.

The end of an indisputable U.S. superiority in strategic strength.

The growth among the American people of the conviction that other nations should play a greater role in providing for their own defense.

One of the President's most urgent tasks was to reverse the escalation of American involvement in Vietnam without abandoning the South Vietnamese to an, at best, uncertain fate.

The Paris Peace Talks had been underway since spring 1968, without result. What was needed then was a complement to, and alternative for, those negotiations.

The answer was Vietnamization. Its purpose was to shift primary responsibility for defending their homeland to those most directly involved—the Vietnamese themselves.

Vietnamization has been a success:

In January 1969, U.S. authorized military strength in Vietnam was 549,500;

On September 1 of this year that figure will be 39,000;

During 1971, the South Vietnamese army, up to 1.1 million from the 1968 level of 800,000, conducted twenty major combat engagements for every one involving U.S. forces; during 1972 our ground combat forces have been reduced to two company size security units;

In 1969, the additional costs of the Vietnam War to the U.S. were $20.5 billion; the FY 72 estimate is $7.1 billion, down by about 85 percent since 1969;

Our combat deaths are 95 percent below the peak casualty figures of 1968.

A second challenge to the new administration was to assure strategic nuclear power sufficient to deter nuclear blackmail or attack. We have undertaken major programs for improvement and modernization of our strategic forces to meet this challenge. Thus, the FY 1973 defense budget funds such major programs as: development and procurement of the TRIDENT submarine; continued development of a new strategic bomber, the B–1; modernization of our MINUTEMAN force; deployment of the new POSEIDON missile; and continued deployment of the SAFEGUARD ABM system, subject to the changes required by the ABM Treaty.

But in so doing, we have not slighted the requirement for building and maintaining. adequate conventional forces. Thus, we have also shifted savings resulting from our decreased Vietnam expenditures to force modernization and increased pay for our men in uniform. All of this has been done at the same time that the defense share of the budget and of GNP has been reduced. Today a greater proportion of the national budget is spent on human resources than on defense.

The reduction in our land-based forces in Asia means that our naval forces will take on added importance as both a military and political instrument to protect U.S. power and presence in that part of the world.

As we reduce our forces in Asia, it will become increasingly important for our own security that our friends and allies remain strong. To ensure this strength our program of security assistance must provide the training and materiel to friendly nations whose manpower—not ours—will form the basis for deterrence against conventional war.

And this is the essence of the final element of the Nixon Doctrine—a new emphasis on partnership. Just as we have sought to help South Vietnam to assume responsibility for its own defense, so we are moving to encourage our European and Asian allies to take on a greater share of the common defense burden. Our NATO allies have already taken measures to increase their alliance-related expenditures; they have been asked to do even more. Equally, our Asian allies will assume a greater share of responsibility for conventional defense.

As we shift responsibilities to our allies, we will need to consider carefully the new role and responsibilities of our own general purpose forces. They will need to be highly trained, extremely mobile, and well equipped to respond to a variety of potential crisis situations. Our National Guard and Reserves must be ready to supplement, when necessary, our active forces. And our force planning must take into account the force planning of our friends and allies.

Through the use of this Total Force Concept, we can make the most efficient use of our own forces. It will be especially necessary to do so as we move to the all-volunteer force next year.

We have not, of course, solved all of the major international issues that confronted us three years ago. Manifestly, the tremendous increase in Soviet military power carries with it the potential for increased US–USSR confrontation. Thus, there is an even greater need for restraint on both sides. An "era of negotiation" is not simply preferable, it is essential.

At the same time that the President was moving to reduce our Vietnam involvement and assure our continued military strength, he was also moving to open negotiations with the Soviet Union.

Hopefully, the results of the President's trip to Moscow will lead to further progress on issues that bear on the US–Soviet relationship. The President's trip was, of course, a central element in our effort to establish a more positive relationship with the Soviet Union, just as his trip to Peking was designed to re-establish contact between the US and Mainland China and thus to contribute to a relaxation of tension in Asia and the world.

The agreements reached at the Moscow summit signal the emergence of a new pattern of relationships between the United States and the Soviet Union. The most important of the agreements signed were the two limitations of strategic armaments:

The treaty limiting deployment of anti-ballistic missile systems, which has already been ratified by the Senate; and

The five-year agreement limiting selected offensive strategic systems, which is now being debated in the Congress.

Other agreements reached are of importance in this era of reduced tensions. They include:

An agreement designed to prevent incidents at sea and in airspace over it between vessels and aircraft of the US and Soviet navies. This understanding should prevent accidents between ships and aircraft operating in close proximity.

Co-operative ventures in space, including a joint docking in 1975, and in science, technology, health, and environmental protection.

New exchanges in the fields of education and culture.

Establishment of a joint commission on commercial and economic relations, with a view toward expanding trade between the two nations.

Let us look, for the next few minutes, at some of the lessons we have learned and the problems we will face in the years ahead.

It is a prophetic fact that Europe is one of the most stable parts of today's world, despite the fact that East and West have longest been in confrontation there. Two world wars began in Europe. Yet today that continent has been at peace for almost 30 years—longer than at any other time in the 20th century.

There is, I suggest, a lesson to be learned from the European experience, and it is this one: that the military strength of the United States and its European allies has furthered the cause of peace, not hindered it. NATO was the shield that provided the time and confidence necessary for Western Europe to rebuild and then move on to a new era of prosperity and unity. NATO is the shield that has deflected the Soviet Union and the Warsaw Pact from a policy of threat and coercion to a policy of detente. The history of East-West relations in Europe over the past three years has been a hopeful one.

Last year the four powers responsible for Berlin negotiated an agreement that facilitates access to the city for West Germans, makes life more tolerable for West Berliners, and, we hope, lessens the tension between East and West generated for so many years by that divided city.

The West will soon begin discussions with the East leading to a Conference on European Security and Cooperation.

Finally, we expect, in parallel with a Conference on European Security, to begin negotiations on mutual and balanced reductions in the forces of both sides in Europe.

There are those who argue that NATO has served its purpose; that in an age of detente American troops are no longer essential to preserve the peace in Europe. This is dangerous and misguided counsel. It does not seem to me the best of logic to argue that we should reduce Western strength—and thereby weaken Western cohesion—at precisely the time when strength and cohesion are beginning to pay dividends. Now, when we may be moving into an era of a more mature Soviet European policy, is hardly the time to throw away the card that led to that new approach.

But what we can and must do—in keeping with the economic realities around us—is to ask our European allies to accept a greater share of the cost and responsibility for maintaining the strength so necessary to the eventual success of detente.

Apparent Soviet restraint in Europe has not always been matched by equal sensitivity elsewhere. In the Middle East, the Soviet

Union has threatened the local Arab-Israeli balance of power by massive arms deliveries to its Arab clients, also establishing a major military presence of its own. In the case of Egypt, it now appears the Egyptians found such a presence intolerable. The Soviet presence in the area, now reduced, entailed the particular danger that what might otherwise be a purely local conflict could escalate into a struggle in which Soviet forces were directly involved. It also leads us to wonder whether there is a broader purpose to that presence, and to note that major Soviet military power in the Eastern Mediterranean poses a threat to NATO's southern flank. As a counter to that threat, we must ensure the continued presence and strength of the Sixth Fleet.

Twenty years of conflict in the Middle East is demonstrable proof that there is no easy solution for that troubled area. Our course has included these points:

Support the concept of negotiations under the aegis of Ambassador Jarring between the Israelis and the Arabs to achieve an overall peace agreement in accordance with the United Nations Security Council resolution of November 1967;

Remain available to both Israel and Egypt to assist in exploring an interim agreement involving re-opening the Suez Canal and some Israeli withdrawal;

Encourage the maintenance of the current ceasefire that resulted from President Nixon's initiative in the summer of 1970;

Continue our efforts to persuade the Soviet Union to exercise a restraint we are prepared to match if and when the Soviets give proof of their willingness to agree to some limitations for the area; and

Provide Israel with the military equipment necessary to maintain the local balance of power and to ensure its security.

In the Far East, the central questions we face turn on our relations with Japan and China, and the role each will play in the years ahead.

Japan is of paramount importance to our position in the Pacific and the prospects for security and stability in the region. A close relationship with Japan will remain a basic objective of our policy. But we must continue to adapt that relationship to reflect the new pride and strength of Japan and the waning of the postwar, bi-polar system. Part of this adaptation will involve developing a more balanced bilateral relationship with Japan, particularly in sharing the burdens of maintaining stability and peace in Asia and the Pacific.

It is most important that we do all we can to develop a new relationship with the most populous country of the world, China. The President's trip there marked the first substantial step on this road. In all candor, this initiative—coupled with our new economic policies—troubled Japan, who feared that we would act unilaterally on a matter of vital interest to her. But the basic purpose of our China policy is to encourage that nation to play a more constructive role in Asia, and eventually beyond; a role consistent with her weight, but one which recognizes the legitimate interests and aspirations of others. Improved Sino-American relations will not be at the expense of old friends and allies in Asia who must live with China as an ever-present reality. We believe there is increasing understanding in Japan and elsewhere in Asia of this basis for the President's initiative with China, and we will try to change the circumstances that have required such sizeable and costly American forces in Asia for so long to support those commitments.

So, the tasks before us are not easy. They will require patience. And they will require a recognition that, while we may no longer be prepared to be the world's policeman, neither do we intend to be the world's cop-out. Nor should we make the mistake of believing that the other side has everything going for it. We do not, for example, face a neighbor of some 800 million people with a growing nuclear capability and a 1,000,000 man army on our borders.

We do not head an alliance of reluctant associates most of whom would change their political and economic systems in a moment if given a chance, and all of whom are looking for greater independence from Moscow. NATO may be less monolithic than the Warsaw Pact, but it is an alliance of free peoples freely associated for a common cause.

Ours is not the way of empire; it is the way of partnership, the only way to a generation of peace. This is the fundamental message of the Nixon Doctrine.

THE OCCUPATIONAL SAFETY AND HEALTH ACT—THE MINIMUM WAGE

Mr. HANSEN. Mr. President, employers and small businessmen in Wyoming remain concerned about actions Congress has taken or has not taken on measures which affect their ability to make a living.

Because the Occupational Safety and Health Act, and the effort to increase the minimum wage seem of particular concern, I recently prepared a letter to Wyoming citizens reporting on these two issues.

Mr. President, I ask unanimous consent that this letter appear in the Record at the conclusion of my remarks.

Also, Mr. President, I have prepared a general report on activities of the Congress and Federal agencies which affect our Nation and my State of Wyoming. I ask unanimous consent that this report, entitled "Washington Roundup," be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., October 13, 1972.

To: Wyoming citizens.
From: Senator Cliff Hansen.
Regarding: OSHA, minimum wage.

Legislation to increase the federal minimum wage requirements died for lack of agreement between the Senate and the House of Representatives on differing versions. The House of Representatives several weeks ago passed a bill raising the present $1.60 hourly minimum wage for non-farm workers to $2.00. The Senate then passed a bill increasing the wage to $2.20 in two years and extending coverage to some six million additional workers—mostly domestics and government employees.

I voted against increasing the minimum wage in the Senate, for a number of reasons. The states have the authority to pass minimum wage laws if they so desire. As Governor of Wyoming, I recommended an increase in 1965 which was adopted by the Wyoming Legislature. But approval of such an increase as was voted by the Senate is not, in my opinion, in the national interest. It would price many unskilled workers out of the job market at a time when the unemployment rates are of concern, the welfare burden is growing at a tremendous rate, and the competition is greatly increasing with foreign countries who pay their working people only a fraction of what American workers receive. We are continuing to lose jobs to many countries, and an increase in the minimum wage at this time would only aid this process.

Debate in the Congress concerning the effect of the Occupational Safety and Health Act has reaffirmed the belief that workers are entitled to a safe working environment, but has also directed attention at inequities in this Act whch can injure employers and employees alike.

Earlier this year when considering an appropriations bill for the Departments of Labor and Health, Education and Welfare, both Houses approved a conference report containing a provision to deny expenditure of any Labor Department funds during fiscal year 1973 for enforcement of OSHA against employers with 15 or fewer employees.

This action was taken after members concerned about the problems caused by OSHA were unsuccessful in getting Congress to consider bills aimed at correcting inequities in the Act. I was pleased to join with Senator Carl Curtis of Nebraska in sponsorship of one of the bills to bring fairness to this law. The prohibition on enforcement against small employers was approved with the knowledge it was not a complete or permanent solution to OSHA problems, but with the hope it would give small employers time to determine what was required of them and permit changes to be made in the law by the Congress.

But, because it greatly exceeded the budget request, President Nixon vetoed the Labor-HEW appropriations bill containing the OSHA provision. The House of Representatives passed the appropriations measure a second time, once again including the 15-employee exemption. But when the Senate took up the bill, an amendment was approved which dropped this provision. Senator Carl Curtis and I then offered an amendment to prohibit expenditures for OSHA enforcement against employers with 7 or fewer employees, but this amendment failed. The Senate finally approved a provision denying the use of fiscal year 1973 funds for OSHA enforcement against employers with three or fewer employees. A House-Senate Conference Committee will have to determine the future of the OSHA provision. Conference Committee action was pending when this report was mailed.

I am confident efforts will resume when the 93rd Congress begins to secure consideration of bills to amend the Occupational Safety and Health Act to remove some of its inequities.

Cliff Hansen,
U.S. Senator.

State Scene

JOHNSON COUNTY AID

Farmers and ranchers in a part of Johnson County hit by a recent hail storm may apply for emergency loan assistance from the Farmers Home Administration, according to Senator Hansen. County supervisors are now accepting and processing emergency loans for eligible operators.

These four counties are part of a newly-authorized Resource Conservation and Development Project to be aided by the Department of Agriculture in upgrading the area's economy, providing new jobs, and protecting existing resources.

TRIBAL RECREATION AREA

The Economic Development Administration has awarded a $484,000 grant to the Shoshone and Arapahoe Tribes of the Wind River Reservation for development of a public recreation area adjacent to the hot springs swimming pool three miles east of Fort Washakie. The project will provide employment for 48 persons in the area.

EVANSTON MOTEL ADDITION

The Small Business Administration will insure 90 per cent of the loan for a $514,600 project to add 50 new units to Evanston's 47-unit Ramada Inn. Senator Hansen said $463,140 of the total cost would be loaned by a local bank. The SBA application was submitted by the Greater Evanston Development Company. At present, 15 persons are employed at the Inn. The expansion will create nine new jobs.

Senate Actions Affect Wyoming

RAILROAD RETIREE PENSIONS INCREASED

Congress has voted to override a Presidential veto of a bill granting a 20 per cent increase in the pensions of 900,000 retired railroad employees.

Senator Hansen, who voted for the pension increase and then voted to override the veto, said he felt the increase was deserved, and said it would spur Congressional action early next year to find a way to "shore up" the financing of the Railroad Retirement Fund.

President Nixon had vetoed the bill providing the increase on grounds Congress had not provided a way to pay for the added benefits. The legislation provides for a "temporary" increase through June 30, 1973, on the assumption Congress will take action prior to then to make certain the retirement fund will be sufficient to finance the increase beyond that date.

Hansen said he was confident Congress would meet its responsibility to insure solvency for the fund.

"When the Penn-Central Railroad faced bankruptcy, Congress recognized the need to protect the public and insure continuing rail service by providing financial assistance," Hansen said. "With regard to the pension increase, it is just as important to consider the welfare of retired railroad employees, and I am confident Congress will find an acceptable way of insuring fiscal solvency for the Railroad Retirement Fund so these benefits can be paid."

WASHAKIE WILDERNESS, FOSSIL BUTTE MONUMENT

Two more bills of importance to Wyoming were cleared in October by the Congress.

Senate bills sponsored by Senator Hansen to establish the 280,000-acre Washakie Wilderness Area in Fremont County, and the 8,200-acre Fossil Butte National Monument in Lincoln County, were approved by both Houses. The Washakie bill is awaiting Presidential signature, and the Fossil Butte Legislation likely will become public law before the 92nd Congress adjourns.

Both bills were initially cleared by the Senate Interior Committee, on which Hansen serves, and Wyoming citizens traveled to Washington to testify at the time committee hearings were held.

HANSEN AMENDS LAND USE BILL

During recent debate on a bill requiring states to designate federally-acceptable uses for all non-federal lands or face loss of some federal funds, the Senate accepted two amendments introduced by Senator Cliff Hansen to dilute federal authority and protect state and individual prerogatives.

The bill would have required states to designate uses for non-federal lands, submit their plans to the federal government for approval, and face loss of up to 21 per cent of airport, recreation and highway funds if the government found the state plans lacking with regard to protection of federally-designated areas of environmental significance.

Hansen's amendments removed the provision requiring the states to undertake land-use planning, removed the economic penalties that would have been imposed on states submitting unacceptable plans, and rearranged the language so as to "suggest" to states that they undertake such planning if they so desired and to offer some federal assistance to those states wishing to do so.

During Senate debate on the bill, Hansen said the concept of federal authority over uses of non-federal lands was "contrary to everything I've ever believed about state and individual rights."

ROCK SPRINGS PROJECT CONTINUES

A four-paragraph item in a 1969 newspaper originally prompted Wyoming Senator Cliff Hansen to initiate a four-year project to help the City of Rock Springs conquer a coal mine subsidence problem.

Recently, during another of many trips the Senator has made to Rock Springs to work on the subsidence problem, he announced the newest phase of the effort to fill underground mine voids so further subsidence and accompanying property damage won't occur.

Hansen and two officials of the Bureau of Mines met with City Council and Urban Renewal Board members to explain three contracts the Bureau will soon sign for continued backfilling in the city. The first two will involve work to determine land levels throughout Rock Springs and to undertake necessary corehole drilling.

The third contract will provide for actual backfilling of an area yet to be selected, utilizing most of $800,000 which Congress recently appropriated to deal with the Rock Springs problem.

Hansen also reported that work is continuing on the city's Urban Renewal Program, a segment of which will aid citizens directly affected by the subsidence.

RECENT KEY VOTES

Here is how Senator Hansen voted on recent key issues considered by the Senate: * * * *for* the Military Procurement Authorizations Bill, which passed 92 to 5; * * * *against* an amendment permitting use of highway funds for urban mass transit, which failed 18 to 60; * * * *for* the Older Americans Employment Act, which was unanimously approved; * * * *for* the Revenue Sharing bill, which passed 63 to 20.

LEGISLATIVE ASSISTANT

Mrs. Bob Koester of Sheridan has joined Senator Cliff Hansen's Washington staff as a Legislative Assistant. Mrs. Koester, formerly Marilyn Enzi, is a University of Wyoming graduate with a Master's Degree in business. She is the daughter of Mr. and Mrs. E. J. Enzi of Sheridan. Her husband, a U. W. law school graduate, is an attorney with the Federal Power Commission. Marilyn accepts an autographed section of wood from the Presidential Inauguration stands under construction at the east front of the U.S. Capitol.

WISE HOME BUYING

The U.S. Department of Housing and Urban Development has published a booklet entitled, "Wise Home Buying," which contains useful tips for potential home buyers.

The book covers such areas as how and where to finance, how to inspect your potential new home, and what kinds of home not to buy under certain circumstances. It also explains real estate terminology and defines documents home purchasers should understand.

If you would like a copy, write me at 3107 New Senate Office Building, Washington, D.C., 20510.

VETERAN BENEFIT INCREASE

Though Congress hasn't completed action yet, it is virtually certain G.I. Bill benefits to veterans seeking an education will be increased soon. The Senate voted to increase benefits to $250 per month, while the House opted for $200. Negotiations are continuing between the two Houses to reach agreement.

* * *

FOREIGN SERVICE GRIEVANCE BILL—A LEGISLATIVE ANALYSIS

Mr. BAYH. Mr. President, as you know, the Bayh-Cooper bill to establish an independent grievance procedure in the Foreign Service, which has passed the Senate twice, has been the subject of hearings during the past few months in the House.

On September 26, I had the opportunity to present testimony on the Foreign Service grievance bill to Congressman Hays' Subcommittee on State Department Organization and Foreign Operations of the House Foreign Affairs Committee. Since the discussion surrounding the Bayh-Cooper bill has often been heated—and in too many instances misinformed—I sought through testimony to offer a thorough justification and history of each provision of the bill. The discussion during the hearing was productive and I wish that all persons interested in the fate of grievance legislation could have been present.

To assist those persons who did not attend the hearing, I would like to make the testimony more accessible by placing it in the Record. I hope that this very specific discussion of the legislation will refocus attention on the substantive issues involved in the debate. Discussion has continued for nearly a year and one-half; I believe it is time to secure statutory due process in the Foreign Service so that these employees can devote their full energies to the task for which they were so carefully chosen—the implementation of our Nation's foreign policy.

Mr. President, I ask unanimous consent that a copy of my prepared testimony together with a section-by-section analysis of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement by Senator Birch Bayh Before the Subcommittee on State Department Organization and Foreign Operations of the House Foreign Affairs Committee

Mr. Chairman, I am grateful for the opportunity to appear today before your Subcommittee to testify on Foreign Service Grievance legislation. As you know, I believe there is a strong need for legislation to ensure due process in the Foreign Service; I also believe we can and should pass such legislation this year.

Mr. Chairman, the effort to secure the rights of grievants has been arduous. Until 1971, only one hearing has been granted by the Department of State during the past 15 years despite hundreds of complaints and clear antagonism to Congressional inquiries on the subject of grievances led me to introduce my bill in June 1971. That bill was based on a proposal which the American Foreign Service Association had made to the Department earlier that year but which the Department, as usual, acknowledged and then ignored. It is true that since the introduction of this grievance legislation the Department has held more hearings and promulgated some new interim grievance procedures but the due process right to which each grievant is entitled is still so vulnerable that basic rights of Foreign Service officers are left to the whims of others. The regulations are so loosely defined that their basic meaning can be changed from day to day by both the Department and the grievance board, which is selected by that Department.

In short, legislation is still needed to provide a simple, explicit procedure protecting fundamental rights such as those enjoyed by other Federal employees. Ending the present second-class status of Foreign Service Officers demands that this Bill be passed. Meanwhile, this Congress is rapidly drawing to a close. Not only have both the Senate and the House held extensive hearings, but the Senate has passed two times in this session alone a grievance bill which I believe both assures to each employee his basic rights and meets all the Department's reasonable objections. I strongly urge that this Committee consider and approve that legislation in time for final action before sine die adjournment.

Today I would like to review the history of this legislation and offer a thorough comparison of the various proposals before you: the original Bayh-Hamilton bill (S. 2659 and H.R. 10304), the compromise Bayh-Cooper bill (S. 3722 and H.R. 15457), and the Interim Grievance Procedure (IGP). I am submitting a tabular comparison of the bills which you may find helpful.

As I mentioned the Bayh-Hamilton bill was introduced in both Houses on June 8, 1971. In October of that year the Senate Foreign Relations Committee held two days of hearings but was unable to obtain any substantive analysis of the bill from the State Department. Although the American Foreign Service Association (representing 7,500 Foreign Service employees) and the American Federation of Government Employees had supported S. 2659 since its introduction, the Department's main response throughout 1971 was a general argument against any kind of legislation "at this time." To forestall action, the Department did promise in October to have its own alternative proposal ready by mid-winter of 1971. Unfortunately, mid-winter only brought further arguments for delay; late winter brought a request from Secretary Rogers himself for a special hearing so he might testify against legislation. Whatever the Secretary's arguments were, it is worth noting that he declined to make them when the Committee requested him to explain his position in an open hearing. Five months had passed since the October hearing without any progress, fresh information, or real cooperation by the Department. Meanwhile, the Committee became anxious to vote on the legislation; all parties realized that Convention and election recesses would only impose further delays on the possibility of final legislation action.

In March of this year the Committee on Foreign Relations indicated that it felt a responsibility to approve legislation soon. Senator Cooper, representing the Committee, and I began drafting a compromise designed to respond to the best suggestions from all the interested parties; our staffs met with representatives of the State Department, representatives of all employee groups, lawyers working on pending grievance cases, and with the Chairman of the Interim Grievance Board, Mr. William Simkin. Senator Cooper took the time to go to the State Department to discuss the fine points in the legislation. Thus, efforts at conciliation with the State Department extended far beyond the November hearings. During a solid month of constant discussions, five successive drafts were prepared, all interested parties were given a chance to comment, and changes were made to reflect all legitimate concerns. The result was the bill before you today, S. 3722. While some former supporters of S. 2659 have refused to support S. 3722 because they feel the original bill was weakened in drafting the compromise, opponents of the legislation claim the bill is unreasonable and unworkable; however, the employee organizations, the Foreign Relations Committee, a great majority of the Senate, and I feel S. 3722 represents a workable and effective compromise.

The bill has not been conceived hastily, or brought to this Committee without repeated efforts to resolve differences. And yet the bill continues to be the victim of the plea: "Delay." Mr. Chairman, we can delay the morale of the Foreign Service. The Department has had 26 years to internally negotiate acceptable grievance procedures. During that time it has not only ignored employee complaints, but has managed to exempt itself from a 1969 executive order imposing a uniform employee relations code on all Federal agencies. It has just spent over a year fending off reforms similar to those which Dean Rusk recommended in 1962—but which his subordinates never carried out. The situation would be ludicrous if it were less serious. The frustrations from blockaded complaints has continued to build over the years and has now been compounded by the Department's transparent delaying tactics until in-house debate is nearly impossible. That is why we are faced with a crisis of mistrust. And that is why legislation is necessary. The Department has already been given ample opportunity to take its own initiative and has failed; this legislation is reasonable—perhaps embarrassing, but reasonable—and I urge the Subcommittee to approve it so that the State Department can stop its infighting and redirect its attention to foreign policy.

With that introduction, I would like to explain the most important differences between the original and compromise bill and my reasons for supporting each provision in the compromise.

The general objective of the compromise was to eliminate unnecessary rigidities in the legislation so as to allow the Secretary and the grievance board sufficient flexibility to meet changing needs in the Foreign Service. The Secretary is given substantial authority to author and revise the implementing regulations; the board has authority to structure each hearing to meet the particular situation.

I believe you have already heard a persuasive argument from Mr. Simkin in favor of increased discretion for the Board. Of course, such discretionary authority for the Secretary and the board had to be balanced by guarantees that any situational adjustments would be made objectively and impartially. Therefore, the Board is designed to be as independent as possible from the Department. Its broad discretion is matched by an "outsiders" viewpoint compelling its adherence to general principles of due process rather than to past biases of the State Department. The Secretary's authority to change regulations is balanced by the explicit inclusion of the grievance procedures under the Administrative Procedures Act—thus any changes must meet the legal community's precepts of due process. I believe these two provisions are prerequisites of a credible self-correcting procedure.

As you know, our prominent priority was to establish an independent board with sufficient power to truly mediate between the Department and employees both on important and on insignificant matters. The rest of the bill is largely a compilation of basic rights of due process such as:

1. The right to a hearing;
2. The right to representation at all stages of the proceeding;
3. The right of access to documents relevant to a grievant's case;
4. The right to call witnesses from the Department and to cross-examine those provided by the other side;
5. The right of access to a transcript of the hearing;
6. The right of freedom from interference or coercion while presenting a grievance; and
7. The right to a reasonable expectation that after a fair hearing the findings of the Board will be carried out, and that if any due process rights are violated, the Board will have the power to enforce disciplinary action.

The employees can ask for no less; any grievance procedure worthy of the respect of the potential grievants and the public must be based on such rights. Again, I emphasize that this legislation merely provides the framework of a procedure. The language needed to secure the rights may be detailed, but the real details of the process are left up to the Department and the employees. I strongly object to any hint that the Congress of the United States has no business securing these rights for American citizens. It is not only our business; it is our duty. Unfortunately, the Department has demonstrated repeatedly that as a "special" agency, it has not had sufficient experience with day-to-day grievance problems and with vigorous internal disagreement to draw up its own workable and balanced grievance procedure. I'm sure you will agree that the Congress has had sufficient experience to secure protections for both sides.

SECTION-BY-SECTION ANALYSIS

Now, if I may I will begin a Section-by-Section analysis of the compromise bill, with comparisons to the Interim Grievance Procedure.

Sec. 691—Statement of Purpose

This section states that the bill is designed to provide to grievants and their survivors a grievance procedure guaranteeing "the fullest measure of due process, and to provide for the just consideration and resolution of grievances." This basic statement of purpose underlies the whole bill. It is this standard against which all regulations and actions must be measured because all regulations issued by the Secretary must conform with this basic purpose.

Sec. 692—Regulations of the Secretary

Section 692 guarantees certain basic rights to every grievant and gives to the Secretary the authority to implement the grievance resolution scheme which this bill establishes. The original bill made no provision for regulations or adjustments by the Secretary because of the thought that the Department would drastically curtail employee rights. Persistent comments from employee groups indicated that the grievant's rights of due process had been so narrowly defined under FAM 1820 and the Interim Grievance Procedure that they were seriously compromised.

For example, let us take a more obvious right—the right to a hearing. Under the old State Department regulations (which supposedly guaranteed the right to a hearing), a grievance first had to be handled administratively; if administrative channels did not produce satisfaction, the employee could elect to have a hearing before a three-member committee which the director of personnel was required to appoint within five days of the employee's request. However, in the three hearings which were actually held—although there were hundreds of requests—appointment of the hearing board was delayed for over a year, despite proper requests by the employees. In two cases, it was necessary to use court action to compel the State Department to establish one of these hearing boards. Under the Interim Grievance Procedure, more burdensome qualifications are placed upon the grievant's right to a hearing, such as an extensive and time-consuming informal consideration of the complaint, and consideration by the Board of its jurisdiction in the case. Even if the Board accepts the case, it may decide to conduct its investigation as a series of group meetings or personal interviews. A hearing is held only if the grievance is a "major" one, as defined by the Board. These examples only serve to demonstrate that narrow definitions have often served as real or potential loopholes for the Department. Every precaution must accompany a decision to give the Department power to change regulations or definitions and to open its own loopholes.

However, I do believe the Department should be able to adapt the grievance mechanism to changing circumstances, and to promulgate implementing regulations, within broad outlines established by legislation. The original bill would have put into statutory form all aspects of the proceedings. As I mentioned, Senator Cooper and I have attempted to do everything possible to avoid hamstringing the Secretary, to give him the discretion to make his own decisions. We deleted from the bill all but those basic rights, such as the right to a hearing, representation, cross-examination, etc., which guarantee due process. The Department and employee representatives are expected to add necessary details of procedure to the basic structure or guarantees in the legislation.

To resolve the dilemma of how much "amendment" power to give the Secretary, this section authorizes the Secretary to promulgate and revise regulations only if they are completely consistent with the statement of purpose and with the statutory guarantees of due process in the bill. The Secretary is given wide discretion; protection of due process is afforded by putting into statutory form only those guarantees which are absolutely vital rather than by legislating in excessive detail.

Sec. 692(1)—Informal procedures and definitions

Section 692(1) provides a short "informal" procedure and establishes definitions for the legislation. The original bill required a hearing to be held whenever a complaint was filed; the goal was an indestructible right to a hearing. The Department has argued that a hearing would be time-consuming in cases which are resolvable and that each party should be given a chance to correct past mistakes before the problem is resolved formally. Although some groups were adamently opposed to informal procedures because of the Department's past record of undue delay and informal pressures on the employee to drop the complaint, Senator Cooper and I did agree to a floor amendment during the Senate debate providing for a 60-day informal procedure. This procedure should be further refined in a manner consistent with the purpose of the legislation by the Department and employee representatives.

Given the fact that the foreign service is designed to be an outstanding group of people with high *esprit de corps*, many ordinary complaints should be able to be resolved during informal negotiations. But in any case presenting difficult obstacles, the grievant must be given the absolute right to present his grievance to the Board for impartial consideration. Thus the definition of grievance is purposely broad, but the Board may establish a working definition of remediable grievances over time through precedent. Unreasonable grievances will certainly be filed, but their rejection will discourage others. The Department has argued that such a broad definition will lead to a flood of filings, but the American Foreign Service Association has rightly pointed out that only 3% of the Service filed grievances when invited to do so under the retroactive provisions of the IGP. It might be of interest to point out that Chairman Simkin of the IGP endorsed the definition of grievance under my original bill which is comparable in scope to the present definition.

Sec. 692(2)—Board and its duties

Section 692(2) establishes the board and guarantees its independence. Since the compromise bill gives wide discretion to the board in matters of central concern to the grievant, there must be no question of its impartiality and independence. Under S. 3722, the board consists of 3 permanent members, none of whom are officers or employees of State, AID, or USIA. One is chosen by the Secretary, one by the employee organization, and the third by the first two from a roster of 12 agreed to by the Department and employee organization. It should be noted that while the original bill required a new board for each hearing, the compromise bill provides a permanent board which can gain experience with time.

Chairman Simkin has proposed a nine-member board with flexible 3-member panels as an alternative. His declared objectives are certainly appropriate, but I would insist that even after rotations and choice of alternates, each 3-member voting panel be composed of one member chosen by the Secretary, one by an employee representative, and the third by the first two. Thus, neither side would have a clear choice of more than one of the three members. Obviously, this balance contrasts sharply with the composition of the Interim Board, all of whose members were designated by the Secretary after a perfunctory consultation with employee groups.

The rest of this section 692 (2) is self-explanatory, requiring only two remarks. First, regulations adopted by the Board must be "in accordance with this part". This language provides a standard against which objections to the Board's governing regulations may be heard. Second, the records of the Board must be separate from all other Department records. Promotion panels or any personnel officers must not be given free access to the records of grievances filed.

Sec. 692(3)—Time limits

Section 692 (3) provides a time limit for the initial filing of a grievance. The section parallels the IGP except that employees are given slightly more time to consider whether they wish to file grievances. S. 3722, unlike S. 2659, places a time limit on the filing of current grievances because of the Department's concern about locating past records.

Sec. 692 (4)—Conduct of hearing

Section 629 (4) provides a basic framework of due process for a hearing. Provisions governing the conduct of a hearing are no more laborious than the regulations under the IGP; they simply secure the rights of grievants more tightly. There is nothing more basic to due process under our system of laws than a fair hearing. This is especially true in a two-step procedure such as this with only one chance for a "day in court." That one chance must assure the grievant that his problem has received the fullest attention. As comparison, under the Civil Service regulations, an employee with a serious complaint is not only afforded a hearing before an examiner, but is allowed two separate appeals outside the agency. A hearing is also necessary because in the past alternatives to a hearing—such as a combination of investigation and hearing—have allowed either side to present the Board information without providing opportunity for rebuttal by the other side. For instance, under the IGP (Interim Grievance Procedure), one grievant discovered reference to a damaging inspector's report only upon receipt of the Board's final decision. He was unaware of the inspector's report during the course of the hearing although two members of the Board had interviewed the inspector during the course of their investigations. In other cases under the old regulations, the Board or personnel officers have been charged with examining non-security documents withheld from the grievant and of informally contacting the very supervisors charged by the grievant. A hearing would preclude these investigative abuses.

To continue the summary of this subsection: the grievant and his representatives are entitled to be present at the hearing, i.e., the hearing shall not proceed without their knowledge, Testimony is given by oath to ensure its realiability. The IGP, the original bill, and the compromise provide for cross-examination of any witness; the compromise stipulates in addition that such interrogatory must be relevant.

Provisions for calling witnesses do vary from bill to bill. The IGP does not permit a grievant to call hostile or reluctant witnesses such as a superior who wrote a damaging report. In practice the Department has even failed to supply witnesses requested by the IGP Board. S. 2659 permits the board to request hostile witnesses on behalf of the grievant. In conformance with general court practice, if the witnesses are not made available within a reasonable period of time, the facts at issue are to be construed in favor of the grievant. S. 3722 is similar to S. 2659 except that the grievant may call witnesses himself. In deference to a Departmental criticism, S. 3722 permits testimony by deposition since many witnesses are overseas. Finally, S. 3722 unlike S. 2659, does not require a copy of the transcript to be furnished without charge to the employee because of the expense. Of course the employee may order his own copy or have access to the file copy of the transcript which is required by the bill, as record for an appeal.

Sec. 692(5)—Freedom from restraint; Right to Counsel

Section 692(5) grants to each grievant the right to be represented by counsel at all stages of the proceeding. Both grievants and witnesses are to be free from departmental coercion and are entitled to reasonable periods or administrative leave in which to testify. This subsection, too, basically parallels, while expanding, the IGP. First, a grievant is entitled to counsel at every stage of the proceedings under S. 3722, but only "in presenting a grievance" under the IGP. Since informal procedures and prehearing conferences can often be complicated, grievants must be entitled to counsel at these stages. Second, participants in the hearing are granted "reasonable" periods of leave or free time under S. 3722 and the IGP but the IGP specifically requires a determination by the IGP Board that each participant's presence is necessary. Such determination could infringe the grievant's right to call hostile witnesses. Both S. 3722 and the IGP guaranatee freedom from restraint or reprisal; grievants have frequently complained of such problems.

Sec. 692(6)—Board's Access to Documents

Section 692(6) specifies that the board shall have access to all relevant documents. Although some limits on the grievant's access to documents are necessary, the board must have complete access to relevant documents or its decisions will not be based on a wholly informed perspective. S. 3722 provides for appropriate security measures during such review, and requires notification of a rating officer if his reports are being examined. IGP regulations place no explicit limits on the board's access to documents, but fail to ensure such access. Under one recent case the Department refused to provide the IGP board with security and security-related files, and failed to respond to the Board's request for other files. Since the Department's standard definition of security and privileged matter is broad, this practice imposes a severe restriction on the IGP board. Since the Department has failed to acknowledge, rather than refused, to honor requests for documents or witnesses, the IGP board cannot invoke its existing authority to interpret a refusal as an admission of the truth of the grievant's allegation.

Sec. 692(7)—Grievant's Access to Documents

Section 692(7) gives a much more limited right of access to documents to the grievant. The debate over what access to documents a grievant should have has continued throughout consideration of the bills. I strongly believe that the grievant must have access to all relevant records other than security records or personnel or security records of another officer. To avoid any potential for abuse, S. 3722 requires as a precondition to access, a determination by the board that the document is both relevant and material.

The wisdom of adopting such a position is buttressed by reference to the 1964 Act to Reorganize the Foreign Service. The legislation states, "Under such regulations as the Secretary may prescribe and in the interest of efficient personnel administration the whole or any portion of an efficiency record* shall, upon written request, be divulged to the officer or employee to whom such record relates." Yet, despite this clear statutory mandate, even today foreign service officers do not have access to most of the 12–14 files which pertain to their own performance and careers.

---

*Records considered by the Director General to be pertinent to the preparation of an evaluation of the performance of an officer or employee.

Provisions of the IGP are particularly inadequate on this point and demonstrate the lengths to which Department officials are prepared to go to prevent access to documents. Not only must grievants justify to the IGP board the relevance of official records (most of which employees have never seen), but they are responsible without assistance for procuring all non-official evidence—much of which is contained in the "privileged" non-official files. Such a procedure is badly skewed against adequate defense work by the employees.

Sec. 692(8)—Security Clearance

Section 692(8) requires the Department to expedite security clearances if necessary to assure a fair hearing. Obviously, a lack of security clearances can be as effective a bar to a fair hearing as a rule precluding access to documents. There is no corresponding section under the IGP.

Sec. 692(9)—Rules of Evidence

As is true of most administrative proceedings, the Board may consider any evidence it considers relevant and which is made part of the record.

Sec. 962(10)—Suspension of Departmental Action

The sole purpose of this subsection is to permit the Board, at its discretion, to suspend Departmental action which may adversely affect a grievance. For instance, since selection out of a difficult assignment could be detrimental to a grievant whose health is poor, the Board may decide to delay action for a few months. Like a court, it has the power to maintain the status quo pending the outcome of the proceedings.

The Department is concerned that every employee who dislikes a particular assignment will file a grievance in hopes of delaying his date of departure. I simply do not believe the Board would invite a flood of grievances by establishing the precedent of automatic or frequent suspension of Departmental action. S. 3722 only allows such a delay; it does not mandate it.

Chairman Simkin has argued that suspension could be viewed as prejudging the case. Nothing could be farther from the truth. All our courts at times find it necessary to preserve the status quo, usually with an injunction, during the pendency of a legal proceeding. Such action is by no means a judgment on the merits, but is only a necessary tool, needed to preserve the rights of all parties until the resolution of the legal and factual questions presented.

Sec. 692 (11)—Rulings by the Board

Section 692 (11) gives the board power to order final relief unless that relief pertains to promotion, assignment, or selection out, in which case the Secretary can reverse the board's recommendation if he believes the foreign policy or security of the U.S. would be adversely affected. Although the question of the board's power to grant relief has been the subject of considerable debate, I do not believe that S. 3722 is significantly more difficult for the Secretary than the IGP. Both allow the board to make final decisions in cases requiring normal redress. In those cases requiring redress related to promotion or assignment (plus selection out under S. 3722 and disciplinary action under IGP), both S. 3722 and the IGP authorize a recommendation by the board which is subject to review and final, written decision by the Secretary. The basic difference is that under S. 3722, the Secretary must review the case himself and reject the recommendation only if the foreign policy or security of the U.S. would be adversely affected. Under the IGP, the Secretary can reject a recommendation for absolutely any reason, no matter what its relation to the controversy.

Of course these distinctions stem from differences in philosophy between the two approaches. The IGP board is a theoretically impartial, in-house body which is clearly and explicitly under the authority of the Secretary. Under S. 3722 the board is specifically outside the Department's personnel system and is given independent stature and authority. To adopt the IGP approach and give the Secretary authority to reject the decisions of an independent board for any reason would make a farce of neutral grievance adjudication. The result soon would be a lack of confidence in the possibility of fair redress from the system, regardless of how fair the hearing was. Therefore, I believe it is essential to allow the board to order fair, reasonable redress. The Secretary still has the power to overrule but only for legitimate reasons which relate to valid concerns of the Department.

Sec. 692 (12)—Records

Section 692 (12) provides that no notation of a grievance filing or adverse decision shall be entered into any Department records other than the Board's own records, because of the fear of discrimination against those who file grievances. Necessary corrections of personnel files shall be made according to the board's findings but the Department shall not maintain a tally sheet of filed grievances. The IGP excludes notations of an employee's participation in a grievance only from his personnel file.

Sec. 692 (13)—Reconsideration

I believe this subsection is not controversial; it specifies that a disappointed grievant can obtain reconsideration only upon presenting newly discovered relevant evidence, and then only upon approval of the Board.

Sec. 692 (14)—Enforcement

Effective enforcement of the board's rules and of the guarantees contained in this bill is essential. This subsection authorizes the board to recommend to the Secretary appropriate disciplinary action for any person who contravenes any of the rights, remedies, or procedures guaranteed by the bill.

Although the Secretary can reject such informal recommendations, one whose rights have been violated is then entitled to file a formal grievance, alleging deprivation of due process.

As mentioned earlier, complaints by grievants of reprisals have been frequent. Retaliation, coercion and interference have been alleged present in at least 20 percent of the 65–70 grievances handled by the American Federation of Government Employees, Local 1534, during 1971. Although IGP regulations state that "each employee has freedom to seek adjudication of a grievance without fear of interference, coercion or reprisal," during one hearing the Director of Personnel's representative objected to any consideration of reprisals or due process failures as beyond matters appropriately subject to the grievance procedure.

An additional abuse requiring effective enforcement is the failure to provide witnesses. Under the IGP, which admittedly does not allow a grievant to call hostile witnesses, the Department refused to make employees available for testimony despite strong written requests from the Board to the Department.

In view of this past record of Departmental violation, the possibility under the IGP of summary and final rejection by the head of the agency of the board's recommendation with regard to disciplinary action is unacceptable.

Sec. 693—Previous filing of grievance

Because of the broad definition of grievance, some cases also may be eligible for a hearing under other procedures such as the adverse action machinery or Equal Employment regulations. In that case, the employee must choose his forum; he may not use first one then the other procedure.

Sec. 694—Judicial review

Section 694 allows for judicial review of these agency actions under the Administrative Procedures Act, as most agency actions are now reviewable.

Comparative of Foreign Service Grievances Bill Amending Foreign Service Act of 1946—Sec. 109

S. 3722	S. 2659	IGP
Title VI of Foreign Service Act (22 U.S.C. 981) is amended by adding at the end: "Part J—Foreign Service Grievances.	Same as S. 3722.	No such section; IGP is not a statute.

Statement of Purpose—Sec. 691

S. 3722	S. 2659	IGP
The purpose of Part J is to insure the fullest measure of due process and the just resolution of grievances of Foreign Service Officers, employees and survivors.	No statement of purpose.	The purpose is to establish uniform policies and procedures to consider and decide on grievances of Foreign Service Officers and employees. There is no mention of survivors.

Promulgation and Revision of Regulations—Sec. 692

S. 3722	S. 2659	IGP
The Secretary is allowed to promulgate and revise regulations consistent with the statement of purpose. These regulations may not alter or amend the statutory provisions for due process.	No provision for Secretary promulgating or revising regulations.	No such formal provision; Dept. may alter at will.

INFORMAL PROCEDURES AND DEFINITIONS—SEC. 692(1)

S. 3722

Informal procedures in accordance with the purposes of this part shall be established by agreement between the Secretary and the exclusive representative. If the grievance is not resolved within 60 days, the grievant shall be entitled to file a grievance with the Board.

Any officer or employee or previous officer or employee, (who is a U.S. citizen), or his survivor may file a grievance. A grievance is any complaint against any claim of injustice or unfair treatment of such officer or employee. Definition includes, but is not limited to:

1. actions leading to deprivation of due process
2. actions related to promotion of selection out
3. the contents of any efficiency report or security records
4. actions in the nature of adverse personnel actions and
5. separation for cause.

S. 2659

Any officer or employee of the Service who is a U.S. citizen may file a grievance which must be in writing. Defines grievance and appeal as any complaint against any injustice, unfair treatment of an employee or aspect of his work situation. Definitions include, but are not limited to:

1. actions leading to deprivation of due process
2. actions related to promotion or selection out
3. the contents of any efficiency report
4. actions in the nature of adverse personnel action and
5. separation for cause.

Grievance does not include matters of foreign policy or the general management of the State Dep't. unless it affects a right accorded an employee. There is no specific mention of security records.

IGP

A grievant may file a formal grievance only after informal discussions have failed. A formal grievance must follow a complicated outline: it must be in writing; it must identify and clarify the basis of the grievance; it must specify the personal relief requested; and it must contain all the correspondence made and received under the informal procedures. A grievance is defined as any matter of concern or dissatisfaction to an employee which is subject to control by his employing agency. Matters specifically excluded are personnel assignments, nonselection for promotion or selection for involuntary retirement, and others. There is no mention of security records or actions related to adverse personnel actions. It does not state that a survivor of a Foreign Service Officer may file a grievance.

BOARD AND ITS DUTIES—SEC. 692(2)

S. 3722

1. The board is composed of independent, distinguished, U.S. citizens, who are not officers or employees of State, USIA, or AID. The board consists of 3 members, one of whom is appointed by the Sec. of State, one of whom is appointed by the employee representative, and one who is appointed by the other 2 members from a roster of 12 independent citizens agreed to by the Secretary and the employee representative. The Board elects a chairman for a two-year term.

2. Members shall serve 2-year terms and receive compensation at the per-diem rate paid an individual at GS-18.

3. The Board may obtain facilities and supplies, and appoint and fix the compensation of such officers and employees of the Board as it deems necessary. Officers and employees so appointed are responsible solely to the Board. The Board, in accordance with this part, may adopt regulations governing its organization and proceedings.

4. The records of the Board are maintained by the Board and are separate from all other Department records.

5. Provisions are made to deal with additional panels.

S. 2659

1. The board consists of 3 members, one of whom is designated by the Federal Mediation and Conciliation Service and is designated the chairman, one of whom is appointed by the Dep't., and one of whom is appointed by the grievant.

2. All members serve for 2-year terms except the member appointed by the grievant who serves until the grievant's complaint is disposed. Members of the board are reimbursed by the Dep't. for travel, subsistence and other necessary expenses.

3. The chairman obtains the facilities, supplies, and employees (fixes their compensation) of the board. The chairman also assigns the business of the board to the employees. Expenses of the board are paid out of funds appropriated to the State Dep't.

4. Records of the board are maintained by the board and are separate from Dep't. records.

There is no provision for additional members or panels. There is a specific provision for disqualifications and for filling vacancies on the board.

IGP

1. The nine-member board is composed of:

(a) Two foreign Service employees or officers, each from the Dep'ts. of State, USIA and AID. These members are selected by the respective agency directors with the approval of the participating organizations.

(b) A chairman which is appointed by the Sec. of State from a list approved by agency directors and participating organizations.

(c) Two public members who are designated by the chairman from a list furnished by the Sec. and approved by the agency directors and participating organizations.

2. Assignments to the board are for the duration of the IGP. No compensation is specified.

3. The Sec. provides staff support to the board as necessary.

4. The records of the board are maintained by the board. Does not state that the records are separate from Dep't. records.

5. No provision for additional board members.

TIME LIMITS—SEC. 692(3)

S. 3722

1. Present Grievances: The grievant has 6 months after the occurrence of the injustice to file a grievance.

2. Retroactive Grievances: If the grievance arose prior to the date on which regulations are first promulgated, the grievant must then file within 1 year from the date of enactment. Excluded from the computation of any such period is any time during which the grievant could not have reasonably discovered the grounds which are the basis of the grievance.

S. 2659

1. Present Grievances: There is no time limit on filing of grievances which occur after enactment of this act.

2. Retroactive Grievances: The board shall receive and investigate for 1 year subsequent to the date of enactment of this act only grievances (or appeals) of a Foreign Service Officer who has departed the Service prior to the effective date of this act.

IGP

1. Present Grievances: Grievances which occur after regulations are promulgated must be filed within 30 days of occurrence or the date the employee became aware of the occurrence.

2. Retroactive Grievances: A grievance which occurred prior to promulgation of IGP regulations must be filed within 60 days after promulgation of these regulations or discovery of the act or occurrence giving rise to a grievance, whichever is later.

CONDUCT OF HEARING—SEC. 692(4)

S. 3722

1. The board conducts a hearing in any case filed with it. The hearing is open unless the board determines otherwise.

2. The grievant and his representatives are entitled to be present at the hearing.

3. Testimony at a hearing is given by oath or affirmation, which any board member will have the authority to administer.

4. Each party is entitled to examine and cross-examine witnesses and serve interrogatories upon another party and have them answered, unless the board finds such interrogatory irrelevant or immaterial.

5. Upon request of the board of grievant, the Dep't. must promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Dep't. If the witness is not made available in person or by deposition within a reasonable period of time as deter-

S. 2659

1. The board must hold a hearing if an employee requests one within 30 days after filing the grievance or within 30 days of the board's notice that the record failed to sustain the complaint.

2. The hearings are open unless the grievant requests otherwise. The employee and/or his representative may be present at the hearing.

3. Testimony at the hearing must be given under oath or affirmation which the chairman shall have authority to administer.

4. Each party has the right to examine and cross-examine witnesses.

5. The board may request the Dep't. to make an employee available and if in the board's judgment, compliance with its request is essential to a full and fair hearing, the Dep't. must comply with the request within a reasonable period of time as deter-

IGP

1. If the grievance is not adjudicated through the informal procedures, the board may hold a hearing if in its discretion it thinks the hearing is necessary. The board conducts a hearing in any case where it determines the grievance to be a major one.

2. The hearing is not open to the public or press. The grievant and/or his representative may be present at the hearing but the hearing may proceed without them.

3. There is no mention of testimony under oath or affirmation.

4. Witnesses called by any party, including the board, shall be subject to cross-examination from all other parties.

5. The grievant has the responsibility to arrange for his witnesses to appear (grievant cannot call hostile witnesses). On request of the board, the agency must make an employee available when it is administra-

CONDUCT OF HEARING—SEC. 692(4)—Continued

S. 3722—Continued	S. 2659—Continued	IGP—Continued
mined by the board, the facts at issue shall be construed in favor of the grievant. 6. Hearings are transcribed verbatim.	mined by the board, or else the facts at issue will be construed in favor of the employee. 6. A verbatim transcript of the hearing is provided the employee.	tively practicable to do so. If it is impractical, the agency must make him available for testimony by deposition. Refusal of a witness to testify after a special request by the board may be deemed by the board to constitute an admission of the grievant's allegations concerning that matter. The Board *may* order a verbatim transcript or written summary of the hearing.

Freedom From Restraint; Right To Counsel—Sec. 692(5)

S. 3722	S. 2659	IGP
Any grievant or witness involved in a proceeding before the board is free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative at every stage of the proceedings. The grievant and his representatives under the control, supervision or responsibility of the State Dep't. are granted reasonable periods of leave to prepare and present the grievance. The same is true for witnesses.	Same as S. 3722 except there is no specific statement on reasonable leave for witnesses to testify.	Same as S. 3722 except it does not specifically give the grievant the right to a representative at every stage of the proceedings. Language used is "in presenting a grievance" the grievant has a right to representatives. Also, time granted for participation in the hearing requires a determination by the Board that his or her presence is necessary.

Board's Access To Documents—Sec. 692(6)

S. 3722	S. 2659	IGP
1. The board has access to any document or information considered by the board to be relevant, including but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer. 2. Any such document or information requested must be promptly provided by the Dep't. 3. A rating or reviewing officer must be informed by the board if any of his reports are being examined.	Same as S. 3722 except there is no specific provision for security records. Dep't. must provide information within 5 working days of request.	Board may secure documentary evidence during an inquiry. Refusal by an agency to comply with a request by the board for disclosure of a record may be construed by the board in favor of the grievant. No explicit definition of the Board's access to documents.

Grievant's Access To Documents—Sec. 692(7)

S. 3722	S. 2659	IGP
The Dep't. must promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the government) which the grievant requests to substantiate his grievance and which the board determines is relevant to the proceeding.	No excuses for not furnishing documents: there is no specific exclusion of security records; no approval is needed from the board; and a 15 day time limit is imposed on the State Dep't. for furnishing information.	Access to personnel & security records is restricted: Grievant and representative have access to records as are deemed necessary by the board. Classified and privileged material are not available to grievant without express findings of the board that such disclosure is necessary to achieve justice and is not detrimental to the public interest.

Security Clearance—Sec. 692(8)

S. 3722	S. 3722	IGP
The Department must expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.	Same as S. 3526 except purpose is to allow any member of the board, the employee, his counsel, or any witnesses to have access to classified material.	No such provision because security material is not available.

Rules of Evidence—Sec. 692(9)

S. 3526	S. 3722	IGP
The board may consider any relevant evidence or information coming to its attention, and which shall be made a part of the record of the proceeding.	Same as S. 3526 but more explicit: The board is not limited to court rules of evidence; cases of doubt are resolved in favor of admissibility; evidence does not have to be formally presented to the board (allows hearsay); and testimony may be received in the form of sworn affidavits or in the form of unsworn statements.	The board is not limited by legal rules of evidence. However, it must maintain reasonable bounds of competency, relevancy, and materiality and have the discretion to exclude any testimony or other evidence which is unduly cumulative.

Suspension of Departmental Action—Sec. 692(10)

S. 3526	S. 3722	IGP
If the board determines that (A) the Department is considering any action (including but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.	Same as S. 3526	No such provision.

Rulings By the Board—Sec. 692(11)

S. 3722	S. 2659	IGP
1. If the board determines that the grievance is meritorious requiring relief that does not directly relate to promotion, assignment, or selection out, then its recommendations are directed to the Secretary and are final and binding upon all parties.	1. If the board determines that a complaint relating to a grievance is meritorious, then it directs the Secretary to grant such relief as it deems proper under the circumstances. 2. With respect to complaints of adverse	1. Following an investigation or hearing the board must make written findings, decisions, and/or recommendations. 2. In deciding grievances, the board has the authority to alter an employee's personnel record, to order a reversal of an admin-

2. If the board determines that the grievance is meritorious, requiring relief that directly relates to promotion, assignment, or selection out, then its recommendations are transmitted to the Secretary and are final and binding on all parties except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the U.S. will be adversely affected. Any such determination must be fully documented and signed by the Secretary with a copy furnished the grievant.

3. No enumeration of possible remedies.

4. After review of the proceedings and the recommendations of the board, the Secretary must return the entire record of the case to the Board for its retention.

5. No officer or employee of the Dep't. participating in a proceeding on behalf of the Dep't. can prepare, advise, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding.

6. There is no mention of minimum decisionmaking vote requirements.

personnel actions, the board forwards the entire investigation records and its recommendations to the Secretary. The Secretary, within 30 days of the submission of a case relating to an adverse personnel action, must either accept the board's recommendations, return the case to the board for further investigation or reject the board's recommendations as detrimental to the foreign policy or security interests of the U.S.

3. Recommendations resolving complaints of adverse personnel actions may include extending the employee's time-in-class; the immediate promotion of an employee; removing any part of an employee's personnel record; and any other recommendations.

4. In any event, the board retains the record of the case.

5. No such provision.

6. A decision, finding, or recommendation of the board must be made only upon a vote of at least 2 members.

istrative decision denying allowances or other compensation, to extend an employee's time-in-class, to order the reconsideration by a subsequent selection board of an employee who has ceased to be eligible for promotion or who has been involuntarily retired, or to order the reinstatement with back pay of an employee.

3. The board can only recommend to the head of an agency promotion, reassignment, or disciplinary action. Within 30 days, the head of the agency must make a written decision on such recommendation.

4. The record of the case is retained by the board.

5. No such provision.

6. Majority vote of members present is considered action by the board.

RECORDS—SEC. 692 (12)

S. 3722

The board has the authority to insure that no copy of the Secretary's decision to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding has been held, will be entered in the employee's personnel record or any other Dep't. records, other than the board's records.

S. 2659

Basically same as S. 3722.

IGP

No notation of an employee's participation in a grievance is recorded in his personnel file except in accordance with the orders or recommendations of the board. There is no mention of notations in other Dep't. records.

RECONSIDERATION—SEC. 692 (13)

S. 3722

A grievant whose grievance is found not to be meritorious can obtain reconsideration only upon presenting newly discovered relevent evidence and then only upon approval of the board.

S. 2659

Same as S. 3722.

IGP

No such provision.

ENFORCEMENT—SEC. 692 (14)

S. 3722

The board must promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies or procedures contained in this part or in regulations promulgated under this part.

S. 2659

Same as S. 3722 except there is no mention of regulations promulgated.

IGP

The board may make recommendations to the agency's head on matters regarding disciplinary action which is left undefined. The head of the agency shall make a written decision within 30 days.

PREVIOUS FILING OF GRIEVANCE—SEC. 693

S. 3722

An employee can file a grievance under this part only if he has not formally requested that his grievance be considered under provisions other than this part.

S. 2659

No such provision.

IGP

No such provision.

JUDICIAL REVIEW—SEC. 694

S. 3722

Regulations promulgated or revised, and actions of the Secretary or board pursuant to this legislation, may be judicially reviewed in accordance with the Administrative Procedures Act. The Secretary must promulgate and place into effect the regulations provided by section 692, establish the board, and appoint one member of the board as authorized, within 90 days of enactment of this act.

S. 2659

No mention of judicial review.

IGP

No mention of judicial review.

BYELORUSSIAN INDEPENDENCE RESOLUTION

Mr. SCOTT. Mr. President, the 10th Convention of Byelorussians of North America was held from September 2 to 4, 1972, in Toronto, Canada. By unanimous vote they adopted a resolution renewing a pledge of support to the captive nation of Byelorussia. I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas Russian rule over Byelorussia—first forcibly annexed by Muscovy in 1772 and 1793—was re-established by force of Bolshevik arms through destruction of the Byelorussian Democratic Republic, which had been proclaimed independent on March 25, 1918;

Whereas the Community Party in Byelorussia, under the subterfuge of the so-called merging of nations, conducts an intensive campaign of Russification and discrimination against Byelorussian culture.

Therefore we the Byelorussians of Canada and the United States of America, gathered at the 10th biennial Convention of Byelorussians of North America in the great city of Toronto, Canada, on September 24, 1972, to commemorate the 90th birthday of two of the foremost Byelorussian poets and national leaders, Janka Kupala (murdered in Moscow in 1942) and Jakub Kolas (d. 1956), as well as to mark the 450th anniversary of printing in Byelorussia, do unanimously resolve

To continue the struggle for re-establishment of a free and independent Byelorussian Democratic Republic;

To encourage in Soviet Byelorussia manifest trends toward liberalization, extension of civil rights, and cultural freedom;

To preserve in our own midst, along with Canadian and American values, our Byelorussian heritage—language, history, traditions, and the concern for the well-being of the entire Byelorussian nation.

EMPHASIS ON AGRICULTURE

Mr. HANSEN. Mr. President, because of its obvious benefit to rural areas of our country, many Wyoming farmers and ranchers have inquired about new programs under the Rural Development Act recently approved by Congress.

In an effort to inform my agricultural constituents about some of the programs which are a part of this act, and about other agricultural matters of current interest, I have prepared a report which I plan to send to Wyoming's farmers and ranchers.

I ask unanimous consent that this report, entitled, "Washington Roundup—Emphasis on Agriculture," be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

WASHINGTON ROUNDUP BY SENATOR CLIFF HANSEN

EMPHASIS ON AGRICULTURE—OCTOBER 1972

Congressional actions affect agriculture

Southeastern Wyoming Project

In late September, the U.S. Department of Agriculture notified me it had activated the long-pending Southeastern Wyoming Resource Conservation and Development Project. This means applications for assistance with project plans can be submitted and considered for funding during fiscal year 1973, which began July 1.

The project will benefit Laramie, Goshen, Platte and Converse Counties, which several years ago joined together to plan projects of mutual benefit to be carried out cooperatively with the technical and financial assistance of agencies of the U.S. Department of Agriculture. The formal RC&D application was submitted in 1970.

Resource Conservation and Development projects are aimed at helping areas with common problems and economic characteristics. Goals of the Southeastern Wyoming project include enhancing the four-county area as a good place to live by improving sanitary and housing facilities, developing roads and highways, controlling air and water pollution, beautifying the area, providing better public services and utilities, providing more income through establishment of industries and creation of job opportunities, and improving and increasing recreation and tourism opportunities.

Plans call for conserving and developing the natural resources of the area, developing irrigation potential, providing flood control, and developing a cooperative effort to control weeds and pests.

The Project has the support of county elected officials, municipal officials, farmers and ranchers participating in irrigation districts throughout the area, and service organizations in the four counties involved.

Rural Development Act

The Rural Development Act recently signed into law will offer assistance to farmers and ranchers. Though the Department of Agriculture is in the process still of developing the new programs under this Act, there are a number of provisions in effect;

The Act authorized an increase in the maximum amount of Farmers Home Administration operating loans from $35,000 to $50,000. This provision went into effect officially on September 12, and County FHA Supervisors have information about this aspect of the Rural Development Program.

The Act authorizes Rural Enterprise Loans to help establish small businesses. The loans can be made to eligible citizens living in rural areas and towns of up to 50,000 population. The maximum loan is $100,000.

The Act authorizes Essential Community Facilities loans to public bodies and nonprofit associations for such essential community facilities as firehalls, firefighting equipment, community centers, ambulance services, and industrial parks.

The Act increases funding for water and waste disposal development from $100 to $200 million, and increases funding for comprehensive water and waste disposal planning grants from $15 million to $30 million annually.

The Act provides for insured operating loans, and eliminates the $4 million ceiling on loans for central community water and waste disposal facilities. It also authorizes insured loans for watershed work and flood prevention, as well as Resource Conservation and Development Projects.

See your County FHA Supervisor for information about these programs.

Meat Import Level

The Department of Agriculture reports that 1972 imports of meat from foreign nations is estimated at 1,275 million pounds.

This estimate is 35 million pounds higher than the previous estimate because of the President's decision to permit increased imports. The action to allow more foreign meat in this country was opposed by many members of Congress, including myself.

The 1972 import level is 15 percent above the 1971 level.

OUR AIRMEN IN THAILAND

Mr. CHURCH. Mr. President, America currently conducts its war over Vietnam from Thailand. Arnold Abrams, regular Southeast Asia reporter of the New Leader, writes:

> Thailand has blossomed by default into the region's main American fortress.
>
> The U.S. position is fraught with danger, though. The Thais, increasingly enmeshed in their own guerrilla insurgency, are particularly susceptible to Communist infiltration from neighboring Laos and Cambodia, moreover, Thailand's new importance in the Vietnam conflict increases the possibility of reprisal raids against the bases located here. And despite official confidence about security, those bases are highly vulnerable.

Once the fighting intensifies, how then will Washington respond? Is Thailand the latest American quagmire?

I ask unanimous consent that Arnold Abrams' article "The Airmen in Thailand: Professionalizing the War" from the New Leader of October 2 be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE AIRMEN IN THAILAND—PROFESSIONALIZING THE WAR

(By Arnold Abrams)

BANGKOK.—Now that America's battle burden in Southeast Asia has fully shifted from ground to air operations and, to a lesser extent, naval bombardment, Thailand has become the U.S. linchpin. Some 45,000 troops, nearly all from the Air Force, are stationed at eight major military bases here, exceeding the number of soldiers remaining in Vietnam. They include 13,000 men rushed to Thailand after the start of North Vietnam's Easter offensive, reversing a gradual phase-out that had reduced U.S. forces from 49,000 in 1970 to 32,000 early this year. At the same time, American air strength was boosted from 450 planes to more than 800.

Newsmen were recently afforded a rare glimpse of this weaponry and the men who operate it. Bowing to high-level U.S. pressure, the Thais reluctantly permitted a guided tour of three bases and a series of encounters with fliers carefullly selected for the occasion.

Utapao, an orderly and antiseptic installation 100 miles north of Bangkok, has about 50 B-52 bombers. The sun-drenched surroundings and relative leisureliness of the personnel belie its reinvigorated military activity. Most of the young, clean-cut servicemen sport deep tans from the considerable time they spend swimming or playing tennis and handball. Almost out of place are the menacing trappings of their work—giant bombers whose tail sections tower over concrete revetments like fins in shark-infested waters.

The fliers' remoteness from the effects of their Indochina missions was underscored in their remarks, all closely monitored by information officers posted nearby. They denied accusations of dike bombing and described their efforts (each crew deposits 30 tons of bombs on enemy positions every other day) as "part of the job."

"There's nothing personal about this," said Major Stephen Levine, a 37-year-old Brooklynite who commands a B-52. "We're given target coordinates and flying information, we get the bombs, we go drop them." Sometimes, on clear days, Levine's six-man crew can actually see the target, more than 40,000 feet below. "But," he added, "we're too far away for it to have any meaning for us."

Although their B-52 has been nicked by enough antiaircraft fire to be named "magnet ass," Levine's crew described their missions over North and South Vietnam as essentially dull affairs, largely requiring attention to routine mechanical details. They get no direct feedback about the havoc wrought on the ground by their deadly cargo; they also are too high, and too well protected, to worry about interception by Communist aircraft.

The B-52 fliers presented to newsmen, mostly in their 30s, spoke in the quick, clipped manner characteristic of many military professionals. Their descriptions of bombing runs were so bland and brisk, they could have been discussing insurance policies or shoe sales. According to Levine, the men hold widely divergent views about America's involvement in Vietnam. "Still," the craft commander said, "the Air Force is a volunteer organization, and nobody has to participate in these operations if he feels strongly about them. We are pros, and we do the job we are given."

One female Thai reporter tried doggedly to extract admissions from the crew of more tangible—and to her, perhaps, more meaningful—affairs of the flesh. But the Americans stood firm on that, too. They do not often travel the 100 miles to Bangkok, they said, and have not sampled the delights of the Thai capital's legendary massage parlors. "We play a lot of handball, Ma'am," Levine offered.

At Takhli, some 30 miles further north, this same sense of detachment was displayed by jet fighter pilots, who have been flying less and enjoying life more since being shifted last spring from Vietnam's Danang airbase. In "Nam" they flew two to three missions per day; now, because of Takhli's distance (over 400 miles) from target areas, they average less than one per day. "We spend most of our time sitting around the pool, soaking up that good Thai sunshine," said Major Joseph Griffin, who looked it. "We don't talk much about the war beyond going over details of our jobs."

Griffin's colleagues agreed, with the exception of Major Gary Alden, a jet commander.

"We're not stupid, you know," he snapped. "Most Air Force officers are college graduates, and we are very much aware of the issues. We think a great deal about them, more than most people maybe, and we often get into discussions about them. Some of those sessions get heated, too."

After blurting out this admission, to the obvious discomfort of a listening information officer, Alden, a 37-year-old University of Oregon graduate, returned to the common refrain of the others. "Personal feelings don't enter into this, however," he stressed. "We set them aside. We're professional Air Force personnel, and we have a job to do. We think we do it well, and we're proud of that."

Thus the U.S. appears to have come full cycle in Vietnam: The war is back in the hands of a relatively small number of professionals, with the pilots of 1972 taking the place of the ground advisors of 1962. Embassy officials say the strengthening of the U.S. forces in Thailand has peaked, but reports that more men and planes are in the pipeline persist. The same officials insist on calling the buildup a temporary "augmentation," although they concede when pressed that no time limits have been set for it. "The augmentative forces will be here as long as as they are needed," journalists are told.

Pressure to leave is unlikely to come from Thai authorities, who welcomed the reinforcements and eagerly cooperated with Washington. "As far as the Thais are concerned," says one man in a position to know, "the more we bomb North Vietnam, the better. They've been urging us for years to bomb the dikes. They were afraid that Vietnamization would be a smokescreen for a bug-out, but seeing us mine enemy harbors and resume the bombing of the North has reassured them."

In addition to easing local doubts, the renewed build-up has illuminated this country's new role. With the continuing withdrawal of ground forces from Vietnam, the reversion of Okinawa to Japan and the mounting opposition to U.S. foreign policy in the Philippines, Thailand has blossomed by default into the region's main American fortress. "If we want to maintain a significant military presence on the Southeast Asian mainland, this is the only feasible piece of real estate available," a high-ranking American explained. "The combination of geography and changing political factors leaves us little choice."

The U.S. position is fraught with danger, though. The Thais, increasingly enmeshed in their own guerrilla insurgency, are particularly susceptible to Communist infiltration from neighboring Laos and Cambodia. Moreover, Thailand's new importance in the Vietnam conflict increases the possibility of reprisal raids against the bases located here. And despite official confidence about security, those bases are highly vulnerable.

A few successful sapper attacks in Thailand could present Washington with a grave choice: assigning U.S. patrols to guard the areas surrounding the installations—which would mean thrusting GIs into combat circumstances—or continuing to rely on Thai defenses and risk American lives. Few knowledgeable observers discount the situation's grim potential.

"We're bound to get some 'spectaculars' launched against the bases," concedes a top-level U.S. official. "In fact, I'm surprised it hasn't happened already. I don't know what the other side is waiting for." He hopes that he won't soon find out.

THE EVERETT McKINLEY DIRKSEN OFFICE BUILDING

Mr. PERCY. Mr. President, the Senate has honored one of the most distinguished and colorful Members in its history in naming the new Senate office building after the late Everett McKinley Dirksen. Senator Dirksen was regarded as Mr. Illinois Republican for nearly two decades in our State as well as in the U.S. Senate. In these days of confused debate and wrangling, we sorely miss his calm and cool observations, his keen wit, and his ability to pinpoint the heart of a problem and suggest its solution. I am pleased that the Senate has extended this recognition to a great American, and a great son of Illinois. All the people of Illinois can be proud of this tribute.

OVERCOMING HANDICAPS ON CAPITOL HILL

Mr. CHURCH. Mr. President, when Congress passed the Architectural Barriers Act, or Public Law 90-480 in 1968, we clearly stated that new federally funded buildings should be made accessible to handicapped Americans.

Our concern about barriers was based upon several important considerations. It is expected that over the next 30 years there will be as much new construction as there has been in the last 300 years: the mistakes of the past should not be repeated on a larger scale in the future. In addition, we felt that the time had come to challenge a general lack of concern about the barrier problem.

As Harold Russell, Chairman of the President's Committee on Employment of the Handicapped, has expressed it:

> Architectural barriers surround our environment because of an invalid assumption on the part of the design professions that their design criteria meet the needs of a majority of the population. They design for persons with average dimensions, average powers, senses, limitations and adaptability. Unfortunately, the specific characteristics attributed to this mythical person are not possessed by all of our population. The non-average population, numbering in the millions, cannot adapt readily to average design . . . If we can have designs for the halt and the lame—in other words, the extremes of performance—or, failing that, if we can at least include a recognition of these needs in our design criteria whether or not we are capable of satisfying them in every instance, we will better serve both the "average" man and the handicapped or elderly person.

Despite Public Law 90-480, and despite the expression of congressional concern, much more remains to be done in the removal or prevention of barriers. Hearings before the Senate Special Committee on Aging showed that older Americans, as well as the handicapped, frequently are denied access to buildings and transportation systems simply because their special needs were not considered by designers of structures and vehicles supposedly meant to serve the public.

It is bad enough when such obstacles prevent a person from visiting a building for a special purpose such as medical care.

It is even worse when a person may be denied employment, or discouraged from continuing employment, in a building which abounds in barriers to the handicapped.

An example of this problem was provided by Washington Post reporter Judith Martin on October 1. Her article describes the problems encountered by three handicapped persons in the Senate Office Buildings and in the Capitol of the United States. Fortunately, these three individuals are able to perform their work, despite considerable difficulties. Fortunately, some help has been provided to them from the managers of the buildings. But it is painfully clear that they face a daily obstacle course. It is also clear that more should be done to help them and others.

Mr. President, with Mrs. Church, I have written a letter to the Architect of the Capitol asking for early action intended to make the Capitol Hill Federal complex a model of accessibility for employees and for the public. The challenge is all the greater since so many of the buildings were built long before Public Law 90-480. But I think we should be as concerned about modification of existing buildings as we are about design standards in new buildings.

I ask unanimous consent to have the Post article and the letter printed in the CONGRESSIONAL RECORD.

There being no objection, the article and letter were ordered to be printed in the RECORD, as follows:

HANDICAPS ON THE HILL

(By Judith Martin)

Linda Teixeira, a legislative aide to the Senate Labor and Public Welfare Committee, does her office reading at night. Another professional staff member, Michael Burns, calls the Capitol superintendent's office in advance if he wants to go on a committee room dais. Joe Bruce, who interned for Sen. Edward M. Kennedy the last two summers, would run over to other Hill offices instead of telephoning.

With these adjustments, Miss Teixeira, who is blind, Burns, a quadraplegic, and Bruce, who is deaf, are able to hold jobs that engage their interests and intelligence, rather than only circumvent their handicaps.

They worked hard to get those jobs, and the adjustments that they and others must make so they can perform them are a constant hassle. Burns, who is confined to wheelchair, always gets a laugh when he repeats the excuse given to him for a refusal to put a ramp on the outside steps of the New Senate Office Building: "It would mar the beauty of the building."

But the fact remains that he has to ask a guard to help him up those steps every morning. Inside, the superintendent of the building simply sends out a portable ramp wherever it is needed. Burns gets around pretty quickly, although he says one cannot know how many ups and downs there are in the Capitol "unless you roll for a living."

Miss Teixeira pays readers, out of her salary, to come to her apartment at night and read her whatever material she needs on the job. She takes Braille notes and has a good memory—"I usually don't have to have anything read to me twice."

"We have a fairly decent system working," said Lisa Walker, her immediate superior, who has gotten a tape recorder for transmitting notes to Miss Teixeira but hasn't gotten used to working it yet. "We've all read to her from time to time. The inconvenience isn't important. We can overcome that. This has been a very good experience for a lot of people working here."

At Burns' office—he is a research assistant—people are so used to his agility that a recent telephone call was answered with, "I'm sorry, we can't locate Mr. Burns right now. He's running around the building somewhere."

But Burns, a Vietnam veteran crippled in a service-connected injury, doesn't always find people that are casual about it. He has fought to get government buildings to comply with regulations requiring conveniences for the handicapped and gotten the answer that they only "serve one per cent of the population and can't be justified as cost effective." Until recently, he couldn't even get himself a parking space near his office—although "parking two blocks away would mean that I wouldn't be able to get here."

For Miss Teixeira, getting around is relatively simple. Having memorized all the areas she has already been, she simply asks directions as she goes when visiting a new office or committee room. A collapsible cane in her purse is unfolded when she knows she might encounter unfamiliar obstacles—such as the television cameras that are regularly left strewn around Capitol corridors.

Occasionally, she asks someone to accompany her to a new place, but generally she tries to avoid situations that may lead to her being smothered with over-protection. One day, she explains, she was late to work and went directly to a hearing instead of her office first—and by the time the hearing was over, two hours later, she found that her frantic colleagues had been calling all over and were about to ring the police.

"It's hard to explain these things to people without offending them," she said. "Handicapped people, like minorities, have a reputation for being arrogant."

But such protective attitudes, however well meant, are more than a problem of etiquette. Miss Teixeira, who wanted a Hill job for seven years before she got one last spring, says there are two basic attitudes that seem to interfere with prospective employers' being able to read and absorb the résumés of handicapped people.

"Either they feel that they don't want to hire someone who can't do everything, or else they want the handicapped person to be helpless. People would look at my résume and then ask me what I could do—what was in it would just go right through them."

Miss Teixeira, who was born with partial vision that she lost completely at the age of 13, "had this kind of dream in the back of my mind" about working on the Hill when she was an English major at Clark University.

Encouraging such dreams in bright young students is practically an American tradition in itself. In Miss Teixeira's case, however, she got a letter from a blind friend who said, "Forget it. They just don't hire blind people on the Hill."

She spent four years working at the Department of Housing and Urban Development, where she found "some good people, and some rough going." At one point, she threatened to bring a discrimination suit on the basis of her handicap, if they didn't give her real work to do, instead of shunting her around "to keep me happy."

Finally, she tried the Hill again, applying to the Labor and Welfare Committee with the argument that since the committee dealt with the handicapped, it might be useful to have a handicapped person sensitize the people there. Now, after four months on the job, she says, "I've been through a lot, but it seems to be working out."

It would work out for others, too, she feels, if people were interviewed for what they can or cannot do, and if reasonable accommodations could be made for the handicaps. The Washington area is poor in supplying readers for the blind, she said, and the Volunteers for the Visually Handicapped, which does so, "lacks the backing of people with thrust."

At Sen. Kennedy's office according to his staff specialist on the handicapped, Jan Verrey, there was no problem about other people telephoning for the deaf intern when telephoning was essential.

"People are so often treated the way they are because they're handicapped, not because of what they can do—and actually when you see someone who has achieved so much despite a handicap, you really have to be impressed.

"The telephone thing just wasn't a problem. People have got to learn to give a little."

U.S. Senate,
Special Committee on Aging,
Washington, D.C., October 4, 1972.

Hon. George M. White,
Architect of the Capitol,
U.S. Capitol,
Washington, D.C.

Dear Mr. White: You may have seen, in the Washington Post of October 1, an article describing problems encountered by several handicapped employees in the course of their duties in the Senate Office Buildings and in the Capitol. A xerox copy is enclosed.

That article raises issues of vital concern to us. We believe that Federal buildings, particularly those on Capitol Hill, should not put barriers in the way of employment of the handicapped. We believe that every effort should be made to make those structures—even the oldest of them—accessible to *all* potential employees of Government.

We are glad to read in the Post article that some efforts have been made to improve accessibility for the three employees discussed by the Post reporter. We are disturbed, however, by the report that a ramp on the outside steps of the New Senate Office Building has been refused on the grounds that: "It would mar the beauty of the building."

It would be unfortunate indeed if handicapped individuals are unable to accept employment, or who may be discouraged from continuing employment, simply because inadequate thought has been given to architectural barriers within the Capitol Hill Federal complex.

Instead, those buildings should become models of accessibility, not only for employees, but for visitors who may come on business or for sightseeing. After all, the Congress has said in public law that architectural barriers should not be tolerated in new Federal structures. We should do all possible to adapt older buildings to meet similar standards. In the Capitol, for example, we understand that ramps for wheelchairs were installed during the Franklin D. Roosevelt years to give him accessibility when visiting the Congress. We have been informed, however, that these ramps are too steep for an unassisted person.

We believe that a close examination should be made of the present situation, and we would like to offer assistance to you.

The Senate Special Committee on Aging has conducted hearings on the effects of barriers upon the elderly and the handicapped. Those hearings have put us in touch with several informed persons who have already assured us that they would cooperate in such an effort.

The United Cerebral Palsy Associations, Inc., includes among its membership several individuals who could be helpful, as well.

We would like to suggest, therefore, that you establish an Action Group to assist you to develop fully accessible Congressional buildings, to serve as models for similar action elsewhere.

We hope for an early reply, because we believe that action should be taken as quickly as possible.

Sincerely,

Frank Church,
Chairman, U.S. Senate Special Committee on Aging.
Mrs. Frank Church,
Director at Large, Women's Committee, United Cerebral Palsy Associations, Inc.

A NATIONAL ENERGY PROGRAM

Mr. HANSEN. Mr. President, the use of invective as a substitute for analysis is, in my opinion, a poor substitute for the reasoned analysis needed to propose solutions to the U.S. energy dilemma. One would hope that presidential candidates would exercise better judgment and take the time, pain, and effort to carefully analyze an issue before pronouncing upon it.

Using national energy policy as an example, I was deeply disappointed with the position paper the Democratic candidate for the Presidency issued earlier this week. It revealed little in the way of reasoned analysis, let alone reference to fact.

Specifically, I refer to the vituperation laced throughout the Democratic candidate's recent pronouncement on energy. When referring to our Nation's petroleum companies, he calls them "special interests," "big oil," "petroleum barons," and other such terms. He tries to paint a picture of oil companies mulcting the American consumer while raking in excess profits. Of course, such ipse dixits strike highly responsive chords in the hearts of traditional liberals and the antiestablishment crowd who have long reveled in burning the industry's effigy at the stake.

The facts of the matter are that our Nation's petroleum companies are having severe problems in maintaining themselves as a viable industry. Increased costs, including higher taxes and low prices, are causing major disruptions within the industry. An article in yesterday's Wall Street Journal provides an example of the variety of trouble that the petroleum industry is now facing. The board of directors of Gulf Oil Corp., it was reported, has authorized the write-off of $250 million in marginal and unprofitable operations. Gulf suffered a 28-percent plunge in second quarter earnings.

Gulf is not alone in the industry. Phillips Petroleum Co., due to similar problems, announced plans to withdraw its service station and home heating oil operations in the northeastern U.S. markept. Recently Atlantic Richfield Co. announced plans to withdraw from retail marketing operations in the southern, southwestern and Rocky Mountain Plains States. Other companies, too, have been having serious difficulties. The Wall Street Journal attributes the cause of the difficulties to a variety of reasons, ranging from higher taxes and the competitive inability to raise gasoline prices in the United States, to demands by foreign oil producing nations for a greater share of oil revenues.

The Wall Street Journal is not the only national publication as of late to recognize the increasingly tough financial straits of our petroleum industry. An article in the "Business" section of last week's Time magazine, for instance, concluded:

> Until an economically practical, environmentally acceptable substitute is developed the U.S. and other Western countries may well be forced to make the best of their weighty reliance on oil by rethinking many of their national policies. *This could include*

making tax and environmental laws more—not less—favorable to domestic drilling, stepping up trade with nations that are rich in natural gas, notably the Soviet Union, and revising basic foreign policy in the Middle East.

Mr. President, I submit that had the Democratic candidate for the Presidency taken the time to participate in the National Fuels and Energy Study as his fellow members of the Senate Committee on Interior and Insular Affairs from both sides of the aisle have done, he would not have been as likely to overlook the facts. We have now conducted 31 days of hearings on 18 separate energy-related topics as part of our National Fuels and Energy Study. The Democratic candidate for the Presidency chose not to attend even one hearing. A cursory examination of his proposed energy program reveals not only his absence from the hearings, but also his absence of mind.

NUCLEAR REACTOR SAFETY RESEARCH, A VITAL AND FRUSTRATED PROGRAM

Mr. CHURCH. Mr. President, for several years I have attempted to call to the attention of the Senate the vital needs in the field of nuclear reactor safety research. I have noted that nuclear power holds the key to many of this Nation's energy problems but that the key will never be used to open the door which can lead to solving the Nation's energy crisis unless we answer reasonable questions which have been asked about the safety of water-cooled nuclear reactors.

Recently a series of articles appeared in Science magazine reiterating what has been said so many times before. If we do not answer the questions raised about nuclear safety, we run the very real risk of increased public reaction against nuclear power at the very time our energy needs are so vital. I commend these articles to my colleagues. I specifically request that the members of the Joint Committee on Atomic Energy give these articles careful and thoughtful review. Reactor safety research programs must be adequately funded if atomic energy is to achieve its promise. I ask unanimous consent that the series of articles appear at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Nuclear Safety (I): The Roots of Dissent

(By Robert Gillette)

(It is somewhat confusing that concern over nuclear plant safety has increased recently. Some explanation is undoubtedly to be found in sensationalist publications . . . but the most important reason appears to be the widespread lack of knowledge of both the excellent safety record of the nuclear power industry and the extreme efforts, unprecedented in any other industry, to assure that nuclear plants are designed, constructed and operated with the highest attention to public and employee safety.—The U.S. Atomic Energy Commission, in a statement to the congressional Joint Committee on Atomic Energy, February 1972.)

(This is being advertised as a no-risk business and that's not true. We don't know that reactors are unsafe, but we're concerned about their being as safe as the manufacturers would like you to believe. Maybe it's time the AEC told the public that if people want to turn the lights on they are going to have to expect to lose a reactor now and then, and possibly suffer great dislocations and property losses as well.—A senior reactor safety engineer, National Reactor Testing Station, Idaho Falls, Idaho.)

The great public debate over radiation standards that flared up 3 years ago has peacefully declined in recent months, probably because the Atomic Energy Commission (AEC) decided to impose strict new limits on the nuclear power plant emissions that sparked the controversy in the first place. But even as that furor was dying down, a new one was swiftly rising in its place—this time over the ability of reactor safety systems to guard against a disastrous accident, should a nuclear plant suddenly lose its cooling water. Expressions of puzzlement from the AEC notwithstanding, the indications are that this new debate over reactor safety comes as less of a surprise than the commission's remarks to Congress would suggest.

To be sure, the AEC has spent tens of millions of dollars in the past 25 years to ensure the safety of nuclear power plants. And it is probably true, as the AEC claims, that the fears of an ill-informed public and the eagerness of "sensationalist" publications have helped to magnify and distort the risks inherent in nuclear plants.

Nevertheless, the new issues of nuclear safety are real. What is more, they appear to be a direct outgrowth of serious internal troubles that have been building up for several years within the AEC's $53 million reactor safety research program.

The new safety debate has centered mainly on the adequacy of backup cooling systems in nuclear plants; the technical substance of this issue has been discussed in previous articles (see *Science*, 5 May). This current article, and others to follow, trace the roots of the issue to problems in the management of the nuclear safety program, and to an intense discord that has developed between the AEC and its national laboratories. This first installment outlines the major grievances of safety researchers and the turbulent history of their program. A second article will discuss long delays in key research projects, and a third will take up the safety program's relations with the AEC's entirely separate regulatory arm.

The internal problems of the nuclear safety program are complex, but there are two main ones. First, at a time when more and more of the nation's utilities are building increasingly powerful nuclear plants, the safety program has accumulated an enormous backlog of unfinished research and unanswered questions. Construction of large experimental facilities the commission itself has repeatedly described as urgently needed has fallen years behind schedule. One nuclear test facility at the AEC's National Reactor Testing Station in Idaho that was supposed to have been finished in the middle 1960's is still being built, and it shows little promise of producing useful data before the middle 1970's. By then, as many as 80 nuclear power plants that were to have benefited from these data will be near completion or in operation.

There are, in addition, dozens of "problem areas" in the safety of conventional water-cooled reactors that remain unresolved. Many of these problems are described in a 1970 AEC publication entitled "Water Reactor Safety Program Plan." The plan outlines 139 unsettled safety questions, and designates 44 of them (in the document's emphasis) as *"very urgent, key* problem areas, the solution of which would *clearly* have *great impact*, either directly or indirectly, on a major critical aspect of reactor safety."

The second major problem concerns the attitudes that safety researchers themselves, working in the national laboratories, hold toward all this unfinished business; a series of interviews during the past 2 months reveals that many of them are genuinely worried about it.

In Washington, the official position is that completion of this work certainly would be desirable, but that, in the meantime, nuclear plants are being designed with sufficient "conservatism" to make up for any uncertainties in their performance. In the national laboratories, however, a number of safety researchers are far less confident. "We are not trying to be accident-mongers," one project manager says. "But we don't think our tools are adequate for proving this assertion."

As the new debate has grown during the past 2 years, first internally, then out in public view, scientists and engineers in the safety program have come to believe that their work is linked to a vital national issue. At the same time, those interviewed say they have also become convinced that the AEC, in its eagerness to develop a thriving nuclear industry—and to get on with building the breeder reactors it has dreamed about for 20 years—has deliberately bypassed tough safety questions still hanging over ordinary, water-cooled reactors.

These beliefs are thoroughly entangled with widespread feelings of discontent over important changes that have occurred in relations between the AEC in Washington and its national laboratories. During the past several years, much of the old autonomy the laboratories had enjoyed for two decades has been supplanted by a forceful new style of management from Washington. And along with the new management has come a new emphasis on applied research and engineering tasks that seem inappropriate, if not distasteful, to many. Researchers and administrators in the laboratories do seem to recognize that, to some extent, these changes are an inevitable result of advances in nuclear technology. But they are nonetheless unhappy with what they consider to be a practice of "overmanagement" by Washington that allows little opportunity to appeal and debate decisions as to which research is important and which is not. The end result of all these feelings has been a deep, and for some, a rather bitter estrangement from AEC headquarters that has done nothing to speed the laggard pace of safety research.

To put things in an organizational context, it should be noted that all of the $53 million the AEC plans to spend on safety research this year will flow through the agency's main "promotional" branch, the Division of Reactor Development and Technology (RDT). This division holds jurisdiction over all civilian reactor R & D—including safety research and the commission's most prominent undertaking, the multibillion dollar breeder program. (Whereas this arrangement may make good sense from an administrative point of view, many of the AEC's critics—both inside and out—regard it as a built-in conflict of interest, in the sense that a single unit of the agency is responsible both for encouraging the growth of an industry and for supporting research with a high potential for raising embarassing questions about the industry's safety. Thus, one of the key questions to be answered is whether the RDT has been able to discharge both duties with equal enthusiasm. Its critics contend that it has not.)

This year, roughly half the $53 million earmarked for safety will go into water reactor studies—the focus of concern—and half into breeder safety. Of the water-reactor money, about $6 million is destined for Oak Ridge National Laboratory to pay for a miscellaneous assortment of eight to ten projects involving 75 scientists and engineers. Some of this also goes for research contracted by Oak Ridge to a small number of universities and private firms.

The remaining $20 million for water reactor safety is destined for the National Reactor Testing Station (NRTS), where the AEC's "operating contractor," the Aerojet Nuclear Corporation, does most of the nation's water reactor safety research. About 120 scientists and engineers at Idaho draw their salaries from this money. Technically, all are employees not of the government but of ANC, a subsidiary of the Aerojet-General Corporation that exists solely for the purpose of running the Idaho installation.

Thus, in criticizing AEC policies, the dissident scientists and engineers at Oak Ridge and Aerojet place themselves in the difficult position of biting the only hand that feeds them—namely, the RDT, and more precisely, the division's controversial director, Milton Shaw.

A former aide to Vice Admiral Hyman G. Rickover, Shaw supervised the design and development of the nuclear propulsion plants aboard the aircraft carrier *Enterprise* and the cruiser *Long Beach* before taking up his present job in December 1964. Over the years—and in spite of criticism from the laboratories—he has acquired a reputation in Washington as a strong and competent administrator. A man of engaging bluntness, Shaw readily concedes that dissension exists in his safety program, though he says the reasons are not entirely clear to him.

"Unquestionably, people are unhappy, and morale at Idaho is poor," he said in a recent interview, "but sometimes it's hard to know why." Shaw suggested that some of the enmity may be a natural backlash to several traumatic but necessary management shakeups at Idaho over the past few years. He also spoke of an "unwillingness" in the laboratories to adapt to changes imposed by an advancing technology. Beyond this, he said, the closeness of researchers to their work may make the possibility of nuclear accidents "seem more real than it is" and thus may inflate the urgency of safety research in their eyes. There are, moreover, strong feelings among Shaw's staff that the laboratories simply are "hungry for contracts" and are willing to exaggerate safety problems to get them—an accusation the researchers angrily deny.

What, specifically, are the laboratories' grievances? During interviews, research administrators at Oak Ridge and Idaho expressed a variety of allegations, which will be examined in more detail later. Among these were charges that:

Between 1968 and 1971 the RDT bootlegged money from water reactor safety to accelerate the breeder, and in the process killed or cut back a number of key research projects that had just begun to raise questions about nuclear plants coming up for licensing.

Shaw had shown considerable indifference toward urgent needs of the regulatory branch for technical help during this period, and for several years forbade direct contact between safety researchers and the AEC's regulatory staff.

Shaw allowed reactor manufacturers to pass judgment on new research proposals from the laboratory, and tended to skirt questions the industry insisted it had solved, even though safety researchers disagreed. Some of those interviewed said they considered this an effort to curry the industry's financial support for the breeder.

Shaw had used contractors at Idaho as a scapegoat for long construction delays on major test facilities for which he himself was largely responsible.

Besides all this, there is a profound dissatisfaction with Shaw's tight control over RDT programs in the laboratories. His style of administration is often described in the laboratories as "vindictive" and "autocratic" and one that is not above "forcing out" competent research managers who persist in their dissent from official thinking. An Oak Ridge administrator in the middle of the feud with Washington summarizes this view:

"It's no secret that there has been a trend away from science and toward more engineering work in the laboratories for a good number of years, and this is understandable, given the state of the technology. I don't regard it with disfavor, although we would like to do more science. . . . My big complaint about Shaw's setup is that too often it runs on the assumption that the chief is always right, rather than in a manner consistent with the public welfare where open debate takes place. In my view, the wrong people are in charge of water-reactor safety."

In talking about their grievances, critics both at Oak Ridge and Idaho uniformly insisted on anonymity. They contended that use of their names in connection with criticism of AEC policies or officials would, in all probability, cost them their jobs. As evidence, several named colleagues who had once held high-level positions in the safety program and had been shuffled to "nothing jobs," they said, after clashing with Shaw. "His is a vindictive administration," said one man who supervises a large-scale project at Oak Ridge, "and people are frightened."

At the Idaho facility the level of anxiety seemed even higher, and not without reason. In an interview, Charles Leeper, a physicist who became president of Aerojet Nuclear last year, emphasized that it was essential that the company maintain good relations with its "customer"—in this case, the RDT and its director. "I'm accustomed to dealing with the Air Force," Leeper said, "and I've watched program managers go down the chute right and left because they had trouble with the customer."

Prior to this reporter's arrival at Idaho Falls, where the NRTS maintains its administrative offices, Leeper said he reminded his senior staff of a standing rule that only he would express the company viewpoint. Others, he said, were free to voice personal or professional opinions, but only under this proviso: that if any employee's comments "sour his relationship with the customer, we cannot guarantee that after some time has elapsed that he will still be in his same position. We would, however, make every effort to find him a suitable opening in this organization, or elsewhere in Aerojet, or allow him to look beyond the company."

For some Aerojet staff, discretion thus ruled out talking in company offices. They did, however, consent to make arrangements for evening meetings at a designated spot on a back street in Idaho Falls, followed by a drive to private homes some miles away.

That men nationally recognized in their profession should feel impelled to such maneuvers suggests how far relations between the commission and the Idaho installation have deteriorated. For a fair perspective on the long trail of events that led to this situation it is worthwhile to trace the early history of the NRTS, its mission and self-image, and the ways in which both were sharply transmuted in the mid-1960's.

The Idaho facility had a fitful beginning in the late 1940's as the newly formed Atomic Energy Commission began roughing out its ambitious peacetime plans for military and civilian reactors. The commission had chosen the freshly organized Argonne National Laboratory near Chicago to lead its reactor R&D programs, and it came close to going a step further and picking Argonne as the place to build a series of large experimental reactors—among them the first breeder, the first prototype propulsion plant for nuclear submarines, and the AEC's powerful Materials Testing Reactor.

The AEC changed its mind on this point largely at the behest of physicist Edward Teller, who argued that the "calculated risks" taken by the Manhattan Project during the stress of war could no longer be justified, least of all in the suburbs of what was then the nation's second most populous urban area. Adherents of the Argonne site—among them Enrico Fermi, Robert Oppenheimer, and Glenn Seaborg—complained that Teller and the safety advisory group he headed for the AEC had exaggerated the dangers of a nuclear accident, but Teller prevailed. In 1947, the commission began a search across the West for a place to establish a remote proving ground.

The site that the commission finally selected, an old Navy gunnery range 30 miles west of Idaho Falls, could scarcely have been more remote. Even today, as in the 1940's, the overwhelming impression a visitor receives of the NRTS is one of vast emptiness. Nearly the size of Rhode Island, the site sprawls across 893 square miles of sand and sagebrush and the black, contorted lava flows of the Snake River plain. Snowy peaks of three mountain ranges—the Bitterroot, Lemhi, and Lost River mountains—embrace the site on its western boundary. To the east, more than 100 miles across the flat desert (and well beyond the site's perimeter) three sharp spires of the Tetons are visible on the clearest days. Within the proving ground, clusters of reactors and laboratories are scattered miles apart.

BOOM TIME IN THE 1950'S

During the 1950's and early 1960's, the testing station grew rapidly—in fact, well beyond the commission's initial expectations—as Congress, at the urging of the Joint Committee on Atomic Energy, pumped more than $2 billion into military reactors and the AEC's burgeoning efforts to promote civilian power reactors. In 1949 the AEC thought it eventually might build as many as 10 reactors in Idaho; by the mid-1960's, 40 dotted the landscape and 9 more were completed or under construction by last year. The total investment in hardware at the NRTS has since passed $500 million and the work force, though down from a peak of 5500, remains nearly 4000.

Despite its great cost and historic importance to nuclear technology though, the NRTS somehow always remained the ugly duckling in the commission's collection of research establishments, never quite achieving recognition as a full-fledged national laboratory. For one thing, institutional arrangements lent an overall incoherence to the installation that made it seem to outsiders as more of a melange of independent activities than a unified laboratory. It was thought of mainly as the place where separate groups—the Navy, Argonne, Westinghouse, General Electric, and others—went to build experimental reactors in secure isolation not only from the public, but as things worked out, from each other as well. Above all, Charles Leeper says, NRTS is still chiefly a proving ground. "One problem," he says, "is that some people would like it to be a national laboratory, but it is not."

Even so, a collective sense of identity as an important and distinctive research institution did manage to take root over the years. It flourished, interestingly enough, within the nuclear division of the Phillips Petroleum Company, which the AEC hired in 1950 as the site's operating contractor. During the next 15 years, the Phillips contingent provided a full range of "housekeeping" services for the site, and it operated (and helped to design) a dozen test reactors for the commission. Along the way, Phillips acquired several hundred scientists and engineers, many of them reactor physicists and materials scientists who made important contributions to the scientific base for advanced designs of reactors.

Within Phillips the first semblance of a coherent safety research program appeared in the 1950's. It grew quickly, in step with the general pace of reactor R & D. As the program expanded it acquired a certain cohesiveness and esprit, nurtured partly by the exotic nature of its work—the abnormal behavior of nuclear plants—and partly by a large measure of freedom the commission granted it in choosing which problems demanded first and closest attention.

Reminiscing about happier times, one manager at Idaho described the mission of the safety program and its liberal relationship with the AEC this way:

"The commission put us out here 15 years ago to learn about abnormal reactor behavior and to think about what would happen if one of these machines went out of control. . . . You have to understand that an operating, pressurized water reactor contains an immense amount of stored energy—the equivalent of 50,000 pounds of TNT in the mechanical energy of the circulating hot water alone, and 50 to 100 times that in thermal energy. The whole problem comes down to containing this energy to squeeze a little more out of the nuclear fuel, and to controlling this energy in the event of an accident.

"This is such an extremely complicated area that, historically, Washington was content to let us tell them what their designs didn't cover, and to make research proposals. In effect, they let us tell them what we should be doing in reactor safety."

This prolonged honeymoon began a swift decline in 1965, shortly after Shaw took command of civilian reactor programs. By last year, the relationship had fully reversed itself: Now the NRTS, and the safety program in particular, function on a short, tight leash from Washington. Research proposals are subjected to painstaking scrutiny by teams of engineers under Shaw; money available and the tasks assigned to Idaho vary from month to month under strict control from headquarters.

"Isn't this reasonable?" Leeper says rhetorically. "The highly creative days and the permissive times are behind us, and the demands now are for a hard bitten reduction to economical practices."

The researchers themselves agree that times are hard all right, but not quite in the same sense. During one conversation three senior scientists and engineers complained that the budget now fluctuates wildly, that Washington often assigns new tasks without allocating more money, and that the emphasis in research programs continually varies—all with little explanation from Washington. Said one project manager:

"The budget has become a year-long confusion, a continuing battle. It gets rewritten four or five times a year; the year before last it was reprogrammed no less than 12 times. We are constantly having to accelerate some projects, decelerate others, and shift people from one thing to another. All of this gives the safety program a great instability and generally slows our progress."

Another critic at Idaho added this commentary:

"It has been impressed upon us that we are a captive contractor, and this is one of our main complaints. It means that we're not allowed to pick up contracts from elsewhere—from the AEC or the industry—in times of slack budgets. We're forever having to hire professional people, lay them off, hire them back. . . Under manpower ceilings set in Washington, we sometimes have more money to spend than people to spend it on. After awhile, guys get tired of being shuffled from one job to another, or of pumping gas and selling real estate in town, waiting to be rehired, and they leave. It's pretty hard to keep research teams together under these conditions."

Shaw says that when he took over in 1964, reactor R & D programs in all the national laboratories were in a "deplorable" state. Research on water-cooled reactors, he says, was poorly coordinated among the laboratories, frequently redundant, and heavy entwined with basic research ventures to an extent that it was no longer appropriate for a technology presumably on the brink of commercial status.

As he saw it, there were two main tasks at hand: To wean the industry from government support of water reactors, and to marshall his forces for a concerted thrust on the commission's prime objective—an economical breeder. By all accounts, he took on both these tasks with immense energy and with a lesson learned from Admiral Rickover—namely, that a tough, centralized management stressing a "disciplined engineering approach" both to research and to construction of new reactors may not win friends, but it gets results.

The results so far are mixed, but certainly few friends have been won. Within months after taking office in December 1964, Shaw began a series of drastic reorganizations at Idaho that finally brought the demise of the Phillips organization last year, the rise of Aerojet in its place, and a continuing series of purges of old Phillips people from the new Aerojet structure.

Simultaneously, amid this turmoil, Shaw began imposng a rigorous and unfamiliar regimen of quality control standards and procedures on research projects in all the AEC's laboratories, Idaho included. It was all part of the new era of engineering discipline, and it was necessary, Shaw says, in order to rectify slipshod practices in the conduct of research. But to workers in the laboratories, the new regulations and the paperwork that came with them placed a staggering and, they felt, inappropriate and unnecessary burden on their work with little benefit in return.

"Engineering is the name of the game," says Shaw, an engineer.

"When he came in, science died," says a physicist at Idaho.

Thus, by 1967, the present conflicts had been kindled, and the forces were set in motion that would bring safety research of the highest priority to a virtual standstill.

Nuclear Safety (II): The Years of Delay

(By Robert Gillette)

Although it could hardly have foreseen so at the time, the Atomic Energy Commission embarked in 1963 on a construction project that was to become one of the longest-running, most trouble-ridden ventures of its kind in the commission's 25-year history. That was the year the AEC set out to build a modest little nuclear reactor called LOFT at the National Reactor Testing Station in the Idaho desert. The reactor's name was an acronym for "Loss of Fluid Test," and it aptly indicated the $18 million facility's unusual mission.

According to plans at the time, LOFT would be completed in 1966. It would then be studded with instruments and sealed inside a massive concrete and steel "containment" dome at the desert proving ground. After a series of small-scale experiments, technicians would run the reactor up to its full power of 50 megawatts and abruptly drain it of its cooling water.

Inside the dome, LOFT would partially melt. But in destroying itself it would give safety researchers their first look at a reactor in the throes of what the AEC had formally declared to be the "maximum credible accident" that a nuclear power plant could reasonably be expected to suffer—a major loss of cooling water through a ruptured pipe.

The LOFT project was, therefore, of central importance to the commission's safety research program. In making this point, in its annual requests to Congress for money, the AEC was not stingy with superlatives. LOFT was the "largest and most vital" test facility in the safety program. It was the "focal point which provides a fundamental sense of direction to water reactor safety investigations." Among other things, LOFT would demonstrate a "live accident [that] makes investigators face reality."

Later on, the AEC promised that LOFT could make "extensive contributions" toward erasing nagging doubts about the adequacy of backup cooling systems in nuclear power plants—a subject the commission considered to be "perhaps the most urgent problem in water reactor safety," even before it became a public issue.

For all its stellar importance though, the only reality LOFT has yet made anyone face is that putting together an experimental reactor—even a small one—can be a very trying experience. Nine years later, the AEC is still struggling to finish building the LOFT facility, let alone run it. At last report construction was 80 percent completed, but work is now more than 6 years behind schedule. LOFT's crucial experiments have been expanded in scope but postponed until 1974 or 1975, by then, as many as 80 nuclear power plants that might have made use of the results in their design will already be running. What's more, now that construction costs have ballooned to $35 million, AEC officials in charge of the project have just about given up the idea of letting such an expensive piece of equipment seriously damage itself, much less melt. So in all probability the consummate experiment originally planned will not take place.

Nor is LOFT the only major safety test facility to have sustained long delays and soaring costs. A second reactor at the Idaho installation—the Power Burst Facility (PBF)—was completed last summer, 4 years late and $8 million or 100 percent over the original cost estimate. The PBF was designed to subject nuclear fuel assemblies to abnormally stressful conditions, in order to better understand the behavior of fuel rods before and during an accident. The commission has designated fuel-failure research as being of highest priority; thus between the two test reactors, some of the most urgent safety research planned by the AEC has been postponed.

What happened to LOFT and PBF? Interviews with AEC officials in Washington, and with scientists and engineers at the NRTS in Idaho, turn up a tangle of conflicting charges and countercharges that reflect strong disharmonies that have grown up between the two sides in recent years. An article last week outlined the nature of these problems and some of their history. This week's article attempts to unravel the reasons for delays in important safety research projects that appear to be both cause and victim of this enmity.

The basic causes of delay and overrun are clear enough in themselves; the controversy arises over whom, if anyone, to blame. For both reactors, the first major delays occurred just at the point when detailed designs had been completed and construction was about to begin. In the case of the PBF, the fuel-testing facility, AEC headquarters sent down an order in April 1965 to revise the blueprints and build a more "versatile" reactor, capable of running in a steady state as well as of producing bursts of power. It was a major design change, and one that the Government Accounting Office (GAO), the investigatory arm of Congress estimates cost $1.3 million and 10 months in progress.

The GAO, in a brief report on LOFT and PBF last year, did not comment on the merits of this decision.

As for LOFT, by far the more troubled of the two projects, the AEC decided in May 1967 to radically alter the reactor's main purpose from one of proof-testing a containment shell of the type that surrounds nuclear power plants to one of testing out emergency core cooling systems. In this case, the GAO report made no comment on the merits or the consequences of this decision, although a reasonable guess might attribute half the delay and overrun to it.

More controversial is the matter of "quality assurance." Both sides agree that Washington made a vigorous effort, beginning about 1966, to apply strict new quality standards to the construction of the two reactor plants, and it is evident to all concerned that both projects became bogged down in the process. But whose fault was it?

Milton Shaw, the AEC's director of reactor development and technology (RDT), and the central figure in this dispute, is explicit: The responsibility, he has made amply clear in interviews and in testimony before the congressional Joint Committee on Atomic Energy, belongs to the Phillips Petroleum Company, whose nuclear division was hired by the AEC in 1950 to run the NRTS and to manage the Idaho site's safety research programs. At Shaw's behest, the AEC severed its remaining ties with Phillips last summer and turned over full responsibility for safety programs to the new operating contractor at NRTS, the Aerojet Nuclear Corporation.

Shaw describes the years trying to complete the two projects—particularly LOFT—as one of the most frustrating experiences of his life. In the first place, he says, their objectives were "narrowly conceived" by Phillips. And second, for some reason, the company had endless problems getting pumps, valves, and other parts of "acceptable quality."

"For one reason or another," he told the Joint Committee in March 1970, "we were unable to get from Phillips the management talent necessary to get the LOFT and PBF projects done."

At Idaho, however, scientists and engineers in the safety program—some of them formerly employed by Phillips—tell a different story, the essence of which is that AEC used Phillips as a scapegoat for much of its own ineptitude. To the extent that their story can be independently verified, there is evidence that Shaw shifted a significant portion of the blame for delays and overruns from the AEC to Phillips.

In interviews, the Idaho researchers conceded that the Phillips contingent at the NRTS did have some trouble hiring talented engineers and managers, partly because the site was so isolated.

At the same time, however, Shaw's explanations of the problems at Idaho appear to have omitted the fact that for virtually all the 15 years that Phillips ran the safety program it did not have full legal authority to administer design and construction contracts to the firms that actually built the dozens of test reactors at Idaho. Instead, that responsibility belonged to the AEC's own outpost at the proving ground, the Idaho Operations Office.

One senior engineer formerly with the PBF project explained the limits of Phillips authority this way:

"Our responsibility was limited to early, conceptual designs for projects like LOFT and PBF. The AEC operations office let the contracts to architect-engineers—the design firms—and to construction companies. Once detailed design began we merely had authority to review and comment on a project's safety and whether it was meeting its objective. These observations were passed on to the AEC."

As problems developed with LOFT and PBF, former Phillips officials at Idaho are said to have made a strong plea to Shaw in 1968 for full authority over the two floundering projects. The authority was granted in early 1969. Within 3 months, as problems continued and the Joint Committee wanted to know why, Shaw stripped Phillips of its management authority over the safety program on the grounds of its inability to hire sufficiently qualified staff. "The name of the game," said one man now employed by Aerojet, "is cover your number."

The GAO report on the two projects, issued in August 1971, confirmed but did not comment on, this train of events. Several researchers at Idaho, including two who had reviewed a draft version of the report, said that the final, public version omitted serious criticisms of the AEC's management of the LOFT and PBF projects. One of those who had read the draft said that they attributed these deletions to pressure exerted by the commission, which customarily reviews GAO reports of AEC affairs before they are made public.

In an interview, Shaw was asked whether he thought it was fair to blame Phillips for delays in construction when they lacked full authority over contracts. "If they didn't have it, who did?" he said. The AEC, it was suggested. "Well, let's be fair. Neither Phillips nor the AEC out there had the necessary competence."

Perhaps the bitterest conflict of all at Idaho developed around Washington's efforts to institute stringent new quality standards in the construction of reactors—not only for commercial nuclear power plants, but for the AEC's own test reactors as well. These two parallel efforts—one internal, one aimed at the industry—commingled to a large extent, and, in the view of a number of safety program staff, with disastrous results. An administrator at Oak Ridge National Laboratory who watched the battle at Idaho from afar says:

"You have to give Shaw credit for pushing the industry to adopt tougher standards. They were urgently needed, and some elements of the industry—and I refer to Westinghouse and General Electric [the two leading reactor manufacturers]—fought it all the way. The question is whether these or similar standards are appropriate for research facilities. We think they are not."

The critics in Idaho charge that in late 1966 Shaw co-opted the LOFT project for use as a "showcase" for standards, to prove to a reluctant industry that they really were feasible. The problem, says an engineer involved in the affair, was that some of the standards, in their initial form, turned out not to be feasible:

"The whole philosophy became one of using LOFT to develop standards and check them out, rather than producing the safety information we desperately needed. And some of them were a bit extreme, requiring that metals be traceable back to the mine . . . The overall effect was to drive up costs of some components by a factor of 3 to 5 and to stretch out timetables by two and a half."

Months were consumed by haggling among Phillips, the AEC in Idaho, and teams of enginees under Shaw in Washington over the acceptability of particular pieces of plumbing. Voluminous documentation was required to verify that standards were being met and that tests and inspections were being carried out according to the new rules.

(Meanwhile the Power Burst Facility was having problems of its own. No one tried to use it as a showcase, but the new standards meant redesigning many parts. To speed things along, project engineers tried to meet the "intent" of new standards for pipes, pumps, valves, and other parts while liberally construing the "letter" of the standards. For their trouble, some were fired. "It was a hard learning experience," one man recalls, and one the GAO says accounted for most of the slippage in schedule.)

Amid all the bickering, construction on LOFT came to an almost complete halt between May 1968 and October 1970. One problem, it developed, was that no manufacturer in the country would bid on such essential items as coolant pumps and valves and control-rod mechanisms that Washington wanted made according to its new standards. This impasse was finally resolved by "cannibalizing" these parts from a number of old reactors, including one aboard the scrapyard-bound N.S. *Savannah*, the nation's first and only nuclear freighter. "So here we sit," says an engineer at Idaho, "building it out of scrap."

Roy Swanson, the AEC's project manager for LOFT at Idaho, confirms that such parts are being used in the reactor, but he says it's unfair to characterize them as "scrap," even if they are 10 or 12 years old and don't fully measure up to the new standards. He said that the pumps and valves are now being refurbished in shops at NRTS and they'll soon be good as new.

Did the use of LOFT to develop new standards cause major delays in the project? Swanson said:

"Sure, it caused some delay, but the standards weren't that far out. They were based on experience in the Navy and elsewhere. And there were other problems, like building a 200-ton door for the containment [shell] so we could move the reactor in and out on a railroad car. . . ."

Was LOFT used to show industry that the new standards would work? Did this ploy work?

"Yes, this did happen. You'd take a company by the hand and show them step by step how they could meet a standard, and you're starting to see companies advertise in trade journals that they meet RDT-Shaw standards. . . . It's true that some were a little too tough, and we couldn't get bidders on pumps and valves at first, but you go in and negotiate these things. And sometimes you have to compromise a little."

Isn't it understandable, Swanson was asked in a conversation, that safety researchers should be upset at having their project "expropriated" for this purpose? "Sure," he said. "But whenever you get into standards you take a beating on the head."

In Washington, Milton Shaw says that it's "ridiculous" to think that so important a research facility would be used principally as a showcase to sell new standards to the industry, although if it did so "that might have been a worthwhile spinoff."

Shaw says it was all part of a strenuous effort on his part to introduce a "disciplined engineering approach" to the conduct of reactor R & D by the AEC's national laboratories. For the laboratories' management, this entailed occasionally drastic reorganizations aimed at tying research more closely to specific goals—such as developing an economical breeder reactor—and it also meant establishing firm, clear lines of authority, modeled after the aerospace industry, leading back to Shaw's own teams of engineers in Washington. Moreover, laboratories were instructed to seek out and employ new program administrators who were familiar with the nuclear industry and sympathetic to the need for rigorous quality control in research.

This was necessary, Shaw says, to improve the reliability of expensive and potentially dangerous experimental facilities. "We were losing data because of breakdowns and defective equipment, and because some things were not being calibrated well enough to permit an experiment to be repeated."

The campaign for quality assurance at Idaho was prompted in part, he said, by the discovery in 1965 of "bum welds" in the Advanced Test Reactor while it was under construction. Repairs required virtually rebuilding the reactor, he said.

In the case of LOFT, Shaw conceded that he has had a hard time convincing experimenters at Idaho that their reactor should be built to higher standards than those applied to commercial nuclear power plants. This disparity is justified, he argues, because LOFT is meant to provide empirical verification of safety system designs, and it is not meant merely to "proof-test" a typical reactor. And he wants to prevent any mishaps, such as a ruptured pipe, that might accidentally damage the reactor. "We don't want the technology damned because of flaws in the equipment."

In important ways, during the past 8 years, Shaw has industrialized those segments of the national laboratories that come under his aegis as director of civilian reactor R&D. Major portions of the laboratories, he reported to the congressional Joint Committee this year, have been "converted from a research orientation to one stressing disciplined engineering application, proof-testing, and quality assurance, as well as soundly developed applied technology."

The laboratories have not taken kindly to this discipline, which they are inclined to view as excessive. (One of the first and sharpest protests came in 1967 from Albert V. Crewe, then director of Argonne National Laboratory, who remarked in a speech that Argonne's purpose was "not to build submarines but to produce knowledge.")

At Idaho, a senior physicist associated with the LOFT project made his complaint:

"Around 1968 money for basic physics, such as nuclear cross-section work, just dried up. The philosophy was that if something didn't solve a problem—particularly for the breeder—it wasn't going to be picked up in the budget. . . . We can't even do *applied* research now in some cases. Money budgeted for development work on instruments for LOFT essentially stopped in 1968. We'd like to make some improvements in them to extend the data we get from this reactor. But we're forced to use instruments already 'on the shelf'."

At Idaho and within the safety program at Oak Ridge National Laboratory equally strong feelings prevail that the new quality standards have driven up the cost of doing research without producing any visible improvement in the quality of the research itself.

Certainly test reactors at Idaho grew more expensive. At Oak Ridge, where a much smaller safety research program revolves to a lesser extent around great test facilities, estimates are that RDT standards have driven up the purchase cost of materials by 8 to 10 percent and doubled the cost of some equipment.

These added expenses—combined with the general inflation in the cost of doing research during the 1960's and on into the 70's—dealt a harsh blow to reactor safety research. As costs rose, the program's overall budget grew slowly in some years and remained static in others. At the same time, the Atomic Energy Commission, partly in response to prodding from the Joint Committee on Atomic Energy, found itself accelerating the breeder program, and dipping into money allocated to water reactor safety to do it. Something had to give, and what gave was research intended to resolve questions of the utmost urgency pertaining to dozens of commercial nuclear power plants then on the drawing boards and under construction.—Robert Gillette

---

The Fall of Phillips Nuclear

The nuclear division of the Phillips Petroleum Company, it appears, was on its way out as operating contractor of the National Reactor Testing Station even before a fight erupted over its conduct of research projects. In May 1965 the Atomic Energy Commission announced that Phillips' contract would be terminated forthwith—except for its safety research responsibilities—and the contract to run NRTS would be put put for open bid. An AEC news release at the time said this was not to be construed as a sign of dissatisfaction with the company, but was only "intended to give other companies a chance to compete for an AEC operating contract."

This decision marked the beginning of antagonism between scientists and engineers in the safety program, who were employed by Phillips, and the AEC's Division of Reactor Development and Technology. Although most of the 1800 Phillips employees not in the safety program were to be absorbed by the new contractor, the move understandably offended company loyalties. Moreover, it led to administrative complexities that safety research managers would just as soon have done without. "Suddenly we were an arm grafted onto a new body," said one. "New working relationships had to be established, and generally it was an unnecessary disruption."

The operating contract, worth $29 million in 1966, amounted to a rich subsidy for reactor manufacturers, and the AEC was not bashful about saying so. Special consideration, the commission said, would be given to bidders with a strong interest in commercial nuclear reactors "as evidenced by the firm's activity and investment in the field of atomic power."

Phillips had not involved itself in nuclear energy beyond its activities at the NRTS; consequently it was out of the running. The winner of the contract was the Aerojet General Corporation, which at that time had made heavy investments in gas-cooled reactors and was facing a bleak outlook for sales. Together with the Allied Chemical Corporation, which had invested in nuclear fuel reprocessing, Aerojet formed the Idaho Nuclear Corporation in 1966 to run the NRTS.

The safety program remained in Phillips hands for 3 years more, but by 1969 the LOFT and PBF projects that it ostensibly supervised were in deep trouble. That June, under orders from the AEC, Phillips joined Idaho Nuclear as a third and minor partner with no top-management authority.

Last summer, yet another major reorganization removed both Phillips and Allied from the unequal triumvirate of operating contractors and left some research managers wondering about the legality of it all. Although no open bidding process took place, the AEC negotiated a new operating contract that led to the dissolution of Idaho Nuclear and to the creation of an entirely new corporate entity as the operator of the NRTS—the Aerojet Nuclear Corporation, a solely owned subsidiary of Aerojet General. Although AEC officials say that no contract procedures were violated in this shuffle, it does leave a residue of irony. Several years ago Aerojet dropped out of the reactor business, except for its duties at Idaho, for which the company now receives nearly $50 million a year.—R.G.

Nuclear Safety (III): Critics Charge Conflicts of Interest

(By Robert Gillette)

One February day in 1971, the Oak Ridge National Laboratory (ORNL) in Tennessee received a bit of bad news from Atomic Energy Commission headquarters in Washington that still evokes feelings of anger and resentment among the laboratory staff. With only a brief explanation, Oak Ridge administrators were told that a project they considered to be the laboratory's single most important piece of nuclear safety research—a study of how reactor fuel rods might behave during a major loss-of-cooling accident—was going to be canceled, even though it was nowhere near completion.

Oak Ridge had already absorbed significant cuts in its $5 million safety research budget, and the laboratory had suffered them in relative silence. But this was too much to bear: The project had run only 2 of a scheduled 4 years; it pertained to a problem that the AEC itself had said demanded urgent attention; the study was the only one of its kind then under way; it pursued issues of great interest to the AEC's regulatory staff, which depended on the safety program for technical support; and above all, in the opinion of Oak Ridge researchers, the fuel-rod study had begun to raise some troubling questions about the margins of safety in nuclear power plants then under construction.

"We are astounded at your decision to discontinue this experimental work," William B. Cottrell, ORNL's director of nuclear safety, protested in a memorandum to his counterpart at AEC headquarters, Andrew J. Pressesky, the assistant director for nuclear safety.

"This matter is of such grave concern to so many persons," Cottrell wrote on 4 March and again on 30 April, "that I expect ORNL management to raise questions with others in AEC. . . . No one really knows what will happen in a reactor core in the event of a loss-of-coolant accident [and] the AEC in general—but Regulatory in particular—needs an in-house program to assess this very complex matter."

The safety director's pleas were fruitless, however, and the project was killed. The official explanation had to do with a general shortage of funds for safety research, but one Oak Ridge administrator, who insists on anonymity, says that Pressesky offered a remarkably different explanation in private. "You won't find this in writing," the administrator said, "but the reason he gave for canceling the study was that it raised more questions than it solved."

Safety researchers took that to mean their findings were rubbing the reactor "vendors" or manufacturers the wrong way, but Pressesky denies this inference. In a recent interview he asked whether his quoted remarks were written or oral. Informed that they were oral, he said, "What I probably meant was that I had misgivings about how well these experiments represented real nuclear fuel."

Whatever the truth of the matter, the incident served to reinforce a growing conviction among safety researchers, both at Oak Ridge and at the National Reactor Testing Station in Idaho, that authorities in Washington were shaping the safety program more to fit the desires of the nuclear industry than to accommodate the needs of the AEC's own regulatory and licensing staff. In its haste to get on with developing the breeder, Washington seemed to researchers in the field to be methodically sidestepping grave uncertainties that still surrounded ordinary, water-cooled nuclear power plants. Why it should do so was something of a mystery, but two possible motives suggested themselves to worried researchers at Oak Ridge and Idaho. Either officials in Washington attached far less urgency to water-reactor safety than they professed to, or they were deliberately attempting to "keep a low profile" on embarrassing safety questions that threatened to jeopardize the industry's financial support of the breeder program. "I am convinced," says one research manager at Idaho who subscribes to the latter view, "that RDT (AEC's Division of Reactor Development and Technology) is simply in bed with the vendors. Everyone wants his merit badge for the breeder."

The AEC's congressional testimony over the past few years leaves no question that large segments of the water-reactor safety program are lagging far behind schedule. What remains open to debate is whether these delays were as deliberate as they might appear. An article last week traced some major delays and shortages of funds to cost overruns and other administrative problems in building two major research reactors at the Idaho installation. This current article takes up the critics' contention that, fundamentally, the safety program's difficulties derive from serious conflicts of interest within RDT, of which the safety program is part.

Allegations of an inborn conflict of interest—on the ground that it both promotes and regulates the nuclear industry—are old hat to AEC. It has long since learned to shrug off such accusations with the argument that there was no reason why the same agency could not carry out both functions independently and with equanimity, so long as the proper checks and balances of internal power prevailed.

With this in mind, the AEC reorganized itself in 1961 in an effort to separate regulatory functions from the agency's "development" programs. These functions—including all the administrative machinery for licensing nuclear power plants—were joined together to form a distinct regulatory arm, whose director answered to the five commissioners. Glenn Seaborg, the former AEC chairman, has written that this organization "evolved for one simple reason: so that the right hand would know what the left hand was doing, yet be independent of it."

Looking back though, it appears that things never quite worked out that way. The regulatory staff never achieved full independence. Moreover, right from the beginning and all through the years communication and coordination between the two sides was notoriously poor—in part because the commission simply neglected to establish clear and reliable lines of administrative contact between the two "hands" of its staff. Indeed, in April 1967, more than 5 years after a distinct regulatory staff came into being, Congress's usually friendly and paternal Joint Committee on Atomic Energy found itself imploring the commission to improve its internal communications:

"It appears to the committee that not all the necessary steps have been taken in the past to coordinate the work of these two organizations. The supposed ease of exchanging information and views between the operating and development staff, on the one hand, and the regulatory staff, on the other, is one of the chief arguments made against a complete separation of the AEC's regulatory functions from its other activities. It is most important that this exchange take place in fact as well as in theory, and that one of the results be a meaningful nuclear safety research effort."

The 1961 reshuffle had left both sides—the regulatory and development units—in a difficult situation, pregnant with conflicts of interest. For one thing, the safety research program had remained behind in the AEC's main development arm, the RDT. While this probably made eminent sense at a time when nuclear power plants were still under development and far from a commercial reality, times changed. Five years later, the regulatory staff would depend heavily on the safety program for help in assessing the safety of dozens of power plants coming up for licensing. Thus, in the middle 1960's, the RDT found itself in the position of conducting a research program that was actively engaged in raising pointed questions about the very reactors the RDT had worked so hard to develop. Moreover, the division could scarcely have hoped to avoid accusations of mutual backscratching with the industry when, precisely at the time the AEC began cutting back its reactor safety budget, it began spending lavishly on the breeder program and encouraged utilities and reactor vendors to do the same.

To make matters worse, the regulatory staff remained almost totally dependent on the charity of the RDT to pay for research on any broad, pressing questions that new designs of nuclear power plants might raise. Whereas "Reg" could let small, special purpose consulting contracts to universities or private firms, the commission gave it no money for a coherent research program of its own. Nor has the regulatory arm ever had the option of paying money directly to the RDT for work it wanted done. Instead, the most it could do was submit a formal "request for information" and hope Shaw and his division could see their way clear to spend the time and money required. There is abundant evidence to suggest that, more often than not, the time and money was not available and the questions went unanswered.

The inherent drawbacks of these arrangements might have remained mostly academic, had two unforeseen problems not developed in the middle 1960's.

First, around 1966, the regulatory staff encountered what appeared to be major gaps in the information generated by the safety research program. Utilities had begun ordering nuclear plants of unprecedented size—with capacities of 1000 megawatts electrical, more than ten times the size of any pressurized water reactors then in operation—but the technical reports of the safety program dealt mostly with much smaller reactors. New information and new experimental data were needed to assess the safety of the mammoth plants that the utilities wanted, and the safety program would have to produce it as expeditiously as possible in order to make any contribution at all to the licensing process.

Then the second problem popped up. Just as the regulatory staff requested this new research, the budget for water reactor safety research hit a plateau and then, incredibly, declined.

What apparently triggered the regulatory staff's hunger for information was an application from Consolidated Edison of New York for a permit to build an 873-megawatt nuclear plant named Indian Point 2. The design of the plant proposed a dramatically high power level that in turn implied a new reliance on such safety features as the emergency core-cooling system to protect the reactor, as well as the nearby public, from an accidental loss of cooling water and a potentially disastrous melting of the core.

The AEC issued Con Edison its permit on 14 October 1966, but evidently did so with some misgivings. Two days earlier, the AEC's semiautonomous Advisory Committee on Reactor Safeguards (ACRS) issued a statement stressing an urgent need for new research to ensure the reliability of the hitherto untested backup cooling systems. Two weeks later, on 27 October, then director of regulation Harold L. Price took the unusual step of appointing a "task force" of 12 prominent scientists and engineers to review the information available on loss-of-cooling accidents, and the backup systems that were intended to lessen the consequences of such accidents. One year later, the task force, headed by the late William K. Ergen of ORNL, issued its findings in a 221-page report that pointed to a host of technical uncertainties. More had to be learned about the mechanism and circumstances of pipe rupture, the presumed cause of a coolant loss. More had to be known about the behavior of fuel rods and the fission wastes inside the fuel rods during an accident. Improvements, based on experimental work, were needed in existing computer simulations of accidents.

The Ergen report was scarcely one to inspire confidence, and even at that, according to one man who helped write it, the document represented a "serious compromise" between the least sanguine members of the task force and the far more optimistic industrial participants. The AEC did eventually publish the report but went to no great lengths to encourage its circulation. The public version bore no date, price, or address of any place where it might be obtained, nor did it bear the identification numbers customarily assigned to such reports.

If the available correspondence on the subject is any indication, the RDT's response to the demands for new research on loss-of-cooling accidents was phlegmatic at best. To his credit, Milton Shaw in 1967 reoriented a major research reactor then under construction at Idaho to emphasize studies of emergency cooling problems. But the project, called the Loss of Fluid Test facility (LOFT), ran into prodigious cost overruns and delays and began gobbling up money that might have gone into research. More than 2 years after the Ergen group had dropped its bombshell, the ACRS complained to Glenn Seaborg, then chairman of the AEC, that its exhortations for more work on loss-of-coolant accidents and related problems seemed to be falling on deaf ears. In a letter of 12 November 1969, the ACRS told Seaborg:

"The committee has strongly recommended safety research of this kind several times during the last three years; the regulatory staff has also strongly supported such work. However, only small or modest efforts have been initiated thus far.

"In its comments on 20 March 1969, the committee also recommended that '. . . considerable attention be given now to the potential safety questions related to larger water reactors likely to be proposed for construction during the next decade. Larger cores, higher power densities, and new materials of fabrication are some of the departures from present practice likely to introduce new safety research needs. . . .' It appears that, because of funding and for other reasons, the recommendations of the ACRS will not be implemented at this time."

It should be noted that this criticism also came 2 years after the Joint Committee on Atomic Energy upbraided the AEC for not fitting the safety program to the regulatory arm's needs.

Those needs, of course, had not been ignored altogether. Even the modest effort cited by the ACRS was producing results, and these results was even less encouraging than the Ergen group's findings. According to one man involved in this research at Idaho:

"The more we worked this problem the more it fell apart in our laps. Everything we did to analyze the physical phenomena, to improve correlations, to better describe what happens during blowdown [the explosive depressurization of a reactor vessel] pushed our predicted temperatures higher toward melting and the margins of fuel safety lower.

"The more we got into this the more it became apparent that RDT was very unhappy with all this. The problems we were raising were upsetting their cozy relationship with the vendors and utilities, whose support they needed for the breeder. . . . It also became clear that Shaw and others just didn't believe a serious accident of this kind could happen, and that it was really worth working on. They'd say all the right things in public, but in the small, executive session their enthusiasm would cool off."

Both sides think the probability of a major accident is low, but low means different things to different people. In the spectrum of estimates, officials in Washington lean toward lower estimates—on the order of one chance in a billion—than researchers in the laboratories. "What bothers me most," says a prominent engineer at Oak Ridge, "is that after 20 years we are still making purely subjective judgments on what is important and what is not in reactor safety. Purely by decree, some things, like the rupture of a reactor pressure vessel, are ruled impossible. To decide these things without some objective measure of probabilities is, to me, almost criminal."

It is difficult for an outside observer to judge the extent to which estimates of accident probabilities have cooled or fired enthusiasm. Shaw and Pressesky acknowledge that differences of opinion "exist, but they say the debate is irrelevant. 'Our job is to work out these problems," Pressesky says, "and that's what we're trying to do. For our purposes, the probability of an accident is one." Shaw adds that he thinks serious reactor accidents will inevitably occur—but that safety systems will protect public life and property.

And yet, all this time, strange things were happening to the safety budget. As always, Congress authorized money for both breeder reactor and water-cooled reactor safety in one lump sum each year, and between 1969 and 1972 this sum oscillated gently between $34 million and $37 million. Within that essentially constant budget, though, money allocated to breeder studies during the 4-year period rose from $4 million in 1969 to more than $11 million in 1972.

The source of this added money was clear, and so were the effects of its transferral. Over the vigorous protests of the Advisory Committee on Reactor Safeguards and the regulatory arm, water reactor safety research was being sacrified for the benefit of the breeder.

Who is responsible for this sacrifice is far less clear. One analysis suggests that not all the blame is Shaw's, although he has tended to serve as something of a lightning rod for the rancor of short-changed researchers. In his annual appearances before the Joint Committee's budget hearings, Shaw has forthrightly pointed out that pumping new money into the breeder has brought about cutbacks in "vital and important" studies pertaining to water-cooled reactors. Moreover, the records of the hearings show that he consistently asked for 10 to 20 percent more money for nuclear safety than he ultimately received. Just as consistently, the AEC's own budget-makers and the White House budget office markedly reduced the amount Shaw was allowed to request from Congress. It is difficult to imagine that these cuts were not approved, at least in part, by the five commissioners. And the Joint Committee, in its eagerness to press on with the breeder, has shown no public signs of anxiety over water reactor safety either. (The Joint Committee may also have cast a skeptical eye on AEC requests for safety money after the agency diverted to other purposes or simply failed to spend $12 million or 8.5 percent of the funds appropriated for nuclear safety from 1965 through 1968. The committee said in 1969 that this was "indicative of persistent overestimates of budget needs.")

Nevertheless, the ups and downs of the safety budget, and the emphasis on the breeder, aroused strong suspicions among safety researchers that the RDT had been a bit too intimate with the industry. The suspicions have been further piqued by the RDT's efforts to escape its financial problems by divesting itself of major safety research tasks and inducing the nuclear industry—especially the utilities—to pay for the work instead. In Washington, it is argued that the industry really ought to shoulder a larger part of the burden for safety research, now that nuclear energy is a commercial reality. "They have to stand on their own two feet," Shaw says of the utilities and vendors.

But a number of the critics at Oak Ridge and Idaho fear that, if the commission is too successful in this endeavor (which to date it has not been), the AEC may cripple its own ability to judge the quality of industry-sponsored work. To Washington, this bears a taint of special pleading, but the critics respond that the entire effort raises still more questions of conflicting interests. As one senior administrator puts it, "This is like asking the agricultural chemical industry to tell us how safe pesticides are.' '

These feelings are coupled closely with the researcher's irritation at RDT's practice of letting reactor manufacturers review their proposals for new research, before RDT passes judgment on the proposals. In an interview, an administrator at Idaho expressed the complaint this way:

"Shaw will say, 'Have you found a problem? Just send us a proposal.' So we send a proposal. First it's screened by teams of engineers in his office before anyone, including REG, has a chance to comment on it. If it gets past this stage, they send it to the vendors for comment. Not to impartial experts in universities or foundations, but to the vendors. And great Scott, the industry is very upset by these proposals. We keep raising questions that they'd just as soon not hear about. They've already convinced REG that it's not a problem at all. . . . In the end, RDT chooses to identify with the needs of the industry, not the regulatory staff."

Officials in Washington have an explanation for this procedure, which is simply that they want to ensure that safety research is related to practical problems of reactor design. Pressesky makes the point that proposals go simultaneously to vendors and the regulatory staff, and sometimes not to vendors at all. Accusations of favoritism toward industry are flatly denied. "I hear things about conflict of interest all the time," Shaw says. "I can't let it bother me. . . . Some of the industry people come down on us just as hard."

How are relations now between the development and regulatory sides of the AEC? In some respects things are looking up. Funds for reactor safety are up to $53 million this year, and about half the increase since 1971 has gone toward water reactors. Perhaps the most charitable judgment of the present situation comes from L. Manning Muntzing, the director of regulation, who told the Joint Committee last March that his staff had a "very close working relationship" with the RDT.

If that is true, it would seem to represent a dramatic transformation. Only a month before, the ACRS again criticized the RDT for failing to heed the interests of the regulatory staff in a letter to the new chairman, James Schlesinger, the ACRS ticked off a list of problems yet unsettled, some still hanging fire from the middle 1960's. Among its demands, the ACRS asked for "special emphasis" on fuel studies of the sort Oak Ridge used to do, and it suggested that, 'in the future, the AEC safety research program should reflect more directly in extent and detail the recommendations and needs of the Regulatory staff and the ACRS."

It was a familiar refrain, and one that evidently caught the ear of the General Accounting Office, the investigatory arm of Congress. Although no congressman has asked it to do so, the GAO has initiated its own investigation of the turbulent relations between the safety program and the regulatory staff. The GAO expects to have its report ready sometime next spring.

TRIBUTE TO SENATOR COOPER

Mr. McGEE. Mr. President, I regret that my duties as a delegate to the United Nations in New York prevented me from joining with my colleagues yesterday in paying tribute to a distinguished friend and fellow Senator—John Sherman Cooper. However, I would like to take the opportunity to do so at this time.

The retirement of John Sherman Cooper from the U.S. Senate is indeed a sad occasion for this body. John is an individual who has a timeless quality about him. It is this quality, combined with his outstanding intellectual ability, his many valuable contributions to the welfare of this Nation, and his stature as a public servant, which makes it difficult for us to accept his retirement from the Senate.

John is an individual who has always risen above partisanship. He has always represented the highest qualities of statesmanship that lesser men can never hope to attain. His decisions have been marked by wisdom and a deep intellectual grasp of issues and problems. For these reasons, his presence in this body will be sorely missed.

I will always be grateful for the opportunity I have had to serve with John, not only in the Senate, but as a member of the Committee on Foreign Relations. He has always been one of the most knowledgeable Members of the Senate on foreign issues and policy.

John Sherman Cooper has exercised the highest moral leadership in his public service. He always has been, and remains, a man of principle, judicious temperament, quality, and excellence, combined with a deep sense of compassion for the needs of his fellow man.

I have a deep affection for John Sherman Cooper and I will deeply miss him as an esteemed colleague and friend.

GLEN CAÑYON NATIONAL RECREATION BILL

Mr. MOSS. Mr. President, we are now in what appears to be the closing hours of the 92d Congress, and despite the strong urging of the Department of the Interior and the Nixon administration, and despite the all but universal approval of the bill by the people of Utah, Congress has not taken final action on legislation to establish the Glen Canyon National Recreation area in southern Utah and northern Arizona. The heartbreaking aspect of the situation is that the bill teeters very close to final enactment—it has been passed by the Senate, and favorably reported, with amendments, by the House Interior Committee. The amendments are not impossible of compromise. But unless there are some unexpected developments, the bill will die with the session.

The establishment of Glen Canyon National Recreation area, by statute, and the establishment of its permanent boundaries and the spelling out of the regulations under which it will be managed, have been under consideration by the Congress since 1963.

Many hours of work have gone into the effort, session after session, in the hope of perfecting a measure which will give the scenic and recreational values of the area, the protection they must have and yet assure that other uses of the area would not be curtailed, or that the full economic development of southern Utah would in no way be jeopardized.

The bill for the 92d Congress (S. 27) was introduced in the Senate on January 25, 1971, the first day on which bills could be introduced in this body, and its companion bill was dropped in the hopper several days later in the House. In the Senate, S. 27 was part of a package of four bills intended to develop the scenic and recreational potential of southern Utah—the other three bills provided for the establishment of Capitol Reef National Park, of Arches National Park, and for the expansion of Canyonlands National Park. Hearings were held on all four bills in the Senate Interior Committee on June 3, 1971, and all were passed by the Senate on June 21 of that year. and referred to the House 2 days later.

The House Interior Committee gave consideration to the three national park bills rather quickly, and all were passed in October of that year and became public law in December 1971.

But the Glen Canyon National Recreation bill was separated from the package and held back from consideration. Despite repeated requests that hearings be scheduled on that bill, the Utah representative on the House Interior Committee did nothing to have the measure considered throughout the remainder of 1971. It was not until May 27, 1972, that field hearings were held in Utah, and until June 8, 1972, that hearings were held by the House committee in Washington. And it was not until August 11—2 months later—that the bill was finally marked up and ordered reported by the House committee.

Then came the most unexplainable delay of all. The report and the bill itself were not filed in the House of Representatives by the House Interior Committee until September 26—after 5 weeks had passed.

In fact, the filing of the report—a fairly simple one to write—was delayed so long that by the time it was available, the House Rules Committee had announced it would no longer consider granting any more rules to bills this session. The Glen Canyon bill has been forced, therefore, into the only route open to it for passage—to call it up under suspension of rules which requires that two-thirds of the House of Representatives support it.

As of the time I am making this statement—2 days before anticipated adjournment—the bill has not been called up.

Every effort made to discuss in advance possible bases for conference agreement between the House and Senate versions of the bill has been rejected. The differences are not great—they are subject to negotiations—but it now appears that there will be inadequate time to sit down and try to work them out in free and open discussion, and to get final passage in this 92d Congress on this long-sought legislation.

My disappointment is enormous, as will be the disappointment of the people of Utah when they learn what has happened.

KENNAN'S MEMOIRS II

Mr. CHURCH. Mr. President, George F. Kennan is an exceptional American diplomat. He has served his country brilliantly in eastern Europe and in Russia; his conclusions over the years about the Soviet Union, as he has written in his Memoirs, "emerge with admirable clarity," in the opinion of John Kenneth Galbraith, in a major review of Kennan's new book.

The review, like the book, is well worth reading. Accordingly, I ask unanimous consent that it appear here in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEMOIRS 1950–63

(By John Kenneth Galbraith)

I don't see how a memoir could be better; even if you aren't interested in the subject at hand, the language carries you along. And the story here told—with all action subject to the finest Kennan introspection—is both important and absorbing. Covered in this second volume are the origins of the Korean War; the cold war mystique of Acheson and Dulles; Moscow in 1952 in the last months of Stalin; how Kennan got thrown out of the Soviet Union for an unguarded remark in a Berlin airport; the McCarthy attack on old friends; the convulsion of the cold warriors over Kennan's Reith Lectures proposing disengagement in central Europe; and his service in Yugoslavia under Kennedy. All of it is graced by the Kennan style; all is stamped with the Kennan foreign-policy trademark.

The latter consists of an ability to think clearly about complicated matters with an utter independence of mind. He draws on a superb stock of historical knowledge; he makes use of a capacious if somewhat less adequate stock of contemporary information, a matter to which I will return in a moment. The worst thing about all thinking on foreign policy is the narcotic attraction of the fashionable view. "You are so right, Mr. Secretary. It's the way we all feel." For this Kennan has only contempt, but he also derives no special pleasure—as I always do—from the feeling that everyone else is wrong. Having made up his mind, Kennan then gives the reasons with consummate skill and complete certainty. No one should misconstrue the Kennan tendency to introspection; it regularly raises the question that he *might* be wrong but then with rare exceptions discards the possibility.

Most of the conclusions that George Kennan has reached over the years involve, in one way or another, the Soviet Union, and they emerge with admirable clarity from this book.

He has always thought that the Soviets were primarily concerned with their own affairs; he was never captured by the thought that they would invite destruction in pursuit of world revolution. He always believed that they would negotiate where there was a chance for mutually rewarding results and would keep the resulting agreements. Their prospective response to sentiment or affection, a prime Kennan point, he has always thought negligible. A conventional war with the Soviets would, he was persuaded, be unwinnable and a nuclear conflict insane. In dealing with the Soviets he considers the military a blunderbuss, the Congress irresponsible, hysterical and uninformed and the political leadership, including that of the State Department, in its subservience to wild-eyed generals and Congressmen, gutless to the point of being obscene. He loves Russia, was always committed to the idea of peaceful coexistence and leaves one deeply puzzled as to how we happened to survive the diplomacy (and military subservience or recklessness) of Acheson, Dulles, Radford and LeMay. Certainly we were more fortunate than we deserved.

The Kennan view has been admirably affirmed by events, and yet I would not want to give him a complete bill of health. He sees the Korean War as the logical response by the Soviets to our decision to proceed with a separate peace with Japan and to retain Japanese military bases. Korea was outside this defense perimeter; the Soviets reacted by having their clients try to take it over. On all recent form it would seem equally plausible that they were discovering that puppets, especially in that part of the world, are hard to control. The South was weak; the Americans seemed not very concerned; why might the North Koreans not decide for themselves to march down and have one country? Perhaps they got permission; maybe they just informed the Soviets and then went ahead; maybe they were discouraged but did not listen. Certainly both we and they have since become accustomed to independent behavior by our client states.

Also Kennan's world is one of governments in which men have a choice between sensible and stupid action and are not greatly subject to social imperative. There is a good example of this view in his treatment of John Foster Dulles. He begins a less than affectionate treatment of Dulles by suggesting that by knowledge, experience, ambition and a certain deviousness of manner he was admirably equipped for his job. (Except for the last I do not entirely agree.) He then explains the Dulles errors as the result of poor character plus an unwillingness to stand up to Congressional and military opposition. But surely Dulles had one other disqualifying trait which was his access to only one piece of social knowledge, namely that there was a difference between free enterprise and Communism, and that good men chose the first and the willfully wicked the second. That deprivation, political oppression and economic exploitation might drive men and governments to solutions distasteful to a Wall Street lawyer was well beyond his range of thought. Kennan is not sensitive to such a flaw.

I think Kennan, with others, also misunderstands the McCarthy phenomenon. He puts the blame on primitives like McCarthy, McCarran, Jenner and the men of the Establishment who were too cowardly to stand up to them. With all this one must agree. But something must surely be attributed to the way liberals of my generation acquiesced in a standard of guilt. If it could be shown that one ever had a pro-Communist, pro-Soviet or even a pro-socialist thought, it was accepted that he was disqualified for public service and the company of true statesmen. By this standard almost everyone of any intellectual viability had some disqualifying stain. Men were kept busy righteously disavowing what was true but shouldn't have mattered. They were right to blame the man who went around hitting people in the jaw. But they should have asked why so many equipped themselves with a glass jaw.

Finally Kennan sees the Congress, along with the generals, as the natural enemy of all sensible foreign policy. I am willing to concede him the generals, the cold war generation at least, and I agree that in these years the Congress was frequently a force for irresponsible anti-Communism. But of late, surely, the Senate has been a powerful force for caution and good sense. It was the experts and the generals who proposed or rationalized the more reckless or brutal actions in Vietnam. They destroyed Lyndon Johnson with recommendations that, one senses, he knew would be fatal. Over the last half-decade Fulbright, Morse, Gruening, Kennedy, Cooper, Church, Hatfield and McGovern have surely been more sensible than the senior officials of the Department of State. On the average I think we are safer if we keep foreign policy under the influence of men who must be reelected. It was surely this need, not any change in inner conviction or any advice from the State Department, that sent Richard Nixon on his pilgrimages to Moscow and the People's Republic China.

All of this is to say that not even Kennan is infallible. But it remains a privilege, nonetheless, to argue with this most brilliant and civilized of students of the public scene.

REPRESENTATIVE EMANUEL CELLER

Mr. MATHIAS. Mr. President, the Congress is like every other human institution where men and women join together for a common purpose. As in all groups, each Member of Congress develops personal as well as professional relationships with other Members. In the Congress, for instance, there are always those to whom one turns in times of stress and confusion, in times of celebration as well as defeat. There are those to whom one turns to for leadership and strength. And, there are always those to whom one turns to as a friend. EMANUEL CELLER is all this to me as he is to so many Members of the other body. He is the dean of the House not just because he has survived longest, but because he has fought with gallantry and courage for longer than anyone else.

I have a deep, warm, affectionate feeling for Representative CELLER. I am sad to see him leave; however, I know that his conduct, his achievements and his standards will leave an impression for generations to come.

When I think of Chairman CELLER, I, of course, think of his great leadership and triumphs in the civil rights movement and his keen knowledge and wisdom of the law. But even more prominent in my memory are his sensitive human qualities and the way he humanized everything he dealt with. In this age of computers, regulations, and growing bureaucracy, Congressman CELLER reminded the Congress time and time again that we were dealing with human beings—with people. He got this message across in many different ways. I remember so well the numerous times he defused a charged issue with a story that sparked a laugh instead of a flame. The stories always have a point and are worth remembering.

History will record the work of EMANUEL CELLER as the leader and the legislator. I shall remember him as the man, subject to all the moods and emotions that please or plague us, but always a man who tried to understand his fellow men and to move the stones from their path.

ST. ANDREWS PRESBYTERIAN COLLEGE HONORS SENATOR ERVIN

Mr. ROBERT C. BYRD. Mr. President, on May 21, 1972, St. Andrews Presbyterian College of Laurinburg, N.C., awarded the honorary degree of Doctor of Laws to our colleague, Senator SAM J. ERVIN, JR. I ask unanimous consent that the citation accompanying the award be printed at this point in the body of the RECORD.

The PRESIDING OFFICER. There being no objection, the citation was ordered printed as follows:

SAMUEL JAMES ERVIN, JR.

The original purpose of the degree of *Legum Doctor* was to serve as a means of recognizing learning or attainment in the law. Today the degree is commonly awarded in recognition of distinguished service in the fields of government, politics, and public administration. The man St. Andrews chooses to honor with this degree today uniquely satisfies both the old and the new qualifications, as student of the law, jurist, Constitutional authority, legislator, and Senator.

Sam J. Ervin, Jr., was born in Morganton, Burke County, North Carolina, where he received his early education and where he began his career as a lawyer and judge. Graduated from the University of North Carolina in 1917, he served eighteen months in France during World War I. He was twice wounded. His decorations include the Fourragère, the Silver Star, and the Distinguished Service Cross.

In 1922 he earned a law degree from Harvard University. He was a representative from Burke County during several terms of the N.C. Assembly, and he served as U.S. Representative in the 79th Congress. He was, successively, judge of Burke County Court and of the N.C. Superior Court, and for six years was an associate justice of the N.C. Supreme Court. He has been in the U.S. Senate since 1954.

A statesman is judged by what he fights for and by what he fights against. Throughout his life Sam Ervin has been for the law and for its goals of order and justice and freedom, for he believes that law and the respect for law are the basis of order is a free society. He believes that the individual's respect for law must be balanced by the law's reverence for the individual's rights.

It is significant that Sam Ervin's first major speech in the Senate challenged the threats and intimidation of the then powerful Senator Joseph McCarthy. As a member of the select committee to study censure charges against Senator McCarthy, he helped to bring a period of national hysteria and near insanity to a close.

As a staunch defender of the Bill of Rights, he has warned against the network of intelligence-gathering systems being developed by government and private agencies, saying that "in these systems, where they contain the record of the individual's thoughts, beliefs, habits, attitudes, and personal activities, there may well rest a potential for political control and for intimidation that is alien to a society of free men." In the name of Constitutional civil liberties, he has fought to uphold freedom of speech, thought, and privacy. In the spirit of the First Amendment he opposed the prayer amendment proposed in 1966 by Senator Dirksen. Sam Ervin was quoted at the time as saying, "I am a possessor of a great affliction—a Scotch-Irish [Presbyterian] conscience, which will not permit me to follow after a great multitude to do what I conceive to be evil."

He has fought to preserve the Fourth amendment guarantee against government assaults on privacy. He has defended federal employees against an inquisitive bureaucracy, and he has opposed military snooping, "no-knock" legislation, preventive detention, government censorship of the press, and other police state techniques. It should not be forgot that as a member of the N.C. Assembly in the early twenties he helped to defeat a bill that would have possibly brought the Scopes "monkey trial" to North Carolina, and that in recent years he was responsible for Congressional action that finally extended full civil rights to American Indians.

His decisions and actions throughout his career have been based on the first ten amendments to the U.S. Constitution, the ground where true conservatives and true liberals meet.

President Hart, on behalf of the Faculty I present to you Sam J. Ervin, Jr.

THE DISTURBANCE AT THE DISTRICT OF COLUMBIA JAIL

Mr. PERCY. Mr. President, following is a letter that I have mailed today to Mr. Kenneth Hardy, Director, District of Columbia, Director of Corrections, that needs no further elaboration:

Mr. KENNETH HARDY,
Director, District of Columbia Department of Corrections, George Washington University Hospital, Washington, D.C.

DEAR MR. HARDY: Your courage and determination in the face of great personal danger deserves the respect of every citizen in the District of Columbia.

I think that it needs to be said that the disturbance at the D.C. Jail yesterday was in no way a reflection of your leadership in the Department of Corrections. I believe the disturbance was caused by problems endemic to the entire correctional system in this country today: overcrowded courts, crowded and ancient jail facilities, and a group of men and women whose existence society prefers to forget.

Your longstanding endeavors to upgrade the correctional programs in D.C. and your leadership, not only in the past few days but also in the recent negotiations at Lorton, have my full support.

I wish you a speedy return to good health. The District of Columbia and, indeed, the entire field of corrections, need men of your stature and you may be assured of my continuing support.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

PERSONAL EXEMPTIONS FOR AMERICAN SAMOANS

Mr. INOUYE. Mr. President, on behalf of myself and Senator FONG I intend to submit an amendment to H.R. 1467. This amendment is designed to clarify a currently confused area with respect to the tax treatment of subsidiary corporations of domestic U.S. corporations which operate in possessions of the United States. The amendment is substantially the same as H.R. 11158, a bill introduced by Congressman MATSUNAGA, which was ordered reported by Ways and Means, with the amendments, on October 13, 1971.

Section 931 of the Internal Revenue Code allows subsidiaries of domestic corporations operating in possessions of the United States which meet certain technical requirements to exclude from their gross income, the income earned in such possessions. Section 1504(b)(4) provides that corporations entitled to the benefits of § 931 may not join with other corporations in filing a consolidated return. The IRS had ruled that a corporation which met the technical requirements of § 931 could not join in a consolidated return regardless of whether such corporation received a benefit from § 931. Thus, a subsidiary possession corporation which had suffered losses during a taxable year was barred from joining in a consolidated return with its parent even though such corporation received no benefit from § 931. The IRS position was motivated by some corporations which moved in and out of a consolidated return yearly depending upon their operating results. While the Tax Court of the United States has ruled that the IRS position was erroneous there still exists substantial uncertainty in the area.

H.R. 11158 as reported, and the proposed amendment to H.R. 1467, correct this situation by providing that a corporation must elect to take advantage of the benefits of § 931. Such an election is effective for 10 taxable years. While such election is effective the corporation cannot join in a consolidated return. Provision is made by revocation of the election with the consent of the Secretary or his delegate.

H.R. 11158 and the amendment hereby proposed, make it clear that once a company has elected to take advantage of § 931 it is bound by that election for a period of 10 years, during which period it cannot join in a consolidated return. On the other hand, if an election is not made a company is free to join in a consolidated return. This provides the certainty needed in the area while at the same time eliminating the abuse at which the IRS was directing its enforcement activities.

The amendment would apply to all taxable years ending on or after December 31, 1971, and also provides that if a taxpayer so elects, the provisions of the amendment apply to all taxable years ending before December 31, 1971, to which the Internal Revenue Code of 1954 applies.

This amendment differs from H.R. 11158 in only one respect. H.R. 11158 provided that the election to take advantage of § 931 would be effective for a period of 10 years following the end of the taxable year in which the corporation first failed to meet the technical requirements of §931. The amendment hereby proposed would limit the effectiveness of the election to a specific period—10 taxable years.

Some corporations having operations in possessions are having difficulty understanding the precise impact of the following sentence, which is the third full paragraph on page 3, from H. Rept. 92-1300 on H.R. 11158:

> A corporation which acquires the assets of a domestic corporation whose election is still effective (where sec. 381(a) applies) is bound by an already outstanding election of the domestic corporation.

Some construe this sentence as barring the application of § 332 to liquidations of possessions subsidiaries by their parents. There is also concern that the sentence may prevent a parent from joining in a consolidated return if the assets of a company which has an election in effect under H.R. 11158 are acquired by the parent in a transaction to which § 381(a) applies.

I believe that the sentence from the Ways and Means Committee report quoted above is necessary to avoid tax abuse and is intended only to prevent transactions designed to avoid the mandatory election period provided in H.R. 11158 and this amendment through the acquisition of the assets of a domestic corporation which has elected to come under § 931 by another subsidiary corporation which has not so elected. Under our amendment, the corporation acquiring the assets of such a subsidiary corporation in a § 332 liquidation will not be barred solely by reason of such acquisition from joining in the filing of a consolidated return. I hope the amendment will be given favorable consideration. I ask unanimous consent to have the amendment printed in the Record.

There being no objection, the text of the amendment was ordered to be printed in the Record, as follows:

Amendment intended to be proposed by Mr. Inouye (for himself and Mr. Fong) to H.R. 1467, an act to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans.

At the end of the bill add the following new section:

"Sec. . (a) Section 931 of the Internal Revenue Code of 1954 (relating to income from sources within a possession of the United States) is amended—

"(1) by striking out in subsection (a) 'citizens of the United States or domestic corporations' and inserting in lieu thereof 'a citizen of the United States, and in the case of a domestic corporation which elects the application of this section'; and

"(2) by adding at the end thereof the following: '(j) ELECTION.—The election provided in subsection (a) shall be made in such manner as the Secretary or his delegate may by regulation prescribe. Such an election shall remain in effect until the expiration of the 9th taxable year following the taxable year for which such election was first effective and for which such taxpayer satisfied the conditions of paragraphs (1) and (2) of subsection (a). Such an election may be revoked prior to such time with the consent of the Secretary or his delegate.'

"(b) Section 1504(b)(4) of such Code (relating to definition of includible corporation) is amended to read as follows:

"'(4) Corporations with respect to which an election under section 931 (relating to income from sources within possessions of the United States) is in effect for the taxable year.'

"(c) Section 246(a) of such Code (relating to deduction not allowed for dividends from certain corporations) is amended to read as follows:

"'(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend—

"'(1) from a corporation organized under the China Trade Act, 1922 (see section 941);

"'(2) from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or

"'(3) out of earnings and profits of a corporation attributable to amounts excluded from the gross income of such corporation under section 931.'

"(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to taxable years ending on or after December 31, 1971. Such amendments shall, at the election of the taxpayer made under this paragraph within one year after the date of the enactment of this Act, also apply to all taxable years ending before December 31, 1971, to which the Internal Revenue Code of 1954 applies.

"(2) The amendment made by subsection (c) shall apply with respect to distributions made after December 31, 1971."

JOHN SHERMAN COOPER—A GREAT SENATOR

Mr. RIBICOFF. Mr. President, it is with regret that I note that John Sherman Cooper is retiring from the Senate. The senior Senator from Kentucky is a great Senator, a compassionate and brilliant human being, and a cherished friend of mine. The Senate is a better place because of his presence. The Senate will miss him.

Senator Cooper is all the things Senators should aspire to be. He is intelligent, thoughtful, perceptive, and eloquent. He is proud of his Republican Party and its past and he has labored long and hard to make it a potent force in American political life. But Senator Cooper is also an independent citizen of this Nation and he has never hesitated to assert that independence and freedom of thought and exercised his vote as he saw fit, even when that vote was contrary to his party's position. And the Republican Party is a stronger, more dynamic party because of Senator Cooper.

As his colleagues spoke about Senator Cooper and his decision to retire these past few days, I was deeply impressed by the warmth and respect Senators feel for him. I was particularly struck by the words of Senator Symington, who has known Senator Cooper for 50 years.

Senator Symington said it best when he observed that he found it extraordinary, but true nonetheless, that in the half century that they had been friends he had never heard criticism of John Sherman Cooper.

My friendship with Senator Cooper does not go back that far. But in reading Senator Symington's remarks, I too recalled that in the 20 years that I have known John Sherman Cooper I have not heard criticism of him either. This is an all the more extraordinary consideration when we realize that Senator Cooper has never withdrawn in the face of controversy. On the contrary, he has spoken his mind and voted his conscience. It is a rare individual, indeed, who can command the respect and admiration and friendship of virtually all he meets in a lifetime of public service and politics. Part of the explanation for this achievement may stem from the fact that John Sherman Cooper is, and always has been, a good man, a man of deeply ingrained moral fiber and principle. When the decency in a person is that strongly felt, others—friends and foes—sense it and, while they may disagree, they know better than to question motives or impugn character. Speaking to this aspect of the man, the Louisville Courier Journal once noted that:

> The goodness that looks from Cooper's face is a passport among humans everywhere.

There are too few men and women of this stature in public life today. The Nation needs its John Sherman Coopers. But Senator Cooper has every right to retire from the Senate now if he wishes.

His service in this body has been productive and earns for him a place of honor in the history of the Senate.

I join with my colleagues in extending best wishes to Senator JOHN SHERMAN COOPER in retirement. In doing this, though, I am confident he will serve his country in new, important roles—and very soon. Any field he enters, any pursuit he engages in, I know, will be greatly enhanced by him.

NAME DESIGNATION OF SENATE OFFICE BUILDINGS

Mr. GAMBRELL. Mr. President, yesterday the Senate passed Senate Resolution 296, legislation to designate the Old Senate Office Building and the New Senate Office Building as the Richard Brevard Russell Office Building and the Everett McKinley Dirksen Office Building respectively. In my opinion, this designation of these two buildings is a fitting tribute to the memory of two most outstanding Senators.

Richard Brevard Russell dedicated 38 years of his life to the U.S. Senate. Elected in 1932, he began his service in the Senate with hard work and unequaled dedication. Through his mastery of parliamentary procedure and his constitutional expertise, Dick Russell gained the power and prestige that was to be his. From his early efforts obtaining school lunches for all children to his later years of service as counselor to several Presidents, Richard Russell's devotion to his State and his country was never questioned. Dick Russell's high principles, integrity, and motivation may be matched by other great men, but his dedication to the U.S. Senate must be unequaled.

This designation of the office building in which the late Senator Russell maintained an office for nearly four decades is, I think, a fitting tribute. I commend the distinguished majority whip, Mr. BYRD, for offering this resolution. I appreciate being added as a cosponsor, and I am pleased at its adoption by the Senate last evening.

CUMBERLAND ISLAND NATIONAL SEASHORE

Mr. GAMBRELL. Mr. President, Tuesday night the House passed H.R. 9859, a bill to establish the Cumberland Island National Seashore in the State of Georgia. There are only minor differences in this bill and S. 2411 which Senator TALMADGE and I introduced and which passed the Senate July 24, 1972. Hopefully, these differences can be resolved in short order. This action on the Cumberland bill represents considerable work on the part of Congressman WILLIAM STUCKEY of Georgia's 8th District who has spent a great deal of time in an effort to construct effective and reasonable legislation.

Cumberland is a 24,000 acre island off the southern coast of Georgia, the largest of Georgia's Golden Isles. It is the last large island along the Atlantic coast which remains almost entirely in its natural state. Along with its 18 miles of what the National Park Service has concluded to be one of the best undeveloped beaches along our coast, Cumberland contains dense forest, fresh water lakes and abundant wildlife, as well as being of great archeological and historical significance. The Park Service recognized, as early as 1955, that Cumberland Island would be a significant addition to the Nation's public land holdings and through the generosity of the Mellon Foundation, now owns over 13,000 acres in addition to that owned by the State and Federal Government.

During hearings by the Subcommittee on National Parks and Recreation on S. 2411 last May, I expressed the opinion that the acquisition of Cumberland would be a bargain to the American taxpayer. It is my hope that Georgians and all Americans will come to know the beauty, the tranquility, the unspoiled loveliness that is Cumberland, and I am pleased to have been a part of this effort to preserve the island. I commend Mr. STUCKEY for his energetic efforts on behalf of this legislation. I look forward to a speedy resolution of the differences between the Senate and House versions of this legislation and enactment by this Congress.

SUBCOMMITTEE APPROVES SPEEDY TRIAL LEGISLATION

Mr. ERVIN. Mr. President, I am pleased to announce that S. 895, a bill to give effect to the 6th amendment's guarantee of a speedy trial, has been favorably reported to the Judiciary Committee from the Subcommittee on Constitutional Rights. This represents over 2 years of work by the subcommittee and its staff, during which the bill, originally introduced in the 90th Congress, was subjected to careful analysis by over 200 prominent members of the bench and bar, reviewed in hearings held by the subcommittee in 1971, and completely redrafted at least five times.

The consequences of delay on the effectiveness of the criminal justice process are well known. Where there is protracted delay in a criminal case the zeal of complainants cool, memories fade, and witnesses fail to appear. When this happens, the prosecution is forced to plea bargain and to reduce criminal charges. Delay undermines the prosecution and society pays the price in less justice and less respect for the law. The phenomena has been well documented. A study in a busy Illinois State court indicates that the conviction rate in cases promptly disposed is twice that of cases in which there is substantial delay. On the other hand, the benefit to the prosecution from a firmly enforced speedy trial rule are also well established. Mr. Whitney North Seymour, Jr., U.S. attorney for the southern district of New York, has detailed the increase in convictions, the increase in guilty pleas, the better investigative work, the improvements in the performance of his office—in short, the better quality justice that has resulted from a self-imposed "60-day ready-rule" in the U.S. attorney's office pursuant to the second circuit's new speedy trial requirements.

Another unfortunate consequence of slow justice is that when there is substantial delay in trials—in excess of 8 to 9 weeks—the threat of subsequent criminal activity by defendants on release is substantially increased. Unfortunately this administration has tried to deal with this problem by advocating preventive detention. But that expedient has proved not only to be a gross invasion of constitutional liberty but also a complete and utter failure, as I have previously demonstrated in speeches before the Senate.

The purpose of S. 895 is to confront the problem of delay and the related issue of pretrial crime, not avoid it and suspend the Constitution—the approach followed by the administration in its preventive detention proposal. Prof. Daniel Freed of Yale Law School, in testimony before our subcommittee summarized the philosophy behind S. 895 quite eloquently. He described the bill as comprehensive legislation which rejects arbitrary rules, abridged rights and instant dollars as solutions to the complex problem of delay in the Federal trial courts.

The bill is designed to reform the backlogged Federal criminal process where, as of 1971, two-thirds of the criminal cases were pending more than 3 months prior to disposition. This goal is to be accomplished by establishing reasonable time limits of 60 days within which trials must take place, at the pain of dismissal. However, to give the criminal justice system time to reform itself, the 60-day time limits are delayed until 3 years after enactment. Further, a mechanism has been devised to provide resources earmarked for the achievement of this goal. The bill provides for a planning process in each Federal district court which will result in a nationwide plan itemizing the necessary additional resources which will be transmitted to the appropriate committees of Congress. Finally, the bill authorizes the establishment of ten pilot pretrial services agencies to help provide supervision of those released prior to trial as required by the Bail Reform Act of 1966 and by the Constitution.

Since S. 895 was introduced this session, 52 Senators have joined me in sponsoring the bill. When the bill was first introduced I made it quite clear that the bill would be subjected to the type of analysis and change which it has undergone during the past 2 years. The subcommittee has made important refinements in the language of the bill which reflect the opinions of experts outside the Senate, and which accommodate many of the suggestions which the Justice Department representatives made when they appeared before the subcommittee in September of last year.

Despite the numerous technical improvements in S. 895, the bill is still predicated on the conviction that substantial reform of unconscionable delays in the judicial process can only be accomplished by Federal legislation—and that the best way to achieve speedy trial in criminal cases is to provide for dismissal of trials which do not occur within a time certain for a particular defendant.

After 2 years of study the subcommittee has reached the conclusion that not only is it both necessary and feasible to deal with the problem of court delay by Federal legislation but that we believe that S. 895 as improved, is the appropriate means for achieving that goal. As William Rehnquist, then Assistant Attorney General, testified before our subcommittee:

> For it may well be, Mr. Chairman, that the whole system of Federal criminal justice needs to be shaken by the scruff of its neck, and brought up short with a relatively preemptory instruction to prosecutors, defense counsel, and judges alike that criminal cases must be tried within a particular period of time. That is certainly the import of the mandatory dismissal provision of your bill.

Although I am pleased to announce that the subcommittee has reported the bill, it is with considerable regret that I must also announce that the Justice Department has at the same time changed its position and withdrawn its support for speedy trial legislation. Since the bill was first introduced in February 1971 support for effective steps to achieve speedy trial has been expressed not only by a majority of the Senate and many Congressmen, but by the Chief Justice, the Judicial Conference, the President, Second Circuit Court of Appeals, the New York State judicial system, and the U.S. attorney for the Southern District of New York, Whitney North Seymour, Jr., among many others.

After an unusual delay, the Justice Department finally appeared before the Constitutional Rights Subcommittee in September 1971 and, under the leadership of Assistant Attorney General Rehnquist, declared its support in principle for S. 895 and promised active cooperation with the subcommittee in resolving problems presented by the bill. That cooperation was forthcoming as promised. A subsequent letter from Mr. Rehnquist outlined very carefully and objectively a series of defects in the original legislation. The work of the subcommittee over the last year has in large part been directed toward improving the bill along the lines pointed out by Mr. Rehnquist. Quite clearly, the bill would not be as polished had we not had the help from the Department that Mr. Rehnquist promised and delivered. While in September of 1971 the Department might have disagreed with many provisions of S. 895, there was not one whisper in the Department's testimony or subsequent correspondence that Congress should not be legislating in this area.

Unfortunately, it appears that with Mr. Rehnquist's elevation to the Supreme Court, the Department's commitment to speedy trial has been promoted out of existence.

A recent letter to me from the Deputy Attorney General makes it clear that the Department has cooled in the support voiced last year. The letter only thinly veils what probably is a reversal of its position on speedy trial legislation. The Justice Department states its new position quite succinctly:

> We strongly believe that legislatively imposed time limits not only will defeat the ends of justice but avoid the real issue of reform in the Federal criminal justice system.

Its attitude of compromise, cooperation and support, acknowledging the propriety of Federal legislation setting time limits, has been replaced with one of unequivocal opposition. But, curiously, the Department has no problems with time limits imposed by others, such as the time limits required by the U.S. Court of Appeals for the second circuit. The Department also opposes the planning mechanism contained in S. 895 because the judiciary has just adopted a similar system, rule 50b of the Federal Rules of Criminal Procedure. According to the Department, Congress should not legislate until experience can be gained from the new rule. This should sound very familiar to the members of this body. For the Department is once again arguing—

> Trust us. Do not exercise your constitutional authority and responsibility to legislate in this area. This is another matter which should be left to the wise discretion of the Executive and Judicial branches.

I could not disagree more. This is not a problem whose solution should be left to the initiative of the other branches. Generations of deference to the executive and judicial branches has led to the present quagmire in the Federal courts. Indeed, I believe that to a very significant extent what progress we have seen during the past year—the Second Circuit Rule, and rule 50b, can be traced to the work of the Constitutional Rights Subcommittee in developing S. 895 and to other congressional activity on speedy trial. Perhaps the judiciary has finally decided to do something about court delay because it fears that if it fails to act, Congress will impose upon it mandatory legislation such as S. 895. Whitney North Seymour, Jr., has spoken eloquently on the problem of speedy trial and the success of the second circuit rule. He pointed out in a recent speech that the key to its success has been the wholehearted cooperation of the investigative agencies, prosecutors, judges, and other personnel involved. Although I agree that Congress cannot legislate that sort of cooperation and initiative, I believe that the wholehearted cooperation that Mr. Seymour speaks about in the second circuit may be due, in part, to the threat of tough Federal legislation such as S. 895.

S. 895 has had a positive effect even though it has not yet been enacted. If enacted, the legislation would assure that the gains made in the past few years are not temporary, but become a permanent part of the Federal criminal justice system. The sanction in S. 895 is that Federal judges and prosecutors know that their failure to solve the problem of court delay would lead to dismissals of criminal indictments, and the public will not tolerate that. The Justice Department and the judiciary would be held accountable and where there is accountability there will be action.

If the Department and the Federal judges cannot meet the provisions of this bill, it may be because Congress has not appropriated enough money for the Federal criminal justice system, for new prosecutors, judges, court personnel, et cetera. And if that is the case, Congress should and would bear the responsibility for the failure of the Speedy Trial Act, S. 895. Congress cannot avoid the fact that it is accountable ultimately for the crisis in the Federal criminal justice system once the courts, the Justice Department and the defense bar have met their own responsibility.

Over the past 2 years, I have studied very carefully most of the important schemes now being used in the Federal and State court systems for achieving speedy trial—the Second Circuit Rule, rule 50b of the Federal Rules, the New York State Rule and the various State statutes. I am convinced that S. 895 contains the best features of all these provisions and would strike the proper balance between society's interest in speedy trial and the defendant's and Government's right to a fair trial. It certainly is the only scheme which I have seen which could commit the Federal criminal justice system to the achievement of speedy trial and provide the promise of the resources to achieve that goal.

It is quite late in the session and the likelihood of action by the full committee is slim but I hope to get this measure to the floor early next session.

I urge my colleagues to study the amended bill and the committee report which is presently being prepared by the subcommittee staff. Therefore, I ask unanimous consent that the bill as reported from the subcommittee be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Speedy Trial Act of 1972".

TITLE I—SPEEDY TRIALS

SEC. 101. Title 18, United States Code, is amended by adding immediately after chapter 207 a new chapter 208, as follows:

"Chapter 208.—SPEEDY TRIALS

"Sec.
"3161. Time limits and exclusions.
"3162. Sanctions.
"3163. Effective dates.
"3164. Interim limits.
"3165. District plans.
"3166. Definitions.
"3167. Sixth amendment rights.
"§ 3161. Time limits and exclusions

"(a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, set a day certain for trial.

"(b) The trial of a defendant charged with an offense shall be commenced as follows:

"(1) (A) Within sixty days from the date the defendant is arrested or served with a summons, except that if the prosecution is initiated by filing an information or indictment prior to arrest or summons (and made public) then within sixty days from the date of such filing;

"(B) Notwithstanding the provisions of subclause (A) of this clause, for the first twelve-calendar-month period following the effective date of this chapter as set forth in section 3163 of this chapter, the time limits imposed by such subclause (A) shall be one hundred and eighty days, and for the second such twelve-month period, such time limits shall be one hundred and twenty days.

"(2) If the indictment or information is dismissed upon motion of the defendant for reasons other than those provided in section 3162(a) and thereafter the defendant is charged with the same offense or an offense based on the same conduct or arising from the same criminal episode, within sixty days from the date the defendant is arrested or served with a summons with respect to such charge, except that if the prosecution is initiated by filing an information or indictment prior to arrest or summons (and made public), then within sixty days from the date of such filing; or

"(3) If the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for a new trial, within sixty days from the date the action occasioning the retrial becomes final. If the defendant is to be tried again following an appeal or a collateral attack, within sixty days from the date the action occasioning the retrial become final, except that the court retrying the case may extend the period for retrial not to exceed one hundred and eighty days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from passage of time shall make trial within sixty days impractical.

"(c) The following periods of delay shall be excluded in computing the time within which the trial of any such offense must commence:

"(1) (A) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

"(i) delay resulting from any examination and hearing on competency;

"(ii) delay resulting from an examination of the defendant pursuant to section 2902 of title 28, United States Code;

"(iii) delay resulting from trials with respect to other charges against the defendant;

"(iv) delay resulting from interlocutory appeals; and

"(v) delay resulting from hearings on pretrial motions.

"(B) With respect to any delay referred to in clause (1) (A) of this subsection, only such court days as are actually consumed in connection with any pretrial motion or other hearing, examination, presentation of an interlocutory appeal, or a trial with respect to another charge shall be excluded, and in no event shall any period of delay which occurs while any of the aforementioned matters under clause (1) (A) are under advisement or are awaiting decision be so excluded.

"(2) Any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

"(3) (A) Any period of delay resulting from the absence or unavailability of the defendant.

"(B) For purposes of subclause (A) of this clause, a defendant shall be considered absent when his whereabouts are unknown and, in addition, he is attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due diligence. For purposes of such subclause, a defendant shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained by due diligence or he resists being returned for trial.

"(4) Any period of delay resulting from the fact that the defendant is incompetent to stand trial.

"(5) Any period of delay resulting from the treatment of the defendant pursuant to section 2902 of title 28, United States Code.

"(6) If the information or indictment is dismissed upon motion of the attorney for the Government and thereafter a charge is filed against the defendant for the same offense or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

"(7) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

"(8) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice and the best interest of the public as well as the defendant would be served thereby. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the end of justice and the best interest of the public and the defendant were served by the granting of such continuance.

"(d) If trial did not commence within the time limitation specified in section 3161 because the defendant had entered a plea of guilty or nolo contendere subsequently withdrawn to any or all charges in an indictment or information, the defendant shall be deemed arraigned on the information or indictment with respect to all charges therein contained within the meaning of section 3161, on the day the order permitting withdrawal of the plea of guilty becomes final.

"§ 3162. Sanctions

"(a) If a defendant is not brought to trial as required by section 3161, the information or indictment shall be dismissed on motion of the defendant. The defendant shall have the burden of proof of supporting such motion except that the Government shall have the burden of proof of establishing any exclusion of time under subparagraph 3161 (c) (3). Such dismissal shall forever bar prosecution for the offense charged, any offense based on the same conduct or arising from the same criminal episode, and any other offense required to be joined with the offense. Failure of the defendant to move for dismissal prior to trial or entry of a plea of guilty or nolo contendere shall constitute a waiver of the right to dismissal under this section.

"(b) In any case in which counsel for the defendant or the attorney for the government (1) knowingly allows a date certain for trial to be set without disclosing the fact that a necessary witness would be unavailable for trial on such date; (2) files a motion solely for the purpose of delay which he knows is totally frivolous and without merit; (3) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of a continuance; or (4) otherwise willfully fails to proceed to trial on the date set for trial without justification consistent with section 3161 of this chapter, the court may punish any counsel or attorney, as the case may be, as follows:

"(A) in the case of an appointed defense counsel, by reducing the amount of compensation that otherwise would have been paid to such counsel pursuant to section 3006A of this title in an amount not to exceed 25 per centum thereof;

"(B) in the case of a counsel retained in connection with the defense of a defendant, by imposing on such counsel a fine of not to exceed 25 per centum of the compensation to which he is entitled in connection with his defense of such defendant;

"(C) by imposing on any attorney for the Government a fine of not to exceed $250;

"(D) by denying any such counsel or attorney for the Government the right to practice before the court considering such case for a period of not to exceed ninety days; or

"(E) by filing a report with an appropriate disciplinary committee.

The authority to punish provided for by this subsection shall be in addition to any other authority or power available to such court.

"(c) The court shall follow Rule 42 of the Federal Rules of Criminal Procedure in punishing any counsel or attorney for the Government pursuant to this section.

"§ 3163. Effective dates

"The time limitation in section 3161—

"(1) shall apply to all offenses charged in informations or indictments filed on or after the date of expiration of the twelve-calendar-month period following the date of the enactment of the Speedy Trial Act of 1972; and

"(2) shall commence to run on such date of expiration as to all offenses charged in informations or indictments filed prior to that date.

"§ 3164. Interim limits

"(a) During an interim period commencing ninety days following the date of the enactment of the Speedy Trial Act of 1972 and ending on the date immediately preceding the date on which the time limits provided for under section 3161(b) (1) (A) of this chapter become effective, each district (and the Superior Court for the District of Columbia) shall place into operation an interim plan to assure priority in the trial or other disposition of cases involving—

"(1) detained persons who are being held in detention solely because they are awaiting trial, and

"(2) released persons who are awaiting trial and have been designated by the attorney for the Government as being of high risk.

"(b) During the period such plan is in effect, the trial of any person who falls within subparagraph (a) (1) or (a) (2) of this section shall commence no later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The trial of any person so detained or designated as being of high risk on or before the first day of the interim period shall commence no later than ninety days following the first day of the interim period.

"(c) Failure to commence trial of a detainee as specified in subsection (b), through no fault of the accused or his counsel, or failure to commence trial of a designated releasee as specified in subsection (b), through no fault of the attorney for the Government, shall result in the automatic review by the court of the conditions of release. No detainee, as defined in subsection (a), shall be held in custody pending trial after the expiration of such ninety-day period required for the commencement of his trial. A designated releasee, as defined in subsection (a), who is found by the court to have intentionally delayed the trial of his case shall be subject to an order of the court modifying his nonfinancial conditions of release under this title to insure that he shall appear at trial as required.

"§ 3165. District plans

"(a) (1) Prior to the expiration of the twelve calendar month period following the date of the enactment of the Speedy Trial Act of 1972, each United States district court, with the approval of the judicial council of the circuit, shall prepare and submit to the Administrative Office of the United States Courts a plan for the trial or other disposition of offenses under this chapter (within the jurisdiction of such court) during the period that the one hundred and twenty day trial limitation required by section 3161(b)(1)(B) of this chapter is in effect. Prior to the expiration of the twenty-four calendar month period following such date of enactment, each such court, with the approval of such council, shall prepare and submit to the Administrative Office of the United States Courts a plan for the trial or other disposition of offenses under this chapter (within the jurisdiction of such court) on and after the expiration of the thirty-six calendar month period following the date of the enactment of the Speedy Trial Act of 1972.

"(2) Each such plan shall be formulated after consultation with, and after considering the recommendations of, the Federal Judicial Center, the United States attorney, and attorneys experienced in the defense of criminal cases in the district, including the Federal Public Defender, if any. Such plan shall include all such recommendations and shall further include a description of the procedural techniques, innovations, systems, and other methods by which the district court has expedited or intends to expedite the trial or other disposition of criminal cases. The plan shall make special provision for the speedy trial of cases at places of holding court where there is no judge continuously resident. The district court may modify such plan at any time with the approval of the judicial council of the circuit and shall modify the plan when directed by such council. The district court shall notify the Administrative Office of the United States Courts of any modification of such plan.

"(b)(1) Prior to the expiration of the twelve calendar month period following the date of the enactment of the Speedy Trial Act of 1972, the chief judge for the Superior Court of the District of Columbia, with the approval of the Joint Committee on Judicial Administration in the District of Columbia, shall prepare and submit to the Administrative Office of the United States Courts a plan for the trial or other disposition of offenses under this chapter within the jurisdiction of the Superior Court during the period that the one hundred and twenty day trial limitation required by section 3161(b)(1)(B) of this chapter is in effect. Prior to the expiration of the twenty-four calendar month period following such date of enactment, the chief judge of such court, with the approval of such Joint Committee, shall prepare and submit to the Administrative Office of the United States Courts a plan for the trial or other disposition of offense under this chapter, within the jurisdiction of such court, on and after the expiration of the thirty-six calendar month period following the date of the enactment of the Speedy Trial Act of 1972.

"(2) Such plan shall be formulated after consultation with, and after considering the recommendations of, the Joint Committee, the Corporation Counsel, United States Attorney, the Public Defender Service and attorneys experienced in the defense of criminal cases in the District of Columbia. Such plan shall include all such recommendations and shall further include a description of the procedural techniques, innovations, systems, and other methods by which the district court has expedited or intends to expedite the trial or other disposition of criminal cases. The chief judge may modify such plan at any time with the approval of the Joint Committee and shall modify the plan when directed by such Committee. The chief judge shall notify the Administrative Office of the United States Courts of any modification of such plan.

"(c) Within fifteen calendar months after the date of the enactment of the Speedy Trial Act of 1972, the Administrative Office of the United States Courts, with the approval of the Judicial Conference, shall submit a report to the Congress detailing the plans submitted to it pursuant to the first sentence of section 3165(a)(1) and 3165(b)(1) of this chapter, including any legislative proposals and appropriations necessary to achieve compliance with the time limitations provided in section 3161. Within twenty-seven calendar months following such date of enactment, the Administrative Office of the United States Courts, with such approval, shall submit such a report to the Congress covering plans submitted to such Office pursuant to the second sentence of section 3165(a)(1) and 3165(b)(1) of this chapter.

"(d) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated such sums as Congress may find necessary.

"§ 3166. Definitions

"As used in this chapter—

"(1) the terms 'judge' or 'judicial officer' mean, unless otherwise indicated, any United States magistrate, Federal district judge, or judge of the Superior Court for the District of Columbia, and

"(2) the term 'offense' means any criminal offense, other than a petty offense (as defined in section 1(3) of this title) or an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of any Act of Congress and is triable by any court established by Act of Congress.

"§ 3167. Sixth amendment rights

"No provision of this title shall be interpreted as a bar to any claim of denial of speedy trial as required by amendment VI of the Constitution".

TITLE II—PRETRIAL SERVICES AGENCIES

SEC. 201. Chapter 207 of title 18, United States Code, is amended by striking section 3152 and adding the following new sections:

"§ 3152. Establishment of pretrial services agencies

"The Director of the Administrative Office of the United States Courts shall establish, on a demonstration basis, in each of ten judicial districts (other than the District of Columbia) a pretrial services agency authorized to maintain effective supervision and control over, and to provide supportive services to, defendants released under this chapter. The districts in which such agencies are to be established shall be designated by the Chief Justice of the United States after consultation with the Attorney General, on the basis of such considerations as the number of criminal cases prosecuted annually in the district, the percentage of defendants in the district presently detained prior to trial, the incidence of crime charged against persons released pending trial under this chapter, and the availability of community resources to implement the conditions of release which may be imposed under this chapter.

"§ 3153. Organization of pretrial services agencies

"(a) The powers of each pretrial services agency shall be vested in a Board of Trustees which shall consist of seven members. The Board of Trustees shall establish general policy for the agency.

"(b) Members of the Board of Trustees shall be appointed by the chief judge of the United States district court for the district in which such agency is established as follows:

"(1) one member, who shall be a United States district court judge;

"(2) one member, who shall be the United States attorney;

"(3) two members, who shall be members of the local bar active in the defense of criminal cases, and one of whom shall be a Federal public defender, if any;

"(4) one member, who shall be the chief probation officer; and

"(5) two members, who shall be representatives of community organizations.

"(c) The term of office of a member of the Board of Trustees appointed pursuant to clause (3) (other than a public defender) and (5) of subsection (b) shall be three years. A vacancy in the Board shall be filled in the same manner as the original appointment. Any member appointed pursuant to clause (3) (other than a public defender) or (5) of subsection (b) to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(d) After reviewing the recommendations of the judges of the district court to be served by the agency, the Board of Trustees shall appoint a chief pretrial service officer who shall be a member of the bar of that court. Such officer shall receive compensation at a rate to be established by the chief judge of the court, but not in excess of the rate prescribed for GS-16 by section 5332 of title 5, United States Code. The chief pretrial service officer, subject to the general policy established by the Board of Trustees shall be responsible for the direction and supervision of the agency and may appoint and fix the compensation of such other personnel as may be necessary to staff such agency, and may appoint such experts and consultants as may be necessary, pursuant to section 3109 of title 5, United States Code. The compensation of such personnel so appointed shall be comparable to levels of compensation established in chapter 53 of title 5, United States Code.

"§ 3154. Functions and powers of pretrial services agencies

"Each pretrial services agency shall perform such of the following functions as the district court to be served may specify:

"(1) collect, verify, and report promptly to the judicial officer information pertaining to the pretrial release of each person charged with an offense, and recommend appropriate release conditions for each such person;

"(2) review and modify the reports and recommendations specified in paragraph (1) for persons seeking release pursuant to section 3146(e) or section 3147;

"(3) supervise persons released into its custody under this chapter;

"(4) with the approval of the Administrative Office of the United States Courts, operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including, but not limited to, residential halfway houses, addict and alcoholic treatment centers, and counseling services;

"(5) inform the court of all apparent violations of pretrial release conditions or arrests of persons released to its custody or under its supervision and recommend appropriate modifications of release conditions;

"(6) serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies;

"(7) assist persons released under this chapter in securing any necessary employment, medical, legal, or social services;

"(8) prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by rule 46(g) of the Federal Rules of Criminal Procedure; and

"(9) perform such other functions as the court may, from time to time, assign.

"§ 3155. Report to Congress

"(a) The Director of the Administrative Office of the United States Courts shall annually report to Congress on the accomplishments of the pretrial services agencies, with particular attention to (1) their effectiveness in reducing crime committed by persons released under this chapter; (2) their effectiveness in reducing the volume and cost of unnecessary pretrial detention; and (3) their effectiveness in improving the operation of this chapter. The Director shall include in his fourth annual report recommendations for any necessary modification of this chapter or expansion to other districts. Such report shall also compare the accomplishments of the pretrial services agencies with monetary bail or any other program generally used in State and Federal courts to guarantee presence at trial.

"(b) On or before the expiration of the seventy-two-month period following the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall file a comprehensive report with the Congress concerning the administration and operation of the Speedy Trial Act of 1972, including his views and recommendations with respect thereto.

"§ 3156. Definitions

"As used in sections 3146 through 3155 of this chapter—

"(1) the term 'judicial officer's means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court for the District of Columbia, and

"(2) the term 'offense' means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable by any court established by Act of Congress."

Sec. 302. The analysis of chapter 207 of title 18, United States Code, is amended by striking out the last item and inserting in lieu thereof the following:

"3152. Establishment of Pretrial Services Agencies.
"3153. Organization of Pretrial Services Agencies.
"3154. Functions and Powers of Pretrial Services Agencies.
"3155. Report to Congress.
"3156. Definitions."

Sec. 303. For the purpose of carrying out the provisions of this title, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1973, the sum of $10,000,000, and for each fiscal year thereafter, such sum as Congress may appropriate.

Sec. 304. Section 604 of title 28, United States Code, is amended by striking paragraphs (9) through (12) of subsection (B) and substituting in lieu thereof:

"(9) Establish pretrial services agencies pursuant to section 3152 of title 18, United States Code;

"(10) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, and supplies needed for the maintenance and operation of the courts, the Federal Judicial Center, the offices of the United States magistrates and commissioners, and the offices of pretrial services agencies;

"(11) Audit vouchers and accounts of the courts, the Federal Judicial Center, the pretrial service agencies, and their clerical and administrative personnel;

"(12) Provide accommodations for the courts, the Federal Judicial Center, the pretrial services agencies and their clerical and administrative personnel;

"(13) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States."

SURFACE MINING RECLAMATION ACT OF 1972

Mr. JACKSON. Mr. President, on October 6 I introduced an amendment in the nature of a substitute (amendment No. 1713) to S. 630, the Surface Mining Reclamation Act of 1972. I noted at that time that I would have a section-by-section analysis of the amendment printed in the Congressional Record prior to the Senate action on surface mining legislation.

Mr. President, the section-by-section analysis has been prepared and I ask unanimous consent that it be printed at this point in the Record for the information of Members of the Senate.

There being no objection, the analysis was ordered to be printed in the Record. as follows:

Section-by-Section Analysis

TITLE I—STATEMENT OF FINDINGS AND PURPOSE

Section 101

This section declares, as Congressional findings that the surface mining of coal and other minerals is a significant activity which contributes to our Nation's economic, social, and material well-being. It serves as a significant source of employment and supplies crucial fuels to meet potentially critical energy shortages, materials for critical metallurgical process, materials for transportation and communication systems, and other necessary public requirements. At the same time surface mining has numerous adverse economic, environmental, and social effects. It destroys or diminishes the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes. It contributes to floods, pollutes the water, destroys fish and wildlife habitat, impairs natural beauty, damages property, degrades the quality of life in local communities, and counteracts governmental programs to conserve soil, water, and other natural resources.

This section concludes, as a Congressional Finding, that effective regulation and in some areas prohibition of surface mining is necessary and appropriate to preserve the benefits, but eliminate the adverse effects of surface mining. A further finding is that such regulation is initially the responsibility of the States. As discussed in the analysis of section 204, the States are better equipped to handle the regulation of surface mining because of their knowledge of and sensitivity to the great diversity of terrain, climate, biologic, chemical and other physical conditions of, and the needs and aspirations of the local citizens and governments in areas where surface mining occurs. Secondly, the States possess the police power, the land use planning authority which is required for a truly effective surface mining regulatory program.

Section 102

However, as section 102 establishes, in its statement of purpose of this amendment, a nationwide program of regulation of surface mining operations is required and if and when a State manifests a lack of desire or inability to participate in that program and to meet the requirements of this amendment, the Federal Government is to exercise the full reach of Federal constitutional powers to insure the effectiveness of that program. The purpose of the program is to prevent the adverse effects to society and the environment resulting from surface mining, to assure no lasting degradation of land and waters from such mining, and to assure that reclamation as required by this amendment is undertaken as contemporaneously as possible with the mining.

TITLE II—EXISTING AND PROSPECTIVE SURFACE MINING AND RECLAMATION OPERATIONS

Sec. 201. Grant or Authority: Promulgation of Federal Regulations

This section places authority for the administration of this Act with the Secretary of the Interior. The Secretary's initial responsibilities are to prepare and publish, within 90 days, regulations concerning surface mining and reclamation operations for coal and a detailed description of actions to be taken by a State to develop a State Program to regulate such operations for coal. Within one year, regulations concerning operations for "other minerals" (defined in section 401) and a detailed description of State actions necessary to develop a State Program to regulate such operations for other minerals are to be proposed.

This amendment differs from the measure adopted by the House in that it requires regulation of surface mining operations for not only coal, but other minerals as well. The surface mining of coal has received more national attention and does constitute the most immediate environmental problem. Yet, in many areas of the country, sand and gravel operations, copper mining, phosphate mining, and other surface mining operations impose serious social and environmental costs which also require regulation. To address only coal in Federal legislation could effectively delay consideration of, and action on, the many problems associated with the surface mining of other minerals.

This section also provides procedures for public notice of the proposed regulations and for public hearings, with adequate notice, to be held in the affected States and regions on any proposed regulation to which objections have been filed prior to final promulgation of the regulations.

Throughout this amendment are provisions which insure due process—due process not only for surface mine operators, but also for State and local governments, surface owners, persons with valid legal interests, and local citizens. Due process is insured through numerous reporting and notice provisions, burden of proof provisions, public hearing provisions, and administrative and judicial review provisions. The Administrative Procedure Act (APA) is to be applicable to the administration of the amendment. However, in several instances, the provisions of the amendment depart from or are more specific than the APA. In such cases, the provisions of this amendment will prevail.

Sec. 202. Office of Land Use Policy, reclamation and enforcement

To insure administration of the program by an independent agency with neither a resource development (the promotion of mining, marketing, or use of minerals) or resource preservation (pollution control, wilderness or wildlife management) bias or mission, this section establishes the Office of Land Use Policy, Reclamation, and Enforcement in the Department of the Interior. This Office will be separate from any of the Department's existing bureaus or agencies. It is intended that the Office exercise independent and objective judgment in implementing this amendment.

To insure sufficient authority to administer this amendment, the Office will have a Director, appointed by the President with the advice and consent of the Senate. The Director will be compensated at the rate provided for in level V of the Executive Pay Schedule. Officers and employees of the Office are to be recruited on the basis of their professional competence and capacity to administer this amendment objectively. This section specifically states that there cannot be transferred to the Office any existing legal authority in the Department of the Interior, which has as its purpose, promoting the development or use of coal or other minerals.

The duties of the Secretary, acting through the Office, include: administering the various grant-in-aid programs provided in this amendment; administering research and development projects provided in this amendment; reviewing State programs for surface mining and reclamation operations, developing and administering any Federal Programs for surface mining and reclamation operations for States which do not have or are not enforcing State Programs; maintaining a study of and a Data Center for land resources, land use planning, and surface mining and reclamation operations; cooperating with States in dissemination of relevant data and in standardized methods of collecting and classifying such data; and providing technical assistance to the States to enable them to undertake responsibilities provided for in this amendment.

It has been argued that the Environmental Protection Agency (EPA) should administer this amendment. However, after careful analysis EPA was rejected as the administering agency in favor of the Office for the following reasons:

(1) As noted in the discussion of Title I, surface mining is an activity critical to the nation's and many local communities' material, economic, and social well-being. Yet, this activity also inflicts heavy environmental and social costs on both the national and local levels. Any regulation of this activity must, of necessity, involve a careful weighing and balancing of social and economic as well as environmental costs and benefits.

The most useful existing mechanism for such a weighing and balancing procedure has been identified by both the Executive Branch and the courts to be the environmental impact statement required by the National Environmental Policy Act of 1969 (P.L. 91-190). However, EPA has been made largely exempt from the environmental impact statement requirement by subsection 511(c) of the Federal Water Pollution Control Act Amendments of 1972.

(2) A prime consideration of this amendment is due process for all concerned parties. Due process, in this case, means wide public participation. The impact statement made decisionmaking open and visible. However, EPA's exemption means that were EPA to write the regulations and administer this amendment, decisionmaking need never be exposed to public scrutiny. As some have noted, this could mean that crucial decisions might be made not by EPA at all, but by the Office of Management and Budget.

(3) A proper weighing and balancing of costs and benefits—a careful concern with environmental quality as well as with employment, community stability, and national energy and economic needs—cannot be achieved by a mission-oriented agency. To insure fairness, an agency which is devoted entirely to either developmental or environmental advocacy should not administer this amendment. EPA is certainly mission-oriented and certainly has a mandate for environmental advocacy.

(4) The Office, unlike EPA, is in major respects a land use planning agency. A single-minded regulatory program, with its inherent incremental decisionmaking and without a land use planning capability will prove inadequate to the purposes of the amendment. Effective regulation of surface mining activities is not possible without long range planning. As recognized in section 215 of the Act, surface mining regulation requires that long term decisions be made as to the uses of the land resource and the development or conservation of our mineral and other natural resources. Regulatory considerations should not be limited to simply determining whether a mineral can be mined and reclamation can be achieved successfully. Also considered should be the uses of the land after reclamation and whether the proposed uses meet State and local needs. EPA has no such land use planning or resource management experience, capability, or expertise.

In fact, in administering its pollution control programs, it has, at times, demonstrated a disdain for proper land use policy by creating incentives to polluters to locate on undeveloped or rural lands. As a recent Interior Committee National Fuels and Energy Study report demonstrated, these incentives helped to create the Four Corners situation . . . huge power complexes and extensive strip mining operations are being located on undeveloped land in the Southwest in part because the coal is located there, but also to avoid Federal and State air quality standards in the Los Angeles region.

On the other hand through the United States Geological Survey, the Bureau of Land Management, and other agencies, the Department of the Interior does have the nucleus of a land use planning and resource management capability.

(5) Unlike S. 630, as reported, all the requirements of this amendment are applied to the Federal and Indian lands and new authority is provided to insure careful regulation of surface mining and reclamation operations on Federal and Indian lands. EPA has no jurisdiction over such lands or over mining on such lands. To avoid divided administration of the amendment, good public policy suggests lodging the entire program in an independent office in the Department of the Interior.

(6) Finally, as legislation recently proposed by the Administration to exempt the water quality permit program from NEPA and as the explanatory language on subsection 511(c) of the conference report on the Federal Water Pollution Control Act amendments for 1972 suggest, the Environmental Protection Agency is already administratively overburdened. Whereas the new Office of Regional Planning at the Department of the Interior is already geared up to accept additional land use planning and resource management responsibilities.

For these reasons, an independent office in the Interior Department was chosen as the best entity to administer this amendment.

Sec. 203. Surface mining operations not subject to the act

This section provides specific exemptions for certain types of activities which might otherwise be construed to fall within the definition of "surface mining operations" and thus be subject to the amendment. Activities specifically excluded are (1) those which should not be included because their scope or impact is so minor; (2) those which have a few characteristics common to surface mining but which are primarily for other useful and, in some cases, public purposes; and (3) those which do not present the environmental or social costs which regulation under the amendment would internalize. Neither S. 630, as reported, or the measure adopted by the House provide this exemption. However, it is apparent that Federal legislation should not, because of ambiguity, address local conditions and the actions of individuals which have no national, State, or regional significance or which present no important questions of Federal or State policy. This exemption is similar to, and in some ways patterned after, the exemption in the Nation's toughest state surface mining law: the Pennsylvania law.

The exempted activities include:

Foundation excavations in construction of buildings and other structures;

Highway and railroad cuts and other excavations for public projects where the Federal, State or local government requires reclamation of the affected areas;

The excavation of minerals by a landowner for his own noncommercial use from land owned or leased by him;

The extraction of minerals or the removal of overburden for commercial purposes in amounts of less than one thousand tons in any one location (or not more than two acres) in any one calendar year—the so-called "pick and shovel" operation;

The extraction of minerals for exploratory, assaying, and quality testing purposes in amounts of less than 240 tons in any location (of not more than one acre); and

Archeological excavations.

The Secretary may identify other activities not subject to the amendment and issue regulation further defining the exempted activities taking into consideration their magnitude (in tons and acres), their potential environmental impact, and whether the class, type, or types of activity are already subject to existing Federal, State, or local regulatory systems. In identifying and defining other exempted activities, the Secretary is expected to follow a rule of common sense. The purpose of this amendment is to insure that social and environmental costs of surface mining are internalized by reclamation. Any activity which inflicts significant costs and which should be accompanied by reclamation should, of course, not be exempted. On the other hand, individual, non-commercial, extremely localized, activities which do not cause environmental damage should be exempted not only to insure fairness but also to relieve the administrative burden of the regulatory authorities so that the authorities can concentrate on those activities which truly require careful regulation.

Section 204. State authority; State programs

This section establishes the four reprequisites for any State to obtain financial assistance and to assume full reponsibility for all regulation of surface mining and reclamation operations within the State. The State is required to:

Have appropriate legal authority to regulate surface mining and reclamation operations in accord with the Act's requirements;

Provide sanctions, including civil and criminal sanctions, bond forfeitures, and cease and desist orders for violations of State laws, regulations or permit conditions concerning surface mining and reclamation operations which meet the requirements of the amendment;

Have sufficient personnel, interdisciplinary expertise and financial resources to enable the States to regulate surface mining and reclamation operations in accord with the amendment's requirements; and

Submit to the Secretary for his approval a State program for the effective implementation and enforcement of a permit system for surface mining and reclamation operations for coal and a second State program for other minerals, both of which meet the requirements of this amendment.

The section also provides time periods and procedures for the Secretary's approval or disapproval of State Programs and for revisions and resubmittals of disapproved State programs. Prior to approving a State Program, the Secretary is directed to hold a public hearing within the State and solicit the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies with relevant expertise.

The final subsection of this section requires the Secretary, when he disapproves a State Program, to notify the affected State and allow the State sixty days to resubmit a revised Program. The notification is to be in writing and is to contain the reasons for disapproval. It is intended that the Secretary's modification be very specific. Only with such specificity will a State know how best to revise its State Program so it will meet with the Secretary's approval.

Sec. 205. Federal programs

This section provides for Federal regulation of surface mining and reclamation operations in any State which proves unwilling or unable to do the job itself. In accord with the purposes and findings in Title I, Federal regulation is to occur only if a particular State wishes to forego or fails to assume primary responsibility for regulating surface mining operations within its boundaries.

The section directs the Secretary to prepare, promulgate, and implement a Federal Program covering surface mining and reclamation operations for either coal or other minerals for any State which (a) fails to submit a State Program for coal or a State Program for other minerals within twelve months of the promulgation of the relevant Federal regulations, (b) fails to resubmit an acceptable revised State Program after the Secretary's disapproval of the original submission, or (c) fails to enforce its approved State Programs.

The Secretary becomes the regulatory authority with full regulatory powers when he promulgates a Federal Program. In preparing and implementing a Federal Program, the Secretary is directed to take into account the affected State's terrain, climate, and other physical conditions. A public hearing must be held in the affected State prior to promulgation of the Federal Program. All State permits remain valid after promulgation of a Federal Program; however, the Secretary is directed to undertake a review of such permits and where such permits fail to meet the requirements of this amendment, to afford the permittee reasonable time to conform his operations with those requirements or to submit a new permit application.

The section also provides procedures and timetables for the lifting of the Federal Program in any State when a new State Program receives the Secretary's approval.

The assumption of regulatory authority over surface mining operations in any State by the Secretary through promulgation of a Federal Program for that State is regarded as a "last resort" measure. It is certainly preferable that the State regulate such operations through State Programs which meet the requirements of this amendment. The assumption is that the States, in good faith, will develop such State Programs and make full use of their police powers to implement the Programs. However, if they fail to do so, the purpose of this amendment and this section in particular is to insure that the full reach of the Federal constitutional powers will be exercised to achieve the purposes of this amendment.

Sec. 206. Moratorium on surface mining operations for coal pending State compliance

This section provides a moratorium on new starts, or the reopening of abandoned mines, or the acceleration of existing activities in or for the surface mining of coal until permits for the surface mining and reclamation of coal are obtained under an approved State Program.

Neither S. 630, as reported, nor the measure adopted by the House has a comparable provision.

The moratorium has three principal purposes. First, as discussed in the analysis of section 201, although this amendment covers the surface mining of all minerals, the surface mining of coal is the most immediate and pressing problem. The severity of the environmental and social costs imposed by the unregulated surface mining of coal is not disputed. Therefore, one purpose of the moratorium is to insure that these costs are not multiplied by new and accelerated operations before the State Programs, provided for in this amendment, to regulate surface mining and reclamation operations for coal can take effect.

Second, in the case of a number of Federal laws requiring State regulation of an activity and, in case of a State's failure to regulate, Federal regulation of the same activity, many States have opted for Federal regulation. Although there are valid reasons, particularly financial (let the Federal government "foot the bill"), for the State's decisions to choose Federal regulation, such Federal regulation often works a disservice to all concerned. Federal regulation can never adequately reflect the unique physical, social, and economic conditions of each State, each region, and each locality. Also, Federal regulation is by nature more arbitrary and less flexible. State regulation is favored in this amendment precisely because it can and should embody this flexibility and sensitivity to local conditions. Therefore, by the requirement that it be lifted only by an approved State Program, the moratorium serves as an incentive to the States to take the initiative to exercise State responsibility and assure State, rather than Federal, regulation.

Third, the moratorium also serves as an incentive to surface mine operators to support, rather than block, efforts to develop effective State Programs which meet the requirements of this amendment.

This moratorium is a tough measure to insure compliance with the amendment. However, in recognition of the importance of the moratorium, a carefully worded proviso is included. Two problems with a moratorium have been identified: the problem of assuring a smooth transition, and the problem of avoiding a single-minded sledgehammer approach in which innocent parties' needs and legitimate expectations concerning essential public services may be defeated. The proviso is designed to correct these problems.

The proviso provides that the Secretary may waive the moratorium for specific operations when he determines that all of the following conditions exist: (1) the operations provide the only practicable source of coal to support regionally or nationally important power generation, metallurgical processing, or other essential activities impressed with a public interest, *and* (2) firm plans and substantial financial and legal commitments were made in and for such operations prior to the enactment of the amendment, *and* (3) the provisions for reclamation in conjunction with such operations offer every reasonable assurance that such reclamation will be made compatible with the amendment's requirements.

Sec. 207. Permits

This section provides a timetable for obtaining permits to conduct surface mining and reclamation operations pursuant to this amendment from either the State regulatory authority under a State Program for coal or a State Program for other minerals or the Secretary under a Federal Program for coal or a Federal Program for other minerals. (Hereafter, the words "regulatory authority" will be used to mean the State regulatory authority where the State is administering the amendment under either of the two State Programs or the Secretary where the Secretary is administering the amendment under either of the two Federal Programs. Furthermore, "State Program" will be used to mean either the State Program for coal or the State Program for other minerals, whichever, is relevant, and "Federal Program" will be used to mean either a Federal Program for coal or a Federal Program for other minerals, whichever is relevant.)

Under this section, no person can engage in surface mining operations of coal without a valid permit under an approved State Program or a Federal Program beginning one year from the date of enactment of the amendment. Permits for surface mining operations for other minerals are requried beginning two years after enactment. These deadlines are to provide the States with a reasonable period of time after the Secretary promulgates his regulations to prepare their State Programs. (Federal regulations for coal are due three months after enactment, while Federal regulations for other minerals are due one year after enactment.) Of course, this timetable is partially qualified by the Section 206 moratorium on the surface mining of coal.

Permits are to run for no more than five years and can be renewed, subject to any new conditions or requirements reflecting changing circumstances which the regulatory authority may apply, if the permittee demonstrates compliance with the requirements of an approved State or Federal Program and with his Reclamation Plan (see Sections 208 and 212). The intent of this provision is to avoid the extremes of a too short or a too long permit period. One-year permits tend to limit meaningful public participation because the permit applicant need not disclose to the public any but his most immediate intentions. One-year periods also work against good regulation in that they unnecessarily burden the regulatory authority with paperwork and, worse, they tend to create an atmosphere of incremental decisionmaking without a full understanding of the long-term implications of short-term permit approvals. On the other hand, long-term permits can foreclose public participation during the critical period when mining and reclamation operations are conducted and can bind the regulatory authority, the permittee, and the public with quickly outdated reclamation standards and techniques. The five-year maximum was chosen not simply because it is a "happy medium", but also because it is the standard time period for reclamation performance bonds.

To assure that no one will be locked into outdated reclamation requirements because of the potential situation in which permits are taken out and renewed without operations being undertaken, this section provides that permits will terminate if permittees have not begun actual mineral production within three years of the issuance of the permits.

Sec. 208 Permit application requirements: Information, performance bond, insurance, reclamation plans

Section 208 describes the four principal submissions necessary to obtain a permit for surface mining and reclamation operations for coal or other minerals under a State Program or a Federal Program: (1) administrative information; (2) a performance bond; (3) a certificate of public liability insurance and (4) a Reclamation Plan.

Administrative information includes names and addresses of the applicant and its officers, of any property owners or holders of leasehold interest in the property to be mined, and of owners of all surface areas within five hundred feet of the proposed mining and reclamation site; statement of any permits held or bonds posted by the applicant which have been suspended or revoked; maps and topographical information; and a copy of the applicant's advertisement in the local newspaper (which must appear at least once a week for four successive weeks). This last requirement insures public notice, particularly to local governments and citizens, so as to insure a meaningful hearing on the permit application, as required in section 209.

The performance bond must be in an amount sufficient to allow the regulatory authority to contract for all necessary and required reclamation operations by a third-party contractor when and if the permittee defaults on the bond. A proviso establishes that a bond may be adjusted upward at any time if, as a result of experience or changed circumstances, it is determined to be inadequate.

The applicant must submit either a certificate issued by an insurance company certifying that he has a public liability insurance policy for the proposed surface mining and reclamation operations or appropriate evidence that he has satisfied other State or Federal self-insurance requirements which meet the requirements of the regulations promulgated pursuant to this amendment.

Finally, the most important submission which an applicant must make is the Reclamation Plan. The Reclamation Plan must establish that reclamation of all affected lands in a manner which will fully meet the detailed requirements set forth in section 212 can and will be accomplished.

Sec. 209. Permit application approval procedures

This section establishes the procedures for obtaining a permit for surface mining or reclamation operations for coal or other minerals under a State Program or Federal Program. It provides (1) time limits for initial approval or disapproval of the permit application by the regulatory authority; (2) a hearing upon the request of an applicant if the permit is disapproved and a time limit thereafter for final approval or disapproval; (3) a public hearing prior to the initial approval or disapproval if written objections are filed by persons having a valid legal interest which will be affected by the proposed surface mining and reclamation operations or Federal, State or local governmental agencies having responsibilities affected by such operations; and (4) a right of appeal for review by a court of competent jurisdiction for such persons if they participated in the application procedures.

These procedures are designed to insure that the "due process' discussed in the analysis of section 201 is provided to all interested parties: permit applicants, Federal, State, and local governments, surface owners, and persons with "valid legal interest." Rather than dictate one single national standard of "valid legal interest," the definition is left to the courts. It is hoped that the courts, situated in the region where the proposed operations would occur, will be more sensitive to local conditions and situations in developing that definition. The words "court of competent jurisdiction" also were not lightly chosen. Some have contended that Federal courts should be granted exclusive jurisdiction in order to obtain uniform interpretation of the law and to avoid immediate local pressures—be they developmental or environmental. However, more persuasive were the arguments for allowing State courts to hear suits under the amendment in instances where state law and a state program is involved. Avoidance of burdening too greatly the Federal courts and utilization of the State courts' greater knowledge of local conditions and situations were the principal reasons for the decision to use the words "court of competent jurisdiction."

Subsection (d) of this section makes it clear that the burden of proof that reclamation which meets the requirements of this amendment can and will be accomplished lies not with the Secretary or the State regulatory authority but with the permit applicant. Two important concerns dictate placing the burden of proof on the permit applicant. First, the applicant either already possesses or is in the best position to obtain any and all information necessary to meet the burden of proof. Secondly, to place the burden of proof upon the regulatory agency would only frustrate the purposes of the amendment. Such a step would administratively and financially burden the regulatory authority and could foster either endless delays in processing permit applications or pro forma approvals of applications.

Sec. 210. Release of performance bonds

This section establishes the procedures for release of the performance bond. No bond can be fully released until all reclamation requirements are met and an authorized representative of the regulatory authority inspects the surface mining and reclamation operations covered by the bond. A hearing is also provided for when a request is made by any person having a valid legal interest which would be affected by the failure of the permittee to have complied with the requirements of this amendment. The hearing must be scheduled in a manner so as not to unduly burden the permittee with continuous hearings when a bond is released in phases, but so as to insure public participation before so much of the bond is released as to make forfeiture of the remainder, rather than full accomplishment of reclamation, inviting. Therefore, the section requires that the hearing be held after 50 percent but before 90 percent of the bond is released.

Sec. 211. Revision and revocation of permits.

This section describes procedures and time limits for revision and revocation of permits for surface mining and reclamation operations for coal or other minerals by the regulatory authority.

Requests for revisions of a permit can be made by the permittee. The regulatory authority is to establish guidelines for the scale or extent of a revision request for which all permit application information and procedural requirements, including notice and hearing, will apply. However, (1) any revisions which propose a substantial change in the intended future use of the land (such as from a residential development to a shopping complex) or significant alterations in the Reclamation Plan (e.g., changes in treatment of surface and ground water) must, at a minimum, be subject to the section 210 notice and hearing requirements, and (2) any extensions to the area covered by the permit, other than incidental boundary revisions (such as additional footage to permit the better siting of an access road), may be accomplished only through application for new permits, not through revision applications.

Revocation procedures include written notice detailing the reasons for revocation, a reasonable time for the permittee to take corrective action, and a hearing, if requested by the permittee. It should be noted that violations of permit conditions, the State Program, or the Federal Program are sufficient to invoke revocation. Consistent with the "due process" concern throughout the amendment, revocation is regarded as a last resort, after cease-and-desist orders and other procedures have failed. Minor failures to meet the requirements of the amendment which do not and will not result in any serious adverse environmental, economic, and social impacts should not be cause for revocation. Permits should be revoked only for clear violations which have such impacts.

Finally, no transfer, assignment, or sale of the rights granted under a permit may be made without the written approval of the regulatory authority.

Sec. 212. Criteria for surface mining and reclamation operations

Section 212 is the principal statement of the criteria which would be required to be met by surface mining and reclamation operations. It consists of two sets of requirements. Subsection (a) enumerates the information which, as a minimum, would be required to be set forth in any Reclamation Plan submitted as part of an application for a surface mining permit. Subsection (b) enumerates the minimum requirements which would be required to be placed upon any permittee by regulations promulgated pursuant to this measure.

212(a). This Subsection is intended to enumerate the minimum items of information which would be required to be set forth in any Reclamation Plan submitted by an applicant for a permit to conduct surface mining. A Reclamation Plan is required by Subsection 208(d) as part of the permit application. The plan is the basis by which the State regulatory authority, or the Secretary in those States which may be under a Federal program, determines the feasibility and adequacy of reclamation which is proposed to be done by the applicant under the terms of his permit. It also provides the before-the-fact information upon which public hearings may be based. It is essential, therefore, that information provided in the Reclamation Plan be adequate to judge the probable final results of the surface mining and reclamation proposed in the application. The following specific items of information are enumerated.

212(a)(1). A description of the condition of the land area which will be effected by the proposed mining and reclamation must be provided. This description is intended to include general topography, vegetative cover, and cultural development. If the area has been previously mined, the description should cover both the uses of the land existing at the time of the application and those which existed prior to any mining at the site. The description must also include an evaluation of the capability of the site to support a variety of uses prior to any mining disturbance. This description should give consideration to soil and foundation characteristics, topography, and vegetative cover.

The description is to serve as a benchmark against which the adequacy of reclamation and the degradation resulting from the proposed mining may be measured. It is important that the potential utility which the land had for a variety of uses be the benchmark rather than any single, possibly low value, use which by circumstances may have existed at the time mining began.

212(a)(2). A similar description is also required of the use to which the land affected by the proposed mining is to be put following reclamation and its capacity to support a variety of alternative uses. The comparison of this description with that required by 212(a)(1) will provide an evaluation of the net impact which the proposed mining and reclamation will have upon the usefulness of the area affected.

212(a)(3). This section requires a general statement of the techniques and equipment which will be used in the mining and reclamation operations. This should be a complete statement adequate to insure that the reclamation proposed to be accomplished is capable of achievement and that the requirements set forth is subsection 212(b) and any regulations promulgated pursuant to that subsection can be complied with.

A cost estimate for the reclamation is also required as a basis for review of the adequacy of the performance bond required by Sec. 208(b).

212(a)(4). The techniques and procedures which will be used by the applicant to insure compliance with all applicable air and water quality laws and regulations must be described in sufficient detail to permit an evaluation of their adequacy and probable effectiveness.

212(a)(5). It is probable that a number of surface mining and reclamation operations, particularly those in the same general locality, will be similar in terms of general problems and technologies. The purpose of this requirement is to insure that reclamation plans do not become stereotyped and ignore the unique conditions of specific sites. The reclamation plan must set forth a description of the particular considerations which have been given to the conditions found at each site; for example the effect of precipitation, temperatures, wind, and soil characteristics upon revegetation at the site. Furthermore, there must be a statement of the consideration which has been given to new or alternative reclamation technologies.

212(a)(6). There must be a discussion of the potential recovery of the mineral resources of the site to be mined. To the extent that any portion of the resource will not be recovered, the reasons and justification for non-recovery shall be set forth.

212(a)(7). A time schedule for the completion of the reclamation which is being proposed is to be provided.

212(a)(8). A statement is required demonstrating that the permittee has considered all applicable State and local land use plans, zoning laws, ordinances, and regulations and that the reclamation plan is consistent with them.

212(a)(9). A disclosure to the regulatory authority of all rights and interests in lands held by the applicant which are contiguous to the lands covered by the permit application is required. The purpose of this disclosure is to provide the regulatory authority with information on the prospective long-term plans of the applicant in the immediate vicinity. This amendment would not require public disclosure of this information, however, it does not preclude State law from requiring disclosure of part or all of it.

212(a)(10). A disclosure to the regulatory authority of the results of test borings made by the applicant in the area covered by the permit and the results of chemical analyses of the coal or other minerals and overburden is required. This information is essential for the critical evaluation of the adequacy of the Reclamation Plan by the regulatory authority. Because of its proprietory nature, it is not to be publicly disclosed.

212(b). This subsection sets forth the minimum criteria which must be required by State or Federal Programs regulating surface mining or reclamation operations for coal or other minerals.

212(b)(1). The basic criteria for reclamation is to require all surface areas to be returned to a condition at least fully capable of supporting the uses which they were capable of supporting prior to any mining. In other words, the original utility of the site for a variety of purposes is to be maintained or enhanced. Regardless of the prior condition, the reclaimed area shall not be left in a condition which presents a hazard to public health or safety.

212(b)(2). Reclamation shall require backfilling, compacting and grading to the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated. Alternative grading plans may be proposed as a part of a permit application and may be approved by the regulatory authority in advance of the initiation of mining if they would achieve environmentally sound conditions and desirable uses of the reclaimed area.

This provision of latitude for alternatives to "approximate original contour" reclamation recognizes that in many situations other reclamation objectives may be more desirable from an environmental as well as other standpoints. For example, in areas of meager rainfall grading to provide accumulations of runoff might be the only means of establishing revegetation and might actually result in increased productivity of the area. Although the latitude to approve such alternatives is granted to the regulatory authority, the remaining criteria must be met by the alternative and the procedures for approval of permit applications provide for public scrutiny of the proposal prior to initiation of mining.

212(b)(3). Regardless of the type of reclamation which is proposed (*i.e.*, approximate original contour or alternative such as terracing), all highwalls, terraces, and spoil remaining at the conclusion of reclamation must be stable and remain stable. The requirements for a permanently stable condition, of course, will vary depending upon the characteristics of the materials, the slope, the climate, and the treatments such as compaction and revegetation proposed.

212(b)(4). All areas affected by the mining and reclamation operations shall be stabilized by means of compaction where advisable and by means of vegetation which will insure prevention of erosion both immediately after the reclamation is completed and permanently in the long term. A stable and self-regenerative vegetative cover is to be established. Wherever possible native vegetative cover is to be established. Whenever possible native vegetation is to be employed.

It is recognized that there are situations (such as heavy clay soils) in which compaction of surface soils may be inadvisable or detrimental to the success of revegetation and should not be required. It is similarly recognized that in some situations non-native species of vegetation may be required to achieve successful revegetation or they may be preferable to native species for environmental, productive, or esthetic reasons and should be permitted.

212(b)(5). The soil to be removed from the mined area is required to be segregated and preserved so that topsoil and other desirable strata will be available to be used for reclamation purposes.

212(b)(6). Offsite areas must be protected from damages caused by slides which might occur during mining and reclamation operations. Furthermore, all waste accumulations and damages must be contained within the permit area. This provision not only serves to protect landowners not associated with the mining, it also insures that the permit will encompass an area which covers the entire mining activity, including the storage or disposal of spoil and waste. Therefore, the entire activity will be subject to all of the terms of the permit.

212(b)(7). The quality of surface and groundwaters in the area is to be maintained both during and after the term of the mining and reclamation operations. Specifically:

(A) Acid mine drainage must be prevented from entering surface and groundwater sources by preventing the contact of water with acid forming materials, retaining acid waters, or treating acid waters to acceptable standards of acidity and iron content before releasing them to water courses. Whichever means are adopted, the reclamation plan must provide for continuation of the protection after the completion of reclamation for so long as may be required.

(B) During the course of mining and reclamation activities at the site, regulations shall insure that effective practices are observed which will minimize the contribution of silt to runoff from the disturbed area. It should be noted that this provision recognized the practical impossibility of preventing any silt runoff during earth moving operations. Reclamation standards require, however, that remaining reclaimed surfaces be graded and otherwise protected to prevent further erosion.

(C) Bore holes, shafts, and wells are to be appropriately treated to prevent acid mine waters from draining out of them or into groundwater bodies by means of them.

(D) The regulatory authority may prescribe other practices or methods to protect water quality.

212(b)(8) Wherever underground mining involves surface operations, regulations must provide for the protection of the surface area involved.

212(b)(9) The disposal of debris from mining and reclamation operations must be done in a manner which will prevent contamination of surface or ground waters.

212(b)(10) Explosives are to be used in conformance with existing State and Federal law. As a minimum, surface mining reclamations shall provide for:

(A) sufficient notice to local government and to individuals in the locality to provide for warning and if necessary for protective measures to avoid injury or property damage from blasting;

(B) procedures for protection of buildings and property in the locality from the effects of blasting;

(C) specific limitations upon the sites and timing of charges, the types of explosives, or other factors which are necessary to protect persons and property in the locality including underground mining operations which might be effected.

212(b)(11) Reclamation efforts are to proceed as contemporaneously as possible with the mining both to avoid the situation where large unreclaimed areas would be permitted to exist for the duration of adjacent mining operations and to provide experience with the results of reclamation procedures and opportunity for improvements as the work progresses.

212(b)(12) Such other regulations may be promulgated as are found to be necessary to achieve the objectives of the measure particularly to insure that where surface disturbance is sustained, the maximum effective recovery of the mineral resource is achieved.

Sec. 212(c) The purpose of this subsection is to recognize that there are types of surface mining which result in disturbances for all practical purposes impossible to reclaim in accordance with the requirements of this measure. An example of such mining situations are quarries in which relatively little overburden is removed from a small surface area and then sizeable quantities of stone are removed over extended time periods, often decades. The result of such operations is a large pit without available materials for backfilling and grading. The extent of surface disturbed by operations of this nature, however, is exceedingly limited with comparison to more convention strip mining operations.

This subsection establishes special reclamation criteria for mining operations for minerals other than coal which meet the following qualifications:

(1) The quantity of material removed in the mining operation is very large in proportion to the surface area disturbed (*i.e.*, the excavation is deep).

(2) The mining operation at the site has an extended life. In other words, the mine resembles an industrial site which remains in operation for many years and is a dependable economic activity in the area.

(3) There is no practicable method to return the area to conditions approximating original contour. If such reclamation is possible, of course, it would be required regardless of the nature of the operation otherwise.

(4) Finally, there must be no practicable alternative source of the mineral resource. It is not the purpose of this subsection to perpetuate destructive mining operations where preferable methods are available or where the same mineral can be obtained by more acceptable means elsewhere.

The alternative regulations which are promulgated for surface mining operations which meet all of the above qualifications must at a minimum result in stable surfaces including highwalls and spoil, meet applicable air and water quality standards, protect public health and safety, and require the maximum practicable reclamation of the area in question.

Sec. 213. Inspections

This section establishes the minimum informational requirements which a permittee must fulfill—either through reporting, monitoring, or affording rights of entry to the regulatory authority's inspectors—once a permit is granted.

First, the section directs the Secretary of the Interior to make whatever inspections are necessary to evaluate the administration of State Programs or to develop and enforce any Federal Program. The section provides that authorized representatives of the Secretary are to have a reasonable right of entry to a permittee's operations. "Reasonable" is to be interpreted so as not to overly burden the permittee but also provide the inspectors with the best possible opportunities to evaluate the operations in relation to the requirements of the amendment.

Second, to insure that the requirements of the amendments are met, the regulatory authority must require the permittee to keep records, make reports, install and maintain monitoring equipment, and provide other necessary information which will assist the authority to carry out the purposes of this amendment. For example, the permittee might be required to report periodically on acres mined; acres reclaimed; deviations, if any, from the Reclamation Plan and, in particular, its schedule, etc.

Third, the section establishes the right of entry to and inspections of the surface mining and reclamation operations, premises where records are kept, and the records themselves by the regulatory authority. The inspections are to occur on an irregular basis averaging not less than one per month for coal operations and biannually for other mineral operations. They must be conducted without prior notice and inspection reports must be filed upon their conclusion. The "irregular basis" and "without prior notice" requirements are to insure that the permittee is not capable of making merely "cosmetic" or momentary changes is an operation which otherwise would not meet the requirements of the amendment because he has been forewarned of an inspection. Inspections are the heart of any regulatory program and when they become either too "friendly" or too "infrequent" the regulatory program inevitably suffers a loss of effectiveness.

Fourth, permits and permittees' Reclamation Plans must be filed on public record with appropriate officials in each county or other appropriate subdivision of the State in which the operations covered by the permits will be conducted. The purpose of this provision is to insure readily accessible information to concerned citizens and affected local governments so that their participation, as provided for throughout the amendment, will be meaningful and effective.

Finally, each permittee is required to conspicuously maintain at the entrances to his operations a clearly visible sign showing his name, business address, and phone number and his permit number. The purpose of this provision is identical to the one directly above.

Sec. 214. Federal enforcement

This section outlines the Federal sanctions under a Federal program or for violations of the amendment under a State Program.

The first two subsections provide for administrative steps for violations of the amendment's requirements. When a violation by any person is discovered by Federal inspection, the Secretary or his inspectors may issue an immediate cease and desist order and hold a hearing within three days of the issuance of the order if the person requests it. If a violation is suggested by information other than by inspections, the Secretary notifies the State regulatory authority and allows the State ten days to take appropriate action. If the State fails to take such action the Secretary is to issue an order requiring the person to correct the violation.

Subsection (c) provides for Federal enforcement when the Secretary determines violations of an approved State Program are so widespread as to indicate a failure of the State to enforce its Program. Time limits are provided for the State to take corrective action. A public hearing is also required before Federal enforcement would occur. Under Federal enforcement, the Secretary must enforce all permit conditions required under the amendment either by issuing an order for compliance or bringing a civil or criminal action. Of course, if the State's unwillingness to enforce its Program continues for any length of time, the Secretary is expected to promulgate and implement a Federal Program pursuant to section 205 rather than to enforce those aspects of the State Program and those requirements of permits issued under the State Program which are required by the amendment.

Subsection (d) describes in greater detail the contents of any order issued by the Secretary.

Subsection (e) provides for the institution of civil action for retraining orders, injunctions, or other appropriate remedies, by the Attorney General, at the request of the Secretary of the Interior.

Subsection (f) provides for a civil penalty to be assessed against any person, who fifteen days after notice, continues to fail to comply with the requirements of the amendment. The penalty must not exceed $1000 per day. It also provides for a criminal penalty for anyone who knowingly or willfully violates the requirements of the amendment. The criminal penalty is to consist of a fine of not more than $10,000 or imprisonment for not more than six months or both.

Subsection (g) provides for application of this section's penalties when the person in violation is a corporation or other entity.

Subsection (h) states that this section's penalties are in addition to any other remedies afforded by the amendment or any other law or regulation.

Sec. 215. Designation of land areas unsuitable for surface mining

As discussed in the analysis of section 202, no regulatory program can be truly effective unless it is conducted on a solid base of planning. As surface mining and reclamation operations are so intimately associated with the land resource, the proper planning base for regulation of such operations is land use planning. Therefore, section 215 mandates that each State develop a land use planning process upon which to anchor State Programs to control surface mining and reclamation operations.

In subsection (a) the Secretary is authorized to make annual grants of not more than $25,000,000 to the States to assist them in developing State land use planning processes which will determine which, if any, land areas are unsuitable for any or all types of surface mining operations. The grants must not exceed 80 per cent of the cost of developing and managing State land use planning processes for the first two years and 60 percent thereafter. Grant funds for the development of State land use planning processes are to be distributed on the basis of the Secretary's appraisal of the present and projected levels of surface mining operations in, the need for areawide planning by, and the size of each State.

Areas may be designated unsuitable for surface mining operations pursuant to a State land use planning process if (1) reclamation as required by the amendment is either physically or economically impossible; (2) surface mining operations or other major uses in a particular area would be incompatible with Federal, State, or local plans to achieve essential governmental objectives; or (3) the area is an area of critical environmental concern "Areas of critical environmental concern" are defined as areas where uncontrolled or unplanned development—mining or otherwise—could result in irreversible damage to important historic, cultural, environmental or esthetic values, or natural systems or processes, which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance.

Subsection (b) directs the Secretary to review Federal lands to determine whether there are areas on those lands which are unsuitable for surface mining operations. The Secretary may withdraw such areas or he may condition mineral leasing or mineral entries so as to limit surface mining operations on such areas. It is intended that this subsection apply to the fullest extent possible to areas already subject to vested mining rights. However, designation is even more important as a "due process" means of forewarning surface mine operators as to whether they can mine those areas or under what conditions they will be able to mine those areas. This provides the operators with more lead time in planning their operations than they would have if they were first confronted with a bar to mining or conditions on mining at the time their rights otherwise would vest.

Subsection (c) provides a measure of protection to areas of critical significance to the public. First, it provides that no mining is to be conducted within 100 feet of primary or secondary roads or lakes, streams, and tidal waters which enjoy public access or use. Of course, the regulatory authority must further define "roads", "lakes", "streams", and "tidal waters". It is recognized that, in certain circumstances, surface mine operators have moved and substantially improved secondary roads. It is intended that the regulatory authority will have the flexibility, on a case by case basis, to enter into agreements with permit applicants to undertake such actions.

Second, this subsection bars surface mining operations which will adversely affect publicly-owned parks unless screening or other measures are jointly agreed to by the State regulatory authority or the Secretary and the Federal, State, or local agency with jurisdiction over the park and are made a condition in the permit.

Sec. 216. Federal lands and Indian lands

This section requires the Federal government to "put its own house in order" at the same time that, through this legislation, it places tough requirements on the States.

The Secretary of the Interior is required to promulgate and implement a Federal Lands Program applicable to all surface mining and reclamation operations taking place pursuant to any Federal law on any Federal lands and Indian lands. The Federal Lands Program must, at a minimum, simultaneously incorporate all of the amendment's requirements and also reflect the diversity of various Federal and Indian lands. Thus, the requirements of the amendment and the Federal Lands Program are to be incorporated in all Federal mineral leases, permits, or contracts issued by the Secretary involving surface mining and reclamation operations. In short, the Federal Lands Programs would operate in the same manner as State Programs or Federal Programs would operate under this amendment.

Subsection (c) of this section provides for joint Federal-State Programs covering permits on land areas which contain State, Indian, and Federal lands either interspersed or checker-boarded within the scope of a single permit or more than one permit for essentially a single operation and which, for conservation and administrative purposes, should be regulated as single management units. The purpose of this provision is to alleviate a significant problem in Western mining. Where Federal and non-Federal lands are checker-boarded, mining operators often find themselves working under two separate permits, two separate bonds, and two entirely different regulatory systems—Federal and State. The joint Federal-State Programs should allow the operator to conduct his operations under a single regulatory system. In order to implement joint Federal-State Programs the Secretary is authorized to enter into agreements with the States, to delegate authority to the States, or to accept a delegation of authority from the States. Except as provided in this subsection, the Secretary is not to delegate to the States his primary authority or jurisdiction to regulate or administer mining or other activities on the Federal lands and Indian lands or to delegate his trustee responsibilities toward Indians and Indian lands.

Sec. 217. Study of slope limitations

This section directs the Chairman of the Council on Environmental Quality to conduct two detailed interagency studies of impacts—social, economic, and environmental—of imposing general bans or slope degree limitations on surface mining operations for coal and for other minerals. The purpose of these studies is to develop information necessary to achieve even a rudimentary understanding of the effects—positive and negative—of imposing, or failing to impose, bans or specific slope limitations for regional or nationwide application.

The measure adopted by the House does contain several specific slope limitations. After careful consideration of such limitations, it was concluded that no one knew or could adequately guage the potential impacts of applying such inflexible limitations, as the House bill would, on a nationwide basis. Such arbitrary limitations do not take into account the full diversity of terrain, climate, geography, and other physical and chemical conditions which bear upon mining operations on slopes in various sections of the country. Knowledge of how these limitations would work, given this diversity, is essential. Furthermore, virtually no consideration has been given to the economic and social impacts of such limitations. Therefore, these studies are mandated in order to gain an understanding of such impacts. As the participation of several different Federal departments with pertinent expertise is necessary, the studies are placed in the Executive Office of the President.

Directed to participate in the studies with the Chairman of the CEQ are the Secretaries of the Interior, Agriculture, and Commerce, the Administrator of the Environmental Protection Agency, the Chairman of the Federal Power Commission and such other heads of Federal agencies and agencies of State governments as the Chairman.

Slope limitations which will be studied include prohibitions on the permanent disposition of spoil on slopes with grades of various degrees from the horizontal, a total prohibition of surface mining operations on slopes with grades of various degrees from the horizontal, a total prohibition upon all surface mining operations or specific types of operations such as augur or contour mining, and requirements that the steepest contours of the highways after terracing cannot exceed slopes with grades of various degrees from the horizontal.

The impacts to be studied include the full range of economic effects (effects upon energy supply, metallurgical processes, etc.), social effects (effects on employment, local tax bases, level of local government services, improvements in living conditions, and the quality of life), and environmental effects.

The study on slope limitations on surface mining operations for coal must be submitted to the President and Congress within one year of the date of enactment of the amendment. The deadline for the study for other minerals is two years from enactment.

A sum of $2,000,000 is authorized to be appropriated to the CEQ to conduct the studies.

Sec. 218. Public agencies, public utilities, and public corporations

This section, unlike S. 630, as reported, or the measure adopted by the House, applies the requirements contained in the amendment to public corporations, public agencies, and publicly owned utilities, including, for example, the Tennessee Valley Authority.

TITLE III—ABANDONED AND UNRECLAIMED MINED AREAS

Whereas title II deals with existing or future surface mining operations, title III is addressed to the correction of the worst effects of previous surface mining operations. The increasing national awareness of the need for surface mining regulation has been based upon observation of the past adverse impacts of surface mining. Therefore, to fully correct the adverse effects of surface mining, the amendment must be addressed not only to future operations, but to past operations as well. The past surface mining which presents the greatest reclamation problem and to which this title is directed is that associated with lands which were never adequately reclaimed and are now abandoned.

Sec. 301. Abandoned mine reclamation fund

There is created in section 301 an "Abandoned Mine Reclamation Fund." Lodged in the Treasury, the Fund will have an initial appropriations authorization of $100 million. In addition, the Fund will be augmented by moneys derived from the sale, lease, or rental of land reclaimed pursuant to section 302, from any user charge imposed on or for land reclaimed pursuant to section 302, and miscellaneous receipts accruing to the Secretary through the administration of this amendment which are not otherwise encumbered.

Sec. 302. Acquisition and reclamation of abandoned and unreclaimed mined areas

This section authorizes the Secretary to use the moneys of the Fund to reclaim abandoned land which has been subjected to the worst ravages of past surface mining activities or has suffered subsidence from past underground mining activities.

Subsection (a) establishes that acquisition of any interest in land or mineral rights for reclamation purposes is a public use or purpose, even if the Secretary plans to hold the reclaimed land as open space or for recreation or to resell it.

Subsection (b) authorizes the Secretary to acquire abandoned and unreclaimed land or any interest therein by purchase, donation or otherwise. Prior to making any acquisition, the Secretary is required to make a thorough study of the available tracts. Based upon the study, the Secretary is to select lands for purchase according to the priorities of subsection (i).

Subsection (c) and (d) establish the procedures for condemnation of abandoned and unreclaimed land for land for which title cannot be established. Immediate taking procedures are authorized when the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health or to property.

Subsection (e) encourages the States to acquire abandoned and unreclaimed mined lands and donate those lands to the Secretary to be reclaimed pursuant to this title. The encouragement is in the form of grants to the States not to exceed 90 percent of the cost of acquisition of the lands to be acquired. The States are also to have a preference right to purchase the lands they have donated to the Secretary, once they are reclaimed, at fair market value (less the State's portion of the original acquisition price). The States are invited to participate in title III for the same reasons they are given the primary regulatory role in this amendment: they are more sensitive to local conditions and local needs. Thus, presumably their selection of lands to be acquired would more closely approximate the wishes and priorities of local citizens and governments.

Subsection (f) requires the Secretary, with the assistance of other Federal departments and agencies, to prepare specifications for the reclamation of lands acquired under this title.

Subsection (i) establishes the priorities for purchasing and reclaiming abandoned and unreclaimed lands under this title. Priority is to be given (1) to lands which the Secretary believes to have the greatest adverse effect on the environment or constitute the greatest threat to life, health, or safety, and (2) to lands which he finds suitable for public recreational use. The latter lands, one reclaimed must be put to use for recreational purposes.

Where reclaimed land is found by the Secretary to be suitable for industrial, commercial, residential or private recreational development, the Secretary is authorized to sell such land pursuant to the provisions of the Surplus Property Act of 1949, as amended.

NOTE.—In printing the amendment, three subsections to section 302 were inadvertently omitted. Subsections (g), (h) and (k), at such time as the amendment is considered, will be introduced as amendments to it. The text of these subsections is as follows:

"(g) The Secretary shall reclaim the lands acquired under this title in accordance with the specifications prepared therefor pursuant to subsection (f) of this section as moneys become available to the Fund.

"(h) Administration of all lands reclaimed under this title shall be in the Secretary until disposed of by him as set forth in this title."

"(k) The Secretary shall hold a public hearing with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearing shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once reclaimed."

These subsections are self-explanatory. Subsection (k) is of particular importance in that the Secretary should take great pains to insure that reclamation is accomplished in a manner that is compatible with the wishes of local citizens and governments. Direct input of local citizens and governments is necessary to insure this as the Federal Government is too many levels removed to simply divine such wishes without such an input.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 401—Definitions

This section contains twenty-three definitions. Of importance to this analysis are "surface mining operations", "lands within any State", "other minerals", "backfilling to approximate contour", and "terracing".

"Surface mining operations" is so defined to include not only traditionally regarded surface mining activities but also surface operations incident to underground mining. Activities included are excavation to obtain coal or other minerals, by contour, strip, augur, or open pit mining, dredging, quarrying, in situ distillation or retorting and leeching; and the cleaning, concentrating, or other processing or preparation (excluding refining and smeltering), and loading for interstate commerce of crude minerals at or near the mine site. Activities not included (other than those excluded by section 203) are the extraction of minerals in a liquid or gaseous state by means of wells or pipes unless the process includes in situ distillation or retorting. "Surface mining operations" also includes all areas (1) upon which occur surface mining activities and surface activities incident to underground mining, or (2) where such activities disturb the natural land surface. It also includes all roads, facilities structures, property, and materials on the surface resulting from or incident to such activities.

"Land within any State" is so defined and used throughout the amendment so as to insure that the States, through their State Programs, will not assert any additional authority over Federal lands or Indian lands, other than that authority delegated to them by the Secretary in developing joint Federal-State Programs pursuant to subsection 216(c).

"Other minerals" for which the Secretary must promulgate regulations and the States must develop State programs is defined to include clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

"Backfilling to approximate contour" is defined so as to give a five degree leeway from the original average slope and so as to bar depressions capable of collecting water except where retention of water is determined by the regulatory authority to be required or desirable for reclamation purposes.

"Terracing" is defined to mean grading to the extent necessary to insure that (1) the steepest contour of any remaining highwall will be permanently stable and will not erode and (2) the table portion of the restored area will have no depressions which hold water, except where water retention is determined by the regulatory authority to be required or desirable for reclamation purposes.

Sec. 402—Advisory committees

This section establishes two National Advisory Committees for surface mining and reclamation operations, one for coal and the other for other minerals. Each Committee will have seven members appointed by the Secretary. The membership should be balanced among Federal, State, and local officials, consumers, and representatives of conservation or other public interest groups.

Sec. 403. Grants to the States

This section contains the administrative provisions for the principal grant program to the States under this amendment; the grant program to assist the States to develop, administer and enforce State Programs for the surface mining and reclamation of coal and of other minerals. The grants are not to exceed 80 percent of the total costs incurred during the first year, 70 percent in the second and third years, and 60 percent each year thereafter.

The section also directs the Secretary to render training, curriculum, surface mining and reclamation operations inventorying, and technical assistance to the States. All Federal agencies are to make relevant data available to the States.

Sec. 404. Research and demonstration projects

This section authorizes to be appropriated $5,000,000 annually to the Secretary for purposes of conducting and promoting, through contracts or grants, the coordination and acceleration of research, studies, survey, experiments, and training in carrying out the purposes of the amendment. In addition, the funds are to be used to contract with or make grants to States and their subdivisions, other public institutions and agencies, business and public organizations, and persons to carry out demonstration projects for reclaiming lands which have been disturbed by surface mining operations.

Sec. 405. Annual report

The Secretary must report annually to the President and Congress concerning activities conducted by him, the Federal Government, and the States pursuant to the amendment, and any recommendations he may have for additional administrative or legislative action.

Sec. 406. Authorization of appropriations

Authorized for appropriations for administration of the amendment and for section 403's grants to States is $1,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the next two succeeding fiscal years, and $30,000,000 for each fiscal year thereafter.

Sec. 407. Temporary suspension

This section grants a critically important authority to the President to temporarily suspend the operations of this amendment under emergency conditions. The temporary suspension would be for ninety days. The emergency conditions are a national emergency, a critical national or regional electrical power shortage, or a critical national fuels or mineral shortage.

The President is to make the suspension based upon the findings and recommendations of the Director of the Office of Emergency Preparedness. The Director must solicit the views of the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Chairman of the Federal Power Commission.

Any suspension must be followed by a report to the Congress within five days of the suspension order. Congress will then be in a position to take whatever remedial long-term action appears necessary.

Sec. 408. Other Federal laws

This section contains the standard savings clauses concerning existing State or Federal mine health and safety, and air and water quality laws, and the mining responsibilities of the Secretary and heads of other Federal agencies for lands under their jurisdiction.

Sec. 409. State laws

This section contains the standards savings clauses protecting the States' rights to have or develop laws and regulations providing more stringent or different controls of surface mining and reclamation operations.

Sec. 410. Protection of the surface owner

Where the surface owner is not the owner of the mineral estate he is provided the following protection:

(1) The applicant of the permit must include in his application the written consent of, or a waiver by, the owner or owners of the surface lands to be mined; or

(2) The applicant must execute a bond or an undertaking to the United States or the State, whichever is applicable, to secure the payment to the surface owner or owners of any damages to the surface estate, crops, or tangible improvements of the surface owner or owners. This bond is in addition to the performance bond required by this amendment.

This provision is of special importance in those States where the broad form deeds, often signed before the technology of surface mining existed, have been interpreted to give the mineral rights owners complete rights to fully destroy the surface and thus deprive the surface owner of any use of his property. It is also of particular importance in the State of Montana where the owner of the mineral estate is given the right to condemn the surface estate for mining purposes.

Sec. 411. Preference for persons adversely affected by the act

This section requires the Secretary to develop regulations which will accord a preference in the award of contracts for reclamation pursuant to title III and demonstration projects pursuant to section 404 to surface mining operators and individuals who have been adversely affected by the operation of the amendment. The purpose of this section is to alleviate any social dislocations and costs which occur as a result of the application of the amendment. In many sections of the country, surface mining operations are of critical importance to the economic and material well being of local communities. Thus any dampening effect this amendment may have on such operations may work hardships on local economies and employment. This provision should mitigate those hardships and also insure that the skills and equipment developed and used in surface mining will not be ignored in or lost to the reclamation efforts.

Sec. 412. Severability

This section contains the standards severability clause.

IMPRESSIVE PROGRESS IN WAR ON CRIME

Mr. HRUSKA. Mr. President, earlier this week Attorney General Kleindienst spoke before the Economic Club of Detroit regarding the efforts made by the Nixon administration to control crime in this Nation. While indicating that the war on crime has not yet been won, the Attorney General concluded that—

> We can say with more assurance that the wave of crime and violence that shocked America in the 1960's is not the wave of the future, and that America is once again becoming a safe and lawful society.

Mr. Kleindienst discussed two important aspects of this administration's efforts in the law enforcement field: First, massive Federal aid to State and local enforcement agencies acting against street crime; and second, a crackdown on racketeers, drug traffickers, and other violators of Federal law whose operations stimulate street crime. The results of both of these drives are impressive and are spelled out in detail in the speech.

In addition, Mr. President, the Attorney General cataloged the record of the presidential nominee of the Democratic Party on the issue of law and order. While decrying the efforts of the Nixon administration in this field, Senator McGovern has compiled a dismal record in support of effective law enforcement legislation. In fact, the record is less than dismal; it is nonexistent. I believe that it deserves to be spread on the record.

For these reasons I think that my colleagues would be interested in having the full text of the Attorney General's remarks and I ask unanimous consent to have it printed in full in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Is Crime Being Controlled?

(By Hon. Richard G. Kleindienst)

In his classic analysis of the Government-business relationship, *The Good Society*, Walter Lippmann pointed out that "all property, and everything which we include in the general name of private enterprise, is the product of legal development and can exist only by virtue of law. This is evident enough in periods of social disorder when for want of law observance and law enforcement the whole private economy may collapse in a day."

Perhaps it requires such startling words to remind us of what we take for granted—that business as we know it can only operate in a stable and lawful society. Crime and enforcement have become issues in this 1972 campaign, and I believe this audience is vitally interested in those issues. So I would like to discuss with you the war on crime in this country and to contrast for you the records of the Nixon Administration and of the Democratic Presidential nominee.

From 1960 to 1968 serious crime in the United States, as compiled in the annual Uniform Crime Report of the FBI, increased by more than 120 percent. What's more, the increase kept increasing. The President's Crime Commission, created to investigate the alarming trend, reported in 1967, "One-third of a representative sample of all Americans say it is unsafe to walk alone at night in their neighborhoods."

The next year Richard Nixon made this appalling wave of crime and lawlessness an issue in his campaign for President. "Let us resolve," he said, "that the wave of crime and violence will not be the wave of the future in America." And he promised firm action to strengthen the peace forces against the criminal forces in this country.

The Nixon Administration has attacked the crime wave in two ways. First, by providing massive financial aid to State and local enforcement agencies acting against street crime. Second, by conducting a massive crackdown on racketeers, drug traffickers, and other violators of Federal law whose operations stimulate street crime.

So, the Nixon Administration mounted the first all-out war against organized crime. To help get evidence against its leaders we made use of court-authorized wiretapping, which Congress provided in 1968 but which the previous Administration had refused to use. We won from Congress a new and tougher law giving us still better weapons against this menace. The President mobilized all the Federal enforcement agencies in this war and concentrated them in the major cities across the country. He greatly enlarged the budgets and the number of investigative agents in these services.

The result has been an enormous increase in indictments and convictions of racketeers. In Fiscal 1972 our Organized Crime and Racketeering Section secured indictments against more than 3000 defendants—nearly triple the figure for Fiscal 1968—and nearly 1000 convictions—almost double the 1968 number. For the first time, in major cities throughout the country, we have been able to put the arm of the law on many of the top gangland bosses. Officials who have been in our Criminal Division for many years say they cannot remember a time when such inroads have been made into the underworld.

I might add that in this drive on organized crime we have received much cooperation from legitimate American business. The United States Chamber of Commerce has been very helpful in putting us in touch with companies that can provide jobs for witnesses who must be removed to other cities under different identities to protect them from retaliation by the underworld.

At the same time President Nixon gave drug enforcement a top priority. Again, he enlisted all Federal enforcement agencies in the battle, and where necessary created new agencies to coordinate the total Federal effort. He secured from Congress a new drug law with real teeth in it. He was the first President to make this crusade an integral part of his foreign policy, and by determined pressure won the active cooperation of foreign countries that were sources of drugs.

In Fiscal 1972, ending last June 30th, the Bureau of Narcotics and Dangerous Drugs alone seized six times more heroin than in Fiscal 1969.

Federal agents made more than 16,000 narcotics arrests in Fiscal 1972, nearly double the number in Fiscal 1969.

Since it was launched in January, the Office for Drug Abuse Law Enforcement—working with State and local authorities—has initiated more than 1900 investigations, involving more than 2800 suspects. Of these, approximately 2,000 have already been arrested.

The next question is, has this enormous effort inside and outside our country had any effect on keeping narcotics out of the hands of addicts and would-be addicts? For the first time in the history of American drug enforcement, we can begin to answer "yes" to that question.

Starting last November, we noticed signs of a heroin shortage on the East Coast, and this has spread from New York City and Washington, D.C., to include Boston, Baltimore and Detroit. The shortage can be fairly well measured by the well-known yardstick of supply and demand. The price of heroin on the street went up and the quality or purity went down, and addicts are flocking to the treatment centers in much larger numbers than ever before. Here in Detroit the average purity of heroin has dropped from 40 percent to four percent within 18 months.

An added result of these successes is that we are now getting a better picture of the total number of addicts and other aspects of the drug problem in this country.

One of the weapons that proved especially useful against organized crime and the narcotics traffic was court-authorized wiretapping. We have smashed a number of narcotics rings with such evidence. We have secured a total of some 1600 indictments on evidence from court-authorized wiretaps. We have been able to make an average of four arrests for every such wiretap, and in the special field of narcotics five arrests per wiretap.

Now let me turn to the Nixon Administration's drive to reduce general crime, sometimes called street crime, most of which is not under Federal jurisdiction but may nevertheless be attacked by Federal leadership and financing.

Much of this has been accomplished by grants through the Law Enforcement Assistance Administration. No Administration has provided anywhere near the financial assistance to State and local enforcement agencies. The previous Administration provided $33 million of such funds. From 1969 to 1972 we provided a total of one-and-a-half billion dollars in such funds, and our current 1973 budget is more than $800 million.

Some idea of the effectiveness of this LEAA program around the country may be gained from the opinion of the Detroit Commissioner of Police, John F. Nichols, who has written, "here in Detroit, the assist we have received from LEAA is truly making our Department far more responsive and far more effective."

Now, what has been the result of our efforts to reduce the threat of crime in this country?

The growth of general crime began to decelerate from a record rise of 17 percent in 1968 down to a rise of only seven percent in 1971. In the first half of 1972 it went up only one percent, compared to the first half of 1971—a rise comparable to the annual increase in population. I am also able to report that in the first half of 1972, violent crime also went up just one percent over the first half of 1971—the same as property crime.

In fact, robbery is the largest category of violent crime, and the one that has contributed most to fear on the streets of the inner cities, and robbery showed an actual decrease of four percent in the first half of 1972.

In short, we are at ground zero with regard to the crime rate in the United States.

In fact, as you know, the crime problem was the most fearsome in the largest metropolitan cities, and they are bringing the crime wave under control. Total crime for the six cities of over one million in population was down seven percent in the first half of 1972. Here in Detroit, crime was down 17 percent.

Assuming that these six months results hold up for the year as a whole, we are truly seeing an historic reversal of a frightening crime wave in the United States. This is not a minute ripple in the statistical curve. Crime figures have been kept by the FBI since the early 1930's, and with the exception of one year they have been rising continually since 1948. The rise grew much steeper through the 1960's, and by 1968 there was nearly four-and-a-half times more crime than 20 years earlier.

So this one percent rise in the first half of 1972 over the same period in 1971 is the lowest, not only in this Administration, or in the past two administrations, but the lowest first-half rise in any year since 1959.

It is in this context that I say that President Nixon has kept his promise to do something about the crime wave, and that the results are fully justifying that statement.

Now I would like to compare the record I have just discussed with the record of the man who seeks to unseat President Nixon.

Senator McGovern gave a speech in New York last week indicating that law enforcement would be his number one domestic priority. He also criticized the Nixon Administration for "law and order" rhetoric and indicated that it is really Richard Nixon who is "permissive" about crime.

But before I begin, I wish to point out that what you hear from me won't be my words, but will be the words of Senator McGovern. And when Senator McGovern comes back tomorrow and accuses Dick Kleindienst of distoring his record, let it be clear that he is going to have to repudiate *his own* record.

The record shows that the man who says that crime and law enforcement will be his number one domestic priority is a man whose actions have shown that the law will be treated as often in the breach as it is in the observance.

The man who now poses as a champion of law enforcement is the same man who said that J. Edgar Hoover was a "menace to justice." After Mr. Hoover passed away, here is what Senator McGovern said:

"Hoover had lived beyond the normal years, so I couldn't feel the pathos I would for a young man. I could feel *nothing but relief* that he was no longer a public servant. I thought he had become a menace to justice." (emphasis added)

I knew John Edgar Hoover, and every citizen and law enforcement agency in America is indebted to Mr. Hoover. He was a true American giant—a man whose devotion to his country and to the rule of law cannot be questioned. Yet, only days after Mr. Hoover's death, Mr. McGovern claimed that he was relieved Mr. Hoover was no longer around. I regret those words of Senator McGovern; they do not reflect well on his compassion or his knowledeg of law enforcement.

And who would Senator McGovern choose to replace Mr. Hoover? Listen again to his own words: "I don't know whether you could persuade Ramsey Clark to take the job or not, but he'd be perfect, if you could get him." Imagine this, the man who traveled to the enemy's capital to be heard on the enemy's propaganda radio broadcasts is going to be the "perfect" choice of Mr. McGovern's FBI Director. Words defy description for such a notion.

The man who is now posing as "Mr. Law and Order" also has a unique sense of obedience to the law regarding theft of top secret documents from the Government of the United States. We all hear Mr. McGovern traveling the country deploring lawlessness and proclaiming his own honesty and forthrightness. Yet he has a peculiar record with reference to the so-called "Pentagon Papers."

Daniel Ellsberg, a former Defense Department employee, is charged with stealing Government property and unauthorized disclosure of national defense information. As Attorney General I cannot comment on proceedings before the court. However, I can and will comment on Senator McGovern's conduct in this affair.

Here are the Senator's own words from the October issue of *Intellectual Digest:*

"Ellsberg asked me whether I would release the (Pentagon) papers. I felt since I was in the business of making laws, not breaking them, it wouldn't be a good idea for me. *I urged him to go to the New York Times . . . I'm glad he did, and I think he performed a tremendous service.*" (emphasis added)

Let us also take a few moments to look at Senator McGovern's contention that the Nixon Administration is permissive.

The Nixon Administration is not permissive about marijuana; it never has been. The President unequivocally opposes the legalization of marijuana. On the other hand, Senator McGovern suggested, on February 16, 1972, that marijuana might be treated along the "same lines as alcohol," i.e., legalized. I'm not sure where he stands now—his position changes almost daily—but let's not forget that his record on marijuana reeks of permissiveness.

Moreover, I can guarantee you that the Nixon Administration is not permissive about having tough-minded justices on the Supreme Court of the United States. Senator McGovern voted against putting William Rehnquist on the Supreme Court. Mr. Justice Rehnquist was at the top of his law school class; he is a brilliant young legal scholar; he is highly respected for his precision of thought and knowledge of the law. And why did Senator McGovern vote against his confirmation? He voted against Justice Rehnquist because William Rehnquist believes in strong law enforcement and upholding the rights of the citizen against the criminal.

On pornography, this Administration has been fighting an all-out battle against the porn-producers and smut-peddlers. The President has pleaded with Congress to do something about the multi-million dollar smut traffic. He has had no help from Senator McGovern. On October 13, 1972, Senator McGovern's colleagues in the Senate overwhelmingly passed a Resolution rejecting the permissive findings of the Commission on Obscenity and Pornography. Only five Senators voted against the Resolution, and Senator McGovern was one of them. Let Senator McGovern explain his vote, and let him explain his statement in *Playboy* magazine that he is "not particularly concerned about" the change in sexmores.

How do we reconcile the law and order McGovern with the McGovern who is proposing unconditional, blanket amnesty for draft dodgers. Those who evaded the draft broke the law. They are either incarcerated or in foreign exile. Senator McGovern has promised that those who evaded their responsibility will not have to pay any penalty. They will be freed from prisons and allowed to come home from Canada without any penalty whatsoever; without any alternative service requirement; without so much as a slap on the wrist for their dereliction of duty and refusal to obey the law.

One area, however, where Mr. McGovern's permissiveness comes to halt is on the question of forced busing. It is a fact that Senator McGovern endorses busing for racial balance. And I must say he is entitled to his position. But there is an arrogance in his attitude which displays callousness towards those parents who object to having their children used as pawns by the bureaucrats. Mr. McGovern said in an interview on February 19, 1972: "Suppose your kids have to ride the bus? What the hell difference does it make?"

This attitude suggests elitism and indicates an uncaring feeling towards the deeply-held beliefs of millions of American parents. It makes a great deal of difference, Mr. McGovern.

The record is clear. It is clear that the Senator talks about law and order while his record shows something else. He accuses the Nixon Administration of being permissive, but ignores the permissiveness which pervades his candidacy. We might point out, as well, that the man who gave law enforcement such high priority last week is the same man who holds the most dismal record in the Congress of the United States on questions of crime and law enforcement.

The Omnibus Crime Control and Safe Streets Act became law in 1968. Senator McGovern missed 21 of 29 votes on this bill and did not even bother to show up to vote cn final passage. McGovern missed all twelve votes on amendments to this Act pertaining to the admissability of confessions in court, eyewitness testimony and funding for various law enforcement programs.

Senator McGovern missed all six votes on the Organized Crime Control Act of 1970, and yet last week boasted of his proposals to curb organized crime.

The truth is that *only one* of the six law enforcement bills McGovern has sponsored during 14 years in Congress has ever passed, and that bill authorized the United States District Court to hold session in Deadwood, South Dakota. Of the 16 bills McGovern has co-sponsored, only three have passed the Congress. One need only consider this listing to see that the Senator's record mocks his campaign conversion to law and order.

From slurring J. Edgar Hoover and urging the unauthorized release of top secret Government documents to permissive attitudes on marihuana and pornography, the McGovern record—which I have not distorted *in any respect*—would be a disaster for the rule of law in America. I take no particular pride in pointing out the record, but I do feel it is my responsibility to comment on what would be in store for 210 million Americans should Senator George McGovern become President.

At the same time I am proud to point up the contrast between this record and that of the Nixon Administration, which believes that the peace forces in this country needed to be strengthened against the criminal forces, which has done something about it, and which has some results to show for it.

I do not want to close by giving you the impression that the war on crime has been won and that Americans can now rest secure. Crime is far higher than it should be, and this Administration—working with State and local authorities—will continue to do everything possible to reduce it.

But we can begin to say with more assurance that the wave of crime and violence that shocked America in the 1960's is not the wave of the future, and that America is once again becoming a safe and lawful society.

HELIUM

Mr. HRUSKA. Mr. President, this Nations helium reserves are being rapidly depleted, and it is beyond question that this unique natural resource is essential for the continued technological growth of our Nation.

The helium program is in various forms of litigation and the Congress, of course, should not take action which in any manner impinges on those lawsuits.

However, the recent action of the Department of Interior cannot go unnoticed. I find that the Department has just shut off its valve to the pipeline to storage which will cause 600 million cubic feet of helium a year to be wasted for no reason whatsoever.

The administration of the helium conservation program has undergone much criticism, but the need to conserve helium for the long-term benefit of this Nation is indisputable.

The Bonneville Power Administration, Department of the Interior, for example, in its comments on Interior's draft environmental statement, told the Bureau of Mines on July 6, 1972:

> Information available to BPA indicates that by the year 2000, approximately 5,000 million cubic feet of helium per year may be required for electric power use.

This 5 billion cubic foot need will be at a time when all of this Nation's known helium reserves have been exhausted.

The Environmental Protection Agency in its comments dated August 7, 1972, stated:

> We hope, however, that some feasible alternative might yet be found to conserve the helium presently available in natural gas in order to assure that future national needs will be met at reasonable cost. The anticipated application of helium technology to the electric power industry appears to hold substantial promise for future enhancement of environmental quality.

The Federal Power Commission in its comment dated August 8, 1972, expressed the following views:

> Super conducting power transmission lines would permit the transportation of very large blocks of electric power underground. . . .
>
> Super conducting magnets are an important factor in the development of MHD power generating systems. The successful development of MHD and its use would greatly improve the efficiency of fossil fired power plants and, therefore, decrease the fuel usage and emissions to the air and environment. The improved efficiency would also result in relatively lower thermal pollution than can be attained with conventional power generating systems.
>
> Although the prospects for nuclear fusion are somewhat in the future, it has the potential of suppling seemingly unlimited supplies of energy with the lowest environmental impact. Current research indicated that helium cooled super conducting magnets are necessary to provide the magnetic fields for containment of the fusion reaction. Consequently, helium could be expected to play an important part in assuring minimum environmental impact of many aspects of future electric generating systems.

The motion by one of the contractors to require the Interior Department, on a nonprejudicial basis, to store the helium produced during litigation was denied by the Court of Claims on September 27, 1972. In its order, the court stated:

> The issue thus resolves itself into one solely of the need to continue the storage of helium for general purposes of conservation. That is a very important matter but not one upon the basis of which the court is authorized to enter a compulsory order where, as here, it is not necessary or appropriate for the particular case before us which involves only a monetary claim by the plaintiff for breach of contract. Public Law 92–415, 86 Stat. 652, together with the law existing prior to that statute, does not empower this court to enter such a specific mandatory order solely on grounds of conservation, no matter how great those needs may be.

The Interior Department closed the pipeline valve on September 28, 1972, and the helium is now being wasted.

I have asked Secretary Morton to look into this matter immediately and advise us on why this helium cannot be stored for the general purposes of conservation.

EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the hour of 10 a.m. having arrived, the Chair lays before the Senate the unfinished business, H.R. 13915, which the clerk will state.

The assistant legislative clerk read as follows:

> H.R. 13915, to further the achievement of equal educational opportunities.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the 1 hour allotted before the Senate proceeds to vote on invoking cloture will be equally divided and controlled by the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senator from New York (Mr. JAVITS).

Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, we approach now yet another cloture vote with respect to this matter of the so-called antibusing bill. The points I would like to make this morning relate to certain facts which have been adduced here in support of the rather shortcircuiting way in which it is felt we had to proceed and which has been the basis for this kind of forced draft operation at the end of this session. A good many facts have been tossed into the RECORD without the opportunity to analyze and cross-examine as would have been done in a hearing before a committee, but we have done our utmost to get reactions to these facts in the best way we can under these circumstances, and I would like now to report some of our findings to the Senate.

First, as to the overall matter of busing both in cost and in number, we have an interesting piece of collateral evidence which comes out of an inquiry I have been pursuing for some years regarding the safety of school bus transportation. In the course of that inquiry, we come across the following facts which are furnished by the Secretary of Transportation. Although they are not directly pointed at segregation or desegregation, they are certainly helpful in giving us some concept of the orders of magnitude involved.

For example, the National Highway Traffic Safety Administration has submitted the following facts, that the total cost, including capital expenditures of all busing in 1970–71 was $1,517,900,000. In the year 1971–72, $1,700,177,000—or a difference, roughy, of $187 million.

But, Mr. President, the amount of the increase was attributable, 95 percent, to population growth and less than 1 percent to desegregation. These are not my figures. These are their figures. One percent of the increase is under $2 million, and yet that is the figure related to all pupils transported at public expense.

So the Civil Rights Commission makes the following comment on these facts which I think are critically important for the Senate:

> Figures from DOT indicate that in 1954 the total operational cost for busing, excluding capital outlay, was approximately $329,000,000. In 1971–72, the estimate is approximately $1,700,000,000. The increase over this 18 year period is $1,481,000,000. Busing for the purpose of desegregation was not a significant expense until the 1968–69 school year. In that year, the total expenditure for operating buses was $901,000,000. The 1971–72 figure of $1,700,000,000 supplied by DOT includes capital expenditure.
>
> The increase from $901,000,000 to $1,700,000,000 between the years 1968–69 to 1971–72 is, therefore, $799,000,000. If the DOT percentages are correct, then 1% of the increase over a period of three school years amounts to approximately or less than $8,000,000. If we accept Secretary Richardson's estimate that approximately 4% of all children being bused are bused for purposes of desegregation, it would not appear to be unreasonable to calculate 4% of the 1971–72 figure of $1,700,000,000 which includes capital outlay for all busing, not just the outlay for new buses for desegregration purposes. Four percent of the 1971–72 figure amounts to $68,000,000.

These are extremely reliable statistics.

The ACTING PRESIDENT pro tempore (Mr. HART). The 5 minutes of the Senator from New York have expired.

Mr. JAVITS. Mr. President, I will continue with this factual analysis. There is a great deal more to it. But I would, in the meantime, like to yield 5 minutes to the distinguished Senator from California (Mr. TUNNEY).

The ACTING PRESIDENT pro tempore. With the understanding that the remarks of the Senator from California will be separate.

Mr. JAVITS. Yes, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from California is now recognized.

Mr. TUNNEY. Mr. President, my remarks will take a little bit longer than 5 minutes.

Mr. JAVITS. What does the Senator require, 10 minutes, 15 minutes?

Mr. TUNNEY. 15 minutes.

Mr. JAVITS. I yield 15 minutes to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 15 minutes.

Mr. TUNNEY. I thank the Senator from New York very much.

Mr. President, once again, the Congress is locked in a great debate whether this Nation shall treat all her citizens as equals under the law.

Once again, we are confronted with the fundamental choice of continuing to break down the barriers to racial integration or to ressurect them.

Once again, we face the blunt question: Should another generation of Americans be denied the heritage of freedom most Americans enjoy.

The question before us is busing.

The busing bill before us is a repudiation of its very name—"the Equal Opportunity Education Act."

It is a repudiation of our Supreme Court and its effort to sustain the Constitution.

It is a repudiation of the Court's 1954 Brown decision that "separate educational facilities are inherently unequal."

It is a repudiation of the 1969 Alexander decision that a school system should be one "within which no person is to be effectively excluded from any school because of race or color."

It is a repudiation of the 1971 Swann decision that found busing a "normal and accepted tool of educational policy" and added, "desegregation plans cannot be limited to the walk-in school."

The intent of these rulings is clear: Give every youngster the opportunity to a good education.

Their intent was not to fix some inflexible racial balance in our schools, or to herd our children aboard schoolbuses or to remove children from their neighborhoods.

It was their intent to bridge the gap between races and help unite this country in true fraternity.

This bill tries to sugarcoat segregation by promising additional money to neglected schools.

But this is deceptive, because it merely diverts money that would have been used to help schools desegregate. It adds not one penny to the education of a single youngster.

Furthermore, the bill is a massive intrusion into the fundamental separation of powers between legislature and judiciary.

It would allow the reopening of every desegregation case since 1954—even cases which did not involve busing.

It orders the Justice Department to intervene on the side of local school districts in upsetting busing orders.

In short, it is an effort to thwart the courts from dealing effectively with violation of our 14th amendment. I think the House debate is particularly revealing on this. Representative MIKVA offered a very simple amendment which said just one thing—that nothing in the bill precluded enforcement of the 14th amendment. Immediately Representative PUCINSKI rose to oppose the amendment with these words:

> It seems to me that if we adopt this amendment we will just undo everything that has been done here so far.

Mr. President, I think that this exchange sums up the purpose of the bill before us. It is a bald attempt to prevent the courts from enforcing the 14th amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. JAVITS. I have rarely heard so apt an analogy. I have just listened to the Senator and he is absolutely right on target. The Senator is so right. It shows the whole hand here. That is what we have been trying to argue in a much less artistic way and the Senator has hit it with one clean shot.

We have been trying to argue that the reopener clause simply turns the clock back. It suspends the Constitution, which we settled 18 years ago. And there we have it as an admission against interest by the main sponsor of the bill.

I could not think of a cleaner or more precise argument than the one the Senator just made, right out of the mouth of the House sponsor of the whole measure.

Mr. TUNNEY. I want to thank my able and distinguished colleague.

I read the House debate and I was in a sense appalled by what I read. Although I have seen polls that suggest that if there was an opportunity today to vote on some of the original amendments to the Constitution, the Bill of Rights and the 14th amendment among them, that people in certain areas of the country would vote against such constitutional amendments.

I cannot help believing that the average American, if he sat down and had to face realistically whether or not he wanted to have equal protection of the laws or not, would say, "Yes, I want equal protection of laws." And if he were faced with the problem of whether or not he wants his children to have equal education, he would say, "Yes. I want equal education."

And yet, if one reads the House debate, which the Senator has, there is a statement that we do not want the 14th amendment to apply any more to schoolchildren if it is going to involve integration of schools.

That is the most incredible admission, to my mind, of what the political forces at play here are. It is one of the reasons we should not be considering this bill just before an election.

It is true there is a great deal of emotion throughout the country about this matter; but on the other hand, as a legislative body, we should not be passing on major legislation, emotional legislation, just before an election, so as to garner a few extra votes.

I have had an opportunity to be in the Chamber when the Senator was making his argument during the last several days, and he most articulately and eloquently expressed the viewpoint that those of us who oppose this bill are simply saying that we want the 14th amendment of the U.S. Constitution to be recognized as the law of the land. The Senate and the House should not be passing legislation which they know is violative of the 14th amendment. Furthermore, it will have the tendency for us once again to politicize the Supreme Court, because obviously this bill, if passed, is going to get to the courts, and obviously they are going to overturn it on constitutional grounds. Then we are going to have the Supreme Court held up once again to the abuse of those people who would like to have the laws interpreted just exactly the way they would like to have them interpreted, and not the way the Constitution reads.

Mr. JAVITS. If the Senator would yield again, I cannot think of a more apt quotation from the debate itself than the Senator has read in which the House itself indicated the lightness with which it regarded the 14th amendment by the so-called reopener clause. It is absolutely incredible that our colleagues under the stress and heat of this moment would have adopted such a provision to reopen every decree—violative of every principle of justice, violative of every principle of government, and violative of every principle of separation of powers, if the Supreme Court let us get away with that.

I do not care how many conservative judges we have. And if we persist in engendering a confrontation between the Congress and the Supreme Court in this manner, we are certainly highly improvident legislators, and yet that is exactly what we are being asked to do.

Mr. TUNNEY. The term highly improvident is correct, and reckless, too, because after all to maintain order in society we have got to have respect for the law, as well as the laws on the book. If Congress by its action does what is essentially a lawless act, passing a bill that any Member of this Chamber knows if he has read the Supreme Court decisions is violative of those decisions and will have to be declared unconstitutional, how can people in the country have respect for Congress and how can they have respect for their Constitution? How can they have respect for law, order, and justice, when they know that Congress is purposely acting in a lawless fashion, when it passes a bill that it recognizes to be unconstitutional?

Mr. JAVITS. It is what we call in the parlance of sports, which the Senator knows so well, playing to the galleries.

Mr. TUNNEY. That is correct and very apt.

Mr. JAVITS. I thank my colleague.

Mr. TUNNEY. But in addition, this bill intrudes into the provinces of our local school district by restricting their ability to bus students beyond their neighborhood schools no matter what the educational imperative might be—whether it be overcrowding or special classes.

Statistically, the busing issue has been blown out of proportion, for only a tiny fraction of American schoolchildren are bused as a means to end desegregation in our schools.

It is estimated about 43 percent of all schoolchildren are bused daily to and from school—only 2 to 3 percent are bused for purposes of school integration.

In my home State of California, 800,000 students daily ride buses—less than 2 percent because of desegregation plans.

No one is proposing that the school bus supplant the school room as the essential unit of education in this country.

Busing is simply a tool that can be used when all else fails to liberate youngsters from the oppressive disadvantage of segregated schools.

Busing is just one instrument to assure that all children have, at least, the opportunity of quality education.

The drawing of school boundaries, the location of new schools, the designation of central schools for special programs are more basic elements toward integration.

By a variety of means, the least of which is busing, California school districts have made substantial progress toward desegregation.

Sacramento, Fresno, Pasadena, San Francisco, San Jose, and many other cities report progress toward integration, and all, unanimously, reject the retreat proposed by the present busing bill.

Los Angeles was particularly emphatic that passage of the bill would—

> Further permit the emotionally needed issue of busing to obscure the real issue which is our national responsibility to provide equal educational opportunities for all students.

Congress, clearly, should not legislate to inhibit the drawing of school boundaries to decrease desegregation.

Nor, clearly, should it prohibit the construction of schools in locations where they will serve all races.

Nor should we now legislate to prevent local school authorities from busing youngsters as a means of assuring each one of them a better education.

Congress should not handcuff our local schools with the iron prejudices of the past, and say to a school, "You are responsible for providing quality education, you are responsible for teaching to students that all men are brothers in society and equal before the law," while at the same time not having classrooms integrated so that white students, black students, and chicano students can know from personal experience what it means, one with the other in the same classroom, and to be able to carry on a dialog and to learn to think of the person with a different ethnic and racial background as a human being and a potential friend rather than a stranger, a foreigner, somebody to be feared and hated.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. TUNNEY. Mr. President, I yield myself another 15 minutes. The Senator from New York has indicated that I would control time for that purpose.

The PRESIDING OFFICER. The Senator from New York has 9 minutes remaining. The Senator from California is recognized for 5 minutes.

Mr. TUNNEY. Mr. President, nor should Congress fetter the minds of our young by proscribing the books they might read or the classmates they might have.

Congress should not constitute itself as the school board for the Nation.

Mr. President, if there is one thing I have learned from serving for 2 years on the Senate District of Columbia Committee, it is that Congress makes a poor city council, and it would make just as poor a school board.

Congress cannot and must not try to circumscribe local school policies to prevent children of all races from attending school together.

The barriers of prejudice are beginning to erode in this country, and it would be wrong for Congress to rebuild them.

Our young are helping reduce those barriers.

Particularly, our very young are unhampered by old hates. They can play and learn together unselfconsciously.

All around them are indications of diminished barriers.

In school, in the arts, on TV, in sports, persons of all races labor and laugh together.

Today, our youngsters throughout America laugh together with Flip Wilson and thrill to the exploits of Willie Mays or Larry Brown.

Today, our young people are fused with an idealism about our Nation and her future.

It would be a tragedy to repudiate those young people.

Ours has been a history of including more and more Americans in the promise of our democracy.

And it would be a tragedy, by the adoption of the busing bill, to repudiate that history.

To be sure, many Americans are understandably apprehensive about busing.

The apprehension is shared by Americans of all races. It finds its origin, not in old prejudices, but in abiding concern for their children and their education.

Black, white, brown, yellow, they want the very best for their youngsters.

They do not want their youngsters in

schools so distant from home that it is inconvenient or impossible for parents to attend school functions or to meet with teachers and counselors.

For some, there is concern that their children might be sent to schools that are run down and neglected because their black or brown student bodies were condemned to inferior education; and for some, they are afraid for the very safety of their children being bused into a hostile area.

In California, I have visited enough schools to remember those in ghetto neighborhoods—with their tattered text books and unpainted classrooms in sharp contrast to schools in all-white neighborhoods.

There is no inherent virtue in having a black child sit next to a white child in a classroom—although there would be inherent value in our society if blacks and whites lived together in harmony.

In theory, black schools could be as good as white schools. In practice, however, they are not, and resources are inevitably centered in white schools to the permanent disadvantage of segregated ones.

Black schools traditionally have been shortchanged. And black children cannot prepare themselves to participate effectively in society if they are herded into separate and inferior schools. Nor can white children, segregated into lily-white schools, learn about life in the multiracial world with which they will have to cope as adults.

Instead of legislating regressively to prevent our schools from integrating, instead of legislating repressively to sentence some students to inferior schooling, instead of legislating to rigidify dual systems of learning, Congress should seize the initiative in assuring our schools adequate financing to provide a quality education to every child.

Mr. President, I think one thing is clear. No one is suggesting during the course of this debate that it is appropriate to have massive busing programs, transporting children for hours in buses and moving them across large geographic expanses to schools that are miles and miles from home where they will receive inferior education. Nobody is suggesting that. No one says that racial balance for the sake of racial balance is a good thing and that all schools should have an absolutely equal representation of minority students. I, for one, do not subscribe to such a point of view nor do I think does the Supreme Court.

Mr. President, I want to stress to my colleagues in the Senate today that the job of guaranteeing equal educational opportunity to American children is not limited to protecting the rights of black children. Native American children, Mexican-American children and children of oriental descent have also suffered from the inherent inequality of segregated education. In the past, in my own State of California the children of these racial and ethnic groups were prevented by law from attending school with the children of white Californians. Until its repeal, section 804 of the California education laws permitted the exclusion of oriental children from schools attended by white students. Although the law was designed, as were many other equally infamous laws passed in California at that time, to ward off the so-called "yellow peril," school officials used the statute as a handy excuse for discriminating against American Indian students as well. Since the law permitted the exclusion of children whose parents were Indian—intending to mean those who traced their origin to India—school officials, by intentionally misinterpreting the statute, did not allow American Indian students to sit with white children. Chicano students were excluded as well since they were assumed to have Indian blood.

Commissioner Manuel Ruiz of the U.S. Commission on Civil Rights recently recounted this most unfortunate part of California history in his testimony before the subcommittee of the House Committee on the Judiciary on June 8, 1972. Commissioner Ruiz stated:

> If you recall, we had anti-oriental legislation in Section 804 of the State of California Education Law. I recall, when I was permitted to practice law, the children of Japanese, Chinese, Mongolian, and Indian parents could be segregated, there were no laws against the black segregation. And they were segregating the Mexican-Americans in the public school system in California because they had Indian blood.
>
> I recall, the reason they did it was they misinterpreted the article with respect to the Indian being anti-oriental legislation. It was the India Indians from the Orient that were being referred to. The law was finally repealed. There were many good Anglos and many good black people and we are grateful to them for assisting us in eliminating that anti-oriental legislation.

Mr. President, as the California history I have just related indicates, the disease of racism has in the past spread throughout this land. All of us, no matter what State we come from, must continue our efforts to cure that disease. We must overcome for once and for all its lingering effects.

The denial of equal educational opportunity to Chicano students is of particular concern to me. Mexican-Americans comprise the largest minority group in California and likewise their children constitute the largest group of minority students in the State's schools. Nationwide, Mexican-Americans are our second largest minority group.

There are an estimated 2.3 million Spanish surnamed pupils in the United States. They represent about 5 percent of our total public school enrollment. Of these Spanish surnamed pupils, about 1.5 million are Mexican-Americans who attend public school in the five Southwestern States of Arizona, California, Colorado, New Mexico, and Texas. In that region, Chicano students comprise 18 percent of the enrollment. More than 80 percent are found in Texas and California, with nearly 50 percent in California alone.

For the past several years the U.S. Commission on Civil Rights has conducted a study of Mexican-American education in the Southwest. The first report of that study, which was issued in April 1971, considered the ethnic isolation of Mexican-Americans in the public schools. The data for the report are based on an extensive mail survey of schools and districts in the Southwest conducted by the Commission in 1969, plus staff field trips and followup investigations conducted since that time.

In its 1969 survey the Civil Rights Commission found that a large proportion of Chicano pupils attend schools in isolation from their Anglo counterparts. This is due, in part, to the segregation of Mexican-Americans and Anglos in separate school districts. More than 400,000 Chicano pupils throughout the Southwest attend school in predominantly Mexican-American districts. In Texas, where isolation by district is most severe, nearly 60 percent of Chicano students are in districts in which their own ethnic group predominates.

The heavy concentration of Mexican-American people in South Texas is one factor contributing to isolation by district. Thus, segregation of Chicano students can be attributed, to some extent, to mere demography or "natural causes." For in South Texas, as elsewhere in the Southwest, it is not uncommon to find a district that is almost entirely Chicano sitting next to one that is almost completely Anglo. The presence of neighboring districts of such contrasting ethnic composition may have resulted from segregation in violation of the Constitution and title VI of the Civil Rights Act of 1964. The failure of responsible efforts to eliminate this ethnic isolation may also violate these standards.

The Civil Rights Commission's documentation of the segregation of Chicano students by school district should come as no surprise. The facts of such discrimination have been known for some time. But unfortunately State and Federal officials have taken few remedial steps. Here as in so many instances of school segregation the courts have been forced to step in, because of the default of the local, State, and Federal officials with the primary responsibility in this area.

For example, in its 1968 hearing in San Antonio, Tex., the Commission on Civil Rights heard testimony on the segregation of Mexican-Americans by district in Del Rio, Tex. Anglo children from an Air Force base located in San Felipe School District, which is predominantly Mexican-American, were being bused from San Felipe to the neighboring Del Rio School District, which is predominantly Anglo. Despite the fact that the San Antonio and the Del Rio school district facts had been brought to the attention of HEW as early as 1969, and even though HEW a year later, on May 25, 1970, issued a memorandum urging school districts to examine current practices and to assess compliance procedures, it was not until 1971 that HEW conducted compliance reviews in the two districts of San Antonio and Del Rio. Before HEW had made much progress in negotiating a remedy, a U.S. District Court judge ordered the two districts to consolidate.

Such school district consolidation or other remedial altering of school district lines is very often the most appropriate, and sometimes the only effective remedy for the ethnic isolation of Mexican-American students by school districts. Yet H.R. 13915 would effectively deny that remedy to the Federal courts.

Section 404 provides that in formulating remedies under sections 401 and 402 of the act, school district lines shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools.

Thus, H.R. 13915 tries to establish school district lines as absolute barriers. But it is clear from the Del Rio and San Felipe case I have described that school district lines were never sacrosanct when they could be ignored in order to perpetuate segregation.

Section 404 will effectively deny an often necessary remedy in such cases because it requires a court to find that school district lines were drawn for the purpose of segregating children before the court may alter or ignore them. As the lawyers in this Chamber well know, it is often extremely difficult to prove the motive behind an official action. School boards can always recite a host of apparently neutral alternative reasons for any of their actions. It is the effect of these actions or inactions that are the determining factor.

By requiring proof of discriminatory purpose or motive rather than merely discriminatory effect, section 404 is directly contrary to the Supreme Court's holdings 3 months ago in *Wright* v. *Council of City of Emporia*, 40 U.S.L.W. 4806 (June 22, 1972), and *United States* v. *Scotland Neck City Board of Education*, 40 US.L.W. 4817 (June 22, 1972). Those cases involved the attempted withdrawal of geographic subdivisions of school districts which were in the process of dismantling dual school systems under court order. The Supreme Court held that it was the effect of the redrawing of district lines that was crucial, and that it was not essential to find a discriminatory purpose.

In my discussion on the segregation of Mexican-American students by school districts, I do not mean to imply that these students do not also suffer from discrimination within school districts. They clearly do. Fully half of all Mexican-American students are isolated by schools within their respective school districts. In 1968, 54.1 percent of all Mexican-American students in the Southwest attended predominantly minority schools. By 1970, that proportion had increased slightly to 54.6 percent.

Another major area of concern is those practices which tend to segregate Mexican Americans within school walls. Such practices include ability grouping, tracking, and placement in classes for the educable mentally retarded.

Unpublished data from the Civil Rights Commission's 1969 survey underscores the need for intensive State, local, and Federal effort to combat this kind of segregation. As of 1969, about four of every six schools in the Southwest practiced some form of ability grouping. One of every six schools placed students in one ability group for all subjects. Further, the proportion of Mexican Americans in EMR classes was about twice that of Anglos. I am sorry to say that the placing of Mexican-American students in classes for the educable mentally retarded has been in the past a particular problem in California.

Often this type of discrimination against the Chicano child results from the fact that Spanish rather than English is his primary language. In this regard I must state that section 201(f) would represent a step in the right direction. That section provides as follows:

> DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED
>
> SEC. 201. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—
>
> (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

But, Mr. President, this is the only, I repeat, only, positive provision in this entire act. Furthermore, what the act offers with this one hand, it takes away with the other. I believe that adequately funded bilingual educational programs offer the best hope of overcoming English-language deficiencies without damaging the cultural, language, and ethnic heritage of the minority student. Bilingual education also is the only method which directly benefits the majority student as well. The basic premise of this method is that both languages will be employed in the schools.

Clearly, bilingual programs can only exist in schools where there are both Spanish-speaking and English-speaking students.

Thus, while subsection 201(f) offers some promise to minority language students, it destroys the hope for effective programs by restricting, and in many cases making absolutely impossible, the elimination of racial and ethnic isolation in the schools.

Furthermore, no subsection—no matter how progressive it may be in isolation—can justify support of an act such as this one which is in its totality so patently unconstitutional and retrogressive.

Mr. President, one of the most offensive aspects of this entire debate is the fact that this bill is being railroaded through the Senate, bypassing all of the procedures developed over two centuries in this body to assure constructive and effective legislation.

We have had no committee hearings on this bill, there has been no thorough study of its provisions. In fact, most of it was drafted in the heat of emotional debate on the House floor, a process known for producing ill-considered, short-sighted legislation which brings remorse and regret directly in its wake.

But the most outrageous part is the comparison with the reception other bills—equally important bills, in fact more important bills have had in this Chamber.

We spent the last 2 weeks trying to pass a consumer protection bill—a bill designed to even the score between the little guy and big business; a bill designed to protect the hard-earned but meager dollars of the American worker. A Senate committee spent a year producing that bill, after many previous years of effort to arrive at a fair solution.

There was no great rush to enact that bill. In fact, the very people who prevented that bill from ever getting to a vote are the ones who are circumventing every normal procedure to rush out this "quickie" bill in time for the election. And yet, the consumer bill had vastly more significance and far greater long-term benefit to every American.

Look at another example—gun control. In 1971, 10,000 murders were committed with firearms and guns accounted for 21,000 deaths. From 1961 to 1970, 604 police officers were killed by firearms. Yet despite 10 years of hearing after hearing, study after study, and dozen after dozen of witnesses, the same people who want to ram this busing bill through fought just as hard to kill gun control legislation with more hearings, more study, and more delay.

To listen to the rhetoric in this Chamber you would think that school buses are more dangerous to life and limb than firearms.

Take another case—pension reform. Thirty million workers in this country have invested billions of dollars in pension programs to protect against poverty in their later years. Over $130 billion are contained in pension plans in this country.

Yet, we have now learned that for millions of those workers the dream of a retirement pension is an illusion—they will never receive a penny of those pensions. The Senate Labor Committee spent 2 years on a massive study of this problem and formulated a major reform of our pension systems, yet, we cannot even get it to a vote. In fact, the tortuous road the bill had to follow led it from one committee to a second where it was stripped of its substance only to languish further on the floor.

Or take health insurance—what is more critical to the well-being of every American than the assurance of adequate and affordable medical care. Yet, we stand today no further down the road toward decent health coverage than we did when I first came to the Senate.

Mr. President, there is not a doubt in my mind that if the Nixon administration cared one-tenth as much for health insurance as it does about busing, we could have given every American the guarantee of adequate health care.

Or take auto insurance. We spent $14 billion per year on an auto insurance system that is essentially a fraud on the pubic—returning less than 50 cents of every dollar to accident victims. But when we tried to reform that system, there was no great haste to do so. Even after 3 years of study and a volume report by the Department of Transportation demonstrating beyond any doubt the importance of passing the no-fault bill this year the Senate voted to send it back to the committee. And that was a bill which had spent 2 years being carefully drafted by the Commerce Committee.

But look what we are doing now—on a bill that probably has less significance to most Americans than any of the bills

I have just mentioned, we find ourselves being stampeded to provide some campaign fodder for playing on the fears of parents.

Of all of the frauds that have been decried on the floor of the Senate, this bill is the biggest consumer fraud in our history.

Mr. ALLEN. Mr. President, I yield myself such time as I may consume.

Mr. President, I am always intrigued to hear those Senators who represent States which have little or no desegregation hammering for the immediate desegregation of schools in States that in the past have had segregation. I am always intrigued by those Senators who represent States that have no busing demanding that busing continue in areas where busing exists at this time.

I was very much interested in the remarks of the distinguished Senator from California with respect to the 14th amendment and the fact that this bill contravenes the provisions of the 14th amendment. I would like for any Senator to point out a single provision in the bill before us that is inconsistent with any binding ruling by the U.S. Supreme Court on desegregation, that is inconsistent with the laws of Congress already enacted on the subject of the desegregation of public schools. I would like for any Senator to point out a single provision of this bill which is not consistent with traditional principles of equity which prescribe limitations on the exercise of discretionary powers by Federal court judges.

The last few days I have listened with interest to the arguments made by those Senators who oppose this bill. The first argument made was that it did not go to a committee. The second, that it was unconstitutional, and despite the claim that it is unconstitutional under present law, that it goes back to 1954. Others made the argument that cloture should not be imposed.

One Senator was critical of the fact that the bill provides for an authorization of only $500 million for the purpose of helping economically deprived schools and school children. Of course, it was pointed out to him that the bill was open to amendment. If he thought that amount was too small, he could offer an amendment; but no such amendment was offered.

Mr. President, the discussion of this bill, in addition to continuing national interest in this most important subject, pending action by the Congress, has brought to a close an era here in the U.S. Senate that I think is worthy of comment. When I came to the Senate there was a group of more than a dozen Senators who had always voted for cloture, on the theory that any bill coming before the U.S. Senate and getting to the calendar should be voted on by the membership up or down. I heard very definite arguments to that effect here on the floor by Senators who have spoken on this subject. There were some 20 Senators who had never voted to apply cloture.

I believe that situation is now changed. I believe there is not a single Senator who has now not at one time or another voted to apply cloture. The Senator from Arkansas (Mr. McCLELLAN) for the first time in 30 years of service in the Senate voted for cloture, because of the importance of this issue. I believe the distinguished Senator from Connecticut (Mr. RIBICOFF) voted against cloture for the first time.

I believe this is a good trend.

The junior Senator from Alabama, on the first cloture vote on this issue, voted for cloture for the first time.

I believe it is best to consider measures on their merits and each individual bill on its merits. Obviously, if there is a bloc of 20 Senators who refuse to vote for cloture at any tme, it is going to be almost impossible to cut off debate. So issues should be decided on their merits.

Legislation aimed at Alabama and the South has been enacted by the Congress in such measure that there is nothing left to enact, and we in the South need affirmative legislation; and this is affirmative legislation.

What does it do? Mr. President, far from contravening the provisions of amendment No. 14, it acts under section 5 of amendment 14, which says "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." That is all the bill does. It provides the remedies that may be applied by Federal courts throughout the land in implementing desegregation orders.

That does not mean that there shall be a uniform policy for desegregation of the schools. Even if this bill is passed, there is still going to be some segregation of schools in areas outside of the South that are protected by Federal law, statutory, and judge-made. Segregation is going to continue in areas outside the South, protected by Federal law. But when the Federal court does take under its jurisdiction the matter of desegregating a public school, then this bill provides the formula that must be applied, no matter where that Federal judge is.

That is all the bill does. It provides the order of remedy. It does not change substantive rights. It merely provides the remedies that may be used by the Federal courts in implementing its desegregation orders.

This bill has been in the breast of the Senate, or a companion bill, S. 3395, recommended by the President, went to the Committee on Labor and Public Welfare on March 22 of this year and has reposed there. I do not suppose it will see the light of day in this session, certainly. It would be futile to do so. But if H.R. 13915 had gone to that committee, it would still be reposing there.

As I say, the bill did not even go to the committee at all. It would have been a futile thing if it had gone to the committee; and by not going to the committee, it merely followed a practice used and recommended in 1957 and 1964 by those who now criticize the fact that the bill did not go to the committee.

Mr. President, if the bill merely states the present law—and in some places that is all it does—what is the complaint? Why not pass it and give the proponents of the measure what they want? It does not do anything, some Senators say, as the record will show.

But there must be something to it. There must be something that they fear. Maybe they do not want the same remedies applied by Federal courts throughout the land. Maybe they want to continue fostering and protecting segregation in their areas. Maybe they do not want segregation of public schools to be a national policy. Maybe that is what they fear by the passage of the bill.

They say the bill is unconstitutional. Well, if it is unconstitutional, and patently so, as they say, is it not obvious that there would be no great objection to the bill? It would be stricken down in a matter of weeks. The last enactment of Congress, on June 23 of this year, Public Law 92-318, became effective on that date and was rendered inoperative by Mr. Justice Powell in the Augusta, Ga., case when he said that the stay provision on a busing order for the purpose of achieving racial balance did not apply to the facts of the Augusta case, because he said that that was seeking to break down desegregation and not to achieve a racial balance.

Obviously it could not be to achieve a racial balance, Mr. President, because Chief Justice Burger had pointed out that if an order called for strict racial balance, the order would have to be reversed. So there is no field of operation for the last enactment of Congress in this regard.

Therefore, some action has got to be taken by Congress if we are not going to continue to have mass forced busing throughout the South.

And, Mr. President, it is coming to other areas. I dare say, and I serve this word of warning to my friends who are seeking to defeat this bill, that the time will come when the Supreme Court will rule that if the public schools of Alabama and the South must be desegregated to give each child the equal protection of the laws, the northern school systems must desegregate in order to give each northern child the equal protection of the laws. For, Mr. President, why should it be in the South a denial of equal protection of the laws not to desegregate, and not be a denial of the equal protection of the laws to continue with a segregated system in areas outside the South?

Mr. President, I would say to the distinguished opponents of this legislation, there is more of a field of operation for this bill in areas outside the South than in the South, and the day is going to come when those who are now fighting this measure will wish that they had supported it.

Alabama and the South, Mr. President, have accepted desegregation, and I dare say that more than 90 percent of the minority-race children in Alabama and the South go to schools with a white majority, whereas in many areas outside the South it is true that segregation is on the increase. How can that type of system continue, and how can Senators who have no desegregation in their States say that this bill seeks to deny equal protection of the laws to children? This bill would guarantee equal protection of the laws to all schoolchildren, irrespective of their race, their color, or their religion.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). Who yields time?

Mr. JAVITS. Mr. President, may we know how much time we have and how much time the other side has?

The PRESIDING OFFICER. The Senator from New York has 4 minutes, and the Senator from Alabama has 8.

Mr. JAVITS. Mr. President, I shall use all of our time but 1 minute, just to have a reserve if we should need it, and I hope the Senator from Alabama will then use some of his time.

Mr. President, I yield 1 minute to the Senator from Michigan (Mr. HART).

Mr. HART. Mr. President, at the approach of this cloture vote, I ask unanimous consent to have printed in the RECORD three strong expressions, first of the American Baptist Convention, second of the American Federation of Labor and Congress of Industrial Organizations, and third of Common Cause, against the enactment of this measure.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

AMERICAN BAPTIST CONVENTION,
Pennsylvania, Pa., September 1, 1972.
Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: It is our understanding that in the near future the Senate is to consider the measure recently passed by the House of Representatives declaring a moratorium on busing as a possible tool in providing quality education for all American children. As General Secretary of the American Baptist Convention I wish to express concern about the Senate taking action on this issue at a time when political considerations tend to assume preponderance in major decisions.

We wish to bring to your attention the following section from the resolution on "Quality Education" passed by the delegates of the American Baptist Convention in annual session at Denver, Colorado, May 10–14, 1972, by a vote of 991 to 426 with 37 abstentions.

One aspect of quality education is the shared living experience of pupils of various racial, ethnic, social, and economic backgrounds. We support, therefore, efforts to implement the 1954 Supreme Court Decision (Brown vs. Topeka Board of Education) through plans which may involve the redistricting, regrouping, and/or busing of pupils.

In the discussion prior to the vote it was obvious that those favoring the resolution did not do so because of a desire to promote busing but rather because of their conviction that all American children deserve the best education that we can provide. It was felt that busing was not the real issue at stake as indicated by the following facts among others:

(1) Approximately 43% of all American children are now bused to school, yet there has been little or no opposition to busing until the courts decreed that it should be used as one means of providing quality education for all children regardless of racial background or place of residence.

(2) According to a study made by the U.S. Department of Transportation, less than 1% of the annual increase in busing can be attributed to desegregation.

(3) There was no outcry against busing when both white and black children were being transported, in some instances for long distances, in order to maintain racially segregated schools.

(4) There has been no attempt to secure legislation which would prohibit the use of public funds for the transportation of children to private or parochial schools or to racially segregated academies.

In the light of these facts I as an individual, and as the designated leader of one of the major Protestant denominations, urge you to refuse to support any legislation that could be used to erase the progress we have made over the past several years in providing American children the kind of education which will equip them to live as good citizens in a pluralistic society.

Sincerely,

ROBERT C. CAMPBELL,
General Secretary.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., October 6, 1972.
Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: The AFL–CIO strongly urges you to vote against cloture on debate of the Equal Education Opportunities Act of 1972. To curb debate at the very outset on this highly controversial and—in all probability—unconstitutional legislation would be making a mockery of the Senate's reputation as "the world's most deliberative body."

While the AFL–CIO has supported all efforts to liberalize Rule XXII, the very Senators who now seek immediate cloture, have been the bitterest opponents of any rule change. A number of Senators, as a matter of principle, have never voted against cloture, but the AFL–CIO has long maintained that it is no violation of principle to use the present rules of the Senate to protect the constitutional rights of America's children.

H.R. 13915, as enacted by the House, has been sharply criticized by some 500 law professors from 42 law schools throughout the country. Yet, no hearings on the House-passed measure have been held by the appropriate Senate committee. Although the bill passed the House in mid-August, its Senate supporters blocked referral to the Senate committee thereby prohibiting normal Senate procedure.

To block committee consideration of this critical legislation and then immediately to attempt to halt any floor debate is unconscionable.

There is no question that busing is a highly volatile issue, but the House-passed bill strikes at the very core of school desegregation. The bill would permit all desegregation orders—going back as far as the Supreme Court's 1954 Brown decision—to be reopened for new litigation.

The Senate must not allow itself to be stampeded into accepting legislation that would curb the courts, virtually ban busing as a tool to bring about constitutional desegregation, and re-open cases long resolved.

An AFL–CIO President George Meany declared, March 22, 1972: "The rights in question are those of individual school children and once lost for any school year cannot be recaptured."

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

COMMON CAUSE,
Washington, D.C., October 3, 1972.

DEAR SENATOR: The Equal Educational Opportunities Act of 1972, H.R. 13915, will be debated by the Senate shortly. Common Cause opposes this bill as written. H.R. 13915 would turn back the clock on eighteen years of progress in school desegregation. Desegregation plans that have been functioning effectively for years would be subject to change and possibly destroyed. The bill is totally destructive. It provides no new money and does nothing to assure equal educational opportunities.

Normally, such ill-considered legislation would not only have little chance for passage, it would not be seriously debated on the Senate floor until after hearings and study by the apppropriate committee. The Senate should not be stampeded by the present emotional atmosphere over "busing" to pass legislation like H.R. 13915 whose constitutionality is seriously questioned.

We oppose passage of the legislation on procedural grounds as well. In spite of the great seriousness of the legislation, H.R. 13915 was maneuvered directly to the Senate floor without the benefit of committee deliberation and without affording interested individuals and groups an opportunity to testify on it. Moreover, it is not the bill recommended by the House committee. It was radically amended on the House floor and thus has had none of the usual scrutiny by the committee members.

Common Cause's statement in opposition to H.R. 13915 is enclosed for your consideration.

Sincerely,

JACK T. CONWAY,
President.

COMMON CAUSE STATEMENT IN OPPOSITION TO H.R. 13915

Six months ago, Burke Marshall, deputy dean of the Yale University School of Law and a former assistant attorney general, testified on Common Cause's behalf before the House Judiciary Committee in opposition to a proposed constitutional amendment, the practical purpose of which would be to deny the courts the right to rectify deliberate, government-enforced school segregation. In his testimony, Dean Marshall said this about the issue of busing:

"There is no evidence that the federal Judiciary has suddenly, in recent years, become peopled with wild men, arbitrarily ordering indiscriminate and massive busing of children. This is an issue grown out of political rhetoric; out of inflamed fear of steps that have not been taken and never will, as far as the cases now on the books are concerned; out of imagined rather than real threats to family life and family ties to communities. This is therefore the worst possible of atmospheres in which serious men should seriously consider changing the Constitution."

Now, out of such inflammatory rhetoric, has come H.R. 13915—the mislabeled Equal Educational Opportunities Act of 1972, a bill which contains a formula not for equal educational opportunity but for resegregation. Even before House floor amendments increased the inequities in the bill, it was described by a minority of the House Education and Labor Committee as "a frontal attack on the 14th Amendment and an unwarranted and frightening intrusion" by the legislative branch into the judicial branch.

H.R. 13915 pays lip service to the need to eliminate dual school systems—but what it really does is constrain the courts from ordering what is in many cases the only feasible and available method by which such dual systems may be dismantled. It allows only busing to the "closest" or "next closest school". Even if busing beyond such schools were essential to eliminate denials of equal educational opportunity, the courts would be unable to order it. And since other effective remedies—magnet schools, pairing and the like—of necessity involve some degree of transportation, their use would also be precluded by the bill.

The House-passed legislation would also allow a reopening of all court orders and desegregation plans approved by the Department of Health, Education and Welfare, unsettling innumerable communities where the issue has already been thrashed out and decided. As many as 154 desegregation decisions in 19 states, according to HEW, could be challenged anew.

If this legislation were enacted and held to be constitutional, it would result in nothing short of a return of "separate but equal" schools in many parts of the nation. However, we are confident that H.R. 13915 is unconstitutional; the Congress, in our view, cannot lawfully forbid the courts to enforce the Con-

> stitution. Should the bill, nevertheless, be enacted, it would precipitate a damaging collision between the President and the Congress on the one hand, and the Supreme Court on the other, a collision that would further divide our nation.
>
> The answer to this difficult problem is not to attack the courts and infringe on their responsibilities, but to guide and fund school districts in undertaking genuine long-range efforts of educational reform. H.R. 13915 will not do this. Its passage would serve instead to exacerbate racial tensions and sabotage much progress already made in school systems throughout the country; it would cause a confrontation between the branches of government, bring on a fresh wave of litigation, and give the apostles of "massive resistance" another chance.
>
> Above all, it would be a sign to all black Americans that their government was no longer willing to enforce the Constitution when public hysteria opposed it.
>
> We ask each member of the Senate to search his conscience and consider the full meaning of civil rights before he votes on H.R. 13915.

Mr. HART. Finally, I wish to thank the many organizations across the country which have taken responsible and I am sure in many cases difficult positions in opposition to this bill. They are to be complimented, and I think their influence has been demonstrated.

Mr. EASTLAND. Mr. President, I am pleased to speak in support of H.R. 13915, the Equal Educational Opportunities Act of 1972.

In my judgment, this legislation affords Congress the best opportunity it has ever had to remedy the evil of federally coerced busing of students to achieve racial integration. This legislation has passed the House; and the President has stated his support for it. All that remains to be done is for the Senate to work the will of the majority of this body and approve this legislation. H.R. 13915 clearly has the support of the majority of the Members of the Senate. We should approve this legislation and send it to the President for his signature.

I do not claim that the enactment of this bill into law will necessarily solve all of the problems connected with federally coerced busing to achieve racial integration. It is possible that the Federal courts and the Federal bureaucrats will again fail or refuse to get the message. Based on their past behavior, it is conceivable that they will dream up another ingenious method of evading the clear meaning of an act of Congress, such as happened when they circumvented the provisions of the Civil Rights Act of 1964 prohibiting Federal coerced racial balance in the schools.

These efforts to evade the language of the Civil Rights Act of 1964 gave rise to the fallacious de jure-de facto distinction invented by the Federal courts and Federal bureaucrats to enforce racial balance in the schools. If this legislation is circumvented by the courts or the bureaucrats, then, in my judgment, it will be necessary for the Congress to propose a constitutional amendment to deal with this problem. Frankly, I favor the constitutional amendment approach.

However, I believe that a great deal of good can come from the adoption of this legislation, and I enthusiastically support it.

In the first place, it should be borne in mind that the branch of Government primarily empowered with expressing national policy on domestic matters is the Congress. Too frequently in the recent past, the Federal courts have invaded the province of Congress in this regard, and have decided cases on the basis of the courts' notions of sound public policy. This invasion of the power of Congress has been especially flagrant in this area of school integration.

If Congress enacts this bill into law, it will be a clear and ringing statement to the Federal courts, the Federal bureaucrats, and most of all, to the American people, that the people of America, speaking through their elected representatives, are determined to put a permanent stop to this irrational and insane busing of schoolchildren for the purpose of achieving integration.

Second, if the courts and the bureaucrats listen for once, they may interpret this law in the fashion intended by Congress, and thus obviate the necessity of the adoption of a constitutional amendment.

One of the most important features of this bill is section 406, the so-called reopener provision. This would allow any school district currently under court order to integrate the schools the opportunity to reopen the proceedings and have the order modified to conform to the new law.

This section must be retained in the bill. It is only fair and equitable that school districts which have already been subjected to harsh and unrealistic busing orders should have the right to enjoy the protection of the new law in the same manner and to the same extent the school districts who have not yet been sued. I think it is important, in this connection, to establish a clear expression of the legislative intent of Congress. I would like to briefly quote from the separate views of Congressmen O'HARA, ESCH, and WILLIAM D. FORD in the report of the Committee on Education and Labor of the House of Representatives on this legislation. These distinguished Members of the House, all from the State of Michigan, state the purpose of this legislation as follows:

> The basic thrust of this legislation is to apply the law uniformly; to keep the courts from writing the laws of the land in different forms in various parts of the country. This legislation is certainly a move in that direction.

The rationale of the "reopener provision" is cogently and briefly stated by Congressman RUTH, of North Carolina in his individual views in the House Report. He stated three reasons for the adoption of the "reopener provision":

> First of all, the theory behind the legislation is to uniformly apply the law.
>
> Second, it was the intent of the sponsors to remove the confusion and injustice surrounding the schools in all areas of the nation.
>
> Third, the educational agency operating under court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 in effect on the date of the enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin, should be allowed to apply to have the order or plan reopened and modified to comply with the provisions of this Act.

I believe it is of the greatest importance that this section 406, which provides equality and fairness to all the children and school districts of the United States, be retained in this legislation.

Mr. President, if the Senate will seize this opportunity which is being presented to us, we will render a great service to the parents, children, and teachers of America, as well as reaffirming the values of representative government. It is a well estabilshed fact that the vast majority of the American people are completely opposed to this asinine and senseless busing to achieve racial integration. We do not have to read the public opinion polls to know that this is true. Any one of us who reads the great volume of mail received from across the Nation is aware that the great bulk of American people feel that forced busing is a vicious monstrosity.

I say, let us slay the monster by whatever means necessary. Let us now try to do it by the enactment of H.R. 13915.

Mr. KENNEDY. Mr. President, this morning I would like to further express my serious concern about the provisions of H.R. 13915, the Equal Educational Opportunities Act of 1972.

Last Friday when this bill became the pending business of the Senate, there were some Senators who referred to this bill in such a way that may lead observers to believe that the appropriate Senate committees have had an opportunity to review the details of that bill.

During Friday's debate, the distinguished Senator from Alabama referred to title I of H.R. 13915, and stated "as reported by the committee."

I want to make it absolutely clear that no committee of the Senate has ever reported this measure to the floor of the Senate, or reviewed it.

The Senate has never held a day's hearings on this measure. H.R. 13915 has never been the subject of a single executive committee meeting in the Senate. And no committee of this Senate has ever taken a vote on this measure.

H.R. 13915 comes to the Senate after a highly questionable vote in the House of Representatives. The original authors of the President's antibusing legislation in the House felt compelled, after seeing the ultimate result of their actions on the House floor, to vote against the bill.

Congressman QUIE, Congressman ERLENBORN, and Congressman McCULLOCH, three men who have been intricately involved in the administration's entire strategy, found this measure so repulsive to their sense of what is in the best interest of the Nation that they were forced to vote against the bill on final passage.

And so I would urge my colleagues to consider their actions very carefully. Each Senator must be fully aware that H.R. 13915 contains grave constitutional and educational dangers. It is a measure that was opposed by its own chief sponsors in the House of Representatives. And when it was reported to the Senate, it was not at all handled in a way that would allow Senators to seriously examine its effects.

I find that to be extraordinary and unlike the traditional procedures of this body. There is no need for us to feel compelled in any way to act affimatively on legislation of this nature in the heat of an election campaign and at a time when precipitous action can only produce harmful results.

I say harmful results because I believe it is apparent that this legislation merely creates a climate that will produce unrest and agitation across the land. Academic programs in thousands of school districts would be completely disrupted if this bill became effective at this time. For, there could be no change in the enrollment patterns of those schools until next September. The result is that without carefully evaluating the effects of this legislation we would be passing a bill whose impact would merely be to thrust a red hot coal into the heart of the Nation's school system.

No one, not any of the Senators who support this bill, can point an accusing finger at the Senate Labor and Public Welfare Committee and charge it with bottling up legislation of this nature.

For it has never been claimed, nor can it be claimed, that the committee ever has attempted to prevent the Senate from acting—after thorough investigation and inquiry and judgment—on legislation regarding desegregation.

Yet, because of the action taken by the proponents of this measure, it was not referred to the Labor and Public Welfare Committee when it was received from the House of Representatives.

Rather, it remains at the desk, and thereby circumvented the committee's full consideration of this measure.

If there is ever to be Senate action on this bill, I insist that such action take place only after the proper legislative review has been conducted. Until that time, this measure deserves no further consideration by this body. Indeed, the deeper one probes the handling of this issue, the more convincing is the case against premature Senate action.

During the debate on Friday the distinguished Senator from Alabama in a concluding paragraph said:

> All it does is to prescribe a limit to the power of a federal judge or a federal bureaucrat to apply the remedy of ordering of transportation of students in any desegregation process.

Mr. President, I find it difficult to consider that to be all this bill does.

This bill obviously does far more in attempting to provide a mechanism for some 1,500 school districts, to undo everything that has been accomplished since 1954. The reopener provision not only resurrects the sins of the past but it also orders the Justice Department to be the forceful advocate of those who would overturn the very real progress made by thousands of respected school officials to achieve equality of educational opportunity.

But even if it were only as the Senator stated, I wonder truly whether we can view such an action without fear. For what the Senator is really saying is that the bill says—forget about Brown against Board of Education. Forget about Alexander against Holmes, forget about every Supreme Court decision from 1954 to the present.

Secretary of Health, Education, and Welfare, Elliot Richardson, wrote for the Boston University Law Review in 1966:

> Consider, for example, the impact of the decision of the Supreme Court of the United States in *Brown v. Board of Education* . . . it followed from that day forward that any requirement for the attendance of a Negro child in a segregated school amounted to a deprivation of that child's constitutional rights. And that has been true for every Negro child forced to attend any segregated school on any given day from 1954 to the present.

I believe Secretary Richardson was correct in what he said then.

This bill would say that busing may not be used to achieve desegregation. And that provision is contrary to the Court's finding in the Swann case when the Court found that busing can be a tool for seeking to achieve desegregation.

What this bill would do is to override the Court's finding in Brown, that desegregation must take place. And though the Court held that desegregation must take place now, H.R. 13915 proclaims that if busing is required to achieve that goal then the pursuit of a quality education must be foreclosed.

With this bill, the Congress would tie the Federal court's hands in such a way that it could not employ the remedy it felt necessary to achieve the right. As Justice Arthur Goldberg has stated:

> The remedy merges into the right. Any suspension of the remedy is a suspension of the right itself.

I would like to read into the RECORD a short portion of the Justice's article which speaks to this point because I believe it clearly demonstrates the inability of Congress under the Constitution to suspend the remedy in this instance.

I believe the article clearly underlines the constitutional questions raised by this legislation and the questions which prompted some 500 law school professors from across the country to question this legislation and to conclude that passage of this bill will:

> Place the legislative and judicial branches in conflict;
>
> Impair the Supreme Court's role as final arbiter of constitutional matters;
>
> Remove a remedy for the vindication of constitutional rights for minority students, even when that remedy is constitutionally required; and
>
> Open to relitigation nearly two decades of judicial desegregation decisions, many of which involve no busing whatsoever; thus leading to divisiveness and confusion in many communities already satisfactorily operating under school desegregation plans.

This is the kind of bill that we are considering today and these statements by eminent legal authorities should be carefully considered by this body.

Incendiary concerns about busing have unfortunately been debated in a climate of tension that has diverted public attention from the real problems of busing schoolchildren.

Members of all minority groups—not just blacks, but Chicanos, Indians, Puerto Ricans, and many others, are well aware that laws which restrict or limit the resources available to provide for adequate education of their children are direct attacks on their ability to achieve the same benefits and standards of living already enjoyed by those who are not disadvantaged. Any action that we take in this Senate which shuts off resources for delivering the benefits of a decent education to any American child is unfair. To enact legislation that prohibits busing is clearly a slap in the face of deprived citizens. Such legislation effectively removes any initiative by the Federal Government or the courts to seek an end to the inequalities based on bigotry and discrimination in public schools. That is why I have consistently rejected the arguments of those who oppose busing.

When I discussed the provisions of H.R. 13915 on the Senate floor last Monday, I touched on some of the reasons why I firmly oppose the antibusing measure currently under consideration by this Senate. Chief among the reasons that I oppose this bill is the way it has been fraudulently claimed to respond to the demand for educational adequacy on the one hand, but on the other hand it completely fails to even begin to address the problems of education or desegregation.

Let me begin to enumerate further why I find this measure unacceptable, by reciting a phrase from the 14th amendment to the Constitution:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States, and of the State wherein they reside . . . No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

It is clear from those words that the courts since 1954, have been carrying out their duty to protect this most fundamental tenet of our Constitution.

Reasonable men can surely agree that in a society that values education as highly as we do, all citizens must be able to pursue the benefits of that right, unencumbered by the inane restrictions of segregation. Unconstitutional school segregation, according to the precepts of the 14th amendment, requires effective relief. And indeed, since we know that the phrase "all deliberate speed" points to interminable delay—effective relief means immediate relief. Undoubtedly, therefore, until a new mode of transportation is developed to deliver students to their schools, limited busing probably will continue to serve as an indispensable element of such relief.

Senators are implored to pay particular attention to the record made by Members of the House of Representatives when that body fashioned the flagrant provisions of this legislation.

First, the House rejected an amendment specifying that the bill comply with the 14th amendment to the U.S. Constitution. Then it rejected an amendment which would have excluded any provision of the act which does not comply with the 14th amendment.

In the end—and this deserves special notice—the House voted on an amendment that said

> Nothing in this act is intended to be inconsistent with, or violative of any provision of the Constitution.

You may not believe this, but 197 Members of the House of Representatives who took an oath of office in which they swore to uphold the Constitution of the United States—actually voted to defeat an amendment which states that nothing in the act is intended to violate the Constitution.

Presumably, therefore, those Members are not at all interested in protecting constitutional guarantees for the constituents.

This bill places seriously restrictive limits on the courts.

H.R. 13915 could not be better calculated to undermine the authority of our courts. It tells the courts they cannot carry out their constitutional duty to remedy violations of the Constitution.

By placing limits on the remedies the courts may invoke, this bill is not only a major threat to the delicate balance of powers prescribed by the Constitution among our three branches of government; it is also a clearcut example of congressional opposition to law-and-order, for it tells the American people that if they really want to break the law, if they really want to ignore the 14th amendment badly enough, well, go ahead and do it. And Congress will even help you.

Last April, when another antibusing bill was under consideration by the House, Congressman McCulloch told the Judiciary Committee that while Congress has in the past enacted legislation limiting the remedies the Federal courts might give in particular cases, in all prior instances of limiting legislation, Congress has made certain that other effective remedies were available. H.R. 13915, of course, does no such thing. It limits, or totally eliminates, what is in many places the one and only remedy to a finding that a school system is operating in violation of the law.

Of course, it is clear that Congress has the authority to regulate the jurisdictional growth of the Federal courts, but the Congress cannot use the courts to accomplish unconstitutional ends.

I fear that enactment of H.R. 13915 would precipitate a constitutional crisis in this country.

It would overthrow the 14th amendment guarantee of equal protection for all citizens, it would seek to place limits on the remedies courts may provide; it would distort the balance of powers among the three coequal branches of Government; it is in direct conflict with the constitutional requirements determined by the past 18 years of rulings by the Supreme Court, including last year's finding by the so-called Nixon Court that "desegregation plans cannot be limited to the walk-in school"; it would leave citizens without adequate remedy at law to secure their right to an equal education; it would overthrow the principle that the Federal Government, like the States, cannot frustrate the constitutional mandate of the 14th amendment; and it flies in the face of the Supreme Court rulings that Congress, under section 5 of the 14th amendment, has no power to restrict or dilute that amendment's guarantee of equal protection.

We can study this bill from front to back and find little in it that will equalize educational opportunities in America. On the contrary, this bill perpetuates existing educational inequalities.

The real purpose of H.R. 13915 has nothing to do with its alleged goal of meeting an educational need. The bill's real purpose is to deceive the American people into thinking that their elected representatives are doing something about our Nation's critical educational deficiencies when in fact they are only using busing as a smokescreen to enable the Congress to avoid facing the many real needs of education.

BUSING AND SAFETY

Interestingly, the critics of busing find it useful to cite the risks to health and safety that are imposed upon youngsters who are "forced" to ride buses to school. There are approximately 46 million youngsters in the Nation's public schools. About 20 million or 43 percent of these students use buses to get to school. Of those 20 million, less than 1 million ride them for purposes of desegregation. And two-thirds of those would still ride buses, according to HEW, even if efforts to desegregate were halted.

Thus, if all busing for desegregation were stopped today, 97 percent of all students who ride buses would still be riding them tomorrow. Are the busing critics making an outcry about those youngsters? Or are the critics basically concerned with the safety of the 1 million children who are bused for desegregation?

The National Safety Council reports that school busing is the safest form of transportation in America, and that includes walking to school.

In fact, the accident rate for boys who walk to school is three times higher than for boys who ride buses to school, and more than twice as high for girls who walk. One reason buses came to be used, indeed, was safety: As urban areas became more congested and traffic more reckless, it became safer for children to ride buses than to try to cross dangerous streets.

If the safety issue were anything more than another part of the smokescreen, those who are so concerned about safety might better be spending their time passing antifootball legislation rather than antibusing bills. For, while the accident rate for boys riding a bus to school is .03 per 100,000 student days, the football fatality rate—not just the accident rate, but the fatality rate—from football accidents has averaged 19.1 deaths per year, or 1.41 per 100,000 who play the game. That is roughly 47 times as high as the injury rate on schoolbuses.

But, of course, no one is going to try to ban football, and no one who wants to ban busing really means it when he says it is a safety risk.

This bill also says:

> The risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades.

The bill fails, of course, to define "excessive." Perhaps this is because of findings like the survey of 10 segregated private schools which found that 62 percent of the pupils got there by bus, with an average one-way ride of 17.7 miles. By contrast, public schools in the same eight States where these schools are located, bused less than half their students, and at an average ride of only 10.1 miles.

In other words, the segregated schools bused more pupils, and they bused them an average of 7 miles longer, one way. Perhaps that is why the bill ducks away from defining "excessive."

The bill also fails to support its assertion that busing is harmful for youngsters. There is simply no such evidence. Besides the fact that the accident rate for children walking to school is two to three times higher than for those who ride buses, there is no evidence that busing harms children's psyches or learning ability.

In fact, there is only one scientific study ever made of this subject. Dr. Robert Coles, the world-renowned child psychiatrist, actually rode buses back and forth every day for considerably more than 1 year, to study the affect on the children.

This is Dr. Coles' conclusion:

> I never saw children get sick because they were being bused; I never saw children become emotionally disturbed because they were bused; I never saw children's schoolwork suffer because they were bused. Physically, psychologically, educationally, the experience of busing was, in fact, neutral.

BLACK AMERICANS DEMAND AN END TO TURMOIL OVER BUSING

America has been through enough agony on the issue of race. We have been torn apart, our progress stymied, and the promise of our democracy distorted by the issue of race. The last 18 years have seen progress—slow but painful—away from those ugly myths that have brought us nothing but pain. This is no time, with the possibility of brighter days ahead, to start enacting legislation which will reopen bitter wounds, will tell our minority citizens "we lied to you. We don't want to give you a fair chance after all."

Black Americans are fully aware of the hard reality that whites are not going to pay for things that do not bring direct benefit to themselves or to their children. They never have and they never will. Therefore it is not only a matter of law and morality that requires us to oppose segregated schools, it is, for blacks, a matter of self-defense.

That fact was demonstrated vividly by a black parent from North Carolina who wrote a Washington newspaper. She found it marvelous how quickly funds could be found for schools that were all-black, once those schools begin to include white children:

> Within 1 month, the parents of the white children who were being bused managed to get the black school painted, repairs made, new electric typewriters and sewing machines, and the shelves filled with books. Busing for 1 year will upgrade all our schools quicker than anything the President or the Congress can do.

Some blacks may indeed oppose busing, but their number is surely small in comparison with those blacks who have been willing to make such tremendous sacrifices to get their children into desegregated schools. And it has of course been the blacks who until now have had to make the overwhelming bulk of the sacrifices in this endeavor. Often made to feel like outsiders, cut off from extracurricular activities, insulted, and unable to afford clothes and other extras so important among peer groups, these youngsters have hung on—knowing that a better school meant at least a chance—if not a guarantee—for a better life than their parents knew.

Some black people have grown cynical over the idea that whites will ever truly open the doors to the constitutionally guaranteed promise of equal opportunity for all. And they have decided they would rather try to go it alone. They seek what is called "community control" of their schools.

This may sound like a desirable idea, and it is desirable—as an idea. But in reality, what has always happened, whenever whites manage to segregate minorities, or minorities managed to segregate themselves, is that "community control" turns out to mean control over communities with no money. Thus, black parents know well that it makes more sense to remain "plugged in" to the flow of the majority population, than to seek isolation from the source of funds and provisions that can assure the delivery of educational adequacy.

EDUCATIONAL ADVANTAGES OF SCHOOL DESEGREGATION

Probably, no other facet of the busing issue receives as much attention as the question of what good comes from desegregating our public schools

There has never been a definitive study on just how much better or worse students perform under varied conditions. Part of this is due to the fact that there is no universally agreed upon standard for measuring just what "learning" is.

In too many instances, when it is claimed that black students do no better after moving to integrated schools, all that is really being proved is that youngsters from ghetto backgrounds do not fare too well when they take standardized educational measurement tests designed for children from white, middle-class backgrounds.

But overall, the weight of most attempts to measure the rate of learning indicates that black students do slightly better when moved to an integrated school, while whites do about the same.

This is not to contend—as is charged by some antibusing sponsors—that anyone is claiming that blacks learn better just by the magical act of sitting in the same classroom with whites. What it does say is that where white children are present. Those schools will receive their full share of money, equipment, and facilities. Where white children are not present, some of that money due the black school just somehow does not find its way there.

But the quality of an education cannot be measured by test scores alone. We have this on no less authority than the President of the United States.

President Nixon has said that the school "is a place not only of learning but also of living." And the President's Commissioner of Education, Sidney P. Marland, has said "the most important objective of the schools is to help people learn and grow and become developed human beings."

It stands to reason that on the basis of the criteria offered by President Nixon and his Commissioner of Education, we must support the idea of multiracial schools as being beneficial to our multiracial society.

And it would further stand to reason, then, that President Nixon's own criteria for schools would quickly eliminate any proposal which would serve to segregate those schools on the basis of race.

Mr. President, it may be well for the Senate to remember that people do not learn to function very well in a multiracial society when they do all their learning in uniracial schools.

We have heard from other quarters lately on this business of the value of desegregating our schools. A book by a team of Harvard researchers, headed by Prof. Christopher Jencks, has been recently cited as indicating that moving children from ghetto schools to better schools does not guarantee that they will earn more money in later life.

That may or may not be so; yet since when do we measure the quality of our citizens by their bank accounts? What about the nonmonetary benefits that accrue to those who have a chance for exposure to a better education? Do we downgrade teachers, ministers, social workers, carpenters, plumbers, or electricians, because they have less money than bankers? At least one of the recognized results of an adequate education is that educated people are more openminded, less authoritarian, more sensitive to esthetic experiences, better informed, more likely to become leaders, more independent, more confident, more internationally aware, and more likely to have jobs which bring them a fuller measure of satisfaction.

Are not those very characteristics also the criteria by which we judge good citizenship? Do not those characteristics describe what we hold forth as the type of person most valuable to a democratic society?

Then what are we doing considering legislation that will have exactly the opposite effect? Why are we considering legislation that will condemn generations of Americans to a flagrantly distorted system of public education?

Why are we seeking to return this Nation to the unjust practices of the 19th century?

The Senate should have no part of the provisions in H.R. 13915, because this measure seeks to resegregate our schools and to cripple our courts.

CONCLUSION

Obviously the most forthright way for the Senate to conclude the momentum of this distorted issue is simply to drop it and move on to the matter of adjourning the business of the 92d Congress. And I am hopeful that by tomorrow that will have happened. In the meantime it will serve to once again review the several features of H.R. 13915 that commend it as the most extraordinarily deceptive and cruelly fraudulent piece of legislation that has come before the Senate.

This bill is deceptive because it stirs up the belief among working-class white Americans that antibusing bills will protect them from the supposed evil of desegregation.

Yet, the bill actually limits busing to schools closest or next closest to home. In other words, those whites who live in areas closest to the central cities where most minority groups are confined, are the ones whose schools can be reached by the busing provided for in H.R. 13915.

This bill is unwise because it would reopen hundreds of desegregation cases long since settled, reopening old wounds long since healed, giving new opportunities for troublemakers in hundreds of cities and towns where desegregation is now a peaceful fact of life—much to the detriment of the entire community.

By enabling the reopening of these countless hundreds of cases, many of which do not even involve transportation, the bill is a betrayal of the thousands of courageous school administrators and hard-working community leaders who dared to face down the racists and the demagogues, and who calmly and responsibly went about obeying the law.

This bill is bankrupt because it lies about the extra money that ghetto schools allegedly would receive for improving their conditions. Title I of H.R. 13915 sets aside $500 million for that purpose. Yet, these funds are already authorized under the Emergency School Aid Act passed earlier this year by the Congress. And only on Monday of this week has the administration been moved sufficiently to request funds under that authority.

But it hardly surprises anyone that the amount requested by the administration and the amount in the bill is precisely one-thirtieth of the amount educational experts say would be required to make any real improvement in ghetto schools. Thus this money that has been taken from already authorized funds in the Emergency School Aid Act weakens that program while providing mock compensation to ghetto schools.

The $500 million is actually nothing more than a bribe. It would funnel a meaningless amount of money into ghetto schools in exchange for eliminating the opportunity for ghetto students to go to better schools. It tells the poor: "Stay where you are." And that means poor whites as well as poor blacks. The bill has correctly been called antiblack, but it is really antipoor, white and black alike.

H.R. 13915 lists practices which it says constitute denials of equal educational opportunity and are thus prohibited. But the list leaves out many practices already barred by the 14th amendment and title VI of the Civil Rights Act, which can only lead to the implication that those practices which it fails to include would now become permissible.

The bill also says that failure to achieve racial balance is not a denial of equal educational opportunity. This is irrelevant, since the courts themselves have specifically stated that racial balance is not required, and no court rulings have ever sought it.

The courts have ordered desegregation only where they have found dual school systems illegally operating on a segregated basis. It would seem, then, that the only purpose of citing racial balance in the bill is to perpetuate the false myth, energetically advertised by antibusing forces, that the courts have been requiring racial balance.

This long, this incredibly long list of distortions, all employed on behalf of a bill which comprises a radical attack on our Constitution and our courts, indicates one thing:

There is no need for any national legislation on school desegregation and busing. All the necessary legislation is already on the books.

The antibusing forces know this, so they must resort to hysteria, distortion and demagoguery to press their cause. And their cause, of course, is political. They hope to stir up enough passion to cause their constituents to overlook the real issues in America today, and to deceive them through a false belief that bills like this are accomplishing something.

They ignore many things. They ignore the fact that in many places, bus rides after desegregation are shorter than they were before.

They ignore the fact that there was no such outcry during all the decades when busing was one-way, when it affected only black children, when its only function was to cheat them out of what was rightfully theirs.

They ignore the fact that even today, by far the greater burden of busing is on black children.

They ignore the fact that 15 States today pay the cost of busing children to private and other nonpublic schools. If busing is so evil, why are not all the elected officials in those 15 States being thrown out of office by the voters?

And why is it that H.R. 13915 itself contains no prohibitions against the use of public money to transport pupils to private and parochial schools—including segregated academies?

Or why—if this bill is so vital—did a massive study commissioned by HEW officials conclude that there can be almost complete desegregation of public schools, even in some large cities, within practical limits of traveltime and cost?

There are other important facts that the antibusing advocates choose to ignore. They have tried to paint court-ordered busing as a form of discrimination against the South, for example. Yet the fact is that, for all its State-enforced segregation, which had to be undone to comply with our Constitution—the proportion of children riding buses to school in the Deep South is less than 3 percent above the national average.

Antibusing forces also claim that excessive new sums of money are being spent on schoolbusing. The fact is that the percentage of education money being spent today on schoolbuses is slightly less than it was 30 years ago. Furthermore, it cost more to maintain two school systems under segregation than it does to operate one under integration.

Antibusers say their children are being transferred to unsafe schools. No responsible school board should allow any school to be unsafe. If school boards cannot take measures to insure the safety of all students, whether from the neighborhood or from 10 miles away, the school in question should be closed and the students transferred elsewhere.

Antibusers ignore the fact that almost without exception, desegregation plans are working smoothly and peacefully. In the rare cases where some rides are unnecessarily long, that is an administrative matter to be corrected, lawfully, by local officials. But national legislation to correct a weakness in one community will only create problems in others, where the situation is different.

As for any turmoil created by court-ordered busing, that activity is almost exclusively the result of actions by adults. Experience shows that time after time, as soon as adults stop throwing up picket lines, shouting at children, or the commotion dies down.

Perhaps, parents should step back and learn something from their children. In Pontiac, Mich., for example, after a parent group had made a lawless spectacle of themselves, their youngsters formed a group of students called "We Can Make It Work."

John Kindig, 13 and white, a seventh grader, made this observation about his elders to Time magazine:

> All these adults keep telling us we're supposed to be against busing. They tell each other "burn the buses, tear down the schools, beat up the blacks."
>
> Who do they think they are? We're the ones who are going to school. We're the ones who have to live together. We can do it fine if they will let us alone.

Brenda Briscoe, a black student, made a telling observation:

> People in my neighborhood think busing is good. Since the white people have come over here, they're putting new stuff in the school. Before it would take three weeks to get a broken window fixed and now they do it the next day.

Another student in Pontiac, April Barr, put it in a nutshell:

> The parents are the trouble, and we wish they'd stay out of it.

John Kindig added the finishing touch:

> The adults say seventh-graders can't grasp the situation, that we're too young. Well, how can they tell? They're not trying to make it work. We are. We have to live together and grow up together so we can keep this earth going.

But those are not just northern sentiments. A white student in Leon County, Fla., says—

> The problem with integration is more of the parents' fault than the students. If they would let the students alone, everything would work out very well.

An elementary school teacher in Alachua County, Fla., says—

> Children adjust better than adults. If the grown-ups would leave them alone, they'd adjust.

Proponents of H.R. 13915 know, then, that the bill is a fraud. It is not needed, except for cynical political purposes. This bill presents the issue clearly. One is either against segregation, or one is not. That is the issue here.

We have seen that H.R. 13915 will place the legislative and judicial branches in direct conflict; will impair the Supreme Court's role of final arbiter of constitutional matters; will remove a constitutionally required remedy for the vindication of minority rights; and will reopen nearly two decades of judicial decisions, many having nothing to do with busing whatsoever, thus leading to divisiveness and confusion in the hundreds of communities that were "naive" enough to think that all Americans should obey the law.

The framers of this bill know the courts have never ordered racial balance, and they further know that recent rulings have specifically barred long-distance busing. They know very well that more specific limitations already seem to be on the way through upcoming litigation. Thus the bill is undesirable by any standard.

Mr. TAFT. Mr. President, in considering the busing issue I think it is important for us to understand what the courts have and have not done. I believe that an overview of leading school desegregation cases is not only helpful but essential to an understanding of the issues now before us. This supplements a position statement I made yesterday set out at page 34907.

A. CASES LEADING TO BROWN V. BOARD OF EDUCATION OF TOPEKA

In *Plessy* v. *Ferguson*, 163 U.S. 537 (1896), the Court held that the object of the 14th amendment—

> Was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other.

The Plessy case involved a Louisiana statute providing for separate railway cars for whites and blacks. The Court stated that—

> We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in that act, but solely because the colored race chooses to put that construction upon it. * * * The argument also assumes that social prejudices may be overcome by legislation and that equal rights cannot be secured to the Negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual agreement of each other's merits and a voluntary consent of individuals.

In a powerful dissent, Mr. Justice Harlan stated that—

> Everyone knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people from coaches occupied or assigned to white persons. * * * The thing to accomplish was, under the guise of giving equal accommodations for whites and blacks, to compel the latter to keep to themselves while traveling in railroad passenger coaches. No one would be so wanting in candor as to assert the contrary. The fundamental objection, therefore, to the statute, is that it interferes with the personal freedom of citizens * * *. If a white man and a black man choose to occupy the same public conveyance on a public highway, it is their right to do so, and no government, proceeding alone on grounds of race, can prevent it without infringing on the personal liberty of each.

Mr. Justice Harlan also stated that—

> If the State can prescribe, as a rule of civil conduct, that whites and blacks shall not travel as passengers in the same railroad coach, why can it not so regulate the use of

the streets of its cities and towns as to compel white citizens to keep on one side of a street and black citizens to keep on the other.

Justice Harlan stated that—

> Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color, when his civil rights, as guaranteed by the Supreme law of the land, are involved.

He stated prophetically that—

> In my opinion, the judgment this day rendered, will in time, prove to be quite as pernicious as the decision made by this Tribunal in the Dred Scott case.

He added that—

> The sure guarantee of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, National and State, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States without regard to race. State enactments, regulating the enjoyment of civil rights, upon the basis of race, and cunningly devised to defeat legitimate results of the war, under the pretense of recognizing equality of rights, can have no other result than to render permanent peace impossible and to keep alive a conflict of races, the continuance of which must do harm to all concerned.

He described the arbitrary separation of citizens on the basis of race as—

> A badge of servitude, wholly inconsistent with the civil freedom and equality before the law established by the Constitution.

While the separate-but-equal doctrine was not overturned prior to 1954, segregation was made more difficult by a number of important Court decisions. These decisions, for the most part, were based upon the finding that the facilities afforded to blacks were not, in fact, equal to those afforded to whites.

In *Gaines* v. *Canada*, 305 U.S. 337 (1938), the Court rejected Missouri's claim that since it had insufficient blacks to warrant the establishment of its own black law school, it could instead pay tuition at an out-of-State school.

The most important of these cases was *Sweatt* v. *Painter*, 339 U.S. 629 (1950). In that case the plaintiff filed for admission to the University of Texas Law School. His application was rejected solely because he was a Negro. There was at that time no law school in the State of Texas which admitted Negroes.

After the plaintiff's petition was filed, and during the pendency of the litigation, the State of Texas opened a new law school to which the plaintiff was invited to apply. However, the plaintiff refused to register at that school. On remand, the Court found that the new school offered the petitioner, "privileges, advantages, and opportunities for the study of law substantially equivalent to those offered by the State to white students at the University of Texas."

The Supreme Court found that the University of Texas Law School was staffed by a faculty of 16 full-time professors, some of whom were nationally recognized authorities in their fields. The Texas Law School had a law library containing over 65,000 volumes. The law school for Negroes, on the other hand, did not have an independent faculty and no library.

Mr. Chief Justice Vinson delivered the opinion of the Court and held that the plaintiff was entitled to a legal education equivalent to that offered by the State to students of other races:

> Such education is not available to him in a separate law school as offered by the State. We cannot, therefore, agree with respondent that the doctrine of *Plessy v. Ferguson* . . . requires affirmations of the judgment held. Nor need we reach petitioner's contention that *Plessy v. Ferguson* should be re-examined in the light of contemporary knowledge reflecting the purposes of the 14th Amendment and the effects of racial segregation.

The Court then ordered that the plaintiff be admitted to the University of Texas Law School.

In a companion case, McLaurin against Oklahoma State Regents for Higher Education, 339 U.S. 637 (1950), the Court held that Oklahoma had denied the appellant, a Negro, the equal protection of its laws by imposing upon him a number of restrictions following his admission for graduate study to the University of Oklahoma. In order to conform to the State's statute requiring racial segregation at institutions of higher education, the university required him to sit apart at a designated desk in an anteroom adjoining the classroom, to sit at a designated desk on the mezzanine floor of the library without the privilege of using the desks in the regular reading room, to sit at a designated table, and to eat at a different time from the other students in the school cafeteria. The Court in this proceeding upheld the appellant's right to have these restrictions removed:

> These restrictions were obviously imposed in order to comply, as nearly as could be, with the statutory requirements of Oklahoma. But they signify that the State, in administering the "facilities it affords for professional and graduate study, sets McLaurin apart from the other students. The result is that appellant is handicapped in his pursuit of effective graduate instruction. Such restrictions impair and inhibit his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession. . . . Appellant, having been admitted to a state-supported graduate school, must receive the same treatment at the hands of the state as students of other races."

Finally, in Brown against the Board of Education of Topeka, 347 U.S. 483 (1954), the Court held that—

> In the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

This decision did not entirely undercut the Plessy doctrine. Instead it was based upon a factual determination that segregated school facilities retarded the educational process of black children. It was this factual finding that led to the conclusion that separate educational facilities are inherently unequal. In other words, the Court found that separate facilities were not equal as required by the Plessy rationale. In making this factual finding, the Court quoted with approval the language of the Kansas court:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of the law, therefore, has a tendency to retard the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.

With the announcement of the Brown decision it was not clear that the Court would strike down other segregated facilities where there was no factual showing that such segregated facilities impeded the ability of blacks to fully participate.

In the companion case of *Bolling* v. *Sharpe*, 347 U.S. 497 (1954), the Court held that—

> Compulsory racial segregation in the public schools of the District of Columbia violated the due process clause of the Fifth Amendment.

The Court pointed out that unreasonable discriminations constituted a denial of due process of the law. Since segregation in public education was not reasonably related to any proper governmental objective, it was held to impose on Negro children of the District of Columbia a burden that constituted an arbitrary deprivation of their liberty.

In many areas the Bolling case is more important than the Brown decision, because its doctrine of unreasonable racial classifications invited challenges to the Plessy doctrine in areas where no factual determination could be made as to the retardation of Negro progress in segregated facilities. The very factual determination that supported the Brown decision, was itself a very limiting factor as to the further extension of the equal protection clause in striking down segregated facilities. It was this second doctrine, as stated in the Bolling case, that amounted to a general repeal of the Plessy doctrine in all areas. It was this broader rationale which enabled courts subsequently to strike down segregation by law in public accommodations.

Subsequent to the Brown decision the Supreme Court rendered per curiam decisions striking down racial segregation in other areas. In *Mayor and City Council of Baltimore City* v. *Dawson*, 350 U.S. 877 (1956), the Court confirmed a lower court decision invalidating racial segregation at a public bathing beach.

In *Holmes* v. *City of Atlanta*, 350 U.S. 879 (1956), the Court directed the district court to enter an order banning segregation in the use of a public golf course. These cases were a clear departure from the rationale of the Brown decision. In these cases there was no showing that racially segregated swimming pools impeded the ability of Negroes to swim and there was no showing that the golf game of Negroes was impeded by segregated facilities. Clearly, the Court departed from the rationale of the Brown case. It was relying instead upon the stigma connoted by official separation. The Court did not elaborate on these per curiam decisions, as to the way in which it was shifting its rationale. However, the fact of that shift is of critical importance in setting the groundwork for the rationale of the subsequent line of cases.

In the Brown decision the Court scheduled further argument on the appropriate remedy for the constitutional harm it had done.

B. DELIBERATE SPEED

In *Brown* v. *Board of Education of Topeka*, 349 U.S. 294 (1955), the Court set guidelines for appropriate relief for Brown and companion cases. The Court recognized that—

> Full implementation of these Constitutional principles may require solution of varied local school problems.

The Court remanded the cases to the district courts and said that in fashioning the decrees, the courts will be guided by equitable principles. The district courts were, however, instructed to "take such proceedings and enter such orders and decrees, consistent with this opinion, as are necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases."

The initial focus after Brown was on making any breakthrough at all in the solid front of segregation by obtaining entry into all white schools for a handful of black children. The Court was confronted with massive resistance and the attempted interposition of State sovereignty as a means of avoiding compliance with the orders. In *Cooper* v. *Aaron*, 358 U.S. 1 (1958), the Court rebuffed Governor Faubus' attempted "interposition" of State law between the Little Rock School Board and the Federal Courts. The Court noted that the lower courts, "should scrutinize the program of the school authorities to make sure that they had developed arrangements pointed toward the earliest practicable completion of desegregation.

The Court stated that delay in any guise in order to deny the Constitutional rights of Negro children, could not be countenanced, and that only a prompt start, diligently and earnestly pursued to eliminate racial segregation from the public schools, could constitute good faith compliance.

In the context of the busing controversy of today, the decision is noteworthy in its rejection of the local board's claim that it was acting in good faith but should be excluded from affording relief because it was thwarted by State action.

Because education is a State function, the Court disregarded the distinction between city and State governments. The Court stated that—

> The Constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction, the equal protection of the laws. Whoever by virtue of public position under a state government, . . . denies or takes away the equal protection of the laws, violates the Constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the Constitutional prohibition has no meaning.

The foregoing statement was quoted by the Court from *Ex Parte Virginia*, 100 U.S. 339, (1879).

This decision set the groundwork for the latest Richmond decision where the Court disregarded local jurisdictional boundaries in fashioning an order which that Court believed necessary to eliminate the effects of the unconstitutional system of racial segregation. This jurisdictional problem was not present in the Swann case because in that instance the city of Charlotte and Mecklenburg County had a unified school district.

Despite the Court's efforts at implementing the Brown decision, the lower courts were faced with myriad halfhearted efforts and outright circumventions. By the 1963–64 school term the 11 States of the old Confederacy had only 1.7 percent of their black students in schools with any white students. This was a decade after Brown was decided. It was against this background that the Court began to indicate impatience with the pace of compliance. In *Griffin* v. *County School Board of Prince Edward County*, 377 U.S. 218 (1964), the Court was confronted with a school system which had closed down entirely rather than comply with a desegregation order. A private foundation operated schools for white children only, who in 1960 became eligible for county and State tuition grants. In other parts of Virginia the public schools continued to operate. The Court found that the closing of the Prince Edward County public schools, with the concurrent tuition grants assisting white children in private segregated schools, constituted a denial of equal protection of the laws for black students. The Court found that the tuition grant program was a part of a county—State—program to deprive the petitioners of a public education enjoyed by children in other counties. The Court showed its impatience with the progress which had been obtained under "all deliberate speed." The Court said—

> There has been entirely too much deliberation and not enough speed in enforcing the constitutional rights which, we held in *Brown* v. *Board of Education, supra,* had been denied Prince Edward County Negro children.

C. EFFORTS AT ACHIEVING UNITARY SYSTEMS

As the courts became impatient with the progress under the "all deliberate speed" directive, the courts were confronted with a variety of proposals to defer integration as well as proposals to achieve the unification of black and white school districts.

In *Goss* v. *Board of Education of Knoxville, Tenn.*, 373 U.S. 683 (1963), Negro pupils and their parents had filed suit to desegregate racially segregated public schools. The desegregation plan submitted to the district court by the school board, provided for the rezoning of school districts without reference to race. Each plan, however, contained a transfer provision under which any student, upon request, would be permitted, solely on the basis of his own race and the racial composition of the school to which he was assigned by virtue of the rezoning, to transfer from such school, where he would be in the racial minority, back to his former segregated school, where his race would be in the majority. These plans were approved by the district courts and the court of appeals.

The Court reversed in part, on the basis of the transfer provisions, since they were based on racial factors, which would inevitably lead toward the segregation of students by race, contrary to the ruling in Brown. The Court said that:

> Classifications based on race for purposes of transfers between public schools, as here, violate the Equal Protection Clause of the Fourteenth Amendment. As the Court said in *Steele v. Louisville & Nashville R. Co., 323 U.S. 192,203 (1944)*, racial classifications are 'obviously irrelevant and invidious.' The cases of this Court reflect a variety of instances in which racial classifications have been held to be invalid, e.g., public parks and playgrounds, *Watson v. City of Memphis, ante, p. 526 (1963)*; trespass convictions, where local segregation ordinances pre-empt private choice, *Peterson v. City of Greenville, ante, p. 244 (1963)*; seating in courtrooms, *Johnson v. Virginia, ante, p. 61 (1963)*; restaurants in public buildings, *Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961)*; bus terminals, *Boynton v. Virginia, 364 U.S. 454 (1960)*; public schools, *Brown v. Board of Education, supra;* railroad dining-car facilities, *Henderson v. United States, 339 U.S. 816 (1950)*; state enforcement of restrictive covenants based on race. *Shelley v. Kraemer, 334 U.S. 1 (1948)*; labor unions acting as statutory representatives of a craft, *Steele v. Louisville & Nashville R. Co., supra;* voting *Smith v. Allwright, 321 U.S. 649 (1944)*; and juries, *Strauder v. West Virginia, 100 U.S. 303 (1879)*. The recognition of race as an absolute criterion for granting transfers which operate only in the direction of schools in which the transferee's race is in the majority is no less unconstitutional than its use for original admission or subsequent assignment to public schools.

The Court noted, however, that all transfer provisions are not proscribed. The Court indicated that transfer provisions unrelated to race might be sustained if consistent with sound school administration. The Court even hinted that a freedom of choice plan might be acceptable. At 689 it stated:

> Likewise, we would have a different case here if the transfer provisions were unrestricted, allowing transfers to or from any school regardless of the race of the majority therein. But no official transfer plan or provision of which racial segregation is the inevitable consequent may stand under the Fourteenth Amendment.

The Court's impatience with the speed of desegregation under the "all deliberate speed" formula, was also in evidence in *Rogers* v. *Paul*, 384 U.S. 198 (1965). In that case the Court by per curiam opinion, held that Negro students who had been assigned to a Negro high school on the basis of their race were entitled to immediate relief. The desegregation plan which had been adopted in 1957 in Fort Smith, Ark., provided for desegregation, but only at the rate of one grade a year, and at the time this proceeding arose, the 10th, 11th, and 12th grades were still segregated. The Court held that assignments made in this case were forbidden, not only by the Brown case, but also because the petitioners were prevented thereby from taking certain courses offered only at another high school which was limited to white students. The Court said that, pending desegregation, the petitioners should be allowed immediate transfer to the high school which offered the more extensive curriculum and from which they were excluded because of their race.

At about the same time the Court was also confronted with the problem of faculty segregation. In *Bradley* v. *The School Board of the City of Richmond*, 382 U.S. 103 (1965), the lower court had approved school desegregation plans for Hopewell and Richmond, Va., without inquiring into the petitioner's contention that faculty allocation on a racial basis invalidated the plans. In a per curiam decision the Court held that the petitioners "were entitled to such full evidentiary hearings upon their contention." This issue of faculty separation was to culminate 4 years later in United States against Montgomery County Board of Education, where the lower court in 1968 provided in its order that the school board must move toward a goal whereby "in each school the ratio of white to Negro faculty members is substantially the same as it is throughout the system."

The Court approved the district judge's order as written. In approving the district court's order, Justice Black stated that:

> The record shows that neither Montgomery County nor any other area in Alabama voluntarily took any effective steps to integrate the public schools for about 10 years after our *Brown I* opinion. In fact the record makes clear that the state government and its school officials attempted in every way possible to continue the dual system of racially segregated schools in definance of our repeated unanimous holdings that such a system violated the United States Constitution.
>
> There the matter stood in Alabama in May 1964 when the present action was brought by Negro children and their parents, with participation by the United States as *amicus curiae*. Apparently up to that time Montgomery County, and indeed all other schools in the State, had operated, so far as actual racial integration was concerned, as though our *Brown* cases had never been decided. Obviously voluntary integration by the local school "officials in Montgomery had not proved to be even partially successful. Consequently, if Negro children of school age were to receive their constitutional rights as we had declared them to exist, the coercive assistance of courts was imperatively called for.

The suggestion in Goss that free transfer plans might be acceptable was dampened in *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968). In that case the school board had maintained two schools on opposite sides of the county. The county's population was approximately half black and half white and the blacks and whites resided throughout the county. There was apparently no evidence of residential segregation. In the first Brown decision, the Court held that Virginia's constitutional and statutory provisions requiring racial segregation were unconstitutional. The local school board, however, continued to operate segregated schools. In 1965, in order to remain eligible for Federal financial assistance, the school board adopted a "freedom of choice" plan for desegregating the schools. The plan permitted students to choose annually between the two schools and those not making a choice were assigned to the schools previously attended. Students in the first and eighth grades were required to affirmatively choose a school. The freedom-of-choice provisions were approved by the district court and the U.S. court of appeals.

The record indicated that during the 3 years of the plan's operation no white student had ever chosen to attend the all Negro school, although 115 Negro pupils were enrolled in the formerly all white school. Eighty-five percent of the Negro students continued to attend the all Negro school. The Court quoted from Griffin in stating that:

> The time for more deliberate speed has run out.

At 439, the Court stated that:

> The burden on a School Board to date is to come forward with a plan that promises unrealistically to work, and promises unrealistically to work now.

The Court also noted the variety of local factors which would affect desegregation orders:

> The matter must be assessed in light of the circumstances presented and the options available in each instance. It is encumbent upon the School Board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing State-imposed segregation.

This emphasis upon "State-imposed" segregation was a forecast of the distinction the Court would later raise with regard to de facto and de jure segregation. In its holding, the Court stated that:

> 'Freedom of choice' can have no place in such a plan. We do not hold that a 'freedom of choice' plan might of itself be unconstitutional, although that argument has been urged upon us. Rather, all we decide today is that in desegregating a dual system a plan utilizing freedom of choice' is not an end in itself * * *. The new Kent School Board's 'freedom of choice' plan cannot be accepted as a satisfactory step "to 'effectuate a transition' to a unitary system * * *. In other words, the school system remains a dual system. Rather than further the dismantling of the dual system, the plan has operated simply to burden the children and their parents with a responsibility which *Brown II* placed squarely on the School Board. The Board must be required to formulate a new plan and, in light of other courses which appear open to the Board, such as zoning, fashion steps which promise unrealistically to convert promptly to a system without a 'white' school and a 'Negro' school, but just schools."

On the same day that the Court decided Greene, the Court also struck down a freedom-of-choice plan in *Rainey* v. *Board of Education of the Gould School District*, 931 U.S. 443 (1968), and a "free-transfer" plan in *Monroe* v. *Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968). In the Monroe case, a "free transfer" plan allowed any student to freely transfer to a school of his choice if space was available. Residents of the local school zone, however, were given priority in the case of overcrowding. No bus service was provided. After 1 year, the Negro elementary schools remained all Negro and 118 Negro pupils were scattered among four formerly all-white schools. The petitioners objected to the local school zones on the grounds that the zones were racially gerrymandered to conform to racial residential patterns. In the Court's opinion, Justice Brennan stated:

> This experience with "free transfer" was accurately predicted by the District Court as early as 1963: "In terms of numbers . . . the ratio of Negro to white pupils is approximately 40–60. This figure is, however, somewhat misleading as a measure of the extent to which integration will actually occur under the proposed plan. Because the homes of Negro children are concentrated in certain areas of the city, a plan of unitary zoning, even if prepared without consideration of race, will result in a concentration of Negro children in the zones of heretofore Negro schools and white children in the zones of heretofore white schools. *Moreover, this tendency of concentration in schools will be further accentuated by the exercise of choice of schools* . . ." 221 F. Supp., at 971. (Emphasis supplied.)
>
> Plainly, the plan does not meet respondent's "affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." *Green* v. *County School Board, supra*, at 437–438. Only by dismantling the state-imposed dual system can that end be achieved.

The Court's impatience with the progress under the "all deliberate speed" formula, reached its apex in *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969), where the Court in a per curiam opinion stated that:

> . . . continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools.

D. BUSING TO ELIMINATE DE JURE SEGREGATION

The question left unanswered until 1971 was how the principles set forth in Green would apply to a large urban school system. For the first 15 years after the Brown decision, the Court had dealt mostly with rural and small town systems in which desegregation plans could be formulated by rezoning. This typically resulted in desegregation of the entire system because there was little residential segregation and generally only two schools in the county, one all black and the other all white. The unitary plans with which the Court had previously dealt were on a countywide basis, because the counties were small, and in most cases resulted in the children going to the schools nearest to their homes.

It should be noted that Southern school districts had historically engaged in busing for the purpose of maintaining segregated schools and orders for unitary schools generally resulted in less busing or shorter distance busing than had been necessary in order to maintain segregated school districts.

In small counties, therefore, truly neutral zoning produced interracial assignments. In the Green case, for example, the entire school system consisted of two schools, one at each end of the county, so that a north-south line would create two attendant zones effectively desegregating both schools.

In the larger southern cities, however, simple zone redrawing, pairing, and transfer policies, had achieved some desegregation, but left many schools with all black, or largely so. In *Swann* v.

Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971), the Court was faced with the question as to how far school boards had to go to eliminate all remaining segregation of students.

This question involved four sub-questions. First, could any one race, or largely one race schools, remain? Second, could truly neutral assignments be made if zones, when imposed upon existing residential segregation, produced one race schools? Third, would each school have to approximate the racial composition of the entire system? Fourth, was the use of substantial busing a reasonable requirement to achieve desegregation?

The Charlotte-Mecklenburg school system included the city of Charlotte, N.C. and the entire surrounding county. Approximately 29 percent of the 24,000 pupils were Negro, about 14,000 of whom attended schools that were at least 99 percent Negro. This resulted from a desegregation plan approved by the district court in 1965 at the commencement of the litigation. In 1968 petitioner Swann moved for further relief based upon Green, supra, which required school boards to "come forward with a plan that promises realistically to work—now—until it is clear that State-imposed segregation has been completely removed."

The opinion written by Justice Burger squarely faced the four questions raised in the litigation.

1. ONE RACE SCHOOLS

The Court held that while the existence of a small number of one race, or largely one race schools, does not in itself denote a system that still practices segregation by law, the Court should scrutinize such schools and require the school authorities to satisfy the Court that the racial composition does not result from present or past discriminatory action. The Court noted that:

> An optional majority-to-minority transfer provision has long been recognized as a usual part of every desegregation plan.

In other words, freedom of choice is acceptable so long as it is being used to desegregate schools, but it is not permissible, as the Court has indicated earlier, where its purpose and effect are to maintain school segregation. The Court did not forecast the possibility of one race schools but indicated that there would be a presumption of segregation in such cases:

> No per se rule can adequately improve all the difficulties of reconciling the competing interests involved; but in a system with a history of segregation, the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty, warrants a presumption against schools that are substantially disproportioned in their racial composition.

2. RELEVANCE OF RESIDENTIAL SEGREGATION

The Court noted that the map submitted in these cases graphically demonstrated that one of the principal tools employed by school planners and by courts to break up the dual school system has been a frank—and sometimes drastic—gerrymandering of school districts and attendant zones. The Court noted that:

> As interim corrective measure, this cannot be said to be beyond the broad remedial powers of a Court.
>
> Beyond a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation.

The Court then said:

> Racially neutral assigned plans proposed by school authorities to a District Court may be inadequate; such plans may fail to counteract the continuing effects of past school segregation resulting from discriminatory location of school sites or destruction of school size in order to achieve and maintain an artifical racial separation. When school authorities present a District Court with a "loaded game board" affirmative action in the form of a remedial altering of attendant zones is proper to achieve truly non-discriminatory assignments. In short, an assignment plan is not acceptable simply because it appears to be neutral.

Consequently, the Court is rejecting the theory that the Constitution must be colorblind where there has been a "loaded game board." Thus the Court treats residential segregation as a part of the overall de jure situation requiring a full remedy. The Court did not decide, and left open, the question as to whether or not such orders will be required where the residential segregation is attributable to the acts of public officials other than school officials. That is, where only housing agencies or housing laws have resulted in residential segregation, it is unclear as to whether the Court will require the school board to act affirmatively in ending the resulting school desegregation. Thus the Court has not held that the burden of undoing the effects of housing segregation must fall upon the school system, where there is no history of segregation policies on the part of the school officials themselves. All the Court is holding in Swann is where school officials, as well as other public officials, are themselves partly responsible for housing segregation, as well as school segregation, they cannot present the Court with a "loaded game board" and expect the Court to be colorblind in accepting a neutral assignment policy.

3. RACIAL QUOTAS

The Court held that:

> The Constitutional command to desegregate schools does not mean that every school in the community must always reflect the racial composition of the school system as a whole.

The Court noted, however, that:

> The very limited usa made of mathematical ratios was within the equitable remedial discretion of the District Court.

4. BUSING

The Court noted that:

> Bus transportation has been an integral part of the public education system for years, and was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school. Eighteen million of the Nation's public school children, approximately 39%, were transported to their schools by bus in 1969–1970 in all parts of the country.

In a footnote the Court observed that in the Charlotte-Mecklenburg system, without regard to desegregation plans, the school board planned to bus approximately 23,000 students in 1971 for an average daily round trip of 15 miles. The Court then approved the district court's conclusion that assignment of children to the school nearest their home would not produce an effective dismantling of the dual system. The Court noted that the decree would involve the busing of elementary school pupils for an average of about 7 miles, which compares with the plan previously operated in Charlotte averaging 15 miles each way.

In these circumstances, we find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school. The Court noted that, in fashioning decrees, lower courts may utilize busing provided that the distance and time involved do not harm the student or "impinge" upon the educational process. The Court observed that normally the age of the students would be the most important factor in making those determinations.

Finally, the Court said that—

> At some point, these school authorities and others like them should have achieved full compliance with this Court's decision in *Brown I*. The systems will then be "unitary" in the sense required by our decision in *Green* and *Alexander*. * * * Neither school authorities nor District Courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system.

The Court observed that at that time the further intervention by district courts should not be necessary.

In *Goss* v. *Board of Education of the City of Knoxville, Tennessee*, 444 F. 2d 632 (6 Cir. 1971), involved a further review of the desegregation plan of the city of Knoxville. The Court was attempting to apply the Swann decision. The Court said that—

> The neighborhood style of desegregation no longer can be viewed as *per se* constitutional.

The Court concluded that—

> It would appear, therefore, that some disparate treatment in favor of racial minorities must be tolerated until the "vestiges" of *de jure* segregation have been eliminated.

The Court then concluded that though the existence of some black or all white schools will not be struck down per se as intolerable, school authorities must justify the continuance of such schools by something more than accident or cir-to apply the Swann decision. The Court also said that—

> *Swann* (1971) makes clear that the constitutional prohibition against assigning students or teachers on account of race is applicable only to *minority* groups. Even though it has been said that the desiderata of the *Brown* rule are that we have no black or white schools—only schools—and that public officials be "color blind" in discharging their duties, until these desiderata have been accomplished race will have to be considered in arranging today's school society.

Two northern cases involve de jure findings in what might be normally considered de facto situations. In the first of these, *U.S.* v. *School District 151 of Cook County, Illinois,* 286 F. Supp. 786 (N.D. Ill. 1968), aff'd. 432 F. 2d 1147; cert. den. 402 U.S. 943 (1971), Judge Julius Hoffman held that contemporaneous existence, within one school system, of some schools whose facilities and student bodies are almost exclusively white and other schools whose facilities and student bodies are almost exclusively Negro, creates a presumption of discriminatory faculty assignment which requires the school authorities to demonstrate the constitutionality of their procedures. He held that school officials had a constitutional obligation forthwith to take affirmative remedial action to desegregate faculties and staff.

With respect to student segregation, Judge Hoffman ruled that—

> "The total absence of Negro pupils from student bodies in regular classes at the Roosevelt, Madison, Taft and Eisenhower schools and the existence of almost exclusively Negro student bodies in regular classes at the Coolidge and Kennedy schools give rise to a presumption of unconstitutionality in the establishment of student attendance zone boundaries, and requires the defendants to show constitutionally permissible bases for the attendance zones.

This ruling was premised upon certain de jure findings which Judge Hoffman stated as follows:

> The intended and inevitable effect of the series of policy decisions by the defendants and their predecessors, made with respect to attendance zones, transportation of pupils, school site selection and construction, and organization of the structure of the educational program, as described in the foregoing findings of fact, has been to preserve racial segregation of students in violation of the Fourteenth Amendment. * * * A school board may not consistently with the Fourteenth Amendment, purposefully tailor the components of a neighborhood school attendance policy so as to conform to the racial compositions of the neighborhoods in the school district; nor may it build upon private residential discriminations.

Earlier in the opinion the Court had observed that beginning in the 1940's and continuing until the opening of the Taft School for the 1966–67 school year, white children living in the Harvey Highlands area and other areas, were bused to the Roosevelt School, even though the areas were closer to the Coolidge School which was almost entirely Negro. The Court also noted that with the exception of special education students, district 151 has not bused white students to the Coolidge (Negro) School or Negro children to the Roosevelt, Taft, Madison, and Eisenhower Schools (white).

The Court also found that—

> The purpose and effect of the program of school bus transportation . . . has been to segregate the students of School District 151 on the basis of race and color.

The Court also made numerous other detailed findings with respect to de jure segregation on the part of the school board and consequently the decision is entirely consistent with the principles of Swann. The Court ruled that—

> In order to remedy the effects of past discrimination, the Constitution requires the defendants to give affirmative consideration to racial factors in allocating faculty and staff members, assigning students, and with respect to decisions on other pertinent matters of educational policy, including the location and construction of schools, transportation of pupils, and the educational structure of the District.

Another instance where the Court has made express findings of de jure segregation was in *Davis* v. *School District of the City of Pontiac,* 443 F. 2d 573 (6 Cir. 1971), appeal pending. Here the Court stated:

> The duty to take whatever steps are necessary to achieve the greatest possible degree of desegregation of formerly dual systems by the elimination of racially identifiable schools is not circumscribed by school division boundaries created and maintained by the cooperative efforts of local and central state officials. * * *

The circuit court approved the district court's order requiring the preparation of a plan by the local school board for complete integration. The resulting busing in Pontiac touched off violent community protests.

In a footnote the Court stated that the district's court's order is consistent with the principles set forth in the Swann decision which was rendered by the Supreme Court during the interval between the district court and circuit court rulings.

Finally, in *Bradley* v. *Richmond,* F. Supp. (1972), Judge Merhige was attempting to formulate a plan that would comply with the ruling in Green. The real question was whether metropolitan white rezoning and transportation was available as a remedy. Judge Merhige concluded that the Supreme Court has placed the responsibility for equal educational opportunity upon the State itself. Consequently, he concluded that the boundaries separating school districts, being created by the State, could be disregarded and the various parts of an identifiable urban community should be treated as an entire unit for purposes of effecting a remedy. In his opinion he stated that—

> After a thorough review of the record on appeal, and upon consideration, we have concluded that the District Court's findings of purposeful segregation by the school district are supported by substantial evidence and are not clearly erroneous. * * * We observe, as did the District Court, that school location and attendance boundary line decisions, for the past 15 years, more often than not tended to perpetuate segregation. Attempted justification of those decisions in terms of proximity of school buildings, their capacity, and safety of access routes requires inconsistent applications of these criteria. Although, as the District Court stated, each decision considered alone might not compel the conclusion that the Board of Education intended to foster segregation, taken together, they support the conclusion that a purposeful pattern of racial discrimination has existed in the Pontiac school system for at least 15 years.

Judge Merhige took note of the widespread practice in Virginia of changing school district lines and consolidating school districts in order to provide for improved regional facilities. Second, he also noted that Virginia had repeatedly ignored its official jurisdictional lines in various attempts to perpetuate segregated schools. Third, he found that there was no relation between the shape or location of existing school district boundaries and educational needs. He did find, however, that there was a relation between such boundaries and the development of residential and school segregation. It should be noted that Virginia is about the last State that could argue that school district boundaries are sacrosanct. To avoid integration, Virginia's post Brown directive included joint school operations, merged districts, contracts by a district for its students to attend schools in other districts and a State pupil placement law under which the Governor's office superseded all local authorities in pupil assignment.

Judge Merhige found that the existence of physical barriers like the James River, were already being bridged, as students were currently being bused across across that river under the existing plan.

He noted that part of Chesterfield County had recently been annexed by the city of Richmond—allegedly to dilute the black vote in the city.

While these points added support to the court's authority, the basic authority that the court relied upon was the fact that the 14th amendment was addressed to States and not merely local governmental creatures of the States.

On June 5, 1972, the U.S. Court of Appeals for the Fourth Circuit in a 5 to 1 decision reversed, holding that the district court could not compel the joinder of Richmond's unitary school system with two other school districts in order to achieve a greater degree of racial balance.

In its decision the court said that—

> We think that the root causes of the concentration of blacks in the inner cities of America are simply not known and that the District Court could not realistically place on the counties the responsibility for the effect that inner city decay has had on the public schools of Richmond. We are convinced that what little action, if any, the counties may seem to have taken to keep blacks out, is slight indeed compared to the myriad reasons, economic, political and social, for the concentration of blacks in Richmond and does not support the conclusion that it has been invidious state action which has resulted in the racial composition of the three school districts * * *. That there has been housing discrimination in all three units is deplorable, but a school case like a vehicle, can carry only a limited amount of baggage.

The court recognized the governmental and budgetary problems that would be involved in the busing of students between school districts. The court said:

> But even if we were to ignore Virginia law, as we are urged to do, there are practicalities of budget and finance that would boggle the mind. Each of the three political subdivisions involved here, has a separate tax base and a separate and distinct electorate. The school board of the consolidated district would have to look to the three separate governing bodies for approval and support of school budgets.

The Court concluded that—

> The facts of this case do not establish, however, that state establishment and maintenance of school districts coterminous with the political subdivisions of the City of Richmond and the Counties of Chesterfield and Henrico, have been intended to cir-

cumvent any Federally protected right. Nor is there any evidence that the consequence of such State action implies any Federally protected right, for there is no right to racial balance within even a single school district, *Swann* v. *Charlotte-Mecklenburg Board of Education*, . . . but only a right to attend a unitary school system.

The Court also concluded that when it became clear that State-imposed segregation had been completely removed within the school district of the city of Richmond, "further intervention by the district court was neither necessary nor justifiable."

E. BUSING TO ELIMINATE DE FACTO SEGREGATION

It appears that no court in America has ordered busing to eliminate de facto segregation, absent findings that de jure segregation was also present. The cases do not support the widely held belief that the courts are ordering busing for its own sake or ordering busing to promote racial balance where no de jure segregation has been found. The courts simply are not ordering busing to break up racial imbalance in schools created solely by neighborhood housing patterns. While the courts have utilized a number of other tools to eliminate de facto segregation in schools, busing has not been one of them.

The leading case is *Deal* v. *Cincinnati Board of Education*, 369 F. 2d 55 (6 Cir. 1966), cert. denied 389 U.S. 847 (1967). This was a class action to enjoin the operation of allegedly de facto racially segregated schools and to enjoin the construction of new schools on sites which would increase existing patterns of racial segregation. The court stated that—

> Here, if there are obstacles or restrictions imposed on the ability of a Negro to take advantage of all the choices offered by the school system, they stem from his individual economic plight, or result from private, not school, prejudice. We need *Brown* as prohibiting only enforced segregation. * * * We hold that there is no constitutional duty on the part of the Board to bus Negro or white children out of their neighborhoods or to transfer classes for the sole purpose of alleviating racial imbalance that it did not cause, nor is there a like duty to select new school sites solely in furtherance of such a purpose. * * * Although boards of education have no constitutional obligation to relieve against racial imbalance which they did not cause or create, it has been held that it is not unconstitutional for them to consider racial factors and take steps to relieve racial imbalance if in their sound judgment such action is the best method of avoiding educational harm.

Some courts, however, have had to strain a great deal to come up with a de jure finding. Illustrative of these cases is *Spangler* v. *Pasadena Board of Education*, 311 F. Supp. 501 (Calif. 1970).* In this case there was a racial imbalance in the student bodies and faculties of the schools of the city of Pasadena, Calif. The Pasadena City Board of Education had used a neighborhood school policy and a policy against cross-town busing. First, the court examined the Brown decision and slightly misstated it as holding that "segregated education deprived Negro children of educational opportunity."

The Court in Spangler did not differentiate between separate but equal, and segregation resulting solely from neighborhood housing patterns. The Court then stated that—

> Use of a strict neighborhood school policy and a policy against cross-town busing take on constitutional significance as a violation of the Fourteenth Amendment. . . .

The Court then stated that—

> Under the Fourteenth Amendment a public school body has an obligation to act affirmatively to promote integration. . . .

At this point it would have appeared that the Court in Spangler was heading toward a busing order based upon de facto findings. The Court did not cite any authority for the proposition that the school board must act affirmatively to promote integration. In fact, the Supreme Court has never held such a proposition, except where it is necessary to dismantle the effects of a separate but equal educational policy. The Court, however, went on to make certain de jure findings. For example, at 522 the Court stated:

> When school officials consistently draw attendance lines so as to increase racial segregation, the presumption arises that they have done so to promote racial segregation of students, in violation of the Constitution.

The Court further stated that—

> When school officials have allocated new schools and constructed additions to old schools, and have failed to adjust school enrollments to fit capacities in such a way as to intensify racial segregation, they have the affirmative duty "to seek means to eradicate" the results of their discriminatory acts.

These de jure findings permit one to explain this case in a way which is consistent with the Swann decision. However, there is considerable language in this decision which goes beyond Swann and in fact probably goes beyond the language of any other decision. For example, the Court held that—

> When from the evidence it appears that racial discrimination has led to residential segregation and that the residential segregation is reflected in school enrollment figures, school officials have the burden to show that there are no educationally sound and administratively feasible alternatives available to overcome the existence of segregated schools.

For that proposition the Court cited the Cook County case, which as seen earlier, is a clear de jure case and does not stand for that proposition at all.

Finally, the Court held that it is unconstitutional to bus black students to promote integration and not to bus white students for the same purpose, because such a policy would place "an undue share of the burden of desegregation on black children."

In summary, the Spangler case must be considered in the context of the findings of de jure segregation and the broader language and inappropriate case citations are unfortunate as only serving to cloud and confuse the issue. Unquestionably there is language in Spangler which would justify the fears of those who anticipate the broadest and most universal type of school busing orders. Unquestionably, the courts can find some elements of de jure segregation in almost any school system. However, the case can be reconciled with the principles of Swann and in that context the broader language should be considered as dicta.

Two other decisions which have been widely interpreted as de facto busing decisions are in reality nothing more than rulings that there can be no official hurdles to thwart voluntary attempts by school officials to bus for the purpose of achieving racial balance.

In *Bradley* v. *Milliken*, 433 F. 2d 897 (6 Cir. 1970), the Detroit Board of Education attempted to effect a more balanced ratio between black and white students in 12 senior high schools. This effort was thwarted by an act of the Michigan Legislature which would preclude any such attendance provisions. The Michigan attorney general rendered an opinion which stated that the statute would have the effect of rescinding the attempt by the Detroit Board of Education to achieve racial integration in its high schools. The voters then held an election and recalled members of the board of education who had initiated the integration plan. The Court held that the statute was unconstitutional in that it attempted to impede, delay, and frustrate "proceedings to protect the rights guaranteed to members of all races under the 14th amendment." The Court noted that in *Hunter* v. *Erickson*, 393 U.S. 385 (1969), the Court had held that the repeal by referendum of a fair housing ordnance provision adopted by the city council of Akron, Ohio, "discriminates against minorities, and constitutes a real, substantial, and invidious denial of the equal protection of the laws." The Court cited *Reitman* v. *Mulkey*, 387 U.S. 369 (1967), which held invalid a California constitutional provision adopted by a statewide referendum, nullifying previously enacted statutes barring racial discrimination in housing. The Court also noted that in *Lee* v. *Nyquist*, 318 F. Supp. 710 (W.D.N.Y. 1970), the Court had held invalid a New York statute prohibiting State education officials and appointed school boards from assigning students, or establishing school zones for the purpose of achieving racial equality in attendance. In the Nyquist case the Court had held—

---

* In Keyes v. School District Number One, Denver, Colorado, 303 F. Supp. 279 (D. Colo. 1969), plaintiff's school children sought to enjoin implementation of a resolution adopted by the Denver School Board which rescinded previous resolutions which required positive integration of city schools. The rescinded resolutons changed attendant zones and sought to spread the Negro population of the schools to other schools and achieve a racial balance. Plaintiff's motion for a preliminary injunction was granted. The Court held that there was imposed on the School Board an affirmative duty to take positive steps to remove segregation "which has developed as a result of its prior affirmative acts. In response to this duty the Denver School Board passed Resolutions 1520, 1524, and 1531. In light of *Brown* and *Dowell*, the effort of the Board to renounce its constitutional duty by rescission must be rejected as arbitrary state legislative action." The Court strained in finding prior acts indicative of *de jure* segregation. In February 1970, the case was tried on its merits and after that trial the Court at 313 F. Supp. 61 (1970), held that the action of the School Board did not constitute *de jure* segregation. "It is more like *de facto* segregation, with respect to which the rule is that the Court cannot order desegregation in order to provide a better balance." The Court stated that "in examining the boundary changes and removal of optional zones in connection with the several schools which are discussed above, we do not find any wilfull or malicious actions on the part of the Board."

The Court held that in order to support a finding of *de jure* segregation (1) there must be action taken by a school administration with the purpose of singling students by race, (2) the action must have in fact created or aggravated segregation, (3) there must in fact be the condition of segregation, and (4) there must be a causal connection between the acts of the school administration complained of and the condition of segregation.

> But the argument that the state has not discriminated because it has no constitutional obligation to end de facto racial imbalance fails to meet the issue under Hunter v. Erickson. The statute places burdens on the implementation of educational policies designed to deal with race on the local level. Indeed it completely prohibits the implementation of such policies where the local board is not elected. The discrimination is clearly based on race alone, and the distinction created in the political process, based on racial considerations, operates in practice as a racial classification.

Taken together, Milliken and Nyquist do not stand for the proposition that local school officials must bus to eliminate the effects of de facto segregation. These cases merely stand for the proposition that the State cannot erect barriers precluding officials from taking such action.

The erection of such barriers constitutes an unreasonable classification and a denial of equal protection.

It should be noted that the courts are particularly fuzzy on the basis for such rulings and the Supreme Court will some day have to directly face the question as to whether or not public officials can discriminate in favor of minorities where there has been no past de jure discrimination.

In the State of Washington there is an unreported oral decision of considerable significance in the case of De Funis against Odegaard. This decision was rendered by Judge Shorett on September 22, 1971, in the Superior Court of the State of Washington for King County. In this case the University of Washington Law School wished to achieve greater minority representation and to achieve this end adopted an admissions policy giving preference to members of minority races. The court found that—

> Some minority students were admitted whose grades and aptitude test scores were so low that, had they been whites, their applications would have been summarily denied.

The plaintiffs were white students whose grades and test scores were higher than all but one of the 31 minority students admitted. Plaintiffs contended that the admission of less qualified minority members resulted in a denial of the plaintiffs' equal protection of the laws. The courts sustained the plaintiffs in this contention, citing Brown as holding that—

> Public education must be equally available to all regardless of race. After that decision, the Fourteenth Amendment could no longer be stretched to accommodate the needs of any race * * *. In my opinion the only safe rule is to treat all races alike and I feel that is what is required under the equal protection clause.

This approach is coming into collision with a great deal of affirmative action programs, not only in education, but also in other areas, such as the "Philadelphia Plan". In the educational realm the color blind theory is directly counter to the provisions of Milliken and Nyquist and seems to run counter to the "loaded game board" theory used by Chief Justice Burger in Swann. It is not clear, however, if the Chief Justice would apply his "loaded game board" theory in the context of purely de facto segregation. This issue has not been decided and presumably will have to come before the Court for resolution.

F. NONBUSING CASES INVOLVING DE FACTO SEGREGATION

Barksdale v. *Springfield School Committee*, 237 F. Supp. 543 (D. Mass. 1965), is the clearest example of a de facto case with no de jure findings. The Court found that—

> There is no deliberate intent on the part of the school authorities to segregate the races. If segregation exists, it results from a rigid adherence to the neighborhood plan of school attendance.

The Court observed that lines were drawn with reference to the location and capacity of various schools and take into account the safety and convenience of the children. In general, children were required to attend the school nearest their homes. The few exceptions to this policy were not designed or used to segregate the children by race. The Court found, however, that "segregation in the sense of racial imbalance exists in the Springfield school system." The Court found that at least seven elementary schools and one junior high school had a majority of Negro and Puerto Rican students, while other schools were 100 percent white. Of the 3,386 Negroes in 38 elementary schools, all but 595 were enrolled in eight of the schools.

The Court also found that—

> Those schools in which the vast majority of Negro students are enrolled consistently ranked lowest in achievement ratings . . . While it is not possible to determine how much of this is the result of home environment and how much is attributable to schools and teachers, these facts, nevertheless, bear out the testimony . . . that racially imbalanced schools are not conducive to learning . . . Racial concentration in his school communicates to the Negro child that he is different and is expected to be different from white children . . . The opportunity of Negro children in racially concentrated schools to obtain equal educational opportunities is impaired, and I so find.

In its holding, the Court stated:

> The defendants argue, nevertheless, that there is no constitutional mandate to remedy racial imbalance. *Bell v. School City of Gary, Indiana*, 324 F. 2d 209 (7th Cir. 1963). But that is not the question. The question is whether there is a constitutional duty to provide equal educational opportunities for all children within the system. While *Brown* answered that question affirmatively in the context of coerced segregation, the constitutional fact—the inadequacy of segregated education—is the same in this case, and I so find. It is neither just nor sensible to proscribe segregation having its basis in affirmative state action while at the same time failing to provide a remedy for segregation which grows out of discrimination in housing, or other economic or social factors. Education is tax supported and compulsory, and public school educators, therefore, must deal with inadequacies within the educational system as they arise, and it matters not that the inadequacies are not of their making. *This is not to imply that the neighborhood school policy per se is unconstitutional, but that it must be abandoned or modified when it results in segregation in fact.* (Emphasis added.)

The Court ordered the defendants to present a plan to eliminate racial concentration in its elementary and junior high schools and the Court did not specify that busing must be a part of that plan.

This case is one of a line of cases beginning with the *Blocker* v. *Board of Education of Manhasset, New York*, 226 F. Supp. 208 (E.D.N.Y. 1964), which were directly addressed to the de facto problem and had rulings substantially equivalent to that in Barksdale.

In Blocker, the Court found that the maintenance of neighborhood school attendance area lines, coupled with an inflexible transfer policy, was tantamount to State-imposed segregation. With that finding the Court entered a decree directing the school board to permit children to transfer to other elementary schools.

Mr. DOLE. Mr. President, education is one of the most important and deeply felt issues in America today. It touches the lives of perhaps more people than any other domestic concern. Parents, students, teachers, administrators, and taxpayers by the millions are decisively involved in questions of education policy throughout every part of our country. These questions come in every variety and range from methodology to curriculum, classroom discipline, salaries, and teacher-pupil ratios.

These questions have wide-ranging effects for the present and for years to come. And in a very real sense the answers we provide, by shaping our children, will determine the type of country we are to become.

THE BASIC QUESTION

Although there is great diversity in both the questions and the proposed solutions, it seems to me that one fundamental strain runs through most of the discussion, and regardless of most individuals' points of view, the primary consideration is one of quality in educaton. There may be differences over whether one curriculum plan or another should be adopted. There may be dispute over the proper way to maintain decorum in the classroom. There may be opposing beliefs on the way mathematics or spelling or English should be taught. But what people are generally concerned about is: How are we going to provide the best quality education for the children of our district or our State or our Nation?

DIFFERENT WAYS OF ANSWERING

Sometimes these questions are settled on the local level by a teacher or school principal, or by a board of education. Sometimes they are settled by the State. And in other cases a question comes all the way up to the Federal level in Washington before it is resolved.

One of these decisions was made by the Supreme Court of the United States in 1954 when it handed down its famous opinion in Brown against Board of Education. There has been considerable discussion of this case over the years since it was decided, and many interpretations of it have been put forward. But to my view, the Brown case spoke clearly to the question of quality in education by declaring that segregation of schools by affirmative State action was unconstitutional.

GREAT SUCCESS ACHIEVED

Many years have passed since the Brown case was decided. There has been struggle, conflict, and dissension over its implementation, but great progress has been made—especially under the leadership of the Nixon administration—toward ending deliberate racial segregation under the cloak of official action. The so-called "dual system" of schools has been virtually eliminated and with it nearly every example of de jure school segregation. Thus, the Brown decision with the strong backing of President Nixon is being complied with to the fullest possible extent.

I believe we Americans can take great pride in this accomplishment, for there is no comparable precedent in the history of civilization for the fulfillment of such a mandate for fundamentally improving a society.

PROBLEMS REMAIN

But although a great deal has been done in the elimination of deliberate segregation and the eradication of enforced racial separation in public schools, there remains a considerable challenge to deal with the problems of educational deficiencies which result from other factors.

It is an unfortunate fact that there are many inferior schools in America today. They are found everywhere—in the North, the South, the East, and the West; in areas that are predominantly black or white or Indian or Spanish-speaking. There are many causes and reasons for these difficulties. Some school buildings are old and inadequate, educational materials are in short supply, teachers' pay scales are too low, better educational methods have not been applied. There are many problems with many causes, but it seems important to realize that one cause for these problems is not the deliberate, officially sanctioned segregation of the past.

BASIC QUESTION REMAINS

As I said earlier the primary question is: How are we to provide the best quality education for our children? I believe this has been the question all along and remains so today.

One important answer to this question was provided by the Supreme Court when it said that enforced racial segregation should be eliminated, but with that step taken we must look to other questions and other steps to be made toward the improvement of our children's education.

OPPOSING PROPOSITIONS

At this time there seems to be two competing and incompatible propositions being put forward. One says that, since Brown said officially enforced segregation should be ended, all racial imbalance, however it arises, should also be ended—regardless of other factors such as convenience, safety, pupil preference, and cost—and that educational quality is somehow directly related to the meeting of racial quotas in the schools of individual districts and areas.

The other concept says that quality in education, now that enforced segregation is nearly eliminated, has much more to do with what is offered within the walls of a particular school than the categories and quotas in which the students attending that school happen to fit.

At this time it would appear that those who hold the first view and who think educational quality can be defined and achieved by filling quotas have a majority on the courts of this country. On the other hand, a majority of the parents and children in this country would appear to believe that education should take place in a well-equipped, well-staffed school during regular school hours—rather than in a yellow schoolbus traveling unnecessary extra miles over long, extra hours.

Because we have this conflict, it has become necessary to clarify the law and to express the legitimate and sincere concerns of the people. And because we are a democratic society, the route for expressing those concerns has been through our national political process and its response to the people.

PRESIDENT'S LEADERSHIP

I am proud to say that President Nixon has been in the forefront of the leadership seeking an absolute end to enforced segregation and better education for America's children, especially those from disadvantaged backgrounds. And I fully concur in the clear perspective in which he has placed these questions.

As he said in his extensive statement on elementary and secondary school desegregation in March 1970:

> I am dedicated to continued progress toward a truly desegregated public school system. But, considering the always heavy demands for more school operating funds, I believe it is preferable, when we have to make the choice, to use limited financial resources for the improvement of education—for better teaching facilities, better methods, and advanced educational materials—and for the upgrading of the disadvantaged areas in the community rather than buying buses, tires, and gasoline to transport your children miles away from their neighborhood schools.

Or as the Republican Party stated in its 1972 platform:

> We favor better education for all children, not more transportation for some children.

CITIZEN SUPPORT

I believe the great majority of all Americans—whatever their race, or economic status or part of the country in which they reside—would concur in these statements.

Certainly, a majority in both Houses of Congress share these feelings, and in recognition of this fact President Nixon has sought to clarify the law and at the same time continue our progress toward a better educational system.

Earlier this year President Nixon proposed two highly significant laws to deal with the two major problems in education today. The first problem is that of the courts exceeding the dimensions of the Brown decision by ordering massive forced busing of schoolchildren to achieve arbitrary racial balances in public schools. The second problem is that of providing the assistance required to upgrade the entire American education system—particularly in areas which are chronically deficient and inferior in their educational capabilities.

EQUAL EDUCATIONAL OPPORTUNITIES ACT

The bill before us today embodies many of the major features of the President's proposals. It passed the House by an overwhelming margin, and it is supported by a majority of the Senate. It is a comprehensive and positive approach to these great questions.

It provides major assistance for improving the quality of education in the schools which need help the most, and it focuses on the development of basic educational services which provide the foundation for any learning experience.

It includes strong safeguards for the equal education opportunities and civil rights of all students.

It sets forth detailed guidelines for courts and Federal agencies to follow in fashioning remedies for existing patterns of segregation. The focus is on setting priorities for the application of these remedies and imposing the maximum possible limitations on the use of disruptive busing orders.

I believe this bill offers the American people positive and appropriate means of dealing with today's questions of quality education. It seeks to bring about meaningful and rapid improvements in the education of those children whose needs are the most pressing. It attempts to recognize the legitimate and deep concern that most parents feel for the safety, convenience, and desires of their children. And it also reflects the high value most parents place on their children's attendance at a nearby school which they as parents have chosen through selection of their homes and neighborhoods.

Mr. President, I believe the Equal Educational Opportunities Act of 1972 is a good bill that is designed to achieve positive goals which are supported by the vast majority of Americans. It would be extremely disappointing if the obstructionist tactics of a few Senators deny its passage and thus increase the very serious problems which arise from some schools being in great need of assistance for improving the education their students receive and also prolong the unnecessary and equally serious problems which are created when education is made secondary to quota-filling.

I urge that the Senate invoke cloture on the debate of this bill, so it can be passed and sent to President Nixon to be signed into law.

Mr. JAVITS. Mr. President, I yield myself all but 1 minute of the remaining time, reserving a minute.

Mr. President, I would like to associate myself with the Senator from Michigan in thanking the many organizations which have seen the emergency and responded to it in an unparalleled way and the Senators whose minds have been opened to the full implications of what is proposed in this bill, and the fact that we compound the evils of Government if we pass a bill patently unconstitutional and then ask the Court to strike it down. That is hardly the path of responsibility.

Mr. President, I have made the argument before about turning back the clock. I ask unanimous consent that a chart of 1971 estimated projections of public school Negro enrollment compared with the fall 1968 and 1970 data be printed in the RECORD as a part of my remarks.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

DHEW OFFICE FOR CIVIL RIGHTS, FALL 1971 ESTIMATED PROJECTIONS OF PUBLIC SCHOOL NEGRO ENROLLMENT COMPARED WITH FINAL FALL 1968 AND 1970 DATA[1]

Geographic area	Total pupils	Negro pupils		Negro pupils attending schools which are—					
				0–49.9 percent minority		80–100 percent minority		100 percent minority	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:									
1968	43, 353, 568	6, 282, 173	14. 5	1, 467, 291	23. 4	4, 274, 461	68. 0	2, 493, 398	39. 7
1970	44, 877, 547	6, 707, 411	14. 9	2, 223, 506	33. 1	3, 311, 372	49. 4	941, 111	14. 0
1971 estimate	44, 691, 675	6, 724, 956	15. 0	2, 393, 824	35. 6	3, 084, 785	45. 9	778, 832	11. 6
Difference 1970–71	−185, 872	17, 000	. 1	170, 318	2. 5	−226, 587	−3. 5	−162, 279	−2. 4
32 North and West:[2]									
1968	28, 579, 766	2, 703, 056	9. 5	746, 030	27. 6	1, 550, 440	57. 4	332, 408	12. 3
1970	29, 451, 976	2, 889, 858	9. 8	793, 979	27. 5	1, 665, 926	57. 6	343, 629	11. 9
1971 estimate	29, 299, 586	2, 913, 047	9. 9	810, 895	27. 8	1, 664, 771	57. 1	325, 874	11. 2
Difference 1970–71	−152, 390	23, 189	. 1	16, 916	. 3	−1, 155	−. 5	−17, 755	−. 7
11 South:[3]									
1968	11, 043, 485	2, 942, 960	26. 6	540, 692	18. 4	2, 317, 850	78. 8	2, 000, 486	68. 0
1970	11, 570, 351	3, 150, 192	27. 2	1, 230, 868	39. 1	1, 241, 050	39. 4	443, 073	14. 1
1971 estimate	11, 551, 697	3, 139, 436	27. 2	1, 377, 847	43. 9	1, 010, 558	32. 2	290, 390	9. 2
Difference 1970–71	−18, 654	−10, 756	0	146, 979	4. 8	−230, 492	−7. 2	−152, 683	−4. 9
6 border and District of Columbia:[4]									
1968	3, 730, 317	636, 157	17. 1	180, 569	28. 4	406, 171	63. 8	160, 504	25. 2
1970	3, 855, 221	667, 362	17. 3	198, 659	29. 8	404, 396	60. 6	154, 409	23. 1
1971 estimate	3, 840, 392	672, 473	17. 5	205, 082	30. 5	409, 456	60. 9	162, 568	24. 2
Difference 1970–71	−14, 829	5, 111	. 2	6, 423	. 7	5, 060	. 3	8, 159	1. 1

[1] 1971 figures are estimations based on latest available data and are subject to change upon final compilation.

[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming.

[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennesse, Texas, and Virginia.

[4] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia

Mr. JAVITS. When we see what it would mean to turn the clock back and reopen all these decrees, it is absolutely appalling.

Let us read back and remember the case we made against the iniquities of the dual school systems throughout the South, and then let us stand back with admiration and see what has happened. Mind you, the people who are now here for this antibusing bill were, by and large, the same people who told us that you would have a revolution in the South if you had desegregation.

The PRESIDING OFFICER. The Senator has used all his time save 1 minute.

Mr. ALLEN. I yield 1 minute to the Senator.

Mr. JAVITS. I thank the Senator.

In the figures for the South alone in 1968, 78 percent of the pupils were in schools that were 80 to 100 percent minorities.

By the time 1971 had come around, that was estimated to be down to 32 percent. In the category of 100 percent minority, it was down to 9 percent, from 68 percent. And we did worse than that in the North, because of the segregated living patterns.

See the enormous distance we have traveled, Mr. President, and why I consider and so many of us consider that to regress now with this reopener clause is one of the most unwise and improvident actions we could take in terms of American society.

Mr. President, I ask unanimous consent to have printed in the RECORD the report of the Department of Health, Education, and Welfare to which the chart is attached.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

HEW REPORT

The 11-State South for the first time has a smaller number and percentage of Negro students isolated in 100-percent minority schools than has the North, Secretary of Health, Education, and Welfare Elliot L. Richardson said today.

The South last year surpassed the North in the number of Negro pupils attending majority white public schools and has continued to widen the gap this school year.

Secretary Richardson said:

"The only measure of desegregation enforcement is results. It cannot be measured by a level of rhetoric or the amount of money cut off from financially distressed school systems. It can be measured only by the persistent fulfillment of our legal and educational mandate—the elimination of dual schools based on race. And on that score, this Administration has a documented record of solid performance."

HEW conducted comprehensive national surveys in 1968 and 1970 with more limited surveys in 1969 and 1971. Projections based on the limited survey of 1971 of racial data underscore extensive changes, almost all of them in the South, since 1968.

For example, 2,000,486 Negro pupils were in 100 percent minority schools in the 11-State South in 1968, representing 68 percent of the total Negro pupils in the region. For the current school year, the projection shows that only 290,390 Negro students, representing 9.2 percent of the total in the region, are in all-minority schools.

By way of regional contrast, an estimated 325,874 Negro pupils representing 11.2 percent of the total in 32 Northern and Western States remain in all-minority, substantially unchanged from last year. In the continental United States, 11.6 percent of Negro students, or 778,832, are in all-minority schools compared to 39.7 percent or 2,493,398 in 1968.

In the six border States and District of Columbia, an estimated 24.2 percent or 162,568 Negro students are in all-minority schools, a number showing relatively little change since 1968. With the predominantly black District of Columbia enrollment excluded, the six border States still have approximately 21 percent or 115,052 black students in all-minority schools.

The statistics, collected by HEW's Office for Civil Rights and compiled by an independent contractor, show that an estimated 55.6 percent Negro pupils in the United States are in majority white schools, 27.8 percent in the North and West, 43.9 percent in the 11-State South, and 30.5 percent in the six border States and District of Columbia.

In the South, this figure rose from 18.4 percent in 1968 to 39.1 percent in 1970 and to an estimated 43.9 percent in the current school year.

The South has also progressively reduced the number of Negro pupils in schools 80 to 100 percent minority, down from 78.8 percent in 1968 to 39.4 percent in the 1970–71 school year, to 32.2 percent this year.

Relatively little desegregation change is shown in the past year for minorities other than Negro.

In Southern school systems surveyed where the school population is made up mostly of white students, two thirds (67.9 percent) of all Negro students in those districts attend majority white schools. Conversely, in Southern school districts having mostly minority students, where white students constitute the "local minority," nearly half (48.8 percent) of all white children attend schools more than 50 percent minority in makeup. More dramatically, there are virtually no all-white school enrollments remaining in these districts today. Only 0.3 percent of the white pupils in predominantly minority districts attend all-white schools. More than one third of all Negro students in the South today live in school districts that are predominantly minority in their school enrollment.

EXPLANATION OF REPORT ON NEGRO PUPILS BY GEOGRAPHIC AREA COMPARING FALL 1971 PROJECTIONS WITH FINAL FALL 1968 AND 1970 DATA

The attached table was constructed by using the data provided by 2,698 districts reporting in 1971, and then adding the 1970 data from those districts not reporting in 1971 but surveyed in 1970. All data was then weighted to give national representation.

Of the 43 million pupils represented by our 1970 data, OCR received 1971 data representing 20 million pupils. For the projection, OCR assumed no change in the districts which were represented in the 1970 survey, but not included in the preliminary results of the 1971 survey.

Of the 6.7 million Negroes represented in the data, OCR received 1971 data representing 5.0 million Negroes. A third national survey comparable in scope to those conducted in 1968 and 1970 is planned for 1972.

Mr. ALLEN. Mr. President, I am pleased and honored at this time to yield to the distinguished and—I hope I may be pardoned in saying—lovely junior Senator from Louisiana (Mrs. EDWARDS), for the purpose of making her maiden speech on the floor of the U.S. Senate. I yield her at this time 3 minutes.

Mrs. EDWARDS. I thank the Senator. I do not think I will need 3 minutes.

Mr. President, a bill to curb excessive busing and abuses of judicial discretion in the forced disposition of schoolchildren in the Northern, Eastern, Southern, and Western regions of the United States will likely live or die, depending on the outcome of the votes cast by Senators today.

Mr. President, what is the situation? The President of the United States has announced his support of this bill.

One of the two major national political parties is committed in opposition to excessive busing in its platform.

The House of Representatives has voted overwhelmingly in favor of the bill before us.

There can be no doubt but that a substantial majority of Senators are for it.

A vast majority of the people of the United States insist upon legislative curbs upon excessive busing and crossbusing of their children.

Mr. President, the bill before the Senate seeks a reasonable, just, and adequate remedy at law to help resolve the critical problems which have arisen from the excessive zeal and bad judgments of U.S. district court judges in the exercise of their discretionary powers.

Mr. President, I say, let the Senate work its will.

I urge Senators to vote in support of the will of the people and their elected representatives in Congress. I urge a vote for cloture.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself 30 seconds in order to commend the distinguished junior Senator from Louisiana for her speech. I am pleased that she chose to speak on this most important issue, which is so important to the people of her State and to the people of the entire Nation.

At this time, I yield 3 minutes to the distinguished Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the distinguished Senator from Alabama for yielding briefly, so that I might do two things: First, to commend the junior Senator from Louisiana for her first and maiden speech on the floor of the U.S. Senate. She has chosen a subject of great importance not only to her State but also to the Union, and I commend her on her perception, her grasp of the situation, and her contribution to this important debate. I have served with Senator EDWARDS in the Committee on Public Works, and I know her to be a Senator of dedication and devotion and great insight. I commend her on this historic occasion.

I recall my own maiden speech. I recall that not this many Members of the Senate were present. Senator PASTORE, I recall, was the only other Senator present, and he said in jest, I suppose, that he was happy that he had found a Member of the Senate with whom he could see eye to eye. I had the fleeting misapprehension for a while that he agreed with me, but he made that remark because we are both less than five-six.

Mr. President, I have just this brief additional comment prior to the effort to invoke cloture in the Senate on this debate. This is an important matter. It has been debated at length. The merits of the controversy have been thoroughly aired in the Senate. The important question here today is whether or not two-thirds of the Senate, of those present and voting, concur in their desire that debate on this measure be terminated and that we turn to the consideration of the merits of the bill itself. I hope we prevail in that respect.

If we do not prevail, I think much still has been accomplished. We have shown that a good majority of the Senate favors control of judicially ordered crosstown busing. As the cigarette commercial used to say on television, before we outlawed cigarette commercials, "You've come a long way."

We have come a long way since only a few of us were trying to point out the evils of crosstown busing.

I hope we get cloture today and that we move on to a debate on the controversy, and, as the President indicated the day before yesterday, that we close the debate and get to a vote on the issue.

I pledge that whether we vote on this bill in this session or whether we vote on it later, one way or the other, I intend to continue my efforts to eliminate what I believe to be a grievous piece of judicial mischief in crosstown busing.

Mr. JAVITS. Mr. President, to close debate, may I say that I have heard the Senator from Tennessee (Mr. BAKER) with great interest. I believe we will be immeasurably helped in fashioning whatever legislation is truly made by the Supreme Court decisions pending in the Detroit, Richmond, and other cases, and in a much more rational atmosphere, when we pass the date of the presidential election.

I hope that the Senate will, again, deny cloture.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. CHILES). The hour of 11 a.m. having arrived, under the unanimous-consent agreement, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (H.R. 13915, an act to further the achievement of equal educational opportunities.

1. William Proxmire.
2. Ernest F. Hollings.
3. Lloyd Bentsen.
4. Lawton Chiles.
5. David H. Gambrell.
6. Herman E. Talmadge.
7. B. Everett Jordan.
8. W. B. Spong, Jr.
9. Jennings Randolph.
10. John Sparkman.
11. Strom Thurmond.
12. Robert P. Griffin.
13. Clifford P. Hansen.
14. Edward J. Gurney.
15. Bill Brock.
16. Bill Roth.
17. Robert Dole.
18. Paul J. Fannin.
19. Howard H. Baker.
20. John Tower.

CALL OF THE ROLL

Mr. CHILES. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 542 Leg.]

Aiken
Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The PRESIDING OFFICER (Mr. Chiles). A quorum is present.

VOTE

The PRESIDING OFFICER. Pursuant to rule XXII, a rollcall has been had, and a quorum is present. The question before the Senate is, Is it the sense of the Senate that debate on H.R. 13915, a bill to further the achievement of equal educational opportunities shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. JORDAN of Idaho (when his name was called). On this vote I have a pair with the Senator from Colorado (Mr. Allott) and the Senator from Nebraska (Mr. Curtis). If they were present and voting, they would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. Cook) would vote "yea."

Also, if present and voting, the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) would each vote "nay."

The pair of the Senator from Colorado (Mr. Allott), and that of the Senator from Nebraska (Mr. Curtis) has been previously announced.

The yeas and nays resulted—yeas 49, nays 38, as follows:

[No. 543 Leg.]

YEAS—49

Aiken
Allen
Anderson
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jackson
Jordan, N.C.
Long
Mathias
McClellan
Packwood
Proxmire
Randolph
Roth
Saxbe
Schweiker
Smith
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—38

Bayh
Boggs
Brooke
Burdick
Case
Church
Cooper
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Hughes
Humphrey
Inouye
Javits
Kennedy
Magnuson
Mansfield
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Percy
Ribicoff
Scott
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Jordan, Idaho, against.

NOT VOTING—12

Allott
Cook
Curtis
Harris
Hatfield
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Pell

The PRESIDING OFFICER. On this vote there are 49 yeas and 38 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

CIVILIAN CONTROL OF THE MILITARY AND THE LAVELLE AFFAIR

Mr. ROTH. Mr. President, historically, civil governments have always attempted to keep firm control of their military forces whether such governments were authoritarian regimes or democratic ones. But the question of civilian control over the military assumes special importance in a modern democratic society such as ours.

There are three principal reasons why this is so. In the first place, the military today—armed as they are with nuclear weapons—have almost limitless force at their disposal. It is vital that the freely elected democratic institutions of our country maintain a firm grip on that force, for while the country is democratic, the military is and must be autocratic. Second, in a limited war such as the one in Vietnam, military power should be exercised with political objectives in mind; and specific military actions must be integrated with political and diplomatic strategy. In a world of instantaneous communications, delicate balances of power, and shifting alinements, our Armed Forces cannot be allowed to fight their own independent actions, based on their own interpretations of what is or is not in the interests of the United States. Presumably, we have elected officials to do that.

There is a third reason, one germane to the questions concerning Generals Abrams and Lavelle, why it is imperative to maintain firm civilian control of military operations. In all conflicts, even so-called total wars, delicate orchestrations of military and diplomatic policy can sometimes have a direct bearing upon the rules of engagement for military commanders in the field, and situations may arise which call for their constant revision or reinterpretation. This was as true of our operations during the Korean war, for example, especially when the frontline had become stabilized there, as it is today in Southeast Asia. Revision or reinterpretation of these rules, however, must come from, or at least be approved by, the political leadership of this country, so that diplomacy can be effectively coordinated with military action. It cannot be a purely military activity.

Both my second and third points are applicable to the problem of General Lavelle's alleged disobedience of orders and the extent of General Abrams' knowledge of such actions. In the case of General Lavelle's unauthorized airstrikes, we have an instance of military action taken, according to General Lavelle, for strictly military reasons—a buildup of troops and materiel in North Vietnam—without any apparent consideration for the larger political issue of a negotiated settlement of the war. Again according to General Lavelle's own testimony, he interpreted the rules of engagement to suit his desire to intensify air operations over North Vietnam, without submitting the matter to higher authority for approval. Neither action is consonant with two traditions of the American military—submission to civilian authority and obedience to military supervisors.

The question now before us, however, is the confirmation of General Abrams. Although there is apparently some dispute among the committee members whether further hearings should be held, they agree unanimously that the general's appointment should be confirmed. I was particularly impressed by the comments of the distinguished Senators from Mississippi (Mr. Stennis), Maine (Mrs. Smith), and Iowa (Mr. Hughes).

I particularly agree with the thoughtful statement of the Senator from Maine that troublesome questions remain to be answered, and I hope the Congress will address itself to those issues as early as possible. But I also believe great weight should be given to the conclusions of the able Senators from Iowa (Mr. Hughes) and Missouri (Mr. Symington). They originally requested this investigation and were the most critical, but both have stated that they are satisfied that the general's appointment should be confirmed. I joined in requesting this investigation, and I will join now in voting for the confirmation of General Abrams.

I would like to emphasize, however, that regardless of what action we take today, these hearings have cogently pointed out the need for the Congress to insure continued and constant civilian control over the military. Frankly, I believe we may have been lax in this area during the past two decades, thus contributing to any deterioration which has occurred. The time has arrived for the Congress to reassume its constitutonal responsibilities and reassess its performance in light of what the Lavelle-Abrams hearings have revealed. While there is obviously not enough time to embark upon this project during this Congress, I hope that we will all place this as a first order of business when we reconvene.

Mrs. SMITH. Mr. President, I shall not vote against the confirmation of General Abrams.

While I feel that as the commander he cannot escape some responsibility for what his deputy did, in my opinion he was not sufficiently involved to warrant rejection of his confirmation.

My point of criticism is his ignorance of what was being done, when as commander he should have made it a point to know what was going on in his command.

Mr. CHURCH. Mr. President, I was instructed in the Army that the commanding officer was always responsible for what happened within his command. While General Abrams was commanding general of our forces in Vietnam, insubordination of orders regarding bombing took place. He is said not to have known about it. This might be a legitimate defense against disciplinary action, but it is not a proper basis for promotion.

Unaccountability, both within and without the military, has become the hallmark of the Nixon administration. Unlike Harry Truman, no one in this administration, from the President down, is prepared to say, "The buck stops here."

I do not fault General Abrams as an officer or a gentleman, but the record does not justify his elevation to Chief of Staff of the U.S. Army.

Accordingly, I shall vote against his confirmation.

Mr. DOMINICK. Mr. President, as a member of the Armed Services Committee, I have, of course, been closely associated with the hearings on Gen. Creighton W. Abrams for appointment as Chief of Staff of the U.S. Army. I shall support his nomination.

Everyone, I am sure, is by this time well aware of the issues involved in this confirmation and our committee chairman reviewed everything quite thoroughly yesterday. My purpose in these short remarks is to inform my colleagues of my unqualified support of General Abrams for this appointment. Throughout the hearings there was absolutely nothing, in my opinion, that indicated General Abrams was in any way knowledgeable about the unauthorized bombings. In the one case where he did authorize a single and special raid, he fully reported the results of that raid and upon being advised by the Joint Chiefs of Staff that such raids were outside the standing rules of engagement he made that known to 7th Air Force.

During the hearings, I questioned General Abrams to see if he was aware of the special interpretation made by General Lavelle of the standing rules of engagement. I would like to read this part of the hearings which I believe is very helpful in showing that General Abrams was not informed of General Lavelle's special interpretation:

Senator Dominick. According to the testimony of General Lavelle, again from his prepared statement, on page 10, he said, and I quote, in regard to the Moc Chau radar strike:

"JCS responded that they were sympathetic with CinCPac and MACV position but that we could not hit GCI radars unless they could get approval from higher authority. We received this approval approximately 3 weeks later."

Is that accurate?

General Abrams. Yes. I don't have the exact wording of the message but I think that is a fair statement. I certainly have no quarrel with it.

Senator Dominick. So the rules then, from the time until you did get permission to hit GCI's were that they were off limits, so to speak?

General Abrams. That is correct.

Senator Dominick. And General Lavelle was aware of that.

Now, it was the 23d of January when the strike was made, as I understand it from his testimony, on Dong Hoi [deleted] and it was at that time that he states publicly, "I told my Director of Operations that we could not report 'no enemy reaction.'"

Do I understand that you did not know of that:

General Abrams. I did not know that.

Senator Dominick. Did you ever while you were in command during this period that we are dealing with go to U Dorn?

General Abrams. Yes, I went to U Dorn sometime—either—I don't remember the date but I went to U Dorn in either the latter part of December or the first part of January.

Senator Dominick. At that time did anyone mention to you that they had had instructions of this kind from General Lavelle?

General Abrams. No, sir, and if I may say so, all I saw at U Dorn—I got out of one airplane and got into another; I talked briefly with the Commanding General there and we really didn't talk business—well, no, I will take that back. I did talk business with him planeside [deleted] but I didn't get into—and I didn't visit the base; I didn't get any briefing there so it was off one airplane and out to another.

Senator Dominick. During this period that was the only time you recall that you were in U Dorn? And I am talking about——

General Abrams. Yes.

Senator Dominick (continuing). Really, from January to March?

General Abrams. Yes, that's right, sir.

Senator Dominick. General Slay, as I understand it, was the Chief of Staff for General Lavelle; is that correct?

General Abrams. Well, they——

Senator Dominick. Or Chief of Operations?

General Abrams. They really don't have that term, sir.

Senator Dominick. Chief of Operations?

General Abrams. He is the Chief of Operations, Deputy for Operations and it is a very responsible position in the Air Force setup.

Senator Dominick. Did he sit in with you on your Friday morning briefings that I understand that you had weekly?

General Abrams. Our weekly meetings, sir, were on Saturday.

Senator Dominick. Saturday?

General Abrams. We got into that habit when General Westmoreland was there and never changed it; but then some time in December we began meeting daily to go over the air effort, the intelligence.

Senator Dominick. Would General Slay be at those meetings?

General Abrams. I would say that General Slay was probably at almost all of them, if not all.

Senator Dominick. Did he or anyone else at that time during those meetings report to you on the interpretation that they were making of the rules?

General Abrams. No.

Senator Dominick. Did they report to you at any time the order that General Lavelle gave saying that "We should not report 'no hostile reaction'"?

General Abrams. No, that matter was not discussed.

Senator Dominick. Was there anything in the reports, looking back at them now, that would have led you to believe, in the reports that you saw, that this type of interpretation was being used or that the reports were being falsified?

General Abrams. No.

Senator Dominick. That is all I have.

General Abrams. You see, I had—if I could explain that a little further—it is true that the operation was really carried by the 7th Air Force but I did have a targeting group and an operations group in my own headquarters and you also needed specialists on rules. There have been many of them and they are complex and you have got to have people who work at that all the time so that if something shows up they can tell you about it, and I had a very good group there. They went over all these reports: I didn't; they did and they didn't say—then and since this occurred, and even before I left there—they went back and looked at these and they could find nothing in it that would have alerted them.

So I feel reasonably confident it was not oversight.

The Chairman. By your men?

General Abrams. Yes, by my men, yes.

Senator Dominick. I think that is all I have, Mr. Chairman. Thank you very much.

Now Mr. President, I also asked General Lavelle about whether he had informed General Abrams of the special interpretation of the standing rules of engagement he was making. I think the following exchange shows he did not.

Senator Dominick. For my own clarification, when you talked to General Abrams, which I am sure you must have on a number of occasions, did you ever tell him that it was your interpretation that radar was activated at all times and that you were therefore entitled to strike?

General Lavelle. In those words, no, sir.

Senator Dominick. That is all I have, Mr. Chairman.

Mr. President, there is no question that this entire episode has been most unfortunate and there is probably still more in the command and control area we need to examine. But right now, the Army needs a full time Chief of Staff which it has been without for much too long. I, for one, believe the United States is most fortunate to have a soldier of General Abrams' experience and character to be Chief of Staff of the Army. I, for one, have heard only praise from his Army comrades about his selection by the President to be the Army Chief of Staff. And, I, for one, Mr. President, have not come across a single thing that would indicate he should not be the Chief of Staff of the Army.

Mr. President, I strongly urge my colleagues to vote in favor of the confirmation of General Abrams.

EXECUTIVE SESSION

The PRESIDING OFFICER (Mr. Chiles). Under the previous order, the Senate will now go into executive session to vote on the Abrams nomination.

The Senate proceeded to consider executive business.

U.S. ARMY

The Senate resumed the consideration of the nomination of Gen. Creighton W.

Abrams to be Chief of Staff of the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Will the Chair now state the issue pending before the Senate?

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Gen. Creighton W. Abrams to be Chief of Staff of the U.S. Army?

Mr. STENNIS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. As I understand, Senators in favor of the confirmation will, of course, vote "yea." Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is, Will the Senate advise and consent to the nomination of Gen. Creighton W. Abrams to be Chief of Staff of the U.S. Army?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), and the Senator from Virginia (Mr. Spong) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell), and the Senator from Virginia (Mr. Spong) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Kentucky (Mr. Cooper) is detained on official business.

If present and voting, the Senators from Kentucky (Mr. Cooper and Mr. Cook), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) would each vote "yea."

The result was announced—yeas 84, nays 2, as follows:

[No. 544 Ex.]

YEAS—84

Aiken
Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Church
Proxmire

NOT VOTING—14

Allott
Cook
Cooper
Curtis
Harris
Hatfield
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Pell
Spong

So the nomination was confirmed.

Mr. STENNIS. Mr. President, I move that the Senate reconsider the vote by which the nomination was confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will now return to the consideration of legislative business.

SUPPLEMENTAL APPROPRIATIONS, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 17034, the Supplemental Appropriation Act of 1973.

Mr. ALLEN. I object.

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of H.R. 17034, the Supplemental Appropriation Act of 1973.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 17034, an act making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alabama will state it.

Mr. ALLEN. Is the motion debatable?

The PRESIDING OFFICER. The motion to take up the bill is debatable.

Mr. ALLEN. Mr. President, the junior Senator from Alabama was not willing to agree to the unanimous-consent request that the Senate lay aside the unfinished business, nor is he willing to consent to the motion that the bill be laid aside and that another matter be taken up. However, Mr. President, the Senator from Alabama feels that the majority leader has fulfilled the commitment that he made on the Senate floor; namely, that H.R. 13915 would be brought up for consideration, that it would be made the unfinished business, and that the Senate would be given an opportunity to work its will with respect to the bill.

The Senate on three separate occasions—by an ever-widening margin, I might say, however—has voted not to shut off debate. There has been an ever-widening number of votes in favor of shutting off debate, yet the Senate has refused to shut off debate.

The Senator from Alabama has wanted the Senate to have an opportunity to vote up or down on the bill. It would seem that a further extension of debate at this time might not be advisable, might be counterproductive, in the short time that we have remaining, for it is the desire of the leadership and the membership to adjourn sine die. It would seem that another cloture vote at this time might not carry, but at the same time he feels that the bill should stay before the Senate. He does not wish to use the 2 days that would be required to shut off debate on the motion to proceed to another matter. It would take 2 days to bring up a cloture motion, so he does not plan to filibuster the motion, but he wishes to request a yea-and-nay vote on the motion. I now ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, I should like to associate myself with the remarks made by the distinguished Senator from Alabama (Mr. Allen) and point out that the Senate has not had an opportunity to work its will with respect to this legislation. The votes that have taken place have been votes on a motion to invoke cloture. In each instance, a majority—a significant and substantial majority—of Senators have indicated they want the opportunity to vote on the merits of the bill. There is every reason to believe that a majority of Senators would pass this legislation to curb forced busing, if the Senate were allowed to work its will.

It is ironic and deplorable that filibuster tactics have been used, apparently successfully by some who ordinarily and customarily rail against the use of filibuster and so loudly proclaim the abuse of the filibuster as a means of preventing the Senate from working its will.

A filibuster in this instance is particularly inexcusable because the people of the country understand what the Senate is debating. This is not a situation such as was presented when former Justice Fortas was nominated to be Chief Justice of the United States, where an extended debate, if you will, was needed to apprise the people of facts, information, and arguments about the Justice's background and qualifications for the top judicial post in our country so that the people could have an opportunity to form an opinion and consensus on the nomination. In such instances I believe that an extended debate in the Senate serves a very useful purpose.

But this is a situation in which the Senate has already debated the subject a number of times. The people know what we are talking about. A consensus has been formed in the country. The people expect Congress to act. If ever there was a situation in which Congress is not being responsive to the will of the people by not acting, this is that situation.

Where are the cries of the reformers who have been concerned about Congress not being responsive to the people? Are they going to criticize Congress in this situation as they have in other situations, or are they going to say, "Well, it is all right in this case"?

For my part, I would like to see the bill remain as the pending business of the Senate. I would be willing to stay here every day from now until election, and beyond election day, to get this matter to a vote in the Senate. It is that important to my State, and I think it is that important to the Nation.

I will not participate in any effort to resort to the tactics of filibustering in order to prevent the Senate from working its will on the motion made by the distinguished majority leader. Of course, we could do that. We could filibuster the motion, but then I would be using the tactics that I am criticizing. But I have decided, under the circumstances, to allow the Senate to work its will. I shall vote against the motion before us now, and I hope a majority in the Senate will vote to keep the antibusing bill as the pending business.

Mr. BAKER. Mr. President, I do not intend to debate the matter at length. I do not intend to filibuster. I simply want to say that, insofar as I am concerned, I am willing to stay here and debate this matter until the end of the year and until the convening of the next Congress. I think the matter is that important.

The orderly and desirable way to handle this matter is to let the Senate work its will by voting on whether to set aside the antibusing measure and move on to something else. I shall vote against setting aside the pending business, the antibusing bill, but I will not engage in a filibuster to try to prevent it.

I hope that the motion does not prevail.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jonathan Steinberg may have the privilege of the floor.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, reserving the right to object, what is the order of business for the remainder of the day?

The PRESIDING OFFICER. The pending motion is the motion to take up the appropriation bill.

Mr. HANSEN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I rise in support of the Senator from Alabama, the Senator from Michigan, and the Senator from Tennessee in their desire to see the Senate work its will. I do not want to prolong or delay the business of the Senate.

I am fighting a reelection campaign in Texas, myself. I am willing to stay here as long as necessary in order to resolve this issue, even if it is through November 7. I do not think it is the intent of any of us to filibuster here. Nevertheless, I think we should keep the pending business up, in the hope that perhaps we could eventually get to a vote on its merits. I am prepared to stay and work, even though it extends the time of adjournment of this session of Congress.

This is a matter of considerable concern to the people of my State. No State has been more sorely afflicted by busing than the State of Texas. This is a matter of very great social concern. It is appalling to me that the Senate is not being allowed to work its will on a matter of such deep-seated concern, a matter that has resulted in disruption of our educational program in my State, and great divisiveness among people that were becoming united.

Therefore, I hope that the motion to take up the supplemental appropriation bill and set aside the pending business is resoundingly defeated and that we will have the opportunity to try to work toward a successful conclusion of our business by considering this bill on its merits.

Mr. BROCK. Mr. President, I rise in opposition to the proposal to set aside the pending business, the Equal Educational Opportunities Act. I do so with some sense of regret that this matter has been handled as it has; because, while the situation is more vicious in its application and damage to the people of my State and the State of Michigan than some other States, I think the Senator from Michigan has aptly pointed out that the abuse of children can occur in any State and is something which is intolerable and must not be countenanced.

The preservation of the neighborhood school is an objective which is shared by the overwhelming majority of the American people. I find some difficulty in understanding the position of those who oppose this bill without constructive alternative.

I have heard it said several times that no one wants to deny their children an equal opportunity; no one wants to destroy the neighborhood schools of America. But the fact is that they are being destroyed, that children are being selected not on the basis of merit or locale but on the basis of color, and are shifted by judicial whim. The fact is that nothing is being done to safeguard their constitutional rights.

I hope this motion is defeated. If it is not, I pledge that I will not stop my own efforts to resolve this problem until we do so, because I do not think we have a right to ignore the existence of a crisis in this country, a crisis which besets children in communities in Nashville, Charlotte, Chattanooga, Memphis, Detroit, and all around this country. That condition will be placed on other children unless we take action. I do not think we have a right to ignore our responsibilities as legislators in this body.

That is the condition that has been created by this filibuster. It is not an alternative; it is not a constructive response. It is simply a denial of the right of the people to have a voice in the process of government in this country, and I cannot accept that.

Mr. THURMOND. Mr. President, I wish to go on record as opposing the taking down of the busing bill. If there is any one issue in the country that is sensitive today and demands a decision, it is legislation on this subject.

The polls taken over the Nation show conclusively, North, South, East, and West, that the people of this country are opposed to busing schoolchildren just to bring about a racial balance. They do not oppose busing schoolchildren for quality education. If there is a better mathematical center, musical center, athletic center, or some other place where children should be bused, such as to a central high school, where the purpose of busing children is to improve quality education, the people of this country do not object.

But just picking up a child of one race and transporting that child 10, 20, or 30 miles to another school simply to bring about a mix or a racial balance does not make sense.

The people of this Nation have so spoken.

They have indicated this in the polls and in expressions made in surveys, so that there should be no doubt in the minds of those of us in Congress on this subject.

I feel very deeply that the Members of this body are misreading the minds of their constituents. Of course, that is a matter for each Senator to take into consideration when he makes his decision. But I have talked to people all over the country in various places, and from the surveys taken, I am confident that the sentiment is strong all over the Nation not to bus schoolchildren just to bring about a racial balance.

I think that steps should be taken, and taken as soon as possible, to stop busing for purposes of racial balance.

I repeat, no one objects to the busing of schoolchildren to improve their education, to bring about quality education. It is not a matter of race. In these same polls to which I have referred, the people have indicated that it was not because of race but simply because it was not practical and lacked wisdom to make children of one race be bused miles and miles and spend hours a day on a bus so as to bring about a racial balance. That is what they object to. That is what should be terminated.

I hope that Congress will not lay this bill aside. I hope that they will stay here and make a decision on it, because it will be in the interest of the American people. It will also be in the interest of our children that this decision be made by Congress.

Mr. DOMINICK. Mr. President, I have not spoken on this subject in previous debate because I had hoped we could terminate it and get down to the merits. I have no intentions of voting against the motion to set it aside at this point. I will support it because the Senate has had three opportunities to invoke cloture and it has not done it. As a result, I doubt very much that we would ever get to the other important business we have before us until well after the election, in view of the determined filibustering we have had against consideration of the merits of the bill.

Mr. President, we have been holding hearings in our Education Subcommittee of the Committee on Labor and Public Welfare. We have held hearings now for a number of months. We found a divergent series of viewpoints on the equal educational opportunity bill. The NAACP has been very much against the bill, feeling that it went backward as opposed to going forward. On the other hand, we have had Professor Armor of Harvard come in and say that he has followed the educational status of those who have been forcibly bused by court order or otherwise, and has found that there has been no significant educational improvement, that there has been an increase in racial hostility, and that he can see nothing which would indicate from the record up to date that forced busing improves the quality of education or racial relationships among the people.

We also heard the head of the Dallas School Board who came in to tell us about the innovative work they had done down there, with their opportunity schools, and others; and how, all of a sudden, they found that they were no longer permitted to do it because the larger majority at such school happened to be a racial minority, so that suddenly the court said they could not do it any more, requiring that they close down one of the more important innovative educational opportunity schools that has been seen in a school district in a long time.

We heard from Professor Borh of Yale Law School who came in to talk about the constitutionality of the act. It was his opinion that this act is constitutional, particularly the Senate version of the bill, and that this constitutionality rests largely, in his opinion, on the 14th amendment, as opposed to the other articles in the Constitution, insofar as remedies are concerned, upon which constitutionality would be based in the House bill.

So we have many things we could have discussed on the merits and perhaps taken some votes on.

I put in five amendments in the hope that cloture would be invoked so that we could get down to the merits and have the opportunity to present the amendment to the Senate for their vote. One of them was to preserve the Senate bill differential between sixth grade and seventh grade children. This differential is not contained in the House bill. It seems to me that this is a logical and valid distinction which should have been made.

Another was to increase the amount of compensatory educational funds so that we can concentrate the funds in the areas where the economic situation is lowest, whether for black, white, yellow, or brown students.

Nevertheless, once again, we were not permitted to discuss this amendment. Some five amendments to the House bill were introduced on my behalf by the distinguished Senator from New Hampshire (Mr. COTTON) and I want to express my appreciation to him for doing so, on October 9 of this year, all of which amendment, are important to this issue but none of which can be considered under the action which the Senate has taken.

I am sorry that the Senate saw fit to do this. I wish we had been able to get to the merits. I say, in full feeling and with great conviction, that in the next session of Congress I intend to push vigorously for further hearings on the equal educational opportunity bill which is now before our committee and, hopefully, try to get it to a vote and to the floor of the Senate for action. It is a matter of enormous significance to many States, and along with the distinguished Senator from Michigan (Mr. GRIFFIN), it is my feeling that not only are the States involved by the Senators who have spoken so freely but that the problem will spread rapidly throughout the entire country unless appropriate legislation is enacted.

Mr. MOSS. Mr. President, I concur with the views of the distinguished Senator from Colorado (Mr. DOMINICK). I too, will vote to take up the bill on the motion of the leader. It seems to me that this effort now being made to put us back on the previous bill—on the busing bill—or to keep that as the pending business of the Senate, comes at an inopportune time. We have had three attempts on three separate occasions to invoke cloture and every one has failed by a wide margin.

Today there were 38 votes against it, which, of course, is more than enough to prevent halting debate even if every Senator were in his seat and voting. And the margin is very great.

The other thing that strikes me about it is that we previously had before the Senate a bill, the Consumer Protection Agency, of which the present occupant of the Chair, the Senator from Connecticut (Mr. RIBICOFF), was manager and chief sponsor. That bill, too, was an immensely important bill. It is a matter on which we have been working for a number of years. It is something that was urged by the administration, and, indeed, asked for by the administration, a measure on which we had a lot of time to talk. Yet this bill was subjected to a filibuster so that we could never get to a vote on that measure.

Finally, after having tried three times on the Consumer Protection Agency bill and being unable to halt the filibuster, we laid aside that measure.

It is interesting to note that Senators who were largely responsible for conducting the filibuster on that measure and who caused it to be laid aside are now objecting to a filibuster being conducted against the antibusing bill. This time it is just turned around. They have had their opportunity three times and the Senate has said no. It seems to me, therefore, that we ought to move on and finish the business of the Senate. And, as the Senator from Colorado pointed out, let us apply our efforts to finding solutions to the problems existing in the field of education.

I will certainly vote for the motion of the majority leader to take up other business.

The PRESIDING OFFICER (Mr. RIBICOFF). The Senator from Georgia is recognized.

Mr. GAMBRELL. Mr. President, I join the Senator from Alabama in deploring the motion to take up other business while this matter remains undisposed of.

I was interested in the comments of the Senator from Utah with respect to the consumer protection agency bill. I voted to invoke cloture on that measure. I thought that it had been discussed long enough.

I would say for the opponents of the cloture motion that a great many of them, possibly a majority, had indicated a willingness to vote the bill out and to invoke cloture, if necessary, had the bill been amended by the so-called amicus amendment. I do not say that was necessarily a good amendment. I voted for it myself. However, it would indicate a disposition on the part of the opponents of the bill and those who were, as we say, filibustering that measure, to vote for something. It offered an alternative which would certainly have been an improvement over nothing. We do not have that situation here.

There are plenty of alternatives to the pending busing bill that would offer something a little better to my State and to the State of Texas and to the State of Tennessee and to other States which have this situation existing.

I do not know whether the State of Utah has it or not. However, it is a matter of intense concern and it affects many people, black and white. More people, black and white, are opposed to the busing of schoolchildren than are in favor of a consumer bill in the form in which it was brought to the floor.

I think that to compare this with the consumer filibuster is inappropriate and inept.

I would also like to say that in the minds of those opposed to a motion to take up other legislation, the question of the leadership and our confidence in the leadership is drawn into question. And this, I am sure, will give us all some pause. It does me. I have great respect for the joint leadership, individually and collectively. But I would have to say that their handling of that particular matter during the entire session has not been what we would consider as being even-handed, as their handling of other measures has been.

I recall that when antibusing was an issue last spring, the Republican leader, the Senator from Pennsylvania (Mr. SCOTT) publicly admitted that his approach to it would be what was described as a waffle. And that, in effect, was what took place. The issue was dodged. Both of the leaders approached it in a partisan way. I think their participation in the effort to lead the partisans in watering down the bill that was before the Senate at that time somewhat raises a question as to whether they are in a position to be impartial in the handling of the pending measure.

I would say that if there was impartiality in the handling of the bill, it would have been brought up possibly at a much earlier time than during this closing hour of the session of the Congress and that it would have been permitted to remain pending at least as long as the Consumer Protection Agency bill, and that the leadership would not have been nearly as anxious to get a cloture motion filed and offer another cloture motion before the vote was had on the first cloture motion. Instead of waiting, a new cloture motion was offered.

The effort seemed to me to be one of: "Let us not let this be exposed to the air too long. It is something awful. We can read in the Washington papers every day how awful it is to be against busing. The more we expose this to the light of day, the worse it is for us to be even discussing such a wretched question as this. As to those people who are suffering from it, let them suffer. Let us not seek any reasonable alternatives. Let us not conciliate this matter. Let us just let it be exposed for a little bit of time as near to the end of the session as it can be, and if we can encourage enough Senators to believe that it will be over in 2 or 3 days, they will keep on voting against cloture and we will forget about it for several months."

But it will be back here again if there is a delayed session of this Congress after the election. And if nothing is done here then, it will break out again in January, February, March, and April, and right on until something is done about it.

So I would have to say on every score that I cannot see trying to lay aside this question, because it will not remain laid aside. We might as well settle it now, or we will have to do so later.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to take up the consideration of the supplemental appropriations bill.

Mr. MANSFIELD. Mr. President, may I say that the motion has been offered on behalf of the distinguished Republican leader and myself.

The PRESIDING OFFICER. The Senator is correct. The motion has been offered on behalf of the majority and minority leaders. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), and the Senator from Virginia (Mr. Spong) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

On this vote, the Senator from Rhode Island (Mr. Pell) is paired with the Senator from Virginia (Mr. Spong). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Virginia would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Miller) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

On this vote, the Senator from Iowa (Mr. Miller) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Iowa would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 59, nays 26, as follows:

[No. 545 Leg.]

YEAS—59

Aiken
Anderson
Bayh
Beall
Bellmon
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Church
Cooper
Cotton
Cranston
Dominick
Eagleton
Fong
Fulbright
Gravel
Hart
Hartke
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—26

Allen
Baker
Bennett
Bentsen
Brock
Byrd, Harry F., Jr.
Chiles
Dole
Eastland
Ervin
Fannin
Gambrell
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, N.C.
Long
McClellan
Roth
Sparkman
Stennis
Talmadge
Thurmond
Tower

NOT VOTING—15

Allott
Cook
Curtis
Edwards
Goldwater
Harris
Hatfield
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Pell
Spong

So the motion to proceed to the consideration of H.R. 17034 was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolutions of the Senate:

S. 2700. An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof;

S.J. Res. 247. Joint resolution extending the duration of copyright protection in certain cases; and

S.J. Res. 265. Joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3755) to amend the Airport and Airway Development Act of 1970, as amended, to increase the U.S. share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 12674) to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 10420. An act to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes; and

H.R. 15883. An act to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily—very temporarily—and that the Senate proceed to the consideration of Calendar No. 1221, H.R. 16071, an act to amend the Public Works and Economic Development Act of 1965, which I understand will not take much time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MONTOYA. Mr. President, the bill now before the Senate amends the Public Works and Economic Development Act in order to maintain and improve the activity of the Federal Government in programs designed to provide greater opportunities for persons living in the economically distressed areas of our country. The Senate version of H.R. 16071 is similar to the bill passed by the House of Representatives on August 16 by a record vote of 285 yeas to 92 nays.

The main difference is that certain of the House provisions dealing with programs currently under study by our committee have been deleted pending completion of our investigations. The bill was reported from the committee by unanimous vote, with myself and Senators RANDOLPH, COOPER, MUSKIE, JORDAN, EAGLETON, GRAVEL, TUNNEY, BENTSEN, EDWARDS, BOGGS, BAKER, DOLE, and STAFFORD voicing support for the bill.

The overwhelming plurality with which the House passed H.R. 16071 reflects an awareness of the need to improve national economic development efforts—a need further reflected in unemployment statistics. According to the Labor Department, unemployment remained at 5.5 percent in September, with close to 5 million Americans out of work. Unemployment has been at this level or higher for 22 consecutive months. How long will this Nation continue to pay this enormous cost in wasted resources and human despair?

During the Kennedy administration, an unemployment rate of 4 percent was set as the interim objective for economic policy. We must not abandon this target. In fact, the Joint Economic Committee lists an unemployment rate no higher than 3 percent as an appropriate long-run target for the United States. Is this an unattainable goal? Hardly. Industrialized countries such as Japan, Australia, and many European countries consistently maintain unemployment rates of 2 percent or less.

The programs authorized by the Public Works and Economic Development Act address themselves directly to the task of reducing unemployment. They increase aggregate demand through the creation of needed public works; and, just as important, they attack structural barriers to employment, such as inadequate training and geographic isolation. We must not endanger these tools for combating unemployment. Indeed, we must strengthen them.

The Subcommittee on Economic Development did, in fact, hold hearings throughout the country in 1971 with the expressed purpose of improving national responses to unemployment and other socio-economic problems that concern us all. During these hearings, the subcommittee visited 11 communities in seven States and heard from 231 witnesses. As the result of these hearings, I introduced legislation to establish a national development program through public works investment. Hearings on this bill (S. 3381) provided testimony for an additional 38 witnesses.

These hearings, plus the actual experiences of the Appalachian Regional Commission, the title V Regional Commissions, and the Economic Development Administration, lead me to believe that sound and coordinated public works investment programs would go a long way in fostering proper and reasoned social, economic, and environmental development. I know that the Committee on Public Works will continue to pursue ways to improve the development process at the local, State, and Federal levels, but in the interim we cannot risk losing the tools now available. We first must have better tools and better programs at all levels of our society. For this reason, I support the bill before us today (H.R. 16071).

This bill would continue the Federal effort to reduce unemployment and increase economic opportunity in the so-called "lagging" areas of our country by extending existing programs under the Public Works and Economic Development Act for an additional fiscal year, to June 30, 1974. In general terms, these programs include public facility grants and loans, business loans and guarantees, and technical and long-range planning assistance.

In order to improve the administration and clarify the public facility grants, title I has been separated into two distinct programs, each with its own set of criteria and appropriations. First, the bill maintains the original objective of this legislation by providing public works grants to stimulate long-term economic development. This portion of the bill is authorized at $550 million per fiscal year. Second, the bill separates the 1971 "public works impact program," which was developed to provide immediate useful work on an emergency basis. This program will now be authorized at $250 million per fiscal year. Thus, total grant and supplemental grant authorizations remain unchanged under title I at $800 million per fiscal year.

Maintenance of present authorization levels is not to be interpreted as satisfaction with current funding levels for these programs in general or for the public works impact program in particular. Less than $50 million was expended for this program during fiscal year 1972, despite the fact that unemployment has remained virtually unchanged from the 5-million level of April 1971, and the Presidential veto of a large-scale accelerated public works program. Unemployment in the construction industry remains particularly unacceptable at 9.2 percent in September compared with 9.6 percent in April 1971, and 9.7 percent in September 1971. Despite inadequate funding, the impact program created an estimated 11,000 jobs last year.

The only increase in authorizations under the Senate version of H.R. 16071 would be for the title V—Regional Action Planning Commissions. New authorizations for the Commissions would be $407.5 million for fiscal year 1973. Total authorization for the Commissions would thus be $560 million per year for fiscal year 1973 and 1974.

The increase of $407.5 million would increase total authorizations under the act from $1.22 billion per year to $1.63 billion, or $3.26 billion for 2 fiscal years.

Currently, funds are appropriated to the Secretary of Commerce for distribution among the Regional Commissions. The bill would authorize appropriations directly to the Commissions, with $100 million for each of the Commissions that have approved long-range plans and $20 million for each of those that have not. To date, four Commissions have approved plans: Coastal Plains, Four Corners, Ozarks, and Upper Great Lakes. The New England Regional Commission has completed its plan and approval is expected in a matter of days.

The bill authorizes the appropriation of $20 million per year for each of the two new Regional Commissions: the Old West Region and the Pacific Northwest Region. In addition, a new Indian Commission established by this bill would also receive the $20-million per year authorization.

In the past, each of the original five Commissions has operated with a budget in the neighborhood of $6 to $7 million per year. This amount may have been appropriate during the planning stage, but now these Commissions are prepared to be of additional assistance to their regions—regions that would find it extremely difficult if not impossible to implement development plans on their own. Increased appropriations to the title V Commissions would provide tremendous economic leverage for the less fortunate areas of our country.

As mentioned previously, the bill would create a new Indian Development Commission, to be composed of one Federal cochairman and up to 10 designated group representatives. All tribes, bands, and other groups of Indians and Alaska natives—including Indians under State jurisdiction—would be eligible to participate in the activities of the Commission.

I emphasize that this Commission would not replace any existing program for Indians. It would act as a focal point for the planning and coordination of Federal programs to improve their effectiveness to the Indian people. It would provide a mechanism by which Indians from every part of the land could provide their own unique input into developing acceptable methods for solving particular needs.

There is little need to demonstrate the serious economic plight that exists in most of our Indian communities. I am certain that all of my colleagues are aware of this plight. For the record, however, I would like to cite the serious economic conditions that exist in my State of New Mexico. In Acoma Pueblo, the unemployment rate is 28 percent. It is 60 percent at the Alamo Reservation and 50 percent at Canoncito Reservation. Median family income is $2,200 at Isleta Pueblo, located just outside of Albuquerque, and unemployment is 26 percent there. Unemployment is 58 percent at Jemez Pueblo, 47 percent at Laguna Pueblo, and 69 percent at the Mescalero Reservation. Median family income at San Ildefonso Pueblo, near the State capital of Santa Fe, is $1,800. This is the economic picture for Indians in New Mexico. The situation is similar elsewhere. Can there be any question about the need for additional economic assistance for these people?

Three provisions in H.R. 16071 are designed to help the Economic Development Administration provide more equitable support to the local communities that suffer from economic hardship. First, the Secretary of Commerce will be granted the discretion to waive all or any part of the local matching share if he determines that the community in question does not possess the financial capability to provide matching funds. Second, Indian tribes will no longer have to spend limited tribal funds for the otherwise required 25-percent matching contribution for technical assistance.

A third provision authorizes the Secretary to make grants for the operation of vocational training facilities constructed with EDA funds. Such grants may make up 75 percent of total operating costs for a 2-year period. Funds for this purpose are not to exceed $15 million per year.

Several provisions are set forth to maintain or strengthen EDA's program in areas that have not yet completely reached economic viability. The moratorium on the dedesignation of redevelopment areas is further extended to June 1, 1974, to allow initiated programs to be brought to fruition.

Assistance to nonredevelopment areas within a district will be permitted if such assistance is of substantial direct benefit to a redevelopment area in that district. Finally, to assure consistency in the planning process, districts wholly or partially within a title V Commission or the Appalachian Regional Commission will be required to furnish their long-range development plans to that Commission.

Mr. President, I have discussed the features of the bill before us. It warrants our support, and I urge the Senate to adopt this legislation.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MONTOYA. I yield to the distinguished Senator from West Virginia, the chairman of the Committee on Public Works.

Mr. RANDOLPH. Mr. President, the able chairman of our Subcommittee on Economic Development has, with all the members of the subcommittee as well as all the members of the committee, given very careful attenion to the situation that exists now, as we come to the closing days of the 92d Congress.

I believe that the Senator from Kentucky (Mr. Cooper), who has been intimately involved with this program, wishes, as do all of us, to accept, as the Senator from New Mexico has indicated, those provisions on which the House and the Senate are in agreement. I ask the Senator, is that correct?

Mr. COOPER. Yes. I would like 2 or 3 minutes to state my position, if I may.

Mr. RANDOLPH. Yes. I would simply close by saying I believe we can act here in a way whereby we will preserve and stimulate certain programs without having a difficult time in conference.

Mr. COOPER. Mr. President, I might say that under the able leadership of the Senator from New Mexico (Mr. Montoya) chairman of the Economic Development Subcommittee and the chairman of the Public Works Committee (Mr. Randolph) we have been developing, in committee, new comprehensive public works and economic development program and a bill, S. 3381, was introduced in March by Senator Montoya, cosponsored by Senator Randolph and myself. As Senators know, it is based somewhat upon the Appalachian Regional Development Act and the title V Regional Commissions and our committee's experience with these programs.

At present there are four regional commissions which have completed comprehensive plans as required under the act and the New England Regional Commission has recently submitted a plan for approval to the Secretary of Commerce. Under the committee bill $100 million a year will be authorized for the activities of these five regional commissions, and for the newly established commissions which do not have comprehensive plans the bill authorizes $20 million per year.

The House of Representatives sent to the Senate a bill which, in addition to extending the Public Works and Development Act, authorized a half-billion dollar accelerated public works program. The committee went through this problem last year when the President vetoed a larger accelerated public works program. After lengthy conferences with the House of Representatives, we agreed upon a smaller program—the public works impact program—which was signed into law August 5, 1971, as part of the Public Works and Economic Development Act. This year we have talked with the members of the House Public Works Committee, particularly the chairman, Representative Blatnik, and sought his assurances that the House would not seek to increase the funds—$250 million per year authorized in the Senate bill—for accumulated public works and would not try to make the economic development program, which is a good program, a bill for public works employment. In committee, both sides agreed to develop the bill in this fashion.

I want to make it clear, however, that if in conference—if there is a conference—there should be any change from the authorization and programs which are outlined in the bill as brought before us by the distinguished Senator from New Mexico, I would oppose it in the conference, and if it came on the floor as a conference report, I would do my best to see that it was not enacted.

I take this position to protect the work of the committee and in support of the existing programs.

I pay tribute to Senator Montoya, who has fostered and developed, chiefly by his own initiative and by hearings throughout the country, a more comprehensive and improved program which I believe will lead to the better development of these regions. I am wholly in accord with that initiative, and therefore I support the reduced Senate amendment to H.R. 16071, extending the EDA another year and giving the committee time to complete work on the new proposal.

I ask unanimous consent to have printed in the Record at this point my supplemental views as stated in the committee report.

There being no objection, the excerpt from the report (No. 92–1277) was ordered to be printed in the Record, as follows:

Supplemental Views of Mr. Cooper

The House of Representatives passed on August 17, 1972, and sent to the Senate H.R. 16071, a bill extending the Public Works and Economic Development Act of 1965 for an additional year (through fiscal year 1974). The House bill also made susbtantive policy and program changes in existing law; exeffect, a somewhat smaller version of the accelerated public works program vetoed by the President on June 29, 1971); and authorized increased funding for the Title V Regional Commissions. As the House bill came to the Senate so late in the session, while both bodies were pressed to complete legislation requiring attention this year, the Senate Committee did not have an opportunity to hold hearings on the House proposals. In fact, extension of the EDA act is not urgent, because the existing authorities do not expire until June 30, 1973. And it seemed to me, and others, that these proposals deserved hearings and careful attention, which could only be given to them next year.

Following our discussions in the Committee of the problems involved, and under the guidance of our Chairman, Senator Randolph, the Committee on Public Works has reported a reduced version of the House bill, which I join in recommending to the Senate. I would hope very much that attempts will not be made to expand the bill beyond the amounts and provisions which the Public Works Committee has now agreed to present to the Senate.

The Committee amendment extending EDA authorizations through fiscal year 1974 will permit the continuation of existing programs while new economic development legislation is being considered next year. It omits Title VIII of the House bill; reduces authorizations proposed by the House for the accelerated public works program from $500 million to $250 million; and omits most of the substantive amendments proposed in the House bill. The Senate amendment retains the House provisions for a moratorium on redesignation of redevelopment areas, provides additional funding for the Title V regional commissions, and authorizes the creation of a new Indian Commission under Title V. In my view, a simple extension of existing law would be better, but I have not objected to the several House amendments which were advanced and included in the Senate amendment.

I want to make the observation that several of the amendments proposed by the House may well have merit. However, I oppose basic changes in existing law at this time because I know the efforts and good work of the Senate Subcommittee on Economic Development toward developing more comprehensive and improved legislation. That Subcommittee held 14 days of field hearings last year. Based on the hearing record, Senator Montoya in March introduced S. 3381, a bill cosponsored by the Chairman of the Public Works Committee, Senator Randolph, and myself. Five days of hearings were then held in Washington—and based on this work, I am confident that responsible legislative proposals will be presented by the Committee to the Senate early next year.

A second reason to reject the House version of H.R. 16071, is that it authorized a new and little-considered program to extend unemployment compensation and other forms of assistance to individuals out of work due to the application of Federal environmental quality standards, and to assist businesses in the purchase or modification of facilities necessary to meet environmental standards. The Air and Water Pollution Control Subcommittee, on which I serve, is familiar with this subject, and we are deeply concerned about the possible effects of pollution controls. The Subcommittee last year held three days of hearings on economic dislocations caused by environmental legislation, which the House Public Works Committee has not done. We have found this a difficult, complex problem; legislation dealing with it must be carefully constructed. Further, I do not believe that the Economic Development Administration or an EDA bill is the proper place to deal with this problem. The ED program is a good program, it has assisted many communities in building public works and creating jobs, and it should not be burdened with unrelated legislation.

Because of my concern with the nature and scope of the proposals sent to us so late in the session by the House, and my desire that any bill enacted by the Senate be helpful and acceptable, I asked the Office of Management and Budget for its views on the House bill. I will request that Mr. Weinberger's response be printed in this Report at the close of my views.

As I have said, I support H.R. 16071 as reduced and reported by the Senate Committee. I strongly support adequate funding for the Regional Commissions, as I know does the Committee as a whole, for we believe they represent a very hopeful structure upon which to build. But I will oppose any attempt to further increase the accelerated public works or other amounts provided in the Committee amendment, to include substantive program or policy changes, or to add any new programs unrelated to the objectives and programs of the Public Works and Economic Development Act. I take this position both in support of the existing program, and to protect the work of the Committee.

John Sherman Cooper.

Mr. MONTOYA. Mr. President, I thank the distinguished Senator from Kentucky for his kind references to me. I must say that he has provided a great input into this legislation, and great leadership. As the ranking Republican member of the Committee on Public Works, he has certainly contributed materially to the proposed concept, not only this year but in years past, when we had just a bare skeleton act.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. MONTOYA. I am happy to yield to the distinguished Senator from Vermont.

Mr. AIKEN. Has the committee made a thorough and complete study of the operations of the regional commissions, including the use of the funds which have been appropriated for them each year?

The reason I ask is because the Boston Globe has recently published what amounts to four full pages setting forth what it seems to consider a colossal boondoggle in the New England Commission; and I understand that the other commissions are operating in a similar manner.

Does the Senator know how Governors spend the money allocated to them? Does the committee have a report? We ought not to multiply that fund until we know what they have done with what they have had.

Mr. MONTOYA. I might say to the distinguished Senator from Vermont that if that article appeared in the Boston Globe, the amount represented was only about $6 million, because that is all that the Commission received.

The moneys are allocated by the Regional Committee, which is comprised of Governor members of that Regional Commission.

Mr. AIKEN. But if the Governor gets an allocation of so much to do as he pleases with, and one New England Governor, I understand, is now asking for a big increase in the allocation to the Governors——

Mr. MONTOYA. Well, the local members of the Regional Commission, who are the Governors of the member States which are within the geographical area of the particular Commission, are the ones who make the decision, subject to the approval of a Federal watchman who is resident here in Washington.

Mr. AIKEN. That is right; I know about that.

Mr. MONTOYA. I might say to my good friend from Vermont that we spent many hours in hearings trying to elicit from the Commissions how they have spent their funds.

Mr. AIKEN. Did the committee find out?

Mr. MONTOYA. Yes, we found out.

Mr. AIKEN. How can we Members of the Senate find out?

Mr. MONTOYA. We have the hearings record, which is available to the Senator, as to how they spent these funds, and we are also trying to provide that they have meaningful projects and file proper planning reports with the committee and make them available to our staffs, so that we can, in turn, judge the validity of such planning and whether or not it is directed toward economic development.

We will continue, may I say to the Senator from Vermont, to have oversight hearings as to the expenditure of these funds.

Mr. AIKEN. But I understand the official authorizing legislation does not expire until June 30, 1973.

Mr. MONTOYA. That is correct.

Mr. AIKEN. What is the hurry in getting this through now?

Mr. MONTOYA. Well, we are extending the act for 1 more year, and it is customary to do so at this early point, so as to provide for additional lead time.

Mr. AIKEN. The measure is strongly opposed by the administration; is that correct?

Mr. MONTOYA. I do not think it is opposed by the administration.

Mr. AIKEN. I was just reading a letter from Caspar Weinberger on page 13 of the committee report, the last paragraph.

Mr. MONTOYA. No, the administration was opposed to the bill that was passed by the House.

We had these people before our committee, and they indicated no opposition to the bill as the Senate was recommending. We have restricted the House bill considerably.

Mr. AIKEN. I notice that there are several minority reports here—from Senator Cooper, Senator Baker. I do not understand why the matter should be brought up right now. As the authorization does not expire until June 30, 1973.

Does the Senator understand that a full-scale investigation of the way these commissions are operating is likely to come about in the near future? The Boston Globe certainly indicates that one is in order. The work of the commissions may not be all bad. They may have done some things wrong, but I feel they are not all wrong all the time.

Mr. MONTOYA. I will always welcome an investigation, if anything is wrong.

I might say to the Senator from Vermont that Senator Cooper is not against this bill. He has indicated that he is for it as it came out of the committee.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. MONTOYA. I yield.

Mr. COOPER. I know that simply because I am for the bill, does not mean that the Senator from Vermont will be for it.

I point out that on pages 12 and 13 of the committee report, 92–1277, is a letter from Caspar W. Weinberger, Director of the Office of Management and Budget, in response to my request for OMB's comments on the bill which was passed by the House. As I stated earlier, I opposed the House version of the bill in the committee because it included a large accelerated public works program—similar to the program vetoed last year—which would change the whole direction of the EDA and make it a public works employment bill. A second reason I opposed the House bill is that it authorized a new and little-considered program to extend unemployment compensation and other forms of assistance to individuals out of work due to the application of Federal environmental quality standards, and to assist businesses in the purchase or modification of facilities necessary to meet environmental standards.

I said I would oppose the House bill, and I may say that Senator Montoya and Senator Randolph agreed to limit the bill to the programs and sums as reported.

It is correct that there are five of these regional commissions. One of them includes the New England States. The commissions are made up of the Governors, with a Federal member who is cochairman and who is responsible to the Secretary of Commerce.

After these comprehensive plans and program recommendations are made by the Commission, they are submitted to the Department of Commerce, and the final decision and approval is made by the Department of Commerce and by the administration and by the Bureau of the Budget.

Our bill authorizes $100 million for commissions with approved plans. We have no assurance that the authorization will be recommended by the administration or that it will be appropriated, but there is a process for examination of the work of these commissions.

Senator Montoya said he has held extensive hearings in each of these commissions to ascertain what the plans are and what they have done with the money.

Mr. AIKEN. I was wondering why it was found necessary to give the Governor of each State so many hundreds of thousands of dollars to spend as he wishes and what accounting there is to the Congress for the way these funds are spent?

I understand that the Governor of Vermont—although I have not checked it—has not yet spent a $125,000 allocation which was approved at a recent meeting of the New England Regional Commission. I also understand that the Governor of another New England State is asking for a big increase in the allocation to the Governors. I have not had a chance to check that, either, because I only got the information this morning.

It seems to me that if this bill is passed now and what some of us fear comes to pass, the Senate will be in for an awful lot of justifiable criticism. I do not say the work of the Commission is all bad. I just say that we cannot be too careful at this time of year.

Mr. MONTOYA. The Governor of Vermont testified before our committee and approved the legislation.

Mr. AIKEN. That is right. He is the State cochairman this year. Next year another State has it, and the next year another State has it.

Mr. MONTOYA. I say to the Senator from Vermont that the subcommittee of which I am chairman has endeavored to have oversight hearings as to expenditure of these funds, and we have even imposed very strict conditions in these hearings so that they will not go overboard in the expenditure of these funds.

Mr. AIKEN. I think they need a little more watching than they have had up to now.

Mr. MONTOYA. Much of the money which has gone into these commissions has been put to good use. In my State, for example, we have been able to build vocational schools through these funds—schools that would not have been built by the local school boards because they were diverting their revenue toward teachers' salaries and administration and conventional education. Because of EDA, we were able to provide substantial moneys for the building of vocational schools; and as a result of the first vocational schools we built, the rest of the State now, through local funding, is building vocational schools.

Mr. AIKEN. There is no question that the money could be used to good advantage, for beneficial purposes, much better than if it is used to pay rather large salaries to a lot of employees who reportedly do not have much to do.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MONTOYA. I yield.

Mr. RANDOLPH. If I might be permitted to comment, I think the able Senator from Vermont correctly calls our attention to the need for a very close scrutiny of these programs within the commissions.

Mr. AIKEN. Better scrutiny.

Mr. RANDOLPH. Yes, better.

Mr. AIKEN. Much better.

Mr. RANDOLPH. I feel that this should be made part of the RECORD: We do know that the projects do not originate in Washington, where the people do not know the need for the projects. The projects originate within the States embraced within a developmental area. For that reason, I think that basically the legislation is good—the regional approach—and I think the caution which the Senator from Vermont has given us today is very much in the thinking of the Senator from New Mexico and other Members of the Senate, as well as the committee.

Mr. AIKEN. I have not seen the House bill. I have only had the committee's report in the last 15 minutes. I have been receiving rather poor reports, however, from different parts of the country as to the operation of these Commissions. I happened to open the report at Caspar Weinberger's letter to Senator COOPER, and there was not much enthusiasm in his comments.

I assume that if a final bill is arrived at with the House and is sent to the President, if he finds it objectionable, he will not sign it. I do think that these Commissions have gone on too far without closer observation.

Mr. MONTOYA. I say to the Senator from Vermont, with respect to his comments about high salaries, and so forth, that I had extensive hearings to make sure that the administrative cost would be in line with frugality and good discretion.

For example, in Appalachia, which is a billion-dollar operation, the administrative cost is a little less than 2 percent. I tried to apply the same principle with respect to the regional commissions and did go into their administrative costs thoroughly. I even issued warnings during the course of the hearings that I was going to monitor their expenditures to make sure that the communities got the money and not these individuals who wanted to place themselves in high salaries.

Mr. AIKEN. As I understand it, the average salary for each Federal cochairmen has been about $36,000 or $37,000 a year, and the cost of his assistant runs $20,000 or $30,000. Is that about right?

Mr. MONTOYA. The Federal cochairmen.

Mr. AIKEN. That is about the same as the staffs in the Senate, so far as that goes. It may be too much; it may be not enough.

As I say, I picked this up 15 minutes ago. Perhaps I opened it at the wrong page. But it tied in with the reports I have been getting in the last 2 or 3 days.

Mr. FANNIN. Mr. President, will the Senator yield for a question?

Mr. MONTOYA. I yield.

Mr. FANNIN. I should like to ask the Senator this question: The bill refers to a report by Senator MONTOYA, with an amendment. Now, as I understand it—and correct me if I am wrong—the amendment offered by the Senator from New Mexico would establish an Indian Development Commission. Is that correct?

Mr. MONTOYA. That is correct.

Mr. FANNIN. I certainly am opposed to that, based on several considerations. First, with the start of the program, I doubt that any benefits would accrue from such a Commission. Second, the proposal has not had any adequate study nor any House hearings, is that right?

Mr. MONTOYA. There have been no House hearings, but the Senate did conduct lengthy hearings.

Mr. FANNIN. We have heard from a cross section of Indian leaders who are opposed to it. As the Senator knows, there are more Indians in Arizona than in any other State and we have had successful operation of programs on the reservations in Arizona.

An attempt to provide a nationwide Indian program as part of a concept which has been operated to date on a regional basis would create an administrative nightmare.

Third, establishment of an all-Indian program would tend to further divide rather than to integrate Indians into the mainstream of American economic life. The all too sharp line between State government and the Indian reservations would become even more rigid.

And finally, in our States of Arizona, Utah, Colorado, and New Mexico, we already have the Four Corners Regional Commission which is doing an excellent job of aiding Indian economic development.

I do not understand why we would establish this new commission when about 40 percent of the planned money will go to Indian reservations.

Mr. MONTOYA. I cannot give the Senator the percentage figure but I might tell him that the Four Corners Commission is administered by the governors, as he knows. The Four Corners Commission does not deal with economic development projects within the Indian reservations. EDA has made grants to Indian reservations but the EDA personnel have dealt with the Indians direct through their regional offices.

Mr. FANNIN. The Commission is very much involved in economic development on the reservations.

Before we consider establishing an Indian Development Commission, we should have a chance to hear from Indian leaders, from State and local officials where reservations are located, and from those people who are operating the development commissions we already have established.

For example, there are more than a dozen large Indian reservations within my State, and I do not recall one Indian leader contacting me personally to urge creation of a separate Indian development commission. This would indicate to me that either the Indian leaders are unaware of the proposal, or else they feel no great enthusiasm for it.

I do know that the Governors of Arizona and New Mexico oppose the proposal.

Gov. Jack Williams sent me the following telegram:

> In our experience the Four Corners Commission has proved to be an excellent vehicle for assisting Indian Reservation Development. The proposed amendment to H.R. 16017 to establish a separate Indian development commission would impede the progress of Arizona Indians toward self-sufficiency and destroy much of the momentum already generated. Rather than aiding the Indians in becoming full fledged citizens, this proposal encourages a separatism that encourages divisiveness. The cost benefit ratio that such a commission would attain would be far below the Four Corners Commission. Will you do what you can to prevent the passage of this amendment.

New Mexico's Governor, Bruce King, made the following statement last April to the Subcommittee on Economic Development of the Committee on Public Works:

> As Governor of the State of New Mexico and State cochairman of the Four Corners Regional Commission, I cannot support the provisions of this act to establish an Indian development commission.

Governor King, in his statement prepared for the subcommittee, went on to say that he saw many potential problems in the creation of a new Indian Development Commission.

One of the problems would be in the administration of such a program which stretches from coast to coast. We established the regional commission concept with the idea that economic problems could be best attacked by decentralized agencies concentrating on improving given areas—such as Appalachia or the Four Corners. Congress recognized the fact that an official sitting in Washington might not have the expertise nor the understanding to help improve the economic conditions in the Far West or elsewhere. It also was decided—very wisely—that State governments should play a very strong role in this program.

Now we are being asked to take this regional concept and stretch it so that we can create a new agency which will deal with economic problems of reservations which differ greatly in geography and resources. We are perverting a concept which, although still in infancy, has had some remarkable success and shows great promise. We are being asked to superimpose another Bureau of Indian Affairs on the country.

I fail to see how this Commission could provide any kind of program which would be viewed as equitably by the many tribes in the Nation.

Mr. President, the Nixon administration has pursued a policy of self-determination without termination for the Indians. This means that our Indians are encouraged to find their own place within our system, but that they are to function as a part of our system. I reject any program, for the Indians or any other minority, which may serve to segregate that minority from the rest of America.

We already have a system whereby State governments and Indian reservations have somewhat the relationship of foreign nations. State governments are powerless to collect certain taxes or to enforce many State laws on reservation lands. State governments are virtually powerless to establish programs which could be beneficial to reservation Indians.

The Regional Commission integrates the economic interests of the States, the Indians, and the Federal Government. It is one of the few mechanisms today where the State government is a coequal with the Federal Government in charting programs which will benefit entire areas.

As a former Governor, I believe this is a giant step forward.

This serves as a catalyst which can lead to the solution of other problems caused by the cloudy relationship of the State and the Indian reservation.

If we suddenly yank the Indian reservations out of the Regional Commissions that are now established and put them in a new Commission, it will serve to fortify rather than diminish the barriers between Indians and the American mainstream.

Mr. President, I think it would be a great mistake to wreck the work of the Four Corners Regional Commission which has accomplished so much. The Commission has shown great initiative in maximizing its relatively modest budget—something which is rare in government.

I would point to the innovative excess/surplus property program which the Four Corners Commission launched this year. The agency found that one way to solve the problems in the area is to locate excess or surplus Government property which can be put to work in poverty areas.

Consequently, the Commission has located and acquired $4.5 million in excess/surplus property for use on Indian reservations. This equipment has included such things as school supplies, desks, drill presses, typewriters, street sweepers, road graders, cranes, and irrigation pipe. This is equipment which was going to waste in Government storage.

As a result of this program, 252 new jobs have been created for Indians since last July 1.

In addition to the direct job benefits, it is estimated that the program produced 200 indirect jobs last year, and that it may produce as many as 1,000 this year.

The total cost to the Commission for this program is only $50,000 per year—the salary and travel costs of two staff persons.

Mr. President, I do not know of any Federal programs where we are creating jobs for less than $300.

The Commission is keenly aware of the problems faced by the Indians. There are 183,000 Indians in the region, most of them on reservations in Arizona and New Mexico. This is about 40 percent of the Indian population in America. This in itself is a large area with about seven persons per square mile on the large reservations. The Navajo Reservation alone is bigger than the entire State of New Jersey. So we already have a vast area involved—an area that is maximum size for really effective administration.

The Commission has a 4-year development program which is aimed largely at improving job opportunities for the Indians and for Spanish Americans. More than 60 percent of the program's money will go toward improving economic conditions for the Indians and Spanish Americans.

The Commission has requested $180 million for Indian projects during its first 4-year development program. This is 36 percent of the Federal program money requested. A large portion of this—$114 million—would be used to build new highways which are essential to the economic future of the vast and remote reservations. There must be a way to get Indians to and from jobs, and a means to get jobs to them.

During the past 5 years the Four Corners Regional Commission has made supplemental grants of just over $1 million to Indians, but this has provided the leverage for more than $15.5 million in total grant funds. Commission grants for technical assistance have totaled just under $1.2 million, but this has provided the leverage for almost $5 million in grants for Indians.

The Commission has done its job with remarkable efficiency and economy. Administration costs as a percentage of program costs have been lowered from about 22 percent in 1969 to 4½ percent at the present. The staff has been cut from 27 to 19 during the past 3 years.

Governor King has stated that although the appropriation level for fiscal 1972 remained approximately constant from the prior year, the service to the region actually doubled.

Mr. President, the staff of the Commission includes two minority development officers who have proven credentials in this area. They are providing innovative and effective programs for the Indians.

The mission of the regional commissions is to help people help themselves so that all may share in the wealth of America. The Commission is performing this task and there are testimonials to this.

The vice chairman of the Navajo Tribe, Mr. Wilson Skeet, made a recent statement which read:

> We have found that the Four Corners Regional Commission has been extremely effective in bridging the gap between the many Federal agencies that we must deal with. Their contracts and working relations with ASC, BIA, Bureau of Reclamation, OEO, and others have been of great assistance to us.

The general manager of the Fort Apache Timber Co., Mr. Hal Butler, has said:

> The Commission's assistance in obtaining excess government property for use of Tribal Enterprises has also been of immeasurable help to this enterprise alone as it has been instrumental in creating many additional jobs for Apache people. It would have been several years before we would have been financially able to purchase this equipment.

Mr. President, there are other testimonials that I could include in the Record, but I believe the point has been made.

In conclusion, I only want to reemphasize that I believe the regional concept to aid underdeveloped areas is a good one. It provides for the integration of the people and the economy of the area. It provides an administrative apparatus that can deal effectively with the problems within that area.

I believe that establishment of a separate Indian development commission is administratively unsound and that it will serve to isolate rather than integrate the Indian reservations as a part of our economic and political system.

I strongly urge defeat of the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from the Governor of Arizona. I am sure that there are many others besides the Governors who feel the same way.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

PHOENIX, ARIZ., *October 7, 1972.*

Hon. PAUL FANNIN,
U.S. Senator,
Senate Office Building,
Washington, D.C.

In our experience the Four Corners Commission has proved to be an excellent vehicle for assisting Indian reservation development. The proposed amendment to H.R. 16071 to establish a separate Indian Development Commission would impede the progress of Arizona Indians toward self-sufficiency and destroy much of the momentum already generated. Rather than aiding the Indians in becoming full fledged citizens, this proposal encourages a separatism that encourages divisiveness. The cost benefit ratio that such a commission would attain would be far below the Four Corners Commission.

Will you do what you can to prevent the passage of this amendment?

JACK WILLIAMS,
Governor of Arizona.

Mr. FANNIN. The telegram is from the Governor of Arizona, the Honorable Jack Williams.

Mr. President, I certainly oppose this amendment in its present form. It came over from the House. They had hearings, but they have not had hearings on the establishment of the Indian Development Commission. It certainly would be very unfair to our Indian people, as well as to the Federal Government, if we continue the practice of trying to segregate, rather than integrate. these fine people of this country.

Mr. JAVITS. Mr. President, I ask unanimous consent that Mr. Eugene Mittleman and Mr. John Scales be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONTOYA. Mr. President, before I answer the Senator from Arizona, I ask unanimous consent that during the consideration of this bill the following staff members from the Committee on Public Works be permitted on the floor: Mr. M. Barry Meyer, Mr. Philip T. Cummings, Mr. Bailey Guard, Mr. A. David Sandoval, and Mrs. Judy Parente.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONTOYA. Mr. President, I have consulted with most of the Indian leaders in my State with respect to this subject. They are urging the establishment of a National Commission. I do not recall whether the Navahos testified at the hearings with respect to the establishment of the Indian Development Commission. I cannot answer that question right now. But certainly I have discussed it openly for some months.

Now the Senator from Arizona makes a big point out of an allocation of $50,000 to the Four Corners. That is the first I knew that the Four Corners Commission received an allocation for the Indians.

The point I want to make is that the regional commission in New Mexico, located at Farmington—the Four Corners Regional Commission—was comprised of the Four Corners of the States. They have dealt within the limitations of the $6 million in the communities outside of reservations.

The only projects that I know of for which the Indians have gotten any money are those projects under the EDA granting authority, where they have applied for grants from the Economic Development Administration. They have done this on a separate basis; they have not done it through the regional commission.

Mr. FANNIN. More than 60 percent of the programed money will go toward improving the economic conditions of Indians and Spanish-Americans, and approximately 40 percent—not 60 percent—of programed money will be involved in that program.

Mr. MONTOYA. If the Senator will specify the grants made by the Four Corners Commission, other than the $50,000, I am willing to be elucidated.

Mr. FANNIN. There are many, I will say to the distinguished manager of the bill. I was not notified of what was going to be involved in this matter until just a few days ago, but I know there has been an absolute unanimity of opposition from the tribes in the State of Arizona.

I have the telegram that I just referred to, addressed to me from the White Mountain Apache Tribe. It is the second largest tribe in the State of Arizona. The largest tribe is the Navaho, and it covers a large portion of New Mexico.

Mr. MONTOYA. Half the tribe is in New Mexico.

Mr. FANNIN. That is right, and they are opposed to it.

Mr. MONTOYA. If we are going to speak of the Navaho Tribe, they deal directly with Washington. They actually do not need an Indian commission themselves.

Mr. FANNIN. The Navaho Tribe is opposed to this legislation.

Mr. MONTOYA. They deal directly with Washington. They are receiving over $100 million from the Federal Government right now, because they have a governmental structure of their own and they make applications to different agencies in Washington.

But what about the Pueblos and what about the other reservations in other parts of this country? They have no liaison. They have no internal structure.

Mr. FANNIN. The Senator knows better than that. The Senator knows they have. They certainly do.

Mr. MONTOYA. The Senator did not permit me to finish.

Mr. FANNIN. All reservations in Arizona do.

Mr. MONTOYA. I said they cannot afford the kind of internal structure which would enable them to come to Washington, as the Navahos do.

Mr. FANNIN. I was going to say, I have representatives of four or five tribes in my office every month.

I am sure the Senator knows that they have been coming in. The Hopis have been in; and the Navahos, the Apaches, the Havasupai, the Yavapai were all in my office within the last month.

Mr. MONTOYA. May I say to the Senator from Arizona that for over 200 years we have been saying to the Indians of America, "Let the BIA take care of you. Let the BIA direct you into self-determination and economic independence."

That theory and the theory espoused by the Senator from Arizona have not worked, which is why I want to provide a mechanism for an Indian development commission, so that the Indians themselves may provide the input collectively, with the advice of the Federal Government, with the advice of a Federal cochairman. That is the issue here.

What the Senator is espousing has not worked for the Indians. We must innovate. We must develop new concepts.

We must give them a part in decisionmaking, and that is what this legislation provides.

Mr. FANNIN. Will the Senator yield?

Mr. MONTOYA. I yield.

Mr. FANNIN. The largest tribe in the State of New Mexico is the Navaho Tribe. Have the Navahos supported this program?

Mr. MONTOYA. Yes, they have.

Mr. FANNIN. I have word from the Navahos that they did not vote for it.

Let me ask: Did Chairman Peter MacDonald support this program?

Mr. MONTOYA. Chairman MacDonald supported it, but Chairman MacDonald testified in the other hearings, concerning S. 3381.

Mr. FANNIN. Well, I have the testimony in which the vice chairman opposed it and the vice chairman was acting for the chairman.

Mr. MONTOYA. I am advised that Chairman MacDonald did approve this concept.

Mr. FANNIN. Did Wilson Skeet testify in behalf of Chairman MacDonald?

Mr. MONTOYA. I do not recall that he did. And I know Mr. Skeet.

Mr. FANNIN. The point is that we have a telegram from the second largest tribe in Arizona. We are talking about numbers of individuals. When we talk about the Navahos and Apaches, we are talking about a good percentage of the Indian people of that area. They are opposed to this.

Mr. MONTOYA. We have 50,000 Pueblos in New Mexico.

Mr. FANNIN. We have some 30,000. The largest tribe in the Nation is the Navaho Tribe.

Mr. MONTOYA. We have 110,000 Indians in New Mexico. I think I am as qualified to speak for the Indians as the Senator from Arizona.

Mr. FANNIN. They give us credit for 90,000. I have never heard that figure. I do not question the Senator. The Indians do not want to be in this program. They do not want this change. This is a duplication. We already have one BIA. Why have another?

Mr. MONTOYA. I disagree with the Senator. The Indians of New Mexico came to see me, and other Indians have said they are for this program.

Mr. FANNIN. I am the ranking member on the Republican side of the Committee on Indian Affairs. Not one single person from New Mexico came into my office and contacted me in support of this program. I realize this is public works. But at the same time if the Senator thinks the Indians favor the program, you would think I would have heard about it, but to date not one single Indian has contacted me favoring the program. I think it is a terrible mistake to impose something on them they do not want. We are trying to bring them forward and instead this would be a step backwards.

Mr. MONTOYA. The Senator from Arizona said the Indians are not for this program. We have testimony in the record that they are for it. Who was right?

Mr. FANNIN. A few tribes in New Mexico. I do not know any who are for it. Where is the record?

Mr. MONTOYA. I have it here.

Mr. FANNIN. I do not have it. Copies are not on our desks, are they? Did the Bureau of Indian Affairs testify in favor of this program?

Mr. MONTOYA. I do not think we asked the Bureau of Indian Affairs to testify.

Mr. FANNIN. Is there any way we could get any information about this? I think to bring it up like this is very unfair. We do not have the hearing record or any information. All we have are contentions from the Governors and the Indian tribes that they do not want the program. That is all the record I have.

Mr. MONTOYA. If the Senator will bear with me, I wish to read from the record of hearings now.

Mr. FANNIN. Fine.

Mr. MONTOYA. I am reading from the testimony of Peter McDonald, chairman, Navaho Tribal Council. I quote from page 258 of the hearings.

Mr. FANNIN. Is there a way additional copies of the hearings can be made available?

I would just say this, as far as the bill is concerned. Chairman McDonald is testifying on the bill. When they understand the full ramifications of such an Indian commission and what it would do, they would start sending more telegrams. They do not want this legislation.

I wish to correct a statement made by the Senator. I do not say he is wrong. He said $50,000 is all the money he knew had been spent. I wish to inform him that during 1972 $708,000 was spent on Indian programs from the Four Corners Commission. Thus this is 22 percent of the program money spent by Arizona and New Mexico in fiscal year 1972.

Mr. MONTOYA. Can the Senator detail what they were spent for?

Mr. FANNIN. I cannot detail on the spur of the moment. I just have this information from Mr. Stan Womer, Federal Cochairman of the Four Corners Regional Commission. He knows what they spend.

Mr. MONTOYA. I might say to the Senator my statement was I was not aware that money beyond the $50,000 was spent. I did not make a positive statement.

Mr. FANNIN. I stated I did not want to question the Senator's statement because I know he was giving it without the figures being available to him. But I do want to say that $50,000 and $708,000 plus the $4.7 million they were able to get in surplus property adds up to a lot of money.

Mr. MONTOYA. That is for 210,000 Indians, the Senator's 100,000 and my 110,000 in New Mexico.

Mr. FANNIN. This is to assist them, and a great deal more than they received before for this purpose.

The Senator will agree the greatest need we have on the reservation is to have adequate roads. We are not going to have schools, businesses, centers where they can be treated medically until we get roads. The Four Corners Commission will provide them assistance in this regard.

Mr. MONTOYA. I might say in conclusion—I do not think we have to belabor the point—to agree to this amendment and deprive the Indians the opportunity for input is to relegate them to the present situation, which is breadcrumbs from the table of the Four Corners Commission. That is what they have been getting.

Mr. FANNIN. Can the Senator show me more figures?

Mr. MONTOYA. This is what the Indian tribes have to go through. I know whereof I speak. Whenever an Indian tribe from the Pueblo makes application for an EDA grant they have to go through the regional office in Texas first and ride that redtape. Many of these tribes do not have the money for traveling expenses. They do not have the money to provide for the proper advice and planning because an application has to be backed up by proper planning and a feasibility study, and sometimes engineering studies. These tribes do not have that kind of input or the resources to provide that kind of advice and counsel when they have to go and ride redtape to the regional office for months, which takes months. Then they have to come to Washington. I am trying to provide a direct link from the Indian to the Chairman of the Indian Commission in Washington so he will, in turn, serve as their spokesman in Washington, and then I want to get direct action from Washington rather than to relegate them to the regional office in Texas.

Mr. FANNIN. It is not necessary to do that. I agree, why should we do that? But why not use the Four Corners facilities which are already available? Where is the main office? In New Mexico. It is the closest office to them. I do not understand why they would not be better served by the office in New Mexico. Three out of the four staff members of the Four Corners Commission spend 75 percent of their time on Indian development.

Mr. MONTOYA. I beg to disagree, most respectfully, with the Senator from Arizona. May I say, just by way of concluding the dialog, that I have read from Chairman McDonald's statement. I want to read this from his statement, which is on page 259 of the hearings:

> The Indian Development Commission's direct responsibility to Indian tribes, providing direct funding to tribal governments, represents the acceptance of the most frequent recommendation made by Indian tribes over the past few years—direct accountability and direct funding.

Mr. FANNIN. I think it is unfair to try to consider legislation when none of the Senators are informed on this bill. How can they be? We do not have the hearings. I learn that copies of the hearings are coming. Should we not have time to study it? The Senator is quoting from the hearings. We have not had access to those hearings.

When the Senator talks about money, the commission has requested $185 million for Indian projects during the first 4 years. This is 36 percent of the Federal program money requested. A large amount of this, $114 million, would be used to build new highways, which are essential to the economic future of the vast and remote reservations. There must be a way, as I stated before, to get Indians back and forth with respect to their jobs. This is the best money we could have spent for that purpose. I think the Senator will admit that nothing can be done until we can transport them or they can transport themselves.

I cannot understand why we are asked to vote on this legislation at this late date, when it is not essential that we go ahead and put this bill through. This is not a crisis program at the present time.

Mr. MONTOYA. Because we have to pass the bill in order to provide leadtime for planning next year, because the Economic Development Act expires in June 1973.

Mr. FANNIN. June 1973 is a long way away.

Mr. MONTOYA. Mr. President, the Senator from New York wanted me to yield to him.

Mr. JAVITS. Mr. President, I did not want to divert the colloquy on the important matter of the Indians, because we have an entirely different matter to ask the Senator about, but with the Senator's indulgence, I would like to ask, just to be sure, if the public works impact program and other elements of this bill tie in to the same extent as the law it would amend appropriately with the new authority for special impact program contained in the new title for community economic development which is established by the Economic Opportunity Amendments of 1972, signed by the President on September 19, 1972.

The fact of the matter is that in the Antipoverty Amendments of 1972, provision was made under section 401(b)(1) to relate the two programs so that areas eligible for assistance under the poverty law will be considered redevelopment areas within the definition of section 401 of the Public Works and Economic Development Act of 1965, which is being here amended.

The question I would like to ask the Senator is whether the provision which is contained in the OEO Act, as amended, would now apply to the Economic Development Act as now amended?

Mr. MONTOYA. Yes. I might say to the Senator from New York that in providing and forging the contents of title VI we went into a very extensive discussion, and it was our intention to coordinate the two sections; namely, 401 (b)(1) of the Economic Opportunity Amendments of 1972, to provide coordination under this section with the former sections.

Mr. JAVITS. I thank the Senator. Therefore it follows that a community development corporation under the OEO act recently signed by the President are eligible to qualify within the meaning of "redevelopment area" in respect to assistance under the Public Works and Economic Development Act of 1965, as amended, including the new section 107 public works impact program.

Mr. MONTOYA. That was our intention.

Mr. JAVITS. I thank my colleague.

Mr. MONTOYA. I thank the Senator very much.

Mr. McCLELLAN. Mr. President, I notice the distinguished chairman of the full Public Works Committee is here. I address this to both chairmen.

I understand that the House amendments to the Public Works and Economic Development Act of 1965 contains in title IV an authorization for $20 million annually for fiscal year 1973 and fiscal year 1974 to pay up to 75 percent of administrative expenses and up to 100 percent of the planning expenses of economic development districts for a minimum of 5 years. It had been my hope that the Senate Public Works Committee would include title IV of the House bill in the amendments which it reported to the Senate October 6 but I do not believe it was included. It was omitted. Am I correct?

Mr. MONTOYA. Yes, that is correct. I might say to the Senator from Arkansas that we tried to come out with a piece of legislation that would accommodate us until we are able to work our complete will on a bill to be worked on when we come back in January.

Mr. McCLELLAN. I thank the Senator.

As the Senator knows, Arkansas is one of two States in the Nation that has fully developed the economic development district concept and proven that it can provide the kind of grassroots leadership and initiative to assure meaningful economic development. I have worked closely with the eight economic development districts in my State over the past 6 years and I am persuaded that they represent the most effective economic development tool that the Federal Government has created to enhance community development that is planned, controlled, and administered by local public officials and community leaders.

So I am extremely concerned, I may say to both the manager of the bill and the distinguished chairman of the Public Works Committee, that failure to accept title IV of the House amendments of the Public Works and Economic Development Act of 1965 would tend to limit the expansion potential of the economic development districts program nationwide. I can understand why my distinguished colleague from West Virginia, who has so ably chaired the Senate Committee on Public Works, might wish to review the national economic development programs during the next session of Congress. However, I would hope that he would also initiate and provide the leadership to assure inclusion, in any changes which the Senate Public Works Committee might propose to our national economic development program, significant amendments to expand and strengthen the local economic development district program and the retention of the Economic Development Administration. I have seen EDA and the EDD programs in my State create new jobs and a higher standard of living while retaining responsibilities and authority for building economic strength into our economic communities at the local level.

As I understand the distinguished Senator from New Mexico, he stated just a few moments ago that it is the committee's purpose and intention early in the next session of Congress to give these items and suggestions to which I have referred very careful consideration in the processing and study of any legislation to cover this aspect of our economic program. Is that correct?

Mr. MONTOYA. The Senator is correct. In fact, I might go further and say to the Senator that the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. COOPER), and I have introduced legislation, which is now pending before the Committee on Public Works, which encompasses the very things about which the Senator is speaking.

We are trying to provide in the new legislation, which we will consider when we return in January, a concept which involves the economic development districts within a State, and also within a region, to work on isolated problems as well as economic problems that are common to the region. In other words, we are providing a better grassroots approach to economic problems than we have at the present time.

Mr. McCLELLAN. I appreciate the Senator's comments. I am very much interested in this subject, and I think it has proved one of the best programs we have had in Arkansas. It has done much for my State in enabling communities to do things which are absolutely essential to their economic progress, and to providing community services that are essential, than almost any other agency. I hate to see this agency crippled and these districts deprived of the opportunity to take responsibility for much of this at the local level to select projects that can best serve the local community. That is something I hope we can retain in our legislation dealing with this problem in the future.

I thank the distinguished Senator for yielding to me. I also wish to commend the distinguished Senator from Kentucky (Mr. COOPER). I know he shares the feeling we all have. Although he may not be here next year to participate in the development of this legislation, it is gratifying to note that he has this interest, and has expressed an interest, as he has related here, in trying to develop appropriate legislation along this line.

Mr. RANDOLPH. Mr. President, will the Senator from New Mexico yield?

Mr. MONTOYA. I yield to the distinguished chairman of the committee.

Mr. RANDOLPH. While the Senator from Arkansas has been asking certain questions and making cogent comments on behalf of his viewpoint about the value of these programs, I have been listening very carefully.

I think the Senator will remember that when I brought the Appalachian Regional Development Commission measure to the floor of the Senate in 1965, there were questions asked by him and other Senators at that time as to whether we envisioned carrying forward programs like the Appalachian program in other parts of the country. I indicated that that would be done.

As the Senator has indicated, in his area of the country worthwhile results are coming about, a little later than from the Appalachian program, but now moving forward to strengthen the economy and the well-being of that part of the country.

Mr. McCLELLAN. I appreciate the Senator's remarks. I might say to him that at that time I was unhappy, as the Senator knows, because I thought there were other regions in the Nation, particularly in Arkansas and some of its sister States, that really needed and deserved comparable treatment to the Appalachian region. That was my concern. I did not feel that other sections of the Nation should be left out.

Since that measure was passed, our purpose has been to try to apply generally the same services and opportunities to other sections of the country that might have a comparable need to that of Appalachia.

I thank the distinguished Senator for the support he has given us in this area.

Mr. MONTOYA. Mr. President, I ask unanimous consent that the committee amendment be agreed to and considered as original text for the purpose of further amendment.

Mr. FANNIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will state the committee amendment.

The legislative clerk read as follows:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965 is amended by inserting at the end thereof the following sentence: "Congress further declares that the aforesaid conditions have caused substantial outmigration from rural to urban areas frustrating orderly national growth and aggravating the economic and social conditions of areas of outmigration as well as central cities. Orderly development of the Nation's economy should anticipate and account for dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. Title I of the Public Works and Economic Development Act of 1965 is amended as follows:

(1) by striking in subsection (a) (1) (D) of section 101 "a redevelopment" and inserting in lieu thereof "an"; and by striking "401 (a) (6)" and inserting in lieu thereof "107".

(2) By striking in subsection (c) of section 101 the number "20" and inserting in lieu thereof the number "10".

(3) By striking in subsection (c) of section 101 "a redevelopment area designated as such under section 401(a) (6)" and inserting in lieu thereof "an area designated as such under section 107".

(4) By striking in subsection (c) of section 101 the entire sentence beginning with "Notwithstanding" and ending with "the applicable law.".

(5) By striking in subsection (c) of section 101 the words ", the nature of the project to be assisted" and all that follows down through and including the period at the end of the sentence and inserting in lieu thereof the following: "and the nature of the project to be assisted.".

(6) By striking in subsection (a) of section 102 "In addition to the assistance otherwise authorized," and by capitalizing the word "the" immediately following.

(7) By inserting in section 104 after the words "pursuant to" the words "section 105 of".

(8) By inserting in section 105 after the word "title" the words "(except as provided in section 107)"; by striking in the first sentence the words "and June 30, 1973.", and inserting in lieu thereof the words "June 30, 1973, and June 30, 1974."; by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972,"; by striking in the third sentence the words "redevelopment" and "as

such"; and by striking in the third sentence "401(a)(6)" and inserting in lieu thereof "107".

(9) By adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $500,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."

SEC. 4. Title II of the Public Works and Economic Development Act of 1965 is amended as follows:

(1) By inserting in subsection (c) of section 201 after the words "and guaranteeing loans" the words "and lease rentals"; and by striking "1973" and inserting in lieu thereof "1974".

(2) The catchline for section 202 is amended by striking the words "LOANS AND GUARANTEES" and inserting in lieu thereof the words "FINANCIAL ASSISTANCE FOR BUSINESS DEVELOPMENT".

(3) By striking all of subsection (a) of section 202 and inserting in lieu thereof the following new subsection:

"SEC. 202. (a)(1) The Secretary is authorized to aid in financing, within a redevelopment area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences if indebtedness, (B) making loans (which for purposes of this section shall include participation in loans), (C) guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

"(2) The Secretary is authorized to aid in financing any industrial or commercial activity within a redevelopment area by (A) making working capital loans, (B) guaranteeing working capital loans made to private borrowers by private lending institutions upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan, (C) guaranteeing rental payment of leases, except that no such guarantee shall exceed 90 per centum of the remaining rental payments required by the lease.".

(4) By inserting in subsection (b)(6) of section 202 after the word "repayment." the following sentence: "No lease guarantee shall be made unless the Secretary determines that there is a reasonable assurance of payment of the rentals required by the lease.".

(5) By striking in subsection (b)(7) of section 202 the comma after the words "no loan" and inserting immediately thereafter the words "or guarantee,".

(6) By striking in subsection (b)(9) of section 202 the number "65" and inserting in lieu thereof the number "75".

SEC. 5. Title III of the Public Works and Economic Development Act of 1965 is amended to read as follows:

(1) By inserting after the second sentence in subsection (a) of section 301 the following: "Such assistance shall include aiding an applicant in applying for assistance under this Act if such applicant does not possess the expertise and does not possess the ability to obtain the expertise necessary to perform the technical aspects of application. The Secretary shall not establish any system of priorities for the kinds of assistance authorized by this section."

(2) By inserting in subsection (b) of section 301 immediately after the word "thereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses".

(3) By striking out in subsection (b) of section 304 the following: "the Federal Aid Highway Act of 1962," and inserting in lieu thereof "title 23, United States Code,".

(4) By adding new subsections (g) and (h) to section 301 as follows:

"(g) The Secretary is authorized to provide assistance under subsection (a) of this section to any State for the purpose of such State—

"(1) preparing an overall State economic development program;

"(2) providing technical assistance by use of State employees to economic development districts and proposed districts;

"(3) reviewing overall economic development programs prepared by an economic development district or a proposed economic development district.

"(h) The Secretary is authorized to provide assistance under subsection (a) of this section to economic development districts for the purpose of such district:

"(1) providing technical assistance (other than by grant) to local governments within the district;

"(2) carrying out any review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968 if such district has been designated as the agency to conduct such review.".

(5) Section 302 is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for any two-year period during the five-year period beginning on the date of enactment of the Public Works and Economic Development Act Amendments of 1972. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section.".

(6) By striking in redesignated section 303 "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. Title IV of the Public Works and Economic Development Act of 1965 is amended as follows:

(1) By amending section 401(a)(6) to read as follows:

"(6) those urban and rural communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act;".

(2) By striking in section 403(a)(1)(B) the words "two or more redevelopment areas" and inserting in lieu thereof "at least one redevelopment area".

(3) By amending section 403(a)(1)(D) to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(4) By striking out in section 403(a)(2)(C) "two hundred and fifty thousand" and inserting in lieu thereof "five hundred thousand".

(5) By amending subsections (d), (e), and (f) of section 403 to read as follows:

"(d) As used in this Act the term—

"(1) 'economic development district' refers to any area within the United States composed of a cooperating redevelopment area or areas and, where appropriate, designated economic growth centers and neighboring counties or communities, which has been designated by the Secretary as an economic development district;

"(2) 'economic growth center' refers to any area within the United States which has been identified as an economic growth center in an approved district overall economic development program and which has been designated by the Secretary as eligible for financial assistance under sections 101, 201, and 202 of this Act in accordance with the provisions of this section; and

"(3) 'local government' means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"(e) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance to those parts of an economic development district which are not within a redevelopment area when such assistance will be of significant direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

"(f) In addition to technical assistance under section 301(a) of this Act, the Secretary is authorized to make grants to an economic development district to pay not to exceed 75 per centum of the administrative expenses, and not to exceed 100 per centum of planning expenses, of such district. In any case where the designation of an economic development district is terminated under subsection (c) of this section before the expiration of the five-year period which begins on the date of designation of such district, grants may be made under this subsection for such additional time as may be necessary to insure that such former district will receive administrative and planning grants during such five-year period. In determining the amount of the non-Federal share of such expenses, the Secretary shall give due consideration of all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, planning grants authorized by this subsection shall be used in conjunction with other available planning grants, such as urban planning grants, authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized by title 23, United States Code, to assure adequate and effective planning and economical use of funds. For the purposes of this subsection there is hereby authorized to be appropriated not to exceed $20,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.".

(6) By striking in subsection (g) of section 403 "1973" and inserting in lieu thereof "1974".

SEC. 7. (a) Title V of the Public Works and Economic Development Act of 1965 is amended as follows:

(1) By inserting in clause (7) of subsection 503(a) after the words "other Federal, State," the following: "district,".

(2) By amending section 503 by adding at the end thereof the following new subsection:

"(f) Each Commission shall provide for public participation in the development and revision of any plan or program developed or prepared by such Commission.".

(3) By striking out in the first sentence of section 505(a)(2) the phrase "and training programs" and inserting in lieu thereof: "training programs, and the payment of administrative expenses".

(4) By amending section 505(c) to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year out of funds appropriated under authority of section 509(d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(5) By inserting in section 509(d) "(1)" immediately after "(d)".

(6) By striking out in the first sentence of section 509(d) "two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000.".

(7) By striking out in the third sentence of section 509(d) "authorization" and inserting in lieu thereof "paragraph".

(8) By adding in section 509(d) at the end thereof the following:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for each regional commission which has a comprehensive long-range economic plan approved under section 503(a)(2) of this Act, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have such an approved plan.".

(9) Section 511 is amended to read as follows:

"SEC. 511. (a) The Secretary shall coordinate his activities in making grants and loans under titles I and II of the Act and in providing technical assistance under title III of this Act, with those of each of the Federal Cochairmen under this title, and each Federal Cochairman shall coordinate his activities under this title with those of the Secretary in making grants and loans under titles I and II of this Act and in providing technical assistance under title III of this Act.

"(b) Each regional commission shall coordinate its activities under paragraphs (2) and (7) of subsection (a) of section 503 of this Act with the economic development districts in such region."

(b) The amendments made by paragraph (2) of subsection (a) of this section shall not be construed as affecting the validity of any plan or program which has been developed or revised prior to the date of enactment of this Act.

SEC. 8. Title VII of the Public Works and Economic Development Act of 1965, as amended, is amended as follows:

(1) Section 701(4) is amended by inserting immediately after "with loans" the following: "or guarantees", and by inserting after "such loans" the following: ", guarantees,".

(2) Section 701(5) is amended by inserting after "maturity" the following: "or term"; and by inserting after "any loan" the following: "or guarantee"; by inserting after "in such loan" the following: ", guarantee,"; and by inserting after "of such loan" the following: ", guaranteed obligation,".

(3). Section 701(6) is amended by inserting after "loans" the following: "or guarantees".

(4) Section 701(7) is amended by inserting after "loans" each of the two places it appears the following: "or guarantees".

(5) Section 701(9) is amended by inserting after "loans" the following: "or guarantees".

SEC. 9. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VIII—ENVIRONMENTAL EFFECTS

"SEC. 801. (a) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality. Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

"(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed, or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy-eight weeks.

"(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

"(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

"(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment a reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

"(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

"POLLUTION CONTROL FACILITIES LOANS

"SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

"(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

"(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

"(3) No loan shall be made unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be—

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary—

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

"(c) As used in this section, the term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section."

SEC. 10. Section 2 of the Act of July 6, 1970 (Public Law 91–304) as amended, is amended by striking out "1972" and inserting in lieu thereof "1974".

SEC. 11. The Public Works and Economic Development Act of 1965, as amended, is amended by striking the words "economic development center" wherever they appear and inserting in lieu thereof "economic growth center"; and by striking the words "economic development centers" wherever they appear and inserting in lieu thereof "economic growth centers".

After line 4, on page 1, strike out:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting at the end thereof the following sentence: "Congress further declares that substantial outmigration from rural to urban areas is aggravating the economic and social conditions of areas of outmigration as well as central cities. National economy policy should anticipate and take into account the dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. (a) Section 101 of the Public Works and Economic Development Act of 1965, as amended, is amended

(1) by striking in subsection (a)(1)(D) the words "a redevelopment" and inserting in lieu thereof "an", and by striking "401(a)(6)" and inserting in lieu thereof "107"; and

(2) by striking in subsection (c) "a project in a redevelopment area designated as such under section 401(a)(b)" and inserting in lieu thereof "any project, including projects in an area designated as such under section 107".

(b) Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "pursuant to" the words "section 105 of".

(c) Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended (1) by inserting after the word "title" the words "(except as provided in section 107)"; (2) by striking the words "$800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973.", and inserting in lieu thereof the words "$800,000,000 for the fiscal year ending June 30, 1972, and $550,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."; (3) by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972,"; (4) by striking in the third sentence the words "redevelopment" and "as such"; and (5) by striking in the third sentence "401(a)(6)" and inserting in lieu thereof "107".

(d) Title I of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $250,000,000 per fiscal year for the fiscal years ending June 30, 1973 and June 30, 1974."

SEC. 4. Subsection (c) of section 201 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974'.

SEC. 5. (a) Subsection (b) of section 301 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by inserting immediately after the word "hereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is to defray up to 100 per centum of such expenses"; and

(2) by striking out the words "the Federal-Aid Highway Act of 1962" and inserting in lieu thereof "title 23, United States Code".

(b) Section 302 of the Public Works and Economic Development Act, as amended, is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for the initial two years of the operating costs of such facility constructed after the enactment of this section or for any two-year period during the first five years of operation of any facility constructed previously. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section."

(c) Section 303 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (b) of this section, is amended by striking "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. (a) Section 401(a)(6) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(6) those urban and rural communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low-income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act;".

(b) Section 403(a)(1)(D) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(c) Subparagraph (C) of section 403(a) (2) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and adding the following: "; *Provided*, That no area designated as an economic development center under the provisions of this paragraph shall have such designation terminated or modified due to an increase in population."

(d) Section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance, to those parts of an economic development district which are not within a redevelopment area when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section."

(e) Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 7. (a) Section 502(b) of the Public Works and Economic Development Act of 1965, as amended, is redesignated as section 502(c)(1) and immediately following section 502(a) a new subsection (b) is inserted as follows:

"(b) Notwithstanding any requirements set forth in section 501(a) of this Act, the Secretary shall designate an Indian Development Commission representing all tribes, bands, other groups of Indians, and Alaska Natives."

(b) Subsection (c) of section 502 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (a) of this section, is amended by adding a new paragraph (2) as follows:

"(2) In the case of the Indian Development Commission, the term 'State' means a group of Indians or Alaska natives or a combination thereof within the United States which the Secretary, after consultation with the Secretary of the Interior, finds to have a cultural, historical, or geographical identity or relationship. There shall be no more than ten Indian development groups. The term 'State member' means the representative of an Indian development group designated by the Secretary after consultation with the Secretary of the Interior and the tribes, intertribal councils, tribal organizations or organizations of natives in such group. The Secretary shall assure representation for each major tribal or native organization."

(c) Subsection (c), (d), (e), and (f) of section 502 of the Public Works and Economic Development Act of 1965, as amended, are redesignated as subsections (d), (e), (f), and (g) respectively.

(d) Subsection (f) of section 502 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (c) of this section, is amended by adding the following sentence at the end thereof: "In the case of the Indian Development Commission, each State member and his alternate shall be compensated by the Federal Government".

(e) Section 502 of the Public Works and Economic Development Act of 1965, as amended, is amended at the end thereof the following new subsection:

"(h) All assistance to the Indian Development Commission authorized under title V of this Act shall be in addition to any Federal assistance previously authorized, and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any tribe, band, other group of Indians, or Alaska Natives is entitled under the provisions of this Act or any other Act."

(f) Subsection (b) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "except that the administrative expenses of the Federal cochairman, his alternate, and his staff" the following: "and the administrative expenses of the Indian Development Commission".

(g) Subsection (c) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year out of funds appropriated under authority of section 509 (d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(h)(1) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is redesignated as paragraph (d)(1).

(2) Redesignated paragraph (d)(1) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out in the first sentence the words "two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000."; and by striking out in the third sentence the word "authorization" and inserting in lieu thereof "paragraph".

(3) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for the Coastal Plains Regional Commission, not to exceed $100,000,000 per fiscal year for the Four Corners Regional Commission, not to exceed $100,000,000 per fiscal year for the New England Regional Commission, not to exceed $100,000,000 per fiscal year for the Ozarks Regional Commission, not to exceed $100,000,000 per fiscal year for the Upper Great Lakes Regional Commission, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have a comprehensive long-range economic plan approved under section 503(a)(2) of this Act."

SEC. 8. Section 2 of the Act of July 6, 1970, as amended, (Public Law 91–304), is amended by striking out "1972" and inserting in lieu thereof "1974".

And, in lieu thereof, insert:

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator from Arizona object to a unanimous-consent request that I be permitted to offer an amendment to the bill, notwithstanding the fact that the committee amendment has not yet been agreed to?

Mr. FANNIN. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to offer an amendment to the bill, notwithstanding the fact that the committee amendment has not yet been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD's amendment is as follows:

At the end of the bill, add a new section as follows:

The Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

Mr. ROBERT C. BYRD. Mr. President, I offer this amendment on behalf of the distinguished Senators from Kentucky (Mr. COOPER and Mr. COOK), my distinguished senior colleague from West Virginia (Mr. RANDOLPH), the distinguished junior Senator from Virginia (Mr. SPONG), and myself.

This amendment was originally introduced in the form of a bill (S. 3326) by the Senator from Kentucky (Mr. COOPER) in March of this year, on behalf of himself, Mr. ROBERT C. BYRD, Mr. COOK, Mr. RANDOLPH, and Mr. SPONG, for the relief of the Appalachian Regional Hospitals, Inc.

That bill was referred to the Committee on the Judiciary. Earlier this week, with the approval of the chairman, I was able to poll the members of the Judiciary Committee, and as a result thereof, the bill was reported from the Committee on the Judiciary unanimously. The bill now appears on the calendar under Order No. 1231.

I am offering that bill in the form of an amendment to the pending legislation because of the fact that the pending legislation is a House bill, and it is hoped that if this amendment is accepted by the Senate it can then go to conference and possibly be enacted into law within the next 2 or 3 days, or as soon thereafter as the President can sign the bill.

The purpose of this legislation is to relieve Appalachian Regional Hospitals, Inc., a nonprofit nonsectarian corporation organized under the laws of the State of Kentucky of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964.

The hospitals which make up the chain taken over by the Appalachian Regional Hospitals, Inc., have constituted a nonprofit, nonsectarian health care system of hospitals located in West Virginia, Virginia, and Kentucky. The hospitals were constructed originally as a part of a 10-hospital chain. They were built in 1955 and 1956 by the Miners Memorial Hospital Association, a subsidiary of the United Mine Workers Welfare and Retirement Fund. The hospitals were built originally to serve UMW Union members and pensioners, but because of a critical need for all residents in the areas served by the hospitals, the doors of the hospitals were opened to the public, and this decision to open the hospitals to the public, compelled by human need, was financially disastrous, in that a large number of patients were indigent, and the system began to experience substantial operating losses. The only source of moneys to cover these losses was the Welfare and Retirement Fund, and for a time the fund underwrote medical care expenses incurred by the general public. But in 1962, the trustees of the welfare and retirement fund announced that the fund would have to divest itself of the hospitals or close the facilities if a suitable sponsor could not be found.

As a result, a nonprofit, nonsectarian corporation, Appalachian Regional Hospitals, Inc., was organized to own and operate the system.

Because of the limited funds available for Area Redevelopment Administration public facility grants—no funds were appropriated for this purpose in fiscal year 1965—the maximum grant available which would be approved was $3.9 million, which was slightly less than half the amount to cover even the substantially discounted price for the 10 hospitals.

These funds were accepted by ARH, Inc., and used to acquire five of the 10 hospitals.

After several attempts were made to secure additional grant funds during the spring of 1964, and as a last resort, ARH, Inc., accepted a loan from the Area Redevelopment Administration in the amount of $4.1 million to cover the transfer of the remaining five hospitals, these five hospitals being located at Pikeville and South Williamson, Ky.; Wise, Va.; and Man and Beckley, W. Va. The loan was made on June 26, 1964.

The acceptance of a loan was regarded by the trustees of the hospital system as an expedient. There was a clear understanding on the part of the ARH management and board that the loan would be converted to a grant when additional appropriations were made for ARA public facility grants. But the ARA did not receive additional grant funds in fiscal year 1965, and the loan therefore remained in existence.

The Judiciary Committee contacted the Department of Commerce for its views on the bill S. 3326—which I am now offering as an amendment to the pending measure—and Mr. William N. Letson, General Counsel of the Department of Commerce, on September 22 of this year, responded to Chairman EASTLAND by saying, in part, as follows:

> The evidence submitted with respect to current and future programs and flows of funds shows that repayment of the ARA loan will greatly impair the hospitals' ability to meet the demands on them. Along with the social costs which would result if this occurs, there would also be serious economic development costs. The continuation of accessible hospital care is a necessity for existing local industries as well as for attracting new industries.
>
> While it is easy to look back 10 years and be critical of actions taken at that time, nonetheless, the record does not indicate that this ARA loan to an extremely deprived area for a critically needed purpose ever enjoyed any reasonable prospects for repayment. It was therefore administratively inappropriate as a semi-substitute for a grant.
>
> What is more important, however, is that EDA's legal authority and administrative guidelines presently prevent loans without reasonable prospects for repayment. Therefore, while we believe relief should be granted in this case, enactment of S. 3326 should not and will not serve as a precedent for forgiveness of any other existing or future EDA loans.
>
> We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to your committee from the standpoint of the administration's program.

So, there we have it, Mr. President. The Department of Commerce has stated that relief should be granted in this case. The Department has also stated that such relief would not be a precedent for forgiveness of any other existing or future economic development administration loans, because EDA's real authorization and administrative guidelines presently prevent loans without reasonable prospects for repayment; and the record has indicated that the ARA loan, which was EDA's predecessor, never enjoyed any reasonable prospect for repayment.

Mr. President, that explains the amendment I am offering on behalf of myself and the other cosponsors.

I hope the Senate will adopt the amendment.

I would hope that the distinguished manager of the bill, the Senator from New Mexico (Mr. MONTOYA) with whom I have discussed the amendment, would see his way clear to accept it. I believe that my colleague, Mr. RANDOLPH, and the distinguished Senator from Kentucky (Mr. COOPER) undoubtedly will wish to address themselves to the support of this matter.

ECONOMIC DEVELOPMENT ACT OF 1972

Mr. COOPER. Mr. President, on March 9 of this year, I introduced with Senator RANDOLPH, Senator ROBERT C. BYRD, Senator SPONG and Senator COOK, S. 3326, a bill to relieve the Appalachian Regional Hospitals, Inc., of their indebtedness to the Economic Development Administration. The principal amount of the loan is $3,607,590; the total amount of the loan and accrued interest as of March 31, 1972 is $4,635,673.

The Appalachian Regional Hospitals, Inc., is a nonprofit, nonsectarian corporation organized in 1962 to own and operate the chain of 10 hospitals—constructed by the United Mine Workers in 1956 in West Virginia, Virginia and Kentucky—when they went broke and were going to close their doors.

The only source of funds for the purchase of the hospitals was the Area Redevelopment Administration in the Department of Commerce and the corporation applied for a $8 million grant to cover the purchase of the 10 facilities. Due to the lack of grant moneys, the maximum grant that could be made at that time, October 1963, was $3.9 million which covered purchase of five of the 10 hospitals.

ARA was approached for a second grant to purchase the remaining hospitals but because of a lack of grant moneys, a $4.1 million loan was made with the understanding by ARA and the corporation that the loan would be converted to a grant when the additional moneys were appropriated. However, ARA did not receive any grant funds and the loan remained.

The loan indebtedness of the hospitals was passed to the Economic Development Administration when it replaced the ARA.

By serving all the medically indigent in the areas where the hospitals are located, the corporation has never amassed the capital necessary to repay the loan. Seventy-four percent of the patients treated are under medicare, medicaid, public assistance or the UMWA retirement fund.

In 1970 the Economic Development Administration was first approached to forgive the loan as there was little hope of repayment. However, EDA did not believe they could do so administratively but did refinance the loan and defer repayment until 1975.

These hospitals are the primary source of health care in many of these areas and are being used by the Appalachian Regional Commission and other Federal agencies to provide additional health services. The facilities are 15 years old and in need of major renovation. As the Judiciary Committee report points out, the normal difficulties to raising funds are further hindered by the hospitals' debt to EDA.

The bill, S. 3326, has been reviewed by the Department of Commerce, the facts of the situation submitted to the Judiciary Committee have been attested to by the Department and the bill has been cleared by Commerce Department and OMB. The Department's letter to the Judiciary Committee states that repayment of the loan will greatly impair the hospitals ability to meet the demands on them and that relief should be granted.

I hope this amendment can be accepted.

Mr. MONTOYA. Mr. President, I have just consulted Senator COOPER, and I know Senator RANDOLPH is agreeable to this. I am willing to accept the amendment.

Mr. RANDOLPH. Mr. President, I should like to just add my support for the committee, as well as my personal support for the amendment just offered by my able colleague, Senator BYRD, because, with Senator COOPER, we have had intimate knowledge of this program and the problems from the program during the years. Because of the need to move this important legislation, I will just reinforce what Senator BYRD has said.

I am pleased that Senator COOPER, Senator ROBERT C. BYRD, Senator SPONG, and others who have been concerned with these matters can agree at this time.

I thank the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations at the desk which were reported earlier today. The nominations have been cleared on both sides.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

U.S. CIRCUIT COURT

The second assistant legislative clerk read the nomination of H. Emory Widener, Jr., of Virginia, to be a U.S. circuit judge, fourth circuit.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. DISTRICT COURT

The second assistant legislative clerk read the following nominations:

Frank H. Freedman, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Hernan G. Pesquera, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Joseph L. Tauro, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Kevin Thomas Duffy, of New York, to be U.S. district Judge for the southern district of New York.

Robert J. Ward, of New York, to be a U.S. district judge for the southern district of New York.

James C. Turk, of Virginia, to be a U.S. district judge for the western district of Virginia.

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I just want to express to the majority leader our appreciation, because of our shortage of judges in New York.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1972

The Senate resumed the consideration of the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965.

Mr. WILLIAMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert the following:

SEC. 801. (a) (1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of non-compliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

(3) Whenever feasible, such investigation shall commence six months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within ten days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(5) The owner or operator of any commercial or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within 30 days a report disclosing:

(A) the nature of the enforcement action;

(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

(C) the extent of potential employment loss;

(D) alternatives to the potential employment loss;

(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

(G) the economic circumstances of his total enterprises (including domestic and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in market patterns), the effect of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy eight weeks.

(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

SEC. 801. (g) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this title, has provided information concerning any matter within the scope of this title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

POLLUTION CONTROL FACILITIES LOANS

SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

SEC. 802. (b) (3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessary for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operation where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act."

(c) As used in this section, the term "State certifying authority" means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the pollution control agency as defined in the Clean Air Act. The term "State certifying authority" includes any interstate agency authorized to act in place of a certifying authority of the State.

(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section.

Mr. WILLIAMS. Mr. President, this amendment is offered for Senator RANDOLPH, Senator MUSKIE, Senator JAVITS, and myself.

Basically, this amendment would restore to the committee amendments title 8 of the House-passed bill. The amendment would provide dislocation assistance to those workers affected by the Government's environmental orders and would offer assistance in carefully delineated instances to employers in need of financial aid to comply with environmental standards.

The amendment contains two sections. Section 801 will provide assistance to individuals who suffer employment loss as a result of Federal actions to improve the environment. It would provide for an investigation by the Administrator of the Environmental Protection Agency and certification by the Secretary of Labor of unemployment resulting from Federal environmental improvement legislation.

Individuals found to have lost their jobs because of the issuance of a standard or order under Federal environmental laws and who have worked at least 26 of the 78 preceding weeks in the plant or industry affected will be eligible for certain benefits. Duplication of unemployment compensation payments are not authorized by this section.

Such an individual may receive unemployment compensation payments equal to 60 percent of his former weekly wage until he is reemployed or retires, except that no individual may receive assistance for a period of more than 78 weeks.

Mr. DOMINICK. Mr. President, if the Senator will yield, is this the amendment which the Senator from Kentucky (Mr. COOPER) opposed and which Caspar Weinberger wrote the letter on?

Mr. MONTOYA. The Senator from Kentucky can answer that better than I can.

The PRESIDING OFFICER (Mr. STAFFORD). The Chair would inquire of the Senator from New Jersey (Mr. WILLIAMS) if he would ask unanimous consent that his amendment be considered before the committee amendment is agreed.

Mr. WILLIAMS. I so request, and——

Mr. COOPER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COOPER. Mr. President, I understand that if some agreement has been reached between the distinguished Senator from Arizona (Mr. FANNIN) and the distinguished Senator from New Mexico (Mr. MONTOYA) and if this agreement is carried out, then the committee amendments will be agreed to en bloc and we can proceed with the other amendments.

Mr. WILLIAMS. I would be pleased to yield for that purpose, with the understanding that I would regain the floor to have my amendment considered.

Mr. COOPER. I understand that would be correct. It would just delay the Senator's amendment a few minutes.

Mr. MONTOYA. Mr. President, to clarify the parliamentary situation, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that they be considered as original text for purposes of further amendment.

The PRESIDING OFFICER. Without objection, the committee amendment is considered and agreed to.

The Chair now recognizes the Senator from New Jersey (Mr. WILLIAMS).

Mr. FANNIN. Mr. President, would the Senator from New Jersey mind if I sent an amendment to the desk to clarify the arrangement as to this matter?

Mr. WILLIAMS. That is certainly agreeable with me.

Mr. FANNIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment:

Intended to be proposed by Mr. FANNIN to the amendment offered by the Senator from New Mexico on H.R. 16071.

On page 30, line 7, after "Sec. 7" strike all through line 9, page 32, and redesignate subsections (g) and (h) as subsections (a) and (b).

Mr. MONTOYA. Mr. President, I should like to develop a little legislative history before I say to the Senator from Arizona that I have no objection at this time to his amendment. In view of the fact that the hour is late and we are imposing in these last 2 days of the session on the Senate to get this bill through Congress, and the fact that the Senator from Arizona has indicated he will speak at length against a provision that was already in the bill, I have no alternative now but to abandon this amendment in the bill and accept the floor amendment which deletes it.

But I want to say to the Senator from Arizona that I shall press on in the new bill that we intend to bring up before the Senate next year, and after I consult with Indian leaders of the Nation again, I am hopeful that they will consent to this amendment. I will also have a fuller legislative history to give to the Senate of acceptance on the part of the Indian leaders of this Nation.

Mr. FANNIN. I certainly thank the distinguished manager of the bill for his consideration, and assure him that I desire to cooperate in every way to make it possible to bring a better program to the Indian people all over the Nation.

At the same time, I do feel that it is essential we establish the feeling among the Indian tribes and establish what their opinions are, including those of the Governors. I do thank the Senator from New Mexico and I will work with him to try to resolve this problem.

Mr. MONTOYA. I hope that the Senator from Arizona, when the majority of the Indian leaders endorse the Indian development commission concept, will be alined with me in sponsoring it.

Mr. FANNIN. I cannot give the Senator that promise, but I will certainly investigate and determine just how we feel about this legislation and what they will feel is best for their own interests. I am vitally interested in doing what will help accomplish the objective that the Senator from New Mexico has mentioned and, that is, to better the economic development of all Indian tribes. I must say we have to consider the important role of road development on the reservations. This is one of the primary problems we have at this moment.

Mr. MONTOYA. Mr. President, in view of the lateness of the hour and our desire to get this bill through to conference, I reluctantly accept the amendment offered by the Senator from Arizona.

The PRESIDING OFFICER (Mr. STAFFORD). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair now recognizes the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry. We are returning now to consideration of my amendment, the one I have offered on behalf of myself, and Senators JAVITS, RANDOLPH, and MUSKIE?

The PRESIDING OFFICER. That is correct. If the Senator will call up his amendment again, now that the committee amendments have been agreed to, it will be received and considered.

Mr. WILLIAMS. Mr. President, I send my amendment to the desk and ask that it be restated.

The PRESIDING OFFICER. The amendment will be restated.

The assistant legislative clerk read as follows:

At the end of the bill, insert the following:

SEC. 801. (a) (1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of non-compliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

(3) Whenever feasible, such investigation shall commence 6 months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within 10 days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(5) The owner or operator of any commercial or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within 30 days a report disclosing:

(A) the nature of the enforcement action;

(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

(C) the extent of potential employment loss;

(D) alternatives to the potential employment loss;

(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

(G) the economic circumstances of his total enterprises (including domestic and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in market patterns), the effect of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy eight weeks.

(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

SEC. 801. (g) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Title, has provided information concerning any matter within the scope of this Title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this Title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the sharing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

POLLUTION CONTROL FACILITIES LOANS

SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity. If the Secretary finds that the establishment of such branch affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

SEC. 802. (b) (3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessarv for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which

"(1) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

(c) As used in this section, the term "State certifying authority" means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term "State certifying authority" includes any interstate agency authorized to act in place of a certifying authority of the State.

(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section.

Mr. WILLIAMS. Mr. President, basically this amendment would restore to the committee amendments title 8 of the House-passed bill. The amendment would provide dislocation assistance to those workers affected by the Government's environmental orders and would offer assistance in carefully delineated instances to employers in need of financial aid to comply with environmental standards.

The amendment contains two sections. Section 801 will provide assistance to individuals who suffer employment loss as a result of Federal actions to improve the environment. It would provide for an investigation by the Administrator of the Environmental Protection Agency and certification by the Secretary of Labor of unemployment resulting from Federal environmental improvement legislation.

Individuals found to have lost their jobs because of the issuance of a standard or order under Federal environmental laws and who have worked at least 26 of the 78 preceding weeks in the plant or industry affected will be eligible for certain benefits. Duplication of unemployment compensation payments are not authorized by this section.

Such an individual may receive unemployment compensation payments equal to 60 percent of his former weekly wage until he is reemployed or retires, except that no individual may receive assistance for a period of more than 78 weeks.

Temporary mortgage or rental payment assistance is provided to individuals unemployed because of Federal environmental improvement laws. Such assistance would be limited to individuals who, as a result of financial hardship caused by unemployment, have received notice of mortgage foreclosure, lease termination, or contract of sale cancellation entered into prior to the loss of employment. Such assistance would be available for the duration of the period of hardship, but not for more than 1 year.

Reemployment assistance services under other laws may be offered by the Secretary to individuals unemployed because of Federal environmental improvement laws.

Such individuals may also receive payment of actual reasonable moving expenses to a new job if he is unable to find work in the vicinity of his previous home but does find a job elsewhere.

The section also specifies the procedures and the investigative authority to insure that the employment loss would in fact result from an environmental order or standard.

To insure that employees will freely participate in this investigative process without fear of retaliation, the amendment provides protection against such retaliation or other discrimination similar to provisions in other laws relating to employee protection.

Section 802 of the amendment recognizes that in certain cases plant closings or cutbacks may in fact be caused by environmental orders. Where this is the case, this section would authorize financial assistance to such enterprises where they would otherwise have to close their doors or reduce the number of their employees. The financial assistance authorized are long term, 30-year, low-interest loans—3 percent. To insure that the Federal Government is not providing unnecessary financial assistance the amendment requires explicit showing that the funds are not otherwise available to the enterprise. The amendment also requires assurances of repayment of such loans.

Mr. President, it is necessary for this country to reverse the trend of environmental damage to our society. We are beginning to recognize that responsibility. But in protecting future life for our children and grandchildren, we owe an immediate obligation to our current work force. We have no right to force upon them the exclusive costs of redeeming our environment for future generations.

I believe that this amendment will bring justice to those immediately affected by the necessary actions we take to clean up our water and our air.

Before I conclude my remarks, Mr. President, I want to commend the Committee on Public Works and its Subcommittee on Air and Water Pollution, particularly the respective chairmen, the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Maine (Mr. MUSKIE), for their bringing to light the potential impact of environmental orders on employees.

I hope that the floor manager, the Senator from New Mexico (Mr. MONTOYA), who has for so long been in the forefront of protecting the interest of this Nation's workers, will find this amendment agreeable and urge its adoption.

Mr. JAVITS. Mr. President, if the Senator would yield briefly, I would like to express my accord with the amendment of the Senator from New Jersey (Mr. WILLIAMS), in which I have joined. As a business matter, it is highly desirable in my opinion.

The PRESIDING OFFICER (Mr. STAFFORD). The question is on agreeing to the amendment of the Senator from New Jersey.

Mr. COOPER. Mr. President, I rise to oppose the amendment offered by the Senator from New Jersey (Mr. WILLIAMS) and I would like to present my reasons for my opposition to the Senate.

I accept the humane interest of the sponsors to provide assistance to those who are employed in industries, small or large, who may be forced out of employment because of the orders issued at some time or other by the Environmental Protection Administration.

I oppose the amendment for several reasons. The first is the simple reason that we are considering a rather limited bill. It is a bill which continues the Economic Development Administration and the title V regional development commissions. We have great difficulty year after year in securing the continuation of these programs.

The present administration has thus far gone along with the committee on Public Works. The regional commissions are now beginning to take effect and they have been able to complete their comprehensive development plans. The continuation and funding of these commissions and the EDA programs are jeopardized by these costly amendments which I believe require further consideration.

We are in the last days of the session. The Congress may adjourn this week or next week. We do not know when. We have this bill on the floor, and our only possibility of obtaining its passage and having it agreed to in conference is, in my view, by accepting the bill as it came from the committee.

Mr. President, the House went far beyond the concept of a bill dealing with the Economic Development Administration and the regional commissions.

There is a vast amendment in the amount of $500 million each year for accelerated public works. After discussions with Chairman BLATNIK of the Public Works Committee of the House, I think I can say that I was assured by him, as far as he could give his assurance, that if we would pass this limited bill, he would do his best to see that it was accepted in the House without a conference. And I have said that if this should be changed in the House or on the floor, I do not intend to vote for it, and I would oppose it in the conference. And if it comes back here, I would do everything in my power to resist the adoption of the conference report in the short time that remains.

Mr. President, getting down to the merits of the pending amendment, I have already said that it is humane in its objective. However, as there have been no hearings at all on the specific legislation and on the question of what will occur when the orders of the Environmental Protection Administration come into effect, and some will be coming into effect already under the Clean Air Act. And under the Refuse Act of 1899 and the present Federal Water Pollution Control Act, some are coming into effect. As far as the Federal Water Pollution Control Act Amendments of 1972, now before the President, are concerned, we considered them for more than 1½ years—in the Public Works Committee. The Senate-House conference held 39 sessions. We just completed that work a few weeks ago. The conference report was just adopted. The President has not yet signed the bill. We do not know yet whether he will. I hope that he will, and I have urged him to do so. However, that act provides as a first phase for 5 years, until 1977, to get industries to come into compliance with the standard calling for them to apply best practicable technology; and the second phase, calling for application of best available technology, until 1983. We do not know what the effects will be. Suppose one of the smaller automobile companies goes out of business, and some claim that they will. How do we know, without any hearings at all, how much money would be needed, and how we would allocate the money to American Motors, for example, or to some other automobile company or to some small steel company which is in financial difficulty? How would we apportion the money to these companies or their employees?

I am only arguing that, without question, this kind of legislation will be required. However, the committee which should pass upon it is the Senate Public Works Subcommittee on Air and Water Pollution headed by the Senator from Maine (Mr. MUSKIE), unless there is a change in the composition of the Senate, and then it would be the ranking Republican member. And I will not be here next year. With the assistance of the experienced members of the staff, they will have to find out what all of the needs will be in this area.

There has been no testimony from the Environmental Protection Administration, and we have no idea as to their views about this. Therefore, providing that in advance of any evidence that we spend $100 million for unemployment compensation—78 weeks, at 60 percent of their weekly wage—for moving expenses and payment of mortgages, and $100 million to industries—and one or two or three industries might use all of that—seems to me unreasonable.

I have no doubt—and I cannot speak for the President of the United States because I have not talked to him about this—that upon the basis of letters from the executive branch, including one written to me by the Director of the Office of Management and Budget in response to my request to him for comments on the House bill, which has this provision in it in a similar form, which letter said they would oppose it. I think it should be vetoed because I think the investigation should be made by the subcommittee which knows something about it. If there is no objection, I would like to have these letters in opposition to the bill and to this provision inserted in the RECORD at this point.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 14, 1972.
Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to take this opportunity to express my views on H.R. 16071.

H.R. 16071, which was passed by the House of Representatives on August 16, 1972, extends the economic programs for an additional year—to June 30, 1974. There is an authorization for a FY 1973 increase of $1,027.5 million and an authorization of $2,150 million for 1974. Changes are made in a number of areas including: grants and supplementary grants for public facilities, the public works impact program, business development, technical assistance, vocational training facilities, coordination, and special impact programs in urban and rural areas. However, we are primarily concerned with the addition of section 107 of Title I, changes made in subsection 401(a)(6) of Title IV, and the addition of new Title VIII.

Section 801 of Title VIII is designated to provide assistance to individuals who are unemployed because of Federal action to improve the environment. It provides for investigation by the Administrator of the Environmental Protection Agency and certification by the Secretary of Labor of unemployment of a person who has worked at least 26 of the 78 preceding weeks in a plant or industry affected by Federal environmental legislation. Qualified individuals would receive unemployment compensation payments until reemployment, retirement or for 78 weeks. The program, it appears, would be administered by the Secretary of Commerce.

Section 801 also authorizes temporary mortgage or rental payment assistance, and moving expenses to a new job. One hundred million dollars is authorized to be appropriated for this program.

I strongly oppose section 801 for several reasons. The Department of Labor, which traditionally has administered this type of program, has always favored having only one unemployment insurance program, rather than a series of programs tailored to specific workers "adversely affected" through a particular circumstance. A proliferation of special programs fragments and undermines our basic Federal-State unemployment insurance system. If the basic system is inadequate, the remedy is to improve the system, not to create special programs for a few.

In addition, the provisions contained in section 801 are inadequate. Unlike present unemployment compensation programs, section 801 does not require a claimant to be able to work and available for work as a requirement for receiving benefits. There is no disqualification for refusal of suitable work without good cause. Also, the term "affected plant or industry" is a broad term which needs clarification before becoming a criterion to determine which individuals are eligible for benefits. Definitions of "a week of employment," "unemployment," and "former weekly wage" are also necessary to the administration of section 801. There are no provisions authorizing the Secretary to enter into agreements with State employment security agencies for the administration of the program; nor are there any express provisions for fair hearings for an individual whose application is denied; or provisions to prevent the duplication of benefits. Clarification is also needed to determine whether an individual gets the same compensation for total and partial unemployment and to ascertain if the 78-week duration for benefits must be for continuous weeks of unemployment. No benefit period is provided within which the provided unemployment compensation must be paid.

Finally, although the amount authorized to be appropriated for carrying out section 801 is $100 million, the level of expenditures are not ascertainable since anyone unemployed under the given circumstances is eligible for benefits.

Section 107(a) of Title I and subsection 401(a)(6) of Title IV specify the use of certain criteria in classifying urban and rural communities and neighborhoods as redevelopment areas. The proposed legislation appears to incorrectly assume that the classifications can be made with existing data. Data on low-income persons and outmigration come only from the decennial census. Special surveys or a mid-decade census which the Administration has opposed, would have to be taken to cover the intervening non-census year.

In view of the problems discussed above, I oppose the enactment of this bill.

The Office of Management and Budget has advised that enactment of H.R. 16071 would not be in accord with the program of the President.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

DEPARTMENT OF COMMERCE,
Washington, D.C., September 14, 1972.
Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This represents the views of the Department of Commerce on H.R. 16071, the "Public Works and Economic Development Act Amendments of 1972".

The President's revenue sharing proposals meet the objectives of this bill in a more effective and responsive manner. Revenue sharing, in contrast to H.R. 16071, would provide funds directly to the States without the approval of other States, a Federal Cochairman, or a Federal staff. Revenue sharing would fold-in direct Federal programs rather than continuing the categorical grant system with its resulting distortion of local priorities. Interstate commissions would be at the Governors' option rather than a new funding level of government.

The Department believes that the proposed accelerated public works program in H.R. 16071 is not in accord with the President's 1973 budget recommendations which are designed to move the economy toward full employment without increasing inflationary pressures.

The bill would add a new Section 801 to the Public Works and Economic Development Act of 1965, granting authority for the Economic Development Administration to provide financial and other assistance to individuals who, as the result of the implementation of a Federal law related to the improvement of environmental quality, become unemployed. The Department feels strongly that the proposed Section 801 is inconsistent with the mission of EDA and should not be part of this legislation.

Proposed Section 801 also raises questions of interpretation. It is unclear whether the unemployment compensation contemplated will be in addition to other unemployment compensation already available. Moreover, the section is, in a sense, "openended", becauses it seems to pledge 78 weeks of compensation to employees displaced by environmental laws irrespective of authorization limits. In addition, Section 801(b) generally provides benefits for a displaced worker which may exceed wages currently being paid to the worker.

Accordingly the Department strongly recommends against favorable consideration of H.R. 16071.

The Office of Management and Budget has advised that enactment of H.R. 16071 would not be in accord with the program of the President.

Sincerely,

KARL E. BAKKE,
Deputy General Counsel.

GENERAL COUNSEL
OF THE TREASURY,
Washington, D.C.,
September 14, 1972.
Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department would like to take this opportunity to present its views on H.R. 16071, the "Public Works and Economic Development Act Amendments of 1972," as passed by the House.

Section 201 of the Public Works and Economic Development Act of 1965 authorizes the Secretary of Commerce to purchase evidences of indebtedness, make loans to aid in financing any project within a redevelopment area for the purpose or development of land and facilities, and guarantee loans for working capital made to private borrowers for such projects. The bill would expand this authority by authorizing the Secretary to guarantee loans made for the purchase or development of land and facilities, make working capital loans directly, and guarantee rental payments of leases.

The bill would also authorize the Secretary to make loans to aid in financing any project in the United States for the acquisition, construction or alteration of pollution control facilities for industrial or commercial usage. Such loans would bear interest at a rate determined by the Secretary of the Treasury but not to exceed 3 percent per year.

The credit program provisions of the bill are deficient in several important respects. There would be no provision for the Secretary to determine the maximum interest rates on guaranteed loans taking into account the range of interest rates prevailing in the private market for similar loans and the risk assumed by the Government, as prescribed by Budget Circular No. A–70; no requirement for the Secretary to prescribe a fee for loan and lease guarantees adequate to cover administrative expenses and probable losses; no limitation on the maximum amount of individual loans and leases which could be guaranteed under the bill; and no requirement that credit be not otherwise available from private lenders under reasonable terms and conditions to effectively limit Federal credit assistance to cases of demonstrated need and preclude duplication of the activities of private lenders. The proposed lease guarantee authority would overlap the Small Business Administration lease guarantee program.

Experience with Federal credit programs indicates that fixed interest rates such as the 3 percent rate contained in the bill produce perverse and unintended variations in interest rate subsidies as market rates vary, which result in inequities among borrowers using the program at different times and extraordinary demands for Federal loan and related grant funds at times of greatest inflationary pressures and overall budget tightness.

It is not clear that the financial assistance contemplated by the bill would contribute significantly to area redevelopment. The proposed Federal guarantees could add substantially to the Government's administrative costs and contingent liabilities but would lower interest rates very little for well-established businesses with good credit standing—i.e., those borrowers most likely to be in a position to provide needed training services in order to convert the unemployed into productive employees—and thus would not significantly affect their decision to locate in redevelopment areas. On the other hand, while Federal guarantees of business loans may be necessary and useful for many small businesses and certain hard pressed industries, such assistance could be counterproductive to the redevelopment effort by encouraging uneconomic ventures unable to provide stable employment.

In view of the foregoing, the Department would be opposed to the bill.

The Department has been advised by the Office of Management and Budget that enactment of H.R. 16071 would not be in accord with the program of the President.

Sincerely yours,
Samuel R. Pierce, Jr.,
General Counsel.

Secretary of Housing and Urban
Development,
Washington, D.C., September 15, 1972.

Subject: H.R. 16071, a bill "To amend the Public Works and Economic Development Act of 1965", as passed by the House.

Hon. Jennings Randolph,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This will provide you with the views of the Department of Housing and Urban Development on H.R. 16071, a bill "To amend the Public Works and Economic Development Act of 1965", as passed by the House of Representatives.

The bill would provide for continuation of the so-called Public Works Impact program under a new and separate authority and at a $500 million annual authorized program level. The bill would also provide for continuation of authority to designate smaller urban and rural areas or neighborhoods as redevelopment areas but would make projects in these areas subject to the regular employment opportunity and economic plan requirements of section 101(a)(1)(A) and (C) of the Act. These requirements would not apply to the Public Works Impact program authority that would be created by the bill.

This Department has previously stated its objection to the kind of Federal facilities grant assistance that this bill apparently contemplates. Such an authority necessarily overlaps many other existing programs. It puts the Federal Government in the position of making more project reviews—reviews extending to countless local concerns better left to local elected officials.

It raises major problems of equity and fairness among communities competing for Federal favor in the distribution of funds. It is likely to generate growing demands for Federal funds, with no offsetting inducements to better or more responsible planning of programming at the local level. It tends to weaken the prospects for early enactment of needed basic reforms in Federal assistance mechanisms, particularly rural community development special revenue sharing.

The bill also contains several new authorizations for grants to States or local districts for planning or plannning related activities. These activities would include preparation of State economic development programs, State review of local district programs, and district review of proposed projects pursuant to the OMB A–95 procedures. We are sympathetic to the stated purpose of these provisions—better coordination of Economic Development Act undertakings. Nevertheless, these features of the bill represent a further proliferation of Federal planning assistance authorities and may add to the overall problem of coordination among those authorities and the activities they support.

Also included in H.R. 16071 is an "Environmental Effects" title that would provide various forms of Federal assistance to persons and businesses adversely affected by enforcement of orders or requirements under Federal environmental protection laws. Among other things, the title would authorize the Secretary of Commerce to make mortgage or rental payments for up to one year on behalf of persons who are experiencing financial hardship because of unemployment resulting from an environmental order or standard.

This provision is based upon an authorization for temporary mortgage or rent assistance appearing in the Disaster Relief Act of 1970. We strongly question the desirability of extending the Disaster Relief Act precedent without a careful consideration of its long-term implications, since that extension is almost certain to be cited in support of future similar proposals to aid other categories of persons whose unemployment is or is alleged to be connected to some Federal action, inaction or policy.

The Office of Management and Budget has advised that enactment of H.R. 16071 would not be in accord with the program of the President.

Sincerely,
Richard C. Van Dusen,
(For George Romney).

Office of Management and Budget,
Washington, D.C., September 8, 1972.

Hon. Jennings Randolph,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This represents the views of the Office of Management and Budget on H.R. 16071, the "Public Works and Economic Development Act Amendments of 1972".

The President's revenue sharing proposals meet the objectives of this bill in a more effective and responsive manner. Revenue sharing, in contrast to H.R. 16071, would provide funds directly to the States without the approval of other States, a Federal Co-chairman, or a Federal staff. Revenue sharing would fold-in direct Federal programs rather than continuing the categorical grant system with its resulting distortion of local priorities. Interstate commissions would be at the Governors' option rather than a new funding level of government. The Administration believes that the proposed accelerated public works program is not necessary because the 1973 budget recommendations are designed to move the economy toward full employment without increasing inflationary pressures. Furthermore, accelerated public works is a costly and time-consuming method to reduce unemployment that would fuel future inflation.

Therefore, we strongly recommend against favorable consideration of H.R. 16071, enactment of which would not be in accord with the program of the President.

Sincerely,
Casper W. Weinberger,
Director.

Mr. COOPER. Mr. President, in these closing hours I would hate to see a good bill lost by this amendment or similar amendments, and what for? If there is a veto, of course, one can go out and say the President vetoed the bill based on an amendment which was a humane amendment, but what good does it do anyone? It loses a bill which holds hope for many over this country. But I have no authority to say he would veto it. I do not say this as a threat. I just say it is not reasonable to pass a bill with these implications without any hearings. In executive session they testified against it. There is no information on it.

I say with all due respect for the concerns of my friend from New Jersey to provide some help to these individuals. I do not think it is logical or advisable to add this amendment to this bill at this time.

Mr. WILLIAMS. Mr. President, I am somewhat confused at the statement of the Senator from Kentucky who suggested this properly should be considered by the subcommittee of which the Senator from Maine is chairman. I have before me the hearings that were held dealing with economic dislocations resulting from environmental controls. Certainly the Senator from Kentucky is a member of that committee. I would like to read from the hearings a part of the testimony of A. F. Grospiron, president, Oil, Chemical, and Atomic Workers International Union. He said:

> Mr. Chairman, the purification of the American share of the world environment is not just a mechanical or technical matter. The problem is interlaced with our whole socioeconomic structure, involving the economic health of industrial corporations, the job security of workers, the survival and prosperity of merchants and other businessmen whose trade depends on industrial payrolls, and the prosperity or decline of whole communities.
>
> We cannot effectively separate environmental health from social health or economic health. But please do not misunderstand that statement; I do not suggest that economic arguments should prevail over antipollution regulations. What I suggest is that economic dislocation is one potential cost of cleaning the environment and we must be prepared for that cost.

Mr. President, I do not wish to delay the Senate. I ask unanimous consent to have printed in the Record the testimony of Mr. A. F. Grospiron, president, Oil Chemical, and Atomic Workers International Union.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of A. F. Grospiron, President, Oil, Chemical & Atomic Workers International Union, Accompanied by Anthony Mazzocchi, Citizenship-Legislative Director, and Steve Wodka, Legislative Assistant

Mr. Grospiron. Thank you, Mr. Chairman and members of the subcommittee. I would like to introduce my assistants, Mr. Anthony Mazzocchi, the director of the Citizenship-Legislative Department of the Oil, Chemical & Atomic Workers International Union, and Mr. Steve Wodka, Mr. Mazzocchi's assistant.

I have some testimony I would like to present this morning regarding the environmental questions that we have facing this country.

As you know, I am the president of the Oil, Chemical & Atomic Workers International Union, which represents approximately 185,000 workers in chemical, oil, and related industries in nearly all of the United States and Puerto Rico, and somewhat more than 15,000 in Canada.

Our union has a strong commitment to improving the quality of the environment as an essential part of the general enhancement of the quality of life.

We have consistently supported effective legislation to protect the environment in general and the health environment inside the plants where our members work in particular.

Our commitment is shared and carried forward by thousands of individual members. These members, by their militant action in their hometowns and States, have demonstrated their concern and commitment. Many of our members serve as members of pollution control boards of their cities and counties.

Pollution begins as a community problem and extends outward, becoming a world problem. The filth that drifts around the world in air and water respects no national boundaries.

I have seen personally the strong and effective measures taken to keep a clean environment in Sweden, a small country with problems less complex and less burdensome than those of our vast Nation.

I have observed the rapid buildup of pollution in Japan and I know that people there are deeply concerned and are doing much soul searching.

At this point I would like to depart from my prepared statement and state that in visiting Japan, which is said to be the No. 1 industrial power of the future, I have grave doubts about this because of some of the problems facing Japan. That is, the heavy industrialization of industry there in that small country places natural restrictions upon the furtherance and expansion of that industry.

I think there is a natural roadblock. I think it is one that we should take heed of and recognize that in this country we absolutely have to do something, regardless of cost.

Mr. Chairman, the purification of the Amercan share of the world environment is not just a mechanical or technical matter. The problem is interlaced with our whole socioeconomic structure, involving the economic health of industrial corporations, the job security of workers, the survival and prosperity of merchants and other businessmen whose trade depends on industrial payrolls, and the prosperity or recline of whole communities.

We cannot effectively separate environmental health from social health or economic health. But please do not misunderstand that statement; I do not suggest that economic arguments should prevail over antipollution regulations. What I suggest is that economic dislocation is one potential cost of cleaning the environment and we must be prepared for that cost.

We want strong Federal legislation providing environmental protection. We want strong executive action enforcing regulations.

I might interject here that it appears to me that Mr. William Ruckelshaus of the Environmental Protection Agency has made a good start in this direction.

We want specific rules, regulations, and codes to be drawn up on a scientific and technical basis—not on an emotional basis.

We want engineers and scientists assisted by knowledgeable laymen with practical on-the-scene knowhow, to diagnose our environmental ills and to recommend cures on the same compassionate but scientific basis that a physician diagnoses and prescribes treatment for a sick person.

We are concerned not only with industrial pollution, although most of my remarks today will involve industrial problems, but also with pollution by automobiles, by the mounting volume of solid wastes, by the overloaded municipal sewer systems and all those other factors which damage our environment.

Government always has exercised great power over private property whenever necessary to protect the people. This power extends even to the right to confiscate property with due process of law—the right of eminent domain—when such action is necessary to serve a public purpose.

In the protection of the environment, I suggest that Government may have to go so far on some occasions as to exercise the right of eminent domain. There will be occasions—hopefully, not very many occasions, but some—when to stop pollution the Government will have to take actions so damaging to private property and private employment that the action will amount to confiscation of property or jobs.

In such cases, those private citizens must be compensated by the taxpayers, just as a property owner is compensated when his factory or his home is taken from him for road, school, or other public construction.

The owner of property taken for public purposes is compensated not only for the market value of that property but also, where appropriate, for the inconvenience, intangible losses, and hardships caused. This principle must be applied in the case of environmental controls.

I am not suggesting that the taxpayer must undertake to pay all the costs of stopping industrial pollution. In most cases private industry can make the necessary corrections without undue economic hardship, applying in many situations technology already known and used by competing companies or even in other facilities of the same company.

As for the effect on employment, we believe that on balance more stringent pollution controls will provide increased job opportunities. Workmen will have to design, build, and install and thereafter maintain and service the various devices which reduce or eliminate harmful emissions from stacks and sewers.

But there will be dislocations of employment. In the case of industrial facilities already approaching obsolescence and nonprofitability, owners may elect to shut down rather than to make the alterations necessary to abate pollution.

The effect of such shutdowns usually will be more severe on workers than on owners. If a corporation owns 100 factories, the closing down of one or two or a few of these plants, already old and fully depreciated, causes it no great hardship. The company presumably can continue to profit through operation of its remaining, more modern facilities.

The individual workman in the plant being closed faces a far more serious problem. He has only one job to lose. He cannot be 1 percent or 5 percent laid off. His job is his only source of income. If he is not relatively young, he will find new employment very hard to find, for it is the practice of industry to hire young men, men under 30 years of age where possible.

Highly developed skills applicable in a particular plant more often than not are not marketable in another plant, even a plant of similar nature.

For these reasons, I submit hardship more often will be faced by individual workmen than by employers in cases where pollution controls cause plant closures. These individual workmen must be protected and/or compensated, by the employer where feasible, by the taxpayer when it is not feasible for the employer to do so.

I acknowledge that there may be cases of hardship to the owner of a facility, especially in the case of a company owning only one or a few factories of obsolete character. When such hardship can be demonstrated, such an owner may be entitled to compensation. Such cases ought to be very rare and it must be clearly shown that the weakness is not due to bad or selfish management.

In those cases—and I think they are relatively few in number—where the elimination of pollution brings economic hardship—to the owner, the workmen, or the community—the public should assume responsibility for compensation. We must maintain economic health along with environmental health. Maintenance of economic health should not be used as an excuse for not correcting the environment, but rather should be recognized as one of the legitimate costs of correcting the environment.

Here are some principles we believe should be applied in preserving economic health while improving environmental health:

1. No new industrial facility should be built unless its operation is beneficial from the standpoint of environment, the economy, the needs of the people in the community and the general social welfare. This concept can be expanded to provide for the location of new facilities where they are needed most and where they will not contribute to overcrowding or undue demands on such resources as water.

To further this concept, we urge that national emission standards be set on all stationary sources of both air and water pollution.

Although the Clean Air Act Amendments of 1970 do provide such standards on new stationary facilities constructed after 1972, they do not go far enough in covering present stationary emitters.

We also encourage efforts to include national effluent standards for old and new plants in the current water pollution control legislation. Such comprehensive nationwide regulation is needed to effectively stop polluting companies from moving from a strict standard area to one with less strict standards.

2. In the elimination of pollution by existing plants, most companies can pay the cost from their own resources. Whenever a company clearly proves hardship and economic inability to meet pollution regulations, such proof should not be used as a reason to evade the regulations, but rather, the regulations must be enforced and the company and affected employees should be compensated from public funds.

3. Company responsibility for eliminating pollution must not be limited to taking the necessary mechanical and technical steps, but must also include responsibility to employees. In most cases companies can continue the productive employment of all employees. When a company cannot do so, it should be primarily responsible for protecting the individual's economic security.

The degree of this responsibility varies depending on length of service to the company and age and reemployment opportunity of the individual. Older employees with long service need and are entitled to more assistance than younger, short-term employees.

4. Assistance to dislocated workmen can take these forms: (*a*) early retirement opportunities with adequate pensions for older, long-service employees; (*b*) offer of transfer to jobs in other company facilities in multiplant companies, with moving expenses paid; (*c*) extended severance pay, based on length of service, for employees for which options (*a*) and (*b*) are not applicable; (*d*) retraining opportunities.

5. We caution enforcement agencies against yielding to threats by management of layoffs of workmen as the price of meeting pollution control standards. Such threats bring highly emotional reactions not only from the workers but also from the communities in which they live.

Employers voicing such threats should be enjoined immediately against terminating the employment of any employees until the necessity of such layoffs has been proven and the inability of the company to protect the employees by such means as those listed in point (4) above has been demonstrated.

Burden of proof should be on the employer in appropriate open hearings in which employee representatives and representatives of the community are given opportunity to testify and cross-examine.

I have spoken of the responsibility of employers and of Government. Let me make clear now that we believe that labor unions, too, have a responsibility in this area.

Organized labor must emphatically support environmental cleanup efforts and must never get into the position of opposing such efforts on the grounds of economic hardship. Rather, unions must support prompt measures for cleaning up the environment with adequate provision for preservation of economic health.

Our position must be that nearly all polluting facilities can be corrected without hardship to the workers and that in those few cases where corrections are not possible new job opportunities or compensation must be provided for the workers.

Unions must bargain militantly with their employers for labor-management contract provisions protecting workers facing job losses due to plant closures.

My own union made a small start in this direction in recent contracts negotiated with the oil industry. Much more must be done.

However, Government and the public must recognize that the power of labor unions to negotiate job security is limited. While most labor contracts are negotiated by persuasion and reason, the ultimate strength of any union lies in its power to strike and thereby to stop production. This power is virtually eliminated in the face of threatened plant closures.

It is pointless to strike or threaten to strike a facility which is scheduled for shutdown in any case. Because of this, even the strongest union has limited power to protect its members against plant closures. This is an area in which Government assistance is required.

All of us must concentrate on the alternatives to economic dislocations. We must adhere to the goal of cleaning up, not shutting down, our factories.

There is a reservoir of ability and experience among workingmen which can be used in meeting this goal. Workmen have a vested interest in the continued operation of plants where they make their living while cleaning up the communities where they live.

I urge all those interested in environmental health to take working people into partnership, for they can contribute much.

Mr. Chairman, I pledge to you that the Oil, Chemical & Atomic Workers International Union will work with Government and with industry toward the restoration of a healthful environment. We will do our part. We will try to be constructive and cooperative.

We will try to be good citizens. No doubt we will have to make some sacrifices, just as industry must make sacrifices and all of us as consumers likely will make sacrifices in the form of higher prices.

We will, however, fulfill our primary union responsibility of protecting the incomes and the security of our members. We will oppose those theoretical environmentalists who would make the air and water pure without regard to whether or not people have food on their tables.

We will oppose any efforts by wealthy corporations to make others—workers, taxpayers, or consumers—shoulder all the costs of antipollution efforts.

We say this because we know that nearly all of the power and the decisionmaking in our economy today is in the hands of the directors of the large corporations which have brought about much of the pollution we suffer today.

We hope to be able to protect ourselves with a minimum of assistance. We ask only that the rules be so written that workers are not victimized between the pressure of environmental cleanup on the one side and the economic power of corporations on the other side.

In closing, Mr. Chairman, I wish to thank you and the other members of the committee for providing us this opportunity to express our viewpoint.

Mr. WILLIAMS. Mr. President, I would like to say further that this whole subject is not new. I am disappointed that evidently this administration takes a different attitude than another administration took where a comparable subject was before us, where Government policy was adversely affecting industry and jobs.

Back in the 1950's the administration of President Eisenhower strongly supported this kind of cushion for people whose jobs were adversely affected by necessary policy. The same principle President Eisenhower understood and expressed we are expressing here at this time. It is distressing to see a Republican administration regressing from a prior and I think more enlightened Republican administration of President Eisenhower.

Mr. COOPER. Mr. President, reference has been made by the Senator to the hearings held last year by the Air and Water Pollution Control Subcommittee. I recall those hearings as I participated in them. The hearings were held on this general question but no specific legislation was considered and the subcommittee did not believe it had enough evidence to act upon. I know with this water quality bill, if it is signed, and I hope it is, and the clean air bill, and we have another bill coming up soon—if they become effective I am sure the Senator from Maine (Mr. Muskie) and his committee will go to work on this problem. I would say the chairman of the Committee on Labor could not be prevented from holding similar hearings. But as to the humanity of the different administrations, there is nothing to indicate this administration does not want to deal with this problem. I know they will.

I serve on the Pollution Subcommittee and we had a long running discussion of the impact of the environmental standards in the water quality bill on communities and industries. We had 50 or so meetings of the committee on the bill and 39 conference meetings with the House.

The question of cost to industries came up, as well as the human cost. We felt we did not have enough evidence to write these amendments in the bill.

In the supplemental views of Mr. Randolph, Mr. Muskie, Mr. Montoya, and Mr. Gravel it is slated:

> Although adequate unemployment benefits will be a key element in the legislation we are developing, much more will be required to deal effectively with the problem of economic dislocation associated with environmental control requirements. The comprehensive program required to meet this problem will be introduced in the next Congress. It is not sufficiently developed to be presented as of this date.

That is the statement. I am going to ask for a rollcall vote on this matter.

Mr. MONTOYA. Mr. President, I fully appreciate the very determined opposition of the Senator from Kentucky to this amendment. I was for it in committee because I believe it is right that we enact this amendment. The committee, in view of the Senator's opposition, was willing to forgo any position on the amendment at that time so we could come to the floor and let the Senate work its will with respect to this amendment.

The section in the House bill is almost the same as the section that the amendment seeks to place in the bill at the present time. In other words, it is a restoration of the House amendment with some minor changes, or perhaps they are substantial. I believe that the amendment is in order. I believe that the House worked its will properly when it included the amendment in the legislation.

I certainly want to endorse it, as far as I am concerned, because I think it will help a lot of unfortunate people who might be dislocated, might become unemployed because of decisions made by the National Environmental Protection Agency, EPA.

In view of that, Mr. President, I want to say that I strongly endorse this amendment.

Mr. President, the amendment offered by the enator from New Jersey (Mr. Williams) addresses a problem that is of great concern to me personally, and to the Committee on Public Works.

We have, in the United States, a rapidly changing society in which the Congress frequently is called upon to legislate sweeping changes in our traditional way of doing business. Many of these changes are properly undertaken in the name of improving the quality of life in the United States and protecting the environment in which we live.

We must be aware, however, that many of our actions taken with desirable objectives in mind have the potential to inflict hardships on groups of our citizens.

If Congress is to execute its responsibilities properly, it must also provide for the relief of these hardships that come about during the achievement of goals and objectives for the benefit of the general public.

The amendment offered by the Senator from New Jersey (Mr. Williams) is similar to that which was adopted by the House of Representative as title VIII of H.R. 16071. It also contains provisions which were considered in the hearings on S. 3381, the Public Works and Economic Development Act of 1972, which I introduced early this year and which would establish nationwide economic development programs. Title VIII of the House bill was considered by the Committee on Public Works, but was not included in the bill as reported because of indications that it would stimulate a Presidential veto of the entire bill and thus end all of the programs which depend on this measure for continued authorization.

I believe, however, that the acceptance of this amendment by the full Senate would greatly strengthen this bill. Its adoption at this time is made more relevant by the recent congressional passage of the Federal Water Quality Act Amendments of 1972. The programs authorized by that act, as well as the Clean Air Act Amendments of 1970, are likely to cause some temporary dislocation as adjustments are made to comply with their provisions. Therefore, we would be remiss in our duties if we failed to ease the way through the transition period for those who are adversely affected by these programs designed to improve the environment.

Mr. President, we can discharge our duties in this respect by approving the amendment of the Senator from New Jersey.

Mr. RANDOLPH. Mr. President, for more than 10 years the Committee on Public Works has been engaged in developing legislation to protect the environment of the United States. During this period, we have seen enacted a number of measures that will, when fully implemented, sharply reduce the levels of pollution from all sources. As the Senator from New Mexico (Mr. MONTOYA) has properly noted, such actions can have undesirable side effects as adjustments are made to reach compliance with new pollution requirements. I believe that we should compensate those whose lives are adversely affected by the loss of employment as the result of our actions.

I endorse and am a cosponsor of the amendment of the Senator from New Jersey (Mr. WILLIAMS), as a measure that would strengthen existing statutes aimed at environmental improvement. As chairman of the Committee on Labor and Public Welfare and of its Subcommittee on Labor, Senator WILLIAMS has long experience in dealing with the many factors involved with changes in the American working force. He is sensitive to the problems of workers and has, in the past, sponsored important legislation to improve working conditions and to protect their rights. The amendment he offers today is given added stature because of its sponsorship by Senator WILLIAMS.

Senator MONTOYA has observed that similar provisions are included in S. 3381, which I joined him in introducing earlier this year. The provisions in that bill are designed to aid persons who become unemployed because of adverse economic conditions.

It is my intention to introduce similar legislation as an amendment to any bill to regulate the surface mining of coal that may come before the Senate. As Members of the Senate know, production of coal is the largest single industry in my State, employing approximately 44,000 people. This industry is essential to the capacity of our country to meet the growing demands for energy. At the same time, I fully recognize that the unrestricted surface mining of coal cannot be permitted to continue. In recent years, we have witnessed an upsurge in the application of surface mining techniques to produce coal. In 1969, surface mining accounted for 38 percent of all coal production. In 1970, that proportion had risen to 44 percent and this year approximately half of all coal produced in the United States will come from surface mines.

Regrettably, this upsurge in surface mining has too frequently been accompanied by a reckless emphasis on production that resulted in extensive uncorrected damage to the countryside and deterioration in the quality of life of many people who live near surface mining operations. It is to bring the activities of those irresponsible surface mine operators under control and make them compatible with their more conscientious compatriots that legislation has been introduced in the Congress.

While I support the regulation of surface mining, I know that many people in my State would be likely to lose their jobs under any program of strict controls. It has been estimated that the total abolition of surface mining in West Virginia would result in the direct loss of 8,000 mining jobs. Although I do not believe that total abolition is desirable or necessary at this time, we could realistically anticipate some loss of employment under surface mining control programs such as that passed this week by the House of Representatives, or that established by S. 630, which is now pending before the Senate.

It would seem to me that the provisions of the amendment offered by the distinguished Senator from New Jersey (Mr. WILLIAMS) would also apply to the adverse effects to surface mine control programs. It could also provide relief to underground miners whose jobs are eliminated because of the adoption and enforcement of air pollution control standards. Severe restrictions on the sulfur content of coal used by electric generating plants is having widespread impact on the coal mining industry. The low sulfur coal necessary to comply with these regulations is not available in sufficient quantities. As a result, many electric utility companies are shifting to other fuels, particularly oil, and the production of high sulfur coal is declining in West Virginia and elsewhere.

Loss of coal mining jobs because of air pollution control regulations may be interpreted as a secondary effect of the Clean Air Act, but it is a very real result of this legislation and one to which the provisions of Senator WILLIAMS' amendment would properly apply.

In developing environmental protection legislation, the committee has in all instances worked to produce measures that are reasonable. The maintenance of a clean and healthful environment is of critical importance for the American people, but the human aspects of our work are of equal concern. In every one of our environmental bills, the committee has been diligent in its efforts not to place greater emphasis on one than on the other.

Mr. President, this amendment is properly offered to H.R. 16071. I hope that it will be approved by the Senate by a wide margin.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. COOPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, will the Senator from Kentucky yield to me?

Mr. COOPER. I yield.

Mr. DOMINICK. Mr. President, I am not sure I am totally clear on this, and I take this time in order to clarify my own thinking, and perhaps, hopefully, clarify the record. Do I understand that under the amendment there would be a provision for compensation for those who lose their jobs because of environmental controls, or businesses which would be in an economic position of loss because of environmental controls? Is that correct?

Mr. COOPER. Yes. There would be unemployment benefits for 78 weeks at 60 percent of their weekly wages, and it would involve moving expenses, relocation, and mortgage payments.

Mr. DOMINICK. Is there anything in the bill which would indicate how a determination is made that a business is closed because of added expenses of environmental control or simply because it was due to inefficient management?

Mr. COOPER. It would be certified by the Administrator of EPA.

Of course, the author of the amendment should be the one to explain it, but it would have to be certified by the Administrator of EPA.

Mr. DOMINICK. I understand that, but are any standards established under the bill to assist the Administrator of the EPA in making such a determination?

Mr. COOPER. No. As I discussed this amendment a few moments ago, I said no one knows what is going to happen under the orders of EPA, under the vast Clean Air Act and the Federal Water Pollution Control Act, sweeping amendments to which have not yet become law. The water law covers every industry in the United States and every city and every community that has municipal sewage plants. No one has the slightest comprehension or idea what is going to happen, except we know the problem is going to occur.

There have been no hearings on this question. There may have been one or two witnesses who refered to it in the Subcommittee on Air and Water Pollution of which the Senator from Maine (Mr. MUSKIE) is chairman. That is the proper subcommittee to consider this matter, or else the Labor and Public Welfare Committee.

The chairman of the subcommittee, the distinguished Senator from Maine (Mr. MUSKIE), said in his supplemental views that they did not have the evidence upon which to base such a judgment, and that he intends to offer comprehensive legislation on it. That is in the report on this bill.

I do not see why the amendment is offered at this time. Any Senator can offer any amendment he wants to, but I see no practical sense in it when it could result in the defeat or loss of the bill before us.

Mr. DOMINICK. Will the Senator answer one more question? Is it true that this provision was put in by the House with no hearings at all on this particular aspect?

Mr. COOPER. It is my understanding that the House had no hearings on this subject.

Mr. DOMINICK. For the life of me, I will just say, for the purposes of the RECORD, I cannot understand why at this point in the session we take this type of action. Obviously, if it is adopted, it will not be in the conference, so there will not be any final conference on it—at least nothing but final language. I think it has been very well expressed by Mr. Weinberger. Certainly, it is going to give an added incentive for vetoing the bill. Perhaps that is what the sponsors want. I do not know. If so, I think it is kind of too bad.

The other thing that is worthwhile saying here is that I find a certain logic in providing that when the Government is requiring the doing of something which results either in unemployment or losses, some type of compensation should be provided. I gather this is what the Senator from Kentucky and the Senator from Maine have been holding hearings on at some length. Is that correct?

Mr. COOPER. I can only speak for myself. I believe that we will have to have some legislation on this subject. I think it would be humane. I think it would be helpful. I do not think anybody yet knows the scope of the problem involved, the standards that may be fixed, the limits, the kind of industries, the size of industries that may be involved. Some automobile companies have said they could not meet the emissions standards and might have to go out of business.

Should they be held to some standards which would affect many or all of the residents of a community in which a small industry was located?

One of the difficult subjects was trying to write into the water quality bill standards which would take into account the cost and the impact of the act upon communities.

I would not want to be misunderstood when I say this, but as best we could, without lowering the standards for clean water that must be achieved, there were some provisions which took into account, by classes of industry, the impact on the communities.

This is a vast subject. All I can say is that I think it is untimely. I myself, for whatever that is worth, am going to vote against it.

Mr. DOMINICK. Mr. President, as one who has supported all the environmental acts that have been placed before us here, I can understand the concern of those responsible for this amendment not to create standards under which we cannot live. At the same time I find it somewhat difficult to determine why we should pick on these particular pieces of legislation to give compensation to workers and businesses, when many other pieces of legislation which we have also passed have created decided problems for businesses, including, I may say, the occupational health and safety act, and a host of others, in which we did not provide for compensation.

It may be we are going to have to go into all that and say that where the Federal Government has gotten someone's nose into the ground and rubbed it in, it has to give him something to wipe it off with. We have not gotten into that yet. To get into it at this time without a rather large sum being added to the supplemental bill will be rather difficult to stomach.

It is to me, even though I can understand the principle.

Also, I gather that under this particular provision, the Administrator of the EPA is given subpena powers to pick up almost any type of books and records that he wants to, and I would presume that that is still in the amendment that the Senator from New Jersey is offering.

If it is, here we go again in giving the Administrator of an executive agency powers to treat any records, confidential or otherwise, in such a way as he may deem proper, on his own say so, without any particular review. For the life of me, I do not see why we should complicate this bill with that type of amendment; so I shall certainly oppose it.

The PRESIDING OFFICER (Mr. STAFFORD). The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act add the following new sections:

SEC. 9. (a) the heading of section 28 of the Occupational Safety and Health Act of 1970 is amended to read as follows:

"ASSISTANCE TO SMALL EMPLOYERS

"(b) Section 28(a) of such Act is amended by inserting "(1)" immediately after the subsection designation, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)".

"(c) Subsections (b), (c), and (d) of section 28 of such Act are redesignated as paragraphs (2), (3), and (4), respectively.

SEC. 10. Section 28 of the Occupational Safety and Health Act of 1970, as amended by this Act, is further amended by inserting at the end thereof the following:

"(b)(1) In order to further carry out his responsibilities under subsections (c) and (d) of section 21 as amended regarding additional assistance to small employers, the Secretary may visit the workplace of any small employer which has twenty-five or fewer employees for the purpose of affording consultation and advice for such employer. Such visit (A) may be conducted only upon a valid request of an employer for consultation and advice at the workplace on the interpretation or applicability of standards or on possible alternative ways of complying with applicable standards, and (B) shall be limited to the matters specified in the request affecting conditions, structures, machines, apparatus, devices, equipment, or materials in the workplace. The Secretary shall evaluate a request by an employer pursuant to this subsection and, if appropriate, may provide for an alternative means of affording consultation and advice other than onsite consultation.

"(2) The Secretary may make recommendations regarding the elimination of any hazards disclosed within the scope of the onsite consultation. No visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no citations shall be issued nor shall any civil penalties be proposed by the Secretary upon such visit, except that nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

"(3) For the purpose of carrying out the provisions of this subsection, there is authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1973, $1,500,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

"(c)(1) When, in the course of any visit carried on under subsection (b), there is discovered an apparent serious violation (as defined in section 17(k)) of the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary shall issue a written notice to the employer describing with particularity the nature of the violation, and the action which must be taken within a reasonable period of time specified by the Secretary for the abatement of the violation. Within such reasonable period of time specified by the Secretary, the employer shall certify that he has complied with the abatement instructions. Where an employer fails to make the certification required by the preceding sentence within the prescribed period, the Secretary shall, without further notice, conduct an inspection under section 8 of this Act.

"(2) In the event of a subsequent inspection, the Secretary shall take into consideration any information obtained during the consultation visit of that workplace in determining the nature of an alleged violation and the amount of the penalties to be proposed, if any. The failure of the Secretary to give consultation and advice regarding any specific matter during the consultation visit shall not preclude the issuance of appropriate citations and proposed penalties with respect to that matter.

"(d) In prescribing rules and regulations pursuant to subsection (b) of this section, the Secretary shall provide for the separation of functions between officers, employees, or agents who conduct visits pursuant to subsection (b) of this section and officers, employees, or agents who conduct inspections or investigations under this Act".

SEC. 11. Section 21 of the Occupational Safety and Health Act of 1970 is amended by adding a new subsection as follows:

"(d) In order to provide additional assistance to small employers the Secretary may conduct onsite consultations pursuant to the provisions of subsection (b), (c), and (d) of section 28".

SEC. 12. The previous three sctions shall take effect 30 days after the date of their enactment."

Mr. JAVITS. Mr. President, this amendment would provide that the Department of Labor would have authority to visit worksites of employers having 25 or fewer employees for the purpose of advising or consulting with the small employer on his obligations under the Occupational Safety and Health Act.

It will be remembered that when the discussion took place here on the HEW bill respecting whether there should be 15 exempted, or down to three, which the Senate ultimately decided on, I stated on behalf of myself and the Senator from New Jersey (Mr. WILLIAMS) that we were very much in favor of simplifying and accelerating the aid which the small businessman could receive from the Occupational Health and Safety Administration in respect to the problems he might have with the administration of that act.

This amendment is favored by the Occupational Health and Safety Administration. It would expressly provide that a visit may take place only if requested by the small employer for the purpose of discussing the interpretation or application of standards, or possible alternative ways of complying with standards.

The amendment limits the visit to appropriate matters set forth in the employer's request, but within the scope of the business. Jobsite consultation would not be considered as an inspection under the OSHA law, and would not result in citations and civil penalties. If hazardous conditions are disclosed during the visit, notwithstanding that the visit would not be subject to the statutory incidence of an exception, then further proceedings will be undertaken with the particular small business affected, without, however, using that particular visit as the basis for an inspection.

If a situation constituting an imminent danger comes to the attention of the official consultant, he will immediately bring the matter to the attention of the employer, who, we hope, will abate the danger. The consultant will then contact the area director of safety and health, who will then take whatever enforcement action is necessary. Therefore, the only time when the visit can have more connotations than just a consultation visit is if a condition is found which is truly one of imminent danger. Other than that, it is strictly for purposes of consultation and helping the employer to meet the requirements of the law.

Mr. President, we do not see how to get out of that dilemma. If they find something which is an imminent danger, the employer has got to do something about it right away; but every care is taken in the provisions which have been submitted to see that the visit is truly one for consultation and in no way prejudices the employer who is being consulted with, unless something is found which is of imminent danger.

Naturally, the fact of the visit does not constitute a hold harmless clause. The Secretary may proceed in the normal course to enforce the law by issuing citations imposing penalties, et cetera. But the visit itself will not represent an item of prejudice to the individual businessman.

Mr. MONTOYA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONTOYA. I would like to clear up for the record what the present provision of the law is, and how the amendment before us would change that provision, if in any way.

Mr. JAVITS. The way the law reads today, if the Department of Labor goes out and visits a place of business, it is an inspection, and if they find violations, they have to act with respect to those violations.

The way we have changed it, the consultation would not constitute an inspection.

Mr. MONTOYA. Do I understand correctly that the amendment would provide for consultation only upon the invitation of the small businessman?

Mr. JAVITS. That is exactly correct. Only upon that basis. And also, that if he finds a violation which is not one of imminent danger, then he goes away and normal procedures have to be gone through to redress the violation. It is assumed that he will inform the small businessman.

Mr. MONTOYA. Is there any limitation on the number of employees?

Mr. JAVITS. Twenty-five employees is the definition of a small businessman.

The only reason we suggest that this proposal go on the pending bill is that the bill will probably result in some arrangement with the House of Representatives, in view of the number of complaints received here of small businesses being involved with difficulty under the Occupational Health and Safety Act.

Mr. MONTOYA. In other words, the amendment is designed to more or less do away with the rigidity of the previous procedure?

Mr. JAVITS. That is true. I would not wish, by saying that, to make the concession that the previous procedures were rigid.

Mr. MONTOYA. Well, let us say the rigidity alleged by those who were trying to put a ceiling on inspections.

Mr. JAVITS. I think that is fair, but I think it is even fairer to say that here is an additional source of help to the small business as it seeks to comply with the occupational health and safety law, the kind of help the Department of Labor would like to give, but which is inhibited by the present state of the law.

Mr. MONTOYA. I would like to state that I have no objection to the amendment.

Mr. JAVITS. I thank my colleague.

Mr. DOMINICK. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. DOMINICK. I congratulate the Senator for bringing this matter up. Having been the sponsor of several ideas to try to help out people afflicted by the OSHA Act, which has created so many complaints about the act, I think this will be helpful, and I would appreciate being made a cosponsor.

Mr. JAVITS. I would like that very much. The Senator from Colorado has always been very cooperative and helpful in these matters, and I ask unanimous consent that his name be added to the amendment as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. I have quickly read the amendment. I think it is a very fair amendment to the Occupational Health and Safety Act. I ask the Senator, why has this not been acted upon by the Senator's Committee on Labor and Public Welfare before, during this session of Congress?

Mr. JAVITS. We have not had time to consider it. The question is perfectly fair. The amendment I propose was drafted by Representative STEIGER, with quite a number of cosponsors, of which I can furnish the Senator a list.

Mr. COOPER. I understand. That is not necessary.

Mr. JAVITS. The reason we did it was because we had held some hearings which turned up these complaints. Those hearings extended into the part of the session when we found it extremely difficult to have any further executive sessions of the committee. As the Senator will remember, the matter came to white heat with the series of amendments proposed by the Senator from Nebraska (Mr. CURTIS). In the course of that debate, we promised that we would do something about this matter if we were allowed to do so by Congress before we went home. We are endeavoring, at a moment when it is very difficult to get a committee together for any action, to redeem that promise.

Mr. COOPER. I think it is very good legislation. For the reasons that I have stated before in opposition to the other amendment offered to this bill I shall be forced to vote against it myself, but let me say I hope that at some point such legislation will be approved by Congress.

Mr. JAVITS. I understand.

Mr. COOPER. I did not vote for Senator CURTIS' amendments to the Occupational Health and Safety Act with the exception of the last one, with respect to three or less employees, although I recognized the problems small businesses have. I could not bring myself to believe that we would have safety standards that were any less valuable to a person employed by a company with five, six, or seven employees than by one with 500 or 600.

Now that I have the Senator before me, and he has raised the subject, and this is the first time I have had a chance to talk with him for a long time—I shall be brief, because I know that the majority leader is cager to get through with this measure—more and more I have noticed, in the last 2 or 3 years, that Congress is writing into legislation mandatory penalties against employees, and in some cases without due process of law. Under the act to which the Senator has referred, I think there is provision for citation of the employer. That is correct, is it not?

Mr. JAVITS. And a hearing.

Mr. COOPER. And that is prior to the imposition of a fine?

Mr. JAVITS. That is correct.

Mr. COOPER. I may say that in the Committee on Public Works, in several environmental bills which were developed by the staff and others—and we have a fine staff—we would find these mandatory penalties. But in discussion in the committee, when it appeared that there was not due process and no chance for a hearing before the imposition of the penalties, the committee would strike them out.

I am going to return to a subject which has been very much on my mind, and that is the Mine Safety Act. In that act are a number of provisions for the mandatory imposition of fines without any hearing at all, with no due process of law. It is left to the arbitrary judgment of an inspector to impose fines, unequally, as they would have to be, and perhaps arbitrarily among different operations—and I may say coercive, too—because in some cases, when the size of the fine has been objected to, the suggestion was made, "If you don't take this, a larger fine can be imposed upon you."

I will not be here next year, but I hope the Senator will follow the principle he has just spoken of in this amendment, that there should be a consultation; and if there is a situation of imminent danger, then the mine should be closed down.

I do contend that this is a situation in which there is no due process of law. Knowing the Senator as well as I do and knowing his judicial temperament, I appeal to him to think of this next year. It is an awful situation.

Mr. JAVITS. I will consider myself, with deep feeling, a trustee of the great principles for which this very distinguished and famous Kentuckian has stood.

There are many explanations about coal mine safety. They can get a jury trial, and so forth. I will insert those in the Record immediately after what we have discussed.

I assure the Senator that I hold these principles very dear, that I fought for them in my committee, that I will continue to fight for them, and that I will make every effort to use legislative oversight in that process.

May I also say to the Senator that he knows I am unbelievably busy. I am unofficial ombudsman for Kentucky, at the request of the Senator from Kentucky—the present Senator—at any time.

Mr. COOPER. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, the development and refinement of legislation under which economic development programs are carried out in the United States is a matter for which I have a great personal concern. As chairman of the Committee on Public Works, which has jurisdiction over legislation in this area, my concern is nationwide in scope. I believe that we must provide programs that will enable States and local communities throughout the country to build the kind of facilities on which sound economic and social growth can be based. This has been our overriding goal since 1965 when the committee first began working on legislation concerning economic development.

My personal involvement, however, goes far beyond that time. As a Senator from a State which has been held up as the example of what can happen to a region in which a single industry is predominant, I know the value of diversity. It has now been two decades since West Virginia began to feel the impact of substantial changes in the coal mining industry. We were, quite frankly, unprepared for the great upheaval that resulted when the coal industry became highly mechanized. Employment in our major industry dropped rapidly, and today the number of men mining coal in West Virginia is only approximately one-third of what it was in 1950. This situation quickly focused national attention on West Virginia and I believe that our experience, painful as it was, helped to stimulate interest and legislation not only to help us recover, but to forestall the recurrence of similar situations in the future.

In 1965, the committee proposed and the Congress passed the Public Works and Economic Development Act. This program helped to provide supplementary Federal assistance in areas where it was most needed. Since that time we have learned much about economic development programs and we have modified our efforts accordingly. The bill now before the Senate represents a further refinement of the Public Works and Economic Development Act.

The bill has been explained in detail by the very able and dedicated chairman of our Subcommittee on Economic Development, Senator Montoya. Under his direction, the subcommittee, during the 92d Congress, has conducted a very thorough examination of contemporary issues in economic development. Earlier this year, Senator Montoya introduced and held hearings on legislation (S. 3381) to create a comprehensive nationwide economic development program. As he has said, such a program will again be the major concern of the subcommittee during the 93d Congress and work in this area will begin early in the new year. I was a cosponsor of S. 3381 and intend to be deeply involved in the continuation of this work next year.

The bill we consider today (H.R. 16071), is intended to provide for the continued functioning of existing programs until new legislation is completed and passed. At the same time, it makes several changes that the committee feels are necessary in the operation of the programs carried out by the Economic Development Administration.

One of these changes is of special concern to me because of its relevance to my State and its impact in States with similar unemployment problems. In recent years we have assisted many States in strengthening their programs of vocational and technical education. It is essential that in any area where unemployment is a severe and persistent problem that we provide facilities for training in job skills. As a result of our efforts in this and other legislation, the number of vocational and technical schools throughout the United States has expanded.

We have found, however, that just the building of new vocational schools is not enough. These schools must be staffed and operated if they are to fulfill their function of training young people and adults in skills that they can utilize to earn a living. In many cases these schools are in communities with high unemployment rates. Many of these communities, however, are also suffering from shortages of public revenues. Consequently, it has been very difficult for many of them to provide the operating funds necessary for the new vocational schools to function effectively.

This bill, therefore, authorizes the Federal Government to provide grants for the operation of vocational training schools constructed under this program. A maximum of 75 percent of the operating costs of new vocational schools will be available for the first 2 years of their operation. This will permit local government to adjust itself gradually to the added expense of a new vocational school so that the shock to what already may be a shaky financial structure will not be severe.

Our efforts would be self-defeating if we provided facilities that, while they may be needed, impose a financial burden that communities were unable to bear.

Mr. President, I am greatly encouraged by the recent creation of new regional commissions under the Public Works and Economic Development Act. The concept of regionalism, first enunciated in the Appalachian development program, has proven itself to be valid. The work of the five commissions created earlier under the Economic Development Act is well advanced. In recent months, new commissions, the old West and the Pacific Northwest, have been created to further extend the scope of regional planning. The Committee on Public Works believes firmly in the regional approach to economic development and will utilize this approach in legislation on the national economic development program next year.

The bill now before the Senate extends for 1 year the operation of programs that have enabled many communities to greatly improve the lives of their citizens. It is a program whose impact is widespread and it is one that is effective at the grassroots level. There must be no pause in this important work, and I urge the Senate to give its endorsement by passing this bill.

Mr. MUSKIE. Mr. President, blackmail is a hard word, a tough word. More than 400 years ago, it had a precise meaning: the tribute exacted by pirates from small property owners. Later, blackmail came to mean any payment extorted by intimidation.

As I say, it is a hard word, a tough word. Hard enough, tough enough, you would think, for any purpose. But during the past year, blackmail took on a companion. Together, they describe a new cause for concern. Americans now speak of environmental blackmail.

What does it mean? Let me give you an example: A pollution control order is issued to a polluter. If he is required to comply, the polluter replies, he will have to lay off some of his workers or close down a part, or all, of his plant.

The polluter's reply is environmental blackmail in its simplest form. His reply also is an illustration of how our way of living, our way of doing business, collide head on with our growing concern for a cleaner environment.

As chairman of the Subcommittee on Air and Water Pollution, I am familiar with the process. Nearly 10 years ago, we began our work with little more than an uneasy feeling that our way of living, our way of doing business was damaging the air, water, and land. We took some short steps to clean up the pollution that we could see increasing around us.

From those first steps, we learned something else: New products, new ways of producing goods, new habits in our way of living put new strains upon our environment, created new dangers to public health, caused new kinds of economic loss.

And so, in the mid-1960's, we agreed to take some longer steps. We set out to do a better job of protecting our natural resources. We set out to do a better job of protecting public health. We set out to do a better job of counting economic gain and environmental loss.

What we found shocked us. We had been too intent upon our way of living. Now, we learned the hard way that the supplies of clean air, clean water, unspoiled land in this country, on this planet, are strictly limited.

We had been too intent upon the prosperous smoke rising from the stacks. Now, we learned the hard way that the rights to clean air, clean water, unspoiled land in this country, on this planet, belong not to just a few, but to us all.

Most of us could recover from the shock. Most of us could recognize the need for a broader national policy, a broader national effort to clean up our environment. Most of us could see ways to get the job done without crippling either our way of living or our way of doing business. The President himself said it would be now or never in the 1970's.

But what none of us foresaw were the effects of 3 years of the President's stand-back-and-do-nothing economic policy. In 3 years, the jobs of 3 million workers were lost. In 3 years, 17 percent of the value of the dollar was lost. In 3 years, the number of unemployed workers rose to 5 million.

It was all too easy for some to find a scapegoat. Inflation they had come to know and admire. Recession they had lived through before. But a national policy for a cleaner environment? Now there was something to jump up and down about.

No one should have been surprised by what happened next. Reports of economic dislocation, plant shutdowns, and worker layoffs resulting from pollution control orders began to arrive in Washington. Environmental blackmail began to bite.

Last year, the Subcommittee on Air and Water Pollution held its first series of public hearings on these problems. In those hearings, we began to look for ways to protect workers, communities, and plants; to crack down on environmental backmail.

Let me discuss some of our findings. During 1970, business failures in this country increased by 17 percent to a 3-year high of more than 10,500. The dollar liabilities of these firms increased to a record high of nearly $1.9 billion.

Manufacturing failures during 1970 increased by 36 percent to the highest total in 5 years. To maximize the return on their investments, some companies apparently chose to close down their older and more marginal plants.

Other companies apparently elected to produce only goods for which market demand was higher, profits greater. The plants producing goods for which market demand was lower and profits lesser were shut down or production was reduced.

In many cases there was a direct link between the age of the plant, the goods produced, the market demand for the product, and the decision to shut down. What is more important is this:

In case after case presented to the subcommittee, the companies had faced tough pollution control requirements. But in not one of those cases did a company use the control requirements to justify a shutdown or a layoff.

I think a recent case from a Midwestern State is particularly interesting. The record shows that the company involved had planned to build a settling pond as part of the waste treatment works at one of its plants located in the State. The plan had been submitted for State approval in early 1967.

Eighteen months later, the company applied for a permit to operate the settling pond and waste treatment works. The State agency urged the company to comply with the State's standards for water quality. The company declined, saying it would ask for a variance, an exception, from the standards.

In the spring of 1969, more than 2 years after the settling pond plan had been submitted, the company began to play with environmental blackmail. The plant, said the company to the State agency, was marginal; it could not stay in busines if it was required to meet the standards.

The State agency was patient. It asked the company to produce by Christmastime a program that would meet the standards. The company, however, was still reluctant. Just before Christmas, the company told the State agency that the plant probably would be closed within 5 years. Even so, the company agreed to submit in early 1970 a plan for compliance.

Well, the company's plan failed to arrive until the summer of 1970. The State agency promptly issued an interim permit to the company for operation of the existing waste treatment works. And within 2 months, the State agency found the effluent from the plant failed even to meet the terms of the interim permit.

I will spare you all the details of this 5-year saga. Negotiations between the company and the State agency apparently were broken off in 1971. The company then announced that a portion of the plant will be permanently shut down.

My point is this: The State's standards for water quality had no bearing on the company's decision to shut down. The company, in its announcement, did not so much as mention the State's standards. To the contrary, the company's board chairman explained carefully that—

First. Only a fifth of the plant's production actually resulted in finished products; the remaining four-fifths were shipped to others of the company's plants for processing into finished products sold in other market areas.

Second. The company's studies indicated no way in which four-fifths of the plant's output could be produced at costs as low as those of the company's other plants located more closely to the market areas.

Third. Of the more than 2,500 employees affected, new jobs at other operations of the company in the area will be available to 1,300 workers. All employees affected will receive the benefits to which they are entitled under the company's personnel programs.

Obviously, this is a large company with many plants, many kinds of operations. But the classic cases of environmental blackmail occur in small towns or medium-sized cities where there may be only one or two major industrial plants. When pollution controls are imposed, or when tougher controls are considered, the word is spread that a shutdown or layoff may result.

Let us look at this threat for a moment. Every national index suggests that pollution control will have little impact upon the total economy. Studies commissioned by the Council of Economic Advisers indicate, for example, that the cost of pollution control will depress the gross national product by less than 1 percent a year between now and 1976.

Similarly, a White House study of 11 major industries, estimates that pollution controls may result in the loss of 50,000 to 125,000 jobs between now and the close of 1976. These figures amount to between 1 and 4 percent of the workers in the 11 industries, yet no more than five hundredths of 1 percent of this country's labor force in 1970. The study does not say how many jobs may be created by pollution controls.

But in a particular small town or medium-sized city, a major employer's threat to shut down or to lay off is potent. In these days of high Nixon unemployment—5 to 12 percent—the threat to one town or to one city is devastating. Workers believe they must choose between jobs and a clean environment; they do not believe they can have both.

This is environmental blackmail in its worst form. Of course, all Americans are troubled. After all, the economy is suffering from inflation and recession, from unemployment and underemployment. After all, the President is offering no real remedies; he says the workers of this country must choose.

I reject the President's approach. I say we can have a clean environment and a healthy economy. And I believe we must have both. Without both, we cannot survive in this country; we cannot survive on this planet.

To obtain both, we must have a broader policy, a broader effort. Only a strong economy can provide the necessary investment in environmental controls. Only a strong economy can at the same time produce the jobs and goods we require.

Thus, I support the amendment proposed by the Senator from New Jersey (Mr. WILLIAMS) to protect employees from victimization by environmental blackmail.

These amendments will:

Direct the Environmental Protection Agency on its own, or on the request of an affected employee, to investigate any real or alleged employment losses due to enforcement of Federal environmental laws;

Require disclosure of the facts and economic circumstances involved in the proposed closing of any facility due to environmental controls;

Direct the Secretary of Labor to certify as unemployed any persons who are thrown out of work as a result of environmental control regulations who have worked at the plant at least 26 weeks during the previous 78 work weeks.

Prohibit the firing or other discrimination against any person who requests an investigation of employers' actions relating to environmental blackmail;

Provide loans to employers to aid them in meeting environmental standards; and

Authorize grants to local governments which suffer substantial losses of tax revenue as a result of closing any facility due to environmental regulations.

Adoption of this amendment is vital to assure that decisions relating to plant closures because of environmental impact are made in a responsible manner and in full view of the workers, the local community or communities affected, and those responsible for enforcing environmental control regulations. Only with such open, above board, decision making and the authority of the Environmental Protection Agency to investigate the facts, can we be assured that the jobs and livelihoods of workers, their families, and their communities are not used as pawns in industry efforts to undercut pollution control regulations.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 16071) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MONTOYA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 3598—THE RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT OF 1972

Mr. JAVITS. Mr. President, in view of the tremendous interest that has been generated with respect to the Williams-Javits pension reform bill, S. 3598, the Retirement Income Security for Employees Act of 1972, which was unanimously approved by the Committee on Labor and Public Welfare on September 15, 1972, I ask unanimous consent that the full text of the bill as reported by the Committee on Labor and Public Welfare, together with a list of all its present cosponsors, be printed in the RECORD.

Mr. MANSFIELD. Mr. President, will the Senator add my name as a cosponsor of the bill reported by the Committee on Labor and Public Welfare?

Mr. JAVITS. That is a great honor.

Mr. President, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

COSPONSORS OF S. 3598

Senator Harrison A. Williams, Jr. of New Jersey.

Senator Jacob K. Javits of New York.

Senator Birch Bayh of Indiana.

Senator Alan Bible of Nevada.

Senator Quentin N. Burdick of North Dakota.

Senator Lawton Chiles of Florida.

Senator Frank Church of Idaho.

Senator Alan Cranston of California.

Senator Thomas F. Eagleton of Missouri.

Senator Mike Gravel of Alaska.

Senator Fred R. Harris of Oklahoma.

Senator Philip A. Hart of Michigan.

Senator Vance Hartke of Indiana.

Senator Harold E. Hughes of Iowa.

Senator Hubert H. Humphrey of Minnesota.

Senator Daniel K. Inouye of Hawaii.

Senator Henry M. Jackson of Washington.

Senator Edward M. Kennedy of Massachusetts.

Senator Warren G. Magnuson of Washington.

Senator Mike Mansfield of Montana.

Senator Gale W. McGee of Wyoming.

Senator George S. McGovern of South Dakota.

Senator Thomas J. McIntyre of New Hampshire.

Senator Walter F. Mondale of Minnesota.

Senator Joseph M. Montoya of New Mexico.

Senator Frank E. Moss of Utah.

Senator Edmund S. Muskie of Maine.

Senator Gaylord Nelson of Wisconsin.

Senator John O. Pastore of Rhode Island.

Senator Claiborne Pell of Rhode Island.

Senator Jennings Randolph of West Virginia.

Senator Abraham Ribicoff of Connecticut.

Senator John Sparkman of Alabama.

Senator Adlai E. Stevenson III of Illinois.

Senator John V. Tunney of California.

Senator J. Glenn Beall, Jr. of Maryland.

Senator J. Caleb Boggs of Delaware.

Senator Edward W. Brooke of Massachusetts.

Senator Clifford P. Case of New Jersey.

Senator John Sherman Cooper of Kentucky.

Senator Robert P. Griffin of Michigan.

Senator Charles McC. Mathias, Jr. of Maryland.

Senator Charles H. Percy of Illinois.

Senator Richard S. Schweiker of Pennsylvania.

Senator Robert T. Stafford of Vermont.

Senator Robert Taft, Jr. of Ohio.

S. 3598

A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Retirement Income Security for Employees Act".

INDEX

Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.

TITLE I—ORGANIZATION

PART A—ORGANIZATIONAL STRUCTURE

Sec. 101. Powers and duties of the Secretary.
Sec. 102. Appropriations.
Sec. 103. Office of administration.

PART B—COVERAGE, EXEMPTIONS, AND REGISTRATION

Sec. 104. Coverage and exemptions.
Sec. 105. Registration of plans.
Sec. 106. Reports on registered plans.
Sec. 107. Amendments of registered plans.
Sec. 108. Certificate of rights.

TITLE II—VESTING AND FUNDING REQUIREMENTS

PART A—VESTING REQUIREMENTS

Sec. 201. Eligibility.
Sec. 202. Vesting schedule.

PART B—FUNDING

Sec. 210. Funding requirements.
Sec. 211. Discontinuance of plans.

PART C—VARIANCES

Sec. 216. Deferred applicability of vesting standards.
Sec. 217. Variances from funding requirements.

TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PENSIONS

Sec. 301. Program established.
Sec. 302. Acceptance of deposits.
Sec. 303. Special fund.
Sec. 304. Individual accounts.
Sec. 305. Payments from individual accounts.
Sec. 306. Technical assistance.

TITLE IV—PLAN TERMINATION INSURANCE

Sec. 401. Establishment and applicability of program.
Sec. 402. Conditions of insurance.
Sec. 403. Assessments and premiums.
Sec. 404. Payment of insurance.
Sec. 405. Recovery.
Sec. 406. Pension Benefit Insurance Fund.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

TITLE VI—ENFORCEMENT

TITLE VII—EFFECTIVE DATES

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that private pension and other employee benefit plans and programs in the United States are intrinsically woven into the working and retirement lives of American men and women; that such plans and programs have become firmly rooted into our economic and social economic impact is interstate and increas-structure; that their operational scope and ingly affecting more than thirty million worker participants throughout the United States; that the pension assets of approximately $150,000,000,000 accelerating at more than $10,000,000,000 annually, represent the largest fund of virtually unregulated assets in the United States; that the growth in size, scope, and numbers of employee benefit plans is continuing rapidly and substantially; that Federal authority over the establishment, administration, and operations of these plans is fragmented and ineffective to secure adequate protection of retirement and welfare benefits due to the workers covered and affected; that deficient and inadequate provisions contained in a number of such plans are directly responsible for hardships upon working men and women who are not realizing their expectations of pension benefits upon retirement; that there have been found to be serious consequences to such workers covered by these plans directly attributable to inadequate or nonexistent vesting provisions, lack of portability to permit the transfer of earned credits by employees from one employment to another; that terminations of plans beyond the control of employees, without necessary and adequate funding for benefit payments, has deprived employees and their dependents of earned benefits; that employee participants have not had sufficient information concerning their rights and responsibilities under the plans, resulting in loss of benefits without knowledge of same; that the lack of uniform minimum standards of conduct required of fiduciaries, administrators, and trustees has jeopardized the security of employee benefits; and that it is therefore desirable, in the interests of employees and their beneficiaries, and in the interest of the free flow of commerce, that minimum standards be prescribed to assure that private pension and employee benefit plans be equitable in character and financially sound and properly administered.

(b) It is the declared policy of this Act to protect interstate commerce, and the equitable interests of participants in private pension plans and their beneficiaries, by improving the scope, administration, and operation of such plans, by requiring pension plans to vest benefits in employees after equitable periods of service; to meet adequate minimum standards of funding; to prevent the losses of employees' earned credits resulting from change of or separation from employment; to protect vested benefits of employees against loss due to plan termination; and to require more adequate disclosure and reports to participants and beneficiaries of plan administration and operations, including financial information by the plan to the participant, as may be necessary for the employees to have a comprehensive and better understanding of their rights and obligations to receive benefits from the plans in which they are participants; to establish minimum standards of fiduciary conduct, and to provide for more appropriate and adequate remedies, sanctions, and ready access to the courts.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Secretary" means the Secretary of Labor.

(2) "Office" means the Office of Pension and Welfare Plans Administration.

(3) "Assistant Secretary" means the Assistant Secretary of Labor in charge of the Office of Pension and Welfare Plans Administration.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

(5) "Commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

(6) "Industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry affecting commerce within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(7) "Employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to a pension or profit-sharing-retirement plan, and includes a group or association of employers acting for an employer in such capacity.

(8) "Employee" means any individual employed by an employer.

(9) "Participant" means any employee or former employee of an employer or any member or former member of an employee organization who is or may become eligible to receive a benefit of any type from a pension or profit-sharing-retirement plan, or whose beneficiaries may be eligible to receive any such benefit.

(10) "Beneficiary" means a person designated by a participant or by the terms of a pension or profit-sharing-retirement plan who is or may become entitled to a benefit thereunder.

(11) "Person" means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

(12) "Employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or program, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning a pension or profit-sharing-retirement plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing or maintaining such a plan.

(13) The term "fund" means a fund of money or other assets maintained pursuant to or in connection with a pension or profit-sharing-retirement plan, and includes employee contributions withheld but not yet paid to the plan by the employer, or a contractual agreement with an insurance carrier. The term does not include any assets of an investment company subject to regulation under the Investment Company Act of 1940.

(14) "Pension plan" means any plan, fund, or program, other than a profit-sharing-retirement plan, which is communicated or its benefits described in writing to employees and which is established or maintained for the purpose of providing for its participants, or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits.

(15) "Profit-sharing-retirement plan" means a plan established or maintained by an employer to provide for the participation by the employees in the current or accumulated profits, or both the current and accumulated profits of the employer in accordance with a definite predetermined formula for allocating the contributions made to the plan among the participants and for distributing the funds accumulated under the plan upon retirement or death. Such plan may include provisions permitting the withdrawal or distribution of the funds accumulated upon contingencies other than, and in addition to, retirement and death.

(16) "Registered plan" means a pension plan or profit-sharing-retirement plan registered and certified by the Secretary as a plan established and operated in accordance with title I of this Act.

(17) "Money purchase plan" refers to a pension plan in which contributions of the employer and employee (if any) are accumulated, with interest, or other income, to provide at retirement whatever pension benefits the resulting sum will buy.

(18) The term "administrator" means—

(A) the person specifically so designated by the terms of the pension or profit-sharing-retirement plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is established or operated; or

(B) in the absence of such designation, (i) the employer in the case of a pension or profit-sharing-retirement plan established or maintained by a single employer, (ii) the employee organization in the case of such plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who have established or maintain such plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

(19) "Initial unfunded liability" means the amount (on the effective date of title II, or the effective date of the establishment of a pension plan or any amendment thereto, whichever is later), by which the assets of the plan are required to be augmented to insure that the plan is and will remain fully funded.

(20) "Unfunded liability" means the amount on the date when such liability is actuarially computed, by which the assets of the plan are required to be augmented to insure that the plan is and will remain fully funded.

(21) "Fully funded" with respect to any pension plan means that such plan at any particular time has assets determined, by a person authorized under section 101(b)(1), to be sufficient to provide for the payment of all pension and other benefits to participants then entitled or who may become entitled under the terms of the plan to an immediate or deferred benefit in respect to service rendered by such participants.

(22) "Experience deficiency" with respect to a pension plan means any actuarial deficit, determined at the time of a review of the plan, that is attributable to factors other than the existence of an initial unfunded liability or the failure of any employer to make any contribution required by the terms of the plan or by section 210, except insofar as such failure to make a required contribution is treated as an experience deficiency under 217(a)(1).

(23) "Funding" shall mean payment or transfer of assets into a fund, and shall also include payment to an insurance carrier to secure a contractual right pursuant to an agreement with such carrier.

(24) "Normal service cost" means the annual cost assigned to a pension plan, under the actuarial cost method in use (as of the effective date of title II or the date of establishment of a pension plan after such date), exclusive of any element representing any initial unfunded liability or interest thereon.

(25) "Special payment" means a payment made to a pension plan for the purpose of liquidating an initial unfunded liability or experience deficiency.

"(26) "Nonforfeitable right" or "vested right" means a legal claim obtained to that part of an immediate or deferred life annuity which notwithstanding any conditions subsequent which could affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan, and is no longer contingent on the participant remaining covered by the plan.

(27) "Covered service" means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective bargaining agreement (subject to the requirements of part A of title II) for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

(28) "Normal retirement benefit" means that benefit payable under a pension or profit-sharing-retirement plan in the event of retirement at the normal retirement age.

(29) "Normal retirement age" means the normal retirement age, specified under the plan but not later than age 65 or, in the absence of plan provisions specifying the normal retirement age, age 65.

(30) "Pension benefit" means the aggregate, annual, monthly, or other amounts to which a participant will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

(31) "Accrued portion of normal retirement benefit" means that amount of benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount (including all interest held in the plan) credited to the account of a participant;

(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant, which under rule or regulation of the Secretary is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

(32) "Multi-employer plan" means a collectively bargained pension plan to which a substantial number of unaffiliated employers are required to contribute and which covers a substantial portion of the industry in terms of employees or a substantial number of employees in the industry in a particular geographic area.

(33) "Unaffiliated employers" means employers other than those under common ownership or control, or having the relationship of parent-subsidiary, or directly or indirectly controlling or controlled by another employer.

(34) "Qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of any State, which is determined by rule or regulation of the Secretary to be suitable for the purchase of the single premium life annuity or the annuity with survivorship options authorized under section 305(2).

(35) "Vested liabilities" means the present value of the immediate or deferred pension benefits for participants and their beneficiaries which are nonforfeitable and for which all conditions of eligibility have been fulfilled under the provisions of the plan prior to its termination.

(36) "Unfunded vested liabilities" means that amount of vested liabilities that cannot be satisfied by the assets of the plan, at fair market value, as determined by rule or regulation of the Secretary.

TITLE I—ORGANIZATION

PART A—ORGANIZATIONAL STRUCTURE

POWERS AND DUTIES OF THE SECRETARY

SEC. 101. (a) It shall be the duty of the Secretary—

(1) to promote programs and plans for the establishment, administration, and operations of pension, profit-sharing-retirement, and other employee benefit plans in furtherance of the findings and policies set forth in this Act;

(2) to determine, upon application by a pension or profit-sharing-retirement plan, such plan's eligibility for registration with the Secretary under section 105 and, upon qualification, to register such plan and issue appropriate certificates of registration;

(3) to cancel certificates of registration of pension and profit-sharing-retirement plans registered under section 105, upon determination by the Secretary that such plans are not qualified for such registration;

(4)(A) to direct, administer, and enforce the provisions and requirements of this Act and the Welfare and Pension Plans Disclosure Act, except where such provisions are only enforceable by a private party;

(B) to make appropriate and necessary inquiries to determine violations of the provisions of this Act, or the Welfare and Pension Plans Disclosure Act, or any rule or regulation issued thereunder: *Provided, however*, That no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act or the Welfare and Pension Plans Disclosure Act or any rule or regulation thereunder;

(C) for the purpose of any inquiry provided for in subparagraph (B), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 1, 1914, are hereby made applicable to the jurisdiction, powers, and duties of the Secretary.

(5) to bring civil actions authorized by this Act subject to control and direction of the Attorney General;

(6) to appoint and fix the compensation of such employees as may be necessary for the conduct of his business under this Act in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and to obtain the services of experts and consultants as necessary in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem equivalent for GS–18;

(7) to perform such other functions as may be necessary to carry out the purposes of this Act.

(b) The Secretary is authorized to prescribe rules and regulations—

(1) establishing standards and qualifications for persons responsible for performing services under this Act as actuaries and upon application of any such person, to certify whether such person meets the standards and qualifications prescribed;

(2) establishing reasonable fees for the registration of pension and profit-sharing-retirement plans and other services to be performed by him in implementing the provisions of this Act, and all fees collected by the Secretary shall be paid into the general fund of the Treasury;

(3) establishing reasonable limitations on actuarial assumptions, based upon appropriate experience, including, but not limited to, interest rates, mortality, and turnover rates;

(4) such as may be necessary or appropriate to carry out the purposes of this Act, including but not limited to definitions of actuarial, accounting, technical, and other trade terms in common use in the subject matter of this Act and the Welfare and Pension Plans Disclosure Act; and

(5) governing the form, detail, and inspection of all required records, reports, and documents, the maintenance of books and records, and the inspection of such books and records, as may be required under this Act.

(c)(1) The Secretary is authorized and directed to undertake appropriate studies relating to pension and profit-sharing-retirement plans including but not limited to the effects of this Act upon the provisions and costs of pension and profit-sharing-retirement plans, the role of private pensions in meeting retirement security needs of the Nation, the administration and operation of pension plans, including types and levels of benefits, degree of reciprocity or portability financial characteristics and practices, methods of encouraging the growth of the private pension system, and advisability of additional coverage under this Act.

(2) The Secretary shall submit annually a report to the Congress covering his activities under this Act during the preceding fiscal year, together with the results of such studies as are conducted pursuant to this Act, or, from time to time, pursuant to other Acts of Congress, and recommendations for such further legislation as may be advisable.

(d) Prior to promulgating rules or regulations, the Secretary shall consult with appropriate departments or agencies of the Federal Government to avoid unnecessary conflicts, duplications, or inconsistency with rules and regulations which may be applicable to such plans under other laws of the United States.

(e) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable basis the facilities or services of any department, agency, or establishment of the United States, or of any State, including services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary, and to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

APPROPRIATIONS

SEC. 102. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to carry out his functions and duties.

OFFICE OF ADMINISTRATION

SEC. 103. (a) There is hereby established within the Department of Labor an office to be known as the Office of Pension and Welfare Plan Administration. Such Office shall be headed by an Assistant Secretary of Labor who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty of the Assistant Secretary of Labor under the supervision of the Secretary to exercise such power and authority as may be delegated to him by the Secretary for the administration and enforcement of this Act.

(c) Paragraph 20, of section 5315, title 5, United States Code, is amended by striking "(5) and inserting in lieu thereof "(6)".

(d) Such functions, books, records, and personnel of the Labor Management Services Administration as the Secretary determines are related to the administration of the Welfare and Pension Plans Disclosure Act are hereby transferred to the Office of Pension and Welfare Plan Administration.

PART B—COVERAGE, EXEMPTIONS, AND REGISTRATION

COVERAGE AND EXEMPTIONS

SEC. 104. (a) Except as provided in subsections (b) and (c), titles II, III, and IV of this Act shall apply to any pension plan and any profit-sharing-retirement plan established or maintained by any employer engaged in interstate commerce or any industry or activity affecting interstate commerce or by any employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting such commerce or by any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce.

(b) Titles II, III, and IV of this Act shall not apply to any pension plan or any profit-sharing-retirement plan if—

(1) such plan is established or maintained by the Federal Government or by the government of a State or by a political subdivision of the same or by any agency or instrumentality thereof;

(2) such plan is established or maintained by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;

(3) such plan is established or maintained by a self-employed individual exclusively for his own benefit or for the benefit of his survivors or established or maintained by one or more owner-employers exclusively for his or

their benefit or for the benefit of his or their survivors;

(4) such plan covers not more than twenty-five participants;

(5) such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States;

(6) such plan is unfunded and is established or maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management employees and is declared by the employer as not intended to meet the requirements of section 401(a) of the Internal Revenue Code; or

(7) such plan is established or maintained by an employee organization and is administered and financed solely by contributions from its members.

(c) Title IV and part B of title II shall not apply to profit-sharing-retirement plans or money purchase plans.

(d) Titles V and VI shall apply to any plan covered by the Welfare and Pension Plans Disclosure Act and any pension plan or profit-sharing-retirement plan covered by this Act.

REGISTRATION OF PLANS

SEC. 105. (a) Every administrator of a pension or profit-sharing-retirement plan to which titles II, III, or IV apply shall file with the Secretary an application for registration of such plan. Such application shall be in such form and shall be accompanied by such documents as shall be prescribed by regulation of the Secretary. After qualification under subsection (c), the administrator of such plan shall comply with such requirements as may be prescribed by the Secretary to maintain the plan's qualification under this title.

(b) In the case of plans established on or after the effective date of this title, the filing required by subsection (a) shall be made within six months after such plan is established. In the case of plans established prior to the effective date of this title, such filing shall be made within six months after the effective date of regulations promulgated by the Secretary to implement this section but in no event later than twelve months after the date of enactment of this Act.

(c) Upon the filing required by subsection (a), the Secretary shall determine whether such plan is qualified for registration under this title, and if the Secretary finds it qualified, he shall issue a certificate of registration with respect to such plan.

(d) If at any time the Secretary determines that a plan required to qualify under this title is not qualified or is no longer qualified for registration under this title, he shall notify the administrator, setting forth the deficiency or deficiencies in the plan or in its administration or operations which is the basis for the notification given, and he shall further provide the administrator, the employer of the employees covered by the plan (if not the administrator), and the employee organization representing such employees, if any, a reasonable time within which to remove such deficiency or deficiencies. If the Secretary thereafter determines that the deficiency or deficiencies have been removed, he shall issue or continue in effect the certificate, as the case may be. If he determines that the deficiency or deficiencies have not been removed, he shall enter an order denying or canceling the certificate of registration, and take such further action as maybe appropriate under title VI.

(e) A pension or profit-sharing-retirement plan shall be qualified for registration under this section if it conforms to, and is administered in accordance with this Act, the Welfare and Pension Plans Disclosure Act, and in the case of a pension plan subject to title IV of this Act, applies for and maintains plan termination insurance and pays the required assessments and premiums.

REPORTS ON REGISTERED PLANS

SEC. 106. The Secretary may, by regulations, provide for the filing of a single report satisfying the reporting requirements of this Act, and the Welfare and Pension Plans Disclosure Act.

AMENDMENTS OF REGISTERED PLANS

SEC. 107. Where a pension or profit-sharing-retirement plan filed for registration under this title is amended subsequent to such filing, the administrator shall (pursuant to regulations promulgated by the Secretary) file with the Secretary a copy of the amendment and such additional information and reports as the Secretary by regulation may require, to determine the amount of any initial unfunded liability created by the amendment, if any, and the special payments required to remove such liability.

CERTIFICATE OF RIGHTS

SEC. 108. The Secretary shall, by regulation, require each pension and profit-sharing-retirement plan to furnish or make available, whichever is the most practicable, to each participant, upon termination of service with a vested right to an immediate or a deferred pension benefit or other vested interest, with a certificate setting forth the benefits to which he is entitled, including, but not llimted to, the name and location of the entity responsible for payment, the amount of benefits, and the date when payment shall begin. A copy of each such certificate shall be filed with the Secretary. Such certificate shall be deemed prima facie evidence of the facts and rights set forth in such certificate.

TITLE II—VESTING AND FUNDING REQUIREMENTS

PART A—VESTING REQUIREMENTS

ELIGIBILITY

SEC. 201. No pension or profit-sharing-retirement plan filed for registration under this Act shall require as a condition for eligibility to participate in such a plan a period of service longer than one year or an age greater than twenty-five, whichever occurs later: *Provided, however,* That in the case of any plan which provides for immediate vesting of 100 per centum of earned benefits of participants, such plan may require as a condition for eligibility to participate in the plan, a period of service no longer than three years or an age greater than thirty, whichever occurs later.

VESTING SCHEDULE

SEC. 202. (a) All pension or profit-sharing-retirement plans filed for registration under this Act, except as provided for in paragraphs (2) and (3) herein, shall provide under the terms of the plan with respect to covered service both before and after the effective date of the title, that:

(1) a plan participant who has been in covered service under the plan for a period of eight years is entitled upon termination of service prior to attaining normal retirement age—

(A) in the case of a pension plan, to a deferred pension benefit commencing at his normal retirement age; or

(B) in the case of a profit-sharing-retirement plan, to a nonforfeitable right to his interest in such plan
equal to 30 per centum of the accrued portion of the normal retirement benefit as provided by the plan in respect of such service, or of such interest, respectively, and such entitlement shall increase by 10 per centum per year thereafter of covered service until the completion of fifteen years of covered service after which such participant shall be entitled upon termination of service prior to attaining normal retirement age to a deferred pension benefit commencing at his normal retirement age equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, or to the full amount of such interest in the profit-sharing-retirement plan;

(2) the requirements of paragraph (1) of this subsection need not apply with respect to accrued portions of normal retirement benefits attributable to covered service rendered prior to the effective date of this title by any plan participant who has not attained forty-five years of age on the effective date of this title and, in the event a plan is established or amendment after the effective date of this title, the requirements of paragraph (1) of this subsection need only apply to service rendered after the date of the plan's establishment or the date of such plan amendment with respect to any improvement in benefits made by such amendment.

(3) if the plan is a class year plan, then such plan shall provide that the participant shall acquire a nonforfeitable right to 100 per centum of the employer's contribution on his behalf with respect to any given year, not later than the end of the fifth year following the year for which such contribution was made. For the purposes of this paragraph, the term "class year plan" means a profit-sharing-retirement plan which provides for the separate vesting of each annual contribution made by the employer on behalf of a participant.

(4) the pension benefits provided under the terms of a pension plan, and the interest in a profit-sharing-retirement plan referred to in subparagraph (B) of paragraph (1) shall not be capable of assignment or alienation and shall not confer upon an employee, personal representative, or dependent, or any other person, any right or interest in such pension benefits or profit-sharing-retirement plan, capable of being assigned or otherwise alienated; except that where a plan fails to make appropriate provision therefor, the Secretary shall, by regulation, provide for the final disposition of plan benefits or interests when beneficiaries cannot be located or ascertained within a reasonable time.

(b) Any participant covered under a plan, for the number of years required for a vested right under this section, shall be entitled to such vested right regardless of whether his years of covered service are continuous, except that a plan may provide that—

(1) three of the eight years to qualify for the 30 per centum vested right under subsection (a) shall be continuous under standards prescribed under subsection (c),

(2) service by a participant prior to the age of twenty-five may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service, and

(3) in the event a participant has attained a vested right equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, or to the full amount of such interest in a profit-sharing-retirement plan, and such participant has been separated permanently from coverage under the plan and subsequently returns to coverage under the same plan, such participant may be treated as a new participant for purposes of the vesting requirements set forth in section 202(a)(1) without regard to his prior service.

(c) The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the maximum number of working hours, days, weeks, or months, which shall constitute a year of covered service, or a break in service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides.

(d) Notwithstanding any other provision of this Act, a pension or profit-sharing-retirement plan may allow for vesting of pension benefits after a lesser period than is required by this section.

(e) Notwithstanding any other provision of this Act where upon application and notice to affected or interested parties by the plan Administrator, the Secretary determines that the plan contains vesting provisions which are as liberal as the vesting schedule set forth in section 202(a) (1), the Secretary may waive the requirements therein as long as the vesting schedule contained in the plan remains unchanged. For the purposes of this subsection, the term "liberal" refers to a vesting formula which provides vested benefits comparable to or greater than those provided under section 202(a) (1) to the majority of the participants in the plan as indicated by the plan's actuarial experience.

PART B—FUNDING

FUNDING REQUIREMENTS

SEC. 210. (a) Unless a waiver is granted pursuant to part C of this title, every pension plan filed for registration under this Act shall provide for funding, in accordance with the provisions of this part, which is adequate to provide for payment of all pension benefits which may be payable under the terms of the plan.

(b) Provisions in the plan for funding shall set forth the obligation of the employer or employers to contribute both in respect of the normal service cost of the plan and in respect of any initial unfunded liability and experience deficiency. The contribution of the employer, including any contributions made by employees, shall consist of the payment into the plan or fund of—

(1) all normal service costs; and

(2) where the plan has an initial unfunded liability, special payments consisting of no less than equal amounts sufficient to amortize such unfunded liabilities over a term not exceeding:

(A) in the case of an initial unfunded liability existing on the effective date of this title, in any plan established before that date, thirty years from such date;

(B) in the case of an initial unfunded liability resulting from the establishment of a pension plan, or an amendment thereto, or on after the effective date of this title, thirty years from the date of such establishment or amendment, except that in the event that any such amendment after the effective date of this title results in a substantial increase to any unfunded liability of the plan, as determined by the Secretary, such increase shall be regarded as a new plan for purposes of the funding schedule imposed by this subsection and the plan termination insurance requirements imposed by title IV.

(3) special payments, where the plan has an experience deficiency, consisting of no less than equal annual amounts sufficient to remove such experience deficiency over a term not exceeding five years from the date on which the experience deficiency was determined, except where the experience deficiency cannot be removed over a five-year period without the amounts required to remove such deficiency exceeding the allowable limits for a tax deduction under the Internal Revenue Code of 1954 for any particular year during which such payments must be made, the Secretary shall, consistent with the purposes of this subsection, prescribe such additional time as may be necessary to remove such deficiency within allowable tax deduction limitations.

(c) Within six months after the effective date of rules promulgated by the Secretary to implement this title (but in no event more than 12 months after the effective date of this title) or within six months after the date of plan establishment, whichever is later, the plan administrator shall submit a report of an actuary (certified under section 101(b)) stating—

(1) the estimated cost of benefits in respect of service for the first plan year for which such plan is required to register and the formula for computing such cost in subsequent years up to the date of the following report;

(2) the initial unfunded liability, if any, for benefits under the pension plan as of the date on which the plan is required to be registered;

(3) the special payments required to remove such unfunded liability and experience deficiencies in accordance with subsection (b);

(4) the actuarial assumptions used and the basis for using such actuarial assumptions; and

(5) such other pertinent actuarial information required by the Secretary.

(d) The administrator of a registered pension plan shall cause the plan to be reviewed not less than once every five years by a certified actuary and shall submit a report of such actuary stating—

(1) the estimated cost of benefits in respect of service in the next succeeding five-year period and the formula for computing such cost for such subsequent five-year period;

(2) the surplus or the experience deficiency in the pension plan after making allowance for the present value of all special payments required to be made in the future by the employer as determined by previous reports;

(3) the special payments which will remove any such experience deficiency over a term not exceeding five years;

(4) the actuarial assumptions used and the basis for using such actuarial assumptions; and

(5) such other pertinent actuarial information required by the Secretary.

If any such report discloses a surplus in a pension plan, the amount of any future payments required to be made to the fund or plan may be reduced or the amount of benefits may be increased by the amount of such surplus, subject to the provisions of the Internal Revenue Code of 1954 and regulations promulgated thereunder. The reports under this subsection shall be filed with the Secretary by the administrator as part of the annual report required by section 7 of the Welfare and Pension Plans Disclosure Act, at such time that the report under such section 7 is due with respect to the last year of such five-year period.

(e) Where an insured pension plan is funded exclusively by the purchase of insurance contracts which—

(1) require level annual premium payments to be paid extending not beyond the retirement age for each individual participant in the plan, and commencing with the participant's entry into the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective), and

(2) benefits provided by the plan are equal to the benefits provided under each contract, and are guaranteed by the insurance carrier to the extent premiums have been paid,

such plan shall be exempt from the requirements imposed by subsections (b) (2) and (3), (c), and (d) of this section.

(f) The Secretary may exempt and plan, in whole or in part, from the requirement that such reports be filed where the Secretary finds such filing to be unnecessary.

DISCONTINUANCE OF PLANS

SEC. 211. (a) Subject to the authority of the Secretary to provide exemptions or variances where necessary to avoid substantial hardship to participants or beneficiaries, upon complete termination or substantial termination (as determined by the Secretary), of a pension plan, and subject to the provisions of the Internal Revenue Code and regulations promgulated thereunder, relating to limitations applicable to the twenty-five highest paid employees of an employeer, all assets of the plan shall be applied under the terms of the plan, as follows—

(1) first, to refund to nonretired participants in the plan the amount of contributions made by them;

(2) second, to participants in the plan who have retired prior to the date of such termination and have been receiving benefits under the plan;

(3) third, to those participants in the plan who, on the date of such termination had the right to retire and receive benefits under the plan;

(4) fourth, to those participants in the plan who had acquired vested rights under the plan prior to termination of the plan but had not reached normal retirement age on the date of such termination; and

(5) fifth, to any other participants in the plan who are entitled to benefits under the plan pursuant to the requirements of section 401(a) (7) of the Internal Revenue Code of 1954.

(b) Upon complete termination, or substantial termination (as determined by the Secretary), any party obligated to contribute to the plan pursuant to section 210(b), or to contribute on behalf of employees pursuant to a withholding or similar arrangement, shall be liable to pay all amounts that would otherwise have been required to be paid to meet the funding requirements prescribed by section 210 up to the date of such termination to the insuror, trustee, or administrator of the plan.

(c) Upon complete termination, or substantial termination (as determined by the Secretary), of a profit-sharing-retirement plan, the interests of all participants in such plan shall fully vest.

(d) In any case, the Secretary may approve payment of survivor benefits with priorities equal to those of the employees or former employees on whose service such benefits are based.

PART C—VARIANCES

DEFERRED APPLICABILITY OF VESTING STANDARDS

SEC. 216. (a) The Secretary may defer, in whole or in part, applicability of the requirements of part A of this title for a period not to exceed five years from the effective date of title II, upon a showing that compliance with the requirements of part A on the part of a plan in existence on the date of enactment of this Act would result in increasing the costs of the employer or employers contributing to the plan to such an extent that substantial economic injury would be caused to such employer or employers and to the interests of the participants or beneficiaries in the plan.

(b) For purposes of subsection (a), the term "substantial economic injury" includes, but is not limited to, a showing that (1) a substantial risk to the capability of voluntarily continuing the plan exists, (2) the plan will be unable to discharge its existing contractual obligations for benefits, (3) a substantial curtailment of pension or other benefit levels or the levels of employees' compensation would result, or (4) there will be an adverse effect on the levels of employment with respect to the work force employed by the employer or employers contributing to the plan.

(c) (1) In the case of any plan established or maintained pursuant to a collective bargaining agreement, no application for the granting of the variance provided for under subsection (a) shall be considered by the Secretary unless it is submitted by the parties to the collective bargaining agreement or their duly authorized representatives.

(2) As to any application for a variance under subsection (a) submitted by the parties to a collective bargaining agreement or their duly authorized representatives, the Secretary shall accord due weight to the experience, technical competence, and specialized knowledge of the parties with respect to the particular circumstances affecting the plan, industry, or other pertinent factors forming the basis for the application.

VARIANCES FROM FUNDING REQUIREMENTS

SEC. 217. (a) Where, upon application and notice to affected or interested parties by the plan administrator, the Secretary determines that—

(1) any employer or employers are unable to make annual contributions to the plan in compliance with the funding requirements of section 210(b) (2) or (3), and he has reason to believe that such required payment for that annual period cannot be made by such employer or employers, the Secretary may waive the annual contribution otherwise required to be paid, and prescribe an additional period of not more than five years for the amortization of such annual funding deficiency, during which period the funding deficiency shall be removed by no less than equal annual payments. Any funding deficiency permitted under this section shall be treated for the purposes of any actuarial report required under this Act as an experience deficiency under section 210;

(2) no waiver shall be granted unless the Secretary is satisfied after a review of the financial condition of the plan and other related matters that—

(A) such waiver will not adversely affect the interests of participants or beneficiaries of such plan; or

(B) will not impair the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses in accordance with title IV,

(3) waivers granted pursuant to this provision shall not exceed five consecutive annual waivers.

(b) Where a plan has been granted five consecutive waivers pursuant to subsection (a), the Secretary may—

(1) order the merger or consolidation of the deficiently funded plan with such other plan or plans or the contributing employer or employers in a manner that will result in future compliance with the funding requirements of part B of title II of this Act without adversely affecting the interests of participants and beneficiaries in all plans which may be involved;

(2) where necessary to protect the interests of participants or beneficiaries, or to safeguard the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses, under title IV, order plan termination in accordance with such conditions as the Secretary may prescribe; or

(3) take such other action as may be necessary to fulfill the purposes of this Act.

(c) No amendments increasing plan benefits be permitted during any period in which a funding waiver is in effect.

(d) (1) Notwithstanding the requirements of part B of title II of this Act the Secretary shall by rule or regulation prescribe alternative funding requirements for multiemployer plans which will give reasonable assurances that the plan's benefit commitments will be met.

(2) The period of time provided to fund such multiemployer plans shall be a period which will give reasonable assurances that the plan's benefit commitments will be met and which reflects the particular circumstances affecting the plan, industry, or other pertinent factors, except that no period prescribed by the Secretary shall be less than thirty years.

(3) No multiemployer plan shall increase benefits beyond a level for which the contributions made to the plan would be determined to be adequate unless the contribution rate is commensurately increased.

(e) Upon a showing by the plan administrator of a multiemployer plan that the withdrawal from the plan by any employer or employers has or will result in a significant reduction in the rate of aggregate contributions to the plan, the Secretary may take the following steps:

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under (1) to participants no longer in covered service, as a terminated plan for the purposes of the plan termination insurance provisions of title IV; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan for purposes of the funding standards imposed by part B of title II of this Act, any variance granted by this section, and the plan termination insurance provisions of title IV.

TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PENSIONS

PROGRAM ESTABLISHED

SEC. 301. (a) There is hereby established a program to be known as the Voluntary Portability Program for Vested Pensions (hereinafter referred to as the "Portability Program"), which shall be administered by and under the direction of the Secretary. The Portability Program shall facilitate the voluntary transfer of vested credits between registered pension or profit-sharing-retirement plans. Nothing in this title or in the regulations issued by the Secretary hereunder shall be construed to require participation in such Portability Program by a plan as a condition of registration under this Act.

(b) Pursuant to regulations issued by the Secretary, plans registered under this Act may apply for membership in the Portability Program, and, upon approval of such application by the Secretary, shall be issued a certificate of membership in the Portability Program (plans so accepted shall be hereinafter referred to as "member plans").

ACCEPTANCE OF DEPOSITS

SEC. 302. A member plan shall, pursuant to regulations prescribed by the Secretary, pay, upon request of the participant, to the fund established by section 303, a sum of money equal to the current discounted value of the participant's vested rights under the plan, which are in settlement of such vested rights, when such participant is separated from employment covered by the plan before the time prescribed for payments to be made to him or to his beneficiaries under the plan. The fund is authorized to receive such payments, on such terms as the Secretary may prescribe.

SPECIAL FUND

SEC. 303. (a) There is hereby created a fund to be known as the Voluntary Portability Program Fund (hereinafter referred to as the "Fund"). The Secretary shall be the trustee of the Fund. Payments made into the Fund in accordance with regulations prescribed by the Secretary under section 302 shall be held and administered in accordance with this title.

(b) With respect to such Fund, it shall be the duty of the Secretary to—

(1) administer the Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the Fund and recommend changes in such policies, including the necessary changes in the provisions of law which govern the way in which the Fund is to be managed; and

(3) after amounts needed to meet current and anticipated withdrawals are set aside, deposit the surplus in interest-bearing accounts in any bank the deposits of which are insured by the Federal Deposit Insurance Corporation or savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation. In no case shall such deposits exceed 10 per centum of the total of such surplus, in any one bank, or savings and loan association.

INDIVIDUAL ACCOUNTS

SEC. 304. The Secretary shall establish and maintain an account in the Fund for each participant for whom the Secretary receives payment under section 302. The amount credited to each account shall be adjusted periodically, as provided by the Secretary pursuant to regulations to reflect changes in the financial condition of the Fund.

PAYMENTS FROM INDIVIDUAL ACCOUNTS

SEC. 305. Amounts credited to the account of any participant under this title shall be paid by the Secretary to—

(1) a member plan, for the purchase of credits having at least an equivalent actuarial value under such plan, on the request of such participant when he becomes a participant in such member plans;

(2) a qualified insurance carrier selected by a participant who has attained the age of sixty-five, for the purchase of a single premium life annuity in an amount having a present value equivalent to the amount credited to such participant's account, or in the event the participant selects an annuity with survivorship options, an amount determined by the Secretary to be fair and reasonable based on the amount in such participant's account; or

(3) to the designated beneficiary of a participant in accordance with regulations promulgated by the Secretary.

TECHNICAL ASSISTANCE

SEC. 306. The Secretary shall provide technical assistance to employers, employee organizations, trustees, and administrators of pension and profit-sharing-retirement plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

TITLE IV—PLAN TERMINATION INSURANCE

ESTABLISHMENT AND APPLICABILITY OF PROGRAM

SEC. 401. (a) There is hereby established a program to be known as the Private Pension Plan Termination Insurance Program hereinafter referred to as the "Insurance Program"), which shall be administered by and under the direction of the Secretary.

(b) Every plan subject to this title shall obtain and maintain plan termination insurance to cover unfunded vested liabilities incurred prior to enactment of the Act as well as after enactment of the Act.

CONDITIONS OF INSURANCE

SEC. 402. (a) The insurance program shall insure participants and beneficiaries of those plans registered under this Act against loss of benefits derived from vested rights which arise from the complete or the substantial termination of such plans, as determined by the Secretary.

(b) The rights of participants and beneficiaries of a registered pension plan shall be insured under the insurance program only to the extent that—

(1) such rights as provided for in the plan do not exceed: (A) in the case of a right to a monthly retirement or disability benefit for the employee himself, the lesser of 50 per centum of the average monthly wage he received from the contributing employer in the five-year period after the registration date of the plan for which his earnings were its greatest, or $500 a month; (B) in the case of a right of one or more dependents or members of the participant's family, or in the case of a right to a lump-sum survivor benefit on account of the death of a participant, an amount no greater than the amount determined under clause (A);

(2) the plan is terminated more than three years after the date of its establishment or its initial registration with the Secretary, except that the Secretary may in his discretion authorize insurance payments in such amounts as may be reasonable to any plan terminated in less than three years after the date of its initial registration with the Secretary where (A) such plan has been established and maintained for more than three years prior to its termination, (B) the Secretary is satisfied that during the period the plan was unregistered, it was in substantial compliance with the provisions of this Act, and (C) such payments will not prevent equitable underwriting of losses of vested benefits arising from plan terminations otherwise covered by this title;

(3) such rights were created by a plan amendment which took effect more than three years immediately preceding termination of such plan; and

(4) such rights do not accrue to the interest of a participant who is the owner of 10 per centum or more of the voting stock of the employer contributing to the plan, or of the same percentage interest in a partnership contributing to the plan.

ASSESSMENTS AND PREMIUMS

SEC. 403. (a) Upon registration with the Secretary, each plan shall pay a uniform assessment to the insurance program as prescribed by the Secretary to cover the administrative costs of the insurance program.

(b)(1) Each registered pension plan shall pay an annual premium for insurance at uniform rates established by the Secretary based upon the amount of unfunded vested liabilities subject to insurance under section 402.

(2) For the three-year period immediately following the effective date of this title such premium shall—

(A) not exceed 0.2 per centum of a plan's unfunded vested liabilities with respect to such unfunded vested liabilities incurred after the date of enactment of this Act;

(B) not exceed 0.2 per centum of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act, where such plan's median ratio of plan assets to unfunded vested liabilities was 75 per centum during the five-year period immediately preceeding the enactment of this Act, or in the event of a plan established within the five-year period immediately preceeding the date of enactment of this Act, where the plan has reduced the amount of such unfunded vested liabilities at the rate of at least 5 per centum each year since the plan's date of establishment;

(C) not exceed 0.4 per centum or be less than 0.2 per centum of a plan's unfunded vested liabilities incurred prior to the date of enactment of this Act where such plan does not meet the standards set forth in subparagraph (B);

(D) not exceed 0.2 per centum of a plan's unfunded vested liabilities regardless of whether such liabilities were incurred prior to or subsequent to the date of enactment of this Act with respect to multiemployer plans.

(3)(A) The Secretary is authorized to prescribe different uniform premium rates after the initial three-year period based upon experience and other relevant factors.

(B) Any new rates proposed by the Secretary shall be effective at the end of the first period of ninety calendar days of continuous session of the Congress after the date on which the proposed rates are published in the Federal Register.

(C) For the purpose of subparagraph (B)—

(i) continuity of a session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety day period.

(c) Assessments and premiums referred to in this section shall be prescribed by the Secretary only after consultation with appropriate Government agencies and private persons with expertise on matters relating to assessment and premium structures in insurance and related matters, and after notice to all interested persons and parties.

PAYMENT OF INSURANCE

SEC. 404. (a) No plan insured under this title shall terminate without approval of the Secretary. The Secretary shall not approve a plan termination unless he is satisfied that the requirements of this Act and those of the Welfare and Pension Plans Disclosure Act have been complied with and that such termination is not designed to avoid or circumvent the purposes of this Act.

(b) As determined by the Secretary, subject to the conditions specified in section 402, the amount of insurance payable under the insurance program shall be the difference between the realized value of the plan's assets and the amount of vested liabilities under the plan.

(c) The Secretary shall, by regulation, prescribe the procedures under which the funds of terminated plans shall be wound-up and liquidated and the proceeds therefrom applied to payment of the vested benefits of participants and beneficiaries. In implementing this paragraph, the Secretary shall have authority to:

(1) transfer the terminated fund to the Pension Benefit Insurance Fund for purposes of liquidation and payment of benefits to participants and beneficiaries;

(2) purchase single-premium life annuities from qualified insurance carriers from the proceeds of the terminated plan on terms determined by the Secretary to be fair and reasonable; or

(3) take such other action as may be appropriate to assure equitable arrangements for the payment of vested benefits to participants and beneficiaries under the plan.

RECOVERY

SEC. 405. (a) Where the employer or employers contributing to the terminating plan or who terminated the plan are not insolvent (within the meaning of section 1 (19) of the Bankruptcy Act), such employer or employers (or any successor in interest to such employer or employers) shall be liable to reimburse the insurance program for any insurance benefits paid by the program to the beneficiaries of such terminated plan to the extent provided in this section.

(b) An employer, determined by the Secretary to be liable for reimbursement under subsection (a), shall be liable to pay a percentage of the terminated plan's unfunded vested liabilities equal to 100 per centum less the percentage of the ratio of the plan's unfunded vested liabilities to the net worth of the employer: *Provided, however,* That if the ratio of the terminated plan's unfunded vested liabilities is less than 50 per centum of the employer's net worth the employer shall be liable to pay the total amount of insurance benefits paid by the insurance program.

(c) The Secretary is authorized to make arrangements with employers, liable under subsection (a), for reimbursement of insurance paid by the Secretary, including arrangements for deferred payment on such terms and for such periods as are deemed equitable and appropriate.

(d)(1) If any employer or employers liable for any amount due under subsection (a) of this section neglects or refuses to pay the same after demand, the amount (including interest) shall be a lien in favor of the United States upon all property and rights in property, whether real or personal, belonging to such employer or employers.

(2) The lien imposed by paragraph (1) of this subsection shall not be valid as against a lien created under section 6321 of the Internal Revenue Code of 1954.

(3) Notice to the lien imposed by paragraph (1) of this subsection shall be filed in a manner and form prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form and content of a notice of lien.

(4) The Secretary shall promulgate rules and regulations with regard to the release of any lien imposed by paragraph (1) of this subsection.

PENSION BENEFIT INSURANCE FUND

SEC. 406. (a) There is hereby created a separate fund for pension benefit insurance to be known as the Pension Benefit Insurance Fund (hereafter in this section called the insurance fund) which shall be available to the Secretary without fiscal year limitation for the purposes of this title. The Secretary shall be the trustee of the insurance fund.

(b) All amounts received as premiums, assessments, or fees, and any other moneys, property, or assets derived from operations in connection with this title shall be deposited in the insurance fund.

(c) All claims, expenses, and payments pursuant to operation of the program under this title shall be paid from the insurance fund.

(d) All moneys of the insurance fund, may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(e) With respect to such insurance fund, it shall be the duty of the Secretary to—

(1) administer the insurance fund; and

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the insurance fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the insurance fund and recommend changes in such policies, including the necessary changes in the provisions of law which govern the way in which the insurance fund is to be managed.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

SEC. 501. In addition to the filing requirements of the Welfare and Pension Plans Disclosure Act, it shall be a condition of compliance with section 7 of such Act that each annual report hereinafter filed under that section shall be accompanied by a certificate or certificates in the name of and on behalf of the plan, the administrator, and any employer or employee organization participating in the establishment of the plan, designating the Secretary as agent for service of process on the persons and entities executing such certificate or certificates in any action arising under the Welfare and Pension Plans Disclosure Act or this Act.

SEC. 502. (a) Section 3 of the Welfare and Pension Plans Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancester, descendent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) The term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective-bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 15 means either (A) at the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer or (C) if the price of the security is not quoted by persons independent of the issuer, at a price determined to be the fair value of the security.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective bargaining agreement (subject to the requirements of the Retirement Income Security for Employees Act), for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term 'accrued portion of normal retirement benefit' means that amount of such benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant that pursuant to rule or regulation, under the Retirement Income Security for Employees Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

"(24) The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of any employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act."

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by striking out the word "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means as to an employee benefit plan or fund, any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above-described persons. Whenever the term 'party in interest' is used in this Act, it shall mean a person known to be a party in interest.

"(14) If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a 'fiduciary' or a 'party in pany or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained herein shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other provision of law."

Sec. 503. (a) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(b) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(c) Paragraph (4) of section 4(b) of such Act is amended by inserting before the period the following: ", except that participants and beneficiaries of such plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 604 of the Retirement Income Security for Employees Act".

(d) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States."

Sec. 504. (a) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(b) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this Act of any class or type of employee benefit plans if the Secretary finds that the application of such requirements to such plans is not required in order to implement the purposes of this Act."

Sec. 505. Section 6 of the Welfare and Pension Plans Disclousre Act is amended to read as follows:

"Sec. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive and shall include the name and type of administration of the plan; the name and address of the administrator; the names and addresses of any person or persons responsible for the management or investment of plan funds; the schedule of benefits; a description of the provisions providing for vested benefits written in a manner calculated to be understood by the average participant; the source of the financing of the plan and identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary."

SEC. 506. (a) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 15 of this Act or".

(b) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year (or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(c) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report."

(d) Sections 7 (b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year;

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment, the value of which exceeds 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

"(3) a schedule showing the aggregate amount, by type or security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss, except that such schedule shall not include distribution of stock or other distributions in kind from profitsharing or similar plans to participants separated from the plan;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral and other material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipts from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

"(8) subject to rules of the Secretary designed to preclude the filing of duplicate or unnecessary statements if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation.

(e) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lowercase "t".

(f) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan, "(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and asset described in (3) above to the liabilities described in (4) above.

"(6) a copy of the most recent actuarial report, and

"(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments then are used for any other purpose, a statement explaining same; and

"(7) such other reasonable information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe."

(g) Section 7 of such Act is further amended by striking out in their entirety subsections (f), (g), and (h).

SEC. 507. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual", and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), and (d), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for public inspection.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish or make available, whichever is most practicable: (i) to every participant upon his enrollment in the plan and within one hundred and twenty days after each major amendment to the plan, a summary of the plan's important provisions, including the names and addresses of any person or persons responsible for the management or investment of plan funds, and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility, and the requirements of the Welfare and Pension Plans Disclosure Act with respect to the availability of copies of the plan bargaining agreement, trust agreement, contract or other instrument under which the plan is established or operated; and (ii) to every participant every three years (commencing January 1, 1975), a revised, up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of any bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) In the event a plan is provided a variance with respect to standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the Administrator shall furnish or make available, whichever is most practicable, notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary."

SEC. 508. Section 9(d) of such Act is amended to eliminate the words "after first requiring certification in accordance with section 7(b)".

SEC. 509. Section 14 of such Act is amended to read as follows:

"SEC. 14. (a) (1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of twenty-one members appointed by the Secretary. Not more than ten members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or organizations which they shall represent and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, five shall be representatives of labor organizations; five shall be representatives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accounting field; and six representatives shall be appointed from the general public.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, seven shall be appointed for terms of two years, and eight shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of their functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties."

SEC. 510. The Welfare and Pension Plans Disclosure Act is further amended by renumbering sections 15, 16, 17, and 18 as sections 16, 17, 18, and 19, respectively, and by inserting the following new section immediately after section 14:

"FIDUCIARY STANDARDS

"SEC. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established or maintained pursuant to a duly executed written document which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b) (1) A fiduciary shall discharge his duties with respect to the fund—

"(A) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(B) subject to the standards in subsection (a) and in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficiaries thereof or, if the trust agreement so provides, to the contributors thereto; and (ii) that in the case of a registered pension or profit-sharing-retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act.

"(2) Except as permitted hereunder, a fiduciary shall not——

"(A) rent or sell property of the fund to any person known to be a party in interest of the fund;

"(B) rent or purchase on behalf of the fund any property known to be owned by a party in interest of the fund;

"(C) deal with such fund in his own interest or for his own account;

"(D) represent any other party with such fund, or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries;

"(E) receive any consideration from any party dealing with such fund in connection with a transaction involving the fund for the fiduciary's personal interest or for the personal interest of any party in interest;

"(F) loan money or other assets of the fund to any party in interest of the fund;

"(G) furnish goods, services, or facilities of the fund to any party in interest of the fund;

"(H) permit the transfer of any assets or property of the fund to, or its use by or for the benefit of, any party in interest of the fund; or

"(I) permit any of the assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rule or regulation. The Secretary, by rules or regulations or upon application of any fiduciary or party in interest, by order, shall provide for the exemption conditionally or unconditionally of any fiduciary or class of fiduciaries or transaction or class of transactions from all or part of the proscriptions contained in this subsection 15(b)(2) when the Secretary finds that to do so is consistent with the purposes of this Act and is in the interest of the fund or class of funds and the participants and beneficiaries: *Provided, however,* That any such exemption shall not relieve a fiduciary from any other applicable provisions of this Act.

"(c) Nothing in this section shall be construed to prohibit the fiduciary from—

"(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;

"(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds, except that no person so serving who already receives full-time pay from an employer or an association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) serving in such position in addition to being an officer, employee, agent, or other representative of a party in interest;

"*(4) engaging in the following transactions:*

"(*A*) holding or purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, except that (i) the purchase of any security is for no more than adequate consideration in money or money's worth, and (ii) that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be held or made by a fiduciary of such a fund in securities of such employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to the percentage of plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 10 per centum limitation until the expiration of one year from the date of enactment of Retirement Income Security for Employees Act. Nothing contained in this subparagraph shall be construed to relieve profit sharing, stock bonus, thrift and savings or other similar plans from any other applicable requirements of this section;

"(B) purchasing on behalf of the fund any security or selling on behalf of the fund any security which is acquired or held by the fund, to or from a party in interest if (i) at the time of such purchase or sale the security is of a class of securities which is listed on a national securities exchange registered under the Securities Exchange Act of 1934 or which has been listed for more than one month (after the date of enactment of this Act) on an electronic quotation system administered by a national securities association registered under the Securities Exchange Act of 1934, (ii) no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transaction, (iii) adequate consideration is paid, and (iv) that in the event the security is one described in subparagraph (A), the transaction has received the prior approval of the Secretary;

"(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a nondiscriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;

"(6) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(7) following the specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b)(2);

"(8) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (b).

"(d) Nothing in this section shall be construed to prohibit a person who is a party in interest by reason of providing benefit plan services to a plan, from providing any other services ordinarily and customarily furnished at arm's length by such person, to any fiduciary or any other party in interest to the plan, and nothing in this section shall be construed to preclude any fiduciary or party in interest in the plan from purchasing such services or contracting or making reasonable arrangements for the receipt of such services on such terms as are fair and reasonable.

"(e) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(f) When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the exercise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of responsibility, obligation, or duty of a fiduciary or to compel such other cofiduciary to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act of a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(g) No fiduciary may be relieved from any responsibility obligation, or duty imposed by law, agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, unless specifically disapproved by the Secretary.

"(h) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(i) No individual who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury any crime described in section 9(a) (1) of the Investment Company Act of 1940, or a violation of any provision of the Welfare and Pension Plans Disclosure Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended), or a violation of chapter 63 of title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended), or conspiracy to commit any such crimes or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusive clerical or janitorial duties) or other fiduciary position of any employee benefit plan; or

"(2) as a consultant to any employee benefit plan, during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights having been revoked as a result of such conviction, have been fully restored, or (B) the Secretary determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection. Any person who willfully violates this subsection shall be fined not more than $10,000 or imprisoned for not more than one year, or both. For the purposes of this subsection, any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section. For the purposes of this subsection, the term 'consultant' means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(j) All investments and deposits of the funds of an employee benefit fund and all loans made out of any such fund shall be made in the name of the fund or its nominee, and no employer or officer or employee thereof, and no labor organization, or officer or employee thereof, shall either directly or indirectly accept or be the beneficiary of any fee, brokerage, commission, gift, or other consideration for or on account of any loan, deposit, purchase, sale, payment, or exchange made by or on behalf of the fund.

"(k) In order to provide for an orderly disposition of any investment, the retention of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act, or within such additional time as the Secretary may by rule or regulation allow, and such action shall be deemed to be in compliance with this Act."

(l) In accordance with regulations of the Secretary, every employee benefit plan subject to this Act shall—

(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits from the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant, and

(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the plan administrator of the decision denying the claim.

TITLE VI— ENFORCEMENT

SEC. 601. Whenever the Secretary—

(1) determines, in the case of a pension or profit-sharing-retirement plan required to be registered under this Act, that no application for registration has been filed in accordance with section 102, or

(2) issues an order under section 107 denying or canceling the certificate of registration of a pension or profit-sharing-retirement plan, or

(3) determines, in the case of a pension plan subject to title II, that there has been a failure to make required contributions to the plan in accordance with the provisions of this Act or to pay required assessments or premiums under title III, or to pay such other fees or moneys as may be required under this Act,

the Secretary may petition any district court of the United States having jurisdiction of the parties, or the United States District Court for the District of Columbia, for an order requiring the employer or other person responsible for the administration of such plan to comply with the requirements of this Act as will qualify such plan for registration or compel or recover the payment of required contributions, assessments, premiums, fees, or other moneys.

SEC. 602. Whenever the Secretary has reasonable cause to believe that an employees' benefit fund is being or has been administered in violation of the requirements of the Welfare and Pension Plans Disclosure Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any participant or beneficiary due to violation of the requirements of such Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including, but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(1) of the Welfare and Pension Plans Disclosure Act.

SEC. 603. Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(i) of the Welfare and Pension Plans Disclosure Act or against any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

SEC. 604. Suits by a participant or beneficiary entitled, or who may become entitled, to benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act, as amended by this Act may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits due him required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify his rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

SEC. 605. (a) In any action brought under section 603 or 604, the court in its discretion may—

(1) allow a reasonable attorney's fee and costs of the action to any party;

(2) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees.

(b) A copy of the complaint in any action brought under section 603 or 604 shall be served upon the Secretary by certified mail, who shall have the right, in his discretion, to intervene in the action.

(c) Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 603 or 604 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

SEC. 606. The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

SEC. 607. Suits by an administrator or fiduciary of a pension plan, a profit-sharing-retirement plan, or an employees' benefit fund subject to the Welfare and Pension Plans Disclosure Act, to review final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of this Act, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

SEC. 608. Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the violation occurs. In the case of fraud or concealment, such action, suit or proceeding shall be commenced within five years of the date of discovery of such violation.

SEC. 609. (a) It is hereby declared to be the express intent of Congress that, except for actions authorized by section 604 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust instrument or other document governing the fund. In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting for or on behalf of employee benefit plans or on behalf of employee benefit funds subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the employee benefit plan or fund affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by registered mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

TITLE VII—EFFECTIVE DATES

Sec. 701. (a) Sections 101, 102, 103, and 104, title V, and title VI of this Act shall become effective upon the date of enactment of this Act.

(b) Title II of this Act shall become effective three years after the date of enactment of this Act, and titles III and IV of this Act shall become effective one year after the date of enactment of this Act.

RESCISSION OF ACTION ON PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1972

Mr. MANSFIELD. Mr. President, despite the fact that there was a motion to table the reconsideration of the vote, I ask unanimous consent that the action of the Senate in passing the bill be vitiated and that the bill be made the pending business, after third reading.

The PRESIDING OFFICER. Without objection, the action will be rescinded.

EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

Mr. JAVITS. Mr. President, with the permission of the Senator from Colorado—I am sorry he has left the Chamber—I asked him if I might put in the Record, after his observations, a report called the Armor report relating to the use of busing in public school desegregation, and insert my remarks respecting an answer to the Armor report by Prof. Thomas Pettigrew of the department of social relations of Harvard University, in which Professor Pettigrew concludes that the report is not to be taken for the proposition that was alleged by the Senator from Colorado and others who have referred to it, for the many reasons which he set forth in a very eloquent study and letter to me and to Senator Mondale, as, respectively, ranking member and chairman of the Senate Select Committee on Equal Education Opportunity.

I am not going to insert all the data, because Senator Dominick did not insert his. But I believe that anyone who reads the reports should immediately be referred to Professor Pettigrew's study, as they were referred by Senator Dominick to the so-called Armor study.

The PRESIDING OFFICER. Without objection the request is agreed to.

CORRECTION IN THE ENROLLMENT OF H.R. 7117

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 719.

The PRESIDING OFFICER (Mr. Stafford) laid before the Senate House Concurrent Resolution 719, which was read as follows:

H. Con. Res. 719

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes, is authorized and directed to strike out "lieu of" on page 1, line 6, of the House engrossed bill and insert the following: "lieu thereof".

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 719) was considered and agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the disposition of the pending business, the unfinished business be laid aside temporarily, and that the Senate then proceed to the consideration of Calendar No. 1105, S. 3342, for a very limited period of time, after which the Senate will return to the consideration of the supplemental appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of H.R. 16071, to amend the Public Works and Economic Development Act of 1962.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative cerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Virginia (Mr. Spong), and the Senator from North Carolina (Mr. Jordan) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) and the Senator from New Hampshire (Mr. McIntyre) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. Cook) would vote "yea."

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 65, nays 16, as follows:

[No. 546 Leg.]

YEAS—65

Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Cranston
Eagleton
Eastland
Ervin
Fong
Fulbright
Gambrell
Gravel
Griffin
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Smith
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Weicker
Williams

NAYS—16

Aiken
Bennett
Brock
Buckley
Cooper
Cotton
Dole
Dominick
Fannin
Gurney
Hansen
Hruska
Roth
Saxbe
Scott
Young

NOT VOTING—19

Allott
Chiles
Cook
Curtis
Edwards
Goldwater
Harris
Hatfield
Jordan, N.C.
Kennedy
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Pell
Spong
Thurmond

So the bill (H.R. 16071) was passed.

Mr. MONTOYA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PRINT H.R. 16071 AS PASSED IN SENATE TODAY

Mr. MONTOYA. Mr. President, I ask unanimous consent that H.R. 16071, which just passed the Senate, be printed as it passed the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME LIMITATION ON MUSKIE AMENDMENTS TO THE CLEAN AIR ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on the two Muskie amendments which will be offered to the Clean Air Act—and there will only be two offered and the bill will then go over until tomorrow or the next day—there be a time limitation of 1 hour on each of the two amendments, the time to be equally divided between the sponsor of the amendments and the distinguished manager of the bill, the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY ASIDE TEMPORARILY THE UNFINISHED BUSINESS, THE CLEAN AIR ACT (S. 3342)

Mr. MANSFIELD. Mr. President, I ask unanimous consent, as I believe I did once before, that the unfinished business be laid aside temporarily and that it be laid down again as soon as we are finished with other business.

The PRESIDING OFFICER. Without objection, the Senate will temporarily lay aside the consideration of S. 3342, in order to lay before the Senate a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

S. 2087. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents;

S. 2454. An act to amend the Youth Conservation Corps Act of 1970 (Public Law 91–378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program and for other purposes;

S. 3240. An act to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges;

S. 3337. An act to amend the Small Business Investment Act of 1958, and for other purposes;

S. 3358. An act to prohibit the use of certain small vessels in United States fisheries; and

S. 3524. An act to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 14542) to amend the act of September 26, 1966, Public Law 89–606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15641) to authorize certain construction at military installations, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 15280. An act to amend the Act of August 16, 1971, which established the National Advisory Committee on Oceans and Atmosphere, to increase the appropriation authorization thereunder;

H.R. 15462. An act to remove certain limitations on annual operation and maintenance expenditures applicable to the United States section of the International Boundary and Water Commission, United States and Mexico, and for other purposes;

H.R. 15627. An act to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes;

H.R. 16074. An act to authorize appropriations to carry out jellyfish control programs until the close of fiscal year 1977;

H.R. 16182. An act to amend section 8(b) of the Soil Conservation and Domestic Allotment Act to extend the eligibility of county committee members to succeed themselves;

H.R. 16675. An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for one year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism;

H.R. 16883. An act relating to compensation of members of the National Commission on the Financing of Postsecondary Education;

H.R. 16924. An act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes; and

H.R. 16925. An act to amend title 37, United States Code, to extend the authority for special pay for nuclear-qualified naval submarine officers, authorize special pay for nuclear-qualified naval surface officers, and provide special pay to certain nuclear-trained and qualified enlisted members of the naval service who agree to reenlist, and for other purposes.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 719) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 7117, in which it requested the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 15462. An act to remove certain limitations on annual operation and maintenance expenditures applicable to the United States section of the International Boundary and Water Commission, United States and Mexico, and for other purposes; to the Committee on Foreign Relations.

H.R. 15627. An act to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended; and for other purposes; to the Committee on Commerce.

H.R. 16182. An act to amend section 8(b) of the Soil Conservation and Domestic Allotment Act to extend the eligibility of county committee members to succeed themselves; to the Committee on Agriculture and Forestry.

H.R. 16924. An act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes; and

H.R. 16925. An act to amend title 37, United States Code, to extend the authority for special pay for nuclear-qualified naval submarine officers, authorize special pay for nuclear-qualified naval surface officers, and provide special pay to certain nuclear-trained and qualified enlisted members of the naval service who agree to reenlist, and for other purposes; to the Committee on Armed Services.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have order? Will the Chair direct the distinguished Senators to clear the well and the aisles and ask Senators and aides to take their seats if they are going to stay in the Chamber.

The PRESIDING OFFICER. Senators will please take their seats, and aides will take their seats and refrain from audible conversation or retire to the cloakroom.

AMENDMENT OF SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3337.

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate the amendment of the House of Representatives to the bill (S. 3337) to amend the Small Business Investment Act of 1958, and for other purposes, which was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Small Business Investment Act Amendments of 1972".

SEC. 2. The Small Business Investment Act of 1958, as amended, is further amended as follows:

(a) Sections 103 (3) and (7) are amended by striking "(c)" after "Section 301" at the end thereof.

(b) Section 301 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages may be organized and chartered under State business or nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act."

(c) Section 303 is amended—

(1) by inserting the word "private" in the first sentence of paragraph (1) of subsection (b), to read "combined private paid-in capital and paid-in surplus";

(2) by striking the figure "$7,500,000" in the last sentence of paragraph (1) of subsection (b), and inserting the figure "$15,000,000";

(3) by amending paragraph (2) of said subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company not complying with section 301(d) of this Act, which has investments or legal commitments of 65 per centum or more of its total funds available for investment in small business concerns invested or committed in venture capital, and which has combined private paid-in capital and paid-in surplus of $500,000 or more shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed $20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

(d) Section 303 is amended by adding the following new subsection:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"The Administration may purchase—

"(1) shares of nonvoting stock (or other securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration may require the preferred payment of the difference between dividends paid thereon and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

"(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus of less than $300,000 and licensed on or before October 13, 1971, the amount of combined private paid-in capital and paid-in surplus invested after such date, nor (B) from any company having combined private paid-in capital and paid-in surplus of $300,000 or more but less than $500,000, the amount of its combined private paid-in capital and paid-in surplus in excess of $300,000, nor (C) from any company having combined private paid-in capital and paid-in surplus of $500,000 or more, the amount of its combined private paid-in capital and paid-in surplus.

"The Administration may purchase or guarantee—

"(2) debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

"(i) such debentures are issued for a term of not to exceed fifteen years;

"(ii) the interest rate is determined pursuant to sections 303(b) and 317; and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 200 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).

"(4) the Administration may require, as a condition of the purchase or guarantee of any securities in excess of 200 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintains a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate."

(e) Subsection 304(a) of the Small Business Investment Act of 1958 is amended by inserting "and unincorporated" after "incorporated".

(f) Section 306 is amended (1) by inserting the word "private" in subsection (a) thereof to read "combined private paid-in capital and paid-in surplus" and (2) by repealing subsection (b) thereof.

(g) Title III is further amended by adding thereto new sections to read as follows:

"SEC. 317. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a small business investment company under authority of section 303(c), shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such company for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No company which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to the previous sentence, and the rate of interest which would have been payable pursuant to section 303(b).

"SEC. 318. The Administration is authorized to extend the benefits of sections 303(c) and 317 to any small business investment company operating under authority of section 310(d) of this Act, and which is owned, in whole or in part, by one or more small business investment companies, in accordance with regulations promulgated by the Administration.

"SEC. 319. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a–18), is further amended by amending subsection (k) to read as follows:

"'(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) of said subsection shall not apply to such companies so long as such class of senior security shall be held or guaranteed by the Small Business Administration.'"

SEC. 3. The Small Business Act is amended as follows:

(a) Subsection (c) of section 4 of the Small Business Act (15 U.S.C. 633(c)) is amended by inserting "7(g)," immediately after "7(e)," in each of paragraphs (1), (2), and (4) thereof.

(b) Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(g) (1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

"(A) to assist any public or private organization—

"(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

"(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

"(2) The Administration's share of any loan made under this subsection shall not exceed $350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1)(B) of this Act would exceed $350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. Any loan made under this subsection shall bear interest at the rate of 3 per centum per annum. The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however,* That any reasonable doubt shall be resolved in favor of the applicant.

"(3) For purposes of this subsection, the term 'handicapped individual' means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable."

Mr. SPARKMAN. Mr. President, I ask unanimous consent that during the consideration of this measure Michael Burns and Reginald Barnes, members of our staff, be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, on September 13, the Senate passed by voice vote this legislation amending the Small Business Investment Act to give statutory recognition to new types of small business investment companies which had been established for the sole purpose of assisting members of minority races and other persons whose participation in our free-enterprise economy has been hampered by social or economic disadvantages.

On October 11, the House of Representatives passed its version of the same legislation and has sent the amended S. 3337 back to the Senate. At the conclusion of these brief remarks, Mr. President, I shall move that the Senate accede to the House amendments and send the legislation to the President for his signature.

In every major respect, the Senate and House versions of this measure are identical. Both authorize the licensing of limited SBIC's which will lend to and invest in businesses owned by disadvantaged persons. These special SBIC's can be chartered under State nonprofit corporation statutes, under both versions. Language covering the funding which limited SBIC's will receive from the Small Business Administration, is identical. The provision of additonal leverage for regular SBIC's is identical in the two versions. These sections represent the heart of the legislation before us.

There are, however, five differences which I shall explain.

First, S. 3337, as it passed the Senate, would have called these limited SBIC's, "minority enterprise small business investment companies." The House eliminated any reference to "MESBIC's," but retained the exact definitions approved by the Senate. I do not believe it is important whether or not this bill carry any specific name for the special class of SBIC's.

Second, the Senate version of S. 3337 would have permitted commercial banks to own up to 100 percent of a MESBIC. Banks may not own 50 percent or more of a regular SBIC under present law. The House turned down this additional authority for the banks.

Third, the House version of S. 3337 specifically authorizes existing SBIC's to own all, or part, of a limited SBIC organized under the new law. The Senate bill did not include that provision, but SBA has administratively promulgated a regulation permitting such ownership.

Fourth, the House bill gives all SBIC's authority to invest in unincorporated businesses. Present law does not allow SBIC's to take a proprietary interest in such firms. This power was not included in our version of S. 3337, but the Senate has voted in favor of this exact authority on two occasions when it passed earlier bills dealing with MESBIC's.

Fifth, the House bill amends the Small Business Act, in an action unrelated to the SBIC or MESBIC program. This amendment permits SBA to add a new dimension to its regular financial assistance programs for the purpose of making business loans to handicapped persons or to any organization operating in the interest of handicapped persons. The terms would be the same as those on loans to other applicants and no additional appropriation or monetary authorization is necessary for SBA to begin this new program.

Mr. TOWER. Mr. President, I am pleased that the House has agreed basically with the Senate on my bill, S. 3337, to provide improved assistance to minority business firms. I feel that the best way to overcome the poverty cycle of the various disadvantaged groups in this country is through the encouragement of capital formation among these groups, so that they can eventually become self-supporting and not have to rely on welfare payments for the basic income flow through the community. This bill will help stimulate the private sector to invest more heavily in promising business situations where minority individuals have good business ideas and the will to undertake the tribulations of running a business, but lack adequate access to equity and debt capital to get the business successfully operating or expanded to its full potential. Our goal is not permanent reliance upon Federal assistance for minority business success, but to give the capital push needed to get business formations and successes going in minority communities, so that they can have the chance to become self-sufficient and to develop the capital within the minority communities to develop their own financing resources in the future.

It should also be noted that the bill provides for increased assistance to the normal small business investment company, which is not limited to minority or disadvantaged groups, but can help small businesses everywhere get "off the ground" with financial aid. The goal, again, is self-sufficiency, not permanent subsidization.

Mr. President, I therefore recommend this bill as passed by the House to my colleagues for approval.

Mr. SPARKMAN. Mr. President, I move that the Senate agree to the amendment of the House of Representatives to S. 3337 and that the bill, as amended, be passed.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

ENVIRONMENTAL NOISE AIR CONTROL ACT OF 1972

The PRESIDING OFFICER (Mr. STAFFORD). Under the previous order, the Senate will proceed to the consideration of S. 3342, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 1105 (S. 3342) a bill to amend title IV of the Clean Air Act, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Public Works with an amendment to strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "Environmental Noise Control Act of 1972".

SEC. 2. Title IV of the Clean Air Act Amendments of 1970 is amended to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 401. This Act, including the following table of contents, may be cited as the 'Environmental Noise Control Act'.

"TABLE OF CONTENTS

"Sec. 401. Short title; table of contents.
"Sec. 402. Findings and policy.
"Sec. 403. Office of Noise Abatement and Control.
"Sec. 404. Definitions.
"Sec. 405. Research, investigation, training, and other activities.
"Sec. 406. Federal programs.
"Sec. 407. Noise criteria and control technology.
"Sec. 408. Noise emission standards for new products.
"Sec. 409. Labeling.
"Sec. 410. Imports.
"Sec. 411. Prohibited acts.
"Sec. 412. Enforcement.
"Sec. 413. Citizen suits.
"Sec. 414. Emergency situations.
"Sec. 415. Judicial review.
"Sec. 416. Records, reports, and information.
"Sec. 417. Federal procurement.
"Sec. 418. Grants for support of environmental noise planning and control programs.
"Sec. 419. Development of low-noise-emission products.
"Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that environmental noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise emissions include aircraft, vehicles, machinery, appliances, and other products in commerce; and

"(3) that, while primary responsibility for control of environmental noise rests with State and local governments, Federal regulatory action is essential to deal with major noise emission sources, and Federal assistance is necessary to encourage and support programs for the control of environmental noise.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their public health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in environmental noise control, to authorize the establishment of Federal noise emission standards for new products, to provide information to the public of the noise emission and noise reduction characteristics of new products, to encourage and support State and municipal programs for the control of environmental noise through planning and program grants to State and local environmental noise control agencies, and to provide information to the public on the control of environmental noise through regulation of use of products and other methods and procedures to reduce environmental noise.

"(c) Public participation in the development, revision, and enforcement of any regulation, noise emission standard, program or plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and assisted by the Administrator and the States and municipalities. The Administrator, in cooperation with the States and municipalities, within ninety days after enactment of this section, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 403. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare and administer the provisions of this Act.

"(b) The Administrator is authorized to prescribe such regulations as are necessary to carry out his function under this Act. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(c) Upon the request of an environmental noise control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"(d) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

"DEFINITIONS

"SEC. 404. For purposes of this title and title V of this Act:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) The term 'person' means an individual, corporation, partnership, or association, and (except as provided in section 413 (a)(1) of this Act) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

"(c) The term 'product' means any manufactured article or goods or component thereof; except that such term does not include—

"(1) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1431); or

"(2)(A) any military aircraft, rockets, weapons, or equipment which are designed for combat use; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President under section 406 of this Act.

"(d) The term 'ultimate purchaser' means the first person who in good faith purchases a product for purposes other than resale.

"(e) The term 'new product' means a product the equitable or legal title to which has never been transferred to an ultimate purchaser. Products remanufactured or rebuilt by a manufacturer from used products to restore original functions shall be considered to be new products for the purposes of this title and title V of this Act.

"(f) The term 'manufacturer' means any person engaged in the manufacturing, assembling, or importing of new products, or who acts for, and is controlled by, any such person in connection with the distribution of such products, but shall not include any dealer with respect to any new product received by him in commerce.

"(g) The term 'dealer' means any person engaged in the sale or the distribution of new products to the ultimate purchaser who may prepare a product for sale or distribution to the ultimate purchaser: Provided, That when such dealer's preparatory or final assembly work involves modifications which increase the noise emission characteristics of such product, such dealer shall then be considered a manufacturer of such product for the purposes of this title and title V of this Act.

"(h) The term 'commerce' means trade, traffic, commerce, or transportation—

"(1) between a place in a State and any place outside thereof, or

"(2) which affects trade, traffic, commerce, or transportation described in paragraph (1) of this subsection.

"(i) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(j) The term 'Federal agency' means any department, agency, or instrumentality of the United States including United States Postal Service.

"(k) The term 'environmental noise control agency' means any of the following:

"(1) A single State agency designated by the Governor of that State as the official State environmental noise control agency for purposes of this Act;

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of environmental noise;

("3) A city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of environmental noise; or,

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of environmental noise.

"(l) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(m) The term 'noise emission standard' means a statement of a noise level or other acoustical characteristic which may not be exceeded under specified conditions or method of operation. Such standard shall include the test procedures to be followed and shall be stated in terms of performance rather than design criteria.

"(n) The term 'environmental noise' means the intensity, duration, and character of sounds from all sources.

"(o) The term 'cumulative noise exposure' means the exposure of individuals in defined areas around airports to noise from aircraft operations weighted by time of day."

"RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

"SEC. 405. (a) The Administrator shall establish a national research and development program for the prevention and control of environmental noise and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of environmental noise;

"(2) conduct and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physiological and psychological effects), and the direct or indirect effects of noise on domestic animals, fish, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects; and

"(B) development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce.

"(3) encourage, cooperate with, and render technical services (including the drafting of model ordinances) and provide financial assistance to environmental noise control agencies and other appropriate public or private agencies, institutions and organizations, and individuals in the conduct of such activities;

"(4) conduct investigations and research and make surveys concerning any specific problem of environmental noise in cooperation with any noise pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the noise is located; and

"(5) establish technical advisory committees composed of recognized experts in various aspects of noise to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and for other purposes.

"(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of activities pursuant to subsection (a) and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal agencies, with environmental noise control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities, including technical assistance;

"(3) make grants to environmental noise control agencies, to other public or nonprofit private agencies, institutions and organizations, and to individuals, for purposes stated in subsection (a) of this section;

"(4) contract with public or private agencies, institutions and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training (without fee) for, and make training grants to personnel of environmental noise control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and make available through publications and other appropriate means, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on physical, and human and other effects of varying levels of noise and other information pertaining to noise and the prevention and control thereof; and

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of environmental noise.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known noise sources.

"(d) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of environmental noise on public health and welfare.

"FEDERAL PROGRAMS

"SEC. 406. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 402 of this Act.

"(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the emission of noise shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products specified pursuant to section 404(c)(2) of this Act may be granted from the requirements of sections 408, 511, and 521 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) (1) The Administrator shall coordinate the programs of all Federal agencies relating to environmental noise research and environmental noise control. Each Federal agency shall furnish to the Administrator such information as he may reasonably require, to determine, as provided under section 309 of the Clean Air Act, if the nature, scope, and results of the noise research and environmental noise control programs of the agency are consistent with the purposes of this Act.

"(2) Each Federal agency shall consult with the Administrator in prescribing any regulations respecting environmental noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation of any Federal agency, respecting noise, does not protect the public health and welfare to the extent he believes to be required he shall request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request shall be published in the Federal Register and shall be accompanied by a detiled statement of the information on which such request is based. Such agency shall complete the requested review and report to the Administrator within 180 days after the date of the publication in the Federal Register of the request. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation.

"(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish annually a report to the Congress on the status and progress of Federal activities relating to environmental noise research and environmental noise control. This report shall describe the environmental noise control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control environmental noise.

"NOISE CRITERIA AND CONTROL TECHNOLOGY

"SEC. 407. (a) The Administrator shall, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, within nine months after the date of enactment of this section, issue, noise criteria. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise, and such criteria shall set forth levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

"(b) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall within fifteen months after date of enactment of this section compile and publish a report or series of reports (1) identifying products (or classes of products) which on the basis of information available to him appear to be major sources of noise, and (2) giving information on the processes, procedures, or operating methods which result in the control of the emission of noise, to implement noise emission control standards under sections 408, 501, 503, 511, and 521 of this Act, which such information shall include technical and other data, including costs, as are available on alternative methods of noise control.

"(c) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall compile and provide information on methods and techniques of controlling environmental noise through, among other means, product use control, land use regulation, and construction and building standards. Such information shall be compiled and published to assist State and local governments in establishing and enforcing environmental noise control programs supported under section 418 of this Act.

"(d) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

"(e) Any report under subsection (b) (1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision of any criteria or information on control techniques under this section shall be announced in the Federal Register, and copies shall be made available to the general public.

"NOISE EMISSION STANDARDS FOR NEW PRODUCTS

"SEC. 408. (a) (1) The Administrator shall publish proposed regulations establishing noise emission standards for new products or classes of products—

"(A) identified in any report published under section 407(b) (1) of this Act as a major source of noise, and

"(B) which falls in one of the following categories:

"(i) Construction equipment.

"(ii) Transportation equipment (including snowmobiles, motorcycles, and recreational vehicles and related equipment).

"(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

"(iv) Turbines and compressors.

"(v) Electrical and electronic equipment, except those products which are designed for the production or reproduction of music or sound (to the extent such reproduction is identical, except in amplitude, to the source reproduced).

"(vi) Percussion and explosive equipment.

"(2) (A) Regulations proposed under paragraph (1) shall be promulgated not later than eighteen months after the date of enactment of this Act, and shall apply to any appropriate new product described in paragraph (1) which is identified (or in a class identified) in any report published under section 407(b) (1) of this Act on or before the date of publication of such initial proposed regulations.

"(B) In the case of any new product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 407(b) (1) of this Act after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) of this subsection for such new product shall be promulgated by the Administrator not later than nine months after such report is published.

"(b) The Administrator may publish proposed regulations establishing noise emission standards respecting any new product for which he is not required to establish standards under subsection (a) of this section but for which, in his judgment, noise emission standards are requisite to protect the public health and welfare. Not later than six months after the date of publication of such regulations respecting such new product, he shall promulgate regulations establishing noise emission standards for such new product.

"(c) (1) Any noise emission standard prescribed under subsection (a) or (b) of this section respecting a new product shall set limits on noise emissions from such new product over the useful life of the product (as determined by the Administrator taking into account the range of possible uses for the same type of product) and shall be a standard which in the Administrator's judgment, based on information published under section 407 of this Act, reflects the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. In establishing such standards for any new product the Administrator shall assure that such standards are compatible with standards under other laws respecting emission of air or water pollutants and safety, including (but not limited to) any standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.), or the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.). Any standard prescribed under subsection (a) or (b) of this section may contain provisions respecting instructions of the manufacturer for the maintenance or use of the product.

"(2) After publication of any proposed regulations under this section, the Administrator shall allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"(3) The Administrator may revise any noise emission standard prescribed by him in accordance with this section.

"(4) Any regulation prescribed under this section (and any revision thereof) shall take effect after a period not to exceed two years or such lesser time as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. Standards prescribed under this section shall apply to products manufactured on or after the effective date of such standards.

"(5) The Administrator may prescribe regulations defining 'effective date' for the purpose of assuring that products manufactured before the effective date of a regulation under this section were not manufactured for purposes of circumventing the effective date of such regulations.

"(d) (1) On and after the effective date of any standards prescribed under this section, the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that such product is (A) designed, built, and equipped to as to conform at the time of sale with applicable regulations under this section, and (B) free from defects in materials and workmanship which cause such product, under normal use, operation, and maintenance to fail to conform with applicable regulations for its useful life, as determined by the Administrator, taking into account the range of uses for such product.

"(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act, as amended.

"(e) (1) No State or political subdivision thereof may adopt or enforce, with respect to (A) any product manufactured after the effective date of a regulation prescribed by the Administrator under this section or (B) any component incorporated into such product by the manufacturer of such product, any standard setting a limit on noise emissions from such product enforceable against the manufacturer which is not identical to the standard prescribed by the Administrator.

"(2) Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products: *Provided*, That such control, licensing, regulation, or restriction shall not, in the case of any motor carrier engaged in interstate commerce or any equipment or facility of a surface carrier engaged in interstate commerce by railroad, result in a limit on noise emissions for any carriers, equipment, or facility different than any limit contained in any regulation applicable thereto prescribed by the Administrator under this section of title V of this Act, except that in the case of such carriers the Administrator may by regulation, upon the petition of a State or political subdivision thereof and after consultation with the Secretary of Transportation, permit such more restrictive limits on such noise emissions through the application of use, operation, or movement controls or regulations as in his judgment are necessitated by special local conditions.

"(3) If, after promulgation of any standards and regulations under this section and prior to their effective date, a product is manufactured in compliance with such standards and regulations such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such product on the date of such compliance.

"LABELING

"SEC. 409. (a) The Administrator shall by regulation for any new product (or class thereof)—

"(1) identified pursuant to section 407(b)(1); or

"(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise,

require either (1) that a notice of the level of noise emission including the relationship to any applicable noise emission standard under section 408, or notice of the effectiveness in reducing noise (as the case may be) supplied by the manufacturer, be affixed to the new product and to the outside of its container at the time of its sale to the ultimate purchaser, or (2) that such notice of such level or effectiveness supplied by the manufacturer otherwise be given to the prospective user. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose. Section 408(c)(2) shall apply to the promulgation of any regulation under this section.

"(b) This section does not prevent any State or political subdivision thereof from regulating product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

"IMPORTS

"SEC. 410. Any product offered for entry into the United States for which a standard or regulation has become effective pursuant to this title, which is not accompanied by certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause disposal or storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 411. (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product, aircraft, or aircraft engine manufactured after the effective date of noise emission control standards prescribed under sections 408, 501, 503, 511, and 521 of this Act which are applicable to such product, unless such product is in conformity with such standards.

"(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, testing, repair, or replacement, of any device or element of design incorporated into any product, aircraft, or aircraft engine in compliance with noise emission standards promulgated under sections 408, 501, 503, 511, and 521 of this Act prior to its sale or delivery to the ultimate purchaser or during its term of use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative.

"(3) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(b) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(3)(A) In the case of a manufacturer or dealer, the assistance of any person in a violation of paragraph (2)(A) of this subsection or the furnishing of information with respect to a violation of paragraph (2)(A) of this subsection.

"(B) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(a) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(4)(A) The removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 409(a) of this Act prior to the sale of the new product to the ultimate purchaser, or (B) the sale of such product or container from which such notice has been removed.

"(5) The importation into the United States by any person of any new product in violation of regulations promulgated under section 410 of this Act that are applicable to such product.

"(6) The failure of any person to comply with any order issued under section 412(d) or 414 of this Act.

"(b)(1) The Administrator may after public hearings exempt for a specified period of time not to exceed one year, any new product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall be subject to noise emission standards of the country which imports such product. In no event shall the Administrator allow the export from the United States of any product subject to section 414 of this Act as a product, the noise emissions from which are an imminent and substantial endangerment to public health.

"ENFORCEMENT

"SEC. 412. (a) Any person who willfully or negligently violates paragraph (1), (3), (5), or (6) of subsection (a) of section 411 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of paragraph (1) or (6) of subsection (a) of section 411 of this Act the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(b) For the purpose of this section, each day of violation of section 411(a) of this Act shall constitute a separate violation of that section.

"(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 411(a) of this Act.

"(d)(1) Whenever any person is in violation of section 411(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, to notify ultimate purchasers of the risks associated with such violation, to make public notice of such risks, to recall any products responsible for such violation, to repurchase any such products, or to replace any such products. Such order may also require the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"(e) When authorized by State law—

"(1) The Administrator may, by agreement with any environmental noise control agency with or without reimbursement, authorize law enforcement officers or other officers or employees of such environmental noise control agency to bring civil actions in the appropriate State courts to restrain any person from violating section 411(a).

"(2) The courts of such State may entertain any such civil action.

Nothing in this section shall affect the authority of an environmental noise control agency to commence a civil action under section 413 of this Act.

"CITIZEN SUITS

"SEC. 413. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (f) of this section), or

"(2) against—

"(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator.

"(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under this Act or section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator,

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise emission control requirement with respect to aircraft under this Act or section 611 of the Federal Aviation Act as amended) and (ii) to any alleged violator of such requirement, or

"(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protection Agency or, if appropriate, the Administrator of the Federal Aviation Administration, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

"(f) For purposes of this section, the term 'noise control requirement' means any prohibition, standard, or requirement under section 408, 411, 501, 503, 508, 511, or 521 of this Act or a prohibition, standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958, as amended.

"EMERGENCY SITUATIONS

"SEC. 414. (a) The Administrator or the Attorney General shall file, in a district court of the United States having venue thereof, an action against any product the noise emissions from which are an imminent and substantial endangerment to public health, or against any person who manufactures for sale, sells, or offers for sale, in commerce, or imports into the United States, such product. Such an action may be filed, notwithstanding the existence or nonexistence of a noise emission standard applicable to a product, or the pendency of administrative proceedings initiated pursuant to this Act.

"(b) The district court in which such action is filed shall have jurisdiction to declare such product a product the noise emissions from which are an imminent and substantial endangerment to public health, and to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent equitable relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of the original purchasers of such product of such risk, public notice, the recall, the repurchase, the repair, the replacement, or the seizure of such product.

"JUDICIAL REVIEW

"SEC. 415. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that:

"(a) a petition of review of action the Administrator in promulgating any standard or regulation under section 408, 501, 511, or 521 of this Act or any labeling regulation under section 409 of this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

"SEC. 416. (a) Such manufacturer of a new product, aircraft, or aircraft engine to which standards or regulations under sections 408, 501, 503, 511, or 521 of this Act or regulations under section 409 apply shall (1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act, (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and (3) make new products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator, to the extent required by regulations of the Administrator.

"(b) For the purpose of obtaining information to carry out titles IV and V of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof (other than noise emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any communication from a person to the Administrator or any other employee of the Agency concerning a matter presently under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"FEDERAL PROCUREMENT

"SEC. 417. (a) No Federal agency may enter into any contract for the procurement of goods, materials, or services with any person, who has been convicted of a criminal offense under section 412(a) of this Act and who, upon consideration of the gravity of the violation and the good faith of the person charged in attempting to achieve rapid compliance, the Administrator determines should be subject to the prohibition of this section. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act, the President shall, not more than one hundred and eighty days after its enactment, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant loan, or contract to effectuate the purposes and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States, and he shall notify the Congress of such exemption.

"GRANTS FOR SUPPORT OF ENVIRONMENTAL NOISE PLANNING AND CONTROL PROGRAMS

"SEC. 418. (a) (1) The Administrator may make grants to environmental noise control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining programs for the prevention and control of environmental noise.

"(2) Before approving any grant under this subsection to any environmental noise control agency within the meaning of sections 404(k) (3) and 404(k) (4) of this Act, the Administrator (when appropriate) shall receive assurances that such agency provides for adequate representation of State, interstate, local, and international interests in its area of jurisdiction. Before approving any grant under this subsection the Administrator shall determine that the recipient is the appropriate environmental noise control agency for the jurisdictions involved in order to minimize overlap and duplication of effort.

"(3) Before approving any planning grant under this subsection to any environmental noise control agency within the meaning of sections 404(k) (3) and 404(k) (4) of this Act, the Administrator shall receive assurances that such agency has the capability of developing and enforcing a comprehensive environmental noise control plan.

"(4) Before approving any grant for purposes other than developing a program under this section to any environmental noise control agency within the meaning of section 404 of this Act, the Administrator shall determine that such agency has the authority—

"(A) to regulate the location, modification, and construction of any facilities within the area of jurisdiction of such agency which may result in the generation of environmental noise; and

"(B) to assure that the use of any product in the area of jurisdiction of such agency will not exceed applicable noise control levels;

"(C) to (i) identify, if appropriate, sources of environmental noise within the jurisdiction of such agency, and (ii) set forth procedures, processes, and methods (including land use requirements and design and construction standards) to control such sources to the extent feasible;

"(D) to acquire, maintain, and operate noise monitoring facilities in the field and otherwise, making public reports of noise emissions and levels of environmental noise disclosed by such monitoring, which reports shall be related to any applicable standards or limitations; and

"(E) to issue abatement orders.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to environmental noise control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purposes of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential environmental noise problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of environmental noise unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would be in absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for environmental noise control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 403(c) of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purposes of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

"(e) There is authorized to be appropriated for this section $5,000,000 for fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

"SEC. 419. (a) For the purpose of this section:

"(1) The term 'Committee' means the Low-Noise-Emission Product Advisory Committee.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'low-noise-emission product' means any product which emits noise in amounts significantly below the levels of other products in the competitive market for such product at the time of procurement.

"(4) The term 'retail price' means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

"(b) (1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

"(2) The Administrator shall certify any product—

"(A) for which a certification application has been filed in accordance with paragraph (5) (A) of this subsection;

"(B) which is a low-noise-emission product as determined by the Administrator; and

"(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

"(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) Certification under this section shall be effective for a period of one year from the date of issuance.

"(5) (A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

"(B) The Administrator shall publish in the Federal Register a notice of each application received.

"(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

"(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

"(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

"(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of product presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

"(c) (1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

"(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

"(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

"(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

"(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at the time of purchase he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

"(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

"(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 420. There are authorized to be appropriated to carry out this Act (other than sections 418 and 419) $18,000,000 for the fiscal year ending June 30, 1973; $36,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975."

SEC. 3. The Clean Air Act is amended to add a new title V as follows:

"TITLE V—MAJOR MOVING SOURCES

"PART A—CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 501. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom—

"(1) the Administrator of the Environmental Protection Agency, after consultation with the Administrator of the Federal Aviation Administration, shall promulgate and amend standards for the measurement of aircraft and aircraft engine noise and sonic boom; and

"(2) the Administrator of the Environmental Protection Agency shall promulgate and amend regulations with respect to noise emissions from aircraft and aircraft engines which in his judgment are adequate to protect the public health and welfare with an adequate margin of safety.

"(b) (1) Any regulations under this section, or amendments thereto, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the cost of compliance, as determined by the Administrator of the Environmental Protection Agency and the Administrator of the Federal Aviation Administration, and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and that any proposed standard, rule, or regulation has been demonstrated to be technologically available for application to types of aircraft, aircraft engine, appliance, or certificate to which it will apply.

"(2) All standards, rules, and regulations prescribed pursuant to section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the Environmental Noise Control Act of 1972 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations promulgated and approved pursuant to this part.

"(c) Each Federal agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft noise emissions, including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

"SEC. 502. The Administrator of the Environmental Protection Agency, after consultation with appropriate Federal, State, and local agencies and interested individuals, shall conduct a study of the (a) adequacy of Federal Aviation Administration flight and operational noise controls; (b) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (c) implications of identifying and achieving levels of cumulative noise exposure around airports; and (d) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within one year after enactment of this title, together with his recommendations for legislation.

"SEC. 503. (a) The Administrator of the Federal Aviation Administration, after consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 501 of this Act. The regulations of the Secretary of Transportation shall include provisions making such standards respecting noise emissions from any type of aircraft applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act, as amended, or the Department of Transportation Act, as amended. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Environmental Noise Control Act of 1972, is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609 of the Federal Aviation Act, as amended, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standards, rules, or regulations, and that such amendment, modification, or revocation by the Board is consistent with safety in air transportation.

"SEC. 504. The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of the Federal Aviation Act, as amended, for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, after July 1, 1973, unless standards, rules, and regulations under this part which apply to such aircraft, aircraft engine, propeller, or appliance have been promulgated.

"SEC. 505. The Administrator of the Environmental Protection Agency, within nine months of the date of enactment of this Act, shall review all standards, rules, or regulations (or any proposed standard, rule, or regulation) in effect under section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of this title. If he determines after public hearings, that such standards, rules, or regulations do not comply with section 501(b)(1) of this Act, within twelve months of the date of enactment of this title he shall revise such standard, rule, or regulation, in accordance with section 501 (b) of this Act.

"SEC. 506. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting noise emissions from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part.

"SEC. 507. Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 101 of the Federal Aviation Act of 1958, as amended.

"CIVIL AIRCRAFT SONIC BOOM

"SEC. 508. (a) No person may operate a civil aircraft over the territory of the United States, the territorial sea of the United States, or the waters of the contiguous zone (as defined under Article 24 of the Conservation of the Territorial Sea and the Contiguous Zone) at a true flight mach number greater than 1 except in compliance with the conditions and limitations in an authorization to exceed mach 1 issued to the operator under this section.

"(b) For a research and development flight in a designated flight test area an authorization to exceed mach 1 may be issued if the applicant shows one or more of the following:

"(1) The flight is necessary to show compliance with an airworthiness regulation or is necessary for aircraft development.

"(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

"(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight mach number of 1 will not cause a sonic boom to reach the land or water surface of the earth.

"(c) An application for an authorization to exceed mach 1 must be made on a form and in a manner prescribed by the Administrator of the Environmental Protection Agency. In addition, for an authorization covered by subsection (b) of this section, each application must contain—

"(1) information showing that operation at speeds greater than mach 1 is necessary to accomplish one of the purposes specified in subsection (b) of this section;

"(2) a description of the flight test area proposed by the applicant; and

"(3) conditions and limitations that insure that no sonic boom will reach the land or water surface outside of the designated flight test area.

"(d) An application for an authorization to exceed mach 1 shall be denied whenever the Administrator of the Environmental Protection Agency finds that such research and development flight or flights may adversely affect public health or welfare or the quality of the environment.

"(e) An authorization to exceed mach 1 is effective until it expires, or until it is surrendered, and shall be terminated by the Administrator whenever he finds that such action is necessary to protect public health or welfare or the quality of the environment.

"(f) Any violation of this section shall be subject to the penalties prescribed under subsection (a) of section 412 of this Act.

"Part B—Railroad Noise Emission Standards

"Sec. 511. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"Sec. 512. The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 511 of this Act. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section and section 511 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"Sec. 513. Nothwithstanding any other provision of this Act, after the effective date of regulations under this part, no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: Provided, however, That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation may determine to be not in conflict with regulations promulgated under this part.

"Sec. 514. The terms 'carrier' and 'railroad' as used in sections 511, 512, and 513 of this part shall have the same meaning as such terms have under section 22 of title 45 of the United States Code.

"Part C—Motor Carrier Noise Emission Standards

"Sec. 521. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"Sec. 522. The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"Sec. 523. Notwithstanding any other provision of this Act, after the effective date of regulations under this part no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be not in conflict with regulations promulgated under this part.

"Sec. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall have the same meaning as those terms as defined in section 303(a) (14), (15), and (17) of title 49 of the United States Code."

Sec. 4. There is hereby authorized to be transferred to the Administrator any function or personnel of the Department of Transportation with respect to the control and abatement of aircraft noise which the President determines is necessary to carry out section 3 of this Act.

CONSTRUCTION AT MILITARY INSTALLATIONS—CONFERENCE REPORT

Mr. SYMINGTON. Mr. President, I submit a report of the committee of conference on H.R. 15641, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legistative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15641) to authorize certain construction at military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of October 9, 1972, at pages 34370–76.)

Mr. SYMINGTON. Mr. President, I move the adoption of the Conference Report on the Military Construction Authorization Bill for Fiscal Year 1973, and in connection therewith have a brief statement.

The report was signed by all conferees of the House and Senate, and has now been agreed to by the House.

The bill, as agreed to, would provide a total new authority of $2,549,525,000, and an increase in prior years' authority of $8,447,000, for a total authority of $2,557,972,000.

The amount of new authority approved is $498,436,000 below the amount originally requested by the Department of Defense. The original request, however, included $399,420,000 for the Safeguard anti-ballastic-missile system.

All but $6,004,000 of this was withdrawn as a result of the SALT agreement. The latter amount for 218 units of military family housing at the Grand Forks site was transferred to and considered in the military procurement bill.

This leaves a net reduction in new authority of $99,016,000 below the amount requested. Considering the fact that a very substantial portion of the bill this year is devoted to bachelor housing, and other personnel facilities, in furtherance of the voluntary force concept, together with air and water pollution abatement projects in compliance with existing law, we consider this reduction to be significant.

The Senate position prevailed in 64 percent of the items in dispute. The bill agreed to by the Congress is only $10,825,300 above the amount approved by the Senate.

I would like to now mention a couple of points that might be of special interest. The first relates to the military family housing. For some time now the committee has received complaints from service families that many of the older Government quarters in the United States did not meet the standards of adequacy, yet the sponsors assigned such quarters must forfeit their entire quarters allowances. In some instances better quarters are obtainable on the economy within, or less than, their basic allowance for quarters.

I believe it is the opinion of all concerned that such quarters, where economically possible, should be brought up to the standards of adequacy. Where this is not possible, then some relief should be forthcoming to the occupants.

With this in mind, the Senate included a provision in the bill that will permit the families assigned such quarters to occupy them voluntarily on a fair rental basis, but not to exceed 75 percent of their basic allowance for quarters, unless the upkeep should exceed that amount.

I am pleased to advise that the House conferees agreed to the wisdom of this provision, but insisted on limiting the number of such quarters to be so designated to 20,000 units. This seems to be a reasonable limitation, and the Senate agreed. The limitation can, of course, be modified at a later date, if there appears to be a justifiable reason.

Finally, I wish to mention the Trident base construction program.

As I have previously called to the attention of the Senate, the Navy this year requested $14.3 million to provide for the beginning of the first Trident base. It is currently estimated that such a base, upon completion, will cost around $886 million. Supposedly the funds requested this year for construction would be used primarily for land acquisition and perhaps some site preparation such as grading and access roads.

The Senate denied this request since the Navy cannot, or does not choose to, indicate at this time where the proposed base is to be located. They have informed us that four different sites are under consideration—three on the east coast and one on the west coast.

Now, Mr. President, until such time as the Navy has made up their minds as to where this base is to be located, it seems inconceivable that they could estimate with any accuracy the amount of construction funds needed this year. The Senate conferees were adamant in their position that they would not authorize the appropriation of funds blindly as in this instance.

The House was equally adamant in their position that some funds should be authorized, so as to prevent a possible delay to the program. They were willing to compromise on $3½ million. This matter was again presented to the Senate Armed Services Full Committee, which agreed with the position of the Senate conferees.

Under the circumstances, I am pleased to inform you that the Senate provision prevailed.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

H.R. 16810 WOULD BE HARDSHIP ON VETERANS

Mr. HARTKE. Mr. President, the present bill which would limit spending of the Congress would impose an extreme hardship on all veterans. I ask unanimous consent to have printed in the RECORD a telegram I received from Herald E. Stringer, director, national legislative commission, of the American Legion, asking that we give consideration to protecting programs from cutbacks the spending ceiling would impose.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

OCTOBER 11, 1972.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Old Senate Office Building, Washington, D.C.:

The American Legion is seriously concerned about the effect H.R. 16810 could have on veterans programs unless the Veterans Administration is specifically exempted from any general spending ceiling the measure would impose.

Specifically the measure could jeopardize existing plans to improve and expand the VA medical and hospital programs for the nation's 28.8 million veterans of which number 5.9 million served in the Vietnam era and have special problems. We hope you can protect these programs from any cutbacks the spending ceiling might impose.

HERALD E. STRINGER,
Director, National Legislative Commission, The American Legion.

JORGE ORTUZAR-VARAS AND MARIA PABLA DE ORTUZAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 1230. This matter has been cleared all the way around.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14128) for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar.

The bill was considered, ordered to a third reading, read the third time, and passed.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Public Works be permitted to be on the floor during the consideration and any votes on S. 3342: Barry Meyer, Philip Cummings, John Yago, Leon G. Billings, Bailey Guard, Richard Hellmann, Don Alexander, and Charlene Sturbitts and Jane Frank of my staff, and Mr. Hal Brayman of the staff of the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. CANNON. Mr. President, I ask unanimous consent that during the consideration of this bill Robert Ginther, Bill Frank, and Mike Pertschuk be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I can think of no better way to introduce the subject of environmental noise control than to read a letter which I recently received from a constituent.

She wrote:

> DEAR SENATOR TUNNEY: I heard you were out here in California checking on the noise. Where you went of course [there] wouldn't be any noise . . . Come to my house—stay one day—let no one know you are here. You will hear with your own ears—I will take you around—see the other sections that are affected.
>
> The noise is so bad at my house—you could cry—it hurts your ears so much. When a plane comes directly over my house—it shakes the house and that squeal is so bad for the ear drums. . . .
>
> When children will start crying when a plane flies overhead you know their ears will soon be deafened (so they will not hear that screech).
>
> Do you know that seven schools are under the south runway [and] are going to be taken down. Look at all that money wasted. So easy to have just a westerly landing and that would be all removed.
>
> Please, please—on bended knees, help us—do something . . . make it a law. . . .

Well, we have worked hard to "make it a law" on this subject. S. 3342, the Environmental Noise Control Act of 1972, would go a long way toward solving the aircraft noise problem, as well as the din from other major noise sources ranging from motorcycles to vacuum cleaners, to jackhammers to electric blenders. For the first time, in the version of the legislation reported by the Senate Public Works Commitee, we would establish a comprehensive Federal program—including grants to States and cities to support programs geared to local needs—to deal with noise pollution in much the same way and at the same level of priority as the Congress has dealt with air and water pollution.

Treating the subject of noise pollution as a total system, the legislation would require the Environmental Protection Agency to set noise emission levels from major noise sources adequate to protect the public health and welfare. It would provide technical and financial assistance to the States and cities while leaving them free to set the strongest possible noise control programs.

The legislation has broad-based support from such widely divergent groups as labor unions, the Airport Operators Council, environmental organizations, the American Public Health Association, the League of Cities, Council of Mayors, the National Governors Conference, and representatives of the industry. Support is especially strong for title V, which includes provisions for establishing the Environmental Protection Agency as lead agency in setting noise emission standards for aircraft.

This legislation was thoroughly considered in legislative hearings and extensive executive sessions. The hearings on the legislation pointed up some startling statistics about the subtle and pervasive effects of noise on hearing and other aspects of health. According to EPA, 80 million Americans are adversely affected by noise. Of these, about 40 million persons are literally listening to a health hazard, risking hearing impairment and other physiological and psychological effects. This figure does not include an additional 17 million workers who have incurred job-related hearing damage. Fifteen million people who live near airports all around the country are adversely affected by aircraft noise and suffer health impairment which includes loss of sleep, anxiety, and interference with classroom learning and with normal conversation.

The hearings also explored the total inadequacy of present law to deal with the health need. Under the Clean Air Act Amendments of 1970, EPA is given study and review authority over Federal activities which result in a noise nuisance. But neither EPA nor any other Federal agency is given regulatory authority to set noise emission standards adequate to protect the public health.

The hearings showed, too, that States and cities are becoming increasingly frustrated at their inability to deal effectively with local noise problems: caught in a financial squeeze, they lack the tools and training to do the job they need. Indeed, a study by EPA of past State and local efforts shows that the most outstanding States have spent a paltry 10 cents per capita on noise controls; most States have spent as little as one or 2 cents per capita—or nothing at all. In the past year alone, EPA has received requests from 28 States and 111 cities for technical and financial assistance—demands which it has no authority to meet under present law.

Most frustrated of all are the people—who are bringing billions of dollars in damage suits against airport authorities—and hundreds of millions of dollars in compensation claims for hearing loss.

At Los Angeles International Airport alone, $14 billion in nuisance suits are pending—a situation which prompted the city attorney of Los Angeles to threaten to close down the airport. He seems to have recanted, but if the airport does close, thousands of jobs will be lost. This is in addition to the enormous impairment to air commerce.

Another problem discussed at the hearings was the decline of property values due to high levels of noise. A study conducted in Inglewood, Calif., shows land subject to noise levels less than 80 PndB was valued an average 50 percent higher than land subject to noise levels greater than 100 PndB.

For the first time, in S. 3342 we would define and meet the health needs, provide an adequate regulatory mechanism at the Federal level, and provide for technical and financial assistance to the States and cities.

Specifically to deal with the health need, section 407(a) of the bill requires the Administrator, within 9 months after enactment, to issue noise criteria reflecting all the identifiable effects of differing quantities and qualities of noise on public health or welfare. He will be expected to produce criteria documents very much like those prepared under the Clean Air Act for similar uses. These criteria must set forth the levels of environmental noise which are requisite to protect the public health and welfare with an adequate margin of safety.

The concept of environmental noise is used through the bill to describe the overall level of noise in a given area to which individuals are exposed, including the intensity, duration, and character of sounds from all sources. It also includes the concept of a limitation on noise which would be applicable to every individual source in such a defined geographic area.

Under the regulatory provisions of the act, within 15 months after enactment of the legislation, the Administrator is required to prepare public reports identifying products which appear to be major sources of noise. Identification as a major source of noise is the first step in the development of noise emission standards for particular products.

Noise emission standards must be established for any major source of noise which falls into the categories of construction equipment, transportation equipment, motors or engines, turbines and compressors, percussion and explosive equipment, or electrical and electronic equipment—other than sound reproduction equipment. These standards must take effect no later than 2 years after the date of promulgation or any shorter period which permits the application of the necessary technology. The Administrator is given authority to define "effective date" in such a way as to prevent the stockpiling of inventories to circumvent the purpose of the standards.

Standards for new products are required to set limits on noise emissions which in the Administrator's judgment reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. The difficulty of relating noise emissions from a given source to effects on public health and welfare in an enforceable way led the committee to conclude that implementation of a technologically based standard was preferable in terms of uniformity and enforceability to one calling for protection of the public health and welfare. While the intention of the whole bill is to protect public health and welfare from environmental noise, the committee expects that the application of the best available technology will just begin to realize that goal in the foreseeable future.

After the effective date of standards applicable to a product, the manufacturer must warranty to the purchaser and subsequent owners of that product that it conforms with the standards at the time of sale and that it is free from defects in materials and workmanship which cause the product, under normal use, operation, and maintenance, to fail to conform during its useful life.

For any product manufactured after the effective date of an applicable Federal standard, authority to establish noise emission standards for the product enforceable against the manufacturer is preempted. States and cities, however, retain complete authority to establish and enforce limits on environment noise through the licensing, regulation, or restriction of the use, operation, or movement of a product, or concentration or combination of products.

In the judgment of the committee, noise emission standards for products which must be met by manufacturers should be uniform. On the other hand, States and local governments have the primary responsibility under the bill for setting and enforcing limits on environmental noise which in their view are necessary to protect public health and welfare. This essentially local responsibility is not assumed or interfered with by this bill, although Federal guidance, technical and financial assistance are provided.

Under the legislation, at a minimum, States and local governments may reach or maintain levels of environmental noise which they desire through operational limits or regulations on products in use—such as speed or load limits or prohibitions of use in given areas or during given hours—quantitative limits on environmental noise in a given area which may be enforced against any source within the area, including zones adjacent to streets and highways, regulations limiting the environmental noise which may exist at the boundary of a construction site, nuisance laws, or uses which do not amount to a burden manufacturers must meet to continue in business.

In a letter to the editor of the New York Times dated September 29, 1972, which discusses preemption under the legislation, EPA Administrator Ruckelshaus draws an analogy to the regulation of alcoholic beverages, and states:

> This relationship between Federal, state and local controls is not unusual or unworkable. There are many precedents. For example, consider the case of alcoholic beverages. Such beverages only can be manufactured and introduced into interstate commerce in accordance with strict Federal specifications and regulations. However, states and cities can forbid their use or they can determine the method of sale, distribution or use, and control the hours, circumstances and locations of use. The states and cities cannot impose standards regarding content or specification for manufacture. This is the same situation as proposed for the control of noise sources—the Federal control does not inhibit the state and local use controls.

The bill generally parallels the enforcement authority of the Clean Air Act. This includes criminal penalties of $25,000 or 1 year's imprisonment for the first violation of the prohibited acts section applicable to manufacturers. The bill also provides authority to enjoin any violation. In addition, the bill makes it a criminal violation for a manufacturer or dealer to assist any person in removing or disconnecting a noise suppression device or the giving of information to any person on how to remove or disconnect such device for purposes not allowed by the bill.

Standards apply to all new products except those intended solely for export. Exported products have only to comply with applicable foreign standards.

The bill also provides authority for citizens to sue in the Federal district courts to abate violations of the requirements of the law. This section is nearly identical to the citizen suit provisions in the Clean Air Act—section 304—and the committee intends that it be utilized and interpreted in a similar fashion.

To aid the States and cities, the Administrator is authorized to grant a total of $22.5 million over a 3-year period to State and local environmental noise control agencies. Grants are limited to two-thirds of planning and development costs and one-half of maintenance costs, in order to highlight the importance of getting new programs off the ground. No one State may receive more than 10 percent of the total funds, and, where an environmental noise control agency program encompasses more than one State, funds are apportioned.

Through explicit qualifications in the legislation, a noise pollution control agency must have effective enforcement capability in order to qualify for Federal funds.

Over 3 years $104,000 in funds are provided to implement general provisions of the act.

A separate title, title V, in the legislation would deal with "Major Moving Sources," a category which includes aircraft, trucks, and trains. While, in each instance, EPA would be lead agency in setting emission levels from these sources adequate to meet public health and welfare needs, the process by which these various levels become actual standards would involve the special competence of other Federal agencies which have certain technical expertise with respect to these products.

In the case of aircraft, EPA would set emission standards adequate to meet the health needs. Standards for noise emissions from aircraft, which actually define what aircraft manufacturers and air carriers must attain, would be promulgated on the basis of the degree of noise reduction achievable through the application of best available demonstrated technology, taking into account the cost of compliance, as determined by EPA and the Federal Aviation Administration. FAA would be given a twofold veto over proposed standards, if technology were not available or standards were not consistent with the highest degree of safety. Under this scheme, each agency would take responsibility for those matters for which it has demonstrated competence.

In addition, the bill provides that existing standards promulgated under section 611 of the Federal Aviation Act will continue in effect until modified in accordance with the provisions of this bill. The Administrator of the Environmental Protection Agency is directed to review those standards within 9 months after enactment for consistency with the requirements of this bill. Original type certificates cannot be issued after July 1, 1973, unless noise emission standards which apply to such aircraft have been promulgated. Violations of the standards would be subject to the penalties and abatement procedures under title IV, including citizen suits to abate violations.

The committee considered approaches to controlling aircraft noise based on a concept of cumulative noise exposure, involving the level of noise from aircraft to which individuals in the areas surrounding airports are exposed and the effects of such exposure on public health and welfare. While methods other than noise emission standards can be effectively utilized to reduce aircraft noise, and while many members of the committee were strongly in favor of utilizing such additional methods, the committee felt that it had insufficient knowledge as to the precise regulatory mechanism for cumulative aircraft noise exposure. Therefore, the committee included in the bill, in place of any regulatory scheme dealing with community noise around airports, a 1-year study by the EPA of the implications of identifying and achieving levels of cumulative noise exposures around airports. The results of this study, submitted to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House will form the basis for any legislation on aircraft noise in the next Congress.

Also included in this study are the adequacy of FAA flight and operational noise controls, the adequacy of noise emission standards on new and existing standards on new and existing aircraft—together with the EPA's recommendations on the retrofitting and phaseout of existing aircraft—and any additional measures available to airport operators and local governments to control aircraft noise.

The EPA study and recommendation called for by section 502 is not merely an extension of the investigations on this subject performed by EPA as required by title IV of the Clean Air Act Amendments of 1970. Rather, it is an effort to deal comprehensively with and develop an orderly national program for an urgent problem that has heretofore been dealt with on a piecemeal basis.

There are already in progress a number of investigations and activities on the part of a variety of Federal agencies on the subject of aircraft and airport noise. These include among others: the report of the Aviation Advisory Commission called for by the Airways and Airport Improvement Act of 1970, the research on development of quiet engines being accomplished by the National Aeronautics and Space Administration and the research on aircraft engine retrofit requirements being undertaken by the Federal Aviation Administration.

In addition, it is known that the executive branch of the Government through the Office of Management and Budget, and the National Aeronautics and Space Council is conducting studies and evaluations on aircraft noise problems and associated matters.

The Environmental Protection Agency along with the Department of Transportation and the Department of Housing and Urban Development have undertaken initial research on community noise, measurement, evaluation and description. It is also known that within its limited resources the Environmental Protection Agency has also initiated a study on the wide variety of schemes and methods used for aircraft noise, evaluation, and measurement. The Department of Defense through the U.S. Air Force Aerospace Medical Research Laboratory is undertaking a comprehensive investigation of the noise exposure forecast system and the background material upon which that system is based. All of these studies are viewing the problem from different viewpoints and different considerations. Nowhere is there presently established overview authority. The purpose of section 502 is to insure that all of this related, but presently disorganized, activity is brought into perspective and evaluated by an independent agency whose primary concern is that of environmental quality and the protection of health and welfare.

Tools other than noise emission standards do exist for reducing aircraft noise. It is the intention of the committee in section 501(c) of the bill that all existing authority over aircraft or aircraft noise be utilized to reduce that noise, including, among other things, the consideration of flight and operational changes such as the two-segment landing approach and the adjustment of take-off, approach and flight paths to impact fewer people, and review of traffic flow with regard to adequacy of load factor.

States and the local governments are preempted from establishing or enforcing noise emission standards for aircraft unless such standards are identical to standards prescribed under this bill. This does not address responsibilities or powers of airport operators, and no provision of the bill is intended to alter in any way the relationship between the authority of the Federal Government and that of State and local governments that existed with respect to matters covered by section 611 of the Federal Aviation Act of 1958 prior to the enactment of the bill.

Commercial flights of supersonic aircraft at supersonic speeds over the United States are forbidden, except for defined research and development purposes.

Standard-setting for railroads and trucks involve the Secretary of Transportation safety inspection and regulatory authority of the Secretary of Transportation. Local regulations are preempted except where necessitated by local conditions.

In conclusion, the legislation provides the first comprehensive program to control noise from all major noise sources—including aircraft. We have kept the people waiting long enough. We have their strong support for this bill. It is time to move forward.

Mr. President, I yield to the Senator from Maine.

The **PRESIDING OFFICER**. The Senator from Maine is recognized.

Mr. **MUSKIE**. Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. **MUSKIE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

S. 3342

On page 90, beginning at line 24, strike out all through line 14 on page 91 and insert, in lieu thereof, the following:

"SEC. 502. (a) (1) Within 180 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate rules and regulations, based on criteria published pursuant to section 407(a) of this Act, to establish levels of cumulative noise exposure in the environment of airports and surrounding areas affected by noise from aircraft which levels shall be adequate to protect the public health and welfare with an adequate margin of safety.

"(2) Within 90 days after promulgation of regulations required by paragraph (1), the Administrator of the Environmental Protection Agency shall promulgate and amend standards for the measurement of levels of cumulative noise exposure.

"(b) Within 270 days after the promulgation of rules and regulations establishing levels of cumulative noise exposure, the Administrator of the Environmental Protection Agency shall identify and publish in the Federal Register those airports in the vicinity of which he has reason to believe such levels are or may be exceeded, and at any time thereafter the Administrator shall identify and publish in the Federal Register any other airports for which he subsequently receives evidence that levels of cumulative noise exposure are being exceeded.

"(c) (1) Within 90 days after an airport is identified pursuant to subsection (b) of this section, the Administrator of the Environmental Protection Agency shall monitor the levels of cumulative noise exposure in the vicinity of the airport, and shall install devices to monitor on a continuing basis the levels of cumulative noise exposure in the vicinity of the airport and shall periodically, but at least annually, examine the devices to assure accuracy and make a determination of the adequacy of the measures taken to attain and maintain such levels;

"(2) The Administrator of the Environmental Protection Agency shall make public the data derived from such monitoring, correlated with the levels of cumulative noise exposure established pursuant to subsection (a) of this section.

(d) (1) The Administrator of the Federal Aviation Administration, after consultation with the Administrator of the Environmental Protection Agency, shall develop and publish information on alternatives for reducing noise at airports and in the vicinity of airports, which information shall indicate the maximum degree of noise reduction control which can be achieved with available technology which is consistent with safety. Alternatives considered may include modifications and limitations on the number and frequency of operations, modifications of hours of airport operation, any other adjustments in operation of such airport, and any alternative controls or modifications of the use of land (including use of buildings and facilities, building code changes, etc.) surrounding such airport.

"(2) Where an airport is identified pursuant to thee procedures in subsection (b) the Administrator of the Federal Aviation Administration shall provide technical assistance to the operator of such airport to develop methods to attain and maintain levels of cumulative noise exposure through implementation of alternatives such as those published in accordance with paragraph (1) of this subsection.

"(e) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this section not to exceed $15,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 annually for each of the three succeeding fiscal years.

"(f) Nothing in this section shall limit the authority of an airport operator for other than emergencies to limit the number of frequency of operations or modify or limit the hours of airport operations in order to attain or maintain such levels.

Mr. MUSKIE. Mr. President, the Senate need look no further than the general statement section of the committee report on this bill for the facts which justify a major Government effort to control and reduce noise pollution. As chairman of the Subcommittee on Air and Water Pollution, however, I am sorry to have to say to this body that the legislation which it now considers will not provide the kind of action that those facts demand.

The Environmental Noise Control Act of 1972, S. 3342, was introduced on March 14, 1972 by Senator JOHN V. TUNNEY and myself. That legislation was different than either the House-passed bill, H.R. 11021, or the administration's bill, S. 1016, in purpose and intent. The bill which we introduced was not primarily designed to relieve product manufacturers from the effect of State noise pollution regulatory programs. Nor was it designed primarily to relieve transportation companies, particularly the airlines, from effective noise regulations.

We wanted to establish a means to reduce as rapidly as possible, through the application of available control measures, the exposure of people to noise by reducing noise at its source, by changing the way noisy products are used, by controlling noisy activities, and by such other means that are available.

Our bill was an environmental regulatory measure. We recognized that the regulation of noise would have an impact on commerce, but we also recognized that the purpose of regulation must be the reduction in the volume, intensity, and character of noise to which people are exposed in their daily lives from sources over which they have no control.

As the third annual report of the President's Council on Environmental Quality stated:

> It is increasingly difficult for any individual—in urban or rural America—to escape noise. For many city residents, noise may be the single most pervasive environmental pollutant.

The committee report itself notes that noise has—

> A significant impact on more than 80 million Americans . . . 40 million Americans risk hearing impairment and other physiological and psychological effects . . . 44 million Americans have the uitility of their dwellings adversely affected by noise from aircraft or traffic . . . 21 million Americans are similarly affected by construction-related noise.

In the face of these facts, we have no right to adopt any more lenient a policy against noise pollution than we have adopted against air and water pollution. It will not be an easy task, because we will have to give States and localities much more flexibility to impose strict controls in controlling noise within their own jurisdictions than in controlling air and water pollution.

Noise is not subject to easy regulation. Unlike the common air and water pollutants, noise does not accumulate in the environment. Noise is not subject to collective treatment and reduction processes. As a practical matter, then, the best method to reduce noise is to apply stringent emission regulations at the source of the noise, so that products and activity will not present a noise pollution problem alone or in combination with each other.

To a degree, the legislation reported by the committee moves in this direction. Through the establishment of a regulatory mechanism which permits the Administrator to impose noise emission restrictions attainable through the application of the best available technology, the Administrator will be able to press the limits of our capability to reduce noise from new products.

The bill does not, however, provide adequate options in those cases in which the best available technology is not adequate to achieve environmentally acceptable levels of noise. It does not protect adequately the authority of States and local government to safeguard the environment in which their citizens live. It does not give States the opportunity to ban the sale of federally regulated products which, in their jurisdictions, still emit unacceptable levels of sound. And at the same time, it does not expedite Federal regulation, thus holding out the hope of a quieter environment with no guarantee of early improvement.

By preempting State authority to restrict sale of noisy products, the bill places the burden on the consumer to take the risk of buying products which cannot be used in the manner intended at the time of purchase. The preemption provision limits State authority to restricting the manner of use of noisy products regulated by the Federal Government.

The Committee on Public Works is not unfamiliar with the problem of preemption. The Air Quality Act of 1967, which I sponsored, provided for Federal preemption of the authority to regulate air pollution emissions from new automobiles, except in California. That policy may have had an effect opposite of that which was intended. It appears that the preemption provision of that act did not cause the auto companies to focus their research efforts and investments on one set of national standards. Rather, the auto companies' efforts have been focused on undermining those national standards.

Again in 1970, preemption was discussed in relation to regulation of air pollution emissions from aircraft. The Congress decided on a preemption provision effective on enactment and set deadlines for standards to be developed.

Section 231(a) of the Clean Air Act requires that the Environmental Protection Agency must begin an investigation of air pollution from aircraft within 90 days of date of enactment. Within 180 days after commencing that investigation, the Environmental Protection Agency is required to report on the investigation and propose emission standards for any class of aircraft or aircraft engines which contributes to air pollution which endangers public health and welfare. Ninety days thereafter—1 year after enactment—EPA was to issue final regulations. The proposed standards were due over 1 year ago, September 27, 1971. Today, no report or proposed standards have been published.

This is a classic example of Federal preemption leading to Federal failure to protect public health. The Federal Aviation Administration has undoubtedly discouraged active efforts by the Administrator. And the efforts that the Environmental Protection Agency has made have run aground in the Office of Management and Budget.

Therefore, when the committee considered the pending legislation, I expressed reservations regarding a broad preemption provision for product and aircraft emission standards. The States have moved actively in this field. Federal noise pollution responsibility is new and little significant authority or responsibility exists, but a number of States have regulatory programs which impose emission controls on noisy products which are enforceable both at the point of sale and at the point of use.

I cannot support Federal preemption which protects product manufacturers and the air transportation industry without effective regulatory programs which will enhance the quality of the environment. Substituting Federal law for State law with even less assurance that public health will be protected is poor public policy.

My second major concern with the legislation reported from the committee deals with the problem of aircraft noise and regulatory mechanism recommended to cope with that problem.

To date, the regulation of aircraft noise pollution has been the sole responsibility of the Federal Aviation Administration. The Federal Aviation Administration has had this responsibility since its inception. It has had a specific legislative mandate for the past 4 years. And its record is wholly inadequate.

I understand why the Federal Aviation Administration's response has been inadequate. The FAA's primary mission is not to reduce the environmental impact caused by aircraft noise. Its mission is to promote air commerce and to protect safety. Regulation of noise from aircraft is not consistent with that primary mission.

In the proposed rulemaking in January 1969, FAA set forth a "noise floor" at 80 EPNdB as "an objective to aim for, and to achieve where economically reasonable, technologically practicable, and appropriate to the particular design" and went on:

> However, this objective is important because it makes it clear to all applicants that no increment of noise above 80 EPNdB can be considered acceptable, in and of itself, where it can be eliminated practically and reasonably. This figure is proposed as a reasonable boundary between noise levels that are high enough to interfere with communications and to obstruct normal life in homes or other buildings that are not designed with specific acoustical objectives, and lower noise levels which, while not completely benign, nevertheless allow those activities to proceed. Where this goal can be reached in a given case, and can be justified as economically reasonable, technologically practical, and appropriate to the particular type design, the FAA does not intend to ignore this potential reduction.

Yet after industry pressure, the FAA dropped this 80 EPNdB "objective" from the promulgated regulations stating:

> The FAA has determined that the request to remove the noise "floor" of 80 EPNdB from the regulatory language is reasonable and should be granted. This noise floor, not being currently achievable, could have no immediate legal effect.

The attitude of the Federal Aviation Administration as regards regulation of aircraft noise was more clearly spelled out in the following excerpt from a draft report on noise pollution prepared by the Environment Protection Agency:

> Both directly and by unmistakable inference, a number of important conclusions arise from the information gathered on Federal noise control programs.
>
> Most plainly, the control of unwanted sound is not a high priority issue for virtually any Federal agency or department. Only when an Agency's primary mission absolutely requires a commitment of time, manpower and funding to noise control to assume the smooth functioning of that primary mission (as with for instance, FAA and NASA) is even a modest venture into noise suppression undertaken. For the FAA, aircraft noise is only an annoying interference in the basic goal of the Agency: the most efficient, safest and swiftest air travel possible.

While this statement was deleted from the final report transmitted to the Congress, it is indicative of FAA's attitude toward noise from aircraft. Unfortunately, the bill, as reported, would continue the dominance of the FAA. Not only would FAA have veto over safety of noise reduction technology, but neither could EPA make any judgment as to the availability of technology or the cost of achieving noise reductions without FAA approval.

Continuation of the Federal Aviation Administration in a role of determining the degree to which noise emissions from aircraft will be reduced is not justified in the record. While the committee bill takes steps to establish the Administrator of the Environmental Protection Agency as the determinator of those levels of aircraft noise required to protect public health and welfare, EPA will have little authority to enforce standards to meet those requirements.

Members of the committee, including myself, recognized that aircraft were unique because of the safety requirements and the interrelationship of safety to the engine system. Therefore, I agreed with the committee's judgment and supported the amendments of Senator COOPER and Senator STAFFORD which would retain the Federal Aviation Administration lead role in making any final determination as to whether or not any technology available to achieve noise emission levels would also be consistent with the highest standards of safety.

The assumption that technology might not be available to meet noise emission goals combined with the assumption that technology could be vetoed because of FAA safety judgment, lead to the conclusion that there must be a mechanism to assure maximum pressure to develop safe technology while at the same time reduce the impact of noise in the environments of impacted airports.

The committee considered and rejected a provision that would have required achievement of health and welfare protection of noise levels in airport environments, whether or not specific aircraft engine emission control technology was available. Without an action-forcing mechanism such as enforceable "cumulative noise exposure levels," neither FAA nor the airlines would have any incentive to press technology and achieve the goals EPA would be authorized to establish. A combination of cumulative noise levels and emission standards would create that pressure. Obviously if technology exists to achieve the levels of noise emission reduction to protect public health, achievement of emission standards would reduce any economic burdens on the airline industry caused by controls imposed to achieve cumulative noise levels. And such local environmental noise requirements would require a reduction in the number and frequency of flights if technology did not exist.

The committee considered and rejected a provision which would have required the Administrator of the Environmental Protection Agency to identify any airports in the country with aircraft noise problems of a magnitude to cause a violation of cumulative noise exposure levels. The proposal defined "cumulative noise exposure levels" as those levels of noise in the environments of airports associated with aircraft operations which were adversely affecting the health and welfare of people around airports.

Most importantly, this provision would have imposed a positive burden upon the operator of the airport to exercise responsibility to regulate the number, the frequency and the hours of flight or to impose land use and other controls so as to eliminate noise as an environmental problem in the area of that airport. And the airport operator's duty and responsibility to carry out such responsibilities would be established by statute.

This concept is not unique. In 1970, the Congress enacted legislation which requires development of a clean car by 1975. That law recognized that reliance on technology alone would not result in elimination of auto-related pollution as a health hazard until existing vehicles were off the road—perhaps mid-1985 or later. Therefore, the bill established a procedure to regulate the use of automobiles in areas in which automobile-related air pollution was unacceptably high to assure that public health would be protected at an early date—in this instance, 1975–76.

The combination of emission reduction technology and air quality implementation plans has been a useful mechanism both to improve air quality and to apply pressure on local governments to seek alternatives to reliance on motor vehicles. Also, this mechanism will apply pressure to the auto industry to develop clean cars if they wish to preserve existing markets.

This mechanism can and should be applied to aircraft-related noise problems. It recognizes the limitations of technology, while providing a means to protect the health and welfare of those seven and a quarter million people who live in airport environments and who are adversely affected by aircraft noise. To do anything less in this legislation is to fail to meet responsibly the demands of the

American public for a safe, healthful and peaceful environment.

Without a provision of this type, I believe the bill to be inadequate. Without a provision of this type, the bill does not address in a meaningful way the real problem faced by people who are confronted now with unacceptable levels of aircraft noise. The reported bill would force these people to wait for emission control technology to be developed and applied to new and existing aircraft, or on the courts to impose sufficient penalties or damage claims against the airlines and the airport operators for creating a public nuisance before relief will be achieved. To turn over to the courts the responsibility of making ad hoc decisions to solve environmental noise problems is equally unacceptable. I think it is inadequate to rely on claims for damages, penalties against the airlines, and injunctions as a substitute for positive regulatory programs.

Mr. President, I think it is inadequate to enact a Federal law which ignores the most basic and most significant problem of noise as perceived by people.

These are the major flaws in this legislation as I see it, Mr. President. Even as our environment becomes noisier and noisier, as the physiological, psychological, and property costs of that noise rise higher and higher, and as we develop more and more techniques for reducing that noise, we are not responding adequately to our task.

We must protect the public health. The amendments which I and other Senators will propose will not create unreasonable restrictions on potential sources of noise, and they will give this legislation the quality of effective environmental regulation. They will improve our ability to protect the health and welfare of the people of our land. I urge that the Senate support these vital improvements.

Mr. President, the two amendments I offer today would get at these points I have just raised. The amendment just reported is designed to determine levels of airport noise which affect public health and welfare and to establish procedures to identify and monitor activities at airports where levels of excessive environmental noise exist. In recent years the primary impetus to develop Federal noise controls has been citizen concern with excessive noise levels in the vicinity of airports. Excessive airport noise may be reduced someday, in part, by controls on aircraft and aircraft engines which are dealt with in other sections of this bill.

But simply modifying aircraft and aircraft engines will not alone solve what has become known as the airport noise problem—at least not soon enough to help 7 million citizens who face unacceptable noise levels every day of their lives.

To solve the airport noise problem, other programs integrated with aircraft controls are necessary. Effective programs will include curfews, controls over operation or aircraft at and around airports, limitations on the number of airport operations per hours, land use, zoning, building construction and ground transportation system regulations in the airport and its vicinity, and other noise-related control efforts.

These controls are immediately more important than aircraft engine controls if airport noise problems are to be reduced. But nowhere in the legislation before us is a mechanism established to determine specific levels of airport noise which will protect public health and welfare, to monitor noise levels around airports, to give advice to airport operators on various approaches they can take to deal with the other aspects of airport noise problems, or to provide technical assistance to airport operators which they may need in implementing such controls. Nor does the bill assure airport operators that interim measures can be taken locally to reduce airport noise and thus the myriad of damage actions pending and anticipated.

All that S. 3342 does, in section 502, is call for a study of these matters. This is not enough. Today we are told we are enacting legislation to deal with the aircraft noise problem, not to study those problems but to have a real commitment of Federal action. If that is so, then we must include a real Federal commitment to act against airport noise.

The amendment I propose will require that within 180 days after enactment of this act, EPA publish regulations establishing levels of cumulative noise exposure for airports and surrounding areas which are adequate to protect public health and welfare with an adequate margin of safety.

Ninety days after publication of these regulations, EPA will be required to publish standards for measurements of levels of cumulative noise exposure.

Within 9 months after measurement regulations are published—about 18 months after enactment of the law—EPA would be required to identify those airports in the vicinity of which unacceptable levels of cumulative noise exposure exist. EPA would be required to install at those airports devices to monitor, on a continuing basis, levels of noise exposure and make available to the public data which resulted from EPA monitoring activities. This process would establish a single uniform basis for examining cumulative noise levels and determining just what airport noise levels and what airport activities result in levels of noise harmful to public health or welfare.

To aid the airports in reducing levels of cumulative noise exposure, the Administrator of the Federal Aviation Administration, whom we all agree has the greatest experience in airport operations and safety, is directed to develop and publish guidelines with suggested alternatives for reducing airport noise and to provide technical assistance to airports in solving their noise problems.

Finally, my amendment would establish a clear, statutory recognition of the duty and responsibility of airport operators to take necessary action to reduce airport noise as determined necessary to prevent damage actions and protect health and welfare. I am particularly concerned that this legislation clarify the role of the FAA in working with airports to solve their airport noise problems. Recently, the FAA has taken the position that airports cannot restrict aircraft operations in order to reduce noise. Thus, under FAA interpretation, aircraft operators must bear the burden of noise damage suits without authority to solve local problems and defend themselves against such suits.

I ask unanimous consent that there be included in the RECORD at this point a complaint filed by the FAA against the town of Morristown, N.J., charging Morristown had violated Federal law and grant agreements by restricting aircraft operations because of noise.

There being no objection, the complaint was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the District of New Jersey]

UNITED STATES AGAINST MORRISTOWN, N.J.

(United States of America, plaintiff, v. the town of Morristown, a municipal corporation of the State of New Jersey; the Morristown Airport Commission; the township of Hanover, a municipal corporation of the State of New Jersey; the township of Morris, a municipal corporation of the State of New Jersey; the borough of Florham Park, a municipal corporation of the State of New Jersey; A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty, Norman S. Weinberger, all residents of Morris County, State of New Jersey; defendants.)

COMPLAINT

The United States, by the undersigned attorneys complaining of defendants, hereby alleges as follows:

1. This court has jurisdiction of the action pursuant to 28 U.S.C. § 1345, § 1331 and § 1337. The action arises under the Federal Aviation Act, 49 U.S.C. § 1101 *et seq.* The value of the matter in controversy exceeds $10,000.

2. Plaintiff is the United States of America. The Federal Aviation Administration (FAA) is an agency of the United States.

3. The defendants, Town of Morristown, Township of Hanover, Township of Morris and Borough of Florham Park are municipal corporations in the State of New Jersey. The Town of Morristown and the Morristown Airport Commission are the defendants in a suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C3172–68, Superior Court of New Jersey, Chancery Division, Morris County (108 N.J. Super. 461, Ch. Div.) in which judgment of Judge Joseph H. Stamler was entered on 23 March 1970. The Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, are the plaintiffs in said suit. The individual defendants are residents of the County of Morris, State of New Jersey within this judicial district.

4. The Town of Morristown is the owner of Morristown Municipal Airport, a public airport located in Morristown, New Jersey. Operational control of the airport is in the Morristown Airport Commission which reports directly to the Mayor and the Board of Alderman of Morristown.

5. Aircraft operations to and from Morristown Municipal Airport include operations which are in inter-state commerce.

6. On 24 June 1969, the Town of Morristown entered into a written agreement with the Federal Aviation Administration on behalf of the United States, for a federal-aid airport project designated as Project No. 9–28–007–0904, under which the United States

agreed to participate to the extent of $1,259,818.00 in the cost of certain airport development at Morristown Municipal Airport. The airport development in the project consists of:

Land acquisition, consisting of Parcels 23, 25, 27, 28, 29, 30, 31, 36, 37, 38, 39, 40, 41, and 42; resurface and mark existing Runway 5–23 (4000′ x 150′) and two connecting taxiways; extend, light (H.I.) and mark Runway 5–23 (2000′ x 150′) to 6000′; construct, mark, and light taxiway parallel to Runway 5–23 (4300′ x 60′) from Runway 12–30 to north end of Runway 5–23, with associated drainage; install taxiway guidance signs.

7. The FAA approval of the project was consistent with the current National Airport Plan compiled pursuant to 49 U.S.C. 1102 which recognized the need for the extension of runway 5–23 and the other development to accommodate the aeronautical needs of the users of the airport.

8. Under the terms of the aforesaid grant agreement, the Town of Morristown agreed to operate Morristown Municipal Airport for the use and benefit of the public and agreed it would keep the airport open to all types, kinds and classes of aeronautic use without discrimination between such types, kinds and classes. The Town of Morristown further agreed that it would operate and maintain in a safe and serviceable condition the airport and all facilities thereon, connected therewith which are necessary to serve the aeronautical users of the airport and that it would not permit any activity thereon which would interfere with its use for airport purposes.

9. The extension of runway 5–23 included in Project No. 9–23–007–0904 has been satistorily completed; the other development in the project is substantially complete.

10. On or about July 24, 1969, the defendants herein, the Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, John E. Flahety and Norman S. Weinberger filed a complaint against the defendants, the Town of Morristown and the Morristown Airport Commission, in the Superior Court of New Jersey, Chancery Division, Morris County, Docket No. C 3172–68 and, after trial, the court rendered its opinion which is reported in 108 N.J. Super 461 (Ch. Div. 1969). On March 23, 1970, a judgment was entered (Exhibit A) which among other things, (1) provides under paragraph C thereof, that runway 5–23 shall be used as the preferential runway by all jet aircraft landing at and taking off from Morristown Municipal Airport except when the crosswind component on runway 5–23 is in excess of twenty knots and under certain other specified exceptions; and (2) under paragraph I thereof, prohibits jet aircraft take-offs from and landings at the airport each day between the hours of 9:00 p.m. and 7:00 a.m. and on Sundays, except during the hours of 1:00 until 3:00 p.m.

11. As a result of the aforesaid judgment the defendants, Town of Morristown and Morristown Airport Commission, have closed the airport to take-offs and landings by jet aircraft during the hours prescribed in the judgment of Judge Stamler.

12. Prior to the imposition of the restrictions aforesaid, jet aircraft engaged in interstate commerce had used Morristown Municipal Airport for landings and take-offs during the weekdays between 9:00 p.m. and 7:00 a.m. and on Sundays during the hours from 3:01 p.m. to 12:59 p.m.

13. Effective November 9, 1970, in accordance with its authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c) and 1431), the Federal Aviation Administration implemented a Noise Abatement Runway System at Morristown Municipal Airport, the standards and conditions of which differ from the conflict with those imposed by Judge Stamler in paragraph C of his Judgment (Exhibit A).

14. The Federal Aviation Administration has either disbursed or put under grant agreement the sum of $1,938,272.00 for participation in the development of Morristown Municipal Airport under authority of the Federal Airport Act (49 U.S.C. 1101 *et seq.*) The FAA has also allocated an additional sum of $1,032,451.00 for further participation in the development of Morristown Municipal Airport under authority of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*), successor to the Federal Airport Act.

15. The defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, by commencing and continuing to maintain Civil Action No. C 3173–68 in the Superior Court, Chancery Division, Morris County, New Jersey, have caused and continued to cause the defendant, the Town of Morristown to breach and fail to fulfill its obligations and agreement to and with the United States under the grant agreement.

16. The defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger, by commencing and continuing to maintain Civil Action No. C 3172–68 in the Superior Court, Chancery Division, Morris County, New Jersey, have caused and continue to cause jet air traffic in interstate commerce to cease using navigable airspace during certain hours for landings and take-offs at Morristown Municipal Airport; and would purport to control the use of navigable airspace further by restricting the use of the runways under certain wind conditions and criteria which are in conflict with those implemented by the Federal Aviation Administration. The aforesaid defendants are without power to regulate, control or disrupt in any manner the use of navigable airspace.

17. The plaintiff has no adequate remedy at law.

Wherefore, Plaintiff prays:

A. For a permanent injunction restraining the defendant Town of Morristown from failing to perform its obligations and duties under the grant agreement with the United States;

B. For a permanent injunction restraining the defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman S. Weinberger from interfering with compliance by the Town of Morristown with its obligations and duties under its agreement with the United States by continued maintenance of the suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior Court, Chancery Division, Morris County, New Jersey or in any other manner.

C. For a permanent injunction restraining the defendants, Township of Hanover, Township of Morris, Borough of Florham Park, A. Stewart Dunford, Thomas E. Kenney, Martin B. Monroe, Joseph Elsman, John E. Flaherty and Norman E. Weinberger from interfering with the use by jet aircraft of navigable airspace for landing at and taking off from Morristown Municipal Airport by continued maintenance of the suit styled *Township of Hanover, et al.* v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior, Court, Chancery Division Morris County New Jersey or in any other manner.

D. For an order compelling all defendants herein to file a joint motion in the case styled *Township of Hanover, et al.*, v. *Town of Morristown, et al.*, Docket No. C 3172–68, Superior Court, Chancery Division, Morris County, New Jersey, demanding the Superior Court, New Jersey modify the judgment of Judge Stamler by deleting therefrom the restrictions imposed against the landings and take-offs of jet aircraft under paragraphs C and I and further order all parties to waive the 20 day notice provided in the judgment of Judge Stamler and demanding expedited consideration of the joint motion to vacate.

Mr. MUSKIE. Mr. President, I also ask unanimous consent that the judgment of the lower court in this matter be included in the Record.

There being no objection, the judgment was ordered to be printed in the Record, as follows:

[Superior Court of New Jersey, Chancery Division, Morris County, Docket No. C 3172–68]

(Township of Hanover &c., et al, Plaintiffs; vs. town of Morristown &c., et al; Defendants)

JUDGMENT

This matter having come before the Court in the presence of counsel, Harry L. Sears, Esquire and John M. Mills, Esquire appearing on behalf of the plaintiffs, and Edward F. Broderick, Jr., Esquire appearing on behalf of the defendants, and the Court having heard the representations of counsel and various technical consultants retained by the parties herein, and good cause being shown,

It is on the 23rd day of March, 1970, ordered that Judgment be entered in this case as follows:

A. The Court having determined that the extension and resurfacing of Runway 5–23 at the Morristown Airport will create an additional measure of safety and will produce some attenuation of noise in take-offs and landings, the extension of Runway 5–23 and the increase of weight bearing capacity of both runways will be permitted;

B. Having determined that the remaining phases of the General Airport and Layout Plans provide additional measures of safety and noise attenuation, the other provisions of the General Airport Plan and Layout including taxi-ways, I.L.S. System, lighting, et seq. will be permitted;

C. Having determined from the evidence that the wind rose patterns at the Morristown Airport indicate that the prevailing winds favor the utilization of Runway 5–23 approximately ninety percent of the time, it is directed that after the completion of the extension of said runway, that the preferential runway at Morristown shall be 5–23. This runway shall be utilized as the preferential one by all jet aircraft landing and taking off at Morristown, except as follows:

(1) When the cross wind component on 5–23 is found to be in excess of twenty (20) knots;

(2) When an emergency landing or take-off situation exists;

(3) When the use of Runway 12–30 shall be requested and or directed by the Airport Tower personnel in the interests of flight safety. Furthermore, such preferential runway program when initiated, shall be under the direction and guidance of F.A.A. control tower personnel and enforced by the management of Morristown Airport.

D. The noise abatement procedures promulgated by the management of Morristown Airport from time to time shall be enforced by the management of the Airport and copies of any changes in the established noise abatement proceduers shall be mailed within a reasonable period of time to the municipal clerks of those municipalities that immediately abut the Airport premises.

E. So that residents in the vicinity of the Airport may assert complaints based on detailed information, the management of the Morristown Airport will arrange to obtain information regarding movements at the Airport which are recorded on tapes at the airport tower, which tapes transcribe data received by the tower personnel of the aircraft in traffic patterns, as well as from ground control, and which tapes are kept for a period of fifteen (15) days and contain information regarding each take-off, landing, aircraft, number, runway used, wind direction and force, altimeter setting, time of take-off or landing. The Airport Manager will monitor these tapes upon a request from a complainant and shall make available to any complainant any information so recorded which is needed to assist the complainant in the making of the complaint. Additionally, the airport management will keep records of the movements of itinerant aircraft at the Airport in order to assist any person seeking to make a complaint in obtaining any necessary information.

F. Additionally, the airport management will arrange to provide for a telephone service to be installed at the Airport to record the incoming calls of any complainants who wish to call the Airport after hours or who are otherwise desirous of calling the Airport after hours or who are otherwise desirous of calling the complaint number in response to such a listing in the local telephone directories. The airport management will follow up in response to said complaints and establish procedures for the mailing of data forms to all persons seeking to make a complaint. Upon receipt of these written complaints and the data forms requested, records shall be maintained at the Management or Operations Office of the Airport for public inspection during business hours of all complaints received, and such records shall note the action taken thereon by the airport management or the F.A.A. or both, as the case may require.

G. There shall be required at the Airport noise suppression devices and noise attenuation equipment or engine "test calls" which are to be installed and used for jet engine maintenance and testing and run-up.

H. Portable shields or sound baffeling devices similar to those described in the stipulation of facts submitted by the parties shall be used at such places and locations on the airport premises as in the opinion of the management they will best reduce hazards to safety and will be most effective, subject however to the requirements of the F.A.A. as to proper clearance at the end of each runway.

I. Oral argument having been heard from counsel and a proffer of proof having been made by counsel for defendants on the subject of restricting jet aircraft at Morristown Airport during certain hours and good cause being shown therefore, the Court directs that jet aircraft will be prohibited from take-offs or landings each day between the hours of 9:00 P.M. until 7:00 A.M. and on Sundays, except during the hours of 1:00 P.M. until 3:00 P.M., unless an emergency exists, or the interests of flight safety require the utilization of the airport under the guidance and direction of the F.A.A. tower personnel.

J. The provisions of Paragraph C herein shall be implemented upon the completion of the Runway (5-23) extension and improvements referred to in Paragraphs A and B herein, as shall the procedures with reference to noise abatement outlined in Paragraph D herein. Additionally, the Airport management shall have installed portable shields and sound baffling devices contemplated in Paragraph H herein by such time as the improvements and the runway extension have been completed. All other requirements of this Judgment shall become effective immediately upon the filing thereof.

The Court expressly retains jurisdiction of all issues herein. Although binding on all parties, and except as to Paragraphs A and B herein, this Judgment is experimental in nature. Subsequent to the entry of Judgment herein, either party or parties effected by the entry of said Judgment may, upon twenty days notice to the parties of record, move before this Court for a change in, a modification of, or relief from any of the provisions of Paragraphs C through I, and the Court in the exercise of its discretion, shall permit the taking of testimony or additional evidence related to the implementation of this Judgment, as it may effect, now or in the future, the legitimate interests of the parties.

Mr. MUSKIE. Mr. President, that judgment requires the airport to undertake certain procedures for handling complaints and orders the adoption of certain noise abatement procedures.

If it is indeed a position of the FAA, as indicated in its complaint, that airports should not be allowed to control aircraft operations to reduce noise, then it is essential that the FAA assist those airports to reduce their noise exposure to levels which are not harmful to the public health. Either Federal law must provide a clear method for airport operators to solve their problems, or the Federal Government must be held liable for damage action brought against those airports.

May I review the provisions of this amendment: First, the EPA would set levels of cumulative noise exposure which are unhealthy in terms of public health and welfare; secondly, it would set standards for measuring those noise levels; third, it would identify those airports in the country which exceed those levels.

That is the extent of the authority of EPA under this amendment.

Then FAA, the agency which the opponents of this amendment I take it, argue is the agency which ought to control aircraft operations, is charged under this amendment with the responsibility of issuing guidelines to airport operators and providing technical assistance so that they may safely meet their environmental responsibilities of controlling noise levels. I think FAA has that responsibility. But it is the aircraft operators themselves, who are subject to damage suits. Many of them are now in court for this purpose, because they violate public health and welfare levels of noise emissions.

I think this is a minimal kind of mechanism to deal with this problem.

The study provided in the bill is not sufficient. It mandates nothing.

This amendment proposal gives FAA the authority necessary to establish health and welfare standards. It gives FAA power to veto it, in effect, as well as the responsibility to issue guidelines to meet those standards.

I reserve the remainder of my time on the amendment.

Mr. TUNNEY. Mr. President, I must oppose this amendment, on behalf of myself and the committee. The committee took this matter up at quite some length——

Mr. MUSKIE. Mr. President, will the Senator yield for a moment so I may make a request to have certain staff members on the floor?

Mr. TUNNEY. I yield.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Tom Gallagher of Senator TUNNEY's staff, and Len Bickwit, and Lee Tyner, of Senator HART's staff, may be permitted on the floor during the debate on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I was saying that I shall have to oppose this amendment. This matter was considered at great length in the committee, and I personally spent a great deal of time on it. I wanted to see something done in this area. It seemed to me that, if we were going to have a noise bill, we really should try to develop a scheme whereby we can control cumulative noise levels around airports.

The bill went through a number of prints in which we tried to revise the language so as to meet the health need but also to various objections. As we got deeper and deeper into it in the mark-up session, we realized that we just did not have adequate data on which to base a rational judgment as to the best mechanism to do the job. It was the considered opinion of the committee that, instead of trying to push through a scheme at a very late date, without sufficient evidence as to its precise ramifications, what we should provide is a 1-year study which will certainly keep the heat on and will require the Environmental Protection Agency to come to the Congress and make proposals which I feel are needed if we are going to be able to reduce airport noise.

But there are more than a dozen different systems for monitoring airport noise; and when you are dealing with airport noise, you are dealing not only with aircraft, but with railroads that go past airports, and with highways. National Airport is a good example of what I mean. The question is how do you differentiate between aircraft noise, highway noise, and train noise?

This issue is something which really should be considered in a study, so that the committee has all the facts available to it before it rushes blindly into a regulatory scheme that may or may not be appropriate.

I would like to read from the committee report on this point. It states:

> The Committee considered approaches to controlling aircraft noise based on a concept of cumulative noise exposure, involving the level of noise from aircraft to which individuals in the areas surrounding airports are exposed and the effects of such exposure on public health and welfare. While methods other than noise emission standards can be effectively utilized to reduce aircraft noise, the Committee felt that it had insufficient knowledge as to the precise regulatory mechanism for cumulative aircraft noise exposure. Therefore, the Committee included in the bill, in place of any regulatory scheme dealing with community noise around airports, a one year study by the EPA of the implications of identifying and achieving levels of cumulative noise exposures around airports. The results of this study, submitted to the Committees on Public Works and Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House with legislative recommendations, will form the basis for any legislation on aircraft noise in the next Congress.
>
> Also included in this study are the adequacy of FAA flight and operational noise controls, the adequacy of noise emission standards on new and existing standards on new and existing aircraft (together with the Environmental Protection Agency's recommendations on the retrofitting and phaseout of existing aircraft), and any additional measures available to airport operators and local governments to control aircraft noise.

In the context of the development of this legislation, inquiries were sent by one member of the committee to manufacturers, airlines, trade organizations, government agencies, and independent consultants concerning the possibility of mandating retrofit and phase-out requirements. (See appendix for text of letter and replies.)

Tools other than noise emission standards do exist for reducing aircraft noise. It is the intention of the Committee in section 501(c) of the bill that all existing authority over aircraft or aircraft noise be utilized to reduce that noise, including, among other things, the consideration of flight and operational changes such as the two-segment landing approach and the adjustment of take-off, approach and flight paths to impact fewer people, and review of traffic flow with regard to adequacy of load factor.

It seems to me, Mr. President, that in this bill we have done just about all we could at this point in time. I was deeply concerned in the committee, as the debate progressed, that no one really understood what the effect of the mechanism that was put into the bill would be. That mechanism called for a conference to be held at a noise-impacted airport at which the airport operator, the FAA, the CAB, EPA, local authorities, and the interested public would discuss ways of cutting down on airport noise.

At this airport conference various measures to reduce noise, including the adequacy of noise-emission standards for aircraft, and operational and flight procedures, would be taken into consideration. Also considered would be the possibility of scheduling changes, curfews, use of preferential runways, substitution of quieter aircraft, and, finally, as a last resort, controls on land use.

But, as we got into the matter, it became very clear that we just did not have nearly enough information to be able to have this mechanism written into the law with a sufficient anticipation of all the possible consequences. Rather than be accused of legislating in the blind, we decided to have a study by EPA and to have the matter brought up again in Congress when we could have full hearings on this specific point.

In its present form, this amendment has not been considered by the Committee on Public Works. For this reason, I would have to say that, no matter how good this amendment may be or may not be, because of its complex nature and because perhaps no one really understands what it says except the Senator from Maine, it is objectionable, and the Senate ought to reject the amendment.

Mr. BOGGS. Mr. President, I would like to take a minute or two to agree with the statement that the manager of the bill, the distinguished Senator from California (Mr. TUNNEY), has just made in regard to the pending amendment.

I am free to say, and I say at the request of our colleague on the committee, the distinguished Senator from Kentucky (Mr. COOPER), who is unable to be here at the moment because he is in a conference on the highway bill, that he also supports the committee position. He has asked me to relay that point of view.

It seems to me, as the distinguished Senator from California has said, that this amendment has not been fully considered in committee. We have not had hearings on it and we do not really understand the full significance of it. I do appreciate the objective and the goal of the distinguished Senator from Maine, the chairman of our subcommittee, and I take this opportunity, as always, to compliment him on the outstanding work he has done as chairman of our Subcommittee on Air, and Water Pollution. His contributions are most valuable and immeasurable. However on this issue I find myself in disagreement.

Another point that has not been mentioned, which I do think is important at this time, because it is important to move forward with this noise pollution control legislation, is that I believe if the amendment were adopted at this time, at this late point in the session, it would probably complicate forward movement and complicate the chances of getting this bill enacted at this session, because it would undoubtedly involve committee jurisdictional problems, which have not been completely worked out.

Mr. President, I recommend that this amendment be rejected at this time. I think the Senator for yielding.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. TUNNEY. I would like to yield to the Senator from Nevada.

Mr. MUSKIE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Maine has 18 minutes.

Mr. MUSKIE. I yield myself 5 minutes to cover the points raised by the Senator from Delaware.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I think it would be interesting to include, and ask unanimous consent to have printed in the RECORD at this point, the provision in the original bill which covered this subject.

I think, second, there ought to be included, and I ask unanimous consent to have printed in the RECORD, the modification of that provision which was developed as the result of the committee hearings and pressed by Senator TUNNEY and myself in the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIRCRAFT NOISE STANDARDS

SEC. 3. Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) is amended to read as follows:

"CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 611. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom, the Administrator of the Environmental Protection Agency, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. All standards, rules, and regulations prescribed pursuant to this section prior to the date of enactment of the Noise Pollution Control Act of 1972 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations prescribed and approved pursuant to this section.

"(b) The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of this Act for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, unless the Administrator of the Environmental Protection Agency shall have prescribed standards, rules, and regulations under this section which apply to such aircraft, aircraft engine, propeller or appliance, and which protect the public health and welfare from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this subsection.

"(c) The Administrator of the Environmental Protection Agency, within 6 months of the date of enactment of the Noise Pollution Control Act of 1972, shall review all standards, rules, or regulations (or any proposed standard, rule, or regulation) in effect under this section prior to the date of enactment of the Noise Pollution Control Act of 1972. If he determines after public hearings, that such standards, rules, or regulations do not protect the public health and welfare from aircraft noise or sonic boom consistent with the considerations listed in subsection (d) of this section, he shall within 12 months of the date of enactment of this Act, revise such standard, rule, or regulation.

"(d)(1) In prescribing and amending standards, rules, and regulations under this section, the Administrator of the Environmental Protection Agency shall—

"(A) consider relevant available data relating to aircraft noise and sonic boom and the noise environments of airports, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

"(B) consult with such Federal, State, interstate, and municipal agencies as he deems appropriate;

"(C) consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

"(D) consider whether any proposed standard, rule, or regulation is technologically practicable for application to existing types of aircraft, aircraft engine, appliance, or certificate to which it will apply.

"(2) Aircraft, aircraft engines, or appliances which are manufactured or sold after date of enactment of the Noise Pollution Control Act of 1972 shall meet the standards prescribed pursuant to this section.

"(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Noise Pollution Control Act of 1972, is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation such standards, rules, or regulations, and that such amendment, modification, or revocation is consistent with safety in air transportation."

"SEC. 502. (a) In order to attain and maintain the ambient levels of noise for airport environments and surrounding areas established under section 501(a)(1) of this Act, the operator of any airport where such ambient levels are not presently attained shall develop and adopt a plan for the achievement and maintenance of such ambient levels, after public hearings and consultation with the Secretary of Transportation and any affected State or political subdivision thereof. Such plan may consider reductions in noise emissions due to standards applicable to particular types of aircraft, controls on the granting or acceptance of air service, controls on the frequency and scheduling of flights, modifications of hours of airport operation, changes in operational and flight procedures, and land use regulation. The operator of any other airport, or any State or political subdivision thereof affected by aircraft noise, may develop and adopt such a plan with respect to an airport not covered by a plan developed under the first sentence of this subsection.

"(b)(1) Any plan required by subsection (a) of this section, shall be submitted to the Administrator of the Environmental Protection Agency and the Secretary of Transportation, within one hundred and eighty days after the promulgation of regulations establishing ambient levels of noise for airport environments and surrounding areas pursuant to section 501(a)(1) of this Act.

"(2) Within ninety days after such submission, the Secretary of Transportation shall transmit to the Administrator his determination as to the consistency of such plan with air safety and air commerce, together with his recommendation for approval or modification of such plan.

"The Administrator shall review such plan to assure attainment of maintenance of such ambient levels of noise established under section 501(a)(1) of this Act and, in accordance with the recommendation of the Secretary of Transportation, shall approve or modify such plan within sixty days after such transmittal.

"(c) Where the implementation of an approved plan under this section requires the promulgation or modification of any regulations under the authority of the Secretary of Transportation or the Civil Aeronautics Board, such regulations shall be promulgated or modified within ninety days after the approval of such plan under subsection (b) of this section.

Mr. TUNNEY. Will the Senator permit a correction? It was in print 6; the sixth edition.

Mr. MUSKIE. I thank the Senator.

Let me say, Mr. President, there was much discussion in the committee of this issue about the desirability of having this kind of control at the local level.

I ask unanimous consent to have printed in the Record a letter that is in the record of the hearings of the committee from Randall L. Hurlburt, of the city of Inglewood, Calif., addressed to me, dated March 24, 1972, in which he said:

Dear Mr. Muskie: I hope to convince your Committee that:

1. Aircraft noise pollution is excessive, is detrimental to the public welfare, and needs to be reduced.

2. Aircraft noise pollution can be reduced dramatically if the federal government uses its authority to set aircraft and airport noise standards.

The residents of Inglewood send you their quiet prayers. They hope that you understand fully the gravity of the work you are presently doing. Your efforts in controlling noise mean much more than just making life a little more pleasant; they may mean life or death to our city.

I ask unanimous consent that the full text of the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

City of Inglewood, California,
Inglewood, Calif., March 24, 1972.
Senator Edmund S. Muskie,
Chairman, Subcommittee on Air and Water Pollution, U.S. Senate Public Works Committee, Washington, D.C.
Subject: Noise Pollution Hearings, San Francisco, California, March 24, 1972

Dear Mr. Muskie: I hope to convince your Committee that:

1. Aircraft noise pollution is excessive, is detrimental to the public welfare, and needs to be reduced.

2. Aircraft noise pollution *can* be reduced dramatically if the federal government uses its authority to set aircraft and airport noise standards.

The residents of Inglewood send you their quiet prayers. They hope that you understand fully the gravity of the work you are presently doing. Your efforts in controlling noise mean much more than just making life a little more pleasant; they may mean life or death to our city.

Inglewood has 90,000 residents. Most of them live under or near the landing approach corridors to Los Angeles International Airport. Most of the homes were built long before Los Angeles became a major airport. Today the lives and homes of these people are being destroyed by noise.

The Inglewood city government has become deeply involved in protecting its citizens from locally generated sources of noise pollution. We have also strongly supported all measures which promise meaningful relief from aircraft noise.

Just to show the extent of our involvement in the aircraft noise problem, to our knowledge Inglewood is the only city in the world which has an airport noise monitoring system even though it does not own an airport. Our system consists of four permanently located stations on telephone poles under the flight paths and one mobile station which can make sound recordings anywhere in the city. We have invested more than $50,000 in noise measuring equipment. We are determined that noise will not escalate above present levels, and we will make every effort to assure that noise is reduced quickly to acceptable levels.

We feel we have a thorough understanding of the need for aircraft noise reduction and how it can be accomplished. I'd like to share a few of these ideas with you.

As part of a recent federal program which studied the future of Inglewood, a survey was made to ascertain community opinions on important subjects. When asked, "How important to you is finding a solution to the following issue—jet noise control?" 61% responded that it was of the greatest importance. Twenty percent responded that it was very important. Only the issue of crime control was considered more important with 73% responding that solution to crime control was of greatest importance and 17% responding that it was very important. All other issues had less than 33% responding "of the greatest importance." It is therefore apparent that the problem of jet noise rivals the problem of crime control as the most important issue facing the future development of Inglewood. More detail on the results of Inglewood's Community Review Program questionnaire is shown in Attachment 1.

Associated with the above-mentioned Community Review Program was a study relating residential land values and vacancy rates to aircraft noise levels. We found that there was a statistically significant correlation between high noise levels and low land values. On the average, land subject to noise levels of less than 80 PndB was valued 50% higher than land subject to noise levels greater than 110 PndB. There was also a statistically significant correlation between high noise levels and high rental property vacancy rates. So noise not only hurts our citizens physically, psychologically, and emotionally, but also economically. Attachment 2 summarizes in somewhat more detail the results of this correlation study.

Knowledge of the harm being caused by noise would be of little value if there were no way to stop it. But there are many steps which can be taken to significantly alleviate jet noise pollution. The City of Inglewood is taking those steps which are within its authority such as enforcement of our noise ordinance, land use planning, and residential soundproofing. A draft ordinance requiring soundproofing in future residential construction is included as Attachment 3 and is currently under consideration by the Inglewood City Council.

If the federal government would shoulder its share of the responsibility for aircraft noise abatement, the noise environment in Inglewood could improve significantly in the future. Attachment 4 shows the improvement that could be achieved over time: a 75% reduction in noise exposure over the next 15 years. Compatibility between airports and communities could be established by 1985. This could be accomplished through a comprehensive planning approach to noise abatement which would include engine noise reduction, procedural changes for noise abatement, flight schedule reductions, and nighttime curfews designed to increase airline efficiency and decrease total noise pollution. NASA research programs have already shown the feasibility of engine retrofit for noise abatement. A few airlines such as PSA and National have implemented steep approach procedures which reduce landing noise at least 10 PndB. The state of California has adopted airport noise standards which use the comprehensive noise exposure methodology.

The stumbling block to progress has been the FAA. They have consistently denied responsibility for noise in airport environments but will not allow local controls. The authority for elimination of aircraft noise pollution must therefore be given to the Environmental Protection Agency where it belongs.

For the information of the Senate Public Works Committee I have included a copy of the testimony which we presented to the Environmental Protection Agency's hearings on noise control. This report is a very comprehensive review of Inglewood's noise program and the possibilities for noise abatement in the future. It covers other sources of noise besides aircraft noise.

CONCLUSIONS

We feel there is clearly a need for major actions to reduce aircraft noise pollution. The means of accomplishing this reduction are readily available. What is lacking is a commitment by those in authority to make use of available technology to improve the environment for our citizens. The Federal Aviation Agency has been unwilling to accept this responsibility. Therefore, we recommend that the United States Congress place authority for aircraft noise abatement in the Environmental Protection Agency and demand that standards for aircraft noise pollution be established and enforced with the goal of eliminating incompatibility between airports and communities by no later than 1985.

Respectfully yours,
Randall L. Hurlburt,
Environmental Standards Supervisor.

Mr. MUSKIE. I also ask unanimous consent to have printed in the Record a 10-point action program for the alleviation of noise pollution in Inglewood, Calif., dated January 1, 1970, which lists an action program which the city of

Inglewood has found possible to do, even without the assistance of the Federal Government.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 10-POINT ACTION PROGRAM FOR THE ALLEVIATION OF NOISE POLLUTION IN INGLEWOOD, CALIF.

THE PROBLEM

The problem of jet noise crosses political boundaries and therefore cannot be solved by any single local community acting alone. A lasting solution can only come from a cooperative effort of the Federal Aviation Administration, the air transport industry, airline unions, aircraft, airframe and engine manufacturers, airport operators, legislators, and citizens. However, a solution must begin with local communities. Local communities, acting together can be the catalyst that brings all other bodies together in a massive attack on the problem of jet aircraft noise, as well as all environmental noise pollutants.

AN ORGANIZATION OF COMMUNITIES

Indeed, it now apepars that a forceful organization of communities is the only catalyst that can bring the other bodies together in the attack that is essential to protect our society from jet noise pollution.

The City of Inglewood, and other communities throughout this country, have wrestled with the jet noise problem for over ten years. Each community has, for the most part, acted alone. Our success has been less than desirable. There is more jet noise pollution today than ever before and the trend is unmistakably upward. But we feel that our efforts to this date have not been in vain. We have reached a point where definite progress can now be made. Our experience has given us a "feel" for the magnitude and extent of the problem, as well as for the steps that must be taken to solve it. Also, we are no longer acting alone. The communities most affected by jet noise in this country are beginning to band together.

As this nationwide organizational process continues a program for eliminating jet noise as well as other environmental noise will be planned. All of the efforts exerted by individual communities and organizations to combat jet noise will then be studied and organized into this single national effort. In anticipation of this massive national task the City of Inglewood has condensed ten years of experience and effort into a Ten Point Action Program, which Inglewood is pursuing on a local level. Inglewood feels that many aspects of this Ten Point Action Program will be incorporated in the national effort against jet noise.

The general philosphy of the Inglewood City Council in adopting the Ten Point Inglewood program accepts jet aircraft as desirable, indeed essential, for today's highly complex need for rapid travel. The Inglewood program endorses the expansion of airports to accommodate more and better jet aircraft. The problem, as Inglewood sees it, is noise—not airplanes.

The Inglewood program calls first upon the people of Inglewood to adjust, within reasonable human limitations, to the advent of jet planes. The Inglewood program then calls upon the flying industry and federal and state regulatory agencies to consider the entire society and not just the traveling public when building, flying, and regulating America's growing fleet of jet planes.

WHAT INGLEWOOD CAN DO

Four of the ten points in the Inglewood program are things the City of Inglewood can and will do to better adjust to jet planes.

Point 1—Building code revisions and soundproofing

The City Building Code should be revised to require soundproofing of all affected new construction and remodeling.

Schools, public buildings, churches, apartments, and dwellings should be retroactively soundproofed if the sound levels are above the acceptable standards when jet aircraft fly overhead.

Point 2—Planning and development studies

Inglewood should begin rezoning, master planning and redevelopment studies to determine areas where incentive zoning, property assembly, and alternate land use redevelopment might be useful to assist property owners to enhance their property values under the jet aircraft corridors.

Point 3—Comprehensive noise ordinance

Inglewood should enact a comprehensive noise ordinance covering all sound in the City, including jet aircraft. Legally the ordinance must complement federal air regulations. It can neither supplant nor conflict with federal regulations.

Enforcement of such an ordinance is estimated to require two fully equipped enforcement trucks, costing about $30,000 each. Annual operating expenses for a technician and helper for each truck will add another $23,000 per year. Eventual operating expenses will approach $125,000 per year for around-the-clock comprehensive anti-noise enforcement.

It should be noted that our noise ordinance is to include all noise, whether emitted from aircraft, air conditioners, compressors, or amplification devices. Aircraft will not be treated differently in any respect and federally certified aircraft flying within approved federal regulation standards cannot, and will not be proscribed within our proposed noise ordinance.

(The above ordinance has been adopted by the Inglewood City Council. In November, 1969, the City employed an Acoustical Engineer to begin defining the specific equipment needed for the enforcement of the ordinance.)

Point 4—Legal actions

The City Attorney should be given authority to take appropriate legal action on behalf of the City. The first action should be to legally compel the City of Los Angeles Department of Airports to extend the runways to their maximum point westerly and thereby relocate the landing threshold in such a manner as to place landing aircraft at a higher altitude over Inglewood.

The second action series should be to file a claim against the City of Los Angeles for damages on behalf of residents and property owners living in Inglewood within or near the landing corridors.

Next, the City Attorney should be authorized to file and maintain a legal action to establish the legal right of adversely affected residents and property owners to recover monetary damages on the basis of a class action.

(The legal actions proposed above have been instituted by the City of Inglewood.)

WHAT THE FLYING INDUSTRY CAN DO

Inglewood feels that the flying industry can and must do much more than they have done in the past to insure the health and safety of those who live under flight patterns and near airports.

Four points of the Inglewood program are directed specifically at the flying industry. They are:

Point 5—Runway extensions

All runways at Los Angeles International Airport should be extended to within a minimum distance of the beach highway, and a displacement of the landing threshold an equal distance to the west. A STOL (Short Take Off and Landing) strip should be established to segregate traffic, thereby reducing the need to revise throttle settings on jet approaches.

Point 6—Approach pattern revision

Inglewood should seek the addition of more sophisticated and modern air traffic control equipment and additional F.A.A. air traffic controllers to man such equipment, thereby permitting a revision in the air traffic procedures on approach to LAX. Planes could then fly over Inglewood using less power. Were no turns made by approaching aircraft inside the outer marker at approximately the Harbor Freeway, power settings could be reduced by stabilizing approaches at a higher altitude, permitting the use of less power on final approach. Further, noise effects would be highly restricted—to two relatively narrow corridors over Inglewood approaching the two runway complexes.

This would reduce jet noise to the disappearing point in several areas of the City. Noise directly under the flight path could be reduced by as much as 8 PnDb.

Point 7—Quieter engines

Inglewood should actively push for the development of quieter and cleaner engines, which can be developed. The City must encourage the air transport industry to recognize the responsibility that goes with mature citizenship and to begin a serious effort to meet these responsibilities by investing as much money and effort into noise suppression as they have in things such as speed.

Point 8—Glide slope increase

An increase in the glide slope angle to at least 4 degrees is to be sought. With this increased glide slope angle a professional airline captain should be able to descend at a lower setting and still maintain adequate standards of safety and comfort for his passengers. Such approaches were done for a long period during the 1965 Watts riots, and have become known locally as "a Watts approach."

Point 9—FAA, CAB, and State PUC intervenor

The City should be an intervenor in all Federal Aviation Administration, Civil Aeronautics Board, and California Public Utilities Commission proceedings affecting noise. Examples of such proceedings are proposed rules concerning high density terminal areas, airline terminal traffic flow restrictions, engine noise standards, alternate terminal designations, and route hearings.

The City will thus serve notice on all regulatory bodies that airplanes and airports are not merely exotic businesses, aloof from the society that supports them; but rather they are a vital part of the community, which means they must behave like responsible adults.

Point 10—Support national noise abatement efforts

The City should not only support, but initiate, efforts to form a national organization to combat jet noise and other environment noise pollution. Efforts should be made to contact communities and other groups all over the country who suffer from jet noise pollution. Only by pooling our efforts behind a united front can real and lasting progress be made for society as a whole.

(In October, 1969, Inglewood, in conjunction with Hempstead, New York, called a meeting in Washington, D.C., of groups and communities interested in noise abatement. At that meeting was born an organization named NOISE (National Organization to Insure a Sound-controlled Environment).

Mr. MUSKIE. Let me read some of these points.

Point 5—runaway extensions; point 6—approach pattern revision; point 7—quieter engines; point 8—glide slope increase; point 9—FAA, CAB, and State PUC intervenor; point 10—support national noise abatement efforts.

The city of Inglewood, which has been concerned with noise for some time, has found it possible, within the limited scope of its experience, to suggest practical steps, without further study, to deal with the problem of airport noise.

What I am suggesting in my amendment is that we back up local efforts, efforts that emerge out of experience with noise that communities already find unacceptable from the point of view of health and public welfare. Let us build on that experience in terms of a national policy. The amendment provides that we shall deal initially only with those airports that EPA identifies as areas where there is unacceptable exposure to noise. That is easy to do. Inglewood, I am sure, would qualify by its own experience. There are others that can do so as well.

Of course, there are breakthroughs to be made in all the sciences related to environmental pollution. But as I have learned in the development of air pollution legislation and the development of water pollution legislation, if all you ever require of an agency at the Federal level is that at some point they issue criteria or make a study, you will postpone almost indefinitely any effective action to deal with the problem. That is why we did not move as fast as we should in dealing with air and water pollution.

The standards are not mandated to be implemented instantly. They are simply to establish criteria and standards, to then use such expertise as FAA has—and I am sure FAA has the expertise to do what the Inglewood plan suggests—in a practical way to begin to reduce the noise levels in the beleaguered communities. That is all this amendment asks. It is not anything more than that. It is not a monster. It is not something beyond our reach. It is not something that cannot be done. It is something that would implement practical, already tried—as in Inglewood—attempts to reduce noise levels.

So, Mr. President, I urge the adoption of the amendment.

Mr. TUNNEY. I yield myself 2 minutes, then I will yield to the Senator from Nevada.

Mr. President, I do not think anyone could disagree with the stated objectives of the Muskie amendment. I certainly agree with them. I think they are very good objectives, and I wish it were possible to achieve them overnight. Particularly, the people of Inglewood wish they could be achieved overnight. If we had quieter aircraft engines and if it were possible overnight to retrofit all the airline engines that fly into the Los Angeles International Airport, we would be able to solve the problem for the citizens of Inglewood and the citizens of other cities who live adjacent to airports.

But the problem is this: We have not had the opportunity to study the mechanism to achieve a reduction in airport noise the way we must in order to legislate in this area. As I have indicated, in many airports some of the major airport noise is created as a result of trains running by the airport and highways running by the airport.

Is the Environmental Protection Agency in concert with the FAA alone to regulate the scheduling of trains by the airport and to regulate the buses and cars that go by the airport? Should not other agencies like DOT be involved?

The only reason why I point this out is that it demonstrates to me that this issue has to be studied fully and that we should have hearings on this specific point. It was not adequately covered in the hearings we had on S. 3342. Much as I would like to see the Senator from Maine's objectives achieved tomorrow, I believe it is impossible and it would not be wise legislation.

I yield 5 minutes to the Senator from Nevada.

Mr. CANNON. I thank the distinguished Senator from California for yielding to me.

Mr. President, I, too, want to join him in saying that I recognize the problem, the very great problem, to which the Senator from Maine has addressed himself. However, I am completely opposed to the amendment that the Senator from Maine has offered, for many of the same reasons pointed out by the Senator from California.

I may say that an added point that I find very disturbing is that at the last minute, in the closing days of the session, attempts are made to modify legislation or get legislation through without full and adequate consideration.

The Committee on Commerce has jurisdiction over civil aeronautics and matters relating to activities of the FAA. We have held extended hearings in relation to the problem of aircraft noise to find out what can be done, what procedural changes can be made operationswise, and what actions can be taken to reduce the noise level around airports.

I recognize that people who are living close to an airport and who are most immediately affected feel that this job should have been done yesterday, not tomorrow, and they have a very valid point.

However, I should like to point out, also, that people are still building residential communities right around airports, including Washington National Airport, which is one of the biggest causes of complaint of noise in the area. We see high rises going up and people moving right into an area of great noise, as they did in California, as they built around the Los Angeles Airport and many others around the country. They are unwilling to build away from the airport, and they move in and build and then complain about the noise which is generated.

There are a number of bad features about this amendment, and I will read one at this time:

> SEC. 502(a)(1) Within 180 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate rules and regulations, based on criteria published pursuant to section 407 (a) of this Act . . .

Mr. President, this is one of the examples I had in mind when I said there is a haste to get legislation through that is very ill-conceived and ill-considered. Why? Because section 407 (a) of the Act, to which that section referred, says that the Administrator shall, after consultation with appropriate Federal, State, and municipal agencies and other appropriate persons, within 9 months after the date of the enactment of this section, issue noise criteria.

So on the one hand you have the Administrator given 9 months, or 180 days, in which to issue noise criteria, and then in the amendment itself it is said that, within 6 months after the enactment of this act, he has to take action pursuant to that noise criteria. So the noise criteria promulgation still has 3 months to go before it can have been promulgated; yet, action will be required by the EPA Administrator 3 months earlier than the criteria have been published.

That is one of the examples that I say point out the bad features of trying to enact legislation in the closing hours of a session of Congress, on the floor of the Senate, involving such an emotional issue, an issue that has to be given rational consideration.

Mr. President, in our hearings we learned that the engine manufacturers are attempting to do everything they can to try to reduce the noise level of new engines coming on stream, and they are doing a fine job.

As a result, the aircraft coming out now—the 747's, the DC–10's, the Lockheed 1011's—are all very substantially lower in noise emission than the earlier aircraft. But they are the new planes coming on the line. It takes time to build new engines and make them more quiet. Also, it takes another decision, and that is, from an economic standpoint, is it economically feasible for new engines to be built and retrofitted to old aircraft reaching the latter part of their years of useful life? Those are some of the considerations that have to be given study and why I support the Senator from California in his position that the committee bill provide for a study. That is what should be done because we want to achieve the objective of noise reduction. We cannot go at it on a piecemeal basis but we must operate as fast as we can.

One of the criteria from the Long Beach area was the extension of runways.

Mr. President, do you know how long it takes to extend a runway? It cannot be done tomorrow, or the next day. Sometimes it takes a year and a half to make an extension of a runway and put it into operation. It depends on many factors: if the land can be acquired for the right-of-way, and to put houses out of the line for extension. Another point would be, presumably, that we would need less power to get off the ground.

I have traveled a lot by air and I, for one, would be reluctant to take any action to see that the pilot of that airplane not use all the power possible in the airplane to get it off the ground and into the air in as safe a manner as possible. This would be one of the problems.

Another problem, of the nine the Senator mentioned from Long Beach, would be the increase in the glide slope. That is already being done and the FAA is experimenting with that. The plane comes in at a higher altitude and we increase the steepness of the glide slope so that we do not have as much side exposure or underneath exposure to the noise. These are steps which are being taken now.

Thus, I would respectfully submit that the amendment of the Senator from Maine (Mr. MUSKIE) should be defeated. It should be, in all good judgment. The committee provision for a study should be agreed to, so that we can find out what we can do and then get on with the job.

Mr. BENNETT. Mr. President, I ask unanimous consent that Dr. Lawrence Woodworth of the staff of the Joint Committee on Taxation be allowed the privilege of the floor for the next hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I join my distinguished colleague from Nevada in opposing the amendment. He knows what he is talking about so far as airplanes are concerned. He probably has more expertise in this matter than any of us in the Senate, or any one Senator.

This is a problem where we are all agreed on the objective but we have to be practical about some of these things, too. I know that every generation of jet airplanes has been quieter than the previous one, and that the airplane manufacturers are doing everything they can to make the next generation of jets quieter than before. That is being done.

I frankly prefer the House bill on this matter, because it is a little more practical. Moving ahead too swiftly, with the amendment of the Senator from Maine (Mr. MUSKIE), is very ill advised at this time. There has not been any hearings on it. A study should be made, Mr. President, and I will tell you why. We have gone through a good many hearings in the Commerce Committee over the years on this aspect of aviation, and it is pretty hard to find noise experts who agree on much. We had two or three testify. I do not know whether they were self-serving or not, but they said they did not think there were over four or five noise experts in the United States.

This is a problem that is not only highly technical but is a problem that has to be placed in a practical perspective as to how we proceed toward the objective.

The Commerce Committee did not see this amendment until 1 p.m. today. That is why the study should go ahead. I also understand it was discussed in the Committee on Public Works and was rejected there.

If carried out to its extreme, it would result in a drastic cutback in air service.

I cannot believe that the FAA and the EPA would be unreasonable. I think we have to assume they will act as reasonable people because both have the same objective and we are moving ahead. But on this business of trying for hard and fast drastic rules on limiting the use of airplanes, there has got to be more study to determine if this is wise and practical.

Mr. MUSKIE. Mr. President, may I say to the distinguished Senator from Washington that I doubt he understands the amendment. He talks about hard, drastic rules. There are no hard, drastic rules in this amendment. It provides, for the establishment of criteria with respect to noise levels; it provides for publishing the criteria, and it also provides for giving the FAA the authority to develop the guidelines for implementing the criteria. It provides for the FAA to give technical assistance. There is nothing hard and drastic about it.

But, Mr. President, my objection to this bill is that it would undertake to preempt the authority of State and local governments to deal with this problem and would substitute for State and local action a Federal study.

If we are not prepared to assume the authority to do the job, then my views is, leave it to the States and the communities to continue what they are now struggling to do and not preempt the field and throw a study at them as the Federal answer.

Mr. President, on July 19, 1972, the distinguished Senator from California (Mr. TUNNEY) wrote me a letter on the question of the FAA. Let the Senator from California give us the facts:

I read in part:

> For fourteen years the FAA has had authority to control aircraft noise, and regulations have existed for four years. The 1968 FAA regulations require that new aircraft applying for type certification after December 1, 1969, meet a standard of 108 EPN dB. Not only is this standard too weak, but only the new DC–10, L–1011's, Cessna Citations, and about ten percent of the Boeing 747's are subject to it. The Airport Operators Council estimates that by 1975, out of a fleet of 2100 aircraft, only 393, or 18.6 percent will be required to have noise certification. Improvement in these figures is unlikely since the trend has been to refit rather than retire the existent fleet, as evidence by the new "wide body look" given to the 707 interiors.

It is for this reason, as stated in the Tunney letter, to me, why we must have the development of cumulative noise standards in the airport environment.

Mr. President, that is why I offer this amendment.

Let me read another portion of the Tunney letter on the mechanisms of the bill:

> The mechanisms for controlling aircraft noise is substantially parallel to other environmental legislation including the Clean Air Act.

The Senator was correct.

Continuing reading:

> The EPA Administrator would set performance levels for noise reduction in airport environments which must be met in order to protect the public health and welfare. For airports which exceed the target levels, a plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation determines to be appropriate and safe to achieve the levels established by EPA.

Mr. President, this amendment before us does nothing more than the Senator from California (Mr. TUNNEY) urged on me in his letter of July 19.

I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., July 19, 1972.

HON. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: On June 8, the Subcommittee on Air and Water Pollution approved S. 3342, the Noise Pollution Control Act of 1972. This bill will be considered in full Committee next Thursday, July 27, at 10:00 a.m. While there continue to be several outstanding issues to be decided, I firmly believe this bill offers a comprehensive scheme for environmental protection from noise pollution.

I am writing in advance of the markup session to express my personal interest in the bill, and my strong hope that it will be passed in this session. I hope to contact you personally prior to the markup session to get your reactions to it. Before I do, however, I would like to share my views on the need for the legislation and on the outstanding issues.

The sixth print, a copy of which I attach, is the draft reported out of Subcommittee. It evolved from three days of legislative hearings, the June 8 session, numerous meetings of staff, and additional comments by the Administration, industry and environmental groups. The latest version has again been widely distributed, and I understand that staff is compiling and will circulate comments received. Additionally, I met earlier this month with airport managers and operators, local groups and local officials at three major airports in California, where the noise problem is particularly acute. Their helpful comments, which will also be circulated, were supportive of the need for comprehensive regulation of airport and aircraft noise.

NEED

The effects of excessive noise on health are well documented. In addition to hearing loss—which may include cell damage and be irreversible—there are all sorts of insidious effects to many bodily and psychological functions. The metabolic changes brought about by noise continue to take place during sleep—even when the noise is not loud enough to cause arousal. Most disturbing is evidence that noise can affect the unborn child, causing changes in heart rate and skeletal muscular contractions, and inhibiting weight gain. There is also a statistically significant correlation between high noise levels and low land values—especially, high rental property vacancy rates around airports.

ISSUES

Of all the major sources of noise pollution aircraft noise is by far the most noxious. Using the standard unit of measurement of sound, the decibel, conversational speech will typically be at the level of sixty dB, heavy city traffic at ninety-two dB, and a jet airliner 500 feet overhead at 115 dB. Because the decibel scale is a logarithmic scale, a difference of ten units is actually 100 times as intense. If a factor for the irritation of high frequency sounds is taken into account, aircraft noise measures even higher.

Residents of Inglewood, California were recently asked how important to them it was to find solutions to problems of jet noise, crime, etc. 61% responded that it was the greatest importance to control jet noise, and 20% answered that it was very important. These figures compare with 73% and 17% on the issue of crime, and no figure higher than 33% for any of the other issues. In Inglewood, therefore, the problem of jet noise rivals the problem of crime control as the most important issue to local residents. These sentiments were echoed in Okland, Marin County and San Diego.

THE FAA'S FAILURE TO ACT

The extraordinary levels of aircraft noise and their severe impact on the public health have led to repeated and increasing pressure from many sectors for effective control. For fourteen years the FAA has had authority to control aircraft noise, and regulations have existed for four years. The 1968 FAA regulations require that new aircraft applying for type certification after December 1, 1969, meet a standard of 108 EPN dB. Not only is this standard too weak, but only the new DC–10, L–1011's Cessna Citations, and about ten percent of the Boeing 747's are subject to it. The Airport Operators Council estimates that by 1975, out of a fleet of 2100 aircraft only 393, or 18.6 percent will be required to have noise certification. Improvement in these figures is unlikely since the trend has been to refit rather than retire the existent fleet, as evidence by the new "wide body look" given to the 707 interiors. It is predicted, further, that the increase in numbers of flights should more than offset noise reductions from new quarter aircraft engines.

THE MECHANISM OF S. 3342

The mechanism for controlling aircraft noise is substantially parallel to other environmental legislation including the Clean Air Act. The EPA Administrator would set performance levels for noise reduction in airport environments which must be met in order to protect the public health and welfare. For airports which exceed the target levels, a plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation determines to be appropriate and safe to achieve the levels established by EPA.

DOT would have responsibility to ensure that noise emission standards for aircraft are safe and technologically available. It would also review for purposes of safety and effect on commerce any plans submitted by airport operators to implement Federal ambient standards.

Each agency would act consistent with its mandate. As in most other areas of pollution, EPA would be empowered to prescribe standards to protect the public health and welfare. FAA would maintain sole responsibility for aircraft safety and technology, and, in coordination with the CAB, for developing and promoting an air transportation system which meets commercial needs while not degrading environmental quality.

As in other areas, I feel strongly that environmental programs should be implemented by environmental agencies. At the same time we must insist on safety and, to the maximum extent practicable, avoid disruption of commerce. I think the Subcommittee bill meets these tests and hope you will support early action on effective regulation.

I will contact you personally within the next week to get your reactions to this important issue.

Best regards,

JOHN V. TUNNEY,
U.S. Senator.

P.S.—Thanks so much for your personal letter of support for my position at the Subcommittee Exec. sess. Leon has been a terrific help and I look forward to seeing you both on Thursday.

Mr. MUSKIE. Mr. President, I do this not to embarrass the Senator from California but to make the point that, of course, it is tough but, as the Senator knows, in the water pollution bill we sent to the President this week, we require of the industry the development of a technology which does not now exist. Because we know as a committee, that unless we put this kind of pressure on the industry, we will not get the hardware. When our only means of control is technical, we have to build pressures into the bill to develop the technology. What we propose to do here is to do nothing more than we did in the Clean Air Act of 1970 or the Water Pollution Act of this year. We propose to set targets and to set standards which will force industry and the technological community to build the hardware necessary to deal with this problem and in the meantime permit the communities—and the FAA has a veto in the field—to take pragmatic approaches to the problem which will enable them to make at least a beginning toward reducing the noise around airports.

Mr. President, I reserve the remainder of my time.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from California has 8 minutes remaining.

Mr. TUNNEY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. TUNNEY. Mr. President, I am very pleased that the Senator from Maine read my letter because the essence of that letter is still my position. And the whole letter would be my position if we had committee print No. 6 of S. 3342 before us today.

I wrote my letter based on section 502 of print 6 of the bill which is a far different provision than section 502 of the bill reported. I might say that the pending Muskie amendment is quite different both from print six to which I addressed my letter and from the version of the provision we now have before us.

We had established in print six a mechanism whereby a conference was held at a local airport which included participation by the airport operators, FAA, EPH, and others. The Senator's amendment, as I understand it, does not contain such language.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. TUNNEY. I will yield in a moment.

For the Senator from Maine to say, much as I respect him and have the strongest regard for him, that he addressed the amendment to my letter is not correct. My letter is addressed to print No. 6, and that is quite different from the bill before us today.

I am not saying that the Senator's amendment might not be a superb amendment. However, in the committee when we were asking tough questions as to how a mechanism to establish cumulative levels of noise should work and we could not secure agreement.

We want a bill that will start to curb the noise around the airports now. We are not willing to wait 2 or 3 years in order to preserve a purist position. We fought to give EPA a lead role in establishing aircraft noise emission levels, and we won in committee.

I am going to fight to protect the language of section 501, which establishes EPA as lead agency in setting noise emission levels. It is good language and should be maintained. But it is quite different to say that I was supportive of Senator MUSKIE's amendment to section 502 when I did not know it existed and did not see it until about 2 hours ago.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Mr. President, I say to the Senator from California that if he wishes to offer a substitute for the pending amendment the language contained in print 6 covering the same subject, I would accept it without reservation. I would be happy to accept that as a substitute for this. The language in print 6 is similar to this language. It says:

> A plan must be developed and submitted by the airport operator which could include controls on the frequency of flights, the hours of airport operation, changes in operational and flight procedures, land use, and other techniques which the Secretary of Transportation has laid out, and other techniques.

I still insist that those techniques would be implemented in print 6 and the language before us. Second, I read the footnote on that letter of July 19, 1972:

> P.S.—Thanks so much for your personal letter of support for my position. . . .

Now the Senator makes an argument that is a little different. He says that the only reason he will not go along with the deletion of the provision is that he wants a bill that starts now. The pending bill does not start now on the problem. It just provides for a study. It does not start now. I am trying to help the bill to enable it to start now. That is the rationale of the amendment.

Mr. President, before I forget it, I ask for the yeas and nays, or perhaps I should suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Maine does not have enough time under the present rule to suggest the absence of a quorum.

Mr. MUSKIE. Mr. President, I ask unanimous consent that we may have a quorum call with the time taken out of neither side.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Mr. President, reserving the right to object, I would have just one further response to the Senator.

Mr. MUSKIE. Mr. President, we have not given up our time. I want the yeas and nays.

Mr. TUNNEY. Mr. President, will this time be taken out of our time?

The PRESIDING OFFICER. It will be taken out of the time of neither side.

Is there objection to the request of the Senator from Maine? The Chair hears none, and it is so ordered.

Mr. TUNNEY. Mr. President, reserving the right to object, I first yield 2 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 2 minutes.

OLDER AMERICANS ACT OF 1972—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 15657, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STAFFORD). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R.

15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER (Mr. STAFFORD). Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 11, 1972, at pages 34996-35008.)

Mr. EAGLETON. Mr. President, I am pleased to recommend to the Senate the adoption of the report of the conference committee on H.R. 15657, a bill to strengthen and improve the Older Americans Act of 1965, and for other purposes.

This legislation represents long months of work by the Committee on Labor and Public Welfare's Subcommittee on Aging, which I have the honor of chairing, and by our counterparts on the Committee on Education and Labor in the House of Representatives. We began this work with the goal of developing legislation that would meet the needs of the Nation's 20 million citizens, older Americans, for greatly increased and improved services. In my judgment, H.R. 15657 meets that standard.

The Older Americans Act was first enacted in 1965 and, thereafter, was amended in 1967 and 1969. The heart of the program lies in the grants made to States under title III to provide social and supportive services for their elderly citizens. From small beginnings in 1965, programs under the act have expanded substantially. Appropriations have grown from $7.5 million in fiscal year 1966 to $101.7 million in fiscal year 1972. I should add that the 1972 figure was reached by way of a floor amendment to the supplemental appropriations bill, offered immediately after the White House Conference on Aging by the distinguished senior Senator from Massachusetts (Mr. KENNEDY), which added more than $55 million to last year's appropriation.

This increased funding was reflective of the greatly increased need for the services offered under the act. These are, in the truest sense, vital services, because they are designed to support older people and enable them to maintain an independent existence, to enrich their lives, and to avoid institutionalization.

As our Subcommittee on Aging began work on legislation needed to extend the Older Americans Act in light of its expiration on June 30, 1972, it became apparent that the increased demand for services and the increased funding provided by Congress required an improved mechanism for the delivery of services. We have responded, in H.R. 15657, by creating the framework for a comprehensive and coordinated system for the delivery of social services at the State and local level. States will be required, through State plans, to establish objectives and spell out their proposals for achieving those objectives. Moreover, the States will be required to divide each State into distinct areas—except in those small States best served as a single area—and to designate from among those areas the ones in which there is the greatest need for services. In such designated areas, an area plan will be developed to provide for the establishment of a coordinated network for the delivery of services to the elderly.

The services authorized under this bill cover a wide range—health services, including such matters as diagnostic screening; information, referral, and counseling services that will help the elderly gain access to other sources of service in their communities; homemaker and home health services that can assist older persons in retaining self-sufficiency and independence in their own home; recreational and educational services to enrich their lives and to draw them out of the social isolation that so often afflicts the elderly; transportation in connection with other services provided under the bill; and a variety of other important social and nutritional services.

In addition to this program of grants to the States, the bill authorizes the Commissioner on Aging to make direct grants to support model projects which hold the promise of demonstrating new or improved methods of providing expanded services to older Americans. In making such grants, the Commissioner on Aging is directed to give special consideration to projects in the areas of housing, transportation, continued education, preretirement counseling, and handicapped services.

Mr. President, we know about the services needed by older Americans and we have worked to meet this need. But there are a great many areas with respect to aging in which far to little is known. For this reason, title IV of the bill authorizes a greatly expanded program of research and demonstration projects to be conducted by, or under authority of, the Administration on Aging. It is hoped that through such research and demonstration projects it will be possible to emulate past successes, as with the nutrition projects now established under title VII of the act, which began as a demonstration program conducted under title IV. It is further our intention to assist in meeting the enormous demand for training personnel in this field by directing the Administration on Aging to survey the field to establish an accurate assessment of personnel needs and to take steps to meet such needs through training grants and through the establishment of multidisciplinary centers of gerontology. It is anticipated that such centers, in addition to their research and training functions, will also provide technical assistance to State and local agencies providing services for the aging.

There are a great many other programs established by this legislation, Mr. President, which are discussed in detail in the reports of the committees of the Senate and House and the report of the conference committee. I do, however, want to draw attention to two of these in particular—those contained in titles IX and X of H.R. 15657.

Title IX is identical to S. 555, introduced by the very able senior Senator from Massachusetts (Mr. KENNEDY) and passed by the Senate on September 21. This bill establishes in the Department of Labor a program for community service employment of older Americans, modeled on the very successful pilot programs conducted by the Department of Labor under Operation Mainstream. It will greatly expand employment opportunities in community service jobs for those aged 55 and older with a preference given to persons aged 60 and older.

Our estimates show that some 40,000 jobs can be provided under funds authorized to be appropriated in the current fiscal year and as many as 60,000 jobs could be provided next year. With about one-fourth of our older Americans living in poverty, Mr. President, I will not stress the importance of this opportunity to provide additional income for those so much in need. Suffice it to say that we anticipate that the establishment of this program should point the way to greatly increased opportunities for older people to find a meaningful role in their communities and to supplement their income at the same time. It is typical of the concern and understanding repeatedly expressed by Senator KENNEDY, who has long been recognized as a leader in this field through his work for the aging.

Title X of the bill, Mr. President, is also related to employment opportunities but it includes, in addition to older workers, those who are middleaged, that is, between 45 and 55 years of age, and provides special counseling and training programs in the Department of Labor to assist them in securing employment. We have seen so often that the principal casualties of the unemployment caused by the economic recession of recent years have been persons in their forties and fifties. Many have worked at the same job over a period of years and their ability to find new employment once they are laid off tends to be more limited than those of younger workers.

The programs established under title X, which are modeled after S. 1307 introduced by the distinguished senior Senator from West Virginia (Mr. RANDOLPH), will provide very significant assistance for these individuals in training them for new jobs and then helping them to find such jobs. I want to commend Senator RANDOLPH, who developed this title as his own separate legislation, and was then gracious enough to include it as a part of our older American legislation.

Finally, Mr. President, I wish to point to those provisions of the bill which do not bear directly on the provision of services to the elderly but which will have a very great bearing on the success of the entire program. These have to do with the role of the Commissioner on Aging and his position, and that of the Administration on Aging, in the Department of Health, Education, and Welfare. Heretofore, the Administration on Aging has been relegated to a low level in HEW and, in 1967, was made part of the social and rehabilitation service—SRS. Unfortunately, the dominant programs in SRS are those providing income maintenance; it is generally regarded as primarily a "welfare agency." Yet, the Older Americans Act was never intended to operate as a welfare program in the sense that it does not contain a means test and its services are not restricted to those with incomes below the poverty line. Indeed, those active in the field of aging find that older persons are, in many cases, resistant to utilizing needed services when those services are viewed as part of a welfare program.

For these reasons, we deemed it advisable to remove AOA from the SRS and place it within the Office of the Secretary. We are gratified that the administration has concurred in this judgment and supports the move of AOA provided in this legislation.

I believe that this reorganization will enhance the ability of AOA both as a spokesman for the elderly within the department and in its program operations.

Our bill also enhances the role of the Commissioner on Aging by providing that he shall report directly to the Secretary of Health, Education, and Welfare and that he shall not delegate functions assigned to him by law without first following reorganization plan procedures, thus providing an opportunity for either House of Congress to block a proposed delegation that it finds inconsistent with the purposes of the act. I should add that we recognize that the Secretary has many other responsibilities and so we construe the requirement that the Commissioner report directly to the Secretary to mean that he shall so report on matters involving essential policy questions affecting the act. Moreover, we do not mean to isolate AOA from the supportive activities that may be provided by other parts of the department at both the national and regional levels.

The Senate wanted further to improve the Federal organizational structure with respect to aging by creating the Older Americans Advocacy Commission to act as an independent advocate on behalf of the elderly throughout the Federal Government. This body was established in recognition of the fact that a great many Federal Departments and agencies are involved in activities affecting the aging, but too often these activities are carried on without consideration being given to the special needs and concerns of our elderly citizens.

The House refused to accept the advocacy commission as established by the Senate bill—largely, I am sorry to report, because of strenuous administration opposition to the creation of a body which it rightly conceived might be critical of administration policy regarding the aging. However, we were successful in incorporating essentially the same functions intended for the advocacy commission into the provisions of the House bill establishing a National Advisory Council on the Aging. This body is renamed the Federal Council on the Aging by the conference report and I want to emphasize that the term "advisory" was deleted from the title in a conscious effort to make this body something more than the usual passive advisory council.

We intend that the Federal Council on the Aging shall make vigorous efforts to serve as an advocate for older Americans across the whole range of the Federal establishment. While the word "advocate" was deleted from the list of its functions at the insistence of those who are somehow made uncomfortable by this term, the role of the council remains the same and I consider its responsibility to act as "spokesman" for the elderly to have the same effect as the original charge to "advocate" their cause.

Mr. President, in closing I want to pay tribute to the many persons who worked closely on the development and enactment of this legislation and who made major contributions to it. The distinguished junior Senator from Maryland (Mr. Beall), the ranking minority member of the Subcommittee on Aging, was extremely diligent and constructive during our work on the bill. His imprint is seen on the final product in many places and his helpful suggestions throughout shaped major provisions of the bill. Nearly all of the other members of the subcommittee were also quite active in their work on behalf of this legislation.

As always, it was a pleasure to work with the very able chairman of the House Education and Labor Committee, Mr. Perkins, and the distinguished subcommittee chairman in the House, Mr. Brademas, both of who displayed their devotion and concern for older Americans by their unstinting work on this bill.

We also benefited by the counsel and advice of a great many persons in the Department of Health, Education, and Welfare. They include Mr. John Twiname, Commissioner of Social and Rehabilitation Service; Mr. Richard Verville, Deputy Assistant Secretary for Legislation; Mr. Harvey Yampolsky, a truly gifted and imaginative draftsman; Mr. Don Reilly, Deputy Commissioner of AOA; Mr. Herman Brotman, whose ability to come up with statistical information coherently arranged on short notice was consistently amazing; and Mr. William Norman and Ms. Dolly Cutler from the Administration on Aging Legislative Liaison office.

Mr. President, I am proud of the product of our endeavors—the Older Americans Comprehensive Services Amendments of 1972—and I recommend its adoption by the Senate.

Mr. BEALL. Mr. President, as the ranking Republican member on the Subcommittee on Aging, I have a special interest in, and concern for, the well being of our 20 million senior citizens. I have consistently contended, that America's elderly citizens deserve a great deal more attention than they have previously received. I, for one, hold our Nation's senior citizens in a position of great respect for they have toiled long and hard in our Nation's factories, on its farms, in its armed services, and so forth, and they have earned the right to live their retirement years in security, dignity, and independence. We owe these senior Americans a debt of gratitude for they are primarily responsible for the prosperity and the greatness that our Nation enjoys today. Through their efforts and sacrifices, our Nation has reached unprecedented heights of economic prosperity, met the challenge of foreign aggressors, and created for all Americans a society dedicated to the full realization of the goals of our Nation's forefathers.

Mr. President, during the past several months, the members of the Subcommittee on Aging have worked to shape a bill that would achieve the fundamental objective of delivering social services to our older Americans in a prompt, efficient, and effective manner. I would simply say that the subcommittee chairman and the other members of this committee worked in an open and bipartisan manner to produce a bill that will significantly contribute to the well being of our older Americans.

Before proceeding with consideration of the conference report on H.R. 15657, I would like to briefly summarize some of the accomplishments which we have seen in recent years in our efforts to improve the livelihood of our older citizens. Since I first came to Congress in January of 1969, I have had the pleasure of working with two Secretaries of Health, Education, and Welfare, Honorable Robert Finch and Honorable Elliot Richardson, both of whom are men of great ability, great sensitivity, and great compassion for our aging Americans as well as other recipients of services in their area of responsibility. Commissioner John Martin is a dedicated public servant who is widely respected in the field of aging and I believe that he has done everything in his power to see that the Administration on Aging fulfills its mandate.

One could hardly comment on the progress we have made in understanding and meeting the needs of the elderly without mentioning the role of Dr. Arthur S. Flemming. Dr. Flemming is a distinguished public servant and academician who has served his nation in a variety of capacities in the last four decades. As the Chairman of the White House Conference on Aging, 1971, Dr. Flemming brought together thousands of delegates and experts from across our Nation. He oversaw an immensely productive White House Conference which has generated the type of momentum needed to bring the problems of our Nation's senior citizens to the attention of all of our people.

Even though the final reports and recommendations of this conference are not yet in, the President and the Congress have both taken decisive action aimed at resolving many of these problems. Now, as the Special Consultant to the President on Aging, Dr. Flemming is in an excellent position to advocate the cause of senior citizens, coordinate interdepartmental governmental programs, and inform the public of possible solutions to the various problems confronting our older Americans.

Assisting Dr. Flemming in coordinating domestic programs for the aging, is the Committee on Aging within the Cabinet-level Domestic Council. The creation of a Domestic Council in general and the Committee on Aging specifically reflects President Nixon's commitment to coordinate and deliver services to older Americans in a coherent, effective, efficient manner. It is now up to the Congress to take the decisive steps necessary to end the isolation, the neglect, and the indifference which have plagued older Americans for far too long.

Mr. President, I believe that H.R. 15657, as amended by the conference committee will make a very significant contribution to the well-being of older Americans. This legislation will dramatically strengthen the Administration on Aging by upgrading it and moving it into the Office of the Secretary. In addition, it significantly expands the Administration on Aging's authority as well as its authorization levels.

Under this bill, AOA will strengthen State aging units, foster the growth and development of local aging offices, and provide them with the technical know-how needed to meet the requirements contained in this legislation. Within each State, areas selected for priority consideration, will receive funds to establish area planning and service agencies. These organizations will serve to coordinate existing social and nutritional services so that they can be effectively delivered to senior citizens who are in need of such services. It is not envisioned, that these regional planning units will directly deliver services to the elderly unless the needed services are not available from any other source.

Thus, we are talking about an apparatus that will coordinate programs conducted under the Social Security Act, the Department of Transportation, other agencies within the Department of Health, Education, and Welfare, the Department of Housing and Urban Development, and so forth. In addition, these area aging units will draw upon the resources of existing State and local services as well as nonprofit organizations designed to assist the elderly. At the present time, AOA lacks the authority to effectively coordinate the delivery of various social and nutritional services and I believe that this is perhaps the most significant reform contained in this legislation. In addition, this bill would provide for the establishment of a National Information and Resource Clearing House for the Aging" as well as State and local information and referral systems that will serve to place much needed information in the hands of our senior citizens so that they can resolve many of their problems by their own initiative.

H.R. 15657 sought to touch as many "bases" as possible with regard to the problems facing senior citizens. Under the provisions of this legislation we will be able to expand and improve our system of senior citizen centers; expand the volunteer programs for the elderly which are administered by the Action Agency; provide community service employment programs and job training opportunities for middle-aged and older Americans; promote expanded library facilities, reading services, and educational programs for senior citizens; train personnel to meet the needs for older Americans; undertake various gerontological research projects; as well as a variety of demonstration and special impact projects designed to further our knowledge with regard to problems of the aging.

Mr. President, I am an enthusiastic supporter of the initiatives contained in this legislation, and I am firmly of the opinion that a significant corner has been turned in our efforts to make life a little better for our Nation's 20 million senior citizens.

Mr. President, I have compiled a brief title by title summary of the provisions contained in H.R. 15657 and I ask unanimous consent that this summary be printed at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TITLE-BY-TITLE SUMMARY OF H.R. 15657, THE OLDER AMERICANS COMPREHENSIVE SERVICES AMENDMENTS OF 1972

TITLE I—DECLARATION OF OBJECTIVES

The Congress expanded the objectives contained in the original Older Americans Act of 1965 by placing emphasis on the need to make comprehensive social service programs available to older Americans and to insure their participation in the development of these programs.

TITLE II—ADMINISTRATION ON AGING

This Title establishes the Administration on Aging and places it within the Office of the Secretary of Health, Education and Welfare. AOA is headed by a Commissioner on Aging who is appointed by the President and confirmed by the Senate. The Administration on Aging is given primary responsibility for carrying out the programs authorized under this Act. Language has also been included which is designed to protect the administrative integrity of the Administration on Aging so as to guarantee that AOA carries out the mandate prescribed by Congress in this legislation.

Title II also creates a "National Information and Resource Clearing House for the Aging" which is designed to collect, analyze, prepare and disseminate information regarding the needs and interests of older Americans.

In addition, Title II contains a provision establishing a "Federal Council on the Aging" which will be composed of 15 members appointed by the President and confirmed by the Senate. The Council will assist and advise the President on matters relating to the needs of older Americans; review and evaluate the impact of Federal policies and programs on the Aging; serve as a spokesman on behalf of older Americans by making recommendations to the President, the Secretary of Health, Education and Welfare, the Commissioner on Aging, and the Congress with respect to federal activities in the field of aging; and undertake programs designed to increase public awareness of the problems and needs of our senior citizens. The Federal Council on the Aging will also undertake various studies designed to further clarify the specific needs of the elderly and recommend solutions to them.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Under Title III, the Administration on Aging will work with State aging offices to develop a state-wide plan for delivering social services to senior citizens. Each state will be divided into planning and service areas which will bear the primary responsibility for developing the apparatus required to deliver social and nutritional services to the elderly. These area aging units are designed to coordinate existing governmental services, purchase services, and/or provide services where they are otherwise unavailable.

In addition, the Commissioner may undertake "model projects" within a state, giving special consideration to projects involving the housing needs of older persons, transportation needs, continuing education, preretirement information, and special services to the handicapped. It is hoped that these model projects will expand and improve the delivery of social services to older persons.

TITLE IV—TRAINING AND RESEARCH

The Commissioner on Aging is authorized to make grants for research and development projects in the field of aging. He may also undertake programs designed to attract qualified persons into the field of aging and to provide training programs for personnel in this field. There is also a provision for the establishment and support of multidisciplinary centers of gerontology which will assist in the research and training programs as well as provide technical assistance for state and local aging units.

TITLE V—MULTIPURPOSE SENIOR CENTERS

This provision provides for the acquisition, alteration, renovation and construction of multi-purpose senior citizen centers. Included in this section are provisions for loan insurance for senior citizen centers, grant authorizations for staffing of such centers, etc.

TITLE VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

This Title extends and expands the authorization for the Foster Grandparents Program and other Older Americans Community Service Programs. These programs, which were transferred to the ACTION Agency in 1971 seek to involve Older Americans in a variety of programs designed to benefit persons, both children and adults, having exceptional needs.

TITLE VII—NUTRITION PROGRAM

This Title makes several minor conforming changes in the nutrition legislation which was passed earlier this year. The changes are primarily designed to produce greater coordination between nutrition programs and the social service programs provided in Title III.

TITLE VIII—AMENDMENTS TO OTHER ACTS

This provision amends the Library Services and Construction Act, the National Commission on Libraries and Information Science Act, the Higher Education Act, and the Adult Education Act, so as to provide expanded opportunities for older Americans to participate in programs of continuing education.

TITLE IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

This Title is designed to provide community service jobs for low income older Americans 55 years of age and older in the fields of education, social services, recreational services, conservation, environmental restoration, economic development, etc. The programs created by Title IX are structured in such a way as to draw upon the experiences of numerous pilot and demonstration projects conducted by the Department of Labor under its Operation Mainstream Program. It is estimated that as many as 40 to 60 thousand jobs could be created under the provisions of this Title.

TITLE X—MIDDLE-AGED AND OLDER WORKERS TRAINING ACT

This Title is designed to provide manpower training programs and other services to increase job opportunities for middle-aged and older persons. The Secretary of Labor will carry out the provisions of this Title within the framework of existing programs during the remainder of fiscal year 1973.

Mr. KENNEDY. Mr. President, I am pleased to be able to rise to speak in favor of the conference report on H.R.

15657, the Older Americans Comprehensive Services Amendments of 1972.

This measure moves us far closer to providing adequate services to 20 million older Americans. After the past 4 years, when the level of appropriations requested by this administration fell far short of the need, this new statement of concern by the Congress represents a Federal mandate to meet the needs of the Nation's elderly.

I am particularly pleased that the conference committee retained title IX community service employment programs for persons 55 and older with virtually no change from the measure passed by the Senate.

The only alteration in this categorical employment program is a preference being provided for unemployed, low-income elderly persons 60 and older.

Otherwise, this measure is the same bill which originally passed the Senate as S. 555 a month ago. Now it has become a part of the Older Americans Act extension. However, its administration will remain within the Department of Labor, where it is expected to provide a focus for Labor Department efforts to meet the employment needs of elderly Americans.

Essentially, this program takes the older Americans portion of the Operation Mainstream pilot programs and expands them and makes them permanent and nationwide.

Grants will be made directly from the Labor Department on a 90–10 basis to nonprofit private organizations as well as State and local governmental units for the employment of elderly persons in community service programs.

No delay is expected in gearing up for this program once funds are made available since the groups which now participate in the Operation Mainstream Older Americans program say their applications are seven or eight times the available slots.

The critical need for this program is shown by the statistics depicting a steady rise in the numbers of older Americans who are unemployed.

For during the past several years of rising unemployment, the impact on older workers has been particularly grim. From January 1969 to September 1971, unemployment for persons 45 and older jumped from 596,000 to 1,057,000—a 77-percent hike. And the large bulk of that increase fell on those individuals 55 and older.

What is perhaps even more of an indication of our failure to show a national sensitivity to the needs of these older workers is the recent reports from the Bureau of the Census. They show that some 6.8 million persons aged 55 and older are living in poverty, 25 percent of the Nation's 25.9 million poor.

The impact of unemployed and poor older workers on the social service system of the Nation is increasing as a result with some 2.9 million Americans over 55 receiving public assistance.

The Emergency Employment Act of 1971 was the first major effort to provide public employment opportunities to our citizens. Yet the older worker, despite representing 25 percent of the poor, has received only 6 percent of the available EEA job opportunities, according to the Department of Labor. The Labor Department's administration of this program unfortunately has continued the past pattern of neglect for these older workers.

The most successful Federal effort in providing job opportunities to older Americans has been the economic opportunity pilot program operation mainstream.

With operation mainstream support, the National Council of Senior Citizens has operated the Senior Aides Project; the National Farmers Union has directed the Green Thumb and Green Light projects; the National Council on Aging has funded Senior Community Service Aides project.

All of these projects have met with enormous success, success documented in evaluations carried out under Labor Department contract and success documented in testimony before the Senate Aging Subcommittee.

The projects on the whole have provided part-time work for older Americans, usually 4 hours a day, 5 days a week with an average wage of $2.15 per hour. In addition to the importance of the added income provided by these programs, older men and women have discovered a second vocation, a second career, a second opportunity to contribute to the life of the Nation.

For that reason, the Older Americans Community Service Employment Act is vital to the needs of the Nation's older Americans. It is for that reason that every major group representing older Americans has testified in favor of this legislation and has sent telegrams and letters affirming their support for the early approval of this legislation.

For this bill represents a beginning step to meet the employment needs of older workers, providing 100,000 additional job opportunities in the next 2 years.

Unfortunately despite the full support of all concerned and the apparent support of the President in his statement to the White House Conference on Aging last year, the administration formally has opposed this program in hearings and in letters to Senators and in the most bizarre act, in a threatening letter to the House-Senate conferees.

I ask unanimous consent that the letter appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., October 9, 1972.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to express the concern of the Department of Labor to Titles IX and X of S. 4044, Older Americans Act Amendments of 1972.

The major conceptual concern deals with the fact that these titles are duplications of existing legislation and establish a separate category for this particular client group.

As you know, the Labor Department shares the concern of your Committee with the manpower and employment problems of middle-aged and older workers. We feel, however, that all of the purposes of Titles IX and X can be carried out under existing legislation.

We are most concerned about a specific allocation of funds for one client group, as this will clearly create a demand from other client groups for equal treatment.

Finally, I must also emphasize that the President's budget for fiscal 1973 for all manpower and employment programs under the jurisdiction of the Labor Department is in excess of four billion dollars. If further appropriations were authorized for middle-aged and older workers we believe corresponding reductions would need to be made in other manpower activities.

Sincerely,

MALCOLM R. LOVELL,
Assistant Secretary for Manpower.

Mr. KENNEDY. Mr. President, this last act simply is not understandable. It represents such flagrant disregard of the needs of the elderly and it is so flagrantly misleading that I cannot understand its being sent. I would urge the Senate to note the statement that the purposes of title IX "can be carried out under existing legislation."

Because during hearings, the Deputy Assistant Secretary for Manpower testified that he could not guarantee under existing legislation or under the proposed manpower revenue-sharing legislation that any additional money would be directed this year to these persons 55 and older.

It was for that reason that we pushed forward to make pilot programs which have been successful in providing assistance to older Americans permanent and nationwide.

The other provisions in this bill also represent steps forward in providing assistance to the Nation's older Americans.

The measure makes an effort to bring together many of the social services that older Americans require, establishing areawide projects to oversee the coordination of local and Federal resources.

The bill also responds to special needs of the elderly in the fields of transportation, in housing and in continuing education. It also establishes for the first time clearinghouses for information for the elderly at all levels of Government.

It is a forward-looking measure that seeks to insure that the Administration on Aging will have a major arsenal of programs and power in its efforts to be the advocate for the Nation's elderly within the administration.

Hopefully, we will have moved the Nation closer to the ideal of assuring dignity to older Americans in the final chapter of their lives.

Mr. President, there is another matter that I would call to the attention of my colleagues. That provision is contained within title VII, the nutrition for the elderly program which I sponsored and which is now ready to begin immediate operation as soon as the President signs the Labor-HEW appropriations bill which he is expected to receive shortly.

The amendments to this title provide additional authority for agricultural commodities and products to be made available to the program.

At the same time an effort is made to recognize the expansion of title III into a major source of coordination of social services for the elderly.

However, in the Senate, I put in a committee amendment to insure that the nutrition program retains its separate identity, to insure that no delay occur, because of the enactment of title III, in the operation of the nutrition program, and to insure that coordination with areawide agencies may take place only, and I repeat, only when there is agreement by the local nutrition program.

We had extensive hearings into the proposed regulations of the nutrition program for the elderly. We heard from State commissions on aging. We heard from directors of local nutrition pilot programs.

All objected to the original regulations proposed which resembled the areawide approach. All expressed fears that local needs and identities could be lost and an additional and unnecessary level of bureaucracy could be thrust on the scene.

As a result of these hearings, the administration, I think wisely, altered its original regulations substantially and issued new regulations which I believe will help in the efficient and successful operation of nutrition programs.

I wanted to insure that this process would not in any way be subverted by the action of the Congress on the Older Americans Act. As originally proposed by the administration title VII would have been absorbed by title III. This has been rejected. As subsequently proposed, title VII would have been required to operate as a part of title III programs. This has been rejected.

The House-passed bill would have expressed a strong pressure to force title VII programs to become part of title III programs. This has been rejected.

Instead, the conferees adopted the Senate position which incorporated the amendment I had introduced in committee. This states that only when "mutually agreed upon by recipients of grants and contracts and area planning and service areas" is there to be inclusion of nutrition projects in areawide projects.

The option is there for integration but there is no requirement, no demand that it be done. It is up to the local nutrition projects.

Thus, the Senate committee report, which is the operative explanatory language after the House receding to the Senate on this matter states:

> Second, provision is made for the integration of Title VII nutrition programs into comprehensive and coordinated social services systems funded under Title III, but only, it should be emphasized, when such an arrangement is mutually agreed upon by both the Title III and the Title VII grantees. It is not the intention of the committee to remove the special identity that the Title VII programs have already achieved.

Thus, let it be clear that in no way should HEW regulations, guidelines, or State actions in any way coerce or force or demand that successful title VII projects operate as part of title III projects. The option is there, but let the local programs decide what is best for themselves.

Mr. JAVITS. Mr. President, I commend the Senate-House conferees for responding in such a prompt, efficient, and bipartisan manner in processing the comprehensive older Americans service amendments through conference in the last few days. I would particularly like to congratulate the chairman of the Subcommittee on Aging, Senator Eagleton, and the ranking minority Senator on that subcommittee, Senator Beall, for their valuable contributions in furthering the efforts of the Congress to coordinate and deliver improved and expanded services to older Americans in an effective manner.

I am particularly gratified that the conferees have resolved in a true spirit of cooperation and concern for the well-being of older Americans, the points of difference which existed between the House bill and the Senate bill. I am gratified that the concern that was expressed by many Senators, including myself, as well as by the administration, over the creation of an independent advocacy commission has been resolved amicably by transferring certain functions assigned to the advocacy commission to the council established under the House bill and accepting the House establishment of such a council. I believe that this is a healthy and constructive approach which encompasses in a sufficient manner the concerns expressed by both adherents of the advocacy commission concept and those who were opposed to it. I trust that the Senate will respond favorably to this approach, because these concerns were not expressed in a narrow partisan manner but as a result of legitimate anxiety over the creation of an advocacy body in the context of a nonadversary program.

It is my hope that this legislation will provide the essential framework for enabling older Americans to fully participate in our society with the maximum degree of independence. The life of older Americans should be a life filled with hope, confidence, and the freedom to act. In my judgment the bill provides one of the basic tools for assisting older people to secure equal opportunity for the full and free enjoyment of their retirement years.

I would like also to offer for the Record a brief description of the major provisions of the bill recommended by the conferees.

First, it establishes a 15-member Federal Council on the Aging which would work actively to promote the interests of older Americans on matters relating to their special needs and to Federal programs affecting them.

Second, the Administration on Aging would be elevated by placing it in the Office of the Secretary of Health, Education, and Welfare and would make the Commissioner on Aging directly responsible to the Secretary and required to report to him on the central policy matters affecting the act.

Third, the conference agreement adopts the existing title III formula for fiscal year 1973 except that the minimum guarantee is reduced from 1 to ½ percent for States and from ½ to ¼ percent for territories. In succeeding fiscal years the formula now contained in title VII of the Older Americans Act of 1965 is adopted, except that each State and territory is guaranteed as a minimum an amount equal to its fiscal year 1973 allotment.

Fourth, funds are authorized for direct grants by the Commissioner on Aging to support model projects which would expand or improve social services to older persons and inserts language of the House bill defining projects dealing with such matters as housing, transportation, employment, continued education, preretirement counseling, and special services for the handicapped.

Fifth, the Commissioner is authorized to make grants and contracts to conduct research in the field of aging and for training personnel for programs for the aging, including the establishment of multidiscipline centers of gerontology. A special program of grants and contracts relating to transportation problems of the elderly is incorporated into the model projects section of the bill.

Sixth, funds are authorized to make grants for the purpose of acquisition, alteration, renovation, or construction of multipurpose senior centers.

Seventh, authorization for the Foster Grandparents and RSVP programs conducted by the Action Agency is extended for an additional 3 years and broadened to permit the provision of services to individuals other than children. The present age 60 eligibility for participation in the program is retained.

In addition, the conference report includes two proposals to maximize job opportunities for older workers: First, the Older Americans Comprehensive Service Employment Act which would assist in converting mainstream pilot projects into permanent ongoing national programs, and second, the Middle-Aged and Older Workers Training Act which would authorize training, counseling, and special support services for unemployed or underemployed individuals who are middle-aged or older.

Mr. President, I wish to comment generally also on titles IX and X of the conference bill.

Title IX would establish a program of community service jobs for low-income persons 55 years or older with an authorization of $100 million for fiscal year 1973 and $150 million for fiscal year 1974.

Title X, a complementary provision, would establish a program of manpower training and related services for unemployed and underemployed persons 45 years of age or older with an authorization of $100 million for fiscal year 1974, during fiscal 1973 it would be conducted through existing programs.

I support both of these titles. In my opinion, these new measures constitute a necessary supplement at this time to the provision made for middle-aged and older persons under existing manpower training, work experience, and employment programs.

The conditions of unemployment and job scarcity which affect many of our citizens are particularly harsh in their effect on middle-aged and older persons. Most vulnerable to technological change and subject as well to age discrimination, middle-aged and older workers are often at a disadvantage in competing for existing jobs in the labor market.

As ranking minority member of the Committee on Labor and Public Welfare, and a member of its Subcommittee on Employment, Manpower and Poverty, I consider it my duty now—as I did when the bill was considered by the Senate—to indicate that the administration is opposed to the inclusion of these titles.

Their position is set forth in a letter to the conferees dated October which reads as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., October 9, 1972.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to express the concern of the Department of Labor to Titles IX and X of S. 4044, Older Americans Act Amendments of 1972.

The major conceptual concern deals with the fact that these titles are duplications of existing legislation and establish a separate category for this particular client group.

As you know, the Labor Department shares the concern of your Committee with the manpower and employment problems of middle-aged and older workers. We feel, however, that all of the purposes of Titles IX and X can be carried out under existing legislation.

We are most concerned about a specific allocation of funds for one client group, as this will clearly create a demand from other groups for equal treatment.

Finally, I must also emphasize that the President's budget for fiscal 1973 for all manpower and employment programs under the jurisdiction of the Labor Department is in excess of four billion dollars. If further appropriations were authorized for middle-aged and older workers we believe corresponding reductions would need to be made in other manpower activities.

Sincerely,

MALCOLM R. LOVELL,
Assistant Secretary.

Mr. President, although the conference did not accede to the administration's desire to eliminate both of these titles from the bill, I should point out that the conference bill does reflect some concern with the administration's position.

First, each title contains provisions—which I added in committee—authorizing and directing the Secretary of Labor to coordinate these programs with existing programs and when any comprehensive manpower legislation is enacted—as we hope it will be early next year—to carry out these programs through that new authority.

These provisions are contained in section 903(b)(c) of title IX and section 1033(b)(c) of title X.

Second, with respect to title X for fiscal year 1973—the current fiscal year—in lieu of the $100 million authorization contained in the Senate-passed bill for that year, the conference agreed upon a provision under which the Secretary is directed to carry out the program through existing similar programs. This is contained in section 1004 of the act. For fiscal year 1974, an authorization of $100 million is provided.

I ask unanimous consent that a chart prepared at my request by the Department of Labor showing the current anticipated level of funding and opportunities in each of the major existing programs be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

MANPOWER ADMINISTRATION—FISCAL YEAR 1972 WORK AND TRAINING PROGRAM RESOURCES GOING TO ENROLLEES 45 YEARS OF AGE AND OVER

[Dollar amounts in millions]

	Total funds obligated	Number of enrollees 45 and over	Percent of enrollees 45 and over	Funds obligated for 45 and over
Public employment program (PEP)	$976.0	36,200	16.0	$156.2
Work incentive program (WIN)	183.3	6,000	5.0	9.2
Operation Mainstream	83.9	17,000	46.0	38.6
Public service careers (PSC)	62.2	8,100	14.0	8.7
Job opportunities in business sector (JOBS)	125.6	4,100	5.0	6.3
Jobs optional program (JOPS)	48.1	4,600	8.0	3.2
MDTA institutional	372.5	14,200	8.0	29.8
Special targeting (CEP)	154.6	5,100	6.0	9.3
National contracts	20.5	3,000	12.0	2.5
Total	2,026.7	98,300	11.3	264.4

Mr. STAFFORD. Mr. President, the conference report on the Older Americans Act represents a significant step toward the goal of helping our older citizens who have done so much to help this country progress.

The approach as taken by both the House and State in working out an acceptable bill truly demonstrates a unified congressional concern for those who have borne the burden of the society. The many older Americans deserve the gratitude of our generation and of those generations that have come behind us for the hard work they have done; yet, as we have seen in our recent hearings on both sides of the Congress, the lot of the older American is not one which we would like to idealize.

The Older American Act will be able to refocus the priorities of our older citizens for the Government to take action that is needed. The significant increases in moneys for the program and the new redirections show our commitment toward helping these citizens.

A few important changes in direction in this legislation are the creation of the Administration on Aging within the office of the Secretary, which I might add, was originally intended by the Congress when the administration was created.

The second is a general focal point of the research and development and special impact programs into those areas that need the immediate solutions that would most benefit the older citizens. In particular, I am thinking of the need of transportation. The Senate bill incorporated a proposal for a comprehensive study and survey of transportation problems for the elderly which was authored by Senator WILLIAMS and myself. This section is not just another study, but is a demonstration project combined with a study for the utilization of a variety of methods and techniques to solve the transportation problems of our older citizens. The emphasis of this section is on solutions. We have had enough studies and solutions are now needed.

I feel sure that the administration will pursue this vigorously and provide the needed mobility for the many older citizens who find themselves confined.

I would like to add one more thought of support for the nutrition programs of title VII of the bill which I was happy to cosponsor as a separate bill in the last session of the Congress. This is a significant step forward on the part of the Congress and the Government to help solve another major problem faced by older Americans.

Again, it is my hope that the administration will vigorously pursue this program to make sure that every older American has a balanced diet.

Thank you, Mr. President.

H.R. 15657—OLDER AMERICANS ACT AMENDMENTS

Mr. RANDOLPH. Mr. President, as a sponsor of one of its major titles; as one who was privileged to act as chairman of the Senate conferees in Senator EAGLETON's necessary absence when the conference report was agreed to; and as one who has fought for the concerns of the aging for many years, I am gratified that agreement has been reached on H.R. 15657, the Comprehensive Older Americans Services Amendments of 1972.

The conference report includes as title X a measure which I have sponsored for several years—the Middle-Aged and Older Workers Training Act. I am most pleased that the conferees on the part of the House agreed to these provisions. I firmly believe they are absolutely necessary if we are to even begin to lift middle-aged and older workers out of the quagmire of long-term unemployment.

More than 1 million persons age 45 and older are now unemployed. This is a shocking increase of 73 percent since January 1969. The statistics on very long-term unemployment among this age group are even more alarming. The number of middle-aged and older workers out of work for 27 weeks or longer has increased by 352 percent since 1969.

The tide that has resulted in such human misery and poverty must be stopped, and stopped now. Even the figures I have recited are only the tip of the iceberg. They do not include hidden unemployment—the "dropouts" who are no longer seeking work. It is conservatively estimated that if such unemployment were included—as it should be—in the unemployment statistics, the number of middle-aged and older workers who are out of work would jump by at least 1 million persons.

Title X of the conference report, which I introduced last year as S. 1307, would begin to reverse this trend of human devastation.

I must add that the other aspects of H.R. 15657, already discussed in detail by the able manager of this legislation in the Senate, are eminently worth while, and will, in accordance with the recommendations of the White House Conference on Aging, provide a new emphasis to serving the needs of America's older population.

I fully support the adoption of the conference report in the Senate, and urge its prompt enactment into law.

Mr. EAGLETON. Mr. President, I move that the Senate agree to the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

RESEARCH ON AGING ACT OF 1972

Mr. EAGLETON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14424.

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate the amendment of the House of Representatives to the amendments of the Senate to the bill (H.R. 14424) to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes, which was, in lieu of the matter inserted by the amendment of the Senate, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Research on Aging Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

(2) that, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) that recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) that there is no American institution that has undertaken, or is now capable of undertaking, comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

(5) that the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution.

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART G—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 461. The Secretary shall establish in the Public Health Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the 'Institute') for the conduct and support of biomedical, social, and behavioral research and training relating to the aging process and the diseases and other special problems and needs of the aged.

"NATIONAL ADVISORY COUNCIL ON AGING

"SEC. 462. (a) The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

"(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the Advisory Council established under this section, except that the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary. The Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences related to aging.

"(c) Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this Act relating to programs for the aged.

"FUNCTIONS

"SEC. 463. (a) The Secretary shall, through the Institute, carry out the purposes of section 301 with respect to research, investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Director of the National Institutes of Health shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study an investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses) as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare.

"(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"SEC. 464. (a) The Secretary, in consultation with the Institute (acting through the Council) and such other appropriate advisory bodies as he may establish, shall within one year after the effective date of this section develop a plan for an aging research program designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

"(b) The plan required by subsection (a) of this section shall be transmitted to the Congress and the President and shall set forth the staffing and funding requirements to carry out the program contained therein."

SEC. 2. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE AGED

"GRANTS FOR FACILITIES AND STAFFING

"SEC. 281. (a) Grants may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of construction of facilities to provide mental health services for the aged within the States, and (2) to assist them in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of the aged constructed with a grant made under part A of this section or for the operation of new services for mental health of the aged in an existing facility.

"(b)(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the aged.

"(2) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurances satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and followup services (as prescribed by the Secretary) for the aged in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of other community agencies serving the aged in such area.

"(3) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

"(d)(1) There are authorized to be appropriated for the fiscal year ending June 30, 1973, (A) $5,000,000 for grants under this section for construction, and (B) $15,000,000 for initial grants under this section for compensation of professional and technical personnel and for training and evaluation grants under section 282.

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next six fiscal years such sums as may be necessary to continue to make grants with respect to any project under this section for which an initial staffing grant was made from appropriations under paragraph (1) (B) for the fiscal year ending June 30, 1973.

"TRAINING AND EVALUATION

"SEC. 282. The Secretary is authorized, during the period beginning July 1, 1972, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of the aged, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the aged within the United States with a view to determining ways and means of improving, extending, and expanding such programs."

Mr. EAGLETON. Mr. President, the adoption of this legislation, H.R. 14424, to create a National Institute on Aging, will fill a long recognized but long unmet need to greatly expand biological and behavioral research into the aging process. As the principal sponsor of this legislation, and as chairman of the Subcommittee on Aging of the Senate Committee on Labor and Public Welfare, which developed and refined the bill, I am pleased to recommend it to the Senate.

Basic research in the process of aging is widely recognized in the scientific community as an idea whose time has come. In testimony and other materials submitted to the committee, respected authorities have stated that scientific knowledge regarding aging and degenerative diseases has reached a point where major breakthroughs are possible. Critical, but still unanswered, questions about growing old present persuasive arguments for developing an expanded, coordinated research program in aging.

That aging is a major biological process is undisputed. Moreover, aging underlies our increased susceptibility with advanced years to cancer, heart attacks, and other life-terminating events. The aging process determines the maximum lifespan of a species; thus very few humans live beyond 100 years and very few dogs live beyond 20 years. Dogs die of the same spectrum of diseases as does man but the rate at which these diseases develop and run their course in dogs is about five times as fast as in man since the lifespan of dogs is about one-fifth that of man.

These facts have particular significance when viewed in relationship to the extraordinary growth of our Nation's elderly population and the corresponding increase in health costs associated with care and treatment for the elderly. Today there are more than 20 million Americans aged 65 or older—nearly seven times as many as at the beginning of this century—and the older population is increasing at a much faster rate than the under-65 population. Between 1960 and 1970, the over-65 population showed a rise of 21.1 percent while the under-65 population grew 12.5 percent. Within the next 30 years, we can expect nearly 45 million persons to reach their 65th birthday. In this population group, health problems tend to be the rule, not the exception. Eighty percent of those aged 65 or older have a chronic health problem and 40 percent are impaired in their activities because of a health condition. They are twice as likely to be hospitalized as younger persons and, once hospitalized, their average stay is twice as long. As much as two-thirds of our total expenditures for health care can be attributed to treating older persons, according to some estimates.

Despite these facts, the level of federally supported research into phenomena associated with aging has been extremely low. As a nation, we recognize the importance of research—but unfortunately not in the field of aging. The amount expressly devoted to aging research in the National Institutes of Health represents only about one-tenth of 1 percent of Federal expenditures in health programs for the elderly. In sharp contrast, many businesses or governmental units may earmark as much as 5 to 10 percent of their available funds for research.

Not only is gerontological research funded at low levels, it is fragmented among the departments and agencies of the Federal Government. This diffusion of responsibility has resulted in duplication of efforts, lack of coordination, and gaps in our overall approach. Most importantly, the result has been a severe lack of systematic research in aging.

The focal point for aging research in the National Institutes of Health—NIH—is the National Institute of Child Health and Human Development—NICHD. This Institute was authorized by legislation enacted in 1962 and, as its programs have evolved, major emphasis has been given to research in child health, human reproduction, and fertility control. Aging research constitutes only about 10 percent of its budget and such increases in funding for aging research as have occurred in recent years have been achieved largely through the insistence of the Appropriations Committees of the Senate and the House of Representatives. In 1968, NICHD established the Gerontology Research Center for intramural research in aging. This center, located in Baltimore, was designed to be the largest center for aging research in the world, yet it has consistently operated at 50 percent, or less, of its intended capacity. The failure to staff this center on an adequate basis and to conduct the vigorous intramural program of gerontological research for which it was designed is reflective of the relatively low priority accorded this kind of research within the present organizational structure at the National Institutes of Health.

The creation of a National Institute of Aging, as provided in H.R. 14424, is an effort to reverse this trend. Expansion of the aging research and training program within NICHD cannot reasonably be expected to take place at the expense of the other programs which have dominated the activities of the Institute since its inception. Nor can it be anticipated that such expansion will occur as a result of overall NICHD budget increases, for the funding history shows the aging program remaining relatively static in comparison to the large increases received by other NICHD programs. Indeed, the budget request for fiscal year 1972 showed a substantial increase for the Institute as a whole accompanied by a cutback for the aging program.

These are the considerations that led the delegates to the 1971 White House Conference on Aging to recommend the establishment of a separate institute to conduct research and training in aging. Significantly, a similar recommendation made by the 1961 White House Conference on Aging was sought to be answered by including aging research and training within the responsibilities assigned to NICHD when it was created in 1962. The reiteration of this recommendation by the most recent White House conference points up the inadequacies of the aging program as conducted by NICHD.

Mr. President, both the Senate and the House have responded to these recommendations by enacting separate versions of the bill to establish a National Institute on Aging. The substantive differences in the House and Senate versions are as follows:

First. The Senate amendment spelled out in some detail the structure and membership of an advisory council to the Institute while the House bill provided for such an advisory council in general terms.

Second. The House bill emphasized biomedical research while the Senate bill provided for social and behavioral research as well.

Third. The Senate amendment called for the development of an aging research plan which was not contained in the House bill.

Fourth. The House bill contained an amendment to the Community Mental Health Centers program to establish a special emphasis program for mental health services for the elderly. While the Senate amendment did not contain this provision, a nearly identical section was contained as a part of S. 3716, which passed the Senate earlier this session but which was not passed by the House.

Given the limited scope of the differences between the House and Senate versions, we have concluded that these differences can be appropriately disposed of by amending the bill rather than by convening a conference committee. Accordingly the House last week adopted an amendment to the Senate amendment and it is this which is presently before the Senate.

The House-passed amendment disposes of our differences in the following manner:

First. The advisory committee structure is retained as provided in the original House bill in accordance with suggestions made by the administration. However, provision is made for representation on the advisory committee of social scientists, along with biomedical scientists and public representatives.

Second. The Senate language on biomedical, social and behavioral research to be conducted by the new institute is retained by the amendment.

Third. The aging research plan provided in the Senate amendment is retained by the House amendment.

Fourth. The House amendment retains the provisions relating to Community Mental Health Centers programs for the elderly, inasmuch as this program has been passed by both Houses although in different bills.

In closing, Mr. President, I cannot let this opportunity pass without paying tribute to a very distinguished lady, Mrs. Florence Mahoney of Washington, D.C., whose intelligence, determination, and concern for the creation of a National Institute on Aging contributed in very large measure to the enactment of this legislation. Indeed, Mr. President, were it not contrary to the accepted practice, I would suggest that the new institute might appropriately be known as the Florence Mahoney Institute on Aging—her role has been of that great a significance. I am grateful to Mrs. Mahoney for the encouragement that she has given and the support she has mobilized on behalf of the establishment of this institute. While I did not presume to intrude on the prerogatives of the Secertary of Health, Education, and Welfare, I strongly commend Mrs. Mahoney to him with the hope that he may find her to be a suitable nominee for a position on the advisory council of the new institute.

Finally, Mr. President, I want to express my thanks and appreciation to the ranking majority member of the Subcommittee on Aging, the senior Senator from California (Mr. CRANSTON) and the ranking minority member, the junior Senator from Maryland (Mr. BEALL). Senator CRANSTON took a very active interest in this bill and was good enough to chair hearings on it in California. Senator BEALL, as is his practice with all matters being considered by our subcommittee, worked constructively and in a genuine spirit of cooperation to develop the best possible bill. Again, I am grateful to both these distinguished Senators and to all of the other members of our subcommittee who consistently contribute so much to our legislation.

Mr. BEALL. Mr. President, in recent decades, improved nutrition and improved medical services have dramatically extended the average life expectancy of Americans. It is interesting to note that there are, today, over 20 million Americans age 65 and over. This constitutes an almost sevenfold increase since the turn of the century. In addition, the over 65 segment of our population is growing almost twice as fast as is the rest of our society.

In 1962, the Congress responded to this situation by creating a National Institute of Child Health and Human Development containing the Center for Gerontological Research within the framework of the National Institutes of Health. This Institute conducts research into the developmental process as it affects all age groups within our society. Unfortunately, only approximately 11 percent of the budget of NICHD has been devoted to studying the aging process in the upper age ranges. On the contrary, approximately 58 percent of the budget has been devoted to the activities in the field of child health while an additional 31 percent has gone into various aspects of population research.

This unfortunate distribution of resources served to motivate the Subcommittee on Aging's deliberations with regard to the establishment of a separate National Institute on Aging. In addition to granting a greater degree of visibility and momentum to research in the field of the aging process, the establishment of a separate institute should serve to bring together the presently defused and fragmented research efforts which are presently scattered among a variety of Federal departments and agencies.

It is our desire, in the creation of the Institute on Aging, to produce a coherent and coordinated research program that is capable of systematically unlocking the secrets of the aging process. It is important to note, Mr. President, that the subcommittee did not envision the National Institute on Aging as an agency that would overlap or compete with existing institutes within NIH. We expect that the new Institute will primarily concern itself with the biomedical and behavioral aspects of the aging process, rather than undertake the indepth research into various chronic diseases, and so forth, which tend to afflict the aging.

In addition to establishing the National Institute on Aging, H.R. 14424 contains a provision authorizing a program of grants to public and nonprofit agencies and organizations for the construction and staffing of community mental health centers for senior citizens. Existing facilities, could also receive Federal assistance if they are prepared to provide a full range of treatment and the appropriate followup services.

Although senior citizens are served by the facilities established under the Community Mental Health Centers Act, the committee found that these centers did not provide the comprehensive specialized programs oriented toward the needs of older persons. Since older Americans unfortunately constitute the largest age group in our mental hospitals as well as being the victims of the highest incident rate of psychiatric disturbances, I believe that the time has come for special emphasis to be placed on delivering these vital medical services to those who most need it.

In closing, Mr. President, I would like to say that throughout my career in public service, I have been deeply concerned about the way our Government, on all levels, delivers services. A nation that can put men on the moon and explore the far reaches of space, that can conduct medical and scientific research on a scale and in depths unequalled in history, is the same nation that is often plagued by the unbelievable inability to render coherent and comprehensive services to people in need of them.

Earlier this year I introduced legislation that seeks, on a broader scale, to resolve some of the problems we are alluding to in this bill. My proposal to create an Institute of Health Care Delivery, which has subsequently been incorporated into S. 327, the health maintenance organization bill, is designed to conduct research on the techniques of delivering health care services so that our citizens can benefit from the truly remarkable work being done at public and private research centers throughout our Nation.

The substantive breakthroughs achieved at NIH and similar research centers cannot begin to benefit the American people until that data "filters down" to the operating level of health care delivery. In addition, such benefits are denied to many Americans because our presently inefficient delivery procedures result in prohibitively high costs for medical services.

Mr. President, I enthusiastically support the provisions contained in H.R. 14424, because I believe that the health and welfare of millions of older Americans will be, over a period of time, substantially improved as a result of the research conducted by the National Institute on Aging. In addition, I would hope that the community mental health provisions of this legislation will enable us to make necessary medical services available to those in need of it. I would urge my colleagues to give prompt and favorable action to this important legislation.

Mr. EAGLETON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment and that this bill be passed and sent to the President so that an early start can be made on the establishment of the National Institute on Aging.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

AMENDMENT OF SECTION 389 OF THE REVISED STATUTES OF THE UNITED STATES

Mr. EAGLETON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11773.

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 11773) to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. EAGLETON. Mr. President, I move that the Senate insist upon its amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. MUSKIE. Mr. President, I now ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BOGGS. Mr. President, I wish to express my strong support for S. 3342, the Environmental Noise Control Act of 1972. This legislation, I believe, represents a major first step toward a better environment through the elimination of excessive and unnecessary noise.

In a 20th century urban society, all of us are subjected to a continual onslaught of noise. This occurs literally from the time we wake up in the morning until we go to sleep at night—if we can get to sleep with the racket going on outside our window.

Consider a typical day. The average American is subjected to a wide range of household noises, electric shavers, dishwashers, garbage disposals, and dozens of other sources, including our neighbors' stereo set, or an overhead jet.

On our way to work, our nerves are jangled by the noise of car horns, trucks, construction equipment, buses, or subways, depending on where we live.

At our office or factory, we may be assaulted by noisy machinery and equipment.

After work, the cycle begins again, in reverse.

To an extent, we seem to be able to adapt to such noise—to an extent. The average citizen may well be totally unaware of the range of noises to which he is subjected during his day, and of the total effect of continual exposure to noise.

Yet, all of us are aware of the need for quiet.

When planning a vacation, do not we tend to choose a retreat, at least partially, because it is quiet?

Apart from the health problems associated with noise, American society seems to seek a quieter environment for its own sake. If we can cut down on the excessive and unnecessary noise, the quality of our lives will be improved.

Mr. President, the bill before us today is an important and valuable piece of legislation. I support it fully, because we need a coordinated, Federal program to control noise pollution.

By directing the Administrator of the Environmental Protection Agency to set standards on major noise sources based on the best available noise control technology, we will achieve a quieter environment based on a reasonable standard.

I know some members believe EPA should not have authority over aircraft noise. I disagree. I believe the legislation giving EPA the responsibility for setting the standard, with a Federal Aviation Administration veto based on safety, is the best course, because the agency responsible for protecting the environment can best make this decision.

But let us not assume that this is a problem which can be solved by governmental action alone. Private citizens can and must play a key role in quieting excess noise in our Nation.

We need to become more noise-conscious, more aware of the need for quiet. Private citizens, in the free marketplace, can do as much as for quieter environment as the Congress can accomplish by legislation. For example, it has been recognized that a family will often buy a noisy vacuum cleaner, in preference to a quieter one, because the family mistakenly equates noise with cleaning power. The same is true with motorcycles, cars, and other things we buy. If we understood that the noisier machine was not necessarily the best, and that the excessive noise harmed the buyer, we might choose the quieter machine.

Another contribution the private citizen can make is simply to complain more when irritated by noise. Noise is usually a byproduct of a necessary activity. And it is often a byproduct that goes unnoticed by its producer.

Citizen complaints could be effective, for example, as a way to encourage construction contractors to use quieter equipment, when available, and confine their activities to reasonable, daytime hours. Citizen activity can also prod State and local governments into writing the kind of effective antinoise use ordinances that continue to be permitted by this legislation.

Mr. President, peace and quiet is a universal, human need. A quieter world is a better world, a world in which the quality of our lives will be enhanced. I urge the passage of this legislation. While it is not a cure-all, it does represent a major step toward a better quality of life for all Americans.

I would like to explain some of the features of the bill.

In his last two environmental messages the President proposed comprehensive noise legislation. We have taken the major objectives of that legislation, strengthened and broadened many of its provisions, and incorporated a number of the concepts from the Clean Air Act Amendments of 1970 and the Federal Water Pollution Control Act Amendments of 1972 now before the President for signature, and produced what we think is a stronger, more enforceable, more workable bill. We have received assurances from William D. Ruckelshaus, the very able Administrator of the Environmental Protection Agency that he approves of S. 3342 and could accept the changes from the administration's proposed legislation.

Some of the major features of this legislation include, first, the application of the best available technology standard to major classes of manufactured equipment; second, the direction that all Federal agencies conduct their programs in a manner fully consistent with this legislation; third, that EPA develop basic criteria documents on noise and its control, that EPA publish reports identifying products or classes that are major sources of noise and provide information on techniques for controlling noise from such sources; fourth, that EPA set noise levels for interstate motor carriers, railroads, and aircraft, with the aircraft standards subject to Federal Aviation Administration review with regard to safety and technological feasibility; fifth, EPA would be authorized to make grants to State and local noise control program agencies; sixth, several new enforcement powers would be granted, including civil and criminal penalties, authority to enjoin violations and authority for citizens to compel the Administrator to perform nondiscretionary acts and to bring any person into compliance with the terms of the statute.

Some of the major problems with which the committee grappled included the appropriate standard to be set for new products manufactured in the United States, the respective roles of Federal, State, and local governments in control of noise, and the respective roles of the EPA and the FAA in the control of aircraft and airport noise.

Building upon the experience of the Clean Air Act and the Federal Water Pollution Control Act, the committee determined that rather than the vague and general test of protecting public health and welfare, it would be preferable to set standards for major sources of noise based on best available technology taking into account the cost of compliance. Witnesses before the committee indicated that in most cases the noise of major classes of products manufactured in the United States could be drastically reduced by the applicaton of existing technology and that the cost of applying such technology would be comparatively reasonable.

Therefore, it was determined that precise, uniform, and enforceable standards could best be obtained by requiring that EPA apply a technological standard rather than apply the health and welfare test directly. In this way, the public health and welfare would be best protected. The committee also chose to broaden the classes of equipment covered by these standards to include not only construction equipment, internal-combustion-powered equipment and transportation equipment as proposed by the administration, but also turbines and compressors, electrical and electronic equipment, and percussive and explosive equipment.

Testimony before the committee indicated that all of these classes are major sources of noise and should be regulated in a comprehensive manner. In a related area, the committee decided that the manufacturer should be required to warrant for the useful life of the equipment that the equipment will be free from defects in materials and workmanship that would cause it under normal use, operation, and maintenance to fail to meet the noise standard. Useful life as determined by the Administrator will have to take into account the range of uses to which such a product might be put. This is not a performance warranty but rather a defects warranty which takes into account the fact that the manufacturer might not be able to foresee all of the uses to which a product might conceivably be put.

The committee was concerned that the Federal, State and local roles in controlling noise be clearly delineated. Therefore it determined that Federal authority should be primarily for product noise emission standards. State and local authority to establish and enforce limits of environmental noise through licensing, regulation, or restriction of the use, operation or movement of a product would be preserved. On the other hand, States and localities would be preempted from setting noise emission standards which would be enforceable directly or indirectly against the manufacturer.

The committee intended to prohibit burdens on interstate commerce from State and local product emission standards while recognizing that States and localities would have primary responsibility for setting and enforcing limits on environmental noise needed to protect the public health and welfare. This was thought appropriate in view of the very high standard—best available technology—upon which Federal product requirements would be based.

The excessive noise from aircraft operations, particularly in the major urban centers of the United States, has been identified in EPA hearings and other forums and publications as the major noise problem for many of our citizens. The committee was concerned that the legislation which we brought to the floor should address this problem in a more responsible fashion than the bill proposed by the administration and the bill H.R. 11021 which the House passed. These latter bills provide only for EPA to call into question the standards for aircraft set by the FAA if EPA believed they would not meet the public health and welfare standard.

Neither of these bills addressed the critical problem of airport environmental noise as distinguished from the more narrow question of aircraft noise emission. S. 3342 vests authority in EPA to set standards for aircraft and aircraft engines based on the same standard as that for other classes of equipment, that is, on the basis of the degree of noise reduction achievable by applying the best available demonstrated technology taking into account the cost of compliance.

Of course, the committee determined that the safety of aircraft operations must be protected at all cost. Therefore, it reserved to FAA the right to review and, if need be, veto EPA proposed aircraft standards if they do not insure the highest degree of safety of, if the technology is not available to implement the standards.

This division of authority will provide that the environmental regulation is vested in the agency most concerned with environmental protection, as in the Clean Air Act and the Federal Water Pollution Control Act, and in the provisions of this bill for control of noise emissions from other classes of products. At the same time the special requirements of air safety and the need to assure the application of technological expertise by FAA is preserved.

The committee had hoped to deal with the problem of cumulative noise exposure in areas surrounding airports. However, we felt that in view of the lack of information as to how to solve this problem, it would be preferable to authorize EPA to conduct a comprehensive 1-year study of the airport noise problem and report back to the Congress with its recommendations. S. 3342 will authorize such a study.

This legislation will call for a quantum increase in the noise control program of the Environmental Protection Agency. I am confident that Mr. Ruckelshaus will be able to convert the embryonic noise control program which was established pursuant to title IV of the Clean Air Act Amendments of 1970 into a full-fledged Federal noise control and abatement program working in close cooperation with the States and localities throughout the Nation.

EPA will for the first time be able to coordinate the various Federal noise control programs, including the program of the Department of Labor under the Occupational Safety and Health Act of 1970, the program of the Department of Transportation for control of noise from transportation sources, and the program of NASA for research on aircraft noise. This will require a greatly increased level of funding and staffing and therefore we have provided $18 million in fiscal year 1973, $36 million in fiscal year 1974, and $50 million in fiscal year 1975.

In addition, there is provided for State grants $5 million in fiscal year 1973, $7.5 million in fiscal year 1974, $10 million in fiscal year 1975; and for the low-emission product incentive purchases $1 million in fiscal year 1973, $2 million in fiscal year 1974 and $2 million in fiscal year 1975. In some cases EPA may have to call upon other agencies to detail personnel to help set up programs and specific legislative authority is provided in the bill for such transfers.

We recognize that in many cases the control of noise is a local responsibility. Therefore provisions are included in the bill for grant support to State and local agencies and for joint enforcement of the bill's provisions. The committee envisions the closest cooperation of EPA with State and local noise control agencies.

I wish to call attention to the very fine work of the distinguished Senator from California (Mr. TUNNEY) who has worked with great enthusiasm for this bill and particularly for the provisions to control aircraft noise. The distinguished Senator from Maine (Mr. MUSKIE), the chairman of the Subcommittee on Air and Water Pollution, provided the same great leadership which he has demonstrated in guiding legislation on air and water pollution control, solid wastes and other environmental problems. The distinguished Senator from West Virginia (Mr. RANDOLPH), and chairman of our committee was most helpful in assuring that our committee moved this important legislation, notwithstanding the severe press of other pending business.

I take particular pride in calling attention to the efforts of our distinguished colleague from Kentucky, Senator COOPER, who will soon retire and who has been instrumental in producing a strong and workable noise bill, just as he has worked untiringly for other environmental legislation. The distinguished Senators from Tennessee (Mr. BAKER), and from Vermont (Mr. STAFFORD) gave considerable time and attention to this bill and I wish to give credit to their valuable efforts.

Mr. TUNNEY. Mr. President, I am prepared to yield back the remainder of my time unless someone else wants to talk, after I use up 1 more minute of my time. Is the Senator from Maine agreeable to that?

Mr. MUSKIE. Mr. President, I will agree to not more than a minute if I might respond.

Mr. TUNNEY. Mr. President, I would like to point out once again something that I made clear in my opening remarks.

The bill presently contains section 501(c) which states:

> Each Federal agency with regulatory authority over air commerce, aircraft, or airport operations, or aircraft noise emissions, including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

That relates to such things as flight and operational procedures, and any other means within present regulatory authority of relevant agencies. It relates to all those matters. No one can say the bill does not contain significant, strong language now so that these agencies must utilize their authority to produce a quieter airport environment. I do not want the record to appear that the committee and the manager of the bill are not in favor of reducing airport noise. This language will insure that all existent regulatory authority must be used.

Mr. MUSKIE. Mr. President, I may have to take more than a minute. There is no provision in the bill, unless I have been greatly mistaken during the course of committee work over a period of weeks, that authorizes noise standards or the issuance of criteria, or which provides for the development of plans for airport managers, or to require the FAA to provide technical assistance. I am not aware that it is there, but if it is we should have unanimous support for this amendment.

I gather the language the Senator refers to is on page 90 of the bill which reads, on line 17:

> "(c) Each Federal agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft noise emissions, including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

I suggest that on its own with such authority the FAA has not used such authority, and if this means what it says, the Senator should be glad to incorporate in the bill the procedures covered by the pending amendment.

With that, unless others wish to speak, I am prepared to yield back my time.

Mr. TUNNEY. I yield back the remainder of our time.

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Virginia (Mr. Spong) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), the Senator from South Carolina (Mr. Thurmond) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Fannin), and the Senator from Michigan (Mr. Griffin) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from Iowa (Mr. Miller), and the Senator from Texas (Mr. Tower) would each vote "nay."

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Oregon would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 31, nays 47, as follows:

[No. 547 Leg.]

YEAS—31

Aiken
Brock
Brooke
Buckley
Burdick
Case
Church
Cranston
Dole
Dominick
Eagleton
Fulbright
Hart
Hartke
Hughes
Humphrey
Javits
Mansfield
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Percy
Proxmire
Ribicoff
Schweiker
Smith
Stevenson
Williams

NAYS—47

Allen
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cooper
Cotton
Eastland
Ervin
Fong
Gambrell
Gravel
Gurney
Hansen
Hollings
Hruska
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
Moss
Pearson
Randolph
Roth
Saxbe
Scott
Sparkman
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Tunney
Weicker
Young

NOT VOTING—22

Allott
Baker
Chiles
Cook
Curtis
Edwards
Fannin
Goldwater
Griffin
Harris
Hatfield
Kennedy
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Pell
Spong
Thurmond
Tower

So Mr. Muskie's amendment was rejected.

Mr. RANDOLPH. Mr. President, noise is one of the most pervasive pollutants in our society. In our mechanized industries, transportation systems, and households, the level of noise to which the average citizen is exposed has increased to an astonishing level. Present trends indicate that the amount of environmental noise with which Americans must contend will double within 10 years.

At the present time as many as 44 million Americans have the comfort and serenity of their homes adversely affected by noise from aircraft or traffic, and 21 million more Americans are affected by construction-related noise. There may be as many as 40 million Americans whose exposure to noise constitutes a health hazard, with potential hearing impairment or other physiological and psychological effects. Not only is noise a serious problem of the workplace but it becomes increasingly difficult for individuals to find, in their home or place of recreation the quiet necessary to provide a recuperative period for mental processes or the delicate mechanisms of hearing.

Legislation to control levels of environmental noise is necessary now to check the rising crescendo of unwanted sound associated with our industrial society and to conserve the hearing and the mental peace of our citizens.

S. 3342, the Environmental Noise Control Act of 1972, as reported by the Committee on Public Works, provides a regulatory framework which will achieve effective control of this form of environmental degradation. Senator Tunney in his remarks has described the provisions of the bill in detail. I will emphasize to Members of the Senate several provisions which I think to be important.

First, the bill as reported by the committee addresses the problem of aircraft noise, a problem which our investigations indicated to be one of the most serious, yet one of the most difficult with which to deal. Under the present law, the Federal Aviation Administration is charged with the responsibility for establishing noise emission standards for all types of aircraft. At the same time, of course, the Federal Aviation Administration is required to fullfill its primary mission of facilitating safe and efficient air commerce.

In 1970, the Environmental Protection Agency was created to centralize Federal regulation of environmental problems. A major question which the committee faced in developing S. 3342 was the proper roles of the Federal Aviation Administration and the Environmental Protection Agency in controlling aircraft noise. It is clearly my understanding, and I believe the understanding of the committee, that the Federal Aviation Administration is the agency intended by the Congress to have primary responsibility for aircraft operations and safety in air commerce. The Nation's air commerce system must be operated, first of all, to assure safety for aircraft crews and passengers and for those on the ground, and second, to reduce the levels of aircraft noise to which the public is exposed, to the extent that aim is consistent with the highest degree of safety in air commerce.

Reflecting this understanding, the bill reported by the committee provides that standards for noise emissions from aircraft which manufacturers of aircraft and air carriers must attain, would be established on the basis of a joint determination by the Administrators of the Federal Aviation Administration and the Environmental Protection Agency as to the availability of demonstrated control technology and the reasonableness of compliance costs. However, air safety is the paramount concern, and the Administrator of the Federal Aviation Administration must determine that any proposed standards are consistent with the highest degree of safety in air commerce before such standards could be promulgated.

The question of regulating community noise around airports was discussed by the committee. However, it was the judgment of the committee that too little is known about the measurement of noise levels around airports and their effects on health or welfare to justify at this time any regulation of aircraft operations based on levels of noise exposure in the vicinity of airports. Instead, S. 3342 provides for a 1-year study by the Environmental Protection Agency of the implications of identifying and achieving levels of cumulative noise exposures around airports. The study also includes the retrofitting or phaseout of existing aircraft and any additional aircraft noise control measures which might be available to airport operators and local governments. The results and recommendations of this study will form a sound base of information for any legislation in this area in the future.

Another issue of importance in this legislation is the question of the roles State and local governments will play in controlling noise emissions after Federal emission standards have been established. The committee received extensive testimony that present standards were controlled by a variety of State and local jurisdictions, producing a situation of conflict and chaos for national manufacturers of such products as vehicles or construction equipment. This situation is placing an intolerable burden on interstate commerce as manufacturers strain to meet conflicting standards or are forced out of some local markets. S. 3342 responds to this problem by providing that once effective noise control standards have been established for any product by the Federal Government, State and local governments are preempted from setting noise emission standards applicable to that product. The intention of the committee is to relieve manufacturers from the burden of meeting conflicting standards, so long as there are effective Federal regulations, while preserving the power of State and local governments to deal with all sources of noise in the hands of their users. Thus, limitations on uses may be imposed but no State or local emission standards have products covered by Federal standards.

I also bring to the attention of the Senate the provisions in title V of S. 3342, which establishes a regulatory framework for noise from interstate trucks and buses and the operations of railroads. Here, as well as in the area of product noise emission standards, the transportation industry is faced with the prospect of conflicting noise control regulations in every jurisdiction along their routes. It is completely inappropriate for interstate carriers or interstate transportation to be burdened in this way. The committee met the need for active legislation on moving noise sources by requiring controls on noise from all interstate trucks and buses and railroads, including existing equipment which would not otherwise be subject to product noise emission standards under title IV and the patterns of operations of such carriers. After the effective date of an adequate Federal regulation program, the authority of State and local governments to regulate noise from interstate trucks and buses or trains is completely preempted, except where the Administrator determines it would be necessitated by special local conditions or in no conflict with the Federal requirements.

During the consideration of this bill, I received extensive correspondence on the subject of the warranty required by section 408(d). This warranty, similar to one now in effect for other vehicles under the Clean Air Act, requires manufacturers to warrant that defects in maintenance and workmanship will not cause a new product subject to noise emission standards, under normal uses and maintenance, to fail to conform to those standards under its useful life. The committee, recognizing that useful life will vary substantially for any given product depending upon the uses to which it is put and many other factors, modified the warranty provisions to require the Administrator to take into account the range of uses to which a product might be put as he establishes its useful life. It is the intention of the committee to make the manufacturers liable only for those increases in noise emission which were within his control in the manufacturing process. The user must bear the burden of operating and maintaining the product in a normal way if he wishes to be protected by the warranty on noise emissions.

Mr. President, there have been sporadic efforts by State and local governments to control the noise problem, and recent activity at those levels of government have given a further spur to Federal legislation. In 1970, the Committee on Public Works authored title IV of the Clean Air Act, establishing an Office of Noise Abatement and Control in the Environmental Protection Agency and launching the study which has culminated in this legislation. This bill will be a valuable tool in reducing the noise in our cities and our countryside and I urge its passage by the Senate.

Mr. PEARSON. Mr. President, one of the congressional leaders in efforts to control noise pollution is the distinguished senior Senator from Oregon (Mr. HATFIELD). Since coming to the Senate in 1967, he has been in the forefront of efforts to educate the public about this hazard, and to see that meaningful efforts to control unwanted noise are pursued by the Congress.

Senator HATFIELD hoped to be here on the Senate floor today to participate in this debate, but is in Oregon and unable to be here.

Because of his prominence in this effort, I would like to ask unanimous consent that a copy of Senator HATFIELD's major address to the Noise Abatement Council of America on October 8, 1969; his floor remarks in introducing the Noise Abatement Act of 1970 on November 24, 1970; his opening statement at hearings he chaired on the Noise Control Act of 1971—legislation he sponsored—on June 28, 1971, and his remarks and those of Senator HART in introducing strengthening amendments to that bill on June 21, 1971 all might appear at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD,
Oct. 9, 1969]

NOISE, THE GATHERING CRISIS

(Speech by Senator MARK O. HATFIELD, before the Noise Abatement Council of America, October 8, 1969)

There is a bumper sticker now circulating which says: "Eliminate Pollution Before Pollution Eliminates You." Immediately we will think of studies which threaten a lack of water by 1980 and conjure up the words of California scientists stating that within 50 years their state will be uninhabitable for any form of life. Or we hold our breath for a moment remembering that 142 million tons of smoke and noxious fumes are dumped into the atmosphere each year. Momentarily we feel brief panic and then for one reason or another, we forget the threatening words of the bumper sticker and go about our daily duties in a comfortable shield of self-deception and false security. Unfortunately such an attitude has now brought us to a situation in which the rapidly deteriorating quality of our environment is the most hazardous challenge to not only our health and well-being but to our very lives and those of our children and grandchildren.

Environmental pollution may not pose the immediate destruction that nuclear war does, but I might remind you that the effects are the same and just as lasting. And I might remind you that destruction at the hands of our environment is as immediate as your and my lifetime. And finally, I might remind you that lack of inhabitable land, lack of food, lack of good water to drink and good air to breath are the very conditions under which men become desperate and resort to any and all means to preserve their survival. It is with these thoughts in mind that I state my firm conviction that pollution—all forms of pollution: air, water, and noise pollution, overpopulation, land and soil pollution—is the most challenging and the most crucial problem facing the man of the 20th century. And it is with these thoughts in mind that I firmly believe that if we do not meet this problem with all the creativity and ingenuity of our age, then within a very short time nothing else will matter, for there will be nothing else to worry about.

Your concern with environmental pollution has brought you here today in order to form an effective citizen's group to combat this onslaught on our planet before it is indeed too late. Your special concern is with the assault of noise pollution on our society and in your recognition of noise as a pollutant you have established yourselves as somewhat pioneers in combating the effects of noise on our society. It was therefore an honor to be invited to speak at this organizational meeting of the Noise Abatement Council of America. Had such groups been instrumental in educating the public to appreciate the inevitable results of uncontrolled air and water pollution and in effecting remedial action to combat these problems even ten years ago then we would not be faced with the present national crisis in these areas. Today let us pledge ourselves to the task of preventing noise becoming another uncontrolled threat to our existence.

The effects of noise, although long a problem, have only begun to receive the well-founded concerns of government, health, industrial and community organizations. We are already far behind the rest of the world in appreciating the scope of the problem. For our backwardness in the field of noise abatement the United States is now the noisiest country on this planet, and frankly, I hate to think that we are now carrying this lack of respect for civilized standards to other planetary bodies. Basically, noise pollution is reaching crisis proportions in the United States and I think that it is time that all of us wake up to this fact.

We should be concerned with noise as a problem because for over a century noise exposure of sufficient intensity and duration has been recognized to produce sensorineural hearing loss. But in spite of this knowledge, an over-exposure to excessive noise is the major cause of hearing loss in the United States today. In fact it is estimated that 10–20 million people in the United States have some degree of hearing impairment.

Everyone realizes that if he is exposed to a very loud noise such as an explosion he may very likely wind up deaf—at least temporarily. What is not so apparent is that the effect of noise is cumulative; it produces as Dr. Leo Beranek, whose work in acoustics is international in scope, an "acoustic fatigue". Repeated moderate noise builds up to produce the same effect as would a single loud noise. And even more important, is the fact that repeated noise is the only type, short of a shattering explosion, that produces *permanent* hearing loss. The importance of this is readily seen when one is considering the harmful effects of exposure to daily occupational noise.

Another matter of some concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States became lethal. To quote Dr. Vern O. Knudsen, physicist and former Chancellor of the University of California. "If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

We know of course that the most pronounced physical effect of noise is damage to the ear. Exposure to intense noise over varying durations causes partial and in some cases permanent hearing loss due to actual cell damage in the organ of the Corti located within the cochlea of the inner ear.

But noise has much farther reaching effects than just hearing damage. As Paul E. Sabine stated even back as far as the March 1944 issue of the American Journal of Public Health: "There is a wealth of reliable data from medical sources in support of the statement that sustained exposure to noise is a contributing factor in impaired hearing, chronic fatigue that lowers bodily resistance, neurasthenia, increased blood pressure, and decreased working and mental efficiency and that noise should rightfully be classified as an occupational hazard along with gases, fumes, dust, toxic liquids, and bacteria." To put this into, if nothing else, economic perspective, the total cost to industry in compensation payments, lost production, and decreased efficiency due to noise is estimated at well over $4 billion per year. In relation to business a World Health Organization report states that before 1939 office noise was costing United States business $2 million per day through inefficient work. Today that figure is $4 million. The psychological and physiological effects of noise are difficult to assess but the correlation between noise and such things as sleep disturbances, hypertension due to the consistant response of hormonal and neurological mechanisms to noise stress, interference with basic communication, the loss in efficient performance and even damage to property must be counted as a very real and a very enormous threat to our well-being not to mention the economic repercussions.

The effects of noise cannot be fully appreciated until we have more thorough studies in the field. One effect which needs to be especially explored by sociologists and criminologists is referred to in a recent Fortune magazine article. As related by Fortune: In the Bronx borough of New York City one evening last spring, four boys were at play, shouting and racing in and out of an apartment building. Suddenly from a second-floor window came the crack of a pistol. One of the boys spawled dead on the pavement. The victim happened to be Roy Innis, Jr., thirteen, son of a prominent Negro leader, but there was no political implication in the tragedy. The killer, also a Negro, confessed to police that he was a nightworker who had lost control of himself because the noise from the boys prevented him from sleeping. This incident is extreme but worthy of our careful attention due to the implications it has on the worsening human problems which we are now experiencing in our cities.

Until recently the most authoritative voices about noise have come from within the industrial occupations due to the mere fact that noise has been a problem much longer in this area than in any other. Industrial management has become increasingly concerned with the adverse effects of noise on those persons who work under constant exposure to intense levels of noise—and I might add with due reason.

According to Dr. Glorig, director of the Callier Hearing and Speech Center in Dallas, Texas: "Industrial noise is now the most important single cause of hearing loss." Despite numerous research, training and regulatory programs now underway in some industries and in various Federal agencies, and despite the great strides accomplished in responsible noise abatement efforts in the occupational fields, there is still need for a vast amount of education in the field of occupational noise. For instance, B. F. Goodrich estimates that the total market for acoustical goods and products will reach $875 million by 1970, which if one takes into account all that this comprises is a very paltry sum.

Another example of the need for increased emphasis placed on occupational noise is the fact that permanent hearing loss caused by excessive exposure to noise is now a recognized occupation hazard and is compensable in only 35 states. I am always reminded of the basic lack of awareness in this field by an unfortunately true story which occurred when one of my aids was touring a textile factory in the South. When he commented on the high level of noise to which the workers were subjected, the manager hastened to assure him that immediate efforts were being made to correct the unpleasant conditions. "Next week the factory is playing country-western music over the loud-speaker at a level which will block out the noise of the factory."

The noise of our industries is put into further perspective when one considers them in light of "safe" noise levels. There are differences of opinion about permissible occupational noise levels. The American Academy of Ophthalmology and Otolaryngology states that our present knowledge of the relation of noise exposure and hearing loss is much too limited to propose safe amounts of exposure. However, the Academy recommends noise-exposure control and tests of hearing if there is habitual exposure to continuous noise at 85 decibels at a frequency of 300–1200 cycles per second. Noise is measured in a dimensionless unit called the decibel which is used to describe the levels of acoustical pressure, power and intensity.

The decibel expresses a logarithmic ratio between two sounds. In other words, the difference between a noise with a decibel rating of 60 and that with a rating of 70 is a relative increase of 10 times the lower level. The frequency of noise expressed in cycles per second is useful for rating noise hazards since some frequencies are more likely to cause hearing damage than others, with high pitched sounds more annoying than low pitched sounds. The British Medical Society recommends hearing conservation measures when noise exceeds 85 decibels in the 250-4000 cycles per second range.

The United States Air Force recommends ear defenders when personnel are exposed to 85 decibels in the 300–4800 frequency range. The American Standards Association has suggested permissible daily quotas of exposure to noise which they suggest should protect the worker from hearing loss. Over an eight hour working day they suggest a limit of 85 decibels at any frequency range above 700 cycles per second. In the Walsh-Healey Public Contracts Act the Federal government has adopted 90 decibels at any frequency range as a permissible safe occupational noise level.

Only recently has there been concern about the entire realm of urban and community noise although millions of Americans are affected each day by the repercussions of this type of noise. As Dougherty and Welsh commented in "Community Noise and Hearing Loss":

"The saving quality heretofore has been that community noise has been a short-term exposure as compared to an 8 hour day period in industry. As the power use of both home and street increase, steps must be taken to limit the noise output. Otherwise, total timed exposure will exceed industrial standards that actually rely on regular audiograms to prevent severe hearing loss."

Indeed the din in the cities at times far exceeds the noise levels considered "safe" for an occupational situation. A noise level of 100 decibels was once recorded on the Avenue of the Americas in New York City where the Transit Authority was building the extension of the 6th Avenue subway. Construction is perhaps the most irritating source of noise to the urbanite and the problem is intensified when once we realize that there are virtually no legal controls on the amount of noise that can emanate from a construction site. In the absence of any forms of control the consequences are logical—existing knowledge for noise control is not even applied.

Noise control costs money, and it is not reasonable to ask sympathetic construction firms to invest in noise control only to let unsympathetic firms underbid them on jobs by avoiding the noise control costs. Air compressors, pneumatic drills, power saws, concrete mixers and other machines involved in the construction or demolition of buildings are permitted in some urban areas between 7 am and 6 pm, six days a week and at night with special permit. Combined with the poor soundproofing in modern apartments, the sounds of congested traffic which can reach upwards of 90 decibels, and the multitudinous other sounds of "civilized living", the city dweller is caught in the midst of a "cacophonic catastrophe".

Europe and such countries as Russia and Japan have for some time had strictly enforced noise abatement laws, including zoning and construction measures and national councils like the Swiss Anti-Noise Commission which deals with the basic medical, acoustic and technical questions of road, rail and water traffic: aircraft noise, noise in industry, building construction, homes, etc.: and legal questions.

The United States by contrast has few laws regarding noise abatement and even those that it has are barely enforced. For example, New York City is one of the cities that has strict noise laws against horn-blowing and even has a legal noise limit for the city of 88 decibels at 150 feet. If you have ever been to New York, I am sure that these laws will come as surprising news.

The final assault on the nation's well-being due to noise and the one which brings you here today is that of aircraft noise. Of all the fields of noise abatement that of air transportation has received the most attention by industry and government due to the obvious severity of the problem. The possible adverse effects of aircraft noise have been recognized for several years. In 1952 the Dolittle Report pointed out that "positive efforts should be continued by both government and industry to reduce or control aircraft noise nuisance to people on the ground and that substantial reduction of such noise is practicable."

Such firms as Pratt and Whitney, General Electric and Boeing have been involved for some years in the research and development of a "quiet" engine. According to sources within the field we are five years away from a prototype which when operational will only reduce the perceived noise level at take-off and landing by 10 percent. The problem in this area is not so much a matter of money as lack of available technology. The sound of a jet taking off is approximately 130 decibels which is also the estimated maximum noise bearable to human ears. A reduction of 10% will bearly scratch the surface of the noise problem in this area unless there is a major technological breakthrough.

Therefore in combating aircraft noise we also need to pursue abatement efforts in the aspects of aircraft operations and apply methods of compatible landuse around the airports. In the realm of flight patterns, airport design and placement, guaranteed buffer zones, adequate soundproofing of buildings in and around airports, extension of runways, legal controls, and so on, joint action will have to be taken by the Federal government, the airlines, and the community. With over 98% of our airports owned by some level of state government, it will be primarily up to the local government and the airport operators of the same to effect noise abatement controls. In addition airport operators should share the responsibility of enforcing the new Federal Aviation Agency noise standards to be announced this month and closely coordinating local efforts with such programs as the Aircraft Noise Alleviation Program established under the F.A.A. in 1961.

For examples of innovative noise control efforts I recommended such programs as that taken in the Los Angeles area in which community efforts and pilot programs have been established to abate noise at the Los Angeles International Airport. The Port of New York Authority has also carried out extensions costing several million dollars to the three runways at New York's Kennedy International Airport solely out of noise abatement considerations. Dulles International Airport in Washington is a good example of how zoning laws and design can be effectively employed to control noise levels emanating from aircraft.

But despite these examples, the fact remains that there is much left to do before you can successfully cope with aircraft noise. Your recognition of this fact has brought you here today. There are many questions which must be answered before actual work can even begin. The most important of these is funding of noise abatement efforts. Who is responsible? Should we ever obtain an operational "quiet" engine, the estimated cost of retrofitting our four engine commercial jets has been upwards of $300 million. This is perhaps the most touchy issue which will face you in your efforts to combat jet noise for the costs are formidable and the responsibility ill-defined.

Another problem of considerable concern is that of the sonic boom. Until recently the shock waves from the sonic boom was confined to occasional military flights scheduled to fly over unpopulated areas of the United States. However, since President Nixon's request for $96 million for the current fiscal year ending June 30, 1970 in order to finance the start of construction of two SST prototype aircraft it now appears that within the next 10 years we will be subjected to the sound of commercial sonic booms. I am opposed to the development of this aircraft. Aside from the obvious criticism of low cost-benefit considerations, I find it difficult to justify the vast noise disturbance of this aircraft in light of the small domestic value derived. The plane has no defense value, will cost the government a total of $1.29 billion, out of a total development cost of $1.51 billion, and its flights have been estimated to disturb 20 million groundlings every time the SST flies from coast to coast.

The repercussions of the noise problem have just begun to be understood and much has been done to alleviate the noise onslaught on our environment. For instance, New York City has a law requiring walls soundproof enough to reduce any airborne noise passing through by 45 decibels. Some construction companies have proved that buildings can be constructed quietly, by muffliing blasting by special steel mesh blankets, welding instead of using the horrendous racket of riveting or bolting. New machines have been offered on the market which have a vast reduction in decibel rating over their old predecessors such as a new compressor which reduces the decibel level from 110 to 85 decibels and a new paving breaker that has had its sound reduced by ⅔.

New York, California, New Jersey, Minnesota, and other states have voted or have pending various legislation on noise abatement particularly in the realm of vehicular noise. Numerous local ordinances deal with specific noise problems of their area offering such things as prevention of transistor playing in public areas, zoning laws, etc. Some states have legislation which prohibits vehicles on its public highways that exceed certain established noise levels for that particular vehicle.

All of these are good beginnings but they cannot be assessed as anything more than just beginnings. What is needed are guaranteed standards for the man on the street, on his job, or in his home. In this category I would like to mention the Walsh-Healey Public Contracts Act which was signed into effect by Secretary of Labor Shultz on May 17, 1969. This Act provides for a limit of on-the-job noise levels at 90 decibels at any frequency. This regulation only applies to firms that have a $10,000 or better contract with the Federal government during the course of one year. The Walsh-Healey Act is a step in the right direction but again it is only a beginning. It only affects certain segments of workers and sets as a standard a noise level which is of debatable safety for an occupational level.

The real question at hand in the consideration of the noise level of our society is whether we are going to preserve the basic amenities of civilized life in the onslaught of technological advance.

As one noted figure in the noise abatement field, William H. Ferry, once said: "We have been neither interested nor successful in controlling noise because we have been neither interested nor successful in coping with technology."

Some 60 years ago Robert Koch, a bacteriologist and Nobel Laureate predicted: "The day will come when man will have to fight merciless noise as the worst enemy to his health."

That day is not so far away. The problem must be faced now before it is beyond our control. So I offer a few suggestions from my meager knowledge of the problem of what may prevent a continuation of the insult of noise on the future sensibilities of our nation. The problem of our "cacophonic republic" requires education, public awareness, increased research and greater application of economical acoustical materials, and a great deal of cooperation and coalition of effort between industry, business, government, health officials and community groups in order to find and carry out solutions to local, regional and national noise problems.

We need uniform noise control standards for all industrial and office workers . . . a Walsh-Healey Public Contracts Act of more encompassing and more rigorous standards.

We need to educate consumer demand that will call for quieter jobs and products in order to make it desirable for industry to compete to produce both at less cost.

We need the City Code level to handle such noise sources as garbage collection, construction, loud speakers, and motor vehicles. We need a regional approach to the research and development or programs directed toward the alleviation of the noises that plague particular areas of the United States. Lastly we need the full cooperation of the Federal government in assisting, coordinating and financing these efforts to provide a quieter environment.

As Dr. William H. Steward of the Public Health Service once stated: "Those things within man's power to control which impact upon an individual in a negative way, which infringe upon his integrity, and interrupt his pursuit of fulfillment, are hazards to the public health."

Noise can and must be controlled as a danger to the public health and economy, but above all else we must commit ourselves to the control of the noise in our society on the basis of civilized standards.

[From the Congressional Record,
Nov. 24, 1970]

S. 4538—Introduction of the Noise Abatement Act of 1970

Mr. Hatfield. Mr. President, as the country has become increasingly aware of the growing threat to our environment, attention has been primarily focused on air and water pollution. But there is another form of pollution which has been shown to be very harmful yet has received little public attention: noise.

Recently the Environmental Protection Agency was formed in which the various problems of our environment could be focused and possible solutions recommended. However, there was no provision made to deal with noise abatement with this agency. Today, consequently, I am introducing legislation which would create an Office of Noise Abatement within the Environmental Protection Agency. This office would help coordinate research on Federal, State, and local levels, provide grants for such research, help provide information regarding noise abatement to interested parties, and make recommendations regarding the promulgation of standards.

Mr. President, I am confident that the legislation I am introducing today will receive close scrutiny by the various Federal agencies which are already directing their attention to the problems of noise as well as the Environmental Protection Agency. And I am assured that we will be able to make an Office of Noise Abatement a reality through our mutual effort.

There is a bumper sticker now circulating which says:

"Eliminate Pollution Before Pollution Eliminates You."

Immediately we will think of studies which threaten a lack of water by 1980 and conjure up the words of California scientists stating that within 50 years their State will be uninhabitable for any form of life. Or we hold our breath for a moment remembering that 142 million tons of smoke and noxious fumes are dumped into the atmosphere each year. Momentarily we feel brief panic and then for one reason or another, we forget the threatening words of the bumper sticker and go about our daily duties in a comfortable shield of self-deception and false security. Unfortunately such an attitude has now brought us to a situation in which the rapidly deteriorating quality of our environment is the most hazardous challenge to not only our health and well-being but to our very lives and those of our children and grandchildren.

Environmental pollution may not pose the immediate destruction that nuclear war does, but I might remind you that the effects are the same and just as lasting. And I might remind you that destruction at the hands of our environment is as immediate as your and my lifetime. And finally, I might remind you that lack of inhabitable land, lack of food, lack of good water to drink and good air to breathe are the very conditions under which men become desparate and resort to any and all means to preserve their survival. It is with these thoughts in mind that I state my firm conviction that pollution—all forms of pollution: air, water, and noise pollution, overpopulation, land and soil pollution—is the most challenging and the most crucial problem facing the man of the 20th century. And it is with these thoughts in mind that I firmly believe that if we do not meet this problem with all the creativity and ingenuity of our age, then within a very short time nothing else will matter, for there will be nothing else to worry about.

Your concern with environmental pollution has brought you here today in order to form an effective citizen's group to combat this onslaught on our planet before it is indeed too late. Your special concern is with the assault of noise pollution on our society and in your recognition of noise as a pollutant you have established yourselves as somewhat pioneers in combating the effects of noise on our society. It was, therefore, an honor to be invited to speak at this organizational meeting of the Noise Abatement Council of America. Had such groups been instrumental in educating the public to appreciate the inevitable results of uncontrolled air and water pollution and in affecting remedial action to combat these problems even 10 years ago then we would not be faced with the present national crisis in these areas. Today let us pledge ourselves to the task of preventing noise becoming another uncontrolled threat to our existence.

The effects of noise, although long a problem, have only begun to receive the well-founded concerns of government, health, industrial, and community organizations. We are already far behind the rest of the world in appreciating the scope of the problem. For our backwardness in the field of noise abatement the United States is now the noisiest country on this planet, and frankly, I hate to think that we are now carrying this lack of respect for civilized standards to other planetary bodies. Basically, noise pollution is reaching crisis proportions in the United States and I think that it is time that all of us wake up to this fact.

We should be concerned with noise as a problem because for over a century noise exposure of sufficient intensity and duration has been recognized to produce sensorineural hearing loss. But in spite of this knowledge, an overexposure to excessive noise is the major cause of hearing loss in the United States today. In fact it is estimated that 10 to 20 million people in the United States have some degree of hearing impairment.

Everyone realizes that if he is exposed to a very loud noise such as an explosion he may very likely wind up deaf—at least temporarily. What is not so apparent is that the effect of noise is cumulative; it produces as Dr. Leo Beranek, whose work is acoustics is international in scope, an "acoustic fatigue." Repeated moderate noise builds up to produce the same effect as would a single loud noise. And even more important is the fact that repeated noise is the only type, short of a shattering explosion, that produces permanent hearing loss. The importance of this is readily seen when one is considering the harmful effects of exposure to daily occupational noise.

Another matter of some concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States become lethal. To quote Dr. Vern O. Knudsen, physicist and former chancellor of the University of California:

"If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

We know, of course, that the most pronounced physical effect of noise is damage to the ear. Exposure to intense noise over varying durations causes partial and in some cases permanent hearing loss due to actual cell damage in the organ of the Corti located within the cochlea of the inner ear.

But noise has much farther reaching effects than just hearing damage. As Paul E. Sabine stated even back as far as the March 1944 issue of the American Journal of Public Health:

"There is a wealth of reliable data from medical sourcs in support of the Statement that sustained exposure to noise is a contributing factor in impaired hearing, chronic fatigue that lowers bodily resistance, neurasthemia, increased blood pressure, and decreased working and mental efficiency and that noise should rightfully be classified as an occupational hazard along with gases, fumes, dust, toxic liquids, and bacteria."

To put this into, if nothing else, economic perspective, the total cost to industry in compensation payments, lost production and decreased efficiency due to noise is estimated at well over $4 billion per year. In relation to business a World Health Organization report states that before 1939 office noise was costing U.S. business $2 million per day through inefficient work. Today that figure is $4 million. The psychological and physiological effects of noise are difficult to assess but the correlation between noise and such things as sleep disturbances, hypertension due to the constant response of hormonal and neurological mechanisms to noise stress, interference with basic communication, the loss in efficient performance and even damage to property must be counted as a very real and a very enormous threat to our wellbeing, not to mention the economic repercussions.

The effects of noise cannot be fully appreciated until we have more thorough studies in the field. One effect which needs to be especially explored by sociologists and criminologists is referred to in a recent Fortune magazine article. As related by Fortune:

"In the Bronx borough of New York City one evening last spring, four boys were at play, shouting and racing in and out of an apartment building. Suddenly from a second-floor window came the crack of a pistol. One of the boys sprawled dead on the pavement. The victim happened to be Roy Innis, Jr., 13, son of a prominent Negro leader, but there was no political implication in the tragedy. The killer, also a Negro, confessed to police that he was a nightworker who had lost control of himself because the noise from the boys prevented him from sleeping."

This incident is extreme but worthy of our careful attention due to the implications it has on the worsening human problems which we are now experiencing in our cities.

Until recently the most authoritative voices about noise have come from within the industrial occupations due to the mere fact that noise has been a problem much longer in this area than in any other. Industrial management has become increasingly concerned with the adverse effects of noise on those persons who work under constant exposure to intense levels of noise—and, I might add, with due reason.

According to Dr. Glorig, director of the Callier Hearing & Speech Center in Dallas, Tex.:

"Industrial noise is now the most important single cause of hearing loss."

Despite numerous research, training, and regulatory programs now underway in some industries and in various Federal agencies, and despite the great strides accomplished in responsible noise abatement efforts in the occupational fields, there is still need for a vast amount of education in the field of occupational noise. For instance, B. F. Goodrich estimated that the total market for acoustical goods and products would reach $875 million by 1970, which if one takes into account all that this comprises is a very paltry sum.

Another example of the need for increased emphasis placed on occupational noise is the fact that permanent hearing loss caused by excessive exposure to noise is now a recognized occupation hazard and is compensable in only 35 States. I am always reminded of the basic lack of awareness in this field by an unfortunately true story which occurred when one of my aides was touring a textile factory in the South. When he commented on the high level of noise to which the workers were subjected, the manager hastened to assure him that immediate efforts were being made to correct the unpleasant conditions.

"Next week the factory is playing country-western music over the loudspeakers at a level which will block out the noise of the factory."

The noise of our industries is put into further perspective when one considers them in light of "safe" noise levels. There are differences of opinion about permissible occupational noise levels. The American Academy of Ophthalmology and Otolaryngology states that our present knowledge of the relation of noise exposure and hearing loss is much too limited to propose safe amounts of exposure. However, the academy recommends noise-exposure control and tests of hearing if there is habitual exposure to continuous noise at 85 decibels at a frequency of 300–1,200 cycles per second. Noise is measured in a dimensionless unit called the decibel which is used to describe the levels of acoustical pressure, power, and intensity.

The decibel expresses a logarithmic ratio between two sounds. In other words, the difference between a noise with a decibel rating of 60 and that with a rating of 70 is a relative increase of 10 times the lower level. The frequency of noise expressed in cycles per second is useful for rating noise hazards since some frequencies are more likely to cause hearing damage than others, with high pitched sounds more annoying than low pitched sounds. The British Medical Society recommends hearing conservation measures when noise exceeds 85 decibels in the 250–4,000-cycles-per-second range.

The U.S. Air Force recommends ear defenders when personnel are exposed to 85 decibels in the 300–4,800 frequency range. The American Standards Association has suggested permissible daily quotas of exposure to noise which they suggest should protect the worker from hearing loss. Over an 8-hour working day they suggest a limit of 85 decibels at any frequency range above 700 cycles per second. In the Walsh-Healey Public Contracts Act the Federal Government has adopted 90 decibels at any frequency range as a permissible safe occupational noise level.

Only recently has there been concern about the entire realm of urban and community noise although millions of Americans are affected each day by the repercussions of this type of noise. As Dougherty and Welsh commented in "Community Noise and Hearing Loss":

"The savings quality heretofore has been that community noise has been a short-term exposure as compared to an 8-hour day period in industry. As the power use of both home and street increase, steps must be taken to limit the noise output. Otherwise, total timed exposure will exceed industrial standards that actually rely on regular audiograms to prevent severe hearing loss."

Indeed the din in the cities at times far exceeds the noise levels considered safe for an occupational situation. A noise level of 100 decibels was once recorded on the Avenue of the Americas in New York City where the transit authority was building the extension of the Sixth Avenue subway. Construction is perhaps the most irritating source of noise to the urbanite and the problem is intensified when once we realize that there are virtually no legal controls on the amount of noise that can emanate from a construction site. In the absence of any forms of control the consequences are logical—existing knowledge for noise control is not even applied.

Noise control costs money, and it is not reasonable to ask sympathetic construction firms to invest in noise control only to let unsympathetic firms underbid them of jobs by avoiding the noise control costs. Air compressors, pneumatic drills, power saws, concrete mixers and other machines involved in the construction or demolition of buildings are permitted in some urban areas between 7 a.m. and 6 p.m., 6 days a week and at night with special permit. Combined with the poor soundproofing in modern apartments, the sounds of congested traffic which can reach upwards of 90 decibels, and the multitudinous other sounds of civilized living, the city dweller is caught in the midst of a cacophonic catastrophe.

Europe and such countries as Russia and Japan have for some time had strictly enforced noise abatement laws, including zoning and construction measures and national councils like the Swiss Anti-Noise Commission which deals with the basic medical, acoustic, and technical questions of road, rail, and water traffic; aircraft noise, noise in industry, building construction, homes, et cetera; and legal questions.

The United States by contrast has few laws regarding noise abatement and even those that it has are barely enforced. For example, New York City is one of the cities that has strict noise laws against horn blowing and even has a legal noise limit for the city of 88 decibels at 150 feet. If you have ever been to New York, I am sure that these laws will come as surprising news.

The final assault on the Nation's well-being due to noise and the one which brings you here today is that of aircraft noise. Of all the fields of noise abatement that of air transportation has received the most attention by industry and Government due to the obvious severity of the problem. The possible adverse effects of aircraft noise have been recognized for several years. In 1952 the Doolittle report pointed out that:

"Positive efforts should be continued by both government and industry to reduce or control aircraft noise nuisance to people on the ground and that substantial reduction of such noise is practicable."

Such firms as Pratt & Whitney, General Electric, and Boeing have been involved for some years in the research and development of a quiet engine. According to sources within the field, we are 5 years away from a prototype which when operational will only reduce the perceived noise level at takeoff and landing by 10 percent. The problem in this area is not so much a matter of money as lack of available technology. The sound of a jet talking off is approximately 130 decibels which is also the estimated maximum noise bearable to human ears. A reduction of 10 percent will barely scratch the surface of the noise problem in this area unless there is a major technological breakthrough.

Therefore, in combating aircraft noise we also need to pursue abatement efforts in the aspects of aircraft operations and apply methods of compatible landuse around the airports. In the realm of flight patterns, airport design and placement, guaranteed buffer zones, adequate soundproofing of buildings in and around airports, extension of runways, legal controls, and so on, joint action will have to be taken by the Federal Government, the airlines, and the community. With over 98 percent of our airports owned by some level of State government, it will be primarily up to the local governments and the airport operators of the same to effect noise abatement controls. In addition airport operators should share the responsibility of enforcing the new Federal Aviation Agency noise standards to be announced this month and closely coordinating local efforts with such programs as the aircraft noise alleviation program established under the FAA in 1961.

For examples of innovative noise control efforts I recommend such programs as that taken in the Los Angeles area in which community efforts and pilot programs have been established to abate noise at the Los Angeles International Airport. The Port of New York Authority has also carried out extensions costing several million dollars to the three runways at New York's Kennedy International Airport solely out of noise abatement considerations. Dulles International Airport in Washington is a good example of how zoning laws and design can be effectively employed to control noise levels emanating from aircraft.

But despite these examples, the fact remains that there is much left to do before we can successfully cope with aircraft noise. Your recognition of this fact has brought you here today. There are many questions which must be answered before actual work can even begin. The most important of these is funding of noise abatement efforts. Who is responsible? Should we ever obtain an operational "quiet" engine, the estimated cost of retrofitting our four engine commercial jets has been upwards of $300 million. This is perhaps the most touchy issue which will face you in your efforts to combat jet noise for the costs are formidable and the responsibility ill defined.

Another problem of considerable concern is that of the sonic boom. Until recently the shock waves from the sonic boom was confined to occasional military flights scheduled to fly over unpopulated areas of the United States. However, since President Nixon's request for $96 million for the current fiscal year ending June 30, 1970, in order to finance the start of construction of two SST prototype aircraft it now appears that within the next 10 years we will be subjected to the sound of commercial sonic booms. I am opposed to the development of this aircraft. Aside from the obvious criticism of low cost-benefit considerations, I find it difficult to justify the vast noise disturbance of this aircraft in light of the small domestic value derived. The plane has no defense value, will cost the Government a total of $1.29 billion, out of a total development cost of $1.51 billion, and its flights have been estimated to disturb 20 million groundlings every time the SST flies from coast to coast.

The repercussions of the noise problem have just begun to be understood and much has been done to alleviate the noise onslaught on our environment. For instance, New York City has a law requiring walls soundproof enough to reduce any airborne noise passing through by 45 decibels. Some construction companies have proved that buildings can be constructed quietly, by muffing blasting by special mesh blankets, welding instead of using the horrendous racket of riveting or bolting. New machines have been offered on the market which have a vast reduction in decibel rating over their old predecessors such as a new compressor which reduces the decibel level from 110 to 85 decibels and a new paving breaker that has had its sound reduced by two-thirds.

New York, California, New Jersey, Minnesota, and other States have voted or have pending various legislation on noise abatement particularly in the realm of vehicular noise. Numerous local ordinances deal with specific noise problems of their area offering such things as prevention of transistor playing in public areas, zoning laws, et cetera. Some States have legislation which prohibits vehicles on its public highways that exceed certain established noise levels for that particular vehicle.

All of these are good beginnings, but they cannot be assessed as anything more than just beginnings. What is needed are guaranteed standards for the man on the street, on his job, or in his home. In this category I would like to mention the Walsh-Healey Public Contracts Act which was signed into effect by Secretary of Labor Shultz on May 17, 1969. This act provides for a limit of on-the-job noise levels at 90 decibels at any frequency. This regulation only applies to firms that have a $10,000 or better contract with the Federal Government during the course of 1 year. The Walsh-Healey Act is a step in the right direction but again it is only a beginning. It only affects certain segments of workers and sets as a standard a noise level which is of debatable safety for an occupational level.

The real question at hand in the consideration of the noise level of our society is whether we are going to preserve the basic amenities of civilized life in the onslaught of technological advance.

As one noted figure in the noise abatement field, William H. Ferry, once said: "We have been neither interested nor successful in controlling noise because we have been neither interested nor successful in coping with technology."

Some 60 years ago Robert Koch, a bacteriologist and Nobel Laureate predicted:

"The day will come when man will have to fight merciless noise as the worst enemy to his health."

That day is not so far away. The problem must be faced now before it is beyond our control. So I offer a few suggestions from my meager knowledge of the problem of what may prevent a continuation of the insult of noise on the future sensibilities of our Nation. The problem of our "cacophonic republic" requires education, public awareness, increased research and greater application of economical acoustical materials, and a great deal of cooperation and coalition of effort between industry, business, government, health officials and community groups in order to find and carry out solutions to local, regional, and national noise problems.

We need a uniform noise control standard for all industrial and office workers—a Walsh-Healey Public Contracts Act of more encompassing and more rigorous standards.

We need to educate consumer demand that will call for quieter jobs and products in order to make it desirable for industry to compete to produce both at less cost.

We need the city code level to handle such noise sources as garbage collection, construction, loud speakers, and motor vehicles. We need a regional approach to the research and development of programs directed toward the alleviation of the noise that plague particular areas of the United States. Lastly we need the full cooperation of the Federal Government in assisting, coordinating and financing these efforts to provide a quieter environment.

As Dr. William H. Steward of the Public Health Service once stated:

"Those things within man's power to control which impact upon an individual in a negative way, which infringe upon his integrity, and interrupt his pursuit of fulfillment, are the hazards to the public health."

Noise can and must be controlled as a danger to the public health and economy, but above all else we must commit ourselves to the control of the noise in our society on the basis of civilized standards.

[From the Congressional Record,
June 21, 1971]

NOISE CONTROL ACT OF 1971—AMENDMENT

AMENDMENT NO. 216

(Ordered to be printed and referred, jointly, to the Committees on Commerce and Public Works.)

Mr. Hatfield, for himself, Mr. Hart, and Mr. Cranston, submitted an amendment intended to be proposed to the bill (S. 1016), to control the generation and transmission of noise detrimental to the human environment, and for other purposes.

Mr. Hart. Mr. President, the evidence is accumulating that yet another form of pollution has reached serious levels. I refer to noise. Noise is more than a nuisance: Excessive noise, I am told, is a serious hazard to us physically, mentally, and economically. Too much noise can result in temporary, or even permanent, damage to our hearing Nighttime noise disturbs sleep, while noisy places of work reduce the efficiency of workers. Noise can also influence property values as anyone who lives on the perimeter of an airport or foundry can tell you.

Congress took a major step last year when it created the Office of Noise Abatement and Control in the Environmental Protection Agency. S. 1016, the Noise Control Act of 1971 proposed by the administration, is a further important step in controlling this problem. The President is to be commended for his efforts to bring the seriousness of this problem to the attention of the public and for his commitment to promote an environment which is free from noise that jeoparddizes the health and welfare of the citizens of this Nation.

As I join with the distinguished Senators from Oregon (Mr. Hatfield) and California (Mr. Cranston), to introduce several amendments to S. 1016, I think we should pay tribute to our colleague in the House of Representatives, the distinguished Congressman from New York (Mr. Ryan), who has long been a leader in this field. We thank him for the considerable guidance he has given us in developing our thoughts on noise pollution and its control.

The amendments to S. 1016 which we offer today are, we believe, in harmony with the stated goal of that bill. The amendments requiring the Administrator of the Environmental Protection Agency to set certain noise emission standards within a specified time are designed merely to help him implement the original intent of the law. The addition of a citizens suit provision similar to that in the Clean Air Act amendments passed last year is meant to provide an additional vehicle for the enforcement of noise standards. The citizen will be further benefited, it is hoped, by the requirement that products used in and around the home have labels telling the actual level of noise generation. Thus the consumer will be able to choose products on the basis of their noise generation characteristics as well as price, color, and so forth.

Mr. President, the time has arrived to take positive action toward controlling undesirable noise. The administration has come forward with a very useful proposal. The House began hearings on that proposal and several others last week. The Environment Subcommittee of the Senate Committee on Commerce is scheduled next week to begin consideration of S. 1016 and the amendments introduced today. Let us hope that the momentum of our present efforts will not be lost, but will result in the swift passage of legislation necessary to protect the citizens of this Nation from the hazards of excessive noise.

OPENING STATEMENT, SUBCOMMITTEE ON ENVIRONMENT

(By Senator MARK O. HATFIELD)

The national effort to restore our deteriorating environment has unfortunately neglected one of our most devastating and most common pollutants—noise. Excessive noise threatens not only our emotional well being, but as these hearings will establish, noise can be detrimental to our physical health as well.

For too long, the ecological movement has focused only upon the more obvious forms of air and water pollution. While most Americans are incensed because they are deprived of clean lakes and streams, and rightfully deplore the blight of smog, these same Americans are unaware of the toll which excessive noise extracts from their lives.

For over a century it has been known that noise exposure of sufficient intensity and duration produces hearing loss. Yet, we have disregarded known facts about noise and advanced to the point where we now have the dubious distinction of being the noisiest nation in the world. In fact, in the United States it is estimated that 10 to 20 million people have some degree of hearing impairment—the primary cause being overexposure to excessive noise.

It is common knowledge that exposure to a very loud noise such as an explosion, may create deafness—at least temporarily. What is not as well known, but equally as devastating, is that repeated noise builds up to produce the same effect as would a single loud noise. This phenomena, labelled "accoustical fatigue" is capable of producing the same harmul effects upon human hearing.

Loss of hearing, however, is not the only concern when dealing with the problem of increasing noise levels. We are all familiar with the annoyance properties of noise—conversations punctuated with the whir of a blender, television programs distrupted by the passing motorcycle, and a Saturday afternoon nap disturbed by the neighbor's power lawn mower or power saw.

What we do not always realize is that these "irritations" should be regarded as health hazards as well. Although it is more difficult to measure, there is growing evidence that the levels of noise to which urban Americans have grown accustomed are actually capable of inducing a variety of physical, and psychological ills.

Another matter of great concern is that the noise level of the United States is increasing at an astonishing rate. Over the past 25 years the average increase in noise level has been at one decibel per year. When one considers that damage to the ears can occur at sustained exposure to the ranges around 85 decibels and over, and given our present noise levels, it will not be too many years before noise levels in the United States become lethal. To quote Dr. Vern O. Knudsen, physicist and former chancellor of the University of California: "If the noise we make keeps increasing at the present rate, it will be as deadly in thirty years in some of our downtown cities as were the ancient Chinese tortures for executing condemned prisoners."

It is my understanding that the witnesses will testify to the extent and character of this growing problem in some detail so I will not dwell further on this matter at this time.

For a number of years I have been personally involved in trying to bring the noise problem to the attention of American people and my colleagues in Congress. I should at this point like to place in the Record copies of remarks I made before the Noise Abatement Council in 1969 and a compilation of State and local noise enforcement laws across the country which was prepared in conjunction with the conference. I am told that this compilation and analysis of existing statutes is the only one of its kind and my office has had numerous requests for it from persons dealing with the noise pollution problem.

I commend the Administration and the Environmental Protection Agency for the bill now before this committee. Too often, legislation follows in the wake of aroused public opinion when the proportions of a crisis have already overwhelmed us. In this case, however, we are presented with the opportunity of being on the offensive—of acting before further damage is done. The Administration has presented us with a bill that would head off what otherwise could be a crisis of the most serious consequences.

The "Noise Control Act of 1971" (S. 1016) if enacted would be a great step forward toward insuring the protection of the human environment from the detrimental effects of noise. This bill allows EPA to co-ordinate all existing Federal noise research and control programs, thus eliminating duplicity and providing for efficient handling of this crucial area.

The Noise Control Act also authorizes EPA to establish criteria for human exposure to noise and authorizes EPA to set standards based upon these criteria to regulate noise emissions on articles which move in commerce. In addition, the bill would authorize EPA to label manufactured goods giving the consumer the benefit of knowing just how noisy a product will be. The bill also provides assistance to states and local governments in establishing noise abatement programs.

The Amendment (216) which has been offered to the Noise Control Act would, in my judgment, serve to strengthen the bill. By setting reasonable time limits for the establishment and enforcement of standards and requiring rather than authorizing the setting of standards, the Amendment would insure that Americans will to be subject to any unnecessary delay in realizing the benefits of this legislation. The Amendment would also serve to guarantee the private citizen recourse against the detrimental effects of noise by allowing EPA to initiate legal action and providing for citizen suits.

I hope that these hearings will prove fruitful in bringing to light the nature of the noise problem and the need to enact this legislation.

Mr. MUSKIE. Mr. President, I call up my amendment No. 1740 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1740 is as follows:

On page 63, line 2, following the word "the" insert the following phrase: "sale for use,".

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, may I say to my colleagues that we have a 1-hour limitation. I think I can dispense with my case in 10 minutes, so I would expect that there is a reasonable chance for a vote in 20 or 25 minutes. I do not want to delay the Senate unduly.

This amendment is aimed at one point. It is a point I made in connection with the debate on the previous amendment and that is that at the present time some 32 States and numerous localities have adopted or are considering measures to control noise levels for the protection of public health in their communities.

The effect of this bill is to severely restrict, if not entirely eliminate, the right to continue to do so; and when we take that right away from them, then we ought to be certain that we are establishing a Federal policy which will do at least as good a job for them as they are now doing for themselves.

Full implementation of the noise control standards we consider today may be 1 or 2 years away, and the levels of control finally adopted will protect the public health and welfare as perceived on a national basis. They will not meet the needs of many State and local communities which have particularly critical noise problems that require more stringent controls.

The States and localities must have the right to adopt more stringent controls and the ability to enforce them. Use controls alone, without controls on sales, will not be adequate. They will force State and local governments to assume heavy enforcement burdens simply because the Congress was not willing to require manufacturers to carry the responsibility of manufacturing products which could be used in areas with particular noise problems, and if they could not fill those requirements, to be prohibited from selling them in those jurisdictions.

The point of sale is a sensible and manageable point to control and monitor. When States or localities impose use taxes on various products—as many do to collect revenue—they do not put the burden of paying those taxes on the people using the taxed products in the State, and they do not burden themselves with the job of monitoring all users; they require the seller to collect the tax from the users at the point of sale.

Similarly, States which ban use of dangerous weapons or dangerous drugs direct their heaviest efforts at stopping the sale of such items, because permitting the unfettered sale of dangerous drugs and weapons and then trying to control their use would be futile.

In judging the merits of allowing States to impose controls on the sale as well as the use of products which produce dangerous noise, we should consider the different kinds of enforcement mechanisms which the States will have to use. Our local police and court systems are already heavily overburdened with work. Restricting States and localities to use controls alone will put an even greater burden on the police and court systems—each user will have to be apprehended, processed, fined, and convicted, with all the procedural limitations necessarily attached to the criminal law system. Control of sale, involving many fewer persons and products for which levels of noise can be identified before the products reach the stream of trade, is a much simpler method of enforcement.

The protection of manufacturers of noisy products should not be the prime public interest goal of Federal action to control noise. In this connection, let me read a portion of the statement of Mr. Nicholas C. Yost, the deputy attorney general of the State of California in charge of noise, when he testified before my subcommittee on noise control:

> The arguments for preemption are not made by the advocates of more stringent abatement of noise pollution. They are made by manufacturers who dislike the multiplicity of labels that confront them in a diverse nation. Their arguments concerning the burden created for them in different standards seems specious. Nobody is telling a manufacturer that he must sell in a particular State. If he wants to sell there, he can meet the standards the people of that State choose to adopt. As a practical matter no State or locality will set a standard so low that a necessary item cannot be sold. If that item can be made quieter, why should not the people of that State be enabled to insist upon it.

While it may be argued that preemption provisions are necessary and that they will protect public health because the Federal standards will be sufficiently strict to meet the concerns of most local communities. I must point out that some of our recent congressional experience with preemption has not resulted in such effective or immediate protection of the public health.

The Air Quality Act of 1967, which I sponsored, provided for Federal preemption of the authority to regulate air pollution emissions from new automobiles, except in California. That policy may have had the effect opposite of that which was intended. It appears that the preemption provision of that Act did not cause the auto companies to focus their research efforts and investments on one set of national standards. Rather, the auto companies' efforts have been focused on undermining those national standards.

Again in 1970, preemption was discussed in relation to the regulation of air pollution emissions from aircraft. The Congress decided on a preemption provision effective on enactment and set deadlines for standards to be developed.

Section 231(a) of the Clean Air Act requires that the Environmental Protection Agency must begin an investigation of air pollution from aircraft within 90 days of date of enactment. Within 180 days after commencing that investigation, the Environmental Protection Agency is required to report on the investigation and propose emission standards for any class of aircraft or aircraft engines which contribute to air pollution which endangers public health and welfare. Ninety days thereafter—1 year after enactment—EPA was to issue final regulations. The proposed standards were due nearly 1 year ago, September 27, 1971. Today, no report or proposed standards have been published.

This is a classic example of Federal preemption leading to Federal failure to protect public health. The Federal Aviation Administration has undoubtedly discouraged active efforts by the Administrator. And the efforts that the Environmental Protection Agency has made have run aground in the Office of Management and Budget.

Therefore, in consideration of the pending legislation, I expressed reservations regarding a broad preemption provision for product and aircraft emission standards.

Federal noise pollution responsibility will be new; little significant authority or responsibility exists. Conversely, a number of States have regulatory programs which impose enforceable emission controls on noisy products, both at the point of sale and the point of use.

In my judgment, this bill falls short for that reason. That is why I offered the amendment which has just been defeated, and I now offer this amendment as another way of strengthening the hand of local authorities.

Let me read something that was said by the speaker of the Assembly of the State of California with respect to this question before our committee. He said:

> I urge you to recommend to the full Senate committee that any language preempting California's enforcement role in noise pollution be deleted from the legislation.
>
> Make no mistake about it, I am here today to endorse progress in sound suppression at the Federal level.
>
> But, should it be necessary, I am also here to begin a campaign to make certain that Washington does not limit our ability to go beyond whatever nationwide controls are enacted.

We have had, Mr. President, a petition from the Legislature of the State of California making the same point to us:

> Resolved, That this Legislature respectfully memorializes the Congress of the United States to reject any plan of noise regulation which would prohibit States from adopting standards more stringent than those adopted by the Federal Government.

Normally, Mr. President, I would urge national standards in this field, as I have in air pollution and water pollution, and have supported preemption provisions, because accompanying such preemptions we wrote adequate national policy and adequate national law. In this case, we do not have that situation, and it is for that reason that I have offered these amendments.

This amendment is a very simple one. In section 408(e)(2) of the bill, on page 62, line 23, Senators will find this language:

> Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products:

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I yield myself 2 more minutes.

What I would add to that are the words "sale for use," so that the language would read:

> To establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the sale for use, use, operation, or movement of any product or combination of products.

Not permitting localities to control the sale for use is to impose an impossible enforcement problem on local authorities, because the only form of enforcement would be through control of use. I say to my colleagues it is almost impossible for local police departments, beleaguered as they are with their responsibilities today, to run them down and control noise pollution by controlling their use after products have been sold in their jurisdictions.

So I urge, Mr. President, that this very simple amendment be adopted. It is consistent with the exercise of police power. The standard that would be used is the standard of health and welfare which we have already adopted in the Clean Air Act of 1970, and which we adopt whenever it is possible in order to apply enforcement mechanisms to that standard. That is the standard in this case. I urge the adoption of the amendment, and I reserve the remainder of my time.

Mr. PERCY. Mr. President, I ask unanimous consent that Stuart Statler of the staff of the Committee on Government Operations be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the intent of the committee is that conflicting standards on noise emissions from products not be allowed to impose a burden on interstate commerce. Therefore, the bill preempts the setting of noise emission standards enforceable against the manufacturer of a product subject to Federal standards. The committee felt that any imposition of conflicting standards anywhere in the chain of commerce which the manufacturer must meet should not be allowed.

However, the committee intended to make it clear that States and cities, in pursuit of levels of environmental noise thought desirable locally, can impose any burden on the users of products covered by Federal standards which it finds necessary. The committee felt that the language of the bill allowing controls on environmental noise through licensing the use, operation, or movement of products would retain for States and local governments the power to establish and enforce limitations on noise emissions as a condition to use within their jurisdiction. Noise emission limitations imposed through licensing are just as general and easily enforceable as controls on sale. Therefore, the amendment—adding the words "sale for use"—really adds little in practical effect to the powers of State and local governments preserved by the present language of this bill.

Mr. President, I find myself in an interesting position because, having stated what the committee position is, I want the Senate to know that I personally support the language of the Senator from Maine. After having listened to the testimony at our legislative hearing on S. 3342 in California from the Speaker of the House and from an assistant attorney general, I feel that this is really a States rights issue. If the States want to impose a tougher standard on noise emissions through a limitation of the sale of a product, then I feel that the States ought to have that right.

I cannot speak for every State. I do know that some States have excellent ongoing programs to reduce the noise of various products that are sold in intrastate and interstate commerce. I would hate to see the Federal Government move in and say that the good work that has been done by the States and by cities and other localities should be ended.

I yield now to the distinguished Senator from Delaware (Mr. BOGGS).

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. TUNNEY. I yield 5 minutes to the Senator from Delaware.

Mr. BOGGS. I thank the distinguished Senator from California, the floor manager of the bill, for yielding.

First, Mr. President, I ask unanimous consent, on behalf of the Senator from Michigan (Mr. GRIFFIN), that David Clanton, of the staff of the Committee on Commerce, be permitted to be present in the Chamber during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, this bill deals with the responsibilities of the Federal Government and the State and local governments in controlling noise created by products manufactured after the effective date of the Federal standard, authority to establish noise emission standards for the product enforceable directly or indirectly against the manufacturer is preempted. States and cities, however, retain complete authority to establish and enforce limits on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of a product, or concentration or combination of products.

That, briefly, is the language from the committee report on preemption, on the very question before us. It simply says that, in the manufacture of the product, once a standard has been announced, the Federal Government will preempt, and there will be one standard. There would not be 50 standards for each of the 50 States, or 50 plus however many thousand cities there may be. That would result in an almost impossible situation. It would be a burden on commerce that would be unbearable and unrealistic, and could not be accepted.

That would be the effect if the amendment offered by the Senator from Maine is accepted. On the other hand, once a product is manufactured under the national standard and goes into commerce, and is located in a city, the local authorities can regulate its use.

For example, a locality can say at what times, if any, it may be used in the vicinity of the hospital, or in any other place, or at what hours of the night or day it can be used, and can set any other regulation or restriction of use affecting the noise that product produces. Any other approach to it would seem to me very unrealistic and would cause a variety of difficulties.

For example, let us suppose that a jackhammer was being used at a construction site in a city. Construction would have to stop—presuming it could—until a manufacturer could produce a jackhammer that met the city's or the State's particular qualifications. I do not know how unprofitable that would be or how it would run up the cost of the jackhammer for that particular construction job. That is just one example of the extreme results application of this amendment could produce.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOGGS. Mr. President, will the Senator yield to me 2 additional minutes?

Mr. TUNNEY. I yield.

Mr. BOGGS. I think I have expressed the committee's position fairly. The committee tried to balance this situation, tried to place all the authority and as much of the regulatory authority in the local authorities, in the State and local governments, as was possible consistent with a reasonable burden on commerce, while placing in the Federal Government the authority which the Federal Government, in behalf of the whole Nation, could properly exercise.

I think that is the situation presented by the amendment of the distinguished Senator from Maine, and I urge that the amendment be rejected.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes for summation, and then I will be prepared to yield back the remainder of my time, if the Senator from California is willing to do so.

As the Senator from Delaware knows, I have always been for preemption provisions in our environmental laws whenever I felt that we had done an effective job of replacing local legislation with Federal legislation. The Senator and I have been together on that in air pollution and water pollution legislation for the last 8 to 10 years, and we will continue to be.

Where we disagree now is on this simple point: That in this legislation we preempt without substituting effective Federal legislation.

At least 32 States and many localities are moving actively in this field. Federal noise pollution responsibility is new, and little significant authority or responsibility exists. Conversely, a number of States have regulatory programs which impose emission controls on noisy products which controls are enforceable, both at the point of sale and the point of use.

I cannot support Federal preemption which protects product manufacturers and the air transportation industry without effective regulatory programs which will enhance the quality of the environment. Substitution of Federal law for State law without assurance that public health will be protected is, in my judgment, poor public policy.

For that reason, I urge the adoption of this amendment.

Mr. BOGGS. Mr. President, will the Senator yield me 2 minutes?

Mr. TUNNEY. I yield.

Mr. BOGGS. Mr. President, the bill provides that manufacturers must use the best available technology. What higher standard could one get for the national requirement on this?

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BOGGS. I yield.

Mr. MUSKIE. As the Senator knows, that provision of the bill rests for its efficacy upon the state of the technology.

Mr. BOGGS. That is correct.

Mr. MUSKIE. What I have complained about in my earlier amendment is that that kind of regulation, depending upon technology, is not supplemented in this bill by adequate controls over cumulative noise levels; and it is because of the inefficacy of the technology that communities have to use supplementary controls of one kind or another to supplement inadequate technology. It is that which I refuse to see preempted, or at least which I refuse to support the preemption of.

Mr. President, I ask unanimous consent that the names of the Senator from California (Mr. CRANSTON) and the Senator from Massachusetts (Mr. KENNEDY) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. TUNNEY. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. Pell), and the Senator from Virginia (Mr. Spong) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), the Senator from Delaware (Mr. Roth), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Fannin) and the Senator from Ohio (Mr. Saxbe) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from Iowa (Mr. Miller), and the Senator from Texas (Mr. Tower) would each vote "nay."

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Oregon would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 30, nays 45, as follows:

[No. 548 Leg.]

YEAS—30

Aiken
Bayh
Bentsen
Brock
Brooke
Case
Church
Cranston
Eagleton
Fulbright
Gravel
Hartke
Hollings
Hughes
Inouye
Mansfield
McClellan
Moss
Muskie
Nelson
Packwood
Pastore
Proxmire
Ribicoff
Smith
Stafford
Stevenson
Symington
Tunney
Williams

NAYS—45

Allen
Anderson
Beall
Bellmon
Bennett
Bible
Boggs
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cooper
Cotton
Dole
Dominick
Eastland
Ervin
Fong
Gambrell
Griffin
Gurney
Hansen
Hart
Hruska
Humphrey
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McGee
Montoya
Pearson
Percy
Randolph
Schweiker
Scott
Sparkman
Stennis
Stevens
Taft
Talmadge
Weicker
Young

NOT VOTING—25

Allott
Baker
Buckley
Cannon
Chiles
Cook
Curtis
Edwards
Fannin
Goldwater
Harris
Hatfield
Kennedy
McGovern
McIntyre
Metcalf
Miller
Mondale
Mundt
Pell
Roth
Saxbe
Spong
Thurmond
Tower

So Mr. Muskie's amendment (No. 1740) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for the high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes; and that the House receded from its disagreement to the amendment of the Senate numbered 20 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 9554) to change the name of the Perry's Victory and International Peace Memorial National Monument, to provide for the acquisition of certain lands, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 493. An act to authorize and direct the Secretary of the Treasury to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purposes;

S. 2700. An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof;

S.J. Res. 247. A joint resolution extending the duration of copyright protection in certain cases; and

S. J. Res. 265. A joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

The **PRESIDING OFFICER**. Under the previous order, the pending business will be set aside and the Senate will return to the unfinished business, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

The **PRESIDING OFFICER**. The Chair recognizes the Senator from Arkansas.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having consulted with the distinguished manager of the bill (Mr. McClellan), and the distinguished ranking member of the committee (Mr. Young), and at the direction of the distinguished majority leader (Mr. Mansfield)—that time on the bill be limited to 2 hours, to be equally divided between the Senator from Arkansas (Mr. McClellan) and the Senator from North Dakota (Mr. Young); that the time on any amendment be limited to 30 minutes, to be equally divided between the mover of such amendment and the manager of the bill; and that the time on any amendment to an amendment, debatable motion, or appeal, be limited to 20 minutes, to be equally divided in accordance with agreements in the usual form.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the 10 minutes I am about to yield to the Senator from North Carolina for the purpose of bringing up a conference report not be charged to the time on the supplemental appropriation bill or any amendment thereto.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PUBLIC WORKS AUTHORIZATIONS—CONFERENCE REPORT

Mr. JORDAN of North Carolina. Mr. President, I submit a report of the committee of conference on S. 4018, and ask for its immediate consideration.

The **PRESIDING OFFICER** (Mr. Eagleton). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of today at p. 35476.)

Mr. JORDAN of North Carolina. Mr. President, I ask unanimous consent that Mr. Wes Hayden and Mr. John Purinton be permitted the privilege of the floor during the consideration of the conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JORDAN of North Carolina. Mr. President, the conference report on the Omnibus Rivers and Harbors-Flood Control Act of 1972 (S. 4018), authorizes continued Federal participation in the development of our country's vital water resources. This is a subject to which I have assigned a high priority during my service as a member of the Committee on Public Works. It is only through the continued operation of an orderly water resources development and conservation program that the people of our country can realize the full benefits and potential offered by our great abundance of water.

As chairman of our Subcommittee on Rivers and Harbors-Flood Control, I have been privleged to participate in the drafting and management of this important legislation, to take another step toward the realization of these objectives.

On October 10, Members of the Senate and House Public Works Committees met in conference to resolve their differences on this very important legislation. I am gratified to report to the Senate that these differences were few. The great majority of provisions in the two bills were similar so that we could concentrate our efforts on those few instances in which the two bodies had taken different approaches. The end result of the conferees' deliberations is legislation that continues the goals we have established for water resources development. I was privileged to be elected chairman of the conference and was honored to have as fellow conferees from the Senate, Senator Bentsen, Senator Edwards, Senator Cooper, and Senator Dole.

Authorizations in this bill are for projects and activities located throughout the United States. Included are new projects and modifications to previously authorized projects. We also reached agreement on changes in the basic statutes that govern rivers and harbors and flood control activities.

In development of this legislation, the Senate Public Works Committee included in the bill a number of water resource projects with an estimated cost of less than $10 million each. These were made a part of S. 4018 even though existing authority—section 201 or Public Law 89-298—permits them to be undertaken without specific authorization legislation. These projects can be initiated by resolution of the Senate and House Public Works Committees. We included them in our bill, however, because we felt that they were fully justified and important projects, that could be authorized as a group in this manner, rather than by adopting individual resolutions in the committee.

The House of Representatives chose not to adopt this approach and did not include any of the so-called section 201 projects in its bill. The Senate, therefore, agreed to delete these projects from the conference report with the understanding that it would expedite their individual consideration by the committee.

Inflationary pressures has made it necessary to increase the cost ceiling for certain types of small projects that may be undertaken by the Corps of Engineers without specific approval. The conference report increases from $100,000 to $250,000 each the authority for the Corps to carry out snagging and cleaning projects in streams. The total expenditures for this activity are also increased from $2 to $5 million per year. Similar increases were authorized for the corps to carry out emergency streambank protection projects with the individual cost limit increased from $50,000 to $250,000 and the yearly total for these activities from $1 to $5 million.

Aside from emergency streambank protection projects, the corps also is authorized to spend up to $250,000 each for projects to alleviate streambank erosion throughout the United States. A total of $10 million is authorized for this purpose annually.

An intensive program to further our knowledge about the causes and prevention of streambank erosion is authorized in this bill. The area selected is the Ohio River Valley where persistent and serious bank erosion is a constant threat to many communities.

The conferees recognized the need to consider the problem of projects that are authorized but which, for various reasons, are never begun. There exists a significant backlog of such projects. To help resolve this situation, S. 4018 contains provisions directing the Corps of Engineers to report to the Congress regularly on projects that have been authorized for at least 8 years but on which work has not begun. The Corps of Engineers is to make its recommendations to the two Public Works Committees as to whether such projects should be deauthorized. These projects will be automatically deauthorized unless either of the two committees, within 180 days, adopts a resolution stating that they should continue to be authorized projects.

Erosion problems of another type, those that inflict severe damage on great stretches of our country's shorelines, also are addressed by this bill. The deterioration of our shorelines due to erosion is felt in the lower water quality it can cause and in damage to marine life. Recreational facilities are damaged and there is great financial loss to private and public landowners because of shoreline erosion. The conferees believe it is essential to learn how shoreline erosion can be controlled at reasonable cost. Therefore, this bill authorizes a 5-year development and demonstration program with these goals in mind. Authorization for its first year is established by this bill at $6 million.

Congress this year has been very much aware of the great damage and suffering that is caused by natural disasters. Hurricane Agnes, which swept through much of the eastern part of the United States this summer, was described as the greatest natural disaster to strike the United States in its history. Earlier, the collapse of dams in South Dakota and West Virginia caused major floods and loss of life. The Congress responded by strengthening the ability of the Federal Government to cope with disasters in general and with recent ones in particular.

Provisions are included in S. 4018 to further our efforts in reducing potential damage from flooding. These provisions authorize small flood protection projects to be carried out in any area that has been declared a disaster area within the past 5 years, even though that area may not be one for which protection programs have been previously authorized. A total of $25 million yearly is provided for this work in disaster areas with a maximum of $2 million to be spent in any single area.

As part of the overall strategy for comprehensive and coordinated development within the Appalachia region, the Corps of Engineers was directed several years ago to prepare a plan for water resource development in the region. This plan was completed and submitted to the Congress 2 years ago. This bill authorizes nine of the recommended projects as a group and authorizes $50 million to begin their execution. This action is the first step toward implementing regional water resource development programs that is a unique endeavor in this country.

The conferees also addressed a matter that is of great concern to Members of the Congress. I refer to the proposed action for evaluating water resource projects. Particular concern is the interest rate used to determine economic justification for projects. Under the Council's proposal, this interest rate would increase without, in the opinion of the conferees, justification so that many badly needed projects could not be built. The bill directs that a moratorium be placed on any such changes by the Council until after December 31, 1973.

Mr. President, I spoke earlier of the harmony with which the Senate and House conferees were able to consider this bill. While we reached agreement with dispatch, I must report to the Senate that this conference report does not contain all of the provisions offered by either body. There were deletions and there were modifications in several instances.

It had been proposed that the authorization for the Pattonsburg Dam and Lake on the Grand River in Missouri be modified to include facilities for a hydroelectric powerplant. This was a controversial proposal and many questions about it had been raised both in the Congress and in the State of Missouri. The conferees agreed that the proposal, with the impact of this one, deserved additional study. At the same time, we recognize that the basic project should go ahead. Consequently, the conferees directed that the Pattonsburg Dam and

Lake project continue in such a manner so as not to preclude the installation of a hydroelectric generating facility if it is deemed necessary at some future time.

Another proposal relating to the State of Missouri also was deleted from the conference report. This was a section of the Senate bill which would have authorized the States of Missouri or Illinois to assume ownership of a toll bridge across the Mississippi River at Chester, Ill. The conferees concluded that this action required additional study and perhaps public hearings before final determination is reached.

Of particular interest to the Washington, D.C., area were projects in the Potomac River Basin intended to regulate the flow of water in the Potomac. These included the construction of the Verona Dam on the Middle River in Virginia, and the Sixes Bridge Dam on the Monocacy River in northern Maryland. The projects were included in the Senate version of the bill, but had not been approved by the House of Representatives. The conferees agreed not to authorize these two projects at this time, but instead to direct the Corps of Engineers to conduct additional studies on their need.

The projects were originally proposed and justified primarily on the basis of their ability to supply water for flushing pollutants from the lower Potomac. The Congress, however, recently adopted the Federal Water Quality Control Act Amendments of 1972 which specifically declares that this so-called pollution dilution is not an acceptable method of dealing with pollution problems or a substitute for waste treatment. The Corps of Engineers, therefore, was directed to reformulate the two Potomac projects on the basis of their need to provide an assured public water supply, particularly in the Washington metropolitan area.

Mr. President, this bill is comprehensive legislation. Its visions were carefully considered and I believe the recommendations of the conferees are consistent with the wishes of the Senate to develop our country's water resources in a proper manner.

Mr. President, I want to commend the staff of the House and of the Senate who worked diligently for several days to iron out the differences between the Senate bill and the House bill. I am delighted to report that at the end of the conference we had unanimous agreement on the report as it has been submitted.

The report takes in a great variety of public works which are scattered all over the United States: beach erosion, riverbank erosion, and other flood control projects which are badly needed throughout the Nation. The bill has been backed by the House and the Senate.

I ask that the Senate give its endorsement by approving the conference report.

But, first, the Senator from Nevada has a question. I would be glad to discuss it with him.

Mr. BIBLE. Mr. President, the item to which I am directing a question to the distinguished Senator from North Carolina is section 10 of the House version of the Omnibus Rivers and Harbors Act of 1972, section 10(a). It is a section with which the Senator from North Carolina is completely familiar. I expressed my concern to him at the time of the conference.

My problem was that it might adversely affect the Humboldt River project, which is in my State and was authorized in 1952.

On August 7, 1972, I added $100,000 to the Public Works appropriation bill to provide funds for preliminary engineering work on the proposed Humboldt River Storage Project. This amount was approved in the conference on that date.

In 1969, $15,000 was spent from Corps of Engineers general investigation funds on this same project.

My question to the distinguished Senator from North Carolina, the chairman of the conference, is whether or not, in view of that factual situation, this project is exempt from the House language that is contained in section 10(a).

Mr. JORDAN of North Carolina. Mr. President, I appreciate the Senator asking the question.

We discussed this matter before, when we went to conference. I took it up with the conferees and the Corps of Engineers.

The language that was in the bill (S. 4018) to help resolve this situation is a provision directing the Corps of Engineers to report to Congress a list of those authorized projects for works of improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes, which have been authorized for a period of at least 8 years and which he determines, after appropriate review, should no longer be authorized.

The project to which the Senator refers is an active project. It does not include this item, because it is an active project. There is $100,000 authorized now for it, and, as the Senator has pointed out, $15,000 previously——

Mr. BIBLE. At an earlier date.

Mr. JORDAN of North Carolina. Yes. So it is an active project. It is an ongoing project and is not affected in this bill whatsoever.

Mr. BIBLE. That was my understanding, and I wanted the RECORD to speak out loudly and clearly on this point.

I thank the Senator from North Carolina.

Mr. RANDOLPH. Mr. President, the Congress has traditionally acted every 2 years to authorize projects for the development of our country's water resources for flood control and prevention, and for the improvement of waterway navigation. This is important legislation that is of long-lasting impact on every section of the country. What we do relative to our water resources has a profound influence on the growth and development of our country, both socially and economically.

The legislation before us today is the conference report on S. 4018, the Omnibus Rivers and Harbors-Flood Control Act of 1972. This important legislation has been explained in detail by the distinguished Senator from North Carolina (Mr. JORDAN), the chairman of our Subcommittee on Flood Control-Rivers and Harbors. This is a fitting opportunity to call attention to Senator JORDAN's long dedication to water resource development. As a member of our Committee on Public Works and as chairman of its Subcommittee on Flood Control-Rivers and Harbors, he has been a leading advocate not just of developing water resources, but of developing them in a way that insures that they will provide maximum benefits to the American people. He has provided us with vigorous leadership in this very important field, leadership that will surely be missed when Senator JORDAN retires from the Senate at the end of the 92d Congress.

This conference report was approved by Senate and House conferees on October 10, following a single meeting. While we were able to agree with a minimum of deliberations, the projects authorized by this bill and the changes in our basic water resources law were carefully considered by the Public Works Committees of both Senate and House, and by the full Membership of the two bodies.

I believe that what we have agreed to in S. 4018 will continue the progressive development of our water resources in the United States as well as improve our ability to control flooding that does considerable damage every year.

Mr. President, I am gratified that this conference agreed with the necessity to include in its report several activities of special relevance to the State of West Virginia. As a State of rugged mountains and narrow valleys, West Virginia is particularly sensitive to the potential dangers of flooding. These topographical situations also contribute to the difficulty we have in providing ample public water supplies and water-based recreational facilities. We West Virginians are thankful for our abundant water resources, but we know that they must be properly harnessed and developed to provide the maximum benefit to our citizens.

A major concern in my State is the serious erosion that is occurring along the banks of the Ohio River, which forms the western boundary of West Virginia. In response to the urgent requests of many people in my State, I visited the area last July to personally examine the encroachments of the Ohio River on communities in its valley. I learned much during that inspection trip and returned to Washington convinced that we could no longer let the uncontrolled wearing away of the river's banks continue without exerting every effort to alleviate this very serious situation. Members of the House of Representatives, including members of the House Public Works Committee, shared my concern. This concern was reflected in provisions in both the House and Senate versions of S. 4018 that were aimed at concentrating an attack on the erosion of the Ohio River banks.

This was an issue on which the conferees readily agreed. The conference report on S. 4018 therefore authorizes the Corps of Engineers to carry out an intensive study of streambank erosion along the Ohio River between Chester, W. Va., and Cincinnati, Ohio. This study is intended to determine the extent and severity of streambank erosion in this important valley and also to develop new techniques which, hopefully, can be applied economically to control this deterioration of riverbanks. As a part of the total program, demonstration projects are authorized to test the validity of the study's findings. It is only through such an intensive study, I believe, that we can properly marshall our resources to cope with the problem that is prevalent throughout the United States.

Related to this effort is another provision of this bill which increases the general authority of the Corps of Engineers to carry out emergency streambank erosion control projects without specific congressional authority.

The bill would permit the corps to execute projects with the Federal costs of up to $250,000 each. Total annual expenditure for these projects would be $5 million. The extent of the problem and rising costs make it necessary to raise the ceiling from the present limit of $50,000 per project, and an annual total of $1 million.

The 1970 Flood Control Act authorized urgently needed flood protection facilities in the Tug Fork Valley of West Virginia. Several communities in this region, particularly those of Williamson and Matewan, W. Va., have persistent and serious flooding problems. The 1970 act, however, authorized this work subject to the approval of the President and the Appalachian Regional Commission. Difficulty in justifying the projects economically, utilizing present formulaes for determining the cost-benefit ratio, has prevented the necessary approvals from being granted. These requirements do not take into consideration the necessity to protect lives and property in the Tug Fork Valley. The Senate Public Works Committee decided and the conferees agreed, that in this instance, the necessary protection facilities should be constructed regardless of any unfavorable cost-benefit ratio.

The conferees intended to expedite construction of these facilities by eliminating the requirement for executive department approval.

The Pocatalico River Basin of West Virginia is another area that is afflicted by frequent flooding. The water supply systems serving residents of this area also have uncertain sources of water. Long-needed relief is provided in S. 4018 through the authorization of a comprehensive program costing $3.7 million and including the construction of two multi-purpose dams as well as extensive land treatment activities.

The bill authorizes $2 million for cleaning and dredging the Guyandotte River in southern West Virginia. This is an interim measure intended to alleviate flood conditions until the R. D. Bailey Lake project is completed upstream on the Guyandotte.

The conferees acted to resolve, at least temporarily, serious problems that have the potential to sharply limit our ability to carry out needed water resources development. This situation arose nearly a year ago when the Water Resources Council proposed charges in its criteria whereby prospective projects are evaluated.

A critical feature of these proposed new standards was a change in the method of determining the interest rate used in computing the cost-benefit ratio of water resource projects. The Council proposed adopting as its interest rate the opportunity cost of borrowing money. This means that the commercial interest rate on the open market would be the one that applied to public investments in water resources. At the present time, the interest rate used is that charged to the Government. This rate is significantly lower than that applicable on the open market. Consequently, any increase in the interest rate would have the effect of making many badly needed projects incapable of economic justification. There is no reason why this should be so.

S. 4018, as approved by the conferees, directs that no changes in the present interest rate formulae be made by the Water Resources Council until December 31, 1972. This moratorium will provide time for thorough congressional review of the situation as it applies to all water resource criteria. We believe this is necessary so that we can properly develop the standards by which projects are measured in terms of contemporary need and financing capability.

Mr. President, the omnibus rivers and harbors bill continues the involvement of the Federal Government in water resource development. This is one of the oldest public works programs of the Federal Government and it is one that has, over the years, provided innumerable benefits to all American citizens. I know that my colleagues will vote to continue this program by approving the conference report on S. 4018.

Mr. JORDAN of North Carolina. Mr. President, I have no further remarks to make on the bill. I move the adoption of the report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ORDER OF BUSINESS

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Nevada (Mr. Bible) for the purpose of bringing up a series of conference reports.

The PRESIDING OFFICER. With the understanding that the time is not to be charged to the time on the appropriation bill?

Mr. McCLELLAN. With the understanding the time is not to be charged to the time on the appropriations bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ESTABLISHMENT OF CUMBERLAND ISLAND NATIONAL SEASHORE, GA.

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2411.

The PRESIDING OFFICER (Mr. Eagleton) laid before the Senate the amendment of the House of Representatives to the bill (S. 2411) to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes, which was to strike out all after the enacting clause and insert:

That in order to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States, and to preserve related scenic, scientific, and historical values, there is established in the State of Georgia the Cumberland Island National Seashore (hereinafter referred to as the "seashore") consisting of the area generally depicted on the drawing entitled "Boundary Map, Cumberland Island National Seashore", numbered CUIS–40,000B, and dated June 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may after notifying the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate in writing, make minor adjustments in the boundary of the seashore from time to time by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage within the boundaries shall not exceed forty thousand five hundred acres.

Sec. 2. Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by purchase, donation, transfer from any Federal agency, or exchange. The Secretary may also acquire not to exceed one hundred acres of lands or interests in lands on the mainland to provide access to the administrative and visitor facilities for the seashore. Any lands or interests therein owned by the State of Georgia, or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the seashore.

Sec. 3. For the purpose of providing access from Interstate 95 to the mainland administrative and visitor facilities of the seashore, the Secretary may designate as the Cumberland Island Parkway a right-of-way, together with adjacent or related sites for public noncommercial recreational use and for interpretation of scenic and historic values, of not more than one thousand acres of lands, waters, and interests therein. The Secretary is authorized to acquire only by donation those lands and interests therein, and other property comprising such right-of-way and adjacent or related sites as he may designate pursuant to this Act for the development, hereby authorized, of a road of parkway standards, including necessary bridges, spurs, connecting roads, access roads, and other facilities, and for the development and interpretation of recreation areas and historic sites in connection therewith. Lands acquired for the parkway shall be administered as a part of the seashore, subject to all laws and regulations applicable thereto, and subject to such special regulations as the Secretary may promulgate for the parkway.

Sec. 4. (a) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner: *Provided, however,* That, in addition, for so long as a right of use and occupancy remains in effect by the donors of land of one hundred acres or more, the Secretary shall not, with respect to such lands, develop any public use facilities except for trails, road access, and utilities: *Provided further,* That when acquiring lands, waters, and interests therein from the National Park Foundation, its successors and assigns, the Secretary shall acquire such lands, waters, and interests subject to the written terms and conditions contained in those transactions, including but not limited to options, entered into by the National Park Foundation prior to January 1, 1973, and that such previous written rights and interests shall prevail over provisions of this paragraph.

(b) A right of use and occupancy retained or enjoyed pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(c) The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before February 1, 1970 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) (1) In order to provide an opportunity for the establishment of a natural and scenic preserve by voluntary private action of certain owners of lands within the seashore, and notwithstanding anything to the contrary herein contained, no lands or interests in lands shall be acquired on Little Cumberland Island without the consent of the owner, for a period of one year from the date of enactment of this Act, except as specifically otherwise provided herein.

(2) In the event that the owners of land on Little Cumberland Island enter into an irrevocable trust or some other irrevocable agreement for the preservation of the resources of Little Cumberland Island which, in the judgment of the Secretary, assures the protection of the resources in a manner consistent with the purposes for which the seashore is established, the authority of the Secretary to acquire such lands shall be suspended for such time as the trust is in effect and the lands are used and occupied in accordance therewith.

(3) If, at any time during the one-year period following the date of enactment of this Act, the Secretary determines that any lands on Little Cumberland Island are threatened with development, or other uses, inconsistent with the establishment or continuation of the trust herein referred to, then the Secretary may acquire such lands, or interest therein, by any of the methods provided for in section 2 of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of Georgia and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

SEC. 6. (a) The seashore shall be administered, protected, and developed in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of the Act.

(b) Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and other recreational activities of similar nature, which shall be developed for such uses as needed, the seashore shall be permanently preserved in its primitive state, and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions not prevailing, nor shall any road or causeway connecting Cumberland Island to the mainland be constructed.

SEC. 7. Nothing in this Act shall deprive the State of Georgia or any political subdivision thereof of its civil or criminal jurisdiction over persons found, acts performed, and offenses committed within the boundaries of the seashore, or of its right to tax persons, corporations, franchises, or other non-Federal property on lands included therein.

SEC. 8. The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection and navigation improvements on land and/or waters within the Cumberland Island National Seashore shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

SEC. 9. Within three years from the date of enactment of this Act, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the national seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 10. There are authorized to be appropriated not to exceed $10,500,000 for the acquisition of lands and interests in lands and not to exceed $27,840,000 for development of the seashore.

Mr. BIBLE. Mr. President, the bill as amended by the House contains very few changes from that which the Senate passed earlier this year. The House might have improved the bill in some respects, although the development costs are nearly $9 million more than the amount authorized by the Senate-passed bill.

The Subcommittee on Interior Appropriations, which I have the honor to chair, will have every opportunity to oversee closely the expenditures in connection with the development of this national seashore, and therefore I am not disturbed by the increased amount provided for by the House.

I have conferred with the Senators from Georgia and with other members of the Georgia congressional delegation, as well as with my colleagues on the Interior and Insular Affairs Committee. Mr. President, since the differences between the two versions are not substantial enough to require a conference between the two Houses, I move that the Senate concur in the amendment of the House to S. 2411.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

ESTABLISHMENT OF THE THADDEUS KOSCIUSZKO HOME NATIONAL HISTORIC SITE, PENNSYLVANIA

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1973.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1973) to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes, which was to strike out all after the enacting clause and insert:

That, in order to provide for the development of a suitable memorial to General Thaddeus Kosciuszko, great Polish patriot and hero of the American Revolution, the Secretary of the Interior is authorized to acquire by donation or purchase with donated funds the property at the northwest corner of Third and Pine Streets specifically designated as 301 Pine Street and/or 342 South Third Street, Philadelphia, Pennsylvania, including improvements thereon, together with such adjacent land and interests therein as the Secretary may deem necessary for the establishment and administration of the property as a national memorial.

SEC. 2. The property acquired pursuant to the first section of this Act shall be known as the Thaddeus Kosciuszko National Memorial and it shall be administered by the Secretary of the Interior in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

SEC. 3. There are hereby authorized to be appropriated not more than $592,000 for the development of the national memorial.

Mr. BIBLE. Mr. President, the House amendment to S. 1973 changed the designation of the Kosciuszko Home from a national historic site to a national memorial. This conforms to the recommendation of the Secretary of the Interior's Advisory Board on National Parks, Historic Sites, Buildings and Monuments, which felt that this particular property did not meet the criteria for a national historic site.

In addition, the House amendment provides that the property is to be acquired either by donation or by purchase with donated funds. It has always been understood by the Senate Interior Committee that the present owner of the property intended to donate it, and if any funds are needed to acquire additional property, this also must be donated.

Therefore, Mr. President, since the differences in the two versions are not substantial enough to require a conference between the two Houses, I move that the Senate concur in the amendment of the House to S. 1973.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

PERRY'S VICTORY AND INTERNATIONAL PEACE MEMORIAL NATIONAL MONUMENT

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9554.

The PRESIDING OFFICER laid before the Senate H.R. 9554, to change the name of the Perry's Victory and International Peace Memorial National Monument to provide for the acquisition of certain lands, and for other purposes, which was read twice by its title.

Mr. BIBLE. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIBLE. Mr. President, the House of Representatives passed this bill by unanimous consent on October 10. The purpose of the measure is to authorize the Secretary of the Interior to acquire some 4 additional acres of needed land at the existing monument site. In addition, the bill redesignates the area as Perry's Victory and International Memorial, thus changing the status from that of national monument to that of national memorial.

In 1919 Congress accepted title to these lands which were ceded to the United States by the State of Ohio and created Perry's Victory Memorial Commission. Later in 1936 Congress provided for the establishment of the monument and authorized its administration and development as a part of the national park system. There is little need to remind the Senate of the great historical significance this memorial has in commemorating the victory of Oliver Hazard Perry during the battle of Lake Erie in the War of 1812. Ever since that time there has been established between the United States and our great neighbor to the north the longest unguarded boundary between two nations in the world.

Although the Senate Interior Committee has not had an opportunity to formally consider this legislation, public hearings were held by the House Interior Committee, and the bill has received the endorsement of the administration. In view of the fact that there is such a small amount of money involved for acquisition, the total of which does not exceed $370,000, and that the Appropriation Committees in both the House and the Senate will have an opportunity to take a careful look at the annual funds required for development, it is my judgment, as chairman of the Subcommittee on Parks and Recreation, that the Senate should proceed to pass this legislation and send it to the White House.

I have been requested to do this by the Senators from Ohio in whose State the memorial is located.

Mr. President, I ask unanimous consent that an excerpt from the House report be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 9554 by Representative Latta is to authorize the Secretary of the Interior to acquire certain needed lands at the existing memorial site commemorating the Battle of Lake Erie. In addition, the legislation redesignates the area as Perry's Victory and International Memorial.

BACKGROUND

On two separate occasions, the Congress has taken cognizance of the international significance of the area presently known as Perry's Victory and International Memorial National Monument. In 1919 (40 Stat. 1322), the Congress accepted title to the memorial lands which were ceded to the United States by an Act of the Ohio Legislature and created the Perry's Victory Memorial Commission. Later in 1936 (49 Stat. 1393), the Congress provided for the establishment of the monument by Presidential Proclamation and authorized its administration and development as a part of the national parks system.

The equally important objectives of this memorial are: First, to commemorate a great naval victory which was critically important during the War of 1812; and second, to memorialize the lasting peace which has been maintained as a result of arbitration and disarmament along the unfortified boundary between the United States and Canada.

Constructed between 1912 and 1915, the memorial was built under the direction of the Perry's Victory Centennial Commission at a cost of nearly $1 million. Ohio, Pennsylvania, Illinois, Wisconsin, Michigan, New York, Rhode Island, Kentucky, Massachusetts, and the Federal government shared the burden of erecting the impressive 352 foot granite shaft. From the top of the memorial, visitors can view the site where the historic naval engagement took place.

The memorial is located on South Bass Island in the village of Put-in-Bay, Ohio, about four miles from the U.S. mainland and approximately five miles from the Canadian border. Automobile ferries operate regularly to the island and now carry almost 100,000 monument visitors to the area annually. These visitors (over 16 years of age) pay a nominal fee to ride the elevator to the observation deck which enables them to see many points of interest.

At the present time, the unit includes 21.44 acres of land; however, seasonal residences and commercial enterprises are encroaching upon the setting and detracting from the general appearance of the area causing a deterioration in its overall effectiveness as a meaningful symbol of peace. In order to reestablish the dominance of a memorial and to prevent other unsightly developments, it would be desirable to acquire such lands as are necessary to restore the setting. Under present law, however, lands for this memorial may be acquired only by donation or purchase with donated funds which have not been forthcoming. The enactment of H.R. 9554 will remedy this deficiency by authorizing the Secretary to acquire not more than 4 acres of land for addition to the existing unit.

When acquired, the objectionable structures will be removed and the area will be landscaped so that it will provide an approach mall which will be used by visitors arriving at the municipal docks. This addition will allow an unobstructed view of the memorial column which will add to the public enjoyment of the area.

HISTORICAL SIGNIFICANCE OF PERRY'S VICTORY

At the turn of the 19th Century, when the United States was emerging as a Nation, British and French conflicts were seriously threatening our national independence. Finally, on June 18, 1812, the United States declared war on England. In addition to establishing a coastline blockade, England had effective control of Lake Erie which was considered a vital lifeline for troops and supplies in the Old Northwest.

The task of freeing the lake of British domination fell on Oliver Hazard Perry who, with a fleet of nine vessels, left his headquarters on South Bass Island on September 9, 1813, to engage the six warships that made up the British fleet. The battle took place about 10 miles west-northwest of South Bass Island where Perry and his English counterpart locked forces at close range. When the battle was over, Perry announced his victory in a brief message . . . "We have met the enemy and they are ours: two Ships, two Brigs, one Schooner & one Sloop."

Twenty-seven Americans and forty-one Englishmen had died in combat—the remains of three officers from each side were later placed in the crypt beneath the floor of the memorial. Combined with the successful Battle of the River Thames which the naval victory had helped make possible, the United States hold on the Old Northwest was secured and the peace was sealed by the Treaty of Ghent in 1814. Shortly thereafter the Rush-Bagot Agreement, which limited the number of warships on the Great Lakes, and which led to the eventual establishment of the unfortified boundary between the United States and Canada, was signed.

COMMITTEE CONSIDERATION

Public hearings were held on H.R. 9554 by the Subcommittee on National Parks and Recreation and the spokesman for the Department of the Interior and the sponsor of the legislation both recommended that the addition contemplated should be reduced from 14 to 4 acres. Testimony indicated that this addition would permit an appropriate approach to the mall at a minimum cost. At the conclusion of its consideration of the legislation, the Committee approved H.R. 9554, with amendments, by a voice vote.

COMMITTEE AMENDMENTS

The Committee amendments, as indicated above, reduce the authority to acquire lands from 14 to 4 acres. After considering this revision, the Committee agreed that the usual provision limiting the amount authorized to be appropriated should also be included in the legislation. Two alternatives were available to the Committee in this respect:

It could recommend limiting the amount authorized for land acquisition and those developments directly associated with such lands (leaving the development costs attributable to the existing memorial unlimited); or

It could place a ceiling on the land acquisition program and a maximum limitation on the entire development program for the memorial. Testimony before the committee indicated that a substantial expenditure was contemplated for the landscaping, rehabilitation of the memorial, and development of visitor and administrative facilities on the existing site; consequently, the Members of the Committee agreed that the better approach would be to limit the entire development program ($5,177,000) rather than restricting it to the amount directly attributable to the acquired lands ($2,099,000).

COST

As explained above, the Committee recommendation would limit the total amounts to be expended for land acquisition and development at the Perry's Victory and International Peace Memorial. It should be noted that present law does not limit the amount authorized to be appropriated for the development of the present site. If H.R. 9554 is enacted, all future appropriations will be charged against the $370,000 ceiling for land acquisition and $5,177,000 for development ($2,099,000 of which is directly attributable to the acquisition of lands authorized by the bill and $3,078,000 of which are costs attributable to the improvement of the existing site).

The development program contemplates the extension and reconstruction of the north and south seawalls, the restoration of the exterior of the memorial structure, the rehabilitation of the interior of the memorial complete landscaping and the construction of appropriate visitor facilities.

SECTION-BY-SECTION ANALYSIS OF H.R. 9554, AS AMENDED

Section 1 redesignates "Perry's Victory and International Peace Memorial National Monument" as Perry's Victory and International Peace Memorial".

Section 2 amends the original authorizing statute to authorize the Secretary of the Interior to acquire up to 4 acres of land for addition to the memorial.

Section 3 abolishes the Perry's Victory Memorial Commission which has not functioned as a group for more than 20 years by repealing those sections of existing law pertaining to it.

Section 4 authorizes the appropriation of not more than $370,000 for land acquisition and not more than $5,177,000 for development of the entire site (an amount which includes $2,099,000 attributable to developments which are to be made on the lands to be acquired pursuant to this legislation and $3,078,000 attributable to developments which are to be made on lands presently within the boundaries of the memorial).

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. HANSEN. Mr. President, as a member of the Committee on Interior and Insular Affairs, which has the responsibility for considering legislation dealing with national parks, monuments, and memorials, I am pleased to support H.R. 9554.

The memorial to be improved by H.R. 9554 commemorates the victory of Admiral Perry in the Battle of Lake Erie in the War of 1812. In addition, it memorializes the 100 years of peace between the United States, Canada, and Great Britain after the War of 1812. It is a symbol of the longest unguarded boundary between two countries in the world.

The memorial at Put-in-Bay, Ohio, consists of 21.44 acres located on South Bass Island. It was constructed under the direction of the Perry's Victory Centennial Commission between October 1912 and June 1915, to commemorate Comdr. Oliver Hazard Perry's decisive victory in the Battle of Lake Erie on September 10, 1813, and the 100 years of peace the United States had enjoyed with Great Britain since the War of 1812. The memorial consists of a majestic column of granite 353 feet high and 45 feet in diameter at its base. From the top of the column one may view the spot, 6 miles to the west, where Commodore Perry won one of the most brilliant naval victories in our history. Under the floor of the rotunda at the base of the column are buried three British and three American officers killed in the Battle of Lake Erie.

Congress provided for United States acceptance of the memorial and adjacent lands from the State of Ohio on March 3, 1919. At the same time, the Perry's Victory Memorial Commission was created to administer the site. Then, in 1936, Congress provided for the creation of the Perry's Victory and International Peace Memorial National Monument and for its administration, protection, and development by the Department of the Interior, with the Perry's Victory National Commission serving as a board of advisers.

H.R. 9554 abolishes the Commission, which has not functioned as a group for more than 20 years. It also deletes the words "National Monument" from the area's present designation, since it is the spot 6 miles to the west rather than the area itself which has historical significance. The most important provisions of H.R. 9554, however, provide funds for the preservation and improvement of the memorial itself and the surrounding area.

The existing residential developments in the village of Put-in-Bay on the west side of the present memorial area encroach upon it to the extent of competing with and detracting from the general appearance and setting of the memorial column, and tend to destroy its overall effectiveness. If the view of the marble column, which dominates the memorial area, is to be preserved free from these existing obstructions or other undesirable developments in the future, additional lands should be purchased. H.R. 9554 amends the 1936 act to authorize the Secretary of the Interior to purchase with appropriated funds not more than 4 acres of land interests in land for additions to the area. The 4-acre area with improvements will cost about $370,000, of which $35,000 is attributable to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

H.R. 9554 also authorizes the appropriation of $5,177,000, for much needed development of the memorial, including improvements in the seawall and construction of a permanent visitors' center.

I agree with the Department of the Interior, the House of Representatives and the other members of my committee that this is important legislation which should be passed. I urge favorable consideration by the Senate of H.R. 9554.

Mr. TAFT. Mr. President, I support enactment of H.R. 9554, a bill "To change the name of the Perry Victory and International Peace Memorial National Monument, to provide for the acquisition of certain lands, and for other purposes."

This historic memorial is located on South Bass Island in Lake Erie and commemorates the decisive victory of Commodore Oliver Hazard Perry during the War of 1812. Many Senators no doubt recall the famous statement of Commodore Perry during this great naval victory: "We have met the enemy and they are ours."

The memorial, in addition to commemorating Perry's great victory, symbolizes the 3,000-mile unfortified boundary between the United States and Canada.

The Congress recognized the importance of this great memorial when it created a commission in 1962, known as the Battle of Lake Erie Sesquicentennial Celebration Commission, to celebrate the 150th anniversary of the Battle of Lake Erie and the 150 years of permanent peace and mutual respect between the United States and Canada.

Visitors from all over the world have come to view this great memorial—94,900 visited it in 1971. Problems, however, have arisen jeopardizing the future of the memorial. Residential developments in the area have begun to encroach upon the area to the extent that they detract from the memorial. Acquisition of additional lands is desperately needed to preserve the beauty of the memorial. Additionally, the seawall surrounding the memorial is in serious need of repair.

H. R. 9554 would provide funds for the repair and extension of the seawall and would additionally provide for the acquisition of portions of the two blocks to the west to extend the memorial area to the municipal docks of Put-in-Bay, which is the visitor approach to the memorial, and to an existing city park. The Department of the Interior also plans to use funds authorized under this legislation to develop a landscaped approach mall from these municipal sites to the memorial. This action will afford an unobstructed view of the memorial and also permit a better location for the installation of needed permanent visitors' facilities that would otherwise have to be placed in an area that would further detract from the appearance of the memorial.

H.R. 9554 authorizes the appropriation of not more than $5,177,000 for these development purposes, with $2,099,000 of this sum planned for the development of the acquired land.

Specifically the bill would require only 3.21 acres of land to be added to the existing memorial grounds at an estimated cost of $370,000 with $35,000 of this sum attributable to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Mr. President, I wish to thank the distinguished chairman of the Interior Committee, Senator JACKSON, and other committee members, including the Senator from Wyoming, Senator HANSEN, for their cooperation and support in this matter.

I am hopeful the Senate will join the House of Representatives and the Department of the Interior in approving this legislation.

Mr. BIBLE. Mr. President, I move the passage of H.R. 9554.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 9554) was ordered to a third reading, read the third time, and passed.

THE MAR-A-LAGO NATIONAL HISTORIC SITE

Mr. BIBLE. Mr. President, I move that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 13067, the Mar-A-Lago National Historic Site bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13067) to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to. The committee was discharged from further consideration of the bill and the Senate proceeded to its immediate consideration.

Mr. BIBLE. Mr. President, this bill, as passed by the House is almost identical to S. 4019, introduced by Senator BIBLE, and which is now pending before the Committee on Interior and Insular Affairs.

Mar-A-Lago is one of the Nation's great mansions, and is truly deserving of the designation as a national historic site. Located on a coral reef between the Atlantic Ocean and Lake Worth in Palm Beach, Fla., this magnificent estate consists of approximately 17 acres of land. This property is recognized as one whose value will grow in future generations, and which is symbolic of a bygone era. The Secretary's Advisory Board on National Parks, Historic Sites, Buildings and Monuments, has approved its recognition. Because of the generosity of its owner, Mrs. Marjorie Merriweather Post, there will be no Federal funds required for the acquisition, or uniquely enough, for operation and management. This is truly a gift to the American people. Very few changes have been made in the main structure since it was originally built in 1927 except for the construction of the pavilion on the southwest corner of the house. It is intended that this mansion shall serve as a temporary residence for visiting foreign dignitaries and heads of State and for other selective purposes under the direction of the Secretary of the Interior, with the concurrence of the Mar-A-Lago National Historic Site Advisory Commission which is established by the legislation.

Mr. President, this, in my experience, is unique, not only in the gift of a great national resource, but in the money to maintain and operate it. Mrs. Post is to be commended for this great generosity.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. FULBRIGHT. It is not quite unique because Mrs. Post also gave her estate in Washington to the Smithsonian and endowed it with funds. So this is the second time she has made a similar arrangement.

Mr. BIBLE. I am happy to have my memory jogged. She is doubly entitled to our thanks.

Mr. FULBRIGHT. The one here was with a great selection of art, particularly Russian art outside of Russia, and she has given that with the endowment to maintain it.

Mr. BIBLE. It is truly appreciated. I am glad to have that brought to my attention. It contains money to maintain it for many years in the future.

The House bill is endorsed by the administration, and therefore, Mr. President, I move its passage by the Senate. I ask unanimous consent that an excerpt from the House committee report be printed in the RECORD.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 13067 by Representatives Aspinall, Taylor, and Rogers is to authorize the Secretary of the Interior to provide for the administration of the Mar-A-Lago National Historic Site in Palm Beach, Florida.

DESCRIPTION AND LOCATION

Mar-A-Lago is one of the Nation's great mansions. Located on a coral reef between the Atlantic Ocean and Lake Worth in Palm Beach, Florida, the estate consists of approximately seventeen acres of land. The meticulously manicured grounds emphasize the prominence of the carefully designed structure which has been molded to fit into the magnificent setting.

As one enters the grounds through the beautiful arched gate and proceeds along the coconut palm-lined driveway, the main features of the structure come into view. Probably the first feature to capture the visitor's eye is the enormous arched Romanesque style window that dominates the oceanfront side of the house, but it is not until he reaches the porte cochere that he is confronted with the elegance of the place.

Passing through the massive iron grille doorway into the elaborate entrance hall, the hooded fireplace captures the visitor's immediate attention, then his eyes begin to absorb the other impressive features of the room. Interesting old Spanish lanterns hang from the beamed ceiling to illuminate the large dresden urns that stand opposite a pair of Roman busts. At the other end of the entryway, a handsome pair of huge, carved, double doors with recessed panels—upon which carved and gilded cherubs are mounted—lead into the living room.

Topped with a high gold leaf ceiling from which massive Brystol crystal chandeliers are hung, the living room with its seven rare Venetian silk needlework panels and seven large archways, is for many people the most impressive room of all. From it, one can look out through the arched window across the grounds to the Atlantic Ocean. Four highly polished, black marble stairs lead to the small loggia where a Bengal tiger rug decorates the floor and artistic frescoes adorn the walls. Filled with priceless furnishings of the late Renaissance and 18th Century period, this living room is unique in the United States.

Near the hooded fireplace, an entrance leads into the relatively small, but impressive walnut panelled library which contains an interesting collection of books and some outstanding works of art.

On the other side of the living room, the entrance to the dining room is provided through one of the large archways. Adapted from a palace in Rome, this room is dominated by what is believed to be the only marble top extension table in the world. This massive table, which can be expanded from about 12 to 29 feet, weighs about 4000 pounds and can be used in a variety of combinations. Regardless of the length, however, the inlaid design of the top remains uninterrupted. The floor of the room consists of white and black marble blocks from an old Cuban castle and the walls are decorated with scenes painted on canvas which were copied from frescoes found in the original dining room of the Roman palace. Luxurious place settings of fine china, crystal, and golden tableware add to the rich atmosphere of the room and will remain as a part of the donated furnishings.

Altogether, the main residence contains more than a half dozen guest suites and sleeping rooms. All of the guest accommodations contain interesting furnishings and some are exquisitely decorated and contain valuable works of art and antiques. Perhaps the most unusual room in the house is the place known as "Deenie's House". Originally, it was the nursery. Its oval room remains today as it was when Dina Merrill was a child. A beehive fireplace with a rosebush molded in plaster relief "growing" across the dome to the windows on either side is the central feature of the room. The canopy bed has carved squirrels at the top of each post and the doors swing on hinges in the design of roses with door handles in the form of small squirrels whose tails are the levers. Inside the bathroom, two rows of tiles with illustrated nursery rhymes complete the youthful setting.

Outside, facing Lake Worth, a cloister abuts the inner side of the crescent-shaped structure providing its occupants with a pleasant atmosphere and view, but preserving their privacy and yielding them maximum security. In the foreground, a round patio surfaced with a pebble pavement consisting of uniform, highly polished black, yellow, white and multicolored glacial gravel has been installed to form an artistic geometric pattern. A small goldfish pool lined with waterlillies and adorned with sculptured birds forms the backdrop for the patio.

The view across the patio is magnificient. The grounds are perfectly landscaped and maintained. It is difficult to imagine that this land was once covered with a jungle of heavy underbrush almost too thick for penetration, because today it features a lush carpet of thick, verdant grass and a balanced setting of colorful gardens and graceful palm trees with Lake Worth in the distant background.

Taken altogether, Mar-A-Lago is truly one of America's greatest man-made treasures. It is a dream come true of one of the great ladies of the Land and it could probably never be duplicated—or, at least, it probably never will be. Very few changes have been made in the main structure since it was originally built in 1927, except for the construction of the pavillion on the southwest corner of the house. This addition can accommodate groups of modest size for social events or can serve as a meeting place for conferences, performances or other activities that might occur in the future if H.R. 13067 is enacted.

The Nation is indebted to Mrs. Post for creating this magnificent mansion and for her generosity in offering it to the Federal Government, without cost, so that it can be preserved in perpetuity. Like her Hillwood estate in Washington, D.C., which she has arranged to donate to the Smithsonian Institution, Mar-A-Lago contains a countless number of art objects of tremendous value which will be given with the property and will continue to be used in connection with it.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 13067) was ordered to a third reading, was read the third time, and passed.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Mr. McCLELLAN. Mr. President, the pending business before the Senate is the supplemental appropriation bill, H.R. 17034, which passed the House of Representatives Wednesday and was reported to the Senate by the Committee on Appropriations on Thursday, October 12, 1972. The bill as reported to the Senate recommends new obligational authority in the amount of $5,204,690,610 and, although this sum recommended by the Senate committee is $1,639,641,785 over the amount of the bill as it passed the House of Representatives, there are several good reasons for this large increase.

In the first place, the House did not consider budget estimates for the higher education programs. Subsequent to consideration of the bill in the House committee, the President submitted a supplemental budget estimate to the Senate in Senate Document 92–91 on October 10, 1972, in which he requested $1,207,214,000 for the Office of Education. The committee has recommended the full amount of the President's request for the Office of Education. This accounts for a large part of the increase recommended by the committee over the bill as it passed the House of Representatives.

In addition, in Senate Document 92–91, after consideration of the bill in the House, the President requested $175,000,000 for the Maritime Administration, and the committee has recommended the full amount of this budget estimate to provide funds to continue the construction of additional modern and efficient merchant ships during the current fiscal year.

In addition, under the legislative chapter of this bill, the Senate committee has included $53,610,000 for construction of certain Senate buildings which were not considered by the House of Representatives; and, finally, in the Department of Transportation and related agencies appropriation bill, the committee included $68.4 million in items which were not considered by the House of Representatives. This explains to a great extent why the bill, as reported to the Senate, is in excess of the House figures.

This bill contains appropriations for several programs and activities which normally would have been included in the regular annual appropriation bills but which were omitted from these bills due to lack of authorization at the time. Among the items in this category are:

Manpower training programs in the Department of Labor;

Social and Rehabilitation Service and the Office of Child Development, both of which are in the Department of Health, Education, and Welfare;

The Domestic Programs of Action;

The Office of Economic Opportunity;

The traffic and motor vehicle safety programs of the Department of Transportation;

The American Revolution Bicentennial Commission; and

The appropriations for higher education and library resources.

Mr. President, before each Member is a detailed report from the Committee on Appropriations which explains at some length the recommendations made by the committee. I will now turn to the various chapters contained in this bill and give a brief explanation of some of the important items. I would be delighted to yield at any time to answer questions, and the chairmen of the various subcommittees in the Committee on Appropriations will be available to go into detail with respect to any of the individual items in the various chapters.

In chapter I, the committee concurs with the House of Representatives and recommends an appropriation of $16,500,000 for the Soil Conservation Service. These funds are to be utilized in areas damaged by natural disasters in several States earlier this calendar year. Also, $13.5 million will be utilized by the Soil Conservation Service and $3,000,000 by the Forest Service for emergency measures for runoff retardation and soil erosion prevention.

The committee has approved an appropriation of $250 million in chapter II for urban renewal programs. These funds are to be used to carry out conventional urban renewal programs in the area devastated by Hurricane Agnes. The sum recommended by the committee, when added to the $200 million provided in the regular bill, will make a total of $450 million available to assist the localities damaged as a result of Hurricane Agnes. The House bill contained $26,320,000 to purchase four C–130 ski-equipped airplanes for the National Science Foundation. The budget of the Department of Defense for fiscal year 1973 contained $32.9 million to purchase five of these airplanes. The request was denied by the House and the Senate in connection with the regular Department of Defense appropriation bill, and the two subcommittees at that time indicated the funding for these planes should be considered in connection with budget estimates for the National Science Foundation. The committee has reduced this sum to $13,160,000.

Chapter III contains appropriations for the Department of the Interior. The committee recommends an appropriation of $2 million, the same amount as the House allowance for the National Park Service for operations and maintenance of the nonperforming art functions of the John F. Kennedy Center for the Performing Arts. The authorization for this appropriation is contained in Public Law 92–313. It is estimated that the total operating budget of the Center will amount to $2,986,000, and the committee was advised that the Center will be responsible for somewhat less than one-fourth, or $586,000, as the performing arts portion of the total estimated budget. The committee recognizes the difficulty in accurately estimating costs of a new activity and expects the National Park Service to be in a position to reduce its share of expenditures at the Kennedy Center after the first year on the basis of actual experience in operations and maintenance management. For the American Revolution Bicentennial Commission, the committee recommends an appropriation of $3,356,000, which is one-half of the budget estimate for planning activities and State grants connected with staging the Nation's bicentennial observances. These funds will be available contingent upon enactment of the Authorization Act, which has passed the Senate and the House of Representatives.

The largest sums recommended in this bill are contained in chapter IV, the chapter relating to the Department of Labor and Health, Education, and Welfare. Beginning on page 15 of the report is a detailed explanation of each item. As I mentioned earlier in my statement, the bill contains $1,207,214,000 for the Office of Education. It also contains $856,464,000 for the Department of Labor, most of which is for Manpower Training Services. The bill also contains $840,000,000 for the Economic Opportunity Program and $899,268,000 for Social Rehabilitation Services. For Child Development—Headstart—the committee recommends $422,056,000.

The committee has approved an appropriation of $47,925,000 under chapter V, legislative branch, for completion of construction of the New Senate Office Building. The proposed addition would contain approximately 654,800 gross square feet of space, as compared to 712,900 gross square feet of space in the existing new building. Since studies indicate that the greatest need of the Senate is for additional office space, the new structure would have between 400 to 450 rooms with no additional hearing rooms. Except for property belonging to the National Women's Party, all of the land and buildings within square 725 belong to the Senate and it is upon this land that the extension will be constructed. In addition, the committee has recommended an appropriation of $4,125,000 for the acquisition of property in square 724, the demolition of buildings, and design competition for garage and related facilities.

There are 10 privately owned properties in Square 724 which will be purchased by the Senate, including the Monocle Restaurant, the Stanton Apartments, the Senate Court Apartments, and the Capitol Hill Hotel, formerly known as the Carroll Arms Hotel. Forty real properties in this Square are already owned by the Government and are now under the jurisdiction and control of the Architect of the Capitol. In addition, one large office building is owned by the U.S. Government and is under the jurisdiction and control of the General Services Administration.

The Architect of the Capitol, under the provisions of the Authorization Act which passed the Senate earlier this year, is authorized to initiate and conduct a study to explore design and cost alternatives for construction on this Square of a parking garage with limited commercial facilities and report his preliminary findings and recommendations to the Senate Committee on Public Works. The

Architect is also to conduct an architectural design competition in order to encourage the preparation of an imaginative design for the garage structure. The bill also includes $1,450,000 for the acquisition of Square 764, which is the Old Providence Hospital site. It is located in Southeast Washington and is bounded by D, Third, E, and Second Streets.

The site is now vacant land and contains approximately 95,000 square feet of space. The House Office Building Commission has approved this square as the site for facilities for the pages of the Senate, the House, and the Supreme Court. The committee has made a study of the senatorial allowance and is recommending a merger of the current allowances for long-distance telephone calls and telegram charges, stationery, airmail and special delivery stamps, transportation, home office expenses, subscriptions, State office rentals, and telephone charges incurred outside of Washington, D.C., into one consolidated allowance for the same purposes. This new multipurpose account will be placed on a calendar year basis, effective January 1, 1973, and will be rated, for each Senator, at the aggregate of the individual amounts currently in effect. There will be no increase in the overall amount allowed each Senator and there is no necessity for increasing the appropriation.

The two purposes of this action are to provide flexibility to each Senator in the management of his office and to establish the calendar year as the standard accounting period. The consolidated control account for each Senator will be maintained by the Disbursing Office, under the Office of the Secretary of the Senate, and this Office will advise Senators of the payments made from this account, when vouchers submitted exceed accruals, and of possible deficiencies at the earliest practical moment. An antideficiency provision has been included in the authorization which will preclude payment of any voucher which exceeds the Senator's accrued allowance through the month in which the voucher is received for payment. The consolidation does not involve any of the funds available for clerk hire.

With respect to the Capitol Police, the committee was advised that under a recent decision in the District of Columbia, members of the Capitol Police force who carry revolvers outside the Capitol grounds would be subject to prosecution for carrying an unregistered weapon. This results from an interpretation of the law that the Capitol Police force does not come within any of the classes set forth in 22 District of Columbia Code, sections 3204 and 3305 dealing, among other matters, with the carrying of firearms within the District of Columbia. The committee was advised that the Committee on Public Works of the Senate has been considering an amendment to the law in order to correct this situation, but that it was doubtful the law could be amended before adjournment.

The chairman of the Committee on Public Works, in a communication to the Committee on Appropriations, proposed that the supplemental appropriation bill be amended to authorize the Capitol Police to carry firearms under regulations to be prepared by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives. Language to carry out this recommendation has been included in the bill.

Under chapter VI, Public Works, the committee recommends an appropriation of $6,060,000. For the Corps of Engineers portion of this chapter, an appropriation of $3,775,000 is recommended for general investigations, construction, general and flood control, Mississippi River and tributaries. The bill also contains $1,435,000 for the Southwestern Power Administration. The Southwest has experienced abnormally low rainfall in recent years. As a result, the Southwestern Power Administration will not be able to market sufficient power from Federal reservoirs to its contract customers. The supplemental appropriation will be used to purchase power from other sources to meet contract commitments.

The bill contains $198,582,000 for appropriations financed under chapter VII, Departments of State, Justice, Commerce, judiciary. For the Law Enforcement Assistance Administration, the committee concurs with the House in recommending an appropriation of $5,000,000 for expenses of additional research and development to control the supply of illicit narcotics. The bill contains $11,500,000 not considered by the House for expenses of the U.S. Government's participation in the 1974 International Exposition on the Environment to be held in the city of Spokane, Wash. Since the authorization for this appropriation has not passed, the committee has included a proviso in the bill providing that none of the funds recommended shall be available for obligation until authorizing legislation has been enacted into law.

Earlier in my remarks I referred to the fact that $175 million had been requested by the President and included in the bill for ship construction under the Maritime Administration, which item had not been considered by the House. This sum is included within this chapter. The committee has also inserted in the bill a paragraph recommending an appropriation of $1 million for the Commission on the Organization of the Government for the Conduct of Foreign Policy. This sum was included in the bill upon the request of the chairman of the Committee on Foreign Relations of the Senate.

Chapter VIII of the bill relates to the Department of Transportation and related agencies. The committee included $11,400,000 in the bill for payments to air carriers under the Civil Aeronautics Board. The amount recommended covers retroactive payments to local service airlines, and the recommendation of the committee recognizes the obligations of the Government with respect to air carriers under the applicable law.

The bill also includes $12 million for the payment of loan guarantees under the Interstate Commerce Commission. This will permit repayment of a guaranteed loan made to the Erie-Lackawana Railway Co. The sum of $57 million has been recommended for grants to the National Railroad Passenger Corp. This sum includes $9.1 million for anticipated deficits from the international services and existing and proposed additional experimental services; $32 million for roadbed improvements; and $15 million for the purchase of four turbo trains.

Chapter IX relates to appropriations for the Treasury Department and related agencies. The sum recommended by the committee in this chapter is $65,569,000. For the Bureau of Customs, the sum of $2.7 million has been included in the bill to provide 310 additional customs patrol officers for increased surveillance of port and dock areas in an effort to reduce the smuggling of narcotics and dangerous drugs. The sum of $4 million is recommended for the Internal Revenue Service. This amount provides for examination, audit, and investigation of an increased number of income tax returns with the objective of intensifying efforts to suppress the illegal traffic in narcotics and dangerous drugs.

For the Office of the Secretary, the committee recommends an appropriation of $3.8 million for central direction and coordination of the Treasury Department's general revenue-sharing functions, and for reimbursement to the Bureau of the Census for the collection and tabulation of certain data needed to compute the revenue-sharing allocations. It also provides for the audit responsibilities placed on the Department by the general revenue-sharing legislation.

The committee concurs with the House and recommends an appropriation of $20 million for salaries and expenses of the Special Action Office for Drug Abuse Prevention. The amount recommended provides initial funds for implementation of section 224 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, which authorizes the encouragement and promotion of expanded research programs to create, develop, and test chemical substances for use in the treatment of addiction.

The committee bill also contains $30,000,000 for the special fund to assist other Federal agencies in developing more effective drug abuse prevention functions, as provided in section 233 of the Drug Abuse Office and Treatment Act of 1972.

Mr. President, I have attempted to give a brief explanation of many of the items in the bill, and the various subcommittee chairmen from the Committee on Appropriations will, I hope, be available to go into any detail which is desired by any Senator.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The **PRESIDING OFFICER** (Mr. HARRY F. BYRD, JR.). Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that during the further deliberations of the Senate on this measure, Mr. James Murphy and Mr. Mark Schneider of the Committee on Labor and Public Welfare be permitted to be present in the Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I make a similar request in behalf of Charles Warren and John K. Scales of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, when the Senator from North Dakota (Mr. YOUNG) has finished his presentation, I have some questions of the chairman, but I am perfectly willing to await my time.

Mr. YOUNG. Mr. President, the chairman of the committee has explained the bill very well, particularly with reference to the various items. I can only add that the bill turned out better than I thought it would. It is only about $188 million over the budget. I expected that it might be $400 million or $500 million over. I think the committee did as well as it could with the bill, and I hope it will be approved.

Mr. JAVITS. Mr. President, if I could have the attention of the chairman——

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from New York. How much time would he like?

Mr. JAVITS. Five minutes would be sufficient.

Mr. McCLELLAN. I yield 5 minutes on the bill.

Mr. JAVITS. I thank the chairman. First, Mr. President, I would like to state that I think the committee did a splendid job. There are a few questions, and I have an amendment or two, but in view of the fact that we have just received the report, I would like to ask the Senator a few questions as to the purposes of the committee.

First, on that item which appears on page 47, line 22, at least in the bill of which we have a copy, dealing with a certain special fund in Special Action Office for Drug Abuse Prevention in the Executive Office of the President; if the Senator will be kind enough to turn to that, it is on page 61 of the Senate committee's report.

By the way, the Senator said that it was before all of us. My assistant happens to have a copy, but I do not know whether it has actually been distributed. The Senator might wish to inquire.

Mr. McCLELLAN. I understand that copies of the report have been distributed and are on Senators' desks.

Mr. JAVITS. I have one; I just wondered.

Mr. McCLELLAN. Does the Senator have one?

Mr. JAVITS. I happen to have a copy. I will be happy to make it available for any Senator who wishes to see it.

This is on the subject of the Special Action Office for Drug Abuse Prevention. If the chairman will give me his attention, the figure for the special fund has been set at $30 million. The amount which was requested for this special fund was $40 million.

Normally, one would say, "Great, you allowed 75 percent; who can argue about that?"

But I feel that this is a matter on which I would like to appeal to the chairman's sense of equity, rather than first submit an amendment, because I think it concerns us all.

This particular fund, essentially, is to clean up the waiting list for the methadone maintenance program. We have a chart from Dr. Jaffee, a very gifted man whom the President has put on this job, which shows the current waiting list to 27,940 persons, and that the amount required to clean up that waiting list comes to $69,850,000. I shall be very happy to have it inspected.

This appropriation of $30 million falls a bit short of actually enabling us to clean up the waiting list for the program. The amount really required would be somewhat in the area of $40 million. I will state the exact figures in a moment.

I think all of us would be appalled if we looked at the list of cities in which there are methadone maintenance waiting lists. I am not very proud of my home city of New York, which seems to have attracted narcotics addicts like honey does flies. It is unbelievable.

But when one sees that so many other States and so many other cities are involved in this scourge, ranging almost literally right across the country, I think it would appall any Senator. And, of course, right now, until we find an antagonist or some way of dealing with this current illness the only real thing we can do to take these narcotics addicts out of the criminal category is methadone maintenance, at least when they seek it, and all of these I have discussed are seeking it.

So I would like to ask the Senator this question: Is there some reason why the committee felt it should just provide the $30 million amount? Had the committee seen this list, which is certainly authoritative, and the amount which is required in order to do the job? Because if it was not before it, I think it would strongly appeal to judgment and reason that we should give them the necessary money at least to clean up these methadone maintenance waiting lists. That is an elementary precaution we could take to at least get rid of as many addicts as we could, with this treatment.

Mr. McCLELLAN. Mr. President, may I say to the distinguished Senator from New York, I do not think any Member of this body is opposed to making adequate appropriations in this field. It is true that the President requested in his budget $40 million for this purpose. The House of Representatives, after weighing it, allowed only $20 million, and made this statement in its report:

> The committee reluctantly recommends a reduction of $20 million in the funds requested for the special fund, simply because the special action office was unable to provide the committee with specific objective proposals, plans, or programs for the use of the funds requested.

I do not know just what the testimony showed before the House of Representatives, but that was the House's judgment.

This matter was handled by Senator MONTOYA's subcommittee. I do not see him in the Chamber now. He probably can give a further and better explanation.

It should also be borne in mind that 5 months of this year have already gone by. By the time this appropriation bill is passed, becomes law and the money becomes available, another month probably will expire. So if we can hold what we have here, the $30 million, we will have done pretty well, taking into account that they have no programs. They have no report to us about how they can effectively and judiciously expend this amount of money. I think that under the circumstances we are being very liberal.

Mr. JAVITS. The Senator would be right if we had no facts, but now we do. So may I submit the facts we have to the Senator from Arkansas, the Senator from North Dakota, and the Senator from New Mexico (Mr. MONTOYA), because now we have the certified facts as to what is to be done and what it costs. If they look favorably upon it, I would—or perhaps even the committee would—consider an amendment which would bring the money up to what is really needed, based now upon a firm representation of fact. I will submit that to all the Senators concerned, in the hope that they will examine it from that point of view.

Mr. McCLELLAN. I would suggest that the Senator submit those facts to the committee. I do not believe they have been made available.

Mr. JAVITS. That is correct.

Mr. McCLELLAN. They have not been made available to the committee, so the Senator can understand the reason for the judgment of the committee, not having the facts which you refer to.

But I would say to the distinguished Senator that unless there is an amendment, the $30 million is the most that can be agreed to in conference. The facts he submits no doubt will be helpful and will reinforce the Senate committee in supporting the amount it appropriates and in sustaining its position for $30 million instead of $20 million. It would be helpful to us that way, certainly; but without an amendment, the Senator knows that is the limit which we can achieve in conference.

Mr. JAVITS. I am quite prepared to submit an amendment, but I think this matter commends itself so much to equity that I would like to submit it in the next few minutes.

Mr. McCLELLAN. If the Senator is going to submit an amendment, I wish he would wait for a little while, until Senator MONTOYA can come to the floor. He is the chairman of the subcommittee and held the hearings, and he is more familiar with the matter than I am. I would like for him to be present.

Mr. JAVITS. Mr. President, one other observation: The committee made an increase to $840 million basic in the appropriation for various titles of OEO for the war on poverty, as I requested, and thus accommodated the items that I had testified to relating to an increase for community economic development, for legal services, the administration requested $760 million for these items and that was the House allowance.

Within the $840 million, I requested totals of $69,750,000 for community economic development, an amount $39.05 million above the $40.7 million requested by the administration. This was made on behalf of myself and Senator KENNEDY. And $94.346 million for legal services, an amount $22.846 million above the $71.5 million requested by the administration. This was made on behalf of myself, Senator CASE, Senator MONDALE, and Senator CRANSTON.

I ask unanimous consent that excerpts from my testimony before the Subcommittee on Labor-HEW on October 6, 1972, be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

COMMUNITY ECONOMIC DEVELOPMENT

The Economic Opportunity Amendments of 1972 added a new title VII, "Community Economic Development" to the Economic Opportunity Act.

This new title—which I co-authorized with Senator Kennedy and Senator Nelson, the Chairman of the Subcommittee on Employment, Manpower and Poverty of the Senate Committee on Labor and Public Welfare—is designed to support the efforts of community economic development corporations and rural cooperatives, in working with the private sector to reduce poverty in low-income urban and rural areas.

The new authority brings together programs previously conducted under Title ID, "Special Impact" which the late Senator Robert Kennedy and I added to the Economic Opportunity Act in 1967, taking as our model a very successful program in Bedford-Stuyvesant in New York.

Mr. Chairman, our request—which I make on behalf of myself and Senators Nelson and Kennedy—consists of three basic elements as follows:

$64,900,000 merely to implement the completed plans of 39 existing community development corporations to be funded under Part A of the new title; these programs are currently funded under title ID of the Act, Special Impact. The $63,900,000 includes $43,200,000 for urban grantees, $17,100,000 for rural grantees, and $4,600,000 for support activities, such as training, technical assistance, evaluation and research.

$3,850,000 for the maintenance of rural cooperatives projects under Part B of the new title and related rural projects. These activities are currently funded under Section 232 of the Economic Opportunity Act (research and development) and title III a (rural loans) respectively.

$1,000,000 for the revolving loan fund to be established under Part C of the new title VII.

These essential needs are documented on a project and item basis in a letter dated September 25, 1972 to me from the Center for Community Economic Development, Cambridge, Massachusetts, based on a survey conducted at my request. The Center is a non-profit organization chartered to provide policy research and information with respect to community economic development programs.

I ask that this letter from Geoffrey Faux, Executive Director of the Center for Community Economic Development, together with tables and charts be included in the Hearing Record.

As a co-author of the new title, I believe that the activities conducted thereunder have already been proven under existing law as extremely cost-effective means of dealing with the problems of poverty and decay in our inner cities and depressed rural areas.

In a 1971 task force report, the Twentieth Century Fund of New York concluded on the basis of a review of these programs that:

Community Economic Development Corporations have demonstrated: "unique capacity for pooling a community's talents and resources . . . for linking together a variety of businesses and projects . . . and for organizing the community to accept and effectively utilize resources and assistance from outside the poverty area."

The program in Bedford-Stuyvesant, New York—upon which the original Kennedy-Javits title I D was based—is particular testimony to the effectiveness of the program. For a $25 million federal investment during the first four years the Bedford-Stuyvesant program can directly point to over $31 million in non-federal loans and investments, to increased payrolls of over $25 million per year, to private contributions of $8.5 million and to investments in real estate and other assets of $12 million.

This experience is borne out throughout the Nation. ABT Associates of Cambridge, Massachusetts, which has just completed a study of the existing 39 Community Development Corporations concludes that every dollar of Federal money has generated 80 cents in private and 17 cents in "other public" investment, roughly doubling the return.

Thus, we urge the Subcommittee to consider our request for $69,750,000 as one that will be worth at least twice its cost as an anti-poverty effort.

LEGAL SERVICE PROGRAM

Second, on behalf of Senator Case, Senator Mondale, Senator Cranston, and myself I request an earmarking of $94,346,000 for the legal services program.

Mr. Chairman, one of the greatest disappointments in the recent Conference on the Economic Opportunity Amendments of 1972 was the decision to drop from the bill the new proposal for a National Legal Services Corporation, which had the general support of the Congress and the Administration.

Despite this accord on the desire to expand the program and raise its status by putting it into a non-profit corporation, we just could not reach agreement on key elements, such as the composition of the Board of Directors and related questions of organization.

But notwithstanding that fact, the Conferees did express their support for the existing program and their desire to see it expanded.

The statement of the Conferees appearing at page 26 of the Joint Explanatory Statement of the Conferees (Report No. 92–1086) states:

"The Conferees continue to strongly support the existing legal services program . . . and intend to continue to seek . . . appropriate means of expanding the program . . . to provide the poor greater access to our system of justice under law."

Mr. Chairman, the needs of the program during fiscal year 1973 have been carefully defined by a survey conducted by the National Legal Aid and Defenders Association, at my request.

The NLADA—which is made up of distinguished members of the bar reports that "a total of $94,346 million may be effectively utilized"—and I emphasize those words—"toward meeting basic minimal needs."

This consists of $77,030,000 for projects in the field and $17,316,000 for administration, research and development, support and evaluation and technical assistance.

They are documented on a state, regional and item basis in a letter dated October 2, 1972 from Frank N. Jones, Executive Director of the National Legal Aid and Defender Association.

The letter includes in each case the comparable budget allocation for fiscal year 1973, and the amounts made available in fiscal year 1972 and the amounts needed to maintain programs at the current level throughout the remainder of this fiscal year.

To merely maintain programs at current levels, the National Legal Aid and Defender Association indicates that $78,622,000 would be necessary; this would exceed by $7,150,000 the amount reserved.

I ask unanimous consent that the letter be printed in the Hearing Record.

Mr. JAVITS. The full testimony and documents appear beginning at page 34827 of the CONGRESSIONAL RECORD of October 11, 1972.

I also requested in the same testimony that approximately $25 million additional be made available to prevent cutbacks in many of the 50 States for community action and Headstart due to the treatment of Puerto Rico as a State under my amendment included in the Economic Opportunity Amendments of 1972.

The committee dealt with this item completely.

I am very pleased also that the committee report urges greater funding for OIC—Opportunities Industrial Centers—programs, as requested by Senator BOGGS and myself so that they can implement their plans throughout the country.

I wanted to express my great appreciation to the committee for this very humane approach to these problems.

I thank the chairman and the members of the committee, including particularly Senator CASE, who joined with me in the legal services request.

Mr. EAGLETON. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 11, following line 2, insert the following sentence:

"In addition to the sums provided in the previous sentence for carrying out the Older Americans Act of 1965 as amended, $17,000,000 to carry out Title IV of such Act: Provided, that funds contained herein to carry out Title IV of the Older Americans Act of 1965 as amended shall be available upon enactment into law of authorizing legislation."

Mr. EAGLETON. Mr. President, the purpose of this amendment is to provide research and training funds under the Older Americans Act. This item was requested in the budget, but has not been included in any of the appropriations bills, because the authorizing legislation had not been enacted. The Senate acted this afternoon to approve the conference report on H.R. 15657, the Older Americans Act Amendments of 1972, and the House is expected to follow suit tomorrow.

Mr. President, I have discussed this amendment with the Senator from Washington (Mr. MAGNUSON), and it is my expectation that it meets with his approval.

Mr. MAGNUSON. Mr. President, as I understand, the Bureau of the Budget has approved this amendment.

Mr. EAGLETON. The Senator is correct.

Mr. MAGNUSON. And they would have sent it up, but there was a delay in the authorization. Yesterday or today, the Senate agreed to the conference report.

Mr. EAGLETON. That is correct.

Mr. MAGNUSON. This is part of the amount we wanted to use to do more about the objectives of the Older Americans Act of 1965, which now has been amended and brought up to date.

If the distinguished chairman of the committee and the Senator from North Dakota would agree, I would like to take this amendment to conference. It has been approved by the Bureau of the Budget.

Mr. McCLELLAN. Do we have the approval of the Bureau of the Budget? Can we include that approval in the RECORD?

Mr. EAGLETON. I do not have the approval before me, but the item was approved by the Bureau of the Budget.

Mr. McCLELLAN. Do you have a letter written to someone? We do not have it.

Mr. EAGLETON. It is in the budget as submitted. The problem was the delay in the authorizing legislation, which was not passed until today.

Mr. MAGNUSON. A number of items like this were included in the January budget and because of the delay in the authorization, we did not get at them in the regular Labor-HEW bill.

Mr. McCLELLAN. I inquired because, if we have the approval of the Bureau of the Budget, we ought to make it a matter of record, in order to reinforce us when we go to conference.

Mr. MAGNUSON. I think the House Members would be agreeable to this matter, because there has been great interest in this part of the program.

Mr. YOUNG. I will be glad to take it to conference.

Mr. McCLELLAN. Mr. President, I have no objection to taking this amendment to conference, if there is approval of the Bureau of the Budget. Under the circumstances, I am sure that had the authorization bill been passed, and if it occurred before the committee's consideration of this title of the bill, it no doubt would have been approved by the committee.

Unless there is objection on the part of a Senator, I will be glad to take it to conference.

Mr. EAGLETON. I thank the Senator from Arkansas, the Senator from Washington, and the Senator from North Dakota.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 2, strike out lines 15 through 22.

Mr. PROXMIRE. Mr. President, I intend to ask for the yeas and nays on this amendment at the appropriate time. I do not know whether a sufficient number of Senators are in the Chamber at this time.

This amendment would strike the $250 million for urban renewal that is in the supplemental appropriation.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I chaired the hearings on this matter, as chairman of the Subcommittee on Housing, Urban Development, and other matters, and it seems to me that there just is no justification for including this $250 million in a supplemental appropriation. A supplemental appropriation is justified only on the basis of an urgent, immediate, or emergency need. This request for $250 million in urban renewal funds does not remotely meet that test. This is why.

First, the immediate or emergency needs for Hurricane Agnes have been supplied through $153 million of OEP—Office of Emergency Planning—funds for temporary housing, trailers, motel rents, and immediate repair and rehabilitation funds. The other major amount, $1.3 billion was provided through an appropriation for small business and this should take care of virtually all of the housing and virtually all the business devastation wrought, and enable people to rebuild their homes and their businesses. This was provided on a very generous basis with a large forgiveness—by far the most generous disaster appropriation in the history of Congress—far more money and more generous terms.

In addition, the Red Cross provided for immediate emergency needs. There was relief for highways from HEW, and so forth—almost $2 billion provided, as I say, the most generous in history.

The Small Business Administration has supplied additional funds; $1.3 billion authorized for Agnes and Rapid City. The Red Cross and others met immediate emergency needs. The total for relief, $386 million; highways, $109 million; funds from HEW, $58 million; and Corps of Engineers, $16 million—totals almost $2 billion.

The funds supplied were the most generous in the history of the Federal Government.

Second, the $250 million request is for the "regular" or "conventional" urban renewal program. These funds cannot possibly be disbursed. There is no way to disburse them in the present fiscal year. I submit that under the circumstances, it does not make any sense for us to provide $250 million which will not be spent. It is not an emergency. There is no way the money can be expended.

Here is why.

Planning proposals have just begun—not planning but planning proposals, and they will not be completed for another 60 days or 6 months. The initial planning money is available under the 701 planning grants. The time necessary to put even the planning stage into effect takes years. The Douglas Commission on Urban Renewal found that the "survey and planning" stage of an urban renewal project took a year and a half on the average because, first, we have to pass on the loans and the grants and that takes an average of 2 years, and then there is the final stages of the loans and the grants and that takes a year. Therefore, it takes 4⅓ years to put projects into "contract" form. Only then, after 4⅓ years, can we possibly spend the money and all of this for new urban renewal proposals. Only then could land be acquired, demolition take place, land disposition be made, and new construction start. And that all took another 5 years.

As I say, they have not begun the planning stages yet, because Hurricane Agnes has just wrought this devastation.

CANNOT USE EVEN WITH SPEED-UP

Even with the speed up proposed by HUD, there is no way these funds could be used now. They are not needed. It will be years before the funds are disbursed.

Third, the urban renewal program is not an instrument for immediate and urgent needs in an emergency. It can only function in the long term. Traditionally, the program has destroyed more housing units than it has built. It has displaced existing small businessmen through demolition, land write down, and new construction.

The conventional urban renewal program, which this money is for, clears land and builds new. Thousand of houses and thousands of businesses have been destroyed, not built.

For instance, 400,000 housing units have been destroyed and it has put back only 20,000 and that is 20 times more units that it has constructed.

Fourth, and this should concern every Member of this body, because tomorrow we will take up a bill which I understand purports to provide a ceiling on all Federal spending in the present fiscal year, and the President will be empowered one way or the other to reduce programs to bring it under the $250 billion ceiling, or the $245 billion ceiling. If we provide this $250 million now in this bill and it is committed, we will be put in a position of knocking out other programs which Congress supports.

This is not an emergency request. It is an attempt to get a commitment of $250 million now which will limit programs elsewhere but which cannot be used for months and years ahead. It should be rejected and brought back for action in the regular appropriation bill.

Mr. President, I ask unanimous consent that a table from the Douglas Commission report, "Building the American City," indicating the time necessary for each urban renewal step, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[From the Douglas Commission Report, Building The American City]

TABLE 14.—PROCESSING TIME INVOLVED IN URBAN RENEWAL PROGRAM

Step	Agency and office	Action taken	Days for— S. & P.	Days for— L. & G. I	Days for— L. & G. II[1]
1	Local urban renewal agency	Prepare analysis, coordinate planning	45	245	60
2	Mayor and council	Authorize filing, S. & P. approval			
3	Local urban renewal agency	Forward S. & P. to regional office; submit L. & G. I and L. & G. II to regional office when local action complete.			
4	Regional office:				
	Renewal assistance office:				
	Process control and reports	Receive, log in, check for completeness, route available copies of application to staff	3	8	5
5a	Program planning and engineering	Review, comment	30	45	10
5b	Rehabilitation and codes	do	5	15	10
5c	Social services	do	27	25	12
	Real estate:				
5d	Acquisition	do	22	15	18
5e	Disposition	do	15	20	22
5f	Fiscal management	Review, prepare budget	21	20	1
5g	Equal opportunity (intergroup relations)	Review, comment	25	32	15
5h	Regional counsel	do	24	48	12
5i	Program coordination and services division:				
	Relocation	do	10	25	12
5j	Plan	do	35	43	18
5k	Economic and market analysis	do	15	21	10
6	Renewal assistance office: Processing control and reports	Resolved comments determine if application should be returned; require additional information f needed; prepare wrapup; routing.	40	43	16
7	Local urban renewal agency	Respond to regional request	(2)	(2)	(2)
8	Assistant regional administrator for renewal	Review and sign off	1	1	1
9	Regional administrator	Review	1	1	1
10	Central office:				
	Renewal and housing assistance:				
	RAA: Program control and statistics	Receive, log, and review for submission requirements	(3)	(3)	(3)
11	Office of Community Development (relocation)	Review for adequacy of relocation plan		20	16
12	RAA: Program control and statistics	Get additional information if needed or prepare for RHA approval and validation	(3)	(3)	(3)
13	Administration: Fiscal services	Prevalidation of funds	3	3	2
14	Renewal and housing assistance: Assistant secretary	Final approval	4	4	4
15a	Public affairs and congressional relations	Review press release; advise appropriate elements and publish	13	13	9
15b	Renewal and housing assistance: RAA, program and statistics.	Record approval and prepare memo to region	(3)	(3)	(3)
16	Regional office: Renewal assistance office, processing control and reports.	Send additional letter to locality	10	10	10

[1] Legend: S. & P., survey and planning application; L. & G. I, pt. 1, application for loan and grant; L. & G. II, pt. II, application for loan and grant.

[2] Varies. RAA records do not show the amount of time the application is held awaiting grant funds—only the total time and the time spent in various offices; all "hold time" is reflected in the program control office even though only 3 to 5 days processing time is actually spent there. Total elapsed time is shown in recap.

[3] Recap: Regional office processing: S. & P., 76 days; L. & G. I, 91 days; L. & G. II, 47 days. Central office processing: S. & P., 192 days; L. & G. I, 49 days; L. & G. II, 40 days. HUD processing time per application: 495 days. Time in locality (after S. & P. approval): 305 days. Urban renewal project processing time from receipt in regional office to approval of pt. II, 800 days.

Source: Study by Model Cities Systems Improvement Team, HUD, June 20, 1967.

Mr. President, I am chairman of the subcommittee and I sat through the hearings and listened very carefully to the testimony given by Mr. Romney and his assistants, and they were unable to show that there is an immediate or urgent need for these funds; indeed, that there will be any need for the funds during the current fiscal year.

As I say, we are really providing a quarter of a billion dollars which will mean that other programs which Congress has appropriated funds for will be reduced—not of our own volition, but on the volition of the President.

Mr. HART. Mr. President, will the distinguished Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. HART. Do I correctly understand the $250 million is available only to the half a dozen areas where there has been a national disaster?

Mr. PROXMIRE. That is the purpose of it. I am quite sure that that is the intention. I think that is correct, yes.

Mr. HART. I would be anxious to join the Senator in that effort, if we were not doing more harm than good. Some of us have read—some of us on the Senator's committee—that certain of these areas devastated by natural forces have found that the rehabilitation effort has been limited, inadequate, and unsatisfactory. The Governor of Pennsylvania got into a great jawboning with the Secretary of HUD on a "Who shot John" level.

If we eliminate the $250 million, will the Secretary of HUD then go back to Pottstown, or wherever it was, and say, "It is the Senate's fault?"

Are we able in the Senator's record to establish that by eliminating the $250 million it will have no effect on the efforts which I hope are genuine and effective to give rehabilitation and help promptly to the devastated areas.

Mr. PROXMIRE. There is $2 billion in emergency funds presently appropriated and available for any need for any homeowner or any businessman to rebuild his home or business. So what I am asking for is that the urban renewal funds be provided in an orderly way on the basis of having a considered plan, so that we have some idea of whether the $250 billion ceiling should be adopted. On the other hand, we will be in a far better position after we have hearings next year, when we come back, and the funds will be available in plenty of time, if we wait until next year, because there is no way the funds can be expended before the end of the fiscal year.

Mr. HART. That is what I wanted to be sure of. It is one thing to plead for orderly programs but another to tell that to a mayor whose city has just been devastated by a flood.

Mr. PROXMIRE. That is why the planning money has been made available. He can proceed. He can go right ahead. He can do everything right up to making the application.

Mr. HART. It is the judgment of the able chairman that if any city devastated by a natural disaster had a recent commitment which would still be in this present plan, which will enable it to shelter its people and provide the services which have been destroyed, they will find that there is money available for it, even though we cut this $250 million out?

Mr. PROXMIRE. Absolutely. There is no question about it. In the first place, the urban renewal funds would be involved in a different kind of process in restoring a home or in restoring a business or engaging in anything of that kind.

Mr. PASTORE. Mr. President, will the Senator from Arkansas yield some time to me?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). The Senator from Rhode Island is recognized for 5 minutes.

Mr. PASTORE. Mr. President, when the Senator from Wisconsin says categorically and without question, I have a question.

Mr. President, up until recently the responsibility for this particular bill has been mine, and what agonies I have suffered over the years when being told by the Senator from Michigan and the Senator from New York that we have authorized a certain amount of money for urban renewal, and that we have never met those obligations in the way of funding on urban renewal.

Let us face it. What are we up against? We have had a very devastating blow to our country because of the tragedy caused by Agnes. And because of Agnes, certain localities were hit a lot harder than others. None of this money is going to come to Rhode Island.

Mr. President, unless we appropriate the money to meet the amount we have authorized for urban renewal, the money would be spent for other purposes and would be taken away from other localities.

The argument is made that we have planning money. There is a difference between that and a contract to construct. Unless we appropriate, we cannot enter into that contract.

That is why we are up against this dilemma. This administration has never been overly generous in submitting a budget estimate that would justify the authorizations we have passed in Congress for urban renewal. However, the fact that they are asking for this money impresses me very, very much, because I tell the Senate very frankly that the situation must be very tragic for them to come in and ask for a supplemental estimate for urban renewal.

I tell the Senate very frankly that this money will be appropriated whether it is today, tomorrow, or next year. However, the question is that the tragedy is now. The relief must be now. And the estimate is now and the appropriation must be now. And that is what we are up against.

This idea that they have planning money does not impress me. Planning for what? We have more plans down there and we have not enough money to fund them. We have plans even going beyond the authorization and funded under the authorization.

That is what we are up against. As a practical proposition, this means nothing to my State. Does anyone mean to tell me that we can postpone this? This would be pennywise and pound foolish. In the end we have to rehabilitate America and we have to rehabilitate these cities that have been struck so hard.

We can always find money for foreign aid programs. We can always find money for Vietnam. However, when it comes to helping the people of our country who have been hit by a tragedy, they say that we can postpone that and bring up some planning money. Planning for what?

What we need to do here is to get going and rehabilitate these cities that have been struck by disaster. I would hope that the amendment would be defeated.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed at this point in the RECORD pages 7 and 8 of the Senate report on this bill. I believe it states some of the facts sufficiently so that it will sustain the action of the committee in making this appropriation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAPTER 7

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT

Urban renewal programs

1973 appropriations to date	$1,200,000,000
1973 supplemental estimate (H. Doc. 92–368)	250,000,000
House allowance	250,000,000
Committee recommendation	250,000,000

The Committee recommends an appropriation of $250,000,000 for Urban Renewal Programs, which is the same as the budget estimate and the House allowance. These funds are to be used to carry out conventional urban renewal programs in the area devastated by Hurricane Agnes.

The original budget request for this program for fiscal year 1973 was $1,000,000,000, and needless to say, did not anticipate the need for disaster assistance. In the regular appropriation bill, approved August 14, 1972, the Congress provided $1,200,000,000, and in the Conference Report thereon, House Report 92–1261, dated July 22, 1972, included the following language:

"The committee of conference intends for the funds provided in the bill for urban renewal to be used to provide for this program as described in the budget request. The Department is directed to administratively expedite and process the seven-state Agnes flood area urban renewal applications. A supplemental budget request should be developed to replenish the funds necessary to provide for both the ongoing and emergency programs."

The sum recommended by the Committee, when added to the $200,000,000 over the budget estimate provided in the regular bill, will make a total of $450,000,000 available to assist the localities damaged as a result of Hurricane Agnes.

The Urban Renewal Program was brought into being by the Housing Act of 1949, and at that time, the program's main thrust was directed towards the clearance of slum areas. At the present time, the program combines and integrates a broad array of activities in order that slum areas may be prepared for new uses meeting national and local economic and social objectives.

The conventional Urban Renewal Program presently has a fivefold purpose, namely:

1. The preservation and restoration of the urban environment through the elimination of slums, blight, and pollution causing conditions;

2. The preservation of our nation's existing low- and moderate-income housing supply through rehabilitation;

3. The prevention of the spread of slums and blight in marginal neighborhoods;

4. Provision of maximum opportunity for private enterprise to redevelop areas on a planned and protected basis; and

5. Assurance that prior to demolition or removal of residential structures in an urban renewal project, standard housing units for occupancy by low- and moderate-income families are provided for those families being displaced.

NATIONAL SCIENCE FOUNDATION

Salaries and expenses

1973 appropriations to date	$619,000,000
1973 supplemental estimate	[1](32,900,000)
House allowance	26,320,000
Committee recommendation	26,320,000

[1] Original estimate submitted as part of Department of Defense budget in the amount of $32,900,000.

The Committee recommends an appropriation of $26,320,000, which is the same as the House allowance, and $26;320,000 above the budget estimate.

A formal estimate for five C–130 ski-equipped planes was requested in the budget of the Department of Defense. This request was denied by both the House and the Senate when the Department of Defense budget was considered earlier this session. In denying these funds, both the House and Senate Department of Defense Appropriations Subcommittees indicated that funding for these planes should be provided in the budget of the National Science Foundation. Thus, on the basis of an informal request from the Director of the Office of Management and Budget, the Committee has considered this an estimate of the National Science Foundation and has allowed funding for four of the five planes requested.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time, but before I do so, I ask unanimous consent that my administrative assistant, Howard Shuman, be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE), is absent on official business.

I further announce that if present and voting, the Senator from California (Mr. TUNNEY), and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. MILLER), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 10, nays 63, as follows:

[No. 549 Leg.]

YEAS—10

Allen
Byrd,
  Harry F., Jr.
Cranston
Eagleton
Fulbright
Hollings
Hughes
Nelson
Proxmire
Symington

NAYS—63

Aiken
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Church
Cooper
Cotton
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Gambrell
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hruska
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Weicker
Williams
Young

NOT VOTING—27

Allott
Baker
Buckley
Cannon
Chiles
Cook
Curtis
Edwards
Goldwater
Harris
Hatfield
Humphrey
Kennedy
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Pell
Roth
Saxbe
Spong
Thurmond
Tower
Tunney

So Mr. PROXMIRE'S amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the distinguished Senator from Nevada (Mr. BIBLE). I ask unanimous consent that the time not be taken out of the time allotted on the supplemental appropriation bill. The Senator wishes to bring up a privileged matter.

GOLDEN GATE NATIONAL RECREATION AREA, CALIF.

Mr. BIBLE. I thank the Senator from Arkansas.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16444, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 16444, which will be stated by title.

The assistant legislative clerk read as follows:

A bill to establish the Golden Gate National Recreation Area in the State of California, and for other purposes.

The bill was read the second time.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIBLE. Mr. President, the Senate Interior Committee previously reported a bill, S. 3174, Calendar No. 1217, which also would establish the Golden Gate National Recreation Area in San Francisco and Marin Counties, Calif. The House Interior Committee reconsidered their bill before final passage and amended it to make it conform in great detail to the Senate bill which has been reported.

The military lands which will be utilized as part of the national recreation area are now identical in both bills. These lands are made up from the Presidio of San Francisco and other forts close by, portions of which are no longer needed for reasons of national security, and, therefore, will contribute greatly toward providing recreational opportunities for the millions of people in the San Francisco metropolitan area.

In addition, the House has added 300 acres in three tracts in Marin County to which the Senate would have no objection. There are two other parcels within the boundaries of the area known as the Cliff House and Sutro Baths which the Senate Interior Committee excluded, but which the House believes should be included. The House did remove a condition which had bothered the Senate committee in that the lands could not be acquired unless certain State and city lands were donated to the United States. This uncertainty has been removed and now the owners of these lands are free to negotiate with the Secretary of the Interior, thus removing the major objection which the Senate Interior Committee had to that provision.

Therefore, Mr. President, since most of the main provisions of both bills are identical, I see no need to require a conference on the differences which remain. I move the passage of H.R. 16444.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time and passed.

Mr. BIBLE. Mr. President, I ask unanimous consent that S. 3174, the Senate bill which is at the desk, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC SAFETY OFFICERS BENEFITS ACT OF 1972

Mr. McCLELLAN. Mr. President, I ask unanimous consent that I may call up a message from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2087.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2087) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents, which was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Public Safety Officers Benefits Act of 1972".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS DEATH BENEFITS

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued under part F of this title, that an eligible public safety officer has died as the direct and proximate result of a personal injury sustained in the performance of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of $50,000, in the following order of procedure:

"(1) If there is no dependent child, to the spouse.

"(2) If there is no spouse, to the dependent child or children, in equal shares.

"(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

"(4) If there is no survivor in the above classes, to the parent or parents dependent for support on the decedent, in equal shares.

"(b) As used in this section, a dependent child is any natural, adopted, or posthumous child of the decedent who is—

"(1) under eighteen years of age; or

"(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(3) over eighteen years of age and a student as defined by section 8101 of title 5, United States Code.

"(c) As used in this section, spouse includes a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.

"(d) As used in this section, the term 'dependent for support' means more than one-half of the support of the dependent concerned.

"(e) As used in this section, the term 'eligible public safety officer' means any individual employed by a public agency as a law enforcement officer or as a fireman (including any individual serving as an officially recognized or designated member of a legally organized volunteer fire department) who is determined by the Administration to have been, at the time of his injury—

"(1) a law enforcement officer engaged in—

"(A) the apprehension or attempted apprehension of any person—

"(i) for the commission of a crime, or

"(ii) who at that time was sought as a material witness in a criminal proceeding; or

"(B) protecting or guarding a person held for the commission of a crime or held as a material witness in connection with a crime; or

"(C) the lawful prevention of, or lawful attempt to prevent, the commission of a crime or was otherwise engaged in the performance of his duty and such injury was the result of a criminal act, or an apparent criminal act; or

"(2) a fireman engaged in the protection of life or property from fire.

"SEC. 702. The gratuity payable to any person under this part is in addition to any benefits to which he may be entitled under any other law.

"SEC. 703. The provisions of this part shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury which is sustained on or after the date of enactment of this Act."

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end of the section the following sentence: "In addition, there are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

SEC. 4. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by changing the period at the end of subsection (c) of that section to a comma and adding: "except that for the purposes of part J the term does not include the District of Columbia."

Mr. McCLELLAN. Mr. President, on September 5, 1972, the Senate passed by a record vote of 80 to 0 the Public Safety Officers Benefit Act of 1972 (S. 2087). This measure was the product of an extensive series of hearings held by the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair, into the full range of problems associated with crime victimization.

As the measure passed the Senate, it provided a $50,000 gratuity to dependents of slain public safety officers, defined to include policemen, firefighters, correction guards, and others who perform law enforcement activities.

S. 2087 was one of four proposals to come out of the subcommittee's hearings, each dealing with a different aspect of the problem of victimization. The subcommittee also processed and the Senate passed:

S. 730, sponsored by the distinguished majority leader, Mr. MANSFIELD, to compensate innocent victims of violent crime: 60 to 8,

S. 33, sponsored by the distinguished Senator from Massachusetts (Mr. KENNEDY) to provide adequate group life insurance for public safety officers: 61 to 6,

S. 16, sponsored by myself and the distinguished Senator from Nebraska (Mr. HRUSKA) to secure for victims of racketeering activities antitrust type civil remedies: 81 to 0.

To facilitate the consideration of these various measures in the House, and to make it feasible to get them to the President for his signature before adjournment, each of these bills was incorporated and integrated into H.R. 8389, a house passed drug bill, and the bill was reconstituted as a comprehensive Victims of Crime Act of 1972. This measure, as so reconstituted, passed the Senate by a record vote of 74 to 0 on September 18, 1972.

No one necessarily expected the other body simply to accept each or all of the Senate amendments. It was our hope and expectation that a conference could be held between the House and Senate and that a mutually satisfactory compromise could be worked out. To date, the House has not appointed its conferees, and it appears that this comprehensive measure is going to die. Should this occur, it will be a sad and lamentable loss, indeed.

Mr. President, while the House has not acted upon the comprehensive measure, it did pass yesterday H.R. 16932, a similar but substantially different version of S. 2087, the Public Safety Officers Benefit Act of 1972. After acting on its own version of this measure, it then substituted the text of its bill for S. 2087, the measure that the distinguished Senator from Nebraska (Mr. HRUSKA) and I sponsored here in the Senate.

I would like to support the House version of this measure and to recommend to my colleagues that we accept the House version so that it could be passed and sent to the President without further delay. Having carefully examined and compared the two bills, however, I have concluded that this course of action would not be in the best interest of the public safety officers and their families. The differences between the two measures are too substantial, and militate against the interests of the officers and their families.

First, the House passed bill has no clause in it providng a measure of retroactivity. In contrast, S. 2087 would have authorized payments back to January 1, 1967, the date police assassination in this country began to rise at such an alarming rate.

I recognize, of course, that it is necessary to draw a line somewhere. But it is incongruous to me that the deaths of those police officers, firefighters, and correction guards that moved the President to recommend this legislation and both Houses of Congress to act, should not be included. Can we in good conscience exclude the policemen and firefighters who died in our recent urban riots? Can we properly exclude the prison guards who died in the Attica uprising? I do not think they should be excluded.

Second, the House passed bill gives the public safety office no flexibility to direct that the gratuity be paid to particular dependents. In contrast, S. 2087 gave each officer the option of making a selection that would tailor the operation of the bill to the particular facts and needs of each officer's family life. Suppose, for instance, that the officer was the sole means of support for an aged grandmother and a nephew, and he had no other family of his own. Under the House bill, no payment would be made to anyone, while under S. 2087, the officer could fill out a special designation with the Law Enforcement Assistance Administration that would meet this sort of special situation. How can we say that we have the best interest of the families of the officer in mind if we do not make provision for these sorts of contingencies. Unless something is done in this area, I am reluctant to support this bill.

Third, the House passed bill would award the gratuity to a spouse without regard to dependency. S. 2087 would have required that the spouse as well as the children or other recipients be dependent.

I recognize, of course, that for a man or woman to lose a husband or a wife slain in the line of duty by a criminal act is always a grevious loss, a loss that no mere sum of money, no matter how large, can adequately compensate for. But we must always remember that it is public funds, raised by taxation that we are distributing. If the wife of husband is not dependent on the slain officer for her or his support, why should the tax dollars of others be diverted from other public needs to compensate her or him. The cases are surely not numerous, but they are present, where public safety officers are independently wealthy. There is no need to pay special compensation where there is no financial loss. It would get the loss of a loved one, that is true, but it would not be a financial loss. And in the absence of such financial loss, I do not believe we can justify the expenditure of public funds.

Fourth, the House passed bill has no provision in it for interim payments. In contrast, S. 2087 would have authorized the administration to make an interim payment of up to $5,000 to a probable beneficiary.

The need for such interim payments was described in testimony before the subcommittee by Mr. Andrew T. Altman, a leader in Heroes, Inc., a private organization founded to help the families of slain policemen. He testified:

> Heroes, Inc. bases its support of S. 2087 on their personal knowledge of the needs of widows of policemen killed in the line of duty.
>
> Our organization has gone out and met with the widows after a policeman has been killed and we have found out almost invariably the officer is heavily in debt and he has had difficulty in getting insurance. . . .
>
> The policeman normally has a small bank account. The widow finds herself cut off just like that. . . . In many cases they do not have money enough to pay the funeral bill. The mortgage payments must be paid.

The processes of government will always, it seems, be characterized by delay. But the needs of the officers' families will always be immediate. I hope that this provision could be included in the final legislation.

Fifth, the House-passed measure contains no limitation designed to exclude payments that would amount to unjust enrichment. S. 2087, on the other hand, excluded from its coverage deaths that were intentionally brough about by the officer's misconduct or intoxication. In this, it follows the provisions of section 8102 of title V, which are applicable to recovery for performance of duty injuries of Federal employees. It would also exclude from coverage a person who would otherwise be a beneficiary if he or she brought about the public safety officer's death. Would we really want to compensate the wife of an officer if she conspired with another to kill her husband to obtain the Federal benefit? The House-passed measure would authorize that kind of a payment.

Mr. President, there are other differences between the two bills. The House measure does not provide for dismemberment. It does not protect the benefit from execution or attachment. It sets up a double standard for coverage, allowing policemen to recover only if they are the victim of a crime, but permitting firefighters to recover from any death-causing injury that occurs in the line of duty.

But these five issues are the major points of difference, which are so substantial that I feel that my only recourse is to ask that conferees be appointed to work out these differences. I hope that this will be possible in the time that remains before adjournment. In any event, I want here and now to pledge to those that are interested in this legislation that should agreement in conference fail, I shall press for the enactment of this legislation—properly drafted—early in the next Congress.

Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. McClellan, Mr. Ervin, Mr. Hart, Mr. Hruska, and Mr. Scott conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills in which the concurrence of the Senate is requested:

H.R. 15965. An act to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers, and for other purposes.

H.R. 16444. An act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16593) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes"; that the House has receded from its disagreement to the amendment of the Senate numbered 90 to the bill and concurred therein; that the House has receded from its disagreement to the amendments of the Senate numbered 3, 7, 19, 24, 30, 34, 55, and 89 and concurred therein, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; that the House has receded from its disagreement to the amendments of the Senate numbered 1, 2, and 3 and concurred in each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 12828) to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes, with an amendment in the nature of a substitute in which the concurrence of the Senate is requested.

HOUSE BILL REFERRED

The bill (H.R. 15965) to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of the public school teachers, and for other purposes, was read twice by its title and referred to the Committee on the District of Columbia.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Mr. WEICKER. Mr. President, I rise in strong support of one specific item in this bill—the appropriation of $57 million for Amtrak which was authorized by the Congress earlier this year.

I rise also to express my deep appreciation to the Senator from Arkansas (Mr. McClellan) and the Senator from West Virginia (Mr. Robert C. Byrd) on their efforts to have these funds approved.

As the Senator from West Virginia will recall, we discussed appropriating these funds when the regular Department of Transportation appropriation bill reached the floor of the Senate on June 16. At that time, we agreed that the appropriate time to approve the $57 million would be in the supplemental bill which we are now considering.

Indeed, Mr. President, the Senator from West Virginia has been better than his word for he indicated that he would consider the additional funds "provided a budget estimate comes up."

Unfortunately, no budget estimate ever arrived, but the Senator, recognizing the urgent necessity for creating a truly high quality intercity rail system, urged his subcommittee and the full Appropriations Committee to approve the funds anyway. I congratulate the Senator for his farsightedness and thank him, on behalf of all the American people, for his efforts to bring balance to our national transportation system.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment, which I ask to have stated. It would delete $4,125,000 from H.R. 17034, the supplemental appropriations bill. These funds would be used to acquire property in square 724—the land just north of the New Senate Office Building—at a total cost of $3,800,000. Another $275,000 of the amount appropriated would be spent on the demolition of existing structures in this square. Finally, $50,000 would be used for the initiation and conduct of a study, after consultation with the appropriate Federal agencies and individuals experienced in the design of vehicle parking structures, to explore design and cost alternatives for the construction on square 724 of a parking garage.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 32, beginning with line 21, strike all through line 3 on page 37.

Mr. COTTON. Mr. President, will the Senator permit the Senator from North Dakota to yield me half a minute?

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require, and I yield to the Senator from New Hampshire such time as he may require, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I ask unanimous consent that I may be permitted to have my legislative assistant, Mr. Kane, on the floor during the consideration of those parts of the supplemental appropriation bill that pertain to Labor-HEW and to legislative, including amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment knocks out some $4 million, which is the initial down payment for a garage for the Senate, a garage where they now have the Monocle Restaurant and the Carroll Arms, or the Capitol Hill Hotel, and so forth. The cost of this garage would be anywhere from $27 to $34 million, depending on whether an extra story is put on it.

I ask for the yeas and nays on this amendment. I shall not take very long.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, in plain language this appropriation of $4,125,000 is the down payment on a parking garage that will cost a grand total of $27,075,000, according to testimony presented to the Legislative Appropriations Subcommittee of the Senate Appropriations Committee by the Architect of the Capitol. If an extra story is added above ground for commercial uses, the cost would go up by $7 million for a total cost of $34,075,000.

Current plans call for the use of the entire block for this garage.

In addition to the $4,125,000 we may provide here today, an additional $17,567,000 will be needed for construction of the garage, $340,000 would be spent on an underground tunnel to the New Senate Office Building, $3,386,000 would be the cost of landscaping the roof of the garage and $1,707,000 would be expended for planning and administration.

The accommodations envisaged would include allowances for necessary entrances, ramps, exit stairways, mechanical equipment spaces, vent shafts, control rooms, and toilets for parking attendants—in other words, all the expensive paraphernalia that go with a handsome underground parking garage.

Mr. President, this is the wrong project, at the wrong time, in the wrong place, and for the wrong cost. After all, the Federal Government is in the process of running up the largest peacetime budget deficit in the Nation's history. We are asking our people to hold the line on wages and prices. Yet if we approve this item, we will be embarking on perhaps the most expensive parking complex ever constructed. And whom will it serve? Not the people of the United States. Not even visitors to the Nation's Capitol. But our own staffs. We will be catering to ourselves at great expense while asking the American people to follow a different standard.

How much would a comparable project cost? The only figures I have been able to obtain on commercial parking garages indicate that in 1965 costs for construction per parking space ranged from a low of $1,700 to a high of $3,582 with an average cost of $2,270. If we apply an inflationary factor of 5 per cent a year to the average $2,270 cost, the cost of a commercial parking space in 1972 including land and construction would be $3,064.50.

How about comparable garage construction on Capitol Hill? The two new underground garages on the House side of the Hill cost a total of $13.4 million. They have a total of 1,267 parking spaces. This means that the cost per parking space is a high $10,576.

Now let us look at the proposed Senate underground garage. It would provide 1,725 parking spaces. The total cost, as I said before, would be $27,075,000. The cost per parking space would be—if you can believe it—$15,700, five times as high as a commercial space and 50 percent higher than the underground House parking garage and, I submit, about the cost of a modest home. The average home in Wisconsin costs $16,000 or $17,000. I am not talking about a new home, but the average home one would go out and buy on the used home market.

We are providing $15,000 a space for people to park—people who, in my view, could take the subway we are providing $2.5 billion to build, to come to work. They will not take it if they have a parking space available.

Are there any alternatives? Of course there are.

Other alternatives suggested by the Architect of the Capitol are far superior to the choice we are confronted with today. True, one would provide spaces for only 855 cars and a second would allow for the parking of just 1,000 cars—substantially less than the 1,725 cars that would be accommodated by the proposed garage we are considering now. However, the cost would be substantially less, $8,200,000 in the case of proposal No. 5 and $9,589,000 in the case of proposal No. 7.

These are construction costs and should be compared with the $17,234,000 the construction of the project we are considering today would cost. It should also be noted that the Senate already holds the land that would be utilized by proposals 5 and 7. So no land acquisition costs would be involved.

These alternatives, it seems to me, should be considered in a regular appropriation next year. Once again, I cannot see any reason why the Senate should proceed, in a supplemental bill, to commit ourselves to a cost that will be between $27 and $34 million, particularly under present circumstances, when it means very likely that the President will cut that amount of money from other projects which I am sure are far closer to the hearts of the country and of most of the Members of the Senate.

These are just some of the reasons why in my estimation it would be extremely foolish for us to commit ourselves to a program of this magnitude in a supplemental appropriations bill which has come to the floor within hours of the time this item was approved by the Appropriations Committee. We owe the American taxpayer more—much more—in the way of a reasoned approach to such an extraordinarily expensive white elephant.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield to the subcommittee chairman who handled this matter, the Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, the chairman of the Rules Committee and our distinguished Senator from West Virginia, the chairman of the Committee on Public Works, presented this matter to the committee in the same light that the Senator presents his amendment, that is, that the Senate does not spend a lot of money for a parking garage. The fact is that this is not a $34 million appropriation, but $4 million, for the acquisition of the land.

As stated in the committee report, the committee believes that the cost estimates provided by the Architect of the Capitol in 1971 are excessive in comparison to the cost of comparable facilities constructed elsewhere, and that further study must be made. Then they go on.

So what the Public Works Committee has said is exactly what the Senator from Wisconsin has said and exactly what the Senate said on page 12 when we considered the authorizing legislation and passed it by a vote of some 67 to 17. We are only carrying out the will of the Committee on Public Works, and helping them to acquire the land and properties of which acquisition commenced prior to 1960. During the last 12 years, they have gotten practically all of the sites except the Monocle Restaurant and the Carroll Arms Hotel, and two other little lots. If we transfer the GSA Building, we will have the entire block. This is to help them acquire that, plan for it, and then have a sort of $50,000 program or contest of some kind to present a plan for a esthetically approved garage.

It is good to come down on the SST and insert the environment, but then when we get to the parking garage, the Senator wants to disregard the environment. Yes, these parking spaces are going to cost more than the average parking garage. These are what you might call ecological parking spaces. They are to go under a covered-over area. They have all the kind of grass I do not have, or even the Senator in his yard—beautiful flowers, fountains squirting water, and everything.

It is going to cost money, but we are going to try to bring it within reason, because we have a tremendously acute shortage of parking spaces. On the House side, they have 4,125 parking spaces, and we have, including—we had only 1,726, and we added to that total 350, but actually it was only 325, on what we on the Appropriations Committee, Mr. President, called the Jordan lot, named after the counsel for the Appropriations Committee. We found that we were going to have to cut down about 27 trees one day, and we went back to the Architect of the Capitol and saved the 27 trees in exchange for about 25 parking spaces, so there are about 25 parking spaces less on the Jordan lot; but with it all, we have only half on the Senate side of what they have on the House side.

We have only 405 parking spaces for the two Senate Office Buildings, and when it comes to the outside parking space that Senator GRAVEL presented on behalf of the Committee on Public Works, there are five vehicles per parking space, and they are out there early fighting for them every morning. My staff, most of them, come down early every morning to be able to get a parking space.

When the Senator says it is the wrong time, I agree, but in a different sense. We are late, 5 or 6 years late. It is the right idea at a late time; but the later we go, the higher the cost will be, and in the name of economy we would be engaging in extravagance by agreeing to this particular amendment.

I hope the Senate will vote the amendment down, and go along with the Committee on Public Works, but not to pay $34 million. Senators will see that the language the Senator asks to be knocked out amounts to $4 million, plus some $50,000 for architect's planning.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PROXMIRE. Is the Senator really serious——

Mr. HOLLINGS. I am serious.

Mr. PROXMIRE. About proceeding on this basis for environmental purposes?

Mr. HOLLINGS. Oh, yes.

Mr. PROXMIRE. Will not the Senator agree that if we build this garage we will have hundreds of additional cars being driven to the Capitol every day, that that is the real contaminator, and that if those cars were left at home and the new subway used, there would be less environmental pollution?

Mr. HOLLINGS. I agree on the subway; if we had a subway built I would vote for it.

Mr. PROXMIRE. We have a subway being built.

Mr. HOLLINGS. As the Senators know, the new tourist center down there is planned for visitors passing through there at the rate of 5,000 an hour, who are coming here for the bicentennial in about 3 years' time. When they start coming in, here will really be a crush. And 1,700 spaces will not solve the parking problem, but it is a little bit in the right direction, toward acquiring the land completely and starting the planning to get one that the Public Works Committee and the Senate will approve.

We are not approving tonight what was originally designed at $23 million. I do not know where the $34 million figure came from, but we said in the hearings before the Legislative Appropriations Subcommittee that we thought the $23 million was high.

Mr. PROXMIRE. Will not the Senator agree that if we provide 1,700 parking spaces immediately adjacent to the New Senate Office Building and the Old Senate Office Building, to be made available to the staffs, we will have many more people who will drive their cars down instead of taking the subway, which, as I say, though we may not have it for several years, we will have eventually? We are providing a garage now for 40, or 50 years into the future, and we will have the subway for many more years after that.

Mr. HOLLINGS. I wish the staffs and the Senators were like my colleague, and could come to work otherwise, but most of us arrive in automobiles, and the Senator and I are not going to change that unless we get a good subway, and then the subway is not going to go out to the hinterlands and all the little places where the staff members stay.

We are trying to arrange to use the RFK Stadium parking lot with commuter buses; we are still looking into that.

This is an absolute must. It would be an extravagance to knock it out of this bill and fail to acquire the lots the Senate found, in its wisdom, should have been acquired back in 1960.

Mr. PROXMIRE. One other point. The funds provided would, as the Senator says, include $50,000 for the initial plans and designs for the garage, a garage which would provide 1,700 parking spaces. Is that not premature? Should we not give much more careful consideration to a 1,000 or 800 parking-space garage, which the Architect of the Capitol testified would cost a great deal less money, $8 or $9 million less money?

Mr. HOLLINGS. I agree that the 800 spaces should be less than the 1,700 spaces. But the need is more nearly for 2,000 or 3,000 parking spaces. That is what we are using right now.

Mr. PROXMIRE. The need is comparatively indefinite. We not only can take care of our whole staffs, but our constituents; we can go on forever with this the way we are doing.

Mr. HOLLINGS. Well, I respectfully submit that we have gone forever in the other direction, and a constituent cannot now call on a Senator unless he wants to violate the law and park in a no-parking space. That is the only way they can get in here now, and that is a disgrace, really. A Senator is supposed to be running the affairs of the country, and we ought to arrange some better parking facilities.

Here is a square, and we are just completing plans that have been in course—not premature—for some 12 years. We want to clean it up and get it prepared and bring back to the Senate a plan for a parking facility of which we can approve, a plan that is economically sound.

I do not want to get into the top part of this matter; but, overall, on topside, we have designed some eating facilities, a place for a bank, and a place for other facilities, and it had to be all set with shrubbery on the outside. This is the additional cost. They are going to rent those and take care of the eating facilities that some wanted to put into the Capitol Building itself.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY), and the Senator from Rhode Island (Mr. PELL), would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I further announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

On this vote, the Senator from Iowa (Mr. MILLER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 13, nays 55, as follows:

[No. 550 Leg.]

YEAS—13

Allen
Byrd,
 Harry F., Jr.
Case
Church
Cooper
Dominick
Hughes
Jordan, Idaho
Mondale
Nelson
Packwood
Proxmire
Talmadge

NAYS—55

Aiken
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Burdick
Byrd, Robert C.
Cotton
Cranston
Dole
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Gurney
Hansen
Hart
Hartke
Hollings
Hruska
Inouye
Jackson
Javits
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
Montoya
Moss
Pastore
Percy
Randolph
Ribicoff
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Williams
Young

NOT VOTING—32

Allott
Baker
Bellmon
Buckley
Cannon
Chiles
Cook
Curtis
Edwards
Goldwater
Griffin
Harris
Hatfield
Humphrey
Kennedy
Long
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Pearson
Pell
Roth
Saxbe
Spong
Thurmond
Tower
Tunney
Weicker

So Mr. PROXMIRE'S amendment was rejected.

The PRESIDING OFFICER (Mr. INOUYE). Who yields time?

Mr. AIKEN. Mr. President, on behalf of the distinguished senior Senator from Georgia (Mr. TALMADGE), the chairman of the Committee on Agriculture and Forestry and myself, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

At the appropriate place, insert the following:

1972 RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

The 1972 program of soil-building and soil- and water-conserving practices previously authorized to be carried out under sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended (16 U.S.C. 590g–590o, 590p(a), and 590q) may be carried out through June 30, 1973, and sums appropriated by Public Law 92–399 (86 Stat. 607) for such program may be used for practices carried out under such program through June 30, 1973.

Mr. AIKEN. Mr. President, because of weather conditions this past summer and spring, many parts of the country were declared disaster areas, and in those areas many farmers were unable to carry out the contracts they had made with the rural environmental assistance program, because their work could not be completed.

The pending amendment would simply give them until next June 1973, to complete that work.

No additional money is requested in this amendment. This would simply give the administrators the right to use the funds which would have been used last summer had the farmers been able to get on their land.

Mr. President, I showed this amendment to the distinguished chairman of the Committee on Agriculture and Forestry and assured him that it does not call for any increased funds. I know of many places myself where the farmers were unable to carry out their work because of weather conditions.

Mr. YOUNG. Mr. President, this is a typical amendment of the distinguished Senator from Vermont (Mr. AIKEN). It is a necessary one which will help the farmers a good deal. It is a good amendment and it will not cost any money.

Mr. AIKEN. The amendment is not

intended to help the farmers who deliberately abandoned their contracts and ran off to Europe or other places. It would apply only to those who, because of weather conditions, were unable to carry out their contracts.

Mr. McCLELLAN. Mr. President, there is no objection on my part to the amendment. I feel that we should accept it. It calls for no funds. It would simply be a matter of accommodation to the farmers with respect to time. The money is already available. Weather conditions prevented carrying out the execution of the contracts, so this amendment just provides for additional time.

Mr. AIKEN. I thank the distinguished Senator from Arkansas. I yield back my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes; that the House has receded from its disagreement to the amendments of the Senate numbered 3, 10, 17, 20, 22, 33, and 37 to the bill and concurred therein; that the House has receded from its disagreement to the amendment of the Senate numbered 9 to the bill and concurred therein with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 10880) to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the joint resolution (H.J. Res. 748) amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 7117. An act to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes.

H.R. 13694. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended.

H.R. 15641. An act to authorize certain construction at military installations, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 47, line 24, strike out "$30,000,000" and insert $35,000,000.

Mr. JAVITS. Mr. President, this amendment is offered on behalf of myself and Senators RIBICOFF, PERCY, MUSKIE, and HUGHES. The amendment relates to a colloquy I had with the chairman, about which I have also talked with the Senator from New Mexico (Mr. MONTOYA). The special fund for which is provided in the bill, $30 million, is designed to take up the methadone waiting list in respect of narcotics addiction.

The description given us by the Deputy Director of the Executive Office of the President is to the effect that every one of these people are narcotics addicts, and each untreated individual represents a possible overdose and a source of continued criminal activity.

These are all people who want methadone medication. It is the only way that we can keep them out of the criminal syndrome. The cost of taking them off the waiting list is $69,850,000.

Mr. President, I ask unanimous consent that the letter from Mr. Paul L. Perito, Deputy Director of the Special Action Office together with a chart showing every city and the number of people on the waiting list in that city and the cost of taking them off the waiting list be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION,
Washington, D.C., October 11, 1972.

Hon. JOSEPH M. MONTOYA,
Chairman, Subcommittee on Treasury, Post Office and General Government, Washington, D.C.

DEAR MR. CHAIRMAN: Certain questions have been raised by Mr. Joseph Gonzales concerning our request for supplemental appropriations of $60 million, pursuant to § 223 and 224 of P.L. 92–255 (Drug Abuse Office and Treatment Act of 1972). My purpose in writing to you is to respond to these questions and to expand upon the statements which Dr. Jaffe and I made before your Committee on October 3, 1972.

Initially, I want to assure you that we intend to assiduously avoid duplication of effort and expenditures involving these two key areas of concentration. Although there may be instances where similar tasks within the drug abuse prevention field will be performed by more than one agency, we would hope that our role as the chief coordinating Office would keep such duplication to an absolute minimum. Dr. Jaffe, in his capacity as Director of the Special Action Office, is charged with the statutory responsibility of reviewing budget requests from all agencies which have drug abuse prevention programs. This review will enable our Office to prevent unnecessary and unwanted duplication wherever possible.

With regard to pharmacological research, it is not our intent to establish another operating agency in the field of basic research, but rather to obtain complete managerial control of the crucial area of applied research involving development, testing, and clinical evaluation of the effectiveness of new pharmacological agents. It is in this area that breakthroughs will hopefully occur which will give us much needed alternatives to the present forms of chemo-therapeutic treatment, namely methadone. It is imperative to get new and proven agents into the hands of treatment personnel as soon as it is medically feasible.

I am enclosing for your consideration exhibit A which sets forth the anticipated recipient of budgeted funds in the area of applied research. Enclosure A also indicates the type of institution involved, i.e., private institution, non-profit or Government facility. Since we intend to utilize the competitive procurement process, wherever possible, it is impossible at this time to be more explicit with respect to the ultimate recipient of these funds.

It is our opinion that the staffing requirements to fulfill the mandate under § 224 can be met by the judicious application of staff within our present staff ceiling of 174 positions. Moreover, since we have not yet reached our staff ceiling, we think that it would be completely inappropriate to ask for additional funds for staff salaries at this time. The Office of Management and Budget concurs with this interpretation. Accordingly, the $20 million requested for applied research will be used primarily for expenses associated with contracts, interagency agreements, and grants in this vital area.

I am concerned that our position with respect to how our Office would fully and efficiently utilize funds under § 223 has not been made sufficiently clear. I would respectfully suggest that this misunderstanding may be due, in part, to the rather unique legislative history surrounding the creation of the Special Fund concept. In the Administration's original bill (S. 2097) the Special Action Office requested extraordinary authority to transfer appropriations and programs from one agency to another. After extensive Congressional inquiry, it was decided by the Congress that such transfer authority should be deleted and in its place should be added a "Special Fund" wherein the Director of the Office would use such funds as an incentive to rapidly expand in those critical areas where expansion was necessary to effect the overall purposes of the Act. Further, the legislative history attests to the interests which Congress had in giving the Special Action Office the flexibility to target Federal monies and thereby rapidly expand critical programs in the areas of treatment, rehabilitation and prevention. It is to this end that our Office is attempting to effect these legislative directives by closing the treatment gap which now exists. I am cognizant of the fact that such flexibility departs from the traditional budgetary concepts, but unfortunately, the specific section mandates flexibility and precludes reliance on the traditional line item budgetary concept.

Enclosure B reveals that 27,940 people are still waiting for treatment throughout the United States. We critically need the $40 million to further expand treatment so that these individuals will get the care they need. Every untreated individual represents a possible overdose death and a source of continuing criminal activity.

We know of no other method of presenting the costs involved in closing this existing treatment gap than by utilizing this simple formulae: 16,000 treatment slots x $2,500 per patient=$40 million. If one calculates into this equation this figure of 1.7 which is the turnover rate for each treatment slot over a one year period, one arrives at the figure of 27,200 drug dependent persons who could benefit from treatment. Compared to the costs of arrest, trial, appeal, imprisonment and parole, the costs of treatment are modest indeed.

Our first priority, by necessity, must be to deliver quality treatment and rehabilitation services to narcotics abusers who want and need it. It is only after this emergency has been successfully met and dealt with that we would consider other programs in the prevention analysis field. These programs, such as the proper use of media, social and epidemiological research, credentialing studies, and training and technical assistance, would be governed by paragraph (c) of § 223 which states: "Not more than 10 per centum of such sums as are appropriated to the fund may be expended by the Director through the Office to develop and demonstrate promising new concepts or methods in respect of drug abuse prevention functions." Critical clinical testing under stringent controls must commence, and the waiting list problem must be alleviated. There are literally hundreds of programs like LaLLave (formerly Quebrar, Inc.) that are administratively and professionally sound and worthy of our support.

I trust that this information will serve to clarify further our position with respect to § 223 and 224 of P.L. 92-255.

Respectively,

PAUL L. PERITO,
Deputy Director.

	Current waiting list	Estimated amount per area
SMSA:		
1. Albany-Schenectady-Troy, N.Y	25	$62,500
2. Albuquerque, N. Mex	30	75,000
3 Allentown-Bethlehem-Easton, Pa.-N.J	10	25,000
4. Atlanta, Ga	25	62,500
5. Atlantic City, N.J	75	187,500
6. Baltimore, Md	290	725,000
7. Birmingham, Ala	10	25,000
8. Boston, Mass	827	2,067,500
9. Buffalo, N.Y	57	142,500
10. Chicago, Ill	40	100,000
11. Cleveland, Ohio	85	212,500
12. Dallas, Tex	60	150,000
13. Denver, Colo	50	125,000
14. Detroit, Mich	931	2,327,500
15. Fort Worth, Tex	35	87,500
16. Fresno, Calif	195	487,500
17. Hartford, Conn	213	532,500
18. Houston, Tex	50	125,000
19. Indianapolis, Ind	10	25,000
20. Jacksonville Fla	38	95,000
21. Lansing-East Lansing, Mich	11	27,500
22. Los Angeles, Calif	4,168	10,420,000
23. Memphis, Tennessee-Ark	30	75,000
24. Miami, Fla	30	75,000
25. Milwaukee, Wis	25	62,500
26. Minneapolis-St. Paul, Minn	65	162,500
27. New Bedford, Mass	30	75,000
28. New York, N.Y	16,713	41,782,500
29. Newark, N.J	40	100,000
30. Philadelphia, Pa	685	1,712,500
31. Phoenix, Ariz	30	$75,000
32. Pittsburgh, Pa	97	242,500
33. Poughkeepsie, N.Y	5	12,500
34. Providence-Warwick-Pawtucket, R.I	75	187,500
35. Riverside-San Bernardino-Ontario, Calif	486	1,215,000
36. St. Louis Mo.-Ill	150	375,000
37. Salinas-Seaside-Monterey, Calif	50	125,000
38. San Antonio, Tex	232	580,000
39. San Diego, Calif	395	987,500
40. San Francisco-Oakland, Calif	1,064	2,660,000
41. San Jose, Calif	83	207,500
42. Santa Barbara-Santa Maria-Lompoc, Calif	106	265,000
43. Seattle-Everett, Wash	87	217,500
44. Stockton, Calif	30	75,000
45 Trenton, N.J	75	187,500
46. Tucson, Ariz	75	187,500
47. Washington, D.C.-Maryland-Virginia	28	70,000
48. Waterbury, Conn	10	25,000
Non-SMSA 1. Largo Florida	9	22,500
Total	27,940	[1] 69,850,000

[1] The amount requested herein ($40,000,000) together with funds requested by NIMH ($42,800,000) under sec. 410 of Public Law 92-255 will provide treatment slots for current needs ($70,000,000) and anticipated expansion ($13,000,000) during the current fiscal year.

ENCLOSURE A—ANTICIPATED RECIPIENTS OF SAODAP'S RESEARCH AND DEVELOPMENT (SEC. 224) FUNDS

Brief Description of Items for Research and Clinical Testing

1. New Development of Pharmacological Agents—These funds will be channeled to universities and pharmacological research firms by awarding these organizations contracts and grants. Effort generated from these awards require the chemical manipulation of molecular structures.

Examples of Names and Locations Major Firms and Institutions in These Special Areas

Mallinkrodt Chemical Works, St. Louis, Missouri, 63160

Endo Laboratories Inc., subsidiary of E.I. duPont de Nemours Co., Garden City, New York, 11530

Department of Biochemistry of Albert Einstein Medical School, New York, New York

Bristol Laboratories, Division of Bristol Meyers Co. Syracuse, New York, 13201

Budget funding requests: $1,000,000.

Brief description

2. Purchase of Drug Supplies.

Examples

Bristol Laboratories, Division of Bristol Meyers Co., Syracuse, New York.

S.B. Penick and Company, New York, New York

Ely Lily and Company, Indianapolis, Indiana

A.H. Robbins Company, Richmond, Virginia

Budget funding requests: $950,000.

3. Development of chemical and/or physical vehicles to make pharmacological agents long lasting. Antagonists will be placed in plastic or combined with other vehicles to determine if such combinations will prolong action.

Dyratech, Cambridge, Massachusetts

University of Delaware, Newark, Delaware

Batelle Memorial Institute, Columbus, Ohio

Budget funding requests: $500,000.

4. Toxicity in Animals. Studies will be carried on in educational, industrial and government laboratories.

Woodard Research Corp., Herndon, Virginia

Parke Davis, Detroit, Michigan

Food and Drug Research Laboratories, New York, New York

Industrial Biotest Laboratories, Northbrook, Illinois

Edgewood Arsenal, Maryland

University of Michigan, Ann Arbor, Michigan

Budget funding requests: $800,000.

5. Clinical Research. A. *Preliminary clinical testing* (Phase I and II) will be undertaken in rigidly controlled human trials at experienced university research centers and government facilities.

Stanford University, Palo Alto, California.

University of Oregon Medical School, Portland, Oregon

New York University, School of Medicine, New York, New York

State of Illinois Drug Abuse Program, Chicago, Illinois

Veterans Administration Hospitals

Budget funding requests: $1,400,000.

5. B. Definitive Determination of Safety and Efficacy of New Agents (Phase III). New agents for safety and efficacy will be undertaken in existing treatment programs. Well known research capabilities will be utilized for this endeavor.

Stanford University, Palo Alto, California

University of Oregon Medical School, Portland, Oregon

New York University, School of Medicine, New York, New York

State of Illinois Drug Abuse Program, Chicago, Illinois

Veterans Administration Hospitals

Narcotics Treatment Administration, Washington, D.C.

Budget funding requests: $8,000,000.

6. Development of innovative treatment approaches with pharmacological agents will be experimented at existing Federal and private supported treatment programs.

(See listing under 5 above)

Budget funding requests: $1,000,000.

7. Prevention as well as treatment will be carried out in model community groups in high risk areas.

Large treatment programs in appropriate communities throughout the United States.

Budget funding requests: $2,000,000.

8. Studies of biological complications will be analyzed in university based medical centers and government facilities.

Qualified medical schools and/or hospitals throughout the United States.

Budget funding requests: $1,000,000.

9. Drug detection in biological fluids involving qualitative and quantitative control methods will be conducted in university, government and other research centers.

College of American Pathologists, Chicago, Illinois

Cornell University Medical Center, New York, New York

Addiction Research Center, Lexington, Kentucky

Center for Disease Control, Atlanta, Georgia

Testing and Research Laboratories, Narcotics Addiction and Control Commission of the State of New York

United States Pharmacopeial Convention, Inc., Rockville, Maryland

Budget funding requests: $1,350,000.

10. Measurements of Effectiveness to determine receptivity of various populations to particular approaches entails additional university based analysis.

Communications Research Institute, Stanford University, Palo Alto, California

Harvard University, Cambridge, Massachusetts

Budget funding requests: $1,800,000.

11. Information dissemination will be accomplished through a whole host of private and government supported scientific periodicals.

Budget funding requests: $100,000.

12. *Advisory Groups* to be composed of outside consultants and advisors.

Budget funding requests: $100,000.

Total Amount Requested: $20,000,000.

Mr. JAVITS. Mr. President, the aggregate sum required, including anticipated expansion in the current fiscal year, as compared with the amount requested in the budget and the funds also requested for the National Institutes of Mental Health balance out at exactly $82.8 million if the $40 million were granted in the supplemental.

Having discussed this with my cosponsors and with the Senator from Arkansas (Mr. McCLELLAN), the Senator from North Dakota (Mr. YOUNG) and the Senator from New Mexico (Mr. MONTOYA), notwithstanding the urgent need of these people who will be potential criminals, we will take the figure of $35,000,000 that my colleagues have suggested.

I hope and pray that the Senators have before them the picture of a distinguished professor who was brutally murdered in Morningside Heights, N.Y. Every Senator can give us a similar picture of what it means to take each of these people off the methadone waiting list. And then we should not yield any part of this $35 million.

Mr. President, I yield to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I support the amendment to increase the appropriation for the Director's special fund under the Drug Abuse Office and Treatment Act, in the amount of $35 million.

The legislation establishing the Special Action Office of Drug Abuse Prevention was considered and reported earlier this year by the Committee on Government Operations. The members believed that the special fund was one of the most important, innovative features of the bill. It was intended to provide flexibility and leverage for the Director in dealing with the problems of drug abuse.

This year the Director has determined that these funds should be used for expanding local treatment programs in order to reduce the waiting list of those seeking treatment. This effort should receive our full support. It has been reliably estimated that one-half of all property crime is drug related. Providing treatment to addicts who need it will reduce crimes by those who must resort to this method of obtaining money for drugs.

The Special Action Office has found that there are nearly 28,000 people awaiting treatment in the 48 largest standard metropolitan statistical areas in the country. More than 200 of these people are in my own State of Connecticut. I ask unanimous consent that the chart detailing the numbers of those awaiting treatment in each SMSA be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, the extra appropriation for the special fund will enable treatment to be extended to nearly all those now desiring it. Approval of the $30 million reported by the committee, however, would mean that thousands of drug addicts will be denied the treatment they need and want.

Mr. President, there is much talk about giving drug abuse prevention a high national priority. Here is an opportunity to put our money behind our speeches and expand local treatment programs, thereby reducing crime. I urge the adoption of this amendment.

EXHIBIT 1

Current waiting list

Albany-Schenectady-Troy, N.Y.	25
Albuquerque, N. Mex.	30
Allentown-Bethlehem-Easton, Pa.-N.J.	10
Atlanta, Ga	25
Atlantic City, N.J	75
Baltimore, Md.	290
Birmingham, Ala	10
Boston, Mass	827
Buffalo, N.Y.	57
Chicago, Ill	40
Cleveland, Ohio	85
Dallas, Texas	60
Denver, Colo	50
Detroit, Mich	931
Fort Worth, Tex	35
Fresno, Calif	195
Hartford, Conn	213
Houston, Tex	50
Indianapolis, Ind	10
Jacksonville, Fla	38
Lansing-East Lansing, Mich	11
Los Angeles, Calif	4,168
Memphis, Tenn.-Arkansas	30
Miami, Fla	30
Milwaukee, Wisc	25
Minneapolis-St. Paul, Minn	65
New Bedford, Mass	30
New York, N.Y.	16,713
Newark, N.J	40
Philadelphia, Pa	685
Phoenix, Ariz	30
Pittsburgh, Pa	97
Poughkeepsie, N.Y.	5
Providence-Warwick-Pawtucket, R.I.-Mass	75
Riverside-San Bernardino-Ontario, Calif	486
St. Louis, Mo.-Illinois	150
Salinas-Seaside-Monterey, Calif	50
San Antonio, Tex	232
San Diego, Calif	395
San Francisco-Oakland, Calif	1,064
San Jose, Calif	83
Santa Barbara-Santa Maria-Lompoc, Calif	106
Seattle-Everett, Wash	87
Stockton, Calif	30
Trenton, N.J	75
Tucson, Ariz	75
Washington, D.C.-Maryland-Virginia	28
Waterbury, Conn	10
Non-SMSA: Largo, Fla	9
Total number of individuals on waiting list	27,940

Mr. McCLELLAN. Mr. President, I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. MONTOYA. Mr. President, I would like to state that I think the Appropriations Committee was very generous in regard to this item. The House cut the budget request by $20 million. And we have recommended a restoration of $10 million of that cut or a total of $30 million.

I want it known here that the reason that we did not give the full amount was because Dr. Jaffe, who came before our committee, did not explain fully what he was going to do with the $40 million requested. In a general statement he said that he would spend it for the establishment of treatment centers and therapy throughout the United States to take care of those who remained untreated.

We will have people in the future who will not accept treatment and people that will not be reached for treatment. We will have that gap in America throughout the years in the future.

Mr. President, I want it clearly understood that we are not unsympathetic to the treatment of these addicts. However, we want and expect the witnesses to tell us how they will spend the money requested. There are two appropriation requests for the Special Action Office for Drug Abuse Prevention. For pharmacological research they are asking $20 million.

I questioned Dr. Jaffe about his general statement on research of $20 million. And he admitted to me that this sum could be used together with amounts made available to other agencies also engaged in this endeavor. He has the same authority to use the $30 million that we recommend, in a similar manner and for the very same things which the Senator from New York is speaking.

So the $5 million additional that the Senator requests is fine with me. However, I leave it up to my chairman of the Appropriations Committee.

Mr. McCLELLAN. Mr. President, I am quite certain that the distinguished Senator from New Mexico who held hearings on this matter is more competent to pass upon the justification for this additional $5 million than I am. However, I have no objection to taking it to conference.

I do not know but that even if we were to go to conference with the $30 million that the committee recommended as a likely and proper amount, that we would not be confronted with suggestions for a further reduction or a split or some other proposition when we got into conference.

I am willing to take it to conference and insist upon the full amount. However, I do need to give further consideration to it. It appears on its face to have enough merit that we ought to take it to conference. And certainly we will try at least to hold the $30 million which in the judgment of the Appropriations Committee should be in the bill.

I make that statement. I do not want to make the promise that we will never yield on it. I do not know. However, we all know, as the distinguished Senator from New Mexico said, that none of us are unsympathetic to this objective. We all support it and are willing to appropriate whatever funds are necessary and that can be judicially and effectively expended to get results.

As the distinguished Senator from New Mexico said, when they appeared before the subcommittee, they were not clear themselves what they would do with the additional money. So, I think it is well that we go a little slow in those instances until at least those who administer the funds have a positive program and can tell us why they need it and what they will do with it when they get it.

I am willing, if there is no objection on the part of the other members of the Appropriations Committee, to take it to conference.

Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the greatest problem in this country is that of drug abuse. Unfortunately, the course of this problem has fallen heavier on the younger people. I would rather err on the side of appropriating too much money than on the side of not appropriating enough money.

I think that with the additional evidence that the Senator from New York has provided, we should approve his amendment of $5 million more.

Mr. JAVITS. Mr. President, may I point out that we now have the very same figures that the administration asked for, $40 million. And they are certainly not known as big spenders. That provides for treatment of 27,940 people throughout the country.

I think some Members of the Senate might be surprised if they were to see their own cities on this tragic list and the number of people involved who want to go on methadone treatment. However, the money is not there. Many of these people may be vicious criminals. They are sick. But as far as the public is concerned, it hurts just the same whether the man performing the crime is sick or not.

Mr. President, I hope very much that the deep feelings of the Senator from North Dakota (Mr. YOUNG) on this matter will prevail in the conference. We are cutting this really below the amount that it should be cut, if we are going to do what we should. I know that it is better to do this in deference to the committee. Methadone itself causes problems but it is just a way of allowing people to exist as human beings. That is all it is.

The $20 million for research is essential for finding an antogonist or some way to deal with this, and the $40 million is needed for people who want to go on treatment that we cannot accommodate.

I hope the Senator from North Dakota (Mr. YOUNG) and the Senator from Arkansas (Mr. MCCLELLAN) will see the benefit of this program and stick with $35 million in conference.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. FONG. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 3, line 4: substitute "four" for "two" and on line 5, substitute "$26,320,000" for "$13,160,000".

Mr. FONG. Mr. President, this amendment is submitted on behalf of myself and Senators DOMINICK and KENNEDY. The proposed amendment would increase the number of LC–130 ski-equipped aircraft from two to four, the number passed by the House. The original request was for five airplanes. These planes are to be used by the National Science Foundation which directs this country's program of scientific research and exploration on the South Polar Cap.

The Appropriations Subcommittee approved four aircraft, the same figure approved by the House Appropriation Committee. The full Appropriations Committee, however, has cut this figure to two.

This is not the time to cut back our activities in Antarctica where the Soviet Union and the Japanese are planning expansion of their activities and stations there. This cutback places the Nation's Antarctic program in serious jeopardy.

Too many of us are not aware of the tremendous importance of Antarctica and the reasons the United States is maintaining its exploration there.

First. Antarctica dominates one-fifth of the area of the world, including the southern Oceans. This continent has a major influence on world weather and climate. It is the world's richest area in protein production. It contains valuable mineral and petroleum deposits. Antarctica is an area of potentially serious international discord, with seven nations having overlapping territorial claims. At present, political stability has been provided by the Antarctic treaty. The Soviet Union has carried out a program of constant expansion from two stations in 1957 to six stations in 1970. A seventh station is under construction.

The U.S. political and scientific leadership in this area stems from its singular ability to move its personnel about and concentrate its resources at will, a capability which offsets the influence of strategically located Soviet stations.

This U.S. capability is totally dependent on the availability of long-range, ski-equipped transport aircraft. Support of sustained U.S. presence at the South Pole is entirely by aircraft. The U.S. South Pole Station sits astride and effectively challenges all sector claims to territory asserted by other nations.

Only 2 years ago, in the 1970–71 season, the National Science Foundation had seven aircraft for Antarctic research. Since then, two have been retired from service, two were lost—one last year and one the year before—leaving only three planes operating.

Of the remaining three planes, two are beyond the design life of the airframes. They are vintage 1961 aircraft.

While it is possible to refurbish these planes, they will still be overage aircraft in terms of service life. No amount of refurbishing can lengthen the life of the airframes.

To expect our scientists and aircrews to use overage aircraft is to subject them to a dangerous situation, particularly in the extremely severe environment of the Antarctic.

The new aircraft requested would have a useful life of 10 years, I am informed. I believe from the standpoint of safety for our men and of wise use of our dollar resources we should authorize the additional two new aircraft to be used in this most important and expanding research program.

Mr. President, the impact of our failure to procure these replacement aircraft will be: First, a severe curtailment in the level of U.S. effort in Antarctica; second, a dramatic change in U.S. posture in Antarctica, including abandonment of inland stations at South Pole and Siple; third, a substantial diminishment of U.S. influence on the Antarctic Continent and the arousal of suspicions and speculations regarding U.S. intentions; fourth, a yielding of our position of dominance in Antarctic affairs to the Soviet Union; and fifth, a probable renewal of political rivalry and competition, and eventual dissolution, of the Antarctic Treaty.

Mr. President, the Antarctic Treaty, which is for a period of 30 years and which was entered into in 1962, will be reviewed in another 20 years. After that time there may be many claims in the nations of the world to parts of Antarctica. Our continual strong presence there will give us a strong position and strong influence in what will be due to that continent which comprises one-fifth of the world's area and which is rich in protein production and contains valuable mineral and petroleum deposits.

Mr. President, in view of the fact that the House has already passed an appropriation for four airplanes, and in view of the urgency of getting this bill to conference so that we may adjourn Saturday, I will not press for the adoption of my amendment. I wanted to place on the RECORD the harm that will come to our position and influence in Antarctica should we not restore the number of airplanes to four.

I hope the conferees on the part of the Senate will note the importance of our planes to our activity in Antarctica and will recede from our position on this item.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. DOMINICK. Mr. President, I am very glad the Senator has brought up this amendment. As the ranking member of the National Science Foundation Authorization Committee, I have discussed this with members of the National Science Foundation at some length, as well as with the Senator from Massachusetts (Mr. KENNEDY) who was chairman of that subcommittee.

Mr. President, I rise in support of the amendment offered by my distinguished colleague, the Senator from Hawaii.

This Nation's Antarctic program is one of its finest scientific endeavors. The work being conducted in the Antarctic is vital to our geological understanding of global climate and weather changes, to our understanding of this planet's geological past and future, and to our search for increasingly scarce natural resources, most important of which is oil, but also iron and copper.

The Foundation's operation of this program deserves very high commendation for its efficiency of management and its extroardinarily high quality of scientific work under the most rigorous and spartan conditions. The men who work there through the Antarctic winter are dedicated men.

The program is currently operating at great risk to the lives of the men who fly the present planes—which have more hours of service than any C–130's ever built. Without the four planes provided in the House bill and recommended by the Senate subcommittee, NSF will have to commence an immediate curtailment of its Antarctic program. Even this figure of four planes is below the five requested by the administration in a personal letter from Mr. Weinberger who, I believe, is a match for any of us in budget-cutting.

I strongly urge my distinguished colleagues to support this amendment and not place this program in jeopardy.

Mr. President, I ask unanimous consent to have printed in the RECORD a compendium of problems which the National Science Foundation will suffer if this is not brought about; namely, an increase to at least four or five planes.

There being no objection, the compendium was ordered to be printed in the RECORD, as follows:

LC-130 AIRCRAFT FOR SUPPORT OF ANTARCTIC PROGRAM

IMPACT OF CONGRESSIONAL APPROPRIATIONS COMMITTEES' DECISIONS ON THE U.S. ANTARCTIC PROGRAM

1. Only the ski-equipped C-130 aircraft are now available for U.S. program support in Antarctica. Two of these have ten years of antarctic service and over 15,000 hours of flight time. The third aircraft, with a greater payload/range capability, has four years of antarctic service and about 6000 hours of flight time on its airframe. These three aircraft are not adequate to support the U.S. program in Antarctica because:

(a) They do not provide a flying capability that sustains the desired scientific program and the U.S. policy direction in that region.

(b) Two of the three aircraft must be retired from antarctic service because of age, or, reworked at a cost of about $6,000,000 to extend their life. Navy and DOD authorities did not find that alternative cost effective, considering the age of the two older aircraft.

Alternative airframes are not cost effective, especially because of the need to duplicate the already completed engineering effort to develop skis for the C-130. Ski aircraft must be available for intercontinental and intracontinental flying as there are no permanent runways on land. Wheel aircraft can operate only a month to two months a year.

2. While the provision of two new aircraft would meet the needed replacement, it would not return the aircraft resources to the level needed to carry out the program at the level of effort specified by the President to maintain an effective U.S. role in Antarctica. This specified level of effort requires the following effort:

[In hours]

New Pole Station resupply	1100
Siple Station resupply	450
McMurdo-New Zealand flights	1450
Remote Sensing	725
Field Party transport and support	625
Total flight hours	4350

The level of effort has been progressively reduced by reduction in aircraft inventory due to attrition, to the point that less than 50% of the required flight hours.

3. Within the prospect of two instead of five new aircraft NSF in consultation with other agencies would be forced to:

(a) Close Siple Station in November 1973 after its initial year of operation.

(b) Abandon plans to finish construction of the new station at the South Pole and abandon the Pole Station site.

(c) Limit U.S. activities in the continental interior of Antarctica to modest summer field programs. It would not be possible to execute substantial inland summer programs such as the planned drilling program in the Dufek Massif to explore potentially important economic resources.

4. The substantial reduction of the level of U.S. activity in Antarctica will dramatically shift the U.S. posture in that region. Scientifically the U.S. capability of fully participating in investigations of influential processes in the global environment will be reduced. The U.S. leadership in international decisions affecting the future management of Antarctica politically and economically will be jeopardized. The basic tenet of the U.S. policy is insurance that this nation fully participates in the harmonious and equitable solution of matters affecting that region. This objective will not be met.

Mr. DOMINICK. Mr. President, the chairman of the Subcommittee on the National Science Foundation (Mr. KENNEDY) joins me in emphasizing the importance to the Nation's scientific strength of the supplemental appropriation for the National Science Foundation. He shares my view that the Foundation should receive the full supplemental appropriation for four aircraft—$26,320,000—which was voted by the House. Unfortunately, it is impossible for him to be present for this debate, and I ask unanimous consent that his statement be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

Last June the Senate passed an authorization of $727 million for the National Science Foundation. After compromise with the House, the final authorization act provided $704 million for National Science Foundation programs in fiscal year 1973. Yet the amount appropriated for the Foundation was only $626 million, or $78 million below the amount authorized. This 11% reduction in the amount authorized for the Foundation represents a curtailment of important programs on which the Nation's scientific strength depends.

Since its creation as an independent agency in 1950, the National Science Foundation has carried out the extremely important mission of maintaining the Nation's scientific strength. The Foundation operates no laboratories or scientific facilities of its own, but through grants and contracts supports programs of scientific research and education in thousands of universities, research institutes, and other organizations. These programs cover all fields of science and engineering, encompassing the mathematical and physical sciences, engineering, social sciences, biological and medical sciences, materials research and the environmental sciences. They cover all levels of science education from elementary school through postdoctoral fellowships. And these programs are carried out in all of the 50 States to assure a strong, broadly based national scientific enterprise.

The impact of the Foundation's programs is both pervasive and profound on the Nation and on the future of mankind. For we live in an age of science—from the computers that increasingly manage our transactions to the transistors that power our electronic devices to the advanced medical technoolgy which promises profoundly to affect the maintenance of man's health. Science has become essential to the Nation's military security, to the strength of its domestic economy and international economic position, and, indeed, to set the resolution of the widespread social problems which beset our Nation.

But scientific research is not a spigot which can be turned on and off at will. Before scientific know-how can be effectively applied to particular problems in areas such as transportation, health care, housing, communication, energy resources, nutrition, and pollution control, the underlying foundation of basic research must be patiently and continuously built over the years, and the Nation's scientific and technical talent must be carefully nutured and trained.

This is the key task to which the Foundation has directed its principal efforts over the years; but in recent years the Foundation has also expanded its programs with respect to applied research which is relevant to the Nation's social problems. Although the various Federal agencies sponsor some applied research relevant to their particular missions, there remains a considerable amount of extremely important applied research which is too broad in scope or too fundamental in substance to fall within the mandate or resources of the mission agencies. The National Science Foundation is the only agency which can tackle these problems. So the role of the National Science Foundation is to keep the Nation strong in basic science, sponsor the applied research which cannot be effectively handled by other agencies, and assure the Nation an adequate supply of scientific talent.

But the appropriation of $78 million less than the amount authorized makes it extremely difficult for the Foundation to carry out its mission successfully this fiscal year. The problem is exacerbated by the action of the appropriations committees with respect to the appropriation for the Defense Department.

The Defense Department has traditionally provided logistic support to the U.S. Antarctic Research Program. In particular, the Defense Department has been responsible for the procurement of ski-equipped C-130 transport aircraft which are essential to the operations of the Antarctic Program and especially to the safety of the personnel engaged in the program. An item for the procurement of such aircraft was originally in the fiscal year 1973 Defense Appropriations bill. However, the appropriations committees in both Houses struck this item from the bill. The committees indicated in their reports that the need for this item was unquestioned, but stated their view that the funds should be appropriated to the National Science Foundation directly, rather than to the Defense Department.

Unless funds for such aircraft are provided in supplemental appropriations to the National Science Foundation, the United States is likely to lose its ability to conduct effective research operations on the Antarctic continent. It is clear from this year's authorization record that the Antarctic Research Program is of great importance to many areas of science, including a better understanding of environmental problems. In addition, our knowledge of this continent could be of significant strategic importance to the United States in the years ahead.

The National Science Foundation requested a supplemental appropriation of $32,900,000 for the purchase of five ski-equipped aircraft. The House yesterday voted a supplemental appropriation for the Foundation of $26,320,000 for the purchase of four aircraft. But the Senate Appropriations Committee today voted to recommend a supplemental appropriation for only two aircraft.

I believe that the four ski-equipped aircraft voted by the House represent the minimum necessary for effective operation of the Nation's Antarctic Research Program. I regret that the Senate Appropriations Committee recommended only two aircraft, and I would hope that the Senate might vote the full four aircraft voted by the House. In the event the Senate votes only the two aircraft, I would hope that the Conference Committee might choose the higher figure in its recommendations to the Senate and the House.

Mr. DOMINICK. Mr. President, I think it is worthwhile to explain to my colleagues, not to be critical of the Committee on Appropriations, how this came about.

The funding for support of the naval operations in the Antarctic originally came through the Defense appropriations. For a considerable period of time the Committee on Appropriations has been trying under the leadership of my colleague from Colorado (Mr. ALLOTT) to get together the National Science Foundation expenditures and get it into their budget.

The defense appropriation originally asked for five aircraft. This was in the budget until the last minute and then dropped. At that point the request was made through the National Science Foundation but the National Science Foundation was caught a little short on this and did not think there was any problem. As a result, although the subcommittee did request four, and did so almost unanimously, it was cut in the full committee to two without full consideration of the valid points brought up by my colleague from Hawaii.

I can say as a pilot, which I still have the honor of being, that the aircraft which are now being used in the impossibly difficult situations in the Antarctic are antique, they are decrepit, they are not in any kind of condition to keep going at all; and if we are going to continue our efforts in that area, we are going to need in the end at least five new aircraft, if not more.

So I would urge the conferees to go along with the House when they have a chance to review the record a little more.

Mr. FONG. I thank my colleague from Colorado.

I do hope the conferees, under the leadership of the Senator from Arkansas (Mr. MCCLELLAN), will give serious consideration to what has been said on the floor tonight.

Mr. McCLELLAN. Mr. President, I want to assure the distinguished Senator from Hawaii that we will do just that. He said the House approved four. As I recall, there was a motion in committee to strike the four. We compromised on keeping two, especially because a loss of two had been sustained. We felt that they should be replaced immediately. We can still consider whether we should go to four or not in conference.

I do not think anyone opposes this amendment, but there may not be the urgency now for the other two that it cannot wait for another appropriation.

I am not irrevocably committed either way, and I will have an open mind in listening in conference, but I do feel, in the interest of moving along here, that we should proceed in this way.

I want to express my appreciation to the distinguished Senators from Hawaii and Colorado.

Mr. FONG. I thank the Senator. I want to say, in closing, that in 1970 and in 1971 there were seven airplanes. Two were lost, so they had five. Two were put out of commission. Now they have three. Of the three, two are obsolete.

Mr. President, I ask unanimous consent that I be allowed to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I would like to inquire at this time if there are any other amendments.

Mr. JAVITS. Mr. President, I am sending an amendment to the desk, but I shall not be more than a few minutes.

Mr. McCLELLAN. Mr. President, I would like to make an announcement, if the Senator will yield to me. It is the intention of the Senator from Arkansas, as chairman of the Appropriations Committee, to ask that the conference report on the Defense appropriation bill be laid before the Senate immediately after the vote on this bill. I would hope we could conclude it tonight, and therefore clear the docket for other matters tomorrow. Since we are all here, I do not think it will take too long.

Mr. JAVITS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from New York will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, between lines 9 and 10 add the following:

NATIONAL COMMISSION ON PRODUCTIVITY

Salaries and Expenses

For additional expenses of the National Commission on Productivity, including services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and hire of passenger motor vehicles, $400,000, to remain available until expended: provided that these funds will be used to finance the extension of the Quality of Work Councils.

Mr. JAVITS. Mr. President, this amendment, which I shall not press for reasons which I will explain, would supply the necessary resources to allow an experiment to go forward in organizing the quality of work councils. These are labor-management councils which deal with the broad subject of the improvement of the work environment through job enrichment and humanization of work techniques. It would be composed equally of labor and management.

This idea originates from the organization of the National Commission on Productivity, which I have had a good deal to do with, and the appropriate authorization and the appropriation subsequently made to it, and is put forth as a project of the Commission, but with the Price Commission headed by Mr. Grayson as its agent, in order to deal with a subject which troubles many of us very deeply, the erosion of morale in the American worker. We all know about it, and it is one of the most serious problems troubling this country.

I used to call it a labor-management council, but I like their idea of a productivity council better than mine because they are going not only into the question of productivity but productivity as it relates to interest in the job, attractiveness of the job, and conditions of the job, in terms of quality.

The idea is to experiment with 10 of these councils, which would be either on an area basis or a plant basis, depending on the size of the enterprise. Each of the 10 would cost $10,000. The National Commission on Productivity is ready to contribute $100,000. My amendment would call for $400,000 in order to enable the project to properly start off.

I was going to press this amendment today, because I think it is so critical to get at this job, though I had just learned about the project within the last 24 hours, in order to avoid the 3 or 4 months which must elapse until we get another supplemental bill. However, having discussed it with the Senator from New Mexico (Mr. MONTOYA), I am persuaded that it is really too quick to ask the Appropriations Committee and the Senate to act on it solely on the recognizance of Mr. Grayson and the persons who are working on the task.

The Senator from New Mexico (Mr. MONTOYA) takes this very seriously. It certainly must be taken very seriously. It is one of the most critical problems in our country. He tells me he will give the parties a very good hearing immediately after we reconvene.

So, much as I regret what may have to be the lapse of a few months, I express the hope that the climate which will have been created for the project will induce the National Commission on Productivity to put up its $100,000 so they can get started now, and then the Senator from New Mexico (Mr. MONTOYA) can give them a hearing. Then, we have every hope, as this looks very sound to me, that we will be able to furnish the additional resources required to proceed with this program.

I yield to the Senator from New Mexico.

Mr. MONTOYA. Mr. President, I want to thank the Senator from New York for following this particular procedure and calling to our attention his desires in this matter, but I would like the RECORD also to show that in the supplemental bill for 1972 we recommended and appropriated $2.5 million for this Commission for the varied activities under the enabling legislation. This was in addition to $800,000 transferred to the Commission from another account.

The particular goal of the Commission for which we appropriated $2.5 million was to provide advice on policies and programs that promote productivity growth in the private and public sectors of the economy. Initially this action was taken to counteract rising costs and prices, but the objectives were soon broadened to take account of the need for maintaining and improving the quality of life, including real income, and the physical environment. The objective of this particular Commission is to make studies and recommendations to improve the lot of the working people as well as to promote the growth of the economy and productivity of business.

We have had no oversight hearings on what they have done with the initial appropriation, and I think we should wait so we can find out from the Commission what they have done with this particular money.

I am advised that they do have money left from the initial appropriation, and the appropriation has a carryover effect up to April 30, 1973.

So I can assure the Senator from New York that when we do have hearings next year and if they come before us with another budget request, we will certainly give them our attention, and we will certainly want to inquire from them as to the propriety of the expenditures up to that time.

Mr. JAVITS. Mr. President, I hope, too, that the Senator's statement would include going into this quality of work project as soon as they are ready to present it to the Senator's subcommittee.

Mr. MONTOYA. Certainly.

Mr. JAVITS. I thank my colleagues.

Mr. President, I point out that the President asked for $5 million for the Productivity Commission this fiscal year. He got $2.5 million. So even our $400,000 request would be well within the budget limit.

But my point is to get the job done, and I think this is the best way to get it done.

So I shall follow the course suggested by the Senator from New Mexico. I ask unanimous consent that the Price Commission description of the project entitled "Quality of Work Project," as described by Chairman Grayson of the Price Commission, be printed in the RECORD, together with a letter, to which I direct the attention of Senator MONTOYA and other Senators particularly, from the chairman of the National Commission on Productivity, the Secretary of Commerce, in which he says he likes the idea very much, and that the Commission plans to devote more than $100,000 of its budget to the Quality of Work Councils.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PRICE COMMISSION DESCRIPTION OF PROJECT QUALITY OF WORK PROJECT

BACKGROUND

A greatly increased rate of American productivity is the only long term way of avoiding inflation—and the best hope for reviving our competitiveness in world markets. American productivity has been lagging its previous rate—and that of the rest of the world—for half a dozen years. The sharp rise in output per man hour reported recently is a temporary and cyclical phenomenon, reflecting greater plant and labor utilization rather than any change in the basic trend. Without a major change in that trend, inflation will remain a permanent threat to American consumers and our foreign trade position will continue to erode.

PURPOSE

The Quality of Work project was initiated in the belief that lagging American productivity is caused at least as much by widespread, and growing, worker alienation and disaffection with work and the workplace, as by traditional economic factors. While business investment must be stimulated, it seems clear that permanent productivity gains will also require a major redesign and enrichment of jobs.

The project is an experiment designed to test methods of reducing apathy and boredon and gaining greater involvement and satisfaction in work. The project is being sponsored by various units of the federal government because an increased rate of American productivity as well as the greater effectiveness and satisfaction of American workers, are vital national concerns.

PROJECT DESIGN

The program will conduct its tests through demonstration projects in selected companies and units of government. In each pilot project, worker-management councils, or committees, will be formed which will be responsible for improving the quality of work through various forms of job enrichment and humanization. The participative quality of the council structure will, in itself, be a form of humanization of work. The program will select project sites to obtain a balanced mix between manufacturing and service companies and state or local government agencies as well as between white collar, blue collar and management employees. Geographic and ethnic diversity also will be sought.

The activities of the worker-management councils will be carefully observed and evaluated. Case histories will be documented from the demonstration projects and the results will be communicated to leaders in business, labor and government.

ORGANIZATION

The Quality of Work project will be under the overall direction of the National Commission on Productivity, which was given statutory authority to carry out such activities by the Economic Stabilization Act Amendments of 1971. The project staff, which will report to the Executive Director of the National Commission on Productivity, will consist of a program director, deputy director, associate director, and program managers, with supporting secretarial and clerical help.

The Price Commission, which has already contributed considerable developmental work on the Quality of Work project, will continue to provide administrative and personnel support to the project and will act as an agent on behalf of the NCOP whenever required.

FUNDING

The authorizing legislation for the National Commission on Productivity (Economic Stabilization Act Amendments of 1971) terminates on April 30, 1973. Therefore, all cost estimates for the Quality of Work project are computed on the basis of the six-month period—November 1, 1972 to April 30, 1973.

The Quality of Work project is designed to encompass ten demonstration projects. This is the minimum number necessary to provide for a proper mix between the types of companies and workers selected as well as geographic and ethnic diversity. The estimated cost for each demonstration project, including start-up costs, is $50,000.00. This includes personnel compensation, training, travel expenses, and miscellaneous services and supplies. The total six-month cost of the project is estimated at $500,000, as detailed below:—Productivity Commission will fund $100,000.

	Costs		
	Total	Startup	Project
Personnel compensation	$425,000	$31,000	$394,000
Travel	47,000	2,000	45,000
Miscellaneous service and supplies	28,000	17,000	11,000
Total	500,000	50,000	450,000

SECRETARY OF COMMERCE,
Washington, D.C., October 12, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request concerning the Quality of Work Council, I would like to offer my enthusiastic endorsement of the program. As you know, the National Commission on Productivity has been and continues to be vitally interested in the subject of labor and management cooperation and the application of new techniques to improve the quality of the working day and the productivity of all working people—management and labor alike.

In the National Commission on Productivity meeting of September 29 there was strong agreement that greater research was needed concerning the relationship between motivation and productivity. The Quality of Work Councils properly designed can provide the Commission with important data concerning this relationship.

As you know, the Commission plans to devote more than $100,000 of its budget to the Quality of Work Councils. This however is inadequate to meet the full requirement of the program.

I believe that if we do a good job of selecting each site, if the change agents are properly chosen, selected and coached, and if we devote the requisite time and skill to evaluation of the program—then we shall have a very useful insight into the power of labor-management councils in improving both work environment and the quality of the output.

I appreciate, Senator, your efforts on behalf of the Commission and will be happy to assist you in any way that I can.

Sincerely,

PETER G. PETERSON,
Chairman, National Commission on Productivity.

Mr. JAVITS. I think, having introduced the subject in this way, we will begin to see some results, and this may act as a goad to the Commission itself, which would be a very good thing.

I withdraw the amendment.

Mr. HART. I have examined the bill and do not find reference to money for payment of a claims settlement award to the Chippewa and Ottawa Indians of Michigan. But it is my understanding that the committee does provide $10,109,003.55 for that award. May I ask the chairman, Mr. MCCLELLAN, if my understanding is correct?

Mr. McCLELLAN. Yes; the bill contains $10,109,003.55 on page 49 under "Claims and judgments" for this purpose.

Mr. HART. I thank the able Senator from Arkansas. This claims settlement represents long and difficult efforts by many people and I am grateful the committee has made this provision. I also thank the committee for adding $36 million to implement Public Law 92–318, the new Indian Education Act. I support this action, urge the Senate to adopt it and that, in conference, it be accepted.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed without amendment the following Senate joint resolutions:

S.J. Res. 199. A joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., as the first university in the United States to bear the full name of the third President of the United States; and

S.J. Res. 236. A joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week."

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Mr. McCLELLAN. Mr. President, if there are no further amendments I ask for third reading. Does the Senator from California have an amendment?

Mr. CRANSTON. Yes. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> At the end of chapter II, add the following:
>
> Veterans' Administration assistance in establishing new State medical schools; grants to affiliated medical schools; assistance to health manpower training institutions
>
> For carrying out chapter 82 of title 38, United States Code, $40,000,000 of which $25,000,000 shall be for carrying out subchapter I of such chapter.

Mr. CRANSTON. Mr. President, I yield to the Senator from West Virginia.

ORDER FOR ADJOURNMENT UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Louise Ringwalt of the staff of the Committee on Labor and Public Welfare be permitted to be present in the Chamber during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I am joined in the sponsorship of this amendment by 14 Senators from both sides of the aisle: Senators **HARTKE**, **THURMOND**, **RANDOLPH**, **TALMADGE**, **TOWER**, **MCINTYRE**, **HUMPHREY**, **BENTSEN**, **BAKER**, **BROCK**, **BURDICK**, **INOUYE**, **BYRD** of West Virginia, and **WILLIAMS**.

The amendment would provide $40 million to the Veterans' Administration to carry out programs authorized by new legislation in House Joint Resolution 748, the "Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972." The amendment would earmark no less than $25 million to be used for establishing up to eight new medical schools.

That authorizing legislation was approved unanimously by both Veterans' Committees. It was approved unanimously by the Senate, and it was approved unanimously by the House of Representatives.

The program it authorizes would benefit every veteran who needs medical care. It would benefit medical care generally in our country, helping bring medical care to communities where there are not enough or in some cases no doctors, and it would benefit every State where there is a VA hospital now operating.

The authorizing legislation provides new authority to the Veterans' Administration to support pilot programs for the establishment of eight new medical schools at State colleges or universities, which schools will be affiliated with a Veterans' Administration hospital. It will also authorize the support of medical schools, nursing schools, and schools of the health and allied health professions, which are affiliated with Veterans' Administration facilities for the improvement and expansion of their ability to train health care personnel. The Veterans' Administration is also authorized to make expenditures to remodel facilities and allocate funds for the improvement of its own health training programs at the VA facilities.

Great interest has been expressed across the country by State colleges and universities in establishing new medical schools which would utilize the Veterans' Administration hospital as their clinical facility. I have personally discussed this interest with many Senators and Congressman.

An appropriation of funds this fiscal year will enable the Veterans' Administration to begin implementing this new authority immediately. Any school which is able to begin initial organization this year, will be that much farther ahead in its ability to recruit students for its first class. Initial estimates are that any school supported by this program would have a small class the first year, limited to perhaps 25 students, while the second year entering class could enroll 50. Thus, the earlier we can start this program, the greater the number of graduates that will be realized sooner.

Another major new program which this supplemental appropriation would support is that of aiding existing medical schools, schools of nursing, other health professions schools, and schools of the allied health professions affiliated with VA hospitals in expanding and improving their ability to train health care personnel. The Veterans' Administration hospitals are affiliated with 84 medical schools, 52 dental schools, 304 nursing schools, 75 schools of social work, and 93 graduate departments of psychology.

These affiliations have been of mutual benefit to both the institution and the Veterans' Administration facility with which they are affiliated. The VA hospital has gained in having the services of faculty members assisting in the treatment of VA patients, providing the hospitalized veteran with the outstanding skills available at major university medical centers. The medical school has gained by its ability to utilize the VA hospital as a training center for its interns and other health care trainees. The Veterans' Administration is also better able to recruit highly skilled professionals as employees at its hospitals where they will have the opportunity to be associated with a medical school and to serve in a faculty capacity at the school in addition to caring for the veteran patient.

The Veterans' Administration through these affiliations trains approximately one-half of all physicians entering practice each year. Many VA trainees are thereafter recruited for employment in the VA itself.

An untapped potential exists in the VA hospitals which are not now affiliated with medical schools.

In addition, there is considerable room for expansion of training programs in the VA itself and in institutions presently affiliated with the VA.

Well over 50,000 individuals are currently being trained for health care careers each year in VA facilities. The potential exists for doubling this number over the next 5 years.

A survey conducted a little over a year ago indicated that with additional funds for trainee stipends, instructor salaries, and space modification, some 12,000 additional health professions trainees could be accommodated immediately. The appropriation of the $40 million I am requesting today will enable the VA to make a substantial beginning toward this expanded training program. It will also enable the affiliated medical education institution to undertake innovative training programs, and to expand and improve its capacity to train health care manpower jointly with the Veterans' Administration.

A very important dividend which can be realized from implementation of the authorities in the legislation is the opportunity which will be provided for returning veterans who have been trained in military occupation specialties to participate in education and training programs leading to a civilian career in health.

In the programs which will be supported by this appropriation, the Veterans' Administration has been directed to encourage to the maximum extent the participation of these veterans in those training programs.

A great potential exists in utilizing these veterans who have been highly trained and have experience in performing tasks which normally fall within the responsibility of the physician, to develop new types of health careers in conjunction with medical schools, where they can be trained with other members of the health professions to work together in a team effort to care for the patient.

I believe new types of health careers can provide a large part of the answer to the shortage of physicians, by making available the skills of an individual highly trained in one aspect of care, who can alleviate the burden placed upon the physician, in acting as a physician extender.

In summary, by appropriating $40 million for these authorities—for which the full authorization is $75 million—we will enable the VA to make an early start in developing the new medical schools authorized, to take the necessary steps to provide additional assistance to existing affiliated educational institutions to improve and expand their programs, to upgrade and expand the VA's own training programs, and to expand the opportunities for health careers for returning veterans. The greatest need in health care in the Nation is for more and better trained health manpower.

This amendment seeks to utilize to the fullest the potential of the Veterans' Administration for the education and training of these vital resources to assist in the care of disabled veterans and to expand the health care capacity of the entire Nation.

Mr. President, I wish to note that this amendment is strongly supported by the chairman of the Veterans' Affairs Committee (Mr. HARTKE), who has played such a vital role in development of the authorizing legislation, and by the ranking minority member of the committee (Mr. THURMOND). Also, I discussed this amendment this afternoon with the chairman of the Veterans' Affairs Committee in the other body (Mr. TEAGUE) who assured me of his full support for it.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I would like 4 minutes.

Mr. McCLELLAN. Mr. President, I yield the distinguished Senator from New Hampshire 4 minutes from the time in opposition to the amendment.

Mr. COTTON. Mr. President, I commend the idea and the purpose of the distinguished Senator from California in seeking to inaugurate such a program. No one knows and realizes more deeply the need for more medical schools and for the capacity to produce more doctors than those of us who have been serving through the years on the Subcommittee on Health, Education, and Welfare.

I wonder, however—and I make this inquiry—how much the Veterans' Affairs Committee went into the problem of the cost of starting any kind of real medical school. The matter of developing medical care and that sort of thing is very practical.

As a matter of fact, many years ago—as many as 10 years ago—I was brought into consultation in the matter of simply expanding a 2-year medical school, which had been in existence for many years, to a 4-year course, with the idea of obtaining some Federal aid. Such aid has now been authorized, I believe, for six or seven universities that had such schools, and one by one they are expanding. But I discovered at the very outset that to expand this school from a 2-year to a 4-year course, a school that had some 35 or 45 students at the very beginning, was going to cost a minimum of $10 million, to make that expansion, with all the equipment and the laboratories and the addition of competent faculty. Providing the various components that make up a real medical school and real training of physicians runs into a great deal of money.

I do not want to oppose any project that would produce more doctors in this country; God knows we need them. But I wonder how deeply the legislative committee investigated the idea of taking $25 million out of $40 million, if I understand it correctly, to start eight new medical schools in connection with veterans' hospitals. It would seem to me that it is a complete waste of money. You could not even start one for that amount of money, in view of the experience we have acquired. If the Senator from Washington, the chairman of the committee, were in the Chamber, he would corroborate that statement. We have had a great deal of evidence on the matter.

Perhaps I am wrong. Perhaps the committee went into this, or perhaps the intention is to use this money for medical assistance.

By adopting this amendment, we would hold out hopes all over the country that pretty soon every State is going to have a medical school in connection with their veterans' hospital. I think those hopes would be a great delusion.

It seems to me that to attempt to launch in a supplemental appropriation bill a program that, if carried through, would require millions and millions of dollars is moving too hastily. Much as I sympathize with the purpose of the distinguished Senator, I think it is very impractical.

Mr. McCLELLAN. I yield 3 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I support what the Senator from New Hampshire has just said. He is completely right on almost every score.

I have opposed many spending requests in the Appropriations Committee and on the floor, but I think this is one of the most worthy purposes we could find. We need more doctors. We need more medical facilities. We are never going to solve our health problems until we get at them, and this is a very good way to do it.

Here is an amendment which is offered to us on which we have no budget request, No. 1. Number 2, the authorization has not been signed. The authorization passed the House and the Senate, but it was never signed. We have had no hearings before the committee.

As the Senator from New Hampshire said, this is an enormously complicated subject. It is highly costly and could commit us to a great deal of money.

I tell the Senator from California that if he would withdraw his amendment, as chairman of the Subcommittee of the Appropriations Committee, I would be happy to schedule hearings on this matter, and I would be most sympathetic to this kind of request. But I would plead with him to give us a chance to have orderly hearings on this matter early next year. There would be a delay, but the delay would be very short, and it would give us an opportunity to go into detail and to find out the very issues the Senator from New Hampshire has properly raised. It is only a matter of a relatively few months, and it is something that could commit this country to a big program that could be enormously costly.

Would the Senator from California consider withdrawing his amendment, with the understanding that we would have hearings early next year and invite him to testify and bring in other witnesses?

Mr. CRANSTON. Mr. President, I should like to recount the background with respect to this amendment. It is not something that has popped up all of a sudden.

There has been a long, serious study, beginning 2 years ago, when Representative TEAGUE of Texas, chairman of the House Veterans' Committee, and I worked together in developing this proposed legislation. There have been extensive hearings in the House and very extensive hearings in the Senate, with a very long record, indicating that the VA would be able to proceed to use this money wisely and well. There are 31 communities which have been identified as possibilities immediately to begin this program. They could narrow it down to the very best. The expenditure of some $15 million now would make it possible to train 5,000 more people in health manpower.

The Appropriations Committee has not been neglected during the time we have been seeking to get the authorization through. It was passed unanimously by both bodies. More than a year ago, I first talked with Senator PASTORE, who, prior to the shift in subcommittee assignments, chaired the subcommittee of the Appropriations Committee handling this matter. He was highly sympathetic and very interested that this matter was going to come to him. I presented testimony to the committee last summer about this matter. Many Senators are committed to this legislation now, and I believe we should proceed now.

Mr. PROXMIRE. I say to the Senator that there were no hearings. When Senator PASTORE was chairman of the subcommittee, he was sympathetic, of course; but he had no opportunity to hold hearings on this matter. There is no record.

There is a difference between the authorization process and the actual appropriation which commits the money finally and definitively. I think we would get a far better opportunity to act on this matter if we could hold formal hearings next year and handle it in the regular appropriation bill.

Mr. CRANSTON. With respect to the matter of economy, if I may respond to what the Senator from New Hampshire said, I should like to read testimony from the authorization committee's hearings by Dr. Benjamin Wells, Deputy Chief Medical Director of the VA, speaking of an experience at Shreveport, La., that exemplifies exactly what we are talking about now. He said this about that experience:

> Some years ago I visited Shreveport, at the time the State was thinking of a new medical school. We found that our hospital there had some excess space because of the fact that it had originally contained a regional office and clinic and these were not functional at the time. This gave us a unique opportunity to invite the school to work with us, and us with them, in the development of spaces in that hospital, which included offices, laboratories for teaching, and so on.
>
> This very quickly became an active affiliation between us and the medical school at Shreveport. Our staff was changed in such a way as to have most of our members on the faculty of the new medical school and to increase the amount of research that was being done at that institution as well.
>
> We think that we accomplished a rather outstanding goal here inasmuch as the new medical school was able to swing into action and to accept medical students in a much shorter time than is usually possible in new medical schools.
>
> In an analysis of some 16 medical schools established after World War II, it was the experience that it took about 3½ to 5 years before medical students could be admitted. In this particular situation medical students were admitted approximately 14 months after the initial resolution to have the school. So this of itself was a rather outstanding result. There was also the fact that by having the VA facility, we materially reduced the cost of initiating this medical school for the University of Louisiana. This process has gone on. There have been two classes now of approximately 33 each. It is a very successful operation; successful from both the standpoint of the medical school for the University of Louisiana, and successful from our standpoint by upgrading the quality of care in our Shreveport hospital.

Mr. PROXMIRE. I ask the Senator once more: We did not have a chance to have any hearings on this matter. Senator CRANSTON did talk to me about it on the floor of the Senate about 3 or 4 days ago. That was the first I heard of it. That was after the hearings had been concluded.

There was no opportunity to examine this matter, to go into any kind of consideration of it, to get the views of the administration on it, to get an opportunity to discuss it with other members of the subcommittee or other members of the full committee. It comes on the floor in the closing 2 or 3 days of the session. It seems to me that we would be far better served and we would have a far better program if we would have an opportunity to consider it in an orderly way early next year.

Mr. CRANSTON. May I ask the Senator whether he would be willing to consider accepting some money now—a reasonable amount, less than we are asking in this amendment—to insure that we get the program started, with assurance that there will be a full study early by his subcommittee in the coming year, to see how much further we could go?

Mr. PROXMIRE. Speaking only for myself—I do not know what Senator COTTON or Senator McCLELLAN want to do—I would feel strongly that we cannot begin a new program. It seems to me that the important thing is not the $40 million, big as that is, but it is the commitment that we move into a new program, without hearings, without a budget estimate, without authorizations being signed. Under these circumstances, I regret to say that, although it is one of the most worthy proposals we could have, I must say I just could not do that.

Mr. COTTON. Mr. President, I agree completely with the distinguished Senator from Wisconsin. It is all right to talk about getting into action and admitting students, but when we talk about going through the necessary 4-year course to confer the M.D. degree, we are starting up a long and expensive road. I do not say that this cannot be worked out. I think it is a most commendable idea. But I think that to appropriate 1 cent to launch this kind of program with no more background, investigation, or study, and with the strong disapproval of the Budget Bureau and the administration would be too hasty. As I said earlier, to start this would simply raise false hope in the minds of the various communities that they were going to have a full-fledged medical school turning out properly trained M.D.'s able to treat and act as doctors.

I join in expressing the hope that the Senator will not press it at this time. The Senator from Washington and I could assure the Senator that we have been working on this in the HEW Subcommittee for years. One by one we are appropriating money to enlarge present medical schools at the cost of a great deal of money. The Senator from Wisconsin has indicated he will hold hearings, and perhaps I could be more favorable when we have the facts. But this is too hasty.

Mr. President, with all admiration for the idea, I think that this is—to use a longstanding expression in New Hampshire—"going off half-cocked."

Mr. CRANSTON. Mr. President, I think the distinguished Senator from West Virginia (Mr. RANDOLPH) wishes to speak.

Mr. RANDOLPH. Mr. President, I support the amendment offered by the able Senator from California (Mr. CRANSTON). I am a cosponsor of the amendment. I realize that the statements of those Senators who oppose this amendment are well considered. They suggest delayed approaches to the problems which the pending amendment is designed to help alleviate. The Senate has heard arguments that presentation of this amendment is premature, since the authorizing legislation has not been enacted into law. I want to comment on that point.

It is my belief, Mr. President, that the effort to more fully utilize the Veterans' Administration facilities and programs and personnel in the education and training of health care personnel presents, I say to my diligent colleague from Wisconsin, a very unique opportunity to help alleviate what we know to be a critical shortage in health manpower.

That shortage is one of crisis proportions, I say to my colleague from New Hampshire. It is a very urgent matter in every State of the Union, including, I am sure, Wisconsin, New Hampshire, and West Virginia.

I believe that in the consideration of this amendment, we should realize that we have this problem. I do not hesitate to point out—and I say this conscious of the fact that there is opposition to the amendment—that here we have a responsibility which we should take hold of and be eager to grasp. We should not be reluctant to move. The Senate should act affirmatively tonight on this challenge by approving $40 million to start implementation of House Joint Resolution 748.

Mr. President, the compromise version of House Joint Resolution 748, the Veterans' Administration Medical School Assistance and Health Manpower Training Act, has been approved by the House and returned to the Senate. This progressive and innovative measure should receive final approval by the Senate and be sent to the President by the end of the week. Thus, we know the elements of this legislation.

It authorizes $25 million for pilot programs for the establishment of eight new medical schools affiliated with VA facilities and $50 million to be used for these new schools or to expand and improve programs at existing medical schools or at other health manpower institutions affiliated with VA hospitals.

This legislation is designed to utilize the resources of the Veterans' Administration to help solve our health manpower crisis. It will not, however, detract from the primary responsibility of the VA to provide services and health care for our veterans. Rather, I believe House Joint Resolution 748 will lead to improved health care under the VA programs. The cooperative effort between the VA and institutions of higher learning envisioned in this legislation will hopefully lead to the full utilization of VA facilities, personnel, and programs, so that more efficient and effective health manpower education and training efforts will be brought into being.

Our country needs additional physicians, dentists, nurses, other health professionals, allied health professionals and paraprofessionals and other health manpower, including new types of health-care personnel such as physicians' assistants, dentists' assistants, and nurse practitioners.

To meet these manpower shortages requires the establishment of additional institutions and programs to provide the necessary training and education and innovative leadership. The VA is uniquely qualified to work toward this goal. It has the nationwide network of hospitals, clinics, and extended care facilities and ongoing reputable training and education programs. In House Joint Resolution 748 we are challenging the VA and charging it with the responsibility to be the leader in putting its medical resources to work in meeting the great national need for additional and new types of health manpower.

It is my belief that the VA stands ready to meet this challenge and we should give them the funds to begin this vital endeavor.

The amendment which is pending will allow the VA to move forward with the important planning and implementation process without delay. I do not deny that there is the element of rapidity here, but there is also the element of urgency, and that is the reason for the attempt to move with this amendment. Just as the Senator from Wisconsin has amendments prepared and has asked of us to act on them, we urge approval of this amendment. The Senate, of course, will work its will for or against an amendment offered by the Senator from Wisconsin or the Senator from California or any other Senator. Often we have an amendment offered on which we have no notice until it is offered on the floor of the Senate. That is understandable because it is what the rules of the Senate provide. In this instance the issue and urgency are such that we should move forward now. We are attempting to work within the framework of the Veterans' Administration in the training of urgently needed health care personnel in this country. I strongly support and cosponsor the pending amendment.

I appreciate the opportunity to join in discussion of this matter. I hope that we will have support of the Senate for the amendment.

Mr. CRANSTON. I thank the Senator from West Virginia very much.

Mr. COTTON. Mr. President, while this debate is taking place, and I have verified this, I wonder whether Senators realize, as they consider this amendment, that in the regular HEW appropriation bill which has just been approved in conference today, we have appropriated——

The PRESIDING OFFICER (Mr. ALLEN). All time on the amendment has now expired.

Mr. McCLELLAN. Mr. President, I yield the Senator 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 additional minutes.

Mr. COTTON. On the training of health manpower, we have appropriated $846,428,000. $846 million. That approaches $1 billion. That is $170 million more than we appropriated last year. It runs $312 million over the budget which had something to do, of course, with construction.

Now, to come in here on this supplemental—and again I have great respect for the Senator from California. And I have great respect for my friend, the Senator from West Virginia. But to come in talking about $40 million to start medical schools when the subcommittee, the full committee, and the Senate has already covered the training of medexs and has covered aid to enlarge existing medical schools and has covered the whole field of health manpower and, when we have already exceeded the budget, and exceeded last year's amount by $170 million, it seems to me, is not a very wise or prudent procedure to rush into the appropriation of $40 million with such a vague idea of what is going to be done.

We are certainly, every member of our subcommittee and full committee, keenly aware of this need. And we think we have been very generous.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. CRANSTON. Mr. President, I yield 1 minute to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I respect the position of my colleague, the Senator from New Hampshire. I know when he emphasizes the amount of money involved that this is a stumbling block to him in the consideration of the proposal. I was not present on the floor at the time. However, I believe that the Senator from California directed an inquiry to the Senator from Wisconsin as to whether he would think in terms of supporting the amendment if there was a modification of the amount. I am not sure that was done.

Mr. CRANSTON. The Senator is correct. I asked if the Senator from Wisconsin was willing to ask for enough money now to get the program started and to get the assurance that the program would start.

Mr. PROXMIRE. Mr. President, the problem is that there have been no hearings on this matter.

I ask the Senator from West Virginia if someone were to come on the floor with an amendment pertaining to the Committee on Public Works, which he so ably heads, and it had had no chance to have any hearings, was a new program, and would involve many millions of dollars in the future, if he would not request that the Senator give him an opportunity to have some hearings so that we would have some general idea where we were going in that program?

Mr. RANDOLPH. Mr. President, I would say to the Senator from Wisconsin that I would consider what the amendment contained. Many, many times I have agreed to an amendment which has been offered to some public works measure when there had not been hearings. I consider the appeal and the strength of the argument for the amendment. I cannot cite illustrations tonight. However, there are many of them, and I could supply them for the record.

Mr. PROXMIRE. If the Senator will yield on that point, in this case there are not only no hearings, but it also is not authorized and there is no budget request. It is a new program.

Mr. RANDOLPH. It is an innovative program and it is urgently needed.

Mr. PROXMIRE. Yes. I am for that. I think the program makes a lot of sense, and I would perhaps vote for it. I may even be enthusiastic for such an amendment next year. However, I plead with the Senate to let us make a record on this matter.

Mr. RANDOLPH. Mr. President, I thank the Senator from Wisconsin.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRANSTON. Mr. President, I yield the Senator from West Virginia 1 additional minute.

The PRESIDING OFFICER. All time of the Senator from California has expired.

Mr. COTTON. Mr. President, I yield 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes on the bill.

Mr. RANDOLPH. Mr. President, even in good humor, the Senator from Wisconsin will not scale down the figure. Would the Senator from New Hampshire think in terms of a lesser amount and then not oppose the amendment?

Mr. COTTON. Mr. President, I wish I could take that position because everything that my friend, the Senator from West Virginia, has said is true. Many, many times on the floor of the Senate we have taken such innovative proposals and started toward our goal. And that is fine. However, I would not be willing to do so in this case.

As a matter of fact, the Senator from New Hampshire has, on the Appropriations Committee, been one of the foremost in pushing and pushing for more money for this very purpose. That is one reason that we have helped so much. However, I must say to my good friend, the Senator from West Virginia, that after we have carefully thought out the matter and raised every cent that we thought we could and gone beyond the recommendations of the budget and raised more than three-fourths of a billion dollars for this very project, to hastily start to throw in $40 million with some vague idea of starting medical schools in connection with veterans' hospitals to me is just bad legislative procedure and a waste of money.

I am all for doing this very thing if we can look before we leap.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. YOUNG. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I recall that on a recent night the Senator from Nebraska (Mr. CURTIS) started with one figure and we had several rollcall votes as he adjusted the figure downward. I will not go into details. However, he was attempting to get something. He did not get it. And he came back and attempted to get something else.

Mr. President, I do not have a right to speak for the chief sponsor of the amendment, but I know he shares with me the hope that we might at least have an amount that is somewhat less than the amount offered in the amendment, hoping that the hardhearted operation would soften a little bit so that we could go ahead with the planned program for the education and training of health care personnel in our country in connection with VA hospital facilities.

Mr. COTTON. Mr. President, I would be for it if I knew what we were going to do with it. However, we are not going to accomplish anything if we take $20 million or $18 million of our money and put it in a field that is extremely expensive. We have been watching this and pushing it as long as we could. I regret that the Senator from Washington is not here to reinforce his testimony.

Mr. RANDOLPH. Mr. President, as I recall it, President Lincoln said:

> The dogmas of the quiet past are inadequate to the stormy present. As our case is new, so we must think anew and act anew. We must disenthrall ourselves.

And that is, I think, in a sense what we must do here, think anew and, I hope, act anew and support the amendment under consideration.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator from New Jersey on the bill.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes on the bill.

Mr. WILLIAMS. Mr. President, I strongly support the Senator from California in his amendment. The funds he proposes will supplement and complement HEW health manpower programs, and will be used to maximize the potential in these programs through the establishment of new medical schools and the expansion of training at existing medical schools. Such programs in affiliation with VA hospitals are not now funded by HEW.

I would suggest to the chairman of the committee, who has so ably handled the pending bill all the way through and brought it here, that there is an area in the bill in which some money can be saved. I do not propose to offer an amendment to do this. I know that the bill will have to go to conference. Under salaries and expenses, Assistant Secretary for Education, the committee report states:

> The committee has included the full supplemental estimate of $2,242,000. The $2,242,000 will provide funding for 99 positions and related costs for the recently established office of the Assistant Secretary for Education. The committee has serious reservations about the need for yet another large staff to further complicate the administration of the programs of the Department of Health, Education, and Welfare.

I want to advise the chairman of the Appropriations Committee that the Labor and Public Welfare Committee has similar reservations. While an Assistant Secretary has been nominated, he has not yet been confirmed. One of the reasons that his confirmation has been delayed is a difference of view on what the content of that office will be.

The Committee on Labor and Public Welfare has in view a more restricted office than the Assistant Secretary-designate has. It is our strong view that 99 positions will not be needed to do the job that was contemplated in creating this new office. Most of the new programs provided by Public Law 92–318 are to be administered by the Office of Education —not the Assistant Secretary—and I would hope that the Department would demonstrate more interest in implementing such programs in the Office of Education rather than establishing unnecessary and duplicative positions in the Office of the Assistant Secretary.

Mr. McCLELLAN. I yield myself 1 minute, Mr. President. I appreciate the remarks of the distinguished Senator. I am glad to have his suggestion regarding this particular amendment.

The committee did have, as indicated here, some reservations about it; but in view of its being a budget request, we need to get it into conference and give it further study. I am very glad to have his comments about it. They merit our consideration and will be appropriately considered.

Mr. CRANSTON. Will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. CRANSTON. I have been talking about this over a 2-year period with Senator PASTORE, who was chairman of the relevant subcommittee. We submitted our reports to the Appropriations Committee last June for their review. We advised them of this pending legislation and of the probable need for funding this year. We have done all we could.

I talked with the Senator from Wisconsin (Mr. PROXMIRE) last week.

I would say to the Senator from New Hampshire (Mr. COTTON), I am well aware of the amount of money in the bill for HEW, both for medical care and hospital care. But HEW has refused to work with the Veterans' Administration.

The reason for that, many believe, is that they want to abolish the VA and to integrate it into a national health care system.

I stand for a strong and independent VA medical system, to help disabled veterans and all Americans with their expertise. I know my distinguished colleagues agree on this point. We should proceed in that direction, and this amendment will help in that regard by strengthening the quality of care and education and keeping programs at VA hospitals.

Mr. President, on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time on the amendment has expired. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from California (Mr. TUNNEY), the Senator from Nevada (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

I further announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maryland (Mr. BEALL), the Senator from Delaware (Mr. BOGGS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Delaware would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 32, nays 28, as follows:

[No. 551 Leg.]

YEAS—32

Bayh
Bentsen
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Cooper
Cranston
Eagleton
Gravel
Gurney
Hart
Hartke
Hollings
Hughes
Inouye
Jackson
Javits
Mondale
Montoya
Moss
Nelson
Percy
Randolph
Schweiker
Smith
Sparkman
Stevenson
Talmadge
Weicker
Williams

NAYS—28

Aiken
Allen
Bennett
Bible
Byrd,
Harry F., Jr.
Cotton
Dole
Dominick
Ervin
Fannin
Fong
Fulbright
Hansen
Hruska
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
McClellan
Packwood
Pastore
Proxmire
Scott
Stennis
Stevens
Symington
Taft
Young

NOT VOTING—40

Allott
Anderson
Baker
Beall
Bellmon
Boggs
Buckley
Cannon
Chiles
Church
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Humphrey
Kennedy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Pearson
Pell
Ribicoff
Roth
Saxbe
Spong
Stafford
Thurmond
Tower
Tunney

So Mr. CRANSTON'S amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Putting the question.

The PRESIDING OFFICER. The ayes seem to have it. The ayes have it.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The engrossed amendments are as follows:

(1) Page 2, after line 5, insert:

AGRICULTURAL PROGRAMS

Agricultural Research Service

For an additional amount for "Agricultural Research Service", $388,000, of which $88,000 shall remain available until expended for plans, construction and improvement of facilities: *Provided*, That not to exceed $18,000 of appropriations hereunder shall be available for offsite improvements on property adjoining the boundary of the Grain Marketing Research Laboratory, Manhattan, Kansas.

(2) Page 2, after line 5, insert:

RURAL DEVELOPMENT

Farmers Home Administration

For an additional amount for "Salaries and expenses", $1,250,000.

(3) Page 2, after line 16, insert:

1972 RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

The 1972 program of soil-building and soil-and-water-conserving practices previously authorized to be carried out under sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended (16 U.S.C. 590g–590o, 590p (a), and 590q) may be carried out through June 30, 1973, and sums appropriated by Public Law 92–399 (86 Stat. 607) for such program may be used for practices carried out under such program through June 30, 1973.

(4) Page 2, after line 16, insert:

NATIONAL STUDY COMMISSION

For an additional amount for the National Study Commission authorized by Section 315 of the Federal Water Pollution Control Act Amendments of 1972, $200,000: *Provided*, That this sum shall be available only to the extent authorized by law.

(5) Page 3, line 4, strike out "four" and insert: "two".

(6) Page 3, line 5, strike out "$26,320,000" and insert: "$13,160,000".

(7) Page 3, after line 6, insert:

VETERANS' ADMINISTRATION

ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

For carrying out chapter 82 of title 38, United States Code, $40,000,000, of which $25,000,000 shall be for carrying out subchapter I of such chapter.

(8) Page 3, after line 9, insert:

EDUCATION AND WELFARE SERVICES

For an additional amount for "Education and Welfare Services", $4,500,000.

(9) Page 3, after line 9, insert:

CONSTRUCTION

For an additional amount for "Construction," $118,000, to remain available until expended: *Provided*, That these funds shall be available to assist the Lummi Tribe of Indians in the construction of a fish hatchery.

(10) Page 3, after line 9, insert:

ALASKA NATIVE FUND

Any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92–306), or the Act of August 10, 1972 (Public Law 92–369), to a regional corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203), may be used by such regional corporations to contribute or lend to, and such regional corporation may also guarantee loans by third parties to, the Alaska Federation of Natives or the Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such regional corporation, and in recognition of the services of the Alaska Federation of Natives or the Alaska Federation of Natives, Inc., in advancing land claims settlement legislation.

(11) Page 3, after line 14, insert:

CONSTRUCTION

For an additional amount for "Construction", $350,000, to remain available until expended.

(12) Page 3, line 18, strike out all after "$2,000,000" down to and including "1972" in line 21 and insert: , of which not to exceed $630,000 shall be available for reimbursement to the Board of Trustees of the John F. Kennedy Center for operation and maintenance costs incurred for the period July 1 to October 31, 1972.

(13) Page 4, after line 4, insert:

RELATED AGENCIES HISTORICAL AND MEMORIAL COMMISSIONS

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

SALARIES AND EXPENSES

For expenses to carry out the provisions of the Act of July 4, 1966 (P.L. 89–491), as amended, through February 15, 1973, $3,356,000, of which not to exceed $1,200,000 shall be for grants-in-aid as authorized by section 9(1) of the said Act, to remain available until expended: Provided, That none of the funds available for obligation except upon the enactment into law of authorizing legislation.

(14) Page 5, after line 18, insert:

EDUCATION DIVISION

SALARIES AND EXPENSES, ASSISTANT SECRETARY FOR EDUCATION

For necessary expenses to carry out Section 402 of the General Education Provisions Act, $2,242,000.

(15) page 5, after line 18, insert:

OFFICE OF EDUCATION

(16) Page 5, after line 18, insert:

EMERGENCY SCHOOL ASSISTANCE

For carrying out the Emergency School Aid Act, Title IV of the Civil Rights Act of 1964 relating to functions of the Commissioner of Education, and emergency school assistance activities for which provision was made in the Joint Resolution of July 1, 1972 (Public Law 92–334), $270,640,000.

(17) Page 5, after line 18, insert:

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, part A ($24,000,000), part B ($10,000,000), and part C ($1,000,000) of the Indian Education Act, and General Education Provisions Act ($1,000,000), $36,000,000.

(18) Page 5, after line 18, insert:

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, parts A, section 420, B, and E of title IV, and section 1202, of the Higher Education Act, as amended, section 506(b) of the Education Amendments of 1972, the Emergency Insured Student Loan Act of 1969, as amended, and sections 400, 404, and 421 of the General Education Provisions Act, section 207 of the National Defense Education Act, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), and S.J. Resolution 265, $689,960,000, of which $75,000,000 shall be for Veterans Cost of Instruction payments to institutions of higher education, and $215,000,000 to remain available until expended shall be for subsidies on guaranteed student loans: *Provided*, That the funds to carry out S.J. Resolution 265 shall be available only upon enactment of authorizing legislation.

(19) Page 5, after line 18, insert:

LIBRARY RESOURCES

For an additional amount for "Library resources", including carrying out to the extent not otherwise provided for, title II (except section 231) of the Higher Education Act of 1965, as amended, $17,857,000.

(20) Page 5, after line 18, insert:

NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

For expenses necessary to carry out section 140 of the Education Amendments of 1972, including compensation for members of the Commission at rates not to exceed the per diem equivalent for grade GS–18, $1,500,000, to remain available until June 30, 1974.

(21) Page 5, after line 18, insert:

EDUCATIONAL RENEWAL

For an additional amount for "Educational renewal", including sections 502 and 504, parts B–1, C, D, E, and F of the Education Professions Development Act, and section 400 of the General Education Provisions Act, $81,165,000.

(22) Page 5, after line 18, insert:

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $13,905,000 of which $300,000 shall be transferred to Health Services and Mental Health Administrtaion for expenses of the Youth Camp Safety Study.

(23) Page 5, after line 18, insert:

NATIONAL INSTITUTE OF EDUCATION

For carrying out section 405 of the General Education Provisions Act, and for the necessary expenses of the National Institute of Education, including rental of conference rooms in the District of Columbia; and not to exceed $500 for official reception and representation expenses; $92,082,000, which shall remain available until expended: *Provided*, That funds include in the regular fiscal year 1973 appropriation for "Educational renewal" and "Salaries and expenses, Office of Education" for dissemination activities, except general program dissemination, and the District of Columbia schools project shall be transferred to the National Institute of Education.

(24) Page 6, line 1, strike out [$893,448,000] and insert: *$899,268,000*.

(25) Page 6, line 9, after "$645,000,000" insert: *Provided further*, That the $5,000,000 contained within this appropriation for the construction of the National Center for Deaf/Blind youths and adults shall remain available until expended

(26) Page 6, line 9, after "$645,000,000" insert: In addition to the sums provided in the previous sentence for carrying out the Older Americans Act of 1965 as amended, $17,000,000 to carry out title IV of such Act: *Provided*, That funds contained herein to carry out title IV of the Older Americans Act of 1965 as amended shall be available upon enactment into law of authorizing legislation.

(27) Page 6, after line 9, insert:

SPECIAL INSTRUCTIONS

MODEL SECONDARY SCHOOL FOR THE DEAF

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027), to the extent not otherwise provided, $7,545,000, which shall remain available until expended.

(28) Page 6, line 14, strike out [$393,255,000] and insert *$407,255,000*

(29) Page 6, line 16, strike out [$408,056,000] and insert: *$422,056,000*

(30) Page 6, after line 16, insert:

OFFICE OF THE SECRETARY

(31) Page 6, after line 16, insert:

OFFICE FOR CIVIL RIGHTS

For an additional amount for "Office for Civil Rights", $1,322,000.

(32) Page 6, after line 16, insert:

DEPARTMENTAL MANAGEMENT

For an additional amount for "Departmental management", $541,000.

(33) Page 7, lines 5 and 6, strike out ($760,200,000) and insert:

(34) Page 7, line 18, after "grant" insert: *Provided further*, That the assets and liabilities of the revolving fund established under section 306 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2855) shall be transferred, effective September 19, 1972, to the Rural Development Loan Fund established under section 733(c) of such Act (as added by section 25(a) of the Economic Opportunity Amendments of 1972 (Public Law 92-424, enacted September 19, 1972))

(35) Page 7, line 18, after "grant" insert: *Provided further*, That repayments of principal and interest and other receipts from the lending and guaranty operations of the revolving fund previously established under section 306 of such Act and the Rural Development Loan Fund established under section 7(c) of such Act shall be credited to such Rural Development Loan Fund

(36) Page 7, after line 18, insert:

GENERAL PROVISIONS

(37) Page 7, after line 18, insert:

SEC. 401. (a) In the administration of section 1130 of the Social Security Act, the limitation imposed by subsection (a)(2) of such section shall not apply to expenditures incurred prior to the date of enactment of such section, and the allotment of each State (as determined under subsection (b) of such section) for the fiscal year ending June 30, 1973, shall (notwithstanding any provision of such section 1130) be adjusted so that the amount of such allotment for such year consists of the sum of the following:

(1) the amount of the total expenditures, not to exceed $50,000,000, incurred by the State for services under the State program approved under title I, X, XIV, XVI, or Part A of title IV of the Social Security Act for the period commencing July 1, 1972, and ending on the date of enactment of such section 1130, plus

(2) an amount which bears the same ratio to the allotment of such State (as determined under subsection (b)), but without application of the provisions of this section as the remaining period (as defined in subsection (b)), bears to a period of twelve months: *Provided, however*, That no State shall receive less under this section than the amount to which it would have been entitled otherwise under section 1130 of the Social Security Act.

(b) The term "remaining period" means a twelve-month period reduced by a number of days equal to the number of days in the period commencing July 1, 1972, and ending on the date of enactment of section 1130 of the Social Security Act.

(38) Page 7, after line 18, insert:

SEC. 402. (a) If the Secretary determines that, for any calendar quarter before July 1, 1973 (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) that the amount equal to one-fourth of the allotment (as determined without regard to this paragraph) of any State is in excess of the total of the expenditures (of the type, and under the programs, to which the allotment under this subsection applies) which will be incurred by the State for such calendar quarter, then the allotment of such State for fiscal year 1973 shall be reduced by the amount of such excess and an amount equal to the amount of such excess shall be available, for reallotment among the States, by the Secretary for such fiscal year but only for social services provided recipients of assistance under State plans approved under titles I, X, XIV, XVI, or part A of title IV of this Act.

(b) From the amounts made available for reallotment under this paragraph for fiscal year 1973, the Secretary may increase the allotment of any State (but not by more than $15,000,000) which he determines will incur, during such fiscal year, expenditures (of the type, and under the programs, to which the allotment under this section applies) the total of which is in excess of the amount of the allotment of such State (as determined without regard to this paragraph.)

(c) Each State shall, prior to each calendar quarter (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) certify to the Secretary (in such form and manner and containing such information as the Secretary shall by regulations prescribe) the total amount of the expenditures (of the type, and under the programs, to which the allotment under this section applies) which will be incurred by the State for such calendar quarter; and the Secretary shall conclusively presume for purposes of subparagraph (A), that the amount so certified will be the amount which will be expended for such quarter. If any State fails to make timely certification of such expenditures for any calendar quarter, the Secretary shall conclusively presume, for purposes of this paragraph, that the amount of such expenditures for such quarter will be equal to the amount of such expenditures for the preceding calendar quarter.

(39) Page 7, after line 20, insert:

SENATE

(40) Page 7, after line 20, insert:

For payment to Allen J. Ellender, Jr., son of Allen J. Ellender, late a Senator from the State of Louisiana, $49,500.

(41) Page 7, after line 20, insert:

SALARIES, OFFICERS AND EMPLOYEES

(42) Page 7, after line 20, insert:

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $8,980: *Provided*, That effective November 1, 1972, the Secretary may appoint and fix the compensation of a clerk in the office of the official reporters of debates at not to exceed $13,468 per annum, an assistant librarian at not to exceed $17,871 per annum in lieu of a senior reference assistant at not to exceed such rate, a senior reference assistant at not to exceed $12,691 per annum in lieu of an assistant librarian at not to exceed such rate, a clerk at not to exceed $9,583 per annum in lieu of a messenger at not to exceed such rate, seven clerks at not to exceed $8,806 per annum each in lieu of seven messengers at not to exceed such rate, and the title of the position chief messenger in the Secretary's office is hereby changed to deputy special assistant.

(43) Page 7, after line 20, insert:

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", $42,305: *Provided*, That effective November 1, 1972, the Sergeant at Arms may appoint and fix the compensation of a manager programer at not to exceed $22,533 per annum and two senior programer analysts at not to exceed $20,461 per annum each.

(44) Page 7, after line 20, insert:

CONTINGENT EXPENSES OF THE SENATE

(45) Page 7, after line 20, insert:

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and Investigations", fiscal year 1972, $140,000, to be derived by transfer from the appropriation "Salaries, Officers and Employees", fiscal year 1972.

(46) page 7, after line 20, insert:

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Item", fiscal year 1972, $1,020,000, to be derived by transfer from the appropriation "Salaries, Officers and Employees", fiscal year 1972.

(47) Page 7, after line 20, insert:

ADMINISTRATIVE PROVISIONS

(48) Page 7, after line 20, insert:

SEC. 501. Clause (2) of the fourth paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1972, is amended by striking out "Federal Code Annotated" wherever it appears and inserting in lieu thereof "United States Code Service".

(49) Page 7, after line 20, insert:

SEC. 502. The first sentence of the third paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1959, as amended by the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 43b), is amended to read as follows:

"The contingent fund of the Senate is hereby made available for reimbursement of actual transportation expenses incurred by each Senator in traveling on official business and such expenses incurred by employees in that Senator's office in making round trips on official business by the nearest usual route between Washington, District of Columbia, and the home State of the Senator involved, and in traveling within that State (other than transportation expenses incurred by an employee assigned to a Senator's office within that State (A) while traveling in the general vicinity of such office, (B) pursuant to a change of assignment within such State, or (C) in commuting between home and office)."

(50) Page 7, after line 20, insert:

SEC. 503. The first paragraph under the heading "Payment of Sums Due Deceased Congressional Personnel" in the appropriation for the Legislative Branch in the Second Supplemental Appropriation Act, 1951 (2 U.S.C. 36a), is amended to read as follows:

"Under regulations prescribed by the Secretary of the Senate, a person serving as a Senator or officer or employee whose compensation is disbursed by the Secretary of the Senate may designate a beneficiary or beneficiaries to be paid any unpaid balance of salary or other sums due such person at the time of his death. When any person dies while so serving, any such unpaid balance shall be paid by the disbursing officer of the Senate to the designated beneficiary or beneficiaries. If no designation has been made, such unpaid balance shall be paid to the widow or widower of that person, or if there is no widow or widower, to the next of kin or heirs at law of that person."

(51) Page 7, after line 20, insert:

SEC. 504. The Secretary of the Senate is hereafter authorized to advance, in his discretion, to any designated employee under his jurisdiction, such sums as may be necessary, not exceeding $1,500, to defray official travel expenses in assisting the Secretary in carrying out his duties under the Federal Election Campaign Act of 1971. Any such employee shall, as soon as practicable, furnish to the Secretary a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced.

(52) Page 7, after line 20, insert:

SEC. 505. Subsection (e) (3) (B) of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, and as modified by Orders of the President pro tempore of the Senate (2 U.S.C. 61-1), is amended by striking out the word "two" and inserting in lieu thereof "three".

(53) Page 7, after line 20, insert:

SEC. 506. (a) Effective January 1, 1973, and thereafter, the contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

(1) official telegrams and long-distance telephone calls and related services (in the manner authorized immediately prior to January 1, 1973, by the Committee on Rules and Administration, or as may be hereafter authorized by that committee);

(2) stationery and other office supplies procured through the Senate stationery room for use for official business;

(3) reimbursement to each Senator for air mail and special delivery postage expenses incurred in the mailing of postal matters relating to official business;

(4) rental charges for office space at not more than three places designated by the Senator in the State he represents;

(5) reimbursement to each Senator for official office expenses incurred in his State (other than equipment and furniture);

(6) reimbursement to each Senator for telephone service charges officially incurred outside Washington, District of Columbia;

(7) reimbursement to each Senator for charges for subscriptions to magazines, periodicals, or clipping or similar services; and

(8) reimbursement of actual transportation expenses incurred by the Senator in traveling on official business by the nearest usual route between Washington, District of Columbia, and the State he represents and within such State, and actual transportation expenses incurred by employees in that Senator's office subject to the provisions of subsection (e) of this section.

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred.

(b) (1) Except as otherwise provided in paragraph (2) of this subsection, the total amount of expenses authorized to be paid to or on behalf of a Senator under this section shall not exceed for calendar year 1973 or any calendar year thereafter the aggregate of the following, rounded to the next higher multiple of $12:

(A) the applicable amount authorized for official telegrams and long-distance telephone calls and related services under rules and regulations of the Committee on Rules and Administration in effect immediately prior to January 1, 1973, or such different amount as may be authorized for such purposes under rules and regulations hereafter prescribed by that committee;

(B) the applicable full fiscal year amount authorized by the proviso under the heading "Stationery (Revolving Fund)" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46a), as in effect immediately prior to January 1, 1973;

(C) the applicable full fiscal year amount authorized by the proviso under the heading "Postage Stamps" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 42a), as in effect immediately prior to January 1, 1973;

(D) the amount authorized a Senator for home offices and home office expenses for a full calendar year in the fourth sentence following the proviso in the second full paragraph under the heading "Miscellaneous Items" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 53), as in effect immediately prior to January 1, 1973; and

(E) the applicable full fiscal year amount authorized by the third paragraph, relating to reimbursement of transportation expenses to Senators and their staff, under the heading "ADMINISTRATIVE PROVISIONS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b), as in effect immediately prior to January 1, 1973.

(2) In any such calendar year in which a Senator does not hold the office of Senator at least part of each month of that year, the aggregate amount available to the Senator shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months the Senator holds such office during that year, counting any fraction of a month as a full month.

(c) The aggregate of payments made to or on behalf of a Senator under this section shall not exceed at any time during each calendar year one-twelfth of the amount computed under subsection (b) (1) of this section multiplied by the number of months (counting a fraction of a month as a month) elapsing from the first month in that calendar year in which the Senator holds the office of Senator through the date of payment. Payments for rentals due for office space occupied in the State which the Senator represents shall not exceed at any time during each calendar year $300 multiplied by the number of months (counting a fraction of a month as a month) elapsing from the first month in that calendar year in which the Senator holds the office of Senator through the month of payment.

(d) The Sergeant at Arms shall secure for each Senator office space suitable for the Senator's official use at not more than three places designated by him in the State he represents. That space shall be secured in post offices or other Federal buildings at such places. In the event suitable office space is not available in post offices or Federal buildings, the amount made available to the Senator under this section may, subject to subsection (c), be expended to secure other office space in such places.

(e) Actual transportation expenses incurred by an employee in a Senator's office shall be paid under this section only for such expenses incurred in making round trips on official business by the nearest usual route between Washington, District of Columbia, and the home State of the Senator involved, and in traveling within that State (other than transportation expenses incurred by employee assigned to a Senator's office within that State (1) while traveling in the general vicinity of such office, (2) pursuant to a change of assignment within such State, or (3) in commuting between home and office). No payment shall be made under this section to or on behalf of a newly appointed employee to travel to his place of employment.

(f) The amount available to each Senator during fiscal year 1973, (1) for air mail and special delivery postage by the proviso under the heading "POSTAGE STAMPS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 42a), as in effect immediately prior to January 1, 1973, (2) for actual transportation expenses under the third paragraph under the heading "ADMINISTRATIVE PROVISIONS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b), as in effect immediately prior to January 1, 1973, and (3) for stationery by the proviso under the heading "STATIONERY (REVOLVING FUND)" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46a), as in effect immediately prior to January 1, 1973, shall be, notwithstanding such paragraph and provisos, reduced by 50 percent of the applicable amount made available to a Senator under such paragraph and provisos for the entire fiscal year. If, immediately prior to January 1, 1973, any Senator has expended any sum in excess of an amount made available as the result of the reduction made in clause (2) or (3) by this subsection, and such excess sum (but not more than the applicable amount of the reduction) shall be charged against the amount made available to that Senator under this section for calendar year 1973.

(g) In the case of the death of any Senator, the chairman of the Committee on Rules and Administration may certify for such deceased Senator for any portion of such sum already obligated but not certified to at the time of such Senator's death, and for any additional amount which may be reasonably needed for the purpose of closing such deceased Senator's State offices, for payment to the person or persons designated as entitled to such payment by such chairman.

(h) Effective January 1, 1973, the following provisions of law are repealed:

(1) that part of the paragraph under the heading "Contingent Expenses of the Senate", relating to the procurement of air mail and special delivery postage stamps by the Secretary of the Senate, appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1942, as amended and supplemented (2 U.S.C. 42a), insofar as such part and any such amendment and supplement relate to Senators;

(2) the third paragraph, relating to reimbursement of transportation expenses to Senators and their staff, under the heading "Administrative Provisions" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b);

(3) the paragraph relating to stationery expenses under the heading "SENATE" in the Act entitled "An Act making appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and seventy", approved March 3, 1869, as amended and supplemented (2 U.S.C. 46a), insofar as such paragraph and any such amendment and supplement relate to Senators;

(4) section 106 of the Legislative Branch Appropriation Act, 1969 (2 U.S.C. 46a-3);

(5) the last paragraph under the heading "Administrative Provisions" appearing under the heading "SENATE" in the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 46d-4);

(6) the paragraph relating to the payment from the Senate contingent fund of telegrams under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 46e); and

(7) the proviso and the succeeding six sentences relating to home offices and home office expenses under the heading "MISCELLANEOUS ITEMS" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 53).

(i) Effective January 1, 1973, clause (2) of the last paragraph under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), is amended by striking out "and of Senators".

(j) (1) $191,100 of the funds appropriated for "STATIONERY (REVOLVING FUND)", fiscal year 1973, and $55,495 of the funds appropriated for "POSTAGE STAMPS", fiscal year 1973, are hereby transferred to the appropriation "MISCELLANEOUS ITEMS", fiscal year 1973.

(2) $12,575 of the funds appropriated for "POSTAGE STAMPS", fiscal year 1973, are hereby made available for the maintenance of a supply of stamps in the Senate Post Office.

(54) Page 7, after line 20, insert:

SEC. 507. Section 1824 of the Revised Statutes (40 U.S.C. 210), is amended by adding at the end thereof the following new sentence: "Such arms so furnished shall be carried by each officer and member of the Capitol Police, while in the Capitol Buildings (as defined in section 16(a) (1) of the Act of July 31, 1946, as amended (40 U.S.C. 193m)), and while within or outside of the boundaries of the United States Capitol Grounds (as defined in the first section of the Act of July 31, 1946, as amended (40 U.S.C. 193a)), in such manner and at such times as the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives may, by regulations, prescribe."

(55) Page 8, strike out lines 9 to 14, inclusive, and insert:

The provisions of House Resolution 890, Ninety-second Congress, relating to compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives, and the Chief of Staff of the Joint Committee on Internal Revenue Taxation, shall be the permanent law only with respect to the compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives. Such House Resolution 890 shall not apply with respect to the compensation of the Chief of Staff of the Joint Committee on Internal Revenue Taxation.

(56) Page 8, after line 19, insert:

OFFICE OF THE ATTENDING PHYSICIAN

For an additional amount for the "Office of the Attending Physician", $5,000, to be available as an allowance for a medical consultant.

Upon assuming his duty as Attending Physician to the United States Congress, and while so serving, the incumbent shall be considered to hold the rank of Rear Admiral, Medical Corps, United States Naval Reserve, for all purposes, and shall receive the pay and allowances with his length of service of an officer of the upper half of that grade (O–8) and when retired under any provision of law shall be advanced on the retired list to such grade and shall receive retired pay based on that grade.

(57) Page 8, after line 26, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings," $110,000, to remain available until expended.

(58) Page 8, after line 26, insert:

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to provide for the construction and equipment of an extension to the New Senate Office Building, in accordance with plans approved by such Commission and by the Senate Committee on Public Works, on the east half of square 725 including the public alley separating the east and west halves of such square, but excluding lot 885 in such square, containing office rooms and such other rooms and accommodations as may be approved by the Senate Office Building Commission and by the Senate Committee on Public Works, including structural and other changes in the existing New Senate Office Building necessitated by such construction, together with approaches, connections with the Capitol Power Plant and public utilities, and architectural landscape treatment of the grounds: *Provided*, That upon completion of the project, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of the Act of June 8, 1942 (40 U.S.C. 174(c) and (d)), and the Act of July 31, 1946 (40 U.S.C. 193a–193m, 212a and 212b) in the same manner and to the same extent as the present Senate Office Buildings and the grounds and sidewalks surrounding the same: *Provided further*, That during each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take such steps as are necessary to insure its economical construction: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $47,925,000, to remain available until expended.

(59) Page 8, afer line 26, insert:

ACQUISITION OF PROPERTY AS A SITE FOR PARKING FACILITIES FOR THE UNITED STATES SENATE

To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, in addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), Public Law 91–382, approved August 18, 1970, (84 Stat. 819), and Public Law 92–184, approved December 15, 1971 (85 Stat. 637), to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, as a site for parking facilities for the United States Senate, all publicly or privately owned real property contained in lots 79, 80, 86, 94, 805, 806, 833, 838, 839, 840, and 844 in square 724 in the District of Columbia, and all alleys or parts of alleys and streets contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That for the purposes of this paragraph, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, upon acquisition of any real property under this paragraph, the jurisdiction of the Capital Police shall extend over such property, and any property acquired under this paragraph shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further*, That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding square 724, shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol with the approval of such Commission: *Provided further*, That, upon acquisition of any real property pursuant to this paragraph, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures, on or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith: *Provided further*, That nothing herein shall be construed to prohibit the continued use of areas in square 724, acquired under authority of the Acts of May 29, 1958, August 18, 1970, and December 15, 1971, hereinbefore cited, for the parking of automobiles, until such times as such areas may be required for construction purposes: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, and expenditures authorized by Public Law 91–646, approved January 2, 1971 (84 Stat. 1894–1907) applicable to the Architect of the Capitol, as may be necessary to carry out the provisions of this paragraph; $4,075,000, to remain available until expended.

(60) Page 8, after line 26, insert:

PLANS FOR GARAGE AND RELATED FACILITIES FOR THE UNITED STATES SENATE

To enable the Architect of the Capitol to initiate and conduct a study, after consultation with the appropriate Federal agencies and individuals experienced in the design of vehicle parking structures, to explore design and cost alternatives for construction, on square 724, of a parking garage with limited commercial facilities, and report his preliminary findings and recommendations to the Senate Committee on Public Works: *Provided*, That the Architect of the Capitol, concurrently with such study, is authorized to establish, for the purpose of development of a basic concept therefor, an architectural design competition, in order to encourage the preparation of an imaginative design for the garage structure, including limited commercial facilities and landscaping and to assure a pleasant transition to and maximum coordination with the surrounding residential and commercial community in that area of Northeast Washington within sight of or adjoining the Capitol Grounds: *Provided, further*, That such design concept may consider and include existing and future land use and structures in said surrounding community, and shall consider any existing model cities or other governmental planning for such Northeast area, including that of the National Capital Planning Commission: *Provided further*, That such design concept specifically defining the limits, scope, and all aspects of the competition shall be developed and promulgated by the Architect of the Capitol, with the approval of the Senate Office Building Commission, and an award for the best design or designs shall be determined by a committee jointly designated for this purpose by the Architect of the Capitol and the Senate Office Building Commission, in such amount as they may deem to be appropriate: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $50,000, to remain available until expended.

(61) Page 8, after line 26, insert:

ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, any alleys or parts of alleys or streets contained wtihin the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided further*, That, upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission: *Provided further*, That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of section 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended.

(62) Page 10, after line 10, insert:

PUBLIC WORKS

DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

CORPS OF ENGINEERS—CIVIL

(63) Page 10, after line 10, insert:

GENERAL INVESTIGATIONS

For an additional amount for "General investigations", $1,705,000, to remain available until expended.

(64) Page 10, after line 10, insert:

CONSTRUCTION, GENERAL

For an additional amount for "Construction, general", $1,070,000, to remain available until expended.

(65) Page 10, after line 10, insert:

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Flood control, Mississippi River and tributaries", $1,000,000, to remain available until expended.

(66) Page 10, after line 15, insert:

INDEPENDENT AGENCIES

Water Resources Council

WATER RESOURCES PLANNING

For an additional amount for "Water resources planning", for preparation of assessments, $850,000, to remain available until expended.

(67) Page 11, line 21, strike out [$2,100,000] and insert: $2,000,000.

(68) Page 12, line 4, strike out [$1,200,000] and insert: $1,300,000.

(69) Page 12, after line 8, insert:

DEPARTMENT OF COMMERCE

(70) Page 12, after line 8, insert:

Participation in United States Expositions

For expenses necessary for Federal participation in the 1974 International Exposition on the Environment, $11,500,000, to remain available until expended: Provided, That none of the funds appropriated in this paragraph shall be available for obligation except upon the enactment into law of authorizing legislation.

(71) Page 12, after line 8, insert:

Maritime Administration

SHIP CONSTRUCTION

For an additional amount for "Ship Construction", $175,000,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of S. 4036, 92d Congress, or similar legislation.

(72) Page 12, after line 16, insert:

RELATED AGENCIES

Commission on the Organization of the Government for the Conduct of Foreign Policy

For necessary expenses of the Commission on the Organization of the Government for the Conduct of Foreign Policy, authorized by title VI of the Foreign Relations Authorization Act of 1972, $1,000,000.

(73) Page 12, line 22, strike out [$32,200,000] and insert: $37,300,000.

(74) Page 13, after line 6, insert:

Federal Railroad Administration

GRANTS TO NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to National railroad Corporation", $57,000,000, to remain available until expended.

(75) Page 13, after line 7, insert:

Civil Aeronautics Board

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to Air Carriers", $11,400,000, to remain available until expended.

(76) Page 13, after line 14, insert:

COMMISSION ON HIGHWAY BEAUTIFICATION

For necessary expenses of the Commission on Highway Beautification, established by section 123 of the Federal-Aid Highway Act of 1970 (84 Stat. 1727–1728), an additional $250,000, to remain available until expended: Provided, That this appropriation shall be available only upon the enactment into law of authorizing legislation by the 92d Congress.

(77) Page 13, line 20, strike out [$4,000,000] and insert: $3,800,000.

(78) Page 14, line 5, after "$2,700,000" insert: *: Provided*, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out "March 31, 1973" and inserting in lieu thereof "June 30, 1973".

(79) Page 14, line 8, strike out all after " "Compliance"," down to and including "$5,000,000" in line 11 and insert: $4,000,000.

(80) Page 14, line 16, strike out all after "Policy," down to and including line 18.

(81) Page 15, line 10, strike out [$20,000,000] and insert: $35,000,000

(82) Page 15, strike out line 19 to 25, inclusive.

(83) Page 17, line 17, strike out [1001] and insert: 1101

(84) Page 17, after line 19, insert:

SEC. 1102. Each department, agency or corporation shall report to the Congress no later than July 31, 1973, the total amount of appropriated funds used for the support (direct or indirect) of executive dining rooms or similar facilities during the fiscal year ending June 30, 1973.

The bill was read the third time.

The PRESIDING OFFICER. Is all time yielded back on the bill?

Mr. McCLELLAN. Mr. President, I yield back my time.

Mr. YOUNG. Mr. President, I yield myself 1 minute on the bill.

Mr. President, I had intended to vote for this bill, but it has gone so far at least $250 million over the budget estimates that I do not feel that it would be right that I do so.

With reference to the last amendment, it is a good program and it would be very helpful to my State. No State is shorter of doctors than mine. We have a 2-year medical school now that we may have to go to a 4-year school, at great expense. This will have to be done if we are ever going to have the doctors we need, but to appropriate money now for this program before the authorization is even signed or any hearing held is not good legislation.

I feel compelled to vote against the bill.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. YOUNG. I yield.

Mr. PASTORE. Let us be fair and practical about this. There is no question about this in my mind. As a matter of fact, my name was mentioned. The Senator from California has talked to me from time to time about this matter. We have not had hearings on it. I think in due time a proposal of this kind is absolutely necessary. But when it goes to conference it will be deleted, in my humble opinion. There is no authorization for it. The House has not had hearings on it. We are putting this provision in as a floor amendment.

I hope the Senator will reconsider his intention, because I do not think he is going to be disappointed.

Mr. COTTON. Mr. President, will the Senator yield me half a minute?

Mr. YOUNG. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, the Senator from Rhode Island is probably correct when he says it is going to be deleted, but it is painful to me to think that the House of Representatives is much more responsible than the Senate of the United States. I am proud to be a Senator of the United States.

This is the most ridiculous, absurd, impractical amendment that I have ever seen adopted. Anyone who has served on the Appropriations Committee, especially on HEW, knows that this would not build one medical school. I refuse to stultify myself by voting for a bill that has such an amendment. It will be passed, and the amendment will be dropped out in the conference. Everything will be fine; but I have gotten tired of depending on the House of Representatives to exercise the discretion and commonsense and courage that we should exercise over on this side of the Capitol.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute on the bill.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLELLAN. I do not know of any Member of this body, and I cannot conceive that there is any Member of this body, who does not want to do everything that is practical and necessary for our veterans and to improve the health and welfare of our people, and particularly in providing improved and better medical care.

But I would remind our colleagues that we are faced with a resolution to hold the spending level to $250 billion. It is not just a matter that addresses itself to the President that we hold down spending. That problem addresses itself to us, and to us primarily. We are going to have to pass some kind of resolution to reduce the expenditures that result from our appropriations.

I think we are coming to this point, and I want to make this observation: Congress is going to have to take the responsibility for placing, some place, a limit on spending, and beginning next year I hope we can give more concerned attention to our responsibilities with respect to spending, to the end that we may begin to reduce the heavy deficits that we are now creating. I think it is imperative that we do that.

When we increase a bill with something that may be good, but that has not gone through the due processes, we are just simply piling up this problem that we already have. We are aggravating a situation that already exists.

I favor, certainly, whatever is necessary in this field. I went along because there had not been appropriate hearings and proper study, and we did not know exactly where this money was going. But I think we have to begin to address ourselves to the overall problem and the bigger problem of reducing the expenditures of our Government.

I cannot foretell the future, but I assume we will have great difficulty if we insist on retaining this amendment in the bill when we get to conference. I can appreciate how the House of Representatives will likely feel about it, but everyone has voted his sentiments.

I would like to have voted the other way. I would like to have voted for the proposal, and I may do so after we have had proper hearings, and due consideration. But I do feel constrained, as chairman of the Appropriations Committee, to make the observations that I have just made. We are going to have to assume and exercise greater responsibility in this field of public spending.

Mr. HANSEN. Mr. President, will the distinguished chairman of the Appropriations Committee yield me about 1 minute?

Mr. McCLELLAN. I yield a minute to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to express my great appreciation to the distinguished chairman of the Appropriations Committee and the ranking Republican member for what they have said earlier this afternoon. As a member of the Finance Committee, I know we went through the agonizing exercise of trying to decide what might be done by way of action on the spending limitations bill.

I cannot think of any way in which the focus and the concern that was so much on all of our minds could be better expressed than it has just been expressed by the distinguished senior Senator from Arkansas and the distinguished senior Senator from North Dakota.

If we expect to measure up and have the right that we contend is ours as our constitutional heritage to decide what and how much shall be spent, we certainly have got to be more responsible than I feel our recent actions indicate. I regret that we seem to be beguiled into a position of doing what seemingly is the popular thing, and refusing to make the kind of decisions that I think this body should make.

I thank my distinguished chairman.

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. MANSFIELD. I yield the Senator 2 minutes.

Mr. JAVITS. Mr. President, I would appreciate the attention of the Senate, as I understand that during the time I was off some observations were made about the item for salaries and expenses for the Assistant Secretary for Education by the chairman of the Committee on Labor and Public Welfare. I am the ranking Republican member of that committee. Like every case, this has another side, and that side should be stated.

The fact is that the Assistant Secretary for Education is a new post which we created in the higher education bill to resolve a deep conflict between ourselves and the other body as to how two new agencies would be run. One was the Office of the Commissioner of Education; the other the National Institute of Education.

I though it was our purpose, and I was one of the principal conferees, to vest the authority to manage both these agencies in a policy sense in the new Assistant Secretary. I am all with the committee that you have got to cast a jaundiced eye on any new staff. That is what we said in the report.

But with the fact that this is a new post and a very responsible one, involving billions of dollars of expenditures and the educational policy of the whole United States, I hope very much—and this is just belaboring the obvious—that the committee will keep an open mind regarding Mr. Marlin, the man who has been nominated and I hope will be confirmed for the job, and let him come before the Senate and justify everything he wants, but without prejudicing the committee. If we are going to confirm a man to do a job, we cannot hobble him in advance with doubts about his ability to do it, or without the personnel he needs to do it with.

I ask unanimous consent that the statutory provisions regarding this new post and the history of how it came to be established be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

LEGISLATIVE HISTORY

The fundamental point of reference for determining the appropriate relationship of the Assistant Secretary to the Office of Education and the National Institute of Education must be what the law provides on this matter.

Section 401 of the General Education Provisions Act establishes an Education Division *composed of* the Office of Education and the National Institute of Education and *headed by* the Assistant Secretary for Education. Section 402(b) of the General Education Provisions Act provides: "The Assistant Secretary shall be the principal officer in the Department of whom the Secretary shall assign *responsibility for the direction and supervision of the Education Division.*" (Emphasis supplied.)

These provisions per se establish a line authority in the Assistant Secretary over the Commissioner of Education and over the Director of the National Council on Educational Research which comprise the National Institute of Education. They give to the Assistant Secretary ample authority to make broad educational policy for the components of the Education Division. To deny this is to fail to give any content to this basic organizational structure or to the concepts of "direction" and "supervision" which express the Assistant Secretary's relationship to the Office of Education and the National Institute of Education.

The notion that the Assistant Secretary should be, in effect, no more than a public relations officer with little or no substantive authority appears to be at odds wtih the explanations of the manager of the bill in the Senate, Senator Pell, who noted that the law provides for "what is in effect a complete restructuring of the Federal education bureaucracy." (Senator Pell, May 23, 1972, 118 Cong. Rec., p. 18438). It is also directly contrary to Representative Perkins' statement on the floor of the House concerning the Conference agreement:

> Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. Quie, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.
>
> The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an *assistant secretary to whom the Commissioner of Education and the Director of the National Institute of Education would report.* This assistant secretary should be the chief spokesman for education at the Federal level. *This bill makes him a line officer in HEW, rather than merely a staff person to the Secretary. The heads of both the Office of Education and the NIE will report to him.*
>
> The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. *Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.*
>
> Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. *And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary,* 118 Cong. Rec., p. 20308 June 8, 1972). (Emphasis supplied.)

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. Has the third reading taken place?

The PRESIDING OFFICER. The third reading has taken place.

Mr. COTTON. Mr. President, I move that this bill be recommitted to the Committee on Appropriations, with instructions to report it back forthwith with the amendment of the Senator from California deleted. On that, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Allen). The motion of the Senator from New Hampshire would not be in order, on the ground that the Senate just voted to put that amendment in the bill, and the Senator from New Hampshire now moves to strike out only that amendment in the exact words just adopted by the Senate; a motion to reconsider was made, and a motion to lay on the table was made and agreed to. Therefore, the motion of the Senator from New Hampshire would seek to accomplish indirectly what he could not do directly. So the motion is out of order.

Mr. COTTON. I thank the Chair for the information. It is in order to vote "nay" on the bill, is it not?

The PRESIDING OFFICER. That is the Senator's privilege.

Do the Senators yield back the remainder of their time?

Mr. YOUNG. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Allen). All remaining time having been yielded back, the bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mrs. Edwards), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Washington (Mr. Magnuson), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), the Senator from Virginia (Mr. Spong), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), the Senator from Virginia (Mr. Spong), the Senator from California (Mr. Tunney), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. Boggs), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), the Senator from South Carolina (Mr. Thurmond) and the Senator from Texas (Mr. Tower) would each vote "yea."

I further announce that, the Senator from Oklahoma (Mr. Bellmon), the Senator from New York (Mr. Buckley), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Delaware (Mr. Roth), the Senator from Ohio (Mr. Saxbe), the Senator from Maryland (Mr. Beall), the Senator from Delaware (Mr. Boggs), the Senator from Maryland (Mr. Mathias), the Senator from Vermont (Mr. Stafford) are necessarily absent.

The result was announced—yeas 52, nays 7, as follows:

[No. 552 Leg.]

YEAS—52

Aiken
Bayh
Bentsen
Bible
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Cooper
Cranston
Dole
Dominick
Eagleton
Ervin
Fong
Fulbright
Gravel
Gurney
Hart
Hartke
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
McClellan
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Percy
Proxmire
Randolph
Schweiker
Scott
Smith
Sparkman
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Weicker
Williams

NAYS—7

Allen
Bennett
Cotton
Fannin
Hansen
Mansfield
Young

NOT VOTING—41

Allott
Anderson
Baker
Beall
Bellmon
Boggs
Buckley
Cannon
Chiles
Church
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Humphrey
Kennedy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Pearson
Pell
Ribicoff
Roth
Saxbe
Spong
Stafford
Thurmond
Tower
Tunney

So the bill (H.R. 17034) was passed.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House thereon, and that the Presiding Officer be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. Allen) appointed Senators McClellan, Magnuson, Stennis, Pastore, Robert C. Byrd, Proxmire, Montoya, Hollings, Young, Smith, Hruska, Cotton, Case, and Stevens conferees on the part of the Senate.

DEFENSE DEPARTMENT APPROPRIATIONS

Mr. MANSFIELD. Mr. President, before the distinguished chairman of the Committee on Appropriations and the ranking Republican member, the Senator from North Dakota (Mr. Young), leave the Chamber, there are some figures which should be a part of the record on the conference report on the defense budget which will be taken up in the Senate tomorrow.

The distinguished chairman of the committee, the Senator from Arkansas (Mr. McClellan), will point out that the conference report on the Department of Defense bill is $5,221,208,000 below the budget request of the administration, and the bill which we are about to take up, the military construction bill, shows, on the basis of the conference report, a savings of $337,981,000 below the budget.

If we add up what Congress has done in the matter of budget requests as they covered the defense appropriation bill and the military construction appropriation bill, the total under the defense budget presented to Congress by the administration—the total below that budget—is $5,559,189,000.

I think that is most interesting and, as a matter of fact, I think it is newsworthy.

Mr. President, I now yield to the distinguished Senator from Wisconsin (Mr. Nelson).

SENATE RESOLUTION 379—TO REFER THE BILL S. 4097 TO THE CHIEF COMMISSIONER OF THE U.S. COURT OF CLAIMS FOR A REPORT THEREON

Mr. NELSON. Mr. President, I send to the desk Senate Resolution No. 379, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 379

Resolved, That the bill (S. 4097) entitled "A bill for the relief of Doctor Donald J. Alm", now pending in the Senate, together with all the accompanying papers, is hereby referred to the chief commissioner of the United States Court of Claims. The chief commissioner shall proceed with that bill in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. NELSON. Mr. President, this resolution simply directs the Court of Claims to make an appropriate investigation of a claim that I have filed and which has gone to the committee, to determine the nature, character, and validity of the claim for reimbursement of a constituent of mine, and to report back to the appropriate committee, pursuant to statute, at the earliest possible day.

The resolution (S. Res. 379) was agreed to.

COASTAL ZONE MANAGEMENT ACT OF 1972—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on S. 3507, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ALLEN). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 5, 1972, at pp. 34183–86.)

Mr. HOLLINGS. Mr. President, the final version of the National Coastal Zone Management Act, S. 3507, will provide up to $200 million over the next 5 years to help States protect, preserve, and restore the quality of their coastal areas.

The bill is the product of nearly 4 years of work by the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee. For the first time, Federal aid will be available to the coastal and Great Lakes States to plan and manage the future growth of their shorelands so as to protect coastal waters.

The bill is designed to complement the proposed National Land Use Policy Act which would affect land everywhere in the United States. The Coastal Zone Act, however, focuses on the Nation's ocean and Great Lakes shorelines. It is here that land-use conflicts are most intense and most destructive of vitally rich resources.

The bill provides States with national policy goals to control those land uses which have a direct and significant impact upon coastal waters. The States will establish a framework for a commonsense balance between the many competing activities within the coastal zone, which range from industrial development to wildlife conservation to recreational needs. The goal is to protect the beaches, estuarines, tidelands, bays, lagoons, bayous, and marshes of the coastal areas.

Additionally, the bill provides $6 million in matching funds to help States establish estuarine sanctuaries to study the effects of pollution within coastal estuaries.

This is one of the most important pieces of environmental legislation to come out of the 92d Congress. It gives Federal direction and assistance to the States, for the first time, to begin establishing authority over the reckless growth and sprawl in our coastal areas. More than half the population of the United States now lives within 50 miles of the coasts. Estimates are that by the year 2000, perhaps 225 million citizens will be clustered in cities and counties within the coastal area. The States are faced by insurmountable financial problems in assuming responsibility for dealing with the continuing onslaught against the coastal environment. Management systems are the key to providing present and future generations of Americans access to and use of beaches, wetlands, and other coastal waters before it is too late to reverse the wrongs of the past. Our coastal areas are a priceless heritage, and they must be protected.

At this point, I would like to insert in the RECORD a list of organizations supporting this legislation:

ORGANIZATIONS SUPPORTING COASTAL ZONE MANAGEMENT ON FINAL PASSAGE

National Governors' Conference, Council of State Governments, Coastal States Organization.

Southern Governors' Conference.

National Advisory Committee on the Oceans and Atmosphere.

National Wildlife Federation.

Shellfish Institute of North America.

Sierra Club.

American Oceanic Association.

Marine Technology Society.

Council of State Planning Agencies.

Coastal Coordinating Council, Florida.

Resources Advisory Board, Southeast River Basins.

National Congress of American Indians.

American Tunaboat Association.

National Canners Association.

National Fisheries Institute.

Southeastern Fisheries Association.

League of Women Voters of U.S.

International Longshoremen and Warehousemen's Union.

AFL-CIO.

Maritime Trades Union, AFL-CIO.

Citizens Committee on Natural Resources.

International Association of Game Fish and Conservation Commissioners.

California Coastal Alliance.

Association of Pacific Fisheries.

Oceanography Commission of Washington State.

National Federation of Fishermen.

Friends of the Earth.

Atlantic Offshore Fish and Lobster Association.

National Fish Meal and Oil Association.

The coastal zone bill passed the Senate 68 to 0 on April 25. It was adopted 376 to 6 by the House of Representatives on August 2. However, the House adopted an amendment withdrawing administrative authority of the program from the National Oceanic and Atmospheric Administration—NOAA—and vesting it in the Department of the Interior.

This matter has been resolved by granting NOAA administrative agency responsibility, but requiring the prior concurrence of the Secretary of the Interior as to any portion of a State's management program submitted pursuant to section 306 affects the use of lands which are included in any national land-use program which may be enacted.

The argument made in the House, upon adoption of the previous amendment, claimed that the Department of the Interior was the only agency which has the expertise and experience qualifying it to handle the coastal zone management program. I agree that the Department of the Interior does have significant expertise. But at the same time, this legislation recognizes the special capabilities of the National Oceanic and Atmospheric Administration of the Department of Commerce. The authors of this legislation believe quite firmly that NOAA possesses the special qualifications necessary to deal with land and water use activities within the coastal zone. At the same time, we recognized that should a national land-use policy be enacted by Congress, the Secretary of the Interior or the Federal official in charge of such program must cooperate with and grant his concurrence in the matter of land uses which may become part of a State's federally approved land-use program. Of course, until a State actually begins its participation in any national land-use program, the question of concurrence will not arise. But at such time as it does, it is expected that coastal zone management and land-use management will be fully compatible, making use of the land-use agency's expertise as well as the technical competence of the National Oceanic and Atmospheric Administration in managing the Nation's coastal zones.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS, 1973—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 16754, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ALLEN). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective

Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of October 11, 1972, part II on page 35163.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the conference committee agreed on an overall figure of $2,323,403,000 in new obligational authority for the military construction appropriation bill for fiscal year 1973. This is $337,981,000 under the budget request for fiscal year 1973 of $2,661,384,000. The amount agreed to by the conferees is $14,323,000 under the Senate Bill of $2,337,726,000 and $42,619,000 over the House bill of $2,280,784,000. The conference committee agreed on the following amounts for the military services:

Army, $413,955,000; Navy, $517,830,000; Air Force, $265,552,000.

Mr. President, I wish to emphasize that there is no money contained in this bill for Southeast Asia or Okinawa. I also wish to state that insofar as possible the conferees agreed that our NATO allies should help with construction projects for both the Army and the Air Force in Europe.

Mr. President, the conferees agreed on a bill which will provide for the construction requirements for the military services for the ensuing year. It is true the conference committee did disallow a number of projects that it was felt could wait a year, or the services failed to furnish information completely justifying them.

I do not intend to make a long involved statement on this action of the conference committee. The conference report explained in a succinct manner the complete actions of the conference committee.

Mr. President, this completes my statement. I will be glad to answer any questions which individual Senators may have concerning construction projects in their State which were items of conference.

But on the whole, I feel they will be satisfied with what the distinguished Senator from Massachusetts (Mr. Brooke) and I did during the hearings.

Once again, I extend my personal thanks to the Senator from Massachusetts (Mr. Brooke) for the understanding, cooperation, diligence, and integrity he displayed so consistently during the conference.

Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from Massachusetts (Mr. Brooke) and myself, that a tabulation containing a summary of the conference action on the military construction appropriation bill for fiscal year 1973 be printed in the Record.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1972 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1973

[In dollars]

Item	New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with—			
						New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill
Military construction, Army	[1] 438,316,000	[2] 619,200,000	405,264,000	421,879,000	413,955,000	−24,361,000	−205,245,000	+8,691,000	−7,924,000
Military construction, Navy	355,500,000	554,200,000	500,871,000	520,612,000	517,830,000	+162,330,000	−36,370,000	+16,959,000	−2,782,000
Military construction, Air Force	[3] 289,851,000	[4] 357,200,000	250,483,000	269,169,000	265,552,000	−24,299,000	−91,648,000	+15,069,000	−3,617,000
Military construction, Defense agencies	[3] 14,139,000	48,200,000	34,804,000	36,704,000	36,704,000	+22,565,000	−11,496,000	+1,900,000	
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Military construction, Army National Guard	29,000,000	40,000,000	40,000,000	40,000,000	40,000,000	+11,000,000			
Military construction, Air National Guard	10,600,000	10,600,000	16,100,000	16,100,000	16,100,000	+5,500,000	+5,500,000		
Military construction, Army Reserve	33,500,000	38,200,000	38,200,000	38,200,000	38,200,000	+4,700,000			
Military construction, Naval Reserve	10,900,000	16,000,000	20,500,000	20,500,000	20,500,000	+9,600,000	+4,500,000		
Mlitary construction, Air Force Reserve	6,581,000	7,000,000	7,000,000	7,000,000	7,000,000	+419,000			
Total, military construction	1,188,387,000	1,690,600,000	1,313,222,000	1,370,164,000	1,355,841,000	+167,454,000	−334,759,000	+42,619,000	−14,323,000
Family housing, defense	[5] 933,955,000	[6] 1,067,268,000	1,064,046,000	1,064,046,000	1,064,046,000	+130,091,000	−3,222,000		
Portion applied to debt reduction	−94,152,000	−96,484,000	−96,484,000	−96,484,000	−96,484,000	−2,332,000			
Subtotal, family housing	839,803,000	970,784,000	967,562,000	967,562,000	967,562,000	+127,759,000	−3,222,000		
Homeowners assistance fund, defense	7,575,000					−7,575,000			
Grand total, new budget (obligational) authority	2,035,765,000	2,661,384,000	2,280,784,000	2,337,726,000	2,323,403,000	+287,638,000	−337,981,000	−42,619,000	−14,323,000

[1] Excludes $98,500,000 contained in Defense appropriation bill for Safeguard construction.

[2] Budget estimate of $1,009,200,000 amended by H. Doc. 92–321 to delete $390,000,000 for Safeguard construction.

[3] Reflects $662,000 transferred to military construction, Air Force from military construction, Defense agencies.

[4] Budget estimate of $317,200,000 amended by H. Doc. 92–321 to add $40,000,000 for satellite basing.

[5] Excludes $11,070,000 contained in Defense appropriation bill for Safeguard family housing.

[6] Budget estimate of $1,073,684,000 amended by H. Doc. 92–321 to delete $6,416,000 for Safeguard family housing.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$413,955,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$517,830,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$265,552,000".

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

H.R. 16071—CORRECTION OF AMENDMENT

Mr. WILLIAMS. Mr. President, by inadvertence, four lines of the House-passed bill, H.R. 16071, were deleted from the amendment offered by the Senator from New Jersey to the Senate provisions agreed to this afternoon. The amendment should have begun with the following:

SEC. 9. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VIII—ENVIRONMENTAL EFFECTS"

I ask unanimous consent that these four lines be added at the beginning of the amendment as agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE TO CERTAIN LANDS IN NEW MEXICO

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2674.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2674) to remove a cloud on the title to certain lands located in the State of New Mexico, which was to strike out all after the enacting clause and insert:

That (a) the United States disclaims any right, title, or interest in the following-described tract of land situated within the Carson National Forest, New Mexico, such tract of land being more particularly described as follows:

A tract of land containing 66.78 acres, more or less, beginning at corner numbered 1, which is located on the northerly line of the Antoine Leroux grant, as shown on official survey plat approved by the United States Surveyor General on August 25, 1909, whence corner numbered 69 of the Leroux grant survey bears south 79 degrees 45 minutes west, 20.14 chains;

thence north 79 degrees 45 minutes east, 6.06 chains (400 feet) to corner numbered 2, which is identical with the Leroux grant corner numbered 70 and located at the confluence of South Fork Canyon and the Rio Hondo;

thence north 61 degrees 30 minutes east, 4.20 chains (277.20 feet) to corner numbered 3 which is identical with corner numbered 71 and mile corner numbered 13 of the Leroux grant survey;

thence north 44 degrees 30 minutes east, 27.70 chains (1,828.20 feet) continuing along the northerly line of the Leroux grant survey to corner numbered 4;

thence south 09 degree 47 minutes east, 22.73 chains (1,500 feet) to corner numbered 5;

thence south 51 degrees 23 minutes west, 36.36 chains (2,400 feet) to corner numbered 6;

thence north 11 degrees 15 minutes west, 22.73 chains (1,500 feet) to corner numbered 1, the point of beginning.

(b) The Secretary of the Interior is authorized and directed to prepare and execute without consideration any instrument necessary to carry out the purposes of subsection (a).

Mr. JACKSON. Mr. President, the amendment of the House to S. 2674 is technical in nature, and in my judgment, would pose no problem. For all practical purposes the two versions are identical, and the senior member of the Interior and Insular Affairs and senior Senator from New Mexico (Mr. ANDERSON) has informed me that the House amendment is acceptable to him. Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 2674.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

AMENDMENT OF YOUTH CONSERVATION CORPS ACT OF 1970

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2454.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2454) to amend the Youth Conservation Corps Act of 1970 (Public Law 91–378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program and for other purposes, which was to strike out all after the enacting clause, and insert:

That the Act of August 13, 1970 (84 Stat. 794) is amended to read as follows:

"POLICY AND PURPOSE

"SECTION 1. The Congress finds that the gainful employment during the summer months of American youth, representing all segments of society, in the healthful outdoor atmosphere afforded in the national park system, the national forest system, the national wildlife refuge system, and other public land and water areas of the United States creates an opportunity for understanding and appreciation of the Nation's natural environment and heritage. Accordingly, it is the purpose of this Act to further the development and maintenance of the natural resources of the United States by the youth, upon whom will fall the ultimate responsibility for maintaining and managing these resources for the American people.

"YOUTH CONSERVATION CORPS

"SEC. 2. (a) To carry out the purposes of this Act, there is established in the Department of the Interior and the Department of Agriculture a Youth Conservation Corps (hereinafter referred to as the 'Corps'). The Corps shall consist of young men and women who are permanent residents of the United States, its territories, possessions, or trust territories, who have attained age fifteen but have not attained age nineteen, and whom the Secretary of the Interior or the Secretary of Agriculture may employ during the summer months, without regard to the civil service or classification laws, rules, or regulations, for the purpose of developing, preserving, or maintaining the lands and waters of the United States under his jurisdiction.

"(b) The Corps shall be open to youth of both sexes and youth of all social, economic, and racial classifications, with no person being employed as a member of the Corps for a term in excess of ninety days during any single year.

"SECRETARIAL DUTIES AND FUNCTIONS

"SEC. 3. (a) In carrying out this Act, the Secretary of the Interior and the Secretary of Agriculture shall—

"(1) determine, with other Federal agencies, the areas under the administrative jurisdiction of the Secretaries which are appropriate for carrying out programs using members of the Corps, and determine and select appropriate work and education programs and projects for participation by members of the Corps;

"(2) determine the rates of pay, hours, and other conditions of employment in the Corps, except that members of the Corps shall not be deemed to be Federal employees other than for the purposes of chapter 171 of title 28, United States Code, and chapter 81 of title 5, United States Code;

"(3) provide for such transportation, lodging, subsistence, and other services and equipment as they may deem necessary or appropriate for the needs of members of the Corps in their duties;

"(4) promulgate regulations to insure the safety, health, and welfare of the Corps members; and

"(5) provide, to the extent possible, that permanent or semipermanent facilities used as Corps camps be made available to local schools, school districts, State junior colleges and universities, and other educational institutions for use as environmental/ecological education camps during periods of nonuse by the Corps program.

Costs for operations, maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs as well as any liability for personal injury or property damage stemming from such use shall be the responsibility of the entity or organization using the facility and shall not be a responsibility of the Secretaries or the Corps.

"(b) Whenever economically feasible, existing but unoccupied Federal facilities and surplus or unused equipment (or both), of all types, including military facilities and equipment, shall be utilized for the purposes of the Corps, where appropriate and with the approval of the Federal agency involved. To minimize transportation costs, Corps members shall be employed on conservation projects as near to their places of residence as is feasible.

"(c) The Secretary of the Interior and the Secretary of Agriculture may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least five years for the operation of any Youth Conservation Corps project.

"PILOT GRANT PROGRAM FOR STATE PROJECTS

"SEC. 4. (a) The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a pilot grant program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term 'States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

"(A) assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall (i) have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

"(B) such other information as the Secretaries may jointly by regulation prescribe.

"(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

"(c)(1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

"(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

"(d) Thirty per centum of the sums appropriated under section 6 for any fiscal year shall be used for making grants under this section for such fiscal year.

"SECRETARIAL REPORTS

"SEC. 5. The Secretary of the Interior and Secretary of Agriculture shall annually prepare a joint report detailing the activities carried out under this Act and providing recommendations. Each report for a fiscal year shall be submitted concurrently to the President and the Congress not later than one hundred and eighty days following the close of that fiscal year.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated amounts not to exceed $30,000,000 for fiscal year ending June 30, 1973, and $60,000,000 for the fiscal year ending June 30, 1974, to be made available to the Secretary of the Interior and the Secretary of Agriculture to carry out the purposes of this Act. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this Act shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated."

Mr. JACKSON. Mr. President, the legislation which the House passed differs in several important respects from S. 2454 which I introduced in August of 1971 and which the Senate passed on May 23, 1972. However, Mr. President, I recommend that the Senate accept the House amendments on this legislation which is so important to the youth of America and to the preservation of our precious natural resources. I do not beleieve we should risk the possibility of losing this vital legislation by going to conference this late in the session.

In moving to accept the House bill, I want to emphasize that I will introduce legislation in the next Congress to expand this program beyond the limits as contained in this measure.

Mr. President, the basic differences between the House bill and the legislation which the Senate passed are:

First, the Senate-passed bill would have made the program permanent and provided an annual authorization of $150 million, enough to employ 120,000 to 150,000 young men and women each year. The House bill has only a 2-year authorization which would expand the pilot program to a level of $30 million in 1973 and $60 million in 1974.

Second, the Senate-passed bill made the pilot Federal-State cost sharing program—80 to 20 percent—a permanent part of the Youth Conservation Corps and would have provided that not more than 25 percent of the youth employed in any program year would be employed in such State programs. The House bill calls for a pilot Federal-State cost sharing program—80 to 20 percent—under which grants would be made to the States to assist them in meeting the cost of projects on State public lands and waters. Their bill also provides that 30 percent of the funds appropriated for any fiscal year shall be used for making such grants.

While there are other minor differences, I do not believe they are significant and in the interest of time I will not elaborate on them. What is important is that we move today to keep this highly commendable program alive. Even though the YCC bill is not as large or as permanent a step as I would like, it nonetheless expands the program by tenfold over the pilot Youth Conservation Corps Act of 1970.

In my 32 years in Congress I cannot recall sponsoring and guiding through Congress any bill which is more personally satisfying or beneficial to the future leaders of our Nation than the YCC Act of 1970 and the amendment to the act which we are considering today. The outstanding success that this program has achieved in its first 2 years speaks far more eloquently than I can for its immediate expansion.

Consider for example:

First, the work accomplished by the young men and women who participated in the 1971 and 1972 programs approximated the actual cost of employing them.

Second, the drop-out rate in this program has been less than 4 percent, a statement that cannot be made by most other Federal youth programs.

Third, in numerous cases the camp directors could not develop conservation projects fast enough to satisfy these energetic conservation workers.

Fourth, many corps members, as a result of their work, are considering careers in recreation, natural resources management and environmental protection—areas where there is a definite need for personnel.

As an indication of the immediate popularity of the YCC program, over 124,000 applications were received by the Departments of Interior and Agriculture in 1971 for the only 2,600 jobs available; 98 percent of the applicants had to be turned down. Additionally, all 50 States have indicated an interest in a Federal-State cost sharing program. With such a cost sharing provision they have indicated they could provide conservation jobs for 180,000 persons immediately.

Mr. President, there has been a recognition by Democrats and Republicans alike in the U.S. Congress that a program as useful and beneficial as the YCC should proceed in an expeditious and well organized manner. Congress determined, and wisely so, that the concern of our young people and the subject of conserving our natural resources is not a partisan issue. Based upon the program's tremendous success to date, it is my hope that the President will sign this legislation into law. Having the support of the administration is important to the future of the YCC, particularly in obtaining the necessary appropriations with which to implement this legislation.

Mr. President, I move the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL INTRODUCTION OF A BILL

The following bill was introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON:

S. 4097. A bill for the relief of Dr. Donald J. Alm. Referred to the Committee on the Judiciary.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENT

AMENDMENT NO. 1755

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am submitting an amendment to H.R. 16810 which I believe will provide a mechanism for the congressional fundraising and appropriations process by which we can avoid successive budget crises of the kind we are attempting to address in this bill.

My amendment builds on past law. In brief, it provides that the House and Senate Appropriations Committees, and the Ways and Means Committee and the Finance Committee, meet, or designate subcommittees to meet, at the beginning of each regular session of Congress to report, after due study, a legislative budget containing an estimate of receipts, a statement of total allowable expenditures, and the amount of the debt increase, if any, necessary for the coming fiscal year. This budgetary statement would have to be prepared by March 30, and be expressed in a joint resolution passed by both Houses. No appropriations measure could be considered by either House until the joint resolution had passed.

Mr. President, I will explain my proposal in full in a further statement tomorrow.

NOMINATION OF GENERAL ABRAMS

Mr. COOPER. Mr. President, I regret that by reason of my attendance at a conference on the Federal Aid Highway Act with the House conferees, I was delayed and missed the vote on the confirmation of General Abrams.

I want to state that I would have voted to confirm General Abrams. I believe he follows the tradition of the great military leaders of our country. I do not believe he would knowingly violate either military rules or law.

I have some appreciation of his fine qualities as a leader as I was a member of the 3d U.S. Army during World War II under the leadership of Gen. George Patton. I did not know General Abrams, then a lieutenant colonel and then colonel, but the 3d Army was inspired by his courage and leadership in 1944 and 1945 in the campaign across Europe.

RECISION OF ORDER FOR RECOGNITION OF SENATOR HUGHES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of the Senator from Iowa (Mr. HUGHES) on tomorrow be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS SCOTT, BENTSEN, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the Senator from Pennsylvania (Mr. SCOTT) on tomorrow, the distinguished Senator from Texas (Mr. BENTSEN) be recognized for not to exceed 15 minutes and that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF APPALACHIAN REGIONAL HOSPITALS, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1231, S. 3326.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 1231 (S. 3326) a bill for the relief of Appalachian Regional Hospitals, Inc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3326) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

Mr. ROBERT C. BYRD. Mr. President, by way of very brief explanation, earlier today I offered this bill as an amendment to H.R. 16071, an act to amend the Public Works and Economic Development Act of 1965. The amendment was adopted. I think it best, in view of the urgent need for passage of the measure, and owing to the lateness of the session, that both legislative routes be followed. This will explain why I have taken the bill up at this time for passage.

In order to save the time of the Senate, I ask unanimous consent that extracts from my explanation of the bill earlier today be inserted at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed as follows:

This amendment was originally introduced in the form of a bill (S. 3326) by the Senator from Kentucky (Mr. Cooper) in March of this year, on behalf of himself, Mr. Byrd of West Virginia, Mr. Cook, Mr. Randolph, and Mr. Spong, for the relief of the Appalachian Regional Hospitals, Incorporated.

That bill was referred to the Committee on the Judiciary. Earlier this week, with the approval of the Chairman, I was able to poll the members of the Judiciary Committee, and as a result thereof, the bill was reported from the Committee on the Judiciary unanimously. The bill now appears on the calendar under Order No. 1231.

I am offering that bill in the form of an amendment to the pending legislation because of the fact that the pending legislation is a House bill, and it is hoped that if this amendment is accepted by the Senate it can then go to conference and possibly be enacted into law within the next two or three days, or as soon thereafter as the President can sign the bill.

The purpose of this legislation is to relieve Appalachian Regional Hospitals, Inc., a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964.

The hospitals which make up the chain taken over by the Appalachian Regional Hospitals, Inc., have constituted a nonprofit, nonsectarian health care system of hospitals located in West Virginia, Virginia, and Kentucky. The hospitals were constructed originally as a part of a 10-hospital chain. They were built in 1955 and 1956 by the Miners Memorial Hospital Association, which was a subsidiary of the United Mine Workers Welfare and Retirement Fund. The hospitals were built originally to serve UMW Union members and pensioners, but because of a critical need of all residents in the areas served by the hospitals, the doors of the hospitals were opened to the public, and this decision to open the hospitals to the public, compelled by human need, was financially disastrous, in that a large number of patients were indigent, and the system began to experience substantial operating losses. The only source of moneys to cover these losses was the Welfare and Retirement Fund, and for a time the fund underwrote medical care expenses incurred by the general public. But in 1962, the trustees of the Welfare and Retirement Fund announced that the fund would have to divest itself of the hospitals or close the facilities if a suitable sponsor could not be found.

As a result, a nonprofit, nonsectarian corporation, Appalachian Regional Hospitals, Inc., was organized to own and operate the system.

Because of the limited funds available for Area Redevelopment Administration public facility grants—no funds were appropriated for this purpose in fiscal year 1965—the maximum grant available which would be approved was $3.9 million, which was slightly less than half the amount to cover even the substantially discounted price for the ten hospitals. These funds were accepted by ARH, Inc., and used to acquire five of the ten hospitals.

After several attempts were made to secure additional grant funds during the spring of 1964, and as a last resort, ARH, Inc., accepted a loan from the Area Redevelopment Administration in the amount of $4.1 million to cover the transfer of the remaining five hospitals, these five hospitals being located at Pikeville and South Williamson, Kentucky; Wise, Virginia; and Man and Beckley, West Virginia. The loan was made on June 26, 1964.

The acceptance of a loan was regarded by the trustees of the hospital system as an expedient. There was a clear understanding on the part of the ARH management and board that the loan would be converted to a grant when additional appropriations were made for ARA public facility grants. But the ARA did not receive additional grant funds in fiscal year 1965, and the loan therefore remained in existence.

The judiciary committee contacted the Department of Commerce for its views on the bill S. 3326—which I am now offering as an amendment to the pending measure—and Mr. William N. Letson, General Counsel of the Department of Commerce, on September 22 of this year, responded to Chairman Eastland by saying, in part, as follows:

The evidence submitted with respect to current and future programs and flows of funds shows that repayment of the ARA loan will greatly impair the hospitals' ability to meet the demands on them. Along with the social costs which would result if this occurs, there would also be serious economic development costs. The continuation of accessible hospital care is a necessity for existing local industries as well as for attracting new industries.

While it is easy to look back 10 years and be critical of actions taken at that time, nonetheless, the record does not indicate that this ARA loan to an extremely deprived area for a critically needed purpose ever enjoyed any reasonable prospects for repayment. It was therefore administratively inappropriate as a semi-substitute for a grant.

What is more important, however, is that EDA's legal authority and administrative guidelines presently prevent loans without reasonable prospects for repayment. Therefore, while we believe relief should be granted in this case, enactment of S. 3326 should not and will not serve as a precedent for forgiveness of any other existing or future EDA loans.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to your committee from the standpoint of the administration's program.

So, there we have it, Mr. President. The Department of Commerce has stated that relief should be granted in this case. The Department has also stated that such relief would not be a precedent for forgiveness of any other existing or future economic development administration loans, because EDA's real authorization and administrative guidelines presently prevent loans without reasonable prospects for repayment; and the record has indicated that the ARA loan, which was EDA's predecessor, never enjoyed any reasonable prospect for repayment.

Mr. President, that explains the amendment I am offering on behalf of myself and the other cosponsors.

I hope the Senate will adopt the amendment.

BILLS HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following House bills and messages at the desk today be held at the desk temporarily: H.R. 15280, H.R. 16074, H.R. 16675, and H.R. 16883.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8 a.m. tomorrow. The following Senators will be recognized, each for not to exceed 15 minutes and in the sequence stated: Senators HANSEN, HARRY F. BYRD, JR., TALMADGE, FANNIN, SCOTT, BENTSEN, and ROBERT C. BYRD.

Following the foregoing, Mr. President, it is the intent of the leadership to return to the consideration of the Clean Air Act, and there being a time limitation thereon, it is hoped that not too much time will be needed for the completion of action on that bill.

Other conference reports will be called up tomorrow for example, the Defense appropriations conference report, and the State, Justice conference report. Yea-and-nay votes may occur thereon.

At some time during the afternoon, probably by 1 p.m. give or take, the debt limit bill will be called up. Amendments will be offered thereto. There will be considerable debate on that bill, and some votes, I am sure.

Senators should keep in mind that there are various measures on the calendar that may or may not be called up by the leadership at any time, depending on the circumstances.

"Holds" can no longer be recognized at this stage.

Mr. President, it is likely that the Senate will be in session reasonably late tomorrow. I would imagine the same could be said for Saturday.

ADJOURNMENT TO 8 A.M.

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8 a.m. tomorrow.

The motion was agreed to; and at 9:21 p.m., the Senate adjourned until tomorrow, Friday, October 13, 1972, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1972:

IN THE AIR FORCE

The following named officers for promotion in the United States Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Aaronson, Alvin D., [redacted].
Ablett, Kenneth L., [redacted].
Abreu, Ralph C., [redacted].
Adams, Charles E., [redacted].
Adams, Glen L., [redacted].
Adams, Ralph E., [redacted].
Adams, William R., [redacted].
Addor, Henry S., [redacted].
Addy, Gordon W., [redacted].
Agre, Oscar W., Jr., [redacted].
Aharonian, Aharon, [redacted].
Aikman, Jams H., [redacted].
Akers, George S., [redacted].
Aldrich, Theodore B., [redacted].
Alexander, Michael H., [redacted].
Alkire, Melvin G., [redacted].
Allen, Bart D., [redacted].
Allen, Clifford H., Jr., [redacted].
Allison, John V., [redacted].
Allred, Elmer G., [redacted].
Amodt, Paul W., [redacted].
Anderson, Russell J., [redacted].
Anderson, Don L., [redacted].
Armstrong, Spence M., [redacted].
Ashe, Mary E., [redacted].
Astrella, Ralph J., [redacted].
Atherton, Thomas L., [redacted].
Atkinson, Richard L., [redacted].
Atwell, Alfred L., [redacted].
Ayo, Jackson J., III, [redacted].
Babbitt, Louie A., [redacted].
Babcock, Leon W., Jr., [redacted].
Baggett, William D., [redacted].
Bagley, Bobby R., [redacted].
Bailey, Clentis W., [redacted].
Bailey, William M., Jr., [redacted].
Baily, Carl G., [redacted].
Baisden, James K., [redacted].
Balcer, Raymond L., [redacted].
Baldner, John L., [redacted].
Ballard, William T., [redacted].
Banaszak, Merle E., [redacted].
Barnes, Fred D., [redacted].
Barnett, Earl S., III, [redacted].
Barry, William D., [redacted].
Bassett, Cecil A., Jr., [redacted].
Bates, Albert R., [redacted].
Bauman, Wendall C., [redacted].
Baumann, John F., [redacted].
Beale, Robert S., [redacted].
Beatty, Bernard L., [redacted].
Beavers, Shirley D., [redacted].
Becker, Richard B., [redacted].
Beene, Reagan H., Jr., [redacted].
Benjamin, George D., [redacted].
Benn, Bohden, [redacted].
Benvenuti, John R. D., [redacted].
Benz, Robert A., [redacted].
Benziger, Alfred S., [redacted].
Berkman, William W., [redacted].
Berlette, John A., [redacted].
Bernier, Francis W., [redacted].
Berns, Robert J., [redacted].
Beverly, Chester A., Jr., [redacted].
Bierman, Donald J., [redacted].
Binford, Donald D., [redacted].
Biondo, Samuel A., [redacted].
Bird, Ronald A., [redacted].
Birge, Thomas W. C., [redacted].
Blair, Charles E., [redacted].
Blake, Charles R., [redacted].
Blankenship, James R., [redacted].
Blankfield, William H., Jr., [redacted].
Boaz, Wilson J., [redacted].
Bode, John R., [redacted].
Bodkin, Joe E., [redacted].
Boettcher, Hulbert L., [redacted].
Bohn, Lowell F., [redacted].
Booth, Robert E., [redacted].
Borland, Robert L., [redacted].
Bosler, Robert J., [redacted].
Boss, Luther D., [redacted].
Boston, Hollis B., Jr., [redacted].
Bounds, Jesse C., Jr., [redacted].
Boverie, Richard T., [redacted].
Bowen, Stuart W., [redacted].
Bowles, Lamar D., [redacted].
Boyd, Warren J., [redacted].
Bozik, Edward E., [redacted].
Bradley, Roland G., [redacted].
Bradshaw, Mack L., [redacted].
Braly, Harold C., [redacted].
Breitling, Patrick J., [redacted].
Brentnall, Burden, [redacted].
Brett, Walter R., [redacted].
Brevig, Berdell P., [redacted].
Brewer, Donald W., [redacted].
Brewer, William C., [redacted].
Brewster, Philip L., [redacted].
Brolin, James F., [redacted].
Brown, Buddy L., [redacted].
Brown, Harry L., [redacted].
Brown, Ivan D., [redacted].
Brown, Ralph E., [redacted].
Bruenner, William, [redacted].
Brunzell, Bryan W., [redacted].
Bruss, Richard E., [redacted].
Bryan, Austin R., [redacted].
Bryan, Ronald E., [redacted].
Bryant, Lucius G., Jr., [redacted].
Buchanan, James N., [redacted].
Buck, John T., [redacted].
Budd, Roger, Jr., [redacted].
Budde, Ralph C., [redacted].
Buehler, Paul W., [redacted].
Bullers, Joseph W., Jr., [redacted].
Burdan, John W., Jr., [redacted].
Burdick, Martin M., [redacted].
Burkett, William M., [redacted].
Burklund, John S., [redacted].
Burney, George D., [redacted].
Burns, Joe H., [redacted].
Burpee, Richard A., [redacted].
Burroughs, Lorenzo W., [redacted].
Burwell, William D., [redacted].
Bye, Donald R., [redacted].
Byrd, Lee B., [redacted].
Byrne, Ronald E., Jr., [redacted].
Caldwell, Walter F., [redacted].
Cale, Charles T., [redacted].
Calhoun, Caryl W., [redacted].
Calhoun, Cecil O., Jr., [redacted].
Campbell, William E., [redacted].
Campbell, Louis D., [redacted].
Campfield, William Jr., [redacted].
Carey, Robert L., [redacted].
Carlone, Robert A., [redacted].
Carmichael, Douglas W., [redacted].
Carpenter, John A., [redacted].
Carr, James I., [redacted].
Carwhile, Elford L., [redacted].
Casbeer, Arthur M., [redacted].
Case, Ted K., [redacted].
Casterlin, Harry B., Jr., [redacted].
Castleman, Floyd D., [redacted].
Caviness, Kenneth L., [redacted].
Cawley, Terance E., [redacted].
Chamberlain, Robert M., [redacted].
Chellman, Chester E., Jr., [redacted].
Cherry, Fred V., [redacted].
Christiansen, von R., [redacted].
Chubb, Melvin F., Jr., [redacted].
Clark, Billy V., [redacted].
Clark, Norman J., [redacted].
Clausen, George G., [redacted].
Clauson, Curtis S., [redacted].
Clements, Ronald M., [redacted].
Cler, Bernard J., [redacted].
Clothier, Norman F., [redacted].
Clouser, Robert E., [redacted].
Clutter, William L., [redacted].
Coburn, Harry L., [redacted].
Coffin, Grange S., Jr., [redacted].
Coleman, Paul R., [redacted].
Coley, Rayh H., [redacted].
Collins, Kenneth S., [redacted].
Collins, Charles W., [redacted].
Compton, Harold C., [redacted].
Comte, Carlton P., [redacted].
Conner, Doral G., [redacted].
Conway, Don R., [redacted].
Cook, James R., [redacted].
Cook, Oliver J., Jr., [redacted].
Cool, Brent A., [redacted].
Coon, Richard D., [redacted].
Cooney, James P., [redacted].
Cooper, Larry T., [redacted].
Cork, Clifford D., [redacted].
Cosner, Wendell E., [redacted].
Cottrell, Paul F., [redacted].
Covington, James D., [redacted].
Cragin, John R., [redacted].
Craver, Joseph W., Jr., [redacted].
Creekman, David B., [redacted].
Creighton, Arthur F., Jr., [redacted].
Crews, Albert H., Jr., [redacted].
Crooke, William J., [redacted].
Cross, Carleton G., [redacted].

Crum, William P., [redacted].
Crumbliss, James J., [redacted].
Cunningham, Charles J. Jr., [redacted].
Custer, Gerald B., [redacted].
Dahler, Donald L., [redacted].
Daigle, Joseph G., [redacted].
Dalpra, Clarence E., [redacted].
Daniel, James E., Jr., [redacted].
Dardeau, Oscar M., Jr., [redacted].
Daugherty, Robert G. Jr., [redacted].
Davidson, William H., [redacted].
Davies, Owen M., [redacted].
Davis, Jake C., [redacted].
Davis, James P., [redacted].
Davis, Richard G., [redacted].
Davis, Robert H., [redacted].
Davis, Robert W., [redacted].
Dearborn, James W., [redacted].
Delaney, William J., [redacted].
Delisio, Louis C., [redacted].
Deluca, Jerry J., [redacted].
Demasie, Riley D., [redacted].
Denfeld, Richard E., [redacted].
Dennis, Jeptha W., Jr., [redacted].
Dennison, Jack E., [redacted].
Denson, Lee A., Jr., [redacted].
Deschamps, Melvin T., [redacted].
Dibaggio, Anthony J., [redacted].
Diddle, James A., [redacted].
Dillingham, Wallace J., [redacted].
Dimauro, Vincent A., [redacted].
Dimon, George H., Jr., [redacted].
Ditch, Robert A., [redacted].
Diven, James E., [redacted].
Duke, Charles R., [redacted].
Dominguez, Luis F., [redacted].
Doran, John J., Jr., [redacted].
Dorris, Theodore E., [redacted].
Dortch, Harold D., Jr., [redacted].
Douglas, John W., [redacted].
Dowd, Theodore, [redacted].
Dowler, Donald A., [redacted].
Drennon, Philip R., [redacted].
Dreyer, Christian F., Jr., [redacted].
Dunagan, Bobby J., [redacted].
Dupree, Forist G., [redacted].
Durden, Gene R., [redacted].
Dutton, Richard A., [redacted].
Eaton, Curtis A., [redacted].
Edge, Robert E., [redacted].
Edmunds, Earl A., [redacted].
Edwards, Kenneth W., [redacted].
Egan, William M., [redacted].
Eiler, Jerome E., [redacted].
Eklund, Lester E., [redacted].
Elliott, Frank, [redacted].
Elliott, John M., [redacted].
Elmer, Dean A., [redacted].
Emerson, Russell C., [redacted].
Engle, Joe H., [redacted].
Erikson, Keith A., [redacted].
Erlinger, Charles R., [redacted].
Ertel, Kenneth E., [redacted].
Evans, Lucius O., [redacted].
Evans, William A., Jr., [redacted].
Ezelle, Henry L., Jr., [redacted].
Falgoust, Jean B., [redacted].
Felber, Joseph E., [redacted].
Felix, Daniel T., [redacted].
Fellows, Allen E., [redacted].
Ferguson, Alonzo L., [redacted].
Fessenden, Delmore L., [redacted].
Fisher, John L., [redacted].
Fisher, Ralph E., [redacted].
Fix, Oliver W., [redacted].
Flanigin, William E., [redacted].
Fleenor, Kenneth R., [redacted].
Fletcher, John L., [redacted].
Fondren, John H., [redacted].
Ford, William, [redacted].
Forgan, David W., [redacted].
Fox, James K., [redacted].
Foy, Robert J., [redacted].
Fraley, George A., [redacted].
Frederick, Henry L., [redacted].
Freeman, Frederick C., Jr., [redacted].
Freeman, Robert F., [redacted].
Frew, Donald V., [redacted].
Fridley, Howard E., Jr., [redacted].
Friedman, Stanley A., [redacted].
Fronzuto, Charles M., [redacted].
Gallenberger, Darrell A., [redacted].
Gant, Mason W., III, [redacted].
Gardner, Robert E., [redacted].
Gargiulo, Alphonse, Jr., [redacted].
Garland, John K., [redacted].
Garren, Roland R., [redacted].
Garrison, Lawrence O., [redacted].
Geer, Lyle A., [redacted].
Gentry, Roy L., Jr., [redacted].
Gentzel, Charles R., [redacted].
Giddings, Edward N., [redacted].
Giese, Carl R., [redacted].
Giffin, Roderick G., [redacted].
Gifford, Robert N., [redacted].
Giles, John K., [redacted].
Gilk, Frank E., [redacted].
Gilkey, Raymond R., [redacted].
Giltner, William C., [redacted].
Ginsburg, Gordon A., [redacted].
Girard, Raymond F., Jr., [redacted].
Girton, Larry V., [redacted].
Glanville, Paul D., [redacted].
Glossbrenner, John L., [redacted].
Goelz, Raymond F., [redacted].
Goldacker, Clarence B., [redacted].
Gomez, Raymond V., [redacted].
Goodwin, David A., [redacted].
Gordon, John W., [redacted].
Gores, Vernon D., [redacted].
Gori, Floyd E., [redacted].
Gorton, William A., [redacted].
Goss, Bernard J., [redacted].
Guttuso, Robert M., [redacted].
Graham, Dwight R., Jr., [redacted].
Grant, John F., [redacted].
Gratch, Archie W., [redacted].
Gravette, James A., [redacted].
Grazier, Raymond C., [redacted].
Gregory, Jack I., [redacted].
Greiner, Russell D., [redacted].
Grill, Alan J., [redacted].
Griswold, Frederick C., [redacted].
Guastella, Joseph T., [redacted].
Gunter, Virginia L., [redacted].
Guttersen, Laird, [redacted].
Haaren, John A., [redacted].
Hackley, William A., [redacted].
Haff, Wallace K., [redacted].
Hagenbrock, Harry H., [redacted].
Hagerman, Robert W., [redacted].
Haggard, Gordon M., [redacted].
Hale, John W., [redacted].
Haley, Robert D., [redacted].
Hall, George R., [redacted].
Hall, Titus C., [redacted].
Hamilton, Ercell C., Jr., [redacted].
Hamm, John R., [redacted].
Hammond, Felton L., [redacted].
Hammond, Henry L., [redacted].
Hamrick, Asa P., Jr., [redacted].
Hanna, Robert K., [redacted].
Harding, Robert C., [redacted].
Hardy, Alton D., [redacted].
Harrington, Charles F., Jr., [redacted].
Harris, Kenneth G., [redacted].
Harris, William M., IV, [redacted].
Harrison, Bogue P., [redacted].
Harrison, James W., Jr., [redacted].
Hart, Jack W., [redacted].
Hartney, James C., [redacted].
Hastler, Russell C., Jr., [redacted].
Hauss, Edward A., [redacted].
Hawkins, Luther M., [redacted].
Hayes, Robert K., [redacted].
Haymaker, Ralph W., [redacted].
Haynes, Robert E., [redacted].
Healy, Michael J., [redacted].
Hedges, John D., [redacted].
Heinle, Leon C., [redacted].
Henderson, William S., Jr., [redacted].
Henkel, Francis B., [redacted].
Hense, Frank F. E., Jr., [redacted].
Hermann, Robert, [redacted].
Herriott, Judson A., [redacted].
Hetherington, Charles W., [redacted].
Hickey, Thomas J., [redacted].
Higginson, Glenn A., [redacted].
Hill, Rex A., [redacted].
Hilland, Carl B., [redacted].
Hillard, Stephen D., [redacted].
Hillebrandt, Leonard G., Jr., [redacted].
Hillock, Joseph P., Jr., [redacted].
Hilton, Richard D., [redacted].
Hines, James M., [redacted].
Hines Olive J., [redacted].
Hobart, Donald W., [redacted].
Hocken, Robert W., [redacted].
Hodge, James L., [redacted].
Hoenniger, Frederick B., [redacted].
Holbrook, Roy L., Jr., [redacted].
Holmberg, John B., [redacted].
Holmes, Herbert H., [redacted].
Holton, Carl E., [redacted].
Homan, Harold A., [redacted].
Hooper, Claren B., Jr., [redacted].
Horne, Terrell E., [redacted].
Horton, Joseph P., Jr., [redacted].
Hoskins, Ben B., [redacted].
Hosmer, Bradley C., [redacted].
Houdyshell, Evelyn R., [redacted].
Howley, Joseph, [redacted].
Howley, Thomas A., [redacted].
Hubeli, Robert E., [redacted].
Huggins, Earl L., [redacted].
Hughes, Edward J., [redacted].
Humphrey, Thomas J., [redacted].
Humphries, John A., Jr., [redacted].
Hunter, Jene D., [redacted].
Hurst, Robert L., [redacted].
Huxtable, Lloyd J., [redacted].
Hyslop, Jack L., [redacted].
Ignarski, John G., [redacted].
Ingenloff, Joseph F., [redacted].
Ingholt, Harald W., [redacted].
Jackomis, William N., [redacted].
Jackson, Thomas L., [redacted].
Jacobs, Robert F., [redacted].
Jacobs, Delbert H., [redacted].
Jacobson, Ralph H., [redacted].
James, Francis E., Jr., [redacted].
James, Terrence C., [redacted].
Jarrell, Vernon H., [redacted].
Jasper, Curtis N., [redacted].
Jeangerard, Jack J., [redacted].
Jenkins, Richard D., [redacted].
Jensen, Donald E., [redacted].
Jensen, John R., [redacted].
Jernigan, Wendell W., [redacted].
Jessup, Robert C., [redacted].
Johnson, Donald D., Jr., [redacted].
Johnson, Gordon J., [redacted].
Johnson, Julian C., Jr., [redacted].
Johnson, Lawrence D., [redacted].
Johnson, Roger W., [redacted].
Johnston, Robert F., II, [redacted].
Johnson, Edward W., [redacted].
Jolly, Samuel B., Jr., [redacted].
Jones, Louis F., [redacted].
Jones, Hilton P., Jr., [redacted].
Jones, Robin L., [redacted].
Joppa, Jacob A., Jr., [redacted].
Jordan, Ralph H., Jr., [redacted].
Jorgensen, Royce U., [redacted].
Kallighan, Martin T., [redacted].
Kaplan, Harold L., [redacted].
Karalus, Peter H., [redacted].
Karns, James M. L., [redacted].
Kasarda, Paul, Jr., [redacted].
Kawanami, George M., [redacted].
Kay, Donald J., [redacted].
Kayloe, Alvin, [redacted].
Keehr, Wallace W., [redacted].
Keeney, Donald R., [redacted].
Kelley, Robert H., [redacted].
Kelley, Robert E., [redacted].
Kelly, Henry H., [redacted].
Kendall, Joe F., [redacted].
Kendall, Robert B., [redacted].
Kennedy, Paul J., [redacted].
Kenney, Thomas E., [redacted].
Kenty, William R., [redacted].
Kern, Albert E., II, [redacted].
Killebrew, James B., [redacted].
Kilty, John E., [redacted].
King, Robert B., Jr., [redacted].
Kirchoff, Gilbert O., [redacted].
Kishline, Samuel J., [redacted].
Kitchens, Ralph L., [redacted].
Kittinger, Joseph W., Jr., [redacted].
Klemm, Donald M., [redacted].
Klesert, William M., [redacted].
Kline, Cozier S., [redacted].

Klingenberg, Irvin L., Jr., [redacted].
Koestner, Raymond F., [redacted].
Kramer, Marvin L., [redacted].
Kranidas, Evans, [redacted].
Krause, James R., [redacted].
Krutz, Robert D., [redacted].
Kubal, George J., [redacted].
Kuhlmann, Kenneth L., [redacted].
Kutz, Gerald A., [redacted].
Lake, Knox C., [redacted].
Lakins, Charles R., [redacted].
Lamb, Chester C., Jr., [redacted].
Landers, James L. [redacted].
Lane, Walter H., [redacted].
Larimer, Walker A., [redacted].
Larson, Gerald D., [redacted].
Lary, Buford D., [redacted].
Latina, Robert J., [redacted].
Lawrence, Richard C., [redacted].
Lawry, Raymond G., [redacted].
Lay, James O., [redacted].
Lay, Richard I., Jr., [redacted].
Leatham, Dale W., [redacted].
Leavitt, David N., [redacted].
Ledbetter, Melvin N., [redacted].
Lee, Maurice R., [redacted].
Leggitt, Clewis M., Jr., [redacted].
Leming, Paul J., Jr., [redacted].
Leonard, Charles F., [redacted].
Lewis, Russell S., [redacted].
Lindeman, William E., [redacted].
Linder, Ronald G., [redacted].
Lines, Lycurgus E., Jr., [redacted].
Lines, Robert J., [redacted].
Ling, James G., [redacted].
Lippincott, John A., [redacted].
Lockstrom, Donald E., [redacted].
Long, Richmond N., [redacted].
Long, Thomas C., Jr., [redacted].
Longsworth, Thorne W., [redacted].
Lorenzen, Loren L., [redacted].
Lowman, James K., [redacted].
Lowry, Thomas C., [redacted].
Loy, Eugene W., [redacted].
Loyd, William F., Jr., [redacted].
Lubin, Michael D., [redacted].
Lueker, Rano E., [redacted].
Luna, Carter P., [redacted].
Lunsford, Herbert L., [redacted].
Luther, Charles J., [redacted].
Lyons, Richard C., [redacted].
Lytle, Lowell C., [redacted].
Macivor, Charles A., [redacted].
Mackellar, Donald V., [redacted].
Macleay, Lachlan, [redacted].
Madsen, Melville A., [redacted].
Magazu, Harry H., [redacted].
Mahrt, Donald E., [redacted].
Malambri, Nicholas D., [redacted].
Mali, Robert C., Jr., [redacted].
Malone, James J., [redacted].
March, Donald R., [redacted].
Marin, Raymond A., [redacted].
Marinelli, Peter A., [redacted].
Mark, Leon G., [redacted].
Marrs, Maurice A., Jr., [redacted].
Martin, William A., [redacted].
Masi, Joseph L., [redacted].
Massey, Gerald S., [redacted].
Massingill, Bobby J., [redacted].
Masterson, Gordon P., [redacted].
Mathers, Robert G., [redacted].
Matsun, William P., [redacted].
May, William A., Jr., [redacted].
Mayers, John C., [redacted].
Maynard, Robert G., [redacted].
McCallum, Eleanor J., [redacted].
McCann, Robert I., [redacted].
McCartan, Robert O., [redacted].
McCarthy, Edmund R., [redacted].
McCarthy, James P., [redacted].
McCarthy, James P., [redacted].
McCarthy, Lawrence J., [redacted].
McClure, Samuel L., [redacted].
McConville, John W., [redacted].
McCullar, Dalton W., Jr., [redacted].
McCurdy, Garvin, [redacted].
McDougall, Jeffrey R., [redacted].
McGoldrick, John R., [redacted].
McGuire, Ronald A., [redacted].
McGuire, Ihoma W., Jr., [redacted].
McHugh, Edgar L., [redacted].
McIlmoyle, Gerald E., [redacted].
McInerney, Thomas G., [redacted].
McKague, James F., [redacted].
McKenzie, Wallace J., [redacted].
McKinney, Ronald H., [redacted].
McLaurin, Floyd A., [redacted].
McMillan, William C., [redacted].
McNamara, Jude R., [redacted].
McNicholas, James D., [redacted].
McQueen, George S., [redacted].
McWilliams, William D., III, [redacted].
Meador, James S., [redacted].
Mearns, Arthur S., [redacted].
Meisenheimer, Rob A., [redacted].
Melton, Leonard L., Jr., [redacted].
Mendezvigo, Castor, Jr., [redacted].
Menke, Edward H., [redacted].
Merkel, Richard E., [redacted].
Merritt, Raymond J., [redacted].
Meyer, Bobby J., [redacted].
Micklavzina, Frank C., [redacted].
Milam, Kenneth R., Jr., [redacted].
Milian, Charles H., Jr., [redacted].
Miller, Cyrus C., Jr., [redacted].
Miller, Horace W., [redacted].
Miller, Hugh M., [redacted].
Miller, Ralf M., [redacted].
Miller, William E., [redacted].
Minter, Rondel E., [redacted].
Mintz, Ronald E., [redacted].
Mitchell, John A., [redacted].
Mitchell, William R., [redacted].
Moe, Stanley K., [redacted].
Mohr, Robert M., [redacted].
Molla, Alfred C., Jr., [redacted].
Monahan, Arthur E., Jr., [redacted].
Monahan, George L., Jr., [redacted].
Moody, Sidney E., [redacted].
Moore, Emory R., [redacted].
Moore, Richard D., [redacted].
Morgan, Joe P., [redacted].
Moriarty, Edward D., [redacted].
Morin, Chester W., [redacted].
Morrell, Bruce E., [redacted].
Morris, Cola R., Jr., [redacted].
Morris, Lurie J., [redacted].
Morton, James L., [redacted].
Morton, Russell S., [redacted].
Moses, William F., Jr., [redacted].
Moss, Bill, Jr., [redacted].
Moss, Charles H., [redacted].
Mourges, Agamemnon R., [redacted].
Mueller, Donald D., [redacted].
Mulcahy, Richard T., [redacted].
Muller, Norman E., [redacted].
Mullins, William H. L., [redacted].
Murata, Isamu, [redacted].
Murdock, Clifton C., [redacted].
Murphy, Edward R., Jr., [redacted].
Murray, Joseph L., [redacted].
Muskat, Michael S., [redacted].
Musser, Stanton R., [redacted].
Mussetto, Elo, [redacted].
Myers, Allen G., III, [redacted].
Myers, James E., [redacted].
Nagel, Robert F., [redacted].
Nagel, Donald M., [redacted].
Napoleon, Fred V., Jr. [redacted].
Nasby, Tollef O., [redacted].
Navas, Albert M., [redacted].
Naylor, Edward R., [redacted].
Nelson, Richard B., [redacted].
Newell, William E., [redacted].
Newman, Minton O., [redacted].
Newton, Walter C., [redacted].
Niblack, Emmett, A., Jr., [redacted].
Nichols, David L., [redacted].
Nichols, Hubert C., Jr., [redacted].
Niederman, Norman E., [redacted].
Nielsen, Mayo H., [redacted].
Nolan, John J., [redacted].
Noone, Michael F., Jr., [redacted].
Nurris, Lloyd R., [redacted].
Nyquist, Charles W., [redacted].
Oaks, Robert C., [redacted].
Oclair, Francis R., [redacted].
Odgers, Peter W., [redacted].
O'Donnell, John L., Jr., [redacted].
Ohlheiser, Richard G., [redacted].
Oliphant, Marcus R., [redacted].
Olsen, Don P., [redacted].
Olson, Donald L., [redacted].
Olson, James R., [redacted].
Opfell, Ronald F., [redacted].
Oppermann, Edward B., [redacted].
Orrico, Charles J., [redacted].
Orzen, Morton D., [redacted].
Osborn, John R., [redacted].
Ouren, Marvin G., Jr., [redacted].
Owens, Albert W., [redacted].
Ozenick, Phillip M., [redacted].
Palmer, Gilbert S., Jr., [redacted].
Palmer, William F., [redacted].
Pangle, Herbert W., [redacted].
Pardun, Orin V., [redacted].
Parkhill, Gordon W., Jr., [redacted].
Parkhurst, Donald J., [redacted].
Parkinson, Bradford W., [redacted].
Parks, Allan L., [redacted].
Partridge, Robert W., [redacted].
Pattee, John R., [redacted].
Patton, Melvin H., [redacted].
Peake, Erwin C., [redacted].
Pearson, Robert L., [redacted].
Peck, Herbert J., Jr., [redacted].
Peden, Carl A., [redacted].
Pendley, Caleb G., [redacted].
Pennington, Lawrence E., [redacted].
Pennington, Wesley W., [redacted].
Perry, John S., [redacted].
Pfautz, James C., [redacted].
Phillips, Frederick S., Sr., [redacted].
Phillips, Richard W., Jr. [redacted].
Phinney, Joseph L., [redacted].
Picinich, Alfred A., [redacted].
Pickel, Edward E., [redacted].
Pickitt, John L., [redacted].
Pierce, Charles D., [redacted].
Pimentel, Frank T., [redacted].
Portasik, John P., [redacted].
Powell, Alton W., [redacted].
Powers, George B., Jr., [redacted].
Powers, William R., [redacted].
Prather, Gerald L., [redacted].
Preston, Frank B., [redacted].
Prince, Philip S., [redacted].
Proctor, David P., Jr. [redacted].
Puffenbarger, Edward S., [redacted].
Purdy, Ira J., [redacted].
Pyles, Harley B., [redacted].
Quandt, Theodore W., [redacted].
Rainey, June I., [redacted].
Ramey, Jack L., [redacted].
Rasmussen, Jimmie M., [redacted].
Raymond, Vincent J., Jr., [redacted].
Read, Charles H. W., [redacted].
Reder, Lloyd O., [redacted].
Redmann, Louis J., [redacted].
Redwine, Kyle C., [redacted].
Reed, Leon R., [redacted].
Reed, Parker E., [redacted].
Reeves, Donald E., [redacted].
Reeves, James H., [redacted].
Reeves, Robert W., [redacted].
Rettberg, Don F., [redacted].
Reynolds, Dale L., [redacted].
Reynolds, Donald R., [redacted].
Rhude, Donald P., [redacted].
Rhymes, Charles C., Jr., [redacted].
Rice, Leo G., [redacted].
Richards, Alvin B., [redacted].
Richardson, William K., [redacted].
Rider, Graham W., [redacted].
Riley, William H., [redacted].
Rimm, Michael, [redacted].
Ringman, Edmond R., [redacted].
Robb, Donald S., [redacted].
Rodee, Robert L., [redacted].
Rodeen, James, [redacted].
Rodgers, Charles A., [redacted].
Roehm, Earl B., [redacted].
Roesener, Arlie K., [redacted].
Rogers, Albert G., [redacted].
Rogers, Craven C., Jr., [redacted].
Rogers, Robert G., [redacted].
Rohr, Davis C., [redacted].
Rokuhara, George, [redacted].
Rook, Dale A., [redacted].
Rosalia, Joseph A., [redacted].
Ross, Franklin A., [redacted].
Ross, Robert E., [redacted]

Roth, Frederic E., [redacted].
Rousseau, Lamont E., [redacted].
Roy, William T., [redacted].
Ruhsam, Hugh P., [redacted].
Rumley, Glenn B., Jr., [redacted].
Russell, Jay M., [redacted].
Russell, Robert H., [redacted].
Salem, Leroy J., [redacted].
Salziger, Roy E., [redacted].
Sawhill, Robert R., Jr., [redacted].
Scarano, Vincent T., [redacted].
Schaefer, Henry P., [redacted].
Schalk, Manfred A., [redacted].
Schenaker, Jack H., [redacted].
Schick, Donald E., Jr., [redacted].
Schmidt, Donald L., [redacted].
Schmidt, Edwin V., Jr., [redacted].
Schopen, Gerhard L., [redacted].
Schroder, Arthur H., [redacted].
Schroeder, John K., Jr., [redacted].
Schultz, Ernest G., [redacted].
Schultz, Paul G., [redacted].
Schwietz, Thomas E., [redacted].
Schwob, William T., [redacted].
Scott, William H., III, [redacted].
Sears, Michael T., [redacted].
Secord, Richard V., [redacted].
Sell, John R., [redacted].
Sensabaugh, Gerald R., Jr., [redacted].
Sestak, Joseph G., [redacted].
Sewall, Robert W., [redacted].
Seymour, Paul A., [redacted].
Seymour, William R., [redacted].
Shaffer, William R., [redacted].
Shaugnessy, Thomas R., [redacted].
Shawler, Wendell H., [redacted].
Shearer, Lowell E., [redacted].
Sheehan, Dennis T., [redacted].
Sheehan, Richard J., [redacted].
Shelton, Ray D., [redacted].
Sherer, John F., [redacted].
Shildt, Robert A., Jr., [redacted].
Shine, Francis M., [redacted].
Shortt, Gilbert E., III, [redacted].
Sibrel, John R., [redacted].
Simmons, Jimmie L., [redacted].
Simmons, Walter B., Jr., [redacted].
Simonet, Kenneth A., [redacted].
Simon, Kalman D., [redacted].
Simpson, Philip Y., [redacted].
Singer, Donald M., [redacted].
Sjaastad, Gerald D., [redacted].
Smart, Ford H., [redacted].
Smith, Allan C., [redacted].
Smith, Fendrick, J., Jr., [redacted].
Smith, Gilbert E., [redacted].
Smith, Howard H., [redacted].
Smith, Melvin R., [redacted].
Smith, Norman G., [redacted].
Smith, Richard J., [redacted].
Smith, Robert G., [redacted].
Smith, Thomas C., [redacted].
Smith, William A., [redacted].
Smith, Carl R., [redacted].
Smith, Curtis R., [redacted].
Smith, Perry M., [redacted].
Snowden, Richard M., [redacted].
Soscia, Louis J., [redacted].
Spannaus, Harry A., [redacted].
Spencer, Robert E., [redacted].
Spencer, Richard B., [redacted].
Spillers, Jack C., [redacted].
Spraker, Ralph E., [redacted].
Sproul, John L., [redacted].
Spruill, Dameron R., [redacted].
Stanley, A. D., [redacted].
Stanley, Verl R., [redacted].
Starrett, John P., [redacted].
Steele, Eugent W., [redacted].
Stellini, Edward, [redacted].
Stem, Taylor F., Jr., [redacted].
Stephenson, Cary D., [redacted].
Stephenson, Claude D., Jr., [redacted].
Sterling, Thomas J., [redacted].
Stevens, Robert E., [redacted].
Stewart, Ervin C., [redacted].
Stewart, James E., [redacted].
Stewart, John R., Jr., [redacted].
Stidnick, Wesley C., Jr., [redacted].
Streett, James K., [redacted].
Suggs, Jack W., [redacted].
Sullivan, Dwight E., [redacted].
Summers, Charles M., [redacted].
Suskin, Herbert J., [redacted].
Sutton, Everett M., [redacted].
Suver, James D., [redacted].
Sverha, Michael J., [redacted].
Swalm, Thomas S., [redacted].
Tague, Wendell C., [redacted].
Tallman, Oliver H., II, [redacted].
Tansley, Frank J., [redacted].
Taylor, Eugene T., [redacted].
Taylor, Harris J., [redacted].
Templeton, Marlin E., [redacted].
Terry, George H., Jr., [redacted].
Thayer, Richard H., [redacted].
Thigpen, John H., Jr., [redacted].
Thoburn, Russell E., [redacted].
Thomas, John P., [redacted].
Thomas, William C., [redacted].
Thompson, Edwin E., [redacted].
Thompson, James L., [redacted].
Thompson, James S., Jr., [redacted].
Thompson, Kenneth L., [redacted].
Thompson, Leslie G., [redacted].
Thurman, William E., [redacted].
Tipping, Henry A., [redacted].
Tixier, Edward L., [redacted].
Tobey, Bruce M., [redacted].
Tobin, John J., [redacted].
Todd, Edward L., [redacted].
Tomlinson, Frank J., [redacted].
Townsend, William R., [redacted].
Trabucco, Jack C., [redacted].
Tradup, Jean M., [redacted].
Trayer, George T., [redacted].
Tresemer, Gary L., [redacted].
Trochta, Joseph F., [redacted].
Truesdell, Willard M., [redacted].
Tuck, James E., [redacted].
Tucker, Leon R., [redacted].
Tullett, Jack E., [redacted].
Twinting, William T., [redacted].
Tyler, George E., [redacted].
Uhalt, Alfred H., Jr., [redacted].
Underwood, John D., [redacted].
Uppstrom, Richard L., [redacted].
Vallejo, Adam C., [redacted].
Vance, Alonzo A., Jr., [redacted].
Vandenberg, Duane E., [redacted].
Vandergriff, Burley O., II, [redacted].
Vaslef, Nicholas P., [redacted].
Vining, Robert W., [redacted].
Violette, Ronald L., [redacted].
Viscarra, Raymond M., [redacted].
Vissotzky, Raymond W., [redacted].
Vlach, William R., [redacted].
Vogel, Stephen J., [redacted].
Vollmer, Iver C., [redacted].
Volpe, John M., [redacted].
Vonhausen, William W., [redacted].
Wacker, Rudolph F., [redacted].
Waddell, Ralph D., Jr., [redacted].
Wade, William L., [redacted].
Wagner, John L., [redacted].
Walborn, Chester A., [redacted].
Walker, William O., [redacted].
Wallace, Edward C., [redacted].
Waller, Robert E., [redacted].
Walsh, Richard A., III, [redacted].
Walters, Alan B., [redacted].
Walters, Robert A., Jr., [redacted].
Walters, Robert O., [redacted].
Walton, John W., [redacted].
Ward, George M., [redacted].
Ward, Harrison M., Jr., [redacted].
Watson, Norman F., [redacted].
Watts, Keith P., [redacted].
Weber, James W., [redacted].
Webster, Everett H., [redacted].
Weed, Gordon H., [redacted].
Weigle, Raymond V., [redacted].
Welch, Jerry L., [redacted].
Welch, Thaddeus B., Jr., [redacted].
Wellington, Raymond, Jr., [redacted].
Wells, George W., [redacted].
Wells, Patrick G., [redacted].
Welsh, Leland M., [redacted].
Werbel, Jerome H., [redacted].
Wesbrook, Richard L., [redacted].
Wessen, Donald E., [redacted].
West, Henry M., [redacted].
West, Jerry G., [redacted].
Westbrook, Donald E., [redacted].
Westfall, Jack D., [redacted].
Wheeler, Alan D., [redacted].
Whelan, Paul A., [redacted].
White, Harold R., [redacted].
White, Lincoln L., [redacted].
Whitener, James A., [redacted].
Whitford, Lawrence W., Jr., [redacted].
Whittenberg, James E., [redacted].
Widney, James H., [redacted].
Wiegand, Karl L., [redacted].
Wieland, Paul L., [redacted].
Wiese, William A., [redacted].
Wilkins, Ramon C., [redacted].
Williams, Donald R., [redacted].
Williams, Edwin L., Jr., [redacted].
Williams, Richard E., [redacted].
Williams, Robert H., [redacted].
Williams, Thomas A., Jr., [redacted].
Williamson, Harry W., Jr., [redacted].
Willis, Howard G., [redacted].
Wilson, Robert D., [redacted].
Wilson, Thomas H., [redacted].
Wilson, William J., [redacted].
Winchell, Gerald J., [redacted].
Windland, Sara J., [redacted].
Wise, Lucien D., [redacted].
Wissman, William O., [redacted].
Wittenberg, Carl P., [redacted].
Wolff, Earle R., [redacted].
Wood, Patrick H., [redacted].
Woods, Jerry K., [redacted].
Woodward, Robert D., [redacted].
Worman, Wallace D., [redacted].
Wortman, Joseph B., [redacted].
Wortman, William B., [redacted].
Wright, Clifton D., Jr., [redacted].
Wright, Dwayne P., [redacted].
Wright, Gary G., [redacted].
Wright, Vernon L., [redacted].
Wrye, Blair C., [redacted].
Wuerz, Albert H., Jr., [redacted].
Wylam, John F., [redacted].
Yocum, John W., [redacted].
York, Charles A., [redacted].
Young, Edward D., [redacted].
Young, Frank R., III, [redacted].
Zavitz, Paul R., [redacted].
Zeigen, Robert S., [redacted].
Zeitner, Charles M., [redacted].
Zinkman, Gerald W., [redacted].
Zook, David M., Jr., [redacted].

CHAPLAINS

Boggs, William G., [redacted].
Bowers, George P., [redacted].
Burkey, Wayne L., [redacted].
Calkins, Raymond J., [redacted].
Cornellier, Edmond V., [redacted].
Dymmel, Elmer J., [redacted].
Hendricks, Robert E., [redacted].
Kiryluk, Nicholas T., [redacted].
Mattimore, William F., Jr., [redacted].
McCalmont, Daniel W., [redacted].
McElyea, Lemuel D., [redacted].
McGowan, John J., [redacted].
Meyer, Daryl G., [redacted].
Neumann, Thomas J., [redacted].
O'Leary, Cornelius P., [redacted].
Reider, Charles W., [redacted].
Rodell, Jeremiah J., [redacted].
Stuller, Joseph F., [redacted].
Swaffar, Ersmond, [redacted].
Viise, Michael G., [redacted].

DENTAL CORPS

Abrams, Herbert, [redacted].
Brendlinger, Darwin L., [redacted].
Bulman, Robert E., [redacted].
Christen, Arden G., [redacted].
Clark, William J., [redacted].
Dubois, Berton L., [redacted].
Esterl, Norman L., [redacted].
Fenex, Guy W., [redacted].
Fitch, Melvin G., [redacted].
Hope, Harley F., Jr., [redacted].
Hull, Caleb A., [redacted].
Jewson, Leonard G., [redacted].
Leslie, James C., [redacted].
McFee, Conrad E., [redacted].
Metzger, Donald E., [redacted].

Mielke, William I., [redacted].
Ohta, Ralph M., [redacted].
Parkel, Charles O., Jr., [redacted].
Podlin, Bernard F., [redacted].
Roche, William C., [redacted].
Salimeno, Thomas, Jr., [redacted].
Seamons, Dick C., [redacted].
Shaw, Fred A., Jr., [redacted].
Solinski, Robert T., [redacted].
Takacs, William J., [redacted].
Wellner, Charles R., [redacted].
Wilkinson, Edward G., [redacted].
Willarson, Kenney L., [redacted].

NURSE CORPS

Bakken, Elvira C., [redacted].
Ball, Rita J., [redacted].
Collavo, Laverne M., [redacted].
Crown, Mary F. G., [redacted].
Edmonds, Ruth E., [redacted].
Knox, Barbara E., [redacted].
McCleary, Carol M., [redacted].
Parcells, Phyllis P., [redacted].
Seymour, Joanne, [redacted].
Sones, Betty J., [redacted].
Thomas, Georgia M., [redacted].
Tucker, Pearl E., [redacted].
Wallace, Mary E., [redacted].

MEDICAL SERVICE CORPS

Ashlin, Clarence L., [redacted].
Chamberlin, Morrison E., [redacted].
Clarry, Robert W., [redacted].
Colon, Howard, [redacted].
Cox, Paul S., [redacted].
Hadley, Neil B., [redacted].
Jones, Bruce, [redacted].
Kaye, George A., [redacted].
Neubrand, William G., [redacted].
Scolaro, Dominic C., [redacted].
Trimble, Ralph A., Jr., [redacted].
Tustison, Donald F., [redacted].
Urquia, Alfred P., [redacted].
Wagner, Donald B., [redacted].

VETERINARY CORPS

Fuller, Charles E., [redacted].
Heidelbaugh, Norman D., [redacted].
Howells, William V., [redacted].
Husted, Paul W., [redacted].
McCully, Robert M., [redacted].
Williams, Joe T., [redacted].

BIOMEDICAL SCIENCES CORPS

Beatty, Maxine, [redacted].
McCambridge, John J., [redacted].
Robertson, William J., [redacted].
Stuckman, Lorraine E., [redacted].

IN THE AIR FORCE

The following named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

Major to lieutenant colonel

LINE OF THE AIR FORCE

Abel, Richard F., [redacted].
Achor, John N., [redacted].
Acres, Robert D., [redacted].
Adams, Francis R., Jr., [redacted].
Adams, Lewis R., [redacted].
Adams, Paul P., [redacted].
Adcock, Billy D., [redacted].
Aiken, James R., [redacted].
Albers, Bernard F., [redacted].
Aldrich, Richard B., [redacted].
Alexander, Ronald S., [redacted].
Alexander, William D., [redacted].
Alleman, Fred L., [redacted].
Allen, Melvin A., [redacted].
Allfrey, William D., [redacted].
Alser, Donald J., [redacted].
Altieri, Michael A., [redacted].
Amundson, John D., [redacted].
Anderson, B. C., Jr., [redacted].
Anderson, Billy W., [redacted].
Anderson, Darrell L., [redacted].
Anderson, David D., [redacted].
Anderson, David L., [redacted].
Anderson, George M., [redacted].
Anderson, Jerry B., [redacted].
Anderson, John M., [redacted].
Anderson, Richard D., [redacted].
Angel, Harvey D., [redacted].
Ankerstar, Bradley D., [redacted].
Anthony, Alexander E., Jr., [redacted].
Appel, Bernard, [redacted].
Applebaugh, Robert G., [redacted].
Archer, James B., [redacted].
Arnet, Charles D., [redacted].
Arnold, Edwin A., [redacted].
Attarian, Peter J., [redacted].
Austin, Larry M., [redacted].
Avila, Miguel A., [redacted].
Aviles, Arturo, Jr., [redacted].
Azamar, Arnold A., [redacted].
Azure, Anthony E., [redacted].
Bachman, Kenneth J., [redacted].
Bailes, Onnie L., Jr., [redacted].
Baird, David M., [redacted].
Baird, George F., [redacted].
Baird, Keith M., [redacted].
Baird, Kenneth R., [redacted].
Baird, William F., Jr., [redacted].
Baker, Thomas A., [redacted].
Baldasari, Paul, [redacted].
Balko, Curtis P., [redacted].
Ballinger, Russell H., [redacted].
Banks, Marlon C., [redacted].
Bannon, John P., [redacted].
Barker, Ronald L., [redacted].
Barnes, Richard J., [redacted].
Barnes, Walter E., III, [redacted].
Barney, Robert L., [redacted].
Barnum, Dale C., [redacted].
Barrott, Philip J., [redacted].
Bartholomew, Owen, [redacted].
Barton, George C., [redacted].
Baskett, Silas R., [redacted].
Bass, Thomas D., [redacted].
Batson, Billy W., [redacted].
Bauer, Fred L., [redacted].
Baugh, William J., [redacted].
Baumgartner, Daniel J., [redacted].
Baxter, Edward G., [redacted].
Beall, Charles B., Jr., [redacted].
Beall, George S., [redacted].
Beamer, Harold F., [redacted].
Beckett, Roderick G., [redacted].
Beckley, Jerry S., [redacted].
Belinne, Francis, [redacted].
Bell, Jimmie E., [redacted].
Bellion, Clement E., Jr., [redacted].
Bender, Leo H., [redacted].
Benedict, Ronald J., [redacted].
Bengston, Don S., [redacted].
Benson, Lonnie D., [redacted].
Benson, Ronald N., [redacted].
Berger, Lawrence W., [redacted].
Bergman, Arthur J., [redacted].
Bernal, Albert M., Jr., [redacted].
Berroth, Karl G., Jr., [redacted].
Berry, Gilbert L., [redacted].
Biehn, Paul T., [redacted].
Bilich, Melvin W., [redacted].
Billings, Wilbur D., [redacted].
Billington, George R., [redacted].
Bills, Alfred E., [redacted].
Bilott, Raymond L., [redacted].
Bird, Lewis L., Jr., [redacted].
Bittaker, Joe R., [redacted].
Bittrolff, Eugene E., [redacted].
Bixby, Marvin D., [redacted].
Bjorkman, Paul H., [redacted].
Black, William H., [redacted].
Blackwell, William B., [redacted].
Blair, Richard L., [redacted].
Blair, William D., [redacted].
Blake, Donald P., [redacted].
Blake, Jule J., [redacted].
Blake, Robert E., [redacted].
Blakely, Norman D., [redacted].
Blandford, James C., [redacted].
Bliss, Alonzo O., III, [redacted].
Bliss, Theodore E., [redacted].
Blocher, Robert M., [redacted].
Bloom, James M., [redacted].
Blossman, Eugene S., Jr., [redacted].
Blum, Joseph J., [redacted].
Bobbitt, Jack W., [redacted].
Boe, Harold T., [redacted].
Bogiages, Christos C., Jr., [redacted].
Boice, Russell T., Jr., [redacted].
Boisvert, Donald H., [redacted].
Boivin, Richard H., [redacted].
Bolstad, Richard E., [redacted].
Bolte, Wayne L., [redacted].
Bonderer, Lawrence F., [redacted].
Bouckholdt, John C., [redacted].
Bonne, Joe, [redacted].
Boone, Orville B., Jr., [redacted].
Bonne, Roland T., [redacted].
Boos, Albert G., III, [redacted].
Boots, Thomas E., [redacted].
Borden, Wallace O., [redacted].
Borel, James C., [redacted].
Borkholm, Christian A., Jr., [redacted].
Bors, Joseph C., [redacted].
Boshoven, Bernard W., [redacted].
Bouldin, Ronnie O., [redacted].
Bourgeois, James E., [redacted].
Bouse, David L., [redacted].
Bowden, Roger W., [redacted].
Bowman, Alfred C., Jr., [redacted].
Bowman, Robert U., [redacted].
Boyd, Harry V., [redacted].
Boydstone, James B., [redacted].
Boyle, Thomas E., [redacted].
Bozzetti, Teodoro, [redacted].
Brabson, George D., [redacted].
Bradley, James P., Jr., [redacted].
Bradshaw, Robert G., Jr., [redacted].
Brannan, Stephen E., [redacted].
Branson, Duane E., [redacted].
Branton, Charles E., [redacted].
Brattkus, Arthur L., [redacted].
Bregman, Morton, [redacted].
Breslin, Leo H., [redacted].
Bridges, Edward S., II, [redacted].
Brigman, David A., [redacted].
Brindley, Gary W., [redacted].
Briston, John L., [redacted].
Brown, Bevan H., [redacted].
Brown, Charles J., [redacted].
Brown, Charles R., [redacted].
Brown, David R., [redacted].
Brown, Melvin F., [redacted].
Broxterman, David C., [redacted].
Bruce, Clarence K., [redacted].
Bruckner, Donald G., [redacted].
Brug, Walter J., Jr., [redacted].
Bryars, James B., [redacted].
Buchert, Ronald V., [redacted].
Buck, Irving L., [redacted].
Buck, Norman C., [redacted].
Buckelew, Jesse W., [redacted].
Buehler, Daniel W., [redacted].
Bull, Ernest R., Jr., [redacted].
Bulmer, Gail T., [redacted].
Bunn, Lionel D., Jr., [redacted].
Burcham, Roy D., [redacted].
Burchard, John C., [redacted].
Burdsall, Gary E., [redacted].
Burger, Arthur F., [redacted].
Burger, Donald W., [redacted].
Burhans, Edmund D., II, [redacted].
Burnett, James L., III, [redacted].
Burns, Charles D., [redacted].
Burns, Ralph W., Jr., [redacted].
Burns, Theodore A., Jr., [redacted].
Burt, David N., [redacted].
Burt, John W., [redacted].
Burton, Richard W., [redacted].
Butler, Alva J., [redacted].
Butler, Samuel M., [redacted].
Butler, William N., [redacted].
Butterfield, Robert L., [redacted].
Buxton, Harris H., II, [redacted].
Buyher, Loren L., [redacted].
Byrum, Paul B., Jr., [redacted].
Calbi, Vincent D., [redacted].
Caldwell, Robert W., Jr., [redacted].
Calkins, Ronald R., [redacted].
Callaghan, James T., [redacted].
Callahan, Hiram J., [redacted].
Callahan, Joseph T., Jr., [redacted].
Calton, Aubrey L., Jr., [redacted].
Cammalleri, Joseph A., [redacted].
Campis, Joel R., [redacted].
Canady, Robert M., [redacted].
Cannon, Howard R., [redacted].
Canterbury, Henry D., [redacted].
Capper, Calvin W., [redacted].
Carew, Gene A., [redacted].
Carey, William W., [redacted].

Carino, James P., Jr., [redacted].
Carlino, Victor J., [redacted].
Carlson, Eugene R., [redacted].
Carlson, Henry A., [redacted].
Carlson, Philip D., [redacted].
Carner, Paul R., [redacted].
Carns, Michael P. C., [redacted].
Carpenter, Edmund H., Jr., [redacted].
Carpenter, James T., [redacted].
Carter, Charles E., [redacted].
Cartwright, James W., [redacted].
Cassell, Jack R., [redacted].
Cassingham, Delmar E., [redacted].
Casteel, John H., [redacted].
Cavanaugh, Donald E., [redacted].
Cebehabersky, Jack V., [redacted].
Centofanti, Joseph J., [redacted].
Chaffee, Philip, [redacted].
Chambers, John L., [redacted].
Chan, Keylor, [redacted].
Cheney, Everett A., [redacted].
Cherry, Billy O., [redacted].
Cherry, Donald N., [redacted].
Chess, William E., [redacted].
Christensen, Allan R., [redacted].
Christopher, Archie D., [redacted].
Chumard, Robert L., [redacted].
Ciucci, John A., [redacted].
Clark, Zack C., [redacted].
Clayton, Robert B., [redacted].
Clemens, Ralph O., Jr., [redacted].
Clemens, Robert N., [redacted].
Clemons, Leroy S., [redacted].
Clendenen, James D., [redacted].
Cleveland, Frederick H., [redacted].
Cleveland, Raymond H., [redacted].
Clifford, Robert R., [redacted].
Clinger, Harold C., [redacted].
Clonts, Darold W., [redacted].
Coan, Richard H., [redacted].
Coats, George E., [redacted].
Cobb, Billy J., [redacted].
Cobb, Jerry D., [redacted].
Cochran, John M., [redacted].
Cody, Leonard S., [redacted].
Cody, Thomas J., Jr., [redacted].
Coffee, Richard, [redacted].
Coffield, Dallas B., Jr., [redacted].
Colburn, Ned D., [redacted].
Coleman, Charles D., [redacted].
Coleman, Gary L., [redacted].
Collins, John B., [redacted].
Collins, Michael J., [redacted].
Colman, Thomas M., [redacted].
Coltman, William C., [redacted].
Colwick, Harold D., [redacted].
Compton, Jack B., [redacted].
Conn, Donald N., [redacted].
Connelly, Gerald H., [redacted].
Connor, Lester E., [redacted].
Conroy, James E., [redacted].
Constantine, William M., [redacted].
Coody, Leslie H., Jr., [redacted].
Cooper, David D., [redacted].
Corbell, Robert R., II, [redacted].
Corbin, Richard B., Jr., [redacted].
Corder, John A., [redacted].
Corlett, Robert M., [redacted].
Corman, Nathan H., Jr. [redacted].
Corrigan, William J., [redacted].
Coryell, Kendrick S., [redacted].
Cosentino, Henry J., [redacted].
Costin, James L., [redacted].
Coulston, Gerald O., [redacted].
Coulter, Richard P., [redacted].
Coursen, Franklin H., [redacted].
Couture, Donald J., [redacted].
Coville, David W., [redacted].
Cox, Clyde D., [redacted].
Cox, Eldon W., [redacted].
Cox, Hugh L., III, [redacted].
Cox, Roy L., [redacted].
Crabtree, C. L., [redacted].
Craft, Arthur H., Jr., [redacted].
Crafton, William T., III, [redacted].
Cragin, John D., [redacted].
Craig, John E., II, [redacted].
Craig, Thomas L., [redacted].
Crandall, Edmund H., [redacted].
Crane, William M., [redacted].
Crase, Roland B., [redacted].
Crawford, Michael B., [redacted].
Crider, Manley W., Jr., [redacted].
Crist, Richard A., [redacted].
Cromer, Donald L., [redacted].
Crotty, Patrick B., [redacted].
Crowley, Lawrence W., [redacted].
Crum, Arthur F., Jr., [redacted].
Cummings, Richard L., [redacted].
Cummings, William F., [redacted].
Cupka, Albert G., Jr., [redacted].
Currie, Brian H., [redacted].
Curtis, Thomas H., [redacted].
Cusick, Paul B., [redacted].
Czech, Donald R., [redacted].
Daisley, Roger W., [redacted].
Dale, Jack N. M., [redacted].
Dalfonso, Edward V., [redacted].
Dalton, Windal K., [redacted].
Daly, Gerald J., [redacted].
Dander, Vernon A., [redacted].
Dannenbring, Robert E., [redacted].
Darrow, Lyle E., [redacted].
Dater, Walton F., Jr., [redacted].
Davenport, Ronald L., [redacted].
Davey, Thomas E., [redacted].
Davidson, Alexander K, [redacted].
Davis, Dempsie A., Jr., [redacted].
Davis, Douglas R., [redacted].
Davis, Frank R., [redacted].
Davis, Irving C., [redacted].
Davis, John O., [redacted].
Davis, Laurence R., [redacted].
Davis, William R., [redacted].
Davison, Russell L., [redacted].
Day, Jay B., [redacted].
Dayley, James H., [redacted].
Deal, Jack E., [redacted].
Dean, Jon W., [redacted].
Decell, George M., III, [redacted].
Deken, George T., [redacted].
Delauter, Donald R., [redacted].
Delorenzo, Robert A., [redacted].
Dencklau, Everett E., [redacted].
Denezza, Eugene J., [redacted].
Denham, Walter S., Jr., [redacted].
Denisio, Carl B., [redacted].
Dennany, James E., [redacted].
Denninger, Valentine L., [redacted].
Denniston, Joseph F., [redacted].
Dent, Frederick R., III, [redacted].
Derbin, Anthony W., Jr., [redacted].
Derrick, Thales A., [redacted].
Desaulniers, Eugene R., [redacted].
Dettmer, John W., [redacted].
Devany, James V., [redacted].
Dezutter, James E., [redacted].
Dick, Gary L., [redacted].
Diebolt, Mark T., [redacted].
Diehl, William C. Jr., [redacted].
Diessner, Oscar G. Jr., [redacted].
Dietz, Arthur H., [redacted].
Dillard, Billy L., [redacted].
Dillard, Edward, [redacted].
Dillingham, Larry D., [redacted].
Dillon, William M., [redacted].
Dishong, Clyde E., [redacted].
Dixon, William D., [redacted].
Dockins, Orme L., [redacted].
Dodd, Claude S. Jr., [redacted].
Doll, Paul N., [redacted].
Donoghue, Vincent J., Jr., [redacted].
Donovan, Robert T., [redacted].
Doub, Logan J., [redacted].
Downey, Clark H., Jr., [redacted].
Downs, Robert A., [redacted].
Doyle, William H., [redacted].
Dramesi, John A., [redacted].
Drumheller, Ernest C., [redacted].
Drury, Richard T., [redacted].
Duff, Howard J., [redacted].
Duffy, James F., [redacted].
Duffy, Robert T., [redacted].
Dunn, Robert D., [redacted].
Durio, Donn L., [redacted].
Durning, Patrick F., [redacted].
Dutton, Charles J., [redacted].
Dutton, John A., [redacted].
Duval, James R., [redacted].
Dwyer, Gerald T., [redacted].
Dwyer, Michael J., Jr., [redacted].
Dyer, Robert J., [redacted].
Dysart, Glenn D., [redacted].
Eagle, James D., [redacted].
East, Jerome A., [redacted].
Eastabrooks, Willis E., [redacted].
Easton, Lester E., [redacted].
Eaves, William L., [redacted].
Ebner, Stanley G., [redacted].
Echevarria, Ramon L., [redacted].
Edsall, Philip V., [redacted].
Edwards, Richard C., [redacted].
Eigel, Thomas J., [redacted].
Elder, Joe D., [redacted].
Eliot, Bradfield F., [redacted].
Ellington, Jerald W., [redacted].
Elliott, Donald A., [redacted].
Elliott, John E., [redacted].
Ellis, Bobby M., [redacted].
Elmer, James D., [redacted].
Embry, James C., [redacted].
Emmons, Robert H., Jr., [redacted].
Englund, David B., [redacted].
Erl, James P., [redacted].
Erickson, Carl G., Jr., [redacted].
Erickson, Ragnar, E., [redacted].
Ericson, Bill D., [redacted].
Evans, Donald L., [redacted].
Everman, Russell D., [redacted].
Evers, Robert L., [redacted].
Falk, Neil R., [redacted].
Fantaski, James F., [redacted].
Farmer, Norman L., [redacted].
Farris, Robert H., [redacted].
Faurer, Theodore M., [redacted].
Fay, Elvir A., [redacted].
Fay, Peter G., [redacted].
Feaster, Richard V., [redacted].
Feldmann, John E., [redacted].
Fender, Johnny C., [redacted].
Fenstermacher, Gene, [redacted].
Ferguson, Thomas R., Jr., [redacted].
Ferguson, William R., [redacted].
Fernald, Richard T., [redacted].
Ferrata, John B., Jr., [redacted].
Ferrell, Floyd J., Jr., [redacted].
Ferrell, Furman C., [redacted].
Fetherston, David E., [redacted].
Fidler, Joseph E., [redacted].
Field, Kenneth W., [redacted].
Fields, Thomas E., [redacted].
Figge, Freddie W., [redacted].
Fillmore, Leland R., [redacted].
Finck, George C., [redacted].
Fine, Frederick R., [redacted].
Fink, William W., Jr., [redacted].
Firmin, Wade E., [redacted].
Fischer, Charles E., [redacted].
Fischer, James W., [redacted].
Fischer, Raymond R., [redacted].
Fisher, Edward J., [redacted].
Fisher, Henry B., Jr., [redacted].
Fisher, Philip R., Jr., [redacted].
Fisher, Richard D., [redacted].
Fisher, Robert H., [redacted].
Fitzgerald, Larry D., [redacted].
Fitzsimmons, James M., [redacted].
Fleming, Robert E., [redacted].
Fletcher, Markwell A., Jr., [redacted].
Foley, Paul F., [redacted].
Folts, Lavens D., [redacted].
Foray, John, [redacted].
Forbrick, John W., [redacted].
Ford, Clifford G., [redacted].
Forgas, James A., [redacted].
Forman, Richard T., [redacted].
Fornia, Robert F., [redacted].
Forrest, James C., [redacted].
Forshee, Loahman E., [redacted].
Forsyth, James L., [redacted].
Foster, James P., Jr., [redacted].
Foster, Raymond L., [redacted].
Fouts, Joe C., [redacted].
Frank, Vernon E., [redacted].
Franklin, Irl L., [redacted].
Franklin, Rodney E., [redacted].
Frantz, Harry R., [redacted].
Franz, Thomas E., [redacted].
Frazee, Donald W., [redacted].
Frazelle, Billy J., [redacted].
Frederick, Philip K., Jr., [redacted].
Freytag, James E., [redacted].
Friday, Elbert W., Jr., [redacted].

Friedman, Gerald J., [redacted].
Friedman, Joseph C., [redacted].
Friedman, Marvin A., [redacted].
Fries, Malcolm G., [redacted].
Frogge, James H., [redacted].
Fulton, Robert H., Jr., [redacted].
Funk, James W., [redacted].
Furukawa, Stanley Y., [redacted].
Gabel, Grant E., [redacted].
Gagliano, Joseph, A. N., [redacted].
Gagne, Richard, [redacted].
Gaillardetz, Roger P., [redacted].
Gamlin, Richard A., [redacted].
Gangol, Anthony J., [redacted].
Garber, Meyer, [redacted].
Gardner, Henry P., [redacted].
Gargus, John, [redacted].
Garrett, Clarence M., Jr., [redacted].
Garrett, Lewis E., [redacted].
Garrison, Robert D., [redacted].
Gatchel, Donald V., [redacted].
Gaude, Henry R., [redacted].
Gavitt, William F., Jr., [redacted].
Geiger, Robert B., Jr., [redacted].
George, Benjamin W., [redacted].
Gerard, Richard C., [redacted].
Gibbons, William J., [redacted].
Gibson, Thomas N., III, [redacted].
Gibson, William G., [redacted].
Gierhart, Loran W., [redacted].
Gift, Ivan J., [redacted].
Gilchrist, John R., [redacted].
Gilfillan, Joseph, III, [redacted].
Gilhooly, David P., [redacted].
Gillespie, Ronald W., [redacted].
Gillett, Arthur J., [redacted].
Glenn, Lloyd F., Jr., [redacted].
Glenny, Clinton M., [redacted].
Glover, John A., [redacted].
Glover, John A., [redacted].
Goble, Joseph H., [redacted].
Goble, Lloyd N., [redacted].
Goddard, Dean S., [redacted].
Goertz, Robert D., [redacted].
Goetze, Richard B., Jr., [redacted].
Gogal, Robert M., [redacted].
Golder, Theodore W., [redacted].
Goldsborough, Larry G., [redacted].
Goldstein, Stanley E., [redacted].
Gollehon, George B., [redacted].
Gollnick, William H., [redacted].
Gomez, Kerry, [redacted].
Goodwin, Roy M., [redacted].
Gorkowski, Harlyn R., [redacted].
Gorman, James L., [redacted].
Gosse, Eugene L., [redacted].
Gossett, Robert W., Jr., [redacted].
Grabowsky, Richard F., [redacted].
Grace, Joe B., [redacted].
Gramer, George E., Jr., [redacted].
Grassberger, Robert E., [redacted].
Gray, Allen W., [redacted].
Gray, Charles W., [redacted].
Gray, Russell W., Jr., [redacted].
Green, Merrill A., Jr., [redacted].
Greene, Robert M., [redacted].
Greenwood, Charles D., [redacted].
Greenwood, Edwin L., [redacted].
Gregan, James E., [redacted].
Gregory, Leland H., Jr., [redacted].
Greisen, Paul H., [redacted].
Greseth, Benoyne S., [redacted].
Gresham, Elwin C., [redacted].
Griffith, Glenn A., [redacted].
Grillo, Thomas, Jr., [redacted].
Grimaud, Maurice L., [redacted].
Grimmig, Paul L., [redacted].
Grosh, Karl H., [redacted].
Gross, Daivd I., [redacted].
Grutzik, Robert E., [redacted].
Grygotis, Joseph E., Jr., [redacted].
Guess, Terry J., [redacted].
Guillory, Mark M., [redacted].
Guimont, Roy A., Jr., [redacted].
Guinchard, Claude J., [redacted].
Gulley, Charles B., [redacted].
Gumbrecht, George E., [redacted].
Gunby, James F., Jr., [redacted].
Guthals, Wesley J., [redacted].
Guzik, Francis E., [redacted].
Guzman, Miguel A., [redacted].
Haag, Edward W., [redacted].
Haas, Phillip E., [redacted].
Haber, Fredrich J., [redacted].
Hablas, Louis J., Jr., [redacted].
Haddad, Albert G., [redacted].
Haeusler, Dean R., [redacted].
Hager, John A., [redacted].
Haldeman, Robert B., [redacted].
Hale, Jerry W., [redacted].
Haley, John W., III, [redacted].
Hall, Charles E., [redacted].
Hall, Earl R., [redacted].
Hall, Henry V., [redacted].
Hall, James W., [redacted].
Hall, Ronald K., [redacted].
Hallawell, Joseph F., Jr., [redacted].
Hamel, Norman A., [redacted].
Hamill, William G., [redacted].
Hamilton, Douglas E., [redacted].
Hamilton, Eugene D., [redacted].
Hamilton, Eugene M., [redacted].
Hamilton, Richard A., [redacted].
Hammett, Bobby F., [redacted].
Hammond, Constance, [redacted].
Hammond, George R., [redacted].
Hampton, John A., [redacted].
Hancher, Fred, [redacted].
Hancock, Jerry B., [redacted].
Hancock, Murray J., Jr., [redacted].
Handley, Erwin C., [redacted].
Haney, Charles W., [redacted].
Hanley, Edward E., III, [redacted].
Hannah, Gerald J., [redacted].
Hansen, Edmund E., [redacted].
Hansen, Richard C., [redacted].
Hansen, Walter, [redacted].
Hanson, Troy L., [redacted].
Harclerode, Donal W., [redacted].
Harding, Ralph M., Jr., [redacted].
Hargrove, Donald R., [redacted].
Harms, William R., [redacted].
Harper, Dennis M., [redacted].
Harris, Fredric J., [redacted].
Harris, Harry G., [redacted].
Harris, Richard G., [redacted].
Harrison, John M., [redacted].
Harrop, Joseph W., [redacted].
Hartke, Richard H., [redacted].
Hartman, Bernard D., [redacted].
Hartman, Charles W., [redacted].
Haskett, William R., [redacted].
Hass, Paul H., [redacted].
Hathcock, James R., [redacted].
Hausmann, Frank W., [redacted].
Hawkins, Douglas W., [redacted].
Hayes, Harry D., [redacted].
Hays, Cloyd A., [redacted].
Hayward, Douglas B., [redacted].
Head, Richard G., [redacted].
Healea, Fred E., Jr., [redacted].
Healy, Charles M., Jr., [redacted].
Heard, Allan P., [redacted].
Heath, Charley W., [redacted].
Heberly, Elwood A., [redacted].
Heckel, Gayle D., [redacted].
Hedges, Eugene M., [redacted].
Heermann, Henry W., [redacted].
Heitkamp, Dennis M., [redacted].
Hejde, Daniel I., [redacted].
Helms, Patrick G., [redacted].
Hendrick, Hal W., [redacted].
Hennigan, George R., [redacted].
Henry, Reynold N., [redacted].
Hernandez, John E., [redacted].
Herr, Ronald H., [redacted].
Herzog, Otto J., [redacted].
Heske, William J., [redacted].
Heston, Earl T., [redacted].
Hetherington, James R., [redacted].
Hetand, Joel S., [redacted].
Hibarger, Robert W., [redacted].
Hibbard, Derrick C., [redacted].
Hicke, Thomas A., [redacted].
Hickey, Zachariah J., [redacted].
Hickman, Eugene T., [redacted].
Hicks, George T. E., [redacted].
Hiestand, David E., [redacted].
Higginbotham, Jon D., [redacted].
Hilgenberg, John F., [redacted].
Hill, Henry C., [redacted].
Hill, Marvin C., [redacted].
Himmer, Jerome D., [redacted].
Hinman, Robert B., [redacted].
Hinnant, James M., Jr., [redacted].
Hinson, Travis L., [redacted].
Hipp, Joe W., [redacted].
Hippler, Robert R., III, [redacted].
Hirsch, Harvey J., [redacted].
Hodges, Seth B., [redacted].
Hoelzer, Ronald N., [redacted].
Hoenig, Willia B., Jr., [redacted].
Hoff, Thomas S., [redacted].
Holland, William H., [redacted].
Hollingsworth, Gene I., [redacted].
Hollis, Donald R., [redacted].
Holme, Melvin R., [redacted].
Holmes, Jerry D., [redacted].
Holt, James N., [redacted].
Holte, Roger L., [redacted].
Holzwarth, Vernon A., [redacted].
Hopewell, Fred N., [redacted].
Hopkins, Duane L., [redacted].
Hoppe, Jerry W., [redacted].
Horn, Richard A., [redacted].
Hornbarger, Harold A., [redacted].
Horney, Warren R., [redacted].
Hoskinson, Robert E., [redacted].
Hostvedt, David H., [redacted].
Houck, George F., Jr., [redacted].
Houston, Fred K., [redacted].
Howard, Archer H., [redacted].
Howard, Barry J., [redacted].
Howard, Garnet R., [redacted].
Howard, Worth D., [redacted].
Howell, Frank W., [redacted].
Hoyer, Lowry O., [redacted].
Hrdlicka, David L., [redacted].
Hruby, Robert L., [redacted].
Hubbard, Lawrence R., [redacted].
Hubrich, Max L., [redacted].
Huddle, Robert M., [redacted].
Hudson, John W., [redacted].
Hudson, Larry E., [redacted].
Huff, Frank E., [redacted].
Hughes, Dale L., [redacted].
Hughes, Jesse W., Jr., [redacted].
Hugo, Walter D., Jr., [redacted].
Hugo, William L., Jr., [redacted].
Hull, Wendell R., [redacted].
Hummon, Guy A., II, [redacted].
Humphries, Smith C., Jr., [redacted].
Hunger, Francis D., [redacted].
Hunt, Dick T., [redacted].
Hunt, Homer R., [redacted].
Hurst, Gerald B., [redacted].
Hurt, Thomas E., [redacted].
Huson, Albert C., [redacted].
Hutchison, Daniel B., [redacted].
Hylton, Robert E., [redacted].
Ihle, Bruce R., [redacted].
Ingold, Harry W., [redacted].
Intille, Michael J., [redacted].
Irwin, Gerald L., [redacted].
Iseman, Billy E., [redacted].
Itzen, Donald A., [redacted].
Jackson, Donald E., [redacted].
Jackson, Forrest E., [redacted].
Jackson, George G., [redacted].
Jackson, Leslie G., [redacted].
Jackson, Tom W., [redacted].
Jackson, William A., [redacted].
Jacoboski, Alois L., Jr., [redacted].
Jacobs, Harold L., [redacted].
Jacobs, John E., [redacted].
James, Clifford A., [redacted].
James, Don L., [redacted].
James, Robert N., [redacted].
Janes, Norman W., [redacted].
Jankowski, John A., [redacted].
Jarnagin, Jerry L., [redacted].
Jarvis, Richard J., [redacted].
Jassmann, Franklin E., [redacted].
Jay, Jimmie L., [redacted].
Jenkins, James R., [redacted].
Jenks, Bert L., [redacted].
Jennings, Hollis L., Jr., [redacted].
Jensen, Norman K., [redacted].
Jensen, Ted W., [redacted].
Johnson, Andrew L., [redacted].
Johnson, Barrett V., [redacted].
Johnson, Billie H., [redacted].
Johnson, Darvin D., [redacted].

Johnson, Deward, [redacted].
Johnson, Ernest E., [redacted].
Johnson, Eugene, [redacted].
Johnson, Gerald E., [redacted].
Johnson, Gerald F., [redacted].
Johnson, Herbert P., Jr., [redacted].
Johnson, John T., [redacted].
Johnson, Kenneth R., [redacted].
Johnson, Leary J., [redacted].
Johnson, Leo J., [redacted].
Johnson, Richelieu N., [redacted].
Johnson, Thomas L., [redacted].
Johnson, Willard F., [redacted].
Johnson, William B., [redacted].
Johnston, Jerry R., [redacted].
Johnston, Reginald L., [redacted].
Jones, Frederic G., [redacted].
Jones, George L., III, [redacted].
Jones, Gerald L., [redacted].
Jones, John C., [redacted].
Jones, Marvin L., [redacted].
Jones, Michael S., [redacted].
Jones, Richard W., Jr., III, [redacted].
Jones, Wilbur R., [redacted].
Jones, William A., [redacted].
Jordahl, Donald C., [redacted].
Jorris, Terry R., [redacted].
Joyce, James J., [redacted].
Judd, Frederick A., [redacted].
Jumper, Howard D., [redacted].
Jundt, Charles H., [redacted].
Justeson, George R., [redacted].
Kadera, Ronald R., [redacted].
Kakacek, John G., [redacted].
Kamhoot, Norman B., [redacted].
Kamp, James J., Jr., [redacted].
Karch, Clifford A., [redacted].
Karges, Donald D., [redacted].
Karras, Nicholas P., [redacted].
Kasper, Richard L., [redacted].
Katz, Stephen E., [redacted].
Kauffman, Richard H., [redacted].
Kaufman, Stephen M., [redacted].
Kautz, James G., [redacted].
Kean, Jerry J., [redacted].
Keating, John E., [redacted].
Kesee, Denis E. A., [redacted].
Kelly, Robert J., [redacted].
Kelm, James E., [redacted].
Kendall, Lisle G., Jr., [redacted].
Kennedy, Eugene C., [redacted].
Kenyon, Forrest L., [redacted].
Kern, David C., [redacted].
Kerr, Henry F., Jr., [redacted].
Kersey, George A., Jr., [redacted].
Kerzon, Warren J., [redacted].
Kilborn, John M., [redacted].
Kimball, Harry H., [redacted].
Kimber, Bruce, [redacted].
Kincaid, Don B., [redacted].
Kincaid, William A., [redacted].
Kinder, Richard J., [redacted].
King, Frederick M., [redacted].
King, John J., [redacted].
King, Norwood J., [redacted].
Kinkele, John W., [redacted].
Kirchgessner, Thomas E., [redacted].
Kitch, John I., Jr., [redacted].
Klaus, Charles G. II, [redacted].
Klaus, James G., Jr., [redacted].
Klein, John E., [redacted].
Kneen, John B., [redacted].
Koerkenmeier, Leo J., [redacted].
Kohlhaas, Richard L., [redacted].
Kolm, Fred S., [redacted].
Konyn, Bernard J., [redacted].
Koopman, Howard W., [redacted].
Kopf, John R., [redacted].
Kopp, Donald G., [redacted].
Koppen, Eldridge C., Jr., [redacted].
Korte, Quentin W., [redacted].
Kotellos, Harry, [redacted].
Koval, Frank N., [redacted].
Kowalewski, Casimir L., [redacted].
Kowalewski, Stephen L., [redacted].
Kraemer, Karl P., [redacted].
Kraus, Edwin J., [redacted].
Krause, Donald G., [redacted].
Krawetz, Barton, [redacted].
Kristoff, Edward J., Jr., [redacted].
Kroenke, Leon J., [redacted].
Krone, Norris J., Jr., [redacted].
Krumback, Randall L., [redacted].
Kubala, Ferdinand J., [redacted].
Kuiper, Richard L., [redacted].
Kulp, Charles G., Jr., [redacted].
Kurtak, John S., [redacted].
Kusel, Jimie, [redacted].
Kwortnik, John C., [redacted].
Laffitte, Morgan B., [redacted].
Lake, Jerome G., [redacted].
Lally, John J., [redacted].
Lambert, Alfred L., [redacted].
Lambrides, Paul D., [redacted].
Land, Charles P., [redacted].
Land, Peter A., [redacted].
Lane, Peter B., [redacted].
Lang, Allen D., [redacted].
Lange, Gary E., [redacted].
Langston, Donald W., [redacted].
Larson, Carl E., [redacted].
Larson, Edward, [redacted].
Larson, Elmer J., [redacted].
Larson, Oliver W., [redacted].
Lassagne, Theodore D., [redacted].
Laudise, Ernest T., [redacted].
Launikitis, William J., [redacted].
Lauritsen, Terry N., [redacted].
Lavail, Melvin M., [redacted].
Lavery, Henry L., III, [redacted].
Lavoie, Robert P., [redacted].
Lawrence, Robert, [redacted].
Lawson, Knute F., [redacted].
Lawton, Robert E., [redacted].
Lawton, Ronald G., [redacted].
Layne, Thair D., [redacted].
Lee, Howard T., [redacted].
Lee, Jack G., Jr., [redacted].
Lee, Maurice F., [redacted].
Lee, Phillip M., [redacted].
Lee, Richard R., [redacted].
Lee, Robert L., [redacted].
Leech, Charles E. G., [redacted].
Leech, Frank J., [redacted].
Leetun, Darel D., [redacted].
Legrand, Alphonse F., III, [redacted].
Legros, James R., [redacted].
Leja, Stanley J., [redacted].
Lemley, Roy, [redacted].
Leombruno, Salvatore J., Jr., [redacted].
Leslie, John W., Jr., [redacted].
Levine, Edgar G., [redacted].
Lewis, John C., III, [redacted].
Lewis, Reed H., [redacted].
Lilly, Morgan E., [redacted].
Lilly, Warren R., [redacted].
Lindsay, Malcolm W., [redacted].
Lindsay, Willard M., [redacted].
Lindsey, Walter L., [redacted].
Linn, Edward M., [redacted].
Litwack, David, [redacted].
Livie, George H., [redacted].
Livingston, Jerry D., [redacted].
Locke, Claude B., III, [redacted].
Lockwood, Edward J., Jr., [redacted].
Lockwood, Robert F., [redacted].
Logan, John I., Jr., [redacted].
Loggins, Aaron B., [redacted].
Long, Steven W., Jr., [redacted].
Longmire, Arthur C., [redacted].
Lorch, John H. V., [redacted].
Lord, Ronald H., [redacted].
Lorenz, James F., Jr., [redacted].
Lovelace, James W., [redacted].
Lowery, Donald A., [redacted].
Lowrey, Keith W., [redacted].
Lozovoy, George V., [redacted].
Lucas, Fred A., [redacted].
Luethke, Fred W., Jr., [redacted].
Lund, Max R., [redacted].
Lynch, Francis L., [redacted].
Lynch, George P., Jr., [redacted].
Lynch, John S., [redacted].
Lynch, Thomas C, [redacted].
Lynn, Barton D., [redacted].
Lyon, Donavan L., [redacted].
Lyon, Kenneth W., [redacted].
Lyon, Richard F., [redacted].
Lyons, Billy S., [redacted].
MacDonald, Donald A., [redacted].
Mach, Franklin C., [redacted].
Mackesy, John T., [redacted].
Macklin, Paul R., [redacted].
Macomber, Thomas E., [redacted].
Maddox, Lovic V., Jr., [redacted].
Madsen, Albert A., [redacted].
Maggard, Harold C., [redacted].
Magnusson, Robert E., [redacted].
Maio, Armand D., [redacted].
Malahy, Vernon M., Jr., [redacted].
Malloy, Donald E., [redacted].
Malone, John D., [redacted].
Mandell, Harold, [redacted].
Mangum, George S., [redacted].
Manley, John H., [redacted].
Manning, Ervin C., [redacted].
Marchant, Joe F., [redacted].
Margiotta, Franklin D., [redacted].
Marnell, James F., [redacted].
Marquardt, Alexander A., [redacted].
Marsh, Donald D., [redacted].
Marshall, Darrell C., [redacted].
Marshall, Ira G., [redacted].
Marston, James S., [redacted].
Martin, James R., [redacted].
Martin, John H., [redacted].
Martin, John T., Jr., [redacted].
Martin, Leland M., [redacted].
Martinson, Otto B., Jr., [redacted].
Mashburn, Wayne M., [redacted].
Mason, Charles R., [redacted].
Mason, Thomas E., Jr., [redacted].
Mathews, Bruce A., [redacted].
Mathison, Arthur M., [redacted].
Mattiucci, John E., [redacted].
Mauser, William T., [redacted].
Max, Karl J., [redacted].
May, Ronny J., [redacted].
May, William T., [redacted].
Mays, Kenneth W., [redacted].
McAdoo, Raymond C., [redacted].
McBride, J. L., [redacted].
McChristian, Lester S., Jr., [redacted].
McClellan, Roy A., [redacted].
McClure, John D., Sr., [redacted].
McClure, Roger E., [redacted].
McConnell, James R., [redacted].
McCormick, Dennis A., [redacted].
McCormick, Thomas M., [redacted].
McCoy, Ronald T., [redacted].
McCulloch, Samuel D., Jr., [redacted].
McDonald, Charles A., Jr., [redacted].
McDonald, Dale E., [redacted].
McDonald, Herman K., [redacted].
McDonald, Jack E., [redacted].
McDonald, Kerm P., Jr., [redacted].
McDowell, Joseph C., [redacted].
McGovern, Larry E., [redacted].
McGrath, Daniel H., [redacted].
McGuffey, James L., Jr., [redacted].
McGuth, William D., [redacted].
McHenry, Dale E., [redacted].
McIlwain, Teddy C., [redacted].
McIntyre, John R., Jr., [redacted].
McKay, John G., Jr., [redacted].
McKay, Robert R., Jr., [redacted].
McKean, Kenneth R., [redacted].
McKenzie, Jerrold L., [redacted].
McKenzie, Michael G., [redacted].
McKenzie, Robert G., [redacted].
McKnight, George G., [redacted].
McLaughlin, Howard J., [redacted].
McMahon, Thomas W., [redacted].
McManus, Malcolm S., [redacted].
McMillan, Ronald L., [redacted].
McMillen, Paul S., [redacted].
McMullen, Gerald W., [redacted].
McNutt, Glenn L., [redacted].
McNutt, Thomas V., [redacted].
McPartland, Robert A., [redacted].
McPeek, William C., [redacted].
McPherson, Dale R., [redacted].
McPherson, Orville L., [redacted].
Means, William H., Jr., [redacted].
Medigovich, Danilo B., [redacted].
Medley, Porter N., Jr., [redacted].
Meehan, John D., [redacted].
Mellody, James P., [redacted].
Mellody, Robert J., [redacted].
Mellor, Fredric M., [redacted].
Melville, Milton A., [redacted].
Mercuro, George J., [redacted].

Meredith, Robert N., [redacted]
Merritt, Dossey C., [redacted]
Merz, Ronald L., [redacted]
Meservey, John W., [redacted]
Messersmith, Robert J., [redacted]
Messick, David T., [redacted]
Meyer, George R., Jr., [redacted]
Meyer, Richard A., [redacted]
Meyette, Ronald J., [redacted]
Michael, Albert L., [redacted]
Miedrich, Alan D., [redacted]
Migia, Juan H., [redacted]
Miles, John D., [redacted]
Miller, Donald D., [redacted]
Miller, Donald L., [redacted]
Miller, Gerald O., [redacted]
Miller, Glenwood I., [redacted]
Miller, John C., [redacted]
Miller Maurice W., [redacted]
Miller, Ralph D., Jr. [redacted]
Miller, Ronald N., [redacted]
Miller, Thomas D., [redacted]
Miller, Walter D., [redacted]
Miller, Walter D., [redacted]
Miller, Walter W., [redacted]
Million, Harry L. Jr., [redacted]
Mills, Henry K. Jr., [redacted]
Mills, John W., [redacted]
Mills, Robert J., [redacted]
Miner, Norman E., Jr., [redacted]
Minich, Keith J., [redacted]
Mitchum, Joseph J., [redacted]
Mize, Scott W., [redacted]
Moake, Milton D., [redacted]
Mock, Robert K., [redacted]
Moehling, Wayne A., [redacted]
Mog, Willis L., [redacted]
Mol, Hendrick D., [redacted]
Mon, Henry B., [redacted]
Monk, Ronald E., [redacted]
Montemayor, Daniel A., [redacted]
Montgomery, Charley A., Jr., [redacted]
Montgomery, Monte D., [redacted]
Moody, Douglas E., [redacted]
Mooney, Stewart W., [redacted]
Moore, Charlie B., [redacted]
Moore, Curtis D., [redacted]
Moore, David R., [redacted]
Moore, Donald L., [redacted]
Moore, Hayden C., [redacted]
Moore, Kenneth E., [redacted]
Moore, Richard P., [redacted]
Morelli, Anthony, [redacted]
Morgan, Charles R., [redacted]
Morgan, Clark R., [redacted]
Morgan, Harold I., [redacted]
Morris, Aubrey, [redacted]
Morris, Don L., [redacted]
Morris, Eugene C., [redacted]
Morris, Gerald T., [redacted]
Morris, James K., Jr., [redacted]
Morris, James L., [redacted]
Morris, John H., Jr., [redacted]
Morris, Krendall E., [redacted]
Morris, Thomas E., [redacted]
Morrison, Billie E., [redacted]
Moses, Dayton, III, [redacted]
Mosley, Bruce H., [redacted]
Mountcastle, Russell C., II, [redacted]
Mourning, John R., [redacted]
Mrazik, William W., [redacted]
Muck, Donald I. J., [redacted]
Mueller, Robert K., [redacted]
Muller, Karl H., [redacted]
Mumford, Willard R., [redacted]
Munch, Samuel A., Jr., [redacted]
Mund, Harold H., [redacted]
Munsch, Albert S., Jr., [redacted]
Murphy, Lee E., Jr., [redacted]
Mutrie, Henry W., [redacted]
Myers, Carl W., [redacted]
Myers, Charles S., [redacted]
Myers, George F., [redacted]
Myers, James T., [redacted]
Napoli, Anthony, [redacted]
Nardi, Gary L., [redacted]
Nash, Thomas R., [redacted]
Neal, Gene E., [redacted]
Nebel, Louis, [redacted]
Neff, Joseph, [redacted]
Neiswanger, Jerry D., [redacted]
Nellis, Raymond C., [redacted]
Nelson, Deryl W., [redacted]
Nelson, Eric B., [redacted]
Nelson, Eugene R., [redacted]
Nelson, Frank L., [redacted]
Nelson, Keithe E., [redacted]
Nelson, Michael A., [redacted]
Nelson, Minor W., [redacted]
Newton, Frank A., [redacted]
Nickens, Walter M., [redacted]
Nicks, William L., [redacted]
Nielsen, Henry R., [redacted]
Niles, William H., [redacted]
Nims, Donald K., [redacted]
Nishiyama, Ken, [redacted]
Nisivoccia, Gerald D., [redacted]
Nitz, Larry A., [redacted]
Nix, Billy G., [redacted]
Nixon, Richard R., [redacted]
Noble, James H., [redacted]
Noe, Charles G., [redacted]
Nolan, John F., [redacted]
Nolan, Richard A., [redacted]
Nolan, Robert E., Jr., [redacted]
Noonan, Francis D., [redacted]
Noonan, Richard A., [redacted]
Nordin, Frederick R., [redacted]
Norman, Robert A., [redacted]
Nunn, Larry I., [redacted]
Oakley, Ronald K., [redacted]
O'Day, William J., [redacted]
Oelke, Robert J., [redacted]
Ogles, George W., [redacted]
Oglukian, Raymond L., [redacted]
Ohnemus, John J., [redacted]
O'Keefe, John P., [redacted]
Olds, Ernest A., [redacted]
Olvera, Jose J., [redacted]
Oliver, Marvin D., [redacted]
Olman, Lothar A., [redacted]
O'Malley, Edmund J., Jr., [redacted]
O'Neil, Joseph W., [redacted]
Osuchowski, Edward A., Jr., [redacted]
O'Toole, William F., [redacted]
Ottea, Marion A., [redacted]
Overby, Ronald C., [redacted]
Overland, Richard M., [redacted]
Owen, James T., [redacted]
Owen, Lyle D., [redacted]
Oyama, Robert E., [redacted]
Paige, Forrest W., [redacted]
Palmberg, Roger V., [redacted]
Palmer, Garrett W., [redacted]
Palmer, William D., [redacted]
Parandes, George, [redacted]
Park, Harold K., [redacted]
Park, Robert E., [redacted]
Parker, James R., [redacted]
Parker, Paul A., Jr., [redacted]
Parker, William R., [redacted]
Parrish, Roger K., [redacted]
Pasekoff, Robert E., [redacted]
Pate, John C., [redacted]
Patrick, Paul C., [redacted]
Patterson, Howard R., [redacted]
Patterson, James R., Jr., [redacted]
Patterson, John J., Jr., [redacted]
Pavik, Alvin L., [redacted]
Paxson, James B., Jr., [redacted]
Payne, Phillip E., [redacted]
Peachey, Malco T., Jr., [redacted]
Peake, Robert L., [redacted]
Pealer, Carroll E., [redacted]
Pearring, Jerome R., [redacted]
Pearson, Jack F., [redacted]
Pedersen, Howard M., [redacted]
Peko, Paul E., [redacted]
Penfield, Eugene A., [redacted]
Penn, Bernard C., [redacted]
Pennington, Albert N., [redacted]
Perelstein, Erwin S., [redacted]
Perkins, Charles M., [redacted]
Perry, David L., [redacted]
Perry, John C., [redacted]
Perry, Theron M., [redacted]
Perry, William J., [redacted]
Petersen, James D., [redacted]
Petersen, Nohl D., [redacted]
Peterson, Cliffor D., [redacted]
Peterson, Douglas B., [redacted]
Peterson, George W., Jr., [redacted]
Peterson, James A., [redacted]
Peterson, Paul M., [redacted]
Pettit, Gene C., [redacted]
Pheiff, Robert F., [redacted]
Philbrick, Gene E., [redacted]
Phillips, James H., [redacted]
Phillips, Keith E., [redacted]
Pickett, John R., [redacted]
Pieper, Bruce C., [redacted]
Pilley, Charles F., Jr., [redacted]
Piper, James F., [redacted]
Pitstick, Gerald F., [redacted]
Pitts, Harvey C., Jr., [redacted]
Pixton, Jerry R., [redacted]
Platt, Edward G., Jr., [redacted]
Plumb, William C. II, [redacted]
Pollock, Arnold H., [redacted]
Pomel, Roy E., [redacted]
Poore, Jack A., [redacted]
Potter, William A., [redacted]
Powell, Cecil W., [redacted]
Powell, Robert M., [redacted]
Pratz, James A., [redacted]
Prentice, John J., [redacted]
Price, Richard M., [redacted]
Prichard, George L., [redacted]
Prislusky, Victor T., [redacted]
Proctor, Francis G., [redacted]
Provencio, Arthur T., [redacted]
Pulliam, Guy E., [redacted]
Purnhagen, Tom G., [redacted]
Pursley, Edward E., [redacted]
Purvine, Bruce M., [redacted]
Purvis, Albert D., Jr., [redacted]
Pusey, Frank D., [redacted]
Pyle, George W., [redacted]
Rabinowitz, Keith N., [redacted]
Raff, Theodore L., [redacted]
Rafter, Eugene J., [redacted]
Ragland, Ralph E., [redacted]
Ramlow, Ronald C., [redacted]
Ramsey, Donald W., [redacted]
Rands, Carroll C., [redacted]
Ranz, Dale M., [redacted]
Raper, John A., [redacted]
Rasmussen, Benedict O., [redacted]
Rasmussen, Robert D., [redacted]
Ratcliff, Kenneth E., [redacted]
Rathgeber, John W., [redacted]
Ray, Kenneth L., [redacted]
Raymond, Robert M., [redacted]
Reames, John W., [redacted]
Rebalsky, Norman, [redacted]
Rebtoy, Donald L., [redacted]
Rector, William K., Jr., [redacted]
Redman, Allan R., [redacted]
Reece, Harold M., [redacted]
Reed, Anthony D., [redacted]
Reed, Joseph L., [redacted]
Reeder, Johnnie R., [redacted]
Rees, Clifford H., Jr., [redacted]
Reeves, Don F., [redacted]
Reeves, Richard P., [redacted]
Regan, Maurice D., [redacted]
Regenhardt, John D., [redacted]
Reiner, David H., [redacted]
Rensvold, Rand E., [redacted]
Revello, Pete A., [redacted]
Revill, Lawrence A., [redacted]
Reyland, John M., [redacted]
Reynolds, Richard C., Jr., [redacted]
Reynolds, Robert E., [redacted]
Rhoten, Billy J., [redacted]
Rich, Carroll J., [redacted]
Rich, John C., [redacted]
Richardson, Edward F., [redacted]
Richardson, Floyd D., [redacted]
Richardson, Jimmy A., [redacted]
Richmond, Kenneth W., [redacted]
Riddlebarger, Samuel E., [redacted]
Rider, James G., [redacted]
Riecke, Richard N., [redacted]
Riegel, Robert W., [redacted]
Rigg, Donald A., [redacted]
Riggs, Warren Y., [redacted]
Rittenhouse, Ray D., [redacted]
Ritter, Jack L., [redacted]
Rix, James H., [redacted]
Roberds, Richard M., [redacted]
Robertson, George S. III, [redacted]
Robertson, Glenn L., [redacted]
Robertson, James E., [redacted]

Robinson, James S., [redacted].
Robinson, Joe C., [redacted].
Rodriguez, Salvador O., [redacted].
Roell, Ronald C., [redacted].
Rogers, Emsley E., [redacted].
Rogers, Sidney D., [redacted].
Roney, Billy J., [redacted].
Roscoe, Arthur J., Jr., [redacted].
Rose, George R., [redacted].
Rosenhauer, George L., [redacted].
Rosholt, Wayne V., [redacted].
Ross, Robert E., [redacted].
Rovitti, George, [redacted].
Rowe, Lloyd J., [redacted].
Rowley, Clarence W., [redacted].
Rudolph, Harry G., Jr., [redacted].
Rund, Matthew H., [redacted].
Rush, John E., [redacted].
Rush, Thomas A., [redacted].
Russell, Edward B., [redacted].
Russell, James L., [redacted].
Russell, Kenneth E., [redacted].
Russell, Richard L., [redacted].
Russell, Robert R., [redacted].
Rutherford, Robert L., [redacted].
Rutland, George L., Jr., [redacted].
Rutter, Harry W., Jr., [redacted].
Ryan, James H., [redacted].
Rynes, Donald E., [redacted].
Sabbs, Frederick J., [redacted].
Sachse, Billy E., [redacted].
Saffel, Robert T., [redacted].
Sager, Robert E., [redacted].
Sager, Walter C., [redacted].
Saint, Hugh M., [redacted].
Salvador, Renalds D., [redacted].
Sambold, Albert J., [redacted].
Sams, Warren N., Jr., [redacted].
Sandell, Norman R., [redacted].
Sandercock, Richard A., [redacted].
Sanders, Joe E., [redacted].
Saylor, John C., Jr., [redacted].
Scannell, William E., [redacted].
Scarboro, Gary L., [redacted].
Scarff, James P., Jr., [redacted].
Schaeffer, Gordon B., [redacted].
Schaffner, Daniel C., [redacted].
Schamens, Kenneth W., [redacted].
Scheidt, John C., Jr., [redacted].
Schell, John J., [redacted].
Schell, Lawrence A., [redacted].
Schmitendorf, James A., [redacted].
Schnaiter, Thomas P., [redacted].
Schneekloth, Merle R., [redacted].
Schofield, John N., Jr., [redacted].
Schoonmaker, Richard W., [redacted].
Schramm, Wayne E., [redacted].
Schuh, Fred, Jr., [redacted].
Schuler, Wendell L., [redacted].
Schumann, Albert W., [redacted].
Schuster, Charles E., [redacted].
Schwab, John R., [redacted].
Schwartz, Marvin F., Jr., [redacted].
Schwenzfeier, Karl K., [redacted].
Scoggins, Jack B., [redacted].
Scott, Donald L., [redacted].
Scott, Hugh L., [redacted].
Seaman, Raymond A., [redacted].
Searle, Robert A., [redacted].
Seavers, John K., [redacted].
Sebree, Franklin L., [redacted].
See, Dennis R., [redacted].
Seebode, Thomas F., [redacted].
Semple, Richard G., [redacted].
Shattuck, Alan H., [redacted].
Shaw, Roger W., [redacted].
Sheehan, Leo J., [redacted].
Sheffer, Jackie L., [redacted].
Sheldon, Edward B., [redacted].
Shelton, James H., Jr., [redacted].
Shelton, John L., [redacted].
Sherman, Donald H., [redacted].
Shidell, Carl H., [redacted].
Shinn, Thomas W., [redacted].
Shockey, Gary L., [redacted].
Shorter, John W., [redacted].
Shreve, Larry W., [redacted].
Shrove, Richard R., [redacted].
Shuler, Ellie G., Jr., [redacted].
Sibson, Donald A., [redacted].
Sikes, Jackie E., [redacted].
Silva, Willibrord T., [redacted].
Simmons, William P., [redacted].
Simmons, William W., [redacted].
Simon, Roy A., [redacted].
Simpson, Gus H., [redacted].
Sipple, Garryl C., [redacted].
Skinner, Charles R., Jr., [redacted].
Skutack, Daniel E., [redacted].
Slade, Clyde M., [redacted].
Slawson, Thomas M., [redacted].
Slinkard, John D., [redacted].
Smith, Billy R., [redacted].
Smith, Carl W., [redacted].
Smith, Clarence T., [redacted].
Smith, Dean G., [redacted].
Smith, Donald E., [redacted].
Smith, Douglas D., [redacted].
Smith, Frederic H., III, [redacted].
Smith, Hall, II, [redacted].
Smith, Jay W., [redacted].
Smith, John R., [redacted].
Smith, Kenneth H., [redacted].
Smith, Leo W., II, [redacted].
Smith, Mark E., III, [redacted].
Smith, Needham B., [redacted].
Smith, Philip E., [redacted].
Smith, Richard E., [redacted].
Smith, Richard E., Jr., [redacted].
Smith, Robert J., [redacted].
Smith, Ronald C., [redacted].
Smith, Theodore A., [redacted].
Smith, Willard E., [redacted].
Snider, Rex K., [redacted].
Snook, Richard A., [redacted].
Snow, Jackie K., [redacted].
Snyder, Charles A., [redacted].
Sobieszczyk, Neal A., [redacted].
Sollod, Ronald L., [redacted].
Soltys, Thomas V., [redacted].
Soltysiak, Wallace J., [redacted].
Solvold, Ralph, [redacted].
Sparks, Kenneth D., [redacted].
Spearman, Jerry D., [redacted].
Spears, Richard D., Jr., [redacted].
Spears, Thomas R., [redacted].
Spence, James B., [redacted].
Sprick, Duane R., [redacted].
Squires, Robert W., [redacted].
Stafford, Robert J., [redacted].
Stallings, Joe B., [redacted].
Stanford, Nolen B., [redacted].
Stankelis, Anthony A., [redacted].
Stankowski, Anton J., Jr., [redacted].
Stanley, William T., [redacted].
Stannard, Warren E., [redacted].
Steadman, William L., Jr., [redacted].
Steed, David L., [redacted].
Steele, John P., [redacted].
Steele, Ralph D., [redacted].
Stein, Robert A., [redacted].
Stein, Robert A., [redacted].
Stephenson, Jack B., [redacted].
Stevens, Max L., [redacted].
Stevens, Michael C., [redacted].
Stewart, Clarence A., [redacted].
Stewart, John K., [redacted].
Stewart, Robert A., [redacted].
Stewart, William M., [redacted].
Stewart, William M., III, [redacted].
Stockham, Leo W., [redacted].
Stuffel, Francis B., [redacted].
Stone, George T., [redacted].
Stotts, Franklin D., [redacted].
Stout, Alan R., [redacted].
Strand, George E., [redacted].
Stroh, Jerry D., [redacted].
Stukel, Donald J., [redacted].
Suits, Norman L., [redacted].
Sullivan, Neil J., [redacted].
Swanenburg, Richard, [redacted].
Swanson, Thomas I., [redacted].
Talbott, Alfred E., [redacted].
Tarantino, Frank P., [redacted].
Tarleton, Bobby L., [redacted].
Taylor, Cortlandt M., [redacted].
Taylor, David M., [redacted].
Taylor, George R., [redacted].
Taylor, John F., [redacted].
Taylor, Ralph C., [redacted].
Teague, Randolph M., [redacted].
Teague, Reily R., [redacted].
Tebbs, Robert B., [redacted].
Tedrick, Thomas D., [redacted].
Telford, William D., [redacted].
Terry, Bradlee, [redacted].
Tesh, Jimmy H., [redacted].
Thomas, George J., Jr., [redacted].
Thomas, James R., [redacted].
Thomas, Jeremy C., [redacted].
Thomas, Kenneth E., [redacted].
Thomas, Maxzeller L., Jr., [redacted].
Thomas, Robert R., [redacted].
Thomas, Stanley R., [redacted].
Thompson, David W., [redacted].
Thompson, Edward J., [redacted].
Thompson, George C., [redacted].
Thompson, Gerald F., [redacted].
Thompson, John D., [redacted].
Thompson, Richard W., [redacted].
Thompson, Robert W., [redacted].
Thompson, William M., [redacted].
Thomson, Laurence J., [redacted].
Thurman, Jack W., [redacted].
Thursby, Donald E., [redacted].
Thurston, Richard E., [redacted].
Tibbs, John W., [redacted].
Tiger, Paul M., Jr., [redacted].
Tigner, Lee M., [redacted].
Tindall, John B., [redacted].
Tinsley, James S., [redacted].
Todd, Harold W., [redacted].
Todt, William E., [redacted].
Tompkins, Gary R., [redacted].
Toneck, Jerry L., [redacted].
Tonini, Gervasio, [redacted].
Torbet, Robert P., Jr., [redacted].
Torrey, Charles C., [redacted].
Trace, Thomas L., [redacted].
Trainer, Jerry D., [redacted].
Treherne, Richard L., [redacted].
Trippe, William R., III, [redacted].
Trout, Clifford E., [redacted].
Trzaskoma, Richard J., [redacted].
Turoski, Richard F., [redacted].
Tutless, Peter J., [redacted].
Tuttle, Leon E., [redacted].
Tuzzolo, Frank G., [redacted].
Twait, Francis J., [redacted].
Twark, John M., [redacted].
Tyler, Charles R., [redacted].
Tyler, Wayne L., [redacted].
Tylka, John, Jr., [redacted].
Uhrich, Edward W., [redacted].
Ulbinsky, Raymond J., [redacted].
Urevich, Ralph J., [redacted].
Vale, Lewis G., [redacted].
Valen, Richard D., [redacted].
Vallenari, Joseph L., [redacted].
Valori, Dante A., [redacted].
Vanderziel, Gerrit J., Jr., [redacted].
Vanhemert, Rudy L., [redacted].
Vanmeter, Thomas R., [redacted].
Vanslambrook, Richard T., [redacted].
Vanzandt, Richard D., [redacted].
Vargo, Ronald L., [redacted].
Verble, David E. L., [redacted].
Verfurth, Jan E., [redacted].
Verrelli, David M., [redacted].
Villafranco, Ronald V., [redacted].
Villines, William F., [redacted].
Virant, Richard A., [redacted].
Vittitow, Charles D., [redacted].
Vodicka, Ronald J., [redacted].
Voehl, Richard K., [redacted].
Volkmann, Thomas L., [redacted].
Vollenweider, John A., [redacted].
Vondersmith, William M., Jr., [redacted].
Vosika, Eugene L., [redacted].
Vreeland, Harry E., [redacted].
Wachter, Paul G., Jr., [redacted].
Waddell, Franklin D., [redacted].
Wade, Conrad L., [redacted].
Waggoner, Robert F., [redacted].
Wagner, Richard A., [redacted].
Wagner, Richard N., [redacted].
Wagner, Robert B., [redacted].
Wagner, Robert L., [redacted].
Wagnon, Jerry R., [redacted].
Wakefield, Thomas E., [redacted].
Waldbillig, Robert M., [redacted].
Walker, Albert H., [redacted].
Walker, Donald E., [redacted].

Walker, Lorenz J., [redacted].
Wallace, Matthew B., [redacted].
Wallace, Thomas L., [redacted].
Waller, Harvey F., Jr., [redacted].
Walter, Charles W., [redacted].
Walters, Merrill B., [redacted].
Ward, James E., [redacted].
Warne, Evans E., [redacted].
Warner, Glenn A., [redacted].
Watkins, Frederick L., [redacted].
Watson, Gerald D., [redacted].
Watson, Robert H., [redacted].
Wats, Claudius E., III, [redacted].
Weaver, Kenneth L., [redacted].
Weaver, Robert L., Jr., [redacted].
Weida, Ralph E., [redacted].
Weidner, Charles H., [redacted].
Wellford, Hugh P., [redacted].
Wells, Edwin V., [redacted].
Wells, Harold L., [redacted].
Wendel, Gary C., [redacted].
West, Charles J., [redacted].
West, Charles W., [redacted].
West, Dennis G., [redacted].
Westhausen, Gary H., [redacted].
Wetzel, William T., [redacted].
Whalen, James P., [redacted].
White, Alford M., Jr., [redacted].
White, Edward B., [redacted].
White, Joseph T., [redacted].
White, Milton E., [redacted].
Whitener, James C., [redacted].
Whitman, John F., [redacted].
Whitney, Lloyd D., [redacted].
Wickwar, Richard N., [redacted].
Widicus, Frederick G., [redacted].
Wilby, Walter L., [redacted].
Williams, Chester Y., [redacted].
Williams, David M., [redacted].
Wiliams, Douglas L., [redacted].
Williams, Frederick R., [redacted].
Williams, Perry, [redacted].
Williams, Stanley P., [redacted].
Williamson, Alan R., [redacted].
Willis, Franklin E., [redacted].
Wilson, Charles A., [redacted].
Wilson, Earthern H., [redacted].
Wilson, Powell J., Jr., [redacted].
Wilson, Thomas, [redacted].
Wiltse, George A., [redacted].
Winborn, Sam R., Jr., [redacted].
Wing, Richard L., [redacted].
Winkler, Roy N., [redacted].
Winner, Down C., [redacted].
Winter, John R., [redacted].
Wissert, James L., [redacted].
Wolfe, John W., [redacted].
Wolford, George F., Jr., [redacted].
Womack, Vernon L., [redacted].
Wood, David B., [redacted].
Woodcock, Gerald E., [redacted].
Woodnal, Robert F., [redacted].
Woods, John D., [redacted].
Woods, Thomas W., [redacted].
Woodworth, Richard D., [redacted].
Woody, Harland G., [redacted].
Woolwine, David F., [redacted].
Worrick, Mark J., [redacted].
Wright, William H., [redacted].
Yaeger, Michael A., [redacted].
Yamada, Hisad, [redacted].
Yamamoto, Toru, [redacted].
Yankowski, Nicholas, [redacted].
Yarrington, Arthur, [redacted].
Yates, Ronald W., [redacted].
Yeager, James A., [redacted].
Yelton, William V., [redacted].
Young, John F., [redacted].
Youngstedt, Gene L., [redacted].
Zahhos, Danny, [redacted].
Zampino, Robert J., [redacted].
Zani, Robert C., [redacted].
Zarnowiec, Felix L., [redacted].
Zeitler, Frank J., [redacted].
Zieg, James E., [redacted].
Zock, Richard, [redacted].
Zopf, William D., Jr., [redacted].
Zuhars, Raymond H., Jr., [redacted].

CHAPLAINS

Barcome, Earl W., [redacted].
Black, Bobby C., [redacted].
Brennan, Gerard M., [redacted].
Bubb, Wilbur W., [redacted].
Camp, Arthur J., [redacted].
Cockburn, Alton D., [redacted].
Condon, Thomas W., Jr., [redacted].
Czarnota, Reynold A., [redacted].
Doonan, John A., [redacted].
Halloran, Jerome D., [redacted].
Hines, Dale A., [redacted].
Hoogasian, Berge A., [redacted].
Jay, Mearle H., [redacted].
Knippers, Shural G., [redacted].
Lengel, Stuart H., Jr., [redacted].
Madden, Wayne S., [redacted].
Mansfield, John L., [redacted].
Martin, Christian H., Jr., [redacted].
McDonald, Paul F., [redacted].
McManus, Robert T., [redacted].
Moreau, Ernest P., [redacted].
Mundinger, Carl S., Jr., [redacted].
O'Connor, Maurice J., [redacted].
Pressly, John E., [redacted].
Rice, Frank A., [redacted].
Roberts, John B. G., Jr., [redacted].
Smith, Eldon R., Jr., [redacted].
Smith, Malcom E., [redacted].
Sprowl, Richard E., [redacted].
Verbrugghe, Albert E., [redacted].

DENTAL CORPS

Amy, Donald H., [redacted].
Baer, Marvin L., [redacted].
Battock, Richard D., [redacted].
Beardslee, Eric E., [redacted].
Berte, Joseph J., [redacted].
Boyle, William D., Jr., [redacted].
Burch, Robert A., [redacted].
Calem, Herbert M., [redacted].
Corrigan, William J., [redacted].
Durkin, William J., Jr., [redacted].
Franciose, Angelo, [redacted].
Francis, Evan D., [redacted].
Gibson, Ronald M. E., [redacted].
Gordon, Glenn E., [redacted].
Granger, Dale T., [redacted].
Grayson, Frank W., [redacted].
Grochowski, Daniel C., [redacted].
Infeld, Paul, [redacted].
Krenzel, Daniel J., [redacted].
Krusee, Paul A., [redacted].
Labarge, Robert L., [redacted].
Lee, Lawrence M. H., [redacted].
Lehman, Carl A., [redacted].
Leichtman, William S., [redacted].
Lepore, Marion, [redacted].
Marks, Thomas C., [redacted].
McKinney, James F., [redacted].
Miller, Charles D., [redacted].
Morgan, John P., [redacted].
Neurock, Isadore, [redacted].
Orman, Albert G., [redacted].
Park, Paul R., [redacted].
Richardson, William O., [redacted].
Shiller, Edwin B., [redacted].
Skweir, Michael J., Jr., [redacted].
Steed, Donald L., [redacted].
Wee, Clifford G. H., [redacted].
Wysocki, Stanley F., [redacted].

NURSE CORPS

Bennett, Leland R., [redacted].
Bergeron, Francis R., [redacted].
Biangardi, George A., [redacted].
Black, Raymond E., [redacted].
Dean, Charlene R., [redacted].
Ellis, Pauline V., [redacted].
Engle, Raye C., [redacted].
Farrell, George E., II, [redacted].
Farrell, Patricia A., [redacted].
Fleming, Alma M., [redacted].
Freeman, Charles E., [redacted].
Gilbertson, Joan C., [redacted].
Graham, Ivra M., [redacted].
Hamberger, Margaret K., [redacted].
Hardin, Doris A., [redacted].
Harris, Nancy S., [redacted].
Heath, Lois M., [redacted].
Huffman, Marcia C., [redacted].
Hunt, Maureen A., [redacted].
Kelly, Gerald W., [redacted].
Kirby, Dennis J., [redacted].
Larscheid, Jon L., [redacted].
Lofstrom, Mary M., [redacted].
Logan, Bertha A., [redacted].
Maine, Hugh C., [redacted].
Makowski, Mary H., [redacted].
McDowell, Nina E., [redacted].
McLaughlin, Mary L., [redacted].
Miyagawa, Cora H., [redacted].
Moran, Barbara M., [redacted].
Mumper, Monna L., [redacted].
Navarro, Pete, [redacted].
Oakes, Rosa, [redacted].
Overacre, Robert C., [redacted].
Palombo, Edward A., [redacted].
Pearce, Warren T., [redacted].
Plott, Clarideth J., [redacted].
Pratt, Leroy O., [redacted].
Robertson, Elwin G., [redacted].
Sargent, Arlene M., [redacted].
Schimmenti, Carmelita, [redacted].
Shaffer, Joan A., [redacted].
Smith, Mary L., [redacted].
Sturim, Constance R., [redacted].
Wetherby, Shirley M., [redacted].
White, Betty J., [redacted].
Wickizer, Russell R., [redacted].
Withington, Clarence M., [redacted].
Wright, Evelyn J., [redacted].
Zablocki, Dorothy N., [redacted].

MEDICAL SERVICE CORPS

Bluhm, John L., [redacted].
Corum, B. H., [redacted].
Dansby, Bradley L., Jr., [redacted].
Dellefield, Douglas M., [redacted].
Dickes, David W., [redacted].
Dunn, Norwood C., [redacted].
Farringer, John R., [redacted].
Gardner, Raymond A., [redacted].
Gibson, Charles H., [redacted].
Grady, Eddie L., Jr., [redacted].
Graves, Frederick J., [redacted].
Hendley, James W., [redacted].
Hentz, David E., [redacted].
Kehoe, Francis J., [redacted].
Kelsey, Donn R., [redacted].
Penner, Norman R., [redacted].
Pomeroy, Gary J., [redacted].
Reevesman, Sanford L., [redacted].
Scheihing, Theodore R., [redacted].
Slagel, Ronald V., Jr., [redacted].
Straughn, Herbert E., [redacted].

VETERINARY CORPS

Blackman, Daniel A., [redacted].
Britz, William E., Jr., [redacted].
Haines, Richard J., Jr., [redacted].
Kupper, James L., [redacted].
Olson, Roland C., [redacted].
Pryor, William H., Jr., [redacted].
Rhoads, Dallas W., [redacted].
Still, Edwin T., [redacted].
Taylor, Gale D., [redacted].
Tom, Henry K., Jr., [redacted].

BIOMEDICAL SCIENCES CORPS

Foley, Thomas J., Jr., [redacted].
Hartley, James E., [redacted].
McKinney, Vernor L., [redacted].
Meade, John P., [redacted].
Parrish, Dale W., [redacted].
Pizzuto, Joseph S., [redacted].
Rubin, Martin G., [redacted].
Stansell, Marion J., [redacted].

PUBLIC HEALTH SERVICES

The following candidates for personnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

I. FOR APPOINTMENT

To be senior surgeons

Vivian Chang
David W. Johnson
Lawrence R. Rose

To be surgeons

Robert L. Bergman
Harry L. Braeuer
Floyd M. Kregenow
Richard T. Light
Harold D. McDonald
Wandyr J. Moore

To be senior assistant surgeons

Burton H. Baker
Antonio M. Carbonell
Joe H. Davis
Barry S. Dorfman
Mitchell H. Gail
George W. Koehl
Sanford S. Leffingwell
David L. Levin
Betty A. Paeth
George F. Scheckleton
John W. Tull
Howard S. Yager

To be dental surgeon

John Folio

To be senior assistant dental surgeons

John L. Drager
David L. Evans
Gary L. Howell
Michael P. Klaff
William J. Kline
Lance A. McGannon
Terry J. Ortman
Laurence R. Sarmiere
John R. Sundell
David W. Trussell
Charles R. Wanner
William J. L. Williams
Charles H. Wolf III

To be nurse officer

Claire M. Coppage
Celeste B. Evans
Virginia E. Flynn
Margaret A. McCombs
Susan E. Milman
Jane A. Moretto
Elizabeth D. Watrous

To be senior assistant nurse officer

Robert L. Oshins

To be assistant nurse officer

Paul A. DuCommun

To be sanitary engineer director

Aleck Alexander

To be senior assistant sanitary engineers

David W. Alton
Gunther F. Craun
Robert E. Hatten
Ira J. Somerset
Linden E. Witherell
Thomas J. Sorg

To be assistant sanitary engineers

Norman D. LaFrance
Ralph C. Olsen

To be scientist

Martin I. Goldenberg

To be senior assistant scientists

William A. Betts
Bobby D. Brayboy
Larry K. Lowry

To be sanitarians

H. Harold Lehman
Robert J. Weatherby

To be senior assistant sanitarians

Donald W. Payne
Darrell J. Schwalm
Laren J. Sickles
Jerome J. Smith
Joseph W. Winkler

To be veterinary officer

Charles G. Liddle

To be senior assistant veterinary officers

John R. Broderson
Russell W. Currier II

To be senior assistant pharmacists

Alvin E. Arneson
John S. Cipriano
James C. Cradock
Aubrie L. Duncan
Archie R. Hill
William H. Kehoe, Jr.
Larry M. Kleinman
Harry A. Milman
Johnny R. Peebles
Joseph A. Tangrea

To be assistant pharmacists

Robert J. Aleksun
Gerald M. Burge
Gary L. Chadwick
David C. Ewing
Alan L. Hanson
Paul K. Hiranaka
James K. Hooper
Edgar R. Jeter
Dale L. Johnson
Robert W. Merz
Charles J. Petersen
William C. Porter
Thomas R. Simpson III

To be assistant dietitians

Carol P. Hale
William J. Jajesnica

To be senior assistant therapist

Walter P. Schneiderwind

To be assistant therapists

Robert B. Beach
Gary C. Hunt
Barbara A. Sloop
Robert P. Yarris

To be junior assistant therapist

W. James Downs, Jr.

To be health services officers

Arthur N Jarvis
Michael J. Speshock

To be senior assistant health services officers

John C. Bernson
John N. Bowden
Stephen D. Finstein
Elwood R. Hamlin II
Norbert P. Heib, Jr.
Joseph G. Holty
Gordon G. McLain
William E. Murray, Jr.
Martiniano R. Sandoval
Dale F. Schramm
Edwin L. Sensintaffar
George L. Vasconcelos
Samuel T. Windham

To be assistant health services officers

Robert J. Battjes
John J. Cohn
Daniel L. Mintz
William M. Wagner

CONFIRMATION

Executive nominations confirmed by the Senate October 12, 1972:

IN THE ARMY

Gen. Creighton W. Abrams, 226541073, Army of the United States (major general, U.S. Army), for appointment as Chief of Staff, U.S. Army, under the provisions of title 10, United States Code, section 3034.

U.S. COURTS

H. Emory Widener, Jr., of Virginia, to be a U.S. circuit judge, fourth circuit.

Frank H. Freedman, of Massachusetts, to be a United States District Judge for the District of Massachusetts.

Herman G. Pesquera, of Puerto Rico, to be U.S. district judge for the District of Puerto Rico.

Joseph L. Tauro, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Kevin Thomas Duffy, of New York, to be U.S. district judge for the southern district of New York.

Robert J. Ward, of New York, to be a U.S. district judge for the southern district of New York.

James C. Turk, of Virginia, to be a U.S. district judge for the western district of Virginia.

DEPARTMENT OF JUSTICE

Donald D. Forsht, of Florida, to be U.S. marshal for the Southern District of Florida for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Thursday, October 12, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Cast all your care upon God, for He careth for you.—I Peter 5: 7.

Gracious Father of our spirits, move within us that we may know Thy loving kindness in the morning for unto Thee do we lift up our souls, that we may see the way we should take and with courage walk in it and that we may receive Thy peace which passes understanding when evening comes for with Thee we have lived throughout the day. Grant unto us a steady and sustaining sense of our relationship with Thee.

Lift us out of doubt and discouragement by a simple reliance on Thy sure will. Teach us once again that only as we lose ourselves in something greater than ourselves do we ever find ourselves.

We pray for our President, our Speaker, and all who hold positions of leadership in our Republic. May they be motivated by worthy and wholesome desires in the endeavor to make our Nation good in greatness and great in goodness. In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 10556. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof;

H.R. 13694. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended; and

H. Con. Res. 717. Concurrent resolution authorizing the Clerk of the House to make a correction in the enrollment of the bill (H.R. 10420) to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 493. An act to authorize and direct the Secretary of Agriculture to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10420) entitled "An act to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 635) entitled "An act to amend the Mining and Minerals Policy Act of 1970".

The message also anounced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14542. An act to amend the act of September 26, 1966, Public Law 89–606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 4006. An act to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation;

S. 4067. An act to authorize the Secretary of the Interior to convey certain land situated in the vicinity of Georgetown, Colo., to Frank W. Whitenack.

THE HONORABLE JOHN B. BREAUX

The **SPEAKER** laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 11, 1972.

Hon. CARL ALBERT,
Speaker, House of Representatives.

DEAR SIR: Please be advised that the Clerk of the House has received the official certification of election issued by the Governor of the State of Louisiana, showing that John B. Breaux received the greatest number of votes to be elected to represent the Seventh Congressional District of Louisiana, to fill the unexpired portion of the term which began on January 3, 1971.

Please find attached a copy of the above mentioned certification, the original of which is on file in the Clerk's Office.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.

The **SPEAKER**. Will the Member-elect present himself at the bar of the House to take the oath of office.

Mr. **BREAUX** appeared at the bar of the House and took the oath of office.

ALTERNATIVES IN VIETNAM

(Mr. **PIKE** asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. **PIKE**. Mr. Speaker, there has been a great deal of conjecture in the papers lately about whether there will be some peace agreement. We hope there is, but if there is not, we have a few very unpleasant options. One is to stay in Vietnam forever. Another is to leave Vietnam in a position in which it can survive. In order to do this there would not only have to be a self-sufficient Vietnamese Army and a self-sufficient Vietnamese Navy but also a self-sufficient Vietnamese Air Force.

Mr. Speaker, I have been trying for weeks to get the Pentagon to reveal any plan whatsoever, secret or otherwise, which would enable the South Vietnamese Air Force to take over the job now being done by our Air Force and by our carriers. I have reluctantly concluded that there really are no such plans, and if there are none and if we do not want the Communists to take over in South Vietnam, our only choice would be to stay there forever.

EXTENSION OF PERIOD OF INCREASED AUTHORIZATION FOR CERTAIN GRADES IN AIR FORCE

Mr. **PRICE** of Illinois. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14542) to amend the act of September 26, 1966, Public Law 89–606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "June 30, 1976,". and insert: " "September 30, 1974,"."

Page 2, after line 17, insert:

"SEC. 2. The Secretary of Defense shall submit to the Congress not later than May 30, 1973, a comprehensive written report regarding limitations on the number of officers who may serve in various commissioned grades in the Army, Navy, Marine Corps, and Air Force. The Secretary shall include in such report such recommendations as he deems appropriate for legislation to establish new permanent limitations on the number of officers who may serve in such commissioned grades."

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. **PRICE** of Illinois. Mr. Speaker, on July 25, 1972, the House passed H.R. 14542, a bill to extend Public Law 89–606 to enable the Air Force to continue its current officer promotion program for 4 years.

The bill was acted upon by the other body only yesterday. The action of the other body resulted in two amendments to the House-passed bill.

The first and principal amendment was a reduction in the extension authority approved by the House. Under the Senate version, the extension of the provisions of Public Law 89–606 will expire within approximately 2 years; that is, September 30, 1974, rather than the House-approved date of June 30, 1976.

The second amendment approved by the Senate was to establish a statutory requirement for a report from the Secretary of Defense regarding limitations recommended by him on the number of officers in the various commissioned grades serving in the Army, Navy, Marine Corps, and Air Force.

As the members of this body are aware, if this bill is not enacted into law, officer personnel in the Air Force will be most adversely affected.

Very briefly, the following results would apply:

First. Force the demotion and/or elimination from active duty of 3,000 field grade officers.

Second. Expensive pilot and navigator training rates would have to be increased in order to replace those officers forced to leave.

Third. Moratorium on active-duty field grade promotion programs for at least 1 year.

Fourth. Promotion points for Air Force officers would again slip up to 5 years behind the Army and Navy due to fewer number of field grade officers authorized for the Air Force by the 1954 Officer Grade Limitation Act.

In view of these circumstances and the lateness of the session, the leadership on both sides of the aisle of the Committee on Armed Services believe that acceptance of the Senate amendments would be in the best interests of all parties concerned, particularly the commissioned officer corps of the U.S. Air Force.

I, therefore, request that the House agree to the Senate amendments on H.R. 14542 so as to permit this legislation to go to the President for his signature.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **PRICE** of Illinois. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on H.R. 14542

The **SPEAKER**. Is there objection t the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON S. 4018 PUBLIC WORKS ON RIVERS AND HARBORS

Mr. **ROBERTS** (on behalf of Mr BLATNIK) filed the following conferenc report and statement on the bill (S 4018) authorizing the construction, repair, and preservation of certain publi works on rivers and harbors for navigation, flood control, and for othe purposes:

CONFERENCE REPORT (H. REPT. No. 92–1582

The committee of conference on the disagreeing votes of the two Houses on th amendment of the House to the bill (S. 4018 authorizing the construction, repair, an preservation of certain public works on rive and harbors for navigation, flood control, an for other purposes, having met, after full an free conference, have agreed to recommen and do recommend to their respective Hous as follows:

That the Senate recede from its disagre ment to the amendment of the House ar agree to the same with an amendment follows: In lieu of the matter proposed be inserted by the House amendment inse the following:

That sections 201 and 202 and the la three sentences in section 203 of the Flo Control Act of 1968 shall apply to all pro ects authorized in this Act. The followi works of improvement for the benefit navigation and the control of destructi floodwaters and other purposes are here adopted and authorized to be prosecuted the Secretary of the Army, acting throu the Chief of Engineers, in accordance wi the plans and subject to the conditions re ommended by the Chief of Engineers in t respective reports hereinafter designated.

MIDDLE ATLANTIC COASTAL AREA

The project for hurricane-flood protecti at Virginia Beach, Virginia, authorized the River and Harbor Acts approved Septe ber 3, 1954, and October 23, 1962, as amended and modified, is hereby further modified and expanded substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–365, at an estimated cost of $17,010,000.

JAMES RIVER BASIN

The project for flood protection for the city of Buena Vista on the Maury River, Virginia, is hereby authorized substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated August 30, 1972, at an estimated cost of $11,539,000, except that no funds shall be appropriated for this project until it is approved by the Secretary of the Army and the President.

SALT RIVER BASIN

The project for Camp Ground Lake on Beech Fork in the Salt River Basin, Kentucky, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 25, 1972, at an estimated cost of $50,800,000.

WATER RESOURCES IN APPALACHIA

The plan for flood protection, navigation, and other purposes in Appalachia is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources except that the project for Royal Glen Reservoir, South Branch, West Virginia, is not authorized, and that the Secretary of the Army, acting through the Chief of Engineers, shall modify the project for Whiteoak Dam and Reservoir on Whiteoak Creek, Ohio, Ohio River Basin, to conform substantially to the physical works of plan A in the Report for Development of Water Resources in Appalachia, Office of Appalachian Studies, Corps of Engineers, November 1969, part III, chapter 14. Not to exceed $50,000,000 is authorized for initiation and partial accomplishment of the plan.

PASCAGOULA RIVER BASIN

The project for flood protection and other purposes on Bowie Creek, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–359, at an estimated cost of $32,410,000.

PEARL RIVER BASIN

The project for flood control and other purposes on the Pearl River, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–282, at an estimated cost of $38,146,000.

GULF COASTAL AREA

The project for flood control and other purposes on the Blanco River in the Edwards Underground Reservoir Area, at Clopton Crossing, Guadalupe River Basin, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–364, at an estimated cost of $42,271,000.

SPRING RIVER BASIN

The project for flood control and other purposes on Center Creek near Joplin, Missouri, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–361, at an estimated cost of $14,600,000.

GRAND RIVER BASIN

The project for flood protection on the Grand River and tributaries, Missouri and Iowa authorized by the Flood Control Act of 1965 is hereby modified to authorize and direct the Chief of Engineers to immediately proceed with the engineering and design of the Pattonsburg Lake project as presently authorized and to include provisions necessary so as not to preclude the subsequent addition of a complete power installation provided that prior to initiation of construction the Chief of Engineers would submit a report on the scale and scope of the project which best meets the needs of the area to Congress for further action by Congress as appropriate.

UMPQUA RIVER BASIN

The project for Days Creek Dam, on the South Umpqua River, Oregon, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document 92–371, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of such project.

LOWER MISSISSIPPI RIVER

The West Tennessee tributaries feature, Mississippi River and Tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948, and November 7, 1966, as amended and modified, is hereby amended substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–367, at an estimated cost of $6,600,000.

The Cache River Basin Feature, Mississippi River and Tributaries project, Arkansas, authorized by the Flood Control Act approved October 27, 1965, is hereby modified and expanded to provide for acquisition by fee or by environmental easement of not less than 70,000 acres for mitigation lands for fish and wildlife management purposes at an estimated cost of $5,232,000. Local interests shall contribute 50 per centum of any costs incurred in excess of $4,740,000 in acquiring such property rights. An environmental easement shall prevent clearing of the subject land for commercial agricultural purposes or any other purpose inconsistent with wildlife habitat and shall allow any landowner to manage the subject lands to provide a perpetual, regularly harvested hardwood forest, which may be harvested in such a manner as to provide food and habitat for a variety of wildlife. No action may be initiated for any other taking of prospective mitigation lands until an offer has been made to the landowner thereof to take an environmental easement except that no less than 30,000 acres shall be open for public access. If any landowner commences the clearing of prospective mitigation land, condemnation proceedings may be commenced at any time after an offer to take an environmental easement has been made but not accepted. No more than $25 per acre shall be paid for environmental easements. Easement-taking offers shall allow the landowner the choice of keeping access subject to private control or allowing public access. The price paid for easements not allowing public access shall take account of the value of hunting and fishing rights not included in the taking and be reduced accordingly.

Sec. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to remove from Manistee Harbor, Michigan, the sunken steamer *Glen*.

Sec. 3. (a) The costs of operation and maintenance of the general navigation features of small boat harbor projects shall be borne by the United States.

(b) The provisions of this section shall apply to any such project authorized under the authority of this Act, section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960, and to each project which heretofore was authorized in accordance with the policy set forth in this section, and to any such project hereafter recommended for authorization.

Sec. 4. (a) Section 116(a) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: ", and thereafter to maintain such channel free of such trees, roots, debris, and object".

(b) Section 116(c) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: "to clear the channel, and not to exceed $150,000 each fiscal year thereafter to maintain such channel".

Sec. 5. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the San Francisco Bay-Delta Model in Sausalito, California, for the purpose of testing proposals affecting the environmental quality of the region, including, but not limited to, salinity intrusion, dispersion of pollutants, water quality, improvements for navigation, dredging, bay fill, physical structures, and other shoreline changes which might affect the regimen of the bay-delta waters.

Sec. 6. The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

Sec. 7. Section 113 of the River and Harbor Act of 1968 (82 Stat. 731, 736) is hereby amended to read as follows:

"Sec. 113. Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States pierhead line as it exists on the date of enactment of this Act, and bounded on the north by the north side of Spring Street extended westerly and the south side of Rutgers slip, extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded an filled, or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section."

Sec. 8. The McClellan-Kerr Arkansas River navigation system, authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), as amended and supplemented, is hereby further modified to include alteration at Federal expense of the municipal water supply facilities of the city of Congway, Arkansas, by the construction of water supply impoundment facilities at a location outside the flat flood plain of Cadron Creek, together with interconnecting pipeline and other appurtenant work, so that the water supply capacity of the resultant municipal facilities is approximately equivalent to that existing prior to construction of the navigation system.

Sec. 9. (a) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public law 91–611):

East Two Rivers between Tower, Minnesota, and Vermillion Lake.

Alice, Texas.

Buffalo River Basin, New York (wastewater management study).

(b) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations and subject to all applicable provisions of section 110 of the River and Harbor Act of 1950:

Miami River, Florida, with a view to determining the feasibility and advisability of dredging the river in the interest of water quality.

Port Las Mareas, Puerto Rico, with a view to determining the feasibility and advisability of assumption of maintenance of the project by the United States.

Corpus Christi Ship Channel, Texas, with particular reference to providing increased depths and widths in the entrance channels from the Gulf of Mexico to a deeper draft inshore port in the vicinity of Harbor Island, Texas.

Saint Marys River at and in the vicinity of Sault Sainte Marie, Michigan, with a view to determining the advisability of developing a deep draft navigation harbor and international port.

SEC. 10. (a) As soon as practicable after the date of enactment of this section and at least once each year thereafter, the Secretary of the Army, acting through the Chief of Engineers, shall review and submit to Congress a list of those authorized projects for works of improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes which have been authorized for a period of at least eight years and which he determines, after appropriate review, should no longer be authorized. Each project so listed shall be accompanied by the recommendation of the Chief of Engineers together with his reasons for such recommendation. Prior to the submission of such list to the Congress, the Secretary of the Army, acting through the Chief of Engineers, shall obtain the views of interested Federal departments, agencies, and instrumentalities, and of the Governor of each State wherein such project would be located, which views shall be furnished within sixty days after requested by the Secretary and which shall accompany the list submitted to Congress.

(b) Such list shall be delivered to both Houses on the same day and to each House while it is in session. A project on such list shall not be authorized at the end of the first period of one hundred and eighty calendar days of continuous session of Congress after the date such list is delivered to it unless between the date of delivery and the end of such one hundred and eighty-day period, either the Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate adopts a resolution stating that such project shall continue to be an authorized project. For the purposes of this section continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one hundred and eighty-day period. The provisions of this section shall not apply to any project contained in a list of projects submitted to the Congress within one hundred and eighty days preceding the date of adjournment sine die of any session of Congress.

(c) Nothing in this section shall be construed so as to preclude the Secretary from withdrawing any project or projects from such list at any time prior to the final day of the period provided for in subsection (b).

(d) This section shall not be applicable to any project which has been included in a resolution adopted pursuant to subsection (b).

SEC. 11. Section 207(c) of the Flood Control Act of 1960 (33 U.S.C. 701r–1(c)) is hereby amended to read as follows:

"(c) For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs."

SEC. 12. The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes as authorized by the Flood Control Act of 1970, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the minor channel improvements, or portions thereof, recommended by the Chief of Engineers in his report dated November 25, 1970, independently of the investigation of alternative methods called for by such Act, such work to be subject to the items of local cooperation required for similar projects and such work to be limited to areas downstream from Maple Road in the town of Amherst, New York, and such other areas as such Secretary may deem necessary. Such improvements shall be for interim and remedial type protection and shall not be in conflict with any alternative plan for Sandridge Dam.

SEC. 13. The project for flood protection at Saint Louis, Missouri, authorized by the Act of August 9, 1955 (69 Stat. 540), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reconstruct the existing service and access roads along the line of protection so as to adequately carry present and anticipated traffic loads, at an estimated cost of $1,300,000. The conditions of local cooperation recommended by the Chief of Engineers in Senate Document Numbered 57, Eighty-fourth Congress, shall be applicable to the reconstructed access roads.

SEC. 14. (a) The comprehensive plan for flood control and other purposes in the White River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and amended by subsequent Acts, is further modified to provide for a free highway bridge built to modern standards over the Norfolk Reservoir at an appropriate location in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfolk Dam and Reservoir. Such bridge shall be determined to be satisfactory by the Secretary of the Army to provide adequate crossing facilities. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate, and maintain such bridges and approach facilities free to the public.

(b) The cost of constructing such bridge shall be borne by the United States except that the State of Arkansas shall, upon completion of such bridge, reimburse the United States the sum of $1,342,000 plus interest for the period from May 29, 1943, to the date of the enactment of this Act. Such interest shall be computed at a rate determined by the Secretary of the Treasury to be equal to the average annual rate on all interest-bearing obligations of the United States forming a part of the public debt on May 29, 1943, and adjusted to the nearest one-eighth of 1 per centum.

SEC. 15. The projects for Melvern Lake and Pomona Lake, Kansas, authorized as units of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved September 3, 1954, are hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve surface roads in the vicinity of such projects which he determines to be necessary for appropriate utilization of such projects. There is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 16. The project for Tuttle Creek Reservoir, Big Blue River, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved June 28, 1938, as modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, in his descretion to improve that portion of FAS 120S extending from the intersection with Kansas State Highway 13 in section 5, township 9 south, range 8 east, thence north and west to the intersection with county road in section 14, township 8 south, range 7 east, approximately 5.78 miles, and there is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 17. (a) The project for flood control below Chatfield Dam on the South Platte River, Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to participate with non-Federal interests in the acquisition of lands and interests therein and in the development of recreational facilities immediately downstream of the Chatfield Dam, in lieu of a portion of the authorized channel improvement, for the purpose of flood control and recreation.

(b) Such participation shall (1) consist of the amount of savings realized by the United States, as determined by the Secretary of the Army, acting through the Chief of Engineers, in not constructing that portion of the authorized channel improvement below the dam, together with such share of any land acquisition and recreation development costs, over and above that amount, that the Secretary of the Army determines is comparable to the share available under similar Federal programs providing financial assistance for recreation and open spaces, (2) in the instance of the aforementioned land acquisition, be restricted to those lands deemed necessary by the Secretary of the Army for flood control purposes, and (3) not otherwise reduce the local cooperation required under the project.

(c) Prior to the furnishing of the participation authorized by this Act, non-Federal interests shall enter into a binding written agreement with the Secretary of the Army to prevent any encroachments in needed flood plain detention areas which would reduce their capability for flood detention and recreation.

SEC. 18. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to convey to the Andrew Jackson Lodge Numbered 5, Fraternal Order of Police, of Nashville, Tennessee (hereafter in this section referred to as the "lodge"), all right, title, and interest of the United States in and to that real property consisting of thirty-eight acres, more or less which is located within the Old Hickory lock and dam project and which is presently leased to the lodge under lease numbered AA–40058–CIVENG–60–431, dated December 1, 1959.

(b) The cost of any surveys necessary as an incident of the conveyance authorized by this section shall be borne by the lodge.

(c) Title to the property authorized to be conveyed by this section shall revert to the United States, which shall have the right of immediate entry thereon, if the lodge shall ever use, or permit to be used, any part of such property for any purpose other than as a youth camp facility.

(d) The conveyance authorized by this section shall be made upon payment by the lodge to the Secretary of the Army of an amount of money equal to the fair market value of the property. The fair market value of such property shall be determined by an independent qualified appraiser acceptable to both the Secretary of the Army and the lodge. No conveyance may be made pursuant to this section after the close of the twelfth month after the month in which this section is enacted.

SEC. 19. The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by the Flood Control Act of 1958 (72 Stat. 305, 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to pay the J. P. Ward Foundries, Incorporated, of Blossburg, Pennsylvania, such sum as he determines equitable to compensate such foundry for long-term economic injury through increased costs as the result of the abandonment or cessation of rail transportation to the foundry due to the construction of the Tioga-Hammond Lakes project. Such payment shall be made only on condition that such foundry continues to do substantial business at such location. The Secretary of the Army shall pay such sum in five annual installments as determined equitable by him, including an initial payment sufficient to cover the costs of converting from rail to truck shipment facilities. There is authorized to be appropriated not to exceed $1,100,000 to carry out the purpose of this section.

SEC. 20. Subsection (f) of section 221 of the Flood Control Act of 1970, is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1974".

SEC. 21. Section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby amended by (1) inserting before the period at the end of the first sentence the following: ", at an estimated cost of $11,400,000" and (2) striking out the last sentence.

SEC. 22. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by the Flood Control Act of 1958 and modified by section 207 of the Flood Control Act of 1965, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to relocate at Federal expense that portion of the existing Mankato interceptor sewer extending approximately two thousand feet upstream of the Warren Creek Pumping Station. Such relocated interceptor sewer shall be designed and constructed in a manner which the Secretary of the Army determines best serves present and future municipal needs.

SEC. 23. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins located within the boundaries of such States and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(b) There is authorized to be appropriated not to exceed $2,000,000 annually to carry out the provisions of this section except that not more than $200,000 shall be expended in any one year in any one State.

SEC. 24. The project for flood protection on the Pequonnock River, Connecticut, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumbull, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the St. Joseph's Manor Nursing Home. Such advance, less the amount determined by the Secretary of the Army as representing increased costs resulting from construction of such service out of the planned sequence, shall be repaid by the town within ten years of the date of enactment of this Act.

SEC. 25. The project for flood protection on the Rahway River, New Jersey, authorized by the Flood Control Act of 1965 is hereby modified to provide that the costs of relocations of utilities within the channel walls shall be borne by the United States.

SEC. 26. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a complete study of the items of local cooperation involving hold and save harmless provisions which have been required for water resources development projects under his jurisdiction, and his reasons for such requirements, and to report thereon to the Congress not later than June 30, 1974, together with recommendations as to those items of local cooperation which should appropriately be required for various types of water resources development projects.

SEC. 27. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study land use practices and recreational uses at water resource development projects under his jurisdiction, and to report thereon to the Congress not later than June 30, 1974, with recommendations as to the best use of such lands for outdoor recreation, fish and wildlife enhancement, and related purposes.

SEC. 28. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266) is hereby amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000", and by striking out "$100,000" and inserting in lieu thereof "$250,000".

SEC. 29. Section 14 of the Act approved July 24, 1946 (60 Stat. 653), is hereby amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000", by inserting after the words "public works," "churches, hospitals, schools, and other nonprofit public services," and by striking out "$50,000" and inserting in lieu thereof "$250,000".

SEC. 30. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to provide a perimeter access road, utilizing existing roads to the extent feasible, surrounding Lake Texoma, Texas and Oklahoma. There is authorized to be appropriated not to exceed $3,000,000 to carry out this section.

SEC. 31. The project for Kehoe Lake located on Little Sandy River and Tygarts Creek, Kentucky, authorized by the Flood Control Act of 1966, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire, as a part of such project, in fee simple, an area consisting of approximately four thousand acres extending from the presently authorized project to Interstate Highway 64; to maintain such area in its natural state; and to conduct environmental investigations and provide access control facilities to assure appropriate protection and enhancement of this unique resource. Acquisition of these lands shall not be commenced until an agreement satisfactory to the Secretary of the Army has been entered into with the appropriate non-Federal interests to manage the area.

SEC. 32. The project for enlargement of Laron Reservoir on the East Fork of the Trinity River, Texas, authorized by the Flood Control Act of 1962, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide a crossing and approaches at Tickey Creek and suitable surfacing to permit all-weather use of Collin County Road 115, at a cost not to exceed $600,000.

SEC. 33. Clause (3) of subsection (b) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended to read as follows: "(3) Federal participation in the cost of a project providing significant hurricane protection shall be, for publicly owned property, 70 per centum of the total cost exclusive of land costs.".

SEC. 34. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to provide bank protection works along the Ohio River from New Matamoras to Cincinnati, Ohio, to protect public and private property and facilities threatened by erosion.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to (1) make an intensive evaluation of streambank erosion along the Ohio River with particular emphasis on the reach from Chester to Kenova, West Virginia, with a view to determining whether bank protection works should be provided at this time; (2) develop and evaluate new methods and techniques for bank protection, conduct research on soil stability, identify the causes of erosion, and recommend means for prevention and correction of the problems; (3) report to Congress the results of the studies together with his recommendations in connection therewith; and (4) the Secretary of the Army is authorized to undertake measures to construct and evaluate demonstration projects as determined by the Chief of Engineers.

(c) Prior to construction of any projects under subsection (a) or (b) local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the projects; hold and save the United States free from damages due to construction, operation, and maintenance of the projects, and operate and maintain the projects upon completion.

SEC. 35. The flood control project for the Scioto River, Ohio, authorized by section 203 of the Flood Control Act of 1962, as modified, is hereby further modified (1) to permit the construction of local protection works at Chillicothe, Ohio, prior to commencement of construction of the Mill Creek Reservoir, and (2) to permit the plan for such works to be revised by the Chief of Engineers so as to provide a degree of protection substantially equivalent to that provided by the project as originally authorized.

SEC. 36. The Secretary of the Army, acting through the Chief of Engineers, is authorized to initiate the second phase of the bank erosion control works and setback levees on the Sacramento River, California, authorized by the Flood Control Act of 1960, and not to exceed $10,000,000 is authorized for such purpose.

SEC. 37. The project for Newburgh lock and dam, authorized under authority of section 6 of the River and Harbor Act approved March 3, 1909, is hereby modified to direct the Secretary of the Army, acting through the Chief of Engineers, to perform bank protection works along the Ohio River at Newburgh, Indiana. Prior to construction, local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the works; hold and save the United States free from damages due to construction, operation, and maintenance of the works, and operate and maintain the works upon completion.

Sec. 38. The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further amended to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake a demonstration pilot study program of bank stabilization on the delta and hill areas of the Yazoo River Basin, Mississippi, substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 23, 1972, at an estimated cost of $9,500,000.

Sec. 39. Section 222 of the Flood Control Act of 1970 (Public Law 91–611) is amended by inserting at the end thereof the following: "The Secretary may also provide for the cost of construction of a two-lane, all-weather paved road (including appropriate two-lane bridges) extending from Old United States Highway 40, near Weimar across the North Fork and Middle Fork of the American River to the Eldorado County Road near Spanish Dry Diggings, substantially in accordance with the report of the Secretary entitled 'Replacement Alternative Upstream Road System, Auburn Reservoir—June 1970'."

Sec. 40. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the Santa Cruz Harbor project, Santa Cruz, California, authorized by the River and Harbor Act of 1958, with particular reference to Federal and non-Federal cost sharing, and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

Sec. 41. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the project for Anaheim Bay, California, authorized by the River and Harbor Act of 1954 for Seal Beach, California, with particular reference to Federal and non-Federal cost sharing, and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

Sec. 42. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such emergency bank stabilization works as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam, Missouri River.

Sec. 43. The project for navigation at Port San Luis, San Luis Obispo Harbor, California, authorized by the River and Harbor Act of 1965, Public Law 89–298, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to accept in annual installments during the period of construction the required local interest's share of the cost of constructing the general navigation features of such project.

Sec. 44. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a detailed study and report of the total benefits and costs attributable to the water resources development projects undertaken in the Ohio River Basin by the Corps of Engineers. The evaluation of benefits and costs attributable to such projects shall include consideration of the enhancement of regional economic development, quality of the total environment, the well-being of the people, and the national economic development.

(b) The Secretary, acting through the Chief of Engineers, shall report the finding of such study to Congress within two years after funds are made available to initiate the study.

(c) There is authorized to be appropriated to the Secretary not to exceed $2,000,000 to carry out this section.

Sec. 45. The comprehensive plan for flood control and other purposes in the Missouri River Basin authorized by the Flood Control Act of June 28, 1938, as amended and supplemented, is further modified to provide for emergency bank stabilization works in that reach of the Missouri River between Gavins Point Dam and Sioux City, Iowa, as determined to be necessary by the Secretary of the Army, acting through the Chief of Engineers. Such determination shall be made in cooperation with the Governors of South Dakota and Nebraska with regard to priority of locations to be protected and the nature of the protective works. Provisions (a), (b), and (c) of section 3 of the Act of June 22, 1936, shall apply to the work undertaken. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to prepare and submit to the Congress a report recommending such additional bank stabilization measures as he deems necessary for construction below Gavins Point. There is hereby authorized $5,000,000 to carry out this section.

Sec. 46. The project for the Beaver Brook Dam and Reservoir, Keene, New Hampshire, authorized by the Flood Control Act of 1968 (82 Stat. 739) is hereby modified to provide that the cash contribution required of local interests, as their share of the costs of lands, easements, rights-of-way, and relocations allocated to flood control, shall be 13.9 per centum of the total project cost.

Sec. 47. The Cave Run Lake project authorized by the Flood Control Act approved June 22, 1936, and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

Sec. 48. If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then that portion of the Hudson River in New York County, State of New York, bounded and described as follows is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon: Beginning at a point on the United States bulkhead line lying shoreward of a line parallel to and one hundred feet easterly from the United States Pierhead line, as it exists on the date of enactment of this Act, and bounded on the north by a line parallel to and one hundred forty feet southerly from the northerly line of West Forty-seventh Street extended westerly, and bounded on the south by the north side of West Forty-third Street extended westerly. This declaration shall apply only to portions of the above described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

Sec. 49. (a) Subject to the provisions of subsection (b) of this section, the Secretary of the Army is authorized and directed to convey to the Mountrail County Park Commission of Mountrail County, North Dakota, all rights, title, and interest of the United States in and to the following described tracts of land:

TRACT NUMBER 1

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of old Van Hook Village in the northwest quarter of section 32, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 2

All of the land which lies landward of a line which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of Olson's first addtiion, part of the southwest quarter of section 29, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 3

Hodge's first addition, part of the northeast quarter of section 32, township 152, range 91, west of the fifth guide meridian.

(b) (1) The conveyance of such portion of the lands described in subsection (a) as is being used by the North Dakota State Game and Fish Department for wildlife management purposes shall not become effective until the termination of the license granted to such department for such use either in accordance with its original terms on October 31, 1980, or at any time prior thereto.

(2) The lands conveyed pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes, and if such lands are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry therein.

(3) The conveyance authorized by this section shall be subject to such other terms and conditions as the Secretary of the Army deems to be in the public interest.

(c) The Mountrail County Park Commission shall pay the costs of such surveys as may be necessary to determine the exact legal description of the lands to be conveyed and such sums as may be fixed by the Secretary of the Army to compensate the United States for its administrative expenses in connection with the conveyance of such lands, which sum shall be covered into the Treasury into miscellaneous expenses.

Sec. 50. (a) Section 252 of the Disaster Relief Act of 1970 (Public Law 90–606, 84 Stat. 1757) is amended by adding at the end thereof the following:

"(d) For the purposes of this section, 'net cost' and 'net costs' of repairing, restoring, reconstructing, or replacing any such facility shall include the costs actually incurred in replacing the facility's services with services from other sources during the period of repair, restoration, reconstruction, or replacement of such facility, to the extent such costs exceed the costs which would have been incurred in providing such services but for the disaster."

(b) The amendment made by section (a) of this section shall take effect as of August 1, 1969.

Sec. 51. The Beaver Dam in the State of Arkansas shall hereafter be known as the James W. Trimble Dam, and any law, regulation, document, or record of the United States in which such dam is designated or referred to shall be held to refer to such dam under and by the name of "James W. Trimble Dam."

Sec. 52. The portion of the project for flood protection on Chartiers Creek that is within Allegheny County, Pennsylvania, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89–298), shall be designated as the "James G. Fulton Flood Protection Project". Any reference to such project in any law, regulation, map, document, record, or other paper of the United States shall be held to be a reference to the "James G. Fulton Flood Protection Project".

SEC. 53. The Secretary of the Army, acting through the Chief of Engineers, is authorized to amend the contract between the city of Aberdeen, Washington, and the United States for use of storage space in the Wynoochee Dam and Lake on the Wynoochee River, Washington, for municipal and industrial water supply purposes so as to provide that the initial and subsequent payments for the present demand water supply storage under the contract may be deferred for a period of up to ten years.

SEC. 54. The project for Wynoochee Dam and Lake, Wynoochee River, Washington, authorized by the Flood Control Act approved October 23, 1962 (76 Stat. 1193), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer to the State of Washington, as a part of project costs, an amount estimated at $664,000 for construction of fish hatchery facilities for mitigation of losses of natural spawning areas for anadromous trout occasioned by project construction.

SEC. 55. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310) is hereby amended to read as follows:

"SEC. 7. That the project for Libby Dam, Kootenai River, Montana, is hereby modified to provide that funds available for such project, in an amount estimated at $4,000,000 may be used in the construction of fish hatchery facilities and the performance of related services, for mitigation of fish losses occasioned by the project, in a manner deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers."

SEC. 56. (a) The project for Libby Dam, Kootenai River, Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat 170), is hereby modified to provide that the Secretary of the Army, hereinafter designated as the "Secretary", in order to conform with the purposes of the Fish and Wildlife Coordination Act of August 12, 1958 (72 Stat. 563), is authorized to acquire not more than twelve thousand acres of land for the mitigation of wildlife grazing losses caused by the project.

(b) The Secretary is further authorized and directed to convey without monetary consideration, to the State of Montana, all right, title, and interest of the United States in the land acquired under subsection (a), for use for wildlife grazing purposes. The deed of conveyance shall provide that the land shall revert to the United States in the event it ever ceases to be used for wildlife grazing purposes.

(c) There is authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this section.

SEC. 57. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate the drainage districts and owners of levied and unlevied tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows during drawdown operations at Libby Dam.

SEC. 58. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to reimburse Boundary County, Idaho, for the cost incurred to elevate, relocate, or reconstruct the bridge, located at the mouth of Deep Creek as it joins the Kootenai River, made necessary by the duration of higher flows during drawdown operations at Libby Dam.

SEC. 59. The project for hurricane-flood control protection from Cape Fear to the North Carolina-South Carolina State line, North Carolina, authorized by the Flood Control Act of 1966 (80 Stat. 1418, 1419) is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, may enter into an agreement with non-Federal public bodies to provide for reimbursement of installation costs incurred by such bodies, or an equivalent reduction in the contributions they are otherwise required to make, or a combination thereof, in an amount not to exceed $2,000,000, for work to be performed in the project, subject to the provisions of subsections (b) through (e) of section 215 of the Flood Control Act of 1968.

SEC. 60. The bridge to be built as a part of Interstate Route 35 in the State of Missouri over the Grand River shall be constructed at an elevation sufficient to allow for a maximum pool elevation of eight hundred and thirty-six feet above mean sea level in the proposed Pattonsburg Dam and Lake project.

SEC. 61. (a) The Secretary of the Army (hereafter in this section referred to as the "Secretary") acting through the Chief of Engineers and in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90–483) by the Corps of Engineers, the Department of the Interior, and the Department of Agriculture, as modified by this Act, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archaeologic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing entitled "Big South Fork National River and Recreation Area" numbered BSF–1 and dated September 26, 1972, which shall be on file and available for public inspection in the office of the Chief of Engineers.

(b) The Secretary shall establish the Big South Fork National River and Recreation Area by publication of notice thereof in the Federal Register when he determines that the United States has acquired an acreage within the boundaries of the National River and Recreation Area that is efficiently administrable for the purposes of this section. The Secretary may revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand.

(c) (1) Within the boundaries of the Big South Fork National River and Recreation Area, the Secretary, acting through the Chief of Engineers, may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, or exchange or otherwise, except that lands owned by the States of Kentucky and Tennessee or any political subdivisions thereof may be acquired only by donation and may exercise the power of eminent domain when necessary. When an individual tract of land is only partly within the boundaries of the national river, the Secretary, acting through the Chief of Engineers, may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river and recreation area may be exchanged by the Secretary, acting through the Chief of Engineers, for non-Federal lands within the national river and recreation area boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended. Notwithstanding any other provision of law, any Federal property within the boundaries of the national river and recreation area shall be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this section.

(2) With the exception of property or any interest in property that the Secretary, acting through the Chief of Engineers, determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereafter in this section referred to as "owner") of improved property used solely for noncommercial residential purposes on the date of its acquisition by the Secretary, acting through the Chief of Engineers, may retain the right of use and occupancy of such property for such purposes for a term, as the owner may elect, ending either (A) upon the death of the owner or his spouse, whichever occurs later, or (B) not more than twenty-five years from the date of acquisition. The Secretary, acting through the Chief of Engineers, shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the term retained by the owner. Such right (i) shall be subject to such terms and conditions as the Secretary, acting through the Chief of Engineers, deems appropriate to assure that the property is used in accordance with the purposes of this section, (ii) may be transferred or assigned, and (iii) may be terminated with respect to the entire property by the Secretary, acting through the Chief of Engineers, upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes, and upon tender to the holder of the right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

Any person residing upon improved property, subject to the right of acquisition by the Secretary, acting through the Chief of Engineers, as a tenant or by the sufferance of the owner or owners of the property may be allowed to continue in such residence for the lifetime of such person or his spouse, whichever occurs later, subject to the same restrictions as applicable to owners residing upon such property and provided that any obligation or rental incurred as consideration for such tenancy shall accrue during such term to the Department of the Army to be used in the administration of this section.

(3) As used in this subsection the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1972, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary, acting through the Chief of Engineers, shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, except that the Secretary, acting through the Chief of Engineers, may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

(4) In any case where the Secretary, acting through the Chief of Engineers, determines that underlying minerals are removable consistent with the provisions of subsection (e) (3) of this section, the owner of the minerals underlying property acquired for the purposes of this section may retain such interest. The Secretary, acting through the Chief of Engineers, shall reserve the right to inspect and regulate the extraction of such minerals to insure that the values enumerated in subsection (a) are not reduced and that the purposes declared in subsection (e)(1) are not interfered with.

(d) The Secretary, acting through the Chief of Engineers, shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the Big South Fork National River and Recreation Area in accordance with applicable Federal and State laws, except that he may designate zones where, and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary, acting through the Chief of Engineers, pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e)(1) It is the intent of Congress that the establishment and management of the Big South Fork River and Recreation Area shall be for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the river and recreation area shall be divided into two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2)(A) Within the gorge area, no extraction of or prospecting for minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive campgrounds, and access roads. No structures shall be constructed within the gorge, except for reconstruction and improvement of the historical sites specified in paragraphs (5) and (6) of this subsection and except for necessary day-use facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes.

(B) Primary access routes into the gorge area may be constructed or improved upon the general route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron Community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky, to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee, to Zenith, Tennessee, the road from Co-Operative, Kentucky, to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge.

(D) All other existing roads in the gorge area shall be maintained for nonvehicular traffic only except that nothing in this subsection shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this subsection shall be accomplished by the Secretary, acting through the Chief of Engineers, in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the recreation area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary, acting through the Chief of Engineers, may prescribe to minimize detrimental environmental impact, such regulations shall provide among other things for an area limitation for each such operation, zones where operations will not be permitted, safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the project; the Secretary, acting through the Chief of Engineers, is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the entire area; construction of all roads and facilities in adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in subsections (1) and (2) of this section shall consist of all lands and waters of the Big South Fork and its primary tributaries that lie within the gorge or valley rim on either side, except that no lands or waters north of Kentucky Highway Numbered 92 shall be included. Where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley. The designated adjacent areas shall consist of the balance of the project area.

(5) The Secretary, acting through the Chief of Engineers, shall consult and cooperate with the Tennessee Historical Commission and the Rugby Restoration Association and with other involved agencies and associations, both public and private, concerning the development and management of the Bic South Fork River and Recreation Area in the area adjacent to Rugby, Tennessee. Development within this area shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the project.

(6) The Secretary, acting through the Chief of Engineers, shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the area and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary, acting through the Chief of Engineers, may construct and improve structures within and may construct and improve a road into this community notwithstanding any other provision of this section.

(7) The Secretary, acting through the Chief of Engineers, shall study the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railbed or an alternative mode of transportation within the national river and recreation area upon the O&W roadbed, and shall report his recommendation with regard to development of this facility.

(8) The Secretary, acting through the Chief of Engineers, shall consult with the Bureau of Outdoor Recreation in the development of a recreation plan for the Big South Fork National River and Recreation Area.

(f) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the Big South Fork National River and Recreation Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, acting through the Chief of Engineers. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Big South Fork National River and Recreation Area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on the date of enactment of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, acting through the Chief of Engineers, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Chief of Engineers in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would affect the national river and recreation area and the values to be protected by it under this section.

(g) The Secretary, acting through the Chief of Engineers, shall study transportation facilities in the region served by the national river and recreation area and shall establish transportation facilities to enhance public access to the national river and recreation area. In this connection the Secretary, acting through the Chief of Engineers, is authorized and directed to acquire the ownership and custody of all public roads required to serve the public use area other than State highways, and to establish, operate, maintain, and control at Federal cost an interior and circulating road system sufficient to meet the purposes of this section, except that any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system at large, may, at the discretion of the Chief of Engineers, be relocated outside of such area upon mutual arrangements with the owning agency or else such road shall remain in place and shall be maintained at Federal expense and kept open at all times for general travel purposes. Nothing in this subsection shall abrogate the right of egress and ingress of those persons who may remain in occupancy under subsection (c) of this section, nor preclude, notwithstanding such subsection, the adjustment, relocation, reconstruction, or abandonment of State highways situated in the area, with the concurrence of the agency having the custody thereof upon such arrangements as the Secretary, acting through the Chief of Engineers, deems appropriate and in the best interest of the general welfare.

(h) In furtherance of the purposes of this section, the Secretary, acting through the

Chief of Engineers, in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs (1) to enhance the environment and conserve and develop natural resources; and (2) to minimize siltation and acid mine drainage. Such plan, with recommendations, including as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from the date of enactment of this section.

(i) The Secretary, acting through the Chief of Engineers, shall consult and cooperate with other departments and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to assure the highest water quality within the Big South Fork National River and Recreation Area and to insure that such programs for the protection of water quality do not diminish other values that are to be protected under this section.

(j) (1) For the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which they may sustain by reason of the fact that certain lands and other property within them may be included within the national river and recreation area established by this section and shall thereafter no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis and in an amount equal to that which they would have received from such taxes, but for the establishment of the national river and recreation area.

(2) For the purpose of enabling the Secretary, acting through the Chief of Engineers, to make such payments during the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977, there are authorized to be appropriated such sums as may be necessary.

(k) There are authorized to be appropriated $32,850,000 to carry out the provisions of this section.

SEC. 62. In honor of the late Richard B. Russell, and in recognition of his long and outstanding service as member of the United States Senate, the Trotters Shoals Dam and Lake, Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the "Richard B. Russell Dam and Lake", and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the "Richard B. Russell Dam and Lake".

SEC. 63. The authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period, until such study is completed and a report thereon submitted to the Congress. There is authorized to be appropriated not to exceed $3,500,000 to carry out this section.

SEC. 64. (a) This section may be cited as the "Shoreline Erosion Control Demonstration Act of 1972."

(b) The Congress finds that because of the importance and increasing interest in the coastal and estuarine zone of the United States, the deterioration of the shoreline line within this zone due to erosion, the harm to water quality and marine life from shoreline erosion, the loss of recreational potential due to such erosion, the financial loss to private and public landowners resulting from shoreline erosion, and the inability of such landowners to obtain satisfactory financial and technical assistance to combat such erosion, it is essential to develop, demonstrate, and disseminate information about low-cost means to prevent and control shoreline erosion. It is therefore the purpose of this section to authorize a program to develop and demonstrate such means to combat shoreline erosion.

(c) (1) The Secretary of the Army, acting through the Chief of Engineers, shall establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program. The program shall consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative.

(2) The program shall be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to subsection (d).

(3) Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered or inland waters. Such projects shall be undertaken at no less than two sites on the shoreline of the Atlantic, gulf, and Pacific coasts, at not less than one site on the Great Lakes, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Slaughter Beach, Broadkill Beach, and Lewes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

(4) Such demonstration projects may be carried out on private or public lands except that no funds appropriated for the purpose of this section may be expended for the acquisition of privately owned lands. In the case of sites located on private or non-Federal public lands, the demonstration projects shall be undertaken in cooperation with a non-Federal sponsor or sponsors who shall pay at least 25 per centum of construction costs at each site and assume operation and maintenance costs upon completion of the project.

(d) (1) No later than one hundred and twenty days after the date of enactment of this section the Chief of Engineers shall establish a Shoreline Erosion Advisory Panel. The Chief of Engineers shall appoint fifteen members to such Panel from among individuals who are knowledgeable with respect to various aspects of shoreline erosion, with representatives from various geographical areas, institutions of higher education, professional organizations, State and local agencies, and private organizations, except that such individuals shall not be regular full-time employees of the United States. The Panel shall meet and organize within ninety days from the date of its establishment, and shall select a Chairman from among its members. The Panel shall then meet at least once each six months thereafter and shall expire ninety days after termination of the five-year program established pursuant to subsection (c).

(2) The Panel shall——

(A) advise the Chief of Engineers generally in carrying out provisions of this section;

(B) recommend criteria for the selection of development and demonstration sites;

(C) recommend alternative institutional, legal, and financial arrangements necessary to effect agreements with non-Federal sponsors of project sites;

(D) make periodic reviews of the progress of the program pursuant to this section:

(E) recommend means by which the knowledge obtained from the project may be made readily available to the public; and

(F) perform such functions as the Chief of Engineers may designate.

(3) Members of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at rates fixed by the Chief of Engineers, but not in excess of $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently.

(4) The Panel is authorized, without regard to the civil service laws, to engage such technical and other assistance as may be required to carry out its functions.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall prepare and submit annually a program progress report, including therein contributions of the Shoreline Erosion Advisory Panel, to the chairmen of the Committees on Public Works of the Senate and House of Representatives. The fifth and final report shall be submitted sixty days after the fifth fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

(f) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and the succeeding four fiscal years, a total of not to exceed $6,000,000 to carry out the provisions of this section. Sums appropriated pursuant to this subsection shall remain available until expended.

SEC. 65. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, plan, and construct projects for the control of streambank erosion in the United States, its possessions, and the Commonwealth of Puerto Rico, in the interests of reducing damages from erosion, the deposition of sediment in lakes and waterways, the destruction of channels and adjacent lands, and other adverse effects of streambank erosion, when in the opinion of the Chief of Engineers such projects are consistent with the objectives of sound flood plain management and will result in substantial public benefits through the provision of needed protection to public, residential, and commercial properties.

(b) No such project shall be constructed under this section if the estimated Federal first cost exceeds $250,000. Any such project shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of survey reports.

(c) For all projects undertaken pursuant to this section, appropriate non-Federal interests shall furnish assurances satisfactory to the Secretary of the Army that they will—

(1) provide without costs to the United States all lands, easements, and rights-of-way necessary for the construction of the project;

(2) hold and save the United States free from damages due to construction;

(3) operate and maintain all the works after completion in accordance with regulations prescribed by the Secretary of the Army; and

(4) contribute 25 per centum of the first cost of the project.

(d) The authority contained in this section is supplemental to, and not in lieu of, the authority contained in section 14 of the

Act approved July 24, 1946 (60 Stat. 653), as amended.

(e) There is authorized to be appropriated not to exceed $10,000,000 per annum for the construction of the projects authorized by this section.

Sec. 66. (a) The project for navigation in the Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, authorized by the River and Harbor Act of 1968 (82 Stat. 731) is hereby modified to provide that the local interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor.

(b) The requirements for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

Sec. 67. Notwithstanding any other provision of law, the States of Illinois and Iowa, which are connected at Keokuk, Iowa, by the bridge constructed by the Keokuk and Hamilton Bridge Company pursuant to Public Law 63–342 and at Burlington, Iowa, by the bridge constructed by the Citizens' Bridge Company, pursuant to Public Law 64–1, are authorized to contract individually or jointly with either or both of the cities of Keokuk, Iowa, and Burlington, Iowa, on or before June 1, 1974, to assume responsibility for the operation, maintenance, and repair of the bridges at Keokuk and Burlington and the approaches thereto and lawful expenses incurred in connection therewith. When either or both States have entered into such an agreement any outstanding principal and interest indebtedness on account of a bridge shall be paid from reserve funds accumulated for that purpose and the balance of such funds, if any, shall be used to defray costs of operating and maintaining the bridge. After such an agreement is entered into with respect to a bridge, that bridge shall thereafter be free of tolls.

Sec. 68. The project for flood control, water supply, and related purposes, in the Pocatalico River Basin, West Virginia, is hereby authorized substantially in accordance with the recommendations contained in the Pocatalico River Basin Joint Study Interim Report prepared by the Corps of Engineers and the Soil Conservation Service, at an estimated cost of $7,545,400, except that no funds shall be appropriated for this project until it is approved by the President.

Sec. 69. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform channel cleanout operations and snagging and clearing for selected streams where chronic and persistent flood conditions exist in the lower Guyandot River Basin, West Virginia, for the purpose of improving channel capacities, visual environment, and human well-being all in the interest of flood control. Such operations shall be performed as an interim measure pending completion of the R. D. Bailey Lake project at a total cost not to exceed $2,000,000. Appropriate non-Federal public interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall, prior to initiation of remedial operations, furnish assurances satisfactory to the Secretary of the Army that they will furnish the necessary lands, disposal areas, easements, and rights-of-way, and hold and save the United States free from damages due to the cleanout operations.

Sec. 70. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct small flood protection projects not specifically authorized by Congress, and not within areas intended to be protected by projects so authorized, which come within the provisions of section 1 of the Flood Control Act of June 22, 1936, when in the opinion of the Chief of Engineers such work is advisable and protects an area which has been declared to be a major disaster area pursuant to the Disaster Relief Act of 1966 or the Disaster Relief Act of 1970 in the preceding five-year period, except that not more than $2,000,000 shall be allotted for this purpose for any one project. The provisions of local cooperation specified in section 3 of the Flood Control Act of June 22, 1936, as amended, shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports. There is authorized not to exceed $25,000,000 in each fiscal year for the next five fiscal years to carry out this section.

Sec. 71. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform such work as may be necessary to provide for the repair and conversion to a fixed-type structure of dam numbered 3 on the Big Sandy River, Kentucky and West Virginia.

(b) The work authorized by this section shall have no effect on the condition that local interests shall own, operate, and maintain the structure and related properties as required by the Act of August 6, 1956 (70 Stat. 1062).

Sec. 72. "Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published by the Senate in Senate Document 97 on May 29, 1962, and the interest rate formula amendment issued by the Water Resources Council effective December 24, 1968, shall remain in effect until December 31, 1973, unless changed prior to that date by an Act of Congress.

Sec. 73. This Act may be cited as the "Flood Control Act of 1972".

And the House agree to the same.

Ray Roberts,
Wm. J. Bryan Dorn,
David N. Henderson,
Don H. Clausen,
Gene Snyder,
Managers on the Part of the House.

Everett Jordan,
Lloyd Bentsen,
Elaine S. Edwards,
Robert Dole,
John Sherman Cooper,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

PROVISIONS OF THE SENATE BILL

Section 101 of the Senate bill summarizes the project authorizations for navigation and beach erosion control works in Title I. Projects include: Little River Inlet, N.C., and S.C., Texas City Channel, Texas River, Kansas City, Kansas, Hoonah Harbor, Alaska, Metlakatla Harbor, Alaska, North Shore of Long Island, N.Y., Presque Isle Peninsula, Erie, Pennsylvania.

Section 102 of the Senate bill would provide that at any water resources development project under the jurisdiction of the Secretary of the Army, where non-Federal interests are required to hold and save the United States free from damages due to the construction operation, and/or maintenance of the project, such requirement shall not include damages due to the fault or negligence of the United States or its contractors.

Section 103 of the Senate bill, which would be cited as the "Shoreline Erosion Control Demonstration Act of 1972", would authorize a program to develop and demonstrate low-cost means to prevent and control shoreline erosion. The Secretary of the Army is directed to establish and conduct, for a period of five years, a national shoreline erosion control development and demonstration program, consisting of planning, constructing, operating, evaluating, and demonstrating prototype devices, both engineered and vegetative. The program would be carried out in cooperation with the Secretary of Agriculture, other Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established by the Act.

Demonstration projects would be undertaken at at least two sites of each of the shorelines at the Atlantic, Gulf and Pacific Coasts, and at least one site on the Great Lakes, and at locations of serious erosion along the shores of Delaware Bay.

A shoreline Erosion Advisory Panel would be established, to be composed of individuals who are knowledgeable with respect to shoreline erosion, to advise the Secretary of the Army on the program.

The Secretary would be directed to submit an annual progress report and a final evaluation report to the Senate and House of Representatives Committee on Public Works. A total of $6,000,000 would be authorized for the program.

Section 104 of the Senate bill would authorize the Secretary of the Army, acting through the Chief of Engineers, to investigate, plan, and construct projects for the control of streambank erosion in the United States, its possessions, and the Commonwealth of Puerto Rico, when in the opinion of the Chief of Engineers, such projects would be consistent with the objectives of sound flood plain management and would result in substantial public benefits through the provision of needed protection to public, residential, and commercial properties.

These criteria are intended to limit the application of the section to those areas where protective measures would result in a general public benefit, through the protection of private as well as public property, such as streambanks along urban or residential areas, places of employment, and facilities performing services to the citizenry in the local areas. The section is designed primarily to protect the general public interest rather than solely to protect private properties.

No single project would be constructed under this section if the estimated Federal first cost exceeds $250,000. An annual expenditure limitation of $10,000,000 is imposed. Appropriate non-Federal interests would be required to furnish assurances that they will provide necessary lands, easements and rights-of-way, hold and save the United States free from damages due to construction, operate and maintain the projects after completion, and contribute 25 per centum of the first costs of the project.

Section 105 of the Senate bill would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to make an intensive evaluation of streambank erosion along the Ohio River, from Chester to Kenova, West Virginia, with a view to determining whether protective measures should be undertaken at this time, develop new techniques for erosion control, and report to Congress on the results of his studies together with his recommendations in connection therewith. The section also would authorize the construction of demonstration projects.

Section 106 of the Senate bill would modify the project for navigation in the Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, to provide that local interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads and embankments therefor. This cost sharing requirement would be waived upon a finding by the Administrator of the Environmental Protection Agency, that appropriate local interests are participating in and in compliance with an approved plan for the general area, for the construction, modification, expansion, or rehabilitation of waste treatment facilities, and the Administrator has found that applicable water quality standards are not being violated.

Section 107 of the Senate bill would declare a described portion of the Hudson River in New York County, State of New York, to be a non-navigable water of the United States within the meaning of the laws of the United States, and give the consent of Congress to the filling in of all or any part of the area or the erection of permanent pile supported structures in the area.

The area involved would be the site of the proposed convention and exhibition facility to be erected by the New York City Convention and Exhibition Center Corporation.

Section 108 of the Senate bill would amend the declaration of non-navigability in section 113 of the Rivers and Harbors Act of 1968 by adding pile-supported structures to correct a technical defect in the language of the section, and also would extend the area to be declared non-navigable.

Section 109 of the Senate bill would authorize the States of Missouri and Illinois, or either of them, to contract with the city of Chester, Illinois, for the operation, maintenance, and repair of the Chester Bridge in order to permit the application of toll revenues from the bridge to the retirement of the outstanding debt on the bridge.

Section 110 of the Senate bill would authorize the States of Illinois and Iowa, or either of them, to contract with either or both of the cities of Keokuk, Iowa, and Burlington, Iowa, to assume responsibility for the operation, maintenance, and repair of the bridges at those two cities.

Section 111 of the Senate bill would provide that Title I of the bill may be cited as the "River and Harbor Act of 1972."

Section 201 of the Senate bill would continue the provisions of local cooperation which have been in effect for some time, provide that project authorization would expire if local cooperation is not forthcoming within 5 years after appropriate notification, continues present procedure of submitting reports to the interested States and agencies prior to submission to Congress, and summarize the project authorizations for flood control, hurricane protection, and multiple purpose works in Title II.

Projects include: Potomac River Basin, Md. and Va., Santee River Basin, N.C.-S.C., Delaware River Basin, Pa., Middle Atlantic coastal area, Virginia, James River Basin, Buena Vista, Va., Yadkin River Basin, N.C., Pocatalico River, W. Va., Salt River Basin, Camoground, Ky., Licking River, Falmouth, Ky., West Tennessee tributaries, Tennessee, Perry County Drainage Districts No. 1, 2, and 3, Cache River Basin, Ark., Pascagoula River, Miss., Pearl River, Miss., Mississippi River at Prairie du Chien, Wis., Des Moines River, Spring River Basin, Mo., Grand River Basin, Mo., Great Lakes, Point Place, Ohio, Beals Creek, Tex., Peyton Creek, Tex., Blanco River, Tex., South Umpqua River, Oreg.

Section 202 of the Senate bill would modify the comprehensive plan for flood control and other purposes in the White River Basin to provide for a free highway bridge over the Norfolk Lake in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfolk Dam and Lake.

Section 203 of the Senate Bill would modify the project for flood control below Chatfield Dam on the South Platte River, Colorado, to authorize the Secretary of the Army to participate with non-Federal interests in the acquisition of lands and the development of recreation immediately downstream of the Chatfield Dam in lieu of a portion of the authorized channel improvements.

Section 204 of the Senate bill would authorize and direct the Secretary of the Army to convey to the Mountrail County Park Commission of Mountrail County, North Dakota, certain described tracts of land at the Garrison Dam and Reservoir project on the Missouri River. The lands would be used solely for public park and recreational purposes, and if they are ever used for any other purpose title would revert automatically to the United States.

Section 205 of the Senate bill would amend existing authority of the Secretary of the Army to undertake small projects for snagging and clearing for flood control in two respects. It would raise the limit for individual projects from $100,000 to $250,000 and the annual expenditure limit from $2,000,000 to $5,000,000. The increase is needed to keep pace with rising construction costs.

Section 206 of the Senate bill would increase the monetary limitations applicable to emergency bank protection works undertaken by the Corps of Engineers. The individual project amount would be raised from $50,000 to $250,000 and the annual expenditure limitation from $1,000,000 to $5,000,000. The increases are necessary to keep pace with the increase in construction costs since 1946 when the authority was enacted. The section also would clarify the application of the authority by adding churches, hospitals, schools, and other non-profit public services to the definition of facilities which are eligible for protection.

Section 207 of the Senate bill would modify the project for flood protection on the Pequonnock River, Connecticut, to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumbull, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the Saint Joseph's Manor Nursing Home. The advance, less the amount representing increased costs resulting from construction out of the planned sequence, would be repaid to the United States within ten years of the date of enactment of the bill.

Section 208 of the Senate bill would increase the appropriation authorization for the resolution of seepage and drainage problems in the vicinity of the town of Niobrara, Nebraska, that may be related to operation of the Gavins Point Dam and Lewis and Clark Lake project.

Section 209 of the Senate bill would amend section 211 of the Flood Control Act of 1970 by postponing the date on which it would become effective from January 1, 1972 to January 1, 1974.

Section 210 of the Senate bill would designate the portion of the project for flood control on Chartiers Creek that is within Allegheny County, Pennsylvania, as the James G. Fulton Flood Protection Project.

Section 211 of the Senate bill would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake such emergency bank stabilization measures as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam on the Missouri River.

Section 212 of the Senate bill would designate the Beaver Dam in the State of Arkansas as the James W. Trimble Dam.

Section 213 of the Senate bill would authorize the Secretary of the Army, acting through the Chief of Engineers, to amend the contract between the city of Aberdeen, Washington, and the United States for use of storage space in the Wynoochee River, Washington, for municipal and industrial water supply so as to provide that the initial payments may be deferred for a period of up to ten years.

Section 214 of the Senate bill would modify the project for Wynoochee Dam and Lake to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer to the State of Washington an amount estimated at $664,000 for construction of fish hatchery facilities for mitigation of project caused losses of natural spawning areas for trout.

Section 215 of the Senate bill would raise the authorization to meet the increased cost of participation with the State of Montana in the construction, operation, and maintenance of fish hatchery facilities to mitigate fish losses caused by the Libby Dam project, Kootenai River, Montana.

Section 216 of the Senate bill would modify the project for Libby Dam, Montana, to authorize the Secretary of the Army to acquire not more than twelve thousand acres of land for the mitigation of wildlife grazing losses caused by the project, and to participate with the State of Montana in the maintenance of the lands for grazing purposes. The lands would be turned over to the State for management, with appropriate restrictions to assure their continued sound management for mitigation of the grazing losses.

Section 217 of the Senate bill would modify the project for Libby Dam, Montana, to authorize the Secretary of the Army, acting through the Chief of Engineers, to compensate drainage districts and owners of levied and unlevied tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities, and additional pumping costs made necessary by higher water levels, and crop and other damages resulting from higher flows during drawdown operations at Libby Dam.

Section 218 of the Senate bill would modify the project for Libby Dam, Montana, to authorize the Secretary of the Army, acting through the Chief of Engineers, to reimburse Boundary County, Idaho, for the cost incurred to elevate, relocate, or reconstruct the bridge located at the mouth of Deep Creek as it joins the Kootenai River.

Section 219 of the Senate bill would permit the State of North Carolina to commence work on the project and be reimbursed up to an amount of $2,000,000. The provisions of Section 215 of the 1968 Act relating to the agreement required, approval by the United States, and the like, are made applicable.

Section 220 of the Senate bill would provide that the bridge to be built as a part of

Interstate Route 35, in the State of Missouri over the Grand River, shall be constructed at an elevation sufficient to allow for a maximum pool elevation of eight hundred and thirty-six feet above mean sea level in the proposed Pattonsburg Dam and Lake project.

Section 221 of the Senate bill would amend the small flood control project authority of the Secretary of the Army by increasing the individual project limitation from $1,000,000 to $2,000,000, and the annual program limitation from $25,000,000 to $50,000,000. The increase is needed to keep pace with the increase in construction costs since the existing limits were set.

Section 222 of the Senate bill would authorize the Secretary of the Army, acting through the Chief of Engineers, to perform channel clean-out operations and snagging and clearing for selected streams where chronic and persistent flooding conditions exist in the lower Guyandot River Basin, West Virginia, in the interest of flood control and related purposes.

Section 223 of the Senate bill would remove the requirement for the approval by the Appalachian Regional Commission and the President prior to work on a project in Tug Fork Valley, West Virginia, authorized in the 1970 Flood Control Act.

Section 224 of the Senate bill would authorize the Secretary of the Army, acting through the Chief of Engineers, to perform such work as may be necessary to provide for the repair and conversion to a fixed type structure of dam numbered 3 on the Big Sandy River, Kentucky and West Virginia.

Section 225 of the Senate bill would establish the Big South Fork National River and Recreation Area.

Subsection (a) of this section would direct the Secretary of the Army through the Chief of Engineers and in accordance with the national recreation alternative of the Interagency Report to establish a recreation area on the Big South Fork of the Cumberland River in Kentucky and Tennessee for the purpose of preserving the natural values of the gorges and free-flowing rivers and streams and for the purpose of developing the area's potential for healthful outdoor recreation.

Subsection (b) of this section provides that the project area would consist of 125,000 acres maximum.

Subsection (c) of this section would give the Secretary the right to acquire property by donation, purchase, or by the use of eminent domain, so that the total area may be efficiently acquired.

Persons residing within the boundary of the project area would be given the right to retain their property for their lifetime or for a term of 25 years at their election. Tenants residing upon property to be acquired would be allowed to continue residence during their lifetime.

Minerals underlying the recreation area and which could be recovered by deep mining where the adit to such mine is located outside the boundary and where such mining will not disrupt the surface could be retained for removal by the owner or owners subject to inspection and regulation by the Secretary.

Subsection (d) of this section would permit hunting and fishing within the recreation area, but subject to such regulations as the Secretary may issue to insure safety to other recreationists and compatibility with other recreational uses.

Subsection (e) of this section would, for the purposes of administration, divide the recreation area into two distinct sections—the gorge area and the adjacent areas. Within the gorge area the removal of timber and minerals for commercial purposes would be strictly prohibited.

Subsection (f) of this section would provide that the emphasis of development of the Big South Fork National River and Recreation Area would be the preservation of the unique natural resource afforded by the free-flowing streams and rivers. The construction of any dam or appurtenance thereto which would diminish these values would be prohibited.

Subsection (g) of this section would direct the Secretary to study the transportation access to the recreation area. Additionally the Secretary would establish an internal network of roads sufficient to supply ready access to the facilities of the recreation area.

Subsection (h) of this section would provide that the Corps shall with the assistance of other interested Federal Agencies and with the State of Tennessee formulate a comprehensive plan for improvement of the water quality of the New River.

Subsection (i) of this section would charge the Secretary to maintain the water quality of the Big South Fork and in the execution of this function to cooperate with appropriate federal and state agencies.

Subsection (j) of this section would provide for the payment to the counties of sums in lieu of taxes during the first five years of the project.

Subsection (k) of this section would authorize the appropriation of $32,850,000 for the purposes of this section.

Section 226 of the Senate bill would make mandatory, rather than discretionary, a 70 per centum Federal share, exclusive of land costs, in the cost of beach erosion control projects under section 208 of the Flood Control Act of 1970 which also provide hurricane protection.

Section 227 of the Senate bill would modify the project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania (Tioga-Hammond Dam) to authorize the Secretary of the Army, acting through the Chief of Engineers, to pay the J. P. Ward Foundries of Blossburg, Pennsylvania, such sums as he determines equitable to compensate the foundry for loss of rail transportation caused by the project. Not to exceed $1,100,000 would be authorized to be appropriated to carry out the section.

Section 228 of the Senate bill would modify the Cave Run Lake Project, authorized by the Flood Control Act, approved June 22, 1936, and June 28, 1938, to require full opportunity for public review and comment on the environmental impact statement pertaining to any proposed road to the Zilpo Recreation Area located in Bath and Menifee Counties, Kentucky, prior to any construction of such road.

Section 229 of the Senate bill would designate the Trotters Shoal Dam and Lake, Savannah River, Georgia and South Carolina, as the "Richard B. Russell Dam and Lake".

PROVISIONS OF THE HOUSE AMENDMENT

The first section of the House amendment provides that sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects which would be authorized by the amendment, and it summarizes the project authorizations. Projects included are: Middle Atlantic Coastal area, Virginia, water resources in Appalachia, Pascagoula River Basin, Mississippi, Pearl River Basin, Mississippi Gulf coastal area, Texas, Spring River Basin, Missouri, Fall Creek Basin, Indiana, Umpqua River Basin, Oregon, Lower Mississippi River, Tennessee and Arkansas.

Section 2 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to remove the sunken steamer "Glen" from Manistee Harbor, Michigan.

Section 3 of the House amendment would provide that the costs of operation and maintenance of the general navigation features of small boat harbor projects would be borne by the United States. The provisions of the section would apply to all such projects which would be authorized by this amendment, those authorized under section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960, and to any such project heretofore authorized in accordance with this policy, and hereafter recommended for authorization.

Section 4 of the House amendment would amend section 116 of the River and Harbor Act of 1970 to provide for continued maintenance of the channel of the North Branch of the Chicago River, Illinois, by the Secretary of the Army.

Section 5 of the House amendment would authorize the Secretary of the Army, acting through the Chief of Engineers, to operate and maintain the San Francisco Bay-Delta Model in Sausalito, California, for the purpose of testing proposals affecting the environmental quality of the region including, but not limited to, salinity intrusion, dispersion of pollutants, water quality, improvements for navigation, dredging, bay fill, physical structures, and other shoreline changes which might affect the regimen of the bay-delta waters.

Section 6 of the House amendment would provide that at any water resources development project under the jurisdiction of the Secretary of the Army, where non-Federal interests are required to hold and save the United States free from damages due to the construction, operation, and maintenance of the project, such requirement shall not include damages due to the fault or negligence of the United States or its contractors.

Section 7 of the House amendment would amend the declaration of non-navigability with respect to certain areas of the East and Hudson Rivers, New York, under section 113 of the River and Harbor Act of 1968.

Section 8 of the House amendment would modify the McClellan-Kerr Arkansas River Navigation System to include alteration at Federal expense of the municipal water supply facilities of the City of Conway, Arkansas, by the construction of water impoundment facilities at a location outside the flat flood plain of Cadron Creek, together with interconnecting pipeline and other appurtenant work, so that the water supply capacity is approximately equivalent to that existing before construction of the navigation system.

Section 9 of the House amendment would authorize the Secretary of the Army to make survey investigations for navigation, flood control, and allied purposes at the following named localities:

East Two Rivers between Tower, Minnesota and Vermilion Lake. Alice, Texas.

Buffalo River Basin, New York (Wastewater management study).

Miami River, Florida, with a view to determining the feasibility and advisability of dredging the river in the interest of water quality.

Port Las Mareas, Puerto Rico, with a view to determining the feasibility and advisability of assumption of maintenance of the project by the United States.

Corpus Christi Ship Channel, Texas, with particular reference to providing increased depths and widths in the entrance channels from the Gulf of Mexico to a deeper draft inshore port in the vicinity of Harbor Island, Texas.

Saint Marys River at and in the vicinity of Sault Sainte Marie, Michigan, with a view to determining the advisability of developing a deep draft navigation harbor and international port.

Section 10 of the House amendment would provide that as soon as possible after the date of enactment of the section, and at least once each year thereafter, the Secretary of the Army, acting through the Chief of Engineers, shall review and submit to Congress a list of those authorized projects under his jurisdiction which have been authorized for at least eight years and which he determines should no longer be authorized. Each project so listed would be accompanied by the recommendation of the Chief of Engineers together with his reasons for the recommendation. Prior to the submission of the list, the Secretary of the Army, acting through the Chief of Engineers, would obtain the views of interested Federal agencies and the Governor of each state in which the project is located, and these views accompany the list submitted to Congress.

Section 11 of the House amendment would amend section 207(c) of the Flood Control Act of 1960, (33 U.S.C. 701r–1), to allow the Chief of Engineers or the Commissioner of the Bureau of Reclamation to make use of traffic projections in the engineering determination of the design standard to be used in the relocation of public roads at Federal expense as part of Federal water resources project construction.

Section 12 of the House amendment would modify the project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, authorized by the Flood Control Act of 1970, to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the minor channel improvements, or portions thereof, recommended as part of the original project, independent of the investigation of alternative methods called for by the 1970 Act. The work authorized is limited to areas downstream from Maple Road in the town of Amherst, New York, and such other areas as may be deemed necessary by the Secretary.

Section 13 of the House amendment would authorize the Secretary of the Army, acting through the Chief of Engineers, to reconstruct the existing service and access roads along the line of protection at Saint Louis, Missouri, so as to adequately carry present and anticipated traffic loads.

Section 14 of the House amendment would modify the comprehensive plan for flood control and other purposes in the White River Basin to provide for a free highway bridge over the Norfolk Lake in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfolk Dam and Lake.

Section 15 of the House amendment would modify the projects for Melvern Lake and Pomona Lake, Kansas, to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve surface roads in the vicinity of the projects which he determines to be necessary for appropriate utilization of the projects. Not to exceed $500,000 would be authorized to be appropriated to carry out the section.

Section 16 of the House would modify the project for Tuttle Creek Reservoir, Kansas, to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve a portion of a highway providing access to the project.

Section 17 of the House amendment would modify the project for flood control below Chatfield Dam on the South Platte River, Colorado, to authorize the Secretary of the Army to participate with non-Federal interests in the acquisition of lands and the development of recreational facilities immediately downstream of the Chatfield Dam in lieu of a portion of the authorized channel improvements.

Section 18 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to convey to the Andrew Jackson Lodge Numbered 5, Fraternal Order of Police, of Nashville, Tennessee, all right, title, and interest of the United States in and to thirty eight acres of the Old Hickory Lock and Dam project.

Section 19 of the House amendment would modify the project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania (Tioga-Hammond Dam) to authorize the Secretary of the Army, acting through the Chief of Engineers, to pay the J. P. Ward Foundries of Blossburg, Pennsylvania, such sums as he determines equitable to compensate the foundry for loss of rail transportation caused by the project. Not to exceed $1,100,000 would be authorized to be appropriated to carry out the section.

Section 20 of the House amendment would amend section 221 of the Flood Control Act of 1970 by advancing the date on which it becomes effective from January 1, 1972, to January 1, 1974.

Section 21 of the House amendment would increase the appropriation authorization for the project to resolve the seepage and drainage problems in the vicinity of Niobrara, Nebraska, authorized under section 213 of the Flood Control Act of 1970.

Section 22 of the House amendment would modify the project for flood protection on the Minnesota River at Mankato, Minnesota, to authorize the Secretary of the Army, acting through the Chief of Engineers, to relocate that portion of the existing Mankato interceptor sewer extending approximately two thousand feet upstream of the Warren Creek Pumping Station. The relocated sewer would be designed to serve present and future municipal needs.

Section 23 of the House amendment would authorize a general program of assistance to States in the planning for development, utilization, and conservation of water and related resources.

Section 24 of the House amendment would modify the project for flood protection on the Pequonnock River, Connecticut, to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumball, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the Saint Joseph's Manor Nursing Home. The advance, less the amount representing increased costs resulting from construction out of the planned sequence, is to be repaid to the United States within ten years of the date of the enactment of this section.

Section 25 of the House amendment would modify the project for flood protection on the Rahway River, New Jersey, to provide that the costs of relocations of utilities within the channel walls shall be borne by the United States.

Section 26 of the House amendment would authorize the Secretary of the Army, acting through the Chief of Engineers, to make a complete study of the items of local cooperation involving hold and save harmless provisions which have been required for water resources development projects prosecuted by the Department of the Army, and the reasons for such requirements, and to report thereon to the Congress not later than June 30, 1974, together with recommendations as to those items of local cooperation which should appropriately be required for various types of water resources development projects.

Section 27 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to study land use practices and recreational uses at water resource development projects under the jurisdiction of the Department of the Army, and to report thereon to the Congress not later than June 30, 1974, with recommendations as to the best use of such lands for outdoor recreation, fish and wildlife enhancement, and related purposes.

Section 28 of the House amendment would amend existing authority of the Secretary of the Army to undertake small projects for snagging and clearing for flood control in two respects. It would raise the limit for individual projects from $100,000 to $250,000 and the annual expenditure limit from $2,000,000 to $5,000,000.

Section 29 of the House amendment would increase the monetary limitations applicable to emergency bank protection works undertaken by the Corps of Engineers. The individual project amount would be raised from $50,000 to $250,000 and the annual expenditure limitation from $1,000,000 to $5,000,000.

Section 30 of the House amendment would provide for construction of a perimeter access road around Lake Texana, Texas and Oklahoma.

Section 31 of the House amendment would modify the project for Kehoe Lake, Kentucky, to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire an area of about 4,000 acres and to maintain the area in its natural state, conduct environmental investigations, and provide access control facilities.

Section 32 of the House amendment would modify the project for enlargement of Lavon Reservoir, Texas, to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide a crossing and approaches at Tickey Creek and suitable surfacing to permit all-weather use of Collin County Road 115.

Section 33 of the House amendment would make mandatory, rather than discretionary, a 70 per centum Federal share, exclusive of land costs, in the cost of beach erosion control projects under section 208 of the Flood Control Act of 1970 which also provide hurricane protection.

Section 34 of the House amendment would authorize the Secretary of the Army, acting through the Chief of Engineers, to provide bank protection works along the Ohio River from New Matamoras to Cincinnati, Ohio. Local interests would be required to furnish necessary lands, easements, and rights of way, operate and maintain the works after completion, and hold and save the United States free from damages due to the construction works.

Section 35 of the House amendment would modify the project for the Scioto River, Ohio, to permit the construction of local protection works at Chillicothe, Ohio, prior to commencement of construction of the Mill Creek Reservoir.

Section 36 of the House amendment would authorize the Secretary of the Army, acting through the Chief of Engineers, to initiate the second phase of the bank erosion control works and setback levees on the Sacramento River, authorized by the Flood Control Act of 1960. Not to exceed $10,000,000 would be authorized to be appropriated for such purpose.

Section 37 of the House amendment would modify the project for Newburg Lock and Dam, Indiana, to direct the Secretary of the Army, acting through the Chief of Engineers, to perform bank protection work along the Ohio River at Newburgh, Indiana. Local interests would be required to furnish necessary lands, easements and rights of way, operate and maintain the works after completion, and hold and save the United States free from damages due to the construction works.

Section 38 of the House amendment would modify the project for flood control and improvement of the lower Mississippi River, to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake a demonstration pilot study program of bank stabilization on the delta and hill areas of the Yazoo River Basin, Mississippi.

Section 39 of the House amendment would amend section 222 of the Flood Control Act of 1970 to authorize the construction of a from Old United States Highway 40, near two lane, all-weather paved road extending Weimar, California, to the Eldorado County Road near Spanish Dry Diggings.

Section 40 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to review the requirements for local cooperation for the Santa Cruz Harbor project, Santa Cruz, California, with particular reference to Federal and non-Federal cost sharing, and report his finding to Congress within one year after the date of enactment of this section.

Section 41 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to review the requirements of local cooperation for the project for Anaheim Bay, California, with particular reference to Federal and non-Federal cost sharing, and to report his findings to Congress within one year after the date enactment of the section.

Section 42 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake such emergency bank stabilization measures as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam on the Missouri River.

Appropriate local interests would furnish the usual items of local cooperation required of such projects—lands, easements and rights-of-way, operation and maintenance of the works after completion, and hold and save the United States free from damages due to the construction works.

Section 43 of the House amendment would modify the project for San Luis Obispo Harbor, California, to authorize the Secretary of the Army, acting through the Chief of Engineers, to accept in annual installments during the period of construction the cash contribution of local interests required by the project.

The project as authorized requires that the cash be contributed in a lump sum prior to construction. The section would allow local interests to contribute their share as it is needed during construction of the project.

Section 44 of the House amendment would authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to make a detailed study and report of the total benefits and costs attributable to the water resources development projects undertaken in the Ohio River Basin by the Corps of Engineers. The evaluation of benefits and costs would include consideration of the enhancement of regional economic development, quality of the total environment, the well being of the people, and the national economic development. The report of the study would be submitted to Congress within two years after funds are made available to initiate the study. There would be authorized to be appropriated not to exceed $2,000,000 to carry out the section.

Section 45 of the House amendment would modify the project for flood control and other purposes in the Missouri River Basin to provide for emergency bank stabilization works in that reach of the Missouri River between Gavins Point Dam and Sioux City, Iowa, as determined to be necessary by the Secretary of the Army, acting through the Chief of Engineers. The determination of necessity would be made in cooperation with the Governors of the States of South Dakota and Nebraska with regard to priority of locations to be protected and the nature of the protective works. Local interests would be required to give assurances satisfactory to the Secretary of the Army that they would be furnished necessary lands, easements, and rights of way, operate and maintain the works after completion, and hold and save the United States free from damages due to the construction works. Not to exceed $5,000,000 would be authorized to carry out the section.

The section would also direct the Secretary of the Army, acting through the Chief of Engineers, to prepare and submit to the Congress a report recommending such additional bank stabilization measures as he deems necessary for construction below Gavins Point.

Section 46 of the House amendment would modify the project for Beaver Brook Dam and Reservoir, New Hampshire, to provide that the cash contribution required of local interests, as their share of the costs of lands, easements, rights of way, and relocations allocated to flood control, would be 13.9 per centum of the total project cost.

Section 47 of the House amendment would modify th Cave Run Lake Project, Kentucky, to provide that the construction of any proposed road to the Zilpo Recreation Area shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

Section 48 of the House amendment would declare a described portion of the Hudson River in New York County, State of New York, to be not a navigable water of the United States within the meaning of the laws of the United States, and would give the consent of Congress to the filling in or any part of the area or the erection of permanent pile supported structures in the area.

The area involved is the site of the proposed convention and exhibition facility to be erected by the New York City Convention and Exhibition Center Corporation.

Section 49 of the House amendment would authorize and direct th Secretary of the Army to grant to the Mountrail County Park Commission of Mountrail County, North Dakota, a lease carrying certain described tracts of land at the Garrison Dam and Reservoir project on the Missouri River. The lands are to be used by the Commission solely for public park and recreational purposes.

Section 50 of the House amendment would amend section 252 of the Disaster Relief Act of 1971 to provide that the costs of replacing certain community services, for which the Act provides assistance, include those costs incurred in obtaining substitute services during the period of repair, restoration, reconstruction, or replacement of facilities to the extent such costs exceed the cost which would have been incurred in providing such services but for the disaster.

Section 51 of the House amendment would direct that no change be made in the existing standards used for the formulation and evaluation of Federal water and related land resource projects pursuant to Section 103 of the Resources Planning Act until December 31, 1973, unless changed prior to that date by an Act of Congress. This will allow sufficient time for the hearings to be held and legislation, if necessary, developed.

Section 52 of the House amendment would provide that the Act may be cited as the "Flood Control Act of 1972."

PROVISIONS OF THE CONFERENCE SUBSTITUTE

The first paragraph of the first section of the conference substitute (relating to sections 201, 202, and 203 of the Flood Control Act of 1968) is the same as the first paragraph of section 201 of the Senate bill and the first paragraph of the first section of the House amendment.

The paragraph of the first section, headed "Middle Atlantic Coastal Area", is the same as the similarly headed paragraph in section 201 of the Senate bill and the similarly headed paragraph in the first section of the House amendment.

The paragraph of the first section, headed "James River Basin", is the same as the similarly headed paragraph in section 201 of the Senate bill.

The paragraph of the first section, headed "Salt River Basin", is basically the same as the similarly headed paragraph in section 201 of the Senate bill.

The paragraph of the first section, headed "Water Resources in Appalachia", is the same as the similarly headed paragraph in the first section of the House amendment with the following changes:

(1) The project for Royal Glen Reservoir is not authorized, and

(2) The authorization level is set at not to exceed $50,000,000 for initiation and partial accomplishment. This represents a reduction of $29,908,000 from the amount authorized for these projects in the Senate bill.

On numerous occasions the Committees on Public Works of the Senate and House of Representatives have expressed concern with the long delays which have occurred in completing the comprehensive report for water resources development in Appalachia.

Section 206 of the Appalachian Regional Development Act of 1965 called upon the Secretary of the Army to prepare a comprehensive report for water resources development in Apaplachia, to be transmitted by the President with recommendations to the Congress by December 31, 1968. While the Committees had previously been advised that there would be a one-year delay in the completion of this report, almost three additional years have gone by and still there is no indication that the report will be available for consideration by Congress in the near future.

The Conferees recognize that the report presents issues of new policy and revised procedures, which require careful consideration within the Administration, but believe that adequate time has been available to reach decisions. This report has not yet been transmitted to the Congress; yet, the need is even more urgent than in 1965 for initiating water resource development in this economically distressed region.

The Conference Report therefore includes the authorization of the plan as recommended by the Secretary of the Army, and authorizes $50,000,000 for its initiation.

The Secretary's report includes eleven specific recommendations. With the exception of the project for Royal Glen Reservoir South Branch, West Virginia, and a minor modification of his recommendations for Whiteoak Reservoir, Whiteoak Creek, Ohio, all eleven recommendations have been accepted.

The Conferees expect that the Secretary of the Army, acting through the Chief of Engineers, will as soon as possible begin the following projects: Hipes Reserovir, Virginia, Tamaqua Local Flood Protection Project, Pennsylvania; Clinchfield Reservoir, North and South Carolina; Roaring River Reservoir, North Carolina; Dalton Creek, Georgia; Whiteoak Reservoir, Ohio; Midland local protection project, Kentucky, and Royalton Reservoir—Salyersville Area, Kentucky, and Ohio.

It is noted that the project for flood protection at Tamaqua is a small project and urgently needed as illustrated by the damages caused by Hurricane Agnes. Accordingly, the Conferees expect that this project would be completed as soon as possible.

Section 224 of the Flood Control Act of 1970, conditionally authorized an innovative flood damage reduction program, consisting of residential flood-proofing and complementary local protection projects for the town of Williamson and Matewan, West Virginia. The Conferees intend by authorizing the Secretary of the Army's plan, and more specifically recommendation Number 9 of the plan, that the approvals required by section 224 would no longer be necessary. The Conferees further concur in the Secretary's recommendation that he be authorized to design a similar program for the entire Tug

Fork Valley, including the area in Kentucky. This work should begin immediately.

As in the case of Tug Fork, the conferees intend that the conditions for authorization of the Whiteoak Dam and Reservoir on Whiteoak Creek, Ohio, as they appear in section 12 of Public Law 92-222 are no longer applicable as that authorization has been superseded by the authorization of the plan for water resources in Appalachia in the Conference Report.

The paragraph of the first section, headed "Pascagoula River Basin", is the same as the similarly headed paragraph in section 201 of the Senate bill and the similarly headed paragraph in the first section of the House amendment.

The paragraph of the first section, headed "Pearl River Basin", is the same as the similarly headed paragraph in section 201 of the Senate bill and the similarly headed paragraph in the first section of the House amendment.

The paragraph of the first section, headed "Gulf Coastal Area", is the same as the similarly headed paragraph in section 201 of the Senate bill and the similarly headed paragraph in the first section of the House amendment.

The paragraph of the first section, headed "Spring River Basin", is the same as the similarly headed paragraph in section 201 of the Senate bill and the similarly headed paragraph in the first section of the House amendment.

The paragraph in the first section of the conference substitute, headed "Grand River Basin", modifies the presently authorized Pattonsburg Lake project to require the Chief of Engineers to immediately proceed with engineering and design.

The paragraph of the first section, headed "Umpqua River Basin", is the same as the similarly headed paragraph in the first section of the House amendment authorized however at $40,000,000. The conferees intend that the recommendations of the Chief of Engineers in House Document Numbered 92-371 include those in his letters dated September 15, 1972 and October 2, 1972, both of which are printed in such House Document.

The first paragraph in the material headed "Lower Mississippi River" in the first section is the same as the first paragraph in the similarly headed material in the Senate in section 201 of the Senate bill and the first paragraph of the similarly headed material in the first section in the House amendment.

The second paragraph in the material headed "Lower Mississippi River", is the same as the second paragraph in the similarly headed material in section 201 of the Senate bill.

The Senate bill included projects for Verona Dam and Lake, Virginia, and Sixes Bridge Dam and Lake, Maryland. The projects as recommended by the Chief of Engineers included substantial benefits for low flow augmentation for water quality. In the case of Sixes Bridge almost 60% of the annual benefits were for this purpose. At Verona approximately 80% of the annual benefits of the project were for the same purpose.

In the recently passed Federal Water Pollution Control Act Amendments of 1972 (S. 2770), the concept of "pollution by dilution" was banned as an alternative to waste treatment for pollution from point sources. The 1972 Amendments provide that the Administrator of the Environmental Protection Agency, and not the Chief of Engineers, has the authority to determine when low flow augmentation is an appropriate technique for supplementary pollution control programs.

However, based on information available to the Conferees, it is clear that the projects can be justified for purposes other than low flow augmentation for water quality. For example water supply needs might justify the projects. Accordingly, the Conferees direct the Secretary of the Army, acting through the Chief of Engineers, to reformulate the Sixes Bridge and Verona projects, and resubmit them to Congress as soon as possible but in no event later than June 30, 1973.

The House amendment included a project for Highland Lake Dam and Reservoir, Fall Creek Basin, Indiana. The major purpose of this project is to assure adequate water supply for the City of Indianapolis. The project report was received too late for adequate hearings by either body. Accordingly, the Conference report does not include the project.

The Conferees anticipate that the Public Works Committee of the Senate and the House of Representatives would hold hearings on the Potomac River projects and the Highland Lake project early in the 93rd Congress so that appropriate action can be taken.

The Senate bill included several projects, each having an estimated Federal cost of less than $10 million. These projects qualify for authorization by committee action under the provisions of section 201 of the Flood Control Act of 1965. The Committees have these projects under active consideration for authorization under section 201, and the projects are, therefore, not included within the conference report.

Section 2 of the conference substitute is the same as section 2 of the House amendment.

Section 3 of the conference substitute is the same as section 3 of the House amendment.

Section 4 of the conference substitute is the same as section 4 of the House amendment.

Section 5 of the conference substitute is the same as section 5 of the House amendment.

Section 6 of the conference substitute is the same as section 6 of the House amendment and essentially the same as section 102 of the Senate bill.

Section 7 of the conference substitute is the same as section 108 of the Senate bill and section 7 of the House amendment.

Section 8 of the conference substitute is the same as section 8 of the House amendment.

Section 9 of the conference substitute is the same as section 9 of the House amendment.

The Conferees intend that the study of the Buffalo River Basin, New York shall include, as a part of the waste water management study, a determination of the necessary measures for cleaning, snagging, and removal of debris from the river's bed and banks and the advisability of dredging and structural works to improve stream flow and water quality. The Conferees also intend that consideration be given in the study to various methods of bank stabilization.

Section 10 of the conference substitute is the same as section 10 of the House amendment.

Section 11 of the conference substitute is the same as section 11 of the House amendment.

Section 12 of the conference substitute is the same as section 12 of the House amendment.

The Conferees stress that this section is for interim protection and remedial type action only and is not intended to adversely affect any further alternatives to the Sandridge Dam.

Section 13 of the conference substitute is the same as section 13 of the House amendment.

Section 14 of the conference substitute is the same as section 14 of the House amendment and essentially the same as section 202 of the Senate bill, except that the Senate bill does not provide for transfer of title and future maintenance of the bridge to local interests.

Section 15 of the conference substitute is the same as section 15 of the House amendment.

Section 16 of the conference substitute is the same as section 16 of the House amendment.

Section 17 of the conference substitute is the same as section 203 of the Senate bill and section 17 of the House amendment.

Section 18 of the conference substitute is the same as section 18 of the House amendment, except that the reference to disadvantaged children has been deleted in subsection (C).

Section 19 of the conference substitute is the same as section 19 of the House amendment and essentially the same as section 227 of the Senate bill, except that the Senate bill does not provide for the payments to be made in five annual installments.

Section 20 of the conference substitute is the same as section 209 of the Senate bill and section 20 of the House amendment.

Section 21 of the conference substitute is the same as section 208 of the Senate bill and section 21 of the House amendment.

Section 22 of the conference substitute is the same as section 22 of the House amendment.

Section 23 of the conference substitute is the same as section 23 of the House amendment.

Section 24 of the conference substitute is the same as section 207 of the Senate bill and section 24 of the House amendment.

Section 25 of the conference substitute is the same as section 25 of the House amendment.

Section 26 of the conference substitute is the same as section 26 of the House amendment.

Section 27 of the conference substitute is the same as section 27 of the House amendment.

Section 28 of the conference substitute is the same as section 205 of he Senate bill and section 28 of the House amendment.

Section 29 of the conference substitute is the same as section 206 of the Senate bill and section 29 of the House amendment.

Section 30 of the conference substitute is the same as section 30 of the House amendment.

Section 31 of the conference substitute is the same as Section 31 of the House amendment.

Section 32 of the conference substitute is the same as Section 32 of the House amendment.

Section 33 of the conference substitute is the same as Section 226 of the Senate bill and Section 33 of the House amendment.

The conferees intend that where substantial protection of public property will result in incidental works on private property, the Federal share of such incidental work will be 70 percent in accordance with the provisions of this section.

Section 34(a) of the conference substitute is the same as Section 34 of the House amendment.

Section 34(b) of the conference substitute is the same as Section 105(a) of the Senate bill.

Section 34(c) of the conference substitute is the same as Section 105(b) of the Senate bill and Section 34 of the House amendment.

Section 35 of the conference substitute is the same as Section 35 of the House amendment.

Section 36 of the conference substitute is the same as Section 36 of the House amendment.

Section 37 of the conference substitute is the same as Section 37 of the House amendment.

Section 38 of the conference substitute is the same as Section 38 of the House amendment.

Section 39 of the conference substitute is the same as section 39 of the House amendment.

Section 40 of the conference substitute is the same as section 40 of the House amendment.

Section 41 of the conference substitute is the same as section 41 of the House amendment.

Section 42 of the confernce substitute is the same as section 211 of the Senate bill and section 42 of the House amendment.

Section 43 of the conference substitute is the same as section 43 of the House amendment.

Section 44 of the conference substitute is the same as section 44 of the House amendment.

Section 45 of the conference substitute is the same as section 45 of the House amendment.

Section 46 of the conference substitute is the same as section 46 of the House amendment.

Section 47 of the conference substitute is the same as section 228 of the Senate bill and section 47 of the House amendment.

Section 48 of the conference substitute is the same as sections 107 of the Senate bill and 48 of the House amendment, except for technical amendment respecting the description of land involved and the requirement of a finding of public interest.

Section 49 of the conference substitute is the same as sections 204 of the Senate bill and 49 of the House amendment, except that the House provision would have granted a lease rather than fee title with reverter.

Section 50 of the conference substitute is the same as section 50 of the House amendment.

Section 51 of the conference substitute is the same as section 212 of the Senate bill.

Section 52 of the conference substitute is the same as section 210 of the Senate bill.

Although three name change provisions have been included in the Conference Report, the Conferees do not intend this to constitute a precedent for additional name change provisions in future River and Harbor and Flood Control Acts. It is the policy of the Committees on Public Works of the House of Representatives and the Senate that name changes of water resource development projects ought to be done by separate legislation. However, because of the impracticability of passing such individual bills before adjournment of this Congress, the Conference Report recognizes the contributions of several deceased legislators.

Section 53 of the conference substitute is the same as section 213 of the Senate bill.

The Conferees intend that the Secretary of the Army in amending the contract between the city and the United States should require in the first year an initial payment of not less than 10 per centum of the total amount which would otherwise have had to have been paid in such year, with increasing amounts thereafter payable as the Secretary, acting through the Chief of Engineers, determines to be fair and reasonable taking all factors into consideration, until such total amount shall have been paid.

Section 54 of the conference substitute is the same as section 214 of the Senate bill.

Section 55 of the conference substitute is the same as section 215 of the Senate bill.

Section 56 of the conference substitute is the same as section 216 of the Senate bill, except that the maintenance provision is deleted and the authorization is limited to $2,000,000.

Section 57 of the conference substitute is the same as section 217 of the Senate bill.

Section 58 of the conference substitute is the same as section 218 of the Senate bill.

Section 59 of the conference substitute is the same as section 219 of the Senate bill.

Section 60 of the conference substitute is the same as section 220 of the Senate bill.

Section 61 of the conference substitute is the same as section 221 of the Senate bill.

Section 62 of the conference substitute is the same as section 229 of the Senate bill.

Section 63 of the conference substitute is the same as the second paragraph in the material headed "Beach Erosion" in section 101 of the Senate bill.

Section 64 of the conference substitute is the same as section 103 of the Senate bill, except that the advisory panel in subsection (a) is established by the Chief of Engineers.

Section 65 of the conference substitute is the same as section 104 of the Senate bill.

Section 66 of the conference substitute is the same as section 106 of the Senate bill.

Section 67 of the conference substitute is the same as section 110 of the Senate bill.

Section 68 of the conference substitute is the same as the paragraph headed " Pocataligo River Basin" in section 201 of the Senate bill.

Section 69 of the conference substitute is the same as section 222 of the Senate bill.

Section 70 of the conference substitute replaces section 221 of the Senate bill and provides small flood protection project authority to the Chief of Engineers for works to protect areas declared to be major disaster areas during the preceding five-year period with a limitation of not more than $2,000,000 for any single locality. Authorization is for $25,000,000.

Section 71 of the conference substitute is the same as section 224 of the Senate bill.

Section 72 of the conference substitute is the same as subsection (a) of section 51 of the House amendment.

The deletion of subsection (b) of the House amendment was because it was considered duplicative of subsection (a). Section 72 will assure that Congress will have sufficient time to review water resources standards now being considered by the Water Resource Council.

Section 73 is the same as section 52 of the House amendment.

RAY ROBERTS,
WM. J. BRYAN DORN,
DAVID N. HENDERSON,
DON H. CLAUSEN,
GENE SNYDER,
Managers on the Part of House.
B. EVERETT JORDAN,
LLOYD BENTSEN,
ELAINE S. EDWARDS,
ROBERT DOLE,
JOHN S. COOPER,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE REPORT ON H.R. 16598, AMENDING DISASTER RELIEF ACT OF 1970

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight Thursday, October 12, 1972, to file the report on H.R. 16598, to amend the Disaster Relief Act of 1970 to provide that community disaster grants to be based upon loss of budgeted revenue, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE REPORTS ON H.R. 17038, DESIGNATING OAKLEY RESERVOIR ON SANGAMON RIVER AS WILLIAM L. SPRINGER LAKE; ON H.R. 16804, RENAMING MINEOLA DAM AS CARL L. ESTES DAM AND LAKE; AND H.R. 13158, NAMING BRIDGE ACROSS OAKLAND HARBOR AS GEORGE P. MILLER-LELAND W. SWEENEY BRIDGE; AND FOR MANAGERS TO FILE A CONFERENCE REPORT ON S. 1819, RELOCATION ASSISTANCE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works have until midnight tonight, Thursday, October 12, to file reports on H.R. 17038, designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake; H.R. 16804, to rename the Mineola Dam and Lake, Texas, as the Carl L. Estes Dam and Lake; and H.R. 13158, to name a bridge across a portion of Oakland Harbor, Calif., the George P. Miller-Leland W. Sweeney Bridge; and that the managers have permission to file a conference report on S. 1819, to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 15641, MILITARY CONSTRUCTION AUTHORIZATION, 1973

Mr. FISHER. Mr. Speaker, I call up the conference report on the bill (H.R. 15641) to authorize certain construction at military installations, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 9, 1972.)

Mr. FISHER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with, since both the conference report and the joint statement of the managers have been printed and are available to the Members in the issue of the CONGRESSIONAL RECORD of October 9, 1972, on pages 34370–34378.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HALL. Mr. Speaker, reserving the right to object, I should like to inquire of my friend and colleague on the Committee on Armed Services, whether or not this has been cleared with the minority side, even though we have no partisanship in the Committee on Armed Services in the interests of defense of our country.

I notice, as a member of that committee, the gentleman's counterpart is not present. I would simply like to know if it has been cleared. In addition I would be glad to yield for a short explanation of the conference report.

Mr. FISHER. In response to the gentleman's inquiry, I will say that the ranking Member on the minority side is in full agreement with the contents of the report. He participated in it, and, of course, signed the report.

Mr. HALL. May I further inquire if there was anything of great cost added on in the conference; if the House position prevailed, and if any Senate nongermane amendments are involved?

Mr. FISHER. As the gentleman well knows, it is a rather lengthy bill. There were quite a number of changes.

There was a decrease, actually. The Trident program was cut out as a result of Senate insistence, due largely to the fact that the Navy had not been able to locate a specific site up to this time. Therefore, we went along with them on that item and subtracted $14,600,000, which the House bill included. That was the major cutdown in the total amount.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's forthright response.

Is it a fair statement, to say that this is now a moot question in any event, inasmuch as the appropriation has already passed and all points of order were waived so that no authorizing legislation was required, at the time the appropriation was considered?

Mr. FISHER. The gentleman has correctly stated the situation.

Mr. HALL. Mr. Speaker, under those circumstances, in spite of how greatly I decry fragmentation of the rules of the House, I withdraw my reservation.

Mr. FISHER. Mr. Speaker, on July 20, 1972, the House passed the fiscal year 1973 military construction authorization bill—H.R. 15641—in the total amount of $2,567,334,000.

On August 4, 1972, the Senate considered this legislation and provided new authorizations in the total amount of $2,539,304,000.

As a result of a conference, House and Senate conferees worked out the differences and agreed to a new adjusted authorization for military construction for fiscal year 1973 in the amount of $2,549,525,000.

The Department of Defense and the respective military departments had requested a total of $3,047,961,000 for new construction authorization for fiscal year 1973. This amount included $399.4 million for ABM-related construction later transferred by the Senate to the military procurement bill. The action of the conferees, therefore, with the transfer of $399.4 million to the procurement bill, reduces this departmental request by $99,000,000 rather than $498,000,000 as would first appear.

There were over 100 differences in the House and Senate versions. However, we were able to arrive at an agreement on each one. I will not go into a lot of detail because the statement of managers explains the action of the conferees.

The most difficult problem encountered in the conference with the Senate was on the subject of the Trident submarine base. This year the Navy requested $14.3 million for the first phase of the Trident submarine base, but at this point in time the Navy is unable to state where the base is to be located. The House approved the Navy's request, but it was denied by the Senate. After much discussion and delay because of this particular problem, the House conferees most reluctantly receded to the Senate position.

However, we were able to retain many projects not included in the Senate version. In other words, we had to do some plain old horse trading.

The Senate, during their consideration of the bill, added a provision which will authorize the Secretary of the military departments to designate as rental housing such housing units now in inventories that are determined to be inadequate as public quarters and that cannot be economically upgraded to meet the standards of adequacy. Such houses could then be leased to eligible personnel at the fair rental value, but not to exceed 75 percent of their basic allowance for quarters such that in no event shall the total charge be less than the cost of operation and maintenance of the units. The House bill did not contain such a provision. However, House conferees reluctantly agreed to the Senate language with an amendment limiting the number of units that could be declared inadequate under this section to 20,000. House conferees agreed that they would try this concept for 1 year and again review the housing situation in next year's program to see the results of this concept.

Therefore, after giving a little here and taking a little there, your conferees did the best they could and believe that they have brought to the House a good bill that will provide adequately for construction needs of the military during this fiscal year.

I want to thank the gentleman from Indiana (Mr. BRAY) for his dedication and assistance during our hearings and more especially in the conference. Also, I want this House to know that all members of your conference committee worked hard to bring this conference report before you, and I urge its adoption.

Mr. BRAY. Mr. Speaker, my colleague, the distinguished chairman of the military construction subcommittee, has explained the details of our conference with the Senate. Therefore, I will not go into the matters he has already discussed with you.

As in all conferences, it was necessary to compromise on individual line items requested by the services, and in some instances valid items were left out of the program we bring to the House today. As the subcommittee chairman pointed out, the most difficult problem was in connection with a new Trident submarine base. The big problem with this project was the fact that the Navy has not yet selected a site. The Senate conferees informally stated that once the Navy announces the location of the proposed facility, they would have no reluctance in going along with the Navy's request next year for this installation.

I want to congratulate my colleagues on the committee of conference for their dedication and efforts to bring this report to the House. Also, I especially want to point out to the Members of the House the excellent leadership provided by the gentleman from Texas, the chairman of the military construction subcommittee. I urge the adoption of the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FISHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

SUPPLEMENTAL MARITIME AUTHORIZATION, 1973

Mr. GARMATZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16987) to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce.

The Clerk read as follows:

H.R. 16987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 22, 1972 (86 Stat. 617; Public Law 92-402) is amended by striking out of paragraph (a) thereof the figure $280,000,000 and inserting in lieu thereof the figure $455,000,000.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Will the gentleman withhold that request in order for a unanimous-consent request to be made?

The Chair has promised the chairmen of the Committee on Rules and the Committee on Ways and Means and the Committee on Appropriations that they would have certain bills up first. Obviously, they are not ready.

Mr. HALL. Obviously, Mr. Speaker, we need a quorum to do business.

The SPEAKER. The gentleman from Texas (Mr. PATMAN) has a unanimous-consent request. We might be able to dispose of that. Will the gentleman withhold his point of order?

Mr. HALL. No, Mr. Speaker, I insist on my point of order.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 430]

Abernethy
Anderson, Tenn.
Archer
Baring
Barrett
Bell
Blackburn
Blanton
Byrne, Pa.
Cabell
Caffery
Carey
Celler
Chisholm
Clark
Clay
Collins, Ill.

Crane
Davis, S.C.
Davis, Wis.
Denholm
Devine
Dow
Dowdy
Dulski
Dwyer
Edmondson
Esch
Evans, Colo.
Fish
Ford,
  William D.
Forsythe
Galifianakis
Gallagher
Giaimo
Gray
Green, Oreg.
Gross
Hagan
Haley
Hanna
Hansen, Wash.
Hastings
Hawkins
Hébert
Heckler, Mass.
Hungate
Jones, N.C.
Kee
Keith
King
Kuykendall
Link
Lloyd
McClure
McCulloch
McDonald,
  Mich.
McKevitt
Macdonald,
  Mass.
Martin
Matsunaga
Michel
Mitchell
Monagan
Murphy, N.Y.
Nichols
Pelly
Pepper
Pryor, Ark.
Purcell
Reid
Roncalio
Scheuer
Schmitz
Scott
Smith, Calif.
Steele
Steiger, Ariz.
Stokes
Sullivan
Thompson, Ga.
Thompson, N.J.
Yatron

The SPEAKER. On this rollcall 348 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

SUPPLEMENTAL MARITIME AUTHORIZATION, 1973

The SPEAKER. The gentleman from Maryland (Mr. GARMATZ) has moved that the House suspend the rules and pass the bill (H.R. 16987) to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce.

Is a second demanded?

Mr. MAILLIARD. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GARMATZ. Mr. Speaker, I rise in support of H.R. 16987, which is a supplemental authorization of appropriations for fiscal year 1973. The Maritime Administration has come forward with this supplemental authorization of appropriations in the amount of $175 million for construction-differential subsidy because all of the $250 million for construction subsidy contained in the original maritime authorization budget for fiscal year 1973 has been spent or earmarked.

This additional authorization of appropriations would be required to consummate contracts covering eight more commercial vessels. Five of these eight vessels will be of the new and innovative liquefied natural gas type carriers. Two of the eight vessels will be the so-called ore-bulk-oil type vessels and the last ship will be a roll-on, roll-off vessel.

If contract commitments for these additional eight vessels cannot now be met because of the lack of this supplemental authorization of appropriations, we risk losing the momentum which has been achieved in the ship construction program under the landmark 1970 Merchant Marine Act. In this connection, the Assistant Secretary of Commerce for Maritime Affairs informed our committee members at hearings on October 10, on H.R. 16987, that the five LNG tankers in question might be built abroad and a distinct hiatus of 15 or 16 months would occur in the shipbuilding program which we have all worked so hard to estabilsh and foster.

Obviously, it would be a terrible blow to have a hiatus of this magnitude in our shipbuilding program. It would be a worse blow to have these LNG vessels built abroad. Indeed, the construction-differential subsidy to be paid by the U.S. Government on the six LNG vessels recently put under contract is only 23.7 and 25.74 percent, which is dramatically lower than the present legal 41 percent subsidy level. Because of this low-subsidy level, there is great expectation in the maritime industry that we may compete for the first time with foreign yards in the construction of these vessels, and may even build some of these vessels in U.S. shipyards for foreign account.

I would like to point out to my colleagues that the factor mentioned above would have a tremendous impact upon our balance of payments—given the fact that such contracts would be coupled with the construction of ancillary gasification and pipeline equipment in the United States worth over half a billion dollars. Also, I would like to point out that it is anticipated that the ships to be built with this $175 million in additional subsidy money will generate 31,000 man-years of employment in domestic yards.

We recognize that this is a very important item to push through the Congress in its waning days. However, it is absolutely essential to the shipbuilding program and to the maritime industry.

We have been assured that this supplemental request will receive favorable attention at the other levels of authorization and appropriation in both the House and the Senate.

In light of the absolute necessity of these additional funds to continue our maritime rebuilding program, I cannot urge my colleagues strongly enough to vote for the passage of H.R. 16987.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. DOWNING), a member of the committee, such time as he may consume.

Mr. DOWNING. Mr. Speaker, I rise to urge the strong support of the House for H.R. 16987, a bill that would authorize $175 million in supplemental appropriations for the construction subsidy program of the Maritime Administration for fiscal year 1973. Earlier this year, the Congress authorized $250 million for the construction program of the Maritime Administration. Now, your committee is requesting an additional $175 million.

Mr. Speaker, I am pleased to inform the House that the Maritime program provided by the Merchant Marine Act of 1970 has been very successful. Ship construction activity under this program has necessitated this supplemental authorization request for $175 million.

One June 30, 1972, the Maritime Administration signed contracts for the construction of 16 subsidized vessels whose total cost was about $660 million. The Government subsidy share of this vessel cost was approximately $290 million. Incidentally, this was the largest single group of peacetime contract awards for merchant ships since the inception of the subsidy program in 1936—$96 million of the 1973 basic appropriation of $250 million was used for this purpose. The remainder was funded from 1973 money and the use of multiyear procurement.

The above contracts left only $171 million, including $17 million of 1972 carryover funds, available to finance additional shipbuilding contracts during all of fiscal year 1973.

Then on September 29 and 30 of this year, the Maritime Administration signed contracts for the construction of six LNG vessels. Although the subsidy rate for these vessels averaged less than 25 percent, the lowest rate ever, the subsidy contract awards totaled $141.9 million.

As a result, after obligating an additional $2.9 million for contract changes, the Maritime Administration has only $26 million for ship construction subsidy available for the remainder of fiscal year 1973. As the chairman of your committee has pointed out, $26 million is just not enough. Authorization for an additional $175 million is required.

The Assistant Secretary of Commerce for Maritime Affairs is of the strong opinion, and your committee completely agrees, that contracts for about eight more ships should be awarded in fiscal year 1973. Very briefly, these would be five additional LNG vessels, two so-called OBO's for Moore-McCormack Lines, Inc., to fulfill the requirements of the Passenger Ship Sales Act, and another so-called roll-on roll-off vessel for the States Steamship Co. The requested authorization for supplemental appropriations in the amount of $175 million would provide for the above vessels.

For these reasons, I strongly urge the House to support H.R. 16987.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate my friend yielding to me.

This is a little bit of an unusual procedure here, although a copy of the identical report and the bill has been furnished me, it is not generally available.

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. GARMATZ. Mr. Speaker, I yield 3 additional minutes to the gentleman from Virginia.

Mr. HALL. Will the gentleman yield further?

Mr. DOWNING. I yield to the gentleman from Missouri.

Mr. HALL. Much to my surprise, today I learn on the floor that last night it was added to the list for suspensions of the rules, which of course is within the prerogative of the leadership.

I understand, after having reviewed this report and the bill, that it is an emergency, and that this is less than the usual subsidy we invest in our merchant marine. Also, that it is really a buy-American bill in that it will keep this shipbuilding in the continental United States, rather than perhaps having those who will furnish the necessary shipping requirements seek vessels under another flag registry, other than our own sovereign Nation.

Did the gentleman say that it was within the budget or just approved as an urgent matter by the Office of Management and Budget?

Mr. DOWNING. It is my opinion that it was approved by the Office of the Budget; it has been approved. I do not know whether it was included in the original budget or not.

I know that the President said that, in the implementation of the shipbuilding program, if additional funds were needed, he would see that we got them.

Now, the emergency is here, particularly created by the impending energy crisis and the necessity for these huge tankers.

Mr. HALL. If the gentleman would yield further, I think it is necessary that Congress be facile enough to react to situations like this. Certainly, I want these huge tankers and other types of merchant marine vessels to follow along in the new breakthrough in the reconstruction of our merchant marine, which we considered in the last Congress or early in this one.

As a matter of procedure, if this supplemental authority for an appropriation is approved, does the gentleman, or the distinguished chairman of the full committee on merchant marine, expect this to be added onto the supplemental bill that passed this body as far as the appropriation is concerned, and is now in the other body, or when it gets to conference?

Mr. GARMTAZ. The answer to that question is "yes."

Mr. DOWNING. We have been more or less assured it will be included in the supplemental in the other body.

Mr. HALL. The entire $175 million?

Mr. DOWNING. Yes, sir.

Mr. HALL. The gentleman being familiar with ship construction, coming from perhaps the greatest port for private shipbuilding we have, believes that this is not an unreasonable amount as an add-on to the original amount authorized for reconstitution of our Merchant Marine?

Mr. DOWNING. I do not. If we were not to pass this it would create a hiatus in the shipbuilding program we already have, which is designed to give this country the merchant marine it deserves.

Mr. HALL. I thank the gentleman.

Mr. BOW. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I am glad to yield to the gentleman from Ohio.

Mr. BOW. I should like to congratulate the committee for this bill, again building ships in the United States, which I believe is very necessary.

May I say, in answer to the gentleman from Missouri's question, I understand the financing has gone to the other body and will be put in the bill over there. When we go to conference I can assure the Members that this Member will be in favor of the subsidy and for the early building of these ships.

Mr. GARMATZ. Mr. Speaker, I yield myself 1 minute.

The gentleman referred to an article in the newspaper, which stated that the President had asked this money be authorized and that the program continue to be carried out.

I should like to add that the Office of Budget and Management has supported this authorization.

Mr. MAILLIARD. Mr. Speaker, I yield myself such time as I may consume.

I want to join in supporting the statements made by our chairman and by the gentleman from Virginia.

I believe the bill has been fully explained. It is being brought up as somewhat of an emergency matter, at the request of the White House. It is very critical if we are to keep up the momentum developed under the Merchant Marine Act of 1970.

I urge my colleagues to support the bill.

Mr. LENNON. Mr. Speaker, I rise to urge passage of H.R. 16987, a bill that would authorize $175 million in supplemental appropriations for the ship construction program of the Maritime Administration of the Department of Commerce for fiscal year 1973.

The bill, H.R. 16987, was introduced at the request of the Administration. It would increase by $175 million, the 1973 construction subsidy appropriation authorization of the Maritime Administration. The Administration requested the bill as the success of the maritime program provided by the Merchant Marine Act of 1970 has just about exhausted funds for this purpose.

After hearings on the bill, your committee unanimously reported H.R. 16987, without amendment. At the present time there remains only $26 million for construction subsidy for the remainder of fiscal year 1973. This amount is totally inadequate for the contracts of eight more ships that should be awarded this year.

The Merchant Marine Act of 1970 provided, among other things, for a 10-year vessel construction program. Without the requested appropriation authorization, confidence in the Government could falter to the detriment of the entire Maritime program.

Mr. Speaker, I strongly urge the House to support this very necessary legislation.

Mr. ANDERSON of Tennessee. Mr. Speaker, I want to commend the distinguished chairman of the Committee on Merchant Marine and Fisheries for bringing forward this vital, emergency legislation.

The purpose of this bill is to help meet an impending energy crisis which, from all indications, the United States will experience by the year 1985.

There are several additional goals. One relates to atmospheric pollution. Natural gas burns almost pollution free. Then, conservation. Vast quantities of natural gas are still being flared to the atmosphere at wellheads throughout the world. This is a shameful waste, particularly when we consider the well-being of future generations.

I am fully aware of the complexities and difficulties of trying to look and plan ahead on matters of public needs. However, we must begin planning for the next decade before a growing energy crisis becomes a national catastrophe.

Authorities estimate that at the present rate of energy consumption in the United States, combined with a continuing decrease in domestic supply of energy sources, by 1985, we will be required to import over 40 percent of all forms of energy consumed. This will include the importation of approximately 15 million barrels of oil per day and 12 trillion cubic feet of natural gas per year. We are currently importing 3.4 million barrels of oil per day and it is anticipated that the growth rate of oil imports will be 300 to 400 percent during the next 15 years.

A massive cutback in the anticipated growth rate of energy consumption is not the solution if we are to survive and compete effectively as an industrial nation and support a relatively high standard of living, though certainly we must pay strong attention to conservation of energy resources.

The primary sources of energy in the foreseeable future will continue to be oil and gas. Coal and nuclear power will continue to provide substantial inputs, but even with the coal industry doubling its output and nuclear plants increasing their megawatt yield 80 times, these sources will provide only 37 percent of our national needs in 1985.

In addition, all the nonconventional sources combined, such as hydroelectric, geothermal, tidal, and solar power will provide less than 3 percent of our total energy needs in 1985.

The remainder of our energy needs, estimated to be 60 percent of the total, will be supplied from petroleum and natural gas.

If oil imports grow at the currently projected rates, in 1985 our oil needs will require between 300 and 350 oil tankers of 250,000 deadweight tons in service. The United States has no harbor capable of accommodating this size tanker.

Should an energy crisis come to the United States today, it is anticipated that we could meet and accommodate our energy needs for about 1 year at the most.

To meet such a crisis would mean relaxing air pollution standards so that high sulphur fuels could be consumed along the east coast and particularly in the energy deprived northeastern sector of the country. It would mean increasing domestic oil production, depleting on-hand reserve stocks and production from uneconomical wells. Even with these "emergency" measures we may be able to stand off the crisis for only about 17 months.

Mr. Speaker, we must direct our efforts toward a new national energy policy and we must look for new sources of energy which will most effectively meet the impending crisis.

I believe liquefied natural gas is that source. The ships and facilities will be costly. I estimate we are talking about a public commitment of at least $3 billion and a private commitment of $12 billion for a total of $15 billion. But these ships must be built in U.S. yards and they must be manned by U.S. crews. The potential is for at least 75,000 new jobs. To let the ships be built abroad, the LNG market commandeered by other nations, will not only wipe out that job potential, but place us as captives in the LNG marketplace. Other countries can charge whatever they want and cut off our supply at the slightest whim.

The use of LNG is not a new theory since we are already importing quantities of it to meet peak winter demands in the cold northeast. But, if we are already using this form of energy producing fuel, and we know how to produce it, why do we face an energy crisis? The problem is in transporting the gas. The U.S. currently has no ships capable of carrying LNG and the future will determine that the country with the transporting capability will control the market of this vital energy form.

Ten points can be made which give credence to the need for more U.S. participation in the LNG field.

First, presently, the public and industrial demand for LNG is growing at the rate of 3.4 percent per year while discoveries of new domestic gas reserves are declining.

Second, if the present trend continues, the United States will face a shortage of 20 trillion cubic feet of gas per year by 1985. And, if automobiles were to convert to LNG, which can be easily accomplished, the LNG requirement in this country would increase by 35 percent.

Third, at the same time the role of LNG on the world energy market is rapidly expanding with the United States being the largest user, consuming more than two-thirds of the world's supply.

Fourth, by contrast, the Soviet Union currently consumes 20 percent of the world's total supply of LNG and Western Europe about 5 percent. But Western Europe may soon increase their gas usage to approximately 10 percent as pipeline networks from the U.S.S.R. and The Netherlands are completed.

Fifth, those countries now planning to increase LNG imports include France, Italy, Spain, Japan, as well as the United States.

Sixth, thus far, the United States LNG efforts have been directed principally toward storage sites and highway-based semitrailers, 50 of which have been built and are operating mostly in New England and California.

Seventh, U.S. consumers along the east coast have been importing LNG from overseas via foreign flag ships to meet the needs of the winter months. Our role in the transportation of this gas is virtually nil.

Eighth, six Western European nations and Japan are leading the international field in LNG ship interest and construction. Today there are 13 LNG ships in service and 20 more on order.

Ninth, the closest the United States has come to operating a liquid natural gas carrier is the *Marine Eagle*, a converted T–2 which is being used as an ammonia carrier along the east coast.

Tenth, the United States, with its highly developed space technology, is fully capable, more so than any other country, of leading the world in the construction of LNG ships and facilities.

All of our space flights have utilized liquefied gasses. Various kinds of metals have been proven; pumps, compressors, insulation, and refrigeration techniques have been tested and used in orbital and lunar missions.

We have the experience, capability, and knowledge to move ahead in this field if we put our space and ship technology to work together.

Since the famous New York blackout in October 1965, there have been literally hundreds of other power shortages and failures across the United States. In my own Tennessee Valley country we have seen the reserve coal supply dwindle from 60 days to as few as one and a half days. We are being warned and alerted that new directions must be taken to insure ample energy in the future.

The bill which I have introduced is but the first step in assuring that our future energy needs will be met. At a later date I plan to offer legislation for the construction of additional shore-based and off-shore LNG facilities. Meanwhile, it is important that we not delay the ship construction program which would mean a great deal to our country in terms of meeting the energy crisis, the unemployment problem, and providing a much needed stimulant to the entire maritime industry.

U.S. owned and operated LNG ships are obviously in the national interest. The country which owns and operates these ships will have a profitable business and obviously will exercise control over the world's supply of LNG reserves.

We need these ships. Vast amounts of proven and unproven reserves are constantly being discovered in Alaska and in several nations overseas. To allow another nation to take the lead and monopolize the LNG transporting market would be detrimental not only to our economic interests but could lead to international politics depriving us of vital energy sources during some future international crisis.

Regulations and policies of the past will no longer suffice.

We cannot afford to follow our present shortsighted policy with respect to energy development and consumption. If we do, we will have the sorry task of telling the Nation, "Sorry, out of gas." It is imperative that we move aggressively and immediately into the LNG shipbuilding field.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland (Mr. GARMATZ) that the House suspend the rules and pass the bill H.R. 16987.

The question was taken.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 351, nays 3, not voting 77, as follows:

[Roll No. 431]

YEAS—351

Abbitt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Belcher
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conover
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Garmatz
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Gude
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kazen
Keating
Keith
Kemp
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCormack
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKinney
Macdonald, Mass.
Madden
Mahon
Mailliard
Mallary
Mann
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mizell
Mollohan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.

Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Reid
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—3

Hechler, W. Va.
Kastenmeier
Reuss

NOT VOTING—77

Archer
Baring
Bell
Blackburn
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Chisholm
Clay
Collins, Ill.
Crane
Davis, Ga.
Davis, S.C.
Denholm
Devine
Dow
Dowdy
Dwyer
Edmondson
Evans, Colo.
Fish
Fisher
Ford, William D.
Forsythe
Frelinghuysen
Galifianakis
Gallagher
Gettys
Giaimo
Gray
Green, Oreg.
Gross
Hagan
Haley
Hanna
Hansen, Wash.
Hawkins
Hays
Hébert
Heckler, Mass.
Hungate
Jacobs
Jones, N.C.
Kee
King
Kuykendall
Leggett
Lennon
Link
Lloyd
McCulloch
McKevitt
McMillan
Martin
Mathias, Calif.
Matsunaga
Mitchell
Monagan
Murphy, N.Y.
Nichols
Pelly
Riegle
Roncalio
Rooney, N.Y.
Scheuer
Schmitz
Scott
Smith, Calif.
Steiger, Ariz.
Stephens
Stokes
Sullivan
Thompson, Ga.
Thompson, N.J.
Wiggins
Yatron

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Forsythe.

Mr. Rooney of New York with Mr. Gross.

Mr. Hays with Mr. Devine.

Mrs. Sullivan with Mrs. Heckler of Massachusetts.

Mr. Cabell with Mr. Archer.

Mr. Carey of New York with Mr. Frelinghuysen.

Mr. Davis of South Carolina with Mr. McCulloch.

Mr. Denholm with Mr. Fish.

Mr. Murphy of New York with Mr. Crane.

Mr. Nichols with Mr. Lloyd.

Mr. Roncalio with Mr. Schmitz.

Mr. Evans of Colorado with Mr. Smith of California.

Mr. Leggett with Mr. Wiggins.

Mr. Yatron with Mr. Steiger of Wisconsin.

Mr. Caffery with Mr. Blackburn.

Mrs. Chisholm with Mr. Gallagher.

Mr. Davis of Georgia with Mr. Pelly.

Mr. Fisher with Mr. Kuykendall.

Mr. Monagan with Mr. Mathias of California.

Mr. Matsunaga with Mr. Martin.

Mr. Lennon with Mr. King.

Mr. Jacobs with Mr. Riegle.

Mr. Stokes with Mr. Galifianakis.

Mr. Madden with Mr. McKevitt.

Mr. Collins of Illinois with Mr. Kee.

Mr. Edmondson with Mr. Bell.

Mr. Gettys with Mr. Scott.

Mr. Giaimo with Mr. McMillan.

Mr. William A. Ford with Mr. Gray.

Mr. Mitchell with Mr. Dowdy.

Mr. Dow with Mrs. Green of Oregon.

Mr. Hungate with Mr. Thompson of Georgia.

Mr. Hébert with Mr. Jones of North Carolina.

Mrs. Hansen of Washington with Mrs. Dwyer.

Mr. Hawkins with Mr. Baring.

Mr. Stephens with Mr. Scheuer.

Mr. Clay with Mr. Byrne of Pennsylvania.

Mr. Hanna with Mr. Haley.

Mr. Hagan with Mr. Link.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 16987.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON H.R. 9463, IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND MURALS

Mr. MILLS of Arkansas submitted the following conference report and statement on the bill (H.R. 9463) to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 1583)

The committee of conference on the disagreeing votes of the two Houses in the amendments of the Senate to the bill (H.R. 9463) to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, and agree to the same.

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
JOHN W. BYRNES,
JACKSON E. BETTS,
Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON P. ANDERSON,
H. E. TALMADGE,
WALLACE F. BENNETT,
CARL CURTIS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9463) to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the countries of origin, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendments numbered 1 through 14: These are clerical amendments. The House recedes.

Amendment numbered 15: In this amendment, the Senate added a new Title II to the bill, dealing with customs port security, and containing twelve sections. Under this amendment (see section 204), if the Secretary of the Treasury determines that the theft or pilferage of imported cargo or cargo for export has become detrimental to the international trade and commerce of a port of entry he shall (after taking into account certain listed factors and after consultation with various agencies) establish cargo security measures and procedures for terminals of that port of entry. The amendment also provides for identification cards (see section 205), civil penalties for violation of regulations issued pursuant to section 204 (see section 206), the prohibition of lading or unlading in certain cases of repetitive violations (see section 207), judicial review (see section 208), and criminal penalties (see section 209).

This amendment is reported in technical disagreement. The managers on the part of the House will offer a motion to concur in the amendment of the Senate numbered 15 with amendments which are technical and clarifying in nature.

The amendments referred to in the preceding paragraph are as follows:

On page 3 of the Senate engrossed amendments, strike out line 20.

On page 3, line 21, of the Senate engrossed amendments, strike out "(4)" and insert: "(3)".

On page 5, beginning on line 2 of the Senate engrossed amendments, strike out "(5)" and insert: "(4)".

On page 5, beginning on line 2 of the Senate engrossed amendments, strike out "to establish such cargo security measures" and insert: "to prescribe regulations establishing such cargo security measures and procedures".

On page 5, line 4, of the Senate engrossed amendments, strike out "at terminals" and insert: "at terminals of such port of entry".

On page 5, line 14, of the Senate engrossed amendments, strike out "notice of" and insert: "regulations setting forth".

On page 5, line 16, of the Senate engrossed amendments, strike out "terminals" and insert: "terminals of such port of entry".

On page 5, line 18, of the Senate engrossed amendments, after "at terminals" insert: "under regulations prescribed pursuant to subsection (a)".

On page 5, line 19, of the Senate engrossed amendments, after "publication" insert: "of such regulations".

On page 6, line 12, of the Senate engrossed amendments, strike out "person" and insert: "individual".

On page 6, line 15, of the Senate engrossed amendments, strike out "person" and insert: "individual".

On page 7, line 1, of the Senate engrossed amendments, strike out "person" and insert: "individual".

Amendment numbered 16: Section 516 of the Tariff Act of 1930 permits American manufacturers, producers, or wholesalers to file petitions with the Secretary of the Treasury contesting the appraisement, classification, or rate of duty assessed by the Bureau of Customs with respect to imported merchandise. Senate amendment numbered 16 amends such section 516 so as to permit American manufacturers, producers, or wholesalers to file petitions with the Secretary of the Treasury when they believe that countervailing duties should be assessed against imported merchandise under section 303 of the Tariff Act of 1930. The Senate amendment would make available to American manufacturers, producers, or wholesalers the same judicial review procedures with respect to decisions by the Secretary that countervailing duties shall not be assessed as now apply under section 516 with respect to contested appraisements, classifications, and rates of duty. (Under existing law, only importers may obtain judicial review with respect to countervailing duties.)

This amendment is reported in technical disagreement. The managers on the part of the House will offer a motion to concur in the amendment of the Senate with a clerical amendment and with an amendment providing that, in the case of a decision by the United States Customs Court or the United States Court of Customs and Patent Appeals that countervailing duties should be assessed, merchandise entered after 180 days before such court decision (but in no case before publication of the decision of the Secretary) will be assessed in accordance with the final court decision. The Senate amendment provided that such assessment would apply in the case of merchandise entered after the date of the Secretary's decision.

The amendments referred to in the preceding paragraph are as follows:

On page 11, line 12, of the Senate engrossed amendments, strike out "duty" and insert: "duties".

On page 14, lines 11 and 12, of the Senate engrossed amendments, strike out "after the date of publication of the Secretary's decision" and insert: "after the 180th day before the date of publication of the court decision (but in no case before the day after the date of publication of the Secretary's decision)".

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
JOHN W. BYRNES,
JACKSON E., BETTS,
Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON P. ANDERSON,
H. E. TALMADGE,
WALLACE F. BENNETT,
CARL CURTIS.
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 14370, STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

Mr. MILLS of Arkansas. Mr. Speaker, I call up the conference report on the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1972.)

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, while this conference report, which has to do with fiscal assistance for State and local governments, accepts a number of Senate amendments, the conference agreement is fully consistent with the spirit and the objectives of the House-passed bill. In fact, the conference agreement is more effective in my opinion than either the House or the Senate bills in providing financial assistance to the hard-pressed State and local governments.

I am glad to report that the Federal aid under the agreement is limited to a specific amount over a specific period of time instead of being based, as under the original proposal, on a percentage of the individual income tax base. This is essential to keep the cost of the program within limits.

More specifically, the payments for aid to State and local governments start at an annual rate of $5.3 billion for calendar year 1972 and increase until they reach $6.4 billion in calendar year 1976.

Mr. Speaker, I ask permission to include in the RECORD a table which compares the amounts appropriated for aid to the States and localities by the conference report with the amount appropriated under the House and Senate bills by fiscal years.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The table is as follows:

	Conference agreement	House bill	Senate amendment[1]
Period:			
Jan. 1, through June 30, 1972	2,652.39	2,650	2,652.39
Fiscal year beginning July 1, 1972	5,642.38	5,450	5,954.78
Fiscal year beginning July 1, 1973	6,054.78	5,750	6,754.78
Fiscal year beginning July 1, 1974	6,204.78	6,050	7,054.78
Fiscal year beginning July 1, 1975	6,354.78	6,350	7,354.78
July 1 through Dec. 31, 1976	3,327.39	3,325	3,827.39
Total	30,236.40	39,575	33,598.90

[1] These amounts are based on (1) the appropriations contained in sec. 102 of the Senate amendment as limited by sec. 104(a) thereof, and (2) the appropriations contained in sec. 121(a) of the Senate amendment.

Mr. MILLS of Arkansas. Payments under the conference bill are about $3.4 billion less than the total payments provided under the Senate-passed bill. However, the Senate bill provides $4 billion of payments in lieu of grants for social services over the period July 1, 1972, through December 1, 1976, which were deleted in conference so that the figures are not strictly comparable.

The figures I have just given relate to the total payments to State and local governments. As you will recall, in the first year of the program, the House bill distributed $3.5 billion out of the $5.3 billion total aid funds to local governments on the basis of a formula which contains three factors: Population, urbanized population, and population inversely rated for per capita income, so that poorer communities get relatively larger funds than wealthy communities.

The House formula also provided an additional $1.8 billion to the States, one-half on the basis of income tax collections and the other half on the basis of general tax effort.

The Senate bill, on the other hand, distributes the funds to both State and local governments on the basis of one single formula; namely, population multiplied by general tax effort and relative income.

While I think that the differences in the distributional effects of the House and Senate formulas can be overemphasized, it is undoubtedly true that these formulas result in different patterns of payment. The House formula, for example, tends to give somewhat greater payments than the Senate formula to the large, populous States. The Senate formulas, on the other hand, tend to give relatively larger payments to the rural areas and to the big cities, while the suburbs generally receive smaller payments than they would under the House-passed bill.

The resolution of these two different formulas posed an especially difficult problem for the conferees, since each formula had strong adherents and could be defended as being reasonable. What we did, therefore, was to base the distribution—and this is most unusual in a sense—was to base the distribution of the total payment to each State including both the payments to the State itself and the payments to its local governments, on the House formula or the Senate formula, whichever produces the higher amount.

This use of the formula that produces the higher allocation would, if nothing were done about it, increase the total cost of the program. In the first year of the program, to offset this additional cost, the amount going to each State is reduced by 9 percent. This brings the cost of the program in the first year of operation back to the $5.3 billion appropriated for this purpose. In the subsequent years of the program, the additional cost resulting from the option generally is absorbed by reducing the annual increases in payments provided under both the House and the Senate bills from $300 million a year to $150 million.

Mr. Speaker, I ask permission to include in the RECORD a table comparing the allocations to the various State areas under the conference report with those resulting under the House bill and the Senate bill for calendar year 1972.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The table follows:

TABLE 1.—COMPARISON OF ESTIMATED DISTRIBUTION OF FUNDS TO THE STATES UNDER THE HOUSE BILL, SENATE BILL, AND CONFERENCE AGREEMENT FOR CALENDAR YEAR 1972

[Millions of dollars]

States	House bill	Senate bill	Conference agreement			
			Before scaling to 5,300,000,000	After scaling to 5,300,000,000	State share	Local share
United States, total	5, 300. 0	5, 300. 0	5, 821. 1	5, 303. 9	1, 767. 8	3, 536. 1
Alabama	80. 2	127. 6	127. 6	116. 1	38. 7	77. 4
Alaska	6. 6	5. 5	5. 5	6. 3	2. 1	4. 2
Arizona	46. 1	55. 1	55. 1	50. 2	16. 7	33. 5
Arkansas	38. 3	60. 4	60. 4	55. 0	18. 3	36. 7
California	610. 8	510. 4	610. 8	556. 1	185. 4	370. 7
Colorado	59. 4	60. 0	60. 0	54. 6	18. 2	36. 4
Connecticut	72. 6	57. 5	72. 6	66. 2	22. 1	44. 1
Delaware	17. 3	12. 9	17. 3	15. 8	5. 3	10. 5
District of Columbia	26. 0	14. 1	26. 0	23. 6	7. 9	15. 7
Florida	150. 0	160. 3	160. 3	146. 0	48. 7	97. 3
Georgia	103. 4	120. 7	120. 7	109. 9	36. 6	73. 3
Hawaii	25. 9	22. 7	22. 7	23. 8	7. 9	15. 9
Idaho	15. 4	21. 8	21. 8	19. 9	6. 7	13. 2
Illinois	301. 8	250. 9	301. 8	274. 7	91. 5	183. 2
Indiana	113. 8	114. 6	114. 6	104. 3	34. 8	69. 5
Iowa	67. 8	84. 6	84. 6	77. 0	25. 6	51. 4
Kansas	47. 7	58. 0	58. 0	52. 8	17. 6	35. 2
Kentucky	71. 8	95. 9	95. 9	87. 3	29. 1	58. 2
Louisiana	83. 2	124. 8	124. 8	113. 6	37. 9	75. 7
Maine	19. 9	34. 2	34. 2	31. 1	10. 3	20. 8
Maryland	117. 5	94. 8	117. 5	107. 0	35. 7	71. 3
Massachusetts	179. 0	143. 5	179. 0	163. 0	44. 3	118. 7
Michigan	243. 7	210. 9	243. 7	221. 9	74. 0	147. 9
Minnesota	114. 1	108. 2	114. 1	103. 9	34. 6	69. 3
Mississippi	46. 0	99. 6	99. 6	90. 7	30. 2	60. 5
Missouri	107. 6	108. 5	108. 5	98. 8	33. 0	65. 8
Montana	16. 7	22. 6	22. 6	20. 6	6. 9	13. 7
Nebraska	34. 5	47. 1	47. 1	42. 9	14. 3	28. 6
Nevada	12. 2	11. 9	12. 2	11. 1	3. 7	7. 4
New Hampshire	13. 5	16. 7	16. 7	15. 2	5. 1	10. 1
New Jersey	179. 7	142. 6	179. 7	163. 6	54. 5	109. 1
New Mexico	22. 5	36. 5	36. 5	33. 2	11. 0	22. 2
New York	649. 6	507. 1	649. 6	591. 4	197. 1	394. 3
North Carolina	113. 0	148. 8	148. 8	135. 5	45. 2	90. 3
North Dakota	12. 0	21. 7	21. 7	19. 7	6. 5	13. 2
Ohio	227. 4	185. 4	227. 4	207. 0	69. 0	138. 0
Oklahoma	52. 9	65. 3	65. 3	59. 4	19. 8	39. 6
Oregon	60. 1	61. 8	61. 8	56. 2	18. 7	37. 5
Pennsylvania	300. 9	290. 2	300. 9	274. 0	91. 3	182. 7
Rhode Island	25. 9	23. 1	25. 9	23. 6	7. 9	15. 7
South Carolina	57. 9	89. 5	89. 5	81. 5	27. 2	54. 3
South Dakota	13. 5	27. 6	27. 6	25. 1	8. 4	16. 7
Tennessee	79. 3	108. 1	108. 1	98. 4	32. 8	65. 6
Texas	248. 3	268. 6	268. 6	244. 5	81. 5	163. 0
Utah	29. 0	34. 5	34. 5	31. 4	10. 5	20. 9
Vermont	11. 0	16. 3	16. 3	14. 8	4. 9	9. 9
Virginia	115. 6	109. 7	115. 6	105. 2	35. 0	70. 2
Washington	79. 1	92. 3	92. 3	84. 1	28. 1	56. 0
West Virginia	36. 4	57. 5	57. 5	52. 3	17. 4	34. 9
Wisconsin	137. 0	147. 1	147. 1	133. 9	44. 6	89. 3
Wyoming	6. 1	10. 7	10. 7	9. 7	3. 2	6. 5

Mr. MILLS of Arkansas. After the allocation to each State area is determined on the basis of whichever formula is the higher, two-thirds of this amount is allocated to the local governments in the State and the remaining one-third is allocated to the State government itself. The House bill, unlike the conference report and the Senate bill, did not require each State area allocation to be distributed between the local governments in that State and the State itself on a two-thirds, one-third basis, but the division of funds, under the House bill, on an overall basis amounted to about the same thing. But, we found variations among States. Some States will be slightly more than 50 percent going to the localities; some as high as two-thirds.

We thought it was best to make it the same in all States. So under this formula in the conference report two-thirds in each State now will go to these local governments.

Mr. Speaker, with respect to the distribution within the States, we discussed the relative merits of the House-passed formula as well as of the Senate-passed formula, and those representing the administration, primarily the Deputy Secretary of the Treasury, felt that the Senate formula for distribution within the States was preferable to the House formula, and the House conferees also accepted that thought; therefore, we adopted the Senate formula for distribution within the States to the local governments.

As a result, the distributions to county areas and other local governments are made on the basis of population weighted by tax effort and relative income. This formula distributes a relatively larger share of the funds to the poorer localities including both rural areas and the core cities, which are in the greatest need of financial assistance. Less of the funds are distributed to the suburbs which frequently are in a better financial situation.

The conference agreement gives the States the right to elect, by law, to have the distributions to their local governments made on the basis of an alternative formula which broadly resembles a comparable provision in the House bill. Under this formula, the distributions to local governments may be made on the basis of population multiplied by general tax effort or population multiplied by relative income or any combination of these two factors.

Under the conference agreement, the per capita allocation to any specific local government is not to be less than 20 percent nor more than 145 percent of the average per capita allocation to local governments throughout the State.

We also accepted a Senate amendment which provides somewhat larger allocations to the States of Alaska and Hawaii in recognition of the fact that costs of providing government services are unusually high in those States which are noncontiguous to the U.S. mainland. In addition, we accepted, after making certain improvements, a provision to grant aid funds to Indian tribes which are self-governing units.

Let me turn now to the vital question of how the local governments are to spend the aid funds. This constituted one of the major differences between the Senate and House bills. The Senate bill contains no guidance as to how the local governments are to spend the amounts distributed to them under the bill. This is in marked contrast with the House bill which requires local governments to spend the aid funds on a specified list of high priority items. This, of course, is in accord with the principle that if the Federal Government is to provide aid to the local governments, it should provide guidance as to how the funds are to be spent. The objective is to insure that the funds shall be spent for socially useful purposes which have a high priority among the various public needs.

In view of the importance of providing Federal guidance as to the spending of local aid funds your conferees were adamant that the bill should provide such guidance. As a result, the conference report contains a specified list of priority expenditures on which local governments can spend the aid funds. Under the conference report, the list of priority expenditures is expanded to include necessary maintenance and operating expenses for health, recreation, libraries, social services for the poor and aged and financial administration, which were not included in the House bill. In addition, under the conference bill, all ordinary and necessary capital expenditures authorized by law—and not just a limited group—are treated as priority expenditures or, in other words, as permissible expenditures for local governments.

In keeping with the objective of providing additional aid to local governments, the House bill contains provisions to prevent States from reducing their aid to local governments so as to offset the Federal aid. In conference, we accepted a slight revision on this amendment which improves on it somewhat.

The conference report follows the House bill in requiring wages paid to individuals out of aid funds to comply with certain minimum wage standards. However, in this regard, we accepted a number of Senate amendments and rejected others which we believe to be inconsistent with the objective of such minimum wage provisions. The conference report provides that the Davis-Bacon minimum wage provisions are to apply to wages paid to laborers and mechanics employed by contractors and subcontractors providing that the aid funds constitute 25 percent or more of the project's cost. Similarly, the conference agreement specifies that employees of governmental units whose wages are paid from aid funds are to be no lower than the prevailing rates of pay for individuals employed in similar public occupations by the same employer, provided that 25 percent or more of the wages paid to all employees in that category are financed out of aid funds.

Finally, to prevent the aid funds granted under the pending legislation from being used to pyramid Federal aid, the conference agreement prohibits State governments as well as local governments from using the aid funds for purposes of matching Federal funds whether or not the Federal law providing the grant program permits the use of Federal funds for matching purposes.

Moreover, the prohibition is against the use of funds either directly or indirectly for matching. Whether or not a government will be considered to have met this requirement is determined by looking at its total budget. The Government can meet this prohibition against matching requirement if there is no increase in matching funds compared to the base period or there is another source of matching funds other than the funds provided by this bill. The other source of these funds could be either an increase in local revenues over the amounts raised in fiscal year 1972, equal to or greater than the increase in funds used for matching, or a decrease in spending for a locally funded program which is not replaced by the aid funds provided by this bill.

I am pleased to report that the conference report provides for the Federal collection of State income taxes on a voluntary basis along the general lines of the House bill. Under the conference agreement, this piggyback provision becomes effective on January 1, 1974, provided at least two States whose residents filed 5 percent or more of all Federal income tax returns during 1972 elect to have their taxes collected by the Federal Government. Our bill would have required at least five States to agree to have their taxes collected by the Federal Government before putting the provision into effect. Other minor technical changes were agreed to in the piggyback provision.

All in all, I think this is a bill which deserves the support of every Member of this body. I urge the House to pass this measure promptly to provide our State and local governments the financial aid that they urgently need and also to agree to the provision on which I will shortly offer a motion putting into effect the sorely needed reform of Federal matching grants for social services.

Finally, I would like to add a few words of explanation concerning the amounts going to particular localities. A number of questions have been raised concerning the figures shown in the supplemental report showing the distribution of funds, the "blue book," and there has been some misunderstanding concerning the relationship between these numbers and the amount of money the governments will actually receive. Generally, the questions concern why one locality receives more or less than another. The basic allocation formula for distribution of funds within a State is population weighted by tax effort and further weighed by inverse relative income levels. This formula itself can result in wide differences in the per capita allocation to localities—a locality with relatively high income and relatively low tax effort can receive substantially less per capita than a low income area which has a fairly high tax effort.

The amounts shown in the blue book as going to particular local governments are intended as estimates of the amounts for calendar year 1972 and should be regarded as estimates rather than precise figures for several reasons.

In the first place, there are errors—both computer errors and data errors—in some of these figures. The Treasury Department is in the process of correcting these errors for the purpose of making the first payment near the end of October. Our staff has been working with the Treasury Department to make sure that the Department is aware of all the questions and possible discrepancies that have been brought to our attention.

The second reason some of the amounts going to particular localities may appear out of line to some local governments is that, of necessity, they are based on the 1970 population and income data from the decennial census. In addition, the local tax data which were used in determining these figures are for fiscal year 1967, the latest currently available. For places that have been growing rapidly since that time, the estimated allocations will appear unreasonably small. It is my understanding that the first payment, for the first 6 months of 1972, to be made at the end of October, will be based on the fiscal year 1967 tax data. In November, the Treasury Department expects to have fiscal year 1971 tax data which it will use to recompute the calendar year 1972 entitlements, and it will adjust the final payment for 1972, to be made in early January 1973, to reflect the adjustment of the 1972 entitlements caused by the later tax data. The intention is to update this tax data annually thereafter.

A third source of difference between the amounts localities will receive and the estimates shown is that the estimates do not include the places incorporated since the 1970 census. When these newly incorporated places are included among the localities receiving funds, the amounts shown as going to the other localities in the same area will tend to be reduced. There may be some timelag in distributing funds to newly incorporated places. Distribution will be made, however, to a locality for any entitlement period if the locality is incorporated before the beginning of that period. Thus, for the entitlement period beginning January 1, 1972, a municipality will be included in the distribution if it was incorporated on or before December 31, 1971. There may, however, be some difficulty in including all such places in the October payment, but this does not affect their eligibility for funds for calendar year of 1972.

Finally, the amounts shown in the blue book will not be the same from year to year. To reflect the changing characteristics and need of localities, the population, income, and tax data will be updated as often as is feasible. Consequently, the amounts going to particular localities will vary somewhat from year to year.

There are two or three points that remain for discussion. One of them my friend, the gentleman from New York (Mr. REID), is interested in; that we retained the element in the House bill that allowed, after July 1, 1973, a State legislature, if unsatisfied with our specified distribution of funds within the State, to make modifications in that distribution so as to eliminate any hardship or unfairness that the State Legislature may think to exist in the rigid Federal formula that does apply from January 1, 1972, through June 30, 1973. We did retain that element but the optional formula may be adopted for the entitlement period beginning January 1, 1973. As a practical matter, however, the requirement that the State enact a law incorporating the optional formula and inform the Secretary of the Treasury 30 days before the beginning of the entitlement period makes it unlikely that a State would be able to actually implement an optional formula prior to the entitlement period beginning July 1, 1973.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the gentleman from New York.

Mr. REID. I thank the gentleman for yielding.

It is my understanding, Mr. Speaker, because of the urbanized factor in the House formula for the localities, dropped by the Senate—they have a different formula—that Westchester County, for example, and a number of other suburban counties, have received something of a significant cut under the conference report. Further, it is my understanding there are two areas of prompt relief.

Mr. MILLS of Arkansas. One I have discussed.

Mr. REID. The first is the one the gentleman mentioned. I would like to ask a question about that.

Second, it is my understanding there are no strings on the one-third for calendar year 1972 that goes to the States, and the State legislature and the Governor in their wisdom could allocate a higher portion of that to individual urban areas or suburban counties out of that one-third, should that be necessary because certain cities in that area are hard-pressed. Is that correct?

Mr. MILLS of Arkansas. The gentleman is absolutely correct, although there are no strings on the one-third for years after 1972 either.

Mr. REID. Further may I ask a question in connection with calendar year 1973? It is my understanding in the State formula the legislature could reallocate funds under the two-thirds to take cognizance of any imbalance that localities might have, that is significant to the financing they have counted on, to give a better break to certain suburban counties.

Mr. MILLS of Arkansas. That is, as a practical matter, with respect to the fiscal year beginning July 1, 1973.

The SPEAKER. The time yielded by the gentleman from Arkansas has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. REID. It is my understanding that action could be taken for the second half of calendar year 1973, provided action is taken by the legislative 30 days before the beginning of the second period.

Mr. MILLS of Arkansas. The gentleman is correct; the Secretary of the Treasury must be notified of the State action 30 days before the beginning of the entitlement period.

Mr. REID. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding. Has the gentleman or any other member of the committee made sure that no State or local government that has a surplus will be eligible for these funds?

Mr. MILLS of Arkansas. No.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. ROUSSELOT. Is that not an important part of making this legislation conform to a responsible concept.

Mr. MILLS of Arkansas. Yes, it is, because the money can be used to reduce the local taxes of a locality, and I think that would be a good thing. I would like to see it all used for that purpose, frankly, because the cities primarily raise their money through property taxes, which I consider to be a very onerous type of tax.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I would like to ask this: Is it not important, when the Federal Government is going into debt to such a tremendous extent to make certain we are not giving money to those State governments or local governments which have surplus funds on hand?

As I understand it, totally in the Nation in both the State governments and the local governments today, these units have a total surplus of close to $15 billion, and, therefore, we are then asking our Federal taxpayers to go further into debt. By $8 billion in this legislation.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 2 additional minutes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

To continue, Mr. Speaker, we are asking our Federal overworked taxpayers to go further into debt, when many of these State and local governments have surplus funds on hand.

Mr. MILLS of Arkansas. The gentleman is correct. There are States that do not operate in the red, and there are cities—many of them I guess—that do not operate in the red.

Mr. ROUSSELOT. Should there not be a prohibition then, so that we do not pay out funds under these formulas if there are surplus funds in these State and local governments?

Mr. MILLS of Arkansas. There is no such provision in either the House-passed bill or the Senate-passed bill. Therefore, it was impossible for us to include such a provision in the conference report. There is no such provision in the conference report.

Mr. ROUSSELOT. Mr. Speaker, I think that is a disaster, to ask our taxpayers to pay out funds to a State or local government when we are going into debt on the Federal level and will have to borrow the money to meet the obligation.

Mr. MILLS of Arkansas. There are those who think it is a disaster for us to extend Federal credit to some of the State and local governments, and we may differ in our opinions on that point.

I will make it very clear. I said when the bill came up that we have no surplus moneys anywhere that I have been able to find to distribute to the States. We are merely making the credit of the Federal Government available for their purposes.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I thank my friend for yielding.

It seems to me that we have come to the point now where further debate in regard to revenue sharing would be more or less futile.

Of course, this conference report is not subject to amendment?

Mr. MILLS of Arkansas. No, it is not.

Mr. MAHON. And it is expected it will be approved before our adjournment?

Mr. MILLS of Arkansas. That is right.

I wish to restate my unalterable opposition to the pending revenue sharing measure. On many previous occasions I have taken the floor of the House stating in clear and certain terms that the revenue sharing concept is wrong in principle.

For the purpose of argument today, I brush aside the issue of committee jurisdiction. The issue is more fundamental than that. It is bad fiscal policy and bad government.

AN IDEA WHOSE TIME HAS COME AND GONE

I have consistently made the point that revenue sharing is an idea whose time has come and gone.

It was, I believe, conceived by Walter Heller, a well-known economist, in the early 1960's, when it appeared that the Federal tax structure was such that it would be generating vast sums of money for which we had no spending purpose insofar as the Federal Government was concerned. It was thought that a large, overwhelming surplus would be confronting us. There was worry about a fiscal drag.

This was the atmosphere in which the idea of revenue sharing was conceived and brought to the forefront. This was the setting at the Federal level.

What has happened to change things since then? On the spending side, the Great Society was enacted and the Nation became involved in the Vietnam war. And the Federal Government responded more than generously to the needs of State and local governments.

ASSISTANCE TO STATES AND LOCALITIES

In Federal assistance to State and local communities, we went in the period 1960 to 1972 from $7 billion to $37 billion.

In 1960, of total nondefense Federal spending, 16 percent went to the States and local communities. But of total nondefense Federal spending in 1972—not 16 percent, but 26 percent is going to aid States and local communities. That is an additional 10 percent of the nondefense Federal dollar. It is about a 60-percent increase in Federal assistance to States and localities during that period.

In 1960, we provided State and local communities with 11 percent of their revenues. But in 1972, we provided them with 21 percent of their revenues for their expenditures.

REDUCED REVENUES

Meanwhile the Federal Government began a policy of reducing revenues. We will have available for spending in the general fund of the Treasury an estimated $50 billion less in revenues in 1973 as a result of tax actions over the last 10 years, assuming the economy would have behaved as it did.

DEFICITS NOT SURPLUSES

Only one thing can happen when you dramatically increase the rate of spending while at the same time you significantly reduce the tax base. The House voted just the other day to raise the debt limit to an astronomical $465,000,000,000, and about one-fourth of that has been accumulated in the last 4 years. That is what has happened.

The Federal Government is facing not surpluses, but deficits that have been growing substantially larger over the years. Two days ago the situation was acknowledged when the Ways and Means Committee concluded that the problem had become so bad that Congress should turn unprecedented authority over to the Executive to meet the fiscal crises.

STATE AND LOCAL SURPLUSES

Meanwhile what has happened with regard to the fiscal problems of State and local governments? They are on the whole, not by any means in all instances, reportedly running a surplus at an annual rate of $11 billion during the first 6 months of calendar 1972.

The American Enterprise Institute has studied this matter and concluded that the Federal Government is impoverishing itself, while at the same time the fiscal posture of the States and local governments in most instances is much improved. To quote a major finding of this recent study:

> The Federal Government is apparently in the process of impoverishing itself while putting the states and local governments as a group in a position of relative fiscal affluence.

A MILE WIDE AND AN INCH DEEP

There is no doubt that some specific localities do have their desperately serious problems, but it is wrong to trumpet revenue sharing as a panacea for these problems. Scattering this appropriation—even one of the magnitude of $6 billion per year—to all the units of government in the country promises no real cure for specific ills.

TAXING AND SPENDING—INSEPARABLE POLITICAL RESPONSIBILITIES

Philosophically, I am opposed to the concept of revenue sharing because it separates two inseparable political responsibilities, taxing and spending. Those who levy the tax should have an important roll in determining how the revenues are to be spent. Those who seek the opportunity to spend public money should share in the responsibility of raising the revenue. I am fearful that there is inherent harm to our Federal system in any concept that does not embrace that fundamental principle.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. I yield myself 1 additional minute, Mr. Speaker.

Mr. GREEN of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. GREEN of Pennsylvania. Mr. Speaker, first I want to take this opportunity to commend the gentleman from Arkansas (Mr. Mills) for all the hard work he has put into this.

I had a few questions. First of all, we have title III in this bill as passed originally, and the House placed no limit on social services?

Mr. MILLS of Arkansas. That is right.

Mr. GREEN of Pennsylvania. Then the other body came along and put a $600 million limitation on them?

Mr. MILLS of Arkansas. In order to keep the record straight, that provision is not in the conference report. It is not germane to the bill.

The conferees are bringing back in disagreement the provisions in title III. Therefore, I will have to make a motion on the conference report after approval.

Mr. GREEN of Pennsylvania. That is the thing I wanted to determine at this point.

I will ask the gentleman, then: There will be a motion after the conference report is approved?

Mr. MILLS of Arkansas. The gentleman is correct.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. I yield myself 2 additional minutes.

Mr. WALDIE. Mr. Speaker, will the gentleman yield to me at this point?

Mr. MILLS of Arkansas. Yes; I yield to the gentleman from California.

Mr. WALDIE. Mr. Speaker, I thank the gentleman for yielding.

Touching upon the point my colleague from California (Mr. Rousselot) made, in our State what brought the problem up was this: The Governor of our State says that all moneys he receives from revenue sharing will be used to reduce the State income tax burden.

I can understand you have a problem where you are asking to reduce the local property tax burden, and that there would be merit to that, but where the State is using it to reduce the surplus because of a State income tax burden, as a result of increasing the Federal income tax burden, it does seem to me to be an unjust use of these funds.

Mr. MILLS of Arkansas. I would say to the gentleman, if you are talking about two different people, two different local administrations; that is correct.

However, by and large, those people who pay State income tax are the same ones who pay Federal income tax. If that same individual can be relieved of his State income tax or a State property tax or some other type of tax, I am not going to quarrel about him getting that relief.

Mr. WALDIE. I will only quarrel to this extent. He is not being helped if we have to increase his Federal income tax $250 million.

Mr. MILLS of Arkansas. We will cross that bridge later on.

Mr. WALDIE. I hope we do cross it.

Mr. MILLS of Arkansas. But I do not agree with the gentleman.

Mr. WALDIE. I think we should reduce the Federal income tax.

Mr. MILLS of Arkansas. We will have to cross that bridge later on.

Mr. PEPPER. Will the gentleman yield?

Mr. MILLS of Arkansas. I will be glad to yield to the gentleman from Florida.

Mr. PEPPER. I would like to ask the able gentleman from Arkansas two questions.

First, the original bill as it passed the House was so formularized; that is, the formula was such that States like that did not have an income tax were penalized in the amount of money they would receive. Is that continued in the conference report?

Mr. MILLS of Arkansas. Under the conference report no State is penalized because it does not have an income tax, because the Senate formula under which a State, in all probability would draw its money looks only at your general tax effort and not any specific type of tax.

Mr. PEPPER. Will the gentleman yield for another question?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. PEPPER. Now there has been great concern in my State that the limitation of social spending which is understood to be in the conference report, although the House is to be commended——

Mr. MILLS of Arkansas. It is not in the conference report. It is a matter that is in disagreement, and there will have to be a separate motion on that. It is not germane to the subject matter of the conference report.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 2 additional minutes.

I yield to the gentleman from Texas (Mr. Burleson).

Mr. BURLESON of Texas. Mr. Speaker, I appreciate my chairman yielding to me.

Mr. Speaker, in the debate on this bill when originally approved by this House, along with others, I attempted to convince its supporters that it was the worst piece of legislation ever before this body. In principle and philosophy it is no better as presented in the conference report now before us. This report should be voted down. Should this report be disapproved at least our Ways and Means Committee and the Finance Committee of the other body, could then fix the effective date as January 1, 1973, rather than make the handouts provided in this measure, retroactive to January 1 of this year. The savings would amount to approximately $6 billion, an amount near that estimated to be cut from expenditures by the President to bring spending down to $250 billion in this fiscal year as authorized in the legislation passed 2 days ago.

Mr. Speaker, I continue to believe there is virtue in consistency. Those of us who supported the spending limitation a few days ago will be consistent in voting against this proposal. Turn down this monstrosity, this Frankenstein, and the problem of keeping expenditure at $250 billion or less will be solved.

Those of you who opposed setting an expenditure ceiling will be consistent in voting against what is now before us because your principal argument was that this Congress should set the limitation instead of the Executive. Now is an opportunity to exercise that prerogative. I am in fullest agreement that this should be the prerogative and responsibility of the Congress but those of us who supported legislation placing an expenditure ceiling on the President, do so out of conviction and yes, frustration, that this Congress is failing and has failed to discipline ourselves in holding down needless spending. Now is a time of truth and proof.

I say particularly to my Republican friends that when you support this huge spending called for in this bill, you are hardly consistent with your strong support for the request of the President for a spending ceiling.

Over the period of time provided for in this bill adds $32 billion to the 72 percent of any budget to be submitted and this is only the beginning.

Allow me one final point. Money provided in this bill is automatically allocated to State and local governments. They need to do nothing but go to the mailbox. They must spend the money handed them to qualify for more funds in following years. Now what kind of a system is this? It is wrong and an innovation which I predict will be regretted by you who support it.

Mr. MILLS of Arkansas. Mr. Speaker, I will be glad to yield to the gentleman from Illinois (Mr. Collier) a member of the committee.

Mr. COLLIER. Briefly alluding to what the gentleman from California (Mr. Waldie) said, is it not true under this formula if a State does reduce its State income tax, then it stands to lose Federal revenues by reason of the tax effort factor that is in the bill?

Mr. MILLS of Arkansas. No.

Mr. COLLIER. If it is not, then there is something seriously wrong.

Mr. MILLS of Arkansas. No. The gentleman is not entirely accurate, because the State must maintain its general tax effort, not just its income tax effort. If a State cuts its income tax but increases other taxes so that its total level of tax collections, its general tax effort, remains the same it would not have a reduction in Federal funds.

Mr. DEL CLAWSON. Will the gentleman yield?

Mr. MILLS of Arkansas. I will be glad to yield to the gentleman from California.

Mr. DEL CLAWSON. In connection with the tax effort, I understand some mention was made before the committee in the hearings of the contract cities of California.

Mr. MILLS of Arkansas. Of what?

Mr. DEL CLAWSON. Of the contract cities, cities that contract with the county for many of their services and, as a result, do not have the same type of property tax. Was any consideration given to them in this tax effort formula?

Mr. MILLS of Arkansas. It is my understanding, even if they contract for services, they still have to pay for those services, and if they do pay for those services, then they impose taxes and would share in the proceeds of this distribution.

Mr. HALL. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 2 additional minutes.

I yield to the gentleman from Missouri.

Mr. HALL. I have one very simple question.

As H.R. 14370 has finally evolved from the conference do you use the term "development disabilities" in connection with and as intended in Public Law 91–517, or does it continue to use the term "mental retardation"?

Mr. MILLS of Arkansas. That is in the matter that is in disagreement. We use the term "mental retardation," but I intend to make a statement in connection with what we mean by that term. We are not adhering to the strict medical interpretation of "mental retardation."

Mr. HALL. Being a physician, I would certainly hope we could clarify and expand this.

Mr. MILLS of Arkansas. I want the gentleman to help me with this.

Mr. HALL. I say that because I think we ought to make the legislative history on this so we can include such things as birth injuries, spastics, epilepsy, and so forth.

The SPEAKER. The time of the gentleman from Arkansas has again expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 1 additional minute.

Mr. DUNCAN. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Tennessee.

Mr. DUNCAN. Mr. Speaker, under title I, that section 103, that local governments are permitted to use funds for necessary maintenance and operating expenses. Does authorized expenditures include the mental health programs, including the construction of facilities of the local governments?

Mr. MILLS of Arkansas. Yes; it would include the mental health programs.

Mr. DUNCAN. It does so definitely; is that correct?

Mr. MILLS of Arkansas. Undoubtedly, any aspect of health.

Mr. DUNCAN. I thank the chairman.

Mr. BROTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MILLS or Arkansas. I yield to the gentleman from Colorado.

Mr. BROTZMAN. Mr. Speaker, I rise in support of the revenue sharing conference report. I do this with some hesitation because I feel the formula for distributing money among local governments is not as equitable in the conference report as it was in the original House passed bill. The failure of the conferees to recognize the urbanization factor in distributing the funds is a failure to recognize the great pressure being applied to suburban areas. It is in the suburban areas that population growth is occurring, and it is the suburban governments which are going to have to provide services at a level sufficient to respond to the needs of the people. I plan to work to rectify this flaw in the formula at the earliest opportunity.

I do note, Mr. Speaker, that there are certain improvements contained in the conference report. Chief among these is the broader range of permissible uses of revenue sharing funds by local governments. If revenue sharing is to be a transitional step in turning back jurisdiction to those levels of government best able to respond to the needs of the people, then it is critical that wide latitude be given them in the use of their funds. Hopefully the day will come when it will be possible to simply leave the money in the localities, and thereby avoid the costly round trip to Washington. In the meantime, maximum flexibility is most important.

As is so often the case with major legislation, the revenue sharing bill has its good and bad aspects. On balance, I believe the good outweighs the bad, and that is why I urge a favorable vote on the conference report. The bill represents a significant effort to halt the erosion of power toward Washington, and it should measurably assist the Nation's State and local governments in their time of dire fiscal crisis.

GENERAL LEAVE

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent that I may revise and extend my own remarks on the conference report and, second, Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days within which to extend their own remarks on the conference report, as well as the matter in disagreement.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BETTS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Speaker, I am very much opposed to revenue sharing. I opposed this legislation very vigorously in the committee and when the bill came to the floor of the House, and I opposed it in the conference, and if there is a vote on passage of the conference I plan to vote against the conference report.

I think the colloquy that the gentleman from California (Mr. ROUSSELOT) had with the chairman of the committee underlines one of our objections to this proposal.

The American Enterprise Institute shows that in the first quarter of 1972, State and local governments were running a surplus of $7 billion a year, and that in the second quarter of 1972, the surplus was running at the rate of $15 billion a year.

This is only one of many reasons why we of the opposition are against this idea of revenue sharing. I think the many valid reasons as summarized in the dissenting views, when the bill first came to the floor of the House, are proof enough of why we should vote down the conference report, and vote against revenue sharing.

Mr. Speaker, I signed the conference report as one of the conferees, since I believe that the conference is a fair and equitable compromise between the House and the Senate bills. Basically it gives the States one-third, and the local governments two-thirds of the sum total. I think that this distribution among the localities is fair in that it gives a little better share to the poor rural areas, and the inner city cores, and probably a little less money to the wealthy suburbs.

However, I still think that the basic principle of revenue sharing is wrong. I think we are going to live to regret it. We are opening up a whole new Pandora's box in tax evasion and we are sweeping our fiscal problems under the rug. We are making available money to the localities that the local people would vote down if given a choice. I think it is wrong legislation, and I shall vote against it.

Mr. Speaker, the chairman has explained in some detail the provision of the conference report on revenue sharing. Greater detail is provided in the conference report which has been made available to the Members and reprinted in the RECORD. I will not take the time of the House to repeat in detail the explanation of the chairman.

My opposition to the concept of revenue sharing itself is no secret. I believe revenue sharing represents bad government finance and poor public policy. The reasons for my conclusion are set out at length in the minority views I signed with my dissenting colleagues when the Ways and Means Committee reported the bill earlier this year.

Despite my strong opposition to revenue sharing, this report is a reasonable compromise of the differences between two very bad bills. Briefly, the conference agreement provides $5.3 billion in revenue sharing for our States and localities during the first full year of the program, or calendar year 1972. This is accomplished by allocating to each State the higher of the amount that each State and its localities would receive under the Senate or the House bill.

Since this compromise would have increased the costs above $5.3 billion for the first year, the amount allocated to each State under the conference agreement is reduced proportionately in order to bring the first-year costs within the $5.3 billion.

The conferees adopted the formula in the Senate bill for dividing the amount allocated to each State between the State and local units of government within the State. One-third of the total allocation to each State will be retained by the State and two-thirds allocated to local units of government within the State. The distribution to local units of government will in general be based on population, relative per capita income, and relative tax effort.

By eliminating the urbanization factor in the local distribution formula under the House bill, and by emphasizing relative tax effort, the conference agreement distributes the local shares in a way that differs from the House bill. In general the conference agreement tends to favor poorer areas, such as the central cities and rural poor sectors, and those units of local government that are imposing relatively higher tax burdens on their citizens in order to meet their needs.

The House bill restricted expenditures by local units of government to high-priority items. Under the House bill revenue sharing funds could be spent for operating and maintenance expenses only in the areas of public safety, environmental protection, and public transportation, while capital expenditures were confined to sewage collection and treatment, refuse disposal systems, and public transportation. Under the conference agreement, however, permissible operating and maintenance expenditures were enlarged to include health, recreation, libraries, social services for the poor or aged, and financial administration. The conference agreement would permit any ordinary and necessary capital expenditures permitted by law. Since the House restrictions were more form than substance, the provisions of the conference agreement are more in accord with the realities.

One very salutory aspect of the conference agreement relates to the expenditure ceiling that has been imposed on social services. The Federal costs of the social services programs, which were growing in a chaotic and uncontrolled manner have increased from $520 million in 1970 to an estimated $1.7 billion for fiscal 1972. It was estimated that without any limitation the corresponding figure for 1973 would be over $4.6 billion, and in excess of $5.1 billion for 1974.

The conference version would place a $2.5 billion ceiling on all social services except employment-related services in connection with the work incentive program that are matched 90 percent under existing law. Additionally, it was provided that emergency services in the future would be matched on a 50 percent, rather than a 75-percent basis, as under existing law.

The $2.5 billion ceiling would be allocated among the States on the basis of each State's share of the total population. Not more than 10 percent of a State's share of its social services money within the $2.5 billion ceiling can be utilized to provide social services to nonwelfare recipients. In applying this 10-percent limitation, family planning services, child care, mental retardation services, services for drug addiction and alcoholism, and foster care would be excluded.

The limitation on social services will reintroduce a measure of fiscal control in an area that has been characterized by chaotic and uncontrolled growth beyond amounts that can be efficiently utilized.

Mr. Speaker, let me close by agreeing that revenue sharing is historic legislation. But I believe history will show it is a bad mistake.

In the final analysis, there is only one American taxpayer. This program will add another unwarranted burden to the heavy load he is already carrying by this devious method of revenue sharing.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I know that the gentleman from Pennsylvania as a member of the committee has worked long and hard to try to bring about better restrictions and standards into what is really bad legislation. We know that it has been shown by careful and up-to-date research that the State and local governments now have a combined surplus of close to $15 billion. Further commonsense reasoning shows that it is absolute idiocy for the Members of this Congress to be voting here today for additional money that will in effect force the Federal Treasury into further debt, when many of those local and State governments that will receive those funds have surplus dollars in their own treasuries.

Mr. SCHNEEBELI. I agree with the gentleman. I think the debate we have had on the spending ceiling earlier this week underscores further the irrational approach we are using in revenue sharing.

Mr. ROUSSELOT. The real reason for it is because the mayors have pressured us into this position.

The SPEAKER. The time of the gentleman has expired.

Mr. BETTS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I support the conference agreement on H.R. 14370, the State and Local Fiscal Assistance Act of 1972.

The bill represents a reasonable compromise of the differences between the House and Senate versions. If the amount distributed is looked upon as the most important criterion, the conference report will disappoint some, while pleasing others. But a broader perspective is required, both now and in the future, if we are to fairly evaluate the important implications for our federal system of this historic legislation. In view of the historic nature of this legislation, I want to look at this conference report from a broader perspective before discussing the particulars.

This broader perspective requires us to ask the fundamental question that faced the Founding Fathers, that succeeding generations have continued to grapple with since, and that must be our concern both now and in the future: What is the best policy for the Nation as a whole? Not the individualized segments of our society, viewed as unrelated components with no common objectives; not labor, business, or other fragmented pieces of our social fabric; not States, counties, townships, school districts, municipalities or villages as stereotyped components of America; but what is actually best for the United States of America as a cohesive whole.

Even casual observers of the American scene note that while people talk of participatory democracy, the public feels that their government is becoming more remote and less responsive. In youth, the results are alienation; in older citizens, apathy, both tinged with an unhealthy and even dangerous amount of distrust. Both phenomena have developed contemporaneously with greatly increased centralization of power, resources, and responsibility of the Federal level attending the proliferation of categorical grant-in-aid programs.

Can anyone viewing this doubt there is in some measure a cause and effect relationship between those phenomena? The categorical programs at the Federal level, separating the people from their government by mountains of paper and miles of redtape, disbursing money pursuant to strictures that quickly become anachronistic in a rapidly changing society, burdened with ridiculously high overhead, and formulated in the first instance by ivory tower bureaucrats in Washington rather than people on the firing line, have played no small part in fostering alienation, apathy, and distrust.

Revenue sharing is a program that is good for the Nation as a whole, for the United States of America. It will revitalize our system by retarding the unhealthy growth of centralization in Washington. It will give State and local governments closest to the people the resources to meet locally defined problems in accordance with solutions developed at the local level. It is idle to talk about power and responsibility for local units of government unless we also provide them with the resources that are the trappings of power and the means for exercising responsibility.

Our present system looks more and more like an inverted pyramid precariously perched on its point, prevented from falling only by a series of guide wires. As more weight is added at the top, another tight "guide" wire must be added to hold the edifice steady. The taxpayer may well feel like Atlas with the pyramid resting on his broad shoulders and the burden growing heavier every day. In the long run, revenue sharing will put the pyramid back on its base, reduce the need for guide wires, and give the taxpayer a share in governing his destiny rather than simply shouldering the tax load.

Mr. Speaker, just 4 years ago, when President Nixon was campaigning for the 1968 election, a little girl held up a sign saying, "Bring Us Together." The bold new initiative revenue sharing represents may be the most important move the President has taken, with the commendable support of the Congress, to "bring us together again," overcoming alienation, apathy, and distrust, rekindling an interest in government, and promoting participation in the democratic process.

Let me briefly address an oft-repeated remark of those who oppose revenue sharing. They say we cannot afford revenue sharing. Do they mean that since categorical grants-in-aid predated revenue sharing, we can afford the former but not the latter? A "last-in, first-out" system of establishing priorities, an "oldest is best" or "squatters' rights" system of allocating limited Federal resources among competing programs, is no system at all for measuring priorities. The critical question is not whether it is a new or old program, but whether it has a higher priority than other programs within the Federal budget in attaining our national objectives. By this criteria, revenue sharing has a much higher priority than most other Federal programs. Those who say we cannot afford it are not asking this critical question. If they do, they will realize we cannot afford not to enact this bill.

After these few words of personal philosophy which concern, in my opinion, the most important features of revenue sharing, let me address myself to the nuts and bolts of the bill to which the conference committee has agreed.

In brief, the conferees agreed to provide for the distribution of about $30.2 billion to the States and local units of government over a 5-year period. They further decided to hold the first year allocation total to $5.3 billion.

Under the conference agreement, each State and its political subdivisions would in the aggregate receive the higher of the amount allocated in the Senate or the House bill. If a State and its localities would receive more in the aggregate under the House bill, that is the amount which would be allocated. If more were available under the Senate bill, then the Senate bill would apply.

This method of distribution would result, of course, in a total national allocation higher than the $5.3 billion limit to which the conferees wished to adhere for the first year under the program. Consequently, each separate allocation was scaled downward proportionately in order to keep the total—for the first year only—at $5.3 billion.

The conferees adopted the formula in the Senate bill for distribution of funds within each State—between the State and its local units of government and among those local units. One-third of the total allocation to each State is to be retained by the State government and two-thirds allocated to the localities. The distribution to local units of government will be based on population, relative per capita income, and relative tax effort.

The conference agreement distribution formula differs substantially from that determined by the House. The urbanization factor is removed, and new emphasis is placed on relative tax effort. One result is that the conference agreement tends particularly to favor low-income sectors, notably the inner cities and rural pockets of poverty in addition to those governmental units which impose relatively higher tax burdens.

It also should be noted that the House bill restricted expenditures by local units of government to certain "high priority items": Operating and maintenance expenses in the areas of public safety, environmental protection, and public transportation, and capital expenditures on sewage collection and treatment, refuse disposal systems, and public transportation. The conference report adds to this list expenditures for health, recreation, libraries, social services for the poor or aged, and financial administration. It also provides for any ordinary and necessary capital expenditures permitted by law.

Aside from the provisions of the conference report dealing solely with revenue sharing, there is, of course, the aspect relative to the expenditure ceiling on social services. The Federal costs of social services programs have been growing like Topsy. They increased from $520 million in 1970 to an estimated $1.7 billion for fiscal 1972, and it has been estimated that without any limitation they would exceed $4.6 billion in 1973 and $5.1 billion in 1974.

In light of these soaring costs, it was necessary that some degree of fiscal control be reestablished in the social services area and the conferees did accomplish this.

In summary, Mr. Speaker, I believe that the conference report on H.R. 14370 represents as equitable and practical a compromise of the House and Senate versions of revenue sharing as it was possible to achieve. I recommend this report to the House.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BETTS. I yield to the gentleman.

Mr. CONABLE. I would like to commend the gentleman on the statement he is making.

I think the broad perspective that he is putting on the interpretation of this legislation is the most significant aspect of it. We can all quibble with specific elements in the formula. I personally prefer the House bill to the conference compromise. But the movement from categorical grants toward revenue sharing would be, I think, one of the most hopeful and constructive movements we can make at this time in financing the Federal system. The categorical approach has proved a disaster for the Federal system. We must find a better way and I hope this is a first step. Whatever reservations we have about the figures here presented, we must support the philosophical approach this bill represents.

I would like to say that the gentleman from Ohio (Mr. BETTS) has made a very valuable contribution to the deliberations we have had on this measure. As he steps down from the very important position that he has had on our committee, at the time of his retirement, we salute him—on what I think is going to be landmark legislation, to which he has made a very significant contribution.

Mr. BETTS. I want to thank the gentleman for his kind comments.

Mr. Speaker, I yield 1 minute to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I want to thank the gentleman from Ohio.

Mr. Speaker, I rise in strong personal protest against this so-called revenue-sharing bill that deals neither with revenue nor with sharing.

I put the following questions to my colleagues, and remind them that these are the questions we must answer to the taxpayers:

What revenue are we talking about? Are we talking about money already received in taxes? I remind you, Mr. Speaker, that this Congress has already spent every dime we have taken in, plus additional billions we have not taken in.

Where is the $30 billion coming from that is appropriated in this bill? There is not one red cent left in the Treasury to spend. And the bill contains not a word about how this $30 billion will be raised.

Is every Member who votes for this bill willing to vote an immediate raise in taxes to pay for it? I am not. We have succeeded in lowering Federal taxes over the past 3 years, but they are still too high, and I will not be a party to any irresponsible spending that will force them to be raised again.

What are we sharing? How can the Government "share" something it does not have?

Gentlemen, are we so spineless we can not face the facts? Is this election year so important that we are willing to lie to the taxpayers?

The Government of the United States is broke and badly in debt. We have mortgaged the future incomes of our grandchildren, and now you want to mortgage our great-grandchildren.

As originally proposed, revenue sharing is a concept that I wholeheartedly endorse. As the money comes in from the taxpayers, send a part of it back to the States and local governments to use on local problems. I was a member of the team that went across this country to sell this concept to the people. They also endorse the concept, and they want that kind of a program.

But this is not such a program. Having spent every cent that came in, this Congress is now saying it wants to share the rest. What "rest"? All you have left to share is debt—and I remind you that the interest alone on the debt we currently owe is running at more than $22 billion per year.

Mr. Speaker, the cry of the times is to "tell it like it is," and I challenge this House to answer that cry, frankly and honestly. Tell the hard-pressed county commissioners, city councilmen, and State legislators that we know they are in desperate financial need. Tell them we began this session of Congress with a firm commitment to help them with revenue sharing. Tell them our intention was to be a tax collector for them with the idea that some of those taxes would be returned to them for local use.

Then tell them that the big spenders in this Congress threw a monkey wrench into those plans by tacking additional billions of dollars onto all the appropriation bills that came before us this year. Tell them that many of us voted against those increases but that they were passed over our objections. And finally, be honest enough to tell them that we spent so much there is not a penny left to share with them.

That is the truth. That is the way it is. And until the Members of Congress have the guts to stand up to the special-interest groups and say "no" to their constant demand for more and more money, that is the way it will remain.

Are we helping the States and cities by adding $30 billion to the cost of Federal Government? What kind of carnival trickery are we trying to pull on the taxpayers when we tell them we are helping them by taking more money from them?

When we take the money we have and allocate it where it is needed, that is money management. When we spend all the money we have and then saddle the Nation with another $30 billion debt to pay for an election-year gimmick, that is mismanagement.

This is not a revenue sharing bill, it is a debt sharing bill, and I tell you the people of New Mexico cannot and will not stand for any more debt.

Yes, let us pass a revenue sharing bill, let us do it by holding spending in line with our income so there will be money left to share. This Congress has not done that.

Mr. Speaker, I appreciate the fact that every Member of this House is up for reelection in a few weeks. I realize that this kind of boondoggle would make wonderful material for campaign speeches.

"Look what we have done for you," we can say. "Look at the big gift Santa Claus is bringing back from Washington to help you with local problems. Vote for me and I will go back and get you more."

That is baloney, and we all know it. The taxpayers might swallow it in time for election, but then comes the rude awakening to the fact that they have been "given" nothing but a raise in their taxes, a mortgage on future generations, a nation that is bankrupt, and a fast shuffle by their elected representatives.

I vote "no" on this bill. I vote "no" to forcing us into a raise in taxes next year. I vote "no" to hoodwinking the taxpayers for political advantage. And I refuse to place this additional debt burden on unborn generations who are not here to defend themselves against the recklessness and irresponsibility of this wild-spending Congress.

Mr. BETTS. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. BYRNES).

Mr. BYRNES of Wisconsin. Mr. Speaker, I realize, just as Chairman MAHON of the Appropriations Committee realizes, that the die is cast as far as this particular proposition is concerned, so I suppose it is futile to argue further on the matter.

However, I am not going to have the privilege of addressing this body many more times; therefore, I would appreciate the opportunity of one last attempt to point out the seriousness of the mistakes that I believe we are making.

As I said on June 22, when H.R. 14370 came before the House for a vote, this is historic legislation; make no mistake about it. Today, in finalizing our action on it, I think we are making a historic mistake. I do not know of anything we have done in the 28 years that I have been a Member of this body which gives me more concern with respect to its impact on the whole fabric of our governmental system. This bill starts us on the road of financing through Federal taxes the general activities of local government, which are given a blank check in the process.

There has been much discussion about the differing revenue sharing formula, adopted by the House, Senate, and conference committee. There are many people unhappy about the formula that came out of the conference. There are people who were unhappy about the formulas in the House and Senate bills, but as I have said before, there is no way to devise a rational formula to do something that should not be done under any circumstances anyway.

And there is no prototype of the problem that exists. There is no specific problem we are facing up to. We are just saying we think the States and localities have some financial problems, or at least they are screaming enough to make us think they do, and so we are going to throw some money at them and say be satisfied. Well, it is simply whetting their appetite for more.

I heard one of my colleagues suggest that this is going to put a stop to categorical grants. I would like each Member, who has anything to do with categorical grants, to examine the situation and see if there has been any change in attitude, by the Governors or the mayors or the Members of Congress themselves, to abandon new aid programs simply because we will have revenue sharing. Of course there will not be any change. This revenue sharing program is on top of everything else. It is going to be one of those items that grows and grows and grows, and the categorical grants are going to remain, in addition.

The gentleman from Texas, who sees these things as they develop through the Appropriations Committee, knows this is so. Revenue sharing is just one more item, but it is one item we do not have any control over, because it is not subject to action of the Appropriations Committee. This is a bypass of congressional procedures. I sympathized with the chairman of the Appropriations Committee the other day when he spoke of our appropriations plight. We have been going around the Appropriations Committee.

If there is some process that requires restraint, we try to find some way to go around the Appropriations Committee, and this is one example of that circumvention.

We hear every day about a lack of confidence by our people in the Government, or in the Congress. As I look at what we have been doing in the past few days and at what we are doing today, I think this lack of confidence is very understandable.

We had a great debate here just 2 days ago on the fiscal plight of the Federal Government, on the fact that for fiscal 1973 we face a full employment deficit of $4.5 billion, an anticipated unified budget deficit of some $25 billion, and a Federal funds budget deficit estimated at some $30 billion. Additionally, I hear my Democrat friends complaining that deficits in the past 3 years have totaled around $70 billion and in the past 4 years have totaled about $100 billion.

So we have voted to put a ceiling on spending. We did something which some Members thought was inadvisable and gave authority which some Members thought the President should not have. Why? Because we have fiscal problems. Now in one fell swoop, with one vote, with one action, we send $8.29 billion in fiscal 1973 to the States and localities. That is what we are voting here right now. We are saying to the recipients: "Just spend it. We have not got it but we are going to give it to you anyway."

We have even made it retroactive. The House did not pass the bill until June of this year but it is effective, as far as payments are concerned as of January 1, 1972.

And now, 2 days after we have had a vigorous debate on our fiscal plight, we are going to take this unfortunate action. Let me read what the American Enterprise Institute for Public Policy Research has stated in its recent study, entitled "Nixon, MCGOVERN, and the Federal Budget." I will read only the second conclusion made in the study because I have not sufficient time:

> Second, both candidates must face the reversal of roles that may be developing in the balance of fiscal federalism: a Federal Government impoverished for revenues to meet even its existing program and commitments at a time when the State and local sector may be in a position to slow down tax increases or actually cut taxes and still provide improved services for most citizens.

This report was just made in September, but it is in accord with the projections made in the dissenting views I signed in the Ways and Means Committee's report on revenue sharing. That report sets out in some detail the reasons why revenue sharing is poor public policy and bad government finance. It will undermine our federal system and ultimately diminish rather than increase cooperative fiscal federalism. Let me conclude by simply and emphatically stating that it is not in our best interests as a Nation.

Mr. BETTS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Speaker, nearly 2 years ago when the revenue sharing proposal was presented, I favored it because it seemed to me that the suburbs, long the shunted stepchild of the Federal Government, would have an opportunity, to partake in a very modest share of the moneys that they send to Washington.

I must tell the Members of the House that after reading the conference report, I find it is a sellout of suburbia. When I stop to review the long sessions of our committee on this bill and consideration of the various formulas to bring some equity into the distribution of these funds, I am dismayed that we bring from conference a bill that is so grossly unfair.

I can cite, for example, in my district—and I admonish everyone here to take a good hard look at what has happened to communities in their districts to see what this conference report does to them.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COLLIER. No, I will not yield at this moment. I will yield to the gentleman later.

One community in my district that would have, under the equitable—and I repeat—under the equitable House formula, received $928,000. In the brush of this conference agreement, they will receive one-third of that.

Another, and I might tell you that this is not an affluent community—this is an ordinary, middle-class community plagued with all the fiscal problems most of these communities have today—would have gotten $142,491 under the House formula, but will wind up with $33,000.

Revenue sharing at this price is certainly not even going to permit them to get back what the proposal will cost their residents in income tax payments for this bill alone. As one who supported the concept of revenue sharing for the reasons I have previously outlined, I could not vote for this bill today, and I will not vote to adopt this conference report.

I just think that what has happened in conference completely flaunts the original intent, purpose, and justification of the revenue-sharing proposal recommended by President Nixon.

I do hope that some of my colleagues will join me in either sending this back to conference if the opportunity presents itself, or to do something about making the distribution formula equal for all Americans, and particularly those who now carry the largest burden of Federal income tax.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding to me.

Immediately when this bill was suggested 2 years ago, when it was first suggested, this formula, this so-called revenue sharing, I met with every single city council in my district, and when the question was to put to them, "Would you like some of that," they were very interested. When I followed that up and asked, "To be responsible, of course, are you willing that we increase the Federal income tax in order to cover the cost of this, so that our Federal Government does not continue to go further into debt," the answer to that was a loud "No."

But, as long as people continue to believe that Federal funds are somehow free, naturally they are going to take the money.

Mr. COLLIER. I am not going to yield further, and I should like to respond to that statement by saying the argument that we do not have the funds to share escapes the point of my objection. If it was an equitable distribution permitting towns, cities, and villages, some of which cannot qualify under any other Federal assistance, to get back a reasonable but modest amount from Washington I would support it because it would let the local communities exercise their own priorities in the expenditure of their own tax dollars.

I submit that there are many other areas in our budget we could cut. If we are going to provide a distribution of Federal tax money on the basis of some equitable formula, this program should not be singled out as the whipping boy. With a fair distribution of funds, it would be a great deal more meritorious than other Federal spending programs which should be slashed.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. BETTS. I yield to the gentleman from Tennessee.

Mr. BLANTON. Mr. Speaker, I rise today to oppose this legislation. When this bill was first introduced almost 6 years ago, it got nowhere. It was considered by many able legislators to be one of the biggest pieces of gimmick legislation ever conceived. It has not changed in 6 years. It is still a horrible piece of legislation. It will increase taxes if enacted today, just as it would have increased taxes if it had been enacted 6 years ago.

There is one difference, however. Six years ago the Federal Government was operating a surplus budget, not a massive deficit. In the past 4 years this administration has amassed budget deficits of over $100 billion. For the current fiscal year the deficit is anticipated to exceed $25 billion. How can the Federal Government share revenues that it does not have? If the States would like to share some of this deficit, I would be more than willing to let them.

When this legislation was first introduced, I opposed it. Every year since then I have continued my opposition. I had many reservations about this bill, and they are the same today as they were 6 years ago. Let me enumerate them for my distinguished colleagues, lest they forget what their opposition was to this bill a very short time ago.

First. If this bill is enacted, taxes will have to be increased at the State level. One portion of the formula used to determine State and local allocations is the State tax effort. If a State increases its tax effort by increasing its taxes, it will receive a corresponding increase in shared revenue funds. Tennessee has no State income tax at the present time but if revenue sharing is enacted, I am sure that it will have one within the next 5 years.

Second. Taxes will have to be increased on the Federal level. As I mentioned previously, the Federal Government is again running a massive deficit. Where are the revenues to come from? Increased taxes. That is the only answer. This administration is talking out of both sides of its mouth when it requests a spending ceiling, on one hand, and demands revenue sharing on the other.

Only moments ago the distinguished chairman of the Ways and Means Committee stated on the floor of this body that the funds for revenue sharing would in all likelihood have to be borrowed to support this program. That means a higher debt ceiling, more spending to feed the fires of inflation and eventually, higher taxes. And lest anyone be mistaken, this is not politics we are talking about, it is arithmetic.

Third. One of the cornerstones of the operation of our democracy since its inception has been that those who spend the revenue should be responsible for raising it. This was the main objection of many of my colleagues to this legislation. I have not changed my position of this very important point. Fiscal responsibility may be old fashioned but I for one still favor it.

I also object to the allocations for the State of Tennessee as a Representative of that great State. Tennessee is in the bottom one-third of the Nation in per capita income and yet it ranks 23d in the payment of Federal income taxes with total Federal collections of over $2 billion in 1971. At the same time, Tennessee is placed 32d, almost in the bottom third, in the revenue sharing list based on per capita figures. It is over a dollar below what the U.S. average is. If this is helping my State I would like to know how.

This bill is basically the same one that we have objected to all along. Why have positions changed so radically in such a short time? I think that there are two reasons. The first is that this is an election year and most politicians want to go to the polls with this gimmick at their side.

There is another reason, too. The Congress has been subjected to some of the most intense pressure from State and local officials that it has ever known. Mayors want free money. Governors want free money. Local officials want free money. I learned one lesson a long time ago and that is that you cannot get anything for free. Not really. The people are the ones who will pay for this "free" money. The hard-working people who have helped make this Nation what it is today. If they knew what a fraud revenue sharing was there would not be one legislator here today who would support this bill.

I, for one, will not. I will go home to my people, and I will tell them the truth about revenue sharing. My conscience and my responsibility as a Representative of the people demand that I do this.

Mr. BETTS. Mr. Speaker, I have no further requests for time.

Mr. MILLS of Arkansas. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I am concerned, Mr. Speaker, that not enough information has been put out on this, as to the use of the money which the various States and cities and counties will get.

I am also concerned, based on the inquiries I have received, about what kind of reporting must be made of the funds which will be given to them.

Though mention is made about the basic coverage in the conference report, it would seem to me it would be important that the committee or some appropriate authority issue to the States and communities the full details as to what they can spend the money for and what kind of reports they must make. I have talked with citizens of my counties, and they do not know precisely what the money can be spent for, and how to report.

Mr. MILLS of Arkansas. All that information will be made available, of course, by the Treasury Department, which is the administrative agency for this program. The requirements for reporting will be made known. The purposes for which the localities can spend the money will also be fully known. They are going to be checked. We have urged the Treasury Department to expedite dissemination of all this information.

Mr. PICKLE. These funds are to be retroactive, as of January 1, 1972?

Mr. MILLS of Arkansas. That was in both the House and Senate bills.

Mr. PICKLE. In view of the fact that this is October, there is a question of notice to the States and cities. They ought to be given this information immediately. Otherwise it will be confusing to an alarming extent.

Mr. MILLS of Arkansas. They will get the information as soon as possible and as the Treasury disburses the first amount of money.

Mr. SANDMAN. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from New Jersey.

Mr. SANDMAN. Mr. Speaker, I feel this is being a little inconsistent today. The gentleman knows how much I think of his judgment. On the vote we cast the other night, we cast it only because we were so concerned about the crisis that exists. I believe the gentleman made one of the strongest points I have ever heard on this floor at that time.

Mr. MILLS of Arkansas. Let me interrupt the gentleman to say I am not asking anyone in this House or in the Nation to use my judgment with respect to this matter; Members obviously must use their own judgment.

Mr. SANDMAN. If we have a crisis, Mr. Speaker, how can we exercise good judgment by making this measure retroactive to January 1972? The mere signing of this measure will add $5.3 billion to the debt, will it not?

Mr. MILLS of Arkansas. Yes. However, let me call my friend's attention to the fact that this is not the only amount that we will spend in excess of our receipts.

As pointed out by my colleague, my friend from Wisconsin, there probably will be a deficit of $25 billion run on the unified budget basis.

Mr. Speaker, I am not ready to say that of all the many expenditures encompassed in the $250 billion, this program to help the localities, particularly the cities and the counties, enjoys the lowest priority of all of those programs. I think I could enumerate perhaps a hundred of them that I would think ought to be eliminated—not just cut but eliminated—before you eliminate the program of trying to help these bankrupt larger cities and some of our medium-sized cities and counties in the country.

As I say, I do not want to say that this enjoys the lowest priority of all the many programs on the statute books. That is the only answer I can give the gentleman from New Jersey (Mr. SANDMAN).

Mr. JOHNSON of California. Mr. Speaker, I rise to support the conference report on H.R. 14370 which we have before us today. The idea of revenue sharing first received national attention in 1964 when Walter Heller, then Chairman of the Economic Advisers, recommended it as a way of utilizing anticipated revenue surpluses generated by the then booming economy. With the onslaught of our escalating participation in the Vietnam conflict these excess funds failed to materalize and the concept of revenue sharing was allowed to sleep until the last couple of years.

An enormous budget deficit coupled with a stagnant economy caused the Members of the House of Representatives, myself included, to be cautious relative to the passage of any form of revenue sharing. However, H.R. 14370 reported earlier this year from the Ways and Means Committee under the leadership of the gentleman from Arkansas (Mr. MILLS), whose fiscal reputation is widespread, provided an innovative and far-reaching approach to revenue sharing. I supported this legislation when considered initially by the House.

Admittedly, I had some doubts in my mind prior to extending my support to this bill. As long as the huge Federal budget deficit continued to grow I was and still am curious, to an extent, as to how this bill would or could be financed. Obviously, the funds must be drawn from somewhere. There are three foreseeable alternatives:

First. Increased taxation;

Second. Decreased spending in some other areas of Federal expenditure; and

Third. Increased Federal deficit.

None of these alternatives is really acceptable. The deficit must not be continually enlarged to finance Federal programs. An expanding deficit contributes to inflation and, in turn, inflation is a subtle regressive form of taxation. Inflation is a subtle regressive tax because it causes the people, with the burden particularly falling on lower and middle class Americans and the elderly living on various pension plans, to pay more while receiving less for their money, both in terms of tax and consumer dollars.

If we are forced to cut back on other programs to offset the costs of revenue sharing, we cannot afford to buy a "pig in a poke." I am confident we can cut Federal spending in some areas, however, this must be done only after proper extensive research has determined both the wisdom and the impact of these cuts. Some of our on-going Federal financed programs have demonstrated their merit by helping our schools, by stimulating economic development, by creating jobs, by providing health services to our people, young and old, by conserving our natural resources, and by attaining a whole host of other national goals. These cannot be sacrificed for untried programs.

If we are to finance this legislation through increased taxation let us do so by closing some of the existent tax loop holes through which our present form of taxation has become highly inequitable. It is in this vein that I support tax reform and sponsor legislation to achieve this goal.

Despite these fiscal apprehensions, I support H.R. 14370, the State and Local Fiscal Assistance Act of 1972. My overriding justification for support of this revenue sharing proposal is that it provides a majority of its available funds to local governments. In doing so, it provides considerable aid to rural or local units of government such as those that predominate the Second Congressional District. The following table depicts the aid to be received by the local governmental units within the Second District:

Revenue sharing grants to be made to local government

[In dollars]

Alpine County, total to area	13, 037
County government	6, 519
Other agencies	6, 518
Butte County, total to area	2, 725, 498
County government	2, 023, 083
City of Chico	413, 325
City of Oroville	202, 983
City of Gridley	68, 576
Other cities	17, 531
El Dorado County, total to area	1, 148, 797
County government	898, 228
South Lake Tahoe	138, 305
City of Placerville	112, 264
Lassen County, total to area	368, 092
County government	282, 445
City of Susanville	85, 646
Modoc County, total to area	201, 178
County government	172, 164
City of Alturas	29, 014
Nevada County, total to area	585, 460
County government	477, 315
City of Grass Valley	74, 614
Other cities	33, 632
Placer County, total to area	2, 091, 026
County government	1, 663, 490
City of Roseville	221, 694
City of Auburn	112, 437
City of Lincoln	60, 624
City of Rocklin	22, 052
Other cities	10, 727
Plumas County, total to area	315, 329
County government	302, 825
To cities	12, 504
Shasta County, total to area	2, 091, 241
County government	1, 681, 519
City of Redding	361, 602
City of Anderson	48, 120
Sierra County, total to area	61, 005
County government	55, 974
Other agencies	5, 031
Siskiyou County, total to area	826, 220
County government	602, 281
City of Yreka	75, 499
City of Weed	37, 400
Other cities	111, 039
Tehama County, total to area	795, 043
County government	621, 898
City of Red Bluff	122, 351
City of Corning	46, 048
Other cities	4, 746
Trinity County, total to area	194, 735
County government	194, 735

Total Second District (This total does not include that which will benefit the Citrus Heights area of Sacramento County. Sacramento County will receive $11,455,543, of which $8,066,686 will go to county government, $3,377,321 to cities over 2,500 in population, and $11,536 to cities under 2,500 population.)

Furthermore, I support the concept of revenue sharing because I believe the problems confronted by local and State governments, faced with severely limited sources of taxation, should be considered a major national priority. The concept of revenue sharing contained in the State and Local Fiscal Assistance Act of 1972, provides local and State units of government with funds that may be disposed of according to the needs of the local and State governments with only one rather broad constraint. It requires that States maintain previous aggregate levels of aid to local governments. In turn, the bill provides that money distributed to local government can be used only for certain "high priority" purposes. These purposes are for the maintenance and operation expenses of public safety; environmental protection; public transportation; health; recreation; libraries; social services for the poor or aged; and financial administration.

Local governments are not required to maintain past efforts in any of the "high priority" areas, and may use these Federal funds to displace previous local expenditures.

Obviously, these broad categories and the general lack of restrictions on how the local and State funds, that are displaced, are to be used make H.R. 14370 a very flexible piece of legislation in its application insofar as State and local units of government are concerned. There are those who say that this program, therefore, does not place enough restraint on State and local government. I cannot concur. I believe that these units of government are potentially a source of great innovation and understanding. Being closer to the people, they can couple their innovation and understanding with these federally shared funds. In doing so, they can optimally administer to the salient problems and needs of the people in their jurisdiction.

Hopefully H.R. 14370 will be signed into law in the near future. Hopefully as it is we will continue our quest for fiscal responsibility, more efficiency in Government operations, and a more equitable Federal tax program. If this is done, we in the Second District, will benefit along with the rest of the American people who are in dire need of domestic programs that will efficaciously meet the pressing problems of rural development and urban growth.

Mr. HEINZ. Mr. Speaker, last week I was considerably distressed to find, in reviewing the report and statistical analysis of the conference report on H.R. 14370, the "revenue sharing" bill, that no funds at all were reserved for 22 of the 59 municipalities in my 18th Congressional District of Pennsylvania.

After several fruitless conversations with staff at the Joint Internal Revenue Committee and the Revenue Sharing Implementation Unit, the distinguished chairman of the Ways and Means Committee (Mr. MILLS) very thoughtfully directed my inquiries to Mr. James E. Smith, Deputy Under Secretary of the Treasury. With extremely prompt and responsive action, Mr. Smith was able to report to me by letter today that my 22 townships would indeed receive revenue sharing funds, and that, in fact, the funds remitted to these communities would total some $300,000 more than provided by the original House-passed bill. This is indeed good news and it allows me to continue my support of this needed measure to reduce dependence of local government on the property tax.

The text of Mr. Smith's letter is as follows:

OFFICE OF THE SECRETARY
OF THE TREASURY,
Washington, D.C., October 12, 1972.

Hon. H. JOHN HEINZ,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HEINZ: I am writing in response to your inquiry concerning the print-out of allocations prepared as a supplemental report to the Conference agreement on the general revenue sharing bill.

You were understandably distressed to note in this so-called "blue book" print-out that for the townships in Allegheny County there was an indication of zero entitlement. Unquestionably the print-out is in error with respect to that item. I am advised by our operating personnel that townships in Allegheny County will receive under the Conference Report for the calendar year period 1972 an aggregate amount of approximately $3,410,000. This reflects an upward adjustment of some $300,000 over the amount that was estimated to be received by the Allegheny County townships under the version of H.R. 14370, as it passed the House earlier this year.

We have had a considerable amount of difficulty in many states with the print-out as it relates to township entitlements. This was the first print-out which involved the application of provisions of the bill which apply floors and ceilings to the entitlements which may be received by many units of government and, additionally, this was the first run which involved the application of a constraint, provided for in the bill, that no unit of government may receive an entitlement which exceeds 50% of that unit of government's adjusted revenues plus transfer payments received from the state and Federal governments. When the computer program was run with these additional factors included, our computer program with respect to township governments proved to be defective. We are currently at work making the necessary modifications of the computer program to overcome this defect. Furthermore, we are intensively engaged in the very exhaustive and time-consuming process of data verification—a task, which due to the lack of both time and resources, simply could not be accomplished while we were still actively working with the legislative committees to meet their demands for data and information.

I am advised that we hope to have the computer program in order and all of the currently available data in the system so that we will be able to make a full national run prior to the end of this month. It is from that run that we will make the initial payments. I am confident that the township governments of Allegheny County will be included in this payment process.

We must make a plea for forebearance and patience from all of the affected units of government. In addition to working most arduously to make possible the first payment of funds before the end of this month, we are also moving with maximum speed to introduce into our data system more current data (Fiscal Year 1971) on revenues, which had been derived from a special census of state and local governments conducted by the Bureau of the Census. We are hopeful that that data will be available for use for the payment covering the last half of this calendar year which will be made in early January 1973. Recognizing the inadequacies of our present data base, we are determined to utilize an open accounting system with an adjustment process, which will assure that all units of government are fairly and equitably treated.

I deeply regret that it is not possible at this point in time to give you the individual entitlements for the townships in Allegheny County, but I do hope that the information as to the estimated aggregate entitlement for these units of government will relieve the understandable anxieties, created by the grievous omission in the "blue book" print-out.

Sincerely yours,
JAMES E. SMITH,
Deputy Under Secretary,
Congressional Relations.

Mr. DANIELSON. Mr. Speaker, I would like to point out simply that we are now given no choice but to either accept or reject, in its entirety, the formula agreed upon by the conferees on the State and Local Fiscal Assistance Act of 1972.

I intend to support this conference report, since the assistance contained in this measure for local governments is so bady needed. However, I want to protest that the formula for local shares is not nearly as satisfactory as the plan we passed in the House in June of this year.

In my own congressional district I find striking inequities in the allocations which are slated for the cities therein. Recognizing the fact that none of the local governments in my district are getting as much assistance as they could use and need, it is most disappointing to see two of my cities that are most in need receive the deepest cuts from the House plan to this final version.

The cities of Baldwin Park and Rosemead are both modest income residential communities which do not have the heavy industrial base which is extremely valuable to cities under the conferees' formula. This is compounded by the fact that the entire tax burden in Baldwin Park and Rosemead is already thrust mainly on owners of residential property and this burden is generally greater than that of the residents of wealthier cities that are already benefiting from industrial or business tax revenues and do not need the Federal assistance as badly.

Baldwin Park, for instance, will receive an allocation of only $6.20 per capita under the conference bill, rather than more than twice that—$12.95 per capita—under the House bill. Rosemead is slated for only $3.72 per capita under this bill rather than $12.27 per capita under the House version. In fairness I must point out, however, that updated tax effort figures should increase the Rosemead share to a figure that I hope will at least equal that of Baldwin Park.

Other cities that are in or partly in my district will be affected in the following manner, comparing the conference bill to the House bill, in that order: Alhambra—$8.49 per capita instead of $10.37 per capita; El Monte—$10.24 per capita rather than $12.31 per capita; Los Angeles—$12.59 per capita rather than $10.55 per capita; Monterery Park—$6.14 per capita rather than $10.46 per capita; San Gabriel—$7.27 per capita rather than $10.51 per capita; and South El Monte—$15.28 per capita rather than $13.35 per capita.

I approve of the fact that the final version that we are voting on today contains a provision whereby the individual States, by law, can substitute a different formula for local sharing beginning in the second year and may be able to come back to something more closely resembling the House formula. I plan to watch closely the final, updated, calculations of these allocations, the correction of any errors, and the use to which these funds are put by the cities.

Mr. WHITE. Mr. Speaker, the Revenue Sharing Act will prove to be one of the most regrettable acts of any Congress. In my opinion it will erode our federal system and nationalize our Government more so than any act we have ever passed. It will lead to more waste and to inestimable opportunities for corruption. It will move even more power away from State and local governments and deposit this power with the national Government.

President Nixon has told the American people that this act will consign power to the cities and States. Contrariwise, power will flow to the source of the money, the National Government. Cities and States will be beholden to the whims of the national administrators and bureaucrats of the executive department. Congress itself will lose more of its right to oversee the program; inevitably the National Government will lay down guidelines to force local communities and States to perform as the national administrators believe they should. This has been the history of grant programs once authorized and funded by Congress. These guidelines will not necessarily effectuate economy or insure that the funds are used properly.

The House has just passed a raise in the temporary debt ceiling to $465 billion, with a limitation of spending to $250 billion, and with a provision of power to the President to line veto any program. Even with this limitation, it is acknowledged that this fiscal year there will be a $31 billion deficit.

So where is the revenue to share? It is admitted by the floor proponents that there is none and that the U.S. Government will have to borrow the money to "share" revenue, thus greatly increasing the public debt. There is no doubt that this act will force a raise in U.S. income taxes. There is no doubt, because of the built-in formulas that Texas will be obliged to pass a State income tax, which we have avoided during the entire history of our State.

Under our present system, bloc grants are awarded for specific projects which demonstrate merit in virtually every legitimate area which this act proposes to aid. Undoubtedly with the existence of revenue sharing, Congress will fail to fund many specific programs, purely as a matter of fiscal stability and to avoid duplication.

Under the present federal system wherein we design to repose power and responsibility as close to the people as possible, when a local or State government desires to develop local programs and needs money for this purpose, it must levy a tax on its own people. This forces the local and State officials to justify to the electorate the need to levy this tax, and then to account for the expenditure of money to this same electorate.

Under revenue sharing this accountability is removed; taxes would be levied by Congress, and the local officials would spend the revenues. Because the tax is less direct and paid to the National Government, the electorate will fail to hold the local officials accountable and will not exercise the necessary surveillance over their activities. Greed will be the prevailing mood—to capture as much money and spend it as quickly as possible—and this wasteful mood will witnessly be shared by the local citizenry. Expenditure of money rather than responsibility will be the test of local officials.

In some communities, in the wake of such nationally derived moneys will come many of the corrupt practices of irresponsible and selfish government—nepotism, cronyism, and dispersal of largess to build a political machine. The type of evils we have seen in some OEO programs will be magnified in many communities of this land, and the moral fiber of our people can deteriorate.

Within 1 year the forces of greed, bickering, charges of corruption and tragic waste will arise. Cities and towns will claim discrimination in treatment. Congress will be forced to consider new taxes, or this program will be shelved as unworkable while expectant cities will bitterly complain.

Let no peoples of any community believe they will receive a tax relief. They will pay more heavily for this program than if no revenue sharing were passed. They will pay dearly in the erosion of their local autonomy and in the dissolution of local responsibility.

Mr. WILLIAM D. FORD. Mr. Speaker, it is only with great hesitation that I cast my vote today in support of the conference report on H.R. 14370, the State and Local Fiscal Assistance Act of 1972.

During the consideration of this legislation by the House in June, I expressed my support for this bill and my support was shared by all the city and township officials of my congressional district. At that time, I felt that the bill was quite fair in its treatment of local governments although I was troubled by two questions. My feelings were strengthened as a result of my colloquy on the House floor with the chairman of the House Ways and Means Committee. Chairman MILLS assured me, first of all, that the distribution of funds to suburban townships would be made on the same basis as the funds for municipalities and, secondly, that newly incorporated cities would be eligible for funds under the fiscal year 1973 distribution.

My reluctance to support the conference report today is based entirely upon the conference committee's decision to adopt the Senate formula for the distribution of funds to local governments. The House Ways and Means Committee went to great effort to improve upon the administration-proposed formula.

The House formula gave equal weight to population, urbanization, and relative income levels which assured that suburban communities would receive a fair share of the funds to be distributed. The Senate formula, however, allocates an incredibly disproportionate amount of money to central cities at the expense of suburban communities, hard pressed for funds and lacking an industrial tax base.

Mr. Speaker, many of the communities in my congressional district have anticipated a significant grant of funds as a result of the passage of this bill. But with the adoption of the Senate formula, the amount which many of them will now receive has been substantially reduced—in some cases by more than two-thirds—from what they would have received under the House formula. For the record, I now include a table which compares the allocations to several cities in the 15th District according to the House and Senate formulas.

COMPARISON OF AVAILABLE ALLOCATIONS TO 15TH DISTRICT COMMUNITIES UNDER HOUSE AND SENATE FORMULAS

City	House version	Senate version	Difference	Per capita
Flat Rock	$90,797	$43,060	−$47,737	$7.62
Garden City	714,461	362,583	−351,878	8.66
Inkster	677,681	423,473	−254,208	10.99
Livonia	1,713,631	1,023,371	−690,260	9.29
Rockwood	53,531	10,751	−42,780	3.44
Southgate	548,998	242,911	−306,087	7.16
Dearborn Heights	1,244,014	411,906	−832,108	5.13
Westland	1,445,613	460,377	−985,236	5.30
Woodhaven	57,475	45,443	−12,032	13.64
Gibraltar	62,810	81,516	+18,706	24.51
Wayne	347,350	411,207	+63,857	19.58

This table does not show the figures for the suburban townships or the two newly incorporated cities of the 15th Congressional District. However, I am confident that my colloquy on the House floor with Chairman MILLS will constitute sufficient legislative history to assure that the distribution of funds to these communities will be made on the same basis as to cities. We have also been assured by the Treasury Department, that the new data being put into the computers will use up-to-date local tax information and will include the cities of Taylor and Romulus.

These communities are in the midst of severe financial crises and this conference report fails to recognize the serious plight of suburban communities. Their rate of growth has been astronomical and coupled with this growth has been an ever-increasing demand for services. The bulk of the revenue raised by these communities comes from the regressive property and sales taxes and this revenue is no longer sufficient to meet the spiraling costs of government resulting from the population growth and the need for increased services.

Mr. Speaker, it is for these reasons that I reluctantly support this conference report. However, to vote against the conference report would be to deprive these communities of at least a piece of the funds which they so desperately need.

Although I have voted to support the conference report, I will urge the Michigan State Legislature to take advantage of the optional allocation formula provided under section 108 of this bill. This provision permits a State legislature to devise an alternate formula for the distribution of funds to local governments based solely on population and tax effort, or population and per capita income or a combination of these two factors.

Unless the Michigan Legislature does adopt this alternate formula to eliminate the inequities of the present formula, I intend to vote against any future bills providing for the continuation of the revenue sharing program.

Mr. DRINAN. Mr. Speaker, the revenue sharing conference report we are considering today will bring desperately needed fiscal relief to the States, cities, and towns of our Nation. This historic bill, which I have supported vigorously, authorizes payments to the States of $30.1 billion over the next 5 years, with an initial payment of $5.3 billion this year. Massachusetts will receive $163 million this year in revenue sharing funds, and of this sum more than $6,200,000 will go to the 20 cities and towns of my congressional district. My cities and towns need this money to stabilize property taxes and provide essential municipal services. In fact, they need much more money, and I deeply regret that the House conferees were not able to get more.

This bill provides that one-third of the total State allocation shall be used by the State government while the remaining two-thirds is to be divided among local governments. While I commend the conferees on their compromise formula for total State allocations, which gives each State its choice of the House or Senate formula, I must note my disappointment that the bill now before us contains the Senate-passed formula governing allocations to local governments.

As I have noted in a letter I wrote to the House conferees, and in my discussions with other Congressmen, the Senate formula penalizes those States like Massachusetts which have a relatively high per capita income and it also fails to consider adequately the increased costs of all government services—particularly municipal services—in urbanized areas such as Massachusetts. Per capita income is an unreliable index of a State's ability to finance its public service programs. It does not take into account the inevitably higher costs of running governments in urban areas and, particularly in the case of Massachusetts, the already massive tax burden on the urban citizens. Without criteria to adjust for the higher costs of government services in urbanized areas, it is little wonder that under the Senate formula per capita grants to rural areas are about twice as large, on the average, as per capita grants to urban areas.

The effect of the Senate formula on urban areas is demonstrated by the difference in funds that my congressional district will receive under this formula and what would have been received had the original House formula been adopted. The version of the revenue sharing bill passed by the House, which I supported, would have given the cities and towns of my district $7.9 million. The bill before us today will result in grants of $6.25 million, a loss of nearly $1.65 million from the House version. The 20 communities I represent are now forced to suffer that $1.65 million loss.

Even with the more unfortunate aspects of the Senate formula, I know that I speak for the residents of my district in saying that the more than $6 million we will receive will be of tremendous assistance. A list of the cities and towns in my district in Massachusetts and the approximate dollar amounts they will receive under this bill follows:

Ayer: $200,829; Boston—figure not yet available; Brookline: $507,605; Fitchburg: $1,200,289; Framingham: $741,493; Gardner: $409,660; Harvard: $51,283; Lancaster: $58,293; Lincoln: $35,593; Lunenberg: $100,295; Leominster: $552,154; Maynard: $137,358; Newton: $717,363; Shirley: $43,414; Stow: $48,183; Sudbury: $168,748; Waltham: $1,081,998; Wayland: $117,789; Westminster: $41,111; Weston: $42,138.

I am gravely concerned over the provision of this bill that establishes a ceiling of $2.5 billion on social service grants under the HEW matching grant program and reduces Federal participation in these programs from 75 to 50 percent. While this figure is an improvement over the $1.6 billion ceiling included in the Senate version of the revenue sharing bill, it would still bring many worthwhile and proven social service programs to a tragic halt. Social service programs create jobs. They should not be restricted by an arbitrary ceiling on Federal expenditure.

There has been rapid—perhaps too rapid—growth in Federal social service expenditures. But it would be precipitous in the extreme to suddenly chop expenditures by $2.2 billion when States and social service managers have already budgeted for the full amount, and especially at a time when many of these programs are needed more than ever before.

If this ceiling goes into effect, according to figures supplied by the Department of HEW, Massachusetts will lose $26.2 million of its programed social service grants, 27 percent of the total. The timing of this reduction could not be worse. Massachusetts is in the midst of a fiscal crisis. Unemployment statewide is at a shocking 8 percent—even higher in urban areas. Job opportunities are at a minimum. Yet, the effect of this ceiling will be the elimination or severe curtailment of many key social service programs that are providing desperately needed jobs. The limitation of day-care funds would be particularly unfortunate, for without these services many mothers will be forced to quit their jobs to tend their families, thus further increasing the welfare rolls. Other programs—such as manpower training—which decrease unemployment, take workers off dependency on unemployment compensation, and lower the welfare rolls will be reduced and terminated.

Social service programs are designed to help those people who have gotten off welfare stay off welfare. If we cut back on these programs we will, you can be sure, add to the welfare rolls and aggrevate the economic crisis that afflicts large areas of our country.

Better controls on Federal social service expenditures are needed. But these controls should not come in the form of an arbitrary, hastily considered ceiling which computes State allocations on a straight population basis and therefore ignores key factors of welfare caseloads, urban population, and the higher costs of social services in urbanized areas.

I support this bill. It has defects—many defects—but we need these revenue sharing funds.

Mr. FINDLEY. Mr. Speaker, the House of Representatives has now passed each of the regular appropriations bills for fiscal 1973. The total appropriated by these bills was $169,610,062,714. On top of that, yesterday we passed a supplemental bill with approximately $3.5 billion more.

The $169.6 billion appropriated in the 13 bills is exactly $19,248,529,160 more than the Treasury Department has estimated will be received in revenues during the same year. In other words, the House of Representatives has by its own initiative spilled more than $19.2 billion in red ink during the second session of the 92d Congress.

The following table shows for each appropriation bill the amount of deficit spending approved by the House:

Appropriation bill	Budget request	Balanced budget, 14 percent cut	Amount approved by House	"Red Ink" approved by House
Legislative	$433, 627, 004	$372, 919, 224	$427, 604, 764	$54, 685, 540
State, Justice, Commerce, judiciary, related agenices	4, 687, 988, 600	4, 031, 670, 196	4, 587, 104, 350	555, 434, 154
HUD, Space, Science, Veterans, independent agencies	20, 173, 185, 000	17, 348, 939, 100	19, 718, 490, 000	2, 369, 550, 900
Transportation and related agencies	8, 426, 792, 000	7, 247, 041, 120	8, 316, 950, 000	1, 069, 908, 880
District of Columbia	343, 306, 000	295, 243, 160	332, 306, 000	37, 062, 840
Interior and related agencies	2, 520, 340, 000	2, 167, 492, 400	2, 529, 558, 200	362, 065, 800
Labor, HEW, and related agencies	27, 327, 323, 500	23, 501, 498, 210	28, 603, 179, 500	5, 101, 681, 290
Treasury, Postal Service, and General Government	5, 066, 603, 000	4, 357, 278, 580	5, 057, 145, 000	699, 866, 420
Public Works and Atomic Energy Commission	5, 489, 058, 000	4, 720, 589, 880	5, 437, 727, 000	717, 137, 120
Agriculture, Environmental and Consumer Protection	12, 952, 177, 400	11, 138, 872, 564	12, 897, 010, 900	1, 758, 138, 336
Defense	79, 594, 184, 000	68, 450, 998, 240	75, 227, 048, 000	6, 776, 049, 760
Foreign assistance	5, 163, 024, 000	4, 440, 200, 640	4, 195, 155, 000	—245, 045, 640
Military construction	2, 661, 384, 000	2, 288, 790, 240	2, 280, 784, 000	—8, 006, 240
Total	174, 818, 992, 504	150, 361, 533, 554	169, 610, 062, 714	19, 248, 529, 160

Such a huge deficit—well over $20 billion with the supplemental added in—can lead only to more inflation, instability in the economy, higher wages and prices, and recurring international monetary problems. Yet, faced with this certainty, little has been done to deal with the fundamental problem.

As I see it, that fundamental problem is the way we go about appropriating money in a piecemeal fashion, without ever fitting the pieces together to form a budget for the entire Federal Government. As President Nixon so rightly put it:

> At fault is the hoary and traditional procedure of the Congress, which now permits action on the various spending programs as if they were unrelated and independent actions . . . The present Congressional system of independent, unrelated actions on various spending programs means that the Congress arrives at total Federal spending in an accidental, haphazard manner.

At no time does the Congress adopt a budget for the Federal Government.

Mindful of the grave shortcomings in the present system, the House Ways and Means Committee has recommended in its report on the bill to impose a spending ceiling, H.R. 16810, the establishment of a "temporary joint committee to recommend procedures that Congress can employ in the future to control overall budgetary expenditures and receipts." Unfortunately, this commendable initiative faces an uncertain fate in the Senate. Congress is about to adjourn and leave the Nation's fiscal affairs in disarray.

Mr. Speaker, it is imperative that something be done by the House of Representatives to bring the purse strings of Government once again firmly within our grasp.

On June 15, 1972, I introduced House Resolution 1020, to amend the rules of the House of Representatives to require that each year the House adopt a budget for the Federal Government before beginning the appropriations process. Appropriations in excess of the budget allocation for that category would require a two-thirds vote to pass.

Since introducing my proposal, much has happened.

Thirty Members have joined me in cosponsorship. They are:

LIST OF COSPONSORS

Bill Archer (R-Tex).
Charles E. Bennett (D-Fla).
William G. Bray (R-Ind).
Harold R. Collier (R-Ill).
James M. Collins (R-Tex).
David W. Dennis (R-Ind).
Samuel L. Devine (R-Ohio).
John G. Dow (D-NY).
Pierre S. du Pont (R-Del).
John N. Erlenborn (R-Ill).
Dante B. Fascell (D-Fla).
Paul Findley (R-Ill).
Edwin B. Forsythe (R-NJ).
Sam Gibbons (D-Fla).
David N. Henderson (D-NC).
Edward Hutchinson (R-Mich).
Jack F. Kemp (R-NY).
Delbert L. Latta (R-Ohio).
Alton Lennon (D-NC).
Manuel Lujan, Jr., (R-N. Mex.).
Stewart B. McKinney (R-Conn).
James R. Mann (D-SC).
Robert H. Michel (R-Ill).
Albert H. Quie (R-Minn).
Tom Railsback (R-Ill).
Henry S. Reuss (D-Wis).
John J. Rhodes (R-Ariz).
J. Kenneth Robinson (R-Va).
John H. Rousselot (R-Calif).
Herman T. Schneebeli (R-Pa).
Charles Thone (R-Nebr).

In addition to the support this rule change has garnered in the House, it has also picked up encouragement at the White House. The President's Budget Director, Caspar Weinberger, thought well enough of the proposal to assign a member of his staff to work with me on it. Consequently, several changes have been made in order to strengthen the budget control aspect of the bill.

My original proposal, House Resolution 1020, requires that the House authorized budget specify the amount of obligational authority for each appropriation bill to be considered during the year. Mr. Weinberger's staff was concerned that this language might still permit the spending of millions of dollars from the treasury which is not categorized as "obligational authority." To eliminate this possibility, it was suggested that the following requirement be added to the budget adopted by the House each year:

> The proposed budget shall include . . . the estimated budget outlays in the aggregate related to the maximum obligational authority provided for in item 2 above, together with the estimated budget outlays related to each appropriation bill or resolution and for such other legislative provisions for obligational authority as may be specified.

Also, in reporting an appropriations bill for consideration by the House, the appropriate committee would be required to certify that the bill does not exceed its allocation for both obligational authority and estimated budget outlays for the year. Thus, where outlays do not equal obligational authority, as is often the case, Congress would retain control of both figures.

The net effect of adding the category of "budget outlays" to the House authorized Federal budget is for Congress to adopt its own ceiling for Federal spending for each budget category. If this procedure had been followed at the beginning of this year, the controversy over congressional abdication of legislative authority in connection with the spending ceiling bill would not have occurred. The House would have already set a spending ceiling with the adoption of the House authorized budget at the beginning of the year.

Furthermore, the whole question of the level of Federal spending would be dealt with in a more effective and timely fashion. The time to act is at the beginning of the year, soon after the President's budget is sent to Capitol Hill and before appropriations begin.

That is the purpose of this revised bill, which I am introducing in revised form today. It is my hope that early in the 93d Congress the House of Representatives will set about the urgent task of reforming our budget management procedures.

Text of bill follows:

H. RES. 1161

Resolved, That the rules of the House are amended by adding rule XLV as follows:

"HOUSE AUTHORIZED FEDERAL BUDGET

"1. The Committee on Appropriations is authorized and directed at the beginning of each regular session of Congress after consideration of the annual budget message of the President, to report to the House a resolution containing a House-authorized Federal budget for the ensuing fiscal year not later than ninety days after the President's message has been received.

"The proposed budget shall include:

"1. Estimated overall Federal receipts from all sources;

"2. The maximum aggregate amount to be provided in obligational authority for all purposes, together with a maximum amount for each appropriation bill or resolution and for such other legislative provisions for obligational authority as may be specified.

3. The estimated budget outlays in the aggregate related to the maximum obligational authority provided for in item 2 above, together with the estimated budget outlays related to each appropriation bill or resolution and for such other legislative provisions for obligational authority as may be specified. Such outlay estimates shall be provided by the Joint Committee on the Reduction of Federal Expenditures.

"When the Committee on Appropriations has reported the House resolution adopting such budget, it shall be in order, after the report on the resolution has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays), for the chairman of the Committee on Appropriations to move to proceed to the consideration of such resolution in the Committee of the Whole House on the State of the Union (even though a previous motion to the same effect has been disagreed to). Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote.

"After general debate on the resolution, which shall be limited to not to exceed ten hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee of the Whole shall rise and report the resolution back to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to adoption without intervening motion except one motion to recommit.

"2. No bill or resolution providing obligational authority for the ensuing fiscal year shall be in order for consideration by the House until the House-authorized Federal budget for such year has been approved.

"The report on each such bill or resolution providing obligational authority for the ensuing year must include a statement in one of the following forms: 'the provisions of this bill (or resolution) conform to the requirements of the House-authorized Federal budget for fiscal year 19 . The bill (or resolution) as reported will provide $ in obligational authority, and when this amount is deducted from $, the maximum amount for this bill (or resolution) under the House-authorized Federal budget for fiscal 19 , the remaining balance is $; it is estimated that budget outlays for the bill (or resolution) as reported will be $, and when this amount is deducted from the amount under the House-authorized Federal budget for fiscal year 19 , the remaining balance is $.' or 'The provisions of this bill (or resolution) do not conform to the requirements of the House-authorized Federal budget for fiscal 19 . The bill (or resolution) as reported will provide $ in obligational authority, and when this amount is deducted from $, the maximum amount for this bill (or resolution) under the House-authorized Federal budget for fiscal 19 , a deficit results in the amount of $; (and/or) it is estimated that budget outlays for the bill (or resolution) as reported will be $, and when this amount is deducted from the amount under the House-authorized Federal budget for fiscal year 19 , a deficit results in the amount of $.'

"Any bill or resolution providing obligational authority whose report fails to include a statement in the first form, of which, in its amended form, fails to comply with the requirement as stated in the first form, shall require the approval of two-thirds of those Members present and voting, a quorum being present. This requirement shall not be waived or suspended.

"3. The joint statement of managers to accompany a report made by a committee of conference on a bill or resolution providing obligational authority shall include a statement in one of the following forms: 'The provisions of this conference report conform to the requirements of the House-authorized Federal budget for fiscal 19 ', or 'The provisions of this conference report do not conform to the requirements of the House-authorized Federal budget for fiscal 19 .'

"A conference report on a bill or resolution providing obligational authority which fails to include a statement in the first form shall require the approval of two-thirds of those Members present and voting, a quorum being present. Motions to dispose of amendments remaining in disagreement following adoption of a conference report on a bill or resolution providing obligational authority shall require the approval of two-thirds, if the effect of the adoption of such motion would be to provide an amount in excess of that contained in the House-authorized Federal budget for such year.

"4. Within fifteen calendar days after adoption of the House-authorized Federal budget, the Committee on Ways and Means is authorized and directed to report a resolution containing separate and specific recommendations to the House of Representatives as to adjustment in revenue measures and/or public debt level necessitated by a deficit or surplus, if such is shown by budget figures on aggregate outlays and receipts contained in the House authorized budget.

"When the Committee on Ways and Means has reported to the House said resolution, it shall be in order, after the report on the resolution has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays), for the chairman of the Committee on Ways and Means to move to proceed to the consideration of such resolution in the Committee of the Whole House on the State of the Union (even though a previous motion to the same effect has been disagreed to). Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote.

"After general debate on the resolution, which shall be limited to not to exceed six hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Ways and Means Committee, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee of the Whole shall rise and report the resolution back to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to adoption without intervening motion except one motion to recommit.

"No bill or resolution carrying appropriations or otherwise providing obligational authority for the ensuing fiscal year shall be in order for consideration by the House until the resolution of the Committee on Ways and Means has been approved.

"The requirements of this rule shall not be waived or suspended."

Mr. McCLORY. Mr. Speaker, although I have supported the principle of revenue sharing, including the bill passed earlier by this House (H.R. 14370), I find myself in sharp disagreement with the conference report which we are called upon to approve today.

Mr. Speaker, under the fair and equitable—although not generous—formula adopted in the House version of this measure, my congressional district—comprising mainly McHenry and Lake Counties, as well as the area of Kane County, most of which is included in my new congressional district—would receive allocations consistent with the broad principles underlying this new concept.

Mr. Speaker, the change in formula adopted by the other body appears to me to be both unfair and inequitable—and results in substantial losses in revenue to the counties and communities which I am privileged to represent. The Senate version is also unfair to Kane County, much of which is included in the new 13th Congressional District.

Mr. Speaker, the conference report will have the effect of reducing the Illinois share of revenues for this calendar year from $197 to $183 million. Other losses are even more striking. For instance, the Kane County total is reduced from $4,800,000 to $2,687,000, the Lake County share from $6,103,000 to $3,863,000, and the McHenry County allocation from $1,169,000 to $1,045,000.

Mr. Speaker, one of the most flagrant examples of inequity is in the allocation to the city of North Chicago, whose share is cut by the Senate formula from $565,248 to $265,383.

Mr. Speaker, in the light of these examples which result in substantial dollar losses, it seems clear to me that the formula adopted in the conference report is faulty—and should have been rejected by the conferees in favor of the more equitable allocations established in the original House bill.

Mr. Speaker, I am familiar with the problems and needs of the city of North Chicago—a community where many lower- and middle-income families reside—and where the benefits of revenue sharing could be particularly valuable. The fact that the conference report adversely affects this community is sufficient to question the validity of the entire formula which is embodied in the conference committee report.

Mr. Speaker, it is not because of my opposition to the principle of revenue sharing—instead, it is to evidence my disagreement with the formula applied—that I am casting my vote against the conference committee report.

Mr. BROYHILL of Virginia. Mr. Speaker, it is obvious that this general revenue sharing program is going to become law very shortly, despite anything that might be said here today and despite all the sound arguments which have been made against it in the past.

I explained in detail my opposition during House debate in June, and there is clearly no point in going over that ground again. So I will simply restate my firm belief that the legislation is ill-timed in light of our Federal fiscal problems and ill-designed in that it disunites the responsibility for raising revenue from the authority to spend it. This may be a popular program with State and local officials, but it is not loved by the American taxpayers, who will have to pay the heavy cost of it eventually.

What the House has before it now is a compromise between two versions of basically bad legislation.

Viewed only as a compromise, however, the conference report represents an acceptable reconciliation of differences. It is imperfect, but it will have to do.

Take the distribution of funds. There is no way in which a mutually agreeable decision could have been made by attempting to blend the House and Senate formulas into one all-purpose recipe. Members of the Ways and Means Committee learned through experience that it is impossible to develop a single distribution method both equitable and wholly satisfactory to all of the 39,000 widely differing units of local government in the Nation. So the conferees took the very practical course of giving each State in the aggregate the higher of the two possible allocations and choosing one of the two available formulas for distribution of funds within each State.

Another example of acceptable compromise can be found with respect to the provision of the House bill which was designed to reduce the allocation to the District of Columbia by the amount of revenue the District might obtain from a tax on income earned in the District by nonresidents. The Senate deleted this provision, but the conferees agreed to its restoration, providing that it would not apply if the District entered into agreements on reciprocal taxation of nonresidents with both Maryland and Virginia or if the Congress enacted a law directly imposing a tax on nonresident income earned in the District.

I certainly do not intend to go into the details of the conference report, inasmuch as the chairman already has done so, but I would like to comment very briefly on just one additional aspect of it. Under the compromise, the local governments ostensibly are limited as to the use they can make of the shared funds. They are authorized to spend the money only on certain priority items, and they are forbidden to use it to obtain Federal matching funds.

But, Mr. Speaker, these are artificial restrictions. By shifting funds and programs, local governments should be able to circumvent these barriers with relative ease.

I merely point this out in case anyone might have overlooked it. The artificiality of these spending restrictions may appear ridiculous to some, but as for me, it is no more ridiculous than the legislation itself.

Mr. MINISH. Mr. Speaker, I rise in reluctant support of the conference report on the State and Local Fiscal Assistance Act of 1972.

The conference report does provide much needed funds to our Nation's States and communities to help alleviate the crisis created by the need for more and better services and consequent soaring tax rates.

However, while still providing some funds, the conference committee drastically cut back from the House-passed bill on the allocations to certain deserving and hard-pressed communities.

In adopting the Senate formula for the distribution of revenue-sharing money to localities, the conference report, in effect, discriminates against middle-income suburbs of our Nation.

As a Member of Congress, I have consistently supported programs to meet the crisis of our large cities and I shall continue to support these programs. However, this report is blatantly out of balance, penalizing one segment of our Nation in order to assist another.

For example, in my own district, virtually every community has experienced a reduction in funds below the amount contained in the House-passed bill. In toto, my district has lost more than $1.5 million as a result of the House conferees' failure to support their own bill in the conference deliberations. These communities, it must be pointed out, are experiencing onerous property tax rates partly as a result of their efforts to assist the older, more urban cities in the area.

As I stated earlier, I shall support the legislation. It is evident that, if this report is not cleared now, we shall have no revenue sharing whatsoever.

Mr. Speaker, I intend to devote my energies in the future to altering the formula for local distribution in this act so as to bring it into greater conformance with the overall needs of all our Nation's communities.

Mr. BROOMFIELD. Mr. Speaker, we are on the verge of passing a truly historic piece of legislation; legislation which will signal a new chapter in the relations between the Federal and local forms of government.

It has become increasingly apparent that our State and municipal governments are "fiscally mismatched" against the Federal Government. While Federal revenues have multiplied by a 90 fold in the last 40 years, local units have been straining to provide even the most basic municipal services.

No Member of Congress who has listened to the plight of the elected representatives in his district needs to be reminded of this situation. Washington has consistently expanded tax revenue sources and has, in effect, isolated our local units within a financial vacuum.

Federal revenue sharing should slowly reverse the trend of the past four decades.

Mr. Speaker, as a sponsor of revenue sharing in this and previous Congresses and as one who firmly believes that too often Washington seeks to impose blanket restrictions and obligations on Federal grants as a substitute for the first-hand experience and expertise of local officials. I intend to vote for this measure. However, I do so with reservations.

My reservations are a result of the formula agreed to by the conferees to disburse the funds to the various local units of government.

It is far from perfect. By adopting substantially the Senate formula for allocation of money to cities and townships, almost all of the towns in my district of Oakland County have suffered drastic cuts in what they would have received under the House formula.

Obviously, whenever a bill goes to conference, we expect that some compromise will be reached. We expect that there will be some give and take between two different formulas.

But, Mr. Speaker, I would hardly term this an equitable compromise. Many cities in my district will receive approximately one-third as much as they would have under the version we voted for in the House.

More important, I feel that some very glaring and blatantly unfair differences exist even when towns within my district are compared. Some cities, by virtue of higher real estate values are receiving equal treatment with others that have lower values and a higher property tax rate.

Revenue sharing is an important innovation. State and local governments throughout the Nation desperately need this new concept. As such, I intend to support passage of the conference report. However, I want to make it clear that I look forward to continued efforts to improve and revise the disbursement formula until these fundamental errors are eliminated once and for all.

Mr. BADILLO. Mr. Speaker, I am supporting the conference report to accompany H.R. 14370, the revenue-sharing bill, but I do so with reluctance, for this legislation is but a very tentative step toward providing the fiscal assistance our cities and States so urgently require.

It is true that the conferees have managed to combine many of the best elements in the two versions of the revenue-sharing bill and it also is true that the funds provided by this legislation will be helpful in meeting the fiscal crisis afflicting our urban areas.

But this legislation is seriously flawed—almost fatally so—by a retrogressive provision setting an unrealistic and unfair ceiling on local social services for the poor, and coupling that ceiling with a distribution formula that will give some States more money than they can spend effectively, while forcing others—like New York—to cut back drastically on established programs enabling welfare mothers to find decent jobs and rehabilitating drug addicts.

It now becomes essential that we look to some other piece of legislation to counterbalance the impact of this provision, and I am hopeful that before this Congress adjourns we will have a chance to enact legislation under which the Secretary of Health, Education, and Welfare would be directed to make social service payments to the States in proportion to their actual expenditures on such services last year, and guaranteeing a pass-through of Federal funds from the States to the cities with respect to aid for social services for the poor.

Without these provisions, the highly touted revenue-sharing program will surely fall far short of expectations. It will provide needed funds, but the required cutbacks in social services for the poor will undermine much of the good that the new revenues might perform.

I would caution both the administration and my colleagues in the Congress not to be too quick to hail this legislation as firm evidence of a national commitment to solve the problems of our cities. Revenue sharing is a welcome step, but it is by no means a major commitment. It is evidence of concern, but it may be too little and too late. And taken in conjunction with other legislative failures and fiascos in such areas as welfare reform, housing, and school busing, this new program hardly stands as a milestone in the fight to save and restore our cities.

Mr. REID. Mr. Speaker, I rise in support of the conference report, the final version of the revenue-sharing bill.

First, let me note that I was pleased to work with my colleague, the gentleman from New York (Mr. HUGH CAREY) and Governor Rockefeller to draft the bipartisan resolution of the New York delegation supporting revenue sharing.

Clearly, the funds from revenue sharing are critical for the State of New York, although I would point out that the formula in the bill as it passed the House and was sent to the Senate was clearly preferable to the one adopted by the Senate and the conference committee. Due to the agreements made in conference, New York State lost $58.2 million, and funds for Westchester County, much of which I represent, were just about cut in half.

Under the bill as it now stands, New York State will receive a total of $591.4 million rather than $649.6 million; Westchester County will receive a total of $8.3 million, instead of the $16.3 originally passed by the House.

Briefly, this reduction was due to the Senate formula relating to entitlements of the localities. This three-factor formula is based one-third of the basis of population, one-third on per capita income, and one-third on tax effort, whereas the House's original five-factor formula had included other factors such as "urbanized population," taking into account the high cost of services in urban and suburban areas. I am disappointed that the conference agreement did not include these other factors or permit optional applications for the localities.

However, despite this formula, I would point out that the State may act to change the local formulas and redistribute the funds. This can be done in two ways.

First of all, of the $591.4 million which goes to New York, the State itself receives $197.1 million—or one-third—and the localities receive a total of $394.3 million—or two-thirds. I am hopeful that the State will act to distribute at least some of its $197.1 million to the localities which were hardest hit by the changed formula. Clearly Westchester, and specifically cities and villages such as Yonkers, New Rochelle, White Plains, Mount Vernon, and Mamaroneck will need this assistance, and I hope the State legislature will act out of fairness to redistribute its funds to the localities.

It is free to do this at any time, including retroactively.

The second vehicle for changing the formula for the localities is slightly more complex, although equally important.

The State legislature may adopt an alternate formula to be distributed among its localities, based on either the population multiplied by the tax effort, or, the population multiplied by the relative income factor. Since the legislature, however, must notify the Treasury Department at least 30 days before the new entitlement period is to begin—under which the changed formula will be effective—it will have to act early next year to make the change effective for the period beginning July 1, 1973, and be ready to notify the Treasury Department by June 1, 1973. Only one formula change will be permitted in the 5-year life of the bill.

Listed below is a chart of the funds which can be expected for cities and villages in the district I represent, as allotted in the conference report:

Funds for the District

[In dollars]

Westchester County area	$8,300,000
Westchester County government	2,500,000
Total to all cities over 2500	4,700,000
Total to all cities under 2500	27,000
Total to all townships	1,000,000
Larchmont Village	31,000
Mamaroneck Village	79,000
Mt. Vernon City	714,000
New Rochelle City	546,000
North Pelham Village	35,000
Ossining Village	135,000
Pelham Manor Village	29,000
Port Chester Village	213,000
Rye City	68,000
Scarsdale Village	83,000
White Plains City	359,000
Yonkers City	1,700,000

A breakdown for townships will be available in about 2 weeks. Unincorporated towns may receive funds only if they can prove that they are viable and independent government entities. They may appeal to the Secretary of the Treasury in order to receive funds, but must prove their nature as a local government: for instance, that they raise or spend money.

In sum, I support the revenue-sharing bill and urge my colleagues to lend it their full support.

Attached to the revenue-sharing provision, however, is an onerous and unfair provision—again added by the other body. I refer here to title III of the bill, which places a ceiling of $2.5 billion on social services expenditures and which reduces the Federal contribution in the matching grants program from 75 percent to 25 percent.

I strongly oppose this ceiling, which in my judgment does not belong in this legislation, and in addition is also arbitrary, discriminatory, and highly inequitable.

The action taken in title III is precisely the action that Congress should not be taking. By this move, Congress appears to be taking a meat-ax approach to human needs and services for even the smallest of children. Furthermore, the provision, if enacted, will be distributed without regard to caseload or other factors of need, and thus discriminates against large urbanized States such as New York. Finally, the provision could be counterproductive, since it could actually increase the number of people receiving welfare assistance.

In a sense, the term "social services" has become the scapegoat for a welfare system which is in vital need of reform. In spite of the House's action on welfare reform, the prospects for action in this session are clearly dim, and as a result, it appears, Congress is taking after social services instead. What I would point out is that these social services are very often used to keep people off welfare.

What is a mother to do, for instance, when her child's day care center locks its doors due to lack of funds, as more than half of the federally funded day care centers in New York will have to do if this provision is passed. Obviously, she has no choice. She will have to quit her job and return home to care for her child, thus losing her source of income and more likely than not returning to the welfare rolls. The administration has already vetoed the comprehensive child development bill, providing quality day care and early education services; they have torpedoed welfare reform, and now they are trying to hold the line on these social services as well as services in H.R. 1.

Under this provision, as I noted briefly earlier in the debate, although New York State had submitted a budget estimate for fiscal year 1973 of $850 million for social services, and even though this estimate had been approved by the Department of Health, Education, and Welfare as a realistic figure, the funds to New York would be cut by 74 percent, to $222.7 million. Not only is this an outrageous cut of over $600 million for fiscal year 1973, but it is also a cut by over one-half of what New York State received in Federal social services funding in fiscal year 1972—an amount of $588 million.

Let us not give with one hand, as we do in the revenue sharing bill, and take with the other, as the final title of that bill would. Let us provide for the needy not in terms of handouts but in terms of resources like day care and manpower training, which some in this House would cut today. This is not only a question of compassion, although we must listen to the cries of human need that are all too frequent in this country and provide for them. It is also a question of pragmatism: are we really going to cut off the sources which enable a person to work and lead a productive life just to throw that person back to the gutter? I say no, and I hope the distinguished Members of this body will also say no, for reasons of simple justice and equity.

Mr. ASHLEY. Mr. Speaker, surely 4 weeks before election day is not the best time to vote against a bill which would bring $6 million into the county I represent over the next year, but I cannot in good conscience vote for the conference report on the State and Local Fiscal Finance Act.

First, at a time when the fiscal 1973 budget is running out of control and could easily approach a record $38 billion deficit, it simply is not the better part of wisdom to give away $5.3 billion. Revenue sharing was originally conceived in the early 1960's as a means of dispersing anticipated surplus Federal moneys, not to pass out funds to the States when the Federal Government itself is strapped for money.

Moreover, this drain is not even limited to only 1 or 2 years. Instead, the legislation is so drafted as to avoid the appropriations process and, in effect, appropriate $30.2 billion for the next 5 years. What happens if the national economic picture changes? What happens if the local and State financial crisis lifts? The answer is nothing—this money is already appropriated and only a subsequent act by the Congress could change the situation.

The legislation before us does not even attempt to tell us where we will get the money to afford such a program. Because the legislation was originally considered in the House under a closed rule, it was impossible to amend it with some tax loophole closing measures which might have made revenue sharing economically feasible.

Second, the formula for disbursing the funds shows little recognition of the fact that we live in a highly urbanized society and that it is our central cities that are in the most desperate financial shape. By using a formula based only on population, inverse income and a "tax factor," the city of Toledo, which I represent, would receive $4.8 million, instead of the $6.5 million which the original House bill—based on population, inverse income and urbanization—would have provided.

Third, it is an old axiom—and I think a good one—that the government which does the taxing should set the priorities for spending. Ostensibly that is what this bill does. It states that money allocated to local governments must be used for essential public services such as police and garbage collection. However, these nondiscriminatory, high priority guidelines are illusory because there is no requirement that local governments maintain their past efforts in these areas. Therefore, for example, a city could cut its own funds for police protection, use the Federal moneys to pay the police, and then do anything it wanted with its "own" funds.

Finally, the bill contains a $2.5 billion ceiling on expenditures for social services which will penalize those States that have been most active in these fields. The activist State which projected its fourth quarter expenditures for this year would get less under the simple population allocation formula than it was presently receiving without a ceiling. On the other hand, the State which has not been an active participant will get a windfall if it happens to have a large population—the only alocation criterion in the bill. In addition, the provision that 90 percent of the funds—with exemptions for child care, family planning, and so forth—must be used for present—not past or potential—welfare recipients would eliminate many current programs.

Mr. Speaker, it is for these reasons that I cast my vote against the conference report on the State and Local Fiscal Assistance Act.

Mr. BLANTON. Mr. Speaker, I rise today to oppose this legislation. When this bill was first introduced, almost 6 years ago, it got nowhere. It was considered by many able legislators to be one of the biggest pieces of gimmick legislation ever conceived. It has not changed in 6 years. It is still a horrible piece of legislation. It will increase taxes if enacted today, just as it would have increased taxes if it had been enacted 6 years ago.

There is one difference, however. Six years ago the Federal Government was operating a surplus budget, not a massive deficit. In the past 4 years this administration has amassed budget deficits of over $100 billion. For the current fiscal year the deficit is anticipated to exceed $25 billion. How can the Federal Government share revenues that it does not have. If the States would like to share some of this deficit, I would be more than willing to let them.

When this legislation was first introduced, I opposed it. Every year since then I have continued my opposition. I had many reservations about this bill and they are the same today as they were 6 years ago. Let me enumerate them for my distinguished colleagues, lest they forget what their opposition was to this bill a very short time ago.

First. If this bill is enacted taxes will have to be increased at the State level. One portion of the formula used to determine State and local allocations is the State tax effort. If a State increases its tax effort by increasing its taxes, it will receive a corresponding increase in shared revenue funds. Tennessee has no State income tax at the present time but if revenue sharing is enacted, I am sure that it will have one within the next 5 years.

Second. Taxes will have to be increased on the Federal level. As I mentioned previously the Federal Government is again running a massive deficit. Where are the revenues to come from? Increased taxes. That is the only answer. This administration is talking out of both sides of its mouth when it requests a spending ceiling on one hand, and demands revenue sharing on the other. Only moments ago the distinguished chairman of the Ways and Means Committee stated on the floor of this body that the funds for revenue sharing would in all likelihood have to be borrowed to support this program. That means a higher debt ceiling, more spending to feed the fires of inflation and eventually, higher taxes. And lest anyone be mistaken, this is not politics we are talking about, it is arithmetic.

Third. One of the cornerstones of the operation of our democracy since its inception has been that those who spend the revenues should be responsible for raising it. This was the main objection of many of my colleagues to this legislation. I have not changed my position of this very important point. Fiscal responsibility may be old fashioned but I for one still favor it.

I also object to the allocations for the State of Tennessee as a Representative of that great State. Tennessee is in the bottom one-third of the Nation in per capita income and yet it ranks 23d in the payment of Federal income taxes with total Federal collections of over $2 billion in 1971. At the same time, Tennessee is placed 32d, almost in the bottom third, in the revenue sharing list based on per capita figures. It is over a dollar below what the U.S. average is. If this is helping my State I would like to know how.

This bill is basically the same one that we have objected to all along. Why have positions changed so radically in such a short time? I think that there are two reasons. The first is that this is an election year and most politicians want to go to the polls with this gimmick at their side.

There is another reason, too. The Congress has been subjected to some of the most intense pressure from State and local officials that it has ever known. Mayors want free money. Governors want free money. Local officials want free money. I learned one lesson a long time ago and that is that you cannot get anything for free. Not really. The people are the ones who will pay for this "free" money. The hard working people who have helped make this Nation what it is today. If they knew what a fraud revenue sharing was there would not be one Legislator here today who would support this bill.

I, for one, will not. I will go home to my people, and I will tell them the truth about revenue sharing. My conscience and my responsibility as a Representative of the people demand that I do this.

Mr. MILLS of Arkansas. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BYRNES of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 266, nays 110, answered "present" 1, not voting 54, as follows:

[Roll No. 432]

YEAS—266

Abourezk
Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Arends
Aspin
Badillo
Baker
Barrett
Belcher
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bow
Brasco
Bray
Breaux
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Mass.
Burlison, Mo.
Carey, N.Y.
Carlson
Carney
Carter
Cederberg
Celler
Chamberlain
Chisholm
Clausen, Don H.
Cleveland
Collins, Ill.
Conable
Conover
Conte
Conyers
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Delaney
Dellenback
Dellums
Dent
Derwinski
Dickinson
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fascell
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Horton
Hosmer
Howard
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Tenn.
Karth
Kastenmeier
Keating
Keith
Kemp
Kluczynski
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lent
Long, La.
McCloskey
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McKinney
Macdonald, Mass.
Madden
Mailliard
Mallary
Mann
Mathias, Calif.
Mayne
Mazzoli
Melcher
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Moorhead
Morgan
Mosher
Murphy, Ill.
Natcher
Nedzi
Nelsen
Nix
O'Hara
O'Konski
O'Neill
Patten
Pepper
Perkins
Pettis
Peyser
Pirnie
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Quillen
Railsback
Rangel
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Ruppe
Ruth
St Germain
Sarbanes
Scherle
Scheuer
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Skubitz
Smith, Iowa
Smith, N.Y.
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thomson, Wis.
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Zablocki
Zion
Zwach

NAYS—110

Abbitt
Abernethy
Adams
Alexander
Andrews, Ala.
Andrews, N. Dak.
Ashbrook
Ashley
Aspinall
Begich
Bennett
Blanton
Bolling
Brademas
Brinkley
Brooks
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Burton
Byrnes, Wis.
Byron
Camp
Casey, Tex.
Chappell
Clancy
Clawson, Del
Collier
Collins, Tex.
Colmer
Corman
Daniel, Va.
Davis, Ga.
Davis, Wis.
de la Garza
Dennis
Downing
Findley
Fisher
Flynt
Fuqua
Gibbons
Goldwater
Gonzalez
Goodling
Griffin
Hagan
Hall
Hays
Hechler, W. Va.
Henderson
Holifield
Hull
Hutchinson
Jacobs
Jonas
Jones, Ala.
Kazen
Landgrebe
Lennon
Long, Md.
Lujan
McClory
McFall
McKay
Mahon
Mathis, Ga.
Meeds
Michel
Montgomery
Moss
Myers
Obey
Passman
Patman
Pickle
Pike
Poage
Powell
Price, Tex.
Randall
Rarick
Rees
Roberts
Robinson, Va.
Rogers
Roy
Roybal
Runnels
Sandman
Satterfield
Saylor
Schneebeli
Scott
Sikes
Sisk
Slack
Smith, Calif.
Snyder
Steed
Stuckey
Teague, Tex.
Udall
Van Deerlin

Waggonner
White
Whitten
Wright
Young, Fla.
Young, Tex.

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—54

Anderson, Tenn.
Archer
Baring
Bell
Blackburn
Byrne, Pa.
Cabell
Caffery
Clark
Clay
Crane
Davis, S.C.
Denholm
Devine
Dow
Dowdy
Edmondson
Evans, Colo.
Fish
Galifianakis
Gallagher
Gettys
Giaimo
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Hawkins
Hébert
Hungate
Jones, N.C.
Kee
King
Kuykendall
Link
Lloyd
McClure
McKevitt
McMillan
Martin
Matsunaga
Monagan
Murphy, N.Y.
Nichols
Pelly
Purcell
Roncalio
Schmitz
Steiger, Ariz.
Sullivan
Thompson, Ga.
Thompson, N.J.
Yatron

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson of New Jersey for, with Mr. Rousselot against.

Mr. Hébert for, with Mr. Gettys against.

Mr. Murphy of New York for, with Mr. Monagan against.

Mrs. Sullivan for, with Mr. Cabell against.

Mr. King for, with Mr. Baring against.

Mr. McKevitt for, with Mr. Davis of South Carolina against.

Mrs. Hansen of Washington for, with Mr. Dowdy against.

Mr. Anderson of Tennessee for, with Mr. Devine against.

Mr. Dow for, with Mr. Edmondson against.

Mr. Hanna for, with Mr. Martin against.

Mr. Nichols for, with Mr. Archer against.

Mr. Matsunaga for, with Mr. Evans of Colorado against.

Mr. Denholm for, with Mrs. Green of Oregon against.

Mr. Kuykendall for, with Mr. Haley against.

Mr. Roncalio for, with Mr. McMillan against.

Mr. Clark for, with Mr. Jones of North Carolina against.

Mr. Fish for, with Mr. Blackburn against.

Mr. Steiger of Arizona for, with Mr. Schmitz against.

Mr. Bell for, with Mr. Crane against.

Mr. Hawkins for, with Mr. Giaimo against.

Mr. Link for, with Mr. Purcell against.

Until further notice:

Mr. Gallagher with Mr. Pelly.

Mr. Hungate with Mr. Thompson of Georgia.

Mr. Kee with Mr. Lloyd.

Mr. Clay with Mr. McClure.

Mr. Caffery with Mr. Byrne of Pennsylvania.

Mr. Yatron with Mr. Galifianakis.

Mr. ROUSSELOT. Mr. Speaker, I have a live pair with the gentleman from New Jersey, Mr. THOMPSON. If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT IN DISAGREEMENT

The SPEAKER. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 165, after line 4, insert:

TITLE III—LIMITATION ON GRANTS FOR SOCIAL SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

INTERIM PROVISIONS

SEC. 301. (a) Notwithstanding sections 3 (a) (4) and (5), 403(a) (3) and (5), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5) of the Social Security Act, no payment shall be made to any State with respect to expenditures incurred, during the period commencing July 1, 1972, and ending December 31, 1972, for the provision of services (other than child care services (as defined in subsection (b) (3)), family planning services, and services provided pursuant to section 402(a) (19) (G) of such Act) under any of its plans approved under titles I, X, XIV, or XVI, or part A of title IV, of the Social Security Act. In lieu of payments for such period pursuant to the above enumerated sections the Secretary of Health, Education, and Welfare shall pay to each State an amount equal to whichever of the following is the greater—

(1) an amount which bears the same ratio to $500,000,000 as the urbanized population (as defined in section 123 of the Revenue Sharing Act of 1972) of such State bears to the urbanized population (as so defined) of all the States, or

(2) the total of the Federal payments which it would (except for the provisions of this section) have received with respect to expenditures for such services for such period under the above enumerated sections, but not counting, for purposes of determining the amount of such Federal payments, any expenditure by such State which is attributable to the provision of such services (A) after December 31, 1972, or (B) under a new project (as defined in subsection (b) (2)).

(b) For purposes of this section—

(1) The term "State" means the fifty States and the District of Columbia.

(2) The term "new project", when used in reference to the provision of services, means any project for the provision of such services (whether operated directly by the State agency authorizing the project or by any other person) under which social services are initially provided for after August 9, 1972. Services provided after August 9, 1972, under a project, under which such services were initially provided on or before such date, shall be regarded as being provided under a new project, if such services would not have been provided thereunder except for a modification, expansion, renewal, or extension, of such project.

(3) The term "child care services" means services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provisions of such services is needed (A) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (B) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child.

(c) Any appropriated Federal funds which are available after June 30, 1972, for the purpose of making payments to States for services under title I, X, XIV, or XVI, or part A of title IV of the Social Security Act, shall be available for the purpose of making grants authorized by this section.

AMENDMENTS TO PART A OF TITLE IV OF THE SOCIAL SECURITY ACT

SEC. 302. (a) Part A of title IV of the Social Security Act is amended—

(1) (A) by striking out "and rehabilitation and other services" in the first sentence of section 401, and

(B) by striking out "and services" in the second sentence thereof;

(2) by striking out "and Services" in the heading immediately preceding section 402;

(3) (A) by striking out "and services" in the matter preceding clause (1) of section 402(a),

(B) by striking out ", with particular emphasis" and all that follows down to the semicolon in clause (5) (B) of such section and inserting in lieu thereof "in the administration of the plan",

(C) by striking out clause (13) of such section,

(D) by striking out "such family services, as defined in section 406(d), and child welfare services, as defined in section 425" in clause (14) of such section and inserting in lieu thereof "such child care services, as defined in section 406(a), family planning services, and child welfare services available under the State plan approved under part B";

(4) by inserting "subject to subsection (e)," immediately before "75 per centum" in section 403(a) (3) (A),

(5) (A) by striking out "any of the services described in clauses (14) and (15) of section 402(a)" in subparagraphs (A) (i) and (ii) of section 403 (a) (3) and inserting in lieu thereof "child care services (as defined in section 406(d)) and family planning services",

(B) by striking ": Provided" and all that follows down through "if provided by such staff" in subparagraph (C) of such section,

(C) (i) by striking out "subject to limitations" in subparagraph (D) of such section and inserting in lieu thereof "under conditions", and

(ii) by striking out "by the State health authority" and all that follows in such subparagraph down through "under the Vocational Rehabilitation Act or",

(D) (i) by striking out "except that services described in clause (ii)" and all that follows down through "vocational rehabilitation services so approved; and" in the matter following subparagraph (D) of section 403 (a) (3), and

(ii) by striking out "child-welfare services, family planning services, and family services" in such matter and inserting in lieu thereof "child care services (as defined in section 406(d)) and family planning services"; and

(6) by striking out section 403(a) (5) and inserting in lieu thereof the following:

"(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.";

(7) by amending section 403(d) (1) to read as follows:

"(d) (1) In addition to amounts paid under subsection (a) (3) (A), the Secretary shall pay to each State with a plan approved under this part an amount equal to 90 per centum of the total amounts expended during any quarter as are found necessary for the proper and efficient administration of the plan and as are for social and supportive services provided pursuant to section 402 (a) (19) (G)";

(8) by adding at the end of section 403 the following new subsection:

"(e) Notwithstanding subsection (a) (3) (A) (i) and (ii), the amount of the payment made thereunder to any State for any quarter shall not exceed 12½ per centum of the total of such amounts paid thereunder for such quarter to all the States.";

(9) by striking out "and services" in the matter preceding clause (1) of section 404(a);

(10) by amending section 406(d) to read as follows:

"(d) The term 'child care services' means services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (1) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (2) because of the death, continued absence from the home, or incapacity of such child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child.".

(b) The heading to title IV of the Social Security Act is amended by striking out "AND SERVICES".

(c) Effective July 1, 1973, title XI of the Social Security Act is amended by adding at the end thereof the following:

"LIMITATION ON FUNDS FOR CHILD CARE AND FAMILY PLANNING SERVICES

"SEC. 1130. (a) Notwithstanding the provisions of sections 3(a) (4) and (5), 403(a) (3) and (5), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and (5), amounts payable to any State with respect to expenditures incurred for child care and family planning services under any such section shall be reduced by any such amounts as may be necessary to assure that the total amount paid to such State for any fiscal year (commencing with the fiscal year beginning July 1, 1973) for child care and family planning services does not exceed the allotment of such State (as determined in subsection (b)).

"(b) For each fiscal year (commencing with the fiscal year ending June 30, 1974) there shall be allotted to each State an amount which bears the same ratio to $600,000,000 as the urbanized population of such State (as defined in section 123 of this Act) bears to the urbanized population of all the States."

(d) The amendments made by subsections (a) and (b) of this section shall become effective January 1, 1973.

CONFORMING AMENDMENTS TO TITLES I, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

SEC. 303. (a) (1) Section 1(c) of the Social Security Act is amended by striking out "to furnish rehabilitation and other services".

(2) Section 2(a) (5) (B) of such Act is amended by striking out ", with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency", and inserting in lieu thereof "in the administration of the plan".

(3) Section 2(a) (10) of such Act is amended—

(A) by inserting "and" after the semicolon at the end of subparagraph (A) thereof; and

(B) by striking out subparagraph (C) thereof. (4) Section 3(a) (4) of such Act is amended to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivisions; plus

"(B) one-half of the remainder of such expenditures."

(5) Section 3(a) of such Act is further amended by striking out paragraph (5) thereof.

(6) Section 3 of such Act is further amended by striking out subsection (c) thereof.

(7) Section 2(a) (12) (C) of such Act is amended by striking out "for services referred to in section 3(a) (4) (A) (i) and (ii) which are appropriate for such recipients and for such patients;".

(b) (1) Section 1001 of the Social Security Act is amended by striking out "to furnish rehabilitation and other services."

(2) Section 1002(a) (5) (B) of such Act is amended by striking out ", with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency" and inserting in lieu thereof "in the administration of the plan."

(3) Section 1002(a) of such Act is amended—

(A) by inserting "and" immediately after the semicolon at the end of clause (11) thereof; and

(B) by striking out the semicolon at the end of clause (12) thereof and all the matter following such clause up to, but not including, the period at the end of such section 1002(a).

(4) Section 1003(a) (3) of such Act is amended to read as follows:

"(3) in the case of any State an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."

(5) Section 1003(a) of such Act is further amended by striking out paragraph (4) thereof.

(6) Section 1003 of such Act is further amended by striking out subsection (c) thereof.

(c) (1) Section 1401 of the Social Security Act is amended by striking out "to furnish rehabilitation and other services".

(2) Section 1402(a) (5) (B) of such Act is amended by striking out ", with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency" and inserting in lieu thereof "in the administration of the plan".

(3) Section 1402(a) of such Act is amended—

(A) by inserting "and" immediately after the semicolon at the end of clause (10); and

(B) by striking out the semicolon at the end of clause (11) thereof and all the matter following such clause up to, but not including, the period at the end of such section 1402(a).

(4) Section 1403(a) (3) of such Act is amended to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus.

"(B) one-half of the remainder of such expenditures."

(5) Section 1403(a) of such Act is further amended by striking out paragraph (4) thereof.

(6) Section 1403 of such Act is further amended by striking out subsection (c) thereof.

(d) (1) Section 1601(c) of the Social Security Act is amended by striking out "to furnish rehabilitation and other services".

(2) Section 1602(a) (5) (B) of such Act is amended by striking out ", with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency" and inserting in lieu thereof "in the administration of the plan".

(3) Section 1602(a) of such Act is further amended by striking out paragraph (10) thereof.

(4) Section 1603(a) (4) of such Act is amended to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training of personnel employed or preparing for employing by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."

(5) Section 1603(a) of such Act is further amended by striking out paragraph (5) thereof.

(6) Section 1603 of such Act is further amended by striking out subsection (c) thereof.

(7) Section 1602(a) (16) (C) of such Act is amended by striking out "for services referred to in section 1603(a) (4) (A) (i) and (ii) which are appropriate for such recipients and for such patients;".

(e) The amendments made by this section shall take effect January 1, 1973.

PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. 304. The amendments made by section 302 and 303 of this title shall not be applicable in the case of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, this matter is so well known to the Members that I ask unanimous consent the amendment in disagreement be considered as read and printed in the RECORD.

The **SPEAKER**. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

MOTION OFFERED BY MR. MILLS OF ARKANSAS

Mr. MILLS of Arkansas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MILLS of Arkansas moves that the House recede from its disagreement to Senate amendment numbered 20 and concur therein with an amendment as follows: in lieu of the matter contained in the Senate amendment, insert the following:

TITLE III—LIMITATION ON GRANTS FOR SOCIAL SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

SEC. 301. (a) Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"LIMITATIONS ON FUNDS FOR CERTAIN SOCIAL SERVICES

"SEC. 1130. (a) Notwithstanding the provisions of section 3(a) (4) and (5), 403(a)

(3), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and (5), amounts payable for any fiscal year commencing with the fiscal year beginning July 1, 1972 under such section (as determined without regard to this section) to any State with respect to expenditures made after June 30, 1972, for services referred to in such section (other than the services provided pursuant to section 402(a)(19)(G)), shall be reduced by such amounts as may be necessary to assure that—

"(1) the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under such subsection (b)); and

"(2) of the amounts paid (under all of such sections) to such State for such fiscal year with respect to such expenditures, other than expenditures for—

"(A) services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

"(B) family planning services;

"(C) services provided to a mentally retarded individual (whether a child or an adult), but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual by reason of his condition of being mentally retarded;

"(D) services provided to an individual who is a drug addict or an alcoholic, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

"(E) services provided to a child who is under foster care in a foster family home (as defined in section 408) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such child because he is under foster care.

not more than 10 per centum thereof are paid with respect to expenditures incurred in providing services to individuals who are not recipients of aid or assistance (under State plans approved under titles I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance.

"(b)(1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) the Secretary shall allot to each State an amount which bears the same ratio to $2,500,000,000 as the population of such State bears to the population of all the States.

"(2) The allotment for each State shall be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time; except that the allotment for each State for the fiscal year beginning July 1, 1972, and the following fiscal year shall be promulgated at the earliest practicable date after the enactment of this section but not later than January 1, 1973.

"(c) For purposes of this section, the term 'State' means any one of the fifty States or the District of Columbia."

(b) Sections 3(a)(4)(E), 403(a)(3)(D), 1003(a)(3)(E), 1403(a)(3)(E), and 1603(a)(4)(E) of such Act are amended by striking out "subject to limitations" and inserting in lieu thereof "under conditions which shall be".

(c) Section 403(a)(5) of such Act is amended to read as follows:

"(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children."

(d) Sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a), of such Act are amended, in the matter preceding paragraph (1 of each such section, by striking out "shall pay" and inserting in lieu thereof "shall (subject to section 1130) pay".

(e) The amendments made by this section (other than by subsection (b)) shall be effective July 1, 1972, and the amendments made by subsection (b) shall be effective January 1, 1973.

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record. It is our intention to discuss it.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I believe it to be most important that we understand the situation here. This is an amendment that was not germane to the subject matter of H.R. 14370, since it is an amendment to the Social Security Act. Thus under the rules of the House, as modified and approved recently, there was nothing for the conference committee to do except to bring this particular amendment back in disagreement.

In the conference we discussed the Senate amendment. We discussed the motion that I have just submitted, that has been considered as read.

The Senate provision calls for a limitation on social services of $600 million. This motion that I have made I believe is more in keeping with the present rate of spending in total by all the States for social services than is the $600 million, because in the fiscal year 1972 Federal funds were spent in the 50 States in the amount of $1,710,243,000.

At the time we agreed to this motion and this limitation in conference the Department of Health, Education, and Welfare told us that the States were in total spending at the level of about $2.1 billion or $2.2 billion.

Members will recall that last year, when we passed H.R. 1, we had a provision in it placing a limitation on social services of $800 million, plus about $300 million for child care and family planning because at that time the $800 million ceiling was well above the total of Federal dollars being spent by all of the States combined.

Mr. Speaker, there is another element here. I am getting a little weary of trying to cooperate with mayors and Governors who want everything their way. I am serving notice on them now, so far as I am concerned they are not going to have revenue sharing and an open-end on social services at the same time. Even though we have agreed to a conference report, it is necessary in order for a bill to go to the White House on revenue sharing for some decision to be made with respect to the Senate amendment to which my motion is addressed.

I am not threatening anybody, but we have in this bill $2.5 billion a year in perpetuity that the States can get for social services in addition to the better than $30 billion they will get under revenue sharing over a 5-year period.

Bear in mind that they will get in the first year $5.3 billion—that is the year 1972—plus for this fiscal year $2.5 billion, and then in the next year under revenue sharing, for the 1973 calendar year, they will get $5.8 billion, plus $2.5 billion, which is $8.3 billion.

Now, if they cannot survive on that, I want them to take their message to some higher authority than the Congress of the United States, because that is all I am willing to see us take out of a defunct, almost bankrupt Federal Treasury to help these States at this point.

There is no threat in what I am saying at all, but there is no one who has done more to try to accommodate his position to that of what the Governor and the mayors have alleged to be a need than I; and then, after agreeing to revenue sharing, they fight the living stuffing out of placing any limitation on this matter.

Mr. Speaker, there is, as I said, a provision in H.R. 1 that provides for a $800 million limitation. If this bill goes down the drain, there is nothing to prevent the Senate conferees from accepting in connection with H.R. 1 a limitation of $800 million on social services, and that is likely to be what the other body will do, because the Senate amendment cuts way under this motion and provides only $600 million for social services.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 additional minutes.

Mr. Speaker, I do not think there is anything left for this House to do other than to accept this motion and get this bill on down to the White House, not only providing for revenue sharing, but also providing for a limitation on what otherwise proposes to be in the fiscal year 1973 a program costing us $4,658,152,000.

Mr. Speaker, this is not an amount that bypasses the Committee on Appropriations, but it goes directly through the Committee on Appropriations. The Secretary of HEW, in my opinion, differs with this—my good friend from Wisconsin raised the question first—and I think the Secretary could have exercised a greater degree of restraint in the approval of State plans for social services, but he contends he cannot because of the generality of the law involved.

Mr. Speaker, what are we talking about? In 1935, the Congress provided a program of social services for the benefit of the people on welfare and proposed to match those amounts of money spent by the State under the formula applicable for State moneys, to pay cash benefits.

In 1962, the then Secretary of HEW suggested that social service activity should not be confined to the one agency to extend it, and I guess, with our eyes of the State government. He urged us blinded and failing to understand, we did.

Then in 1967 another Secretary of

Health, Education, and Welfare urged us to allow the State agency other than welfare or welfare itself to engage in contracts with outside nonprofit organizations to render the services called for in the name of social services.

It is not in welfare where this has begun to mushroom and balloon; it is with respect to the other agencies of State government and with respect to the contract authority that we gave in 1967 without full knowledge or without knowing what we were doing.

Mr. Speaker, I just want to serve notice that the Governors cannot have it both ways, not as long as I am chairman of the Committee on Ways and Means. I am not going to see this thing left wide open for them to use as the worst loophole that has ever been written into the law on the financing of Government and then give them revenue sharing at the same time. I must be brutally frank about this.

Mr. GUBSER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and twenty-two Members are present, a quorum.

Mr. MILLS of Arkansas. Mr. Speaker, the gentleman from Florida (Mr. FASCELL) has been on his feet. I yield to him first.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think we all understand the need to establish some limitation, a ceiling, on expenditures under the social services program. Officials in the State of Florida feel that the $2.5 billion ceiling agreed to in conference is unrealistically low, however. The Governor of my State has indicated that a $3.5 billion ceiling is necessary to continue the programs which have been so successful in the administration of assistance to the elderly and the needy.

Also, the restrictions placed on the use of the funds may cripple many ongoing programs which have been extremely effective.

In Dade County, for example, the citizens information and referral program, which is jointly administered by the county, the United Fund, and a community advisory board, will no longer be eligible for a majority of the funds made available under social services because of the category restrictions. The information and referral service provides an integrated approach to all social agencies and services, both public and private in Dade County, with the objective of increasing the effectiveness of existing social services.

The program was established to meet the needs of people who, because of the proliferation of social services available, do not know what social agency will best serve their needs. An inquiry directed to I. & R. eliminates the often endless referral of a citizen who needs assistance by immediately ascertaining which social agency can best solve the particular problem and by putting the inquirer in touch with the proper official, public or private. From January to June of this year, the 18 Dade County district centers handled nearly 90,000 calls and cases.

The information and referral service program in Dade County is largely responsible for the effectiveness of all social service programs. Clearly, a program cannot be effective unless the persons it is designated to assist are directed to it. I. & R. insures such direction.

Dade County Manager Ray Goode has warned that a spending cap on social services will place programs far below the present level of expenditures by States and local governments.

The county manager has said that loss of Federal funds could mean the State will not only refuse to take on additional programs such as Youth Hall, but will also reduce priorities and expenditures in existing social service programs.

He warned that resulting state cutbacks could come in such programs as probation service, child care, care for the retarded and handicapped, and for the elderly.

I am trying to clarify something in my own mind, and I desire to ask the gentleman from Arkansas a question.

First let me say, as an individual Member, I am inclined to agree with the gentleman that he is most accommodating, but there are some who feel they have not been accommodated enough.

Mr. MILLS of Arkansas. I know, and that has been the trouble with the Governors.

Mr. FASCELL. I do not think that ought to be too surprising. For example, in Florida we feel that a ceiling is probably a desirable thing. We might not agree with $2.5 billion. We think it is probably unrealistically low and that the category exemptions listed in the proposed amendment would be disadvantageous to some other programs.

Mr. MILLS of Arkansas. Would the gentleman let me interrupt to point out that in the case of Florida, in the fiscal year 1972 for social services you received and spent $65,864,000. On the basis of the formula which is in the bill for the distribution of Federal funds for Florida for fiscal year 1973 you get $85,250,000.

Mr. FASCELL. I thank the chairman.

What I wanted to inquire about is this. As I understand it, under the present motion, which is to recede from disagreement and concur in the Senate amendment with an amendment which is in the conference, it puts a cap of $2.5 billion on social services with six categories exempted from the welfare requirements.

Mr. MILLS of Arkansas. That is right.

Mr. FASCELL. If that motion is defeated, then where are we? What would be the pending business?

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 additional minutes.

I want to make it quite clear—and I am repeating again—I am not going to be a party to sending the revenue sharing bill to the White House for approval until we get some degree of limitation on social services, because you do not need revenue sharing if there is to be no limitation on the amount of Federal money to be spent for social services.

Mr. FASCELL. That is what I want to have an answer to. In other words, if the motion to recede from disagreement and concur in the Senate amendment is defeated, the only pending matter before the House would be a motion to concur in the Senate amendment?

Mr. MILLS of Arkansas. Someone else could offer a motion, of course, but it would be my purpose to move to recede and concur in the Senate amendment.

Mr. FASCELL. Exactly what is the Senate amendment? I have heard it is a $600 million cap on social services.

Mr. MILLS of Arkansas. The gentleman is right.

Mr. FASCELL. But I have heard also that there was $1 billion in supplemental funds in revenue sharing for social services.

Mr. MILLS of Arkansas. That is not in the conference report. We eliminated that $1 billion when we accepted in conference the $2.5 billion limitation.

Mr. FASCELL. But if the motion to recede from disagreement and concur in the Senate amendment is defeated and if someone were to make a motion to concur in the Senate amendment, would the Senate amendment at that point have in it $600 million plus $1 billion in revenue sharing?

Mr. MILLS of Arkansas. It would not.

Mr. FASCELL. It would have only $600 million?

Mr. MILLS of Arkansas. The gentleman is right. The $1 billion was taken out in conference because they added it, really, to the $5.3 billion of general revenue sharing so called.

Mr. FASCELL. I thank the gentleman for yielding to me.

Mr. MILLS of Arkansas. Let me yield to my colleague on the committee, the gentleman from Pennsylvania (Mr. GREEN).

Mr. GREEN of Pennsylvania. I thank the gentleman for yielding.

Despite the attempts at clarity in various instances here, I think it is still unclear.

I do not believe that the House understands what this $2.5 billion is limited to. It is my understanding that there is no limitation on the portion of the $2.5 billion that could be spent for child care, family planning services for the mentally retarded, services for addicts and alcoholics in treatment, and services for foster children.

Mr. MILLS of Arkansas. The gentleman from Pennsylvania has misconstrued the amendment. There is an overall, all-inclusive limitation of $2.5 billion on all types of social services. The Senate Members asked us to accept, and we did accept in order to get the $2.5 billion ceiling, a provision to which the gentleman from Pennsylvania I think is referring, namely, that with the exception of the six listed services, 90 percent of the State allocation of funds has to be spent for those who are either on welfare or are applying for welfare.

Bear in mind that this whole program started to try to help the people on welfare. Now you can spend more than 10 percent of what is left if you limit your expenditures for nonwelfare people to the six items that we have listed, but under no circumstances will the State receive more than the relationship of its population to the total population of the United States times $2.5 billion.

Mr. GREEN of Pennsylvania. The

chairman quoted, in his colloquy with the gentleman from Florida, the fact that Florida receives more money under this.

Mr. MILLS of Arkansas. Wait a minute. More than they received in 1972, and as much as they will receive——

Mr. GREEN of Pennsylvania. I think the same is true with respect to the State of Pennsylvania. This would lead one to believe that last year the $2.1 billion was spent, and that the $2.5 billion was some sort of an increase. But what I want to point out to the Members of this House is what this would do. The limitation is that 90 percent of the funds not spent on these six categories has to be spent on the recipients of welfare, and this requirement, I believe, is going to cause a serious cutback in many States for services to the aged. It will prevent funding for services to many senior citizen housing projects. It would do the same thing with respect to senior citizen centers, recreation and day care for the elderly, and it would reduce funding for homemaker services for the ill, which is already too limited for the elderly.

I think we have to make it clear that, despite the fact that you are talking about $2.5 billion as if it were a broad increase because it exceeds $2.1 billion, many worthwhile programs for the senior citizens of this country will be jeopardized by this limitation.

Mr. MILLS of Arkansas. Let me call your attention to how badly a Member of the Congress can be misinformed by the same people he is striving the hardest to serve, his local constituency. The gentleman's State of Pennsylvania in fiscal year 1972 spent $54,907,000 Federal dollars in its program, and it says in the fiscal year 1973 it would spend $106,469,000—and under the formula——

The SPEAKER. The time of the gentleman from Arkansas has again expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 additional minutes in order to continue to answer the question.

And under the formula in the bill your State gets $144 million, which is $38 million more than it plans to spend in the 1973 fiscal year.

Mr. GREEN of Pennsylvania. Will the gentleman continue to yield to me?

Mr. MILLS of Arkansas. So I hope that my friend, the gentleman from Pennsylvania, will get his constitutents to properly inform him.

Mr. GREEN of Pennsylvania. Will the gentleman continue to yield to me?

Mr. MILLS of Arkansas. I think the gentleman has been misled when he says it is possible that somebody is going to be hurt in his State.

Mr. GREEN of Pennsylvania. First of all, I do not think I was misled. I do not think I misunderstood it, but you are reading off those figures as if I was trying to mislead.

Mr. MILLS of Arkansas. I know you are not. I know what the gentleman is talking about. The gentleman is talking about the fact that what he proposed to spend is spent for the benefit of people who are not on welfare. I understand the gentleman's point.

Mr. GREEN of Pennsylvania. The gentleman, I will say, understands me, and I am sure of this because after the gentleman read from this paper I am holding, he said everything on it is correct.

Mr. MILLS of Arkansas. That is right. I understand.

Mr. GREEN of Pennsylvania. Now was I trying to mislead?

Mr. MILLS of Arkansas. No, I did not say you had. I said that maybe your constituents were misleading you.

Mr. GREEN of Pennsylvania. All right. I want the House to understand that the sum total of services for the elderly and the near poor, and for the handicapped, will be cut back by this limitation, and I think it is most unfair.

Mr. MILLS of Arkansas. If it is cut back, then this same amount of money is going to be made available for the people in Philadelphia and elsewhere who are on relief and who need it most.

Mrs. GRIFFITHS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentlewoman.

Mrs. GRIFFITHS. I thank the gentleman for yielding.

One of the things I think you ought to understand about this is that in the 1967 amendments, it said that the States could use the money for services for people who are potential welfare recipients. Under that definition which was never defined by HEW, we understood it to mean a person who might become a welfare recipient 5 years from now. The truth was that the States that were sophisticated began to go through all their programs and they made everything a service to the possible welfare recipient that they could name, although they did not spend 25 cents themselves and 75 cents of Federal Government money. There was no check on any of this. The truth is that obviously the States would rather have those social services unlimited than welfare.

But there is no State that under the program of revenue sharing and this provision on social services which is not far, far ahead of anything that they would get under social services. You cannot continue to permit them to use in an unlimited fashion this social service provision.

The chairman is to be congratulated for limiting the social service expenditures. The entire force of the State government could have been taken over. In one State we began running the prisons. In another State we were taking over the highway department.

So you have to limit it.

Mr. MILLS of Arkansas. If the gentlewoman will permit me, let me call attention to what happened in one State.

Mrs. GRIFFITHS. Yes, Mr. Chairman.

Mr. MILLS of Arkansas. For the information of the gentleman from New York, I will point this out.

The United Fund is a charitable organization that receives contributions from a lot of big hearted and very fine philanthropic type of people that we need more of.

In this particular State the United Fund turned its money over to the State government to use to match the Federal dollars. They received $3 for every $1 contributed to the United Fund. The State agency then turned around and enters into a contract with the United Fund to manage $4 for every $1 they collected for social services.

So the United Fund in this particular State was the agency.

Do we want to continue a loophole that allows Federal money to be used in such a manner as that? I do not think we do.

Mrs. GRIFFITHS. If the gentleman will yield further, Mr. Speaker?

Mr. MILLS of Arkansas. I yield to the gentlewoman.

Mrs. GRIFFITHS. They are not only making contracts with the United Fund—they were making contracts with sororities.

Mr. MILLS of Arkansas. Absolutely.

Mrs. GRIFFITHS. So they were really paying out to the private charities to run theoretically the welfare department of the State and they could rename anything "welfare." You either have to go along with this or, in my judgment, you have to repeal the whole thing.

Mr. MILLS of Arkansas. You would have to repeal it if there is no limitation.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 additional minutes in order to yield to the gentleman from New York.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. CAREY of New York. I thank the gentleman for yielding.

Mr. Speaker, naturally we all like to be as generous as the Lord will allow for services for the poor and for child care and day care and so forth.

But is it not apparent the conference report just passed on revenue sharing, if the local agencies are sincerely interested in day care facilities and child care, they may do so under the priority expenditures set forth in the bill?

Mr. MILLS of Arkansas. Absolutely.

Mr. CAREY of New York. I read from page 2 of the bill, subparagraph (g). It says one of the categories is social services for the poor and the aged. If they want to use all their money, they may do so as a local option.

Mr. MILLS of Arkansas. The gentleman is absolutely and eminently correct.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. REID. I thank the chairman for yielding.

First I should like to say I believe the chairman has worked very, very closely with the Governor and with the New York delegation, and I think the State of New York is quite in debt for his cooperation on revenue sharing.

Second, as the chairman knows, New York's projected estimate for fiscal year 1972 lies somewhere between $497 million and a possible $588 million, and a projected estimate in fiscal year 1973 of $850 million. With the $2.5 billion ceiling, this means that New York could suffer a loss of something between $250 million and $600 million. This, quite obviously, based on those figures, is a very serious cut in human and fiscal terms.

What I should like to ask the chairman is whether or not in three specific areas there is some significant and major relief in sight. I shall refer to H.R. 1.

Is the chairman optimistic about the passage of H.R. 1, and specifically the federalization of the aged, disabled, and blind, which in the case of New York would be $168 million of new money?

Mr. MILLS of Arkansas. The gentleman is correct. There is a provision in the conference on H.R. 1, that we have not yet decided on, I must say, but which is before us, that allows the absorption of the so-called adult programs of welfare, that is, the assistance to the aged, blind and disabled, by the Federal Government up to a figure of $130 for the single person in the first year, and on up to $150, I believe it is, in the third year. That has not yet been resolved. There is no doubt what the conference will provide for Federal administration of adult programs of welfare at a great deal more cost to the Federal Government and at a considerable less cost to all of the States.

I must admit that New York State is one of the very few States that would be cut back under this limitation under what it received in 1972, and it would be considerably cut back under what the State estimated in August it would like to spend in the fiscal year 1973. New York State was very active and took the lead here. Generally California does, but in this instance New York State did.

Another State adversely affected is Alaska. I was told by representatives of the State government of Alaska that in their social services program—I do not know how many people they have, but I understand it is somewhere around 300,000—they had over 2,000 people on the payroll in Alaska trying to render services in the nature of social services who would lose jobs following this distribution.

In spite of these difficulties, this program overall has been so badly abused that, to me, it has become a national scandal as to how these Governors have maneuvered us into this position. I think they all ought to apologize to us, and really they ought to apologize to their own constituents.

Mr. REID. If the chairman will yield further, it is my understanding that if that particular provision we are talking about passed in H.R. 1, there would be $168 million in new money for New York?

Mr. MILLS of Arkansas. That is my understanding.

Mr. REID. Second, it is my understanding there is a Javits-Mondale amendment which would provide something under $800 million for child care, of which New York would get $80 million approximately?

Mr MILLS of Arkansas. Such an amendment is in the Senate-passed bill.

Mr. REID. Third, it is my understanding that in the Senate bill there is provision for fiscal aid or assistance, and I am aware that there is some significant opposition downtown to that, that was offered in the Senate by the distinguished Senator from Oklahoma, Mr. BELLMON.

My question to the chairman in general, and specifically on the last point, is whether New York could look to significant relief to help in the deficit the chairman pointed out that does not occur with some States but does affect New York significantly; in other words, $168 million for the disabled and blind, and potentially $80 million for child care, and perhaps an amount in excess of $160 million in interim fiscal assistance.

Does the chairman think H.R. 1 is likely of passage and that assistance and relief in the case of New York might be forthcoming in these three areas—or two out of the three?

Mr. MILLS of Arkansas. These areas are to be considered by the conferees. I do not know what the conference committee will do yet but these are all before the committee and of course the possibility lies ahead that some parts of it could be accepted in conference.

Mr. REID. Just briefly, to go one step further, I very much hope that the chairman would see fit to be able to work on these provisions in the conference on H.R. 1, because I think in the case of several States, particularly New York, this kind of limitation could avoid a tragedy that might occur, even cutting social services approximately 50 percent.

Mr. MILLS of Arkansas. Let me make it quite clear to my friend, the gentleman from New York, that my interest has waned somewhat in revenue sharing anyway, but my interest is almost at the point of death at this time in passing anything in revenue sharing in the light of the objection that has been raised with my colleagues by the Governors of the United States to putting the least limitation on the use of funds that they have perpetuated. If they do not want to do this let me say I do not want to pass revenue sharing.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the distinguished minority leader and then I will yield to all of the Members before I get through.

Mr. GERALD R. FORD. Mr. Speaker, the last statement made by the gentleman from Arkansas, the distinguished chairman of the Committee on Ways and Means, I concur in 100 percent. They are going to get dollars after dollars after dollars in revenue sharing and it is about time that they as Governors stand up and meet the problem of social services.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Speaker, will the gentleman advise us if there is any relief in the amendment or in the conference report on the fact that much of these services, or some really that have been referred to are retroactive to 1972?

Mr. MILLS of Arkansas. I think I get the gentlewoman's point. What she is referring to is that the provision limiting the total of the Federal funds is effective with respect to the entire fiscal year 1973, and of course we are now down into the month of October. If the State of New York, for instance, has in this short period of time spent $225 million of Federal money, then the State would owe us $2 million, because they are entitled under this fund to only $223 million for the entire fiscal year. As easy as it is to spend money, I do not believe they have spent that much in New York yet.

Ms. ABZUG. Then the gentleman is not answering us, as to whether or not, in addition to not receiving the money that we expected when we urged the passage of this great revenue sharing bill, we may find ourselves in the deficit situation where we would have to pay back $2 million.

Mr. MILLS of Arkansas. I cannot conceive of that happening, but if they have spent already more Federal dollars than the formula would give them for 1973, then they would have to pay back.

Ms. ABZUG. And does the gentleman have any proposals whereby we could be held harmless, not only New York State but also other States that must be similarly situated?

Mr. MILLS of Arkansas. I would not be for that, frankly. I have suggested that if the Senate would add an amendment to the bill that we could consider that would allow a redistribution under the formula of moneys that are not to be used by the States or by some States within this $2.5 million ceiling, so that some States could get more because some other States were not using all of their part, then I would have no objection to such an amendment and I would support it, but I cannot go beyond that.

Ms. ABZUG. Mr. Speaker, with deference to the great efforts which have been made with respect to revenue sharing and that which has been heralded as a very important fiscal development for the States, the fact is such that I would urge other Members of this House to look at these figures. The fact is that those States that have been most innovative in trying to do something about the issue of jobs for women who have children who have to be in child-care centers, and in terms of our senior citizens, and in terms of narcotics rehabilitation, and in terms of a vast number of other programs in these categories, those States which have been most innovative in trying to correct society and make people useful in society will be penalized through this revenue-sharing bill, and those States which have been doing nothing in these particular programs will benefit under this revenue-sharing bill. I do not believe, from having looked at the figures, that I know all the States which will suffer under this, but it is many more than New York State. I do not believe we should vote for this kind of ceiling on social services and we should vote it down and propose a motion to recommit with instructions to the conferees not to place a ceiling on social services.

The fact is, it is terribly critical to all of us, not only to the Governors and to the mayors, although the Governors and the mayors, it is true, are very anixous to make the cities work with the people in them, as we all are. We pass a $75 billion defense appropriation and we do not ever criticize the cost overruns and do not cut out the useless and worthless kinds of weapons which we have.

It is ill-fitting for the chairman of this committee to object that we are being careless and not being concerned and that we have no fiscal responsibility. Our fiscal responsibility is to give the services for children, the drug addicts, the elderly in our society. This bill cuts the heart out of the hope of all these people, not only in New York, but throughout the country.

Mr. MILLS of Arkansas. It is just an open ended thing. We have seen increased expenditures for whatever services they receive by about eight times in 2 years.

Mrs. GRIFFITHS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Speaker, let me point out to the gentlewoman from New York that when she says that those States which have been innovative in supplying services, that it is not those people nor those services that are attempted to be cut here. It is those States which were, in effect, having the Federal Government pay for other State services such as the highway department, the prison department, and other such things under the guise of welfare. They were innovative in renaming State services, welfare.

Let me assure the Members that New York was first. New York had a very sophisticated group of people who were really robbing the Federal Government. I represent Michigan, and I do not care much about it.

Mr. MILLS of Arkansas. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, as I understand it, in addition to the $223 million New York will get, there is also an additional provision for $590 million for general revenue sharing; is that correct?

Mr. MILLS of Arkansas. The gentleman is correct.

Mr. WOLFF. One of the big problems which we do have is the question of day care centers. Would portions of that $590 million be permitted to be spent on day care centers?

Mr. MILLS of Arkansas. Absolutely.

Mr. WOLFF. I thank the gentleman.

Mr. MILLS of Arkansas. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the distinguished chairman's yielding to me.

Mine is not a question of amount or a question of being hat in hand, but I am simply trying to establish some legislative record. I am trying to establish a little legislative record as to definitions. I am referring particularly, Mr. Speaker, to section 1130 on page 34 of the conference report under the item (C).

One of the exceptions is services provided to mentally retarded individuals, whether child or adult, and then the words "mentally retarded" are repeated.

Is it the intention of the conference as interpreted by the distinguished chairman that this would be the same as the term "developmentally disabled?"

I ask this question based upon the concept of development from conception to tomb.

Those of us who are physicians, who realize that a development disability would include, for example, as much as is known about cerebral palsy, birth defects, epilepsy, including some acranialcephalics, and other disabilities that certainly should be included in the exemptions.

Mr. MILLS of Arkansas. The conferees agreed that services to the mentally retarded would not be limited to groups of persons who are receiving welfare. That is the first thing.

It is one of the exceptions to the general requirement that 90 percent of the recipients of the social services must be applicants for or recipients of welfare payments.

A number of questions have been raised here and prior to the calling up of the conference report as to what we mean by mentally retarded individuals. The term "mentally retarded" does not apply to a specific ailment or disability as known by the medical profession. It normally describes persons—and this is our intention—who, because of neurological or other causes at birth or in early childhood have increased difficulties in their social functions.

While mental retardation is frequently measured by an intelligence test, as we all know, there are many individuals who may have average or below normal IQ's who are prevented from functioning adequately by the same kinds of limitations that would cause a person to be moderately or profoundly retarded.

We are talking about social services designed to help an individual achieve his maximum capacity to be an independent, self-sufficient person.

There certainly would be no question as to providing these services under the exception to individuals who have the same types of difficulties in their functioning which generally characterize mentally retarded children or adults.

We do not authorize under this exception the kind of services that are needed by distinctly different categories from mentally retarded, but we have no intention to limit services that are appropriate for the mentally retarded exclusively to mentally retarded individuals if others with related or similar problems can benefit substantially from those same services.

This would be true not only as to the authorization of the services but also the Federal participation in the cost of providing these services.

Mr. HALL. Mr. Speaker, I certainly thank the gentleman. I believe this clarifies the matter. The profession is going more and more to the term "developmental disabilities" rather than the term "mental retardation." There have been great technical breakthroughs not only in prevention but also in treatment and rehabilitation of such developmental disabilities. It would be a shame were those not to be included. I believe the chairman has cleared it up.

Mr. MILLS of Arkansas. Let me ask my friend from Ohio if my interpretation of this is also his interpretation?

Mr. BETTS. As I understood the discussion, it certainly is.

Mr. MILLS of Arkansas. I thank the gentleman.

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Speaker, a number of States have been using Federal social service funding for some specific purposes which are not mentioned in the conference committee amendment.

For example, parolees have received counseling and work training. Emotionally disturbed people in institutions have been provided with intensive social services so they can move back into the community and become self-sufficient. Disabled children have received supportive services so they can receive an education.

None of these services are mentioned in the conference amendment. As a result, we have gotten reports that some Federal officials are interpreting the pending legislation to mean that no one, even current welfare recipients or those who could be served under the 10-percent language, can receive social services not specifically mentioned in the amendment.

My question is: Did the conference committee mean to restrict social services so that parolees, patients in mental institutions, and disabled children cannot receive these services even if they are current welfare recipients?

Mr. MILLS of Arkansas. Let me get the record straight, if I may. We have not changed the definition of "social services" that are available for those who are recipients of or applicants for welfare. Those who are not in that category, however, may not have services rendered for their benefit beyond the services which are listed as being exceptions to the 90-percent rule.

Mr. FRASER. Or within the 10-percent category.

Mr. MILLS of Arkansas. Or within the 10 percent.

Mr. FRASER. But for those who are on welfare there is no restriction on the nature of social services?

Mr. MILLS of Arkansas. None at all. I want to make that clear, Mr. Speaker.

What we are trying to do here by this 90-percent limitation is to see to it that the bulk of the money is used for those people who need it most, mainly those who are on welfare.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 3 additional minutes.

Mr. FRASER. Will the gentleman yield further to me?

Mr. MILLS. of Arkansas. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Speaker, the biggest problem affecting our State is the fact that we are into the fourth quarter of this fiscal year, and we are already operating social service programs at a level higher than we will be able to do under this bill.

If there was any way to defer implementation of the ceiling until January 1 or sometime into the fall, it would allow the States an opportunity to adjust to the lower ceiling in an orderly way. There is such an amendment in H.R. 1, and I would hope the gentleman would look very seriously into that.

Mr. MILLS of Arkansas. Mr. Speaker, I want the gentleman to know this was discussed in the conference, but the conference committee was adverse to making this limitation prospective; they wanted it to apply to the entire fiscal year 1973.

Let me point out that the House passed in June of 1971 H.R. 1, and if there was ever notice served upon the Governors of the country as to what might happen, it was in that bill, because the House passed it without any protest whatsoever, passed a spending limitation of $800 million in toto for these services. And then they come in now and try to double and triple and quadruple it and raise it as much as eight times in some districts, and they want us to "grandfather" it by amendment. They had plenty of notice in 1971.

Mr. BURKE of Massachusetts. Will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, but the fact does remain that even though the course of prudence today would appear to be to accept the $2.5 billion ceiling on social services, and vote for the total conference report on revenue sharing, warts and all, let us make no mistake about it, we are accepting in the process a very ugly wart, indeed. Simply put, a ceiling on social welfare services expenditures is not really to address our attention to the underlying problems. To be sure, skyrocketing and seemingly deliberately inflated requests from certain States have created the sense of urgency which has led to the imposition of this ceiling but as is so often the case when a lid is slapped on an expanding situation without any attention to the underlying causes of the expansion, then we are really creating a potentially explosive situation. Another way of looking at it is that while we definitely will be curbing some needless and wasteful expenditures and blocking a loophole which for a while threatened to be one of the most open ended programs in the Federal Government, unfortunately we are probably doing a lot of damage to a whole variety of perfectly laudable, worthwhile projects in communities across the Nation. Slapping on a spending ceiling is really not the answer to this situation and from all one can gather may well end up doing more harm than good. The alternative which I would have preferred would have been for the Secretary of Health, Education, and Welfare to exercise the discretion he has under law to review the various claims and to set up new guidelines on what is permitted under the various titles of the Social Security Act involved. If there is waste and extravagance in the claims, if there is a loophole, it is because of a lack of proper controls and regulations. Something which may be Congress' fault as much if not more than HEW's. But instead of examining the abuses and holding the hearings necessary to examine adequately a problem of this magnitude, the Senate saw fit to simply slap a lid on the whole program which is going to cause as much harm as it does good. There is no shortcut to responsible legislation. The various titles under which these claims have been made were set up by Congress for perfectly legitimate reasons after certain needs were presented to the committees with jurisdiction in these areas. In other words, there were problems under these titles that needed funding. No amount of manipulation by Federal aid coordinators at the State level have made these underlying problems the original provisions were designed to meet any less pressing. These needs will not just disappear. And there are plenty of genuine needs in these areas which will in effect be neglected as a result of this blind, indifferent, and totally artificial spending ceiling. Under this ceiling, there is still no guarantee that the genuine needs will be sorted away from the phony needs, the artificially created needs. Some States will still be getting more money than they deserve for doing very little about some serious social problems while other States with good programs will be underfunded and experiencing cutbacks.

The welfare mess will not be attacked and resolved as a result of legislation like this; it will, in fact, continue and grow worse. Unfortunately, there are probably few areas where rational discussion is less possible in this country than the welfare situation. Yet, the problem does not wait for us to catch up with it. It is growing worse by leaps and bounds. We all know in our heart of hearts there are plenty of genuine deserving welfare problems requiring assistance in this land of opportunity. Yet, we also have heard plenty about the glaring abuses which is occurring in so many cases in the name of welfare. We all know the present approach at the local and the Federal level is incapable of dealing with the problem or distinguishing between legitimate and illegitimate, no pun intended. And yet, for 2 years now while Congress has talked about the problem, interest groups have lobbied on the problem, the best we have been able to do in this Congress is this feeble attempt of imposing a ceiling. Meanwhile, overall welfare costs continue to grow and grow with no end in sight. Just legislating ceilings is not the answer to the underlying problems. It is too much like Canute trying to control the seas by ordering the waves to roll back. The waves continue to rush in just as the welfare mess continues to swirl and deepen and threatens to swamp us before too long.

This same Senate which has brought this half-hearted measure before us today is the same Senate ultimately which could not make up its mind about welfare reform in H.R. 1, and instead voted to continue as we have before basically to throw more good money after bad. Mr. Speaker, the last thing this Nation needs now is 2 more years of patchwork welfare programs and more social experimentation.

Mr. Speaker, if all this Congress has to show for welfare reform after 2 years of wrestling with the subject is this totally insensitive, inflexible, and chaotic spending ceiling, as well as the patchwork compromise embodied in H.R. 1, then we deserve all the criticism we get. For in the process, we will have satisfied no one, neither those in genuine need of a better standard of living nor those understandably concerned about widespread abuses of the system. The Aegean stables are not being swept clean by our actions in either of these bills. We have lost a golden opportunity to tackle a serious problem of towering proportions before it gets worse. We have missed one of the great opportunities to implement real revenue sharing where it is needed the most—through Federal reform and takeover of the whole welfare problem, lock, stock, and barrel. The resulting chaos is nothing short of a national disgrace or worse still, a national scandal. Nothing short of a complete overhaul of our present system will satisfy anyone in this Nation, either those that will receive or those that are expected to pay. Any Congressman voting for this measure today who thinks he is doing something substantive about the welfare problem in this Nation is deluding himself and no one else. In passing bills like this, we are doing nothing more than walking away from this Nation's No. 1 domestic problem today. It would, indeed, be the height of tragedy if passage of legislation like this and H.R. 1 were to delude any Members into thinking that having disposed of the welfare problem we can now turn our attention to other issues.

Thus, with the passage of legislation even as monumental as the State and Local Assistance Act of 1972—a truly monumental piece of legislation which recognizes the seriousness of the fiscal problems facing local government and the unbearable burdens on property taxpayers and indirectly, rent payers—we are still left with considerable unfinished business. It is a pity that this great bill should be tainted by the addition of this ceiling on social services which is more of a sop than a solution to the problem. If it were not for the overwhelming importance of revenue sharing, I am sure this rider would never have got as far as it has. It is a classic example of how good legislation can be responsible for some of the worst legislation on our books.

Mr. Speaker, I would urge the Members of the House to pay good attention to what the distinguished chairman of the Committee on Ways and Means of the House is saying here today.

I take my hat off to no one in this House in favoring liberal measures and liberalizing social services in this House, because if there has ever been anyone who has been on the side of people on the Committee on Ways and Means, it has been the Member from Massachusetts.

But, Mr. Speaker, in what the opponents of the position of the chairman are saying here and in what they are doing, they are acting like the fox with the grapes: They are looking into the water and trying to pick up that additional bunch of grapes.

In reality, they are putting in jeopardy the entire revenue sharing bill that is before us here, because if there is no ceiling put on these social services, within a few years the cost of social services will outdistance what we are spending here today on the revenue sharing. It could well go up to $8 billion or $10 billion, because if every one of the 50 States finds out what these four or five States have done, God help us, the boat will sink.

Mr. MILLS of Arkansas. Mr. Speaker, I now yield to the gentleman from Ohio (Mr. BETTS).

Mr. BETTS. Mr. Speaker, I want to take this opportunity to associate myself with the remarks of the chairman in support of this amendment. I want to agree with him completely, that this is a program which is rapidly skyrocketing, completely out of proportion, and we are headed for complete disaster unless some limitation on spending is affixed.

Mr. Speaker, I urge the House to support this amendment.

The SPEAKER. The time of the gentleman has expired.

Mr. MILLS of Arkansas. I yield myself 2 minutes.

Mr. BINGHAM. Will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding.

I would just like to reemphasize for the benefit of the chairman the extent of the importance for people in my State of New York, particularly in the child care field and the field of centers for the aging, of providing some relief for those citizens, which has arisen through the H.R. 1 mechanism, because, if I may just complete the thought, it may be that officials have been at fault, but the people who are benefiting from these services, the senior citizens in my district who are going to centers and having some kind of meaningful life, the young people, the women who may benefit from day care centers, so they can get jobs, benefit from all of this, those people are going to be the ones who will suffer if New York has to come back another time to seek what they are getting.

Mr. MILLS of Arkansas. I want to point out to the gentleman, I have the same feeling toward child care, and the child care services are also included in H.R. 1.

If we can dispose of this and get back to the conference on H.R. 1 and bring it before the House before we adjourn, I think my friend from New York will be satisfied.

Mr. ROSENTHAL. Will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Speaker, I wish to ask the gentleman, is there a likelihood we can get back to H.R. 1 and put that back on the docket so we will find the relief the gentleman is talking about?

Will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. ROSENTHAL. Is there a likelihood that you can get back to H.R. 1 and put it back on the tracks so that we will find the relief that the gentleman is talking about?

Mr. MILLS of Arkansas. There are provisions in H.R. 1 that go in the direction, as pointed out by your colleague, the gentleman from New York (Mr. REID). If we can get back and dispose of H.R. 1, there is still hope that there will be some areas within that that will provide you with some relief.

Mr. ROSENTHAL. I do want the chairman to understand that I associate myself with the remarks of the gentleman from New York (Mr. BINGHAM), and hope that the chairman understands the urgency of our request, the urgency of our need, and the inequity of our situation. It is deplorable.

Mr. MILLS of Arkansas. The Governors have talked to me about, and I am thoroughly aware of the urgency.

Mr. KOCH. Mr. Speaker, I believe it would be a tragic mistake for the House to accede to the Senate's provision in the revenue-sharing bill imposing a $2.5 billion spending ceiling on social services.

Many of my constituents and many of the social services programs in my district have contacted me to alert me to the disastrous effects such a ceiling would have on them. Some of these programs, in particular child care programs, would have to be discontinued entirely, while others would be forced to operate under minimal financing. The imposition of this $2.5 billion national ceiling would limit New York State's share of social services funds to $220 million—an amount which is less than one-half of what New York State is presently receiving, $588 million, and which is approximately one-fourth of the $800 million that HEW proposed for New York State next year.

Undoubtedly there have been abuses by States in drawing on the social services funds, abuses which should be corrected, but the imposition of the Senate's spending ceiling would, indeed, be throwing out the baby with the bath water. I am concerned over the level of Federal expenditures, as I know everyone else here is, but I am distressed that it always seems that our social services programs are the first to be deemed expendable, while other, more wasteful Federal projects receive full funding.

I hope my colleagues here in the House will join in rejecting this major demotion of social services in our list of priorities.

Mr. MONTGOMERY. Mr. Speaker, I rise in opposition to the adoption of title III of this bill. It is obvious that we cannot let expenditures for social service programs go unchecked, but the means for bringing this program under control contained in title III simply do not take into consideration the many programs begun and contracts entered into prior to July 1, 1972. These programs were contracted for with the belief that they would be fulfilled and in complete reliance upon the authority contained in the Social Security Act as amended.

My State of Mississippi stands to be particularly hard hit by the imposition of both a $2.5 billion ceiling and the allocation of such funds based on population. Currently, the school districts and social service agencies in Mississippi have contracted, through the Mississippi Department of Public Welfare, for programs which will cost over $64 million in Federal expenditures. Yet, under title III of this bill, the State of Mississippi would be allocated only $27 million, leaving a deficit of $37 million which the school districts and social service agencies simply cannot provide from their own resources. To allow these needed programs to fail after they were started in good faith and reliance on the Federal Government would be unconscionable. To allocate funds on the basis of population rather than need would be a foolish waste of Federal resources.

I want to stress in the strongest possible way the necessity to honor those social service contracts entered into prior to July 1, 1972. After this is done, we can then set a reasonable ceiling for such expenditures and determine an allocation formula which will maximize our resources and meet the chronic need for such services.

We have the moral and legal obligation to do no less.

Mr. HEINZ. Mr. Speaker, I rise in support of the $2.5 billion limitation on grants for social services under the Social Security Act. I want to make it clear at the outset that my support of this spending ceiling is not aimed at the intent of the social services program, but rather its operation.

There has been a considerable amount of criticism lately that the Congress has abdicated its responsibility, and I am forced to agree with this statement. It is my belief that the failure to place a limitation on grants to the States for social services will signal a further abdication of the Congress' responsibility to spend the taxpayer's money wisely. Within the last three years expenditures under this program have increased by $1.6 billion. If we refuse to halt the open-ended spending which is now allowed under the present system, Congress will have no hope whatsoever of controlling these expenditures or properly managing the Nation's business.

I believe that it is time that we in the Congress served notice to the State governments that they, too, are responsible for the sound fiscal management of this country. For too long the States' approach to social services has been to concentrate on how to get Federal funds rather than on which priority areas these funds should be expended. The present system has caused duplication of services and in many cases, it has not provided meaningful assistance to those it was instituted to serve.

Passage of the social services limitation will provide quality control to ensure that the taxpayer's dollars are spent on priority programs. At the same time, the taxpayers should take careful note of how each State plans to spend the substantial amount of revenue allocated and granted by the companion measure to this limitation, the revenue sharing bill, H.R. 14370, which we have just passed. The wise use of this money by State and local government should also take high priority.

Mr. MILLS of Arkansas. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. ABZUG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 281, nays 86, not voting 64, as follows:

[Roll No. 433]

YEAS—281

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Aspin
Aspinall
Baker
Belcher
Bennett
Bergland
Betts
Bevill
Biaggi
Blanton
Blatnik
Boggs
Boland
Bow
Bray
Breaux
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Camp
Carey, N.Y.
Carlson

Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conover
Conte
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dennis
Derwinski
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Evins, Tenn.
Fascell
Findley
Fisher
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Garmatz
Gibbons
Goldwater
Goodling
Grasso
Gray
Griffin
Griffiths
Grover
Gubser
Hagan
Hall
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Hastings
Hays
Hechler, W. Va.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Hosmer
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kazen
Keating
Keith
Kemp
Kluczynski
Kyl
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McEwen
McKay
McKinney
Macdonald, Mass.
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mayne
Mazzoli
Melcher
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minshall
Mizell
Mollohan
Moorhead
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Pepper
Pettis
Pickle
Pike
Pirnie
Poage
Powell
Preyer, N.C.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rarick
Reuss
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruth
St Germain
Sandman
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalley
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Young, Fla.
Zablocki
Zion
Zwach

NAYS—86

Abzug
Adams
Addabbo
Anderson, Calif.
Ashley
Badillo
Barrett
Begich
Biester
Bingham
Bolling
Brademas
Brasco
Brinkley
Buchanan
Burton
Chisholm
Collins, Ill.
Conyers
Corman
Daniels, N.J.
Danielson
de la Garza
Dellums
Dent
Diggs
Eckhardt
Edwards, Calif.
Eilberg
Flood
Fraser
Gaydos
Gonzalez
Green, Pa.
Gude
Halpern
Harrington
Hathaway
Hawkins
Heckler, Mass.
Helstoski
Holifield
Horton
Howard
Kastenmeier
Koch
Kyros
McDade
McFall
Madden
Mathis, Ga.
Meeds
Metcalfe
Minish
Mink
Mitchell
Montgomery
Morgan
Moss
Nix
Patten
Perkins
Peyser
Podell
Price, Ill.
Rangel
Rees
Reid
Riegle
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roybal
Sarbanes
Scheuer
Sisk
Stokes
Van Deerlin
Waldie
Whalen
White
Wilson, Charles H.
Yates
Young, Tex.

NOT VOTING—64

Abourezk
Anderson, Tenn.
Archer
Baring
Bell
Blackburn
Byrne, Pa.
Cabell
Caffery
Clark
Clay
Crane
Davis, S.C.
Denholm
Devine
Dow
Dowdy
Dwyer
Edmondson
Eshleman
Evans, Colo.
Fish
Galifianakis
Gallagher
Gettys
Giaimo
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Harvey
Hébert
Hungate
Jones, N.C.
Kee
King
Kuykendall
Link
Lloyd
McClure
McDonald, Mich.
McKevitt
McMillan
Martin
Matsunaga
Monagan
Murphy, N.Y.
Nichols
Pelly
Pucinski
Purcell
Roncalio
Ruppe
Schmitz
Steiger, Ariz.
Sullivan
Symington
Thompson, Ga.
Thompson, N.J.
Vander Jagt
Widnall
Wyatt
Yatron

So the motion was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Widnall.
Mrs. Sullivan with Mr. Crane.
Mr. Hébert with Mr. Blackburn.
Mr. Matsunaga with Mr. Vander Jagt.
Mr. Murphy of New York with Mr. Fish.
Mr. Roncalio with Mr. Harvey.
Mr. Giaimo with Mr. McDonald of Michigan.
Mr. Davis of South Carolina with Mr. Pelly.
Mrs. Hansen of Washington with Mrs. Dwyer.
Mr. Abourezk with Mr. Martin.
Mr. Yatron with Mr. Eshleman.
Mr. Hanna with Mr. Bell.
Mr. Cabell with Mr. Archer.
Mr. Clark with Mr. Wyatt.
Mr. Denholm with Mr. Lloyd.
Mr. Evans of Colorado with Mr. McKevitt.
Mr. Gettys with Mr. Ruppe.
Mrs. Green of Oregon with Mr. Devine.
Mr. Purcell with Mr. Gallagher.
Mr. Caffery with Mr. McClure.
Mr. Jones of North Carolina with Mr. Schmitz.
Mr. Link with Mr. Steiger of Arizona.
Mr. Monagan with Mr. King.
Mr. Nichols with Mr. Thompson of Georgia.
Mr. Anderson of Tennessee with Mr. Kuykendall.
Mr. Haley with Mr. Byrne of Pennsylvania.
Mr. Clay with Mr. Baring.
Mr. Hungate with Mr. Symington.
Mr. Pucinski with Mr. McMillan.
Mr. Dow with Mr. Kee.

Mr. FLOOD changed his vote from "yea" to "nay."

Mr. BOB WILSON changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks in the Record on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent that Members desiring to do so may be permitted to extend their remarks in the Record on the amendment and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 3419, CONSUMER PROTECTION, HAZARDOUS PRODUCTS

Mr. MOSS. Mr. Speaker, I ask unanimous consent that the conferees on S. 3419, the Product Safety Act, have until midnight tonight to file the report of the committee of conference.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 16654, DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE, APPROPRIATIONS, 1973

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 16593, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 10, 1972).

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, this is the conference report on the Defense appropriation bill.

The bill provides for $74.3 billion in new obligational authority for the Department of Defense and related agencies for the current fiscal year. This represents a reduction of about $5.2 billion below the budget estimate.

The bill before us is about $200 million below the amount passed by the House, and about the same amount below the bill as it passed the other body.

It should be pointed out that the new obligational authority reduction of $5.2 billion is offset in part by transfer authority totaling $1.3 billion. The House had provided transfer authority of $649 million, and the other body provided a total of $1.3 billion. The total funding authority provided is $75.7 billion.

Mr. Speaker, the House bill provided for the funding of the hiring of civilians for KP work through transfer authority in section 735. The Senate included funds in each of the applicable Operation and Maintenance appropriation.

In conference, it was agreed that the expenses of kitchen police by civilians would be provided for by direct appropriation, and not by transfer authority.

The conference generally agreed to the higher Senate amounts for the Military Personnel appropriations, but insisted that specific reductions be made as proposed by the House rather than general reductions as proposed by the other body.

Separate appropriations are made for the Reserve Forces' Operation and Maintenance operations, these funds have heretofore been included in the regular services Operation and Maintenance funds.

With respect to procurement, under Navy aircraft procurement, the conference agreement provided for the procurement of 35 aircraft known as the S-3A, an antisubmarine warfare aircraft, instead of the 23 as proposed by the House, or 42 as proposed by the Senate.

The conferees agreed to include $25 million for the AIM 7-F missile for the Navy as proposed by the Senate and not included in the House version. The conferees also agreed that 12 P3C antisubmarine aircraft would be provided the Navy as proposed by the Senate, instead of 24 aircraft as proposed in the House bill.

The conferees agreed on the House amount of $7.1 million for advance funding for the Harrier aircraft for the Marine Corps. The House agreed to the deletion of one conversion of a guided-missile frigate as proposed by the Senate.

The conferees also provided $42.5 million for the command data buffer for the Minuteman missile as proposed by the Senate.

In research, development, test, and evaluation, the conferees agreed on $20 million for new advanced attack helicopter for the Army.

A total of $6 million is provided for the strategic submarine launched cruise missile of the Navy instead of $2 million as provided by the House and $10 million as provided by the Senate. A part of that amount is to be utilized by the Department of Defense to perform comparison studies of this missile and other candidate strategic systems. Copies of such studies are to be provided to the Congress.

The conferees agreed on $25 million for airframe development of a new STOL transport aircraft but no funds are provided for the development of a new engine.

The House had provided $10,000,000 more than the Senate for the advanced ballistic reentry program. This involved a so-called hard warhead. The Senate position prevailed and the $10,000,000 is not agreed to.

There were several important general provisions. General transfer authority was provided the Secretary of Defense in the amount of $750 million as proposed by the House instead of $850 million as proposed by the Senate.

The limitation on funds for "free world forces" was increased from the $2.5 billion in the House bill to $2,735,000,000 as proposed by the Senate.

The "end the war" amendment, proposed by the Senate, was not agreed to.

The House reluctantly agreed to agree to include a new title on additional authorizations. The budget amendment of June 30 included amounts involving authorizations. The authorizing committees did not have time to act and a provision making the required authorizations was included in the appropriation bill in the Senate. After conferring with the chairman of the House Armed Services Committee, the gentleman from Louisiana, the House agreed to the Senate position. Since this involves legislation on an appropriation bill, separate motions will be offered on this matter, on which I believe there is general agreement.

Of course, Mr. Speaker, this bill carries the huge sum of $74 billion-plus in new obligational authority and is very complex, and it would be impossible in the time allotted here to discuss all of the proposals agreed to in this huge bill.

Unless there are questions that might be asked, I ask unanimous consent to place in the RECORD at a later time a fuller discussion of the actions of the conferees on this bill.

I will also place in the RECORD a table which gives more detailed information.

I ask unanimous consent to place this statement and table in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. The table I referred to follows:

DEFENSE APPROPRIATION BILL 1973—SUMMARY OF APPROPRIATIONS

[Amounts in thousands of dollars]

Functional title	Appropriation, fiscal year 1972 (new obligational authority)	Budget estimate, fiscal year 1973 (new obligational authority)	Passed House	Passed Senate	Conference Action	Conference action compared with—			
						1972 appropriation	Budget estimate	House	Senate
Title I—Military personnel	22,964,100	23,658,559	23,081,821	23,145,963	23,140,900	+176,800	−517,659	+59,079	−5,063
Title II—Retired military personnel	3,921,446	4,358,684	4,358,684	4,358,684	4,358,684	+437,238			
Title III—Operation and maintenance	20,553,925	21,634,944	21,001,245	21,198,613	21,110,624	+556,699	−524,320	+109,379	−87,989
Transfer from other accounts			(200,000)	(200,000)	(200,000)	(+200,000)	(+200,000)		
Title IV—Procurement	17,776,892	21,169,830	18,338,470	17,759,470	17,799,870	+22,978	−3,369,960	−538,600	+40,400
Transfer from other accounts	(843,700)		(389,500)	(1,055,900)	(1,055,900)	(+212,200)	(+1,055,900)	(+666,400)	
Title V—Research, development, test, and evaluation	7,519,062	8,768,767	7,793,928	8,105,568	7,959,498	+440,436	−809,269	+165,570	−146,070
Transfer from other accounts	(101,900)		(60,000)	(60,000)	(60,000)	(−41,900)	(+60,000)		
Transfer authority	(50,000)	(50,000)				(−50,000)	(−50,000)		
Title VI—Special foreign currency program	12,000	3,400	3,400	3,400	3,400	−8,600			
Title VII—General Provisions (additional transfer authority, sec. 735)	(750,000)	(1,000,000)	(750,000)	(850,000)	(750,000)		(−250,000)		(−100,000)
Title VIII—Anti-ballistic missile construction	109,570					−109,570			
Total, Department of Defense (NOA)	72,856,995	79,594,184	74,577,548	74,571,698	74,372,976	+1,515,981	−5,221,208	−204,572	−198,722
Transfer from other accounts	(945,600)		(649,500)	(1,315,900)	(1,315,900)	(+370,300)	(+1,315,900)	(+666,400)	
Total funding available	73,802,595	79,594,184	75,227,048	75,887,598	75,688,876	+1,886,281	−3,905,308	+461,828	−198,722
Transfer authority	(800,000)	(1,050,000)	(750,000)	(850,000)	(750,000)	(−50,000)	(−300,000)		(−100,000)
Distribution by organizational component:									
Army	[1] 21,039,789	22,027,312	20,461,434	20,502,564	20,402,167	−637,622	−1,625,046	−59,267	−100,397
Transfer from other accounts	(351,900)		(283,600)	(441,000)	(441,000)	(+89,100)	(+441,000)	(+157,400)	
Navy	23,176,145	26,154,554	24,459,587	24,444,225	23,343,100	+1,166,955	−1,811,454	−116,487	−101,125
Transfer from other accounts	(260,000)		(125,000)	(316,000)	(316,000)	(+56,000)	(+316,000)	(+191,000)	
Air Force	22,882,597	25,043,601	23,451,342	23,409,324	23,419,924	+537,327	−1,623,677	−31,418	+10,600
Transfer from other accounts	(323,700)		(233,200)	(551,200)	(551,200)	(+227,500)	(+551,200)	(+318,000)	
Defense agencies/OSD	[2] 1,837,018	2,010,132	1,846,501	1,856,901	1,849,101	+12,083	−161,031	+2,600	−7,800
Transfer from other accounts	(10,000)		(7,700)	(7,700)	(7,700)	(−2,300)	(+7,700)		
Retired military personnel	3,921,446	4,358,684	4,358,684	4,358,684	4,358,684	+437,238			
Total, Department of Defense (NOA)	72,856,995	79,594,184	74,577,548	74,571,698	74,372,976	+1,515,981	−5,221,208	−204,572	−198,722
Transfer from ot er accounts	(945,600)		(649,500)	(1,315,900)	(1,315,900)	(+370,300)	(+1,315,900)	(+666,400)	
Total funding available	73,802,595	79,594,184	75,227,048	75,887,598	75,688,876	+1,886,281	−3,905,308	+461,828	−198,722
Transfer authority	(800,000)	(1,050,000)	(750,000)	(850,000)	(750,000)	(−50,000)	(−300,000)		(−100,000)

---

[1] Includes $98,500,000 for military construction, Army, under title VIII—Antiballistic missile construction.

[2] Includes $11,070,000 for family housing, Defense, under title VIII—Antiballistic missile construction.

Mr. MAHON. Let me say this: The so-called end-the-war amendment, as proposed by the other body, was not agreed to and is not included in the bill.

There were certain requirements which grew out of the budget amendment of June 30, which followed the attack by the North Vietnamese on South Vietnam that were not authorized. These were mainly for the replacement of aircraft and ammunition.

The House reluctantly agreed to a new Senate title which gives authorization in addition to the appropriation of funds for these programs in this bill.

I believe the House will support the action which has been taken. This bill has been thoroughly studied, reviewed, debated, discussed, and researched. I trust that the information made available in the House and Senate reports and in previous debates and in this detailed and complete conference report answers to questions which may be in will be adequate for Members to secure their minds as to what is proposed in the defense bill this year.

SYSTEMS ENGINEERING FACILITY FOR DCA

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the distinguished chairman of the Committee on Appropriations, my friend from Texas, yielding to me.

I refer to colloquy when this bill first passed the House on the 14th of September in the CONGRESSIONAL RECORD, page H8367. At that time I pointed out to the Committee of the Whole House on the State of the Union and certainly to the gentleman's committee, the paradox of the committee report stopping any further effective utilization of the simulator and the test bed facility, Reston, Va., in the Defense Communications Agency on the one hand and our known national defense lack of secure voice communications on the other hand. Suffice it to say I thought there was adequate record and concurrence of the chairman, the ranking minority member, and the others handling the bill on the floor at that time, that at least the language of the report would be relaxed and there was actually some indication that the other body might seek to restore this, and the conferees agreed.

This did not happen. Therefore it was not addressed in conference, and we are up against the barebone situation now, I can say as a member of the legislative Committee on Armed Services, where, if the bar to the installation of the proposed computer, which caused the trouble and demonstrated bad lack of staff coordination, admitted by the Defense Communications Agency—and I hope rectified since that time, within the responsibility of the Committee on Appropriations, is allowed to stand—that we cannot use the old Autodin or Autovon switches in the simulation or the test bed facility, and we will at least not be able to predict future utilization of secure voice communications techniques.

My question to the distinguished gentleman is, as a result of the importunings to himself and information on the record, is there any way that we can relax that language on the House Committee on Appropriations report referred to, which says specifically:

> Do not install the computer simulator which is now scheduled for delivery next month. In lieu of the computer, install Government-owned Autovon and Autodin switches or else close the SEF.

Mr. Speaker, the chairman of the Committee on Appropriations knows that there is a great reduction in the funds that would have an impact on SEF, but it could continue with its highly professional personnel to do this vital work, at least vital in the opinion of Chairman BOB MOLLOHAN and myself of the special investigating subcommittee of the legislative Committee on Armed Services, if we can relax this language.

Mr. MAHON. The gentleman has referred to language in the House report, and I believe to the colloquy which took place when this bill was originally before the House a month ago. There is a statement in the report but there is prohibition in the law with respect to the System Engineering Facility. Since the bill was before the House some further study has been made of the matter, and an additional study will be made on the issue which my friend, the gentleman from Missouri (Mr. HALL) has raised. If this problem proves to be acute, a prior approval reprograming under the established procedures should be followed. A request could be submitted by the Department of Defense, since the prohibition is in the report and not in the bill and if it were found in the judgment of those involved to be justified—and the gentleman from Missouri has assured us that he is confident that it could be justified—then it would be possible to approve the transfer of the necessary funds within the appropriation for the purpose of installation of this equipment.

Mr. HALL. Mr. Speaker, I certainly appreciate the statement of the chairman, the gentleman from Texas (Mr. MAHON). I think that it is adequate. I want to assure the gentleman that we have there the test-bed facility and we have no doubt but what a full case for reprograming, as much as I generally dislike that technique, would be in order here, in order to predict and prove in advance we can secure our voice communications against the enemy if needed. The legislative committee's new report, recently published, is a tough one but fully supports this action and I commend it to you and your staff.

I thank the gentleman.

Mr. MAHON. Mr. Speaker, I thank the gentleman from Missouri for his cooperation.

Mr. Speaker, I now yield to the distinguished gentleman from Ohio (Mr. MINSHALL), the ranking minority member on this committee, who has done a fine job in this very difficult bill, and whose cooperation in the national interest has been outstanding.

Mr. MINSHALL. I thank the distinguished gentleman from Texas.

I want to try to summarize in a few minutes what really entailed many, many hours in conference, which I think was a very successful conference.

I think that we have come up with not only the very best we could so far as the record of the Congress is concerned, but it is a report that is good for the continued defense of our country.

Mr. MAHON. Mr. Speaker, I yield to the distinguished gentleman from New Hampshire (Mr. WYMAN), a member of the subcommittee, who has been very diligent in studying and helping with respect to the defense appropriation bill.

Mr. WYMAN. Mr. Speaker, while I have signed the conference report, I am distressed by the appropriation by the conferees of millions in new funds for civilianization of KP, as well as the deletion of language in the House bill requiring that this be financed through reprogramings. This House previously voted to continue the principle of civilianization of KP only on the assurance of the gentleman from Florida (Mr. SIKES) that no new funds would be required, and language in the Sikes amendment requiring reprograming requests for such money from the separate services.

Reprograming means the service desiring money to spend for hiring civilians to do KP duty must come before the Defense Appropriations Subcommittee and request permission to use funds appropriated for another purpose—not new money.

Contrary to the expressed will of this body this conference reports a bill with an appropriation of many, many, millions of dollars to hire civilians to do military KP.

The road ahead is enormously expensive if this is continued, leading toward as much as half a billion dollars a year for all three services. Such an added expense for the hire of dishwashers, food processors and potato peelers is inexcusable, unjustified and grossly wasteful. Worse still, it contributes to a public image of our military as operating in a country club atmosphere at the taxpayers expense.

Already military and civilian personnel costs are eating us alive in defense appropriations. With the all-volunteer Army concept, nearing 60 percent of defense spending is for personnel costs and fringe benefits. This compares with less than half this figure in the Soviet military, for example. We should not add to this enormous burden by millions more for civilianization of KP duties.

I remain deeply opposed to civilianization of KP as a matter of principle and feel strongly that the policy should be ended. It is my hope that the Appropriations Committee will review this unnecessary expense and delete such funds from the fiscal year 1974 Defense budget.

Mr. SEIBERLING. Mr. Speaker, will the gentleman from Texas yield for a question?

Mr. MAHON. I yield to the gentleman.

Mr. SEIBERLING. I wonder if the chairman could give us some idea how much of the funds appropriated in this legislation would be expended for operations in, over and around Indochina?

Mr. MAHON. It is difficult to acquire accurate information on this matter. In regard to the operation of the war in Southeast Asia, the best figure that was presented to the committee was somewhere between $5.5 billion and $6 billion. That is the general range of the estimates which have been presented. Included in this amount of about $5.8 billion is $2.7 billion for support of Vietnamese and other free world forces.

The specific figure that has been used for operations in Southeast Asia is $5.8 billion and that figure is generally considered to be a reasonable estimate of the incremental cost of the war.

Mr. SEIBERLING. Vietnamization funds are in addition to military and economic aid that have been handled in other legislation; is that not correct?

Mr. MAHON. The amount for support of Vietnamese and free world forces that I made reference to—that $2.7 billion is part of the $5.8 billion.

There are other funds made available by way of supporting assistance, economic assistance and so forth in Southeast Asia that would be included in the foreign aid appropriation bill.

Mr. SEIBERLING. Yes. May I ask the gentleman another question?

Mr. MAHON. I yield to the gentleman.

Mr. SEIBERLING. Is that not about the same amount by which it is estimated the total appropriations will exceed the $250 billion ceiling which was enacted this week by the House?

Mr. MAHON. The $250 billion figure did not deal specifically with appropriations. It dealt with expenditures. It is true that it has been estimated that without a ceiling the Government would spend during the current fiscal year about $256 billion unless there is an expenditure ceiling of $250 billion. Thus, there is some similarity in the amount.

Mr. SEIBERLING. I thank the gentleman.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, when the bill passed the House there was a limitation imposed on the Vietnamization program of $2.5 billion. The conferees agreed upon a figure of $2,735,000,000. Will the chairman advise us as to why the conferees on the part of the House accepted the increase of $235 million?

Mr. MAHON. The invasion from the north brought about a very sharp increase in the cost of the war in Southeast Asia. The President, as a result of the invasion, made a request for supplemental funds in the sum of $2.2 billion and asked that the limitation be increased to $3.2 billion. As the gentleman from Illinois well knows, the Secretary of Defense told us many weeks ago that it would be necessary to raise this ceiling. Therefore, in consultation with the Senate and the Department of Defense we agreed that the $2.7 billion was realistic and correct.

Mr. YATES. Mr. Speaker, will the chairman yield further?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. YATES. Newspapers report that the negotiations with the North Vietnamese are very sensitive at the present time. Presumably, the war will be ended within the next 2 or 3 months. Therefore, why should the additional amount have been added to the bill?

Mr. MAHON. Much of the costs have already accrued as a result of the loss of equipment and the utilization of ammunition by reason of the increased activity of North Vietnamese units in South Vietnam. Of course, if the war does end, then, no doubt, there will be some changes in defense spending and defense programs. It is not known at this time as to just how long this war and the associated costs will have to be borne by the American people.

Under the Nixon doctrine we support free countries with military assistance and equipment in the hope that the use of American manpower will be at a minimum, if at all.

Mr. YATES. Does the figure of $2,735,000,000 include operations in and around Southeast Asia until June 30, 1973?

Mr. MAHON. No; the $2.7 billion is for the support of free world forces. The $5.8 billion, which I referred to is the estimate cost that will be required for this purpose, at the present time.

Mr. YATES. Until that date?

Mr. MAHON. Yes; for the current fiscal year.

Mr. YATES. What will happen to those funds in the event that, as we all hope, the war ends in the next 60 or 90 days?

Mr. MAHON. To whatever extent the costs are reduced, the expenditures will be reduced.

Mr. YATES. Will those funds be subject to recapture?

Mr. MAHON. They could be rescinded or they could be applied to other programs. Also, the 1974 budget could be adjusted to reflect any saving resulting from an early termination of the war. But, after all, this is a limitation. This is not an appropriation of an additional sum. This is a limitation on the spending.

Mr. YATES. Yes; but the funds have been put up to spend up to that ceiling, have they not?

Mr. MAHON. They have funds within the bill that are needed to carry on the war, and this is within the amount of the appropriation agreed by the conferees.

Mr. YATES. Then, as I understand this bill, this bill makes provision for a continuation of the war in Southeast Asia until next June 30; is that correct? The funds are provided for that purpose?

Mr. MAHON. We have provided the funds. We have also provided a ceiling on the amount that can be spent in support of free world forces. No more can be spent than this figure of $2.7 billion for that purpose.

Mr. YATES. Except that sufficient funds have been provided to carry on the war until June 30, 1973, with the limitation that the Defense Department cannot exceed that amount; is that correct?

Mr. MAHON. The intensity of the war and the date of its termination cannot be predicted. As I stated earlier, there was a request for a supplemental of $2.2 billion a few months ago because of the change in the war picture; so if there are any changes that will bring about reduction or acceleration of costs, which is an unpredictable item, it can be taken care of later. I say this to my friend, the gentleman from Illinois.

Mr. YATES. I thank the chairman.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MINSHALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 316, nays 42, answered "present" 1, not voting 72, as follows:

[Roll No. 434]

YEAS—316

Abbitt
Abernethy
Adams
Addabbo
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspinall
Baker
Barrett
Begich
Belcher
Bennett
Bergland
Bevill
Biaggi
Biester
Blanton
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Derwinski
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Hastings
Hathaway
Hays
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Keith
Kemp
Kluczynski
Kyl
Kyros
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Michel
Miller, Calif.

Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mizell
Mollohan
Montgomery
Moorhead
Morgan
Moss
Murphy, Ill.
Myers
Natcher
Nelsen
Nix
O'Hara
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rarick
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Stanton,
  J. William
Stanton,
  James V.
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Wilson,
  Charles H.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—42

Abzug
Anderson,
  Calif.
Aspin
Bingham
Blatnik
Burton
Conyers
Dellums
Drinan
Eckhardt
Edwards, Calif.
Forsythe
Fraser
Green, Pa.
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Karth
Kastenmeier
Koch
Metcalfe
Mikva
Mitchell
Mosher
Nedzi
Obey
O'Konski
Podell
Rangel
Rees
Reuss
Rosenthal
Roybal
Scheuer
Seiberling
Stokes
Vanik
Waldie
Whalen
Wolff
Yates

ANSWERED "PRESENT"—1

Riegle

NOT VOTING—72

Abourezk
Alexander
Anderson,
  Tenn.
Archer
Badillo
Baring
Bell
Betts
Blackburn
Byrne, Pa.
Cabell
Caffery
Chappell
Chisholm
Clark
Clay
Crane
Davis, S.C.
Denholm
Devine
Dow
Dowdy
Dwyer
Edmondson
Eshleman
Evans, Colo.
Fish
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Harvey
Hébert
Hungate
Kee
King
Kuykendall
Link
Lloyd
McClure
McKevitt
McMillan
Macdonald,
  Mass.
Martin
Matsunaga
Monagan
Murphy, N.Y.
Nichols
Pelly
Peyser
Pirnie
Pucinski
Purcell
Reid
Rhodes
Roncalio
Schmitz
Staggers
Steiger, Ariz.
Sullivan
Symington
Thompson, Ga.
Thompson, N.J.
Vander Jagt
Widnall
Yatron

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Thompson of New Jersey against.

Mr. Chappell for, with Mr. Badillo against.

Mr. Murphy of New York for, with Mrs. Chisholm against.

Mr. Reid for, with Mr. Clay against.

Mrs. Sullivan for, with Mr. Abourezk against.

Mr. Staggers for, with Mr. Dow against.

Until further notice:

Mr. Macdonald of Massachusetts with Mr. King.

Mr. Davis of South Carolina with Mr. Gross.

Mr. Monagan with Mr. Crane.

Mr. Nichols with Mr. Harvey.

Mr. Evans of Colorado with Mrs. Dwyer.

Mr. Roncalio with Mr. Kuykendall.

Mr. Yatron with Mr. Eshleman.

Mrs. Hansen of Washington with Mr. Devine.

Mr. Cabell with Mr. Lloyd.

Mr. Clark with Mr. Fish.

Mr. Fuqua with Mr. Betts.

Mr. Gettys with Mr. Archer.

Mr. Giaimo with Mr. McClure.

Mr. Pucinski with Mr. Bell.

Mr. Matsunaga with Mr. Martin.

Mr. Symington with Mr. Pirnie.

Mr. Link with Mr. McKevitt.

Mr. Caffery with Mr. Blackburn.

Mr. Denholm with Mr. Schmitz.

Mr. Purcell with Mr. Pelly.

Mrs. Green of Oregon with Mr. Peyser.

Mr. Hungate with Mr. Rhodes.

Mr. Alexander with Mr. Steiger of Arizona.

Mr. Kee with Mr. Thompson of Georgia.

Mr. Hanna with Mr. Widnall.

Mr. Anderson of Tennessee with Mr. Vander Jagt.

Mr. Edmondson with Mr. Gallagher.

Mr. Haley with Mr. Galifianakis.

Mr. McMillan with Mr. Dowdy.

Mr. REUSS changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: On page 2, line 19, insert: "of which not more than $1,000,000 shall be available for payment of transportation bills for shipment of household goods and for transportation costs already incurred and chargeable to the fiscal year 1971 Military Personnel, Navy appropriations: *Provided*, That such payments shall not result in adjustments in the account of that appropriation."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In Senate amendment number 3, after "appropriation" insert ": *Provided further*, That these funds shall not be available until a report has been submitted as required by Revised Statute 3679 (31 USC 665)."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 7. On page 6, line 4, strike out:

"For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, including administration; medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment), and other measures necessary to protect the health of the Army; care of the dead; chaplains' activities; awards and medals; welfare and recreation; recruiting expenses; transportation of things; communications services; maps and similar data for military purposes; military surveys and engineering planning; repair of facilities; hire of passenger motor vehicles; tuition and fees incident to training of military personnel at civilian institutions; field exercises and maneuvers; expenses for the Reserve Officers' Training Corps and other units at educational institutions, as authorized by law; as follows: for strategic forces, $109,184,000; for general purpose forces, $1,655,990,000; for intelligence and communications, $414,918,000; for airlift and sealift, $44,059,000; for central supply and maintenance, $2,108,448,000; for training operations, $625,825,000; for medical activities, $564,073,000; for general personnel activities, $261,755,000; for administration and associated activities, $378,756,000; and for the support of other nations, $524,242,000; in all: $6,587,250,000, and in addition, $100,000,000 shall be derived by transfer from the Army stock fund. Of the total amount of this appropriation not to exceed $3,453,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payment may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government. Not less than $231,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities.

And insert: "For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, including administration; medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment), and other measures necessary to protect the health of the Army; care of the dead; chaplains' activities; awards and medals; welfare and recreation; recruiting expenses; transportation services; communications services; maps and similar data for military purposes; military surveys and engineering planning; repair of facilities; hire of passenger motor vehicles; tuition and fees incident to training of military personnel at civilian institutions; field exercises and maneuvers; expenses for the Reserve Officers' Training Corps and other units at educational institutions, as authorized by law; and not to exceed $3,453,000 for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; $6,866,619,000, and in addition, $100,000,000 which shall be derived by transfer from the Army Stock Fund, of which not less than $240,000,000 shall be available only for the maintenance of real property facilities."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert the following:

"For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, including administration; medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment), and other measures necessary to protect the health of the Army; care of the dead; chaplains' activities; awards and medals; welfare and recreation; recruiting expenses; transportation services; communications services; maps and similar data for military purposes; military surveys and engineering planning; repair of facilities; hire of passenger motor vehicles; tuition and fees incident to training of military personnel at civilian institutions; field exercises and maneuvers; expenses for the Reserve Officers' Training Corps and other units at educational institutions, as authorized by law; and not to exceed $3,453,000 for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; $6,636,570,000, and in addition, $100,000,000 which shall be derived by transfer from the Army Stock Fund, of which not less than $231,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That the budget estimates for the fiscal year ending June 30, 1974, for the appropriations "Operation and Maintenance, Army", "Operation and Maintenance, Navy", "Operation and Maintenance, Marine Corps", and "Operation and Maintenance, Air Force" shall be submitted on a basis providing for the appropriation of specific sums for the various budget programs and activities, generally in accord with the structure included in H.R. 16593, 92d Congress, as passed by the House of Representatives."

Mr. MAHON (during the reading). Mr. Speaker, this amendment pertains to an adjustment in the appropriation language and not to dollars. I ask unanimous consent that further reading of the motion be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas is recognized.

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Speaker, I want to make an announcement that the House Administration Committee has given me the authority to obtain the services of a lawyer to file an appeal in the Helstoski case on franking in New Jersey.

The Federal judge up there has said that a Member cannot even frank an answer to a letter from a constituent. He has said we can frank farmers' bulletins, but we cannot frank defense bulletins.

It is the most ridiculous decision that I have ever heard. In addition to that, I want to say that I have the staff attorneys of the committee drawing up legislation which I, hopefully, will be able to introduce in the next Congress permitting this gentleman and all his ilk—that is an old Scottish expression—to contribute to their own pension fund—none of them do now—just like we Members of Congress all do.

Then I am having another piece of legislation drafted to have them come up for reconsideration by the Senate every 6 years.

I would just like to say finally that I have inquired into this particular Federal judge, and I am informed that he is the house prostitute of the Federal district attorney of New Jersey, and that he has never rendered a decision that has not been politically motivated.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 23, line 6, strike "$43,500,000" and insert "$38,800,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$33,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 24, line 20, strike "$279,200,000" and insert "$190,400,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$186,800,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 27, line 1, strike "$3,682,140,000" and insert "$3,578,040,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$3,541,340,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: On page 28, line 22, strike "$2,328,400,000" and insert "$2,316,400,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows:

In lieu of the sum proposed, insert "$2,310,900,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55: On page 34, line 22, strike "$435,513.000" and insert "$467,313,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the sum proposed, insert "$435,313,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 89: page 59, insert the following:

SEC. 801. In addition to any other funds authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement, there is hereby authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft	
For aircraft:	
For the Navy and Marine Corps	$134,400,000
For the Air Force	335,500,000
Missiles	
For missiles:	
For the Army	4,300,000
For the Navy	65,300,000
For the Air Force	39,800,000
Other Weapons	
For other weapons:	
For the Army	3,600,000

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter proposed, insert:

SEC. 801. In addition to any other funds authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement, there is hereby authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft	
For aircraft:	
For the Navy and Marine Corps	$134,400,000
For the Air Force	397,500,000
Missiles	
For missiles:	
For the Army	4,300,000
For the Navy	65,300,000
For the Air Force	39,800,000
Other Weapons	
For other weapons:	
For the Army	3,600,000

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 90: On page 59, line 10, insert the following:

SEC. 802. Subsection (a) (1) of section 401 of Public Law 89-367, as amended by section 601(b) of Public Law 92-436, is hereby amended by deleting "$2,500,000,000" and inserting "$2,735,000,000" in lieu thereof.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbred 90 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on the Defense Appropriation bill (H.R. 16593) and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMITTING SUITS TO ADJUDICATE CERTAIN REAL PROPERTY QUIET TITLE ACTIONS

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 216) to permit suits to adjudicate certain real property quiet title actions.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. SISK. Mr. Speaker, reserving the right to object, and I do not expect to object, in view of some specific concerns I have with reference to this matter and its connection with in lieu lands action, which was a bill I authored and became law some years ago, I have only one question to ask of the gentleman if he would answer it.

I find that the Department of the Interior in their initial statement said that they are opposed to the Senate bill and prefer a bill from the Department of Justice. My question goes to the fact that I know the distinguished gentleman from Massachusetts and his committee have substituted language for the Senate bill. My question is this: Is this in fact the text as directed by the Department of Justice rather than the original Senate language?

I yield to the gentleman.

Mr. DONOHUE. The gentleman is correct. The language in the bill now is the language that was submitted by the Department of Justice.

Mr. SISK. I thank my colleague very much. I hope he understands it was of direct concern to me.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 216

An act to permit suits to adjudicate certain real property quiet title actions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The district courts shall have original jurisdiction of any civil action under section 2408a to quiet title to lands claimed by the United States."

SEC. 2. (a) Chapter 58 of title 28, United States Code, is amended by adding after section 1347 of such title the following new section:

"§ 1347a. Real property quiet title actions

"The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

(b) The chapter analysis at the beginning of chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1347 the following new item: "1347a. Real property quiet title actions."

SEC. 3. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409 to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts in the same State, in any of such districts.'

SEC. 4. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to quiet title to an estate or interest in real property, other than security interests and water rights, in which an interest adverse to plaintiff is claimed by the United States. This section does not apply to trust or restricted Indian lands, to any lands claimed by Indian or Native people based upon aboriginal right, title, use or occupancy, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 308 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section, which possession or control existed at least ninety days prior to the commencement thereof, pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, upon due application to the court and showing that the United States desires to condemn said real property or any interest therein, or portion thereof, the court shall enter an order continuing said possession or control pending filing of such condemnation action within ninety days thereafter.

"(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by decree of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1347a of this title. If such jurisdiction ceases, and there are other defendants in said action, the court shall remand the case to the appropriate State court of general jurisdiction where the real property is located as though remand were under section 1447 of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless the action is begun within six years after the claim for relief first accrues or within two years after the effective date of this Act, whichever is later. The claim for relief shall be deemed to have accrued upon actual knowledge of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item: "2409a. Real property quiet title actions."

With the following committee amendment:

Strike all after the enacting clause and insert the following:

That section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

Sec. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

(d) Any civil action under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts, in any of such districts.

SEC. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

§ 2409a. Real property quiet title actions

(a) The United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest, other than a security interest or water rights. This section does not apply to trust or restricted Indian lands, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954 as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, the United States nevertheless may retain such possession or control of the real property or of any part thereof as it may elect, upon payment to the person determined to be entitled thereto of an amount which upon such election the district court in the same action shall determine to be just compensation for such possession or control.

(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by order of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1346(f) of this title.

(e) A civil action against the United States under this section shall be tried by the court without a jury.

(f) Any civil action under this section shall be barred unless it is commenced within twelve years of the date upon which it accrued. Such action shall be deemed to have accrued on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States.

(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession.

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item: "2409a. Real property quiet title actions."

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COURT RULING ON FRANKED MAIL

(Mr. HELSTOSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HELSTOSKI. Mr. Speaker, my office has been deluged with calls from Members of Congress. May I respectfully request you wait until I receive the opinion which has been delayed. I will then insert it in the RECORD. I have just received from the Honorable PETER RODINO, whose administrative assistant, in a telephone conversation with the clerk of the court of Judge Leonard Garth's court, obtained a memorandum of the court's opinion. As of this moment, 4:30, the law clerk to Mr. Alfred Porro, my attorney, sat in the judge's office from 9 o'clock this morning until this moment, and still has received neither the opinion nor the transcript.

I would like to read into the RECORD—the interpretation will have to be made by each Member—the memorandum given to me by the Honorable PETER RODINO:

(Action by an opponent of Congressman Helstoski of the Ninth District of New Jersey—Civil Action 1571–72 of the District of New Jersey before Judge Leonard I. Garth.)

Following categories were not enjoined:

Under 39 U.S.C. 3213 agricultural reports were permitted.

Under 3212 of the same title anything copied or reprinted from the Congressional Record.

Under section 3211 any public document printed by order of Congress was allowed to be distributed by Congressmen with this proviso:

1. any reprint of such a public document reprinted by the Congressman's own expense was not permitted;

2. the court had before it a document printed by Executive order and not necessarily by order of Congress. No decision was reached whether this was permissible.

Section 3210:

1. Deals with mail matter permitted to be sent out by Congressmen to government officials weighing less than four ounces. "Government official" meant "U.S. official."

2. Weighing less than four ounces to any person on official or departmental business. Judge determined that that did not allow unsolicited mailings to persons other than federal officials.

Basis of the decision:

1970 Act is derived from and based on the Act of January 12, 1895. That Act can be cited as 28 Stat. 622, Section 85 of the Act was the forerunner of both Sections 3210 and 3211.

25 Congressional Record, 2748 and 2749—House Debate October 20, 1893, used for determining definition of "Government Official."

Judge determined that the 1895 statute, although amended, has never been changed in scope.

Two opinions of the Attorney General: 16 Opinion Attorney General 511 of 1880, 17 Opinion Attorney General 264 of 1882.

Interpretation of "government official", 1895 Act controlling, found that the term "government official" was defined in House Miscellaneous Document No. 90, 52nd Congress, Second Session, printed in 1893, entitled "Postal Laws and Regulations of the U.S.A.", p. 157 interpreting the regulations of the Act of March 3, 1891, Section 3.

Statute was amended in 1898 raising the weight limit from one to two, and later from two to four.

Congressman Helstoski had reprinted the Declaration of Independence on facsimile parchment. Judge determined that this was not a reprint of a public document and was not permitted under Section 3211.

The foregoing was received by telephone from the law clerk to Judge Garth. Transcript has not been printed nor are the opinion or the order ready.

By subsequent telephone conversation with Judge Garth's law clerk, further detail was supplied as follows:

Several items were involved in the law suit.

The following were deemed permitted:

1. Yearbook of Agriculture (under Section 3212).

2. A document printed by the Order of the House.

3. Results of a voter questionnaire which had appeared in the Congressional Record.

4. A speech by the Congressman concerning New Jersey participation in the drafting of the Declaration of Independence (the Declaration itself on facsimile parchment which was attached thereto was regarded as not covered by the statute).

The following article was not ruled upon:

50,000 copies of a document printed by Executive Order entitled "Consumer Product Information." Since this had been fully distributed and there were no damages the Court did not reach a decision on this point as to whether documents printed by Executive Order are permissible under 3211.

The following were not permitted:

1. Report of the "Consumer Product Information" reprinted at the Congressman's own expense.

2. A questionnaire and voter opinion survey printed at the Congressman's expense.

3. Brochure on the drug problem printed at the Congressman's expense.

4. Two reports distributed to state and local officials who were deemed not to be "government officials" within the meaning of the statute.

The opinion will show that in the view of the Court the Congressman acted in good faith based on advisory opinions he had received from Congressional committees or members thereof and that his activities were not electioneering within the meaning of *Rising* v. *Brown* 313 F. Supp. 824 (Central District of California).

The judgment and interpretation will, of course, be each Member's own. However, it is apparent that the opinion is replete with error and contradiction.

This seems to have serious widespread ramification and touches on serious constitutional questions—the free speech and debate clause and the separation of powers.

How long will Congress permit the erosion of its delegated responsibilities by the intrusion of the executive and/or the judiciary?

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 8756. An act to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes;

H.R. 13067. An act to provide for the administration of the Mar-A-Lago National National Historic Site, in Palm Beach, Fla.;

H.R. 14128. An act for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar; and

H. Con. Res. 719. Concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 7117.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15657) entitled "an act to strengthen and improve the Older Americans Act of 1965, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15641) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4018) entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11773) entitled "An act to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3337. An act to amend the Small Business Investment Act of 1958, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 14424. An act to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes.

CONFERENCE REPORT ON H.R. 16754, MILITARY CONSTRUCTION, APPROPRIATIONS, 1973

Mr. SIKES. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 11, 1972.)

Mr. SIKES (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, we bring to the House this afternoon the conference report, House Report No. 92-1578, on H.R. 16754 making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The total amount recommended by the conferees, as contained in the conference report and in the amendments we propose to submit, represents a reduction of $337,981,000 from the revised budget request. It is $42,619,000 over the House bill, and $14,323,000 below the Senate amount.

We feel that the conference recommendations are sound. Every conferee signed the report, and none made reservations. Part of the increase above the House bill is due to projects requested by the Department of Defense. This includes $1,686,000 to replace facilities destroyed by fire at the Naval Air Test Center, Patuxent River, Md. Also urgently needed construction to take advantage of technological advances, is recommended at Kirtland Air Force Base, N. Mex., where an armament research test facility is provided at a cost of $5,656,000. Finally $1.9 million of planning funds, which are permanently authorized under 31 U.S.C. 723, are approved to begin planning of facilities for a Uniformed Services University of the Health Sciences as envisioned under H.R. 2.

There are no funds herein for the war in Vietnam and no new money for Safeguard.

The conferees also reinstated some $4 million of the House's $10 million reduction in the Navy's pollution abatement facilities and restored a House cut of $837,000 in the Army's pollution abatement program overseas.

I would point out that the amount recommended represents a reduction of nearly 13 percent below the revised budget request and 23 percent below the original budget request for fiscal year 1973.

You may also note that, although this year's recommendation represents an increase of $287,638,000 over the amount of new obligational authority allowed in last year's military construction bill, which is carried in the table at the end of our conference report, the increase over the comparative amount of new obligational authority allowed for military construction, family housing, and homeowners assistance in fiscal year 1972 is $178,068,000. This is because the appropriation for Safeguard construction and family housing was contained in the Department of Defense Appropriation Act, 1972.

The committee takes particular pride in the fact that this bill makes the most significant progress yet toward providing adequate living quarters for military families and for bachelor military personnel.

All in all, I feel we have a sound recommendation here which supports only the essential construction needs of the military.

Mr. Speaker, I should like to include as part of my statement a table showing the comparative statement of new budget—obligational—authority for 1972 and budget estimates and amounts recommended in the bill for 1973:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1972 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1973

[In dollars]

Item	New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1972	Conference action compared with— Budget estimates of new (obligational) authority, fiscal year 1973	Conference action compared with— New budget (obligational) authority recommended in House bill	Conference action compared with— New budget (obligational) authority recommended in Senate bill
Military construction, Army	[1] 438,316,000	[2] 619,200,000	405,264,000	421,879,000	413,955,000	−24,361,000	−205,245,000	+8,691,000	−7,924,000
Military construction, Navy	355,500,000	554,200,000	500,871,000	520,612,000	517,830,000	+162,330,000	−36,370,000	+16,959,000	−2,782,000
Military construction, Air Force	[3] 289,851,000	[4] 357,200,000	250,483,000	269,169,000	265,552,000	−24,299,000	−91,648,000	+15,069,000	−3,617,000
Military construction, Defense agencies	[3] 14,139,000	48,200,000	34,804,000	36,704,000	36,704,000	+22,565,000	−11,496,000	+1,900,000	
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Military construction, Army National Guard	29,000,000	40,000,000	40,000,000	40,000,000	40,000,000	+11,000,000			
Military construction, Air National Guard	10,600,000	10,600,000	16,100,000	16,100,000	16,100,000	+5,500,000	+5,500,000		
Military construction, Army Reserve	33,500,000	38,200,000	38,200,000	38,200,000	38,200,000	+4,700,000			
Military construction, Naval Reserve	10,900,000	16,000,000	20,500,000	20,500,000	20,500,000	+9,600,000	+4,500,000		
Military construction, Air Force Reserve	6,581,000	7,000,000	7,000,000	7,000,000	7,000,000	+419,000			
Total, military construction	1,188,387,000	1,690,600,000	1,313,222,000	1,370,164,000	1,355,841,000	+167,454,000	−334,759,000	+42,619,000	−14,323,000
Family housing, defense	[5] 933,955,000	[6] 1,067,268,000	1,064,046,000	1,064,046,000	1,064,046,000	+130,091,000	−3,222,000		
Portion applied to debt reduction	−94,152,000	−96,484,000	−96,484,000	−96,484,000	−96,484,000	−2,332,000			
Subtotal, family housing	839,803,000	970,784,000	967,562,000	967,562,000	967,562,000	+127,759,000	−3,222,000		
Homeowners assistance fund, defense	7,575,000					−7,575,000			
Grand total, new budget (obligational) authority	2,035,765,000	2,661,384,000	2,280,784,000	2,337,726,000	2,323,403,000	+287,638,000	−337,981,000	+42,619,000	−14,323,000

[1] Excludes $98,500,000 contained in Defense Appropriation bill for Safeguard construction.

[2] Budget estimate of $1,009,200,000 amended by H. Doc. 92-321 to delete $390,000,000 for Safeguard construction.

[3] Reflects $662,000 transferred to military construction, Air Force from military construction, Defense agencies.

[4] Budget estimate of $317,200,000 amended by H. Doc. 92-321 to add $40,000,000 for satellite basing.

[5] Excludes $11,070,000 contained in Defense Appropriation bill for Safeguard family housing.

[6] Budget estimate of $1,073,684,000 amended by H. Doc. 92-321 to delete $6,416,000 for Safeguard family housing.

Mr. Speaker, I am happy to yield to the distinguished gentleman from Michigan (Mr. CEDERBERG) the ranking minority member of the subcommittee.

Mr. CEDERBERG. I appreciate the gentleman's yielding.

Mr. Speaker, there is nothing I can add to what has been said about the conference report by the chairman.

I have no requests for time.

Mr. SIKES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The **SPEAKER.** The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DELLENBACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 333, nays 10, not voting 88, as follows:

[Roll No. 435]

YEAS—333

Abbitt
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashley
Aspin

Aspinall
Baker
Barrett
Begich
Belcher
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Boggs

Boland
Bolling
Bow
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.

Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Hastings
Hathaway
Hawkins
Hays
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Keating
Keith
Kemp
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McDade
McEwen
McFall
McKay
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rarick
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Scheuer
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki
Zion

NAYS—10

Abzug
Conyers
Dellums
Drinan
Harrington
Hechler, W. Va.
Kastenmeier
Rangel
Rosenthal
Zwach

NOT VOTING—88

Abernethy
Abourezk
Anderson, Tenn.
Annunzio
Archer
Ashbrook
Badillo
Baring
Bell
Betts
Blackburn
Blatnik
Brotzman
Byrne, Pa.
Cabell
Caffery
Celler
Chappell
Chisholm
Clark
Clay
Crane
Davis, S.C.
Denholm
Devine
Dickinson
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Eshleman
Evans, Colo.
Fish
Ford, Gerald R.
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Harvey
Hébert
Hungate
Kee
King
Kuykendall
Link
Lloyd
McClure
McDonald, Mich.
McKevitt
McMillan
Macdonald, Mass.
Martin
Matsunaga
Miller, Calif.
Mills, Md.
Monagan
Murphy, N.Y.
Nichols
Patman
Pelly
Pettis
Peyser
Pirnie
Pucinski
Purcell
Reid
Roncalio
Schmitz
Schneebeli
Scott
Staggers
Steiger, Ariz.
Sullivan
Symington
Thompson, Ga.
Thompson, N.J.
Vander Jagt
Whitehurst
Widnall
Wydler
Yatron

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Gerald R. Ford.

Mr. Annunzio with Mr. Devine.

Mrs. Sullivan with Mrs. Dwyer.

Mr. Staggers with Mr. Gross.

Mr. Murphy of New York with Mr. Pirnie.

Mr. Chappell with Mr. Archer.

Mr. Reid with Mr. Fish

Mr. Badillo with Mr. Pelly.

Mrs. Chisholm with Mr. Byrne of Pennsylvania.

Mr. Dow with Mr. Peyser.

Mr. Abourezk with Mr. Pettis.

Mr. Clay with Mr. Miller of California.

Mr. Macdonald of Massachusetts with Mr. Kuykendall.

Mr. Davis of South Carolina with Mr. Schmitz.

Mr. Monagan with Mr. Eshleman.

Mr. Evans of Colorado with Mr. Ashbrook.

Mr. Roncalio with Mr. Lloyd.

Mrs. Hansen of Washington with Mr. Bell.

Mr. Gettys with Mr. Betts.

Mr. Giaimo with Mr. Schneebeli.

Mr. Link with Mr. Harvey.

Mr. Symington with Mr. Crane.

Mr. Caffery with Mr. Blackburn.

Mr. Purcell with Mr. Brotzman.

Mrs. Green of Oregon with Mr. Martin.

Mr. Hungate with Mr. McClure.

Mr. Edmondson with Mr. McDonald of Michigan.

Mr. Haley with Mr. Dickinson.

Mr. Hanna with Mr. Vander Jagt.

Mr. Kee with Mr. McKevitt.

Mr. Denholm with Mr. Mills of Maryland.

Mr. Hébert with Mr. King.

Mr. Nichols with Mr. Scott.

Mr. Matsunaga with Mr. Steiger of Arizona.

Mr. Yatron with Mr. Thompson of Georgia.

Mr. Blatnik with Mr. Whitehurst.

Mr. Anderson of Tennessee with Mr. Pucinski.

Mr. Abernethy with Mr. Patman.

Mr. Baring with Mr. Gallagher.

Mr. Cabell with Mr. Galifianakis.

Mr. Clark with Mr. Wydler.

Mr. Celler with Mr. Widnall.

Mr. Fuqua with Mr. McMillan.

Mr. Eilberg with Mr. Dowdy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: On page 2, line 4, strike out "$405,264,000" and insert "$421,879,000".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$413,955,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: On page 2, line 14, strike "$500,871,000" and insert in lieu thereof "$520,612,000".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$517,830,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: On page 2, line 22, strike out "$250,483,000" and insert "$269,169,000".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$265,552,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the amendments under consideration in connection with the conference report on the military construction appropriation bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

RESIGNATION FROM COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following resignation from the Committee on Public Works:

WASHINGTON, D.C.,
October 12, 1972.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby resign from

the House Committee on Public Works. It has been a pleasure to have served.

Very truly yours,

CHARLES B. RANGEL,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

RESIGNATION FROM COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER laid before the House the following resignation from the Committee on Merchant Marine and Fisheries:

WASHINGTON, D.C.,
October 11, 1972.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation from the Committee on Merchant Marine and Fisheries.

It has indeed been a pleasure to serve on the Committee.

With kindest regards, I am,

Sincerely yours,

SPEEDY O. LONG,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ELECTION OF MEMBERS TO STANDING COMMITTEES

Mr. ULLMAN. Mr. Speaker, on behalf of the gentleman from Arkansas (Mr. MILLS) I offer a privileged resolution (H. Res. 1160) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1160

Resolved, That the following-named Members be, and they are hereby, elected members of the following standing committees of the House of Representatives:

Committee on the Judiciary: Charles B. Rangel, New York;

Committee on Merchant Marine and Fisheries: John Breaux, Louisiana;

Committee on Public Works: John Breaux, Louisiana.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 14989, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1973

Mr. SIKES. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 10, 1972.)

Mr. SIKES (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, the bill (H.R. 14989), making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, was agreed to by the conferees. It contains a total of $4,681,017,850 in new obligational authority. It is a very complex appropriation measure dealing with 19 separate departments and agencies of the Government.

The bill contains an additional $233,312,000 of contract authorization. The bill is $93.9 million above the bill as originally passed by the House. It is $139.7 million below the Senate bill. Estimates totaling $16 million in new budget amendments were considered by the Senate which had not been considered by the House. The bill is $23 million below the total of the budget estimates.

Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a table giving details by department and agency the conference action.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The table follows:

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES, 1973

[In dollars]

Department or agency	New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with—			
						New budget (obligational) authority, fiscal year 1972	Budget estimates of new (obligational) authority, fiscal year 1973	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Department of State	510, 802, 360	569, 848, 000	524, 825, 750	570, 460, 169	553, 621, 750	+42, 819, 390	−16, 226, 250	+28, 796, 000	−17, 048, 419
Department of Justice	1, 574, 602, 000	1, 776, 225, 000	1, 765, 578, 000	1, 765, 578, 000	1, 765, 578, 000	+190, 976, 000	−10, 647, 000		
Department of Commerce	1, 274, 609, 000	1, 332, 925, 000	1, 309, 074, 000	1, 472, 421, 000	1, 363, 919, 500	+89, 310, 500	+30, 994, 500	+54, 845, 500	−108, 501, 500
By transfer				(20, 000, 000)	(20, 000, 000)	(+20, 000, 000)	(+20, 000, 000)	(+20, 000, 000)	
The Judiciary	176, 104, 750	199, 531, 600	186, 753, 600	191, 499, 600	188, 408, 600	+12, 303, 850	−11, 123, 000	+1, 655, 000	−3, 091, 000
American Battle Monuments Commission	3, 367, 000	3, 370, 000	3, 370, 000	3, 370, 000	3, 370, 000	+3, 000			
Arms Control and Disarmament Agency	9, 116, 000	10, 253, 000	10, 000, 000	10, 253, 000	10, 000, 000	+884, 000	−253, 000		−253, 000
Commission on American Shipbuilding	450, 000	579, 000	550, 000	550, 000	550, 000	+100, 000	−29, 000		
Commission on Civil Rights	3, 816, 000	4, 820, 000	4, 820, 000	4, 820, 000	4, 820, 000	+1, 004, 000			
Commission on International Radio Broadcasting	32, 225, 000	38, 795, 000	38, 795, 000	38, 795, 000	38, 795, 000	+6, 570, 000			
Equal Employment Opportunity Commission	23, 000, 000	46, 434, 000	25, 110, 000	42, 896, 000	32, 000, 000	+9, 000, 000	−14, 434, 000	+6, 890, 000	−10, 896, 000
Federal Maritime Commission	5, 300, 000	5, 679, 000	5, 679, 000	5, 679, 000	5, 679, 000	+379, 000			
Foreign Claims Settlement Commission	850, 000	793, 000	743, 000	743, 000	743, 000	−107, 000	−50, 000		
National Commission on Fire Prevention and Control	300, 000	476, 000	450, 000	450, 000	450, 000	+150, 000	−26, 000		
National Tourism Resources Review Commission	300, 000	400, 000	400, 000	400, 000	400, 000	+100, 000			
Small Business Administration	469, 487, 000	498, 770, 000	498, 530, 000	498, 530, 000	498, 530, 000	+29, 043, 000	−240, 000		
Special representative for trade negotiations	814, 000	1, 160, 000	925, 000	1, 100, 000	1, 000, 000	+186, 000	−160, 000	+75, 000	−100, 000
Subversive Activities Control Board	450, 000	706, 000	450, 000		350, 000	−100, 000	−356, 000	−100, 000	+350, 000
Tariff Commission	5, 299, 000	6, 353, 000	5, 800, 000	6, 160, 000	6, 000, 000	+701, 000	−353, 000	+200, 000	−160, 000
United States Information Agency	199, 098, 000	207, 209, 000	205, 251, 000	206, 803, 000	206, 803, 000	+7, 705, 000	−406, 000	+1, 552, 000	
Total, new budget (obligational) authority	4, 289, 990, 110	4, 704, 326, 600	4, 587, 104, 350	4, 820, 717, 769	4, 681, 017, 850	+391, 027, 740	−23, 308, 750	+93, 913, 500	−139, 699, 919
By transfer				(20, 000, 000)	(20, 000, 000)	(+20, 000, 000)	(+20, 000, 000)	(+20, 000, 000)	
Appropriations to liquidate contract authorizations	(240, 544, 000)	(233, 312, 000)	(233, 312, 000)	(233, 312, 000)	(233, 312, 000)	(−7, 232, 000)			

Mr. SIKES. Mr. Speaker, a question has been raised about the Ervin amendment which was deleted from this bill in conference.

The FBI has been furnishing these identification records since 1937. Many States require that the fingerprint records be submitted before licenses are granted, before individuals are admitted to the bar, before individuals are employed by State and local governments, also in certain educational, banking institutions, and hospitals.

The Ervin amendment would prohibit the FBI from furnishing the record unless the disposition is shown. For example, here is the record of an individual who has an arrest record for burglary, theft, contributing to the sexual delinquency of a child, possession of marihuana, and so forth. Under the Ervin amendment this information could not be furnished since final deposition has not been submitted to the FBI.

I am sick and tired of all the clamor about the rights of the criminals.

It is high time that we paid a little more attention to the rights of the law-abiding citizens in this country.

The FBI says they cannot furnish this service under the Ervin amendment. If you want this service continued you should vote with your conferees.

TRIBUTES TO MR. FRANK T. BOW

Mr. SIKES. Mr. Speaker, I am going to yield to the distinguished ranking minority member of this subcommittee and also of the entire Committee or Appropriations, but before I do that, let me call attention to the fact that this outstanding Member of Congress, who is dearly beloved in the House, was appointed to the Committee on Appropriations in the 83d Congress, 1st session, 1953. He was assigned to the Subcommittee on State, Justice and Commerce, the Judiciary and related agencies in the same year and in the same session.

This is his 20th year of dedicated and very capable service on both the full committee and the subcommittee. This most distinguished and able Member enjoys the utmost confidence and respect of the membership on both sides of the aisle, we are sorry to see him leave this House but we know that he will continue to serve his country well in his new capacity as Ambassador to Panama.

I am happy to yield to the distinguished gentleman from Ohio (Mr. Bow).

Mr. BOW. I thank the gentleman for yielding and I thank him for his very kind remarks.

These have been 20 very happy years on this subcommittee, for 18 of which I have been the ranking minority Member, and most of the time working with the distinguished gentleman from New York (Mr. Rooney) as the chairman of the subcommittee. It has been a great pleasure to work with him.

I can assure every Member of the House that I leave with regret, leaving the friendships I have made here, friendships on both sides of the aisle. It is difficult to say what one really believes and feels at a time like this. It is the last time I will handle this regular appropriation bill, which will be in the hands of a very capable man from now on, the gentleman from Michigan (Mr. Cederberg).

May I say, Mr. Speaker, these have been 22 glorious years, with 20 years on this committee.

I do thank the gentlman from Florida for his kind remarks and the things he has had to say.

May I say briefly, so far as this bill is concerned, I believe it is one of the best bills we have brought in. It is $23 million under the budget and $139 million under the Senate bill. It is a good bill. I believe it is a bill every Member here can support.

Mr. SIKES. Mr. Speaker, I yield to my dear friend the great and able gentleman from New York, the chairman of the subcommittee (Mr. Rooney).

Mr. ROONEY of New York. Mr. Speaker, I am grateful for this opportunity to join in these remarks with respect to a very, very distinguished gentleman from Ohio. Frank Bow is a man I have come not only to know but also to love.

When one finds, after not so long, that when a fellow Member in his important official business with him, the people's business, gives his word and that word can be depended upon the same as a bank note, one then finds a sterling Member of the House. Such a man is Frank Bow.

Frank Bow and I over those 20 years have skinned many a cat. We did succeed in getting our will exerted once in a while against the wishes of—what should one say?—a spirited few. But we did get along.

To this day Frank and I have never had an argument, ever since a short one on the first day we met. How did we meet? We met in the 80th Congress at the counsel table of this committee. Frank Bow was the counsel to the Forest Harness Subcommittee of the House Government Operations Committee. He took it upon himself to travel over to the House Committee on Appropriations, to dictate to the Committee on Appropriations on how to do things. Members can see the point. As dear old Mike Kirwan would say, "see the point I mean."

We settled it all the same day. As a matter of fact, we settled it all before we left the room. We have been the closest friends and our wives have been the closest friends ever since, over all the intervening years.

It is really sad to think that the people of the United States will lose the services of a man of the ability and character of Frank Bow of Ohio.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. Mr. Speaker, I want to join my colleagues on my subcommittee in paying respect to Frank Bow and just say this: That the subcommittee will not be the same and this House is not going to be the same without Frank Bow.

Frank Bow has made such a contribution to the activities of our committee that he just cannot be replaced. There is not going to be any replacement for Frank Bow, because someone will try to fill his shoes, and I do not know that anyone can.

I guess maybe I am going to have to be the cat skinner that the chairman referred to if we are going to have another one on the committee.

Mr. Speaker, Frank Bow has, as we all know, been one of the greatest Members that we have had, and it has been a real pleasure for me to serve with him.

Certainly we wish him well in his new venture, and we know very well he is going to do an excellent job there for his country, just as he has in serving here in the Congress.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from West Virginia (Mr. Slack).

Mr. SLACK. Mr. Speaker, I wish to thank the gentleman for yielding.

Mr. Speaker, I, too, rise to pay tribute to the distinguished and able gentleman from Ohio (Mr. Bow).

It has indeed been a great privilege for me to know him and to work with him during the past 12 years as a member of this committee. I have the deepest respect and admiration for him. He is one of the most honorable and dedicated men that I have had the privilege of knowing.

I wish him many years of happy, healthful, and pleasant retirement.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Georgia (Mr. Flynt).

Mr. FLYNT. Mr. Speaker, I wish to thank the chairman for yielding to me at this time in order that I, too, may pay my respects, my deepest respects, to the gentleman from Ohio (Mr. Bow).

I, to, have known Frank Bow since I was first elected to the House of Representatives. I have known him more intimately during the 11 years that we have served together on the Committee on Appropriations and during the 8 years during which we have served on this very special committee.

I know of the dedication that Frank Bow has demonstrated not only in his service on this subcommittee but in every other capacity in which he has served as a Member of the House of Representatives.

In my opinion, Mr. Speaker, Frank Bow has reflected credit upon the highest traditions of public service; he has reflected credit upon the people of his district who have continuously elected him to Congress since he first came; he has reflected credit upon the State of Ohio from which he comes. We have enjoyed our service with him.

We wish him every happiness and success in the new fields of responsibility and of the Government service upon which he is about to embark.

We know that as ambassador to the Republic of Panama, Ambassador Bow will serve his country in that capacity as he has served his district, his State, and our Nation as a Member of this body.

We bid you, Frank Bow, an affectionate "until we meet again."

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. SIKES. Mr. Speaker, I am delighted to yield to the distinguished gentleman from North Dakota (Mr. Andrews).

Mr. ANDREWS of North Dakota. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, may I add, as the junior member of this subcommittee, that my friend Frank Bow asked me if I would substitute, begin substituting on this committee, some 8 years ago. I became a permanent member of this committee some 6 years ago, and this certainly shows that seniority can do, because it is 6 years now and I am still the junior member of the subcommittee.

At the time Frank Bow asked me to substitute on the committee, he said to me, "Mark, you will enjoy the committee's work, and you will enjoy even more the men on the subcommittee."

Mr. Speaker, what he said was so very true. I do not know of any more harmonious, hard-working group.

I know of no man who has a greater record of service and love for America than Frank Bow, and I suppose part of that comes from the fact that he married a wonderful person by the name of Caroline, who was born in Cesselton, N. Dak., which is 7 miles away from my home in Mapleton.

So, Frank, all that you are and a great part of what you are you owe to Caroline and that great North Dakota influence.

I am privileged to have been able to serve with you.

Mr. SMITH of Iowa. Mr. Speaker, I also want to extend my best wishes and pay my respect to the gentleman from Ohio. I have served for 8 years on the subcommittee which handles appropriations for the Departments of Justice, Commerce, and State. During all that time, the gentleman from Ohio has been the ranking member. He has been diligent, attends regularly and considers each of the many items in this bill very carefully. He knows the bill and is direct and forthright. He has been very attentive and his counsel has been important. He will be missed after he takes his well deserved retirement.

Mr. SIKES. Mr. Speaker, I am pleased to yield to the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Florida for yielding to me at this time.

Mr. Speaker, I want to refer to page 7 of the conference report, title II, Department of Justice, amendment No. 9.

This particular amendment actually authorizes the Federal Bureau of Investigation to furnish criminal records, rap sheets, to officials of Federal chartered or insured banking institutions and to furnish these records also to State and local governments for the purposes of employment or licensing.

The problem with this amendment, Mr. Speaker, is that it is in violation of rule XXI, section 2, of the House Rules and Manual which provides that no appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law.

This activity by the Federal Bureau of Investigation, while it certainly might be commendable, has never been authorized by the Committee on the Judiciary.

When this provision was in the original appropriation bill I raised a point of order, and it was sustained. The bill went on to the Senate where Senator Ervin remarked about the same thing and mentioned the same problem; namely, that the FBI was doing this work without any legislative authorization. Senator Ervin did not just make a point of order against the authorization in the appropriation bill, but he added to the bill—and it was approved in the Senate—this language:

> Provided, however, that the FBI is hereby forbidden to furnish officials of Federally chartered or insured banking institutions or officials of any State or local government any record that is not a conviction record.

And not just an arrest record, because all of the evidence is that many, many of these arrest records sent out by the FBI are not complete; the man or woman might have been acquitted or it might have been a case of mistaken identity.

So Senator Ervin thought, to prevent any injustices in sending out these criminal records, that the record sent out should be a conviction record and not just an arrest record.

This work has been done by the FBI for a number of years, but it was stopped by the U.S. District Court in Washington, D.C., on June 15, 1971, in the case of Menard against Mitchell, and Judge Gesell pointed out in his decision that this was work being done by the FBI that had never been authorized by the Congress and that the Committee on Appropriations had been furnishing money but the appropriation had been improper.

The judge also pointed out, and I quote him specifically:

> The Bureau needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards. It is not the function of the court to make these judgments, but the court must call a halt until the legislature acts.

What the House of Representatives should have done after the decision and what the Department of Justice should have done and the FBI should have done and the Judiciary Committee should have done was immediately to hold hearings on this particular issue, and the Department of Justice should have sent up a bill with the suggestion that the Committee on the Judiciary hold hearings and decide whether or not this would be an appropriate work for the FBI and whether or not certain safeguards should be built into the work if it was authorized.

The Bureau never sent up a bill. The administration did not send up a bill. Instead, they took—and I must describe it as a rather devious route—of going to the Committee on Appropriations and getting again the authorization put into an appropriation bill. This is done at a time when the Committee on the Judiciary is holding hearings in my own subcommittee, Subcommittee No. 4, of which I am chairman, on arrest records, but also having to do, of course, with privacy. We expect next year to come out with a bill that will adequately handle this particular subject.

Mr. Speaker, I am not going to make any motion to recede and accept the Senate version. I only took this time to point out to the Members that the Committee on the Judiciary is displeased with what has been going on in this particular area, and we intend to rectify it early next year.

Mr. Speaker, I certainly do thank the gentleman from Florida (Mr. Sikes) for yielding to me at this time.

Mr. SIKES. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Virginia (Mr. Downing).

Mr. DOWNING. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I, too, wish the gentleman from Ohio, Frank Bow, the best of everything. In my judgment the gentleman is one of the ablest Members of the U.S. Congress.

Mr. Speaker, I would like to address a question to my good friend and colleague, Mr. Sikes, with respect to the liner SS *United States*, which was the flagship of the U.S.-flag passenger fleet.

As you know, the House Merchant Marine and Fisheries Committee reported out a bill to authorize the sale of five U.S.-flag passenger vessels to foreign interests. This highly controversial bill was signed by the President on May 16, 1972, and is designated Public Law 92-296. Under section 2 of this law, the Secretary of Commerce is authorized and directed to purchase the steamship *United States* for lay-up in the National Defense Reserve Fleet and operation for the account of any agency or department of the U.S. Government and/or for sale or charter to a qualified operator for operation under the American flag. Unfortunately, no time for purchase was set out in the law. Thus, United States Lines finds themselves with the liner still under their ownership, costing them a million dollars a year in lay-up costs, and the Maritime Administration lacks funds for the specific purpose of purchasing this vessel.

As the gentleman knows, there is an authorization and appropriation of $30 million for the Maritime Administration to purchase vessels for the Reserve Fleet. This sum was included in the 1973 fiscal year authorization of appropriations. I wish we could have an expression from the gentleman for the record that part of these funds may be used for the Government's purchase of the SS *United States* as expeditiously as possible.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, in response to the inquiry of the gentleman from Virginia let me say that the question of the purchase of the liner, *United States*, was not dealt with specifically but I can tell my good friend, the gentleman from Virginia, that there is money in the bill which could be used for that purpose, and that the committee certainly has no objection to it being done.

Mr. ROONEY of New York. I concur.

Mr. DOWNING. It is the opinion of the gentleman that this money can be used for that purpose?

Mr. SIKES. It is my opinion the money can be used for that purpose.

Mr. BOW. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Ohio.

Mr. BOW. Mr. Speaker, I should like to confirm what the gentleman from Florida (Mr. SIKES) has said, and that is that in my opinion also there is money in the bill that could be used for the purchase of the ship.

Mr. DOWNING. I thank the gentleman.

Mr. RARICK. Mr. Speaker, the conference report on appropriations for State, Justice, and Commerce, the Judiciary, and related agencies was too padded when it originally passed the House. Now that it has returned from conference, almost $100 million higher, it does not appear any more palatable.

This is a real Christmas tree bill with everyone's friendly bureaucrat being taken care of. The giveaways run the gauntlet all the way from the United Nations subsidy to arms control and disarmament, including such "necessary" programs as the Equal Employment Opportunity Commission, Law Enforcement Assistance Administration, regional government development programs, and $14.5 million to pay the "free—un-free" lawyers being trained for the new national socialist bar association. Socialized legal practice may not be so bad for some, since last night's paper reported one of the local barristers had been able to recover $50,000 in taxpayers' fees under the program.

In fact, only one appropriation was lowered in conference from what was contained in the House-passed bill. The salaries and expenses for the Subversive Activities Control Board were cut from $450,000 to $350,000. When the average American compares $350,000 for the Subversive Activities Control Board to $33,750,000 for the Equal Employment Opportunity Commission, he might better understand why we have the problems which plague our land.

Earlier this week during the debt ceiling debate we heard all kinds of oratorical comments on fiscal responsibility and the concern of the taxpayers for prudent use of their hard earned contributions. This $4.5 billion boondoggle suggests that the fiscal responsibility charade did not catch on.

It is said that only through compromise can legislation be enacted. This may be so, but why must the taxpayers and the people be the ones who must give up the most in every compromise?

To the taxpayers, compromise has only meant how much more of our liberty and our money must we surrender this time.

I cannot, in good conscience, weed out the good from the bad, the necessary from the unnecessary appropriations; therefore, I am constrained to cast my people's vote against the adoption of this conference report.

Mr. SIKES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DELLENBACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members and the Clerk will call the roll.

The question was taken; and there were—yeas 333, nays 3, not voting 95, as follows:

[Roll No. 436]

YEAS—333

Abbitt
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashbrook
Ashley
Aspin
Aspinall
Baker
Barrett
Begich
Belcher
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Conyers
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Dickinson
Diggs
Dingell
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Hall
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Harsha
Hastings
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Keith
Kemp
Kluczynski
Koch
Kyl
Kyros
Landrum
Leggett
Lennon
Lent
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McDade
McEwen
McFall
McKay
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Scheuer
Schneebeli
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Stanton, James V.
Steele
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—3

Latta
O'Konski
Rarick

NOT VOTING—95

Abernethy
Abourezk
Anderson, Tenn.
Annunzio
Archer
Badillo
Baring
Bell
Betts
Blackburn
Broyhill, Va.
Byrne, Pa.
Byrnes, Wis.
Cabell
Caffery
Celler
Chappell
Chisholm
Clark
Clay
Corman
Crane
Davis, S.C.
Denholm
Devine
Donohue
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Gerald R.
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Green, Oreg.
Gross
Haley
Halpern
Hanna
Hansen, Wash.
Harvey
Hawkins
Hébert
Hungate
Kee
King
Kuykendall
Landgrebe
Link
Lloyd
McClure
McDonald, Mich.
McKevitt
McMillan
Macdonald, Mass.
Martin
Matsunaga
Miller, Calif.
Mills, Md.
Monagan
Murphy, N.Y.
Nichols
Patman
Pelly
Peyser
Pirnie
Pryor, Ark.
Pucinski
Purcell
Reid
Roncalio
Schmitz
Scott
Staggers
Steed
Steiger, Ariz.
Steiger, Wis.
Sullivan
Symington
Terry
Thompson, Ga.
Thompson, N.J.
Vander Jagt
Whitehurst
Widnall
Wydler
Yatron

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gerald R. Ford.

Mr. Thompson of New Jersey with Mr. Devine.

Mrs. Sullivan with Mrs. Dwyer.

Mr. Staggers with Mr. Broyhill of Virginia.

Mr. Murphy of New York with Mr. Fish.

Mr. Chappell with Mr. Archer.

Mr. Reid with Mr. Peyser.

Mr. Badillo with Mr. Halpern.

Mrs. Chisholm with Mr. Byrne of Pennsylvania.

Mr. Dow with Mr. Terry.

Mr. Abourezk with Mr. Harvey.

Mr. Clay with Mr. Miller of California.

Mr. Macdonald of Massachusetts with Mr. Vander Jagt.
Mr. Davis of South Carolina with Mr. Landgrebe.
Mr. Monagan with Mr. Whitehurst.
Mr. Evans of Colorado with Mr. Bell.
Mr. Roncalio with Mr. Kuykendall.
Mrs. Hansen of Washington with Mr. Crane.
Mr. Gettys with Mr. Betts.
Mr. Giaimo with Mr. Mills of Maryland.
Mr. Link with Mr. Esch.
Mr. Symington with Mr. Byrnes of Wisconsin.
Mr. Caffery with Mr. Thompson of Georgia.
Mr. Purcell with Mr. Lloyd.
Mrs. Green of Oregon with Mr. Widnall.
Mr. Hungate with Mr. McClure.
Mr. Edmondson with Mr. McKevitt.
Mr. Haley with Mr. Blackburn.
Mr. Hanna with Mr. Wydler.
Mr. Kee with Mr. King.
Mr. Denholm with Mr. McDonald of Michigan.
Mr. Nichols with Mr. Galifianakis.
Mr. Matsunaga with Mr. Martin.
Mr. Yatron with Mr. Gallagher.
Mr. Corman with Mr. McMillan.
Mr. Hébert with Mr. Donohue.
Mr. Anderson of Tennessee with Mr. Steiger of Arizona.
Mr. Abernethy with Mr. Schmitz.
Mr. Baring with Mr. Pelly.
Mr. Cabell with Mr. Evins of Tennessee.
Mr. Clark with Mr. Eshleman.
Mr. Celler with Mr. Pirnie.
Mr. Fuqua with Mr. Scott.
Mr. Eilberg with Mr. Steiger of Wisconsin.
Mr. Dowdy with Mr. Pryor of Arkansas.
Mr. Pucinski with Mr. Patman.
Mr. Steed with Mr. Hawkins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT IN DISAGREEMENT

The **SPEAKER** pro tempore (Mr. McFALL). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 5, on line 19, strike out: "*Provided,* That no payment shall be made herefrom to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.

And insert: "*Provided,* That after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

Mr. SIKES. Mr. Speaker, I am pleased to yield to the distinguished chairman of the committee (Mr. MAHON).

TRIBUTE TO FRANK BOW

Mr. MAHON. Mr. Speaker, I note on the floor at this time the gentleman from Ohio (Mr. BOW), the ranking minority member of the subcommittee which originally drafted this bill and the ranking minority member of the Committee on Appropriations.

He did not seek reelection. He has served here for many years and with great distinction. The gentleman from Ohio has rendered outstanding service to his State, the Nation, and this House of Representatives. He has been a stalwart legislator under all circumstances in his service in the House of Representatives.

On this occasion, when he is present for this final action on this bill which he helped draft, I wanted to pay tribute to the record and character and achievements of this distinguished American.

Further, I wish to salute him as a warm personal friend. It has been an honor and privilege to work with him during a most important period in the Nation's history. Good luck FRANK.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SIKES).

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9:
Page 17, line 10, insert:

"The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination at that provided for under the aforementioned appropriation: *Provided, however,* That the Federal Bureau of Investigation is hereby forbidden to furnish officials of federally chartered or insured banking institutions or officials of any State or local government any identification or other record indicating that any person has been arrested on any criminal charge or charged with any criminal offense unless such record discloses that surch person pleaded guilty or nolle contendere to or was convicted of such charge or offense in a court of justice."

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used hereafter, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions; and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation."

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 21, line 12, insert: ": *Provided,* That $15,000,000 of the funds available for planning grants to States under section 205 of such Act may be allocated without regard to the population formula set forth in that section."

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein.

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 28, line 14, insert: ", of which $300,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Assistance", fiscal year 1972."

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein.

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 30, line 2, insert: ", of which $6,000,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972:".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein.

The motion was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 30, line 17, insert: ", of which $13,000,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972,".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The **SPEAKER**. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 34, line 2, insert: ", of which $700,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972,".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 40, line 16, insert: "*Provided*, That not to exceed $95,000 of the unobligated balance of the appropriation under this head for the fiscal year 1972 is hereby continued available until June 30, 1973."

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted, and after the remarks of tribute concerning the gentleman from Ohio (Mr. Bow).

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON S. 141, FOSSIL BUTTE NATIONAL MONUMENT, WYOMING

Mr. ASPINALL submitted the following conference report and statement on the Senate bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92-1588)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the Bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following:

That, in order to preserve for the benefit and enjoyment of present and future generations outstanding paleontological sites and related geological phenomena, and to provide for the display and interpretation of scientific specimens, the Fossil Butte National Monument (hereinafter referred to as the "monument") is hereby established, to consist of lands, waters, and interests therein within the boundaries as generally depicted on the drawing entitled "A Proposed Fossil Butte National Monument, Wyoming," Numbered FBNM-7200, dated April 1963, revised July 1964, and totaling approximately eight thousand one hundred and eighty acres. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the monument from time to time by publication of a notice to that effect in the Federal Register, except that at no time shall the boundaries encompass more than eight thousand two hundred acres.

SEC. 2. The Secretary shall administer the monument pursuant to the Act approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented.

SEC. 3. Within the boundaries of the monument the Secretary may acquire lands and interests in lands by donation, purchase, or exchange, except that lands or interests therein owned by the State of Wyoming or a political subdivision thereof may be acquired only by donation or exchange.

SEC. 4. (a) For a period of ten years, and for not more than ten years thereafter if extended by the Secretary, the continuation of existing uses of Federal lands and waters within the monument for grazing and stock watering may be permitted if the Secretary finds that such uses will not conflict with public use, interpretation, or administration of the monument: *Provided*, That the use of lands within the monument for stock driveways shall continue in perpetuity at such places where this use will not conflict with administration of the monument.

(b) Upon termination of the uses set forth in subsection (a) of this section, the Secretary of the Interior is authorized to provide for the disposition and use of water surplus to the needs of the monument, to a point or points outside the boundaries of the monument.

SEC. 5. There are hereby authorized to be appropriated $378,000 for land acquisition and not to exceed $4,469,000 (June 1971 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

And the House agree to the same.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
TENO RONCALIO,
JOHN P. SAYLOR,
JOE SKUBITZ,
Managers on the Part of the House.
HENRY M. JACKSON,
ALAN BIBLE,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying Conference Report.

The Committee of Conference recommends the adoption of an amendment in the nature of a substitute for the House amendment to S. 141. The House amendment struck all after the enacting clause of S. 141 and inserted new language in its place. The Conference Committee substitute adopts the form of the House amendment with a few minor modifications, but it amends the substance in the following principal respects:

First, the Conference Committee recommends that the State lands may be acquired by donation or exchange for lands of approximately equal value. Normally, any publicly held lands within the boundaries of an area of this kind would be acquired only by donation, but in this particular case, the State lands are school sections which may be disposed of under the Wyoming Statehood Act (26 Stat. 222, 223) only by public sale. For this reason, the conferees agreed that the Secretary should be permitted to exchange public lands under his administrative jurisdiction for the State lands within the monument area if he finds that these lands cannot legally be donated and if he deems their acquisition to be necessary for the purposes of the national monument. The acquisition of the State lands is not mandatory if the Secretary determines they are not actually required for the monument.

Second, the Conference Committee recommends compromise language on the provisions permitting grazing to continue for a limited period of time. The conferees generally agreed that the grazing operations within the monument boundaries should be phased out in a manner which would not create an undue hardship on existing permittees. At the same time, however, it was the consensus of the conferees that the Secretary's authority should be permissive and that such activities should not be permitted to conflict with the public use, interpretation, or administration of the monument. If grazing in certain areas now under permit is determined to be in conflict with the basic purposes for which the monument is created, the Secretary could phase it out over a reasonable period of time.

Finally, the Conference Committee agreed to the House language limiting the amount authorized for land acquisition to no more than $378,000. The development costs ($4,469,000) are the same under both versions of the bill.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
TENO RONCALIO,
JOHN P. SAYLOR,
JOE SKUBITZ,
Managers on the Part of the House.
HENRY M. JACKSON,
ALAN BIBLE,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1852, GATEWAY NATIONAL RECREATIONAL AREA, NEW YORK AND NEW JERSEY

Mr. ASPINALL submitted the following conference report and statement on the Senate bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92-1589)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the Bill (S. 1852) To provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment, insert the following:

That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Recreation Area," numbered 951-40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submarged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreation area may be transferred, without consideration, to the administrative jurisdiction of the Secretary for administration as a part of the recreation area.

(c) Within the Breezy Point Unit, (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 1 of this Act to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that the Secretary may designate, establish and maintain a buffer zone on Federal lands separating the public use area and the private community;

(B) that all construction commencing within the community, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision or agency thereof to further encumber any interest in the property so conveyed.

(d) Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after the date of enactment of this Act, all improvements have been removed from the area and a clear title to the area is tendered to the United States.

SEC. 3. (a) The Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose.

(b) The Secretary shall designate the principal visitor center constructed within the recreation area as the "William Fitts Ryan Visitor Center" in commemoration of the leadership and contributions which Representative William Fitts Ryan made with respect to the creation and establishment of this public recreation area.

(c) The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements (including the deepening of the shipping channel from the Atlantic Ocean to the New York harbor) on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

(e) The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(f) The Secretary shall permit hunting, fishing, shellfishing, trapping, and the taking of specimens on the lands and waters under his jurisdiction within the Gateway National Recreation Area in accordance with the applicable laws of the United States and the laws of the States of New York and New Jersey and political subdivisions thereof, except that the Secretary may designate zones where and establish periods when these activities may not be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

(g) In the Sandy Hook and State Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(h) Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds from individuals, foundations, or corporations for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

SEC. 4. (a) There is hereby established a Gateway National Recreation Area Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date of the establishment of the recreation area.

(b) The Commission shall be composed of eleven members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) three members to be appointed by the Secretary to represent the general public.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $12,125,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

Amend the title so as to read: "A bill to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes."

And the House agree to the same.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
HAROLD T. JOHNSON,
JOHN P. SAYLOR,
JOHN H. TERRY,
Managers on the Part of the House.

HENRY M. JACKSON,
ALAN BIBLE,
FRANK E. MOSS,
LEN B. JORDAN,
JAMES L. BUCKLEY,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference of the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1852) to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying Conference Report.

The language agreed upon by the managers is the language of the House amendment with various changes. There were numerous points of difference between the Senate version and the House Amendment which were the subject of discussion and action by the Committee of Conference. These differences and the disposition of them are as follows:

(1) *Name of the Area*—The Senate version of the legislation designated this area as the "Gateway National Recreation Area," but the House version called it the "William Fitts Ryan Gateway National Urban Recreation Area". It was generally agreed by the conferees that the contributions of the late Representative Ryan merited recognition; however, all of the conferees recognized that no other national recreation area or national park has been named for an individual. Normally, these projects involve tremendous contributions of many people so that it is difficult to single out one individual for recognition. While the managers on the part of the House argued for the retention of the House designation, it was agreed, as a compromise, that the area should be known as the "Gateway National Recreation Area", but that the bill would require the principal visitor center for the recreation area to be designated as the "William Fitts Ryan Visitor Center". Precedents for the designation of these public facilities, which are the real focal point of visitor use, are well established.

(2) *Area Included*—The area involved in the two versions of the bill is essentially the same except that the House amendment added to the Great Kills area included in the Senate bill, the waterfront lands along Staten Island from Great Kills to Fort Wadsworth and Hoffman and Swinburne Islands. The Committee agreed that the House addition constituted a significant area having valuable outdoor recreation potential. With respect to other areas, where minor differences existed, the boundaries approved by the House were approved by the Committee of Conference.

(3) *Establishment*—The conferees agreed that the recreation area should be established when the legislation becomes law, as provided under the terms of the House amendment. Among the Federal lands involved are certain properties administered by the General Services Administration which have heretofore been designated as excess to the needs of the prior administering agency. Subject to the specific exceptions contained in the bill, it is expected that all of this land will be transferred promptly to the Secretary for use as a part of the recreation area. It is anticipated, in light of the commitment made during the House proceedings, that the military lands will be promptly inventoried and that those lands which are suitable for public recreation and which are excess to the needs of the Department of Defense will be transferred as soon as possible to the Secretary of the Interior notwithstanding the Surplus Property Act or any other provisions of law so that these important lands can help serve the public outdoor recreation needs. With the exception of facilities for recreation use, new Federal facilities—and particularly housing—should be located to the extent reasonably possible in areas outside the recreation area boundaries so that the maximum amount of open land areas can be made available for public use and enjoyment.

(4) *Boundary Changes*—Minor boundary changes may be necessary in the future, but they should not be undertaken without advising the Congress in advance and allowing a reasonable opportunity to comment. The House language, which the conferees approved, requires notice of boundary changes to be communicated directly to the committees having oversight responsibility for the program.

(5) *City and State Lands*—Both versions of the bill require all publicly-owned lands of the States and their political subdivisions or subordinate public agencies to be acquired by donation. The House version, however, specifically authorized the Secretary of the Interior to accept title to certain lands owned by the City of New York subject to certain conditions:

(a) The area known as Broad Channel Community is included in the recreation area and if, within 5 years after the date of enactment of the legislation, the city removes the improvements and tenders a clear title to the United States, then the donation may be accepted by the Secretary.

(b) Title to the area as a parking lot at Rockaway near Riis Park (which is presently pledged as security for the outstanding indebtedness of the Triborough Bridge and Tunnel Authority) may be acquired by donation, but the transfer must be accomplished without obligating the United States to extinguish any present or future indebtedness associated with such property.

The Committee of Conference accepted these provisions of the House amendment because it felt that these areas should be included, but that they—like other publicly owned areas—should be acquired by donation only.

(5) *Breezy Point Cooperation*—The only significant private property involved in this recreation area is the Breezy Point Cooperative. Under the terms of the language agreed upon, the oceanfront beach is to be purchased in fee simple. The remainder of the Cooperative property would remain in private ownership and the Secretary's power to condemn these lands would be suspended if an irrevocable agreement is consummated which assures the continued use of the area as a single-family residential community. The language of the House version was modified so that the agreement would not have the effect of prohibiting construction in the area between the existing line of dwellings and the Federal take-line; however, any such construction would be required to conform to the standards to be established by the Secretary pursuant to the agreement.

(7) *Transportation*—The Committee of Conference agreed that the provisions of the Senate bill authorizing a transportation program in conjunction with this project should be deleted.

(8) *Donated Funds*—The conferees accepted the Senate language authorizing the Secretary to accept donated funds for the purpose of providing services or facilities consistent with the purposes of this Act.

(9) *Historical Resources*—The Members of the Conference Committee accepted the House provision requiring an historical inventory of the Sandy Hook and Staten Island Units. It is the understanding of the managers that the inventory will evaluate the resources and develop a plan for the maintenance, preservation and interpretation of the values existing in these areas, including, in particular, Officers Row and the old lighthouse on Sandy Hook and the historic fortifications in the Sandy Hook and Staten Island Units.

(10) *Hunting and Fishing*—The conferees accepted the Senate language which provides that hunting and fishing shall be permitted in accordance with Federal and State law, subject to reasonable regulations imposed by the Secretary.

(11) *Army Corps Projects*—The managers generally accepted the language adopted by the House with respect to any potential Army Corps of Engineers project, which might involve the deepening of the shipping channel into New York Harbor, but the language has been clarified.

(12) *Airway Facilities*—The Committee accepted the House provision prohibiting further extension of runways into Jamaica Bay.

(13) The House provision establishing an eleven-member advisory Commission was accepted by the conferees. The Commission is to be composed of members selected by the Secretary from persons recommended by the Governors of New York and New Jersey (2 each), and from persons recommended by the Mayors of the cities of New York and Newark (2 each). The remaining members would be selected from the general public by the Secretary.

(14) *Appropriations Limitation*—The conferees adopted the House limitation with a modification adding $675,000 to cover administrative costs associated with the acquisition of lands within the recreation area.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
HAROLD JOHNSON,
JOHN P. SAYLOR,
JOHN H. TERRY,
Managers on the Part of the House.

HENRY M. JACKSON,
ALAN BIBLE,
FRANK E. MOSS,
LEN B. JORDAN,
JAMES BUCKLEY,
Managers on the Part of the Senate.

AUTHORIZING SECRETARY OF AGRICULTURE TO REVIEW SUITABILITY FOR PRESERVATION AS WILDERNESS THE INDIAN PEAKS AREA, COLO.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5932) to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. SAYLOR. Mr. Speaker, reserving the right to object, will the gentleman from Colorado explain what is in this bill?

Mr. ASPINALL. Mr. Speaker, I shall be delighted to explain to the gentleman from Pennsylvania, if he will yield.

Mr. SAYLOR. I yield to the gentleman.

Mr. ASPINALL. Mr. Speaker, this calls for a study of the Arapaho and Roosevelt National Forests area in Colorado which is not a primitive area.

The bill is so worded that after the present studies are made that have been requested, under the Wilderness Act of 1964, this study can take place.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the bill as follows:

H.R. 5932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture, in administering the provisions of subsection (b) of section 3 of the Wilderness Act, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-five thousand acres lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the "Indian Peaks Area," and shall report his findings to the President on or before the expiration of the eighteen-month period following the date of the enactment of this Act. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness," together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

With the following committee amendments:

Page 1, strike out all of lines 3 and 4 and the word "Act," on page 5 and insert in lieu thereof the following:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by State and other agencies,".

Page 2, line 3, strike out "seventy-five thousand" and insert in lieu thereof "seventy-one-thousand".

Page 2, line 6 following "Indian Peaks Area," insert:

as generally depicted on a map entitled "Indian Peaks Study Area," dated October 4, 1972.

Page 2, line 8, after the word "President" insert a period and delete the remainder of the sentence ending on line 4.

The committee amendments were agreed to.

Mr. ASPINALL. Mr. Speaker, I rise in support of H.R. 5932, as amended.

H.R. 5932 authorizes the Secretary of Agriculture to review the suitability of some 71,000 acres of land, commonly known as the Indian Peaks Area, in the Arapaho and Roosevelt National Forests, in Colorado, for inclusion in the Wilderness System.

Mr. Speaker, the Committee on Interior and Insular Affairs has considered and reported many wilderness proposals to this body and so far as I can recall all have received favorable consideration and have subsequently been signed into law. This proposal is, however, somewhat different than others that have been brought here for consideration. This proposal does not, and will not, designate any land as suitable for wilderness. All it does is to authorize the Secretary of Agriculture to study, review, and subsequently report on the suitability of this area, or any part of it, for future wilderness consideration. In effect H.R. 5932 would cause this area, which is neither a primitive area nor managed as such by the Forest Service, to be studied and reviewed in the same manner that primitive areas are now reviewed by the Department of Agriculture, under authority of the 1964 Wilderness Act. As a matter of fact the Forest Service is now reviewing all of its undeveloped areas, including the Indian Peaks Area, for another wilderness potential. Enactment of H.R. 5932 would give express congressional direction and affirmation that this area be included in the process.

In considering H.R. 5932 the committee approved a minor boundary adjustment that deletes from the study area about 4,000 acres that conflicts with contemplated ski developments and with possible road construction. It also eliminated a requirement that the study and report be completed within 18 months. The Forest Service is already faced with the task of completing studies on primitive areas and advised the committee it would be difficult, if not impossible, to meet this deadline. These amendments make H.R. 5932 a workable proposal.

Mr. Speaker, in my opinion H.R. 5932, as amended, is a good bill and I strongly support its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of a similar Senate bill (S. 1198) to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1198

An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-five thousand acres, lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the Indian Peaks Area, and shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness", together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) During the review period provided by this Act and for a period of three years after his recommendations are submitted, the Secretary shall manage and protect the resources of the Indian Peaks study area in such a manner as to assure that the suitability of all or any part of the area now suitable for potential wilderness designation is not impaired.

(c) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

AMENDMENT OFFERED BY MR. ASPINALL

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Strike out all after the enacting clause of S. 1198 and insert the provisions of H.R. 5932, as passed, as follows:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-one thousand acres, lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the "Indian Peaks Area," as generally depicted on a map entitled "Indian Peaks Study Area," dated October 4, 1972, and shall report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness," together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5932) was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania (Mr. SAYLOR) may extend his remarks in the RECORD and any other Members desiring to do so may extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

ONE HUNDREDTH ANNIVERSARY OF AMERICAN PUBLIC HEALTH ASSOCIATION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 710) extending the greetings and felicitations of Congress to the American Public Health Association on the occasion of the 100th anniversary of its founding.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 710

Whereas the American Public Health Association had its first organizational meeting in Long Branch, New Jersey, on September 12, 1872; and

Whereas the American Public Health Association was instrumental in establishing the National Board of Health in 1879 and the creation of the United States Public Health Service in 1902; and

Whereas the American Public Health Association has supported and contributed to improved health programs at the Federal, State, and local levels; and

Whereas the American Public Health Association has continually contributed to cooperative efforts among nations in behalf of improving the health status of mankind; and

Whereas the fifty-five thousand members of the sections and affiliates of the American Public Health Association are dedicating the experience and knowledge of more than forty health professions to advance the health of mankind; and

Whereas the American Public Health Association serves as a source of competence in the formulation of health standards, model codes, professional health personnel standards, and public health programs; and

Whereas the American Public Health Association will celebrate its centennial anniversary and a century of service toward improving the health of man in Atlantic City, New Jersey, during November 13-17, 1972: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress extends its greetings and felicitations to the American Public Health Association on the occasion of the one hundredth anniversary of its founding.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: On pages 1 and 2, strike out the entire preamble.

The amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL DRUG ABUSE PREVENTION WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 236) to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week".

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 236

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to heighten the awareness of the people of the United States with regard to the national threat of drug abuse, and to provide an opportunity for a period of special emphasis on this problem, the President is authorized and requested to issue a proclamation designating the week beginning October 15, 1972, as "National Drug Abuse Prevention Week", and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING THOMAS JEFFERSON UNIVERSITY, PHILADELPHIA, PA., AS FIRST UNIVERSITY TO BEAR FULL NAME OF THIRD PRESIDENT OF UNITED STATES

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 199) to recognize Thomas Jefferson University, Philadelphia, Pa., as the first university in the United States to bear the full name of the third President of the United States.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 199

Whereas the Jefferson Medical College of Philadelphia was founded in 1824 during the lifetime of its namesake, Thomas Jefferson;

Whereas the Jefferson Medical College of Philadelphia was given a university charter in 1838 by the State of Pennsylvania;

Whereas the Jefferson Medical College of Philadelphia has long represented and promoted the principles for which Thomas Jefferson stood;

Whereas the Jefferson Medical College of Philadelphia officially changed its name to the Thomas Jefferson University on July 1, 1969: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Thomas Jefferson University, Philadelphia, Pennsylvania, be and is hereby recognized as the first university in the United States to bear the full name of the third President of the United States.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 10729, FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. POAGE)?

Mr. YATES. Mr. Speaker, reserving the right to object, as I understand the bill, this is one that contains certain indemnification provisions of not only the manufacturers of pesticides but as well for those using pesticides all the way down the chain. The provisions may possibly be more drastic than the provisions for indemnification that were contained in the cyclamate bill that was passed by the House recently.

Mr. Speaker, I have no will to object to consideration of the bill. All that I want to do is alert the House to the fact that the bill does contain such provision, and that those of us who oppose the bill want to be given an opportunity to have a vote on the bill. If that be so, I will withdraw my reservation of objection.

The SPEAKER. Of course, the House has control always over the form of the vote and whether a vote will be taken.

Mr. YATES. There will be a vote taken?

The SPEAKER. There will be a vote.

Mr. YATES. All right. I withdraw my reservation of objection.

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would just like to observe that this bill is following a precedent that we, unfortunately, established in connection with the cyclamate bill of indemnifying manufacturers who put out substances which are harmful, if found to be harmful. I simply want to record the fact that this bill has a very undesirable aspect.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. YATES. The bill goes further than that. It not only presupposes to indemnify the manufacturers; it also presupposes to indemnify those who have bought the pesticides and who have stored them, intending to use them. intending to use them. They, too, may be indemnified under the terms of this bill.

Mr. SEIBERLING. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 5, 1972.)

Mr. POAGE (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. POAGE. Mr. Speaker, this conference report does not involve any new principles that were not in the House bill. In fact, the provisions that are put in here are provisions limiting the scope of the House bill. We did come to a real compromise. The conferees on the part of both Houses were in unanimous agreement, and every conferee signed the report, and every viewpoint was represented.

Among the conferees of the House are W. R. POAGE, W. M. ABBITT, BERNIE SISK, JOHN DOW—who did not agree with some of us when the bill was before the House—PAGE BELCHER, GEORGE GOODLING, and JOHN KYL.

The Senate position involved such a difference of viewpoint as those held by Senator HART, Senator MILLER, Senator DOLE, and Senator ALLEN.

There was a very decided difference of opinion among the conferees. We did seriously work out those differences. Those who have expressed some fear that the conferees were too liberal with indemnities should remember that some of those who signed the report were most active in the effort on the floor of the House to refuse any indemnity. We did accept compromise.

The provision as to indemnity does not give anyone who holds any of these pesticides which may have been prohibited the right to get paid for it if it was produced after registration is withdrawn. It only gives that right to those who hold pesticides which were produced under a valid license from the United States, and who had not been notified by the Environmental Agency that that pesticide might be dangerous.

We do provide that in the event of any feeling on the part of the Environmental Agency that a compound might be dangerous they might notify the manufacturer that they were going to hold a hearing on it, and from that moment on, the manufacturer could not receive any indemnity for what he produced.

We think it is a fair and equitable provision. We believe we are presenting an equitable compromise in this report. We have represented all viewpoints. We hope the House will approve the conference report.

Mr. Speaker, I yield to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, I include with my remarks a section-by-section synopsis of the major provisions of the conference pesticide bill prepared by the Environmental Protection Agency:

SECTION-BY-SECTION SYNOPSIS OF THE MAJOR PROVISIONS OF THE CONFERENCE PESTICIDE BILL

Section 1 of the bill states its purpose and title.

Section 2 of the bill sets forth the amendments to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended:

AMENDMENTS TO FIFRA

Section 1. Short Title and Table of Contents.

Section 2. Definitions.

Section 3. Registration of Pesticides.

1. With certain exceptions, any pesticide in U.S. trade must be registered with the Administrator.

2. In order to obtain registration, a pesticide producer must submit an application identifying himself and the pesticide, showing the labeling, and stating claims to be made, directions for use, the pesticide formula, requested classification, and test data and results which support the claims made.

The Administrator may not consider the test data supporting one application in support of another application without the originator's permission or unless the second applicant has first offered to pay reasonable compensation for the test data. If the parties cannot agree on the amount and method of payment, the Administrator makes the determination. If the owner of the test data does not agree with the determination, he may appeal to a Federal district court. The court may not determine that the amount of payment should be less than that determined by the Administrator.

3. All information except trade secrets and privileged information in support of registration must be made available to the public within 30 days of the registration.

4. A pesticide which meets the requirements of the Act shall be registered, and nonessentiality cannot be a criterion for denial of registration.

5. If registration is denied, notice of the denial and reasons for denial must be published in the Federal Register. The applicant then has recourse to administrative and judicial appeals.

6. Registered pesticides will be classified for either general use or restricted use. A pesticide would be restricted because of its potential for harm to either human health or the environment.

The Administrator may require that the packaging and labeling of a pesticide for its restricted uses be clearly distinguishable from its general uses.

A restricted use pesticide which is a hazard to human health is subject to the restriction that it be applied by a certified pesticide applicator, who is certified by the State according to standards set by the Administrator and may be either a commercial or private certified applicator.

A pesticide classified for restricted use because it could harm both health and the environment can be made subject to other restrictions by regulation, which are reviewable in a court of appeals.

The Administrator may change a pesticide classification but the action is subject to administrative and judicial review.

Section 4. Use of Restricted Use Pesticides; Certified Applicators

1. The Administrator sets minimum standards for the certification of applicators, which are to be separate for private and commercial applicators.

2. Certification will be accomplished by State programs whose plans are approved by the Administrator. The Administrator may withdraw approval of a State plan if the program is not maintained in accordance with it.

Section 5. Experimental Use Permits

1. The Administrator may issue permits and set the terms for the experimental use of a pesticide in order to gather data for registration, and may establish a temporary pesticide residue tolerance level for that purpose.

2. The Administrator may authorize a State to issue experimental use permits under an approved plan.

Section 6. Administrative Review; Suspension

1. Registrations are automatically cancelled after 5 years unless a request is made that they be continued.

2. If the Administrator has reason to believe a registered pesticide does not comply with the Act or that it, when "used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment", he may move to cancel the registration or change the classification of the pesticide. The registrant is notified and may correct the deficiency or request a public hearing. The Administrator may also decide to hold a hearing on a registration to determine whether or not cancellation or change in classification should ensue.

3. At any time during a hearing a question of relevant scientific fact may be referred by the Hearing Examiner to a Committee of the National Academy of Sciences for a report. The Hearing Examiner may also compel testimony or production of documents by subpoena. Within 90 days from the close of a hearing the Administrator must issue an order regarding the registration in question.

4. If the Administrator finds such action necessary to prevent an imminent hazard to health or the environment during the pendency of cancellation or change in classification proceedings, he may suspend the registration after 5 days notice to the registrant, who may within that period request an expedited hearing on the imminent hazard finding. The suspension order would not take effect until any requested hearing had been completed.

The Administrator may issue an emergency suspension order, taking effect immediately, when necessary; and any subsequent hearing would be expedited.

5. Final orders of the Administrator under this section are subject to judicial review under section 16. However, orders issued prior to hearing would be reviewed in an appropriate district court.

Section 7. Registration of Establishments

1. Pesticide producing establishments are required to be registered with the Administrator.

2. Producers are required to submit upon initial registration and annually information on the amount of pesticides produced, distributed, and sold.

Section 8. Books and Records

1. The Administrator may require pesticide and device producers to maintain records respecting their operations which are necessary for enforcement of the Act.

2. Records on the location and movement of pesticides or devices are to be accessible to the Administrator's agent upon request for inspection and copying.

3. Financial, sales, pricing, personnel, and research data are excluded from the above requirements.

Section 9. Inspection of Establishments

1. The Administrator's agent may enter any establishment or other place where pesticides or devices are held for distribution or sale, inspect pesticides or devices, and take samples. The agent must state a sufficient reason for his action.

2. A warrant to enter a place and inspect and reproduce records may be obtained when the Administrator's agent shows there is reason to believe the Act has been violated.

3. If a violation of the Act appears to have occurred, the Administrator shall notify the suspected violator, and shall certify the facts to the Attorney General for the institution of criminal or civil proceedings. However, for minor violations the Administrator may issue a warning instead.

Section 10. Protection of Trade Secrets and Other Information

1. In submitting required data, a registration applicant may mark the portion he considers trade secrets, or commercial or financial information, and submit it separately.

2. The Administrator may not make information public if it comprises trade secrets, or commercial or financial information. However, pesticide formulas may be revealed in certain instances in order to carry out the purposes of the Act.

3. Disputes between the Administrator and an applicant or registrant concerning releasable information would be resolved in a district court by declaratory judgment.

Section 11. Standards Applicable to Pesticide Applicators

1. No regulations under the Act may require a private applicator to maintain records or file reports.

2. Private and commercial applicator certification standards set by the Administrator must be separate.

Section 12. Unlawful Acts

A number of unlawful acts are contained in the section which relate to the requirements of the other sections of the bill pertaining to registration of pesticides and producing establishments, record-keeping and reporting, pesticide use, and others. Additional unlawful acts include not giving a pesticide's classification when advertising and failure to fully inform persons involved in pesticide testing.

Secton 13. Stop Sale, Use, Removal, and Seizure

1. When it appears a pesticide is in violation of the Act or its registration has been suspended or cancelled by final order, the Administrator may issue a "stop sale, use, or removal" order to any person.

2. Pesticides in violation of the Act may be seized, as may misbranded devices and pesticides which have an unreasonable adverse effect on the environment even when used in accordance with requirements and as directed on the labeling.

Section 14. Penalties

1. Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor is liable to a $5,000 civil penalty for an Act violation. Private applicators and other persons are liable only to a $1,000 civil penalty on their second and subsequent offenses. Opportunity for hearing is required prior to assessment of a civil penalty.

2. Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor is liable to a penalty of $25,000 or 1 year in prison or both upon conviction for a misdemeanor. Private applicators and other persons are liable to $1,000 or 30 days in prison or both. Persons who reveal formula information are liable to $10,000 or 3 years in prison or both.

Section 15. Indemnities

1. Persons owning a pesticide whose registration is suspended and later cancelled are eligible for payment by the Administrator of an indemnity for the pesticide owned. Manufacturers who had knowledge prior to the issuance of a suspension notice that their products did not meet registration requirements and who continued to produce the pesticide without notifying the Administrator of the deficiency would not be eligible.

2. In lieu of indemnification the Administrator may authorize under certain limited conditions the use or other disposal of a pesticide.

Section 16. Administrative Procedure; Judicial Review

1. Except as otherwise provided, EPA refusals to cancel or suspend registration or change classifications which do not follow a public hearing are reviewable in district courts, as are other final non-discretionary Agency actions.

2. Review of an order of the Administrator will occur in a court of appeals upon the request of any person who will be adversely affected by the order and who took part in the public hearing leading to the order. The court shall review all evidence of record, and commencement of proceedings does not operate as a stay of an order unless specifically ordered by the court.

3. District courts have jurisdiction to specifically enforce and to prevent and restrain violations of the Act.

Section 17. Imports and Exports

1. Producers of exported pesticides or devices are subject to the requirements of Section 8, Books and Records, but are otherwise required only to prepare the product as specified by the foreign purchases in order to comply with the Act.

2. The Administrator is required to notify foreign governments through the State Department whenever the registration, or the cancellation or suspension of the registration of a pesticide becomes effective or ceases to be effective.

3. The Administrator is authorized to examine imported pesticides or devices and have those in violation of the Act refused entry, seized, and destroyed.

Section 18. Exemption of Federal Agencies

The Administrator may exempt any Federal or State agency from the Act if he determines that emergency conditions exist which require such exemption.

Section 19. Disposal and Transportation

The Administrator shall establish procedures and regulations for storage or disposal of pesticides and containers. He is required to accept at convenient locations for disposal a pesticide whose registration is suspended, then cancelled.

Section 20. Research and Monitoring

Authority for pesticide research and monitoring is provided, including research contracts and grants. Cooperation with other governmental agencies is authorized for research and monitoring purposes. A National Monitoring Plan is required to be formulated and carried out by the Administrator.

Section 21. Solicitation of Comments; Notice of Public Hearings

1. The Administrator is required to solicit the views of the Secretary of Agriculture before publishing regulations under the Act.

2. The Administrator is authorized to solicit the views of all interested persons concerning any action under the Act and seek advice from qualified persons.

3. Timely notice of any public hearing to be held shall be published in the Federal Register.

Section 22. Delegation and Cooperation

1. The Administrator may delegate his authority under the Act.

2. The Administrator shall cooperate with appropriate governmental agencies in order to carry out the Act.

Section 23. State Cooperation, Aid, and Training

1. The Administrator may delegate to a State the authority to cooperate in enforcement of the Act, train State personnel in cooperative enforcement, and assist States to implement cooperative enforcement with grants.

2. The Administrator may assist States in developing and administering applicator certification programs under cooperative agreements and under contracts.

3. The Administrator may utilize the Cooperative State Extension Services to inform farmers of measures taken under the Act.

Section 24. Authority of States.

1. A State may impose greater regulation on the sale or use of a pesticide than that of the Federal Government. However, different State packaging or labeling requirements are prohibited.

2. States certified by the Administrator may register pesticides formulated for distribution and use within its bounds, and the registration is permanent if not disapproved by the Administrator within 90 days.

Section 25. Authority of the Administrator.

1. The Administrator may exempt from the Act pesticides which do not require regulation, or are adequately regulated under other Federal law.

2. The Administrator is authorized to declare that which is a pest; determine highly toxic substances in pesticides; specify classes of devices subject to certain misbranding provisions and Section 7; prescribed pesticide discoloration requirements; and determine suitable pesticide names.

Section 26. Severability.

The Act is severable in that the invalidity of one provision would not invalidate the remaining provisions.

Section 27. Authorization for Appropriations.

Such sums as are necessary are authorized to be appropriated through June 30, 1975, and thereafter as provided by new legislation.

REMAINING BILL PROVISIONS

Section 3 of the bill contains technical amendments making other Acts conform to amended FIFRA.

Section 4 of the bill provides the effective dates of provisions of the FIFRA amendments.

1. Two years after enactment the Administrator shall have promulgated registration and classification regulations and thereafter shall register new applications under those regulations.

2. After two years but within 4 years existing registrations shall be registered and reclassified in accordance with the regulations described in 1 above.

3. Any requirement that a pesticide be registered for use only by a certified applicator shall not be effective until 4 years from enactment.

4. A period of 4 years from enactment shall be provided for certification of applicators, with certification standards prescribed within one year and State certification plans submitted to the Administrator within 3 years and approved by the Administrator within one year of submission.

5. One year after enactment regulations governing registration of establishments, experimental use permits, and keeping of books and records shall be made effective.

6. No person shall be subject to any penalty before 60 days after the publication of pertinent regulations in the Federal Register and after the Administrator has taken such other action as may be necessary to permit compliance with the pertinent provision.

7. Except as otherwise provided above, all amendments take effect upon enactment or, if regulations are required, within 90 days, when such regulations are to be effective.

8. Provisions of FIFRA prior to enactment of the bill remain in effect until superseded by the amendments in the bill, but all amendments are to be effective within 4 years of enactment.

Mr. Speaker, there has been some concern expressed over the implementation of section 18 of the conference report.

This section permits the Administrator of EPA to exempt any Federal or State agency from the provisions of the act if he determines that emergency conditions exist which require such exemption.

Under the House language that we took to conference, the President, rather than the Administrator of EPA, would have been vested with the authority to waive the application of the act to State and Federal agencies.

In the conference committee it was pointed out that there may be instances when action must be taken quickly to ameliorate a threat of plant or insect infestation—such as a grain cargo from a foreign nation carrying an insect pest not found in the United States. In such cases, formal Presidential action might take too long.

Thus, the language of section 18 as written by the conferees is intended to authorize the Administrator to exempt Federal and State agencies so that they may immediately apply treatments which may be required to prevent the introduction of pests at ports of entry or against new pest outbreaks that may occur in the United States utilizing pesticides which are not registered for the specific target pest species. Section 18 as currently worded implies that the Administrator must determine in each individual case that emergency conditions exist before exempting Federal and State agencies from the provision of the act. Since immediate and effective action is required against imported pests on an average of 10,000 to 11,000 times annually, the Secretary of Agriculture should be given authority by EPA to cooperate with State agencies to initiate action in sufficient time to prevent the introduction of new pest species. It is understood, of course, that the Secretary of Agriculture is authorized and required to apply such remedial action under the Plant Quarantine and Federal Plant Pest Act and various animal quarantine acts.

Mr. YATES. Mr. Speaker, it is difficult to oppose a bill which seeks to control the indiscriminate manufacture, sale and use of pesticides. The harm they have done and are capable of doing requires prompt action by the Congress. Were it not for the provisions—the very generous provisions providing for indemnification I would support this bill.

However, Mr. Speaker, I must protest against the indemnification provisions. The so-called cyclamates bill was estimated to cost the taxpayers anywhere between $100 million and $500 million. This bill may cost much more. The safeguards against improper compensation are not nearly adequate.

I am concerned that this provision may weigh heavily upon the Administration of EPA. Having the task of protecting people and the environment from deadly and hazardous chemicals, he may hesitate to ban any such chemicals which are in use from further distribution when he knows his decision may cost the Government; that is, the taxpayers, millions of dollars.

This bill, even with its good provisions may still be inadequate to protect the environment. But one thing is certain—it will protect the pesticide manufacturers. Why should the Government be called upon to pay for losses when the Government may not be at fault.

Mr. Speaker, it is most unfortunate that these provisions providing indemnification were placed in the bill. They constitute a most unfortunate procedure.

Mr. GOODLING. Mr. Speaker, it has been said that legislating is the art of compromise. The conference report on the Federal Environmental Pesticide Control Act of 1972 falls into that category.

The House Committee on Agriculture started public hearings on this bill early in the 92d session. Following the public hearings countless conferences were held with interested individuals and organizations. The committee then met in executive session and after a considerable number of meetings reported a clean bill for floor action. No major changes were made on the floor and the bill passed by a sizable margin.

The same procedure was followed in the Senate but here hearings were held by both the Agriculture and the Commerce Committees. Major changes were made and the bill passed the Senate by a sizable vote.

The conference committee spent a considerable number of hours attempting to compromise the differences between the two bills.

The conference report we submit for your consideration today is a report I, as one conferee, believe is a measure every segment of our economy and every Government agency can live with. No individual, no organization, no Government agency was able to have everything written into the bill that may have appeared desirable but the report we ask you to approve is an excellent one. This is attested to by the fact that all conferees signed the report.

Mr. HANNA. Mr. Speaker, the conferees on H.R. 10729, the "Federal Environmental Pesticide Control Act of 1972," are to be commended for resolving their differences and bringing us this most important public production legislation. I am pleased that the House conferees yielded on the Senate provisions defining "plant regulator" so as to exclude nontoxic vitamin-hormone products not intended for pest destruction from the definition. This is consistent with the language in the House Committee report, page 15, on the measure, concerning Ascophyllum Nodosum, the Norwegian variety of seaweed. This product is nontoxic and nonpoisonous and in every respect clearly falls within the exclusion. Dr. T. L. Senn, head of the Department of Horticulture at Clemson University, Clemson, S.C., a distinguished scientist who has done extensive research on Ascophyllum Nodosum has stated in a communication dated September 28, 1972:

> As we have published many times and as voluminous literature reveals, seaweed-Ascophyllum Nodosum—is certainly non-toxic. Research in the United States and abroad has definitely established that vitamins and hormones are contained in Ascophyllum Nodosum and various other seaweeds. It is my firm belief that the material does not destroy pests such as insects and therefore is not intended for pest destruction. The beneficial effects of seaweed extracts are obtained through biological activity as exhibited by certain vitamins, hormones and various nutritional elements only required by the plant in a small amount. These above mentioned facts are well established in the literature.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

TELLER VOTE WITH CLERKS

Mr. YATES. Mr. Speaker, I demand tellers.

Tellers were ordered.

Mr. YATES. Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Speaker appointed as tellers Messrs. POAGE, SEIBERLING, YATES, and KYL.

The question was taken; and there were—ayes 198, noes 99, not voting 134, as follows:

[Roll No. 437]

[Recorded Teller Vote]

AYES—198

Abbitt
Alexander
Andrews, Ala.
Andrews, N. Dak.
Arends
Aspin
Aspinall
Baker
Belcher
Bennett
Bergland
Bevill
Biester
Blatnik
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Conover
Daniel, Va.
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Dennis
Derwinski
Dickinson
Dorn
Downing
Dulski
Duncan
Eckhardt
Edwards, Ala.
Erlenborn
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Gibbons
Goldwater
Gonzalez
Goodling
Grover
Gubser
Hagan
Hamilton
Hammerschmidt
Hansen, Idaho
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Henderson
Hillis
Hogan
Holifield
Hosmer
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Keating
Keith
Kemp
Kyl
Landgrebe
Latta
Leggett
Lennon
Lent
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McEwen
McFall
McKay
McKevitt
Mahon
Mailliard
Mallary
Mann
Mathias, Calif
Mayne
Meeds
Melcher
Michel
Miller, Ohio
Mink
Mizell
Mollohan
Mosher
Myers

Natcher
Nelsen
Obey
O'Konski
Passman
Pettis
Pickle
Poage
Powell
Preyer, N.C.
Quie
Quillen
Railsback
Randall
Rarick
Reuss
Rhodes
Roberts
Robinson, Va.
Rogers
Rooney, Pa.
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Schwengel
Sebelius
Shipley
Shoup
Shriver
Sikes
Slack
Smith, Iowa
Spence
Stanton, J. William
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Talcott
Teague, Calif.
Terry
Thomson, Wis.
Thone
Veysey
Waggonner
Wampler
Ware
Whalley
White
Whitten
Wiggins
Wilson, Bob
Winn
Wright
Wyatt
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOES—99

Abzug
Adams
Addabbo
Anderson, Calif.
Ashley
Begich
Boggs
Boland
Bolling
Buchanan
Burke, Mass.
Burton
Carney
Chamberlain
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Dellums
Dent
Dingell
Drinan
Edwards, Calif.
Foley
Ford, William D.
Fraser
Fulton
Gaydos
Grasso
Green, Pa.
Griffin
Griffiths
Gude
Hall
Harrington
Hathaway
Helstoski
Hicks, Mass.
Hicks, Wash.
Horton
Hull
Karth
Kluczynski
Koch
Kyros
Long, Md.
McDade
McKinney
Madden
Mathis, Ga.
Mazzoli
Metcalfe
Mikva
Minish
Minshall
Moorhead
Morgan
Moss
Murphy, Ill.
Nedzi
O'Neill
Patten
Pepper
Perkins
Pike
Podell
Price, Ill.
Rangel
Rees
Riegle
Robison, N.Y.
Rodino
Roe
Rostenkowski
Roybal
St Germain
Sarbanes
Saylor
Scheuer
Seiberling
Stanton, James V.
Stokes
Stuckey
Taylor
Tiernan
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles H.
Wolff
Yates
Zablocki

NOT VOTING—134

Abernethy
Abourezk
Anderson, Ill.
Anderson, Tenn.
Annunzio
Archer
Ashbrook
Badillo
Baring
Barrett
Bell
Betts
Biaggi
Bingham
Blackburn
Blanton
Bow
Brasco
Broyhill, Va.
Burke, Fla.
Byrne, Pa.
Byrnes, Wis.
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Chisholm
Clancy
Clark
Clay
Colmer
Corman
Crane
Curlin
Davis, S.C.
Delaney
Denholm
Devine
Diggs
Donohue
Dow
Dowdy
du Pont
Dwyer
Edmondson
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Ford, Gerald R.
Frelinghuysen
Fuqua
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Gray
Green, Oreg.
Gross
Haley
Halpern
Hanley
Hanna
Hansen, Wash.
Harvey
Hawkins
Hébert
Heinz
Howard
Hungate
Jonas
Kee
King
Kuykendall
Landrum
Link
Lloyd
Long, La.
McClure
McDonald, Mich.
McMillan
Macdonald, Mass.
Martin
Matsunaga
Miller, Calif.
Mills, Ark.
Mills, Md.
Mitchell
Monagan
Montgomery
Murphy, N.Y.
Nichols
Nix
O'Hara
Patman
Pelly
Peyser
Pirnie
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Reid
Roncalio
Rooney, N.Y.
Rosenthal
Schmitz
Scott
Sisk
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Springer
Staggers
Steed
Steiger, Ariz.
Sullivan
Symington
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Udall
Ullman
Vander Jagt
Whitehurst
Widnall
Williams
Wydler
Yatron

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 3507, COASTAL ZONE MANAGEMENT ACT OF 1972

Mr. DOWNING. Mr. Speaker, I call up the conference report on the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, and ask unanimous consent that the statement of the Managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 5, 1972.)

Mr. DOWNING (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DOWNING. Mr. Speaker, the conferees on S. 3507, the Coastal Zone Management Act of 1972, have met and resolved the differences between the House and Senate versions of the bill.

As Members of the House will recall, S. 3507 passed the House, amended, in lieu of H.R. 14146, on August 2, 1972. The House action on that date was the result of several years of study, consideration, consultation, and refinement of language. The decision to enact coastal zone legislation was the fruition of recommendations of the Marine Science Council, Marine Science Commission, the National Estuarine Study, and the Coastal Zone Management Conference. Each of the groups considering the problem pointed to the urgent need for action if this Nation is to preserve its invaluable, but rapidly diminishing coastal wetlands and marshes. We are at the final stage of at least beginning to solve that problem.

I should like to briefly outline the actions of the conferees. There were three major areas of differences between the House and Senate versions. The one causing the most difficulty involved the agency responsibility for administration of the act, and I will discuss that more fully later. The second involved a provision of the Senate version which established a National Coastal Resources Board consisting of departmental secretaries to serve as a mediation board. The conferees deleted that provision as unnecessary and cumbersome. The third difference involved a House provision which provided for the authority for a Federal Government in the contiguous zone outside State waters. The conferees deleted this provision because the provisions were vague and adequate standards and criteria were not provided. One additional provision, contained in the Senate version, was deleted as nongermane, which provided for a study of Atlantic Continental Shelf exploratory activities. Finally, the two versions differed on the amount of appropriation authorizations, and the conferees compromised between the two versions.

And now let me return to the question of jurisdiction. Not only were the Senate conferees adamant on this issue, but there is not sufficient time to attempt the task of persuading them to change their positions. When H.R. 14146 was considered in the House, it, like the Senate-passed S. 3507, provided that the program would be administered by the Secretary of Commerce, the reports of both Houses making it clear that the National Oceanic and Atmospheric Administration was the agency best qualified to manage the program, because in that Administration lies the concentration of expertise related to the coastal waters and their associated wetlands. On the floor of the House, an amendment was proposed and adopted which shifted the responsibility from NOAA to the Secretary of the Interior, on the theory that the Coastal Zone Management Act is nothing more than a land use bill and therefore should be administered by the same department which the Administration had proposed for the administration of the National Land Use Policy Act. I cannot agree with this analysis, because it is too simplistic. Nevertheless, as a conferee, I upheld the House position when the conferees faced this problem. The Senate insisted upon the Secretary of Commerce as the administering agency. The House vote on the amendment referred to was approximately 2 to 1. The Senate vote on the passage of its bill was unanimous. The conferees faced an impasse of no bill at all, unless a compromise could be reached. We reached that compromise. The conference report leaves the administration of the program in the Secretary of Commerce, that is the National Oceanic and Atmospheric Administration and provides that any land-use elements contained in a State program under the act must first receive the concurrence of the Secretary of the Interior or other official that may have land use responsibility, before those elements may be approved by NOAA. Mr. Speaker, I consider that that is a fair, reasonable, and honorable compromise. It does not do violence to the House position, but rather protects the basis upon which that position was reached.

I urge you to vote in support of the conference report.

Mr. MOSHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I very strongly urge support for this conference report.

I want to express my personal and complete agreement to the compromise arrangement that the gentleman from Virginia (Mr. DOWNING) just mentioned whereby early in the next session of Congress, on a priority basis, there will be held joint sessions of the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs on this subject.

My colleagues from the Committee on Merchant Marine and Fisheries on the other side of the aisle have stated well the contents and rationale embodied in this final compromise version of the coastal zone management bill.

To put it bluntly, failure to approve this very important environmental legislation today would result in the further degradation of the Nation's coastal waters and its fast decreasing shoreline. Responsible officials of practically every coastal State in the Nation are in strong support of the principles and concepts embodied in this conference report.

The States have asked Congress to provide them with the appropriate guidance, assistance, and direction in attempting to correct the planning mistakes of the past and to insure that future decisions affecting the conversation, development, growth, and utilization of our coastal zone waters and land are rational and represent a proper balance between various competing uses of this natural resource. Our bill will very effectively meet that need.

I fully recognize that some few of our colleagues are very unhappy today because our conference report places the prime responsibility for coastal zone management in NOAA, the National Oceanic and Atmospheric Administration, rather than in the Interior Department as voted here in the amended House bill.

On the basis of that unhappiness, I understand that the gentlemen from Iowa (Mr. KYL) did plan to offer here today a motion to recommit. But I now also understand that the gentleman from Iowa and the leadership of our Merchant Marine Committee have reached an agreement here on the floor today, an agreement that there shall be joint public hearings of the Merchant Marine Committee and the Interior Committee on a priority basis early in the 93d Congress. On the basis of that agreement, Mr. KYL will not make his motion today to recommit, he tells me. Certainly I personally commit myself to that agreement. Such joint hearings will be very welcome and I believe valuable.

The House conferees sought to preserve the previous position of this body, in vesting authority in the Department of the Interior, during the Senate/House conference on this matter. But that position simply could not be maintained, if Congress was to be in a position to enact far-reaching and needed coastal zone management legislation prior to adjournment.

We were successful in insuring that the Department of the Interior would play a major, if not controlling, role in coastal zone management planning, by vesting the Department of the Interior with authority to require changes in a State coastal zone management plan affecting land use, if and when an overall land use program becomes law and that agency is the responsible administrative office.

During this interim period, the Secretary of Commerce is required to consult with all affected Federal agencies, which includes the Departments of the Interior, Housing and Urban Development and others, prior to final approval of any State's coastal zone management plan and subsequent changes thereof.

Mr. Speaker, the compromise between the House and Senate bills is logical, sane, and takes care of the concerns of all interested parties, both public and private, in regard to the bill's final provisions.

The only point on which the House conferees were not able to obtain total acceptance from the other body was on the issue of agency jurisdiction.

I urgently submit that it is far more important right now, today, to enact comprehensive and landmark legislation —the first in the history of the United States—providing for a framework of State land and water use planning in the coastal zone—rather than defeat the bill from the standpoint of agency jurisdiction—particularly in light of the role which the conferees have given to both of the principal agencies concerned.

One more point needs to be brought to your attention. The final version in no way affects the jurisdictional responsibilities of the Environmental Protection Agency, any other Federal agency, or the Department of the Interior in regard to the administration of Federal lands, since the conferees have specifically eliminated those land areas from the definition of coastal zone.

We have a very important decision to make today. To enact landmark legislation supported by the general public in all parts of the country, supported by almost every environmental organization in existence, supported by the Governors of the respective States, supported by local and State planning personnel in the coastal zone States, supported by numerous fishery organizations in the Atlantic, Gulf, Pacific, and Great Lakes, supported by organized labor, and supported by an overwhelming majority of the other body by a vote of 68 to 0 and by this body by a vote of 376 to 6.

Mr. Speaker, I urge an overwhelming vote in favor of this conference report.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Speaker, and Members of the House, I am deeply disappointed in this conference report in one respect. On the second of August by a vote of 261 to 112 the House of Representatives expressed its will on the Kyl amendment, saying that this should be handled by the Secretary of the Interior, administered by the Secretary of the Interior and not by the Secretary of Commerce. For some reason unbeknown to me the conferees decided it should go to the Secretary of Commerce.

Mr. Speaker, it seems to me that it will require setting up an entire new agency in the Department of Commerce, and even though the Secretary of Interior has the right of veto, it seems that this is really letting the House down when the House expressed its will so well on the second of August, and I am extremely disappointed on this aspect of the conference report.

Mr. MOSHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Speaker, I have had two very strong desires in connection with this legislation. First I want our estuaries, our seashores and lakeshores protected. Second, I have desired that the administration of this matter should be in the Department of the Interior and, as has been said, I offered an amendment to this bill on the floor earlier this year. That amendment carried by 165 votes. My view was shared by a majority of the Members of this body.

But, Mr. Speaker, we can be held hostage by time, and; the other body over which we have no control. I do not know who taught whom, but there are a number of individuals on the floor who can play out the time with the skill of a professional football quarterback in the waning moments of the game.

So we have a problem.

Someone has said if we send this bill back to conference it will die. I do not want that to happen. The same individual who is in a position to make such a decision says if we do not get this conference adopted, there will be no ocean dumping control bill, and I do not want that.

The Department of the Interior and the Office of Management and Budget have both held that this should be in the Department of the Interior rather than in the Department of Commerce, and especially in light of the very comprehensive national land use planning which has been provided in legislative form by the Committee on Interior and Insular Affairs, which has been held so that the people of this Nation can know exactly what is in store for them, rather than for the Congress to sneak up on them with a law from which they cannot extricate themselves, a law which they could not stand.

I had planned to offer a motion to recommit to instruct the conferees. To do so would jeopardize the legislative controls that we need in this instance and in the instance of ocean dumping.

So rather than doing that, I think we have arrived at a satisfactory solution which will permit us to give further airing to the problem of administration and accomplish our legislative and environmental policy.

So at this time, I would like to ask the gentleman from Virginia as to his attitude toward having priority hearings early in the next Congress—joint hearings between the Committee on Merchant Marine and Fisheries of the House and the Interior Committee of the House on this subject of jurisdiction so that we can again air it for the public and for the Members of Congress.

Mr. DOWNING. Mr. Speaker, I wish to assure the gentleman on the record, as I have privately, that I will seek to hold hearings jointly with the appropriate committee of the Interior Committee and with the proper Fish and Wildlife and Oceanographic Committee.

I am next in line for the chairmanship of the Oceanographic Subcommittee and I will do everything I can and I give you my word to expedite in every way I can this legislation in the early part of next year.

Mr. KYL. Mr. Speaker, I yield to the gentleman from Colorado (Mr. ASPINALL).

Mr. ASPINALL. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Iowa. With the assurances that have been made by the gentleman from Virginia as well as the gentleman from Ohio, and with the understanding that the Committee on Interior and Insular Affairs will also join in this endeavor, I shall reluctantly support this conference report.

Mr. Speaker, I regret very much that the conferees on S. 3507 have not seen fit to accept the House decision that the coastal zone management program be administered by the Secretary of the Interior. You will recall that this decision was made in the House by a vote of 261 to 112, or better than two to one.

Mr. Speaker, as you know, the Committee on Interior and Insular Affairs has reported legislation calling for a comprehensive land use policy covering the entire Nation, including the coastal zones. This comprehensive land use program would be administered by the Secretary of the Interior, as recommended by the Administration. Because of numerous problems that have developed, including some jurisdictional problems with other committees, action on this comprehensive legislation cannot be completed this year.

As I pointed out when this coastal zone legislation was being considered by the House, it represents only a piecemeal approach to the land use policy and planning problems.

Mr. Speaker, I am convinced that comprehensive land use policy and planning legislation administered by the Secretary of the Interior will be enacted. If Congress is going to approve the piecemeal approach, represented by S. 3507, we should at the very least provide for administration by the department that will administer the comprehensive program, in order to eliminate overlaps in jurisdiction and provide for uniform procedures.

Mr. KYL. Mr. Speaker, the Department of the Interior and the Office of Management and Budget have not reversed their position. I have been an advocate of that position. We legislate and the executive branch can veto, if they so desire. It is our job to do the legislating.

I believe that the solution we have arrived at is the best solution that is available to us at this time and I would, therefore, urge those who have supported that position, which I hold, to cooperate with us at this point.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to compliment the gentleman in the well, the gentleman from Iowa, for his leadership on this particular piece of legislation. I followed his leadership earlier this year and I agree with him wholeheartedly.

Along with the gentleman from Colorado, I am very disappointed but I will reluctantly support the conference report. Again I want to commend the gentleman from Iowa.

Mr. KYL. I thank the gentleman from Virginia (Mr. DOWNING) for his assurance and I thank the gentleman from Massachusetts.

Mr. DELLENBACK. Mr. Speaker, I want to join in complimenting the gentleman in the well for the extremely effective way in which he led the successful fight to amend this bill when it was on the floor of the House. The gentleman from Iowa (Mr. KYL) is an exceptional legislator. He combines outstanding knowledge of his subjects with a rare capacity to marshall and express his arguments in a most persuasive and effective manner. Never backward or shy about fighting to advance Iowa interests, he is at the same time possessed of a national perspective on major issues that is badly needed in the Nation's Congress.

I joined with the gentleman in the original fight, and I reluctantly join with the gentleman at this time in going along with what he has now proposed. In the light of the assurances that have been given by the gentleman from Virginia (Mr. DOWNING), this is probably the best way to handle this matter at this time.

I again join in following the leadership of the gentleman in the well who has led the fight so extremely well on an extremely worthwhile project and who has done so in an exemplary fashion.

Mr. MOSHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to compliment the gentleman from Iowa (Mr. KYL) for the compromise arrangements that he has engineered here today on the floor and I assure him I will participate completely in agreement for joint sessions of the two committees in the next Congress.

Mr. DU PONT. Mr. Speaker, I rise in support of the coastal zone management bill conference report. The coast of the United States and the adjacent waters represent one of this Nation's most precious resources, yet this resource has been subject to drastic degradation and uncontrolled development. While we all recognize the necessity of implementing a rational policy for the usage of all our lands, the coastal zone perhaps is the most endangered area and needs top priority.

Delaware has been a pioneer in this respect. We have a small coastline with some of the most unspoiled beaches and wetlands on the east coast, and Delaware's Governor Peterson led the fight to impose tough restrictions on the development of this resource. As a consequence Delaware has developed a sound scheme for the orderly and judicious use of this resource. Other coastal States have not had the fortune of such leadership.

At our shorelines 65 million Americans are building, disposing and polluting the coastal zone. Just the concentration of people, let alone the industry which follows, have put unbearable pressure on coastal ecosystems. The shorelines cannot absorb any more poor planning and development.

The need for this legislation should be apparent to all my colleagues, yet after the distinguished chairman of the Oceanography Subcommittee and the other members of the committee have worked on this bill since 1969 it is distressing that some agency jurisdictional problems are jeopardizing its enactment.

I think it would be tragic if this vital legislation were defeated on a simple question of administrative and functional convenience. I need not remind this body that the other house unanimously supported a bill which would keep the administration of the act within the Commerce Department.

I also want to point out that the focal point of this act is the States, not the Federal Government. The purpose is to assist the States in their development of sound coastal zone management problems. Administrative functions in the act seem to be secondary to its real goals.

I also want to emphasize the broad range of support for the conference report expressed by diverse groups such as the Sierra Club, the AFL-CIO, and the League of Women Voters.

I sincerely hope my colleagues will recognize the importance of such legislation and will weigh that against the arguments of those who believe the act must be administered by the Interior Department or by no one at all. Rejecting this conference report solely on an administrative issue would be a pyrric victory indeed and the ultimate loser will be the American shores.

Mr. MOSHER. Mr. Speaker, I have no further requests for time.

Mr. DOWNING. Mr. Speaker, I want to take just a moment to compliment the gentleman from North Carolina (Mr. LENNON) who is one of the leaders on this legislation.

Mr. ANDERSON of California. Mr. Speaker, I reluctantly rise in support of the conference report on S. 3507, the Coastal Zone Management Act.

Reluctantly, because I am deeply disappointed that the Senate conferees would not accept the position of the House of Representatives regarding the extension of State-established marine sanctuaries to areas under Federal jurisdiction.

As a member of the subcommittee which wrote this legislation, we were successful, in committee, in adding a provision which I authored designed to protect State-established sanctuaries, such as exists off Santa Barbara, Calif., from federally authorized development.

This provision would have required the Secretary to apply the coastal zone program to waters immediately adjacent to the coastal waters of a State, which that State has designated for specific preservation purposes.

It was accepted overwhelmingly by the House of Representatives despite the efforts of the oil and petroleum industry to defeat it.

But what they failed to accomplish in the House, they accomplished in the conference committee, where the cloak of secrecy prevents the public from knowing the responsible parties.

The State of California, in 1955, created five marine sanctuaries to protect the beaches from oil spills. In 1963, two more sanctuaries were created.

These State-established sanctuaries, which extend from the coastline seaward to 3 miles, account for nearly a fourth of the entire California coast.

However, the Federal Government has jurisdiction outside the State area, from 3 to 12 miles at sea. All too often, the Federal Government has allowed development and drilling to the detriment of the State program.

A case in point is Santa Barbara where California established a marine sanctuary banning the drilling of oil in the area under State authority.

Yet, outside the sanctuary—in the federally controlled area—the Federal Government authorized drilling which resulted in the January 1969 blowout. This dramatically illustrated the point that oil spills do not respect legal jurisdictional lines.

Our Federal policy must be in support of State laws, for without conformity, State laws may be useless.

Our coasts are both a State and national treasure, and must be protected from unwise, ill-planned usage.

Mr. Speaker, having made it perfectly clear how disappointed I am, that the provision which would have protected the State sanctuaries was eliminated by the conference committee; I now, want to make it equally clear that from the overall viewpoint, the Coastal Zone Management Act should be supported.

As a coauthor of the original House bill; I believe this measure is a great step forward in establishing certain procedures that will result in the protection of our coasts from over-development.

And for that reason, I support it, and I urge my colleagues to also vote for its adoption.

Mr. FRENZEL. Mr. Speaker, I rise today in support of H.R. 14146, the coastal zone management bill. It pleases me greatly to see that we have finally gone past the point of discussing whether or not this Nation needs a national coastal zone management plan. We obviously do, and to have reached the final passage and implementation stage is of great credit to this committee's work.

However, Mr. Speaker, it puzzles me to find that the administrating agency for this program is not to be found in the Department of Interior but rather in the Department of Commerce. Within this bill there are provisions which will supposedly insure the internal cooperation of these two agencies. I hope the cooperation works, but the organization is an unfortunate allotment of authority in this vital field. It does not negate the value of the entire proposal.

Briefly then, I find the proposals for administration contained in H.R. 14146 to be inadequate. However, the bill overall is meritorious, and, more importantly, it is badly needed right now. Despite its defect, I urge its passage.

Mr. BOLAND. Mr. Speaker, the objective of the coastal zone management bill is to develop a master plan for preserving and developing our coastal resources.

The legislation before us will coordinate Federal, State, and local efforts to strike a balance among the many competing demands on these resources. In order to avoid a continued erosion of our resources, a rational plan for conservation, utilization, and development of the coastal zone will be drawn up by experts. Alternatives will be weighed in light of their environmental, social, and economic impact on the coastal waters.

This legislation is supported by environmental, governmental, and commercial groups, and is in keeping with the National Environmental Policy Act signed into law 2 years ago. I am pleased that the Congress has acted to assist the States in carrying out programs to manage their irreplaceable coastal resources.

Mr. DOWNING. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTIONS IN ENROLLMENT OF S. 3507

Mr. DOWNING. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 721) and ask unanimous consent for its immediate consideration.

The clerk read the concurrent resolution as follows:

H. CON. RES. 721

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 3507), to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In subsection (h) of section 305, strike out "1975" and insert in lieu thereof "1977".

(2) In the section heading of section 312, strike out "ESTAURINE" and insert in lieu thereof "ESTUARINE".

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOWNING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

SPECIAL ORDER TO SALUTE HON. EMANUEL CELLER

Mr. ROONEY of New York. Mr. Speaker, at the conclusion of all legislative business and all other special orders heretofore entered, I ask unanimous consent to address the House for 1 hour to salute one of the finest men that this body has ever known: the Honorable EMANUEL CELLER, dean of the House, dean of the New York State delegation, and chairman of the House Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. In view of the occasion, the Chair would place this special order at the head of the previously ordered special orders, if there is no objection.

There was no objection.

TRIBUTE TO THE HONORABLE EMANUEL CELLER

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROONEY) is recognized for 1 hour.

Mr. ROONEY of New York. Mr. Speaker, at the conclusion of all legislative business and other special orders heretofore entered, I ask unanimous consent to address the House for 1 hour to salute one of the finest men this body has ever known—The Honorable EMANUEL CELLER, dean of the House, dean of the New York State delegation, and chairman of the House Judiciary Committee. MANNY CELLER means so much to this body, so much to each of us individually that it is extremely difficult to put into words just how strongly we feel about him. Those of us who have been privileged to have the opportunity of representing citizens of New York have had the advantage of having a closer working relationship with MANNY. Thus, we feel the loss of his retirement more sharply perhaps than many other Members, many old time friends. But I think it will stand uncorrected to say that every Member of the House of Representatives knows the gentleman from New York. There are currently some 41 gentlemen and gentlewomen from New York but when one says the gentleman from New York he can only refer to one man, our beloved MANNY CELLER.

I not only knew MANNY with whom I served as a Member of this House for going on 29 years, but I had the pleasure of intimately knowing him and his family. I traveled with MANNY on several occasions and recall with fond recollection one trip to the Eagles' Nest in Bavaria with MANNY, his dear wife Stella, his daughter, Judy, and the director of his New York congressional office, Miss Mary Dougherty.

MANNY has been a leader, confidant, and friend to so many of us over the years. So many, many times he has provided the legislative know how to get something done, the shoulder to lean on, the wit to lighten the dark moment, the moral guidance we all need. He has been a leader in the fight for rights for all our people, for civil liberties of every size, shape, and order. But he has been much more. He has been the rock upon which we have leaned so many times, he has given us spirit when we had none, courage when we lacked the will and above all he has given us his very own heart. Mr. Speaker, I feel that if I go on I will become maudlin and I would not want that to mar this tribute to so great a man. Suffice it to say that MANNY CELLER will be sorely missed and that we all wish him Godspeed and happiness in his future.

(Mr. McCULLOCH, at the request of Mr. ROONEY of New York, was granted permission to extend his remarks at this point in the RECORD.)

Mr. McCULLOCH. Mr. Speaker, there walks in this Chamber a giant of a man. He has served as chairman of the House Committee on the Judiciary longer than anyone else in our history. For one-half a century he has served his country as a Member of this body.

But such legislative records do not truly measure his greatness. What does speak to his greatness is that his work improved the quality of American life. He changed things. He championed the politically weak against the politically strong. He championed the voteless and the poor, trying year after year to bring America home to her ideals. For his labor he had nothing to gain—only the thanks of a grateful Nation.

It was not too long ago that some Americans were not permitted to enter the theaters, restaurants, hotels, schools, labor unions, and residential communities. These were reserved only for others. But the man from the sidewalks of Brooklyn with—let me say at the risk of self-praise—some modest assistance from a man from the plowfields of Ohio, led Congress to adopt laws that opened our society to all of our people. Of course, there is much yet to be done. But we would never have been headed in the right direction were it not for MANNY CELLER.

He was born in the 19th century, but his stamp has been left indelibly on the 20th. He authored 350 statutes and four constitutional amendments. It is also important to note that he thwarted many foolish ideas which otherwise would have marred the code or the constitution.

MANNY CELLER will be recorded in our history books as one of the alltime greats. For certainly history must reserve such a place for one who, although he did not father his country, did lead it from adolescence into adulthood.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. ROONEY of New York. I yield to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, one finds it difficult to select just the right words to adequately express one's depth of feeling for a man who has stood out as a beacon light in these great Halls of Congress for so many years—a man for whom I hold great respect and admiration and whom I have been privileged to know not only as a colleague but also as a friend.

When I came to these Chambers 24 years ago I looked upon EMANUEL CELLER with awe for he had already established a record of achievement. Since then his monumental accomplishments have made history. I consider myself most fortunate to have had the opportunity to work at his side on the Judiciary Committee for over two decades and I found that my respect and my regard for his wisdom, his learning, his compassion, and sensitivity have grown with each passing year.

The works of the ancient Hebrew sage, Ben Sira, in defining the virtues of great and wise men, perhaps best serve to portray my picture of Mr. CELLER before the eyes of all of us here today:

> He will be filled with the spirit of understanding . . . he will pour forth words of wisdom . . . he will direct his counsel and knowledge aright . . . many will praise his understanding and it will never be blotted out; his memory will not disappear, and his name will live through all generations. The nations will declare his wisdom and the congregation will proclaim his praise . . . he will leave a name greater than a thousand.

Mr. CELLER will truly leave a name greater than a thousand for he has held great ideas and ideals and with these a penetrating insight and a keen understanding of human values and he has forged these beliefs and ideals into a treasured legacy for all posterity.

I recall the statement of Cicero—it is not enough to acquire wisdom, it is necessary to employ it. And EMANUEL CELLER in translating his every effort into our legislative process, has fulfilled these words. His is an unparalleled record as a result of his authorship of landmark civil rights legislation and historic constitutional amendments. So many whose basic rights were once denied will remember him for the depth of his humanity. He has labored zealously to insure and to preserve the rights of all men, not only as written document, but he has fought tenaciously to guarantee an actual understanding and a continual reenforcement of these rights.

With his ability to bring people together, his vigorous leadership and his deep commitment to the basic idea of justice for all men, Chairman CELLER met head on the great challenges of our time and dealt successfully and effectively with issues which have torn across the face of this Nation. His presence will be dearly missed when the 93d Congress is called into session. Yet his great indomitable spirit, his deep belief in the principles for which he has fought so strongly, his firm commitment to the rights of freedom and justice for all men will live on in our hearts and in the hearts of all who are privileged to serve here.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. ROONEY of New York. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I am happy to join with my friend and colleague, the gentleman from New York (Mr. ROONEY) in paying tribute to the dean of our delegation, Congressman CELLER, who concludes with this Congress a most distinguished career in the House, second only to the great Carl Vinson from the State of Georgia, some 50 years as a Member of this body and for many years the distinguished dean of this House.

Many attributes are true in the case of Congressman CELLER, but I think that in addition to his distinguished legislative record, one is the warm regard that he had for other Members of the House. I remember coming to this body in 1959, a Democrat from upstate New York in an area where the Republicans outnumbered the Democrats by 3 to 1. It might have been difficult to establish rapport with my colleagues in the same party from New York City, where the situation was reversed, but MANNY CELLER was one whose understanding and big heart made it possible to weld together members of the delegation from different areas.

He was a great legislative leader. Others will be able to detail the substantial list of landmark pieces of legislation that Congressman CELLER was responsible for, including four or five constitutional amendments.

I want to express my appreciation to him for his help in getting through a piece of legislation that I was interested in; that I introduced when I first came here, and which for many years people said was a crazy, an insane bill; a bill that would put some of our national holidays on Monday rather than on a specific calendar date so that we might have a 3-day weekend celebrating them.

When MANNY CELLER understood this was a matter of concern to me and it might be helpful to me in my district he did everything in his power to see that it got successfully out of his committee.

I believe that perhaps his greatest achievement, especially as a Congressman from New York State, took place in the past 14 years, during the administration of Governor Rockefeller in New York State, when MANNY CELLER was responsible for pulling together the delegation from New York, which was the largest delegation in the House until recently, and which had never completely worked together as a single unit. As the chairman of the New York delegation steering committee he succeeded in bringing our delegation together so that our numbers could be felt in this Chamber for legislation that would be helpful to New York State. I believe it is perhaps significant that on the day we honor him this House has accepted the conference report on the revenue-sharing bill, something that was vital to New York State; and a bill which, incidentally, included more money for New York State than for any other State in the Union, even though in terms of population we are only No. 2 now alongside of California.

This was a significant achievement for which MANNY CELLER was responsible, and I believe the people of New

York State of both political parties will salute his leadership for years to come.

Mr. ROONEY of New York. Mr. Speaker, it is indeed a pleasure and a distinguished honor to yield to the Speaker of the U.S. House of Representatives, who has certain remarks to make.

Mr. ALBERT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it has been a rare privilege for all of us to have served with our great and beloved dear MANNY CELLER. Mr. CELLER has had both one of the longest and one of the most brilliant careers in the House of Representatives. He has championed great causes and won tough battles. He has demonstrated an incredible persistence, especially in opposition. The year after Mr. CELLER came to Congress, 1924, a law was passed that created the national origins quota system. For 41 years he fought to have this act abolished. A bill written by Mr. CELLER was finally enacted in 1965.

Reviewing Mr. CELLER's career is like leafing through a history book on the evolution of civil rights in this country. He has guided every important piece of civil rights legislation through the Judiciary Committee and then through the whole House.

His name is on more than 350 laws. He has authored four constitutional amendments. The quality of his service has never been surpassed in the history of the House. He is not only one of the deans of deans, he is one of the greatest of the great.

I am proud that I can say that during every day of my service in this House, he has been friend and adviser. I love him. I shall miss him.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY of New York. I am pleased to yield to the distinguished majority leader, the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I should like to join with the distinguished gentleman from New York (Mr. ROONEY) and the other members of the delegation on both sides of the aisle in paying tribute to one of the greatest Americans of all time.

I came here in 1941, and even then MANNY CELLER was a giant in this, the House of Representatives. He had done much to pass and to perfect the legislation which was necessary after the great depression. Then he had moved into the area of antitrust legislation, where he distinguished himself for many, many years.

More recently he has probably contributed more to making the Bill of Rights a reality than any other single American. Today there are Americans who enjoy the right to vote, who enjoy the right to participate fully in our Democracy, who enjoy the right of equal opportunity in employment, because of the dedication and the diligence of this one man.

Through it all he has had a keen sense of humor, a fine love of institution, and a mind that has been unexcelled through the years, and although chronologically tonight he is considerably older than most people in this body, his mind is still as active and his zest for his country and the House of Representatives and for the good of the country remains as steadfast tonight as it was 50 years ago when he first came to this body.

So, Mr. Speaker, I am honored to join in this tribute to a very great American indeed.

Mr. ROONEY of New York. I thank the distinguished majority leader for his remarks.

Mr. SMITH of New York. Will the gentleman yield?

Mr. ROONEY of New York. I shall be glad to yield to the distinguished gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. I thank the gentleman for yielding.

Mr. Speaker, I believe that our beloved Mr. CELLER has—and I have been told that he has—presided over more amendments to the Constitution of the United States than any other person in history except the Founding Fathers who presided over the passage of the first 10 amendments, which are known as the Bill of Rights. This, of course, is a tremendous historical record that probably will not be equalled by any other single person in this country.

Mr. CELLER will go down in our history as a landmark, as a mighty oak.

I would like to say a few things about my personal relationship with this great man. I have had the great honor of serving on the House Committee on the Judiciary under Mr. CELLER for 6½ years, and it has been a privilege. His chairmanship has gone a long way toward making it such a privilege.

He always conducted the committee with wit and good humor. His good humor and his wit many times could turn a tenuous situation into one of understanding and cooperation. He was always a fair chairman, fair to those of us on the minority, and fair to every member on the committee. Never did he take advantage of his power as the chairman of one of the great committees of the House, but, rather, he always deferred in fairness to the wishes of every individual serving on that committee.

I found him to be most cooperative, with the new members on the committee particularly, on both sides of the aisle.

So I say, Mr. Speaker, that it has been a great personal privilege for me to serve under the chairmanship of this wonderful man, and we shall miss him here in the House of Representatives, we will miss him on the Committee on the Judiciary, and we hope that he will take every opportunity to come back here and visit us in the Halls of Congress.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?,

Mr. ROONEY of New York. I yield to the distinguished gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the gentleman from New York for yielding to me and giving me the privilege of joining him and my other colleagues in this tribute that we pay to the dear dean of this House and our beloved colleague, "MANNY" CELLER.

This House will not seem the same with "MANNY" CELLER's familiar figure not here. We have listened so many times to the measured cadence of his reasoned eloquence; we have so often been delighted as the shafts of his wit have flashed across this Chamber. Our minds have warmed to his wisdom and our hearts to his compassion so often. We will never forget that his character and his wisdom and his fidelity to his country are imprinted in constitutional amendments and in numerous acts of legislation that have come out of the Congress.

Every one of us who has had the privilege to serve with "MANNY" CELLER is his debtor, because by his example and by the warmth of his friendship and by the fidelity with which he pursued his high ideals, he has buoyed us all.

He leaves a record of statesmanship which will be the envy of every member of any parliamentary or congressional body, and he leaves a place in the affection of his colleagues which can never be filled.

So, Mr. Speaker, I think we can all say that it is stimulating and inspiring to revere the memory of so good and so great a man and especially to hear him, as we have been privileged to do this day, speak so movingly of the future while he reveres the past. Here is a man truly of the immortal spirit which never dies; nor shall his memory ever perish from the hearts of all of us who have known him.

As Shakespeare so well said, Mr. Speaker, "We shall not see his like again."

(Mr. McCLORY, at the request of Mr. ROONEY of New York, was given permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Speaker, it is with a sense of sincere personal pride and emotion that I comment today on the service of our retiring Judiciary Committee chairman, the gentleman from New York, EMANUEL CELLER.

Since my election to the Judiciary Committee in 1965, I have had countless opportunities for private, personal as well as official contacts with "MANNY" CELLER. I have come to love and respect him as a man, as a lawyer, and as a lawmaker.

Mr. Speaker, above and beyond every other characteristic possessed by our distinguished colleague, "MANNY" CELLER embodies unequaled qualities of compassion and understanding. These are reflected in the legislative products of our Judiciary Committee—and of the Congress during his long years of service as well as in the personal attitudes which he has always displayed.

Congressman CELLER's overriding concern for his fellowman has carried him to positions of great leadership in support of the world's beleagured Jews, as well as in his authorship of legislation in behalf of all of our disadvantaged citizens. He has always been in the forefront of the battle for equal civil and human rights for all Americans. He also has championed the rights of citizens accused of offenses against society to assure that they should not be denied a single protection provided by our Constitution and Bill of Rights.

Mr. Speaker, in a more personal vein let me say that Congressman CELLER always has accorded to me, as a minority member of the House Judiciary Committee, the full benefits of committee membership and all of the prerogatives and benefits that such membership includes. I was never denied authorship of any legislation or amendments which originated as a result of my own initiative—such as the so-called Monday holiday legislation, the amendment to the omnibus crime bill establishing the National Institute of Law Enforcement and Criminal Justice, and the recent jury reform measure to assure fair representation to minorities on Federal juries. On all of these measures in which I have indicated a particular interest I was given a free hand to serve as the measures' sponsor and to develop the reports in support of the proposals.

With respect to the calling of witnesses and the production of testimony on various issues coming before the Judiciary Committee, Congressman CELLER as chairman of the committee, was always cooperative to see that all aspects of the issues were fully explored and presented.

Mr. Speaker, while some would discriminate against Members of Congress on the basis of their age, there could never be any doubt of Congressman CELLER's continuing intellectual strength and complete mental alertness as a septuagenarian and octogenarian. His keen wit and Solomon-like wisdom seemed to sharpen with the passing of the years to the delight of his admirers and the astonishment of his critics.

It is certain Congressman CELLER was inspired and encouraged by his late wife, Stella, and by his loving daughter.

Mr. Speaker, while I can recall only the past 10 years during which I have served in the House of Representatives, the close contacts that I have had during this period are sufficient for me to aver that in Congressman EMANUEL CELLER the Nation has witnessed one of the great lawmakers of all time.

My wife, Doris, joins me in wishing to our longtime friend Congressman EMANUEL CELLER many more active and productive as well as healthy and happy years in the next chapter of his eventful and exemplary life.

Mr. DENNIS. Will the gentleman yield?

Mr. ROONEY of New York. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, like other Members of this body, I have the most profound admiration for the honorable gentleman from New York, the chairman of the Committee on the Judiciary, Mr. EMANUEL CELLER.

I am very happy that my own brief service in this body of two terms has been on his committee and under his leadership of that committee.

One can disagree with Mr. CELLER—and I frequently have—but on all occasions I have met, as every member of that committee has always met, with the greatest consideration, courtesy, and fairness in that committee.

Under his chairmanship we discussed things as lawyers and as equals and in the manner, if I may say so, that gentlemen should, because the chairman is a gentleman of the old school.

Mr. Speaker, one thing that certainly can be said about the chairman is that he has made his mark, as has already been noted here this evening. Many of us who serve here in this body may serve long and well, but our service will be little noted nor long remembered; it may be full of sound and fury signifying nothing, as the poet said. But Mr. CELLER has left his name on the statute books and on the life of his Nation.

Mr. Speaker, another thing which is most pleasing to see about the chairman is the fact that at a great age he remains keen-minded and active and is looking forward in his retirement to a continued active existence at the bar and in the teaching of his profession.

He calls to my mind the beautiful lines of Tennyson in his poem entitled "Ulysses," where he says—

> Old age hath yet its honor and its dreams;
> some works of noble note may yet be done
> not unbecoming men who stroll with gods.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield to me?

Mr. ROONEY of New York. I yield to the gentleman from Ohio at this time.

Mr. SEIBERLING. Mr. Speaker, many of us will remember the story about the famous Roman statesman Cato who at the close of his career was approached by some of his friends who asked permission to erect a monument to him. He declined the honor, and he said that he hoped future generations, when they asked where the monument to Cato was, would be told, "Look around you."

Mr. Speaker, many years before I became a Member of this House and when, indeed, I was simply a law student, I was already aware of the monuments that Mr. CELLER had left around him. After many years of practicing law, in which I dealt with his monumental legislation as a practicing attorney, when I came to this House I felt that there could be no greater service for me as a lawyer than to serve as a member of the Committee on the Judiciary, and through good fortune I became such a member.

It was then that for the first time in my career I became acquainted with Mr. CELLER the man.

To say that he is a person of great warmth and wit, lucidity of thinking, would be to state what is obvious to anyone who knows him, but the quality of personality and subleties of spirit cannot be but felt; they cannot be described with ease.

I often think if there is any one line in our literature which describes the quality of Mr. CELLER's mind and character it is the words of the 16th century Elizabethan poet, Sir William Wotton, who, in a poem entitled "The Character of a Happy Life," started out this way:

> How happy is he born and taught,
> That serveth not another's will;
> Whose armour is his honest thought,
> And simple truth his utmost skill!

Simple truth, as we know, is not simple to achieve. The most simple truth, the essence in truth is something that only the greatest genius can distill. In the law, as in other professions, it requires a great genius to distill the essence of truth and put it into form that will last, and guide the ways of men. Such is the character of our great dean of this House, the gentleman from New York, Mr. CELLER.

One of the great honors of my career has been and will be that I served with EMANUEL CELLER on the Committee on the Judiciary.

I thank the gentleman from New York for yielding to me.

Mr. ROONEY of New York. I thank the distinguished gentleman from Ohio for his remarks.

Mr. VANIK. Mr. Speaker, with deep admiration, I rise with my other colleagues in this Chamber in saluting the dean of the House, the Honorable EMANUEL CELLER of New York.

"MANNY" CELLER has served in the House for 25 consecutive terms—50 years—half a century. He has served his country and the people of America for over a quarter of the lifetime of our Nation. His has been a truly remarkable dedication to the public interest.

As chairman of the House Judiciary Committee, he has always sought to develop the most painstakingly accurate legislation—compassionate legislation in accord with the Constitution which has guided our country and which has so obviously helped guide the gentleman from New York (Mr. CELLER).

We will all miss you, Mr. Chairman: You are the best trained lawyer, you are the highest skilled legislator, you are the finest gentleman in the House.

We cannot thank you enough for the guidance, advice, and aid that you have given each of us over the years—we can only wish you the very best in the years to come.

Mrs. MINK. Mr. Speaker, there are many Members of this House whose distinguished achievements fully entitle them to a proud place in the history of this great land. Yet it is remarkable that among these ranks of illustrious and talented personages, one figure towers high above all his peers.

That single person, of course, is our extremely capable and respected dean of the House, the Honorable EMANUEL CELLER of New York. "MANNY" CELLER has written a record of public service that will be impossible for his colleagues to duplicate. Indeed, he has fashioned a legacy of dedication and commitment that will stand as an ideal for all time.

When his half century of membership is coupled with the staggering breadth of his accomplishments, surely "MANNY" CELLER deserves our recognition as the foremost Representative in our history.

As chairman of the House Committee on the Judiciary, "MANNY" CELLER has occupied a key and crucial position in these eras of flux. In this capacity he has bestowed the benevolence of his judgment on a thankful citizenry. On occasions far too numerous to attempt to list, he has been called upon to lead, and in each instance he has performed brilliantly. Truly, he has brought unparalleled wisdom and judgment to the handiwork of Congress, helping mightily to foster a law that is just, and a society that is noble.

"MANNY" CELLER has stood forthrightly for the weak and the underprivileged, never sanctioning the exploitation of the poor or the abuse of the unknowing. He has used his high position as a public trust, serving as a faithful and watchful servant of the common good. His steadfast devotion to principle, and tenacious resistance to special interest and privilege, have served to protect the most cherished rights of the people of this democratic Nation.

But his masterful occupancy of the position of chairman cannot in itself explain the awesome respect with which "MANNY" CELLER is viewed by all his colleagues. Instead, one has but to observe him in action as he expertly employs all the skills of the legislator's art. His sweeping knowledge of scores of subjects, commanding ability in debate, and shrewd parliamentary tacticianship, has justly earned him a reputation as a formidable adversary. Yet, he is a kind and generous friend, enjoying wide admiration among all members of all political persuasion.

We can be thankful for the privilege of serving in the same House with EMANUEL CELLER, for he has brought a unique measure of prestige to this body. He cannot be replaced, but I can only hope that others will strive to carry on the traditions he has set forth. I offer my sincere best wishes to "MANNY" CELLER for many more happy and productive years ahead.

Mr. BOLAND. Mr. Speaker, the distinguished and venerable dean of the House of Representatives, EMANUEL CELLER, is bringing to a close 50 years of brilliant and capable public service to our Nation and the State of New York.

Chairman CELLER has occupied a very special place in the legislative history of the House of Representatives. He has chaired the Judiciary Committee longer than any other man. He has been in the vanguard of legislative battles in the fields of antitrust, civil rights, and immigration. Domestic needs have always been first and foremost, and inequities in the law have been his recurrent target throughout his years of service.

I am privileged to have served with a man of Mr. CELLER's strong and articulate leadership. His integrity, candor and quick wit will be missed in the Halls of Congress.

Mr. MORGAN. Mr. Speaker, I never thought I would be in this House long enough to pay a farewell tribute to the distinguished gentleman from New York, EMANUEL CELLER. When I came to Congress in 1945, "MANNY" CELLER was already a national figure. And in the passing years his stature has increased to the point where he is now almost a national legend.

For a half century he has given of himself to serve not only his constituents but the citizens of this country. It is almost impossible to cite any piece of major legislation or any recent constitutional amendment where he has not been a principal participant. His powers of persuasion defy description; his analysis of intricate details of legislation has provided this House with a constant refresher course in law. Those of us not versed in the law have seen it stripped of legal verbiage and reduced to understandable language.

I have never heard "MANNY" CELLER debate with bitterness or pettiness. His speeches are larded with stories as fresh as the cigars he smokes. I know he smokes fresh cigars because he sometimes borrows them from me.

In recent years many have tried to write about this House not simply as an organization but as a living institution. But all have fallen short of the mark. I have one last request to make of my beloved and respected colleague—please turn your well-earned leisure hours to writing your memoirs of service in this body. Think of what "MANNY" could tell—the personalities who have graced this body, the history of our country through economic ups and downs, through wars and peace, the passing of old programs, and the starts of new programs. I can think of no other individual who can qualify for this assignment.

In leaving this House, "MANNY," you are leaving behind a host of Members who will always cherish their friendship with you. The best of everything to you as you embark upon a new era of your life.

Mr. FLOOD. Mr. Speaker, I am sure I accurately express the sentiments of the Members of the House of Representatives when I say I will greatly miss the wise counsel of Congressman CELLER upon his retirement after 50 years of distinguished service to his district, his State, and his country.

I feel it is also accurate to say that Congressman CELLER will be remembered as one of the most outstanding Members to serve in this body.

His role as chairman for many years of the House Judiciary Committee is notable in that much of the vital and far-reaching legislative enactments of this century were made under his leadership and his legislative skill.

I suggest that those interested in pursuing a law career or political science career would do well to study the brilliant career of "MANNY" CELLER. There is much worthwhile to learn from his service over a half century in the House. Few can match it or will ever match it.

The people of this Nation owe "MANNY" CELLER a debt of gratitude for his many years of service in the public interest. When the 93d Congress convenes in January the House will be the poorer because of the absence of our distinguished friend and colleague from the 10th District of New York, Chairman EMANUEL CELLER.

I shall miss him and I know all of you will too.

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the gentleman from New York, EMANUEL CELLER, who is retiring from the Congress after a half century of dedicated public service in the House.

Congressman CELLER, whom we all have become accustomed to affectionately calling the dean of the House, has served longer as a U.S. Representative than any other Congressman except Representative Carl Vinson of Georgia, who served 2 months longer than EMANUEL CELLER will have served when he retires.

Congressman CELLER has made congressional history and set many precedents. For example, he has served longer as chairman of the Committee on the Judiciary—22 years—than anyone else in the history of the House.

Under his chairmanship the Judiciary Committee has sponsored more constitutional amendments adopted—four—than at any other period in history other than in the First Congress which approved the first 10 amendments, the Bill of Rights.

In addition, Chairman CELLER can justifiably claim credit for more than 400 bills that have been enacted into law through his sponsorship or support.

Judge CELLER has served in the Congress through some of the most critical times in our history—and he has served with distinction, dignity, and effectiveness. He is able, articulate, erudite, and effective and a skillful legislator. He has served his district, State, and Nation long and well and with distinction and fidelity.

The House will not be the same without "MANNY" CELLER, his wisdom, knowledge, experience, and wry wit. It is recorded that on one occasion as he urged a witness to complete his testimony, "Like an Egyptian mummy," because he said, "we're pressed for time."

Repeating the words of Britain's eminent Prime Minister Disraeli, which Chairman CELLER is noted for quoting—

> He climbed a greasy pole to success.

Yes, we will miss Dean CELLER—but we appreciate his invaluable contributions to the legislative and constitutional history of our Nation—and we wish him the very best of good luck and success as he enters a richly deserved retirement.

Mr. PODELL. Mr. Speaker, when the 93d Congress convenes in January, it will be meeting for the first time in 50 years without the presence of Representative EMANUEL CELLER of New York's 10th Congressional District. The dean of the House of Representatives, my colleague, mentor, and friend will have given up his seat in the House to take up other pursuits with the same vigor and dedication he gave here for the last half century.

When the Dean CELLER announced his decision not to pursue reelection, it was as Edmund Burke said:

> An event has happened, upon which it is difficult to speak, but impossible to remain silent.

And so I join with my colleagues today in acknowledging the leadership and friendship of a great public servant and a great man.

The length and the breadth of Mr. CELLER's almost unparalleled accomplishments as a representative of the people are spread on this record today, and one of them would be cherished by most men as the achievement of a lifetime. His constitutional amendments, and much of what he did and said shaped our life and our times.

He discharged the great trust placed on him by high office with ability, dedication and responsibility the task demanded. In times of crisis, he brought the people together. In time of confusion and turmoil he brought patience and wisdom and understanding. During his half century stewardship of the public trust he has become known and loved for what he has built, not what he has destroyed. Generations of our Members have sought his counsel, which he gave freely and honestly.

The Congress, and the Nation too, is a better place for "MANNY" CELLER having passed this way. Still strong for service, with a mind sharpened by years of legislative battles, he takes his talent, and experience, and wisdom to other tasks.

I hope these new interests, Chairman CELLER, will not be so far away as to place your knowledge and experience beyond the reach of young Members of Congress.

We have much to learn, and you can teach us.

Mr. BRASCO. Mr. Speaker, periodically a society which claims to be democratic produces institutions that reflect the freedoms it claims to offer its citizens.

This House is one such institution. It not only embodies the ideals of our country, but reflects the unique makeup of our population.

This House has periodically reflected the success or failure of American life and America's promise by the men it sends here and the way they perform its functions. From time to time, a person appears in this House who reflects the best of the American immigrant tradition, the finest elements of the American democratic tradition, and epitomizes all that is good about this House as a people.

One such man is EMANUEL CELLER, dean of the House, chairman of the House Judiciary Committee, and a great American.

He has come to epitomize the democratic tradition of his body in his long years of service to his constituents, his city and our country. He has prevailed against the winds of reaction, when they have sought to demolish the structure of democracy.

His voice has always been raised on behalf of the voiceless and the dispossessed. He is perhaps, and quite probably, the most outstanding Jew ever to have honored his people by service in this House. Hundreds of thousands of his coreligionists live free lives today because of the life he has led. Israel as well as America joins in paying tribute to this man who has always given of himself in the name of all the causes that are fine and good.

Mr. SIKES. Mr. Speaker, for half a century EMANUEL CELLER of New York has been a fixture in the Congress of the United States. For much of that time he has been a tower of strength. Now in the final days of his service in Congress, it is highly appropriate that those who served with him express our very best wishes for a full and happy retirement. Few men in history have served their country for so long or in positions of such high responsibility. Mr. CELLER has seen our country through depressions, wars, tensions and periods of national crisis as well as periods of growth and prosperity. He saw us emerge from the roaring 20's and now he sees us in the sizzling 1970's. In each of these years the name of "MANNY" CELLER was recognized and respected.

Nine Presidents have known EMANUEL CELLER as a man of deep conviction and personal strength. While some may not have agreed with him, no one ever had to question exactly where Chairman CELLER stood on any issue.

It was on November 7, 1922, that the name of CELLER first appeared on the New York ballot as a candidate for Congress. It has appeared there every 2 years since. The people returned him to office for a record 24 times to carry forward the ideas and programs for which he now has become a legend. Talented and witty, he is a most engaging friend or adversary, and a warm friend.

As chairman of the House Judiciary Committee, no man in this century has had a greater impact on the courts of our land. EMANUEL CELLER always strove for a judicial system which would carry forward the constitutional mandate of the separation of powers.

With his departure from the congressional Halls, this great American will take his place among the select list of men and women who truly have devoted their entire lives to public service. The Congress will not be the same without him.

I wish him peace and happiness in his retirement.

As chairman of the Judiciary Committee, he has come to embody the fair use of power, shying away from the abuse which so many have found to be convenient, once they obtain it. Again and again, the voices of darkness have cried out for hasty action against unpopular causes. Knowing full well that such acquiescence would demean freedom and liberty, Chairman CELLER has resisted courageously these people and their importunings.

In every case, history and events have vindicated his judgment.

The State and city of New York, particularly the Borough of Brooklyn, of which I have the honor to represent a portion, owe him more than words can describe. Over the years he has placed his constituent first, to their benefit and to his honor.

If ever there has been living proof of the concept and belief that opening America's doors to immigrants of other shores would redound to democracy's benefit, it is the life and public service of EMANUEL CELLER.

Therefore, it gives me enormous personal pleasure to join in honoring him today for what he has done in effect for all of us. This House shall be much the poorer because of his retirement from public life. His judgment, intellect, knowledge and wisdom will be sorely missed in the times to come. And also let history note that few men have left this House a greater legacy of warmth, compassion, humor, and life.

Mr. HANLEY. Mr. Speaker, any praise we offer today to the Honorable EMANUEL CELLER, no matter how lavish, will certainly be understatement. One day is not enough to even run down the amazing list of legislative accomplishments this man has to his credit. One day would not be enough to mention all of the times over the years he has championed humanitarian causes and come to the defense of the Constitution. One day would not be enough to speak of his personal warmth, or of the expertise and good humor he brought to the House. One day is not enough, but we are forced to make it so.

I take particular pride in Mr. CELLER's accomplishments because of the fact that he is a native of my home State. I suppose this is a bit unfair, but you must realize that the chairman has been a beloved figure for years in New York. He has looked after the interests of his people well, and he is accorded the admiration and respect of a great leader. Indeed, he has been a shining example that more than one man has tried to follow.

He has served this Nation splendidly for 50 years. Years of the most rapid and far-reaching change man has ever known. He has helped form some of the great things that are America today, and we all owe him a great debt. His impeccable integrity and judgment has saved this Nation from many a foolish law, and has produced dozens and dozens of great ones. I think it would be safe to say that this man has produced more legislation, and presided over more legislation, than any man of this decade. No man in this room can come close to "MANNY" CELLER's record of service.

One of the most amazing things about this gentleman is that he never lost his sense of balance, although one of the most powerful men in Washington. He was always warm and friendly, and willing to help out a new Member. In his seat of power, he never lost sight of the powerless. In fact, he devoted his career to the proposition that all Americans, no matter of their origins, religion or race, were equal before the law, and as chairman of the House Judiciary Committee, he never let his colleagues forget it. He has been privy to generations of top-level decisions and adviser to Presidents, but perhaps more importantly, he has been the best friend the common man has ever had in these Halls.

"MANNY" CELLER's dedication to his Nation and his abiding belief in the individual rights of the citizen will long be remembered. We all owe him a great debt, and I am truly sad to see him retire. I think he can rightly be called one of the greats of our century.

Mr. ZABLOCKI. Mr. Speaker, I am glad to join with my colleagues in expressing admiration for MANNY CELLER and appreciation for his long and distinguished service in the House and one of the greats of our century.

I came to the House of Representatives in 1949 and sometimes think of myself as an "old timer," but at that time our colleague had a quarter of a century of service in the House and had attained a position of distinction and leadership.

It is particularly impressive that it was many years later that he became recognized nationally and internationally for his courageous and skillful leadership in the enactment of our civil rights legislation. No one can praise too highly his fight for civil rights. The people of the Nation are in his debt.

One cannot, however, overlook the fact that as a member of the Committee on the Judiciary and for many years the chairman of that committee, he has made an outstanding contribution in dealing with matters other than civil rights.

The House has come to depend on his knowledge of the law and his wisdom derived from long experience. We will all miss him.

Certainly, Manny Celler deserves an opportunity to lay aside the burdens and responsibilities he has borne so long, and to take advantage of the leisure which has so long been denied him.

I know of no one who can take greater pride in his accomplishments or who is held in greater esteem by his colleagues.

I want to thank him for what he has done and assure him of my best wishes for the leisure years ahead.

Mrs. HICKS of Massachusetts. Mr. Speaker, a distinguished colleague and dear friend of many of us—the Honorable Emanuel Celler of New York—will not be back with us next year. He has announced that he will retire from the Congress at the end of this session.

"Manny" Celler, as he is well-known to many of us, is 84 years young, and has served longer in the House of Representatives than anyone else except former Representative Carl Vinsen. He has served longer as chairman of the House Judiciary Committee than anyone else, 22 years of dedicated service on that prestigious body.

He has often been called "the champion of the underdog," and when we recall the many and various causes he has taken it upon himself to speak out for it is understandable that he would be so honored. Perhaps his greatest satisfaction has been the leading part he played in getting civil rights bills and constitutional amendments to a vote; indeed, he has had more to do with developing constitutional amendments than any other man in the House.

We know just how serious a matter is the constant pressure of events, the constant clamor of the legislative mill—so it has been good to have had "Manny" Celler with us, with his quick wit and ready quip. It has been reported that he has used a favorite saying of Britain's Disraeli to help him through some of the rough and tumble of the congressional life:

> Ever be armed with the breastplate of good humor.

Manny Celler has been well armed, indeed, and we will miss him as we go about our way on the Hill. His is a familiar face and voice, and after so many years in the Congress we trust that his years in retirement will be both long and pleasant.

Mr. ADDABBO. Mr. Speaker, I do not believe words can do justice to the career of the distinguished dean of the House of Representatives, the Honorable Emanuel Celler. This tribute to our respected and beloved colleague from New York is one which comes from the hearts of the Members of this body for we have had the honor of working with him on many historic bills. In the past 50 years, he has shaped literally thousands of important bills and left his mark on the history of our Nation.

The records of history will be filled with accounts of his leadership in civil rights legislation, antitrust legislation, immigration reform legislation, law-enforcement legislation, and so many other vitally important measures. His speeches to this House on behalf of those bills, brilliant and so logical, will be read by students and future Members of the Congress.

It will be more difficult for history to capture the truly interesting and memorable side of this gentleman's character and career. His statesmanship as a legislator, his kindness and compassion as a human being, and his charm, wit, and quick mind are the qualities about "Manny" which we will miss. He has been a tower of strength to the members of the New York congressional delegation as well as to the entire House. That is why this special tribute to Chairman Celler is so significant.

As chairman of the House Judiciary Committee, Congressman Celler compiled a record of achievement beyond the dreams of most legislators.

He has placed his personal touch on so many bills. He has met with and advised Presidents, having served under all since President Warren Harding. He has touched the lives of thousands of high Washington officials, including Supreme Court Justices and Ambassadors, but he has also had an impact on the lives of the average American—the immigrant, the worker, the minority group member, and the businessman.

There have been many occasions during my 12 years in the House of Representatives when I have turned to Manny Celler for guidance. His advice has always been sound and wise. I know that my colleagues have done the same and because I am proud to count him as a personal friend, I hope that relationship will continue in the years ahead.

As our good friend and leader returns to his home in Brooklyn, I join with my colleagues in wishing Manny Celler good health and happiness in his future endeavors. He certainly deserves the appreciation and the tribute which this House is expressing to him today.

Mr. KEMP. Mr. Speaker, I am honored to take part in this tribute to a great American. For the past 50 years, Emanuel Celler has been a distinguished Member of Congress. Only one other Congressman, Representative Carl Vinson of Georgia, has exceeded Congressman Celler's years of service and that only by a scant 2 months or so.

In the course of his 50 years of service, Emanuel Celler has acquired a great deal of stature. As chairman or ranking minority member of the House Judiciary Committee since 1949, Congressman Celler has had a hand in shaping almost all important legislation to come before Congress in the past two decades.

It is to his everlasting credit, however, that he has never forgotten the dictum of Benjamin Disraeli when that great British statesman said:

> That all power is a trust, that we are accountable for its exercise; that, from the people, and for the people, all (power) springs, and all must exist.

Emanuel Celler has always used the power he possessed for the good of the people. His record as a civil rights advocate has seldom been equaled. He was largely responsible for the Civil Rights Act of 1957, the first comprehensive act in 82 years. His efforts were instrumental in the passage of the 1960 School and Voting Rights Acts, and the 1964 public accommodation law. Virtually every subsequent civil rights act has carried his active endorsement.

Civil rights bills are, of course, only one area of concern to Congressman Celler. More than 300 public laws bear his name. This is something of a record even for a long-termed Congressman. His ability to guide a bill through the House to passage is legend. Constitutional amendments have also benefited from his great skill at obtaining a consensus of support. It is a rare opportunity for a Congressman to be able to offer an amendment to the Constitution. Emanuel Celler in his 50 years as Congressman has been largely responsible for the passage of more constitutional amendments than any other man with the exception of James Madison who introduced the resolution which became the Bill of Rights.

Congressman Celler's amendments eliminated poll taxes, gave District of Columbia residents the right to vote for President and set up machinery to run the Government in case of Presidential disability. His backing of 18-year-old voting rights was also instrumental in gaining passage for the 26th amendment.

This impressive legislative record is only one aspect of Congressman Celler's contribution to the well-being of the American people. As chairman of the Judiciary's Antitrust Subcommittee, Congressman Celler has exposed antitrust violations which worked to the detriment of the consumer. His unrelenting investigations showed no favorites, hitting such varied industries as steel, newsprint, sports, and television. Undoubtedly, his investigations have helped to encourage compliance with the spirit of antitrust laws.

For the past half century, Emanuel Celler has been a force for progress in this country. When he first entered Congress in March 1923, Emanuel Celler's distinctly progressive ideas were something of a novelty. Over the years he has worked diligently to obtain legislative approval of many innovative ideas. It is to his credit that he has succeeded to such an admirable extent.

Future historians, I am sure, will mark the years of his service in the Congress as a landmark era in American history. EMANUEL CELLER helped to shape the events of those years to a very great extent. The impact of his leadership will be felt for many years to come. His place in the hall of the congressional greats is assured. No greater memorial could be made to a man's lifetime of service. We all will miss our good friend.

Mr. Speaker, I am including at this time for the information of my colleagues a newspaper article from the October 8, 1972, issue of the Buffalo, N.Y., Courier Express:

CELLER PROUD OF RIGHTS LAWS

(By William B. Dickinson, Jr.)

WASHINGTON—Rep. Emanuel Celler, 84-year-old dean of the House and chairman of its Judiciary Committee, thinks the nation has enough civil rights laws on the books for the time being but favors stronger legislation to protect individual privacy. The New York Democrat covered these and other topics in a wide-ranging interview with Congressional Quarterly in the closing days of his long career in Congress.

Celler has served in the House since 1923, longer than any other members in its history except Rep. Carl Vinson, D-Ga., who servd from 1914 to 1965. Celler was defeated in the New York State primary in June by Elizabeth Holtzman, 30, a liberal attorney. Celler's age and his continuing law practice were principal issues in that contest.

Th scrappy Celler said, however, that he would "kick the hell out of any man who tells me I must retire because of my age," adding: "I carry on just as well, I hope and I think, now as I did 20 years ago," Slightly hard of hearing and slow of gait, Celler nevertheless projected the personality of a man of unimpaired mental capacity.

DEFENDS RULES

Celler said he planned to continue his law practice with "greater vigilance than heretofore," and to conduct seminars at a new law school in New York to be called Emauel Celler Law School. The congressman defended House rules which permit members of Congress to carry on outside business activities.

"I think you must give consideration to the individual as well as to the institution," he said. "If you have a man cut himself off from his profession or from his calling, then you are going to have a situation where only the scions of great wealth become members of the House or the Senate. You wouldn't want that."

Looking back over his long career in Congress, Celler said he was very proud to have been the author and to have floor-managed through the House all the civil rights bills from 1957 to 1970. But he said it was necessary to "digest those civil rights and see what the results will be" before considering more legislation in the field.

RAPS WIRE TAPS

His worst disappointment, he said, was the passage of legislation permitting wire tapping under certain circumstances. New legislation is required, he added, to prevent repetition of the Watergate bugging case.

"Such happenings," he declared, "are quite revolting and make for the discomfiture of many, and is undoubtedly against the welfare of the nation."

In other points made during the interview, Celler said:

President Franklin D. Roosevelt was the most effective president in his relations with Congress, with President Lyndon B. Johnson also effective. Least effective of those he has known were Warren G. Harding and Calvin P. Coolidge. President Nixon is "very able, very skillful, but quite political" and has "grown considerably with the responsibility of his office."

LEADERS NOT AS STRONG

The current leadership of the House and Senate is "not weak, but is not as strong as it was when Sam Rayburn and Lyndon Johnson were in control. It is better to have the reins in the hands of those who have the ability and the strength of mind to properly use those reins to steer the Congress in proper directions."

The seniority system remains "the least objectionable of all systems for elevation of men to chairmanships." During the period when Speaker Joe Cannon was naming chairmen, only sycophants got the jobs and "frankly you couldn't spit without the consent of the speaker." During the period when chairmen were elected by members of the committees, log-rolling occurred. "Every method has been tried and discarded. Every method was objectionable."

WILL MISS HILL

Celler discounted charges that public confidence had declined.

"Public confidence in Congress has never been high," he stated. "Congress throughout its whole history cannot be too far ahead of the constituents, and if the constituents are indecisive, disunited and in conflict, this will be reflected in the Congress. . . . Well, Congress is not responsible for all the ills. The individual himself may have contributed a great deal to those very ills."

Celler was philosophical about his own impending departure from Capitol Hill after 50 years, though conceding he will "sorely miss being here." He remains optimistic about the future of representative government in the United States, declaring:

"In this country we select representatives who determine what taxes we shall be burdened with, and how those taxes when gathered shall be spent. I think that bodes well for the future of the nation."

Mr. CORMAN. Mr. Speaker, I am privileged today to pay tribute to the Honorable EMANUEL CELLER of New York's 10th District. Yet in doing so, I am obliged to add a note of deep regret because of the impending retirement of this remarkable man from our midst. He shall indeed be missed.

No one in Congress has served as long as "MANNY CELLER," and no one has worked any harder. His committee has handled more legislation under his chairmanship over the past 24 years than any other committee in Congress. More than 300 public bills bear his name—a record unsurpassed in congressional history. As author of three constitutional amendments—the 23d, 24th, and 25th—he ranks second only to one other Congressman of record—the esteemed Thomas Jefferson. His three amendments eliminated the poll tax, provided the right to vote in Federal elections to residents of the District of Columbia, and established machinery to run the Government in the case of Presidential disability.

As a leader of the liberal forces in the House of Representatives, MANNY CELLER waged mighty battles, in behalf of antitrust legislation, civil rights, and the rights and prerogatives of the U.S. Supreme Court—all of which have been subjected to attack of the more strenuous nature year in and year out, since he came to the Congress in 1923.

One of the rare privileges that has ever been given to me was my 6 years' service on the Judiciary Committee when, under Chairman CELLER's strong leadership and through his enormous courage, commitment, and determination, legislation to give black Americans equal protection of the Bill of Rights began its journey through Congress—all of it finally to be signed into law. In time to come, when men and women write the history of the years that the conscience of America was awakened and we began the long trek toward moving this Nation away from the degrading discrimination and segregation that for almost 200 years have characterized much of American life, EMANUEL CELLER's name will fill those pages, and the battles he fought and won in the House of Representatives in behalf of civil rights will become legend.

The Congress of the United States is a stronger and more effective institution for democracy, and this country is a better place for all Americans, because of his service in this House.

I am proud to know MANNY CELLER, to have served with him in the Congress, and I am proud that as a former member of his committee I shared in a small way in the many contributions he made to this country.

MANNY CELLER has earned our profound respect and gratitude, and I extend to him my deep affection and wish him many rewarding years of his richly deserved retirement.

Mr. ANNUNZIO. Mr. Speaker, no one in our time has had a greater impact on the laws of our land than EMANUEL CELLER, retiring this year after 50 years of service in the House and 22 years as chairman of the House Judiciary Committee.

He has served under 9 Presidents and presided over the passage of 400 laws, including such landmark legislation as abolition of the national-origins formula in the immigration law, the Celler-Kefauver Antimonopoly Act, and four amendments to the Constitution—Presidential disability, Presidential vote for the District of Columbia, the antipoll tax, and the 18-year-old vote.

First elected to Congress in 1922 and representing his home district of Brooklyn ever since, EMANUEL CELLER has brought his tremendous vigor, wit, and wisdom to bear on all the monumental issues and events of the last half century—the depression and New Deal of the 1930's, the rise of fascism and World War II, the cold war, and the Korean war, Vietnam, immigration law reform, and the breakup of harmful monopolies.

Through it all, he has retained that precious quality of youth, the ability to see and the courage to act upon needed change. As he once put it himself,

> To be a successful Congressman, one must have the friendliness of a child, the enthusiasm of a teenager, the assurance of a college boy, the diplomacy of a wayward husband, the curiosity of a cat, and the good humor of an idiot.

No one has been more successful than EMANUEL CELLER, so perhaps that statement deserves to be taken more seriously even than he intended.

The Congress will not be the same without EMANUEL CELLER, and all of us, his many, many friends, colleagues, and admirers, will miss him.

It has been a great honor and privilege for me to be able to know him and work with him, and I am proud to be able to join the House in paying tribute to one of the greatest men of our century. Congratulations, Mr. CELLER, and best wishes for the future.

Mr. VAN DEERLIN. Mr. Speaker, it is never pleasant, saying farewell to a friend, especially to one as eminent as our colleague, "MANNY" CELLER.

Mr. CELLER has been in Congress 50 years—since before many of us were born. He graduated from law school 60 years ago, was first named a delegate to the New York State Democratic Convention 50 years ago and began service as a platform committeeman for the Democratic National Committee 30 years ago.

How the world has changed during this long and outstanding career. And Mr. CELLER had a direct hand in so much of that change, particularly in advancing and refining our notions of human rights and civil liberties.

I doubt the historic civil rights laws of the 1960's could have been enacted without the leadership of Congressman CELLER. And more recently our distinguished colleague labored valiantly on the floor in opposition to antibusing legislation which many of us considered both unwise and unconstitutional. His spirited performance in such debates belied the 84 years attributed to him in the official biographies.

Few of us will be able to wear our years as lightly and as well as Mr. CELLER.

And even fewer can match his monumental contributions to mankind.

Mr. BINGHAM. Mr. Speaker, in order to do justice to the career of EMANUEL CELLER in the House of Representatives, one should really write a book, and not make a short statement on the floor of the House. I hope that during the coming years at least part of Chairman CELLER's energies will be devoted to seeing to it that such a book is written, whether he or someone else is the author.

I doubt if anyone could quarrel with the statement that EMANUEL CELLER, of Brooklyn, has been responsible for more major legislation during the past half century than any other Member of the House or Senate. Indeed, it seems probable that such a statement would be true even if the field is extended to cover all of those who ever served in the House or the Senate. Such names as Daniel Webster and Henry Clay are well known to every schoolchild, but how many of us can cite major legislative advances that were attributable to their leadership?

One has only to think of the great Voting Rights Act of 1965, which bore Mr. CELLER's name, to realize the scale of his achievements. I personally am proud that I was a Member of the House when that bill was enacted, and that an idea of mine found its way into the law, thanks to the receptiveness and follow-through of Mr. CELLER. This was a proposal to extend the coverage of the bill to the election of party officers, such as delegates to national conventions; when I mentioned the idea during the committee consideration of the bill, Mr. CELLER promptly accepted it and saw to it that that bill as originally introduced was amended accordingly.

Unique as Chairman CELLER's achievements as a legislator may be, many of us in the House, and especially those of us on the New York delegation, will think of "MANNIE" CELLER first of all as a wonderful human being for whom we feel the deepest affection. In his dealings with other Members, again especially those of his own party from New York State, he was always kind and considerate and willing to take time from his extraordinarily heavy burden of congressional obligations to give wise counsel or otherwise be helpful.

Those of us who have served with "MANNIE" on the New York delegation will always look upon him as our dean, and we hope that for many years to come he will still take part in our deliberations.

The House of Representatives will not be the same without Chairman CELLER. We will miss his words of wisdom and his leadership, we will miss his endless fund of appropriate anecdotes and we will miss his good companionship.

Our one consolation is that our friend and good counselor plans to spend a good part of his time in Washington, and we will look forward to seeing him frequently and for many years to come on Capitol Hill. So, as he completes 50 years of service in the House of Representatives, we salute him as a great American and wish him many productive and happy years as our friend.

Mr. RAILSBACK. Mr. Speaker, it is indeed a pleasure to join in this well-deserved tribute to EMANUEL CELLER. He has served longer in the House of Representatives than any other man except former Representative Carl Vinson, and is one of our most distinguished Members.

Our colleague was born in Brooklyn, N.Y., graduated from Columbia College and Columbia University Law School, practiced law for 10 years, and was elected to the 68th Congress in November of 1922. He soon established a reputation as a crusader, a fighter for social legislation, and as a man who could say, as he did in that first year when he was elected, "It's time for change."

When I entered the House of Representatives as a freshman in the 90th session, I quickly became aware of the fact that EMANUEL CELLER was a man held in high regard by all Members. I have had the privilege to serve on the House Judiciary Committee under his able and judicious chairmanship, and the opportunity to observe his efforts first-hand have easily enabled me to understand that regard. I have come to greatly admire and respect his integrity and dedication. Mr. CELLER has always sought to make this a better, more equitable America for people of all races and backgrounds. He has been chairman of the powerful Judiciary Committee since 1949—and it is noteworthy that the Civil Rights Acts of 1957, 1960, and 1964 bear his name, and that the Civil Rights Act of 1957 was the first of its kind in some 82 years.

Congressman CELLER was once reported to have made the observation that:

> To be a successful Congressman, one must have the friendliness of a child, the enthusiasm of a teen-ager, the assurance of a college boy, the diplomacy of a wayward husband, the curiosity of a cat, and the good humor of an idiot.

EMANUEL CELLER has combined rare good humor with equally rare wisdom—and togther this combination has enabled his committee to move this great Nation ahead on the long, and sometimes difficult, road towards a more representative and just democracy. He coauthored four constitutional amendments—the 23d, the 24th, the 25th, and the 26th. These four amendments eliminated poll taxes, gave the District of Columbia residents the right to vote for President, set up machinery to run the Government in case of presidential disability, and gave the right to vote to 18-year-old citizens. As he once said of these amendments,

> Only Thomas Jefferson authored more Constitutional amendments.

There are at least 400 laws that EMANUEL CELLER can properly claim as having his personal imprint upon them, including 6 major civil rights bills, the Celler-Kefauver Antimonopoly Act, the abolition of the national origins formula in the immigration laws, and the 4 amendments now part of the Constitution.

With such a record it is no wonder that those of us who have sat on the House Judiciary Committee have come to have a deep and abiding respect for this man who is a symbol of integrity, perseverance, and plain hard work. We will all miss EMANUEL CELLER when the Congress convenes in January of 1973, but his accumulated acts, wisdom, and day-to-day conduct will long be remembered.

I consider it a proud and enabling experience to have known and served beside him. I wish him well in the years ahead.

Mr. MANN. Mr. Speaker, in joining in this tribute to our retiring dean of the House, the Honorable EMANUEL CELLER of New York, who is closing 50 years of congressional service, I should like to add a few personal words of thanks.

Since my election in 1968, it has been my privilege to serve on the House Judiciary Committee under the leadership of Chairman CELLER. I have very much enjoyed and benefited from this association and I am especially appreciative of the opportunity, encouragement, and cooperation which the chairman so freely offered.

It has been an honor to work closely with this outstanding jurist, whose legacy to the American people includes landmark legislation in the fields of civil rights, antitrust, and immigration. The chairman can also be proud of his role in the passage of four amendments to the Constitution which abolished the poll tax, provided for the election of a Delegate to the House from the District of Columbia, established a procedure for presidential disability and succession and opened the voting booth to young citizens.

It would be futile to try to inventory each of Chairman CELLER's legislative contributions. Suffice to say they are impressive in volume and more impressive in importance to our country. Chairman CELLER served during tumultuous times and rose to every challenge. His achievements are many.

He will be missed by all those who have known and associated with him, but he leaves with our best wishes for his continued success and happiness and with my gratitude. I know that his service to his fellow man is not ended.

Mr. DORN. Mr. Speaker, it will always be to me a very fond reminiscence when I first met 25 years ago the distinguished gentleman from New York (Mr. CELLER). I was impressed with his cordiality, graciousness and charm. As a freshman Member 30 years of age, fresh from the battlefield of Europe, it was encouraging and refreshing to be so warmly greeted by one of the greatest and most erudite and distinguished Members of all time. We greatly benefited from his counsel, judgment and example.

Mr. Speaker, I have appeared many times before his great Committee on the Judiciary, so ably presided over by the beloved chairman. He always treated me with the utmost courtesy and respect. In the early days, differing sharply with the chairman on much legislation, I sometimes feared that my viewpoint might not be accorded a fair hearing. But the contrary was always true. Equally fair was the chairman on the floor as he led some of the great House debates and discussions of our time. Then, as years passed, I found myself more often in agreement with the long-time Dean of the New York delegation, and the Dean of the House. Our paths crossed and then ran parallel on such great issues as amending the Constitution at the whim and fancy of every passing emotion of the day.

Chairman EMANUEL CELLER in his 50 years in the Congress without question rose to the heights and became one of the great leaders of all time. He earned a reputation of absolute integrity and unquestioned character, of uncompromising truth and incorruptible honesty. He dedicated his life to certain principles and adhered to those principles with great forthrightness, eloquence and devotion.

He literally rose from the sidewalks of New York to one of the most powerful positions in our representative Government. He won forever the respect and admiration of a grateful people the Nation over and indeed throughout the free world.

He was a champion of the underprivileged and the downtrodden, not only in this country but throughout the world. His devotion to Israel, that bulwark of freedom, is an example for all of us during these critical days through which we are passing.

Having served with EMANUEL CELLER and being aware of his loyalty, patriotism and love of country, I can testify tonight that this is a greater Congress and the American people are a better people because of his magnificent record of leadership. Our rights are more secure, and our Constitution better protected. Through the corridors of time future generations will rank this illustrious leader with the truly great leaders of all time in the history of the American Congress.

Mr. Speaker, we will miss "MANNY" here in the Congress but we will always cherish his love and affection for this body. Mrs. Dorn and my family join me and my constituents in wishing for Chairman CELLER continued success, every happiness, and best wishes always.

Mr. DONOHUE. Mr. Speaker, it is indeed a very high personal privilege for me to join with all the other Members of the House herein this heartfelt and eminently merited tribute to one of this Nation's all-time greatest legislative leaders and most distinguished public servants, the chairman of the House Judiciary Committee, Congressman EMANUEL CELLER of New York.

The exceptional legislative leadership and accomplishments of "MANNY" CELLER are unparalleled in the modern history of this House. No one has ever made a more effective legislative contribution than the man we honor this afternoon. During the course of "MANNY" CELLER's 50 years of distinguished legislative service to his country, years marked by an unwaivering example of the highest character and personal integrity, his progressive accomplishments have been indelibly inscribed in the annals of our national legislative history and they will forever stand as a proud and inspiring reflection of a great man serving and working in accord with the highest traditions of American patriotism, courage and idealism.

Since 1922, the acknowledged wisdom and dedication of EMANUEL CELLER have been inextricably associated with the origin and adoption of innumerable legislative measures designed to advance and improve the quality of ilfe for all the people of this Nation.

For 22 years, as the chairman of the House Judiciary Committee, EMANUEL CELLER has established an unexcelled record of legislative leadership and as a fellow committee member and chairman of the Subcommittee on Claims of the House Judiciary Committee, it has been my great privilege to share his friendship and to benefit from his experienced wisdom and guidance. During his committee chairmanship, he has presided over the processing and approval of four constitutional amendments—Presidential disability, Presidential vote for the District of Columbia, the antipoll tax and the 18-year-old vote—and these accomplishments shall surely be enshrined in the most glorious pages of this great Nation's legislative history. But that is not all that he has done.

EMANUEL CELLER is principally responsible for the enactment of some 400 public laws and some authorities feel that his most constructive efforts have been in the challenging legislative area of civil rights. Over the past 15 years, his remarkable record includes key leadership and guidance in the passage of six landmark bills in the field of civil rights, for the abolition of the national origins formula in the immigration law, and for the enactment of the famous Celler-Kefauver Antimonopoly Act.

Throughout his unique career, in both public and private life, Chairman CELLER has demonstrated the unswerving patriotic devotion and the unsurpassed competence in leadership which each of us, as elected representatives of the people, strive to achieve. The distinguished chairman, who has had the high privilege and distinction of sharing the confidence and earning the respect of nine Presidents of the United States, can truly be characterized as a great and profound American.

But he has endeared himself even more to those of us who are his colleagues because, through the years, he has proven himself to be a warm, generous, principled and compassionate human being with a genuine concern for each of us and for all his fellow men. Beyond the confines of this Chamber there are thousands of people in this District of Columbia, in his home State, throughout the Nation and around the world who hold "MANNY" CELLER in the highest esteem and affection because he has consistently provided them with a moving example of a good and decent and honorable man.

EMANUEL CELLER's congressional record speaks for itself and his legislative achievements here will forever reflect his strengthening contribution to the preservation and progress our our original political philosophy and traditions. He will always remain as an enlightening and guiding legend to all who will be ever privileged to come to this Chamber to legislatively serve the people of this country.

As he leaves this U.S. House of Representatives, at the end of this session, we salute him with our highest measure of gratitude, on behalf of all his fellow Americans, and I know we all join in wishing him continuing good health and happiness in all his future endeavors.

Mr. MONAGAN. Mr. Speaker, I am pleased to join all Members in paying tribute to the dean of the House of Representatives, the gentleman from New York, EMANUEL CELLER.

We would all agree that EMANUEL CELLER's accomplishments are unparalled in the history of the Congress. First seated in the 68th Congress on March 4, 1923, he has continuously represented what is now New York's 10th Congressional District for 50 years, and has served in the House for a longer period of time than any Representative in history save one. Except for two Republican years in 1953–54, he has been chairman of the House Judiciary Committee since 1949, for more years than any person in history.

EMANUEL CELLER's legislative record over this period of time has been unequalled in this body. He has sponsored four constitutional amendments, the 23d, the 24th, the 25th, and the 26th. He has authored over 350 pieces of legislation which are now public law. This list includes the Celler-Kefauver Antimerger Act of 1950, all civil rights bills since

1957, the Immigration and Nationality Act of 1965 which abolished the national origins system, and numerous measures for court and criminal law reform.

These accomplishments have now been documented and are a matter of history. What can never be properly documented is the enormous contribution which EMANUEL CELLER made to the House in terms of leadership. He was always looked to to show the way on questions of justice and civil rights. His guidance was instrumental in carrying on the traditions of liberty and freedom which are part of our heritage.

We who worked with EMANUEL CELLER know better than any the influence he exerted and the respect which he commanded. He will be sorely missed, not only by this body, but by a nation whose sense of justice has been preserved and enlarged through his efforts.

I join all Members in wishing EMANUEL CELLER the best, and thanking him for his inestimable contributions as a legislative leader, and for his good counsel and his assistance to me in his position of leadership.

Mr. BENNETT. Mr. Speaker, Chairman EMANUEL CELLER is indeed one of this Nation's greatest legislators of all time. It has been a great inspiration to me to watch his able and careful presentation of legislation to the House through the years I have served with him. He has left this Nation a legacy of truly important legislation. From a personal standpoint, even when we disagreed there was never any disagreeableness. He is always the perfect gentleman; and, more important, he is always a man of warm and far reaching friendship. For all of these things I feel very grateful and I wish him every happiness in his retirement.

GENERAL LEAVE

Mr. ROONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order tonight on the Honorable EMANUEL CELLER.

The **SPEAKER** pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New York?

There was no objection.

ANALYSIS OF ACTIONS OF THE UNITED NATIONS SEABEDS COMMITTEE

(Mr. DOWNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DOWNING. Mr. Speaker, the House Merchant Marine and Fisheries Committee, of which I am a member, represents a domestic constituency vitally concerned with the uses of the ocean and the evolution of domestic and international law to promote, protect, and regulate those uses. Merchant mariners, naval officers, fishermen—both coastal and distant-water—Coast Guardsmen, ocean miners, marine environmentalists, oceanographers, and many others look to this committee for promotion and protection of their interest in ocean affairs. It is with some concern, therefore, that the committee has undertaken the task of observing and analyzing the actions of the United Nations Seabeds Committee since that international body was created in 1967.

As a member of the Merchant Marine and Fisheries Committee's Subcommittee on Oceanography, I have watched the Seabeds Committee, in its 5-year life, continually expand its mandate, addressing itself to an ever-widening spectrum of ocean issues, while producing a paucity of results. It has successfully sponsored in the General Assembly a widely accepted* set of legal principles of a general nature to govern activities on the international seabed. On the other hand, it has also abused its mandate to promote the peaceful uses of that seabed by sponsoring a moratorium on those uses, an initiative which received minority support* from the membership of the General Assembly and no support from developed maritime States. This is the total work-product of the Seabeds Committee to date.

In the meantime, coastal fishermen in the United States are under increasing economic pressure caused by the activities of foreign factory fishing fleets operating in the once highly productive fisheries areas off our coasts. Our distant-water fleets are being subjected to regulation, fines, and military coercion up to 200 miles off the coasts of some of our neighbors to the south. Our military and merchant marine operators feel increasing concern regarding unimpeded transit through international straits which may, through the extension of territorial sea width, become subject to the arbitrary exercise of power by adjacent coastal States. Our ocean miners recognize the need for, and encourage the international formulation of, law to provide for the orderly development of seabed mineral resources. Our oceanographers note with concern the apparently irrational trend among coastal States to place regulatory restrictions on the acquisition of fundamental knowledge about the oceans and related subjects.

I have always been pleased with the general view of these domestic interests that solutions to these problems should be sought in the international community. I am not, however, surprised that the last 2 years have produced among these interests a sense of increasing skepticism that the United Nations Seabeds Committee is capable of producing these solutions in a timely manner or in a way that protects the interest of all States.

In 1970, Mr. Speaker, the 25th U.N. General Assembly decided to convene, in 1973, a Conference on the Law of the Sea to deal with these and other problems of ocean use. It bid the U.N. Seabeds Committee, which had been debating ocean issues since 1968, to form itself into a Conference Preparatory Committee and to organize and accomplish the necessary work to achieve that end. The General Assembly, at that time, reserved the right, at its 27th session, 1972, to postpone the Conference if the preparatory work was insufficient.

At this time, Mr. Speaker, I would like to analyze the preparatory work assumed by the Seabeds Committee, and its 2-year work-product. Realizing that there are two preparatory meetings to be held, I would then like to speculate on the possibilities of achieving a Conference in 1973, and on the possible outcomes if such a Conference is not achieved or turns out to be a mere organizational conference, camouflaging a continuation of preparatory work:

I. U.N. GENERAL ASSEMBLY MANDATE TO THE SEABEDS COMMITTEE

(G/A Res. 2750 C XXV, December 1970)

A. Prepare for 1973 Conference on Law of the Sea to consider the following subjects:

1. International seabed regime (including machinery).
2. Delimitation of the international seabed area.
3. Regimes of the high seas, continental shelf, territorial sea (including width and the question of international straits), contiguous zone, fisheries, marine environment. and scientific research.

B. Prepare a comprehensive list of subjects and issues (in accordance with A above) to be dealt with at the 1973 Conference, and draft treaty articles thereon.

II. SEABEDS COMMITTEE AGREEMENT ON ORGANIZATION OF WORK [G/A OFFICIAL RECORDS XXVI SUPPL. 21(A/8421)] 12 MARCH 1971

A. Plenary

Make recommendations to the General Assembly concerning:

Task status Sept. 30, 1972

Task No. 1: Precise delimitation of international seabed jurisdiction (delimitation of coastal state jurisdiction). Avoided.

Task No. 2: Peaceful uses of the international area. Avoided.

Task No. 3: Priority of subjects. Avoided.

B. Subcommittee I

Task No. 4: Draft treaty articles on the principles in Declaration of Principles (G/A Res. 2749 XXV, Dec., 1969). Begun.

Task No. 5: Draft treaty articles on the international regime of seabed and resources. Avoided.

Task No. 6: Draft treaty articles on the international machinery. Avoided.

C. Subcommittee II

Task No. 7: Prepare comprehensive list of subjects and issues.* Completed.

Task No. 8: Draft treaty articles on the regime of the high seas. Not begun.

Task No. 9: Draft treaty articles on the regime of the continental shelf. Not begun.

Task No. 10: Draft treaty articles on the regime of the territorial sea (including width and straits questions). Not begun.

Task No. 11: Draft treaty articles on the regime of the contiguous zones. Not begun.

Task No. 12: Draft treaty articles on fisheries and conservation of living resources. Not begun.

Task No. 13: Recommend precise definition of area to Plenary (by agreement dated 27 Aug. 1971 at 66th meeting of Seabeds Committee). Avoided.

---

*The votes:

Principles: For 108; against 0; abstain 14; absent 4; total 126.

Moratorium: For 62; against 28; abstain 28; absent 8; total 126.

*NOTE. The drafting of treaty articles could have preceded completion of the list. In point of fact it did not, in spite of the dilatory manner in which production of the list was handled.

D. Subcommittee III.

Task No. 14: Draft treaty articles on preservation of the marine environment. Neglected.

Task No. 15: Draft treaty articles on scientific research. Not begun.

Thus, a review of the current status of these tasks reveals the following tally of accomplishment, after 2 years of preparatory work following 3 years of general debate:

One task completed (the list).

One task partially completed—drafting of "bracketed" treaty tests on some of the 1970 general principles.

Thirteen tasks which have not yet entered the drafting stage although the subject matter has been exhaustively debated.

It is revealing that, in an organizational structure wherein all three subcommittees are subcommittees of the whole, the two tasks which are the committee's sole claim to progress were produced by working groups formed of reduced numbers of states. In my views, the use which is made of working groups in future work of the Seabeds Committee will be a good indicator of the commitment of its member states to further progress toward a Law of the Sea Convention.

Mr. Speaker, this record is dismayingly grim. In the view of some of the U.N. participants at the July–August 1972 Geneva meetings just concluded, it is fatal. Peru, on the 14th of August in Geneva, recommended that the 1972 General Assembly should take action to reconvene the preparatory work and leave it to the 1973 General Assembly to convene a Conference in 1974—or later. France doubted that sufficient work had been done to convince the 1972 General Assembly that a Conference was ripe. Turkey, on August 11, predicted delay. Dr. Pardo of Malta, the original proponent of the Seabeds Committee, called on August 10 for its abolishment and replacement with an ad hoc working committee, characterizing the Seabeds Committee as the "U.N. Committee for the Partition of Ocean Space for the Benefit of the Coastal States." China, on August 17, amid ponderous language concerning "superpower hegemony," pronounced doubt about the timeliness of a Conference in 1973.

There is little foundation for surprise that the confidence of ocean users is waning in the ability of the U.N. Seabeds Committee to achieve timely solutions to the broad range of problems it has undertaken to negotiate. Perhaps it is time that states with ocean use capability begin to look for other bilateral and multilateral means to solve specific ocean issues of major importance to them.

Of immediate concern to the House Merchant Marine and Fisheries Committee is the progress of a bill before that committee: H.R. 13904, the Deep Seabed Hard Mineral Resources Act. This bill, cosponsored by 17 members of the committee, seeks to promote the orderly development of hard mineral resources of the deep seabed in the interim period prior to U.S. ratification of a new Law of the Sea Convention concerning these resources. This interim legislation would permit domestic miners, ship designers, engineers, and chemists to continue to apply their energy, capability, and capital to potentially beneficial marine projects such as the mining of manganese nodules from the deep seabed.

Hearings were held on this legislation before the committee's Subcommittee on Oceanography on May 12 and 16, 1972, and were concluded before that subcommittee recently on September 26, 1972. A wide range of witnesses were heard from industry and academia. The administration, at first, did not participate, citing, by letter dated May 19, 1972, its wish to preserve its negotiating options until fall 1972, without stating a position on H.R. 13904. It promised the subcommittee that, in the meantime, it would consult with other nations, industry, and other concerned parties on the matter, and would report to this subcommittee in the fall. In doing so, Mr. Stevenson, the Chief Delegate to the U.N. Seabeds Committee, noted the lack of progress of that Committee but stated that if the conference were to be held on schedule, there would appear to be reasonable prospects for achieving timely multilateral agreement.

Mr. Stevenson returned to the subcommittee on September 26, 1972, to brief us on the progress of the U.N. Committee meeting in Geneva at which time he responded to H.R. 13904. His testimony indicated that an administrative position on H.R. 13904—and its Senate counterpart, S. 2801—will be forthcoming as soon as the General Assembly completes its consideration of the Seabeds item this fall or by early January 1973. He also indicated that the administration's position may be cast in the light of General Assembly decisions concerning timing of the future conference.

It is my view that the question of timing should be approached with full recognition of the large amount of preparatory work still to be completed by the Seabeds Committee. If one assumes, as the administration apparently does, that an early conference is in the best interests of all parties, including the United States of America, then one must measure decisions on timing in relationship to decisions on scheduling and encouraging the preparatory work necessary to achieve such timing. In addition, one must evaluate the likelihood of energetic and productive negotiation once the prepatory stage is completed.

I feel it is essential that a 1973 date be set, without an escape clause, for the beginning of the LOS Conference and that a specific date be scheduled for its termination. In order for this to be accomplished, the General Assembly will be required, it seems to me, to note with favor the past contribution to the committee's work-product of working groups of reduced representation. Only in this manner can the large number of tasks so far unaddressed by the committee be completed in time to have any relevance in this era of expanding uses of the oceans. Once this preparatory work is completed, however, the success of this international project is still not assured. Unless the participant states are then prepared to make the hard political and economic decisions necessary to achieve a broadly supported agreement, the negotiations will disintegrate because of internal pressure or because of their increasing irrelevance in the face of practical arrangements created between ocean users.

While I remain hopeful that work will progress and that international negotiations will be both timely and fruitful, I would be less than candid if I advised this House that the recently concluded hearings before the House Merchant Marine and Fisheries Committee's Subcommittee on Oceanography supported that view. As a sponsor of H.R. 13904, I can only express very strongly that Congress, which must ultimately approve and implement any international seabeds treaty signed by the United States of America, will not much longer allow domestic ocean science, technology, and commerce to be held captive to unreasonable demands and delays imposed by a small number of states hostile or indifferent to U.S. interests.

Accordingly I intend to reintroduce the Deep Seabed Hard Mineral Resources Act in the next session of this House. While I do not expect any signnificant developments by the U.N. on this problem, I am hopeful of progress. In any case, I intend to use the considerable committee work already accomplished on the subject to press for its enactment into law in 1973.

Thank you.

HYPOCRISY

(Mr. JAMES V. STANTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. JAMES V. STANTON. Mr. Speaker, we are witnessing, in the highest levels of the executive branch of our Federal Government, a degree of hypocrisy for which there is no historical precedent. Its focus is the Watergate scandal and the recent additional disclosures about alleged acts of political espionage and sabotage which, if true, have impaired—and might yet destroy—the ability of the people to make a fair choice for President, based on truth and a complete disclosure of all pertinent facts, such as the amount, the source and the use of huge amounts of campaign funds that are publicly unaccounted for. Officials of this administration have been asked, by the press, by Congress and others, to answer these charges, but they have refused. They say they must remain silent to protect the right of certain persons to a fair trial. Now, this is one of the most hypocritical utterances I have even heard in my experience as a politician and a representative of the people. For these same persons were saying 4 years ago, in the last Presidential campaign, that it is about time the Government showed as much solicitude for the rights of the law-abiding majority as it accords to the criminal minority. I agree wholeheartedly that the rights of the majority must be protected. The majority in this case is no less than the entire electorate of the United States. Its supreme right is the right to know. I submit to you, Mr. Speaker, that this right is more precious than the fate of the defendants in the Watergate criminal case. Putting it another way, the public, in my opinion, would be better served by being furnished with complete information than it would be by having possibly guilty persons put in prison.

If a full airing of this case in public—prior to the election—prejudices the possibility of these defendants receiving a fair trial, then so be it. I would rather see them go free than have the voters denied the facts on which to base the most important decision they must make—that of a choice between our Presidential candidates. If the administration were as concerned with the rights of the majority as it has always claimed to be, then it will agree with this proposition. Let's get the facts out to the people, Mr. Speaker, and take our chances later on whether we can achieve a successful prosecution. What happens to these defendants, to put it bluntly, is simply not as important as who will be leading this country for the next 4 years.

As the New York Times said in an editorial this morning:

> Much of the public has reportedly taken the attitude up to now that there is nothing particularly unusual in the Watergate affair. It cannot be reiterated too strongly that, on the contrary, such practices are unprecedented in American politics. No national party and no incumbent Administration have ever set out in this systematic fashion to invade the privacy, disrupt the activities, and discredit the leadership of the political opposition. These are ambitions and police-state tactics which have no place in a democracy.

TRIBUTE TO THOMAS GORDON WALTERS, PRESIDENT OF NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES

(Mr. LANDRUM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LANDRUM. Mr. Speaker, after 35 years of serving in many capacities on behalf of active and retired Federal employees, my long-time friend, Thomas Gordon Walters will on November 1, 1972, retire from full-time activities as president of the National Association of Retired Federal Employees.

It has been my good fortune to know Mr. Walters all of my life. Our parents lived on adjoining farms when I was born and where I lived until I was about 15 years of age, so the Landrum and Walters families have been neighbors and close friends for perhaps 100 years or more. In fact, my father, the late Dave Landrum, was Mr. Walters' first schoolteacher.

From this time in Franklin and Stephens Counties, Ga., to today in Washington, D.C., I have known Gordon Walters. After World War I and his discharge from the Army, Mr. Walters was elected county school superintendent of his home county of Stephens. He served in that capacity until he was appointed a rural carrier from the Toccoa, Ga., post office, in October of 1923. Working his way up in the rural carriers organization, Mr. Walters was elected national president of the Rural Letter Carrier Association in 1943 when he moved to Washington, D.C., where he has remained to make his home.

When the Government Employees Council was seeking an able Operations Director in 1948, Mr. Walters was selected and in this capacity served 24 unions representing more than one-half million Postal and Federal Employees of the Council. In 1958 as a result of his outstanding work in this position, he was elected by the U.S. Civil Service Commission as a Staff Assistant in its Bureau of Retirement and Insurance. He retired after 6 years in this liaison position between the Commission and employee organizations.

In January 1966, Mr. Walters was appointed director of the Legislative Department of the American Federation of Government Employees, a position he held with distinction until his election as national president of the National Association of Retired Federal Employees. Upon assuming the presidency of NARFE in 1968, he became the first individual to have been elected a national president of two major Government employee organizations.

At the national convention in Buffalo, N.Y., in June 1970, Gordon Walters was reelected NARFE president. While serving in this capacity, he also held positions of responsibility and leadership in other activities, having been in 1969 elected a vice commander of the District of Columbia Department of the American Legion. And then in 1971, Mr. Walters was elected junior vice commander of the District of Columbia, Department of World War I Veterans.

Not only has Mr. Walters been an able and effective organizer and administrator but also he has proved himself a successful arbitrator and liaison representative—one respected and held in esteem by those with whom he works and comes in contact.

This was clearly evidenced recently when he in his capacity as national president of the National Association of Retired Federal Employees appeared before the Subcommittee on Retirement, Insurance and Health Benefits of the House Post Office and Civil Service Committee to testify on behalf of legislation which would increase Federal annuities. As soon as it was announced that this was probably his last official appearance at a congressional hearing as he was retiring the first of November, every member of the committee on both sides of the aisle as well as the audience spontaneously stood and applauded Gordon Walters in genuine tribute for what he has done for retired Federal workers and their survivors over the years.

Later in describing the instance while addressing the NARFE National Convention in Texas, subcommittee chairman Jerome R. Waldie said—

> That doesn't happen in Congress—it has never happened since I have been there and it probably will never happen again. But it was a mark of the respect and affection that we held for Tom.

Under his able leadership, the National Association of Retired Federal Employees has emerged as an outstandingly effective organization. His innovations and contributions will remain in tribute to his service as president. At NARFE and by its professional associates, Gordon Walters will be missed—his leadership and his personality. The inspiration of his dedication will always be there.

Gordon tells me that he and Mrs. Walters plan after he retires in November to take a leisure trip through the United States. He deserves this rest and time for himself and his family. I salute him for a lifetime of jobs well done, and Mrs. Landrum joins me in wishing for him and Mrs. Walters good health and happiness for many, many years to come.

PACOIMA SKILL CENTER FUNDING

(Mr. CORMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, exactly one decade ago, the Federal Government committed itself to equipping our unemployed and underemployed citizens with the skills needed to become productive members of our society.

Under the Manpower Development Training Act of 1962, Federal funds were authorized to promote and encourage the development of broad and diversified training programs so the so-called hard-core unemployed of our Nation could remove themselves from welfare rolls and put themselves on payrolls.

This approach to job training certainly has proven to be a sound one. Nevertheless, there has been a steady erosion of Federal funding for MDTA programs, and there is a real danger that direct Federal support for all MDTA projects is about to be cut off completely.

In my own congressional district in the San Fernando Valley area of Los Angeles, the curtailment of the federally funded MDTA program could mean the end of one of the most sorely needed and successful job training programs I have seen funded under MDTA. I refer to the Pacoima Skill Center, which is located in the heart of one of the most impoverished areas of the country—and Los Angeles County does have its share of poverty and unemployment.

The Pacoima Skill Center opened its doors in 1966 under the auspices of the Los Angeles Unified School District to serve the unemployed and under-employed in the San Fernando Valley. I was privileged to take part in dedication ceremonies at the center 6 years ago, and, since that time, I have been privileged to watch hundreds of men and women complete job training programs and go to work as a result of the center's program. These are men and women of all races, heads of households, adults who are often described as "the hard to reach and the hard to teach."

All trainees are selected and referred to the Pacoima Skill Center by the State of California's Department of Human Resources Development. Training priority is given to unemployed Vietnam veterans. Trainees receive counseling and instruction in basic education while learning marketable vocational skills in the field of their choice. These fields include multiclerical, machine shop operation, licensed vocational nursing, gas and arc welding, and auto brake and front-end mechanics. While attending the skill center, trainees receive a basic training allowance and an additional amount for dependents and transportation.

As soon as a trainee completes his program—which may be anywhere from 26 to 46 weeks, depending on the field—or as soon as he is job ready, the State employment service seeks to place him on a job. This past year, 82 percent of all those trainees who completed their training program at the Pacoima Skill Center were placed in jobs. In the licensed vocational nursing and production machine operator programs, the placement rate exceeded 90 percent.

Despite its record of success in placing its "graduates," the Pacoima Skill Center has been forced to cut back training opportunities because of a reduction in Federal funds. In 1968–69, when Federal funding for the center was at its peak, there were training opportunities for 380 men and women. Today, there is only enough money promised to train 184 people, and there is no firm assurance that even this reduced amount will actually be appropriated.

In looking at these statistics and facts—which, in themselves, certainly demonstrate the need for continued operation of the skill center—one must not ignore the human factor. After all, people and the development of human resources are what job training is all about. This human factor has been summed up quite well by a young woman who is currently enrolled in the licensed vocational nursing program at the center. In an open letter, this young woman writes:

> It's not a very secure feeling to go to school with the thought in your mind that you may not be able to finish. You lose your hope, people drop out, and people comment, "I don't care anymore." There are women in this program that are on county assistance. . . . These women are fighting not only for a decent life for themselves but for their children. The children otherwise you'd be supporting if they chose to depend on county. What I don't understand is that we're not looking for a hand out. Because the money we make as LVN's and the tax they will take out will pay back the money it took to send us through training. So actually the people who have graduated are actually paying for us. Our class is almost through—we're asking for the future.

The community, which has indicated its strong support for the skill center operation, and I, as the elected representative of that community, are also concerned about the future. If the Federal Government—which has given a lot of lip service to welfare reform—chooses to turn its back on one of the few programs that is able to get citizens off the welfare rolls, the future of our Nation's economy looks anything but bright.

It is clearly in the best interest of the community that the doors of the Pacoima Skill Center are kept open and that opportunities for job training remain available for those who need and want them. It would be folly, indeed, for any level of government to turn its back on a program that has not only proven itself in the past but that holds such great hope for the future.

APPOINTMENT OF LEGISLATIVE BRANCH EMPLOYEES

(Mr. BROOKS asked unanimous consent to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, the basic structure of our Government depends upon the separation of Federal power between the executive, the judiciary, and the legislative branches, and the maintenance of a proper balance in power between them. Yet, in the light of the constitutional separation of powers doctrine, it is ironic that a number of key officials in the legislative branch are appointed to office by the President rather than the Congress itself.

At this time, the Public Printer, the Librarian of Congress, the Comptroller General and Deputy Comptroller General of the United States, as well as the Architect of the Capitol, are appointed by the President although they serve within the framework of the legislative branch of the Government.

Legislation I am introducing today would provide for the appointment of the officials I have listed above by the Congress rather than the President. Under my proposal, the Speaker of the House of Representatives and the President pro tempore of the Senate would make each of these appointments alternately with the first such appointment being made by the Speaker of the House.

The legislation that I offer does not necessarily reflect any dissatisfaction with any of the incumbents in these offices, but with the system itself. I firmly believe that the Congress of the United States, acting through the Speaker of the House and the President pro tempore of the Senate, to say the least, has equal capacity for the appointment of competent individuals to these posts. Furthermore, I believe the argument can be sustained on reasonable grounds that the close working relationship and more acute awareness of problems falling within the aegis of the Congress might well lead to more effective appointments to these positions by the Speaker and the President pro tempore. Fundamentally, however, I base my case on the fact that these officials fill subordinate positions within the framwork of the Congress, logically, therefore, should be appointed by the Congress.

LEGISLATION TO PROHIBIT FORCED BUSING

(Mr. MIZELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. MIZELL. Mr. Speaker, I rise at this time to express my grave concern about the prospect of Congress adjourning without taking final action on legislation to prohibit forced busing.

The House has passed strong and effective antibusing legislation, forbidding busing beyond the nearest or next nearest appropriate school and permitting the reopening of past desegregation cases to bring them in line with the new, more realistic guidelines.

The Senate is now involved in a filibuster against this bill, and every word spoken by those seeking to delay or prohibit a vote on this measure is an insult and a disservice to the American people, who have expressed their opposition to forced busing in no uncertain terms and in overwhelming majorities.

The more responsible and responsive Members of the Senate have tried on three occasions to invoke cloture on the debate and bring the bill to a vote. Each of those attempts has failed, and there is a danger that the Senate may try to adjourn without taking final action on the bill.

I cannot believe the Congress would adjourn without settling this matter once and for all. I will oppose any motion to adjourn until the Senate has acted on this busing legislation, and I urge my colleagues to join in that opposition.

SILVER ANNIVERSARY OF CHUCK YEAGER'S HISTORIC FLIGHT

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from West Virginia (Mr. HECHLER) is recognized for 30 minutes.

Mr. HECHLER of West Virginia. Mr. Speaker, 25 years ago on October 14, 1947, Air Force Pilot Charles E. "Chuck" Yeager joined the ranks of such great aviation pioneers as the Wright Brothers and Charles A. Lindbergh by becoming the first human to fly faster than the speed of sound.

Chuck Yeager is from my district, I am proud to say. One newspaper biography stated: "Charley Yeager was born February 13, 1923, in a big farmhouse 'up a holler midway between Hamlin and Myra, W. Va., near Upper Mud River.' "

It is a pleasure and an honor to salute Chuck Yeager, one of the Nation's finest test pilots and true heroes, as we approach the silver anniversary of his famous and historic flight.

Like Orville Wright, history's first test pilot, he is laconic about his work. Chuck Yeager, after cracking the sound barrier, said "It gave me a pretty good feeling."

Orville Wright asked if he was thrilled by man's first powered flight in 1903, replied:

> Not as much as lying in bed thinking how much fun it would be to fly.

Chuck Yeager came back to his home in Lincoln County last month for a brief visit with his mother, Mrs. Susie Yeager, and his friends. He is a brigadier general in the Air Force now, but you would never know it in Lincoln County. Everybody calls him Chuck. First thing he did was to change into blue dungaree shirt and khaki pants and go out in the woods and then stroll up and down the streets in Hamlin saying hello to old friends. Next to flying, Chuck Yeager would rather go hunting and fishing and camping than do anything else.

After walking up and down the streets,

Chuck went down to his old friend's place, Shorty Hager's garage, and repacked the bearings on his trailer before heading off to California to fill a long-standing speaking engagement Saturday, October 14, at the Aerospace Hall of Fame, San Diego.

MODEST HERO

In the tradition of American heroes, Chuck Yeager is shy and drawls when he talks. He has a firm handshake, the corners of his blue eyes are crinkled from too much sun glare in the course of logging more than 10,000 hours of flight time in more than 140 different types of aircraft ranging from the Bell-X-1, which now occupies an honored place in the Smithsonian's Air and Space Museum, to the Russian-built MIG.

Chuck Yeager is a true descendant of the frontiersman and the pony express rider. He is a man who wonders always what lies over the other side of the mountain.

Chuck Yeager has a fierce loyalty to the Air Force blue uniform, turning down numerous lucerative civilian offers to stay in the service he loves. Chuck enlisted in the Air Force in September 1941 to fight the Germans and flew combat missions in World War II, and Vietnam and was commander of a fighter squadron in Germany during the "Iron Curtain Days" in 1955–56.

DAREDEVIL PILOT

Chuck Yeager stems from a reckless breed of barnstormers and wing-walkers who took aviation to the rural sections of the country after World War I, brought it down from the clouds into every county fair and suitable pasture, risking their necks daily and twice on Sunday in their Jennies and Wacos.

Chuck is built like a fighter pilot and folks in Lincoln County could always tell when he was coming home during the prop-driven airplane days.

> Nobody noticed Chuck Yeager much until 1943 when he first buzzed the town in a P–47 and sent old Mrs. Lon Richardson to the hospital with a case of nerves.

Recalled Lyle E. Ashworth, a Hamlin High School classmate of Chuck's.

> Chuck used to swoop down over Hamlin everytime he came home to let his parents know to go to Charleston and pick him up at the airport.

Said Dorothy Clark, who works at the Weekly News Sentinel in Hamlin.

Hamlin people say fame has never gone to Chuck's head.

> Why you'd never know he's ever been away from Hamlin.

Said Louis Hoff, one-time music instructor for Lincoln County schools. Hoff had Chuck Yeager in the band from the seventh grade on and also was his Sunday school teacher.

Chuck played trombone in the band, played football and basketball and was an Eagle Scout. His late father was a drilling contractor.

Chuck said:

> After high school, I could have worked for my Dad but I was rather small for that. Anyway, the war was getting ready to start.

After winning his wings in 1943, he went overseas as a flight officer. On his ninth mission his P–51 was shot down over occupied France, but escaped capture when elements of the French Maquis helped him reach the Spanish border. He was imprisoned by Spanish police, sawed his way out, lived off the countryside until a British organization returned him to England.

According to regulations, he was supposed to be shipped home, for fear if he were captured by Nazis, he would be tortured for information on the French underground escape routes. But Chuck Yeager and other pilots in the same boat stuck around and talked General Eisenhower into letting them stay. Chuck flew 64 combat missions, shot down 13 enemy aircraft, 5 on 1 mission, including one of Germany's first jet fighters.

He came with a chest full of medals, married Glennis Faye Dickhouse, a California girl, at his folks home. Chuck and Glennis have four children—Susan, Sharon Christine, Don, and Mike.

He was assigned to Wright-Patterson AFB, Dayton, Ohio as a test pilot. This led to Edwards and eventually to the Bell X–1 which he named "Glamorous Glennis." After his history making flight on October 14, 1947, Chuck Yeager became the first man to fly faster than twice the speed of sound in the Bell X–1A on December 12, 1953, thus, with apologies to Bob Hays of the Dallas Cowboys, regained his title as "The World's Fastest Human."

Chuck has been described as "half scientist and half adventurer, a daredevil who must operate with mathematical precision" and who flies "like part of the plane."

NUMEROUS HONORS

Mr. Speaker, Chuck's honors and medals are too numerous to list in detail. I would like to insert in the RECORD, the official Air Force biography by General Yeager, now U.S. Defense Minister to Pakistan. The biography lists the numerous awards for distinguished service to his country. We owe a great deal to Chuck Yeager. Without his brave, courageous deed of cracking the sound barrier, we would never have been able to accomplish the many conquests of space, including America's exploration of the moon.

Through all of this, General Yeager has remained a down-to-earth guy. It is a pleasure to salute my fellow West Virginian and wish him continued success on the silver anniversary of his famous flight.

The biography follows:

BRIG. GEN. CHARLES E. YEAGER

Brigadier General Charles E. "Chuck" Yeager is U.S. Defense Representative to Pakistan, Rawalpindi, Pakistan, effective 25 January 1971.

General Yeager was born on Feb. 13, 1923, in Myra, W. Va., and is a graduate of Hamlin High School in Hamlin, W. Va. He enlisted in the Army Air Corps in September 1941, was accepted for pilot training in July 1942, and received his pilot wings and commission in the Army Air Corps in March 1943 at Luke Field, Ariz.

During World War II, General Yeager distinguished himself in aerial combat over France and Germany during the years 1943–1945 by shooting down 13 enemy aircraft, five on one mission, including one of Germany's first jet fighters. On March 5, 1944, he was shot down over German occupied France but escaped capture when elements of the French Maquis helped him to reach the safety of the Spanish border.

He returned to the United States in February 1945 to attend the instructor pilot course after which he served as an instructor pilot. In July 1945 he went to Wright Field, Ohio, where he received his first taste of experimental flight test work. His assignment there led to his selection as pilot of the nation's first research rocket aircraft, the Bell X–1 at Edwards Air Force Base, Calif., where he served from 1949 to 1954.

General Yeager made history on October 14, 1947, when he became the first man to fly faster than the speed of sound. During his nine-year assignment as the nation's leading test pilot, he became the first man to fly faster than twice the speed of sound, flying the Bell X–1A on December 12, 1953. During 1952 he attended the Air Command and Staff School.

He returned to Europe in October 1954 and became Commander of the 417th Fighter Squadron at Hahn Air Base, Germany, in May 1955. He remained in that position when his squadron was reassigned to Toul-Rosieres Air Base, France, in April 1956.

Upon his return to the United States in September 1957, he was assigned to the 413th Fighter Day Wing at George Air Force Base, Calif., and in April 1958 became Commander of the 1st Fighter Day Squadron. In April 1958 he went overseas with the 1st Tactical Fighter Squadron to Moron Air Base, Spain, where he remained until November 1958. He returned to George Air Force Base with the squadron which was later redesignated the 306th Tactical Fighter Squadron.

General Yeager graduated from the Air War College, Maxwell Air Force Base, Ala., in June 1961, and became Commandant of the Aerospace Research Pilot School, where all military astronauts are trained, in July 1962.

In July 1966 he assumed command of the 405th Fighter Wing at Clark Air Base, in the Republic of the Philippines. While Commander of the 405th Wing he flew 127 missions in South Vietnam.

General Yeager assumed command of the 4th Tactical Fighter Wing at Seymour Johnson Air Force Base, N.C., in February 1968, and went with the wing to Korea during the Pueblo crisis. In July 1969, he became Vice Commander, Seventeenth Air Force, with headquarters at Ramstein Air Base, Germany.

His military decorations include the Distinguished Service Medal, Silver Star with one oak leaf cluster, Legion of Merit, Distinguished Flying Cross with two oak leaf clusters, Bronze Star Medal with V Device, Air Medal with ten oak leaf clusters, Air Force Commendation Medal and Purple Heart. He is a command pilot and has flown 10,000 hours in 140 different types of military aircraft. He was awarded the MacKay Trophy in 1948, the Collier Trophy in 1948 and the Harmon International Trophy in 1954.

General Yeager is married to the former doctor of science degree from West Virginia University, in 1948, and an honorary doctor of science degree from Marshall University of Huntington, W.Va., in 1969.

General Yeager is maried to the former Glennis Faye Dickhouse of Grass Valley, Calif. They have two sons and two daughters.

DECORATIONS AND SERVICE AWARDS

Distinguished Service Medal.

Silver Star w/1 oak leaf cluster.

Legion of Merit.

Distinguished Flying Cross w/2 oak leaf clusters.

Bronze Star Medal (with V Device).

Air Medal w/10 oak leaf clusters.

Air Force Commendation Medal.

Purple Heart.
Distinguished Unit Citation Emblem w/1 oak leaf cluster.
Air Force Outstanding Unit Award Ribbon.
American Defense Service Medal.
American Campaign Medal.
European-African-Middle Eastern Campaign Medal.
World War II Victory Medal.
Army of Occupation Medal (Germany).
National Defense Service Medal w/1 service star.
Armed Forces Expeditionary Medal.
Vietnam Service Medal w/2 service stars.
Air Force Longevity Service Award Ribbon w/5 oak leaf clusters.
Small Arms Expert Marksmanship Ribbon.
Republic of Vietnam Campaign Medal.

Mr. HENDERSON. Mr. Speaker, I take special pride in participating in this tribute to Gen. Chuck Yeager. In the first place, he has served at Seymour Johnson Air Force Base located at Goldsboro, N.C., in my congressional district.

In the second place, the public airport located near Mount Olive, N.C., was officially named Yeager Field in honor of Chuck Yeager on the occasion of the celebration of the centennial of the founding of the town of Mount Olive.

The field was named at appropriate ceremonies held in Mount Olive on April 11, 1970, and I was privileged to be present and to participate in the very meaningful tribute to him at that time.

My district lays claim to having played a part in the career of this outstanding citizen, and I am happy to have this opportunity to help commemorate the date of his precedent-setting flight.

Mr. VAN DEERLIN. Mr. Speaker, my pleasure at learning that Air Force Pilot Chuck Yeager will be the featured speaker on Saturday, October 14, at the Aerospace Hall of Fame Dinner in my home city of San Diego, is expected only by my deep regret that I will be unable to be there myself. Those fortunate individuals who attend the dinner will have the privilege of meeting at first hand and hearing from a man who has a record of wartime flying achievements which few can match, but who has a record of peacetime flying achievements which no one can match.

Mr. Yeager, affectionately called "Chuck" by those who respect and admire him, won fame as a combat fighter in World War II when he flew 64 missions and destroyed 12 enemy aircraft. Shot down over France on his eighth mission, it took him 4 months to make his way back to American lines and rejoin the action.

Thrilling as his wartime feats were, however, I am sure that in his talk on Saturday night Chuck Yeager will mention them fleetingly, if at all. Instead, I am sure that we will prefer to talk about peacetime aviation as it is now and as it will be in the future. He is a man who is indeed well qualified to do so. On August 14, 1947, as a project pilot on the XS–1, he became the world's first supersonic pilot when he broke the sound barrier. In subsequent flights, he flew the X–1 on more than 40 flights, exceeding 1,000 miles per hour and 70,000 feet. He was the first American to take a rocket-powered aircraft off from the ground, and in 1953 he flew the Bell X–1A at 1,650 miles per hour, 2½ times the speed of sound.

Chuck Yeager knows as few men do the potential for aviation both in peacetime and in war. He is an outstanding example of the type of men who have made this country great, and the people of San Diego are fortunate to be able to hear at first hand his remarks on the subject of which he is such an expert.

Mr. SMITH of New York. Mr. Speaker, I am happy that the gentleman from West Virginia has memorialized the 25th anniversary of the first flight to break the sound barrier by Maj. Charles Yeager, because Major Yeager was flying the Bell X–1 rocket ship which was built in my district by the Bell Aircraft Corp., now the Bell Aerospace Division of Textron. Major Yeager's skill and courage on that day 25 years ago were a fitting complement to the sleek quality, airworthiness, and power of this first airship to fly faster than the speed of sound.

Mr. Speaker, we are proud of Major Yeager and we are proud of the men and women of Bell Aircraft who built his swift air machine to such high standards of quality, who built the first jet airplane to fly in the United States 30 years ago, and who are still building airplanes and aerospace products of outstanding quality today.

Mr. WHALLEY. Mr. Speaker, 25 years ago this month, Air Force Pilot Charles "Chuck" Yeager became the world's first supersonic pilot. As project pilot on the XS–1, he exceeded the sound barrier for the first time in the history of man, thus opening the door for advanced aviation, space exploration, aircraft development, and countless other feats.

It is evident, on the 25th anniversary of this milestone in aviation, that the name of Charles "Chuck" Yeager ranks with those of Robert Fulton, George Stevens, Henry Ford, and Wilbur and Orville Wright, as one of the great pioneers in the field of transportation.

Now an Air Force general, Chuck Yeager proved that the man precedes the event, and not the reverse. Yeager achieved a record as a combat fighter in World War II that few can match, having flown 64 missions and single-handedly destroying 12 enemy aircraft. General Yeager also distinguished himself in combat activity over Korea and Vietnam, and has been an outstanding representative of the U.S. Air Force and the United States of America whenever he has been called upon to do so.

Chuck Yeager has exhibited the courage, daring, imagination, and technical know-how to stand out in the development of sophisticated modern aircraft. His devotion to his branch of service and to our great Nation have been inspirational to many who strive to follow in his footsteps.

Mr. Speaker, I rise to honor this great American today. It is people like Gen. Charles "Chuck" Yeager who make our Nation great. It is people like him, who are not limited to wartime achievements, but excel in peacetime and peace-seeking activities as well, who instill even greater confidence that the future of America is, indeed, bright.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise to associate myself with the remarks of the gentleman from West Virginia (Mr. HECHLER) concerning my very good friend—and fellow pilot—Chuck Yeager.

The first man to break the sound barrier is a remarkable man and his was a remarkable achievement. I was somewhat surprised to learn that 25 years had passed since that first supersonic flight and that today marks its silver anniversary.

In my official capacity as president of the Congressional Flying Club I would like to take this opportunity on behalf of the club to express our appreciation to Chuck for his continuing work to help advance the cause of aviation and our best wishes in the future.

In my unofficial capacity as one who loves aviation and who recognizes its wide-ranging benefits for all mankind, I can only say that Chuck Yeager ranks among the best of those men and women who have pushed back the frontiers of knowledge and expanded the human capacity. The growth in aviation development is a tribute to Chuck and other pace setters like him who have made known the unknown.

On May 7, 1965, I spoke to the House on a "Chuck Yeager on Capitol Hill Day" while Chuck and our mutual friend Jackie Cochran watched from the House gallery.

I would like to reinsert those brief remarks as a part of my comments today because I believe they are equally appropriate for this occasion:

> Mr. CLAUSEN. Mr. Speaker, it is with a great deal of pride and a personal privilege that I am able to join my colleague, the gentleman from New York (Mr. BARRY), here today in paying tribute to one of the greater men in history.
>
> Mr. Speaker, Chuck Yeager and I met a few years ago at the Edwards Air Force Base in California when I initiated my aviation education program in Crescent City, Calif. It was my pleasure to visit him there. As I recall, at that time Colonel Yeager was driving a model A Ford and someone said "There goes the fastest man in history."
>
> Mr. Speaker, I am an aviator myself, and have pushed an F–4–U Corsair up to 550 knots in a dive. I have felt that buffeting and some of the other pressures which Chuck has gone through. All of us were concerned about that point of compressibility just prior to the speed of sound and I think we share with Chuck some of these memorable experiences.
>
> Mr. Speaker, I shall be looking forward to joining with Colonel Yeager and Jacqueline Cochran during the luncheon hour and to discuss some of my ideas with them, in particular how we can make the aircraft a more effective tool in peace than it was ever used as a tool of war. In my opinion, Mr. Speaker, the horizons are unlimited.

Chuck Yeager, to me, will always represent the epitome of our greatest of Americans. A man of extraordinary courage and ability, a truly dedicated American, a revered and respected professional by his aviation peers, a humble and unassuming man who literally makes one choke up with pride as you are introduced to him.

The many contributions Chuck Yeager has made to aviation and our country could fill a library as history has remittee reporter that the next was off the corded his many feats that have contributed so much to his fellow man.

Chuck is always available to any worthwhile cause. I have called upon him on numerous occasions and he has always responded—often at great personal sacrifice of his very precious time.

West Virginia has produced many outstanding men. It is somewhat ironic that the first American, in years, to fly an American President—our President Nixon—to Mainland China, Colonel Albertazzi, and the first man to break the sound barrier, Chuck Yeager, are both from West Virginia.

Congratulations, Chuck, on this 25th anniversary of this history-making accomplishment.

From one pilot to another, Chuck Yeager, may I conclude by saying: We've flown great speeds and distances in our respective experiences but I think you'll agree with me that the greatest distance we have yet to cover still lies within us.

Mr. GONZALEZ. Mr. Speaker, I wish to commend the gentleman from West Virginia for leading this salute today in behalf of the great American, Brig. Gen. Charles "Chuck" Yeager.

Twenty-five years ago this month Chuck Yeager became the world's first supersonic pilot by flying faster than sound. Brigadier General Yeager, who is now the U.S. defense representative to Pakistan, performed this most outstanding feat over the California desert in his Bell X-1 on October 14, 1947.

As we celebrate the silver anniversary of this historic flight I wish to commend General Yeager for his great contribution to aviation in the United States. His patriotism, leadership, and courage are recognized by all of us who are interested in our country's future, and we owe him a debt of gratitude for his heroism.

General Yeager exhibits the finest traits, and is true to the highest traditions of the U.S. Air Force.

We salute you General Yeager, and thank you for your continuing efforts to keep America first in the world.

GENERAL LEAVE

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the 25th anniversary of the breaking of the sound barrier by Air Force pilot Charles E. "Chuck" Yeager.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

TRIBUTE TO WAT ABBITT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. Downing) is recognized for 60 minutes.

Mr. DOWNING. Mr. Speaker, my 14 years in this body have provided me with some of the most noble associations and cherished memories that could come to any man at any time in history. It has been a high privilege indeed to serve with so many distinguished gentlemen and gentlewomen.

My career, as has been all of yours I am sure, has been tinged with certain moments of sadness here and there due to the departure of a colleague on whom I have looked not only as a dear and respected friend but almost as a member of my family. When these Members have left our circle I felt it as a personal, as well as a national, loss.

The departure of many of these friends is often accompanied with a feeling of joy in knowing that a dedicated and able servant of the people, having run the race and won it time after time, is going to the voluntary retirement which he so richly deserves the opportunity to enjoy. Such is the case with our special friend and colleague, the beloved dean of our delegation from the Commonwealth of Virginia, the Honorable Watkins M. Abbitt of Appomattox, earlier this year, Wat announced that he would not seek reelection to the seat which he has held since 1948 when he came here to fill the vacancy caused by the death of the late Patrick Henry Drewry.

Wat Abbitt will be missed. Not only by the half million or so constituents in South Side, Va., to whom he is father confessor, confidant, story teller, and friend, but especially by those of us through the years who have enjoyed his fellowship, relied on his counsel, and engaged him in debate.

I do wish that so many of Wat's former associates could be here today, the Honorable William Mumford Tuck, in particular. I will never forget how Bill used to envy Wat. They represented adjoining districts in Virginia for 16 years. Both of them were as anxious as anyone in the Congress to return home as soon as we adjourned on Thursday. Bill was envious of Wat because Abbitt was so far ahead of Tuck on the rollcall. Whenever we would take the final vote of the day Wat would always arrange to have his car parked just outside the door with the engine running and fully warmed up. When the name Abbitt was called it has always been Wat's custom to answer the call as he headed for the door. Bill Tuck protested bitterly that by the time the Clerk reached his name Wat had already passed the Pentagon and was picking up speed.

Mr. Speaker, I regret that we did not have the opportunity to get Bill Tuck up here today, not only because he would have enjoyed this moment so highly but because he can tell that story far better than I can.

Of all the stories I have heard on Wat however, one that rates very close to the top of the list concerns an incident at which I was present. Just a couple of years ago Wat, Bill Whitehurst, and I presented testimony to a hearing, chaired by our colleague from Illinois, John Kluczynski. It was a Small Business Subcommittee hearing. When the gentleman from Chicago welcomed the gentleman from Appomattox, it was accompanied with such charm and graciousness as befitted a true son of the Old South.

Then with a quick aside to the committee reporter that the next was off the record—John told Wat that he had been deeply in his debt for years. With the mock seriousness which so greatly befits the true humorist that the gentleman from Illinois is, John said that occasionally he has been called upon to vote on a matter, the merits of which he did not know as well as he would have liked. Knowing Mr. Abbitt's staunch, conservative philosophy he said that all he had to do was listen for the name Abbitt to be called by the Clerk. However Wat voted, John said he knew he could vote the other way and be safe. Nobody laughed any harder than Wat did.

And then, with the folksy charm which won him reelection year after year, fairly oozing from every pore and with his face aglow in that puckish grin which belies the crafty, cunning of a red fox, Wat began to tell the chairman how deeply indebted he felt to him in that "down home" voice which Virginians claim is a cross between Robert E. Lee, Stonewall Jackson, and J. E. B. Stuart. Wat said that every time he went on the hustings, he carried a copy of John's voting record with him. He told how he would mount the stump in county after county and wave the record over his head proclaiming "this is how Congressman Kluczynski from Chicago votes. I always vote the other way." And with the same mock seriousness that the chairman had used. Wat bowed low, "Mr. Chairman, that is how I always get reelected." And then in a soft aside, he added, as an afterthought to the reporter—"Little Lady, that was all off the record, too."

Mr. Speaker, I will end my tribute to my friend on this note because of all his attributes—and they are many indeed—unquestionably Wat Abbitt's sense of humor is his greatest. It is what has endeared him to friend and foe alike. It has bridged the gap caused by many philosophical differences and resolved those which might have been momentary enmity into eternal friendships.

We will all miss the gentleman from Appomattox—no one more than I.

Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the accomplishments, character, and service of the gentleman from Virginia (Mr. Abbitt).

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman.

Mr. SATTERFIELD. Mr. Speaker, I am pleased to join with my colleagues this afternoon in paying tribute to my good friend and the dean of the Virginia delegation, Wat Abbitt.

I have known Wat Abbitt as a commonwealth's attorney in his beloved Appomattox County, as an active leader in the affairs of his party in Virginia, and as a respected colleague in the House of Representatives. In each capacity he has rendered outstanding service to the people of Virginia. His continued service in Congress since 1948 attests the high esteem in which he is held by the people in his State and especially of his district.

Wat Abbitt has been a source of strength through his able counsel to many Members of the House of Representatives during his tenure of office. We have observed the skillful though quiet manner in which he has practiced the art of legislating which has brought to him the rewards of accomplishment without the glare of publicity. We are witness also to his honesty and integrity and to his steadfast determination to stand firmly for that which he believes to be in the best interests of his Nation, his State, and his district. He has demonstrated an unyielding courage to act in consonance with his convictions and without regard to political pressure or personal consequence.

When I learned that WAT ABBITT would not seek reelection to his 14th term, I felt a genuine sense of personal loss. He will be sorely missed by his friends in Congress who in the years ahead will become more and more aware of the void he will leave. He will be missed by his constituents throughout the Fourth District of Virginia, for they know, as I know, that WAT devoted his life, unselfishly to serve them and they know, as we all know, that he has served them with distinction.

As he prepares to leave this body after 25 years of service he can look back over these years with a sense of satisfaction, secure in the knowledge that he leaves with the best wishes of his colleagues for health, happiness and prosperity in his future endeavors.

Mr. DOWNING. I thank the gentleman.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman.

Mr. WAMPLER. Mr. Speaker, it is a pleasure to join with my colleagues to express our genuine admiration and respect for the "Dean of the Virginia Delegation," the Honorable WATKINS M. ABBITT. After serving the people of Virginia's Fourth District for almost 25 years, nearly a quarter of a century, he has elected to retire at the close of the current session.

We have served together in close proximity as members of the Committee on Agriculture for 8 years. His dedicated attention to the interests of our State, and his wisdom in dealing with intricate problems, are worthy of high commendation. His contribution to the committee's efforts on behalf of agriculture are varied and many. Even though we represent opposite political parties, we have more often than not, agreed on matters of substance.

I sincerely hope his retirement will bring with it many enjoyable years and success in his future endeavors wherever they might lead.

Mr. DOWNING. I thank the gentleman.

Mr. DANIEL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman.

Mr. DANIEL of Virginia. Mr. Speaker, whenever the Members of this body unite on an occasion like today, to recognize the service of a fellow Member, I cannot help but think that at least this time our kind words are not saved until after the visit of the Grim Reaper, but may instead by heard by those whose virtues we rise and praise.

And I do indeed have some kind words for our colleague from the Fourth District of Virginia, the Honorable WATKINS M. ABBITT, who departs our ranks voluntarily at the close of this Congress.

It is difficult to separate the many WATT ABBITTS who have influenced my life these past 20 years—helmsman to a novice sailor first embarked on political waters, respected legislator whose devotion to constitutional princples is unchallenged, and trusted friend. WATT ABBITT has been all these things to me, and to others who are with us today.

For 40 years he has served the people, first as Commonwealth's attorney for Appomattox County, and for the past 24 years as a respected Representative in the Congress.

Throughout his near-quarter-century service in the House, he has remained constant in his concern with this Nation's farmers and the orderly retention of a way of life which is regretfully fast passing from the American scene.

If I may be forgiven a belaboring of the obvious, the world is indeed a different place from that which existed when WATT first took the oath of office in this room. Ironically, though, one area of problem—though they are varied—are still with us. I refer to the plight of the American farmer.

WATT ABBITT has expended more of his time and abilities than most people realize in working toward solutions to these many problems, and it is altogether fitting that in his time among us the Congress has finally begun to perceive the need for development of rural America and to provide the means to utilize its untapped human resources. No small measure of credit for this may be laid at the feet of WATKINS M. ABBITT.

WATT will be leaving all of you when we finish up our business soon. But he will not be leaving me, for he will then become one of my valued constituents. Somehow the idea of WATT ABBITT "retiring" is laughable. No man of his vigor ever retires. Rather, we may anticipate a changing of direction and look forward to his continued advice and counsel. He will in short, Mr. Speaker, retire from Congress but not from life.

Mr. DOWNING. I thank the gentleman.

Mr. ROBINSON of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Virginia.

Mr. ROBINSON of Virginia. Mr. Speaker, it is with great regret that I offer these few remarks on the impending retirement from the House of our truly distinguished colleague, Mr. ABBITT.

I can insist that my regret is genuine, because geography has spared me the necessity of having to compete with WAT ABBITT in an election.

Our colleague has been known in Virginia for many years as one of the most competent and resourceful of its political strategists and tacticians. To say that many have found him a worthy adversary is an extreme understatement.

I want to acknowledge my high respect and regard for my Virginia colleague. During my relatively brief service here, I have found him helpful and fair. In one of my first committee assignments, I had the privilege of working with him—and with another Virginia colleague, BILL WAMPLER—on the Committee on Agriculture. They have served, as you know, as chairman and ranking minority member of the Subcommittee on Tobacco, and this major Virginia agricultural commodity certainly has been in good hands.

WAT ABBITT also has had a benevolent attitude toward peanuts, and, not having tobacco and peanuts in my district as it has been constituted, I must acknowledge having deferred to his expertise in considering legislation of particular concern to producers of these items.

As a junior Member of the House, I recognized quickly the esteem in which WAT ABBITT was held by the Members who worked closely with him, particularly in agricultural matters.

For 25 years it has been evident that the interests of all citizens of the Fourth Congressional District of Virginia and all the citizens of our Commonwealth House had his continuing, conscientious attention. Their satisfaction with his service was manifest by his 12-time reelection.

It is too early for this House to lose to retirement a colleague of such youthful alertness and spirit, but I defer to his decision and wish him well as he plans to return to his Appamattox home, unvanquished and full of fight, and wish him well for many future years.

Mr. DOWNING. I thank the gentleman.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. DOWNING. Now I yield to a very dear friend of "WATT" ABBITT, the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, "WAT" ABBITT and I come from different sections of this country. His roots go way back deep into the early days of this Nation. My roots are rather shallow ground in the soil of America, having come from immigrant parents from a foreign land. Yet I have learned to respect, admire, and cherish the friendship that I have, and I know he has for me, as individuals, ofttimes on opposite sides of the question, and yet representing each in our own way. In the tradition of the House of Representatives to represent our districts, it is this that has made the strength of this Nation. Each of us comes here to represent that which we are supposed to represent as elected Members of the Congress of the United States.

As each Member votes, the tally is taken, and the tally represents the majority of the people of the United States through their voice. No greater, no more sincere voice has ever uttered a voice on this floor than that of "WAT" ABBITT, a gentleman, scholar, and a true friend.

I do not like to see a man of the qualifications and the character of "WAT" ABBITT quit in the prime of his life at a time when he has reached that point of influence in this House that we all try to achieve. Many of us are called, but few chosen to be respected and admired by his colleagues, such as "WAT" ABBITT.

I have a deep personal feeling for "WAT." I sit next to him. "WAT" does not say too much, and ofttimes I say too much, but each of us in our own way expresses that respect for this body, the peoples of this Nation, and our colleagues in the things we stand for.

To WAT, I can only wish one thing and I wish it with all the sincerity that I have. I say to him: WAT, whatever seas you sail riding into the horizon of the hereafter may you always have with you a fair wind and a following sea.

Mr. Speaker, it has indeed been a privilege and a profound personal pleasure to have served with the honorable gentleman from Virginia, WATKINS M. ABBITT.

After having served this body faithfully for a quarter of a century, the good gentleman will be keenly missed as both a friend and legislator. Although I am sure that the citizens of the Fourth District of Virginia will be delighted to again have him and his wife as permanent residents, I am equally sure that they will be hard pressed to find a Representative as capable as he. In his capacity as chairman of the House Election Subcommittee of the House Administration Committee, as chairman of the Tobacco Subcommittee of the House Agricultural Committee and as a member of the House Standards of Official Conduct Committee, the leadership of this good gentleman has manifested itself time and time again.

I do not know what WAT's future pursuits may be, but our loss in this Congress will be his personal gain. Our schedule here is taxing and we must often sacrifice time which we would prefer to spend with our families and loved ones. He and his lovely wife have my every wish for many long years of mutual enjoyment apart from the brash intrusion of politics. Although he has most assuredly earned the right to rest and enjoy his family—and be about the business of hunting—I doubt that WAT will cease to be an active and interested member of the community.

The Honorable Dean of the Virginia delegation and I have shared many engaging and memorable hours these last 15 years and I am confident that his absence will be deeply felt and will encourage me and my colleagues to continue in our endeavors to serve this Nation well, as he has done. He is a great patriot and has served in this body with distinction.

I wish to extend my personal best wishes for his good health and happiness.

Mr. DOWNING. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. Speaker, we shall all miss the wise counsel and warm friendship of WAT ABBITT. I hope for him that the happiest days of his past will be the saddest days of his future.

Mr. DORN. Mr. Speaker, WAT ABBITT was born and reared in the great Commonwealth of Virginia, known as the mother of Presidents. Likewise Virginia has provided for the Nation some of the outstanding legislators in all the history of the Republic.

WAT ABBITT was nurtured in the heritage and traditions inherent in the Founding Fathers of our country. In that atmosphere, he grew into manhood and himself became a great leader of our time.

WAT ABBITT was chairman of his State's Democratic Party, and he has been in Congress for 12 years; and led the great people of Virginia through the most critical times in their history. Indeed Mr. Speaker, WAT played a major role in guiding our Republic through periods of great trial and turmoil.

WAT ABBITT stood steadfast throughout his career for constitutional government with his great energy, thought, and time devoted to preserving, and upholding, that great document.

In defending the Constitution, and its bill of rights, WAT ABBITT has become a modern day Madison and Mason, protecting the rights of the people, and clothing those rights in the canopy of our sacred Constitution.

WAT's congressional career is marked by passionate defense of property rights as guaranteed in the Constitution. He has made it crystal clear that property rights are the basis and foundation of private enterprise, the arsenal of democracy, and the heart and core of the free world.

WAT ABBITT was a worthy associate of Howard Smith, Bill Tuck, and the late Harry Byrd, in the fight for those principles, and ideals, as exemplified by the founding fathers of our Republic.

WAT ABBITT's congressional career was largely devoted to agriculture, rural development, soil conservation, tree planting, grass, water, and improved environment. He was ahead of his time in ecology and beautification. The Commonwealth of Virginia, and this Nation, are covered with farm ponds, watershed projects, and soil and tree projects which are monuments to his leadership, foresight, and ability.

Mr. Speaker, WAT ABBITT's leadership here has been outstanding, marked by a superior intelligence and bolstered by integrity, honesty, and character.

In his service here, WAT has been one of my dear friends whom I have admired, trusted, and frequently sought counsel from.

WAT ABBITT could have been reelected, again and again, but he frankly did not want to overstay his time. Whatever WAT chooses to do, he will have my every wish for continued success and the best always.

Mrs. Dorn, and my family, join me in extending to WAT ABBITT, our many thanks for a job well done and we wish for him many, many years of happiness with the people he loves.

Mr. MOORHEAD. Mr. Speaker, when this session ends, many of our colleagues, having announced their retirement, will no longer be with this body to fight the people's battles.

One of these is WATKINS ABBITT, a man for whom I have the highest regard not only as a lawmaker but as an individual.

We often hear the term "gentleman" used in this Chamber, far too loosely at times, I am afraid. But if there is one among us who deserves that accord it is WATKINS ABBITT.

Needless to say, we have not always agreed on the issues, but this Chamber, the Nation, and most certainly his constituents are losing a fine, dedicated public servant when he records his final vote.

I hope he finds much happiness and contentment when he leaves the Congress. He can leave this body with his head held high for his actions were always those of a public servant cognizant of the wishes of those whom he represented and conscious of the needs of the Nation.

Mr. BINGHAM. Mr. Speaker, I am glad to join with his friends in paying tribute to the gentleman from Virginia (Mr. ABBITT).

In this particular case, the expression we take so for granted—"the gentleman from Virginia"—really means what it says. Here is a man whose unfailing courtesy and friendliness stems straight from great traditions of our Southern States and has been a source of encouragement and pleasure to literally hundreds of colleagues in the House of Representatives.

WAT ABBITT has many legislative achievements to his credit. In the present Congress he can take satisfaction from having been one of the leaders in the fight for legislation which would place some reasonable limits on the incredible growth of campaign spending and would assure that the public would have sufficient information on the sources of support for candidates for high office so as to be able to make an informed judgment.

I am glad to join in wishing our good friend WAT ABBITT many years of happy and productive retirement.

Mr. RARICK. Mr. Speaker, the distinguished dean of the Virginia delegation, the Honorable WATKINS ABBITT has served the people of his State and Nation honorably and faithfully over many years.

His presence here has been an inspiration for us all. His career in public life will long serve as a model for incoming Members.

I have had the privilege of serving with him on the House Agriculture Committee since I came to Congress 6 years ago. I have always been impressed with his courtesy and with his ability as a legislator. I hold great admiration for WATKINS ABBITT and tremendous respect for his judgment.

Virginia has given freely of her sons to the service of this country. WATKINS ABBITT is certainly representative of the tremendous leaders from his State. They can be justly proud of him, as all of us who know him are.

Mrs. Rarick and I join with the people wishing him the best of health and happiness in his retirement years among the people he loves.

Mr. ALBERT. Mr. Speaker, it is with deep regret that I must join my colleagues in witnessing the departure of one of my finest friends, the gentleman from Virginia, WAT ABBITT. For years and years WAT and I sat side by side on the Committee on Agriculture. Our districts were miles apart but our people, and particularly our rural people, had numerous common problems. We were both interested in all farm crops. We were among only a relatively few Members of the House in whose districts peanuts were an important cash crop.

WAT was a wonderful friend and cherished seatmate. I shall miss him. I wish him all the happiness that life affords in his retirement.

Mr. BROYHILL of Virginia. Mr. Speaker: I join my colleagues today in recognition of the outstanding service to Virginia and the Nation by my friend and fellow Virginian, WATKIN M. ABBITT.

As dean of the Virginia delegation, WAT ABBITT has been a steady voice for fiscal responsibility, for development of our Commonwealth and its institutions. As a member of the Committee on Agriculture in the House, he has been a staunch supporter of improvement of rural living. And he has been a great influence on Congress through his work on the House Administration Committee and as a member of the Standards of Official Conduct Committee which has worked to promote higher standards and respect for the House of Representatives.

WAT ABBITT has served the Nation and the Old Dominion through tumultuous times, through times of change and confusion. His has been a sound and solid performance throughout the past two and a half decades. I know that he has plans for the future including enjoyment of the living style of the great Virginia countryside. I wish him a long and happy retirement, which he has so justly earned. While I know he will remain willing to advise the one to whom he hands over the reins of the Fourth District congressional office, his constituents and his colleagues in the House will miss him when the 93d Congress convenes next year.

Mr. ANNUNZIO. Mr. Speaker, the Honorable WATKINS M. ABBITT of Virginia's Fourth District is retiring from Congress after almost 26 years of distinguished service.

Because I am a member of the House Administration Committee, on which WATKINS ABBITT currently serves as the third ranking majority member, I have had ample opportunity to see for myself his outstanding service and his extraordinary legislative abilities. I know firsthand of his dedication and hard-work approach to the problems of his constituents. Congressman ABBITT has also given the same distinguished service as a member of the Agriculture Committee and the Standards of Official Conduct Committee.

His lifetime of public service encompasses many positions of trust—Commonwealth Attorney, Democratic elector for the Fourth District of Virginia, member of the 1945 Virginia Constitutional Convention, member of the Virginia and Fifth Judicial Circuit Court Bar Associations, director of the Farmer's National Bank, and U.S. Representative for the Fourth District of Virginia from the 80th Congress through the 92d Congress.

WATKINS ABBITT possesses an earnest awareness of problems confronting the Congress and our country, and he has played a major role in the consideration and passage of landmark legislation helpful to the people of his district and to the best interests of America.

I would like to extend congratulations to WATKINS ABBITT for a job well done and my best wishes for good health and a happy and enjoyable retirement.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join my colleagues in honoring WAT ABBITT on his outstanding career as a Member of Congress. He has been a most effective Member, both in committee and in general legislative work.

WAT has carried on the great tradition of leadership that Virginians have long been noted for in the Halls of Congress. His calm, scholarly wisdom was appreciated by those Members who were privileged to know him well, and he will long be remembered by us for his loyalty to principles, and his dedication to the interests of his constituents and the Nation.

Mr. HARVEY. Mr. Speaker, it is with a great deal of pride that I participate in this special order to honor my good friend and colleague, WAT ABBITT. During the past 4 years, while serving on the House Administration Committee, I have come to know WAT rather well. He has served as chairman of the Elections Subcommittee, a subcommittee of which I am the ranking minority member. He is truly one of the gentlemen of this Congress. His departure is a blow, not only to our committee, but to the Congress and to the Nation.

As a Representative from a district rich in the history and the traditions of our Nation, WAT has done his best to preserve the ideals of America. All of us can take pride in our entire electoral process. One of the hallmarks of this system has been an election tradition entirely free from scandal, and as chairman of the Elections Subcommittee, WAT ABBITT has had considerable responsibility in achieving this lofty goal.

The aim of any Congressman is to serve his constituents and his country with distinction. In his 24 years in Congress, WAT ABBITT can take pride in knowing that he has done both superbly.

Mr. WILLIAMS. Mr. Speaker, as these last days of the 92d Congress draw to a close, many of our colleagues are completing their business in Washington prior to their retirements. I am particularly saddened to learn that so many of our valued friends will not be back with us in January.

One of the gentlemen I will miss most represents the Fourth District of Virginia. That Commonwealth has been called the "Mother of Presidents," but, in fact, she is the "Mother of Statesmen." The Representative from the Fourth District, WATT ABBITT, has been a good friend, a trusted advisor, and an honored colleague to me during the past 6 years. I have been privileged to serve on the House Committee on Standards of Official Conduct with WATT, and his calm voice and careful reasoning have been of great value to each of us in performing the important work of that committee.

WATT has always worked hard to represent his constituents and has, undoubtedly, been one of the most effective and respected Members of this House. His district composes much of the heartland of the Old Dominion, and he has been one of the leaders whose efforts have changed Virginia in the past 25 years from a rural and agricultural state to a center of urbanization and industry for the "new South."

Mr. Speaker, as you undoubtedly know, WATT was first elected to the 80th Congress in a special election on February 17, 1948. However, his service to his Nation and to his State started long before that. WATT was the Commonwealth Attorney of Appomattox County for 16 years, starting in 1932. In a State long noted for the excellence of her attorneys and statesmen it was, no doubt, a great honor for WATT to be selected as a member of the distinguished Virginia Constitutional Convention of 1945.

For more than 24 years, WATKINS M. ABBITT has been an important part of the House of Representatives. As he commences his retirement, he takes with him the best wishes of all of his colleagues. We all hope that his retirement years will be both long and happy, and that he will come back to see us from time to time.

Good luck, WATT.

Mr. SLACK. Mr. Speaker, it is a privilege to join in the deserved salute to the distinguished dean of the Virginia delegation, WATKINS M. ABBITT.

When next we face a major controversy requiring calm and judicious consideration, his absence will be felt severely by all of us. His unfailing courtesy and due regard for the views of others impressed the many Members who had an opportunity to consult with him during his years in the House.

While he will be sorely missed, his long record of flawless public service compels all of us to wish him good health and contentment in the years that lie ahead.

Mr. SIKES. Mr. Speaker, it is with deep regret that we note the departure from the House at the close of this session of our distinguished colleague WAT ABBITT. For 24 years, he has ably represented the Fourth District of Virginia. Before his congressional service, he was Commonwealth's Attorney for Appomattox County for 12 years during which he developed into a political organizer of first rank among the younger leaders of the Democratic organization headed by Senator Harry F. Byrd.

It was widespread recognition of his ability and his service that enabled ABBITT to win election as successor to the late Representative Patrick Henry Drewry. As a long-time member of the Agriculture Committee, chairman of the Tobacco Subcommittee, and a member of the Peanut, Livestock and Grains Subcommittee, he has been in position to contribute sound and needed influence in Federal legislation protecting and marketing of farm crops throughout the Nation.

Attesting to his devotion to high principles, is his important contribution as a member of the Administration Committee and the Committee on Standards of Official Conduct, among the most important committees in the House. While his most outstanding record in the Congress has been in the field of agriculture, WAT ABBITT has also advocated development of highways, education, transportation and Virginia's port facilities.

It has been my privilege to serve in the House with this very fine gentleman and to enjoy a close and warm friendship with him and, I take this opportunity to wish Congressman ABBITT and his family the best of health and happiness in the years ahead. He has indeed rendered distinguished service to Virginia and to America.

Mr. PRICE of Illinois. Mr. Speaker, for longer than most Members can recall, WATT ABBITT has stood not only No. 1 in the call of the House, but more importantly in the same position in service to his party, his consituents and the work of the House of Representatives.

Retirement, obviously, will mean his departure from these halls, but it will not mean any lessening of his devotion to the same institutions for which he has labored effectively for more than a quarter of a century.

In 1967, when the House created its first permanent Committee on Standards of Official Conduct, it chose WATT ABBITT to be among those who would give the committee form and guidance. His charter membership remains. Over these years, his contributions have been solid, sober and scholarly. His effort and diligence on thankless matters are never any less than they are on those for which he will be acclaimed.

The House of Representatives, like any other human institution, is but the sum of numerous contributions by those who have served it. WATT ABBITT'S additions to our total legislative fabric are for all to see. When, in his deserved retirement, he looks back upon some of these, he, like all of us who have served with him, should be very proud.

Mr. FLYNT. Mr. Speaker, first let me express my appreciation to my distinguished friend from Virginia, Mr. DOWNING, for taking this time to express his own tribute to the retiring dean of the Virginia delegation, the Honorable WATKINS M. ABBITT.

It is my pleasure and privilege to join with the gentlemen from Virginia and others in paying tribute to WATT ABBITT and at the same time to express the high regards and admiration in which I hold him.

As we take part today in this special order, honoring the gentleman from Virginia (Mr. ABBITT), I do not consider that we are saying goodbye to him. In the first place, his presence will be felt here as long as a single one of his friends, now serving with him, remains a Member of this body. Also because his home to which he will return at the end of this session is near enough for us to see him occasionally here or on such occasion as we may have the good fortune to pass through or near Appomattox County and stop by and see him. As for myself, I intend to frequently leave the interstate highway which leads from Washington to Georgia and make frequent sidetrips to Appomattox County in order to continue my association with this fine man.

The gentlemen from Virginia who have preceded me have spoken of his service in this body and of his service to his community, county, and Commonwealth prior to his election to Congress. We are certain that WATT ABBITT will continue to serve the Commonwealth of Virginia and his fellow man in private life as he has in public life for the last 40 years.

At the time of his election to Congress, Mr. ABBITT served as Commonwealth attorney for Appomattox County in which capacity he served for 16 years. As a former solicitor general of my own State, I suppose from the very beginning of my service I gravitated to WATT ABBITT, not only because of his wonderful personality, and because our philosophy on Government coincide, but also because both he and I shared a prior similar experience, his in representing the Commonwealth of Virgina and mine in representing the State of Georgia. There also seems to be an affinity between those of us who came to Congress in the middle of a term to fill an unexpired term of our predecessors.

As has been previously stated, WATKINS ABBITT was first elected to the 80th Congress and has been consecutively elected the 12 succeeding Congresses. During the quarter of a century of service to the House of Representatives, he has earned and maintained the respect and admiration of his colleagues with whom he has served. He is a man of great ability, sterling character, and total integrity. I do not know any higher tribute we could pay to a colleague.

As a Member of this body he seldom spoke in debate, but on those occasions when he did speak, he spoke with a thorough and commanding knowledge of the subject and gained and held the attention of those to whom he spoke.

Mr. Speaker, it is my pleasure to join in his part of today's proceedings in which we honor my friend and colleague, the Honorable WATKINS M. ABBITT. I am priviledged to have been included in his circle of friends. I wish him good luck, God-speed, and an affectionate au revoir.

Mr. TAYLOR. Mr. Speaker, true to the traditions of most of his legislative predecessors from the Virginia Commonwealth, WATT ABBITT has sought to imbue the House with strong conservative principles of Government. His wise counsel has commanded our attention; his judgment, our deepest respect; his affability, our lasting friendship.

Had he been born a couple of centuries earlier, WATT probably would have been among signers of the Declaration of Independence and a coauthor of the Constitution. Instead, Virginians wisely sent him to Washington to help defend them. And he has done this with statesmanship.

It has been a great personal pleasure for me to serve with WATT and I will certainly be among those who will miss him. The people of his congressional district and the Nation are losing the services of an extremely able legislator.

Mr. JONES of North Carolina. Mr. Speaker, it is with pleasure that I join with others in paying tribute to the outstanding record of public service of Congressman WATKINS ABBITT which he has rendered not only the State of Virginia for the past 26 years, but the entire Nation as well.

His contribution in the field of agriculture has made him a legend to the farmers of this Nation, especially to the tobacco growers on our eastern coast. His able leadership as chairman of the House Agriculture Subcommittee on Tobacco has won him the respect and admiration of all facets of the tobacco industry, as well as the esteem of his colleagues. Due to his warm personality and outstanding abilities in the understanding and knowledge of vital legislation, he is held in the highest regard by Members on both sides of the aisle; he will certainly be missed in the 93d Congress.

To him and his family, I join with his many friends in wishing them many years of health and happiness in the years ahead.

Mr. MONTGOMERY. Mr. Speaker, I am very pleased to be able to join with my colleague, TOM DOWNING, in paying tribute to retiring Member WATKINS ABBITT and his outstanding record of service.

During my first 4 years in the House, I had the pleasure of serving with WATKINS ABBITT on the House Agriculture Committee. I always found him to be a man of great ability and knowledge, and I especially appreciate the many times he was helpful to me.

During the 25 years WATKINS has served in this body, he has amassed an enviable record of public service to the people of Virginia. We all hate to see him retire at the end of this session of Congress, but we are thankful that he has passed our way and given us the benefit of his leadership.

Mr. BROYHILL of North Carolina. Mr. Speaker, WAT ABBITT has had a long and distinguished career in the House of Representatives. He has made a countless number of contributions to the legislative process. He has many friends on both sides of the aisle who will miss his valued advice and counsel. We wish him well as he seeks a quieter life and many years of continued happiness and success.

Mr. WHITEHURST. Mr. Speaker, on the occasion of the retirement from this body of my esteemed colleague WATKINS ABBITT, I am reminded of the long and faithful service which he has given to his State and the Nation.

This Chamber has seen many changes since WATT ABBITT came here nearly 25 years ago, but the Fourth District of Virginia has enjoyed a continuity of faithful and effective representation.

I have particularly enjoyed my association with WATT ABBITT in my 4 years here. There has never been a moment of partisan behavior on his part, and I have enjoyed the most splendid cooperation with his office. On those problems that our districts have had in common, I have been fortunate to have him work with me toward a solution.

As dean of the Virginia delegation, he has acted as a perfect catalyst to bring harmony among us. His charm and wit are distinctive, making him a man among men. Those of us who hope to continue our careers here will be the poorer for his going. I, therefore, join with my colleagues in wishing for him many more years of happiness and good health as he retires to his home in Appomattox.

Mr. REUSS. Mr. Speaker, I appreciate this chance to join in honoring our colleague, WATKINS ABBITT, as he approaches the end of almost a quarter of a century of service in the House.

Retirements are taking an unusually heavy tool of the membership of the House this year; it will take good men and women to fill the shoes of departing Members like WATKINS ABBITT.

He has served with distinction on the House Agriculture Committee, the House Administration Committee, and the House Ethics Committee. Thanks to recognition by the voters of his exemplary service, he became the dean of the Virginia delegation in Congress.

Throughout his service here in Washington, WATKINS ABBITT has retained his active role in his own home community of Appomattox, participating in church and civic activities. We can be sure that his departure from Congress will not end his efforts on behalf of his community and his Nation.

I wish WATT well as he returns to private life.

Mrs. MINK. Mr. Speaker, of the many pleasures and rewards that come with service in the Congress, one of the finest is the opportunity to be associated with so many distinguished Members.

All of us know too well the personal sacrifice and effort required to achieve membership in the House.

In this connection, I am delighted to join with the many friends and admirers of the Honorable WATKINS M. ABBITT of Virginia, who are today expressing esteem for his long and dedicated service.

As Congressman ABBITT retires, we will be losing a valued and distinguished colleague in the daily business of this body. Yet, I recognize that he is looking forward to his retirement, and I wish him many happy years ahead. We hope that he will return often to visit with us.

WATKINS M. ABBITT is the dean of his State's delegation to Congress, a fact that in itself is a great tribute to any person. It has been a privilege to serve with him.

Mr. BELCHER. Mr. Speaker, I would like to take this opportunity to join with the numerous other Members to comment on our colleague and great friend, the gentleman from Virginia, WATT ABBITT.

As we all are well aware, WATT first came to the House of Representatives in 1948 during the 80th Congress and since that time he has been a person who has always served his district, his State, and his country with distinction.

I became acquainted with WATT when I first came to Congress and was given my position on the House Agriculture Committee. During the years that followed, I have had the opportunity to observe this great statesman in action. He has always worked to insure that our Nation's farmers have received their due consideration on all agriculture legislation. Of course, his greatest contributions have been legislative efforts through the Tobacco Subcommittee over which WATT presides as chairman. His efforts in this area are unsurpassed and because of his great leadership the Virginia farmers have always had the best tobacco programs that could be conceived in the House of Representatives and the Congress of the United States.

I know his constituents, the citizens from the State of Virginia, and all of our Nation's farmers will miss his great voice and efforts in the House, as we all will. But, our loss will be the gain of the great State of Virginia where WATT plans to return at the close of this session. Even though he will be missed here in Washington by us all, I know that all his friends join me, as I join others, in wishing WATT the greatest of happiness for the years to come.

Mr. FISHER. Mr. Speaker, when our colleague WATT ABBITT decided not to seek reelection this year, his district, the Old Dominion, and the entire Nation suffered a severe loss of major proportions in the Congress. The great State of Virginia has produced some of the country's greatest statesmen. There was a time when it was called "the mother of Presidents." And the Nation fared better when that was a fact.

WATT ABBITT has by his record and his conduct made of himself a worthy successor of Virginians who have left their marks on history.

Today I am pleased to join with my colleagues in this expression of recognition and gratitude of WATT's great contribution to the cause of good government. He has served here with courage, wisdom, prudence, and good judgment. I am sorry indeed that my friend will not answer the rollcalls in the House next year. But I do extend my best wishes for good health and good fortune in whatever he may undertake during his retirement from the Congress.

Mr. WINN. Mr. Speaker, may I join my many colleagues in paying tribute to the Honorable WATKINS ABBITT, on the occasion of his retirement from the House of Representatives. Mr. ABBITT has had an illustrious career of public service from the time he was Commonwealth attorney for Appomattox County, Va. He has served his party, his State, and his Nation with honor. Through his work on the Committee on Agriculture he has served both his rural and urban constituents. We will all miss a man of Mr. ABBITT's caliber and wish him the best of health and happiness as he returns to his home in Virginia.

Mr. FUQUA. Mr. Speaker, I want to thank my good friend, TOM DOWNING, for taking this time so that we may pay tribute to our colleague, WATT ABBITT, on his retirement from the U.S. Congress.

I recall first coming to Congress some 10 years ago at which time my constituents had a problem relating to tobacco. One of the first men whom I came to know in Congress was WATT ABBITT who was chairman of the Tobacco Subcommittee of the House Agriculture Committee.

His kind and understanding way with this young freshman Member made a lasting impression on me of him as a man. Since that time I have come to know WATT more closely, having relatives who live in his home town of Appomattox, Va., and through the years he has proven to be the truly outstanding statesman that the Commonwealth of Virginia throughout history has sent to Washington. I know that had he chosen to seek reelection, he would have been easily reelected by his constituents whom he has served so well in his long service here in Congress.

But I want now to wish for WATT and Mrs. Abbitt a very long and lasting period of much-deserved retirement and I think that the Congress and our country have been made better by his outstanding service.

Mr. HUTCHINSON. Mr. Speaker, I join the many friends of WAT ABBITT in the House to wish him many years of happiness and contentment as a former Member of Congress. When I first came here in 1963 I was assigned to the Committee on Agriculture and had the pleasure of serving with the gentleman from Virginia (Mr. ABBITT) on that committee, and on a subcommittee chaired by him. More recently I have served with him on the Committee on Standards of Official Conduct. For nearly a quarter of a century WAT ABBITT has served the people who live in a very historic section of Virginia with dignity and honor, and in a most outstanding way. We shall miss him in these Halls.

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of joining with my colleague, the gentleman from Virginia (Mr. DOWNING) in paying a brief but sincere tribute to WATKINS M. ABBITT, who is retiring from the Congress at the close of the current session to his beloved State of Virginia.

WATKINS ABBITT and I came to Congress together in the 80th Congress—we are classmates and friends.

I have the highest regard and greatest respect for his ability, integrity, and statesmanship.

WATKINS ABBITT is an able legislator and has served as a member of the Committee on Agriculture and as chairman of a number of its subcommittees, including the chairman of the Subcommittee on Tobacco. WAT has often said that next to Virginia and his family—with him tobacco and cabbage are king.

By virtue of his extended service and outstanding abilities, he is recognized as the dean of the Virginia delegation.

WATKINS ABBITT is a great Democrat, a genial Southern gentleman, and will be greatly missed.

Certainly I want to wish for him the very best of good luck and success as he enters a richly deserved retirement after a distinguished career of outstanding public service.

Mr. ICHORD. Mr. Speaker, for many years now the first name to be called during roll call vote of the House has been that of the distinguished gentleman from Virginia, WATKINS M. ABBITT. And WATT ABBITT is among the top 10 percent in seniority in the House.

But those are merely distinctions of adphabet and length of service. WATT ABBITT holds an equally high position in the esteem and respect of his colleagues in this House and it is with great regret that we learn of his impending retirement, even as much hard work, long hours and dedicated service have earned him a deserved rest.

Seniority has placed WATT ABBITT in the chair of two important subcommittees of the House: Tobacco Subcommittee of the Agriculture Committee and Elections Subcommittee of the House Administration Committee. Had not the seniority system so designated him, ability, intelligence, and expertise would have.

WATT ABBITT is the dean of the Virginia delegation to the House and for many years the other members of the Old Dominion State have looked to him for vigorous leadership and valued advice. They were never disappointed.

Although WATT ABBITT comes from that age group whose services in uniform were not required by major conflict, he has long worked in behalf of those who served in the Armed Forces. In 1945, for example, he was a member of Virginia's Constitutional Convention that extended absentee voting rights to servicemen.

I happen to know that WATT ABBITT is an expert and avid outdoorsman, as knowledgeable about hunting and fishing as he is about legislative affairs. WATT ABBITT comes from a particularly beautiful part of his State as well as the Nation. Now he will have sufficient time to enjoy the rolling hills, timber, lakes, and streams of home. He will be missed by the Members of this House.

GENERAL LEAVE

Mr. DOWNING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Virigina?

There was no objection.

THE 1973 U.S. MILITARY EFFORT IS BELOW PRE-VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 5 minutes.

Mr. HOSMER. Mr. Speaker, lots of people clamor for cuts in the military budget. They are under the illusion that the Army, Navy, Air Force, and Marines are running rampant through the U.S. Treasury with fixed bayonets. It is time we get into perspective on this subject before irreparable damage is done to the national security.

The truth is that our defense effort will be smaller for fiscal year 1973, the current year, than it was prior to the Vietnam buildup. The following table presents figures for fiscal year 1964, just prior to the Vietnamese buildup, for fiscal year 1968, the Vietnamese peak, and fiscal year 1973. The table first shows the unadjusted dollar figures for defense spending, exclusive of retired pay, and then the same spending in terms of 1973 constant dollars; that is, dollars adjusted for the drop in purchasing power of the dollar due to inflation over the years:

[In billions of dollars]

	Unadjusted gross dollars	1973 constant dollars
Fiscal year—		
1964	$50	$78
1968	76	104
1973	73	73

A glance at the table not only shows a smaller actual defense effort today than 9 years ago, but it also is mute testimony to more than a $30 billion cut from Vietnamese peak year spending. In short, the so-called peace dividend some people talk about already has been declared, paid, and spent to finance domestic programs and tax cuts.

The drop in military effort from fiscal year 1968 to fiscal year 1973 shown above is equivalent to a decline in defense spending from 9.7 to 6.5 percent of the gross national product, from 44 to 31 percent of the Federal budget, and from 30 to 20 percent of public spending.

The foregoing are facts which no one who is concerned for the defense of the United States in a still lawless world can ignore.

A STATEMENT OF CONCERN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DOWDY) is recognized for 60 minutes.

Mr. DOWDY. Mr. Speaker, I have refrained from comment regarding the case fabricated against me, but because of contemptible harrassment and continued misrepresentations, I take this time today to defend not only my own honor and integrity, but the honor and integrity of this body, which is under attack, even by some of its own thoughtless Members. The usurpation of the powers of Congress is daily obvious, and should not be promoted by its own Members.

The intimidation of witnesses and the flagrant use of Federal grand juries and courts to discredit Members of Congress for political reasons are threats to the independence of the legislative branch as well as to the personal and political life of every Member of Congress. What has been done to me can be done to you. Whether or not you realize it, it is your battle as well as mine.

Very few people actually know what the charges were against me. The newspaper reports were that I was charged with seeking to influence, obstruct and impede justice, and to intervene in an investigation by the U.S. Attorney's office, to influence, obstruct and impede justice, and for accepting a bribe for so doing.

In fact, there were no such counts in the indictment. The charges were for conspiracy and were admittedly predicated on a duly authorized congressional committee investigation in 1965.

I most emphatically declare I did not enter into any conspiracy. Neither did I make even the slightest effort to influence, obstruct or impede the administration of justice. My activity, and that of my subcommittee, was solely to investigate the validity of a complaint received by the District of Columbia Committee, and assigned for investigation by the chairman of the committee to the subcommittee chaired by me.

This investigation came about by virtue of a complaint received from Hon. John Alvin Croghan, the attorney for Nathan Cohen, who was the owner of Monarch Construction Co., alleging duress and mistreatment of his client, involving the D.C. Department of licenses and inspections, and requesting an investigation of the complaint.

Chairman of the committee, Hon. JOHN MCMILLAN, referred the matter to my subcommittee with direction that the committee's chief counsel, Mr. Hayden Garber, make a preliminary investigation, to be assisted by me, to determine the validity of the complaint.

This investigation was made, as a result of which Mr. Garber reached the conclusion, with which I concurred, that the complaint was not valid and that the committee should take no action on it.

The case against me is admitted by the prosecution to be predicated on this congressional committee investigation. The prosecution's witness, Nathan Cohen, swore during the trial that he did not tell me or any Member of Congress that he had been guilty of criminal conduct, which completely negates the theory that I conspired with him to interfere or to intervene to influence, impede or obstruct justice. In fact, Mr. Garber and I did not learn until our investigation was nearly completed that Cohen and his company were being investigated by the U.S. Attorney.

Overt acts set forth in the indictment consist of allegations of the receipt by the committee of the letter of complaint from Mr. Croghan, and the committee's action in investigating the complaint which was regularly before it. The trial judge had a copy of the indictment made for, and given to each juror, and instructed the jury that a finding of only one of the overt acts was sufficient for conviction. There was no dispute that the committee investigation was made; that the committee did receive the letter of complaint written by Mr. Croghan; the committee did receive and review files relevant to the complaint, and received information relative to the complaint from an assistant U.S. Attorney Hantman and from Federal Housing Administration employees, Mr. Finney and Mr. Hobbs.

Thus, the jury's verdict was based on the action of the committee in conducting a duly authorized investigation in the performance of its legislative responsibilities.

Furthermore, the undisputed evidence from prosecution and defense witnesses alike, conclusively revealed that no attempt was made by the committee, by committee counsel, or by me, to influence the Justice Department, the U.S. Attorney, or any other agency or to impede or obstruct justice. In fact, the committee's findings and its action were all adverse to the complaint filed on behalf of Cohen and his Monarch Construction Co. by Mr. Croghan, as will be shown below.

Yet all of these acts by the committee were submitted to the jury as overt acts, any one of which to be considered by the jury as a basis for a guilty verdict.

In all of the testimony presented, there was not one iota of evidence that I, Mr. Garber, the committee, or any of its members made any effort to thwart, influence, impede or obstruct justice. In truth, the testimony affirmatively established that such was not done.

As to the claimed $25,000 payment, it is a fabrication of the whole cloth, a baldfaced lie.

Prosecution witness, Harry Finney, of Federal Housing Authority, testified under oath that prosecution witness, Nathan Cohen, was a "bald-faced liar." I agree.

Cohen swore that he made a list of the serial numbers of the bills he claimed to have given me, and that he gave this list to U.S. Attorney Sachs. He produced one list and discovered it did not have enough numbers, so he prepared and produced an additional list. With all the resources of the Federal investigative agencies, it is unbelievable, if the charges against me were true, that the FBI was not able to track down and show that at least one of those 667 serial-numbered bills had ever been in my possession.

The jury realized this, and during its deliberations, before verdict, inquired of the trial judge whether they need find I received the money. The judge instructed them it was not necessary. The jury did not find, and never believed that the alleged payment was made. It was not made.

During the trial, Cohen testified that he cheated Monarch customers by overcharging; by misrepresentation; by fraudulently having them sign blank mortgages and notes, which he later filled in, raising the prices he had quoted; by placing second and third mortgages on their homes at exorbitant illegal rates of interest; as well as other criminal acts. He testified in that connection that he did not tell me, or Mr. Garber, or any of the Senators or Congressmen of his illegal activities, and that he did not advise his attorney, Mr. Croghan, about them when he had him write the September 16, 1965 letter to our committee. He swore that he did not reveal the fraud and deceit he practiced because, it is not something you go around shouting about.

The question presents itself, "How could a person enter a conspiracy to defeat a prosecution, when he is not even aware there had been a criminal act committed?". Thus, Cohen's own testimony shows there could be no conspiracy on my part to thwart, impede or obstruct justice, he having wholly failed to reveal that he was guilty of any violation.

Further, according to Cohen, the claimed payment was made for the purpose of having me arrange for him to appear before a Congressional Committee concerning his Monarch business, and thereby obtain immunity from prosecution.

The purported objective was, and is, legally impossible to attain. Testimony before a congressional committee will not afford immunity from prosecution. Hence, it was an action that could neither be taken nor influenced, and so would not support a bribery charge. This would be true even if Cohen had told us of his criminal activities.

Bear in mind, the events under consideration took place in 1965. It is only in recent months that the utterly depraved and despicable character of Cohen has come to light. In our 1965 committee investigation, we learned of some twelve cases of Cohen's questionable dealings.

The vast extent of his gross fraud perpetrated on Monarch's District of Columbia poor homeowner customers did not become known until long after our investigation was concluded. It was really not until November 1971, during the trial of this case, that Cohen admitted he had criminally defrauded 700 or 800 homeowners, and the Federal Housing Administration of more than $2 million. He made this revelation only after U.S. Attorney Sachs had granted him and his mother immunity from prosecution for these, as well as countless other crimes subsequently perpetrated by him. Cohen was overly well rewarded for the tale he fabricated.

The other crimes were fraudulent stock sales, involving a member of private corporations he formed after moving to Baltimore. They included: Real Estate Training Institute; Education, Inc.; Baltimore Business Schools; International Consultants; Computer Counselling; Private Placements; Creative Financing; Digitator, Inc.; Convert-A-Code; Computer Analysis; H. B. Hirsch & Sons; Mini-Delli, Inc., and others. He admitted that he entered into these criminal enterprises. Cohen criminally defrauded several hundred people in these stock sales and appropriated the money to his own use, for all of which he was rewarded with immunity from prosecution.

The character of the five principal witnesses arrayed by the prosecution is of interest, and all of them were rewarded with immunity from prosecution in return for their concocted testimony. In addition to Nathan Cohen, they were Myrvin C. Clark, Daniel Pope, Thelma Cohen, and Julius—alias Jack—Levitt. Each was granted immunity for everything they had ever done. Three of them admitted that they had perjured themselves in sworn statements and in their grand jury testimony in this case, and that they had changed their testimony several times on prompting from the U.S. attorney.

Taking these witnesses individually:

First. Cohen admitted criminally defrauding the Monarch customers. He further stated that he did not reveal this information to me or to Mr. Garber. His grant of immunity extended to these 700 or 800 cases; but that is not all. It ran as well to the several hundred cases involving the fraudulent sale of stock in the companies above named, in which he defrauded those people of hundreds of thousands of dollars. He also admitted to prejury against me, and that he persuaded Levitt to commit perjury to corroborate Cohen's own perjured statements. His grant of immunity covered all.

Second. Jack Levitt was Cohen's close lieutenant in Monarch and his partner in the fraudulent stock transactions hatched in Baltimore. He admitted to committing perjury at Cohen's request. He was granted immunity in consideration for giving desired testimony.

Third. Daniel Pope was involved in Monarch's fraudulent operations and was likewise granted immunity.

Fourth. Thelma Cohen, Nathan Cohen's mother, was the boss at Monarch, and also involved in some of Cohen's Baltimore operations. She was likewise granted complete immunity.

Fifth. Clark proudly proclaimed himself to be a hustler, and was involved in the activities of Monarch Construction Co. He had been convicted of criminal fraud in 1958 and was under indictment in Federal Court in Baltimore in another fraud case involving the Home Enterprise Co. In the same court he was under indictment in a case involving H. B. Hirsch & Sons in which he betrayed former Speaker of the House of Representatives, John McCormack. In that case Clark took advantage of his friendship and office by preparing a forged letter purporting to be from Speaker McCormack to the late L. Mendel Rivers. This letter was used to get $10,000 from the Hirsch Co. Cohen was also connected with this fraudulent transaction. The grant of immunity to Clark included the dismissal of the Home Enterprise and Hirsch cases.

It is evident from the testimony of Cohen and Clark, if either can be believed, that Clark hustled Cohen on a number of occasions by claims of friendship with Speaker McCormack, myself, and other Members of the House and Senate. Clark, knowing of Cohen's criminal activities, used Cohen as his bankroll by the use of his claimed influence to obtain money from Cohen on a number of occasions, and apparently from other people as well.

Cohen testified that he gave Clark $25,000 in 1965 to give me. I state categorically and without equivocation that I have never taken a bribe from Cohen or anyone else.

If Cohen can be believed, Clark got $2,500 on each of two or three other occasions through his claimed influence and got $25,000 from him in 1969 in connection with Cohen's fraudulent stock operation in Baltimore, in which Clark asserted his claimed influential connection with Speaker McCormack. This is in addition to the $10,000 Hirsch matter in which Clark wrote the bogus letter from Mr. McCormack to support the extortion. All of these instances were based on Clark's false representation of his friendship and influence with various Members of the House and Senate. For all of this Clark was granted immunity by U.S. Attorney Sachs. Clark stated that this grant of immunity was the 100 percent sole reason he testified the way he did—that is, to get out of his troubles.

Clark admits to being a mental case, an alcoholic, a user of narcotics, and of not knowing right from wrong, and that he was drunk on the day in early 1970 when the FBI had him sign a typewritten statement in Baltimore and that he did not know its contents. This is in an April 27, 1970 letter Clark wrote to the same Mr. Croghan of the Stassen law firm, in which Clark was seeking assistance to be committed to a government institution. This letter shows Clark's predilection to claimed friendships with Senators and Congressmen, in that he tells Mr. Croghan that Senator HERMAN TALMADGE, Congressman Maston O'Neil and I would help him. His mental condition is certainly revealed by his statement to Mr. Croghan to seek my help, the letter being written only a few weeks after he had aided and abetted in the fabrication of the plot to secure indictment against me.

The letter further shows Clark's trend of thinking, in that he was willing to betray Mr. Croghan's claim to a piece of property owned by Clark, by giving a power of attorney to his attorney, Francis N. Iglehart. Clark said in the letter, "It could not be helped" because "Sachs and Iglehart are reported to be longtime friends". Iglehart was Clark's attorney, and Sachs was the prosecutor in the cases against Clark.

It is difficult to obtain documentary proof of threats made to a witness to obtain desired testimony, but I have obtained a copy of a letter to Clark from his attorney, Mr. Iglehart, dated January 26, 1970, in which there is the implied threat from Sachs, conveyed by Iglehart, that if Clark would not testify as Sachs desired, Clark would be indicted for perjury, and that Sachs would lay out very specifically the testimony he wanted prior to Clark's next appearance before the grand jury. Clark succumbed, for the letter convinced him that his previous testimony before the grand jury was not satisfactory to Sachs and that he must tailor it to suit Sach's desires in his next appearance before the Baltimore grand jury, and as his reward, Sachs would grant him freedom.

But to get back to Cohen. Late in 1969, when Cohen learned he was about to be indicted for his multitude of criminal stock manipulations, he was ready to deal with Sachs and he did so. But Cohen likes to brag, so his deals were not quite so confidential. At the time his criminal activities caught up with him, Cohen was in business with Mr. Grayson Foster of Baltimore. He gave Mr. Foster a day-to-day account of his discussions and dealings with Sachs.

Cohen told Foster that the Internal Revenue Service was after him, and that U.S. attorney Sachs was after him. He told Foster that Sachs told him that he—Sachs—was like a kid in a candy store—he had so much on Cohen he did not know what to get him for. Later, Cohen told Foster:

> I think I just got off the hook. I gave Sachs a Congressman, and told him I gave him $25,000.

Foster asked how he could prove it, and Cohen replied, "I'll just have to find a way." Cohen at no time told Foster that he gave the money—just that he told Sachs that he did so.

On another occasion after that, Cohen told Foster that he gave Sachs some documents that a friend at the Federal Housing Administration had obtained for him, but that he had told Sachs that he got them from JOHN DOWDY.

Resulting from this, Cohen told Foster that Sachs had called off the Internal Revenue Service and the Securities and Exchange Commission cases, and got them off his back and had promised to protect him from a jail sentence in Washington, D.C.

Cohen told Foster that he had tried to get a hearing before the District of Columbia Committee, in order to stay out of court on the Monarch cases; that his lawyer—Croghan—had written letters to the committee requesting a hearing, but that it was denied and that it was DOWDY who turned it down.

During one of the conversations, Foster asked Cohen what he got for framing me. Cohen replied, "I'm going to get out of trouble." When Foster asked what Sachs would get out of it, Cohen replied, "He will get the publicity."

After the deal was completed with Sachs, Cohen, on several occasions, bragged to Foster about how he got Sachs to get everybody to call the dogs off him, and Cohen would laugh about how Sachs had been taken in by him.

Foster told Cohen that after the case was over, he would no longer have an umbrella of protection over him, to which Cohen replied:

> That's all right. I'm their fair-haired boy.

Foster then told Cohen:

> You are limited in what you can do and where you can go, and will have to report.

Cohen replied:

> I can get it fixed to go anywhere I want.

That Cohen was able to do that very thing is evidenced by the fact that he went to Norfolk, Va. and formed new corporations similar to Monarch; and is now obtaining Federal financing on a large scale from Farmers Home Administration, as I will detail in a few minutes. The only difference: Monarch was financed by the Federal Housing Administration, while his new source of money is the Farmers Home Administration.

When innocence can be distorted and defeated by the coerced, perjurious testimony of scavengers admittedly guilty of fraud and deceit, and serve as the sole foundation of the case against me, then, Mr. Speaker, my colleagues of this House may well consider their own fates, because no one is immune from the acts of perjury and subordination of perjury that can be exchanged for the freedom of self-confessed crooks. Conspiracies don't always involve physical assassination. Some conspiracies, as in this case, are simply motivated by confessed criminals who desire to escape prosecutions which are generated by freedom-giving prosecutors. Character assassination is perhaps more deplorable than physical assassination.

Actually, the only bribery in this case was that which passed from U.S. Attorney Sachs to his witnesses. They were bribed with something far more valuable than money—freedom.

Cohen was bribed with a grant of freedom from all the crimes he had ever committed. Clark was not only bribed by the same grant of freedom, but was also coerced and intimidated by threats if he refused to change his testimony and cooperate by giving the desired testimony.

The U.S. Attorney tendered bribes. Cohen and Clark—as well as Levitt, Pope and Thelma Cohen—accepted the bribes. They are the guilty parties.

One point I should mention here. As you know, it has been repeatedly denied that congressional offices are bugged, but my office was. Yet it was done with inferior equipment, and by a man who was bribed by a wholesale grant of immunity, and who was instructed that, if he did certain things, the recording would be distorted and unintelligible. Cohen was the boy for this.

Through his instructions, Cohen knew exactly how to make the tape unintelligible at the desired places. The result was a recording so garbled that neither the jurors nor I were permitted to hear it. An admittedly doctored copy of the tape was produced, but even it was unintelligible.

This doctored tape was given to an FBI agent who said he listened to it more than 100 times and then typed out what he thought it said. His transcript was given to the jury on the theory, as stated by U.S. Attorney Sachs, that the jury could listen to the tape, but would not know what they were hearing. Just how much faith would you have in a recording if you had to listen to it 100 times before guessing what it said?

There can be no doubt this manner of bugging was deliberately done. I say this, firmly believing that the Federal Government, with all its resources, could have produced an honest recording.

The same with the purported transcript of the recording. The agent who prepared the transcript transcribed only two voices. Yet, on the doctored tape, garbled and distorted as it was, it was evident there were at least four voices. The prosecution could not afford to acknowledge that fact, because its star witness, Cohen, said he was alone with me. I would have welcomed a clear recording, revealing what actually transpired, including the conversation of myself and others, which Cohen drowned out with loud laughter and by scratching the microphone.

I have a recorder, bought in a pawn shop for $20, and a microphone which cost $1.98. With this I can record a conversation without distortion; or, by using Cohen's tactics, I can distort and make unintelligible any part of the conversation which would suit my purpose, merely by following the instructions given to Cohen.

Following my trial, Sachs gloated to the press his personal indictment of the integrity of the membership of Congress in these carbolic terms:

> Even though Dowdy is the first Congressman in 15 years to be convicted, he is not the first in 15 years to take a bribe.

Mr. Speaker, Sachs bribed Cohen and Clark by his guarantee of their freedom as reward for their Baltimore perjury before the Grand Jury and in the trial. But that is not all the reward they received. Each of them was set up for additional financing of new schemes through grants and loans from the Federal Government, at the expense of the taxpayers, as I will show below.

Does this not mean, Mr. Speaker, that all Members of Congress are potential victims of ambitious prosecutors who arm themselves with coerced perjury of criminals, in order to get the scalp of the innocent Congressman?

Yet, to this day, the Congress has not seen fit even to enact a venue statute to guarantee a Member the right to be tried in his own Congressional District, before a jury of his peers, in the event of another battle as mine. It is a fate which may knock upon the door of any Member for a similar spurious charge 1500 miles or more from his home.

The case alleged against me is an arrogant invasion of the function of a congressional committee by the executive and judicial arms of government. It is in total derogation of the constitutional separation of powers and of the speech and debate clause of the Constitution which protects a legislator in the discharge of his legislative actions. If the acts I performed in the discharge of my official duties and responsibilities as a Member of Congress amounted to a criminal offense, then every Member stands in jeopardy as he performs his duties.

We need to recognize that it was not I, alone, who went to trial on trumped up charges of conspiracy to influence, impede and obstruct justice. It was the entire Congress and the congressional committee system that was under attack.

The legislative branch has fallen into dire straits when a subcommittee chairman cannot conduct an inquiry duly authorized by the House of Representatives, and assigned to him by the committee chairman, without fear of prosecution and harassment by the executive branch.

When a complaint comes to a committee, the only way it can be investigated is by inquiry. After the investigation is made, if the inquires may be used as basis for prosecution of a Member, then congressional investigation is at an end, and the people are the worse for it. The fact that, in this case, the committee's decision was adverse to the complainant, Cohen and his company, places an even more glaring light on it, when Cohen's vengeful spirit, as evidenced by Cohen's statement to Mr. Grayson Foster that it was I who turned down his complaint, is coupled with the wholesale grants of immunity given him by Sachs.

Stated as briefly as possible, the case was based on these facts:

On September 16, 1965, John Croghan, of the Harold Stassen law firm, attorney for Cohen, owner of Monarch, wrote a letter to each Member of the House District of Columbia Committee, complaining that his client was being harassed and mistreated, and asking for a committee investigation. The letter was accompanied by a packet of documents supporting the complaint. Included was a letter from Hon. Joseph Donohue, a highly respected attorney, and former Commissioner of the District of Columbia. His letter was written as an attorney for Monarch Construction Co.

This complaint came under the investigatory jurisdiction of the District of Columbia Committee, as granted to it by House Resolution 44, 89th Congress, 1st Session, as well as its constitutional jurisdiction over the District of Columbia.

Many of the Members referred their letters to committee counsel, Hayden Garber, as they were received, which is the customary procedure in such matters.

Committee chairman, Hon. JOHN McMILLAN, and ranking Republican member, Hon. ANCHER NELSEN, each acknowledged to Mr. Croghan the receipt of his letter, and advised him the complaint would be looked into by the committee. Other acknowledgments to Mr. Croghan included letters from Committee Members, Hon. HOWARD SMITH, Hon. DONALD FRASER, and Hon. THOMAS ABERNATHY.

When I delivered to Mr. Garber the letter I had received, he told me he had already received 10 or 12 identical letters, and that Chairman McMILLAN had written Mr. Croghan that the matter would be looked into.

Mr. McMILLAN had named me as chairman of the investigating subcommittee, and delegated subpena power to me. In conference with Mr. Garber and me, he referred the Croghan letter of complaint to my subcommittee, directing that Mr. Garber, assisted by me, make an exploratory investigation, to determine its merits.

Mr. Garber examined the Croghan letter to learn the nature of the complaint, and found it involved the D.C. Department of Licenses and Inspections. In a few days, he arranged a conference between himself, Cohen and me, as subcommittee chairman, in order that Cohen might relate his complaint in person. In this conference, Cohen related his complaints, the substance being as in the Croghan letter.

Cohen stated that his Monarch Construction Co. was supported by a large number of Members of the House and Senate. He had a copy of a montage ad he had placed in Washington newspapers, showing letters he said he had received from numerous Members of the House and Senate. He said these Members supported the work being done by his Monarch Construction Co. He had letters expressing various degrees of interest in his company, among them being letters from the following list of U.S. Senators:

1. Daniel B. Brewster (D-Md).
2. Frank Church (D-Idaho).
3. Thomas J. Dodd (D-Conn).
4. Peter H. Dominick (R-Colorado).
5. Allen J. Ellender (D-La).
6. J. W. Fulbright (D-Ark).
7. Jacob J. Javits (R-N.Y.).
8. Edward M. Kennedy (D-Mass).
9. Frank J. Lauche (D-Ohio).
10. Edward J. Long (D-Mo).
11. Edmund S. Muskie (D-Maine).
12. Winston L. Prouty (R-Vt).
13. Leverett Saltonstall (R-Mass).
14. William Proxmire (D-Wisc).
15. Milward L. Simpson (R-Wyo).
16. John J. Sparkman (D-Ala).
17. Herman B. Talmadge (D-Ga).
18. John Tower (R-Tex).
19. Joseph D. Tydings (D-Md).
20. Harrison Williams (D-N.J.).

And from the following listed Members of the House, Congressmen:

1. Brock Adams (D-Wash).
2. Charles B. Bennett (D-Fla).
3. William C. Cramer (R-Fla).
4. Thomas Curtis (R-Mo).
5. John G. Dowd (D-N.Y.).
6. John J. Duncan (D-Tenn).
7. Robert B. Duncan (D-Ore).
8. Samuel N. Friedel (D-Md).
9. Tom S. Gettys (D-S.C.).
10. George W. Grider (D-Tenn).
11. Lee H. Hamilton (D-Ind).
12. George V. Hansen (R-Idaho).
13. Charles R. Jonas (R-N.C.).
14. Odin Langden (R-Minn).
15. Clark MacGregor (R-Minn).
16. Charles Mathias, Jr. (R-Md) (now Senator).
17. Chester L. Mize (R-Kan).
18. Ancher Nelsen (R-Minn).
19. James G. O'Hara (D-Mich).
20. W. R. Poage (D-Tex).
21. James H. Quillen (R-Tenn).
22. John J. Rooney (D-N.Y.).
23. Carlton Sickles (D-Md).
24. Albert W. Watson (D-S.C.).
25. Charles Weltner (D-Ga).
26. Clement J. Zablocki (D-Wisc).

These letters, evidencing considerable congressional interest in the matter, were advanced by Cohen in support of his request for investigation and hearing of his complaint. The letter from Senator Joseph Tydings was featured in the above-mentioned montage ad.

It is thus evident that many Members, including myself, were misled by Cohen, but it must be remembered that the events under consideration took place in 1965, and it was not until 1970 that the utterly depraved and despicable character of Cohen began to surface. In this conference with Mr. Garber and me, Cohen told us his activities were legal and honest, and that Mr. Finney, of FHA, had told him there was nothing wrong with his manner of doing business.

Following the conference with Cohen, Mr. Garber decided to subpena the D.C. Licenses and Inspections file, as requested in the Croghan letter, because Cohen's major point of complaint related to that Department. Mr. Garber prepared the subpena and brought it to me on October 13, 1965, and told me of his decision and advice. I signed it, and Mr. Garber served it and obtained the Monarch file, which he then compared with the material submitted by Mr. Croghan on behalf of Cohen and Monarch.

This file revealed that Mrs. Margaret A. Haywood was another attorney for Cohen and Monarch. She represented the company in complaints revealed by the file. Mrs. Haywood has been a District of Columbia city councilman, and a member of the board of Washington Metropolitan Area Transit Authority, and is now a Judge of the Superior Court of the District of Columbia, appointed by President Nixon.

Mr. Garber's examination of the file revealed that License and Inspection investigator had discussed the Monarch matter with Assistant U.S. Attorney Lapham, who had advised there was not sufficient evidence of criminal liability. There was also mention of Federal Housing Administration. These notations indicated to Mr. Garber that he should touch base with the Justice Department and FHA during the investigation.

Mr. Garber was referred by the Justice Department to Alfred Hantman, an assistant in the D.C. U.S. Attorney's office. Mr. Garber advised Mr. Hantman of the complaint received by the Committee questioning the propriety of some action by the D.C. Government, and inquired would he find it possible to visit, in order that he might see the complaint, and give his comments about it. This appointment was made.

Mr. Garber also called Mr. Harry Finney, at FHA, who was named in the Croghan letter, and made a like appointment with him, that he might see the complaint and offer comments.

Mr. Garber advised me, as subcommittee chairman, of the appointments.

The conference with Mr. Hantman was on or about October 20, 1965. It was brief. Mr. Garber showed him the complaining letter. Mr. Hantman had very little to say about it, other than that Monarch was under investigation by the U.S. Attorney's office. He had a copy of the above-mentioned montage advertisement. That ad, and the letters in it, may have been the reason he had so little to say.

The conference with Mr. Finney was on October 22, 1965. He brought with him Mr. James Hobbs and some FHA reports. Mr. Garber showed him the complaint the Committee had received. Mr. Finney denied the allegations in the letter, and told us of some of Monarch's operations. His reports concerned about 12 of Monarch's customers, and he and Mr. Hobbs felt those customers had been grossly overcharged and probably defrauded. Mr. Garber and I felt that Finney and Hobbs were right. They pointed out, however, that during the FHA investigation, Mr. Hantman had stated there was insufficient evidence for an FBI investigation. They stated they had put Monarch on the precautionary list. Mr. Finney desired to leave his reports with the committee so they could be reviewed with the other material the committee had. In one of these reports was reflected Mr. Hantman's opinion that there was insufficient evidence. After Mr. Garber reviewed the reports, he returned them to Mr. Finney, although their return had not been requested.

This concluded our investigation. Mr. Garber was of the opinion, concurred in by me, that the complaint in the Croghan letter was without foundation; that to the contrary, Cohen had misused his customers. Chairman McMILLAN was so notified.

When Cohen learned we would not hold a hearing on his complaint, he came to me, as subcommittee chairman. I told him why we would not have hearings. Though he had denied criminal conduct to Mr. Garber and me, he urged me to hold a hearing at which he could testify, asserting that such testimony would give him immunity from prosecution. I told him we definitely would not have hearings, and furthermore that testifying before a congressional committee would not afford him immunity if he had been guilty of criminal conduct; that if he wanted immunity for something he had done, he would have to talk to the U.S. Attorney about it. I also told him he ought to make restitution to the people that Mr. Finney had told us about.

This is hindsight, but it appears that Cohen had a double-barreled idea. If he had testified at a hearing, he could claim a promise of immunity; if not permitted to testify, he could claim he had been promised an opportunity to testify in return for a payment; so he had it coming and going.

Early in 1970, Sachs, through a grand jury in Maryland, undertook an inquiry into the District Committee's 1965 investigation of the Croghan letter complaint, resulting in the indictment for conspiracy to influence the Justice Department and impede and obstruct justice, and to cause transportation of money in interstate commerce for purpose of bribery. In truth and in fact, I was merely carrying out my assigned duty and responsibility as subcommittee chairman. The other charges are hollow and meaningless, based solely on the fact I would not plead guilty to the malicious allegations.

The prosecution's case made it clear that it was predicated on a duly authorized congressional committee investigation, and, further, that I never, at anytime, made any attempt to influence the Justice Department, or to obstruct or impede the due and proper administration of law. This is fully corroborated by the testimony of prosecution witness, Alfred Hantman, who testified that he was in charge of the Monarch case from prior to October 1965, until he left the U.S. Attorney's office in August 1969, and the testimony of Oliver Dibble, who testified the case was referred to him by Mr. Hantman in 1969, and was in his charge until he retired in October 1969. Each of them testified that I made no attempt to influence them, or to impede or obstruct them in the handling of the case, and that I made no request of them to do or not to do anything in regard to the case. There was no evidence that any other person in the U.S. Attorney's office or the Justice Department had anything to do with the case. Had there been another, and had I made any contact with him, you may be certain the prosecution would have produced him. Such a thing just did not occur.

In this connection, it should be noted that in 1967, I did, in a telephone conversation with Deputy Chief Owen Davis of the Metropolitan Police Department, lodge a complaint with him on behalf of several citizens of the District of Columbia against Monarch Construction Company. Chief Davis was tendered as a witness to this fact, but the trial judge refused to permit him to testify.

A brief summary of the testimony of the prosecution witnesses will demonstrate that it was a committee investigation they were testifying about, and that no request was made of them to do anything, and no attempt to influence, impede or obstruct their actions.

William Paul Green testified he was custodian of the Licenses and Inspections files. That he delivered the Monarch file to Mr. Garber in response to subpena on October 13, 1965. He stated that the file was not secret; that anyone could obtain a copy on proper request, and that he would have given a copy to Monarch's attorney on request.

Alfred Hantman testified of the conference with Mr. Garber and me about October 20, 1965; that he was told of the complaint the Committee had received; that he told us the Monarch matter was under investigation; that he had with him and showed us a copy of the montage ad, showing approval of Monarch's work by various Senators and Congressmen. He testified that no request was made of him to do or not to do anything, and he was not asked to discontinue his investigation, nor was he asked not to prosecute. He testified to receiving my letter of October 25, 1965, thanking him for the conference with committee counsel Garber and me.

Harry Finney testified of the conference with Mr. Garber and me on October 22, 1965; that he was employed at Federal Housing Administration in October, 1965; that Mr. Garber called him to confer about the Monarch complaint the committee had received; that Mr. Garber was committee counsel, and told him it was a congressional committee inquiry; that he brought Mr. James Hobbs with him to the conference, and that they were told of the complaint; that he and Mr. Hobbs explained the situation; that amendment of the District Licensing law was also discussed. He testified that Cohen was a bare-faced liar in telling people that he—Finney—had given Cohen a clean bill of health. He said the conference was harmonious; that nothing improper was asked of him, and that I was cordial in listening to their recital of the Monarch affair.

Mr. Finney also testified that he had instructed Hobbs to bring some reports, with them to the conference, and that he instructced Mr. Hobbs to leave them with the committee; that this was on his own initiative, and not by request of Mr. Garber or me. No restriction was placed on the reports, or even that they be returned. However, Mr. Garber did return them after he concluded his investigation. Mr. Finney testified to receiving my letter of October 25, 1965, thanking him for the conference with committee counsel Garber and me.

James Hobbs testified that he came to the conference with Finney. He produced his memorandum of the meeting, relating that he was told that Cohen and his attorney had presented certain information to the District of Columbia Committee, and that my subcommittee had been assigned the job of looking into it; that financing regulations were discussed,, and that Mr. Finney provided information that Monarch violated same, and denied the allegations Cohen had made to the committeee. Hobbs testified that he was not asked to do anything relative to Monarch.

Finney and Hobbs were definite that there were violations of law, as they looked at it, and felt something should be done about it, but Mr. Hantman had stated his opinion during the FHA investigation that the evidence was not sufficient for the FBI to investigate Monarch.

The FHA reports which Finney had Hobbs to leave with the committee supported Mr. Finney's statements to us. The reports indicated Monarch had overcharged and probably defrauded 10 or 12 customers whose cases had been investigated. This was sufficient evidence upon which Mr. Garber and I made the decision that the complaint in the Croghan letter was not valid, and that our committee would not have a hearing.

Summed up, the case against me was based on an investigation made by my subcommittee. The actions taken by Mr. Garber, as committee counsel, and me, as subcommittee chairman, were performed as part of our regularly assigned duty and responsibility. The result of the investigation was contrary to the wishes and request of Cohen, but even if the result had been favorable to him, it could not furnish the basis for prosecution.

Furthermore, all of the testimony conclusively shows that neither Mr. Garber, nor I, made any effort to influence the Justice Department, or FHA. It also conclusively shows that we made no effort to impede or obstruct the proper administration of justice.

Incidentally, and to illustrate the free and willing use of perjured testimony by the prosecution, the undisputed and uncontracted proof was that Mr. Garber received the licenses and inspections file on October 13, 1965, and the FHA reports on October 22, 1965. In the face of this, the prosecution had Cohen swear that Clark gave him copies of those documents in late September and early October 1965, telling him that he—Clark—got them from me. Then, the prosecution had Clark swear that he had never seen the licenses and inspections file, but that in late September or early October, he stole the FHA reports from my office, made copies and returned them, all without my knowledge, and gave Cohen a copy. Finney and Hobbs definitely established that the FHA reports did not come into the committee's possession until late—22d—in October 1965.

I have devoted my life to service, trying to help people with their problems. I do not turn them away. When Cohen's complaint was referred to my subcommittee, I was glad to look into it. When the inquiry revealed Cohen and Monarch were misusing customers, I knew it was the customers, and not Cohen, who needed help. Cohen was refused a public hearing, and I told him to make restitution to his customers. It is evident he held resentment against me through the ensuing years, plotting and planning ultimate revenge.

The conspiracy against me was long in preparation, devised by vicious, diabolical, depraved men, with supreme trickery, treachery and cleverness; a scheme conceived in inequity and whelped in sin.

Grants of immunity from prosecution is too lethal a weapon for unrestricted use. It is the most vicious threat to society since the atomic bomb. Because of "antiestablishment" propaganda of today, when a victim is indicted, he is convicted as soon as the report hits the news media. This is an open invitation to blackmail, and being the character of people they are, each facing scores of years in the penitentiary for hundreds of crimes, Cohen, Clark, Levitt, Pope and Thelma Cohen were more than ready and willing to fabricate any kind of tale in consideration that they go free.

Another thing, when known criminals are given immunity, they should at least be barred from continuing their fraudulent criminal activities. But not so in this case.

The Cohens have returned to the "construction" industry, this time in Norfolk, Va.—and again with the financial support of the Federal Government. In Washington, operating as Monarch Construction Co., financed by Federal Housing Administration, the Cohens defrauded that agency and his customers of more than $2,000,000. The Cohens are presently operating as Windsor Custom Builders, financed by Farmers Home Administration, in Virginia Beach, Va. Is this part of the pay-off to him, in addition to his immunity?

During 1971, Cohen obtained permits and contracts for some 52 houses, with approximately $1,000,000 committed to him by Farmers Home Administration. By the end of March, 1972, his overcharging, misrepresentations and shoddy work again caught up with him. FHA decided it had been a little hasty in making loans on Cohen's houses, and had misgivings about Windsor Custom Builders.

Cohen promptly changed the name of his corporation to Windsor Custom Homes, and secured additional permits. The new company informed FHA they planned 700 to 900 houses within 12 months, for which FHA was to provide 100 percent financing at $20,000 per house. In the meantime, Cohen had not furnished names of officers, financial statements, nor performance bonds for either of the Corporations. This reveals a fraudulent scheme, similar to the Monarch Construction Co. fraud perpetrated in Washington, as shown by our subcommittee investigation in 1965, when we repudiated Cohen's claim that he was being abused by the District of Columbia government, and upon which committee action the case against me was predicated.

Cohen says he has plans for a third home-building company, to also operate in the Virginia Beach area.

In like manner, Clark is still receiving Federal grants of money. Within the last 2 years he has received a grant of several hundred thousand dollars, according to his testimony, for an arts and humanities project in California, and is working on another grant running into the millions of dollars for another California project.

Pope and Levitt are each in the real estate business in Maryland. Thelma Cohen is with the Norfolk and Virginia Beach operations. There is no restraint on any of them. It seems, through some devious thinking, that the people and the Federal purse are not entitled to any protection at all.

This demands attention: Grants of immunity from prosecution were formerly sparingly used. I never used such grants while I was prosecuting, because I felt testimony obtained by such bribery to be so tainted as to be worthless. But here, we find wholesale grants of immunity. Nathan Cohen, just one of the beneficiaries in this case, received immunity from prosecution in at least a thousand cases of criminal fraud and other crimes, including perjury, false swearing and subordination of perjury—and in addition, a Federal agency is still financing his operations. The other four were rewarded by similar payoffs, though they perhaps were guilty of a lesser number of crimes. All were amply rewarded for their depraved scheme.

I am sure any Member of the House who is in anywise interested in the truth will be alarmed at this unusual manner of attacking a Member for performing the duties assigned to him by this body. One must also question the motivation of the executive branch in seeking to destroy a well-established principle of congressional administration, namely, the right of Congress to pursue congressional committee inquiries, and the protection of the speech and debate clause. If these are destroyed, then the power of Congress will be weakened and inevitably destroyed.

The right of congressional inquiry is an integral part of our legislative system. The power of inquiry, wrote Justice Van Devanter, when the issue was brought before the Supreme Court in 1927, is an essential and appropriate auxiliary to the legislative function.

The executive arm of Government, eager to secure unlimited power over the Congress, is making this trumped-up prosecution a test case, to determine how far it can go in destroying the power and integrity of the Congress as a separate and independent arm of Government.

I urge each Member to consider carefully the consequences, if political motivations of an administration in power are permitted to crucify the integrity and usefulness of men devoted to the public service. Both myself and my family might be better off in several ways had I surrendered to the persecutions I am now undergoing, but I could not do so, for I would not be keeping faith with the House of Representatives and its Members. I had to resist the invasion of the powers, privileges and prerogatives of the Members of Congress in carrying out their legislative duties.

I have not shirked this responsibility. As you carefully investigate the circumstances surrounding this case, if you have not been intimidated, remember that Sachs has viciously charged in the newspapers and on television that many Members, without naming them, are guilty of crime and corruption. It can happen to you, just as it has to me, through the use of the same tactics.

NINTH VIETNAM ROLL OF HONOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

Mr. FINDLEY. Mr. Speaker, October 23 is nationally recognized as Veterans Day. It is a day which has been set aside to honor and remember the men and women who have served our country in peace and war in the Armed Forces. Two decades ago, it was a day for national celebration for the living, and solemn commemoration for those who gave up their lives in battle.

For most Americans, it will not be so next Monday. For most, it will be only another 3-day weekend.

For the families and loved ones of 46,404 veterans of the Vietnam War, Veterans Day will be another painful reminder of the terrible price this tragic war has exacted from a divided nation—for this is the number of Americans who have died in hostile action in Vietnam through the end of June 1972. Since I last listed the names of Vietnam War Dead in the CONGRESSIONAL RECORD 12 months ago, 453 of these men have died.

Today I shall list the names of these men in the Ninth Vietnam Roll of Honor.

This Roll of Honor will cover just slightly more than two pages of today's RECORD, only a fraction of the 122 pages required for the First Vietnam Roll of Honor on March 25, 1969. That fact, however, is small comfort to the loved ones of those who have died during this last year of Vietnamization.

Nor should it be comfort to the rest of us. Our monument to these brave men is indeed spare. Few statues, few memorials, hardly ever a parade, a band, a formal welcome home. Only an occasional speech testify to the great sacrifice which has been made. Victory, whatever that might be in Southeast Asia, has eluded us. The gratitude of the people for whom the war has been fought is rarely expressed even in the most muted terms.

As if to prove that we had learned something from this tragic encounter, the House and the Senate each passed a differing bill dealing with the war powers of the President and the Congress. A new law drawn from these proposals would have been a fitting memorial. Now it lies nearly dead in a conference committee which cannot decide which version to adopt.

And so, Mr. Speaker, I offer this small memorial in the CONGRESSIONAL RECORD to those valiant men who, to borrow Lincoln's words, gave the last full measure of devotion for their country.

List of dead follows:

DEATHS RESULTING FROM HOSTILE ACTION IN VIETNAM FROM JULY THROUGH SEPTEMBER 1971

ALABAMA

Army

Clements, Randall Kelvin, Gadsden.
Morgan, Lynn Martin, Mobile.
Noble, Allen Earl, Thomasville.
Tomlinson, Gary Preston, Birmingham.

Air Force

Ledger, Gilbert, Birmingham.

Marine Corps

Turberville, Charles Wayne, Finchburg.

ARIZONA

Army

Babcock, Ronald Lester, Tucson.
Brown, James Ronald, Phoenix.

ARKANSAS

Army

Hunter, Harold Clayton, II, Lockesburg.
Poe, Joseph Byron, Prattsville.
Thacker, Frederick Anthony, Rison.

Navy

McCoy, Ralph Lindsey, Jr., Mayflower.

CALIFORNIA

Army

Antunano, Gregory Alfred, San Francisco.
Butler, Gary William, San Jose.
Chavira, Stephen, Wasco.
Floyd, George Allen, San Diego.
Gilbreth, Don Riley, Van Nuys.
Goff, Alan Sherman, Bakersfield.
Harris, Allan Lynn, Etiwanda.
Lew, Victor Walter, Bonita.
Lilly, Lawrence Eugene, Los Angeles.
Malone, Felix, Oakland.
Montoya, Louie Gooch, Covina.
Pierce, Loy Wendell, Benicia.

Air Force

Holland, Lawrence Thomas, Alhambra.

Navy

Barden, Arnold Winfield, Jr., San Diego.
Cover, Lawrence Leroy, Culver City.
Goldbin, Charles Henry, Los Angeles.

COLORADO

Army

Aragon, Rueben Thomas, Pueblo.
Cude, Hershel Duane, Jr., Widefield.
Gomez, Margarito Rodriquez, Ft. Lupton.
Lukow, Michael Eugene, Aurora.

Air Force

Weskamp, Robert Larry, Arvada.

DISTRICT OF COLUMBIA

Army

Kluever, Larry John, Washington.

FLORIDA

Army

Gregory, John Henry, Jr., St. Petersburg.
Jones, Dwight Hubert, St. Petersburg.
Mays, Raymond Raliford, Okeechobee.
Russ, Richard, Jr., Monticello.
Cannon, Bruce Alton, Savannah.

GEORGIA

Army

Eldred, Robert Edward, Savannah.
Hart, Vernon, Vidalia.
Jones, Lynn, Remerton.
Maxie, Norman, Albany.
Peterson, Albert Eugene, Jr., Wadley.
Piper, Robert Anthony, Newton.
Troup, Rodrick, Atlanta.

HAWAII

Kamalolo, Joel Kahalealoha, Haleiwa.

IDAHO

Chapman, Johnny Howard, Boise.
Cinkosky, David Edward, Post Falls.
England, Steven Glenn, Pocatello.

ILLINOIS

Army

Becker, Howard John, Jr., Des Plaines.
Bergfield, Phillip Rex, St. Jacob.
Bishop, James Franklin, Chicago.
Curran, Robert Bruce, Aurora.
Dalton, Randall David, Collinsville.
Ehlers, Larry Dean, Algonquin.
Hojnacki, Robert Frank, Chicago.
Holian, Gary Lee, Chicago.
Knox, Michael Joseph, Olney.
Naffziger, Marshall Edward, Emden.
Rogers, Hershel Gale, Mackinaw.

Air Force

Johnson, Napoleon, Markham.

Marine Corps

Prescott, Milton Emmett, Jr., Blue Island.

INDIANA

Army

Beals, Charles Elbert, French Lick.
Shepherd, Ronald Steve, Knox.

IOWA

Army

Concannon, Richard Neil, Keokuk.
Smith, Gregory Allan, Sioux City.

KANSAS

Air Force

Taliaferro, Glen Johnson, El Dorado.

KENTUCKY

Army

Lovins, Arnold, London.
Sallee, Richard, Jr., Hopkinsville.
Smith, Donald Emmett, Louisville.

LOUISIANA

Army

Cooper, Joe, Kenner.
Garcille, David Lee, Lake Charles.
Guidry, Michael James, Lafayette.
Hebert, Alton John, Arnaudville.

Air Force

Vincent, Halton Ramsey, Sulphur.

MAINE

Army

Coro, Bernard Louis, Medway.

MARYLAND

Army

Jones, Howard Lawrence, Baltimore.
Mortimer, Edward Lewis, Jr., Baltimore.
Murphy, Frederick William, Brentwood.
Willard, Robert Leroy, Frederick.

MASSACHUSETTS

Army

Cavanaugh, Edward Joseph, Worcester.
Ellis, Kenneth Warren, Melrose.
Grady, Leo Francis, Jamaica Plain.
Larson, Robert Merchant, Belmont.
Smigliani, Domenic, Hyde Park.
Beckwith, Harry Medfor, III, Flint.

MICHIGAN

Army

Bickford, Thomas Wayne, Lincoln Park.
Boulware, George Walter, Detroit.
Brancheau, Daniel Allan, Newport.
Hammond, Terry Michael, Lansing.
Kotewa, Floyd William, Jr., Bay City.
Lamar, William Ernest, Taylor.
McCloud, Willie, Jr., Muskegon.
Murrell, Jimmy Roger, Detroit.
Ryckaert, Anthony Lee, Detroit.
Sheaffer, David Lawrence, Parchment.
Summerville, Frederick Bru, Kalamazoo.
Vilas, Gerald Frank, Yale.
Wells, James Allen, Niles.

Marine Corps

Davison, Robert Gayle, Muskegon.

MINNESOTA

Army

Gartner, Robert Frederick, Eden Prairie.

MISSISSIPPI

Army

Eaton, Mark Haskin, Taylorsville.
Hinton, Jimmie David, Batesville.
McCoy, Larry, Brandon.
Pettiegrew, James Paul, Greenville.

MISSOURI

Army

Jones, Johnny Eugene, Kansas City.
Purcell, Richard Michael, St. Louis.

Air Force

McNutt, Windol Wilson, Bragg City.

Navy

Cowen, Harold Edward, Eminence.

NEBRASKA

Army

Gronborg, Martin Wayne, Jr., Omaha.
Lamere, Anthony John, Omaha.
Magers, Paul Gerald, Sidney.
Thompson, John Clyde, Jr., Lincoln.

NEW HAMPSHIRE

Army

Lawrence, John Winslow, Jr., Farmington.
Senechek, John, Manchester.

NEW JERSEY

Army

Knuckey, Thomas William, Wharton.

NEW MEXICO

Army

Arthur, Johnny, Fruitland.
Caserio, Charles Dominic, Albuquerque.
Rjbio, Ruben, Clovis.
Trujillo, Gabriel, Raton.

NEW YORK

Army

Bynoe, Miguel Antonio, Jamaica.
Caylor, Randy Lee, Buffalo.
Cobb, James Paul, Depew.
Dischhauser, Dieter Herber, New York.
Johnson, Zebulon Murphy, Jr., Syracuse.
Roesch, Heinz Kurt, Troy.
Rossana, Richard Joseph, New York.
Schettig, Robert Scott, Spring Valley.
Severson, Robert Daryl, Silver Springs.
Taylor, Philip Charles, Grand Island.

Air Force

Medina, Israel, New York.

NORTH CAROLINA

Army

Coleman, Lawrence Barbe, Jr., Gibsonville.
Frady, David Wayne, Waynesville.
Griffin, Marion Tracy, Charlotte.
Hines, William Carroll, Charlotte.
Rodgers, Haywood, Siler City.
Webb, John Friel, Greensboro.

NORTH DAKOTA

Army

Hanson, Steven Reed, Fargo.
Hinzpeter, Alan Rolf, Minot.

OHIO

Army

Aston, Jay Steven, Rocky River.
Caudill, Orville, Perrysburg.
Dyer, Allen John, Toledo.
Fleshman, Randy Allen, Akron.
Mooney, Fred, Northup.
Patterson, Richard Stuart, Toledo.
Pearce, Dale Allen, Mentor.
Sweinsberger, Thomas Edwar, Columbus.
Welsh, Elbert Arthur, Cadiz.

OKLAHOMA

Army

Hoffman, John Paul, Wann.
Pospisil, Alfred Frank, Moore.
Scott, Donald Eugene, Tulsa.
Wann, Donald Lynn, Shawnee.

OREGON

Army

Beglau, David Bernard, Eugene.
Brubaker, Donald Dean, Oregon City.
Harr, Gerry Arthur, Roseburg.

PENNSYLVANIA

Army

Duplessis, Richard James, Carbondale.
Kastler, Curtis Charles, Turtle Creek.
Kelly, Lawrence Lee, Munhall.
Kimmel, Gordon Lee, Stoystown.
Lopochonsky, John Henry, Jr., Greenville.
Martell, Terry Jack, McKeesport.
Matthews, Nathanial Carl, West Chester.
Robison, William Randall, Lancaster.
Scheu, Gunter Wilfried, Philadelphia.
Tomaschek, Arthur, Allentown.
Urquhart, Paul Dean, McMurray.

SOUTH CAROLINA

Army

Chastain, Woodrow Beal, Pickens.
Goodwin, Ronald Nelional, Charleston.
Taylor, Ted James, Lancaster.
Wright, James, Columbia.

SOUTH DAKOTA

Army

Fortin, Robert Gene, Turton.
Russell, Roy Dean, Mission.

TENNESSEE

Army

Browder, Jerome Albert, Jr., Knoxville.
Harrison, Walter Cornel, Jr., Memphis.
Workman, Lance Davis, Chattanooga.

TEXAS

Army

Anguiano, Tony, Mineral Wells.
Beavers, Robert Allen, Dallas.
Burke, Joseph Scott, Houston.
Disheroon, Billy Wayne, Dallas.
Farewell, Roger William, Dallas.
Limerick, Bobby Frank, Elkhart.
Maresh, James Anthony, Lolita.
McDonell, R. D., Sweetwater.
Ricks, Ronald Glenn, Dallas.
Strickland, Gail Lynn, Amarillo.
Valdez, Rodolfo, Edcouch.

Air Force

Kamenicky, George Wayne, Sherman.
Wilkerson, Lawrence, El Paso.

UTAH

Army

Bingham, Oran Lothier, Salt Lake City.

VERMONT

Army

Tuttle, Alfred Joseph, Union Village.

VIRGINIA

Army

Dillenseger, Bernard Guy J., Alexandria.
Morbitzer, Christopher Geo., Petersburg.

WASHINGTON

Army

Barnett, Melvin Donald, Weston.
Berg, Bruce Allan, Olympia.
Bruce Robert Graham, Federal Way.
Lafayette, Jerry Owen, Concrete.
Page, Richard Lee, Olympia.
Weisser, Robert Lee, Tacoma.

WEST VIRGINIA

Army

Smith, James Leroy, Pineville.
Withrow, Paul Richard, Clendenin.

WISCONSIN

Army

Chapman, George Anthony, Milwaukee.
Gross, John Albert, Menomonee Falls.
Kelly, Eric Steven, La Crosse.
Reamer, James Charles, Milwaukee.

Air Force

Rydlewicz, John Michael, Milwaukee.

WYOMING

Army

Miltnovich, Emil Max, Rock Springs.

PUERTO RICO

Army

Whitlock, Donald Bened, III, Hato Rey.

CANAL ZONE

Army

Reimiller, Thomas Evans, Curundun.

Deaths Resulting From Hostile Action in Vietnam From October Through December 1971

ALABAMA

Army

Bowlen, Harold David, Gadsden.
Chaney, Larry William, York.
Jones, Neil Wade, Cullman.
Sharpe, Ronnie, Selma.

ALASKA

Army

Rainey, Lloyd Steven, Anchorage.

CALIFORNIA

Army

Bradford, William Jonathan, Granada Hills.
Denmark, Robert Lee, Cottonwood.
Perry, Kenneth Richard, Placentia.
Stewart, Dennis Ray, Sacramento.

COLORADO

Army

Garnes, Jack Allen, Wheat Ridge.
Selix, James Michael, Colorado Springs.

DELAWARE

Army

Crosby, Rolin James, Wilmington.

FLORIDA

Army

Behm, Chris Roger, Pensacola.
Gassman, Fred Allen, Ft. Walton Beach.
Jones, Frederick Olen, New Smyrna Beach.

ILLINOIS

Army

Berblinger, Kenneth Michael, Quincy.
Bordes, Andrew Morley, Carpentersville.
Debickero, Dennis Ralph, Evergreen Park.
Williams, Victor Demott, Colchester.

Air Force

Prose, Thomas Dean, Girard.

INDIANA

Army

Brown, Robert Nugent, Bloomington.
Mills, Audley Duane, Macy.
Walton, Lewis, Alan, Peru.

Navy

Foltz, Paul Raymond, Terre Haute.

IOWA

Air Force

Newendorp, James Vernon, Alton.

KENTUCKY

Army

Hogan, Darrell, Brownsville.
Richie, Charles Howard, Berea.
Watts, Schuyler, Vicco.

Air Force

Swenck, Robert Bennett, Louisville.
Thomas, Leo Tarlton, Jr., Georgetown.

LOUISIANA

ARMY

Brown, Irving John, Jr., Vacherie.
Taylor, Stanley Wade, Mangham.

MAINE

Army

Burchfield, Joe Stuart, Limestone.

MARYLAND

Army

Davidson, David Arthur, E. Riverdale.
Spudis, Ronald Anthony, Havre De Grace.

Air Force

Fike, Thomas Eugene, Friendsville.

MASSACHUSETTS

Air Force

Ryan, Robert Edward, Hingham.

MICHIGAN

Army

Duffey, Jerry Norman, Charlotte.
Lange, Richard Ross, Ludington.
Quandt, Robert Frederick, Algonac.

Air Force

Defer, Richard Henry, Traverse City.

NEBRASKA

Army

Farley, Michael, Marion, Lincoln.
Hayes, John Cook, Hartington.

NEW JERSEY

Army

Merlino, Carl Steven, Hammonton.
Vennik, Robert Nicholas, Wyckoff.

NEW YORK

Army

Makowski, William John, Buffalo.

NORTH CAROLINA

Army

Eason, Douglas Duke, Fayetteville.

OHIO

Army

Cottrell, Sidney Allen, Wellington.
Tallman, Donald Charles, Tiffin.

OKLAHOMA

Air Force

Poynor, Daniel Roberts, Enid.

OREGON

Army

Bowman, Barry Alan, Medford.

PENNSYLVANIA

Army

Barkley, Earl Duane, Indian Head.

TENNESSEE

Army

Burns, Howell Wayne, Hartsville.
Hann, David Lee, Kingsport.

Air Force

George, John William, Big Rock.

TEXAS

Army

Love, Joe L., Jr., Wharton.
Meshigaud, Andrew Harry, Dallas.
Ritch, Harold Junior, Houston.
Stansbury, Thomas Rogers, Houston.

VERMONT

Army

Green, Richard Albert, Manchester.

VIRGINIA

Army

Chester, Robert Richard, Highland Springs.
Hebert, Frederick Conrad, Richmond.
Thompson, Carl Wayne, Richmond.

WEST VIRGINIA

Army

Goodman, Robert Onnie, Jr., Gilbert.

WISCONSIN

Army

Pawelke, Richard Charles, Milwaukee.

DEATHS RESULTING FROM HOSTILE ACTION IN VIETNAM FROM JANUARY THROUGH JUNE 1972

ALABAMA

Army

Barefield, James Arther, Midland City.
Barsom, George Kasper, III, Montgomery.
Gipson, Charles Donnette, Brewton.
Jones, Johnny Mack, Auburn.
Martindale, Paul Vaughan, Letohatchee.
Ware, Don Hamuel, Trussville.

ARIZONA

Army

Conry, John Timothy, Phoenix.
Crook, Elliott, Phoenix.

Air Force

Yoakum, David Lewis, Tucson.

Navy

Davis, Leonard Ray, Phoenix.

ARKANSAS

Army

Lynch, Stephen William, Batesville.

CALIFORNIA

Army

Baker, Robert Oliver, Jr., Garden Grove.
Brockman, Francis Carl III, Los Angeles.
Dunagan, Jimmy Lyn, San Francisco.
Hosaka, Isaac Yoshiro, Gardena.
Jacobsen, Timothy John, Oakland
Kunzler, Daryl Roy, Novato.
Westcott, Gary Patrick, Pomona.
Woods, Larry James, Rancho Cordova.

Air Force

Adams, John Wilburn, Redondo Beach.
Encinas, Esequiel Martinez, Wilmington.
McIver, Alexander, Santa Monica.

Navy

Mills, Robert Thomas, Clearlake Highlands.
Rowe, Bruce Phillip, Arcadia.

COLORADO

Army

Talty, Patrick Anthony, Denver.

CONNECTICUT

Air Force

Dunn, Richard Edward, Terryville.

DISTRICT OF COLUMBIA

Air Force

Cooke, Calvin Coolidge, Jr., Washington.

FLORIDA

Army

Carter, George William, Apopka.
Clark, William Marshall, Vero Beach.
Harris, Joseph Richard, Tallahassee.
Kline, Bruce Eugene, Lakeland.
Kushner, Daniel Kent, Miami.
Thain, Harry Lindsay, Zephyrhills.
Williams, Frank Emanuel, Tallahassee.

Air Force

Alley, James Harold, Plantation.
Hamman, Thomas Ralph, Hollywood.
Jackson, James Terry, Hialeah.
Manor, James, Panama City.
Sanders, Jon Hubbard, Naples.
Unger, Don Lee, Lake Worth.

GEORGIA

Army

Greene, John Edward, Albany.
Hudson, Joe David, Moultrie.
Windeler, Charles Carl, Jr., Savannah.

Air Force

Wagner, David Lee, Warner Robins.

HAWAII

Army

Kalani, Charles Manuwahi, Paia.
Rabacal, Patrick William, Honolulu.

ILLINOIS

Army

Batts, Larry, Chicago.
Figueroa, Fernando, Chicago.
Nolan, Joseph Paul, Jr., Oak Park.
Pierce, Roger Lee, Glen Ellyn.
Welch, Michael John, Danville.

Air Force

Amesbury, Harry Arlo, Jr., Morrison.
Courtney, Terence Francis, Skokie.
Voigts, Richard Scott, Wilmette.
Whitt, James Edward, Penfield.
Widerquist, Thomas Carl, Morton Grove.

Marine Corps

Konow, Michael Jacob, Chicago.

INDIANA

Army

Vehling, Robert Wayne, Greenwood.

Air Force

Hoskins, Donald Russell, Madison.
Wagner, Raymond Anthony, Evansville.
Weisman, Kurt Frederick, Jasper.

IOWA

Army

Maurer, Jeffrey Alan, New Liberty.
Nihsen, Dallas Lee, Charter Oak.
Northur, Edwin Gilbert, Lenox.

Navy

Sterling, Robert Allen, Creston.

KANSAS

Army

Harvey, Larry Wayne, Independence.

Air Force

Lewis, Clarence Paul, Louisburg.

KENTUCKY

Army

Landis, Charles David, Ashland.
Mantooth, Leonard Hayes, Jr., Louisville.

LOUISIANA

Army

Rahm, Arnold John, Bossier City.
Wiley, Thomas J., Monroe.

Air Force

Bennett, Steven Logan, Lafayette.

MARYLAND

Army

Britt, Charles Jackson, Ferndale.
Hamrick, James Madison, Jr., Lexington Park.
Shields, Stephen Edward, Clinton.

Air Force

Call, John Henry, III, Potomac.
Slater, Freddie Leon, Baltimore.

MASSACHUSETTS

Army

Arsenault, Richard Roland, Southbridge.
Barry, James Michael, Quincy.

Air Force

Avery, Allen Jones, Auburn.

Navy

Greenleaf, Joseph Gales, West Newton.

MICHIGAN

Army

Butler, Charles Lewis, Grand Rapids.
Eddy, John David, Ann Arbor.
Lipsey, Thomas Washing III, Kalamazoo.
Moilanen, Dale Burton, Hubbel.
Smith, Thomas Emings, Evart.
Vos, Kenneth Richard, Muskegon.

MISSISSIPPI

Army

Szekely, Joseph Charles, Purvis.
Zollicoffer, Franklin, Kosciusko.

MISSOURI

Army

Horst, Robert Louis, Springfield.
Moran, Walter C. B., Nevada.

Air Force

Blassie, Michael Joseph, St. Louis.
Slagle, David Roddy, Rogersville.

MONTANA

Army

Kojetin, Roger John, Great Falls.

NEBRASKA

Army

Biscamp, Marvin Lynn, Omaha.
Kingman, Dan Christie, Jr., Lincoln.

NEW HAMPSHIRE

Air Force

Pearson, William Roy, Warner.

NEW JERSEY

Army

Bausch, David Alan, Towaco.

NEW MEXICO

Army

Pacheco, Jaime, Hobbs.

Air Force

Brown, Kenneth Ray, Las Cruces.
Hagman, Richard Harold, Rush City.
McIntire, Scott Winston, Albuquerque.

NEW YORK

Army

Crosby, Bruce Allen, Jr., Springville.
Faldermeyer, Harold John, Rockland.
Ivey, Glen Simmang, West Point.
Manca, Ronald John, Tarrytown.
Monkelbaan, Timothy James, Lockport.
Mott, John James, Buffalo.
Pesce, Paul John, Islip.
Stern, Robert Alan, New York.
Townsend, Burdette D., Jr., Oneonta.

Air Force

Bracey, Lester, Yonkers.
Jones, Harold Dana, Jefferson.
Jozefowski, Thomas Joseph, Bayville.
Mainardy, George William, Rockville.

Navy

Baker, Michael Dean, Port Henry.
Martin, Michael Joseph, Kew Gardens.
Stegeland, John Joseph, III, Canajoharie.

NORTH CAROLINA

Army

Eubanks, Joe Wofford, Concord.
Lawing, Paul Henderson, Jr., Lincolnton.

NORTH DAKOTA

Army

Berdahl, David Donald, Minot.

OHIO

Army

Brooks, David Lee, East Canton.
Farlow, Craig Lee, Cleveland.
Haines, William Allen, Jr., Warren.
Newman, Frank Allen, Lucasville.

Air Force

Chapman, Peter Hauden, II, Centerburg.
Christy, Richard Neill, II, Marietta.
Dreher, Richard E., Orrville.
Prater, Roy Dewitt, Tiffin.

Navy

Lutz, Robert Edward, Jr., Troy.
McKinney, Clemie, Cleveland.
Uhler, Gordon Robert, Toledo.

OKLAHOMA

Army

Drinnon, Bedford Lee, Hammon.
Farris, Gary Bruce, Shawnee.
Wilcoxson, Robert Franklin, Elk City.

Marine Corps

Powell, Samuel Herbert, Tulsa.

OREGON

Army

Love, Clyde Curtis, Keating.

Marine Corps

Tebault, Benjamin Lees, Portland.

PENNSYLVANIA

Army

Brochetti, Frank Thomas, Yatesboro.
Hunsicker, James Edward, Denver.
Longfellow, Ronald Anthony, Chalfont.

Air Force

Pannabecker, David Eric, Womelsdorf.

Marine Corps

Bruggeman, David Charles, Pittsburgh.

Navy

Rupinski, Bernard Francis, Edwardsville.

RHODE ISLAND

Army

Pilton, Gavin William, Edgewood.

SOUTH CAROLINA

Army

Edwards, Harry Jerome, Holly Hill.
Owens, James Douglas, Clinton.

Navy

Hatcher, Kenneth Marvin, Warrenville.

TENNESSEE

Army

Likens, Arthur Emmitt, Portland.

Air Force

Hopper, Joseph Clifford, Memphis.

TEXAS

Army

Breuer, Louis Karl, IV, Richardson.
Daugherty, Robert Lee, Abilene.
Gaches, Charles William, Seguin.
Lasater, Luther McKind, III, Garland.
Ortiz, Alberto, Jr., Grulla.
Osborne, Elvis Weldon, Jr., Dallas.
Powell, Thomas Stokes, Athens.

Coast Guard

Hernandez, Heriberto Segov, San Antonio.

Air Force

Allmond, Barry Kenneth, Fort Worth.
Farris, Dale Wayne, Odessa.
Russell, Richard Lee, Snyder.

UTAH

Army

Laws, Jerry Dee, Price.

Air Force

Crow, Raymond Jack, Jr., Salt Lake City.

VIRGINIA

Army

Ellen, Wade Lynn, Norfolk.
Forame, Peter Charles, McLean.
Johnson, Bernard Levern, II, Vienna.
Spengler, Henry Mersho, II, Alexandria.
Suttle, Frederick N., Jr., Newport News.
Willey, Burr McBride, Richmond.

WASHINGTON

Army

Howard, Douglas Allen, Spokane

WEST VIRGINIA

Army

Stamper, David Hiram, Wilkinson.
Tawney, Gary Wayne, Charleston.

WISCONSIN

Army

Jelich, John Anthony, Stevens Point.
Peterson, Dennis Newell, Beldenville.
Westphal, Scott Brian, Menasha.

WYOMING

Army

Skiles, Thomas William, Buffalo.

GUAM

Army

Biagini, Mark Frederick, Mangilao.

PUERTO RICO

Army

Alicea, Miguel Angel Cruz, Bayamon.

A TRIBUTE TO JOHN H. TERRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, my distinguished and able colleague and good friend, John H. (Jack) Terry, has established an outstanding record during his first term in Congress. Jack has been a hard-working Congressman and has served his country and the citizens of the 34th Congressional District of New York with integrity and dedication. I know that his constituents join me in regretting that he has decided not to seek another term.

Before coming to Congress, Jack had already accumulated an impressive record of achievement. He began his career in government service at the age of 23, when he was the youngest man ever to be elected to the Onondaga County Board of Supervisors. In 1959 he was selected by New York Gov. Nelson A. Rockefeller to become assistant appointments officer and 6 months thereafter assistant secretary to the Governor where he directed the operations of the executive chamber.

In 1963 Jack returned to an elected office as a member of the New York State Assembly from the 121st district and during his 8 years in the assembly was instrumental in the passage of many key pieces of legislation including property tax exemptions for the elderly and important highway safety measures.

Jack Terry's extensive governmental experience has been put to good use in Congress during his membership on two major committees—the House Committee on Public Works and the House Committee on Interior and Insular Affairs. Since taking office, he has worked on such major legislation as revenue sharing, highway safety bills, and rural development proposals.

Jack has also been a major advocate of fiscal responsibility and efficiency in Government and was an active participant in the excellent "Redtape Hearings."

In the Congress he has continued his important achievements as an environmentalist by working on vital legislation such as the Federal Water Pollution Control Act Amendments of 1972 and national land use policy proposals. Another of his principal concerns has been the energy crisis and he has shown his ability as a national legislator by working with the Alaska Natives claims legislation as skillfully as with bills dealing with his own State of New York.

I am proud to have been Jack Terry's colleague and friend during this first term for both of us in the House of Representatives. His able presence will be missed here in Congress and I sincerely hope that New York State and the Nation will continue to have the benefit of his leadership and governmental expertise.

I know that my colleagues join me in wishing Jack and Jean Terry and their family—Godspeed and every happiness in the years ahead.

Mr. Speaker, I respectfully request general leave for 7 legislative days in order that the Members of the House might extend their remarks in the Record to pay tribute to our colleague, Jack Terry.

Mr. GERALD R. FORD. Mr. Speaker, I am delighted to extend my best wishes to our colleague Jack Terry as he prepares to leave the House of Representatives. Jack Terry has had, unfortunately, a short career in the House but that career short in time is long in performance.

Jack Terry has been a superb legislator both in committee and on the floor. He has been an outstanding teamplayer both for President Nixon and me, as Republican leader. We both are grateful for this kind of cooperation.

I had hoped Jack's first term in the 92d Congress would be only the beginning of a long and successful career in the House. Regrettably for very personal reasons Jack Terry could not extend his congressional service. We will miss him but he can retire knowing he has left many friends and a fine record in Washington. This House record when added to his other outstanding service in New York is one he and his family can be very proud of.

In conclusion I will be missing a fine friend and I extend to him my deepest appreciation and very best wishes.

Mr. SMITH of New York. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from New York (Mr. Kemp) and thank him for yielding.

I, too, wish to pay my respects to our colleague from New York, Mr. Terry. He has been an able representative. He is a warm human being blessed with an abundance of the milk of human kindness. We have enjoyed serving in the Congress with John Terry, and we shall miss him here with us. We hope that his future shall be filled with health, prosperity and a continuous opportunity joyfully to serve mankind. Please come back and see us from time to time, JACK.

Mr. BAKER. Mr. Speaker, it is with mixed emotions that I rise on this occasion to salute and bid farewell to our distinguished colleague from the 34th District of New York, JOHN TERRY. Putting his family first, JACK is retiring at the end of this Congress after having rendered service of the highest quality to his constituents and to this country during these past 2 years.

He brought with him to this 92d Congress a wealth of experience and expertise in the legislative and administrative processes at the local and state levels, and a deep concern for the individual.

JACK's interest in the welfare of our military men and our veterans, his USO work—and particularly his untiring leadership in the efforts on behalf of our POW's and MIA's have earned him the affection and respect of military men and their families everywhere.

As one who has served closely with JACK on the Public Works Committee, I consider it a distinct privilege to pay him this well deserved tribute. We will miss JACK. He is a good lawyer and an adept legislator—most of all, he is a good man. We will miss his quick and incisive mind, his compassion and his understanding.

Sue and I want to join with his many friends and admirers in wishing JACK and Jean Godspeed and our warmest best wishes for the future.

Mr. McCOLLISTER. Mr. Speaker, I rise to pay tribute to my good friend and colleague, JOHN H. TERRY, who has chosen to place his family first. I know that it was a difficult decision not to run again for the House, but the decision was an expected one from a man of the character of JOHN TERRY. The thoughtfulness of that decision was in keeping with the courage that JOHN TERRY has consistently exhibited in the 2 years of this Congress. In the 2 years I have known him as a colleague and friend I have admired him for his loyalty to his convictions, for his wide knowledge of the subjects before this Congress, and for his grasp of the issues—attributes of a good Congressman, to be sure. But JOHN TERRY also showed respect for his own office by attending to his congressional duties faithfully and by living up to a formidable set of standards for his own conduct. I am sure that his constituents in the 34th District of New York feel that they have been well and truly served during the 92d Congress. I know that his country has been. I wish him continued success in his carrer. He will be missed in this Chamber.

Mr. KEATING. Mr. Speaker, a special bond seems to develop between colleagues who have entered the House of Representatives during the same Congress. The Members of the 92d Club have been no exception. Similar aspirations, anxieties, and accomplishments are experienced for the first time.

As freshmen Congressmen, JOHN TERRY and I entered the House during the same Congress, and so it is that a bond between colleagues, and friends, has developed.

I first met JOHN in Washington during briefings for Republican candidates for Congress in 1970. I was immediately impressed by his ability, temperament, and attitude.

While working together in Congress I found my initial impressions to be correct.

JOHN's distinguished and lengthy record of service, beginning almost 2½ decades ago, including his position as assistant secretary to Governor Rockefeller and his present membership on the House Committee on Public Works and the House Committee on Interior and Insular Affairs, is just tribute to a most deserving individual.

JOHN's leaving is a loss not only to the people of the State of New York, but also to the men and women he has worked with in the 91st and 92d Congress.

It is with a sense of that loss that I rise to pay tribute to our colleague, but also with a sense of gratitude for two years of dedication to the U.S. Congress.

Mr. FRENZEL. Mr. Speaker, I want to join in today's tribute to Congressman JOHN H. TERRY, Member from the 34th District of the State of New York. JACK TERRY has been an outstanding Member of the 92d Congress.

Because I had relatives who live in Syracuse, I had heard much of Congressman TERRY before I met him as a fellow first-term Congressman in Washington. I found to my great pleasure that all of the high praise of his work that I had heard was indeed well earned.

I did not have the pleasure of serving on either the Committee on Interior and Insular Affairs or the Committee on Public Works, on which JACK TERRY served with distinction. Nevertheless, in hearings before those committees I was able to observe the dedication and insight which he devoted to his work on those committees.

JACK's resignation was a great disappointment to those of us who liked him so well and appreciated his great abilities. Because we like him, we respect the personal decision which we know was so difficult for him. We admire him the more for having the courage to set aside a career at which he excelled and which he found challenging and rewarding in favor of other higher obligations to his family.

This body will miss JACK TERRY, but we ought to consider ourselves lucky for having him in our midst for at least one term.

Mr. LENT. Mr. Speaker, one of the most pleasant parts of my nearly 10 years as an elected official has been my association with Congressman JOHN H. TERRY. Therefore, it is with considerable regret that I rise to note his imminent retirement from the House of Representatives.

I first became acquainted with JACK in 1963, when he took office as a freshman member of the New York State Assembly and I as a Freshman State senator. During his tenure in Albany, JACK's ability and his dedication to his work became well known, and he became a valued friend and reliable ally of New York's Gov. Nelson Rockefeller.

JACK and I were both elected to the House in 1970, and in his 2 short years in this body he has made his mark as a conscientious and effective legislator and representative of the people.

As JACK ends his public service career which began 24 years ago as a member of the Board of Supervisors of Onondaga County, N.Y., I will miss our close association. The House will be losing a dedicated Member; and the people of the 34th District of New York will be losing a dedicated and able Congressman. I wish JOHN TERRY the very best of luck in all of his future endeavors.

Mr. ROBINSON of Virginia. Mr. Speaker, it is a matter of regret whenever we lose a colleague, and, perhaps, particularly so when it is by his voluntary choice. Perhaps we secretly envy his resolve. Beyond that, a special pang certainly is felt when we realize a Member of our own "class" in this fraternity is preparing to leave.

This is the case for me and other Members of the 92d Congress Club in reflecting on the decision of our colleague from New York, Mr. TERRY, not to stand for reelection.

We came to Congress together, and, while most of us are engaged in campaigns for a second term, he is relaxed as he continues his conscientious representation of the citizens of the 34th Congressional District of New York, but looks forward to his return to his home city of Syracuse and the practice of law.

Even on the basis of service through only one term, it is evident that JOHN TERRY's decision not to run again represents a loss to the people of his district, and to this House.

It has been a privilege for me to know him, and my hope is that I may be able to count this able legislator as a friend in the years ahead. We had in common past service in the legislatures of our States, and it had been my expectation to have the privilege of having him as a colleague during further years of service in the House.

I am confident of this—more will be heard from JOHN TERRY in public life. The citizens of his home community will insist that he make himself available again for a position of high responsibility and constructive action.

In the meantime, I wish him well in whatever he undertakes.

Mr. THONE. Mr. Speaker, it is my pleasure to join in this salute to Congressman JACK TERRY. JACK was one of the first few new Members that I ran into on coming to the 92d Congress in January 1971. We have been good friends ever since.

In his relatively brief tenure here, JACK has impressed all of us with his unique style and capabilities, and I sorely regret that he is terminating his fine legislative career. We serve together on the House Public Works Committee, and he has often led the way for us on the complicated matters processed by that committee. He is always well-prepared and most lawyerlike in his approach.

With his Albany executive and legislative service serving him well, Jack quickly learned his way around the Hill, and has been a diligent and most effective worker for the cause of good, sound Government.

To Jack and his charming wife, Jean, I join my colleagues in extending best wishes in their future endeavors. Our loss is most certainly Syracuse's gain. The lawyers of the Empire State will, I am sure, again be stimulated by his full-time talents. Along with his many other abilities, his ubiquitous humor will be sorely missed.

Mr. WYDLER. Mr. Speaker, we are saying "goodbye" to a great many Members of Congress this year. Jack Terry has only been a Member for one term, or 2 years, but he has made an impression of great competence in the Chamber. Those who met him will never forget him, either as a Congressman or as a man of unique good will. I know I will personally consider him a friend all the rest of my life and I hope that things will work out that we see much of each other in the years ahead.

Mr. BIAGGI. Mr. Speaker, I am pleased to join with my colleagues from New York and from other States to honor our dear friend and colleague from New York, Mr. Terry. I very much regret his decision to leave Congress. Over the last 2 years, I have known him to be a man who is very knowledgeable in the field of public works and Government operations. His advice and counsel in these areas has been most helpful.

John Terry has distinguished himself over his lifetime as a man devoted to public service. Starting his career very early in life as a county supervisor, he developed his expertise on the local and State levels before coming to Washington. His 8 years in the State legislature demonstrated his keen knowledge of the problems of the people and his ability to solve these problems.

He has distinguished himself here in Congress through his work on the Federal Water Pollution Control Act Amendments in particular, and many other land conservation and development bills. His strong backing for highway safety programs will help make our roadways a safer place to be in the future.

Throughout his past life, he has been a stalwart citizen of the community, taking an active interest in community affairs both as a public official, as a member of various clubs and as a common citizen.

His verbal acumen and skillful wit have punctuated many a debate here in this chamber. His ability to elucidate the finer points of the legislation at hand have been noted on numerous occasions. The Congress' loss is his wife Jean's and his daughters' gain, of course. I hope he and his family continue to enjoy many happy years together in the future.

Mr. FISH. Mr. Speaker, I am pleased to have this opportunity to join with my colleague in this tribute to my friend, Jack Terry. Despite the shortness of his tenure here, Congressman Terry has had an impressive impact on the House of Representatives and its membership. He came to Congress just 2 years ago but in that short time he has established himself as a respected and effective legislator.

Jack came with impressive credentials—a veteran of five terms in the New York State legislature and, before that, a staff member to Governor Rockefeller. He quickly gained a reputation as a workhorse on both the Interior and Public Works Committees. Jack's excellent grasp of the complex water quality control legislation was particularly helpful to me on various occasions.

It has been a privilege to work with such an able and dedicated public servant. I wish him and his family all the best.

REVENUE SHARING SHOULD BE FAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKinney), is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, I came to Congress in 1970, pledged to restore to the communities in my district, and to the State of Connecticut, control over their own governmental destinies. My involvement in government, both on a local community level and as minority leader of the Connecticut House of Representatives, convinced me that legitimate community decisions were too often preempted by regulations and directives emanating from the far-removed offices of Washington bureaucrats.

I came to Washington convinced that the President's program of general revenue sharing represented a positive redirection of the role State and local governments would play in our system of shared political responsibility. Toward that end I cosponsored general revenue sharing legislation and supported the measure which emerged from the Ways and Means Committee last April. However, while the House version contained a number of "bugs," it nevertheless represented an honest attempt to channel Federal funds to the communities in our highly urbanized areas which needed them most. Yet the documents which emerged from both the Senate and conference committee are so designed that the rural nonurbanized areas of our Nation are blatantly overcompensated.

Mr. Speaker, the parliamentary rule of the House which requires that we vote either yea or nay on this conference report prevents Members of Congress from offering amendments which would eliminate the prorural bias contained in this legislation. I for one do not like being put over the proverbial barrel—particularly on an issue as far-reaching as revenue sharing.

As two letters which I received from the mayor of Stamford, Conn., and his finance commissioner illustrate, the Senate formula—based on population, total tax effort, and per capita income—by eliminating the urbanized population factor contained in the House bill, severely penalizes well-run communities like Stamford. I believe that the amount of a city's per capita tax levy should be just as important a factor as its per capita income. As the legislation now stands, States like Connecticut, Ohio, and Pennsylvania, and communities in those States like Stamford, are the losers. For the amount of their share of revenue sharing funds is a far smaller percentage of their total expenditures than comparable cities in States like Louisiana and Florida.

As I mentioned earlier, parliamentary procedure has us over a barrel. We are not happy with the allotment formula of this bill but we cannot afford to turn down the financial assistance offered to our cities. Let me recommend to the Members of this Congress that in the next Congress, we make our first order of business a complete review of the allocation formula with a clear eye on improving the equity of the current formula.

To illustrate the problem one of my cities, Stamford, is encountering under the allocation formula, I ask permission to insert at this point in the Record the aforementioned letters from Mayor Wilensky and Finance Commissioner Aretakis.

The letter follows:

City of Stamford, Conn., *October 2, 1972.*
Hon. Stewart B. McKinney,
Representative in Congress,
Washington, D.C.

Dear Congressman McKinney: The Revenue Sharing formula for Stamford is unfair and inequitable. I would like to explain how it penalizes a well financed municipality that is better managed than most cities. Stamford is presently allotted $1.1 million, and I believe this to be assuredly discriminatory and much below what I consider proper.

Here in Stamford, we have cleared up a fiscal mess left us by our predecessors, and have instituted strong budget controls, installed a modern electronic data processing operation, and put in fiscal improvements which have reduced costs. These cost reduction efforts and a broadening of the tax base by attracting industries and headquarters companies to Stamford have led to a favorable mill rate structure.

Only last Fall, our $300,000 investment in a broad-gauge re-assessment program led to putting taxes on an equitable basis Citywide. Stamford has led the Northeast in many ways by anticipating future needs. Over $30 million was appropriated for Waste Disposal facilities and Sewer Construction in two years. We were able to make these commitments and others, and still keep our mill rates in the $38 to $48 range.

We recognized that we had to improve our administration and our environment as well in order to attract such companies as General Telephone, Combustion Engineering, Olin, General Electric Credit, and many others. We have just built a new Central Fire House with modern communications capability, a new Police Garage, updated Police Communications, a new Washington Boulevard, a new municipal Golf Course and Recreation Center, all without Federal or State aid. All with local funds, with Bond Sales at 4¼% and 4.70% rates in 1971 and 1972, all time lows in Connecticut.

Stamford (pop. 110,000), unlike our sister cities of Bridgeport (pop. 155,000), New Haven (pop. 133,000), Waterbury (pop. 106,000), New Britain (pop. 82,000), has not stood still. Our fiscal affairs are in order and we press for more solutions. We have expanded Community Centers, established innovative youth programs and an exciting down-town is emerging. The latter will broaden the tax base even more.

However, we are being had by the Congress because we attract industry, create jobs, work towards increasing family income. New Haven, with a $84 mill rate, and only 20% more population and many problems will be receiving almost three times more than Stamford.

The following is a summary:

Municipality	Population	Value of taxable property (millions)	Date of reassessment	Mill rate 60–70 percent	Proposed revenue share (millions)
Stamford	110,000	$2,000	1971	$38–$48.0	$1.1
Bridgeport	155,000	900	1963	76.4	2.6
New Haven	133,000	1,000	1964	84.3	2.9
Waterbury	106,000	700	1965	69.0	2.2
New Britain	82,000	455	1955	77.4	1.7

Stamford's Revenue Share being proposed is outrageous and does not give us credit for a well-managed operation. The massive giveaways to the other large cities are unfair to Stamford taxpayers, who as you know pay much more per capita to the U.S. Treasury than the other cities shown above.

Very truly yours,

GEORGE A. ARETAKIS,
Commissioner of Finance.

CITY OF STAMFORD, CONN., *October 2, 1972.*

Congressman STEWART B. MCKINNEY
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN MCKINNEY: Finance Commissioner George Aretakis has discussed with me his letter to you on Stamford's allocation of Revenue Sharing. I also feel that Stamford's share should approximate Bridgeport and New Haven, namely $2½ million.

I am amazed at how Stamford taxpayers are being shortchanged, particularly at a time when we are trying to get our downtown renewal program on a paying basis. Our taxpayers have been carrying this large Grant for some 10 years and we are on the threshold of getting tax-paying properties on our rolls.

The following tabulation may be of interest:

	Population	1972 tax levy	Tax levy per capita
Stamford	110,000	$50,800,000	$460
Bridgeport	155,000	46,600,000	300
New Haven	133,000	53,500,000	400
Waterbury	106,000	31,600,000	300
New Britain	82,000	21,100,000	250

The gross inequity should be easily apparent. George reported to me that the main reason for our relatively low grant is that our tax rate is relatively low. Any schoolboy would know better than to fall into this trap! Tax rates aren't comparable without taking into account asesssment ratios, date of last assessment, relative property values and other such factors. The only fair way to compare total tax effort by a City is to do as we have shown above, i.e., take the total amount raised through taxation (the tax levy), and divide it by the population.

Please get me a complete breakdown of how Stamford's share was calculated. I think someone made a grievous error and I can't sit still for it. Our needs are as great as anyone else's.

Cordially,

JULIUS M. WILENSKY,
Mayor.

STATE REGULATION OF NUCLEAR POWER PLANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, I am introducing legislation today that would permit States to set radiation emission standards for atomic energy facilities that are stricter than the Federal standards and that would permit States to regulate these radioactive discharges concurrently with the Atomic Energy Commission.

There has been increasing concern in Minnesota over how best to protect the health and safety of its citizens with regard to radioactive wastes. Nuclear technology has reached a point at which radioactive emissions can be kept at significantly lower levels than those permitted by the Atomic Energy Commission. No industry has the right to pollute the environment more than is absolutely necessary. Radioactive emissions should be kept at the lowest level that is feasible and reasonable.

In 1969, as its new nuclear powerplant in Monticello, Minn., neared completion, the Northern States Power Co. applied for operating permits required by the State of Minnesota for any steam-electric powerplant, fossil-fueled, or nuclear. The newly established Minnesota Pollution Control Agency issued a permit with 15 special conditions, including standards for radioactive emissions that were much lower than Atomic Energy Commission standards.

Northern States Power filed suit in District Court charging that the State did not have jurisdiction to regulate radioactive wastes from nuclear powerplants. The State of Minnesota, in this case, had the support of the States of Michigan, Illinois, Vermont, Wisconsin, Hawaii, Kentucky, Maine, North Dakota, Pennsylvania, Utah, and Virginia and the Territory of Guam.

The district court ruling, which was affirmed by the Supreme Court on April 3, 1972, held that exclusive Federal authority preempted State regulation of radioactive waste releases from nuclear power plants.

In 1959, the Joint Atomic Committee considered the question of transfer of responsibility for control and regulation of byproduct, source and special nuclear materials from the Commission to the States. Section 274 of the Atomic Energy Act Amendments of 1959 explicitly recognizes that:

> As the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

States now control the largest source of radiation exposure to their populations—x-ray machines. Radioactive emissions from atomic machines such as cyclotrons are not under Atomic Energy Commission jurisdiction. State radiological health officers, therefore, already have considerable experience with the subject. Minnesota, by special agreement with the Northern States Power Co., has assumed responsibility for an in-plant monitoring program of radioactive emissions which is more extensive than any currently underway by the Atomic Energy Commission.

Distinguished scientists have seriously questioned whether current Federal standards for nuclear power plant emissions adequately protect the public. There is a built-in conflict of interest between the functions of the Atomic Energy Commission as promoter and regulator of atomic energy. The Commission, in its zeal as promoter, may at times not do full justice to its role as regulator.

States, under the 10th amendment to the Constitution, have a responsibility to protect the health and safety of their citizens. If a State feels that stricter standards are in the best interests of the health and safety of its citizens, it should have the authority to act. We must clearly establish this principle in the law.

As of June 30, 1972, 26 nuclear power plants were in operation in this country, 51 were being built, and 63 were planned with reactors on order—for a total projected generating capacity of 121,694,000 kilowatts. During the next few years critical decisions will have to be made on the amount of radioactive wastes these plants will discharge into the air and water of the people living nearby. I ask for your support of the following bill so that the health and safety of our citizens may receive the fullest protection possible:

H.R. —

A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) the control by the several States of the emission of radioactive effluents from facilities regulated by the Atomic Energy Commission is compatible with the development of atomic energy and its regulation on a national scale;

(2) current law does not sufficiently enable the several States to regulate such radioactive emissions in order to protect the public health and safety; and

(3) it is the intent of this Act to establish the concurrent authority of the several States to regulate such radioactive emissions, including the authority to enforce standards for such radioactive emissions, which permit lesser quantities of such emissions from such facilities than do the standards established by the Commission.

SEC. 2. Section 274 of the Atomic Energy Act of 1954 is amended—

(1) by striking out paragraph (6) of sub-

section a. and inserting in lieu thereof the following:

"(6) to give full recognition to the legitimate interest and responsibility of each State in matters pertaining to the public health and safety.";

(2) by striking out "No agreement" in subsection c. and inserting in lieu thereof "Subject to subsection o., no agreement"; and

(3) By adding at the end thereof a new subsection as follows:

"o. Nothing in this Act shall be construed to prevent any State from regulating concurrently with the Commission the discharge or disposal of radioactive effluents from the site of a utilization or production facility in such state, if—

"(1) the requirements or standards imposed by such State are for the protection of the public health and safety, and

"(2) action permitted or tolerated by such State with respect to the discharge or disposal of such effluents is not specifically prohibited by the Commission."

DEVELOPMENT OF CABLE TELEVISION IN RURAL AREAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN), is recognized for 10 minutes.

Mr. TIERNAN. Mr. Speaker, today I am introducing a bill to promote the development of cable television in rural areas. In brief, this legislation would provide public and private cable operators with 35-year, 4-percent loans for the establishment of cable systems in areas where fewer than 60 potential subscribers exist per cable mile.

The concept which underlies the bill has been well-tested. In 1936 this Congress became aware of the pressing need for providing electrical service to the rural areas of this country. The Rural Electrification Act which was passed by Congress in response to this need, made possible tremendous increases in agricultural productivity and a greatly improved standard of living for America's rural population.

The Rural Electrification Act was based on the premise that long-term, low interest Government loans could make electrical service to rural areas economically feasible. History has proved this assumption correct. In 1936 less than 10 percent of rural America was receiving electrical service. Today rural electric cooperatives funded by the 1936 act operate 44 percent of all electric distribution lines in the United States to serve 8 percent of the consumers, a figure which represents over 98 percent of the rural population. And virtually all of the loan funds have subsequently been returned to the Federal Government.

Today the same situation exists with regard to broadband communications as did with electrical service in 1936. I need not detail the overwhelming and constantly increasing role of the electronic media in our lives. For entertainment, for education, for access to knowledge about current events, the electronic media, particularly television, are unrivaled by anything in our past.

Again, however, rural Americans are second-class citizens with regard to the new communications media. Usually outside of the major television markets, they generally have access to poor quality reception of only a few signals. More often than not they are completely cut-off from public and educational television programing.

I would venture to add that the programing they do see is not relevant to their own life experience. Commercial television is aimed at mass audience that is predominantly urban, and so must reflect its tastes and values.

Paradoxically, it is the rural audience which could be most greatly benefited by the introduction of cable television. I have already indicated that their conventional television reception is poor by urban standards. Combine this with a dearth of competing media like newspapers and public performances and the potential of CATV in rural areas becomes clear. Parity with urban areas in reception of signals could be achieved. Programing designed for the rural audience, either produced locally or syndicated nationally could become a possibility.

My bill is designed to make the promise of cable television for rural areas come true. States dealing with the problems in this area have found that it is not usually possible to serve an area with less than 60 potential consumers per mile of cable, assuming conventional financing and normal rates for service.

This bill would fill the gap left by the economics of private cable construction. In its absence rural areas will lag far behind the rest of the country in the development of CATV, this by the admission of the private operators themselves.

The funds would be available to anyone—cooperative groups, public or community corporations, and private companies—that would serve an area not otherwise having access to cable service.

I am introducing the bill today in the hope that full public discussion of this concept will establish not only its merit, but also identify any changes that need to be made in the initial draft.

Mr. Speaker, I ask that a copy of the bill be inserted in the RECORD at this point.

H.R. ——

A bill to amend the Communications Act of 1934 to provide for loan assistance to certain cable television systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"LOAN ASSISTANCE TO CERTAIN CABLE TELEVISION SYSTEMS

"SEC. 331. (a) For purposes of this section:

"(1) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(2) The term 'cable television' means a system for cable transmission of television signals to the public.

"(3) The term 'eligible cable television system' means a cable television system in the United States whose proposed system (with an optimal arrangement of the system) can reasonably be expected to pass less than a system average of 60 potential consumers per linear mile during the first five years of its operation.

"(b)(1) The Secretary may make loans in accordance with subsection (c) to any eligible cable television system to enable such system to furnish cable television service or to improve cable television service furnished by it.

"(2) The Secretary shall make, or cause to be made, studies, investigations, and reports concerning cable television, and to publish and disseminate information with respect thereto; and he shall conduct a program of technical and advisory assistance to eligible cable television systems (including assistance in preparing applications).

"(c)(1) Loans made under subsection (b)(1) shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income. All such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 4 per centum per annum. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

"(2) Loans under subsection (b)(1) may be made only for the purpose of financing the improvement, expansion, construction, acquisition, and operation of cable television facilities or systems to furnish and improve cable television service. The Secretary in making such loans shall, insofar as possible, obtain assurance that the cable television service to be furnished or improved thereby will be made available to the widest practical number of users. In acting on request for loans the Secretary shall consider (either on his own motion or on petition by persons living in areas which are contiguous to the system proposed by the applicant) and shall, where economically feasible, condition the loan on service to that area. The Secretary may also make loans for the purpose of refinancing outstanding indebtedness of eligible cable television systems, if such refinancing shall be determined by the Secretary to be necessary in order to furnish and improve cable television service. Such refinancing shall constitute not more than 40 per centum of any loan made under this section.

"(d)(1) The Secretary of the Treasury shall make loans to the Secretary of Housing and Urban Development in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1973, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in subsection (c) of this section, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Secretary of Housing and Urban Development. The Secretary of Housing and Urban Development may make all such endorsements, to execute all such instruments, and to do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and to execute such trust instruments as shall be agreed upon by the Secretary of Housing and Urban Development and the Secretary of the Treasury providing for the holding in trust by the Secretary of Housing and Urban Development of all such obligations for the Secretary of the Treasury as security for loans to the Secretary of Housing and Urban Development made by the Secretary of the Treasury. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under said Act are extended to include such loans or advances to the Secretary of Housing and Urban Development. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

"(2) There are authorized to be appropriated such sums as may be necessary for the purposes of this section.

"(3) All money representing payments of principal and interest on loans made by the Secretary of Housing and Urban Development shall be paid to the Secretary of the Treasury in payment of loans made to the Secretary of Housing and Urban Development by the Secretary of the Treasury; upon the payment of such loans all moneys representing payments of principal and interest on loans made under this section shall be covered into the Treasury as miscellaneous receipts.

"(e) (1) The Secretary of Housing and Urban Development may bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this section; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in subsection (d); to accept title to any property so purchased or acquired in the name of the United States of American; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

"(2) No borrower of funds under this section shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this section, until any loan obtained from the Secretary, including all interest and charges, shall have been repaid.

"(f) The Secretary shall present annually to the Congress not later than the 20th day of January in each year a full report of his activities under this section.

"(g) The Secretary may extend the time of payment of interest or principal of any loans made pursuant to this section."

FREEDOM OF EMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Blanton), is recognized for 5 minutes.

Mr. BLANTON. Mr. Speaker, I am pleased today to add my name to the growing list of my colleagues who have cosponsored the bill H.R. 17000, the Act for Freedom of Emigration in East-West Trade, which has introduced by my able colleague, Representative Charles A. Vanik, Democrat of Ohio. This bill was introduced simultaneously by Senator Henry Jackson, Democrat of Washington, in the Senate.

I had previously cosponsored House Congressional Resolution 694 which condemns Soviet leaders for creating a class of 20th century slaves. I now feel that this alone is inadequate and that a stronger measure is necessary in light of the Soviets' continued disregard of world opinion and any sense of decency.

This Nation can no longer subsidize foreign powers in trade which deny their citizens basic rights and freedoms that all civilized nations have cherished from the earliest times. Communist Russia has been demanding ransoms for educated Jews of up to $37,000. It is an insult to the integrity of the free world to allow this type of activity to continue. This practice is slavery by any description. A man's freedom is an inalienable right and for any nation to put a price on this most precious commodity is clearly the height of barbarism.

Furthermore, there is increasing evidence that the Soviet Union has increased its repressive policies toward the Jews who remain in the country. Additional reports of interference with the rights of the Jewish people to practice their faith are surfacing. Arbitrary arrests and the denial of the right to bail or hearing are becoming more commonplace for Jews throughout the Soviet Union. Amidst these ever-worsening conditions, the United States must take a strong stand that these policies be ended immediately.

I find the concept of continued commercial dealings with the Soviet Union receiving "most favored nation" status an appalling one and it is intolerable to think that American citizens are subsidizing the recent grain sales to Russia with their tax dollars.

Mr. Speaker, I urge action on this legislation before the Congress adjourns so that all nations will be put on notice that the United States will not tolerate these practices. I feel that it is imperative for this body to take a very forceful position on this issue and I think that this legislation will be the appropriate vehicle to express that position.

"CHUCK" YEAGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. Staggers) is recognized for 10 minutes.

Mr. STAGGERS. Mr. Speaker, the 20th Century has been a sad time for the "It Can't Be Done" boys. One after another their pet certainties have been dissolved in the acid of brilliant performance. Today it is probable that no one would venture to make a list of the impossibles. Human ingenuity and daring might punch holes in his list before sunset.

Nowhere has the triumph of genius over the difficult been more tradition-cracking than in the achievement of air and space flight. Man's sphere had been the solid earth and, prayerfully, the less than solid waters that cover the earth. The air was for the birds. The vast void above the air was for the angels. Then, in less than a century, man has burst the confines of space and peers with speculative but confident eye into what his elders have named infinity.

It takes pioneers to overcome the impossible. A pioneer is an unbeliever. He does not believe that matter is superior to mind. He simply hunts for the key to the problems which stand in the way of accomplishing what he wants to do. America produces pioneers of many varieties. Indeed, America itself is a pioneer, an unbeliever in impossibles. Its achievements in all the arts that give human beings control over their environment and their destiny are justification for the title. And "Chuck" Yeager is an American achievement.

I have no idea why a dignified and imposing member of the higher brackets of the military hierarchy should wear the title of "Chuck." But it becomes him. It is a badge of affectionate admiration and esteem. America has always been delighted to honor and appreciate its over-achievers, in whatever line of activity they have won fame. We all share in the light reflected from their accomplishments. I personally am happy that Chuck is an American. And I simply puff up with pride in the thought that he was born and bred in my own wonderful West Virginia. I am not surprised that West Virginia has produced another genius.

The business of this Congress is urgent. And yet I feel that nothing we could do today would be more fitting than to pause for a time and pay honor to an American whose whole life has been an honor to his country.

I feel sure also that Colonel Yeager appreciates this gesture of respect and admiration. To any man, the approval and applause of his fellows is the sweetest reward he can win for his efforts, no matter how arduous. It is a stimulus that stands through the ages. It is a page in the heroic lore of the nation which spells greatness. In the words of Scripture, it is recognition of "an example of a noble courage, and a memorial of virtue, not only unto young men, but unto all his nation."

Finally, it is an answer and a refutation to all those who would disparage the land that has produced them and has led them to the high places of contemplation where they can view all the glories of a civilization as yet unmatched in producing human well-being and happiness. May the tribe of "Chuck" Yeagers increase!

NEW CONSUMER PROTECTION AGENCY BILL URGED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, as anyone who reads the papers knows, the Senate recently set aside their version of a Consumer Protection Agency bill.

They did this because more than one-third of the Senate found innumerable objections to the very liberal bill and demanded to consider each one at length. There was not enough time to discuss these many problem areas before adjournment unless all other Senate business was ignored.

I look back now to October of last year when we passed our CPA bill, H.R. 10835, in substantially the same form as reported by the Government Operations Committee.

I look back on the strenuous job that our distinguished chairman, Chet Holifield, did in getting that bill out of committee and managing it with the able assistance of Congressman Horton through a sometimes very heated and confusing debate.

I remember the invectives heaped upon Chairman Holifield and the so-called Holifield bill by the more zealous consumer activists who wished for what amounted to total power for a new CPA.

I remember Chairman Holifield saying that he felt like he was placed up against a cellophane wall with firing squads on both sides—angry businessmen who wished no bill, and angry consumerists who wanted more powers for the CPA.

I recall Chairman HOLIFIELD publicly replying with great political courage to consumerists that the type of bill that they wanted would never get through both Houses of Congress and to irate businessmen that the time for the creation of a CPA had arrived.

I recall this now in light of the recent Senate action and the fact that the Senate supporters of an ultrapowerful Senate bill, after they had apparently lost a battle to bring it to a vote, said that they would agree to the Holifield bill.

This vindication of CHET HOLIFIELD'S tremendous efforts comes too late, however, and it appears that once again the CPA bill will have to be reintroduced.

I am disappointed, and I know that Chairman HOLIFIELD is disappointed, to see the anchorman in our relay burn himself out and drop the baton.

The all-or-nothing crowd still insists that the House-passed bill is totally unacceptable, and one major Senate supporter of the apparently defunct Senate bill, Senator JACOB JAVITS of New York, predicted on the Senate floor, October 6, that the 1973 Senate version of the bill "will be tougher, meaner, and a much more difficult one for American business."

So, the cellophane wall is being prepared, the opposing firing squads are checking out their weapons, and a political bloodbath is to be expected in 1973—all at the expense of the interests of consumers, who will have to wait until 1976 for another attempt unless those who oppose any agency and those who oppose anything but a superagency can find a middle ground during the next Congress.

Perhaps that middle ground can be found in the Senate debate on their CPA bill. I noticed that one of the major amendments proposed to be offered in that chamber was a proposal similar to one that I introduced to the House-passed bill.

Called the "amicus" amendment because it is patterned after—but stronger than—the positive advocacy powers of an amicus curiae, it was sponsored by Senator SAM ERVIN of North Carolina, chairman of the Government Operations Committee.

During the Senate debate on their CPA bill, Senator HERMAN TALMADGE, chairman of the Agriculture Committee and others indicated that the Senate could have passed a CPA bill this year if the amicus amendment were accepted.

I also remember that, during the House debate, Congressman BEN ROSENTHAL, a major supporter for the strongest CPA bill possible, said that although he found both the House-passed bill and the amicus amendment totally unacceptable, the amicus amendment was the more desirable for consumers of these two choices.

Chairman HOLIFIELD, on the other hand, preferred his bill to the amicus amendment, feeling that the amicus proposal did not go far enough.

I note that the Senate version of the amicus amendment is more liberal than the one I offered, and that the Senate bill to which it was offered is considerably more liberal than the House-passed bill.

Chairman ERVIN'S more liberal Senate amicus approach may prove acceptable to Chairman HOLIFIELD and a majority of our committee—particularly if it assures enactment of a CPA bill in 1973.

One of the difficulties with both the House and Senate CPA bills is that they contained many legally complex provisions which caused considerable confusion during both debates.

As Congressman ROSENTHAL said, during our debate:

> One of the great difficulties with this bill and the debate surrounding it is that we have all tried to become instant experts in administrative law. * * * I do not know how many of us succeeded. I do not feel that I have succeeded to the degree I would like.

In order to help overcome this problem next year, and to insure that a CPA bill is a well understood top priority item during 1973, I am introducing today on behalf of myself and Mr. BROWN of Ohio, a CPA bill for review now.

We think that it would pass both Chambers of Congress, and that the CPA we would create would be a potent force in protecting the interests of consumers without endangering the administrative process.

Because the bill is for review purposes, it only would create a CPA—the heart of both the House and Senate bills, contained in title II of each bill.

Thus, we have left out the conflicting—and therefore distracting—titles I and III in the House and Senate bills.

Title I in the House-passed bill would have created a statutory Office of Consumer Affairs; in the Senate bill it would have created a 3-member Council of Presidential Advisers.

Title III in the House-passed bill would have created an additional 15-member Consumer Advisory Council; in the Senate bill it would have provided for a multi-million-dollar Federal grants-in-aid program.

These two titles in both bills are of secondary importance to the creation of a viable CPA. I am sure that once the proper powers for a CPA are agreed upon, an agreement can be reached on these tangential proposals.

Our bill takes the middle ground between the House and Senate provisions for a CPA; it is designed to allow the CPA to come into being in short order and anticipates its quick but orderly growth.

It will take a joint congressional effort to get a CPA bill enacted in 1973, and this bill represents the first step in that direction.

Because this is a middle-of-the-road compromise, it may not initially meet with approval by the more militant consumer activists who wish to create a superagency or by the more conservative business groups who wish to see no bill.

But we feel that, upon review, both of these factions may come to realize that our bill is a responsible proposal.

As far as the technicalities of the bill are concerned, let me highlight the major provisions, while again emphasizing the need for more complete review of this proposal by our colleagues.

The CPA, under our bill, would be headed by a single, powerful Administrator, as was suggested in the House-passed bill. Under the Senate bill, the CPA would be a three-member commission which would vote on major policy positions. Ralph Nader, according to the Washington Post, felt that this was a weaker and more cumbersome approach than the House approach. We agree.

Our bill would allow for CPA participation, as of unchallengeable right, in virtually any Federal proceeding or deliberation of the CPA's choice, formal or informal.

Thus, as to scope of CPA operation, we adopt the Senate approach. Under the House-passed bill, CPA participation as of right was limited to a mintority of Federal activities—formal Administrative Procedure Act proceedings.

Because of the pervasiveness of the interests of consumers, and because of the fact that we cannot possibly evaluate the literally millions of Federal activities that affect these interests, we feel that the comprehensive Senate approach is preferable to the severely restricted House approach.

On the other hand, because we are willing to legislate in the dark, so to speak, in granting the CPA jurisdiction over the unknown, we feel that it would be irresponsible to grant the CPA in its formative years full adversary and court appeal powers that could be highly disruptive in areas that we had not even anticipated.

We therefore adopt an amicus type of advocacy, although the CPA would have far stronger powers than would an amicus curiae.

The CPA would not only be granted the right in the proceedings and activities of other agencies to make an initial amicus curiae presentation, orally or in writing, but it also would be granted the additional right of reviewing all submitted testimony, materials and evidence and filing, as the last word, its views on the matter. In addition, if an agency still makes a decision not to the liking of the CPA, the CPA would be able to exercise the available right to petition for an administrative rehearing, rather than burden the overcrowded courts with an appeal.

In any ongoing Federal court case involving the review or enforcement of Federal law, the CPA—again as of right—could enter as an amicus curiae to present its view to aid the court. At present, the courts have discretion to reject amicus curiae appearances; they could not reject the CPA under this bill.

No one can deny that such consumer advocacy powers are major and comprehensive steps of real substance. Some would like to go further, of course. But we ask those who wish more advocacy powers to wait until the CPA, under title I of this bill, comes back to us shortly and identifies the areas in need of stronger types of advocacy, and describes for us the types of advocacy needed.

It is plainly wrong to impress upon

the varying procedures of all agencies—from collective bargaining mediation efforts to the issuance of picnic licenses—a single form of adversary advocacy with unprecedented superlegal powers that appear to be inspired by an old Perry Mason rerun program. We say let the CPA be created as an expert in this area and come back to us with recommendations.

The House-passed bill precluded CPA advocacy as of right in state and local agencies and courts. That is a correct approach if the type of advocacy is based upon attack powers. But the aim of our bill is to assist all levels of government in doing a difficult job better, and therefore we would allow amicus type advocacy in State and local forums upon request by a proper official. This is the approach taken in the Senate bill.

On the other hand, the Senate bill would have allowed the CPA to issue court enforceable orders similar to subpenas to force any worker, trade union or businessman to file requested reports or answer any question under oath. The administration and House rejected this concept on the grounds that it would provide for nothing but a fishing expedition by a nonregulatory agency. Regulatory agencies were granted these extraordinary powers in areas where Congress has specifically determined a need for them that exceeds the need for citizens to be free from governmental invasion.

We favor the House reasoning on this, particularly since we have no idea what types of information would be ordered by the CPA.

However, we do give the CPA the right to investigate without these powers and to request any needed infomation. We also give the CPA the power to petition any Federal agency requesting that the other agency use its subpoena or similar powers to obtain needed information for the protection of the interests of consumers. We also would allow the CPA access to information in the hands of other Federal officials. We doubt that needed information would be withheld from the CPA under our bill.

These are just the principal provisions. Many other powers are to be granted in areas such as the collection and display of consumer complaints, publishing of a Consumer Register and other informative materials for consumers, and so forth. These other powers are taken from the best concepts in both bills.

We urge all Members and all interested groups to read this bill and join with us in our effort to further protect the interests of consumers.

NEW TERRORIST BOMBING ATTEMPTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I have just learned that the terrorist group known as the Black September Movement has delivered another group of bombs through the mail. This time the heinous group has attempted to harm two American women, one of whom I know personally.

The two women to whom the letters were addressed are officers of Hadassah, the American Zionist Women's Organization. These two women, Hannah Rosenberg and Rose Halpern, have worked long and hard for the benefit of Israel and its people. That people who believe in Israel and who seek to carry out their beliefs solely by peaceful means should be subject to threats of death and destruction is a moral and political outrage.

Luckily, these letters did not explode when they were opened, and tragedy was averted. But I have no doubt that they were intended to kill or maim these two innocent women.

As I have said at the time of the Munich tragedy last month, we as a nation must take decisive action to exclude from the fellowship of nations those countries that give aid and comfort to the Arab guerrillas. The United States must terminate all trade with such nations, terminate foreign aid, especially military aid, to them, and terminate all loans, grants and trade agreements to and with them for so long as they allow such people to operate from within their territory.

How many times must we and the rest of the world wring our hands at these terrorist activities before we insist that they be brought to an end and act to do so? The steps that I have outlined above are stringent and are certain to have the desired effect, yet all are economic in nature. They are not only advisable, but necessary.

UNCHANGED ON GUN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 15 minutes.

Mr. RANDALL. Mr. Speaker, on October 4, 1968, at page 29753 of the CONGRESSIONAL RECORD, I said on the floor of the House of Representatives

> Additional gun controls are not the real solution to growing violence and increasing crime.

Four years have passed since I made that statement. Two laws were passed in 1968 to restrict the shipment and ownership of firearms. These have not slowed the incidence of crime. No less authority than the Federal Bureau of Investigation confirms this fact.

The most recent edition of Crime in the United States, published by the FBI, shows that the number of murders committed in the United States in 1971 more than doubled the number committed in 1968, the year the two gun control laws were passed, and were about five times the number of murders in 1967, the year before these laws were considered.

Aggravated assaults in 1971, 3 years after the two new gun control acts, occurred at more than twice the rate as in 1968. In the 6-year period covering 3 years before enactment of the latest gun control laws and 3 years after they were enacted, robberies in the United States increased 145 percent.

Nationally, one out of 10,000 persons will be murdered this year if the present rate at which murders are committed continues. In the larger cities, one's chances of being murdered are somewhat greater than that. At the 1971 rate, there was an aggravated assault for every 564 people in this country. One out of every 535 people could expect to be robbed.

Murder, aggravated assault and robbery: these are the three types of crimes in which firearms are most often used. Who can seriously say that the gun laws of 1968 deterred the commission of crime in any way?

The year 1968 was an eventful year. In April, Martin Luther King was killed by an assassin who used a high-powered rifle. The Congress reacted by passing a bill which made it unlawful for a convicted felon, a mental incompetent or an illegal alien to possess a handgun. Two months later Robert Kennedy died at the hands of a killer wielding a handgun. Congress responded again by passing a bill to restrict the sale and ownership of rifles and other long guns.

In the case of the handgun bill, the widespread civil disorders that followed King's death seemed to call for positive action by the Congress. In May of 1967 the House had passed the Law Enforcement and Criminal Justice Act of 1967. For 12 full months that bill languished in the other body. After the King death in Memphis the bill was quickly resurrected, and the provision to outlaw handguns was hurriedly added, quickly passed and returned to the House for concurrence with the Senate amendment. No House hearings were held; only 1 hour of House debate was permitted before rushing the bill to the White House for signature. This was not a good way to legislate.

Only a few days elapsed between Robert Kennedy's death in Los Angeles and the reporting of a bill in the House to restrict long guns. That bill, which is now public law, prohibited mail order purchases of guns but most extraordinarily did not restrict the mailing of component parts of guns; it made it a crime for a legitimate dealer to sell a gun to a fugitive from justice but was totally silent on the matter of such fugitives buying or possessing long guns.

I voted for the Law Enforcement and Criminal Justice Act, which contained a few moderate but reasonable regulations on handguns. This bill however created what is now known as LEAA, the Law Enforcement Assistance Administration; it provided funds for training and equipping local law enforcement officers. That bill also set aside a Supreme Court decision that had limited the admissibility of voluntary confessions into evidence.

I voted against the long gun bill after failure of numerous efforts to get effective crime fighting amendments into the bill. One of the amendments proposed mandatory severe criminal penalties against those who commit crimes with guns. When that amendment failed several of its supporters quite aptly commented that "we had passed a law against guns but had done nothing to control the illegal use of guns."

Some of us in the House who see the futility of gun control legislation and recognize the unfair burdens it places on sportsmen and other legal owners and users of firearms have tried to ease those burdens by removing the recordkeeping requirements with respect to rimfire ammunition. In the last Congress we managed to get a bill through the House but it died in the other body of Congress. More than a year ago we got another bill through the Ways and Means Committee but we have not been able to get a vote on the floor of the House. Gun control advocates seem determined to cling to their misguided, erroneous positions that by legislating against guns we strike a blow against crime. As statistics show, this has not been the case.

Since 1968, a total of 45 of the 50 States have passed bills relaxing the purchase provisions of the 1968 long gun act at the State level. This, according to the Missouri-Kansas Firearms Federation means that 90 percent of the State legislatures believe the 1968 Federal laws are too restrictive. I agree with that assessment.

In various opinion surveys conducted by the Harris poll and newspapers in Detroit and Philadelphia the results showed declining enthusiasm for gun controls. In my own 1972 opinion poll of my constituents in Missouri's Fourth Congressional District, 62 percent of those who responded said they oppose Federal laws prohibiting the sale and possession of handguns. Of those who responded 58 percent favored repeal of all gun control laws.

In Washington, D.C., a radio station mounted an intense editorial campaign within the last few months for additional gun controls. I am reliably informed that mail received by the station in response to this campaign ran 2 to 1 against the station's crusade.

Alabama's Gov. George Wallace has repeatedly said:

> Federal laws will keep guns out of the hands of law abiding citizens. But those who break the law will have them anyway.

I completely concur with these comments. Following the attempt on his life by a gunman last May who significantly had not been jailed when arrested for a gun violation in Wisconsin, Governor Wallace reaffirmed his stand on gun control.

It is absurd, Mr. Speaker, to believe that an individual who is otherwise inclined toward criminal activity is going to obey a law that restricts his possession or use of a gun. Laws are made for dealing with criminals, not law abiding citizens. But it is law abiding citizens, not criminals, who are seriously restricted in their right to purchase and own firearms for protection of their own lives and property or for use in controlling predators on their farms or for recreational target shooting or legal hunting activities.

How much longer will well-meaning but misinformed and misguided Members of Congress insist upon discriminating against the good citizens of this country and their rights to peacefully own firearms and use them for legal purposes? Notwithstanding the utter failure of gun control laws to accomplish the purpose promised by backers of these laws in 1968 they were back again this year. The other body actually passed a bill which was explained away as simply a bill to eliminate the so-called Saturday night specials. In trying to describe a Saturday night special the bill's proponents resorted to barrel lengths and other dimensions for their definition. What they seem to say is "it's all right to kill with other types of firearms, but not with one which fits this description." I would support a measure to outlaw the sale of handguns or other weapons which are unsafe for a lawful purpose. But that is not what the Senate bill was trying to do; that bill was aimed at one specific size of gun without regard to any other technical or mechanical attributes and aimed at any weapon which just happened to be the same size.

The Bayh bill, S. 2507, went even further by attempting to surrender to the Secretary of the Treasury authority to add other restrictive criteria under which he and he alone could decide what handguns law-abiding people may or may not own. But not even the most extreme advocates of gun controls could go for that and it was taken out of the bill by Senate amendment.

Finally, S. 2407 would have required the U.S. Government to purchase all handguns outlawed by that legislation. Mr. Speaker, did the backers of that bill really believe that people who own guns for criminal purposes would come forward and sell their weapons to the Government? And if this was not the purpose of the bill, then why was it proposed? The House has not scheduled action on S. 2507. This is one of the rare occasions I can stand up and applaud inaction by the Congress.

Mr. Speaker, I recently received a questionnaire from a group of sportsmen in our congressional district. They opened their letter by stating that they were in favor of punishing ciminals, but not honest and law-abiding sportsmen. They went on to state they oppose restrictive punitive laws directed toward the law-abiding gun owners. Their letter submitted a series of questions. They asked for a simple straightforward answer over the signature of their Member of Congress. Let me respond to this request to say I have never indulged in doubletalk. I have never talked out of both sides of my mouth on this or any other issue. I shall not depart from this personal philosophy now or in the future.

Herewith are the six questions which were submitted to our office and following each question is my straightforward answer:

1. Do you favor registration of guns?

Answer. No.

2. Do you favor permits to buy guns or ammunition?

Answer. No.

3. Would you vote for disarming the honest law-abiding citizens?

Answer. A strong, emphatic, no.

4. Do you believe in the constitutional right to own and bear arms?

Answer. Yes. The Constitution is clear. It guarantees the right to every citizen to own and bear arms to be used in the lawful protection of his personal property.

5. How will you vote on the Bayh handgun bill S. 2507?

Answer. I will vote against this legislation.

6. Will you vote to repeal the 1968 Federal Gun Control Act?

Answer. Yes. I have already voted to repeal portions of this Act.

I believe now, as I believed in 1968, that restricting the right of law-abiding citizens to own and use firearms for any legal purpose would be a step toward completely disarming our people. The work of the criminal would thereby be made easier and his need to have and use a gun in his unlawful existence would be lessened. That is what we do when we vote for gun control legislation; we vote to make the lot of the criminal easier. This is only one of the reasons I shall never vote for any proposal that has as its purpose the restriction of the rights of a peaceful citizenry to acquire firearms through legitimate channels.

I believe in the right to possess guns by honest sportsmen to use for hunting and recreation. Moreover, I believe the Constitution provides a guarantee which should never be infringed for our citizens to bear arms to protect their person and property.

WPIX EDITORIALS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, for several years, WPIX television in New York City has been broadcasting editorials on issues of importance to the Greater New York metropolitan region. This is valuable public service. Not only does the station present both sides of a subject and an informed opinion, it also invites replies for broadcast from individuals directly involved in the issues under consideration, and subsequently communicates to its audience what its calls feedback from the public—written comments from the public after both the editorial and editorial reply has been broadcast.

In 1971, WPIX presented more than 1,000 editorial telecasts. The issues covered included adoptions, crime, drugs, taxes, no-fault insurance, women's liberation, and transportation—as well as more locally oriented topics. Local or national, all the issues have some direct bearing on the people of the New York metropolitan region.

Such a presentation of facts and thoughtful opinion and solicitation of replies and comments from the public, promotes community thought, understanding, and involvement in matters of importance to them. It provides an avenue of expression for many individuals who often have opinions about issues but who otherwise would not have an opportunity to express them publicly.

I mention this at this time because WPIX has just issued a booklet containing all of its editorial feedbacks and editorial replies which appeared on WPIX in 1971. In reviewing this collection of statements one can only be impressed by the range of issues and the thought and interest that has gone into them. It is not surprising that in 1971, for the second consecutive year, WPIX won the New York State Broadcasters Association Award for Outstanding Editorial. I commend them.

THE TUDOR CITY PARK

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the need for open, recreational space in the heart of our urban areas cannot be emphasized enough. In my congressional district a critical struggle is going on right now to preserve two small but precious private parks in Tudor City on Manhattan's East Side.

The owner wants to develop the parkland; the residents of the area and New York City desperately want to save the parks. Because of their high cost the city cannot afford to purchase these properties given its already overburdened budget. Consequently the city has improvised other ways of trying to save the parks as public amenities.

It is not certain yet if the city's proposals will succeed. That is why I have urged the mayor to apply to the Housing and Urban Development Administration's open space land program for a Federal grant. Under this program the Federal grant will pay 50 percent of acquisition, cleaning, and development costs for public recreational space in urban areas.

I am inserting in the RECORD today excerpts of my testimony before the New York City Planning Commission to illustrate the complexity and urgency of this situation. If the city's special proposal should fail, which I do not think will be the case, I believe the Federal Government's open space land program must be used as a last resort to save the parks. The cost might be high but in terms of providing public benefit it would be worthwhile.

STATEMENT BY REP. EDWARD I. KOCH BEFORE THE CITY PLANNING COMMISSION ON OCTOBER 4, 1972

The Tudor City parks must be saved. The most viable way to achieve this goal at this time is to approve the legislation to create a special park district, thus allowing the owner, Helmsley-Spear's development rights on these park properties to be transferred to other sites.

The importance of these two small parks is far greater than their size might indicate. The great concern which Tudor City residents have shown over their possible loss reveals the longing and need that all New Yorkers have for open space. In a City gasping for air and in search for any haven of tranquility, with as little as ⅓ of one square foot of open space available in the mid-town area for each of the 1.3 million persons who work there, not to mention those who live there, it is imperative that the City not only preserve existing parkland, but create new open spaces as well.

While the transfer of development rights to nonadjacent properties could set a dangerous precedent if abused (it would be unfair simply to shift the burden threatening one community by placing it on another similar community), I believe the proposed legislation, with the addition of several provisions, would adequately control the development envisioned.

I believe that binding provisions must be included that will guarantee the maintenance, and in particular the security of these two parks. I believe also that the CPC should consider, in view of the City's extraordinary need for more housing, the possibility of mandating that a minimum requirement of residential construction be included in any development stemming from the use of the special "P" district provisions.

If we lose these parks it will erode a bit more of this City's charm; it will crush a bit more of this City's spirit. The only true progress in this case is the preservation of the parks. Neither Tudor City nor New York City can afford their loss.

UNMET HOUSING NEEDS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, the failure of the Housing Act of 1972 to receive extended consideration and debate during the closing days of this Congress only postpones the day when we as a Congress must come to grips with the problems of urban America. Our distinguished colleague from Connecticut, JOHN S. MONAGAN, chairman of the House Government Operations Subcommittee on Legal and Monetary Affairs has performed a duty to each of us by sounding the alarm during the oversight investigation of the operations of HUD and the FHA by the Subcommittee on Legal and Monetary Affairs.

The implications for the future for each of us as Members of Congress was well expressed by Representative MONAGAN in a floor statement on October 2 when he said:

> None of us can take comfort in the failure of the Housing Act of 1972 to receive the approval of the Rules Committee and thus to reach the Floor, for none of the basic and critical problems in our housing legislation have been solved by this negative action.

Mr. MONAGAN's observations have received and continue to receive nationwide comment and one such commentator, Richard W. O'Neill, editor of the O'Neill Letter, has in his letter of October 3 pointed out the significance of recent events involving our failure to come to grips with the basic issues. Writing with a background as the former editor of House and Home and as an expert on large scale home building and mortgage financing, he acknowledges the critical role JOHN MONAGAN and the subcommittee have performed in revealing the facts of failure in our housing programs. I earnestly commend Mr. O'Neill's commentary to the attention of my colleagues:

THE CONGRESS FINALLY SEES ITS DUTY IN HOUSING PROGRAMS, A VISION ENGINEERED BY WRIGHT PATMAN AND JOHN MONAGAN

When the House Rules Committee killed the Housing Act of 1972 last week it was not a fluke. Your correspondent had begun predicting such a result last April and I had said in the Letter of July 18 that the odds were even-steven for the demise of that Act. Wright Patman as Chairman of the House Banking Committee didn't like the 322-page bill and knew that it could not be effectively debated in the House, and amendments put in to change it, in the time left in this Congressional session.

Monagan's subcommittee on Legal and Monetary Affairs had opened Pandora's box in Detroit much earlier in the year and by now even the dimmest bulb in Congress is aware that something's wrong.

But there was something else afoot in the put-down of the Act. Patman was considerably less than a champion of the Act when it came before the Rules Committee, and he had reasons. Patman is now number one man in the House of Representatives because of the retirement of Emanuel Celler (D. N.Y.), and he has taught the Banking Committee and its subcommittees a tough procedural lesson. Through his less than enthusiastic posture over the bill before the House Rules Committee, Patman put down all the lobbyists, all the Congressional staffers and all of of the HUD forces which would have put through one of the biggest legislative copouts ever to come along in housing legislation.

Yesterday the House passed extensions of HUD programs to June 30, 1973, the end of this fiscal year. The appropriations, as I pointed out some weeks ago, for those programs under a one-year extension have already been approved by the Congress. So with that move the Act is dead.

What all this does is to give the Congress an opportunity to draft new housing legislation that comes to grips with the problems. What are the problems? In the Congressional Record of September 21, 1972, John Monagan called into serious question the whole thrust of the Housing Act of 1972. To find an appropriate comment he simply went back to the report of the Senate Committee on Banking and Currency of the 84th Congress, first session, January 6, 1955.

It was the Capehart hearings dealing with FHA graft and profiteering very similar to that that has been uncovered in so many major metropolitan areas recently.

That Senate committee, almost 18 years ago said: "It has been frequently said that the best law the mind of man is capable of drafting will not work if incompetently and improperly administered; and that the worst law of the Congress will not result in inequities if properly and competently administered. . . .

"The general attitude of FHA seems to have been that it was an agency for the builders and for their benefit. While deeply concerned with inducing builders to construct more projects, FHA appears to have been unconcerned in maintaining the standards of integrity and competence required of government agencies in the public interest."

What the housing industry needs to do now is to muster its best thinking to avoid another two-year fiasco in a housing bill of 1973 or 1974.

That Housing Act of 1972 was the result of two-years of hard work by Congressional staffs and lobbyists, as well as HUD, and it was a fiasco that fell apart when it got down to the wire. It may just be that the Congress in general is now aware that we have built our housing programs on foundations of clay: we have no housing policies, no urban growth policies, no land use policies in this country.

Without such policies we have no backbone for housing programs. Among all the interests that took part in drafting the Housing Act of 1972, who spoke for the public interest? Really? Hardly anyone. And that comment includes many Congressmen, like you know who.

But not Wright Patman. Just to single out one concern: Patman knew very well that black mortgage bankers, architects and contractors would raise all kinds of hell if the Act ever got to the House floor. The President of the United Mortgage Bankers of America, UMBA, a black mortgage banking association, said just about a week before the Housing Act was killed that among other things the site selection criteria was an example of "government regulation making it harder for the minority businessman to do business."

He pointed out that not only does site selection criteria work against the creation of subsidized projects, built where blacks live, but the local veto power in the Housing Act of 1972 made it impossible to create subsidized projects where the site selection criteria would permit them. Black leaders all over the country have pointed out those facts and Wright Patman and the House Rules Committee is not ignorant of them.

Could it be in fact that the Congress is now aware of a number of major items concerning the new housing business and the effect of Federal programs to date on it?

It so happens that under subsidized HUD housing programs for the fiscal years of 1970, 1971, and 1972, the Federal government is committed to over $30 billion of payments over the next three or four decades. That's just one.

(2) It is also apparent that what causes slums has very little to do with buildings themselves. There is a whole range of psychological, sociological and economic factors that have nothing to do with new housing that create the inner city problems which HUD has only made faint stabs at trying to correct.

(3) It is now pretty clear to the Congress that something like 1.4 million new starts of unassisted for-sale housing will be undertaken in this calendar year without any subsidies whatsoever. A nation that can build and buy that number of unsubsidized for-sale starts, both in single-family and attached townhouses, does not necessarily need production programs for low-income families.

(4) It has become increasingly apparent to all kinds of people, including do-gooders and legislators, that about the only way we can possibly house low-income families in this country adequately is out of the existing housing stock and it is very probably cheaper to do that with housing allowances than with production programs.

There are critical areas for HUD right ahead and one of them is the release of authorized public housing funds to bail out so many local public housing authorities on the edge of bankruptcy. Then too, and obviously, the industry needs an immediate extension of FHA mortgage insurance beyond the expiration of September 30, and it will no doubt get it.

It is just possible that one of the strongest factors in influencing the House Rules Committee was the story by John Herbers in the New York Times of Wednesday, September 20, in which he not only put the finger on a good many lobbyists who had worked for the Housing Act, but had also pointed out that John Gardner, Chairman of Common Cause, had said that "housing in Washington has become an insiders game". That tight little coalition of HUD staff, Congressional staffs and the lobbyists, to paraphrase Herbers, is sort of an interchangeable coterie of players. The effect of the story was not lost on Wright Patman nor on the House Rules Committee.

Quite naturally Bill Barrett (D.–Pa.) Chairman of the Housing Subcommittee, of Patman's Banking Committee, screamed bloody murder over Herbers' implications, a fuss which left most observers yawning inelegantly.

WHAT ABOUT THE MONEY OTHER NATIONS OWE US?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House has just voted for an increase in the national debt. It has also approved an expenditure limitation. In other words, the Federal Government is scraping the bottom of the fiscal barrel. Our national debt has soared out of sight. The President is prepared to curtail badly needed programs because of lack of funds.

It is appalling, in view of this situation, to note that the United States is owed $46 billion by other nations of the world. Of this amount $18 million has been owed to us since World War I. Little, if anything, is being done toward a realistic effort to collect. In fact we are continuing to pay out additional funds to many of these nations.

Something must be done to immediately take steps to clear up these debts. I have no doubt some governments in debt to us now have ceased to exist or are captive nations of the Communist Bloc. Yet, these debts remain on our books despite the fact that some of the money will never be paid.

The arrangements by which these debts were incurred were solemn obligations. Our Government, over the years, has lent a helping hand to just about any government coming to us for help. But these debts cannot be allowed to go on and on without stronger efforts being made to collect. It is just plain bad business to lend money and then not seek and receive repayment. No commercial enterprise in the world could expect to survive such practices, and the U.S. taxpayers have as much right to demand that our Government find ways to induce foreign governments to pay up.

I cannot help but wonder if the Treasury Department really knows how much is owed to us, how much we can expect to collect, and how much Treasury would recommend we write off as uncollectable.

Recently I became a cosponsor of a resolution calling upon the Treasury Department to provide Congress with an exact accounting of all moneys owed to us by foreign governments. It will be most interesting to see which nations of the world still have their hands in our national pockets. Some of them now are siding with our enemies. Some seem to enjoy stabbing us in the back at every opportunity. No doubt many of these nations also are defaulting in their payments to the United Nations while the U.S. continues to bear a disproportionate burden of that organization's expenses.

Let us hope this question of debts owed the United States soon will be clarified by the Treasury Department and that our government will begin to take realistic and effective steps to overcome this kind of absurdity.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I regret that I was necessarily absent Tuesday when the House considered H.R. 16810, increasing the public debt limit and imposing a ceiling on Federal spending by giving the President unrestrained power to cut programs as he sees fit.

Had I been present I would have voted as follows:

"No" on roll 418, adoption of the rule for consideration of H.R. 16810;

"Yes" on roll 420, adoption of the Mahon substitute requiring the President to submit a list of proposed spending cuts for consideration by Congress.

Had the Mahon substitute carried, I would have supported the bill on final passage. But without that change, the bill constitutes the most egregious power grab by the executive branch in the history of our Government. It is a radical proposal which would convert our present tripartite system of government—with powers shared by the executive, the judiciary, and the legislature—into a virtual constitutional monarchy. Perhaps most incredible of all, Congress is being asked to wrap its constitutional powers in gift paper and deliver them to the White House personally.

It is the responsibility of Congress—not the executive branch — to set the spending priorities of this Nation. It was not by chance that the Constitution required that revenue measures originate in the House. The Founding Fathers were determined that power reside in the electorate, and not be centralized in the executive branch. They had tasted monarchy and wanted no part of it. As the larger House of Congress, the House of Representatives was expected to more closely reflect the needs and desires of the people than the Senate or the President.

The House ought not abdicate its constitutional responsibility to make the hard choices involved in deciding which programs will receive how much of the taxpayers' money. We are elected by the people to represent their views on the proper priorities of the Federal Government. Nowhere is that duty more directly expressed than in decisions on Federal spending. We ought not shirk that duty.

I have voted for less Federal expenditures, over all, than any other Member of my State's delegation. This includes votes against obsolete and inefficient weapons systems, against continued funding of the war in Southeast Asia, against expanded funding of the manned space program, against Federal subsidization of the SST, against excessive farm subsidies, against continued funding of the obsolete Subversive Activities Control Board, against loans of taxpayers' money to Lockheed, and so on. It is through the exercise of fiscal responsibility that Congress ought to hold down Federal spending—not by a wholesale abdication of legislative power to the President.

The bill which passed yesterday is the fiscal equivalent of the Gulf of Tonkin resolution. It is not hard to predict that we will look back and wonder what possessed us to do domestically what was done in foreign affairs with such tragic results.

SONS' AND DAUGHTERS' DAY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am introducing today a joint resolution designating the last Sunday in January of each year as "Sons' and Daughters' Day" to honor, among other things, the significant contributions to the well-being and livelihood that our sons and daughters have made to our Nation.

I am grateful to Mrs. Georgia Paul, of Del Rio, Tex., a close friend of mine and Mrs. Pepper's, who has promulgated the idea of this holiday and whose love for her late son, George Paul, has inspired her to suggest a way to honor all of our sons and daughters. Mrs. Paul's son, George, at age 21, became the youngest cowboy to win the coveted World Champion Bull Riding Title in 1968. The dream began when George was a young boy and started riding calves at El Rancho San Miguel, his grandfather, George Meyer's, ranch in Old Mexico. As George grew, so did his animals—from calves to steers and finally bulls. George competed in youth rodeos winning the American Junior Rodeo Association All-Around, Bareback, Bull Riding Championship Title in 1966.

The realization of the effect of life at El Rancho San Miguel on George's boyhood and the values it gave him in early manhood urged George to want to share these experiences and the stimulation of the ranch atmosphere with other boys and young men. To accomplish this, plans for a summer trek were being formulated at the time of George's death in the crash of his twin engine airplane near Kemmerer, Wyo., in July of 1970.

In Mrs. Paul's letter suggesting this bill, she provides the raison d'etre for the proclamation of a "Sons and Daughters Day." She says:

> The honor would act as a monument to all youngsters that tried to contribute to the good in the world and as an incentive to those that are not sure which way to go. . . . It would show that the world is interested in the young . . . and it would give a significance to the recognition of our acknowledgment that youth is important.

It is appropriate for us to set aside a special day to honor our sons and daughters and to remind ourselves of our responsibility to provide for their education, their health, and their well-being. The proclamation of a "Sons and Daughters Day" will strengthen our love and our responsibility for our sons and daughters and will help to inspire each of them to live his life and, as George Paul did, to do his best and to do his share for his family and his country.

CONFERENCE REPORT: H.R. 16654

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973, and for other purposes:

Conference Report

(H. Rept. No. 92–1591)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16654) "making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973, and for other purposes," having met, after full and free conference, have been unable to agree.

Daniel J. Flood,
William H. Natcher,
W. R. Hull, Jr.,
Bob Casey,
Edward J. Patten,
George H. Mahon,
Robert H. Michel,
Garner E. Shriver,
Silvio O. Conte,
Managers on the Part of the House.

John L. McClellan,
Warren G. Magnuson,
John C. Stennis,
Alan Bible,
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings
(except category C impacted aid),
Norris Cotton,
Clifford P. Case
(except category C impacted aid),
Hiram L. Fong,
J. Caleb Boggs,
Edward W. Brooke,
Ted Stevens,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16654) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes, report that the conferees have been unable to agree.

Disagreement to the amendment of the Senate is a technical matter. The rules of the House prohibit the managers on the part of the House from agreeing to an amendment of the Senate that would have been subject to a point of order if it had originated in the House. The amendment of the Senate clearly would have been subject to a point of order. The amendment struck out all of the text of the House bill and substituted therefore the exact text of H.R. 15417, the vetoed Labor-HEW appropriation bill for fiscal year 1973, with one additional section which reads as follows:

"Section 409. Notwithstanding any other provision of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,603,448,500 in the aggregate for the appropriations made herein: Provided, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 10 per centum: Provided further, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds".

The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will have the effect of (1) changing the sum of $29,603,448,500 to 29,300,000,000, (2) changing the percentage figure from 10 to 13, and (3) limiting the use of funds contained in the bill for operation and maintenance of schools in Federally impacted areas to the entitlements based on the number of so-called "A" and "B" children. The funds were so limited in the House bill. The managers on the part of the Senate will move to agree to the amendment of the House to the amendment of the Senate.

The managers on the part of both the House and the Senate agree with the statement in the report of the Senate Committee on Appropriations and the Joint Explanatory Statement of the Committee of Conference on the vetoed bill, H.R. 15417, that it will be expected that such funds as are necessary, from the funds included in the bill for school construction under P.L. 815, will be used for urgently needed facilities at Holloman Air Force Base, New Mexico.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1973 recommended by the Committee of Conference, with comparisons to the fiscal year 1972 amount, the 1973 budget estimate, and the House and Senate bills follows:

New budget (obligational) authority, fiscal year 1972	$27,396,058,000
Budget estimates of new (obligational) authority, fiscal year 1973	28,767,633,500
House bill, fiscal year 1973	29,603,448,500
Senate bill, fiscal year 1973	[1] 30,538,919,500
Conference agreement	[2] 30,538,919,500

[1] Section 409 of the Senate bill authorizes the President to reduce the total amount of the bill to $29,603,448,500.

[2] Section 409 of the bill will authorize the President to reduce the total amount of the bill to $29,300,000,000.

Conference agreement compared with:

New budget (obligational) authority, fiscal year 1972	+3,142,861,500
Budget estimates of new (obligational) authority (as amended) fiscal year 1973	+1,771,286,000
House bill, fiscal year 1973	+935,471,000
Senate bill, fiscal year 1973	------------

Daniel J. Flood,
William H. Natcher,
W. R. Hull, Jr.,
Bob Casey,
Edward J. Patten,
George H. Mahon,
Robert H. Michel,
Garner E. Shriver,
Silvio O. Conte,
Managers on the Part of the House.

John L. McClellan,
Warren G. Magnuson,
John C. Stennis,
Alan Bible,
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings
(except category C impacted aid),
Norris Cotton,
Clifford P. Case
(except category C impacted aid),
Hiram L. Fong,
J. Caleb Boggs,
Edward W. Brooke,
Ted Stevens,
Milton R. Young,
Managers on the Part of the Senate.

CONFERENCE REPORT: S. 3419

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes:

Conference Report (H. Rept. No. 92–1593)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Consumer Product Safety Commission.
Sec. 5. Product safety information and research.
Sec. 6. Public disclosure of information.
Sec. 7. Consumer product safety standards.
Sec. 8. Banned hazardous products.
Sec. 9. Administrative procedure applicable to promulgation of consumer product safety rules.
Sec. 10. Commission responsibility—petition for consumer product safety rule.
Sec. 11. Judicial review of consumer product safety rules.
Sec. 12. Imminent hazards.
Sec. 13. New products.
Sec. 14. Product certification and labeling.
Sec. 15. Notification and repair, replacement, or refund.
Sec. 16. Inspection and recordkeeping.
Sec. 17. Imported products.
Sec. 18. Exports.
Sec. 19. Prohibited acts.
Sec. 20. Civil penalties.
Sec. 21. Criminal penalties.
Sec. 22. Injunctive enforcement and seizure.
Sec. 23. Suits for damages by persons injured.
Sec. 24. Private enforcement of product safety rules and of section 15 orders.
Sec. 25. Effect on private remedies.
Sec. 26. Effect on State standards.
Sec. 27. Additional functions of Commission.
Sec. 28. Product Safety Advisory Council.
Sec. 29. Cooperation with States and with other Federal agencies.
Sec. 30. Transfers of functions.
Sec. 31. Limitation on jurisdiction.
Sec. 32. Authorization of appropriations.
Sec. 33. Separability.
Sec. 34. Effective date.

FINDINGS AND PURPOSES

SEC. 2. (a.) The Congress finds that—

(1) an unacceptable number of consumer products which present unreasonabls risks of injury are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate risks and to safeguard themselves adequately;

(3) the public should be protected against unreasonable risks of injury associated with consumer products;

(4) control by State and local governments of unreasonable risks of injury associated with consumer products is inadequate and may be burdensome to manufacturers;

(5) existing Federal authority to protect consumers from exposure to consumer products presenting unreasonable risks of injury is inadequate; and

(6) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable risks of injury associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act:

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include—

(A) any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer,

(B) tobacco and tobacco products,

(C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966),

(D) economic poisons (as defined by the Federal Insecticide. Fungicide, and Rodenticide Act),

(E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article,

(F) aircraft, aircraft engines, propellers, or appliances (as defined in section 101 of the Federal Aviation Act of 1958),

(G) boats which could be subjected to safety regulation under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.); vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and equipment (including associated equipment, as defined in section 3(8) of the Federal Boat Safety Act of 1971) to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any statute referred to in this subparagraph,

(H) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or

(I) food. The term "food", as used in this subparagraph means all "food", as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4 (e) and (f) of the Poultry Products Inspection Act), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

See sections 30(d) and 31 of this Act, for limitations on Commission's authority to regulate certain consumer products.

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "risk of injury" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufacture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) (1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may

continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be affiliated with the same political party. No individual (1) in the employ of, or holding any official relation to, any person engaged in selling or manufacturing consumer products, or (2) owning stock or bonds of substantial value in a person so engaged, or (3) who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f) (1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g) (1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(2) The Chairman, subject to subsection (f) (2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS–14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(97) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate injury data, and information, relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a) (1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b) (1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds out that the public health and safety requires a lesser period of notice), the Commission shall, to the extent practicable, notify, and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant risk of injury associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instructions) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the risk of injury associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to eliminate or reduce the risk of injury;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4)(B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would eliminate or reduce the unreasonable risk of injury associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3) of this subsection. The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards), and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) of this section and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same risk of injury associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

In any case in which the sole offeror whose offer is accepted under subsection (d)(1) of this section is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard, the Commission may independently proceed to develop proposals for such standard during the development period.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commission first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable risk of injury; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable risk of injury associated with such product.

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within 60 days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a risk of injury associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the risk of injury associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product, or (ii) in the public interest;

except that the Commission may extend such 60-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the risk of injury which the standard is designed to eliminate or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the risk of injury the rule is designed to eliminate or reduce;

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule;

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, costs, or availability of such products to meet such need; and

(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and) includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable risk of injury associated with such product.

(d)(1) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

(2) The Commission may by rule prohibit a manufacturer of a consumer product from stockpiling any product to which a consumer product safety rule applies, so as to prevent such manufacturer from circumventing the purpose of such consumer product safety rule. For purposes of this paragraph, the term "stockpiling" means manufacturing or importing a product between the date of promulgation of such consumer product safety rule and its effective date at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was produced or imported during a base period (published in the rule under this paragraph) ending before the date of promulgation of the consumer product safety rule.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

COMMISSION RESPONSIBILITY—PETITION FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth (1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary, and (2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) Within 120 days after filing of a petition described in subsection (b), the Commission shall either grant or deny the petition. If the Commission grants such petition, it shall promptly commence an appropriate proceeding under section 7 or 8. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial.

(e) (1) If the Commission denies a petition made under this section (or if it fails to grant or deny such petition within the 120-day period) the petitioner may commence a civil action in a United States district court to compel the Commission to initiate a proceeding to take the action requested. Any such action shall be filed within 60 days after the Commission's denial of the petition, or (if the Commission fails to grant or deny the petition within 120 days after filing the petition) within 60 days after the expiration of the 120-day period.

(2) If the petitioner can demonstrate to the satisfaction of the court, by a preponderance of evidence in a de novo proceeding before such court, that the consumer product presents an unreasonable risk of injury, and that the failure of the Commission to initiate a rule-making proceeding under section 7 or 8 unreasonably exposes the petitioner or other consumers to a risk of injury presented by the consumer product, the court shall order the Commission to initiate the action requested by the petitioner.

(3) In any action under this subsection, the district court shall have no authority to compel the Commission to take any action other than the initiation of a rule-making proceeding in accordance with section 7 or 8.

(f) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.

(g) Subsection (e) of this section shall apply only with respect to petitions filed more than 3 years after the date of enactment of this Act.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a)(2) of any oral presentation; any written submission of interested parties; and any other information which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supportd by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12. (a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b) (1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d) (1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necessary or appropriate.

(e) (1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving substantially similar consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a) (1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which will permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product. The commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial risk of injury to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Every manufacturer of a consumer product distributed in commerce. and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a) (2),

shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect, or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) To give public notice of the defect or failure to comply.

(2) To mail notice to each person who is a manufacturer, distributor, or retailer of such product.

(3) To mail notice to every person to whom the person required to give notice knows about was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects:

(1) To bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product.

(2) To replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect.

(3) To refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the proceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e) (1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product, it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder;

(4) fail to furnish information required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling); or

(7) fail to comply with any rule under section 9(d)(2) (relating to stock piling).

(b) Paragraphs (1) and (2) of subsection (a) of this section shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a) (1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a) (1), (2), (4), (5), (6), or (7) shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the products involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(b) Any civil penalty under his section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of section 19, and who has knowledge of notice of noncompliance received by the corporation from the Commission, shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a).

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Commission (with the concurrence of the Attorney General) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving substantially similar consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a) Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety rule, or any other rule or order issued by the Commission may sue any person who knowingly (including willfully) violated any such rule or order in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court.

(b) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fee, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (1) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (2) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT ON STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b));

(7) to initiate, prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the laws subject to its jurisdiction, through its own legal representative with the concurrence of the Attorney General or through the Attorney General; and

(8) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission with the concurrence of the Attorney General or by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of this Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(i)(1) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Commission by rule shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project undertaken in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Commission and the Comptroller General of the United States, or their duly authorized repersentatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under this Act under other than competitive bidding procedures.

(j) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

(k) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act, the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to risks of injury associated with consumer products (including fire and flammability risks), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) The functions of the Secretary of Commerce and the Federal Trade Commission under the Act of August 2, 1956 (15 U.S.C. 1211) are transferred to the Commission.

(d) A risk of injury which is associated with consumer products and which could be eliminated or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(e) (1) (A) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsections (a), (b) and (c) of this section shall be transferred to the Commission, except those associated with fire and flammability research in the National Bureau of Standards. The transfer of personnel pursuant to this paragraph shall by without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section

(B) Any commissioned officer of the Public Health Service who upon the day before the effective date of this section, is serving as such officer primarily in the performance of functions transferred by this Act to the Commission, may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Commission subject to subparagraph (A) of this paragraph, under the terms prescribed in paragraphs (3) through (8) (A) of section 15(b) of the Clean Air Amendments of 1970 (84 Stat. 1676; 42 U.S.C. 215 nt).

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by

reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(f) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate any risk of injury associated with a consumer product if such risk could be eliminated or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any risk of injury associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) if such risk of injury may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities), and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, *not to exceed*—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b) (1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(h); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposal facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

SEPARABILITY

SEC. 33. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 33. If any provision of this Act, or the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

And the House agree to the same.

HARLEY O. STAGGERS,
JOHN E. MOSS,
W. S. (BILL) STUCKEY,
BOB ECKHARDT,
WILLIAM L. SPRINGER,
JAMES T. BROYHILL,
JOHN WARE,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
FRANK E. MOSS,
ABRAHAM RIBICOFF,
EDWARD M. KENNEDY,
NORRIS COTTON,
MARLOW W. COOK,
CHARLES H. PERCY,
JACOB K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

ESTABLISHMENT OF FEDERAL AGENCY TO REGULATE CONSUMER PRODUCT SAFETY

Structure of Agency

Both the Senate bill and the House amendment established a new Federal agency to carry out the product safety functions dealt with in the legislation.

Senate.—The Senate bill provided for the establishment of an independent Food, Drug, and Consumer Product Agency. The Agency was to be headed by an Administrator, appointed by the President (with Senate confirmation) for a 5-year term. He could be reappointed as Administrator only once in succession. Within the Agency there would be established a Commission of Food and Nutrition, a Commission of Drugs, a Commission of Veterinary Medicine, and a Commission of Consumer Products, each to be headed by a Commissioner, appointed by the Administrator. In addition, the Senate bill directed the Administrator to appoint a Director of the Office of Consumer Information, to establish a Consumer Information Center and a Public Information Room, and to set up a National Injury Information Clearing House. The Administrator would be compensated at level III of the Executive Schedule, and the Directors and General Counsel would be compensated at level IV. The Senate bill authorized the Administrator to place twenty-five "supergrade" positions (grades GS 16–18).

House.—The House amendment provided for the establishment of an independent regulatory commission—the Consumer Product Safety Commission—consisting of five Commissioners appointed by the President (with Senate confirmation), one of whom would be designated by the President as Chairman (and when so designated would act as Chairman until the expiration of his term of office as Commissioner). A member of the Commission could be removed by the President only for neglect of duty or malfeasance in office. Commissioners would be appointed for staggered seven-year terms. Not more than three Commissioners could be appointed from the same political party. Commissioners were prohibited from having certain specified financial interests in the manufacturers or sellers of consumer products, or their suppliers.

The Chairman would be the principal executive officer of the Commission, and would exercise all of the executive and administrative functions of the Commission, subject to general policies of the Commission and its regulatory decisions, findings, and determinations. The Chairman would be authorized, subject to the approval of the Commission, to appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information.

The House amendment prohibited any full-time officer or employee of the Commission who was at any time during 12 months preceding termination of employment with the Commission paid at a rate in excess of that for grade GS–14 or above from accepting employment or compensation from any manufacturer subject to the bill for a period of 12 months after terminating employment with the Commission.

Under the House amendment the Chairman of the Commission is compensated at level III of the Executive Schedule, and the other Commissioners are compensated at level IV.

Conference substitute (§ *4*).—The Senate recedes.

General Powers and Duties of New Federal Agency

In addition to functions specifically relating to safety regulation of consumer products and functions transferred from other agencies, both the Senate and House versions confer certain general powers and duties on the new agency.

Senate.—Under the Senate bill, the Administrator of the new Agency is authorized to employ experts and consultants, appoint advisory committees and a Joint Scientific Advisory Committee, prescribe regulations to carry out his functions, issue subpenas and order persons to respond to written questions, utilize other public and private agencies, enter into contracts and other arrangements with other public agencies or with any person, accept gifts, maintain liaison with public agencies and independent standard-setting bodies carrying out consumer safety activities, construct research and testing facilities (if subsequently authorized by Congress), conduct public hearings after publishing public notice thereof, submit budget estimates directly to the President for review and transmittal to the Congress and receive appropriations directly from the President and the Office of Management and Budget, submit legislative recommendations, etc., without prior clearance, initiate and direct all litigation of the agency, and delegate within the agency any of his functions (other than issuance of subpenas). The Agency was directed to submit an annual report, which would include, among other matters, the Administrator's budget requests, and the budget recommendations of the Commissioners.

The Senate bill directed each of the Commissioners of the Agency to attempt to eliminate products presenting unreasonable risk of injury; and to establish certain analytic and investigatory capabilities, including a capability to engage in risk-based analysis.

House.—The House amendment authorized the Commission to conduct hearings (after publishing public notice thereof) and to conduct other inquiries, to issue subpenas and to order persons to respond to written questions, to take depositions, to enter into contracts with public agencies or any person, to construct a research and test facility (if the prospectus therefor is approved by the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee), to require manufacturers of consumer products to provide performance and technical data to the Commission and to retail purchasers. The Commission is directed to submit an annual report, which would include, among other matters, a log or summary of meetings held between Commission officials and representatives of industry and other interested parties.

Conference substitute (§ 27).—The conference substitute follows the provisions of the House amendment with the following additions:

(1) The Commission is authorized to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b)).

(2) The Commission is authorized to initiate, prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the laws subject to its jurisdiction, through its own legal representative with the concurrence of the Attorney General or through the Attorney General.

(3) Section 27(k) of the conference substitute provides that, whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress; and that no Federal officer or agency may require the Commission to submit its legislative recommendations, etc., to any such officer or agency for approval, comment, or review prior to the submission of such recommendations, etc., to the Congress. A copy of such recommendations would have to be concurrently transmitted to the President.

(4) The Commission may delegate any of its functions (other than the function of issuing subpenas) to any of its officers or employees.

The committee of conference decided not to include the detailed provisions of the Senate bill regarding risk-based analysis and decided instead to rely on the provisions of the House amendment relating to the Commission's research and test capabilities [section 5(b)(2)].

Cooperation With State and Federal Agencies

Senate.—The Senate bill authorized each Federal agency, on request of the Administrator, to make its services, etc., available with or without reimbursement to the greatest practicable extent to the new Agency to furnish information, and to allow the new Agency access to information; directed the Agency, to the maximum practical extent, to utilize the personnel, facilities, and other technical support available in other Federal agencies; and authorized the Agency to utilize the National Bureau of Standards, with or without reimbursement, for purposes related to carrying out the responsibilities of the Agency under the bill. Technical research support for fire safety projects undertaken by the new Agency was required to be provided by the National Bureau of Standards on a reimbursable basis.

In addition, the Agency was generally authorized to use the services and facilities of, and enter into contracts and maintain liaison with, State agencies.

House.—The House amendment required the Commission, to the maximum extent practicable, to utilize the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards, to develop test methods, to conduct studies and investigations, and to provide technical assistance relating to the Commission's functions. In addition, the Commission was authorized to obtain information and other materials from any Federal agency. Such agencies were authorized to cooperate with the Commission and, to the extent permitted by law, furnish such materials to it.

The House amendment also authorized the Commission to establish a program to promote Federal-State cooperation for the purposes of carrying out the bill, in which it could accept assistance from any State or local authorities in the administration and enforcement of the bill, to pay for the reasonable cost of such assistance, and to use State or local officials to conduct examinations, investigations, and inspections for the Commission.

Conference substitute (§ 29).—The Senate recedes.

Obligations of Agency Contractors

Senate.—The Senate bill required certain recipients of financial assistance under the bill to keep specified records and to allow the Administrator and the Comptroller General access to those records.

House.—No comparable provision.

Conference substitute (§ 27(*i*)).—The House recedes.

SCOPE OF REGULATORY AUTHORITY

Both the Senate bill and House amendment transferred certain existing Federal agency functions relating to product safety regulation to the new agency, and also provided the agency with new legal authority which, in general, was designed to permit it to regulate consumer products which are not subject to adequate Federal safety regulation under existing law.

Transfers of Functions

Senate.—The Senate bill transferred to the Administrator of the new Agency all functions of—

(1) the Secretary of Health, Education, and Welfare administered through the Food and Drug Administration;

(2) the Secretary of Health, Education, and Welfare relating to licensing of clinical laboratories and to regulation of biological products; and

(3) the Secretary of Commerce and the Federal Trade Commission under the Flammable Fabrics Act and under the Act of August 2, 1956 (refrigerator safety).

The Senate bill also made provision for delegation by the Administrator of these transferred functions to appropriate Commissioners within the new Agency, and permitted certain Public Health Service officers to acquire competitive service status in the new Agency.

House.—The House amendment transferred to the Commission all functions of—

(1) the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act, and the Poison Prevention Packaging Act of 1970, and of the Administrator of the Environmental Protection Agency and the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of such Act, and

(2) the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act, and of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relates to the administration and enforcement of the Flammable Fabrics Act.

The House amendment also provided that a product hazard which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, or the Flammable Fabrics Act could be regulated by the Commission only in accordance with the provisions of those Acts.

Conference substitute (§ 30).—The conferees adopted the provisions of the House amendment with the following changes:

(1) The functions of the Secretary of Commerce and the Federal Trade Commission under the Act of August 2, 1956 (15 U.S.C. 1211), are transferred to the Commission.

(2) Personnel, property, obligations, etc., associated with fire and flammability research in the National Bureau of Standards are not transferred to the Commission.

(3) The Senate provision permitting Public Health Service officers to acquire competitive service status was included.

In determining whether a risk of injury can be reduced to a sufficient extent under one of the Acts referred to in this section, it is anticipated that the Commission will consider all aspects of the risk, together with the remedial powers available to it under both the bill and the other Acts.

Definition of Consumer Product

Senate.—The Senate bill authorized safety regulation by the new Agency of any "consumer product". Consumer product was defined as a product, or a component thereof, produced for or distributed to an individual for his personal use, consumption, or enjoyment in or around a household or residence, a school, in recreation, or otherwise. Specifically excluded from the definition were:

(1) Tobacco and tobacco products.

(2) Products subject to safety regulation under the National Traffic and Motor Vehicle Safety Act of 1966.

(3) Aircraft or other aeronautical products subject to safety regulation by the Federal Aviation Administration.

(4) Food or drugs as defined in the Federal Food, Drug, and Cosmetic Act.

(5) Products subject to safety regulation under the Federal Insecticide, Fungicide, and Rodenticide Act.

(6) Products subject to safety regulation under the Occupational Safety and Health Act of 1970, insofar as such products are regulated for use in employment.

(7) Products subject to safety regulation under the Gas Pipeline Safety Act.

(8) Products subject to safety regulation under authority of the Atomic Energy Act of 1954.

(9) Vessels, appurtenances, and equipment subject to safety regulation under title 52 of the Revised Statutes, the Federal Boat Safety Act of 1971, or other marine safety statutes administered by the Coast Guard. The Senate bill treated firearms as consumer products, but prohibited the new agency from administratively banning them.

House.—The House amendment defined "consumer product" as any article, or component part thereof, produced or distributed for sale to, (or for the personal use, consumption, or enjoyment of) a consumer in or around a household or residence, a school, in recreation, or otherwise; unless the article is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer. The exclusions from the House's definition were the same as those from the Senate's with the following exceptions:

(1) The House did not exempt aircraft or vessels (including boats), nor did it specifically exempt products subject to regulation under the Gas Pipeline Safety Act.

(2) The House added exemptions for firearms and ammunition, medical devices, and cosmetics. It also provided (under section 31) a qualified exemption for product hazards which could be prevented or reduced to a sufficient extent under the Clean Air Act, the Act of August 2, 1956, and for product hazards which could be regulated under the electronic product radiation provisions of the Public Health Service Act.

Conference substitute (*§ 3(1), 31*).—The conference substitute follows the House amendment but adds exemptions for aircraft and vessels including boats. The latter exemption is for boats which could be subjected to safety regulation under the Federal Boat Safety Act of 1971, vessels, and certain appurtenances thereto which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and certain boat and vessel equipment to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any of the above statutes. It is not intended by this provision to in any way detract from the authority of the Coast Guard with respect to seaworthiness or operational capabilities concerning vessels, boats, or marine equipment.

Treatment of Certain Products Regulated Under Other Laws

Senate.—All products excluded from the definition of "consumer product" (other than tobacco, foods, and drugs) were excluded only to the extent that they were subject to safety regulation under specified Federal laws. ("Subject to safety regulation" was defined as authorized to be regulated for the purpose of eliminating any unreasonable risk of injury or death, as determined by the Administrator through consultation with appropriate Federal officials.) However with respect to any of the specifically exempted products, the new Agency was authorized to petition any Federal agency which had jurisdiction over the products to establish and enforce appropriate safety regulations for the product; to participate in the establishment of such regulations; and upon request of such agency, to establish and enforce such regulations in accordance with the Consumer Safety Agency's authority under the bill. Upon such request, the product would no longer be excluded from the definition of "consumer product".

House.—The House (under section 31 of the bill) provided for an exemption from the Commission's authority for product hazards which could be "prevented or reduced to a sufficient extent" under the Occupational Safety and Health Act, the Act of August 2, 1956, the Atomic Energy Act, and the Clean Air Act. An exemption was also provided for electronic product radiation hazards which could be subjected to regulation under the electronic product radiation provisions of the Public Health Service Act. (See explanation of *transfers of functions* for similar House provisions applicable to product hazards which can be regulated under the Flammable Fabrics Act, the Federal Hazardous Substances Act, and the Poison Prevention Packaging Act.)

Conference substitute (*§ 31*).—The conference substitute incorporates the provisions of the House bill with an amendment which deletes the reference to the Refrigerator Safety Act (the Act of August 2, 1956) which is transferred to the Commission. In determining whether a risk of injury can be reduced to a sufficient extent under one of the Acts referred to in this section, it is anticipated that the Commission will consider all aspects of the risk, together with the remedial powers available to it under both the bill and the remedial powers under the other law available to the agency administering the law.

CONSUMER PRODUCT SAFETY INFORMATION AND RESEARCH; DISCLOSURE OF INFORMATION

Senate.—Under the Senate bill, the Office of Consumer Information, the National Injury Information Clearinghouse, and the Commissioner of Product Safety all were to participate in gathering and making available to the public information concerning consumer product safety.

(*1*) *Office of Consumer Information*

The Office of Consumer Information had the basic responsibility of informing the public concerning consumer product hazards. The Office was to make available to the public through its Consumer Information Center, subject to the limitations on the disclosure of information contained in the bill, information concerning consumer product safety hazards, copies of any communications, documents, reports, or other information received or sent by the Administrator or any Commissioner, and communications received by the Agency from any person outside the Agency concerning any matter under consideration by the Agency in a rulemaking or adjudicatory proceeding.

The Consumer Information Center was to respond to written inquiries from consumers and to conduct consumer education programs designed to inform the public about specific consumer product safety hazards.

The Director of the Office was to establish a Consumer Information Library and a Public Information Room in which the public would have access to Agency information and to a copying machine.

(*2*) *National Injury Information Clearinghouse*

The National Injury Information Clearinghouse would carry out a program under which a system of nationwide reporting centers would monitor injuries associated with foods, drugs, and consumer products. The system would identify causes of injury from such products, investigate the manner in which the injury occurred, and ascertain the severity of the injury. In carrying out his functions, the Director of the Clearinghouse would obtain injury data from both governmental and private sources and require persons engaged in the manufacture, distribution, or sale of foods, drugs, or consumer products (and their insurors) to provide information to him concerning injuries from such products which have come to their attention.

(*3*) *Commissioner of Product Safety*

The Commissioner of Product Safety was to collect, evaluate, and disseminate information on the types, frequency, severity, and causes of injury associated with the use of consumer products and on means to test, measure, or evaluate the risks of such injury. The Commissioner was authorized to undertake studies and research and otherwise to collect data to provide a basis for establishing consumer product safety standards in reducing the risk of injury; to form special study teams to gather information concerning injuries from consumer products; to provide assistance to persons and agencies engaged in research designed to minimize consumer product injury risks or designed to develop means of testing, measuring, and evaluating such risks; to secure information on consumer product injury risks from other government agencies and from private sources; to publish or otherwise make available information concerning consumer product injury risks (including recommendations for reducing such risks and for testing products for such risks); and to obtain products for research and testing and dispose of such products.

The Commissioner was authorized to obtain information relating to consumer product injuries by subpena from any person. Information disclosed by the Commissioner was subject to the limitations on public disclosure of information. The Commissioner was directed to inform any manufacturer of any unreasonable or significant risk to health or safety determined to be associated with any product of that manufacturer. The Commissioner was authorized to make recommendations to building, electrical, or other similar household environment code-making authorities with respect to any matter subject to such code which he determines to present an unreasonable risk of personal injury or death, without regard to whether that matter is a consumer product.

(*4*) *Limitations on Disclosure of Information*

Information related to trade secrets or other confidential business information described in section 1905, title 18, United States Code, could not be released to the public unless it related to a consumer product in such a way as to indicate the presence of an unreasonable risk of injury or death or unless its release was necessary to protect the health and safety of the public. Before any such information could be made public, the manufacturer of the product to which the information related was entitled to notice and an opportunity to comment in writing, or in a closed session, on the information unless it was determined that the delay inherent in this procedure would be detrimental to the public health and safety. Such information could be disclosed to other Federal agencies for official use upon request, to appropriate Congressional committees, in any judicial proceeding under court order, or in any proceeding under the bill.

Information was not required to be publicly disclosed if it is information described in section 552(b), title 5, United States Code (relating to information protected from public access under the Freedom of Information Act), or which is otherwise protected by law from disclosure to the public.

No information could be made public which identified any individual injured by a consumer product or any person treating him for his injury without the express written consent of the individual or person involved.

House.—The House amendment provided for an Injury Information Clearing House which was charged with the duties of collecting, investigating, analyzing, and disseminating information related to the causes and prevention of illness, injury, or death associated with consumer products and with the duty of conducting such studies and investigations of deaths, injuries, diseases, the impairment of health, and economic loss resulting from accidents involving consumer products as it deemed necessary.

(*1*) *Limitations on Disclosure of Information*

Information obtained by the Commission which contained or related to a trade secret or other matter referred to in section 1905, title 18, United States Code, could not be publicly disclosed. Such information could be disclosed to agency officers or employees carrying out the provisions of the House amendment or, when relevant, in any proceeding under the provisions of the House amendment. Not less than 30 days before the public disclosure of information obtained under the provisions of the House amendment (or sooner if necessary to protect the public health and safety), the Commission was to the extent practicable to give notice and a summary of the information to each manufacturer or private labeler of any consumer product to which that information related, if the information to be disclosed would permit the public to identify that manufacturer or distributor, and to permit the manufacturer or distributor to submit comments to the Commission on that information.

The Commission was directed to take steps to assure that publicly disclosed information from which specific manufacturers or distributors could be identified was accurate and that the disclosure was fair in the circumstances and reasonably related to carrying out its duties. No information would be required to be publicly disclosed if it is information described in section 552(b), title 5, United States Code (relating to information which is entitled to be protected from public access under the Freedom of Information Act), or which is otherwise protected by law from disclosure to the public.

The limitations on the disclosure of information did not apply to imminently hazardous consumer products against which the Commission had instituted a seizure action or to products which failed to conform with applicable product safety standards or which were banned hazardous consumer products, or to information in the course of, or concerning any, administrative or judicial proceeding under the provisions of the bill.

The Commission was to publish a retraction of any inaccurate or misleading information disclosed to the public.

(2) *Product Safety Research*

The Commission was authorized to conduct research studies and investigations concerning the safety of consumer products and means of improving the safety of such products, to test consumer products and develop product safety testing methods and devices, and to offer product safety investigation and testing training and otherwise assist public and private organizations in the development of safety standards and testing methods. The Commission could make grants or enter into contracts with any person, including a government agency, to carry out such functions. Whenever a person, other than the Commission, carried out any information, research, or development activity under contract with the Commission or with the aid of a grant from the Commission, provision was to be made for the availability to the public, without charge, on a nonexclusive basis, of the rights to information, uses, processes, patents and other developments resulting from that activity.

Conference substitute (§ 5, 6).—The conference substitute incorporates the House provisions respecting consumer product information and research, and disclosure of information.

SAFETY REGULATION OF CONSUMER PRODUCTS

Definitions

Both bills contained definitions applicable to the entire bill. The principal definitions in the bills are described below with the exception of the definitions of "consumer product" and "subject to safety regulation" (discussed under *scope of regulatory authority*) and "risk based analysis" (mentioned under *general powers and duties of agency*).

Senate.—The Senate bill included the following definitions:

(1) "Consumer product safety standard" was defined as a minimum standard promulgated under the bill which prevents such product from presenting an unreasonable risk of injury or death

(2) "Injury" was defined as harm (including adverse reactions and illness) produced by biologic, chemical, thermal, mechanical, electrical, radiological, or other natural or manmade agents.

(3) "State" was defined as a State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Trust Territory of the Pacific Islands, or the Canal Zone.

(4) "Unreasonable risk of injury presented by a consumer product" was defined as that degree of risk which the Commissioner determines is incompatible with the public health and safety because the degree of anticipated injury or the frequency of such injury, or both, is unwarranted because the degree of anticipated injury or the frequency of such injury either (A) can be reduced without affecting the performance or availability of the consumer product or (B) cannot be reduced without affecting the performance or availability of the consumer product but the effect on such performance or availability is justified when measured against the degree of anticipated injury or the frequency of such injury.

(5) "Use" meant (A) exposure to, and (B) normal use or reasonably foreseeable misuse.

(6) "Commerce" was defined to include commerce within a State.

House.—The House amendment definitions of "State" and "commerce" were comparable to the Senate's definitions, except that the House did not treat certain possessions of the United States as States. The House did not require consumer product safety standards to be "minimum" standards, and did not define "unreasonable risk of injury presented by a consumer product" or "use". The House defined the term "hazard" (which is used comparably to "injury" in the Senate bill) as a risk of death, personal injury, or serious or frequent illness.

The House amendment contained the following definitions not present in the Senate bill:

(1) "Manufacturer" was any person who manufactures or imports a consumer product.

(2) "Distributor" meant a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that the term did not include a manufacturer or retailer of such product.

(3) "Retailer" was defined as a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(4) "Private labeler" was defined as the owner of a brand or trademark on the label of a consumer product which bears a private label. (A consumer product bears a private label under the House amendment if the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and the brand or trademark of a manufacturer of such product does not appear on such label).

(5) "To distribute in commerce" and "distribution in commerce" meant to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(6) A common carrier, contract carrier, or freight forwarder was not, for purposes of the bill, deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

Conference substitute.—The Senate recedes with an amendment treating certain possessions of the United States as States.

Consumer Product Safety Rules

(1) Authority to prescribe consumer product safety standards.

Senate.—The Senate bill authorized the Commissioner of the new Agency, whenever he found a need for action to eliminate unreasonable risk of injury or death associated with the use of a consumer product (or type or class thereof), to promulgate a consumer product safety standard for such product (or type or class). The Senate bill provided that standards, insofar as practicable, must be compatible with any Federal environmental standards established for the product. A standard must, where feasible, pertain to the safety performance characteristics of the product (or type or class), and it must, to the extent practicable, set forth test procedures to measure such performance characteristics, except that any such standard may apply to the composition, design, construction, or finish of the consumer product (or type or class) if the Commissioner determines that it is not feasible to protect the public health or safety by development of a performance standard or any other consumer product safety standard authorized by the foregoing provisions.

The Senate bill provided, in addition, that a consumer product safety standard may require that a consumer product (or type or class) be marked, tagged, or accompanied by clear and adequate warnings or instructions, or be subject to safety precautions related to physical distribution.

House.—Under the House amendment the Commission was authorized to prescribe consumer product safety standards containing the same type of performance, design, and labeling requirements as were envisaged by the Senate bill (except that there is no House provision for safety precautions relating to physical distribution). Any requirement of such standards had to be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Requirements (other than requirements relating to labeling, warnings, or instructions), whenever feasible, had to be expressed in terms of performance requirements.

Conference substitute (§ 7(*a*)).—The Senate recedes. The committee of conference is of the opinion that any safety problems created by methods of physical distribution can be met by a product safety standard related to the performance, composition, design, construction, or finish of a consumer product including packaging or, in appropriate cases, may be dealt with under the provisions of the substitute concerning imminent hazards [sec. 12].

(2) Commencement of standard-setting proceeding.

Both the House and Senate versions provided that a proceeding to develop a consumer product safety standard be commenced by publication of a notice in the Federal Register containing certain information concerning the product hazard and an invitation to the public to participate in the standard-setting process.

Senate.—The Senate required the notice of proceeding to contain an invitation to the public to submit information challenging the need for the standard.

House.—The House amendment did not require the notice of proceeding to invite submission of information challenging the need for the standard, but did require the notice to specify a period during which public or private standard-setting organizations would be given an opportunity to develop a proposed standard. The period would be 150 days unless the Commission found a different period was appropriate.

Conference substitute (§ 7(*b*)).—The Senate recedes.

(3) Development of proposed standard.

Senate.—The Senate bill provided that, unless he accepts an existing safety standard, the Administrator of the new agency could accept one or more offers from qualified offerors to develop a proposed standard. An offer could not be accepted if the offeror is a manufacturer, distributor, or retailer of a product to which the standard applies, or an employee of such a manufacturer, distributor, or retailer. The Senate permitted the Agency to proceed with development of a proposed standard whenever a notice of proceeding is published, even though the Agency accepted an offer to develop a standard.

House.—The House amendment differed from the Senate bill in that unless the Commission accepted an existing standard it was required to accept one or more offers from qualified offerors. The House did not prohibit acceptance of offerors who were manufacturers, distributors, or retailers, or employees thereof.

The House also provided that if the Commission accepted an offer to develop a proposed consumer product safety standard, it could not, during the "development period" for the standard publish a proposed rule applicable to the same product hazard, or develop (or contract for the development of) proposals for the standard unless no offeror was making satisfactory progress. The "development period" was defined as a period beginning with the acceptance of an offer to develop the standard and ending (1) with the expiration of the period specified in the notice of proceeding (which period could be extended), (2) the date the Commission determines no offeror is able and willing to continue satisfactory development of the standard, or (3) on the date on which an offeror submits a recommended standard, whichever of the three first occurs.

Conference substitute (§ 7(*d*)).—The conference substitute is identical to the House amendment except that the Commission is permitted during the development period to proceed independently to develop proposals for a standard in any case in which the sole offeror whose offer is accepted is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard. These provisions should not be interpreted, however, as preventing the Commission or its staff—while awaiting the submission of recommended standards—from developing or acquiring the technical capability necessary to properly evaluate the standards recommended to it.

(4) Regulations governing offerors' development of standards.

Senate.—The provisions in the Senate bill relating to regulations applicable to offeror's development of proposed standards included requirements that interested persons be given an opportunity to participate in the development of the standard "in accordance with accepted standards of due process".

House.—No comparable provision.

Conference substitute (§ 7(*d*)).—The Senate recedes.

(5) Proposed consumer product safety rules.

Senate.—The Senate bill required the Agency, within 180 days after publication of a notice of proceeding (which period could be extended), to publish a proposed consumer product safety rule or withdraw the notice of proceedings. The Agency was specifically authorized to publish proposed rules in the alternative. The Agency was given authority to conduct a hearing on the proposed standard subject to conditions or limitations imposed by the Agency.

House.—The House amendment required publication of the proposed standard or withdrawal of notice of proceeding within 210 days (unless extended). The Commission was not specifically authorized to publish proposed rules in the alternative and was required to provide for an opportunity for oral and written presentation of views respecting the proposed rule.

Conference substitute (§ 7(f)).—The Senate recedes.

(6) Findings.

Both the Senate bill and the House amendment required the new agency to make generally similar findings before finally promulgating a consumer product safety rule.

Senate.—The Senate bill required a finding respecting means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

House.—The House amendment required no comparable finding, but did require an additional finding that the rule be in the public interest.

Conference substitute (§ 9(c)).—The conference substitute requires both the Senate finding, respecting competition and commercial practices, and the House finding that the rule be in the public interest.

(7) Effective date of standards.

House.—The House amendment added a provision requiring that the effective date of a consumer product safety standard be set at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case could the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard could apply only to consumer products manufactured after the effective date of the standard. The provision described above did not apply to rules banning a product.

Senate.—No comparable provision.

Conference substitute (§ 9(d)(1)).—The Senate recedes.

(8) Stockpiling.

Senate.—The Senate bill prohibited any manufacturer or importer, in an effort to stockpile a consumer product, from producing or importing such product, between the time a final order establishing a consumer product safety standard is issued and the time the order becomes effective, in quantities significantly greater than quantities he had produced for a base period established by the new Agency prior to the promulgation of the final order establishing the standard.

House.—No comparable provision.

Conference substitute (§ 9(d)(2)).—This provision of the Senate bill is incorporated in the conference report with technical and conforming changes. As so changed, it authorizes the Commission by rule to prohibit a manufacturer (including an importer) of a consumer product from stockpiling any product to which a consumer product safety rule applies so as to prevent the circumvention of the purpose of that rule. "Stockpiling" is defined as manufacturing or importing a product between the date of promulgation of the consumer product safety rule and its effective date at a rate which is significantly greater than the rate at which such product was produced or imported during a base period ending before the date of promulgation of the consumer product safety rule.

(9) Banned hazardous products.

Both bills gave the new agency administrative authority to ban a consumer product if no feasible consumer product safety standard would adequately protect the public.

Senate.—The Senate bill included a provision requiring a person in the distribution chain to repurchase any product sold by him after a proposed rule banning a product was published. The obligation to repurchase was subject to certain limitations if notice of the proposed banning rule was given down the distribution chain.

House.—The House amendment contained no provision applicable only to repurchase of banned hazardous products. However, the notification and remedy provisions of the House amendment (sec. 15(d)) gave the Commission authority to impose somewhat similar requirements in the case of substantial product hazard. The House amendment also authorized a court, upon application of the Commission, to require repurchase of a banned hazardous product if the court found it to be an imminently hazardous product.

Conference substitute (§ 8).—The provision on repurchase is not included in the conference report.

Commission Responsibility—Petition by Interested Person

Senate.—The Senate bill contained two provisions permitting the public to seek initiation of agency action. The first provision generally permitted any individual or class of individuals who alleged that he or they have been exposed by an act or omission of the Agency to a food, drug, or consumer product presenting an unreasonable risk of injury or death, to petition the Agency to take specific action sufficient to eliminate the alleged unreasonable risk. After opportunity for comment, the Agency was required to determine whether an unreasonable risk of injury or death existed as a result of an act or omission of the Agency and issue a decision either refusing to take any action or taking action designed to eliminate any unreasonable risk of injury or death. If the Agency refused to take sufficient action to eliminate the alleged risk, the petitioner could bring a civil action in a United States Court of Appeals. If the court found, based upon a preponderance of the evidence in the Agency's record, that the Agency, by an act or omission, had exposed the petitioner to a food, drug, or consumer product presenting unreasonable risk of injury or death, the court was directed to remand the matter to the Agency for appropriate action. A civil action under this provision would not have been available for the purpose of requiring the Agency to permit the distribution, etc., of any food, drug, or consumer product, or to obtain money damages. Costs of the petition and civil action (including reasonable attorney's fees) would be apportioned to the parties as the interests of justice require.

The second provision of the Senate bill permitted any consumer or other interested party to petition the Commissioner of the new Agency to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety standard or other action. The Commissioner was required to publish petitions in the Federal Register, to allow opportunity for comment, and, if he denied the petition, to publish his reasons therefor.

House.—The House amendment did not have a provision comparable to the first Senate provision described above, but did have one comparable to the second. However, this House provision permitted petitions only for consumer product safety rules (defined as safety standards or banning rules). The Commission was not required to allow opportunity for comment unless it decided to commence a rulemaking proceeding under the bill.

Conference substitute (§ *10*).—The conference substitute permits any interested person (including a consumer or consumer organization) to petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. The petition must be filed in the principal office of the Commission and must set forth (1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary, and (2) a brief description of the substance of the rule or amendment thereof which it is claimed should be issued by the Commission. The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not the petition should be granted.

The Commission is required, within 120 days after filing of a petition described above to either grant or deny the petition. If the Commission grants such petition, it must promptly commence an appropriate proceeding under section 7 or 8 of the bill. If the Commission denies such petition it must publish in the Federal Register its reasons for such denial.

Subsection (e) of section 10 of the conference substitute provides that if the Commission denies a petition made under this section (or if it fails to grant or deny the petition within the 120 day period the petitioner may commence a civil action in a United States District Court to compel the Commission to initiate a proceeding to take the action requested. Any such action must be filed within 60 days after the Commission's denial of the petition, or (if the Commission fails to grant or deny the petition within 120 days after filing the petition) within 60 days after the expiration of the 120 day period. If the petitioner can demonstrate to the satisfaction of the court, by a preponderance of evidence in a de novo proceeding before the court, that the consumer product presents an unreasonable risk of injury, and that the failure of the Commission to initiate a rulemaking proceeding under section 7 or 8 of the bill unreasonably exposes the petitioner or other consumers to a risk of injury presented by the consumer product, the court is required to order the Commission to initiate the action requested by the petitioner. In a civil action authorized by subsection (e), the court will have no authority to compel the Commission to take any action other than the initiation of a rulemaking proceeding in accordance with section 7 or 8 of the bill. The judicial remedy under subsection (e) applies only with respect to petitions filed more than 3 years after the date of enactment of the bill.

The remedies under section 10 of the conference substitute are in addition to, and not in lieu of, other administrative and judicial remedies provided by law. Section 10 does not authorize the petitioner to recover damages from the Commission or any of its employees.

Judicial Review

Both bills had a provision for pre-enforcement judicial review, under the "substantial evidence" rule, of certain regulations prescribed under the bill.

Senate.—The Senate's provision applied to the following types of rules: consumer product safety standards, banning rules, rules applicable to standards development, rules requiring manufacturers to conduct safety analyses, and rules relating to compliance testing.

The Senate bill permitted the court in its discretion to award the manufacturer of a product declared a banned hazardous consumer product, damages, interest, and the cost of suit, including reasonable attorney fees, for actual damages suffered by him as a result of any banning order of the new Agency if the court determined that the order constituted an abuse of the discretion granted under the bill.

House.—The House judicial review provision applied only to consumer product safety rules. It contained no provision for awarding damages and attorneys fees to manufacturers. It contained a provision, not present in the Senate bill, authorizing the court under certain circumstances to order the Commission to conduct proceedings for additional presentations of data, views, or arguments.

Conference substitute (§ *11*).—The Senate recedes.

Imminent Hazards

Senate.—The Senate bill provided for initiation of judicial proceedings against any imminently hazardous consumer product, and against any manufacturer, importer, or seller of such a product. "Imminently hazardous consumer product" was defined as a consumer product presenting an unreasonable risk of injury or death which requires action to protect adequately the public health and safety prior to the completion of administrative proceedings under the bill. The Senate provision had no specific provision for seizure of an imminently hazardous product.

House.—The House amendment provided for initiation of judicial proceedings against any imminently hazardous consumer product and against any manufacturer (including importer), distributor, or retailer of the product. "Imminently hazardous consumer product" was defined as a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury. The House provision specifically authorized the court to order seizure of such a product, and also contained provisions relating to venue, process and subpenas, and to multidistrict litigation. The Commission was authorized (but not required) to request the recommendations of the Product Safety Advisory Council (established under the bill) before commencing an action under the imminent hazard provision.

Conference substitute (§ *12*).—The Senate recedes.

Senate.—The Senate bill authorized the new Agency (where applicable) to require by regulation that a consumer product not subject to a consumer product safety standard (or type, class, or component thereof) be subjected to a detailed safety analysis in accordance with regulations of the Agency.

House.—The House amendment had no provision specifically authorizing the Commission to require a safety analysis. However, the House version contained a provision not present in the Senate bill requiring notification to the Commission respecting new products. The Commission could, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce. "New consumer product" was defined as a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers. The House amendment also authorized the Commission to require any manufacturer to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of the Act.

Conference substitute (§ *13.27*(*e*)).—The Senate recedes.

Product Certification

Senate.—The Senate bill required any manufacturer, importer, or distributor of a consumer product subject to a consumer product safety standard to furnish to the distributor or dealer at the time of delivery of such consumer product certification that each such consumer product conforms to all applicable consumer product safety standards. Any certification had to be based upon test procedures prescribed in the standards or (if none are prescribed) upon a reasonable testing program approved by the Agency.

The Senate bill directed the new Agency to conduct (or contract for) compliance testing of consumer products subject to consumer product safety standards. Manufacturers and importers of consumer products subject to standards were required to furnish a reasonable number of such products (drawn from regular production runs) without cost to the Agency upon request. The product tested would be returned to the manufacturer or importer upon the completion of any compliance testing, but the manufacturer or importer, in any subsequent sale or lease of the product, would have to disclose that it had been subjected to compliance testing.

The Senate bill also provided that whenever the new Agency had good cause to believe that a particular manufacturer was producing a consumer product with a significant incidence of noncompliance with a particular consumer product safety standard; it could require the manufacturer to submit a description of his relevant quality control procedures; and if the Agency determined that the noncompliance was attributable to the inadequacy of the manufacturer's control procedures, it could, after an adjudicatory hearing, order the manufacturer to revise his quality control procedures to the extent necessary to remedy the inadequacy.

House.—The House's certification provision was generally similar to the Senate's, except that the requirement to provide the certificate applied only to manufacturers and private labelers. The certificate was required to accompany the product and to be based on a test of each product or upon a reasonable testing program. In cases where more than one person was required to certify any given product, the Commission could designate one or more of them as subject to the requirement and relieve the others of the requirement. The Commission could by rule prescribe reasonable testing programs for products subject to a standard.

The House amendment authorized the Commission, for purposes of carrying out the bill, to purchase any consumer product and to require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

The House amendment authorized product testing, but did not *require* the Commission to conduct compliance testing activities and did not expressly authorize it to order manufacturers to revise their quality control procedures.

Conference substitute (§ *14*).—The Senate recedes.

Product Labeling

House.—The House amendment authorized the Commission by rule to require the use and prescribe the form and content of labels containing the date and place of manufacture of a consumer product, and a suitable identification of the manufacturer of the consumer product (unless the product bears a private label in which case the label must identify the manufacturer by code and also identify the private labeler). If the product is subject to a consumer product safety rule, the rule under this provision may require the label to certify that the product meets all applicable standards and to specify the applicable standards. These labels, where practicable, could be required by the Commission to be permanently marked on or affixed to the consumer product. The Commission could permit any information as to date and place of manufacture and name of manufacture to be coded.

Senate.—The Senate bill contained no comparable provision.

Conference substitute (§ 14).—The Senate recedes.

Notification and Repair, Replacement, or Refund

(1) Notification by manufacturer to agency.

Senate.—The Senate bill required every manufacturer, importer, or distributor of, or dealer in, a consumer product who discovers that such product has a defect which relates to the safety of use of such product or that such product fails to comply with an applicable consumer safety standard to immediately notify the new Agency of the defect or failure to comply if such product has left the place of manufacture.

House.—The House amendment required every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that the product fails to comply with an applicable consumer product safety rule, or contains a product defect which could create a substantial hazard to the public, to immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

Conference substitute (§ *15*(*b*)).—The Senate recedes.

(2) Notification by manufacturer to public.

Senate.—The Senate bill provided that if a consumer product fails to comply with an applicable order issued under the regulatory provisions of the bill and thereby presents an unreasonable risk of injury or death or has a defect which causes it to present an unreasonable risk of injury or death, the manufacturer, importer, or distributor of, or dealer in, such product could be required by the Agency (by order after an adjudicatory hearing) to give public notice and to mail to consumers and certain persons in the distribution chain notification containing information required by the Agency.

House.—The House amendment authorized the Commission, if it determined (after affording an opportunity for a hearing) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, to order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(A) to give public notice of the defect or failure to comply;

(B) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(C) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold. Any such order shall specify the form and content of the notice.

The House bill defined "substantial product hazard" for purposes of the notification and remedy provision of the bill as a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

Conference substitute (§ *15* (*a*) *and* (*c*)).—The Senate recedes.

(3) Repair, replacement, or refund.

Senate.—The Senate bill provided that in any case in which the Agency could order the manufacturer, importer, dealer, or distributor to notify the public of a defect or failure to comply, it could also require him to bring such product into conformity with the requirements of such order without charge to the consumer, or to either replace such product with a like or equivalent consumer product which complies with such order without charge to the consumer or to refund the purchase price of such product upon its tender, whichever option is elected by the manufacturer, importer, distributor, or dealer whose product fails to comply. If an election is made to refund the purchase price, the price shall be less a reasonable allowance for use, if such product has been in the possession of the consumer for more than one year at the time of tender.

House.—The comparable provision of the House amendment authorized the Commission, if it determined (after affording an opportunity for a hearing) that a product distributed in commerce presents a substantial product hazard and that action under this provision would be in the public interest, to order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects:

(1) to bring the product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace the product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of the product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this provision could also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the foregoing paragraphs the person elected. The Commission would specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this provision is directed to more than one person, the Commission shall specify which person has the election under this provision.

Conference substitute (§*15*(*d*)).—The Senate recedes.

(4) Reimbursement.

Senate.—The Senate required any manufacturer, importer, distributor, or dealer against whom an order is issued under the provisions relating to repair, replacement, etc., to reimburse each consumer of the product which is the subject of such order for any reasonable and foreseeable expenses (including transportation expenses) incurred by such consumer in availing himself of the remedies provided by the order.

House.—The House amendment provided that no charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under a repair, replacement, or refund order, and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy. In addition, the House provided that any order issued under the notification, and repair, replacement, or refund section may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

Conference substitute (§ *15*(*e*)).—The Senate recedes.

(5) Hearings.

Senate.—The Senate bill required full adjudicatory hearings under section 554 of title 5, United States Code, in a proceeding to order notification or replacement, refund, or repair.

House.—The House provided that a notification order or a replacement, refund, or repair order may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

Conference substitute (§*15*(*f*)).—The Senate recedes.

Inspection and Recordkeeping

Both bills had provisions dealing with inspection and recordkeeping.

Senate.—The Senate bill provided that a separate written notice was to be given for each inspection, but a notice was not required for each entry made during the period of inspection set forth in the notice. If the officer or employee who made the inspection obtained any sample in the course thereof, he was, prior to leaving the premises, to give to the owner, operator, or agent in charge, a receipt therefor describing the sample.

The Senate bill further provided that the district courts of the United States were to have jurisdiction to issue any warrant in aid of an inspection or investigation, if the warrant was required by the Constitution or laws of the United States, upon a finding that the inspection or investigation was for the purpose of enforcing the bill's provisions.

The Senate bill also authorized the Commissioner to establish, by order at any time, procedures to be followed by manufacturers or importers of a consumer product required to conform to a consumer product safety standard, including procedures to be followed by distributors, dealers and consumers to assist manufacturers or importers in securing and maintaining the names and addresses of the first purchasers (other than dealers or distributors) of consumer products for which consumer product safety standards had been promulgated. These procedures were to be reasonable for the particular type or class of consumer products for which they were prescribed. In determining whether to require the maintenance of the names and addresses of the first purchasers, the Commissioner was to consider the severity of the injury that could have resulted if a consumer product had not been manufactured in compliance with an applicable consumer product safety standard, the likelihood that a particular type or class of consumer products would not have been manufactured in compliance with an applicable consumer product safety standard, and the burden imposed upon the manufacturer or importer by requiring the maintenance of the names and addresses of the first purchasers (including the cost to consumers of the maintenance).

House.—The House inspection and recordkeeping provisions did not contain any specific provisions similar to the above Senate provisions and its recordkeeping provision was applicable to every manufacturer, private labeler, or distributor of a consumer product, whether or not required to conform to a consumer public safety standard. However, the House amendment did authorize the Commission to require by rule manufacturers, private labelers, and distributors to establish and maintain such records as may be required to implement the Act.

Conference substitute (§ *16*).—The Senate recedes.

Imported Products

Senate.—The Senate bill provided that any consumer product imported into the United States to which a consumer product safety standard applied or which was declared a banned or imminently hazardous consumer product, was not to be delivered from Customs custody except as provided in section 499 of the Tariff Act of 1930. In the event an imported consumer product was delivered from Customs custody under bond, as provided in section 499 of the Tariff Act of 1930, and was declared a banned or imminently hazardous consumer product or failed to conform with a consumer product safety standard in effect on the date of entry of the merchandise, the Administrator was to inform the Secretary of the Treasury, and unless it appeared to the Administrator that the product could have been brought into compliance with all applicable requirements was to request the Secretary of the Treasury to demand redelivery. Upon a failure to redeliver, the Secretary of the Treasury was to assert a claim for liquidated damages for breach of a condition of the bond arising out of the failure to conform or redeliver in accordance with regulations prescribed by the Secretary of the Treasury or his delegate. When asserting a claim for liquidated damages against an importer for failure to redeliver such nonconforming goods, the liquidated damages were not to be less than 10 per centum of the value of the nonconforming merchandise if, within five years prior thereto, the importer had previously been assessed liquidated damages for failure to redeliver nonconforming goods in response to a demand from the Secretary of the Treasury.

Destruction of products which failed to comply to regulations under this bill took place within ninety days after notice to the importer or consignee.

House.—The House amendment provided that any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) was to be refused admission into this customs territory if the product failed to comply with an applicable consumer product safety rule, was not accompanied by a certificate labeled in accordance with regulations under section 14 of the House amendment, was or had been determined to be an imminently hazardous consumer product in a proceeding brought under section 12 of the House amendment, had a product defect which constituted a substantial product hazard, or was a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of the inspection or recordkeeping requirements of the House amendment.

All actions taken by an owner or consignee to modify the product were subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury and if it appeared to the Commission that the product could not be modified or that the owner or consignee was not proceeding satisfactorily to modify the product it was to be refused admission into the customs territory of the United States, and the Commission could direct the Secretary to demand redelivery of the product into customs custody, and to seize the product if it was not redelivered.

The House amendment further provided that products refuse admission into the customs territory of the United States had to be exported, except that upon application, the Secretary of the Treasury could have permitted the destruction of the product in lieu of exportation. If the owner or consignee did not export the product within a reasonable time, the Department of the Treasury could have destroyed the product.

Under the House amendment, the Commission was allowed to, by rule, condition the importation of a consumer product on the manufacturer's compliance with inspection and recordkeeping requirements and rules of the Commission with respect to these requirements.

Conference substitute (§ 17).—The Senate recedes.

Prohibited Acts

Both bills contained similar provisions dealing with prohibited acts, and, in particular, they prohibited manufacture, distribution, etc. of consumer products which do not comply with a consumer product safety rule.

Senate.—The Senate bill contained provisions making it unlawful for any person engaged in the business of making consumer products available to consumers, either directly or indirectly, to fail or refuse to comply with any requirement as to the Senate bill's compliance section (dealing with quality control procedures, names of first purchases, compliance testing, and certification) and stockpiling section, to alter, modify, destroy, or remove any portion of, or do any other act with respect to, a consumer product or labeling thereon or attached thereto, if the act is done while the product is being held or transported for sale, and results in the consumer product or its labeling failing to conform to a consumer product safety standard, or renders the product a banned or imminently hazardous consumer product, to fail to provide to the Director of the National Injury Information Clearinghouse the information concerning injuries, or to fail to provide any required safety analysis.

House.—The House amendment made it unlawful for any person to fail or refuse to permit access to or copying of records, fail to furnish information respecting a substantial product defect, fail to furnish a certificate or issue a false certificate if the person in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or fail to comply with any rule relating to labeling.

The House amendment further provided that the unlawful acts of manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States any consumer product which was not in conformity with an applicable consumer product safety standard or manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States any consumer product which had been declared a banned hazardous product by a rule were not to apply to any person who held a certificate to the effect that the consumer product conformed to all applicable consumer product safety rules, unless the person knew that the consumer product did not conform, or relied in good faith on the representation of the manufacturer or a distributor of the product that the product was not subject to an applicable product safety rule.

Conference substitute (§ 19).—The conference substitute incorporates the provisions of the House bill with a conforming amendment making violations of the Commission's stockpiling rules under section 9(d)(2) a prohibited act.

Civil Penalties

Senate.—The Senate bill stated that whoever knowingly committed any act prohibited in its prohibited acts section, or, in case of commission of any act so enumerated in the Senate bill's prohibited act section by a corporation, the corporation and any individual director, officer, or agent of the corporation who knowingly caused in whole or in part the corporation to commit the act, were to be subject to a civil penalty of not more than $10,000 for each act which was to accrue to the United States and could have been recovered in a civil action brought by the United States or the Agency in its own name by any of its attorneys designated by the Administrator for that purpose. "Knowingly" was defined in the Senate bill to include knowledge of the probable consequences of action taken in disregard of reasonable safeguards.

House.—The House amendment provided that any person who knowingly violated the prohibited acts section of the House amendment was to be subject to a civil penalty not to exceed $2,000 for each violation. A violation of section 19(a) (1), (2), (4), (5), or (6) was to constitute a separate violation with respect to each consumer product involved, except that the maximum civil penalty was not to exceed $500,000 for any related series of violations. A violation of section 19(a)(3) was to constitute a separate violation with respect to each failure or refusal to allow or perform an act required; and this violation was a continuing one, each day of the violation was to constitute a separate offense, except that the maximum civil penalty was not to exceed $500,000 for any related series of violations.

The House amendment further provided that the second sentence of the above paragraph did not apply to violations of paragraph (1) or (2) of section 19(a) of the House amendment if the person who violated these paragraphs was not the manufacturer or private labeler or a distributor of the product involved, and if the person did not have either actual knowledge that his distribution or sale of the product violated these paragraphs or notice from the Commission that the distribution or sale would have been a violation of these paragraphs.

Any civil penalty under the House amendment was authorized to be compromised by the Commission. In determining the amount of the penalty or whether it should have been remitted or mitigated and in what amount, the appropriateness of the penalty to the size of the business of the person charged and the gravity of the violation were to be considered. The amount of the penalty when finally determined, or the amount agreed on compromise, could have been deducted from any sums owing by the United States to the person charged.

Conference substitute (§ 20).—The Senate recedes.

Criminal Penalties

Senate.—The Senate bill provided that whoever knowingly committed any act prohibited by the prohibited acts section of the Senate bill, or, in case of commission of any prohibited act described in the prohibited act section of the Senate bill by a corporation, the corporation and any individual director, officer, or agent of a corporation who knowingly caused in whole or in part the corporation to commit the act, and, if the act had been willfully committed, was to be guilty of a misdemeanor and, upon conviction, fined not more than $10,000 for each such act or imprisoned not more than one year, or both. "Knowingly" was defined to include knowledge of the probable consequences of action taken in disregard of reasonable safeguards.

House.—The House amendment provided that any person who knowingly and willfully violated the prohibited acts section of the House amendment after having received notice of noncompliance from the Commission was to be fined not more than $50,000 or be imprisoned not more than one year, or both. Any individual director, officer, or agent of the corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part a violation of the prohibited acts section and who had knowledge of notice of noncompliance received by the corporation from the Commission would be subject tc criminal penalties under this section.

Conference substitute (§ 21).—The Senate recedes.

Injunctions

Senate.—The Senate bill provided that upon application by the Administrator or the Attorney General, the district courts of the United States were to have jurisdiction to enjoin the commission of acts prohibited by prohibited acts section of the Senate bill, and to compel the taking of any action required by the Senate bill.

House.—The House amendment provided that the United States district courts were to have jurisdiction to restrain any violation of the prohibited acts section of the House amendment, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. These actions were authorized to be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation had occurred, or in the court for the district wherein the defendant was found or transacted business. In any injunctive action process could have been served on a defendant in any other district in which the defendant resided or could have been found.

Conference substitute (§ *21(a)*).—The Senate recedes with a conforming amendment.

Seizure

Senate.—The Senate bill provided that any consumer product which was not manufactured in compliance with an applicable consumer product safety standard, or which was not in compliance with such a standard as the result of altering, modifying, destroying, or removing any portion of, or doing any other act with respect to, a consumer product or labeling thereon or attached thereto, if the act was done while the product was being held or transported for sale, and resulted in the consumer product or its labeling failing to conform to a consumer product safety standard, or rendered the product a banned or imminently hazardous consumer product, or which was declared a banned or imminently hazardous consumer product, was to be liable to be proceeded against while in commerce or at any time thereafter, on complaint for forfeiture by the Administrator, and condemned in any district court of the United States within whose district the consumer product was found.

House.—The House amendment provided that any consumer product which failed to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce was to be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which the consumer product was found. Proceedings in cases instituted under this authority was to conform as nearly as possible to proceedings in rem in admiralty. Whenever these proceedings involving identical consumer products were pending in courts of two or more judicial districts they were to be consolidated for trial by order of any of these courts upon application reasonably made by any party in interest upon notice to all other parties in interest.

Conference substitute (§ *21(b)*).—The Senate recedes with amendments permitting the commission's attorneys with the concurrence of the Attorney General to represent the Commission in seizure proceedings, and allowing consolidation where proceedings involved "substantially similar" products, rather than "identical" products as in the House amendment.

Private Enforcement of Product Safety Rules and Other Provisions

Both the Senate and the House bills had similar provisions for private suits for enforcement of consumer product safety rules and certain other requirements.

Senate.—The Senate bill provided that any person who could have been exposed to unreasonable risk of injury or death presented by a consumer product was authorized to bring an action to enforce a consumer product safety standard, or to enforce any order with respect to a banned hazardous consumer product under section 306(f) of the Senate bill, to enforce any order with respect to an imminently hazardous product under section 311 of the Senate bill, and to obtain the appropriate injunctive relief. The court could have awarded reasonable attorney's fees to the prevailing party.

House.—The House amendment provided that any interested person may bring an action to enforce a consumer product safety rule or to enforce any order relating to notification and repair, replacement, or refund under section 15 of the House amendment, and to obtain appropriate injunctive relief. The court could under certain conditions award costs of the suit, including reasonable attorney's fees, to the prevailing party.

Conference substitute.—The Senate recedes.

Effect on Private Remedies

Senate.—The Senate bill contained a provision stating that compliance with any consumer product safety standard did not exempt any person from any liability under common law.

House.—The House bill contained a provision stating that compliance with consumer product safety rules or other rules or orders were not to relieve any person from liability at common law or under State law to any other person, and the failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product was not to be admissible in evidence in litigation at common law or under State law relating to such consumer product.

The House bill further provided that—

(1) subject to the confidentiality requirements of section 6(a)(2) of the House amendment but notwithstanding 6(a)(1), accident and investigation reports made by any officer, employee, or agent of the Commission were to be available for use in any civil, criminal, or other judicial proceeding arising out of the accident, and any officer, employee, or agent could have been required to testify in proceedings as to the facts developed in the investigations, and

(2) subject to section 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), any accident or investigation report made by an officer or employee of the Commission was to be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and all reports on research projects, demonstration projects, and other related activities were to be public information.

Conference substitute. (§ *25*).—The House provisions, other than the provisions described in paragraph (1) above are included in the conference substitute.

Effect on State Law

House.—The House amendment provided that whenever a Federal consumer product safety standard is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State could either establish or continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standards. This provision also provided that it should not be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

This provision also provided that upon application of a State or political subdivision thereof, the Commission by rule, after notice and opportunity for oral presentation of views, could exempt these preemption provisions (under such conditions as it may impose) a proposed safety standard or regulation described in the application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

Senate.—The Senate bill was generally similar except that the exemptive authority was not required to be exercised by rule, and a State or political subdivision to qualify for an exemption had to adopt its standard pursuant to procedures and requirements which in the judgment of the Agency were substantially comparable to those prescribed for Federal consumer product safety standards.

Conference substitute.—The Senate recedes.

Product Safety Advisory Council

House.—The House bill provided that the Commission would establish a Product Safety Advisory Council which it could have consulted before prescribing a consumer product safety rule or taking other action under the House bill. The Council was to be appointed by the Commission and was to be composed of fifteen members, each of whom was to be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council was to be constituted of five members selected from governmental agencies including Federal, State, and local governments, five members selected from consumer product industries including at least one representative of small business, and five members selected from among consumer organizations, community organizations, and recognized consumer leaders. The Council was to meet at the call of the Commission, but not less often than four times during each calendar year.

The House bill gave the Council authority to propose consumer product safety rules to the Commission for its consideration and to function through subcommittees of its members. All proceedings of the Council were to be public, and a record of each proceeding was to be available for public inspection.

The House bill further provided that members of the Council who were not officers or employees of the United States were, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, to be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they would have been allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. These payments were not to render members of the Council officers or employees of the United States for any purpose.

Senate.—The Senate bill had general authority to establish advisory committees.

Conference substitute (§ *28*).—The House provision is incorporated in the conference report.

AMENDMENTS TO OTHER LAWS

Federal Food, Drug, and Cosmetic Act Amendments

Senate.—The Senate bill amended section 602 of the Federal Food, Drug, and Cosmetic Act to provide that a cosmetic is to be considered misbranded unless its label conspicuously sets forth the common or usual name of the cosmetic substance and that of each of its ingredients, subject to exemptions which may be prescribed by the Secretary of Health, Education, and Welfare, and sets forth adequate warnings against use where its use might be dangerous to health. Section 201 of that Act was also amended so as to include "soap" within the definition of cosmetics, and thereby subject soap to the provisions of that Act.

House.—No comparable provision.

Conference substitute.—The Senate recedes.

Federal Hazardous Substances Act

Senate.—The Senate bill amended the Federal Hazardous Substances Act to establish a new procedure under which possibly toxic or corrosive substances to be used around a household or by children would be subjected to screening tests for toxicity and corrosiveness before being distributed commercially. Those substances which the tests indicated were toxic or corrosive were to be registered with the Secretary of Health, Education, and Welfare, together with a description of the substance, the results of the tests, and the proper antidote or treatment for any injury or illness which might result from contact or use. Such substances were to be assigned a registration number which was to appear on the label of any container of the toxic or corrosive substances. The Secretary of Health, Education, and Welfare was to establish an office through which the registered information would be available at all times for medical treatment purposes. In other amendments to that Act, the Senate bill provided that any substance registered with the Secretary under the Act, which failed to bear its registration number on the label of its container, was a misbranded hazardous substance; that foods, drugs, and cosmetics regulated under the Federal Food, Drug and Cosmetic Act and fuels in containers, used around a house in heating, cooking, or refrigeration, were to be covered under the Federal Hazardous Substances Act (present law explicitly excludes them from the definition of hazardous substances that failure to conduct the required screening tests was a prohibited act under the Federal Hazardous Substances Act; and that employees of the Department of Health, Education, and Welfare were authorized to enter factories, warehouses, and other establishments to inspect and copy screening test results.

House.—No similar specific provision.

Conference substitute.—The Senate recedes.

Federal Caustic Poison Act

Senate.—The Senate bill repealed the Federal Caustic Poison Act.

House.—No comparable provision.

Conference substitute.—The Senate recedes.

AUTHORIZATION APPROPRIATIONS

Senate.—The Senate bill authorized the appropriation of $250,000,000 for fiscal 1973, $300,000,000 for fiscal 1974, and $350,000,000 for fiscal 1975. The authorization limited the expenditure of appropriated funds by providing that no funds appropriated to carry out the bill could be expended to plan, design, or construct any research or testing facility unless that expenditure was specifically authorized by law. The Senate authorization included sums necessary to carry out the Agency's regulation of foods, drugs, medical devices, and cosmetics, as well as consumer products.

House.—The House amendment authorized the appropriation of $55,000,000 for fiscal 1973, $59,000,000 for fiscal 1974, and $64,000,000 for fiscal 1975. No amount appropriated under that authorization could be expended for the planning or construction of research, development, or testing facilities. A separate provision authorized the appropriation of such sums as might be necessary for the planning and construction of such facilities, subject to the limitation that no appropriation might be made for any such planning or construction involving an expenditure of more than $100,000 unless that planning or construction had been approved by resolutions adopted by the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee.

Conference substitute.—The Senate recedes.

EFFECTIVE DATES

Senate.—Section 119 of the Senate bill provided a general effective date of 90 days after the date on which the Administrator of the Agency first took office, or on such earlier date as the President might prescribe. Officers could be appointed at any time after the date of enactment of the proposed Act. Section 401 of the bill provided that the amendments made by that section to section 602 of the Federal Food, Drug, and Cosmetic Act were to take effect 1 year after the date of enactment of the proposed Act. Section 508 of the bill provided that the provisions in title V, amending the Federal Hazardous Substances Act, and repealing the Federal Caustic Poison Act, were to take effect 180 days after the date of enactment of the proposed Act. The Secretary of Health, Education, and Welfare was authorized to delay the applicability of the changes in law, made by the amendments to the Federal Hazardous Substances Act, to any person in any case in which he determined that the delay was necessary to allow sufficient time for testing and registration of the hazardous substances manufactured, compounded, or processed by that person.

House.—The House amendment provided that the proposed Act would become effective on the sixtieth day after the date of enactment, except for sections 4 (relating to the establishment of the Consumer Product Safety Commission) and 32 (relating to the authorization of appropriations) which were to take effect on the date of enactment of the proposed Act, and section 30 (relating to transfers of functions) which was to take effect 150 days after the date of enactment of the proposed Act or on the date on which at least 3 members of the Commission first took office, whichever was later.

Conference substitute (§ 34).—The Senate recedes.

Harley O. Staggers,
John E. Moss,
W. S. "Bill" Stuckey, Jr.,
Bob Eckhardt,
William L. Springer,
James T. Broyhill,
John Ware,
Managers on the Part of the House.

Warren G. Magnuson,
John O. Pastore,
Frank E. Moss,
Abraham Ribicoff,
Edward M. Kennedy,
Norris Cotton,
Marlow W. Cook,
Charles H. Percy,
Jacob K. Javits,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to :

Mr. McKevitt (at the request of Mr. Arends), for today, on account of official business.

Mr. Moss, for period from 3 p.m. Friday, October 13, through Friday, October 27, 1972, on account of official business.

Mr. Denholm (at the request of Mr. Abourezk), for today through Saturday, October 14, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Findley, for 10 minutes, today, to revise and extend his remarks and include extraneous material.

Mr. Holifield, for 30 minutes, tomorrow, and to revise and extend his remarks and include extraneous matter.

Mr. Dorn, on Friday next, for 1 hour, in order to afford Members the opportunity to pay their respects to the Honorable John McMillan, dean of the South Carolina delegation.

Mr. Randall, for 15 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Carlson) and to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 60 minutes, on October 12.

Mr. Halpern, for 30 minutes, on October 12.

Mr. Findley, for 5 minutes, on October 12.

Mr. McKinney, for 5 minutes, on October 12.

Mr. Railsback, for 5 minutes, on October 12.

Mr. Schwengel, for 60 minutes, on October 13.

Mr. Hosmer, for 5 minutes, today.

(The following Members (at the request of Mr. Mazzoli) and to revise and extend their remarks and include extraneous matter:)

Mr. Fraser, for 5 minutes, today.

Mr. Tiernan, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Blanton, for 5 minutes, today.

Mr. Staggers, for 10 minutes, today.

Mr. Podell, for 60 minutes, today.

Mr. Fuqua, for 10 minutes, today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Ms. Abzug, for 10 minutes, today.

Mr. Holifield, for 30 minutes, today.

Mr. Price of Illinois, for 60 minutes, on October 13.

Mr. Whitten, for 60 minutes, on October 14.

Mr. Montgomery, for 60 minutes, on October 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Findley, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $425.

Mr. Mahon, to include extraneous material with his remarks made today on the conference report on H.R. 14370.

All Members (at the request of Mr. Carlson), for 5 legislative days to revise and extend their remarks in connection with the special order of Mr. Kemp today.

Mr. Van Deerlin (at the request of Mr. Hechler of West Virginia) to extend his remarks following Mr. Hechler's special order on Charles E. "Chuck" Yeager.

Mr. Henderson (at the request of Mr. Hechler of West Virginia) to extend his remarks following Mr. Van Deerlin.

Mr. du Pont (at the request of Mr. Mosher) to extend his remarks on coastal zone management bill conference report.

Mr. Mosher, to revise and extend his remarks on coastal zone management conference report.

Mr. Smith of New York, to extend his remarks immediately following the remarks of the gentleman from West Virginia (Mr. Hechler).

(The following Members (at the request of Mr. Carlson), to revise and extend their remarks, and to include extraneous matter:)

Mr. Mailliard in five instances.
Mr. Zwach.
Mr. Buchanan in two instances.
Mr. Erlenborn.
Mr. Harvey.
Mr. Whitehurst.
Mr. Schwengel in two instances.
Mr. Thomson of Wisconsin.
Mr. Wyman in two instances.
Mr. Veysey in two instances.
Mr. Rousselot in two instances.
Mr. Bray in three instances.
Mr. Lujan.
Mr. Halpern in three instances.
Mr. Gude in two instances.
Mr. Findley.
Mr. Gerald R. Ford.
Mr. Heinz.
Mr. McClure.
Mr. Zion.
Mr. Byrnes of Wisconsin.
Mr. Hosmer in two instances.
Mr. Thone.
Mr. Esch.
Mr. Railsback in two instances.
Mr. Wydler in two instances.
Mr. J. William Stanton.
Mr. Miller of Ohio in six instances.
Mr. Dennis.
Mr. Talcott in three instances.
Mr. Conte.
Mr. Ashbrook in three instances.
Mr. Price of Texas.
Mr. Coughlin.
Mr. Mizell in three instances.

(The following Members (at the request of Mr. Mazzoli) and to revise and extend their remarks and include extraneous matter:)

Mr. Henderson.
Mr. Begich in two instances.
Mr. Dent.
Mr. Roy in two instances.
Mr. Corman in 10 instances.
Mr. Biaggi in five instances.
Mr. Bevill.
Mr. Rooney of New York in four instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Ashley in two instances.
Mr. Taylor.
Mr. Evins of Tennessee in five instances.
Mr. Badillo in five instances.
Mr. Rees in two instances.
Mr. Denholm in two instances.
Mr. Roybal.
Mr. Nix in two instances.
Mr. Burke of Massachusetts.
Mr. William D. Ford.
Mr. Edwards of California in five instances.
Mr. Reuss in six instances.
Mr. Brinkley.
Mr. Wolff in two instances.
Mr. Donohue.
Mr. Roe in three instances.
Mr. Helstoski.
Ms. Abzug in five instances.
Mr. Rangel.
Mr. Harrington.
Mr. Stuckey in 10 instances.
Mr. Moorhead in six instances.
Mr. Boland.
Mr. Vanik in two instances.
Mr. Thompson of New Jersey.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 4006. An act to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation; to the Committee on Veterans' Affairs.

S. 4067. An act to authorize the Secretary of the Interior to convey certain land situated in the vicinity of Georgetown, Colo., to Frank W. Whitenack; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7117. An act to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes;

H.R. 10420. An act to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes;

H.R. 13694. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended;

H.R. 15641. An act to authorize certain construction at military installations, and for other purposes; and

H.R. 15883. An act to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 493. An act to authorize and direct the Secretary of the Treasury to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purposes;

S. 2700. An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof;

S.J. Res. 247. Joint resolution extending the duration of copyright protection in certain cases; and

S.J. Res. 265. Joint resolution to provide grants for Allen J. Ellender fellowships to Disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 9756. An act to amend the Merchant Marine Act, 1936, as amended.

H.R. 10420. An act to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes; and

H.R. 15883. An act to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

ADJOURNMENT

Mr. DOWNING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 17 minutes p.m.) the House adjourned until tomorrow, Friday, October 13, 1972, at 12 noon.

OATH OF OFFICE OF MEMBER

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members of the House of Representatives, the text of which is carried in section 1757 of title XIX of the Revised Statutes of the United States and being as follows:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the Office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 92d Congress, pursuant to Public Law 412 of the 80th Congress entitled "An act to amend section 30 of the Revised Statutes of the United States" (U.S.C. title 2, sec. 25), approved February 18, 1948:

John B. Breaux, Seventh District of Louisiana.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2419. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of August 31, 1972, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

2420. A letter from the Under Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated September 25, 1972, submitting a report, together with accompanying papers and illustrations, on Salt River, Ky., requested by resolutions of the Committees on Public Works, U.S. Senate, adopted April 13, 1950, and House of Representatives, adopted June 27, 1950, and authorized by section 205 of the Flood Control Act approved May 17, 1950 (H. Doc. No. 92-374); to the Committee on Public Works and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee of conference. Conference report on S. 4018 (Rept. No. 92-1582). Ordered to be printed.

Mr. MILLS of Arkansas: Committee of conference. Conference report to accompany H.R. 9463 (Rept. No. 92-1583). Ordered to be printed.

Mr. FRASER: Committee on Foreign Affairs. S. 4022. An act to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, and for other purposes (Rept. No. 92-1584). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 13158. A bill to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge" (Rept. No. 92-1585). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 16804. A bill to rename the Mineola Dam and Lake as the Carl L. Estes Dam and Lake (Rept. No. 92-1586). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 17038. A bill designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake (Rept. No. 92-1587). Referred to the House Calendar.

Mr. ASPINALL: Committee of conference. Conference report on S. 141 (Rept. No. 92-1588). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report on S. 1852 (Rept. No. 92-1589). Ordered to be printed.

Mr. FLOOD: Committee of conference. Conference report on H.R. 16654 (Rept. No. 92-1591). Ordered to be printed.

Mr. TAYLOR: Committee on Interior and Insular Affairs. Senate Joint Resolution 221. Joint resolution to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as the Benjamin Franklin National Memorial (Rept. No. 92-1592). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 3419 (Rept. No. 92-1593). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENNIS: Committee on the Judiciary. H.R. 10509. A bill for the relief of Juan Marcos Cordova-Campos; with an amendment (Rept. No. 92-1590). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 17101. A bill to amend the Small Business Act, as amended, to provide financial assistance to small business concerns in converting to the metric system of weights and measures; to the Committee on Banking and Currency.

By Mr. BROOKS:

H.R. 17102. A bill to provide for the appointment of several officials of the Congress by the Speaker of the House of Representatives or the President pro tempore of the Senate; to the Committee on House Administration.

By Mr. BYRNES of Wisconsin:

H.R. 17103. A bill to amend section 453(d) of the Internal Revenue Code of 1954 with respect to the distribution of installment obligations in the case of the liquidation of certain small business corporations; to the Committee on Ways and Means.

By Mr. DENHOLM:

H.R. 17104. A bill to provide for decentralization of the agencies of the Federal Government by locating the U.S. Department of Agriculture in the heartland of America; to the Committee on Agriculture.

By Mr. EDWARDS of California.

H.R. 17105. A bill to protect confidential sources of the news media; to the Committee on the Judiciary.

By Mr. HEINZ:

H.R. 17106. A bill to insure congressional review of tax preferences, and other items which narrow the income tax base, by providing now for the termination over a 3-year period of existing provisions of these types; to the Committee on Ways and Means.

H.R. 17107. A bill to amend title II of the Social Security Act to improve the computation of an individual's old-age, survivors, and disability insurance benefits by providing a formula under which such benefits will reflect both the current wage levels at the time of such individual's entitlement and the length of such individual's coverage; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. Brasco, Mr. Burton, Mr. Corman, Mr. Harrington, Mr. Helstoski, Mr. Murphy of New York, Mr. Podell, Mr. Rangel, Mr. Rosenthal, Mr. Roybal, and Mr. Tiernan):

H.R. 17108. A bill to amend the Public Health Service Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Interstate and Foreign Commerce.

H.R. 17109. A bill to amend the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to prescribe radiation standards for, and conduct regular inspections of, diagnostic and other X-ray systems; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA:

H.R. 17110. A bill to compensate victims of crimes of violence in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PODELL:

H.R. 17111. A bill to amend the Federal Reserve Act to change the color of Federal Reserve notes, to direct the Secretary of the Treasury to conduct a study concerning ways to vary the size of such notes, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROYBAL:

H.R. 17112. A bill to provide reimbursement to certain individuals for medical relief for physical injury suffered by them that is directly attributable to the explosions of the atomic bombs on Hiroshima and Nagasaki, Japan, in August 1945 and the radioactive fallout from those explosions; to the Committee on the Judiciary.

By Mr. TIERNAN:

H.R. 17113. A bill to amend the Communications Act of 1934 to provide for loan assistance to certain cable television systems; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMSON of Wisconsin:

H.R. 17114. A bill to amend the Internal Revenue Code of 1954 to provide that for purposes of the Federal estate tax the value of farm real estate shall be its value for farming purposes; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 17115. A bill to amend the Internal Revenue Code of 1954 to provide a personal depletion allowance deduction for individuals who have attained age 45; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. Frelinghuysen):

H.R. 17116. A bill to amend section 4941 (d)(2)(G) of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 17117. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. ESCH:

H.R. 17118. A bill to amend the Education Professions Development Act to establish a program to improve the quality of education in elementary and secondary schools in poor neighborhoods; to the Committee on Education and Labor.

By Mr. FLOOD (for himself, Mr. Clark, Mr. Cleveland, Mr. Dent, Mr. Eilberg, Mr. Gaydos, Mr. Haley, Mr. Halpern, Mr. Hanley, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Hosmer, Mr. Leggett, Mr. McDade, Mrs. Mink, Mr. Murphy of New York, Mr. Nix, Mr. Pryor of Arkansas, Mr. Rees, Mr. Sandman, Mr. Tiernan, Mr. Ware, Mr. Yatron, and Mr. Zablocki):

H.R. 17119. A bill to amend the Housing and Urban Development Act of 1968 with respect to flood insurance by establishing the national disaster insurance fund, and for other purposes; to the Committee on Banking and Currency.

By Mr. FRASER:

H.R. 17120. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents; to the Joint Committee on Atomic Energy.

By Mr. FUQUA (for himself and Mr. Brown of Ohio):

H.R. 17121. A bill to establish an independent Consumer Protection Agency, and for other purposes; to the Committee on Government Operations.

By Mr. HANLEY:

H.R. 17122. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 17123. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. McCORMACK:

H.R. 17124. A bill to assure that any foreign establishment which produces or processes food, food additives, or drugs for import into the United States meets minimum U.S. standards for health and sanitation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH:

H.R. 17125. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. MOORHEAD:

H.R. 17126. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ST GERMAIN:

H.R. 17127. A bill to provide for the establishment and enforcement of standards for the sealing of food packages, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHNEEBELI:

H.R. 17128. A bill to clarify the exempt status of joint activities of educational organizations under the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. Waldie, Mr. Price of Illinois, Mr. Thompson of New Jersey, Mr. Moss, Mr. Begich, Mr. Harrington, Mr. Melcher, Mr. Preyer of North Carolina, Mr. Seiberling, Mr. Stokes, Mr. Halpern, and Mr. McKinney):

H.R. 17129. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WYATT:

H.R. 17130. A bill to provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes; to the Committee on Foreign Affairs.

By Mr. VANIK (for himself, Mr. Broyhill of Virginia, Mr. Burke of Florida, Mr. Daniel of Virginia, Mr. Danielson, Mr. Donohue, Mr. Dulski, Mr. Edmondson, Mr. Gallagher, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Heinz, Mr. Holifield, Mr. Metcalfe, Mr. Minshall, Mr. Morgan, Mr. O'Konski, Mr. Reid, Mr. Udall, Mr. Whitehurst, and Mr. Gibbons):

H.R. 17131. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. BURKE of Florida:

H.J. Res. 1327. Joint resolution expressing the Sense of the Congress with respect to the foreign economic policy of the United States in connection with its relations with the Soviet Union and any other country which uses arbitrary and discriminatory methods to limit the right of emigration, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H.J. Res. 1328. Joint resolution designating the last Sunday in January of each year as "Sons' and Daughters' Day"; to the Committee on the Judiciary.

By Mr. WOLFF (for himself, Mr. Schwengel, Mr. Biaggi, Mr. Brasco, Mr. Carey of New York, and Mr. Annunzio):

H. Con. Res. 720. Concurrent resolution authorizing the placement of a statute of Christopher Columbus in the Capitol; to the Committee on House Administration.

By Mr. FINDLEY:

H. Res. 1161. Resolution amending the Rules of the House by adding rule XLV on House-authorized Federal budget; to the Committee on Rules.

By Mr. PERKINS (for himself and Mr. Quie):

H. Res. 1162. Resolution authorizing the Speaker to appoint delegates and alternates to attend the United Nations Educational, Scientific, and Cultural Organization Conference in Paris; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private severally referred as follows:

By Mr. FRELINGHUYSEN:

H.R. 17132. A bill for the relief of Carolina Monaco and her daughters, Lucia Monaco and Patricia Monaco; to the Committee on the Judiciary.

By Mr. NELSEN:

H. Res. 1163. Resolution to refer the bill (H.R. 10943) entitled "A bill for the relief of Robert A. Carleton" to the Chief Commissioner of the Court of Claims pursuant to section of the Court of Claims pursuant to sec-Judiciary.

EXTENSIONS OF REMARKS

ECUMENICAL CAMPUS OFFERS HEALTH CARE FOR ELDERLY

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. HASTINGS. Mr. Speaker, recently I had the honor of being the guest speaker for the cornerstone laying of an Ecumenical Campus, a project which to my mind demonstrates how private initiative can respond in providing health care for the elderly.

The ceremonies took place in Jamestown, N.Y., on a site which eventually will be a home and health care complex for the aged embracing an 84-bed nursing home being built by the Lutheran Church of America; an 84-bed related health facility, including a core building to house a chapel and central service unit, being built by the United Presbyterian Church; and a comfortably appointed high-rise apartment to house the elderly, being built by the Covenant Church of America.

When finished the Ecumenical Campus will represent an $8 million endeavor by these three different denominations, working hand in hand in a joint effort with the community to provide all the modern tools of medicine to serve the aged.

As a member of the House Subcommittee on Public Health, I am familiar with the many problems facing the aged today in the area of health care. Here in this Ecumenical Campus is an inspiring example of what can be done.

These three churches laid more than a cornerstone. They laid the foundation for the kind of cooperative health care effort that can well serve as a lofty example for others throughout the Nation to follow.

What makes this project even more unique is the fact that not a single dollar of Federal or State funds was used in furthering this splendid facility.

I commend all who had a part in this effort and am including in the Record the following news account which gives full details of project in the hopes that other communities may see it as a way of achieving their health care goals for the aged:

[From the Jamestown (N.Y.) Post-Journal, Oct. 9, 1972]

CAMPUS CORNERSTONE LAID

Hailing the efforts of the Ecumenical Campus for the elderly being built on Falconer Street, Rep. James F. Hastings. (R-Rushford) promised to take the story of the project back to Washington and tell his colleagues how a "community in Upstate New York has been able to meet one of the most pressing needs of the day."

He made his remarks at the cornerstone laying of the multimillion dollar project held Sunday afternoon on the Lutheran Board of Social Services property.

In addition, he told the crowd of well-wishers, clergymen and politicians that government efforts to solve the health care and housing needs of the elderly continually "run into blank walls" and that the most remarkable aspect of this project was that "not one single Federal or state dollar is involved." He said he hopes to see more examples of this sort around the country.

Congressman Hastings, who was on crutches after being injured in a fall, was the guest speaker at the event where Jamestown Mayor Stanley N. Lundine also told the audience that this community "was lucky to have people with the vision and ability to put these plans into action."

Mayor Lundine promised the cooperation of the city on the project which he termed an "exciting approach."

The project includes the efforts of the Lutheran, Presbyterian and Covenant churches. It includes an 84-bed nursing home being erected by the Lutheran Church in America, an 84-bed health-related facility being erected by the United Presbyterian Church and a core building which includes a chapel and central services. The endeavor will eventually include a highrise apartment for the elderly which will be built by the Covenant Church in America. The total population of this ecumenical campus will eventually reach 500.

The money for the project has come from local citizens and foundations in varying amounts.

The Earle O. Hultquist Care Center was built and enlarged and is maintained by a gift and a bequest of Mrs. Earle O. Hultquist in memory of her husband and the kitchen facilities which will eventually turn out around 1,500 meals per day and the occupational and physical therapy facilities were made available through a grant from the Gebbie Foundation of Jamestown.

The multi-purpose chapel, which will be the focal center of the structures and the gathering place of all the residents, is becoming a reality due to a gift from the family of Mr. and Mrs. Karl Peterson.

The 24-duplex apartments being erected on the site for the housing of the aged were started by a gift from the Hugo A. Lindgren family. A trust fund for the existing Lutheran Retirement Homes has been established by a bequest from Miss Elizabeth Bergquist.

All of the local banks in Jamestown also have taken part by providing construction funds and mortgage money to see the project to completion.

In a report of the history of the campus, Norman C. Berg, executive director, Luthern Social Services, Upper New York Synod, said the project is truly an "ecumenical dream."

The invocation was given by the Rev. Robert M. Armstrong, executive director, the Presbyterian Homes of Western New York, while the introduction of guests was handled by Russell A. Fuscus, county treasurer.

During the cornerstone laying, the Rev. Robert E. Land, dean, Southwestern District, Upper New York Synod, led a prayer and the Rev. Robert E. Backstrom, moderator of the Presbytery of Western New York read a scripture with the prayer of dedication being given by the Rev. John L. Schmidt, minister of the First Presbyterian Church, Jamestown. The stone was laid by the Rev. C. Nelson Craig, minister, Westminster Presbyterian Church, Jamestown. The Westminster Carillon Choir provided music for the event.

Also on hand for the ceremony were County Judge Lee Town Adams, Robert J. Sullivan and Robert Miller as well as Philip Thorsell and Samuel Olson both representing the architecture firm of Naetzker, Thorsell and Dove who designed the campus and David Donald, chairman of the board of John W. Cowper Co., which is doing the construction work on the project. Mr. Thorsell, Mr. Olson and Mr. Dove also helped in laying the cornerstone.

BUDGET SCOREKEEPING REPORT—NO. 8

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. MAHON. Mr. Speaker, I am inserting, for the information of Members, their staff, and others who may be interested, a few excerpts from the most recent budget scorekeeping report for the session, prepared by the staff of the Joint Committee on Reduction of Federal Expenditures.

The report reflects the impact of congressional actions on the President's budget requests through September 30.

The report contains considerable information for those who have need for details, and a copy has been sent to all Members.

The excerpts I am including—that is, the text highlights and the main scorekeeping table of the report—are more or less self-explanatory.

I would add that these scorekeeping reports, now in their fifth year, are the most comprehensive current source of information on what is happening legislatively to the President's budgetary recomendations. They are authoritative, being carefully prepared by an experienced staff dedicated to complete objectivity, reporting the facts as best they can be ascertained. Some estimating is necessary, especially in respect to legislative actions affecting outlays—expenditures.

The following material is excerpted from the "1973 Budget Scorekeeping Report, No. 8," as of September 30, 1972:

EXCERPTS FROM 1973 BUDGET SCOREKEEPING REPORT NO. 8

HIGHLIGHTS

Fiscal 1973 scorekeeping to date

The impact of congressional action to date, September 30, 1972, on the President's fiscal year 1973 requests for budget authority, budget outlays and budget receipts, and the projected unified budget deficit, as shown in this report, may be summarized as follows:

[In millions of dollars]

	House	Senate	Enacted
Budget authority:			
Appropriation bills	−6,309	−2,501	+322
Legislative bills	+17,049	+12,897	+13,223
Total, budget authority increase	+10,740	+10,395	+13,546
Outlay:			
Appropriation bills	−2,129	+174	+328
Legislative bills	+5,344	+11,484	+6,821
Total, outlay increase	+3,215	+11,658	+7,149
Revenue decrease (increases deficit)	−59	+915	−1,602
Deficit increase	+3,274	+10,743	+8,751

In terms of completed congressional action to date, major scorekeeping actions affecting the President's budget requests include:

Black lung benefits—increase of $969 million in budget authority and outlays;

Social security benefits—increase of $2.1 billion in outlays due to enactment of a 20% benefit increase instead of a 5% increase as requested;

Social security taxes—decrease of $1.6 billion in revenue due to delay in effective date of proposed wage base increase.

Revenue sharing—increase of $3.0 billion in budget authority and $3.3 billion in outlays (including shift of $2.5 billion in budget authority and $2.25 billion in outlays requested for fiscal 1972 into fiscal 1973).

Water pollution control—increase of $11 billion in budget authority.

Thirteen regular 1973 appropriation bills have been considered as of September 30. Action is shown in this report for eight appropriation bills at the completed stage reflecting a net outlay increase of $232 million. House action on the Defense, Labor-HEW, Foreign Aid and Military Construction appropriation bills indicates a net outlay reduction of $1,875 million. Senate action on the same four appropriation bills indicates a net outlay reduction of $781 million.

Also pending are several legislative bills containing "backdoor" or mandatory spending authorizations, including federal employee benefits, veterans benefits, additional social security benefits and taxes, and federal-aid highways. These and other actions are shown in scorekeeping table No. 1.

Users of this report must keep clearly in mind that the Congressional action figures in the report are as of September 30, and will fluctuate almost daily until the end of the session as a result of further Congressional action on pending legislative and appropriation measures.

Fiscal 1973 budget deficit

The following is an analysis of the budget deficit for fiscal year 1973, reflecting budget revisions, amendments and congressional action to date, September 30, 1972:

	Deficit estimate (millions)
Original deficit estimate, January 1972 (outlays $246,257 million; receipts $220,785 million)	$25,472
Budget revisions, as of June 5, 1972:	
Net outlay increase due to certain congressional actions, mainly black lung benefits	+$895
Shift of fiscal 1972 revenue sharing request into fiscal 1973, assuming enactment of retroactive provisions of pending legislation	+2,250
Net outlay changes, including interest	+583
Revenue revisions	−2,200
Revised deficit estimate, as of June 5 (outlays $250,000 million; receipts $223,000 million)	27,000
Amendments to the 1973 budget estimates, as transmitted to date:	
Additional outlays for Vietnam war	+1,200
Disaster-relief outlays incident to Hurricane Agnes, etc	+1,500
Additional outlays for drug abuse programs	+100
Additional outlays for other supplemental requests	+96
Deficit estimate, as revised and amended (outlays $252,896 million; receipts $223,000 million)	29,896
Congressional action to date (in addition to amounts included in the June 5 budget revisions):	
Social security:	
Payments, 20% increase	+2,100
Revenue loss (due to delay in effective date)	+1,600
Revenue sharing outlay increase not included in June 5 revisions above	+1,045
All other outlay changes, net	+859
All other revenue changes	+2
Deficit estimate, as revised and amended, and adjusted by Congressional action (outlays $256,900 million; receipts $221,398 million)	35,502
Revenue revisions, September 18, 1972 (excluding Congressional action)	−3,602
Deficit estimate, reflecting further revenue revision of September 18, 1972 (outlays $256,900 million; receipts $225,000 million)	31,900
Estimated outlay reductions necessary to reach $250 billion outlay level under proposed outlay ceiling	[1]−$6,900
Deficit estimate, as revised September 18, 1972 (outlays $250,000 million; receipts $225,000 million)	25,000

Fiscal 1973 outlays—proposed ceiling

In testimony before the House Ways and Means Committee on September 18, 1972, the Administration requested an increase in the debt ceiling and the imposition of a $250 billion ceiling on budget outlays. In this testimony the estimate for the fiscal 1973 unified budget deficit was revised to $25 billion, reflecting a $2 billion net increase in budget receipts.

The September 18 testimony estimated outlays at $250 billion, the same total estimated in the June 5 mid-session revisions. This estimate contemplates imposition of a $250 billion unified budget outlay ceiling for fiscal 1973. Current outlay estimates for Administration budget requests transmitted to date, together with Congressional action to September 30, exceed the total under the proposed ceiling by $6.9 billion. This is analyzed in tabular form as follows:

	Outlay estimate (millions)
Original outlay estimate, January 1972	$246,257
Amendments to the 1973 budget estimates, transmitted to date	+2,896
Congressional action to date	+7,149
All other revisions and rounding, net	+598
Outlay estimate, as revised and amended and adjusted to include Congressional action to date (September 30, 1972)	[1] 256,900
Outlay reductions necessary to reach $250 billion outlay level under proposed ceiling	[1] −6,900
Estimated outlays (proposed ceiling), as revised September 18, 1972	250,000

[1] Current as of September 30; will fluctuate almost daily as a result of further Congressional action on pending legislative and appropriation measures.

TABLE NO. 1.—ESTIMATED EFFECT OF CONGRESSIONAL ACTIONS DURING THE 2D SESSION OF THE 92D CONGRESS ON INDIVIDUAL BILLS AFFECTING BUDGET AUTHORITY AND OUTLAYS (EXPENDITURES) (AS OF SEPT. 30, 1972)

[In thousands of dollars]

Items acted upon	Congressional actions on budget authority (changes from the budget)			Congressional actions on budget outlays (changes from the budget)		
	House (1)	Senate (2)	Enacted (3)	House (4)	Senate (5)	Enacted (6)
Fiscal year 1973:						
Appropriation bills (changes from the 1973 budget):						
1972 Foreign assistance and related agencies (Public Law 92-242)				[1] −105,000	[1]−105,000	−105,000
Legislative Branch (Public Law 92-342)	−6,022	−4,625	−5,560	−5,500	−4,300	−5,200
Second Supplemental, 1972 (Public Law 92-306)				−100,000	+550,000	+95,000
State, Justice, Commerce, the Judiciary and related agencies (H.R. 14989)	−100,884	+116,391	(‡)	−74,000	+42,000	(‡)
Housing and Urban Development, Space, Science and related agencies (Public Law 92-383)	−454,695	+325,187	−132,232	−3,500	+94,000	+61,000
Transportation and related agencies (Public Law 92-398)	−117,567	−2,187	−41,244	−75,000	−39,000	−48,000
District of Columbia (Public Law 92-344)	−11,000	−29,600	−26,913	−11,000	−29,600	−26,913
Labor, Health, Education, and Welfare and related agencies (H.R. 16654) [2]	+835,815	†[3] +1,771,286		+275,000	†[3] +725,000	
Interior and related agencies (Public Law 92-369)	+9,218	+23,769	+21,781	−7,100	+14,800	+10,000
Treasury, Postal Service and General Government (Public Law 92-351)	−9,458	−9,417	−8,776	−37,000	−37,000	−36,500
Public Works and Atomic Energy (Public Law 92-405)	−51,331	+82,638	+15,856	−20,000	+49,000	+27,700
Agriculture and Environmental and Consumer Protection (Public Law 92-399)	−55,179	+608,866	+481,842	[1]+78,000	[4]+315,000	[4]+250,000
Supplemental, 1972, disaster relief (Public Law 92-337)				+100,000	+100,000	+100,000
Supplemental, 1973, disaster relief (Public Law 92-393)	+17,500	+17,500	+17,500	+6,000	+6,000	+6,000
Department of Defense (H.R. 16593)	−5,016,636	†−4,989,486		−2,000,000	†−1,500,000	
Foreign Assistance and Related Agencies (H.R. 16705)	−967,869	−88,127	(‡)	−140,000	+1,500	(‡)
Military construction (H.R. 16754)	−380,600	†−323,658		−10,000	†−8,000	
Subtotal, appropriation bills	−6,308,708	−2,501,463	+322,254	−2,129,100	+174,400	+328,087
Legislative bills with "backdoor" spending authorizations (changes from the 1973 budget):						
Higher education—student loans (borrowing authority) (Public Law 92-318)	Indefinite	Indefinite	Indefinite	N.A.	N.A.	N.A.
Housing Act of 1972 (contract authority) (S. 3248)	†+150,000	+300,000		†N.A.	N.A.	
Highway emergency relief (Public Law 92-361)	−50,000	−50,000	−50,000			
Federal-aid Highway Act of 1972 (S. 3939, H.R. 16656)	†+1,511,350	+1,287,920		†N.A.	N.A.	
Airport and airways development (contract authority) (S. 3755)		+840,000	(‡)			(‡)
REA loan guarantee (borrowing authority) (S. 3995)		†+20,000			†N.A.	
General revenue sharing (H.R. 14370)	+2,800,000	+2,800,000	†+2,994,670	+3,100,000	+3,100,000	†+3,294,670
State bond subsidy (permanent) (S. 3215)		†+29,000			†+29,000	
Water pollution control (contract authority) (S. 2770, H.R. 11896)	[5]+11,000,000	+3,000,000	†[5]+11,050,000	N.A.	N.A.	†N.A.
Freight car loan guarantee (borrowing authority) (S. 1729)		+2,000,000			N.A.	
Subtotal, "backdoor"	+15,411,350	+10,226,920	+13,994,670	+3,100,000	+3,129,000	+3,294,670
Legislative bills with mandatory spending authorizations (changes from the 1973 budget):						
Wage board pay (Public Law 92-392)	[1] +30,000	[1] +30,000	+30,000	[1] +30,000	[1] +30,000	+30,000
Full District of Columbia Congressional representation (H.J. Res. 253)	†+960			†+960		
Federal employee health insurance (H.R. 12202)	+267,900	+39,600	(‡)	+267,900	+39,600	(‡)
Council on International Economic Policy (Public Law 92-412)	−1,341			−1,316		
School lunch (Public Law 92-433)				[1] +200,000	[1] +200,000	+200,000
Equalization of military retired pay (Public Law 92-436)	−269,000	+6,000	−269,000	−269,000	+6,000	−269,000
National Guard retirement (S. 855)		+7,900			+7,900	
Additional military travel allowance (H.R. 3542)	+2,414			+2,414		
POW and MIA leave (H.R. 14911)	+13,400			+13,400		
Military survivor annuity (Public Law 92-425)		−17,715	−17,715		−17,715	−17,715
National Foundation for Higher Education (Public Law 92-318)	[1] −90,000		−90,000	[1] −27,000		−27,000
Black lung benefits (Public Law 92-303)	[1] +968,712	+968,712	+968,712	[1] +968,712	+968,712	+968,712
Social security tax and benefit amendments (Public Law 92-336)		[6] −1,600,000	[6] −1,600,000		+2,100,000	+2,100,000
Social security liberalization, welfare reform, tax increase, etc. (H.R. 1)		†+2,500,000			†+3,700,000	
Medicaid extension (H.R. 16811)				†+86,000		
Revenue sharing, HUD (S. 3248, H.R. 16656)	†−490,000	−490,000		†−490,000	−490,000	
Extended unemployment benefits (H.R. 640)					†+41,000	
Air traffic controller retirement (Public Law 92-297)	[1] +31,500	+31,500	+31,500	[1] +31,500	+31,500	+31,500
Early retirement—customs inspectors (H.R. 440)	+3,200			+3,200		
Handgun control (S. 2507)		+10,000			+10,000	
Veterans advance educational allowance (H.R. 12828, S. 2161)	+128,700	+692,000	(‡)	+124,700	+900,900	(‡)
Veterans medical care (H.R. 10880)	(+29,658)	+150,850	(‡)	(+29,658)	+150,850	(‡)
Veterans nursing home care (H.R. 460)	(+6,900)			(+6,900)		
Veterans paraplegic housing (Public Law 92-341)	+3,500	+5,000	+3,500	+3,500	+5,000	+3,500
Veterans national cemeteries (H.R. 12674)	+39,600			+39,600		
Veterans compensation increase (Public Law 92-328)	+114,900	+169,000	+114,900	+114,900	+169,000	+114,900
Civil Service retirement—firemen (Public Law 92-382)	+6,700	+6,330	+6,700	+6,700	+6,330	+6,700
Civil Service—early retirement (H.R. 11255)	†+780,600			†+780,600		
Disaster relief, SBA (Public Law 92-385)	+94,772	+159,952	+50,000	+94,772	7+159,952	+50,00
Minority enterprises (S. 3337)	†+833	+883		†+833	+883	
Railroad Retirement benefit increase (Public Law 92-336)					+3,000	+73,0000
Railroad Retirement—20 percent increase (H.R. 15927)			(††)	+261,600	+261,600	††+261,600
Subtotal, "mandatory"	+1,637,350	+2,670,012	−771,403	+2,243,975	+8,354,512	+3,526,197
Subtotal, legislative bills [7]	+17,048,700	+12,896,932	+13,223,267	+5,343,975	+11,483,512	+6,820,867
Total, fiscal year 1973	+10,739,992	+10,395,469	+13,545,521	+3,214,875	+11,657,912	+7,148,954

---

[1] Enacted figure used for comparability.

[2] Earlier action on Labor—HEW appropriations (H.R. 15417) vetoed by President and sustained by House on Aug. 16, 1972.

[3] Does not reflect effect of provision authorizing the President, at his discretion, to withhold from obligation the amount by which the bill exceeds the level of the House-passed bill ($935 million).

[4] Excludes estimated outlay increase of $691 million primarily for certain water pollution reimbursements contingent upon enactment of pending water pollution control legislation (S. 2770 and H.R. 11896).

[5] Includes advance availability of $6 billion provided for fiscal 1974.

[6] Decrease in budget authority for social security reflects less than anticipated tax revenues for trust fund.

[7] Excludes actions taken in 1st Session of 92d Congress, shown in parentheses above.

‡Subject to or in conference.

N.A.—Not available.

†Committee action.

††Pending signature.

THE DECLARATION OF INDEPENDENCE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. HELSTOSKI. Mr. Speaker, as the American Revolution Bicentennial Commission prepares for the Nation's 200th birthday, it behooves us to pause for a moment to reflect on the past so that we may better understand the present and the future of this great country.

Said Patrick Henry:

> I have but one lamp by which my feet are guided, and that is the lamp of experience. I know no way of judging of the future but by the past.

Our Founding Fathers themselves studied the past and in so doing, they manifested in the Declaration of Independence the belief that all men are created equal, endowed by their creator with certain unalienable rights, that governments are instituted among men deriving their just powers from the consent of the governed, and whenever any form of government becomes destructive to these ends, the people have a right to change that government to insure their safety and happiness.

The belief in these principles derives from antiquity, and to this very day people the world over continue to fight to have these basic rights instituted in their daily lives and countries.

When you consider the men and what they later accomplished, it can be stated without contradiction that never in the history of our country have so many great men with great minds come together—willing to sacrifice everything in order to work for the good of the country—as during our revolutionary period.

Thomas Jefferson, one of the most outstanding statesmen the world has ever known and who will always be a pillar of history, wrote the Declaration of Independence.

There were 56 men who signed the Declaration of Independence, and it is interesting to note that of these 56, two became Presidents of the United States; three served as Vice Presidents; 11 became Governors; six served as U.S. Senators, and three as Representatives; three served on the Supreme Court; one served as Secretary of State and one as U.S. Treasurer; and two became presidents of universities.

Five of the 56 signers were from New Jersey. These were: Abraham Clark, born in Elizabethtown, N.J., who later served as U.S. Representative from New Jersey from 1791 to 1794; John Hart, born in Stonington, Conn., a farmer by profession who died before independence was won from the British; Francis Hopkinson, born in Philadelphia and a lawyer and jurist by profession, who served as a U.S. district judge from 1789 to 1791. Mr. Hopkinson is credited by some historians as having designed the U.S. flag in 1777. His greatest contribution to the cause of American liberty came in his writings of political satires that helped mold public opinion in favor of the revolutionary cause and the ratification of the Constitution.

There was Richard Stockton, born in Princeton, N.J., and a lawyer by profession who was imprisoned by the British during the Revolutionary War—the Stockton homestead in Princeton is now the Governor's mansion; and lastly, there was John Witherspoon, a clergyman by profession who was born in Yester, Scotland. Mr. Witherspoon served as president of the College of New Jersey, which later became Princeton University.

I am, indeed, proud that such outstanding men from my home State of New Jersey were present and contributed so greatly to the birth of our Nation.

Said Cicero:

> History is the witness that testifies to the passing of time; it illuminates reality, vitalizes memory, provides guidance in daily life, and brings us tidings of antiquity.

As we move forward to celebrate the 200th anniversay of the founding of our Republic, let us reflect on an old document which is as relevant today as the day it was written, and which continues to inspire and guide people everywhere in seeking a better life and world in which to live.

The Declaration of Independence follows:

[In Congress, July 4, 1776]

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN GENERAL CONGRESS ASSEMBLED.

When in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and Nature's God entitle them, a decent Respect to the Opinions of Mankind requires that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient Causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient Sufferance of these Colonies; and such is now the Necessity which constrains them to alter their former Systems of Government. The History of the present King of Great-Britain is a History of repeated Injuries and Usurpations, all having in direct Object the Establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid World.

HE has refused his Assent to Laws, the most wholesome and necessary for the public Good.

HE has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their Operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

HE has refused to pass other Laws for the Accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.

HE has called together Legislative Bodies at Places unusual, uncomfortable, and distant from the Depository of their public Records, for the sole Purpose of fatiguing them into Compliance with his Measures.

HE has dissolved Representative Houses repeatedly, for opposing with manly Firmness his Invasions on the Rights of the People.

HE has refused for a long Time, after such Dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the Dangers of Invasion from without, and Convulsions within.

HE has endeavoured to prevent the Population of these States; for that Purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their Migrations hither, and raising the Conditions of new Appropriations of Lands.

HE has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

HE has made Judges dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries.

HE has elected a Multitude of new Offices, and sent hither Swarms of Officers to harrass our People, and eat out their Substance.

HE has kept among us, in Times of Peace, Standing Armies, without the consent of our Legislatures.

HE has affected to render the Military independent of and superior to the Civil Power.

HE has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation:

FOR quartering large Bodies of Armed Troops among us:

FOR protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

FOR cutting off our Trade with all parts of the World:

FOR imposing Taxes on us without our Consent:

FOR depriving us, in many Cases, of the Benefits of Trial by Jury:

FOR transporting us beyond Seas to be tried for pretended Offences:

FOR abolishing the free System of English Laws in a neighbouring Province, establishing therein an arbitrary Government, and enlarging its Boundaries, so as to render it at once an Example and fit Instrument for introducing the same absolute Rule into these Colonies:

FOR taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

FOR suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all Cases whatsoever.

HE has abdicated Government here, by declaring us out of his Protection and waging War against us.

HE has plundered our Seas, ravaged our Coasts, burnt our Towns, and destroyed the Lives of our People.

HE is, at this Time, transporting large Armies of foreign Mercenaries to compleat the Works of Death, Desolation, and Tyranny, already begun with circumstances of Cruelty and Perfidy, scarcely paralleled in the most barbarous Ages, and totally unworthy the Head of a civilized Nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the Executioners of their Friends and Brethren, or to fall themselves by their Hands.

He has excited domestic Insurrections amongst us, and has endeavoured to bring on the Inhabitants of our Frontiers, the merciless Indian Savages, whose known Rule of Warfare, is an undistinguished Destruction, of all Ages, Sexes and Conditions.

In every stage of these Oppressions we have Petitioned for Redress in the most humble Terms: Our repeated Petitions have been answered only by repeated Injury. A Prince, whose Character is thus marked by every act which may define a Tyrant, is unfit to be the Ruler of a free People.

Nor have we been wanting in Attentions to our British Brethren. We have warned them from Time to Time of Attempts by their Legislature to extend an unwarrantable Jurisdiction over us. We have reminded them of the Circumstances of our Emigration and Settlement here. We have appealed to their native Justice and Magnanimity, and we have conjured them by the Ties of our common Kindred to disavow these Usurpations, which, would inevitably interrupt our Connections and Correspondence. They too have been deaf to the Voice of Justice and of Consanguinity. We must, therefore, acquiesce in the Necessity, which denounces our Separation, and hold them, as we hold the rest of Mankind, Enemies in War, in Peace, Friends.

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the World for the Rectitude of our Intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly Publish and Declare, That these United Colonies are, and of Right ought to be, Free and Independent States; that they are absolved from all Allegiance to the British Crown, and that all political Connection between them and the State of Great-Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm Reliance on the Protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

Signed by Order and in Behalf of the Congress,

John Hancock,
President.

Attest.

Charles Thomson,
Secretary.

Signers of the Declaration of Independence

(According to the Authenticated List Printed by Order of Congress of January 18, 1777.[1])

John Hancock.

NEW-HAMPSHIRE

Josiah Bartlett, Wm. Whipple, Matthew Thornton.[2]

MASSACHUSETTS-BAY

Saml. Adams, John Adams, Robt. Treat Paine, Elbridge Gerry.

RHODE-ISLAND AND PROVIDENCE, &C.

Step. Hopkins, William Ellery.

CONNECTICUT

Roger Sherman, Saml. Huntington, Wm. Williams, Oliver Wolcott.

NEW-YORK

Wm. Floyd, Phil. Livingston, Frans. Lewis, Lewis Morris.

NEW-JERSEY

Richd. Stockton, Jno. Witherspoon, Fras. Hopkinson, John Hart, Abra. Clark.

PENNSYLVANIA

Robt. Morris, Benjamin Rush, Benja. Franklin, John Morton, Geo. Clymer, Jas. Smith, Geo. Taylor, James Wilson, Geo. Ross.

DELAWARE

Caesar Rodney, Geo, Read, (Tho M:Kean)[3]

MARYLAND

Samuel Chase, Wm. Paca, Thos. Stone, Charles Carroll, of Carrollton.

VIRGINIA

George Wythe, Richard Henry Lee, Ths. Jefferson, Benja. Harrison, Thos. Nelson, jr., Francis Lightfoot Lee, Carter Braxton.

NORTH-CAROLINA

Wm. Hooper, Joseph Hewes, John Penn.

SOUTH-CAROLINA

Edward Rutledge, Thos. Heyward, junr., Thomas Lynch, junr., Arthur Middleton.

GEORGIA

Button Gwinnett, Lyman Hall, Geo. Walton.

FOOTNOTES

[1] Spelling and abbreviation of names conform to original printed list.

[2] Matthew Thornton's name was signed on the engrossed copy following the Connecticut Members, but was transferred in the printed copy to its proper place with the other New Hampshire Members.

[3] Thomas McKean's name was not included in the list of signers printed by order of Congress on January 18, 1777, as he did not sign the engrossed copy until some time thereafter, probably in 1781.

SMALL BUSINESS ASSOCIATION SUPPORTS H.R. 17021

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, I am hopeful that later this week the House will consider the bill sponsored by the gentleman from New Jersey (Mr. Daniels), myself, and a number of other members to authorize on-site consultation by the Department of Labor for small employers in dealing with OSHA. The largest small business organization has endorsed this bill and for the information of my colleagues the text is included at this point:

National Small Business Association,
Washington, D.C., October 11, 1972.

Hon. William A. Steiger.
House Office Building,
Washington, D.C.

Dear Mr. Steiger: This is to inform you that the National Small Business Association wholeheartedly supports the provisions embodied in H.R. 17021.

Even though coverage has been reduced to firms employing only 25 or fewer, this will still account for approximately 90% of covered firms under the Occupational Safety and Health Act.

As you know it is not our desire, nor is it the desire of the small business community, to attempt to circumvent OSHA. Rather it is the greatest desire of all concerned to provide the safest possible working conditions for employees. By providing for on-site consultation the smaller employer will have the needed incentives to come into compliance, and should no longer feel that administration of the Act itself is primarily punitive.

While we would like to see further refinements along the lines of H.R. 17021, we strongly feel that this bill is a necessary first step in bringing the smaller employer into a system whereby he will voluntarily do everything possible to come into compliance with the law.

NSB feels that you and your colleagues who have worked so assiduously on this legislation are to be complimented for your insight into the problems of the smaller employers.

Sincerely,

John Lewis,
Executive Vice President.

A PICTURE OF FAILURE

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. LONG of Maryland. Mr. Speaker, my colleague from Connecticut, Congressman John S. Monagan, has ably chaired hearings on the FHA housing scandals in all parts of our country. His Subcommittee on Legal and Monetary Affairs of the Government Operations Committee has conducted a year-round investigation in complement to the intensive study by HUD Appropriations Subcommittee.

Independently of these two studies, I personally investigated one FHA project in Essex, Baltimore County, Md. My examination revealed administrative failures by FHA in the suburbs as dismal as those uncovered by the Appropriations and Government Operations Committees in the inner cities.

In city after city, homebuyers are in revolt because repeatedly they find that FHA sides with builders and brokers instead of the consuming public. In Baltimore County, 1,000 obvious construction defects went unnoticed by FHA until the homeowners came to me as their Congressman for help. How many citizens do not point out to their Congressmen the failure of this Federal bureaucracy? How many home buyers across the Nation are stuck with shoddy, substandard construction? How many builders slap building materials together with the blessing of the FHA and call the result homes?

If the Federal Housing Administration is not protecting the taxpaying, homebuying public, then whom or what is it protecting? What part does it play in the delicate economics of the construction and mortgage industries? What can and should FHA demand of builders, brokers, mortgagers, and homebuyers themselves? Is the FHA concept in fact the best answer to the housing problems faced by our country?

These, Mr. Speaker, are very difficult questions to answer. It may be that there are no answers, but I commend Congressman Monagan's subcommittee for its willingness to seek those answers in hearings during the next few months.

Congressman Monagan, in the July 1972 issue of Mortgage Banker, tells of the heavy hand of private construction and finance industry as it hung over the head of the FHA in Detroit and other cities in the United States. He discusses the administrative disintegration of FHA and the implications this may have for Federal participation in the housing industry. I hope that my colleagues in reading this article will reflect on housing problems in their own districts and the role the Federal Government has played. I hope also that in considering legislation on housing problems, the 93d Congress will carefully read and keep in mind the studies by its Committees on Government Operations and Appropriations. The article follows:

---

[1] Footnotes at end of article.

A Picture of Failure

(By Representative John S. Monagan)

(It has been frequently said that the best law the mind of man is capable of drafting will not work if incompetently and improperly administered; and that the worst law of the Congress will not result in inequities if properly and competently administered. . . .

(The general attitude of FHA seems to have been that it was an agency for the builders and for their benefit. While deeply concerned with inducing builders to construct more projects, FHA appears to have been unconcerned in maintaining the standards of integrity and competence required of Government agencies in the public interest. (FHA Investigation—Report of the Senate Committee on Banking and Currency, Eighty-fourth Congress, First Session—January 6, 1955.))

The above quote is from the Capehart hearings which exposed graft, profiteering, and windfalls in the section 608 multifamily program caused by FHA malfeasance. Today's section 236 multifamily subsidized program and 235 single-family subsidized program are viewed with increasing alarm by Congress and the Administration itself. George Sternlieb, director of the Center for Urban Studies at Rutgers University, in referring to the programs recently as "a Frankenstein monster," warned that 236 "may foist the worst wave of slums on the country since the first anti-slum ordinances were adopted in the nineteenth century."

For the millions of Americans still living in our central cities and fighting to preserve existing neighborhoods, today's new subsidy programs have offered little hope of living in a decent home in a decent environment, a goal established nearly a quarter of a century ago by the passage of the National Housing Act of 1949.

The Subcommittee on Legal and Monetary Affairs viewed in Detroit the destruction of neighborhoods, caused in large part by the passive attitude of FHA employees who responded to instructions emphasizing production goals.

That the problem is not confined to Detroit is evidenced by testimony on this subject received by the subcommittee on May 4 from a national organization representing inner-city residents of over 300 of our nation's cities. Today, grand juries are meeting in a number of cities, and the days ahead will see indictments charging public officials and private interests with fraudulent conduct, bribery, and conflict of interest.

Before discussing the findings of the House Government Operations Committee relating to Detroit, a word should be said about the committee function, which is often misunderstood. The committee is often referred to as the "watchdog" committee of the House, and is charged with the duty of "studying the operation of government activities at all levels with a view to determining their economy and efficiency." In our examination of a governmental activity, we endeavor to reach a judgment as to whether the particular law being examined is being administered in accordance with the intent of Congress.

The jurisdiction of the Legal and Monetary Affairs Subcommittee includes the federal agencies which affect the housing and mortgage credit industries. We have oversight responsibility for the Department of Housing and Urban Development, Department of Justice, Department of the Treasury, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, Federal Reserve System, and the Federal Savings and Loan Insurance Corporation.

The current oversight investigation of HUD began in May 1971, shortly after jurisdiction was assigned to the subcommittee as a part of the reorganization of the full committee. I accepted the chairmanship of the subcommittee on the basis of this reassignment. During my career in Congress, I had been active on the Committee on Foreign Affairs. Over a period of years, however, I came to realize that, in the future, our position in the world would depend on the state of our economic and social health at home. What we viewed in Detroit reaffirmed my belief and convinced me of the urgent need of oversight activity if present shortcomings were to be eliminated and administrative apparatus was to be strengthened to protect the public.

Our first hearings were held on May 24, 1971, with Secretary Romney as the lead-off witness. Testimony was later received from Assistant Secretary Gulledge on the operation of the Federal Housing Administration, which is still the largest component of HUD in terms of personnel and administrative costs. Of interest to this Association in the fact that our attention was initially drawn to FHA by numerous complaints concerning inordinate delays by FHA in the processing of nonassisted housing applications.

In Detroit, the rapid increase in foreclosures occurred primarily in connection with mortgages under the nonsubsidized programs, particularly the FHA 223(e) program. Our investigation focused on FHA mismanagement, state and local failure to regulate the real estate industry, and investigative and prosecutorial deficiencies within the Department of Justice. The involvement of mortgage bankers, real estate brokers, rehabilitators, and speculators was likewise reviewed, since it was apparent that many of these groups had profited through the entry of FHA insurance programs in the central cities.

The Detroit debacle put on the record by staff investigators—aided by the General Accounting Office—caused the subcommittee to devote its resources to that city, commencing with GAO testimony on December 2, followed by hearings in Detroit on December 3–4. This test case has proved to be an excellent laboratory process for the analysis of program failures. In December, GAO testified that HUD had acquired 5,297 properties as of September 31, 1971 and predicted that, based upon the 18,000 to 20,000 properties then in serious default, ultimate loss might reach as high as $200 million. Despite efforts by HUD to stabilize the disaster, the inventory as of May 31 had climbed to 8,478, a 40 percent increase since the subcommittee spotlighted the Detroit scandal.

While details vary, the scheme uncovered in Detroit has been found in a number of cities. With the entry of FHA into the inner city in 1968, speculators flooded changing neighborhoods and, through a variety of tactics, pressed homeowners into selling cheaply, made cosmetic repairs, obtained inflated FHA appraisals, and sold to low-income families which lacked the means to make code repairs. Often the purchaser, unable to comply with local law or to make his property habitable, abandoned his home.

Indictments now on file charge that FHA appraisers were bribed and that brokers and speculators have connived with mortgage insurance applicants to obtain false credit ratings for mortgage eligibility. That mortgage companies have not exerted their best efforts to prevent this abuse was made clear by Lawrence S. Katz, former FHA director in Milwaukee, in testimony before our subcommittee. In response to a question concerning the attitude of a lender, he stated: "His risk is almost nonexistent. He is not going to hold a mortgage for 30 years. He turns it over to the quasi-governmental agency, and that agency takes the mortgage and the risk. All of your mortgage bankers operate this way."

Virtually all but the poor have profited from the FHA programs—speculators, real estate agents, rehabilitation firms, mortgage companies, banks, and the major owner of these mortgages, the Federal National Mortgage Association.

While the subcommittee concentrated on the abuse of the standard FHA programs in Detroit, it is clear that equally serious problems exist throughout the nation, and that such problems are not confined to inner-city, nonsubsidized mortgages. A HUD internal audit report of the section 235 program made public by Secretary Romney identified other areas in which similar abuses had occurred. He frankly admitted that in Philadelphia, Washington, D.C., Camden, Newark, and Columbus, Ohio, "speculators sold properties to section 235 buyers relatively soon after acquisition without substantial repairs/improvements at prices considerably higher than their acquisition cost."

Poor construction of new section 235 homes and subsequent homeowner dissatisfaction has been brought to light in San Antonio, Spokane, Columbia, South Carolina, and other areas. Congressman Clarence Long of Maryland submitted to our subcommittee the depressing results of his own investigation of a new, 122-unit section 235 project in Essex, a suburb of Baltimore. There are indications that abandonment is increasing in suburban areas near Atlanta, Miami, and Dallas, where land is inexpensive and where 235 projects have been built without adequate access to public transportation and job opportunities.

These program difficulties are not cited with any intent of finding a scapegoat. There has been entirely too much buckpassing and finger pointing since the Detroit disclosures, and this impedes an attempt to learn from the errors of the past. It is not difficult for a congressional committee to absolve the Congress of fault and place the blame upon others. On the other hand, there is no obligation for the Congress to accept responsibility which belongs elsewhere. It might be said by some that Congress should have made an inquiry into the administration of these programs sooner. It is now apparent that responsible officials of the executive branch and private sector had knowledge of inner-city foreclosures and subsequent abandonments well over two years ago and failed to warn the Congress. Three committees of the House, each with its own jurisdictional interest, and a committee of the Senate are now utilizing their respective investigative powers. Our task will not be discharged until the role of both the public and private sectors is fully reviewed.

In view of the controversial subject matter involved, the complexity of the causes and the tendency to search for a scapegoat, the Detroit investigation was a difficult task. However the objectivity and nonpartisanship of my colleagues throughout the investigation is evidenced by the fact that the subcommittee's report to the full committee was adopted unanimously on June 7. The subsequent adoption by the full committee of the subcommittee report without dissent on June 14 is, I think, an indication of the report's objectivity.

The committee report recommended that, without regard to executive branch "ceilings" on personnel levels, HUD seek authorization to hire additional personnel required to handle its mortgage insurance operations.

This should help to restore effectiveness in the processing of nonsubsidized insurance applications. Further moratoria on the processing of new FHA applications can be readily predicted if the committee's recommendations for additional staffing at HUD are not met with immediate action. The question of adequate personnel was first raised with Assistant Secretary Gulledge in our hearings on October 13-14, 1971, and continued on May 16 with Mr. Gulledge as a part of our continuing overall investigation of HUD, but sufficient additions to staff have not been forthcoming.

In Detroit, undue reliance was placed upon fee appraisers and inspectors, many of whom were poorly trained and, in some instances, were involved in potential conflict of interest situations. The department has acknowledged that a 66 percent increase in the annual volume of units in mortgage insurance applications between 1968 and 1971 could not be handled with a 9 percent increase in staff. The question for the future is what steps are to be taken, and when?

The HUD field office staff faces a heavy workload and pressures for mortgage loan approvals in daily contacts with local real estate brokers and salesmen, mortgage lenders, and builders. In the absence of fairly frequent surveillance of field office staff by HUD, the tendency for personnel to fall below optimum performance is perhaps inevitable.

The Secretary of HUD apparently recognized this need in his recent appointment of an inspector general, who will report directly to him and who will have charge of the Office of Audit and the Office of Investigation. The mode of operation and staffing for this office will be important in determining its effectiveness.

It must also be noted that the units under the inspector general generally have been designed to safeguard the fiscal integrity of HUD programs. That is important. It is also important, however, to safeguard the implementation of central office policy. Even the best guidelines are subject to various interpretations. A unit in the office of the secretary to safeguard the integrity of policies would also be desirable. A chain of policy observation can also provide the secretary with valuable feedback to evaluate program policies. Such information could serve as an early warning system to modify ineffective policies and to formulate new legislative recommendations where necessary.

The subject of counseling is very much in the forefront today. Given the situation we found in Detroit, there is evidence that a lack of counseling was a major contributor to the crisis in foreclosures. Beyond doubt, however, shelter of any form was so welcome that too many individuals were approved for homeownership who were unqualified for various reasons. Thus, the committee has recommended an increase in area office counseling and credit review screening of applicants for home mortgage insurance under all HUD homeownership programs, not merely for 235 homeownership assistance. To insure accountability, "in-house" capability is prefererd, but if the private sector can preform that role more economically and efficiently, then I encourage the presentation of such a case, keeping in mind that responsibility must be accepted for those who fail to provide service for the fee received.

Of immediate concern to the subcommittee, however, is the proposition advanced by some that FHA is in disarray, conceptually and administratively. Conceptually, there does appear to be a serious question, both in government and out, of the appropriate role for the FHA insurance programs. Administratively, the department is experiencing the after effects of the constant reorganization which has taken place throughout the present administration. There are increasing indications that FHA operations are adversely affected by a split of the production and management functions in the central office and the decentralization of workload into the field offices. It is admitted that emphasis was placed on production in Detroit to a degree that ignored the management role, notwithstanding the clear warning given to HUD officials by Mr. Katz. In testimony before the subcommittee, Mr. Katz stated:

"But we were getting some memos out of the regional office in Chicago indicating that Detroit and some other cities in the country were doing a fine job in volume underwriting of ADC mothers for homeownership. I received a couple of them from the Chicago office and in phone calls we talked about the program. They said Detroit is doing a far greater job than we were. . . .

"I said: 'You are going to have problems.' It had to happen—we discussed at a national meeting a year ago that no matter how good the condition of the house is when it is bought by a welfare mother, if a repair program is not included, with money coming from the outside, it won't work.

"I indicated in 1968 that they (Detroit) would pay the price in time and that the result would be a catastrophe because these homes would need repairs. I shared this observation with our Chicago people, those who were chiding me because we were not achieving a large volume in Milwaukee in our ADC homeownership program."

So much for the responsibility for the Department of Housing and Urban Development. It seems reasonable to conclude that real estate brokers, speculators, and mortgage bankers in Detroit also knew the inevitable consequence, as Mr. Katz did, of HUD's administration of the 221d(2) program. Short-term private gain has been replaced by long-term suffering for the victims, and increased cost to the taxpayer. Not only must the capital in the Special Risk Fund be replaced, but sections of Detroit, virtually abandoned today, will have to be rejuvenated.

The private sector in Detroit was given an unnecessary body blow by a recent quote attributed to a spokesman of a prominent mortgage lending firm in Detroit. When queried about questionable practices in his organization, he said, "I thought they had stopped that kind of thing now that the heat is on."

At times during our Detorit hearings, as we examined the operations of FHA, the line between private and public interest seemed almost indistinguishable. It is not surprising, therefore, that once again, proposals are being offered to save FHA as a viable underwriting program by transferring it from HUD to the private sector.

On the other hand, some high officials are suggesting that the federal role should be minimized in providing direct housing assistance, and that greater concentration should instead be placed on insuring a suitable social environment. Builders have, in recent days, expressed an interest in building for those who are "upward bound," leaving unresolved the question, "Who shall trumpet for the poor?"

These are questions beyond the jurisdiction of this subcommittee; they are questions for the Congress and the executive branch to resolve. The current debate on Urban Growth Policy, and the requirement of Public Law 91–609 that the President prepare a biennial report to Congress on national growth problems, may well provide the catalyst for resolving these questions.

It is unrealistic to expect the Congress to consider the question of making FHA a quasi-private institution without scrutiny of related questions in the field of housing and urban development. It therefore remains the responsibility of the Subcommittee on Legal and Monetary Affairs to continue its evaluation of the operations of the Federal Housing Administration. Its strengths and weaknesses must be analyzed from the point of view of functions performed and cost involved. THE MORTGAGE BANKER Quarterly Economic Report, published in April, noted that:

"In 1961, the privately sponsored Commission on Money and Credit made a comprehensive report on means 'to stimulate the forces of enterprise and competition' and create an environment conducive to growth. In specific reference to mortgage finance, the report called for a continuance of the private market function of FHA. . . ."

Stanley H. Ruttenberg, a member of the Money and Credit Commission, commented as follows:

"I am also disturbed by the insistence upon the need for continuing FHA loan insurance programs . . . while at the same time making reference to the fact that the impediments and restrictions on the mortgage lending of private financial institutions must be eased. . . . I think this attitude is basically wrong. If the Federal government is going to have loan insurance and guaranteed programs, there are certain kinds of socially desirable policies which the private financial lending institutions should follow. References to the restrictions in effect implies, let the government insure or guarantee all the programs, take all the risk out of lending, but permit the private financial institutions to continue to benefit without undue interference. This, in my judgment, is indefensible."

The recent report by the President's Commission on Financial Structure and Regulation (the Hunt Commission) may well be the subject of attention by the subcommittee in the next Congress. Reorganization proposals will be of special significance, since all reorganizations are referred to the Committee on Government Operations, with further referral to the appropriate subcommittee.

As we continue our efforts to establish accountability for federal housing programs and to make appropriate recommendations relating to economy and efficiency, both to the executive and to the respective legislative committees, we shall be interested in the views of your Association. Your experience in dealing with HUD will be welcome, as will your thoughts concerning the future role of FHA. In the final analysis, the real test of effectiveness of a trade association is whether it can persuade the public, and especially government policy officials, that what is in the private interest of association members also serves the public interest.

PHYSICIAN MALDISTRIBUTION?

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. HALL. Mr. Speaker, there has been much misinformation concerning the distribution of physicians with utter disregard for the product, and basic law of supply and demand. This law and the axiom of private enterprise governs services, as well as supply of products. The only thing a physician has to sell is his rare and critical category of specialized training. How he delivers it is based on demand, his manner, and his dedication to first quality care to his fellowman. It is most unconscionable that alleged maldistribution by the bleeding hearts and social planners—who know nothing of quality health delivery, or the requirements of long and rigorous training—should foist on the American people as a part of the conventional wisdom, an untrue statement, simply by repetition.

The Congress of County Medical Societies' magazine "Private Practice", volume 4, No. 9 for September 1972, has a delving and thought-provoking article on this question, properly researched and prepared under the direction of Dr. John A. Sparks, chairman, and I submit it for Members' edification because of its succinct and straight forward, organized subheadings and conclusions. I would only add at the outset, that although increased availability because of enhanced transportation is available, we also have broken the technological barrier of communications; so that actually higher quality care can be rendered—more quality under proper circumstances by better trained physicians in centers highly organized for this purpose.

As a physician who has practiced in some of the areas referred to, and a friend of all the people in the counties referred to, I can assure you this is true. The article follows:

The view that there is a maldistribution of physicians in the United States has been nurtured by repetition until it has become a part of the "conventional wisdom". Articles in widely diverse publications agree that more physicians are needed to work in "rural areas" and in the "poverty-stricken wastes of large cities" where "equitable distribution" of medical care has not occurred. Even such a prestigous academic journal as the *Annals of the American Academy of Political and Social Science*, has reported that there are shortages of medical care providers in the low population density sectors of the country and the inner cities of metropolitan areas.

The purpose of this study is to carefully explore the allegation of a physician maldistribution and to draw conclusions about the validity of such a contention.

Those who have spoken of the "maldistribution" of physician services have most often referred to four kinds of alleged maldistribution: (1) a lack of an "adequate" number of physicians in rural areas of the United States, (2) a dearth of physicians in portions of the cities of urban America, (3) a disparity between the number of physicians in the states of one region as compared to the states of another region, and (4) a maldistribution of types of practice, i.e., more specialists than "family-type physicians". This study will consider, in turn, each of the four types of maldistribution.

PHYSICIAN SERVICES IN RURAL COUNTIES

The fifty states contain 3,084 counties; 132 of these counties have no active private medical doctors. The figure of 132 counties cannot be said to be high or low, however, until one looks more closely at these "doctorless" counties.

The 132 counties concerned are predominantly rural and sparsely populated. Alpine County, Calif., for example, has a population of only 484 people in the whole county. In the same category are Mineral and Hinsdale counties in Colorado, with populations of 500 and 202 people respectively; both, on the other hand cover about 1,000 square miles each, making them much larger than counties in the eastern United States. Fifty of the 132 counties without private physicians have county-wide populations of 2,000 persons or less. One hundred twenty-five have county-wide populations of 8,000 persons or less. Obviously, population density is quite low, with half of the counties having one or two persons per square mile.

Is the absence of physicians in counties where people are so sparsely settled evidence of a maldistribution of physicians? It is our conclusion, based on several months of research, that the absence of physicians in such low-population-density areas indicates that physicians are exactly where they ought to be to meet the needs of most people. Following is a review of the findings which support this conclusion.

Individuals who live in remote, sparsely-settled locations have always had to expend extra effort to obtain all kinds of goods and services. Supermarket operators, clothing store proprietors, movie theatre promoters, and, even municipal water companies have not generally chosen sparely settled areas as permanent places from which to market their wares. It should not be surprising, then that the provision of medical service should not be as immediately available to the remotely situated.

Some would argue that physicians "do not peddle a commodity"; therefore, the physician ought to respond to a "higher calling" and not provide services only where there is the attraction of consumer dollars. No matter how different physician services may appear to be from other services, there is one respect in which the service physicians provide is exactly like services provided by grocers, teachers and barbers—the services are in *limited supply*. Servicing areas where consumers are extremely small in numbers, or dispersed over large distances, is ultimately *a waste of valuable physician resources*.

There is yet another point to be made concerning sparsely settled counties. Presumably, in a free society, the choice of where one lives or continues to live is largely the result of weighing certain "location costs" against certain "location benefits". The urbanite incurs the costs of noise, impure air, crowded conditions, because he values highly the "benefits" of metropolitan living. The rural dweller incurs certain location costs as well; he does not have immediate access to certain durable goods and services, perhaps including, those of a physician. In return, he reaps benefits which apparently are of greater importance to him in total than the detriments. For example, his existence is relatively undisturbed by the intrusions of other men, and he breathes pure air. If at any point he believes his "costs" outrun his "benefits", then as a free man he may move closer to civilization. A governmental body ordering the provision of goods and services to remote citizens simply provides a subsidy to rural dwellers at the expense of other taxpaying citizens. Such subsidization of rural living is proceeding in the form of the National Emergency Health Personnel Act, a program designed to send health workers, including doctors, to areas in "critical need".

It is our conclusion that in a large proportion of the 132 counties without active private doctors, the provision of services, by *permanently* located physicians is unwarranted and potentially wasteful. Physician services are being provided where there are enough people to use them.

PHYSICIAN SERVICES IN COUNTIES ADJACENT TO STANDARD METROPOLITAN STATISTICAL AREAS

Stafford County, Va., has a population of 24,587 people and covers only 271 square miles. Its population per square mile is a rather high 90 persons. However, Stafford County is among the 132 counties in the United States without a single private medical doctor. Certainly a county with 24,000 people has a sufficient consumer base for the market-place to have allocated it at least one physician. Why the absence of medical practitioners?

It is instructive to look at the Stafford County situation more closely. Stafford's southern neighbor is a county which contains Fredericksburg, Va. The city of Fredericksburg possesses most of the 48 physicians in the county. Persons living in the several small towns of "physicianless" Stafford County are able to travel south, ten or fifteen miles, on a federal highway which runs through the center of their county, to obtain physician services in Fredericksburg. The increasing mobility of even the poorest Americans makes rural locations less remote than they once were. In rural areas "hospital facilities of 25 beds or more are within a 25-mile distance of all but two percent of the population, and only one-tenth of one percent have to travel more than 50 miles."

As far as Stafford County's residents are concerned, traveling south a few miles is not their *only* opportunity for medical care. The adjacent county to the *north* of Stafford is Prince William County. Prince William is part of a highly populated grouping of counties and cities which statisticians call a Standard Metropolitan Statistical Area (SMSA). An SMSA (there are about 300 in the United States) is broadly defined as "(1) a central city of 50,000 or more inhabitants; (2) the remainder of the county in which the central city is located; and (3) contiguous counties that are integrated economically and socially with the county containing the central city."

Prince William County, itself, has about 50 private physicians to serve the needs of Stafford County residents. But, even more importantly, it is part of the very densely-populated "Washington, D.C.—SMSA" which contains thousands of physicians within its thirty-five mile radius. Examples of counties without their own physicians adjoining metropolitan areas (in which there are large numbers of doctors) are many. Elbert County, Colo., for instance, has a population of about 3,900 people. The county itself has no physicians. Immediately north is the "Denver SMSA" which contains 2,738 physicians. Adjacent and south is the "Colorado Springs SMSA" from which 227 physicians offer services.

Of the 132 counties without private physicians, thirty-six are adjacent to Standard Metropolitan Statistical Areas. Stated in another way, about 23 percent of the "doctorless" counties in the United States are "next door" to highly populous areas where physicians abound. When one couples that figure with the fact that only about two-tenths of one percent of the total U.S. population resides in the 132 "doctorless" counties, then the claim of the radical rural maldistribution of physicians becomes more and more untenable.

Two more developments make assertions of rural maldistribution of physicians even harder to prove. The first development is increasing physician mobility. Physicians are practicing in certain less populous counties for short periods of time and then returning to their main offices in more densely populated areas. Even though the extent of such movement is impossible to quantify it continues to go on.

The second development is the presence of approximately 13,000 osteopathic physicians in the United States who provide additional medical services. In 1967, for example, it was reported that eight rural counties in Missouri had no medical doctors. They did have doctors of osteopathy. Of the 132 counties without a private medical doctor 32 have one or more doctors of osteopathy.

The U.S. counties without physicians are, for the most part, very sparsely populated. In such cases physician services are no more difficult to find than other goods and services. Many "doctorless" counties, on the other hand, are close to densely populated areas where physician care is available within a reasonable distance. A gross maldistribution of physicians does not exist. Instead a rational utilization of doctors' services has evolved out of the interplay of market demand and individual location choice.

PHYSICIAN SERVICES IN METROPOLITAN AREAS

The trend toward metropolitan living continues apace. Nearly three-fourths (73.4 percent) of the resident population lives in SMSAs. As can be expected, the location decisions of physicians have become concomitantly more and more urban. Consequently, today 85.7 percent of the total private medical physicians in the United States and possessions are located in SMSAs.

It is widely recognized that the number of doctors in the metropolitan areas has increased during a time when a greater number of people have located there. Even those who claim a metropolitan maldistribution realize that it is a good thing that more and more physicians have moved into urban areas since World War II. However, the charge is that physicians have been moving into the metropolitan *suburbs* and *high-income areas* and not into the poverty neighborhoods of the core city. Thus the purported maldistribution of physicians in urban America has to do, at the very most, with certain *limited portions* of America's central cities, *not* with metropolitan areas as a whole.

Are there a decreasing number of physicians in the neighborhoods of the core-cities? One study of Boston primary-care physicians (general practitioners, pediatricians, and internists) concluded that general practitioners were slightly *more plentiful* in *lower* socio-economic areas. There was *no correlation* between socio-economic information and the distribution of the offices of internists and pediatricians. Furthermore, there was no relationship between the distribution of physicians and the distribution of non-whites in the city.

On the other hand, a metropolitan Chicago study appears to indicate a difference between the ratio of physicians to residents in "poverty" areas as opposed to "non-poverty" areas. In poverty areas the ratio between physicians and residents was equivalent to only 62 physicians for every 100,000 residents. In non-poverty areas by comparison, the physician/resident ratio was higher—126/100,000.

Most probably such figures do indicate some movement of physicians out of certain portions of the central city where conditions have forced them out. If the free exchange of fees for services is hindered by violence and high risk of loss, continued provision of such services may be rendered nearly impossible. Not only providers of medical care, but purveyors of other goods and services as well have left some portions of the central cities when faced with these problems. Such an exodus is the fault not of a market maldistribution, but of the destruction of conditions which allow free interchange of important services of goods.

Focusing merely on the availability of office-based physicians tends to overlook an important medical use-pattern among poor families: the poor are more likely to seek medical care at a hospital or clinic than to seek treatment by an office-based physician. Income level is the obvious explanation, but probably not the most important one, for such behavior. One study has shown that Negroes at *any* income level are less likely to have a continuing relationship with a physician than whites of the same income group. Thus, in some core cities a few office-based physicians may appear to be responsible for the care of thousands of people, yet there may be at hand hospitals and clinics, staffed by hundreds of physicians, which offer medical care that will more likely be used by residents than the services of individual office-based physicians. Professor Edward Banfield writes: "On the whole . . . city hospitals and clinics today provide health care far superior to that enjoyed by previous city (not to mention non-city) dwellers. The poor in the cities receive as many visits from physicians as do the well-off (4.82 visits per person per year in families with incomes under $2,000; 4.92 in families with incomes above $7,000). . .

Nevertheless, there are observers who see the medical problems of the poor, but continue to wrongly conclude that more physicians located proximately to the core poverty areas would have a substantial effect upon these problems. The fact is the *failure of the poor to utilize existing medical care* is a far more important barrier to their good health than the lack of available physicians. Rosenstock points out that persons with lower incomes are "less likely to accept or seek preventive or diagnostic health services than those with higher incomes . . ." He goes on to add that income levels do not explain the response because those at lower income levels "are also more prone to avoid presumably free services and refrain to a greater extent from personal health practices which can be undertaken at nominal costs." Banfield, explaining this phenomenon, points out that many core-city dwellers are radically *present-oriented* people, unwilling to sacrifice the present for the future; resources and time invested in such things as preventive health care do not appeal to their present-orientedness because such investments do not generally yield *present* benefits, but only future ones. Only when long neglected medical problems become so severe as to intrude themselves painfully into the *present*, will relief be sought. *Such health attitudes cannot be changed by the mere existence of more physicians*. In fact, the provision of more physicians would be a squandering of health manpower.

THE REGIONAL MALDISTRIBUTION CLAIM

Proponents of the maldistribution thesis are fond of pointing out that certain regions of the country have "high" physician-population ratios while other regions have much lower ratios. Though differentials can be documented, no strong conclusion emerges from such figures.

The only thing that is clearly indicated is that a wide disparity in health attitudes exists among people of different regions, and different health attitudes create different demands for physician services. As we have already seen, some persons tend to use physicians in emergency situations, but eschew preventive or diagnostic services. If the population of a region contains a large number of persons who entertain such attitudes, effective demand for physician services will be lower than in regions where more persons feel the need to make regular preventive visits to a physician in order to maintain "good health".

Different demand patterns may be the result of attitudes such as the views of life and death held by large numbers of an area's residents. If a number of persons in a region view death stoically, without fear, fewer physician visits may be demanded than if the persons in the region value life very highly and are eager to preserve it over all else. The above is suggestive of the sociological and psychological reasons for differences in demand. It is not the purpose of this study to exhaust the causes of differing demand patterns, but merely to suggest their presence. Noted health care authorities Herman and Anne Somers, in a report for the prestigious Brookings Institute, observed that "Clearly, it is inaccurate to think of the whole American population avidly awaiting access to better and more comprehensive medical care".

A public policy which aims at establishing equal physician population ratios for all regions of the U.S. is enslaved to an illusory goal. Even Dr. Rashi Fein, a leading advocate of federal health insurance programs, admits that "Physician-population ratios are unequal in different areas of the United States, but so are a thousand other ratios that might be calculated. Yet little energy has been expended advocating public policies to alter the geographic 'maldistribution' of automobiles, movie theatres or refrigerators."

Voluntary consumer demand registered on the market will result in the provision of a level of medical care which automatically takes into account differences in attitudes, customs, habits, and existing levels of health. Fortunately, so-called regional differences in physician service availability have usually been thrown into the debate as a make-weight. Everything taken together, the important thing may really be that contacts between physicians and patients vary little from region to region. People get the services they demand no matter what their regional location.

MALDISTRIBUTION AND SPECIALIZATION

A White Paper issued by the Department of Health, Education and Welfare in May, 1971, pointed to a deficiency of "primary care physicians" and an overabundance of some specialists. The basis for such an assertion was information obtained by HEW from the American Medical Association Placement Service, indicating that there were many unfilled openings for "primary care physicians"; while there were not nearly enough openings for those seeking specialty positions. The study implicitly viewed the maldistribution question as if it were the inevitable outcome of the marketplace. It contained virtually no analysis of *how* the state of affairs described came into existence.

What is the history of the trend toward greater medical specialization? Some of the movement toward specialization has been the result of a natural division of labor which occurs in a free society when participants recognize the limitations of self-sufficiency. Specialization usually means that the one who specializes becomes more skilled and productive at doing what he is doing and thereby receives higher remuneration. Medicine, like other occupations, has had its share of specialization attributable to this kind of voluntary decision. Increasing specialization of this variety has meant *better* medical services for consumers and greater productivity on the part of physicians.

Unfortunately, not all medical specialization has been so benign. It is important to note that medical schools, until some scattered recent innovations, have been organized according to the Flexner Report which "emphasizes research output." After World War II, the federal government greatly increased expenditures for biomedical research. The major agency through which funds were channeled was the National Institutes of Health of the U.S. Public Health Service. These vast federal expenditures "exercised a far-reaching though mixed influence upon the *emphasis* and *priorities* in *medical schools*." (emphasis added).

What was the influence of such federal monies? One effect was to encourage a precipitous increase in research and specialization. Departments of medical schools must seek funds for themselves. Currently, student fees account for only about four percent of the medical schools' income. About half of the income is derived from research grants from government agencies and private foundations. Since individual departments, with their various research grants, bring in such large portions of the typical medical school's income, they have become infamously autonomous. Sheps and Seipp say that medical schools resemble "loose federations of independent principalities." The resulting powerlessness of medical school administrators is close to a professional joke.

Departmental autonomy and even arrogance might be tolerable products of such a system if that were all, but, the wider ranging effect of the substantial research emphasis, fed heavily by federal funds, is to attract many persons into research and away from practice altogether. If one were to point out the "overriding interest of medical faculties" it "would be in recruiting and developing personnel whose major interests and skills were in biomedical research."

A sound program for graduating practicing physicians has naturally slipped into the background in the opinion of many observers. One says: "A basic necessity is that administrators and faculty of medical schools return to the concept that the prime mission of the school is the education of medical students so they can practice medicine."

It is impossible to say how many more physicians of the primary-care variety would have been produced by a system which did not rely on federal research grants. However, one commentator says, "If there had been less research money available, medical schools would have been more dependent upon tuition fees, and hence, would have had stronger incentives to produce physicians." If more practicing physicians had been graduated, there would have been additional primary care doctors, as well as specialists.

Is there a maldistribution of physicians? A maldistribution of types of practice can be supported by evidence. Only in this limited way do we conclude a maldistribution exists. As can be expected, governmental subsidies are the primary cause of the misdirection of resources which has occurred.

Is there a maldistribution of physicians in rural areas, urban areas, or regions? Even in the face of programs (Medicare, Medicaid) which have at times temporarily upset the delicate balance of the medical marketplace, we must conclude that it has allocated physicians to those areas where people demand services. Wilhelm Ropke in *Economics of the Free Society* sums it up: "We must conclude that the price system, in spite of all its imperfections . . . remains the most natural method of solving the problem of economic equilibrium."

IN MEMORIAM TO THE HONORABLE JOSEPH W. WARNER, PUBLIC SAFETY OFFICER—DISTINGUISHED CITIZEN AND EXEMPLARY AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROE. Mr. Speaker, one of our Nation's finest public safety officers, close personal friend, and leading citizen of my hometown of Wayne, N.J., the Honorable Joseph W. Warner, was called to his eternal rest on Saturday, September 30, 1972. I respectfully request that you and my colleagues here in the Congress join with me in extending our deepest sympathy to his wife, the former Gladys Ludwig; two daughters, Miss Nancy Eileen, at home and Miss Nora Elizabeth of Miami, Fla.; a son, Joseph W. Jr., of Parsippany-Troy Hills, N.J.; and three sisters, Mrs. Emmet "Ruth" Fitzgerald of Corning, N.Y., Miss Eileen Warner, of Brooklyn, N.Y., and Mrs. Joseph "Isabel" Farrell, of Hawthorne, N.J.

As a resident of my hometown of Wayne for the past 24 years, my good friend Commissioner Warner and his family have endeared themselves to us as good neighbors and all of us share great pride in his accomplishments and lifetime of dedicated public service in always caring and seeking new ways through the science of firematics to achieve optimum public safety for all of our people. His tenure as Wayne Township fire commissioner is gratefully acknowledged and applauded by all of us in the community.

Commissioner Warner was born in Painted Post, N.Y., and was a graduate of Clarkson College of Technology, Potsdam, N.Y., where he studied metallurgical engineering. He was employed by the Curtiss-Wright Corp., Caldwell, N.J., as an executive in charge of quality control. He was vice president of the Supervisors Council of the Curtiss-Wright Corp. and a past member of the Board of Governors of the Packanack Lake Country Club.

Mr. Speaker, may the compassionate and benevolent spirit of my good friend Joe Warner who is held in the highest esteem by all of us who had the good fortune to know him be forever lastingly etched in this historic journal of Congress. He was never too busy to help his fellowman in need and was constantly in the vanguard of the firefighters of America in deep concern for improving fire regulations, fire prevention methods, and other fire safety measures to achieve the highest standards of excellence in our Nation's fire protection efforts. He was chief of the Packanack Lake Fire Co. No. 5 from 1961–63; president of the Wayne Township Fire Officers Association from 1964–65; fire commissioner of our community, and had been on the Executive Board of the New Jersey Volunteer Firemen's Association since 1960.

In addition to the privilege and honor of being considered amongst his many, many friends, Joe Warner's outstanding public service, personal commitment, and sacrifice as a dedicated member of our Volunteer Public Safety Corps have been an inspiration to me here in the Congress in developing legislation to expand and intensify our national commitment to provide the essential tools and funding to enable our firematics public safety officers to more effectively carry out their duties and responsibilities in seeking optimum public safety and protection for our people.

Mr. Speaker, I know you and my colleagues here in the Congress will want to join with me in silent prayer to his memory. I share the sorrow in the heart of his family and trust that they will soon find abiding comfort in the faith that God has given them and in the knowledge that our esteemed Fire Commissioner Joseph W. Warner is now under His eternal care. May he rest in peace.

WELLESLEY COLLEGE CLUB IN DALLAS ENCOURAGES GOOD BOOKS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. COLLINS of Texas. Mr. Speaker, where is America headed in its tradition of learning through reading? Does it shake you up, like it does me, to hear that the average home has its TV set on 7 hours a day?

Last week the Wellesley College Club of Dallas held its annual book and authors luncheon. The large Sheraton Hotel Ballroom was sold out 3 weeks in advance. I was proud to see our city's keen interest in books and especially in the people who write them.

This year, the Wellesley Book luncheon honored four authors. From Oklahoma, we heard a college professor, Odie Faulk, discuss his book on Tombstone. He writes of a colorful town that helped build the West. At one time it was the largest city between San Antonio and San Francisco. Tombstone was a great mining town and active trading center. Most of the people were solid hardworking citizens. But as Faulk pointed out in discussing cemeteries, Tombstone had a cemetery for the stable city fathers and also had a cemetery for the outlaws. And the commentary on American people is that the tourists go to see the cemetery of the bad guys.

Read your newspaper's front page. There is not mention of the Boy Scouts, but there are detailed stories on a southside rape, eight people breaking out of jail, and three deaths in a head-on automobile crash.

A very colorful writer from New York, Stephen Brimingham, wrote the Late John Marquand. He could have talked on for an hour, as he knows Boston and the people. His reference to New England was exciting to me, as I cherish the 2 years I lived and studied in Boston. It is interesting to hear reference to Boston's feudal levels of society. A Texan who gets much generous advice from our New England friends could appreciate these observations.

Then we had a team of authors to climax this session. Anita Loos and Helen Hayes wrote "Twice Over Lightly." It is refreshing to find someone writing a book on New York from a positive perspective as a wonderful mecca. Most people say New York is a mixed-up metropolis, yet Loos and Hayes love it. They bring out the exciting and delightful aspects of New York. Anita Loos said it is her home town and she loves it. New York has the greatest talents in the world. The tops in every field come to New York.

Helen Hayes is as stimulating off the stage as she was the queen of it. She carries this exhuberance into her spontaneous answers. As we discussed the problems and challenges of the younger generation, Helen Hayes sees our present young generation as our greatest. She sees the vigor, the imagination, and the zest of our youth.

Wellesley College Club of Dallas does Dallas a favor each year in reminding us of the value of good books and letting us meet the interesting people that write them.

CHARLES R. JONAS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. RARICK. Mr. Speaker, it is fitting that the House pause at this time to honor one of its most distinguished Members, the Honorable Charles Raper Jonas of North Carolina, who has chosen to retire at the end of this Congress.

Charlie Jonas has served the people of his State and Nation devotedly for many years.

The State of North Carolina can be justly proud of his achievements. His life and actions as a legislator give a true representation of his firm belief in the American way of life.

It is an honor and a pleasure to participate in these ceremonies honoring our friend and colleague Charlie Jonas as he comes to the end of a distinguished legislative career.

Mrs. Rarick and I join with the people of the Sixth District of Louisiana in wishing him the best of health and happiness during his retirement years.

LEGISLATIVE RECORD IN 92D CONGRESS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. VANIK. Mr. Speaker, during the last days of the 92d Congress, I believe it is important for me to state, for the record, the legislation which I have cosponsored during the past two sessions.

In examining the full range of bills which I have sponsored, it is clear that my major efforts have been in the areas under the jurisdiction of my committee, the House Ways and Means Committee. These issues have involved the questions of tax reform, social security, health, and trade. It is my expectation that during the 93d Congress, the Ways and Means Committee will devote months to the questions of tax reform and to improvement in health security. It is my hope that many of the proposals which I have made during the 92d Congress will be enacted into the law of the land during the next Congress.

The list of bills which I have supported through sponsorship indicated deep interest in environmental problems—an area of deep concern to my constituents who live on the shore of Lake Erie in the industrial center of the Nation.

Finally, one other trend stands out: The war in Indochina must end. I have made every legislative effort and taken every legislative opportunity to work for the end of this tragic war. The record of legislation which follows shows some portion of that commitment—a commitment for peace.

I believe that my constituents should know where I stand on every issue that comes before the House, and therefore, I have made every effort to maintain an excellent voting and attendance record. According to the Clerk of the House, my voting record for the first session and for the second session—through August 14th, the period for which official records are available—is as follows.

VOTING PERCENTAGE PRESENCE

	1st sess.	2d sess. (to Aug. 14)
Yea/nay votes	96.2	96.4
Quorum calls	94.0	92.4
Recorded tellers	98.1	98.3
Grand total	95.9	95.6

VIETNAM AND MILITARY AFFAIRS

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 1739	Jan. 22, 1971	To amend foreign aid act to prohibit U.S. involvement in Cambodia.	×	×	×	×	×	Public Law 92-226	Provides dollar and personnel limitation on aid to or activities by U.S. in Cambodia.
H.R. 4103	Feb. 10, 1971	To amend foreign aid act to require end of U.S. involvement in Vietnam by Dec. 31, 1971 dependent on release of POW's.							Filed discharge petition in spring of 1971 to bring this bill to floor of House for a vote. Insufficient signatures to permit a direct vote.
H.R. 4126	do.	To amend foreign aid act to prohibit U.S. involvement in Laos.							Some statutory limits on involvement have been enacted.
H.R. 14056	Mar. 23, 1972	To provide for end of U.S. involvement in Indochina within 30 days, dependent on release of POW's.	×						Amendment to Foreign Aid Act providing for U.S. withdrawal from Indochina by Oct. 1, 1972 deleted on floor of House. Similar provision passed by Senate in recent years deleted by the House.
H.R. 4453	Feb. 17, 1971	To provide for a voluntary military (termination of draft).	×		×				Despite the passage of a 2 year-extension of the draft, the increased pay and benefits concepts included in H.R. 4453 will permit an effective end of draft by end of 1972
H.R. 4993	Feb. 25, 1971	To provide that members of armed services be assigned to duty stations near their homes after serving in combat zones.							Military regulations are now attempting to deal with a portion of this problem.
H.R. 8068 H.R. 9900	May 4, 1971 July 19, 1971	To exclude income of POW's from Federal taxation.	×	×	×	×		Public Law 92-279	
H.R. 12601	Jan. 25, 1972	Peace Act							To provide for coordination among Federal agencies working for world peace, training of diplomats.

INTERNATIONAL AFFAIRS AND TRADE

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H. Res. 668	Oct. 27, 1971	Support of State of Israel							Cosponsored with Congressman Emanuel Celler. Resolution requested President to support Israel during fall of 1971 Soviet buildup of forces hostile to State of Israel and to take action on State of Israel's long pending request for F-4 Phantom jets.
H. Res. 567	July 28, 1971	Resolution for Voice of America broadcasts in Yiddish.							Recent correspondence with Director of VOA indicated increase in such broadcasts.
H.R. 15808	June 29, 1972	Freedom of Emigration (amendment to Export Control Act).							House accepted a version of this amendment offered by Representative Vanik to Foreign Aid Act, Sept. 21, 1972.
H. Con. Res. 671	Aug. 2, 1972	Resolution to require repayment of $45,000,000,000 in debts owed United States by other nations.							Vanik has raised debt settlement issue in Ways and Means Committee during debt ceiling hearings. Important during this period of adverse balance of payments.
H.J. Res. 776	July 12, 1971	Limit military assistance to Pakistan.		×	×	×	×	Public Law 92-226	Resolution to terminate U.S. assistance to Pakistan during period of repression in East Pakistan.
H. Res. 821	Feb. 17, 1972	Resolution in support of U.S. recognition of Government of Bangladesh.			×	×			Recognition extended Apr. 4, 1972.
H. Res. 1035	June 29, 1972	Resolution to expand nuclear test ban treaty to include ban on underground tests.			×				
H.J. Res. 1250	June 30, 1972	Resolution in support of approval, without amendment, on strategic arms limitation agreement, signed in Moscow, May 26, 1972.	×	×	×	×	×	×	Agreement signed, Sept. 30, 1972, but with reservation.
H.R. 10448 H.R. 1641	Aug. 5, 1971 Aug. 17, 1972	East-West trade and trade with Rumania.							Bills to promote economic wellbeing of United States and lessening of East-West tensions through trade expansion. Concepts embodied in President's trade talks in Moscow, May 1972.

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 17000	Oct. 4, 1972	And East-West trade with Freedom of Emigration.							Equivalent of Jackson amendment offered in House by Representative Vanik, member of Ways and Means Committee; amendment would prohibit most favored nation trading status with nations with repressive emigration policies. 119 House Members co-sponsored this bill.
H.R. 7038	Mar. 31, 1971	Immigration relief for Soviet Jews.							To provide extra entry permits for refugee Soviet Jews.

CONSTITUTIONAL AMENDMENTS AND INDIVIDUAL RIGHTS IN A FREE SOCIETY

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.J. Res. 962	Nov. 11, 1971	Lowering the age requirement for election to Congress by 3 years.							
H.R. Res. 1125	Mar. 21, 1972	National primary election, abolishment of electoral college, thus providing direct election of the President.							
H.R. 4237	Feb. 10, 1971	Prohibit establishment of emergency detention camps and arbitrary assignment to such camps.	×	×		×	×	Public Law 92-128	Cosponsored with Representative Matsunaga of Hawaii bill repealed a law which would permit the type of injustice that occurred during World War II to Americans of Japanese descent.
H.R. 4272	do	Newsmen's Privilege Act	×						To preserve freedom of press by protecting newspaper sources in normal cases.
H. Res. 458	June 2, 1971	Transfer authority of Committee on Internal Security to House Judiciary Committee.							Legislation to vest internal security affairs and investigations in House Judiciary Committee—a committee of demonstrated responsibility.
H.R. 12154 H.R. 14033	Dec. 9, 1971 Mar. 22, 1972	Bill to provide increased rights for the mentally and physically handicapped in Federal programs and in employment.			×	×	×		This legislation has received wide support in House and Senate. The Senate has added the substance of these bills as an amendment to another bill. Final passage likely.

CONGRESSMAN ROY REPORTS QUESTIONNAIRE RESULTS

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROY. Mr. Speaker, more than 7,000 citizens of the Second Congressional District of Kansas responded to the questionnaire which I mailed out to my constituents in August. I want to report the results of this questionnaire to my colleagues in the House of Representatives.

The importance of the district poll is quite clear. In addition to countless letters, communications, personal conversations, this questionnaire provides me with a greater understanding of constituents' opinion on the important issues facing our Nation today. Along with gaining a better understanding of my constituency, I have an opportunity to share with them some of my own major areas of concern.

TAX REFORM

The overwhelming sentiment—approximately 95 percent—favors changes in the Federal Income Tax system to provide more fairness and equity. I have introduced legislation to review and reform our tax structure.

There is a wide diversity of opinion on whether certain tax deductions, exemptions or credits should be retained. I think that it is imperative that the 93d Congress review the entire tax structure as a matter of top priority.

The vast majority of my constituents do not favor enactment of a Federal "value-added" tax, which would actually be a national sales tax. I am opposed to this regressive form of taxation which would increase the cost of living for all of us.

NATIONAL PRIORITIES

The responses to this section indicated that a majority of my constituents want less Federal spending for the military, foreign aid, space programs and welfare; and more spending for health and pollution control. A near majority favors increased Federal funding of education. My voting record coincides with this expressed desire to reorder our national priorities.

HEALTH CARE

An overwhelming number support improvement of our health care system, with nearly one-half of those responding favoring some form of national health insurance. This is the area of my specialization in Congress. My Health Maintenance Organization Act is designed to improve the present health care delivery system and contain the costs of health care.

In a special section of the questionnaire, I asked my constituents to evaluate and rate my performance as your Congressman. I deeply appreciate the rating which appears in the questionnaire results.

One thing is clear in reading the responses to the questionnaire—the wide diversity of opinion. Everyone does not agree on every issue and it is unreasonable to expect otherwise. In a free society, there will be, and must be, diversity of opinion. But we can define general areas of agreement where we can cooperate in attempting to solve the problems we all face.

The following table summarizes the questionnaire results in percentage form:

QUESTIONNAIRE RESULTS

RATE YOUR CONGRESSMAN

Taking into account the various aspects of my performance as your Congressman, including authorship and introduction of legislation; voting record; handling of your problems and inquiries; how promptly and adequately I have answered your letters; and my efforts to keep you informed of my actions,

How do you rate the job I have been doing as your Congressman?

[*Results in percentage*]

Excellent	57.5
Good	29.6
Fair	9.6
Poor	3.3

TAX REFORM

How do you view the Federal Income Tax system?

[*Results in percentage*]

Fair and equitable; should not be changed	5.0
Generally fair, but needs some changes	47.2
Unfair; many changes need to be made	47.8

Legitimate deductions of "loopholes"? The following provisions allow individuals or corporations to reduce the amount of tax they pay. Which would you eliminate or reduce?

[*Results in percentage*]

Oil depletion allowance	66.5
Accelerated depreciation on plants and equipment	42.4
$100 dividend exemption	20.5
Capital gains taxed at a reduced rate	43.5
Deduction of research and development expenses	18.9
Deduction of intangible drilling and development costs	43.4
Favorable treatment of capital gains at death	28.2
Investment credit for industry	17.8
Deduction for charitable contributions	18.2
Deduction for medical expenses	12.8
Lower tax rate on first $25,000 of corporation's profits	32.9
Exemption for interest from state and municipal bonds	43.1
Deduction of mortgage and loan interest	10.5

Do you favor enactment of a federal "value-added" tax (national sales tax)?

[*Results in percentage*]

Yes	13.6
No	70.7
Undecided	15.7

NATIONAL PRIORITIES

President Nixon has proposed Federal expenditures totaling $246 billion for the 1973 fiscal year which began July 1. Do you think Congress should allocate more, less, or the same amounts as the Administration has requested?

[In percent]

	More	Less	Same
Military	6.7	62.4	30.9
Social security	34.6	15.9	49.5
Health	52.6	11.7	35.7
Veterans	29.5	15.0	55.5
Education and manpower	44.3	22.3	33.4
Transportation	23.9	26.4	49.7
Welfare	14.4	58.6	27.0
Agriculture and rural development	37.1	19.2	43.7
Housing and community development	32.6	30.6	36.8
Foreign aid	3.0	76.7	20.3
Space	11.7	55.1	33.2
Pollution control	66.0	9.1	24.9

HEALTH CARE

Which one of the following best describes your wishes regarding the financing of health care?

[*Results In Percentage*]

Present system is adequate and should not be changed	16.5
Tax credits to purchase private health insurance	25.6
Mandatory health insurance financed by employer-employee contributions to private insurance companies, supplemented by federal funds for those unable to pay	16.4
Compulsory National Health Insurance for everyone financed by employer-employee taxes under the Social Security system, supplemented by federal funds for those unable to pay	31.1
Expansion of Medicare and Medicaid	18.8
Federal program to help pay catastrophic illness costs only	20.6

THOMSON CONGRESSIONAL REPORT

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. THOMSON of Wisconsin. Mr. Speaker, as is my regular custom, I am sending my constituents a summary of the congressional action at the conclusion of the 92d Congress. A copy of that report follows:

Dear Friend: The 92d Congress, just adjourned, passed several far-reaching new laws benefiting the nation and the Third District. Two of the most important, the Water Pollution Control Act and revenue sharing, are described in this report. The Rural Development Act is another major breakthrough.

ON THE COVER

Listening at home, working in Washington. My duties on the House Foreign Affairs Committee involved me in examining the SALT arms limitation agreements. I attended the historic ceremony when they were signed by President Nixon, opening a new era in negotiations for peace. In the District I visited in every county during the last two months, presenting awards for the "Hire the Vet" promotion poster contest.

LOWER ST. CROIX BILL ON THE MOVE

The Office of Management and Budget has endorsed my compromise plan to include the lower St. Croix River in the Wild Scenic Rivers System. The Senate has approved the compromise, too. Under the plan, the Federal Gov't. will protect the upper 27 miles above Stillwater while the States of Wisc. and Minn. will protect the 25 miles between Stillwater and Prescott. Early House approval is expected.

GUN CONTROL

Legislation is dead for this session of Congress. When the House discovered that guns with barrels as long as 6½" would be banned under the Senate-passed Bayh Bill, it turned down the bill which has been misrepresented as a means to eliminate the dangerous, cheap, snubnosed "Saturday Night Specials." A better approach is my bill to impose a mandatory minimum sentence for criminals convicted of crimes involving firearms.

ATTENDANCE

Being present and voting for your interests on the floor of the House is my job. My record for the 92d Congress:

	Yeas/nays	Quorum calls	Recorded tellers	Grand totals
Number of calls or votes	425	271	190	886
Present responses (Yea, nay, present, present-paired for or against)	413	266	187	866
Absences (absent, not voting, not voting-paired for or against	12	5	3	20
Voting percentage (presence)	97.2	98.2	98.4	97.7

PESTICIDE INDEMNIFICATION

It sometimes takes that extra bit of effort to keep our giant government sensitive to people's needs. All the jobs at the Liberty Pole Cheese Factory and the livelihoods of dairy farmers for miles around were jeopardized when 217 vats of cheese at the factory were found to have traces of pesticide. The farmer who supplied the pesticide-affected milk was indemnified under Federal law, but the cheesemaker suffered a $131,000 loss. I introduced a bill which became law to include cheesemakers under the indemnification program. And I helped the cheese factory convince the bureaucracy that the cheesemaker should qualify for reimbursement. Justice triumphed: The cheese factory won its indemnification payment.

KIDNAP VICTIMS

Another case when the Federal Government is part of the problem, not the solution, is the Aim kidnapping case.

This Eau Claire couple paid $50,000 for the safe release of their son. More than $20,000 of the money in small bills (marked for identification) was used by the kidnapper to pay a government agency contends it cannot return the money; and the family is stuck with a bill of $20,299.22 with interest charges mounting every day. I have introduced legislation to force return of the money. Government should show more compassion for the victim of a crime than for the criminal.

RECORD REA FUNDING

For the 2nd consecutive year the Rural Electrification Administration received a record appropriation—$595 million. I testified for the larger appropriation.

Federal Revenue Sharing will soon be law. I sponsored the original bill and argued for changes in the committee bill which increased the share of 3rd District communities by 64%. This Federal money, with few "strings" attached, can be used by local units for priority projects and to reduce property taxes. Revenue sharing is the first major reform suggested by the Administration to be approved by Congress.

RURAL RENTAL HOUSING

One problem with small town public housing projects is that the Farmers Home Administration required renters to pay at least $85/mo. rent. HUD programs allow urban renters to pay as little as $37/mo. I protested the inequity and FHA has announced that the HUD program will now be available to smaller communities. This should improve the amount of low-cost housing available to elderly people and poor families in small towns.

Wise Home Buying is the title of a new fact-filled government booklet. Families looking for their 1st house will find this particularly useful. I can make limited numbers of the booklet available *free* to my constituents. For a copy, write me: Cong. Vernon W. Thomson, 2305 Rayburn HOB, Washington, DC 20515.

Small Businessmen fear the complex & expensive OSHA health & safety regulations. But 60% of industrial accidents occur in small shops. To allow small businessmen to bring their work places into compliance without unjustified penalty, I introduced a bill to substitute the mandatory fine clause with a program of pre-fine, on-site consultations with OSHA inspectors for small businessmen.

VET'S NEWS

GI Bill benefits have just been raised from $175 to $220 in a law including my proposal to give vets going to school a 2 mo. advance payment to meet early school costs.

WATER POLLUTION CONTROL ACT

The most expensive and most stringent water pollution control act has passed Congress. The bill completely revamps our enforcement process and provides $18 billion for local anti-pollution construction. The bill incorporates my proposal to establish an Environmental Financing Authority to buy local pollution bond issues and hold down the local property taxes used to finance them.

FISH LAB GROUNDBREAKING

On October 14, I took shovel in hand to break ground for the new, modern and flood-protected Fish Control Laboratory in La Crosse. The lab is completing its study of the fish toxicant used to control the deadly sea lamprey in the Great Lakes. Students at UW–La Crosse will take advantage of the facility with an adjacent River Studies Center. The groundbreaking caps a continuing personal effort to move the Fish Lab forward. Three times my intervention secured a budget "add-on" for the Lab. Now, continued funding is virtually assured.

Construction on the Kickapoo Dam and reservoir is proceeding on schedule. I visited the dam site during my August "listening tour" and was briefed on progress by the head engineer.

THE NIXON ECONOMY

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Ms. ABZUG. Mr. Speaker, up and down my district and across this country there is one issue which affects every person—the young, the elderly, the middle-class, the poor, black, white and Puerto Rican—and that is the economy.

We have seen prices and profits rise while wages are frozen. Corporations pay next to nothing in taxes. The big corporations pay next to nothing in taxes because of their "friend in the White House" while families and individuals have a huge chunk taken out of their paychecks.

The facts about the Nixon economy are clear.

UNEMPLOYMENT

The President promised:

> We can control inflation without an increase in unemployment—Jan. 27, 1969.

To cool off inflation, he promoted a program which put 2 million out of jobs so that since late 1970 unemployment has never fallen below 5.5 percent of the work force. In August 1972, unemployment increased 102,000 to 5.6 percent. Despite this, the President fought legislation to provide 500,000 jobs on needed public works.

PRICES

> We are on the road to recovery from the disease of runaway prices . . . We are not considering wage or price controls.—President Nixon, Oct. 17, 1969.

The cost of living has increased by 18 percent since President Nixon took office. The largest increase has been in the items which workers are most concerned with such as food and medical care.

It cost the average family of four $450 a year more to buy groceries in 1972 than did it 1969. Wholesale prices rose at a faster rate during a year of the President's economic stabilization program than in the previous year without stabilization.

TAXES

The average worker puts in 2 days out of every 5 to pay his property, local, State and Federal taxes or over $3,000 a year on an income of $7,700. Now the administration is pushing for a federal sales—use—tax, in addition, which will again hit workers the hardest.

But for the rich and the corporations there are loopholes in the law which enable them to escape $50 billion in taxes in a year. U.S. Steel paid no taxes last year on sales of nearly $5 billion; ITT paid 2.8 percent taxes on $7 billion. Corporations are given special tax breaks if they set up plants overseas. More than 100 people with incomes of $200,000 to over $1 million paid no taxes in 1970.

WAGES AND PROFITS

Although Labor Dept. figures show that the average factory worker's earnings of $7,488 were over $3,400 short of the amount needed for a moderate standard of living, the President imposed wage controls. This has spurred corporation profits to new record highs. Profits rose 15 percent in 1971 and are expected to increase by 20 percent this year. GE's profits were up 44 percent in 1971 while Westinghouse profits rose by 38 percent. But wages could not go higher than 5.5 percent.

COLUMBUS DAY 1972

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. COUGHLIN. Mr. Speaker, on this Columbus Day I rise to pay tribute not only to the great navigator, Christopher Columbus, but to the millions of Americans of Italian ancestry who have contributed so much to the growth and well-being of our Nation.

We are a Nation of immigrants. In the 480 years since Columbus first set foot on this continent, we have grown and prospered from the influx of many peoples. Each national group has left its stamp on our society, and none have done so with such zest as our fellow Americans whose ancestors were Italian.

Any nation would be proud to claim a Brumidi, Caruso, Cuneo, DiMaggio, Fermi, Giannini, LaGuardia, Lanza, Mazzei, Menotti, or a Toscanini as their own. We have been fortunate to have been the beneficiaries of not only their extraordinary talents, but of the talents of millions of other Americans of Italian descent who have worked so hard to build this country into what it is today.

This day, then, is a time in which we should express our thanks for what we have been given, and pray that the blessings which have been visited upon us in the past by such talented individuals continue in like profusion in the years ahead.

QUESTIONNAIRE RESULTS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. WHITEHURST. Mr. Speaker, several weeks ago residents of Norfolk and Virginia Beach, Va., the new second district, received a series of questions from my office dealing with governmental issues of current interest. Thousands of replies to those questions have now been received and tabulated.

Since Congress is nearing recess or adjournment and Members will be traveling back to their districts to meet their constituents, I believe the results of my questionnaire may be of interest to my colleagues.

RESULTS OF CONGRESSMAN WHITEHURST'S QUESTIONNAIRE

[In percent]

	Yes	No	Not sure
Should we:			
1. Legislate no-fault insurance on the Federal level?	54	21	25
2. Grant Federal and public employees the right to strike?	20	68	12
3. Approve in the area of national health insurance:			
22 percent, a new health care program for the poor to replace medicaid.			
31 percent, additional tax credits for private insurance premiums.			
51 percent, a program to help costs of catastrophic illness.			
35 percent, require employers to provide health insurance for employees.			
23 percent, complete nationalization of health insurance.			
13 percent, no new legislation.			
4. Institute a so-called value added tax (in effect a national sales tax) to replace the property tax as the basic source of public school funds?	37	40	23
5. Exempt those working after 65 from paying social security taxes?	67	24	9
	More	**Less**	**Same**
6. Provide Federal spending in these areas:			
Child care centers	33	24	43
Crime control	76	3	21
Consumer protection	59	12	29
Defense	36	27	37
Drug abuse	59	10	31
Elementary and secondary schools	45	16	39
Colleges and universities	34	21	45
Environmental protection	64	7	29
Foreign aid	2	76	22
Housing	23	36	41
Job training	42	18	40
Mass transportation	52	20	28
Recreation facilities	29	21	50
Space program	17	45	38
	Yes	**No**	**Not sure**
Do you favor:			
7. Limiting the presidency to 1, 6-year term?	30	61	9
8. A national primary election to select presidential candidates?	64	23	13
9. Busing to obtain racial balance in our schools?	10	86	4
10. Federal aid to private and parochial schools?	31	60	9
11. A Federal program for family planning and population control?	56	32	12
12. Strict Federal gun control legislation?	55	36	9
13. Changing the term of a Member of Congress from 2 to 4 years?	60	32	8
14. A mandatory retirement age for Congressmen, Senators, and Federal judges?	79	13	8
In general:			
15. Do you feel that existing laws discriminate unfairly against women?	21	68	11
16. How do you feel about the way price-wage controls are working? 24 percent, satisfied; 58 percent, dissatisfied; 18 percent, no opinion.			
17. Do you approve the President's efforts to end the war in Vietnam?	70	23	7
18. What do you feel should be the amnesty policy of the Government toward draft resisters?			
51 percent, no amnesty under any conditions.			
26 percent, amnesty subject to completion of nonmilitary public service.			
5 percent, grant amnesty without conditions.			
18 percent, no amnesty considered until all American troops and POW's have returned from Indochina.			

WILMER D. MIZELL REPORTS

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. MIZELL. Mr. Speaker, as the 92d Congress comes to a close it is appropriate for us to reflect on what has been done in the way of legislative accomplishment.

It has been my custom to prepare a report on these accomplishments for my constituents at the close of each session of Congress, and I have done so again for this session.

I am sending a copy of this report to every home in the Fifth Congressional District of North Carolina in accordance with my longstanding policy of keeping the people as fully informed as possible about the work of their Government.

For the benefit of my colleagues, and for their information and consideration, I am inserting the text of this report in the RECORD at this time:

A PERSONAL MESSAGE

DEAR FRIENDS: The 92d Congress is nearing adjournment following two years that have produced significant achievement in many fields of government endeavor and in response to the needs and the will of the people.

It has been my great honor and privilege to serve as your representative in the 92d Congress. This newsletter is a report on some of the efforts I have made on your behalf during this session of Congress, and contains an accounting of several issues of particular interest to the people of the fifth congressional district.

I have appreciated your support and your advice on these and other issues that have come before the Congress. I hope I have served your interests well and represented your views as accurately as possible.

Sincerely,

WILMER D. MIZELL.

BUSING

The House of Representatives passed on August 18 legislation forbidding the massive cross-busing of students to achieve racial balance in public schools, and permitting school districts already under court busing orders to re-open their desegregation cases and eliminate busing used solely for racial balance.

This legislation, which passed the House by a vote of 282–102 and was awaiting a vote in the Senate as this report was being prepared, is the most effective anti-busing legislation ever approved, and it represents a major advance toward the goal of restoring public school systems to their primary purpose—the education of our children—rather than continuing to serve as an instrument for social experiments.

When this legislation was reported out of the House Education and Labor Committee, it did not contain the provision allowing school systems already under court busing orders to re-open their cases to bring them in line with the new, more limited desegregation standards.

When the bill reached the floor for consideration by the full House, I told my colleagues there was absolutely no reason why the Winston-Salem/Forsyth County school system should have to bear the heavy financial and social burden of massive forced busing when this legislation prescribes much less drastic conditions for providing quality education to children in some other area of the country.

I have said on many occasions that when funds for higher teachers' salaries, school building improvements, and other basic educational needs cannot be sufficiently provided through existing revenues, it makes no sense to impose overwhelming additional costs for buying new fleets of buses to conduct an artificial and arbitrary social experiment in the name of quality education.

I told my colleagues it seems some of them have agreed that this holds true for the school systems in their districts, but that the financial and human expense of massive forced busing is entirely justified and proper for the Winston-Salem school system and for others currently under court busing orders.

This kind of hypocrisy and duplicity would have made a farce of the express purpose of this legislation—to provide *equal* education opportunities to all our children.

I was pleased to have been able to play a major role in the debate of this legislation, and in getting the amendment passed which will permit the Winston-Salem school system to re-open its case and reduce or eliminate busing.

It is difficult to predict what the Senate will do with this legislation, but the leadership of the Senate has already promised the bill will be considered and brought to a vote before Congress adjourns this year.

I am continuing my efforts to secure passage of my Constitutional amendment to prohibit busing, but if less time-consuming legislation will get the job done, so much the better.

SOCIAL SECURITY

There are almost 28 million Americans, including 61,315 in the fifth district and 649,857 in North Carolina, who are drawing Social Security benefits at the present time.

As of October 3, they began receiving checks reflecting a 20 percent increase in payments passed by Congress in June.

I supported that increase, along with increases of 15 percent in 1970 and 10 percent in 1971, for a total increase of 45 percent in the past 3 years.

With the new increase in benefits, the average monthly Social Security check will jump from $134 to $161. The average married couple retiring this year will get $389 a month, an increase of $780 per year in spendable income.

In addition, the legislation passed earlier this year sets up a mechanism for automatic benefit increases, beginning in 1975, if the Consumer Price Index (rate of inflation) rises 3 percent in any year.

Two other needed benefits, one giving widows 100 percent of their husbands' Social Security payments instead of 80 percent, and the other increasing the maximum income a client can earn from $1,680 to $2,000 a year without losing benefits, are tied up in Congress because they are attached to a controversial welfare reform bill. I have introduced legislation that would separate these Social Security sections from the bill and speed their passage.

As I said in a speech to the House of Representatives last March, "no segment of our population has felt the adverse effects of inflation more keenly than our senior citizens, most of whom live on fixed incomes. I propose that we provide a level of assistance to our senior citizens commensurate with their longtime contributions to our society."

BLUE RIDGE POWER PROJECT

The Blue Ridge Power Project, which involves plans to construct two giant dams on the New River and flood 40,000 acres of land in Ashe and Alleghany counties, has become an environmental case of national interest, and one that bears national implications.

News stories have recently appeared in the New York Times and the Washington Post, outlining the basic facts of the case and reporting the actions that I have taken in trying to get this project blocked.

In addition, there have been at least three television documentaries, including one that was broadcast nationwide on the Public Broadcasting Service, that have dealt solely with the Blue Ridge controversy. The other two documentaries, both excellent, were produced by WSJS–TV in Winston-Salem and WRAL–TV in Raleigh.

Important developments in this long-debated case are still unfolding, and there is reason to hope that we can get the Blue Ridge project substantially modified for far less destruction and displacement, or perhaps eliminated completely.

A House-Senate conference committee recently completed work on a comprehensive water pollution control bill (discussed in greater detail elsewhere in the newsletter) which includes an amendment I introduced last December that directly affects the Blue Ridge project.

This "Blue Ridge" amendment requires the Administrator of the Environmental Protection Agency to specifically recommend water storage for the purpose of pollution abatement before such storage can be implemented in hydroelectric power projects like Blue Ridge.

The amendment also places strict limitations on the total storage capacity allowed.

The effect of this amendment may well be to significantly reduce the size and scope of this project, perhaps to its original specifications which were not opposed by the people in the affected area.

As this newsletter is going to press, neither the House nor the Senate has voted on the conference report which contains this amendment.

I have undertaken an additional effort which would have the effect of prohibiting the project altogether.

On September 8, I introduced legislation stating that "no federal agency shall license or otherwise give permission, either under the Federal Power Act or any other act of Congress, to the construction of any dam or reservoir on or directly affecting the New River from the headwaters of its South and North Forks to the town of Fries, Virginia."

On introducing this legislation, I told my colleagues the bill is designed to "aid the conservation of natural water resources and protect the scenic New River, and to guard against setting a national precedent for accepting an unwise pollution abatement procedure that might eventually drown half of America."

This reference was to a controversial provision of the project to store large amounts of water to be used to flush pollution from chemical plants 250 miles downstream on the Kanawha River in West Virginia.

I have asked the Environmental Protection Agency to make an investigation to determine if these plants are doing their best to clean up their own pollution at the source. If it is found they are not, there is substantial reason to believe the project will be severely reduced, perhaps scrapped altogether.

RURAL AND REGIONAL DEVELOPMENT

I recently introduced legislation which I believe can have a dramatic effect on balancing economic and population growth in America by providing essential public services and employment opportunities in areas of the country, especially rural areas, where those services and opportunities are in short supply.

My bill would establish a $3-billion National Development Agency to coordinate the work of a new system of multi-state regional commissions which would carry out locally-initiated development programs.

Projects would be concentrated in the areas of transportation, industrial growth, manpower training, education, health, housing, environmental protection and planning.

A special impact fund of $1-billion would be authorized exclusively for use in rural areas.

North Carolina would receive a total of $80.2-million under the bill, with $42.8-million coming from the regular national development program, and $37.4-million from the special rural fund.

By creating new opportunities for jobs, health and education services, more and better housing, improved transportation systems, the attraction of new industry, and protection of the environment, I believe my bill can help fulfill the promise of a richer and more rewarding life in areas of the country where those opportunities do not now exist.

It is the lack of just these kinds of opportunities that has caused the massive out-migration of people to the great urban centers and the desertion of much of small-town and rural America.

Unfortunately, the glowing promise of opportunity in the major cities has too often given way to the harsh reality of despair and poverty and a growing welfare state.

The latest census report showed that 70 percent of the U.S. population—more than 140 million people—now live on less than two percent of the total land area in the country.

My legislation would help relieve the overcrowded conditions in the cities—and all the ills that accompany those conditions—by encouraging economic and social development in those areas of the country that most need a "shot in the arm."

DRUG ABUSE

The fight against drug abuse, a fight which I have supported through several legislative measures, is being waged on four major fronts—at the source of illegal drug production, in transport, at the selling point and among addicts themselves.

The federal government is spending $729 million this year, at home and abroad, in a concentrated effort to curb drug abuse, and there are some major successes to report.

The Federal Bureau of Narcotics and Dangerous Drugs and the U.S. Customs Bureau seized 351,909 pounds of heroin, opium, cocaine and other dangerous drugs in fiscal 1972. Agents seized 223,334,842 doses of stimulants, hallucinogens and depressants last year. There were 16,144 arrests for drug trafficking.

The government has also accelerated its efforts in seeking a cure for addicts. The Special Action Office for Drug Abuse Prevention plans to establish, through federally-funded state and local projects, more treatment facilities to accommodate drug addicts and help rehabilitate them. Special teams will aid local communities with severe drug problems.

A search is being intensified for new chemicals to help treat and cure addicts. Research is being conducted now on a drug called Bionar, which eases the pain of withdrawal from drug addiction. The drug is still in its earliest testing stages, but scientists have great hope that it will prove to be the breakthrough needed to get thousands of people, most of them young, off the tragic treadmill of drug addiction.

WATER POLLUTION CONTROL ACT

A House-Senate conference committee, after a record 39 meetings dating back to May 11, approved on September 14 a compromise water pollution control bill aimed at ridding America's waters of all pollution by 1985. In addition to my Blue Ridge amendment, which is discussed in more detail under the "Blue Ridge Power Project" topic line elsewhere in this newsletter, the water pollution bill contains these major provisions:

An authorization of $24.6 billion through fiscal 1975 for water pollution abatement, including $18 billion for federal grants to municipalities for construction of waste treatment plants. Of the $18 billion, $5 billion would be applied to fiscal 1973, $6 billion to fiscal 1974, and $7 billion to fiscal 1975;

A requirement of secondary treatment for all municipal wastes by mid-1977 and the application of more advanced disposal methods by mid-1983;

Establishment of a clean-up program for industry, with increasingly tighter restrictions on industrial pollution, to be enforced by penalties of fines and possible imprisonment of violators;

Establishment of deadlines for industrial compliance with new water pollution control standards. Industries must apply the best practicable control technology by July 1, 1977, and the best available technology by July 1, 1983.

As a member of the House Committee on Public Works, I helped draft the House version of this important legislation and voted for its passage. The battle against pollution is a massive and expensive one, but it is a battle that must be waged and won if we are to enjoy the quality of life we all want for ourselves and our children.

VIETNAM

Some weeks ago, it was quietly announced that the American ground combat role in the Vietnam war has been completely ended. The last ground combat division has been withdrawn, the last of some 520,000 Americans who have come home in the past four years as a result of President Nixon's Vietnamization and troop withdrawal programs.

All that remain in the war zone today are a little more than 20,000 intelligence and support personnel. American casualties are down from a 1968 level of more than 200 a week to less than five a week. This is still too many, of course, but it represents a 40-fold reduction in casualties, and this is a development that all Americans welcome. We hope soon to welcome back the remaining 20,000 as well as those courageous men now being held as prisoners of war by the North Vietnamese.

President Nixon's national security adviser, Dr. Henry Kissinger, is continuing a series of private discussions with North Vietnamese leaders in an effort to arrive at a negotiated settlement of the war, to speed the return of our American boys.

In 1968, I advocated a Vietnam withdrawal policy much like the one President Nixon subsequently adopted, and I have strongly supported his efforts to bring this war to an honorable end.

WINSTON-SALEM CORPORATION FREEWAY

Recently I was able to have included in a highway bill being considered in the House Public Works Committee an amendment barring any federal participation, including the use of federal funds, for construction of the Corporation Freeway in Winston-Salem until new corridor hearings are held.

I have received numerous complaints about this proposed project, ranging from the amount of relocation required to the destruction of the open wooded area in Bolton Park. There have also been questions raised as to whether the proposed route would have the desired effect of improving traffic patterns in and around the city.

The new corridor hearings which my amendment would require would guarantee that the concerns of the people, the environmental impact, and possible alternative routes would all be adequately explored before this project goes forward.

The bill goes now to the full House for consideration, and must be approved both by the House and Senate, and signed by the President before becoming law.

REPORT ON THE 92D CONGRESS

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. MYERS. Mr. Speaker, at the conclusion of each Congress in which I have served I sent my constituents a report on my impressions of the accomplishments and failures of that Congress. I have prepared my report on the 92d Congress and would like to share it with you at this time:

REPORT ON THE 92D CONGRESS

As I have at the conclusion of each Congress in which it has been my honor to represent the people of the Seventh District, I am sending this report of my impressions of the Congress just adjourned and my view of what faces the 93d Congress when it convenes next January.

The record of the 92d was spotty and uneven. High marks go to the first session for passing the Revenue Act of 1971, which reduced taxes for most Americans; the extension of inflation controls; the 18-year-old vote amendment; health manpower legislation, and draft reform with provisions pointing toward the establishment of an all-volunteer army. The second session will be noted for its passage of landmark legislation in the field of environmental quality, including the Noise Control Act of 1972 and the Water Pollution Control Amendment of 1972, which I co-sponsored; reform of Social Security legislation, another measure I co-sponsored; the strongest antibusing legislation ever considered, and major reform of the higher-education program.

The second session also will be remembered for its failures—failure to face squarely the questions of welfare reform; labor-management disputes; protection of pensions; national health insurance; consumer protection, and reorganization and reform of the Federal government. It is this last proposal which I believe is the key to solving most of the problems facing this nation.

GOVERNMENT REORGANIZATION AND REFORM

During the closing weeks of the 92d Congress, I was honored to be chosen by House Minority Leader Gerald Ford to sit on a 15-member Task Force to study Congressional reform. We are already hard at work taking testimony from expert witnesses and conducting in-depth research into suggested reforms to be considered prior to the organization of the 93d Congress. The awesome problems of today demand constant review of the efficiency and effectiveness of Congress. I welcome the challenge to strengthen the role of Congress. This, however, is but one part of the effort to make the Federal Government more responsive to the people it serves. In the last four decades, more and more power has been concentrated in the Washington bureaucracy. The problems remain. Congress and Presidents alike have referred to progress in terms of increased dollar outlays rather than results. This attitude has brought crushing disappointment to the American people. There are today some 1,400 Federal programs, many of them overlapping in responsibility, and most of them inefficient in their spending of the taxpayers' dollars President Nixon sent to the 92d Congress his proposals for wholesale reorganization of the Federal bureaucracy. *As urgently as this streamlining is needed, both in terms of problem solving and money saving, the present Congressional leadership did not even bother to place it on the back burn-*

er, but left the reorganization proposal in cold storage. I consider Congressional Reform and Government reorganization priority items facing the next Congress.

INTRODUCES CONSTITUTIONAL AMENDMENT

In a move designed to hold the line on Federal spending, I introduced an amendment to the Constitution to prevent the Congress from remaining in session past July 31 of election years. History shows that the longer Congress meets, the more it spends. One solution is to control the length of the Congressional sessions and my amendment to the Constitution will do just that. I also sponsored legislation to place an absolute ceiling on federal expenditures during the current fiscal year to save the taxpayers from being put through the inflation-recession wringer or from an increase in their taxes.

LEGISLATIVE REPORT

Other major legislation which I actively supported during the 92nd Congress included the increases in Social Security benefits and reform of the system to raise income limitations and base future benefit increases on the cost-of-living; expansion of benefits to miners and dependents of miners suffering from Black Lung Disease; improvements in the Older Americans Act; protection for veterans and others receiving federal assistance whose benefits were to be reduced because of the Social Security increase; the Institute for Continuing Studies of Juvenile Justice to coordinate research and training programs dealing with the growing problem of juvenile crime; the Rural Development Act of 1972, which I co-sponsored, which will increase assistance to rural areas of the nation for community development, housing, pollution control, and job training, and amendments to the Uniform Time Act which helped resolve the "double fast time" problem in our part of the state. Two of my resolutions passed the 92nd Congress—one proclaimed a "National Week of Concern for Prisoners of War/Missing in Action and the other established the week of November 19–25 as "National Family Week", marking the start of a nationwide campaign to emphasize the importance of the family.

PENDING MYERS' LEGISLATION

Major legislation introduced by Congressman Myers during the 92nd Congress would establish a Joint Congressional Committee on the Environment to coordinate Congressional action in the environmental field; the Environmental Quality Corps Act, designed to put young adults to work upgrading our environment; the Abandoned Car Clean-up Bill; Homeowners' Tax Relief Bill, giving tax deductions to those who undertake property improvement projects; Extra-Care Health Plan, to provide assistance in cases of prolonged or catastrophic illness or injury; Tax credits for higher education expenses; and legislation requiring the Department of Interior to develop abandoned railroad rights-of-way for use by bicycles, other off-the-road vehicles and horse trails. Myers said he plans to resume his efforts on behalf of each bill at the beginning of the 93rd Congress.

EARN ACADEMY APPOINTMENTS

Five young men from the Seventh District entered U.S. military academies this year as members of the class of 1976. I am proud to have sponsored them and wish them every success. Reporting to the Air Force Academy were Daniel L. DeBard of Terre Haute and Randall G. Muncy of Plainfield. Selected for West Point were Paul T. Migaki of Terre Haute and Scott Stoll of Rural Route 1, Loogootee. Admitted to the Coast Guard Academy was Thomas C. Christian of Plainfield.

NOW ACCEPTING APPLICATIONS FOR CLASS OF 1977

I am now accepting applications for young men interested in attending one of the academies next fall. The deadline for applications is November 15 in order to qualify for the Seventh District Academies Screening Board interview on December 2 in Terre Haute. Any interested young man between the ages of 17–21, who will graduate from high school by next spring, should write to me immediately at 103 Cannon Building, Washington, D. C. 20515.

COAL GASIFICATION PROJECT

In mid-September, I announced approval of a major environmental research project at the Public Service plant near Terre Haute which promises to result in a significant breakthrough in the pollution-free production of electric power while at the same time assuring an expanded market for the coal mined in central and southern Indiana. The Office of Coal Research of the Department of Interior has authorized an industry team to embark on an $80-million program to develop a process for conversion of high sulphur coal into clean, synthetic gas for electric generating stations. The program will ultimately result in a commercial-size gasification plant at Terre Haute. I consider the project of major importance to the people of the Seventh District from the standpoint of scientific research, the environment and the economic future of our part of the state. I am proud to have played a major role in negotiations between the Federal government and industry team.

CRANE CENTER FOR ECONOMIC DEVELOPMENT

After more than a year of concentrated effort, final approval came for the establishment of the Crane Center for Economic Development which should prove to be of major significance to areas of high unemployment in southern Indiana. A field office already has been opened near the Crane Naval Depot to provide immediate assistance to the counties hardest hit by cutbacks at the defense installation. Reviewing the first 90 days of operation at a recent meeting in Congressman Myers' office were, pictured left, Thomas P. Ruane, Deputy Director of the Office of Economic Adjustment; Charles Roche, Associate Director of the Crane Center; Congressman Myers; Duane L. Sorensen, Director of the four-county Center; Congressman Roger Zion, and William J. Sheehan, Chief of the Office of Economic Adjustment in Washington. Sheehan pledged increased technical assistance to the Center as it assists local governments, business and industry in an overall program of community development.

YOUR CONGRESSMAN

During the 92nd Congress, Congressman Myers was an *active member of the powerful House Committee on Appropriations where he served as spokesman for all segments of the Seventh District;* Education and Manpower Training Task Force; Task Force on the Rules of the House of Representatives; Republican Policy Committee, and Regional Minority Whip. *His colleagues elected him current president of the Congressional Prayer Group,* which meets weekly for prayer and discussions. He presently is active in planning the annual National Prayer Breakfast scheduled for February 1 of next year. *During the 92nd Congress, Congressman Myers' attendance record exceeded 95 percent, one of the highest in Congress.* At the same time, he averaged three weekends out of four traveling into every section of the Seventh District to report on Congressional action and to hear your problems and suggestions. More than 70 seniors representing District high schools attended the first Government Seminar in April. Response was so positive, we plan to make the workshop in government an annual event.

The Sixth Annual Senior Citizens' Forums were held this year in Frankfort, Bloomington and Terre Haute featuring reports on Federal legislation affecting our older citizens and recommendations of the White House Conference on Aging. More than 800 persons attended the three sessions including 500 at Terre Haute where, pictured left, Mr. Sid Levin; Mrs. Mary Alice Banks, Chairman, 7th Region, Indiana Commission on Aging; Congressman Myers, and Dr. George Davis, Executive Director of the Indiana Commission, participated in the program.

A record number of nearly 23,000 persons responded to the 1972 questionnaire, compared to just over 17,000 in 1971, as Seventh District residents expressed their opinions on major issues.

EMPLOY THE HANDICAPPED

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BEGICH. Mr. Speaker, in Alaska, the week beginning October 1, 1972, was proclaimed Employ the Handicapped Week by Gov. William A. Egan.

Although that specially designated week is past, I feel that this voluntary citizen effort to create job opportunities for the handicapped is something that the people of this nation should be aware of throughout the year. I join with Governor Egan in urging all public officials, leaders of business, industry, labor, civic, veterans, professional and other organizations to employ the handicapped to assist them in attaining fuller participation in the total life of their community.

I am inserting the proclamation by Gov. William A. Egan for the attention of my colleagues:

PROCLAMATION—EMPLOY THE HANDICAPPED WEEK

Handicapped workers have proven through their job performance that ability counts more than disability. Our increasing number of handicapped citizens desire to make their own way and to be full partners in the communities in which they live.

The handicapped have proven that they are effective employees and that their job attendance record is equivalent to that of the able-bodied. Many handicapped workers are excluded from employment for reasons related to myth and tradition, rather than to fact and reality.

The Congress of the United States has designated the first full week of October of each year as National Employ the Handicapped Week, and 1972 marks the 28th anniversary of the Nation's organized voluntary effort to create job opportunities for the handicapped.

Therefore, I, William A. Egan, Governor of Alaska, proclaim and call upon the people of our State to observe the week beginning October 1, 1972, as Employ the Handicapped Week in Alaska, and I also call upon all other public officials, leaders of business, industry, labor, civic, veterans, professional, and other organizations to take part in this observance. I further urge all employers to consider the handicapped for employment, retention of their jobs, or promotion so long as such employment and retention is consistent with the capacities of the handicapped.

I also urge that all citizens remember throughout the year that by their interest and assistance the handicapped can achieve independence, thus leading to fuller participation in the total life of their community.

Dated this 21st day of September, 1972.

WILLIAM A. EGAN,
Governor.

OUR NATION SALUTES THE HONORABLE ABE J. GREENE OF PATERSON, N.J., WORLD BOXING COMMISSIONER, OUTSTANDING CITIZEN, AND DISTINGUISHED AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROE. Mr. Speaker, I ask you and my colleagues here in the Congress to join with me in heartiest congratulations and best wishes to my good friend and internationally renowned sports official, newspaperman, and crusading American citizen, the Honorable Abe J. Greene, associate editor of the Paterson News and State Athletic Commissioner of New Jersey, who has been reelected to his 15th term as international Commissioner of the World Boxing Association.

The World Boxing Association—formerly known as the National Boxing Association of America—was founded in 1920 and comprises a membership of athletic commissioners and leading citizens organized to regulate, control, and supervise boxing in every country, territorial or political subdivision, province or city throughout the world. The standing ovation and felicitations he received at the Honolulu convention of the World Boxing Commission by the athletic and boxing leaders from all over the world in unanimous support of his reelection is testimony to the outstanding success of his global efforts on behalf of the sport of boxing in every continent throughout the national and international community.

His international fame in the profession of boxing was inevitable based on the merits of his lifetime of service and personal crusade and commitment in always seeking the highest standards of excellence in the sport of boxing. He was president of the National Boxing Association for several years and from 1948 to 1962 served as commissioner; continuing as commissioner when the association was reorganized as the World Boxing Association. He is in his 24th year as world boxing commissioner.

In 1961 he was in the vanguard of a campaign urging the Federal Government to combine its efforts to eradicate racketeers from the boxing profession with a coordinated national commitment and rehabilitation of the sport of boxing. The quality of his leadership was recognized in 1961 when he was recommended for consideration as national boxing commissioner as "the right man, one with nerve and guts, who could clean up boxing in 3 months," a post recommended in a bill introduced by Senator Kefauver.

His achievements in the boxing profession have brought great honor to the citizens of our community, State, and Nation. In 1954, he received a gold medal presented by the President of Cuba in recognition of his outstanding service in the Boxing Association. In 1960 he was awarded a gold plaque in appreciation of his dedicated effort and a solid gold badge—the first of its kind in NBA history—at the NBA convention in Mexico City, Mexico. Other distinguished awards include the British Sholom Sports Award and the James J. Walker Memorial Award by the Boxing Writers Association of New York. On April 21, 1971, he was named State athletic commissioner by the Governor of New Jersey and had previously served as State boxing commissioner from 1937 to 1953.

With the same verve and fervor that he has devoted in achieving sterling championship success in the sport of boxing and athletic endeavors, he has attained esteemed respect and deepest appreciation from an inspired and grateful community, State and Nation for his compassion, dedication, untiring efforts, and lifetime of exemplary service to his fellowman. His joint crusading with the late Honorable Harry B. Haines, publisher and editor of the Paterson News, one of New Jersey's most prestigious newspapers, during Abe's years as a youthful newspaper executive to the present time, has been filled with compassion and benevolence in aiding the growth and cultural development of the city of Paterson and the North Jersey area, and he has always been in the vanguard of leadership to protect the people and their interests during times of distress and natural disasters affecting the region. As an arbiter, he was welcomed by both sides in the bitter silk strike of 1932 that had paralyzed the industry for 13 weeks causing untold hardship on mill owners, mill workers, and their families, and the city of Paterson. His success in effecting a peace settlement was lauded by a citywide symposium of civic professional, and service organizations which gratefully acknowledged his giant efforts with the award of "Paterson's Outstanding Citizen."

In 1968 his crusade on behalf of the flood victims in our region of the State helped establish a "Good Neighbor Flood Fund Program" to give direct aid to the unfortunate individual citizen for flood losses not covered by insurance or Federal-State rehabilitation programs.

Some of his affiliations with professional and civic organizations and in public service to our people include: County-municipal chairman and member of Board of Directors, Passaic County Chapter, American Cancer Society; trustee, Broadway Bank and Trust Co.; trustee, Barnert Memorial Hospital; member and one of the founders of Paterson Veritans Club; member and past president, Pica Club; member, Executive Council, Forward Paterson Movement. In 1970 he was the recipient of the AHEPA Outstanding Citizen Award.

There are many civic and personal "quiet" assistances that he has been responsible for that will never be known by many of us but each and every one of our citizens, I am sure, feel great pride and personal gratification for the man Abe J. Greene and his outstanding achievements. The warmth of his friendship to me as well as our stimulating and constructive discussions over the years have served to inspire me and I know I am privileged and honored to be numbered amongst his many, many friends.

Mr. Speaker, I am pleased to participate in this national recognition of our world boxing commissioner, outstanding citizen, and distinguished American, the Honorable Abe J. Greene. We do indeed salute all of his good works and wish to extend the respect and esteem of a grateful nation to an exemplary citizen.

THE 92D CONGRESS—A REPORT TO THE PEOPLE

REMARKS

OF

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. THOMPSON of New Jersey. Mr. Speaker, each session of the Congress tends to take on a character and theme of its own. I think that the 92d Congress has expressed in legislative terms the Nation's determination to reorder its priorities. Much remains to be done, but there are major accomplishments for which we may justly take credit.

THE ECONOMY

Almost every poll has indicated that the economy is the No. 1 concern of Americans. The last 3 years have been characterized by inflation, high unemployment, and budget deficits which exceed the total combined deficits of the last three administrations. Congress has responded to these economic ills with a positive program designed to relieve unemployment and reduce inflation. Early in the 92d Congress, the President was given authority to establish price and wage controls. As we know, President Nixon refused at first to use these powers, but he acceded when it became apparent that his administration's economic game plan was not working. Although I am far from satisfied with the manner in which price controls are being administered, particularly with respect to rent increases, Congress has given the President the tools he needs to curb rising prices.

To help ease unemployment, Congress passed four emergency bills: The 1970 Public Service Employment Act; the Accelerated Public Works Act of 1971; the Emergency Employment Act; and the Emergency Unemployment Compensation Act. Unfortunately, President Nixon vetoed the Public Service Employment Act and the Accelerated Public Works Act of 1971 which were designed to combat unemployment by helping our cities build needed public facilities and sewer and water projects. Nevertheless, Congress did prune to some extent inflated budget requests for the military. Overall, Congress cut $14.5 billion from administration budget requests in the last 3 years, and channeled these funds into health, education, and environmental protection.

FOREIGN AFFAIRS

The 92d Congress made new efforts to reassert congressional oversight of foreign policy. For the first time, the Democratic Caucus directed the Committee on Foreign Affairs to draft a resolution setting a date for the complete withdrawal of American forces from Vietnam. The House and Senate passed separate versions of the war powers bill, both of which require the President to report to Congress whenever he commits U.S. forces to action overseas without prior congressional consent. While efforts to cut off funds for the Vietnam war proved unsuccessful, the margin by which such efforts were defeated narrowed substantially, thus indicating a growing antiwar sentiment in the Congress. The Senate swiftly ratified armed limitation agreements which the administration negotiated with the Soviet Union. Meanwhile, efforts were underway in the Congress to bring pressure to bear on the Soviet Union to cease harassment of Jews who wish to immigrate to Israel by denying the U.S.S.R. favored-nation status.

THE ENVIRONMENT

The 92d Congress gave high priority to environmental legislation. The new Clean Waters Act passed by Congress would launch an unprecedented effort to eliminate the discharge of pollutants into America's waterways by 1985. The bill authorizes $18 billion for waste treatment plants and sets strict deadlines for compliance. It also authorizes citizens to sue polluters in class action suits. A new Water Resources Planning Act has authorized an additional $7 million in funds to provide a comprehensive assessment of national water resources and extend Federal aid to carry out regional water resource planning.

MEETING SOCIAL NEEDS

The 92d Congress overwhelmingly approved a 20-percent increase in social security benefits to help senior citizens keep pace with inflation. Legislation was enacted to provide nutritious meals for the elderly, and to extend comprehensive health, education, employment, and transportation services. A new National Institute of Aging was authorized to conduct research on the aging process and the special health problems of older persons.

The 92d Congress responded vigorously to the needs of young people. Legislation was passed to create a Special Action Office for Drug Abuse Prevention; to establish school lunch and breakfast programs for needy youngsters; to provide comprehensive treatment and rehabilitation programs for veterans dependent on drugs or alcohol; and to increase veterans' education benefits; and, of paramount importance, was the constitutional amendment to extend the franchise to 20 million young Americans between the ages of 18 and 21. Under the new Higher Education Act, of which I was a sponsor, prospective college students will for the first time have a guarantee that a lack of funds will not prevent any person from obtaining a college education if he is willing to prepare himself for it. Under the new basic educational opportunity grant provision of the bill, each college student will be assured tuition assistance up to $1,400 per year minus the amount the student or his family can contribute to the cost of the student's education. Existing programs such as the work study program, the supplemental grant program, and the student loan program, will supplement this basic grant. This financial aid program will encourage young people to aspire to college who ordinarily would not even entertain the idea that they could possibly attend.

Space does not permit more than a brief mention of the other major legislation enacted by the 92d Congress: the Equal Rights for Women Amendment, the Equal Employment Opportunities Enforcement Act, the State and Local Fiscal Assistance Act of 1972—revenue sharing—the Alaska Native Claims Settlement Act, railroad retirement annuities, black lung benefits, and the Economic Opportunity Amendments.

I do think the record of the 92d Congress indicates that we have expressed a concern for the social needs of this Nation and a determination to do something about them.

ANOTHER BURDEN ON MIDDLE CLASS

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. DENNIS. Mr. Speaker, our current preoccupation with revenue sharing and with social security prompts my calling to the attention of my colleagues two recent articles on these two subjects.

One is from the Washington Post of October 10, 1972, and points up how local property tax relief as a result of current revenue sharing legislation is largely a myth.

The other is a thoughtful editorial from the Wall Street Journal of October 10, 1972. It calls attention to the dilemma social security increases are now causing—whether to continue to levy regressive payroll taxes on the poor, or to finance the program not as insurance but out of the general treasury, as another social burden laid on the middle class.

These articles contain worthwhile warnings, if we would heed them.

The two articles are as follows:

[From the Washington Post, October 10, 1972]

SHARED REVENUE: NO TAX CUT

By Herbert H. Denton

Washington Post Staff Writer

For the mayor of Glenarden (pop. 4,502) the forthcoming federal revenue sharing funds means the Prince Georges County town may expand the town hall to hold 1,200—to accommodate even larger crowds at the lucrative weekend cabaret dances held there.

For Bowie officials, the revenue sharing check may be used to pave the mile of road leading back to the city lot where trash trucks and snowplows are parked.

In Laurel, the mayor is thinking of using some of the money to buy the old National Guard Armory in the city and turn it into a recreation center.

Revenue sharing—the planned five-year program that will pump $5.3 billion this year into 38,000 cities, towns and other local governments—has been touted as a major federal effort to ease the fiscal problems of local governments.

Last year, President Nixon enthusiastically predicted that revenue sharing, which returns some federal income tax money to localities, could not only "stop the rise in property taxes" but might even result in reductions of up to 30 percent.

Interviews with local officials in the Washington area indicate that residents should not expect any immediate change in their local tax bills.

Echoing a local skepticism about the long-term future of the program, Howard Borgstrom, an aide to the Fairfax County executive said: "If you start up something grand and glorious with (the revenue sharing grant) and the money stops, you're not in very great shape."

As federal revenue sharing legislation heads for probable final passage in Congress this week, local government officials talked about putting the money into one-shot construction projects, or adding money to expand existing programs that had been cut back because of tight finances. Some of the plans now being considered include improved health services in Alexandria, more money for schools in the District of Columbia and additional personnel for police departments in Fairfax and Prince George's counties.

Tax bills for the current fiscal year already have been sent out, and no local government gave the slightest hint that it would use its first revenue sharing check to lower the property tax in the middle of the year.

The Nixon administration already has opened a revenue sharing office at the Treasury Department. Officials there say that if congressional approval goes according to the present timetable, they plan to get the first installment of checks mailed to the local governments by late October—before the presidential election.

The town of University Park, near the University of Maryland, may never get its $10,641 annual revenue sharing grant at all—not if the Treasury Department mails checks to University Park. The town has neither an office nor a telephone, and it picks up whatever mail it gets from a box at neighboring Hyattsville's post office.

As far as reducing local taxes goes, there is a little-noticed catch in the revenue sharing legislation pending on Capitol Hill; the formula used to calculate the size of the grant a local government gets is constructed so that if the government uses the grant to lower its taxes one year, it will probably get a smaller revenue sharing grant the next year.

If the money is used to reduce taxes, Leo Wilson, the mayor of Laurel, adds, then the city must consider what could happen in the "sixth year," when the financing of the current legislation runs out. Then, he points out, if revenue sharing stops the local governments may find themselves in the unenviable position of sharply increasing taxes to compensate.

Some local officials have not yet committed themselves on how the revenue sharing money will be spent. Montgomery County, the nation's wealthiest, stands to get $3.9 million under the program, and an aide to the county executive said it would be just speculation at this point to talk about what the county might do with the money.

But the general inclination expressed by most area officials was to put the revenue sharing money into building projects that do not have any significant annual recurring costs.

Thus, the tentative plans for buying the armory in Laurel and expanding the meeting hall in Glenarden. (Glenarden Mayor Decatur W. Trotter concedes that no town meeting has ever brought out the 700 persons that would fill the hall to the existing capacity and says candidly that it is the dances on Friday and Saturday nights—events that bring $26,000 annually into the town treasury—for which the expansion is intended.)

Where officials say they intend to put the money into operating uses, it is most often for programs that already had been planned.

In Alexandria, for example, officials said they have been on notice for some time that doctors who have worked on a voluntary basis at a downtown clinic will not do so after the end of the year. They were aware that the $30,000 to $40,000 needed to pay the physicians for the part-time service was going to have to come from some public source and revenue sharing now looks as good as any of them.

Prince Georges County Executive William W. Gullett already has said he intended to add more men and raise salaries of the county police force with other money the county government had. Now he can do that with revenue sharing and use the other funds to satisfy teacher salary demands—something he had not originally planned.

Comer Coppie, D.C.'s budget director, says he is considering recommending to the mayor that some of the revenue sharing money be used for city schools, whose budget request was cut by Congress, and for social welfare programs.

Coppie said without elaboration that he also believed that some of the money ought to be used for new, workable programs that can show Congress the benefit of continuing revenue sharing.

Some legislative hands discount the fears of Coppie and other metropolitan area officials that revenue sharing could be short lived. The legislative beauty of revenue sharing, they say, is the fact that it gets money into 38,000 governments in every congressman's district in the country—to use as the local officials see fit.

[From the Wall Street Journal,
October 10, 1972]

Now, About That Old Age Tax

Even without the Social Security liberalization that has received all but final approval in Congress, American workers in January will begin paying $594 a year as their maximum Social Security tax, up from $468 this year.

If the new bill becomes law, the tax most likely will take another jump, rising to as much as $720 by 1974.

The boosts in the Social Security tax bite are prompting some worried looks at its impact on the nation's total tax structure. The worries are valid and should have had closer examination even before the latest moves toward liberalization.

Interestingly enough, some of the biggest concerns are being expressed by economists and tax experts who usually would be classified as "liberals," as that term is understood today. In a recent letter to The New York Times, a group of six Washington economists, including Brookings Institution tax expert Joseph A. Pechman, complained that as the Social Security tax rises, its regressive impact becomes more severe. In other words, workers with a relatively modest income and high income workers would pay that same $720. (They argue further, by the way, that the matching tax paid by employers is, in effect, also borne by workers, which doubles the proposed $720.)

To demonstrate the regressivity feature of the tax, the economists noted that it currently represents some 10% of the income of a worker earning $9,000 a year but less than 2% of an income in the $50,000 bracket.

The economists propose that the tax should be reformed to relieve the burdens on low-income workers. They suggest that it could be applied only to family incomes in excess of a certain figure, such as $4,300 for a family of four, for example.

Such proposals constitute a not-so-subtle movement away from the concept that American workers have had of Social Security. The fact that the concept was never totally accurate does not make it unimportant. Perhaps partly because it is officially titled Old Age, Survivors and Disability Insurance, most workers have thought of it as just that—insurance. It has not carried the stigma of welfare. This concept has not been altered by the fact that Social Security is not insurance in the usual sense. The tax, which now supports some $38 billion in annual benefits, is part of the federal budget and the program is not heavily funded relative to its size.

One of the risks in removing the regressivity of the Social Security program lies in the possibility that it might take on more of the characteristics of programs that are more properly called welfare. Social Security recipients now feel that they earned what they receive, even though in fact current benefits return more to a retiree than he actually put in and are shaded somewhat in favor of retirees who had low incomes in their working life. But an outright exemption of low-income workers might reduce the present sense of dignity and propriety that recipients justly feel.

Further, relief for low income workers probably would bring about another transfer of a tax burden towards the already well-laden shoulders of middle income taxpayers. Many such taxpayers have begun to resent such transfers.

The problem wasn't so great back in 1963, when the Social Security tax was only 12.6% of federal revenues and thus a relatively small share of individual tax payments. But now, thanks to the increasing generosity of Congress, the share has risen to 25%.

So it would appear that Congress has gotten itself into a dilemma where it must decide whether to continue soaking the poor, relatively, or consider swinging another burden to the middling-well off. It is not a pleasant decision but one Congress will find more pressing if it continues to expand Social Security benefits. After all, *someone will have to pay* for them.

THE VEIL OF SECRECY SHIELDS THE INTERNATIONAL POWER GAME

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. RARICK. Mr. Speaker, during Tuesday's proceedings, the House passed legislation which gives the President virtually dictatorial powers to limit or freeze congressional appropriations without first seeking the approval of the Congress.

Though I do not support this action and voted against the bill, it is certainly nothing new. In fact, if there is one thing that can describe the Nixon administration's conduct of the executive branch, it is secrecy and unilateral action without benefit of congressional approval.

There have been secret negotiations, secret peace talks—secret this and secret that. It would appear that President Nixon has little confidence in the American people or in their elected representatives here in the Congress.

But the Congress and our people are not alone. According to recent reports, the President even bypasses his own people in the executive branch and at the highest possible levels of diplomacy. Some diplomats are even saying that they have been "left out in the cold."

The state of the Nation has deteriorated to the point where the United States is being run by the changing whims and passions of the President and his advisors. The United States is no longer a nation of laws or representative government. We have become as pawns manipulated in an international game and moved by the whims of men who strive to govern through personal power.

I include in the Record a related news article:

[From the Evening Star and Daily News,
Oct. 9, 1972]

White House Secrecy: U.S. Diplomats in Moscow Bypassed

(By Hedrick Smith)

Moscow.—In the period of blossoming relations with the Soviet Union, the close-to-the-vest diplomatic style of the White House is demoralizing career diplomats at the American Embassy who must conduct relations with Moscow over the long run.

In its evident eagerness to protect the secrecy of various negotiations now under way with Moscow, the White House has largely bypassed the embassy, leaving officials there feeling uninformed and out of the picture.

"I have to go to my Soviet counterpart at the ministry to find out what has been going on in these talks," commented one senior American embassy official.

"They know much more than we do about what is going on. They are kept better informed by their higher-ups than we are. All we get from Washington these days are the visa cables—telling us which Soviet officials are supposed to get visas to go to the states."

Embassy officials and other Western diplomats were particularly surprised to notice that when Henry A. Kissinger, President Nixon's White House security adviser, was here for talks in mid September, the American ambassador, Jacob D. Beam, evidently did not participate.

Tass, the Soviet news agency, circulated a picture on Sept. 14, showing Leonid I. Brezhnev, the Communist party leader, joined by Foreign Minister Andrei A. Gromyko and Anatoly Dobrynin, the Soviet ambassador to Washington. Opposite him sat Kissinger accompanied by two White House aides. Beams was not present, though he was reportedly briefed on the talks later by Kissinger.

American and other diplomats comment that this is the kind of omission that Soviet officials notice and that it hurts a foreign embassy's prospects for gaining regular and easy access to Soviet officials once the top-level delegations have left the scene.

"When Kissinger is here, we're left out in the cold," said a middle-level diplomat. "And when he's gone we're still out in the cold. People come in from Washington and get high-level red carpet treatment. But when they expect us to carry on, they don't realize the problems we have on a day-by-day, week-by-week basis, even setting up the meetings that are necessary."

The sheer volume of American delegations now passing through Moscow to talk on topics ranging from top White House business and trade to environmental problems or water conservation management, has significantly increased the contact of American officials with the Russians.

In his first three years, Beam has not been taking part in a sit-down meeting with Brezhnev until the visit last April of the Secretary of Agriculture, Earl L. Butz. Again in July, he accompanied Commerce Secretary Peter G. Peterson to the Black Sea resort area where Peterson met with Brezhnev to discuss trade matters.

Nonetheless, western diplomats point out that such occasional meetings do not begin to compare to the access that the White House and State Department regularly give to the Soviet ambassador in Washington. This is particularly true of Dobrynin, who has become widely known to administration and congressional leaders in both parties during his long tenure in Washington.

CONGRESS VERSUS DRUG ABUSE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROE. Mr. Speaker, I know that you and our colleagues here in The Congress are highly cognizant of the outstanding work and dogged determination of our distinguised colleague, Congressman HENRY HELSTOSKI of New Jersey, in his pursuit of action programs through our legislative process in combating the most vicious social evil of our time: the narcotic epidemic.

In one of his recent addresses to his constituency on the subject he precisely articulated some truly hard-hitting facts that go to the very heart of our Nation's problem in drug abuse as well as expressing some very poignant sentiments of the Congress on this critically important national issue. It is most important to all of us here in the Congress and the people throughout our Nation that they be informed and alerted to his profound observations and I welcome the opportunity to present them to you at this point in the RECORD of our congressional proceedings. The full text of his statement is as follows:

CONGRESS VERSUS DRUG ABUSE

The drug problem is hard to talk about for two reasons. For one thing, there are so many angles to it. For another, it's already been talked and written almost to death. If you are like me, you've heard and read so much about it—with so-called experts disagreeing with each other all over the place—that you hardly know what to think. All in all, as far as I can see, there are no clean, hard answers in this field—whether you're talking about the effects of drugs, the reason people take them, or what to do about it. It's one of those subjects that gets you frustrated. After you've wrestled with it a while, you come close to throwing up your hands and walking away from it.

The trouble is, we can't afford to walk away from it. The problem is there—it's solid and real. No matter how sick and tired we may get of hearing about it, we can't just turn our backs. There's too much at stake.

When I say the problem is there, I speak with certainty. I don't get that certainty from all the widely varying official statistics and estimates, sporadic school surveys, sample polls, and so forth. My certainty stems from the same source as yours. I would bet that almost every person here today has direct knowledge of somebody, most likely somebody young, who has a drug problem. It may even be somebody in your own family. Anyone who has been living in urban America during the past five years or so knows that drugs have become a real threat. You hear about it—or see it—on all sides. You don't need statistics to tell you that it's there and that it has been getting worse. However, it's just as well to be aware of what the surveyers and statisticians have to tell us.

Until about three years ago all Federal agency estimates of the number of narcotic addicts in the country indicated there were somewhere between 50,000 and 150,000. Last June the Director of the Bureau of Narcotics and Dangerous Drugs testified before a Congressional committee that a new statistical analysis showed there were over 300,000. Just recently the Bureau has informed us there are 560,000!

Department of Defense witnesses told a Congressional committee last year that the number of military members investigated by law enforcement agencies because of drug use increased by 30 percent from 1968 to 1969 and by 38 percent from 1969 to 1970.

In 1970 more than 1,000 persons in New York City died from dangerous drug use—mostly heroin. Two hundred and fifteen of them were teenagers. Mayor Lindsay told Congress last year that 50 percent of the inmates in city jails were addicts and that New York spends $50 million annually just on prison, court and police costs for addicts.

College student surveys have shown that some 18 percent have tried amphetamines and 15 percent have tried barbiturates. In a 1967 nationwide-all-ages survey, 25 percent of all persons over 18 reported some use of psychoactive drugs during the preceding year. The number of persons reporting use of a tranquilizer at some time in their lives rose from 7 percent in 1957 to 27 percent in 1967.

And so it goes. The statistics are always incomplete, and many questions can be—and are—raised about them. But taken along with our own personal experience and observation, they add up to Bad News.

This country has a lot of problems. People are worried about a lot of things. But there are probably less than half a dozen issues that really get to them, on an every-day basis, more or less throughout the country. From my observations, drug abuse is one of these.

Now, I know a lot of people have the idea that the Congress of the United States is not responsive to the real concerns of the electorate. "It doesn't make any difference what we think, those guys won't do anything about it": that's the way this kind of thinking goes. There may be some issues that, for one reason or another, lend themselves to that charge, but in general, it's nonsense. If anything, Congress may be over-responsive. The Members get so anxious to solve a problem that has everybody upset that sometimes they strike out wildly in all directions. After all, aside from the fact that many of them are genuinely dedicted to representing their constituents, they are also politicians. A good politician, faced with a problem that has the voters all uptight, is going to knock himself out trying to come up with a solution. The recent history of Congressional activity in the drug abuse field is a fine example of this.

In the last ten years, Congress has enacted sixteen laws having some relation to the treatment and rehabilitation of narcotic addicts and other drug abusers—most of these involving provision of federal funds. In 1970 we reviewed and completely reorganized the entire complex of narcotic and dangerous drug *control* laws. Also in 1970, we enacted two statutes containing provision for aid to drug abuse education activities. In the same year we established the Marihuana and Drug Abuse Commission which has just recently submitted its first report, the one on marihuana. Now, we have just finished passing a new major piece of legislation, which has the primary purpose of establishing a super drug abuse agency to coordinate and supervise all federal treatment, rehabilitation, research, training, and education activities in this area. Additionally, this legislation provides for major new grant and contract funding authority in these fields.

What are some of the highlights of these federal developments of the last ten years?

As for treatment and rehabilitation, the most significant development has been the gradual but steady establishment and expansion of the Community Mental Heatlh Centers program. Originally authorized as a construction program by the Community Mental Heatlh Centers Act of 1963, it was soon amended to provide for operational funding as well. At the time the '63 legislation was being considered, it was established that the scope of mental health treatment covered narcotic addiction and that the centers could be used—although not exclusively—for the treatment and care of addicts.

After a few years of experience, Congress was forced to come to the conclusion that the general mental health centers were not doing the necessary job in treating addiction. In some cases, this was because the State or community didn't see that it had a problem big enough to justify the special arrangements which might be necessary. In others, hospital authorities feared that if the centers took in addicts, it would scare the other patients away. And in still others, the hospital staff simply didn't want the bother of dealing with addicts, who are notoriously troublesome patients.

As a consequence, in 1968 Congress amended the Mental Health Centers Act to authorize funding of specialized centers for the treatment of narcotic addicts, as well as alcoholics. This program has since been expanded a number of times, the basic authorization for the present year being $60 million and for the coming year $80 million. In addition, in the Special Action Office bill just passed, an additional $60 million was provided for the current year plus the two following.

Another landmark in addict rehabilitation legislation during the past decade was the Narcotic Addict Rehabilitation Act of 1966. This law provides for the possibility of civil commitment, for treatment, of narcotic addicts charged with Federal criminal offenses. It also makes it possible, under certain circumstances, to commit to a federal treatment center an addict not charged with any crime. The significance of the legislation lies in its recognition of addiction as a disease and its enunciation of a policy to substitute treatment for punishment where possible and productive. An important feature of the Act is its emphasis on after-care services, meaning counseling and other oversight of treated persons after they return to their own communities.

As I mentioned before, in 1970 the narcotic and dangerous drug regulatory laws were completely overhauled. These were a patchwork of separate statutes going back to 1914, when the basic federal anti-narcotics law—the Harrison Act—was passed. The idea of the 1970 legislation was to bring all of the existing controls together in one, rational system which might be more efficiently enforced.

As former Attorney General Mitchell put it, the measure attempted to "synthesize the existing controls into one body of organic law." At the same time, the Administration and Congress both took the opportunity to review basic policies—and in addition to generally restructuring the control system, the final enactment made a number of very significant changes in previously existing law.

The new law is contained in two titles of the Comprehensive Drug Abuse Prevention and Control Act of 1970: title II, the Controlled Substances Act, and title III, the Controlled Substances Import and Export Act.

The Controlled Substances Act—and its companion import-export statute—governs any drug or other substance which is determined to have a substantial potential for abuse and dangerous consequences for the average person who abuses it. Specifically excluded, however, are distilled spirits, wine, malt beverages, and tobacco.

The Act requires all persons or firms engaged in manufacturing, importing, or distributing any of the substances it covers to be federally licensed. All persons or firms engaged in dispensing or prescribing one of these substances must be federally registered. A feature of the revamped law is the establishment of a classification system consisting of five schedules. All medically used drugs covered by the Act are assigned to one of four of these schedules, according to relative danger from abuse.

At one end, in Schedule II, are such drugs as morphine, methadone, cocaine, and the amphetamines; at the other, in Schedule V, you find mild narcotic compounds like paregoric. In a completely separate class—Schedule I—are all those substances with a potential for abuse but no medically acceptable use in the United States. This schedule contains such drugs as heroin, LSD, and marihuana. In general, the degree of regulation—and the penalties prescribed for violation—depend upon the schedule of the drug.

The Controlled Substances Act was the highlight of the drug actions of the 91st Congress, and in a sense the climax of the preceding eight years or so of steadily increasing concern over the drug problem. As I have previously indicated, the Congress acted not only with regard to the regulatory, or so-called "law enforcement", aspect of drug abuse control, but also in the treatment, research, and education fields. At the end of 1970, a number of observers thought, in view of all that had been done in the 91st Congress, that the drug issue would be quiet for a time.

However, it just hasn't worked out that way. In some ways the momentum the drug issue gathered during the last Congress seems to have been too great to hold back. Although there hasn't ben anything before us of the same magnitude as the Controlled Substances Act, there still have been over 300 bills introduced which relate to some aspect of the problem. And at least a dozen Congressional committees have held either legislative or investigative hearings on the subject.

Among the most important issues embodied by legislation in the current Congress are: (1) the drug problem in the military, especially among the Vietnam troops; (2) drug addiction treatment for veterans; (3) the question of requiring addicts receiving welfare because of drug-caused disability to undergo treatment; (4) the question of withholding foreign aid from countries which don't cooperate with us on curbing the drug traffic into the U.S.; (5) aid to States for treatment of addicts in prison (6) the organization of Federal government drug control and drug treatment efforts.

Last year, in the Selective Service Act amendments, we directed the Armed Forces to identify drug dependent servicemen and to provide treatment. A pending Administration bill authorizes a treatment program for addict soldiers by the Veterans' Administration and provides that they may be retained involuntarily in the service for treatment for up to 30 days after service expiration date. In the Veterans' Affairs Committee on the House side, we worked out a piece of legislation last summer which authorizes a treatment and rehabilitation program in the Veterans' Administration for any veteran, serviceman or ex-serviceman suffering from drug dependency or drug abuse, and provides for the actual judicial commitment to the Veterans' Administration for care and treatment—under certain circumstances—of addict veterans and ex-servicemen. The House passed this bill in July, and the Senate has held hearings.

A provision of H.R. 1, the big welfare-social security bill, would require addicts receiving welfare because of drug-caused disability to undergo treatment. I myself am a co-sponsor of a separate bill which has the same purpose.

On the foreign aid business, we finally got a bill passed which directs the President to suspend aid to any country which isn't shaping up on drug traffic control. This was a provision of the Foreign Assistance Act of 1971, which only recently got passed after a hectic legislative career. The provision was based on a bill originally introduced by Congressman Rodino, of which I was co-sponsor.

Another bill which I co-sponsored amends the Omnibus Crime Control and Safe Streets Act to provide specifically for funding treatment programs for drug dependent criminal offenders, both while they are in prison and after release. This bill has also passed the House and is now pending in the Senate.

The major drug control legislation of the Congress was signed by the President on March 21. A bill which started out as an Administration measure but which was heavily amended by Congress, it is entitled the Drug Abuse Office and Treatment Act of 1972. Its main purpose is the establishment of a Special Action Office of Drug Abuse Prevention, in the Executive Office of the President, for coordinating and supervising federal efforts to control drug abuse, excluding law enforcement activities and legal proceedings. This action was seen as badly needed because, as a result of all the legislation passed in recent years, so many agencies are involved in tratement, research and education activities. The idea is that with a kind of super-agency, headed by what amounts to a drug abuse czar, we will have the kind of coordinated approach we need to get the maximum out of all our efforts.

Additionally, as passed, the new legislation provides for a very substantial amount of additional aid to States, communities, and nonprofit organizations for drug treatment and prevention projects. In terms of new money it will amount to about $1 billion over a three and one-half year period.

The new law also creates a National Institute on Drug Abuse and a National Drug Abuse Training Center.

I am happy to say that many of the provisions which ended up in the legislation were similar to those of my bill, H.R. 3126. I think this one is a really big step forward.

It wasn't my intention today to throw a lot of names of legislation at you and dazzle you with how busy we've all been down in Washington. But I did want to give you some idea of what's been going on down there so far as this drug business is concerned—both in the 92nd Congress and in the recent past. I know that when all of this stuff comes out in the newspapers, in dribs and drabs, it doesn't make too much of an impact. As long as you look around you and see that the drug problem hasn't gone away, you may get the idea that nobody's doing anything about it. That's not so. We're really trying. But there's no use in kidding ourselves, this is a really tough one, and there are no easy answers. In the long run it's going to take more than legislation. However, to the extent that legislation will help, I want to tell you I think this is one area where Congress is really in there trying.

REPORT FROM WASHINGTON

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SCHERLE. Mr. Speaker, enclosed is a copy of my latest weekly report to Iowa. Many Members may find these articles of interest:

BILL SCHERLE REPORTS FROM WASHINGTON

RURAL DEVELOPMENT WORKSHOP

The Rural Development Act, as most Iowans known by now, provides a strong basis for developing the full growth potential of our countryside and communities. The exact ramifications of this recently passed, complex legislation, however, are not widely known. As a service to residents of their cities and surrounding areas, the Chambers of Commerce of Council Bluffs and Omaha are jointly sponsoring a meeting to examine the implications of the Rural Development Act. The workshop begins at 10:00 a.m. on October 24th at the Omaha Hilton. It will feature a team of officials from different agencies in the U.S. Department of Agriculture led by William Erwin, Deputy Under Secretary for Rural Development. As a sponsor of the original bill and a member of the eight-man Appropriations subcommittee which funds the program, I have been asked to participate. The day's discussions, which are expected to end around 3:00 p.m., should prove enlightening for everyone. We welcome the opportunity to answer questions and record reactions from the people directly affected by the law. Tickets, including the price of a luncheon, may be purchased for $7.00 from the Council Bluffs Chamber of Commerce, Suite 506, First Federal Savings & Loan Building, Council Bluffs, Iowa 51501, by October 20th.

HERE WE GO AGAIN

One way to insure the appropriation of funds for a shaky project is to sell it as a multi-purpose program with a little something for everyone. The District of Columbia has been angling for a new convention center for years but could not win wide enough endorsement to secure the money from Congress. This year, however, sponsors of the plan hit upon a winning combination and successfully sold their idea as a combination Presidential memorial-Bicentennial - urban renewal project.

Supporters claim that the civic center will rejuvenate downtown Washington by drawing scores of thousands of conventioneers and other free-spending tourists to the central city. They cite the jobs it will create directly and indirectly. And they stoutly insist the whole project will cost the taxpayer a mere $14 million over the next eight years. To attract conservatives who might otherwise be unwilling to sink more money in the District's abortive urban renewal programs, advocates of the center are billing it as a living memorial to the late President Dwight Eisenhower and an investment in the nation's capital worthy of our 200th birthday.

Too few members of Congress, unfortunately, saw through these arguments. First it is unlikely that the center will rejuvenate downtown Washington. The problems plaguing the nation's capital are not so easily solved. A convention center rising in the midst of crime-ridden ruins will not attract visitors; it will repel them. The center's ability to make money is thus questionable, too. The relatively modest $14 million request for operating costs over the next eight years is based on the assumption that a private developer will finance the $65-million construction cost and will be repaid out of the center's prematurely anticipated profits. If that assumption proves false, as it undoubtedly will, the federal government will naturally be expected to repay the debt. In addition the operating costs are bound to expand, and these, too, will be charged to the taxpayers' account.

The Bicentennial gambit is just that. No one familiar with large scale construction projects believes that the center will be completed by 1976. Nor is the project a suitable memorial to General Eisenhower. The only President in recent memory who successfully dedicated himself to balancing the federal budget would scarcely be gratified to lend his name to such an open-ended drain on the Treasury.

There is no excuse for swallowing such propaganda. Congress has had sufficient experience with white elephant memorials in the past to know better. The Robert F. Kennedy Memorial Stadium stands empty most of the year. The John F. Kennedy Center for the Performing Arts continues to run up yearly operating deficits in the millions after dunning the taxpayer for construction costs of $67 million, despite repeated assurances to the contrary. It is difficult to understand how yet another unviable leviathan could win Congressional approval. We shall unquestionably live to regret it.

NIX ON NADER

Reviews on the first volume of Ralph Nader's massive study of Congress are rolling in now, and the verdict is resoundingly negative. Even before the succeeding installments have been published, the Raiders' introductory fusillade has met with sharp salvos from the liberal press. *Time* magazine compared Nader's efforts to the "outrageous and inaccurate" attacks of the first "muckraker." Normally sympathetic to the consumer cause, *Time* concluded: "*Who Runs Congress?* revels in recounting every instance of bribery, influence peddling and even criminality in the Congressional history books, but it is neither explicit nor persuasive in presenting its view of the problems that short-circuit Congressional progress."

The *Washington Post*, one of the nation's most influential and liberal newspapers, concurred more gently: "The book has nothing really new to interest the already knowledgeable . . . Ralph Nader's name on it may be enough to stir up interest. But if Nader's name weren't on it, it would be certain to be called a rather mediocre job." It was a contributor to the left-leaning *New Republic*, however, who really lambasted the man hitherto called "a Don Quixote with clout." The article accused Nader of remaining silent on the issue of no-fault auto insurance, considered by many the most important piece of consumer legislation to come before Congress in this decade. The *New Republic* charged that Nader failed to take a positive position because the American Trial Lawyers, which has been lobbying vigorously against no-fault insurance, donated $10,000 to Nader personally and an equal sum to his Center for Auto Safety.

Undeterred by this evidence of corruption in his own organization, Nader is forging ahead with his publication schedule, determined to maintain his one-man siege against Congress. He admitted in a recent press conference, called to publicize his book, that it will be difficult to rouse wide public interest in his latest crusade. He said he aims nevertheless to "make Congress as interesting as bird watching." Quizzed by a reporter on just how many supporters that would net him, Nader hesitated only briefly before asserting, "Four hundred thousand." Ralph's riposte, alas, was as inaccurate as many of the "facts" he cites about Congress. The real figure approaches three million ornithophiles.

Reaction from Congress is none too positive, either. Most members resent the implication that they are responsible to anyone except their own constituents. None summed up the prevailing attitude better than Representative Robert Nix. The liberal black Congressman from Pennsylvania put it this way: "I do not think my constituents want me to pay homage to Ralph Nader or those on vacation from exclusive schools who have substituted a summer of slander for a summer in Europe."

ALTON A. LENNON

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. RARICK. Mr. Speaker, it is a pleasure to participate in this special order honoring our distinguished colleague from North Carolina, the Honorable ALTON A. LENNON, who is retiring at the end of this Congress.

ALTON LENNON has served the people of his State and Nation honorably and well. As chairman of the Subcommittee on Oceanography of the House Committee on Merchant Marines and Fisheries he has been a particular friend of the State of Louisiana.

He has also served this Congress faithfully as a member of the Armed Services Committee. He has always stood for a strong and safe America. He will be sorely missed.

ALTON LENNON is my friend. I hold him in high esteem, both as a man and as a legislator. I trust him in matters affecting this Nation and have many times sought his advice and consultation.

Mrs. Rarick and I, along with the people of the Sixth District of Louisiana, wish him the best of health and happiness as he returns home to the people he loves and has served so well.

THE ACT TO PROVIDE FOR UNIFORM ANNUAL OBSERVANCES OF CERTAIN LEGAL PUBLIC HOLIDAYS ON MONDAYS, AND FOR OTHER PURPOSES

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HELSTOSKI. Mr. Speaker, because there has been some confusion and many inquiries regarding the recently enacted Federal law which prescribes the days for observance of the legally designated public holidays, and because there have been trends toward a further revision of the recently enacted statute concerning holidays, I have advised my constituents of Public Law 90–363 which states:

> An act to provide for uniform annual observances of certain legal public holidays on Mondays, and for other purposes.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) section 6103(a) of title 5, United States Code, is amended to read as follows:
>
> "§ 6103. Holidays
>
> "(a) The following are legal public holidays:
>
> "New Year's Day, January 1.
>
> "Washington's Birthday, the third Monday in February.
>
> "Memorial Day, the last Monday in May.
>
> "Independence Day, July 4.
>
> "Labor Day, the first Monday in September.
>
> "Columbus Day, the second Monday in October.
>
> "Veterans Day, the fourth Monday in October.
>
> "Thanksgiving Day, the fourth Thursday in November.
>
> "Christmas Day, December 25."
>
> (b) Any reference in a law of the United States (in effect on the effective date of the amendment made by subsection (a) of this section) to the observance of a legal public holiday on a day other than the day prescribed for the observance of such holiday by section 6103(a) of title 5, United States Code, as amended by subsection (a), shall on and after such effective date be considered a reference to the day for the observance of such holiday prescribed in such amended section 6103(a).
>
> SEC. 2. The amendment made by subsection (a) of the First section of this Act shall take effect on January 1, 1971.

I have advised my constituents of the above law that:

> There has been some confusion and many inquiries regarding the recently enacted Federal law which prescribes the days for observance of the legally designated public holidays.
>
> In an effort to be of assistance, printed herewith is a copy of the Act, Public Law 90–363, which took effect January 1, 1971, and its application in the ensuing months and forthcoming year.
>
> If I can be of any further assistance to you, please feel free to contact me at either my District or Washington office.

Mr. Speaker, in the tables which follow, which is in effect the fourth quarter of 1972 and runs through 1973, the application of this act as it relates to the holidays can be readily ascertained:

OCTOBER 1972

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER 1972

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER 1972

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JANUARY 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

MARCH 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

JUNE 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

JULY 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

SEPTEMBER 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

OCTOBER 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER 1973

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Mr. Speaker, there are many veterans groups who are concerned with the holiday changes and who believe Memorial Day and Veterans Day should be changed back to May 30 and November 11, respectively. Many patriotic groups believe that Lincoln's Birthday and Washington's Birthday should continue to be celebrated on February 12 and February 22, respectively, or should be incorporated into President's Day. Many Americans also believe that since Thanksgiving Day traditionally fell on November 23, it should remain so.

Therefore, Mr. Speaker, perhaps Congress ought to review and reconsider the days on which many of our holidays fall.

ENVIRONMENTAL CONCERN AT GENERAL ELECTRIC'S APPLIANCE PARK-EAST

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GUDE. Mr. Speaker, at certain points in time, society reaches an expressed or implied consensus as to the values it wishes to maximize, or the goals it hopes to achieve. Thus, the United States, along with other nations, today is properly concerned with the problems of improving the environment. Environmental conservation requires the understanding and participation of everyone; government at all levels, industry, academicians and scientists, and the general public.

I am pleased to have the opportunity to call to the attention of my colleagues one outstanding example of environmental awareness and concern. I am referring to the environmental protection program of the General Electric Appliance Park-East facility which is located in my District.

A cornerstone of Appliance Park-East, General Electric Company's new 1,100 acre manufacturing facility in Columbia, Md. is its Industrial Waste Treatment Plant. The multi-million dollar system reflects the company's determination to turn the tide of industrial pollution. It attempts to set a new pace among manufacturing operations in accepting responsibility for protecting environmental balance.

The Appliance Park-East facility presently treats 2 million gallons of waste water daily. The system was designed to be expanded to 6 million gallons capacity as the complex grows. Wastes generated in the metal finishing and electroplating installations in the two manufacturing operations are collected and treated continuously by reduction and neutralization processes.

Two types of liquid wastes are handled separately: rinse water from the plant which varies widely in acidity, and chrome-bearing wastes. Oil is separated from the rinse water which then passes through a holding tank before joining the chrome-bearing effluents which have been chemically treated with acid and sulfur dioxide to precipitate solids.

Then the combined streams flow through a chemical mix tank where lime is added for neutralization purposes. Then it is clarified and filtered. Sludge from the clarifying state is thickened before it is removed for deposit in a State-approved land fill. Effluent from the filter is aerated and then tested. If it meets appropriate requirements, it is transported through a 22,000-foot-long underground pipeline—company owned—to the point of discharge 4 miles away. If it does not meet proper standards, the effluent is diverted to a holding basin and eventually retreated.

The treated effluent which is delivered to the Little Patuxent River meets or exceeds the criteria established by the State of Maryland Water Resources Administration.

Moreover, studies are already underway to determine the possibility of recycling water back to the manufacturing operations.

In conjunction with the treatment facility, an underground storm drainage system eliminates silting from storm water runoff at the complex. The storm drains channel runoff into a 50-million gallon ponding basin where silt is allowed to settle before the water is discharged. The flow is controlled to preclude downstream flooding.

With so much attention being focused today on industrial sites which ignore basic civic responsibility and pollution control, it is inspiring to recognize General Electric's ecological foresight and initiative at Appliance Park-East.

I sincerely hope the day will come when industrial units throughout the Nation display the same environmental concern demonstrated by General Electric at their Columbia, Md., facility.

SUBDIVIDING THE SCENERY?

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. LUJAN. Mr. Speaker, a bill now before the Congress, S. 2699, to permit the Forest Service to acquire the Vermejo Ranch in New Mexico, is now before the Congress. This is one of the most important pieces of legislation for New Mexico in this Congress, and I have every hope that in the closing days of this session, we will find the time to enact it into law.

The following is a recent article from the Christian Science Monitor of Thursday, October 5, which I would like to insert for the RECORD:

SUBDIVIDING THE SCENERY?

(By Robert Cahn)

WASHINGTON.—A new battle cry sounds from American conservation throats, weakly for the moment, but gaining strength in congressional ears.

Object: to save for the nation 478,535 acres of New Mexican mountains and lakes, trees and wildlife, one of the largest single chunks of privately owned land left in the United States and which may be headed for the subdivider's chopping block.

The House version of a Senate-passed bill authorizing purchase of the Vermejo ranch as an addition to the adjoining Carson National Forest comes up shortly for a vote. Although the legislation carries no appropriation, and would ordinarily be noncontroversial, the possibilities for passage are uncertain.

Because of its late introduction, the bill will be considered on a suspension-of-rules procedure that requires a two-thirds majority. It is opposed by the administration, which considers other new areas to have a higher priority.

ENVIRONMENTAL LOBBY

But the National Wildlife Federation, Sierra Club, Izaak Walton League of America, and other national and New Mexican environmental groups are working for its passage. They see the need to preserve an historic part of America, an entire watershed with 60 mountain lakes, more than 100 miles of trout streams, timberland, and grasslands, a herd of about 25,000 deer, 7,000 to 10,000 elk, as well as bears, mountain lions, and other wild animals and birds.

The chief sponsor in the House, Rep. Manuel Lujan, (R) of New Mexico, sees an added advantage in Vermejo acquisition: The land, which now grazes 10,000 head of cattle, could benefit many nearby small ranchers who urgently need public-landgrazing territory.

The U.S. Forest Service covets the area for its 220,000 acres of ponderosa pine and other timber and for its recreation and environmental-education potential. The administration, however, is giving its highest priority for Land and Water Conservation Fund projects close to big cities. The Department of Agriculture was required to testify against the Vermejo bill although the ranch is No. 1 on the Forest Service's acquisition list.

LAND-GRANT TERRITORY

The Vermejo ranch is the heart of the historic Maxwell land grant, subject of an 1887 Supreme Court decision upholding the legality of the transfer from Mexico in 1841. It lies on both sides of the towering Sangre de Cristo mountains. The few jewellike 13,000-foot mountain lakes are comparable in beauty to the nearby Taos Indian shrine, Blue Lake.

A wealthy Texan, William J. Gourley, acquired the bulk of the property in 1945, and improved the land extensively. When Mr. Gourley passed on in late 1970, Mrs. Gourley decided to sell the ranch as a complete tract. The past two years it has been operated for private hunting and fishing with an elk and deer hunting fee set at $700, and fishing at $20 a day.

Chief administration arguments against acquisition include its remoteness from population centers; that it would be used primarily by visitors who are close to other wildland recreations opportunities; that it is undersirable economically because most of the timber, oil and coal rights already have been sold; and that too much of New Mexico (34 percent) already is owned by the federal government.

PRICE TOO HIGH?

Some members of Congress also have suggested that the purchase price of $26.5 million, or $55 an acre, is too high. Advocates of federal purchase believe the price is fair compared with similar land prices in the area, and considering scenic quality of the area. Failure to purchase the land and allowing it to be subdivided, they say, would result in erosion, stream pollution, and eventual loss of a watershed that would be far more costly in the long run. Above all, they seek to save a priceless part of America's scenic heritage.

Those working for federal acquisition argue that it could be paid off over several years out of the $300 million-a-year Land and Water Conservation Fund. The Nature Conservancy, a nonprofit organization that helps preserve land, has indicated it would seek to hold the parcel until Congress voted an appropriation.

Conservationists also say that the outstanding timber, oil, and mining leases are all compatible with the multiple-use principle of Forest Service management. A comparatively small mountain section of the ranch is unroaded and could qualify as wilderness. The entire purchase would increase federal ownership in the state by only 0.6 percent.

And the land is needed for recreation—the Vermejo Ranch contains water resources four times greater than those on all the existing national forest lands in the state.

Three members of the House Agriculture Committee, Chairman W. R. Poage (D) of Texas, Thomas S. Foley (D) of Washington, and Keith Sebelius (R) of Kansas made a trip to the ranch Sept. 17 to see for themselves if the area warranted purchase. The next week they all said "aye" in a 13–12 committee vote that cleared the bill for floor action.

"The Vermejo ranch purchase should be the highest priority for addition to the nation's national forest system," says Ted Pankowski, director of Environmental Affairs for the Izaak Walton League. "With its many high lakes and variety of ecosystems, it is unique for the Southwest. It will bring recreation benefits, could make a model environmental education area, and offers fish and wildlife protection, timber management, and oil and deep-mine coal extraction that can be accomplished without major environmental damage to the area. It should be saved intact for this and future generations."

LEGISLATION TO PROVIDE A HUMAN DEPLETION ALLOWANCE DEDUCTION FOR INDIVIDUALS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. WOLFF. Mr. Speaker, today I am introducing legislation that recognizes a serious malaise affecting our country, and that responds to the growing gap between our values and the reality in our society that presently ignores the true worth of human effort. For many years, I have called for a reordering of our national priorities to allow for a greater emphasis to be placed on people and their contribution to our economy and our society.

I am introducing this measure to provide a personal depletion allowance deduction for individuals jointly with Senators Aiken and Mansfield because the sad fact is that in our official policies, we as a nation have placed the emphasis on things rather than people, on economic growth, industrial production, and agricultural output rather than on the human effort that enables us to continually achieve and surpass our material goals. Too seldom do we ever stop to think about the honest effort and hard labor that is what really makes this country run. Instead, we recognize the limitations of our mineral and natural resources by providing depletion allowances as these various materials are used up and are not replaced. Likewise, we permit a tax allowance as machinery and other expensive equipment depreciates in value as it wears out.

Nowhere, however, do we allow for the inevitable depletion of our human resources, as individuals gradually lose their capacity to produce as active participants in our economy. While our social security system compensates individuals after they have ceased to be a part of the active work force, no allowance is made for the fact that some people, by the nature of their jobs, lose their effectiveness and value long before they ever become eligible to receive any kind of pension. Some occupations are physically taxing, and the individual who works in a steel mill or a coal mine can be physically depleted before reaching the statutory age for retirement. Other jobs are dehumanizing or psychologically wearing, yet we have made no provision in the law for the loss of income that accompanies this wearing out or using up of an individual's capacity to work.

Another aspect of this all-encompassing problem is the difficulty faced by any person with technical training, such as an engineer, whose skill is made obsolete during his working lifetime by the continued advances and breakthroughs in our technological knowledge. Such a person is faced with the problem of supplementing his education, which was initially secured at considerable expense, by investing his own time and money for more training, or accepting the alternative of job obsolescence. The bill I am introducing today would respond to this problem by providing a minimum deduction from the Federal income tax of 10 percent of wages earned as a personal depletion allowance. The allowance could rise to 23 percent for those occupations which are determined to take a greater toll in terms of the working life of an individual. The figure of 23 percent was chosen because it is 1 percent higher than the highest depletion allowance presently provided in the tax code—the oil depletion allowance.

Mr. Speaker, I sincerely hope that this measure will give us the opportunity to put the proper priority on our human resources, and to restore a measure of balance to our national policies. I urge that speedy action be taken on this measure so that human effort will take its proper place as our greatest resource and highest priority.

STUART MILLAR DIRECTS "WHEN LEGENDS DIE."

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. REES. Mr. Speaker, I am reading into the Record an article from the Los Angeles Times entitled "Producer Turns to Directing in Portrait of Young Indian Today" by Estelle Changas. The article concerns film producer Stuart Millar's venture into film directing after 15 years as a producer.

I have followed Stuart Millar's career from the time I was first running for the State Assembly in California when he was an assistant producer of the film "Friendly Persuasion." His most recent production was "Little Big Man," which I hope will set history straight as to the white man's exploitation of the American Indian.

Mr. Millar's first picture as a director is "When the Legends Die," a poignant study of a young American Indian in contemporay society. I know that his newest work will be of great significance to all interested in the plight of the American Indian.

The article follows:

PRODUCER TURNS TO DIRECTING IN PORTRAIT OF YOUNG INDIAN TODAY

(By Estelle Changas)

As I look back over my career, what amazes me is that since I entered films with the desire to direct, why did it take me 15 years to do it?" Stuart Millar, who has long borne the producer label, has finally emerged as a director with a social document. "When the Legends Die," a study of the Indian in contemporary America. But the dichotomy between producing and directing which his comment suggests, while perhaps true of many in Hollywood, never seems to have been the case with Millar. What has been striking about him as a producer is his intensive involvement in the creative aspects of film-making, so much so that his new role as director is more a confirmation rather than a redefinition of his career.

Millar's 15 years as producer have resulted in a timely, sometimes controversial collection of distinguished films which suggests how carefully and deliberately he has chosen his work: "The Young Stranger" (1957), his first production, a study of parent-adolescent conflict; "Birdman of Alcatraz" (1962), a protest against the senseless waste of human life and genius; "The Best Man" (1963), an incisive satire on contemporary American politics; "Paper Lion" (1968), a manic comedy of the gridiron; and "Little Big Man" (1970), the historical epic of Indian genocide.

Adapted from the popular Hal Borland novel which appeared in 1963, "When the Legends Die" (produced as well as directed by Millar), like "Little Big Man," is concerned with the survival of the American Indian. In connection with "Little Big Man" which he produced for Arthur Penn, and "Legends," Millar has spent a considerable amount of time on the reservations, and longer still in bringing "Legends" to the screen—five years, in fact. "The reason it took so long was not because of its theme, but because I couldn't find anyone who would let me direct. Establishing yourself as a producer somehow almost disqualifies you from becoming a director. Arthur Penn gave me the most encouragement; he stiffened my backbone against letting anyone else direct the material."

Though "Little Big Man" represents the only collaboration between Penn and Millar, their friendship goes back to the 50s when Penn was directing plays for the Philco-Goodyear Playhouse on TV and Millar was working as an assistant to William Wyler on "Friendly Persuasion." Their attempts to come together on projects failed until 1965 when Millar moved to New York and he and Penn began work on a screenplay about the West, which dealt only peripherally with the Indian.

They happened to read "Little Big Man" as research. "I remember the day vividly. While we set there remarking about what a great book it was, Arthur looked up and said, 'Why not make a movie out of this?' The moment he said it, I knew it was a great idea, but a fantastically daring and ambitious project."

In addition to the problems of financing a $9 million production, the film's theme loomed as a sensitive issue: "Some people—I could never understand how—read the script and never understood it to be what it was—a study of genocide. It was often interpreted as simply a marvelous, larger-than-life comedy of the Old West. I suppose if it weren't for that, we would never have gotten the film financed. Those executives who correctly identified 'Little Big Man' as a strong social statement turned it down."

At the same time that he had optioned "Little Big Man" in 1965, Millar had also acquired "Legends" and had begun working on both concurrently. But it was out of his intense involvement with "Little Big Man" that a deeper understanding of his need to pursue "Legends" gradually surfaced.

Frederic Forrest in his first starring role portrays Thomas Black Bull, a loner hovering on the fringe, subdued on the surface but filled with passionate feelings that threaten to erupt.

Though the novel spanned a longer period of the protagonist's life, from his childhood in the early 1900s into the 30s, Millar and screenwriter Robert Dozier have updated it in order to make the story relevant to the Indian today. "Borland's novel translated nicely to the contemporary situation—except for the ending." In a long mystical passage the novel concludes with Tom's return to the wilderness of his childhood, and in the spirit of 19th-century romanticism celebrates his solitary pantheistic communion wtih nature. "Put in terms of 1972, when few of us can afford the luxury of such a retreat from the world, that ending would have seemed an avoidance of the issue we've raised. I don't believe the Indian is pursuing isolation today. Whatever social realities existed for the 30s, these couldn't be imposed on a contemporary character without turning him into a hopeless kind of recluse from society, a man who appears to reject humanity rather than embrace spiritual values, as Borland intended."

In the film Tom returns to the reservation (now under control of the Ute Tribe itself) in a repudiation of white values and in a dramatic declaration of his Indian identity. At the same time, his return is a recognition that there is no place in the world for the Indian. The ambiguity of that ending has provoked controversy as to whether it is finally a hopeful or pessimistic statement. "Such values," argues Millar, "don't apply to what is an intensely personal story. I wanted to make a human statement, not preach. I hoped the predicament of Tom's circumscribed life and his final assertion of who he is would convey both a degree of pain—and some degree of modest glory."

While the film's central concern is its intense portrait of the young Indian. "Legends" context is richer than this. It acknowledges the passing of several important aspects of 19th-century America—the dying out of the cowboy, personified in the aging ex-bronco rider, Red Dillon (Richard Widmark), as much a misfit as Tom; and the fading of the pioneer values embodied in the crude arena of the rodeo. But unlike the western genre, which typically celebrates these, "Legends" undercuts their sentimentality and presents the rodeo, in particular, in an uncharacteristically harsh light: "I don't see the rodeo in heroic terms, a place where one could still live out an individualistic life and fulfill his identity; I see it as a superannuated American custom—and I certainly didn't want to romanticize it," Millar says.

In his future work Millar will be concerned with an even more challenging exploration of what America can be today. This examination will undoubtedly be from the perspective of cultural conflicts which have fascinated him throughout his career. "My interest in these conflicts goes back to James Baldwin. When I read 'The Fire Next Time' in 1963, it changed my view of the world and of what was meaningful material for a film-maker. I want to make a film dealing with a strong black-white conflict, and there are two properties that have especially interested me—Peter Matthiessen's 'At Play in the Fields of the Lord,' involving a half-breed caught between contemporary society and a stone-age Peruvian tribe, and 'Black Cargoes,' an original script by Matthiessen based on the Atlantic slave trade. What draws me to them is the interaction between the cultures."

Millar is sensitive to the controversy over whether whites should make films about minorities. "But it's hard to avoid themes involving minorities when you're looking for a dramatic social canvas." More important, he emphasizes the need for white participation: "We are, after all, dealing with interactions between blacks and white, or Indians and whites, and we both have to speak on the issue. What is needed is dialog. I'd like to see black and Indian filmmakers moving in that direction, as I felt Baldwin had done—and I don't think the white film-maker can be disqualified."

HON. BILL RYAN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. EDWARDS of California. Mr. Speaker, it is difficult to write "in memoriam" of friendship, of many legislative battles waged side by side, some won, many lost. It is often true that we never fully understand our feelings about close friends until their loss is felt. The loss of Bill Ryan is one deeply felt for Congressman William Fitts Ryan was that rate man who often seemed to be an outsider, a lonely man of conscience, but who was, in fact, one of the great leaders of our time.

He stood at the forefront of many of the most important movements of the past decade. He always indicated that he believed to be right; he acted upon those convictions; and the Congress and the country followed his lead and his example. From the present perspective it is easy to remember the final triumphs of men like Bill Ryan, but it is far more difficult to recall the first stands and the hard-fought battles along the way.

In 1961, he was one of four Members of the House of Representatives to speak out against the dangerous powers of the House Un-American Activities Committee and to urge and initiate action to cut off funds for that committee. A year later, he was one of only two Members to oppose such authorizations. Just last week, this House voted for the first time to restrict the unacceptable regulatory powers of the House Internal Security Committee, HUAC's successor, which continues to pose the threat to civil liberties that Bill Ryan warned of 11 years ago and never ceased to guard against.

Long before it was considered acceptable, or even fashionable, prior to the heyday of civil rights, much less "radical chic," Bill journeyed to the South and marched in Albany, Ga., in 1962. He went as a man, a single figure, not as one of several Congressmen, not as a member of a group for solidarity. Any publicity he received at that time could not have been politically beneficial, but he knew where his convictions lay and he indicated the way. He continued to march elsewhere, bringing home the issues to the floor of the House of Representatives where no Congressman could evade them.

He put the choice squarely before us during the organization of the new Congress in 1965. Leading the challenge to the seating of the Mississippi delegation, he charged that they were not the democratically elected representatives of the people of the state. For months the question dragged on, highlighting the inequities in voting systems not only in Mississippi, but across the South. The Mississippi delegation was finally seated, with a substantial 140 dissenting votes, but Bill Ryan's point was well made. The Voting Rights Act of 1965, guaranteeing the fundamental, democratic right to vote for all citizens, was passed and became law.

In 1963, when Southeast Asia was virtually unknown to most Americans, he was the first to speak out against the war in Vietnam. The agony he suffered over that war has touched most of us in recent years and the warning that he gave still haunts us in 1972.

As a member of the Subcommittee on Space, Bill Ryan sounded another danger signal. He was the sole voice to point out the boondoggles in the space industry and to blow the whistle on lack of provisions for the safety of astronauts. A few weeks later, his words were tragically proved correct when three astronauts burned in their capsule on the launching pad.

Bill Ryan's courageous voice and his dedicated efforts supported a wide variety of legislation from the prevention of lead-based paint poisoning to ending the Vietnam war, from the establishment of Gateway National Seashore to the protection of civil rights for women and for minorities. Fired by his spirit and needled by his conscience, we in the House witnessed these problems as they grew from small, unknown causes to great national issues.

The example of William Fitts Ryan will stand as a constant reminder of the contribution a congressman with steadfastness of purpose and high moral character can make to his constituents and to his country.

Lastly, Mr. Speaker, let me speak as one who has lost a personal friend, a friend who was a comfort and a joy to those of us who were close to him. Bill was one of the original members of the Group, a loose-knit organization of House Members which worked for good issues and good legislation. The purpose of the Group was to offer leadership in areas of controversy, on issues "too hot" for most elected officials. We held conferences—on Vietnam before there was any vocal opposition, on the power of the Pentagon, the Pentagon papers. After each conference we published a book on the subject, each of which sold many thousands of copies throughout the Nation, with the proceeds going to pay for the next conference. Bill Ryan took his turn as chairman of the Group, offering his leadership and inspiration to all of us.

Mr. Speaker, I will miss Bill as a political leader and colleague who made congressional life more meaningful, but most of all I will miss him as a dear friend who offered sustenance and comfort to those of us in Congress fortunate enough to be closely associated with him.

HON. CHARLES JONAS

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. GRIFFIN. Mr. Speaker, on this occasion I would like to say a few words upon the retirement of one of our colleagues, a distinguished member of the North Carolina delegation, Congressman CHARLES JONAS.

At the close of this session, Congressman JONAS will have concluded a 20-year tenure in this body. During those 20 years he has served his State and Nation in the finest tradition.

As a second ranking minority member of the Appropriations Committee, and ranking minority member of the Housing and Urban Development Subcommittee, Congressman JONAS has contributed greatly to the growth and development of our Nation. His guidance and counsel in the legislative process will be missed in years to come.

As he returns home to North Carolina, I want to wish him the very best for the future.

MEASURING CONSUMER DEMAND

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. MOSS. Mr. Speaker, last year I commissioned the firm of Sindlinger & Co. to conduct a pro-bono study of the demand for air travel in this country. At that time the Civil Aeronautics Board was conducting its ongoing domestic passenger fare investigation and I wanted to pass on to the Board the best information I could lay my hands on as to what the public felt were reasonable airline passenger fares, and whether—as the economists phrase it—the market place was "price elastic" or "price inelastic." To the best of my knowledge the resulting Sindlinger report I presented to the Board was the first such demand study ever made concerning air travel.

Since then I have received a number of enquiries concerning this and similar studies. Among other things, the people want to know how these consumer research firms make these studies. A recent article in the October 4, 1972, issue of the Wall Street Journal provides the answer to many of these questions, detailing in part the strengths and weakness of the different approaches used by the various pollsters. Since these consumers studies are becoming increasingly important in our Government's economic planning and corporation decision-making, I believe a number of my colleagues and others interested in the subject will find the article, which follows, enlightening and informative:

POLLSTERS GAMELY TRY TO MEASURE THE MOODS OF VOLATILE CONSUMERS

(By Jack H. Morris)

If McGovernomics are to prove more popular than Nixonomics this November, Gallup, Harris or Quayle probably won't be the first to know. But Sindlinger and Schmiedeskamp may.

They're pollsters, too, though neither will be ringing your doorbell this fall to ask whom you're going to vote for. Albert Sindlinger and Jay Schmiedeskamp are pollsters who measure something called consumer confidence. By taking frequent samples of household buying intentions, they claim to be able to determine whether the nation's consumers have enough confidence in the economy to commit themselves to such major purchases as new cars, big appliances and houses.

The results of such surveys are increasingly important in government economic planning and in corporate decision-making. It was partly due to falling confidence indexes that the Nixon administration a year ago altered its strategy against inflation by imposing wage-price controls. And last month, Price Commission Chairman C. Jackson Grayson, referring to consumer confidence surveys, cited "a rising public demand for continued controls" as one reason to expect restraints to continue for some time to come. Moreover, the level of consumer confidence this month is certain to help shape economic issues in the presidential election campaigns.

CONFIDENCE DOWN, BUT WHY?

Right now, the two pollsters say confidence is lower than in the past, but they disagree sharply on the reason. Mr. Schmiedeskamp, who compiles the Index of Consumer Sentiment (ICS) for the University of Michigan's Survey Research Center, says much of the population thinks the administration is losing the battle against inflation and unemployment. People are spending more freely at the moment, he says, even though they're doubtful about the economy, only because their incomes are higher.

Mr. Sindlinger, who heads his own research organization in Swarthmore, Pa., also finds an erosion in consumer confidence. He attributes it, though, to a widespread fear of the economic policies Sen. McGovern might try to impose should he be elected President. "Our forecast confidence-components will turn up whenever a majority of U.S. consumers feel confident that McGovern won't be elected," Mr. Sindlinger says. People accept wage-price controls, he says, and "never since Pearl Harbor have so many people been behind a President's program."

If the confidence level now is low, how does Mr. Sindlinger explain near-record sales of autos and other durable consumer goods? Easy, he says. Current sales reflect buying plans made six months ago, when he was reporting an upturn in confidence. Today's lower level of confidence, he says, will show up in economic activity about next February.

The differences between these and similar surveys—and the willingness of subscribers to pick and choose among them to find an index that backs their own notions—raises questions about their validity, of course.

"UNADULTERATED CRUD"

"There are so many wiggles in most confidence indexes that you can prove anything you want by them," says an economist for Sears, Roebuck & Co. "The more you look at the statistics," says a New York economic consultant, "the more you realize they are nothing more than sheer unadulterated crud." Fabian Linden, who does a survey of his own for the Conference Board (a nonprofit New York business research organization), is only half joking when he says his main contribution is to "provide employment to thousands of middle-level executives who would have nothing to do without my graphs and charts to interpret."

Nevertheless, many economists find the indexes useful within limitations. F. Thomas Juster of the National Bureau of Economic Research says they are "indispensible for accurate, short-term (economic) forecasts." The key is not to read too much into them, he says. At General Motors, an economist says he uses the surveys to "counterbalance our own parochial views about what people are thinking" but adds that "they're only one input in our calculations, and we don't alter production schedules on the basis of consumer confidence alone."

Consumer-confidence surveys owe their origin to George Katona, a Hungarian-born psychologist and economist who came to the University of Michigan in 1946 with a deep curiosity about how families planned to use the nest eggs they had nurtured during

World War II. He reasoned that consumer spending depended on the willingness to spend as much as the ability to do so. Because conventional economic statistics on savings, personal income, unemployment and debt levels didn't measure willingness to spend, Mr. Katona set out interviewing people to determine that.

FAST-GROWING INTEREST

He got answers, and so did others who copied or adapted his methods, but for years the answers were of interest to only a handful of people: academicians, the Federal Reserve Board, and automobile manufacturers, who could afford to pay to have questions about style and model preferences piggybacked onto survey questionnaires. More recently, however, interest in the surveys has increased, partly because of the greater threat to the dollar from inflation and from balance-of-payments deficits, and partly because the typical household has more discretionary income, money that can be saved or spent, than in the past.

Today, 75 companies pay $800 a year to get the University of Michigan's quarterly survey, prepared by Mr. Schmiedeskamp since Mr. Katona retired last year. Mr. Sindlinger, in Swarthmore, had only 20 or so clients three years ago. Now he claims more than 300—bankers, stockbrokers, retail chains and big manufacturers—who pay $2,000 to $100,000 a year, depending on the volume and complexity of data they want in their weekly reports.

The consumer-confidence business has provided Mr. Sindlinger with a good deal of consumer confidence himself; he drives a visitor to his plush offices outside Philadelphia in a gold Cadillac limousine.

The cigar-chomping pollster oversees his busy office from behind a big, cluttered desk. Girls scurry to and fro with batches of computer printouts or instructions for draftsmen on how to draw new charts and tables. Mr. Sindlinger relies on the telephone for interviewing consumers. Seven days a week, from early in the morning until well past midnight, teams of housewives dial computer-selected telephone numbers across the country to ask a battery of questions. They complete some 2,300 interviews a week.

Clicking on a squawk box on his desk, Mr. Sindlinger can monitor interviews. "What have you heard lately about the stock market?" an interviewer asks an Iowa farmer. "Well, I hear it goes up and down," the farmer responds.

"We call the rural and Southern areas first, since you'll never wake up a farmer," says Nellie Sindlinger, wife of the pollster and head of the crews of interviewers. Afternoon and early evening calls go to the Midwest and the West. Night calls are reserved for big cities; Sindlinger earns extra cash from special clients interested in buying intentions of the high-income males who are found home at night. (But it's in the poorer rural and Southern regions that Mr. Sindlinger continues to find the greatest consumer confidence at the moment.

Surprisingly few people refuse to answer the questions. Those who do refuse because they think the interviewer is a telephone salesperson are called back, as are those who weren't home the first time—a thoroughness that has become a Sindlinger trademark.

Mr. Sindlinger asks a basic set of four questions dealing with a family's current income, expected income, and the six-month outlook for local employment and business conditions. A negative answer to any of the four basic questions is considered a vote of nonconfidence.

These methods produced the finding in early August last year that 15.6 million consumers, or 44.4% of the buying public, had lost their willingness to spend, according to Mr. Sindlinger. After the wage-price freeze, the mood apparently changed; by last February, Mr. Sindlinger was able to report—and the Nixon administration publicize—that 72.6% of consumers were again confident of the economy. The figure has slipped recently to 69.8%.

(Mr. Schmiedeskamp's index, however, didn't falter at all last year, and it has been climbing steadily if slowly for the past six quarters.)

Mr. Sindlinger considers neutral answers to his basic questions as evidence of confidence, because they indicate the family thinks it will maintain its current prosperity. In a recent survey, 46.6% of those interviewed expected no change in their household incomes in the next six months, but they were deemed to have consumer confidence anyway.

That leads Susan Burch, an economist with the Federal Reserve Board and a longtime student of confidence surveys, to warn, "Even when someone says things are going to be better, what he may really be saying is; 'My God, things can't be much worse.' "

The experience of the U.S. Census Bureau shows just how tricky trying to gauge consumer intentions accurately can be. The bureau, which puts out a quarterly survey of its own, stopped asking questions about people's general attitudes a few years ago and began trying to assess actual buying intentions—for only if attitudes are translated into purchases do such surveys mean much. So the bureau began asking persons in its sample to state, on a scale of zero to 100, the probability that they would buy a new car within the next six to 12 months.

But, says John McNeil, who directs the survey, "we haven't done as well as we had hoped." Followups showed that nearly half the new cars actually bought by consumers in the sample were bought by people who had thought their chance of buying was zero. And only 60% of thóse who had professed a 100% probability followed through and bought new cars. "I guess cars are close to an impulse purchase with many people," Mr. McNeil says.

The bureau has been constantly tinkering with its formula for forecasting new-car purchases, and now even includes changes in Mr. Schmiedeskamp's Michigan survey as a factor. But studies by more than a dozen economists, statisticians and academicians in the past have failed to determine that either the Michigan or the Census Bureau survey can accurately and consistently predict changes in the economy. Mr. Sindlinger, as an entrepreneur rather than an academician, hasn't attracted much scholarly attention. In one 1969 study, Mrs. Burch of the Federal Reserve Board found that the Michigan index frequently seems to signal false turns in the economy. When interpreted in the most conservative ways, the false signals disappear, but then the index lags behind trends in actual consumer spending that have already become apparent.

Mr. Sindlinger claims that over the past 15 years his index has predicted changes in the economy six months in advance 83% of the time. Even when the index accurately signals a change, however, it often appears to overstate its magnitude. Last March, for example, the index indicated a 51.1% growth in sales of consumer durable goods over the next six months, but by last month they had risen only 8.6%.

An advantage of the Sindlinger survey is its frequency. "There are times when more comprehensive data on the economy isn't available, and Sindlinger becomes the only game in town," says a spokesman for the Council of Economic Advisors. But its frequency, some critics say, may be responsible for the way in which the survey seems to overreact to newsy events, such as presidential speeches that deal with the economy. Though the Michigan survey is only quarterly, it attempts to determine consumer expectations for as long as five years ahead. "Those horizons are too long," says an auto-company analyst. "Why, I can't predict my own future six months in advance."

Many business clients tend to discount the predictive value of such indexes, instead regarding them as "coincident indicators" that merely reflect the current level of the economy. Some say the surveys give them "a feeling for the public mood" and others regard them as "barometers of public uncertainty." Norman Robertson, an economist with Mellon National Bank & Trust Co. in Pittsburgh, says that "I've been paying less attention to the surveys recently and more attention to the hard realities." And an auto company economist says, "We use those indexes which confirm our beliefs and discard those that don't."

BUDGET-CEILING DISPUTE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HARRINGTON. Mr. Speaker, the House passage of the budget-ceiling bill is frightening. The President is now on the verge of having the unchecked and unilateral power to spend the Government's money. In the articles that follow Max Frankel and Tom Wicker explore this extraordinary event and warn us of the possible dangers.

BUDGET-CEILING DISPUTE: SIMPLE-SOUNDING PLAN HELD TO EMBRACE VITAL SOCIAL AND CONSTITUTIONAL ISSUES

(By Max Frankel)

WASHINGTON, Oct. 11.—Flushed by election fever and rushed by the desire to adjourn, Congress is struggling this week with some momentous social and constitutional issues that are wrapped in the deceptively simple-sounding proposal for a $250-billion ceiling on expenditures in the current fiscal year. The House has adopted the idea, and it looks now as though the Senate will agree to give the President a very broad or even total authority to cut back up to $10-billion of spending between now and June 30, as he sees fit, irrespective of existing laws, appropriations or programs.

To a Congress that already feels powerless beside the executive and that clings to appropriations as its only source of influence, this would be an extraordinary, even if only temporary, precedent.

It would augment the Presidential veto power by permitting item-by-item deferral or cancellation of everything from Social Security benefits to grants to the states to direct Government purchases of goods and services.

It would still further concentrate in the White House all decisions affecting national priorities, as against military and civilian spending and among social programs. It would virtually complete the process of making the Federal budget an entirely executive document.

NIXON DEMANDS AUTHORITY

President Nixon has demanded this authority, without a hint of the cuts that he might make, on the ground that Congress has been exceeding all prudent spending limits, undermining his fight against inflation and his promise to avoid a tax increase next year.

He is pressing for it, successfully so far, with the threat that he will campaign against the "tax increasers" in this year's campaign and with the pivotal support of Wilbur D. Mills, the chairman of the House Ways and Means Committee.

The liberal Democrats and the guardians

of the leaders' prerogatives in Congress are resisting, with warnings of "one-man government" and of gougings in education and other social programs. Even conservative supporters of the move acknowledge that it will make the President a "temporary dictator."

But a House coalition of Republicans and conservative Democrats has yielded to Mr. Nixon and Mr. Mills, and opponents in the Senate are aiming to higher than some limitations on the proposed Presidential power.

Congress has become vulnerable to this further shift in the power balance not only because of the election threats but also because of its refusal, over the years, to accept any responsibility for working within a budget or devising some other means of legislating priorities of spending.

BASED ON GUESSES

Observing a budget is not so simple as some have made it sound, for either the executive or Congress.

Federal budgets are geared to a bottom balance line 18 months into the future, and they depend upon educated—and sometimes willfully distorted—guesses about income, the costs of old programs, the costs of new ventures and the performances of Congress, the economy, farmers, bankers and many more.

Normally, Congress passes programs and appropriations halfway through the budget year. Sound planning and managing, like sound legislating, are often impossible in these circumstances, even when they are desired.

As a result, there has developed a tendency for the White House to propose a budget, with private estimates of where it will survive and where not, while Congress pours forth its own cuts and additions toward no particular goal. The inevitable excesses are then left in the President's lap, as are the distortions in the sizable impact that the budget is intended to have on the total economy.

There have been many proposals over the years for Congress to reclaim the whole budget process, which was once the prime legislative function.

It has been urged to do so in the name of influencing priorities, in the name of balancing tax laws against expenditure requirement, in the name of restraining an already overpowering bureaucracy, in the name of keeping the competition and lobbying for funds at least partly visible in the political process and in the name of breaking up the baronies of power in its midst.

But nothing happened until President Nixon pulled out the whip and found the means to join forces with Mr. Mills, an opponent of much Federal spending through the years. With no time left this year to find its own remedies, the defenders of Congressional rights are retreating to a major study to see what might be done in the future.

Some analysts have suggested that the President may not be able to cut spending back to $250-billion in the eight months remaining. Some predict that he will have to cut where the cutting is easiest, in liberal programs that he has opposed, or, paradoxically, in grants to the states just as he is starting a program with revenue sharing with local governments.

There is much argument also about who is to blame for excessive spending. But Mr. Nixon has succeeded in provoking a prolonged debate that may lead to reform within Congress, a more permanent erosion of its power or both.

THE DEVIL AND THE DEEP BLUE SEA

(By Tom Wicker)

In the era of the imperial Presidency, when occupants of the White House make war with impunity and decree national policies with Olympian hauteur, it is tempting to look to Congress for salvation. But alas! as Mr. Khrushchev used to say, that is setting a goat to guard the cabbage patch.

Not only has Congress repeatedly and ignominiously failed to do anything about the war in Vietnam, either through its supposed power of the purse or by a reassertion of its lost constitutional power to declare war; now it is handing over to the President virtually the last vestige of its responsibility as a separate but equal branch of the Government.

That is not too strong a description of the House's grant to President Nixon of the power to cut spending in any way he chooses, in order to hold Government outlays to $250 billion through next June. Unless the Senate balks at this abdication, the Federal purse will have been handed to Mr. Nixon for single-handed disbursal.

Steve Hess, the political scientist and associate of the President, was correct in pointing out in a letter to The New York Times that the authority granted to the President by the House is the equivalent of an "item veto" on appropriations. That is, Mr. Nixon could cut back on spending anywhere he chose, without regard to the amounts voted by Congress.

Mr. Hess was correct, too, that all modern Presidents have favored the item veto; why should they not? For years, moreover, political scientists have advocated it as a tool by which the executive branch could cope with such Congressional devices as pork-barrel bills and irrelevant or mischievous amendments.

It is not to condone those devices or the many other deficiencies of Congress to say, however, that the last thing this country needs is to pile even more and greater powers upon the Presidency (whether it is occupied by Richard Nixon, Lyndon Johnson or George McGovern). Inflation is a bad illness, no doubt about it; but if the cure is an even more swollen and impregnable Presidency, equipped at last with that power of the purse that Congress used to guard so jealously, it is a disastrous way to get well.

Here is an Administration that talks piously about decentralization but which has so centralized foreign policy in the White House basement that Secretary of State Rogers is at the U.N. talking about aircraft hijackers while Dr. Kissinger and Mr. Nixon between them decide matters of life and death, war and peace, in absolute privacy; which has very nearly abolished Cabinet offices as vital organs of government, while elevating an untouchable White House staff beyond any power previously known in Washington; and which now demands of Congress unlimited sway over spending authority specifically denied the President by the Constitution. Some decentralization!

Meanwhile, almost anywhere you look, Congress piles up its own record of ineptitude and iniquity; small comfort there for the critic of the White House. In the House, members are not even permitted to vote on the proposition of detaching a few dollars from the mammoth Highway Trust Fund for purposes of financing mass transit facilities; in the Senate, the Finance Committee—which would have graced the Administration of Genghis Khan—guts an urgently needed pension-reform bill while endlessly spieling its concern for the elderly.

With friends like that, nobody would need an enemy. Under the leadership of Russell Long, the Finance Committee chairman, the Senate even succeeded in worsening the welfare mess—a feat as ingenious as it was indefensible. Not only did Mr. Long lead it to the death of Mr. Nixon's Family Assistance Plan and, with the President's approval, the improvements to it proposed by Senator Ribicoff and endorsed by Secretary Richardson of H.E.W.; but the Senate also slipped into the remaining legislation some special penalties on the poor, such as:

Any state may require any welfare recipient, without exception, to take a public service job for no pay except his or her welfare benefits.

Work incentives are decreased by reducing allowable deductions from earned income; and medical services are cut back while welfare recipients will be forced to pay a portion of the costs.

Residency requirements are established, despite Supreme Court decisions to the contrary.

Federally funded legal services programs will be prevented from challenging any provision of the Social Security Act.

The Senate approved also a $400-million test program for various welfare plans; but the program is so ill-defined that it might be possible for a state to substitute a test plan—say, Mr. Long's scheme to turn welfare recipients into a forced labor pool at sweatshop wages—for the present program. At the least, the test procedure will set back serious welfare reform for a probable five years.

THE ESTABLISHMENT OF THE 1000TH BOYS CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. CONTE. Mr. Speaker, the Boys Clubs of America has reached a notable milestone in its impressive history with the dedication on October 8, of the Wheeler Boys Club of Indianapolis, Ind.—the 1000th Boys Club.

As a Member of Congress, I am well aware—as are my colleagues in the House—of the truly outstanding nature of the Boys Clubs. They have a fine history, with the formal beginning of their organization taking place in 1906 when they were incorporated. In 1956 the Congress took special note of the organization and granted it a congressional charter.

The civic-minded leaders who established these clubs realized the many problems of youth in some of the most crowded areas of our cities and sought to fill the gap that sometimes is created when hands and minds are left idle.

Boys Clubs for 66 years have been providing opportunity for boys of all classes wherever there is a need—but they have been especially concerned with boys from families and neighborhoods where opportunities are limited.

I am proud to have almost a lifelong association with the Boys Clubs. As a young man, my local club offered me numerous educational and recreational opportunities, including swimming lessons, basketball and manual training. My wife, Corinne, serves on the Women's Auxiliary of the eastern branch of the Boys Clubs. Thus our admiration for and dedication to this fine organization runs true and deep.

It is worth noting that there is no discrimination as to religion or race in the Boys Clubs of America, for they believe that equality is the foundation stone of free men. Although completely nonsectarian, the clubs encourage each member to take part in the services and activities of his church or synagogue. Positive programs, philosophies, and attitudes are preached and practiced by the Boys

Clubs—and this positive approach, called "building juvenile decency," has won the Boys Clubs movement wide recognition as a major force for good across the length and breadth of America.

Congratulations are in order, and I extend my sincerest regard for, and best wishes to, the Boys Clubs of America. They are working today to help build a better tomorrow.

GASOLINE SURVEYED

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. EDMONDSON. Mr. Speaker, almost everyone in this country is aware of the threat of the energy crisis, yet the petroleum industry, whose importance in preventing that crisis from reaching devastating proportions is widely recognized, is much criticized as having unfair tax advantages.

The following articles will, I think, be of interest to my colleagues because they point out how much of what we pay for gasoline is tax. The retail price of gasoline before taxes has not risen appreciably since the 1920's. It is primarily because of taxes that the consumer pays more. These two articles are much-needed reminders of the actual situation faced by the petroleum industry.

The articles follow:

[From the Tulsa Daily World, Oct. 2, 1972]

GASOLINE SURVEYED

HOUSTON.—The Oil Daily's 100 cities survey last week day placed domestic major brand service station regular grade gasoline prices at an average of 25.35 cents a gallon, exclusive of taxes.

A week before the average was 25.50 cents, a year ago 24.20.

The average dealer tank-wagon price was 18.40, compared to 18.50 a week earlier and 17.45 cents a year earlier.

SUN SHAREHOLDER NEWS,
SUN OIL CO.,
St. Davids, Pa., September, 1972.

Financial Review—Oil profits caught in squeeze between higher costs, depressed prices

The petroleum industry continued in the second quarter to be confronted by the paradox of weak prices in the face of a strong upward trend in demand for refined products.

Coupled with higher costs among which taxes are a notable example, this uncommon circumstance depressed earnings in the industry at a time when the economy generally was showing signs of new strength.

At the end of June, the average retail price of gasoline including excise taxes was down almost one cent per gallon, even though the average tax was up more than one-half of one cent per gallon, compared with levels a year earlier. In many areas, competitive pressures were holding prices well below Phase II ceilings.

In Sun's case, sales of refined products rose a solid 9 per cent during the first half of the year, reaching 633,818 barrels a day. Natural gas sales were up 8.6 per cent to 1,557 million cubic feet per day. Yet, revenues derived principally from sales declined 4.8 per cent from $960,690,000 to $914,161,000.

Contributing to the decline in revenues was the fact that the Company's gasoline prices were about two cents a gallon below the ceilings established by the freeze a year ago.

The fact that Sun Shipbuilding & Dry Dock Company delivered two ships in the first half of 1971, whereas no deliveries were made through June of this year, had an additional negative impact on revenues.

Net income for the first half declined 7.9 per cent from $74,859,000 in 1971 to $68,920,000, reflecting lower revenues plus proportionately higher costs.

To be sure, total costs and expenses declined 4.6 per cent to $845,241,000, but the ratio of expenses to revenues was marginally higher. Running the business required 92.5 cents of each dollar of revenue in the first six months of this year, compared with 92.2 in 1971.

Operationally, crude oil refined at Sun's refineries rose 5.5 per cent to 506,719 barrels daily.

Synthetic crude produced for shipment by Great Canadian Oil Sands Limited rose 17.6 percent to 49,477 barrels daily. Meanwhile, Sun's share of GCOS losses declined to $305,000 as against $2,729,000 at mid-year 1971.

While domestic crude oil production for the industry showed a 3.3 percent decline, Sun showed a 2.3 percent increase in U.S. production. Its world-wide production, at 370,523 barrels of crude and condensate daily, was less than one percent below production a year earlier.

Noteworthy in considering these higher levels of operation is the fact that they were accomplished during a period when progress was being made in reducing operating costs. The results are a tribute to the dedication and skill of the Company's employees. Unfortunately, their efforts were frustrated by the lower market value of the products and increases in other elements of cost.

ROBERT G. DUNLOP,
Chairman of the Board.

FIREFIGHTER BENYO GIVEN PHOTO AWARD

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. WILLIAM D. FORD. Mr. Speaker, I would like to take this opportunity to recognize a significant honor bestowed upon one of my constituents, Lt. Joseph Benyo of the Westland Fire Department.

Lieutenant Benyo was awarded two trophies in the Annual Photo Contest Awards conducted by the International Fire Photographers Association. His awards were for the best lifesaving photo and for the best fire movie—11 mm. Of the 19 awards given this year, Benyo was one of only two participants who received two trophies.

I want to express my public congratulations to this outstanding citizen, who has brought well-deserved honor to his family, his colleagues, and his community.

Lieutenant Benyo's accomplishments are not limited to his activities in the fields of firefighting and photography. He is a past president of the Westland Chamber of Commerce; is active in the Goodfellows, Boy Scouts, and Knights of Columbus, and was honored with a Distinguished Service Award by the Westland Jaycees in 1966. He was general chairman of the Westland City Festival in 1971, and was listed in the 1970 Edition of the Outstanding Young Men of America.

I enclose at this point a newspaper article announcing Lieutenant Benyo's awards at the International Fire Photographers' Association:

FIREFIGHTER BENYO GIVEN PHOTO AWARD

Lt. Joseph Benyo of the Westland Fire Department was recently awarded two trophies at the International Fire Photographers Association 9th Annual Fire Photographers Seminar in Chicago.

The trophies were presented as part of the photo contest awards and were given at a dinner which honored fire photographers from all over the world.

Members represent the United States, Canada, and England.

The organization which was founded by Chicago Chief George Schuller in 1964, hold their annual seminar and photo contest each year in Chicago.

Its aim is to further the knowledge of fire photography, and to aid in the investigations of fires, as well as to be an asset to helping in saving the lives of thousands of humans through their educational programs.

It also provides training for both the professional firefighter as well as the citizen.

Benyo, who has won many awards for photography, including the coveted Andy Lester-Graflex award, was presented the trophies for his entries by Chief Schuller, president of the IFPA, and Luther M. Dey, law enforcement photography chief of Eastman Kodak Co.

Benyo, who also serves on the board of directors of the IFPA, also is a member of the National Press Photographers, Michigan Press Photographers and National Association of Fire Investigators, and the Michigan Fire Inspectors Society.

In addition, he gave a class at the annual seminar on the use of photography in the fire service, and the need for press and public relations among fire and police departments everywhere. He also exhibited some of his photographs.

His awards for Best Life Saving Photo and Best Fire Movie (16MM).

THE BREAD TAX FOR SOVIET INTERDEPENDENCE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. RARICK. Mr. Speaker, the U.S. consumer will soon be forced to pay a "bread tax," partly because of the recent massive sale of wheat to the Soviet Union.

The Price Commission reportedly "is allowing General Mills, Inc., to raise its flour prices partly because of the big sale to Russia drove wheat prices higher."

It is indicated that other flour price increases will follow. It is only logical, therefore, that the price of bread must rise accordingly.

So, the American consumer will have to participate in bearing the cost of the Nixon adminstration's emphasis on interdependence with Communist countries.

The absurdity of the situation is unbelievable and only confirms earlier fears—the only one who loses in these new agreements with the Soviet Union will be the American people. And this new Soviet tax on U.S. food is just a start.

I ask that a related news clipping follow:

[From the Evening Star and Daily News, October 11, 1972]

GENERAL MILLS FLOUR PRICE INCREASE OK'D

Government price controllers have approved an increase in the price of flour, citing the recent U.S.-Soviet grain deal as part of the cause.

The Price Commission said it is allowing General Mills Inc. to raise its prices partly because the big sale to Russia drove wheat prices higher.

It was the first flour price increase granted, indicating that others may follow. General Mills was given permission to increase its price in Western states by 6.55 percent and in Eastern states by 11.08 percent.

THOMAS HARRIS, ENVIRONMENTAL WRITER HONORED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. EDWARDS of California. Mr. Speaker, I would like to recognize an outstanding young man and one of my constituents, Mr. Thomas Harris, environmental affairs writer for the San Jose Mercury. Mr. Harris was recently the recipient of a journalism fellowship to Stanford University enabling him to take a year's leave of absence from his job. The fellowship offers him the opportunity to take courses of his own choosing in order to gain further expertise in his reporting.

This award is only one of the many that recognize the important contributions Mr. Harris has made over the years toward improving the quality of the environment in and around Santa Clara City. His insightful reporting and perceptive evaluation of the problems of pollution and conservation have been invaluable to those who have been exposed to his work. His stories have prompted legislative investigations and remedial laws in forestry practices, and legal action to punish air pollution and Bay fill law violators. His extensive knowledge of the South San Francisco Bay area has led pollution control officials to the scenes of fish kills and other pollution hazards.

Mr. Harris was the winner of the 1971 Meeman Conservation Writing Contest and was selected by the California Wildlife Federation in 1970 as the outstanding conservation writer in California. In addition, he was selected to participate with 32 other environmental specialists in the American Press Institute's Environmental Problems Seminar at Columbia University in 1970. From time to time he serves as a guest lecturer on the environment at universities in California and as a consultant to the Governor's Conference on California's Changing Environment.

Anything but an armchair environmentalist, Tom Harris spent 50 days of exploratory paddle work with his family on mountain, coastal and valley streams in northern California gathering information for his recently published book, "Down the Wild Rivers." This guide not only acquaints the reader with the basics of canoeing, but serves as a reliable source of information on types, difficulty and variety of rivers and streams in northern California. It glows with the enthusiasm and commitment Mr. Harris brings to all his environmental work. His example, can serve us as an inspiration, not only to better enjoy the natural wonders that our varied nation has to offer, but also to preserve and protect those natural resources for the future.

WASHINGTON NEWSLETTER

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HARVEY. Mr. Speaker, pursuant to permission granted, I wish to insert into the CONGRESSIONAL RECORD my Washington Newsletter dated October 14, 1972, in which I have set forth my thoughts relative to hasty legislation passed just prior to adjournment; a review of some of the more important pieces of legislation we have considered in this 92d Congress; as well as other information I feel will be helpful to my constituents. My newsletter follows:

WASHINGTON NEWSLETTER

(By Congressman Jim Harvey)

As seems to be the case every year when the time for adjournment nears, Congress has begun to step up the legislative pace. I also view this period as one when faulty and weak legislation can zip through in the rush to adjourn.

For example, to expedite consideration of some of the many bills not yet disposed of, the House recently voted to ignore normal procedures and allow certain bills to be considered under "suspension of the rules" any day after October 10th. Such action only permits a maximum of 40 minutes of debate with no opportunity for amendment. A measure can then be approved if favored by a two-thirds majority. This is a procedure which should be used with great caution.

The pressure for legislative action is best illustrated by the fact that out of 64 major Administration legislative requests, at this time only 24 have become public law. Twenty-six of the requests have not reached the House or Senate floor for a vote.

As Chairman of the Republican Task Force on House Rules, our hearings have already developed 16 major proposals suggesting changes in the procedures of the United States House of Representatives. Our Committee recommendations, to improve the flow of legislation in the House, will be formally presented just prior to the convening of the 93rd Congress in January, 1973.

ENVIRONMENT

As a long-time backer of legislation to create a Joint Committee on the Environment, a recent meeting with Secretary of the Interior Rogers C. B. Morton presented an opportunity to press for further support. The magnitude of environmental issues before Congress is clearly shown in a review to date of the 75 separate votes taken in the past 21 months. As of October 7th, I have supported 58 of these environmental issues for 77.3%. I have been in opposition 11 times for a 14.6% average, and missed six votes for 8.0%.

LOOKING BACK

Much has been said and written about the action and inaction of this the 92nd Congress. As mentioned above, much of the Administration's major legislative measures remain on the shelf. In a review of legislative accomplishments within the House of Representatives, I note that 23 legislative proposals that I sponsored or cosponsored were passed by the House.

Number one would have to be Revenue Sharing, with the Rural Development program a close second. Other legislation on this list includes my support of the Public Works Acceleration Act to aid unemployment; election campaign spending reform; repealing the 7% excise tax on automobiles; a 20% increase in railroad retirement benefits; prohibit the use of interstate facilities for certain materials (pornography) to minors; amend the Federal Water Pollution Control Act; support milk parity at not under 85%; restore the 7% investment tax credit on depreciable property; and legislation calling for the relief of the suppression of Soviet Jewry.

I, of course, lent my support and votes to a host of other legislative matters, including education; the environment; social security; emergency strike legislation; combat drug abuse; older American Act; women's rights; eliminate cancer; pension protection; health insurance; and welfare reform.

RAILROAD PENSIONS

As one who had introduced legislation to grant a 20% increase in pension payments for over 900,000 retired railroad workers, I voted to override the President's recent veto of this matter. I can appreciate the President's concern that such an increase at this time might be harmful to the railroad retirement system. But equity, in light of the recent social security increase, required a comparable increase to railroad retirees. As I have stated before, I do think that Congress should immediately undertake an exhaustive study of the railroad retirement system and take action to make certain that it is financially sound.

GOOD NEWS

In my personal meeting with Herbert Stein, Chairman of the President's Council of Economic Advisers, to discuss economic conditions in the 8th District, he indicated to me that from all available information a strong economic expansion now is underway. Unemployment in September remained at 5.5%, essentially no increase than previously, and the number of persons at work increased by 250,000, to a soaring record high of over 82 million workers in the U.S. My concern remains that we must attack "pockets" of unemployment throughout our country.

MEDICARE PAYMENTS

County-by-County data on Medicare benefit payments in 1970 have just been compiled by the Department of Health, Education, and Welfare. There is no question that once statistics are worked out for 1971 and 1972, they will be much higher. The overall total of Medicare payments during 1970 for services and items furnished beneficiaries was nearly $6.6 billion. Here's a breakdown for both the old and new Eighth District Counties for that period:

County, Number of Persons Enrolled, and Hospital and/or Medical Insurance Reimbursed

Arenac, 1,642, and $569,559.
Bay, 9,552, and $3,310,155.
Huron, 4,556, $1,106,364.
Lapeer, 4,009, and $1,237,777.
Saginaw, 17,113, and $5,167,907.
St. Clair, 12,330, and $3,067,474.
Sanilac, 4,567, and $1,246,232.
Tuscola, 4,834, and $1,348,328.

NATIONAL SHRINE PILGRIMAGE

As always, it was a pleasure to meet and visit with Eighth District residents who took part in the National Shrine Pilgrimage of the Diocese of Saginaw earlier this month. This group included folks from Bay City, Bentley, Saginaw, Linwood, New Lothrop, Pinconning, West Branch, Bad Axe, Essexville, Cadillac and Chesaning.

If I can be of service to you in any manner, please let me know.

BILL TO AMEND SECTION 453 OF THE INTERNAL REVENUE CODE

HON. JOHN W. BYRNES

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BYRNES of Wisconsin. Mr. Speaker, I am today introducing legislation to correct a very inequitable situation that has been brought to my attention by Mr. and Mrs. Harry Mueller of Chetek, Wis.

A brief review of the facts will put the problem in context. Mr. and Mrs. Mueller purchased and began operating Barker Lake Lodge and Golf Course in Winter, Wis., under a partnership agreement in May 1950. The business was incorporated on the advice of attorneys on January 1, 1963, in order to provide limited liability and some continuity of existence, with Mr. and Mrs. Mueller as the sole proprietors.

On September 27, 1969, all of the assets of the corporation except for one vehicle were sold for $175,000. Terms of the sale were $50,000 down, with the balance to be paid in semiannual installments of $6,000 on each May 1, and November 1, with the payment first applied to interest at 6 percent and the balance to principle.

After paying the realtor's commission, Federal, State and local taxes, Mr. and Mrs. Mueller retained $23,600 of the downpayment. The balance of the purchase price remaining after the downpayment is secured by land contract, and the sale was reported by the corporation on the installment basis for income tax purposes under section 453 of the Internal Revenue Code.

The corporation continues to exist, its only assets consisting of the right to receive semiannual installments of $6,000 until the remaining balance on the contract of sale is liquidated. As these payments are received, they are taxed to the corporation at capital gains rates—25 percent—and then distributed to the Muellers as dividends and taxed to them at ordinary income tax rates. When the impact of this double taxation under both Federal and State law is considered, Mr. and Mrs. Mueller are bearing a tax burden of in excess of 50 percent of $12,000 per annum—a significant portion of which is in reality a return of capital—that are being made for the sale of their business.

What makes this result particularly inequitable is that there are provisions of the Internal Revenue Code—quite complex to the uninitiated—that would have avoided this "double taxation" of the sale of the business and imposed a single tax on the sale. As the Treasury Department has stated in responding to my request for suggestions for simplifying the law to treat small business taxpayers in this situation more fairly:

> Mr. and Mrs. Mueller could have elected to liquidate the Barker Lake Corporation pursuant to section 333 of the Code at the time of the sale of the property. In this way the taxpayers would have limited their gain on the liquidation to the greater of the earnings and profits of the corporation or the cash and securities (acquired after December 31, 1953) of the corporation. Gain realized upon the subsequent sale of the business assets would then have been taxed only once, at the shareholder level.
>
> Alternatively, Mr. and Mrs. Mueller could have elected to liquidate their company pursuant to section 337 of the Code. A liquidation following a sale of assets within one year results in gain on such sale of corporate assets being exempted from tax, thereby again limiting Mr. and Mrs. Mueller to a single tax at the shareholder level when the corporation was liquidated.
>
> A third possibility would have been for Mr. and Mrs. Mueller to simply sell their stock in the corporation instead of disposing of the corporate assets. This approach would have resulted in the imposition of a single capital gains tax on Mr. and Mrs. Mueller at the time of sale. The purchasers could have obtained a "stepped-up" basis under section 334(b)(2), yielding the same net result as a 337 liquidation.
>
> These three options are well-known to lawyers and accountants dealing in tax consequences. I am not sure the rules could be made any simpler.

The problem is that the rules are not simple to individuals who are not dealing regularly with these issues. Mr. and Mrs. Mueller sought and received the advice of an attorney and an accountant. As Mr. Mueller has written to me:

> We had an attorney and we did go to a C.P.A. office later. But none of these were familiar with the tax avenues open to us. There are no sophisticated tax people in the Northwoods area who were available to us.

I would personally prefer a solution that would permit individuals who are selling very small businesses that they have worked in most of their lives to elect to utilize the most advantageous method available when they first file their returns after a sale, which is the time they are generally made aware of the options open to them and the mistakes they may have made. Unfortunately, it has not been possible to work out an amendment along these lines that the Treasury and others who have reviewed the problem feel is satisfactory. For this reason, the bill I have introduced is not as broad as I had hoped, but it will provide relief to Mr. and Mrs. Mueller and others similarly situated.

If the corporation is liquidated under present law, section 453(d) would impose a tax at the corporate level on the entire gain realized on the sale of the corporate assets. Additionally, the basis of the installment obligations to Mr. and Mrs. Mueller would generally be equal to the basis they have in their corporate stock, and the excess of amounts they receive pursuant to the installment obligation would be taxable.

My bill would eliminate the first tax above described, the corporate tax that would otherwise be applicable if the installment obligations are distributed in liquidation. The second tax above described would remain applicable, with amounts received pursuant to the installment sales contract in excess of basis being taxed at ordinary income tax rates. While this is less favorable than the capital gains rates that would have been applicable had the sale been cast in the form yielding the greatest tax advantages, the double tax burden that is so inequitable and currently being imposed will be eliminated.

QUEST FOR PEACE

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SCHWENGEL. Mr. Speaker, recently I have acquired a book entitled "Nixon's Quest for Peace" by Frank van der Linden. Mr. van der Linden is a White House and congressional correspondent. He was the first columnist to predict, a month in advance, that the United States and Russia would reach a preliminary agreement before June 1971, to discuss controlling both offensive and defensive nuclear weapons.

Mr. van der Linden was born in Hendersonville, N.C., and was managing editor of the Hickory, N.C., Daily Record before moving to Washington where he represents a number of very fine newspapers and reports for them. He is a valued and respected member of the Board of the U.S. Capitol Historical Society. He is a man of stature among his peers because he is selected periodically to appear on panels, such as Meet the Press and others.

Mr. Speaker, his new book, Nixon's Quest for Peace, is a magnificent contribution to a better understanding of both our foreign policy and of the Nixon approach. I have read the book. It has been very helpful in my thinking and evaluation of the problems in that area and certainly I get a new insight into the difficulties that the Chief Executive and the State Department are confronted with.

The chapter entitled "The Week That Changed the World" is a magnificent description of the trip to China and of its impact on the thinking of the world and how it served to help us all better understand the problems of China which, and as a result served to lessen our fear of China and most surely it had a comparable effect upon the leadership of the people of China.

Several newspapers have written eloquently in their review of this book and I should like to quote from several of them.

The Nashville, Tenn. Banner says:

> Van der Linden provides us with the most authoritative book to date on Nixon's foreign policies, an account that is based on his firsthand observations in Washington and around the globe, plus scores of private interviews with the movers and shakers within the administration, from President Nixon himself to adviser Henry Kissinger and Secretary of State William Rogers to countless individuals behind the scenes instrumental in helping shape the course of events. The basic premise of the van der Linden book is that the President set out on a pre-determined course to inject realism into our rela-

tionships with the major foreign powers, principally Soviet Russia and the Peoples Republic of China, thereby paving the way for negotiations, rather than confrontations.

The Boston Globe observes:

> Van der Linden, one of the few Capitol newsmen close to Mr. Nixon, also was impressed by the arm chair, a presidential favorite. Mr. Nixon has spent so many hours in it reading that its back cover simply wore out. The whole chair then was re-covered with its new yellow fabric.

The Charleston, S.C. News and Courier reminds us that:

> Nixon has matured from a simplistic anti-communist to a practical statesman with a world view who is defending his country's security but refraining from overseas crusades. This is a paradox—an anti-communist President dealing with the communist powers. But, to Nixon, it is the only policy that holds a real hope for peace. The great central fact in the President's life is that he must assure his country's safety in a perilous world where, for the first time, Soviet Russia has taken away the United States' once absolute superiority in strategic nuclear weapons. He must face the hard fact that, if this country should ever slide down to second-rate status, it could confront the impossible choice of surrender to nuclear blackmail, or war.

Mr. Speaker, here in this book by this great and good man, we can read and learn more about the Nixon quest for peace than I believe we can read in any other source.

HON. WILLIAM COLMER

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. DENT. Mr. Speaker, it was indeed a privilege for me to have the opportunity to join with my colleagues in extending our tributes to the truly Honorable William Colmer on the occasion of his retirement from Congress.

Because I am unable to join his many friends in Mississippi later this month at an evening in his honor, I would like to put just a few of my thoughts into the permanent records of the Congress. This is a man who indeed belongs, in my opinion, in the permanent archives of our Nation along with the text-book number of other outstanding Southern gentlemen and statesmen by whose rules we try to govern our proceedings today.

The following is a letter which I have addressed to Mr. Montgomery as a testimonial tribute to Bill Colmer, and I know that I am joined by almost all of my colleagues in wishing for him the brightest and happiest of futures:

October 6, 1972.

Hon. Gillespie V. Montgomery
Washington, D.C.

Dear Sonny: I am indeed grateful for the opportunity to join with you and other colleagues and friends of the gentleman from Mississippi, the Honorable William Colmer.

Bill Colmer has served a long and eventful term of office in the Congress of the United States. One can say that Bill is the type of a person who measures up as a worthy opponent, a staunch friend, and a dedicated public servant. I have a great respect for Bill as an implement in debate. He doesn't crowd the House Floor; but, when he does tap to the well, what he has to say is said well and worth listening to. While Bill and myself have been on the opposite side of many questions, I have always respected his dedication to his beliefs and his strong adherence to the problems and philosophies of his dedicated life.

I am sure that Bill will be happy to be back in his beloved Mississippi, and yet I want to believe that he will still have a yearning to keep in touch will all the close friends and associates that he will be leaving behind. We will all miss Bill Colmer, and wish him for the rest of his days a fair wind and falling sea. My respects to Bill and my congratulations to his many friends who are having the privilege to be with him.

With kindest personal regards, I am
Sincerely yours,

John H. Dent,
Member of Congress.

RAYMOND P. HAROLD OF WEST BOYLSTON, MASS., DEAD; FRIEND OF LATE PRESIDENT JOHN F. KENNEDY, FORMER STATE DEPARTMENT REPRESENTATIVE TO THE PHILIPPINES, FORMER PRESIDENT OF NATIONAL LEAGUE OF INSURED SAVINGS ASSOCIATIONS, AND VICE CHAIRMAN OF SAVINGS AND LOAN FOUNDATION IN WASHINGTON, D.C.

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BOLAND. Mr. Speaker, it is indeed sad for me to call to the attention of the House of Representatives of the death Tuesday night of Raymond P. Harold of West Boylston, Mass., a former vice chairman of the Savings and Loan Foundation in Washington, and a former State Department representative to the Philippines.

Mr. Harold was chairman of the board of the First Federal Savings and Loan Association, formerly the Worcester Federal Savings and Loan Association, which has branches in Auburn and Shrewsbury and my home city of Springfield.

He made several trips to South America for President John F. Kennedy to help Latin American countries start banking projects, and he was former president of the National League of Insured Savings Associations.

For many years I have known Ray Harold not only as a close personal friend but as an outstanding citizen of the community and the Commonwealth of Massachusetts.

Ray Harold's life is the story of American opportunity come true. From humble beginnings, he rose to world-wide prominence in the savings and loan industry. His advice and counsel on matters of housing, finance, and community development were sought after and followed by the business community and by public officials at all levels of government.

Above all, he was a charitable man. Throughout his lifetime, he gave not only of material things but more importantly of himself to those who needed the succor of a warm and comforting hand.

Ray Harold has been a great citizen of our community. He has been a truly great American. I am privileged to have known him and I extend to his family my deepest sympathy in their great loss.

MODERN MANAGEMENT AND THE MULTIPLICATION OF ERROR POINTED OUT IN NIX HEARINGS

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. NIX. Mr. Speaker, I would at this time like to insert in the Record a third in a series of articles by Mr. Edward Zuckerman describing the decline of the Postal Service while vast amounts of money are being spent in the name of improving service.

This article appeared in Ridder publications across the United States. The article follows:

Errors Multiply at Postal Center

(By Ed Zuckerman)

Washington.—The kingpin of the U.S. Postal Service's national network of modernistic bulk mail processing centers is being built on a foundation of costly errors.

Under construction in Jersey City, N.J., the mammoth building will wind up costing more than double its original estimate. Postal planners set a $62.3 million price tag for the building in 1969, but so far the cost has risen to over $130 million—a 109 per cent overrun.

Critics of the building, who have found much to be critical about, refer to it as "the Secaucus facility" in casual conversation. The discovery that the building is actually situated in Jersey City—not in adjacent Secaucus—was belated. Their continued reference to the erroneous location is an oblique sarcasm—a purposeful mistake which pales in contrast to the parade of blunders which has shadowed the project from its inception.

An investigation in 1971 by the General Accounting Office (GAO) found little, if anything, to recommend the Postal Service's handling of the project.

It was hopeless, the GAO seemed to say. Land site selection was improper, soil tests were incomplete. There was even a hint of conflict of interest in the award of a contract for the procurement of mail sorting machinery.

There was another error which the government auditors failed to detect—the discovery of deadly methane gas on the swampy Jersey City site which came after a portion of the building's 25-acre concrete floor was poured.

"The discovery could only take place as the gas occurred," remarked Brig. Gen. George Rebh, chief of the Army Corps of Engineers Postal Construction Support Office, when he was called before a House post office and civil service subcommittee.

"There were pools of water in the area and they noticed bubbles and this is what attracted their attention to it," the military construction expert said.

Rebh, at the time, was unable to estimate how much extra cost would result from the addition of ventilation shafts beneath the completed floor area. According to an unofficial estimate, it came to about $1 million.

Utilizing an incomplete soil test information, the Postal Service hired a firm to sink

6,322 piles to a depth of 110 feet, but the actual depth of the swamp, concealed by subterranean boulders, which caused pilings to twist out of shape, was closer to 130 feet. A revised contract, adding 162,000 lineal feet of piling, exactly doubled the value of the original contract.

The soil test report was based on 14 borings, some of which didn't fall within the buildings' actual location because architect designs weren't completed at the time. The purpose of the report was to recommend a method for preparing the swamp site and, when concrete piles were selected, advised that no further exploration was needed "unless more information is desired for better estimating of pile lengths."

A postal official told the GAO that further soil tests weren't ordered because "it wouldn't have been economical." He further justified the decision, saying, "The test borings showed only what subsoil conditions existed at the spot where the boring was actually taken and might not be indicative of the existing conditional several yards in any direction."

The decision was an infraction of test probing requirements established by the General Services Administration (GSA), a federal agency. According to GSA rules, "The placing of borings shall be no more than 50 feet apart where strata is expected to vary considerably. . . ."

This would have meant a minimum of 120 test borings for the 144.5 acre postal facility site, GAO said.

The Postal Service deposited $2,167,500 for the site ($15,000 per acre), a price that is being contested in a federal court suit. Most of the tract was owned by the Penn Central Railroad Co. with considerably smaller parcels owned by the Erie-Lackawanna Railroad Co., a gas and electric utility and two municipalities.

The cost to prepare the site—not counting the pilings which are part of the construction costs—came to $3.1 million, or an additional $22,000 per acre.

The swampy site was selected after three other sites were eliminated:

A 300-acre tract at the Cavern Point Army Terminal in Jersey City; found unacceptable because of serious transportation access problems, possible flooding problems and questionable soil conditions.

A 260-acre tract is Secaucus, eliminated because of unfavorable soil conditions, limited accessibility and indication of a high price for the property. (The GAO learned from the owners of the property that no price had ever been quoted; that the Postal Service told the owners the property was ruled out because it didn't have a rail siding connecting to the Penn Central.)

An 80-acre track in Secaucus, eliminated because it was too small. (Preliminary designs for the building specified an 80-acre site but architects, in oral presentations to the Postal Service, recommended a larger area even though, in retrospect, 80 acres could have accommodated their plans.)

"According to postal officials," the GAO report said, "No detailed evaluation was made of the site plans presented by the architects to determine the need for increasing the acreage from 80 acres. . . . They told us that reliance had been placed on the architectural firm's judgment."

Another facet of the GAO investigation which received critical attention was the awarding of two contracts—valued at $9.2 million—for procurement of sack and parcel sorting machines to be installed in the new bulk mail center.

Speaker Sortation Systems, a division of A-T-O, Inc., was awarded the contracts on a sole-source basis—meaning there was no competitive bidding. The Postal Service defended the contract award, claiming the company was the only one which manufactured such equipment and that no major developmental work was required.

The GAO, raising possible conflict of interest charges, learned that the postal official who recommended the company had been employed as management consultant to Speaker Sortation Systems from April to August, 1969. The contracts were awarded in September and November, 1969. The postal official's role with the company had been to advise on production practices, cost accounting, product pricing and record keeping.

The government investigation also questioned the Postal Service's claim that no developmental work was required to produce the machinery.

"A substantial amount of development work, which was known to the Postal Service prior to award of the contract, was necessary on a major component in attempting to make the system economically adaptable to postal operations. More than a year after the contract was awarded, serious machine-operating problems still existed and development work and testing of the machines was continuing," the GAO said.

"The problems still being encountered more than a year after the contract was awarded indicated to us that much more than 'minor modifications' was necessary to the parcel-sorting machine system. Therefore, we question the Postal Service justification for awarding this sole-source contract on the basis that no development work was required," the report added.

HOUSING FOR ELDERLY IN SHOPPING CENTERS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GUDE. Mr. Speaker, Montgomery County, Md., has demonstrated an awareness of the importance of locating senior citizens housing programs in a living community, not in isolation, away from shopping, recreational, cultural and transportation facilities. An innovation to overcome such problems while providing increased housing opportunities for the elderly has been recommended by Maryland State Senator Schweinhaut. Following is the WTOP radio editorial of September 16 and 17, 1972, commenting on this very appealing suggestion, and I commend it for your attention.

HOUSING FOR ELDERLY IN SHOPPING CENTERS

One of the more innovate ideas for providing housing for the elderly is to put them up in the air above shopping centers. Not literally in the air, of course, but in housing which takes advantage of air-rights above commercial centers, or on adjoining land.

The proposal comes from Montgomery County Senator Margaret Schweinhaut, who is one of Maryland's most knowledgeable experts on the problem of older people.

Many persons in their 60s, 70s, and 80s have unique problems of mobility. Even when they can afford transportation, getting to stores, doctors, theaters, libraries, and other places is difficult at best. Housing for this age-group, for whom money is very hard to come by, never is easily provided.

Mrs. Schweinhaut's thinking is that housing constructed above shopping centers would work to the advantage of merchants and residents alike. The stores would have a built-in market, as well as around-the-clock activity. Residents would have most necessities near their front doors, and some could find part-time employment opportunities.

Many communities elsewhere in the nation have put this concept to work, and the notion of carefully combining residential and commercial development—rather than separating them—is gaining among enlightened planners.

Those of advanced age in our society have suffered most by being shoved aside. Perhaps the best that could happen to that age-group is to put them right in the thick of things, and that's why the suggestions of housing for the elderly above commercial centers sounds so appealing.

This was a WTOP Editorial . . . Norman Davis speaking for WTOP.

GIVES AID TO NEEDY CAUSES

HON. DAVID N. HENDERSON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HENDERSON. Mr. Speaker, in these days of corporate charities, institutionalized and highly organized foundations, and other agencies which are involved in charitable fund-raising and giving, it is most refreshing to learn that the old-fashioned type of expressing concern for one's fellow man still exists.

I refer to an organization called the North East Ladies Auxiliary in my home community near Wallace, N.C. I want to share with my colleagues an account from a recent edition of the Wallace Enterprise:

NORTHEAST AUXILIARY "COOKS OUT" THOUSANDS OF DOLLARS IN HELP TO NEEDY CAUSES . . .

(EDITOR'S NOTE.—There is no organization in the Greater Duplin area—civic, religious, fraternal or otherwise—that is more faithful and dedicated to its purpose than is the Northeast Auxiliary. This group of Christian women from the Northeast Community, located east of Wallace between Tin City and Chinquapin have in some 25 years "cooked out" over $100,000 in fried chicken, pork barbecue and hushpuppies at their now-famous Saturday night suppers to give aid and assistance to numerous worthy causes and needy individuals. The following is a history of this group prepared by a member that is proudly featured by The Wallace Enterprise as a tribute to the Northeast Auxiliary and its many good deeds.)

HISTORY OF NORTH EAST LADIES AUXILIARY

DUPLIN COUNTY,
Wallace, North Carolina.

On April 25, 1948, in a little wooden, one-room country church known as North East Freewill Baptist Chuch, a Ladies Auxiliary was organized with the aid of the pastor, Rev. Vance Rich. The membership consisted of ladies from three different churches and the auxiliary was named North East Ladies Auxiliary. At the present time we have about twenty five active members.

We held our monthly devotions in the members' homes. We began to reach out and try to raise some funds for our auxiliary. We decided to have an auction sale after each meeting and the members were to donate the articles for the sale and the proceeds from these sales were put in our treasury. This was very successful, but after several months we decided we needed more money to make contributions to share Christian love to our community and other places.

Through the cooperation of all the members, we worked out a plan to put on a barbecue supper once a month in a building rent free. (This building was later used for our meeting purposes also.) The members donated the food, prepared it, served it, and our treasury began to grow. Due to the good business we had acquired, we began serving barbecue and chicken suppers twice a month. This also proved so successful that after about two years we finally decided we could serve suppers every Saturday night. Some of the food donated at times, and if not we purchased the balance to be served and we realized good net profits.

As our auxiliary began to grow, the old wood church we were organized in was torn down and a beautiful brick church was built. The Ladies Auxiliary donated $30,000 on this church in labor, material, and furnishings.

We also gave $3,000 on an unfinished parsonage. This parsonage has since been remodeled and the pastor of North East Church is living in it. After ten years, our business had so increased that we needed a larger and better place to serve our suppers. We then moved to the North East Community Building which is our present location. This building seats 125 people at a time. Each Saturday night these ladies prepare, cook, and serve an average of over five hundred people coming from New York to Florida.

In 1967, the new brick church that was only a few years old was completely destroyed by fire. Work was soon begun on another brick church building. The Auxiliary purchased for this new church a new piano, vacuum cleaner and carpet. During the construction of this church, the building we were using to serve our suppers was used for church services until the church could be completed.

We continued to serve suppers and worked diligently to help where ever it was needed. The three churches involved in our auxiliary receive donations each year.

We are now in our twenty-fifth year and through the efforts, labor, and determination of the members, we have gained much profit, as well as many a blessing from this work. Many donations have been given to ministers, churches, the aged, missions, orphanages, Boys Home, to sick, needy people, and to Bible Colleges; we helped a young man through Bible College. We donated $700 to the Young People from the three churches on their trip to Texas to Expo 72. We have even helped bury a man. We are always willing to help any needy cause.

We have spent at least $10,000 on improvements to the Community Building which had to be done to meet health requirements. We have donated $1500 to the Northeast Volunteer Fire Department. In the last twenty years the Ladies Auxiliary has given at least $110,000 to all these needy causes and this money has all been made from these suppers.

The work has not all been easy but the blessings we have enjoyed far out weigh any inconvenience we may have had, and the Christian fellowship and cooperation we have gained are beyond words.

We appreciate all who have ever eaten a meal with us and invite anyone reading this to come and enjoy a meal with us in the Northeast Community Building, known sometimes as the "Pink Building" on the left side of Highway No. 41 going toward Chinquapin from Wallace.

It has been a great joy to all of us and we hope we can continue to show our love and Christian fellowship in this manner for years to come.—The Northeast Ladies Auxiliary, by a Member.

CASIMIR PULASKI

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. DERWINSKI. Mr. Speaker, in this brief period before we end our pending legislative business, I wish to pay tribute to one of the men of foreign birth who contributed so much to the cause of American independence.

Count Casimir Pulaski, who had escaped from his native Poland under sentence of death after having led an unsuccessful revolt against Russia, came to America in July 1777. As a soldier in George Washington's army, he distinguished himself at the battle of Brandywine. The Continental Congress made him a brigadier general and chief of cavalry in gratitude for his services and in recognition of his ability.

Pulaski took part in the battle of Germantown as well as in other battles in 1777 and 1778. With a force known as the Pulaski Legion, which was composed of both Americans and Frenchmen, he defended Charleston, S.C., in May 1779. Pulaski was wounded on October 9, 1779, during the siege of Savannah, and died 2 days later.

Had he not been cut down at the early age of 31, Casimir Pulaski might well have written an even brighter chapter in the early history of our Nation. Like Moses, who was not permitted to enter the promised land, Pulaski was not destined to live to see America achieve its independence, nor was he able to continue his efforts to restore freedom to his native country of Poland.

Although this gallant son of Poland did not survive to enjoy the independence for which he fought so bravely and for which he made the supreme sacrifice, his services to our infant Republic will not be forgotten. It was he who organized the U.S. Cavalry. The horses of the cavalrymen have long since been replaced by tanks, but the men who operate these vehicles are still inspired by the spirit that led Casimir Pulaski across the Atlantic to fight for human freedom.

FRANK FISHKIN, A DISTINGUISHED CITIZEN

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. CORMAN. Mr. Speaker, on January 18, 1973, a testimonial dinner is being given for Frank Fishkin, a leading San Fernando Valley citizen. We will pay tribute to a man who for over 30 years has proven himself to be a citizen of the first degree, who has used all his energies in improving the lives of those around him.

Frank Fishkin is this man. He has lived in the Los Angeles area since the age of 17, when he had his first job. Attending school at night he secured a college and legal degree. With these in hand he set out not just to be a success for himself and his family but to give of himself to his friends and neighbors just as much.

Frank has been a member of the San Fernando Valley Bar Association and in this capacity served on the original committee that worked in the creation of legal aid and lawyer reference service for San Fernando Valley. He has worked with the Valley Bar Association and the Los Angeles County Bar Association and been their delegate to the State bar association meetings on numerous occasions. In the community Frank has served as president of the Sun Valley Chamber of Commerce and president of the Valley Jewish Community Center and Temple, which has the largest congregation in the valley.

As a personal friend of Frank Fishkin's for over 20 years and his colleague in the San Fernando Valley Bar Association, I can easily identify to his consistent high integrity and willingness to use all the time required for the betterment of his community. I am sure that Frank Fishkin will continue this service, and we in the San Fernando Valley are grateful to him.

LETTER TO CONSTITUENTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. WYDLER. Mr. Speaker, it has been my practice to keep the people in my district informed. This is particularly important to our older Americans who lived on tight budgets and who need information at once concerning their rights under the Federal laws that we are passing.

Recently I directed a letter to them, together with information of value to assure that they fully participate in the Federal programs that Congress has made. The letter follows:

OCTOBER 6, 1972.

DEAR FRIEND: As you are one of the Older Americans who lives in what I like to call the "Fabulous Fifth" congressional district, I wish to keep you informed of programs that may be helpful to you.

The Congress has taken actions recently which have been helpful to the senior citizens, such as the 20 percent rise in Social Security, but there are many other programs that can help and aid senior citizens. Unfortunately, too often we find out older Americans are not aware of them. I am enclosing a booklet describing some food and housing programs for the elderly which may be helpful to you. If you have any further questions about them I would be glad to hear from you.

Last spring you were invited to an Older Americans Forum I arranged, at which approximately 400 older Americans from all over the Fifth district attended. Much information was made available to the people who came and I have prepared special folders containing many booklets of general information of use to older Americans. Some people have suggested I make these booklets available to other older Americans who could not attend the meeting. I will do this upon your request. The folders are free, but I do have a limited supply. If you would like one of these folders, with the enclosed information, just drop a line to me at my local office, 150 Old Country Road, Mineola, New York 11501 and say you would like the *Senior Citizens Special Packet*.

If you have any other questions or needs, please let me know. I am always glad to be able to be of help to you.

With every good wish,

Sincerely yours,

JOHN W. WYDLER,

Member of Congress.

THE 1972 McCLURE POLL

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. McCLURE. Mr. Speaker, earlier in the year I sent out my annual questionnaire to the people of the First Congressional District. As in the past, the people of my State responded to the questions posed in a most thought-provoking manner.

Subsequently, I sent out a second poll. This time the questions were devoted entirely to matters of environmental concern, and again the response from my constituents was enormous and extremely interesting. I am sure my colleagues will find the results of these two surveys of interest and I insert them as a part of my remarks at this point in the RECORD. I also include the statement which accompanied the release of the results.

1972 POLL RESULTS

My staff and I have tabulated the results of my 1972 questionnaire. As in the past, the response was enormous and the results significant. With so many important issues before Congress today, I only wish time and space had permitted additional questions on other subjects. I am convinced that the people of Idaho do grasp the urgency of today's problems and that this poll reflects their feelings about them.

I was particularly pleased with the results of the first question. The fact that 81% of the people in the First District approve of our present policy in Vietnam is significant, because it shows that we are ridding ourselves of the kind of dissent which divided the nation for so long on this issue. I'm sure that many still feel the United States should never have been involved in Vietnam and I'm sure that an equal number still think we should have pursued the war in a more vigorous manner. But the fact remains that, under present conditions, the Vietnamization program has won considerable acceptance.

Another significant factor in this poll is the discovery that both farm and non-farm families feel Idaho agriculture would best be served by *fewer* federal farm programs rather than *better* programs. I don't think those responding want us to abandon our efforts to improve present farm policies, but they are telling us that the time has come to begin thinking about how to phase out some of these government controls which are such a burden to the farmer.

I was especially impressed by the results of the two pollution questions. An overwhelming number of Idahoans endorsed air and water pollution control programs even if it means increased costs to them personally. This concern for the environment is unique in Idaho, I am told. In other polls taken around the country, the commitment to the environment declines sharply when the price tag is spelled out.

VIETNAM

Until recently it appeared that the options open to us in Vietnam were limited. The President is on a program of steadily withdrawing our forces and negotiating for the release of POW's. The main debate centered on whether or not we should have immediate and complete withdrawal of our forces or continue with the Nixon program. However, recently the North Vietnamese launched a direct invasion against South Vietnam and we have been assisting the South Vietnamese by stepping up our bombing raids.

1. Do you support the President in his efforts to assist the South Vietnamese and to protect our forces in Vietnam by the increased bombing raids on North Vietnam and the North Vietnamese invading forces? Yes, 81 percent; no, 17 percent; no opinion, 2 percent.

Other questions that remain concerning our activities in Southeast Asia are:

2. Do you feel a small U.S. military force should remain in Vietnam until all Americans held prisoner by the North Vietnamese are returned home? Yes, 77 percent; no, 19 percent; no opinion, 4 percent.

3a. Would you favor amnesty for all young men who avoided military service by leaving this country? Yes, 14 percent; no, 84 percent; no opinion, 2 percent.

3b. Would you favor amnesty if these men agreed to make up their service requirement? Yes, 49 percent; no, 45 percent; no opinion, 6 percent.

4. Do you feel the President's trip to Red China will contribute toward a lessening of tensions between the Communist nations and the Free World? Yes, 64 percent; no, 31 percent; no opinion, 5 percent.

TAXES

More and more, we hear people propose the use of tax incentives or tax credits to solve certain national problems. Some people view these as tax "loopholes" through which citizens can avoid paying their fair share. Others point to the success of such devices in encouraging industry to retrain the unemployed. All of them cost the government revenue. Would you favor the use of such devices in any of the following instances:

5. To encourage job-creating industries to locate in rural areas? Yes, 54 percent; no, 42 percent; no opinion, 4 percent.

6. To help parents meet some of the costs of sending their children through college? Yes, 43 percent; no, 53 percent; no opinion, 4 percent.

7. To help businessmen and farmers meet the cost of adopting new pollution control methods? Yes, 55 percent; no, 41 percent; no opinion, 4 percent.

8. To help defray the costs of a presidential election campaign? Yes, 17 percent; no, 77 percent; no opinion, 6 percent.

Another tax change under discussion is the value-added tax, which in practice is really a Federal sales tax. Some feel it would provide relief against property taxes and thereby help meet the soaring costs of education.

9. Would you favor the value-added tax for this purpose? Yes, 23 percent; no, 70 percent; no opinion, 7 percent.

AGRICULTURE

Last year was a difficult one for the Idaho farmer, his troubles ranging from grasshoppers to transportation strikes—from dwindling profits to rising costs. The West Coast dock strke proved the importance of foreign markets, while at home he found it more difficult to compete with foreign-made products. However, rising costs brought about by inflation continue to be the major obstacle to adequate farm income.

10. Do you approve of the wage and price controls now in effect as a tool to bring inflation under control? Yes, 66 percent; no, 26 percent; no opinion, 88 percent.

11. Are you in favor of restricting the importation of foreign-produced foods in order to firm-up prices of agricultural products? Yes, 65 percent; no, 26 percent; no opinion, 9 percent.

12. Would the interests of Idaho farmers be best served by:

a. better Federal farm programs, Yes, 27 percent; no, 68 percent; no opinion, 5 percent (non-farm).

b. fewer Federal farm programs? Yes, 26 percent; no, 56 percent; no opinion, 18 percent (farm family).

LABOR DISPUTES

In the past 10 years, Congress has been asked to intervene nine times in strikes within the transportation industry. I have usually opposed compulsory arbitration or anything else that smacks of government interference in the collective bargaining process. Nevertheless, a great many people feel a permanent legislative solution is inevitable. If this is true:

13. Do you favor giving the government the power to force a settlement of national transportation strikes (such as railroad and dock strikes) affecting the health and economic well-being of our country? Yes, 80 percent; no, 17 percent; no opinion, 3 percent.

14. Do you favor giving the government the power to force a settlement of *all* labor problems? Yes, 30 percent; no, 65 percent; no opinion, 5 percent.

POLLUTION

Many people feel that we can rid the nation of a major environmental problem, water pollution, if we set a particular date by which time the problem must be solved or polluters would face criminal penalties. Direct governmental expenditures to meet the intermediate standards for 1981 have been estimated at three trillion dollars. No estimates are available for the cost of meeting the 1986 goal. However, it is agreed that we must make a start.

15. Do you feel it reasonable to pass a law requiring that no pollutants can be discharged into the nation's streams after 1986 if in the meantime industry and municipalities are assisted in constructing waste treatment facilities? Yes, 82 percent; no, 14 percent; no opinion, 4 percent.

Similarly, the Clean Air Act sets 1976 as the date by which automative emissions must be pollution-free. To achieve the goal, horsepower and gas mileage will be reduced, while costs will increase.

16. Would you be willing to pay a higher price for an automobile (current estimate: an average of $350 per vehicle) and for gasoline (current estimate: slightly more than one cent per gallon and with fewer miles per gallon) if doing so would help achieve the 1976 clean air goal? Yes, 62 percent; no, 32 percent; no opinion, 6 percent.

THE ENVIRONMENTAL SURVEY

Late last summer, I distributed a special questionnaire to every household in the First Congressional District.

The subject was the environment: How committed are we to finding reasonable solutions? How willing are we to make a certain amount of personal sacrifices to find lasting solutions?

Approximately 15,000 Idahoans took the time to fill out the ballots and return them to my Capitol Hill office. The results illustrate again the deep commitment our people have in protecting the environment.

The results must be especially satisfying to Senator Len Jordan, who at the twilight of his career in public service can look back, secure in the knowledge that he has played a major role in making the people of Idaho concerned about environmental matters.

The first question on the environmental survey concerned mining:

1. Generally speaking, do you think that mining on the public domain should be:

Allowed, but strictly controlled? 49.5 percent.

Prevented in areas of exceptional aesthetic or environmental value? 29.4 percent.

Permitted as we have under present law? 14.0 percent.

Totally abolished? 5.7 percent.

No answer, 1.4 percent.

It isn't surprising that the majority of Idahoans selected the more moderate choices posed in this question. Perhaps the real significance here is that those who feel mining should be abolished entirely do not make up a very substantial part of the populace. Sometimes we get a different impression simply because such extreme stands are given more attention than they deserve by the national news media.

2. Do you believe that clear-cutting of our forests should be:

Allowed, but strictly controlled? 43.8 percent.

Prevented in areas of exceptional aesthetic or environmental value? 19.5 percent.

Permitted as we have under present law? 13.1 percent.

Totally abolished? 21.7 percent.

No answer, 1.9 percent.

I have cautioned the Forest Service that present clear cutting policies are not acceptable to the public and will lead to restrictive legislation. Recent studies indicate, however, that in some areas clear cutting is necessary if proper regrowth is to occur. (A good example is douglas fir which will not regenerate in a mixed stand.) Nevertheless, the timber industry and the Forest Service have sometimes overused clear cutting techniques, and that kind of approach should be stopped.

3. In building a house, should standards be imposed which substantially reduce heating and cooling energy loads even if it means 20 percent higher building costs? 44.5 percent yes; 51.4 percent no; 4.1 percent no answer.

Protecting our energy resources is as much a matter of urgency as protecting the environment. When the cost of living enters the picture, the people want to know a little bit more about the cost-benefit ratio involved. At the present time, no such detailed information has been determined, and the 20 percent figure used in this question was based upon rough estimates in testimony presented to the Task Force on Energy and Resources, of which I am chairman.

4. Are you in favor of restricting the off-road use of:

a. Trail bikes? Yes, 73.3 percent; no, 24.6 percent; no answer, 2.1 percent.

b. Snowmobiles? Yes, 60.8 percent; no, 26.2 percent; no answer, 4.0 percent.

c. Jeeps or pickups? Yes, 51.0 percent; no, 44.1 percent; no answer, 4.9 percent.

The off-road use of recreational vehicles is a matter seldom discussed in a low voice. Few other subjects can get a person's dander up more quickly. Whether trail bikes, snowmobiles, jeeps, or pick-ups, a majority of Idahoans voice objection to their use on public lands. Yet, it is clear from the increasing sales of these vehicles that they are here to stay. It is important for us to devise a plan for their use consistent with environmental protection—one that neither penalizes the owner of these vehicles, nor permits environmental destruction. I have such a plan under study and intend to introduce it before the end of this Congress.

One of the more interesting results of this question is the breakdown of the vote regarding jeeps and pickups. Ten counties favored imposing restrictions on them—Ada, Adams, Bonner, Canyon, Elmore, Kootenai, Latah, Nez Perce, Payette, and Valley. Nine others opposed restrictions—Benewah, Boise, Boundary, Gem, Idaho, Lewis, Owyhee, Shoshone, and Washington. The residents of Clearwater County split exactly even on the question.

5. Are you in favor of closing low-standard backcountry roads in order to reduce erosion and siltation? 39.2 percent yes; 57.7 percent no; 3.1 percent no answer.

The people of Idaho, while wanting to limit the use of off-road vehicles, apparently want to keep the back country roads open to vehicular travel. These roads are their primary access for camping, hunting and fishing in the mountains. A majority want to be able to continue this practice.

6. Do you favor the classification of more of Idaho's National Forest land as wilderness? 43.2 percent yes; 54.2 percent no; 2.6 percent no answer.

If your answer is yes, please check the amount of additional acreage you would like to see classified:

less than 3 million acres, 18.1 percent.
3 million to 5 million acres, 35.5 percent.
5 million to 7 million acres, 18.8 percent.
over 7 million acres, 23.7 percent.
no answer, 3.9 percent.

Idaho has the largest acreage of wilderness areas in the United States, with the exception of Alaska. It is evident by the answers to this question that the people of Idaho are expressing caution about including more Idaho acreage in the system.

7. Now that the bill authorizing the Sawtooth National Recreation Area has become law, do you feel it affords the kind of management needed in that area? 45.8 percent yes; 34.4 percent no; 19.8 percent no answer.

Under the Sawtooth legislation, the National Park Service is directed to devise a park proposal for the area. Would you favor designating part of the Sawtooth National Recreation Area as a national park? 49.7 percent yes, 42.3 percent no, 8.0 percent no answer.

The Sawtooth National Recreation Area is at last a reality. President Nixon signed the authorizing legislation into law in August, and on September 1, a dedication ceremony took place within the NRA itself. The National Park Service is devising a park plan for the Sawtooths and will submit it to Congress by December 31, 1974.

8. The Thousand Springs area in the Hagerman Valley is unique and beautiful, as well as a storehouse of geological history. Should it be:

A national monument precluding further development within the area and eventual acquisition of some private lands? 17.1 percent.

A cultural park, which would protect existing aesthetic values, while at the same time portraying the role of electrical production and fish farming unique to that area of the Snake River? 41.6 percent.

A national recreation area emphasizing the outdoor recreation potential while at the same time affording special consideration to the wildlife and geology of the area? 24.9 percent.

No further restrictions or regulations, 13.1 percent, no answer, 3.3 percent.

Seven out of every eight persons favor some kinds of protection for Idaho's geological storehouse in the Hagerman Valley. It is especially interesting to find that so many of them favored the new cultural park-concept. Park Service Director George B. Hartzog flew over Thousand Springs and the City of Rocks with me two years ago. I warned at that time we were rapidly reaching a point of decision over future management of the area's unique geology, environmental qualities and economic value. Shortly after the questionnaire was sent out Mr. Hartzog dispatched a study team to Thousand Springs. This will make it possible for the people of Idaho and their elected representatives to offer a sound management approach for governing the Hagerman Valley.

ENLIGHTENED TIME

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HOSMER. Mr. Speaker, on the last Sunday of this month, most of the Nation will turn its clocks back an hour as daylight saving time comes to an end and we revert to the so-called standard time.

With the days already growing short, I find it anachronistic that we should be deprived of afternoon daylight right at the time we need it most.

According to the Washington Post this morning, sunrise here in the District of Columbia today was a 7:14 a.m. Sunset tonight will be at 6:35 p.m.

In 2½ weeks, on the first day of standard time, the sun will rise at 6:32 a.m. and set at 5:12 p.m.

That, I submit, will be good news for the Nation's farmers, early morning joggers and early evening muggers. But for the majority of Americans, it will be bad news.

To me and 15 of our colleagues, it seems more logical and responsive to the needs of our present society that we do not set the clocks back.

The result would be year-round daylight saving time, adding an extra hour of daylight to the end of the day rather than the beginning of the day.

To that end we have introduced H.R. 5464 and H.R. 15579 to establish daylight saving time on a year-round basis. We propose that this become the "new" standard time or, as it has been nicknamed enlightened time.

And while we certainly do not expect a legislative stampede to enact this bill before adjournment, we do expect to reintroduce this measure in the next session.

We fully intend to water-drop this issue until people realize that the time zones and schedules are not established in Heaven but should be responsive to the public need.

MAN LOSES LIFE RESCUING GIRL

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BEVILL. Mr. Speaker, in these times when there seems to be so much indifference and reluctance on the part of many to become involved in other people's troubles, the heroic example of Troy Otis McCormick, of Boaz, Ala., stands as a shining example that some people do care and will get involved.

Mr. McCormick gave his life to save a 13-year old girl. The incident occurred on June 22, 1971.

To insure that this heroic action is called to the attention of as many people as possible, I am inserting a brief summary of the rescue from the Carnegie Hero Fund Commission. A Bronze Medal is to be awarded posthumously to Troy's parents.

The summary follows:

CARNEGIE HERO FUND COMMISSION CASE SUMMARY

DROWNING—FILE NO. 52139

Case of: Troy Otis McCormick, deceased.
Address: (Mr. and Mrs. Lloyd McCormick, parents) Route 6, Boaz, Alabama 35957

Bronze Medal awarded to Troy Otis McCormick, who died helping to save Janice R. Perry from drowning, Boaz, Ala., June 22, 1971. Janice, aged 13, a non-swimmer, was floating on an inflated inner tube in a farm pond. In deep water, she slipped off the tube and, flailing, called for help. McCormick, aged 28, elementary schoolteacher, ran to the pond, removed his shoes, and entered the water. He waded and swam to Janice, who grasped him. Both went under briefly. While McCormick strove to support Janice at the surface, an inner tube was thrown toward him. McCormick got the tube and tried in vain to place it over the head of Janice, who continued flailing but then managed to obtain a hold on the tube. McCormick moaned, sank, and drowned. With the aid of the tube, Janice reached wadable water.

DISTRICT OF COLUMBIA JAIL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. RAILSBACK. Mr. Speaker, I am thankful that the armed prisoners at District of Columbia Jail released unharmed the hostages they had held for nearly 24 hours in a dramatic confrontation between the inmates and Washington officials.

I do not condone the inmates seizing control of the cellblock or taking guards as hostages. There must be other means of resolving grievances.

However, the District of Columbia Jail situation did not result in another Attica. All those concerned are to be commended for resolving the tense situation without bloodshed.

Now we must turn our attention to what actions are needed to assure that such events will not happen again—both for the benefit of the prisoners, and for the security of society.

In this morning's Washington Post, Peter Osnos presented a news analysis, "Pressures Build On Prisons in Time of Change." I ask insert in the RECORD for the review of my colleagues immediately following my remarks:

PRESSURES BUILD ON PRISONS IN TIME OF CHANGE

(By Peter Osnos)

Washington's troubled prisons, like so many across the country, are caught in the deepening conflict between prisoners' demands for change and mounting community alarm over the spread of crime.

"What happens in the end is a lot of talk and no action," E. Preston Sharp, general secretary of the American Corrections Association commented yesterday. "The result is what you're seeing at the jail."

The pressures build from all sides. Inmates look for allies in progressive administrators willing to try new ways to make the institutions less destructive to the people in them. Frightened guards find support from politicians who deplore permissiveness.

The tensions erupt in recurring cycles of riots, strikes and jailbreaks. Over the years here, a succession of congressional investigations and outside surveys have portrayed the situation as grim.

And still it gets worse.

The squalid 100-year-old D.C. jail, where inmates yesterday seized Kenneth Hardy, director of the corrections department, has filled to twice its capacity in recent years as the number of arrests in the city has grown.

Last winter, after a two-year study, the American Civil Liberties Union called the jail "a filthy example of man's inhumanity to man." The report said that with as many as 1,300 prisoners in a facility built for 550, the jail was one of the five most overcrowded in the country.

In those conditions of intolerable overcrowding, the experts say, outbursts of violence are inevitable.

The jail, said ACLU in the same report, "is a case study in cruel and unusual punishment, in the denial of due process (and) in the failure of justice." The corrections staff, according to the report, "seems indifferent at best to the horror over which it presides."

The brunt of such criticism falls on Kenneth Hardy.

Ironically, it is Hardy, the man the inmates chose as their principal hostage, who has also drawn the abuse for what some critics see as an almost complete collapse of discipline in local prisons.

As director of corrections, he, more than anyone else, is caught amid the pressures.

"We have been on an incompatible course," said Robert Montilla, a former high-ranking Washington corrections official.

"Our prisons are getting more overcrowded. No new ones are yet being built. Programs that might relieve the situation aren't getting a chance."

Kenneth Hardy and his associates are reformers by disposition, tending towards rehabilitation as the way to deal with criminals. But the public mood is not so forgiving, nor are many of the prison guards. Tougher prisons, they say, is what we need.

"At the same time that expectations for corrections reform are rising," City Councilman Tedson Meyers observed yesterday, "we're getting more of the hardened guys locked up, the ones that are toughest to control."

Yesterday, attention was focused on Washington's jail. But less than a month ago, the trouble was at Lorton reformatory, the city's other major corrections facility and also the scene of innumerable disturbances in the past.

For five days, most of the inmates there struck, seeking, they said, a wide range of improvements: better medical and dental services, improved lighting for visitors, politeness from guards.

The inmates said they were making requests rather than demands. The negotiations were generally peaceful. In the end, many of the requests were peaceful. This time, Lorton did not explode.

Like the D.C. jail, Lorton is badly overcrowded. It has some 1,800 inmates in space for 1,300. The prisoners and guards there have often spoken out, describing their respective conditions as deplorable. Lately, the number of assaults among the prison population, including guards, has risen sharply.

The institution is undergoing a gradual breakdown of control, a Washington Post report concluded last month, and fear is commonplace.

Yesterday, the experts were puzzling over why the inmates at Lorton this time simply made "requests" of Hardy while the inmates at the D.C. jail have threatened to kill him.

The main difference, according to Montilla, is that most of the prisoners at the D.C. jail are there awaiting trial. Their bitterness at being locked up is not tempered by the fact that they have been convicted and must make the best possible situation for themselves.

"They don't want to strike on weekends at Lorton," he said, "because that's when they get visitors. They have things they don't want to lose there. The majority will contain the minoritly of reckless men."

There were no demands for better medical services and more politeness from the guards at D.C. jail yesterday. The men originally said they wanted one thing: to get out. The time gets longer and heavier as what seems to be an endless wait for trial continues, and that what the inmates finally wanted to talk about—the long hiatus between incarceration and trial.

Under Kenneth Hardy and Robert Montilla, who was his deputy until a year ago, an effort was made to move more prisoners out of Lorton and D.C. jail and into community centers—halfway houses. Since the jails couldn't be made better, then fewer inmates should be in them, the reasoning went.

"They gambled that they would have the time to prove the rightness of the community corrections system," said Councilman Meyers. Thirteen halfway houses were opened, but too many prisoners sent there quickly became involved again in crime. The plan foundered.

Meanwhile, said Meyers, nothing much had been done to improve the existing facilities. Congress has appropriated funds for a new institution, but construction hasn't even begun.

The dispute that must be resolved first is just what kind of prison Washington needs.

ASCS—COMMITTEE ELECTIONS

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. DENHOLM. Mr. Speaker, the town hall meetings have substantially vanished in our changing times. The farmers of this country are the last group of citizens to forsake the heritage of our forefathers.

The limitation of tenure imposed upon the farmer elected committeemen of the local Agriculture Stabilization and Conservation Service is an unwarranted invasion of the free choice of the governed.

I have proposed an amendment to existing law to permit the farmer elected committeemen of ASCS to succeed to subsequent terms of office at the will of their peers—the electors. My proposal was amended in committee to provide for a maximum of four consecutive terms of 3 years each for a total of 12 years. The existing law provides for three successive terms and a limitation of 9 years of successive service. The administration objects to any change in the existing law.

The Agriculture Act of 1970 will expire in 1973. A new national policy for agriculture will be determined in the next session of Congress. The farmers should have the lawful right to elect committeemen of their choice. In many instances men of experience will be denied the right to seek reelection in December of 1972, unless the existing law is amended—unless tenure is extended and the will of the people preserved. I do not agree that the free choice and the will of the people should be infringed upon without cause. However, the legislation that I have proposed to provide for the elimination of limited tenure has been amended to limit tenure of committeemen to a total of four successive 3-year terms. The Agriculture Act of 1970 is subject to change next year and this matter can then be considered again. I submit that H.R. 16182, as amended, be enacted.

It is right that the governed shall govern. It is right that men of experience be permitted to continue, if elected, as committeemen through any change of existing agriculture programs.

There is nothing more democratic than the procedures of the governed in the administration of their own affairs. That is democracy in action. That is a goal worthy of the best effort of every citizen of this country. I urge that H.R. 16182 be approved accordingly.

A TRIBUTE TO CONGRESSMAN WILLIAM M. McCULLOCH FROM THE REVEREND THEODORE M. HESBURGH, C.S.C.

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BRADEMAS. Mr. Speaker, I take great pleasure in asking unanimous consent to insert in the Record the text of the following letter from the Reverend Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame and Chairman of the U.S. Commission on Civil Rights, to our distinguished colleague, the Honorable William M. McCulloch, on the occasion of his retirement from Congress.

The text of Father Hesburgh's letter to Congressman McCulloch follows:

U.S. Commission on Civil Rights,
Washington, D.C., September 21, 1972.

Hon. William M. McCulloch,
House of Representatives,
Washington, D.C.

Dear Mr. McCulloch: It is a great privilege to be among those saluting you on your retirement from the House, but I hasten to add that the occasion fills me with sadness. If there is anything I can say with certainty after 15 years as a member of the United States Commission on Civil Rights, it is that the cause of civil rights will sorely miss having Bill McCulloch in Congress.

Periodically during my 15 years as a Commissioner, it has been my duty to appear before the House Judiciary Committee in the interest of legislation affecting the Commission and civil rights. I do not always relish appearances before Congressional committees, but I have enjoyed testifying before the House Judiciary Committee. It has been comforting to look up and find you there in your usual place as ranking minority member. I have looked forward to your penetrating questions, and to the honesty, fairmindedness, and reasonableness that characterize your views.

The Nation has made tremendous civil rights strides in the last two decades, and you deserve an enormous amount of the credit. I fear that many young Americans do not realize the extent of civil rights advances in the last few decades, and how difficult it has been to achieve each gain. Nothing less than a coordinated bipartisan effort could have brought us as far as we have come and made it possible to sustain that progress. The effort had to cut across party lines and enlist the support and leadership of both Republicans and Democrats of goodwill in order to succeed. It has been reassuring to those of us in the civil rights field to know in each of these fights that Bill McCulloch could be counted upon to provide essential leadership on the Republican side of the aisle.

To the growing number of Americans who declare that they are losing faith in our system, my rebuttal is the civil rights stand of Congressman McCulloch. With a constituency containing only a handful of minority voters, you could not be accused of crassly seeking minority votes in your enlightened crusade for minority rights. You had no political axe to grind. You took a place in the civil rights vanguard because you were convinced that it was the right thing to do, and because you had the courage to stand up for your convictions—irrespective of political punishment or reward. Your reward was simply the reward of doing the right thing. We would have far less cynicism about American politics if we had more politicians like Bill McCulloch.

We cannot hope to find a replacement for you, but we cannot deny that you have amply earned the joys of retirement. I am sure I speak for every member of the Commission on Civil Rights and its entire staff when I say we want Congressman McCulloch to know, as he leaves Congress, that the contributions he has made are deeply appreciated by millions of Americans and will never be forgotten.

Sincerely,
Theodore M. Hesburgh,
Chairman.

NATIONAL BIBLE WEEK OBSERVANCE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ZABLOCKI. Mr. Speaker, as cochairman of the Congressional Committee for National Bible Week, it seems most appropriate during this busiest of weeks before adjournment that we in this great body pause to pay our respect to the Bible—the source of the basic religious principles upon which our American democracy rests.

National Bible Week is being sponsored for the 32d consecutive year by the Layman's National Bible Committee, an interfaith organization, during the week of November 19–26. It is observed during the Thanksgiving week to coincide with America's only universally observed nonsectarian religious holiday.

As you know, Mr. Speaker, the central purpose of this observance is to focus national attention on the Bible as the foundation of our Judeo-Christian heritage and to motivate people to read and study the holy scriptures. In these unstable times, knowledge of the Bible and adherence to its timeless teachings can serve as that steadying source of guidance and encouragement which aided generations before us.

It is often said that the founders of our country regarded the Bible as their greatest personal treasure. The hope, the promise, the inspiration which gave them the necessary courage to continue despite all difficulties and disappointments were found within its covers.

It is impossible to overemphasize the importance of the Bible in the development of modern society. Every legal system in the world has the Ten Commandments at its foundation. Every code of organized life has the word of God at its center. Every form of government which is dedicated to the worth and dignity of man regards the Bible as its handbook of life. The values and ideals which we as Americans today cherish and honor are found within the Bible. Its contents touch upon every area of human thought and beneath its universal applicability lies a unity pointing to the direction of one divine mind.

From the beginning of our Republic, our Presidents and Government officials have used the Bible in conjunction with their oaths of office. In our courts all testimony offered is sworn to be true on the Bible. This is more than a mere symbolic gesture. It is the recognition that within this Holy Book is the word of God, the code by which all men should live. What better way to pledge man's words than to link them with His.

Amid the frenzy, the passion and prejudice, the hate and strife that mar our days, the Bible sounds a clear and single-minded call:

> Seek ye first the Kingdom of God and His Righteousness and all these things shall be added unto you.

So, Mr. Speaker, it befits us all each day, and especially during National Bible Week to pledge renewed vigilance to study and meditation of the Bible.

HONORABLE CHARLES RAPER JONAS

HON. EARL B. RUTH

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. RUTH. Mr. Speaker, I have been especially fortunate to have had Charles Raper Jonas as an adviser in Congress. Mrs. Ruth and I have had the golden opportunity to know and respect Charlie and Annie Elliott Jonas.

Today the North Carolina delegation is paying its respects to the years Charlie Jonas has served his State in the U.S. House of Representatives. By his own decision, he has chosen retirement after 20 of the best years a man can give his constituents, the Congress, and the people of America.

Almost any man who knows Mr. Jonas, from either political party, will tell you he has served with integrity, intelligence, and vision.

Charlie Jonas and his father, Charles A. Jonas, were the first members of the Republican Party to be elected to Congress from North Carolina in modern times. As a Republican, Mr. Jonas was a rare treasure to the national party, and to all of us in North Carolina, he has been a good man in public life.

He also has another unbreakable record to the people of North Carolina. He was appointed to the Appropriations Committee during his first term. Since then, his position that a good government is one that works from a sound fiscal policy has become as much a byproduct of his character as his honored title at home—"Mr. Republican."

As I said, I have been especially fortunate to have known this man and to have been a beneficiary of his guidance in Congress.

We are going to miss him—sorely miss him.

CUMBERLAND ISLAND NATIONAL SEASHORE

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. STUCKEY. Mr. Speaker, I take a great amount of pride in the final passage of legislation which I introduced and worked diligently for 6 years to accomplish: the establishment of Cumberland Island National Seashore in the State of Georgia.

Cumberland Island is the southernmost of what for more than 200 years have been known as the Golden Isles. This string of off-shore islands extends the length of the Georgia coast from just below Savannah to within 20 air miles of Jacksonville, Fla. The area to be encompassed within the Cumberland Island National Seashore includes all of Big Cumberland Island and 300 acres facing the island on the Georgia mainland. Development of Little Cumberland Island will also be regulated so as not to impair the use of Big Cumberland as a national seashore.

Reminders of the island's rich and varied past remain and would be a protected asset of the national seashore. The Timucuran Indians who enjoyed Cumberland before the coming of the first Spanish soldiers constructed burial mounds which contain archeological artifacts. Other earthen rises mark the sites of an early Spanish Jesuit mission and of an English fortification constructed by Oglethorpe, Fort Saint Andrew.

It was during the first years of English colonization that Cumberland acquired her present name. History records that the island was named by Toonahowie, son of an Indian chief, in honor of the Duke of Cumberland after the latter presented a gold watch to the Indian during a visit to England.

During the early days of the Republic and continuing until the War Between the States, the arable land of the island sustained a flourishing plantation economy producing indigo and long-staple Sea Island cotton. An early planter was Revolutionary War hero General Nathanael Greene who constructed a four-story 30-room tabbey house on the site of Oglethorpe's hunting lodge at the southern end of the island. It was while visiting at the Greene mansion that Eli Whitney invented the cotton gin. Another guest at the Greene's mansion was Lighthorse Harry Lee, the father of Robert E. Lee. The elder Lee died on Cumberland and was interred there until 1913 when his remains were removed to the Washington and Lee Chapel in Lexington, Va.

Following the War Between the States the freed slaves either left or moved to the northern end of the island where some still own plots. A planter named Stafford burned the cabins of his slaves upon learning they had been emancipated. The chimneys which served the cabins now stand in three parallel lines, mute witnesses of a bygone culture. In the absence of slave labor, agriculture proved economically unfeasible and activities on the island went into eclipse.

The somnolence of the island was broken during the last decade of the 19th century when some of the industrial elite of America discovered the attractions of Cumberland and other of the Golden Isles as vacation retreats. Andrew and Thomas Carnegie purchased approximately 80 percent of the island. The Candler family, made wealthy by the development of Coca-Cola, acquired much of the northern end of the island. The families constructed mansions such as Plum Orchard and Grey Field which still stand in decaying splendor. To enter these massive houses, which are fully furnished in pieces of the period, is to step into a time machine and be carried back to the opulence of the nation's first generation captains of industry. These spacious mansions with heavy wooden fixtures, indoor swimming pools, and rococo furnishing, if preserved, would be interesting as museums. Impressive in ruin is the three-story skeleton of Thomas Carnegie's Dungeness at the southern end of the island.

The allure of Cumberland as a vacation spot was short-lived, with it being supplanted as a favored retreat before the great depression. Nonetheless, the Carnegie and Candler families retained most of their holdings until recently. The fact that the island has been controlled by a very few people has proven fortuitous since these wealthy families prevented the development of the island as has occurred on Jekyll and St. Simons Islands to the north.

Since it is still almost totally undeveloped, Cumberland Island has the potential to become an integral part of both the national park system and of the Nation's growing program of national seashores and national lakeshores. Designation of Cumberland Island as a national seashore would, as the National Park Service has recognized, be a significant addition to the Nation's public land holdings. In 1955 the Park Service, after an extensive evaluation of the entire Atlantic and gulf coasts, concluded that Cumberland Island has one of the two best undeveloped beaches along this vast stretch of coastline and that it deserves to be preserved so that it can be enjoyed by the greatest number of people—Cumberland Island: A Challenge in the Golden Isles, p. 1—With the amount of privately owned beach declining and with additional miles of beach being consumed annually by hotels, shoreside communities, and so forth, coupled with more people having more leisure time, the availability of beaches to the public becomes increasingly critical.

Cumberland Island is the last large island along the Atlantic coast which remains almost entirely in its natural state. While the island once sustained a thriving plantation economy, most of it gradually returned to a primeval state after the War Between the States. The interior of the island is heavily forested with giant live oaks, cedars and numerous species of palms. The trees are hung with flowing Spanish moss and various vines and creepers. The forests shelter wild pigs, deer, wild turkeys as well as smaller animals.

The sea coast boasts what may be Cumberland's most impressive feature, 18 miles of gleaming white beach. If a visitor to the island has not been overcome by the solitude of the island while in the forest, he cannot help but notice the absence of man when on the beach. A multitude of shells in infinite variety cover the sand. The white sand is free of the litter of man—no soft drink cans, no candy wrappers, no cigarette packs. Indeed, standing on the beach, buffeted by the winds, you can look up and down the coast and in your reverie easily imagine that you are the discoverer of this lush isle, that yours are the first feet to mark the sand.

Back from the shoreline the winds have whipped the sand into ever-shifting dunes, some rising as high as 50 feet. The dunes protect the interior of the island from the sea and the wind and in their lee are fresh water lakes in which visitors can observe sea and shore birds or fish for bass.

While the vast bulk of the island has the pristine beauty of unspoiled beaches and subtropical forests, civilized man has left his mark. The mark rests lightly on the island's beauty however and is in no way like the deep scars of neon civilization which have marred much of coastal America. Indeed the ruins of Dungeness and the faded grandeur of Plum Orchard mansion contribute to the visitor's feeling that he has withdrawn from the hurly-burly of the 20th century and has been reborn into Shangri-la.

Cumberland Island has no paved roads, only jeep trails winding under the expansive arms of ancient trees. The primitive state of transportation on the island was brought home to the Interior Committee members who visited Cumberland last November and found one of the bridges impassable because of extraordinarily high tides. The present jeep trails, which lead to the island's points of natural and historical interest, will be excellent for hiking, bicycling, and horseback riding, once Cumberland comes under the administration of the National Park Service.

In addition to using the trails of the island, plans call for additional recreational facilities, none of which will destroy the natural beauty of the island. The beaches will be available for sunbathing, gathering sea shells, and swimming. The jetty at the southern tip of the island at the mouth of the St. Mary's River provides exceptional opportunities for surf fishing. There will also be areas available for camping for those willing to back-pack in after bringing their gear over by ferry.

Plans for development of the Cumberland Island National Seashore have been carefully made so as not to impair the natural features of the island. The island will never become a jumble of neon lights, quick food dispensaries, tourist come-ons, and motels. Available will be a back-to-nature experience which can be enjoyed by almost anyone at minimal expense. Access to the island will be limited to ferries, which ultimately will dock at three points on the island, Plum Orchard, Brick Hill, and Dungeness. The ferries will dock on the mainland at Cabin Bluff which will serve as the administrative and maintenance headquarters for the park. Visitors will be able to leave their cars at Cabin Bluff, or stay in accommodations to be built there. On the island, a vehicular shuttle, probably operating along todays jeep trails, is envisioned which will link the primary points of interest.

In addition to the potential recreational use to which the island can be put, it has examples of flora and fauna not currently found in the national park system. There are no live oak-palmetto forests or longleaf slash pine forests in the national parks. A number of types of plants on Cumberland are not found in any of the national parks and the Cumberland Island pocket gopher is found nowhere else in the world. Nor do any of the constituent units of the park system possess the range of landscape encountered on Cumberland—shore, dunes, marshes, fresh water lakes, and the flat Pamlico Terrace. The National Park Service has reported:

A representative example of the islands would move the Nation closer to a well-rounded, logically balanced system of scenic-natural parks. (Cumberland Island, p. 37.)

Cumberland Island is unique. We have a rare opportunity to preserve this enchanting isle for posterity.

Presently there are eight national seashores and four national lakeshores. Of the seashores, five are on the Atlantic coast, two on the gulf coast, and one along the Pacific coast. The authorized lakeshores border on the Great Lakes. Cumberland Island would be only the second national seashore between Cape Lookout National Seashore in Carteret County, N.C., and Padre Island National Seashore south of Corpus Christi, Tex. Along this coastline of thousands of miles, the newly authorized Gulf Islands National Seashore is the only enclave of Federal parkland at which the American public can enjoy the beauty of undeveloped, unexploited, unravished expanses of beach and coastal forest. The southeast is one of the nation's fastest growing areas yet relatively little of the coast has been preserved in its natural state for recreational purposes. The Cumberland Island National Seashore is only 20 air miles from the residents of Jacksonville, Fla. Population projections indicate that by 1976 more than 16,000,000 people will live within 300 miles of Cumberland and in excess of 40,000,000 people will be less than 500 miles from the island seashore. Further predictions are that by 1976 some 5.5 million vacationers will pass by Cumberland Island annually as they motor down the Georgia coast to Florida. Thus there are millions of Americans who would be potential visitors to the Cumberland Island National Seashore, located a few miles off Interstate 95.

The potential usage of Cumberland Island, while predominantly recreational in nature, is not exclusively so. The island, so long as it remains undeveloped, offers opportunities for scientific research. Archeologists can probe the secrets of the Indian burial mounds and the sites of early European fortifications. More significantly, the island is an outdoors laboratory for those interested in learning about the ecology of coastal islands. Segments of Cumberland Island will in all probability be reserved for research. It has been suggested that there be facilities at Plum Orchard to be utilized as a study-research center.

Steps taken by the National Park Foundation to preserve Cumberland Island came just in time. The island, after having been owned almost entirely by two families for decades, was on the verge of subdivision and development when Stoddard Stephens, a trustee of the Andrew W. Mellon Foundation, became interested in preserving Cumberland for future generations. Upon Stephen's advice the Mellon Foundation donated several million dollars to the National Park Foundation to be used to acquire a significant portion of the island. National Park Foundation efforts halted the plans of Charles Fraser, developer of the beach resort at Hilton Head, S.C., who had acquired acreage on Cumberland and intended to convert it into another commercial seaside playground. Acquisitions of the National Park Foundation will be a gift to the American people once the Cumberland Island National Seashore is created. Cumberland Island which might have become a preserve for the rich will instead be open to all citizens who love nature.

Elsewhere on the island lots have been sold to people interested in building vacation cottages. Thus, while Fraser's large-scale development has been nipped in the bud, time remains critical. The greater the delay in authorizing Cumberland Island as a national seashore, the more numerous become the landowners who must be dealt with and the more likely that the island's beauty will be marred. Currently there are several hundred acres open to subdivision. Potentially this could mean as many as a thousand new landowners and residences if this tract is divided into one-third of an acre lots.

Another motivation for speedy action on H.R. 9859 is that with each passing year the cost of land on Cumberland increases. The longer we delay, the more expensive the land will become, increasing at perhaps as much as 15 to 20 percent a year. While these prices are probably in excess of the fair market value, some of the small lots are now being sold for the equivalent of $21,000 per acre.

Slightly more than two-thirds of the island is presently owned by the National Park Foundation. The remainder of the island, slightly less than 4,500 upland acres, is largely held by five people. The National Park Foundation is presently negotiating to acquire more of the privately owned lands and is very close to concluding at least one major acquisition.

I hope that the committee will move expeditiously to insure that future generations of Americans will be able to enjoy the natural beauty of Cumberland Island. Failure to preserve Cumberland for posterity may be an irrevocable decision. Should we fail to prevent the development and despoilation of this unblemished jewel of the golden necklace along the Georgia coast, we cast die which cannot be changed for centuries. Our coastline has been transmogrified; great cities with soaring skylines, bustling ports, and opulent hotels, crowded public beaches, and resort areas have replaced the natural beauty in many places. While it is right and proper that the mask of civilization replace some of the tractless forests and unmarred shore, a great nation must not sacrifice all of its natural heritage before the icon of progress.

Cumberland Island is the only one of the Golden Isles which can be maintained in all of its primitive beauty. Indeed, it offers the best opportunity anywhere along the southern coast to set aside an unspoiled strip of beach and coast for public enjoyment. Our position now is one for which the words of the poet James Montgomery are appropriate:

> "What (we) preserve can perish never,
> "What (we) forego is lost forever."

PUBLIC SAFETY OFFICERS' BENEFITS ACT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BIAGGI. Mr. Speaker, I want to congratulate my colleague from New Jersey (Mr. RODINO) for his subcommittee's work on the Public Safety Officers' Benefits Act. The bill will give the many thousands of policemen, firemen, and corrections officers some assurance that when they risk their lives to protect the public they are not also risking the safety and security of their families.

As a 23-year veteran of the New York Police Force, I know what it is to walk a beat or pursue a criminal and fear not only for your life, but for those of your loved ones as well. Ten times, I was wounded in the line of duty and as I lay in the hospital I wondered what would have happened to my family had I not survived.

Today, with public safety officers the target of not only criminal, but political attacks, a better measure of financial security must be provided for these men. This $50,000 death benefits bill will at least assure them that their families will not have to go on the welfare rolls if they should be killed in the line of duty.

The bill is particularly good because it recognizes that not only policemen, but many other public safety officers sacrifice their lives in protecting our society. I am pleased that the committee accepted my recommendations to include firemen, both regular and voluntary, corrections officers, court and probation officers, auxiliary policemen and other public safety officers in the coverage of the bill. These men, too, risk their lives and should be adequately compensated if killed as a result of their work in the line of duty.

It is unfortunate that it took the killing of seven New York policemen in a short period of time to move the Government and the country to action. For years now, I have been calling for a recognition of the risks involved in protecting the public. Nevertheless, when the President announced his support for a $50,000 death benefits bill last May, it finally set in motion a chain of events that resulted in the passage of this important bill.

I hope now that the Senate will accept the House version as a better bill and immediately send the measure to the President for his signature. The men and women who daily man the front lines here at home need our backing. This bill is a small measure of our commitment and support for their efforts.

VANDERBURGH "WEATHERVANE" REPORTS

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ZION. Mr. Speaker, a great deal of recent publicity has focused on the institution of the political poll, its accurateness, and the men that conduct it. While I have no views on the various national polling institutions, I have been greatly impressed with the highly accurate results gained over many years from a single bellweather precinct poll in my own community of Evansville, Ind.

Conducted by Bob Flynn, political writer for the Evansville Press, the poll of this precinct has produced not only an amazingly accurate forecast of Vanderburgh County, Ind. elections but, as Vanderburgh County itself has been a national weathervane county, has forecast national trends with great precision.

Once again Mr. Flynn has conducted his poll of precinct 21, ward 4 and I would like to share the results with my colleagues. His analytical article from the Monday, October 9 Evansville Press follows:

(By Robert Flynn)

Voters in Vanderburgh County's weathervane precinct forecast such an overwhelming victory here for President Richard Nixon that a Republican sweep appears certain on Nov. 7.

A poll of the area last week showed the only candidate with a chance to outscore Nixon is another Republican, 8th District Rep. Roger Zion.

House Speaker Otis Bowen, the Republican nominee for governor, though running third, had a lead in the poll over his better known Democratic opponent, former Gov. Matthew Welsh. Eighteen were undecided.

Most of the candidates for local offices, regardless of party, weren't well known among the 86 residents polled. The answers, however, produced a disturbing statistic for the Democrats since 31 said they'd vote straight Republican, and only 9 Democrats promised the same for their party.

The other 46 said they were "undecided" about the local ticket.

The poll was in Ward 4, Precinct 21, the politically-sensitive area between Parkland Avenue and Pigeon Creek, an area bounded on the west by Heidelbach and on the east by Kentucky Avenue.

It's the same area which came within half a percentage point a year ago in predicting Republican Mayor Russell Lloyd's upset victory a month in advance.

Its importance is heightened this year because Vanderburgh County has an 82-year history as a national weatherervane.

Last week it showed that:

Only 7 of the 86 interviewed were "undecided" about the presidential race—while 73 favored Nixon and only 6 said they'd vote for his Democratic opponent, Sen. George McGovern.

Zion's opponent, Richard Deen of Milltown, a Democrat with token support, received 8 votes against 57 for Zion—with 21 Nixon backers saying they were "undecided" about any other races so far.

Last week's endorsement of McGovern and Deen by leaders of the Central Labor Council had minimum impact, as 11 of 13 polled who are members of unions in that organization said they'd vote for Nixon.

In spite of predictions to the contrary Nixon outscored McGovern 8 to 1 among the young voters, with half of the Republican's support coming from those casting their first votes in a national election.

Curt John, a 22-year-old University of Evansville senior and basketball star running for county recorder, is the best known of the local Democratic candidates and will probably lead that party's ticket.

Nixon's support, though mammoth, was not given enthusiastically at all of the doorsteps in the weathervane area.

"He hasn't done everything I hoped he would," said a Democratic railroader who switched to Nixon in 1968. "But he's certainly the best one running for president this year."

An independent voter said he's "stuck with Nixon" again this year.

"I don't like Nixon," a ticket-splitting housewife said. "I wish there were some way I could vote for McGovern, but I can't feel confident about him. He changes his positions too often."

A hard-core Republican who supported Sen. Barry Goldwater for president in 1964 put it another way. "I'm not all that impressed with Nixon," he said. "There are too many special interests for him. But McGovern won't let you vote for him."

Mixed with those comments were those of Republicans, Democrats and independents who credit Nixon with doing "a good job" after inheriting what they called an impossible situation. They credited him with bringing American troops back from Vietnam, seeking world peace, and raising Social Security payments.

McGovern's supporters included:

A young couple who said, "He might stop the war."

An older couple who "always voted Democratic."

A middle-aged woman who said she does not like Nixon or Zion.

A student at Indiana State University, Evansville, who "likes McGovern."

While Nixon appeared to have little personal popularity in the polled area, 48 of his 73 supporters voted for him in 1968. Another 13 had backed his opponent of four years ago, Sen. Hubert H. Humphrey, D-Minn., and another four supported Alabama Gov. George Wallace in that election.

Eight others will be casting their first votes in a national election.

Only two of those who voted for Nixon in 1968 said they are "undecided" about this year's election.

One Nixon supporter said he'd split his ticket for Welsh, the Democratic nominee for governor. "He's been there before," he explained. "This isn't an ego trip for him."

He also said he was voting for Zion because of the congressman's questionnaires on national issues—a process which made him feel Zion was really representing him in Washington.

A housewife who splits her vote extensively said she was influenced by candidate's appearances. She would vote for Sen. Robert Orr, Republican nominee for lieutenant governor, she said, because of his distinguished bearing.

"And I'll vote for Curt John because he looks like a blond Omar Sharif," she said.

A 19-year-old secretary had a special reason for supporting Nixon, her mother said. "Her boyfriend is back from Vietnam," the woman said "And she says it's because of President Nixon's policies."

CONGRESS GIVETH AND CONGRESS TAKETH AWAY

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ERLENBORN. Mr. Speaker, on two occasions this House has rejected motions to send H.R. 7130, the minimum wage bill, to conference. We have done so because of our concern—justified by case history—that the position of the House would not be protected in conference.

The differences between the House and Senate versions of this bill are many. Eminent among them are the Senate provision to impose financial burdens upon our hardpressed cities and the lack of a provision in the Senate bill to encourage the hiring of inexperienced young people—20 percent of whom cannot now find jobs at all.

Very simply, if this Congress, for example, tells the city of Grand Island, Nebr., that it must pay overtime to its employees—to people who have opted for unusual working hours—we will be handing them a bill for $200,000. If that is not enough, along with that bill, we will be enclosing pink slips for the teenagers who are employed by that city during the summer months.

Of course, we could tell these people that we are also sending them about $260,000 in revenue-sharing funds; and, therefore, they could manage somehow. But is this the intent of revenue sharing? I do not think it is, and neither do the mayors and presidents of our cities and towns.

I urge my colleagues to read and to ponder the plea of John Ditter, mayor of the city of Grand Island, Nebr. His plea echoes that of his fellow mayors across the Nation, and conveys in part the rationale behind this body's insistence that the sentiment of the House not be overpowered in conference:

OCTOBER 4, 1972.

Hon. JOHN ERLENBORN,
State of Illinois,
Washington, D.C.

DEAR CONGRESSMAN ERLENBORN: The City Council of Grand Island and I are very much concerned over the possibility that the Fair Labor Standards Act Amendment of 1972 if adopted is to include the provision to extend the minimum wage and overtime provision of the basic act to State and Local employees.

The Fire Fighters in the State of Nebraska have established a 56 hour work week based upon 24 hours on duty with 48 hours off duty as *their* desire for work conditions. Through lobbying with State Legislature we also operate our Ambulance operation on the same type schedule. The current salary budgeted for the personnel in these two operations is $396,827. If we maintain the same number of personnel available for duty on a 40 hour work week schedule, these costs would increase approximately 50 percent, or approximately $200,000 annually.

We do not have the final figures on the

recently passed Revenue Sharing Bill. The most recent figures, released in the local paper, indicated that our payment would be approximately $260,000. Therefore, it does appear that one bill purported for the benefit of our financial ills would be negated by the adoption of this bill.

The wage scale paid to employees of the City of Grand Island exceeds the present minimum wage with the exception of temporary summer-time help. To establish a minimum wage of either $2.00 or $2.20 per hour for these inexperienced young people, we are trying to help by employing as many as possible, would reduce the number whom we can help, thereby increasing the unemployment for our citizens.

Please give us your support and urge your fellow legislators to join you in eliminating this provision of the Bill.

Sincerely,

JOHN DITTER,
Mayor.

"HAIR" TO LOS ANGELES

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROYBAL. Mr. Speaker, on December 3, 1968, Michael Butler's "Hair" opened at the Aquarius Theater in Hollywood, earlier famed as Earl Carroll's during Hollywood's lustrous nitery era. The theater was renamed and refurbished for the event which marked the beginning of an unprecedented and, to date, unmatched success story within the Los Angeles theater milieu.

The fact that "Hair" has been seen by over 30 million people all over the world in over 30 countries and 15 languages, and the fact that after 5 years it is still in great demand and going strong in cities all over the United States and more than five major capitals in the world, testifies to the universal opinion that "Hair" is one of the alltime greatest theatrical phenomena. Its success was perhaps most striking in the case of Los Angeles, where the show skyrocketed the entire Los Angeles theatrical box office figures for 2 years, and indeed, created nationwide notice and respect for the viability of Los Angeles as a highly favorable and desirable theater market.

The figures are astonishing. Variety states that during the show's first 39 weeks the gross was $2,098,458—39 weeks in which the Los Angeles box office soared nearly 17 percent from the previous year. This highly unusual gain was directly and singularly attributed to "Hair," whose gross during that time constituted the greatest take in Los Angeles history.

'Hair's" next full year record racked up a blistering $2,712,093, pushing the local market up another 6 percent. As the longest running engagement of any major production in Los Angeles theatrical history, "Hair" continued to shatter the reputation that Los Angeles was a no-theater town.

When "Hair" closed, its final $484,920 in 12 weeks pushed the total volume to nearly $5½ million—$5½ million—for the most part spent employing Los Angeles actors, musicians, stagehands, et cetera. It also created a platform for new entertainers and talent who might otherwise never have had the opportunity, including Melba Moore, Jennifer, Ronny Dyson, et cetera.

It is more than passing notice, too that "Hair's" original engagement was physically created by Los Angeles talent for Los Angeles audiences—setting a pattern often repeated since.

After "Hair" closed, critics noted that with its loss from the Los Angeles scene, the local box office nosedived 15 percent—but many failed to see the net increase in theatrical activity was still some 30 percent above its level before the show opened.

Since then "Hair" has come and gone twice—putting perhaps another $500,000 into the Los Angeles market.

No one can doubt or even question the tremendous impact of the show on Los Angeles' theater environment, economy and financial health.

In bringing "Hair" to Los Angeles, Michael Butler established the viability for Los Angeles as a true theater town. He opened the door for legitimate entertainment by proving over and over again that the people of Los Angeles do want theater, good theater, and are willing to support and patronize that theater.

Michael Butler had the foresight to recognize Los Angeles and its tremendous potential. He had the faith in its people, its talents and its future. His continuing support and enthusiasm for the Los Angeles theater world is deeply appreciated.

INTRODUCTION OF SENSE OF CONGRESS RESOLUTION THAT A STATUE OF CHRISTOPHER COLUMBUS SHOULD BE ERECTED IN THE CAPITOL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. WOLFF. Mr. Speaker, I rise today to offer a resolution which, I feel, is especially timely in light of our observance of Columbus Day this week as one of our national holidays. We are all aware of the important role Christopher Columbus played as the discoverer of our land, and there is no need to recount once again his bravery and foresight when he made his historic voyage nearly 500 years ago.

Yet it has recently come to my attention that despite our recognition of Columbus' brave deeds by our designation of a national holiday in his honor, we nevertheless have never properly honored his importance within the halls of our own Capitol Building. Unbelievable as it seems, nowhere in the Capitol is there a statue of Christopher Columbus.

So many of our national heroes and other men and women who played an important part in the development of our country are represented throughout the Capitol Building, and I see no reason why the same honor should not be extended to the individual who set out, against great odds, to explore the unknown, and who finally reached this land.

As the discoverer of America, I believe that Christopher Columbus deserves his rightful place in the halls of our great Capitol, and by way of the resolution which I am introducing today, along with my esteemed colleagues, Congressmen BIAGGI, CAREY, and SCHWENGEL, I hereby call for this unfortunate oversight to be corrected by the placing of an appropriate statue in the Capitol.

THE TEACHER UTILIZATION ACT OF 1972

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ESCH. Mr. Speaker, educating our Nation's young people is one of the most important tasks our society undertakes. If it is possible to isolate the key factor in the educational process one must conclude that the teacher serves this role. In spite of all our sophisticated learning equipment within the system the teacher can make the difference between an educational program which is successful and innovative to the student's needs and one which is not.

I am introducing today the Teacher Utilization Act of 1972. In the past year the Education and Labor Committee has done some excellent preliminary investigation into the problems of our school systems across the Nation and possible solutions which might be included in revisions next year of the Elementary and Secondary Education Act.

Although many problems have been raised, three seem most susceptible to the solution of immediate concentrated resources. First, there is a so-called teacher surplus. Estimates from across the country count as many as 250,000 persons who have been trained to be educators but are not employed in the profession. Second, there is a definite teacher shortage in schools with high concentrations of children from low-income families. The third problem relates to the ability of school districts across the country to support additional positions for teachers so that quality education services can be provided to all students.

PROVISIONS IN THE ACT

The Teacher Utilization Act of 1972 is based on an elementary principle for allocation of resources. In authorizes $375 million in a direct grant to school districts to hire teachers. In essence, it is an immediate solution which creates no new bureaucracies. The proposal authorizes local districts to hire teachers using Federal funds and to target them into teaching slots where these new funds will not be substituted for present expenditures.

Funds for the act will be distributed in two ways. Part A grants may be used for employing classroom teachers. Obviously, this is where the brunt of any impact moneys should be allocated. There has been significant disagreement among educators as to the perfect per-pupil load for maximum teacher efficiency. One thing is for sure, increased teacher contact and individualized instructional programs do have a positive effect on children with learning disabilities. Part B funds are for the hiring of pupil personnel services specialists such as psychologists, counsellors and psychometrists. The allocation of part B funds is not to exceed 10 percent of any funds received by the district under part A.

An additional $25 million is authorized for preservice and inservice training of the teachers to acculturate them to the particular needs and problems facing the children they will be teaching.

THE SO-CALLED SURPLUS OF TEACHERS

The surplus of teachers is growing to crisis proportions. Last year our colleges and universities graduated 110,000 newly qualified teachers. This is on top of 100,700 graduates in 1971 and 54,800 teacher graduates in 1970. Many of these young people cannot find work even though there is a critical need for their skills in solving many of our educational problems.

The need for additional teachers in many of our largest school districts is well established. A recent survey of 63 of the Nation's school districts indicated that only 6 percent of the children in those districts were receiving improved teacher services as a result of the available teacher manpower. Most of the other districts in the survey characterized their financial resources as "slowing, arresting, or reversing normal progress toward improved school programs and staffing."

Children with specific learning disabilities need additional teacher intervention if we are to succeed in educating them to the limits of their potential. In the early days of the "industrial school model" we had an easy solution for such children; force them to remain out of the system. Thus, those from poor families who could not afford to attend school and those with physical and psychological disabilities who needed special attention in school were discouraged from attending. About 75 to 100 years ago this country established as a goal providing education for all of our children. The goal is still a long way from being realized, but we have made strides. Learning experiences are available for many students through the secondary level who 10 and 20 years ago were not encouraged to go on in school. We should not stand on this record patting ourselves on the back, because there is still a great deal more we can do. Although our efforts have increased gradually, many urban school systems still have an attrition rate of over 50 percent of their students between the ninth and 12th grades. Many of our elementary schools have shown declining reading scores for their children in the last 5 to 10 years.

The problems facing our schools have grown as we have taken on the task of providing a quality education for all of our students.

OUR SCHOOL DISTRICTS FACE TIGHT BUDGET CONSTRAINTS

Our school districts have been given a larger job but their financial position has shown a significant decline in the last few years. Their ability to increase resources available for improving educational quality has been under serious pressure. Ten years ago millage votes passed at a rate of close to 80 percent. Their passage rate last year was just over 40 percent. Many districts have been forced to freeze or cut hiring at a time when they need additional teacher services. To some districts this has meant the elimination of enrichment classes such as music, art, and foreign language. To others it has meant basic subject classes such as English, reading and math have teacher ratios of 50 to 1. In some districts both of these types of cuts have been instituted.

The Serrano decision has inspired a large amount of research on per-pupil ratios and level of educational expenditures between central city schools and suburban schools. Those disparities are concisely presented in the following table:

COMPARISON OF PUPIL/TEACHER RATIO IN SELECTED CENTRAL CITIES AND SUBURBS 1973

City and suburb	Pupil/teacher ratio	Per pupil expenditures
Los Angeles	27:1	$602
Beverly Hills	17:1	1,193
San Francisco	26:1	694
Palo Alto	21:1	981
Chicago	28:1	571
Evanston	18:1	757
Detroit	31:1	530
Grosse Pointe	22:1	713
St. Louis	30:1	525
University City	22:1	747
New York City	20:1	854
Great Neck	16:1	1,391
Cleveland	28:1	559
Cleveland Heights	22:1	703
Philadelphia	27:1	617
Lower Merion	20:1	733

Source: Gerald Kahn and Warren A. Hughes, Statistics of Local Public School Systems, 1967, National Center for Educational Statistics, U.S. Office of Education.

Although there will be a 4-percent decrease in enrollment in our elementary and secondary schools in the next 10 years, the requirements for decreasing teacher-pupil load so that our school districts will be able to accomplish their goals in educating all of our children will increase. Demands of educating children from low-income families are significantly greater than those from other income groups. At the same time school districts which serve large percentages of these children are faced with high turnover in personnel and a shortage in funds to hire additional personnel who can provide the personal attention to these schoolchildren whose accomplishments in school and society can be increased to match those records amassed by children in suburban districts. The relationship between wealth and educational quality is well shown in the following comparison of Texas school districts:

THE RELATIONSHIP BETWEEN DISTRICT WEALTH AND EDUCATIONAL QUALITY—TEXAS SCHOOL DISTRICTS CATEGORIZED BY EQUALIZED PROPERTY VALUATION AND SELECTED INDICATORS OF EDUCATIONAL QUALITY

	Total revenues per pupil [1]	Professional salaries per pupil [1]	Percent teachers with masters degrees [2]	Percent of total staff with emergency permits [1]	Pupils per counselor [1]	Professional personnel per 100 pupils
Selected districts from high to low by market value per pupil:[3]						
Alamo Heights	$595	$372	40	11	645	4.80
Northeast	468	288	24	7	1516	4.50
San Antonio	422	251	29	17	2320	4.00
Northside	443	258	20	17	1493	4.30
Harlandale	394	243	21	22	1800	4.00
Edgewood	356	209	15	47	3098	4.06

[1] Id.

[2] U.S. District Court, Western District of Texas, San Antonio Division. Answers to interrogatories. Civil Action No. 68-175-SA.

[3] Policy Institute, Syracuse University Research Corporation, Syracuse, N.Y.

Note: The information in this table was drawn from the report of the 1968 Governors Committee on Public School Education and official reports of the Texas Education Agency.

Several of the teacher strikes in our urban systems at the beginning of this school year were related more to issues of improving educational quality than to increasing teacher salaries.

DO SCHOOLS MAKE A DIFFERENCE?

The basis of the Teacher Utilization Act is that teachers and schools do make a difference in helping all our children to become useful, participating members of society.

In the past few months some educational critics have commented that "schools do not matter." Their gloomy assumption is that increased fund for educating children with the complex disadvantages of poverty will not solve the problems which these children face outside of school. This type of sloganeering may sell books, but it is extremely shortsighted. Social scientists cannot agree on an exact per-pupil ratio which will provide exacted learning results. On a systemic basis it is obviously almost impossible to make such broad generalizations. I have seen the results of what good teachers can accomplish at all levels. It also seems logical that up to the point of resource limitations that increased teacher contact with students, that extra bit of individual attention, will lead to beneficial results for the students.

If schools don't make a difference, then why have any schools at all? The Federal effort for our schools should be to provide that extra level of assistance to bring all our schools up to a quality standard. I would hope that American education in the seventies can accomplish the goal of providing educational opportunities to all our students which are only limited by the students' desires and abilities.

The Teacher Utilization Act of 1972 will go one step toward accomplishing that goal.

BORAX—CALIFORNIA FIRM CELEBRATES 100TH ANNIVERSARY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ANDERSON of California. Mr. Speaker, 100 years ago today, in 1872, the predecessor company of U.S. Borax was launched by Francis Marion "Borax" Smith, an ex-farm boy from Wisconsin who decided his future lay in the little known ore called "borax."

The scene was Teel's Marsh, Nev., where Smith and his brother Julius shoveled borate from the ground for refining into marketable borax. A man of genius and inexhaustible energy, Mr. Smith acquired other borate properties and, at the same time, promoted borax from a rare product into a "household staple of universal use" as he called it.

A brilliant promoter, he used all the means known to merchandisers of the period: Posters, folders, cards, giveaway games, puzzles, and claims of its utility as both a medicinal cure-all and as a food preservative, disinfectant, and cleanser.

In 1890, Smith joined forces with William T. Coleman of San Francisco, a leading pioneer merchant of great wealth and civic reputation, who owned the Harmony Borax Co. in Death Valley, Calif.

At Harmony, it was J. W. S. Perry and a muleskinner named Ed Stiles who devised the famous teams of 20 mules and the big-wheeled towering wagons to carry the ore over a desert route of 165 miles to the railroad at Mojave, Calif.

The romantic and dramatic appeal of men and animals pitted against the harsh and inhospitable desert soon made the Twenty-Mule Team a popular and picturesque trademark.

As reserves began to dwindle in Death Valley, the company began looking for other sources and in 1925, discovered a large deposit of sodium borate ore at Boron, Calif., the only one of its kind known to exist.

When "Borax" Smith began his operation 100 years ago, the total U.S. consumption of borax was 140 tons per year. Today, the Boron, Calif. mine produces up to 10,000 tons in a 24-hour day.

Today, borax is an ingredient used in making fiberglass, heat-resistant household glassware, porcelain enamel, and sealed-beam headlights for automobiles. It is also used in the manufacture of ceramics, soaps, starches, adhesives, drugs, cosmetics, insulation materials, antifreeze preparations, and fire retardants, as well as the "household staple" known to the homemaker as laundry additives and hand cleaners.

Mr. Speaker, U.S. Borax, the world's leading producers of borates, and boron chemicals, and a major producer of potash, has its headquarters in Los Angeles, a mine and processing plant at Boron, a research center in Anaheim, and a manufacturing and shipping facility at Wilmington, an area that I am proud to represent.

Since its early day operations in Death Valley, the company has contributed much to the history of California.

Presidents, managers, men, mines, plants, and methods have come and gone, and even the name of the company has changed, but U.S. Borax, as an entity, traces its heritage directly back 100 years.

Mr. Speaker, this first centennial is not only the end of a century of history, but importantly, is the beginning of a second century of growth and success.

I take this opportunity to commend the president of U.S. Borax, Dr. Carl L. Randolph, and the many men and women who have made this California business a world leader, and have brought us the famous Twenty-Mule Team products for these past 100 years.

POWER AND ECOLOGY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GUDE. Mr. Speaker, one frequently hears the cry that American industry is totally unresponsive to the public need unless there is money in it. But I would like to bring to the attention of my colleagues a proposal from a segment of industry in my district which, I believe, is a practical, well reasoned approach to solving environmental problems which so concern us all.

The Potomac Electric Power Co., which serves the metropolitan Washington area, has proposed a joint venture with the Montgomery County, Md., government which could well mark an excellent beginning in cooperation between the private and public sector to solve mutual problems.

Recently, WRC–TV editorialized on the Pepco proposal to couple two new power generating plants with a wastewater treatment facility. I would like to share that editorial with my colleagues:

POWER AND ECOLOGY

A milestone in cooperation between government and industry to aid the environment is possible in Montgomery County. Whether it will work depends upon the outcome of a study that is now underway.

Montgomery County is looking for a site for a wastewater treatment plant. Four locations now under consideration have aroused opposition in one form or another. That is the government side.

To help meet the demand for additional electricity in the Washington area the Potomac Electric Power Company plans to build two new generating units at its 1000 acre installation at Dickerson, Maryland. They would use millions of gallons of water a day from the Potomac. That is the industry side.

Now the cooperation aspect. PEPCO has offered to turn over to the county at no cost 200 acres of land for the wastewater treatment plant and further permit the use of its present rights of way for the piping needed to transport the effluent to the site.

After the wastewater is treated PEPCO will use a part of it in its power plants and return the rest to the Potomac. The sludge from the treatment process and other solid wastes will be burned by the utility in its boilers to help produce the extra power.

Montgomery County would get its wastewater site and perhaps a partial solution to its solid waste disposal problem. PEPCO would get waste for its units, and the area would get more water in the Potomac.

Utilities are often criticized for polluting the environment. In this case PEPCO deserves congratulations.

WRC-TV hopes the feasibility study makes the project possible.

OBSERVANCE OF PULASKI DAY, OCTOBER 11, 1972

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROONEY of New York. Mr. Speaker, October 11 commemorates the tragic death almost 200 years ago of one of America's greatest heroes, for it was on October 11, 1779 that the brilliant young Gen. Casimir Pulaski was shot down in battle in defense of American freedom.

America lost one of her truest and most valuable friends when British guns at the battle of Savannah killed the young Polish-born patriot who gave up his all for us—his many valued talents, his unswerving loyalty and finally his own life.

All of us who are privileged to share in the moving observance of this historic date feel a new and deepening warmth of our gratitude for this magnificent Revolutionary hero. As we join with the millions of Polish-born Americans or their descendents who today pay homage to Casimir Pulaski, we are again inspired by the magnitude of his contribution to the gaining of our independence.

Grateful to Almighty God are we that He allowed Pulaski to arrive on our shores at one of the darkest and most critical times in our history. This gallant officer asked no favors and sought no rewards for his services which he offered to Benjamin Franklin, our Ambassador to France. It wasn't hard for George Washington to recognize Pulaski's potentiality. He first was placed upon General Washington's personal staff as a volunteer. His enthusiasm, his bravery, and his military knowledge were such that he soon overshadowed many of the contemporary officers.

Pulaski had one compelling aim—that of gaining American independence by gaining military supremacy over the much vaunted British Army.

Washington supported his request to the Continental Congress to create an independent cavalry unit which became known as the "Pulaski Legion." This unit was the beginning of our American cavalry. Through the decades of glorious American cavalry exploits which followed Pulaski's initial leadership, no cavalry action exceeded the "Pulaski Legion's" magnificent fighting record at the Battles of Charleston and Savannah.

Mr. Speaker, the observance of Pulaski Day affords us all an opportunity to remind ourselves of the deep debt of gratitude we owe to the countless thousands of other Poles who like Pulaski adopted this country as their own. These loyal Americans and their offspring represent one of the most loyal and valued segments of our society. From their ranks hundreds have brought leadership to our social, economic and political life.

It was not only the military heroes like Pulaski, Kosciuszko and others who made contributions of incalculable value to our forebears. Thousands of other Poles have also given of their talents to the growth and well-being of America. They have helped to pioneer our developments in science, in industry, in social welfare, in culture, in art, and in every phase of American life.

As early as 1603 the Virginia Company brought Polish manufacturing experts and technical instructors to Jamestown. The span of time during which our people of Polish birth or ancestry have been a vital contributing part of our society covers the period of our whole existence.

Yes, this day should remind us again of events and of Polish people that amply demonstrate the debt of gratitude all Americans owe them.

Let us remember the little ship *God Speed* which in September 1608, sailed up the James River bearing six husky Polish-born artisans who followed Capt. John Smith into the woods to chop out a clearing. Within 3 weeks they had a roaring fire going under America's first glass furnace. They tapped pine trees and distilled tar and pitch. They set up a soap works and erected a saw mill. Theirs was a contribution of such magnitude that John Smith gave them credit for saving the colony.

Let us remember the exploits of Jan Antoni Sadowski, an Indian trader, better known to us as Jonathan Sandusky. This intrepid pioneer pushed through the Alleghenies for 200 miles beyond the closest English settlement to set up a trading post near the western end of Lake Erie where the city of Sandusky now stands.

These are but a hint as to the inexhaustible number of situations in which Americans of Polish origin or descent have made such valued contributions. We could flip the pages of history and be intrigued by others.

There is no facet of American life in which Americans with Polish names are not enriching this country. Just consider for a moment the field in which there is now so much public interest—that of baseball and football and note the numbers of stars bearing Polish names.

The observance of Pulaski Day means much to me. It affords me the opportunity to revive personal contacts with so many of my long-time Polish friends. It affords me a source of gratification to be reminded of the part Polish Americans have played in the growth and improvement of our country and above all, it strengthens my desire to try to emulate the great Polish American heroes to whom America will forever be indebted. I very much regret that this year unexpected personal illness requiring great care and hospitalization prevented my annual attendance in New York.

MONKEY OFF THEIR BACKS?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. RANGEL. Mr. Speaker, I am placing the following article in the RECORD and commend it to the attention of my colleagues:

MONKEY OFF THEIR BACKS?—AN EXPERIMENTAL DRUG OFFERS FRESH HOPE FOR HEROIN ADDICTS

(By David A. Loehwing)

There are perhaps 20 patients in the third floor narcotic detoxification ward of the Trafalgar Hospital on East 90th Street in New York City when Dr. Emanuel Revici, the medical director, walks through with two visitors. All the patients are drug addicts—heavy, long-term users—who have sought out the 78-year-old scientist in the hope of being cured. They are mostly young black men, although one is an attractive, 18-year-old Puerto Rican girl. Few have been there more than a week, some less than 48 hours, and none has had any narcotic since being admitted. Normally, they should be climbing the walls, vomiting incessantly, clutching their bellies in the agony of withdrawal. Despite the assurances they have received, they seem surprised that they are not suffering. "I feel fine, doctor," they all say, as Dr. Revici questions them. "No problems." The Puerto Rican girl, who has been there longer than the others, receiving treatment for needle sores, is happily flirting in one room with the four male inhabitants. "I came in to cheer them up," she explains. "They all looked so scared. They couldn't believe it would be painless."

METHADONE DIDN'T WORK

One white youth, who had been in the ward a week, tells the doctor abruptly, "I want to be discharged." Why, is he having trouble? No, he feels fine. In fact, he's certain that he's cured, and he's anxious to get back to his job as a telephone repairman. His supervisors don't know he's an addict—he had come to Trafalgar during his vacation—and if he doesn't return on time he's afraid they would make inquiries. He says he had been on heroin for five years, but for the past three he had been on methadone maintenance.

"Why did you come here if you were on methadone?" Dr. Revici asks.

"It wasn't doing me any good. It's just as bad as the horse. I wanted to be cured." Asked how he knew about Trafalgar, he says he had read a story about Dr. Revici in the New York Daily News 18 months ago. "I knew who you were right away when you came in the room," he tells Dr. Revici, in a tone of deference, as though to a movie star. "I've been carrying your picture around in my wallet for a year and a half."

Not many addicts and apparently even fewer officials in charge of drug addiction clinics have heard of Dr. Revici or his detoxification drug, called Bionar. So much is written about the subject of drug addiction that the single item in the Daily News had little impact, except on the telephone repairman. However, in the months to come, if Bionar gets a green light from the Food and Drug Administration for extensive testing, it may become an important factor in the fight against drug addiction. Ten days ago, Bionar Corp., a company formed to commercialize Dr. Revici's development, applied to the FDA for an IND (Investigation of New Drugs) permit, which would allow its use in clinics around the country on an experimental basis. Currently, methadone is being used on an IND permit.

NOT A CURE

Both Dr. Revici and Dr. Benjamin Robert Payn, president of Bionar Corp., are careful not to call Bionar a cure for drug addiction, stressing that it is only a detoxification drug which enables an addict to "kick the habit" without undergoing painful withdrawal symptoms and blocks his desire for the needle. Without psychological treatment and help in making socio-economic adjustments, however, most Trafalgar patients will relapse into addiction. Dr. Payn also stresses that an IND permit implies no endorsement by the FDA of the efficacy of the drug.

"You detoxify a patient and you send him back—where?" demands Dr. Revici. "To a home where the father is an alcoholic, the brothers addicts and all his friends are addicts. He cannot get a job, and without one he can't stay clean. One week, two weeks. The third week, so many of them tell me, they cannot stand it. They are being pushed inexorably back to the drug. There are three elements—medical, psychological and socio-economic—which must be treated together to resolve the problem of drug addiction. We can help with the first."

HAS TREATED 3,000 ADDICTS

Over the past three years, approximately 3,000 patients have been treated by Dr. Revici at the Trafalgar facility for addiction to heroin, methadone and barbiturates. About two-thirds of them were given Perse, the original formulation of Dr. Revici's drug; it was abandoned because it contained selenium, an element similar to mercury, and it seemed doubtful that he would be able to convince the FDA of its non-toxicity. The remainder of the patients have been treated with Bionar. In most cases the shots—the drug is injected into the rump—have virtually eliminated withdrawal symptoms and blocked the drug craving. There have been no discernible side-effects. Dr. Revici says few complain that the shots are painful. "I don't ask them," he adds. "If you give a patient an injection and ask him if it hurts, he will say, 'Yes, it hurts.' So I don't ask." Bionar produces no euphoria or "high" of its own. Patients say they simply feel "normal."

Application has been made for patents on Bionar, and Dr. Revici has assigned his rights to Bionar Corp. under a royalty arrangement. The company is capitalized at $100,000 and is a wholly-owned subsidiary of Compudat Scientific Systems. Formerly a computer software firm, Compudat went out of that business at the start of the 1969–70 recession, when many firms in the software field were going broke: rather than trying to overcome client indifference, Compudat decided to phase out its computer operations and look around for another business. Dr. Payn, the president, says he is seeking other acquisitions in the food and drug related area. Meanwhile, Compudat's assets consist of about $400,000 in cash and Bionar; approximately 550,000 shares are outstanding, of which about 150,000 are floating. Of Bionar's $100,000 capitalization, $55,000 was advanced by Compudat, the remainder by Camin Industries, a diversified concern also headed by Dr. Payn, which derives its principal revenues from electro-coating and mechanical forming of metals. Camin holds Bionar's note for $45,000, which is convertible at Camin's option into a 42% interest in Bionar.

STOCK HAS ZOOMED

Although news of Bionar's success in treating drug addicts has been almost entirely word-of-mouth, there have been whisperings in Wall Street, and the over-the-counter market has pushed Compudat common from around $1 per share early this year to 12¾ currently. At that price, Dr. Payn notes, the market is evaluating future profits from Bionar in the millions. "That will take a long time," he says. "While I think the company has a great future, I wouldn't like to see people using their life savings to buy the stock at this level."

Shares of Camin Industries are quoted in the over-the-counter market at 7½ bid, up from around 3 earlier this year. The company has 1.3 million shares outstanding. In the fiscal year ended May 31, on sales of $6 million, the company earned $273,583, or 21 cents per share; sales were up $79,000 from last year, and earnings again were 21 cents per share.

Not a physician, Dr. Payn holds the degree of Docteur des Lettres from the University of Paris and a Ph.D (a.b.t.) from Columbia University in political science. France has recognized his contributions to Franco-American economic and cultural relations by making him a Chevalier de la Legion d'Honneur. When Israeli shipping was barred from the Suez Canal by Egypt in 1958, he helped negotiate the concession for the Elath-Haifa pipeline, on behalf of Baron Edmond de Rothschild. He learned of Dr. Revici's work in addict detoxification through mutual friends and persuaded the scientist to allow his company to take over the financing and commercial aspects of the development. Dr. Revici, a cancer specialist before becoming involved in the drug addiction problem, was a member of the Institut de Medicine in Paris before World War II.

FUTURE IS CLOUDY

At the present time, Dr. Payn says it is impossible to estimate the future potential, from a financial standpoint, of Bionar. It is relatively inexpensive to produce and will be offered to drug addiction clinics at reasonable prices, once FDA approval is obtained for experimental use. All toxicity tests on animals have been performed at the Food & Drug Research Laboratories Inc. in Maspeth, L.I., and if nothing goes awry the IND permit from the FDA should be forthcoming in about a month.

After the IND permit is received, Bionar will be subjected to prolonged controlled study tests at the Addiction Institute in Racine, Wis., and possibly also at a state facility in Baltimore. These and other tests could take as long as a year, during which Dr. Payn says, "We should hope to recoup our costs." Subsequently, if the drug proves as effective as it now seems to be, and if there are no unforeseen side effects, it would be released for experimental use in addiction clinics across the country. Then, it could start to yield a profit for the company, but Dr. Payn says any estimates at this time would be "pure guesswork."

Besides the usual hurdles confronting the promoters of any new drug, the developers of Bionar anticipate potent opposition from doctors and government officials who, in Dr. Payn's words, "have committed themselves to methadone," the synthetic drug to which heroin addicts by the thousands are being shifted. Although methadone is every bit as addictive as heroin, it is deemed preferable to the opium-based drug because it does not produce a "high," if properly administered, and it enables patients to hold jobs and function more-or-less normally. In New York City, where there are an officially estimated 150,000 addicts (unofficially, 500,000), about 50,000 now are on "methadome maintenance."

Mallinckrodt Chemical Works of St. Louis is the principal supplier of "raw" methadone. Eli Lilly and West Chemical Works process it into a tablet, similar to Alka Seltzer, which they say cannot be broken down and injected by addicts in order to reach a state of euphoria similar to that produced by heroin. Considerable quantities of raw methadone reportedly are reaching street markets in New York and other large cities, where it is sold at high prices as a substitute for heroin.

SEE METHADONE ABUSE

Dr. Payn thinks it is important to make Bionar quickly available in drug addiction clinics across the country before the use of methadone becomes so widespread that it replaces heroin as Public Enemy No. 1. He notes that, whereas all heroin must be imported from abroad and, therefore, can be controlled to some extent, methadone can be manufactured readily in any bootleg chemical laboratory. Originally, heroin was developed as a drug to help morphine addicts turn to a less harmful opiate, but it simply replaced morphine as the chief stock-in-trade of street pushers. Many experts on addiction see methadone, aided by official sanction, as following the same course.

Dr. Daniel Casriel, originator of Daytop Village and considered one of this country's foremost authorities on drug addiction, has been using Bionar and its predecessor, Perse, for the detoxification of addicts for the past two and a half years. He says it is "extremely effective" and "certainly one of the most promising drugs for the addictive disorders that I've heard about." He says he encounters no difficulty in detoxifying heroin addicts, including long-term users with a high degree of tolerance, even as out-patients.

"LIKE FOUR QUARTS OF GIN"

Relieving methadone addicts of their physical dependence on that drug, however, is another matter. Dr. Casriel says: "Not only is methadone much more tenacious, but the cumulative amount of methadone they give for maintenance is far greater than the amount of heroin a drug addict could absorb. The reason methadone maintenance has a so-called blocking effect is that they so permeate the body with one narcotic that it doesn't react to the second one. It's like if you drink four quarts of gin, three ounces of Scotch won't make any difference. The body doesn't know from Scotch or gin, it just reacts to alcohol.

"The whole concept of methadone maintenance is to exhaust the body's response. It's ridiculous. More than that, it's a tragedy. I can understand using methadone as a method of withdrawal. But as a treatment? To my mind, this is malpractice."

Dr. Casriel, it should be noted, is an unpaid consultant to Bionar Corp. and a stockholder of Compudat. However, his affiliation with the two companies has taken place in the past few months, whereas he has been using Perse, and lately Bionar, in his practice for two and a half years. Early last year, he testified before a Congressional committee on the virtues of Bionar's predecessor drug and against methadone.

While Dr. Payn thinks opposition to Bionar will come from people who sincerely believe in methadone maintenance as the best method of combating drug addiction, others point out that there is an economic aspect as well. "It's not very difficult for a doctor to set up a clinic qualified to administer methadone," says one observer. "He can care for 100 addicts without any great strain, charging them the standard costs him about $2 per week. That's clear profit of $4,300 per week."

Treatment with Bionar normally requires five-to-seven days, although patients may be hospitalized longer if there are other complications; addicts frequently suffer from hepatitis and infections due to the use of unsterilized needles; from malnutrition; and from venereal disease. On the first day, they are given two or three 20-cc. shots of Bionar; that dosage is progressively reduced until in the latter stages of the treatment they are receiving 10 cc. per day.

Dr. Revici developed the drug in the course of his research on cancer. Besides his work at Trafalgar Hospital, he is scientific director of New York's Institute of Applied Biology and the author of a book entitled Research in Physiotherapy as the Basis of Guided Chemotherapy, with Special Application to Cancer. In working with cancer patients who had become morphine-addicted, he found that when certain forms of lipids were used instead of morphine to counter pain, they did not develop the usual withdrawal symptoms. Lipids are of two main classes, sterols and fatty acids, which are biologically antagonistic.

KEY IS BODY'S RESPONSE

When he first began his research on addiction, Dr. Revici says virtually nothing was known about the biological changes in the body that take place with addiction, or with withdrawal, either. Studying these changes by actually inducing addiction under laboratory conditions yielded few results and looked as though it was require many years, so Dr. Revici decided to try a different approach. "In a general disease condition, besides the etiological factor—the microbe or trauma—the major role is played by the response of the body to the abnormal condition." It was in the body's response to addicting drugs, rather than in the drugs themselves, that he found the biological changes associated with addiction.

To determine what were the characteristics of addicting drugs that produced the responses, Dr. Revici says he was helped by the research he had done on lipids. He found that a drug, in order to be addicting, must have lipidic characteristics. It induces an impermeabilization of the cell membrane, and consequently a series of abnormal metabolisms. The body, unable to metabolize completely the addicting drug, defends itself with lipids of opposite characteristics; these other lipids, in turn, also induce abnormal metabolism, resulting in the manifestations found in withdrawal.

"This provided our hypothesis," Dr. Revici recalls. "The addicting drug and the defense mechanism both are able to produce certain manifestations in the body, if any one of them is predominant. Withdrawal symptoms correspond to the defense mechanism, brought about by lipids opposite in characteristics to those of the drug."

EXPLAINS MANY THINGS

The hypothesis, Dr. Revici goes on, explains a number of significant things about drug addiction. One is, why does the addict require ever higher dosages of drugs in order to satisfy his craving? Because the body manufactures more and more defense substances which must be neutralized by the drug. Again: How can a person addicted to one drug, like heroin, be shifted so readily to another, like methadone, when chemically the two have practically nothing in common? Explanation: both are lipids with one common characteristic—they can neutralize the defense lipids. Most importantly, if the body is deprived of the drug, the defense substances induce metabolic changes which correspond to withdrawal symptoms.

The problem remained of finding a non-addictive lipid with which to neutralize the defense substances, but which would not stimulate further output of those substances. Moreover, it had to be immediately effective. "With a cancer case," says Dr. Revici, "you treat it with a medication, and if you get a favorable result in a month you are lucky and happy. But with addiction, if you don't get some results in an hour or so, the patient becomes panicky." Then, too, there was the question of toxicity, which Dr. Revici ran into with Perse. Although as far as could be determined it was non-toxic, the presence of selenium in its formulation promised endless difficulties in proving it to be harmless. "Fortunately, we discovered

Bionar, which contains no selenium and consequently eliminates these difficulties."

Dr. Revici says Bionar promises to be equally effective in detoxifying alcoholics, since in alcoholism the same physio-pathological processes take place. As yet, however, little testing has been done on alcoholics.

Nevertheless, Dr. Payn sees its eventual use in alcoholic treatment centers. Providing its tests on large numbers of patients prove encouraging, it is potentially a more rewarding field for Bionar than drug addiction. Dr. Casriel even looks forward to the time when the medication may be freely available in pill form, for drinkers who want to straighten up after too many martinis. "Think of the lives that would be saved," he points out, "if you could pop one into your mouth at the end of a party and sober up before driving home."

OUR NATION SALUTES THE ESSEX COUNTY-NORTH JERSEY BLOOD BANK ON ITS 25TH ANNIVERSARY OF PUBLIC LIFE-SAVING SERVICE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROE. Mr. Speaker, it gives me great pleasure to join with you and my colleagues here in the Congress in extending heartiest congratulations and deep appreciation to the Essex County-North Jersey blood bank upon the celebration of their silver jubilee of outstanding public service to the people of our community, State, and Nation in their dedicated efforts to provide pure and safe blood and encourage the concept of volunteerism in the most comprehensive vitally important life-saving work they administer on a daily basis.

The Essex County-North Jersey blood bank is a nonprofit organization sponsored by the Essex County Medical Society and licensed by the Division of Biologics Standards of the National Institutes of Health and the American Association of Blood Banks. As the oldest blood bank in New Jersey and a founding member and active participant in the New Jersey Blood Bank Association, they have continued to excel in always seeking the highest standards of excellence in their health care services to hospitals and patients throughout our region.

This blood bank is recognized as a prime mover and organizer of the New Jersey Blood Exchange, a program in which the needed quantity of the proper blood type is located through the maintenance of a daily blood inventory in hospitals and community blood banks throughout our State. In order to alleviate blood shortages and surpluses, the New Jersey facility developed a plan to transport rare and emergency bloods via the "pony express life savers," a unique project of volunteer drivers now in operation under the auspices of the New Jersey Association of Hospital Auxiliaries. Another special service is the computerized rare donor file which, combined with the large inventory of whole blood maintained at all times, has made it possible to search for and locate rare bloods for patients with difficult transfusion problems.

In their continuing efforts to provide the most innovative techniques for optimum purity and safety of their life-saving blood bank, it is interesting to note that their long term liquid nitrogen freezing program, the only one of its kind in New Jersey, makes it possible to store blood in this manner from 3 to 5 years, compared with the 21-day life of whole blood in normal refrigeration.

The achievements and statistics that the Essex County-North Jersey blood bank has compiled during the past 25 years of their historic advancements in the collection, banking and dispensing of pure and safe blood in the best interests of hospital and health care are applauded by all of us. Their exemplary performance has encouraged greater confidence, support and increasing dependence upon their blood bank services by all of our citizens. During 1971 alone, the blood bank has provided more blood and services to patients than at any time in their history reflecting an increase of more than 35 percent over the previous year. A total of 38,393 bloods and blood components were distributed to 56 hospitals in the New Jersey Counties of Essex, Passaic, Union and Morris.

I particularly commend to you the officers and members of their Board of Trustees whose leadership and active participation in establishing this formidable record of achievements as well as encouraging hospitals and other blood banks to promote and develop similar programs in their areas. A roster of their present membership is as follows:

LIST OF MEMBERS

Harvey P. Einhorn, M.D., President; Olga Haller, M.D., Vice President; William C. Young, Secretary Treasurer; John E. Farrell, Assistant Secretary Treasurer; Herbert L. Goodman, M.D., Medical Director; Robert C. Kammerer, Managing Director; Walter J. Hamilton, Assistant to Director, Recruitment Director; Helen C. Luby, and Laboratory Supervisor.

Board of Trustees: Edwin H. Albano, M.D.; Donald B. Beirne, M.D.; Arthur Bernstein, M.D.; William M. Brown, William J. Cornetta, Jr., William D. Crecca, M.D., Richard P. Donovan, Melvin Freundlich, M.D., Kenneth E. Gardner, M.D.; Gustav L. Ibranyi, M.D.; S. William Kalb, M.D.; Jack T. Kvenland; John J. McGuire, M.D.; Arnold M. Potash; Anthony Scala; and John L. Work, M.D.

Honorary Trustees: Kenneth A. Gibson, Mayor, City of Newark; William S. Hart, Mayor, City of East Orange; John S. Thompson; and Francis W. Brennan.

Mr. Speaker, I appreciate the opportunity to participate in this national recognition of the Essex County-North Jersey blood bank and am pleased to have you join with me in saluting the good works of this most distinguished health care facility upon the celebration of its 25th anniversary in service to our people.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

A SOCIAL SECURITY PROGRAM TO BENEFIT THE WAGE EARNER

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HEINZ. Mr. Speaker, 1972 marks the 37th year of operation of the social security program. Although we have done a commendable job in the 92d Congress to eliminate many, many inequities in the system and to boost benefits by 20 percent, there still remain unresolved problems which severely damage the economic status, the morale and even the health of millions of retired Americans who depend on social security.

Because I feel very strongly that we must make some basic changes in our social security program to prevent the benefits from being eaten away by constantly rising costs, inflation and the new demands of a changing society, I am today introducing a bill which, I believe, goes far towards removing the injustices to the working man by effectively insuring the relative standard of living for those who have worked hard all their lives.

My bill, unlike the present system, bases benefits on wages over individual years of coverage in the system rather than on changes in prices. The effect is to protect a retiree's relative standard of living. What's more, my bill rewards those who contribute the greatest amount of income to the system and those who are covered by it for the longest period of time. Patterned in part after successful systems developed in such Western European countries as West Germany, my proposal goes to the heart of the problem that under social security retirement means poverty after a lifetime of work. At present many retirees receive an inadequate income, even with the 20-percent increase, because wages have risen so rapidly within the recent years that even a retired worker's years of highest earnings no longer compare to today's average wages. It is my hope, then, that through reform we can insure a worker an adequate benefit when his retirement age is reached.

In effect, my bill guarantees workers that their investment in the form of social security taxes paid will give them an adequate return when they themselves retire, not a declining standard of living. In order to consider the merits of my bill, let us look at our present dilemma in social security. The Government has been myopic with respect to retirement needs. Government's method of determining benefits is based solely on the unrealistic assumption that wages remain the same over a period of time. In other words, social security has always assumed that a person's relative standard of living can be protected if the benefits are protected against inflation. This is a totally false assumption for it is easy to see that what was enough—in constant dollars—to permit a decent standard of living 30 years ago is obviously inadequate today. Thirty years ago society was less demanding and complex, the environment was less dangerous, and far less was needed to mitigate the effects of a simpler, less consumer- and consumption-oriented social structure. Today, living poses a more difficult and more expensive challenge.

On a comparative scale, over the 10-year period 1958 to 1968, while pensions rose by 29 percent and prices by 20 percent, wages actually rose by 43 percent. Clearly, although inflation has eaten away much of the workingman's purchasing power, he is in a much better position than the retiree and his pension, payments of which are based on prices.

In hard terms, this deficiency in government economic policy has allowed basic economic progress to sweep away retirement security.

Social security, as it now exists, has only played sporadic "catch-up" with the inexorable growth of inflation. Meanwhile the disparity in the standard of living grows between those who now work and those who have retired from work.

What we ought to be doing is to live up to the basic goals of the social security program, namely to promote a most fundamental long-range solution to the problem of securing economic security in the face of risks to earned income which came through old age, disability and premature death of the head of the family. I believe we must reassert our intent to guarantee minimum income support for the aged American, the disabled, and for dependent survivors. I also believe we must help moderate the decline in earning standards when the earnings of the family head drop or are lost through retirement, disability or death. And I am convinced we must develop a better system for dealing with the economic catastrophe of retirement: Today 30 percent of our elderly are classified as poor, and only one-third of the elderly have incomes large enough to provide at least a moderate level of living as defined by the Bureau of Labor Statistics as $3,900 for a retired couple. Security is defined as freedom from fear and anxiety. My bill, which follows, provides freedom for social security beneficiaries.

We are also faced, today, with increased and very legitimate and understandable concern about rising social security payroll taxes. This concern is well-founded because our present social security fails to deliver its money's worth, and it fails at least two obvious ways.

First, todays wage earner knows that his contributions to the present social security will not mean a decent standard of living when he or she retires. As proof, one has only to look at the condition of a parent or elderly friend heroically, and stoically in so many cases, trying to "make it" on social security.

Second, today's wage earner also knows that the present system does not, I repeat, does not give him retirement income in proportion to what he or she has contributed to social security. Social security payments are not now based directly on the number of years worked and the amount earned per year. It is the purpose of the legislation, which I introduce today, to remedy both these inequities. I believe that in doing so, we can construct a social security system which will be fair and equitable to both those who benefit from social security and equally fair and rewarding to those who now are asked to pay the bills for this program.

What follows is the text of the bill:

H.R. 17107

A bill to amend title II of the Social Security Act to improve the computation of an individual's old-age, survivors, and disability insurance benefits by providing a formula under which such benefits will reflect both the current wage levels at the time of such individual's entitlement and the length of such individual's coverage

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 215 of the Social Security Act is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"Primary Insurance Amount

"(a) For the purposes of this title, the primary insurance amount of an insured individual shall (subject to subsection (i)) be an amount equal to one-twelfth of the product of—

"(1) such individual's average annual earnings for benefit purposes as determined under subsection (b), and

"(2) such individual's length-of-employment factor as determined under subsection (c).

"Average Annual Earnings for Benefit Purposes

"(b)(1) As Used in subsection (a), the term 'average annual earnings for benefit purposes' with respect to any individual means—

"(A) an amount equal to the current national average annual earnings base as determined under paragraph (2), multiplied by

"(B) such individual's computation factor as determined under paragraph (3).

"(2)(A) The term 'current national average annual earnings base', with respect to any individual who becomes entitled to old-age or disability insurance benefits, or dies, in a given calendar year, means the average of the national earnings base (as determined under subparagraph (B)) for each of the 3 calendar years immediately preceding such given year.

"(B) The 'national earning base' for any calendar year is the average amount of wages and self-employment income, per employee or self-employed individual, reported to the Secretary of the Treasury or his delegate and certified to the Secretary for such year.

"(C) The determinations required by subparagraphs (A) and (B) shall be made annually by the Secretary and published in the Federal Register.

"(3) An individual's 'computation factor' is a percentage figure derived by—

"(A) determining for each of such individual's years of coverage (as determined under subsection (d)) the percentage which the total of such individual's wages and self-employment income for such year is of the national earnings base for such year,

"(B) adding together all of the percentage figures determined under subparagraph (A), and

"(C) dividing the sum obtained under subparagraph (B) by the number of such individual's years of coverage.

"Length-of-Employment Factor

"(c) As used in subsection (a), the term 'length-of-employment factor' with respect to any individual means 0.015 multiplied by the number of such individual's years of coverage (as determined under subsection (d)).

"Years of Coverage

"(d) As used in subsections (b)(3) and (c), the term 'years of coverage' with respect to any individual means the sum of—

"(1) the number (disregarding any fraction) determined by dividing the total of the wages and self-employment income credited to such individual for years after 1936 and before 1951 by $900, plus

"(2) a number equal to the number of calendar years after 1950 (and before the year in which such individual become entitled to benefits or dies) in each of which he is credited with wages and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year."

SEC. 2. Section 215(e) of the Social Security Act is amended—

(1) by striking out "subsections (b) and (d)" and inserting in lieu thereof "the foregoing provisions of this section";

(2) by striking out "average monthly wage" each place it appears and inserting in lieu thereof "average annual earnings"; and

(3) by striking out "computed under subsection (b) or for the purposes of subsection (d)" and inserting in lieu thereof "as otherwise computed under this section."

SEC. 3. Section 215(f) of the Social Security Act is amended—

(1) by striking out the second sentence of paragraph (2) and inserting in lieu thereof the following: "Such recomputation shall be made under subsection (a) as though the year with respect to which such recomputation is made were the year in which such individual became entitled to benefits or died."; and

(2) by striking out "; except that" and all that follows in the first sentence of paragraph (5) and inserting in lieu thereof a period.

SEC. 4. Section 215 of the Social Security Act is further amended by striking out subsection (i), and by adding after subsection (h) the following new subsection:

"Effective Date of New Benefit Formula; Special Rule for Determining Primary Insurance Amount of Individuals Becoming Entitled to Benefits or Dying, Before Effective Date

"(i)(1) The provisions of subsections (a), (b), (c), and (d) of this section, as amended by the law which added this subsection, shall apply only to individuals who (without regard to section 202(j)(1) or 223(b)) first become entitled to benefits, or die, after 1972.

"(2) The primary insurance amount of any individual who (without regard to section 202(j)(1) or 223(b)) first became entitled to benefits, or died, in a year before 1973 shall, with respect to months after 1972, be determined in accordance with regulations which shall be prescribed by the Secretary and which shall produce for any such individual a primary insurance amount which—

"(A) bears the same ratios to the maximum, minimum, and average primary insurance amounts determined for other persons who become so entitled or died in the same year as the total amount of such individual's wages and self-employment bears to the maximum, minimum, and average total amounts of wages and self-employment income credited to such other persons; but

"(B) shall in no case be less than it would have been if determined under the provisions of subsections (a), (b), (c), and (d) of this section as in effect immediately prior to the enactment of the law which added this subsection."

SEC. 5. Section 215 of the Social Security

Act is further amended by adding at the end thereof (after the new subsection added by section 4 of this Act) the following new subsection:

"Promulgation of Tables Reflecting Benefit Levels

"(j) On or before January 1 of the year 1973, and on or before January 1 of each year thereafter, the Secretary shall prepare, publish, and promulgate a series of two-column tables reflecting—

"(1) in column I, the primary insurance amount which will be applicable (for months in such year) on the basis of different levels of average annual earnings (within the meaning of subsection (a)(1)) in combination with various length-of-employment factors (within the meaning of subsection (a)(2)), and

"(2) in column II, the maximum amount of total family benefits which may be paid with respect to each primary insurance amount shown in column I.

The minimum primary insurance amount, as shown in column I, shall bear the same ratio to the first figure in column IV of the table in subsection (a) as in effect immediately prior to the enactment of the law which added this subsection as the current national average annual earnings base (within the meaning of subsection (b)(2)(A)) for the year involved bears to the corresponding figure (as determined by the Secretary) for the calendar year 1972. The maximum amount of total family benefits shown in column II with respect to any primary insurance amount shall bear the same ratio to such primary insurance amount as the most nearly comparable maximum amount of total family benefits shown in column V of the table in subsection (a) as in effect immediately prior to the enactment of the law which added this subsection bore to the primary insurance amount shown on the same line in column IV."

Sec. 6. (a) Section 202(m) of the Social Security Act is amended by striking out "column IV of the table in section 215(a)" each place it appears and inserting in lieu thereof "column II of the table promulgated for the year involved under section 215(j)".

(b)(1) Section 203(a) of such Act is amended by striking out "in column V of the table in or deemed to be in section 215(a) on the line on which appears in column IV" in the matter preceding paragraph (1) and inserting in lieu thereof "in column II of the table promulgated for the year involved under section 215(j) on the line on which appears in column I".

(2) Paragraphs (2) and (3) of section 202(a) of Public Law 92–336 are repealed.

(c) Section 213(c) of the Social Security Act is amended by inserting "(as in effect on July 1, 1972)" immediately after "section 215(d)(1)(C)".

(d) Section 217(b)(1) of such Act is amended by striking out "the amount" in the first sentence and all that follows down through "except that" in the second sentence and inserting in lieu thereof "an amount determined under section 215 as in effect prior to the enactment of this section, except that".

(e) Section 223(a)(2) of such Act is amended by striking out the second sentence.

(f) Section 230(a) of such Act is amended—

(1) by striking out "Whenever" and all that follows down through "as required by section 215(i)(2)(D))" and inserting in lieu thereof "On or before November 1 of each year after 1973 the Secretary shall determine and publish in the Federal Register";

(2) by striking out "(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))"; and

(3) by striking out "in which such quarter occurs and" and inserting in lieu thereof "in which such November 1 occurs and".

Sec. 7. Except as otherwise specifically indicated, the amendments made by this Act shall apply with respect to months after December 1972.

LADY BIRD'S BEAUTIFICATION AWARDS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. PICKLE. Mr. Speaker, as the Nation's First Lady, Mrs. Lyndon B. Johnson led America to a new plateau in efforts to clean up the Nation's highways and beautify American roadsides.

When she left the White House she took her interest and concern to her home State where she established and financed the Lady Bird Johnson Highway Beautification Award.

The award is not designed to the planners and thinkers of efforts to keep Texas highways beautiful, but for the men directly responsible—the State's highway maintenance foremen.

These are the men behind the beauty and yesterday I was privileged to meet with President and Mrs. Johnson as the 1972 award was given to Mr. Cullen Luttrell of Sonora, Tex.

The runnerup for this year's award was Mr. Melvin Bayless of La Grange, Tex., which is in my congressional district.

The Texas Highway Department is the largest landscape gardener in the State. Its crews maintain 800,000 acres—an area larger than the State of Rhode Island—of grass, trees, and wildflowers along roadways.

Mr. Luttrell's award is a tribute to all the efforts of the maintenance crews that help keep Texas beautiful.

I think the press reports detailing those who are helping enhance the beauty of Texas highways merits the attention of the Members and I include them in the Record at this point:

[From the Austin American-Statesman, October 12, 1972]

Lady Bird Awards Presented

(By Nat Henderson)

Stonewall.—An employee of the Texas Highway Department for three decades, Cullen Luttrell of Sonora, was named winner of the 1972 Lady Bird Johnson Award at the "Academy Awards Luncheon" for highway beautification at the LBJ State Park Wednesday.

Melvin Bayless of La Grange, who worked in the dismal depths of West Virginia coal mines before going to work for the Texas Highway Department in 1950, won the runnerup award for his leadership in making Texas roads among the best and most beautiful in the nation.

Mrs. Johnson presented Luttrell, maintenance construction supervisor for Highway District 7 at Sonora, a plaque and a $1,000 check. The former First Lady gave Bayless, maintenance construction supervisor for Highway District 12 at La Grange, a check for $500.

The other three finalists among 20 nominees for the third annual Lady Bird Johnson award were Milton C. Campbell, supervisor for District 5 at Ralls; Burnaldo Rivera, a maintenance construction foreman in District 1 at Falfurrias; and Harold Smith, a supervisor in District 10 at Rusk.

Longtime radio and television star Arthur Godfrey, whom Mrs. Johnson said spends much of his time traveling throughout the nation and "preaching the gospel about conservation and ecology," flew to the LBJ Ranch Tuesday to help former President and Mrs. Lyndon Johnson honor the outstanding Texas Highway Department construction and maintenance supervisors and foremen.

Godfrey, a close personal friend of the Johnsons, told guests at the awards ceremonies, "This is one of the few times in my life I've been a little bit speechless, because of the obvious dedication down here of just plain Joe Citizen."

Godfrey praised Texas highway programs and the employees who implement them. He said he particularly was impressed by the planting of wildflowers along the highways and using those which grow best in each area.

"Using flowers indigenous to that part of the country is the first lesson of ecology," Godfrey said.

He praised Mrs. Johnson for continuing her beautification programs since leaving the White House.

"History will prove that alongside the name of Martha Washington will be the name of Lady Bird Johnson," Godfrey said. "Washington, D.C. would be a shambles without her."

Mrs. Johnson arrived at the LBJ State Park an hour and a half before the start of the ceremonies to visit with highway department personnel, state officials, friends from the Hill Country and newsmen from across the state.

Mrs. Johnson mentioned many instances of the propagation and spread of bluebonnets and other wildflowers along the 70,000 miles of road in Texas as well as the placing of other trees and plants on the highways and in the 1,100 roadside parks.

She specifically called attention to "that glorious long strand of oleander as you leave Austin and head toward San Antonio."

She added, "You have to think how you would like that littered with beer cans, billboards and trash."

Dr. Elo Urbanovsky, a professor at Texas Tech University and chairman of the panel of judges for the Lady Bird Johnson Awards, took the names of the winners from an envelope and handed them to Mrs. Johnson at the ceremonies.

She searched through her purse as Godfrey held it to find the checks. Mrs. Johnson wrote in the names of the winners, because she did not know them until then.

Dewitt C. Greer, chairman of the Texas Highway Commission, presented Mrs. Johnson an oil painting of the first roadside park in Texas in behalf of the commission and the department.

The large landscape painted by Mrs. Willard Dyer of Round Rock showed the roadside park, probably the first in the nation, as it looked when it was constructed in 1930 by William Pape, a highway department foreman at La Grange.

The park on State Highway 71 between Smithville and La Grange has been in continuous use through the years, although it has been improved. Further expansion of the park is planned to coincide with forthcoming highway improvements on the road.

President Johnson had his own awards program after the main ceremonies.

"This is always a very proud day for me," the President said in a reference to the annual awards ceremony inaugurated by Mrs. Johnson. "This is her love. There is nothing in the world anyone could give her that gives her the pleasure of seeing the beauty of her native land."

President Johnson noted that U.S. Rep. Jake Pickle of Austin flew Wednesday from Washington to attend the ceremonies. Later at the luncheon, the Johnsons brought in a birthday cake for Rep. Pickle.

Pickle said Wednesday was his "annual 49th birthday."

President Johnson noted that he gave Pickle a job building a roadside park when Johnson was head of the National Youth Administration (NYA) in Texas.

Pickle's staff in Washington and Austin gave him a gift in keeping with Mrs. Johnson's beautification programs. Mrs. Johnson has been urging the beautification of Town Lake in Austin, and Pickle's staff took up a collection for the Austin Parks and Recreation Department to plant a Spanish oak on the parkway along the lake in the Congressman's name.

Mrs. Johnson earlier had made references to the planting of Maximilian daisies along the roadsides of the LBJ Park by other residents of the Stonewall, Johnson City, and "Fredericksburg areas.

President Johnson said he was going to present Rufus Jones, highway supervisor in the area, the "LBJ Maximilian Daisy Award." He noted that Jones recently suffered a heart attack.

President Johnson quipped, "I think the thing that brought on both of our heart attacks is having to plant all these wildflowers."

He gave Jones a check for $500, telling him to keep half of it and give the other half to his men.

The President then gave LBJ Ranch hats, wildflower scarves, and books on the LBJ Country to several men and women. He gave Godfrey a gold wristwatch.

As the President signaled the end of the awards ceremonies, he told the audience, "Thank each and every one of you for the love of this land and this country."

Lady Bird Johnson Honors "Bluebonnet Seed Man"

(By Katherine Dillard)

Stonewall, Texas.—A gracious lady offered her thanks Wednesday to a man who, like Johnny Appleseed, has spent 30 years nurturing trees and spreading a blanket of blue over a harsh and dry land.

Lady Bird Johnson gave her Highway Beautification Award to Cullen Luttrell of Sonora, maintenance construction supervisor, in ceremonies at Lyndon B. Johnson State Park.

The former First Lady's thanks carried a real monetary reward, her personal check for $1,000.

Luttrell, a spare, balding man, has become known in Sutton and Schleicher counties as the "bluebonnet seed man."

From his first years with the Highway Department, he has carried a large sack of harvested seeds in his car, spreading them along the roadsides. He offers packages to all who will plant them.

Luttrell discovered a patch of rare white bluebonnets along a ranch road right of way. He has gradually spread the variety throughout the Sonora landscape.

The highway man has became known, too, as a man who always had a way with trees. West Texas was in a severe drought when he took over the Sonora maintenance section.

He began hauling water to the live oaks on the right of way.

"Through his efforts we have these large, stately trees to enjoy today," says District Engineer J. A. Snell of San Angelo.

Last summer, Luttrell found small Chinese elm tress growing on Highway 277. He marked each elm with a red flag so mowers wouldn't cut them down. Now, there are some 100 elms flourishing along the road.

An audience of several hundred conservationists, highway officials and members of the press watched her recognize other beautification efforts, too.

For the first time, Mrs. Johnson gave a runnerup award to Melvin Bayless of La Grange, supervisor for Fayette County, and her check for $500.

Bayless worked in the coal mines of West Virginia before coming to work for the Highway Department 20 years ago.

He has transplanted every highway, in his jurisdiction into a wildflower garden. He furnishes surplus seed to eight other counties in the Yoakum district.

District Engineer Carl Ramert of Yoakum says he works so diligently because he has not forgotten these early days in the mines devoid of beauty.

Three other highway supervisors received Special Citation Certificates for beautification work: Milton C. Campbell of Ralls, Rumaldo Riviera of Falfurrias and Harold Smith of Rusk.

Mrs. Johnson was informal and relaxed. Her smile matched her simple, sunshine yellow shirtwaist dress and sensible walk shoes.

As she went to get the checks out of her big purse, she laughed and quipped: "I've got to find them in my purse. Every lady knows it takes a little bit".

As the honored men watched, President Johnson put in, "She holds on to those checks 'til the last minute."

Then, Texas Highway Commission chairman turned the tables with an award for Mrs. Johnson and these words of praise:

"The inspiration that Mrs. Johnson has given over the years is the greatest morale builder the highway department has ever had."

Greer said he spoke for "18,000 loyal souls" in the vast system which handles 70,000 miles of Texas highways. It has been declared the finest in the nation.

Greer presented her with an oil painting of the first roadside park in Texas—and the nation—on Highway 71 in Fayette County, built in 1930. The Texas Good Roads Association commissioned the painting by Mrs. Willard Dyer of Round Rock to express its appreciation.

President Johnson, looking tanned and fit in a beige suit with brown and white striped shirt and dark brown tie, was not to be outdone by his popular wife.

"He is the man in my life who always has the last word," she laughed as she turned the attention to him so he could make his own awards.

To Rufus C. Jones, construction supervisor of his home (Gillespie) County, he gave the "LBJ Maximillian Daisy Award" and a check for $500. Jones is recovering from a heart attack and Johnson said he and his men needed this recognition.

(Lady Bird is planting her latest enthusiasm, Maximillian daisies, all along the fences in their area. That's how the award got its name.)

To Mr. and Mrs. Art Kowert, publishers of the Fredericksburg Standard, he presented the LBJ Ranch Hat and a specially designed Molly Parnis wildflower scarf, for their dedication to the beautification of the Hill Country.

His last gift was a muchly prized watch to the Johnsons' old environmental friend, Arthur Godfrey, who flew down in his Beechcraft Baron, a sleek twin engine job, to be honor guest.

Godfrey praised the "obvious dedication of Joe Citizen, just plain people" who have made such a success of beautification projects in Texas.

"In other parts of the country, they build a road and couldn't care less what has happened to it."

Of Lady Bird, Godfrey said "Her influence has been seen and enjoyed throughout the nation. Washington would have been a shambles without her."

Congressman Jake J. Pickle from Johnson's 10th District celebrated his birthday and got a cake at the barbecue luncheon which followed.

Attending from Dallas were L. B. Houston, retiring park director, and Mrs. Houston; Maurice Acers, president of the Beautify Texas Council, and Henry Lambert, landscape architect.

WILL MECHANIZED SMASHERS HELP?

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. NIX. Mr. Speaker, I would like at this time to include in the Record an article which appeared in the Gary Post Tribune on September 13, 1972, entitled "New Mail Techniques—Better or Worse," underlined by the question "Mechanized Smasher"?

This article sums up much of the criticism directed at the Postal Service as the result of my hearings on the postal construction program:

Mechanized Smasher?: New Mail Techniques—Better or Worse?

(By Ed Zuckerman)

Washington.—The brave new world of the U.S. Postal Service mail handler will be a push-button world of computers and optical character reading machines.

The further mail handler will have another technological miracle at his side—the "automatic sack shake-out system"—to empty the heavy canvas mail sacks onto a table where other machines will take over the task of mail sorting.

The vision of machines performing the human task of emptying sacks is disturbing to some.

"Now they'll have a machine to crush our packages," was the dim observation from a Postal Service critic.

But it doesn't necessarily means that parcel-handling by machine will be worse than human-handling, especially if the time-honored suspicion—that postal clerks give an extra hard toss for the packages with "fragile" markings—is an accurate one. The machines, unable to distinguish the fragile from the non-fragile, seemingly would crush all packages equally.

Under the traditional, human system parcels could be thrown anywhere from two or four feet into containers. With the machines, no parcel would be dropped more than nine inches.

The machines are not designed to minimize damage, according to a Postal Service official. They are being installed purely for relief of "the very large amount of manual labor required to pick up and shake out each of the sacks."

H. F. Faught, senior assistant postmaster general who offered the explanation while testifying before a House Post Office and Civil Service subcommittee, said damage control would be achieved as the result of "fewer handlings."

The mechanical mail sorting equipment will be the prize feature of a national bulk mail processing system, consisting of 21 major and 12 satellite installations. The facilities will handle bulk mail only—such things as parcels, newspapers, mail order catalogs and advertising circulars. The cost of construction and equipping the network, which is to be operational in 1975, is an estimated $950 million. Postal authorities claim the new system will trim annual operating costs, based on current labor and volume, by about $300 million.

At the same time, the Postal Service is constructing a 177-building network to process preferential (first class) mail utilizing similar high-speed equipment. Those buildings, to be operational in 1978, will cost an estimated $4 billion and will yield annual operating savings of about $1 billion.

Congressional critics of the proposed systems are doubtful that the networks can be established within the $4.95 billion cost estimate. They have uncovered huge cost overruns at one major installation, located in Jersey City, N.J. There, a building originally estimated to cost $62.3 million will now cost $130.1 million. Duplication of such cost overruns at other installations, if they occur, would surely make the postal service estimates much lower than the actual cost, they feel.

Another area of criticism is generated by the distances between the preferential and bulk processing centers. The preferential centers are being located in the midst of cities while the bulk centers are located on the outskirts of major metropolitan areas, close to interstate highways and rail marshalling yards.

"Why can't they build them across the street from each other?" pondered Thomas Kennedy, an aide to the house postal subcommittee. "That way they could have a single parking lot or a central cafeteria. Or, when employes have no preferential mail to sort, they could be shifted to bulk mail.

"The postal service has never explained it to us. They just say 'it's better, it's better, it's better,' " he said.

Most of the anticipated savings in postal operating costs is based on the increased volume which postal service officials feel will come through the new systems and their service improvements. But the congressional critics question whether service really would be improved.

The one facet of the new system they feel could worsen service is the elimination of sorting in the local post offices. Except for those few parcels which stay in the same local postal delivery area, all parcels will be shipped directly to a bulk mail processing center where machines will perform the sorting work.

The critics, eager to debunk the system, have posed hypothetical delivery situations and have asked the postal service to supply the route which packages would follow. The hypothetical tests involve bulk parcels because—simply because there are fewer bulk centers than there are preferential centers—the distances involved are greater.

A favorite example cited by the critics is the routing of a parcel from Marquette to Sault St. Marie—two communities in Michigan's upper peninsula which are 167 miles apart. Because they are situated in separate bulk zones, a package would travel a circuitous route to reach its destination—a 961-mile journey which circumscribes Lake Michigan.

The first step on the Marquette-Sault St. Marie journey is a post office at Iron Mountain, Mich. from there it would be sent to a satellite bulk facility in Milwaukee, then to a major bulk facility in Chicago, then to another major bulk facility in Detroit, then to Mackinaw City, Mich., before making the final leg of the journey to Sault St. Marie.

HON. ALTON LENNON

HON. EARL B. RUTH

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. RUTH. Mr. Speaker, after almost 17 years in Congress, my colleague from North Carolina, ALTON LENNON, has decided to retire.

I would like to point out today that ALTON LENNON retires with distinction as a lawmaker, and with the greatest respect from his colleagues, his constituents, and the many people in North Carolina who have witnessed his achievements in public life.

ALTON LENNON has spent almost all of his professional life in the public eye. He has been a conscientious and capable servant as a State legislator and a judge. And, he is one of few men in American history who has served in both the U.S. House of Representatives and the U.S. Senate.

Although he sits on the other side of the aisle here, I have sought his opinions and I have valued his advice.

Mrs. Ruth and I wish ALTON and Kay Lennon better years yet in their retirement.

HON. ALTON LENNON

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. GARMATZ. Mr. Speaker, I consider it a very personal honor and privilege to join my colleagues today in paying tribute to Representative ALTON LENNON for his truly outstanding contributions to the U.S. Congress, to his Nation and to his native State of North Carolina.

During my 25 years in Congress, I have brushed elbows with many legislators and I have met all kinds of men, but I have never respected or admired anyone more than I have AL LENNON.

As a legislator, this man has no peers. In addition to being a lawyer and a U.S. Congressman, he has also been a judge and a senator in the North Carolina General Assembly, and he served as a U.S. Senator before becoming a member of the House of Representatives.

But, even more impressive than his background is the dedication, the skill and the thousand natural abilities that AL LENNON brought with him when he came to Congress. I can tell you from personal experience that he put his talents to good use here in Washington, because I have had the good fortune to have AL serve for 15 years on our Committee on Merchant Marine and Fisheries.

I do not feel it necessary to dwell upon the outstanding job he has done in the halls of Congress. The eagerness of so many of his colleagues here today who want to join in this tribute is indicative of his contributions in that respect. There are so many other things he has done, and there are so many stories I could tell of this man's unique talents and accomplishments; but, unfortunately, I have neither the time nor the eloquence.

I will tell you that his quiet energy, his keen, searching mind, his amazing grasp of the complex legislative process and his wonderful, articulate way of expressing himself—with that delightful North Carolinian accent—have been a joy and a blessing to our committee. I think he is the embodiment of the perfect Congressman.

I can also tell you he has been an inspiration—a shining example—to the younger Congressmen of our committee, who have learned and benefited from watching and listening to AL LENNON. This man has been one of the solid rocks of our committee. He has been as the anvil and the forge in hammering out some of the most important legislation that ever emanated from our committee.

Although he is chairman of our Subcommittee on Oceanography, his leadership and his contributions have not been limited to oceanographic matters, and he has also served with distinction on our Subcommittee on Merchant Marine, our Subcommittee on Fisheries and Wildlife Conservation, and our Subcommittee on Coast Guard, Coast and Geodetic Survey and Navigation. The American maritime industry, our Nation's fish and wildlife resource, the Coast Guard and our Nation's total welfare have all benefited from the work of this quiet but effective man.

Through the years, I have been privileged to work closely with AL LENNON, both in committee and in the Congress as a whole. In addition to realizing that he is a warm and gracious human being, I have been struck with one constant and overpowering impression: throughout the intricate weave of his legislative career, there has emerged a persistent pattern, dominated by a boundless, sincere enthusiasm for his work and a deep, unswerving love for his country.

Mr. Speaker, it is with genuine warmth and affection that I say I am proud today to pay tribute to AL LENNON, a great American, an outstanding legislator and—what is probably even more important—one of the finest gentlemen I have ever known. I wish him a long, happy and healthy retirement.

CAPITOL FLAG GIVEN TO OHIO SEA EXPLORER SHIP 272

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. J. WILLIAM STANTON. Mr. Speaker, today I would like to pay a special tribute to a group of young men and women, members of Sea Explorer Ship 272, Northeast Ohio Council, Boy Scouts of America. These young people from Lake, Geauga and Ashtabula Counties in my district exemplify the most commendable attributes of responsible leadership.

Unselfishly, they have given up their vacation weekends to host tours of the obsolete World War II submarine U.S.S. "Cod" at Cleveland's lakefront. During this past Labor Day weekend they escorted almost 6,000 persons through the veteran ship.

Trained by veteran submariners to host these tours, these explorers have contributed a great public service toward the establishment of a submarine park-museum. This important adjunct to the existing educational and recreational facilities of northern Ohio is sponsored by the Cleveland Coordinating Committee for Cod, Inc., a nonprofit Ohio corporation. Indeed, as the largest warship raised entirely out of water, it may well become a point of national interest.

For their extraordinary service, it will be my pleasure to present to these Scouts a flag that has flown over the Capitol. I am sure you join me in saluting the members of Sea Explorer Ship 272 for their exemplary service to their community.

AN ITALO-AMERICAN CARNIVAL WORKER FINALLY BURIED—61 YEARS AFTER DEATH

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BIAGGI. Mr. Speaker, 3 months ago, I began work on a case so bizarre and dehumanizing that even recounting its details now sends shivers through my spine and stirs up a tremendous feeling of outrage within my soul.

In mid-July, Father S. M. Tomasi, director of the Center for Migration Studies in New York, forwarded to me a column from a local newspaper, the Raleigh News and Observer, which described one small town's facination over the last 61 years with the remains of an Italo-American carnival worker, Forenzio Concippio. He received the column from Robert Di Pietro, a professor of linguistics at Georgetown University.

In the quiet back woods town of Laurinburg, N.C., the major source of entertainment, it seemed, was this mummified corpse, called "Old Spaghetti," on display in a glass-covered plywood box in the garage of the local funeral director, Hewitt McDougald.

Concippio was killed in neighboring McColl, S.C., by a fellow carnival worker, who clubbed him over the head with a tent stake after an argument. Local officials took the body to M. J. McDougald, the present funeral home owner's father, and arrested the killer.

While McDougald was making arrangements with Vincenzo Concippio for the burial of his son, the local wheels of justice were moving to free the killer on the grounds both were foreigners and it was a waste of the State's time to conduct a trial.

The elder Concippio did not have sufficient funds to pay for the burial and said he would send the balance due at a later date. Unfortunately, the father met a fate similar to that of his son and was killed shortly thereafter in Alabama. McDougald thus had possession of the body.

For 61 years, the elder McDougald and his son found notoriety coming their way with "Old Spaghetti" propped up in the corner of their garage. Townspeople and passers-by alike made frequent pilgrimages to view the corpse hanging by a rope across his chest and clad only in a loin cloth. In recent years the dehydrated skin grew taut and moldy and the teeth protruded to form an anguished smile.

Yet people still came in growing numbers to see the mummy, their visits nearly reaching the point of religious fervor. One woman, educated at the local St. Andrews Presbyterian College and now residing in Washington, said in a letter to me:

> . . . Spaghetti is loved and cherished by not only the residents of Laurinburg but by the students of the College as well. . . . he is an honored and loved guest at Mr. McDougald's funeral home. Why should you want to stuff him into a box and put him in the ground where no one would visit him or talk to him anymore?

I could not countenance a continuation of this barbaric act of human indecency. I wrote to the entire North Carolina congressional delegation asking their assistance in ending this affront to human dignity and insult to Italo-Americans. The initial response from some was greatly disappointing. "It is not a Federal matter," some argued thus dismissing their obligation to humanity. However, others shared my outrage that such a crime could take place in their State and aided me in my battle. I owe a special word of thanks to my colleague from North Carolina (Mr. BROYHILL) for joining with me in seeking a resolution to the problem.

I contacted the funeral director, McDougald, asking what he would charge to bury the body. He said he would need the OK of a relative before burial and then would insist on a 25 cents a day storage fee for the last 61 years, plus burial costs—a sum amounting to over $5,000.

While I had not sought it, by this time, the press had taken an interest in the matter. One Associated Press story in late August caught the eye of my colleague from Michigan, Mr. DIGGS, himself a funeral director and mortician in Detroit. Incensed by the lack of professional ethics displayed by McDougald, Mr. DIGGS fired off a telegram to the North Carolina Funeral Directors Association saying:

> Vehemently protest the continued retention and display of the remains of Forenzio Concippio by the McDougald Funeral Home of Laurinburg, North Carolina. It is sacrilegious, ghoulish and the body having been publicly named "spaghetti" involves ethnic aspersions. . . . As the only licensed mortician in Congress, I urge you in the interest of preventing the further ridicule of our profession to press for the immediate and decent disposition of the late Mr. Concippio.

The Congressman's telegram struck a responsive cord in the State. Two days later the State Board of Funeral Directors and Embalmers sent a delegation to see McDougald and the coffin was closed.

McDougald remained adamant, however, that he would not bury the body without his $5,000 fee. I was convinced more than ever that this was nothing more than a ransom for the body and directed my efforts at forcing burial of the body through legal channels.

I contacted the Governor of North Carolina, Robert Scott, and the Catholic bishop of Raleigh, Vincent S. Waters, asking their assistance. At the same time, I released a plea through the press for a massive letterwriting campaign to urge the Governor and the bishop to take action.

Disappointingly, the bishop wrote back saying:

> It is a civic and legal problem and not a religious one.

An unfortunate cop-out for a prelate of the church.

The Governor, however, already feeling the public pressure in his own State, asked the Attorney General Robert Morgan to find a way to force burial of the body. In late September, the attorney general's office issued the statement that Deputy Attorney General James Bullock would personally visit McDougald to negotiate for the burial. If McDougald failed to respond the attorney general was prepared to take the case to court.

By now, letters were pouring in to the Governor's office and my own office from all over the country. People found it hard to believe that the remains of a human being could be used for such barbaric display purposes. These people were not only Italo-Americans, but people of other ancestries, religions, and backgrounds. They were concerned human beings angered that such atrocities were still taking place in America.

McDougald, too, found the fire too hot for his liking and agreed to bury the body. Saturday, September 30, was the day set by McDougald for the burial in Laurinburg. Despite requests by myself and others the date was not revealed in advance. It was kept a closely guarded secret by McDougald and the town of Laurinburg, with the exception of a short announcement in the local paper 2 days before the burial.

An enterprising reporter from the Charlotte News and Observer, Roger Mikeal, was able to pry loose the information about the funeral from the housekeeper of the priest who was to perform the religious service. With only hours to reach Laurinburg, Mikeal and a photographer raced down from Charlotte to be on hand for the early morning burial.

About 100 of the townspeople gathered at the funeral site. A short distance away, McDougald was placing the remains of Forenzio Concippio in a bronze casket supplied by an unknown donor. On hand to witness this loss to Laurinburg were the elders of the town: The city manager, the president of the bank and several of its directors, the chief and deputy chief of police, and selected other dignitaries; McDougald wanted witnesses.

The official service at the gravesite was quick—about 5 minutes. People were quiet, if not respectful.

But then the scene changed. As if directed by the master of the bizarre, Federico Fellini, under a darkening sky, the townspeople began to laugh and joke as they waited for the 2 feet of cement to be poured over the casket, permanently sealing Concippio in his grave. McDougald wanted to make sure nobody would steal the remains.

In the final press report by Mikeal, quotes from those in attendance revealed once again how deeply this corpse was enmeshed in the culture of the people of Laurinburg, how grotesquely death had been the life of the town.

> I really hate to see him buried. I appreciated seeing him the way he was and all.

> I got a kick out of seeing him and my kids get a kick out of him, to see him dead.

Said a young mother in her twenties.

> I think he was too valuable to bury him. They dig them mummies up in Mexico and charge to see them. This one was free.

A man remarked as he fondly held up a photo of himself and the corpse.

One man wrote a check for $10,000 to "Spaghetti" and threw it into the wet cement.

> I hope he has a good time spending it and enjoys every penny of it—

He said, laughing vigorously.

"You'd feel funny if you got that in your next bank statement," replied another, roaring with laughter.

Yet other townspeople let their humanity filter through such as in the words of one elderly woman who said:

> I feel sad for him. I've had sons and he's somebody's son.

Yet another said:

> I really was ashamed. I think we saw an injustice there.

With the last shovel full of dirt and a few small wreaths tossed on top of his grave Forenzio Concippio was finally laid to rest. With his burial, man perhaps moves one step closer to his own humanity, closer to a day when his efforts to lay waste to his own race are laid aside in favor of building a better world in which to live.

ENVIRONMENTAL DISTURBANCES CALLS FOR CONTROLS

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. RAILSBACK. Mr. Speaker, in recent years the environmental disturbances caused by unrestrained strip mining practices has resulted in calls for Federal standards and controls. In the absence of reclamation, the scars of strip mining can be terrible—not only degradation of the landscape but the human misery caused by slides, siltation, and water pollution are matters of the greatest concern.

In acting to meet this problem, however, we must not overlook the fact this country is faced with an energy crisis of growing proportions. We are faced, therefore, with developing a policy which balances our responsibility of protecting the environment with the necessity for developing a program to meet our energy needs. I believe that Federal involvement in the form of regulations governing and assistance for reclamation is essential and the bill we passed yesterday is a constructive step forward. I also believe that ways can be found to keep the coal industry viable to meet our energy needs, and at the same time, provide for the necessary environmental protection through safeguards and reclamation.

Fulton County, Ill., in my congressional district, has been the site of extensive strip mining since 1923. So the facts and the problems caused by strip mining may be called to the attention of my colleagues, the following two articles about Fulton County which appeared in the Sunday Magazine of the October 1, 1972 Chicago Tribune are inserted in the Congressional Record:

The Earth is not Enduring

By Casey Bukro

The first coal strip miners in Illinois scratched the earth near Danville in 1866. Since then, 165,988 acres of Illinois land have been torn open in places to a depth of more than 100 feet to reach the underlying seams of black coal—a feat not even envisioned at the advent of strip mining, also known as surface mining.

Mechanization makes such depths in strip mining possible, and some of the biggest earth-moving machines in the world are used in strip mining. Considered the granddaddy of them all is a $25 million power shovel with a boom as long as a football field and jaws that strip away 200 cubic yards of earth with every mouthful. It is at work in the coalfields of eastern Ohio.

Some of its smaller cousins, tho, are at work in Fulton County, Ill., the most strip-mined county in the state. Almost 10 percent of Fulton County, or 50,000 acres, have been churned up since strip mining began there on a large scale in 1923.

The history of this central Illinois county shows that strip mining does more than just churn up the earth, often leaving it barren and desolate. It also causes a churning in the hearts and minds of those who have watched the strip miners at work.

Strip mining is not pretty. The surface of the land is first scalped of trees, houses, woods, or hills. Then giant earth-moving machinery is brought into carve a trench often 90 feet wide and as much as 120 feet deep. Much of the machinery is strangely quiet because it is electrically operated by giant cables.

Earth, clay, rocks, and shale (called "overburden" by miners) are stripped away until seams of coal several feet thick or more are exposed, looking like a black-top roadway at the bottom of the trench. Power shovels scoop up the coal and put it in trucks that haul it away to a processing plant.

A trench like that might run one or two miles long. Then the earth-moving machinery makes a sharp hair-pin turn and forms another trench parallel to the first, dumping the overburden into the first trench.

In this way, the typical "washboard" pattern of spoil banks 30 and 40 feet high seen in strip mining fields that might cover hundreds of acres are formed, ending with a large open trench called the "final cut."

Some people say the washboard pattern of spoil banks in a stripped area resemble welts or wounds caused by raking claws; it looks that painful. The sheer size of strip mine earth-moving equipment and the ease with which the machines tear the giant troughs into the ground often is unnerving to an onlooker who considers the earth solid and enduring.

The national battle over the consequences of strip mining centers partly around the issue of land reclamation.

Reclamation of land that once was stripped works, says Jack S. Lowary, farm manager of Peoria Farms near Farmington, Ill. Peoria Farms in Fulton County is operated by Peabody Coal Co., which is credited by some Illinois officials with developing a model strip mine land reclamation program.

"Some of the farms are making $50,000 a year net income," said Lowary. "If you can make that kind of living, the land's not worthless." After strip mining, the land is leveled and seeded for pasture on which herds of cattle are raised. The farms are created by combining tillage land never mined, with acres of land reclaimed and used for pasture.

Where once there were mining scars and spoil banks, the gently rolling fields are green. Some of the cuts in the land were left open, so that they formed fresh-water lakes for watering and fishing. But evidence of the neglect and destruction of strip miners is not far away.

Near Cuba, Ill., the shambles of 30 and 40 years of strip mining still can be seen. Black piles of wastes washed from coal, known as "gob" piles, still stand. When it rains, water seeps thru the gob piles and emerges again in the form of sulfuric acid known as "acid mine wastes."

The acid wastes drain away in bright orange pools and streams, killing everything they touch. They turn acres of land into a dead swamp with trees bleached white like bones. Rivers contaminated with the acid wastes become lifeless for hundreds of miles.

To combat this and ruined mine fields, Gov. Ogilvie has announced as $1.2 million program to restore 50,000 acres of abandoned strip mine lands over the next 10 years. It is estimated that Illinois has about 65,000 acres of land that was never reclaimed by strip miners. An estimated 100,000 acres of stripped land in Illinois has been reclaimed to some extent, even if it meant only planting trees in spoil bank areas.

Strip mined coal is about $1.50 a ton cheaper than coal mined in tunnels. But conservationists point to the barren and ugly strip mining fields and assert that neither the strip mine operators nor the consumers pay the full cost of stripped coal.

They say strip mined coal costs should include environmental damage, the price of repairing the land after mining, and devaluation of stripped property.

"In most cases, it is impossible to calculate the vast environmental and social effects of coal stripping," said Malcolm Baldwin of the Conservation Foundation. "But the difficulty of measuring such costs should not lead to the erroneous conclusion that they are insignificant; they are merely elusive."

Many of these costs are being passed on to society as a whole, conservationists say, such as the Illinois taxpayers being asked to pay $1.2 million to repair the ravages of strip miners who raped the land and left with their pockets jingling.

Sometimes the spirit of one man offers hope in solving a tough problem like strip mining.

Phillip Ripper, 78, of Route 1, Canton, Ill., is a man like that. Not so much because he has persistently resisted efforts by strip mining companies for two decades to buy his 500-acre farm but because he recognizes the long-term value of land and has stubbornly resisted going the way of neighbors who have sold out.

"I don't think it is right to destroy a farm," said Ripper. "That's what you do when you take the soil off."

Tho concern for the environment is popular today, Ripper incurred the wrath of his neighbors who said he was "standing in the way of progress" by refusing to sell his land to strip miners. Ripper stayed on to watch his neighbors sell out, and see them forlornly patrolling the boundaries of their former property until farm buildings and then the farms disappeared under the jaws of the stripping machines. Ties to the land are not easily broken, says Ripper.

"You ought to leave the land better than when you found it. This farm is better than when I got it. When a man goes, it should be at least as good as when he got it."

The farm has been in the Ripper family since 1917; Ripper inherited it from his father. He intends to give it to his son, William, 46, who feels the same reverence for land as his father.

Ripper also is concerned for future generations. "How are they going to feed people after they tear up the farmlands?" he asked. "They are taking more and more land out of cultivation."

Even the promise of making millions did not daunt Ripper, who told of one land buyer for the coal mines offering "to make a millionaire out of you" if he sold.

"I said I didn't want to be a millionaire," said Ripper, looking at a point several hundred feet from his farmhouse where a giant water-filled trench in the earth showed how close the strip miners had come to his land, which is virtually surrounded by strip mining. But pressures against him continue, such as the time he had to go to court to prevent a coal mine company from closing the only road to his property.

THE LAND HOLDS SECRETS OF THE PAST

(By David Nicholas)

When Paul Bunyan and his blue ox Babe dug the Mississippi River, they would have welcomed the help of the machines that strip mines use today. An aerial view of an active Illinois strip mine area will often look like the dredging of a wide and deep river. Machines lead the way that are capable of lifting thousands of tons a day of dirt, rock, artifacts, and profitable minerals; and smaller machines follow in their wake, clanking thru the debris to salvage what supports their operation. In parts of Illinois they seek coal, often digging down 100 feet or more and changing the face of the countryside.

The coal seekers bypass little. Everything goes, and once it is turned upside down, strip mined land is seldom good for more than light grazing, tho some areas have been planted with trees and a few reserved for wild game. Fish have been stocked in some of the trenches that have filled with water, and several of the areas have been worked over with earth-moving equipment to fill them or flatten them. Much of the strip mined land, however, looks like the mountains of the moon.

The miners own the mining claims and the tenants generally sell the land to the mining companies when the machines get close. Several generations of living side-by-side have shown the farmers and the miners how to get along with one another. Leases, lease purchase agreements, and a dozen different kinds of documents keep land available for the mining of coal. The coal is needed in our country, and may have an even greater value in the future as other fossil fuels become harder to find. Research continues on more efficient methods of mining, but most of the coal remains well below the surface of the land, so that much of the research concerns bigger and better machines that can dig up more ground even faster.

Power companies and many coal mines have a close relationship. The mines supply the coal to the power companies; the power companies burn the coal and produce electricity; the mines use the electricity to power the machines that dig the coal. So it seemed a natural thing when the Central Illinois Company (known as CILCO) decided to build a coal fired power plant and cooling lake next to an operations area of The United Electric Coal Companies in Fulton County.

Long before coal companies or power plants, some 10,000 years ago, scientists tell us that man came to Central Illinois. Thousands of Mississippian Indians inhabited the area. Their villages dotted the region, but their most important settlements were made on the bluffs above the rivers where water and food were readily available. Such an area was the valley of the Illinois River. Eight major Indian villages were built, one every 10 miles or so south on the river bluffs from present day Peoria. It was a lush region. The flood plain of the Illinois River, below the bluff, was a rich area for fish and water fowl with game available almost at the whim of the hunters. So, until the white men chased the Indians across the Mississippi, the natives prospered in a setting in which life was not too difficult.

One of the eight major village sites, now known as the Orendorf property after one of the non-Indian owners, lies near what will one day be CILCO's cooling lake. The Indian village cannot be seen today; the remains lie under a cornfield. But you can still identify the burial mounds on the bluff. It will take careful excavation and considerable time to uncover the village. However, there is not much time left. Sometime in the next few years, machinery will excavate the village site and keep right on going down until it reaches the coal that underlies the whole area.

South of the proposed cooling lake is another Indian area called Dickson Mounds. The Mississippian Indians, sometimes called "The Mound Builders," would bury their dead in piles, bringing in nearby earth to cover them as each burial occurred. Eventually the mound could reach heroic proportions, as in the case of Cahokia Mound in South Central Illinois. The Dickson Mounds Museum was developed over a burial mound. Part of the museum is simply an excavation of the low hill showing the remains of more than 100 Indians and their tools, utensils, and jewelry with which they were buried.

Dickson Mounds were named after the man who owned the land and first excavated the Indian sites. Illinois maintains the area now and has spend more than a million dollars to construct a suitable building to hold the many exhibits. With a formal center of Indian study established in Fulton County, archaeological assessment of the nearby areas has accelerated. Part of the area at which the archaeological surveyors have looked is the land where CILCO's lake will be situated. Before the ownership of the land was transferred to CILCO, 37 sites of possible archaeological value on the 8,800 acres involved had been identified. One of these sites is the Orendorf village.

CILCO held several public hearings in Fulton County to present plans for the power plant and cooling lake. Dickson Mounds personnel listened and asked some questions. A later meeting between the power company and the museum people resulted in the archaeologists making an estimate of the cost of surveying the power company land for additional Indian sites. They also prepared a budget for the excavation of the tentative locations of relics and the removal of artifacts before the mining machinery moved into the area. The survey was estimated to cost $2,200. The excavation plan was set at a cost of $143,500.

There are few laws governing the excavation of archaeological sites. Since the 1860s, when the original mining exploration acts were written which charted the course of mineral exploration in our country, only a few archaeological protection acts have been enacted. If minerals are under a high density residential area, the law protects the homeowner. If a mining company wants to dig on federal land, artifacts must be salvaged first. If a federal license is issued for the building of a dam, any historical discoveries must be preserved. However, artifacts on privately owned land are normally not protected. So it is in the majority of the cases on the CILCO land. Only two of the 37 original sites of archaeological interest are in the future bed of the cooling lake. The rest lie in the path of the coal company expansion.

Dickson Mounds sent a letter to the Peoria area news media stating that CILCO would not finance either an archaeological survey or excavations. The news release also said that a meeting had taken place between all three parties involved: CILCO, The United Electric Coal Companies, and the archaeologists. No agreement to bypass the Orendorf site or to finance further efforts was reached.

Then it was CILCO's turn. They, too, sent a release to local news media. In it they said that they needed to be financially prudent in committing large sums of money and that CILCO posed no danger to the Orendorf village and to the majority of the proposed archaeological sites. CILCO asked why, after knowing of the existence of a number of the sites for many years, no excavations had been undertaken in the past. No news release on the subject was sent to the media by The United Electric Coal Companies.

How important is this archaelogical exploration? Scientists tell us the answer is that we actually have very little information about the history of man and these particular people that lived long ago in this region. Only more artifacts and study can fill in the knowledge gaps.

How important is the Orendorf site? The answer is that the Orendorf site is the only remaining source from which historians can piece together the social and religious life of the prehistoric Mississippian Indian culture. The other seven town sites have either been partly or, in most instances, completely destroyed without the benefit of sufficient scientific investigation.

Why were other village sites destroyed? Basically the most important reasons are: first, the heavily populated state of Illinois has put much of the land to practical use in farming, mining, and manufacturing at the expense of what might have been on the land in less crowded times; second, archaeological investment is a fairly new and relatively minor interest in the state. There appears to be no way that all parties associated directly with the situation can be satisfied. If CILCO pays for the excavation, the public will pay for the cost in the form of rising rates. If the coal company bypasses the village site, it will lose the profit in the coal underlying the preserved area. If the state subsidizes the excavation, the cost will be passed on to the taxpayers at a time when taxpayers are asking for cuts, not increases.

A private foundation recently donated the $2,200 for a survey of the 8,800-acre area. So far, because of the up-dated survey work, the number of archaeological sites has increased from the original 37 to 43. More and more possibilities are being uncovered, but it will be of little value after the area has been strip-mined or flooded.

What is more important? Should we dig for tomorrow or expose mysteries of yesterday? Do we have an obligation to pursue the fuel for the future or the patterns of the past?

HON. ALTON LENNON OF NORTH CAROLINA

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to our able and genial colleague, the gentleman from North Carolina, ALTON A. LENNON, who is retiring at the conclusion of the 92d Congress after more than 15 years of dedicated and devoted service in the Congress.

ALTON LENNON is one of the few Members of the House who have served in both bodies—he served in the U.S. Senate in 1953 and 1954. Subsequently he ran for the House and was elected in 1957.

AL LENNON served as a Member of the Armed Services Committee and has been a strong advocate of a strong America—an America that keeps its guard up to anticipate any eventuality.

Congressman LENNON has served his district, State, and Nation faithfully and well and certainly can reflect with satisfaction on his accomplishments as an outstanding legislator—on a job well done—as he begins a richly deserved retirement. I wish him the very best of good luck, health, and happiness in the years ahead.

AGRICULTURAL NEWS PERTAINING TO NEBRASKA

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. THONE. Mr. Speaker, agriculture is the No. 1 industry in my district. When agriculture prospers, Nebraska prospers.

Since coming to Congress last year I have worked and voted for a better deal for the farmers of America. There is still much work to be done in my opinion, and I intend to continue fighting for a healthier agricultural industry.

My October 5 release for the newspapers of Nebraska does tell an optimistic story on progress being made. It follows:

NEBRASKA HARVEST WILL BE LARGEST EVER, WITH BEST-EVER PRICES, REPRESENTATIVE CHARLES THONE BELIEVES

Nebraska is now headed for the most bountiful, all-around harvest in history with the best all-around farm prices ever. It's about time our state's farmers enjoyed a really good year.

As one who grew up on a farm and who, with my brother, still owns a farm near Hartington, this forecast has me happy as a cow in clover.

Only disastrous weather in the next few weeks will prevent our cornhusker state from having our biggest harvest.

A record corn crop, the second largest harvest of soybeans and milo and one of the better years for alfalfa and wheat were predicted for Nebraska by the U.S. Department of Agriculture in their September 1st estimate of production.

The fact that national production will be down from last year for most crops will help Nebraska farmers obtain better prices for their great harvests.

The prediction for Nebraska corn is nearly 500 million bushels, compared with about 455 million bushels produced last year. In contrast, the national prediction for this year is 5.1 billion bushels, about 400 million bushels less than produced in 1971.

The 132 million bushels of milo predicted for Nebraska this year would be second by about 10 million bushels to the 1966 record. The national prediction is for 854 million bushels, about 41 million less than the 1971 record.

The 23 million bushels of soybeans forecast for our state in 1972 will be about 3 million under the 1969 record. Nationally, a record harvest of nearly 1.3 billion bushels is expected.

Nebraska is expected to harvest close to 95 million tons of alfalfa hay this year, about the fifth highest crop. The national estimate is 76 million tons, down from last year.

About 95 million bushels of winter wheat are expected to be harvested in Nebraska this year, down about 12 million from 1971 and 18 million less than the record set in 1958. The national forecast is for approximately 1.2 billion bushels.

On October 12th an estimate of Nebraska production, as of October 1st, will be available, and I wouldn't be surprised if the Cornhusker state harvest forecast isn't raised a little based on what I see traveling through the district.

The latest estimate of the total U.S. farm income for this year is a record $18.6 billion dollars. This is up $500 million from the last estimate.

With an all-around record harvest, with good prices for crops and with satisfactory prices for livestock, Nebraskans should enjoy a larger than usual share of the record national farm income.

On other occasions I have been in touch with my constituents concerning activities here in Washington to bolster the agriculture economy, and would like to share with my colleagues some of my activities in this area. The news release follows:

BILL TYING PRICE CONTROLS ON FARM PRICES TO 110 PERCENT OF PARITY INTRODUCED BY CONGRESSMAN CHARLES THONE

[News Release of June 30, 1972]

A bill to prohibit price controls on farm-level sales of raw agricultural products unless parity on those products stands at 110 percent or higher has been introduced by Representative Charles Thone and other farmbelt Congressmen.

"Price controls of food at the farm would be a disaster, in my opinion. Recent moves such as ending quotas on import of meat and price controls on agricultural products at the second level indicate, however, that such controls at the farm level might come about in the future. Therefore, we have introduced this bill to protect farmers," Thone said.

The formula of prices at 110 percent of parity before price controls were placed on raw agricultural products at the farm was used both in World War II and the Korean War, Thone pointed out. Parity is the relation between the prices received by a farmer for his production and the prices he has to pay for the things he must buy, the Congressman explained.

"As of May 15th, farmers were receiving only 73 percent for their products compared to their costs. This parity is on a 1910–1914 base, which is somewhat out of date, but is the basis for existing law on parity. Using a more modern base, 1967, the farmer was receiving 98 percent of parity as of May 15th," Thone said.

"My bill is to protect the farmers, but I believe the best protection for both consumers and farmers will be no price controls at all at the farm level. Such price controls will bring rationing, black marketing, a bureaucratic army of federal snoopers and shortages of food, particularly meat," Thone declared.

[News Release of June 29, 1972]

BILL TO HELP FIGHT AGRICULTURAL POLLUTION INTRODUCED BY CONGRESSMAN CHARLES THONE

A bill which passed both the Senate and House in different versions and is now in conference committee has been hailed by urban leaders as the "Clean Waters Act of 1972." That bill, concerned with cleaning up discharges from industries and municipalities, practically ignores the largest volume source of water pollution—runoff from the land.

The problems of both air and water pollution from the land would be tackled through passage of a bill I have just introduced with two other Congressmen James Kee, chairman of the House Public Works Subcommittee on Conservation and Watershed Development, Fred Schwengel, ranking Republican on that subcommittee, and I, a subcommittee member, are sponsoring a bill to combat non-point source pollution from agricultural, rural and developing areas.

Here are some indications of the magnitude of the problems we are attacking. Soil erosion causes 500 million tons of dust to float over the U.S. annually. The Mississippi-Missouri River system dumps 250 million tons of sediment into the Gulf of Mexico each year. This is more than a third of a ton of soil for every acre in the basin, but most of the runoff comes from acres that are farmed.

Between 1920 and 1970, the use of nitrogen has doubled every 10 years. Fertilizer use increased 50 percent in just the past five years. When the nutrients from these fertilizers get into water, they cause the algae to 'bloom.' This causes difficult problems when water from streams is treated and causes lakes and reservoirs to become old in a short period of time.

"If we stop the runoff of sedimentation, we will also largely solve the problems caused by insecticides and fertilizers. Sedimentation is the major carrier of the other pollutants entering water. For example, as much as 96 percent of the phosphorus from land that gets into water is carried by particles of soil.

"Animal waste is another terrific problem. Dairy herds of 500 cows are not uncommon, yet such a herd produces waste equal to 8,000 people. Many feedlots contain 10,000 cattle, and there are even feedlots holding more than 100,000 head. Certainly, among poultry growers a concentration of 100,000 birds is not unusual.

Animal wastes in the Missouri Basin are equal to the sewage of 370 million people. If only 5 percent of this waste reaches our streams, this is equal to the waste of 18 million people. The basin has a population of only 7.9 million people. We must, of course, keep this waste out of our streams and recycle it to the land where it is a valuable resource.

Up until now, these problems have been treated as though they were just farmers' problems. Less money is being invested now to stop farm erosion and conserve topsoil than was spent in the 1930's.

The bill Congressmen Kee, Schwengel and I have introduced would treat these problems as national problems, just as the nation is treating the problems of industrial and municipal pollution as national problems.

We propose to expand the authority and the funding of the U.S. Department of Agriculture, so that these rural problems of pollution can be seriously attacked.

Our bill will use existing agencies of the USDA and would work through state and local soil and water conservation districts.

The bill would permit the USDA to give loans for up to 30 years to build dams, terraces and structures necessary to conserve topsoil. It would provide that the government would enter into 10-year agreements with individual farmers, covering maintenance of structures, cultivation methods and waste treatment. Any farmer who violated such an agreement would not be eligible to participate in any other agricultural program.

Loans and engineering help would be provided in building necessary waste treatment works for poultry and livestock operations. During a three-year period when these facilities were being developed, interim standards would be developed so that these operations wouldn't be forced out of business.

Our bill also tackles some other pollution problems that have been neglected. One of these is roadside erosion on county and township roads. There are some roadsides that are now losing as high as 356 tons per acre per year. Other problems to be combatted are streambank erosion and erosion in areas being converted from rural to residential developments.

Americans have made a commitment to improve the environment in which they live, instead of making our earth unfit for habitation. Most of them, however, don't understand the extent of the sedimentation problem. I hope many Nebraskans will join in efforts to bring this matter to the attention of the nation.

CONGRESSMAN THONE TO BE HOST TO AMBASSADORS AT INTERNATIONAL FAIR TO PROMOTE USE OF SOYBEANS

Representative Charles Thone will be one of the members of Congress who will act as host to ambassadors to the United States at an International Soybean Fair on September 13, 1972. Thone really believes in the great export potential of farm products.

Foreign ambassadors and commercial and agricultural attaches are being invited to the fair at a House of Representatives office building, where new food and feed uses for soybeans will be demonstrated.

Congressmen from soybean-producing districts are hosting the fair in cooperation with the U.S. Department of Agriculture, American Soybean Association, National Soybean Processors Association and other industry firms.

Thone said he would be the official host for the ambassadors and attaches from the nations of Greece, Quatar and Uganda.

"About half of the total soybean crop of the United States is exported. Nebraska obtains a large share of this income from sales of soybeans abroad. In 1971, the Cornhusker state was fourth among the 50 states in exports of grains. To maintain and improve prices for this crop, we must expand our sales to other nations. I am proud to help in this trade fair which will help to educate leaders of other nations about the richness in protein and the versatility of soybeans and the reliability of the United States as a source for soybeans," Thone declared.

RAYMOND P. HAROLD OF WORCESTER, MASS.—A GREAT HUMANITARIAN, AN EXEMPLARY CITIZEN

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. DONOHUE. Mr. Speaker, yesterday morning I, together with thousands of other individuals throughout our community, Commonwealth, and entire country, was greatly shocked and deeply saddened to learn of the death, during the night, of Raymond P. Harold, one of the most exemplary citizens ever born in this country or anywhere else in the world.

Raymond P. Harold was an extraordinarily wholesome influence upon everyone who was ever privileged to know him and the story of his life, from the anonymity of a lowly bank messenger to the prominence of a respected international banking counselor, is an inspiration to all his fellow Americans, particularly to the young people of our Nation today.

Raymond Harold was a unique man whose primary goal, from his earliest beginning, was excellence in every endeavor. He was a recognized world authority in his professional banking speciality whose advice and guidance was sought and respected by Presidents of the United States, by congressional legislative committees, by international statesmen everywhere and by professional associates.

He was the exemplary model of a truly patriotic and dedicated citizen. No man in the history of our home community of Worcester, Mass., ever contributed more of himself and his resources, than Raymond Harold, to the progress of his own city and area. But above all he was a warm, generous, principled and compassionate human being with a genuine concern for all his fellowmen.

For thousands of people who held him in the highest esteem and affection he provided a moving example of a good and decent man who was a devoted husband, loving father, faithful friend, wonderful neighbor and a vibrant, devoted community leader.

Raymond Harold was the recipient of countless public honors, one of which was the coveted Isaiah Thomas Award for distinguished community service, which was bestowed upon him by the Worcester Advertising Club in that city on Wednesday, April 15, 1959. At this ceremony His Excellency Bishop John J. Wright, now of the Vatican in Rome, spoke in tribute to Mr. Harold and Mr. Harold gave a brief response. Two extracts, one from Bishop Wright's speech and one from Mr. Harold's response, serve, I think, to summarize the great character and stature of this exceptional man.

Bishop Wright said, in part,

> Raymond Harold represents the type of Worcester businessman who lives by the philosophy of responsibility in—human terms, by standing up to be counted, and, if need be, to be knocked down in the interest of building a better community.

Mr. Harold replied, in part,

> Success is a journey, not a goal. It is entirely fitting that we should pause to mark a milestone. But to stop complacently would be tragedy. Rather we must go forward even beyond the time that is allotted to each of us, and like Isaiah Thomas, build worthily for those who follow us.

Mr. Speaker, Raymond Harold's own basic code of living was truly the acceptance of individual responsibility and his excellence in the practice of it, in all his personal, social and professional actions, will forever remain a legend in the annals of our region. He devoted his whole life to building worthily for those who would come after him and no mortal man can do more or better. I was honored in his friendship and his death is a tremendous personal loss to me.

Mr. Speaker, I would like to include here excerpts from an article, that appeared in the Wednesday, October 11, 1972, issue of the Worcester, Mass., Telegram newspaper, in recognition of the tremendous life achievements of Raymond P. Harold, and they follow.

R. P. HAROLD DIES

Raymond P. Harold, who developed three small cooperative banks into the largest savings and loan association in New England, died last night at New England Baptist Hospital, Boston, where he had been a patient since Oct. 2.

"My business is with the wage earner who saves money and buys a home," Mr. Harold once said.

With that philosophy, he revolutionized thrift banking in Central Massachusetts.

He was chairman and chief executive officer of First Federal Savings & Loan Association. The institution has resources of more than $400 million, compared to only $43 million 25 years ago.

Mr. Harold was chiefly responsible for the development of public housing and urban renewal in Worcester after World War II.

He held the Isaiah Thomas Award, generally regarded as the highest civic honor in Worcester.

PRAISED BY PRESS

The Catholic Free Press said Mr. Harold "almost single-handedly . . . made citizens of Greater Worcester aware of the need to revitalize a decaying city." The Evening Gazette said Mr. Harold "has done great things, often against dogged and powerful, if short-sighted, opposition."

DECORATED BY PERU

Mr. Harold made several U.S. State Department trips to South America to organize savings and loan associations in Peru. For his contributions in this field, he was decorated by the government of Peru with the Order of Merit in 1960.

That year, he was a member of a team which wrote a home loan bank act for Peru that made possible the financing of thousands of homes.

In addition to three missions to South America for the State Department, he made a fourth trip as the late President Kennedy's special ambassador to the inauguration of President Victor Andres Belaunde in 1963. Mr. Harold was a major force in introducing and interpreting the concept of home financing through thrift savings in Latin America.

He made two journeys to the Philippines for the State Department as president of the Internation Union of Building Societies and Savings and Loan Associations.

Mr. Harold's interests varied in the community. He was involved in affairs of charitable organizations and hospitals and educational institutions.

He was the recipient of three honorary degrees—doctor of laws, Assumption College; doctor of commercial science, Holy Cross, and doctor of business administration, Anna Maria College.

Born in Worcester, July 12, 1898, he was the son of the late George S. and Sadie (Whittum) Harold.

He attended Dix Street School and the former High School of Commerce.

During the summer of 1915, he was a bank messenger at the former Worcester National Bank, now Worcester County National Bank. He joined the Army in 1917 and served in France two years. He was discharged with the rank of first lieutenant.

After World War I, Mr. Harold enrolled at Massachusetts Institute of Technology, where he remained two years. He later transferred to Carnegie Tech in Pittsburgh, Pa. He went from Carnegie Tech School of Industries to assistant trust officer at the South Side Trust Co., which later became the Pennsylvania Trust Co.

In 1923, he returned to Massachusetts and worked for the First National Bank of Boston as a trainee and eventually entered the bank's import-export division. He also took special courses at Harvard University.

He left that position to become state bank examiner for four years before being made, in 1927, assistant treasurer of three affiliated institutions—Worcester Cooperative Savings Fund and Loan Association, Home Cooperative Savings Fund and Loan Association, and Equity Bank.

He was made chief executive officer one year later. Each of the three associations paid him $1,000 a year. They merged in 1937 to form Worcester Federal Savings & Loan. He became president. In 1971, the institution changed its name to First Federal Savings & Loan Association.

In a study of Worcester banking in 1970, Robert A. Foster, Worcester Telegram news editor, wrote:

"Over the past generation Worcester's

thrift institutions have had to hustle just like commercial banks. Until quite recently, the principal reason for this was a man named Raymond P. Harold.

"Harold adopted the unheard of tactic of advertising the dividends that he paid on savings.

"As the deposits rolled in, Worcester Federal would loan the money out in home mortgages at interest a little less than what the savings banks charged. Volume did that.

"At first the savings bankers stood aghast at the spectacle of Worcester Federal's aggressive tactics—and its growth. Then they, too, began to advertise rates and offer premiums."

HOME OFFICE HERE

First Federal's home office is at 22 Elm St. It operates branches in Springfield, Shrewsbury and Auburn.

Mr. Harold had been scheduled to play host today at a press luncheon, one of several events noting the 95th anniversary of First Federal.

His longtime associate, Joseph T. Benedict, president of First Federal, said last night that Mr. Harold was one of six persons from the private sector of the economy with whom the Ford Foundation was discussing a possible trip to China next month to examine housing.

His state and local affiliations included being a member of the Springfield Committee on Business Development, a director of Worcester Chapter, American Red Cross; a member of the advisory board of the YWCA, chairman of the former Massachusetts Medical, Dental and Nursing Scholarship Board, president of Massachusetts Cooperative Bank League, president of Worcester Economic Club, and a director or the Federal Home Loan Bank of Boston for 16 years.

He was also a member of the former National Defense Executive Reserve, U.S. Housing and Home Finance Agency, Washington, Partners of the Alliance Program, Colombia, South America Committee, Home Loan Bank Board Advisory Committee on International Housing, Federal Home Loan Bank Task Force, Federal Savings and Loan Advisory Committee to the Federal Home Loan Board in Washington, former member advisory committee on Housing and Urban Development, Agency for International Development, Washington.

He was a former vice chairman of the Savings and Loan Foundation, Washington, a director of National Housing Conference, Inc., and past president of the National League of Insured Savings Associations. He was president of the Spruce Inn Corp. and was a director of the Harbor National Bank of Boston and Investors Mortgage Insurance Corp.

Mr. Harold was the 10th recipient of the Isaiah Thomas Award from the Worcester Advertising Club for distinguished community service in 1959, the Armed Forces Award of Merit in 1960, a citation from the American Heart Association and Worcester Heart Fund drive which exceeded $100,000 for the first time in 1959. He received the Distinguished Service Award from the American Cancer Society in 1951 and numerous other local and state awards.

He was a member of Gen. Charles Devens Post 282, American Legion, Worcester YMCA, New York Athletic Club, New York City, Jonathan Club, Los Angeles, and Boothbay Harbor (Maine) Yacht Club.

He and his wife, the former Myrtle S. (Rice) Harold, had traveled extensively in Europe, and other countries where Mr. Harold was a frequent speaker at international banking congresses. He had lectured at the International School of Savings and Loan at Oxford University and at Columbia University School of Architecture.

He was the author of numerous articles and booklets on savings and loan operations and housing in the United States, South America and the Far East.

Mr. Harold also was a director of the Hundred Club of Massachusetts, an organization established 13 years ago to provide financial assistance for widows and children of policemen and fire fighters who died while on duty.

Earlier this year the Worcester Chapter, American Red Cross, established the Raymond P. Harold Award for heroism. He was a director of the Red Cross for many years.

Besides his widow, he leaves three daughters, Charlotte I., wife of John D. Druce of West Boylston and Spruce Point, Dorothy A., wife of Lester C. Conner of Framingham, and Ruth L., wife of Dr. Robert M. Zollinger Jr. of Cleveland Heights, Ohio, and seven grandchildren, John Dix Druce Jr., Jennifer Druce, Susan Conner, Sarah Conner, Robert W. Zollinger, Raymond Harold Zollinger and George Rice Zollinger.

SPIRITUAL VALUES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROUSSELOT. Mr. Speaker, the U.S. House of Representatives Prayer Group meets weekly to discuss the importance of spiritual values in the lives of the Members and, more important, the influence that those spiritual values have in our individual experience as Members of this people's body.

On Thursday, September 21, our colleague, the gentleman from Texas (Mr. ARCHER), gave us a deep insight into the strong dependency that he has, both in his public life and in his family life, on Godlike qualities. I felt my fellow colleagues would want to know of the high values and worthwhile principles on which BILL bases his judgments and, therefore, submit the remarks that he made before the House Prayer Breakfast Group for thoughtful review by the entire House.

The remarks follow:

REMARKS OF REPRESENTATIVE BILL ARCHER AT MEMBERS PRIVATE PRAYER BREAKFAST THURSDAY, SEPTEMBER 21, 1972, IN THE MEMBERS' DINING ROOM, U.S. CAPITOL

I don't know why it is, but there are always empty seats up front here. It reminds me of the only time I ever spoke from a pulpit of a church in my district and told them the story of the minister who had permitted a politician, for the first time, to take the pulpit and he told him ahead of time that he was to limit his talk to twenty minutes. After thirty minutes had gone by, and then another thirty minutes, and then well over an hour, the minister finally, in desperation, picked up the gavel and threw it at him and, unfortunately, missed and hit a man in the front row who, stunned, fell to the floor. The people gathered around him and said, "Are you ok? Can I help you? Can I do anything for you?" and the man said, "Yeah, hit me again, I can still hear him." So, I suppose that is the reason why some of these seats are always vacant in the front row, and in your church . . . obviously this story has been well circulated.

Because each of you has been a freshman Congressman—like I am now—you know the travail that goes along with having to pull up roots at home. That is, all of you except John Rousselot who still has some roots out in California. But, we moved all of our five children and ourselves to Washington to try to keep our family together. On the last night that we were in Houston as a family, I peeked in on each of my children on the moment that we would be together for the last time at our home in Houston, at least for two years. When I got to our littlest one, little eight-year-old Barbara (and because both my wife and I are small in size, she's small, as all of our children are, and she looks like she's about five or six) she was kneeling by the side of her bed saying her prayers and going through the usual ritual of "God bless mommy, God bless daddy, and God bless Aunt Neenie . . ." and all the people that she loved, and finally she paused a moment and added "And now, goodbye, God, we're going to Washington!"

I am sure that many of the people in your districts wonder if God really exists up here, and I am quick to tell my constitutents when I go back home that He does. Although, I think most of us agree that He works in very unusual, strange, and devious ways at times in the Congress of the United States. But He does work. And I think perhaps He works to a great extent because of the uniqueness of America. I speak a great deal to high school students, as I am sure you do back home in your districts, and I think it is time that we talk more about the good in America instead of knocking it time after time.

I try to give them a positive message of hope because I have found that so many school students in my district were losing hope in America. At one particular meeting that I attended a young man received the oustanding high school student award from the Downtown Exchange Club in Houston, for all of the city of Houston. He was an all-state football player, an all-A student, president of his senior class, national honor society, one of the best looking young men that you have ever seen in your life, and he made what I though was an extremely apt and poised appreciation and acceptance comment for the plaque that was given to him that day. After I completed my speech later on in the program, he came up to the front table with his mother and his father flanked on either side of him and he said, "Mr. Archer, you are the first person who has given me any hope in my future in America"—with his mother and his dad on either side of him . . . and I had thought to myself, "Here goes the future of America.

"Here goes a young man who represents the great hope of America." This must be disturbing to all of us who hold a position in elected office who are looked at as leaders of our country. With this problem in the background, I like to tell high school students, particularly about the time that they begin to feel a little cynical about our system, that we are a unique organization in America. We are primarily unique because for the first time in the history of mankind a government was formed with a recognition of God, and for the first time in the history of man, in a fundamental government document there was a reflection of a belief in God . . . when Jefferson wrote the words in the Declaration of Independence that all men, as creatures of God, have inherent powers in this Country then in effect said, "no longer are you going to be judged arbitrarily . . . are you going to be given minute bits of freedom because some king or some queen or some oligarcy, or some committee, self-anointed, dribbles them down to you."

Because, in the olden countries before the establishment of America, as we all know, the people looked up at the throne and they awaited the crumbs of freedom and they said, "Thank you my Lord, thank you my Lord," and Jefferson said, "Not in America because there is a God! There is a creator and each of us, as creatures of God, has inherent powers that nobody can take away from us." And so, really, what Jefferson said, based on God, was that in America everyone is a king and a queen. And this is the true substance of our system of government, in my mind; that is, that each of us has the opportunity to put the crown on our head, and put the cloak around our shoulders, and take the sceptre in our hand and ascend to the throne.

Or we can abdicate and let somebody else do it. Obviously, each of us in this room has elected to accept the responsibility, and each citizen has this opportunity. This is what I tell high school students that they really and truly are kings and queens in America. But, you can abdicate and you can 'let George do it' as the saying goes, or you can take advantage of your God-given rights and you can rule your country; and people who say, "I don't want to be involved in politics because it is a messy business," don't really understand the game in America because it is in involvement. The day you are born in America, in our system, you are involved.

And the real question is, are you going to be effective. That is the real decision each of us has got to make. Either we are going to place ourselves into the position that God has put us, and that Jefferson has put us, or we are not going to take advantage of it. I happen to believe that when a child is born in America, and the doctor delivers that baby and he spanks it on the bottom and it takes its first breath and cries for the first time, the doctor is saying, "Go, man, go!"

You have the opportunity in America all because of what Jefferson said. And I like to think it is all because of the fact that he based it upon God, and built upon this conclusion we should talk more about all of the good things in America. So many of the blessings that we have we take for granted. The everyday food that is available to us is a great example. We see other countries of the world desperately having to knock at our door even for the basic necessities of life for—common grains, and we have them in abundance here in America. Not to mean that we should be satisfied. Not to mean that we should rest on our laurels, and not to mean either that any country has a monopoly on all the good people in the world and that other countries have only bad people. As creatures of God, there has got to be good and bad in each country, and I am not so sure that God, in His wisdom, looks after any one country to the exclusion of all other countries in the world.

Certainly interwoven in our history and in our background is a basis of God and our entire society. But what has happened in America as well as in other parts of the world? For a country that has been laced with a belief in God we see, strangely, that we can't pray in public schools today. We see that although we are built on the morality of the Judeo-Christian concept, we have turned to a great extent to pornography, permissiveness, to mass murder, to crime as it has never existed before. I think that it is time that we go back and rekindle some of the spirit of Christianity in our concepts in our every day life in America. We even see in the world that religious wars continue to go on—in Ireland, in the Middle East—and I think that it is time that we give a great deal of rehearkening in considering this basic belief in God and Christian principles.

I can't leave you with any great words of wisdom. I would like to leave you with a few questions, and I don't have the answers to them but I think they are worth pondering. One of them is, Does God think, or does He merely create? And, Is creation thought? It is interesting to think about two other questions—What exactly is prayer? Is prayer a thought? Some people contend that prayers are written in prayer books merely as aids for those who are having trouble thinking up things to say to God. Is it a prayer every time we look at a rainbow and notice its beauty? Is it a prayer every time a child is born? Why do we need prayers in books? What purpose does a written prayer fulfill? And, finally, Is prayer enhanced when one says it with others in a congregation? Does it actually take on a greater value to God than if we did it sincerely, individually, in one of many other forms? I know that many people believe that prayer goes unanswered, but for those of us who believe in God, I think we must believe that He answers all prayers.

Although sometimes it is much as the lady who went to her minister and said, "Reverend, for years I have been praying and praying and praying and God just doesn't answer my prayer, so I am leaving the church." And he grabbed her by the sleeve and said, "God did answer your prayers, He said 'no'."

PEOPLE HAVE RIGHT TO KNOW

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ZWACH. Mr. Speaker, one of the tenets of the American system of government is that the people have the right to know.

They have a right to know what their elected officials do in their meetings. They have a right to know, and it is our obligation to tell them what their elected representatives are doing in Congress, what legislation they introduce, how they vote on the issues, and what their voting and attendance record is.

I distribute a year-end report after each session of Congress detailing these official actions.

In the issue this year, which, with your permission, I insert in the RECORD, the following information:

CONGRESSMAN JOHN M. ZWACH REPORTS

SMALL BUSINESS HONORS MEMBERS OF CONGRESS

Congressman John Zwach, was honored by the National Small Business Association and the National Committee for Small Business Tax Reform at a special ceremony held on May 23 on Capitol Hill in Washington.

Congressman Zwach was awarded a Certificate of Appreciation from the two organizations in recognition of his support for the enactment of Small Business Tax Reform legislation now pending before Congress.

Edward Larson, National Chairman of the Committee and President of the Anderson Company of Gary, Indiana, praised the stand of Congressman Zwach and further stated:

"The forthright action on the part of Congressman Zwach in publicly supporting tax simplification and reform for the 16½ million small businesses in America, and particularly those in his District, deserves the highest recognition.

"This action should be regarded as the first move in the direction of equitable tax treatment for 19 out of every 20 firms in the United States which are small business."

TWENTY PERCENT INCREASE VOTE IN SOCIAL SECURITY

"In spite of the recent 20% increase in Social Security benefits, the golden years are far from secure for millions of our Senior Citizens," Congressman John Zwach said.

"While I voted for this 20% increase, my personal preference was for an equal, across-the-board increase for everyone so that those in the lower benefit brackets could get the same increase as those in the upper brackets.

"Although Social Security was never meant to be more than a partial replacement of the earnings lost through retirement, because of inflation and other factors, this is, in all too many cases, the reality.

"I have introduced legislation to increase the allowable earnings limit to $3,000 and will support all efforts toward making the retirement years more livable for those people who already have contributed so much to our nation's general welfare," Congressman Zwach concluded.

ELECTRONIC VOTING BEING INSTALLED IN CONGRESS

When Congressman John Zwach first went to Congress in 1967, he was deeply concerned over the outmoded and time consuming voting procedures of the House that hadn't been changed in almost 200 years.

Each roll call required about 35 minutes as the clerk tolled off each of the 435 names and waited for an answer, and roll calls were numerous.

In fact, almost as much time was consumed in just the mechanics of voting as was allowed for debate and deliberation.

Congressman Zwach knew there was a better way because he had helped to establish electronic voting in both the Minnesota House and Senate. He sponsored legislation providing for a similar voting system in the House of Representatives.

That was in the first session of the 90th Congress in 1967.

On February 16, 1972, workmen began ripping out paneling and drilling holes in the House chamber. They were beginning work on the installation of electronic voting equipment, the fruits of the effort began five years and many debates and conferences earlier.

AMENDMENT OFFERED FOR FARM LAW

Congressman John Zwach, a member of the House Committee on Agriculture, struck another blow to improve the feed grain and soybean programs when he introduced an amendment to the farm law designed to keep farm support payments in line with increases in the cost of living.

The Zwach amendment provides for a cost of living increase in bushel and set aside payments so that increased living costs would result in higher payments and loans.

The second provision of his amendment would remove transportation differentials in establishing loan rates and would provide for equal rates throughout the country.

Under present regulations, the loan rate in Lincoln county, Minnesota, for instance is 97c per bushel, while in California it is $1.36. The nationwide average is $1.08.

"Such big differentials are absolutely unacceptable and discriminate against our midwest growers," Congressman Zwach declared.

The third part of his amendment would provide premium payments for feed grains and soybeans when the moisture content is below the level required for the basic loan level.

ZWACH RATES HIGH ON VOTING RECORD

Congressman John Zwach again ranked among the leaders in Congress in attendance and voting in the 92nd Congress as he has every year since he has been in Washington.

The latest House of Representatives voting tally showed him present on 92.2% of the yeas and nays. He missed only 13 of the 168 votes. Out of a total of 320 recorded votes in this session of Congress, Zwach missed only 27.

CONGRESSMAN CITED FOR CLEAN WATER VOTE

Congressman John Zwach was cited by the National Wildlife Federation for his support of the "Clean Water Package" of amendments to the House Water Pollution Bill.

In a letter to Congressman Zwach, Thomas L. Kimball, Executive Vice-President of the National Wildlife Federation said:

"On behalf of the National Wildlife Federation, I should like to express my appreciation for the support you gave to the 'Clean Water Package' of amendments to the House Water Pollution Bill.

"While the effort to amend the bill was not as successful as it could have been, your work in support of the amendments helped to prove that a substantial number of House members are truly concerned with saving our environment.

"It is my hope that you will continue to support all legislative efforts which seek to prevent a further degradation of our natural environment."

GAME CONSERVATION ACT INTRODUCED IN HOUSE

Congressman John Zwach February 16 introduced his "Upland Game Conservation Act of 1972."

"The purpose of this Act," Congressman Zwach explained, "is to assist farmers in a long range program of diverting some of their land from agricultural uses to promote the development and conservation of upland game and wildlife resources and to conserve open space and natural beauty.

"To carry out the program, the Secretary of Agriculture would enter into agreements with producers for a period of not more than 10 years or not to exceed 10 acres per farm. The land owner would agree not to harvest any crop from nor graze the acreage during the agreement period.

"Payments to the land owners would be made as determined by the owner and the Secretary of Agriculture. Local, county, and state ASCS and Soil Conservation committees would carry out the program."

ZWACH VOTES "NO" ON NATIONAL DEBT INCREASE

As he has done ever since he has been in the House of Representatives, Congressman John Zwach cast his vote against an increase in the national debt limit on March 15.

"The national debt will reach an estimated $455.8 billion by the end of this fiscal year," Congressman Zwach pointed out, "That amounts to $2,100 for every man, woman, and child in the country.

"In a time of rising prosperity, with our gross national product nearing a trillion dollars, this is inexcusable and the responsibility lies nowhere else but in Congress itself.

"Whenever those of us who believe in sound fiscal practices raise our voices for thrift and economy, we are voted down," Congressman Zwach charged.

"Just to pay the interest on our debt alone, nothing at all on the principal, cost $679 for every second of the day. That figures out to $40,740 a minute and $2,444,400 every hour or over $58 million a day."

CONGRESS HOSTS SOYBEAN FAIR

Congressman John Zwach, who serves on the House Committee on Agriculture and is a member of the Task Force on International Economic Policy, acted as a co-host at a "soybean fair" in Washington, D.C.

The purpose of the fair is to demonstrate the many uses of soybeans. Invited guests are all of the ambassadors and attaches in Washington.

"Protein-rich soybeans are one of America's most valuable and versatile crops," Congressman Zwach pointed out.

The United States Department of Agriculture and soybean industry representatives provided samples and background materials for the visitors.

"I would like to see similar fairs, held for other segments of our agricultural production," Congressman Zwach concluded.

OSHA AMENDMENT PASSED IN HOUSE

In an effort to save small business from harassment or prosecution under the Occupational Safety and Health Act, Congressman John Zwach voted for an amendment, which was passed by the House, which would exempt employers of 15 or fewer persons from the provisions of the Act.

He also introduced an amendment to the Act to provide assistance to small employers in their efforts to come into compliance with the law.

"The primary problem for small business in coming into compliance with the Act lies in the fact that they lack the technical staff resources to interpret how the standards apply to their operations," Congressman Zwach said.

"My amendment would enable the Department of Labor to provide on-site advice and consultation for employers of 50 or fewer employees, upon request. Allowing on-site consultation without inspection or harrassment would alleviate many of the complaints of small businessmen stemming from their inability to interpret the technical language and standards, while at the same time not sacrificing the safety and health of the employees.

"I am hopeful that this amendment can be pushed through before this session of Congress adjourns," Congressman Zwach concluded.

PENTAGON WASTE DRAWS CONGRESSIONAL CRITICISM

"When the late President Eisenhower warned, in the last days of his Administration, about the Military-Industrial complex, Congress should have paid him greater heed," Congressman John Zwach said.

"A case in point is the Navy F–14 jet fighter, manufactured by the Grumman Corporation. 134 of these planes, whose price tag is $16 million each, have been delivered to the Navy before they have been fully tested.

"Worst of all," Congressman Zwach continued, "these new jet fighters are inferior in some ways to the F–4 which costs only a fourth as much, $4 million.

"Cost over-runs on our armament seems to be a rule, rather than the exception. One way to stop this practice would be to pay no more than the originally contracted price as is done in private industry. We should also impose late delivery penalties, as does private industry.

"I will never vote to weaken the defense posture of our country, but I am firm in my resolve to attempt to cut waste and extravagance wherever I find it," Congressman Zwach concluded.

RURAL DEVELOPMENT MEASURE SIGNED BY PRESIDENT

The President, on August 25, signed the Rural Development Act of 1972, H.R. 12931, which was co-authored by Congressman John Zwach, Sixth District, Minnesota.

"The purpose of this Act is to make rural America a better place to work and to enjoy life by providing financial and technical assistance to rural communities and their residents," Congressman Zwach explained.

"It authorizes the Secretary of Agriculture to guarantee and to make insured loans for commerical, industrial, and community development.

"It authorizes the Secretary to make loans to rural youth, and increases the limit for farm operating loans from $35,000 to $50,000.

"It provides annual authorizations for pollution abatement grants of $25 million to be made to individuals and an additional $50 million to communities.

"It provides an increase in the annual sewer and water grant authorizations to $30 million for planning grants and to $300 million for development grants.

"It provides for maximum cooperation between the Farmers Home Administration and private financial institutions by making use of guaranteed loan programs.

"In general the legislation covers rural areas and communities of up to 10,000 population. Industrial loans, however, can be made in communities of up to 50,000 population.

"Had our producers been getting parity prices for their products these past 20 years, this shot-in-the-arm legislation would not have been necessary. There is no countryside economic ill that fair prices cannot cure," Congressman Zwach concluded.

VIETNAM VETS TO GET SBA LOANS

A liberal business loan program to benefit nearly six million Viet Nam era war veterans has been opened by the Small Business Administration, it was announced by Congressman John Zwach, a member of the House Committee on Veterans' Affairs.

"The expanded program will permit veterans to apply for loans up to $50,000 repayable over 15 years at interest rates as low as 6%," Congressman Zwach explained.

"Veterans must prove, however, that they cannot qualify for regular bank financing or other SBA lending programs, in order to qualify for the special loans. The money may be used to start a new business or to expand an existing firm.

"A serviceman need not actually have fought in the Viet Nam war to qualify for the assistance. All men and women serving in the United States armed forces anywhere since August 5, 1964 are eligible for these loans.

FEDERAL AID DISASTER AREAS

The House of Representatives, on August 14, passed a liberalized disaster relief bill which provides for grants and loans to victims of national disasters that have occurred since January 1, 1972, it was announced by Congressman John Zwach, who, after personal inspection trips through the storm ravaged areas of Minnesota, had succeeded in getting an amendment added to the bill.

"Loan forgiveness of up to $5,000 and 1% interest rates may be provided by the Small Business Administration and the Farmers Home Administration," Congressman Zwach said.

"The bill, as passed by both Houses and signed by the President, makes eligible, farmers in counties in western and central Minnesota who suffered heavy losses from spring rains, as well as farmers and others who had losses in floods in north central Minnesota."

In addition to the specific counties affected by the disaster designations, which the Congressman requested the President to declare, aid also may be provided on an individual basis to residents in nearby areas who suffered losses in the same disasters.

CONGRESS ABSENTEEISM COULD COST HOUSE SEAT

Congressman John Zwach joined Congressman Bob Price of Texas and 28 other colleagues in introducing a joint resolution calling for an amendment to the Constitution requiring members of Congress to be recorded on at least 70% of the roll call votes during a session or lose their seats.

"Our elected representatives should be doing what they were elected and are being paid to do, speaking for their constituents in Congress. If they fail to do that 30% of the time, they deserve to be replaced," Congressman Zwach said. "An exception is made for those absent on official business or because of illness.

"Voting is a most important duty of a Congressman. Although the overall voting record in the 91st Congress was 79%, there were 34 members with a rating of less than 70%."

In an earlier Congressional reform move, Congressman Zwach had introduced legislation which prohibited Congressmen from putting members of their families on their official office payrolls.

HOUSE VOTES TO LIFT HIDE EMBARGO

The House recently passed an amendment to the Extension of the Export Administration Act of 1969 which would, in effect, rescind the recent order by the Secretary of Commerce placing an embargo on the export of cattle hides.

The amendment, which previously was passed in the Senate, gives the Secretary of Agriculture, rather than the Secretary of Commerce, the authority in this field.

Congressman Zwach, an outspoken critic

of the embargo, hailed the amendment as a victory for the mid-American countryside.

"This attempt to embargo hides so that their price would not reach its natural supply and demand level, would have resulted in lower livestock prices for our producers and higher meat prices to the consumers, but would have had no appreciable stabilizing effect on the price of shoes as the manufacturers claimed," Congressman Zwach said.

"One cattle hide will yield 25 pairs of men's shoes. Even at peak hide prices, the leather in a pair of shoes would cost only about 80¢. This is a long way from the $6.00 to $8.00 scare price-increase the manufacturers said they would have to get if hide prices were not lowered.

"It is unfortunate that every time the price on a consumer item is increased, an effort is made to lay the blame on the producer rather than on the middle man chain where the increase usually takes place," Congressman Zwach concluded.

TWELVE STATES IN WATER BANK PROGRAM

"Twelve states will participate in the new Water Bank program which is aimed at helping preserve waterfowl habitat in areas where it is rapidly disappearing," Congressman John Zwach, author of the legislation, announced.

"The program will compensate participating farmers for maintaining wetlands and for providing needed additional habitat for nesting and breeding places for migratory waterfowl," Congressman Zwach explained.

"Initially, the program was offered in 15 counties in North Dakota, 10 in Minnesota, 12 in South Dakota, six in Montana, three in Wisconsin, two in California and Nebraska, and one county each in five other states.

"Agreements signed under this program run for 10 years. Another appropriation is in the budget for 1973 to provide a like number of 10-year agreements.

NATIONS ASKED TO PAY BACK DEBTS TO UNITED STATES

Congressman John Zwach joined 103 of his colleagues in the House in sponsoring a Concurrent Resolution which calls upon the Treasury Department to provide to Congress an exact accounting of all monies owed to the United States by foreign governments.

It further directs the Treasury Department to inform Congress as to which obligations currently stand in default, and what measures the Department intends to take to collect these past due debts, including the $18 billion from World War 1.

"The United States presently is owed at least $46 billion by the other nations of the world.

HOUSE APPROVES RECORD FUNDING FOR VETERANS

Congressman John Zwach, a member of the House Committee on Veterans Affairs, had good words for House action in approving a record $11.8 billion to finance the Veterans' Administration for the fiscal year 1973.

"The allotment for veterans' programs is $941.5 million more than Congress voted for the current fiscal year and $54.58 million more than the President requested for medical programs to support a higher patient load in VA hospitals," Congressman Zwach explained.

"This commitment by the House is ample testimony that we intend to leave no stone unturned in our efforts to give all of our veterans the best care possible.

"There is no question in my mind for the need of this increased funding. I have personally inspected several of our Veterans' hospitals and saw their needs at first hand," Congressman Zwach concluded.

ZWACH AMENDMENT PROTECTS SUGAR ACRES

An amendment to the Sugar Act by Congressman John Zwach has resulted in establishing a preferential rating for the sugar beet growers who had been selling to the closed Chaska plant.

Efforts to find financing to build a new processing plant to replace the Chaska facility are making excellent progress, according to sugar beet growers.

"The establishment of a mill in our Sixth Congressional District would result in a starting minimum of 50,000 acres planted to sugar beets at 100% of parity supports and the diversion of those acres from soybeans, corn and other feed grains which are in surplus," Congressman Zwach explained.

"This would be a great boon to the entire area in increased need for transportation, more employment opportunities, and a quickening of the general economic welfare. Eventually sugar beet production could go as high as 200,000 acres," Congressman Zwach concluded.

VA STEPS UP GI JOB TRAINING

"The Veterans Administration has intensified its efforts in Minnesota to help employers develop GI bill on-the-job training opportunities for returning servicemen," Congressman John Zwach, a member of the House Committee on Veterans Affairs announced today.

"At the same time, the VA is taking steps to simplify the procedures employers must follow in setting up their veterans' programs.

"Special help is available to small businesses which would like to participate, but which lack resources for developing programs," Congressman Zwach said.

"The VA will send training experts to survey on-the-job training possibilities and help to set up acceptable training situations.

"Under approved programs, veterans are paid subsistence allowances while they are in training. The salary paid by the employer goes up as the trainee develops skills useful to the employer," Congressman Zwach explained.

EXPORTS HELP AGRICULTURE

"One avenue open to help bring about fair prices for our agricultural producers is to increase export marketing, thereby reducing price-depressing surpluses," Congressman John Zwach reported today.

"Important progress now is being made along this line by seeking major revisions of the European Common Market Community Agricultural Policy.

"Under the previous Kennedy Round trade agreements, agricultural interests were sacrificed in favor of other trade.

"Now, William Eberle, the American special trade representative to the European Economic Community, has taken the position that the EEC must agree to fundamental revisions of its agricultural trade policy as a portion of a lasting monetary settlement.

"More specifically," Congressman Zwach said, "the United States is pressing for a reduction in export subsidies, a reduction of the 'threshold' price on agricultural items entering Europe under the variable levy, and the elimination of other discriminatory practices.

"These initial steps by our government are most encouraging. I hope, expect, and urge that they continue," Congressman Zwach concluded.

CHANGES SUGGESTED FOR 1973 FARM ACT

Congressman John Zwach, a member of the House Committee on Agriculture, has suggested some changes which he will try to incorporate into the Farm Act of 1973 which will be considered by the coming Congress.

"Since Agriculture is the major source of new wealth in America, we cannot have a prosperous economy if we have less than equal income in the countryside. Whenever we have had prosperity in rural America, there has been prosperity nationwide," Congressman Zwach said.

"For the good of all America, we must preserve intact, the Department of Agriculture.

"The greatest boost we can give the economy of all America is to bring full parity prices to our food producers, the forgotten segment of our national economy.

"To achieve these ends, we must increase supports and loan rates on feed grains.

"Automatic cost of living increases should be a part of our crop support payments.

"There should be an accelerating effort to increase our foreign agricultural markets.

"Because American farmers have always been miracle workers, we have never known a shortage of food or fiber. On the contrary, our problem has been overabundance.

"Our domestic food market basically should be reserved for our own people. Our producers should not be driven out of business while inducements are made to foreign producers to encroach upon our domestic markets.

"The family farm is America's greatest asset. We must work and pass legislation to preserve it.

I also have a picture with representatives of the National Small Business Association with a caption saying:

"In appreciation of significant contributions to the American small business community and for sponsorship of small business tax reform legislation," reads the award presented to Congressman John Zwach recently by the National Small Business Association.

Another picture shows me with President Nixon with the following caption:

"Thanks for a job well done," President Nixon tells Congressman John Zwach, a coauthor, following the President's signing of the Rural Development Act. "This Act, together with your vigorous pursuit of foreign agricultural trade transactions will mean a great deal toward the renewal of Countryside America," Congressman Zwach told the President.

A third illustration shows a map of Minnesota outlining the new congressional districts. Its caption states:

The new alignment for Minnesota Congressional Districts is shown on the above map. It will be seen that the new Sixth District loses Crow Wing, Morrison, Swift and Stevens counties but gains Cottonwood, Murray, Pipestone, Rock, Nobles, Jackson and a northwestern portion of Hennepin counties.

HON. ALTON A. LENNON

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. GRIFFIN. Mr. Speaker, at the close of this session of the Congress, Congressman ALTON A. LENNON, a distinguished member of the North Carolina delegation, will be returning home after many years of service.

Congressman LENNON, a member of the Armed Services Committee and the Merchant Marine and Fisheries Committee, has rendered great service to both his State and Nation through the years.

As a fellow member of the Merchant Marine Committee and by our close association on the Subcommittee on Oceanography, which he chairs, I have come to know ALTON LENNON as a very dedicated public servant and conscientious legislator. We all know of the many contributions he has made and the fine record he has established. I know that his valuable service will be missed.

As a friend and colleague, I want to take this opportunity to wish him well in the future and to express my appreciation for the privilege I have had in serving with him.

THE QUESTION OF THE JEWISH VOTE

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GERALD R. FORD. Mr. Speaker, the October 9, 1972, edition of the New York Times contained an excellent article by Seymour Siegel, a contributing editor of the Jewish intellectual journal Sh'ma. In this article, Siegel cogently explains why American Jews should vote for President Nixon on November 7. With the permission of the House, I include the Siegel article in the RECORD at this point. The article follows:

[From the New York Times, Oct. 9, 1972]

THE QUESTION OF THE JEWISH VOTE

(By Seymour Siegel)

I have never voted for a Republican Presidential candidate. This year I shall vote for President Nixon. I have enlisted as an active worker in the campaign for his re-election.

How much of this decision is the result of Jewish issues? The question is almost impossible to answer since it assumes a compartmentalized mind partially activated at different times. The fact of the matter is, of course, that each of us makes decisions in response to the various factors that make up our personalities. Thus I vote in response to my social class, experiences, sex, income, and, last, but certainly not least, my Jewishness. I do take my Jewishness seriously and therefore I am sure that it is an important factor in deciding how to vote. It is, however, not the only factor.

My vote for the President is the result of weighing his approach to three different aspects of national life: foreign policy, the possibilities of an open society, and the values that form a national lifestyle.

President Nixon's foreign policy, by and large, has been spectacularly effective. He has managed to combine realism with flexibility and thus brought about a breakthrough in our relations with the other superpowers. He has avoided total capitulation and illusion about the forces involved in today's world. He has also not been the prisoner of an inflexible attitude toward the powers which determine the course of world events. So far, these initiatives seem to hold out a great promise for the future.

The State of Israel is a legitimate issue. In the case of the Middle East, this stance of negotiatng from strength has been especially effective. There is no doubt (and the Israelis seem the first to agree) that Israel is in a far better position today than it was four years ago. The strengthening of Israel's military position and the promise of American opposition against Soviet military threat has so changed the situation that the Russians had to withdraw from the area. There is now hope for real negotiations which can lead to peace. Such a record deserves the support of citizens, both Jews and non-Jews. As Jews we, of course, have a special interest in the events of the Middle East. There is no reason to hide such an interest. To most of us, the future of Judaism is now tied up inexorably with the future of the Jewish state.

It seems clear to many that the kind of isolationism fostered by McGovern forces and the severe cutting down of military expenditure does not augur well for the continuation of the kind of policy which strengthens the security of the State of Israel. This in spite of the admittedly sincere statements of McGovern and the Democratic platform about Israel. Since these promises do not fit into the general world view which McGovern represents they are less than reassuring.

As important as foreign policy is for all of us, it is also vital to consider the kind of society envisioned by the leading candidates. Jews have always prospered in an open society. An open society means an approximation of the ideal where individuals are judged by what they *are*, not by which group they belong to. It refers to a social system in which ingenuity, energy and native endowment are rewarded regardless of who possesses them. The two main threats to an open society are a caste system in which people are frozen into the condition into which they are born, and a quota society in which the rewards of the community are apportioned according to some formula. Except for some of the oppressed racial groups in this country, it has been one of the glories of America that persons could rise above their position at birth. The main threat to an open society today is the notion of quotas and percentage distribution of the rewards of our community. This kind of policy is not only ineffective it is also unjust. We are bidden of course to pursue justice. But we must pursue justice *justly*. It has been the experience of our society that all benefit from the freedom accorded to every one.

It seems obvious that the kind of social policy Senator McGovern has espoused has the overtones of percentage distribution of the rewards of our society. He has already in the case of the democratic convention apportioned delegate seats on the basis of sex and race. He has already promised everything from cabinet posts to Supreme Court seats to the various minorities. Though there have been lapses in the present Administration it is obvious that the President's policies have much better prospects in preserving the notion of merit and an open society. This is beneficial to Jews and other "high achievers." It is, in the long run, the best way for the groups within our society who have suffered disabilities to enter the mainstream of the American society.

Equally important is the question of national lifestyle. It is apparent that the direction of a society is a reflection of the values espoused by the consensus of the community. Discerning commentators, by no means pro-Nixon, such as Garry Wills (see his book, "Nixon Agonistes"), have observed an underlying pattern in Nixon's approach to life and world view. Wills sees him upholding the venerable liberal ideas of achievement through effort; restraint; a recognition of the importance of structure and tradition; and the value of giving everyone a chance to start at the same place without guaranteeing that they will end up in a dead heat. Mr. Nixon has tried to uphold these principles in his social policies. These are to be contrasted with those of Senator McGovern. McGovern's election would certainly bring to power those whose morality and world view would be very different than those now held by the majority of Americans.

That is not to say that Senator McGovern himself favors looser sexual morality, more tolerance of the denigration of the work ethic, etc. But anyone who has watched the course of the campaign and observed the forces for whom the Democratic candidate speaks cannot help but come to the conclusion that those who favor an essential change in American lifestyle and world view see him as their champion. These who see life in different terms (and I am convinced that traditional Jews are among these) will favor the more traditional approach of President Nixon.

MEMORIAL TO FORMER CONGRESSMAN

HON. ROY A. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. TAYLOR. Mr. Speaker, earlier this year a mountain on the North Carolina side of the Smoky Mountains National Park was designated as a memorial to former Congressman Zebulon Weaver who represented North Carolina's 11th District in Congress for more than a quarter of a century and used his office in Congress to promote the establishment of the Smoky Mountains National Park. The Western North Carolina Historical Association had urged by resolution the approval of Mount Zebulon Weaver as the name of a mountain peak in the park. I quote from the resolution:

Whereas, Congressman Weaver introduced the legislation that created the Great Smoky Mountains National Park in 1924, and,

Whereas, in recognition of these contributions, thousands of citizens of Western North Carolina signed petitions in 1938, requesting that a certain hitherto unnamed peak, approximately 5,300 feet in elevation, shown on the east half of the topographic map of the Great Smoky Mountains National Park, and located about one-fourth of a mile southeast of Luftee Gap and about one mile southwest of Newfound Gap on the main top of Thomas Ridge, at approximate longitude 83 degrees 26 minutes 15 seconds and latitude 35 degrees 36 minutes 20 seconds, situated and lying entirely within the State of North Carolina, be designated as Mount Zebulon Weaver, and,

Whereas, this petition was denied on the sole and only grounds that such designations could not be made on behalf of living persons, therefore, be it

Resolved, that the Western North Carolina Historical Association endorse a proposal to designate this hitherto unnamed peak as Mount Zebulon Weaver.

On December 17, 1924, Congressman Weaver introduced H.R. 10983 which read in part as follows:

Whereas, all of the great national parks of the nation are situated in the western part of the United States, and there has not been set apart any area of the eastern Appalachian Mountains for the purpose of preserving their natural phenomena, the great forests with which they are clothed, and the wildlife and flora peculiar to them, for the purpose of scientific study; and

Whereas, in the Appalachian Range of mountains there is to be found in North Carolina and contiguous territory in Tennessee what is known as the Great Smoky Range, the greatest mountain mass east of the Mississippi River, and representing to the largest extent of all of the natural phenomena and flora incident to this great mountain range; and

Whereas, said area would be readily accessible to the entire eastern portion of the United States and would afford abundant opportunity for recreational purposes and constitute a great outdoor museum for scientific research.

Eventually, Congress passed S. 4109, authorizing a study of both the Smoky Mountain range and the Mammoth Cave region of Kentucky for national park recognition.

The bill, signed by President Coolidge in February 1925, was an important breakthrough in the efforts of many people to secure a national park in the Smoky Mountains. The event was akin to the famous statement by Winston Churchill that:

> This is not the end; it is not even the beginning of the end. But it is, perhaps, the end of the beginning.

This park stands as a monument to many men and women who played a role in getting it established. Most of the land in the Smoky Mountains National Park was acquired by the States of North Carolina and Tennessee, aided by a $5 million donation from the Rockefeller Foundation and many, many other donations from interested citizens and the land was donated to the Federal Government to be used as a park. No other major park in the Nation represents so much local interest and local participation.

During the ceremony last August dedicating Mount Zebulon Weaver, an address was delivered by Dr. Richard W. Iobst, university archivist of Western Carolina University, which I recommend to my colleagues:

Zebulon Weaver, late congressman from the Eleventh North Carolina District, was born on a farm at Weaverville, Buncombe County, North Carolina, on May 12, 1872. He was the son of Captain William Elbert Weaver and his wife, Hannah E. (Baird) Weaver, members of two of the most prominent families in Western North Carolina. John Weaver had been the first settler on lower Reems Creek, in what was at the time Burke, but is now Buncombe County. He arrived in the area before 1790. The town of Weaverville was named for his youngest son, Montraville Weaver, who owned the land on which the town was built and who was one of the founders of Weaver College—and donor of the land for the campus site. Montraville Weaver married Jane Baird.

One of their children was William Elbert, born in Buncombe County on June 16, 1841. He was a student at Emory and Henry College in Virginia at the outbreak of the Confederate War. Putting aside his books, he joined the Confederate Army on September 11, 1861, as a private in Company H, Twenty-ninth North Carolina Volunteers. He was soon promoted to color sergeant, first sergeant and acting quartermaster and was commissioned captain quartermaster of the Twenty-ninth on July 2, 1863. At the end of the war he was brevetted major. For several years after the war he practiced law in Asheville, but retired on account of poor health. He continued to have large land interests around Weaverville and was a leader in Democratic Party politics, serving in 1881 as a member of the North Carolina General Assembly. He married Hannah E. Baird, a native of Buncombe County and daughter of Adolphus Baird, merchant and planter, and granddaughter of Zebulon Baird—who was also the maternal grandfather of Zebulon Baird Vance.

Zebulon Weaver graduated from Weaver College in 1890, and taught school in Madison County. He attended the University of North Carolina in 1894–95, and, in the latter year, began the practice of law in Asheville, devoting himself to general corporation and civil law. In 1907 and 1909 he served in the North Carolina House of Representatives, and from 1913 to 1915 he held a seat in the State Senate. In 1907 he helped to prepare legislation that resulted in the passage of the first state conservation laws. As a boy he was closely acquainted with the well-known North Carolina ornithologist, John S. Carnes, and later became a strong supporter of wild life conservation and the establishment of bird sanctuaries and game preserves. Weaver, in short, was a lover of wild life and of natural beauty—especially in Western North Carolina.

In 1916 he was elected to Congress from the old Tenth North Carolina District, which, at the time, was normally Republican—while Mr. Weaver was a staunch Democrat. He served in the Sixty-fifth, Sixty-sixth, Sixty-seventh, Sixty-eighth, Sixty-ninth and Seventieth Congresses. Although defeated for reelection in 1928 in the Republican upsurge of that year, he was returned to the Seventy-second Congress on March 4, 1931, and to the seven succeeding Congresses (March 4, 1931–January 3, 1947). During this period (1924) he was the father of the legislation creating the Great Smoky Mountains National Park and was instrumental in securing the Asheville (Buncombe County) court house and post office—and in making Oteen Veterans Hospital a large and permanent installation for the care of veterans. Mr. Weaver also was responsible for constructing the Blue Ridge Parkway around Asheville and over Pisgah Ridge and Mount Pisgah. He secured funds to build the Newfound Gap-Clingmans Dome Highway, and to construct the many miles of horse and foot trails which thousands enjoy annually in the Great Smoky Mountains National Park.

By the late 1930s Mr. Weaver had risen to ranking member, below the chairman, of the very important and powerful House Judiciary Committee. In this capacity he helped to secure much good legislation for the United States.

On October 11, 1899 Mr. Weaver married Anna Capers Hyman, daughter of a prominent lumberman, Theodore Hyman, of Goldsboro and New Bern. They had five children: Mary Danvers, later Mrs. Carter H. Hites of Asheville; Hannah Baird, the future Mrs. J. Frank Johnson of Washington, D.C.; Theodore Hyman, of Salisbury, North Carolina; Zebulon Weaver, Jr., now a district judge in Asheville; and Frances, the future Mrs. Walter Cuthrell.

Mr. Weaver was an unsuccessful candidate for renomination in 1946. He returned to Asheville and resumed his law practice. He died there on October 29, 1948 and is interred in Riverside Cemetery, where other famous sons—and daughters—of Western North Carolina have found their final resting place.

In the spring of 1938 the North Carolina Place-name Committee for the Great Smoky Mountains National Park recommended that a peak in the Park be named in honor of Congressman Weaver. The proposal was approved by the Committee and petitions were prepared by local citizens and addressed to the executive secretary of the United States Board of Geographic Names in Washington, D.C. One petition explained:

"We, the undersigned, respectfully petition and request that a mountain be officially designated 'Mt. Weaver'; this mountain being a hitherto unnamed peak, approximately 5,300 feet elevation, shown on east half of topographic map of Great Smoky Mountains National park, about ¼ mile S. E. of Luftee gap, about 1 mile S. W. of Newfound gap on main top of Thomas ridge, approximate long. 83 deg., 26 min., 15 sec., lat. 35 deg., 36 min., 20 sec., lying entirely within North Carolina."

The petition continued:

"Realizing that it is not the policy of your board to name geographical features for living persons 'unless adopted by local usage' we aver that the above described mountain is now—and will always hereafter be—known to us as 'Mt. Weaver'."

Because of this policy of not naming geographical features for living persons the petitions were unsuccessful and a mountain might never have been named for Zebulon Weaver. However, because of the persistence and foresight of one lady, a citizen of Asheville, Mrs. Sara A. Smithson, Congressman Weaver's longtime private secretary, a petition was prepared last fall and submitted to the October meeting of the Western North Carolina Historical Association. The petition called for the naming of the same unnamed peak on Thomas Divide. It passed, was sent to our able Congressman Roy Taylor of Black Mountain, who submitted it to the United States Board on Geographical Names.

In late March of this year this body approved the naming of the mountain as 'Mount Zebulon Weaver'. Therefore, permanent honor has come to the memory of one of North Carolina's most illustrious sons. His mountain will always stand—not, at 5,300 feet, the highest mountain in that lofty range, but a peak of moderation and humility reflecting the kind of man he was, rooted in the bedrock of Western North Carolina.

SOVIET JEWRY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GUDE. Mr. Speaker, many of us in Congress have expressed our outrage at the imposition of a so-called educational tax upon Soviet citizens who wish to emigrate. This is clearly a "ransom" tax, aimed at the many Soviet Jews who have applied for exit visas to Israel and other countries. As has been noted, the only hope Russian Jews now have of rescinding this tax is if massive pressure can be mounted against it in the West.

The protests of all Americans must be heard, public officials and private citizens alike. In this connection, I am pleased to insert in the RECORD the following telegram from John E. McCarthy, director of Migration and Refugee Services of the U.S. Catholic Conference to the Jewish Community Council of Greater Washington. Solidarity in this cause is of utmost importance.

The telegram follows:

OCTOBER 6, 1972.

JEWISH COMMUNITY COUNCIL OF GREATER WASHINGTON,
Washington, D.C.:

There is no nobler destiny, nor any greater gift that your rally on behalf of Soviet Jewry can make to the years to that will follow than to prepare the way toward a lasting solution to the world's refugee problems.

The political, military and ethnic convulsions of this century have given rise to virtual armies of uprooted and dispossessed. It is not without wonder that many refer to our times as the "Age of the Uprooted—the Century of the Homeless Man".

When I first heard about your planned rally at the Ellipse this Sunday, I was reminded of the Pearson Commission Report and it's suggestion that ". . . Concern with the improvement of human condition is no longer divisible . . . we live in a village world . . . we belong to a world community."

Our response today to the needs of Soviet Jewry will bear heavily on the matters effecting the dignity of the individual and the structure of an orderly but humane society in the future.

The test we face is to ensure every individual his right to find a home of his choice, his right to develop and improve and his right to determine his own destiny without intervention.

In this quest, we must not forget our Jewish brethren behind the Iron Curtain.

For so long as we do not secure these basics for them and for the multitude of other distressed of the world, we are not solving the problem nor exercising our Judaic-Christian principles.

I join with you in the struggle to improve the lot of all distressed behind the Iron Curtain. In addition, I support the Jackson amendment currently before the Congress which would deny a "most favorite nation" status and preferred trade agreements to countries which do not allow free emigration and I urge all our fellow organizations and constituencies to do the same.

For this purpose I write this brief note. Toward this goal, I will channel my efforts. Together we can do a great deal in leading the way. Together I am confident, we will do a great deal in leading the way.

John E. McCarthy,
Director, Migration and Refugee Services,
United States Catholic Conference.

MORE BAD NEWS FOR THE UNHEALTHY

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, this is getting to be something of an annual event—unfortunately. Deductibles for medicare seem to have nowhere to go but up any more. On the 10th of October, I was informed by HEW that the Secretary had determined that a patient's deductible, currently the first $68 of his hospital bills, is going to go up $4 to $72 starting January 1 under part A of the medicare hospital insurance program. As a matter of fact, were it not for a ruling of the Price Commission the increase would have been $8.

I find this to be a most disturbing situation indeed. For 2 years in a row now, senior citizens depending upon medicare programs for hospitalization have been faced with increases. Last year's increase was $8. Apparently, this year's was going to be the same. Sixteen dollars. Talk about inflation, this is the best evidence I know that present policies to control costs are totally failing in one key sector and that is health care delivery. We, in effect, are witnessing a 20 percent increase in the deductible in the space of a year over where it stood in December of 1971.

As I said last year—

> The Federal Government should be giving a lead, setting an example for the rest of the economy. I think this is a poor example, indeed.

Again, to anyone living on social security benefits, watching their pennies and fearing hospitalization above all else, this percentage increase is a real burden—more than a matter of a few dollars and cents—the way it might be viewed by a younger person enjoying a full earning capacity. A real concern to me is that this higher deductible—as well as increases in amounts a beneficiary will have to pay for his 61st to 90th days of a hospital stay, plus any "lifetime reserve" days used and days covered in an extended care facility—are certain to touch off another round of increases sometime next year in Blue Cross-Blue Shield Medex plans, supplementing medicare insurance.

The Medex plans issued by Blue Cross-Blue Shield pick up the deductible the medicare patient has to pay; also the coinsurance, now $17 per day, for each day used between the 61st and 90th days.

The new coinsurance payment will be $18 per day starting in January.

If a medicare beneficiary exhausts all his hospital days in a single benefit period and draws upon his 60 lifetime reserve days, he will have to pay $36 per day for each day used, instead of the present $34 per day.

If the point I am making has not already been appreciated, consider this additional statistical information. Back in July of 1966 when medicare began just 6 years ago, the patient had to pay the first $40 of his hospital bill. Subsequent increases to $42, then $50, then $60 and as of last January to $68 means that we have witnessed inflation in excess of 75 percent in just a 6-year period. Is it any wonder that our elderly find it impossible to keep up with rising costs when every increase in their benefits seems to be matched by increases in the costs of medical attention and the rest of the basic needs of life. Reforming social security benefits is not enough. I hope that Congress will make reform of health insurance programs its major consideration for this next Congress.

HON. ALTON LENNON

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. CLARK. Mr. Speaker, those of us who had had the privilege of working closely with Alton Lennon in the House will feel a loss that cannot easily be filled. I have long esteemed him for his loyal service and his clear judgment. We have worked together in the Merchant Marine Committee over the years and I have come to regard him not only as a respected colleague, but as a close and dear friend. May his retirement from the House be only another step toward fulfilling his goals in life and may his backward glances to his work here bring him deep and lasting satisfaction.

HON. CHARLES JONAS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. MINSHALL. Mr. Speaker, we always regret having to say good-by to colleagues we hold in high esteem and admiration, and particularly so in the case of our good friend, the very distinguished gentleman from North Carolina, the Honorable Charles Raper Jonas.

Charlie Jonas has done a magnificent job not only in representing the citizens of the Ninth Congressional District, but in turning in an always excellent record of service to the great Appropriations Committee on which we both serve and to our Nation. Congress will be the poorer for his departure, but all of us who have been privileged to know him as a friend and to serve closely with him wish him an abundance of happiness, health and prosperity in his retirement from Capitol Hill.

Our good friend's retirement means a dual loss to Mrs. Minshall and to me, for we will also miss Charlie's lovely and gracious wife, Annie Elliott, whose friendship is a treasure to us both.

SENATE—*Friday, October 13, 1972*

The Senate met at 8 a.m. and was called to order by Hon. Charles McC. Mathias, Jr., a Senator from the State of Maryland.

PRAYER

The Reverend Donald Craig Kerr, Th. D., pastor, Roland Park Presbyterian Church, Baltimore, Md., offered the following prayer:

Lord God, keeper of our life's destiny and guardian of our Nation's fortune, we lift our voices in praise of that unfolding truth which may put us in touch with those principles and values that will unite mankind in a brotherhood of peace, justice, and reverence.

Under obedience to that divine spirit which guides our thoughts and inspires our decisions, we pray for the Senate of this land that it may awaken the consciences of our people to a vision of promise and new adventure for our country. Lord God, whose watchful vigilance over our Nation's progress has rewarded us with benefits and blessings, deliver us from the sins of fear and suspicion; so that in thankful loyalty we may put our trust in the future and have the courage to be led by the wisdom of the prophets and the example of Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., October 13, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Charles McC. Mathias, Jr., a Senator from the State of Maryland, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. MATHIAS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 12, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1198) to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 16987) to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 710. Concurrent resolution extending the greeting and felicitations of Congress to the American Public Health Association on the occasion of the one hundredth anniversary of its founding; and

H. Con. Res. 721. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 3507.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wyoming (Mr. Hansen) is now recognized for not to exceed 15 minutes.

SENATOR LEN B. JORDAN

Mr. HANSEN. Mr. President, a great Member of this distinguished body announced his decision this year to retire from the Senate. Len Jordan—his warm friendship, his keen intelligence, his sound judgment, his dependability—will be missed sorely.

This distinguished statesman, a former Governor of his State, is beloved by Idahoans. He has a working knowledge of government second to very few, if any; having served in the Idaho Legislature prior to being elected Governor, as a member of the International Joint Commission, and as a member of the International Development Advisory Board.

Len Jordan was a warrior, enlisting in the Army of the United States during World War I. He subsequently earned honors as a Phi Beta Kappa at the University of Oregon. And Len Jordan is a religious man, as we know from hearing his thoughts presented on many occasions to the Senate Prayer Breakfast. He is a trustee of the Boise Methodist Church and he is a Mason.

It has been my great privilege and honor to serve with Len on both the Interior, and Finance Committees. His wise counsel has been sought often by many Senators. It has always been modestly presented, but freely given. And I have placed a high value upon it.

In addition to our Senate association, our District of Columbia association and the natural affiliation we have had because Wyoming and Idaho share a border, Len Jordan and I share another common ground. Both of us are men of agriculture—farmers and ranchers.

I was fortunate enough this morning to be reading a newspaper over breakfast: the Hood River, Oreg., News, of August 25, 1939.

At that time of publication, Len Jordan was a farmer on the Snake River in the area of Enterprise, Oreg. His great ingenuity, that we have come to know so well here, was quite in evidence in 1939, according to this newspaper article. It was headlined: "Probably Is Not Interested in P–U–D," and read as follows:

> Without doubt the sweepstakes award for unique, ingenious homemade electrical plant in Pacific Northwest should go to Leonard Jordan, farmer living on the Snake River some distance from Enterprise. Jordan's plant consists of an old automobile generator turned by a water driven wheel. This is an old Ford car wheel rimmed with "sheep bells" into which a small stream of piped water is directed. The water is diverted from an irrigation ditch. Storage batteries store up reserve energy. The current is said to be sufficient to provide lights, also run a washing machine, grindstone and similar small devices.

In more recent years, many more newspapers have published articles about our distinguished colleague from Idaho. The Idaho Statesman, a newspaper appropriately named to print articles about Mr. Jordan, editorialized December 18, 1970, in a speculatory piece about the Senator's political plans for the 1972 elections. The editorial reflected the intelligence that is a solid trait among Idahoans by stating:

> Our own favorite for Senator Jordan's Senate seat is Senator Jordan. He has been doing a fine job, and there is no evidence that he is slowing down.

All of us here share the newspaper's choice of favorite for the Len Jordan Senate seat. The newspaper continued with some further pertinent and sensible remarks with which I fully agree.

> Whether he runs again or not is up to the Senator. After these many years of service to Idaho he is entitled to retire from political life, if that is his desire. But if he should wish to run again, he will have plenty of support.

The Idaho Statesman continued to point out that Len Jordan "works for his State and his constituents. He does his own thinking and reaches his own decisions."

The editorial concluded with this:

> If he chooses to run he can expect to be re-elected easily. It would be understandable if he decides not to. But we know of no one who could serve the State better in the Senate.

We know of none who could serve the Nation better or more faithfully than has our comrade from Idaho. He has had a varied career, profiting from wide experience that seasoned him well for his assignments in the Senate. The Senator has worked as a laborer, a cowbody, an accountant, a woolgrower, a cattleman, a farmer, and a businessman, in addition to his public service.

His charming wife, Grace, has been and is the perfect complement to a man who has devoted more than 20 years to public service. She has her own newspaper column and is an author as well.

They have two sons and one daughter, and a number of grandchildren. I know they look forward to many happy years enjoying these grandchildren.

All of us, and perhaps all of America, recall the incident in 1969, when Len Jordan made national headlines—the hard way. He was attacked by a holdup man in the elevator of his apartment building. The assailant struck him with a blackjack after the Senator from Idaho knocked him down with a stiff right to the jaw. The Senator grabbed the robber, apparently with the intent of making a citizen's arrest, but the unidentified man made his getaway.

From that incident, and the accompanying publicity, those who did not know it before, learned quickly that our reliable, self-sufficient colleague is a good man to be with when the going gets rough.

We are saddened by his impending retirement from the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield to the distinguished majority leader.

The PRESIDING OFFICER (Mr. Burdick). The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I want to join in the commendation of our voluntarily departing colleague, Senator Len Jordan of Idaho. Just as the Senator from Wyoming is a neighbor, so am I. And just as he had a chance to size up Len Jordan down through the years, so have I. To me, Len Jordan has been a true representative from our part of the country. At the same time, he has been a true national representative of the people of the Nation in this body.

Len Jordan had an outstanding record as Governor of the State of Idaho. He was Chairman of the Boundary Commission which looks after the border between this country and Canada. He was most helpful to me personally in seeing to it that Libby Dam on the Kootenai River in northwestern Montana became a reality. And he was broadminded enough to recognize that this was not just a local proposition but that it had implications from the broader viewpoint of being helpful to northern Idaho, as well, and that it would be beneficial to all of the northwestern States in the Bonneville region.

Len Jordan has performed outstandingly well as a Senator. The thing that I have admired about Len Jordan is that he is a man of independent judgment. He makes up his own mind, and he calls them as he sees them.

It will be with deep personal regret that I will mark the passing from this body of LEN JORDAN, because his shoes will be hard to fill. His contributions have been many. And his monument will be what he has done for the people of his State and of the Nation.

So at this time I wish to extend my affection, my admiration, and my respect to LEN and Grace Jordan for the many fine contributons they have made to our part of the country and the Nation during the many years of public service that it has been his privilege to undertake to serve his people and our Nation.

A good man will be gone from us, and we will all miss him.

Mr. HANSEN. Mr. President, I thank the distinguished majority leader. We all appreciate that the Senator from Montana is a man of few words. I took particular note of what he was saying, and I agree thoroughly with his expressions, which I know came directly from the heart.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield to the distinguished Senator from Maryland.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, one of the great privileges of service in the U.S. Senate is the association with some of the remarkable men and women who serve here.

I cannot think of anyone whom I ever felt more privileged to know and to work with than Senator JORDAN. It has been an educational experience to watch his performance in the Senate and his performance as a man. He brings to Washington a little of that spirit of the West, as we all think of it.

As the distinguished majority leader has said, he is independent in his judgment and is not confined to any dogma or doctrine. He assesses a situation and makes up his own mind. I cannot think of a more typical experience that illustrates the fact that the American initiative is still alive than the way he handled his own personal law and order problem when he was attacked in an elevator and asked for his wallet. He was not going to give it up. He undertook to provide a little order on his own.

I think he is one of those calm influences in our body. It has been a tremendous privilege to know him. I appreciate the fact that the Senator from Wyoming has taken time to see that tributes are paid to Senator JORDAN. I thank him for it.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Maryland. I appreciate what he has said.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I join this morning with the distinguished majority leader, the distinguished Senator from Wyoming, and the distinguished Senator from Maryland in paying tribute to the Senator from Idaho (Mr. JORDAN), who is voluntarily retiring from the Senate.

Senator JORDAN came to the Senate after a distinguished career as Governor of his great State. He had an outstanding administration as Governor of Idaho, after serving in the Idaho Legislature. In the Senate he has been a tower of strength. I am particularly appreciative of having had the opportunity to serve with him during the past 4 years as a member of the Committee on Finance.

I found his judgment and his reasoning to be sound. I have followed his recommendations and leadership on many occasions.

I believe that LEN JORDAN is a Member who has made many contributions to the Senate and to his Nation as a Senator from Idaho.

I regret that he decided voluntarily to retire from the Senate. He will be greatly missed. He is the type of man that the Senate needs. He is a man of independence, as the majority leader has indicated. He is a man of solid judgment.

I salute Senator LEN JORDAN on this, one of his final days in the U.S. Senate.

POLITICAL CAMPAIGN CONTRIBUTIONS

Mr. HARRY F. BYRD, JR. Mr. President, it seems to me that Congress should take steps to place some sort of ceiling on political campaign contributions, and perhaps a tighter ceiling on campaign spending. Whether it can be done at this session, I am not sure, but most certainly something needs to be done, as I see it, to control the huge amounts of political contributions which are being made at the present time, not only for presidential elections, but also in elections to the Senate and House of Representatives.

As it is now, there is a ceiling of $3,000 which an individual may contribute, but that applies to any one particular political committee.

As we all know, there is a multiplicity of committees. Some committees are established one week, receive contributions, and then are disbanded a week or so later. I think the time has come to plug this loophole and place a definite ceiling on the total amount of funds that any one individual can contribute to any one political candidate.

I am not sure what that figure should be. The Senator from Kentucky (Mr. COOPER), and the senior Senator from Virginia, have been working in an effort to bring to the Senate an amendment to the pending piece of legislation. We want any proposal we might make to be reasonable, but the main thing, as I see it, is to set some sort of firm ceiling, because we know from official reports made as a result of the recent campaign financing law that many contributors are providing vast sums of money to a multiplicity of political campaigns.

I hope the Senate will tackle this problem. It is possible that the bill dealing with campaign expenditures, now on the Calendar, could be the vehicle. If that bill is called up, it would be an ideal piece of legislation on which to place an amendment putting a firm ceiling on the amount of contributions an individual would be allowed to contribute to a political campaign.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MANSFIELD. At present it is not the intention of the leadership to call up that bill because it is open to a lot of questions; and if by any chance it is brought up, there would be an amendment, in addition to the proposal of the Senator, calling for full disclosure on the part of all Members of the Senate, the executive branch, and the judicial branch, where earnings are $18,000 a year or more.

Mr. HARRY F. BYRD, JR. I thank the Senator from Montana for the information he has given the Senate.

In the sense that I am opposed to the pending legislation, I am glad it will not be called up; but in the sense that I favor a ceiling on campaign expenditures, I would just as soon see it called up, because then we would be able to see certain amendments on campaign expenditures called up.

This is not a partisan issue. Huge contributions are being made to both political parties, both in the presidential campaign and in Senate and House races. So it is not a question of partisanship in any way. I think the time has come when a total, firm ceiling should be placed on campaign contributions.

Mr. President, I suggest the absence of a quorum, with the time taken from my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR LEN B. JORDAN

Mr. STENNIS. Mr. President, along with every other Senator, I am sure we are filled with regret that our colleague from Idaho, Senator LEN JORDAN, is not going to be with us as a Member of this body next year. At the same time, we respect his decision not to offer himself for reelection, and this does give us a chance to evaluate briefly and to comment on some of the fine qualities of this outstanding Member of our body for the last 12 years.

Mr. President, I think that I have not found any Senator who has approached his duties and responsibilities with any more serious intent and more consciousness of obligation to one's constituents and also to the security and welfare of our Nation. I have approached him many times for advice and counsel; I have heard him speak here in other consultations, and that seems always to have been the thing most in his mind.

I am not here just to praise; he needs no praise. But I do express appreciation for the character he has shown, his unvarying honor, and his high integrity, which seems to me is the foundation of anyone that undertakes to carry the responsibility that goes with membership in this Chamber. At the same time he had a very practical approach to the problems of our Nation, to his area, and to his State. He did not operate under illusions of any kind of fancy as to what should be done in order to always carry out the idealistic, knowing that it cannot always be done in the degree one might wish in the evolution and change of principles in government. I think that is another essential of a sound and practical legislator. He had that quality in great abundance. We will miss that quality.

I first knew Senator JORDAN when he was Governor of his home State, and I was impressed then. I was more or less a new Senator. I was on a visit there with the Public Works Committee concerning his State, and I was impressed with the same dedication and devotion that he has shown here and his practical approach to problems and an unusually fine understanding of the problems of his people, their economy, and all the related problems that go with life in this time. I emphasize that that practical approach is necessary, and he showed it in a remarkable way.

If I may mention another way that I know him, it is in knowing his wonderful wife, whom I call "Miss Grace," who wrote a book—I believe she wrote more than one book, but I read one—which was the story of their life during the depression years out in the rugged, rugged part of the West. Living there under the pressures of the economy, the breaking up of the economy, to a degree, under the pressures of living in almost total isolation, and rearing their children and schooling their children, the hardships they all underwent and faced there voluntarily, and survived, is a fine monument to them. Moreover, it is a story of the great America that we must keep. We must find a way to keep those qualities—keep them in public life, keep them in the minds and hearts of the people.

The personal courage shown by them, their willingness to undergo sacrifice, living on principles, even though the economy was failing, and giving unfaltering inspiration to the few people who came their way to an isolated ranch, was another thing that impressed me. This fine couple, who have gone down life half way, hand in hand, furnish such a wonderful example of America at its best, with personal sacrifice and dedication at its best, at the same time entering into the spirit of public service in what I call just about the ideal way.

We have been strengthened by their presence here. Even as they move on now, a great part of that influence will remain. The light that they lighted here will continue to shine, always lighting the way for the truly great things that America is founded on and without which we cannot survive.

So I join with all in wishing them good voyage and many more years of usefulness. I think one of the personal rewards we get from service here is the fellowship and friendship and the knowing of numbers and numbers of truly fine characters. Certainly, they have been a reward to me, and I wish them Godspeed, without saying "Goodby," but saying "So long." We want them around, even though they will no longer be Members of this body.

Mr. President, I yield back such time as I have remaining.

Mr. TALMADGE. Mr. President, who controls the time?

The PRESIDING OFFICER. The Senator from Mississippi has 7 minutes remaining.

The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr. STENNIS. Mr. President, I am glad to yield whatever remaining time I have to the Senator from Georgia.

Mr. TALMADGE. Mr. President, it is a distinct pleasure and privilege to join my colleagues in paying tribute to our warm friend, Senator LEN JORDAN of Idaho.

I will miss Senator JORDAN, and I regret his decision to retire, and I am sure that every Member of the U.S. Senate will miss his departure.

I am very proud of our friendship and association over the 10 years that he has served the State of Idaho in the Senate.

Our friendship really began when he was Governor of the State of Idaho and I was Governor of the State of Georgia. We met at our national governors' conferences at that time, and I was impressed then with his character, his ability, his devotion to duty, and his integrity.

LEN JORDAN is an extremely thoughtful and considerate Senator, hard working and diligent in carrying out his responsibilities. He is one of this body's most independent thinkers. A man of unwavering principle, LEN JORDAN acts with courage, always in accordance with what he believes to be in the best interests of his State and Nation.

I serve with Senator JORDAN on the Committee on Finance, and I know of no other member who attends more regularly, or who is more attentive to the testimony and complex issues that come before the committee.

Since coming to the Senate, Senator JORDAN has faithfully attended to his duties. He has never forsaken the trust given him by the people of Idaho, and he is to be commended for a job extremely well done.

I wish Senator JORDAN happiness in his retirement and every success in all that he undertakes in the future.

Mr. President, acting in behalf of the distinguished Senator from Mississippi, I yield the remainder of my time to the distinguished senior Senator from North Dakota (Mr. YOUNG), and then I shall take the floor in my own right.

Mr. YOUNG. Mr. President, with the sine die adjournment of this session of Congress, another truly fine person and able legislator will be leaving us—Senator LEN B. JORDAN.

The U.S. Senate and this Nation will be losing an able, down-to-earth legislator with good, sound judgment. Our friend LEN JORDAN not only has a distinguished record, but in many respects it is unique.

In his college days, Senator JORDAN was not only a top student, but a great athlete. He was only a young man when the great depression of the 1930's hit this country. Determined to make a living on his own, he went deeply in debt to take over a sheep ranching operation in the Snake River country of Idaho. This was a lonely and difficult life for both LEN and his good wife Grace. It was the kind of life that tempers a man's character and it left a deep imprint on his life and thinking in the years of public service that followed. His governorship of his beloved State of Idaho and his 10 years in the Senate were characterized by these experiences. The people of Idaho always recognized him as being an honest, decent person with an unusual sense of good judgment. Every Member of the Senate shares their thoughts.

LEN JORDAN is very independent in his thinking. His votes and actions in the Senate were always in accord with what he thought was right—whether it was popular or unpopular.

While I feel badly that LEN JORDAN and his wonderful wife, Grace, will be leaving us, I can understand and appreciate their reasons for doing so. We all wish them many years of good health and happiness, and express the hope that they may find further fulfillment in their retirement from public life, enjoying some of the things that were denied them in a long and busy political life.

Mr. HANSEN. Mr. President, will the Senator yield, if he has time?

Mr. YOUNG. I yield.

Mr. HANSEN. Mr. President, I must say that the distinguished senior Senator from North Dakota has touched upon an area of our lives that I think is extremely important. Anyone who knows the rugged Hell's Canyon country of Idaho would agree with me that a man and his wife who would go down into that area of the country, remote and far away from neighbors, from institutions, and from all of the things that so many of us increasingly depend upon in this day and age, must have something special about them, and that certainly is eminently true of LEN JORDAN. It reflects a kind of independence of spirit, a willingness to assume full responsibility for one's welfare and for the welfare of his family, that a person would undertake that very challenging assignment that LEN and Grace so willingly undertook a number of years ago.

I, too, share the sentiments of those who have said that we hope that these qualities, these virtues, these great strengths of character in Americans may not be lost, but that, by his example, others of us and generations to come may take heart and find inspiration in the life of these great people to go out and epitomize the great American spirit.

I thank my distinguished colleague from North Dakota for having called attention to this character trait, which is certainly a hallmark of Senator JORDAN.

Mr. MOSS. Mr. President, my neighbor and dear friend, LEN JORDAN will be leaving the Senate at the end of this session, and we will feel the loss of his presence, his wisdom, his friendliness, and his effective work in this body. But surely all of us wish to LEN and his wife, Grace, long continued years of happiness. We know they will be rendering help and service to their fellow men, as they have done all of their lives, wherever they live.

LEN JORDAN was Governor of the State of Idaho, a neighboring State to mine, and from that time forward I have known him and know of him. I am always proud to relate, of course, that LEN JORDAN was born in the State of Utah, and so is a native son of the State that I represent in this body, but it was our loss that, as a young person, his parents took him to Oregon, where he grew to manhood, and then he moved to Idaho where he has had his residence since that time.

It has been 10 years since LEN JORDAN came to the Senate. I have come to know him much better and have worked more closely with him here. We have served together on the Committee on Interior and Insular Affairs. He is the ranking Republican member of the subcommittee of which I am chairman, the Minerals, Materials, and Fuels Subcommittee, and in that respect I have had the most close and intimate association with him, as well as through our serving on many other subcommittees of that parent committee.

From that association, I have learned to admire and depend upon LEN JORDAN as much as any other Senator in this body. He is quiet, thoughtful, effective, wise, and always deeply warm and understanding of problems. I consider him a close personal friend.

Phyllis and I treasure the friendship of LEN and Grace, a couple who have been together for a lifetime and have indeed formed a partnership that is indissoluble. Like LEN, Grace is a great person. She, too, is wise and thoughtful, with a keen, brilliant mind, but a warm, friendly character, and the two make as ideal a couple as I can think of, as we have associated with them. We treasure that friendship and look forward to its continuation for a long time.

If I were asked to point out the people who I think represent the ideal qualities that I would look for in a mature and important couple in this land, I would point to the Jordans. They epitomize goodness, wisdom, and patriotism in its highest sense.

It is traditional, of course, in this body to say a word or two about those of our Members who are leaving service here; but I know of no time when I have been moved to do it with greater emotion and greater feeling than I have for my dear friend, LEN JORDAN, and I wish him many long and happy days.

Mr. HANSEN. Mr. President, let me say a word not to the distinguished Senator from Idaho but, rather, to the Senate.

I think I speak for all of us when I say that the kind of example he has set, his dedication to the duties that are before us constantly, his commitment to this country, his faithfulness to the American idea of life, all together epitomize what each of us would like to believe the Senate means. I quite agree with the distinguished Senator from Idaho that this spirit, this ideal of service, is something that, indeed, makes this a very special place; and it is men like LEN JORDAN who make us have real reason to regard it as we do.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MANSFIELD. Mr. President, we all know about the old saying that a man is sometimes without honor or recognition in his own country. But I think that the ultimate that can be said about LEN JORDAN—I have had my say already—is that in the Chamber at the present time he is surrounded by Rocky Mountain neighbors who live close to him, who have great respect and admiration for him, and who are well aware of the sterling qualities which have made him the outstanding man, the outstanding Governor, the outstanding Senator he has been and is.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. FANNIN) is recognized for not to exceed 15 minutes.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. BENNETT. Mr. President, I am glad the majority leader said what he did; because, as I look around the Chamber, all of us here are from the intermountain, west of the area that lies between the Pacific mountains and the Rockies.

Four of us have very interesting and, to me, a very treasured relationship. We serve together on the Committee on Finance. We represent many common interests and common points of view. We do not always agree, as I think may be demonstrated this afternoon in debate. But that is of insignificance in the face of the common heritage we share.

I am proud of the fact that LEN JORDAN was born in the State of Utah. I am sure that many of the sterling qualities he has exemplified in his work, as Governor of the State of Idaho and as a Senator representing that State in this body, have their roots in the heritage that I share with him in that respect.

His has been a very interesting and a very challenging kind of life. When I think of the Jordans I think of the title of his wife's book, "Life Below Hell's Canyon," and the realization that during the 10 depression years that he and his wife with their three children struggled to make a living out of the kind of life and the kind of environment that he has described a minute ago—think how well they have succeeded and what a great impression and a great strength that experience has given him in his service here in the Senate.

Of the four of us in the Chamber at this moment, three have been Governors. I am the only one who has not. I think that the experience as Governor has made their service particularly significant, because they can give us the benefit of the shared experience of the legislative as well as the administrative side.

Senator JORDAN has a great personal strength which has deep spiritual roots. Those of us who have worked with him realize that his decisions are not lightly taken. They are not politically taken. As I have observed him over the years, they represent the expression of great faith in the basic principles on which our country was founded and which, I think, must continue to be strong if we are to carry it through.

Those of us who remain behind will miss his association, his sound advice, and his strong support. We are all better off because we have had the privilege of working with him. We hope that, with his help, the man who replaces him in the Senate will have this same strong flavor of the pioneer experiences that are still felt in the intermountain country which has been settled within the past 15 years. We still face some of the same problems that our grandparents faced in that area.

It has been a great privilege to have known LEN and to have worked with him. It has been a privilege for Mrs. Bennett and for me to have had the privilege of being close to the Jordans as a married couple.

I want to tell him and the rest of the Senate how much we appreciate it and how much we feel indebted for the heritage he leaves with us who will go on and serve a little while longer in this body.

If, at the end of my service, I can feel the friendship and appreciation that I know LEN feels today, which comes to him from all his colleagues, particularly from the four of us who share the common intermountain heritage, then I, too, will be very happy.

Mr. President, it is always a sad thing to say goodby to Members of this body. We come and we go. But I think no one retires from this body leaving a greater void than is the case when Senator JORDAN moves on to what we all hope will be many years of happy accomplishment.

Mr. FANNIN. Mr. President, I am very proud to join today in paying tribute to my dear friend and colleague from Idaho, Senator LEN JORDAN. He is a humble man, a man of great accomplishment and of great ability.

It has been my good fortune to serve with him on the Finance Committee, on the Interior and Insular Affairs Committee, and also on the Public Land Law Review Commission. So that I have been privileged to work closely with him over the years, and I am deeply grateful for his help and his wise counsel. His contributions have been outstanding.

Before coming to Washington, Senator JORDAN was a rancher and a businessman, a member of the Idaho State Legislature and Governor of his beautiful State. He also was a member of the International Joint Commission and the International Development Advisory Board. He made an excellent record in this service.

From his youthful days at the University of Oregon where he was Phi Beta Kappa and on through his many, many years of public life, Senator JORDAN has always performed his duty of good citizenship with vigor, full devotion, and integrity.

His vast experience as a rancher and as a member of these many commissions certainly prepared him to carry on those most responsible and honored positions.

Senator JORDAN with his knowledge of ranching and mining, and his deep respect for the natural beauty of the Rocky Mountain States, has made great contributions to conservation and protection of the environment while at the same time limiting unnecessary detrimental effects on the economy.

This has been his goal, to do what is right. He has performed well.

The people of Idaho and this Nation owe Grace and LEN JORDAN their thanks for their work over the years.

LEN has lived the life of a rancher. He knew hard times and what hard work was all about, having lived in isolated Hells Canyon. Grace and LEN enjoyed the tough assignment of overcoming obstacles to which those of lesser hearts would have surrendered.

His spiritual ideals were of great value to him during those years, but LEN always carried his load, and more. His hard-hitting tactics demonstrated in his university football career continued for he is still an agile athlete, always able to meet and carry on the tasks of the day.

LEN JORDAN'S steady hand and fiscal good sense have been invaluable on the Finance Committee. He has worked diligently to promote equity in taxation and fiscal responsibility in Government.

LEN knows what it is to pay taxes. He knows what it is to have a payroll. He knows what it is to make decisions and he makes them well. He comes to his meetings prepared. He does his homework. I am very proud of the contributions he has made on committees. I am very much pleased that I have had the opportunity to observe his work.

It is fitting that I note the Senator and his wife, Grace, make an extraordinary team. She also was a college Phi Beta Kappa and is a fine journalist. She continues her career writing for newspapers. It was mentioned that she is writing a book about Congress but not even LEN has been allowed to see the manuscript, as I understand it.

Some may equal but few will excel the services of LEN and Grace Jordan.

In working with LEN, one gets to know him and what he stands for; the real LEN JORDAN, a man who is proud of his heritage. We have talked about that today and I have enjoyed listening.

I have had the privilege at the prayer breakfasts and have had him describe some of his home life, his parents, the responsibility he had as a youngster, and how his parents gave him guidance and counseling throughout the years. This early developed this great man to what he is today and made it possible for his many accomplishments.

So we are very proud of what LEN has done. But I think that when we describe him, we must describe him as a man of great integrity, loyalty, honor and dignity. For more than a decade he has served in the Senate. Those of us who have enjoyed his company and valued his advice will miss him very much.

All of us have enjoyed his company, but some of us have had an opportunity to perhaps enjoy it more. I have served on the same committees he has served on. This, as I said, is a double privilege.

We will miss LEN, but we know we will still have him, as far as giving us counsel on the work that needs to be done.

LEN is not retiring; LEN is not the retiring type; LEN has worked all his lifetime and worked hard. I know he will continue to do that, because of his love for his State and for his Nation.

So in saying goodbye, it is really not that at all, or even farewell. We are just saying, "LEN, we have enjoyed you greatly. We are going to continue that relationship and friendship."

We just hope that LEN and Grace Jordan have an opportunity to get a little relaxation. LEN is leaving the Senate shortly, and yet no one in this Senate has devoted more time and more energy in these last few weeks than LEN. This is typical of LEN JORDAN.

So I certainly say that Elma and I wish Grace and LEN the very greatest of success in their retirement.

Mr. President, when we talk about someone that is leaving the Senate, we do so with regret, naturally, because we know it is a loss.

Some may equal, but none will excel more than he. LEN JORDAN contributes of his time and energy every hour of the day. We will have a great void to fill, and we look forward to his counsel in the future.

It is a pleasure to have the opportunity to pay tribute to LEN and to Grace. I hope that we do have an opportunity to visit with them regularly.

Mr. ROBERT C. BYRD. Mr. President, I ask that I may be recognized at this time without prejudice to the distinguished Republican leader, who was to be recognized, I believe, at this time.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I did not know until I came into the Senate Chamber this morning that there was going to be an opportunity at this time to comment upon the departure from the Senate of our dear and beloved friend, LEN JORDAN of Idaho.

For almost 4 years I have had the pleasure of serving with Senator JORDAN.

Mr. President, I believe that I am a better man from having known Senator JORDAN, from having been associated with him, from having attended with him breakfast meetings of the Senate prayer group over this period of 4 years.

Mr. President, the Prophet Micah wrote that the Lord requires that a man do justly, that he love mercy, and that he walk humbly with his God.

Our distinguished friend, Senator LEN JORDAN of Idaho meets these requirements as well as any man I know.

Senator JORDAN is a man of character, of integrity, of high principle, independent, with the independence that seems to go with those who come from the wide open spaces of the West. He is leaving the Senate of his own choice at the very height of his career, at a time when he could have come back to the Senate almost by acclamation of the people of Idaho.

Mr. President, the U.S. Senate, in my judgment, has the role, in a sense, of setting the moral tone for the people of the country. What a great moral tone the U.S. Senate would set if every Senator had the dedication, the honor, the integrity, the character, the sincerity of purpose, the patriotism of Senator JORDAN. What a great influence there would be on the conduct of all the people of this country if every public servant were a man of the type of Senator LEN JORDAN.

So we are going to miss Senator JORDAN. We are going to miss his wise counsel. We are going to miss his advice. We are going to miss his stand for principle.

The Senate is going to lose some of its brilliance, some of its luster, when Senator JORDAN leaves the Senate.

I have admired him, his record of service, his patriotism and his independence.

Even though I am a southern Democrat and he is a western Republican, I have found that our views on public issues coincide much more often than not.

Frankly, I have agreed with the distinguished Senator from Idaho more often than I have with some members of my own party.

But I continue to admire the example he sets and to say that the country is the loser, the U.S. Senate is the loser, the people of Idaho are the losers, and all of us in the Senate are the losers as a result of Senator JORDAN retiring from the Senate. Mrs. Allen and I wish him and his lovely wife, "Miss Grace," Godspeed and happiness in the long and useful period we wish for them.

Mr. BENTSEN. Mr. President, I would like to add my agreement and concurrence with the words of the distinguished Senator from Alabama and what he has had to say about my friend and colleague, the very honorable and distinguished Senator from the State of Idaho (Mr. JORDAN). I wish to express my deep admiration for the integrity and character of this man who has contributed so much to the Senate.

Mr. SCOTT. Mr. President, words alone cannot pay tribute to our outstanding colleague from Idaho who retires this year after 10 years in the U.S. Senate.

Senator LEN JORDAN, quiet, strong and compassionate, has dedicated his life to one of the wildest areas nature has created—Hells Canyon, Idaho. It is remarkable that these two seemingly diverse entities can coexist and play such a mammoth role in the course of each other's existence.

Senator JORDAN seems to derive his great strength and sensitivity from the wilderness of Hells Canyon. Where Senator JORDAN is capable and straightforward, Hells Canyon is unpredictable and wild. Yet Hells Canyon has an inner peace which only those who love it as Senator JORDAN does can recognize and appreciate. This same inner peace is reflected in our esteemed colleague from Idaho.

Senator JORDAN'S constancy and unassuming approach is well known. In the Senate, where artistry flowers and allusion is everything, Senator JORDAN is what he appears—a soft-spoken, down-to-earth, conscientious gentleman.

When LEN JORDAN ran for the Senate, his slogan was "Will Stand Tall in Washington." LEN JORDAN has stood tall. He has stood for moral courage. His formula for winning his election was simple—he wanted to personally meet and shake the hand of every voter in Idaho. This task alone is characteristic of his perseverance and dedication.

He has said:

> I believe there is no greater legislative challenge in the world than service in the U.S. Senate. . . . All I have ever wanted in politics is to be a good public servant.

Senator JORDAN has been the complete public servant. His stature and our respect for him have grown together.

As a man who believes deeply in the system and gravely feels and attends to the responsibilities of elected office, Senator JORDAN's unimpeachable integrity has been well known. He has a capacity for bringing out the best in his associates. We have always known that he carefully considers each issue. He is independent in thought, voting his convictions, not necessarily the will of any transient majority.

A most versatile man, LEN JORDAN is a former member of the Idaho House of Representatives and Governor of Idaho from 1951 to 1955. Moreover, he has an almost legendary sports reputation. A former varsity halfback, a recipient of a football scholarship in college, his reputation continues today.

As we all remember, when he was accosted by a young thug in his apartment building several years ago, he was able to surprise and throw his assailant to the ground. This is unusual for anyone, but, with a disparity of years, it becomes a major feat. His physical condition belies his years and truly underscores his mental capacity.

Senator JORDAN's constituency has benefited greatly from his tenure. He has become known as the one man who has understood and cherished the Snake River in Idaho. He is the best informed leader the State has on this river, its tributaries and the vital importance Idaho's constitution attaches to its free flowing river. He has led the onslaught against the appropriation of Idaho water to the Southwest.

His love of the spectacular view of the Middle Snake is widely known. In fact, the Snake River has been entwined with his entire life. And it has been heard that he will write about this majestic river when he retires. His lovely wife, Grace, is herself an author of the highly acclaimed "Home Below Hell's Canyon," a book describing frontier life in modern time. She is surely one of the most remarkable and talented of the Senate wives, a fact to which I have heard witness within my own home.

Senator JORDAN has said:

> The Snake River is the life blood of Idaho . . . it is Idaho's greatest resource—irreplaceable, but constantly renewable.

The same can be said of Senator LEN B. JORDAN. He, too, is Idaho's greatest resource; he, too, is irreplaceable.

Idaho is the Gem State; JORDAN, the Gem Senator.

So, LEN, we will miss you. We apologize for embarrassing you with our encomiums, but they are genuine. They come from our long association. We wish for you, in the words of a popular greeting in one of the European countries, "May you live a thousand years."

Mr. President, I ask unanimous consent that a statement by my colleague from Colorado (Mr. ALLOTT) paying tribute to Senator JORDAN of Idaho be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ALLOTT

Mr. President, I wish to express my deepest regrets over the retirement of my good friend and colleague for many years, Senator Len Jordan of Idaho. I honor and respect his decision, but I shall be sorry to see him leave the Senate.

Len Jordan is one of the most devoted, independent, morally courageous and honest men I have ever known. Len Jordan does not give his word lightly; once he does, he keeps it. He is stepping down from the Senate amid the widespread, bipartisan, belief that he is one of the finest men Idaho has ever sent to the United States Senate.

Len Jordan, and his charming wife Grace, are friends whom both Mrs. Allott and I treasure. Since he first came to the Senate in August of 1962, his interest and dedication to natural resources matters has found splendid expression through his work on the Senate Interior and Insular Affairs Committee. We have worked closely on that committee, and I have never ceased to be amazed by Len's perception and diligence in behalf of our Nation's great land, water, mineral and wildlife resources.

Len Jordan's membership in the Senate Finance Committee, the Joint Economic Committee, and the Select Committee on Standards and Conduct, and the careful work he has done in these posts, testify to the prominent role he has played in the affairs of the Senate.

He has never attempted flamboyant gestures to attract publicity. His name does not appear frequently in the Washington press. His has been the quiet, forceful voice of reason and integrity. Len Jordan has a gift for logic and clarity not often displayed in this city. He demonstrates it daily, yet he remains a man of reticence who is loath to talk about himself. As he once asked a newspaper reporter, "Why write about me?" Then he went on, "My wife has the brains and beauty in this family. She's the story."

There is some substance to this contention, I must admit. Grace Jordan, to whom the Senator refers without embarrassment as "my fair lady," took their three children, age 6, 3, and 7 months, and followed Len into the wilderness in 1933. She gave them all their schooling for 10 years, ran a household, and still found time to write a bestselling book about her experiences titled, "Home Below Hell's Canyon." To this day it is recognized as one of the finest stores of frontier living in a modern day ever written.

Mr. President, I wish Len Jordan and his wife, Grace, the utmost happiness and success in the splendid ventures that lie ahead of them.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Pennsylvania have some time remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. Will the Senator yield some of it to the Senator from Idaho (Mr. CHURCH)?

Mr. SCOTT. Yes; I yield to the Senator from Idaho such time as he may desire.

LEN B. JORDAN: A MAN OF THE OLD WEST

Mr. CHURCH. Mr. President, there was a time in the West when a man's handshake sealed an agreement and a man's word was his bond.

In my colleague, LEN B. JORDAN, rancher, businessman, legislator, Governor of Idaho, and U.S. Senator, those virtues of the Old West live on.

A man of utmost integrity, it has been my pleasure to know LEN JORDAN as a friend, and a privilege to work with him for Idaho's good. Though an aisle separates us on many matters, crossing it for Idaho has been made easy by this gentleman.

Particularly in the field of natural resources, the prudent management of which is so vital to the people of our State, we have acted as partners.

The latest example is the passage this year of legislation creating the Sawtooth National Recreation Area in central Idaho. LEN JORDAN was unwavering in his support of the strongest bill possible, and it was that determination which led to the enactment of a bill which, for the first time, gives protection to the magnificent Sawtooth, White Cloud, and Boulder Mountains of Idaho, along with the beautiful valley which lies between.

The Senator and his lovely lady, Grace, will always enjoy a special place in the hearts of their many friends, both in Idaho and in Washington. Bethine and I wish for them joyous years of retirement—a time for family, books, reflection, and the full enjoyment of each other's company.

Mr. ROTH. Mr. President, it is quite vogue these days to criticize representative democracy—yet in none of the expose's currently on the stands do I find the one most obvious criticism, that by the very nature of the system, we are forced to lose exceptional men every 2 years, for various reasons. This is the unfortunate case of our good friend, Senator LEN JORDAN, of Idaho. In his years in the U.S. Senate, LEN has managed to initiate ingenious legislation, serve outstandingly on his appointed committees, do a little more than his share of workday chores in the Senate, and still have time to offer a guiding hand or reassuring word to new members of our body. In just my very short time in Washington I have learned to admire and respect LEN for his sound judgment and fair, judicial mind. He has set a commendable standard which we would do quite well to emulate. And he will be sorely missed on both his committees and on the Senate floor.

I think I speak for us all when I wish Senator LEN JORDAN well and hope that his future endeavors will be as rewarding and possibly a little less trying than his very productive years in the Senate.

Mr. ROBERT C. BYRD. Mr. President:

There is a destiny that makes us brothers.
  None goes his way alone.
All that we send into the lives of others
  Comes back into our own.

Perhaps Edwin Markham was thinking of a man like LEN JORDAN when he penned those words.

LEN JORDAN is a man who typifies the fidelity, the strength, and the integrity and character of a great Senator; and, like the great West from which he has come, he exemplifies the independence, the quiet openness of that great part of our country. He is a man who is strong in his convictions. He is a man who is honest and fair in his dealings with his fellow men.

We shall miss LEN JORDAN. The Senate will be the poorer for his leaving. I hope that he will continue in some way in the service of his country, and I know he will.

He has led a very active life in his community and in his State, and he has given much in the way of service to the people of his community, to the people of his State, and, here in the Senate, to the people of the Nation.

I hope, Mr. President, that LEN JORDAN will visit with us often. We will want to continue to talk with him and to have his counsel, and we shall, of course, always be his friends.

My wife Erma and I, LEN, as you leave this body, wish for you and Grace, your wonderful wife, all that is good in all the years to come.

The hours are like a string of pearls,
  The days like diamonds rare.
The moments are the threads of gold,
  That binds them for our wear,
So may the years that come to you
  Such wealth and good contain
That every moment, hour, and day
  Be like a golden chain.

Mr. AIKEN. Mr. President, a couple of days ago, several Senators rightfully paid tribute to Senator COOPER. I want to add that, besides Senator COOPER, we are losing this year three of the finest Members the Senate has ever had.

Senator ANDERSON has devoted much of his life to public service, as Secretary of Agriculture and as a Member of the Senate he has made monumental contributions to American agriculture, space research, useful and practical uses of the atom, and to good government. Senator JORDAN of Idaho brought a lot of conscience to this body, which we need from time to time and Senator JORDAN of North Carolina has been an able leader of the Rules Committee, which keeps this place in order—as well as anybody can keep it in order.

In particular, I would like to say that Senator JORDAN of Idaho has been one of our outstanding Members over the years. He has a wonderful understanding of people, people who have to work and struggle to make a success of their lives. He himself is an outstanding example of how one can reach the higher levels through his own efforts. I just want to add these remarks to the tribute which the Senator from West Virginia just made.

Mr. PASTORE. Mr. President, I want to join my colleagues and associate myself with all the fine things they have said about my good friend LEN JORDAN.

To me, the best description I can give of this fine gentleman is that he sits in the back row, like the Rock of Gibraltar. He is unswerving in his convictions. He is rather silent. He does not do too much talking on the floor of the Senate, but when he speaks everyone listens. He is going to be a loss to the Senate.

I think something is happening to us through the evolution of time. We seem to be losing the elegance and the decorum, and sometimes the effectiveness, of what we like to call our traditions in America. All of us are beneficiaries of a fine heritage, and I think that LEN JORDAN exemplifies that heritage in its finest form.

So while we are sorry that he leaves us, we are happy to have known him for the time he has been in the Senate.

Much of this accolade should go to his gracious lady. To me, she exemplifies what my mother was—gracious, always at the side of her husband, and I think she has been a bulwark not only in his private life but also in his political life. I extend to him and to her our best wishes for a long and happy life.

Mr. COTTON. Mr. President, I first met LEN JORDAN before he came to the Senate when I filled a speaking engagement in Boise, Idaho, shortly after he had finished his service as Governor. I was immediately impressed by the quiet dignity and force of the man. He had little to say but he radiated a sense of strength that had its impact on those around him. It certainly had its impact upon me for I never forgot that first impression, and when he came to us here, I knew that the Senate had acquired a strong man. Every day of his decade of service here has proven that to be a fact.

It has been my privilege for a number of years to live in the same apartment house with Senator and Mrs. JORDAN. I came to know her as a brilliant and talented lady, the author of several books, one of which concerned the heyday of the lumber industry in northern New Hampshire. She is, I believe, a descendant of one of the timber kings of that bygone era whose name has become legendary in my own State. Ruth and I became very fond of them both, although my wife's ill health prevented our seeing as much of them as we would have desired.

I am saddened at the thought that LEN JORDAN is retiring. It will be a personal loss to me, but it will be an infinitely greater loss to the Senate. He is the kind of Senator that we most need in these critical times—able, independent, utterly fearless. He has never needed to rely on others for guidance but, fully informed, he has always known exactly where he stood and has never once allowed political expediency or passing public sentiment to cause him to deviate one whit from the path of duty as he saw it.

Often, as I have observed him in times of stress, I have instinctively thought of those words of J. G. Holland:

God give us men! A time like this demands
Strong minds, great hearts, true faith, and
  ready hands
Men whom the lust of office does not kill
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie.
Tall men, sun-crowned, who live above the
  fog
In public duty and in private thinking.

Such a man is LEN JORDAN. May he and Mrs. Jordan have the years of happiness and satisfaction that their magnificent service to their country entitles them.

Mr. BOGGS. Mr. President, the Idaho Statesman, published in Boise, Idaho, gave high compliment to our distinguished colleague, the junior Senator from Idaho, LEN JORDAN. On Friday, December 18, 1970, that newspaper said in an editorial:

> Our own favorite for Senator Jordan's Senate seat is Senator Jordan.

Mr. President, that paper was aware that there would probably be numerous prospects for that Senate seat, assuming Senator JORDAN's retirement. It was also aware that LEN JORDAN has been an excellent Senator, has served his people and the people of this Nation well, and could continue to do both if he wished.

I have no doubt that the people of Idaho would have returned LEN JORDAN to the Senate with an overwhelming vote. And, quite frankly, I wish that he had permitted that to happen.

Mr. President, on a very personal note, I think the closest association that I have experienced with Senator JORDAN has been at the Senate prayer breakfast meetings which we both have attended during our terms in the Senate. There, I have come to know that his devotion to his people and to his country is derived directly from his devotion to his God.

I am proud, indeed, to have been able to work with Senator JORDAN over the years. His fine mind and his sense of what is right have been of great personal help to me, and I am grateful to him.

Senator JORDAN has chosen to retire. He does so with the certain knowledge that his constituents would have it otherwise, and that his colleagues would welcome the opportunity to continue to work with him and to have the advantage of his sure and stable hand to assist in the work of our Federal Congress.

Each of us has had the opportunity in one way or another to work closely with Senator JORDAN. I have had that good fortune for almost 20 years.

We both served as Governors of our respective States at the same time.

We have both served in the Senate together, and here, we have been able to accomplish something in the field of environment and the preservation of our American heritage. He has served on the Interior Committee and I on the Interior Subcommittee of the Committee on Appropriations.

This combination of committee assignments has permitted us together to make more secure, and to preserve more surely the American environment from Delaware's Atlantic beaches to the marvelous mountains and valleys of Senator JORDAN's State of Idaho.

Mr. President, LEN JORDAN and his lovely wife, Grace, will, I am sure, enjoy their retirement to the full. My wife, Bess, and I have fond feelings for them both, and we extend to them our very sincere good wishes.

Mr. DOLE. Mr. President, as Senator LEN JORDAN of Idaho retires from service in this body I wish to add a few remarks to the many warm tributes of those from both parties who have had the pleasure of serving with him in the Senate.

Senator JORDAN has been an outstanding spokesman for the people of Idaho in his 10 years of service in the Senate. Having served as a member of the legislature and been Governor of Idaho for

4 years, he is deeply familiar with the people and the needs of his State; and, through his service on the Committee on Interior and Insular Affairs, he has been able to transform his understanding of the particular problems and potentials of Idaho and other States in that part of the Nation into progressive and effective legislation.

In addition to his great service to his State, Senator JORDAN has also dedicated a great deal of his time and efforts to serving the interests of the entire American people by being one of the outstanding members of the Committee on Finance where our Nation's policies on taxation, social security benefits, and welfare reform are shaped and formulated. LEN JORDAN has made a sound reputation as one of the foremost spokesmen for sound tax policy and has been one of the Senate's most effective leaders in the effort to see to it that governmental expenditures are kept in balance with the revenue taken in by the tax process.

Speaking personally, I would add a note of appreciation to Senator JORDAN for his courtesy to me as a junior Senator, for his gracious and generous efforts to achieve compromise and progress in the Senate and for the great spirit of cooperation he has demonstrated even at the most difficult and trying times.

So I would join with my colleagues in expressing thanks to Senator JORDAN for his years of devoted service to our Nation and wishing him many pleasant and active years of retirement.

Mr. HATFIELD. Mr. President, I should like to make a few comments regarding a distinguished Senator who, at the end of this session, will be leaving these Chambers to return to his home to stay. In the Senate, high achievement, ingenuity, brilliance, sharp wit and a sense of equity and justice are by no means rare. Today, I should like to make a few comments regarding a colleague, who during the last decade has represented those qualities not only in the Senate but wherever his interests, his energies or the demands of Government have called him.

He is a man of vision and of action. Born in the great heartland of the West near the spectacular Hells Canyon, on land that has inspired all men during every age, LEN JORDAN is no exception.

LEN JORDAN's life is an almost unbelievable chronicle of achievement as a laborer, rancher, businessman, legislator, Governor, and Senator. He was a distinguished scholar as an undergraduate—winning a Phi Beta Kappa Key—and, as one would expect, knowing the incredible industry and stamina of LEN JORDAN, he was also a superb halfback at the University of Oregon.

Decades after Frederick Jackson Turner had written his stirring paper on the role of the American frontier, that equated the development and discovery of the West with the growth of the American experience, LEN JORDAN and his courageous wife, Grace, undertook a formidable task: they moved to a remote reach on the Snake River below Hells Canyon where for 8 years they lived in the pristine wilderness isolated from the comforts of the city.

It was during these years that LEN JORDAN's reverence for the land, the streams, the wildlife, the forests, and rivers of our land grew—and gave him a sense of stewardship for the integrity of the environment.

I have always been stirred by Robert Frost's magnificent lines describing two paths in the forest, one well-traveled, the other untrod. LEN JORDAN is a unique individual who has walked both paths, enhancing both worlds.

He has a profound sense of equity, and a belief that progress implies change with order, and order with change.

Brilliance, industry, a willingness to be innovative without distorting the character of the environment or our socioeconomic values, independent judgment, and a profound sense of fairness and justice are qualities that have distinguished LEN JORDAN's years in the Senate.

I feel close to LEN JORDAN. His participation in the Senate prayer group has given me a much greater appreciation of the spirit which guides his action.

I can think of no higher tribute to Senator JORDAN than to say that my colleagues and I have learned much from him and will always treasure our experiences with him in this body as one of the highest privileges we enjoyed while serving in the Senate.

Mr. SCHWEIKER. Mr. President, today it is a privilege to pay tribute to an outstanding Senator, LEN JORDAN of Idaho. He has served his party, his State and his Nation with distinction.

LEN JORDAN's record of public service is one of which he can be proud. Before serving as Governor from 1951 to 1955, he was a member of the Idaho State Legislature. He devoted the years preceding his election to the Senate to his duties as a member of the International Joint Commission and the International Development Advisory Board. He was appointed to this body in 1962 and has served the people of Idaho with distinction and dedication since that time.

Among Senator JORDAN's many civic activities are memberships in the Masons and Rotary International. He is a trustee of the Boise, Idaho, Methodist Church.

Senator JORDAN's memberships on the Senate Interior and Insular Affairs Committee and the Senate Finance Committee have afforded him a forum for championing the causes of environmental and fiscal responsibility. His reasoned and thoughtful approach to his duties on these important committees will be sorely missed.

Senator JORDAN will be remembered by his colleagues for his friendliness and straightforward manner; his courage and kindness. Fiercely dedicated to the principles in which he believes, he has performed his duties as a U.S. Senator in a conscientious, businesslike manner.

The Senate will miss LEN JORDAN, and I am pleased to join my colleagues in paying tribute to him.

Mr. GRIFFIN. Mr. President, the book of Isaiah includes these words:

> In quietness and confidence shall be your strength.

Those words seem very appropriate when I think of LEN JORDAN, a great Senator whom all in this body have come to admire and respect and love.

Quiet and unassuming, LEN JORDAN will be remembered by all who have been privileged to serve with him as one who exemplifies integrity, courage, and wisdom.

Willard Edwards wrote in the Chicago Trbiune that LEN JORDAN possesses:

> A gift for simple logic and clarity not often displayed on the Senate floor.

Very soon after I came to the Senate a little more than 6 years ago, it was my good fortune to become acquainted with LEN JORDAN. We have been close friends ever since.

As I had come to the Senate by appointment, I learned that 4 years earlier, he had been appointed to fill a vacancy and that he, too, had been required to run for election in the year of his appointment.

As I went through that hectic campaign of 1966, I was fortified with encouragement and wise counsel from LEN JORDAN.

Serving on the Senate Committee on Finance with LEN JORDAN, has given me an opportunity to observe firsthand just how hard he works at his legislative responsibilities and how steadfast he is to the principles in which he believes.

When this term is completed, LEN will have devoted nearly 25 years to public service—as a member of the Idaho Legislature, as Governor of his State, and for 10 years as a U.S. Senator. At one point he said:

> I believe there is no greater legislative challenge in the world than service in the U.S. Senate. All I have ever wanted in politics is to be a good public servant.

LEN has met the challenge—and he has given much more than that to his State and the Nation.

Our great esteem for LEN JORDAN in this body is matched by the deep affections which the people of Idaho hold for him.

Shortly after he announced he would retire, one Idaho paper wrote:

> It is the mark of his honesty that this newspaper and others can disagree with more than half of his voting record and yet completely respect his motives and his intentions . . . Perhaps part of the reason it is true with Jordan is that men of character and fairness also bring out the best in their critics.

Another newspaper carried this statement:

> Len Jordan has had a long and distinguished career in government. If there is one man in Idaho wh ois close to being respected by everyone it just has to be Senator Jordan.

It is a comfort to know that Grace and LEN JORDAN plan to keep an apartment in the Washington area. Even though we miss his name when the Senate's roll is called, we need not say goodby to him. He can, and I hope he will, be among us often here on the Senate floor and at our regular policy luncheons.

Mr. PEARSON. Mr. President, the retirement of my colleague and friend, LEN JORDAN, the distinguished Senator from Idaho, takes from the Senate a strong and independent man of judgment whose contribution to this legislative body over the past 10 years has been outstanding.

Like LEN JORDAN, I happened to come to the Senate by appointment in the year 1962. We shared the experience of gaining a first elected term in November of that year. The example of LEN JORDAN, who brought to the issues raised over these past 10 years a quality of self-reliance and independent judgment, has been a source of personal inspiration to me. As one who has shared the difficult assignment of serving on the Senate Select Committee on Standards and Conduct, I know the depth of LEN JORDAN'S concern for the integrity and dignity of this body.

As a westerner, he has shown a unique knowledge of our Nation's natural resources. But his contribution to the Senate Interior Committee to the orderly development and conservation of our vast natural resources has never been limited to a parochial interest in the western region. He is a man of enormous abilities in the field of economic development, as his service on the International Development Advisory Board and other international bodies demonstrates. The vision of balanced growth in America is one which he shares with a majority of the Senate, and I want to express my gratitude to him for his cooperation and constant support in the legislative effort to create a national policy aimed at balanced growth between urban and rural America.

It has also been my privilege to serve with LEN JORDAN on the Joint Economic Committee, where his personal knowledge of economic development had served to provide that committee with an approach directed to restoring the vitality and strength of our Nation's economy.

As a Republican, LEN JORDAN stood quiet and thoughtful in periods of sometimes emotional political controversy on this floor. His figure, standing straight behind his desk, head high, contributing always a sensible, constructive comment, remains strongly impressed on the minds of those of us who have served with him. He was not a man who bent to political pressures, and he was known in his time as his own man—a quality which brought dignity and honor to the Senate and a quality which will leave a wealth of respect for him as he retires to personal life.

Having been fortunate enough to share with LEN JORDAN these past 10 years in the Senate, I have come to value his independence as an example for any Member to follow, of whatever political persuasion. I am persuaded the continued strength of the legislative branch and the contribution it can make to the solution of problems facing our Nation, will in significant part be measured by its ability to preserve the qualities of dignity and self-reliance which LEN JORDAN brought to his decade of service here. I wish him well on his retirement.

Mr. BELLMON. Mr. President, the great American West is known for producing men of strong character, rugged determination, and a basic love of people and the land.

One of our colleagues who is retiring from the Senate is such a man. LEN B. JORDAN has represented the State of Idaho with honor and distinction since 1962. Before coming to the Senate he had served as a member of the Idaho Legislature and as an able and distinguished Governor of his State.

Having served with LEN JORDAN as a member of the Interior and Insular Affairs Committee, I know of his deep and abiding dedication to the principles which have made this country great.

LEN JORDAN represents to me and to others who know him the embodiment of the great American dream. Coming as he did from a modest agricultural background, he has successfully scaled the heights of government and has distinguished himself through his able service. Throughout his career he has maintained the qualities of humility, clarity of thought, and fundamental honesty that have endeared him to his friends and to the people of Idaho.

Mr. President, I am pleased to add my congratulations to LEN JORDAN for his record of service to his State and his country. As he returns to private life, I know he takes with him the best wishes of all of his many friends in the Senate.

Mr. JORDAN of Idaho. Mr. President, I am deeply moved by the remarks of my beloved colleagues, because it is not easy to pack up and leave after 10½ years of service in the Senate.

As I listened, I was reminded of my childhood. I came from humble origin. My parents were God-fearing people who raised their five children to learn to work and to comport fairly in the game of life. Money was not overly plentiful but we did not think we were poor, because we were rich in the things that mattered. I remember the important lessons of life I learned at my mother's knee.

I have been very fortunate, too, with respect to the lovely lady I married almost 48 years ago. She is loyal, patient, with a mind of her own and a career of her own—whose record of accomplishment is far more impressive than my own; mother of three, grandmother of eight; author of four books, with a fifth book at the printer awaiting publication. For 48 years she has been my copilot and counselor, and she has always been a great source of pride and inspiration to me.

Also, I have been very fortunate in having friends. I think my friends are the best people in the world, and they are legion. Throughout this land, in my beloved Western States of Oregon, where I grew up, and Idaho, where I now serve, are friends of ours. Will Rogers said he never saw a man he did not like, and that goes for me, too. In the world of politics a man is no better than his friends give him a chance to be. True friends are the greatest treasure one can have. I cherish the friendships I have made during a busy lifetime but certainly none more than my colleagues in the Senate.

Back in the depression years that some of you have mentioned, I remember working 60 hours a week for $60 a month, with bed and board, and you did not need the bed very long. Those were hard times.

I recall that when I took my young wife into the Hell's Canyon reaches of the Snake River country—town raised, university educated, Phi Beta Kappa, daughter of a doctor—my beloved grandmother said to a neighbor one day, "The other two girls married very well, but sometimes I wonder about Grace." I wondered, too.

Perhaps the greatest association that can come to any man in this country, it seems to me, is to serve in the august body of the U.S. Senate. I think the finest service a man can render in this country is to be privileged to serve in this body. The friendships one makes here are lasting. Partisanship has a way of disappearing when the need arises to close ranks and work for the common good.

I am proud to have served in the Senate under the able leadership of both the distinguished majority leader and the distinguished minority leader. Their wise leadership and counsel always have been fair, always just, always patient, and always understanding.

I am proud of the many friends I have made here, and I look forward to coming back from time to time. I shall always be glad to see my friends—and the new ones who replace those of us who move on to do other things.

We live in a changing world. My thoughts go back to my ranching days in Hell's Canyon country. One time my wife and I flew from here to Honolulu in 1 day, with one stop on the west coast; and she remarked to me at that time:

> You know, we've come from Washington to Honolulu in less time than it took you to ride from the home ranch to the end of the range and back on the best horse you had.

That was true. That is not bragging about the size of my operation. It is only an affirmation of the rugged, hilly, mountainous terrain in which we lived and the steepness and narrowness of the trails that served us moving over that rugged and beautiful sand.

So I leave this place with mixed emotions. I want to get out and do some of the things we have not been able to do through the years—to travel more, to enjoy my grandchildren, to do more reading, perhaps even talk with young people in seminar arrangements at colleges. I want to do the kind of thing that, under the pressure of time and circumstances, we are denied in our service here.

Thanks to all of you who have been so generous in your remarks this morning. I shall treasure your friendship always.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 6 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL DEFICIT IN THE FIRST HALF OF THE 1970'S

Mr. BENTSEN. Mr. President, today the Senate will consider legislation to raise the ceiling on the Federal debt. There will be numerous amendments offered and this Chamber will be filled with lengthy debate and rhetoric. But, when the final vote comes, we all know that the debt ceiling will be raised. We have no choice—the debt ceiling must be lifted to cover funds we have already spent.

The debt ceiling must be raised to cover deficits expected to reach at least $75 billion during the 4 fiscal years from 1970 through 1973. This 4-year accumulation is unprecedented except for the 4-year period during World War II.

In recent weeks, we have witnessed a massive campaign by the administration to convince the American people that the Congress has been irresponsibly spending taxpayers' dollars. Administration officials from the lowest bureaucrat to the President himself have told the American people that if our deficits have been too high during the past 4 years or if a tax increase becomes necessary during the next 4, it is the fault of a spendthrift Congress.

Mr. President, I understand the administration's sensitivity to the issue of deficits. President Nixon campaigned 4 years ago against a deficit of $62 billion accumulated by two Democratic Presidents over 8 years. I do not blame him for looking for ways to explain a $75 billion deficit in only 4 years. But, before allowing the President to blame the Congress for the fiscal disaster of the last 4 years, let us look at the numbers.

Members of the Appropriations Committee have pointed out repeatedly that the respective House and Senate committees have actually appropriated less than the President has asked for over the last 4 years.

They have actually appropriated $14.5 billion less than the President asked for. In all fairness, I recognize that action on appropriation bills is not a total measure of the congressional role in Federal spending, so let us use the figures supplied to the Joint Economic Committee by the Director of the Office of Management and Budget.

These are tables prepared by the administration attempting to show the net effect of both congressional action and inaction on both appropriations and transfer payments from trust funds. These figures will be published shortly as part of the Joint Economic Committee's mid-year hearings. They indicate that congressional action added only $300 million to the President's budget in fiscal 1970—a year of a $2.8 billion deficit. According to these figures, congressional action added $2.8 billion in fiscal 1971—a year of a $23 billion deficit. Again, according to the administration's own figures, congressional action added only $600 million to the President's budget in fiscal 1972—a year of another $23 billion deficit. Thus, when 1970, 1971, and 1972 are taken together, the total deficits for those 3 years amount to $50 billion dollars. Even using the administration's calculations, Congress can only be credited with $3.7 billion of that $50 billion.

Mr. President, where did the other $46.3 billion in deficits come from? They came from the 2 years of recession that this administration created with excessively tight fiscal and monetary policies in 1969 and 1970. In talking about deficits during this election year, the administration has ignored what happened to Federal revenues during its 4 years in office. Mr. President, people without jobs do not pay income taxes. When unemployment increases by 1 percent the Federal Government loses approximately $10 billion in tax revenues for that year. Unemployment was below 4 percent when this administration came into office. In less than 2 years administration policies pushed unemployment up to 6 percent. That is $20 billion in lost Federal revenues during 1971 alone. The current unemployment of 5½ percent is still costing the United States $15 billion a year in lost revenue.

Mr. President, they had an August report that showed they cut unemployment from 6 percent to 5.6 percent. They talked about it as though they had created a miracle. It is a little like someone sticking a knife into your stomach, Mr. President, and pulling it out about half way and saying, "Gee, doesn't it feel better?"

Now, they have it at 5.5 percent, which means we have a loss of $15 billion in tax revenue coming into the Treasury. That is part of this deficit that has been created. We cannot get them to even talk about a 4-percent target on unemployment. They say maybe we have to live with 5 percent.

I just do not believe that. I do not accept that in this, the greatest system of government in the world. Do we have to accept an unemployment rate that is far above that of our competitors in the world society? Today in Japan the unemployment rate is less than 2 percent; in Germany the unemployment rate is less than 1 percent; in Italy and France unemployment rates are less than 4 percent. Why is that not a reasonable target for this country? Why should we not ultimately strive for 3 percent unemployment? That is what we should be working for.

But, Mr. President, high unemployment is not the only cause of reduced Federal revenues. In an effort to get our economy moving again, the President asked the Congress to enact a significant tax reduction in 1971. Because of the sad state of the economy. It was a necessary action and I supported most of the President's 1971 proposal. However, the result has been a loss in Federal revenues of $8 billion annually—again necessary because of a recession which this administration created.

Mr. President, this brings us to the fiscal 1973 budget. When the President presented the 1973 budget to Congress in January, he asked us to approve spending for several totally new programs such as general revenue sharing, welfare reform, the space shuttle, in addition to the continuing programs which have built-in growth. The President's revenue sharing measure alone added $8.3 billion of new spending in fiscal 1973 and committed us to $30 billion over the next 5 years, regardless of what our fiscal situation may be.

The President talks about reducing expenditures on what he terms out-of-date Great Society programs of the Johnson administration; at the same time he wants to substitute special revenue sharing for the model cities program at a higher level of funding. The President vetoes education grants as being excessive but still pledges to somehow reduce local property taxes which pay for education. The President calls upon the Congress to halt waste but when a number of my colleagues on the Armed Services Committee and I attempted to prevent the wasteful acceleration of the Trident submarine program, the administration threw its entire weight against our effort to save a half billion dollars.

The administration now tells the press that unless the Congress enacts an expenditure limitation the Congress will be forcing a tax increase next year. Mr. President, I will support an expenditure ceiling for this fiscal year, not because it will prevent a tax increase in the future because it will not. Everyone who has made a serious study of this Nation's budget knows we will need more revenues to pay for the growth in existing programs and the new programs which President Nixon has already initiated. In that connection I was pleased to see the President last week finally backed away from his phony talk of having "no tax increase in a second term."

I will support an expenditure ceiling because $250 billion is sufficient to run this Government in 1973 if properly spent and $250 billion in Federal expenditures is sufficiently expansionary to continue the economic recovery if our monetary growth is not restricted. I will, however, seek an opportunity to vote for a ceiling which will not abrogate the role of the Congress in determining spending priorities.

Regardless of what happens this year on the President's proposed expenditure ceiling, I would hope that the 93d Congress will vigorously assert its constitutional responsibility for fiscal policy both in raising revenues and in making expenditures, regardless of who may be in the White House. Congressional control over fiscal policy does not rest in the Appropriations Committee or the Ways and Means and Finance Committee alone. The proper execution of fiscal policy rests with all the legislative committees of Congress and most of the joint committees as well. The proper exercise of this role will require our own sources of information as to how much fiscal stimulus is needed for the economy as a whole. It will require our own sources of information as to spending priorities and waste.

The Subcommittee on Research and Development of the Armed Services Committee handles almost $8.3 billion of Defense authorizations for appropriations in that field. This is an exceedingly complex field. For the study of that $8.3 billion to be considered and authorized, do you know, Mr. Senator, how many staff members we have? We have one. He is a competent man. He is an able man. Can you imagine, Mr. President, how many men are in the Defense Department working on this matter? How many hundreds, how many thousands, of employees there are to justify those very appropriations? So where do we go for that information? We go to the very people who are asking us for the money.

Mr. President, one thing I learned in business and in 16 years of running a company: If I wanted to make decisions for my company, then I wanted the information on which I based those decisions coming from people who worked for me, not from people who worked for my competitor.

And yet that is the problem we face in the Congress. We face the problem of receiving fiscal information from that part of the Government that is asking for the money, and yet we are supposed to discharge our responsibility in a capable, authoritative, and a knowledgeable way. It just cannot be done that way. Congress has to do something about getting the kind of information it needs.

We have a computer in the Congress, and it is used for bookkeeping purposes, for housekeeping purposes. How many computers do you think, Mr. President, they have in the executive branch for information retrieval, on which to base their decisions and make recommendations to Congress? Innumerable ones. And we sit over here with one. We have to modernize our information retrieval system in the Congress in order that we can discharge our responsibilties.

The Subcommittee for Research and Development of the Armed Services Committee has one staff man to help our committee examine $8.5 billion in authorization for some of the most important and complicated spending items in the defense budget. These are the expenditures that determine what the weapons systems of the next generation will cost and how effective they will be. To a very large degree our committee must depend on the Department of Defense for its information.

Mr. President, I do not speak as a committee chairman who wants to create an empire, but I did learn in 16 years of heading a business that the most important asset in any decisionmaking process is good, solid information from people who work for you, not for someone else. Let us get the information we need to make the fiscal decisions for this Nation, let us use that information, and then let us make that information available to the American people.

This is one Senator who is very tired of seeing propagandists for the executive branch take credit for spending which is politically popular while blaming the Congress for deficits. I am tired of watching the White House take credit for tax reductions last year while blaming the Congress for tax increases next year. In short, Mr. President, I am tired of the President of the United States using the Congress of the United States as an errand boy when the news is good and a scapegoat when the news is bad. Let us endeavor to see that the American people know where to place both the credit and the blame.

STRIP MINING DEVELOPMENT IN EASTERN MONTANA

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD editorials published in the Missoulian of October 3 and 9, 1972, on the subject of strip mining, which has become a statewide problem in Montana.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Missoulian, Oct. 3, 1972]

STRIP MINING: A STATEWIDE PROBLEM

This campaign season finds Montana politicians everywhere faced by the same question: What do you propose to do about control of strip mining development in eastern Montana?

Some western Montanans might wonder what business is it of ours. All the strip mining for coal will occur in the eastern part of the state. None will occur here. Why, then, bother our heads about it?

The answer is easy: If the environment in the eastern part of the state is allowed to be ravaged, there will be no protection here either.

Virginia Mann last week called Montana's air pollution control program a "miracle." Indeed it is. So is the state's water pollution control program.

As a member and president of the State Board of Health, Mrs. Mann was one of those instrumental in getting good pollution control programs underway in Montana.

But the programs hang from a fragile thread. Under executive reorganization the governor has the power to hire and fire the State Health Department personnel who administer pollution control programs. He has the power to weaken the health board through his appointments. Pollution control efforts hang together now, and are achieving successes, but the whole thing could be destroyed overnight.

All Montana's major industries, with the possible exception of the forest products industry, have a stake in promoting strip coal mining. The power companies want the power generated by coal-fired plants. The Burlington Northern wants to carry the coal to Midwestern markets. The Anaconda Co. eyes open pit mining regulation askance, and has pollution problems which drive it into natural alliance with others who don't want stiff controls over electrical generating plants.

Also, new coal mining firms are moving in and will take their place in the power structure. Full development of the coal could see 350,000 or more people moving into the state who have a personal economic interest in seeing to it that the coal is mined and their income maintained.

All told that's a lot of selfish economic power linked with enormous potential voting power. Together they will oppose strict air and water pollution controls. They might have the muscle to badly weaken the controls, and thus directly affect the environmental protection of western Montana.

All this is aside from reclamation of strip mined lands, from the enormous and costly problems of accommodating all those new state residents, from preserving wildlife and other outdoor values, from the vast water consumption which strip mining and power generation will require and from all the other problems which follow in the wake of strip mining like garbage after a moving barge.

Strip mining is a Montana problem. It must be faced by the voters and their elected representatives everywhere in the state because all Montana will be affected by it.

[From the Missoulian, Oct. 9, 1972]

MORATORIUM NEEDED ON STRIP COAL MINING

A press release or a political statement (the two often are combined) usually is like a pretty wrapper around a plain package.

What relief was felt last week when Secretary of the Interior Rogers C. B. Morton announced that there would be a three-year study by a federal-state task force to develop policy guidelines concerning strip coal mining in Montana and four other states.

Morton said the study will "assess the potential social, economic and environmental impacts which would result from future devlopment" of the natural resources in the five states. His announcement was celebrated promptly by Gov. Forrest Anderson.

That was the pretty wrapping For months now persons concerned about the development of strip coal mining in eastern Montana have been asking for a careful study of all that strip mining might mean before the land is ripped about. Morton's announcement seemed to herald the beginning of the necessary study.

The next day the pretty wrapper was cast aside and the drab content exposed. An Interior Department official allowed that the study might take five years rather than three. Meanwhile, strip coal mining would continue.

Which means, in the end, that the very problems the study aims to lick will be burgeoning in Montana while the study is under way. That's exactly like taking birth control pills after pregnancy has occurred.

The study IS needed. It must be tightly tied to state needs and desires. Gary Wicks, director of the Montana Department of Natural Resources and Conservation, is coordinating a six-agency task force which will study strip coal mining at the state level.

Wicks' reaction to Morton's pretty announcement was cautious. The federal study is welcome only if the states have more than a perfunctory role in the program developed by the federal task force, he said.

The timing of all this is important. Clearly, coordinated studies by both state and federal governments are needed. Also clearly, strip coal mining must NOT be allowed to ravage the land until the studies are completed. Which in turn points directly to two conclusions:

1. Firm reclamation requirements must be imposed on all strip coal mining that is going on now to limit the ravaging of the land already being mined.

2. There should be no expansion of strip coal mining until the studies are completed.

That second item means there must be a moratorium imposed on expanded strip coal mining by the 1973 Legislature.

VALEDICTORY TO THE ANTIBUSING BILL

Mr. TALMADGE. Mr. President, the Senate has let die antibusing legislation that was passed by the House of Representatives that the President wanted and, more important, that an overwhelming majority of the American people desired.

This legislation is dead, at least for this session of Congress, because a band of Senators talked it to death. They refused to let the bill come to a vote by conducting a filibuster in defiance of the will of the Senate and the will of the people.

That filibuster was carried on against the best interests of schoolchildren, black and white, that are being uprooted by judicial tyranny from their own neighborhoods and transported tremendous distances to schools far from their homes and natural environments.

Aside from costing local school districts and American taxpayers untold millions of dollars, there is no way to measure the chaos and confusion that have been inflicted upon the education process by the idiocy of busing.

Except for the war in Vietnam, I know of no issue that has been debated more than forced schoolbusing. Poll after poll shows that it ranks right at the top among the greatest concern of the people of this country. And, approximately 75 percent of Americans are opposed to it.

The question of forced busing ought to be clear enough by now in the minds of everyone. If there are Senators, who do not know yet how they stand on busing, then they have been out of touch with reality. If they do not know how their constituents feel about busing, then they have not been listening to the people they are supposed to be representing.

One of the most crucial issues facing American education today, if not the most important, has been cast aside and ignored by Senators who think they know better than anyone else what the schoolchildren of this country need.

They know that the majority of the Senate wants this legislation. They know the President will sign it. They know that a majority of the American people want the bill.

But, they set themselves up as judges of what is in the best interests of American schoolchildren, just as the Supreme Court and Federal district and appeals courts have been doing with a heavy hand all over the country.

As self-appointed judges, they know better than the House of Representatives, which passed this bill by an overwhelming margin. And, they know better than parents—the people who pay the taxes that build the schoolhouses—what is best for their children.

Mr. President, opponents of this bill hope that if they talk long enough about the issue, opposition to forced schoolbusing will fade away. But I can assure them that it will not go away.

Antibusing legislation is dead for this Congress. But the issue is very much alive in the minds of all Americans.

A new Congress will convene in January; and when it does, efforts to stop forced schoolbusing must be a No. 1 item of legislative priority.

I can promise my colleagues that it will be No. 1 with me.

VIETNAM—THE BOMBS WILL NOT WORK

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record a most interesting editorial published in the Christian Science Monitor on October 10, 1972, concerning the bombing of North Vietnam.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Bombs Won't Work

(Christian Science Monitor)

To the general bulk of our knowledge, or ignorance, of what is going on in Vietnam there have now been added two new sources of information which need, we think, to be examined and weighed seriously and carefully.

Richard Dudman of the St. Louis Post-Dispatch and Peter Arnett of the Associated Press have both been touring North Vietnam. They are both conscientious, careful reporters known and respected in their profession. Both saw much the same things—the Hanoi-Haiphong area and a trip down the line from Hanoi to Nam Dinh, which is the main textile producing center of the country.

Their observations confirm each other. They prove one thing. In the area they visited, only a small slice of the whole of North Vietnam, people were busily engaged in keeping the military supply line working and, seemingly, doing it successfully and in high morale in spite of the bombing.

Nam Dinh itself was a shambles, its big buildings mostly bombed out and useless. But the machinery had been taken away and scattered among homes and villages before the bombs fell, or pulled from the wreckage afterwards. The train runs regularly between Hanoi and Nam Dinh. The daily bomb craters are all filled in time for the regular run.

Wherever the two reporters went they saw large quantities of ammunition and other war supplies along the open highways, under trees. Long lines of trucks park by day under the trees—roll along at night. There is no evidence of food or fuel shortages. Consumer goods come out of village or backyard or roadside improvised plants.

In other words the bombing has scattered the people and their daily activities, but not interfered seriously with the productiveness of the community. It continues to be able to push the daily quota of war supplies down the supply route to the war front in the South.

This evidence is incomplete. The two reporters did not see the whole country. They do not know how much of the materials pushed into the country from China reach their destinations. But it does confirm evidence from other sources that the bombing has not been able to shut down North Vietnam as an exporter of military power.

There is said to be a reduction in the quantity of supplies reaching North Vietnam from the outside world. Both Pentagon and the CIA estimate that the total is down by about half. But is this reduction (if true) due to the bombing or to Henry Kissinger's diplomacy?

American military intelligence has consistently failed to note any large buildup of supplies in China, north of the Vietnam border, or anywhere inside North Vietnam, as could be expected if the bombing were holding up supply lines. If we can infer from this that it is Henry Kissinger's Peking-Moscow diplomacy which is cutting off supplies, then the bombing can only be regarded as the most wasteful operation in the annals of warfare, in both human and material terms.

Under these circumstances, the only possible justification for continuing the bombing is one of diplomatic tactics, not of military strategy. That reason would be the genuine conviction on the part of the White House that Hanoi is at, or very close to, the point of coming to terms at the bargaining table. Under these circumstances, it could be argued that a bombing halt would be interpreted by Hanoi as a sign of weakness, causing it to back away from imminent accord. That is one possibility. But there is another viewpoint, as expressed in two dispatches from Paris carried in this newspaper last Friday, which argued that the peace talks are at a stalemate and, indeed, that Hanoi is already planning a new offensive.

If the White House knows something that nobody else knows, then its bombing tactics should justify themselves in the appearance shortly of a peace settlement. But White House sources are already reported to be hedging by saying privately that a settlement will not come before Election Day, November 7. Which leaves the average American citizen in the same quandary that he faced before Election Day 1964 and 1968, both as regards presidential promises of peace in Indo-China and rationalizations for bombing of North Vietnam. The needle is stuck in its groove, and the question is whether to wait and hope it jumps the track, or to get up and change the record.

HOUSE CONCURRENT RESOLUTION 721—CORRECTIONS IN THE ENROLLMENT OF S. 3507

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 721 and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 721, which will be stated.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 3507), to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In subsection (h) of section 305, strike out "1975" and insert in lieu thereof "1977".

(2) In the section heading of section 312, strike out "ESTAURINE" and insert in lieu thereof "ESTUARINE".

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the concurrent resolution.

Mr. MANSFIELD. Mr. President, this calls for the correction of some technical errors in the enrollment of S. 3507.

The concurrent resolution (H. Con. Res. 721) was considered and agreed to.

BALD EAGLE PROTECTION ACT AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1104, H.R. 12186. This bill has been cleared on all sides and by all interested parties.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12186) to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 1, line 8, after the word "with", strike out "negligent" and insert "wanton";

On page 4, line 12, after the word "eagles", strike out "or eggs or nests thereof";

In line 13, after the word "of", strike out "falconry."; and insert "falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry.";

On page 5, at the beginning of line 3, strike out "of this Act; and may, with a search warrant, search any"; and insert "of this Act; and may, with or without a warrant, as authorized by law, search any";

And on page 6, line 1, after the word "be", strike out "forfeited" and insert "subject to forfeiture".

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jonathan Steinberg, of the staff of the Committee on Labor and Public Welfare, be permitted to be present in the Chamber during the consideration of some conference reports I am about to submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, it is still the intention of the leadership to try to adjourn sine die by tomorrow night.

We have one more piece of must legislation, and that has to do with the temporary increase in the public debt limit, which will be called up sometime, I think, around the middle of the afternoon.

Another piece of legislation supplementary to that, which the leadership would like to take up, is Calendar No. 921, H.R. 7093, a bill having to do with the disposition of judgment funds of the Osage Tribe of Indians in Oklahoma. Also Calendar No. 1165, H.R. 12807, the Federal Property and Administrative Services Act.

Hopefully, if a reasonable time limitation can be achieved, the measure we started on yesterday afternoon, Calendar No. 1105, S. 3342, a bill to amend title IV of the Clean Air Act, will be taken up.

I had hoped to bring up either Calendar No. 1107, S. 630, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes, or the bill which was passed in the House late Wednesday evening. But in seeking to achieve a time limitation on either of these measures—my preference would have been the House bill, because I think the Senate bill is extremely weak—I was unable to arrive at an accommodation with Members covering a time limitation.

So, it is with reluctance that I announce, so that the Senate will be aware, because of circumstances over which the leadership has no control, that no bill dealing with strip mining, which is so vitally needed, will be called up this week.

Then we have one or two bills out of the Finance Committee, either Calendar No. 1169 or Calendar No. 1050. They may be called up because of the interest of a number of Members in attaching amendments to either one of those measures.

That is the best I can say at this time as to what the schedule will be.

I must say, there has been some legislation which has not been passed by this Congress and which should have been, but for which the groundwork has been laid. The leadership hopes that there will be expeditious action out of committees in the next session of Congress, because of the fact that the hearings have been held and the reports have been published, and all the other necessities have been attended to at this time.

So, that is about how it stands. Again, the leadership is making every effort to adjourn sine die tomorrow.

I want to express on behalf of the distinguished Republican leader and myself our thanks and appreciation to Senators on both sides of the aisle for the understanding and the consideration they have shown in these waning hours of this Congress.

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. I do not believe the Senator mentioned anything about the spending ceiling.

Mr. MANSFIELD. I should have indicated that it would be attached to the debt limit bill.

Mr. PASTORE. Oh. It is attached to the debt limit bill?

Mr. MANSFIELD. Yes. That will be the last piece of "must" legislation.

Mr. PASTORE. I see. I thank the Senator very much.

The PRESIDING OFFICER. The time for the transaction of routine morning business has expired.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. MATHIAS) laid before the Senate the following letters, which were referred as indicated:

REPORT ON VALUE OF CERTAIN PROPERTY PROVIDED BY THE BERLIN MAGISTRAT

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies and commodities provided by the Berlin Magistrat, for the quarter ended June 30, 1972; to the Committee on Appropriations.

PROPOSED AMENDMENT OF TITLE 18, UNITED STATES CODE

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend title 18, United States Code, to provide for the punishment of serious crimes against foreign officials committed outside the United States, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on the Judiciary, without amendment:

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary (Rept. No. 92–1299).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 4678. An act to provide for the free entry of a carillon for the use of the University of California at Santa Barbara (Rept. No. 92–1300).

By Mr. ROBERT C. BYRD (for Mr. MCGEE) from the Committee on Post Office and Civil Service, without amendment:

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension (Rept. No. 92–1301).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 37 flag and general officers in the Army and Navy and ask that they be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, in addition, I report favorably 1,780 nominations in the Regular Army in the grade of lieutenant colonel and below and 315 nominations in the grade of colonel and below in the Reserve of the Army and Army National Guard.

For the Navy I report 4,818 nominations for permanent promotion in the grade of captain and below and 6,360 permanent promotions in the Naval Reserve in the grade of captain and below and 69 temporary promotions in the grade of commander and lieutenant.

For the Air Force I report favorably 9,462 nominations in the Regular Air Force in the grades of colonel and below and for the Air National Guard I report 52 in the grade of colonel and below.

A total of 259 nominations in the Marine Corps includes both permanent promotions and temporary in the grade of colonel and below.

Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations appear in CONGRESSIONAL RECORDS of October 2, 10, 11, and 13.)

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Charles W. Ervin, of California, to be an Associate Director of ACTION;

James L. Cowen, of Illinois, to be a member of the Railroad Retirement Board;

Peter J. Bensoni, of Minnesota, to be a member of the Federal Metal and Nonmetallic Mine Safety Board of Review; and

William N. Hubbard, Jr., of Michigan, to be a member of the Board of Regents, National Library of Medicine, Public Health Service.

DEFENSE DEPARTMENT MUST ACT ON UNAUTHORIZED BOMBING

Mr. HUGHES. Mr. President, I have already informed the Senate that it may be necessary to take strong measures to persuade the Department of Defense to conduct a thorough inquiry and make a complete report to Congress on certain illegal and unauthorized activities by our air and naval Air Forces over Indochina during 1971 and 1972.

Such an exhaustive investigation, in my opinion, is necessary to reassure us of our faith in the integrity of our Armed Forces and to give all whose names have been implicated in these transgressions a full opportunity to clear their names.

If the Defense Department does a thorough and satisfactory job in this respect, it will be unnecessary for the Senate to pursue the investigation into the months ahead. But if not, the Senate would be required to collect the facts piece by piece from any or all of the officers who served in the Navy or Air Force elements in and around Indochina over the last 2 years.

To identify these officers and bring them before the Senate for examination, it might be necessary to resort to the authority of the Senate to confirm nominations for promotion of these officers to higher rank or position. And I have indicated that I am prepared to use my prerogatives as a Senator and as a member of the Armed Services Committee to hold up these nominations until any of these officers can testify, if that is made necessary by the failure of the Defense Department to conduct a full inquiry itself.

Mr. President, the committee has just reported to the Senate, with my support, nominations for promotion of approximately 23,000 officers.

Undoubtedly, a few of them have knowledge of the unauthorized activities that have so deeply concerned the Senate, but it would take several days at least to identify them, and the Congress hopes to adjourn tomorrow.

In deference to the aspirations of the many thousands of dedicated military officers on this list, I have not attempted to block their promotions, but will support confirmation of the advancements they have earned.

However, Mr. President, I want to inform my colleagues that I have communicated to the chairman of the Armed Services Committee a request that a system be established for identifying, and separating out from any future nominations that come before the committee, the names of Navy or Air Force officers who may have material evidence of direct concern to the committee and the Senate.

And I want Senators to know that I reserve my rights to raise questions of any of these officers when their nominations come before the Senate, so that we may insure a full and complete airing of the truth about the unauthorized air strikes in North Vietnam.

IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND MURALS—REPORT OF A COMMITTEE (S. REPT. NO. 92–1298)

Mr. LONG, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9463) to prohibit the importation into the United States of certain pre-Columbian monumental or architectural sculpture or murals exported contrary to the laws of the country of origin, and for other purposes, submitted a report thereon, which was ordered to be printed.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that today, October 13, 1972, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 493. An act to authorize and direct the Secretary of the Treasury to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purpoess;

S. 2700. An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to the members thereof;

S.J. Res. 247. Joint resolution extending the duration of copyright protection in certain cases; and

S.J. Res. 265. Joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore today signed the following enrolled bills and joint resolution which had previously been signed by the Speaker of the House of Representatives:

H.R. 5838. An act to designate certain lands in the Lava Beds National Monument in California, as wilderness;

H.R. 9198. An act to amend the act of July 4, 1955, as amended, relating to the construction of irrigation distribution systems;

H.R. 11047. An act for the relief of Donald W. Wotring;

H.R. 13533. An act to amend the District of Columbia Redevelopment Act of 1945 to provide for the reimbursement of public utilities in the District of Columbia for certain costs resulting from urban renewal; to provide for reimbursement of public utilities in the District of Columbia for certain costs resulting from Federal-aid system programs; and to amend section 5 of the act approved June 11, 1878 (providing a permanent government of the District of Columbia), and for other purposes; and

H.J. Res. 1263. A joint resolution authorizing the President to proclaim October 30, 1972, as "National Sokol Day."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JORDAN of North Carolina:

S. 4098. A bill for the relief of Barnabas Gabriel Martonffy. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 4099. A bill for the relief of Angelica L. Villarin. Referred to the Committee on the Judiciary.

By Mr. COTTON (by request):

S. 4100. A bill to provide for the sale of the Washington National and Dulles International Airports. Referred to the Committee on Commerce.

By Mr. PELL:

S. 4101. A bill to amend the Social Security Act to extend entitlement to health care benefits to all citizens and residents of the United States aged 62 or more, add additional categories of benefits for the elderly (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices), extend the duration of benefits where now limited, eliminate all deductibles, copayments, and premiums, and authorize payment to health maintenance organizations on a prepaid capitation basis for all covered health care furnished to their members who are entitled to medicare benefits; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program; to liberalize income tax deductions for persons aged 62 or more; and for other purposes. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 4102. A bill for the relief of Miss Audrey Shikee Tam. Referred to the Committee on the Judiciary.

By Mr. DOLE:

S. 4103. A bill to designate the Oakley Reservoir on the Sangamon River at Decatur, Illinois, the William L. Springer Lake. Referred to the Committee on Public Works.

By Mr. HARTKE:

S. 4104. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COTTON (by request):

S. 4100. A bill to provide for the sale of the Washington National and Dulles International Airports. Referred to the Committee on Commerce.

Mr. COTTON. Mr. President, by request I introduce a bill to provide for the sale of the Washington National and Dulles International Airports, and I ask unanimous consent that a communication from the Secretary of Transportation in connection with this bill be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 30, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

Enclosed is a draft bill—

"To provide for the sale of the Washington National and Dulles International Airports."

This bill would implement the proposal of the President to sell the Washington National Airport and the Dulles International Airport by authorizing the Administrator of General Services to transfer these properties to the highest responsible bidder or bidders. Under the bill, any party, ranging from an individual to a State or local government, could buy the airports provided the Administrator determines he is capable of operating them and his bid reflects their fair value.

The sale of the airports by the Government would serve four basic purposes. First, it would encourage more efficient utilization of the airports within the National Capital area. Second, it would divest this Department of a day-to-day operational responsibility that is not a necessary part of our basic mission of achieving a balanced national transportation system. Third, whether the purchaser is a State or local government or a private party, the sale would result in an increase of local control over the airports and a reduction of Federal control. Finally, it would achieve a reduction in the Federal budget.

The bill provides for the inclusion in any contract of sale of a minimum number of conditions, but these conditions are very important. For example, it is contemplated that the contract would provide assurances for the continued use and operation of the properties for airport purposes. Also, any purchaser would be required to meet minimum standards of airport operation prescribed in the contract. Failure to do so would allow the GSA Administrator to reacquire the airport facility. In prescribing the terms and conditions to be included in the contract, the Administrator would be required to consider the recommendations of the Secretary of Transportation.

Other essential elements of any contract of sale under the bill include the requirement that the purchaser make the airports available for public use on fair and reasonable terms and without unjust discrimination consistent with whatever actions are considered necessary for efficient and self-supporting operation; the requirement that the purchaser provide fair and equitable arrangements to protect the interests of employees affected by the transfer of an airport to the purchaser; and the requirement that the purchaser pay all applicable Federal, State, and local taxes, and comply with applicable regulations of those jurisdictions. With respect to local regulation of the airports, the bill also grants the consent of Congress to the States of Virginia and Maryland and to the District of Columbia to enter into a compact for the establishment of an organization to regulate the operation of the airports by any purchaser under the bill.

The Federal Government now exercises exclusive legislative jurisdiction over Washington National Airport and concurrent legislative jurisdiction over Dulles International Airport. The bill would provide for the retrocession of that jurisdiction to the State of Virginia if the airports are transferred to a purchaser under the bill. Once such a transfer is made, the only action necessary to finalize the retrocession would be acceptance on the part of the State of Virginia. It is contemplated that some Federal activities would continue to be performed at the airports and that not all Federal property located at the airports would be transferred to a purchaser. For example, air traffic control activities of the Department and weather-reporting activities of the Department of Commerce would continue to be conducted at the airports.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JOHN A. VOLPE.

By Mr. PELL:

S. 4101. A bill to amend the Social Security Act to extend entitlement to health care benefits to all citizens and resident of the United States aged 62 or more, add additional categories of benfits for the elderly (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices), extend the duration of benefits where now limited, eliminate all deductibles, copayments, and premiums, and authorize payment to health maintenance organizations on a prepaid capitation basis for all covered health care furnished to their members who are entitled to medicare benefits; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program; to liberalize income tax deductions for persons aged 62 or more; and for other purposes. Referred to the Committee on Finance.

THE NATIONAL HEALTH SECURITY ACT FOR THE ELDERLY

Mr. PELL. Mr. President, I introduce at the request of the National Retired Teachers Association and the American Association of Retired Persons a bill to provide comprehensive health services to elderly citizens over the age of 62 years.

Even though I believe we have made some progress by some of our actions on H.R. 1 in moving toward the goals encompassed in this bill, I believe we still have a long way to go before we have provided the level of health coverage our senior citizens deserve. This bill represents what I think the goals of Congress should be in the next session for aiding our deserving older Americans. As a member of the Senate Special Committee on Aging who has held two hearings in Rhode Island on the gaps in the medicare program, I can tell you that the improvements in the medicare program included in this bill are ones that many Rhode Island senior citizens support and improvements which are based upon my own medicare amendments.

As the chairman of the Senate Education Subcommittee who is concerned with the unavailability of medicare benefits to many of the retired teachers in my home State of Rhode Island, I can tell you that the many retired teachers who are struggling to pay their health bills support this proposal.

I am also happy to introduce this proposal to expand the national health insurance principle to all our senior citizens for another reason; this bill is directly complimentary to my own national health care bill, S. 703 which provided comprehensive health benefits to all working men and their families just as a minimum wage is guaranteed to working men.

The National Health Security Act for the Elderly has a number of significant provisions I believe should be highlighted. First, the Health Security Act for the Elderly would expand comprehensive medicare benefits to all citizens who are over 62 years of age whether they have had social security or not. I think this provision is required by equity and humane concern for our older Americans, especially older women.

As I walked through the jewelry factories, laundries, and kitchens of my own State of Rhode Island, I have met many women between the ages of 62 and 65 who were beset by innumerable ailments and yet who had to work in somewhat low-paying jobs. They had to do this in order that they either could build up enough credits to become eligible for medicare at age 65 or in order that they could earn enough to pay the health bills that were being run up as the result of their age.

The bill I am offering today will eliminate that hardship and will allow retired teachers who have for the most part been excluded from the social security system in Rhode Island to receive insured health coverage.

Second, the Health Security Act for the Elderly will eliminate many of the cruel limitations imposed on medicare services in hospitals, skilled nursing homes, and in intermediate care facilities.

This bill will provide unlimited coverage of needed institutional services for sick and recovering senior citizens and will provide a more kindhearted mechanism for not allowing coverage for chronic illness than presently exists in the medicare law. There will be no arbitrary deadlines the days covered. If a senior citizen is sick, he will receive the coverage he needs without fear of a loss of coverage.

Third, the Health Security Act for the Elderly will expand the amount of benefits to be made available to senior citizens.

Dental services and dentures, optometric services and eyeglasses, hearing aides and prosthetic devices will all be made available.

Out of hospitals drugs will be provided and unlimited home health care services will be permitted to assist elderly patients who would rather use the warm atmosphere of their own home for recovery.

These benefits may seem extensive to the average citizen, but I do not think that we should forget that our elderly citizen has in most instances twice as many illnesses as everyone else and usually only half the fiscal resources as everyone else available to them.

Fourth, this bill has been designed to fit into the effort that Senator KENNEDY and I are pursuing to create a greater emphasis on preventive health care and low cost health services through the use of health maintenance organizations.

The services provided in this bill can be made available by contract on a per capita basis with the health maintenance organizations authorized in the recent Health Resources and Health Maintenance Organization bill passed by the Senate. For Rhode Island, this would mean that senior citizens could use such facilities as the Rhode Island Group Health Association to receive benefits.

Fifth, the National Health Security Act for the Elderly has been designed to bring a more progressive and equitable system of finance to the support of the health care services for the elderly.

It would remove completely that anxiety about medical costs which weighs so heavily upon the minds of our sick elderly. The Health Security Act for the Elderly would remove completely those complicated deductibles, coinsurance payments and monthly premiums which do nothing to limit unnecessary health utilization but which do much to deter needed health care.

To provide for a more equitable tax structure to support this extended Medicare program, the tax ceiling for the medicare tax assessment would be moved to a level of $15,000 of income and authority would be given to use contributions from general revenues to support the National Health Security trust fund which would be created by this bill. This would mean the present flat rate medicare tax which hits middle income persons the hardest would be de-emphasized and a greater fiscal burden for medicare would be borne by higher income persons.

Sixth, the Health Security Act for the Elderly would also continue the partnership with the private sector that now exists in the medicare plan and that would be expanded in my bill 703. This means that private carriers such as Blue Cross and Blue Shield in my own State would be able to continue their role of administrative support for the medicare program.

This bill also has a well-designed provision to prevent excess revenues from being accumulated by private carriers and health institutions through the entitlements provided by the bill. This is done through a reinvestment and reduced rate provision.

The National Health Security Act for the Elderly is, I believe, a proposal that merits careful consideration when the Senate continues its deliberation in the next session on the national health insurance issue. It is a bill which will provide needed economic relief and health coverage to more than 130,000 senior citizens in Rhode Island over the age of 62 years and the 22 million senior citizens across the Nation.

I ask unanimous consent that a summary of this proposal be printed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY OF BILL—MAJOR FEATURES

TITLE I—REVISION OF MEDICARE ENTITLEMENT AND BENEFITS, EFFECTIVE JULY 1, 1974

A. Entitlement to Benefits. Lowers age requirements from 65 to 62. Abolishes entitlement based on social security status, and makes entitled to all the benefits of Medicare all U.S. citizens, all permanent alien residents living in the U.S., and all aliens present in the U.S. for at least 60 days, who have attained the eligibility age. (A transitional provision saves the entitlement of those who on the day before the bill's effective date (7/1/74) were entitled, or upon filing application would have been entitled, to hospital insurance benefits under the prior law, and extends that entitlement to all covered services under Medicare.)

B. Coverage.

1. Covered institutional services.

a. Unlimited *inpatient* hospital coverage (except for limit of 120 days of care in a benefit period for a psychiatric inpatient, and then only for active diagnosis or treatment of an emotional or mental disorder).

b. Unlimited outpatient hospital coverage. For psychiatric day care, see #2 and 6 below.

c. Skilled-nursing home services (referred to in present law as extended care facility services) on unlimited durational basis beginning July 1, 1976; before that, limited to 120 days in a benefit period, except that Secretary may raise the limit for nursing homes affiliated or operated in connection with a hospital to prevent excessive utilization of hospital beds. No requirement of prior hospital stay.

d. Starting July 1, 1976, care on unlimited durational basis in intermediate-care facilities (defined under title XIX of Social Security Act as institutions providing, on a regular basis, health related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled-nursing home is designed to provide, but who because of their mental or physical condition require care and services (above level of room and board) that can be made available only through institutional facilities).

e. Home health services, without limitation as to the number of visits, and without requirement of prior hospital stay.

f. To the extent specified in regulations, if not otherwise covered—

(a) health and health-related services of public or nonprofit private rehabilitation agencies or centers;

(b) health and health-related services of a public health agency or nonprofit private health agency.

g. To the extent specified in regulations, inpatient services of a Christian Science sanatorium.

2. Physicians' services (not otherwise covered), except that—

(1) major surgery and other specialized services designated in regulations are covered only if furnished by a qualified specialist, and then only if, to the extent specified in regulations, furnished on referral by a general or family practitioner or if they are emergency services.

(2) psychiatric (mental health) services to patients other than inpatients are covered only if furnished by an approved HMO, a hospital, or a mental health center, or (up to 160 days during or following a benefit period) otherwise furnished to a patient of a mental health day care service affiliated with a hospital or approved by the Secretary, or (up to 20 consultations a year) furnished in a psychiatrist's office.

3. *Dental services* (not otherwise covered), on unlimited basis, including preventive, diagnostic, therapeutic, and restorative services (dentures, etc.).

4. *Drugs* (*including* biologicals, such as blood, immunization products, etc.).

a. Covered without limit if furnished to an enrollee of an HMO, or if administered in a hospital's inpatient or outpatient department, or to an inpatient of a skilled-nursing home operated by or affiliated with a hospital, or (to the extent provided in regulations) in a facility of a rehabilitation agency or center.

b. Covered if furished (without separate charge) in a physician's or dentist's office as an incident to his professional service, but only if the drug is on a general list, established by the Secretary, designed to provide practitioners with an armamentarium sufficient for rational drug therapy.

c. Drugs otherwise furnished (on prescription), but only if included in a *special* list established by the Secretary and then only if prescribed for a disease or condition for the treatment of which the drug is specified on that list; except that drugs furnished in FY 1980 (the 6th fiscal year that begins on or after the effective date of the Medicare Amendments) or thereafter are covered (without regard to the condition for which they are prescribed) if listed on the Secretary's *general* list of drugs referred to in the preceding paragraph. (The *special* list would be primarily for chronic conditions for which drug therapy, because of duration and cost, commonly imposes substantial financial hardship.)

5. *Devices, appliances, and equipment* (prescribed, or certified as medically necessary, by a professional practitioner) if on a list established by the Secretary or if otherwise covered as an institutional service or as an incident to professional services. The list *must* include eyeglasses, hearing aids, prosthetic devices, walking aids, and any article covered under present law. For coverage of dentures, see "Dental services" above.

6. Other Professional and supporting services.

a. Services of optometrists.

b. Services of podiatrists.

c. Diagnostic services of independent pathology laboratories, and diagnostic and therapeutic radiology by independent radiology services.

d. Care (other than psychiatrist's services above covered) in a *mental health day care* service, if furnished by (1) a hospital, (2) an approved HMO, (3) a community mental health center or other mental health center that furnished comprehensive mental health services, or (4) by a service affiliated with a hospital or a day care service approved for that purpose by the Secretary. Limited to 160 full days during or following a benefit period if provided under clause (4).

e. Ambulance and other emergency transportation services, and nonemergency transportation services found essential by the Secretary to overcome special difficulty of access to covered services.

f. Supporting services (such as psychological, physiotherapy, nutrition, social work, or health education services) when part of institutional services covered above or when, with Secretary's approval, furnished by an approved HMO, or another organization, institution, or agency. Outpatient physical therapy services are covered only if they meet requirements of existing law, i.e. § 1861(p) of Social Security Act (as amended by the bill). Screening services not otherwise covered are covered when furnished in accordance with regulations.

7. *Excluded from coverage* (and not above-mentioned as excluded) are, *inter alia:*

a. Services furnished outside the U.S., with certain across-the-border exceptions for hospital services and for professional services incident to the hospital services. (sec. 1819 (a) of bill).

b. Services not medically necessary or reasonable or, in the case of health maintenance, not appropriate.

c. Personal comfort items.

d. Purely custodial care.

e. Cosmetic surgery (with certain exceptions).

f. Services furnished or paid for, or required to be furnished or paid for, under a workmen's compensation law. (They may be provisionally treated as covered until a determination has been made under that law, upon which payment under Medicare is to be treated as an overpayment.)

g. Services for which the individual has no legal obligation to pay and which no one else (whether by reason of the individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for.

h. Services furnished by a Federal provider, except emergency services, and except (1) services that the provider is providing generally to the public as a community institution (e.g., St. Elizabeth's Hospital) or (2) to the extent provided in regulations, services of Public Health Service personnel assigned (under sec. 329(b) of the PHS Act) to an area with a critical health manpower shortage.

i. Services that the provider is obligated by a law or contract with the U.S. to render wholly at public expense.

j. Services paid for directly or indirectly by *any* governmental entity, *except* (1) services for which payment is made under any provision of the Social Security Act other than title XVIII; (2) services paid for under a health insurance plan for the entity's employees (or retired employees) or their families; (3) services provided by a participating State or local government-operated hospital (including a mental or tuberculosis hospital) that serves the general community; (4) services paid for by a State or local agency and furnished as a means of controlling infectious diseases or because the patient is medically indigent; and (5) services provided in such other cases as the Secretary may specify.

C. *Payment for Covered Services* (other than payment to an HMO contracting with the Secretary on a prepaid capitation basis).

1. Payment is made only to a "participating provider" (i.e., one that has filed, and has in effect, a participation agreement with the Secretary under sec. 1866 or, in the case of an HMO, has a contract with the Secretary under sec. 1832), except in the case of emergency services and covered across-the-U.S. border hospital services. The term "provider", under the bill includes not only institutions but also independent practitioners, suppliers of services (e.g., drugs or prostheses or appliances), etc.

2. An institutional provider is to be treated as the provider not only with respect to institutional services, but also any other services furnished to its patients in a facility of the institution and ordinarily billed for by the institution, regardless of the legal or financial arrangement between the institution and the person furnishing the services (under present law, physicians' services (other than those of interns and residents-in-training under an approved teaching program) are not covered under part A, but under part B at the "reasonable charge" (or 80% of it) even though the hospital bills for it and even if the physician is on a salary).

3. The amount of the payment to an institutional provider, including a nonparticipating hospital that provides emergency services, is to be the reasonable cost of the services (as determined under sec. 1861(v)) or, if less, the provider's customary charges, (subject to an exception as to the latter in the case of public institutions).[1]

4. In other cases, a participating provider (physician, dentist, pharmacy, etc.) is to be paid on a "reasonable charge" basis, except that, as at present, an organization that operates on a prepayment basis may, at its request, be reimbursed by the program on a cost basis. In emergencies, if the service is furnished by a nonparticipating provider, i.e., one that has not filed a participation agreement with the Secretary, payment of the reasonable charge may be made either to the patient on the basis of an itemized bill, or to the provider on an assignment from the patient if the provider agrees that the reasonable charge is his full charge. The bill embodies the 75th percentile rule and other provisions of H.R. 1 as to the elements of the "reasonable cost" or the meaning of "reasonable charge", designed to restrain the ever-rising costs.

D. *Capitation Payments to Health Maintenance Organizations.*

In lieu of payment under the preceding provisions, the Secretary and an HMO that meets certain criteria, may contract for payment of an actuarially determined capitation charge to the HMO, prepaid periodically, *with respect to all its* members who are entitled to the benefits of Medicare and who enroll with the HMO under this section. The HMO would have to provide, directly or through others, *all* covered services to such enrollees, and reimburse them for the cost of services obtained by them, otherwise than through the HMO, in emergencies. Such enrollees could not be reimbursed by the program if they go outside the HMO for any service available from the HMO. Members of an HMO that has such a contract with the Secretary, who choose *not* to enroll under this section, cannot have payment made on their behalf by the program to the HMO for services provided by the HMO, except during a 3-year period in the case of individuals who were members before the effective date (7/1/74) of these amendments; with respect to the latter, the HMO may be paid during that period an actuarially adjusted capitation charge.

E. *Use of Carriers, etc., for Making Determinations, etc., for Payment Purposes.*

The bill merges the present part A provisions for use of fiscal intermediaries and part B provisions for use of carriers into a single section providing for use of carriers (including the type of organization which under the present system is a fiscal intermediary under part A) in administering the program. The Secretary must give priority to the fiscal-intermediary type of organization in selecting "carriers" to act for him with respect to covered services provided by institutional providers for which payment is to be made on a cost basis.

F. *Cost-Sharing:* None. (No premiums, deductibles, or copayments).

G. Financing of Program.

1. The two Medicare Trust Funds are merged into a single National Health Security Trust Fund. In addition to the special taxes collected under the Internal Revenue Code, and to returns from investment of the fund, a Government contribution is authorized to be appropriated in whatever amount is necessary as estimated from time to time by the Board of Tustees of the Trust Funds, so that there can be prompt payment of benefits and administrative expenses plus an adequate contingency reserve.

2. If at any time the Board of Trustees reports to the Congress that the Trust Fund is insufficient to make promptly all payments from the Fund required in the next 3 months, and if a request for a Government contribution that would correct the insufficiency is then pending in Congress but an appropriation to make the contribution has not been finally acted on by the Congress, the Managing Trustee (Secretary of the Treasury) shall, if the Board so directs, borrow (through issuance of Trust Fund notes or other obligations) from the Treasury, which is empowered to utilize the Second Liberty Loan Act for the purpose.

H. *Changes in Other Law.*

a. Repeals sec. 226 of Social Security Act and sec. 103 of Social Security Amendments of 1965 which constitute the present basis of Medicare entitlement.

b. Divests Railroad Retirement Board of its present functions for administration of the hospital insurance part of Medicare with respect to railroad retirement annuitants. (Continues RR Ret. Board's functions for comparable payments to RR Ret. annuitants in *Canada out of the RR. Ret. Account.*)

c. Repeals provisions in the Railroad Retirement Tax Act (secs. 3201, 3211, 3221) insofar as they include under that Act the equivalent of the present hospital insurance taxes under the Federal Insurance Contributions Act. (Reason: These railroad taxes, under another provision of law, now go into the Railroad Retirement Account, on the premise that the Medicare system will get its equitable share under the financial-interchange provisions of the Railroad Retirement Act. However, under the bill, railroad employment will now be taxed for Medicare purposes under the Federal Insurance Contributions Act).

d. Amends title XIX (Medicaid of Social Security Act to change the eligibility age for the elderly from 65 to 62 and to make Medicaid for the elderly supplemental to Medicare.

TITLE II—CHANGES IN TAX LAW

a. Tax *base* limit: $15,000, with an escalation provision triggered, at 2-year intervals, by increases in the average of the taxable wages of all employees covered under the payroll tax system; except that payroll taxes on employers will have no tax base limit other than the total payroll.

b. Types of tax: wage taxes on employees, payroll taxes on employers, and self-employment taxes, plus a tax on unearned income. (All but the last type already exist.)

c. Wage and payroll tax base coverage: Changed to include Federal and *State* and local governmental employment (other than President, V.P., Members of Congress) and railroad employment, foreign agricultural workers, and charitable (etc.) organizations.

d. A section has been included to provide for unlimited income tax deductions for medical care expenses in the case of taxpayers aged 62 or over (and their spouses) and with respect to dependent parents aged 62 or over.

TITLE III—FINANCIAL ASSISTANCE TO HMO'S

Essentially the same as the Administration proposal, but with a number of drafting changes to reflect what is presumably the intent of that proposal, and also some technical drafting changes. These provisions are to become a new title XVII of the Social Security Act (in place of the present title XVII, which has expired).

By Mr. HARTKE:

S. 4104. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Public Works.

OHIO RIVER NATIONAL PARKWAY

Mr. HARTKE. Mr. President, today I introduce legislation that would lead to the creation of recreational facilites for millions of people in the Midwest portion of our country. This bill provides for a study of the feasibility and desirability of establishing an Ohio River National Parkway running along the northern side of the Ohio River between Aurora and Mount Vernon, Ind.

This legislation has been introduced in previous years by myself and by my distinguished colleague from Indiana, Representative LEE H. HAMILTON. On those occasions, during the 89th and 90th Congresses, cutbacks were being made in highway construction funds due to the Vietnam war. As we continue to withdraw from that tragic endeavor, however, these funds are once again available, and the parkway proposed by this bill deserves renewed consideration.

Currently, there are five national parkways, three of which are in the Washington area. There have been no additions to this group since 1950. The portion of the Ohio River that would be banked by this parkway is one of the most scenic of the river's entire length. The proposed plan would bring these beautiful sights within the reach of 10 million people from Indiana, Kentucky, Ohio, Tennessee, and Missouri. In addition to the esthetic benefits derived from the parkway's location, it would also serve as a connecting link to the Lincoln Trail in Spencer County and, possibly, with the Lincoln Memorial National Parkway.

The Ohio River has played a significant role in the expansion of our country, and the trail history winding along its shores should be made available to more people than the present highway system permits. The bill I offer today will not only enable area residents to enjoy the historical and recreational sites this section of the country has to offer, but it will also make it readily accessible to visitors coming from other parts of the Nation.

---

[1] In the case of a public institution that generally provides the services to the public free or at a nominal charge, the Secretary shall pay an amount determined on the basis of such items of reasonable cost as will provide fair compensation.

Mr. President, I hope that my colleagues will give this proposal the consideration it merits, and I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, in consultation with the Secretary of Transportation, to conduct a study of the route of a proposed national parkway beginning at a point at or in close proximity to Aurora, Indiana, and extending generally along the northern banks of the Ohio River to a point ending at, or in close proximity to Mt. Vernon, Troy, Indiana. Based on the results of such study, the Secretary of the Interior shall submit a report, as to the feasibility and desirability of establishing a proposed Ohio River National Parkway generally along the route referred to herein, to the Congress within two years from the effective date of this Act. Such report shall contain full information relative to the cost of constructing such a parkway, and proposed legislation to carry out any recommendation that such a parkway be authorized.

Sec. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3839

At the request of Mr. Eagleton, the Senator from Rhode Island (Mr. Pastore), the Senator from Montana (Mr. Mansfield), the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Alaska (Mr. Stevens), the Senator from Minnesota (Mr. Humphrey), the Senator from North Dakota (Mr. Burdick), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 3839, the National Reading Improvement Act of 1972.

S. 3916

At the request of Mr. Hollings (for Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), the Senator from West Virginia (Mr. Randolph), the Senator from Nevada (Mr. Cannon), the Senator from Kentucky (Mr. Cooper), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of S. 3916, the Worker Alienation Research and Technical Assistance Act of 1972.

S. 4010

At the request of Mr. Pastore, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 4010, a bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out.

EXEMPTION OF CORPORATIONS AND LABOR ORGANIZATIONS FROM CERTAIN PROHIBITIONS—AMENDMENT

AMENDMENT NO. 1756

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR. (for himself and Mr. Cooper), submitted an amendment intended to be proposed by them jointly to the bill (H.R. 15276) to amend section 491(g) of title 18, United States Code, in order to exclude corporations and labor organizations from the scope of the prohibition against Government contractors in section 611 of title 18.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1445

At the request of Mr. Hollings (for Mr. Kennedy), the Senator from Iowa (Mr. Hughes), the Senator from Indiana (Mr. Bayh), the Senator from New Jersey (Mr. Williams), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of amendment No. 1445, proposed to the joint resolution (S.J. Res. 241) the interim agreement between the United States and the U.S.S.R.

AMENDMENT NO. 1482

At the request of Mr. Hollings (for Mr. Kennedy) the Senator from Rhode Island (Mr. Pell) and the Senator from Oklahoma (Mr. Harris) were added as cosponsors of amendment No. 1482 proposed to S. 3939, the Federal-Aid Highway Act of 1972.

NOTICE OF HEARINGS ON OVER-THE-COUNTER DRUGS

Mr. NELSON. Mr. President, I wish to announce that the Subcommittee on Monopoly of the Senate Small Business Committee will resume its hearings on over-the-counter drugs on December 5, 6, 7, 8, 11, and 12, 1972. Witnesses will include medical experts, as well as other representatives from government and private institutions. The hearings will be held in room 318, caucus room, of the Old Senate Office Building and will start at 10 a.m. each day.

ADDITIONAL STATEMENTS

A HISTORICAL SKETCH OF THE U.S. NAVY

Mr. SCOTT. Mr. President, today marks the 197th anniversary of the founding of the U.S. Navy. In 1775, our forefathers in the Second Continental Congress had the foresight and wisdom to see the need for a national Navy to protect our interests on the high seas. Accordingly, on the 13th of October of that year, a congressional resolution directed the acquisition of sailing cruisers and the establishment of the Continental Navy.

The following is a brief historical sketch of the U.S. Navy:

The U.S. Navy enjoys a proud seafaring tradition extending to colonial days and the Revolutionary War. When General Washington took command before Boston in 1775, he saw the possibility of capturing unprotected transports and supply ships. He converted several small schooners into warships and enlisted Massachusetts sailors into "Washington's Fleet," the first organized American naval force.

Later that year, as a result of the aforementioned congressional resolution of October 13, the first vessel to fly the Continental Colors, the 24-gun ship *Alfred*, built in Philadelphia, was commissioned.

In the beginning, the Navy numbered just a handful of ships, but in these warships served men who molded the naval traditions that have strengthened the Nation to this day. Continental ships and privateers prevented the isolation of America. They brought in essential supplies, convoyed merchantmen, captured enemy ships, further domestic opposition to the war in England and showed the "Stars and Stripes" in foreign ports. Bold attacks on British shipping hurt the enemy. Jones, Conyngham, and Wickes brought the war to Britain's home waters. Jones, in *Bon Homme Richard*, defeated H.M.S. *Serapis* in the most celebrated naval battle of the American Revolution.

Following the peace settlement the Navy went into a decline, and with the sale of the frigate *Alliance* in 1785 went out of existence. Political independence was a reality, but in the next 30 years the United States had to fight three wars to win her domination of the seas. In 1793, Algerian Corsairs captured a number American merchant ships and enslaved their crews. In response, Congress in 1794 authorized the construction of six frigates to meet this threat to our commerce. The French Revolution brought war between France and England and their ships preyed on American commerce as each belligerent tried to stop the other's trade. French depredations increased and the revived Navy had its baptism of fire in the quasi-war with France—1798–1801.

In the Mediterranean, attacks by Barbary Corsairs were renewed and the Navy engaged the Tripolitans. Preble, Rogers, Decatur, and other gallant men in the ships *Constitution*, *Constellation*, *Intrepid*, *Nautilus*, and *Enterprise* won respect for our flag. Our second war with Britain was fought on ocean and lakes. The first American triumph of the war was the defeat of the H.M.S. *Guerriere* by Capt. Isaac Hull in *Constitution*. The lake fleets won crucial battles under Commodores Perry and Macdonough. Perry soundly defeated the British on Lake Erie in 1813 and Macdonough achieved a "signal victory" over the British on Lake Champlain. Naval forces also fought valiantly against the British invasion force that attacked Washington and Baltimore.

Following the war of 1812, American commerce prospered with the assurance of naval protection. During the decades before the Civil War, the U.S. Navy played an important technological role. The Navy developed the first steam warship in 1815 and the first screw-driven warship in 1843. Dahlgren developed the first cannon designed on a scientific basis. Wilkes established the existence of the Antarctic Continent as John Rogers and others led important scientific explorations abroad. Maury, at the Naval Observatory, gained renown for his work in astronomy and later great works in oceanography.

In the war with Mexico in 1846–48, the Navy blockaded both coasts, provided naval gunfire support to the Army, secured California, and provided sea communications. The operational high point was the amphibious assault at Vera Cruz where 12,600 troops with horses, supplies, and munitions were placed ashore in 1 day. This experience in amphibious warfare would soon be called to use in the Civil War. The War Between the States was our first modern war. Seapower was the key to success. The Federal Navy was small at the start, but it gave the Union control of the seas and prevented the South from ever developing any significant naval strength.

Northern strategy included blockades, seizure of southern ports, amphibious operations, and control of all major inland waterways. The blockading force grew to be a great fleet and effectively stopped southern imports and exports. On the western rivers, gunboat flotillas blocked the movement of men and material while providing support to the Union forces. The capture of New Orleans and the fall of Vicksburg severed western supplies from the war in the East. Farragut, in Hartford, brought his fleet against Mobile in 1864 and captured the port following his famous "Damn the torpedoes, full speed ahead."

In the South, ingenuity supplemented meager resources. The Confederacy turned to ironclads, mines, and the submarine *Hunley*.

When the Civil War ended, the United States had the most powerful navy in the world. Rapid demobilization and public apathy, however, soon took their toll and by 1881 the Navy had no modern ships. Although financial and public support for a modern navy were not available, many officers took the lead in developments that would help change the world. For example, Bradley Fiske, as a young officer in the 1880's, made important contributions in electricity and wireless telegraphy. Albert Michelson returned to the Naval Academy as an ensign to teach physics and chemistry. In 1873, he undertook fundamental experiments that resulted in fixing the speed of light. Michelson later received the Nobel Prize in physics, and was the first American to do so.

Capt. Stephen B. Luce formed the Naval Institute in 1873 and in 1884 established the Naval War College at Newport. Luce headed the Naval War College and brought Capt. A. T. Mahan there as lecturer. These lectures became the basis for Mahan's book "The Influence of Seapower Upon History," which revolutionized naval thinking. Naval rebuilding began in 1883 with the authorization to construct all-steel cruisers with advanced armor and armament of domestic steel. New warships followed with vastly improved gunnery systems and fighting effectiveness. When the sinking of the *Maine* brought war with Spain in 1898, the Nation had a modern Navy of respectable size trained in modern tactics. At Manila Bay, Admiral Dewey boldly engaged the Spanish fleet and gained a decisive victory which made the United States a Pacific power. At Santiago, Cuba, Admiral Sampson destroyed Admiral Gervera's fleet on July 3, and the war was brought to a quick end. With peace, the United States was projected into the role of a world power with vast overseas possessions to protect. This would require a strong fleet which was insured by President Roosevelt. The cruise of the "Great White Fleet" demonstrated American technical proficiency, good will, and prestige.

The first submarine joined the Navy in 1900 and in 1911 the first aircraft was purchased. During World War I, the Navy convoyed and transported hundreds of thousands of American soldiers and vast supplies through submarine-infested waters. The Navy, working with the British, laid the largest minefield in history to keep German submarines from traversing the North Sea.

Between the world wars a quest for permanent peace was sought through the limitations of armaments. War again came in 1939, and with the collapse of France, the tempo of U.S. preparedness increased. Then inevitably, as in 1917, the United States was drawn into the conflict. The country was engaged in a massive shipbuilding program when the Japanese attacked Pearl Harbor, but there was a desperate need for more of everything. The requirement to provide convoys, transport men and materials, and actively engage the enemy strained our resources. As ships and aircraft became available the country went on the offensive. German U-boats in the Atlantic changed from the hunter to the hunted. The inevitable collapse of Germany began with the Normandy invasion. Over 2,000 ships and craft joined our Allies in the movement to the beaches of Western Europe.

In the Pacific, vast distances gave the war a different complexion. Japanese carriers and surface ships led their advance into the South. In May 1942, at the Battle of the Coral Sea, Japanese naval expansion was checked and in the following month a superior enemy fleet was decisively beaten at the Battle of Midway. Japan was now on the defensive. The Navy carried American marines and soldiers through all of the amphibious campaigns of the Pacific from Guadalcanal to Okinawa. With the Japanese surrender onboard U.S.S. *Missouri* in Tokyo Harbor, September 2, 1945, victory was achieved. However, events soon would show that it was an uneasy peace.

Suddenly war erupted in Korea. Fortunately the United States had control of the seas from the outset. As bitter fighting raged on the Pusan perimeter, a bold offensive began with the amphibious assault at Inchon. The Communist armies that had been on the verge of winning at Pusan collapsed. In the ensuing ebb and flow of the war, the Navy continued its role of moving supplies, providing naval gunfire, and carrier air support.

U.S.S. *Nautilus* heralded the era of naval nuclear power in 1955. In 1960, *Triton* completed a submerged cruise around the world. In 1960, the Navy commissioned U.S.S. *George Washington*, the first of 41 Polaris-missile submarines. Nuclear propulsion also plays an increasing role in the surface Navy—the aircraft carrier *Enterprise*, cruiser *Long Beach*, and the missile frigates *Bainbridge* and *Truxtun*.

Since 1964, the U.S. Navy has been engaged in the conflict in Southeast Asia, and has carried out its mission with distinction, helping our Nation fulfill a solemn pledge to the people of the Republic of South Vietnam.

And so on this day, as we pause to honor the U.S. Navy, I ask this august body to join in saluting a naval heritage rich in tradition and achievement, dedicated to our Nation's security and to those principles and ideals which have made our Nation the great haven of the free world.

JOHN SHERMAN COOPER

Mr. FULBRIGHT. Mr. President, before this Congress adjourns it is fitting that we pay our respects to the senior Senator from Kentucky, who is voluntarily retiring from the Senate.

I use the word "retiring" advisedly. Seldom have I served with one as modest and self-effacing as our colleague. And this is a body not noted for such characteristics.

Senator COOPER came to the Senate a little after I did, so I have known him throughout his Senate career. In fact, he is the only colleague who, during his temporary break in service when he was our Ambassador to India, sat across the table from us in the Foreign Relations Committee, as an executive branch spokesman. In 1967 he joined us on the Senate side of the table.

During these last 6 years, Senator COOPER enriched the committee with his diligence, conscientious participation, and farsighted proposals. While he has always been consistently discreet about his role and experiences as Ambassador, I am sure that this added to the insights he brought to committee discussions.

I can only speculate whether it was these experiences that led him to sponsor the amendment to the National Security Act of 1947 (S. 2224) which would serve to keep Congress better informed on matters relating to foreign policy and national security by providing it with intelligence information obtained by the CIA, together with its analysis. This is an example of Senator COOPER's knack of laying bare the essentials of a problem and proposing a sound solution.

His legislative achievements are many

and have been amply attested to by my colleagues. I will limit my recollection to two illustrations of his areas of concern.

His name will be long recalled as the Cooper of the series of Cooper-Church amendments which, over the years, have sought to limit our military involvement in Southeast Asia. The first of these amendments, in 1969, to the Defense Department appropriation bill prohibited the use of funds to finance the introduction of American ground combat troops into Laos or Thailand. By a similar Cooper-Church amendment to the Special Foreign Assistance Act of 1971, this prohibition was extended to Cambodia as well. In 1971, the committee reported a Foreign Assistance Act containing yet another Cooper-Church amendment, this time providing for withdrawal of U.S. forces from Indochina and the termination of U.S. military operations there. The Senate's vote to strike this amendment from the bill, in my opinion, so weakened support for the aid bill that it was defeated the following day. Senator Cooper's progression of thinking on the war in Indochina finally led him to propose this year an amendment providing for the unconditional withdrawal, within 4 months of enactment, of all American forces from Indochina. This amendment was modified to make it conditional on the release of American prisoners of war and then, once again, the entire foreign aid bill was defeated. While his name will be missng from our future efforts to end the war, his spirit will be spurring us on.

To illustrate another area of his concerns and another facet of his personality I refer to his patient, meticulous labor on the foreign service grievance procedure bill, which showed his interest in people and in due process of law. Senator Cooper's judicious nature and experience acquired early in his career was typified in this endeavor. This chapter, too, is not yet closed and we will have to carry on for him.

Finally, as chairman of the Committee on Foreign Relations, I am grateful for having had the pleasure of working with Senator Cooper. His unfailing kindliness and courtesy made our burdens easier. And the fact that you could always count on his presence when needed was a real boon to any chairman. His absence here will be felt.

I express one hope—it is that whatever administration we have after January 1973—Republican or Democratic—the President will seek to enlist the abilities of statesman Cooper to help this Nation as it faces the future.

ADDITIONAL DEATHS OF ALABAMIANS IN VIETNAM

Mr. ALLEN. Mr. President, I have placed in the Record the names of 1,163 Alabama servicemen who were listed as casualties of the Vietnam war through June 30, 1972. In the period from July 1 through September 30, 1972, the Department of Defense has notified four more Alabama families of the death of loved ones in the conflict in Vietnam, bringing the total number of casualties to 1,167.

I wish to place the names of these heroic Alabamians in the permanent archives of the Nation, paying tribute to them, on behalf of the people of Alabama, for their heroism and patriotism. May the time not be distant when there will be no occasion for more of these tragic lists.

I ask unanimous consent to have printed in the Record the names of the next of kin of these four Alabamians.

There being no objection, the list was ordered to be printed in the Record, as follows:

LIST OF CASUALTIES INCURRED BY U.S. MILITARY PERSONNEL FROM THE STATE OF ALABAMA IN CONNECTION WITH THE CONFLICT IN VIETNAM, JULY 1, 1972, THROUGH SEPTEMBER 30, 1972

ARMY

CWII William C. Jesse, husband of Mrs. Linda L. Jesse, Hidden Valley, Trailer Court, Lot 5, P.O. Box 577, Daleville, 36322.

Sgt. James R. Layton, son of Mr. and Mrs. Robert O. Layton, 202 Speigner Street, Enterprise, 36330.

WO1 Gerald D. Spradlin, son of SGM (USA) and Mrs. Herbert H. Spradlin, 42 Epps Drive, Fort Rucker, 36360.

First Lt. John A. Todd, son of Col. (USA) and Mrs. John A. Todd, 13 Gregg Way, Fort Rucker, 36360.

A CHANGED ENVIRONMENT FOR THE MINING INDUSTRY

Mr. BENNETT. Mr. President, Mr. John B. M. Place, president and chief executive officer of the Anaconda Co., after just 18 months in his present position, is emerging as one of the key spokesmen for the mining industry. Recently, he issued both a challenge and a call to arms to members of the American Mining Congress and to public opinion leaders everywhere. Because of the importance of mining to the well-being of every American and because of the constructive manner in which Mr. Place considers the problems and opportunities of this vital industry, his speech merits the careful attention of Congress. I ask unanimous consent that his speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

WANTED: A CHANGED ENVIRONMENT FOR THE MINING INDUSTRY

(By John B. M. Place)

There's a temptation today for me to indulge in nostalgia for those periods when a mining company president could focus almost solely on getting "rock in the box" and refining it into metal. But nostalgia has dangers and we probably wouldn't want to exchange our problems for those that beset the leaders of this industry during the great depression of the 1930's.

Our industry is challenged on all sides. Fate appears to be dealing with us in much the same way that Noel Coward suggested that men deal with women. Coward recommended that a woman be struck at regular intervals like a gong. I thought of Coward's comment when the title "Impacts" for this talk was first suggested to me. The mining industry appears to be under the impact of one blow after another, many of them seemingly struck just for the pleasure of listening to the gong vibrate.

I hope today to come up with some suggestions that will help to get us out of the position of the gong. We need to gain more control over our own destiny.

I hope to focus on seven problem areas which to some degree are interrelated:

1. The scarcity of new ore bodies and declining ore grades.
2. Environmental protection.
3. Labor.
4. Politics.
5. Capital requirements.
6. Economic, fiscal, and monetary policies.
7. World trade and tariffs.

In each of these areas, our industry faces enormous challenges. Largely these challenges arise out of conflicting objectives. Politicians have one set of primary objectives, environmentalists another, the investing public another, developing countries another, consumers another, the minerals industry another, and on and on. Since the overriding problem of all mankind is resource supply, a system of trade-offs between these conflicting objectives must be found. The sooner the United States realizes this, and does something about it, the better off we will be as a nation. We can never again be satisfied with tradition and maintenance of the past.

Let us take up each of these seven areas in turn. On the subject of scarce ore bodies and declining ore grades, little can be said that would be new to this group. The task of finding a rich mineral deposit is more difficult and costly than ever before. Exploration costs have more than doubled and perhaps tripled for the entire domestic industry in the last decade and a half. And the odds against finding a viable mineral deposit are estimated at about 10,000 to one.

In the face of this situation let me first say that a rational tax policy, which includes allowances for depletion, becomes even more important in the light of the diminishing of resources we must seek and find. Added tax treatment to encourage exploration could help add to the reserves the nation needs.

Conversely, the withdrawal of land available for prospecting and exploration can only shortchange the nation, by reducing the availability of future resources. There are several hundred bills before Congress right now that would directly or indirectly deny access to specific areas for mining.

Obviously, our industry will continue its search for new reserves of metals to the best of our ability. We must look to technology for opportunities to reduce the cost of exploration, or to increase its cost-effectiveness. We must analyze the effectiveness of new approaches versus tried-and-true techniques. The era of large exploration teams with huge logistical requirements may yield to more carefully targeted operations aided by sophisticated techniques such as airborne remote sensing devices, vapor sniffers, heat flow measurements, and gamma ray detection, all of which are now being developed.

Mining and metallurgical technology must continue to raise the recovery rate from material that was considered waste a few short years ago. We haven't yet reached the point where we call a tailings pile a mine, but we're working on it!

A second problem area is environmental protection. Here is a field in which the public seems to be willing to accept anyone as an expert, providing his charges are sensational enough to obtain TV time or space in a newspaper column. It makes no difference that he has the wrong credentials, if he has any at all. These instant experts strike the mining industry gong regularly, with charges that range from poisoning the atmosphere to raping the land.

The extremists who cry "wolf" most often are nearly always ready with instant solutions, such as stopping all economic growth. Unfortunately, their agitation can only hamper the efforts of trained engineers and others who are working to pinpoint the technical problems and find solutions to them. The unrealistic regulations and time-tables being forced on industry by pressure from the alarmists can only waste funds that could be used for genuine problem-solving.

I want to call your attention to one clear and present danger in the rush to obtain overnight results: Regulations are being promulgated without scientific understanding of the problems and on shaky test evidence. Decisions that will require industry to spend millions of dollars are being made by the government with scarcely any documentation. There is mounting evidence of citations that are based on a minimum of information, information that has been obtained through sketchy tests using questionable testing procedures and sometimes even malfunctioning instrumentation.

The costs involved in trying to meet the new requirements are staggering. In July, the EPA proposed air quality rules for six western states that could cost mining companies an estimated $544 million to meet the new environmental requirements at 13 smelters. In addition, during the period that controls are being installed, smelters would have to shut down entirely under certain conditions.

The mining industry can derive small comfort from the fact that an extra two years—until mid-1977—were given to control sulfur dioxide from smelters. There is, in most cases, no technology now available to achieve the level of control the government seeks, but that's another problem. Some estimates place the eventual cost for the copper industry alone of meeting the standards at over $1 billion.

These costs will have to be paid by the users of the products. There is no other way. In the case of copper, for example, the 1972 annual report of the President's Council on Environmental Quality estimates the cost as high as five cents a pound. The complications here are endless: the disadvantage in trying to compete with foreign sources, the effect on balance of payments with the ensuing effect on the total economy, the adverse effect on resource development, the unemployment that results, communities that are disrupted.

The effect on jobs is obvious. The same report of the Council on Environmental Quality predicts that as many as 10,900 potential jobs would be eliminated by stifled growth in the primary copper industry alone.

Not one of us here would advocate downgrading of the environment. It goes without saying that environmental quality is a fundamental problem of mankind on a finite planet. But if we are to continue with our industry's primary function—resource supply—we have to be able to keep functioning.

I cannot emphasize too strongly that a program which has such a staggering effect on the American economy and the livelihood of millions of Americans cannot proceed haphazardly. The regulations should be based on sound scientific evidence and their enforcement must utilize thorough testing procedures. Too much is at stake to act on the basis of emotion, politics or ignorance.

In the third area, labor, we find spiraling costs not based on increased productivity, crippling strikes, and restrictive work rules. All have contributed greatly to placing our industry at a disadvantage against substitute materials and foreign competition. The result has been a loss of markets, massive imports of products that compete unfavorably against our own and a decline in employment in the United States as jobs have been exported. All these effects add to the country's trade deficit as well as damage the domestic minerals industry. Possibly more important than all of this, the resource base of the United States is further reduced. History has shown us the dangers in relying on foreign sources for vital metals and fuels.

There is some hope that this situation can improve. I believe the consequences of cumbersome work-rules and unending wage escalation are beginning to be understood by labor leaders and the public. There is a growing consciousness of the fact that jobs are being exported and other dislocations are being caused by continuing wage increases that are not tied to increased productivity.

Perhaps we can turn that awareness into a relationship that recognizes the necessity to think in terms of an alliance to further our mutual interests. I personally believe that industry management should be able to have an improved dialogue with labor management, to gain better understanding of one another's problems, so we can present a united front to our competition.

The fourth area, politics, is more of a fact of life in our industry than ever before, especially on the international level.

In recent years, the climate of foreign mineral investment has undergone drastic changes. My own company's experience with expropriation in Chile could serve as a case-history of the impact of politics on economic decisions. When this happens, the resource country also loses, because it needs the technical and management skills and capital that we can bring to the enterprise.

By the same token, countries needing the resources are at the mercy of political decisions. The United States is a have-not nation with regard to many essential materials. Our industry is looking for ore deposits in many parts of the globe because we have to.

To the extent that we must import more and more of our energy and more and more of our raw materials, we must have, in my judgement, a more aggressive posture by the United States Government to encourage and protect American industries when they go abroad.

In view of the huge balance of payments deficits that this nation is now facing. I believe it is important that the Secretary and the economic advisers in the State Department should have a much larger voice in shaping the policies that govern United States positions abroad. There should be a better balance between economic and political advice within the State Department than there has been during the years since the end of the Marshall Plan.

One encouraging event occurred in June, when our government withheld support from multilateral loan negotiations with Iraq, after that country nationalized key properties of the Iraq Petroleum Company, in which two United States oil companies held an interest. Even though the United States was outvoted, and the World Bank later committed resources to the loan, the United States' position was a step in the right direction.

There are a number of positive moves our government can make to improve the nation's position in its quest for needed foreign resources. Ideally, the government and industry should function as partners in developing business agreements with foreign nations. One example of such cooperation was the Japanese arrangement to obtain Turkish chromium. The government and industry acted together to develop a special assistance agreement. Turkey will receive, among other things, financial and technical assistance for establishing a ferrochrome alloy plant. Japan will receive a million tons of chrome ore.

Lacking such a partnership, there could be better provision for insurance on foreign investments.

Under the present United States government program conducted by the Overseas Private Investment Corporation, any compensation in excess of premiums must be paid by the American taxpayer. There has to be a better way. One idea would be some form of international insurance on foreign investments, with participation by the host country. That could tend to dampen some of the enthusiasm for expropriation.

A second approach which has been suggested to protect against economic nationalism is to multinationalize the project by bringing in foreign partners acceptable to the host country. Along with this step, it would be advisable to raise capital from several different nations, and to get international investing institutions involved.

An arrangement that The Anaconda Company has negotiated with the Government of Iran provides an illustration of still another approach to foreign resource development, which will benefit both parties. Under our agreement, Anaconda will make technical personnel available to the Sar Cheshmeh Copper Mining Company, which is wholly owned by the Imperial Government, on the basis of individual employment contracts. We will also provide technical services. Thus our expertise will assist in the development of an important new copper industry. Anaconda will receive a fee for its technical services. We are not putting in any equity but we will be well-compensated.

We believe this to be a fresh approach to dealing with the issue of nationalism. It could be useful for mineral development in other less-developed countries.

Up to now, I have discussed only the impact of foreign politics on the economics of the minerals industry. Members of the American Mining Congress know only too well the impact of domestic politics.

The kinds of decisions that have to be made to foster a favorable climate for the minerals industry have been spelled out time and again by this body, and by individual spokesmen within our industry. I am referring to public land policies, taxation and labor policies, air, water and surface mining regulations, and other measures that have been presented as recommendations to Congress.

The Congress, in adopting the National Mining and Minerals Policy in 1970, made a positive move toward encouraging the development of economically sound and stable domestic mining, minerals, metal, and metal reclamation industries. If the United States Congress will fully implement this policy, the whole nation will benefit.

A keystone of this policy is the establishment of a Department of Natural Resources as proposed by the President of the United States, to bring our many natural resource efforts together under one roof. That is a priority matter if the many apparent conflicts in resource planning are to be resolved, and the many potential crises in meeting national mineral needs are to be averted.

Our fifth problem area is that mining is one of the most capital-intensive of all industries. It has been estimated that an integrated copper operation that could serve five percent of the United States market would cost in excess of $300 million—more than double the amount needed 20 years ago.

The full impact of this change cannot yet be evaluated. The amount of capital required merely to service the long-term debt such costs incur staggers the imagination. Our company recently did an analysis of the debt of 14 companies in the minerals industry. We found that long-term debt has grown 147 percent in the last decade, from $1.9 billion at the end of 1961 to $4.6 billion at the close of 1971.

Some elements in our society forget that we need profits in order to attract capital. A sound return on earnings is more essential today than ever before. If we cannot earn money for our shareholders, the investment capital necessary to keep this industry going will not be available. Earnings are the nourishment that makes our private enterprise system flourish, and enables our industries to provide goods and services in such quantity to our people. They must be maintained if our system is to survive.

Economic, fiscal, and monetary policies together make up a sixth problem area for the minerals industry. Just over a year ago, the President announced the most fundamental changes in economic policies in modern United States history: the floating of the dollar, the freezing of wages and prices, and a variety of tax measures.

To a great extent, these policies have worked for the economy as a whole, although unevenly in regard to some industries. In many of our companies price controls have had no effect on the prices of our products, for the simple reason that several metals are selling below those established under the regulations. The labor contracts that we negotiated after controls began were also unaffected. To the extent that general inflation has slowed down, we have, of course, benefited. If the price-stabilization program achieves its over-all goal, that is, of stopping the present cost-push inflation, and of preventing the reappearance of a demand-pull inflation, the measures will have been worth the cost. But I suspect that our sentiment would be somewhat like that expressed in a highly-popular book of a few years back—Catch-22: You can't live in a temporary structure except temporarily.

There is also no predicting the outcome of the international monetary situation. Many experts, outside the United States as well as in, believe that a strong U.S. dollar is essential to a strong world monetary system. The dollar can be strong only with a favorable balance of trade, or at least trade that is in balance. The impact of an improved trade position on our industry is obvious. The international competitiveness of U.S. companies will improve, the exporting of jobs and importing of goods will slow down from the present high levels.

In our industry alone we are approaching a balance of payments deficit of $1 billion a year. In the petroleum industry the deficit was $4 billion last year. According to the Secretary of the Interior's report to Congress, the projected deficit for all minerals could reach $31 billion by 1985 and $64 billion by the year 2000. Obviously, the national economy could not stand that strain for long, especially in the face of huge budget deficits and declining productivity.

In our seventh problem area, world trade and tariffs, we are also confronted by a rapidly changing set of conditions.

For more than two decades, the United States has sought to build strong economies throughout the free world. Not only was it the humane thing to do for war-ravaged and underdeveloped countries, but it was good business. The United States needed markets. The time has now come when there should be some new rules and guidelines, particularly in regard to our trade relations with Japan.

In 1971, according to Commerce Department figures, U.S. imports exceeded exports by $1.5 billion. When trade with Japan is subtracted, instead of showing a deficit the figures show a net gain of $1.7 billion. The impact of rising imports on U.S. business is unmistakable. Profits of those companies most directly hit by imports have dropped sharply. Employment has suffered severely.

Not all of industry's problems can be blamed on foreign trade, as we have seen in discussing the other impacts. But it is obvious that we now need some new trade rules based on economics rather than political or social philosophy. I believe that sound private business decisions will help us better to achieve public social goals.

I am not advocating a return of high tariff walls, but I am advocating reciprocity from countries that have reached a point where their competitor is seriously damaging or even destroying domestic industries.

One of the basic factors that created the dynamic United States economy was the existence of a large market within our own borders, where trade was free and unhampered. Now such areas are being created overseas. On January 1, 1973, the world's mightiest free-trade area will officially come into being. It will consist of 16 European nations, with 300 million persons, and annual trade of $275 billion, almost twice that of the United States, Russia and Japan combined. These nations have agreed to eliminate all industrial tariffs within five years. The impact on world markets of an entity of this magnitude can only be imagined. There is no historical precedent with which to evaluate it. And on the horizon loom China and the Soviet Union. Both are enormous potential producers and consumers, and both are candidates for some future free-trade coalition that would not include the United States.

In conclusion, it looks as though we had better be prepared to cope with continuing impacts from social, political and economic change at home and abroad. In our quest for minerals, energy *and* social responsibility, I maintain that our underlying concern must be to maintain profitability. And profitability is just as important to society as a whole as it is to business. This point was well stated by international management consultant John Diebold at the French government symposium last June:

"Private business is the most effective resource allocator man has ever invented. For society to benefit from its dynamics and innovation, it is the social responsibility of business to make a profit, and it is the responsibility—and opportunity—of society to invent ways of applying business methods to meet the needs of man and of society."

You in this industry know how to tackle the problems of exploration, of mining, of metal production. You know how to go about improving technology, providing better equipment, moving to increase productivity. You are familiar with these problems and you know how to look for solutions.

And remedies for many of the other problems of the minerals industry exist right now. Not *all* the mining bills in the Congressional hopper are anti-industry. A bill called "The Mineral Development Act of 1971" was introduced because of the hard work and effort of so many of you in this audience. The industry supports it officially. We should all support it actively.

I mentioned the proposal for a Department of Natural Resources. It would assume control of the government's programs and activities that relate to managing the nation's natural resources. It would pull together in one department the responsibility for resource planning and management that is now splintered among many different departments and agencies. A Department of Natural Resources would help us put it all together in Washington, and mark the start of a new era. Let's get behind the idea.

The development of a sound tax base, the right to explore and develop mineralized areas, and the need for a sound environmental policy are three principal areas in which we will need to work for laws that will enable our industry to thrive.

To get the public support we need, we will have to speak out. We will have to communicate with the public at every opportunity. More than an occasional letter to a Congressman is needed to change attitudes that are becoming more ingrained every day.

Let's not let the overnight experts, the oracles who would have the world close up shop, have it all their own way. They do have an advantage over us because it's relatively easy to make the 7 o'clock news or the morning headlines with an irresponsible off-the-cuff accusation or a doomsday pronouncement. But if we take no action to counter such charges, it is simply human nature for the public to assume they are correct.

We have an impressive story to tell, and we must do a good job of telling it to the American public. The future environment in which the minerals industry will operate is being shaped now, under the impact of many different forces. The biggest impact on our future must come from the effort that we ourselves will make.

A LETTER TO THE SUPREME COURT

Mr. ERVIN. Mr. President, last term was a dark time for American freedom across the street at the Supreme Court. While the Court rightly rejected the unfounded claim of the Justice Department that it has unrestricted inherent powers to wiretap whenever it wished, nonetheless the Court seriously weakened the rights of all of us in three other cases. They were the Gravel-Brewster cases, which made massive inroads into legislative immunity; the Branzburg-Caldwell cases, which stripped newsmen of their first amendment protection to keep sources confidential; and Tatum, which said the Army could spy on any peaceful American it disapproved of despite the freedoms guaranteed under the first amendment.

Nina Tottenberg, a highly respected Supreme Court reporter for the National Observer, is the winner of many Gavel awards from the American Bar Association for her perceptive and candid writing about legal matters. She has written a short, hard-hitting editorial which simply but effectively brings home the consequences of the Court's decisions last year on individual rights.

I ask unanimous consent that the letter to the Court be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

[From the National Observer, Oct. 7, 1972]

A Letter to the Court

Dear Justices: This week marks the opening of a new Court term. Before you begin rendering decisions, consider a few points.

Last term you ruled against individual rights in three cases that one-by-one may not have seemed to strike a great blow against freedom but taken as a whole seriously threaten our whole system of checks and balances on Government power.

You ruled that a newsman, if subpoenaed, must testify before a grand jury conducting a criminal investigation and that a newsman has no right to withhold the identity of his sources of information.

You ruled that a member of Congress or his aides may be questioned about their sources of information. Specifically, you said that Alaska Sen. Mike Gravel and his aides had no immunity and must tell a grand jury about their sources for the Pentagon Papers and arrangements they made for publishing the papers.

You ruled that peaceful protesters who are spied upon by military agents may not challenge this practice in court unless they can show they have been specifically harmed. The case grew out of revelations that some 1,000 Army intelligence agents in 300 offices across the country had kept tabs and filed dossiers in computer banks on thousands of citizens (including senators and Supreme Court Justices) involved in activities such as Earth Day, church and community action, labor-union action, and civil-rights and anti-war protests.

The net effect of these three decisions is twofold: It severely limits the availability of information that shows the government in power in an unfavorable light; and it gives the government broad new powers to investigate those who speak against its policies.

It's not unusual, for example, for a newspaper to crusade against the local, state, or Federal government with articles about corruption or Mafia connections. Stories such as these usually begin with tips from courageous citizens whose jobs, earnings, even lives would be jeopardized if their identities became known.

The first thing a corrupt government does when threatened with exposure is to find the sources of the leak and shut them up. And what is the easiest and most legal way to find out who those sources are? It is to convene a grand jury to investigate the newspaper's charges and force the reporters to reveal the identity of their sources. Then corrupt government operatives dig up some piece of dirt about the source, or they threaten his life or his children's lives, or they fire him from his job, or sometimes they just arrange an auto accident.

Another important way that information is discovered about hanky panky in government is through Congress. Desperate citizens often write to their congressmen about wrongdoing. That is how Gen. John Lavelle's unauthorized bombing in Vietnam came to light.

The young man who spilled the beans about Lavelle to his senator did so because the same chain of command he was supposed to report wrongdoing to was also falsifying documents about the bombings. The young man didn't mind seeing his identity revealed. But suppose the source had been a general with his career at stake. The Founding Fathers gave members of Congress immunity from prosecution for speeches made on the floor, presumably to insulate them from the punitive actions of those they criticized.

The Court's decisions in the press-subpoena and Gravel cases thus make it exceedingly difficult to gain adverse information about the executive branch of Government. At the same time, the executive branch has all kinds of special tools to protect itself. President Nixon has significantly expanded the doctrine of executive privilege—a doctrine originally meant to guarantee the confidentiality of the President's communications with his aides.

But Nixon has invoked this doctrine for all manner of self-protection. Henry Kissinger has refused to testify about foreign policy before Congress; when the President ordered a scientific study of the SST and the study concluded that the project was a bad one, the President refused to release the study because by then he was pushing the SST. White House aides refused to answer questions from a congressional committee about their involvement in getting a favorable settlement of the antitrust case against ITT after that corporation made a large campaign contribution to the GOP.

It is almost impossible to break the back of executive privilege. The only way to challenge it is through the Justice Department, and that is also part of the executive branch. Any maverick U.S. attorney who thought to challenge Government secrecy with a grand-jury investigation would be fired by the President before he could say "your honor."

Now you, the members of the U.S. Supreme Court, give the executive branch new tools. You, in effect, have said to the executive branch: "You can interrogate your critics before a grand jury, you can find out who is squealing. And if people want to hold meetings to protest what you are doing, you can spy on them and keep dossiers on them."

Think about it this way, your honors. How would you regard your decisions if a President Edward M. Kennedy were to order investigations into congressional and press leaks accusing him of weakening our national defense or of playing footsie with some union? Would you like it, Warren Burger, if some Democratic President were to order surveillances conducted on you and Richard Nixon—and you had no legal recourse to stop it?

Nina Tottenberg.

SENATOR HANSEN'S "CATTLE IN THE PARK"

Mr. BIBLE. Mr. President, Mr. Bernard Shanks has again written an article in the September 1972 issue of Progressive reflecting on my colleague, the junior Senator from Wyoming (Mr. Hansen).

The article seeks to imply that the Senator from Wyoming has gained a special privilege because of his public office. A comparable article by Mr. Shanks appeared in another publication last year.

In order to set the record straight and so that Senators and all interested individuals may know what the facts are, I ask unanimous consent that an exchange of correspondence I have had with the National Park Service be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Department ot the Interior,
National Park Service,
Washington, D.C., October 11, 1972.

Hon. Alan Bible,
Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We are pleased to respond to your letter concerning an article entitled "Senator Hansen's Cattle in the Park," which appeared in the September 1972 issue of Progressive Magazine

From our records, at least as early as 1938, grazing was undertaken in the Grand Teton area on Forest Service lands and public domain. Mr. Clifford Hansen was one of the cattlemen who grazed stock under permit in that year. We cannot give an adequate history concerning permits issued for the period when the subject lands were administered by the Forest Service, since we do not have access to Forest Service records.

In 1972, there are 14 persons holding permits to graze stock in the park. There are 22 permits issued to 13 persons (6 of which having grazing permits) for trailing in 1972.

On March 15, 1943, President Roosevelt established the Jackson Hole National Monument by Proclamation 2578. The monument lands were composed of lands excluded from the Teton National Forest, other public domain lands, and privately owned lands. The proclamation stated that the reservation was subject to all valid existing rights. Neither the Washington Office of the National Park Service nor the Superintendent of Grand Teton National Park has records to indicate the different types of rights which were continued as a result of Proclamation 2578. We understand that whatever records may have existed on this subject would have been forwarded to the St. Louis Records Center years ago. However, the proclamation did have the effect of continuing the rights of certain stockmen, including Mr. Hansen, to graze stock within Jackson Hole National Monument. The Bar BC Ranches, Inc., sold land, cattle, horses and equipment, and grazing permit rights to Clifford Hansen in 1944.

Most of the monument lands became a part of Great Teton National Park under the Act of September 14, 1950. It was determined that 29 stockmen, including Mr. Hansen, had statutory rights, based on prior leases, permits, or licenses on that date.

The Act of September 14, 1950, to establish a new Grand Teton National Park (64 Stat. 849), in Section 4 provides

"(a) the Secretary of the Interior shall designate and open rights-of-way, including stock driveways, over and across Federal lands within the exterior boundary of the park for the movement of persons and property to or from State and private lands within the exterior boundary of the park and to or from national forests, State and private lands adjacent to the park. The location and use of such rights-of-way shall be subject to such regulations as may be prescribed by the Secretary of the Interior.

"(b) all leases, permits and licenses issued or authorized by any department, establishment, or agency of the United States with respect to the Federal lands within the exterior boundary of the park which are in effect on the date of approval of this act shall continue in effect, subject to compliance with the terms and conditions therein set forth, unless terminated in accordance with the provisions thereof.

"(c) where any Federal lands included within the park by this Act were legally occupied or utilized on the date of approval of this Act for residence or grazing purposes or for other purposes not inconsistent with the Act of August 25, 1916 (39 Stat. 535), pursuant to a lease, permit or license issued or authorized by any department, establishment or agency of the United States, the person so occupying or utilizing such lands and the heirs, successors or assigns of such person, shall upon the termination of such lease, permit or license be entitled to have the privileges so possessed or enjoyed by him renewed from time to time, subject to such terms and conditions as the Secretary of the Interior shall prescribe for a period of twenty-five years from the date of approval of this Act, and thereafter during the lifetime of such person and the lifetime of his heirs, successors or assigns but only if they were members of his immediate family on such date; as determined by the Secretary of the Interior: *Provided,* that grazing privileges appurtenant to privately owned lands located within the Grand Teton National Park established by this Act shall not be withdrawn until title to lands to which such privileges are appurtenant shall have vested in the United States, except for failure to comply with the regulations applicable thereto after reasonable notice of default: *Provided further,* that nothing in this subsection shall apply to any lease, permit or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes. Nothing contained in this Act shall not be construed as creating any vested right, title, interest or estate in or to any Federal lands (16 U.S.C., Sec. 406 d-2)."

In conformance with Section 4 of the Act of September 14, 1950, regulations to control grazing have been published in Section 7.22 of Title 36 of the Code of Federal Regulations. The regulations apply reasonable controls on the conduct of grazing operations. Persons violating these regulations would be proceeded against the same as violators of other National Park Service regulations.

Since September 14, 1950, grazing permits have been issued to the stockmen having prior grazing rights. The permits contain special conditions with which permittees must comply. Breach of the conditions would make a permit subject to cancellation.

The regulations at 36 CFR, Sec. 7.22 (c) (5) provide "Grazing fees shall be the same as those approved for the Teton National Forest and will be adjusted accordingly." The grazing permittees are required to pay fees for all grazing undertaken, in accordance with the above provision.

The policy of the National Park Service, in accordance with the intent of the Act of

September 14, 1950, is to phase out all grazing at Grand Teton. As mentioned above, there were 29 permittees in 1950. This number has now been reduced to 14 by operation of the act.

The effect of the language inserted in the appropriation bill by former Senator O'Mahoney was to prohibit the use of proposed appropriations to administer the monument as a monument, without interfering with the functions previously performed by the Forest Service in fire prevention, the Bureau of Reclamation in administering the affairs of that Bureau, or the wildlife activity in that area within the forest or public domain. The statement of this position is on page 6080 of the "Congressional Record" of June 18, 1943.

There are three dude ranch operations within the park which graze stock. The Triangle X Ranch and Elbo Ranch are park concessions, and these concessions, as part of their concession contracts, are permitted to graze horses. Triangle X grazes 120 horses and Elbo grazes 28 horses. Both ranches are responsible for their own fencing, irrigation, and hay. Land ownership is not a prerequisite for these concessions.

The Whitegrass Ranch is an inholding which predates the park. That ranch grazes 68 horses and 238 AUM's (animal unit month) under a grazing permit. Original grazing rights, obtained by Forest Service permit, were based on ownership of appurtenant lands. In 1956 the Naitonal Park Service acquired all of the Whitegrass Ranch except 5 acres. One of the conditions of the acquisition was that the Whitegrass Ranch owner would have a life-estate right to graze 68 horses on the same basis the ranch had enjoyed prior to the 1956 acquisition:

The following stockmen graze stock under fence:

B. Porter—350 head, 2,100 AUM's.
C. Hansen—569 head, 3,414 AUM's.
A. H. Brown—235 head, 1,410 AUM's.
Ida B. Chambers—281 head, 554 AUM's.
John Moulton—189 head, 383 AUM's.
William Fleischmann—140 head, 140 AUM's.

Grazing operations were transferred from the west side of the Snake River to the east side to improve management of the park and enhance safety, aesthetics, and resources protection. The lands used to pasture these cattle and those on Mormon Row were used as cattle and hay ranches before the transfers.

On September 14, 1950, Messers. Clifford Hansen, Arthur Brown, and Bruce Porter held grazing permits on what is known as the Potholes-Moran Grazing Unit. This grazing unit consisted of 83,500 acres of land in Jackson Hole National Monument and the Teton National Forest. The Hansen permits authorized the grazing of 569 head of cattle and 3,414 AUM's of grazing, including 2,845 on national monument lands and 569 on Forest Service lands.

The Potholes-Moran Grazing Unit included important plant communities, forests, sage brush, flowered slopes, and aspen groves, and included major visitor-use areas of the park, such as Jackson Lake Lodge, Colter Bay, Signal Mountain Lodge, several dude ranches, and developed campgrounds. The National Park Service recognized that for protection of natural and scenic values and enhanced recreation values and visitor use, it was desirable to remove grazing, which was open range, from the Potholes-Moran area.

In 1957, the National Park Service proposed to the permittees of the Potholes-Moran Grazing Unit that they bring their cattle under fenced pasture in another area of Grand Teton National Park, where ranching and grazing had been historically practiced. The stockmen, including Clifford Hansen, then holding no elective office, accepted this proposal. To accomplish the grazing relocation, irrigation systems had to be redeveloped, fences built and cultivation revitalized. This successful relocation accomplished an elimination of open grazing on 83,500 acres of the park and the adjacent forest, all possessing high scenic and recreational value, while meeting the Service's legal obligation to the permittees. This relocation allowed a reduction in grazing land to 11,000 acres of park land which had already been used for irrigated hay lands and pasture. (Open range grazing was eliminated within the park with the acreage grazed reduced by 72,500 acres.)

This relocation, however, did cause an increase in park AUM's. To take the cattle off of the Potholes-Moran Grazing Unit in the park, it was also necessary to remove them from the Teton National Forest, on which part of the grazing unit existed. Due to the fact that there are no fences along the boundary between the park and the forest, if cattle were allowed to graze on the forest section of the Potholes-Moran Grazing Unit, it would be impossible to keep them off park lands. Therefore, the grazing preference of the national forest was absorbed into the fenced pasture operation which added 1,154 AUM's to the park's total grazing picture. This includes 569 AUM's which were authorized in the Hansen permit.

In 1961 the National Park Service relocated the grazing permits belonging to Ida B. Chambers, John Moulton, and William Fleischmann from the Antelope Flat Grazing Unit to an area adjacent to Mormon Row in Grand Teton National Park. Six hundred and ten head of stock were placed on approximately 900 acres of fenced pasture lands. Approximately 40 acres of these lands are irrigated and the fencing and the irrigation are the responsibilities of the permittees. This action reflects further implementation of the objective to eliminate open range grazing within Grand Teton National Park.

Thank you for your interest in the programs of the National Park Service.

Sincerely yours,
GEORGE B. HARTZOG, Jr., *Director*.

NATURAL RESOURCES—PARKS,
NATIONAL PARK SERVICE,
Grand Teton, September 26, 1972.

Hon. GEORGE B. HARTZOG, Jr.,
Director, National Park Service,
Department of the Interior, Washington, D.C.

DEAR GEORGE: In the September 1972 issue of the *Progressive Magazine* an article appeared entitled "Senator Hansen's Cattle in the Park."

There are several points which this article raises on which I would appreciate clarification:

1. The history of grazing in Grand Teton National Park including permits which were issued under administration by the Forest Service.

2. The number of permittees using the Park for driving or grazing cattle.

3. A summary of all existing rights and claims which were dealt with by the establishment of the National Monument in 1943 including summer homes, mining laws, grazing permits, and dude ranches.

4. A summary of the Park Service's enforcement of valid uses which have existed since the National Monument was established. I realize that there was some language inserted in an appropriation bill by former Senator O'Mahoney regarding use of funds for administration of Grand Teton as a National Monument.

5. What is the Park Service's policy in regard to existing grazing permits? Are there some dude ranches in or near Grand Teton which have permits but don't actually own land?

6. I believe that in 1957 there was an attempt to consolidate certain grazing permits on Grand Teton. I understand further that these permits were transferred onto the old Elk Ranch. Could you summarize the background behind this transaction.

7. Why were the permits for grazing on the west side of the Snake River transferred to the east side? Were lands used to pasture these cattle and those on Mormon Row being used as cattle and/or hay ranches before these transfers?

Since this is a very important matter, I would appreciate your prompt attention.

Cordially,
ALAN BIBLE.

NO BLACKOUT FOR SUPER BOWL

Mr. SCOTT. Mr. President, National Football League Commissioner Pete Rozelle today announced that the Super Bowl game will be televised in Los Angeles, the site of the game, if all tickets are sold 10 days in advance of the game. This announcement comes largely as a result of discussions held between the Commissioner and various Members of Congress, some of whom were advocating the enactment of antiblackout legislation this year.

I applaud the Commissioner's decision to go ahead with this noble experiment. It will give the league an opportunity to verify many of the problems associated with television blackouts of live sporting events. More importantly, though, it will give the Congress an opportunity to study this very complex matter in more detail prior to legislating. I hope that whatever action we may take will be in the best, long-run interests of professional football.

Mr. President, I ask unanimous consent to place the NFL news release in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEWS RELEASE

The National Football League will televise the Super Bowl game in Los Angeles, site of the game, if all tickets are sold by ten days prior to its playing on January 14, 1973.

Commissioner Pete Rozelle, in making the announcement disclosed that the proposed telecast will be in the nature of an experiment for this season.

Rozelle, continuing to express deep concern over any proposed modification of the League's television policy, also stated that the NFL would begin next week to assemble facts concerning the legal conflicts of stadium leases, stadium contracts with outside parties, radio and television contracts as well as practical considerations involved in altering its policy of not televising regular season games locally.

This study will be presented at a later date to Senator John O. Pastore of Rhode Island and Representative Harley O. Staggers of West Virginia, heads of congressional committees reviewing NFL procedures.

Information regarding the plan to televise Super Bowl VII locally and for the conduct of the study was conveyed to the two congressmen by the Commissioner yesterday in Washington, D.C.

TAX DISCRIMINATION AGAINST UNMARRIED TAXPAYERS

Mr. MOSS. Mr. President, I strongly support the amendment offered by the Senator from Oregon (Mr. PACKWOOD). Its purpose its as equitable as the Bill of Rights.

For years I have objected to the fact that a single person paid income taxes at a rate higher than a married couple, and furthermore that a single person who was head of a household paid income taxes substantially higher than those of a married person with the same responsibility. I could see no justification for taking more tax money out of the pay check or income of a man or woman who happened not to have married, or been divorced, than out of the paycheck of those who were married.

In the early and middle sixties, I was one of the cosponsors of the bills introduced in several Congresses by Senator Eugene McCarthy which made an effort partially to end this discrimination. The McCarthy bills provided that a person who had been single for 3 years, and who was 35 years of age or over, could be considered as head of a household for Federal tax purposes, and his tax rates set as such. I was very much disappointed when even this moderate attempt to mitigate tax injustice was killed by the Senate Finance Committee in the 88th Congress.

We have made some progress since that time in reducing the tax discrimination against single persons. Under the 1969 tax revision bill, tax rates for unmarrieds who were not head of a household were reduced to a level that is only about 20 percent more than those of a married couple—instead of the astounding 40 percent more which then prevailed in some instances—and the tax rates of an unmarried who was head of a household were reduced to only 10 percent more than those of a married person in the same category.

This was a giant step in the right direction—and hailed as such. But it did not go far enough. Obviously, single persons cannot achieve tax equality until they are taxed at the same rate as a married couple. We have a chance here today to assure, once and for all, that this will be done in the future.

This amendment is fair. It is equitable. It is long past due. It will affect some 30 million unmarried taxpayers in the Nation, a few who pay high taxes, and many who pay less, but who last year together paid $1.6 billion more than their fair share to the Federal treasury in income taxes.

Although some of their numbers have spoken out vigorously—and justifiably—against such obvious tax injustice, most of them have carried their unfair tax load with quiet restraint. They should not be asked to overpay their share of the Nation's tax load any longer. They should be treated equally with all other citizens.

Mr. President, I ask that the amendment by the Senator from Oregon (Mr. Packwood) be passed.

MARYLAND MARINE POLICE PROVIDE OUTSTANDING ASSISTANCE TO THE PUBLIC

Mr. BEALL. Mr. President, to anyone who has traveled the broad reaches of the Chesapeake Bay, the vessels of the Maryland Department of Natural Resources Marine Police are a familiar sight. They cruise the bay, providing instruction and assistance to boaters of the area, enabling them to enjoy the water in the safest possible manner.

Recently, 13 members of the marine police were cited by boatmen in Maryland waters for the outstanding assistance that they provided to them in a series of emergencies ranging from running aground to engine trouble. Often, the general public is not aware of the major contribution that the police make to the welfare of boaters. In order to provide deserved recognition, therefore, I ask unanimous consent that the news release from the Department of Natural Resources of the State of Maryland, which describes the actions of these men, be included in the Record so that my colleagues might have the opportunity to learn of the exemplary work of the Maryland Marine Police.

There being no objection, the news release was ordered to be printed in the Record, as follows:

Maryland Department of Natural Resources—Natural Resources Police Force

Annapolis, Md.—Thirteen members of the Department of Natural Resources Marine Police were cited by boatmen in Maryland waters for outstanding assistance to them in a series of emergencies ranging from going aground, engine trouble to loss and recovery of a wallet containing "a large sum of money."

The Marine Enforcement personnel cited were: Ronald G. Dring, Harmond D. George, Robert D. Harrison, Cleveland W. Bridges, Billy L. Insley, Ralph Plummer, Myrl E. Stevens, Jr., Anthony J. Bures, Andrew W. Holland, Byron W. Fairall, Daniel Ciekot, Kenneth R. Mauk, and William Stallings.

Letters of commendation from six assisted boatmen were received by Cmdr. Roy Rafter, Chief of the Natural Resources Police Force, who reported 260 instances of "assists" by Marine Police to the boating public in August alone.

An Army Major from Louisiana was impressed with the manner in which Ronald Dring called his attention to local boating regulations. He wrote: "He exhibited a high degree of professionalism, was quite courteous and presented a neat, sharp appearance." The Major said that Dring "demonstrated a thorough knowledge of seamanship and handled his boat in a superior manner. Additionally, it was evident that he was proud of his uniform and of the Maryland Marine Police."

A staff member of the House Committee on Administration whose boat stalled in choppy waters off Kent Point while on a fishing trip was enthusiastic in his praise of Harmond George, Cleveland Bridges, and Robert Harrison. Towed to safety, one of the three was even able to make necessary adjustments to the engine which enabled the disappointed fishing party to reach home port without further trouble. The Marine Inspector, according to the letter, refused payment for his work.

A Pennsylvania attorney wrote that when a hose broke on one of his cruiser's engines, Billy Insley, Ralph Plummer and Myrl Stevens responded to his call for help and saw him safely into the slings of a Travel-Lift at Rock Hall. He said: "The men were very competent, courteous, and I was very appreciative of their efforts on behalf of my family, my boat and me."

A Philadelphia insurance executive appreciated the help given by Anthony Bures when a rented houseboat became disabled near the mouth of the Miles River. The craft was towed to St. Michaels where mechanical assistance was available but Bures "checked back a couple of times to make sure we were receiving help."

A resident of Georgetown, Maryland had her lost wallet containing "a large sum of money" returned to her by Andrew Holland, who, she said, refused a reward.

Byron Fairall and Daniel Ciekot were commended by a resident of Cambridge, Maryland for their efficiency and courtesy in towing his boat to a slip in that city when the motors failed at the mouth of the Choptank River.

A Washington realtor, embarrassed when his 30 foot cruiser ran aground near Shady Side, was enthusiastic in his praise of Kenneth Mauk and William Stallings. Seeing his plight while patrolling in their whaler, they shortly re-appeared in the "big and beautiful" 'Anne Arundel' and were able to pull the cruiser free. The boatman wrote:

"An incident such as we experienced certainly strengthens this boatman's desire to cooperate in every way possible with your Department and its fine men for safe boating on the Chesapeake Bay."

PUBLIC ADMINISTRATORS AND "THE PRIVACY THING"

Mr. ERVIN. Mr. President, I have long been concerned with the dangers that computerization of personal information in Government dossiers will pose to the individual's right of privacy. I am therefore heartened to find my concern mirrored by those most intimately involved with administering such computerization.

An article in the current issue of the Public Administration Review discusses the problem in a very lucid fashion. It first presents an excellent summary of what steps have been taken by Congress and other bodies to explore the complexities of the issue. Then, in what I consider the heart of the article, the author urges administrators to take action on their own. In his words,

> Clearly, the complexity of this issue has many ill-defined or cloudy areas. But, this does not mean that those in public administration can sit back and wait for the Congress, the states, the courts, or the data processing profession to act for them. In these days when people are making extraordinary demands on government, not to have a forward-looking perspective is dangerous for both the individual administrator and his organization.

In particular, the author urges administrators to allow the subjects of dossiers to read and challenge entries in their files.

Mr. President, I could not agree more. Awareness is more effective than any legislative investigation or enactment could hope to be as a deterrent for misuse of governmental powers. I find the suggestion of allowing subject access and challenge particularly interesting—it is the cornerstone of any system to protect privacy.

The author then notes that the administrator may fear to act because he may "hinder or compromise Government operations." In answer to that fear, the author adduces the example of the Freedom of Information Act, commenting that studies of the act's effects show that agencies' prior fears about Government security were groundless.

Mr. President, I am very glad to see this argument made. In dealing with governmental agencies, I have found them sometimes too worried about efficiency. I am sure that this argument, from this source, will carry a great deal of weight.

Mr. President, I ask unanimous consent that the text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Public Administrative Review, September–October, 1972]

Public Administration and "The Privacy Thing"; A Time To Speak Out

(By Frank G. DeBalogh)

The decade of the '70's has been called a time of introspection. Americans have turned inward en masse to take a new look at their institutions and the quality of modern life. This has generated intense debate and often violence. In many of these confrontations, it is almost axiomatic that those who "administer" government move into action only when the pressure becomes undeniable. This type of reactive, crisis management has long been a hallmark of federal, state, and local bureaucracies. Government action on the problems of the environment, the economy, and the poor to name only a few is typical of this situation. Because the pace of change and technology is so frantic, it is imperative that public administrators make valiant efforts to foresee and plan for future developments that may take on ominous consequences if unchecked.

One of these problems very much in the news is what a recent issue of *Business Automation* referred to as "the privacy thing."[1] Namely, the dangers posed to the constitutional rights to individual privacy by the proliferation of computer data banks at every level of government. This issue, of course, is not new, since the controversy over "government files" has been virulent off and on since World War II. But technology has introduced an "order-of-magnitude" change that contains the seeds of Orwell's nightmare society. Yet, the sad truth is that many administrators who are responsible for setting policy for these tools of more efficient government have tended to ignore the whole issue. The thrust of concern for this problem has not come from practitioners in the field of public administration but elsewhere.

PUBLIC SYSTEMS AND TODAY'S CONCERN FOR THE RIGHT TO PRIVACY

The realization that computerized personal information is instantly available to members of governmental bureaucracies and could endanger the rights of the individual in American society became increasingly widespread during the latter part of the '60's. The impetus was provided by questionable practices followed by private credit bureaus and other businesses relying on computerized information about the public.[2] It was compounded by the growing need within the data processing industry and the business world for tighter security over computer facilities and the vital corporate information they housed.[3] This was also accentuated by a public controversy when the then Bureau of the Budget proposed establishment of a national data bank which was to be repository of computerized statistical information.[4] Extensive hearings on the subject by Congress elicited grave misgivings about the possible development of individual "dossiers" on individual citizens and the dangers of disclosure of personal information. As a consequence, the concept of a national data bank has been successfully shelved for the time being.

In recent years this public apprehension has been mounting. The perils of the situation have been noted by many prominent people, including former Chief Justice Earl Warren.[5] Some, like consumer advocate Ralph Nader, have talked in shrill tones about the need for privacy safeguards to prevent the country from becoming a "nation of slaves."[6] Literati like Vance Packard have spoken in a similar vein about a "humanity in chains of plastic tape."[7]

To date, the Congress and some states like New York have taken preliminary steps in the form of laws to squarely face the issue.[8] In the private sector, federal legislation has recently gone into effect requiring credit bureaus to open their files to individuals who can now take a look at information about themselves and can take steps to correct erroneous data.[9] A recent congressional amendment requires the Law Enforcement Assistance Administration (LEAA), established by the Safe Streets Act of 1968 to disburse federal funds to the states for upgrading law enforcement systems, to recommend legislation to protect the constitutional rights of individuals who may be affected by criminal justice computer systems funded by the federal government.[10] Senator Sam Ervin's (D–North Carolina) much publicized Subcommittee on Constitutional Rights has again focused the spotlight on EDP in government and privacy through highly probing hearings.[11] More legislation is a virtual certainty. But current legislative action, especially at the state and local level, is still basically limited to expressions of concern.

While it is proper to say that many governmental administrators have shown an unfortunate lack of foresight on this subject, there are some notable exceptions. The policy and procedural safeguards practiced now for a hundred years by the Bureau of Census in the handling of personal information are exemplary.[12] However, this is not true of several score computerized data bases that exist elsewhere within the Federal Government. Yet, things are changing. HEW recently established an advisory board to monitor the design and development of computerized systems to ensure that computer security and the right of privacy are considered.[13] But an individual's right of access to his own files, except in the case of the Social Security Administration, is negligible. In some cases developments are rather haphazard. For instance, in the criminal justice field, the FBI, which operates the computer-based National Crime Information Center, has yet to fully confront the issue. But Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories), a demonstration project involving several states and LEAA that seeks to establish the feasibility of an integrated federal-state crime information system, has done considerable research on safeguarding of individual rights to privacy.[14] One of its committees is now in the process of drawing up model legislation for criminal history information systems.[15]

At the state level, the New York State Intelligence Information System (NYSIIS) has become a model for computer security.[16] In California, representatives of the state, the counties, and municipalities have come together under the Council on Intergovernmental Relations and have set up a committee to study the problem.[17] In some instances, concerned practitioners are addressing the issue as individual members of citizens groups rather than as representatives of organizational entities. The task force set up by the Los Angeles Chapter of ASPA to consider the public use of private information in California is a good example.[18] Even so, as a whole, administrators, especially those at the organizational goals and policy-setting level, are still on the sidelines.

How long can they afford to remain uncommitted? Much of the public concern surrounding the privacy issue revolves around the fear of the faceless "bureaucrat" who in his quest for efficiency is quite prepared to infringe upon a citizen's rights to privacy. It should be noted that such images are being conjured up by many influential critics.[19] These fears must be set to rest. More importantly, future developments in the data processing industry and changes in the fundamental nature and methods of government will vastly accentuate the problem unless the issue is addressed now.

THE FUTURE: A GROWING DANGER

It is said that computer hardware currently under development will be able to store enough information on each of us to fill a book.[20] There is no need to cite satistics about the fantastic growth predicted for the information processing industry. The future will blossom forth with the computer "utility" whose services will be widespread, plentiful, and cheap the same as electricity or the telephone are at present.[21] Along with the development of fast-response, multiple-access systems will come sophistication in powerful "inferential relational retrieval techniques" that can tie together facts and individuals in a thousand ways.[22] The dictates of modern "behavioral-predictive theories of information" that call for amassing vast quantities of phychological and organization information for optimum decision making will be paramount.[23] Linkages between space age computer hardware and on-line, real-time communications technology concepts are going to make a vast contribution to the effective provision of public services. This will mean integrated information nets at all levels of government which will meet the multiple requirements of a host of agencies.[24] We are seeing these changes now as these links between all levels of government are multiplying at a rapid pace.

The very nature of the American system of government will likely be altered. Integrated information systems will bind federal-state-local systems tightly together and make for multi-level integrated decision making. The many layers of government will be transformed into various "subject area control systems" dealing with public order, health, education, and other national problems.[25] These are already taking shape in the fields of criminal justice, taxation, and social welfare to name a few. The benefits of this phenomenon in terms of efficiency, responsiveness to need, and cost savings are undeniable.

Unfortunately, through the process of meeting the growing needs of the common good the threat to individual rights is magnified. In describing these rights Edward Shils has used the effective analogy of "social space" which each individual possesses as a property of his individuality.[26] In tomorrow's society this "social space" faces severe constriction unless the impact of technology on government is balaced to preserve what Shils calls "humanity and civility." However, to do this most public organization in their present form require fundamental changes in structure and purpose that in large part rest with those who man and run them, today's public administrators.[27] The implications of this future for public administrators and their organizations are multidimensional and difficult to assess.

Yet, such assessments must be made before we can begin to eliminate the dangerous lag between adjustments in the national fabric and the impact of technological advance. While the issue is complex, there are certain fundamental parameters that can be identified. First, public administrators must become convinced that these new tools will be the mainstay of their organization's capability to provide satisfactory service to their clientele. It follows from this that to adequately protect against invasions of privacy will necessitate sophisticated computer security systems. Surprisingly, the technological problem of providing this security in hardware, software, facility, communications lines, storage, handling, and similar needs are the easiest to surmount. A good deal of progress has already been made in this area.[28] The type of protection provided for in defense computer systems can serve as examples. Many corporate computer systems are being professionally secured around the country.[29] In short, experts believe that

---

Footnotes at end of article.

from the technological point of view systems can be "buttoned up" quite well.[30]

However, they also point out that the key to computer security is good people.[31] This holds true for the design, testing, operation, and auditing of any computer system. Administrators must begin insisting on employing only highly qualified, reputable people to staff their systems. It is not too far-fetched to envision professionalization of this field where one might have to deal with "certified public programmers" in the future.[32] The American Federation of Information Processing Societies is presently looking into the question of licensing programmers, operators, and other systems people as well as systems as a whole.[33] Since people are the key to the problem of misuse or error in handling personal information of a private nature, public organization must devise adequate internal controls. They are needed now to stipulate standards and rules of data access, use, and dissemination and to provide for audits, sanctions, penalties, and new organizational structures.[34]

This brings in the question of professional ethics. There are pros and cons about the efficacy of ethical standards in preventing invasions of privacy. Those developing Project SEARCH feel that all users of their information should be governed by a standard of ethics.[35] However, many experts do not believe that such standards can be of real operational value.[36] Some feel that better definitions of data confidentiality and handling would be more realistic.[37] This is a subject that vitally needs input from administrators as well as those in the data processing industry.

Equally nebulous are the legal ramifications that surround the right of an individual to privacy. Both legislation and case law are very inadequate for defining and measuring that right.[38] Remedies and penalties for invasion for privacy are poor. This lack of sufficient legal foundation is the primary cause of the present difficulty in determining what constitutes invasion of privavy and what does not.[39] For the administrator this forces uncertainties on his actions, since he lacks sufficient traditional guidance in the form of legislation or administrative regulation.

But changes in this area are taking place. Federal and state legislation will continue to proliferate. Privacy could be made into a property right.[40] It is time that we fully accept the fact that individuals do have rights in this area. Public administrators as a whole would be a lot better off if they began to scrutinize the legalities of the public use of private information in their sphere of operation. Regulation of some sort is bound to come, perhaps in the form of a federal or state agency, private monitor groups, or ombudsmen who may be charged with protecting individual rights in this area.[41] Perhaps administrators whose organizations rely on data processing, which in a few years will mean just about everyone, may one day have to confront governmental data "bank examiners" whose duties will include auditing systems for how well they safeguard personal information, and what rights of access, challenge, and redress they provide their clientele.[42]

If this problem is to be met successfully by those in government, certain management assumptions and psychological attitudes on the part of administrators will have to undergo change. The whole matter of organizational efficiency will have to take on an additional dimension. Namely, the definition of efficiency must be broadened to include considerations for adequate safeguards of personal information. This can skew cost/benefit alternatives, because to build in and maintain such considerations in systems will mean added costs and perhaps even some degradation in operational efficiency when compared with optimum technical capabilities.[43] Where to draw the line in terms of assuming added costs is difficult to say. But some restraint on technological efficiency to safeguard social values will be necessary.

Secondly, administrators must also realize that in their race to apply the benefits of data processing to their operations they may risk alienating the citizen with whom they deal.[44] They will have to be more careful in overseeing the design of their systems so that "humanity and civility" are maintained. A cause celebre similar to the one where the head of the U.S. Civil Service Commission boasted in an article that federal employment exams had been computerized to the point where there was no need for human intervention is something that can be ill-afforded.[45] Every time that happens the image of the evil "bureaucrat" so ingrained in many American attitudes rears its head. Obviously organizational policies and administrative procedures must be strengthened to prevent dehumanization of the public service process.

THE NEED TO TAKE A STAND IS NOW

Clearly, the complexity of this issue has many ill-defined or cloudy areas. But, this does not mean that those in public administration can sit back and wait for the Congress, the states, the courts, or the data processing profession to act for them. In these days when people are making extraordinary demands on government, not to have a forward-looking perspective is dangerous for both the individual administrator and his organization.

There may be some hidden reluctance among administrators to come to grips with this problem because of the fear that permitting an individual to access and challenge computerized information may hinder or compromise governmental operations. However, a brief analogy can serve to illustrate that this fear is without foundation.

In the early '60's pressure was exerted by the news media and citizens groups to bring about a more liberal policy in the federal government regarding the public right to access to and to make copies of records that were not public records as then defined. Many agencies were very skeptical and expressed such policies on government security and operations. However, in 1966 the Congress passed the Freedom of Information Act which required that each governmental agency make public and provide access to those records that would not prejudice national security. It went into effect in 1967. When evaluated the following year, none of the concerns expressed by the various agencies had become a reality.[46] There was no rush on government records, and those requests that were questionable were adjudicated by the concerned agency or the courts.

Unfortunately, what the history of the Freedom of Information Act also shows is the singular reluctance of administrators to respond to a clear need. Legislation as well as presidential interest were necessary in this case before federal officials acted. The history of government action on the threat of environmental pollution is analogous. The awakening among government officials caused by public indignation almost came too late. Consequently, we are faced with serious threats to the quality of life. We may soon be facing similar threats to personal individuality, which American society has prized for so long. The time for public administrators to speak out and to act is long overdue.

FOOTNOTES

[1] Editorial, *Business Automation*, Vol. 18, No. 7 (May 1971).

[2] U.S. House of Representatives, Committee on Government Operations, *Commercial Credit Bureau*, Hearings, 90th Congress, 2nd Session, 1968.

[3] Dennie Van Tassel, "Information Security in a Computer Environment," *Computers and Automation*, Vol. 18, No. 8 (July 1969), p. 24.

[4] U.S. House of Representatives, Committee on Government Operations, Subcommittee on Invasion of Privacy, *The Computer and Invasion of Privacy*, Hearings, 89th Congress, 2nd Session, 1966. Henceforth referred to as *The Computer and Invasion of Privacy*.

[5] *New York Times*, January 30, 1970, p. 23.

[6] *Ibid.*, September 2, 1970, p. 18.

[7] *The Computer and Invasion of Privacy, op. cit.*, p. 13

[8] The Fair Credit Reporting Act went into effect in 1971. Some discussion of the hearings took place in *The New York Times*, March 12, 1970, p. 38.

[10] Project SEARCH, *Newsletter*, Vol. 3. No. 1 (April 14, 1971), p. 3.

[11] Congressional Quartely, *Weekly Report*, Vol. XXIX, No. 12 (March 19, 1971).

[12] U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, *Computer Privacy*, Hearings, Pt. 1, 90th Congress, 1st Session, 1967, p. 103.

[13] Congressional Quarterly, *op. cit.*, p. 605.

[14] Project SEARCH (Dr. Rober Gallati, Chairman), *Security and Privacy Considerations in Criminal History Systems* (Sacramento, Calif.: California Crime Technological Research Foundation, July 1970), p. 5.

[15] Project SEARCH, *Newsletter, op. cit.*

[16] *The Computer and Invasion of Privacy, op. cit.*, p. 147.

[17] State of California, *Policy Statement on Privacy and Security*, letter, dated March 2, 1971 (Sacramento, Calif.: Intergovernmental Board on Electronic Data Processing).

[18] The author is a member of the task force.

[19] *New York Times*, June 28, 1970, p. 1 : 2.

[20] *The Computer and Invasion of Privacy, op. cit.*, p. 136.

[21] Paul Armer, *Social Implications of The Computer Utility*, Report *P–3642 (Santa Monica, Calif.: The RAND Corporation, August 1967), p. 6.

[22] U.S. House of Representatives. *Privacy and the National Data Bank Concept*, Report No. 1842, 90th Congress, 2nd Session, 1966, p. 19. Testimony of Paul Baran, The RAND Corporation.

[23] *Ibid.*, p. 25. Reprint of excerpt from Alan F. Westin, *Privacy and Freedom*, pp. 321–326.

[24] C. W. Borklund and George Johnson, "Computer-Communications Technology A New Way To Cut Costs," *Government Executive* (January 1971 reprint), p. 3.

[25] *Privacy and the National Data Bank Concept, op. cit.*, p. 26.

[26] *Computer Privacy, op. cit.*, p. 247. Reprint of Edward Shils, "Privacy: Its Constituents and Vicissitudes," *Law and Contemporary Problems*, Vol. XXXI, No. 2 (Spring 1966), pp. 281–306.

[27] *Ibid.*, p. 213. Reprint of paper by S. Rothman, *Centralized Government Information Systems and Privacy*, 1966.

[28] Albert L. C. Chu, "Computer Security: The Corporate Achilles Heel. . . ." *Business Automation*, Vol. 18, No. 3 (February 1, 1971), pp. 32–38.

[29] International Business Machines, Inc., *The Consideration of Data Security in a Computer Environment* (White Plains, N.Y.: IBM, 1969), p. 36.

[30] W. H. Ware, *Testimony Before the Assembly Statewide Information Policy Committee*, Report P-4214 (Santa Monica, Calif.: The RAND Corporation, 1969), p. 4.

[31] W. H. Ware, *Computer Data Banks and Security Controls*, Report P-4329 (Santa Monica, Calif., The Rand Corporation, March 1970), p. 12.

[32] *Computer Privacy, op. cit.*, p. 189.

[33] Personal conversation with Dr. Raymond Berger, Professor of Public Administration, University of Southern California, April 26, 1971.

[34] Project Search report, *op. cit.*, pp. 11–13.

[35] *Ibid.*, pp. 45–46.

[36] *Computer Privacy, op. cit.*, p. 246. Cited in Shils' article.

[37] *Ibid.*, p. 190.

[38] *Ibid.*, pp. 181–183, Reprint of paper by Kenneth L. Karst, *"The Files:" Legal Controls Over the Accuracy and Accessibility of Stored Personal Data*, 1966.

[39] Congressional Quarterly, *Weekly Report, op. cit.*, p. 604. Testimony of Dr. Robert Gallati.

[40] *New York Times*, August 9, 1970, p. 11:1.

[41] Congressional Quarterly, *Weekly Report, op. cit.*, p. 605. Testimony of Dr. Alan F. Westin.

[42] Paul Armer, *op. cit.*, p. 14.

[43] Congressional Quarterly, *Weekly Report, op. cit.*, p. 605. Testimony of Dr. Jerome Wiesner.

[44] *Privacy and the National Data Bank Concept, op. cit.*, p. 11. Reprint of comments by Dr. Norman A. Hilmar published in *American Journal of Public Health* (February 1968).

[45] *The Computer and the Invasion of Privacy, op. cit.* Remarks by several witnesses.

[46] U.S. House of Representatives, Committee on Government Operations, *Freedom of Information Act*, Hearings, 90th Congress, 2nd Session, 1968.

EMTEX

Mr. SCOTT. Mr. President, on September 22, I had inserted in the RECORD a comprehensive article about a new so-called wonder product designed to replace DDT. It was named Emtex. In this article, Daniel Henninger of the National Observer pointed out that the public, and CBS radio in particular, which touted the product, had been duped by publicity agents for Emtex. As it turned out, Emtex is an insecticide which has been on the market for over 30 years.

CBS, I said, was guilty of reporting "egregious inaccuracies."

Now CBS has informed me that the CBS publicist who, it developed, was also on the payroll of the company producing Emtex, resigned from CBS shortly after the National Observer article appeared.

CBS now admits that "some of the press was caught with its investigative pants down" and has agreed to take "a much more thorough look at the entire affair." Mr. President, I ask unanimous consent that two CBS Network editorials be inserted in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

THE BUYER'S SCENE, SEPTEMBER 22, 1972

(By Christopher Glenn)

In July, "The Buyers Scene" reported on a new product, called Emtex, described to us as an effective substitute for DDT, most uses of which have now been banned in the United States. This week, a newspaper account in the *National Observer* raised serious charges concerning both the efficiency of the product as represented and the business affairs of the company which is developing it, Ecological Manufacturing Corporation. Further complicating the matter, the newspaper account implicates a former CBS employee, a publicist who resigned shortly after the article appeared. CBS News has now learned that the former employee did, in fact, serve as a paid consultant to Ecological Manufacturing. Officers of EMC tell us they are preparing their response to the allegations in the newspaper report. CBS News as well is taking a much more thorough look at the entire affair . . . and a report in detail will be heard on "The Buyer's Scene" in the near future.

CBS VIEWS THE PRESS, SEPTEMBER 23, 1972

CBS Views the Press . . . I'm Reid Collins, CBS News, reporting on the CBS Radio Network.

Journalists have a tendency to regard public relations men as people who have sold their souls to the devil. Having said that, we must acknowledge that publicists can serve a useful purpose. They do let journalists know of things they wouldn't know otherwise. And if the journalist is filled with the proper amount of skepticism—if not cynicism—the public in the long run probably benefits.

Perhaps more often than we would like to think, though, P-R efforts cross over into the land of journalism without the necessary checks at the border.

On July 20th, the CBS News radio broadcast The Buyer's Scene presented an interview with Allan Becker, President of the Ecological Manufacturing Corporation and described as an organic chemist. On the broadcast, Becker promoted a pesticide called Emtex, which his company said it planned to market. Becker termed Emtex a very broad spectrum item that will kill mice, rats, roaches, lice, ticks, fleas, and a vast array of crop infestations—all with virtually total safety to man. The Buyer's Scene noted that Emtex isn't exactly new, that as Becker admitted, it is a reworking of an insecticide known as methoxychlor which has been around since the 1930's. Nonetheless, the broadcast said because of the ban on DDT, "it's for sure Ecological Manufacturing Corporation has itself a hot product."

Becker received exposure elsewhere. Both the Associated Press and United Press International ran stories about Emtex filled with Becker's claims. The Record newspaper of New Jersey ran two stories by its business editor, one of which without any attribution called Emtex effective as DDT but harmless to humans and pets. In the Newark News, a UPI report was headlined: "Ecologists' Dream Insecticide Ready."

A number of newsmen, including some at CBS News—and thus the Buyer's Scene—first heard about Emtex and Ecological Manufacturing from the Manager of Press Information at CBS Radio. He persistently promoted, on CBS Radio stationery, coverage of the company and its product. And following the Buyer's Scene broadcast, he sent out a press release noting that Becker was first heard nationally on CBS Radio, and repeating some of the company's claims. Indiana Senator Birch Bayh even had the release reprinted in the Congressional Record.

And then this week there appeared a front-page report in the Dow Jones weekly, the National Observer, under the headline "Mix Ecology, DDT, and Huckster Dust . . . And Out Comes Emtex." A fine piece of investigative reporting by Daniel Henninger charged among other things that Emtex is no substitute for DDT, that Becker has questionable credentials, that the company's claims of having performed toxicity tests with Emtex lack support, and that the CBS Radio publicist also happened to be public relations manager for Ecological Manufacturing Corporation. In short, some of the press was caught with its investigative pants down. The radio publicist has since resigned from CBS.

Whether or not Henninger's allegations are totally correct is not the point. What is important is that a number of journalists let themselves become tools of the public relations industry. We do not expect every reporter to undertake investigation as detailed as Henninger's. We do think, though, there must be some attempt at evaluation, some attempt to go beyond what one individual says about his own product.

There are many pressures in journalism. Time is often short—demand for copy great. But it should be recognized that certain stories require time, that if time isn't available, better to print or broadcast no information than possibly wrong or misleading information.

This has been CBS Views the Press. I'm Reid Collins, CBS News.

GORDON HARRISON

Mr. PELL. Mr. President, I pay tribute today to a fellow Rhode Islander with a distinguished record of service to the American people and to the U.S. Senate—Gordon F. Harrison.

Gordon Harrison, until his retirement during this session of Congress, served for 18 years as staff director of the Senate Committee on Rules and Administration.

As both a fellow Rhode Islander, and as a member of the Rules Committee for the past 12 years, I have had to know Gordon Harrison well. He was appointed staff director of the Rules Committee by my predecessor, in the Senate, the late Senator Theodore Francis Green. His diligence, his competence, and his unparalleled comprehension of the workings of the Senate won for him the confidence of four succeeding chairmen of the Rules Committee.

From the time of my arrival in the Senate, and my assignment to the Rules Committee, Gordon Harrison was a source of sound judgment, good counsel, and warm personal friendship. And during the succeeding years, my respect for his professional ability, his integrity, his knowledge and his impartial judgment continued to grow.

Gordon's service to the Senate was but one part of a record of public service that spanned 35 years—including distinguished service in the U.S. Navy from which he retired as a captain in the Naval Reserve. I know how much Gordon treasured the memories of his naval service, especially his service aboard the carrier U.S.S. *Franklin*. And, before coming to the Rules Committee, Gordon served, again with distinction, as an attorney in the Civil Division of the Justice Department.

Wherever he has served, Gordon Harrison has left a record of outstanding service, and gained the respect and friendship of those with whom he has worked.

His retirement in June of this year was a loss for the Rules Committee, and for the entire Senate. It is a loss I feel with particular acuteness. I know the people of Rhode Island are proud of Gordon Harrison, and I know they join with me in wishing his good health and happiness.

A TRIBUTE TO WILLIAM ANDREW BURKETT

Mr. HRUSKA. Mr. President, my distinguished colleague from Nebraska, Senator CURTIS, is necessarily absent today and he has asked me to place a statement and insertion in the RECORD. I ask unanimous consent that this be done:

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CURTIS

Mr. CURTIS. Mr. President, on July 4, 1971, one of Nebraska's proud sons was honored at a "Day of Celebration" at the Mount Rushmore National Memorial in South Dakota.

This native Nebraskan is William Andrew Burkett, a retired Monterery, California banker. Thirty-six years ago, he wrote the moving, patriotic "History of America" for the Mount Rushmore Memorial.

The tribute to Mr. Burkett was recorded in several documents which I would like to insert into the Record. These documents are as follows:

1. A July 4, 1971 Omaha World-Herald editorial and article.
2. A speech by Rodman L. Hooker, President of the Board of Trustees of the National Historical Foundation.
3. A speech by Wallace McCaw, Superintendent of the Mount Rushmore National Memorial.
4. A speech by Mr. Burkett and
5. A copy of the "History of America".

It is with great pride that I insert these in the Record.

The insertions are as follows:

Rushmore Dedicates Ex-Nebraskan's Text

Mount Rushmore, S.D.—This July 4 at the Mount Rushmore National Memorial in the Black Hills will be a special "Day of Celebration," particularly for William Andrew Burkett, retired Monterey, Calif., banker and native Nebraskan.

In 1935, while a student at the University of Omaha Law School, Burkett wrote a 560-word "History of America" (1776–1904) for the Mount Rushmore Memorial.

Today, 36 years later, Burkett will see his almost forgotten text immortalized in bronze at a special televised dedication ceremony at the foot of the memorial, and hear officials urge that his history also be carved onto the granite walls of Mount Rushmore's unfinished Hall of Records, abandoned in 1941.

President Franklin D. Roosevelt served as chairman of a 19-member National Memorial Inscription Committee which selected Burkett's history from among hundreds submitted by historians and scholars in 1935 in a nationwide competition.

The "History of America" was to be carved in letters eight feet high, cut four feet deep into the granite mountainside directly below the figures of Washington, Jefferson, Lincoln and Theodore Roosevelt.

Burkett's "History of America" was recently cast in a six-by-eight-foot bronze plaque by the National Historical Foundation for presentation at today's ceremonies.

The re-discovered history and plaque will now become a permanent part of the Mount Rushmore National Memorial, it was announced by Wallace O. McCaw, superintendent of the memorial, who was to accept the plaque on behalf of the National Park Service, Department of the Interior.

The original congressional bill to construct the memorial, passed in 1929, named Gutzon Borglum the sculptor for the four figures and appropriated $250,000 to be matched by private subscription. The measure also provided for a "History of America" inscription on the mountainside.

Among those scheduled to participate in the ceremonies: Sen. George McGovern of South Dakota; former S.D. Gov. Frank Farrar; S.D. Reps. James Abourezk and Frank E. Denholm; Hoadley Dean, president, and other trustees of the Mount Rushmore National Memorial Society of the Black Hills; Rodman H. Hooker Jr., president of the National Historical Foundation, and Lincoln Borgium, co-sculptor of the memorial and son of the late Gutzon Borglum.

Hooker, who is to present the plaque, is enthusiastic over the erection of the plaque and the continuation of the work on the Hall of Records, which was stopped by the lask of federal and matching private donations, World War II and the death of Gutzon Borglum.

"The recognition given to Burkett's 'History of America,' he noted, "is the first step forward since 1941. Americans, in increasing numbers, are seeking a more thorough understanding and appreciation of their national heritage."

Burkett, 58, was born on a Nebraska farm, a ninth generation American.

He attended Omaha Central High School, the University of Nebraska and the University of Omaha Law School, where he earned his LL.B. degree. His uncle was U.S. Sen. E. J. Burkett of Nebraska.

In 1950, Burkett resigned as a special agent of the Treasury Department in order to give unhampered testimony before the California Crime Commission and the Kefauver Crime Investigating Commission of Congress. The probe led to the uncovering of a racket in the San Francisco office of the Bureau of Internal Revenue.

Burkett, here with his family for the ceremony, praised the National Park Service for furthering the memorial and commended the pioneer work by the Mount Rushmore Memorial Commission established in 1929; the Mount Rushmore Memorial Society of the Black Hills, organized in 1930, and the personal efforts of South Dakotans to match federal dollars for the carvings.

He said:

"I hopefully believe that in 9971 A.D. there will be pilgrimages to Mount Rushmore by Americans still keeping alive their faith in liberty, freedom and justice immortalized by these four great Americans.

"We are no less a people than the Americans of 1924 who started this memorial, and we are not here merely to praise a half-finished, magnificent memorial to the history of a great people.

"We say, on with the work—let's complete the job here at this enduring monument, for all Americans, and all the world, to see and to honor to the end of time."

William Andrew Burkett

William Andrew Burkett, a native Nebraskan, wrote these words 36 years ago. They are the conclusion to his "History of the United States of America," which appears on the Weekend Focus Page.

Today a plaque bearing the text will be dedicated at Mount Rushmore Memorial.

The four presidents whose faces grace the huge monument would probably have subscribed to the exalted sentiment about fearlessness and the determination to maintain liberties.

In today's world, however, it takes an act of faith to have no fear of the global economic and political clouds or to maintain that traditional American liberties will endure forever.

For the past generation, and particularly in the past five years, Americans have experienced pressures and have seen developments at home and abroad that raise some doubts about the will of the American people.

They have been besieged by the threats and obscenities of revolutionaries.

Their ears and eyes have been bombarded by arguments that the country's leaders, past and present, are men who do not hesitate to risk the welfare and security of the country for political advantage.

They have been told that their military men, thousands of whom have died in Vietnam, are either leaders or pawns of a vast conspiracy run by something called the military-industrial complex.

They have been told that patriotism is an unworthy emotion perpetuated by old men who wear flag pins in their lapels, that the country's soil, air and water are being fouled past redemption by a people who don't care enough to clean them up, that we are guilty of racism and oppression and unwillingness to help others.

In short, they tell us we are an over-rich, selfish, bigoted, uncaring people.

They have been saying it so long and so insistently that far too many Americans are beginning to believe it.

So it isn't any wonder that the national will is weakened and that to some an affirmation of what the country stands for—its traditions and its ideals and its history—may sound strange and unnatural in 1971.

On the Fourth of July it will hurt none of us to recall the majestic words with which Jefferson declared America's independence.

It may help us also to reflect that men do not attain—or keep—their independence or their pride by denigrating themselves and their country.

Affirmation is surely a part of what our ailing country needs.

Speech of Rodman L. Hooker, Jr., President, National Historical Foundation at the Dedication of the "History of America" Plaque at Mount Rushmore Memorial, July 4, 1971

Chairman John Boland, Governor Farrar, Superintendent McCaw, Mr. Burkett, other distinguished guests, ladies and gentleman: On behalf of the National Historical Foundation, it is a great privilege for us to be with you today and to participate in your Fourth of July ceremonies here beneath these magnificently sculptured heads of Presidents George Washington, Thomas Jefferson, Theodore Roosevelt and Abraham Lincoln.

As you recall, the original Congressional bill to construct the Memorial, passed in 1929, named Gutzon Borglum the sculptor for the four figures, and appropriated $250,000 to be matched by private subscription. The measure also provided for a "History of America" inscription on the mountainside.

As you also know, the 1938 Congressional Act provided for the construction of the Hall of Records. The lack of federal funds and matching private donations, World War II, and the death of the sculptor, Gutzon Borglum, in 1941, were the cumulating causes for abandoning the carving of the "History of America" inscription and the Hall of Records, and for stopping work on the Memorial.

The Memorial's uncompleted Hall of Records is now used by wild mountain goats as a shelter. The National Historical Foundation urges the completion of this Hall of Records in such a way that this "History of America" text be carved there as the National Inscription Committee envisioned it would be, 36 years ago.

Today's recognition given to Mr. Burkett's "History of America" is a step forward since 1941, and is a fine addition to the Memorial. Americans in increasing numbers are seeking a more thorough understanding and appreciation of their national heritage.

Superintendent McCaw, the National Historical Foundation wishes to present to you and to the National Park Service of the United States Department of the Interior, and to all Americans, this bronze plaque inscribed with the "History of America" (1776–1905), authored by William Andrew Burkett and selected in 1935 by a National Inscription Committee, with President Franklin D. Roosevelt as chairman, and including sculptor Gutzon Borglum and 17 other distinguished Americans * as the official "History of America" for the Mount Rushmore National Memorial.

---

* Other members were U.S. Senators Key Pittman, Hiram W. Johnson, William E. Borah, Charles L. McNary, Bronson Cutting, Peter Norbeck, William J. Bulow, Morris Sheppard and Tom Connally; and citizens Gutzon Borglum, Fred W. Sargent, J. S. Cullinan, Robert G. Sproul, J. A. C. Chandler, Mrs. Franklin D. Roosevelt, Mrs. Mary Cary Rumsey, Mrs. Isabella Greenway, M. C. and Harold L. Ickes, Secretary of the Interior.

Speech of Wallace O. McCaw, Superintendent, Mount Rushmore National Memorial, Dedication of "History of America" Plaque, July 4, 1971

Governor Farrar, Mr. Burkett, Mr. Hooker, other distinguished guests, ladies and gentlemen: On behalf of the National Park Service, U.S. Department of the Interior, I welcome you to Mount Rushmore National Memorial and to these ceremonies.

Our calendars remind us that today is (quote) "Independence Day, 1971", and most of us take our independence—our freedom—quite casually. These great men carved in stone above us, especially Washington and Jefferson, most certainly did not take their independence casually.

And neither did the man who carved them there!

Gutzon Borglum was a second generation American of Danish parentage. Generally, first and second generation citizens realize that freedom is precious and are militant in guarding it. Sculptor Borglum was an intensely nationalistic and patriotic artist. To him, Americanism was a sort of religion.

He wanted to create here at Mount Rushmore not just a work of art but a symbol of our government—a symbol of the accomplishments of the common man in a country where that man has political and social equality.

He has achieved his goal and has created such a symbol. It is our observation that the greatest impact that Mount Rushmore has upon its visitors is not its huge size, not its artistic merit, but its stimulation of patriotic emotions.

This great stone symbol of a free government attracts visitors from all over the world, and they arrive surprisingly well-informed on its significance.

In 1925, over two years before Mr. Borglum moved any stone on Mount Rushmore, he announced his intention to carve on the mountain an entablature. It was to be in the configuration of the boundaries of the Louisiana Purchase, and was to contain an inscription of the "History of America", beginning in 1776 with the Declaration of Independence.

Mr. Borglum advanced several different ideas on the placement of the inscription, but died in 1941 without a definitive plan for it. However, he never swerved from the belief that the sculpture would be meaningless to succeeding civilizations without an explanation carved in stone at the site.

His son, Lincoln Borglum, holds this same opinion.

The "History of America" written by William Andrew Burkett in 1935 was selected by Gutzon Borglum, President Franklin D. Roosevelt, and a highly distinguished selection committee as the best written among 835,000 entries in a national contest.

Had Gutzon Borglum lived to see completion of this project, that history would undoubtedly be cut into the stone of Mount Rushmore today.

We of the National Park Service feel that this "History of America" is a very definite part of the administrative history of the Memorial, and should occupy a prominent place in its interpretive program.

Accordingly, Mr. Hooker, we are very grateful to the National Historical Foundation for presenting to us this Bronze Plaque containing Mr. Burkett's "History of America". It partially fulfills one of Mr. Borglum's fondest dreams. We thank you very much.

Remarks of William A. Burkett

INTRODUCTION

Governor Farrar, Superintendent McCaw, Mr. Hooker, other distinguished guests, ladies and gentlemen:

Thank you for accepting this "History of America" bronze plaque embodying 560 words written by me in national competition some 36 years ago.

The inspiring speech of Governor Frank Farrar, and the splendid cooperation and assistance of United States Senator George McGovern,—the knowledgeable support of Superintendent Wallace McCaw of the National Park Service,—and the officers and trustees of the Mount Rushmore National Memorial Society,—and of the National Historical Foundation,—and the pleasure of sharing this honor with you and my family and this large, patriotically-minded audience here today,—have made this day one that I shall long remember.

My fellow Americans:—In these concluding remarks at this dedication ceremony of the "History of America" plaque here at America's Shrine of Democracy, I wish to say this:

Several young girls and boys (in their teens) stopped me at the Lodge here in the Black Hills where Mrs. Burkett and I are staying, and asked me if I were the author of the Mount Rushmore "History of America", and if so, what would I have to say about America's history since President Theodore Roosevelt's time—some 65 years ago.

My answer was to invite them to join this magnificent audience here today. I trust that they came, for I will do my best to answer—First, the answer pointed out in the words of the great historian, Gibbon, in his history, "The Decline and Fall of the Roman Empire". Gibbon said that the five basic reasons why great civilizations have died are:—Quote

"1. The undermining of the dignity and sanctity of the home, which is the basis for human society.

"2. Higher and higher taxes—the spending of public money for free bread and circuses for the people.

"3. The mad craze for pleasure—the arena becoming every year more exciting, more brutal, more immoral.

"4. The building of great armaments when the real enemy was within,—the *decay of individual responsibility*.

"5. The decay of religion,—faith fading into mere form, losing touch with life, losing power to guide the people." End quote.

The warning that history repeats itself has a special meaning in the light of the above—especially when we realize that our America, today, is not quite 200 years old, a mere eyeblink in history, and is passing through the same sequence that other great civilizations have passed through.

I reply also to these young people that history has pointed out for centuries the pitfalls that President Abraham Lincoln said so briefly in the following 9 points:

President Lincoln said, quote: "*You can not*

"1. strengthen the weak by weakening the strong;

"2. further the brotherhood of man by encouraging class hatred;

"3. help the poor by destroying the rich;

"4. help the wage earner by pulling down the wage payer;

"5. bring about prosperity by discouraging profit;

"6. establish sound security on borrowed money;

"7. keep out of trouble by spending more than you earn;

"8. You cannot help men permanently by doing for them what they could, and should, do for themselves; Or

"9. build character, and courage, by taking away initiative and independence." End quote.

If history has taught us anything, particularly the recent years, we must be fearlessly determined to maintain a strong America militarily, economically and morally—if we are to maintain our traditional American liberties and constitutional form of government. The leaders of world communism, both here in America and in Russia, China and three-fourths of the globe, are dedicated to destroying the United States of America, and let no one ever tell you otherwise or deceive you on that point.

What I say here today is no doubt of fleeting interest to you—but, I feel compelled to speak out, or if I could, to shout, from every housetop—the warning—"*Wake up America—Wake up—Before it is too late.*"

That warning is my answer to those sincere young questioning Americans who are worrying, as you and I and most thinking Americans are worrying, about the "state of our Union."

I also regretfully conclude that America is being systematically destroyed from within, morally, spiritually and economically, either consciously or unconsciously—or both—by liberal extremists and soft-minded sentimentalists. For the most part, these people hold lifetime political, judicial, educational, or bureaucratic positions of leadership within our government. Our *elected* officials seem trapped into inertia and ineffective leadership.

Enemies of our American way of life sneer at everything American, but daily praise our enemies. They sneer at our flag, and at American patriotism, and would destroy our proud history as a great nation. Today their tactic is harassment, pressure, slander, threats of violence, and some loss of lives and property for all who oppose them. Tomorrow, their tactic will be more loss of lives and violence and the spreading of more fear and destruction in order to take over and dominate our government completely.

We would believe that someone would want to bomb the Mount Rushmore Memorial and disfigure and destroy these noble figures of our nation's greatest leaders, and this magnificent Shrine of Democracy.—But such revolutionists exist today.—This very Memorial was alerted yesterday and today by the FBI because of reports they received of such plans. Unthinkable, yet this is the type of enemies from within that we must destroy, before they destroy us.

Only a few years ago, it was unbelievable that America could be destroyed from within.—These faceless, nameless enemies within, whether in government, education, science, or public communication, or in other fields, need not join any enemy attacking our shores,—they are already helping to destroy America from within.

These forces for our destruction foster riots, immorality, violence, race-mongering, and they demand second-rate national defenses for the United States along with the giving away of billions of dollars in foreign aid to everyone in the world except our own American businessman, farmer or American working men and women. They give only lip-service to our nation's domestic crisis.

The present state of our national economic and financial affairs is such that the average American, trying to maintain a home and raise a family and pay his taxes, has been too busy to fight back or to protest what is going on today. These hardworking, conscientious Americans,—the backbone of America—know inwardly, however, that there is something dangerously wrong in their native land, and they are alarmed,—and rightly so.

I hope every American will join in sounding the alarm, "*Wake Up, America*",—and do their part to shake up their elected and appointed officials from the President of the United States on down and especially to shake up those hidden bureaucratic civil servants and judges—those lifetime rulers of ours—to understand our demands that America's interest *must come first* in all their future thinking:

1. *That foreign loans, gifts and handouts must be stopped* completely until we get our own domestic house in order;

2. *That we stop policing the rest of the world, but guard* our own shores, and start policing our own country first to stamp out the world's worst crime rate—with thousands of drug pushers, murderers, rapists,

thieves, arsonists, corruptors of public morals and public office, as well as violent revolutionists who should be apprehended and deported;

3. *That all of our courts, from top to bottom, enforce our laws*, not compromise them, defy them, overrule them, or try to re-write them,—in other words, put an end to their playing God with our laws;

4. *That we close our doors temporarily to all immigration* of foreign labor into this country until our own unemployment problems are solved;

5. *That America's Santa Claus foreign-aid days* of helping every country in the world before we help ourselves are *over*;

6. *That we dedicate ourselves to the rebuilding of America* with our own funds, our own taxes, and our own sweat, so our people will have full employment, and decent living conditions.—No more of this "World First"—draining our gold and debauching our currency by fiscal irresponsibility while we become a second-rate power economically, militarily and spiritually;

7. *And, finally,* that our leaders in government, and our educators and opinion-formers stop their sentimental drivel about the rest of the world's people and their problems, and *start doing something about solving first of all our own country's problems* of inflation, unemployment, debt, high taxes, irresponsible fiscal policies, and work for improved conditions in America,—better and healthier living conditions for our own American poor, needed housing, needed transportation and roads, better fire and police protection, proper sewage and irrigation, clean air, clean drinking water, stronger national defense—then work on the problems of education, trade and commerce—to name only a few—. In other words, *let's direct our American funds to the problems of America,*—and give them first priority for a change.

As a banker-historian, I want to limit my last brief warning to the subject of our money. The United States government has lost 50% of our gold reserves in the last 10 years. (Down from 20 billion to 10 billion). Today, the U.S. Treasury has the lowest gold and silver reserves in over 30 years. Our federal government is over 400 billion dollars in debt, and many of our cities, counties and state governments are on the verge of financial collapse. Each new President and Congress spends from 10 to 20 billion more dollars than it collects in taxes.—But each year America gives billions of dollars to foreign countries rather than spending it on our American problems, thereby causing a crisis condition today whereby foreigners can, if they wish, legally demand 35 billion dollars from our U.S. Treasury in gold,—that is, if we had 35 billion dollars,—we only have 10 billion in payment for material and services purchased abroad.

On the one hand, we see our own American government going bankrupt and our working people and businessmen and farmers burdened by taxes and debt, while on the other hand, the U.S. government foolishly continues to give to Europe and to 70 countries throughout the world, billions of dollars in gifts, "grants-in-aid", loans, "credits" and other cover-up words for handouts for which *no repayment is expected.*

Furthermore, no repayment of any kind has been made for such handouts on so-called "loans" made to 143 countries in the last 25 years totaling over *500 billion dollars* to be paid for by U.S. citizen-taxpayers like you and me for the rest of our lives, and the lives of our children, and our children's children for hundreds of years to come.

This nightmarish mishandling of our fiscal affairs is incredible and insulting to the intelligence of every American.

Every government official, high and low alike, every sentimental tax-eater from city hall to the halls of Congress, must soon come to hear the roaring demands of the electorate and know that those past rich days of America's system of "tax and tax, and spend and spend" for things we could get along without, and for hand-outs to the rest of the world must come to a halt, period.

Perhaps some of our vocal younger generation might add this demand for fiscal responsibility to their list of desired reforms. If they do not maintain financial stability in their homes, or in their own lives, they will go broke. The same rule applies eventually to all governments. It is as simple as that.

If history teaches us anything, it teaches us that throughout time, the fall of nations and governments of all kinds has been linked to watering-down and debasing the currency, and to financial irresponsibility. The chief reason the Roman world fell was because Roman currency became almost worthless.

But the important warning is that with the decline of Roman money, there came high inflation, loss of freedom, tighter and tighter government controls, and finally lawlessness, rioting and the total collapse of the Roman Empire.

On the other hand, history shows us that after Rome fell, the Byzantine Empire came into existence to survive for 1200 years—mainly because it maintained unimpeachable fiscal responsibility. It minted coins fixed at 65 grains of pure gold. It minted this same standard for 800 years,—its people prospered, its culture flourished, and no enemy dared attack its capital. Their leaders saw to it that they had gold to back up and pay for their promises and their culture.

Rulers of the United States government since 1933 have allowed the integrity of our money to slip to the point that the integrity of the dollar is questioned daily in every part of the globe. Fiscal irresponsibility has been the root of America's basic problems for the past 30 years, and there is apparently no will or leadership to change this fatal course.

By contrast, rulers of the Byzantine Empire were so determined to maintain the integrity of their money that they required all bankers, and all public officials, merchants and the buying public through whose hands money passed to take an oath never to debase coins in any manner. As a penalty for violation, the offender's hand was cut off. Their Empire survived for 1200 years.

I ask you how long will you have confidence in America, or any government anywhere that has a 400 billion dollar federal debt, besides a depleted or nearly depleted reserve of gold and silver; a government that continues to issue more and more printing-press money and metallic coins, and spends more than it earns year after year. Our country has nearly reached all of these fatal points of no return. It is alarming that no leader in our government anywhere has made this our number one national crisis to be solved. I ask you, is history repeating itself? Shouldn't America wake up before it is too late?

If you remember anything that I have said today about history, remember this last one warning: remember that it was Russia's Joseph Stalin who tipped his hand when he said, "He who would destroy a nation should first debauch its currency." I ask you again, Shouldn't America wake up before it is too late?

In conclusion, I say that I have not lost faith in America even though I see dangers—dreadful dangers—hanging over this country that we love. We have had warnings that must be heeded. But we are not afraid for our country's future, for we are not a timid, faint-hearted people.

I hopefully believe that in 9971 A.D. there will be pilgrimages to Mount Rushmore by Americans still keeping alive their faith in liberty, freedom and justice, immortalized here by these four great Americans.

God bless America.

HISTORY OF THE UNITED STATES OF AMERICA

Almighty God, from this pulpit of stone the American people render thanksgiving and praise for the new era of civilization brought forth upon this continent. Centuries of tyrannical oppression sent to these shores, God-fearing men to seek in freedom the guidance of the benevolent hand in the progress toward wisdom, goodness toward men, and piety toward God.

1776—Consequently, on July 4, 1776, our forefathers promulgated a principle never before successfully asserted, that life, liberty, equality, and pursuit of happiness were the birthrights of all mankind. In this declaration of independence, formulated by Jefferson, beat a heart for all humanity. It declared this country free from British rule and announced the inalienable sovereignty of the people. Freedom's soldiers victoriously consecrated this land with their life's blood to be free forevermore.

1787—Then, 1787, for the first time a government was formed that derived its just powers from the consent of the governed. General Washington and representatives from the thirteen states formed this sacred constitution, which embodies our faith in God and in mankind by giving equal participation in government to all citizens, distributing the powers of governing threefold, securing freedom of speech and of the press, establishing the right to worship the Infinite according to conscience, and assuring this nation's general welfare against an embattled world. This chart of national guidance has for 145 years weathered the ravages of time. Its supreme trial came under pressure of Civil War, 1861–65. The deadly doctrines of secession and slavery were then purged away in blood. The seal of the union's finality, set by President Lincoln, was accomplished like all our triumphs of law and humanity, through the wisdom and the power of an honest, Christian heart.

Farsighted American statesmanship acquired by treaties, vast wilderness territories where progressive, adventurous Americans spread civilization and Christianity.

1803—Louisiana was purchased from France. This acquisition extended the dominion from the Mississippi river, across the fertile prairie to the Rocky mountains, and paved the way for America's pre-eminence among the nations.

1819—The picturesque Florida peninsula was ceded as payment of the Spanish obligations due to Americans.

1845—Texas, having patterned American democracy during the ten years of freedom from Mexican rule, accepted the invitation to join the sisterhood of states.

1846—The Oregon country was peacefully apportioned by the 49th parallel as the compromised international boundary of the two English-speaking nations.

1848—California and territory likewise rich in natural resources was acquired as the consequence of an inevitable conflict with Mexico. In spirit of mutual concession, the United States granted additional indemnities for the adjustment of the international boundary, extending from the Rio Grande to the Gulf of California.

1850—Texas willingly ceded the disputed Rio Grande Region, thus ending the dramatic acquisition of the West.

1867—Alaska was purchased from Russia.

1904—The Panama Canal zone was purchased as authorized by President Theodore Roosevelt, whereupon our people built a navigable highway to conveniently enable the world's people to share the fruits of the earth and of human industry.

Now, these areas are welded into a nation possessing unity, liberty, power, integrity and faith in God, with responsible development of character and the steady performance of humanitarian duty.

Holding no fear of the economic and political, chaotic clouds hovering over the earth, the consecrated Americans dedicate this nation before God, to exalt righteousness and to maintain mankind's constituted liberties so long as the earth shall endure.

William Andrew Burkett.

ADDRESS BY CONGRESSMAN GUNN McKAY BEFORE THE ANNUAL MEETING OF THE SOCIETY FOR RANGE MANAGEMENT

Mr. MOSS. Mr. President, on July 28, 1972, Congressman Gunn McKay gave an outstanding address before the annual meeting of the Society for Range Management. This meeting was held at the Great Basin Experimental Station in Utah. In the 2 years that Congressman McKay has served the State of Utah in the Congress of the United States he has shown a great ability to join together the needs for economic development with the concerns of environmental protection. The subject of his speech last July deals rather directly with this topic, for it points out the necessity of professional range management that protects basic resources while enhancing the proper economic uses of our open range.

Because I believe this speech deserves wide recognition, I ask unanimous consent that it be included at this point in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech Delivered Before Annual Meeting of the Society for Range Management, July 28, 1972

I am deeply honored to be invited to address this annual meeting of the Society for Range Management. I am especially delighted that the Society has chosen the Great Basin Experimental Station as the location for its meeting. In a way, this event brings together into one place at one time two of the most important institutions in the country dedicated to sound, practical environmental action. The Society for Range Management has for years demonstrated responsible concern for the protection and development of an aspect of our environment. Range Management here in the west is vital to our economy and style of living. I congratulate this outstanding society and its 4,000 members for their diligent and professional concern.

I would also like to offer my congratulations to the Great Basin Station of the Forest Service which for 60 years has been responsible for some of the best range and watershed research that has gone on in this country. A review of the published research which has been done at this station amply bears out this conclusion. I also get the feeling in reviewing the history of the Great Basin Station that it has provided a training ground for most of the outstanding professional environmentalists of the last 50 years.

The fine facilities at the Great Basin Station are a sharp contrast to conditions in the early days when director Forsling was begging the Ogden Utah office to give him a desk with drawers so they would have a place to store papers. Professional range management, too, has come a long way from its early days to a position of respected scientific research capability. I congratulate both for their outstanding development.

I want to talk to you today about some concerns I have over the increasing suspicion in which professional land management efforts are held and the apparently increasing influence of amateurs in this field.

You people are under attack from two very active groups. On the one hand, you are perceived as meddlers by those who would use the land solely for private gain. On the other hand, you are opposed by those who would close the land to all but the most limited human presence and who, therefore, find the term "management" synonymous with exploitation.

Many people, for example, lament our diminishing wildlife—a concern which I share. I object, however, to the rejection of skilled and professional management as a means of preserving wildlife. This approach is taken all too often and it does nothing but emotionalize this technical subject.

The same phenomenon exists in the area of land management. I object to the implicit assumption present in so much of the environmental commentary of today that if man would just leave the land alone, it would return to some mythical pristine condition. Although a current TV commercial warns that we shouldn't anger mother nature, I'm willing to run a small risk and confess that in some ways, I trust you people more than her!

Perhaps it is that she has too many widely diversified interests to look out for and cannot give all of her children equal attention. In contrast, you people have a specific dictate plus adequate training.

I think that some aspects of the history of Utah confirm this point. The creation of fertile farm land and the early planning of spacious communities is a testimony to the way in which men and women with purpose and will can improve the quality of undeveloped territory. The work at the great basin station in the area of watershed development is another example of this point.

We cannot view man's relationship with nature as a struggle for supremacy between two opposing forces. Rather, we must realize that man, armed with solid research and sound plans can both develop and enhance the natural resources *and*, at the same time make these resources available without despoiling them.

We cannot ignore this point. Again, Utah's case is instructive while most of our population is concentrated into a narrow band along the Wasatch front, we depend upon the rest of the State for our existence. The deserts produce winter range for livestock and game, the mountains produce about three-fourths of the water needed in Utah, as well as summer range for livestock and wildlife, recreation, and limited wood products. Together, they provide a source for growing tourist industry.

Unregulated use of these resources has in the past and can, at the present time, result in their rapid depletion. The unrestricted grazing prior to the adoption of the Taylor Act resulted in range depletion and mud flows which caused the loss of life and property all along the Wasatch front. The problem of uncontrolled grazing and the subsequent destruction of the watershed—had it been left unattended—could have had drastic effects throughout the intermountain west. It is foolish to suggest, however, that we should simply withdraw from these resources.

The remedy for the problems stemming from uncontrolled use of our forest and range resources is not to remove them from use, but to determine which kinds and patterns of uses are most productive. We cannot afford to develop land which should be left for watershed; we should not turn land ideally suited for agriculture into industrial areas; nor should we deny access to land needed for public recreation.

"Thomas Carlyle once said to an American: 'Ye may boast o' yer democracy, or any ither 'cracy', or any kind of political roobish; but the reason why yer laboring folk are so happy is that we have a vast deal o' land for a verra few people.' "

While this was undoubtedly right in 1865, we must realize that we are faced with a fixed area of land and a rapidly growing population, with all of the newly expanding demands which people place on land. The total land acreage in the continental U.S. is 1,904,000,000, but once we have that figure—we really don't know much about the qualitative aspects of it. The recent wilderness inventory undertaken by the Forest Service is the kind of thing that needs to be done with all public land.

"Considering that the nation has supported such bits of inventory as the International Geophysical Year and the Year of the Quiet Sun, and spending billions on find out more about the moon, it is interesting that we have not bothered to find out much about what is right here." It is interesting to think that we may have spent more money mapping the moon that we have spent mapping our own land. About 18% of Utah is presently unmapped!

Given the future demands on our resources, it is essential that we come up with increased products from such natural resources as forage, minerals, water, timber, etc., and many increased services such as recreation and transportation. To do this will require more intensive management which will at the same time protect the environment.

All of this requires more creative and professional research. As I said earlier, the amateur ecologist may be doing us more harm than good by suggesting all or nothing kinds of environmental strategies. The sudden conversion of millions of Americans to ecology has certainly increased awareness about our environmental problems and is to be welcomed for that. But in some ways it reminds me of an encounter I recently heard about. It seems two young citizens met on the street one day. "What's this I hear about you," demanded one, "I heard you said you do not believe in ecology."

The replay was instant and indignant: "It's a lie. I never said I didn't believe in ecology. I do believe in it. It is the savior of our society. I'd die for ecology. All I said was that I didn't know what it means!"

When it comes to ecology, everyone believes in it and some may even be willing to die for it, but I'm not certain enough of us know what it really means. As many of you know all too well, we are too often willing to pay for actions in this country but not for thought. We want to rid the West of halogeton, for example, but are not willing to devote sufficient resources to finance the development of robust varieties of shrubs and grasses to displace it. It reminds me of an old story told about an American tourist in the desert of Afghanistan whose big expensive car had broken down. No one could figure out what was the matter; even the factory representative who was flown in gave up. The tourist was ready to abandon the car and go home when someone remembered that an old blacksmith who lived beyond the mountains some distance away had, in his youth, tinkered with engines.

In his despair the tourist sent for him. Three days later, the old man appeared on a mule. He took one look at the car and asked for a hammer. He gently tapped one spot on the engine twice, and said, "start her up," and the engine purred like new.

"What do I owe you," the grateful tourist asked.

"A hundred dollars!"

"What, a hundred dollars for two taps with the hammer?"

"Well, let me itemize it for you," said the old man. "For two taps with the hammer—ten cents; for having known *where* to tap—99 dollars and 90 cents."

Too often in environmental problems we are willing to pay for action, but before sound action can be taken, we need to support professional research and the development of a systematic body of knowledge about the environment. With a total ban on all poisons for predator control, how are we going to maintain an adequate supply of sheep and cattle? With the ban of herbicides for brush control, how are we going to prevent the uncontrolled spread of noxious weeds? With the executive ban on clear cutting, how are we going to maintain adequate production of timber? These and many other questions require research and the application of sound management principles.

Because I believe this so strongly, I have consistently urged the Appropriations Committee, of which I am a member, to give a high priority to such things as shrub research, pinyon-juniper research, and research into restoring lands damaged by strip mining. In these efforts, I have been moderately successful. But much more needs to be done.

In the ages past, man could shrug his shoulders in the face of many of the evils of life because he was powerless to control them. Now we have no one to blame but ourselves. Few things are any longer inevitable. And since everything can be accomplished, everything must be chosen deliberately. It is in the human power for the first time in the history of man to achieve a level of human welfare exceeding our wildest imaginings, or to continue to plunder our planet and its resources and destroy our very existence. I have always accepted the scriptural verse which says: "That which cometh of the earth is ordained for the use of man . . ." Of course, it must be used in a planned and reasonable way. It is not a choice between turning back the clock to some mythical past, as some would have us believe, or to continue uncontrolled resource use, as others would have us believe. The choice lies somewhere between and it is up to us to make that choice. In doing so, I believe we will find that the enemies of our environment are not management and technology, but are, instead, ignorance, intemperance and greed.

REPORT ON ACTIVITIES OF THE MINORITY IN THE COMMITTEE ON LABOR AND PUBLIC WELFARE IN 1972

Mr. JAVITS. Mr. President, during the second session of the 92d Congress, the Republican minority of the Committee on Labor and Public Welfare, of which I am the ranking member, made a distinctive record of constructive contributions and effective legislative achievement. It is gratifying to note that in a number of instances, the central concepts around which major legislation was built originated on the minority side. These contributions cover all areas of activity of the committee. I ask unanimous consent that a report I have prepared on these contributions be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND PUBLIC WELFARE—MINORITY REPORT

HEALTH

National Sickle Cell Anemia Prevention Act (Public Law 92-294)

A bill introduced by Senator Tunney and cosponsored by Senator Javits, Schweiker, Taft, Brooke, Case, Griffin, Percy, Roth and Thurmond for the prevention of sickle cell anemia provided the basis for this Act.

Minority amendments written into law include:

First. Provide for community representation in program operation—Senator Schweiker.

Second. Priority in making grants to areas having greatest number of persons in need of sickle cell services—Senator Javits.

Communicable Disease Control Amendments Act of 1972 (Public Law 92-449)

A bill introduced by Senator Javits to control and prevent venereal disease and cosponsored by Senators Dominick, Beall, Stafford, Taft, Brooke, Case, Gurney, Percy, Young, and Baker, toegther with legislation introduced by the Chairman of the Health Subcommittee, and cosponsored by Senators Javits, Schweiker and Tower, provided the basis for this Act.

Minority amendments written into law include:

First. Ensure patient care and treatment for VD confidential—Senators Javits and Dominick.

Second. Increase family planning services grant authorization—Senator Javits.

Third. Increase minimal VD formula grant state allotment—Senator Dominick.

National Heart, Blood Vessel, Lung and Blood Act of 1972

(Public Law 92-423)

A bill to establish a more effective national program to combat America's number one killer introduced by Senator Kennedy, Chairman of the Health Subcommittee, and cosponsored by Senators Javits, Schweiker, Beall, Taft, Dominick and Percy, together with a bill introduced by Senator Schweiker and cosponsored by Senators Bennett, Stevens and Baker provided the basis for this Act.

Minority amendments written into law include:

First, prevention programs for cardiovascular disease—Senator Schweiker.

Second, establish Assistant Director for Health Information Programs—Senator Schweiker.

Special Action Office for Drug Abuse Prevention Act

(Public Law 92-255)

The Administration bill introduced by Senator Percy and cosponsored by Senators Javits, Beall, Schweiker, Dominick, Packwood, Stafford, Taft, Scott, Brock, Gurney, Roth, Griffin, Dole, Brooke, Pell, Miller, Mathias, Saxbe, Bennett, Boggs, Hansen, Case, Bellmon, Pearson, Tower, Mundt and Cotton together with legislation introduced by Senator Kennedy, Chairman of the Alcoholism and Narcotics Subcommittee, and cosponsored by Senator Javits, provided the basis for this Act. Many technical amendments were authored by the minority.

Drug Addict Treatment and Rehabilitation Act of 1972

(Public Law 92-)

A bill to increase the Commission's appropriations introduced by Senator Javits and cosponsored by Senators Schweiker and Packwood provided the basis for this Act.

LABOR

Equal Employment Opportunities Enforcement Act

(Public Law 92-261)

First, authorization for Commission to enter into settlement agreements—Senator Javits.

Second, providing Commission with power to institute court actions rather than issue cease and desist actions—Senator Dominick.

Third, creation of an independent general counsel—Senators Taft, Schweiker, Javits, Beall.

Fourth, provision of equal employment opportunity for civil service employees and power to bring suits in Federal district courts—Senator Dominick.

Fifth, establishment of Equal Employment Opportunity Coordinating Council to oversee activities of various Federal agencies administering antidiscrimination laws—Senator Javits.

Sixth, a two-year limitation on the liability of employers for back pay—Senator Taft.

Seventh, preclusion of transfer of Office of Federal Contract Compliance from the Labor Department to the Equal Employment Opportunity Commission—Senator Saxbe.

Service Contract Act Amendment

(Public Law 92-)

First, provision that existing wage rates and fringe benefits shall be binding on successor employers, unless the Secretary of Labor finds, after a hearing, that such existing wages or benefits are substantially at variance with prevailing rates—Senator Taft.

Second, limitation on requirement that the Secretary make wage determinations to contracts involving employment of five or more employees—Senator Taft.

Black Lung Benefits Act

(Public Law 92-303)

First, limitation of delay of assumption by employers of responsibility to pay benefits—Senator Javits.

Second, provision to make additional categories of dependents eligible for benefits—Senator Schweiker.

EDUCATION

The Administration's Emergency School Aid Act of 1971, introduced by Senators Javits and Griffin, together with legislation sponsored by Majority members, formed the basis for Title VII (the "Emergency School Aid Act") of this Act. Other contributions include—

First, establishment of the National Institute of Education to foster educational research—Senators Prouty,* Dominick, Griffin, Javits, Packwood, Saxbe, Schweiker, and Scott.

Second, establishment of the Student Loan Marketing Association to enhance liquidity for guaranteed student loans through providing a warehousing and secondary marketing mechanism—Senator Dominick.

Third, establishment of a program to stimulate innovation in postsecondary education—Senators Javits, Beall, Dominick, Griffin, Prouty, Schweiker, and Scott.

Fourth, establishment of ethnic heritage studies centers for study of the contributions of the cultural heritage of ethnic groups of the Nation—Senator Schweiker.

Fifth, program of emergency assistance for institutions of higher education experiencing serious financial stress—Senators Beall and Dominick.

Sixth, authorization of matching grants to States for State scholarship incentives—Senator Javits.

Seventh, requirement of a comprehensive report by the Secretary of Health, Education, and Welfare on the financing of post-secondary education—Senator Javits.

Eighth, inclusion in definition of developing institutions of junior and community colleges located in or near Indian reservations—Senator Dominick.

Ninth, inclusion of special problems of career education in National Institute of Education—Senator Schweiker.

Tenth, authorization of grants to improve planning and management capability of higher education institutions—Senator Beall.

Eleventh, inclusion of half-time students in Educational Opportunity Grant Program—Senator Javits.

Twelfth, establishment of Educational Opportunity Centers to counsel poor and others on entering college—Senator Javits.

Thirteenth, establishment of a new academic facilities loan insurance program for non-profit, private institutions of postsecondary education—Senator Prouty.

Fourteenth, requirement for study to result in specific recommendations on a nationwide cost-of-education cost-accounting methodology—Senator Schweiker.

---

*Deceased September 10, 1971.

Fifteenth, inclusion of young delinquents in adult correctional institutions in Title I, Elementary and Secondary Education Act, on same basis as delinquents in juvenile institutions—Senator Beall.

Sixteenth, requirement that student aid programs receive priority in funding—Senator Prouty.

Seventeenth, establishment of a Bureau of Occupational and Adult Education within the U.S. Office of Education—Senators Javits, Beall, Dominick, Prouty, Schweiker, and Taft.

Eighteenth, provision for employment of high school and college students as tutors or instructional assistants for educationally disadvantaged children—Senator Prouty.

Nineteenth, amendment to meet problems of discrimination against particular categories of students in guaranteed loan program—Senator Javits.

Twentieth, provision for the retraining of teachers to enable them to teach other grades or subjects in which teacher shortages exist—Senator Prouty.

Twenty-first, authorization of construction grants for removal of architectural barriers to handicapped persons—Senator Javits.

Twenty-second, expansion of program of improving training opportunities for elementary and secondary education personnel to encourage persons to serve as tutors in pre-school, elementary and secondary classes—Senator Prouty.

Twenty-third, consolidation of certain higher education programs—Senator Javits.

Twenty-fourth, authorizing use of Education Professions Development Act funds to train teachers of American Indian children—Senator Prouty.

Twenty-fifth, increasing to 5% or $20,000, whichever is greater, the amount which a State may expend for administration of its plan for attracting and qualifying teachers to meet critical teacher shortages—Senator Prouty.

Twenty-sixth, provision for uniform application requirements under several categorical programs—Senator Prouty.

Twenty-seventh, inclusion of volunteer firemen in vocational education programs—Senator Boggs.

Amendment to Guaranteed Student Loan Program

(Public Law 92-391)

This bill was sponsored by Senator Dominick and cosponsored by Senators, Beall, Boggs, Case, Cook, Griffin, Javits, Scott and Young.

EMPLOYMENT, MANPOWER AND POVERTY

The Manpower Development and Training Act Amendment of 1972

(Public Law 92-277)

S. 3054, which was the basis for this measure, was developed jointly by Senator Javits and the Chairman of the Subcommittee, who introduced the bill on January 21, 1972.

The Act extends the Manpower Development and Training Act of 1962 through fiscal year 1973.

The Economic Opportunity Amendments of 1972

(Public Law 92-424)

S. 3010, which was the basis for this measure, was developed jointly by Senator Javits and the Chairman of the Subcommittee, who introduced the bill on December 13, 1971.

The Act extends the Economic Opportunity Act of 1964 through fiscal year 1974.

The Economic Opportunity Amendments of 1972 add to the Act a new title for Community Economic Development, co-authored by Senator Javits, as well as other provisions included by Senator Javits, increasing assistance to elderly and other low-income persons not now fully covered and for increased anti-poverty efforts in Puerto Rico.

VOCATIONAL REHABALITATION

Rehabilitation Act of 1972

(Public Law 92-)

First, requirement for an individualized written rehabilitation program to serve as blueprint for rehabilitation of handicapped client and as a means of assessing progress and allowing client participation—Senator Stafford.

Second, provision for nondiscrimination in hiring of handicapped under Federal grants—Senator Javits.

Third, in order to encourage hiring of handicapped, provision that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations—Senator Taft.

Fourth, requirement that in filling positions of the newly-created Office for the Handicapped, special emphasis is to be given to handicapped individuals—Senator Stafford.

Fifth, inclusion of the homebound in State plans, research and training—Senator Javits.

Sixth, requirement that the Secretary of Health, Education, and Welfare shall include in his annual report a report on research and training activities under the Act—Senator Stafford.

Seventh, establishment of National Advisory Council on Rehabilitation of the Handicapped and State Advisory Councils—Senator Javits.

Eighth, require the Secretary to conduct a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals—Senator Stafford.

Ninth, provision defining eligibility for participation in services of rehabilitation center for deaf individuals—Senator Javits.

Tenth, provide a statutory basis for the Rehabilitation Services Administration to administer Act—Senator Stafford.

Eleventh, requirement that no funds for nonvocational-goal rehabilitation services shall be expended unless maximum efforts have been made to secure assistance from other sources—Senator Javits.

Twelfth, provision for special consideration to qualified handicapped individuals in filling positions on the President's Committee on Employment of the Handicapped—Senator Stafford.

Thirteenth, inclusion of "acquisition" in the definition of "construction"—Senator Javits.

Fourteenth, provision for consultation with State rehabilitation agencies in establishment and support of Rehabilitation Engineering Research Centers, in evaluation of programs and projects, and in study on sheltered workshops—Senator Javits.

Fifteenth, require the Secretary to report on evaluation of use of funds for individuals with severe handicaps—Senator Javits.

Sixteenth, provide for study of architectural designs to assist handicapped persons—Senator Percy.

Comprehensive Older Americans Services Amendments of 1972

(Public Law 92-)

The Administration bill, S. 3391, introduced by Senator Beall and cosponsored by Senators Javits, Schweiker, Packwood and Taft, together with legislation introduced by the Chairman of the Aging Subcommittee, Senator Eagleton, provided the basis for this Act.

Other Minority provisions written into law are as follows:

First, provision for establishing an Information and Resources Clearinghouse for the Aging—Senator Beall.

Second, coordination and consolidation in anticipation of comprehensive manpower legislation relative to Older Americans Community Service Employment provisions—Senator Javits.

Third, special provision authorizing services to assist older persons to avoid institutionalization—Senator Packwood.

Fourth, special provision for study and demonstration projects on the transportation problems of older Americans—Senator Stafford.

Fifth, special provision to authorize area agencies on aging to provide opportunities for older citizens to assist in the delivery of day care services to children—Senator Beall.

Sixth, preference to existing offices on aging of local governmental units in the targeting of planning and service grants—Senator Javits.

Seventh, the inclusion of language authorizing the hiring of older Americans to fill staff positions in the administrative structure responsible for older American projects—Senator Beall.

Eighth, postponement until 1974, of consolidation of administration provisions concerning nutrition programs with other older American programs—Senator Javits.

SCIENCE

National Science Foundation Authorization Act of 1973 (Public Law 92-372)

The Administration bill, introduced by Senator Dominick, together with the bill introduced by the chairman of the Special Subcommittee on the National Science Foundation, formed the basis for this Act.

KILLING AT A DISTANCE

Mr. CRANSTON. Mr. President, I was struck by the article inserted in the RECORD of October 12 by the distinguished Senator from Idaho, Mr. CHURCH. The article, entitled "Our Airmen in Thailand—Professionalizing the War," stressed the attitude of detachment and remoteness shared by the professional pilots conducting Vietnam bombing raids from Thailand.

In today's New York Times there is a similar article about pilots flying B-52 missions from Guam. An electronic-warfare officer aboard one of the giant bombers said:

> We're so far away. It's an impersonal war for us.

A crewman remarked that bombing Vietnam from a B-52 was like "delivering the mail." A pilot said:

> For all you know, you could be bombing New York City.

Mr. President, these men are professionals trained to do their job efficiently and unquestioningly. But the American public should not forget that these men and their fighter-bomber colleagues are dropping 2 tons of bombs every minute. Those who have survived B-52 raids have recounted that the world around them suddenly and terrifyingly explodes and turns to fire. So I think that the pilots' sense of detachment about bombing should not prevail in the minds of the American people.

I ask unanimous consent that the article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABOARD A B-52 BOMBER HIGH OVER VIETNAM A CREW TAKES PART IN AN "IMPERSONAL WAR"

(By Joseph B. Treaster)

ANDERSEN AIR FORCE BASE, GUAM, October 4.—Six hours and 14 minutes after taking off from this Pacific island base, Capt. Terry Jennings' B-52 shuddered and 32,500 pounds of high-explosive bombs plummeted toward South Vietnam.

A few seconds later a ground controller radioed, "good jobs,"—the bombs were right on target.

There was not a flicker of reaction from any of the six crewmen, no sign of satisfaction or any trace of excitement—an attitude, of cause, that has been common in bomber crews for years.

For the crewmen, sitting in their air-conditioned compartments more than five miles above the steamy jungle of South Vietnam, the bomb run had been merely another familiar technical exercise. The crew knew virtually nothing about their target and they showed no curiosity.

Only the radar-navigator, who in earlier wars would have been called the bombardier, saw the bombs exploding, and those distant flashes gave no hint of the awesome eruption of flames and steel on the ground. No one in the plane, including this correspondent, heard the deafening blast.

200 B–52'S IN THEATER

In many ways, Captain Jennings and his men are typical of the scores of crews that have been sent to Guam since February in a build-up that has brought the number of B–52's bombing Indochina to about 200—four times more than were in the theater at the close of last year. Some of the big bombers are based at Utapao, Thailand.

They are intelligent, steady, family men doing a job they've been told to do. Because they are professionals, they take pride in doing their work well. But neither Captain Jennings' crew nor any of the numerous other pilots and crewmen interviewed displayed the kind of enthusiasm for their assignment that bubbles through conversations with fighter pilots. "It's a job," the bomber men often say.

The huge, eight-engine planes that they fly are dropping more bombs in South Vietnam than any other kind of aircraft and they have been credited with having played a major role in blunting the North Vietnamese offensive.

On the ground a B–52 strike—or "arclight," as they are commonly called—is a chillingly spectacular event, sometimes electric with excitement. Tremendous clouds of smoke and dust boil up and a thunder of kettle drums splits the ears. People in the "impact" area are killed or sent reeling in shock. Allied troops sometimes cheer or just sigh in amazement.

But none of this feeling reaches the B–52 crews. "We're so far away," said Capt. Gordon Crook, the 34-year-old electronic-warfare officer on Captain Jennings' bomber. "It's an impersonal war for us."

The crewmen are highly skilled technicians trained primarily for missions with nuclear weapons. What they are doing in Vietnam demands precision, but only a fraction of their skill. The routine seldom varies and they say they are bored.

NO THREAT FROM FLAK

On most raids, clouds or darkness make it impossible for anyone in the plane to see South Vietnam. At best the country looks like a neatly painted relief map, mostly mottled green ridges and valleys streaked with winding streams and red laterite trails and airstrips, set-off from the sea by a thin strip of white beach. The people are always invisible.

There is no antiaircraft fire in South Vietnam that threatens the high-flying B–52's and so far none of the bombers have been reported lost to surface-to-air missile or enemy fighter planes in the North.

"Essentially I feel like I'm a nonparticipant in the war," Captain Jennings said after the flight. "I'm intelligent and I know I'm in it, but I don't feel it."

"To me," continued Captain Jennings, who is 29 years old and comes from Aurora, Ill., "flying this kind of mission—actually flying the mission and dropping the bombs and anything that leads up to it—is very similar to a training run in the United States."

The United States Military Assistance Command in Vietnam selects B–52 targets, takes responsibility for insuring they are clear of civilians and decides how many planes are needed and what combination of bombs they should carry. So the big bombers, their crews and commanders on the ground here are all part of a highly specialized delivery system.

One pilot said that he often thought of himself as a long-distance truck driver. A crewman said that bombing South Vietnam from a B–52 was like "delivering the mail."

The maps used by the crews show almost no place names. One general said that kept the maps uncluttered. It also keeps them impersonal. The targets are given code numbers and are marked by intersecting map coordinates.

"For all you know," one pilot said, "you could be bombing New York City."

The pilot was joking. But he and his colleagues are disciplined men who have taken an oath of service in the Air Force and they regard themselves foremost as professionals. Several crewmen were asked what they would do if they were ordered to "take out Hanoi—not just the military installations, but the whole city." All answered that they would "jump in our planes and go." Their only concern, they said would be for personal safety.

Whether the war is right or wrong is not an issue with the crews, they say. They do not make policy, but are instruments of policy. They have been trained to operate the machinery of the B–52 and that is what they do. Where they put the bombs is someone else's decision and someone else's responsibility, they feel.

"As far as losing any sleep over what we're doing, how many people we kill . . . we never get to see the damage," said Captain Crook, whose home is in Memphis.

At another point he said, "if we were killing anybody down there with our bombs I have to think we were bombing the enemy and not civilians. I feel quite sure about our targeting."

A pilot in another crew put it this way: "You don't consider that you're going out and killing somebody. You say, 'we've got a job to do and let's go out and do it.' The other part isn't considered."

The B–52's in Southeast Asia usually carry 20,000 to 43,500 pounds of bombs, compared to 6,000 pounds for the most common fighter-bomber.

A CARPET OF BOMBS

They usually fly in formations of three and lay down a carpet of bombs roughly a half mile wide and a mile and a half long. The bombers are at their best against large supply dumps and troop concentrations.

So the North Vietnamese created an ideal situation for the B–52's when they launched their current offensive on March 30th and shifted into full-scale conventional war, massing thousands of troops for frontal assaults with dozens of tanks and heavy artillery.

Increasingly, the B–52's are being used to provide close air support for the South Vietnamese. In the battle to retake the Citadel in Quangtri, for example, South Vietnamese paratroopers, who were having difficulty clearing an area, backed-off several hundred yards, called in the B–52's, then moved ahead without opposition.

The missions themselves are exhausting. Captain Jennings and his crew began studying their mission plans at 7:35 A.M. and dragged through their final debriefing nearly 17 hours later at 12:30 A.M. the next day.

The tour of duty for B–52 crewmen is four to six months. It is shorter than the standard one year in Vietnam. But crews can be reassigned in the area as often as the Air Force feels is necessary and some have already had five or six tours. Staff officers say the crews here now are scheduled to have a month at home in the United States after they finish their current stint, then return immediately for more arclight duty.

Many men say they see no end to the cycle and this is hard on morale. For almost all of the crewmen the worst part of the assignment is the separation from their families and not knowing when it will all end.

THE B–52—LAST CHOICE

They laugh when you ask if they volunteered to fly B–52's. No one seems to like the plane. It is an unmaneuverable monster and the last choice of flight-school graduates. B–52's are uncomfortable to ride in and some crewmen say they are afraid of serious mechanical or structural failure in the complicated and nearly 20-year-old planes.

Some of the men wonder if they're accomplished anything. They've heard the praise from Saigon. But some still say: "It must not be too effective. We keep bombing the same targets."

The pilots say the most difficult part of a mission to South Vietnam is the mid-air refueling that usually takes place over the Philippines. Most of the planes here can make the round trip without taking on gas, though, so that leaves take-off and landing to challenge the fliers.

Ten minutes after take-off, Captain Jennings put the plane on automatic pilot and relaxed as it continued to climb, then leveled off, cruising at 450 knots. He was number two in the flight of three.

In the next two and a half hours he drank two cups of coffee, flipped through the Pacific Stars and Stripes newspaper, cat-napped and mechanically ran through a number of check lists with the other crew members.

Capt. Mark Wiley, the 26-year-old co-pilot from Concord, N.H., filled out some reports, went through some more check lists and asked Capt. Jim Shima, the navigator, who is also 26, and from Cleveland, whether he had any Oreos in his box lunch. "No," said Captain Shima, "I got orange slice."

Maj. Orbert Marrs, the radar-navigator or bombardier, who is 42 years old and has a family in Welch, W. Va., was busy checking his equipment. Captain Crook, the electronic warfare officer whose job is to block enemy radar so that it cannot direct antiaircraft fire or surface-to-air missiles at the plane, had opened a paperback. In a bubble on the end of the aircraft, M. Sgt. Clyde [Ed] Edwin Going, 39, of Shreveport, La., was keeping his vigil as tail-gunner.

As the big plane neared the Philippines the crew began to prepare for refueling. The three aircraft had slowed to about 400 knots. They were side by side now, well apart, and each was coming up under the tail of a KC-135 tanker.

The pilots were trying to put their bombers about 20 feet below the tankers so that a sergeant riding in the belly of the higher plane could slip a fuel nozzle into a receptacle on top of their aircraft.

Captain Jennings tensed in his seat as the refueling boom grew larger in his windshield, then passed overhead. His left hand rode the black steering yoke, the fingers of his right were twined around the eight throttles, delicately feeding the engines. With a clank, the boom slid into place.

But the system that helps the pilot guide the plane seemed to be running a bit ragged and in the next 22 minutes the bomber and the tanker drifted apart seven times. Finally, with 90 percent of the designated fuel in his tanks, Captain Jennings pulled away from the tanker. Beads of sweat were rolling down his face. He let out a deep breath, lit a cigarette and turned over the controls to Captain Wiley.

Less than an hour later, Captain Shima,

the navigator, began reviewing bomb procedures over the interphone.

A ground controller picked up the three bombers on radar as they neared South Vietnam and began guiding them toward the target—a "suspected enemy troop concentration south of Danang." No one on the plane knew that the specific location was the embattled lower tip of Quangngai Province and the men had to think a minute when they were asked what they were supposed to be hitting.

Sixty seconds out, Major Marrs, the radar-navigator or bombardier, opened the bomb-bay doors and armed the bombs.

The ground controller started a countdown. He spoke to the lead aircraft and the two other crews monitored. At the precise moment that the bombs had to leave the first plane in order to hit the target, the controller gave the signal to release, one crip word: "hack."

With that, Major Marrs and Captain Shima squeezed stop watches and the navigator started his own count-down. The two had calculated their drop time at 15 seconds after lead. Captain Shima's voice rose with the only detectable excitement of the entire flight as he cried out, "hack."

Major Marrs pressed a small button and the plane trembled. A lighted sign on the dash-board in front of the pilot and copilot flashed "bomb released," "bomb released," "bomb released" as the bomb bay and the wing racks emptied.

The plane swung north up the coast of South Vietnam for a practice run without bombs. The crew settled in for an uneventful six-hour flight home.

HUD JOINS ADMINISTRATION CAMPAIGN FOR REELECTION

Mr. SYMINGTON. Mr. President, last week some 28 million Americans received a litle hope and a litle hokum. Those Americans, representing most of our Nation's senior citizens, opened an envelope which contained the first social security check reflecting the 20-percent increase in benefits approved by the Congress last June. Appropriate to this election year, however, the envelope also contained a little electioneering—a statement which would lead the recipient to believe that President Nixon had brought him his additional benefits, benefits which, in fact, the President strongly opposed when considered by the Congress.

Not to be outdone by the Social Security Administration, we now learn from a constituent that the Department of Housing and Urban Development has joined in producing presidential campaign literature, this one entitled "A Report to Older Americans."

This HUD brochure attempts to give the impression that during the last 4 years, Mr. Nixon has been the champion of the senior citizens.

It would have its reader believe that enough housing specially equipped for the elderly is being constructed, even though production this year is expected to fall almost 54,000 units short of the estimated need.

It would have its reader believe that homes are available to meet any income level, although the one program specifically designed to meet the housing needs of low-income senior citizens has been virtually eliminated by low budget requests and impounded funds.

Finally, it would have its reader believe that private ownership of homes by older Americans has been facilitated during the past 4 years, when in fact the cost of such ownership has become prohibitive under the 32-percent jump in property taxes while nothing but rhetoric has gone toward providing relief.

Our constituent wrote:

> I resent very much the unfair political advantage the Administration is taking at this time, just prior to election, by publishing such literature with the President's name shown thereon, when we taxpayers bear the cost of composing, publishing and mailing this stuff.

Mr. President, we often hear reports about the bulging bank accounts of the Republican Party. Under such circumstances, if the American people must receive misleading information from the Republican candidate, why should the American people be forced to pay for it?

I ask unanimous consent that the letter from Mr. Virgil Duvall be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. STUART SYMINGTON,
U.S. Senate Building,
Washington, D.C.

DEAR SIR: I have just received a bulletin issued by the U.S. Dept. of Housing and Urban Development, entitled "A Report to Older Americans" with a quotation by President Richard Nixon, and I resent very much the unfair political advantage the Administration is taking at this time, just prior to the election, by publishing such literature with the President's name shown thereon when we taxpayers bear the cost of composing, publishing and mailing this stuff.

I think such tactics on the part of the Republicans should be a political issue, and I also think a law against showing an individual's name on such publications, when the individual is a candidate for high office should be enacted by Congress. My permanent address is 5804 Harvard, Raytown, Missouri 64133 but my present temporary address is as shown above.

I hope that many other recipients of this, or any other literature will react toward this injustice in low political practice with the same resentment that I feel.

Yours truly,

VIRGIL W. DUVALL.

JOHN SHERMAN COOPER

Mrs. SMITH. Mr. President, it is with deep regret and concern that I view the retirement of JOHN SHERMAN COOPER from the U.S. Senate.

His has been a desperately needed voice of calm and reason in these very turbulent times. Repeatedly in times of crisis in the Senate, he has cleared the heated atmosphere of emotional, and too often regrettable, polemics that have not reflected well on the Senate as an institution and as a deliberative body.

We will sorely miss his wise counsel and reasoned judgment. We wish him well—and we expect to see him continue in a role of great and official importance in the service of his country.

VIETNAM PEACE NEGOTIATION

Mr. PELL. Mr. President, there has been a great deal of speculation about the possibilities of peace in Southeast Asia in recent days Mr. Kissinger's 4 days of secret negotiations in Paris received wide attention.

So did the extension of the most recent talks with the North Vietnamese from 2 days to 4 days.

We hear rumors that a peace settlement, a cease-fire, is just around the corner.

But we have heard this before.

We have heard an official "no comment" before—and now we hear it again from the White House on this latest in a long series of 19 secret negotiations begun more than 3 years ago.

Meanwhile, the bombing continues with increasingly tragic results.

A great confusion exists in our people's minds.

Will there soon be peace in Southeast Asia?

Or is peace the same will-o'-the-wisp it was 4 years ago when this administration announced its secret "peace plan"?

Secrecy still seems to be the order of the day. A measure of secrecy is understandable in international negotiations. But this secrecy is compounding the confusion, the frustration our people feel. We have witnessed the delay and failure of this administration's so-called peace plan time and time again.

I have long believed in the value of a negotiated peace settlement for Southeast Asia. As a member of the Senate Foreign Relations Committee, I have long believed that negotiations provide the best way out of this war and the American tragedy it has brought upon our people. My own record on this most crucial issue is as clear as it is consistent.

I find the record of my opponent on this crucial issue clearly inconsistent. Indeed, at a time such as 7 years ago when I advocated a negotiated settlement—at a time when the whole question of escalation of the war was being debated—my opponent said that any hope for negotiations was merely a dream.

The agony of this war has been prolonged for 7 years. We all know the dreadful loss of life involved, the suffering, the disorder to national priorities, the evils of inflation which escalation of the war has brought to our economy.

And now the belated promise of a negotiated settlement is front page news once more. And we are led to believe that perhaps the light at the end of this long and terrible tunnel is brighter than ever before.

If it is so bright, let us not lose sight of it again.

In the past, when there has been a national emergency affecting all our citizens, our Presidents have acted. When there has been a major dispute in one vital sector of our economy which causes emergency hardships on all of us—and when final agreement may depend on a few remaining details—our Presidents have acted to keep both opposing sides at the conference table, night and day, until a solution was reached.

If we are that close to a settlement in Southeast Asia, then I believe it is high time for the President we now have to exert his efforts so that the leading negotiators of both sides sit at that peace conference table—day and night—until a final agreement is hammered out, until peace is achieved. Not for 2 days, not for 4 days—but day and night.

I urge him to take that kind of action.

And if, after all these years of escalation and agony, we are not that close to agreement, then I believe we should be told—clearly and precisely and openly—just where we do stand.

MORE MISSOURI FARMERS SUFFER FROM SECRECY IN GRAIN DEAL—GETTING CLIPPED COMING AND GOING

Mr. SYMINGTON. Mr. President, last week I inserted in the RECORD the story of a west-central Missouri farmer, who after 2 bad crop years and a third year of low wheat prices, was waiting out the foreclosure of the loan on his farm.

The article stated that this Missouri farmer believed he could have saved his farm if he had known that the United States was going to sell wheat to the Soviet Union—but he did not know. Instead, he sold his harvest from this year on July 7 for an average price of about $1.31 a bushel—only 1 day before the Department of Agriculture announced that the United States was planning to sell 400 million bushels of wheat to the Soviet Union.

Unfortunately, the story does not stop there. As described by Mr. Severin Poirot of Golden City, Mo., in a recent letter to our office:

> It appears that a large number of farmers are getting clipped coming and going.

Mr. Poirot goes on in his letter to state:

> In my case I sold our farm wheat at harvest time since according to our USDA there was such a huge carry-over. We received $1.29 per bushel. We received $1.28 preliminary payment on our small and "domestic" allotment, and were scheduled to receive the final payment in December. It appears now that there will be no final payment due to the unexpected large rise in the price of wheat.

As Mr. Poirot points out, the Department of Agriculture worked quickly to assure grain exporters that they would receive a large export subsidy to cover the difference between the price at which they had sold wheat to the Soviet Union and the then rising world price of wheat. At the same time, the rising price for wheat—which those who sold early could not benefit from—was driving down the amount of the final wheat subsidy payment to the farmers. As Mr. Poirot described:

> In view of the fact that the USDA subsidy paid on wheat for export contributed no doubt in part at least for the large rise in the price, it appears that the USDA was taking an easy road, using the subsidy to help the grain exporters and saving the money that would have been used as final payment to farmers.

As the price rose, it eliminated the final payment to farmers. The subsidy at the end of August was 45 cents.

Mr. June A. Sifferman writes:

> This Russian grain agreement may be a good deal on the long haul, but it sure caught a lot of the small wheat producers up short this year.

Mr. Sifferman goes on to explain in his letter that he has been advised by the county ASCS that he will not receive his final wheat payment this year for signing up for the set-aside program and not raising any wheat because of the sudden increase in the wheat market price.

Mr. Sifferman explains:

> The news came out too late for me to get out of the program and to get any value out of the orchard grass that I took out of production. So I am stuck with a short payment and a smaller wheat allotment for next year.

Another southwest Missouri wheat farmer, Mrs. Pauline Murray, also wrote that:

> It now looks as if there will be no December payment in the 1972 wheat program.

Mr. President, not only does the present wheat program work against the interests of the very farmers who made the sale to the Soviet Union possible, they are being hit from all directions.

For those who sold their wheat early, they are getting a lower price than they would have if the Department of Agriculture had fully apprised them of the potential market for their wheat, permitting them to hold out for a better price. The grain companies had their intelligence sources out advising them of the world wheat needs, but the farmers' adviser—the U.S. Department of Agriculture—was not doing its job.

Because of the rise in wheat prices after these farmers had sold their crops, most will receive no wheat subsidy at the end of this year.

And finally, money from the taxes these same farmers pay, will be handed over to the grain export companies whose profits were protected by the Department of Agriculture through export subsidy payments.

The Department of Agriculture announced the Soviet wheat sale too late to give many winter wheat farmers an opportunity to participate in the higher prices. Yet, they gave the grain export companies a full week to take advantage of the higher export subsidy on wheat purchases.

Again, Mr. President, I would hope that the investigations now being conducted by the Government Accounting Office and the Federal Bureau of Investigation would shed some light on the still secret aspects of the Soviet grain deal, and that the results of these investigations can be published before the November election.

I ask that the letters from Messrs. Poirot and Sifferman, and Mrs. Murray, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

POIROT FARMS, INC.,
September 30, 1972.

Senator STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: In regard to the large sale of U.S. wheat to the Russians, it appears that a large number of farmers are getting clipped coming and going.

In my case I sold our farm wheat at harvest time since according to our U.S.D.A. there was such a huge carryover. We received $1.29 per bushel. We received the $1.28 preliminary payment on our small "domestic" allotment and were scheduled to receive the final payment in Dec. It appears now there will be no final payment due to the unexpected large rise in the price of wheat.

In view of the fact that the U.S.D.A. subsidy paid on wheat for export contributed no doubt in part at least for the large rise in the price it appears that U.S.D.A. was taking the easy road, using the subsidy to help the grain exporters and saving the money that would have been used as final payment to farmers. (as the price rose it eliminated the final payment to farmers) The subsidy at the end of August was 45c.

As the purpose of the farm program was to assure parity of $2.96 to producers for their "domestic" allotment it seems unfair that we should be expected to take the loss inflicted by manuevers in the world market made by our great white fathers in the U.S.D.A. In our case we will have received $2.57 for our "domestic" wheat compared to $2.96 parity price. In our case the total involved is $530.00 on 32 acres.

In passing it also appears these have been attempts to manipulate the prices of cattle and hogs by issuing reports of questionable veracity regarding cattle on feed and hogs on farm and in storage.

In short it appears that when someone has to take the rap, the farmers get it; after all there are only 6% left in the total population. If they can help the balance of payments and some buddies, or keep the price of meat down well after all there are only 6% left.

We appreciate your efforts on our behalf.

Yours Very Truly,

SEVERIN POIROT.

GOLDEN CITY, MO.,
September 29, 1972.

Senator STUART SYMINGTON.

DEAR SIR: My ASCS Office tells me that it now looks as if there will be no December payment in the 1972 wheat program. So, I have done some figuring to see if I received parity for my domestic wheat.

On the 16th of June, I sold my wheat for $1.29 per bushel. The ASCS Office said that my preliminary wheat payment amounted to $1.28. This adds up to $2.57 per bushel. As I understand it, parity for domestic wheat is $2.96 per bushel.

Could you please tell me where my other 39 cents per bushel went?

Sincerely,

MRS. PAULINE MURRAY.

Senators STUART SYMINGTON and THOMAS EAGLETON.

GENTLEMEN: The Russian grain agreement may be a good deal on the long haul but it sure caught a lot of us small wheat producers up short this year.

I signed up in the 1972 wheat program and did not raise any wheat. My County ASCS Office people explained that I would lose 20 percent of my allotment but that I would get a $205 payment in July and that prospects for another $70.00 in December were pretty good.

In order to earn my payment I had to take 4.2 acres of good orchard grass out of production, as well as agree to the 20 percent cut in allotment.

Right after July 1, I got my first wheat payment of $206.34 and was feeling pretty good about being in the program. Just recently the County ASCS people told me that I will not get the final wheat payment because of a sudden increase in wheat market price. The news came out too late for me to get out of the program and get any value out of the orchard grass that I took out of production. So, I am stuck with a short payment and a smaller wheat allotment.

I feel that farmers who signed in the program and did not raise wheat are entitled to this final payment. Would you gentlemen please look into this matter for me?

Sincerely,

June A. Sifferman.

SENATOR MUNDT

Mr. DOLE. Mr. President, I wish to join my colleagues on both sides of the aisle in paying a sincere and heartfelt tribute to the senior Senator from South Dakota.

Senator Karl Mundt has compiled one of the outstanding American public service records in his 34 years in Congress. As a Congressman for five terms and a Senator for four terms, he has been the foremost spokesman for the State of South Dakota and on behalf of responsible, commonsense government.

When the Senator from Kansas came to Congress nearly 12 years ago, Senator Mundt's reputation as one of the Senate's most conscientious and diligent leaders was firmly established. And throughout my service in both the House and Senate it has been clear that Senator Mundt's high standing among his colleagues and in the hearts of the people of South Dakota has been richly deserved and based on the deepest feelings of respect and admiration.

His interests as a legislator have been wide and varied, but I believe that there are two abiding concerns for which he will be long remembered. The first is a strong desire to see government at home work better, at lower cost to the taxpayers and with as little centralized, bureaucratic intrusion into the lives of our citizens as possible.

Second, is a never-flagging commitment to the strength and security of the United States and the maintenance of its position of preeminence in the difficult and often dangerous arena of international relations. Senator Mundt in his devotion to these two concerns has established a record which few Senators will ever approach; and, because of his tireless efforts, we live under a better and more responsive government here at home, and we live in a nation which is strong, secure and respected by the other powers of the world.

As Senator Mundt retires from the Senate I wish to express my thanks and appreciation, both as a colleague and on behalf of the people of my State, for his outstanding career in service to the America he so deeply cherishes.

HAWAII'S ROLE IN INTERNATIONAL BUSINESS AND TRADE

Mr. INOUYE. Mr. President, it has become commonplace to deplore the grave problems which afflict our international trade position. In 1971 the United States suffered its first merchandise trade deficit since 1893. This year the deficit could very easily be two or three times the trade gap incurred in 1971.

As serious as this problem is, many individuals are taking steps to boost American exports. In recent months several States and municipalities have shown an increased interest in the potential offered by exports. I am pleased that the State of Hawaii has taken a lead in this development and that the State government is actively encouraging Hawaiian businessmen to engage in exporting. Gov. John Burns and Dr. Shelley Mark, director of the department of planning and economic development recently delivered perceptive analyses of the opportunities that exist in this field. I ask unanimous consent that their remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Hawaii's Role in International Business and Trade

(By Dr. Shelley M. Mark)

You may be certain that Hawaii is very pleased to be a co-sponsor of this Conference on Exporting and Export Financing. For many decades, the people of Hawaii have recognized the unique potential of our Islands in Pacific trade and commerce. We have also established a tradition of hosting international meetings, especially those dealing with interests and concerns common to the peoples and nations of Asia and the Pacific. The most recent example, of course, being the meeting between President Nixon and Prime Minister Tanaka in Honolulu. We have always felt Hawaii to be not only a geographical crossroads for trade and transportation, but also a common meeting ground for the exchange of ideas, knowledge, and amity.

The importance of the Pacific Basin is evident to businessmen in Hawaii. Others may not realize that the Pacific Ocean is a common boundary to six continents and more than twenty countries, with well over half of the world's population. Among those countries are some of the world's most advanced, as well as some of its most poor. The natural resources of the lands and the ocean itself are enormous and in many developing areas are only now beginning to be tapped. Trade, shipping, and travel across the Pacific have increased substantially in recent years. The trade volume among the five advanced Pacific countries—the U.S.A., Canada, Japan, Australia and New Zealand—ranked along side that of Western Europe.

Dramatic economic progress is being made in a number of other Asian and Pacific areas, particularly Taiwan, Hong Kong, Korea, Singapore, Malaysia, and Thailand. It is estimated that these so-called developing countries will have per capita incomes exceeding U.S. $1000 by the year 2000, still much less than the richer countries but enough to indicate sustained growth.

The consequences of these impending developments in the Pacific Basin can readily be seen. With continued economic growth will come a wider international specialization of labor and resources. With specialization will come further increases in productivity and trade. Not only will there be increases in the volume of trade, but also increases in the variety and quality of goods and services traded. And with this will come more competition in international markets, and better prices to consumer and higher incomes to producers.

Admittedly this is a most optimistic outlook. It implies peace in our time, solution of the population and food problem, and cooperative efforts not only among the advanced countries, but also between the advanced and developing countries. If, for example, the advanced Pacific nations were to view the growth and diversification of developing nations as a threat to existing markets and not as an opportunity for further growth, and if they were to adopt more restrictive trade policies in the process, then the potentials we have cited will never be realized. Then the latter third of the 20th century will be a period of stagnation and despair and not one of expansion and hope.

It is clear that freer trade among the advanced Pacific countries will not be *sufficient* to capitalize on the opportunities for future growth and progress in the Pacific area. Trade liberalization, in one form or another among the advanced nations will be *necessary*. But it has to be accompanied by a clear recognition of the aspirations of developing countries and the formulation of trade policies and trading relationships that will enhance and not retard their potentials for growth. And it requires a strong positive commitment by the advanced countries to provide increasing economic and technical assistance for directly productive (possibly export-oriented) activities in the developing countries. Without this positive commitment, all that is said will only be rhetoric.

In a practical sense, we are at that critical stage now where shippers are studying new forms and techniques and methods and routes for trade and commerce between East and West, and Hawaii is again looked at for what it may be able to provide in services related to these new methods and modes. Our new Foreign Trade Sub-Zone 9–A, where foreign crude oils are refined, offers tremendous potentials for fueling ships and planes. And only this week it was officially announced that through direct action by Governor Burns, Hawaii has been able to secure a major change in the tariff of the Trans Pacific Conference in Hong Kong, so that our State is now on a par with West Coast States in certain important rate concessions from which we were previously excluded. This is expected to have important implications for transshipment of goods by surface and air, particularly the latter, with Hawaii as the transshipment center.

Our State's fundamental trade policy is influenced by a phrase found in our State Constitution: "With an understanding heart towards all the peoples of the earth . . .". We want to do business with other people, and we promote in a sophiscated fashion a proper commerce and trade. We are not after money and growth and bigness and expansion just for their own sake. We want to establish in Hawaii a solid, thriving world trade base which will help support our people—complementing agriculture, diversified manufacturing, tourism and Federal spending.

We have been pleased to note the steady growth of our foreign-trade exports and imports. In 1959, our imports totaled $34 million, and our exports, $18 million. This increased to $175 million in imports and $51 million in exports in 1970. The latest figures, for 1971, show a total of $224 million in imports and $46 million in exports, reflecting in part the effects of the West Coast Dock Strike. Although we are not too pleased with this large imbalance between our commodity imports and exports, we do not view the situation with any grave concern. We hope to improve our trade balance in the next few years, with the assistance of the various Federal programs that our distinguished speakers will describe during the rest of the conference. We're also "doing our own thing" to boost exports. Our new Foreign Trade Sub-Zone 9–A, which sells fuels to foreign-flag vessels and aircraft, is only one example. Overall, we have consistently promoted what may be the most fundamental means of improving our foreign trade picture—the sale of technical services to foreign governments and business and promotion of scenic amenities to foreign visitors. We do this on the Government level with a quiet aggressiveness and persistence, through the Hawaii International Services Agency of our Department of Planning and Economic Development; through our Hawaiian products promotional ventures and campaigns; through official and business trade missions to the Far East, through trade conferences and seminars in Hawaii, and through welcoming varieties of trade groups from foreign countries. I was pleased to learn only this week that Australia may open a Consulate in Hawaii soon in view of the increasing business between our two areas. Also this week the Queen of Tonga is in Hawaii to study tourism development. Our Island business leaders are sophisticated veterans in international finance, and our science-based agricultural industries provide skilled services to underdeveloped lands.

In 1970, Hawaii was one of only two States in the Nation to build its own Pavilion at Japan's Expo '70, the first World's Fair in Asia. More than 5 million persons learned of Hawaii's interest in promoting trade, commerce and tourism; our Islands have since become a focal point of interest for Japanese investors and for increasing numbers of Japanese tourists.

We also have held seminars and luncheons to spur trade relationships with Taiwan, Thailand, Korea, the Trust Territory of the Pacific Islands, and we hope to expand these. We have sent a Hawaii Business Mission to Korea; we have met with executives of Japan's Keidanren in co-sponsored trade talks; we have promoted business relationships with the Philippines and Indonesia, Micronesia, Australia and New Zealand. Despite our limited resources, we reach out across these vast expanses of ocean to communicate directly with the individuals who are as anxious as we are to increase mutually profitable relationships. Earlier this year, for example, our Department's Economic Development Division invited a group of Japanese women business writers to Hawaii to survey Island products available to Japanese visitors. The result was widespread information about Hawaii's products among Japanese consumers.

Our Hawaii International Services Agency keeps tabs, through its research, library and publications functions, on how our trade is growing. A recent study, for example, shows that in the area of architecture, engineering and construction, more than 50 Hawaii firms have managed to sell their expert services overseas in the Pacific Basin, with more than 250 contracts signed. Many of these are with American and military areas, of course, but many others are with foreign lands seeking to bolster their tourism through resort construction, for example, or to improve their basic facilities through American skills. Hawaii's multi-lingual, multi-racial population is an asset here, but it is only one of many assets, and I believe it takes second place to the primary asset of having the saleable knowledge and skills to do a job well.

We have long-range goals of developing in Hawaii greatly improved facilities for centralization of Pacific trade facilities, product exhibition halls and services, international training resources and certain refinements in the art and practice of managing international conferences. Hawaii, however, has an "image" problem. It is, for some, a giant center for military activities centered at Pearl Harbor and in the office of the Commander in Chief Pacific. It is, for many millions of others, a garden spot for tourists. For knowledgeable business leaders, it is an enormously prosperous American community with superior accommodations for business, trade and finance. For educators, it is the location of the East-West Center, the only Federal institution of its kind, and of our University of Hawaii, with its specialized programs realted to Pacific and Asian interests.

We are many things to many people. But we want to be better known as a center for trade, for transshipment of goods by ship and jet plane to all parts of the world. It is in this area that we would welcome the advice and assistance of the Federal agencies whose task it is to promote exports. By showing American businessmen the potentials for profit through the use of Hawaii as a trade center, the whole nation can benefit from our well-cultivated links with foreign areas and peoples, and the respected image which Hawaii has abroad. One of our most recent conferences, on Doing Business With the People's Republic of China, is an example of the expectations we have for extending trade with the Far East. But fundamental to all our work in this area is the deeper realization that through foreign trade, through importing and exporting of goods and services, through continuing close relationships with people of other lands, we contribute in a very real way to world peace. There can be no nobler work than that.

Thank you.

Mr. Chairman, distinguished guests, ladies and gentlemen:

Aloha, and welcome to this, Hawaii's first Presidential Conference on Exporting and Export Financing.

We are indeed honored and pleased to have the prestige of the presidency in support of our endeavor here today.

And we are honored to have with us several ranking U.S. Government officials from Washington, including Mr. J. Patrick Dugan and his associate, Mrs. Nancy S. Pigman of the U.S. Export-Import Bank; Mr. Marshall T. Mays of the Overseas Private Investment Corporation; Mr. John J. Whalen of the U.S. Department of Commerce; and Mr. Fritz M. Schmitz of the U.S. Travel Service.

They are here to better acquaint you with the assistance programs in export promotion and financing available to you at the Federal level.

We also have key personnel from the State to tell you of a few international business programs sponsored by this administration.

Of course, we should bear in mind that Hawaii is no babe-in-the-woods when it comes to international trade and travel.

We have been a trans-Pacific destination area ever since the 8th century, when paddlers from Marquesas and Tahiti caught a good northerly wind and landed down the beach aways.

And we have been participating in foreign trade ever since 1778, when Captain Cook first came to these islands and, in exchange for some hogs, taro, potatoes, yams and other foodstuffs, left us some iron, a ram goat and two ewes, a boar, a sow, and a few seeds.

Today, we have somewhat expanded our import-export visions.

Last year, our total foreign trade with countries of Asia and the Pacific alone stood at $175 million, a four-fold increase over 1962.

In tandem with this growth has come an overwhelming increase in the number of local firms involved in overseas business.

Ten years ago, they could probably have been named in one breath.

Today, I would need the rest of my allotted speech time to rattle off their names.

They include firms involved in the export of services, in the merchandising of goods, in overseas investments, in agribusiness, and in tourism—all told, over 200 of them.

These firms were partly responsible for the post-statehood economic boom that Hawaii enjoyed for an unprecedented 10 years or so.

Our growth here, in fact must closely parallel that of the countries in Asia and the Pacific.

Today many of these countries are burgeoning economic powers, and Japan is a superstate in that respect.

Who would have thought, ten years ago, Japan, would offer us the greatest potential for the continued growth of our tourist industry?

In the first seven months of this year alone, an estimated 125,000 Japanese—20–25 percent more than in the first seven months of last year—flocked to these islands to spend a few days in the sun, as well as a few dollars.

So far this year, those "few" dollars have amounted to approximately $25 million.

As Asia grows, then, so must we.

The expansion of our business trade and investment interests overseas requires our corollary development of resources and physical facilities, as well as the safeguarding of the total environment.

Our visitor industry, for instance, we are already accommodating foreign visitors with bilingual signs, brochures, personnel and advertising.

In the near future, we hope to have an even greater reservoir of such multi-lingual resources.

As a matter of fact, Hawaii is only now beginning to make full use of her properties as a unique medium for cross-cultural exchange by exporting those services in the form of international training programs to students and businessmen in transit between Asia and the Pacific and the mainland.

Hawaii, in fact, may prove to be the most fertile cross-pollination center in the Pacific, especially to trade and finance.

Both foreign and American nationals may acquire expertise here in trade and marketing—the foreign national to be trained in American methods and vice versa.

I firmly believe we have barely skimmed the surface of the sea of opportunities that await us during the next decade.

To take advantage of these, and thus broaden our economic base, we should be well-apprised of certain promotion and assistance programs that are designed to facilitate the sale if American products and services in overseas markets.

In addition to several Federal programs, there are a number of state-sponsored agencies and activities designed to help in this regard.

The state's foreign-trade zone No. 9, for one, provides several convenient ways for you to save money on duties, quotas, taxes and other costs.

And the Hawaii International Services Agency (or HISA, as we call it) assists and promotes Hawaii's participation in overseas business and international activities, including the training programs I mentioned earlier.

But you will be hearing more of such programs in detail later on in the day.

For now, I would like to remind you that these are activities whose primary purpose is to help us grow and flourish in trade with foreign countries, especially our neighbors in Asia and the Pacific.

We must look westward, as much as to the mainland, for future markets for our goods and services, for possible overseas investment sites and for a source of future visitors to these islands.

In ancient times, when the Hawaiians traveled by sail and paddle, our affiliations *were* more to the west, with the Pacific Islands and Asia.

While we are still very much an American state, the rich mix of our own traditions and cultural ties gives us a natural entré to the West.

To pursue this is a matter of national interest as well as in our own interest.

I hope this conference will be particularly successful in suggesting ways that we can maintain and enlarge on those ties; perhaps we can even forge new ones.

Thank you and I hope you enjoy, as well as benefit from, today's meeting.

REVENUE SHARING

Mr. TUNNEY. Mr. President, this session's most historic legislation, unquestionably, is revenue sharing.

Revenue sharing, at long last, will give back to our cities and counties some of the revenues collected by the Federal Government.

The bill that passed Congress will return $556 million in the first year to

California. The conference committee on the bill reconciled the differences between the House and Senate versions of the two bills by allocating to the States the highest amount distributable under either the Senate or House formula. For California, the House formula yielded a greater amount. The allocation within the State itself is based upon a formula in which the population is multiplied by the general tax effort and then by inverse income levels. Thus, there is a reward for those governments which have the largest populations and relative numbers of poor people as well as those governments which have made a real effort to help themselves by their tax efforts.

Within a county, the funds available are divided between the county government and the aggregate of the municipalities in the county, based on the amount of revenues raised by each, excluding revenues for educational purposes.

Clearly, revenue sharing is a major breakthrough toward relieving the insufferable burden of local taxes. Here is how the money will be distributed in California:

Revenue sharing funds for California

[In dollars]

Total State grant to all locals	370,733,160
Amount returned to California State government is	0
Alameda County area	19,125,575
Alameda County government	8,777,964
Total to all cities over 2,500	10,347,611
Total to all cities under 2,500	0
Total to all townships	0
Alameda City	424,816
Albany City	127,510
Berkeley City	1,171,613
Emeryville Town	13,402
Fremont City	604,963
Hayward City	922,936
Livermore City	204,078
Newark City	229,570
Oakland City	5,775,003
Piedmont City	40,559
Pleasanton City	60,092
San Leandro City	641,493
City of Union City	123,577
Alpine County area	13,037
Alpine County government	6,518
Total to all cities over 2,500	0
Total to all cities under 2,500	6,518
Total to all townships	0
Amador County area	318,400
Amador County government	265,213
Total to all cities over 2,500	0
Total to all cities under 2,500	53,187
Total to all townships	0
Butte County area	2,725,497
Butte County government	2,023,083
Total to all cities over 2,500	684,884
Total to all cities under 2,500	17,531
Total to all townships	0
Chico City	413,325
City of Gridley	68,576
Oroville City	202,983
Calaveras County area	276,594
Calaveras County government	262,991
Total to all cities over 2,500	0
Total to all cities under 2,500	13,603
Total to all townships	0
Colusa County area	334,803
Colusa County government	288,051
Total to all cities over 2,500	33,183
Total to all cities under 2,500	13,569
Total to all townships	0
Colusa City	33,183
Contra Costa County area	8,306,347
Contra Costa County government	5,453,454
Total to all cities over 2,500	2,841,215
Total to all cities under 2,500	11,678
Total to all townships	0
Antioch City	185,277
Brentwood City	22,709
Concord City	361,189
El Cerrito City	97,702
Martinez City	120,218
Pinole City	58,885
Pittsburg City	216,918
Richmond City	1,409,758
San Pablo City	129,099
Walnut Creek City	148,028
Pleasant Hill City	91,431
Del Morte County area	392,714
Del Morte County government	323,060
Total to all cities over 2,500	69,654
Total to all cities under 2,500	0
Total to all townships	0
Crescent City (city)	69,654
El Dorado County area	1,148,797
El Dorado County government	898,228
Total to all cities over 2,500	250,569
Total to all cities under 2,500	0
Total to all townships	0
Placerville City	112,264
South Lake Tahoe City	138,305
Fresno County area	11,133,058
Fresno County government	7,098,195
Total to all cities over 2,500	3,911,917
Total to all cities under 2,500	122,946
Total to all townships	0
Clovis City	113,218
City of Coalinga	58,168
Firebaugh City	58,057
Fresno City	3,127,036
Kerman City	50,478
Kingsbury city hall	41,724
Mendota City	72,859
Orange Cove City	58,540
Reedley City	81,715
Sanger City	136,925
Selma City	113,778
Glenn County area	471,930
Glenn County government	367,957
Total to all cities over 2,500	103,973
Total to all cities under 2,500	0
Total to all townships	0
Orland City	46,224
Willows City	57,749
Humboldt County area	2,631,554
Humboldt County government	1,975,095
Total to all cities over 2,500	614,366
Total to all cities under 2,500	42,093
Total to all townships	0
Arcata City	86,417
Eureka City	461,998
Rio Dell City	21,121
Imperial County area	2,006,450
Imperial County government	1,172,361
Total to all cities over 2,500	803,220
Total to all cities under 2,500	30,868
Total to all townships	0
Brawley City	223,078
Calexico City	286,185
El Centro City	232,468
Holiville City	44,748
Imperial City	16,740
Inyo County area	343,345
Inyo County government	292,436
Total to all cities over 2,500	50,908
Total to all cities under 2,500	0
Total to all townships	0
Bishop City	50,908
Kern County area	8,868,947
Kern County government	6,840,244
Total to all cities over 2,500	1,997,349
Total to all cities under 2,500	31,355
Total to all townships	0
Bakersfield City	1,331,285
Delano City	240,716
Shafter City	54,971
Taft City	50,423
Tehachapi City	32,884
Wasco City	91,230
McFarland City	112,508
Arvin City	48,013
Ridgecrest City	135,320
Kings County area	1,797,029
Kings County government	1,346,148
Total to all cities over 2,500	450,881
Total to all cities under 2,500	0
Total to all townships	0
Corcoran City	92,607
Hanford City	307,929
Lemoore City	50,345
Lake County area	373,743
Lake County government	309,345
Total to all cities over 2,500	64,398
Total to all cities under 2,500	0
Total to all townships	0
Lakeport City	64,398
Lassen County area	366,092
Lassen County government	202,445
Total to all cities over 2,500	85,646
Total to all townships	0
Total to all cities under 2,500	0
Susanville City	85,646
Los Angeles County area	132,659,331
Los Angeles County government	71,911,015
Total to all cities over 2,500	60,669,605
Total to all cities under 2,500	78,711
Total to all townships	0
Alhambra City	527,535
Arcadia City	177,825
Azusa City	350,639
Baldwin Park City	293,001
Bell City	169,905
Beverly Hills City	124,147
Burbank City	886,160
Claremont City	108,449
Compton City	1,358,660
Covina City	354,888
Culver City City	440,472
Cerriios City	58,908
El Monte City	714,930
El Segundo City	303,663
Gardena City	354,171
Glendale City	821,657
Glendora City	201,167
Hawthorne City	377,152
Hermosa Beach City	96,566
Huntington Park City	416,918
Inglewood City	667,004
City of Lakewood	359,935
La Puente City	181,017
La Verne City	85,689
Long Beach City	3,746,725
Los Angeles City	35,442,819
Lynwood City	229,823
Manhattan Beach City	160,150
Maywood City	130,934
Monrovia City	375,512
Montebello City	437,724
Monterey Park City	301,682
Palos Verdes Estates City	50,679
Pasadena City	1,088,116
Pomona City	1,367,975
Redondo Beach City	649,765
San Fernando City	298,550
San Gabriel City	212,058
San Marino City	52,670
Santa Monica City	746,774
Sierra Madre City	45,102
Signal Hill City	122,885
South Gate City	408,460
South Pasadena City	85,371
Torrance City	1,014,095
West Covina City	421,649
Whittier City	430,052
Downey City	436,401
Bellflower City	191,161

Duarte City	55,657
Norwalk City	362,375
Paramount City	203,748
Pico Rivera City	272,003
Rolling Hills Est City	25,022
Santa Fe Springs City	397,293
South El Monte City	205,394
Walnut City	22,261
Artesia City	58,376
City of Commerce	283,788
Lawndale City	92,230
Bell Gardens City	140,822
Cudaly City	63,151
La Mirada City	114,457
San Dimas City	58,299
Temple City	110,241
City of Rosemead	152,219
Hawaiian Gardens	65,349
Lomita City	73,501
Palmdale City	35,834

Madera County area	1,118,318
Madera County government	915,864
Total to all cities over 2,500	202,454
Total to all cities under 2,500	0
Total to all townships	0
Chowchilla City	35,923
Madera City	166,531

Marin County area	1,760,010
Marin County government	1,175,551
Total to all cities over 2,500	584,459
Total to all cities under 2,500	0
Total to all townships	0
Belvedere City	9,656
Corte Madera Town	39,850
Fairfax Town	36,747
Larkspur City	38,961
Mill Valley City	48,082
Ross Town	10,167
San Anselmo City	68,277
San Rafael City	171,560
Sausalito City	22,878
City of Navato	115,193
Tiburon City	23,068

Mariposa County area	162,015
Mariposa County government	162,015
Total to all cities over 2,500	0
Total to all cities under 2,500	0
Total to all townships	0

Mendocino County area	1,199,625
Mendocino County government	949,248
Total to all cities over 2,500	244,501
Total to all cities under 2,500	5,877
Total to all townships	0
Fort Bragg City	68,618
Ukiah City	114,044
Willtis City	61,839

Merced County area	2,818,193
Merced County government	2,103,586
Total to all cities over 2,500	679,888
Total to all cities under 2,500	34,718
Total to all townships	0
Atwater City	99,923
Gustine City	30,828
Livingston City	48,451
Los Banos City	120,120
Merced City	380,567

Modoc County area	201,178
Modoc County government	172,164
Total to all cities over 2,500	29,014
Total to all cities under 2,500	0
Total to all townships	0
Alturas City	29,014

Mono County area	138,171
Mono County government	108,171
Total to all cities over 2,500	0
Total to all cities under 2,500	0
Total to all townships	0

Monterey County area	4,640,431
Monterey County government	2,720,937
Total to all cities over 2,500	1,886,287
Total to all cities under 2,500	25,207
Total to all townships	0
City of Carmel-by-the-Sea	53,904
Gonzales City	28,396
Greenfield City	29,932
King City City	68,946
Monterey City	394,480
Pacific Grove City	118,975
Salinas City	787,174
Seaside City	335,746
Soledad City	68,733

Napa County area	1,311,470
Napa County Govt	911,275
Total to all cities over 2,500	361,306
Total to all cities under 2,500	38,889
Total to all townships	0
Napa City	321,577
St. Helena City	39,729

Nevada County area	585,460
Nevada County Govt	477,315
Total to all cities over 2,500	74,614
Total to all cities under 2,500	33,532
Total to all townships	0
Grass Valley City	74,614

Orange County area	16,752,277
Orange County Govt	8,970,734
Total to all cities over 2,500	7,781,543
Total to all cities under 2,500	0
Total to all townships	0
Anaheim City	1,170,136
Brea City	103,226
Buena Park City	526,120
Costa Mesa City	506,491
La Palma City	35,989
Fullerton City	493,869
Garden Grove City	682,937
Huntington Beach City	614,000
Laguna Beach City	91,279
La Habra City	282,037
Newport Beach City	183,612
Orange City	474,947
Placentia City	88,995
San Clemente City	128,826
Santa Ana City	1,517,129
Seal Beach City	90,803
Stanton City	82,532
Tusiin City	78,680
Fountain Valley City	116,845
Cypress City	115,267
Los Alamitos City	86,286
Westminster City	284,167
San Juan Caspistrano City	18,934
Villa Park City	10,116

Placer County area	2,091,026
Placer County government	1,663,490
Total to all cities over 2,500	416,808
Total to all cities under 2,500	10,727
Total to all townships	0
Auburn City	112,437
Lincoln City	60,624
Rocklin City	22,052
Roseville City	221,694

Plumas County area	315,329
Plumas County government	302,825
Total to all cities over 2,500	0
Total to all cities under 2,500	12,504
Total to all townships	0

Riverside County area	9,392,898
Riverside County government	6,393,541
Total to all cities over 2,500	2,993,025
Total to all cities under 2,500	6,332
Total to all townships	0
Banning City	165,950
Beaumont City	75,452
Blythe City	129,518
Coachella City	116,215
Corona City	221,627
Elsinore City	72,273
Hemet City	196,418
Indio City	256,475
Palm Springs City	327,753
Perris City	57,321
Riverside City	1,236,199
San Jacinto City	48,006
Desert Hot Springs City	35,906
Norco City	53,911

Sacramento County area	11,455,543
Sacramento County government	8,066,686
Total to all cities over 2,500	3,377,321
Total to all cities under 2,500	11,536
Total to all townships	0
Folsom City	55,755
Galt City	33,339
Sacramento City	3,288,226

San Benito County area	487,255
San Benito County government	378,360
Total to all cities over 2,500	94,535
Total to all cities under 2,500	14,360
Total to all townships	0
Hollister City	94,535

San Bernardino County area	14,457,438
San Bernardino County government	9,995,776
Total to all cities over 2,500	4,461,662
Total to all cities under 2,500	0
Total to all townships	0
Barstow City	179,198
Chino City	180,846
Colton City	322,434
Fontana City	181,418
Needles City	52,326
Ontario City	681,114
Redlands City	339,384
Rialto City	208,889
San Bernardino City	1,814,475
Upland City	207,218
Montclair City	212,234
Victorville City	82,125

San Diego County area	19,901,577
San Diego County Government	9,881,564
Total to all cities over 2,500	10,020,013
Total to all cities under 2,500	0
Total to all townships	0
Carlsbad City	143,363
Chula Vista City	641,144
Coronado City	77,685
El Cajon City	451,710
Escondido City	416,222
Imperial Beach City	201,104
La Mesa City	300,331
National City city	534,420
Oceanside City	519,660
San Diego City	6,527,384
Del Mar City	19,753
San Marcos City	46,462
Vista City	140,776

San Francisco County area	19,276,751
San Francisco County government	0
Total to all cities over 2,500	19,276,751
Total to all cities under 2,500	0
Total to all townships	0
San Francisco City	19,276,751

San Joaquin County area	7,512,789
San Joaquin County government	5,000,970
Total to all cities over 2,500	2,477,320
Total to all cities under 2,500	34,496
Total to all townships	0
Lodi City	281,627
Manieca City	150,279
Ripon City	40,509
Stockton City	1,833,885
Tracy City	171,020

San Luis Obi County area	2,646,771
San Luis Obi County government	1,035,495
Total to all cities over 2,500	1,011,275
Total to all cities under 2,500	0
Total to all townships	0
Arrovo Grande City	76,404
El Paso De Robles City	156,055
Pismo Beach City	37,268
San Luis Obispo City	476,170
Grover City	136,664
Morro Bay City	128,715

San Mateo County area	5,134,121
San Mateo County government	2,522,378
Total to all cities over 2,500	2,609,113

Revenue sharing funds for California—Cont.

[In dollars]

Total to all cities under 2,500	2,631
Total to all townships	0
Atherton Town	30,037
Belmont City	87,927
Burlingame City	178,023
City of Daly City	292,199
Hillsborough Town	32,519
Menlo Park City	94,370
Millbrae City	77,205
Redwood City	398,730
San Bruno City	165,359
San Carlos City	101,208
San Mateo City	415,617
So San Francisco City	453,135
City of Pacifica	189,764
Town of Woodside	17,577
Half Moon Bay City	24,158
Brisbane City	32,923
Portola Valley Town	18,364
Santa Barbara County area	4,143,701
Santa Barbara County government	2,766,575
Total to all cities over 2,500	1,377,186
Total to all cities under 2,500	0
Total to all townships	0
Guadalupe City	31,809
Lompoc City	237,767
Santa Barbara City	787,359
Santa Maria City	147,912
Carpinieria City	172,338
Santa Clara County area	15,105,583
Santa Clara County government	8,198,592
Total to all cities over 2,500	6,906,990
Total to all cities under 2,500	0
Total to all townships	0
Campbell City	172,117
Cupertino City	67,676
Gilroy City	132,410
Los Alios City	92,716
Town of Los Altos Hills	25,505
Los Gatos Town	115,091
Milpitas City	199,373
Morgan Hill City	57,775
Mountain View City	327,515
Palo Alto City	310,110
San Jose City	4,033,206
Santa Clara City	689,179
Sunnyvale City	572,124
Saratoga City	100,719
Monte Serona City	11,476
Santa Cruz County area	2,768,684
Santa Cruz County government	1,968,157
Total to all cities over 2,500	800,527
Total to all cities under 2,500	0
Total to all townships	0
Capitola City	33,919
Santa Cruz City	532,868
Watsonville City	220,287
Scotts Valley City	13,453
Shasta County area	2,091,241
Shasta County government	1,681,519
Total to all cities over 2,500	409,722
Total to all cities under 2,500	0
Total to all townships	0
Redding City	361,602
Anderson City	48,120
Sierra County area	61,005
Sierra County government	55,974
Total to all cities over 2,500	0
Total to all cities under 2,500	5,031
Total to all townships	0
Siskiyou County area	826,220
Siskiyou County government	602,281
Total to all cities over 2,500	112,899
Total to all cities under 2,500	111,039
Total to all townships	0
Yreka City Town	75,499
Weed City	37,400
Solano County area	2,799,120
Solano County government	1,542,950
Total to all cities over 2,500	1,256,170
Total to all cities under 2,500	0
Total to all townships	0
Benicia City	85,743
City of Dixon	56,440
Fairfield City	321,959
Rio Vista Town	27,633
Suisun City (city)	68,294
Vacaville City	194,654
Vallejo City	502,047
Sonoma County area	4,248,221
Sonoma County government	1,145,255
Total to all cities over 2,500	1,087,751
Total to all cities under 2,500	15,215
Total to all townships	0
Cloverdale City	44,733
Healdsburg City	82,295
Petaluma City	240,567
Santa Rosa City	578,867
Sebastopol City	52,770
City of Sonoma	54,715
Rohnert Park City	33,805
Stanislaus County area	459,247
Stanislaus County government	3,320,237
Total to all cities over 2,500	1,365,010
Total to all cities under 2,500	0
Total to all townships	0
Ceres City	94,577
Modesto City	793,008
Newman City	52,514
Oakdale City	92,863
Patterson City	70,081
Riverbank City	86,000
Turlock City	175,967
Sutter County area	942,351
Sutter County government	722,605
Total to all cities over 2,500	219,746
Total to all cities under 2,500	0
Total to all townships	0
Live Oak City	25,119
Yuba City	194,627
Tehama County area	795,043
Tehama County government	621,898
Total to all cities over 2,500	168,400
Total to all cities under 2,500	4,746
Total to all townships	0
Corning City	46,048
Red Bluff City	122,351
Trinity County area	194,735
Trinity County government	194,735
Total to all cities over 2,500	0
Total to all cities under 2,500	0
Total to all townships	0
Tulare County area	5,072,472
Tulare County government	3,870,074
Total to all cities over 2,500	1,202,398
Total to all cities under 2,500	0
Total to all townships	0
Dinuba City	72,568
Exeter City	47,140
Lindsay City	95,857
Porterville City	280,956
Tulare City	279,997
Visalia City	359,368
Woodlake City	33,761
Farmersville City	32,752
Tuolumne County area	549,482
Tuolumne County government	506,611
Total to all cities over 2,500	42,871
Total to all cities under 2,500	0
Total to all townships	0
Sonora City	42,871
Ventura County area	6,487,846
Ventura County government	4,652,550
Total to all cities over 2,500	1,835,296
Total to all cities under 2,500	0
Total to all townships	0
Fillmore City	40,700
Ojai City	63,173
Oxnard City	826,151
Port Hueneme City	58,473
San Buenaventura City	430,512
Santa Paula City	209,695
Camarillo City	71,402
Thousand Oaks City	134,988
Volo County area	2,023,425
Volo County government	1,450,214
Total to all cities over 2,500	543,446
Total to all cities under 2,500	29,766
Total to all townships	0
Davis City	245,218
Woodland City	298,228
Yuba County area	1,204,969
Yuba County government	953,045
Total to all cities over 2,500	251,924
Total to all cities under 2,500	0
Total to all townships	0
Marsville City	251,924

TECHNOLOGY, NATIONAL GOALS, AEROSPACE, AND OUR SOCIETY

Mr. GOLDWATER. Mr. President, on September 28, Mr. William M. Magruder addressed the Society of Experimental Test Pilots on "Technology, National Goals, Aerospace, and Our Society." This paper contains a lot of information and suggestions that I think my colleagues should know about; therefore, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

TECHNOLOGY, NATIONAL GOALS, AEROSPACE, AND OUR SOCIETY

(By W. M. Magruder)

I. INTRODUCTION

Many of you have heard me emphasize, in previous discussions, that 1972 is a year of opportunity for technology. It is an election year. The domestic and international issues will be thoroughly debated. We can establish priorities and, most importantly, we can try to understand how to apply our not unlimited resources.

One of the campaign's themes is already becoming clear—"A Clear Choice." As technologists, industry leaders, businessmen and concerned citizens, we should have no interest, at a conference such as this one, with the typical political cliché such as the one I heard recently proposing that the adoption of one candidate's plan "would guarantee every worker an above average wage." What the talent gathered here today can do is apply the expertise of the aerospace management system to a set of logical recommendations that will help to keep that industry strong, able to compete internationally—in a position of leadership in aerospace products—and sufficiently strong economically to seek new markets on a sound management and business basis.

II. ADMINISTRATION FOUNDATION FOR A HEALTHY AEROSPACE INDUSTRY

A great deal has been written, and said, about the "changing of priorities" regarding the U.S. domestic scene. One crucial aerospace program was terminated last year, primarily because certain political elements wished to stress the "either/or" nature of this priorities issue. A Senate filibuster and a vote switch of some forty aggregate Democratic Senate votes from supporting to opposing the United States Supersonic Transport effectively killed that experiment. This action, after ten years of Democratic support, an expenditure of $1.1 billion by a Democratic-controlled Congress, after the careful emplacement of almost 15,000 workers, and at a cost of some $100 million more to cancel than to complete the experiment according to Department of Commerce testimony), has removed our industry from its position of leadership in advanced civil air transport manufacturing. Our two California

Democratic Senators led that fight. One, only days after having campaigned for election on the basis of supporting the SST, and the other on the basis that the money should be used for domestic programs—what money? It cost us more to quit than to "find out" the answers we still need.

Now there should be some fundamental lessons for all of us in that great SST debate.

First, to communicate better to our elected officials so that they have the best available facts upon which to base their decisions.

Second, to make it abundantly clear that we will not forget, in the election process, their political opportunism, failure to properly assess costs and their failure to understand that precipitous termination of programs such as the SST do not automatically bring forth social reform; in fact, just the opposite impact can be expected. Let's make our "choice clear."

A healthy aerospace industry, one that can be available to help in the domestic areas needing high technology-skilled technicians, well developed systems management techniques and program definition capabilities, can only come about as an evolutionary process. It will only come from an industry that keeps healthy doing its own thing", making the best and most competitive aerospace products in the world.

Here are some of the more important activities that have been initiated by Mr. Nixon which will directly affect the health of this industry:

(1) The war appears to be headed for a proper conclusion. We are moving, as President Nixon has said, "from an era of confrontation to one of negotiation." It would be a delusion to claim that extensive savings from the defense budget would be possible right now as a result of the war situation or the arms limitation talks. However, what has been achieved is a solid foundation to save, not so much on what we have been spending, and must spend in order to achieve a real arms agreement, but in what we will not have to spend in the future. This future saving can be substantial and real! Defense expenditures have remained about level over the past five years at $75/80 billion, primarily as a result of a reduced force structure of roughly one million men. The percentage distribution of the total Federal budget has been altered from 45% defense and 35% domestic, to just the reverse.

(2) The Phase I and II Economic Policies, in effect since August 15, 1971, have decreased the growth of inflation and reduced its level from over 6% to less than 3%. The states and municipalities were especially hurt by inflationary impacts because wage rates went up faster and at an earlier time period than revenue from taxes, starting in 1968. With price stability, local government will be better able to make investments in modernizing urban technology.

(3) In the area of international agreements, real progress has been realized by the Administration in the realignment of monetary exchange rates which has improved U.S. international competitiveness, increased jobs and exports, increased corporate profits, increased our tax base and lowered the social costs of unemployment. The most likely beneficiaries of the new monetary order are the high technology industries represented here at this conference. They will be able to make efforts to seek technological improvements with some of their benefits. Also, agreements to share in such social programs as those of health care, environmental control, space exploration and certain research activities will help to spread the costs of these programs.

(4) The upturn in the economy is very strong. The revived economy, with spending to the full employment level, is hoped, and expected, to produce full employment soon. The Government budget will be balanced when full employment is reached, Government borrowing will be less, and private sector investment can be larger. They will be better able to invest in new technology.

(5) Revenue sharing will provide a new source of revenue for states and municipalities not previously available. It will put the management of the resources in the hands of citizens close to domestic problems and most cognizant of local requirements. This is, in one form, a means of increasing productivity for, in the final analysis, the urban officials are best equipped to deal efficiently with their own challenges and opportunities.

In addition, the Federal Government has taken several steps to promote more rapid technological change. In no minor way, the 7 per cent investment tax credit has stimulated new investment in industrial plant and equipment incorporating best practice techniques. Moreover, the Administration's Technology Opportunities Program initiated three efforts aimed at the stimulation of innovation and productivity:

(a) $40 million worth of experiments will be conducted under the auspices of the National Bureau of Standards, directly with industry, to develop controlled programs for evaluating methods of stimulating inventions, innovations, productivity and technology transfer. The National Science Foundation will perform the same type of programs through the universities.

(b) The Commerce and State Departments are coordinating a survey of five nations—Japan, Canada, France, West Germany, and England—to understand their techniques for stimulating innovation, inventions, productivity, technical transfer, and exports and to evaluate and quantify their return on investments.

(c) The Administration, this year, will be announcing National Presidential prizes awarded for socially beneficial technological innovation in areas of public concern, including environmental quality, energy, housing and community development, transportation, health care and safety, education, natural resources, food and nutrition, communications and information processing, and productivity and international trade.

Some facts are available that can help us to evaluate the effectiveness of these programs in promoting a healthy economy and, in turn, a strong aerospace industry.

Employment: A historic high of 81.7 million jobs includes 2.2 million new jobs since August of 1971, the largest annual increase since World War II. 4.7 million new jobs have been created since November of 1969. The 5.5% unemployment figure is still too high, but the expanding economy indicates possibilities of greatly reduced unemployment in the near future, in spite of the 2.5 million defense-related jobs terminated since 1969 during the wind-down of the war.

Inflation: With inflation now down to 2.7%, this combination with 5.5% unemployment, has occurred less than six years out of the past 40 years. Also, our 2.7% inflation compares with an average of 6% of our major international partners.

Productivity: A relatively stagnant U.S. productivity has been replaced by the greatest growth in the free world. Six per cent in the second quarter of 1972, and 4.5 per cent in the first half of 1972. This averages almost double the 1950/1970 long-term average of 2.5 per cent. The 7 per cent investment tax credit will continue to help modernize our industrial plant equipment. Last quarter's GNP grew at 9.4 per cent, the greatest increase in 7 years.

Real Earnings: Which were relatively constant from 1965 to 1970, due to almost runaway inflation, have increased 3.8 per cent since August 1971. Buying power is up about 6 per cent since August, the greatest increase since 1949.

Industrial Peace: With real earnings rising, historic highs in jobs, inflation cooling and industrial productivity increasing, an 8 year low has been attained in industrial work stoppages, and the average days per stoppage have decreased from 42 days in 1970 to 18 days in 1972.

Simultaneously with the domestic economic activities which recognized that a strong dollar needed good growth and reasonable price stability, we had substantial increasing difficulties in our international balance of payments and international trade situation reflecting upon our ability to compete in world markets. It was the recognition, by the President, that there was an inter-related set of problems, domestic and international, that led to new policies in the trade area:

Closing the gold window and the initiation of efforts to develop a more equitable international monetary system.

The Smithsonian agreements which helped to realign exchange rates and ease trade barriers.

The temporary ten per cent surcharge upon imports.

Improved tax treatment of exporters and export credit facilities.

All of this activity in the economic area was accompanied by an increasing awareness of the value of the so-called "technology intensive" industries to our international competitiveness. Aerospace, naturally, ranks at the top of the export list. In the current atmosphere of international competition and economic opportunity, 1972 should be a year of opportunity for aerospace. The question is—how do we direct our capabilities and resources?

III. ECONOMIC JUSTIFICATION FOR GOVERNMENT INVESTMENT IN URBAN R. & D.

Having broached the subject of how the revenues might be made available, it is only natural to speculate how the Federal Government would participate in such technology programs. Consider the following "endorsements" of the value of research and development to our society:

(a) The Economic Report of the President, transmitted to the Congress in January 1972. "It is widely agreed that the group of activities called research and development plays a central role in our economy. It has led to new products and industries; and it can contribute in important ways to solving today's complex economic and social problems. . . . The nature of R&D activities will help determine tomorrow's cooperative cost conditions and the patterns of world trade."

(b) *Business Economics,* September 1971. "The Productivity Slowdown" by John W. Kendrick, Professor of Economics, The George Washington University. "If productivity had continued to rise at its average rate after 1966, the GNP in 1970 would have been $60 billion higher than it was. Instead, the loss in GNP from 1969 through 1970, because of the productivity slowdown, was close to $120 billion. This sum could have made a big contribution toward reversing deterioration of the environment, financing the income maintenance program to overcome poverty and still had enough left over to finance the SST development! . . . All available evidence indictates that research and development is an important contribution to economic growth and productivity."

(c) National Science Foundation "A Review of the Relationship Between R. & D. and Economic Growth/Productivity," February 1971. "Research to date seeking to measure this relationship points in a single direction —the contribution of R. & D. to economic growth/productivity is positive, significant and high."

In spite of many published reports about the ills of economic growth, and technology, it is my perception that the vast majority of Americans desire a rising real income. The evidence from union demands, individual search for opportunities, better pay and improved living conditions, the saving habits of those who seek to better their property incomes, and the continual pressure on government, at all levels, to provide better and more effective services, is overwhelming evidence of our population's desire to help eliminate poverty, broaden our national security base, improve our international competitiveness and to ease inflationary pressures. In spite of this apparent support for technology, an important aspect of this conference should be to clearly identify, for our policymakers, those areas where the government should aid the private sector. To this end, the President's Council of Economic Advisers has offered some guidelines, at least for the Federal Government involvement in R. & D.:

(a) When institutional restrictions, such as anti-trust laws, result in a clear restriction and government action is required to reduce friction or barriers.

(b) When externalities occur which are beyond an individual firm's control, such as the transition from peace to war and vice-versa.

(c) It is the position of the government that a surplus in the balance of trade account is necessary now and for future years if the United States is to finance its aid programs to other nations and to meet its world commitments without a further increase in its short term obligations to official foreigners. The government has, through the Domestic International Sales Corp. (DISC) made available to exporters somewhat more favorable tax treatment, and the Ex-Im Bank has increased its export financing facilities. Generally, however, the government opposes direct or indirect subsidies to specific industries for two reasons:

(1) It is unwise to distort the national economy to change the trade balance.

(2) It is difficult to identify the specific industries which should be subsidized.

(d) When the welfare of all the citizens of the United States is affected and no one segment of society provides the right type of service, then Federal involvement is appropriate. An example of these conditions would be governmental provisions of national defense.

I would hope that one aspect of future technical conferences will be to gather the policy-making disciplines together and to examine such criteria. Certainly, such an examination should produce guidelines that do as an Administration ad hoc advisory committee, chaired by Mr. Pat Haggerty of Texas Instruments, advised two years ago:

(a) Assist in providing for a more consistent approach to the support of science and technology among agencies and programs.

(b) Make the decision-making process more rational, orderly and traceable.

(c) Assist in identifying alternative courses of action; and

(d) Uncover those factors which decision-makers consider relevant and important.

We should examine if the criteria for budget outlays for all levels of government are adequate. Do they properly respond to exploratory requirements, defense and security needs, domestic requirements, impacts of the size of initial investment, regulatory friction or barriers, international competitiveness, etc.? No set criteria can replace the policy and decision making process, but a multi-disciplined set of criteria will provide a framework within which we can rationally discuss our allocation of limited resources.

IV. TECHNOLOGICAL TRENDS

Since the end of World War II, this nation has spent about $200 billion in research and development. About 80 per cent of this effort was expended upon efforts aimed at space, atomic research and defense. Even as recently as three years ago, 45 per cent of our national budget went for non-social programs, and 35 per cent for socially oriented projects. In 1972, that ratio has been reversed. Hopefully, without compromise upon our national security defense against a surprise. In the budget just submitted to the Congress, some evidence of the trends is apparent:

A 65% increase since 1969 in civilian research.

A $700 million increase since FY 1972 in civilian research.

A total U.S. Federal research and development budget of $17.8 billion (up $1.4 billion from 1972) for fiscal year 1973, including:

$451 million in safe, clean transportation research and development (up 46% since fiscal year 1972).

$136 million in research and development to reduce loss of life and property from fires, earthquakes, storm, floods and other natural disasters (up 42%).

$197 million to advance educational research and development (up 39%).

$430 million for cancer research (up 22%).

$393 million for clean energy research (up 22%).

And, $2.56 billion (up 12% since 1972) for university and non-profit research and development in the basic sciences—the "Fountain of Youth" for our technology.

This is an impressive emphasis for our future; however, if we are going to realize the opportunities we can recognize, then we must resist what I consider the greatest political temptation of an election year. We hear about the war—that it is ending—but not fast enough. That the economy is turning around—but not fast enough. That the minority rights are being adjusted—but not fast enough. We can learn and even grow stronger from constructive criticism. However, the precipitous dismantling of our technical teams in the uninformed and ill-advised notion that by so doing we will automatically hasten the application of science to our social ills is little short of suicidal. Such a transition, already well into its third year, will be evolutionary or it will be counterproductive. It is simply not practicable, or possible, to man up efficiently and effectively the necessary teams of specialists, managers, and technicians needed to attack our social problems as quickly as we can dismantle programs such as the SST. It took less than one week to completely scatter the 15,000 workers who were carefully trained and emplaced over a ten-year period in forty states, at a cost of $1.1 billion.

The President has called for 1972 to be a year of action. One such action, building upon the foundation which I have already described in balancing our national research and development, was a study by the Domestic Council, sometimes called the New Technology Opportunities Program, which Mr. Nixon asked me to assist in August of 1971. The purpose was to examine the means whereby our scientific and technical resources could help to stimulate innovation in the civil sector aimed at urgent national problems and/or economic opportunities. It was a unique program in several ways:

It made use of the systems management talent of NASA in order to coordinate the functions of other departments, the Office of Management and Budget, the Office of Science and Technology, and the Council of Economic Advisers, as well as the private sector.

It called for a broad response from the civilian technical community, including universities, industry, associations, financial institutions, businesses, labor unions, citizens groups and private individuals. More than one thousand voluntary studies were received from these sources.

And, it made a concentrated, across-the-board effort to identify those national areas of opportunity where our technical resources could make a positive impact.

Every Department and Agency played a role, and the private sector contributed voluntarily.

During the Domestic Council study of new technology opportunities, a survey was conducted of Congressional leaders to determine what, in their judgment, as the elected representatives of our citizenry, were the highest priority domestic or social areas wherein our national technological resources could have a beneficial impact when applied in a timely and appropriate fashion. The agreement among these leaders in Congress was almost unanimous as they listed:

Low cost health care.
Environmental control.
Law enforcement and drug abuse.
Mass urban transportation.
Low cost education.
Conservation of natural resources and adequate energy.
Employment.
Industrial productivity.
Urban planning and development.
Balance of trade.

Virtually all of these "priority" programs have been addressed in the FY 1973 R & D budget within the criteria for Federal involvement previously discussed. For this conference, whose theme is "Report to Aerospace Industry", it is worth putting some detailed emphasis upon the aerospace programs.

Here we clearly see the campaign theme of a "Clear Choice". The Administration is strongly supporting a cost effective space shuttle, a B–1 Bomber and the F–14 and F–15 fighter programs. The opposition would delete most and perhaps all of these vital defense programs. An equally important challenge which our aerospace industry must face is the European effort to penetrate the U.S. dominated civil air transport manufacturing market. This market has been estimated by the Aerospace Industries Association to involve, from 1972 through 1985:

$148 billion in sales.
$77 billion in exports.
$30 billion in wages.
$13 billion in Federal tax revenues.

Following the SST termination, many people assumed that the U.S. Government had turned its back upon civil aviation. Aviation has much to be proud of. Since 1938, when I was in high school, our civil aviation has offered, in equivalent dollars, a reduction of from $900 to $302 for a round-trip transcontinental trip, while reducing transcontinental travel time from 16½ to 4½ hours; while improving its safety record by a factor of 100-to-1 to one of the safest modes of travel in the history of man. Aviation has provided a means of travel that has unshackled our families and business people from any restriction of movement anywhere on our earth. A communication and travel system so extensive, so safe, economical and reliable that we may look back someday to realize that it was this single capability, more than any other, that made a peaceful world a reality.

After the noise had died away from the SST debate, I had serious apprehensions that the Federal Government and private industry "marriage" in aviation had been dissolved—a divorce, if you will. I was concerned that such a vote by the 92nd Congress, which stopped a program in its tenth year, after $1 billion of our money had been spent and at a cost of at least $100 million more to quit than it was estimated to complete the experiment—meant that the Government was turning its back upon civil aviation.

I can say now that this new experience within the Administration has encouraged me to believe that we are well along in effecting a "reconciliation."

We still need to face the judge (Congress), but let me explain how the technology opportunities program, with the outstanding cooperation of the Defense Department, has at least started to mend the fabric of our eminently successful aviation partnership of the past.

While research and development programs funded by the Department of Defense are aimed primarily at satisfying military needs, some Defense programs have potential long-term civilian benefits. For example, subject to Congressional approval, Defense will increase efforts on the following programs which are directly applicable to civil air transport needs and will support on-going NASA and DOT research without duplication:

Short take off and landing (STOL) prototype aircraft which is planned for first flight in the mid-seventies. Supporting this development is a new advanced turbo fan engine in the 20,000 pound thrust class. Flight clearance of the engine would occur in the mid to late seventies. The basic engine core could have application to quiet, emission-free engines suitable for civil use—the technology evolved from the prototype aircraft could aid in providing a sound basis for commercial short haul systems.

VTOL tilt rotor prototype aircraft, developed jointly with NASA, combines vertical take off with highly efficient cruise speed. First flight could occur in the mid-seventies. A new 1500-horsepower turbo-shaft engine is being developed that could offer significant operational advantages for VTOL aircraft in the late seventies, or early eighties. The VTOL program, if successful, could provide the technology base for the design of a new class of inter-city transports.

A prototype heavy lift helicopter which will demonstrate a 22.5-ton lift capacity for first flight in the mid-seventies. This type machine can have civil application to construction, logging, fire-fighting and even the building industries.

A Navy logistic support air transport, called COD (for "Carry-on-Deck"), that may have the potential for a successful local service carrier aircraft as a dual purpose. This could give the United States a competitor in this civil market in the late seventies and offer local service carriers a low-cost jet transport.

A joint DOD/FAA microwave landing system for an advanced technology all-weather landing system validation in 1973. This system could combine current all weather systems in operation for wide-body jets to offer certified blind landing throughout the latter part of the seventies for U.S. civil air transport.

These programs could do much to restore our aviation leadership in critical areas for the future. You are probably wondering "Where is the airbus?" Or, "Where is the U.S. SST?" The answer is simple—these are essentially financing problems. Today, it is reported that eleven U.S. insurance companies have $123 billion in assets, of which ten to fifteen per cent are reinvested each year. In 1961, these same eleven companies committed to lend $415 million to U.S. carriers. At the end of 1970, this commitment had dropped to $105 million. 1971 estimates are for about $20 million. The same financial problems exist in the civil aviation manufacturing business. The reasons, while fairly obvious, are not well understood among our decision-makers in the Congress, nor by the public. They include:

The nature of the development base applicability of military programs to civil transports has been altered drastically since the propeller transports and early jets. Those civil transports enjoyed literally "off-the-shelf" engines, tires, brakes, instruments, hydraulic, electrical and air conditioning systems and nearly exact aerodynamics and controls. The cost of a civil transport development project under those conditions was about one times the manufacturers net worth, or about $300 million. During this period, it was not unusual for the military to be developing as many as one or two dozen related bombers and transports of equal size and technology. Today, a single civil air transport development program, such as the B–747, DC–10 or L–1011, will cost from three to five times the net worth of the manufacturer, or nearly $1.5 billion. At the same time, the Defense Department has only the F–14, F–15 and B–1A in development, with little direct or "off-the-shelf" fallout into the civil programs.

Simultaneously with the onset of skyrocketing civil transport development costs, foreign nations have noticed that it takes a family of transports to dominate the marketplace. Where the U.S. offered twenty or thirty different models and captured 85 per cent of the civil transport market, we now are isolated to the trijets and the B–747, while Europe offers Concordes, A–300 airbuses, Mercures for short range; VFW–614s and Falcon 20Ts for commuter traffic, and have started their STOL projects for urban traffic. To do this, they have used multi-national treasuries for subsidized financing. It is not hard to see why they have adopted this extraordinary arrangement—on February 15 of this year, the Aerospace Industries Association published its estimated total aircraft market through 1985 as $148 billion! That's a lot of jobs, a lot of taxes and a lot of favorable trade balance, since almost half is in exports. This is what moved Mr. George Meany, President of the AFL/CIO to state in last year's SST testimony that the impact of the U.S. not competing for the SST market could cost the U.S. industry 500,000 jobs. The AIA estimates our failure to compete effectively in the civil market will cost an estimated $77 billion in export sales, 1,479,000 man-years of lost employment, $29.6 billion lost in payrolls and $13 billion less in Federal income taxes.

As if this challenge was not enough, each new civil transport represents a step forward in some major area of the state of the art. At the same time, the manufacturers must guarantee performance, maintenance, reliability and a ten-year structural life! No other industry has ever faced such challenges. Small wonder one industry leader typifies his colleagues as "racing swiftly from disaster to disaster with unbounded enthusiasm."

This combination of increasing cost/risk, decreasing government support and international subsidized multiple model competition has simply dried up the private venture capital sources for new aviation development programs. And, still, the health of this industry undergirds a major portion of our national security system. We must find a way!

V. WHAT THE AEROSPACE INDUSTRY CAN DO

The most important priority for this essential industry is to keep itself healthy. In the months and years ahead, our most valuable programs will become vulnerable to forces that would weaken our defense and space programs. Successful completion of the space shuttle, the B–1A bomber, the F–14 and F–15 fighters, the Air Force AMST, VTOL research, heavy lift helicopters and the Navy Carry-on-Deck programs will need more support than was evident for the SST. They will be needed for our security and for future SALT successes.

Our second priority will be to find the resources, the institutional arrangements and the national determination to enter the airbus competition, the second generation SST and the advanced transonic transport when the proper market demands dictate their need in the civil air transport fleets.

In these areas, a "clear choice" is not hard to find. Senator McGovern's plans for "taking the pain out of peace" would delete the ABM, the space shuttle, the B–1, the F–14 and others. An estimated 1.7 million direct jobs would be terminated. The issue of "spending priorities" which cost this nation its SST experiment will be used time and again to terminate defense and exploratory research. Fortunately, the balance of trade situation is beginning to sink in with our average citizen. Fortunately, our international competitiveness is beginning to be understood by our citizens and our labor leaders in terms of jobs. The happy notion that we can become a "service oriented" society without our advanced technology industries is not being borne out by economic fact. But those of us who are a part of this discipline must become better spokesmen, indeed, better at understanding what we have to offer and how to make these benefits clear to the public, the news media and, especially, to our policy-makers.

The idea is being espoused today, by some political elements, that we can:

Reduce our defense budget by $30 billion.

Cancel the Shuttle, B–1, ABM, F–14 and related projects.

And then add:

$10 billion to social programs.

Underwrite the nation's medical care with ultimate costs reaching $60 billion per year.

Raise research and technology to a Cabinet position.

Undertake a $3 billion urban technology program using aerospace personnel dispersed from deleted defense programs.

All of this simply ignores the basic need for a healthy industry and the timing for an evolutionary increase in emphasis toward what this industry can do for:

Health care.

Low cost education.

Environmental control.

Law enforcement and drug abuse.

Urban development.

Mass urban transit.

Conservation of natural resources and energy.

And so on. From a healthy and forward-looking aerospace industry, I believe we can do the following things which can benefit these areas of domestic opportunity if we want to and, most importantly, if we are economically and technically healthy to accept the challenges:

(1) We can analyze the market carefully in these social areas, using the program definition, program analysis, system management and market assessment skills which are more highly developed in aerospace than perhaps any other U.S. industry. These markets and programs must be defined and terested before the billions of Federal and/or private resources are committed. Our not unlimited resources should not be committed until we have established our national priorities.

(2) We can, by a multi-disciplined analysis, help to make the establishment of national priorities and national goals acceptable to our policy-makers. Dr. Moynihan in his introductory remarks to the National Goals Report of 1969, pointed out the difficulty of goal setting by stating "that they too rapidly become standards by which to judge the present, not the future—in a sense, they institutionalize discontent." By including into our technical considerations the search for new institutions, economic impacts, the means for developing financing and the social impacts, we can, at conferences such as this, provide the depth of analysis and facts required to allow our policy-makers the necessary confidence and alternate choices that will make the establishment of national priorities an act of anticipation instead of reaction to crisis which has been characteristic of much of our domestic progress through the sixties.

(3) We can examine the Federal criteria being used for resource allocation in the research fields. We can also look ahead to the potential Federal government plans for revenue sharing, the new organization of the Federal Government, and welfare reform, to examine what these potential actions could mean to the economics of large-scale domestic program evolutions. Recommendations associated with these activities could be of great aid to our policy-makers.

(4) We can, by a multi-disciplined examination of our national priorities, provide a voice of technology that would be heard and respected by our policy-makers in Washing-

ton, D.C. One outgrowth of the SST debate was the legislation forming the Technology Assessment Organization in the U.S. Congress. Our elected officials were so overwhelmed by the overstatements, on both sides of the SST controversy, that they have come to feel no organization in the technical community offers a calm and dispassionate pro and con analysis of the facts. We should, by all means, correct this condemnation of our discipline. We cannot do it by complaining that Congress is technically illiterate. We might be able to do it if we admit that we are policy-making illiterate and set about the task of understanding where our technology fits into our political priorities.

(5) We need to better coordinate with our institutions of learning. We teach art appreciation, music appreciation, etc., but who teaches technology appreciation. Certainly not our present curricula. Certainly not today's news media. Where will it come from if not the skills represented at this conference?

(6) And, finally, we must learn to communicate outside of our own industry—with economists, legislators, labor leaders, social reformers, consumer advocates, the news media, and with the average citizen. At the recent Second Annual Urban Technology Conference in San Francisco, Don Elliott, City Planner for New York City, delivered a very knowledgeable and stimulating paper on the subject of the problems of the large city; however, I was appalled when he said New York City would stick to "Modern 1920 Technology", subways, to solve its transportation problems because "politicians have learned that they cannot *trust* the technologist." What bothered Mr. Elliott was the result of a recent contract to provide computerized traffic signals in the city. The analysis did not work properly. It did not matter that the second or third effort worked and produced the desired results. The fact that 100 per cent success was not realized on the first attempt led the New York policy-makers to feel distrust for the technologists. Comparisons to perfection can be constructive; however, we must learn to communicate that the attainment of any seriously difficult goal is going to take place by increments. We need to help our policy-makers to be realistic about what technology can and cannot do. Like medicine, it must be applied wisely, in the right amounts and at the right time.

John Emery, President of McGraw Hill Publishing Company, recently published an editorial in which he points out that there are no simple answers to these complex social problems; there are no easy paths—the easy paths lead backwards. There is no way to produce less and have more. There is no way to do less and accomplish more. There is no way to give less and to get more And, there is no way to sit on your aspirations and expect things to take care of themselves. Someone has to do the conserving, the protecting, the restoring, the preserving, the cleaning, the rebuilding, the reordering, the educating and the cherishing.

Someone also has to do the producing, the competing, the inventing and the earning in order to afford the giving. In other words, there is a "social overhead" that must be paid for. There is no easy way and no one way. There is no exclusive formula. There is no liberal way and no conservative way. No Democratic way. No Republican way. No labor way. No business way. No government way and no private way. But, there are two ways—the productive way and the non-productive way. The productive way will mean that we pull together. We cannot legislate or proclaim these goals. They will only happen when we examine the enormity of our challenges and compare them with the pettiness of our squabbles.

In 1972, I believe the technical community will have a "clear choice." Our success in taking advantage of the opportunities to make our quality of life richer will, to a great extent, depend upon making our *"choices clear."*

A WHITE HOUSE CONFERENCE ON LIBRARIES—OVERDUE, URGENTLY NEEDED

Mr. PELL. Mr. President, Congress, which has been extending certain forms of aid to libraries for more than a century, has been relatively generous in recent years. For decades, Federal assistance was limited to the bibliographic and other services of the Library of Congress, the depositary library program, talking books and a few other programs that were severely restricted in scope. This pattern was broken in 1956 with the first Federal legislation providing grants to States for the expansion of public library services.

Although limited at first only to support of library services in rural areas, the law was broadened by successive enactments, the most recent of which, the Library Services and Construction Amendments of 1970, I authored to encompass construction as well as library services, urban as well as rural areas, and research, training and interlibrary cooperation.

The annual appropriation of funds for the Library Services and Construction Act may be taken as an index of congressional support for public libraries. From an initial appropriation of $2.5 million, congressional appreciation of the vital part libraries play in community life can be shown by its present appropriation level of more than $80 million.

Nor has Congress neglected libraries in the historic laws extending very substantial aid to education that have been enacted in the past decade and a half. Title III of the National Defense Education Act represented a breakthrough by authorizing Federal grants to public schools for purchase of classroom instructional equipment and loans to private schools for the same purpose. This provision of the NDEA permitted many schools to institute instructional media centers, while title XI of the act supported short-term and regular session institutes attended by many school librarians.

Enactment of the National Defense Education Act in 1958 was followed in 1963 by passage of the Higher Education Facilities Act which, when signed by President Johnson, extended construction grants to build libraries in institutions of higher education. The Elementary and Secondary Education Act of 1965 then provided substantial assistance for school libraries, both public and private, and the Higher Education Act that became law the same year provided grants for acquisition of materials by libraries in institutions of higher education, supported graduate training in librarianship and information science, and financed many research and demonstration projects.

These laws, and several others aiding libraries, were the handiwork, in part, of the Senate Subcommittee on Education, of which I am chairman. I am particularly proud of the important role I played in securing enactment of the Education Amendments of 1972. This legislation reaffirmed congressional support of title III of the NDEA and of library construction grants and loans to institutions of higher education.

The 1972 amendments also expanded and improved the college library programs for training, research, and acquisition of materials. In addition, the new law assures that library programs will be included in vocational education at the elementary and secondary level, in occupational preparation programs offered by 2-year postsecondary institutions, in the education of American Indians, and in several other vital provisions of the statute.

We have made remarkable progress with the assistance authorized by the laws I have enumerated. Last year, for example, 15 million books, filmstrips, and other instructional materials were provided to over 43 million students in public and private elementary and secondary schools. Grants for acquisition of books and other materials were made to more than 700 institutions of higher education. A promising start was made in the effort to extend public library services to remote communities lacking them, to disadvantaged persons in urban ghettos and elsewhere, and to physically handicapped persons and those living in institutions, which all too often lack library facilities, staff, or services.

In Rhode Island alone, we now have an impressive variety of library services throughout our State. For example, Westerly Regional Library Center runs a program on drug abuse for youth, and Providence Public Library's Fox Point Branch provides assistance to cities and towns for library service to Portuguese-speaking and other bilingual Rhode Islanders. We have a statewide network for interlibrary loans, which enables anyone in the State to receive from his or her local library whatever materials he or she needs. Our libraries all over the State are providing both traditional and innovative library services of high quality to better serve the people of Rhode Island.

Despite this progress, many needs for library service remain unmet, in Rhode Island and in the Nation as a whole. There are still an estimated 20 million Americans without access to libraries. Almost 34,000 elementary schools lack libraries. Less than half the Nation's institutions of higher education received Federal grants last year to permit them to expand their library resources. Far too many Americans are living in residential schools, hospitals, homes for the elderly, reformatories and other institutions and without access to libraries where they could bolster their morale, self-respect, dignity, and skills.

Concerned about these problems, Congress has established the National Commission on Libraries and Information Science, which was established by my first bill as chairman of the Subcommittee on Education. This 15-member independent agency, five members of which are professional librarians or information specialists, is reviewing the situation confronting libraries and developing recommendations that can assure, at last, universal access to library services by all Americans.

The Commission is giving special attention to relationships among libraries, present and potential, that can expand their services through greater cooperation and clearer delineation of function. It is drawing up authoritative estimates of the funds that will be required by local governments, school systems, and institutions of higher education in order to enable their libraries to meet the growing needs of their many users.

As the National Commission produces its various analyses and recommendations, I believe these should receive the attention of the tens of thousands of public-spirited citizens and professional librarians who are primarily responsible for the support and guidance of American libraries. To assure widespread and thorough consideration of the recommendations of the National Commission, I am preparing legislation that would authorize the President of the United States to call a White House Conference on Library and Information Services—the first in our history—to be held in Washington in 1976, the centennial anniversary of the American Library Association as well as the bicentennial of the United States of America.

This legislation is responsive to a resolution adopted by the Council of the American Library Association at the 1972 midwinter meeting. I agree fully with the position of the Council that the White House Conference should "be based upon conferences in every State and territory which involve the lay leadership of the States' communities and the library leadership from their libraries of all types." It is essential that there be the widest possible base of support for the continued growth and further development of all types of libraries and this can be achieved only through the understanding and endorsement of representative citizens throughout the entire country.

I am confident that a White House Conference on Library and Information Services will promote greater appreciation and support for libraries. It will forcefully acquaint legislators, public officials, the news media, and the public with the abiding concerns of librarians, educators, library trustees, and the governing boards of school systems and institutions of higher education. A White House Conference can review the accomplishments, the unmet needs, and, above, all, the magnificent potentialities of our libraries, and I am sure that, once they are made aware of the facts, the American people will see the wisdom of enlarging their support for their libraries.

NEGOTIATION FOR PROFESSIONAL SERVICES

Mr. DOLE. Mr. President, along with many other Senators on both sides of the aisle I have been kept advised by many of my constituents of the status and progress of the legislation to clarify the statutes dealing with the selection of architects and engineers for Federal construction projects. I am pleased that this legislation has been approved by the Committee on Government Operations and placed on the calendar.

This bill will resolve a serious uncertainty which, for the past 5 years, has confronted the Federal agencies and officals responsible for the design and construction of Federal facilities. It arose from a 1967 General Accounting Office report to the Congress in which it was questioned whether Congress intended that the selection of architects and engineers for Federal contracts should be continued on the traditional basis in which emphasis was placed on professional qualifications, subject to negotiation of a fair and equitable fee.

It is a basic tenet of the various professions that professional services, being of a unique nature, should not be subject to competitive bidding or price competition and should be obtained by a client on the basis of seeking the most qualified individual or organization to apply the specialized knowledge, experience, and skill to fill the particular need.

It seems particularly important that this standard be applied in the selection of engineers and architects for Federal projects, because a professional effort of less than the highest quality probably will result in a higher total cost to the Government through increased expenses for construction, maintenance and operation of the facility.

We are all aware of the need for economy and improved efficiency in Government operations, and I submit that the bill before us, H.R. 12807, is in full accord with that need. Under the traditional professional selection and negotiation procedures employed by Federal agencies for architect-engineer services the selection of the best qualified individual or firm for a particular project is always subject to the negotiation of a fair and reasonable compensation acceptable to the Government. And it should be emphasized that during the time that this matter has been under study by the Congress, there has never been any suggestion that the professional selection and negotiation procedure has resulted in excessive or improper fee arrangements. This record is a tribute to these professions and to the experienced contracting officers of the Federal construction agencies who are responsible for the negotiation of these professional service contracts.

I am pleased to support this bill and hope that it will be adopted, so we may remove any doubt of Congress' intent to favor the continuation of a procedure which has stood the test of experience and has been demonstrated to be sound public policy for the development of Federal projects on an efficient and economical basis.

DESEGREGATION AND "WHITE STUDENT FLIGHT"

Mr. TALMADGE. Mr. President, in the October 10 issue of the Atlanta Constitution there appears an editorial which I commend to the attention of every Member of the U.S. Senate.

It puts in clear perspective the problem which we are facing in the South. I quote from the editorial:

> Roughly 30 schools in this city have gone from segregation through desegregation to resegregation. In most instances, a previously all-white school becomes increasingly black, reflecting not only pupil assignments but usually changing residential patterns near the school. At some point, called the "tipping point" by Atlanta school officials, many of the remaining white parents decide that the school is on its way to becoming all-black. At that point, they begin to move to other neighborhoods. It is not long before the school, indeed, becomes all-black.

In its recent decision on the Atlanta school system, the U.S. Fifth Circuit Court of Appeals stated:

> The fear of white student flight shall not be utilized as a factor in imposing this plan.

Mr. President, this "white student flight" is not the result of State action. It represents individual choices by Atlanta families to move to other neighborhoods.

The 14th amendment guarantees equal protection to all Americans from State action. There is no State action here. This is just as surely an example of random housing patterns as any which can be found in the North.

But the Federal courts have taken the attitude, "Once de jure—always de jure."

This attitude reflects a clear denial of equal protection to the parents and schoolchildren of the South. It was situations such as the one described in the editorial which we were attempting to remedy through the enactment of the Equal Educational Opportunities Act which was filibustered to death this week.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DESEGREGATION

The fear of white student flight shall not be utilized as a factor in composing this plan—U.S. Fifth Circuit Court of Appeals.

The new Fifth Circuit Court of Appeals desegregation decision on Atlanta schools represents a fleeing from reality just as serious as the fleeing to the suburbs by white parents, a factor the court recognized by urging Atlanta school board members to pretend it doesn't exist.

The decision very directly affects a substantial number of school children, white and black, so there is no way to dismiss the decision as judicial foolishness. But the decision indicates a determined know-nothing approach to more than a decade of history of school desegregation in Atlanta that borders on the irresponsible.

The Fifth Circuit Court ruling in effect reverses a lower district court declaring the Atlanta school system "unitary." That single word has been a troublesome one throughout the entire process of court decisions and legislation aimed at eliminating the old dual, racially segregated school systems of the South. The U.S. Supreme Court has never given an adequate definition. But supposedly a "unitary" system is one which has in assorted ways moved to eliminate completely the deliberate racial discrimination and segregation-by-law affecting pupils in the public schools.

Atlanta school officials are human and undoubtedly have made mistakes in the long tortuous process of bringing the dual system to an end. But they have moved to follow in detail court order after court order. They have more than once been commended by the federal courts for their cooperation in complying with the law. The lower court ruling that Atlanta had become a "unitary" system meant that, in the court's judgment, school officials had done about everything literally that could be done to eliminate any vestiges of the deliberate segregation of the past.

The Fifth Circuit has now thrown that out the window, the reasoning being that fully 106 of 153 schools in Atlanta are either predominantly white or predominantly black, which by the court's definition means that these schools have 10 percent or less of the minority group (white or black).

The weakness of this reasoning, and we confess to believeing it near-bubbleheaded, is that it totally ignores the history of school desegregation in Atlanta.

Roughly 30 schools in this city have gone from segregation through desegregation to resegregation. In most instances, the pattern has been identical: a previously all-white school becomes increasingly black, reflecting not only pupil assignments but usually changing residential patterns near the school. At some point, called the "tipping point" by Atlanta school officials many of the remaining white parents decide that the school is on its way to becoming all-black. At that point, they begin to move to other neighborhoods. It isn't long before the school, indeed, becomes all black.

These same 30 schools, which have gone through every stage of desegregation possible, are now most of them presumably among the 106 mentioned in the court's decision as being "totally or virtually totally segregated."

The truth is, and it is a hard truth, there is only a limited amount which either court decisions or school officials can do to maintain the atmosphere and conditions for genuinely integrated public schools.

We are proud of the 47 schools in Atlanta, slightly more than 30 per cent, which have stabilized with relatively sizable percentages of both black and white students. We are proud that dozens of other Atlanta schools have white and black pupils who seem to get along well (though fewer of the minority group than that magical 10 per cent used by the Fifth Circuit). We are proud that all of Atlanta schools have both black and white teachers, and that they have worked with each other and their pupils to achieve educational goals, not by any means without problems sometimes but with surprisingly little friction in what involves major cultural and social change.

Existing school segregation in Atlanta is based on residential patterns. There are "open housing laws against racial discrimination in selling or renting homes. But there is no law, no court decision, which forces any particular family to continue to live in a given neighborhood if they don't like the school or want to move for any reason at all. And, that's why the Fifth Circuit's new ruling has an almost unreal head-in-the-sand quality in stating that the "fear of white student flight" should not be a factor in preparing a new student assignment plan.

But that potential white flight ought to be a factor in any plan. To pretend it isn't is the moral equivalent of pretending that deliberate segregation of the past had no detrimental effect on black school children.

To use the Fifth Circuit's figures, there are now 73,129 black pupils and 21,850 white pupils in Atlanta schools. Only a few years ago, there were more white pupils in Atlanta schools than black pupils.

We don't know how the Atlanta school board will move to try to comply with the court order to come up with a new student assignment plan, effective this November 27. Having read the Fifth Circuit's decision and tried to make sense out of it, we sympathize with those who must do so officially.

But it is clear that, in some fashion, the board must move to reassign both white and black pupils who are already three months into a school year. We take small comfort in the thought that our school board members may show more wisdom in dealing with a new Fifth Circuit court order than the distinguished judges did in writing it.

GENERAL DISORDERS

Mr. HUGHES. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "General Disorders," published in the New York Times of October 13, 1972.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GENERAL DISORDERS

Judging by statistics extracted from the Pentagon by Senator Harry F. Byrd, Jr., of Virginia the United States armed forces are being led by the lame and the halt.

Senator Byrd's curiosity was aroused by the disclosure that Maj. Gen. John D. Lavelle had been retired on 70 per cent disability as part of his "punishment" for allegedly ordering non-authorized bombing strikes against North Vietnam. The disability allowance entitles the general to tax exemption on a comparable proportion or his retirement pay of some $27,000 annually. A medical evaluation board found that the former commander of the Seventh Air Force in Indochina was suffering from a heart murmur, emphysema and a slipped disc although only a short time before he had passed another medical examination qualifying him for flight pay.

In response to the Senator's inquiry, the Pentagon reported that General Lavelle was no exception—that 53 per cent of all Air Force generals who retired between Jan. 1, 1964, and last July 31 received at least 30 per cent disability. Of these 77 per cent had qualified for hazardous flight pay within six months of retirement. In addition, 40 per cent of all retiring Army and Marine Corps generals and 30 per cent of the retiring admirals qualified for disability during the same period.

Two conclusions are possible: either the nation's armed services are being led by a large number of general officers whose physical fitness for duty is questionable or generous retirement benefits and tax exemptions designed to aid the truly disabled are being scandalously abused. Either way the public is being bilked and the integrity of the armed services once more is called into question. Senator Byrd's demand for an inquiry is very much in order.

SURFACE MINING LEGISLATION

Mr. HARRY F. BYRD, JR. Mr. President, the Senate is now considering some very important legislative proposals in regard to surface mining.

I support S. 630 as reported by the Interior Committee. But the adverse economic effects of other proposals now before the Senate could be catastrophic. Thousands upon thousands of employees directly associated with the mining of minerals would be put out of work if some of the proposals now pending are approved.

Thousands of people in allied fields would be unemployed. Our balance of payments would be reduced at a time in which the deficits in this area are of great cause for concern.

The coal reserve would be reduced materially, with much of the reserve being taken from the supply, legislatively.

Mr. President, I am in accord with the objective of S. 630, the committee-approved surface mining bill.

This objective is well stated by Senator LEN B. JORDAN in the Senate report, wherein he said that—

> S. 630 is a reasonable, effective measure designed to promote the environment without adversely affecting essential mining activity and conforming to the now generally accepted policy that the costs of the mineral developed should reflect the cost of adequate reclamation.

In the past, when we were not so ecologically aware, many acres were turned into wastelands. However, I think that today vast improvements have been made in our thinking and in our regulation of mining activities.

I believe that S. 630, as reported by the Senate Committee on Interior and Insular Affairs, is another step in the right direction. It is a sound, forward-looking proposal.

I do not totally agree with its provisions—for example, in my view the bond requirements are excessively high for small, independent operators. Nevertheless, it is a bill which I can support, as reported.

It has the advantage of applying to all minerals.

However, there are other proposals which I cannot support.

The House-passed bill—H.R. 6482—as I see it, has a number of major defects, including its limitation to coal mining only; its strict slope requirements; its prohibition of spoil banks upon a slope in excess of 14 degrees; and its narrow application which would not equally apply to all areas of coal production.

Mr. President, in my view, the substitute of the distinguished Senator from Washington, Mr. JACKSON, is very similar to H.R. 6482 in its application to coal mining, and would be subject to many of the criticisms of that bill.

In my State of Virginia there is much coal production in the southwestern areas. Coal production, together with its allied industries, is the major industry and the major sources of income.

In 1966, the Virginia General Assembly enacted a surface mining law to regulate the industry. It was modified and strengthened as late as the session of 1972. And there is an ongoing study program in the Virginia General Assembly to propose legislation to further upgrade surface mining regulation.

Mr. President, I believe that Virginia has a sound law.

It requires that a permit be obtained from the division of mines of the Commonwealth of Virginia to enable an operator to retrieve, by surface mining methods, coal from any land within the State. This law is rigidly applied and in numerous instances permits have been denied because it is unrealistic or destructive to mine a certain site or because it would not be feasible to "reclaim" the site.

It requires that all areas that are mined by surface mining methods be reclaimed and that such reclamation process be maintained within 700 feet of the site of actual mining.

The Virginia law requires that reclaimed areas must be seeded with legumes and/or trees at no less than 6-month intervals—spring and fall.

Virginia requires a bonding fee of $200 per acre, and, incidentally, less than six bonds have been forfeited since the inception of the law in 1966.

There are adequate fines for violation of the strip mining law and the State is required to reclaim any area for which an operator forfeits bond.

We have found in Virginia not only that newly mined areas are reclaimed but that, because of new and larger equipment, operators are "remining" orphan lands and consequently, reclaiming old mine sites.

Mr. President, I would like to provide some facts concerning the effect on Virginia, and particularly southwest Virginia, if either H.R. 6482 or the Jackson substitute were to be passed in their present forms.

I would remind my colleagues that the coal mining areas of Virginia are in the Appalachian region of southwest Virginia. An area that is already severely depressed economically.

We have done much in the Congress to aid this depressed area. Lets not put them further backward in the late hours of this session.

The region is one of steep, mountainous terrain with virtually no level, flat land.

I am furnished with the information concerning surface mining in Virginia that:

First. There were, in 1971, more than 1,300 persons directly employed by surface mining companies. These employees provide direct support for an estimated 5,000 people in Virginia.

Second. Nearly $10 million in direct wages went to surface mine employees in 1971. These wages resulted in circulation of an estimated $35 million in southwest Virginia's economy.

Third. If surface mining were banned in Virginia, numerous retail stores and service industries would also collapse. Mass unemployment would result, and an estimated 25,000 persons throughout the State—including railroad employees and east coast shipping employees—would lose their means of support.

Fourth. When all factors are considered, reliable estimates place the surface mining industry's contribution to Virginia's economy at $125 million annually.

Fifth. Coal-bearing lands are subjected to a triple tax burden in southwest Virginia; a property tax, a mineral rights tax, and, during the year coal is mined, a so-called development tax. This latter tax amounts to nearly $100 per acre for the average coal lands.

Sixth. In southwest Virginia, where level land is rare, reclaimed surface mines, are being used for homesites, orchards, farms, schools, shopping centers, and recreation areas.

Seventh. There has been only one instance of acidity in a stream in southwest Virginia in recent years.

Eighth. A 14-degree slope limitation would eliminate 95 percent of current surface mining in Virginia. A 20-degree limitation would eliminate 60 percent of current production.

Ninth. The current production of coal from surface mining in Virginia exceeds 9 million tons per year. Total cost production in Virginia is approximately 33 million tons per year.

Tenth. About 15 percent of the production from surface mines in Virginia goes into the export market.

Mr. President, more than one-half of the Nation's 1971 coal production came from surface mines. Numerous large electric power companies rely entirely on coal from contour surface mines. This provided 9 percent of the total energy requirements of the United States. By comparison, only 4 percent of these requirements are met through hydrogeneration, and only 0.4 percent by nuclear production.

I submit that if surface mining were to be substantially curtailed, it would be virtually impossible to provide other energy sources on short notice. This would add to the critical energy shortages in major metropolitan areas.

Mr. President, I am well aware of the controversial nature of this legislation. I realize that the basic purpose is to insure that the environment be protected from damage by unchecked techniques. The record will show that I have supported every major piece of legislation the objective of which was conservation of our natural resources. And we have come far in that respect.

The people of southwest Virginia love their mountains, as does the senior Senator from Virginia. The people there are not isolated from current emphasis on environmental matters, nor are they naive. Certainly they, of all people, want their environment protected, as they must live in it. But they need a livelihood also.

I believe a better balance can be struck.

I am of the opinion that the Senate should not attempt to reconcile the differences between the three major surface mining proposals, with their far-reaching effects, at this late time as adjournment draws near.

I would recommend that the Senate heed the advice of the distinguished Senator from Utah, Mr. Moss, the able chairman of the Subcommittee on Minerals, Materials, and Fuels, who, on the floor of the Senate urged the leadership to make surface mining legislation its first priority in the next Congress.

Representatives Wayne N. Aspinall and James Kee have viewed the House-passed bill with great perception. They say in separate views to the report of H.R. 6482 that the bill reflects "an unfortunate overreaction and lack of balance."

I agree with their opinion.

Mr. President, the statement of Messrs. Aspinall and Kee is an excellent critique of the bill and the problems it would afford. I ask unanimous consent that the entire statement be printed at this point in the Record, and recommend highly to my colleagues in the Senate that they carefully study it.

There being no objection, the statement was ordered to be printed in the Record, as follows:

SEPARATE VIEWS

I feel obligated to explain my position on H.R. 6482, as amended.

First of all I want to emphasize that I am in complete and full agreement with the general purpose and objective of this legislation. That purpose is to provide for the regulation of surface coal mining, and to provide for the conservation, acquisition and reclamation of surface areas affected by coal mining activities. No reasonable man can any longer condone or approve of the wanton destruction and totally unnecessary devastation caused by certain types of surface coal mining activities. While much of this damage occurred under mining practices no longer followed and at times when there was not the present awareness for the need to protect total surface resource values, this is not a justifiable excuse for inaction today. Today, we are aware of our past mistakes and we must take action to prevent any continuation of these abuses. We have the technology to do this.

Having said that, I now want to turn to some features of H.R. 6482 which in my opinion reflect an unfortunate over-reaction and lack of balance in the proposed legislation.

The Committee has voted to report out a bill which, in my view, does not represent a responsible or reasoned approach to the serious environmental problem which faces the mineral industry today. That problem is finding new ways to meet the legitimate and growing needs of the Country for minerals and fuels without inflicting unnecessary and unacceptable damage on the environment. We all know the types of pollution that can result from improper mining methods. We are all agreed that we can no longer tolerate the attitude which regards production of minerals as the only objective and disregards the consequences to human health or the environment. But rather than blaming technology for our problems, we should put technology to work to find the answers. We need legislation that will stimulate creative thinking by making reclamation a requirement of all mining operations and by relying on the ingenuity of American industry to find the most efficient means of accomplishing it. The legislation should be goal oriented, giving sufficient flexibility to the administering agency to apply the goal to a wide variety of diverse situations.

The approach taken by the bill which the Committee has reported is too narrow. Instead of focusing on the end result of reclamation, it focuses on the specifics of the mining operation, imposing absolute and arbitrary prohibitions on certain types of operations in areas which the drafters feel cannot adequately be reclaimed.

An example is section 9(b) which may well prohibit mining on slopes greater than 20 degrees. This section, as recently amended, prohibits mining on slopes exceeding 20 degrees "unless the operator can affirmatively demonstrate that sedimentation, landslides, or acid or mineralized water pollution can be feasibly prevented and that the areas can be reclaimed." I recognize that there may be situations in which reclamation of such slopes would not be feasible or would be so costly in relation to the value of the coal as to be prohibitive. This also could be true of slopes less than 20 degrees. Where it is, mining should not occur. Since there are methods of reclaiming surface mined areas on slopes in excess of 20 degrees, we need to make sure these methods are used. I question whether this can best be done by placing the burden of "affirmatively demonstrating" such methods on the operator. I believe the Secretary ought to have a wider range of options in such cases.

To the extent that this provision becomes a flat, arbitrary prohibition against surface mining on slopes exceeding 20 degrees, the principal result will be to shut down about half of the surface coal mines in the Appalachian Region and to reduce the total coal production from Appalachia by about 20 percent. This represents about 85 million tons of coal a year (one-seventh the total United States production) that will have to be made up with energy from other sources, probably the western coal fields. It could, according to an estimate by the Bureau of Mines in the Department of the Interior, put about 20,000 men out of work in the Appalachian region, an area already suffering severe economic hardships.

Two points must be made here with respect to this possibility and its impact on coal production. First, while the possible prohibitive features of this bill will not have the same immediate, widespread and disastrous impact on the west that it will have on the eastern coal production, it could mean that millions of tons of western coal reserves will be made unavailable for mining in the future. The reason is simple: contour and auger mining on steep slopes are not now as common in the west as in the east. It is expected, however, that as future needs for energy increase the need for this type of coal extraction will also increase, even in the west.

The second point that should be emphasized is simply that the 20 percent loss of coal production from Appalachia cannot be immediately made up by increased coal production from the western fields or from any other area. A minimum period of three to seven years must be expected to elapse before this lost production can be replaced. In this period of critical energy supply it is inconceivable to me that this Body would knowingly and unnecessarily make possible the elimination of about one-seventh of the total coal production in this country. If it does it should also now determine where and how that loss will be made up. This can't be left to chance or good luck.

Another provision which I consider equally arbitrary and unjustified is section 18(c) which would prevent "the creation of a permanent spoil bank upon a natural downslope in excess of 14 degrees from the horizontal adjacent to the outcropping of a seam of coal." If the objective of this provision is, as I assume it is, to prevent landslides, the bill already contains numerous provisions regarding the stabilization of slopes. Properly constructed waste banks can be stabilized on slopes in excess of 14 degrees. There is no reason for an absolute prohibition.

I cite these two situations merely as examples of the type of problems that I see with this legislation. There are many others, but the most important, in my view, is the failure to give the Secretary of the Interior the necessary discretion to tailor the legislation to meet local conditions. This legislation reads more like a detailed Departmental regulation for a particular area rather than general legislation that must be applied across the entire sweep of this nation. Mining conditions vary from state to state. There is little similarity between coal mining surface operations in Appalachia, with its relatively narrow seams of coal, high rainfall, and steep and mountainous terrain, and coal mining in many of the Western states where rainfall is much less, where slopes may be more moderate, and where coal seams may exceed 100 feet in thickness. These variations demand flexibility to meet local conditions. In my opinion, H.R. 6482 does not provide that flexibility.

The restrictions and limitations of H.R. 6482 will fall most heavily upon the small operator. I do not anticipate that any of the major coal producers will be put out of business. Curtailed yes, but not completely destroyed. The reasons for this are simple. Most of the major coal producers operate across the country in many states and under a variety of conditions, including the steepness of the slope. Therefore, it is unlikely that all of the production from any one major company would be completely eliminated. Operations in one or two states could well be eliminated but others would likely survive. The small operator, however, operating from one or possibly two locations could very well be eliminated, and certainly if he is operating a surface coal mine in the Appalachia region his operations appear to me to be numbered. He does not have the flexibility of the larger producer and his future depends on his ability to continue production from within a restricted area. There is little doubt in my mind that the small operator will be severely injured and most likely put out of business in the Appalachia area where he now produces coal. He may fare somewhat better in the west but even there he will be in a very precarious situation. Besides this unfortunate situation his elimination will certainly tend to further concentrate coal production in the hands of a few major companies. This further concentration of energy production is not in the best interest of this nation.

Let's look briefly at the present surface coal mining industry and attempt to determine the possible impact of this proposal. The following are estimates and projections only but they are based upon the best available data that could be obtained from the Bureau of Mines. I want to emphasize that while they are estimates I feel they are realistic. They are intended to slow a range of values and possible consequences of this proposal. I believe they do this.

Production of bituminous coal and lignite by surface mining methods totaled 264 million tons in 1970. This was 44 percent of the total output of bituminous coal and lignite, and the use of this coal provided the United States with an estimated 9 percent of its total energy requirement.

By way of comparison all hydro generation produced only 4 percent and all nuclear generation only 0.4 percent of our total energy requirement.

Of the total production by surface methods, 92 percent was produced by strip mining and 8 percent by auger mining. The Bureau of Mines has no further breakdown of strip-mine production by specific method of recovery, but it is estimated that about 60 percent of the total output of the United States was produced by area stripping methods and 40 percent by contour stripping.

Area stripping is the production method normally used on relatively flat terrain, and the proposed legislation allowing recovery almost entirely in areas where the slope of the terrain does not exceed 20 degrees would have little or no effect upon area stripping operations. It would have a profound effect however, upon most operations employing contour stripping methods and, in some States, would virtually eliminate the production of coal by stripping. It would also practically eliminate coal production by auger mining.

Available data show that production by contour stripping and auger mining accounted for about forty-five percent of the total surface mine output in 1970. Virtually all was produced in the Appalachian Region and the bulk, 99 million tons, came from East Kentucky, Ohio, Pennsylvania and West Virginia.

An estimated total of 19,079 men, about 60 percent of the total employed at all surface operations, were employed at contour-strip and auger mines in 1970. Of this number, 4,329 men were employed in East Kentucky, 2,419 in Ohio, 4,209 in Pennsylvania, and 5,396 in West Virginia.

If these estimates on production and employment on steep slopes are realistic, the proposed legislation could effect the following changes:

(1) Virtually eliminate auger mining as a production method.

(2) Decrease production by stripping by nearly 30 percent.

(3) Decrease surface-mine production in the Appalachian Region by 50 percent.

(4) Decrease surface-mine production in the United States by about one-third.

(5) Decrease the total bituminous coal and lignite output of the Appalachian Region by nearly 20 percent.

(6) Decrease the total bituminous coal and lignite output of the United States by about 15 percent.

(7) Decrease employment at stripping operations by 38 percent.

(8) Decrease employment at all surface mines in the Appalachian Region by 60 percent.

(9) Decrease employment at all surface mines in the United States by about 45 percent.

(10) Decrease total employment at bituminous coal mines in the Appalachian Region by 12 percent.

(11) Decrease total employment at bituminous coal and lignite mines in the United States by about 10 percent.

With respect to mine size, the legislation could force the closing of 513 auger mines, each producing less than 100,000 tons per year, and 40 auger mines, each producing more than 100,000 tons per year. Data on the size of contour-stripping operations are not available, but the possible ban on steep-slope mining would affect virtually all contour operations in East Kentucky, Tennessee, Virginia and West Virginia and force 877 operations with annual production of less than 100,000 tons each and 124 operations with output greater than 100,000 tons each in these States to abandon their operations. It is estimated that in the State of Alabama, Maryland, Ohio, and Pennsylvania, an additional 250 contour strip mines, each with annual output of less than 100,000 tons and 55 mines with greater output could be affected by the ban.

While this proposal purports to regulate and control rather than prohibit and eliminate it is, in fact, prohibitive in many of its provisions. In all too many instances it arbitrarily imposes mandatory and inflexible rules that will make its administration and enforcement a burden on the producer and consumer alike. It stifles technological innovation by freezing industry in narrow channels. It does not focus on end results, that is good reclamation and preservation of the environment that we all agree are desirable, but rather it eliminates and prohibits certain types of mining operation. In many cases this arbitrary prohibition is entirely unnecessary. Again may I say that I am in complete agreement with the stated objective of this proposal. I cannot, however, accept its unnecessary mandatory and arbitrary prohibitions against classes of mining operations.

For these reasons I regret that I cannot support this legislation in the form it has been reported out of the Committee on Interior and Insular Affairs.

OUTSTANDING WORK OF BISHOP HUGH A. DONOHOE, CATHOLIC BISHOP OF FRESNO, CALIF.

Mr. TUNNEY. Mr. President, I should like to call attention to the outstanding work of a Catholic bishop in California. He is Bishop Hugh A. Donohoe of Fresno. His work on behalf of the rights of farmworkers is heralded throughout California and is commended in a special letter from Pope Paul VI. I should like to add my voice of tribute, and ask unanimous consent to have printed in the Record an article published in the Monitor, of San Francisco, about this outstanding religious leader.

There being no objection, the article was ordered to be printed in the Record, as follows:

Pope Lauds Fresno Bishop's Stand

Pope Paul VI has praised Bishop Hugh A. Donohoe of Fresno for his defense of the rights of farm workers in San Joaquin Valley.

The praise was contained in a personal letter from Pope Paul marking Bishop Donohoe's silver jubilee (October 7) as a bishop. The Pontiff said:

"Besides your other accomplishments of evangelical justice, whose reputation is so well known, you have striven to protect the rights of farm workers, indeed most vigorously and without compromise. Because of this, you have shown yourself to be admirably imbued with the social teachings.

"Moreover, we zealously encourage you in these current activities, so that in these struggles and through your example you might lend even greater leadership; and also through your love for truth and excellence, you will continue to overcome obstacles which lie in your path. Therefore, to the very boundaries of our earthly dwelling, remaining strong in undiminished faith, rejoicing in hope, be an extraordinary lover and cultivator of the sacred scriptures, in which the covenant of peace and of life are so forcefully expounded."

A native of San Francisco, Bishop Donohoe was consecrated by Archbishop John J. Mitty on Oct. 7, 1947. This coming Sunday, Oct. 8, he will mark his 25th anniversary with a concelebrated Mass at 4 p.m. in St. John's cathedral, Fresno, followed by a public reception to which all the people of God in the area are invited.

The concelebrants with Bishop Donohoe will be two of his brothers, the Jesuit Fathers Patrick Donohoe, chancellor of the University of Santa Clara, and Joseph Donohoe, a missionary in Taiwan; Msgr. William M. Burke, Vicar General of Stockton; Msgr. James E. Cain, chancellor of Stockton; Msgr. Dennis Doherty, Vicar General of Fresno, and Msgr. Seamus O. McMullan, pastor of St. Joseph's parish, Selma, and president of the Fresno Diocesan Priests' Senate.

Among the prelates attending the Mass will be Archbishops Joseph T. McGucken of San Francisco; Timothy Manning of Los Angeles, and Thomas A. Connolly of Seattle; Bishops Alden Bell of Sacramento, Merlin J. Guilfoyle of Stockton, Mark T. Hurley of Santa Rosa, Felixberto C. Flores of Guam and Harry A. Clinch of Monterey; Auxiliary Bishops William J. McDonald and Norman F. McFarland of San Francisco, and Msgr. George G. Higgins, Director of the Department of Research, United States Catholic Conference.

Bishop Donohoe was ordained to the priesthood in 1930, served briefly as assistant at St. Anselm's parish, San Anselmo, and then taught for two years in St. Joseph's preparatory seminary, Mountain View. In 1932 he went to Catholic University of America in Washington D.C. completing his doctorate in 1935.

Thereafter he taught industrial ethics at St. Patrick's major seminary, Menlo Park, until 1942, when he was appointed editor of The Monitor, a post he held until his elevation to the episcopacy.

He became Vicar General of the San Francisco Archdiocese in 1956, and upon the death of Archbishop Mitty in 1961 was elected archdiocesan administrator. In 1962 he was named the first bishop of Stockton and in August of 1969 was transferred to the See of Fresno.

Bishop Donohoe is recognized as an authority in labor-management relations and was founder of the San Francisco chapter of the Association of Catholic Trade Unionists. He is also a member of the U.S. Bishops' Ad Hoc Committee on Farm Labor and was prominent in the mediation efforts of that committee in solving the Delano grape dispute.

AMICUS CURIAE BRIEF ON BEHALF OF OVERSEAS VOTERS

Mr. GOLDWATER. Mr. President, yesterday U.S. District Judge John M. Cannella kindly permitted me to appear by counsel as amicus curiae, or "friend of the court," in the first test case brought on behalf of overseas voters under the 1970 voting statute that I authored.

This case, Hardy against Lomenzo, was filed in the name of Jack G. Hardy, a U.S. citizen who is temporarily absent from New York State and desires to vote in the presidential election by absentee means. Even though he still considers himself to be a voting resident of that State and intends to return there, New York has rejected his application for absentee registration and absentee voting. The grounds given by his State is that Mr. Hardy lacks a "fixed residence" in New York State that he currently occupies.

Mr. President, the experience of Mr. Hardy and of a vast number of other citizens who share his plight is exactly the reason why I introduced amendment No. 503 in the 91st Congress, which has been enacted as section 202 of the Voting Rights Act of 1965. From my own experience as a presidential candidate in that "cliffhanger" of 1964, I had learned at firsthand about the large group of citizens who were disenfranchised from choosing their own President and Vice President for no more reason than outmoded and unneeded legal technicalities.

The durational waiting period was one such technicality. Some citizens had to live in a State for 2 years before they could vote there. The registration time was another. One State closed its registration books 9 months before the election. The lack of absentee rights was the third barrier, keeping fully qualified citizens from the polls.

Mr. President, the combination of these technicalities was making it impossible for over 10 million citizens to share a role in choosing the highest, and only nationwide officer in the land. This was nonsense to me, as it was to the 29 cosponsors who joined me in proposing an amendment that would wipe away these burdens on presidential voting. Happily, the Congress agreed with us and section 202 became a part of Public Law 91–285, thanks in great part, I might add, to the distinguished minority leader, the Senator from Pennsylvania (Mr. Scott), who agreed to incorporate our amendment into his own substitute bill that eventually became law.

This brings us up to 1972 and the first presidential election in which the new law applied. The portion relating to the durational waiting period was upheld almost immediately, for in December of 1970 the Supreme Court of the United States decided that Congress had ample power to pass this major part of section 202. Justice Black wrote the opinion of the Court in this decision, which was *Oregon* v. *Mitchell,* 400 U.S. 112. Thus, some 5 million citizens were given the full right to vote for President and Vice President without regard to how long they may have lived in a State.

Only 5 weeks ago, on September 7, a special three-judge Federal court for the eastern district of New York sustained the second part of my amendment, which allows citizens to have a reasonable opportunity to register up until at least 30 days before the election. The name of this case is *Bishop* v. *Lomenzo,* 72 Civ. 1088. Again, millions of additional Americans were given an opportunity to qualify for voting at a time when their interest is reaching its peak.

Finally, there is the matter of absentee rights for the approximately 5 million qualified voters who will be away from the polls on election day for one reason or another. Fortunately, I can report that nearly every State across the Nation is coming into compliance with the absentee privileges extended by section 202, with merely isolated instances of voter rejections in a few, scattered counties where news about the new law simply has not filtered down.

There is one striking holdout, however, against this voluntary implementation of expanded voting rights for U.S. citizens, and it is New York State which appears to make the surprising conclusion that persons overseas who are not wealthy enough to own two homes, one here and one over there, are not bona fide residents because they lack a "fixed" residence in the State.

The nub of the case now pending in the U.S. District Court for the Southern District of New York is whether or not New York can apply its residence rule in this fashion to national citizens who want to vote for their national Presidency; and in view of its direct bearing on my purposes in sponsoring the new voting law, I asked leave of the court to file a brief as amicus curiae. It is my belief that the right to vote for the Presidency is a basic and personal right of national citizenship that is inherent in the very nature of our National Government. All U.S. citizens are affected equally by the choice of the President and by the actions he takes after his election, and to the broadest possible extent consistent with the Constitution, I want to help our citizens protect their stake in this election by being allowed to vote without regard to where they may be in the world on election day.

Mr. President, my arguments on matters of law and cases are spelled out in the brief which was filed for me with the court, and because it touches on a subject that is important to all Americans, I ask unanimous consent that an edited copy of the brief shall be printed in the Record. While this kind of fact can never be run down completely, I am advised by the Library of Congress that this may be the first time in history that the primary author of a law has appeared as amicus curiae in a Federal court case interpreting his law.

There being no objection, the copy of the brief was ordered to be printed in the Record, as follows:

[U.S. District Court, Southern District of
New York, 72 Civ. 3965]

Amicus Curiae Brief of United States Senator Barry Goldwater

(Jack G. Hardy and Ralph S. Von Kohorn, on behalf of each and on behalf of all others similarly situated, Plaintiffs; against John P. Lomenzo, Secretary of State of the State of New York; Nelson A. Rockefeller, Governor of the State of New York; William J. Van Wart and Albert T. Hayduk, Commissioners of the Westchester County Board of Elections; Defendants)

Comes now Senator Barry Goldwater as *amicus curiae,* by his counsel, J. Terry Emerson, and states:

I. ISSUES DISCUSSED

This brief is limited to a discussion of three issues, which United States Senator Barry Goldwater is specially qualified to discus. As author of section 202 of the Voting Rights Act of 1965, relating to expanding the electorate for Presidential voting, and as a former Presidential candidate of a major United States political party, Senator Goldwater is uniquely situated to discuss the claims that defendants' refusal to allow plaintiff, Hardy, to register and vote in the Presidential election is (1) a denial of the Equal Protection Clause, (2) an abridgement of the Privileges and Immunities Clause, and (3) a violation of section 202 of the Voting Rights Act of 1965.

II. DEFENDENTS' DENIAL OF THE FRANCHISE IS VIOLATIVE OF THE EQUAL PROTECTION CLAUSE

A. The right to vote for Federal officers is an inherent right of national citizenship

Defendants' refusal to register plaintiff, Jack G. Hardy, to vote for Presidential electors on the ground that plaintiff and all others similarly situated, who are outside the United States with no fixed address that they currently maintain in New York State, are not bona fide residents, constitutes an invidious discrimination violative of the personal, fundamental right of each United States citizen to vote for the United States Presidency.

In decision after decision, the Supreme Court has made it clear that "the right of suffrage is a fundamental matter in a free and democratic society" and "is preservative of other basic civil and political rights." *Reynolds* v. *Sims,* 377 U.S. 533, 561, 562 (1964); *Kramer* v. *Union Free School District,* 395 U.S. 621, 626 (1969); *Dunn* v. *Blumstein,* 405 U.S. 330, 336 (1972).

The Court has even gone so far as to state that "[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live." *Wesberry* v. *Sanders,* 376 U.S. 1, 17 (1964). However much truer is this admonition in the case of casting ballots for the highest office in the land, the Presidency.

The right to vote for Federal officers is a fundamental, personal right of national citizenship. *Ex parte Yarbrough,* 110 U.S. 651, 663 (1884), is one of many decisions in which the right to vote for national officers has been raised to the rank of a right directly dependent on and secured by the Constitution, these offices being created by the Constitution and by that alone. Also see *United States* v. *Classic,* 313 U.S. 299, 314–315 (1941).

Without these basic, implied rights there would be no meaning to United States citizenship. This is why the Supreme Court has held again and again that the rights of national citizenship "arise from the relationship of the individual with the Federal Government" and "are dependent upon citizenship of the United States, and not citizenship of a State." *United States* v. *Williams,* 341 U.S. 70, 78 (1951); *Slaughter-House Cases,* 16 Wallace 36, 80 (1872). Thus, while the States have long been held to enjoy broad powers in determining voter qualifications, classifications which might infringe upon the exercise by national citizens of one of their fundamental, personal rights of national citizenship must be closely scrutinized under the most exacting judicial standard and found necessary to promote a compelling State interest. See *Dunn* v. *Blumstein, supra,* striking down Tennessee's durational residence requirement for all elections, State, local and congressional.

B. Defendants' use of a "Fixed Residence" test absolutely precludes plaintiff from voting on the basis of his wealth

Defendants have in fact precluded plaintiff and others in his class from exercising their fundamental and personal right of voting since it is unchallenged that no one overseas who is determined to have lost his residence is allowed to vote. Unlike *McDonald* v. *Board of Election,* 394 U.S. 802, 808 (1969), where the record was barren of any indication that the State might not provide some means for pretrial detainees to get to the polls, here plaintiff and citizens similarly situated are totally shut off from the polls. This restriction is particularly indefensible since it results from a classification of overseas citizens drawn on the basis of their personal wealth.

Had plaintiff and others similarly situated been affluent enough to own or rent two homes, one abroad and one in New York State, it appears they would be treated as bona fide residents. In their letter of March 24, 1972, to the U.S. Chamber of Commerce, defendants Van Wart and Hayduk revealed that their refusal to register plaintiff was based upon the fact that plaintiff does not have an actual home at a specific address to which he could return. No mention was made that plaintiff's absence by itself controlled defendants' determination, but rather the fact that he had sold his former private home to another individual, whose family was presently occupying it, made it "obvious' 'that plaintiff did not and could not return to this same home.

In fact, plaintiff Hardy currently maintains a telephone business listing in Westchester County at a fixed address, which is the home of his mother. Defendants have not challenged that this fact is an indication of plaintiff's true intent to maintain a residence in New York State; nor does the record show that defendants challenge plaintiff's intention to return to New York State. Rather, the sole basis on which plaintiff and others in his class are rejected as residents is the fact that they do not personally maintain a fixed home in the State, which they themselves own, or perhaps rent.

Curiously, it appears that under New York State law plaintiff could be sued because he maintains a business address and dealings in the State. The so called "long arm statute," Article 3 of New York Civil Practice Law and Rules, particularly section 302(a)(1), would appear to impose on plaintiff a liability to suit in the State. And yet defendants refuse to accept the same nexus as a reason for affording plaintiff his most fundamental civil right, the franchise.

In other words, it appears that two different standards are being applied to discriminate among citizens who are overseas. If plaintiff and other persons formerly living in New York State possess the resources to still own or rent a home there at the same time they are temporarily located abroad, they may be qualified as a resident for voting purposes because they personally maintain a fixed residence to which they could intend to return. But if plaintiff and other overseas citizens lack the financial wherewithal to maintain separate homes both in New York State and abroad, they are *automatically* excluded as non-residents.

Plaintiff and other overseas citizens are effectively precluded from voting not only by reason of not being considered to be residents, but also by reason of the failure of defendants to afford them with absentee privileges. Since plaintiff is situated outside the country at such a great distance from New York State, he is unable to return to the polls without bearing the expense of transportation to the election booth and back, something few citizens have the resources to do. Thus, plaintiff and others in his situation are at the least penalized on account of their travel outside of New York State, and for all intents and purposes effectively precluded from voting. Again, unlike *McDonald,* here there is no way defendants could possibly provide for voting by plaintiff other than by absentee means.

C. Defendants' "Fixed Residence" requirement must be necessary to promote a compelling State interest

Because defendants' application of the "fixed residence" test has the effect of absolutely prohibiting plaintiff and others in his class from exercising the franchise and because this impact is related to the resources of citizens overseas, defendants' automatic statutory classification of these citizens as non-residents must be closely scrutinized under the more exacting test "required for any statute that 'place[s] a condition on the exercise of the right to vote.' " *Dunn* v. *Blumstein, supra,* 405 U.S., at 337.

Thus, "the general presumption of constitutionality afforded state statutes and the traditional approval given state classifications if the Court can conceive of a 'rational basis' for the distinctions made are not applicable." *Kramer* v. *Union Free School District, supra,* 395 U.S., at 627–628 (1969). Instead, "the Court must determine whether the exclusions are necessary to promote a compelling state interest." *Id.,* at 627; cited approvingly in *Dunn* v. *Blumstein, supra,* 405 U.S., at 337, 342.

As in *Dunn,* this exacting test is appropriate for another reason. *Id.,* at 338. Defendants' residence laws classify bona fide residents on the basis of travel, penalizing only those persons who have temporarily gone outside the country and cannot afford to maintain a second, fixed home in New York State. Thus, defendants' interpretation of the residence laws directly impinges on the exercise of a second fundamental personal right, the right to travel.

Freedom to travel has been recognized over and over by the Supreme Court as a basic right protected under the Constitution. A long line of cases in which this right was reaffirmed is cited in *Dunn, id.,* at 338–339. Moreover, it is firmly cemented into judicial doctrine that the compelling state interest test is appropriate where the right to travel "is merely penalized," without any need for considering whether any person has in fact been deterred from moving. *Id.,* at 339–342. Thus, absent a compelling state interest, a State may not burden the right to travel by forcing upon a person, who wishes to travel and work or live abroad, the choice between travel and his basic right to vote.

D. Defendants' "Fixed Residence" requirement does not promote a compelling State interest in Presidential elections

Measured by the strict compelling state interest test, defendants' blanket exclusion from the franchise of all citizens overseas who lack a fixed, current home in New York State, except for the narrow class of persons allowed to vote by section 151(a) of the New York Election Law, impermissibly conditions the personal rights of national citizens to vote for the national Presidency and to enjoy their freedom to travel.

It is not sufficient for defendants to show that their interpretation of the New York State residence statute furthers "a very substantial state interest." *Dunn* makes evident that "[i]n pursuing that important interest, the State cannot choose means which unnecessarily burden or restrict constitutionally protected activity." *Dunn* v. *Blumstein, supra,* 405 U.S., at 343.

One interest which must be considered is the purpose of defendants to preserve the basic conception of their political communities through the application of a rule that voters shall be bona fide residents of New York State. This purpose must be examined, however, from the perspective that we are not dealing with congressional, state, or local elections in the present case. Whatever the interests of defendants in these types of elections, here we are faced with a denial by a State of the inherent right of each national citizen to vote solely for the national office of the Presidency.

Here there can be no plausible claim of a need to insure that voters are knowledgeable in all matters pertaining to the State and local community. Here the issues are national and international in scope and cut across all areas and regions of our country. Here each citizen is a member of the same political community, the United States as a nationally organized government. In the words of Chief Justice Taney, "[W]e are one people, with one common country. We are all citizens of the United States; and . . . members of the same community. . . ." *Passenger Cases*, 7 Howard 283, 492 (1849).

It is admitted with great respect for the Federal system, that "[n]o function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices," as was stated by Justice Black speaking for the Court in *Oregon* v. *Mitchell*, 400 U.S. 112, 125 (1970). But it is equally true that implicit in the very concept of a supreme national government with national officers is an inherent right of voting for national officers as an attribute of national citizenship. The need of defendants to limit the definition of bona fide residence in the case of voters for the Presidency obviously is far less important than it might be in the case of voters for State, local, and even Congressional offices.

Accordingly, whatever test of residency defendants may choose to use in the latter case they have no compelling need for using a test in the former case more stringent than that of the usual domiciliary test of voting residence, which is known to every jurisdiction in the case of servicemen, i.e., that each voter shall have formerly lived in the State, shall possess a current state of mind as a voting resident thereof, and shall hold an honest intent to return to live in the State at some time in the future. Am. Jur. 2d, Elections, section 75. All 50 States and the District of Columbia apply this broad standard of residence to servicemen who have left the jurisdiction. (See compilation of State laws in Voting Information 1972, U.S. Dept. of Defense) Where a State and its subdivisions can assure themselves of this degree of past tie and enduring contact, it cannot be argued that stricter standards are needed to afford some surety that these voters for the Presidency are, in fact, members of the community who are qualified to vote for that national office in the State.

Nor can it be argued that the State has an absolute power to put any burden it pleases on the selection of Presidential electors within its borders, pursuant to Article II, § 1, of the Constitution. It is well settled that this provision does not give the States "power to impose burdens on the right to vote, where such burdens are expressly prohibited in other constitutional provisions." *Williams v. Rhodes*, 393 U.S. 23, 29 (1968). Thus, the Supreme Court has held that no State can pass a law regulating elections under color of Article II, § 1, that violates the Fourteenth Amendment's command that "no State shall . . . deny to any person . . . the equal protection of the laws." *Id.*

The use of a separate standard for voters who cast Presidential ballots will not diminish the State's rightful power to impose an appropriately defined and uniformly applied requirement of bona fide residence. The State and its subdivisions can still look behind the statements of fact and of intent made by an applicant overseas to test his truthfulness. For example, New York's election officials could check whether or not an overseas applicant did in fact maintain a home in New York State before going abroad. Or it could refer to contradictory statements which the applicant is known to have made on the application or elsewhere that cast doubt on his real intent to return as a proper ground for rejecting his status as a resident. It is still the State and its officials and no one else who shall have full power to make these initial determinations of the applicant's residence.

The State shall also retain power under this special standard to test whether an applicant for voting in a Presidential election (1) is of legal age, (2) is incapacitated by reason of insanity, (3) is disqualified as a convicted felon, and (4) has made application within the time and according to the procedures prescribed by State law and consistent with applicable Federal law. Retaining the power to make these several and controlling determinations relating to the qualifications of its voters, defendants' power to set its own standards for voting can hardly be argued to have been abrogated. Of course, the State and its subdivisions will retain total discretion, consistent with the Constitution, to determine the qualifications of its own voters for all congressional, county, and local public officers under this separate standard for overseas Presidential voters.

Nor can defendants seriously argue that it is necessary for overseas voters to maintain a fixed home in New York State in order to be minimally knowledgeable about the national election of the United States Presidency. It is common knowledge that Americans overseas now have wide and immediate access to English language newspapers, journals, and news programs circulated and broadcast in foreign areas. These private means of information are supplemented by the services of the Armed Forces Network, Voice of America, and USIA libraries which are well known to Americans abroad in even the most isolated of places.

The acute interest and awareness of Americans overseas in the Presidential election is visibly reflected in the numerous applications for absentee voting that have already been submitted to the defendants and, indeed, to every other State by these citizens. There is simply nothing in the record to support an assumption that citizens overseas are uninformed about Presidential elections and any such claim would crudely and impermissibly exclude large numbers of otherwise fully qualified citizens.

The argument that citizens overseas might hold a different viewpoint than voters who have not been absent from the State is also an invalid basis for excluding them from voting in Presidential elections. The Supreme Court has repeated in case after case in the last decade that differences of opinion may not be the basis for excluding any group of persons from the franchise. See discussion of cases in *Dunn v. Blumstein, supra*, 405 U.S., at 355–356.

Pertinent to an analysis of these arguments is the fact that defendants do not attempt to further either purpose in a universally applicable way. New York's Election Law specifically provides for voting, technically as residents, by various classes of overseas citizens, including servicemen, Federal employees, members of the Merchant Marine, and students. These individuals are just as likely to be cut off from relevant political information as any other American citizen who is abroad and the fact that defendants specifically permit voting by them, in all elections moreover, is not consistent with any claimed compelling interest in an informed use of the ballot. *Id.*, at 358–359.

Finally, defendants cannot justify a "fixed residence" requirement as necessary to stop fraud. As in *Dunn*, the qualifications of the voter can be established at the time of registration. *Id.*, at 346. It defendants accept written statements to establish the qualifications and requisite intent of citizens from abroad who are servicemen, Federal employees, students, or in the Merchant Marine, and who do not maintain a fixed home in New York State, obviously the same system would serve equally to verify the honesty of statements made by all other citizens abroad.

E. A presumption of nonresidence impermissibly creates a "Suspect" classification disenfranchising actual residents

In substance, defendants are committing the same kind of action that was held to be constitutionally impermissible in *Carrington v. Rash*, 380 U.S. 89 (1965). They are avoiding difficult factual determinations of intent by making a blanket exclusion of all citizens located overseas who do not maintain a fixed residence in New York State and who do not fall within one of the classes described in section 151 of the New York Election Law. The presumption of non-residence is conclusive, incapable of being overcome by any other proof, no matter how positive.

The use of an administratively convenient presumption of this kind, which deemed that servicemen in Texas were not bona fide residents, was rejected in *Carrington, id.*, and another that deemed that recent arrivals in Tennessee were not residents was similarly rejected in *Dunn v. Blumstein, supra*, 405 U.S., at 349–351.

One more recent case in which the Supreme Court has stricken down a State's own interpretation of who was not a bona fide resident is *Evans v. Cornman*, 398 U.S. 419 (1970), where the Court overturned Maryland's determination that persons living on a federal enclave did not meet the State's residency test. The Court in *Evans* placed heavy weight on the fact that there were "numerous and vital ways" in which these citizens were affected by electoral decisions. *Id.*, at 424.

Similarly, in the present case plaintiff and others of his class are affected in several, vital ways. Although they are outside the country they are nevertheless subject to the United States Internal Revenue Code, their children are subject to the compulsory draft laws, they are directly affected by trade and tariff measures, export controls, agency decisions on international air transportation rate proposals, and numerous foreign policy decisions, among many other actions and programs taken or administered by the Executive.

In the fullest sense of the word, plaintiff and others similarly situated overseas have a stake in the election of the Presidency equal to that of other national citizens. As in *Evans*, they are entitled to protect that stake by exercising the right to vote for Presidential electors and defendants may not deprive them of the vote because of administrative convenience to the State. *Id.*, at 426.

It is pertinent that at least three cases within the past seven years have been decided against the validity of State residence laws which were being interpreted to deprive an entire class of citizens of their right to vote. It may be that in general a State may require voters to be bona fide residents, but the High Court has now made it clear that the States may not use a test for bona fide residence as a technical device for sweeping a whole class of citizens off the voting rolls where the exclusions are not necessary to promote a compelling State interest.

In other words, a State may not mistakenly confuse other requirements with a bona fide residence requirement. This error on the part of defendants is why the "fixed residence" test of New York State in the present case is comparable in practice to the "durational residence" requirement of *Dunn* v. *Blumstein*, the "servicemen's non-residence presumption" of *Carrington* v. *Rash*, and the "Federal enclave nonresidence presumption" of *Evans* v. *Cornman*. The Court disallowed the use of the State standard in each case because it impermissibly created a "suspect" classification denying the vote to persons who the State had improperly determined were nonresidents, the same error that defendants have committed in the present case.

The decisions were not meant to cast doubt on the validity of appropriately defined and uniformly applied bona fide residence requirements in any of the three cases, but nevertheless the truth is that State determinations that certain classes of citizens were not residents actually were overturned in all three cases. If these decisions can be described as not removing the power of

States to set bona fide residence requirements because the rules under scrutiny imposed an *additional* requirement on top of the residency requirement, then it may with equal force be accepted that the "fixed residence" requirement of defendants similarly imposes a separate voting qualification on citizens who are bona fide residents for purposes of voting for Presidential electors.

This application of the "fixed residence" requirement to plaintiff and others of his class is clearly an unnecessary burden and restraint on the constitutionally protected, individual right of national citizens to vote for their President, and therefore is violative of the Equal Protection Clause of the Fourteenth Amendment.

III. DEFENDANTS' DENIAL OF THE FRANCHISE VIOLATES THE PRIVILEGES AND IMMUNITIES OF NATIONAL CITIZENSHIP

The reasoning presented in the last part, establishing a denial of the Equal Protection Clause, has equal bearing to establish a violation by defendants of the Privileges and Immunities Clause.

Section 1 of the Fourteenth Amendment provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The right to vote for national officers has been often recognized as one of the privileges and immunities of national citizenship granted or secured by this clause. *Ex parte Yarbrough, supra,* 110 U.S., at 663, *In re Quarles,* 158 U.S. 532, 535 (1895); *Twining* v. *New Jersey,* 211 U.S. 78, 97 (1908); *United States* v. *Classic, supra,* 313 U.S. 299, at 314–315.

In his separate opinion, concurring in the Court's judgment in *Oregon* v. *Mitchell, supra,* as it sustained an extension of the right to vote by Congress in Federal elections, Justice Douglas unequivocally stated that the Court "need not rely on the power of Congress to declare the meaning of § 1 of the Fourteenth Amendment." 400 U.S., at 112, note 13. He explained:

"This court had determined that voting for national officers is a privilege and immunity of national citizenship. No Congressional declaration was necessary." *Id.*

Even if the right to vote in Federal elections is not by itself treated as a separate right of national citizenship, there can be no doubt that the right of free travel without loss of one's opportunity to vote is protected by the Fourteenth Amendment as a privilege of United States citizenship. See *Oregon* v. *Mitchell, supra,* 400 U.S., at 285–287, 292 (opinion of Stewart, J., with whom Burger, C. J., and Blackmun, J., joined).

Thus, by imposing a "fixed residence test" on citizens applying to vote from overseas, with only narrow exceptions, defendants have wrongly abridged a constitutional privilege which finds its protection in the Federal Government and is national in character. The "fixed residence" requirement impermissibly conditions and penalizes the right to travel by disenfranchising from Presidential elections qualified citizens of New York State who have moved in interstate commerce and are temporarily absent from the State.

This kind of burden on the personal right to travel is unconstitutional because it is in no way necessary to promote a compelling governmental interest, for the reasons discussed in part II of this brief.

IV. THE CONGRESSIONAL INTENT IS CLEAR THAT SECTION 202 OF THE VOTING RIGHTS ACT APPLIES TO THE PRESENT CASE

A. Section 202 and the legislative history show an intent to expand the franchise as broadly as possible in Presidential elections

It is axiomatic that no one knows more about the Congressional intent of a statute than its author. This is particularly true when the purpose of the statute has not been diluted or altered by subsequent modifications, as in the present case.

Section 202 of the Voting Rights Act of 1965 was drafted entirely by, and within, the Office of United States Senator Barry Goldwater. Each provision of the section was written in accordance with his expressed policy and each stage of the legislative history of the law was closely supervised by him so as to explain its purposes in a uniform and clear manner.

The section was not drafted by the Justice Department. It was not shaped by a Congressional Committee. It was approved by the Senate, and subsequently enacted into law, exactly as drafted by its author, with minor technical changes of non-substantive nature which simply conformed the style of the section to the overall legislation to which it was added.

The amendment was first proposed by Senator Goldwater for himself and 28 other Senators on February 19, 1970, during his testimony before the Senate Subcommittee on Constitutional Rights. See text in Hearings Before the Senate Subcomm. on Const. Rights (hereinafter referred to as Hearings), 91st Cong., 1st & 2d Sess. (1969–1970); 294–295. At this time Senator Goldwater discussed the purposes of his amendment, which was offered to the then pending Voting Rights Act Amendments of 1970 (H.R. 4249, 91st Cong., 2d Sess.), and explained in detail how his amendment differed from and expanded upon the House passed bill. *Id.,* at 277–306.

When the voting measure reached the Senate Floor without the inclusion of his amendment, Senator Goldwater successfully got his amendment incorporated into the Scott-Hart substitute measure which eventually was enacted into law as Public Law 91–285; H.R. 4249. It is pertinent that the Goldwater Amendment, once attached to H.R. 4249, was never changed in any way by the Senate or the Joint Conferees which resolved the differences between the Senate- and House-passed versions of the bill.

The essence of the Goldwater Amendment was succinctly described by Senator Scott at the moment he modified his original substitute bill so as to include the language of the former's Amendment. Senator Scott stated that "not only does Mr. Goldwater's amendment carry out the intent of the language contained in the original substitute, but, more importantly, it provides for voting rights to many citizens not otherwise covered by the original language." 116 Cong. Rec. 5690 (March 3, 1970).

The entire thrust of the Goldwater Amendment was to expand the franchise in Presidential elections so that the maximum number of citizens will be eligible to vote. As was correctly stated in *Bishop* v. *Lomenzo* (72 Civ. 1088), by a three judge panel of the United States District Court for the Eastern District of New York, only weeks ago:

"An analysis of the legislative history of the Voting Rights Act Amendments of 1970, including the debates in both houses of Congress, reveals a clear intent to provide the broadest possible opportunity to citizens to register to vote in a Presidential election." (*Id.* at 17.)

This broad purpose was also correctly identified by Justice Black, who wrote the judgment of the Court in *Oregon* v. *Mitchell, supra,* where he reviewed section 202 as follows:

"Furthermore, Congress provided uniform national rules for absentee voting in presidential and vice presidential elections. In enacting these regulations for national elections Congress was attempting to insure a fully effective voice to all citizens in national elections." 400 U.S., at 134.

Again, this broad purpose of the provision is spelled out in unmistakable terms by the sponsor, Senator Goldwater, who said, during debate on H.R. 4249, "that the entire thrust of my proposal is to provide for the widest possible participation by our citizens in the election of their President." 116 Cong. Rec. 6994 (Mar. 11, 1970.)

The actual text of section 202 plainly carries out this purpose on behalf of citizens overseas, which is the class involved in the present case. Subsection (c) of section 202 provides:

"Nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President . . . because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election."

Put simply, a citizen who is unable to be physically present in the State or political subdivision is not to be barred from voting for the Presidency because of his absence. A citizen who is overseas at the time of the election certainly fits this category as much as anyone possibly can and is definitely one of the kinds of absentee citizens who is meant to benefit from the provision. There is no language in subsection (c) that limits the reason why the citizen may fail to be present on election day, nor was any such limitation intended.

Nor is there any restrictive effect caused by the final words of section 202(c) which provide that a citizen shall satisfy the requirements of State and local law relating to the casting of absentee ballots. This language was drafted in connection with the provisions of section 202 (d), which specifies what it is States shall provide in their laws in order to meet the purposes of section 202. Thus, subsection (d) reads in pertinent part:

"For the purposes of this section [meaning the entire section 202] . . . each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President . . . by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held. . . ."

This provision is supplemented by subsection (f) of section 202, which reads in pertinent part:

"No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President . . . in such election because of any requirement of registration that does not include a provision for absentee registration."

Accordingly, the only limiting language on the class of absent citizens that is contained in the above cited subsections is the term "duly qualified residents." In arriving at a determination of what this term means, it is necessary to look at the section as a whole and the mass of the legislative history articulating its purposes. It was on this basis that the Supreme Court upheld the application of another provision of the Voting Rights Act to State voting regulations of a kind not specified in the law itself. *Allen v. Board of Elections,* 393 U.S. 544 (1969).

In reaching its conclusion, the Court made specific mention of (1) the fact that the language of the statute had been changed at one point so as to expand its original coverage, (2) the testimony of the proponent at House hearings that the provision was to have a broad scope and (3) the fact that Congress did not alter the language once it had been expanded, all of which criteria exist in the present case as well. These evidences of Congressional intent were held to overcome both the silence of the statute itself and a statement by an Assistant Attorney General during the same hearings that the section was *not* intended to apply to the situation in question. *Id.,* at 563–571.

The Court laid down the rule of statutory interpretation that guided the case, as follows:

"In these cases, as in so many others that come before us, we are called upon to determine the applicability of a statute where the language of the statute does not make crystal clear its intended scope. In all such cases we are compelled to resort to the legislative history to determine whether, in light of the articulated purposes of the legislation, Congress intended that the statute apply to the particular cases in question." *Id.*, at 570.

So, too, in the present case one is compelled to examine the purposes of section 202 as a whole and to resort to the balance of legislative history to determine whether the section is intended to reach defendants' application of the New York State residency law. Like *Allen*, the exception of a single remark or, as here, a single term, cannot be given determinative weight. *Id.*, at 568.

The section as a whole clearly indicates a purpose that the broadest possible number of citizens should be granted the franchise. The entire purpose of the section was to correct the dismal impact which outmoded legal technicalities caused as a barrier to the free exercise of a citizen's franchise. In fact, subsection (a) of section 202 recites a declaration of findings among which is included the finding "that the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections" denies or abridges certain inherent constitutional rights of citizens and has the effect of denying to them the protections of the Fourteenth Amendment.

It was "in order to secure and protect the above stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment" that Congress declared, in subsection (b) of section 202, "it is necessary . . . to establish nationwide, uniform standards relative to absentee ballotting in presidential elections."

Thus, section 202 contains several expressly pand voting for President and Vice Presi- stated indications of a broad purpose to ex- dent and to enable United States citizens to better enjoy the franchise. Admittedly, the language of the statute does not specify all the precise problems to which the section was meant to apply, but these were described in detail by the author of the law during its legislative history and must be resorted to in reading its purposes.

On at least three different occasions before Congress, Senator Goldwater announced his purpose of securing the right to vote for President and Vice President for every citizen of the United States without regard to where he may be in the world. For example, during his testimony before the Senate Committee when he first proposed his amendment, Senator Goldwater stated:

"In my opinion, every able-minded citizen of the several States should be entitled to participate in the choice of his President—period. A citizen should be able to exercise this right regardless of where he is in the world on election day. . . ." Hearings, at 281–282. And see 116 Cong. Rec. 5690 (Mar. 3, 1972); 116 Cong. Rec. 6990 (Mar. 11, 1970).

B. The term "Duly Qualified Residents" does not indicate a purpose to override the whole intent of section 202

In a colloquy with Senator Ervin at the same hearing, concerning the power of States to prescribe qualifications for voting, Senator Goldwater again repeated his purpose to protect the fundamental right to vote even though it touched on the separate powers of the States. He emphasized that the section "applies only to the presidential election" where "it does seem to me that the Congress should act to guarantee an American citizen the right to vote for President. . . ." And referring to the recent case of *Katzenback* v. *Morgan*, 384 U.S. 641 (1966), upholding a part of the Voting Rights Act of 1965, Senator Goldwater added that "I want to take advantage of that court decision and try to get all Americans the right to vote for President." Hearings, *supra*, at 287–288.

Thus, Senator Goldwater fully understood and intended that his amendment would affect State laws on the qualifications of voters. Precisely on point is his lengthy statement of March 11, 1970, before the Senate, when he devoted seven paragraphs to an explanation of the cases where he intended the absentee provisions to apply. 116 Cong. Rec. 6991–6992. Here he expressly declared that a "person's 'home' or domicile' should depend upon his true intent to return to that home." *Id.*, at 6992. What could be clearer of his intent?

25. Even so, Senator Goldwater did not leave it to this single remark to uphold his purpose, but described in detail his meaning. He added:

"Mr. President, allow me to describe the full scope of this provision. What I intend is that civilians should be granted the very same privileges of absentee registration and voting that are extended to members of our military service.

"As I have indicated, absentee registration is nothing novel in the case of servicemen. The general rule is as follows:

" 'The domicile of a person is not affected or changed by the mere fact that he has entered the military or naval service of his country. He does not thereby lose or abandon the domicile he had when he entered the service, nor does he acquire one at the place where he serves, irrespective of the duration of his actual residence at such place. His residence or domicile is a question of intent.' (American Jurisprudence 2nd, Elections, section 75)

"Thus, it seems entirely appropriate to ask that the same rule shall be applied on behalf of civilian citizens who are temporarily living away from their regular homes, whether they are visiting relatives or friends abroad, attending college outside their own State, working for a U.S. firms overseas, or serving as Federal employees away from their normal homes. Id."

In the presence of such a mass of clear legislative history, it is obvious the term "duly qualified residents," as used in section 202 (d), should not be given determinative weight. The words were written into the statute with meaning, but not with the meaning of overriding the primary intent of the section, which was to expand the franchise in Presidential voting as far as the Constitution would allow.

The true purpose of the words "duly qualified residents" was to permit each State to retain its needed power of determining whether an applicant for absentee voting is (1) of legal age, (2) is incapacitated by reason of insanity, (3) is disqualified as a convicted felon, (4) meets the appropriate time and procedure for applying, and (5) is honest in his statements of fact and intent. These reserved functions would allow the States to exercise ample discretion over the imposition and supervision of necessary voter qualifications and would assure that the power of the several States would not be abrogated in this area.

C. Congress has power to protect the franchise in national elections

It being clear that section 202 applies to extend the vote to citizens of New York who are overseas and who merely intend to return there, as distinguished from those who maintain a fixed home there, it becomes necessary to discuss the power which Congress has over the conduct of Presidential elections.

There are at least three separate grounds on which Congress may act to provide uniform national rules for absentee voting in Presidential elections:

(1) its power to protect a national right of United States citizenship,

(2) its power under the Constitution to regulate Federal elections, and

(3) its power to enforce and secure the guarantees of the Fourteenth Amendment.

First, having established in parts II and III that both the right to vote for President and Vice President and the right to travel without condition are basic, personal rights or immunities inherent in United States citizenship, it is clear Congress may act to protect these rights under the Necessary and Proper Clause. As it was stated by Chief Justice Waite in *United States* v. *Reese*, 92 U.S. 214, 217 (1875):

"Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress, in the legitimate exercise of its legislative discretion, shall provide."

This doctrine was also followed in *Strauder* v. *West Virginia*, 100 U.S.. 303, 310 (1879), where the Court held that:

"A right or an immunity, whether created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress."

Second, Congress may act to protect the right of franchise pursuant to its authority over Federal elections. In the words of Justice Black, in a decision upholding a major portion of section 202, a long line of decisions of the Supreme Court have held "that Congress has ultimate supervisory power" over Federal elections. *Oregon* v. *Mitchell*, *supra*, 400 U.S., at 124.

Writing for the Court, Justice Black continued:

"Acting under its broad authority to create and maintain a national government, Congress unquestionably has power under the Constitution to regulate federal elections. The framers of our Constitution were vitally concerned with setting up a national government that could survive. Essential to the survival and to the growth of our national government is its power to fill its elective offices. And to insure that the officials who fill those offices are as responsive as possible to the will of the people whom they represent." *Id.*, at 134.

This is exactly the purpose from which Congress acted in enacting section 202.

Third, Congress may enforce the rights guaranteed by the Fourteenth Amendment. As Congress could override New York's English language literacy test by enacting an earlier provision of the Voting Rights Act, so Congress can affect New York's application of its "fixed residence" test by enacting section 202. *Katzenback* v. *Morgan*, *supra*, 384 U.S. 641.

All that is necessary is for Congress to enact "appropriate legislation" under section 5 of the Fourteenth Amendment. Section 5 empowers Congress to make its own determination that it is necessary to legislate for the protection of one of the Fourteenth Amendment's guarantees. *Id.*, at 653–656. And once it is determined by Congress that a burden has been placed upon a Fourteenth Amendment guarantee, the State or local governmental action in question "may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest." *Oregon* v. *Mitchell*, *supra*, 400 U.S., at 238 (opinion of Brennan, White, and Marshall, J.J.).

As explained in part II, above, there is simply no compelling reason why a State should condition the right of a person to vote for President on his actual physical presence on election day or his showing of a "fixed residence" in the State, so long as the voter shares with other voters in the State national citizenship, combined with a past residence there and the enduring tie of an intent to return.

V. SUMMARY

Defendants' denial of the franchise to plaintiff and others similarly situated because they do not maintain a fixed home in New York State automatically places a large group of overseas citizens in a "suspect" classification which absolutely precludes their exercise of the franchise in Presidential elections.

Because defendants' rejection of plaintiff's application for registration is based on the lack of a fixed home, rather than his temporary absence itself, the "fixed residence" requirement is founded on the wealth of citizens, which is not permissible under the Equal Protection Clause of the Constitution. It is plaintiff's lack of two homes, one in New York State and one abroad, that is the basis of his classification as a non-resident, and not the fact of his absence itself.

Moreover, defendants' denial of the franchise in the present case to a large class of citizens overseas must be scrutinized under the strict "compelling State interest" test. It is conclusively settled now that any State statute that places a condition on the exercise of the right to vote must withstand this more exacting test.

Applying the test here, it is obvious the classification of plaintiff and others similarly situated into a class of citizens who are absolutely precluded from voting, unnecessarily burdens the constitutionally protected rights or privilege of many qualified national citizens to vote for the national office of the Presidency.

The right to vote for our only nation-wide office is dependent upon the Constitution itself and the national character of our form of government. It is not dependent upon citizenship of a State. Therefore, the same rules which the State might apply to test the residence of citizens for purposes of voting in its State, county, local, and even Congressional elections are not applicable to voting for the Presidency. There is a different way by which the State could assure itself that these voters are indeed members of a community who are qualified to vote in Presidential elections and who will not improperly dilute the electoral votes chosen in the State.

So long as the State and county can determine that its voters have a past nexus with the State (a former home there) and an enduring tie with the State (a present state of mind of being a voting resident of the State and an intent to return there), plaintiff and his class of citizens possess all the characteristics necessary for voters for the office of President and Vice President. These citizens are indeed qualified residents of New York State for purposes of voting in the Presidential election. The political community of the State and County will not be abrogated or unduly affected by this narrow application.

Not only does the "fixed residence" requirement of defendants impermissibly deny the right or privilege to vote, but it also abridges the right or privilege of free travel. The right to travel without condition outside a State, with the purpose of entering another State or of eventually returning to the same State, is protected as an inherent right or privilege of national citizenship.

Neither the denial of the right to vote, nor the abridgement of the right to travel, can be justified as necessary to assure defendants of an "informed electorate" or to preserve the parity of its votes. Defendants permit other overseas citizens to vote by absentee means, who are servicemen, Federal employees, students, or members of the Merchant Marine, on a basis of their written statements and there is no showing as to why the same system would not be appropriate in the case of plaintiff and others in his class.

Other statutes which have been traditionally treated as "residence" requirements have been stricken down recently in a case involving a presumption that military personnel were not residents, in one involving a presumption that citizens living on Federal enclaves were not residents, and in another involving a presumption that citizens who did not meet a waiting period were not residents. Similarly, defendants may not use a separate "fixed residence" requirement as a test for excluding a large group of otherwise fully qualified citizens from the Presidential voting rolls, without showing that is necessary to meet a compelling State interest.

Without regard to whether the judiciary would find that the Equal Protection and Privileges and Immunities Clauses nullify defendants' "fixed residence" requirement, as applied in the present case, Congress has acted to protect the rights to vote and travel of citizens in the same class as plaintiff. Section 202 of the Voting Rights Act of 1965 and its legislative history establish that Congress intended the section to provide for the widest possible participation by United States citizens in the election of their President.

The statute itself specifically provides that no citizen shall be denied the right to vote in this election because he is not physically present in a State or subdivision at the time of the election. Further, the statute requires that each State shall provide absentee registration and ballots for all qualified citizens who are absent on election day.

The single reference to "duly qualified residents" in subsection (d) should not be given determinative weight in light of the mass of the legislative history which indicates the statute is meant to permit all absentee citizens to vote on the basis of their former residence in, and present intent to return to, a State. When confronted at a Senate hearing with the very question of whether or not his amendment was meant to affect or supersede long-standing State and local voter qualification statutes, the author of section 202 testified that such was indeed his intent so that as many Americans as possible could gain the right to vote for their President. Who can possibly know more about the Congressional intent of a law than its author, particularly when the legislation did not undergo any significant changes?

Congress has ample authority to enact such a law. It may act under the Necessary and Proper Clause to secure a right or privilege of national citizenship; it may act under the same clause to regulate national elections; and it may act to enforce the guarantees of the Fourteenth Amendment.

This Court would be in complete conformity with the pertinent law and authorities by granting plaintiff's petition for such relief as will enable plaintiff and the class he represents to register and vote in the Presidential election.

STAX RECORD ORGANIZATION'S GIFT TO THE WATTS COMMUNITY

Mr. CRANSTON. Mr. President, a major American business has made a notable contribution to the people supporting it, a contribution worthy of recognition.

The Stax Organization, a leading black business in America, and the dedication of its leaders to the basic principles of American citizenship deserves our commendation.

Primarily involved in the production and distribution of musical records, for which they have been known as the "Memphis Sound," the Stax Organization, headed by a dynamic man named Al Bell, recognizes that its success depends upon the public. With this in mind, Al Bell and his associates recently began a program of giving back to the people some of the benefits the company has received from them.

A most significant example of this kind of corporate responsibility was displayed on August 20, 1972, in Los Angeles when Stax, a Memphis-based company, organized "Wattstax '72," a massive 6-hour musical spectacular that brought some 100,000 black citizens together at the Los Angeles Coliseum. The entire event was a gift from Stax to the community. Stax provided the entire list of top music stars, including Bill Eckstine, The Bar-Keys, Emotions, Luther Ingram, Albert King, Mel and Tim, David Porter, the Rance Allen Group, Soul Children, the Staple Singers, Tommy Tate, Johnnie Taylor, Carla Thomas, Rufus Thomas, Eddie Floys, Hot Buttered Soul, and the incomparable Isaac Hayes. Working with the Watts summer festival, Stax also provided much of the personnel staffing the event and underwrote most of the expenses.

Admission to "Wattstax '72" was $1, enabling all members of the community to attend and also giving them the opportunity of contributing to their community. The entire proceeds from the event have been distributed to the Watts summer festival, to enable them to carry out a year-long program of community support, the sickle cell anemia program, the Martin Luther King Hospital, and the Watts Labor Community Action Committee.

Al Bell and Stax are not planning to stop with the success of "Wattstax '72." The company has a plan to continue such events in major black areas throughout the country. Similarly, continuing the spirit of black corporate responsibility, Stax is presently involved in a major antidrug program in New Haven and intends to put much of its own successful gains into all areas that will aid fellow man. Stax feels this is a mission in life which has had many rewards—human rewards of the highest order.

I commend the Stax organization and those associated with them in this project. They are, indeed, inspirational examples of good citizenship to all Americans of every race, creed, and national origin.

ALEX HALEY'S FAMILY HISTORY STUDIES

Mr. DOLE. Mr. President, I recently called the Senate's attention to a brief newspaper article about the efforts of Alex Haley to trace the origins of his family back to its preslavery origins in tribal Africa. This project is an entirely new departure in the developing field of black history, and Mr. Haley is beginning to receive some well-deserved attention for his efforts. Perhaps the most detailed explanation of this project, outside the book Mr. Haley is writing, is contained in an article he wrote for the July 16 New York Times magazine, I believe the article would be of considerable interest to other Senators and the general public, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

My Furthest-Back Person—"The African"

(By Alex Haley)

My Grandma Cynthia Murray Palmer lived in Henning, Tenn. (pop. 500), about 50 miles north of Memphis. Each summer as I grew up there, we would be visited by several women relatives who were mostly around Grandma's age, such as my Great Aunt Liz Murray who taught in Oklahoma, and Great Aunt Till Merriwether from Jackson, Tenn., or their considerably younger niece, Cousin Georgia Anderson from Kansas City, Kan., and some others. Always after the supper dishes had been washed, they would go out to take seats and talk in the rocking chairs on the front porch, and I would scrunch down, listening, behind Grandma's squeaky chair, with the dusk deepening into night and the lightning bugs flicking on and off above the now shadowy honeysuckles. Most often they talked about our family—the story had been passed down for generations—until the whistling blur of lights of the southbound Panama Limited train whooshing through Henning at 9:05 P.M. signaled our bedtime.

So much of their talking of people, places and events I didn't understand: For instance, what was an "Ol' Massa," an "Ol' Missus" or a "plantation"? But early I gathered that white folks had done lots of bad things to our folks though I couldn't figure out why. I guessed that all that they talked about had happened a long time ago, as now or then Grandma or another, speaking of someone in the past, would excitedly thrust a finger toward me, exclaiming. "Wasn't big as this young 'un!" And it would astound me that anyone as old and greyhaired as they could relate to my age. But in time my head began both a recording and picturing of the more graphic scenes they would describe, just as I also visualized David killing Goliath with his slingshot, Old Pharoah's army drowning, Noah and his ark, Jesus feeding that big multitude with nothing but five loaves and two fishes, and other wonders that I heard in my Sunday school lessons at our New Hope Methodist Church.

The furthest-back person Grandma and the others talked of—always in tones of awe, I noticed—they would call "The African." They said that some ship brought him to a place that they pronounced " 'Naplis." They said that then some "Mas' John Waller" bought him for his plantation in "Spotsylvania County, Va." This African kept on escaping, the fourth time trying to kill the "hateful po' cracker" slave-catcher, who gave him the punishment choice of castration or of losing one foot. This African took a foot being chopped off with an ax against a tree stump, they said, and he was about to die. But his life was saved by "Mas' John's" brother—"Mas' William Waller," a doctor, who was so furious about what had happened that he bought the African for himself and gave him the name "Toby."

Crippling about, working in "Mas' William's" house and yard, the African in time met and mated with "the big house cook named Bell," and there was born a girl named Kizzy. As she grew up her African daddy often showed her different kinds of things, telling her what they were in his native tongue. Pointing at a banjo, for example, the African uttered, *"ko"*; or pointing at a river near the plantation, he would say, *"Kamby Bolong."* Many of his strange words started with a *"k"* sound, and the little, growing Kizzy learned gradually that they identified different things.

When addressed by other slaves as 'Toby," the master's name for him, the African said angrily that his name was "Kin-tay." And as he gradually learned English, he told young Kizzy some things about himself—for instance, that he was not far from his village, chopping wood to make himself a drum, when four men had surprised, overwhelmed, and kidnaped him.

So Kizzy's head held much about her African daddy when at age 16 she was sold away onto a much smaller plantation in North Carolina. Her new "Mas' Tom Lea" fathered her first child, a boy she named George. And Kizzy told her boy all about his African grandfather. George grew up to be such a gamecock fighter that he was called "Chicken George," and people would come from all over and bet big money" on his cockfights. He mated with Matilda, another of Lea's slaves; they had seven children, and he told them the stories and strange sounds of their African great-grandfather. And one of those children, Tom, became a blacksmith who was bought away by a "Mas' Murray" for his tobacco plantation in Alamance County, N.C.

Tom mated there with Irene, a weaver on the plantation. She also bore seven children, and Tom now told them all about their African great-great-grandfather, the faithfully passed-down knowledge of his sounds and stories having become by now the family's prideful treasure.

The youngest of that second set of seven children was a girl, Cynthia, who became my maternal Grandma (which today I can only see as fated). Anyway, all of this is how I was growing up in Henning at Grandma's, listening from behind her rocking chair as she and the other visiting old women talked of that African (never then comprehended as my great-great-great-great-grandfather) who said his name was "Kin-tay," and said "ko" for banjo, "Kamby Bolong" for river, and a jumble of other "k"-beginning sounds that Grandma privately muttered, most often while making beds or cooking, and who also said that near his village he was kidnapped while chopping wood to make himself a drum.

The story had become nearly as fixed in my head as in Grandma's by the time Dad and Mama moved me and my two younger brothers, George and Julius, away from Henning to be with them at the small black agricultural and mechanical college in Normal, Ala., where Dad taught.

To compress my next 25 years: When I was 17 Dad let me enlist as a mess boy in the U.S. Coast Guard. I became a ship's cook out in the South Pacific during World War II, and at night down by my bunk I began trying to write sea adventure stories, mailing them off to magazines and collecting rejection slips for eight years before some editors began purchasing and publishing occasional stories. By 1949 the Coast Guard had made me its first "journalist"; finally with 20 years' service, I retired at the age of 37, determined to make a full time career of writing. I wrote mostly magazine articles; my first book was "The Autobiography of Malcolm X."

Then one Saturday in 1965 I happened to be walking past the National Archives building in Washington. Across the interim years I had thought of Grandma's old stories—otherwise I can't think what diverted me up the Archives' steps. And when a main reading room desk attendant asked if he could help me, I wouldn't have dreamed of admitting to him some curiosity hanging on from boyhood about my slave forebears. I kind of bumbled that I was interested in census records of Alamance County, North Carolina, just after the Civil War.

The microfilm rolls were delivered, and I turned them through the machine with a building sense of intrigue, viewing in different census takers' penmanship an endless parade of names. After about a dozen microfilmed rolls, I was beginning to tire, when in utter astonishment I looked upon the names of Grandma's parents: Tom Murray, Irene Murray . . . older sisters of Grandma's as well—every one of them a name that I'd heard countless times on her front porch.

It wasn't that I hadn't believed Grandma. You just *didn't* not believe my Grandma. It was simply so uncanny actually seeing those names in print and in official U.S. Government records.

During the next several months I was back in Washington whenever possible, in the Archives, the Library of Congress, the Daughters of the American Revolution Library. (Whenever black attendants understood the idea of my search, documents I requested reached me with miraculous speed.) In one source or another during 1966 I was able to document at least the highlights of the cherished family story. I would have given anything to have told Grandma, but, sadly, in 1949 she had gone. So I went and told the only survivor of those Henning front-porch storytellers: Cousin Georgia Anderson, now in her 80's in Kansas City, Kans. Wrinkled, not well herself, she was so overjoyed, repeating to me the old stories and sounds; they were like Henning echoes: "Yeah, boy, that African say his name was *'Kin-tay'*; he say the banjo was *'ko,'* an' the river *'Kamby-Bolong,'* an' he was off choppin' wood to make his drum when they grabbed 'im!" Cousin Georgia grew so excited we had to stop her, calm her down, "You go' head, boy! Your grandma an' all of 'em—they up there watching what you do!"

That week I flew to London on a magazine assignment. Since by now I was steeped in the old, in the past, scarcely a tour guide missed me—I was awed at so many historical places and treasures I'd heard of and read of. I came upon the Rosetta stone in the British Museum, marveling anew at how Jean Champollion, the French archaelogist, had miraculously deciphered its ancient demotic and hieroglyphic texts . . .

The thrill of that just kept hanging around in my head. I was on a jet returning to New York when a thought hit me. Those strange, unknown-tongue sounds, always a part of our family's old story . . . they were obviously bits of our original African *"Kin-tay's"* native tongue. What specific tongue? Could I somehow find out?

Back in New York, I began making visits to the United Nations Headquarters lobby; it wasn't hard to spot Africans. I'd stop any I could, asking if my bits of phonetic sounds held any meaning for them. A couple of dozen Africans quickly looked at me, listened, and took off—understandably dubious about some Tennesseean's accent alleging "African" sounds.

My research assistant, George Sims (we grew up together in Henning), brought me some names of ranking scholars of African linguistics. One was particularly intriguing: a Belgian- and English-educated Dr. Jan Vansina; he had spent his early career living in West African villages, studying and tape-recording countless oral histories that were narrated by certain very old African men; he had written a standard textbook, "The Oral Tradition."

So I flew to the University of Wisconsin to see Dr. Vansina. In his living room I told him every bit of the family story in the fullest detail that I could remember it. Then, intensely, he queried me about the story's relay across the generations, about the gibberish of *"k"* sounds Grandma had fiercely muttered to herself while doing her housework, with my brothers and me giggling beyond her hearing at what we had dubbed "Grandma's noises."

Dr. Vansina, his manner very serious, finally said, "These sounds your family has kept sound very probably of the tongue called 'Mandinka.' "

I'd never heard of any "Mandinka." Grandma just told of the African saying *"ko"* for banjo, or *"Kamby Bolong"* for a Virginia river.

Among Mandinka stringed instruments, Dr. Vansina said, one of the oldest was the *"kora."*

"Bolong," he said, was clearly Mandinka for "river." Preceded by *"Kamby,"* it very likely meant "Gambia River."

Dr. Vansina telephoned an eminent Africanist colleague, Dr. Philip Curtin. He said that the phonetic *"Kin-tay"* was correctly spelled *"Kinte,"* a very old clan that had originated in Old Mali. The Kinte men traditionally were blacksmiths, and the women were potters and weavers.

I knew I must get to the Gambia River.

The first native Gambian I could locate in the U.S. was named Ebou Manga, then a junior attending Hamilton College in upstate Clinton, N.Y. He and I flew to Dakar, Senegal, then took a smaller plane to Yundum Airport, and rode in a van to Gambia's capital, Bathurst. Ebou and his father assembled eight Gambia government officials. I told them Grandma's stories, every detail I could remember, as they listened intently, then reacted. "*'Kamby Bolong'* of course is Gambia River!" I heard. "But more clue is your forefather's saying his name was *'Kinte.'*" Then they told me something I would never even have fantasized—that in places in the back country lived very old men, commonly called *griots*, who could tell centuries of the histories of certain very old family clans. As for *Kintes*, they pointed out to me on a map some family villages, Kinte-Kundah, and Kinte-Kundah Janneh-Ya, for instance.

The Gambian officials said they would try to help me. I returned to New York dazed. It is embarrassing to me now, but despite Grandma's stories, I'd never been concerned much with Africa, and I had the routine images of African people living mostly in exotic jungles. But a compulsion now laid hold of me to learn all I could, and I began devouring books about Africa, especially about the slave trade. Then one Thursday's mail contained a letter from one of the Gambian officials, inviting me to return there.

Monday I was back in Bathurst. It galvanized me when the officials said that a *griot* had been located who told the *Kinte* clan history—his name was Kebba Kanga Fofana. To reach him, I discovered, required a modified safari: renting a launch to get upriver, two land vehicles to carry supplies by a roundabout land route, and employing finally 14 people, including three interpreters and four musicians, since a *griot* would not speak the revered clan histories without background music.

The boat Baddidu vibrated upriver, with me acutely tense: Were these Africans maybe viewing me as but another of the pith-helmets? After about two hours, we put in at James Island, for me to see the ruins of the once British-operated James Fort. Here two centuries of slave ships had loaded thousands of cargoes of Gambian tribespeople. The crumbling stones, the deeply oxidized swivel cannon, even some remnant links of chain seemed all but impossible to believe. Then we continued upriver to the left-bank village of Albreda, and there put ashore to continue on foot to Juffure, village of the *griot*. Once more we stopped, for me to see *toubob kolong*, "the white man's well," now almost filled in, in a swampy area with abundant, tall, saw-toothed grass. It was dug two centuries ago to "17 men's height deep" to insure survival drinking water for long-driven, famishing coffles of slaves.

Walking on, I kept wishing that Grandma could hear how her stories had led me to the *"Kamby Bolong."* (Our surviving storyteller Cousin Georgia died in a Kansas City hospital during this same morning, I would learn later.) Finally, Juffure village's playing children, sighting us, flashed an alert. The 70-odd people came rushing from their circular, thatch-roofed, mud-walled huts, with goats bounding up and about, and parrots squawking from up in the palms. I sensed him in advance somehow, the small man amid them wearing a pillbox cap and an off-white robe—the *griot*. Then the interpreters went to him, as the villagers thronged around me.

And it hit me like a gale wind: every one of them, the whole crowd was *jet black*. An enormous sense of guilt swept me—a sense of being some kind of hybrid . . . a sense of being impure among the pure. It was an awful sensation.

The old *griot* stepped away from my interpreters and the crowd quickly swarmed around him—all of them buzzing. An interpreter named A. B. C. Salla came to me; he whispered: "Why they stare at you so, they have never seen here a black American." And that hit me: I was symbolizing for them twenty-five millions of us they had never seen. What did they think of me—of us?

Then abruptly the old *griot* was briskly walking toward me. His eyes boring into mine, he spoke in Mandinka, as if instinctively I should understand—and A. B. C. Salla translated:

"Yes . . . we have been told by the forefathers . . . that many of us from this place are in exile . . . in that place called America . . . and in other places."

I suppose I physically wavered, and they thought it was the heat; rustling whispers went through the crowd, and a man brought me a low stool. Now the whispering hushed—the musicians had softly begun playing *kora* and *balafon*, and a canvas sling lawn seat was taken by the *griot*, Kebba Kanga Fofana, aged 73 "rains" (one rainy season each year). He seemed to gather himself into a physical rigidity, and he began speaking the *Kinte* clan's ancestral oral history; it came rolling from his mouth across the next hours . . . 17th and 18th-century *Kinte* lineage details, predominantly what men took wives; the children they "begot," in the order of their births; those children's mates and children.

Events frequently were dated by some proximate singular physical occurrence. It was as if some ancient scroll were printed indelibly within the *griot's* brain. Each few sentences or so, he would pause for an interpreter's translation to me. I distill here the essence:

The *Kinte* clan began in Old Mali, the men generally blacksmiths ". . . who conquered fire," and the women potters and weavers. One large branch of the clan moved to Mauretania from where one son of the clan, Kairaba Kunta Kinte, a Moslem Marabout holy man, entered Gambia. He lived first in the village of Pakali N-Ding; he moved next to Jiffarong village; ". . . and then he came here, into our own village of Juffure."

In Juffure, Kairaba Kunta Kinte took his first wife, ". . . a Mandinka maiden, whose name was Sireng. By her he begot two sons, whose names were Janneh and Saloum. Then he got a second wife, Yaisa. By her. he begot a son, Omoro."

The three sons became men in Juffure. Janneh and Saloum went off and found a new village, Kinte-Kundah Janneh-Ya. "And then Omoro, the youngest son, when he had 30 rains, took as a wife a maiden, Binta Kebba.

"And by her, he begot four sons—Kunta, Lamin, Suwadu, and Madi . . ."

Sometimes, a "begotten," after his naming, would be accompanied by some later-occurring detail, perhaps as ". . . in time of big water (flood), he slew a water buffalo." Having named those four sons, now the *griot* stated such a detail.

"About the time the king's soldiers came, the eldest of these four sons, Kunta, when he had about 16 rains, went away from this village, to chop wood to make a drum . . . and he was never seen again . . ."

Goose-pimples the size of lemons seemed to pop all over me. In my knapsack were my cumulative notebooks, the first of them including how in my boyhood, my Grandma, Cousin Georgia and the others told of the African *"Kin-tay"* who always said he was kidnapped near his village—while chopping wood to make a drum . . .

I showed the interpreter, he showed and told the *griot*, who excitedly told the people; they grew very agitated. Abruptly then they formed a human ring, encircling me, dancing and chanting. Perhaps a dozen of the women carrying their infant babies rushed in toward me, thrusting the infants into my arms—conveying, I would later learn, "the laying on of hands . . . through this flesh which is us, we are you, and you are us." The men hurried me into their mosque, their Arabic praying later being translated outside: "Thanks be to Allah for returning the long lost from among us." Direct descendants of Kunta Kinte's blood brothers were hastened, some of them from nearby villages, for a family portrait to be taken with me, surrounded by actual ancestral sixth cousins. More symbolic acts filled the remaining day.

When they would let me leave, for some reason I wanted to go away over the African land. Dazed, silent in the bumping Land Rover, I heard the cutting staccato of talking drums. Then when we sighted the next village, its people came thronging to meet us. They were all—little naked ones to wizened elders—waving, beaming, amid a cacophony of crying out; and then my ears identified their words: *"Meester Kinte! Meester Kinte!"*

Let me tell you something: I am a man. But I remember the sob surging up from my feet, flinging up my hands before my face and bawling as I had not done since I was a baby . . . the jet-black Africans were jostling, staring . . . I didn't care, with the feelings surging. If you really knew the odyssey of us millions of black Americans, if you really knew how we came in the seeds of our forefathers, captured, driven, beaten, inspected, bought, branded, chained in foul ships, if you really knew, you needed weeping . . .

Back home, I knew that what I must write, really, was our black saga, where any individual's past is the essence of the millions'. Now flat broke, I went to some editors I knew, describing the Gambian miracle, and my desire to pursue the research; Doubleday contracted to publish, and Reader's Digest to condense the projected book; then I had advances to travel further.

What ship brought Kinte to Grandma's "'Naplis" (Annapolis, Md., obviously)? The old *griot's* time reference to "king's soldiers" sent me flying to London. Feverish searching at last identified, in British Parliament records, "Colonel O'Hare's Forces," dispatched in mid-1767 to protect the then British-held James Fort whose ruins I'd visited. So Kunta Kinte was down in some ship probably sailing later that summer from the Gambia River to Annapolis.

Now I feel it was fated that I had taught myself to write in the U.S. Coast Guard. For the sea dramas I had concentrated on had given me years of experience searching among yellowing old U.S. maritime records. So now in English 18th Century marine records I finally tracked ships reporting themselves in and out to the Commandant of the Gambia River's James Fort. And then early one afternoon I found that a Lord Ligonier under a Captain Thomas Davies had sailed on the Sabbath of July 5, 1767. Her cargo: 3,265 elephants' teeth, 3,700 pounds of beeswax, 800 pounds of cotton, 32 ounces of Gambian gold, and 140 slaves; her destination: "Annapolis."

That night I recrossed the Atlantic. In the Library of Congress the Lord Ligonier's arrival was one brief line in "Shipping In The Port Of Annapolis—1748–1775." I located the author, Vaughan W. Brown, in his Baltimore brokerage office. He drove to Historic Annapolis, the city's historical society, and found me further documentation of her arrival on Sept. 29, 1767. (Exactly two centuries later, Sept. 29, 1967, standing, staring seaward from an Annapolis pier, again I knew tears). More help came in the Maryland Hall of Records. Archivisit Phebe Jacobsen found the Lord Ligonier's arriving customs declaration listing, "98 Negroes"—so in her 86-day crossing, 42 Gambians had died, one among the survivors being 16-year-old Kunta Kinte. Then the microfilmed Oct. 1, 1767, Maryland Gazette contained, on page two, an announcement to prospective buyers from the ship's agents, Daniel of St. Thos. Jenifer and John Ridout (the Governor's secretary): "from the River Gambia, in Africa . . . a cargo of choice, healthy slaves. . . ."

FORMER SENATOR PRESCOTT S. BUSH, OF CONNECTICUT

Mr. RIBICOFF. Mr. President, Prescott Sheldon Bush, a U.S. Senator from Connecticut from 1952 to 1962, died Sunday, October 8, 1972 in a New York hospital. He was 77.

Prescott Bush was a good friend and a worthy opponent. I mourn his passing.

Prescott Bush, whose son George Bush is the U.S. Ambassador to the United Nations, was a man of great energy, ability, and dedication. No matter what task he set out to accomplish—whether it was helping to elect a President or playing championship golf—Prescott Bush worked with enthusiasm and thoughtfulness, and more often than not he reached his goal.

A dedicated and spirited Republican, Prescott Bush brought to his party—both in my State of Connecticut and in the Nation—a vigor and a sense of purpose rarely seen in politics.

Prescott Bush was intensely loyal to his beliefs—and he believed in many worthwhile principles. A graduate of Yale, he served as a field artillery captain in the American Expeditionary Forces in World War I. He was a trustee of Yale University from 1944 to 1968 and was a former president of the United States Golf Association.

In 1942, Prescott Bush directed the national USO campaign and, from 1943 to 1944, was chairman of the National War Fund campaign.

In partisan politics, Prescott Bush also excelled, as a worker and as a candidate. He was chairman of the Connecticut Republican Finance Committee in 1948 and served as delegate-at-large to the Republican National Convention that year.

He was chairman of the Resolutions Committee of the Republican National Convention in 1956 and, in that job, was the architect of General Eisenhower's reelection platform.

The Hartford Courant has noted that as chairman of the 1956 platform committee Prescott Bush had the difficult challenge of taking one word—"Ike"—and expanding it into 5,000 words. He and General Eisenhower were close friends until the former President's death.

An active man who loved competition, Prescott Bush, at the age of 55, set a record of 66 for 18 holes that still stands at the U.S. senior championship.

In the U.S. Senate, Prescott Bush distinguished himself for his tireless and brilliant work in national slum clearance and urban renewal legislation, in flood and hurricane control projects, in writing legislation resulting in America's vast Interstate Highway System, and in effecting a better organized Department of Defense.

Prescott Bush was a great Senator, and his impact on the Senate has been deep and lasting. The same can be said for his contributions to reform and progress in Connecticut. Our State is better, our Nation is better, because of Prescott Bush. He will not be forgotten.

I ask unanimous consent that an obituary about Prescott S. Bush, published in the Hartford Courant of October 9, 1972; and editorials about him, published in the Hartford Courant of October 10, 1972, and the Hartford Times of October 10, 1972, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Hartford Times, Oct. 10, 1972]

PRESCOTT S. BUSH

The public career of Prescott S. Bush fulfilled the promise his intimates saw in him while he was still a student at Yale University. Ruggedly handsome, charming and pleasant to know, he had obvious potential as a politician—a potential he did not fully realize until his mid-50s.

But his more valuable qualities were what made him a good public servant. He proved to be a hard worker in the Senate. He had a good grounding in economics, in part the result of his work in Wall Street, and he served on the Senate Committee on Banking and Currency and on the Joint Economic Committee of Congress. He earned national respect on both those committees.

Senator Bush recognized early the implications to Connecticut of federal involvement in urban renewal. His guidance in this (then) new and unfamiliar area of governmental responsibility was invaluable to many a Connecticut community.

He had considerable influence on the national policies of the Republican party. He was chairman of the platform committee for the national convention in 1956 and of the subcommittee that drafted the planks on the economy, business and labor for the 1960 convention. He was a friend and confidant of President Eisenhower.

A friend says of him that he furnished a good example of how the people benefit from electing a gentleman to high office. He was indeed a gentleman, not merely in that he had a gentleman's education but far more in his unshakable integrity and devotion to principle.

[From the Hartford Courant, Oct. 10, 1972]

PRESCOTT BUSH

When Yale, his alma mater, gave Prescott Bush a richly deserved honorary doctorate of laws, the university's citation said in part: "Loyal to your friends, faithful to your constituents, true to yourself . . . you have personified the best in both political parties." And as the thousands who knew and, almost inevitably, liked and admired Pres Bush, the citation was no inflated campus oratory. He was a man of immense personal dignity and complete competence, yet one who could relax in the company of friends and, as the occasion served, poke fun at himself.

He was a prodigious worker in a broad spectrum of activities. When he was a director of the Greenwich Boys Club it was said that he spent more time with the boys in the clubhouse than any young member did. When he golfed, he played hard and well; at 55 he set a record for 66 for 18 holes that still stands for the U.S. Senior Championship.

He was a tireless and effective campaigner; one recalls many midnight calls paid to The Courant to relax after political meetings. When he succeeded the late Thomas E. Dewey as national president of the United Service Organization in 1942, he took it on as a full-time job. His energy and enthusiasm for the USO were not diminished by the fact that his oldest son, now the United States Ambassador to the United Nations was a Navy pilot who was shot down by the Japanese over the Pacific.

He was one of the early enthusiasts for General Eisenhower's nomination and election. As chairman of the platform committee at the Republican convention, a witty observer said, he had one difficult, self-impressed task: To take one word and expand it to 5,000. That one word, of course, was "Ike." The two men maintained their mutual regard and affection until President Eisenhower's death.

As President Nixon observed, Pres Bush established a fine example of devoted lifelong public service to his town, his state and his nation. He deserves to be long-remembered.

PRESCOTT BUSH DIES; FORMER U.S. SENATOR

Prescott Sheldon Bush, 77, former U.S. senator from Connecticut and father of U.S. Ambassador to the United Nations George Bush, died Sunday at Memorial Hospital for Cancer and Allied Diseases in New York.

President Nixon immediately issued a statement saying that "in Bush's death he has lost a valued friend and the nation has lost a citizen of exceptional honor and integrity."

A Greenwich resident and a Yale graduate, Bush a Republican, served in the Senate from 1952 to 1962. He also maintained a home in Hobe Sound, Fla.

"His years of distinguished service in the Senate were marked by high principle, consistently sound judgment and a deep devotion to his country," said President Nixon.

"As this nation's ambassador to the United Nations, his son, George Bush, carries on a tradition of public service that owes much to the moral example of a truly fine senator and a splendid human being. Mrs. Nixon joins me in extending to his family our deep and heartfelt sympathy," said the President. Bush had been since 1931 a partner in Brown Brothers, Harriman & Co., a leading Wall Street investment firm. He also served as director of various corporations, including the Columbia Broadcasting System, Prudential Insurance, Simmons Co. and Dresser Industries Inc.

In addition to the ambassador, Bush leaves his wife, the former Dorothy Walker, a daughter, Mrs. Alexander Ellis of Boston, and three more sons, Prescott Bush Jr. and Jonathan Bush both of New York City, and William Bush of Greenwich, and 16 grandchildren. Ambassador Bush resides in New York.

Funeral services will be held at 11 a.m. Tuesday at Christ Church in Greenwich. Burial will be private.

When re-elected in 1956, Bush's plurality of 130,894 votes exceeded all previous totals recorded in Connecticut by a candidate of either party for the U.S. Senate.

SERVED IN WORLD WAR I

Bush served as a field artillery captain in the American Expeditionary Forces during World War I. He was a trustee of Yale University from 1944 to 1968 and is a former president of the United States Golf Association.

He directed the national USO campaign in 1942 and was chairman of the National War Fund campaign from 1943 to 1944.

In 1948, he was chairman of the Connecticut Republican Finance Committee and served as delegate-at-large to the Republican National Convention that year.

As chairman of the Resolutions Committee of the Republican National Convention of 1956, Bush was the principal draftsman of the Eisenhower Administration's platform, upon which President Eisenhower won his overwhelming victory for a second term.

At the 1960 Republican National Convention, he was chairman of a subcommittee which drafted the platform planks on economic growth, business and labor.

During his years in the Senate, Bush received national recognition as an authority on government finance and as an effective advocate of fiscal responsibility in government. Among the bills he sponsored in this area were a price stability amendment to the Employment Act of 1946 and a proposal to give the President veto power over individual items in appropriation bills and in bills authorizing federal departments and agencies to borrow from the Treasury.

Bush served for 10 years on the Senate Committee on Banking and Currency and took special interest in the national slum clearance and urban renewal program, for which that committee had legislative responsibility.

Following the enactment of the Housing Act of 1954, he took the leadership in convening a Connecticut Conference on Urban Renewal in Hartford where he explained to local officials how to utilize the new law. Bush assisted many Connecticut cities and towns in their urban renewal and redevelopment programs.

STORM PROTECTION

Another of the senator's major legislative interests was flood and hurricane protection for Connecticut and New England communities. As a member of the Senate Committee on Public Works, he authored legislation to permit closer cooperation among the New England states in dealing with flood control problems.

He also drafted Public Law 71, the Bush Hurricane Survey Act, which enabled Army engineers to develop a new program for protecting coastal communities against hurricane tidal flooding. He also worked closely with Democratic House Majority Leader John W. McCormack of Massachusetts in obtaining enactment of the Bush-McCormack Act, expediting the construction of local flood protection works.

The first project completed in the nation under the act was in Torrington, one of the hardest hit towns in the 1955 flood.

While a member of the Public Works Committee, Bush also played a leading role in the drafting of the Federal Aid Highway Act of 1956, which authorized construction of the national system of interstate and defense highways.

He fought successfully for a provision of the law that allocates funds for the system among states on the basis of actual construction costs. This was of particular importance in Connecticut and other densely-populated states where construction costs are especially high.

For four years, he was a member of the Committee on Armed Services, where he made significant contributions to the reorganization of the Department of Defense for its "space age" responsibilities.

As a member of that committee, he inspected America's military bases in the far corners of the world, including the front lines in Korea. He sailed with the 6th and 7th fleets in the Mediterranean Sea and off the coast of China.

Bush also served on the congressional Joint Economic Committee, participating extensively in its studies of inflation, economic growth and maximum employment.

A native of Columbus, Ohio, Bush attended St. George's School in Newport, R.I., before going to Yale, where he was graduated in 1917.

Bush had an early introduction to military matters. In the midst of his junior year at Yale, where he was a member of the Wiffenpoofs and Skull and Bones, he joined the National Guard and saw several weeks' service on the Mexican border.

After being graduated, he entered the American Expeditionary Force as a captain. He served in the 15th Field Artillery Brigade and took part in the Meuse-Argonne offensive. He joined the occupation forces in Germany after the Armistice and was assigned to the Seventh Army Corps Headquarters until 1919.

Bush recently severed his formal connection with Calhoun College, one of Yale's 12 undergraduate residential colleges, because the dormitory unit invited Daniel Ellsberg to the university. Ellsberg admitted giving copies of the Pentagon Papers to the New York Times.

Aside from serving as a trustee at Yale, Bush was also a trustee of Westminister Choir College, Greenwich Hospital Association, the Greenwich Boys Club, Southbury Training School Foundation and Episcopal Church Foundation U.S.A. He held honorary degrees at Trinity College and Yale.

He was an original member of the Representative Town Meeting, formed in Greenwich in 1933. He served as moderator of the Town Meeting for 17 years, until he was elected to the Senate.

Bush failed by 1,000 votes in his first effort to win election to the Senate in 1950.

He had been described by the national press as "a staunch Eisenhower Republican . . . known on Capitol Hill as a hard worker who pays attention to his Senate business and has the confidence of the White House."

Gov. Thomas J. Meskill, U.S. Sen. Lowell Weicker, Jr., and other officials expressed sorrow at former Sen. Bush's passing.

"Prescott stood tall not only in physical stature but in the work product of his heart and mind," said Weicker. "In going to the U.S. Senate from serving as moderator of the town meeting in Greenwich, he brought to the Senate those special New England qualities of compassion, integrity and attention to detail."

Meskill said Bush brought dignity and competence to all his endeavors. I extend my deepest sympathy to his family on their loss."

SENATOR JOHN SHERMAN COOPER

Mr. BROCK. Mr. President, on behalf of the distinguished Senator from Texas (Mr. Tower), I ask unanimous consent that a statement by him on the retirement of Senator Cooper be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Tower

As the 92nd Congress enters its final days, I cannot help feeling a sense of sadness in knowing that we are losing our good friend and colleague from the State of Kentucky, John Sherman Cooper.

Senator Cooper has served this body not only with dignity and dedication, but also with spirit and perseverance. He has represented his State and his Nation with wisdom and character, and he has epitomized the finest traditions of the Republican Party.

I think I can say without reservation that each of us is richer for having had the opportunity to serve with him in this great deliberative body. He will be sorely missed.

NATIONAL DRUG ABUSE PREVENTION WEEK, OCTOBER 15–20

Mr. DOLE. Mr. President, this coming week is National Drug Abuse Prevention Week; it opens one more chapter in the 3½-year fight against drug abuse by the Nixon administration. The President, in declaring the drug problem to be public enemy No. 1, has totally committed his administration to the war against drugs. Steps undertaken in the past year reflect a balanced and comprehensive approach aimed at ending drug abuse crises at the earliest possible date.

Over the last decade, drug abuse has become a serious national problem. Thousands of Americans became habitual heroin users, and many more became abusers of drugs such as amphetamines and barbituates. In the United States today there are estimated to be over 500,000 heroin users. In New York City alone, drug abuse is the single largest cause of death for persons between the ages of 15 and 35, and last year, there were 1,239 confirmed drug related deaths in New York City.

Although these figures are discouraging, progress is being made by several multi-faceted programs initiated by President Nixon to combat the agonizing problem of drug abuse.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

The Special Action Office for Drug Abuse Prevention was established on an interim basis by President Nixon in June 1971, and signed into law on March 21, 1972. SAO is working to coordinate and give policy direction to Federal programs and develop a national strategy for drug abuse education, treatment, rehabilitation, research, and prevention. SAO has encouraged research, gathered information, planned a new drug training and education center, and helped set up a major program to identify and treat drug abuse in Vietnam and throughout the Armed Forces.

HEROIN HOTLINE

Less than 7 months old, the Heroin Hotline, initiated a quick and convenient way for citizens to pass on information about heroin pushers. The hotline to date has received more than 5,000 calls from all over the country. This is a toll-free telephone system—800–368–5363—which may be dialed from anywhere in the continental United States. Calls are received at the center in Washington, D.C., where operators and experienced Federal narcotics agents are on duty 7 days a week, around the clock.

Callers, who need not identify themselves, are asked to pass on any information they have about heroin pushers—example: Name, description and place. The rights of the callers are fully protected.

VA EFFORTS

In Southeast Asia, low cost, high quality and readily accessible heroin has caused severe addiction problems for our Armed Forces. As a result, drug identification and detoxification programs, originally begun in Vietnam last summer, have been expanded by the Department of Defense and the Veterans' Administration to include all military personnel in the United States who are being discharged or sent overseas, or are returning from duty overseas. Within the next year, the VA will offer treatment and rehabilitation to over 20,000 addicts.

The VA hospital in Topeka, Kans., will actively participate in the area of drug rehabilitation. Its special drug treatment center includes a 16-bed facility now serving approximately 20 inpatients on a daily basis. Dr. Mark B. Ardis, center director, employs a full-time chaplain and two full-time drug counselors. The center is designed to treat both active duty servicemen and Kansas area veterans.

OVERSEAS EFFORTS

Overseas efforts to combat drug abuse have greatly increased in the past year. The Cabinet Committee on International Narcotics Control was established in September 1971, to supervise the Government's war on international drug trafficking, especially heroin. In addition, narcotics control coordinators have been appointed in over 60 American Embassies to work intensively on drug control programs with foreign governments, and action plans have been formulated for all significant drug producing and transit countries. The U.S. overseas narcotics agent force increased sixfold from 1968 to 140 by July 1972, and the budget for international narcotics control increased from $30 million in fiscal year 1972 to $50 million in fiscal year 1973.

MUCH TO BE DONE

The task of eradicating the scourge of dangerous drugs from our Nation is a tremendous undertaking. It will require a concerted effort on the part of government at all levels, and the American people. President Nixon has dedicated himself to lead this important fight.

FINANCING OF SOCIAL SECURITY

Mr. EAGLETON. Mr. President, last week the Senate passed a bill containing many important improvements in the social security and medicare programs. These include:

An unreduced benefit for widows at age 65;

An increase in the earnings limitation;

A new special minimum benefit for those who have worked under social security for many years with low earnings;

Medicare benefits for the disabled; and

Medicare coverage of the cost of those prescription drugs required by the chronically ill.

These are proposals that have been before Congress since I became a Member of the Senate in 1969. They are sorely needed by our aged and disabled citizens, they have had my support, and I do not believe their enactment should be delayed any further. Therefore, I support the enactment of H.R. 1.

However, I do not believe any Member of Congress should be satisfied with the nature of the tax increases required to finance these improvements in social security and medicare.

While a payroll tax is an appropriate method of financing social insurance programs, the social security-medicare payroll tax as it is now constituted is a highly regressive tax which places a disproportionate burden on low- and middle-income wage earners.

It is regressive primarily because of the ceiling on wages subject to the tax. The tax rate is constant on earnings up to the ceiling, but beyond the ceiling it becomes a smaller and smaller percentage of earnings. In addition, the payroll tax makes no allowance for the number of persons supported by the income being taxed.

As a result of the increase in social security benefits enacted earlier this year, the tax rate—now 10.4 percent—is already scheduled to rise to 11 percent next year. The base on which the tax is paid is scheduled to rise to $10,800 next year and to $12,000 in 1974.

Now H.R. 1, as passed by the Senate, would raise the tax rate to 12 percent next year.

This represents a 15-percent increase in social security taxes next year for those with incomes of $9,000 or less.

The combination of the increase in the tax rate and increases in the wage base will result in even more dramatic tax increases for those in the $9,000 to $12,000 income brackets.

The $10,000-a-year wage earner who this year paid $468 in social security taxes will pay $600 in 1973 and 1974—an increase of 28 percent.

The $12,000-a-year wage earner who paid $468 this year will pay $648 in 1973 and $720 in 1974—an increase of 54 percent over a 2-year period.

Increases in the payroll tax in recent years have virtually wiped out the income tax relief enacted by Congress for low- and middle-income families. With the tax increases proposed in H.R. 1, in 1973 the payroll tax will exceed income tax liability for families of four with incomes up to $13,900.

It seems to me that we have very nearly reached the limit of the social security and medicare benefits that can be financed by the payroll tax as it is now constituted. There should be no higher priority before the next Congress than reform of the financing of these two programs.

There are a number of alternatives that might be considered.

Serious consideration should be given to shifting a portion of the cost of the social security program to general revenues. I have cosponsored legislation that would phase in a general revenue contribution over a period of years so that eventually the social security program would be financed one-third by employers, one-third by employees, and one-third by general revenues.

This is not a novel idea. Social insurance programs in a number of other countries are supported in part by government contributions. There is a national interest in having adequate social insurance programs for the elderly and the infirm, and I believe that national interest makes a general revenue contribution an appropriate alternative to further increases in a regressive payroll tax.

There have also been proposals before Congress to combine parts A and B of medicare, eliminate the part B premium paid by the retired, and finance medicare one-third by employers, one-third by employees, and one-third by general revenues. One-half of the cost of part B supplementary medical insurance now comes from general revenues.

Partial general revenue financing of social security and medicare would make possible an eventual decrease in the tax rate schedule proposed in H.R. 1.

There are other reforms that could make the payroll tax itself less regressive. The removal of the ceiling on wages would make the tax proportional on all earned income. The introduction of personal exemptions would ease the burden on large families. The use of a low-income allowance would give further relief to low-income families.

The Special Committee on Aging, on which I serve, will hold a series of hearings next year on "New Directions in Social Security." These hearings will focus, in part, on the financing of social security and they should provide a useful forum for the examination of a variety of alternatives including those I have mentioned today.

But it is also essential that those committees of Congress who have the responsibility for the financing of social security and medicare as well as for the equitable distribution of the Federal tax burden address themselves to this matter at the earliest possible time.

Ours is a humane and a decent country. We want to provide adequate income and health care for our aged and disabled citizens. I believe it is imperative that we find a way to do this that does not impose an intolerable burden on low- and middle-income wage earners.

DISTRICT OF COLUMBIA JAIL UPRISINGS

Mr. STEVENSON. Mr. President, earlier this week, all of us in the District of Columbia witnessed the latest in a series of prison uprisings throughout the country. This time it was but a few blocks away from the Capitol, at the District of Columbia jail. We all watched with fear in our hearts of more violence. But the most striking feature of this uprising, which the inmates termed a "revolution," was the lack of violence. Throughout the night, and then the next day, hard work, and cooperation by all parties involved averted bloodshed. The crisis passed without resorting to official violence. There was no loss of life, and only minimal injury to anyone involved. As a result of good-faith negotiations, we were all spared another tragedy such as the one at Attica last year in which 39 persons lost their lives.

In the early hours of Wednesday morning when the prisoners held 12 hostages, their demands were for freedom or death. There were immediate and violent threats against their main hostage, Corrections Director Kenneth L. Hardy. While the prisoners, citing inmate deaths at Attica and elsewhere, expressed fear for their own lives, Director Hardy was heard to say, "I don't want any bloodshed." There were moments during those hours when it was touch and go. Plans to storm the cell block where the inmates were holding the hostages were formulated, and then prudently, rejected.

The calmer voices and the cooler heads prevailed. Inmates did not panic and trigger retaliatory action. Corrections department officials on the scene never gave up. The Metropolitan Police Department acted with discretion and withdrew to the sidelines. Representatives of the press cooperated in full. The negotiators Representatives FAUNTROY and CHISHOLM, School Board President Barry, attorneys Tepper and Goldfarb, ex-convict and community worker Green, and others, listened patiently and developed innovative and workable solutions. A key role was also played by U.S. District Court Judge William B. Bryant, who, though originally and understandably reluctant to become involved, responded to the requests of the negotiators, and agreed to hold an unprecedented hearing. This was a critical factor in the speedy settlement of the situation. Judge Bryant defined the areas in which the court could, and could not act. and most important, he gave the inmates an opportunity for their grievances to be heard.

Let nothing in this statement be interpreted as toleration of this kind of violent and dangerous rebellion. It cannot and must not be tolerated under any circumstances. On the other hand, those of us on the outside must not become insensitive to the numerous and complex issues involved, just because this particular incident was resolved without bloodshed.

Conditions at the District of Columbia Jail are intolerable for those who are detained there and who work there. Some of these conditions are unique to this institution But most are repeated again and again in houses of detention across the country. The District of Columbia Jail is a century old. It now houses twice the number of persons for which it was originally intended. Prisoners are justly concerned with the unsanitary conditions, the omnipresent boredom—no work, no recreation—which breed violence, the limited access to legal assistance, and the long and indeterminate delays between arrest and trial. Corrections officers, the guards at the jail, also rightly protest their working conditions: Understaffing, low pay, slow promotions, and above all, an overwhelming fear for their own personal safety.

This is a complex problem for authorities who must remain aware of both community security, and conditions for those "inside the walls." Forward looking penologists, like Mr. Hardy, live with these problems every day of their lives. Hardy put not only his life but his reputation on the line during this rebellion.

All over the country, prison administrators say that we who are on the outside are blind to the overbearing problems within correctional institutions. They need more monetary assistance, and new and innovative thinking and planning. It is only with our unflagging attention to these problems that we will ever see the day when our prisons truly become "correctional" institutions, and not just way-stations for forgotten men and women who, all too often spend a lifetime shuttling between a criminal life on the streets and criminal neglect in the prisons.

Today, we should look not only at the end of this "rebellion," but also look for new answers to avoid the constant threat of repeated incidents here, and in similar institutions throughout the country.

MISINFORMATION ON AGING AT PUBLIC EXPENSE

Mr. CHURCH. Mr. President, time and again Members of the Senate and House of Representatives have criticized the Nixon record on aging.

We are appalled at administration opposition to the 20-percent social security increase, to the nutrition for the elderly program enacted this year, to a genuine revamping of the Administration on Aging, to a middle-aged and older workers program, to a national senior service corps, and even to a national institute on aging. In spite of that opposition, Congress has advanced on all these fronts and several others.

The Nixon administration—apparently because it has nothing of substance to talk about—is now resorting to mass distribution of misleading pamphlets which purport to give unbiased information about Government programs on the elderly.

Actually, these Government publications are political brochures mailed by the millions at public expense to people who never asked for them.

The publications to which I refer were mailed out between July and September of an election year, and each one mentions President Nixon not once but several times.

The publications are:

Food and Housing for the Elderly, issued by the Department of Agriculture (1,250,000 copies).

A Report to Older Americans, issued by the Department of Housing and Urban Development (1,500,000 copies).

The U.S. Department of Labor Reports to Older Americans (1,500,000 copies).

Opportunities for Older Americans in ACTION (1,550,000 copies).

Dignity Instead of Desperation, issued by the Office of Economic Opportunity (1,350,000 copies).

The Veterans' Administration and Older Americans, (1,500,000 copies).

When I first became aware of these pamphlets in the early part of September, I asked the General Accounting Office to determine the costs and distribution of each item.

That report arrived today, and I ask unanimous consent to have appropriate portions reprinted at the end of these remarks.

The GAO report is of considerable interest, because it makes the following points:

First. Total cost for preparation, printing, and distribution were put at $263,000 of taxpayers' money. It seems to me that the estimates provided for man-hours involved in preparation are a little low. ACTION says, for example, that the cost of preparing their report was only $164.

Second. As far as GAO could determine, this is the first time that a concerted effort of this type had been made. Furthermore, distribution lists and preprinted mailing labels were furnished by the White House Staff. A person referred in the GAO report as a "White House staff contact with respect to these publications" has confirmed the fact of White House direction. Mr. L. J. Evans, Jr., in a letter to GAO, provided the distribution list which I had requested and said:

> This list was unified and distributed by the White House in order to fulfill the White House Conference on Aging's recommendations calling for informational programs to educate the elderly to the programs and facilities available to them."

I will comment a little later on about the low "informational" value of these publications.

Mr. Evan's distribution list provided only generalized information and did not give any clue as to how the distribution formula was arrived at. It is interesting to note that 190,000 copies of each brochure were sent to nursing homes, that apparently the entire membership of the National Association of Retired Federal Employees received one or more publications and that a large supply was sent to housing projects for the elderly. In addition, special shipments of 20,000 items were sent by truck to the Federation of Experienced Americans, Inc. This organization was incorporated in March. In August it received a $1 million contract from the Department of Labor for older worker projects in California and Florida. I have written to the Secretary of Labor to ask for details on how that contract was awarded.

Mr. President, the GAO could not evaluate the publications for political content; it was not their job to do so. But I emphatically report here and now to the Senate that these pamphlets are replete with exaggerations of actual administration accomplishments, with quotations from the President and even more references to him, and with talk about what the administration intends to do.

HUD, after a four-paragraph quotation by President Nixon, reports, for example "several innovative programs are being discussed in HUD." In the Department of Labor publication, several paragraphs are devoted to a five-point proposal "to expand and improve our private pension system."

What on earth do presidential proposals have to do with a report from a Federal agency on the programs it is allegedly providing for the elderly? This smacks of campaign literature, not straightforward governmental reporting.

Examples of outright deception are not hard to find. A few days ago, the Senator from New Jersey (Mr. WILLIAMS) gave a detailed analysis of the Department of Labor publication. He pointed out that the claims made in that publication were thoroughly misleading and unworthy of any Government agency. Similar complaints could be made of the other publications, but I think that the point has been made:

For political reasons and political reasons alone, public money has been used to mislead the public. The White House not only knew about this effort; it directed and "unified" it. How can we believe what the White House tells us about aging or about anything else? An administration which resisted progress on aging has been reduced to propaganda because it has so little real accomplishment to report to the American public.

Mr. President, I ask unanimous consent that the pertinent parts of the GAO report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 12, 1972.
Hon. FRANK CHURCH,
Chairman, Special Committee on Aging, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request of September 15, 1972, and subsequent discussions with your office, we have obtained costs and other details concerning recent Government publications which were directed principally to older Americans.

* * * * *

Six . . . publications we inquired about are listed below:

PUBLICATION AND AGENCY

Food and Housing for the Elderly—Department of Agriculture.

A Report to Older Americans—Department of Housing and Urban Development.

The U.S. Department of Labor Reports to Older Americans—Department of Labor.

Opportunities for Older Americans in ACTION—Action.

Dignity Instead of Desperation—Office of Economic Opportunity.

The Veterans Administration and Older Americans—Veterans Administration.

The estimated costs of preparing, printing, and distributing these publications totaled about $263,000—ranging from a low of about $30,000 for the Department of Labor publication to a high of about $78,000 for the Office of Economic Opportunity publication. Details of these costs and the disposition of the copies printed are shown in Enclosures 3 to 8.

The six publications were prepared by staffs of the respective Departments and agencies. Based on our discussions with various agency officials, this appeared to be the first time a concerted effort of this type had been made.

All of the six publications had similar characteristics in that they explained various programs and benefits available to older Americans and referred to the President by name. The number of copies printed ranged from 1,250,000 to 1,550,000. The copies were distributed in accordance with lists and using preprinted mailing labels which officials of several of the agencies told us were furnished by White House staff. In all cases, the lists of designees to receive the publications were similar.

The distribution lists provided for bulk mailings of from 5 to 500 copies each to destinations such as senior citizens centers, elderly housing projects, nursing homes, and others. About a half-million copies were furnished to SSA for distribution to its 1,000 district offices and with the exception of the Office of Economic Opportunity (OEO), single copies were mailed to 152,212 members of an organization presumed to be the National Association of Retired Federal Employees (NARFE). The distribution list used by OEO showed that "Other Senior Citizen Addresses" totaling 191,297 were designated to receive copies. This group of addressees apparently included the NARFE.

The names of Messrs. Desmond J. Barker and L. J. Evans, Jr. appeared in agency records and were mentioned in discussions with various agency officials as White House staff contacts with respect to these publications. Mr. Barker advised us that Mr. Evans was the most knowledgeable concerning the matter. We requested Mr. Evans to furnish us with information as to the source of the distribution list, the cost of printing the mailing labels and what appropriation was charged for such expense. Mr. Evans' response dated October 5, 1972, was received by us on October 11, 1972, and is included as Enclosure 10. The only information furnished was the sources of the items on the distribution lists.

Except for the addressees on the lists designated to receive single copies of the publications by direct mail, we could not determine how many persons received or might eventually receive copies. Most of the addressees were sent a number of copies which could have been or may be handed out, remailed, or placed at locations where they would be available. The usual procedure for Social Security district offices, for instance, is to make such material available on display in the offices.

The information furnished on all of the publications is based on records and interviews with agency officials. The distribution lists were prepared from information furnished by the agencies and were not edited by us. A number of abbreviations and incomplete references used on the distribution lists are explained in Enclosure 9. A copy of each of the eight publications is also attached for your information.

In accordance with arrangements made with your office, we are furnishing copies of this report to Senators Birch Bayh, Alan Cranston, Hubert H. Humphrey, Edward M. Kennedy, Warren G. Magnuson, Frank A. Moss, Edmund S. Muskie, Abraham A. Ribicoff, and Harrison A. Williams, Jr. We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DEPARTMENT OF AGRICULTURE

"FOOD AND HOUSING FOR THE ELDERLY"

Cost of publication

Printing:	
Pamphlets (1,250,000 copies)	$14,431
Envelopes and penalty labels	516
Total	14,947
Distribution:	
Contract mailing service	2,473
Postage and cost of transhipping 534,000 copies to SSA district offices	[1] 17,000
Total	19,473
Preparation:	
Office of Information and Office of Plant and Operations (49 man-hours)	[2] 500
Offset composition services, layout and art work	303
Total	803
Grand total	35,223

Disposition of copies

Distribution list	955,057
Retained	294,943
Total	1,250,000

[1] Not available—estimated by GAO on the basis of experience of other agencies.

[2] Costs estimated by GAO.

Brochure distribution list

Total distribution: 1,145,057.

Destination	*Quantity*	*Total*
1,193 Senior citizens centers	100	119,300
374 Elderly housing projects	100	37,400
552 National voluntary organizations serving older Americans	100	55,200
1,900 Nursing homes [1] for long-term care facilities	100	190,000
50 State agencies concerned with older Americans	500	25,000
1,000 Social security district offices	534	534,000
1,198 AARP chapter presidents	5	5,990
1,253 Presidents of senior citizens clubs	5	6,265
102 Senior citizen communicators	5	510
74 Leaders in the senior citizen field	5	370
432 AARP legislative chairman	5	2,160
3,330 Delegates WHCoA	5	16,650
152,212 NARFE membership	1	152,212

[1] The list obtained from the Department of Agriculture indicated that the brochure was not mailed to this organization. The revised total distribution is 955,057.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

"A REPORT TO OLDER AMERICANS"

Cost of publication

Printing (1,500,000 copies)	[1] $24,000
Distribution:	
Contract mailing service	[1] 3,000
Postage and cost of transshipping 534,000 copies to SSA district offices	[2] 17,000
Other	210
Total	20,210
Preparation:	
Office of Public Affairs (16 man-hours)	[2] 160
Graphics	210
Total	370
Grand total	44,580

Disposition of copies

Distribution list	1,175,897
Retained	324,103
Total	1,500,000

[1] Costs estimated by HUD—final bills not received.

[2] Costs estimated by GAO.

Brochure distribution list

Total distribution: 1,175,897.

Destination	*Quantity*	*Total*
1,400 Senior citizen centers	100	140,000
680 Elderly housing projects	100	68,000
496 National voluntary organizations serving older Americans	100	49,600
1,900 Nursing homes for long-term care facilities	100	190,000
50 State agencies concerned with older Americans	100	5,000
1,000 Social security district officers	534	534,000
1,300 AARP chapter presidents	5	6,500
1,293 Presidents of senior citizens clubs	5	9,465
100 Senior citizen communicators	5	500
100 Leaders in the senior citizen field	5	500
400 AARP legislative chairmen	5	2,000
3,624 Delegates WHCOA	5	18,120
152,212 NARFE membership	1	152,212

DEPARTMENT OF LABOR

"THE U.S. DEPARTMENT OF LABOR REPORT TO OLDER AMERICANS"

Cost of publication

Printing:	
Pamphlets (1,500,000 copies)	$11,171
Envelopes	1,497
Total	$12,668

DEPARTMENT OF LABOR—Continued

Distribution:	
Labor staff	$2,400
Postage and cost of transshipping 534,000 copies to SSA district offices	14,459
Total	16,859
Preparation:	
Office of Information:	
Publications and Reports (25.5 man-hours)	238
Contractor (13.5 man-hours)	190
Materials	82
Total	510
Grand total	30,037

Disposition of copies

Mailing list	980,057
Retained	519,943
Total	1,500,000

BROCHURE DISTRIBUTION LIST—TOTAL DISTRIBUTION: 1,173,557

Destination	Quantity	Total
1,193 senior citizen centers	100	119,300
374 elderly housing projects	100	37,400
552 national organizations serving older Americans	100	55,200
1,900 nursing homes for long-term care facilities [1]	100	190,000
50 State agencies concerned with older Americans	100	5,000
1,000 social security district offices	534	534,000
1,198 chapter presidents	5	5,990
1,253 presidents of senior citizens clubs	5	6,265
102 senior citizen communicators	5	510
74 leaders in the senior citizen field	5	370
432 legislative chairmen	5	2,160
3,330 delegates WHCOA	5	16,650
152,212 membership [2]	1	152,212
Executive Liaison, room 134 Cannon House, office building		25,000
Federation of Experienced Americans Inc., 1625 K St. NW		10,000
White House supply, attention: Bud Evans		10,000
Warehouse		519,943

GAO NOTES

[1] These were not distributed per Frank Johnson, Office of Information, Department of Labor. Total distribution should be 980,057.

[2] The group or organization of the membership was not shown on this list, in lists used by the other agencies involved, the membership is shown as NARFE (National Association of Retired Federal Employees) or OA (Older Americans).

ACTION

"OPPORTUNITIES FOR OLDER AMERICANS IN ACTION"

Cost of publication

Printing (1,550,000 copies)	[1] $16,105
Distribution:	
Contract mailing service	3,132
Postage and cost of transshipping 535,000 copies to SSA district offices	18,502
Total	21,634
Preparation:	
Office of Public Affairs (16 man-hours)	[2] 164
Total	37,903

Disposition of copies

Distribution list	1,186,157
Retained	363,843
Total	1,550,000

[1] GPO estimate

[2] GAO estimate

OPPORTUNITIES FOR OLDER AMERICANS IN ACTION—BROCHURE DISTRIBUTION LIST

List	Number of addressees	Quantity to each	Total
1. Senior citizen centers	1,193	100	119,300
2. Elderly housing projects	374	100	37,400
3. National voluntary organizations serving older Americans	552	100	55,200
4. Nursing homes for long-term care facilities	1,900	100	190,000
5. State agencies concerned with older Americans	50	500	25,000
6. Social security district offices	[1] 535	[1] 1,000	535,000
7. Chapter presidents	1,198	5	5,990
8. Presidents of senior citizens clubs	1,253	5	6,265
9. Senior citizens communicators	102	5	510
10. Leaders in the senior citizens field	74	5	370
11. Legislative chairmen	432	5	2,160
12. Delegates WHCoA	3,330	5	16,650
13. Membership, OA	152,212	1	152,212
Special quantity delivery by truck to the following addresses: (All cartons must be clearly marked for each addressee):			
14. Executive liaison			20,000
15. Federation of Experienced Americans, Inc			10,000
16. White House supply			10,100

[1] These figures were reversed by the agency. The number 1,000 should be shown under number of addressees and the number 535 should be shown under quantity to each.

OFFICE OF ECONOMIC OPPORTUNITY

"DIGNITY INSTEAD OF DESPERATION"

Cost of publication

Printing (1,350,000 copies)	$59,000
Distribution:	
Contract mailer	(1)
OEO warehouse	(1)
Postage and cost of SSA distribution of 534,000 copies to its district offices	[1] 18,800
Preparation:	
Public Affairs and Office of Operations (28 man-hours)	200
Total	78,000

Proposed dispositions of copies [2]

Distribution list	1,132,197
OEO list	33,763
Retained	184,040
Total	1,350,000

[1] OEO could not furnish the breakdown of costs for each item.

[2] Distribution was planned to start October 6, 1972.

"DIGNITY"—BROCHURES/DISTRIBUTION LIST

Group	Quantity	Total
1. Senior citizen centers	1,193 at 100	119,300
2. Elderly housing projects	374 at 100	37,400
3. National volunteer organizations serving older Americans.	552 at 100	55,200
4. Nursing homes/long-term care facilities.	1,900 at 100	190,000
5. State agencies concerned with older Americans.	50 at 100	5,000
6. Social Security district offices	1,000 at 534	534,000
7. Other Senior citizen addresses (WHCOA members, etc.).	191,297 at 1	191,297
Total, external		1,132,197
Total, internal		33,763
Distribution total		1,165,960
Balance stock		184,040
Total printed		1,350,00

VETERANS' ADMINISTRATION

"THE VETERANS' ADMINISTRATION AND OLDER AMERICANS"

Cost of publication

Printing: (1,500,000 copies)	[1] $14,671
Distribution:	
Contract mailing service	[2] 1,516
VA staff	3,374
Postage and cost of transshipping 535,000 copies to SSA district offices	16,960
Total	21,850
Preparation:	
Information Service and Publications Service, Veterans Administration (49 man-hours)	562
Total	37,083

Disposition of copies

Distribution list	1,144,557
VA offices and others	69,850
Inventory	159,600
Unaccounted for	125,993
Total	1,500,000

[1] GPO estimate.

[2] Estimate per VA Purchase Order.

Brochure distribution list

Destination	Quantity mailed
Individuals	[1] 152,212
Senior citizens centers	[2] 1,200
Delegates to the White House Conference on Aging	[2] 3,300
National voluntary organizations	[2] 500
Nursing homes	[2] 1,900
Senior citizens clubs	[2] 1,250
Housing projects for the Elderly	[2] 400
State agencies concerned with the problems of the aged	[2] 47
Social Security Administration	535,000

[1] VA officials told us that they could not positively identify the individuals. Lists used by other agencies show the individuals as belonging to the National Association of Retired Federal Employees or as "Membership OA".

[2] The number sent to each center, group, etc. was not available at VA. We were told that the quantities ranged from 5 to 500 depending on the organization. The total sent out in accordance with the above list was 1,444,557.

Brochure distribution list

GAO's identification of abbreviations and incomplete references used on distribution lists for the six publications described in enclosures 3 to 8.

AARP—American Association of Retired Persons.

WHCoA—White House Conference on Aging.

NARFE—National Association of Retired Federal Employees.

OA—(We could not find a reference to such an organization but the letters apparently mean "Older Americans.") The initials as used apparently refer to NARFE.

Chapters Presidents—Apparently are associated with AARP.

Legislative Chairman—Apparently are associated with AARP.

Membership—Apparently refers to NARFE.

THE WHITE HOUSE,
Washington, D.C., October 5, 1972.

MR. GREGORY AHART,
Director, Manpower and Welfare Division, General Accounting Office, Washington, D.C.

DEAR MR. AHART: Attached is a compilation of the mailing lists, their numbers and from where they originated per your request.

This list was unified and distributed by the White House office in order to fulfill the White House Conference on Aging's recommendations calling for informational programs to educate the elderly to the programs and facilities available to them.

Very truly yours,

L. J. EVANS, Jr.

MAILING LIST

Number, Category, and Where Originated

1,193, Senior Centers, HEW.

374, Elderly Housing Projects, HUD.

552, National Voluntary Organizations Serving Older Americans, WHCoA.

1,900, Nursing Homes, HUD.

50, State Aging Agencies, HEW.

1,000, Social Security District Offices, (Handled by SSA).

155,169, Aging Leaders, HEW & WH compilation.

102, Senior Citizen Communicators, HEW & WH compilation.

3,330, White House Conference on Aging Delegates, WHCoA.

REVENUE SHARING

Mr. SPARKMAN. Mr. President, the Joint Committee on Internal Revenue Taxation recently made the information available on dollar allocations to the several State and local governments under the revenue-sharing legislation approved by the House-Senate conferees.

One question that has come to me from towns and cities not listed in the several counties has been: "Why are we not listed?"

The explanation that has been given to me has been that the computerization was based upon the 1970 census and that the bill provides that all governmental units are to be involved, whether or not they are specifically listed. The bill provides for a distribution to all communities even though those towns with a population of less than 2,500 persons are not specifically named in the report. It is not possible at this time to know just how the final distribution will be worked out in Alabama. However, the table that has been supplied by the Joint Committee on Internal Revenue Taxation gives a list for the State, counties, cities, and local governments. I ask unanimous consent, Mr. President, that the data outlining allocations throughout the State of Alabama may be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Revenue sharing funds for Alabama

[In dollars]

Total State grant to all locals	77,430,696
Amount returned to Alabama State government is	2,112,514
Autauga County area	373,871
Autauga County government	196,000
Total to all cities over 2,500	161,000
Total to all cities under 2,500	16,864
Total to all townships	0
Praitville City	161,000
Baldwin County area	632,250
Baldwin County government	236,500
Total to all cities over 2,500	258,357
Total to all cities under 2,500	137,392
Total to all townships	0
Bay Minette City	103,000
City of Foley	83,697
Fairhope City	71,660
Barbour County area	571,427
Barbour County government	308,564
Total to all cities over 2,500	164,500
Total to all cities under 2,500	98,363
Total to all townships	0
Eufaula City	164,500
Bibb County area	200,520
Bibb County government	143,725
Total to all cities over 2,500	0
Total to all cities under 2,500	56,795
Total to all townships	0
Blount County area	457,365
Blount County government	340,714
Total to all cities over 2,500	77,000
Total to all cities under 2,500	39,651
Total to all townships	0
Oneonia City	77,000
Bullock County area	385,444
Bullock County government	307,760
Total to all cities over 2,500	60,000
Total to all cities under 2,500	17,684
Total to all townships	0
Union Springs City	60,000
Butler County area	541,124
Butler County government	395,624
Total to all cities over 2,500	145,500
Total to all cities under 2,500	0
Total to all townships	0
Greenville City	145,500
Calhoun County area	1,822,196
Calhoun County government	580,288
Total to all cities over 2,500	1,142,803
Total to all cities under 2,500	99,105
Total to all townships	0
Annision City	930,456
Jacksonville City	57,500
Oxford Town	90,847
Piedmont City	64,000
Chambers County area	262,851
Chambers County government	180,708
Total to all cities over 2,500	77,500
Total to all cities under 2,500	4,643
Total to all townships	0
Lafayette City	30,500
Lenett City	47,000
Cherokee County area	230,492
Cherokee County government	172,000
Total to all cities over 2,500	0
Total to all cities under 2,500	58,492
Total to all townships	0
Chilion County area	342,974
Chilion County government	220,842
Total to all cities over 2,500	69,500
Total to all cities under 2,500	52,631
Total to all townships	0
Choctaw County area	305,662
Choctaw County govt	181,942
Total to all cities over 2,500	0
Total to all cities under 2,500	123,720
Total to all townships	0
Clarke County area	757,189
Clarke County govt	475,500
Total to all cities over 2,500	281,689
Total to all cities under 2,500	0
Total to all townships	0
Jackson City	194,189
Thomasville Town	87,500
Clay County area	178,858
Clay County govt	85,364
Total to all cities over 2,500	0
Total to all cities under 2,500	93,494
Total to all townships	0
Cleburne County area	288,217
Cleburne County govt	130,291
Total to all cities over 2,500	57,500
Total to all cities under 2,500	20,426
Total to all townships	0
Hein Town	57,500
Coffee County area	455,108
Coffee County government	176,844
Total to all cities over 2,500	250,000
Total to all cities under 2,500	28,264
Total to all townships	0
Elba City	44,000
Enterprise City	206,000
Colbert County area	839,121
Colbert County government	324,000
Total to all cities over 2,500	459,182
Total to all cities under 2,500	55,940
Total to all townships	0
Muscle Shoals City	7,500
Sheffield City	284,545
Tuscumbia City	167,137
Conecuh County area	301,074
Conecuh County government	222,922
Total to all cities over 2,500	53,500
Total to all cities under 2,500	24,652
Total to all townships	0
Evergreen City	53,500
Coosa County area	159,267
Coosa County government	97,940
Total to all cities over 2,500	0
Total to all cities under 2,500	61,327
Total to all townships	0
Covington County area	454,678
Covington County government	304,825
Total to all cities over 2,500	131,947
Total to all cities under 2,500	17,905
Total to all townships	0
Andalusia City	89,947
Florala City	32,000
Opp City	10,000
Crenshaw County area	429,909
Crenshaw County government	78,664
Total to all cities over 2,500	0
Total to all cities under 2,500	351,244
Total to all townships	0
Cullman County area	738,000
Cullman County government	384,000
Total to all cities over 2,500	354,000
Total to all cities under 2,500	0
Total to all townships	0
Cullman City	354,000
Dale County area	259,994
Dale County government	94,954
Total to all cities over 2,500	128,977
Total to all cities under 2,500	36,063
Total to all townships	0
Ozark City	95,281
Daleville Town	33,695
Dallas County area	1,397,000
Dallas County government	634,000
Total to all cities over 2,500	763,000
Total to all cities under 2,500	0
Total to all townships	0
Selma City	763,000
De Kalb County area	415,000
De Kalb County government	219,000
Total to all cities over 2,500	196,000
Total to all cities under 2,500	0
Total to all townships	0
Fort Payne City	196,000
Elmore County area	371,498
Elmore County government	266,558
Total to all cities over 2,500	84,574
Total to all cities under 2,500	20,365
Total to all townships	0
Tallassee City (part)	29,574
Wetumpka City	55,000
Escambia County area	852,065
Escambia County government	552,065
Total to all cities over 2,500	300,000
Total to all cities under 2,500	0
Total to all townships	0
Atmore City	161,000
Brewton City	139,000
Etowah County area	2,862,631
Etowah County government	848,500

Revenue sharing funds for Alabama—Con.

[In dollars]

Total to all cities over 2,500	2, 014, 131
Total to all cities under 2,500	0
Total to all townships	0
Attalla City	158, 000
Boaz City (part)	2, 715
Gadsden City	1, 757, 970
Glencoe Town	74, 500
Rainbow City Town (part)	20, 946
Fayette County area	3, 138, 493
Fayette County government	209, 485
Total to all cities over 2,500	99, 625
Total to all cities under 2,500	29, 382
Total to all townships	0
Fayette City	99, 000
Winfield City (part)	625
Franklin County area	223, 628
Franklin County government	139, 500
Total to all cities over 2,500	46, 000
Total to all cities under 2,500	38, 128
Total to all townships	0
Russellville City	46, 000
Geneva County area	353, 310
Geneva County government	174, 420
Total to all cities over 2,500	93, 000
Total to all cities under 2,500	85, 890
Total to all townships	0
Geneva City	80, 000
Hartford Town	13, 000
Greene County area	347, 174
Greene County government	314, 174
Total to all cities over 2,500	33, 000
Total to all cities under 2,500	0
Total to all townships	0
Eutaw City	33, 000
Hale County area	408, 123
Hale County government	377, 623
Total to all cities over 2,500	30, 500
Total to all cities under 2,500	0
Total to all townships	0
Greensboro City	30, 500
Henry County area	274, 766
Henry County government	197, 525
Total to all cities over 2,500	66, 000
Total to all cities under 2,500	11, 240
Total to all townships	0
Abbeville City	32, 000
Headland Town	34, 000
Houston County area	760, 625
Houston County government	337, 790
Total to all cities over 2,500	358, 500
Total to all cities under 2,500	64, 334
Total to all townships	0
Dothan City	358, 500
Jackson County area	842, 617
Jackson County government	496, 466
Total to all cities over 2,500	255, 796
Total to all cities under 2,500	90, 355
Total to all townships	0
Bridgeport City	94, 796
Scottsboro City	161, 000
Jefferson County area	16, 782, 598
Jefferson County government	7, 788, 726
Total to all cities over 2,500	8, 796, 988
Total to all cities under 2,500	196, 884
Total to all townships	0
Bessemer City	833, 634
Birmingham City	7, 099, 587
Fairfield City	210, 692
Fultondale City	23, 215
Gardendale City	29, 393
Graysville City	14, 307
Homewood City	123, 479
Irondale City	52, 179
Leeds City (part)	35, 606
Lipscomb City	14, 501
Midfield City	28, 507
Mountain Brook City	87, 562
City of Pleasant Grove	22. 886
Tarrant City City	83, 100
Trussville Town	28, 466
Vestavia Hills City	37, 369
Warrior City	27, 000
Hueytown City	45, 508
Lamar County area	280, 593
Lamar County govt	167, 905
Total to all cities over 2,500	0
Total to all cities under 2,500	112, 688
Total to all townships	0
Lauderdale County area	1, 133, 694
Lauderdale County govt	269, 707
Total to all cities over 2,500	812, 130
Total to all cities under 2,500	51, 857
Total to all townships	0
Florence City	812, 130
Lawrence County area	220, 482
Lawrence County govt	153, 113
Total to all cities over 2,500	0
Total to all cities under 2,500	67, 370
Total to all townships	0
Lee County area	1, 643, 854
Lee County government	430, 354
Total to all cities over 2,500	633, 500
Total to all cities under 2,500	0
Total to all townships	0
Auburn City	241, 000
Opelika City	392, 500
Limestone County area	611,010
Limestone County government	412, 350
Total to all cities over 2,500	179, 500
Total to all cities under 2,500	19, 160
Total to all townships	0
Athens City	179, 500
Lowndes County area	174, 531
Lowndes County government	106, 658
Total to all cities over 2,500	0
Total to all cities under 2,500	67, 873
Total to all townships	0
Macon County area	474, 543
Macon County government	293, 253
Total to all cities over 2,500	160, 000
Total to all cities under 2,500	21, 290
Total to all townships	0
Tuskegee City	160, 000
Madison County area	4, 121, 280
Madison County govt	1, 163, 256
Total to all cities over 2,500	2, 913, 053
Total to all cities under 2,500	44, 971
Total to all townships	0
Huntsville City	2, 872, 185
Madison Town	40, 868
Marengo County area	614, 000
Marengo County govt	433, 000
Total to all cities over 2,500	181, 000
Total to all cities under 2,500	0
Total to all townships	0
Demopolis City	141, 000
Linden City	40, 000
Marion County area	437, 124
Marion County govt	344, 793
Total to all cities over 2,500	60, 177
Total to all cities under 2,500	32, 153
Total to all townships	0
Hamilton town	46, 000
Winfield City (part)	14, 177
Marshall County area	1, 245, 134
Marshall County government	650, 782
Total to all cities over 2,500	593, 158
Total to all cities under 2,500	1, 193
Total to all townships	0
Albertville City	264, 000
City of Arab	30, 500
Boaz City (part)	87, 061
Guntersville City	211, 597
Mobile County area	10, 343, 755
Mobile County government	3, 439, 952
Total to all cities over 2,500	6, 786, 098
Total to all cities under 2,500	117, 706
Total to all townships	0
Chickasaw City	86, 587
Bayou La Baire Town	74, 500
Mobile City	5, 668, 861
Prichard City	870, 500
Saraland City	85, 650
Monroe County area	487, 406
Monroe County government	352, 906
Total to all cities over 2,500	134, 500
Total to all cities under 2,500	0
Total to all townships	0
Monroeville City	134, 500
Montgomery County area	4, 071, 909
Montgomery County govt	745, 679
Total to all cities over 2,500	3, 326, 230
Total to all cities under 2,500	0
Total to all townships	0
Montgomery City	3, 326, 230
Morgan County area	1, 556, 876
Morgan County govt	330, 083
Total to all cities over 2,500	1, 164, 805
Total to all cities under 2,500	61, 987
Total to all townships	0
Decatur City	1, 040, 947
Hartselle City	123, 858
Perry County area	411, 900
Perry County govt	371, 400
Total to all cities over 2,500	40, 500
Total to all cities under 2,500	0
Total to all townships	0
Marion City	40, 500
Pickens County area	487, 372
Pickens County govt	303, 153
Total to all cities over 2,500	34, 000
Total to all cities under 2,500	150, 219
Total to all townships	0
Aliceville City	34, 000
Pike County area	505, 317
Pike County govt	275, 794
Total to all cities over 2,500	220, 000
Total to all cities under 2,500	9, 523
Total to all townships	0
Brundidge Town	32, 500
Troy City	187, 500
Randolph County area	348, 165
Randolph County govt	219, 571
Total to all cities over 2,500	93, 500
Total to all cities under 2,500	35, 094
Total to all townships	0
Roanoke City	93, 500
Russell County area	905, 624
Russell County govt	499, 980
Total to all cities over 2,500	382, 000
Total to all cities under 2,500	23, 644
Total to all townships	0
Phenix City	382, 000
St. Clair County area	467, 336
St. Clair County government	259, 826
Total to all cities over 2,500	92, 309
Total to all cities under 2,500	115, 201
Total to all townships	0
Leeds City (part)	1, 764
Pell City (city)	90, 500
Rainbow City (town) (part)	45
Shelby County area	638, 499
Shelby County government	483, 451
Total to all cities over 2,500	45, 834
Total to all cities under 2,500	189, 214
Total to all townships	0
Alabaster Town	25, 500
Leeds City (part)	334
Montevallo Town	20, 000
Sumter County area	553, 326
Sumter County government	256, 698
Total to all cities over 2,500	13, 687
Total to all cities under 2,500	282, 942
Total to all townships	0
York Town	13, 687
Talledega County area	1, 561, 278
Talledega County government	1, 020, 000
Total to all cities over 2,500	510, 500

Total to all cities under 2,500	30,778
Total to all townships	0
Childersburg Town	61,500
Sylacauga City	200,500
Talladega City	248,500
Tallapoosa County area	562,629
Tallapoosa County government	352,739
Total to all cities over 2,500	170,278
Total to all cities under 2,500	39,611
Total to all townships	0
Tallassee City (part)	9,778
Alexander City (city)	126,000
Dadeville Town	34,500
Tuscaloosa County area	2,588,127
Tuscaloosa County government	1,484,000
Total to all cities over 2,500	1,104,127
Total to all cities under 2,500	0
Total to all townships	0
Northport City	85,444
Tuscaloosa City	1,018,683
Walker county area	1,370,008
Walker County government	755,212
Total to all cities over 2,500	343,572
Total to all cities under 2,500	271,224
Total to all townships	0
City of Cordova	32,000
Jasper City	311,572
Washington County area	411,624
Washington County government	330,348
Total to all cities over 2,500	0
Total to all cities under 2,500	81,276
Total to all townships	0
Wilcox County area	376,767
Wilcox County government	235,479
Total to all cities over 2,500	0
Total to all cities under 2,500	141,288
Total to all townships	0
Winston County area	156,912
Winston County government	82,500
Total to all cities over 2,500	44,000
Total to all cities under 2,500	30,412
Total to all townships	0
Haleyville City	44,000

JUDICIAL INDEPENDENCE

Mr. ERVIN. Mr. President, Rufus L. Edmisten, Chief Counsel and Staff Director of the Senate Subcommittee on Separation of Powers, is a stanch advocate of the independence of the judiciary, both Federal and State. He made a profound study of this subject in preparing and assisting in the conducting of the investigations which the Subcommittee on Separation of Powers and the Subcommittee on Constitutional Rights have made on this highly important subject. He has prepared a speech on this subject entitled "Will Judicial Independence in North Carolina Become an Evanescent Dream?" which is scheduled for delivery at Appalachian State University, Boone, N.C., this evening. Although this speech deals primarily with certain proposed amendments to the constitution of North Carolina, it also deals in a general fashion with the whole question of judicial independence which was seriously threatened on the Federal level by the Tydings bill several years ago.

For this reason, I ask unanimous consent that a copy of this speech be printed at this point in the body of the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WILL JUDICIAL INDEPENDENCE IN NORTH CAROLINA BECOME AN EVANESCENT DREAM?

(By Rufus L. Edmisten)

Tonight I want to discuss a subject that probably is somewhat unfamiliar to most of you. More strikingly, it is a subject that is wholly unfamiliar to perhaps ninety-five percent of the North Carolina electorate who, on November 7, will be asked to vote on two constitutional amendments proposed by the legislature—amendments, which, if adopted, will have the potential of inflicting the greatest damage upon the precious independence of the North Carolina judiciary ever seen since its inception.

The first of the two proposed amendments to the North Carolina constitution to which I refer would require the General Assembly to enact legislation providing for the mandatory retirement of all justices and judges at specific ages; the second would provide for the establishment of a mechanism for removing justices and judges from office for alleged misbehavior and for mental or physical incapacity. Under the provisions of highly unusual anticipatory legislation already enacted by the General Assembly, which will go into effect immediately if the proposed amendments are ratified, the age limitation would require that no justice or judge of the appellate division may continue in office beyond the last day of the month during which he becomes seventy-two years of age, and that no judge of the superior or district court may continue in office beyond the last day of the month during which he becomes seventy years of age, with the saving clause that any justice or judge in office on the effective date of the enactment may serve out the remainder of the term to which he was elected. Additional anticipatory legislation was enacted to provide a mechanism for the removal of judges in addition to the procedures set forth in section 17 or Article IV of the state constitution. These already-existing constitutional procedures provide that:

"Any Justice of the Supreme Court, Judge of the Court of Appeals, or Judge of the Superior Court may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the General Assembly shall act thereon. Removal from office for any other cause shall be by impeachment."

Moreover, the General Assembly has provided by general law for the removal of District Judges and Magistrates for misconduct or physical or mental incapacity.

The enabling legislation for additional means of removal provides for the establishment of a Judicial Standards Commission consisting of one Court of Appeals judge, one Superior Court judge, and one District Court judge, to be appointed by the Chief Justice of the Supreme Court; two members of the State Bar who have practiced actively in the state courts for at least ten years, to be elected by the State Bar Council; and two citizens who are neither judges nor members of the state bar, to be appointed by the Governor.

The Commission would be empowered to institute an investigation either on its own motion or upon the written complaint of any citizen of North Carolina, such investigation to be conducted confidentially unless the judge involved requests that it be public. Upon completion of such investigation, if five or more members of the Commission shall so recommend, the Supreme Court may censure or remove any justice or judge "for willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Additionally, upon the recommendation of the Commission, the Supreme Court may remove a justice or judge for mental or physical incapacity.

In my opinion, and in the much-respected view of Senator Sam J. Ervin, Jr., whom I am proud to serve, and whose sensitivity to the requirements of a fair and efficient judicial system are well known to all North Carolinians, such provisions have the potential of seriously endangering the concept of judicial independence which is so essential to the proper working of our judicial system.

Let us begin our discussion by focusing for a moment upon the underlying philosophical bases for the judicial system in the United States.

The Founding Father, in establishing our national government, reflected clearly the lessons they had absorbed concerning the history of man's struggle to be free from tyranny. They knew that those entrusted with governmental powers are susceptible to the disease of tyrants—to what George Washington described in his Farewell Address as "the love of power and proneness to abuse it." They realized that the powers of public officers should be defined by laws which they, as well as the people, are obliged to obey, and that liberty demands control by constant and uniformly enforced laws rather than by the arbitrary and inconstant whims of wilful men.

They recognized the inalterable truth expressed by Thomas Hobbs when he said, "Freedom is political power divided in small fragments," and for that reason they diffused national power among three branches of government, each charged with specific responsibilities and each likewise precluded from exercising those powers bestowed upon the other two branches.

Because they had suffered the burdens of tyranny, the Founding Fathers very carefully provided for a Federal judiciary that would operate completely independent of everything except the Constitution. That independence means that judges do their duty as they see it without accounting to any higher power except the Congress, and then only to the extent provided by Article II, Section 4, and Article I, Sections 2 and 3, of the United States Constitution.

As the late Mr. Justice Hugo Black noted in his dissenting opinion in *Chandler* v. *Judicial Council of the Tenth Circuit,* 398 U.S. 74, 143 (1970):

"The wise authors of our Constitution provided for judicial independence because they were familiar with history; they knew that judges of the past—good, patriotic judges—had occasionally lost not only their offices but also sometimes their freedom and their heads because of the actions and decrees of other judges. They were determined that no such things should happen here."

The foregoing principle of separation of the federal judicial power from the other powers of government applies equally to the structure of the North Carolina judiciary. In fact, the North Carolina constitution provides for a strict separation of powers in Article I, Section 6:

"The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other."

The subject of separation of powers as that concept relates to the judicial system is no stranger to the Senate Judiciary Subcommittee on Separation of Powers, chaired by Senator Sam J. Ervin, Jr., to which I am privileged to serve as Chief Counsel. Indeed, in April, 1970, the Subcommittee devoted four days of hearings to the subject of the independence of federal judges, during which we were concerned primarily with the roles of the Judicial Conference of the United States and the judicial councils of the various circuits as they relate to the independence of Federal judges, and with certain legislative proposals introduced to expand the powers of judges, lawyers and laymen to oversee the judicial activities of the bench.

Specifically, we focused upon certain legislation proposed by former Senator Joseph Tydings of Maryland, which never made its way out of the Judiciary Committee of the Senate, due largely to the concentrated opposition of Senator Ervin and to the increased public understanding of the issue which the Subcommittee hearings engendered. The major provisions of Senator Tydings' proposed legislation warrant discussion here because of the similarity between them and the proposed North Carolina law.

Senator Tydings' bill, S. 1506, affectionately known as the "Judicial hari-kari bill" or the "Judicial hazing bill", consisted of six titles, of which Title I, "Commission on Judicial Disabilities and Tenure" was the most controversial. That title would have established within the judiciary a commission of five Federal judges in active service empowered to investigate the official conduct or the physical or mental condition of any Article III judge "upon complaint or report, formal or informal of any person." Upon a finding of misconduct, the Commission could have recommended to the Judicial Conference of the United States that the judge be removed from office. The Conference could then have certified such judge for removal, subject to Supreme Court review by certiorari. The Subcommittee found numerous grounds for objecting to Senator Tydings' proposed legislation, all of which apply with equal force to the North Carolina law.

For example, the descriptive language of the proposed legislation poses certain interpretive problems. What, for instance is "willful misconduct"? "Willful and persistent failure to perform duties"? "Conduct prejudicial to the administration of justice"? The possibilities of what might constitute these grounds for removal depends largely upon who is doing the interpreting. Moreover, making the filing of a complaint readily available to anyone would impose severe burdens upon judges. As Senator Ervin observed in a letter written to a Superior Court judge last month, the proposed Judicial Standards Commission amendment—"provides, in substance, that any person in the state can complain at any time on any ground about the official action of any judge, and that the Commission is thereupon empowered to consider the complaint. Inasmuch as some litigants are really mental cases, and cannot comprehend how they ever lost a case unless the judge is corrupt, this provision unnecessarily opens a Pandora's box, and has the potential of requiring judges to spend a major portion of their time defending themselves against unfounded charges."

Moreover, it is the task of any judge to decide issues which are of great emotional importance to the litigating parties, and which by their very nature create controversy irrespective of how rational the parties may be, and, as Senator Ervin further noted, a wise poet many centuries ago observed that "No wretch e're felt the halter draw with good opinion of the law." Thus, the provision for a Commission investigation upon the complaint of any person unhappy with a judge's decision could easily produce harrassment, persecution, and adverse publicity that would lead to the denigration of the judiciary, despite the fact that the hearings conducted by the Commission allegedly would be confidential.

Examples of the undesirable results of providing for such a Commission are readily available merely by examining the events experienced under the California system, after which the North Carolina proposal seemingly was patterned. In a book entitled *Who Judges the Judges?*, published by the American Bar Foundation, the author, William Thomas Braithwaite, describes the workings of the California system, and notes that ". . . overall, most complaints come from litigants. Litigant's complaints, however, are very often only an attempt to use the Commission as a means to appeal an adverse judgment." During the nine-year period of the California Commission's existence, fifty judges resigned or retired during Commission investigations of their performance or conduct. Since the details of the investigations are kept secret, the public can only assume that each judge who resigned or retired during that period did so as a result of some misconduct. Thus a stigma is placed upon all the judges who retired while investigations were ongoing, leading to the unfair conclusion that all retirees were in some manner culpable and retired under the pressure of investigation, even though many, if not most, in fact, retired for such reasons as failing health.

Why, we may ask, should our judges be placed under such undue pressures? Frankly I can see no reason. In the first place, North Carolina has been fortunate in the quality and character of the individuals who have been accorded judicial office, and instances of incompetence and misconduct have been rare indeed. In a state where judges are elected, the people have the opportunity to deny this high office to any judge who consistently demonstrates sloth or incompetence over the course of his term. Additionally, there are ample constitutional means now in existence for ridding the judicial system of those few judges who exhibit more serious failings. Suffice it to say, there is nothing in our judicial system, either in the character of those to whom we have accorded judicial office, or in the mechanism itself, which warrants taking such extreme measures. As I have already noted, the system now provides means for precluding a corrupt or incapacitated judge from remaining in office in defiance of the will of the people.

As to the mandatory retirement provision, I cannot express my agreement with my boss, Senator Ervin, strongly enough. Speaking from his long experience in the law, including service as a judge on various levels of our state court system, ranging from the Superior Court to the State Supreme Court, Senator Ervin said:

"I oppose a compulsory retirement age for judges. Some of the greatest judicial decisions of all times have been rendered by judges who had passed the age limit specified in the Legislative Act. I think the capacity of an experienced judge to hold the scales of justice evenly is unimpaired by his age as long as he retains his physical and mental powers."

I wholeheartedly concur in that statement. I opposed mandatory retirement ages for any category of public servant. Be it noted for the record that there is at least one among the younger generation who believes there is great value in experience, and that wisdom is fully as useful an asset as misdirected energy. Moreover, I submit that youth has no monopoly on intelligence or, for that matter, energy. I have known many old men whose age in years did not exceed thirty. If the proposed mandatory retirement age had been in effect throughout the years, the great Chief Justice Holmes would never have rendered his most outstanding decisions, and the late and exceedingly great Justice Hugo Black would have been banned to his tennis courts (where he played assiduously right up until the end of his life), to the permanent impoverishment of us all, especially in the area of our First Amendment rights. Would we have denied an Albert Schweitzer the right to practice medicine for the last and very productive two decades of his life? Would we have banned Albert Einstein from his mathematical laboratories for the last decade of his life? Would we have barred Arturo Toscinnini from directing his orchestra? Would we have spirited Benjamin Franklin away from the constitutional convention on the ground that his hoary wisdom rendered him useless? Clearly not. Nor should our best judges be booted off the bench merely because the inevitable passage of time pushes their age past some arbitrary number of years. It is a fact of life that age does indispose some individuals, but we have means for getting those persons off the bench already. As Senator Ervin put it, taking such measures as those now being proposed makes about as much sense as using an atomic bomb to get rid of a few mice.

In making these remarks, I am attempting to cry "fire" in a crowded theatre, as Justice Holmes once said in what, under the proposed amendment, would be characterized as his doddering old age. However, I do want to emphasize that our freedoms leak away from us little by little when we are least aware of that potential.

Our judicial system has served us well over the years, and the fairmindedness of our judges has been made possible to a great extent by maintaining separation between our judges and all external influences of whatever nature. In my firm opinion the legislative efforts of the General Assembly were ill-directed indeed when these constitutional amendments and the accompanying anticipatory legislation were proposed and enacted. The judicial problems of North Carolina which demand legislative solution do not relate to the need to oversee and discipline our judges, for that need is taken care of by the present constitutional provisions regarding impeachment and removal, and by the general law enacted regarding District Court Judges.

Rather, we should direct our legislative attention toward such problems as more court personnel to support our overworked judges; additional mechanisms to speed up criminal and civil trials; devising means for more efficient and rehabilitative court supervision of juveniles and the improvement of our penal system with a view toward devising means of rehabilitating criminal offenders while saving society at large the expense of long-term and often self-defeating incarceration.

When all is said and done, of the three branches of our state government, the judiciary makes the final decisions needed to protect our life, liberty and property. I for one want to do my part to see that the individuals who make those decisions are able to make them based exclusively upon the dictates of the law and of their own conscience and competence, and in the absence of any outside influence from whatever source.

SOVIET REPRESSION OF JEWS

Mr. ROBERT C. BYRD. Mr. President, from the very beginnings of this Republic, the American people have been stanch advocates and guardians of the rights of the individual.

Our Declaration of Independence, our Constitution, and the Bill of Rights charge us with the task of protecting the freedom of the individual, within the law, to live by the dictates of his conscience and of his personal beliefs. Included in these rights, and a most important aspect of them, is the right of the individual to freedom of movement, within the framework of international treaties and conventions.

At this time, the world is witnessing a most flagrant violation of the rights of the individual to freedom of movement, as the Government of the Union of Soviet Socialist Republics imposes on its Jewish citizens a virtual ban on their emigration to Israel. The form of this repression is cynical in the extreme, in that Jews desiring to go to Israel must now pay for an exit visa in a sum that is almost 20 times greater than the cost of an exit visa was just 2 years ago.

This cynicism and repression is further compounded by the fact that where the Soviet authorities feel that the Jewish applicant for an exit visa may be able to pay the exorbitant exit fee, his permission to apply for exit is refused. The Soviet Government seeks to justify these punitive measures by relating the exceedingly high cost of the exit visa to the cost to the state of having educated the would-be emigrants in the Soviet Union.

The transparency of this claim is obvious. While we must recognize the understandable reluctance of any State to lose from its midst, some of the best brains among its citizenry, we must be even more determined to be faithful to the principles of individual freedom on which our own Nation was conceived and structured.

During the debate before the General Assembly of the United Nations in 1948, Gen. George C. Marshall stated:

> Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other peoples, and are likely to seek their objectives by coercion and force in the international field.

Accepting the realism of these words by General Marshall, and placing them in the context of current conditions in the Soviet Union, it would behoove the United States, and this distinguished body, to pay them heed. We are engaged in the preliminaries of expanded trade agreements with the Soviet Union. Our two governments have just signed what could be an historic agreement on arms limitations. It is not chauvinistic to conclude that the advantages to be derived by the government and the people of the Soviet Union from the trade agreements will be measurably greater than will be the advantages in the opposite direction. We cannot, and should not attempt to use strong-arm methods in our commercial and diplomatic intercourse as a means to interfere in the internal affairs of another nation. We would be untrue to our national heritage, however, were we to fail to use every means at our disposal to help alleviate the unfortunate circumstances that afflict the Jews in the Soviet Union.

REGULATION OF SECURITIES DEPOSITORIES

Mr. **BENNETT**. Mr. President, it was with great regret that I read in this morning's Wall Street Journal that Mr. Moss of the House Committee on Interstate and Foreign Commerce has rejected working out a compromise with the Senate on a bill to regulate securities depositories, clearing agencies, and transfer agents. The article, which I would like to include at this point in the RECORD, quotes Mr. Moss as saying with reference to the House bill:

> It should be crystal clear to them (the Senate) that this is as far as we are willing to go.

The article also states that Mr. Moss said he was leaving for California tonight at 5:45, so that there would be little time for negotiation.

There are, of course, other members of the House committee who could fill in for Mr. Moss if he would permit it so that we could work out a compromise between the House and Senate bills regarding these important areas. As chairman of the House subcommittee which is responsible for securities legislation, Mr. Moss should know that the Senate is not disposed to accept ultimatums from Members of the House. Certainly he cannot think it is the Senate's responsibility that the House committee did not take action on this legislation early enough in the session to make it possible for him to have a day or two after the House passed the bill so that a compromise could be worked out.

I would like to point out that the Senate completed its action on its bill, S. 3876, more than 2 months ago, on August 4. While Mr. Moss may well think that his bill is satisfactory, it gives little consideration to the banking relationship involved. Perhaps this is understandable, since the House Committee on Interstate and Foreign Commerce does not have jurisdiction over banks nor is it reasonable to expect that they would have expertise in that area. The situation is different, however, in the Senate. Our Banking, Housing and Urban Affairs Committee has jurisdiction over legislation affecting both the securities industry and the banking industry. Because of our responsibility in both of these areas, the Senate bill establishes a framework in which the Securities and Exchange Commission is given clear responsibility to develop rules and regulations covering transfer agents and to determine appropriate rules and regulations by clearing agencies. Our bill provides that the Securities and Exchange Commission would also be responsible for enforcement over all institutions which are not banks or subsidiaries of banks.

On the other hand, because of the present relationship of the Federal banking agencies with banking institutions, our bill provides for enforcement of the regulations for banks and bank subsidiaries by the Federal agency primarily responsible for the overall supervision of these institutions. It may be interesting for Members of the Senate to know that banks or bank related transfer agents participate in the transfer of 95 percent of New York and American Stock Exchange securities and are registrars or coregistrars for 81 percent of these listed issues. Bank related transfer agents do approximately 85 percent of all transfer work in the country. We, of course, have provisions in our bill assuring proper cooperation and coordination among all of the Federal agencies involved. In other words, what we have in our bill is a careful balance between the responsibilites of the Securities and Exchange Commission and those of the Federal banking agencies.

When we completed action on our bill, we were assured by the Federal agencies and all interested parties that it was a workable, satisfactory bill even though none of them expressed complete satisfaction with the bill. Of particular interest is the fact that Chairman Burns of the Federal Reserve Board and Chairman Casey of the Securities and Exchange Commission stated that the bill was workable and that it could be accepted by them. We did not have the support of the banking industry for our bill because while they felt we had considered their problem, we had not solved it in a manner completely satisfactory to them. On the other hand, the securities industry was not satisfied either but stated that they were willing to support the bill because it was so important to have legislation this year. I agree that it is important to have legislation this year. If we do not, it is possible that arrangements will be made by present institutions which will make it much more difficult to resolve these issues next year.

During the last week or two since the House bill, which will likely be considered today, was made available to our staff, we have been working with diligence to formulate a proposal taking whatever we could of the House bill.

It is interesting to note that the Senate bill has far greater support by those who will be affected by the legislation than does the House bill. This is true with regard to Federal agencies as well as individual industry representatives.

In discussions we have had with the Securities and Exchange Commission staff, we find that although our bill does not grant everything the Commission desired, neither does the House bill. In fact, the House bill creates new problems for the Commission and would undoubtedly result in a need for additional funds and staff over what our bill would require. Our staff has worked out a compromise which grants additional rulemaking authority to the Securities and Exchange Commission over depositories and clearing agencies. We have also included provisions for disclosure of information and provisions assuring competition from the House bill. We have discussed this proposal with many of those who prefer the Senate bill and have, in the spirit of compromise, obtained their support.

The compromise which we are offering to the House is a reasonable one, and for a Member of the House to say that the House is not willing to make any changes in their bill is in my view irresponsible. We in the Senate Committee on Banking, Housing and Urban Affairs stand ready and willing to negotiate the differences, but I, for one, cannot accept a poorly drafted House bill instead of a carefully thought out Senate bill balancing the equities and establishing a pattern which would result in the cooperation of all Federal agencies and industries involved. I felt sure that Mr. Moss was misquoted in the newspaper and that we would be able to work out something that incorporates the best of both bills. Apparently he was correctly quoted, and I understand that he has today stated that he does not even want to discuss compromise language. I hope that Mr. Moss will reconsider, but if that is the way he feels about legislation for the regulation of securities depositories, clearing agencies, and transfer agents, and the House Committee abides by his decision, then in the words quoted in the article on Mr. Moss, "it should be crystal clear" who made it impossible to work out a reasonable compromise on this important legislation. It was not the Securities and Exchange Commission, it was not the Federal Reserve Board, it was not the FDIC, it was not the White House, nor was it any of the various industry groups involved or the Senate Committee on Banking, Housing and Urban Affairs. It was a member or members of the House Commerce Committee.

BICYCLE TRANSPORTATION ACT OF 1971

Mr. CRANSTON. Mr. President, as the Senate sponsor of S. 2440, the Bicycle Transportation Act of 1971, I have been delighted by the bicycle provisions contained in the Federal Aid Highway Act Amendments of 1972 (S. 3939). The Nation's 80 million bicycle riders—7 million in California alone—will benefit greatly by the funds made available for the construction of exclusive or preferential bicycle lanes and trails.

The bicycle boom is not a passing phenomenon. The bicycle boom persists and flourishes, perhaps more in California than in most States. An excellent article on our love affair with the bicycle appeared in the October 1972 issue of the magazine Westways. I ask unanimous consent that the text of this article by Mr. Robert Meyers be printed in the RECORD at this point for the interest of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORE POWER TO THE PEDALER

(By Robert Meyers)

The ribbon was snipped and the morning sun danced off whirling spokes as some seventy-five bicycles started down the concrete path. It was the usual group of assorted pedal freaks: some racing types with helmets and jerseys, toe clips, tire pumps and water bottles; families with baby tucked into a kiddie seat on the back; an elementary school contingent from Pico Rivera, their bikes gaily festooned with crepe paper woven into the wheels. All were assembled on a beautiful morning last July to open a new Los Angeles County bike path along the bank of the San Gabriel River, starting from Santa Fe Springs Park.

While a bike path opening doesn't offer much in the way of drama and excitement, it is typical of the two-wheel fever rolling across the land. The bicycle is enjoying its greatest revival since its heyday in the 1890s. The number of bikes sold—8.5 million in 1971—has doubled over the last ten years. Manufacturers are predicting that in 1972 bicycle sales will outnumber car sales for the first time since 1897. About 75 million people in the U.S. ride bicycles with varying degrees of enthusiasm, and for motives as individual as the bicyclist.

Children know a good thing when they see it and have never abandoned the bike. But the current boom is among adults, who are rediscovering one of the chief joys of childhood. For some it may be a longing for the time when learning to ride without hands was the biggest accomplishment demanded of one. There's also the exercise bit—the attempt to do something, preferably painless, about the expanding waistline and dwindling ego. "Pollution solution" read the signs on some bikes, as a recognition that bikes give off no noxious fumes, poison no streams and destroy no ecological systems. For many bicyclists, it is just an enjoyable form of recreation, a way of exploring one's surroundings at a slower pace, with family and friends.

Finally, there are those ardent devotees who have abandoned car for bike as their principal form of transportation. One of these is Frank Steen, who relates his experiences in *The Bicycle Book,* issued by UCLA's Earth Action Council. Frank commutes twenty-four miles a day by bike to UCLA. He finds that biking takes about the same amount of time as driving, or even less, given the traffic and parking problems. When the smog gets bad, he wears his gas mask—which must give passing motorists a few sobering moments.

Bicycle clubs, magazines, dealers, repair shops and rental services are proliferating, along with bikeways and pressure groups for more of the same. Unfortunately, bike thefts and accidents are also rising at alarming rates.

Americans have thrown themselves into bicycling with gusto, ingenuity and some amusing results. Last year, in El Cajon, a couple whose romance began in a bike singles club were married—on a bicycle built for two, of course. Some banks offer bike-in deposit windows—for all the money saved by cycling instead of driving, perhaps. And police in Santa Clara, California, have formed a Bicycle Park Patrol to catch vandals in city parks. They ride ten-speeds recovered from bicycle thieves.

Man's relationship to the bicycle dates back to the Age of Invention, the nineteenth century. Even though the wheel was one of mankind's earliest inventions (thought to have been used first in the middle Bronze Age, about 2500 B.C.), it somehow never before occurred to anyone to link two wheels together fore and aft, place a seat between them, put a steering device on the front wheel, and ride off under his own power.

Basically, a bicycle is a two-wheeled vehicle propelled by its own rider. One of the earliest bicycles was produced in Paris in 1816 by J. N. Nièpce, who was also an early experimenter in photography. Called by its maker a *célèripède,* Nièpce's bicycle was steerable, but it had no pedals. The rider pushed it along with his feet. Obviously, it worked best when going downhill.

The following year, a German named Karl von Drais de Sauerbrun introduced what quickly became known as a draisine, but which was referred to in England as a hobbyhorse (or dandy horse, because it was ridden by the period's leading dandy, the Prince of Wales—later George IV).

In 1839, bicycle design took a strong stride forward with a hobbyhorse produced by Kirkpatrick MacMillan in Scotland. MacMillan's machine had reciprocating foot cranks on the front wheel, allowing the rider to propel himself without having his feet touch ground. For its time, this was a remarkable achievement. The forerunner of today's modern bicycles, MacMillan's vehicle could speed along at ten miles an hour. But, alas, it never caught on. It was too far ahead of its time.

In the early 1860s, Pierre and Earnest Micheaux and Karl Kech independently came up with similar ideas for a chain-driven affair called a "velocipede." By 1865 more than 400 velocipedes a year were being manufactured—and the bicycle's development had begun in earnest. Research was done on "tyres," hubs, spokes and gears, and the gear ratios were soon worked out.

The bicycle that emerged from all this effort was called an "Ordinary." It had a front wheel that was often six feet in diameter. To mount if you used a small step placed alongside. Because of the distance from the seat to the pedals, you either had to have long legs to ride the Ordinary—or you walked. Nevertheless, the extreme height of the Ordinary gave the rider the same feeling of grandeur that he felt while riding a horse. For those with less exalted expectations, the bicycle was simply a quick and easy means of getting around. It was cheaper than a horse, and it required little maintenance—repairs could usually be handled by the owner himself (thus giving the world the original Sunday mechanic). With the development of the Ordinary, the Age—and rage—of the Bicycle had begun.

This new mechanical horse was not without its problems, though, and one of them was that when a rider fell off an Ordinary, he fell off—a drop of more than six feet. Or, more dangerously, he fell over the handlebars and could be hurt by the bicycle itself. Relief was soon in sight—but not in the form of a soft landing spot. In 1874, H. J. Lawson, an Englishman, put together something called the "Safety Bicycle." Its wheels were of equal diameter, and it looked pretty much like the bicycles of today. In 1885 successful manufacture of the Rover Safety Bicycle was begun. By the 1890s the Safety dominated the market, the Ordinary was relegated to the glamorous or high-risk category, and the shorthand term "bike" entered our vocabulary for the first time.

But just as a man could not afford to fall six feet to the ground, so the bicycle could not continue to run on solid rubber—or on wood, or iron, or metal. In 1888, just as the Safety was gaining acceptance, J. P. Dunlop, a Belfast veterinarian who knew when to put the wheel before the bike, produced a pneumatic tire, which quickly replaced the solid rubber and hollow rubber tires that had been used. Lightweight, strong, dependable and fast, the pneumatic tire firmly established the bicycle's wheelhold.

In the late nineteenth century, as the bicycle became an accepted means of transportation, businesses and institutions adapted to meet the change. Stores stayed open late at night to accommodate the late-riding crowd and introduced new products, including "Bicycle" playing cards, horns, lamps and gadgets galore. Since country folk could travel to the city and city dwellers could journey to the country, stores and rest houses sprang up along the way, and people who never dreamed of living anywhere except where they already were began to realize they could live somewhere else and commute by bicycle. Roads were improved, laws were passed to give bicycles equal rights with the horse and buggy, shops sprang up overnight to cater to the new bicycling crowds—and Orville and Wilbur Wright opened a bicycle shop in Dayton, Ohio.

This bicycle craze in the late 1890s spawned a plethora of new products designed to make bicycling easier or more enjoyable. There were Cycle Cigarettes, "The Best That Can Be Made for the Money—20 for 5c"; Cycle Revolvers, "A Good Thing for the Bicycle Rider"; Bicycle Suits for Men "coat and bloomers (knickers) $3.75"; Kodak Cameras for Wheelmen, "You Press the Button, We Do the Rest"; and Bicycle Road Maps, showing a handsome twosome on the cover. Magazines such as *Collier's* and *Judge* published special bicycle issues; and one newspaper, the Philadelphia *Taggerts Times,* even attributed the breakup of the home, the breakdown of morals, and general indigestion to the bicycle.

By 1899 about 1.8 million bicycles had been sold throughout the world, and the basic shape of the bicycle had been set. It consisted of rubber-tired wheels, a diamond frame, footbrakes and handlebars. And by this time, speed records had been achieved. For example, Charles M. "Mile-a-Minute" Murphy raced behind a Long Island Railroad car over a mile course in 57.8 seconds—and he nearly bicycled into disaster when the train stopped too quickly.

During the twentieth century, the bicycle was put to some new, more practical uses. Folding bicycles weighing eighteen pounds were used by both sides in World War I, and in America a "Liberty" bicycle was adopted as a way around the rubber and metal shortages. It was standardized, with a twenty-two-inch frame. The French used bicycles to ferry troops to battle.

By the Thirties, bicycles had acquired balloon tires, streamlining and chromium plating. Anticipating America's entry into World War II, the country adopted a "Victory" bicycle in 1940, as it had the "Liberty" bicycle during World War I. Average yearly sales for the years 1940 to 1950 totalled 1.2 million.

Following World War II, America entered the "Age of the Middleweight." To meet the competition of fast, lightweight European bicycles, American manufacturers introduced a middleweight bike that was faster than the old trooper American boys were used to, but sturdy enough to withstand being banged and dropped.

By 1960, 2.5 million domestic bikes and 1.1 million imports were sold in the United States. The trend had clearly shifted to domestic manufacturers, who offered a wide range of vehicle. By 1968, 5.9 million domestic bicycles and 1.5 million imports were sold here. And today's bicycle boom shows no signs of slowing.

Currently, the fashion is to load your two-wheeled charger up (or down) with baskets, bells, lights, streamers, reflectors, rear-view mirrors, air pumps, water bottles, spare tires, tire-patch kits, oil cans, city license tags, personalized name tags, tubular tires (instead of the plainer "clinchers") and *campagnolo* brakes. Or you may want to have your bike built to your own specifications (for around $375). Either way, you'll look smarter if you wear a racing jersey ($13), shorts with chamois seat ($10), gloves ($8), helmet ($12) and shoes ($14 or $25).

Today, bicycles are relied upon by people around the world for personal transportation (they're especially mobile in city traffic); business (who hasn't bought an ice-cream bar from the ice-cream wagon?); pleasure and war (the bicycle is reportedly the most frequent means of transportation in Southeast Asia). Bicycling is a simple, relatively inexpensive, healthy and satisfying means of transportation, exercise and relaxation.

The Prince of Wales' dandy horse has come a long way indeed.

LIBRARY OF CONGRESS BICENTENNIAL PROGRAM

Mr. MATHIAS. Mr. President, as one of the sponsors of the legislation which created the American Revolution Bicentennial Commission, I have maintained a keen interest in the Commission's progress. From time to time, most recently in committee hearings on August 1 and 2, I have tried to encourage the Commission to fulfill the aspirations expressed in the bicentennial bill. It has seemed to me that the Commission ought to do more to engage the scholarly community in the bicentennial celebration. It should take the initiative to probe the deeper meanings of the Revolution and to set the people of the country thinking about the implications of the event.

I am happy to report that the Library of Congress is leading the way for the Commission. Last May the Library staged the first in a series of five symposia on the Revolution. Entitled "The Development of a Revolutionary Mentality," the symposium drew an overflow crowd of scholars and laymen. The Library has just announced that the second of its symposia will be held next May 10 and 11. The topic will be "The Fundamental Testaments of the American Revolution." No symposium, I believe, could address itself to a more timely subject than an exploration of the meaning and the legacy of the fundamental documents of the Revolutionary period.

Prof. Julian P. Boyd of Princeton University, the editor of "The Papers of Thomas Jefferson" and a former president of the American Historical Association, will chair the program and lead the discussion. Prof. Bernard Bailyn of Harvard University, a Pulitzer prize winner in history, will deliver a paper on "Common Sense."

Cecilia Kenyon, Charles N. Clark, professor of government at Smith College, will speak on the Declaration of Independence. Prof. Merrill Jensen of the University of Wisconsin, editor of the papers on the ratification of the Constitution and the Bill of Rights and former president of the Organization of American Historians, will examine the Articles of Confederation. Prof. Richard B. Morris of Columbia University, another Pulitzer prize winner in history, will discuss the Paris Peace Treaty in which Great Britain recognized the independence of the United States. J. Russell Wiggins, newspaper editor and former Ambassador to the United Nations, will bring the program up to date with an appraisal of the fundamental testaments of the American Revolution today.

These papers are to be published by the Library of Congress. Thus making them available to scholars, teachers, students, and the general public.

Mr. President, I am delighted that the Library of Congress, thus making them investigating the intellectual and spiritual dimensions of the American Revolution and in making its collections and other resources known through a variety of activities and publications. It becomes the Library to do so. Let us hope that the American Revolution Bicentennial Commission will follow the Library's example, for it is impossible to learn or know too much about an event as profound as the American Revolution.

Mr. President, I ask unanimous consent that the Library of Congress publication entitled "Liberty and Learning, the American Revolution Bicentennial Program of the Library of Congress, June 1970" be printed in the RECORD at this time.

There being no objection, the publication was ordered to be printed in the RECORD, as follows:

LIBERTY AND LEARNING

The Bicentennial of the American Revolution should be the occasion of a national reaffirmation of the truths to which the Nation was dedicated on July 4, 1776. It should be a time for rededication to the best of our national aspirations, for the setting of new—perhaps renewed—goals as we begin the third century of our independence. We have confidence that our form of government, with its imperfections and even its failures, has the strength and potential to meet the challenges of today and tomorrow. It is not enough to celebrate the deeds of our founders with patriotic oratory and noisy festivities. "To evoke," in President Nixon's words, "from our fellow citizens a deep sense of pride in our national heritage and accomplishments, and to inspire them to dedicated effort for the fulfillment of national goals yet to be attained," we must capture the spirit that animated the actions of the Founding Fathers. We must understand the principles that Jefferson characterized as "the bright constellation which has gone before us, and guided our steps through an age of revolution and reform."

This is more than an exercise in national piety. John Dos Passos wrote in a much less troubled era: "In times of change and danger when there is a quicksand of fear under men's reasoning, a sense of continuity with generations gone before can stretch like a lifeline across the scary present." Today more than ever, it is necessary to strengthen this lifeline by bringing to the American people an understanding of the Nation's past. Observance of the Bicentennial can deepen the faith of American citizens in their institutions and intensify their resolve to pursue the unalienable rights enunciated 200 years ago.

The Library of Congress, almost as old as the Republic it serves, has a special role to play in furthering this understanding. A major conservator of the Nation's past, the Library contains in its millions of books and manuscripts unparalleled resources for the study of American history. Its present collections are built around and have grown from the library of Thomas Jefferson, himself one of the architects of our freedom. Congress purchased the Jefferson collection after the British had burned the original library in the Capitol in 1814. So important is this nucleus of the Library's holdings that a former Librarian of Congress, Archibald MacLeish, said on the 200th anniversary of Jefferson's birth: "If there was withdrawn from the Library of Congress as it now exists everything which grew from the roots Jefferson planted, and everything which relates to the spirit Jefferson breathed, there would be little of greatness left."

The Library's collections are a living memorial to Thomas Jefferson. During the Bicentennial celebration, a memorial to another of the Nation's founders will rise on Capitol Hill—the Library of Congress James Madison Memorial Building. In this center for learning will be housed not only the papers of James Madison but those of twenty-two other Presidents of the United States and a number of the Founding Fathers, as well as those of other great Americans who have contributed to the civilization of their country—statesmen, inventors, business leaders, writers, teachers, and artists. This memorial is particularly fitting for the man who wrote in his seventy-second year:

"The American people owe it to themselves, and to the cause of free Government, to prove by their establishments for the advancement and diffusion of knowledge, that their political institutions, which are attracting observations from every quarter . . . are as favorable to the intellectual and moral improvement of Man as they are conformable to his individual & social Rights. What spectacle can be more edifying or more seasonable, than that of Liberty & Learning, each leaning on the other for their mutual & surest support?"

Madison's words, "Liberty and Learning," already adopted as a motif for the memorial building, will also be the Library's theme for its Bicentennial Program.

THE LIBRARY'S PROGRAM

Because the Library of Congress believed that it had a very real contribution to make to the observance of the Bicentennial—from the events leading up to the war, through the war itself, and to the period immediately following it—an internal committee was already considering a program before the passage, on July 4, 1966, of Public Law 89–491, which established the national American Revolution Bicentennial Commission, it was decided that the Library's extensive publications and exhibits programs should, insofar as possible, be focused for the next two decades on the Revolution and the founding of the Republic.

In 1968 Congress approved the Library's plans for a phased program and subsequently authorized the addition to the staff of several professional historians, all specialists in early American history. They are working with the librarians, bibliographers, subject specialists, editors, and designers on the Library staff to disseminate throughout the Nation knowledge of the Library's resources and of the American Revolution through publications, exhibits, and special events.

Ten leading historians accepted the Librarian's invitation to serve on an advisory committee for the Library's American Revolution Bicentennial program and met in Washington early in January 1970 to review projects already under way and to discuss plans for the future. Members of the committee, all distinguished historians, writers, and editors are: John R. Alden, James B. Duke, professor of history, Duke University; Whitfield J. Bell, Jr., of Philadelphia, Librarian of the American Philosophical Society; Julian P. Boyd of Princeton, editor of *The Papers of Thomas Jefferson* and past president of the American Historical Association; Lyman H. Butterfield of Boston, editor of *The Adams Papers;* Jack P. Greene, professor of history at Johns Hopkins University; Aubrey C. Land, research professor of history, University of Georgia; Merrill Jensen, Vilas professor of history, University of Wisconsin, and president of Organization of American Historians; Adrienne Koch of Alexandria, Va., professor of history, University of Maryland, and author of *Jefferson and Madison, the Great Collaboration;* Edmund S. Morgan, Sterling professor of history, Yale University; and Richard B. Morris, Gouverneur Morris professor of history at Columbia University.

PUBLICATIONS

Bibliographies and guides

Highest priority was given to the preparation of a comprehensive guide to the manuscript and rare contemporary printed materials in the Library relating to the American Revolution. So important did the Library's Advisory Committee think this project that it not only endorsed it strongly but urged the American Revolution Bicentennial Commission to recommend the compilation of similar guides in each of the several States in the following resolution, adopted January 12, 1970:

Resolved, that whereas, the commemoration of the American Revolution Bicentennial affords an opportunity to increase an understanding of the ideas and ideals that animated the formation of the United States and the knowledge of the events that led to the creation of the Republic; and

Whereas, the Nation looks to the American Revolution Bicentennial Commission for guidance and direction in selecting and undertaking projects that will best accomplish this greater understanding and knowledge; and

Whereas, there exist in every State little-known or undiscovered manuscript sources for the study of the Revolution and the life and times of this period that will remain unused by scholars;

Therefore, the Advisory Committee of the Library of Congress American Revolution Bicentennial Program, having approved the preparation and publication by the Library of Congress of a comprehensive guide to its manuscript materials and rare contemporary printed materials of this period, urges the American Revolution Bicentennial Commission to recommend the preparation in each of the several States of a comprehensive guide to manuscript materials in the libraries, historical societies, archives, and government offices of that State, to be compiled according to scholarly standards for identifying and describing such items and to be published in a standard format. The committee believes that this project can be of incalculable benefit to scholars and to the general public in expanding our knowledge of American history, 1763–1789.

Support for this resolution has already been expressed by the officials of the National Historical Publications Commission, the American Historical Association, the Organization of American Historians, the American Association for State and Local History, the Southern Historical Association, the Society of American Archivists, and the Manuscript Society.

A project of this magnitude, to be carried out in the individual States, will need coordination by an appropriate organization and adequate funding, possibly through a system of matching Federal/State grants or foundation support. So important is this project to the observance of the Bicentennial that it deserves the active support of the American Revolution Bicentennial Commission.

Meanwhile, as its initial contribution to the literature of the Bicentennial and as an aid to national planning, the Library published late in 1968 *The American Revolution: A Selected Reading List*. This 38-page paperback, designed for use by the general reader rather than the specialist, cites 340 titles, ranging from eyewitness accounts to recent studies.

A comprehensive work of lasting value to students of the period is in preparation, a bibliography on Revolutionary America from 1763 to 1789, which will include more than 8,000 entries. In press is another work, a selected bibliography of periodical literature.

Among other bibliography studies projected is a catalog of the collection of William Faden, geographer to the British King, who assembled both manuscript and printed maps to use in his own publishing activities. Another is an analysis of the Library's holdings of the famous British Admirality charts known as the Atlantic Neptune series.

Facsimiles and other documentary publications

Edmund C. Burnett's *Letters of Members of the Continental Congress,* published by the Carnegie Institution of Washington in eight volumes between 1921 and 1936, has long been a standard research tool for the student of the period. Additional material has been discovered since Burnett's work went to press, however, and complete letters, of which Burnett reproduced only excerpts, have been found to contain valuable information. From its own collections and those of other institutions and individuals, the Library plans to publish at least 2,000 letters that will reveal the opinions and concerns of the members of our first national legislature, 1774–89.

Fundamental to any study of the American Revolution is that "expression of the American mind," the Declaration of Independence. The Princeton University Press and the Library will reissue, in a revised and enlarged edition, *The Declaration of Independence: The Evolution of the Text,* with historical notes by Julian P. Boyd, and facsimiles of various drafts, including the one by Jefferson with the changes made by Adams and Franklin, the Committee of Five, and the Congress.

Many scholars of the Revolutionary period have directed their attention to political and military problems and personages. To add to the general reader's knowledge of the thought, life, and character of the period, the Library plans to publish a volume containing extracts from personal letters, diaries, journals, newspapers, and pamphlets written between 1763 and 1789. Among materials in the Library's collections to be considered for this purpose are Susan Lear's diary of her journey by carriage from Philadelphia to Boston, Thomas Lee Shippen's jounal account of his grand tour, and Loyalist Joseph Galloway's secret messages to his wife.

Among the Library's richest holdings are its maps and charts. For the Revolutionary period they include charts of American coastal waters, harbor profiles, city plans, campaign maps by French engineers, drawings of fortifications, the so-called Franklin map used at the Paris peace negotiations, and the first map of the new United States, issued in 1784. Reproductions of many of these colorful manuscripts and rare printed maps will promote a clearer understanding of the influence of geography on the Revolution and illustrate the progress of the war.

The Library's holdings of British and American cartoons of the Revolutionary period will be published in book form. These cartoons, with editorial annotations, will provide a graphic history of political commentary through a form of satire that was just coming into vogue.

Political pamphlets were the chief vehicles for the dissemination of political ideas in England and in the Colonies. The most popular went through several editions on both sides of the Atlantic. Because they were so widely read by so many people, few copies now remain. To stimulate interest in overlooked areas of study, the Library is selecting for reprinting those rare and hard-to-find titles not now generally available to scholars. These will be reprinted in a series that will bring together writings on the fundamental issues of the day by, among others, Rokeby, Tucker, Shipley, and Cartwright.

The first of the Library's facsimiles relating to the American Revolution has already appeared—Paul Revere's engraving of the Boston Massacre, first published in 1770. This colored reproduction brings to the public one of the most famous engravings in American history, a prized American print which is a memorial to a landmark in the struggle for independence. Other historic prints, broadsides, and documents in the Library's collections will be similarly published with historical notes as funds become available.

EXHIBITS AND TEACHING AIDS

Jefferson's so-called "Rough draught" of the Declaration of Independence, in his own hand and with emendations by Benjamin Franklin and John Adams, an engrossed copy of the Bill of Rights, and manuscript items from the Library's collections of the papers of George Washington and Thomas Jefferson are on permanent display in the Main Building. Visitors to the Library in recent months have seen an exhibit entitled "Boston 200 Years Ago," which depicted in engravings, maps, broadsides, and rare books from the Library's collections the mood and life of the city that in 1769 was ready to lead the Colonies into open rebellion. A similar display was mounted for the bicentennial of the Boston Massacre. Engravings, pamphlets, portraits, and manuscripts, on view from March 5, 1970—the 200th anniversary of this violent confrontation with British authority—present the event itself, the American and English reaction, and the trial that followed.

In the Great Hall a major exhibit, drawing upon all the resources of the Library of Congress, will be opened before the Bicentennial year. Planned to give the public a comprehensive understanding of the revolutionary struggle, from its beginnings to the founding of the Republic, it will remain on view throughout the celebration of the Bicentennial. Smaller displays will highlight special events and developments. A book based on the matter exhibition will serve as a guide for visitors, as well as a souvenir of the celebration and a convenient, illustrated capsule history of the American Revolution.

With the completion of the Madison Building, not only will it be possible to reclaim former exhibit areas in the Main Building, now of necessity preempted for work areas, but the Madison Exhibition Hall, with a new gallery, will become available.

In keeping with the Library's theme of stimulating learning at all levels about American liberty, a portable exhibit, designed for reproduction and distribution as a classroom teaching aid, has been developed and successfully tested in secondary schools in the Washington area. Support is now being sought for its production for wider distribution for use by schools and public libraries.

SYMPOSIA AND SPECIAL EVENTS

In a series of symposia historians will interpret the Revolution and its effects on the United States and other countries of the world, especially as revealed in the Library's collections. Of primary interest to scholars, the effect of this series on the writing and teaching of history could be felt in both classroom and seminar. Foundation support for the series, already assured, will enable the Library to hold the first symposium in 1971. The published papers of each symposium and a collection of the lectures, published in book form at the conclusion of the series, should form a provocative addition to the historiography of the American Revolution.

Other special events marking the Bicentennial of the Revolution are in the planning stage. Among them are concerts of 18th-century music, reflecting for this present day one of the pleasant recreations of the men and women caught up in the struggle for independence.

PROJECTS IN WHICH THE LIBRARY CAN COOPERATE

The successful culmination of a struggle that at times seemed hopeless, the American Revolution became a beacon for all peoples seeking liberty. Probably no single event in man's history had so strong an impact, over so long a period of time, on so great a portion of the world's population. Describing this impact and demonstrating our interest in the histories of other nations so closely allied with our own should be prime considerations in the observance of the Bicentennial.

The Library has explored the possibilities of surveying manuscripts in other countries that reveal the impact of the American Revolution, with the hope that such of these manuscripts as have not yet been fully and reliably copied can be microfilmed. Unpublished sources throwing light on this subject exist among private papers and official records in both government archives and private depositories. The existence of much of this material is already known, but until a comprehensive survey is made, scholars can only guess at the quantity of undiscovered sources; and, until they are readily available in microfilm, they cannot be fully utilized by the scholarly community.

Members of the Advisory Committee on LC's American Revolution Bicentennial Program have expressed strong interest in a body of sources of great importance for historical research but at present under poor bibliographical control and therefore hard to use and little exploited. These are foreign newspapers, a medium which, as the eighteenth century advanced, increasingly recorded and reflected events in America and their meaning as understood in Europe. No comprehensive guide exists to files of early European newspapers held in either the countries of their origin or elsewhere, including libraries in the United States. It is therefore almost always difficult, and sometimes nearly impossible, to determine precisely what papers were published in, say, 1775, in such cities as Madrid, Brussels, or Dublin; or, if one knows some of the titles wanted, to tell where good files may be found, of either originals or photoreproductions. A systematic survey of files, wherever held, followed by a microfilming program, is thus a very serious need. Such a program would incidentally provide an appropriate means by which European nations and their learned organizations could contribute to the approaching commemorations. If it were followed, as it should be, by a published guide and international exchanges of microfilmed files of newspapers, it would enhance the resources of scholarly institutions in a number of countries.

No funds are available at present for either the manuscript or newspaper copying programs. Both activities are worthy of the approval and support of the American Revolution Bicentennial Commission.

Another project, much more restricted in scope but of primary importance, would give scholars easier access to American newspapers for the formative period. Clarence Brigham performed the herculean task of listing American newspapers for the period 1690 to 1820. His painstaking research identified hundreds of fugitive papers, verified their changing titles and publishers, and located the remaining, sometimes unique, copies in American depositories. Historians of the period of the Revolution, however, can use his work only with difficulty because of its geographical arrangement. A rearrangement of the Brigham findings in chronological order would greatly enhance the value of this ready reference tool for a study of the Revolution.

An area that needs to be explored is the field of diplomatic history. The ancient work of Jared Sparks on American diplomatic correspondence and its expansion and revision by Francis Wharton are both obviously deficient, but the task of preparing an adequate edition, drawing upon the material now known to exist, has not been attempted. Although the project would be large and costly, it should not be neglected if we are to comprehend fully the role the infant nation played on the world scene and the conflicting forces that helped or hindered the American struggle for independence.

CONCLUSION

A people who would preserve their liberty must constantly strive to increase their learning. They must deepen their awareness of that liberty's roots, of its meaning in the light of new interpretations, of its applications to the Nation's present needs and challenges. The Library of Congress, in its observance of the Bicentennial of the American Revolution, will dedicate the priceless materials in the national collections and the specialized knowledge of its staff to the furtherance of liberty through learning.

DR. RALPH KAPLAN

Mr. CRANSTON. Mr. President, I would like to draw the attention of the Senate to a remarkable man, Dr. Ralph Kaplan. Dr. Kaplan, a columnist, news commentator, teacher, and lecturer, has been singled out for honor by the Los Angeles Israel Bond organization. In spite of his long and devoted service to Israel and to other causes, this is the first time that Dr. Kaplan has permitted any organization to honor him.

The statement issued by the organization states:

> Dr. Kaplan writes a regular column for the Van Nuys News and the Orange County Register and broadcasts regularly over Radio Station KIEV, Los Angeles, and Radio Station KDES and KGEC–FM in Palm Springs.
>
> In addition he has conducted an extension course on "Evaluating the World's News" at UCLA School of Journalism since 1969 and is a faculty member of Hebrew Union, School of Education since 1971, offering two courses: "Israel Between the World Powers" and "World Press and Jewry".
>
> Dr. Kaplan is on the Los Angeles County Hospital Commission and an economic consultant for Beverly Hills Bancorp and subsidiaries. In addition he is a member of the National Academy of Television Arts and Sciences, the American Federation of Television and Radio Artists and Phi Delta Kappa, education honor society.
>
> He is a trustee and member of the board of the Beverly Hills Lodge of B'nai B'rith, a member of the board of the Planned Parenthood Ass'n of Orange County, Inc., and Grand Conseiller of the Conseil L'Academie du Vin, Bordeaux, France.
>
> A dedicated supporter of the Israel Bond program since its inception in 1951, he has made inestimable contributions in terms of leadership, inspiration and concrete financial help to the upbuilding of the State of Israel and previously was Los Angeles community representative on the Los Angeles-Elath Sister City program and a member of the board of the Pacific Southwest Region of the Anti-Defamation League.
>
> Highlights of his long career have been a two-hour debate with the Consul General of the United Arab Republic on the Mid-East conflict (in 1963), his role as historical consultant on "Let My People Go," a one-hour documentary televised nationwide over 100 stations, and his post as dean of Universal College, Tel Aviv University.
>
> Dr. Kaplan, who is listed in "Who's Who in World Jewry," is currently completing a major literary work, "As if There were No Tomorrow," which deals with human involvement before and during the Six-Day War.

MONTANA DEFENSE INSTALLATION FACTS—REPORT BY SENATORS MIKE MANSFIELD AND LEE METCALF

Mr. MANSFIELD. Mr. President, a general consolidation of moneys to be expended by the Department of Defense in Montana during fiscal year 1973 is as follows:

Military pay	$52,652,000
Civilian pay	11,047,000
Reserve and Guard	8,593,000
Military construction	47,342,000
Other	20,257,000
Total	139,881,000

GLASGOW AIR FORCE BASE

The present population of Glasgow Air Force Base is in excess of 2,500 people, and more than 560 homes are now occupied.

By the end of next June 1973 it is estimated that there will be approximately 850 families residing on the base.

The current Air Force payroll is $61.-843 monthly.

The Tumpane payroll is $218,306 monthly.

Construction projects now underway:

Aircraft parking ramp	$1,300,000
Alert building	195,000
Fuel hydrant repair	45,000

The airfield should be reactivated no later than December 1, 1972. B-52's should arrive soon thereafter.

The Safeguard depot is operational. The construction contract will be completed during October 1972.

The August payroll for the Safeguard depot was $110,422.

An attempt was made by the House to delete $1,570,000 from the Department of Defense appropriations bill to support the Safeguard Logistics Command which includes the depot. The Senate was successful in having this $1.6 million restored to the Department of Defense appropriations bill on which the conferees have agreed.

The House also recommended deletion of $1.3 million in operation and maintenance funds for contract support for Glasgow. This money was for the facility support of the Safeguard depot. Again, the Senate was successful in restoring these funds to the bill and the conferees agreed.

The Mountain-Plains School has approximately 130 families comprising approximately 500 students in the program now. By December 30, they anticipate having 200 families of approximately 800 persons.

There are 167 staff members, including 60 professional instructors—the remainder being clerical, custodial, and administrative. It is expected that in December there will be 93 instructural staff for 800 students.

Twenty-five of the 107 families are from minority groups—17 Indian and eight Mexican-American.

On the staff are 18 minority members—12 Indians, four Mexican-Americans, and two East Asians.

The monthly payroll for staff and students is $180,700 and by December, it should be $220,000; $12,500 per month is budgeted for usage of base facilities and $25,000 per month for utilities. Seventy-one staff members live on base, paying $10,600 per month to the Air Force for housing.

HEW will soon develop a proposal and recommend a grant in excess of $300,000 to establish a health program at the base. The Senate colloquy with Senators Magnuson and Cotton should provide incentive to the Department to expedite this program. Presently, there is one Public Health Service doctor there on temporary duty. The ultimate goal is full utilization of the hospital, but the $300,000 will not achieve that result. We are pressing HEW to develop both a short-range and long-term plan to provide adequate and complete medical care at the base.

AVCO is still employing 227 people at the base on an Army contract which will expire on February 1, 1973. The Army has tentatively agreed to consider extending most of this contract for an additional year. We should be hearing soon on the final details.

The WIN program is employing 60 people and could handle more if funds are made available through the State. This is an outstanding project.

AVCO and the Air Force are still in dispute over the award of the contract support function to the Tumpane Co. The GAO is investigating and will soon issue a report.

MALMSTROM AIR FORCE BASE

For fiscal year 1973, the Department of the Air Force did not submit a budget request for any construction at Malmstrom Air Force Base.

During a visit by Appropriation and Armed Services Committee staff members Mike Rexroad and Gordon Nease in March, at our request, it was determined that the base needed a base supply warehouse and an automotive maintenance/administration facility. When the military construction authorization bill was considered, it was requested that these two projects be added to the bill, the warehouse at $614,000, and the automotive maintenance facility at $531,000.

These items were not in the bill as reported by the House of Representatives but were added by the Senate. The conference committee agreed to authorize these buildings.

Later, the necessary funds were provided in the military construction appropriations bill. Construction should begin this spring.

The headquarters air base group building, approved last year, is just being completed and should be ready for dedication the end of this month.

The women's dormitory, which was obtained last year, is in the final design phase and construction should start in December.

Considerable work is being done with nonappropriated funds at the commissary, the post exchange, arts and crafts shops, and the NCO and officers clubs.

The economic impact of the base continues to contribute approximately $88 million per year to the Great Falls area.

For next year, we are considering the advisability to include two projects at the base: First, another airman's dormitory to replace four pre-Korean era dormitories. These older dormitories are prohibitive in their maintenance, and four of them can be replaced by one building; second, there is a need for an additional automotive heated storage facility. This building pays for itself in a relatively short time through decrease in automotive maintenance costs and depreciation from severe winter weather.

We are still working on $150,000 for the Air Guard at Great Falls International. No decision has been reached. Yesterday, the National Guard Bureau advised us that a weapons storage facility will be constructed at Great Falls International Airport for the Montana Air National Guard. Maj. Gen. I. G. Brown will visit Great Falls soon to confer with local officials on this project and other Air National Guard matters. The weapons facility will cost approximately $300,000.

The question of upgrading the Minuteman access roads is still under review in the Air Force. A decision should be ready during November.

Hardening of the Minuteman sites probably will not be accelerated as we asked.

CONRAD ABM AREA

On October 3, the Army announced the formal termination of the construction contracts for the Safeguard ABM facilities in Montana. Contracts terminated were valued at over $181 million. Work had been suspended on May 27, 1972. Approximately $11 million in construction was completed in the winter of 1971.

In the fiscal year 1973 military construction appropriations bill, the House of Representatives included a provision to reduce the funds available for community impact assistance to Montana and North Dakota by $6 million. Had this reduction been sustained, the Safeguard Command woud not have been able to meet Montana and North Dakota requirements now under review.

The Senate restored the $6 million, and in conference, the House receded. Thus, sufficient funding is available to meet the foreseeable requirements in the Conrad area.

A most important project still pending is the kitchen and multipurpose classroom for the new elementary school now under construction at Conrad. This project was disapproved by the Safeguard Command but is being reconsidered at our request. Now that the military construction bill has passed with the $6 million for community impact, we believe early approval can be expected.

The Small Business Administration originally took the position that small business loans could not be made to trailer parks, apartment owners, and real estate. Last week, we were successful in convincing SBA that in this particular instance; that is, the ABM cancellation at Conrad, small business loans should be authorized for trailer parks, apartment owners, et cetera. We emphasized that this was clearly the intent of Congress when the "Agnes" bill was passed with my amendment. Instructions have gone to the field to process these loans.

A number of community action projects are still being processed. A summary of these actions and their status is attached.

The Office of Management and Budget still has not released $19 million in fiscal year 1972 Federal highway funds for road construction in the five-county area. There is little we can do about this as the administration appears adamant in impounding these funds.

I ask unanimous consent that a report entitled "Status on Montana ABM Impact Actions" be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

STATUS ON MONTANA ABM IMPACT ACTIONS

During the June 8–9 visit of the Inter-Agency Economic Adjustment Task Force to the Montana ABM impact area, 44 specific actions were requested of the Federal Team. Nine additional requests were added during follow-on visits in late June and July. This report summarizes the status of current actions on the community requests.

In terms of the overall progress, the 53 actions can be summarized as follows:

Approved and in process	31
Community advised that local application can be approved on submission	1
Action in progress, initial favorable response	8
Action in progress, initial negative response	8
Disapproved	4
Action still pending	1
Total	53

Particularly helpful action has been effected by our Federal Team members resident in Montana from Small Business Administration (SBA), Economic Development Administration (EDA), Housing and Urban Development (HUD), Farmers Home Administration (USDA-FHA), Department of Labor, Federal Highway Administration, and the Federal Aviation Administration.

STATUS ON MONTANA ABM IMPACT ACTIONS

[As of Sept. 15, 1972]

Action	Action agency (action date)	Current status [1]
COMMUNITY FACILITIES		
1. Highways: Expedite $19,000,000 in fiscal year 1972 Federal highway funds and fiscal year 1973 programs for currently planned projects, with special emphasis on 5-county area.	DOT (ASAP)	(e) DOT year-end fiscal year 1972 allocation amounted to $2,500,000. DOT has advised (letter of Sept. 6, 1972) that additional 1st half fiscal year 1973 obligational request of $8,500,000 could be effected subject to OMB waiver of nationwide expenditure ceiling. OMB response (unfortunately unfavorable) to July 29 request is in process and is expected shortly. Additional 2d half fiscal year 1973 FHWA funding for impact area recommended at $13,200,000.
2. Libby Reregulation Dam	Corps of Engineers (Continuing).	(c) Report on $16,000,000 project approved by Board of Engineers for Harbors and Rivers and Chief of Engineers. Response from State of Montana was due by Aug. 31. Response now required urgently in order to secure inclusion in 1973 Omnibus Rivers, Harbors, and Flood Control Bill. This project was authorized by the Senate on Oct. 12, 1972 and it now goes to the House of Representatives.
3. Repair spillway at Tiber Reservoir	Department of Interior (Fiscal year 1974 Budget Cycle).	(d) Department of the Interior has advised us (letter of Aug. 28) that Spillway Project does not have favorable benefit/cost (B/C) ratio within Marias-Milk Project. DOI has been requested to conduct separate B/C analysis of Spillway project alone, including safety feature to downstream populations.
4. Expedite payment on Conrad sewer and water projects	EPA/SAFEGUARD	(a) Completed (July 1972).
5. Recreation planning for Swift Dam and Tiber Reservoir	USDA (continuing)	(a) Initial visit by USDA scheduled for January 1973 following completion of Montana Water Resource Board report on use of water line.
6. Planning/Technical Assistance for City-County jail for Shelby	LEAA/State (September 1972).	(a) LEAA is arranging for comprehensive consultant evaluation of criminal justice needs of Toole, Pondera, and Liberty County. (Consultant evaluation will be without cost to communities. Requested Aug. 23.)
7. Improvement of Minuteman Roadways	Air Force (MTMTS) Analysis by October 1972.	(c) Air Staff has requested analysis of costs and benefits for upgrading roadways from SAC. Analysis due mid-October.
8. Expedite hardening of Malmstrom Minuteman Field	Air Force (August 1972)	(d) Air Force has been requested (memorandum of Aug. 4) to proceed with accelerating Malmstrom area Minuteman Program. Action would result in initial hiring for March 1974. Air Force response has just (Sept. 14) been received—recommending against the acceleration. Air Force response must now be evaluated.
9. Expedite Small Watershed Projects	USDA–SCS (August 1972)	(a) SCS has advised (Aug. 15) that all Montana projects have been expedited. Further acceleration of Big Spring Creek Project (Fergus County) being investigated.
10. Senior Citizens Housing Program in Conrad (Horizon Lodge)	HUD (August 1972)	(a) Approved (Aug. 22, 1972).
11. Secure Interpretation of Treaty on use of 26-mile water line	DOD/Corps of Engineers (August 1972).	(a) DOD General Counsel Legal Opinion (Aug. 25) confirms that water line is not element of "ABM System component" within the meaning of Article II of the Treaty. The local community has been advised that the water line can be conveyed to public water district at full public benefit allowance. Water district has been organized by local citizenry. Water distribution study by Montana Water Resource Board is now required.
12. Marias-Milk Irrigation Project	Department of Interior (July 1972).	(e) DOI has advised (letter Aug. 22) that Marias-Milk project does not reflect favorable B/C ratio at current 5¾ percent interest rate of Water Resources Guidelines. Proposed revision to Guidelines would place an even greater burden on project.
13. Sewer-water for Shelby	USDA–FHA (September–October).	(c) Shelby City Council has provided clear indication (Sept. 6) of desire to proceed with project. Meeting arranged for Oct. 10–11 in Shelby to evaluate portion to be financed through USDA–FHA and through EDA.
14. Indoor Swimming Pool—Conrad	HUD (September 1972)	(d) Application is being reviewed by HUD Denver Region. Application has not received initial favorable reaction due to lack of urban density pressures. Outdoor Recreation grant through Department of Interior (BOR) and State is also being explored.
15. Repair of Conrad City Streets	HUD/SAFEGUARD (August 1972).	(c) Initial application for repaving main streets through HUD was rejected. Denver Region of HUD indicates application can now be reconsidered. Repairs (as opposed to repaving) of the Conrad streets can be approved and accomplished through FHWA as an alternative.
16. Hill-Burton Assistance to Shelby/Toole County Hospital	HEW/State (September 1972)	(d) Hill-Burton funds were included in HEW and Labor Appropriation Bill vetoed by the President. Continuation of Hill-Burton fiscal year 1973 appropriation level is in question. 5 other hospital applications of Category A urgency comparable to Shelby have already been received by the State.
17. Nursing Home Improvement assistance in Shelby	HEW/State (September 1972)	
18. Cross-Wind Runway Facilities—Shelby	FAA (October 1972)	(b) FAA has advised Shelby-Toole County that local application can be funded with 53 percent Federal sources.
19. Galata Water Line and Water District	FHA (October 1972)	(d) Actual application has not been received. This project stretches nearly 60 miles, serving approximately 50 families. Cost per family may well be prohibitive ($50 per month). Some possibility does exist that additional feed lot activity for the area could make supplemental EDA assistance appropriate.
20. System for Financing Removal/Renovation of Old Structures in Shelby.	USDA-FHA/HUD/OEA (November 1972).	(f) USDA-FHA procedures authorize financing for removal of older structures and resale for new housing. Similar procedure must be developed through HUD financing renovation of older business section of Shelby.
21. FAS 534 Upgrading	State/FHWA (August 1972)	(a) State/Department of Highways has indicated that FAS 534 all-weather upgrading will be advanced to November 1973.
SMALL BUSINESS AND INDUSTRY		
22. Local small business firms will require low interest loans to provide relief under current business situation. Legislative action may be necessary.	SBA (August 1972)	(a) Relief legislation introduced by Senators Mansfield and Metcalf was enacted as Section 6 of Agnes Relief Act (Public Law 92–385). Provisions provide for long term (up to 30 years) low interest (5⅜ percent) loan to refinance existing business indebtedness. The SBA Helena Office is processing applications on-scene in Conrad. SBA Washington is seeking Comptroller General ruling as to when loan payments can be effected. OEA and ACDA have indicated (Sept. 14) that the "international agreement" on ABM was signed May 26 and was ratified on Aug. 3 for purposes of loan provisions. Request has also been made to SBA to include real property involving on-the-scene management of real estate (such as apartment houses) as appropriate small business activity. This request was approved.
23. Assistance in locating purchasers for the numerous private mobile homes in the Conrad area which represents a serious debt burden to local developers.	HUD (ASAP)	(e) HUD inspected the Conrad area mobile homes for use at Rapid City. All but 2 of the older Conrad area private units were priced above the cost of new units to HUD ($3,832 to $3,920 for 600 2-bedroom units and $4,570 to $4,610 for 250 3-bedroom units). Final HUD determination received on Aug. 4.
24. Assist Conrad-Shelby area in identifying prospective industries which will meet local community assets and basic agri-business orientation.	OEA/SBA/EDA (September 1972).	(a) Conrad is presently investigating 5 new business prospects. Individual profile for Conrad-Shelby presently being drafted.
25. Comprehensive economic impact and reuse study for MSR/PAR areas.	ACDA/State (July)	(a) ACDA has retained General Research Corp. to conduct the study of the national economic impact of the SALT I agreements. This study will result in recommendations to the affected communities for alternative use of the buildings and support facilities available at the ABM site. Although the final report is not due until the end of February 1973, the contractor stands ready to supply information if and when requested in the interim. Approved Aug. 24.
26. Determination of availability of nonmilitary facilities at ABM site for industrial uses.	DOD (September 1972)	(a) DOD General Counsel has ruled (Aug. 25) that nonmilitary support facilities are not "ABM System Components" within the meaning of Article II of the Treaty. SAFEGUARD dismantlement plan does not include removal of office and warehouse facilities. Further discussions will still be required with the U.S.S.R.

Footnote at end of table.

STATUS ON MONTANA ABM IMPACT ACTIONS—Continued

Action	Action agency (action date)	Current status[1]
27. Assistance to bus companies	SBA (Contnuiing)	(d) Contact has been made for both the former Missile Master and Johnson Bus Lines for Air Force and HEW activities at Glasgow. Results have not been favorable to date.
28. Local economic development staffing	EDA/SAFEGUARD (June 1972).	(c) Economic development district has been organized. 2d meeting was held on Sept. 12 at which time proposed the EDA staffing (75 percent) with suggested Safeguard support of local assistance costs (25 percent) was accepted by the EDA Denver region.
29. Technical assistance for reuse of private/public facilities	EDA (July 1972)	(a) Technical assistance grant approved in June. Contractor is now preparing final report.
30. EDA "Sudden Rise" designation 5-county area	EDA/State (July 1972)	(a) EDA designation effected on July 7.
31. Technical assistance for Industrial Sites	EDA (July 1972)	(a) Technical assistance grant approved in June. Contractor is now preparing final report.
32. Continuing business assistance to Conrad-Shelby business community.	SBA with OEA assistance (Continuing).	(a) SBA visiting Conrad-Shelby on weekly basis. 4th OEA visit to Conrad-Shelby area scheduled for Sept. 21–23.
33. Small Business Seminar for Conrad-Shelby areas	SBA/Conrad Business Community/State (after immediate impact crisis).	(a) SBA scheduling seminar for January–February 1973 period at Conrad convenience.
34. Assistance by SBA SCORE Program to Conrad-Shelby business community.	SBA (Continuing)	(a) Great Falls SCORE Chapter President has been in touch with Conrad Chamber of Commerce and is arranging continuing assistance.
35. Lease Guarantees for new shopping center in Conrad	SBA (June 1972)	(a) Lease guarantees approved in June. Shopping center presently nearing completion. Opening scheduled prior to Christmas business season.
36. Establish local economic development corporations for Conrad-Shelby areas.	Local Communities/EDA/State Department of Planning (June 1972).	(a) Local Conrad and Shelby economic development corporations organized and operating aggressively.
37. Comprehensive 701 Planning for Industrial Expansion	State (June 1972)	(a) State Planning Division indicates that the current HUD Section 701 grant is adequate to permit updating of comprehensive community plans.
38. Technical Assistance on Mobile/Modular Housing Plant for Conrad.	EDA (September 1972)	(c) Application with EDA Denver. Response expected momentarily.
39. Farmers Cooperative Service Advice on Vertical Integration of Livestock Feeding, Slaughtering and Packing.	USDA (September 1972)	(a) Farmers Cooperative Service representative, Raymond Fox, visited Conrad to meet with area ranchers on Sept. 12–13. Full review given to Vertical Integration concept.
LABOR AND EMPLOYMENT		
40. Labor Mobility Funds	Dept of Labor (ASAP)	(a) Current DOL grant of $250,000 for Labor Mobility to State of Montana is unique nationally. Program being implemented effective by State. State request for $204,000 being reviewed by DOL Washington. Approval in process.

---

[1] Action status code:
(a) Approved and in process.
(b) Community advised that local application will be approved on submission.
(c) Action in progress; initial favorable response.
(d) Action in progress; initial negative response.
(e) Disapproved.
(f) Action still pending.

POLLUTION IN ROCK CREEK AND LAKE ROLAND

Mr. MATHIAS. Mr. President, all of us here agree, I am sure, that environmental consciousness is a fact of life, a concept which will be an integral part of any legislation dealing with our country's natural resources in the congressional sessions ahead. In the past month, the Senate passed the landmark water pollution control legislation, a safe drinking water bill, the pesticides control act, and a noise pollution control measure. Much of the action we have taken has been hastened as a result of the extensive and vigorous work of environmental groups throughout the country made up in large part of young students devoted to improving the quality of our environment.

The National Science Foundation, recognizing the potential of these young people, instituted the student-originated studies program in 1969 as a vehicle through which college students could express their concern for the Nation's environmental well-being, and hopefully, to encourage these young people to continue their interest in environmental sciences. The results of the student-originated studies program were published in the 1971 Abstract Reports as presented at the American Association for the Advancement of Science's meeting in Philadelphia in December of 1971.

Looking through the great variety of environmental projects undertaken by the students, I could not help feeling very proud and confident that the quality and obvious depth of the students' work would reap valuable benefits for America in the decades ahead. Two Maryland colleges received grants to participate in this NSF program. Twenty-four University of Maryland students along with a faculty adviser studied the extent and sources of pollution in Rock Creek, Md., and the District of Columbia for 3 months in 1971. An "Analysis of Degradation of Lake Roland, Baltimore," was the project carried out by 11 students at Goucher College in Towson, Md. These studies are perceptive, timely, and indicative of a deep concern and commitment to major environmental problems we face today. I ask unanimous consent that the two abstracts summarizing the projects be printed in the CONGRESSIONAL RECORD. Thank you.

There being no objection, the abstracts were ordered to be printed in the RECORD, as follows:

EXTENT AND SOURCES OF POLLUTION IN ROCK CREEK, MD. AND THE DISTRICT OF COLUMBIA

(University of Maryland, College Park, June 7, 1971–August 22, 1971)

Participants: Richard Butler, Reed Coble, Wava Culver, Julia Harper, Ron Logee, Richard Lohmeyer, David Newsom, Robert Patterson, Robert Presto, Richard Ramsey, Hilda Rojas, Scott Sinex, Suzanne Smith, Gary Stanton*, Earl Stromberg, Deborah Traham, David Vai, Thomas Vai, Ellen Waldron and Joan Zeller.

Non-Stipend Participants: Scott Heur, Catharine Ingels, Jeannette Pryor, Paul Schilling.

Faculty Advisor: Zigfridas Vaituzis.

An intensive bacteriological investigation of the Rock Creek watershed was conducted by students from the University of Maryland and Montgomery College. The bacteriological study was supplemented with a chemical analysis of Rock Creek and its tributaries. Laboratory analyses and field examinations were performed from June 7, 1971 to August 22, 1971.

This study presents the status of water quality throughout the Rock Creek watershed. The degree and origin of animal and human fecal contamination are defined for this watershed. Those areas that demand further study are delineated. The chemical analysis of the watershed revealed no significant sources of chemical pollution. In addition, a brief discussion of the erosion effects of urban development is included.

ANALYSIS OF DEGRADATION OF LAKE ROLAND, BALTIMORE

(Goucher College, Towson, Md., June 2, 1971–August 24, 1971)

Participants: Helen Ford, Nancy Marcus, Christina Nevar, Katherine Orr, Donald Outen, Virginia Richards,* Mina Risan, Margaret Rubin, Sharon Sommers, Edward Wender, and Clydia Wood.

Faculty Advisor: John W. Foerster.

Lake Roland, once a city reservoir and now the main feature of a park for the Baltimore area, is rapidly deteriorating. The purpose of this study was to evaluate Lake Roland's condition as accurately as possible, and to decide whether or not it is ecologically and recreationally worth salvaging.

All lakes are basically transitory elements of the earth's surface, but their natural lifetime usually spans thousands of years. In the case of Lake Roland, a man-made lake, the lack of maintenance has drastically shortened its life. The lake is undergoing eutrophication. This process, in Lake Roland's case, is being brought about by an increase in nutrient and sedimentation levels. Increased fertility allows more organisms to grow and die, thus compounding and trapping the amount of nutrients. Rooted aquatic plants in the shallow water around the edge trap sediments, and bring about gradual encroachment of the shoreline into the lake. Mis-management of land and water resources throughout its drainage basin has accelerated Lake Roland's rate of eutrophication; in less than a century its volume has decreased by 80%.

Twice a week, over the 12-week period samples were taken at seven base, or monitor stations; one each were on the three main feeder streams, and four in the lake proper. Physical measurements included: current speed, pH, temperature, conductivity, light penetration, color, sedimentation analysis, wind speed, weather conditions, rainfall. Biological measurements taken were: bacterial count, phytoplankton, periphyton, fish, benthos, and rooted aquatic vegetation. Sedimentation studies consisted of discharge measurements during both base and storm conditions, and particle size analyses of bottom sediments. Surveys of lake and park users and of area residents were conducted to determine the social value of the lake. Where appropriate and possible, basic relationships between the parameters of the lake were expressed in simple mathematical models.

---

*Student Project Director.

*Student Project Director.

Aside from the monitor stations, stations were set up near the shoreline to study encroachment of rooted aquatic plants. Fish samples were also taken at other locations in the lake and tributaries. Transects were made of the lake to determine the thermocline, depth, and light penetration at various areas.

The following conclusions were drawn from this investigation of Lake Roland:

1. The streams and reservoir are too high in those nutrients (nitrogen, phosphorus, etc.) which support noxious algal blooms.

2. Total and fecal coliform counts exceed State of Maryland and U.S. Public Health standards for primary contact recreational waters, thus suggesting the possibility of water borne disease. Bacteriological analyses and detergent tests indicate that domestic wastes are entering Lake Roland. The most likely source of such wastes is thought to be faulty septic systems.

3. Siltation is inordinately high, causing delta formation at stream mouths and filling in the lake.

4. Since 1943, Lake Roland has lost over 50 million cubic feet through sedimentation, and thus, the natural rate of eutrophication has undergone acceleration.

5. It is believed that the siltation, by limiting light penetration, is, to some extent, subduing noxious algal blooms.

6. Any attempt to alleviate siltation, without reducing nutrient inflow into Lake Roland, will make the algae problem worse.

7. The largest silt load into Lake Roland from all the tributaries is Towson Run.

8. Roland Run is the most seriously degraded stream.

9. There is an abundance of sewage fly larvae (*Stratiomys sp.*) and sludgeworms (*Tubifex sp.*) in Roland Run; these organisms are highly indicative of water polluted with human wastes.

10. The northern marsh area is probably one of the most important feeding areas for fish in Lake Roland.

The authors strongly urge all those concerned to take remedial steps immediately, for Lake Roland has reached a point in its process of degradation at which the rate of eutrophication increases rapidly with time. The recommendations are:

1. No further building or road construction must be allowed in the watershed area without:

a. sediment retention basins

b. proper sanitary sewers

c. reference to local soil types with respect to their stability for development.

2. Development of sediment retention basins on the three main incoming streams.

3. No further construction development of Robert E. Lee Park is recommended, except for possible recreational additions such as swings, and a small open area set aside for various recreational activities.

4. Investigation of the possibility of connecting septic tanks to sanitary sewers in the entire watershed, at least for new developments.

5. Suggested improvements of Robert E. Lee Memorial Park:

a. plant the exposed slopes near the parking lot;

b. establish more nature trails;

c. provide signs identifying points of interest on nature trails;

d. all signs should be attractive wooden ones, and prohibited activities should be listed on one sign;

e. no further access development;

f. if there is a significant increase in the number of park users, parking facilities should be enlarged;

g. keep cars away from the area immediately north of the dam, as well as the northern end of the lake;

h. prohibit the use of motorboats on the lake.

6. Reforestation of all exposed slopes in drainage basins.

7. No dredging of Lake Roland is recommended at present except to deepen channels in the marsh areas.

8. Silt dam is not recommended, for this would greatly accelerate the filling in and destruction of the marsh area.

9. Before undertaking any serious fish management, and in an effort to develop a better fishing lake, methods of reducing the present fish population must be considered.

10. After siltation, nutrient and fish reduction is underway, restocking on the basis of lake size and nutrient conditions can be performed.

11. It may be necessary to copper sulfate the algae during the first year of silt load reduction.

12. The County Health Department must be persuaded to check septic systems for leakage.

Reference copy: Goucher College Library

ALASKA DAY—OCTOBER 18

Mr. GRAVEL. Mr. President, just 5 days from now—October 18, 1972—Alaska will celebrate the 105th anniversary of its acquisition by the United States from czarist Russia. On that day, the formal transfer of sovereignty took place at Sitka, the Russian capital, with the lowering of the Russian flag and rising of the Stars and Stripes. This was truly a momentous occasion. To all of us Alaskans, this is a day for particular celebration and thanks to the farsightedness of William H. Seward, President Andrew Johnson's Secretary of State, who, in 1867, negotiated the purchase for the bargain price of $7,200,000.

Of the land acquisitions in the history of the United States, this purchase ranks second—second to the Louisiana Purchase only in actual land area—but first in importance in natural resources and sheer scenic beauty.

Modern-day history for Alaska began in 1741 when Vitus Bering, a Dane in the employ of the Russian Navy, discovered the Aleutian Islands and the Alaskan mainland. For approximately the next 100 years, Alaska was the scene of sporadic settlement by Russian traders, and exploration expeditions by the British and Spanish.

Even though the acquisition comprised approximately one-fifth of the land area of the United States at a cost of around 2 cents per acre, it was viewed by few in 1867 as a bargain. To the contrary, it was widely acclaimed by critics "Seward's Folly" and "Seward's Icebox," and generally was thought of as a worthless mass of ice and snow. This "worthless mass of ice and snow" by the year 1900, had produced gold alone valued in excess of its purchase price.

For almost a quarter of a century following acquisition, American Government was haphazard at best. Our colorful history covers administration by the War Department, the Navy Department, as a military district, then the Treasury Department as a customs district, and later under the jurisdiction of the Department of the Interior. Our situation improved in 1884 with the passage of the First Organic Act when Alaska was officially designated as the district of Alaska, but it took another quarter century to finally attain territorial status, and another 47 years to reach the ultimate—statehood.

During World War II, Alaska moved into an era of strategic importance in the defense of the continental United States, a role which we still play with our network of defense warning systems. We are proud of this contribution of the welfare and defense of our Nation.

Alaska's growth since statehood has been marked by two important changes—both tied to the use of its valuable land. In one, the U.S. Congress fulfilled a commitment provided by the treaty purchase giving Alaskan Natives aboriginal rights to large amounts of land. The other was the recent discovery of oil—a resource in great demand.

Alaska now looks to the future and is planning a rational growth policy. Part of this involves statewide land use planning in cooperation with the Federal Government which still owns vast portions of the State. In planning for the future, Alaska recognizes its responsibility to the Nation to protect and share its unbounded wealth. However, the rest of the country must also recognize its responsibility to Alaskans to allow us to grow and prosper.

With cooperation and mutual concern of all our peoples, I can envision the next 105 years will be marked with prosperity, peace, and a new spirit of Americanism.

Mr. President, Alaskans rejoice in being the 49th State and ask all to pause a moment and think of the significance of the event of October 18, 1867.

THE SEAS: HOW VULNERABLE IS THE OCEAN?

Mr. PACKWOOD. Mr. President, the renowned anthropologist and explorer, Thor Heyerdahl, recently addressed the distinguished lecture series, sponsored by the International Institute for Environmental Affairs, in cooperation with the Population Institute. This series was organized to support the work and aims of the United Nations Conference on the Human Environment in Stockholm, and Mr. Heyerdahl's speech was delivered concurrently.

Rather than try to summarize or highlight this superb and spellbinding address, Mr. President, I will simply ask unanimous consent that it be printed in the RECORD, and commend it most highly as an excellent statement of the critical situations of our oceans around the world.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SEAS: HOW VULNERABLE IS THE OCEAN?

(By Thor Heyerdahl)

At least 5,000 years ago Man started to rebel against the Nature that had bred him, and successfully nourished him for perhaps a million years or more. It has been 5,000 years of technological progress and a continued series of victories for the human rebel, the only mutineer among the descendants of Nature. Nature has yielded, tree by tree, acre by acre, species by species, river by river, while Man has triumphed. He has been able to advance by using the brain and the hands which Nature had given him to invent and use tools, and to create new materials. One might say that on the Seventh Day, when God rested, Man took over as Creator. He began to redesign the world and mould it to his own liking. Century after century he has worked without a blueprint to build a man-made world, each inventor throwing in an idea, each mason thrusting in a stone wherever a hand could reach. Only in very recent years have we begun to wonder what we are building. So far it has been taken for granted that any step away from Nature was progress for humanity. Quite recently it has become more and more apparent that some of the changes Man is imposing on his original environment could be harmful to himself; in fact they could even lead to global disaster. New inventions and new products continue to pour into the market while representatives from nations all over the world are assembled here in Stockholm today to try jointly for the first time to sort out the problem. What *are* we building and what *are* we doing to our environment? Can this unorganized rebellion against Nature, this global building without plan continue at its rapidly increasing pace without the haphazard structure collapsing over our heads? Is there something we can do to safeguard our existence in the changing world? Are we on the verge of destroying something that we ourselves and our descendants cannot do without?

Indeed the problem is manifold since civilization is complex and the world is large. It is my privilege here to raise some questions pertaining to one aspect of the problem: what are we doing to the ocean? As we all know, the ocean covers 71% of the surface of our planet. Is it vulnerable? And if so, is the ocean dispensable?

Unless we stop to reflect for a moment, I think most of us have the impression that the ocean is nothing but a big hole in the ground filled with undrinkable salt water, an obstacle to pedestrians and drivers alike, an abyss separating nations. On second thoughts we think of it as a conveyer for ships, a source of food, a holiday playground and, if we remember our schoolday lessons, we realize that it acts as a filter receiving dirty river water and returning it to our fields through evaporation, clouds and rain. It is probably not unreasonable to assume that most people regard the dominant space of the ocean on our planet as more of a disadvantage than an advantage. With less land covered by the ocean, there would be more fields to cultivate, more resources available, and more space for the growing population to expand. The fact, however, is that the proportion of land to ocean is either extremely well planned or a remarkably happy coincidence, since it is this composition which has made life possible, at least in the form we know it, just on this one planet.

Whether we accept the story of the creation in the Bible or the findings of modern science, we all agree that life on earth began in the ocean. Neither God nor Nature was able to create Man from lifeless volcanic rock. The long and complex evolution towards man began below the surface of the sea when solar energy transformed the gases and minerals from eroded rocks into protoplasm and the first living cells. We do not know precisely how it happened, but after a certain period of time the first single-celled organisms were alive in the sea: the ancestors of all animals floated side by side with the ancestors of all plants. While many of them evolved into larger species, others continued to survive much in their original size and form until the present day, and are part of the marine micro-organisms we call plankton. The animal-plankton, termed zooplankton, sustained themselves by feeding on the plant-plankton, or phytoplankton, and the plant-plankton survived by feeding on dead and decomposed plankton of both kinds, and the minerals of the sea. In this process of metabolism the plant-plankton, and their descendants among the larger algae, began to produce oxygen in increasing quantities as they multiplied and filled the sunny surface layers of the oceans. So rich became this production of oxygen from the plant life in the sea, that it rose above the surface and into the earth's sterile atmosphere. When the atmosphere content of oxygen was high enough, some shore-stranded algae took hold, and after millions of years developed roots and leaves, becoming the first primitive terrestrial plants. But it was not until the content of oxygen in the atmosphere was approaching the percentage it maintains today that the first lung-breathing species were able to emerge from the sea. Animal life on the land and in the air had been impossible for hundreds of millions of years until plant life in the sea had produced sufficient oxygen. Then the animals of the sea developed into the creatures of the air and of the land. From then on, conditions were ready for the long evolution to the mammals, which terminated with the appearance of Man. Man represents the crown of a mighty family tree with all its roots in the ocean. We cannot overlook this biological background.

We of the 20th century A.D., in spite of our supermarkets and superjets, have not become supermen who can cut off the navel-string to nature and survive alone as an independent species. We must never forget that we are part of a tremendously complicated system, part of a synthesis of biological species ranging from the oxygen-producing plankton of the sea, and forests of the land, to the food-producing soil and water, which can yield their indispensable supplies only through the activities of insects, worms and bacteria, inconspicuous creatures which Man in his ignorance usually disregards and even despises. Not even the invisible creator, call him God or call him the Force of Evolution, could place man on the the surface of the earth until all other biological species were already there to support him. Only in recent years have we begun to understand the interaction of the extremely complex ecosystem, where every single biological species has its function in creating living conditions, birth and continued survival for other species higher up the ladder of evolution. On the very top of this ladder, Man is balancing, ready to fall if for some reason he should lose the support of the species that preceded Him and paved his road to existence. More than half of the biological pyramid supporting Man at its apex is composed of creatures living in the sea. Remove them and the pyramid collapses; there will be no foundation to maintain life on land or in the air. We are all aware of the fact that an important part of the human food supply comes directly from the sea. In fact, modern economists are counting on a vastly increased output by ocean fisheries if we are to solve the growing problem of feeding the undernourished world of tomorrow. If we kill the plankton, we lose the fish, and thus drastically reduce the protein available for human sustenance. Man can limp along with very little in his stomach, but he has to fill his lungs. It takes weeks to die of starvation, days to die of thirst, and seconds to suffocate. If we kill the plankton we reduce to less than half the supply of oxygen available to men and beasts, and this at a time when forests are becoming scarcer than ever before. We, like all breathing species, will in fact be increasingly dependent on the plants in the ocean, since green landscapes rapidly recede before the spread of urbanisation, industry and the onslaught of modern farming, while asphalt, concrete and barren sand-dunes advance on previously fertile land. Since life on land is so utterly dependent on life in the sea, we can safely deduce that a dead sea means a dead planet.

Let us humbly admit it: if man is to survive, the ocean is not dispensable. If it is not dispensable, a pressing question naturally emerges: is the ocean vulnerable?

If we ask the man in the street, if we ask the decision-makers, if we ask ourselves, we are likely to hear the answer: the ocean is not vulnerable; it is too vast to be damaged by little man's activities; it is an enormous self-purifying filter which has taken care of itself for millions of years and will continue to do so for ever. We are all familiar with the phrase: "a drop in the ocean".

Since the morning of time, thanks to gravity, nothing has dropped off the earth, into space. Nothing, except a few truckloads of gear recently transferred to the moon. Millions of years with natural pollution. Millions of years without human industry, when Nature itself was a giant workshop experimenting, inventing, producing and throwing away waste. Waste by incalculable billions and ever more billions of tons of rotting trees, dead flesh, bones, excrement. Whether we measure in weight or in volume, the wastes of all the world's industry amount to nothing during the few decades of our technical era, as compared with the hundreds of millions of years of volcanic eruption, global erosion, and untold generations with death and decay. Man is not the first manufacturer, why should he become the first polluter? Our spaceship is built with an ocean to take care of pollution. So why worry?

Admittedly, Man has started to manipulate atoms, both taking them apart and grouping them together in different manners. But so did Nature before him. Nature's own Workshop invented and produced neutrons and electrons, radiation and gravity. Gases, liquids, metals and living cells. Vitamins and chromosomes. The beating heart and the thinking brain. The photographic eye and the listening ear. Nature combined molecules into darting shrimps and lumbering elephants. It turned fish into birds, and beasts into Man. Nature found a way to make oranges out of soil and sunshine. It invented "radar" and installed it into bats and whales, it produced shortwave transceivers for beetles and butterflies. The principle of jet propulsion was successfully tested out on squids, ages before Nature created the human brain. The human brain is itself the most complicated computer of all times, packed in a bump-proof case, with a body to carry it around at its own will. As we have seen, it marked the peak of earthly invention, the latest model delivered from the workship of spaceship earth.

Where are the endless masses of waste discarded along the production line? Gone. But not into space. Transformed. In fact, transformed into new living matter. The life cycle, the ecosystem of spaceship earth, is the closest one can ever get to the invention above all inventions: *perpetuum mobile.*

When Nature could produce and pollute, why cannot little Man? Volcanoes and sandstorms have sent fumes and dust into the air as long as life has existed, while dead fish and plankton have rained towards the bottom of the sea together with the silt from fields and rivers. There has never been any ultimate pollution of the land or of the air: it is all being flushed into the ocean. Of course, the land has been littered with dead leaves, fallen trees, rotting corpses, fermenting dung. But the rain is there to clean the air and to wash the rocks. Bacteria are there to transform death and subsequent decay into life and subsequent love-making. And gravity is there to drag the decomposed surplus by way of Nature's drains, into streams and rivers, bound for the earth's ultimate sink: the ocean. Only the ocean has no outlet for solid waste. But silt and filth from the land are received as magic fuel for the billions of tons of plankton which helps to keep the ocean fresh and clean.

So why the fuss about little Man's pollutants? Why can't we pollute when Nature can? Simply because the pollutants of modern Man have suddenly become basically different from those of Nature.

Like Nature, we have started to manipulate molecules. We have started to understand some of the most ingenious inventions that preceded our own existence. But when we take molecules apart and put them together in our own way, we get, to our surprise and delight, new and amazing substances never invented by Nature, although they appear to be highly useful to Man: plastics, D.D.T., and an endless series of other effective insecticides, detergents, and chemical product hitherto unavailable to planet Earth. Why had Nature overlooked the usefulness of these inventions? A sheer oversight? Today we can really get our laundry white and can exterminate every trace of insect life. We spray bugs and worms, bees and butterflies. We spray into the air and down on the soil. We wash and we spray and flush the detergents down the drain. We mass-produce. Industrial plants grow like temples around cities and lakes, along roads and rivers. Toxic wastes seep into every stream, pour into every sewer. Rain and drainage and man-made sewers carry pollution away into the sea. The mighty currents of the ocean churn around and carry away all poisonous waste. Carry away? No. Carry around. The ocean is as round as the earth, land-locked in every direction, with thousands of inlets, but not a single outlet.

Why cannot the oceanic filtering system function for technological Man as smoothly as it functioned in the recent decades of our parents, or in the days of ape-men, monkeys and dinosaurs? Cannot all refuse, now as before, be re-used as fuel for the biological machinery? No. And this is precisely where the environmental problem has begun. Man has recently created materials which Nature wisely avoided because they had no place among the perfectly interlocking cogwheels of the global ecosystem. Through technology, Man has begun to throw extra bolts and nuts into a ready-made and smoothly operating machinery. Although it has only begun with our own generation, year by year, day by day, Man's production of non-transformable, non-degradable materials has increased in a virtually precipitous curve. Waste and refuse are littered everywhere and we try to sweep it all into the ocean as if under a carpet. We realize that an increasing quantity of our modern waste is both toxic and non-degradable. But it doesn't matter, the ocean is endless. The ocean is deep.

This is, in fact, the second misconception. For the ocean is not endless and its depth is greatly misleading.

Just as we have seen that the age of the ocean is no guarantee of its invulnerability in technological times, in the same way we shall see that its size is no better guarantee.

Anyone who has drifted from one continent to another on a bundle of reeds or a log raft cannot help being struck by the fact that the ocean is just another big lake. It is enough to place ten Lake Eries end to end and they will span the Atlantic from Africa to America.

With technical progress, distances have dwindled, dimensions have changed. With the astronauts we begin to see that the ocean has limits like any lake, we begin to see our planet as a lonely spaceship. A spaceship without exhaust pipe. We have begun to realize that no chimney is tall enough to pierce the atmosphere and send our fumes into space, nor is any sewer long enough to pipe our pollutants beyond the borders of our common sea. For primitive man standing on the beach, the blue ocean ran into the blue sky; for us it curves beyond sight and falls back on us from behind. Sea and soil, fumes and sewage, all are here to ride with us forever in some form or another on the thin crust of our spinning sphere. Even so the sea is large compared to Man. After all its average depth is 1,500 meters (or about 5,000 ft.) running, in places, down to more than 10,000 meters (or 30,000 ft.). If this average depth of 1,500 meters were stretched out along a road, a runner could cover the distance in less than four minutes. And, if we were to represent the world ocean on a topographic globe, it would be impossible to smear on a coat of blue paint thin enough to represent the depth of the ocean in true proportion.

Although the ocean layer, in a global perspective, is thus much thinner than people suppose, only a fraction of this water needs to be polluted to kill all life. Marine life is concentrated near the surface and, again, most of the surface life is concentrated near the shores. Why is only the upper limit of real importance to marine life? Because marine life, directly or indirectly, depends on the plant-plankton as basic food; and plant-plankton can live only where the sunlight can penetrate the water in sufficient quantity to permit photosynthesis. This upper section, in the sunny tropics, is only 80–100 meters deep, whereas in the northern latitudes, on a bright summer's day, it has a depth of only 15–20 meters. Below this thin layer, life is immediately very restricted since it depends on the sinking of decomposing plant and animal remains from the sunlit waters above.

Why, again, is most of this surface life further concentrated near the shore? Because marine plant life, in addition to sunlight, needs mineral nutriments. In the coastal areas some of these are brought down by rivers and others are returned from the bottom of the sea. The ocean bottom is rich in these nutriments which have rained down from decomposing organisms near the surface and they can only return to the surface in areas where strong underwater currents and upwellings occur, such as near continental shores. An estimated 90% of all marine life is found in shallow coastal areas generally referred to as the continental shelves. These important areas represent only 8% of the total surface of the oceans, and, of course, only a fraction of 1% of the total ocean volume. When we speak of farmable land, we refer only to the usable surface soil, we never count the volume of sterile rock beneath as deep as it may go. Man harvests the sea as he harvests the land; let us therefore not fool ourselves by relying on the depth of the ocean any more than we rely on the depth of the land. It is, in fact, the very areas where life is concentrated that Man pollutes most.

Most pollutants come from the land. How many rivers today have drinkable water at their mouths? In fact today some rivers would not flow at all without factory and urban effluents. All the polluted rivers and all the sewers of the world empty their toxic refuse directly on to the continental shelves. This is also the nearest and cheapest dumping area for the enormous quantities of unwanted chemical poisons shipped away from the shore. What is so dangerous that we are afraid of storing it on land, we dump overboard guided by the principle "out of sight, out of mind". As an example, incalculable quantities of poison, including entire shiploads, have both openly and secretly been transported from industrial countries in Europe in recent years, to be dumped in the presumably bottomless North Sea. This sea is so challow that at certain points, the depth is only thirteen metres, and during the Bronze Age, half the North Sea was dry land.

Much has been written for and against the American act, repeated by others, of dumping vast quantities of nuclear waste and obsolete war gases in the Atlantic with the excuse that it was all sealed in special containers. There are already enough examples in shallower waters like the Irish Sea, the English Channel and the North Sea of similar fool-proof containers moving about with bottom currents and cracking open with the result that millions of fish are killed or mutilated. In the shallow Baltic Sea, 7,000 tons of arsenic were dumped in cement containers forty years ago. These containers have now started to leak. Their combined contents are three times more than needed to kill the entire population of the earth today. It may be difficult to find means of stopping ocean pollution from seepage of sewers, but deliberate dumping in the sea of material too dangerous to keep in sight should be considered a criminal act. It could easily be forbidden and the offenders should be most severely punished under international law. In fact there is no such thing as "national waters". The ocean is in constant movement. Only the solid ocean bottom can be mapped and divided between nations, not the mobile water above it. If you launch a raft off the coast of Peru, it will be carried with the currents to Polynesia. If you set a reed boat afloat off the coast of Morocco it is carried to Tropic America. This illustrates that there is no such thing as territorial waters for more than days at a time. What are territorial waters of Peru today are territorial waters of French Oceania tomorrow. What are territorial waters of Morocco now will shortly become territorial waters of various states around the Caribbean Sea.

Even though it is extremely important to put an immediate end to deliberate ocean dumping, this is only part of the problem. By far the greatest quantity of toxic refuse constantly reaches the sea in a much less spectacular way from agricultural fields and urban and industrial sewers.

To visualize the immense quantities of solid and dissolved waste and fluid chemicals of all kinds which every minute flow into the ocean from the shores of all continents, we should imagine the ocean without water, as a big, empty depression. The fact that every river in the world empties into the sea without causing an overflow, makes us sub-consciously think of the ocean as a witch's cauldron whose contents never come over the brim, no matter how much is poured in. We are apt to forget that the ocean has its own sort of outlet: the evaporation from its surface which permits only pure water to escape while all our poisons, all our solid and dissolved wastes, are left to accumulate forever in the pot. Visualize, then, the ocean as a dry and empty valley ready to receive only what Man is pouring in. The rising level of toxic matter would clearly be visible from all sides. A few examples picked at random will illustrate the input we would witness.

French rivers carry 18,000 million cubic metres of liquid pollution annually into the sea; the city of Paris alone discharges almost 1,200,000 cubic metres of untreated effluent into the Seine every day.

The volume of liquid waste in the Federal Republic of Germany is estimated at over 9,000 million cubic metres per year, or 25.4 million cubic metres per day, not counting cooling water which amounts to 33.6 million cubic metres per day. Into the Rhine alone, 50,000 tons of waste are discharged daily including 30,000 tons of sodium chloride from industrial plants.

A report of the United Nations Economic

and Social Council states that we have already dumped an estimated billion pounds of D.D.T. into our environment and are adding an estimated hundred million per year. Most of this ultimately finds its way to the ocean, blown away by wind or washed down by rain. The total world production of pesticides is estimated at over 1,300 million pounds annually. The U.S.A. alone exports over 400 million pounds per year.

Less conspicuous than the constant flow of poisons from the shores is that even the tallest chimneys in the world send their pollutants into the ocean. The densest city smog and the darkest industrial smoke will slowly be carried away by the wind only to descent with rain and snow into the ocean. Cities and industries are expanding day by day, and so far, in America alone, waste products in the form of smoke and noxious fumes amount to a total of 390,000 tons of pollutants every day, or 142 million tons every year.

The ocean is the ultimate sink for all pollution disposed of in modern communities—even what we try to send up in smoke.

It is common to think of ocean pollution as waste thrown overboard from thousands of ships, or a spectacular accident with an oil drill springing a leak, such as in the Santa Barbara accident, or a super-tanker running on a reef, such as the Torrey Canyon in the English Channel. It is not the spectacular accidents that hit the headlines that should scare us most but the daily, intentional, almost inconspicuous discharge of crude oil from navy and merchant ships all over the world, above all the routine cleaning of oil tankers.

The whole world was upset when the Torrey Canyon unintentionally spilled 100,000 tons of oil in the English Channel. Every year more than 100,000 tons are intentionally pumped into the Mediterranean, an almost landlocked sea. The traffic of oil tankers in the Mediterranean is increasing at a tremendous rate and according to a report made at the University of Trieste it is estimated that in the year 1980 500 million tons of crude oil will be unloaded in Mediterranean ports. A recent study showed that for every square kilometre in the Mediterranean south of Italy there are 500 litres of solidified oil. In recent years visible pollution has begun to appear even in the largest oceans. In 1947, when the balsa raft Kon-Tiki crossed 4,300 miles, or nearly 8,000 kilometres of the Pacific, in 101 days, we on board saw no trace of man until we spotted an old wreck of a sailing ship on the coral reef where we landed. The ocean was clean and crystal clear. In 1969 it was therefore a blow to us on board the raft-ship "Ra" to observe from our papyrus bundles that entire stretches of the Atlantic Ocean were polluted. We drifted slowly past plastic containers, nylon, empty bottles and cans. Yet, most conspicuous of all was the oil. First off the African coast, next in mid-ocean, and finally in front of the Caribbean islands, we drifted for days on end through water reminding us more of a city harbour than of the open sea. The surface, and as far as we could see through the waves, was littered with small clots of solidified black oil, ranging in size from that of a pin-head or a pea to that of large potato. When we repeated the same general itinerary with "Ra II" the following year, in 1970, we carried out a day by day survey and found sporadic oil clots floating by within reach of our dipnet during 43 out of the 57 days the crossing lasted. Forty-three days out of fifty-seven, and in this time we had covered 3,270 miles, or 6,000 kilometres of open sea from Safi in Morocco to the Caribbean Island of Barbados. With our sail, we moved faster than the floating pollution and since the equatorial current runs westwards with an average speed of half a knot into the birthplace of the Gulf Stream, the flotsam we passed en route from Africa to America in 1969 was, during our second crossing a year later, washed ashore in tropical America, or else displaced more than four thousand miles and thus drifting on its way back towards Europe across the North Atlantic. A detailed report on these observations was at the time sent to the permanent Norwegian delegation to the United Nations, and has been published by the Secretary General as annex to his report to the Stockholm Conference: *The Sea. Prevention and control of marine Pollution*. A laboratory analysis of the various samples collected shows a wide range in the level of contents of nickel and vanadium, revealing that they originate from different geographical localities, which again proves that they do not represent the homogenous spill from one leaking drill or one shipwrecked tanker, but the accumulating waste from the routine washing of the world fleet of oil tankers.

The problem of oil pollution is a complex one. Various types of crude oil are toxic in different degrees, but they all have one property in common: they absorb other chemicals, notably insecticides like blotting paper. Thus on the surface of the ocean, D.D.T. and other chlorinated hydrocarbons which do not dissolve in water and do not sink are attracted to oil slicks and oil clots, where in some cases they can be concentrated to an even higher percentage than when originally bottled with dissolvents for spraying purposes.

From the "Ra" we observed that larger oil clots were commonly covered with barnacles, marine worms and small crabs which did not feed on the tar lumps, but used them to hitch-hike across the ocean. However, these riders are attractive bait for fish which swallow the whole cluster. These ever-present oil clots can hardly, even if they are not baited with barnacles, avoid getting into the bodies, gills and baleen of filter-feeding fish and whales. Their effect naturally depends on their concentration of inherent and acquired toxic matter. In the famous Sargasso Sea, the oil lumps are now so common that recently an expedition of marine biologists had to give up working with dragnets on the surface, since the mesh of their nets was constantly getting plugged up by solidified oil, and their catches literally brought in more oil clots than seaweed.

What happens to all this floating oil? The optimist says that very likely the lumps may gradually distintegrate and sink to the bottom. Perhaps this is true, but certainly not before they have done harm to surface life and the coastal flora and fauna. The tourist industry is concerned about the oil washed up on the beaches, but it is time to get more concerned about the oil washed against the inaccessable rocks. Maybe the oil clots gradually sink, but so far they certainly are only accumulating, disclosing their presence and leaving their effects in an ever more conspicuous way. Fishermen have already begun to notice a greyish belt, darkening from year to year, just above water level on coastal cliffs and boulders. Particularly in the eastern and southern Mediterranean and on several of the local islands, the yellowish rock is becoming discoloured from yellow to grey and even black in a belt six to eight feet wide. In many areas this belt along the waterline, once covered by seaweeds, clams, mussels, limpets, and all sorts of crustaceana and small fish, is now dead. Completely sterile. Nothing undulates or darts about. The once yellow rock seems like coke, and in many places sizeable clots of oil are hammered into the pores like sheets of tarmac. And this is happening in what is the cradle for the bulk of marine life, since most species have to pass one stage of their life cycle on the rocky shores of islands and continents.

We hardly need to be reminded of the fact that even a drop of liquid oil will spread out over a large surface area of water, and the thicker the film of oil, the less is the photosynthesis and the production of oxygen.

In spite of all this, it is not the floating oil clots we should fear the most. Their presence shows us that our planet is not endless and that visible human waste is beginning to bridge world oceans. The oil clots in the sea tell a similar story to that of the refuse on the beach. Visible pollution is seen by some as a symptom of welfare. If we want to bless its presence, however, it should be as an eye-opener. Each empty plastic bottle or tube, each can, each oil clot we see along the roadside or on the beach should ring a bell and make us think of invisible pollutants already lost in the soil or the sea: liquids and particles not discernable to the naked eye. Man does not dispose of empty packing only. It is the lost contents and not the empty containers which should worry us. Where is the spray, the paste, the powder, the liquid no longer inside the empty packing? D.D.T. is now found in antarctic penguins and arctic polar bears living far from any area where insects have been sprayed. Even in the blubber of each of twenty whales recently caught by special license for testing in the arctic current off the Greenland coast, six insecticides, including D.D.T. were present. These whales, born and raised off the East Greenland glaciers had never been near the shores of agricultural lands. But the ocean is revolving and with it the pelagic plankton which is eaten by the krill that forms the basic diet of the whale. The plankton just like the oil has the property of absorbing, assimilating and concentrating the insecticides. These ever-present micro-organisms feed by filtering the sea water and retain the undesired chlorinated hydrocarbons together with the desired organic nutriment. What the plankton absorbs goes into the flesh of fish and finds its way back to man again. Most of the plankton can hardly swim, and less so can the oil clots and toxic chemicals, but the ocean itself takes care of the transport: like the winds it is a constant conveyer. A good example is that a certain type of D.D.T. sprayed on crops in east Africa was found and identified months later in the Bay of Bengal, a good 4,000 miles away.

In the short period that the United Nations representatives are meeting here in Stockholm to discuss the problems of our environment, an estimated 50 million pounds of additional pesticides will have time to reach the ocean to join what has already accumulated there, not to mention the vast quantities of toxic chemicals pouring in from both industry and household.

I appeal to the multinational representatives in Stockholm to put aside all immediate personal and national interests and to be aware of the immense responsibility they have towards present and future generations.

Let us hope they bear in mind that the ocean currents circulate with no regard for political borderlines, and that nations can divide the land, but the revolving ocean, indispensable and yet vulnerable, will forever remain a common human heritage.

JOHN SHERMAN COOPER

Mr. BELLMON. Mr. President, it has been a great pleasure and privilege to serve in this body and on the same side of the aisle with JOHN SHERMAN COOPER, the highly respected senior Senator from Kentucky.

Throughout a long and distinguished career of public service, the gentleman from Kentucky has personified the role of a statesman in an exemplary manner. As a member of the Foreign Relations Committee and as a former ambassador, he has contributed greatly to international understanding and endeavors for peace.

Though he has excelled in foreign policy, his contributions in the domestic field have been equally notable. Especially praiseworthy are his efforts to provide a better environment for the citizens of this country.

Mr. President, in addition to the extraordinary contributions JOHN COOPER has made through his formal service in Government, the pleasant impact he and his charming wife have had upon Washington social life has greatly enriched the lives of their friends and associates. Many of us are hoping that the Coopers' future plans include continued residence or at least frequent presence in Washington.

I am proud to join my other colleagues in commending JOHN SHERMAN COOPER for his many accomplishments and wish him a most pleasant retirement.

THE INTERNATIONAL DRUG PROBLEM

Mr. THURMOND. Mr. President, last March 22 the National Commission on Marihuana and Drug Abuse came out with a report which, in effect, called for the legalization of marihuana for personal use, and for distribution in small quantities. President Nixon immediately repudiated this portion of the report, making it abundantly clear that his administration had no intention of moving in the direction of the legalization of marihuana.

Since that time there has been a continuing public argument on the issue. But as far as our young people are concerned, it appears that the Shafer report was construed as a kind of Magna Carta for marihuana users and would-be users. The result has been that the use of marihuana in our junior and senior high schools, which was already at a very high level 2 years ago, has now, according to reports from all over the country, soared to almost double the level of several years ago. All of the reports indicate, moreover, that the age of initiation has gone down to the point where pot smoking has become a common social activity even among seventh and eighth graders.

Mr. President, as a member of the Subcommittee on Internal Security, I was recently privileged to hear some very dramatic testimony on the subject of Cannabis, which is a generic term covering both marihuana and hashish. Part of this testimony was given by Gen. Lewis W. Walt, recently retired as Assistant Commandant of the Marine Corps; and the other part was given by Dr. Olav J. Braenden, who has for the past 14 years served as Director of the United Nations Narcotics Laboratory in Geneva, Switzerland. The problem of marihuana takes on an altogether different aspect in the light of this testimony. I therefore hope that all Senators will find an opportunity to examine it.

Dr. Braenden's Laboratory, under instructions from the U.N. Commission on Narcotic Drugs, has placed primary emphasis on cannabis research for more than 6 years now. It has also served as a clearing house for research conducted by scientists in many other countries. Citing numerous scientific sources, Dr. Braenden made the following points:

> As progressively more scientific facts are discovered about cannabis, the more one becomes aware of its potential dangers."
>
> Cannabis accumulates in the fatty tissues of the body with continuous use.
>
> Reserchers have found "significant evidence of cerebral atrophy in young cannabis smokers."
>
> Researchers have also found considerable impairment of driving ability after oral ingestion of cannabis.
>
> The effects of cannabis when smoked are considerably greater than when taken orally.
>
> Contrary to previous belief, there is now evidence that cannabis contains a very large number of instances—at least 50—most of which have yet to be isolated and characterized. Tetrahydrocannabirol—TCH—may not be the only active harmful substance in cannabis. A number of experiments indicate the presence of nitrogen containing compounds in cannabis. Such plant substances are frequently poisonous.

Mr. President, General Walt's testimony cited the views of Dr. Braenden and of other scientists who have collaborated with him in the research on marijuana. But General Walt went further. He said that his investigation of the world drug traffic had convinced him that there was an interlocking relationship between the use of marijuana and hashish on the one hand and the harder drugs like heroin and cocaine on the other hand. He said:

> We are dealing here with an interlocking culture—with a "kick" culture—where individuals will sometimes indulge in several drugs simultaneously, and where the use of a milder drug will—not always, but frequently—prepare the way for addiction to stronger drugs.

It was on the basis of General Walt's recommendation that Dr. Braenden was brought from Geneva to testify before the Senate Subcommittee on Internal Security. Because Dr. Braenden referred extensively to the work of other scientists on various aspects of cannabis, General Walt requested copies of some of the papers reporting on this research. I have been able to see a few of these papers, and I must say I find them quite frightening. They certainly appear to justify Dr. Braenden's observation that the United States might be wise to display some kind of caution in approaching the questions of the legalization of marijuana as it displayed several years ago in dealing with the thalidomide issue.

For example, Prof. W. D. Patton of Oxford University in an article appearing in "Drugs in Society" earlier this year said the following:

> A recent report has concerned the loss of brain substance, as measured by the technique of air encephalography, in a group of ten young heavy cannabis users. The enlargement of the ventricles of the brain is of the type that occurs in old age, or in middle years with chronic alcoholics. The work needs confirmation, since although the subjects had taken hundreds of doses of cannabis, they had also had a number of doses of LSD or amphetamines, and occasionally heroin. One is, however, bound to take it seriously, since cannabis, the main drug used by the patients, is cumulative, with a very high affinity for fat, and able to impair cell division by lymphocytes in tissue culture.
>
> Cannibis has been found to produce foetal deformaties and foetal resorption in animals (rats, rabbits, and hamsters) in doses (per unit weight) ranging down to that used in man. The effect has been shown to be dose-related, and (unlike the teratogenic effect in animals of many drugs, but like thalidomide and other known human teratogens) is exerted at a small fraction of the dose liable to kill the mother.

Mr. President, I ask unanimous consent to insert into the RECORD at this point excerpts from the testimony of Dr. Alav J. Braenden before the Subcommittee on Internal Security, the testimony of Gen. Lewis W. Walt relating to marijuana and hashish, and the text of the article by Prof. W. D. Patton in "Drugs in Society."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE TESTIMONY OF GEN. LEWIS W. WALT, USMC (RET.) BEFORE THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY

THE QUESTION OF CANNABIS

Our investigation focused primarily on heroin, because the heroin epidemic is by far the most serious component of our national drug problem. Time and time again, however, the realization was forced on us that the problem of heroin cannot be considered in isolation from the problem posed by the spreading use of other drugs—of cocaine, of hashish, of LSD, yes, and of marijuana too.

We are dealing here with an interlocking culture—with a "kick" culture—where individuals will sometimes indulge in several drugs simultaneously, and where the use of a milder drug will—not always, but frequently—prepare the way for addiction to stronger drugs.

The report of the National Commission on Marijuana and Drug Abuse—the so-called Shafer Commission—while it called for discouraging the use of marijuana, in effect it recommended the legalization of cannabis for personal use and for the distribution of small quantities.

Cannabis, I sould point out, is the scientific name for the marijuana plant. Ordinary marijuana consists of the leaves of the plant. Hashish is derived from the resin of the plant, and is approximately five times as concentrated as marijuana. Within the past year, enterprising narcotics chemists have developed a form of liquid hashish which may be as much as 40 times as potent as ordinary marijuana.

My staff assistants and I approached our investigation with a more or less open mind as far as the Shafer report was concerned. As a result of what we learned in the course of our investigation, and as a result of some further study of the report, we are now of the opinion that several of the commission's basic assumptions were in error, and that these erroneous assumptions led them to overlook important sources of information which might have led them to somewhat different conclusions.

Among the many officials of foreign governments with whom we discussed the Shafer report we did not find a single one who shared the tolerant attitude of the Shafer Commission toward cannabis. In Japan, France, and other countries, we were told that the Shafer Commission report had caused consternation in the ranks of those concerned with the problem of drug control, and that it seriously undercut their efforts to combat the growing use of marijuana in their own countries.

In Tokyo the chief of police told our delegation that shortly after the Shafer Report appeared, Japanese marijuana fans distributed tens of thousands of fliers synopsizing the major findings of the commission. This seriously handicapped the Japanese government's anti-drug efforts.

In several countries, embassy personnel with whom we discussed the Shafer Report told us that when the Shafer Commission team visited their embassies, they had the distinct impression that their minds were already made up and that they were seeking for confirmation of their viewpoint rather than for balanced information.

We were particularly surprised to learn that the Shafer Commission team, in the course of its foreign peregrinations, did not take the time to check in with Dr. Olav Braenden, the director of the UN Narcotics Laboratory in Geneva. Dr. Braenden has been the head of the laboratory since it was established 16 years ago. For the past six years, under instructions from the U.N.'s Divisions of Narcotics Drugs, he has placed priority emphasis on cannabis research. His office has also functioned as a clearing house for some 30 other collaboratoring laboratories in other countries. All of which, it seems to me, should have made Dr. Braenden a uniquely qualified source of information.

Dr. Braenden's evaluation of cannabis is markedly different from that of the Shafer Commission. He told our task force that we know very little about the effects of marijuana, but that the more we learn the more dangerous it appears to be. He said that there was evidence that, with repeated use, cannabis, like DDT, tends to build up in the tissues of the body: That there is also home evidence of permanent brain damage: And that rat experiments with cannabis have resulted in a very high percentage of birth abnormalities.

Some people have likened the effects of marijuana to smoking or to social drinking. Smoking is smoking, and social drinking is social drinking. Neither, normally, leads to other forms of experimentation, and non-smokers and non-drinkers at parties are not constantly subjected to peer pressures to engage in the acts of smoking and drinking. But the "experimenters" who go to pot parties are, more frequently than not, disposed to experiment with other types of drug "kicks" that may be available in their groups.

Moreover, those who are using drugs are almost invariably afflicted with a missionary zeal to get other people into the act with them. This is so with pot smokers: it is even more so with hashish dependents—and it becomes obsessional by the time drug abusers graduate to heroin. Because of this, there is general agreement among the experts that heroin addiction must be treated as a contagious disease. And pot smoking is frequently the first way-station to the contraction of this contagion.

The Shafer report concedes the point that hashish—which is simply a more concentrated form of cannabis—can be terribly destructive physically and psychically. It ignores the fact, however, that hashish and heroin are becoming increasingly more available at pot parties—and it offers no formula to assure that pot experimenters will refrain from experimenting with these more dangerous drugs if any are pushed upon them by proselytizing peers.

Nor does the report say how cannabis in the form of "grass" is to be legally distinguished from cannabis in the form of hashish; nor does it discuss the feasibility of making cannabis in the form of "grass" permissible under the law—as it recommends—while retaining a firm legal ban on cannabis in the form of hashish—which it appears to favor.

The Shafer report incorporated much valuable research and thinking, and with certain of its recommendations I find myself in complete agreement. For example, I agree with the report that it does not make sense to sentence youthful marijuana smokers to several years in prison—although I would personally favor retaining a fine for marijuana smokers, by way of underscoring the point that marijuana smoking does damage to society. But whether one agrees or disagrees with the basic findings of the Shafer Commission, I think there can be no disagreement on the point that the report cannot be accepted as gospel for all time—that we still have a lot to study and a lot to learn. Because of this, I am happy that the subcommittee has decided to invite the testimony of Dr. Olav Braenden, the distinguished director of the United Nations Narcotics Laboratory in Geneva.

STATEMENT OF DR. OLAV J. BRAENDEN, DIRECTOR, U.N. NARCOTICS LABORATORY BEFORE THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY

It is an honor to be called to appear as a scientific witness before this important and distinguished Committee. My terms of reference are, as I understand them, to report on certain significant aspects of research on cannabis—of which marijuana and hashish are the chief products—and on the findings of the United Nations Laboratory and of national scientists collaborating with it in the UN research program. After giving you a brief outline of recent important developments in the field of cannabis research, I shall, of course, be pleased to answer, as far as I can, any questions which the members of this Committee may care to put to me.

Just before leaving Geneva, I made telephone calls to a number of scientists in different countries who have been collaborating on various aspects of cannabis research. I had lengthy conversations with *Professor W. D. M. Paton* of Oxford University; with *Dr. Ole Rafaelsen* of Denmark; with professor *C. Miras* of the University of Athens; and with *Professor Cornelius Salamink* of the University of Utrecht in the Netherlands. The statement I have prepared refers to some of the recent scientific findings on the subject, and, I believe, accurately reflects their views, so far as their own research is concerned.

As you know, careful and profound chemical and pharmacological studies of cannabis have also been carried out in this country, particularly under the auspices of the National Institute for Mental Health. The many outstanding scientists who have worked on these studies include *Professor Harry Isbell, Professor Leo Hollister, Professor Coy Waller, Dr. Julius Axelrod, Dr. Glenn Kipplinger*, and others. Their research, in general, corroborates the research of the European scientists working on cannabis. I regret that there was no time to interview these outstanding scientists before my appearance.

Among the scientists working in the field it would seem that there is a general consensus that cannabis is dangerous—opinions differ, however, on the degree of the danger to the individual and to society. In my opinion, it seems that, as progressively more scientific facts are discovered about cannabis, the more one becomes aware of its potential dangers.

In spite of the intensive research carried out in many countries, much remains to be elucidated in connection with the chemistry of the components of cannabis and their effects on the body. There is no doubt that this is a highly complex field—much more so than was previously supposed. For example, it had been believed for some decades that the main components of cannabis were some few substances, mainly cannabinoids, of which only tetrahydrocannabinol, or THC as we call it, was the active principle. However, there is now evidence that cannabis contains a very large number of substances—at least 50. The great majority of these components have not yet been isolated and characterized, and their pharmacological activity—or inactivity—remains to be determined.

In our Laboratory we have recently found indications of the presence in cannabis of nitrogen-containing substances. By varying the classical extraction procedures, certain spots were obtained on thin-layer chromatograms which led us to suspect that cannabis contained components of an alkaloidal nature. It was also noted that these alkaloidal substances were present in greater amounts in the actual plant material than in the resin. Application of the usual tests for alkaloids was found by *Dr. H. Samrah* of Egypt to give positive reactions. Similar results were obtained by *Professor O. Aguar* of the University of Madrid. These alkaloidal substances have still to be isolated and characterized. Simultaneously and independently, *Professor C. Salemink* of the University of Utrecht reported on quarternary nitrogen bases in cannabis seeds, and, very recently, on the presence of indole compounds in cannabis itself. (Indole compounds are nitrogen-containing organic compounds.)

There is no doubt that the presence of nitrogen-containing compounds in cannabis opens a highly interesting field in connection with the pharmacological activity of cannabis because such plant substances are frequently poisonous.

Knowledge of the short and long-term effects of cannabis is far from comprehensive.

According to *Dr. A. M. Campbell* and his colleagues of the Bristol Royal United Hospital, there is significant evidence of cerebral atrophy in young cannabis smokers.

Professor C. Miras of the University of Athens has done considerable research on the effects of cannabis on man. As subjects he uses chronic hashish smokers only—because he believes that there is a great risk of damage if the subjects have not previously taken hashish on a regular basis.

Dr. O. Rafaelsen of the Central State Hospital in Copenhagen, Denmark, has found that there is considerable impairment of driving ability after oral ingestion of cannabis.

Here it should be noted that the effects of cannabis when smoked are considerably greater than when cannabis is taken orally. This may be due to the fact that—as reported recently by Professor Salemink of the Netherlands—the components of cannabis may in part be destroyed in the digestive tract by intestinal bacteria.

A complicating factor in assessing reports on the abuse of cannabis, particularly by young people, is that those who claim to have smoked cannabis, may not, in fact have done so—because cannabis in the illicit traffic is often highly adulterated with tobacco and other substances, and sometimes it is even completely falsified. In the illicit traffic, it has been reported that a considerable percentage of the samples seized did not contain any cannabis.

As I have pointed out, the activity of cannabis has thus far been attributed entirely to the tetrahydrocannabinol, or THC, which it contains. While it is true that THC is active pharmacologically, it is highly probable that other components of cannabis may also be active. In the Netherlands, a sample of cannabis was found to be highly active despite the fact that no THC was present.

Although an adequate picture of the fate of cannabis in the body remains to be determined, it should be noted that cannabis is only partially excreted by the organism. *Professor Paton* of Oxford University has found that some of its components accumulate in the fatty tissues of the body.

For a number of years now the United

Nations Laboratory has been engaged in research on cannabis. Acting on a directive of the UN Commission on Narcotic Drugs, we have, in fact, accorded this work the highest priority. Governments have indicated their interest by providing large numbers of cannabis samples for our research, and also by nominating national scientists to participate in the program. These scientists, performing their research on a voluntary basis, have made important contributions to the program.

The United Nations Laboratory concentrates its attention on those aspects of the research which cannot easily be carried out by national laboratories and, in this connection, its most important function is to coordinate, as required and as far as possible, the research being carried out in various countries within the framework of the program. In particular, we seek to avoid unnecessary duplication of effort. The Laboratory cooperates with researchers in the United States of America through the National Institute of Mental Health, and it is also in close contact with the Laboratory Division of the Bureau of Narcotics and Dangerous Drugs. In the research program, the Laboratory provides its national collaborating scientists with the basic research materials—samples of cannabis, cannabis resin, and cannabis seeds, and it also distributes THC which has been made available through the National Institute of Mental Health.

It is well known that the chemical composition of cannabis varies according to the ecological conditions of the region where it is grown, and that, after harvesting, changes occur with time and according to the conditions of storage. The Laboratory has, therefore, organized an ecological study of the variations in the amount and potency of cannabis resin according to ecological conditions. For this purpose, cannabis seeds from the same batches are being cultivated under carefully controlled conditions in various climatic regions. The preliminary studies have yielded some highly interesting results. It has, for instance, been found that the cannabis cultivated experimentally in Iceland and Norway, from seeds of South African origin, contains appreciable amounts of THC. These findings contradict the previously held belief that cannabis grown in temperate or cold regions is not pharmacologically active. It is our hope that this ecological study will be completed towards the end of next year.

The systematic analysis at regular intervals of the samples of cannabis in the United Nations collection is now being undertaken in order to determine the nature and the extent of changes occurring in composition with time.

The variations in the chemical results obtained in early research on cannabis were probably due, at least in part, to the variations in the cannabis samples used by different scientists. To overcome this difficulty, the United Nations Laboratory has, from time to time, prepared reference samples of cannabis to be used for comparative purposes.

It may perhaps be of interest to mention that, in the illicit traffic, cannabis is now being encountered in a new form—known as "liquid hashish" or "marijuana oil." This is many times as potent as good grade hashish and is potentially very dangerous. The exact technique for producing liquid hashish is not known, but, according to the BNDD, the hashish is apparently extracted with an organic solvent which is subsequently evaporated, and a vegetable oil is added to the residue. Earlier this year, our Laboratory received interesting samples of some "liquid hashish" or "marijuana oil" seized in Norway. It was said to be of Middle Asian origin, and it had an extraordinarily high concentration of THC—66.3 per cent, as against about 10 per cent in ordinary hashish and 2 per cent in marijuana.

In spite of the progress made in recent years in cannabis research, much still remains to be done before we have an adequate understanding of the nature and effects of this complex plant. Very considerable research is necessary—particularly in order to isolate and characterize all the relevant constituents of cannabis; to definitely establish the active principles to study the pharmacological effects of cannabis and its fate in the body; and also to determine the chemical transformations which occur in cannibis when it is smoked.

I feel, therefore, that every effort should be made to accelerate relevant research so that it may be possible, within the near future, to draw sound scientifically based conclusions on cannabis—conclusions which would be of value to national and international bodies in their consideration of the control of cannabis.

Guide to Drugs 5—There Seems No Rational Basis for Drawing a Line Between Cannabis and LSD, the Amphetamines or the Less Potent Opiates

(By Prof. W. D. Paton)

Cannabis sativa is a widely distributed plant producing fibre oil (from its seeds) and resin in varying proportions according to its variety and the conditions of cultivation. The resin is produced mainly in the flowering tops. Marijuana, made from the dried plant, contains a good deal of other plant material mixed with the resin; in hashish the resin is more or less concentrated. The term 'cannabis' will be used to refer to any preparation of the crude material.

BIOCHEMISTRY OF CANNABIS

Cannabis differs from the other drugs discussed in this series in always being a mixture of substances. Of the scores of chemical compounds that the resin contains, the most important are the oily cannabinoids, including tetrahydrocannabinol (THC), which is the chief cause of the psychic action. Samples of resin vary greatly in the amounts and proportions of these cannabinoids according to their country of origin; and as the sample ages, its THC content declines. As a result, the THC content of samples can vary from almost zero to eight per cent. Pure THC is unstable unless kept in the dark under nitrogen, but is better preserved in the undamaged plant. One result of these facts is that the dose of THC taken, unless under laboratory control, is far more uncertain than with other drugs.

In addition to the cannabinoids are certain water-soluble substances, including a small amount of an atropine-like substance (which may contribute to the dry mouth), and some acetylcholine-like substances (which may contribute to the irritant effect of the smoke).

Little is known about the composition of the smoke from a cannabis cigarette, save that about twenty five to fifty per cent of the THC content is delivered to the respiratory tract.

THC and other cannabinoids are now fairly easily detectable in small amounts by gas-liquid chromatography. But once THC enters the body, it is hard to trace, unless it has been labelled for research purposes with a radioactive atom—partly because it is taken up by the tissues, partly because it undergoes a series of still incompletely understood conversions. The products of these conversions are found in the urine, but a urine or blood test suitable for forensic or research use is still not available. This is a serious handicap to clinical investigation and means, that there is no way of establishing how much (if any) cannabis a subject has taken.

The cannabinoids are extremely fat-soluble, and correspondingly insoluble in water. They and their metabolites therefore persist in the body; thus twenty four hours after a dose of labelled THC, a rat has eliminated, as metabolites in urine and faeces, about ten per cent of the dose, a rabbit about forty five per cent, and a man about twenty five per cent.

PSYCHIC EFFECTS

Reactions are very varied, and they are much influenced by the behavior of the group. Europhoria is common, though not invariable, with giggling or laughter which can seem pointless to an observer. Sensations become more vivid, especially visual, and contrast and intensity of colour can increase, although no change in acuity occurs. Size of objects and distance are distorted. Time as experienced becomes longer than clock time; thus a subject asked to say when sixty seconds has elapsed responds too early, but if asked to say how long some period of time was, overstates it: sense of time can disappear altogether, leaving a sometimes distressing sense of timelessness. Recent memory and selective attention are impaired; the beginning of a sentence may be forgotten before it is finished, and the subject is very suggestible and easily distracted. Psychological tests such as mental arithmetic, digit-symbol substitution, and pursuit meter tests show impairment, the effect being greater as the task becomes more complex. The vividness of sensory impressions and distractibility gives rise to imagery and fantasy, this can progress with increasing dose from mere fanciful interpretation of actual sensations to hallucination in the sense of vivid sensory impressions lacking an external basis. These effects may be accompanied by feelings of deep insight and truth. They are similar in type, though often more intense, to those experienced in hypnagogic imagery or while recovering from an anaesthetic.

It seems likely that these effects of cannabis can be explained if it removes a restraining "gate" on the inflow of sensory information. Normally, considerable selection takes place, and familiar stimuli or those judged irrelevant are ignored. A dis-inhibitory action of cannabis, lifting this gate, would allow the "flood of sensation" so often reported. Further, it is believed that time sense depends on the frequency of sensory impressions; an increased flow would therefore give the feeling that more time had elapsed. Finally, it is known that the process of memory involves at least three processes: entry into a sensory "register" and passage into a short-term "store"; rehearsal of information either consciously or unconsciously, leading to consolidation and transfer to a longer-term store; and retrieval. It appears that retrieval is not impaired by cannabis (longstanding memories often form the basis of the imagery), and entry seems normal; but conversion of short-term to long-term memory is known to be interfered with by a flow of additional sensory impressions, just as a telephone number is likely to be forgotten if someone speaks to you just after you have heard it. It is likely that the flow of sensory impressions under cannabis interferes with the consolidation of recent information in a similar way. Once memory is impaired, concentration becomes less effective, since the object of attention is less well remembered. With that may go an insensitivity to danger or the consequences of actions.

A striking phenomenon is the intermittent wave-like nature of these effects—a subject may return towards normal, or bring himself "down" for a period. This intermittence effects mood, visual impressions, time sense, spatial sense, and other functions, it represents, incidentally, one of the many experimental difficulties in analysing cannabis action. The effect of a single dose usually ends with drowsiness or actual sleep.

The effects can also be unpleasant, especially by inexperienced subjects, particularly timelessness and the feeling of loss of control of mental processes. Feelings of unease, sometimes amounting to anguish, occur, and may well have some physical basis—perhaps associated with the acceleration of the heart rate. There is also, especially in the habitual user, a tendency to paranoid thinking. High or habitual use can be followed by a psychotic state; this is usually reversible, quickly with brief periods of cannabis use, but more slowly after sustained exposures.

PHYSIOLOGY

Cannabis smoked or taken by mouth produces reddening of the eyeballs (probably the forerunner of the general dilation of blood vessels and fall of blood pressure with higher doses), unsteadiness (particularly for precise movements), and acceleration of heart rate. The latter effect can be substantial, and although the insolubility of the cannabinoids in water makes intravenous abuse difficult, cardiac failure would be a serious risk with such use. The smoke produces the usual smoker's cough, and the tar from reefer cigarettes is as carcinogenic in animal experiments as cigarette tobacco tar. Although increase in appetite is commonly experienced, no explanation for it exists, and cannabis use does not have any striking effect on the blood sugar. In animals, with chronic administration of substantial doses, food intake is reduced and weight loss occurs.

An important finding in animals is that cannabis prolongs sleeping time after a dose of a barbituate such as pentobitane (Nembutal). This has been shown to be due to an impairment of the ability of the liver to break down (metabolise) the barbituate, as a result of inhibition of the microsomal enzymes. The importance lies in the fact that many drugs used in medicine are also dealt with by these enzmes; and it is to be expected that their recent or habitual cannabis user. The effect is not due to THC itself, but mainly to another constituent of the resin, cannabidiol. One hopes that cannabis users seeking medical treatment would inform their doctors accordingly; the main danger would be of overdosage or of overprolonged action.

A recent report has concerned the loss of brain substance, as measured by the technique of air encephalography, in a group of ten young heavy cannabis users. The enlargement of the ventricles of the brain is of the type that occurs in old age, or in middle years with chronic alcoholics. The work needs confirmation, since although the subjects had taken hundreds of doses of cannabis, they had also had a number of doses of LSD or amphetamines, and occasionally heroin. One is, however, bound to take it seriously, since cannabis, the main drug used by the patients, is cumulative, with a very high affinity for fat, and able to impair cell division by lymphocytes in tissue culture.

Cannabis has been found to produce foetal deformities and foctal resorption in animals (rats, rabbits and hamsters) in doses (per unit weight) ranging down to that used in man. The effect has been shown to be dose-related, and (unlike the teratogenic effect in animals of many drugs, but like thalidomide and other known human teratogens) is exerted at a small fraction of the dose liable to kill the mother. It is not clear what the effect in the human is, and it is to be hoped that it is the human equivalent of foetal resorption (miscarriage) rather than teratogenicity. Tests for chromosome damage have been negative, so that there is no evidence for a heritable genetic defect; but the same tests showed an impairment of cell division, and it may well be this, applied to the developing foetus, which causes the reduction deformities. The teratogenic effects appear to be due to some factor other than THC in the resin.

CANNABIS AND CRIME

There is much debate about the connection between cannabis and criminality. A reasonable view, covering other aspects of behaviour, is that cannabis may accentuate a particular mood or facilitate a train of action and such a process could well explain the cases of violence described. A similar position could hold about the connection with sexual behaviour. But here two other contrasting factors enter: the alteration in time sense would change the apparent duration of sexual intercourse; and activity with images of it. There is, too, the unexplored possibility that the circulatory effects of cannabis include a mild genital engorgement.

More important, however, is likely to be the effect of repeated use described as the 'amotivational syndrome'. This term dignifies a still imprecisely characterised state, ranging from a feeling of unease and sense of not being fully effective, up to a gross lethargy, with social passivity and deterioration. It is difficult to assess, when personal traits and intellectual rejection of technological civilisation are also taken into account. Yet the reversibility of the state, its association with cannabis use, and its recognition by cannabis users make it impossible to ignore.

ESCALATION THEORY

Attention has mainly concentrated on progression from cannabis to heroin or other opiates. Although only a very small proportion of casual users progress, it is much commoner with heavy users, and the vast majority of opiate users have prior experience of cannabis. Although it is often said that there is no pharmacological basis for such progression, this in fact exists, since cannabis increases suggestibility and shares with heroin (though in milder form) the ability to produce euphoria and analgesia.

But the situation is a more general one. It seems probable that amphetamine use also predisposes to heroin use; and the overlap in actions between cannabis and LSD makes intelligible the observed progression to LSD. The role of prior use of 'soft' drugs, or use of drugs by 'soft' techniques in predisposing to more serious abuse needs much more study, particularly by methods which can establish objectively the actual amount of drug used. Although it can only be one of many factors, it could be important in the prevention of serious abuse.

TOLERANCE AND DEPENDENCE

Tolerance to the behavioural effects of cannabis and of THC in animals has now been repeatedly demonstrated. As with the fat-soluble barbiturates, the first few doses may cumulate, masking the underlying development of insensitivity to the drug's effects. It is not clear whether the tolerance results from increased destruction of the drug or a resistance at the cellular level.

In man, the evidence is largely anecdotal and uncontrolled (this applies to Weil and Zinberg's data, since the experimental subjects but not the naive were told what they were to receive). There is limited evidence that THC disappears somewhat faster from the blood of users as compared with naive subjects. Perhaps the best evidence is still that in the Laguardia report, where it was found that a three times higher dose was required to produce a given degree of ataxia in users than in non-users. Withdrawal symptoms of morphine or barbiturate type do not occur; but, after heavy use, depression, anxiety, sleep disturbance, tremor and other symptoms develop, and many users find it very difficult to abandon cannabis use. In studies on self-administration by monkeys, spontaneous use did not occur, but once use was initiated, drug-seeking behaviour developed. Subjects who have become tolerant to LSD or opiates as a result of repeated dosages respond normally to be cross-tolerance between cannabis and alcohol.

IN CONCLUSION . . .

The salient fact about cannabis is that it is a mixture of substances, whose psychically active principle is highly fat-soluble. It seems likely that for the foreseeable future it will be the crude material that is used. The outstanding problem, therefore, is that of the effects of chronic use, not only of THC but of the other constituents. The significance of teratogenesis, of microsomal inhibition, of the amotivational syndrome, and of the observations on brain needs clarifying. Hitherto, dependence-liability has rested largely on assertion, but definite evidence should be forthcoming. Methods of measurement of the cannabinoids or their products in blood or urine should also be to hand before too long. One can say, at last, that "work is in progress."

Many general points have been omitted. But three final comments are needed. First, no comparison has been attempted with other drugs such as alcohol which, because of the peculiarities of cannabis, is in any case complicated. But it must be emphasized that such a comparison requires a major effort of the imagination. To estimate the probable result of treating cannabis like alcohol one must suppose it to be as readily available, with equivalent advertisement and promotion, in an equivalent range of potencies, and used by a comparable proportion of the population. It is peculiarly difficult to extrapolate in this way, given only our knowledge of widespread use of relatively weak crude material in the USA, of less common use of more active material in this country, and poorly characterised endemic use in developing countries. Second, too much stress has been laid on reports such as those by the Indian Hemp Commission: these were relevant to knowledge of the day and the social conditions of a subject country with a low expectation of life, but not to modern conditions in which society and its members expeet so much of each other.

Finally, cannabis occupies a fascinating position in the debate of what society should tolerate, and the outcome of the debate will be important. Despite the damage done in later life by alcoholism, it is possible to draw a line between it and cannabis: there seems no rational basis for drawing a line between cannabis on the one hand and LSD, the amphetamines or the less potent opiates on the other.

REFERENCES

The older literature is rapidly becoming scientifically obsolete and much new information is appearing in current journals. Recent reports include:

The Use of Cannabis. WHO Technical Report Series No. 478. Geneva 1971.

Marihuana and Health. A Report to Congress. Washington 1971.

The Botany and Chemistry of Cannabis. (Proceedings of a conference organised by the Institute for the Study of Drug Dependence). Ed. C. R. B. Joyce and S. H. Currey. Churchill, London 1970.

Marihuana: Chemistry, Pharmacology and Patterns of Use. Annals of N.Y. Acad. Sci.. Vol. 191 (1971).

[From the Weekly Compilation of Presidential Documents, Monday, Mar. 27, 1972]

Marijuana Report

Q. Mr. President, do you have a comment, sir, on the recommendation of your commission on drugs that the use of marijuana in the home be no longer considered a crime?

The President. I met with Mr. Shafer. I have read the report. It is a report which deserves consideration and it will receive it.

However, as to one aspect of the report, I am in disagreement. It was before I read it and reading it did not change my mind. I oppose the legalization of marijuana and that includes its sale, its possession, and its use. I do not believe you can have effective criminal justice based on the philosophy that something is half legal and half illegal. That is my position, despite what the Commission has recommended.

JOHN SHERMAN COOPER: THE GENTLEMAN FROM KENTUCKY

Mr. CHURCH. Mr. President, it was not possible for me to be present the other day, when tributes were paid to the distinguished senior Senator from Kentucky, John Sherman Cooper. I would not want this session of Congress to end without adding my own plaudits to the many others he has received from his colleagues.

Senator John Sherman Cooper, a gentleman in the finest Kentucky tradition, will be missed in the Senate as few men are when he departs. He leaves a record of public service, rich and varied, but in no field has his contribution been greater than that of foreign affairs.

As an adviser to Secretary of State Dean Acheson at the NATO Council of Ministers in the early days of the alliance, as an American delegate to the General Assembly of the United Nations, and as our Ambassador to India and Nepal, John Sherman Cooper came to be held in the high esteem of those who dealt with him.

It is with respect to his bringing this expertise to the Senate Foreign Relations Committee that I would speak today. Senator Cooper knew war personally. A veteran of World War II who enlisted in the ranks, became a commissioned officer, and was awarded the Bronze Star, the Senator has worked constantly, as a member of the committee, in the cause of peace.

He felt strongly that Congress should play its constitutional role in matters of war and peace. The abdication of power by the legislative branch to the Executive troubled him deeply. John Sherman Cooper is not a man who would shun his responsibility, and so he sought ways for Congress to assert its authority in regard to the central issue of our time, the war in Vietnam. His purpose was to prevent the war from growing larger and thereafter to bring our participation in it to an end.

Reluctant though it has been to directly challenge any of our several Presidents on the war itself, Congress has at least attempted to impose certain limitations upon it. In all instances this has been accomplished finally by resort to the legislature's vestigia power over the public purse. The first successful use of the appropriations power to limit the war was the original Cooper-Church amendment, adopted in December, 1969, which prohibited the use of funds under the Defense Appropriations Act for sending American ground combat troops into Laos or Thailand. A year later, in January, 1971, Congress enacted a second Cooper-Church amendment, this one prohibiting the use of funds for the return of either American ground troops or military advisors to Cambodia. Since they invoked the use of the purse strings, these amendments have been observed. With Senator Cooper, it was my privilege to have been a cosponsor of both amendments.

But the mark of Senator Cooper's real humanity is not to be found so much in legislative accomplishments as in his persistent, outspoken opposition to the American bombing in North Vietnam. One of the first Senators to speak out in condemnation of the bombing, John Sherman Cooper urged its cessation during the administration of Lyndon B. Johnson. His resolution did not falter after the renewal of the bombing by President Nixon. Indeed, as late as October 2, 1972, he voted for an amendment that would have cut off funds for the bombing, not because he thought it would win the approval of Congress or even prove enforcible, but because he felt obliged to express his own deep feelings through his vote. He said:

> I vote for the amendment to express my feeling that I deplore this bombing and killing on both sides and I must say this as a human being. This is my only statement.

So he leaves us, a man of conscience, a man of strong convictions, a man of peace. May his retirement prove as thoughtful and productive as his years in the U.S. Senate.

SHRIVER URGES PROGRAMS TO STRENGTHEN FAMILIES

Mr. MONDALE. Mr. President, yesterday in Lansing, Mich., Sargent Shriver delivered a deeply thoughtful speech on the American family.

He spoke of the need to protect family life from the strains our increasingly complex society is placing on it; the need to help families deal with the problems associated with mobility and isolation.

And he spelled out in painful detail the unmet needs of millions of children for adequate health care, nutrition, education, and child development services.

Mr. President, this was more than a speech. It was a very honest review of the pressures many families are under, and a compassionate philosophy for strengthening and supporting them.

We do not hear enough discussions of this kind. Too many individuals in public life are content to utter platitudes about the American family. Sargent Shriver has done far more than that, and all of us concerned about families and children are indebted to him for his effort.

I commend this speech to the attention of my colleagues and concerned citizens across the land, and ask unanimous consent that it be printed at this point in my remarks.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech by Sargent Shriver—The Family

The preamble of the Constitution enumerates the most fundamental purposes of our nation. Among these is "to establish justice". Another is: "to ensure domestic tranquility."

Recently, I spoke about establishing Justice in America. Here, I outline a program for domestic, or as we would probably describe it today, civic tranquility.

There is only one path to civic tranquility in any nation. Tranquility cannot be imposed through force, by police methods from outside-in. It must be developed, created, slowly, through nurture, in strong and good families.

What a government does, or does not do, deeply affects every family within its jurisdiction. Wise decisions by government cannot be made without a clear social policy for protecting family life. Sadly, this nation has never formulated such a policy. Our political leaders have neglected the most basic institution of all.

By contrast, George McGovern and I propose—not only a national policy for families—but, rather, a political vision whose starting point is this maxim: What is good for families is good for nations; what hurts families, hurts nations. This maxim is simple. It is direct. It is profound.

For thousands of years, in scores of different cultures, the institution that has served human beings best and disappointed them least is the family. In the family, normally our deepest values are learned; our innermost identity is acquired. In the family we experience the most intimate, most moving moments of our lives.

The most basic human emotion of all—love—is learned first in the family, before it becomes a model for the world; love between man and wife; the love of a father and mother, for their children; the love of children for them; the love of brother and sister.

If family life is unhappy, few other satisfactions make up the loss. If family life offers satisfactions, defeats of many other kinds are lightly borne.

No other institution so nourishes us with images of compassion, sympathy, trust and hope. The fate of no other institution so precisely measures the greatness or the decline of national life. Without good families, children do not learn to trust; they do not learn compassion; they do not acquire the sensitivities and instincts on whose strength civilization rests.

Without good families, there is no internal source of civic tranquillity. Why then, are we so neglectful of the politics of family life?

Our young people get very little training, often none, in how to create and nourish loving families.

Industrial and social developments—highways and high rises and factories—arrogantly disrupt family patterns that have endured for centuries.

Legislators, activists, and political technicians too seldom measure the consequences of governmental policy for actual families.

Cruel segregation by all prevents humans at the varying stages of life from being vivified and nourished by each other, young by old, old by young.

The concept of "taking care of" has been diminished to a purely economic bond. The family comes to resemble a service station rather than a home.

No wonder we have heard for years about the erosion of family life, the breakdown of the extended family, the battle between generations, and the inability of the family to impart basic values that make life civilized, democratic and humane.

THE PAST AND PRESENT

The "crisis of the family" has no simple cause. Social pressures have been forcing family life to change for the past one hundred years. Some of these changes are beneficial; some are damaging.

For most of our history, the strong and nurturing family was taken for granted. America was founded by strong families, who, working together and in support of each other, were able to survive the dangers, risks, troubles, and pains of exile in order that they might live according to their deepest values. These families had a passion for justice, freedom and excellence which could be sustained—against all odds—because each person could depend on a whole family for comfort and support.

A hundred years ago, families worked together. Young men and women saw their mother's and their father's work and were apprenticed to it. Unmarried aunts and uncles, grandparents, hired laborers, and neighbors made daily family life thick with personality and interest.

Immigrant families cherished their solidarity, and centered their lives on neighborhoods, even on certain blocks, in which many adults and many children shared a common life. Working men and women worked in or near the same establishments. Relatives and neighbors cared for each other's children and tended each other in birth, in sickness and in death.

Then our society changed. Families moved away from relatives and friends. Economic advancement began to take precedence over family loyalty.

Today, many American families are faced by profound dilemmas—dilemmas posed by massive changes in our national style of life which have not been met by appropriate national action. These are the dilemmas so many of us feel have influenced our lives, but about which our national leadership these past four years has been mute, or worse, dishonest.

I speak here of the dilemmas created by mobility, by the vast increases in the numbers of working mothers, by the economic problems overtaken so many families and over which they feel no power. Let us discuss these dilemmas of mobility, mothering, money and malaise.

Mobility. Most American families move four, five or six times from the time of marriage, and many of these moves are not only from one neighborhood to another, but from one city to another. Relatives often live in other towns or states, separated by hundreds or thousands of miles. To a child, a grandmother or grandfather can seem like a distant stranger.

Ninety-five percent of families with preschoolers have no other adult at home to lend an extra pair of hands and extra heart to the tasks of nurture and affection. More than one-fourth of all American families have strangers living next to them. In the suburban home and the urban high-rise, the nuclear family—mother, father, and children—live in isolation, without knowledge of or feelings about the people whom they see every day. Families have little concern for each other—and all feel perhaps for the first time in one thousand years, alone.

Friendships are formed for the moment, out of convenience, and children have little opportunity to observe a variety of adults whom they can respect, on whom they can model themselves.

Isolation is most painful for the family in difficulty. Living among strangers, where can they turn? In our society, no substitutes for the older social institutions—the extended family and the neighborhood community—have been systematically encouraged.

The next dilemma results from a major change in the large number of mothers who have chosen or been compelled, to seek employment. More than half of American mothers and one-third of mothers of preschoolers work outside the home. For many of these mothers, there is a painful conflict, described by Premier Golda Meir—"The eternal division, this double pull, this alternating duty toward her family and her work."

For other mothers, there is naked anger that in a society which gives lip service to family life they are forced by economic pressure to give up the full time mothering to which they feel committed—and which they know they are uniquely able to provide. For still other mothers, the opportunity to work provides a personally satisfying way to actualize their own potential, to provide economic resources for their family, and to make significant social contributions.

All families with working mothers share a common concern, how to provide their children with wholesome care while parents are at work. Our nation has no satisfactory provisions for the children of such parents today. Hundreds of thousands of children are left alone, or cared for by siblings who are too young to assume responsibility. Hundreds of thousands of others accompany their parents to the work site, where no special care is available. Hundreds of thousands of other children are left in settings that are destructive.

Nobody doubts the great formative importance of the first years of life. Yet as a nation we leave millions of children in circumstances that guarantee that they will never achieve their optimal development . . . and that some will be damaged and try to damage others.

The third dilemma faced by many working families is that of money. This is not a new dilemma, but it has become especially severe for the poor and for many working families in which both parents must work, or the father must hold two jobs.

One-third of all American families earn less than the government standard for a low family budget. Fully one-half of all families—even where both parents work—earn less than $10,000 per year, barely enough for a family of four in some cities and certainly inadequate for a family of five or more. I am not speaking of families who are seeking luxuries, but rather those who try to provide food, clothing, shelter, basic health care and a minimum of amenities.

Parents who long to take gentle and loving care of their children are often prevented, by long working hours away and short tempers at home, from being the kind of parents they once dreamed they would become.

Many families live in constant financial fear, particularly in matters of health. Serious illness can decimate the resources even of the well-to-do family.

Our nation ranks 14th among industrial countries in the death of infants during the first year of life, 11th in the percentage of mothers who die in childbirth. It is hard to imagine that there are ten nations where mothers are more likely to survive childbirth than in the United States.

What can be more moving than the sight of a sick child? Yet twenty-five million American children suffer from poor health. Is there a nation so wealthy as ours that leaves the physical well-being of its children so much up to chance?

Many poor children are victims of inadequate pre-natal care; inadequate medical care during infancy; poor nutrition; lead poisoning; anemia; parasites; and a variety of other curable or completely preventable diseases commonly untended among the poor.

The fourth dilemma that faces many American families is the deep malaise infecting many families; a lack of pleasure in being together; a dispersla of the family, one going this way, one that, in pursuit of fun; no pride of accomplishment in doing well as parent or as child.

When society does not support and value families, what value can a parent place on mothering or fathering? Too many parents allow television to be their substitutes: The average child under seven watches four hours of television every day.

For many children, values are borrowed from peers, rather than from the mature wisdom of their parents or other adults whom they love.

Young parents often come to parenthood without experience in caring for children, unsure of what to do or how to do it, uncertain of their own importance to their children.

If parents feel their children's values come from television and from friends; if parents feel uncertain of their own value and authority, it is little wonder they do not have the sense they are the most important people in the lives of their children, the shapers of their children's beliefs and ideals.

This unnameable malaise infects the treatment given also to the elderly. Where once they were revered and played a central role in the development of families, today the elderly are often left to sit alone in their own apartment or, worst of all, placed in nursing homes where too often the quality of care is an outrage.

What sort of society are we? The abuse of our elderly is common, and the abuse of children by parents has also, for the first time, become a shocking relevation: One in every ten children is physically mistreated.

A society that suffers this malaise loses respect for the lives of those who most need love—the very young and the very old.

But this unnameable malaise also has another form: we Americans shower children with gifts—with toys, and souvenirs, mementoes, clothes and vehicles: scooters, tricycles, bicycles, motorbikes. If money were love, our children would have evidence of vast affection.

But the hardest gift of all to give our children—all the more if they are children who have everything—is purpose. So many children of America seem to share a common sickness, a plague perhaps upon the land: a common aimlessness and lack of goals. Paul Goodman called it "growing up absurd."

Where do they learn this aimlessness? Perhaps they watch. They keep their eyes on us—their parents; their teachers; the policemen, the politicians and professors; the businessmen and coaches; and their idols in the movies.

Robert Coles lists those children's questions that penetrate our own adjustments, startle us, expose us:

"Why do people kill one another? Why do we live this way and other children, whom we see on television, live in another way? Why is it that on television we keep hearing that people have headaches and stomachaches? And why are they so nervous?. What is it, being nervous?

"What is it like to be poor? What is it like to live in a country where bombs are falling all the time? What would you really like to be doing, daddy? Why do we say one thing outside the house and something else when we are alone?

"Is it true, mother, that the country is in trouble and that the world might be all blown up?

"Why did they arrest people who work for the government? Aren't you supposed to be honest if you work for the government?"

We can avoid these questions. We can give evasive answers. Then, turned away, the children accept adjustments we accept. They become like us. They become mere images of us. That is the malaise.

These, then, are the dilemmas: mobility, mothering, money and malaise. For four long years, each has been identified time and again by concerned citizens, by the Congress, and by experts in family life. What has been the response of the current administration?

GOVERNMENT EFFECTS UNDER NIXON

I wish I could report that our government has opened its heart to families, or at least that its own policies have helped to weaken families. The tragic truth is that this administration has contented itself with voicing platitudes about family life. It has failed to take concerted action to aid American families. It has failed to give moral leadership—it has failed even to develop comprehensive policy for families.

The problems of the family are not merely problems of funding. They are not merely problems to be solved by government programs. But government must remove obstacles to family life; rectify injustices; and compensate for damages done the family by modern industry and shortsighted governmental policies. Only then will the family have a chance to help itself.

Richard Nixon, for example, promised this nation that there would be no hungry children in America by Thanksgiving, 1970. Since that promise, Richard Nixon has sold millions of dollars worth of wheat to Russia, but the number of hungry children in America still exceeds three million.

Richard Nixon has withheld $700 million appropriated by the Congress for food, for pregnant women and young children.

Richard Nixon promised in 1969 "a national commitment to provide all American children an opportunity for healthful and stimulating development during the first five years of life." Yet in 1972, under Richard Nixon, children receive only 10% of the federal money allocated for personal health services; in 1960 they received 50%.

Richard Nixon vetoed programs for crippled children and programs for retarded children.

Richard Nixon refused to supplement a program to help the states screen, diagnose, and treat children eligible for medicaid before their maladies grow and become infinitely more expensive. He has been penny wise and pound foolish, concerning the health of children.

Richard Nixon said in 1969: "This administration is committed to a new emphasis on child development." Yet his family assistance legislation requires even the mothers of three-year-old children to work if benefits are to be obtained. It provides benefits at a level so low that the only thing guaranteed is a life without dignity, a family in which a healthy environment for the child is impossible.

It provides day care for no more than 350,000 children full time whereas the number of virtually abandoned children in desparate need of adult affection is ten times that number; and millions need some help at some time. It provides day care centers which investigators have found to be little more than warehouses for young children.

Richard Nixon vetoed Senator Mondale's comprehensive child development bill. On that occasion, Mr. Nixon exceeded even his own considerable standards for hypocracy by alleging that child care "threatened American family life." This bill represented the first effort of our nation to set up a comprehensive network of neighborhood centers of great variety—including high quality day care for working mothers, educational intervention programs for young children, compensatory programs for older children and nutritional and health services for children in need.

The Mondale Bill passed both houses of Congress. It was endorsed by over 100 major organizations including all major religious organizations, and all major non-sectarian organizations, concerned with family life. Many of its provisions are supported by the White House Conference on Children, by the joint commission on the mental health of children, and by five volumes of Congressional testimony. Yet Nixon vetoed the bill.

The crisis of the family in America runs deeper, however, than the failures of Richard Nixon. All Americans must share the blame. Our time today would not be usefully spent in accusation alone; we must offer new and comprehensive insights and proposals.

M'GOVERN-SHRIVER PROGRAM

George McGovern and I want ours to be remembered as the Administration that put families at the center of political concern. What is good for families is good for nations; what hurts families, hurts nations. Eleanor McGovern and my wife Eunice are as committed to a family-centered administration as the Senator and myself. We will involve every member of our Administration in the labor of strengthening family life by all means possible. The McGovern-Shriver Administration will try to measure and evaluate governmental policies in many ways, but always we shall include, whenever appropriate, one clear test: does it help—or hurt—the American family?

The Environmental Protection Agency requires hearings that produce evidence about the impact of federal policies upon the environment. We believe that there should be a family protection agency, requiring hearings that produce evidence about the impact of federal policies upon families.

For example, we carefully monitor the prices of automobiles. Why don't we require hearings on the impact of rising food prices on every family in the land? This is the biggest item in the family budget; it is central to the family's health. It should be monitored.

We will attack the problem of mobility. The practices of the Department of Housing and Urban Development will, in our Administration, guarantee that families and neighborhoods take precedence over highways and thoughtless redevelopment.

We will ask large employers to modify policies which require employees to move frequently. We will ask industries to monitor the impact of their work on the families of their workers. We will make certain that as a major employer the federal government leads the way in adopting practices that strengthen family life.

Secondly, we will attack the dilemmas of mothering. A McGovern-Shriver Administration will commit itself to providing a network of high quality day care centers. Such legislation will be based on one fundamental principle: it must be the family that is strengthened, not the government.

Centers established with federal funds will be controlled by the parents themselves and by the neighborhoods where the centers are located. Our approach will be a family approach and these centers will serve as a general support system for family life.

Parents will be able to turn to these local centers to develop their own sensitivities and skills. Older men and women of the neighborhood will be invited to share with younger parents their wisdom in raising children. Adolescents in the neighborhood will be invited as apprentice child care workers—older children caring for younger children under the supervision of adults—to the benefit of all three generations.

Many women today work outside the home, not because they have to, but because they want to. Exactly in the same way, we will defend the right of women who choose to fulfill their vocation in the home, not because they have to, but because they want to. Women are tied to no one ideology and to no one role—nor should they be. As many options as possible should be kept open to every woman.

Hence, we also propose a program of home visitors to help mothers, otherwise isolated, resolve the normal developmental and disciplinary problems every family encounters. Such programs—already proven to be successful—help older children to raise standards for younger children, deeper family solidarity, and heighten respect for child raising throughout the community.

We also propose to expand the parent-child centers—first established under O.E.O.—to which neighbors bring their own children. These centers have three key advantages: parents in the neighborhood get paid for helping with the children of others; they learn skills in childcare that make them eligible for paying jobs in later years; and both their children and other children benefit by the resources of the center.

Such programs will strengthen every family and every neighborhood in the country.

Thirdly, we will attack the dilemma of money and employment, by trying to increase the range of work opportunities. The length of the work day should be tailored to family needs—in many cases, to school hours. Employers should as a matter of course grant maternity leave and design working hours to protect the needs of children.

We will be especially sensitive to the needs of families of the blind child, the deaf child, the emotionally disturbed and mentally retarded child, and the crippled child. Providence distributes such challenges unevenly, and in a social order like our own—fragmented and mobile—only government can provide the resources many of these families require. No handicapped child should fail to fulfill his potential due to his family's inability to afford therapy.

Many retarded children in this country are not getting any education at all. Every child, regardless of its mental ability, has a right to receive an education in this country.

Therefore, we will sponsor the passage of an Equal Opportunity Act similar to the one passed in Pennsylvania, to provide such education.

And we will attack the malaise that has infected family life. We propose to expand this nation's skills in child care and family life throughout the entire population, by sponsoring special programs.

Drawing on the skills of our elderly, as foster parents.

Drawing on the skills of persons of special insight or experience in our neighborhoods, who enjoy teaching others.

Launching programs in community centers, high schools and colleges that offer students insight and skills into the practical problems of family life and child development.

Sponsoring neighborhood clinics in which experienced adults and trained professionals combine their skills to help every family in the normal difficulties and perplexities of raising children.

We will do all we can to dispell the hopelessness that characterizes the institutionalized child needlessly separated from his parents. Today, 90% of child welfare funding goes to "after-the-fact" programs; to foster care, to juvenile homes, to detention centers, and to institutions for the retarded and disturbed. Yet most children are almost always better cared for in their own home. We will help families to keep their children at home using local schools, local recreational facilities, and workshops to give them assistance.

When only institutions can provide special care, we will try to make such institutions home like, loving, educational and small. Today, under the Nixon Administration, the conditions in many child institutions are barbarous and unfit even for animals.

This man, who utters such pieties about children, sets low federal standards even for institutions that collect more money per child than Harvard or Yale. Children live in them in filth, subject to physical abuse, enduring the torments of endless neglect.

For our part, a McGovern-Shriver Administration will make distant institutionalization less necessary by building resources at the neighborhood level. We will assure:

Neighborhood rehabilitation services for children convicted of crimes.

High quality family foster care homes and halfway homes for children whose families are temporarily unable to care for them properly.

Appropriate medical care and counselling for runaways.

Finally, two other problems of concern to every parent must also be mentioned: the threat of drugs and the consequences of sexual promiscuity. The roots of both of these threats are cultural; social policy must attack them at their roots.

Every family in America lives, it seems, even unwillingly, in a sea of drugs. Television advertises drugs for every sort of ailment, physical or mental. Supermarkets offer huge cases of drugs as though they were candies. Our children grow up with the inescapable impression that taking drugs is as ordinary as brushing teeth.

A McGovern-Shriver Administration will attack the culture of drugs at its root: the drug industry, the medical schools, mass advertisers and mass distributors.

We will have the Federal Drug Administration make drastically expanded studies of drugs and ban the use of those that are junk, or harmful, or of unknown effect, or useless.

We will offer incentive to medical students to study the effect of prescription-filling and drug-taking in family environments in diverse neighborhoods, so that they can see at first hand the varied social effects of daily reliance on drugs—and of the almost superstitious practice of writing out a prescription—almost any prescription—just to make a patient "feel better".

We will establish new standards for the advertising of drugs in environments accessible to children; new standards for the honesty and completeness of drug company descriptions of the contents and effects of their products; and new standards for the drug company's knowledge of the effects of their products before they market them.

Further, we will give the National Institute of Health as its highest priority the study of the cultural conditions that stimulate drug addiction or the mechanism that produces it. Why is it that a young and energetic nation should ingest $5 billion worth of prescription drugs, almost $3 billion of non-prescription drugs, an estimated $6 billion of heroin and untold other sums on other illegitimate drugs every year? What is it about us that prompts this reliance and how can it be halted?

The Federal Drug Administration will be authorized to discourage the advertising of drugs as an escape from ordinary emotional problems.

No struggle against drugs will be successful unless the whole drift of our society is reversed. The task will be long, but it must be begun.

A similar threat to the family springs from the sexual promiscuity of many teenagers. Courses on sex-education are given in the schools—but not courses on family life. No one teaches young people how to become good parents.

A hundred erotic solicitations every day bombard our young people from advertising, films, songs, and fashions—but family life is depicted in unreal, condescending ways or even ignored.

The consequence is that sexual activity is uprooted from its central concrete context—in the family—and made into an end in itself apart from the complexities of mutual fidelity and children and loyalty and nourishing. Instead of expressing the whole of a mature family life, the current model for love is too often sex for the sake of sex. A great deal is said especially by the young about "sincere and mutual caring," but we watch what people do, rather than what they say, commitment or long-range or total caring seem too seldom to be involved.

The rise of venereal disease is reaching catastrophic proportions. Unwanted pregnancies among teen-agers scar the future lives of thousands of girls.

Families have first responsibility for moral and emotional development. Still, the lives of adolescents center for many hours of the day and night around school activities. Thus we will encourage schools to take responsibility not only for education in mental skills, but also for education in skills of caring, compassion, and helping others. If our young people lead rich emotional lives in helping the elderly, the blind, the retarded—in taking care of children—in teaching others—in visiting the sick and the lonely—then their hearts will not be empty, and not so vulnerable to every passing fantasy.

Prudishness will not halt promiscuity. But a richly textured emotional life will make it less compulsive.

We also propose to enlarge the activities of parents public health nurses and neighborhood volunteers, to counsel young men and women in familiar neighborhood settings—to answer their questions about sexual and other matters—to help them in their many dilemmas—to offer them a willing ear, the wisdom of experience, and the trust of friends. Three-way conversations by people who know and trust one another—parents, children and counsellor—have proven their effectiveness to many grateful families. Yet in the end, all questions of morality come back to the influence of the family.

How do children learn to be moral? You would think that no subject would be of greater interest to a wise state—no other subject so thoroughly explored by scholars and desired by parents. Instead, much to our shame, we discover that very little serious research on the moral development of the child has been conducted. We read a great deal about the "adjustment" of children, a great deal about their "emotional health," a great deal about "normal behavior"—but very little about how to install a passion for justice and honesty and fidelity, how to teach compassion and humility, how to make striving for excellence second-nature and heroism a way of life. Parents need to know how to teach such qualities. The few studies that do exist suggest that children learn their moral attitudes more from parents than from any other source. Practical instruction of parents, therefore, is of the utmost importance. We will sponsor the needed research through the National Institutes of Health and make certain that the fruits of these studies reach every parent.

George McGovern and I make the family central in our plans with one idea in mind. The liberties of all Americans—the health of our laws and customs—depend on the vigor of family life. The family is the teacher of the heart. We recall the words of Learned Hand: "I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it." There is only one realtistic read to domestic tranquility—to law and order—to the flowering of liberty and justice and equality—to the spread of wisdom, caring and compassion. And that road lies through strong and vital family life in every family of the land. It is a long road. It must be taken. Every voyage, however long, begins with the first step. What we have begun here today is the construction of a family policy for America—to guide every agency of government.

George McGovern and I intend to establish justice in America. We will ensure domestic tranquility. We will bend our every energy for the sake of all within this room and all within the range of hearing—for all of us belong to families, and all our families need, deserve, and will obtain the privileged assistance of the government of the United States.

INTERNATIONAL ENERGY SUPPLIES AND REQUIREMENTS

Mr. BROCK. Mr. President, all of us are acutely aware of the increasing drain on our sources of energy and of the need for a long-term policy to encourage the exploration for and development of fossil fuels.

An article appearing in the September 14 issue of Public Utilities Fortnightly traces the growth of energy consumption throughout the Common Market and the United States. It includes projections for the future and suggests a policy for international exchange of energy.

The author, Carroll V. Kroeger, has worked in natural gas industries of the United States, Canada, New Zealand, and Australia for more than 20 years and has assisted in introducing natural gas into England and Europe.

I ask unanimous consent that the article, "Change and Exchange in International Energy Supply," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHANGE AND EXCHANGE IN INTERNATIONAL ENERGY SUPPLY

(By Carroll V. Kroeger)

Meditations IV, Marcus Aurelius, A.D. 121–180:

"Observe always that everything is the result of a change, and get used to thinking that there is nothing Nature loves so well as to change existing forms and to make new ones like them."

THE MACROENERGY PERSPECTIVE

Population

The world, as we know it, contains a land mass of about 148 million square kilometers. Upon this live approximately 3.5 thousand million people at an average density of twenty-three persons per square kilometer. However, the distribution of human and natural resources over this land mass is not uniform. The groups of people with the highest standard of living are situated on about 7.6 per cent of the total land area and comprise only 13 per cent of the world population.

LAND AREA AND POPULATION

	Land in thousands of square kilometers	Population millions	Population density
World	148, 354. 0	3, 449. 0	23
United States	9, 363. 4	200. 3	21
New Common Market:			
Belgium	30. 5	9. 606	315
France	551. 2	50. 074	92
Germany	248. 5	59, 949	241
Italy	301. 2	52, 550	174
Luxembourg	2. 6	. 336	130
Netherlands	33. 6	12, 661	350
Denmark	43. 0	4. 860	113
Ireland	70. 3	2. 906	41
Norway	323. 9	3. 801	12
United Kingdom	244. 0	55. 230	226
Common Market total	1, 858. 8	251. 973	142

The population density of the United States is close to the world average, but in the New Common Market Area people are distributed unevenly from about one-half the world average in Norway to 15 times in the Netherlands.

Energy consumption

The consumption of energy in the world in 1969 was about 6,406 million metric tons of coal equivalent (TCE), or about 1,804 kilograms per capita. Almost 37 per cent of this energy was provided by solid fuel, 40 per cent by liquid fuel, 20 per cent by natural gas, and the remainder by hydro and nuclear electricity. A cinematic view over the past two decades provides a better perspective. Consumption of world energy has increased almost 2.4 times since 1951 and the per capita use has risen from 1,070 to 1,804 kilograms.

Changes have been taking place in the proportion of fuels consumed. In 1951 solid fuel supplied more than 60 per cent of all of the world energy. Approximately 26 per cent was provided by liquid fuels, 12 per cent by gas, and 2 per cent by hydro-nuclear power. Thirteen per cent of the world population consumed about half of the world energy in 1968:

1968 ENERGY CONSUMPTION—MILLION METRIC TONS COAL EQUIVALENT

	Consumption	Per capita—kilograms
World	6,406.16	1,640
United States	2,189.45	10,774
New Common Market:		
Belgium-Luxembourg	54.21	5,429
Denmark	25.15	5,142
France	177.17	3,518
Germany	295.06	4,850
Ireland	8.63	2,953
Italy	129.24	2,431
Netherlands	60.00	4,661
Norway	17.06	4,430
United Kingdom	286.01	5,139
Common Market, total	1,052.53	4,450

Marked changes have taken place in the forms of energy supplied in Western Europe during the past two decades; 833 million TCE were consumed in Western Europe in 1959 increasing to 1,245 million TCE in 1969 or an increase of about 60 per cent. In 1959 more than 67 per cent of the primary energy was provided by solid fuels, 28 per cent by liquid fuels, 3.3 per cent by hydro power, and 1.7 per cent by gas. During the decade 1960–70 the use of coal declined to 457 million TCE, providing only 36.5 per cent of the energy supply. Liquid fuel consumption increased over three times to provide more than 52 per cent of the total. Gas use increased over five times and hydroelectricity nearly doubled. In 1960 solid fuel supplied the New Common Market 492.1 million TCE or 68 per cent of the total primary energy; 27.5 per cent was provided by liquid fuels and the remainder from gas and hydro power. By 1968 the use of coal had declined to 42 per cent and liquid fuels had increased their share of the market to almost 50 per cent. Gas use had increased to more than 5.5 per cent and primary forms of electricity to 2.5 per cent.

Between 1956 and 1968, per capita energy consumption increased from 7,928 to 10,331 kilograms per person. Total use increased from 1,334 to 2,078 million TCE or more than 60 per cent. The use of solid fuel reached a low point in 1961 at 352.6 million TCE and increased to 457.8 million TCE in 1968. Solid fuel supplied about 31 per cent of the energy consumption in 1956. Although the amount of coal use increased during the following years, the percentage of total energy supply declined to 22 per cent by 1968. The use of liquid fuels increased from 534.2 to 844.5 million TCE during the same period, an increase of 68 per cent. In 1956 the use of liquid fuels comprised 40 per cent of the total and increased to 41 per cent in 1968. Gas supplied 373.6 million TCE or 28 per cent of the total primary energy supply, increasing to 746.0 million TCE or 36 per cent of the total.

Gas consumption

Of the major forms of primary energy, gas provided approximately 20 per cent of the world energy supply. World consumption of natural gas amounted to 650 thousand million cubic meters of manufactured gas equivalent in 1951, increasing 3.4 times to 2,237 thousand million cubic meters in 1968.

The gas market in the United States matured more rapidly than in the New Common Market Area. In 1968 about 60 per cent of the world natural gas energy was consumed in the United States. This amounted to 1,346 thousand million cubic meters or more than eight times the total gas consumption of the New Common Market. The number of gas consumers in the New Common Market and the United States are comparable:

GAS CUSTOMERS IN MILLIONS

Year	Common Market	United States
1962	35.0	34.7
1963	35.3	35.6
1964	36.0	36.5
1965	36.4	37.3
1966	37.0	38.2
1967	37.5	39.1

With an equivalent number of customers, a much higher level of per capita gas consumption exists in the United States. In 1951 the per capita consumption was 3,400 cubic meters, increasing to 6,700 cubic meters in 1968. This compares with 255 cubic meters per capita in the New Common Market, increasing to 650 for the comparable period.

Energy exchange

Exchange of energy in the world is not new. World trade in fuels has been growing for many years. Changes in national demand and types of fuel combined with disparity between areas of production and market location have brought about an increasing trend in world energy exchange.

International trade in solid fuels was the first to develop. This has continued to increase even though the percentage of solid fuels of total primary energy demand has declined over the past decades. In 1960 about 131 million metric tons of solid fuels were exchanged on the international market, increasing to almost 169 million metric tons in 1968. Net solid fuel imports into Western Europe reached a peak in 1965 at 54 million metric tons and declined to about 36 million metric tons in 1968. A stage of maturity was reached in the New Common Market in 1964, with imports of almost 28 million metric tons and a gradual decline thereafter. The United States has been exporting solid fuels for many years with quantities approaching those imported by Western Europe.

The major development in energy exchange has been the increase in international trade of petroleum. World trade in crude oil increased from 602 to almost 920 million metric tons during the five-year period 1964 to 1968, an increase of more than 65 per cent. The major importers of crude oil have been Western Europe and Japan. Imports of crude petroleum increased from 47 million metric tons in 1951 to 470 million metric tons in 1968, an increase of ten times.

The trend in the New Common Market Area was similar, increasing from 153 to 411 million metric tons during the nine-year period 1960 to 1968. Imports into the United States have been controlled by a quota system set by the federal government and have been held relatively constant at about 45 million metric tons during the period 1965 to 1969.

Initial net importation of natural gas across national borders developed in the United States starting in 1957 with importation from Canada of substantial quantities. These have increased since that time to a level of almost 35 thousand million cubic meters in 1968. The development of natural gas imports in Western Europe and Japan has been a relatively new development as a result of two factors: new technology for commercial liquefaction, transport, and storage; and the discovery of large natural gas reserves in Western Europe, Africa, and the Middle East. Activity in contract negotiations for importation of natural gas transported by pipeline and LNG tankers is well-known and increasing.

The following lists some of the contracts which have been signed for the importation of natural gas into Western Europe:

Importing country	Exporting country	Annual volume in milliard cubic meters	Term of contract in years
United Kingdom	Algeria	1.0	15
France	do	4.0	15
do	Netherlands	7.0	20
Germany	do	12.0	20
do	U.S.S.R	7.0	20
Belgium	Netherlands	5.0	20
Italy	Lybia	2.4	20
do	U.S.S.R	6.0	20
do	Netherlands	6.5	20
Austria	U.S.S.R	1.2	23
do	do	.5	20
Spain	Algeria	1.0	15
do	Lybia	1.0	15

In the United States, large LNG importation schemes have been proposed to the Federal Power Commission, but government approval processes have delayed implementation beyond the original schedules. The major sources for these programs have been Africa and South America. Spot cargo deliveries have been allowed for peak-shaving purposes.

Gross national product

High energy commission is associated with the level of the standard of living of the population of any given area. Energy is required for high comfort levels in regions of severe climatic conditions. It also is required in manufacturing and distribution as a raw material and to replace or supplement human or animal physical energy. An accepted indicator of the economic level is the Gross National Product.

The United States and the New Common Market Area of Western Europe have many common features. In terms of population, the Common Market countries contain approximately 250 million people and the United States about 200 million. GNP at market prices and exchange rates for the New Common Market in 1968 was $508 million. The comparable GNP for the United States was $881 million.

Macroenergy conclusions

From a cinematic view of the world and patterns of energy development, a number of conclusions may be drawn:

Everywhere the per capita use of energy has been increasing.

The energy markets of the United States and the New Common Market are the most advanced.

The proportion of energy supplied by solid fuel has been declining and the proportion by liquid and gaseous fuel has been increasing.

With a disparity between industrialized and developing regions of the world, a shift in the share of energy use will take place.

It is doubtful that enough energy resources exist to meet the future world demand.

The exchange of energy in the future will increase on a global basis.

International competition for future energy supplies will intensify with serious economic and sociopolitical consequences.

THE MICROENERGY PERSPECTIVE

Life cycle change process

A universal characteristic of life is change. Everything develops, grows, adapts to circumstances and events, matures, and declines. The point which marks the end of change in a person, family, city, state, nation, or any type of organization is the end of its life. The pattern of such change is the life cycle. The length of an industry life cycle depends upon the nature of the product and the organization. Traditionally, extractive and basic processing industries have had very long life cycles.

Dramatic changes do not occur instantaneously. Perception of change depends upon the individual view of the environment related to reality. If the environment of an individual or firm is viewed in terms of snapshots each day, little change will be perceived. A perception of change is made by comparison, thus a number of photos become a motion picture and movements or changes become more apparent.

Traditionally, the growth and development of energy supply organizations have been dependent or related to the development of a town or city. A city like a business or industry has a life cycle. A city or town is made up of people and the development of population is an important measure of the status of a city. An interesting life cycle example is given by a typical German city.

Perception of change in energy consumption over a ten- or 20-year period gives more insight into the change process than looking at single years. Changes over a generation may not be sufficient to determine the stage of development on the life cycle curve. In the United States, the coal industry required a developmental period of fifty years to reach a state of maturity (1855 to 1905). This same period saw the decline of wood as a major source of energy. The point of maturity for coal was the start of the developmental period for oil and natural gas.

The New Zealand gas industry presents an interesting example of an industry development and decline over a period of ninety years (1880 to 1970). The first gas company was formed in 1862, only twenty-two years after colonization of the country began. By 1916, gas was being distributed in 56 towns and cities. Because of increasing costs, of labor and raw materials which had to be imported, and strong competition of government-subsidized electric power, the gas industry began to decline. In 1951 there were 205,000 gas customers in New Zealand. By 1960 these had declined to 168,000 and to 120,000 in 1970. By 1970 the number of towns with gas service had declined to 25.

Environmental dynamics

A snapshot or short-subject cinematic view may not disclose the state of exploitation, maturity, or decline on the life cycle curve of a specific organization or industry. A decade may disclose only that a business or organization is growing, static, or declining. It will not help predict the points of inflection or turning points which are critical. A long-term point of view is important in developing an understanding of the change process in an organization or industry and taking preventive measures for the preservation of the well-being of the organization or industry.

Environmental dynamics is a reluctant vector representative of a large number of forces: technical, economic, and sociopolitical.

Change results from external factors which may speed up the growth and development or slow down the deterioration once a state of maturity has been reached. Much of the development of an energy industry has resulted from changes in the technical or economic factors. At critical states other factors can play important roles in the change process. The rate of exploitation can depend upon how receptive or hostile the environment may be.

Industry development patterns

Examination of energy industry patterns throughout the world discloses the following simularities:

Stage I: Development of marketing, production, and distribution for individual towns and cities.

Stage II: Expansion of supply area by interconnection of a number of towns and cities.

Stage III: National co-ordination of marketing, production, and distribution through interconnected national networks.

The first stage has been the origin of any energy industry. Typically, depending upon the decade and century of development, systems have been installed to provide service to a portion or all of a population concentration. Life cycles can be plotted for these types of organizations similar to the typical German city. In many instances, these organizations have passed maturity and are either static or declining. The New Zealand gas industry is an example of this type of pattern.

Stage II development patterns enable an energy organization to expand beyond the environmental factors affecting a single municipal unit. A regional supply group can develop into a portfolio management for the development and exploitation of a number of markets which can differ in product mixture and stages of growth. West Germany is a good example of Stage II development. Several hundred municipalities distribute gas and electric fuel. Some of these still produce their own supply, others purchase their requirements, and some have pooled production arrangements. In the gas sector, changes are taking place as locally produced and imported natural gas from Holland and the U.S.S.R. has become available. There is, however, no single organization with national responsibility. The same situation applies in the United States. Local or regional companies supply selected market areas without national interconnection or national co-ordination.

Stage III is a relatively new type of organization which has evolved in Europe during the past decade. The Netherlands, Belgium, France, and the United Kingdom are typical of this type of pattern. To varying degrees, a single national organization has the responsibility for the co-ordination of supply, marketing and distribution throughout the country. In some instances the organization is a joint arrangement between private and government interests as in Belgium and the Netherlands. Others are primarily government organizations as in France and the United Kingdom. These organizational forms are still evolving—as an example, the new British Gas Corporation.

The classification of liquid energy organizations, because of their international and multinational character, is more difficult. They can be placed in the following categories:

Class I: Private National Production, Refining Transportation, and Marketing, or combinations thereof.

Class II: Private Multinational Production, Refining, Transportation, and Marketing.

Class III: Joint Venture Private and Government Production, or Refining, or Marketing, or combinations thereof.

Class IV: Government National Production, or Marketing, or fully integrated operations.

Class V: Government Multinational Production.

Microenergy conclusions

From a review of the life cycle process of world energy supply organizations and the evolving change in organizational structure, a number of conclusions may be drawn:

Energy supply organizations develop through successive states of exploitation, maturity, and decline.

Time scales are being compressed by technological change in the development of new sources of supply and advances in the interchangeability of fuels.

Energy dynamics are intensifying as a result of the increasing effects of economic, technical, and sociopolitical factors.

Industry development patterns suggest a trend toward ever larger supply areas.

With the development of mixed-economy systems in the western part of the world, national governments have been taking an increasing role in the planning and co-ordination of energy supply, marketing, and distribution.

Awareness of the relationship and role of national governments in the international liquid energy supply organizations is increasing.

Past interests have centered on problems of internal national government regulation and control of energy supply, marketing, and distribution.

PERSPECTIVE FOR THE FUTURE

Energy projections

Projections for the future are fraught with uncertainty but can be useful in establishing parameters for planning. The amount of land area and ultimate natural resources of the world are fixed. The number of people and their requirements for energy in the future are unknown. However, predictions based upon an understanding of the developments of the past are possible. By simple projection the future population can be estimated.

POPULATION IN MILLIONS

Year	World	New Common Market	United States
1980	4,330	272	237
2000	4,750	313	300

These projections assume that the population growth life cycles will continue in the exploitation state.

World energy requirements likewise can be estimated:

ENERGY REQUIREMENTS IN MILLION TONS OF COAL EQUIVALENT

	1980	2000
World:		
Solid fuel	2,900	3,800
Liquid fuel	4,000	6,600
Gas fuel	1,800	2,900
Hydro-nuclear	300	500
Total	9,000	13,800
New Common Market	1,900	3,150
United States	3,100	4,900

Simple projections assume continuation of past trends into the future. Some points for speculation and their impact as change are apparent. With increasing population, energy use will continue to increase within supply capability. The greatest potential for increase is within the developing market areas of the world. It is doubtful that supply resources exist for world population to attain the per capita consumption level of the United States. At some point, a natural balance must be achieved between supply and demand.

Long-range projections are dependent upon all of the environmental dynamics which influence change processes in energy life cycles. Breakthroughs in new technologies, change in sociopolitical or economic factors, can have a great impact. Such projections are useful to point out the disparity between future supply and demand patterns. They are not intended to reflect actual consumption levels which will be attained.

Energy consumption over a period of time represents a portion of a life cycle. World energy consumption is in a state of exploitation. The use of solid fuel has reached a state of maturity. Gas and liquid fuels also have been in an exploitation state. The points of inflection for leveling off or turning to a static or declining state for any fuel will be influenced by dependence upon national production or expansion by importation from external sources.

Sociopolitical dynamics

Projections for future energy demand may not be accurate, but do point out future problem areas for energy dynamics. At some point supply cannot meet demand. A point of inflection is reached where rationing must take place. The method of rationing may be by natural economic forces in the marketplace or by governmental policy controls. Political forces will become increasingly important in the future energy picture. The international energy supply and demand pattern emerging is one of complex portfolio management with producing areas in various states of economic development and market areas in different states of economic development. Political considerations include concern for security of supply, balance of payments, national security, and other matters of national concern. Also of interest are the effect upon internal matters, such as the impact upon employment in local industries, pricing to local consumers, etc. With national interests involved, it is difficult to see how international exchange of energy can take place in the future without government involvement and large readjustments in policy and organizational change.

Organizational dynamics

Analysis of the pattern of evolving organizational developments can lead to some predictions of the future stages and classes of organizational forms. These will develop as part of a trend toward greater government involvement in the energy business. Thus, it is logical to expect that in the future there will emerge more and more government participation in international liquid energy firms:

Class VI: Government multinational marketing to deal with Class V developments.

Class VII: Government multinational integrated operations with energy exchange control by international treaties.

The driving forces of sociopolitical dynamics already are at work to bring about these developments. Interplay between areas of liquid fuel production and marketplace intermixed with the complexities of international relations, and in some cases of rising nationalism, are interesting environmental dynamics. A look at the life cycle states of development of emerging and fully industrialized nations helps to explain barter deals to further national interests. The impact of multinational operations will assume greater importance in the future with respect to flow of funds and monetary policies. Significant changes are emerging in the sociopolitical area which will influence both national and international energy outcomes. Certainly the day rapidly is approaching when a single country will no longer be able to look only at its internal energy affairs without consideration and concern for the international competition for future energy supplies.

The impact of change on the United States energy market is well-known. The effect of the interplay between many environmental dynamic forces is becoming apparent in many sectors. Former policies are under review at all levels. A supply crisis has developed. Many decisions must be taken to solve the future energy problems.

Gas energy development

The ultimate solution of the gas supply shortage probably will be a combination of the many considerations: new resources of natural gas from the Artic with an integrated Alaska-Canadian-United States network, offshore deep water, deep horizon production, synthetic natural gas produced from both coal and petroleum feedstocks, and imported liquefied natural gas.

The magnitude of the co-ordination of all of these could be mind-boggling if viewed solely from the perspective of past management and organizational approaches. It is significant that the American Gas Association has moved its headquarters from New York to Washington, D.C., and a reorganization has been made which has much orientation in the direction of sociopolitical factors. The U.S. gas industry is in a Stage II pattern, and moving in the direction of Stage III. It is a matter of speculation as to the future extent of government involvement in this process.

The European gas scene is more advanced in the state of development of new organizational patterns. The reasons for this are well-known. The discovery of large natural gas reserves in the past decade compressed the time scales for life cycle development. For the first time, sufficient reserves were available for planning and introducing a new fuel on a national scale. The change process required new innovative approaches which successfully have been implemented. Change has become a way of life in the European gas industry and there is no indication that it will not continue for a long time to come. The trend would indicate the next stage of development could be:

STAGE IV: Co-ordination of supply within the New European Common Market and interconnected supply networks.

A careful balancing of national interests and co-ordination of locally produced natural gas with imports from the U.S.S.R. and North Africa will be required. Since these factors will influence the interests of the entire Common Market, it is likely that new policies of co-operation and co-ordination will evolve. This should result in co-operation in matters such as standardization. The next twenty years should see the development of an integrated pipeline network with large diameter supply systems across the Mediterranean through Spain into southern France, several systems emanating in the U.S.S.R. through Eastern Europe and connecting to the European system, and possible North Sea systems terminating on the continent as well as the United Kingdom.

Managerial and organizational impact

Change will become a way of life for the future energy organization and energy manager. Trends toward a multidimensioned industry with rapidly changing environmental factors will require multidimensioned managers to operate multidimensioned organizations. Organizational forms will not remain static but will be fluid in structure to adapt and respond to new challenges and opportunities. The multimanager will have to consider simultaneously all of the environmental dynamics affecting the organization. Decision making will no longer be in the sequential timing mode. The manager of the multidimensioned firm will be a combination administrator, leader, planner, statesman, and entrepreneur. New systems for continuous monitoring of environmental dynamics will be required. Organization teams will work on project assignments and then be reassembled into new groups as new problems emerge.

The multimanager will understand group dynamics and be able to motivate his teams to achievement in the most efficient manner. New governmental and private organizational forms will be required to meet the changes and the challenges of the coming twenty years in both Europe and the United States.

CONCLUSION

A study of the life cycles of any business or industry can be productive in gaining greater insight into the present and future. Change is accelerating in the energy business. Perception of change requires a cinematic view. Energy dynamics no longer are national in character. Past methods may not be sufficient for managing change in the future. A review of past and projected consumption patterns for energy can lead to the conclusion that change will intensify as problems of market development, efficient rationing of resources, and balancing of supply and demand are co-ordinated on a national and international level.

Environmental dynamics of the present and future will require new multidimensioned organizations structured for flexibility and staffed with multidimensioned managers. There is nothing new in the change process as Marcus Aurelius perceived almost two thousand years ago. It is our perception of change and the actions we take as a result of that perception related to reality that will determine the effect of change on our individual life cycles.

THE PROBLEM OF COURT DELAY AND THE SPEEDY TRIAL ACT

Mr. HRUSKA. Mr. President, the Subcommittee on Constitutional Rights recently reported S. 895, the proposed Speedy Trial Act of 1972. All members of this subcommittee fully support the concept of speedy justice, but recent Supreme Court opinions and statements of jurists, scholars, prosecutors, and defense attorneys have raised serious questions about the desirability of inflexible time limits for criminal trials.

A new Federal court rule, rule 50(b) of the Federal Rules of Criminal Procedure, went into effect on October 1, less than 2 weeks ago, requiring each district court to formulate plans for speedy trials with time limits for the pretrial, trial, and sentencing stages of a criminal proceeding. Further legislative action in this area should be deferred to give the courts an opportunity to test the effectiveness of the more flexible rules approach.

The Department of Justice has submitted to the subcommittee a comprehensive analysis of the problem of court delay which I would like to bring to the attention of the Senate. In addition, Whitney North Seymour, the U.S. attorney for the southern district of New York, has written a letter to the chairman of the subcommittee, Mr. ERVIN, concerning the adverse effects on the court system which would result from the adoption of an inflexible time limit on criminal cases.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the Department of Justice report and Mr. Seymour's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
Washington, D.C., October 3, 1972.

Hon. SAM J. ERVIN, Jr.,
Chairman, Constitutional Rights Subcommittee, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR ERVIN: This is in response to your request for the views of the Department of Justice on the proposed amendment in the nature of a substitute for S. 895, the proposed "Speedy Trial Act of 1972".

The Department of Justice has previously submitted its views on S. 895. Then Assistant Attorney General William H. Rehnquist testified before your Subcommittee on September 14, 1971, and subsequently submitted additional comments and suggestions to you on October 19, 1971.

The Department notes that in the nine months after the hearings on S. 895, your Subcommittee substantially revised that bill. It now differs materially from the original proposal reviewed by the Department of Justice. Since transmittal of the revised bill to us for comment on July 7, 1972, we have subjected it to an extensive analysis. We appreciate the opportunity to offer our views with respect to the substitute bill.

Our views result from a study of events that have occurred, experiments that have been conducted, rules that have been promulgated, experiences reported, and observations of scholars and practitioners who have spoken all during the months since the conclusion of the hearings on S. 895.

CAUSES OF DELAY

The Department of Justice has a stewardship obligation to the system of criminal justice as a whole. In this age of constantly increasing caseloads, the Department necessarily has a great interest in improving the criminal justice system, including minimizing delay. In that regard, we have sought to add more manpower and resources to the justice system. We have proposed, or strongly supported, measures to increase the number of federal judges, to establish public defenders for federal districts with heavy caseloads, and to increase the number of federal prosecutors and marshals.

We recognize, however, that while the infusion of additional manpower and increased resources will provide some relief, it will not provide a cure for the cause of delay.

On March 11, 1971, President Nixon, at the National Conference on the Judiciary, held in Williamsburg, Virginia, said:

"But if we limit ourselves to calling for more judges, more police, more lawyers operating in the same system, we will produce more backlogs, more delays, more litigation, more jails and more criminals. 'More of the same' is not the answer. What is needed now is genuine reform—the kind of change that requires imagination and daring, that demands a focus on ultimate goals, just as you have indicated imagination and daring and are focusing on ultimate goals.

"The ultimate goal of changing the process of justice is not to put more people in jail or merely to provide a faster flow of litigation—it is to resolve conflict speedily but fairly, to reverse the trend toward crime and violence, to reinstil a respect for law in all of our people."

As President Nixon indicated, the real answer to court delay lies in "imaginative and daring" reform of the federal justice system. Speedy justice can only be achieved when the underlying causes of delay are identified and eliminated.

Some of the causes of delay in the federal criminal justice system are the excess of burdensome procedures and litigation which need not necessarily be handled in the court system. Substantial amounts of court time that could otherwise be spent in conducting trials are consumed by pretrial motions to suppress evidence, preliminary hearings where defendants have been released prior to trial, compulsory grand juries, extended *voir dire* by counsel of petit jurors, post-conviction and post-appeal collateral attacks, and the increase of justiciable issues in both the criminal and civil courts.

A brief discussion of three of these areas will illustrate how they contribute to court delay. First, as one judge recently noted, there are as many as five trials in a criminal case today.

[A d]efendant is entitled to a preliminary hearing to determine whether or not there is sufficient evidence to hold him for trial. That is one trial. The defendant is entitled to a determination whether any statement he made, any confession he made was legally admissible. That is the second trial. The defendant is entitled, if there is an identification question involved, to a hearing as to the validity of the identification—the so-called *Wade-Stovall* hearing. That is a third trial. If tangible property was seized, the defendant is entitled to a motion to suppress. That is the fourth. And, finally, if the People survive all of these motions, the defendant is actually entitled to a trial on the merits. [*Bail, Preventive Detention and Speedy Trials*, 8 Columbia Journal of Law and Social Problems 1, 19–20 (1971).]

In most cases, the issue at these hearings is not directed toward assuring that an innocent defendant is not convicted, but rather to judge whether the police officer in investigating the case acted fairly and constitutionally. The result of these hearings is that substantial amounts of court time are consumed on peripheral issues.

Second, under existing law there is virtually no limit to the post-conviction, post-appeal habeas corpus-type petitions that can be filed by a prisoner. Thus there are instances substantiated by federal court records in which prisoners have filed as many as forty or fifty petitions, and there is one case with fifty-seven petitions. It is entirely permissible under existing law for a prisoner to file a federal petition claiming that a confession given by him was coerced. Much later he may file another petition contending that evidence seized in his home was a product of an unreasonable search and seizure. Still later he may challenge the composition of his jury, or claim that adverse publicity prior to trial prejudiced the result. In short, prisoners under present law may have their convictions relitigated again and again on the basis of alleged constitutional infirmities, many of which are new interpretations suggested by an imaginative, litigious defense attorney. Countless hours are expended by the courts, defense attorneys, and prosecutors on collateral attacks which result in relitigating old cases rather than trying new ones.

Third, in the last decade, there has been a substantial increase in the types of issues and cases that courts are adjudicating. This increase in justiciability is due in part to the litigiousness of the bar and in part to the willingness of the courts to consider new types of issues. In our view, as long as the courts continue expanding the types of issues they will consider and the Congress is unwilling to prescribe limits, the courts will be unable to give adequate time and attention to the trial of criminal cases.

The Department of Justice continues to believe, as Mr. Rehnquist stated in his testimony on S. 895, that "any serious attack on delays in the administration of criminal justice must be aimed not merely at obtaining speedy trials—though this is an essential element of such a program—but must also be aimed at the broader goal of assuring prompt administration of criminal justice at all levels." It was for that reason that he requested that your Subcommittee couple provisions for the modification of existing post-conviction procedures with the other provisions of S. 895. To assist your Subcommittee, the Department drafted legislative language which would revise the federal habeas corpus statutes, and this proposal, together with the Department's recommended technical changes and suggestions to S. 895, were forwarded to you in October of last year. We regretfully note that the provisions for habeas corpus reforms were not incorporated in your proposed amendment. In addition, subsequent events compel us to question the desirability of inflexible speedy trial rules.

RECENT DEVELOPMENTS

In the period of time which has elapsed since Mr. Rehnquist's testimony, there have been several significant developments which have caused us to reassess the need for S. 895. The first was the action taken by the Judicial Conference of the United States suggesting new Rule 50(b) of the Federal Rules of Criminal Procedure which has been approved by the Supreme Court and by the Congress. Rule 50(b), which became effective October 1, 1972, requires each district court to prepare a plan for achieving the prompt disposition of criminal cases. The district courts must include within their plan time limits for pretrial, trial, and sentencing procedures, as well as special provisions for "high-risk" cases. The Administrative Office of the United States Courts has circulated a model plan for implementation of Rule 50(b) to all judges and clerks of the District Courts and Courts of Appeals, and the Department of Justice has directed each United States Attorney to assist the Chief Judges of their respective districts in the formulation of district court plans. The Department feels that the implementation of flexible rules is a more realistic approach to the problem of court delay since each district differs in geographical size, population density, types of cases filed, judge strength, support personnel, and physical facilities.

As you stated when you introduced S. 895, the requirement that each district court prepare plans for achieving speedy trials "is possibly the most important part of the bill". The Department of Justice supports having each district court formulate plans for prompt trials and specifying their manpower and resource needs. This will not only give to all of those having a role in providing an effective system of federal criminal justice a true picture of the needs of the system, but will engender in the federal district courts and, we hope, in all other instrumentalities of the federal criminal justice system, the compelling need to think of methods by which the goal of prompt trials in criminal cases may be advanced.

The enactment of S. 895 on the heels of the action of the Supreme Court and the Congress is unnecessary. We would suggest, therefore, that further action on S. 895 be delayed until experience can be gained under the flexible rule approach of Rule 50(b).

Next, the Supreme Court has rendered two opinions on the issue of speedy trial. In December of last year, the Supreme Court said:

"The [sixth] amendment would appear to guarantee to a criminal defendant that the government will move with the dispatch which is appropriate to assure him an early and proper disposition of the charges against him. *The essential ingredient is orderly expedition and not mere speed.*" [*United States* v. *Marion*, 404 U.S. 307, 313 (1971) (emphasis added).]

More recently, on June 22, 1972, the Court emphasized that no inflexible yardstick can be applied to measuring the desired speed with which all criminal cases, regardless of their individual nature and circumstances, should progress through the courts. The Court stated:

"It is . . . impossible to determine with precision when the right has been denied. We cannot definitely say how long is too long in a system where justice is to be swift but deliberate." [*Barker* v. *Wingo*, —— U.S. —— (No. 71-5255, June 22, 1972).]

The Department of Justice is of the view that the Court's stressing of the importance of preserving flexibility in solving the problem of delay counsels against the legislative mandating of inflexible time limits.

The recent practical experience gained in the Second Circuit suggests again the potentially adverse effects which inflexible time limits may cause. In 1971, the United States Court of Appeals for the Second Circuit adopted rules for the prompt disposition of criminal cases. Those rules require the government to be ready for trial within 180 days after arrest or indictment. Chief Judge David Edelstein of the Southern District of

New York has praised the work of the Southern District in keeping the criminal calendar up to date, but on February 2, 1972, he expressed alarm over the increase in the civil case backlog. Judge Edelstein noted that civil litigants as well as criminal defendants have a "constitutional right to have their matters resolved at the earliest possible time, compatible with the efficient administration of the court's business", N.Y.L.J., February 3, 1972, p. 1. To illustrate the magnitude of the problem, he stated that if all 27 judges of that court devoted all their time to the trial of civil cases for two years, they could dispose of only one-half of the existing caseload. *Id.* at p. 4.

Before inflexible rules on speedy trial are adopted, we should be more sure of their consequences. The events of the past year in the Southern District of New York strongly suggest that the consequences of such rules have not been fully anticipated. Therefore, an examination of the judicial system that is comprehensive enough to include the implication of speedy trial rules is clearly required.

Within the past year, much comment has been made on the subject of speedy trial rules. Academicians, prosecutors, and members of the Bar have voiced their apprehension.

Chief Judge Edelstein's comments have already been noted. The United States Attorney for that district, Whitney North Seymour, Jr., addressing the American Bar Association convention in San Francisco, noted the desire of defendants and their counsel to delay trial. He also stated that "the key to speedy trials is not laws and rules alone, but rather the wholehearted cooperation of the investigative agencies, prosecutors, judges, and other personnel involved." (Congressional Record, September 13, 1972, pp. 30404–30405.)

Gilbert Rosenthal, Past President of the National Association of Criminal Defense Lawyers, stated at the ABA convention that "while it is true that the average defendant who is at liberty on bail will benefit by delay, it is equally true that he needs that delay." Mr. Rosenthal stressed that a certain amount of delay is necessary because a defendant cannot match the investigative powers of the government in an equal time situation. He also is of the opinion that inflexible speedy trial rules will deprive defendants of effective representation. Mr. Rosenthal stated:

"The inflexibility of go-go justice, merely to satisfy what is presently public clamor, will and does lead to the destruction of the private bar. And when you finally succeed in destroying the private bar, you will also succeed in destroying justice in this country."

President Dallin Oaks of Brigham Young University, formerly Professor of Law at the University of Chicago, stated at the same meeting:

"The problem of speedy trial is not likely to be resolved by any wonder drug, such as passing rules against delay. Congress can't close the Heavens by passing a law against rain, and a state legislature can't achieve a fair and effective solution to the problem of delay in disposing of criminal cases by requiring that trials be held within a particular period of time."

These authorities—a judge, a prosecutor, a defense attorney, and a scholar—have challenged the inflexible rule approach. Their reasons underscore the need for comprehensive study of the full implications of inflexible rules to achieve the goal of prompt disposition of criminal cases.

For the District of Columbia, the Department of Justice proposed to Congress in mid-1969 a comprehensive reorganization of the court system with a substantial increase in the number of judges, a court executive to bring modern management techniques to court operations, a full-fledged defender system, and an expanded bail agency with new definition of responsibility. These proposals for the Nation's capital were enacted by the Congress in the District of Columbia Court Reform and Criminal Procedure Act in 1970.

The enactment of that bill has produced dramatic results. In the year prior to the effective date of the bill, the elapsed time from arraignment to trial in felony cases averaged between nine and twelve months. By the end of the following year, persons charged with felonies came to trial within five to six weeks following arraignment. District of Columbia Courts, *Annual Report* 16 (1971). This reduction in time is an example of the type of benefits which result from improved management, allocation and coordination of resources within the criminal justice system.

These are the results of fundamental reform. They show that the speedy disposition of criminal cases can be achieved without an inflexible rule and without a sacrifice of justice.

Rule 50(b), the recent decisions of the Supreme Court, the experience in the Southern District of New York, and the conclusions of several perceptive observers suggest that inflexible rules are undesirable. The results of comprehensive reform in the District of Columbia suggest that with such an approach the inflexible rule is not even necessary.

S. 895—THE PROPOSED SUBSTITUTE AMENDMENT

The proposed amendment consists of three principal parts providing for:

(1) preparation by each district court of plans for achieving speedy trials;

(2) mandatory dismissal with prejudice of criminal cases not tried within sixty days; and

(3) establishment of five demonstration pretrial services agencies.

1. District Court Plan Provision:

The district court plan provision requires that within ninety days after the effective date, each United States District Court shall place into operation a plan for the trial of all jail and "high-risk" cases within ninety days from the date of detention or designation as "high-risk" cases. Within twelve months after enactment, each district court, with approval of the Judicial Council, must file plans with the Administrative Office of the United States Courts which will provide for the trial of defendants within 120 days of arrest or filing of indictment. Within 24 months, plans must be filed to provide for trials within sixty days. Thirty-six months after enactment, the sixty-day trial provision becomes effective for all defendants.

The Department of Justice supports having each district court formulate a plan for prompt trials and specifying their manpower and resource needs. This will not only give those responsible for federal criminal justice a true picture of the needs of the system, but will cause the federal district courts to think in terms of innovative proposals to reform the administration of justice. However, the Department is opposed to tying this provision to an inflexible and arbitrary time limit by which to determine whether a speedy trial has been obtained. The Supreme Court has never imposed an inflexible standard and we think it is particularly unwise to do so by legislation.

A similar district court plan provision has been adopted in the Federal Rules of Criminal Procedure. New Rule 50(b) of the Federal Rules of Criminal Procedure requires each district court to "prepare a plan for the prompt disposition of criminal cases which shall include rules relating to time limits within which procedures prior to trial, the trial itself, and sentencing must take place, means of reporting the status of cases, and other matters as are necessary or proper to minimize delay and facilitate the prompt disposition of such cases." We support the effort of the courts to improve the administration of justice in this manner. This approach is a sound alternative to S. 895.

2. Mandatory Dismissal After Sixty Days:

The mandatory sixty-day dismissal section provides that the trial of all federal criminal offenses shall be commenced within sixty days of arrest or the filing of an information or indictment. Certain periods of time are excluded in computing the sixty-day period, and any case not brought to trial within the sixty-day period is to be dismissed with prejudice upon motion of the defendant. The sixty-day requirement becomes operative three years after enactment. In the meantime, beginning one year after enactment, trials would have to be held within 180 days and, beginning two years after enactment, trials would have to be held within 120 days.

The thrust of this provision is that criminal cases will be dismissed if an arbitrary sixty-day time limit is not met. Even if the prosecution is ready for trial, the case will be dismissed if the court is unable to try the case within the sixty-day period. The failure to meet the time limit is the only consideration for dismissal; there is no requirement that the defendant be prejudiced by the delay. The dismissal will be an absolute bar to any subsequent prosecution based on the same criminal act .

The Department of Justice has a number of basic objections to this proposed law:

(a) The proposed law departs from the traditional Supreme Court view that speedy trial is a relative concept. In *United States* v. *Ewell,* 383 U.S. 116, 120 (1966); the Supreme Court stated: "[T]his Court has consistently been of the view that 'The right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances.'" It has been repeatedly stated that the determination whether a delay in bringing a defendant to trial results in a denial of his right to a speedy trial depends on "the particular circumstances of each case." *Hedgepeth* v. *United States,* 364 F.2d 684, 687 (D.C. Cir. 1966) (see cases cited in n. 2). The proposed law requires dismissal without regard to the particular circumstances of each case.

Recently, the Court has stated that the essential ingredient of the Sixth Amendment right to speedy trial is "orderly expedition and not mere speed", *United States* v. *Marion,* 404 U.S. 307, 313 (1971), and that a defendant's constitutional right to a speedy trial cannot be established by any inflexible rule but can be determined only on an *ad hoc* basis, in which the conduct of the prosecution and the defendant are weighed. *Barker* v. *Wingo, supra.* The Court stated that there were four factors to be considered in determining whether a particular defendant has been deprived of his right to speedy trial: length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant. By imposing only an arbitrary time limit, the substitute amendemnt significantly departs from the Supreme Court's interpretation of the right of speedy trial.

The courts have clearly stated that "there is no touchstone of time which sets a fixed maximum period that automatically requires application of the Sixth Amendment and dismissal of the indictment." *Hedgepeth* v. *United States, supra* at 687. To our knowledge no federal appellate court has ever found a denial of speedy trial solely because of a sixty-day delay from arrest to trial. To the contrary, the courts have ordinarily upheld much longer delays: *Barker* v. *Wingo, supra* (murder—five years); *United States* v. *Ewell, supra* (sale of narcotics—19 months); *Hodges* v. *United States,* 408 F.2d 543 (8th Cir. 1969) (Blackmun, J.) (counterfeiting—18 months); *Fleming* v. *United States,* 378 F.2d 502 (1st Cir. 1967) (unlawful transfer of marijuana—11 months); *Harling* v. *United States*, 401 F.2d 392 (D.C. Cir. 1968), *cert. denied*, 393 U.S. 1068 (1969) (robbery—21 months).

We fear that the proposed departure from the traditional Supreme Court view of speedy trial will lead to the unwarranted dismissal of serious criminal cases, including cases in which the prosecution is ready to proceed but the court is unable to hear the case within the arbitrary time limit.

(b) Recent trends in the law have led to the proliferation of pre-trial and post-trial hearings. These hearings are taking judges away from the trial of criminal cases and are, as the Supreme Judicial Court of Massachusetts recently observed in commenting on the inordinate length of time consumed by a pretrial hearing, "amply demonstrative of the reason why there is heavy and constantly increasing congestion in the jury trials of criminal cases." *Commonwealth* v. *Scott*, 245 N. E. 2d 415, 420 (Sup. Jud. Ct. Mass. 1969). These hearings result in an enormous drain on available court resources, resources which would otherwise be available for handling the trial of criminal cases. At a time, therefore, when court decisions which protect the rights of the accused have significantly contributed to the delay in the trials of criminal cases, it is unwise to enact a law which would penalize society by authorizing automatic dismissal of criminal charges against defendants whose trials have not started within an arbitrary time limit. Society suffers under this approach because innocent defendants are not vindicated and guilty defendants are not forced to recognize their culpability, thus precluding possible rehabilitation.

(c) Our system of criminal justice presently depends on the guilty plea. Though the percentage of guilty pleas has dropped in recent years, the vast majority of all convictions (75% in the federal system) are still by plea rather than by trial. However, imposition of an arbitrary time limitation may lead to a substantial reduction in the number of guilty pleas. There is the real danger that defendants, recognizing that the operation of the system depends largely on a high percentage of them pleading guilty, would all demand jury trials to take advantage of the automatic dismissal after sixty days. If all the defendants demanded to go to trial, the system would be overwhelmed and a substantial number of cases would have to be dismissed for failure to meet the time limitation. This is a problem no due process system of justice should have to confront.

(d) One response by prosecutors and judges, facing unreasonable pressures to dispose of cases in order to avoid outright dismissal, would probably be to increase and magnify the concessions that guilty-plea defendants receive. The resulting effect from unjustified concessions in order to avoid outright dismissal would be much more harmful and degrading to our system of criminal justice than the delays which would otherwise occur. In our view, accepting guilty pleas to minor charges in order to "move" cases undermines the integrity of the criminal justice system.

(e) Sanctions other than outright dismissal are available to enforce the right to speedy trial. Professor Anthony Amsterdam of Stanford University Law School recently indicated that the dismissal of criminal charges may be an inappropriate form of relief for incarcerated defendants awaiting trial. Their situation can be relieved by simple release. Under those circumstances, there would be no need to end the prosecution. Also, he suggests that *mandamus* might be available to expedite the trial of a defendant who can show prejudice if his trial is further delayed. 11 Cr. L. 2494. The United States Court of Appeals for the Seventh Circuit took a similar approach in *United States* v. *Strunk*, ——— F.2d ——— (No. 70-44, August 16, 1972), and reduced the defendant's sentence by the length of time spent in jail prior to trial rather than dismiss the indictment.

(f) In trying to solve the problem of delay, uniform inflexible rules have failed to adequately measure or define delay. It has been suggested that delay in the criminal justice system should "signify the extra or abnormal time beyond that which (the prosecution) might reasonably be expected to bring a case to trial." "Lagging Justice", *Annals of the American Academy of Political and Social Science*, (March, 1970) pp. 8, 9. But if delay is "abnormal" time, what is "normal" time? In those states which have statutes which provide a specific time in which a defendant must be brought to trial, the time limitations vary from sixty days to one year. The report of the President's Crime Commission states that the normal time from arrest to trial of felony cases should not exceed four months. *The Challenge of Crime in a Free Society: A Report by the President's Commission on Law Enforcement and Administration of Justice*, p. 155. It would appear, therefore, that what is abnormal time in one jurisdiction might be well within the normal time limitation of another jurisdiction.

In formulating procedures for expediting the flow of criminal cases, there must be some determination of normal time. In order to make such a determination, the many variables that exist from district to district must be considered. It is clear that the capabilities and needs of the Southern District of New York differ greatly from those of the District of Montana.

(g) Since the right to speedy trial is applicable to the states by reason of the Fourteenth Amendment, *Klopfer* v. *North Carolina*, 386 U.S. 213 (1967), a congressional definition of this right is likely to affect proceedings in state courts as well. With respect to the states, Congress does not provide the necessary resources, and if the congressional definition of speedy trial were held binding on the states, it might well wreak havoc.

One possible alternative to the inflexible, legislatively imposed, sixty-day time limitation is the more flexible, court rules approach taken by the Judicial Council of the Second circuit. The Council adopted court rules (effective since July 5, 1971) which require that the government be ready to proceed to trial in ninety days if the defendant is in custody and six months in all other cases. These rules are far more flexible than S. 895. In addition, criminal cases would not be dismissed under the Second Circuit rules if the government was ready to proceed to trial but the court was unable to reach the case. While we even have reservations about the adoption by court rules of arbitrary time limits for the prosecution of federal criminal cases, we recognize that these rules provide a measure of what Mr. Seymour calls "commonsense flexibility". This is plainly necessary and S. 895 does not contain it.

The flexible approach of Rule 50(b) will permit each district to establish time limits that are appropriate in light of its criminal caseload, frequency of grand jury meetings, and any other factors which affect the progress of criminal actions. Since very busy urban districts have far different problems from the less busy rural districts, this approach—having each district propose time limits based on its circumstances—is more realistic than having one set of time limits for all district courts. Rule 50(b) would also permit each district court to modify its plan and time limits if the circumstances change. The Department of Justice favors the approach of Rule 50(b).

3. FIVE DEMONSTRATION PRETRIAL SERVICES AGENCIES

The bill also requires the establishment, on a demonstration basis, of trial services agencies in five federal judicial districts selected by the Chief Justice, other than the District of Columbia.

The pretrial services agencies are to supervise, control, and provide supportive services to, defendants released under the Bail Reform Act of 1966.

In the District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91-358, Congress expanded, at the urging of the Department of Justice, the District of Columbia Bail Agency by providing for an enlarged staff, an increase in appropriations and an expansion of duties and responsibilities, including authority to supervise and control pretrial releasees and provide them with supportive services. The great majority of the duties and responsibilities of the pretrial services agencies in S. 895 are identical to those of the new District of Columbia Bail Agency.

The District of Columbia Bail Agency clearly can serve as a demonstration project to determine whether Congress should authorize such agencies in other federal districts. Thus, there seems to be no pressing need for Congress to authorize the establishment of additional pretrial service agencies on a demonstration basis. However, the Judiciary Committee may wish to take evidence on this subject and if it is shown that there is a real need for a pretrial service or bail agency in certain other federal districts, as there was in the District of Columbia where the United States Attorney files over 16,000 criminal cases a year (six times as many as any other United States Attorney), then the Department of Justice would have no objection to establishing such agencies in those districts.

CONCLUSION

In sum, we are hopeful that the Department of Justice along with other interested parties can explore with Congress areas of real reform in the federal criminal justice system in order to relieve the system of many unnecessary and burdensome duties and procedures which consume the trial court's time and keep it from providing speedy trials. With respect to the three main provisions of S. 895, we support in principle the idea contained in the district court plan section but favor the more appropriate court rules approach in accomplishing this, we have no objection to congressional establishment of pretrial services agencies in certain federal districts along the lines of the District of Columbia Bail Agency, provided that a real need for such agencies is shown, and we oppose the provision for the mandatory dismissal with prejudice of criminal cases not tried within sixty days. We strongly believe that legislatively imposed time limits not only will defeat the ends of justice but avoid the real issue of reform in the federal criminal justice system.

In addition, the Department of Justice continues to have technical objections to certain provisions of the proposed amendment. We will detail these objections in a section-by-section analysis which will be forwarded to you at an early date.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RALPH E. ERICKSON.

U.S. DEPARTMENT OF JUSTICE,
New York, N.Y., October 6, 1972.

Hon. SAM J. ERVIN, JR.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR ERVIN: I appreciate your letter of September 6 saying nice things about my talk before the Criminal Law Section of the American Bar Association on achieving speedy trials in the Federal system. As you undoubtedly are aware, this office has been in the forefront in developing new procedures to eliminate delay in Federal criminal cases and has actively participated in the drafting and implementation of the Speedy Trial Rules in the Second Circuit. Against this background, I respond to your invitation to comment on your bill requiring that criminal cases be tried within sixty days or face mandatory dismissal. It would be a disservice not to be perfectly candid, and I proceed in that spirit.

The basic objectives of S-895 are most worthy and should be embraced by everyone concerned with effective administration of criminal justice. But the factual premises are dismayingly uninformed and the ultimate sanction in the bill of dismissal of prosecutions is both overly simplistic and misdirected.

It is totally unrealistic to believe that, even in the most ideal world, all Federal criminal cases could be brought to trial within sixty days. Unquestionably, it is possible to do so with most routine stolen car or postal theft cases. In major urban centers, however, the unique feature about Federal cases is that they are frequently broad scale and complex, and consume hundreds upon hundreds of manhours in preparation and trial time. It is not unusual to have criminal trials in this District run on for several weeks, or even several months, particularly those involving securities manipulations, income tax evasion, organized crime, and various complex frauds. Although theoretically one might hold off indicting in a complicated multi-defendant case until sixty days before trial, that is really only a circumvention. Moreover, the practical fact is that in such cases, there are many developments between indictment and trial which cannot be anticipated and which directly affect preparation for trial, such as, for example, the decision by some defendants to plead guilty and become cooperating witnesses thereby changing the nature of the proof and often requiring additional investigation to develop corroborative evidence.

We have been operating under the six-month Speedy Trial Rule for more than a year in this District, and have required our staff to be ready for trial within sixty days in all routine criminal cases. We have pressed these timetables rigidly and conscientiously. Nonetheless, the number of cases which are not tried until after the six-month period has expired is substantial. The following figures have recently been compiled on trials of cases filed in 1971. (They are obviously not complete, since twelve months has not yet elapsed from the closing months of the year.) They show the spread of time between indictment and trial under the best Speedy Trial program in operation anywhere in the country:

Cases tried within 3 months	86
Cases tried between 3 and 6 months	67
Cases tried between 6 and 9 months	48
Cases tried between 9 and 12 months	15

It is self-evident from this experience that any approach requiring *trial* of all criminal cases within 60 days, 120 days, or even 180 days, is contrary to all practical reality.

The other point that should be made is that the sanction of *dismissing* the indictment where the case does not go to trial within 60 days (or within six months, for that matter) is not a penalty directed at those who are responsible, but rather penalizes the public at large. It is one thing to permit a motion to dismiss if the government attorney is not ready for trial when the responsibility at least can be pinned somewhere, but, where the fault for a case not going to trial may lie with defense counsel, or the insufficiency of judges, or any one of various other reasons, no one is effectively disciplined by dismissing the case. If punishment is the goal, it should be directed at those who are responsible for any delay, and *not* against the general public.

Frankly, I do not believe that the time is yet ripe for legislative action. The courts are currently in the process of developing new techniques through their rule-making powers. So far they are doing surprisingly well. Experience under these new rules will soon tell whether they work or not, and, if not, what remedy would be suitable. The legislative proposal embodied in S-895 lacks the necessary experience back-up and perspective, and, in my judgment, would do far more harm than good in its present form.

If you are still determined to press forward with a bill, I would be delighted to offer some suggested further amendments, but I assure you they would closely track the Second Circuit Rules and would substantially change the present thrust of your legislative proposal.

After these blunt observations, I do close with an expression of deep appreciation for your interest in this extremely important area. I believe that elimination of unnecessary delay is at the heart of fair and effective administration of justice.

Sincerely yours,
Whitney North Seymour, Jr.,
U.S. Attorney.

ALEXANDER SOLZHENITSYN'S NOBEL LECTURE

Mr. JACKSON. Mr. President, Alexander Solzhenitsyn, the 1970 Nobel Laureate in Literature, has not yet received his prize nor has he been able to deliver the lecture he prepared for the occasion. But the complete text of that lecture has now become available, and it confirms that the Soviet Union's most outstanding novelist is also one of the world's most outspoken humanists. One would expect that a man of such great gifts, a man who enjoys universal respect, would be a source of pride to his government. But in the Soviet Union, Solzhenitsyn is officially disgraced and his literary works banned.

Solzhenitsyn's Nobel lecture is more than an attack on totalitarian government and its well-known abuses. It is an appeal to civilized people everywhere to take seriously their commitment to individual liberty.

> There are,

Writes Solzhenitsyn:

> No internal affairs left on our crowded Earth. And mankind's sole salvation lies in everyone making everything his business; in the people of the East being vitally concerned with what is thought in the West, the people of the West vitally concerned with what goes on in the East.

And, Solzhenitsyn adds:

> I venture to say that the spirit of Munich prevails in the twentieth century. The timid civilized world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles. The spirit of Munich is a sickness of the will of successful people.

With this failure of will, Solzhenitsyn has little patience and a stark prediction:

> The price of cowardice will only be evil.

Mr. President, Alexander Solzhenitsyn's remarks on art, politics, and the responsibility of individuals and of nations deserve the closest study. I ask unanimous consent that the text of his Nobel lecture be printed in the Record.

There being no objection, the lecture was ordered to be printed in the Record, as follows:

A. Solzhenitsyn, Nobel Lecture in Literature 1970

1. Just as that puzzled savage who has picked up—a strange cast-up from the ocean?—something unearthed from the sands?—or an obscure object fallen down from the sky?—intricate in curves, it gleams first dully and then with a bright thrust of light. Just as he turns it this way and that, turns it over, trying to discover what to do with it, trying to discover some mundane function within his own grasp, never dreaming of its higher function.

So also we, holding Art in our hands, confidently consider ourselves to be its masters; boldly we direct it, we renew, reform and manifest it; we sell it for money, use it to please those in power; turn to it at one moment for amusement—right down to popular songs and night-clubs, and at another—grabbing the nearest weapon, cork or cudgel—for the passing needs of politics and for narrow-minded social ends. But art is not defiled by our efforts, neither does it thereby depart from its true nature, but on each occasion and in each application it gives to us a part of its secret inner light.

But shall we ever grasp the whole of that light? Who will dare to say that he has defined Art, enumerated all its facets? Perhaps once upon a time someone understood and told us, but we could not remain satisfied with that for long; we listened, and neglected, and threw it out there and then, hurrying as always to exchange even the very best—if only for something new! And when we are told again the old truth, we shall not even remember that we once possessed it.

One artist sees himself as the creator of an independent spiritual world; he hoists onto his shoulders the task of creating this world, of peopling it and of bearing the all-embracing responsibility for it; but he crumples beneath it, for a mortal genius is not capable of bearing such a burden. Just as man in general, having declared himself the centre of existence, has not succeeded in creating a balanced spiritual system. And if misfortune overtakes him, he casts the blame upon the age-long disharmony of the world, upon the complexity of to-day's ruptured soul, or upon the stupidity of the public.

Another artist, recognizing a higher power above, gladly works as a humble apprentice beneath God's heaven; then however, his responsibility for everything that is written or drawn, for the souls which perceive his work, is more exacting than ever. But, in return, it is not he who has created this world, not he who directs it, there is no doubt as to its foundations; the artist has merely to be more keenly aware than others of the harmony of the world, of the beauty and ugliness of the human contribution to it, and to communicate this acutely to his fellow-men. And in misfortune, and even at the depths of existence—in destitution, in prison, in sickness—his sense of stable harmony never deserts him.

But all the irrationality of art, its dazzling turns, its impredictable discoveries, its shattering influence on human beings—they are too full of magic to be exhausted by this artist's vision of the world, by his artistic conception or by the work of his unworthy fingers.

Archeologists have not discovered stages of human existence so early that they were without art. Right back in the early morning twilights of mankind we received it from Hands which we were too slow to discern. And we were too slow to ask: For what purpose have we been given this gift? What are we to do with it?

And they were mistaken, and will always

be mistaken, who prophesy that art will disintegrate, that it will outlive its forms and die. It is we who shall die—art will remain. And shall we comprehend, even on the day of our destruction, all its facets and all its possibilities?

Not everything assumes a name. Some things lead beyond words. Art inflames even a frozen, darkened soul to a high spiritual experience. Through art we are sometimes visited—dimly, briefly—by revelations such as cannot be produced by rational thinking.

Like that little looking-glass from the fairy-tales: look into it and you will see—not yourself—but for one second, the Inaccessible, whither no man can ride, no man fly. And only the soul gives a groan . . .

2. One day Dostoevsky threw out the enigmatic remark: "Beauty will save the world". What sort of a statement is that? For a long time I considered it mere words. How could that be possible? When in bloodthirsty history did beauty ever save anyone from anything? Ennobled, uplifted, yes—but whom has it saved?

There is, however, a certain peculiarity in the essence of beauty, a peculiarity in the status of art: namely, the convincingness of a true work of art is completely irrefutable and it forces even an opposing heart to surrender. It is possible to compose an outwardly smooth and elegant political speech, a headstrong article, a social program, or a philosophical system on the basis of both a mistake and a lie. What is hidden, what distorted, will not immediately become obvious.

Then a contradictory speech, article, program, a differently constructed philosophy rallies in opposition—and all just as elegant and smooth, and once again it works. Which is why such things are both trusted and mistrusted.

In vain to reiterate what does not reach the heart.

But a work of art bears within itself its own verification: conceptions which are devised or stretched do not stand being portrayed in images, they all come crashing down, appear sickly and pale, convince no one. But those works of art which have scooped up the truth and presented it to us as a living force—they take hold of us, compel us, and nobody ever, not even in ages to come, will appear to refute them.

So perhaps that ancient trinity of Truth, Goodness and Beauty is not simply an empty, faded formula as we thought in the days of our self-confident, materialistic youth? If the tops of these three trees converge, as the scholars maintained, but the too blatant, too direct stems of Truth and Goodness are crushed, cut down, not allowed through—then perhaps the fantastic, impredictable, unexpected stems of Beauty will push through and soar to that very same place, and in so doing will fulfill the work of all three?

In that case Dostoevsky's remark, "Beauty will save the world", was not a careless phrase but a prophecy? After all he was granted to see much, a man of fantastic illumination.

And in that case art, literature might really be able to help the world today?

It is the small insight which, over the years, I have succeeded in gaining into this matter that I shall attempt to lay before you here to-day.

3. In order to mount this platform from which the Nobel lecture is read, a platform offered to far from every writer and only once in a life-time, I have climbed not three or four makeshift steps, but hundreds and even thousands of them; unyielding, precipitous, frozen steps, leading out of the darkness and cold where it was my fate to survive, while others—perhaps with a greater gift and stronger than I—have perished. Of them, I myself met but a few on the Archipelago of GULag, The Central Administration of Corrective Labour Camps—shattered into its fractionary multitude of islands; and beneath the millstone of shadowing and mistrust I did not talk to them all, of some I only heard, of others still I only guessed. Those who fell into that abyss already bearing a literary name are at least known, but how many were never recognized, never once mentioned in public? And virtually no one managed to return. A whole national literature remained there, cast into oblivion not only without a grave, but without even underclothes, naked, with a number tagged on to its toe. Russian literature did not cease for a moment, but from the outside it appeared a waste-land! Where a peaceful forest could have grown, there remained, after all the felling, two or three trees overlooked by chance.

And as I stand here to-day, accompanied by the shadows of the fallen, with bowed head allowing others who were worthy before to pass ahead of me to this place, as I stand here, how am I to divine and to express what *they* would have wished to say?

This obligation has long weighed upon us, and we have understood it. In the words of Vladimir Solo'ev:

Even in chains we ourselves must complete
That circle which the gods have mapped out
for us.

Frequently, in painful camp seethings, in a column of prisoners, when chains of lanterns pierced the gloom of the evening frosts, there would well up inside us the words that we should like to cry out to the whole world, if the whole world could hear one of us. Then it seemed so clear: what our successful ambassador would say, and how the world would immediately respond with its comment. Our horizon embraced quite distinctly both physical things and spiritual movements, and it saw no lop-sidedness in the indivisible world. These ideas did not come from books, neither were they imported for the sake of coherence. They were formed in conversations with people now dead, in prison cells and by forest fires, they were tested against *that* life, they grew out of *that* existence.

When at last the outer pressure grew a little weaker, my and our horizon broadened and gradually, albeit through a minute chink, we saw and knew "the whole world". And to our amazement the whole world was not at all as we had expected, as we had hoped; that is to say a world living "not by that", a world leading "not there", a world which could exclaim at the sight of a muddy swamp, "what a delightful little puddle!", at concrete neck stocks, "what an exquisite necklace!"; but instead a world where some weep inconsolate tears and others dance to a light-hearted musical.

How could this happen? Why the yawning gap? Were we insensitive? Was the world insensitive? Or is it due to language differences? Why is it that people are not able to hear each other's every distinct utterance? Words cease to sound and run away like water—without taste, colour, smell. Without trace.

As I have come to understand this, so through the years has changed and changed again the structure, content and tone of my potential speech. The speech I give to-day.

And it has little in common with its original plan, conceived on frosty camp evenings.

4. From time immemorial man has been made in such a way that his vision of the world, so long as it has not been instilled under hypnosis, his motivations and scale of values, his actions and intentions are determined by his personal and group experience of life. As the Russian saying goes, "Do not believe your brother, believe your own crooked eye." And that is the most sound basis for an understanding of the world around us and of human conduct in it. And during the long epochs when our world lay spread out in mystery and wilderness, before it became encroached by common lines of communication, before it was transformed into a single, convulsively pulsating lump—men, relying on experience, ruled without mishap within their limited areas, within their communities, within their societies, and finally on their national territories. At that time it was possible for individual human beings to perceive and accept a general scale of values, to distinguish between what is considered normal, what incredible; what is cruel and what lies beyond the boundaries of wickedness; what is honesty, what deceit. And although the scattered peoples led extremely different lives and their social values were often strikingly at odds, just as their systems of weights and measures did not agree, still these discrepancies surprised only occasional travellers, were reported in journals under the name of wonders and bore no danger to mankind which was not yet one.

But now during the past few decades, imperceptibly, suddenly, mankind has become one—hopefully one and dangerously one—so that the concussions and inflammations of one of its parts are almost instantaneously passed on to others, sometimes lacking in any kind of necessary immunity. Mankind has become one, but not steadfastly one as communities or even nations used to be; not united through years of mutual experience, neither through possession of a single eye, affectionately called crooked, nor yet through a common native language, but, surpassing all barriers, through international broadcasting and print. An avalanche of events descends upon us—in one minute half the world hears of their splash. But the yardstick by which to measure those events and to evaluate them in accordance with the laws of unfamiliar parts of the world—this is not and cannot be conveyed via sound-waves and in newspaper columns. For these yardsticks were matured and assimilated over too many years of too specific conditions in individual countries and societies; they cannot be exchanged in mid-air. In the various parts of the world men apply their own hard-earned values to events, and they judge stubbornly, confidently, only according to their own scales of values and never according to any others.

And if there are not many such different scales of values in the world, there are at least several; one for evaluating events near at hand, another for events far away; aging societies possess one, young societies another; unsuccessful people one, successful people another. The divergent scales of values scream in discordance, they dazzle and daze us, and so that it might not be painful we steer clear of all other values, as though from insanity, as though from illusion, and we confidently judge the whole world according to our own home values. Which is why we take for the greater, more painful and less bearable disaster not that which is in fact greater, more painful and less bearable, but that which lies closest to us. Everything which is further away, which does not threaten this very day to invade our threshold—with all its groans, its stifled cries, its destroyed lives, even if it involves millions of victims—this we consider on the whole to be perfectly bearable and of tolerable proportions.

In one part of the world, not so long ago, under persecutions not inferior to those of the ancient Romans', hundreds of thousands of silent Christians gave up their lives for their belief in God. In the other hemisphere a certain madman, (and no doubt he is not alone), speeds across the ocean to DELIVER us from religion—with a thrust of steel into the high priest! He has calculated for each and every one of us according to his personal scale of values!

That which from a distance, according to one scale of values, appears as enviable and flourishing freedom, at close quarters, and according to other values, is felt to be infuriating constraint calling for buses to be overthrown. That which in one part of the world might represent a dream of incredible prosperity, in another has the exasperating effect of wild exploitation demanding immediate strike.

There are different scales of values for natural catastrophes a flood craving two hundred thousand lives seems less significant than our local accident. There are different scales of values for personal insults: sometimes even an ironic smile or a dismissive gesture is humiliating, while at others cruel beatings are forgiven as an unfortunate joke. There are different scales of values for punishment and wickedness: according to one, a month's arrest, banishment to the country, or an isolation-cell where one is fed on white rolls and milk, shatters the imagination and fills the newspaper columns with rage. While according to another, prison sentences of twenty-five years, isolation-cells where the walls are covered in ice and the prisoners stripped to their underclothes, lunatic asylums for the sane, and countless unreasonable people who for some reason will keep running away, shot on the frontiers—all this is common and accepted. While the mind is especially at peace concerning that exotic part of the world about which we know virtually nothing, from which we do not even receive news of events, but only the trivial, out-of-date guesses of a few correspondents.

Yet we cannot reproach human vision for this duality, for this dumbfounded incomprehension of another man's distant grief, man is just made that way. But for the whole of mankind, compressed into a single lump, such mutual incomprehension presents the threat of imminent and violent destruction. One world, one mankind cannot exist in the face of six, four or even two scales of values: we shall be torn apart by this disparity of rhythm, this disparity of vibrations.

A man with two hearts is not for this world, neither shall we be able to live side by side on one Earth.

5. But who will co-ordinate these value scales, and how? Who will create for mankind one system of interpretation, valid for good and evil deeds, for the unbearable and the bearable, as they are differentiated today? Who will make clear to mankind what is really heavy and intolerable and what only grazes the skin locally? Who will direct the anger to that which is most terrible and not to that which is nearer? Who might succeed in transferring such an understanding beyond the limits of his own human experience? Who might succeed in impressing upon a bigoted, stubborn human creature the distant joy and grief of others, an understanding of dimensions and deceptions which he himself has never experienced? Propaganda, constraint, scientific proof—all are useless. But fortunately there does exist such a means in our world! That means is art. That means is literature.

They can perform a miracle: they can overcome man's detrimental peculiarity of learning only from personal experience so that the experience of other people passes him by in vain. From man to man, as he completes his brief spell on earth, art transfers the whole weight of an unfamiliar, life-long experience with all its burdens, its colours, its sap of life; it recreates in the flesh an unknown experience and allows us to possess it as our own.

And even more, much more than that; both countries and whole continents repeat each other's mistakes with time lapses which can amount to centuries. Then, one would think, it would all be so obvious! But no; that which some nations have already experienced, considered and rejected, is suddenly discovered by others to be the latest word. And here again, the only substitute for an experience we ourselves have never lived through is art, literature. They possess a wonderful ability: beyond distinctions of language, custom, social structure they can convey the life experience of one whole nation to another. To an inexperienced nation they can convey a harsh national trial lasting many decades, at best sparing an entire nation from a superfluous, or mistaken, or even disastrous course, thereby curtailing the meanderings of human history.

It is this great and noble property of art that I urgently recall to you today from the Nobel tribune.

And literature conveys irrefutable condensed experience in yet another invaluable direction; namely, from generation to generation. Thus it becomes the living memory of the nation. Thus it preserves and kindles within itself the flame of her spent history, in a form which is safe from deformation and slander. In this way literature, together with language, protects the soul of the nation.

(In recent times it has been fashionable to talk of the levelling out of nations, of the disappearance of different races in the melting-pot of contemporary civilization. I do not agree with this opinion, but its discussion remains another question. Here it is merely fitting to say that the disappearance of nations would have impoverished us no less than if all men had become alike, with one personality and one face. Nations are the wealth of mankind, its collective personalities; the very least of them wears its own special colours and bears within itself a special facet of divine intention.)

But woe to that nation whose literature is disturbed by the intervention of power. Because that is not just a violation against "freedom of print", it is the closing down of the heart of the nation, a slashing to pieces of its memory. The nation ceases to be mindful of itself, it is deprived of its spiritual unity, and despite a supposedly common language, compatriots suddenly cease to understand one another. Silent generations grow old and die without ever having talked about themselves, either to each other or to their descendants. When such as Achmatova and Zamjatin—interred alive throughout their lives—are condemned to create in silence until they die, never hearing the echo of their written words, then that is not only their personal tragedy, but a sorrow to the whole nation, a danger to the whole nation.

In some cases moreover—when as a result of such a silence the whole of history ceases to be understood in its entirety—it is a danger to the whole of mankind.

6. At various times and in various countries there have arisen heated, angry and exquisite debates as to whether art and the artist should be free to live for themselves, or whether they should be for ever mindful of their duty towards society and serve it albeit in an unprejudiced way. For me there is no dilemma, but I shall refrain from raising once again the train of arguments. One of the most brilliant addresses on this subject was actually Albert Camus' Nobel speech, and I would happily subscribe to his conclusions. Indeed Russian literature has for several decades manifested an inclination not to become too lost in contemplation of itself, not to flutter about too frivolously. I am not ashamed to continue this tradition to the best of my ability. Russian literature has long been familiar with the notions that a writer can do much within his society, and that it is his duty to do so.

Let us not violate the *right* of the artist to express exclusively his own experiences and introspections, disregarding everything that happens in the world beyond. Let us not demand of the artist, but—reproach, beg, urge and entice him—that we may be allowed to do. After all, only in part does he himself develop his talent; the greater part of it is blown into him at birth as a finished product, and the gift of talent imposes responsibility on his free will. Let us assume that the artist does not *owe* anybody anything: nevertheless, it is painful to see how, by retiring into his self-made worlds or the spaces of his subjective whims, he *can* surrender the real world into the hands of men who are mercenary, if not worthless, if not insane.

Our twentieth century has proved to be more cruel than preceding centuries, and the first fifty years have not erased all its horrors. Our world is rent asunder by those same old cave-age emotions of greed, envy, lack of control, mutual hostility which have picked up in passing respectable pseudonyms like class struggle, racial conflict, struggle of the masses, trade-union disputes. The primeval refusal to accept a compromise has been turned into a theoretical principle and is considered the virtue of orthodoxy. It demands millions of sacrifices in ceaseless civil wars, it drums into our souls that there is no such thing as unchanging, universal concepts of goodness and justice, that they are all fluctuating and inconstant. Therefore the rule—always do what's most profitable to your party. Any professional group no sooner sees a convenient opportunity to break off a piece, even if it be unearned, even if it be superfluous, than it breaks it off there and then and no matter if the whole of society comes tumbling down.

As seen from the outside, the amplitude of the tossings of western society is approaching that point beyond which the system becomes metastable and must fall. Violence, less and less embarrassed by the limits imposed by centuries of lawfulness, is brazenly and victoriously striding across the whole world, unconcerned that its infertility has been demonstrated and proved many times in history. What is more, it is not simply crude power that triumphs abroad, but its exultant justification. The world is being inundated by the brazen conviction that power can do anything, justice nothing. Dostoevsky's devils—apparently a provincial nightmare fantasy of the last century—are crawling across the whole world in front of our very eyes, infesting countries where they could not have been dreamed of; and by means of the hijackings, kidnappings, explosions and fires of recent years they are announcing their determination to shake and destroy civilization! And they may well succeed. The young, at an age when they have not yet any experience other than sexual, when they do not yet have years of personal suffering and personal understanding behind them, are jubilantly repeating our depraved Russian blunders of the nineteenth century, under the impression that they are discovering something new. They acclaim the latest wretched degradation on the part of the Chinese Red Guards as a joyous example. In shallow lack of understanding of the age-old essence of mankind, in the naive confidence of inexperienced hearts they cry: let us drive away those cruel, greedy oppressors, governments, and the new ones (we!), having laid aside grenades and rifles, will be just and understanding. Far from it! . . . But of those who have lived more and understand, those who could oppose these young—many do not dare oppose, they even suck up, anything not to appear "conservative". Another Russian phenomenon of the nineteenth century which Dostoevsky called slavery to progressive quirks.

The spirit of Munich has by no means retreated into the past; it was not merely a brief episode. I even venture to say that the spirit of Munich prevails in the twentieth century. The timid civilized world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles. The spirit of Munich is a sickness of the will of successful people, it is the daily condition of those who have given themselves up to the thirst after prosperity at any price, to material well-being as the chief goal of earthly existence. Such people—and there are many in to-day's world—elect passivity and retreat, just so as their accustomed life might drag on a bit longer, just so as not to step over the threshold of hardship to-day—and tomorrow, you'll see, it will all be all right. (But it will never be all right! The price of cowardice will only be evil; we shall reap courage and victory only when we dare to make sacrifices.)

And on top of this we are threatened by destruction in the fact that the physically compressed, strained world is not allowed to blend spiritually; the molecules of knowledge and sympathy are not allowed to jump over from one half to the other. This presents a rampant danger: The supression of information between the parts of the planet. Contemporary science knows that suppression of information leads to entropy and total destruction. Suppression of information renders international signatures and agreements illusory; within a muffled zone it costs nothing to reinterpret any agreement, even simpler—to forget it, as though it had never really existed. (Orwell understood this supremely.) A muffled zone is, as it were, populated not by inhabitants of the Earth, but by an expeditionary corps from Mars; the people know nothing intelligent about the rest of the Earth and are prepared to go and trample it down in the holy conviction that they come as "liberators".

A quarter of a century ago, in the great hopes of mankind, the United Nations Organization was born. Alas, in an immoral world, this too grew up to be immoral. It is not a United Nations Organization but a United Governments Organization where all governments stand equal; those which are freely elected, those imposed forcibly, and those which have seized power with weapons. Relying on the mercenary partiality of the majority UNO jealously guards the freedom of some nations and neglects the freedom of others. As a result of an obedient vote it declined to undertake the investigation of private appeals—the groans, screams and beseechings of humble individual plain people—not large enough a catch for such a great organization. UNO made no effort to make the Declaration of Human Rights, its best document in twenty-five years, into an obligatory condition of membership confronting the governments. Thus it betrayed those humble people into the will of the governments which they had not chosen.

It would seem that the appearance of the contemporary world rests solely in the hands of the scientists; all mankind's technical steps are determined by them. It would seem that it is precisely on the international goodwill of scientists, and not of politicians, that the direction of the world should depend. All the more so since the example of the few shows how much could be achieved were they all to pull together. But no; scientists have not manifested any clear attempt to become an important, independently active force of mankind. They spend entire congresses in renouncing the sufferings of others; better to stay safely within the precincts of science. That same spirit of Munich has spread above them its enfeebling wings.

What then is the place and role of the writer in this cruel, dynamic, split world on the brink of its ten destructions? After all we have nothing to do with letting off rockets, we do not even push the lowliest of hand-carts, we are quite scorned by those who respect only material power. Is it not natural for us too to step back, to lose faith in the steadfastness of goodness, in the indivisibility of truth, and to just impart to the world our bitter, detached observations: how mankind has become hopelessly corrupt, how men have degenerated, and how difficult it is for the few beautiful and refined souls to live amongst them?

But we have not even recourse to this flight. Anyone who has once taken up the word can never again evade it; a writer is not the detached judge of his compatriots and contemporaries, he is an accomplice to all the evil committed in his native land or by his countrymen. And if the tanks of his fatherland have flooded the asphalt of a foreign capital with blood, then the brown spots have slapped against the face of the writer for ever. And if one fatal night they suffocated his sleeping, trusting Friend, then the palms of the writer bear the bruises from that rope. And if his young fellow-citizens breezily declare the superiority of depravity over honest work, if they give themselves over to drugs or seize hostages, then their stink mingles with the breath of the writer.

Shall we have the temerity to declare that we are not responsible for the sores of the present day world?

7. However, I am cheered by a vital awareness of world literature as of a single huge heart, beating out the cares and troubles of our world, albeit presented and perceived differently in each of its corners.

Apart from age-old national literatures there existed, even in past ages, the conception of world literature as an anthology skirting the heights of the national literatures, and as the sum total of mutual literary influences. But there occurred a lapse in time: readers and writers became acquainted with writers of other tongues only after a time lapse, sometimes lasting centuries, so that mutual influences were also delayed and the anthology of national literary heights was revealed only in the eyes of descendants, not of contemporaries.

But to-day, between the writers of one country and the writers and readers of another, there is a reciprocity if not instantaneous then almost so. I experience this with myself. Those of my books which, alas, have not been printed in my own country have soon found a responsive, world-wide audience, despite hurried and often bad translations. Such distinguished western writers as Heinrich Böll have undertaken critical analysis of them. All these last years, when my work and freedom have not come crashing down, when contrary to the laws of gravity they have hung suspended as though on air, as though on nothing—on the invisible dumb tension of a sympathetic public membrane; then it was with grateful warmth, and quite unexpectedly for myself, that I learnt of the further support of the international brotherhood of writers. On my fiftieth birthday I was astonished to receive congratulations from wellknown western writers. No pressure on me came to pass by unnoticed. During my dangerous weeks of exclusion from the Writers' Union the wall of defence advanced by the world's prominent writers protected me from worse persecutions; and Norwegian writers and artists hospitably prepared a roof for me, in the event of my threatened exile being put into effect. Finally even the advancement of my name for the Nobel Prize was raised not in the country where I live and write, but by Francois Mauriac and his colleagues. And later still entire national writers' unions have expressed their support for me.

Thus I have understood and felt that world literature is no longer an abstract anthology, nor a generalization invented by literary historians; it is rather a certain common body and a common spirit, a living heartfelt unity reflecting the growing unity of mankind. State frontiers still turn crimson, heated by electric wire and bursts of machine fire; and various ministries of internal affairs still think that literature too is an "internal affair" falling under their jurisdiction; newspaper headlines still display: "No right to interfere in our internal affairs!" Whereas there are no internal affairs left on our crowded Earth! And mankind's sole salvation lies in everyone making everything his business; in the people of the East being vitally concerned with what is thought in the West, the people of the West vitally concerned with what goes on in the East. And literature, as one of the most sensitive, responsive instruments possessed by the human creature, has been one of the first to adopt, assimilate, to catch hold of this feeling of a growing unity of mankind. And so I turn with confidence to the world literature of today—to hundreds of friends whom I have never met in the flesh and whom I may never see.

Friends! Let *us* try to help if we are worth anything at all! Who from time immemorial has constituted the uniting not the dividing strength in your countries, lacerated by discordant parties, movements, casts and groups? There in its essence is the position of writers: expressers of their native language—the chief binding force of the nation, of the very earth its people occupy, and at best of its national spirit.

I believe that world literature has it in its power to help mankind, in these its troubled hours, to see itself as it really is, notwithstanding the indoctrinations of prejudiced people and parties. World literature has it in its power to convey condensed experience from one land to another so that we might cease to be split and dazzled, that the different scales of values might be made to agree, and one nation learn correctly and concisely the true history of another with such strength of recognition and painful awareness as it had itself experienced the same, and thus might it be spared from repeating the same cruel mistakes. And perhaps under such conditions we artists will be able to cultivate within ourselves a field of vision to embrace the whole world: in the centre observing like any other human being that which lies nearby, at the edges we shall begin to draw in that which is happening in the rest of the world. And we shall correlate, and we shall observe world proportions.

And who, if not writers, are to pass judgement—not only on their unsuccessful governments, (in some states this is the easiest way to earn one's bread, the occupation of any man who is not lazy),—but also on the people themselves, in their cowardly humiliation or self-satisfied weakness? Who is to pass judgement on the light-weight sprints of youth, and on the young pirates brandishing their knives?

We shall be told: what can literature possibly do against the ruthless onslaught of open violence? But let us not forget that violence does not live alone and is not capable of living alone: it is necessarily interwoven with falsehood. Between them lies the most intimate, the deepest of natural bonds. Violence finds its only refuge in falsehood, falsehood its only support in violence. Any man who has once acclaimed violence as his method must inexorably choose falsehood as his principle. At its birth violence acts openly and even with pride. But no sooner does it become strong, firmly established, than it senses the rarefaction of the air around it and it cannot continue to exist without descending into a fog of lies, clothing them in sweet talk. It does not always, not necessarily, openly throttle the throat, more often it demands from its subjects only an oath of allegiance to falsehood, only complicity in falsehood.

And the simple step of a simple courageous man is not to partake in falsehood, not to support false actions! Let *that* enter the world, let it even reign in the world—but not with my help. But writers and artists can achieve more: they can *conquer falsehood!* In the struggle with falsehood art always did win and it always does win! Openly, irrefutably for everyone! Falsehood can hold out against much in this world, but not against art.

And no sooner will falsehood be dispersed than the nakedness of violence will be revealed in all its ugliness—and violence, decrepit, will fall.

That is why, my friends, I believe that we are able to help the world in its white-hot hour. Not by making the excuse of possessing no weapons, and not by giving ourselves over to a frivolous life—but by going to war!

Proverbs about truth are well-loved in Russian. They give steady and sometimes striking expression to the not inconsiderable harsh national experience:

One word of truth shall outweigh the whole world.

And it is here, on an imaginary fantasy, a breach of the principle of the conservation of mass and energy, that I base both my own activity and my appeal to the writers of the whole world.

NATIONAL SCHOOL LUNCH WEEK

Mr. PERCY. Mr. President, this week is National School Lunch Week, a time of special significance for every schoolchild in America.

The schoolchild who receives his lunch today is probably not aware of the efforts of many dedicated people over many years to develop and improve the lunch program. However, even before the parents of many of today's recipients of school lunches were born, the Federal Government recognized the need for schools to provide lunches for their students.

The first step toward the current school lunch program was taken in the 1930's, when salaries for lunchroom personnel were provided. Then in 1946, the National School Lunch Act, which provided cash and commodities for school lunches, was passed.

This landmark legislation owes its existence to a former distinguished and respected member of this body, Senator Allen J. Ellender. Without Senator Ellender's continuous efforts, a Federal program for school lunch would not have become a reality in 1946. Although Senator Ellender died this year, his leadership in establishing a national school lunch program continues to have significance in the daily lives of America's schoolchildren.

With the passage of this act in 1946, Congress set a broad and comprehensive goal to provide nutritious and well-balanced lunches to all schoolchildren in order to "safeguard the health and well-being of the Nation's children." Twenty-six years later, the national school lunch program has become a sophisticated and far-reaching nutrition program through the efforts of both Congress and the Department of Agriculture.

In 1966 we provided cash for breakfast programs and lunchroom equipment. In 1972 we took another step forward by passing amendments designed to encourage expansion of the lunch program to all needy children by guaranteeing a fixed amount of reimbursement for each meal served, among many other provisions for improvement.

As the school lunch program has grown and developed over the years, new features have been added. Currently, the program is attempting to focus attention on nutrition education. Providing nutritious meals for children is certainly an excellent beginning toward assuring that America's citizens receive proper nourishment. However, once our children are out of the public school system, they must have the background to understand the importance of providing adequate nutrition for themselves and their families. To this end, nutrition education is receiving increased emphasis in the school lunch program.

As ranking minority member of the Select Committee on Nutrition and Human Needs, I am concerned about all aspects of nutrition in this country. On August 15, I introduced a joint resolution authorizing the President to proclaim National Nutrition Week during the month of March. This measure is intended to help make all Americans, not only our public schoolchildren, aware of the need for good nutrition and of how good nutrition can be achieved. It is my hope that National Nutrition Week will serve to further the work of nutrition education begun during National School Lunch Week.

During these days, the national school lunch slogan, "You Are What You Eat," will bring the nutrition message to school children throughout the country. In order that my colleagues have a clear understanding of the approach being taken by the American School Food Service Association to incorporate nutrition education in the school lunch program, I ask unanimous consent that a recent memorandum from the association be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN SCHOOL FOOD
SERVICE ASSOCIATION,
Denver, Colo., October 6, 1972.

To: Members of the House of Representatives and the United States Senate.

Re: National School Lunch Week, October 8 through 14, 1972.

During the week of October 8 through 14, 1972 the slogan "You Are What You Eat" will carry a nutrition education message to schools throughout the country. The American School Food Service Association, comprised of 50,000 members who work in the school lunch programs across this country, prepared a poster with this year's theme "Tiger". These posters are being bought by Association members to display in their school lunchrooms.

In cooperation with USDA's Food and Nutrition Service, this theme Tiger has also been made into a 30-second public service announcement for TV. In this way both the Department of Agriculture and the Association hope to make Americans more aware of the nutritional benefits of lunch at school.

School children throughout the United States will have something in common on Wednesday, October 11. They all will be eating the same lunch that day at school. This day is Universal Menu Day in schools participating in the National School Lunch Program. Universal Menu Day means that all schools serve the same menu. Schools this year are serving spaghetti with meat sauce, tossed green salad, buttered French bread, peaches, peanut butter cookie and milk.

This menu is typical of the Type A lunch served each day at those schools participating in the National School Lunch Program. A Type A lunch provides one-third of the minimum daily requirements for each student, and includes a food from each of the four food groups—meat, fruit/vegetable, bread/cereal and milk. The lunch offers a balance of needed vitamins and minerals and supplies the correct number of calories needed for each of the age groups that school lunch serves.

In planning meals for the 25 million children who participate in the National School Lunch Program, school lunch personnel emphasize the entire menu—instead of a single recipe on the menu. With school lunch, the whole *is* more important than its parts! This year's theme "You Are What You Eat" graphically illustrates that nutrition message.

SUPPLEMENTAL APPROPRIATION FOR SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Mr. PERCY. Mr. President, last evening, during the Senate's consideration of the supplemental appropriation measure H.R. 17034, I joined with Senator JAVITS in requesting an increase of $5 million over the Appropriation Committee's request for moneys for the operation of the special fund of the Special Action Office for Drug Abuse Prevention. During the discussion of that matter and after agreement had been reached with the chairman and ranking minority member of the Appropriations Committee to accept our amendment, I was called off the floor and did not have the opportunity to present to the balance of my colleagues the justification for our request.

Accordingly, at this time I would like to outline the reasons why such monies are urgently needed for this program.

A year ago we were in the midst of working out an agreement here in the Senate regarding legislation to create in the White House a Special Action Office for Drug Abuse Prevention. The measure, originally introduced by me on behalf of the administration, was unanimously approved by the Senate in December of last year and, after some delays in the House, was signed by the President in March of this year.

Adequate funding of the programs of the Special Action Office is necessary if we are to fulfill the commitment we made to the American people a year ago to do everything in our grasp to control the pestilence of drug abuse that has afflicted so many of our citizens. Through the legislation we passed, and under the outstanding leadership of Dr. Jerome Jaffe, from my own State of Illinois, we now have at least one agency in government that is proving to everyone's satisfaction that significant progress can indeed be made in reducing the demand for drugs through new approaches in treatment, prevention, research, educational, and rehabilitation efforts involving drug abuse.

Here is the approach that is being taken:

Increased Federal funds have been approved to fight drug abuse. Since 1969, Federal support has increased fourfold for research, sixfold for treatment and rehabilitation, and thirtyfold for education and training.

The Special Action Office has scrutinized the budgets and evaluated the policies of all civilian Federal agencies engaged in drug abuse prevention, excepting those offices involving law enforcement. It has worked with each agency to establish specific goals and shape budgets to achieve them. A system to monitor and evaluate these efforts has been organized.

Programs were developed to reduce drug abuse among GI's in Vietnam, and at other bases overseas and at home. Military policy has shifted to treat drug abuse as a medical problem—not simply as a disciplinary problem. A massive screening program has been set up to detect drug abusers who are then provided treatment and rehabilitation services.

The number of federally funded treatment programs has been sharply expanded toward the goal of providing care to all those who need it. The Veterans' Administration, which runs the largest hospital system in the world, has substantially increased its drug abuse services; 32 units have been developed since the Special Action Office began operations, and another 12 are now being organized. More drug abusers are under treatment today than ever before; more and better forms of treatment are becoming increasingly available.

Large numbers of narcotics users are voluntarily seeking treatment from programs using methadone. The Special Action Office in cooperation with the Food and Drug Administration helped conduct a nationwide review of all the methadone maintenance programs in the United States, and the status of the drug has been changed from a research tool to that of a recognized form of medical treatment, under strict government controls. The capacity to treat those who want treatment is being expanded.

With the help of the National Bureau of Standards, the Special Action Office has developed a technique to prevent the diversion of methadone to illicit channels, yet protect the anonymity of those under treatment. To reduce the possibility of diversion, a longer lasting methadone is under development.

Through new grant programs operated by the National Institute for Mental Health, the Special Action Office is assisting medical schools to expand their course work in drug abuse problems. Physicians and other medical professionals are being trained in the latest techniques for drug abuse diagnosis and treatment.

New treatment assistance in combating drug abuse is being offered to the States. The Special Action Office has assembled teams of professionals to help communities with special drug abuse problems, and to set up demonstration programs. The National Clearinghouse for Drug Abuse Information is being expanded to offer the latest information in the drug abuse field to professionals and others. On request, the clearinghouse furnishes information on medical and educational techniques and offers suggestions on how to establish local drug abuse programs.

A master reporting system to collect data on all kinds of drug abuse is being organized. . . . More specifically, in the area of education and training, prevention and manpower the Special Action Office has undertaken a number of projects.

These are but a few of the accomplishments of the Special Action Office. Now they need our help and they deserve it. In particular, the House has cut back on the moneys authorized for the special fund of the Special Action Office. Moneys have been cut from the recommended $40 million figure to an arbitrary $20 million. This is hardly an area where we can afford to scrimp. If we do, it would just be one more example of the hypocrisy of expressing our intent in legislation and seeing it undermined because of a lack of followthrough support—in this case, even where the legislation has proven in a few short months to be a decided success.

I urge that we assure sufficient funding of the Special Action Office by increasing the appropriation for the special action fund to more nearly the amount recommended both by the Government Operations Committee, on which I am ranking minority member, and the Committee on Labor and Public Welfare.

In this regard, Mr. President, I ask unanimous consent to include in the Record at this point a letter I presented to Senator Joseph Montoya, chairman of the relevant Appropriations Subcommittee describing the need for and reasons underlying this request for additional moneys.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 12, 1972.

Hon. Joseph M. Montoya,
Chairman, Subcommittee on Treasury, Post Office, and General Government, U.S. Senate, Washington, D.C.

Dear Joe: As you know, I am a firm supporter of the efforts being undertaken by the Special Action Office for Drug Abuse Prevention under the able leadership of Dr. Jerome Jaffe, my constituent from Illinois. Dr. Jaffe was former Director of the highly successful Illinois Drug Abuse Program.

I introduced the original Administration Bill, S. 2097, on June 17, 1971, which provided extraordinary authority to transfer appropriations and programs from one agency to another. After due deliberation, it was decided by the Congress that such transfer authority should be deleted, and in its place the Director was given complete flexibility to target Federal funds in critical areas.

In light of my special interest in this very critical area, I was understandably concerned when I read Chairman Mahon's Report (H.R. 17034). It would appear from this report that funds for pharmacological research are not in jeopardy, but that there appears to be some misunderstanding with respect to the Special Fund, Section 223 of P.L. 92–255. To now reduce that appropriation by $20 million because the Office "was unable to provide the Committee with specific, objective proposals, plans or programs for the use of the funds requested" appears to be unwarranted. It seems to me that to require the Director to set forth his objectives and plans in the traditional budgetary sense is self-defeating, and removes the whole idea of flexibility by locking him into specific preconceived programs which he then must fund.

It is my understanding that Dr. Jaffe has identified a priority use for the Special Fund, and that it entails expanding the treatment and rehabilitation capacity in communities throughout the country. I view this personally as a judicious use of the taxpayer's money and wholeheartedly support him in this endeavor. In order to restore the full $40 million appropriation for Section 223, would it not be possible to obtain from the Special Action Office a listing of the cities where treatment is to be expanded, and an estimated cost figure for such expansion? It seems to me that this should more than satisfy the House's need for budgetary justification. In addition, it is my understanding that if the Senate were to restore the full $40 million, the House conferees would be amenable to such action.

Anything you can do to support these vital treatment and rehabilitation programs would be greatly appreciated.

Sincerely,

Charles H. Percy,
U.S. Senator.

SUPPLEMENTAL APPROPRIATIONS

Mr. PERCY. Mr. President, I voted in favor of the supplemental appropriations bill in the Senate yesterday, even though I considered the sums appropriated for higher education programs were seriously deficient.

Students, parents, and educators all hailed the enactment of the Higher Education Amendments of 1972 as a piece of landmark legislation. Because the programs authorized in that bill will significantly affect every student, college, and university in this country, Congress created great expectations and high hopes among all those connected with postsecondary education. When our colleges and universities started their fall terms last month, there was an expectation that funds for the programs would soon be forthcoming.

Obviously, with the passage of this supplemental bill, funds will not be forthcoming as soon as we had all hoped, and we have in fact fallen far short of our goal of full funding for the authorized programs.

In an effort to increase the funding levels for higher education programs, I submitted testimony to the Labor-HEW Appropriations Subcommittee in support of the $3.9 billion Hollings-Case amendment that would have helped to fulfill some of those expectations and appropriate enough funds to operate new and old higher educations programs at an adequate level. Unfortunately, the amendment was not agreed to.

Despite the major shortcomings of the supplemental appropriations bill, I voted for it, and I did so for three reasons. The most important of these reasons is that the administration has asked for and the Appropriations Committee has agreed to provide a special supplemental appropriations bill shortly after Congress reconvenes in January.

This new bill will specify funding levels for those forward-funded programs under the higher education amendments that are not funded in this bill. The programs which suffer the most from the deficiencies of the measure we passed are not the existing programs that are already in operation but the new programs that have not yet become operational. I know the colleges and universities have already waited too long for these new programs to take effect, and I deeply regret that we cannot allow them to begin immediately. However, we do have assurances that these new programs will be funded in the next few months, and leaving these items out of the current bill gives it a much better chance for administration acceptance.

Second, higher education programs represent only a part of the entire supplemental appropriations bill. Programs in more than a dozen other areas are also relying on this bill for funding. Agricultural programs, environmental and consumer protection programs, and housing and urban development programs are only a few of the activities that simply cannot be sacrificed at this time in hopes of funding higher education programs at a higher level.

And third, I could not responsibly assume an adamant stand against this measure on the ground that its funding levels are not high enough, when Congress is even now facing a second Presidential veto of the fiscal year 1973 Labor-HEW appropriations bill because of its magnitude. We are all aware of the President's position against increased spending, and even though the unfunded programs are deserving of financing, I believe that insisting on a higher spending total in this bill would be futile in the face of the President's known and understandable desire to keep the budget under control.

As a result of these three considerations, I voted for passage of the supplemental appropriations bill despite its obvious deficiencies. I felt that no other responsible course was open to me. But I shall continue to have the needs of higher education assume the level of priority that they richly deserve. It is the best investment America can make in the future.

INDICTMENT OF FORMER BRIG. GEN. EARL T. COLE

Mr. PERCY. Mr. President, I have noted with much interest and a sense of sadness the news stories last night and today which reported the indictment of former Brig. Gen. Earl F. Cole for defrauding the Federal Government. Indictments returned by a Federal grand jury in the northern district of Virginia charge Cole and his former secretary, Mrs. Catherine Jean Baker, with one count of conspiring to defraud the Government by making false statements and claims, and 15 counts of actually making false statements and claims.

As ranking minority member of the Senate Permanent Subcommittee on Investigations, I participated actively in the subcommittee's investigations and hearings during 1970 and 1971, into corruption in the management of military club systems and post exchanges in South Vietnam, West Germany, and other U.S. military outposts throughout the world. Former General Cole was an important witness during 5 days of those hearings. Prior to his appearance before the subcommittee, Cole had been reduced to the rank of colonel, had been retired from the Army, and had been stripped of his Distinguished Service Medal. Although Cole denied any wrongdoing when he testified before us, a total of 26 persons, most of them witnesses in the hearings, accused Cole through testimony and sworn affidavits of having misused his powers as the military officer in Vietnam who had administrative supervision over the military club system and the post exchanges. Our investigation proved that Cole used his authority improperly in Vietnam in aid of certain vendors, notably one William J. Crum of Hong Kong and Saigon, by intervening on numerous occasions to assist Crum in becoming the single most important merchant to the Armed Forces in Southeast Asia. We also proved with documentary evidence that Cole carried the same tactics with him to West Germany, where he was the general officer in charge of the European post exchanges. His favored merchants received special treatment in dealing with the European command, and he intervened on their behalf on a number of occasions.

Cole vehemently denied all such transgressions when he appeared before us. Following his appearance at the end of our hearings, the subcommittee sent the transcript of his testimony and that of his accusers to the Department of Justice for determination of whether perjury or other crimes had been committed. Finally, more than a year later, he and his former secretary have been indicted on evidence originally discovered and disclosed by the Investigations Subcommittee. Cole and Mrs. Baker allegedly conspired, according to the indictment, to have Mrs. Baker obtain about $4,300 in living quarters allowances when in fact she lived in military facilities; to have Mrs. Baker obtain about $1,200 in travel expenses for private trips to Hong Kong, Singapore, Kuala Lumpur, and the United States, which were falsely called trips on official business; to have Mrs. Baker obtain overtime pay of almost $2,000 on a fraudulent basis.

Mr. President, the function and objective of the Senate Permanent Subcommittee on Investigations is to carry out with vigor and painstaking care our responsibility to study, investigate, and report upon corruption, improprieties, waste and extravagance in Government operations, among other duties with which we are charged by the Senate. However, in the military club systems case, our investigation was so thorough and so comprehensive, that almost all of those persons who were shown in our hearings to have engaged in wrongdoing of various kinds, have been indicted by Federal grand juries or military courts, and have been tried or are awaiting trial. They include the cabal of sergeants who conspired to profit personally from the club systems, including the former sergeant major of the Army, the former provost marshal general of the U.S. Army who has recently been released from prison after conviction on evidence first disclosed by the subcommittee, and one sergeant who was convicted by court martial and fined $25,000 and dishonorably discharged. Others are under indictment, awaiting trial, and still others have been discharged from Government employment.

Mr. President, it is gratifying to all of us who work arduously on these matters to learn that our efforts have produced significant results. In the military club systems investigation, more than 60 corrective and remedial measures had already been taken by the various Federal agencies involved before the subcommittee had filed its report in November of 1971. Many more have been taken since that time, and a Department of Defense study group is still seeking to implement our recommendations. A report from them is expected soon.

I believe that the tangible results which stemmed from this important investigation stand as a tribute to the chairman of the subcommittee, Senator John L. McClellan, to the acting chairman during the club systems case, Senator Abe Ribicoff, to the other members of the subcommittee and particularly to its talented and dedicated staff without whom we could never have developed and presented the evidence.

Mr. President, I ask unanimous consent that relevant articles from the October 13 Washington Post and the Evening Star be included at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 13, 1972]

Ex-General, Aide Indicted in Fraud

(By Paul G. Edwards)

Former Brig. Gen. Earl F. Cole, accused during Senate hearings of taking bribes while he was a high-ranking officer in Vietnam, was indicted along with his former secretary yesterday on a charge of defrauding the government of $7,500.

Indictments returned by a federal grand jury in Alexandria charge both Cole and his former secretary, Catherine Jean Baker, with one count of conspiring to defraud the government by making false statements and claims and 15 counts alleging the actual making of false statements and claims.

Each count carries a maximum penalty of five years in prison and a $10,000 fine on conviction.

Cole, 52, was reduced in rank to colonel, stripped of his medals and forced to retire from the Army on June 30, 1970. He lives at 5420 Brookland Rd., Fairfax County.

Mrs. Baker, 48, served as his secretary and administrative assistant in Vietnam from 1966 through 1968. She now lives in Anchorage, Alaska.

The indictment charges that Cole engineered Mrs. Baker's transfer to Vietnam when he became deputy chief of staff for personnel and administration there. Through his recommendations, the indictment says, Mrs. Baker was rapidly promoted over a period of two years from a GS–5 to a GS–9 and her pay jumped from $6,800 to $9,800 during that period.

The indictment alleges that Cole helped his secretary secure $4,300 in living quarters allowances to compensate her for renting private quarters, when in fact she was housed in military facilities.

It also accuses the former general and his secretary of securing $1,200 in travel expense money for trips made by Mrs. Baker to Hong Kong, Singapore, Kuala Lumpur and the United States. The trips were falsely represented as official business, it charges.

Fraudulent overtime pay claims, amounting to almost $2,000, were filed for work done by Mrs. Baker in Vietnam while she was actually out of the country on the trips, the indictment alleges.

Cole's name was linked to alleged business-military corruption in Vietnam during Senate hearings in 1971.

Jack Bybee, former general manager of a slot machine monopoly in Vietnam, testified at those hearings that Cole was paid $1,000 a month to arrange warehouse storage of illegally imported freezers, air conditioners and beer coolers.

The use of military warehouse space made it possible for civilian suppliers to save through volume purchases and to increase sales by being able to make quick delivery to post exchanges and military clubs, according to testimony at the hearings.

It was also alleged that some of the merchandise found its way into the Vietnamese black market, yielding huge profits to the sellers.

At the close of the Senate hearings, testimony was turned over to the Justice Department for investigation of possible perjury and tax evasion by Cole. U.S. Attorney Brian P. Gettings said yesterday there was insufficient evidence to indict Cole on those charges.

[From the Evening Star and Daily News, Oct. 13, 1972]

EXPENSE ACCOUNT

Former Brig. Gen. Earl F. Cole, who figured in a 1970 Senate investigation of irregularities in noncommissioned officers clubs in Vietnam, has been indicted on charges that he fraudulently aided his former secretary to travel illegally in the Far East and refurbished living quarters for them at government expense.

Cole, 53, of Alexandria, and his former secretary, Mrs. Catherine Jean Baker, 49, of Anchorage, Alaska, were named in a 16-count indictment returned yesterday in District Court in Richmond. The indictment accuses them of conspiracy, and of making false statements to the government and fraudulent claims, the Justice Department announced.

The indictment says Cole helped arrange Mrs. Baker's assignment from the Pentagon to Vietnam to work as his secretary, that he saw to it that she was promoted so that her pay rose from $6,857 to $9,308 in two years, and that he used his influence to have fraudulent temporary orders cut for Mrs. Baker to travel on official business to several Southeastern Asian cities so that she could obtain payments of per diem travel expenses to which she was not entitled.

The indictment also says Cole illegally used his rank and influence to arrange for Mrs. Baker to be provided with government housing while she accepted and received a $4,352.41 allowance for private living quarters, and that when Cole was transferred to Tan Son Nhut, just outside Saigon near the end of 1967, he arranged it so that quarters at what was known as BOQ3 be refurbished for himself and Mrs. Baker.

NURSING HOME CLOSINGS IN ILLINOIS

Mr. PERCY. Mr. President, in the past 18 months, 109 nursing homes have been closed in the State of Illinois for not meeting minimum health standards.

This has come about due to Governor Ogilvie's mandate to Dr. Bruce Flashner, deputy director of the State Public Health Service to clean up the State's nursing homes. Dr. Flashner has been moving to fulfill this mandate and to reverse the trend of deteriorating conditions in nursing homes.

Among other things, the State now has a computer system to keep track of nursing home services and problems and to pinpoint what homes need improvements and in what areas.

These new procedures have given the State of Illinois much improved controls over nursing home conditions.

Mr. President, I ask unanimous consent that an article in the October 10 issue of the Chicago Tribune describing the State's work in this field be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

109 NURSING HOMES CLOSED IN 18 MONTHS

(By Pamela Zekman)

Stepped up enforcement programs initiated following the Tribune Task Force series on nursing home abuses have resulted in the unprecedented closing of 109 Illinois homes in the last 18 months.

The homes, including 15 in Chicago, have had their licenses revoked or have closed voluntarily because they cannot meet minimum standards ordered by city and state health officials.

WITHHOLD AID PAYMENTS

In addition, 29 homes have changed to lower levels of service and 34 have had public aid payments reduced or withheld for not complying with state standards, said Dr. Bruce Flashner, Deputy Director of the State Public Health Department.

Flashner was appointed to his post by Gov. Ogilvie following the Task Force series with instructions to clean up the state's nursing homes.

He said the governor's backing, such as making available $200,000 to develop a computerized inspection monitoring system, has enabled the state to fulfill this mandate and reverse the trend of degenerating conditions in nursing homes.

SHOW AREAS OF NEED

The computer system, "a mechanical ombudsman" that stores millions of pieces of information on the state's 1,070 nursing homes, does the work of 300 people, Flashner said. It is being evaluated for possible use throughout the nation under a $120,000 federal grant from the Department of Health, Education, and Welfare.

Russel L. Bryant, administrator of the Long Term Care section of the state agency, said the computers can tell what percentage of homes adhere to minimum standards and thus tell officials what areas are in need of improvement.

Recent surveys fed into the computers show that 19.25 per cent of the nursing homes fail to have sufficient physician review of medication orders at the required frequencies making this the leading problem today.

PROVIDES INCENTIVES

The next three leading deficiencies are: inadequate visits made by physicians [14.52 per cent]; inadequate staff supervision by nursing home directors [11.86 per cent] and failure to practice restorative patient measures 24 hours a day [10.15 per cent].

To provide for improved nursing home services, the state has released $12 million in additional funds to provide incentives for mental and social rehabilitation programs.

Flashner said these improvements plus a doubled inspection staff which conducted 3,349 surveys of 1,263 homes in the last year, has placed Illinois "far ahead of other states in the control of the nursing home industry."

"Our intention is not to close the homes down," he added, "but to improve standards so we can have good care. I think most of the nursing home industry accepts the idea that we're going to watch the homes closely and they are improving their standards as a result."

ILLINOIS CONTINUES TO AGGRESSIVELY PROMOTE EXPORTS

Mr. PERCY. Mr. President, Illinois for years has been one of the leading export States in this Nation. At the moment, Illinois is the leading State in exports of agricultural commodities and third in the export of manufactured goods.

To hold this position of leadership, Gov. Richard Ogilvie recently authorized an Illinois trade mission to the Soviet Union to seek ways to increase Illinois exports to that country. That mission was led by my distinguished House colleague, PAUL FINDLEY. Illinois hopes to sell more agricultural commodities as well as farm and machinery products.

I commend this initiative by Governor Ogilvie and hope it results in more trade between the State of Illinois and the Soviet Union.

Mr. President, I ask unanimous consent that an October 4, 1972, editorial from the Chicago Sun-Times on this subject be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times]

ILLINOIS FINDS NEW CUSTOMER

Illinois long has been an aggressive marketer of its own products. It maintains a business and development office in Washington. It has a trade office in Europe and plans one in the Far East. The state does $3 billion in export business annually and among the 50 states is No. 1 in export of agricultural products, No. 3 in export of manufactured products and No. 2 over-all. That's big business—and lots of jobs—and now the total is likely to swell because of some Illinois supersalesmanship behind the Iron Curtain.

An Illinois agricultural mission led by Rep. Paul Findley (R-Ill.) spent the final week of September in the Soviet Union and returned home confident the state would seal a variety of trade pacts with the Russians.

A Russian mission is expected to visit Illinois early next year to shop for breeder cattle, swine and poultry. Barter agreements are possible involving Illinois farm and manufactured products and Soviet materials. Findley predicted an early sale to Russia of a substantial amount of Illinois soybeans.

The Russians are attempting to fill a growing consumer demand for meat, but have a shortage of the protein required for livestock development. Illinois soybeans—the state produces 20 per cent of the world supply—could alleviate the shortage.

Every sale abroad helps Illinois in employment, income and over-all prosperity. Missions such as that led by Findley also assist in the further thaw of the chilled international relationships of the past. The trade mission, and Gov. Ogilvie, who authorized it, merit a salute.

LEAD POISONING: TIME TO TAKE ACTION NOW

Mr. PERCY. Mr. President, lead poisoning, the persistent and tragic menace which afflicts thousands of small children each year, has now appeared in massive proportions in those small and middle-sized communities previously thought safe from the dread disease. Paint chips with lead content from cracked or peeling walls, when consumed by children, are absorbed into the bloodstream. The lead is then carried to all parts of the body, including the brain, causing death or crippling neural disorders—blindness, retardation, and paralysis.

All the while this problem was assumed

to be primarily limited to the inner city, it was denied the serious attention it deserved. Now that the Illinois Department of Public Health has reported that in 15 Illinois communities ranging in population from 3,500 to 150,000 aproximately one child in five under the age of 6 has blood-lead levels above the limit considered safe, we are beginning to see the signs of public outrage.

While this is a sad commentary on our society today, the fact is that numerous social problems, including the drug abuse crisis, have remained largely ignored until they have surfaced in suburban towns and communities across the country. Realizing this hypocrisy, perhaps now we can really begin to deal with the lead problem in the manner it deserves and eliminate this pestilence for all time. What is needed is a national commitment to combat the causes and the effects of children's lead poisoning—clearly a preventable malady.

Instead, however, we find only half measures and a lack of program coordination. For example, the Department of Housing and Urban Development, in reaction to statistics showing that some 200 children die annually from lead poisoning and between 50,000 and 100,000 children take in enough lead each year to require medical treatment, last year banned the use of paint containing more than 1 percent lead by weight in the construction or renovation of federally assisted, owned, or mortgaged residential property. But this year HUD quietly circulated a directive to its regional offices exempting HUD-owned properties from the ban.

The Government must correct situations such as this, develop a uniform national policy for this critical problem, and devote such funds as are necessary to implement that policy. Current efforts tend to be directed at restricting the lead content in paints for future use. But how effective really are our programs to deal with the cracked and peeling leaded chips in the tenements and homes built years ago? And I might ask parenthetically, in view of the relationship of high lead levels in the blood to automobile exhausts, are we moving fast enough to eliminate lead from auto fuels?

Mr. President, I ask unanimous consent to insert in the Record at this point a most illuminating article by William Hines of the Chicago Sun-Times outlining the dimensions of the lead poisoning problem in Illinois communities.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Chicago Sun-Times, Oct. 8, 1972]

Lead Poison Found Peril Outside Slum

(By William Hines)

Washington.—Millions of children in communities of all sizes—not just the currently estimated 400,000 living in big-city slums—may be victims of mind-destroying lead poisoning, a newly published study by the Illinois Department of Public Health suggests.

A report on research, "Pediatric Blood Lead Levels," appeared in a recent issue of the Journal of the American Medical Assn. It shows that children in small to middle-size cities have quantities of lead in their systems that hitherto were considered characteristic of youngsters in the decaying cores of major urban centers.

The study covered 6,151 children 1 to 6 years old in 15 Illinois communities ranging in population from about 3,500 to nearly 150,000. Almost one child in five was found to have blood-lead levels above the limit considered safe in guidelines from the U.S. surgeon general.

AURORA CITED

In one middle-size city—Aurora—one child in 30 was found to have blood-lead levels high enough to warrant immediate medical care.

According to Dr. Philip R. Fine, principal author of the report, the study has serious implications for persons who tend to regard lead poisoning as just a ghetto problem.

Dr. Fine, health services coordinator for the Illinois Public Health Department said by phone in Springfield that "any number of children in school today" who have learning problems actually may be victims of brain damage incurred in infancy by eating flakes of lead-based paint and bits of dried window putty.

The report was based on a screening program undertaken in the summer of 1971. This last summer a similar project was undertaken in rural areas of the state, and although results have not yet been fully analyzed, Fine predicted that an alarmingly high incidence of lead poisoning will be revealed by this survey, too.

According to the JAMA article, the screening "was the first attempt in the United States to conduct a pediatric lead-testing program in communities of intermediate population." Earlier efforts were concentrated in the crumbling slums of major cities.

The 15 localities surveyed were:

Rockford, 147,370; Peoria, 126,963; Springfield, 91,753; Decatur, 90,397; Joliet, 78,527; Aurora, 74,182; East St. Louis, 69,996; Rock Island, 50,166; Chicago Heights, 40,900; Harvey, 35,068; Carbondale, 22,816; East Moline, 20,832; Robbins, 9,641; East Chicago Heights, 5,000; and Phoenix, 3,678.

The highest percentage of children with levels above the "safe" maximum of 40 micrograms of lead to each 100 milliliters of blood and the highest average blood-lead levels were detected in Peoria. Of 387 children screened there, 31.3 per cent had blood-lead over the safe limit. The average Peoria child's blood-lead concentration was 32.9 micrograms.

FORTY MICROGRAMS EXCEEDED

Slightly more than 3½ per cent of 449 children screened in Aurora were found to have blood lead exceeding the 80-microgram level at which medical treatment is urgent.

The average community has 18.6 per cent of its children with levels above 40 micrograms, and the average for children screened was a blood-lead reading of 25.5 micrograms. Cities with the highest levels, after Peoria, were Aurora, Springfield, East St. Louis, Decatur, East Chicago Heights and Carbondale.

Eight-tenths of 1 per cent of the children were classified as lead-poisoning cases under the surgeon general's 80-microgram guideline. In addition to Aurora, communities with the highest proportion of afflicted children were Peoria, Springfield, Rock Island and the adjacent Chicago suburbs of Harvey and Phoenix.

When lead is consumed, it gets into the blood stream and is carried to all parts of the body, including the brain. Its effect on cells of the central nervous system can lead to death.

Oftentimes lead is stored in certain parts of the body, notably the long bones of the arms and legs and when locked up this way, does no particular harm. But Vitamin D can release it into the blood stream, as can infectious diseases, such as colds.

SETBACK FOR SECURITIES PROCESSING

Mr. WILLIAMS. Mr. President, I was very sorry to see Congressman Moss' statement that he is leaving for California at 5:45 this afternoon and refuses to make any attempt to work out any differences between the House and Senate bills on clearance and settlement of securities transactions. The development of an effective regulatory system in this area is an important practical problem that should not be made the subject of moral posturing or ultimatums.

Mr. Moss' attempts to create the impression that the House bill represents an accommodation between his view that the SEC should have sole jurisdiction over all clearing and settlement activities and the Senate approach which provides for coordination between the SEC and the Federal banking agencies. While the House bill does assign certain functions to the banking agencies, it does so in a mischievous way which will have the effect of diluting the SEC's authority without giving the banking agencies any effective power to participate in the regulatory process. It omits the important provisions of the Senate bill which are designed to assure cooperation between the regulatory agencies and coordination of their respective activities. These provisions are essential if the bill is to achieve its stated objective, of facilitating an integrated national system for the clearing and settlement of transactions. For example, the House bill requires clearing agencies, depositories, and transfer agents to register with the SEC, but provides no means for getting information about their activities to the regulatory agencies which are responsible for inspecting and disciplining them.

The truth of the matter is that the House bill is a hastily prepared patchwork job, which would soon be back in Congress for repairs if it was enacted. Our staff has been going over that bill since we first received a preliminary draft of it last week. We have had to add back substantial parts of the Senate bill simply to remedy omissions and internal inconsistencies in addition to substantive differences between the two bills. Mr. Moss refuses to consider even these changes.

The source of these problems is the difference in the way in which the House and Senate bills were enacted. The Senate bill was introduced and acted upon in an orderly manner which enabled us to work out the mechanical problems and gave opportunity for all interested persons to be heard. The bill grew out of the interim report of our securities industry study which was issued on February 4 of this year. A bipartisan bill to implement those recommendations was introduced on March 6, and a bill incorporating the SEC's recommendations was introduced on March 23. After 3 days of hearings in May, the subcommittee on June 27 reported out a bill combining its proposals with those of the SEC in a coherent pattern. The bill was reported out by the full Banking Committee on August 2 and passed by the Senate and sent to the House on August 4.

In contrast, no hearings were held on

a House bill, until August 14, after the Senate bill had already been passed. On September 28, the House subcommittee finally approved a bill, which differs in structure from any of the bills previously introduced. This bill, which was not available until last week, is the one which the House now expects us to adopt without critical examination.

The delay in action by the House on this question results from their initial approach that no legislation would be introduced or acted upon until their full study was completed. When they finally reversed this position in realization of the need for action on the clearance and settlement problem and the leadership exercised by the Senate, it was too late for them to produce a carefully thought-out bill for action in this session.

We have consistently made clear to the House subcommittee our willingness to join with them on a bill which is workable and fair. It is not the House subcommittee's function to make unilateral decisions about how the views of its members should be reconciled with those of the Senate. The House of Representatives is not a court of appeals which sits in judgment on the Senate's decisions. Its Members have no closer access to sources of divine wisdom than do Senators. When Mr. Moss and his colleagues are ready to sit down and discuss our differences in a sensible fashion we shall be more than happy to meet them.

I know that the House's unwillingness to work out a constructive bill on this subject will disappoint those in the securities and banking industries who were looking to the Congress for constructive leadership in dealing with the securities paperwork problem. I hope that it will be possible to reach agreement on a bill early in the next Congress before too much valuable time is lost.

THE ABRAMS NOMINATION

Mr. STENNIS. Mr. President, there is a matter I would like to clarify with respect to the committee vote on the Abrams nomination. I would like to make clear for the Record that in reporting the Abrams nomination, 15 of the 16 members of the committee voted for and recommended that the nomination be confirmed. The other member of the committee, Senator Smith, voted in favor of reporting the nomination. Senator Smith at the same time made it clear that she was reserving all rights with respect to the position she might choose to take on the floor with regard to the nomination.

I wish to make it clear that contrary to some press reports, the position taken by Senator Smith in committee was in no way inconsistent with the position she took with respect to her vote on the Senate floor with regard to General Abrams. There is no substance to the contention that Senator Smith voted one way in the committee and reversed her vote on the Senate floor on the Abrams nomination.

FRANK MARZITELLI, FIRST CITY ADMINISTRATOR OF ST. PAUL, MINN.

Mr. MONDALE. Mr. President, the other day, the Mayor of St. Paul, Larry Cohen, appointed an old friend of mine, and a remarkable Minnesotan, Mr. Frank Marzitelli, to be St. Paul's first city administrator. He could not have made a more excellent choice, as a recent editorial in the Minneapolis Tribune makes clear.

I commend Mayor Cohen for his choice and congratulate Frank Marzitelli on his appointment to this new challenge in his already distinguished and impressive public career. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

St. Paul's New Administrator

Mayor Cohen first did the conventional thing when it came time for him to appoint St. Paul's first city administrator. He offered the job of running the city's reorganized government to an outside expert—a Des Moines, Iowa, official. When the Des Moines man ultimately decided to reject the offer, however, Cohen did an unconventional thing and turned to an inside expert—Frank Marzitelli, a St. Paul native with a long record of service as an elected and appointed city and state official.

We think the choice of Marzitelli is a good one. For one thing, Marzitelli's close connection with the city and its government over the years will enable him to step into his new job without need for any extended period of orientation. He was directly involved with the city government as a councilman in the 1950s, for example, in addition to his work as executive vice-president of the St. Paul Port Authority the last 10 years.

Moreover, Marzitelli's ability as an administrator is well-established. He ran three different city departments during his term on the council. He gained additional experience during his four years as deputy state highway commissioner. And under his leadership, the Port Authority has been an efficient, effective agency for industrial redevelopment in St. Paul.

What St. Paul needs in its first administrator is a person who knows the city, its people and its problems, who can get a new government structure off to a good start. We think Marzitelli fits that bill.

CONGRESS ACTS TO ENHANCE THE DELAWARE ENVIRONMENT

Mr. BOGGS. Mr. President, in the closing days of this session the Congress has adopted, and sent to the President, four major new initiatives that will go far toward protecting and improving the environment of Delaware.

These bills are:

An ocean dumping bill to control strictly the pollution of our oceans.

A public works bill establishing a special beach erosion control program along the shores of Delaware Bay.

A coastal zone bill that will provide financial aid to Delaware in implementing its own effective coastal zone management effort.

A water pollution control bill establishing a more effective national program to abate water pollution.

I would like to outline for my colleagues the meaning of these four important bills for the nation and for the people of Delaware.

The Marine Protection, Research, and Sanctuaries Act of 1972, H.R. 9727, represents a major thrust toward the goal of a better environment, closing the most glaring loophole in our national effort to improve the environment.

It was my honor last year to introduce two bills to regulate ocean dumping, S. 1238 and S. 1286, which were subject of hearings last year by the Subcommittee on Air and Water Pollution at Rehoboth, Del.

I pushed for these bills, and I support the one the Congress has now adopted, which is very similar to my earlier proposal.

As Delawareans know only too well, cities and industries have dumped pollution at sea, which those cities or industries could not legally dump into the rivers and lakes of the United States.

That has been deplorable. This ocean dumping control bill, strongly supported by the administration, will shut tight that loophole. It will assure against the degradation of our coastal and valuable ocean waters.

Specifically, this bill gives to the Federal Environmental Protection Agency the authority to regulate ocean dumping. It will make certain that dumping does not occur that would "unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment."

Frankly, I am not certain that language is as strong as I would have liked. There obviously is some uncertainty in phrases such as "unreasonably degrade."

Nevertheless, the bill represents a major imperative first step, a step upon which we can build in the future.

Certainly, the requirements in the bill for comprehensive and continuing monitoring and research into problems associated with ocean dumping will provide great help in this.

Another feature in the bill is the creation of marine sanctuaries in the oceans as far out to sea as the edge of the Continental Shelf. These sanctuaries would set aside areas in the oceans needed to be conserved against any ocean dumping for purposes of conservation and the ecological balance.

Another significant provision for Delaware is contained in separate legislation, the Omnibus Rivers and Harbors-Flood Control bill, S. 4018. This bill establishes a special beach erosion project along the Delaware side of Delaware Bay.

Under this provision, the Army Corps of Engineers will undertake a program demonstrating new beach erosion control techniques at six Delaware beaches: Pickering Beach, Kitts Hummock, Bowers, Slaughter Beach, Broadkill Beach, and Lewes.

As I have told the Senate before, the erosion of the Delaware Bay shoreline has been a continuing natural process for more than a century. Stop-gap measures have not worked. Temporary work has been washed away by storms.

By creating this new demonstration

program in Delaware, we can look forward to the stabilization of our Delaware shoreline with new devices and systems. At the same time, we can provide new techniques that will provide answers to erosion of other beaches around the country.

Another bill holding great significance for Delaware is the Coastal Zone Management Act of 1972, S. 3507. In the previous Congress, I was honored to be the main sponsor of legislation similar to this bill. That earlier proposal was based on findings from the first complete study of America's coastal zone environment.

Subsequently, in this Congress, I cosponsored S. 582, a predecessor to this legislation, because I believe it is imperative that other coastal States join in Delaware in creating a sound, effective program to protect and enhance the coastal areas of their States.

The bill does just that. It creates the authority in the Department of Commerce for grants to states for developing coastal zone management programs, followed up with grants so the States can effectively administer a coastal zone management program.

Let me quote from the declaration of policy in this legislation, which I believe reflects my views on the urgency for this legislation.

> The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development.

The fourth new legislative initiative approved by the Congress in recent days is the new water pollution control bill, S. 2770.

As my colleagues know well, this legislation creates a system for cleaning up pollution of our rivers and lakes in two ways.

It increases sharply the grants to the States so that communities will be able to build up-to-date sewer systems and treatment plants, without much cost to homeowners. In Delaware, for example, the bill would provide $32 million for new public sewage treatment systems this year, compared with less than $5 million last year.

That means we will be able rapidly to initiate and put into operation many new systems and plants serving the people of Delaware.

The bill also creates a phased program to clean up industrial pollution, leading to the national goal of no pollution. Phrased another way, this water pollution bill should make every river and lake in America safe for swimming and marine life within a decade.

This water pollution bill has particular importance for the Brandywine River in Delaware, which might benefit from this bill more than any river in the Nation. Of course, industrial and municipal pollution of the Brandywine would have to be controlled, as it would be controlled in any river system in our country.

But, this bill also contains a special provision designed to improve the Brandywine.

The bill establishes a special, new program to create model, pollution-free rivers. In such a model-river program, special new techniques would be developed and tried in order to eliminate existing and future pollution.

I was happy that we were able to win an indication from the Senate that the best place in the Nation for such a model river demonstration would be along the Brandywine.

In closing, Mr. President, I want to congratulate the many Members in the Senate who worked long and hard on these various bills in committee, on the floor, and in conference.

I think particularly of Senators COOPER, RANDOLPH, DOLE, and MUSKIE who were so helpful in the two bills that came out of Public Works Committee.

Senators HOLLINGS and STEVENS, of the Commerce Committee, provided important leadership on the bills that came out of that committee.

LIMITATION ON FEDERAL SPENDING — ADDRESS BY PRESIDENT NIXON

Mr. SCOTT. Mr. President, last Saturday the President addressed the Nation on the very urgent need for a spending limit on the Federal government this fiscal year. This is the only way we can possibly avoid a tax increase next year. If we do not enact such a ceiling, it will not be a case of robbing Peter to pay Paul; we will be robbing Paul to pay Paul.

Mr. President, I ask unanimous consent that the text of the President's address be printed in the RECORD.

There being no objection the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE PRESIDENT ON FEDERAL SPENDING BROADCAST LIVE ON RADIO FROM CAMP DAVID

(At 12:06 P.M. EDT)

Good afternoon.

I want to talk with you today about an issue which strikes directly at every pocketbook and every savings account in America, the clear and present danger that excessive spending by the Congress might cause a Congressional tax increase in 1973.

When the Congress votes to increase spending above the Federal budget, there are only two alternatives: either taxes will go up, or a new surge of inflation will begin and prices will go up.

I am totally opposed to either of these bad choices. I oppose higher taxes, and I oppose higher prices. My budget will not require higher taxes. It will not cause higher prices.

I shall fight every attempt by the Congress to boost that budget, because a big spending spree by the Congress will have only one result, a hangover of higher taxes or higher prices for every working family in America.

No goal and no program has any higher priority with me than protecting our people's growing purchasing power, and when taxes or prices go up, purchasing power goes down.

In order to clamp a lid on Congressional spending, I have proposed a 1973 spending ceiling of $250 billion, a proposal that will be voted on by the Congress next week.

Let me lay it on the line in clear and unmistakable terms. A vote against the spending ceiling could prove to be a vote for higher taxes. A vote for the spending ceiling will clearly be a vote against higher taxes.

This spending ceiling should get the active support of every American concerned with avoiding higher taxes or higher prices. It should be approved.

But if the spending ceiling is not passed, I still have one weapon left, the Presidential veto. And I will not hesitate to use that weapon on behalf of the American taxpayer. I will veto even bills whose purposes I agree with, if I conclude that the price tags of those bills are so high that they will lead to tax increases.

I consider the battle against higher prices and higher taxes to be the major domestic issue of this Presidential campaign. The issue is clear. I am holding spending at a range not requiring a tax increase now or over the next four years. I will not make any promises in this campaign that would require a tax increase now or in the future.

Our opponents in their platform, in their campaign promises, are committed to huge new spending programs that would add $100 billion to the budget and would require the largest tax increase in America's history. The major burden of those increased taxes would fall on America's 82 million wage earners.

My goal is not only no tax increase in 1973, but no tax increase in the next four years.

To achieve this, we must put a tax-proof ceiling on spending now and we must be sure there are no holes in that ceiling. To buy now and pay later would be the sure road to higher taxes or higher prices, or both.

Another reason this spending ceiling is needed is to enable us to fulfill our firm commitment to provide relief from property taxes. When property tax relief comes, and it will come if the Congress cooperates with me now on harnessing runaway spending, the first to receive relief will be those who most need it.

Today there are more than one million retired Americans over 65. They live in their own homes with an income of less than $2,000 a year. They pay an average from $300 to $700 of that $2,000 in property taxes. To allow that to happen to Americans who have worked all their lives to build this great country and to earn their retirement is a national disgrace.

Relief for those Americans is going to be a first order of business in our next Federal budget. It has been charged by some prominent economists that a tax increase in 1973 is unavoidable.

I disagree. There is nothing desirable and nothing inevitable about a tax increase in 1973 or beyond. But while a President can promise there will be no tax increase, as I have, he can keep that promise only if the Congress cooperates with him in holding down spending.

I do not point the finger of blame at the Members of Congress as individuals. As one who once proudly served in the House and Senate, I know how hard it is for the Congress to join with the President in achieving a goal which is so much in the interest of every American family.

But, let's face it, the Congress suffers from institutional faults when it comes to Federal spending. In our economy, the President is required by law to operate within the discipline of his budget, just as most American families must operate within the discipline of their budget.

Both the President and a family must consider total income and total out-go when they take a look at some new item which would involve spending additional money. They must take into account their total financial situation as they make each and every spending decision.

In the Congress, however, it is vastly different. Congress not only does not consider the total financial picture when it votes on a particular spending bill, it does not even contain a mechanism to do so if it wished.

This is why the spending ceiling vote next week will be so critical to every family in America. The spending ceiling will give the Congress what it needs to bring order to its spending decisions and for the Congress to become a partner, rather than an opponent in the fight against higher taxes and against higher prices.

Congress works largely through committees and subcommittees. There are more than 300 of these committees and subcommittees. Each is an independent world of its own, specializing in one or more fields of activity. For example, one committe handles urban matters, another farm programs, still another public works programs. These 300 committees and subcommittees authorize spending for their favorite programs without direct regard for what the others are doing. Other committees appropriate the actual money for these programs and still other committees have the responsibility of raising the taxes to pay for the programs.

Since most programs have some attractive features, it is easy for the committees and the Congress itself to approve them one at a time simply because the one program then up for decision would advance a worthy goal. But no one individual or committee in the Congress is officially charged with keeping track of the totals involved in all of this.

The Congress, thus, has no sure way of knowing whether or when its many separate decisions are contributing to inflation and higher prices, or possibly to higher taxes.

The Congress operates the way a family would if all of the individual family members went out on their own, spent what they wanted or signed up for long-term payments for things they desired, without regard to what other members of the family were spending and without regard to the total income of the family and the total of the bills all of the members of the family were running up on their own.

That is why I am calling for a rigid spending ceiling for fiscal year 1973, so that we can make certain that Federal spending does not exceed $250 billion and thus does not contribute to higher prices or generate an urgent need for higher taxes.

People of good will can disagree over spending priorities, but if the Congress wishes to increase spending in one area, then it must be prepared either to reduce it in another area or to include higher taxes if we are to escape more inflation.

But the Congress is not meeting this responsibility. I do not make this statement in any partisan sense. Both of our major parties have their share of big spenders and there are responsible Democrats as well as responsible Republicans serving on the appropriations committees of the Congress, the Ways and Means Committee of the House, the Finance Committee of the Senate, who are as deeply concerned as I am about the trend toward higher spending and higher taxes.

The problem is the inherent weakness in the present structure of the Congress as a whole to deal with this danger. This has been confirmed by the House Ways and Means Committee, which is composed of some of the most experienced men in the Congress and which has a majority of 15 Democrats to 10 Republicans.

In reporting the spending ceiling legislation to the House, 21 Members of this Committee, 11 Democrats and 10 Republicans, included a frank discussion of the problem the Congress has with spending control. Here is a direct quote from the Committee's report.

"The need for an expenditure ceiling of this type arises from the difficulty Congress has experienced in establishing overall program priorities. Even when it is generally recognized that expenditures need to be limited, the total expenditures actually occurring seem to keep rising, because in a period of strong competing concepts of program priorities, all are accepted rather than choices being made among them."

Now that is what the Congress said, the Ways and Means Committee, by this overwhelming majority.

As things now stand, most observers predict that Congress will vote billions of dollars more than my January budget asks. Almost without exception the programs being considered are for good purposes, but when you take them all together, they add up to an inflationary catastrophe or a higher tax nightmare, and I do not intend to let this happen.

An example is a debate in the Congress and in this campaign over welfare. Our opponents have proposed in Congress, in their platform and in their campaign speeches, programs that would add millions to the welfare rolls and billions to the tax burden of working Americans.

I have refused to compromise my welfare reform program to meet the demands of those who favor higher welfare payments. I want this Nation to be as generous as possible in helping those who cannot help themselves, but I shall also be guided by this principle: I shall oppose any program which increases payments to those who do not work if it requires an increase in taxes for those who do work. If necessary, as I announced last July, I will continue to veto bills which call for significantly larger expenditures than my no-tax-increase budget. If those vetos are sustained by the Congress, we can hold the line against higher taxes.

But the spending ceiling would be better. It would be fool proof. A spending ceiling would be absolute insurance that no new taxes will be required and that no Federal spending excesses will destroy our successful anti-inflation program in which in this year we have cut the rate of inflation in half in this country and which we now have in the United States the lowest rate of inflation of any major industrial country in the world.

Beyond this, the new budget I am preparing for next year will be a no-new-tax budget. Further, to enable me to keep that promise, I shall make no promises in this campaign which would require an increase in taxes. Federal spending can be held down and in my budget this year and for the next four years, spending will be held down.

But a President, any President, must have a partner in controlling spending, and that partner must be the Congress.

My Fellow Americans, this Government does not need any more of your income and it should not be allowed to take any more of your salary and your wages in taxes.

America needs not a tax increase, but tax relief. The spending ceiling will get us started toward that goal. One quarter of a trillion dollars for 1973 is enough.

Thank you and good afternoon.

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1972

Mr. **STENNIS**. Mr. President, as the second session of the 92d Congress draws to a close, I wish to follow my usual practice of submitting to the people of Mississippi a report covering this calendar year. I have a deep and abiding respect for the responsibilities, obligations and opportunities vested in me by the people of my State. To me, my work is a privilege that I daily recognize and further I am encouraged and stimulated by the expressions of confidence and expectations of the people at home. This presses me to do my best. This report for the year 1972 is intended to inform Mississippians of some of the matters on which I have been working this year on their behalf and on behalf of our fine State.

This year our Nation has seen a number of historic occurrences, in foreign relationships and international agreements, in the evolution of national policies, and in reducing our role in the war in Southeast Asia. The voice of the people is being expressed more in the traditional ways of our democracy, and is less muted by the demonstrations and street violence of which we saw so much in the 1960's. There seems to be a growing return to the principle of respect for the opinions of others and willingness to reason with one another. Young people seem to me to have goals in life and willingness to work toward them. There is more demonstrated interest in religious values and the practice of them than in recent years. The signs for the future are good. Let us all hope that in our Nation there is beginning a wave of moral resurgence that will restore the true values that can give us national strength—respect for the home, the church, and for each other—and the return of the work ethic where each takes satisfaction in being able to do his work well. I have great faith in the American people and in the future of our Nation.

My report for the year gives me the opportunity to express my thanks to many. First I want to extend them to my constituents for their support, assistance, and encouragement. I thank the other members of the Mississippi delegation in Congress, for their unfailing cooperation. We are to see an unusually large change in the membership of our delegation in the House of Representatives, but I know that those who will take office in January are carefully selected, and will emulate the outstanding records of the fine men they succeed. I wish to thank my office staff for their hard work and loyalty, and the committee staffs with which I work. Finally, of course, my deep thanks go to my friends and family for their strong and understanding support.

My evaluation of 1972 is that it has been a year of progress, distinguished by showing beginnings that have great promise for the future. Although there is much to be done, there have been many accomplishments as far as our State is concerned, and I make my report for 1972 to the people of Mississippi under the following headings:

RURAL DEVELOPMENT

Last year I reported to you that I intended to continue to press for legislation aimed at the revitalization of rural areas.

I am pleased to be able to say that in August of this year the Congress passed and the President signed into law the rural Development Act of 1972. In the Senate this bill grew out of several earlier related measures in all of which I was a cosponsor. I believe that the final legislation incorporated the most desirable features of all the bills, and that it represents a milestone in the progress toward revitalizing the rural areas of our Nation.

The Rural Development Act puts new authorities into the hands of the Secretary of Agriculture to promote economic growth in rural areas, and it does so without taking any money or attention away from existing farm programs. It utilizes the Farmers Home Administration, expanded as necessary, to carry out most of the rural development. The bill also creates an additional Secretary of Agriculture to oversee the program, and makes him responsible for coordinating the efforts of all the Federal agencies that are involved in rural matters.

The most important way to revitalizing rural areas is to provide financing. Whether we are speaking of community facilities, commercial developments, acquisition of land for farming purposes, or any other aspect of economic enterprise, the financing is the vital element, and heretofore has been the most difficult. The Rural Development Act recognizes this, and provides solutions. It authorizes the guaranteeing and the making of loans for commercial and industrial enterprises to start from the ground up or to expand in rural areas. It recognizes the need for community facilities to support such business enterprises, and authorizes grants and loans for water systems, waste disposal systems, access roads to industrial areas, streets, gas and electric systems, community centers, firehouses, and other similar necessities required to attract and hold business enterprises.

The importance of the family farm to rural areas is thoroughly recognized in the legislation. New farm credit programs are provided. Farm ownership loans are liberalized; farm operating loans are increased in size and are made available to 4-H Clubs, Future Farmers, and similar organizations; and farm real estate loans are made eligible for interest subsidies where necessary to keep a low rate of interest. Long-term contracts are made available to farmers for conservation practices on their lands.

For water supplies for municipal and industrial use, cost sharing is provided under the bill for watershed projects of the Soil Conservation Service and for resource conservation and development projects. Cost sharing is also provided for pollution abatement projects of all kinds. Technical and financial assistance is made available for fire protection in rural areas, and colleges and universities are given responsibility for research and technical assistance in all rural development programs. New rural housing programs are established. The bill is intended to give stimulus to every aspect of rural life, to bring the economic prosperity to those areas that is essential if population movement away from rural counties is to be halted. And if rural revitalization is accomplished, this will go a long way toward easing the many problems in the large cities, for the migration toward them from rural areas will cease. We need a balanced development of industry and agriculture throughout our country, and a balanced availability of opportunity for our citizens.

I am pleased with the authorizations provided by the Rural Development Act of 1972. However, this is only the first step. These programs have to be funded and Congress must continually followup to see that the intent of the legislation is carried out. As a member of the Senate Appropriations Committee I intend to help to see that the programs are soundly funded and well carried out. For the first time, the laws are available to help our rural areas to attain prosperity, and I intend to do all I can to see that this is accomplished.

BUSING AND SCHOOL DESEGREGATION

This year I have once again given considerable attention in the Senate to the problems of our public schools, and I feel that we have made progress and that this year has produced some really hopeful developments for the parents and schoolchildren of Mississippi.

Since 1969, when I first revealed to Congress and to the American people that public schools in the North and West were often far more racially segregated those in the South, and that the massive Federal desegregation drive directed against the South alone was a monumental exercise in hypocrisy, lawsuits to desegregate a few Northern and Western schools have slowly and inevitably progressed through the courts until finally, this year, busing and school desegregation have indeed come home to the North. As I had predicted, reaction against Federal interference with local schools has been just as ardent and hostile in the North as it was and continues to be in the South. Now the citizens of Michigan, California, Colorado, New York, Massachusetts, Wisconsin, Indiana, and other Northern and Western States have begun to appreciate a little bit of what we in the South have suffered, and just what it means when HEW and the Federal courts begin running the schools. Parents of schoolchildren in all parts of the Nation now realize that the problems of busing and Federal interference with local schools are truly national and not Southern problems. As this truth has begun to sink in, Senators from throughout the country have joined me in seeking legislation to halt forced busing and other abuses. Senators from all parts of our Nation have joined me in calling for a uniform national policy on school desegregation that all of us could live with, which would be reasonable and sensible and would assure to every child in America a quality education at his own neighborhood school.

Now that busing has come home to the North and West, it has become a major issue in the elections not only for President and Vice President, but for Senators and Congressmen as well. As primary elections were held and citizens all across the country expressed even more fervent opposition to forced busing, I called on Congress to act against forced busing, and also challenged all candidates for election to public office to take a firm stand on this vital issue.

As I had hoped, Congress in 1972 at last began to take serious and meaningful action toward solving our national school problems. In February of this year a Senator from Michigan introduced an amendment to the Education bill which would have taken away all power from Federal courts to order busing of schoolchildren and would have forbidden HEW from cutting off funds to schools which refused to bus. That amendment, which I vigorously supported in lengthy debates on the Senate floor, at first passed on a preliminary vote of 43–40, then was finally defeated by a single vote of 48 to 47.

Two other provisions in the education bill did pass, however which constitute real movement in the right direction toward solving some of the worst of our school problems.

The first, known as the Stennis amendment because I was its original sponsor, requires uniform nationwide application of school desegregation rules, and thereby forbids the discrimination which had so long been practiced against the South. When I first introduced my amendment as an addition to the Elementary and Secondary Education Act in 1970, it passed the Senate by a vote of 56–31. The amendment made it the policy of the United States Government that Federal guidelines and criteria must be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in local public schools. This positive step toward equal justice for the South was then severely amended by the joint House-Senate conference committee and rendered ineffective. We were not discouraged, however, and again in 1971 I introduced the Stennis amendment in its original form. Once again it passed the Senate and once again the joint conference committee rendered it largely ineffective by amendment to accomplish its intended purpose.

In 1972, however, our persistence paid off. The Stennis amendment passed both the Senate and the House and was agreed to by the conference committee in basically its original form, without weakening amendments and is now the law of the land. In any future actions the Federal Government will be required to treat all regions equally in school desegregation cases and will never again be abe to single out the South for special, unfavorable treatment.

The second important provision included in the 1972 Education bill, known as the Broomfield amendment for the Congressman from Michigan who sponsored it, placed a moratorium, or temporary halt, on all court-ordered busing for racial balance for a period of 18 months. I warned my colleagues at the time the Broomfield amendment was voted on that it would probably not be effective because the courts could say that they were ordering "desegregation" and not "racial balance." In the end I voted for the amendment anyway because I felt it was at least a first step in the right direction since it put Congress on record for the first time as firmly opposed to busing. Regrettably, as I had foreseen, Federal courts have thus far declared the amendment inapplicable in most cases. But the Broomfield amendment was by no means Congress' last word on busing and other school problems this year, and its passage was a definite bipartisan, national show of strength by our antibusing forces.

1972 was also important for us because this year for the first time, after I had long urged him to do so, the President of the United States publicly declared himself totally opposed to forced busing, promised in a special message to Congress to use the full weight of his office against it, and appointed a special commission to study ways of stopping it. Based on that Commission's report, the President this year submitted a bill to Congress which proposed to: first, halt all new busing orders until July 1973; second, forbid absolutely all busing of children below the seventh grade, whether the busing orders were already in effect or not; and third, use Federal financial aid not for busing, but to improve inferior schools so that children could attend quality schools in their own neighborhoods rather than busing the children far away from their own homes to distant schools in other neighborhoods.

This bill, known as the Equal Educational Opportunities Act, for the first time promised tangible relief to the South because it authorized local school boards in the South to reopen school desegregation orders which did not comply with the bill, and recognized that the only goal of schools was to provide quality education equally to all children, but with the neighborhood as the only reasonable basis for school assignments, and firmly denounced and forbade busing to any school except the one nearest or next nearest the student's home. That bill passed the House of Representatives by an overwhelming vote after being strengthened to forbid busing of all students, not only in the first six grades, but all the way up through the twelfth grade. An amendment forbidding busing even to the next nearest school failed on an extremely close vote.

In the hectic closing days of the Senate session a liberal filibuster prevented the antibusing bill from coming to a vote. On three successive days we attempted to cut off the debate and force a vote on the bill. Each time we achieved a majority vote, once 45 to 35, once 49 to 39 and once 49 to 38, but each time we failed to receive the two-thirds vote needed to close off debate and to bring up the bill for final passage.

I am highly encouraged, however, by the fact that we now have the voting strength to pass the bill once we overcome the filibuster. We shall bring up the bill again at the beginning of next year, and hopefully with additional time will break the expected liberal filibuster and put an end to the excesses of forced busing once and for all.

THE SUPREME COURT

Equally important developments have occurred in the Supreme Court, whose role in the busing dispute will no doubt be vital. With the appointment of four new justices, the balance of power on the court has begun to swing away from its far-left leanings of the recent past. Although not all decisions this year showed that change, several of them did. In a school desegregation case from Emporia, Va., the four new justices all dissented from the five-man majority's desegregation ruling. The case is important because it is the first since the fateful Brown case in 1954 in which the Supreme Court was not unanimous, and it shows a definite turning point in Supreme Court philosophy.

Similarly, in the area of criminal law, although the five "holdover" justices voted to declare the death penalty unconstitutional this year, the four new appointees all dissented, arguing forcefully that capital punishment was an appropriate penalty in cases of murder or rape.

Although I am wary of too much reliance on mere statistics, the records of Supreme Court decisions since all four new justices have been on the bench show an unusual consistency in their return to judicial conservatism. In the cases on which the Supreme Court disagreed last year, the four new justices voted together 54 out of 66 times. In the cases where the court split by 5 to 4 vote, the four new justices voted together 13 out of 18 times. I cite these figures not to show that these justices somehow often vote the same way, which is not the case at all, but to show that they honestly share a common philosophy of judicial conservatism, which adds some much-needed balance to a Supreme Court which has all too long leaned far to the left.

In the coming term, the "new" Supreme Court will consider one vital school desegregation case in which the Court will have to decide whether the public schools of Denever, Colo., must desegregate their student bodies as schools throughout the South were required to do. The Denver school board is arguing that since Colorado had no State law requiring racial segregation of public school students the school board should not be required by the courts to integrate as the South was forced to do. Also, before the Court in the near future will be forced busing cases from Detroit, Mich., and Richmond, Va. Hopefully, in my next year's report to the people I will be able to note further progress in the tendencies of the Supreme Court toward conservatism and judicial restraint and that the long and often bitter fight we have waged in the Senate in the past few years to confirm more conservative justices will not have been in vain.

FORESTRY

All matters concerned with forestry are of great importance to our State. There are a total of a little more than 30 million acres of land in Mississippi, and of this more than half, about 17 million acres, is in forest land. A substantial part of the industrial enterprises in our State is based upon forest products. With these facts in mind, it is natural that I should have a strong interest in forestry matters, and that my efforts as a Senator should reflect this interest.

As you know, at the level of our State government, forestry matters are handled by our very fine State Forestry Commission, and an extremely competent professional staff operating under the State Forester. I assist them in every way I can, insofar as their work is affected by Federal authorizations and appropriations, but in as much as my work is at the national level of Government, I am naturally more deeply involved in the forestry operations and research of the Forestry Service, and the Department of Agriculture, and in forestry legislation of national application.

This year I have devoted considerable time and effort to legislation that is intended to meet an impending national problem in forest production. In the next 30 years the needs of the Nation in lumber, pulpwood, and other forest products will double. Much of this additional need will have to be produced in the South, where the long growing season and abundant rainfall lead to excellent rates of timber growth. Also, of the increased production, a very substantial part must come from privately owned nonindustrial forest lands. Over 300 million acres throughout the country fall in this category, and average growth on these lands is only one half the capacity. In Mississippi our average growth of wood is 52 cubic of wood per acre a year, as against a possible potential growth of 90 cubic feet on each acre each year.

On February 2 I introduced the Forestry Incentives Act of 1972. The purpose of this bill is to stimulate the growing of additional forest products on small nonindustrial private and non-Federal public forest lands.

Under the Forestry Incentives Act it will be possible to plant or improve 45 million acres in the next 10 years, and add 9 billion board feet of timber per year to the annual national harvest. And I want to stress that this is a national program in every respect. For example, in the North Atlantic Region, 68 percent of all the lands are forest lands, and of these, 70 percent are in private ownership. In the East there are 300,000 idle acres that are preeminently suited for growing the most valuable kinds of hardwoods.

Briefly, this bill would:

First, authorize the Secretary of Agriculture to carry out a forestry incentive program to encourage the protection, development and management of nonindustrial private and non-Federal public lands. Landowners would be encouraged to plant seedlings where needed and apply such cultural treatments as are necessary to produce timber, expand recreational opportunities, enhance environmental values, protect watersheds and improve fish and wildlife habitat.

Second, authorize the Secretary to share up to 50 percent of the cost of forest practices on non-Federal public lands; and up to 80 percent of the total cost on nonindustrial private lands. This covers, primarily, 80 percent of the cost of seedlings and their planting, and is of particular importance to the small and medium size privately owned farms.

Third, utilize the services of State and local ASCS committees established under the Soil Conservation and Domestic Allotment Act. These committees, now composed primarily of agriculturists, also include representation of forest owners, forest managers and wildlife or other natural resource interests.

Fourth, allocate Federal funds for cost sharing on a bid basis with priority accorded landowners contracting to carry out approved forestry practices for the smallest Federal cost share. This provision will spread Federal funds over a larger acreage.

Fifth, require the Secretary of Agriculture to investigate the effectiveness of loans, loan guarantees and annual payments for periods not exceeding 10 years as methods of achieving the objectives of the forestry incentive program.

Finally, require the Secretary of Agriculture to consult with State Foresters so that the forestry incentive program will be carried out in coordination with other related programs.

It will be recalled that the soil bank program resulted in a large increase in forest lands. From 1956 through 1964, 2,154,000 acres were planted. In spite of losses of some of these lands to highways and other developments, 90 percent of these lands are still bearing trees and are a major factor in our growth needs for future decades. The provisions of the Forestry Incentives Act will stimulate a similar but much greater expansion of wood production for the 1980's and 1990's, and beyond.

There are other benefits from the program that might be called indirect benefits because they are not directly addressed in the provisions of the legislation, but they are very real and valuable. This program helps relieve unemployment without any requirement for extensive training. In the future there will be more and larger job increases, from the harvesting, transporting, and processing of the timber. All of this contributes toward the revitalization of rural areas, so important throughout the country. The program combats the rising prices for wood products caused by limited timber growth. Also, there are the purely human benefits, such as environmental improvement, and outdoor recreation such as camping, for which opportunities are becoming limited.

The costs of this program are estimated to start at about $25 million a year, and the bill provides for this amount to be authorized annually. Ultimately the costs are expected to average $88 million a year. It is a long-term program, furthermore, and the needs for reforesting private lands throughout the country are great, so that the total costs eventually will be quite sizeable. There is, however, little choice as to whether we must try to solve the wood shortages of the future. The only choice is how to go about it.

My bill was favorably reported from the Senate Committee on Agriculture and Forestry by unanimous vote, and it was passed by the Senate without opposition in May.

In the House of Representatives, the companion bill, which was introduced by Congressman SIKES of Florida, unfortunately remained in committee as the Congress drew to a close. I regret very much that time and circumstances prevented the bill from passing in the House, so that it might become law this year. Nevertheless, I am encouraged by the progress that it did make in less than a year's time. I have received some assurances from key congressional figures in the House that similar legislation will be given early attention in the new Congress.

You may be sure that I will begin again in the next session to press for passage of this legislation. It is essential to the small tree farmer and to the fulfillment of our growing national requirements for forest products.

Research is an essential part of a healthy and flourishing forest industry. This year marks the 10th anniversary of the McIntire-Stennis Act, which provides for cooperative forestry research in the State colleges and universities that have forestry departments or train forestry students at the graduate level. Under this program each Federal dollar is matched by a non-Federal dollar, and it is a strong and growing program in 61 colleges and universities.

The program began at an annual level of $1 million a year, and is now budgeted at about $5 million. This year I was able to increase this to about $6.5 million, and I hope that the increase will be released by the President soon for use in this very constructive program.

I might add that I was deeply touched by the ceremony held at Mississippi State this spring, marking the 10th anniversary of this program. It was attended by distinguished members of the forestry community from all over the Nation. I was pleased that former Congressman McIntire of Maine, who joined with me in the original legislation, was present for the banquet.

Also, there are four federally financed permanent laboratories in Mississippi—at Gulfport, Stoneville, State College, and Oxford. I am glad to say that over the years I have had a role in the funding of all of them.

With respect to the Gulfport Laboratory, I testified to the Appropriations Committee in 1958 recommending $2.5 million for forestry research for forest genetics, planting, fire, insects, and tree diseases, including $350,000 for facilities at Gulfport. These funds were passed by the Senate and retained in conference. I was able to add additional funds for Gulfport in 1961 and in subsequent years, including $140,000 passed for fiscal year 1973.

In 1959 I testified to the Appropriations Committee for forestry research funds, including $300,000 for a laboratory at Stoneville for Southern hardwood research, and gave a speech on the floor on the same subject in 1960. Funds were provided for Stoneville in fiscal year 1961, and supplemented at my instigation in fiscal year 1962 and subsequently, including $350,000 for additional research passed by the Senate for fiscal year 1973.

Four years of effort culminated in construction in fiscal year 1969 of the Forest Tree Seed Laboratory operated by the Forest Service at Mississippi State University, and I have helped to see to the annual funding of the programs at that laboratory.

Funds for the Forest Soils and Hydrology Laboratory at Oxford were added in the House for fiscal year 1967, and were held in the Senate. The cost of this facility was $450,000, and annual funding of the programs has received my regular attention.

All of the programs and activities in which the Federal Government has a part are very carefully coordinated with the work of our State Forester and our State Forestry Commission.

In addition to the activities discussed above, there are, as most Mississippians know, six national forests in our State. In calendar year 1972, the U.S. Forest Service expended $11,936,860 in Mississippi. Some of the larger items that made up that total were $2,725,000 for national forest protection and management, $2,420,000 for forest research, $758,000 for State and private forestry cooperation, $1,040,000 for forest roads and trails, $1,200,000 for cooperative work of the Forest Service, $1,327,000 for watershed work and flood prevention, and $1,594,260 for payments to the State from the national forest fund.

The forests of the South are undergoing a great revival, after being decimated by heavy cutting early in the century. I am proud that our State is playing a leading role in this vast forestry effort. It will continue to receive my close attention in my work in the Senate.

PUBLIC WORKS PROJECTS

Our State is fortunate to be so richly endowed by nature with many fine, clean streams, lakes and reservoirs. Our water resources are among our most valuable assets, and their proper development is one of the most vital factors in our future economic growth. The development of water resources can be carried out in harmony with the preservation of the natural beauty to be found in Mississippi, and the careful consideration of environmental values is an essential part of all planning and construction of impoundments and waterways. The program must be carried out in an orderly atmosphere of coordinated planning aimed at the greatest public good.

As I have indicated elsewhere in this report, I am privileged to chair the Public Works Subcommittee of the Senate Appropriations Committee. We have jurisdiction of the funding of various agencies which have public works programs, such as the Bureau of Reclamation and the Atomic Energy Commission, but for the purposes of our State, the most important agencies are the Corps of Engineers, the Tennessee Valley Authority, and the Appalachian Regional Commission. The Appalachian program is covered in a separate section of this report.

The Public Works Appropriations Bill this year provides $3,504,000 for TVA to complete Yellow Creek Port. This barge, rail, and industrial park facility is a cooperative venture between TVA and the State, with additional county effort. Located in Tishomingo County, on an arm of Pickwick Lake, the Port will provide a cargo transfer point between rail and highway traffic and the river barge route on the Tennessee River waterway system. Congressman Jaime Whitten and I have cooperated in pressing for this project, as well as others in our State. Yellow Creek Port holds great promise for the economic development of the northeastern corner of Mississippi.

I am very encouraged by recent developments with respect to the Tennessee-Tombigbee Waterway. This vast project when completed will provide a waterway for barge traffic linking the Tennessee River System on the north with the port of Mobile on the south. It will have tremendous national and regional economic benefits, and in particular it will provide a very strong stimulus to economic and industrial development along its route in western Alabama and eastern Mississippi.

The first appropriation for construction was made by Congress two years ago, and added to both last year and this year, in amounts totalling 18 million dollars. However, a law suit filed by an environmental organization has delayed the start, and it was not until August of this year that the way was cleared to advertise the first contract, for construction of the Gainesville lock. The contract has been awarded, and as this report is being written plans are underway for a groundbreaking ceremony at Gainesville.

I am also pleased with developments concerning Tallahala Creek Lake, in Jasper County. Over a period of several years I have been adding money to appropriation bills to accomplish the engineering design of this project. There have been delays caused by impoundment of this money in budgetary reserve, but these troubles have now been overcome. I was able to get the administration to include in the budget for this fiscal year all of the remaining money to complete design, an amount of $400,000. This made the project eligible for start of construction if the money could be provided. I was able to add $350,000 more for construction, and if that money does not become frozen by the administration, actual work on the project should begin about next May.

The Tallahala Creek Dam and Lake will provide flood control and water supply for the Laurel area. For the State of Mississippi, the Pat Harrison Waterway District serves as sponsor for the project, which will have a total Federal cost of $19,200,000, and will return about $2.30 in benefits for every dollar of cost.

Under the project for the Mississippi River and Tributaries I was also able to add funds for work beneficial to our State. These additions were for work on levees and bank revetment on the main river and flood protection and drainage in the Yazoo River Basin.

Every major sized public works project must be specifically authorized by legislation before it can become eligible to be funded in an appropriation bill. This year, in late September, the Senate passed an authorization bill for flood control projects, and I was able to have included in it two major Army engineer projects for Mississippi. They are Edinburg Dam and Lake in parts of Leake and Neshoba Counties and Bowie Dam and Lake in Covington County. It was necessary to push ahead throughout the executive branch to get these reports processed through all the agencies and passed through the Office of Management and Budget to Congress in time for consideration. Unfortunately there were other Mississippi projects that because of the shortage of time before adjournment did not complete processing in time to reach Congress and so will have to be authorized in a future bill. In any case, I am pleased that these two large projects were authorized in our State.

Edinburg Dam, west of Philadelphia and near Edinburg, is a part of a comprehensive plan for development of water resources in the Pearl River Basin. Its estimated cost is $38.2 million, and it is to provide flood control, water quality control, recreation, and fish and wildlife benefits. The sponsor for this project is the Pearl River Basin Development District.

Bowie Dam, near Hattiesburg, is a part of the comprehensive plan for water resource development in the Pascagoula River Basin. To be built at an estimated cost of $32.4 million, it is for flood control, water quality control, fish and wildlife, and recreation. It is sponsored by the Pat Harrison Waterway District.

In the subsequent House authorization bill there was included a pilot program for control of bank erosion in the Yazoo Basin Delta and hill areas, at an estimated cost of $9,500,000. All three projects then were accepted in conference and included in the final version of the authorization bill.

The next step for these projects is for them to be voted funds by Congress to start engineering design. I hope to be able to accomplish this next year. Any action that will quicken the development of the water resources of our State is a step toward prosperity in the future.

MISSISSIPPI TEST FACILITY

Three years ago, based on progress of the moonshot program, the National Aeronautics and Space Agency phased out production of the Saturn rockets used in these space flights. These rockets had been tested at the Mississippi Test Facility—MTF—in Hancock County, and had been shipped from there to the Kennedy Space Center in Florida for use in the moonshots.

Without this testing program MTF appeared to be doomed to shut down. This would have been a disastrous economic blow to our gulf coast area, and in addition it seemed clearly unwise to close down such an expensive modern facility without exploring all possible alternative uses. Together with other members of the Mississippi delegation in Congress I have made strong efforts to see that other Government agencies, with expanding programs, make use of the existing facilities at MTF and the support capabilities of the NASA organization. We have been successful in assembling at MTF a diverse group of agencies, all engaged in scientific research operations. They have made good use of the facilities, and are also profiting from being located together, where they can readily interchange information.

These activities at MTF have continued to grow during 1972. We now have 12 different Federal programs operating there, and are still making further progress. In the appropriations for fiscal year 1973 I was able to obtain in the Senate bills two additions of funds to be used at MTF. One would provide for the establishment there of a regional environmental laboratory for the National Park Service. The other would make money available so that the U.S. Geological Survey can provide data to the States of Mississippi, Louisiana, and Arkansas from the new earth resources technology satellite program. The information from this satellite system, which deals with all land and water resource problems, will be very useful to State planners, and to Federal research laboratories within our State.

In addition, 1972 has seen assurances that MTF is to share in the work on the coming Space Shuttle program of NASA. This reuseable satellite is the space program of the 1970's. The main engines, I am glad to say, are all to be tested at MTF. I think this decision demonstrates that it would have been unwise to place the Mississippi Test Facility on a stand-by shut-down basis after the Saturn program.

HIGHWAYS AND AIRPORTS

As you know, your gasoline taxes support the bulk of the programs that provide for the construction and safety of our highways. Your Federal taxes go into the national highway trust fund. In calendar year 1972, about 40 million dollars in money from this Federal fund is being invested in Mississippi roads and highways.

In the first 7 months of 1972 alone, Federal funds in the amount of $30,005,636 were authorized in Mississippi, for highway-related projects with a total cost of $42,918,722. This work is done, of course, under the supervision of your very competent State highway commission and State highway department. The money financed 179 miles of road and 63 bridges. In addition hazardous highway areas were given special consideration and treatment, railroad crossing signals were installed, junkyards were removed or screened under the highway beautification program, directional signs placed, drainage improved, and slopes protected.

Under the national highway traffic safety program, some 28 grants are being made in Mississippi, in a total amount of about $1,100,000. These grants involve such endeavors as driver testing, films, simulators, support to emergency medical assistance, control of drinking drivers, traffic engineering, and other very worthwhile efforts to reduce the tragic accident toll on highways.

Federal assistance for airport development is also significant to our State. In 1972, 12 grants are being made in Mississippi, in a total amount of $3,124,354. The largest of these grants are for airport improvements at Gulfport, Jackson, Bay St. Louis, and Holly Springs. Other grants went to Crystal Springs, Houston, Kosciusko, McComb, Waynesboro, Wiggins, and Tylertown.

EDUCATION FUNDS

We are all very fully aware of the many difficulties that have been encountered by our public school systems in the last several years because of Federal rulings, guidelines, and court decrees. These aspects of our school problems are discussed in another section of this report, and as indicated there, I am hopeful that in the long run we will reach an equitable solution to these problems.

The education of our children and young men and women is tremendously expensive. It would be well if I reviewed briefly the Federal funding available to our education programs, so that this can be considered as a part of the overall picture of our dealings with the Department of Health, Education and Welfare in school matters.

In 1972, funds received in Mississippi from the Office of Education of HEW totals $93,255,000. This very substantial sum is used throughout our elementary and secondary school systems, our colleges, and in associated educational endeavors.

The major part of this money, about $56,900,000, goes to elementary and secondary education. About $19,800,000 is used for our colleges and universities. Vocational and adult education receives about $8,700,000. Many other useful purposes are funded, such as professional development of our teachers, education of the handicapped, and matching funds for our very fine State public library program.

HEALTH, CARE, AND INSURANCE PROGRAMS

Very large sums from the Federal treasury are allocated to States for health and care programs. In calendar year 1972, Mississippi will receive as grants for public assistance about $243,700,000. This money is used for maintenance assistance to needy persons, such as the aged, blind, disabled, and dependent children deprived of parental support or care. It is used for medical assistance of many kinds, and for social services programs for children, the handicapped, disabled, and needy. An additional $14,000,000 will be expended for rehabilitation services and facilities to assist mentally and physically handicapped persons to prepare for and obtain employment.

Additional grants are received by the State for specified health programs, in the amount of about $19,500,000. These are distributed through the Health Services and Mental Health Administration and the National Institutes of Health, and are extremely useful in meeting the research and treatment needs of the many victims of accident and disease.

In addition to the above programs for health and care, the social security program in Mississippi will total about $452,500,000 in 1972. The bulk of this, about $315,400,000, is for old-age and survivors insurance benefit payments. Another $54,000,000 is for disability insurance benefit payments. These social security payments are all under programs in which the recipients have earned the benefits, and for which they have paid social security taxes through the years.

RURAL WATER AND WASTE SYSTEMS

Rural community water works and waste disposal systems are extremely important to the health of our rural areas, and they are essential in attracting new businesses, light industry, and new residents in those areas. To foster and encourage the construction of these systems, the Farmers Home Administration of the Department of Agriculture makes loans and grants to local governments and to nonprofit organizations. Construction grants may not exceed 50 percent of the cost of the system. Interest rates on loans may not exceed 5 percent and the length of loans may not exceed 40 years. The projects must serve residents of the open countryside or residents of towns of less than 5,500 in population.

In 1972 in Mississippi, 169 loans were made, in 68 different counties, totalling $24,777,500. The two largest loans were $1,050,000 to the Alcorn County Water Association, and $913,000 to the West Lamar Utility Association. Loans of over half a million dollars were made to Wesson, Hazlehurst, North Covington Water Association, Olive Branch, and Southwest Jones Water Association, and there were many other loans in excess of $200,000. It can be seen from these figures that these are enterprises of considerable magnitude and scope.

Thirty-seven grants were made for water or waste systems in Mississippi this year, totaling $1,822,100. Six of these were for $100,000 or more, to the town of Derma, Harmony Water Association in Clarke County, North Covington Water Association, Poor House Water Association in Grenada County, Town of Artesia, and East Madison Water Association.

With the passage of the Rural Development Act of 1972, which is discussed elsewhere in this report, increased authorizations are available for rural water and waste systems, and increased emphasis is placed upon their importance in the revitalization of the rural areas of our nation. I intend, as a member of the Agriculture Appropriations Subcommittee of the Senate Appropriations Committee, to continue my efforts to see that these programs receive a more rapid rate of funding.

I believe it should be a goal to strive toward to have every rural community in Mississippi served by a good water system and an adequate sewage disposal system and treatment plant. The goal will take time and effort to attain, but it is possible to achieve it, with time. This will be one of the real keys to the consistent growth of our economy, the health and well being of our people, and the preservation of our environment.

URBAN WATER AND WASTE SYSTEMS

Just as the Farmers Home Administration provides financial assistance for rural water and waste systems, so do three other Federal agencies have programs to assist towns larger than 5,500 population with water and sewer projects. These are the Department of Housing and Urban Development, the Environmental Protection Agency, and the Economic Development Agency. Each provides these grants for different reasons, and under authorities of different laws, but the end results are the same. Our towns and cities are able to obtain much needed financial assistance in providing essential public facilities that are very expensive and difficult to finance entirely out of local resources.

The Department of HUD makes such grants as a part of their community development program. In addition, this Department also makes loans for building public facilities. This year HUD is making grants in Mississippi for water and sewer systems that total almost $3 million, and loans of about $750,000. Among the cities that have supplemented their large local investments with HUD grants for water or sewer systems are Iuka, New Albany, and Amory.

The Environmental Protection Agency makes wastewater treatment construction grants as a part of the Federal program to maintain and improve the quality of water in our rivers, lakes, and streams. This year EPA is making over $16 million in grants for treatment plants, sewers, and pump stations. Twenty-six Mississippi cities and towns are utilizing these grants to assist in improving their public facilities. Grants over a million dollars each were made at Jackson, Grenada, and Oxford; about half a million dollars at Pascagoula and Vicksburg; over $100,000 at New Albany, Union, Greenville, Hollandale, Inverness, Lambert, and Wesson; and in lesser amounts to many towns. From a Federal point of view the construction accomplished with these grants is a valuable part of the national drive to improve the environment by keeping the waters of the country clean, and from a State and local point of view the grants enable communities that are already hard pressed financially to provide facilities that they must have if they are to continue to grow and to develop their economies.

The programs in this field of activity carried out by the Economic Development Agency are discussed with the other programs of that agency in the section of this report that follows.

ECONOMIC DEVELOPMENT PROJECTS

The Economic Development Administration, established by the Public Works and Economic Development Act of 1965, assists in developing the economy of areas where unemployment is above average or where family income rates are lower than average. Grants and loans are made by EDA for public works, such as water and sewer systems, that will encourage economic growth. Business loans are also made to establish industrial facilities and increase payrolls in these areas, to improve the economic situation.

So far in Mississippi in 1972, as this report is written, the EDA has made expenditures of $4,759,311, and other applications are pending.

Grants were made for 14 water or sewer systems in amounts varying from $23,400 to $1,077,000. Seven other water and sewer grants were made as supplements to grants from other Federal agencies, in amounts up to $180,000.

EDA grants were made for development of industrial parks in Copiah and Harrison Counties in the amounts of $133,000 and $419,000 respectively, and for $590,000 for industrial port development in Hancock County. Twenty two grants were made for planning and technical assistance in developing projects to improve economic conditions, and a business loan of $27,800 was made in Sunflower County for a vegetable processing plant.

I intend to press for approval of the remaining applications that are pending for the year. These are excellent programs, very useful in developing our economy, and I am pleased with the success we have had in obtaining them.

THE GUNBOAT "CAIRO"

As I indicated in my report to you last year, I have been working on legislation that would provide for the reconstruction and restoration of the Gunboat *Cairo*, and for displaying it at the National Military Park in Vicksburg. I prepared and introduced a bill in April 1971, together with Senator Eastland, to accomplish this. A similar bill was introduced in the House by the Mississippi delegation there.

I am glad to say that after much effort and numerous delays, the bill has been passed by both the Senate and the House, agreement reached on a compromise solution between the Senate and House versions of the bill, and the legislation has been cleared to send to the President to sign in to law. This is the authorization for the project, of course, and not the actual appropriation of the money to accomplish the work. The latter will be a subsequent congressional action, which I hope can be accomplished in the next Congress.

The Gunboat *Cairo* was one of seven ironclads which were part of the Union Western Flotilla. The *Cairo* was a part of the Mississippi River Squadron and participated in the campaign against Vicksburg. She was sunk in the Yazoo River on December 12, 1862, by two electrically detonated underwater mines, then called torpedoes. The vessel was raised during the period 1960-63. It is now at a shipyard at Pascagoula, and the many artifacts recovered with it are in storage.

The *Cairo* had been launched at St. Louis in January, 1862. The vessel was built by James B. Eads, who built the Eads Bridge over the Mississippi at St. Louis, and designed and built the jetties at the mouth of the Mississippi River. She is 175 feet long and 50 feet wide, and the wooden hull is covered with 2½ inches of iron armor plate.

This unusual vessel, with its many artifacts, will be a unique historical exhibit, and when displayed in the military park in Vicksburg, will help to draw many additional visitors to Mississippi.

WATERSHED PROJECTS

Mississippi receives much fine assistance from the Soil Conservation Service of the Department of Agriculture. The SCS works with soil and water conservation districts, State planning and development districts, county governments, towns, landowners in land treatment measures, soil surveys, structural measures for flood protection, resource conservation and protection, water supply, and recreation projects. They provide expert technical assistance and serve as the agency through which Federal funds are provided for watershed projects under Public Law 566 of 1954, and flood protection projects under the Flood Control Act of 1944.

In 1972, $8,343,220 was obligated for watershed and flood protection projects. This included almost $4 million for 14 watershed projects in 26 counties. The projects underway include Chunky River, Muddy Creek in Tippah County, Second Creek in Adams County, Tescumbia River, Upper Bogue Phalia, Chiwapa, Standing Pine, Town Creek in Lee, Pontotoc, Prentiss, and Union Counties, Tri-County Hopson Bayou, Big Creek in Jasper, Jones and Smith Counties, Chuquatonchee, Holliday Creek, Richland Creek, and Upper Leaf River.

Flood prevention projects were allocated $4,415,000. These included five projects in the Little Tallahatchie Basin, in Benton, Marshall, Tate, Yazoo, Carroll, Montgomery, Chicasaw, Webster, Grenada, Tallahatchie, Yalobusha, Lafayette, Holmes, and LeFlore Counties.

This is very effective work that is being done to conserve the irreplaceable natural resources of soil and water and protect the environment. I intend to continue to support these and future SCS projects strongly.

APPALACHIAN COMMISSION PROGRAMS

In 1967 an amendment I offered in the Senate resulted in a change to the Appalachian Regional Development Act of 1965, so that the 20 northeast counties of Mississippi became eligible to participate in programs financed by the Appalachian Regional Commission. The purpose of these programs is to stimulate the economy in the areas covered by the act, which extend southwesterly from a part of New York State to the northeastern part of our own State.

We are in the fifth fiscal year since my amendment was approved. Since that time projects with a total cost of over $70 million have been completed or approved. About $25.5 million in Appalachian funds, $20 million in other Federal funds, and $24.5 million in locally raised money have been expended or budgeted for these projects.

During this calendar year projects with a total cost of over $21 million have been funded, utilizing $7.2 million in Appalachian money, and $9.5 in other Federal funds, together with almost $5 million in State and local money.

These are projects of many varieties, but all serve purposes of health, education, or economic development. They include access roads to industrial parks, vocational training facilities, expansions of hospitals and other health facilities, water and sewer systems, child care and training facilities, and the improvement of junior college equipment and buildings. Among the largest projects are the New Albany water and sewer project with a total cost of $2.3 million, the Alcorn Water System at a cost of over a million dollars, and the Columbus sewage treatment plant at a cost of over $5 million.

As the chairman of the Public Works Subcommittee of the Senate Appropriations Committee, I have the opportunity to review carefully the budget submissions for the Appalachian Commission programs. These projects accomplish much good, and I am pleased that Mississippi has taken full advantage of them, within the 20 counties that are eligible.

I have voiced my view to the Appalachian Commission that it is time that the Appalachian corridor highway program, which to date has not come south of Tennessee or west of Georgia, be extended to Mississippi. I will continue to seek authorization and funding for this extension.

NATIONAL PARKS

Last year, when the Gulf Islands National Seashore was established on some of the islands off our gulf coast, this made the U.S. National Park in our State. The other two, of course, are the Natchez Trace Parkway and the Vicksburg National Military Park.

These national parks are a great asset to our State, and I make a special effort to support their activities. They are very convenient for Mississippians to visit, and in addition they attract many people from outside the State, and constitute an essential part of our growing tourism industry. The National Park Service does a fine job of running the parks, and should be congratulated for the high standard of appearance that is maintained on the premises and the unfailing courtesy their employees show the public.

Further, the National Park Service spends a very considerable amount of money in our State. This year $700,000 will be spent at the Gulf Islands National Seashore, almost $4 million at the Natchez Trace Parkway, and over $400,000 at the National Military Park in Vicksburg. These amounts of money are a significant addition to the growing economy of our State. It is good business to have the parks, as well as a pleasure to be able to enjoy them.

THE U.S. NAVAL HOME

I am very pleased that the United States Navy has chosen Gulfport, Miss., as the site of its home for veterans. The Navy Home has been located in Philadelphia, Pa., since the mid-1800's. The mission of the U.S. Naval Home is to provide an honorable and comfortable home for old and disabled personnel of the Navy, Marine Corps, and Coast Guard, while operating as a part of the Navy, who are entitled to benefits of the institution.

The cost of renovating the present home would have been too great and prospects for expansion too limited to justify spending the large sums of money to support it due to crowded conditions there. The Navy decided that the location in Gulfport would save the Government money and provide better services and facilities for the men who live in the center.

The Navy completely reviewed its needs and based its recommendation to move to Gulfport on several factors, including the availability and desirability of existing Government-owned property in the gulf coast area and the fact that a Veterans' hospital and the Navy's Seabee base are located there. The Navy Home will be constructed on the site of the former Gulf Coast Military Academy, which is presently Keesler Air Force Base Annex Three. The Air Force personnel now stationed at the Annex will be transferred to facilities at the main Keesler base in Biloxi with no loss of jobs or manpower.

The Gulfport site was chosen after an exhaustive study of many sites all over the nation. The Navy narrowed its list down to six possible sites and conducted extensive investigations to select the site most likely to save tax money and to provide the best possible services to the veterans who will use the facility. The fact that our gulf coast was selected is further proof that our State is blessed with a most attractive climate and favorable living conditions.

The Navy expects that by 1975 the facility will house some 600 retired sailors and marines, in contrast to the 262 residents now housed at the Philadelphia installation. The annual salaries for civilian employees at the Naval Home presently total over $1 million, and this payroll will increase with the increased number of residents. A high-rise, apartment-type complex will be constructed at the site to provide living space for the retirees. Roads, support facilities, and administration buildings will also be built, making this one of the finest installations of its kind. The estimated ultimate cost of the project will be approximately $11 million dollars.

The location of the national Navy Home in Gulfport is very good news for Mississippi. It will mean a great deal to the entire State.

ENVIRONMENTAL LAW SUITS AND THE POWER CRISIS

As chairman of the Public Work Subcommittee on Appropriations, I held hearings this year over a period of several weeks. A clear pattern emerged which concerns me very deeply, involving all public works, but especially electric power.

The Chairman of the Federal Power Commission testified that the Nation's demand for electric power will quadruple by 1990. He said that for the first time in our peacetime history the energy situation approaches a condition of national crisis. Environmental court suits have slowed the development of energy resources such as off-shore oil and gas, the siting of new powerplants, and licensing of nuclear powerplants.

The Chairman of TVA and the Chairman of the Atomic Energy Commission confirm that an electric power crisis is at hand. In many areas, the power reserves to meet peak summer and winter loads are simply not available.

Plainly, the situation in the power field is thoroughly out of hand, and in a turmoil. Here the Nation is faced with a power crisis, and almost certain brownouts or blackouts, and our hands are tied by confrontations in the courts. The same thing is occurring in all the fields of public works—in flood control, harbor and waterway projects, highways or any public improvement project. Projects are halted in the middle of construction at tremendous cost to the Government—benefits of projects are foregone while construction costs mount—communities are denied the projects they want because outsiders object—all at great cost.

Projects of all kinds attract the attention of the environmental groups and their lawyers. I dare say that if you tried to build the Statue of Liberty today, you would have an environmental lawsuit on your hands.

In our State, the Tennessee-Tombigbee Waterway was halted for over a year by a court suit being handled by the lawyers of a New York environmental organization. The cost of this delay in benefits foregone and in increased construction costs can run into millions. The bond posted by the plaintiff in this case was $1. This particular case has been settled, I am glad to say, and as indicated elsewhere in this report, the construction work is proceeding. Nevertheless, this is a case where unnecessary delays have occurred in a project which is in the public interest and which has the support of the majority of the people in the region.

I believe in conserving natural resources and protecting the environment. I also believe in economic progress, which we must have in order to achieve our environmental goals. What I oppose completely is the situation which enables almost any group, whatever its size, name, or purposes, to file a suit against any Federal project, however worthy, and be able to halt it temporarily, at no risk to the group and at great cost to the Government and to the people who live in the area and need the project.

I think this is an excessive opportunity for irresponsible actions. I believe that it is time that the courts require a proper bond in these cases—one that represents the size of the possible damage to the government and the people of the area, resulting from project delay.

I think there is good cause for deep concern on the part of members of Congress and of all citizens. Our public works programs are slowly being ground to a halt, and we are facing a crisis in electrical power. The crisis can be solved, but not if environmental extremism is allowed to halt the economic progress we need so badly in order to pay the back debts that are owed for having abused the environment in the past, and to clean up our land, air and water.

This is a problem that Congress must face, and it cannot wait too long for solution. I intend to do my part in the coming sessions of Congress to try to arrive at an equitable and practical legislative solution to this complex problem.

TAXES AND THE NATIONAL BUDGET

The events of this year confirm in my mind more strongly than ever a conclusion that I think has been clear for some time. It is not a pleasant conclusion for any of us to have to face, but I believe that the state of the national budget is such that a tax increase is inevitable.

Since 1930, this nation has been embarked on a consistent policy of spending, more than it earned. Of the last 42 years, there have been only 6 years where the budget showed a surplus at the end of the year, and these were only moderate surpluses. On the contrary, many budget deficits have been extremely large, and in the last few years have been of a magnitude that should alarm every American citizen.

The 3-year period that will end with the current fiscal year will see a deficit of over 100 billion dollars. This will be over a fifth of the total national debt that we have accumulated since we became a nation. The United States is going downhill, at runaway speed, toward bankruptcy. If this is not stopped within a reasonable time, then I have a real fear of inability to have representative government that will be able to bring about a remedy. We are reaching a fiscal crisis.

In a recent speech on the Senate floor, referring to this fiscal situation, I commented that President Nixon and members of his Administration have made many hard decisions over the last 4 years, for which I commended him at the time, and have supported his position in many instances. I said that I wanted to suggest to the Chief Executive that he should tell the American people: "Of course, we cannot go on year after year spending far more each year than we have. Of course, we cannot continue to add new programs and extend old ones, all on deficit spending. Of course, we must buckle up our belts and do on a little less if we are to preserve our fiscal system and our free and open economy. Of course, we are going to have to increase taxes some just to avoid going further in the red, and thus bringing to the brink of disaster our financial structure, both public and private, throughout the Nation." I pointed out that the people already know these things, anyway. The commonsense of the common man tells him they are true. He is entitled to have them pointed out by those at the top in authority.

The most important problem before this nation today is to get the Federal finances in order. Prosperity without fiscal responsibility is not possible.

COMMITTEE WORK

The matters I have discussed so far in this report are for the most parts those which are of direct interest to Mississippians because they effect their daily lives, their work, and the communities in which they live. These matters are of intense interest to me, of course, and to them I devote a large part of my time and effort.

In addition to his work on behalf of his constituents, each Senator has additional duties. The Senate as a body is an organization that represents the union of 50 States, with each State equally represented. A Senator speaks for his State in national matters, and acts for his State in the passage of legislation, for when the legislation is signed into law the people of his State—and all States—are obligated to obey the law. This is a responsibility which of course is taken very seriously by members of the Senate.

The formulation of legislation is largely accomplished in committees, each having jurisdiction over specified activities of government. When a bill is prepared hearings are held, alternatives are explored, and thorough consideration is given to the detailed requirements of the proposed law. Consequently, committee work is a very important part of the efforts of each Senator, and the assignments to committees that he holds are important to what he is able to accomplish.

I feel very fortunate in my committee assignments. They require much time and hard work, but they give me opportunities to participate in the formulation of legislation that is important to the State of Mississippi and to the nation.

I am privileged to serve as chairman of the Armed Services Committee, one of the major committees of the Senate, which deals with all military matters involving the military protection and security of the American people. The work of this committee is not only of paramount importance concerning our national security but also our support of the security of the free world. As chairman, I have gotten into many policies of the entire Government because the subject of national security is vast and related to many other aspects of our society.

Every year, one of the main functions of the Senate Armed Services Committee is to authorize funds for procurement of weapons, an amount that is about one-quarter of the total Department of Defense budget. This year, the committee held 19 days of hearings over a period of four months and then met in executive session for 10 days to determine, to the best of its ability, how most wisely to spend money on weapon systems to achieve the maximum defense at the minimum cost. The bill we reported out was debated on the Senate floor for 8 days, went to conference with the House, and became law on September 26, 1972, with most of the decisions of the Senate Armed Services Committee intact.

I have long been concerned about the rising cost of weapon systems, and the committee held a hearing in May, as a continuation of hearings that began last December, in an effort to understand and perhaps suggest remedies to the problems of cost and waste in weapon production. I am determined that we not waste $1 that is spent in the defense of our country—that every dollar will yield full value. My main objective, though, as chairman of the Armed Services Committee will be and always has been, a strong national defense. We can trim the defense budget by better procurement practices and other means, but we must continue to have essential modern weapons and quality men.

I serve on the Aeronautical and Space Committee, a major committee which has jurisdiction over the moon landing program and space exploration. I am also chairman of the Select Committee on Standards and Conduct for the Senate.

I am particularly gratified to be a member of the Senate Appropriations Committee, which has the duty of acting upon and approving or modifying all requests for funds from the executive branch of the Government. Only two other Democrats are senior to me on this major committee, and I serve on six of its subcommittees. This also involves serving on important conference committees to resolve differences between House and Senate appropriations bills and to write these bills in final form. As I mentioned previously, I am chairman of the Public Works Appropriations Subcommittee, which establishes the funding level for all such projects throughout the Nation.

In August of this year I accepted an assignment as a member of the Joint Committee on Reduction of Federal Expenditures. This committee is made up of six members each from the House and Senate, together with the Secretary of the Treasury and the Director of the Office of Management and Budget. I accepted this assignment because I am convinced that this is an area of activity that must receive major emphasis in the immediate future and in the coming years. The fiscal policies of this Nation must be restored to a rational basis, so that there is an end to the continual practice of extravagance, is spending more than our income each year.

The time I devote to committee work is in my judgment well spent, for it permits me to look after the interests of my State and its people in the formulation of the public laws of our Nation.

CONCLUSION

The problems, both foreign and domestic, that our Nation has had to face in 1972 have been many and difficult. The situation has been complicated by the fact that it has been an election year as well. This has not made the passage of legislation any easier. In spite of the complexities of the situation, however, the 92d Congress made good progress in many respects in the second session, and the groundwork has been done for much additional progress during the 93d Congress. There is much hard work ahead, and the diversities of public opinion on many important matters will challenge the abilities of all three branches of the Federal Government.

In closing, it is my great privilege to be able to thank the people of Mississippi for the trust and confidence they have extended to me. I am intensely grateful for their loyalty, and determined to demonstrate my loyalty to them. Each day is a new challenge to me to do my utmost for my State and its fine people. I look forward to 1973 with anticipation, and with complete trust in the qualities of the American people and the destiny of our great Nation.

I shall appreciate suggestions, observations, and constructive criticism.

AVIATION'S ROLE IN THE ECONOMIC GROWTH OF CANADA

Mr. WILLIAMS. Mr. President, On August 9 of this year the Abbotsford International Air Show Symposium was held in Vancouver, British Columbia. I have been reviewing an address which was given at that air show by Mr. Louis C. Ripa who is the chairman and president of the board of Porter and Ripa Associates, Inc., in Morristown, N.J. I believe that address will be very interesting to those who are involved in the growth potential of aviation. Mr. Ripa's remarks are of particular value to all who are concerned about comprehensive planning for facilities to accommodate general aviation aircraft.

I ask unanimous consent to insert the text of Mr. Ripa's address in the Record, and I wish to recommend it to the planners who must consider the needs of the coming generations in their proposals for today.

There being no objection, the address was ordered to be printed in the Record, as follows:

How Aviation Can Contribute to the Economic Growth of Canada

(An address by Louis C. Ripa)

It is exciting to be here in beautiful, clean, wide open Canada.

It is exciting because one can't help but feel that this is where the future is. Here, in this beautiful country, you have the resources, the land, the people to build an economy that could become a model for the rest of the world to follow.

I want to talk to you today about how I believe aviation can play a vital role in helping to build a great future for Canada.

You, here in Canada, are in a fortunate position. You can profit from mistakes we have made in the United States.

In many areas we did not look far enough into the future—to the day when a large part of the world's commerce would be dependent upon the airplane. In many of our congested urban centers where air transport is vitally needed, it is not conveniently available because we did not provide adequate facilities for airports when those areas were still young and growing.

Today, in many areas where we need airports, the land is not available. And many businessmen who must rely on speedy transportation are finding themselves stymied. Some are moving to new areas where they can find the transportation facilities they need.

It is impossible to overestimate the importance of transportation to an economy. You can look back in history to the earliest days of world trade and commerce. In the 17th and 18th centuries, the thriving cities of the world were seaports, because shipping was the major means of transportation.

In the 19th Century, the railroads spread ribbons of steel across the United States and new cities sprang up. These were cities on the Main Line—cities connected to the seaports by new transportation, the railroad.

Then came the amazing 20th century with highways stretching from coast to coast, reaching into and opening up still new areas.

Before the end of this century a new and dynamic Air Age was unfolding.

Now, we are in that Air Age and, unfortunately, many officials and Planners are not ready for it. Their thinking is still bogged down in yesterday's problems and not moving toward tomorrow's answers.

In this Air Age, for example, one of the key vehicles will have to be the STOL aircraft. In the United States we have made very little progress in developing such a vehicle. We talk a lot about STOL ports, but we have developed no STOL aircraft. It is interesting to note that Canada, with its deHaviland Twin Otters and Buffalos, is a long way ahead of the United States.

As a young, dynamic, fast-growing power in the community of nations, you here in Canada may have a special sensitivity to the wave of the future. Perhaps that is why you are already a leader in the area of STOL aircraft.

In this new Air Age, the airplane has already had an enormous impact in shaping world commerce. It has shrunken the earth to a fraction of its former size. When I was a boy—and I'm not all that ancient—people who wanted to travel from New York to Los Angeles boarded a train and travelled for three days. Today, of course, they climb aboard a 747, and in the time it takes to have dinner and see a good movie, they are in Los Angeles.

Time is money to people in business, and the airplane buys them time.

But it does more than that. It is unique among all systems of transportation in two respects. One, it can cross both land and water masses. Two, the airplane, unlike any other means of transportation, is a link to everywhere in the world.

A ship can take you from one seaport to another. A train goes where the rails take it. Even the highway goes North or South, East or West, from point-to-point. But air craft can go in any direction to any place where there is an airport—be it a big urban center, a rural area, a farm, a construction project, or even a factory. And when I say to a factory, I mean exactly that.

Many plants in the United States now have their own heliports just outside their executive offices. Hard pressed top executives can't afford to waste valuable time on congested roads leading to major air terminals. Time is too precious. So many of them use helicopters.

But there is an even newer development to help industry take full advantage of the airplane's speed and versatility. This is the industrial airpark. It is a planned industrial community built around an airport, specifically designed to serve the surrounding industries. There are many such developments in the United States and more are springing up all the time.

In the old days, some of you may remember, advertisements for industrial property frequently carried the line, "private railroad siding". In the years ahead that line will read, "adjacent to airport".

I said at the outset that it was exciting to be here. It's exciting because you can sense the potential all around you in this great country. And it's exciting because things can happen so fast today. What took 50 years for us to accomplish in the United States in the way of industrial development, you here in Canada may be able to accomplish in ten years, or even less.

The key to Canada's future lies in planning. I don't mean planning for today's needs. I mean planning that takes into consideration the next generation—and the generation after that.

One of the major aviation problems we are faced with in the United States today is that of separating commercial airliners from private aircraft. We face that problem—and it is a gigantic one—because in our planning we never took into consideration the next generation, and the generation after that.

What good is it to get across the country in five hours, if it takes you 2½-hours on congested roads to get to the airport and 2½-hours to get from it at the other end?

It takes no great sage to foresee a vastly expanded fleet of private aircraft in the years ahead. If a man who owns a private aircraft wants to make connection with an airline for a long trip, why shouldn't he be able to fly his plane into the terminal, much as he would drive his car to the airport today, and park it until his return?

Increasing numbers of people will be using private aircraft in the years ahead and facilities will have to be provided for them.

Airports can be built, I believe, which could safely accommodate both private and commercial aircraft. Major air terminals of the future will have to accommodate all segments of aviation. Aviation planners have given little thought to bringing the two segments of aviation together. They are too busy trying to figure out how to keep them apart.

In the great open spaces of Texas, between Fort Worth and Dallas, an airport, which is being billed as the largest airport in the world, is being built on a 26½-square mile tract. Stories about the project describe how it will be able to accommodate as much airliner traffic as now use the three major New York area airports—Newark, LaGuardia and Kennedy—combined.

According to Air Facts magazine, the new airport will be able to park 234 Boeing 747's simultaneously. That's 21 more than are now flying or on order. An additional 200 cargo gates will each be able to handle the giant C-5A which is larger than the 747. But in all the reports I have read on this "airport of the future," I have not seen one word about general aviation.

I am sure they will provide parking lots for people who own automobiles. Why should they not provide parking lots and landing facilities for people who own private airplanes?

Private aircraft are an established and accepted mode of transportation today. It is somewhat incredible that air terminals are being built today which provide access and parking for automobiles but not for private aircraft.

An airport the size and magnitude of the new Fort Worth-Dallas Airport should certainly be able to accommodate general aviation. Light aircraft could fly at lower pattern altitudes; they could make approaches from different directions than airliners. But no planner has been bold enough to accept the idea of compatibility of airliners and general aviation aircraft.

The reason they have never considered this is because it is accepted as fact that it is impossible to accommodate both airline traffic and general aviation in the same area.

But my friends, it has been done for years—and right in New York City, the busiest terminal area in the world! Flushing Airport and La Guardia Airport have operated side by side for 42 years. And Flushing Airport has one of the finest safety records of any general aviation airport in the country—one fatal accident in 42 years.

There were 74,300 operations at Flushing in 1971, according to the Aviation Development Council, and 123,600 passengers arrived at Flushing by air taxi during the year.

So let us not say that it can't be done, because it has been done.

Most of the thinking today on airport development, centers around the concept of satellite airports, that is, the building of smaller airports 20 or 30 miles from the major air terminals. General aviation aircraft would be restricted to these satellite airports.

This means that in the next generation and the generation after that, if a private plane owner wants to make a connection with an airline he would have to park 30 miles away, then get on a highway or whatever other form of public transportation there might be to get to where he really wants to go.

This kind of thinking and planning destroys the utility of the light plane, and it assures further congestion on roads leading to the major air terminals. This kind of planning doesn't solve any of our transportation problems, it creates new ones.

I don't mean to imply that no progress is being made. It certainly is. And once again we find Canada in the forefront.

I refer to the new Toronto International Airport. A new city is being planned in conjunction with the new airport. This goes back to what I said earlier about cities throughout history springing up around major centers of transportation.

Airports bring commerce and industry—and jobs. The Canadian Ministry of Transport and the Province of Ontario are to be commended for recognizing this and for their foresight in planning an airport of the future. They are the first in North America, to jointly plan an airport and a new city.

The planned city, tentatively called "Cedarwood," is expected to have a population of 200,000 in only 30 years. This tells you a lot about the economic impact of an airport.

In their planning they have taken steps to solve one of the most serious airport problems of today—the noise problem. They have provided land for a buffer zone between the airport and the community. Such an area might, if I may suggest it, contain botanical gardens, a zoo, recreational facilities. There are many ways in which that land could be put to practical use, thus enabling it to serve two functions.

Toronto's current air terminal, Malton International Airport, was reconstructed in 1964, at which time, according to Airport World, it was considered to be adequate for years to come. Only eight years have passed, and the burden is too great.

That is an indication of how fast you are moving here in Canada. It is also a warning to plan for the next generation and the generation after that.

We are moving more rapidly than ever before in history and consequently we must look further ahead.

In the United States today there are approximately 130,000 general aviation aircraft, and they carry approximately as many intercity passengers as the airlines. And general aviation, ladies and gentlemen, is only in its infancy.

Canada, today, has just over 9,000 general aviation aircraft, so you can well imagine the growth potential here and the tremendous requirements for facilities to meet that potential.

I think, my friends, that we may have to look to you, here in Canada, where fresher minds and bolder men, who do not know it can't be done, will show us how it can be done.

Here is where the pattern can be set for the whole world to follow. A whole new family of emerging nations may well turn their eyes toward Canada to learn how to open up their new frontiers.

You can do it because you have one of the world's most precious resources—space—and what may be the world's second most valuable resource—youth.

Your outlook is not clouded by what was—you can take a clear, unobstructed view of what will be.

I have been critical, at times, of the general aviation industry in the United States, not because the industry is lacking in outstanding achievements—it is in fact the world's unchallenged leader—but because I have felt its accomplishments could be so much greater.

The industry sometimes seems so busy catering to today's airplane sale that it has no time to think about and plan for the vastly greater potential of tomorrow.

The organizers and sponsors of the Abbotsford Show are demonstrating here what so desperately needs to be done everywhere. This kind of air show and symposium is what we need to get general aviation's story to the public. This type of program brings the people to the airport and the airport to the people.

I think it is ironic that the transportation concepts of today and tomorrow move along at a pony express pace of a thousand yesterdays where communication to the public is concerned.

We need more Abbotsfords. We need little Abbotsfords at every local airport to educate the public as to the importance of general aviation to the people in the area each airport serves. Even at this late date—almost 70 years after the first powered flight, I don't think the general public is aware of the fact that general aviation is a means of transportation.

That great communications gap between the general aviation industry and the public must be closed before we can move forward at a comfortable speed toward the goals we all seek—fast, efficient transportation to help us get where we want to go as quickly and comfortably as possible, and to help us move merchandise quickly, economically and efficiently.

It may be that we need the kind of stimulation that can come from more forward-looking and aggressive spirits in this land of the future. The airplane can be the key vehicle in bringing our two nations closer together. If that is to be, we must have integrated airport facilities in the coming decades with provision for airlines and other modes of people-movers. Industry and transportation must become partners in this air age, each planning in such a way as to best serve the other. Industry must have a voice in determining where airports will be developed. Airports must be planned with industrial construction in mind.

In the past, new communities just happened. Somebody bought some land and put homes on it. Somebody else came along and put up a shopping center because there were homes there. Then light industry moved in because there was a labor supply, etc.

In our planning for the future we have to consider every aspect of a new community—housing, jobs, recreation, transportation.

Why shouldn't an airport be the nucleus of a city such as the planned new Toronto International Airport, with recreational facilities—tennis courts, a swimming pool, botanical gardens? It's never been done because airports were always stuck out in the hinterlands, away from the city.

When we build an airport, we can't just think about putting down 10,000 feet of concrete and a terminal building. An airport today is a small city. We have to provide everything a small city would require.

Some day, I would like to come back to Canada, land my Bonanza at the new Toronto International Air Terminal, where a speedy rapid transit system would whisk me to a hotel or restaurant, or a speedy connection downtown.

I'd like to watch the Bonanzas landing on one runway—the 747's on another—the STOL craft on still another and the helicopters on yet another, none interfering with any of the others because somebody sat down and did some real planning to make it possible.

It will be a great day when such an airport is dedicated. It could happen sooner than you think. And it could happen first, right here in Canada.

I'd like to close my remarks to you today with what I think is a very significant quote from a great American. Here is the quote:

"Aviation is today an established method of transportation. The future, even the near future, will make it still more general. The city that is without foresight to build the ports for the new traffic may soon be left behind in the race of competition. The dweller within the gates even more than the stranger from afar, will pay the price for blindness."

Before I tell you who said that, let me first tell you when it was said. That statement, ladies and gentlemen, was made in 1928.

The man who made that statement 44 years ago was Benjamin Cardozo, who later became a Justice of the Supreme Court of the United States.

Just imagine what we might see if we had his foresight, and could look ahead 44 years to the year 2016!

J. EDGAR HOOVER

Mr. STENNIS. Mr. President, recently my friend, George E. Allen, a former commissioner of the District of Columbia and a native of Mississippi, sent me an article that he had written about the late J. Edgar Hoover entitled "J. Edgar Hoover Off-Duty." George Allen and J. Edgar Hoover were close personal friends for more than a quarter of a century and this article gives insight to Mr. Hoover's personal character which was not normally visible. George Allen comes originally from Boonville, Miss., and has made his mark in the political as well as the financial world. At one time George was reported to be a member of the board of directors of more U.S. corporations than any other man. He also wrote the now famous book entitled "Presidents Who Have Known Me." We are proud of him in Mississippi because he comes from one of Mississippi's finest families and is the nephew of the late great "Private" John Allen who served for many years in the House of Representatives. I ask unanimous consent to insert the article by George Allen in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

J. EDGAR HOOVER OFF-DUTY

(By George E. Allen)

Swifty Morgan was one of those breezy, ambiguous characters who are irresistibly attracted to horse races. He was not exactly a tout but he was always free with advice about the next race. He was a fast talker and a sharp dresser. He was never broke, yet he lacked any visible means of support. If one followed his tips, one soon learned that it wasn't his genius for picking winners that sustained his carefree life style.

In all the world there was probably nobody less like Swifty Morgan than J. Edgar Hoover, late director of the Federal Bureau of Investigation. Yet Mr. Hoover and Swifty had one thing in common. They both liked horse races. And, perhaps for this reason, among others, they liked each other. The nation's leading crime buster was amused by Swifty's chatter. Swifty was proud of his acquaintance with the nation's leading crime buster.

One day at the races Swifty exhibited an obviously expensive watch—one that told not only the time of day, the day and month but even the phase of the moon.

"What'll you give me for it?" Swifty asked.

"Two hundred dollars," Mr. Hoover offered.

"You have to be kidding," said Swifty. "The reward is more than that."

That exchange so pleased Mr. Hoover that it became one of his favorite anecdotes. He didn't buy the hot watch but he chuckled about the possibility that he might have.

Mr. Hoover seldom missed a Saturday at the races when the horses were running at any one of the several tracks within an hour's drive of Washington. He occasionally took in a baseball or football game but horse racing was his thing. He was a two dollar bettor, an indifferent handicapper and a true devotee.

Horse race fans are a mixed bag. A few love horses, but only a few. Many are gamblers whose eternal ambition is to beat the odds, but few ever succeed. Mr. Hoover was neither a horse lover nor a gambler by inclination, much less by compulsion. He liked the crowd and the color as much as the sport itself. He didn't much care whether he won or lost. He liked to feel himself part of a human pack passionately sharing an enthusiasm.

At the races the austere loner became a gregarious participant. There he was approachable by anyone and welcomed all comers. Every autograph seeker was cheerfully accommodated. He seldom spoke a serious word. He muttered wry imprecations against the horse he had bet on in the last race or the jockey who held him in. He insisted that I was the worst handicapper it had ever been his misfortune to know. He once told President Eisenhower never to trust my judgment about a horse.

If Hoover had a soft spot for the race crowd, the crowd reciprocated his sentiment. Race people can be raucously irreverent. When the winner's trophy is awarded after a feature race by a governor, mayor or some other notable, the presenter is almost invariably booed—most lustily, of course, by the backers of horses other than the winner. Not so when Mr. Hoover made the presentation. He was roundly applauded always and booed never. The crowd recognized him as one of its own and treated him accordingly.

After returning from the winner's circle on such occasions, he was wont to fix me with an accusing eye and insist that he heard boos emanating from my place in the crowd.

For some 40 years Mr. Hoover, Clyde Tolson, his assistant in the FBI, and I attended the races more or less regularly. For the last 27 years we never missed a Preakness at Pimlico. We attended the races together on the last Saturday of his life and his spirits and, to all outward appearances his health, were never better. News of his death the following Monday was just short of unbelieveable.

Mr. Hoover was probably a hero to more people for a longer time than anyone now on the national scene. But toward the end of his life the era of the anti-hero started to catch up with him. He and the agency he had presided over for almost a half century were subjected to increasing criticism. He was not indifferent to criticism but neither was he panicked by it.

"When the going gets tough," he said, "the tough get going." Nevertheless, he told President Nixon he was prepared to resign if his continued presence in office had become an embarrassment to the Administration. The President assured him that nothing would embarrass the Administration more than his resignation.

Mr. Hoover had held down the nation's principal investigative agency for so long with such distinction that his name and the agency's were all but synonymous. As Martha Mitchell put it: "If you've known one FBI director you've known them all."

The fact is, however, that J. Edgar Hoover, the person, as distinct from J. Edgar Hoover, the official, was not really known even in Washington. He was more a symbol than an individual. To his admirers he stood for law and order, rectitude in the public service and selfless devotion to duty. To his detractors he was a cunning bureaucrat who exploited his unique position to intimidate honest citizens as well as criminals.

To Hoover himself, character was everything. It was the measure of judgment he applied to everybody else—and to himself. To him one of the most important ingredients of character was courage, moral and physical. He took his own courage for granted, both kinds. In the days when the FBI was concerned about mad-dog gangsters he insisted upon participating in their roundup when he thought his presence would be helpful. But he knew that it took more character to resist pressures against honest investigation of wrong-doing than it did to brave a shootout with criminals.

He never paraded his valor or coveted a reputation for derring-do. He could be frightened and freely admitted it. Once on a cross-country flight, the airplane he was on lost an engine. Before making a forced landing, the co-pilot asked Mr. Hoover whether he would mind saying something over the loudspeaker system to "reassure the passengers." The FBI director declined. "Who," he asked, "is going to reassure me?"

Mr. Hoover's proudest boast was that no FBI man during his tenure had ever been dismissed for dishonesty. Many had been discharged for incompetence or lack of adaptability but none for crookedness. Considering that he took over at a time when the agency was riddled with political corruption, his pride was justified.

But all this was forgotten at the races. To me he was neither hero nor anti-hero. He was an amiable racing companion and, in a deeper sense, a friend. His likes and dislikes, his crotchets and his generous impulses were all on display. His reserve, which was formidable at the office, vanished at the race track.

Like any lifelong bachelor, he was set in his ways. He lived for years with his mother. After her death a housekeeper looked after his establishment and dogs provided his home companionship. Through the week he put in long hours at FBI headquarters, lunched sparingly at a Washington restaurant and dined after a drink or two usually alone. Saturday was his day off. Sunday was a day for study of documents and catch-up on correspondence.

His tastes were simple. To any liberal sophisticate he qualified as a square. He refused to read either the Washington Post or the New York Times. The New York Daily News was his favorite publication and he was suspicious even of the Wall Street Journal.

He did not like Las Vegas, which he visited once to make a speech to a convention meeting there, got out as soon as possible and refused to go back for any purpose. The Lawrence Welk show was the one television program he never missed if he could help it. When Welk and the FBI story occupied the same time slot in Washington, Mr. Hoover stayed with Welk.

His ideology was as square as his tastes. He was an old-fashioned patriot, devoted to the traditions of his country, impatient with their subversion. Charges to the contrary notwithstanding, one of the traditions he respected was the citizen's right to privacy. His critics always maintained that he kept a secret file of scandalous information about hundreds of officials and leaders in various walks of life. It is interesting to note that no evidence that any such files exists or ever existed has been discovered by his successor.

Mr. Hoover's secret files were a myth deriving principally from the bad consciences of people who feared that his men had been peeking over their transoms or tapping their telephones. The FBI has files all right. But they concern the activities of people who are legitimately suspect for one reason or another. And they are secret files only in the sense that they are FBI files available only to officials who need access to the information they contain.

Although he dealt with politicians of both parties, he shunned active participation in politics. He was never politic. If he didn't like an attorney general, who on the government table of organization was his boss, he said so. He didn't like Attorney General Robert Kennedy but he didn't like Attorney General Ramsey Clark even more. He called Clark the worst attorney general of all time.

Mr. Hoover also made a point of answering every charge against him or his agency. Often the politicians didn't like his frankness but they respected it. No bureaucrat in the history of the nation ever had more influence with Congress. Year after year he got what he wanted by way of appropriations and authority to the consternation of his critics, some of them influential members of Congress themselves. Actually, Mr. Hoover and his efficient FBI agents recovered more money for the Government in their official operations than they spent from the federal budget.

He scorned every offer to move into electoral politics. In 1940, one of nation's richest men offered to stake him in a bid for the Presidency. George Wallace wanted Mr. Hoover as his running mate for the vice presidency in 1968. The FBI director laughed off both propositions. He also turned down an offer from Howard Hughes to work for him, Mr. Hoover to write his own ticket on salary.

So far as one of his acquaintances was concerned, Mr. Hoover might have run for high elective office because he was blamed for the performance of a high elected official. The acquaintance was a northern Wisconsin guide who hired out each hunting season to Easterners looking for deer and other game. Mr. Hoover had been one of his clients. In the early thirties, with the depression on, the FBI director received a letter from this Wisconsin woodsman wishing him well but concluding on a note of candor:

"It seems to me," the letter said, "that you were a better detective than you are a president."

He elected to stay on at the FBI long after he could have retired even though retirement would have been financially beneficial to him. Indeed, it cost him about $14,000 a year to remain on the job. His pension, plus other retirement benefits, would have been that much higher than his active salary. But, in more than a metaphorical sense, he was wedded to his job. He would have been lost without it.

He was a man of sturdy character. But also a man of unexpected humors. In a strange sort of way he admired some of the criminals he brought to book. He insisted that they were often men of their word. He was also deeply sentimental. After his mother's death, he made a point of never staying in Washington over the Christmas holidays. He was staunchly loyal to his old friends, the closest of them Clyde Tolson, who was almost as much responsible for the FBI's success as Mr. Hoover himself.

His liking for Swifty Morgan was not unique. Other characters on the fringes of the law sometimes enlisted his sympathy. After all, his job was defined by Federal law and he had no jurisdiction where state and local laws operated. Once, sitting in a barber shop in New York, he was approached by a notorious bookmaker who assured Mr. Hoover that he was not a "bad sort of fellow."

"Probably not," Hoover said. "We'll make a bargain. You stay out of my territory and I'll stay out of yours."

It is difficult to make any impartial evaluation of a good friend with whom many happy hours were spent. It is almost impossible to assess the lasting contribution of a gigantic public servant who devoted a half century to increasingly difficult tasks for his fellow countrymen.

J. Edgar Hoover gladly took firm positions on complicated issues solely in the light of his view of justice his guiding star during a long and sometimes controversial life. He too reached for the unreachable star, and fought the unending war in keeping with his "old-fashioned" moral standards. At the end Hoover stood as tall as the new building which will house his FBI in Washington. Like its first and only director, the Federal Bureau of Investigation will continue to stand for law and order without which our democracy cannot survive.

The words of Ralph Waldo Emerson seem to apply to Hoover and his FBI:

"An institution is the length and shadow of one man."

KARL E. MUNDT

Mr. JORDAN of Idaho. Mr. President, in the decade in which I have been privileged to serve in this body, I have come to know the esteemed senior Senator from South Dakota on both a close personal basis as well as in our official capacities.

I can well understand why the people of South Dakota continued to send such a distinguished public servant as KARL MUNDT to the U.S. Congress longer than any other South Dakotan, serving first for five terms in the other body and then for an unprecedented—for South Dakota—four terms in the U.S. Senate.

In the many associations which I was privileged to have with the senior Senator from South Dakota, the thing that always stood out was his desire to be of assistance and to share his vast experiences with other members of this body.

I well recall a number of occasions in which the distinguished Senator from South Dakota provided advice and counsel as to procedures in the Senate and recommended steps which could be taken which would be helpful to a particular cause or issue of this or some other Senator.

In addition to this helpfulness on matters of Senate business, there also were the personal kindnesses extended by the senior Senator from South Dakota which made our legislative work much more pleasant and the long hours of deliberation considerably more easy to endure.

As Senator MUNDT closes out a splendid career of great public service to the people of this Nation and, more particularly, the people of his great State of South Dakota, he does so with the good wishes of those who have been privileged to serve with him.

In saluting the Senator and his brilliant record. I do so from the standpoint of a very warm friendship with him which I shall always cherish, and from the vantage point of having had the opportunity to serve with a man whose capacity was of such nature that with him, it was America, foremost, in his mind and in his heart.

Mr. President, in paying tribute to our distinguished colleague from the State of South Dakota, I would be remiss if I did not also mention his helpmate, Mary, and join with my colleagues in wishing both Senator and Mrs. MUNDT much happiness in their leisure years.

Certainly his service is deserving for both of them the pleasant days of retirement in which the cares of heavy responsibilities are no longer shouldered by Senator Mundt but passed on to new leaders who can aspire to the same high standards of service that motivated South Dakota's senior Senator.

To both KARL and Mary MUNDT, best wishes and much happiness—and our appreciation as well as that of your fellow South Dakotans for a job well done.

OLDER WORKERS PERFORM WELL ON THE JOB

Mr. WILLIAMS. Mr. President, today many false stereotypes hinder the employment of older workers.

And the harsh reality is that these attitudes are leading to a dangerous and greater dependency ratio of nonworkers to workers.

No Nation can ever hope to achieve its full potential if some of its most experienced and talented personnel are not allowed to participate.

Much more can be gained, it seems to me, by developing national policies which maximize job opportunities for aged and aging Americans.

Recently, House and Senate Conferees approved two measures which I have advanced—the Older American Community Service Employment Act and the Middle-Aged and Older Workers Training Act—to provide greater employment options for older workers.

These proposals, of course, are not going to be a panacea for the many and varied problems confronting the older workers. But they can be of major assistance.

Together, these measures can provide employment and vitally needed manpower services for nearly 100,000 unemployed or underemployed older persons.

This is particularly significant because individuals 45 or older constitute about 4 percent of all first-time enrollees in work and training programs.

However, there is another key point which cannot be overlooked. From an employer's standpoint, it makes good sense to hire an older person.

As a group, mature workers have many outstanding attributes. They are dependable. They are less likely to be absent from work because of trivial reasons. And above all, they perform well on the job.

This point was made very clearly in a recent article appearing in the New York Times.

In fact, a recent survey conducted by the New York Commissioner of Human Rights revealed that persons 65 or older perform their jobs "equal to and sometimes noticeably better than younger workers."

Mr. President, I call to the attention of the Senate the New York Times article entitled "Job Survey Finds Aged Work Well," and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

Job Survey Finds Aged Work Well

(By David A. Andelman)

Ratchoge, L.I., September 21.—The State Commissioner of Human Rights announced today that a survey of more than 100,000 state employes had shown that workers over the age of 65 performed their jobs "about equal to and sometimes noticeably better than younger workers."

The survey undertaken in 40 state agencies at the request of Governor Rockefeller, was designed to support a move by the Governor to remove all age restrictions from the employment-discrimination provision of the state's human-rights law. The law now states that no discrimination in hiring shall be allowed against workers up to the age of 65.

"The indications of this survey are astonishingly in favor of over-65 workers," Commissioner Jack M. Sable reported. "And I suggest it should lead all employers, public and private, to review their assessment of older workers."

STUDY COVERS 132,316

The state survey, the results of which Mr. Sable disclosed at a dinner speech to the Pilot's Club, an organization of the elderly here tonight covered the areas of absenteeism due to illness, accidents or unexplained reasons; punctuality in reporting to work; on-the-job accidents, disabling or otherwise, and over-all work performance.

Of the 40 agencies surveyed, 33 with workers over 65 returned the questionnaires covering a total of 132,316 employes. Of these, 3,705 workers were between the ages of 65 and 70, the mandatory state retirement age. It was because of the higher-than-normal state retirement age that state agencies alone were chosen for the study.

In regard to absenteeism, 23 of the agencies reported no appreciable difference in rates of absenteeism between those over and under 65. Nine agencies reported more satisfactory attendance records in the older group and one agency indicated less-satisfactory attendance.

In the area of punctuality, they are generally about equally punctual to those under 65, while the remaining 12 indicated noticeably better punctuality among older workers. No agencies said older workers were less punctual.

As for on-the-job accidents, at 21 agencies there was no difference in the two age groups, and 11 agencies reported noticeably lower accident rates among its older workers. One reported a higher accident rate among its older employes.

The names of the agencies were not released by the state commission.

In terms of over-all job performance, 29 agencies reported their older workers were "about equal" to younger workers and in four agencies found "noticeably better" job performance by those over 65.

GOVERNOR CALLED "CONCERNED"

One agency reported that while "employes in this age group (65 to 70) are generally unable to perform the more physically demanding jobs" it noted that "other than this, we find them to be more satisfactory."

Commissioner Sable said that Governor Rockefeller had "been concerned with the fact that state's antidiscrimination law in the area of employment is restricted to persons 40 to 65."

During the last legislative session, he had sought to have that restriction removed entirely and "extend the entire working population regardless of age—that is to say, no matter how old you are, if you are physically and mentally able to handle the job, you should not be discriminated against in hiring," Mr. Sable said. That bill was defeated.

SPEECH BY STATE SENATOR JAMES M. WADDELL, ON BEHALF OF HANDICAPPED CHILDREN'S EDUCATION PROJECT TASK FORCE, EDUCATION COMMISSION OF THE STATES

Mr. WILLIAMS. Mr President, State Senator James M. Waddell, of South Carolina, presented a forceful speech on the education of handicapped children to the recent Southern Governors Conference in Hilton Head, S.C. Speaking on behalf of the Education Commission of the States' task force on handicapped children, he stressed the need to extend full and appropriate educational services to all handicapped children.

Making clear that mandatory legislation does not guarantee the solution to the myriad problems of planning, staffing and funding such services, Senator Waddell also informed the Conference of the technical and staff assistance that is available through the education commission of the States task force, and provided the conference with information about S. 3614, the Education for All Handicapped Children Act, which I introduced with Senator Randolph and Senator Magnuson in May of this year.

Senator Waddell's speech was instrumental in bringing about a resolution passed by the Southern Governors which recognizes the right of handicapped children to equal educational opportunity, and supports efforts to assure that these rights are guaranteed on the regional and national level.

I ask unanimous consent that Senator Waddell's presentation and the Southern Governors resolution be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Problems of the Handicapped

(By State Senator James M. Waddell)

I want to talk to you briefly about handicapped children and the problems they face in obtaining the educational services to which they are entitled. Handicapped children have the same needs as other children; they have the same desires, the same motives and fears that we have. They are found at every socio-economic level and in all segments of our culture. However, they constitute an obscured population because, in many ways, their *problems* are different from ours. Although it is possible to identify positive gains by states in extending equal educational opportunities to handicapped children, large numbers of the handicapped continue to be neglected and ignored—ignored with regard to transportation or physical facilities because they cannot make use of what is available—neglected with regard to long-term educational opportunities because they have often been excluded from any type of educational opportunities, or neglected because even minimal special education services have not been developed by some states.

At the present time there are 7,000,000 handicapped children in this country—60 percent of them are denied the special educational opportunities that they need for full equality of opportunity. One million or more are excluded from public schools and lack the opportunity of participating in learning environments with other children. Opportunities for the 40 percent of handicapped children who are adequately served vary widely from state to state. In some cases, special programs are provided only if local support for such services is available, and services for the handicapped in the past have been among the first "special services" to be excluded or reduced whenever our state educational systems are faced with economic problems.

In the past few years, states have increased their efforts to provide some basic form of mandatory legislation for program development. At the close of the 1972 legislative sessions across the United States, a total of 42 states had some form of mandatory legislation. However, the mere *existence* of mandatory legislation does not *guarantee* that problems relating to planning for program development, staffing, adequate physical facilities, finance and due process have been solved. There is a need for a greater commitment to the education of the handicapped on the part of leaders in both education and government—a commitment that will guarantee that service provided through improved legislation will be effectively implemented.

RATIONALE FOR SUPPORTING PROGRAMS FOR THE HANDICAPPED

There are several reasons why we should all be interested in supporting the expansion of educational services for handicapped children. First, anything less than adequate educational opportunities would be a violation of the rights of handicapped persons. Second, the handicapped pre-school and school-age population is sufficiently large to demand more attention than they are now receiving. Third, the education of the handicapped is one of the few problem areas in education to which the solution is known. Programs for the handicapped have been and will continue to be successful, for the education of the handicapped is cost beneficial. It has been estimated that at the minimum, each handicapped child who receives an appropriate education is worth $250,000 to society in terms of welfare reduction and increased productivity.

THE ROLE OF THE STATES

Governor Robert W. Scott of North Carolina, who was Chairman of the Education Commission of the States in 1971–72, wrote:

"The time is overdue to re-examine the state role regarding education for the handicapped. U.S. Commissioner of Education Sidney Marland has called for adequate programs for every handicapped child by 1980. The Federal government won't be able to provide them without substantial state commitment. It would be foolhardy to work toward that 1980 goal without careful planning, without thoughtful analysis of the several fundamental underlying issues.

For example, there should be a cooperatively developed and clearly understandable set of definitions of various types of handicapping conditions and their educational implications.

State law should be carefully examined in light of contemporary findings about the development of the handicapped. In many states, laws make economical and educationally beneficial programs—particularly for youngsters with less severe handicaps—impossible. By requiring a certain number of hours with specially trained staff, for instance, state law may in effect prevent the handicapped from attending regular public school classes. And yet there is substantial evidence that children with many types of handicaps and their more fortunate peers benefit from an integrated classroom situation.

Because the lobby for improved services for the handicapped is ineffective in comparison to that for higher teacher salaries or even state aid for private schools, the handicapped have been cut out of significant budgetary support and—where there are programs—relegated to outmoded and inappropriate facilities. There will never be a stronger movement to improve programs for the handicapped unless disinterested policymakers take it upon themselves to support the cause. It is only right. And the time is now."

THE HANDICAPPED CHILDREN'S EDUCATION PROGRAM

The Education Commission of the States has initiated a project aimed at improving education services for all handicapped children. The goal of this project is to assist each state in determining necessary state-wide legislative goals, developing better allocation of resources and obtaining a greater commitment to full educational opportunities for all handicapped children.

This past year, project activties have taken the form of regional conferences focused on the analysis of existing legislation, staff activities related to technical assistance and consultative services, and the provision of information to Governors and other leaders in state government and education. Activities by a national Task Force sponsored by the Education Commission of the States include assisting the states in developing legislative and administrative policies for the benefit of the handicapped.

It is apparent to me, as I am sure it is to you also, that technical assistance alone will not bring about this goal. If the states are to undertake this massive challenge, as the courts are suggesting they must, the real need is going to be financial. It is patently clear that it will be a strain financially for States and Localities to underwrite the entire expense of full educational services.

I think it is not too early to suggest that assistance from the Federal Government will be needed. I know in my own State of South Carolina we will be hard put to come up with these funds, alone. It is for this reason that I would like to bring to your attention an important action which indicates that Federal assistance may be forthcoming.

Earlier this year, United States Senator Harrison Williams, a member of this Task Force, introduced a Bill which will provide greatly expanded Federal assistance to the States for the education of handicapped children. Williams was joined on this Bill by Senator Jennings Randolph of West Virginia, and Senator Warren Magnuson of Washington.

This Bill, S–3614, "The Education For All Handicapped Children's Act", will pay to the States 75% of the excess cost of educating handicapped children. This amount will be available for each child that the State is currently serving, and will increase as the State increases the number of children it is serving. S–3614 has been referred to the Labor and Public Welfare Committee in the Senate, of which Senator Williams is the Chairman, and a companion Bill has been introduced in the House of Representatives. Hearings will be held late this session or at the beginning of the next congressional session. The Task Force has expressed strong support of the major concepts underlying this Bill, for we believe that the excess cost per child formula is an important turning point in the financing of education for handicapped children.

I believe that it will be well worth your while, from the point of view of the States you serve, to review this Bill and to relay your views regarding this much needed assistance to Senators and Congressmen from your States.

Members of this Task Force are here today and would be pleased to provide you with whatever information you might desire concerning the educational needs of the handicapped in this nation.

We appreciate your continued support for improved educational services for the handicapped children of your state, and offer you the assistance of the Handicapped Children's Education Program of the Education Commission of the States in meeting your objectives.

12. HANDICAPPED CHILDREN

Whereas, educational opportunity is a basic individual American right endowed with proven societal economic benefits; and

Whereas, only forty per cent of the Nation's handicapped children presently receive educational opportunities:

Now, therefore, be it resolved that the Southern Governors' Conference does express its support of efforts to improve educational opportunities for all handicapped children both regionally and on a national basis.

WE MUST NOT FORGET THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for the past 5 years I have daily urged the Senate to take action on the genocide and other human rights conventions. With respect to the Genocide Convention, there has now been widespread support for this position in this administration, in previous adminstrations, among many of the most prominent members of the bar, among the press, and among many of my constituents.

In March 1971 hearings were completed by the subcommittee of the Committee on Foreign Relations on the Genocide Convention. As with the hearings in 1950 and 1970, that the large body of testimony was in favor of the convention attests to the intense interest in the convention and the widespread support of basic human rights. Indeed, such resistance as there is to ratification of this treaty seems to have abated in the 20 years since the original 1950 hearings.

I genuinely believe that this lessening of resistance can be attributed to the broader and deeper understanding of the provisions of the convention. It is most helpful that the provisions of the convention which seemed to raise so many questions and doubts have now been debated and explained by a great many eminent members and scholars of the bar, officials of the administration and representatives in the United Nations.

It is my sincere hope that the Senate will not fail to ratify this important document in the next Congress.

SPENDING LIMIT

Mr. MATHIAS. Mr. President, I submit for the Record two editorials from the Baltimore Sun and one from the Washington Post which are pertinent to our debate on a spending limit, and ask that they be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Sun, Baltimore, Oct. 9, 1972]

A TEST OF WILL IN CONGRESS

President Nixon is asking the Congress, in brief, to empower him to do what it declines to do—that is, to hold federal spending this year within some agreed limit. Mr. Nixon argues that $250 billion is the most that can be spent without risking a new cycle of inflation, and this is persuasive when it is noted that as it is the United States is running up an unprecedented series of budget deficits. It might be suggested that with a spending budget and a deficit as large as the current ones, an increase of $10 billion or so over the $250 billion figure might not be dangerously inflationary, but it also could be suggested that the $250 billion total already is excessive and that a smaller rather than larger figure would be sounder.

In any case, in the view of this newspaper Congress would be making a serious mistake if it delegated blanket authority to the President—any President—to reduce congressional appropriations item by item as he sees fit. Appropriations and taxes are the primary responsibility of Congress, indeed a constitutional duty, and the right way to cut spending is to have this done by Congress itself. Congress has the authority to do this. The question is whether it has the will. Mr. Nixon seems to assume that it lacks the will to act, and that it should authorize him to act in its place.

There is no need to tangle this immediate issue with the question of whether or not increases in federal taxes will be necessary during the next presidential administration. Maybe increases will not be needed, as Mr. Nixon says, if Congress and the President would work together in what should be a common cause—financial stability and a strong economy. But for the time being let us concentrate on the current fiscal year and what can be done about it.

Congress has been shirking its responsibility, and has been taking the notoriously easy way of voting appropriations openhandedly with little regard for the revenue side. It would be shirking its responsibility further if it should take the easy way this week and give the President special authority to cut its appropriations back to a reasonable total. This would be another concession of great power to the President and would further distort the Washington structure. The hard way, but the right way, would be for Congress to retain its power over spending—and use it sensibly.

[From the Washington Post, Sept. 27, 1972]

THE SPENDING LIMIT SHELLGAME

Congress is now taking the first slippery step in a historic retreat from legislative responsibility. The House Ways and Means Committee has reported a bill giving President Nixon the authority to cut spending this year to $250 billion, with unlimited license in the way he goes about it. The standing of the Ways and Means Committee is sufficient that its support, unfortunately, makes passage of the bill entirely likely. Under its Democratic leadership, Congress is now colluding with Mr. Nixon to conceal from the American people, until after the election, the full meaning of this bill. The Democratic leadership is apparently fearful of being attacked as spendthrift. But voters are entitled to know—before they vote—the scale and character of the damage that this measure promises.

Federal spending for the current fiscal year can be held to about $256 billion with conventional vetoes. The effect of the spending limit is to give Mr. Nixon prior congressional approval to cut about $6 billion out of the money already provided by law. It is worth working out a bit of arithmetic to see exactly what that means.

The bill covers the year ending next June and, after the election, Mr. Nixon would have about seven months in which to save $6 billion. To do it, he would have to cut programs that spend money at the rate of $11 billion a year. The next step is to see where that $11 billion might lie.

The Nixon administration does not intend to take the military budget much below $75 billion. The income support programs, with the supporting Medicare and Medicaid, are very nearly untouchable. The administration has promised not to reduce Social Security, and for practical reasons the welfare payments are hard to reach. These categories come to well over $100 billion a year. Interest on the federal debt is also untouchable, and comes to some $14 billion a year. Farm price supports and subsidies account for another $5 billion, and Mr. Nixon is not likely to cut these, and still less likely to touch his own $5 billion general revenue sharing program. These items alone add up to some $200 billion.

The $11 billion will thus have to come out of the $55 billion that remains once the largest and most obvious untouchables and impossibles are set aside. But even the $55 billion remainder is full of invulnerable items, from the FBI appropriation to Congressmen's salaries. The big construction programs, like highways and reclamation, can be diminished slowly. From this it is perfectly plain that the weight of the cuts of the budget.

The effect of this $6 billion cut, taken over seven months, would be a reduction of about one-third in federal spending in the fields ranging from pollution abatement and environmental protection to child care, school aid, help to higher education, manpower training, housing and urban improvement generally. The impact would be cumulative, growing increasingly severe next spring.

These cuts would fall disproportionately on the programs funded by grants to state and local governments. Ironically, a reduction on the scale of this $6 billion could well leave state and local governments right back where they were before Mr. Nixon introduced his much-advertised revenue sharing bills.

Mr. Nixon gives first priority, in domestic affairs, to low tax rates. He has presided over two large tax cuts in the past three years, and he has promised to preserve them even though the economic recovery is now building up strong inflationary pressures. He gives second priority to a low rate of inflation, and everything else is ranked behind that. The Democratic leadership of Congress has allowed itself to be persuaded to accept the Nixon order of priorities, and to join him in obfuscating, for the crucial next six weeks, the consequences of these massive budget reductions. But before voters make up their minds on this central question, they would be well advised to take stock of the federal government's social and educational responsibilities in their own communities. They can then decide for themselves whether those responsibilities now ought to be cut by one-third. Only after these calculations have been made can the American voter reach a valid judgment on the merits of the budgetary shellgame that a Republican President and a Democratic Congress, each for its own political purposes, are conspiring to set under the guise of simple frugality.

[From the Baltimore Morning Sun, Oct. 19, 1972]

THE HOUSE SURRENDERS ITS BIRTHRIGHT

The House of Representatives has voted to give President Nixon what no President has ever had, and what no Congress should ever consider giving—the power to cut congressionally approved spending programs as he sees fit, without the necessity of vetoing entire bills. The veto of entire bills is the only such presidential power in this field the Constitution authorizes. Such vetoes, of course, can be overridden by Congress. This balancing of presidential and congressional powers in the spending and taxing field helps preserve popular, broad-based democracy. It may be necessary to it.

Now the House has voted to go against this tradition—and for what? What is the crisis that caused so many legislators to dilute the power of the House, and the people, and increase the power of the President? If he followed the ringing rhetoric correctly, it is *not* that inflation is a terrible threat, though it is; it is *not* that the executive branch of government can more effectively make a budget, though it can; it is, rather, that the public is likely to vote against representatives who oppose the President's will on this. Representative Wilbur Mills, and others, said so in so many words. The President, they fear, will pin the need for a tax increase squarely on them.

The interesting thing about this is that Mr. Mills and some of the others who made this argument have no worries in November. They are secure in their districts. But what worries Mr. Mills, so he said, is that enough insecure Democrats might lose, so that Republicans might gain control of Congress, depriving him of his chairmanship of the Ways and Means Committee. (A committee that has cut taxes $50 billion over the past several years, thus, in part, bringing on the inflation-deficit-spending problems, as Representative George Mahon pointed out.) Yet we wonder what a committee chairmanship will be worth if the Congress keeps giving away power to the President. A mess of pottage?

Perhaps the Senate will restore sanity to this debate. Perhaps, also, the House and Senate will do as the House says it would like to do, and finally rewrite the rules and procedures involving the appropriations process. If they were to centralize spending power on the Hill, there would probably never be a need for presidents to seek this extraordinary power, because Congressional overspending is almost always the result not of policy decisions but of the episodic, uninformed, uncoordinated parochial nature of the process now followed.

Baltimore's congressmen, Representatives Garmatz, Long, Mitchell and Sarbanes, along with Representative Gude of Montgomery county, were correct to oppose Mr. Mills and the President on this. Mr. Gude, a Republican, showed especial independence, unlike Representative Hogan, another suburban Washington Republican, and Representative Byron, a Western Maryland Democrat who went along with the majority of Republicans and the minority of Democrats who so often claim to be conservatives.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for the transaction of routine morning business has now expired.

What is the pleasure of the Senate?

VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1972

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12828.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the bill (H.R. 12828) to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes," which were in lieu of the matter stricken and inserted by the amendment of the Senate, insert:

That this Act may be cited as the "Vietnam Era Veterans' Readjustment Assistance Act of 1972".

TITLE I—VOCATIONAL REHABILITATION AND EDUCATIONAL ASSISTANCE RATE ADJUSTMENTS

SEC. 101. Chapter 31 of title 38, United States Code, is amended as follows:

(1) by adding at the end of subsection 1502 a new subsection as follows:

"(d) Veterans pursuing a program of vocational rehabilitation training under the provisions of this chapter shall also be eligible, where feasible, to perform veteran-student services pursuant to section 1685 of this title and for advance subsistence allowance payments as provided by section 1780 of this title.";

(2) by amending section 1504(b) to read as follows:

"(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$170	$211	$248	$18
Three-quarter-time	128	159	187	14
Half-time	85	106	124	9
Farm cooperative, apprentice, or other on-job training:				
Full-time	148	179	207	14";

and

(3) by deleting in section 1507 "$100" and inserting in lieu thereof "$200".

SEC. 102. Chapter 34 of title 38, United States Code, is amended as follows:

(1) by deleting the last sentence of section 1677(b) "$175" and inserting in lieu thereof "$220";

(2) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$220	$261	$298	$18
Three-quarter-time	165	196	224	14
Half-time	110	131	149	9
Cooperative	177	208	236	14";

(3) by deleting in section 1682(b) "$175" and inserting in lieu thereof "$220";

(4) by amending the table contained in paragraph (2) of section 1682(c), as redesignated by this Act, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$177	$208	$236	$14
Three-quarter-time	133	156	177	11
Half-time	89	104	118	7";

and

(5) by deleting in section 1696(b) "$175" and inserting in lieu thereof "$220".

SEC. 103. Chapter 35 of title 38, United States Code, is amended as follows:

(1) by amending section 1732(a)(1) to read as follows:

"(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (A) $220 per month if pursued on a full-time basis, (B) $165 per month if pursued on a three-quarter-time basis, and (C) $110 per month if pursued on a half-time basis.";

(2) by deleting in section 1732(a)(2) "$175" and inserting in lieu thereof "$220";

(3) by deleting in section 1732(b) "$141" and inserting in lieu thereof "$177"; and

(4) by amending section 1742(a) to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of $220 per month. If the charges for tuition and fees applicable to any such course are more than $69 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $69 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $7.35 that the special training allowance paid exceeds the basic monthly allowance."

TITLE II—ADVANCE PAYMENT OF EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCES; VETERAN-STUDENT SERVICES

SEC. 201. Subchapter II of chapter 36 of title 38, United States Code, is amended by inserting immediately before section 1781 the following new section:

"§ 1780. Payment of educational assistance or subsistence allowances

"Period for Which Payment May Be Made

"(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence or a program of flight training, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1504, 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment, but no amount shall be paid—

"(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing his course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter or of chapter 34 or 35 of this title; or

"(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session.

"Correspondence Training Certifications

"(b) No educational assistance allowance shall be paid to an eligible veteran or wife or widow enrolled in and pursuing a program of education exclusively by correspondence until the Administrator shall have received—

"(1) from the eligible veteran or wife or widow a certificate as to the number of lessons actually completed by the veteran or wife or widow and serviced by the educational institution; and

"(2) from the training establishment a certification or an endorsement on the veteran's or wife's or widow's certificate, as to the number of lessons completed by the veteran or wife or widow and serviced by the institution.

"Apprenticeship and Other On-Job Training

"(c) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the Administrator shall have received—

"(1) from such veteran or person a certification as to his actual attendance during such period; and

"(2) from the training establishment a certification, or an endorsement on the veteran's or person's certificate, that such veteran or person was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

"Advance Payment of Initial Educational Assistance or Subsistence Allowance

"(d)(1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

"(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a serviceman on active duty, who is pursuing a program of education (other than under subchapter VI of chapter 34), the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. The application for advance payment, to be made on a form prescribed by the Administration, shall—

"(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of his intention to attend that institution; and

"(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue his program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

"(3) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, a person eligible for education or training under the provisions of subchapter VI of chapter 34 of this title shall be entitled to a lump-sum educational assistance allowance advance payment. Such advance payment shall in no event be made earlier than thirty days prior to the date on which pursuit of the person's program of education or training is to commence. The application for the advance payment, to be made on a form prescribed by the Administrator, shall in addition to the information prescribed in paragraph (2)(A), specify—

"(A) that the program to be pursued has been approved;

"(B) the anticipated cost and the number of Carnegie, clock, or semester hours to be pursued; and

"(C) where the program to be pursued is other than a high school credit course, the need of the person to pursue the course or courses to be taken.

"(4) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish his eligibility unless there is evidence in his file in the processing office establishing that he is not eligible for such advance payment.

"(5) The advance payment authorized by paragraphs (2) and (3) of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon his registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

"(6) Upon delivery of the advance payment pursuant to paragraph (5) of this subsection, the institution shall submit to the Administrator a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Administrator forthwith.

"Prepayment of Subsequent Educational Assistance or Subsistence Allowance

"(e) Except as provided in subsection (g) of this section, subsequent payments of educational assistance or subsistence allowance to an eligible veteran or eligible person shall be prepaid each month, subject to such reports and proof of enrollment in and satisfactory pursuit of such programs as the Administrator may require. The Administrator may withhold the final payment for a period of enrollment until such proof is received and the amount of the final payment appropriately adjusted.

"Recovery of Erroneous Payments

"(f) If an eligible veteran or eligible person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsection (d)(2) and (3) of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 3102 of this title, from any benefit otherwise due him under any law administered by the Veterans' Administration or may be recovered in the same manner as any other debt due the United States.

"Payments for Less Than Half-Time Training

"(g) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis (except as provided by subsection (d) (3) of this section) shall be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that such veteran or person has enrolled in and is pursuing a program of such institution. Such lump sum payment shall be computed at the rate provided in section 1682(b) or 1732(a) (2) of this title, as applicable.

"Determination of Enrollment, Pursuit, and Attendance

"(h) The Administrator may, pursuant to regulations which he shall prescribe, determine enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which he receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course."

SEC. 202. Section 1681 of title 38, United States Code, is amended to read as follows:

"§ 1681. Educational Assistance allowance

"General

"(a) The Administrator shall, in accordance with the applicable provisions of this section and section 1780 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"Institutional Training

"(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence or a program of flight training, at an educational institution shall be paid as provided in section 1780 of this title.

"Flight Training

"(c) No educational assistance allowance for any month shall be paid to an eligible veteran who is pursuing a program of education consisting exclusively of flight training until the Administrator shall have received a certification from the eligible veteran and the institution as to actual flight training received by, and the cost thereof to, the veteran during that month."

SEC. 203. Subchapter IV of chapter 34 of title 38, United States Code, is amended by deleting section 1658 in its entirety and inserting in lieu thereof the following·

"§ 1685. Veteran-student services

"(a) Veteran students utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as 'work-study allowance'). Such work-study allowance shall be paid in advance in the amount of $250 in return for such veteran-student's agreement to perform services, during or between periods of enrollment, aggregating one hundred hours during a semester or other applicable enrollment period, required in connection with (1) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate. Advances of lesser amounts may be made in return for agreements to perform services for periods of less than one hundred hours, the amount of such advance to bear the same ratio to the number of hours of work agreed to be performed as $250 bears to one hundred hours.

"(b) Notwithstanding any other provision of law, the Administrator shall utilize, in connection with the activities specified in subsection (a) of this section, the services of veteran-students who are pursuing full-time programs of education or training under chapters 31 and 34 of this title. In carrying out this section, the Administrator, wherever feasible, shall give priority to veterans with disabilities rated at 30 per centum or more for purposes of chapter 11 of this title.

"(c) The Administrator shall determine the number of veterans whose services the Veterans' Administration can effectively utilize (not to exceed eight hundred man-years or their equivalent in man-hours during any fiscal year) and the types of services that such veterans may be required to perform, on the basis of a survey, which he shall conduct annually, of each Veterans' Administration regional office in order to determine the numbers of veteran-students whose services can effectively be utilized during an enrollment period in each geographical area where Veterans' Administration activities are conducted, and shall determine which veteran-students shall be offered agreements under this section in accordance with regulations which he shall prescribe, including as criteria (1) the need of the veteran to augment his educational assistance or subsistence allowance; (2) the availability to the veteran of transportation to the place where his services are to be performed; (3) the motivation of the veteran; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

"(d) While performing the services authorized by this section, veteran-students shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Civil Service Commission."

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

SEC. 301. Subsection (b) of section 1502 of title 38, United States Code, is amended by striking out "34 or 35" and inserting in lieu thereof "34, 35, or 36".

SEC. 302. Section 1671 of title 38, United States Code, is amended to read as follows:

"Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The Administrator shall approve such application unless he finds that such veteran or person is not eligible for or entitled to the educational assistance applied for, or that his program of education fails to meet any of the requirements of this chapter, or that he is already qualified. The Administrator shall notify the veteran or person of the approval or disapproval of his application."

SEC. 303. Section 1682 of title 38, United States Code, is amended by striking out subsection (c) and redesignating subsection (d), as amended by section 102(4) of title I of this Act, as subsection (c), and, as redesignated, amending paragraph (1) of such subsection—

(1) by striking out the parenthetical phrase in clause (A) and inserting in lieu thereof: "(a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period)";

(2) by striking out "9" and "6" in clauses (B) and (C), respectively, and inserting in lieu thereof "7" and "5", respectively; and

(3) by adding the following sentence at the end thereof: "In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled."

SEC. 304. Chapter 34 of title 38, United States Code, is amended by striking out section 1684 in its entirety and inserting in lieu thereof the following:

"§ 1684. Apprenticeship or other on-job training; correspondence courses

"Any eligible veteran may pursue a program of apprenticeship or other on-job training or a program of education exclusively by correspondence and be paid an educational assistance allowance or training assistance allowance, as applicable, under the provisions of section 1787 or 1786 of his title."

SEC. 305. Section 1691 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or programs pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 (a) or (b) of this title."

SEC. 306. Section 1692 of title 38, United States Code, is amended by—

(1) striking out "marked" wherever it appears; and

(2) inserting a comma in subsection (b) immediately after "month" and by inserting immediately after "nine months," in such subsection, the following: "or until a maximum of $450 is utilized,".

SEC. 307. Section 1696 of title 38, United States Code, is amended by inserting at the end of subsection (b) the following sentence: "Where it is determined that there is no same program, the Administrator shall establish appropriate rates for tuition and fees designated to allow reimbursement for reasonable costs for the education or training institution."

SEC. 308. Subchapter VI of chapter 34 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1697A. Coordination with and participation by Department of Defense

"(a) The Administrator shall designate an appropriate official of the Veterans' Administration who shall cooperate with and assist the Secretary of Defense and the official he designates as administratively responsible for such matters, in carrying out functions and duties of the Department of Defense under the PREP program authorized by this subchapter. It shall be the duty of such official to assist the Secretary of Defense in all matters entailing cooperation or coordination between the Department of Defense and the Veterans' Administration in providing training facilities and released time from duty necessary to carry out the purposes of the program.

"(b) Educational institutions and training establishments administered by or under contract to the Department of Defense providing education and training to persons serving on active duty with the Armed Forces shall, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Defense, be approved for the enrollment of eligible persons only at such time as the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing such Department's plan for implementation of the program established under this subchapter (except that on-going programs of education and training at such institutions or establishments may be continued for ninety days after the date of enactment of this section and prior to the submission of such report), and periodically thereafter submits progress reports with respect to the implementation of such plan, which plan shall include provision for—

"(1) each Secretary concerned to undertake an information and outreach program designed to advise, counsel, and encourage each eligible person within each branch of the Armed Forces with respect to enrollment in a program under this subchapter, with particular emphasis upon programs under sections 1691(a)(2) and 1696(a)(2) of this title, and in all other programs for which such person, prior to or following discharge or release from active duty, may be eligible under chapters 31 and 34 of this title;

"(2) each Secretary concerned to undertake, in coordination with representatives of the Veterans' Administration, to arrange and carry out meetings with each approved educational institution located in the vicinity of an Armed Forces installation (or, in the case of installations overseas, which have the capacity to carry out such programs at such overseas installations) to encourage the establishment of a program by such institution under this subchapter and subchapter V of this chapter in connection with persons stationed at such installation, with particular emphasis upon programs under sections 1691 (a)(2) and 1696(a)(2) of this title;

"(3) the release from duty assignment of any such eligible person for at least one-half of the hours required for such person to enroll in a full-time program of education or training under this subchapter during his military service, unless, pursuant to regulations prescribed by the Secretary concerned, it is determined that such release of time is inconsistent with the interests of the national defense; and

"(4) establishment of an Inter-Service and Agency Coordinating Committee, under the co-chairmanship of an Assistant Secretary of Defense and the Chief Benefits Director of the Veterans' Administration, to promote and coordinate the establishment and conduct of programs under this subchapter and other provisions of this title and the implementation of the plan submitted pursuant to this section."

SEC. 309. Subsection (a) of section 1701 of title 38, United States Code, is amended as follows:

(1) by amending paragraph (6) to read as follows:

"(6) The term 'educational institution' means any public or private secondary school, vocational school, correspondence school, business school,—junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above."; and

(2) by adding at the end thereof the following new paragraph:

"(9) For the purposes of this chapter and chapter 36 of this title, the term 'training establishment means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training."

SEC. 310. Section 1720 of title 38, United States Code, is amended by inserting after the first sentence in subsection (a) thereof a new sentence as follows: "Such counseling shall not be required where the eligible person has been accepted for, or is pursuing, courses which lead to a standard college degree, at an approved institution."

SEC. 311. Section 1723 of title 38, United States Code, is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Administrator shall not approve the enrollment of an eligible person in any course of institutional on-farm training, any course to be pursued by correspondence (except as provided in section 1786 of this title), open circuit television (except as herein provided), or a radio, or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines (except as herein provided). The Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance. The Administrator may approve the enrollment at an educational institution which is not located in a State or in the Republic of the Philippines if such program is pursued at an approved educational institution of higher learning The Administrator in his discretion may deny or discontinue the educational assistance under this chapter of any eligible person in a foreign educational institution if he finds that such enrollment is not in the best interest of the eligible person or the Government."; and

(2) inserting "(except as provided in section 1733 of this title)" after "regular secondary school education" in subsection (d).

SEC. 312. Section 1731 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) immediately after the word "shall" a comma and the following: "in accordance with the provisions of section 1780 of this title,";

(2) striking out subsections (b), (c), and (e) in their entirety; and

(3) redesignating subsection (d) as subsection (b).

SEC. 313. Sections 1733 and 1734 of title 38, United States Code, are amended to read as follows:

"§ 1733. Special assistance for the educationally disadvantaged

"(a) Any eligible wife or widow shall, without charge to any entitlement she may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1691 (if pursued in a State) of this title and be paid an educational assistance allowance under the provisions of section 1732(a) of this title.

"(b) Any eligible person shall, without charge to any entitlement he may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1692 of this title.

"§ 1734. Apprenticeship or other on-job training; correspondence courses

"(a) Any eligible person shall be entitled to pursue, in a State, a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.

"(b) Any eligible wife or widow shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section 1786 of this title."

SEC. 314. Section 1777 of title 38, United States Code, is amended by inserting "or person" after "veteran" each place it appears.

SEC. 315. Section 1784 of title 38, United States Code, is amended by—

(1) striking out "34 or 35" and inserting in lieu thereof "34, 35, or 36" in subsection (a) and in the first sentence of subsection (b);

(2) inserting "or eligible persons" after "veterans" in the second sentence of subsection (b); and

(3) striking out "enrolled under chapter 34 of this title, plus the number of eligible persons enrolled under chapter 35 of this title" and inserting in lieu thereof "or eligible persons enrolled under chapters 34, 35, and 36 of this title, or $4 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title" in subsection (b).

SEC. 316. Subchapter II of chapter 36 of title 33, United States Code, is amended by—

(1) striking out sections 1786 and 1787 and inserting in lieu thereof the following:

"§ 1786. Correspondence courses

"(a)(1) Each eligible veteran (as defined in section 1652(a) (1) and (2) of this title) and each eligible wife or widow (as defined in section 1701(a)(1) (B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or wife or widow. The term 'established charge' as used herein means the charge for the courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or wife or widow, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or wife or widow and serviced by the institution.

"(2) The period of entitlement of any veteran or wife or widow who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $220 which is paid to the veteran or wife or widow as an educational assistance allowance for such course.

"(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or wife or widow and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Administrator to the veteran or wife or widow. A copy of the enrollment agreement shall be furnished to each such veteran or wife or widow at the time such veteran or wife or widow signs such agreement. No such agreement shall be effective unless such veteran or wife or widow shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a writen statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or wife or widow at any time notifies the institution of his intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

"(c) In the event a veteran or wife or widow elects to terminate his enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 1776 of this title) may charge the veteran or wife or widow a registration or similar fee not in excess of 10 per centum of the tuition for the course, or $50 whichever is less. Where the veteran or wife or widow elects to terminate the agreement after completion of one or more but less than 25 per centum of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 per centum of the tuition for the course. Where the veteran or wife or widow elects to terminate the agreement after completion of 25 per centum but less than 50 per centum of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 per centum of the course tuition. If 50 per centum or more of the lessons are completed, no refund of tuition is required.

"§ 1787. Apprenticeship or other on-job training

"(a) An eligible veteran (as defined in section 1652(a)(1) of this title) or an eligible person (as defined in section 1701(a) of this title) shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

"(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, or

"(2) program of other on-job training approved under provisions of section 1777 of this title,

subject to the conditions and limitations of chapters 34 and 35 with respect to educational assistance.

"(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV plus the following for each dependent in excess of two:
First 6 months	$160	$179	$196	$8.
Second 6 months	120	139	156	8.
Third 6 months	80	99	116	8.
Fourth and any succeeding 6-month periods	40	59	76	8.

"(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be (A) $160 during the first six-month period, (B) $120 during the second six-month period, (C) $80 during the third six-month period, and (D) $40 during the fourth and any succeeding six-month period.

"(3) In any month in which an eligible veteran or person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training assistance allowance set forth in subsection (b)(1) or (2) of this section, as applicable, shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

"(c) For the purpose of this chapter, the terms 'program of apprenticeship' and 'program of other on-job training' shall have the same meaning as 'program of education'; and the term 'training assistance allowance' shall have the same meaning as 'educational assistance allowance' as set forth in chapters 34 and 35 of this title.";

(2) redesignating sections 1788, 1789, 1790, and 1791 as sections 1792, 1793, 1794, and 1795, respectively, and inserting after section 1787 the following new sections:

"§ 1788. Measurement of courses

"(a) For the purposes of this chapter and chapters 34 and 35 of this title—

"(1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed;

"(2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required;

"(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

"(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

"(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining; and

"(6) an institutional course offered as part of a program of education below the college level under section 1691(a)(2) or 1696(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) as determined by the educational institution.

"(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 34 or 35 of this title.

"§ 1789. Period of operation for approval

"(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

"(b) Subsection (a) shall not apply to—

"(1) any course to be pursued in a public or other tax-supported educational institution;

"(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution.

"(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the some faculty, curricula, and students, without change in ownership;

"(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree; or

"(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education under the provisions of subchapter V or VI of chapter 34 of this title (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years.

"§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statetments

"Overcharges by Educational Institutions

"(a) If the Administrator finds that an educational institution has—

"(1) charged or received from any eligible veteran or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

"(2) instituted, after the effective date of section 1780 of this title, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Administrator finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance and prepayment allowances under such section,

he may disapprove such educational institution for the enrollment of any eligible veteran or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35, of this title.

"Discontinuance of Allowances

"(b) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if he finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if he finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

"Examination of Records

"(c) The records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 34, or 35 of this title shall be available for examination by duly authorized representatives of the Government.

"False or Misleading Statements

"(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, he shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

"§ 1791. Change of program

"(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran and eligible person may make not more than one change of program of education, but an eligible veteran or eligible person whose program has been interrupted or discontinued due to his own misconduct, his own neglect, or his own lack of application shall not be entitled to any such change.

"(b) The Administrator may approve one additional change (or an initial change in the case of a veteran or person not eligible to make a change under subsection (a)) in program if he finds that—

"(1) the program of education which the eligible veteran or eligible person proposes to pursue is suitable to his aptitudes, interests, and abilities; and

"(2) in any instance where the eligible veteran or eligible person has interrupted, or failed to progress in, his program due to his own misconduct, his own neglect, or his own lack of application, there exists a reasonable likelihood with respect to the program which the eligible veteran or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Administrator may also approve additional changes in program if he finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

"(d) As used in this section the term 'change of program of education' shall not be deemed to include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second."; and

(3) Section 1792 of title 38, United States Code (as redesignated by section 316(2) of this Act) is amended by inserting between the first and second sentences of such section the following: "The Committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, and the Vietnam era."

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS TO THE VETERANS' AND WAR ORPHANS' AND WIDOWS' EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 401. Chapter 34 of title 38, United States Code, is amended by—

(1) inserting after "this chapter" in subsection (a) of section 1661 "or chapter 36";

(2) deleting "31 or 35" and inserting "31, 34, or 36" in subsection (d) of section 1673;

(3) striking out all after "certification" down to the period and inserting in lieu thereof "as required by section 1681(c) of this title" in the second sentence of section 1677(b);

(4) striking out "(c)(1), or (d)" and inserting in lieu thereof "or (c)" and striking out "1683" and inserting in lieu thereof "1787" in subsection 1682(a)(1);

(5) striking out the last sentence of section 1682(b);

(6) striking out sections 1672, 1675, 1683, and 1687 in their entirety; and

(7) redesignating section 1686 as section 1683.

SEC. 402. Chapter 35 of title 38, United States Code, is amended by—

(1) deleting "1737" and inserting "1736" in section 1712(a)(2);

(2) striking out sections 1722, 1725, and 1736 in their entirety;

(3) redesignating section 1737 as section 1736; and

(4) striking out "1737" and inserting "1736" in section 1735.

SEC. 403. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out "1686" and inserting "1683" in section 1770(b);

(2) inserting "this chapter and" after "purposes of" in section 1771(a);

(3) inserting "this chapter and" before "chapters 34 and 35" each place it appears in section 1772;

(4) striking out "1737" and inserting a lieu thereof "1736" in section 1772(a);

(5) striking out "1683(a)(1)" and inserting in lieu thereof "1787(a)(1)" in section 1772(c);

(6) inserting "this chapter and" before "chapters 34 and 35" in subsection (a) of section 1773;

(7) inserting "this chapter and" before "chapters 34 and 35" the first time it appears in section 1774(a);

(8) striking out "or special training allowance granted under chapter 34 or 35" and inserting in lieu thereof "granted under chapter 34, 35, or 36" in section 1781;

(9) inserting "this chapter or" before "chapter 34 or 35" in section 1782;

(10) inserting "this chapter or" before "chapter 34 or 35" each place it appears in section 1783;

(11) inserting "this chapter or" before "chapter 34 or 35" in section 1785;

(12) inserting "this chapter or" before "chapter 34 or 35" in section 1793 (as redesignated by section 316(2) of this Act); and

(13) striking out "Chapters 31, 34, and 35" and inserting in lieu thereof "chapters 31, 34, 35, and 36" in section 1795 (as redesignated by section 316(2) of this Act).

SEC. 404. (a) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by—

(1) striking out:

"1672. Change of program."
and
"1675. Period of operation for approval.";

(2) striking out:

"SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS

"1681. Educational assistance allowance.
"1682. Computation of educational assistance allowances.
"1683. Apprenticeship or other on-job training.
"1684. Measurement of courses.
"1685. Overcharges by educational institutions.
"1686. Approval of courses.
"1687. Discontinuance of allowances."

and inserting in lieu thereof the following:

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

"1681. Educational assistance allowance.
"1682. Computation of educational assistance allowances.
"1683. Approval of courses.
"1684. Apprenticeship or other on-job training; correspondence courses.
"1685. Veteran-student services.";

and

(3) adding at the end thereof the following:

"1697A. Coordination with and participation by Department of Defense.".

(b) The subchapter heading above section 1681 of such title is amended to read as follows:

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

SEC. 405. The table of sections at the beginning of chapter 35 of title 38, United States Code, is amended by—

(1) striking out:

"1722. Change of program."
and
"1725. Period of operation for approval.";

(2) striking out:

"1733. Measurement of courses.
"1734. Overcharges by educational institutions.
"1735. Approval of courses.
"1736. Discontinuance of allowances.
"1737. Specialized vocational training courses."

and inserting in lieu thereof:

"1733. Special assistance for the educationally disadvantaged.
"1734. Apprenticeship or other on-job training; correspondence courses.
"1735. Approval of courses.
"1736. Specialized vocational training courses."

SEC. 406. The table of sections at the beginning of chapter 36 of title 38, United States Code, is amended by—

(1) inserting:

"1780. Payment of educational or subsistence assistance allowances."

immediately above

"1781. Limitations on educational assistance.";

and

(2) striking out:

"1786. Examination of records.
"1787. False or misleading statements.
"1788. Advisory committee.
"1789. Institutions listed by Attorney General.
"1790. Use of other Federal agencies.
"1791. Limitation on period of assistance under two or more programs."

and inserting in lieu thereof:

"1786. Correspondence courses.
"1787. Apprenticeship or other on-job training.
"1788. Measurement of courses.
"1789. Period of operation for approval.
"1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements.
"1791. Change of program.
"1792. Advisory committee.
"1793. Institutions listed by Attorney General.
"1794. Use of other Federal agencies.
"1795. Limitation on period of assistance under two or more programs."

SEC. 407. Section 101 of title 38, United States Code, is amended by striking out the last sentence of paragraph (4) and inserting in lieu thereof the following sentences: "A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement."

SEC. 408. Section 102 of title 38, United States Code, is amended as follows:

(1) Subsection (b) thereof is amended to read as follows:

"(b) For the purposes of this title, (1) the term 'wife' includes the husband of any female veteran; and (2) the term 'widow' includes the widower of any female veteran.";

(2) The heading of such section is amended to read as follows:

"§ 102. Dependent parents; husbands".

SEC. 409. The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by striking out:

"102. Dependent parents and dependent husbands."

and inserting in lieu thereof:

"102. Dependent parents; husbands.".

SEC. 410. (a) The first sentence of section 240 of title 38, United States Code, is amended by inserting "and encourage" after "aid".

(b) Section 241 of such title is amended by striking out "give priority to so advising" and inserting in lieu thereof "insure, through the utilization of veteran-student services under section 1685 of this title, that contact, in person or by telephone, is made with" in clause (1).

SEC. 411. Subsection (b) of section 1774 of title 38, United States Code, is amended to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

Total salary cost reimbursable under this section	Allowance for administrative expense
$5,000 or less	$500.
Over $5,000 but not exceeding $10,000	$900.
Over $10,000 but not exceeding $35,000	$900 for the first $10,000 plus $800 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$5,250.
Over $40,000 but not exceeding $75,000	$5,250 for the first $40,000 plus $700 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$10,450.
Over $80,000	$10,450 for the first $80,000 plus $600 for each additional $5,000 or fraction thereof."

SEC. 412. Section 3301 of title 38, United States Code is amended—

(1) by inserting after "Veterans' Administration" where it first appears, the language: "and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration"; and

(2) by adding at the end of such section the following new clause (9):

"(9) the Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title. Any such organization or member thereof which uses such names and addresses for purposes other than those specified in this clause shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of subsequent offenses."

SEC. 413. The Administrator, in consultation with the advisory committee formed pursuant to section 1792 of this title (as redesignated by section 316(2) of this Act), shall provide for the conduct of an independent study of the operation of the post-Korean conflict program of educational assistance currently carried out under chapters 31, 34, 35, and 36 of this title in comparison with similar programs of educational assistance that were available to veterans of World War II and of the Korean conflict from the point of view of administration; veteran participation; safeguards against abuse; and adequacy of benefit level, scope of programs, and information and outreach efforts to meet the various education and training needs of eligible veterans. The results of such study, together with such recommendations as are warranted to improve the present program, shall be transmitted to the President and the Congress within six months after the date of enactment of this Act.

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE AND PREFERENCE

SEC. 501. This title may be cited as the "Veterans' Employment and Readjustment Act of 1972".

SEC. 502. (a) Chapter 41 of title 38, United States Code, is amended to read as follows:

"Chapter 41.—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

"Sec.
"2001. Definitions.
"2002. Purpose.
"2003. Assignment of veterans' employment representative.
"2004. Employees of local offices.
"2005. Cooperation of Federal agencies.
"2006. Estimate of funds for administration; authorization of appropriations.
"2007. Administrative controls; annual report.
"2008. Cooperation and coordination with the Veterans' Administration.

"§ 2001. Definitions

"For the purposes of this chapter—

"(1) The term 'eligible veteran' means a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"(2) The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"§ 2002. Purpose

"The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and that, to this end policies shall be promulgated and administered through a Veterans Employment Service within the Department of Labor, so as to provide such veterans the maximum of employment and training opportunities through existing programs, coordination and merger of programs and implementation of new programs.

"§ 2003. Assignment of veterans' employment representative

"The Secretary of Labor shall assign to each State a representative of the Veterans Employment Service to serve as the veterans' employment representative, and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans of the State veterans population, and such additional assistant veterans' employment representatives as he shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' counseling and placement policies through the public employment service and in cooperation with manpower and training programs administered by the Secretary in the State. In cooperation with the public employment service staff and the staffs of each such other program in the State, the veterans' employment representative and his assistants shall—

"(1) be functionally responsible for the supervision of the registration of eligible veterans in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans in employment and job training programs;

"(2) engage in job development and job advancement activities for eligible veterans, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans with appropriate job and job training opportunities;

"(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

"(4) promote the interest of employers and labor unions in employing eligible veterans and in conducting on-job training and apprenticeship programs for such veterans;

"(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans available for employment and training and to keeping eligible veterans advised of opportunities for employment and training; and

"(6) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans.

"§ 2004. Employees of local offices

"Except as may be determined by the Secretary of Labor based on a demonstrated lack of need for such services, there shall be assigned by the administrative head of the employment service in each State one or more employees, preferably eligible veterans, on the staffs of local employment service offices, whose services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and his assistants.

"§ 2005. Cooperation of Federal agencies

"All Federal agencies shall furnish the Secretary of Labor such records, statistics, or information as he may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans.

"§ 2006. Estimate of funds for administration; authorization of appropriations

"(a) The Secretary of Labor shall estimate the funds necessary for the proper and efficient administration of this chapter. Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper counseling, placement, and training services to veterans provided by the various State public employment service agencies shall be separately identified in the budgets of those agencies as approved by the Department of Labor.

"(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

"(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

"(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections, except with the approval of the Secretary of Labor based on a demonstrated lack of need for such funds for such purposes.

"§ 2007. Administrative controls; annual report

"(a) The Secretary of Labor shall establish administrative controls for the following purposes:

"(1) To insure that each eligible veteran, especially those veterans who have been recently discharged or released from active duty, who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance his employment prospects substantially, such as individual job development or employment counseling services.

"(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary of Labor to be inadequate.

"(b) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, the number of recently discharged or released eligible veterans, veterans with service-connected disabilities, and other eligible veterans who requested assistance through the public employment service and, of these, the number placed in suitable employment or job training opportunities or who were otherwise assisted, with separate reference to occupational training under appropriate Federal law. The report shall also include any determination by the Secretary under section 2004 or 2006 of this title and a statement of the reasons for such determination.

"§ 2008. Cooperation and coordination with the Veterans' Administration

"In carrying out his responsibilities under this chapter, the Secretary of Labor shall from time to time consult with the Administrator and keep him fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration."

(b) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part III of such title are each amended by striking out:

"41. Job Counseling and Employment Placement Service for Veterans ...... 2001".

and inserting

"41. Job Counseling, Training, and Placement Service for Veterans ...... 2001"

SEC. 503. (a) Part III of title 38, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 42.—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

"Sec.

"2011. Definitions.

"2012. Veterans' employment emphasis under Federal contracts.

"2013. Eligibility requirements for veterans under certain Federal manpower training programs.

"§ 2011. Definitions

"As used in this chapter—

"(1) The term 'disabled veteran' means a person entitled to disability compensation under laws administered by the Veterans' Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

"(2) The term 'veteran of the Vietnam era' means a person (A) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released therefrom active duty for a service-connected discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (B) who was so discharged or released within the 48 months preceding his application for employment covered under this chapter.

"(3) The term 'department and agency' means any department or agency of the Federal Government or any federally owned corporation.

"§ 2012. Veterans' employment emphasis under Federal contracts

"(a) Any contract entered into by any department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that, in employing persons to carry out such contract, the party contracting with the United States shall give special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within 60 days after the date of enactment of this section, which regulations shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its suitable employment openings and (2) each such local office shall give such veterans priority in referral to such employment openings.

"(b) If any disabled veteran or veteran of the Vietnam era believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to giving special emphasis in employment to veterans, such veteran may file a complaint with the Veterans' Employment Service of the Department of Labor. Such complaint shall be promptly referred to the Secretary who shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

"§ 2013. Eligibility requirements for veterans under certain Federal manpower training programs

"Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 31, 34, 35, and 36 of this title by a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability, and any amounts received by an eligible person under chapters 13 and 35 of such title, shall be disregarded in determining the needs or qualifications of participants in any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower training (or related) program financed in whole or in part with Federal funds."

(b) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part III of such title are each amended by adding at the end thereof a new item as follows:

"42. Employment and Training of Disabled and Vietnam Era Veterans .... 2011".

SEC. 504. The Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. App. 501 et seq.), is amended as follows:

(1) Section 101(1) (50 U.S.C. App. 511(1)) is amended by striking out "The term 'persons in military service'" and inserting in lieu thereof "The term 'person in the military service', the term 'persons in military service',".

(2) The following new section is inserted after section 700:

"SEC. 701. (a) Notwithstanding any other provision of law, a power of attorney which—

"(1) was duly executed by a person in the military service who is in a missing status (as defined in section 551(2) of title 37, United States Code);

"(2) designates that person's spouse, parent, or other named relative as his attorney in fact for certain specified, or all, purposes; and

"(3) expires by its terms after that person entered a missing status, and before or after the effective date of this section;

shall be automatically extended for the period that the person is in a missing status.

"(b) No power of attorney executed after the effective date of this section by a person in the military service may be extended under subsection (a) if the document by its terms clearly indicates that the power granted expired in the date specified even though that person, after the date of execution of the document, enters a missing status.

"(c) This section applies only to persons in military service who executed powers of attorney during the Vietnam era (as defined in section 101(29) of title 38, United States Code)."

SEC. 505. Section 3107 of title 38, United States Code, is amended by inserting after "title" the words "or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title".

TITLE VI—EFFECTIVE DATES AND SAVINGS PROVISIONS

SEC. 601. (a) The rate increases provided in Title I of this Act and the rate increases provided by the provisions of section 1787, title 38, United States Code (as added by section 316 of this Act) shall become effective October 1, 1972; except, for those veterans and eligible persons in training on the date of enactment, the effective date shall be the date of the commencement of the current enrollment period, but not earlier than September 1, 1972.

(b) The provisions of title V of this Act shall become effective 90 days after the date of enactment of this Act.

SEC. 602. (a) The provisions of section 1786 of title 38, United States Code (as added by section 316 of this Act), which apply to programs of education exclusively by correspondence, shall, as to those wives and widows made eligible for such training by that section, become effective January 1, 1973, and, as to eligible veterans, shall apply only to those enrollment agreements which are entered into on or after January 1, 1973.

(b) Notwithstanding the provisions of subsection (a) of this section, any enrollment agreement entered into by an eligible veteran prior to January 1, 1973, shall continue to be subject to the provisions of section 1682(c) of title 38, United States Code, prior to its repeal by section 303 of this Act.

SEC. 603. (a) The prepayment provisions of subsection (e) of section 1780 of title 38, United States Code (as added by section 201 of this Act), shall become effective on November 1, 1972.

(b) The advance payment provisions of section 1780 of title 38, United States Code (as added by section 201 of this Act), shall become effective on August 1, 1973, or at such time prior thereto as the Administrator of Veterans' Affairs shall specify in a certification filed with the Committees on Veterans' Affairs of the Congress.

SEC. 604. (a) Notwithstanding the provisions of section 1712(b) of title 38, United States Code, a wife or widow (1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2) entitled to receive the benefits of subsection (a) of section 1733 of this title (as added by section 313 of this Act), shall have eight years from the date of the enactment of this Act in which to complete such a program of education or receive such benefits.

(b) Notwithstanding the provisions of section 1712(a) or 1712(b) of title 38, United States Code, an eligible person, as defined in section 1701(a)(1) of such title, who is entitled to pursue a program of apprenticeship or other on-job training by virtue of the provisions of section 1787 of such title (as added by section 316 of this Act) shall have eight years from the date of the enactment of this Act in which to complete such a program of training, except that an eligible person defined in section 1701(a)(1)(A) of such title may not be afforded educational assistance beyond his thirty-first birthday.

And in lieu of the matter stricken and inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes."

VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972

Mr. HARTKE. Mr. President, this is the GI educational bill with the amendments to the GI educational bill. I do believe that the results we have obtained represent a substantial and perhaps even an historic movement forward—at least a movement forward exceeded only by the introduction of the original GI bill after World War II, which many, many Members of the Senate had the opportunity to be the beneficiaries of in their younger days.

I now express my gratitude to all those who helped to work out the compromise version with the House.

In particular, I should like to extend my thanks to all members of the committee, especially to the Senator from South Carolina (Mr. THURMOND) for his great help to me in working out this matter.

Mr. President, I am pleased to urge the Senate to support and pass the amended version of H.R. 12828, the Vietnam Era Veterans Readjustment Assistance Act of 1972. Earlier this year, the House passed and sent to the Senate its bill H.R. 12828. Subsequently the Committee on Veterans' Affairs, which I am privileged to chair, reported its own bill, S. 2161, which was adopted in the nature of a substitute to H.R. 12828. Since that time, the members and the staffs of both committees have been engaged in active negotiations to resolve the differences between the two versions. These discussions, which were frank and open, revealed considerable differences of opinion concerning some provisions as well as disclosing large areas of agreement. To be candid, some differences of opinion remain. It should be clear, however, that the compromise version of the two bills, which you have before you today, is in my opinion a major piece of legislation. Further, we would not have the fine bill we do were it not for the good will, the cooperation and the leadership exhibited by the distinguished chairman of the House Veterans' Affairs Committee, OLIN "TIGER" TEAGUE.

This amended measure, which will provide in its first year nearly a half-billion dollars in additional readjustment and educational benefits represents a giant step toward recognizing the enormous debt we owe to our Nation's veterans. I believe a brief summary of the provisions agreed upon by both committees and our intentions with respect to the compromise version is in order.

TITLE I

Members of the Senate will recall that the administration approved increasing the educational rates for a single veteran from $175 to $190 with corresponding increases in dependency allowances. H.R. 12828, as originally passed by the House of Representatives, provided for a starting rate of $200 for a single veteran. S. 2161, as passed by the Senate, would have boosted the single veteran's rate to a monthly stipend of $250.

After considerable discussion between the two committees, it was agreed that the rate for a single veteran would be increased 25.7 percent to $220 a month. Even higher percentage increases are provided for veterans with dependents, who it was agreed, have a higher degree of need. In this connection, it is appropriate to note that over 40 percent of all veterans currently in training have dependents.

As agreed upon, the compromise version, which will be retroactive September 1, 1972, provides that a married veteran's rate will be increased 27.3 percent from $205 to $261. The addition of a child will boost the rate about 29 percent from $230 to $298. Finally, a 28-percent increase to $18 is provided for each additional child. As in S. 2161, there have been adjustments in the bill to make the rate for half and three-quarter time trainees exactly that proportion of the basic full-time rate and to make each rate schedule consistent in form and method for increasing the allowance for each dependent in excess of two.

Corresponding increases, of course, have been made in vocational rehabilitation rates in chapter 31 and in the chapter 35 rates for wives, widows and children. Finally, the compromise version retains the 48-percent increase in on-job-training rates as originally passed by both the House and Senate.

TITLE II

The compromise agreement retains the advance payment and prepayment system for educational assistance or subsistence allowances as passed by the Senate. The prepayment provisions will become effective on November 1, 1972. Because the fall school semester has already commenced and because the Veterans' Administration has indicated a need for additional time to more effectively implement them, the bill provides that the advance payment provisions shall become effective on August 1, 1973, or at such earlier time as the Administrator shall specify in certification filed with the Senate and House Committees on Veterans' Affairs.

Although the size of the program has been reduced, the Workstudy/Outreach program as passed by the Senate has been essentially retained in a somewhat rewritten version of the program. Under the Senate version as originally passed, a veteran could receive an advance payment of up to $300 for an additional education assistance allowance when he entered into a workstudy agreement with the Administrator to perform 120 hours of needed services for the Veterans' Administration in connection with:

First, the outreach services program under section 241;

Second, preparation and processing of necessary papers and other documents of schools or VA regional offices;

Third, provision of medical treatment in Veterans' Administration facilities; or

Fourth, any other activity in the Veterans' Administration which the Administrator deemed appropriate.

As rewritten in the compromise version, an eligible veteran is limited to a maximum payment of $250 for 100 hours of work. In order to insure that there be an effective outreach program, the Senate has agreed at the insistence of the House to insure that any veteran engaged in outreach services under this section shall do so under the supervision of a Veterans' Administration employee. The compromise version also limits the number of veterans who can participate in the program not to exceed 800 man-years in any 1 fiscal year. It is estimated that 16,000 veterans could participate and receive workstudy allowances in the first full fiscal year at a cost of $4 million.

TITLE III

The House committee was adamant in their opposition to Senate amendments to the farm cooperative program. They expressed the belief that return to a farm program similar to that which existed following World War II and the Korean war would give rise to insufficient educational training and possible abuse. Agreement was reached, however, to reduce the required number of clock hours in a year from 528 to 440 for a farm cooperative program. This reduction in yearly clock hours is in accord with current educational philosophy and has been coupled with changes in the program which give added flexibility which will permit a veteran's curriculum to be prescheduled to provide a minimum of classroom instruction during peak periods of farming activity and conversely a maximum class schedule during off-season periods.

Finally, amendments provide that time utilized for field trips as well as individual and group instruction can be included in computing the institutional portion of a farm cooperative training program. The committee believes these changes will encourage greater numbers of young veteran farmers to avail themselves of this program and accordingly strengthen the small family farmer.

The compromise version does not include a provision to make specific the inclusion of so-called GED—high school equivalency certificate—as one purpose for pursuit of the PREP program under present section 1696(a) of title 38. The Department of Defense has for many years been conducting through base education officers special GED programs under which servicemen prepare for and take the GED exam and hopefully receive an equivalency certificate. It was evident from the cost estimates submitted by the Department of Defense that they no longer intended to fund GED programs in their budget. Neither committee believed it desirable to shift the full cost of such an on-going program to the Veterans' Administration readjustments benefits account. Nevertheless, it should be clearly understood that by not so specifying in section 1696 it is not intended in any way to indicate that receiving a GED could not properly be one of the objects of a deficiency, remedial, or refresher PREP course under section 1691(a)(2). Indeed, so long as the course otherwise meets the requirements of such section in terms of content and other existing title 38 requirements for PREP programs it would seem desirable for such GED component to be built into such PREP programs in order to provide tangible indications of achievements for the participating servicemen.

The compromise version also contains with minor amendments the new section 1697A added by the Senate to provide for greater coordination with the participation by the Department of Defense in educational programs authorized for active duty servicemen under chapter 34. The bill before you does include a new provision to allow pending submission of the Department's plan for a 90-day continuation of on-going programs at institutions and establishments administered by or under contract to the Department of Defense which provide education and training to persons serving on active duty.

The Department of Defense was also quite concerned with regard to the released-time provisions contained in 1697A(b)(3). In a letter to me, the General Counsel of the Department of Defense stated that:

> Lastly, clause (b)(3) of Section 1697A provides that eligible persons be released for at least ½ of the hours required for a full-time program unless the Departmental Secretary concerned determines that such release of time is inconsistent with the interest of the national defense. While in many cases military members now participating in PREP get as much or more release time than the bill specifies, the bill provides no flexibility without reference to the Service Secretary. We have no objections to requiring release time; however, we believe that setting a specific amount would unduly add to the Services' administrative burden. An alternative that would be more acceptable would be to set at least ½ release time unless the base commander determines that it is incompatible with his mission under regulations promulgated by the Service Secretaries. This provision would provide the Services with flexibility in accomplishing their missions while still extending the benefits to as many service members as possible.

Accordingly, a change has been made in that section to effectuate the requested changes sought by the Department of Defense. It should be noted, however, that it is intended that the Service Secretary issue precise and specific regulations to guide the base commander to insure that the intent of this released-time requirement is fully carried out and that exceptions are made only when such release would in fact be inconsistent with the interest of national defense.

Considerable attention was also given to new provisions added by the House and the Senate concerning programs of education pursued exclusively by correspondence. The compromise version before you today first amended the entitlement charge to provide that the period of entitlement of a veteran or person pursuing education by correspondence shall be reduced by 1 month for each $220—currently $175—paid to a veteran or person for such course.

Second, the compromise version provides as did the bill originally passed by the House and recommended by the Veterans' Administration for computation of educational assistance allowance based upon 90 percent of the established charge for the full cost of that program. The Veterans' Administration noted that correspondence schooling is the only program which will return to the veteran the full cost of his tuition. Additionally, there was firm conviction that requiring the eligible veteran to pay a minimal 10 percent of the cost of the course would give him a stake in his education and thus lead him to give greater thought to his choice of a training objective. At a minimum it is hoped that adoption of this provision will put a brake on the sales pitch of a number of home study schools which inform the veteran in a variety of ways that the VA picks up the whole tab so why not sign up?

Third, considerable attention was given to the pro rata refund policy adopted in S. 2161. Representatives of the home study industry argued vigorously that the policy adopted by the Senate is unduly restrictive and would adversely affect quality schools which invest large amounts of money in home study educational courses while not affecting lower quality schools who invest little. Good schools, it was argued, would operate in a deficit position under the Senate pro rata refund policy which would force them either to discontinue enrolling veterans or to engage in severe cost cutting which would adversely affect the quality of the educational program offered. Finally, representatives of the home study industry pressed the argument that the problems encountered by veterans with correspondence schools did not arise principally from refund policies but rather from the enrollment practices of certain schools who recruit inappropriate students by the use of intense, skillful and misleading or deceptive advertisements and sales presentations.

In view of the foregoing, the compromise agreement retains the Senate provisions requiring full disclosure prior to the enrollment of a veteran plus a 10-day mandatory cooling off period but adopts the less restrictive refund policy recently established by the National Home Study Council, the nationally recognized accrediting agency for correspondence schools.

It is intended that the disclosure provisions and the 10-day cooling off period—following which there must be a written affirmation of the enrollment agreement—will provide the veteran with a period in which he may decide after adequate reflection and with full knowledge of the provisions of the agreement whether he in fact still desires to pursue that course of study. There have been suggestions by some in the home study industry that a written affirmation provision will present severe administrative problems for the schools. The committee is disinclined to believe that such problems will be widespread or insoluble, but in any event will closely monitor the operation of the program in the coming year to see if the amendment adopted today is accomplishing its intended purpose without undue administrative problems.

Finally, in order to allow correspondence schools sufficient time within which to adapt their programs and contracts to the new provisions of the law, the effective date of the amendments has been delayed until January 1, 1973.

Most of the remaining amendments to title III of S. 2161 have been retained in the compromise agreement. The Senate committee did agree at the insistence of the House to drop the administration recommended provision permitting certain schools to adopt new measurement standards for technical courses.

TITLE IV

The Senate provisions in title IV of S. 2161 providing for increased outreach efforts by the Veterans' Administration, higher administrative expenses for State approval agencies and for an independent study of educational assistance programs under title 38 with recommendations to Congress, remain in the compromise version before the Senate today. In addition, there are new provisions dealing with the release of names and addresses of veterans and their dependents and survivors in the possession of the Veterans' Administration. Section 3301 currently provides that:

> All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration shall be confidential and privileged, and no disclosures thereof shall be made except as follows: ...

There follows a series of exceptions in which information can be released including:

> (7) The Administrator in his discretion may authorize an inspection of Veterans' Administration by duly authorized representatives of recognized organizations.

Under this provision, records have for some time been regularly made available to nationally chartered veterans' organizations to aid in the processing of veterans claims.

A number of problems have developed, however, with respect to the release of these names. Certain veterans' organizations have been arbitrarily denied access to the names. Legal action by one group last year resulted in a decision by a Federal court that the organization was entitled to the names. Since that time, however, the Veterans' Administration has continued to deny the list of names to other veterans' groups or to make them available to State veteran departments. I insert in the Record at this point a letter containing the Veterans' Administrations' most recent denial of names—in this case directed to the American Veterans' Committee.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans' Administration, Office of the Administrator of Veterans' Affairs,
Washington, D.C. September 18, 1972.

Mrs. June A. Willenz,
Executive Director, American Veterans Committee, Washington, D.C.

Dear Mrs. Willenz: I am pleased to reply to your several requests for lists of the names and addresses of veterans discharged from the armed forces since May 1968.

Your request is representative of a large and rapidly growing list of requests to the Veterans Administration for various types of veteran's name listings. Within the past year, we have received literally scores of similar requests, all designed to serve a useful purpose. Some have come from municipal, county, state organizations, and even regional administrative bodies. Others represent the needs of educational institutions, service organizations, fraternal groups, and many represent various minority interest groups. Each such request is seriously motivated and is unquestionably intended to serve a worthwhile purpose. A large number would use the names to provide out-reach services, while others would render valuable assistance to a particular group of veterans. A different category and a different problem involves those who obviously are interested in selling a particular program, product, or item.

Over the past year, we have been undergoing a complete evaluation of our automatic data processing resources, including machine utilization and organizational deployment of personnel resources. We have deferred a response to requests for name listings until the study was complete and the findings analyzed. This has now been done, and the data show that our personnel and machine resources are already heavily committed to maintaining service to veterans of all wars, and we are faced with the certainty of additional computer demands represented by significant new veterans' legislation, both recently enacted and now before Congress.

The volume of requests for veterans' name listings has reached such proportions that an attempt to honor each would seriously interfere with our primary veterans benefit responsibilities. Recognizing that we are simply unable to service every worthwhile proposal, we must channel our available computer and personnel resources into those areas which ensure the best possible service to all of the nation's veterans. With the cooperation of the national veterans' organizations, together with our own increased outreach effort, we feel that our returning servicemen are receiving the necessary personal counseling on available Federal benefits and services which is so vital to a smooth transition from military to civilian life.

In the absence of a specific Congressional mandate recognizing name list activities as a fundable VA program, I have therefore concluded that the only fair and equitable policy under the present circumstances is to supply no additional lists of veterans' names and addresses.

While I am in full sympathy with your aims, I regret that I cannot be more responsive to your request.

Sincerely,

Donald E. Johnson,
Administrator.

Mr. HARTKE. Mr. President, this unusual situation of supplying the names to some organizations but not to others on an arbitrary basis becomes even more absurd in light of the fact that the names and addresses of all former servicemen are available for purchase from commercial concerns. We are thus presented with an anomalous situation in which insurance agents, for example, have access to the names for the purpose of soliciting business while nonprofit organizations interested in outreach activities to encourage veterans to make use of their veteran benefits are denied the lists.

The committee has been most concerned about the manner in which these lists have been obtained by commercial companies. I insert in the Record at this point a letter which I recently received from the Administrator of Veterans' Affairs in response to my inquiries concerning this matter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans' Administration, Office of the Administrator of Veterans' Affairs,
Washington, D.C. October 11, 1972.

Hon. Vance Hartke,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am pleased to reply to your letter of September 19, 1972, enclosing a form letter advertising, for sale, monthly lists of names and addresses of recently discharged veterans.

I share your concern and reaction to the use of veterans' lists for commercial solicitation and harassment. Unfortunately, there are many organizations and individuals throughout the country who compile and sell such lists to businesses anxious to sell their products to newly discharged servicemen. The Veterans Administration has no jurisdiction or control over these business activities. We can neither force them to disclose their sources nor stop their practices. We have contacted several of them. For example, one firm advertised its lists were "cleared" through the Veterans Administration which, of course, was false, and it readily agreed to cease such statements, but declined to reveal its sources.

In 1969, we learned that several insurance carriers participating in the Servicemen's Group Life Insurance program (SEGLI) began to receive form letters similar to the one you enclosed offering veterans' lists for insurance conversion or solicitation. We found that the compilers of these lists would not reveal their sources but guaranteed that they were legal and not of government origin. One company claimed it compiled lists from mailing houses, newspaper clipping services, referrals from other servicemen discharged earlier, and from county courthouses where discharges were a matter of public record. We understand that a catalogue is published in Illinois which contains a number of businesses supplying lists of veterans. We are aware of one case in which an individual was prosecuted for soliciting servicemen's names on a military base. We are satisfied to date that such lists are not being obtained from national veterans' organizations to whom we make distribution, as you know, to augment our outreach program. However, we are presently investigating several other sources of possible leaks and will advise you of our findings as soon as possible.

We interviewed Mr. Jim Johnon, Victory Enterprises, Limited, St. Louis, whose form letter you enclosed. Mr. Johnson claimed he is a "broker" who obtains his lists from suppliers whom he refused to identify. He sells them to schools and insurance companies. He specifically denied obtaining these from the Veterans Administration or veterans' organizations, and his attorney has assured him that his operation is entirely legal. Recent contacts with several other suppliers of such lists have produced similar results.

I appreciate your interest and the opportunity to discuss this matter.

Sincerely,

Donald E. Johnson,
Administrator.

Mr. HARTKE. The committee of course wishes to protect veterans from unwarranted intrusions on their privacy. At the same time, it believes that if the names are to be released at all it should be done on a nondiscriminatory basis to those who are working to aid the veteran in utilization of his benefits rather than to those who enrich themselves at the veteran's expense. Accordingly, a new clause (9) has been added to section 3301 which provides that the Administrator may pursuant to regulations he shall prescribe, release the names and addresses to any nonprofit organization but only if the release is directly connected with the conduct of the programs and utilization of benefits under this title. The names are not to be released to any commercial organization. Criminal penalties are prescribed should any organizations or its members in receipt of the list pursuant to this section use the names and addresses for unauthorized purposes.

VETERANS EDUCATION LOAN PROGRAM

The Senate reluctantly agreed to drop the veterans' education loan program which was contained in title V of S. 2161 in the face of strong opposition from the administration. Subsequent to Senate passage of this provision the Veterans' Administration stated:

> We strongly oppose the education loan provisions which were added to the measure by the Senate. It is our firm belief that there is a comprehensive program of loans, grants, and other forms of financial aid already available through the National Defense Education Act and related education assistance programs administered by the Department of Health, Education, and Welfare. These loan programs are operated on low interest basis and many contain provisions permitting forgiveness for portions of the loans for performance of certain types of public services such as teaching in certain areas of the nation. Because of these many sources of available funds it does not appear reasonable to set up still another program.

The loan program as passed by the Senate would have provided loans to veterans only if they had been unable to obtain education loans under these other Federal programs. As such, it has been and continues to be difficult for the Senate committee to reconcile the Veterans' Administration's position that the loan program was not needed, with their own estimates supplied to the committee that 203,000 veterans would qualify for loans in the amount of $213 million during the first year. The Senate committee intends to monitor Federal loan programs in the coming year to ascertain whether in fact veterans are having any significant problems in obtaining loans under those programs.

TITLE V

Title V of the compromise version containing veterans employment assistance and preference provisions—originally included in title VI of S. 2161—has been retained essentially with some modifications. Chapter 41, providing for job counseling, training, and placement service for veterans is approximately the same as passed by the Senate. Section 2003 of chapter 41, providing for the assignment of additional assistant veteran employment representatives—AVER's—has been amended to provide for a more objective criteria for their assignment. As originally passed, the number of AVER's to be assigned to the States was to be based upon determinations made by the Secretary of Labor. The compromise version provides for the assignment of an AVER for each 250,000 veterans of a State's veteran population. At present, for example, New York and California with respective veteran populations of 2.6 million and 3.1 million have only one State VER and two AVER's or approximately 1 million veterans per staff member. Currently, there are 25 AVER's on the field staff. No additions to the staff have been made since 1957 although the country's veteran population has grown from 27 million to 28.6 million. At the same time local employment service offices have increased from 1,800 to over 2,400 offices. Committee hearings revealed that because of insufficient staff there was evaluation of less than one-half of these local offices in the past year, a primary function of the AVER. Applying the formula adopted in the compromise version, 67 additional AVER's would be added as indicated in the following table:

PROPOSED DISTRIBUTION OF ONE AVER PER EACH 250,000 VETERANS, BY STATE

United States	Total veterans population in (December 1971) (thousands)	Total AVER's per formula	Present number of AVER's	Change
Alabama	421	1	0	+1
Alaska	32	0	0	----------
Arizona	246	1	0	+1
Arkansas	222	0	0	----------
California	3, 109	12	2	+10
Colorado	302	1	0	+1
Connecticut	452	1	0	+1
Delaware	78	0	0	----------
District of Columbia	122	0	0	----------
Florida	1, 016	4	1	+3
Georgia	494	1	1	0
Hawaii	71	0	0	----------
Idaho	88	0	0	----------
Illinois	1, 622	6	2	+4
Indiana	729	2	1	+1
Iowa	389	1	0	+1
Kansas	305	1	0	+1
Kentucky	397	1	0	+1
Louisiana	445	1	0	+1
Maine	143	0	0	----------
Maryland	542	2	0	+2
Massachusetts	846	3	1	+2
Michigan	1, 216	4	2	+2
Minnesota	544	2	1	+1
Mississippi	222	0	0	----------
Missouri	666	2	1	+1
Montana	100	0	0	----------
Nebraska	189	0	0	----------
Nevada	69	0	0	----------
New Hampshire	108	0	0	----------
New Jersey	1, 096	4	1	+3
New Mexico	142	0	0	----------
New York	2, 601	10	2	+8
North Carolina	555	2	1	+1
North Dakota	74	0	0	----------
Ohio	1, 593	6	2	+4
Oklahoma	349	1	0	+1
Oregon	326	1	0	+1
Pennsylvania	1, 836	7	2	+5
Puerto Rico	210	0	0	----------
Rhode Island	130	0	0	----------
South Carolina	272	1	0	+1
South Dakota	86	0	0	----------
Tennessee	501	2	1	+1
Texas	1, 415	5	2	+3
Utah	138	0	0	----------
Vermont	61	0	0	----------
Virginia	563	2	1	+1
Washington	497	2	0	+2
West Virginia	272	1	0	+1
Wisconsin	613	2	1	+1
Wyoming	55	0	0	----------
Total	28, 583	72	25	+67

Section 2006 of chapter 41 was further amended in the compromise version to provide that estimated funds necessary for proper counseling, placement, and training services to veterans provided by the various State employment service agencies shall be separately identified in the budgets of the agencies as approved by the Department of Labor. Adoption of this provision will enable the Department of Labor to more effectively evaluate State services and to effectuate the intent of section 2007 which directs the Secretary of Labor to insure that each eligible veteran who requests assistance shall promptly be placed in a satisfactory job or job training opportunity.

New chapter 42 as passed by the Senate has been amended in a number of respects. First, the compromise version does not include section 2012 which would have provided for an affirmative action plan for every Federal department and agency for the preferential employment of disabled veterans and veterans of the Vietnam era. This provision was dropped in view of the strong objection voiced by the Civil Service Commission and House Committee on Post Office and Civil Service. I insert in the RECORD at this point communications from the Civil Service Commission and the House Committee on Post Office and Civil Service concerning section 2012.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 19, 1972.

Hon. OLIN TEAGUE,
Chairman, Committee on Veterans' Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 12828, the "Vietnam Era Veterans Readjustment Assistance Act of 1972," as amended and passed by the Senate.

The Commission objects strongly to two provisions in this legislation.

At the outset, I would like to say that the Commission agrees, in principle, with the objectives of this legislation to give an extra measure of assistance to disabled veterans and veterans of the Vietnam era. We recognize that veterans have the greatest need of assistance during the time following their discharge from service, when they face their most serious problems in making the transition from military to civilian life. We question, however, whether one of the means of providing assistance that this legislation would establish is in the interest of effective and efficient Government operation.

Section 603 of the bill would create a new chapter in title 38 of the United States Code to authorize, among other things, the Administrator of Veterans Affairs, in consultation with the Secretary of Labor and the Civil Service Commission, to establish an affirmative action plan providing for the preferential employment of disabled veterans and veterans of the Vietnam era by every Federal department and agency.

Granting this authority to the Administrator would be in basic conflict with the provisions of title 5 of the United States Code under which the Civil Service Commission is given authority and responsibility for regulating employment in most Federal departments and agencies. Title 5 also charges the Civil Service Commission with responsibility for administering other laws which have granted preference for veterans in Federal employment. To permit the Administrator of Veterans Affairs also to regulate in this area could create administrative chaos. There is no truly effective means whereby a separate authority can regulate one aspect of a total system without creating operational conflicts with the authority charged with the overall operation of the full system.

In our view, enactment of this provision would be harmful to effective personnel management in the executive branch. We strongly recommend that the provision be deleted from the bill.

We further strongly object to the definitions of a "disabled veteran" and "veteran of the Vietnam era" as contained in section 603. Section 2108(2) of title 5 of the United States Code defines a "disabled veteran" for Federal employment purposes, and this definition should continue to apply to all Federal employment. Among other differences, section 603 would appear to give preference to persons whose only active service was for training whereas section 2108 does not. This would cause a very basic change in the concept of veteran preference, a change to which the Commission must object.

The Commission also strongly objects to the definition of a "veteran of the Vietnam era" as any veteran "who (1) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released therefrom with other than a dishonorable discharge." This represents a departure from the current standards in law, which provide preference in Federal employment only to those veterans who are separated from active military duty under honorable conditions.

We recognize the need to give assistance to those veterans who have special problems, such as drug addiction, during their service which resulted in discharge from service under less than honorable conditions. We do not feel, however, that this assistance should include preference in Federal employment, which has traditionally been reserved for ex-servicemen who sacrificed part of their personal lives to serve honorably in the military forces of our country.

Except for persons whose only active service was for training, we do not believe the deletion from the bill of the provision relating to preference in Federal employment will be to the disadvantage of disabled or Vietnam era veterans. There are now in operation under existing law and regulation positive action programs that give extra consideration to disabled veterans and Vietnam era veterans, over and above that provided for veterans as a group.

Under the veteran preference laws in title 5 of the United States Code, all veterans have extra points added to their passing scores on civil service examinations, which places them higher on lists of eligibles and gives them earlier consideration for selection than those below them on the lists. Appointing officers may not pass over an eligible veteran to select a nonveteran without prior approval of the Civil Service Commission. In addition, existing law restricts certain positions to veterans as long as they are available.

Disabled veterans get 10 points added to their passing examination scores (as compared with 5 points for nondisabled veterans), and compensably disabled veterans are put at the very top of most lists of eligibles for appointments to Federal positions. Disabled veterans may also have the added advantage of qualifying for special assistance under the Government's substantial action programs for hiring the handicapped.

The employment problems of the Vietnam era veteran are, and have been, of special concern to the Federal Government as an employer, and efforts are constantly being made to improve the positive action programs provided to meet their employment needs. The keen interest of the Executive Branch in establishing programs of special assistance to these veterans in obtaining Federal employment is exemplified by the transitional appointment system inaugurated by Executive order in 1968. This permitted newly discharged Vietnam era veterans to get jobs in all Federal agencies up to the grade 5 level "noncompetitively," that is, without competition with those on civil service lists of eligibles. In 1970 that system was further expanded by an Executive order which established the Veterans Readjustment Appointment authority and gave even higher priority to positive placement of Vietnam era veterans in Federal agencies. It is pertinent to point out that almost three-fourths of the new hires by the Federal Government are in grade 5 and below, the levels covered by the current Veterans Readjustment Appointment program. More recently, we have also authorized agencies to make noncompetitive temporary limited appointments of veterans who are eligible for Veterans Readjustment Appointments. This authority enables many of these veterans to obtain temporary work while continuing to seek a permanent position.

To tell veterans about job opportunities and their preference, the Commission has special counseling, job assistance, and job information programs for veterans in our 65 area offices and in cooperation with United States Veterans Assistance Centers, military separation centers, Department of Defense transition centers, the Jobs for Veterans program, and veterans organizations. There is a Veterans Federal Employment Representative in each of our 10 regional offices whose major responsibility is to see that our programs for the employment of veterans are carried out effectively. The Commission also cooperates with the Department of Labor in providing information about Federal job openings for listing with the United States Employment Service to help carry out the President's objective of giving veterans preference in job referrals through the U.S. Employment Service system.

Through these programs and their preference, veterans now make up about half the total Federal work force and about two-thirds the male work force. In F.Y. 1972, agencies hired almost 148,970 veterans, of whom 74,450 were Vietnam-era veterans. About 14,400 of the Vietnam era veteran appointments were under the Veterans Readjustment Appointment authority.

In light of the foregoing, the Commission feels that the objectives of section 603 are already being met in that there are by law and by administrative action positive and dynamic programs giving preference to disabled veterans and Vietnam era veterans in Federal employment. We see no need or justification for additional legislation in this area at this time. For this reason and because of the serious administrative problems that will be involved if section 603 is enacted, the Commission urges that the section be stricken from the bill during the conference deliberations.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 25, 1972.
Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: It has been brought to my attention that the bill, H.R. 12828, as amended and passed by the Senate, contains certain provisions which are of vital concern to the Members of our Committee.

The provisions of H.R. 12828, as passed by the House, related only to educational assistance programs for veterans. The Senate amended H.R. 12828 by striking out all after the enacting clause and inserting in lieu thereof the text of S. 2161.

In particular, I am concerned about section 603 of the Senate amendment which adds a new chapter to title 38 of the United States Code, dealing with the employment of disabled and Vietnam era veterans. Section 2012 of the new chapter provides, in part, as follows:

"(a) The Administrator, in consultation with the Secretary of Labor and the Civil Services Commission, shall establish an affirmative action plan providing for the preferential employment of disabled veterans and veterans of the Vietnam era by every department and agency."

As you know, the Rules of the House place the primary and basic jurisdiction with the Post Office and Civil Service Committee over all matters relating to civil service employment. This jurisdiction clearly embraces matters relating to preference for veterans in Federal employment. Therefore, I must take exception to the provisions in the Senate amendment, as noted above, which relate to veterans' preference in civil service employment.

I have been furnished a copy of the letter which Chairman Hampton of the Civil Service Commission addressed to you on September 19, 1972. I wholeheartedly concur in the statements made by Chairman Hampton in that letter. Furthermore, I and the Members of our Committee, firmly believe that no legislation dealing with the subject of veterans' preference in civil service employment should be considered by the House unless our Committee first has had an opportunity to consider the justification and need for such legislation.

Therefore, I urge that you and the other conferees on H.R. 12828 vigorously oppose the inclusion of the provisions of section 603 of the Senate amendment.

With kindest regards,

Sincerely yours,

THADDEUS J. DULSKI,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., October 4, 1972.
Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: On September 25, 1972, I addressed a letter to you expressing my concern over certain provisions contained in the bill, H.R. 12828, as amended and passed by the Senate. My concern was directed at Section 603 of the Senate amendment which adds a new chapter to title 38 of the United States Code providing for the preferential employment of disabled and Vietnam era veterans.

With respect to this matter, I have been furnished a copy of the changes to the language of Section 603 as prepared by members of your staff. I have carefully reviewed these changes and have discussed them with officials of the Civil Service Commission.

As you know, the Civil Service Commission is opposed to the definitions of the terms "disabled veterans" and "veteran of the Vietnam era" as contained in Section 603 of the Senate amendment. Since no changes in these definitions have been proposed, the Commission's opposition to such definitions remains unchanged.

Further, the Commission believes that, notwithstanding the proposed changes to Section 603, the provisions of that section would still conflict with the provisions of title 5, United States Code, which grant authority to the Commission for administering the existing laws relating to veterans' preference in civil service employment. In this regard, I must agree with the Commission. I believe it to be impracticable and harmful to allow two separate authorities to regulate over the same subject matter.

Under the language of Section 2012 of title 38, as proposed by your staff, the Administrator of Veterans' Affairs would be required to take appropriate steps to encourage each agency and department to establish a plan providing for the preferential employment of disabled and Vietnam era veterans. In my opinion, this language would have little or no effect in the employment of disabled and Vietnam era veterans in the Federal civil service. The employment of individuals, including veterans, by agencies of the Government must be carried out in accordance with the provisions of title 5 and the implementing regulations of the Civil Service Commission. The proposed language of Section 603 could not operate to supersede the statutory requirements of title 5 relating to civil service employment.

For the reasons expressed above, I again must urge that you and the other Conferees oppose the inclusion in H.R. 12828 of any provision relating to veterans' preference in civil service employment.

With kindest regards,

Sincerely yours,

THADDEUS J. DULSKI,
Chairman.

Mr. HARTKE. Mr. President, in agreeing to delete this provision, however, the committee wishes to emphasize its continuing concern over the failure of the Federal Government to hire more disabled and Vietnam era veterans seeking work. The Administration's fiscal year 1972 goal was a modest 75,000 veteran hires. It now appears that even this goal has not been met. Available statistics by individual agency indicate that only about 32,000 Vietnam era veterans were hired through February 1972, of which approximately half were lower grade Postal Service positions. The following table indicates hiring by Government agency:

Vietnam era veterans employment in Federal agencies

Agency and Vietnam era veterans hired, cumulative, October 1971–February 1972

Government Printing Office	106
Civil Service Commission	46
Navy	3,136
Veterans' Administration	4,695
Postal Service	14,431
Tennessee Valley Authority	221
Army	3,777
Smithsonian	45
Air Force	1,961
Defense Supply Agency	197
General Services Administration	164
Transportation	159
Justice	295
National Aeronautics and Space Administration	13
Commerce	105
Treasury	1,466
Selective Service	31
Information Agency	19
Interior	293
Other DOD	39
Small Business Administration	24
Agriculture	211
Labor	13
State (includes AID)	58
Housing and Urban Development	11
Health, Education, and Welfare	258
Environmental Protection Agency	7
Atomic Energy Commission	40
Total	31,821

The committee strongly believes that it is hypocrisy of the highest order to encourage or require hiring of disabled and Vietnam era veterans by private industry and by State and local governments under the public employment program and not to make similar efforts in its own hiring. The committee will follow with great interest the hiring practices of various agencies in the coming year.

Section 2013 of chapter 42 has also been amended. In the face of strong objection from the administration, the compromise agreement does not include the requirement that any Government contract entered into by a Federal department or agency contain a provision that those contracting with the United States shall give employment preferences to otherwise qualified veterans.

Although the legal requirement for mandatory preference has been dropped to avoid any "unnecessary litigation" which the Department of Labor fears will result, the section does provide that any such Federal contract shall contain provisions requiring that the contracting party shall give "special emphasis" to the employment of qualified disabled veterans of the Vietnam era.

In carrying out the provisions of this section, the compromise agreement also adds to the section a strengthened version of Executive Order 11598 which requires a mandatory listing of job openings with the employment service by Federal contractors. Each local employment service office is directed to give veterans priority in referral to any employment openings so listed. The committee intends that there be an effective Government contractor listing program which has been disappointing in its operation to date. During the past fiscal year fewer than 40,000 veterans of the 3 million veterans who registered with the Employment Service were placed in jobs listed by Federal contractors participating in the program. From the employment service side, it seems clear that local offices are not following the guidelines set forth in the Manpower Administration's training and employment service program letter No. 2696, which I insert in the RECORD at this point:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TRAINING AND EMPLOYMENT SERVICE PROGRAM LETTER NO. 2696

U.S. DEPARTMENT OF LABOR,
MANPOWER ADMINISTRATION,
Washington, D.C., November 26, 1971.

To: All State employment security agencies.
Subject: President's Program for Veterans.
Purpose: To outline local office actions to implement the mandatory listing program for service to Vietnam-era veterans emphasizing the goal of "same-day" service.
References: TESPL 2678.

TESPL 2678, issued August 20, 1971, provided general guidelines for activities resulting from Executive Order 11598. This letter outlines details of actions to be taken by local offices to achieve the goal of same-day service to Vietnam-era veterans under the mandatory listing program.

The mandatory listing aspect of this program has far-reaching promise and potential, but it also entails a substantial risk for the public employment system. Unless the Employment Service can respond rapidly and effectively to mandatory listings by referring adequate numbers of qualified veterans to fill the openings, there is no real prospect for any significant reduction of the unemployment rate among the estimated million or more Vietnam-era veterans who will be in the job market in the next year, nor for continued employer support of the mandatory listing program.

The Manpower Administration anticipates that the mandatory listing of job openings required by Executive Order 11598 will bring at least 4.5 million additional job openings into the Employment Service over and above the 6.5 million originally estimated for FY 1972. Improvements in the economy according to administration forecasts, could increase the number of openings to 9 million. These openings must be converted into job orders, identified, and fed into the job banks in major cities and States where computerized systems are operational. *Vietnam era veteran jobseekers must be screened against these openings and referred to employers on the same day that the openings are received.*

Experience in Utah and other States which have tried to improve their effectiveness by close consultation with employers indicates that some form of *same-day service* is the only way to compete effectively with such traditional recruitment methods as advertising, passing the word to employees, use of schools and other agencies. Staff must be trained and specifically assigned to (1) visit employers to clarify their needs, (2) take complete job orders, (3) recruit, develop complete applications, counsel, test, select, and refer veterans, (4) control the inputs and outputs of the job bank system whether computerized or manually operated, (5) install and maintain a system for assuring that veterans are promptly exposed to job bank listings, (6) verify referrals and placements, (7) track case failures in veteran acceptance of referrals or of employer acceptance of veterans referred, and (8) report on the results and take corrective action as required.

Most of the points described here were covered in some detail in TESPL 2678. This letter spells out further specific actions necessary to achieve the goal of same-day service.

I. IDENTIFY ALL VETERANS

Complete a salmon-colored application card (ES-511) for all veterans.

II. INTERVIEW ALL VETERANS

During the intake interview:

A. Record sufficient information for effective file selection and job development. Assign classifications which reflect civilian and military work experience and training and which take into account the vocational interests and potential of the veteran.

B. Inform veterans of the services available in the Employment Service and Unemployment Insurance offices, including their right to priority of referral and preferential services for disabled veterans, specialized job search assistance, and self-selection services (Job Information Service). Information regarding available services may be provided on an individual or group basis utilizing audio-visual aids.

C. Direct veterans to appropriate services in the local office.

III. PROVIDE SPECIAL SERVICES TO VETERANS IN THE SELF-SELECTION—JIS—UNITS

A. Offer immediate exposure to jobs. In offices that have implemented the concept of self-service (JIS), the new veteran applicant who is ready for referral will receive immediate exposure to all current job openings for the purpose of self-selection. Previously registered veterans may choose to continue to use JIS. For any order, provisions shall permit one "over-referral" if that referral is a veteran.

B. Provide alternatives when there is no referral from self-selection unit by the use of an exit interview to determine the need for additional services, such as review of new and current orders by the interviewer to determine whether the veteran is qualified for referral. (New orders are those orders received today, normally scheduled to appear on tomorrow's job bank listings.)

IV. ESTABLISH A CENTRALIZED ACTIVE FILE FOR VETERANS

To ensure immediate exposure to new job orders and to provide a more systematic approach to veterans' services, the following alternatives should be considered, depending on the size and complexity of local office operations:

A. Multioffice Operations (within SMSA): A veterans file located at a convenient central location containing sufficient data for rapid retrieval and screening.

B. Individual Local Offices (SMSA): Develop a system to ensure immediate and continuing service to veterans; e.g., a centralized application grouping containing a duplicate of the veteran's ES–511.

C. Individual Local Offices (Non-SMSA): Assign interviewers responsibility for service and followup of an assigned portion of the veterans' applications on file in addition to his or her regular assignment.

D. Review Applications Daily: Review all veterans' applications daily for:

1. Referral to new job openings prior to their entry into the job bank;

2. Referral to training or work training and to EEA openings;

3. Assessing needs for other services such as:

(a) Individualized job development, intensive counseling, VER;

(b) Job search and job lead information;

(c) Referral to specialized veterans' services offered by VA or Vocational Rehabilitation.

E. Local management should ensure that no veteran's card remains in the veterans' central file for more than 10 working days without some positive action.

V. PROCESS JOB ORDERS TO INSURE CONTINUOUS EXPOSURE OF VETERANS TO NEW AND CURRENT JOB OPPORTUNITIES

In addition to instructions contained in the TESPL 2678, Part IV, take the following actions:

A. Review orders and continuously search the veterans' files and other application files to ensure same-day service on orders.

B. An order shall not be continued in active status in excess of 5 days without response, search, or additional contact with the employer to explain lack of action or obtain modification to permit referral action.

VI. DEVELOP TRACKING SYSTEM FOR SERVING VIETNAM ERA VETERANS AND FILLING ORDERS RECEIVED UNDER MANDATORY LISTING

Establish a tracking system of services provided and outcomes achieved to reflect referrals made, job development attempts, counseling, and services provided to ensure same-day service and positive outcome for Vietnam era veterans.

A. Develop a feedback system to ensure coordination of services and to avoid duplication of efforts in referral of veterans to jobs and other manpower services.

B. Tracking may be accomplished by:

1. Use of electronic or mechanical filing and retrieval systems.

2. Special coding or tabbing of records of Vietnam era veterans for easy identification and locating; or

3. Maintenance of a log or ledger system.

VII. PROVIDE FOR SPECIAL IDENTIFICATION OF VIETNAM VETERANS AND MANDATORY LISTING ORDERS

A. Provide special identification for all records of Vietnam era veterans to ensure that they are provided services outlined in TESPL 2678.

B. Since the mandatory listing program was promulgated to promote job opportunities for Vietnam era veterans it is suggested that each State may wish to develop a referral card or letter which makes this clear to the employer and urges his cooperation with the President's Veterans Program. Such an appeal might also increase the level of verification response from employers.

C. Identify all orders received as a result of mandatory listing requirements so that they may receive special attention.

VIII. MODIFY OFFICE HOURS

States are urged to adjust working schedules for some local offices to accommodate services to veterans, to ensure preferential treatment, and to provide efficient, rapid response to all employer orders and particularly to those resulting from mandatory listing.

PAUL J. FASSER, Jr.,
Deputy Assistant Secretary for Manpower and Manpower Administration.

Mr. HARTKE. Mr. President, by requiring Federal contractors to give special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era, this provision considerably strengthens what is required of a contractor under the present Executive order. Too often contractors have listed openings without serious intent or consideration given to hiring qualified veterans referred by the employment service. In some instances contractors have listed openings with the employment service after that opening has been filled by a nonveteran through another source. By permitting contractors to file reports on veteran hires on a quarterly basis, there has been insufficient information coming to the employment service which prevents the monitoring of patterns of noncompliance. The committee intends that this section aid in providing an effective employment service which will prove to be an attractive and useful source of labor supply for the needs of the employer.

Finally, the House has added two new provisions to title V which I urge the Senate to adopt. New section 504 would amend the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, in order to extend under certain circumstances the expiration dates specified in the power of attorney executed by a member of the Armed Forces who is missing in action or held as a prisoner of war. Many servicemen executed powers of attorney prior to going into overseas service which were generally limited to a specific period of time. As to those servicemen who are now held as prisoners of war, the expiration of power of attorney has resulted in many wives finding they are unable to transact many aspects of family business affairs. This provision to automatically extend the period of time for those missing in action or held as prisoners of war has the approval of both the Department of Defense and the Department of Justice. I insert in the RECORD at this point the report of the Department of Justice to this provision.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 26, 1972.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your letter of April 11, 1972, requesting the views of the Department of Justice on the merits of H.R. 936, a bill "To amend the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, in order to extend under certain circumstances the expiration date specified in a power of attorney executed by a member of the Armed Forces who is missing in action or held as a prisoner of war."

The main thrust of H.R. 936 is to extend the effectiveness of powers of attorney bearing stated expiration dates, when executed in favor of their wives by servicemen later listed as missing in action or as prisoners of war. The extension would remain effective while a particular serviceman continues as so listed. However, a power executed after enactment of H.R. 936 would expire upon conclusion of its stated term, if the intention is specifically expressed that expiration occur despite the grantor's subsequent missing or prisoner status.

The family of a missing or captured serviceman often faces considerable difficulty in managing property interests during his absence. Such difficulties can be intensified if he has issued someone a power of attorney which expires by its terms while he is still away. However, such powers are of course matters of private contract, and any termination date included therein necessarily represents the voluntary expressed intention of the grantor. Some servicemen, for various reasons of their own, might not wish their wives to sell property or take other legal steps beyond such a date, regardless of their military status at that time. Such possibilities cannot be dealt with in general legislation such as H.R. 936.

Your aforementioned letter requested this Department's view respecting the question raised regarding the power of Congress to legislate in H.R. 936 or similar legislation a unilateral change in the written express intent of a party executing a power of attorney in the first instance.

If it is argued that the proposed amendment is not in accordance with the strict laws of agency it must indeed be conceded. Normally, any power of attorney, which is in fact the evidence of an agency relationship, would terminate on the expiration date mentioned in the instrument. Restatement of the Law 2d, Agency 2d section 105. Williston on Contracts (3d Ed.) section 279. However, the effect of such a termination in the case of a military personage missing in action or detained as a prisoner of war is to tie the hands of a wife so that her authority, once given for a stated period, is no longer available to conduct her husband's affairs and to provide the support for herself and children for which he is legally responsible.

The power of Congress to invade private property arrangements is quite sweeping; when exercised to effectuate proper legislative objectives, pertinent to powers conferred under the Constitution. *Legal Tender Cases*, 12 Wall (79 U.S.) 457, 549–550 (1870); see discussion in *Continental Bank* v. *Rock Island Ry.*, 294 U.S. 648, 680 (1935). For instance, the cancellation of an agency contract, under its terms, has been prohibited under an interpretation of the Soldiers' and Sailors' Civil Relief Act. *Stockton* v. *Ford Motor Co.*, 61 F. Supp. 261 (D. Ida. 1945). (However, cf. *Lawrence* v. *Keokuk Steel Casting Co.*, 162 F. 2d 929 (C.C.A. 10, 1947)). And veterans' reemployment laws, which similarly interfere with private contractual arrangements, have been upheld on much the same basis. See, for instance, *Hall* v. *Union Light, Heat & Power Co.*, 53 F. Supp. 817 (E.D. Ky. 1944).

One of the purposes of the Soldiers' and Sailors' Relief Act of 1940, of which the proposed amendment will become a part, is to relieve military personnel of anxieties through suspension of the enforcement of civil liabilities, in certain cases, "in order to enable such persons to devote their entire energy to the defense needs of the Nation." The objective of the amendment is to continue the wife's authority for the period of absence over which her husband has no control and for the length of time which he could not anticipate when he imposed an expiration date on the power of attorney. In supporting provision for a stay of court proceedings for military personnel, the Supreme Court said in *Boone* v. *Lightner*, 319 U.S. 561 (1943), "the Soldiers' and Sailors' Relief Act is always to be liberally construed to protect those who have been obliged to drop their own affairs to take up the burdens of the Nation."

An agency relationship which may arise from the exigencies of a situation is not unknown to the law. For example, the neglect of a principal or an act of God may render the acts of an agent necessary for the preservation of a principal or for the well-being of society. *Sherman's Estate*, 6 Pa. CCR 225 (1889). In that case, the claim of an agent against an estate was disallowed by the executor for the reason that he was without authority. It appeared that the decedent was so far impaired by a brain tumor that he could not be consulted in his final illness about employing an agent. One of the grounds on which the court upheld the agent's claim was that the principal was "bound by the acts of a self-constituted agent where his own neglect or the act of God had rendered those acts necessary for his self-preservation, or for the well-being of society." This reasoning, the court said, "is largely due to modern ideas of humanity. * * * The doctrine * * * has been repeatedly enforced. It is the doctrine of public policy."

In *Allen* v. *Minnesota Loan Co.*, 68 Minn. 8, 70 N.W. 800 (Sup. Ct. 1897), the court recognized the principle that a wife binds her husband as his agent where she pledged his credit for suitable necessities when without cause he has deserted her or turned her out and she is without other means of obtaining such necessities.

For other examples of agency relationship which arise without specific delegation of authority but through the operation of circumstances such as war or where children are left destitute, etc., see 3 Am. Jur. 2d Agency § 19.

However, if H.R. 936 were enacted and judicially upheld as valid, it would not solve all problems of property management and disposition and might create some other problems, particularly in situations where an attorney under an extended power acts contrary to the actual (and perhaps even known) desires and intention of the absent serviceman.

In its present form, H.R. 936 seemingly applies only where a man, already in the service, designates his wife as his attorney; husbands of servicewomen are not mentioned. Some persons execute powers prior to entering military service, and furthermore, relatives other than wives (or non-relatives, such as attorneys at law and trust institutions) are often named. These common situations are not covered by H.R. 936, although the Defense Department's substitute draft bill (which accompanied its letter of July 20, 1971, to your committee) would extend coverage to parents and other named relatives.

We are of the view that, within the spirit of the Soldiers' and Sailors' Relief Act, the courts would be inclined to look with equal favor upon a parent or other named relative, as suggested in the Defense Department substitute draft bill, if in place of the wife, such a designee had been specifically mentioned in the original power of attorney by the person missing in action or held as a prisoner of war. Barring a change in the designee's circumstances such a designee presumably would be as agreeable a choice after the person became incapacitated as before.

In general, we consider that the language of that substitute draft bill is to be preferred from the standpoint of draftsmanship.

While the question is not entirely free from doubt, we believe that legislation in the nature of H.R. 936 is an appropriate exercise of legislative authority. As we see it, the effect of H.R. 936 would be to give statutory recognition, within the spirit of the Soldiers' and Sailors' Relief Act, to an agency relationship which is not unknown to the law.

The Department of Justice would defer to the Department of Defense views as to the need for this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RALPH E. ERICKSON,
Deputy Attorney General.

Mr. HARTKE. New section 505 would amend section 3107 of title 38 to authorize the Administrator to apportion to a veteran's wife or children as he may prescribe that portion of his educational assistance allowance under chapter 34, title 38 as is payable on account of dependents where it is found that the veteran is not living with his wife or if any of his children are not in his custody. Discretionary apportionment authority in section 3107 has been vested in the Administrator for many years with regard to compensation, pension and subsistence allowance under the vocational rehabilitation program. It is logical to extend this authority to those training under chapter 34. Adoption of this provision will eliminate certain hardship cases involving the support of wives and children of veterans pursuing the regular GI bill which has come to the attention of the committee.

TITLE VI

Title VI—which was title VII in S. 2161—provides for savings provisions and effective dates of this act. Under the compromise agreement as previously noted, the benefit increases are retroactive to September 1, 1972. The Administrator is given until August 1, 1973 or such earlier time as he chooses to implement the new advance pay provisions. The prepayment provisions, however, will become effective on November 1. Thus, a veteran who entered school on September 15, for example, will receive in his VA educational check, scheduled to be mailed in early November, payment for the month of October at the new rates, additional payment of the differential between the old and new rates for the 15 days of September and his educational assistance allowance for the month of November in advance. Each succeeding month he will continue to receive his educational allowance in advance.

Existing law concerning training by correspondence will remain in force until January 1, 1973, when the amendments added by this act are scheduled to go into effect.

This title also contains a savings provision for eligible persons training under chapter 35. Under this provision, persons will have a full period of eligibility for programs of education exclusively by correspondence, apprenticeship, and other on-job training which are being made available to them for the first time by this act.

Mr. STAFFORD. Mr. President, this new GI education bill which is now before us, goes a long way toward bringing parity to the Vietnam era veterans as compared with those who fought and served our country before this time.

The new rate increase to $220 per month represents a 25.7 percent increase for a single veteran. Married veterans will receive 27 to 28 percent increases in their monthly allotments. This is a significant step in meeting the cost-of-living increases and the parity which is needed for the Vietnam veteran to get an education under this act.

While we were unable to give full consideration to the World War II type program, I think we have taken a significant step toward the needed parity of the system with the one which many Americans were able to take advantage of.

Mr. President, I am glad to see that the benefit levels are being made retroactive to the beginning of the school year so that those veterans who have been waiting to receive these benefits will get this new amount for their whole school year.

I fully support the actions of the conference committee and hope that the Senate will do the same so that the President can sign this into law immediately for the benefit of those who need it.

Thank you, Mr. President.

H.R. 12828—VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972

RATE INCREASE

Mr. CRANSTON. Mr. President, as the principal sponsor of this bill, along with the distinguished chairman of the Committee on Veterans' Affairs, Mr. HARTKE, I am particularly delighted to speak in support of this compromise version which has been negotiated between the Committee on Veterans' Affairs of the two bodies.

Mr. President, the compromise version provides for a 25.7 percent rate increase in GI bill allowances in the chapter 31 vocational rehabilitation program, and the basic GI bill institutional program, the farm cooperative program and the OJT/apprenticeship program. The Senate amendment had proposed a 43 percent increase from the present $175 per month to $250 for the veteran, with no dependents, studying full-time in an institutional course. The House was unwilling to go above a $220 basic rate and presented some persuasive argument for its position.

Mr. President, I believe that the Senate amendment rate increase was fully justifiable and, in negotiations with the House, we did all possible to sustain the Senate position.

I regret that we were unable to do so, but I do wish to say in behalf of the position taken by the House, that the mathematical computations can be employed effectively to support many different rate figures. It is a question of choosing which mathematical formula best serves the conclusions one wishes to reach.

The question is whether or not the basic $220 figure, coupled with the innovations and improvements in the compromise version, particularly the new veteran-student service program for the most needy veterans, will enable most every eligible veteran, who wishes to, to pursue an appropriate course of education or training under the GI bill. I believe the answer to that is probably "yes," although clearly the $220 monthly rate will still not come close to covering the costs at certain very expensive private colleges and universities.

I certainly believe that we should have achieved a rate of at least $225 or $230 per month, but in view of the willingness on the part of the House to accept so many of the other substantive provisions in the Senate amendment—which I will outline later—I believe that this bill represents an enormous improvement and expansion of the GI bill and other readjustment assistance for post-Korean and Vietnam era veterans. And particularly I think this is the case for educationally disadvantaged veterans who should benefit greatly from the amendments and new programs contained in the remainder of the compromise version.

For all of these reasons, Mr. President, I feel strongly that we have effectively represented the Senate position and have achieved a wise and equitable accommodation of the two bills.

Mr. President, another issue involving GI bill rates, included in the compromise version, requires special mention. The Senate amendment included proposals I offered to provide, for the first time, a consistency of concept with respect to the subsistence amounts added to the basic rates in the four GI bill programs for veterans with one, two, or more dependents.

The Senate amendment included a single scale—derived by averaging the level of dependency support under employment compensation, AFDC, and the adjusted World War II rate—$47 for the first dependent; $42 for the second; and $21 for each additional dependent in excess of two. In addition, the Senate amendment made all part-time rates directly proportional to the percentage of training time; for example, the basic half-time rate was $125 per month for the veteran—with no dependents—studying on a half-time basis.

The compromise version incorporates these approaches from the Senate amendment on a reduced scale: $41 for the first dependent; $37 for the second, and $18 for each additional dependent in excess of two. I believe this is an important, although not a dramatic, improvement in the philosophy underlying the GI bill, and I am grateful to the House for accepting the Senate concept on this point.

Finally and very significantly, Mr. President, the rate increases, are made effective retroactively to September 1 for those veterans now in training, so that they can receive the benefits of a full school year's increase. This was a concept we, in the Senate, felt most strongly about, and the House was willing to accept this approach.

The result of these rate increases, the retroactive effective date, and the prepayment of allowance provision included in title II of the compromise version is, according to the VA, that in November current GI bill trainees will receive a lump sum check including their allowance entitlement for the months of October and November plus the increase percentage for the months of September and October. For the single veteran pursuing full-time study, this would be a single check for $530.

ADVANCE PAYMENT AND WORK/STUDY

Mr. President, one of the areas of greatest difficulty in the present GI bill program has been the late payment of initial GI bill checks.

This often poses an enormous hardship for veterans in training under the GI bill. Complaints from veterans who do not receive their first educational assistance allowance checks on time constitute a major share of the casework that my office handles. The delays of 3, 4, or 6 months or longer, in the payment of the educational assistance allowance place an impossible burden on veterans, particularly disadvantaged veterans who are struggling to stay in school. In early January of this year, for example, I received lists from schools in California with the names of 206 veterans who had not yet received their first check for the school year beginning in the fall of 1971. This is an absolutely intolerable situation.

To help ease this hardship, I first introduced in 1970 S. 3657, legislation which would have provided for advance payment of the educational assistance allowance, to put money in the hands of the veteran when he needs it most, at the start of the school year. Unfortunately, this vital legislation, which passed the Senate in September of 1970, died at the end of the 91st Congress when the House took no action.

I am particularly pleased that provisions for advance payment, similar to those which were in my original bill were included in the Senate amendment and are included in the compromise version.

Under the advance payment provisions in the compromise version, an eligible veteran would be entitled to the advance payment of assistance benefits for the first month, or fraction thereof, of attendance, and for the succeeding month as well. Thereafter payments would be made for the succeeding month rather than as at present, after each month. Application for advance payment made to the Administrator would include evidence of eligibility, as well as of acceptance and intention to enroll or return for further study at the institution involved. Upon receiving such application, the Administrator would be authorized to mail to the institution a check made payable to the veteran for delivery to the veteran-student upon registration. In this way, the veteran, rather than often having to wait months to receive a check from the VA, should have initial capital to cover the cost of books and supplies, and living expenses for himself and his family.

A provision is also included providing for disapproval of a school for GI bill study if it alters its payment policies for veterans in anticipation of getting more tuition or fees paid at an earlier date under the advance payment system. The committee intends for the advance payment to be of principal benefit to the veteran student, not the institution, although it may benefit incidentally by getting tuition paid earlier as the allowance prepayment provisions in the bill take effect following the advance initial payment.

These provisions as included in the Senate amendment Mr. President, are contained in title II of the compromise, as well as a new veteran-student service program retaining the basic provisions which I authored in title II of the Senate amendment, with certain changes which I will outline. The advance payment program, however, is not made effective until August 1, 1973, in order to give the VA leadtime to implement this new system.

Although the full provisions for the veteran's outreach work-study program, which I authored in the Senate amendment, is not retained in the compromise version, a substantial beginning is made in that direction. The compromise version establishes as an entitlement program, a program of veteran-student services under which a GI bill trainee entering into an agreement to perform services for the VA would be entitled to receive up to $250 in an academic year for 100 hours of such work performed—or a lesser amount for a pro rata lesser amount of work. The work which such a veteran-student would carry out is essentially the same as that provided for in the provision in the Senate amendment, except that for outreach services, the student has to be under the supervision of a VA employee.

Also, the number of man-hours which could be worked under this veteran-student services program is limited to 800 man-years or their equivalent in man-hours during any fiscal year. This has the effect of limiting the number of 100-hour agreements to approximately 16,500 agreements with individual, needy GI trainees in the course of a fiscal year. The maximum such work-study allowance was reduced from $300 to $250 to increase the number of veterans who could benefit from such agreements under such a limitation.

PROGRAMS FOR EDUCATIONALLY DISADVANTAGED VETERANS

Mr. President, it is extremely gratifyto me that all the provisions regarding PREP, tutorial, outreach and measurement of various courses, which I authored in the Senate amendment, are retained in the compromise version, with the exception of the GED provision which I will explain separately. These provisions were outlined in detail in my floor statement upon passage of the Senate. I ask unanimous consent, Mr. President, that the pertinent portions be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPROVEMENTS IN SPECIAL GI BILL PROGRAMS FOR THE EDUCATIONALLY DISADVANTAGED

Even more distressing than the low-participation rate for the general Vietnam era veteran population is the fact, pointed out earlier, that the utilization of benefits is in inverse proportion to the degree of individual need for readjustment assistance. Almost 80 percent of all Vietnam era veterans have a high school diploma or less upon discharge. Studies by the American Association of Junior Colleges, which has provided much important leadership in improving and providing readjustment programs and benefits to the returning Vietnam era veteran, indicate that as many as 50 percent of these veterans require further education or training to compete realistically in the employment market. And yet veterans who face the least readjustment problems, those who have had preservice college, are more than three times more likely to utilize GI bill benefits than those veterans who have only preservice high school.

Only 17.4 percent of the nearly 1 million veterans who do not have even a high school diploma have pursued further training under the present GI bill. The fact is that the Vietnam era veterans who most desperately need readjustment assistance—those who are educationally and economically disadvantaged—are the least likely to get it under the present GI bill.

NEW PROGRAMS IN 1970

Increases in financial benefits alone are not enough to reach out to many of these veterans. Educationally and economically disadvantaged veterans need remedial and refresher programs and other educational assistance and counseling which are specially tailored to their needs and educational deficiencies. It was to help meet this special need that in 1970, in cooperation with Chairman TEAGUE, I authored several new programs which were included in Public Law 91–219, to help these veterans. Following is a brief review of these programs:

First. PREP: A new subchapter V—sections 1695 through 1697—was added to chapter 34 of title 38 to help men still in the service, by enabling them to complete their high school education or to undertake deficiency, remedial, refresher, or preparatory work in order to continue their education. PREP, the "pre-discharge education program," was conceived as a way to help tens of thousands, perhaps hundreds of thousands, of young servicemen to continue their education while in service, and to begin planning for their futures, without charge to their GI bill entitlement.

Second. Tutorial assistance: Section 1692 was added to title 38 to help veteran GI bill trainees enrolled in college but having academic difficulties, by permitting them to receive up to $50 a month for up to 9 months for tutorial assistance in their courses.

Third. Remedial-refresher courses. A new chapter VI—section 1691—was added to chapter 34 of title 38—amending previous law—to permit veterans to complete high school—or grammar school—and necessary refresher, deficiency or preparatory courses needed to prepare for a postsecondary program. Under this provision, veterans receive their GI bill educational assistance allowances while enrolled in such programs, but these allowances, as with PREP, are not charged against their GI bill entitlement. Thus, after completing this secondary-level or remedial work, these veterans generally still have a full 36 months of GI bill benefits to draw upon.

Fourth. A much greater emphasis on veterans outreach. A new subchapter IV was added to chapter 1 of title 38 to assure that the Veterans' Administration would expand and improve its programs for veterans outreach, so that all returning servicemen, and especially the disadvantaged, would be fully informed of all benefits available to them. The last sentence of the new section 240(a) declared:

> "The Congress further declares that the outreach services authorized by this subchapter is for the purpose of charging the Veterans' Administration with the *Affirmative duty* of seeking out eligible veterans and eligible dependents and providing them with such services."

INADEQUATE IMPLEMENTATION OF NEW PROGRAM

Mr. President, I am deeply disappointed that only a handful of the hundreds of thousands of veterans who could have so greatly benefited from these new programs have actually participated in them. The establishment of these programs in colleges and universities, has been greatly handicapped by lethargy, delays, and inexcusable footdragging, and, in some cases, out-right resistance, by the VA and the Defense Department. For example, in the 2 years since enactment, only 3,954 veterans have utilized tutorial assistance benefits.

The Defense Department, the individual armed services, and the individual military base commanders have never taken steps to make PREP available to large numbers of servicemen. The complete failure of individual base commanders to publicize PREP, to establish and promote PREP programs, or to encourage their men to participate has been particularly frustrating. I wish to stress that PREP cannot succeed without the active cooperation of the individual base commander. That this cooperation has not been forthcoming in any uniform sense is not really surprising in view of the fact that no official in either the Department of Defense or the Veterans' Administration has even been given the specific responsibility to implement and oversee PREP. The establishment of PREP programs has also been hindered by excessively restrictive and cumbersome VA and DOD regulations.

Where small PREP programs have been established often with great difficulty, many bases have refused to allow release time from duty. The VA requires that a PREP program be in session 25 clock hours a week to be considered full time. Most bases have apparently not been willing to release more than a handful of servicemen for 25 hours a week for education or even to permit them perhaps 12 hours—the remaining 13 hours to come from their own off-duty time. Where PREP has been successful, it has often been because servicemen, after a full day's work, have been willing to spend from 2 to 5 hours a night, 5 nights a week, in class. These men have shown their desire for further education by this commitment of time; unfortunately, many times their dedication has not been matched by that of the military base commanders.

Minority group servicemen—black, chicano, Puerto Rican, American Indian, and others—are often in special need of educational help. But there has been no concerted effort by DOD to help these men upgrade themselves through PREP, which is designed to serve them as well as the hundreds of thousands of educationally disadvantaged white GI's.

PREP has also represented a way to help very large numbers of men overseas, in Europe and parts of Asia, to continue their education. Many of these men have a considerable amount of spare time, and could use it profitably to upgrade themselves. Only recently, however, have the services begun to move to create meaningful PREP programs in Europe; there has apparently been little of this kind of special help for men stationed in Asia and the Pacific.

In the case of servicemen, a great opportunity has been permanently lost for the very large numbers who have left the service or will leave it in the next few months. These men needed PREP; they lost this chance—for counseling, guidance, and placement as well as course work. There is nothing which can be done now, through PREP, to help them.

DEPARTMENTS IN EXISTING PROGRAMS

In order that the potentially great benefit of the PREP program will not continue to be wasted, the S. 2161 committee substitute includes the following clarifying changes and improvements in PREP:

First. Authorization is provided for proprietary nonprofit educational institutions to offer PREP programs for servicemen—and also remedial and refresher program for educationally disadvantaged veterans—as long as the school has been in existence for 2 years by eliminating the requirement as applied to PREP programs at nonpublic colleges that the course in question must have been in operation for 2 years or be offered at a nonprofit accredited college for credit. This requirement has the effect of eliminating the typical noncredit PREP programs at private nonprofit accredited colleges. Under the Committee substitution this requirement continues to apply to other GI bill programs.

Second. Existing law is also amended in the committee substitute to make clear that the PREP program can include courses needed to obtain an equivalency or GED certificate. At present, veterans may receive GI bill benefits while enrolled in equivalency or GED programs. But the VA has construed present section 1696 as not permitting servicemen to do so. The armed services are already helping very large numbers of men to obtain equivalency certificates each year; this legislative change will allow many more servicemen to use PREP to advance their education in a more appropriate way than formal secondary school courses.

Third. The committee substitute also provides for the lump-sum prepayment of the total anticipated PREP costs—either the established tuition and charges for nonservicemen in an identical program, or reasonable charges where there is no identical programs—a legislative gloss made explicit—or $250, whichever is the least. Particularly in the cases of institutions offering PREP programs overseas, very serious problems have resulted from the greatly delayed or even the nonpayment of tuition costs. For example, Big Bend Community College, from Moses Lake, Wash., which offers PREP in Europe, is threatened with the loss of $45,000 and perhaps much more. The committee expects that the new lump-sum advance payment will overcome the great difficulties being experienced by Big Bend in its servicemen enrollees not receiving PREP checks before they terminate in the program. In order to insure the effectiveness of the new system in the overseas context, maximum cooperation by and coordination between DOD and VA with the PREP institution will be necessary, and every effort must be made to expedite and advance the date of enrollment processing and the transmittal of appropriate papers to VA in the United States in order to lead to timely mailing and receipt of checks.

Toward this end, the committee believes the VA should give the most serious consideration to assignment of a DVB expert to the overseas area to assure the most expeditious and accurate processing and transmittal.

Fourth. Increased cooperation within the Department of Defense as well as closer coordination with the VA is also called for by the committee substitute. The Administrator of the VA is required to designate an appropriate official who shall cooperate with and assist officials designated by the Secretary of Defense as administratively responsible for carrying out DOD functions and duties with regard to PREP.

Fifth. Moreover, in order for Defense Department overseas schools to be eligible to participate in PREP or any other title 38 program, the committee substitute requires the Department of Defense to submit to both the House and Senate Committee on Veterans' Affairs a detailed plan for greatly expanded implementation of PREP, including provisions for each Secretary concerned to advise counsel, and encourage eligible servicemen regarding the educational benefits available to them, especially the special remedial programs designed for the educationally disadvantaged. The plan would also include provision for the release of participating servicemen for at least one-half of the hours required for PREP, unless such release would be inconsistent with the interests of national defense. The establishment of an interservice and interagency coordinating committee is another condition established, this committee to be under the cochairmanship of the Assistant Secretary of Defense and the Chief Benefits Director of the VA with the task of promoting and coordinating all VA educational assistance programs, as well as implementing the plan mentioned above. One element of cooperation which the committee deems particularly important is for base commanders to be urged to assist in and encourage the earliest possible registration of PREP enrollees both in the United States and abroad so that the new advance lump-sum payment can arrive in time for the PREP institution to receive its charges from the serviceman as early as possible and at least prior to his completion of the program.

Sixth. A significant boost for PREP and college preparatory programs should be provided by the provision in the committee substitute to permit reduction of the 25-clock hours that are presently required for fulltime PREP participation. Educational authorities concerned with educationally disadvantaged young adults believe that such students should not be kept in class 25 hours a week, but rather should be assisted in developing habits of self-directed study. The present rule has occasioned numerous complaints from servicemen as well as PREP institutions. Under the change a precollege PREP program—or remedial or refresher program for veterans—would be considered full time if the program included a minimum of four Carnegie units per year—or, under a general change in measurement of high school courses, if the program, pursued full time for 4 years, would lead to a high school diploma—or if the school measured the program itself on a semester-hour basis in which case generally only 12 hours of classes would be needed. In any case, the form of measurement used would be left up to the school.

Seventh. Consultation between active duty servicemen who desired VA educational assistance and the appropriate education service officer—ESO—would also be required under the committee substitute. Such consultation would be particularly useful in helping servicemen choose the course of training best suited to his aptitude, educational needs, and his vocational goals. I am convinced, as are the other members of the Senate Veterans' Affairs Committee, that maximum encouragement should be given to servicemen to enroll in PREP programs, where appropriate.

At this point, I believe it is important to point out that while education service officers have an extremely important role to play in the successful training of servicemen, unfortunately very little is known in the Congress about ESO's or their work. Thus, I intend to followup with the Defense Department, requesting information in the following areas: The total number of ESO's; their educational background; their previous experience; and whether they have backgrounds in teaching or educational administration? How many of them are minority group members; how many have had special training in working with minorities or the disadvantaged? It is difficult enough for professionally trained educators with years of school experience to work effectively with many minority group and disadvantaged students today. It may be far more difficult for a man to do so who has been away from his own college education for many years, and has not had the advantage of recent refresher or advanced work in a graduate school. Thus, we should determine how many education service officers are trained in counseling and guidance, and how many can meet the minimum requirements which a high school guidance counselor, for example, must meet in most States.

I hope the Defense Department will compile that information and make it available to the Congress and the public. Certainly, we need to know at least this much before we provide a statutory veto for the ESO over servicemen's GI bill participation during service, as the administration proposed.

A more professionalized and better supported off-duty education program is essential to help both the large number of men now being separated and the many who will remain in the service for shorter or longer tours of duty. The Nation and the military will be the better for it if most servicemen are advanced at least through the high school equivalency or GED—general educational development, comparable to a high school diploma—and if many are given the incentive and the ability to take advantage of the opportunity for further education, either in service or later.

Therefore, Mr. President, I believe there is a great need for an evaluation by outside experts of all DOD off-duty education programs. Such a study would be a valuable one to be undertaken by the Carnegie Commission on Higher Education, for example. In addition, I am hopeful that, in the near future, the Senate Veterans' Affairs Committee will be able to conduct such an indepth review in order to help the individual services to upgrade their members' skills and to help a far greater number of servicemen advance themselves under the GI bill, both while in the service and following discharge. Such a study would be a valuable part of planning for an all-volunteer Armed Forces, a concept I strongly support and one to which which a strong in-service education program, especially for the educationally disadvantaged, is vitally important.

Eighth. As in the case of the PREP program, I have been deeply concerned by the underutilization of tutorial benefits under the special program I authored in 1970. This has primarily been the result of the VA's failure to adequately inform both veterans and educational institutions about this program. Another adverse factor has been the restrictive regulations the VA has established which require a veteran to be actually failing a subject before he is eligible for tutorial assistance. The intent of Congress was that the veteran be eligible for assistance if his performance was below the norm of his class and certainly well before he was caught in actual course failure. Any veteran who participated in remedial PREP or college preparatory program should be able to utilize his section 1692 tutorial benefits as part of a planned college program, rather than awaiting the development of serious academic difficulties. Therefore, the S. 2161 committee substitute would permit a veteran to use tutorial benefits to remedy a "deficiency" rather than a "marked deficiency," as is presently the case. The negligible utilization of this program to date demands that the eligibility requirements be made more realistic in this way. At the same time, there is no intention for these benefits to be used to upgrade adequate academic performance: from a "C" to a "B," for example.

Mr. CRANSTON. Mr. President. The compromise version does not include a provision to make specific the inclusion of the so-called GED—high school equivalency certificate—as one purpose for pursuit of the PREP program under present section 1696(a) of title 38. The Department of Defense has for many years been conducting, through its base education officers, special G.E.D. programs under which servicemen prepare for and take the GED exam and, hopefully, receive the equivalency certificate. It was not felt desirable to shift the costs of such an on-going program to the VA readjustment benefits account. However, it should be clearly understood that by not so specifying in section 1696, it is not intended in any way to indicate that receiving a GED could not properly be one of the objects of a "deficiency, remedial, or refresher" PREP course under section 1691(a)(2). Indeed, as long as such a course otherwise meets the requirements of such section in terms of content and the other existing title 38 requirements for PREP programs, it is, in my opinion, highly desirable for such a GED component to be built into such a PREP program in order to provide tangible indications of achievement for the participating serviceman.

"I hope that the VA and Defense Department will encourage the inclusion of such GED components as part of PREP programs.

VETERANS' EMPLOYMENT PROVISIONS

Mr. President, as the author of title V in the compromise version—veterans' employment assistance and special emphasis—which was title VI in the Senate amendment, I am delighted with the inclusion in the compromise version of those provisions, with one exception which I will touch upon. Certain modifications have been made to clarify these provisions after consultation with the Department of Labor, but the essential thrust of the Senate amendment is retained.

The compromise version does not include section 2012—"action plan for employment of disabled and Vietnam era veterans"—which would have been added to title 38 by section 603(a) of the Senate bill, in view of the strong objection to such inclusion made by the Civil Service Commission and on jurisdictional grounds by the House Committee on Post Office and Civil Service. Pertinent reports from the Commission and the House Committee on Post Office and Civil Service are set forth elsewhere in the RECORD in Senator Hartke's statement.

VETERANS' DIRECT LOAN PROGRAM

Mr. President, it is indeed regretable that we were unable to convince the House of the necessity and desirability of the veterans' direct loan program—authored by Senator Hartke and myself—in the Senate amendment, but I feel that the House Committee has been most understanding and cooperative in accepting many of the Senate provisions, which I have just outlined. I would hope that if it can be demonstrated that the 25.7 percent increase in GI bill allowances in the compromise version does not provide adequate assistance, the House would give further consideration to adoption of such a direct loan program.

FARM TRAINING

It is also regretable, Mr. President, that the House has again, as it did in the 91st Congress, rejected a substantial revision of the farm cooperative program. However, the House was willing to reduce by more than 16 percent the class hour requirements in that program—more than had been done in the House bill—with the result that programs stressing more on-farm training will be given a boost.

CONSOLIDATION OF ADMINISTRATIVE PROVISIONS

Finally, Mr. President, a concept I have long advocated is also carried out in the compromise version. That is the consolidation of certain provisions from chapters 34 and 35 into a single administrative provisions chapter—chapter 36—so that, wherever possible, the same course measurement, payment, overpayment, and numerous other administrative requirements will apply both to the chapter 34 veterans program and the chapter 35 dependents and survivors program under the GI bill.

VETERANS' COST-OF-INSTRUCTION PROGRAM

Mr. President, in closing I wish to add one more note in terms of the adequacy of the program included in this compromise version. The Senate yesterday approved the supplemental appropriations bill (H.R. 17034) which included $75 million, recommended by the Appropriations Committee, for initiation of the veterans' cost-of-instruction program which I authored in the Education Amendments of 1972—Public Law 92–318. This program is designed to create an incentive for institutions of higher education to enroll more GI bill trainees, and to provide funds to schools which do so that they can carry out special veterans programs, particularly the programs for educationally disadvantaged veterans under the GI bill, which I have just described and which the compromise version of H.R. 12828 has improved and expanded. I hope, most earnestly, that this new funding will be retained in the final version of the supplemental appropriations bill as it emerges from conference. In any event, I am extremely grateful to the Appropriations Committee for responding in such a generous fashion to this new program, and I ask unanimous consent, Mr. President, that the text of my October 6, 1972, letter to the distinguished subcommittee chairman (Mr. Magnuson) be set forth in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., October 6, 1972.

Hon. Warren G. Magnuson,
Chairman, Subcommittee on Labor-HEW Appropriations, Washington, D.C.

Dear Mr. Chairman: I am writing to express my very strong support of funding for the Veterans' Cost-of-Instruction and Consumer Education programs as authorized in the Education Amendments of 1972.

As the author of these two provisions, I feel it is vitally important to fund them at this point rather than waiting until later in this fiscal year.

With respect to the Veterans' Cost-of-Instruction provision, I recommend the inclusion of $90 million which would permit Veterans' Cost-of-Instruction payments beginning in the spring semester. We estimated the cost of this provision for full fiscal year funding as approximately $180 million. Although the GI Bill provides substantial "scholarship" funds for the individual veteran student, the present GI Bill contains no incentive funds for institutions of higher learning to make positive efforts to enroll veterans, and, indeed, we have received numerous letters from veterans protesting the great difficulty they have in gaining admission to colleges that they wish to enter.

As you will recall, the World War II GI Bill, by providing generally for full tuition, fees and book costs, provided the type of incentive that the Congress believed was necessary when it enacted the Veterans' Cost-of-Instruction program this past summer. The purpose of the program is to provide colleges both with a financial benefit from the enrollment of veteran students utilizing the GI Bill and with special funds to set up special Veterans Affairs offices, outreach programs, tutorial programs and special preparatory programs. In addition, schools could receive the $300 incentive payment ($450 if the veteran is educationally disadvantaged) only if they increase their enrollment in the first year 10 percent over their enrollment of GI Bill trainees in the preceding year.

I feel that funding of this program can provide opportunities for many, many veterans to receive the benefits of college education and thus greatly increase their ability to effectively readjust to civilian life and maximize their productivity.

Secondly, I would like to urge full funding of the Consumer Education provision for which $20 million are authorized to be appropriated this fiscal year. Because of the lack of adequate resources for educating and informing consumers about their role as participants in the marketplace, the Congress voted to authorize that amount. This field has received increasing national attention in recent years, and the cost of this program would be slight compared to the very substantial savings it could bring about. The government now spends $200 million annually enforcing laws and regulations "after the fact." We spend $25 million a year in legal action alone, trying to undo damage consumers have suffered which proper consumer education could do much to prevent.

Mr. Chairman, I greatly appreciate all of the courtesies you have extended to me in the past, and I very much hope that you will give the most serious consideration to the recommendations set forth above and will share this letter with the members of your subcommittee and the full committee.

Sincerely,

Alan Cranston.

CONCLUSION

Mr. CRANSTON. Mr. President, I think this is a bill of which the Congress can be truly proud. It is, in virtually in every respect, a congressional initiative and, although the administration will attempt, belatedly, to take credit for it—for its scope, for its inventiveness, for its compassion, no one who has followed the progress of this legislation will be fooled.

This bill is what the Congress believes is a fitting tribute to the contributions our returning servicemen have made to their Nation. This bill provides what the Congress believes are appropriate benefits and programs to assist these veterans in readjusting to civilian life and assuming a productive place in our society.

Mr. THURMOND. Mr. President, the Vietnam Era Veterans' Readjustment Assistance Act of 1972 is of vital importance to our veterans who wish to continue their education.

Our veterans deserve our special thanks. Having served our Nation in the armed services, many have returned to civilian life to find higher education opportunities more competitive. Particularly, they have been faced with the rising costs of living and education, family responsibilities, and scarce jobs. Educational assistance provided in this bill will serve to ease the burden for those who desire to continue their education.

Mr. President, I cosponsored the original Senate bill to increase GI benefits by 43 percent over the present GI bill.

Now, under the Senate-House compromise, the basic monthly education rate for single veterans is increased from $175 to $220. This represents a 25.7-percent increment. For the married veteran, the current rate is $205, but the new rate will be $261, a 27.3-percent increase. With one child, the current rate is $230, but the new rate will be $298, a 29.5-percent addition. For each additional dependent, the veteran now receives $13, but under the new rates he will receive $18, a 38-percent increase.

Mr. President, this increase does not represent the maximum benefits the Senate approved, but it does represent an equitable adjustment of the present rates.

Moreover, Mr. President, these additional benefits are being made retroactive to September 1, 1972. It is my belief that the provision for retroactivity will help to correct any inequities where the veteran relied on these additional benefits at the beginning of the school term and they were not available.

Mr. President, I am proud to support this important piece of veterans legislation, and urge its prompt approval.

Mr. DOLE. Mr. President, I wish to comment upon H.R. 8395, the bill to extend the Vocational Rehabilitation Act. Its primary objectives are twofold: To introduct a strong element of accountability into the administration of rehabilitation programs, especially at the State level; and to encourage rehabilitation agencies to take on more cases of individuals with substantial handicaps. The bill authorizes the Department of Health, Education, and Welfare to give project grants to the severely disabled and does not put total emphasis on vocational goals. The bill is realistic and should provide great improvements in America's vocational rehabilitation program. Several provisions of the conference committee report stand out in importance.

NATIONAL INFORMATION AND RESOURCE CENTER FOR THE HANDICAPPED

One provision is of particular interest to me, because it embodies a proposal I originated in the 91st Congress and included in S. 41, a bill I introduced in January 1971. It deals with the creation of the National Information and Resource Center for the Handicapped.

It is an unfortunate reality in our country today that information on the facts, facilities and services available to the handicapped is incomplete and fragmentary and often available only through narrow, specialized channels. In many cases existing stores of knowledge and information about programs, research and services which could be of immense benefit to the handicapped simply are not readily available to them, because there is no organized, systematic way of reaching it.

My personal experience and a continuing concern for the problems of the handicapped have led me to see that a basic need exists for a central source, a clearinghouse, to channel the questions and inquiries of the handicapped to the answers they seek. With these thoughts in mind I proposed the creation of the National Information and Resource Center for the Handicapped. Now included by the Vocational Rehabilitation Act within the Office of the Handicapped in the Department of Health, Education, and Welfare, the Center will provide a point of contact for the handicapped, their families, interested citizens as well as private and professional organizations, city and State officials who need guidance or direction to information which will enable them to deal more effectively with problems faced by the handicapped.

The Center is not intended to duplicate any programs in Government or the private sector; rather, the idea is to coordinate knowledge relating to all programs of benefit to the handicapped. A small staff will be available to direct inquiries to specialized contacts which have particular knowledge or have had success in working on aspects of any problem.

I believe this is an innovative, commonsense approach to a basic problem, I am pleased that it has been included in this bill and hope that it can be put into operation at the earliest possible date.

The millions of Americans who belong to the handicapped minority will be the immediate and long-term beneficiaries of the Center's services, but America will be the ultimate beneficiary through increased contribution, well-being, and personal fulfillment of the handicapped.

OTHER PROVISIONS

H.R. 8395 will also establish new authority for annual grants for rehabilitation facilities serving severely handicapped deaf individuals. It makes available funding for the establishment and operation of centers for spinal cord injury and provides grants for services for individuals suffering from end-stage renal disease. It provides for establishing State advisory councils on rehabilitation of the handicapped and an expanded program of grants for various special projects and demonstrations, including the special program for rehabilitation services for handicapped migratory or agricultural workers and their families. The bill will continue existing authority for grants for construction of rehabilitation facilities, construction and operation of the National Center for Deaf-Blind Youths and Adults, and vocational training for handicapped individuals. It will also expand the National Advisory Council on Rehabilitation of the Handicapped.

To handicapped individuals, the vocational rehabilitation bill is the most important measure in this session of Congress. I am pleased that it contains many worthwhile and highly beneficial programs that will pay dividends to handicapped Americans and all their fellow citizens.

Mr. HARTKE. Mr. President, I move that the Senate concur in the House amendments to the Senate amendment.

The motion was agreed to.

VETERANS' ADMINISTRATION MEDICAL SCHOOL ASSISTANCE AND HEALTH MANPOWER TRAINING ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 748.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the resolution (H.J. Res. 748) amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; "the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel", which were in lieu of the matter stricken and inserted by the amendment of the Senate, insert:

That this Act may be cited as the "Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972".

SEC. 2. (a) Part VI of title 38, United States Code, is amended by inserting immediately after chapter 81 the following new chapter—

"Chapter 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

"Sec.
"5070. Coordination with public health programs; administration.

"SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

"5071. Declaration of purpose.
"5072. Authorization of appropriations.
"5073. Pilot program assistance.
"5074. Limitations.

"SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

"5081. Declaration of purpose.
"5082. Authorization of appropriations.
"5083. Grants.

"SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

"5091. Declaration of purpose.
"5092. Definition.
"5093. Grants.

"SUBCHAPTER IV—EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY

"5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training.

"§ 5070. Coordination with public health programs; administration

"(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried out under section 309 and titles VII, VIII, and IX of the Public Health Service Act.

"(b) The Administrator may not enter into any agreement under subchapter I of this chapter or make any grant or provide other assistance under subchapter II or III of this chapter after the end of the seventh calendar year after the calendar year in which this chapter takes effect.

"(c) The Administrator, after consultation with the special medical advisory committee established pursuant to section 4112(a) of this title, shall prescribe regulations covering the terms and conditions for entering into agreements and making grants under this chapter.

"(d) Payments made pursuant to grants under this chapter may be made in installments, and either in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Administrator may determine.

"(e) In making grants under this chapter, the Administrator shall give special consideration to applications from institutions which provide reasonable assurances, which shall be included in the grant agreement, that priority for admission to health manpower and training programs carried out by such institutions will be given to otherwise qualified veterans who during their military service acquired medical military occupation specialties, and that among such qualified veterans those who served during the Vietnam era and those who are entitled to disability compensation under laws administered by the Veterans' Administration or whose discharge or release was for a disability incurred or aggravated in line of duty will be given the highest priority. In carrying out this chapter and section 4101(b) of this title in connection with health manpower and training programs assisted or conducted under this title or in affiliation with a Veterans' Administration medical facility, the Administrator shall take appropriate steps to encourage the institutions involved to afford the priorities described in the first sentence of this subsection and to advise all qualified veterans with such medical military occupation specialties of the steps he has taken under this subsection and the opportunities available to them as a result of such steps.

"(f) (1) Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

"(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any assistance under this chapter which are pertinent to such assistance.

"SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

"§ 5071. Declaration of purpose

"The purpose of this subchapter is to authorize the Administrator to implement a pilot program under which he may provide assistance in the establishment of new State medical schools at colleges or universities which are primarily supported by the States in which they are located if such schools are located in proximity to, and operated in conjunction with, Veterans' Administration medical facilities.

"§ 5072. Authorization of appropriations

"(a) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants pursuant to section 5073 of this title.

"(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

"§ 5073. Pilot program assistance

"(a) Subject to subsection (b) of this section, the Administrator may enter into an agreement to provide to any college or university which is primarily supported by the State in which it is located (hereinafter in this subchapter referred to as 'institution') the following assistance to enable such institution to establish a new medical school:

"(1) The leasing to the institution, for such consideration and under such terms and conditions as the Administrator deems appropriate, of such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary for such school. The three-year limitation on the term of a lease in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this paragraph. Any lease made pursuant to this subchapter may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes,' approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subchapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease.

"(2) The extension, alteration, remodeling, improvement, or repair of buildings and structures (including, as part of a lease made under paragraph (1), the provision of equipment) provided under paragraph (1) to the extent necessary to make them suitable for use as medical school facilities.

"(3) The making of grants to assist the institution to pay the cost of the salaries of the faculty of such school during the initial twelve-month period of operation of the school and the next six such twelve-month periods, but payment under this paragraph may not exceed an amount equal to—

"(A) 90 per centum of the cost of faculty salaries during the first twelve-month period of operation,

"(B) 90 per centum of such cost during the second such period,

"(C) 90 per centum of such cost during the third such period,

"(D) 80 per centum of such cost during the fourth such period,

"(E) 70 per centum of such cost during the fifth such period,

"(F) 60 per centum of such cost during the sixth such period, and

"(G) 50 per centum of such cost during the seventh such period.

"(b)(1) The Administrator may not enter into any agreement under subsection (a) of this section unless he finds, and the agreement includes satisfactory assurances, that—

"(A) there will be adequate State or other financial support for the proposed school;

"(B) the overall plans for the school meet such professional and other standards as the Administrator deems appropriate;

"(C) the school will maintain such arrangements with the Veterans' Administration medical facility with which it is associated (including but not limited to such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in the carrying out of the mission of the medical facility and the school; and

"(D) on the basis of consultation with the appropriate accreditation body or bodies approved for such purpose by the Commissioner of Education of the Department of Health, Education, and Welfare, there is reasonable assurance that, with the aid of an agreement under subsection (a) of this section, such school will meet the accreditation standards of such body or bodies within a reasonable time.

"(2) Any agreement entered into by the Administrator under this subchapter shall contain such terms and conditions (in addition to those imposed pursuant to subsections (a)(1) and (b)(1) of this section) as he deems necessary and appropriate to protect the interest of the United States.

"(c) If the Administrator, in accordance with such regulations as he shall prescribe, determines that any school established with assistance under this chapter—

"(1) is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

"(2) is accredited but fails substantially to carry out the terms of the agreement entered into under this chapter; or

"(3) is no longer operated for the purpose for which such assistance was granted,

he shall be entitled to recover from the recipient of assistance under this chapter the facilities of such school which were established with assistance under this chapter. In order to recover such facilities the Administrator may bring an action in the district court of the United States for the district in which such facilities are situated.

"§ 5074. Limitations

"The Administrator may not use the authority under this subchapter to assist in the establishment of more than eight new medical schools. Such schools shall be located in geographically dispersed areas of the United States.

"SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

"§ 5081. Declaration of purpose

"The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to medical schools which have maintained affiliations with the Veterans' Administration in order to assist such schools to expand and improve their training capacities and to cooperate with institutions of the types assisted under subchapter III of this chapter in carrying out the purposes of such subchapter.

"§ 5082. Authorization of appropriations

"(a) There is further authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years, for carrying out programs authorized under this chapter.

"(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

"§ 5083. Grants

"(a) Any medical school which is affiliated with the Veterans' Administration under an agreement entered into pursuant to subchapter IV of chapter 81 of this title may apply to the Administrator for a grant under this subchapter to assist such school, in part, to carry out, through the Veterans' Administration medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Administrator. Any such application shall contain such information in such detail as the Administrator deems necessary and appropriate.

"(b) An application for a grant under this section may be approved by the Administrator only upon his determination that—

"(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school and will result in a substantial increase in the number of medical students attending such school, provided there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such school;

"(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

"(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

"(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS, AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

"§ 5091. Declaration of purpose

"The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Veterans' Administration, designed to coordinate, improve, and expand the training of professional and technical allied health and paramedical personnel, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities, so as to improve and expand allied and other health manpower utilization.

"§ 5092. Definition

"For the purpose of this subchapter, the term 'eligible institution' means any nonprofit educational facility or other public or nonprofit institution, including universities, colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions for the training or education of allied health or other health personnel affiliated with the Veterans' Administration for the conduct of or the providing of guidance for education and training programs for health manpower.

"§ 5093. Grants

"(a) Any eligible institution may apply to the Administrator for a grant under this subchapter to assist such institution to carry out, through the Veterans' Administration medical facility with which it is, or will become affiliated, educational and clinical projects and programs, matching the clinical requirements of the facility to the health manpower training potential of the eligible institution, for the expansion and improvement of such institution's capacity to train health manpower, including physicians' assistants, nurse practitioners, and other new types of health personnel in furtherance of the purposes of this subchapter. Any such application shall contain a plan to carry out such projects and programs and such other information in such detail as the Administrator deems necessary and appropriate.

"(b) An application for a grant under this section may be approved by the Administrator only upon his determination that—

"(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution and will result in a substantial increase in the number of students trained at such institution, provided there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such institution;

"(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

"(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

"(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"SUBCHAPTER IV—EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY

"§ 5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training

"Out of funds appropriated to the Veterans' Administration pursuant to the authorization in section 5082 of this title, the Administrator may expend such sums as he deems necessary, not to exceed 30 per centum thereof, for (1) the necessary extension, expansion, alteration, improvement, remodeling, or repair of Veterans' Administration buildings and structures (including provision of initial equipment, replacement of obsolete or worn-out equipment, and, where necessary, addition of classrooms, lecture facilities, laboratories, and other teaching facilities) to the extent necessary to make them suitable for use for health manpower education and training in order to carry out the purpose set forth in section 4101(b), and (2) special allocations to Veterans' Administration hospitals and other medical facilities for the development or initiation of improved methods of education and training which may include the development or initiation of plans which reduce the period of required education and training for health personnel but which do not adversely affect the quality of such education or training."

(b) The table of chapters at the beginning of part VI of title 38, United States Code, is amended by adding

"82. Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions.......... 5070".

immediately below

"81. Acquisition and Operation of Hospital and Domiciliary Facilities; Procurement and Supply .... 5001".

SEC. 3. (a) Chapter 73 of title 38, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—REGIONAL MEDICAL EDUCATION CENTERS

"§ 4121. Designation of Regional Medical Education Centers

"(a) In carrying out his functions under section 4101 of this title with regard to the training of health manpower, the Administrator shall implement a pilot program under which he shall designate as Regional Medical Education Centers such Veterans' Administration hospitals as he determines appropriate to carry out the provisions of this subchapter in geographically dispersed areas of the United States.

"(b) Each Regional Medical Education Center (hereinafter in this subchapter referred to as 'Center') designated under subsection (a) of this section shall provide in-residence continuing medical and related education programs for medical and health personnel eligible for training under this subchapter, including (1) the teaching of newly developed medical skills and the use of newly developed medical technologies and equipment, (2) advanced clinical instruction, (3) the opportunity for conducting clinical investigations, (4) clinical demonstrations in the utilization of new types of health personnel and in the better utilization of the skills of existing health personnel, and (5) routine verification of basic medical skills and, where determined necessary, remediation of any deficiency in such skills.

"§ 4122. Supervision and staffing of Centers

"(a) Centers shall be operated under the supervision of the Chief Medical Director and staffed with personnel qualified to provide the highest quality instruction and training in various medical and health care disciplines.

"(b) As a means of providing appropriate recognition to individuals in the career service of the Department of Medicine and Surgery who possess outstanding qualifications in a particular medical or health care discipline, the Chief Medical Director shall from time to time and for such period as he deems appropriate assign such individuals to serve as visiting instructors at Centers.

"(c) Whenever he deems it necessary for the effective conduct of the program provided for under this subchapter, the Chief Medical Director is authorized to contract for the services of highly qualified medical and health personnel from outside the Veterans' Administration to serve as instructors at such Centers.

"§ 4123. Personnel eligible for training

"The Chief Medical Director shall determine the manner in which personnel are to be selected for training in the Centers. Preference shall be given to career personnel of the Department of Medicine and Surgery. To the extent that facilities are available, other medical and health personnel shall, on a fully reimbursable basis, be eligible for in-residence training in the Centers.

"§ 4124. Consultation

"The Chief Medical Director shall carry out the provisions of this subchapter after consultation with the special medical advisory group established pursuant to section 4112(a) of this title.

(b) (1) The table of sections at the beginning of chapter 73 of title 38, United States Code, is amended by inserting at the beginning of such table the following:

"SUBCHAPTER I—ORGANIZATION; GENERAL".

(2) Such table of sections is further amended by adding at the end thereof the following:

"SUBCHAPTER II—REGIONAL MEDICAL EDUCATION CENTERS

"4121. Designation of Regional Medical Education Centers.
"4122. Supervision and staffing of Centers.
"4123. Personnel eligible for training.
"4124. Consultation.

"SUBCHAPTER I—ORGANIZATION; GENERAL".

And in lieu of the matter stricken and inserted by the amendment of the Senate to the title of the resolution, insert: "Joint resolution amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools and the improvement of existing medical schools affiliated with the Veterans' Administration; to develop cooperative arrangements between institutions of higher education, hospitals, and other nonprofit health service institutions affiliated with the Veterans' Administration to coordinate, improve, and expand the training of professional and allied health and paramedical personnel; to develop and evaluate new health careers, interdisciplinary approaches and career advancement opportunities; to improve and expand allied and other health manpower utilization; to afford continuing education for health manpower of the Veterans' Administration and other such manpower at Regional Medical Education Centers established at Veterans' Administration hospitals throughout the United States; and for other purposes."

Mr. CRANSTON. Mr. President, the House amendment to the Senate amendment is the result of extensive negotiations between the Committees on Veterans' Affairs of the two bodies and represents, in my opinion, an appropriate and effective accommodation of the different versions of this bill as passed by the two Houses.

The bill retains the basic provisions and philosophies of the Senate amendment with a few exceptions which I will point out subsequently, after I have outlined the basic provisions in the compromise version now before us.

Mr. President, final passage this morning of House Joint Resolution 748, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972, will be a historic breakthrough in mobilizing the vast medical resources of the VA to help not only veterans but all Americans.

This bill, coupled with H.R. 10880, which we will also take up this morning, gives a new basic mission to the 42-year-old VA Department of Medicine and Surgery: to assist in providing an adequate supply of health manpower to the entire Nation.

This new VA mission will rank in importance second only to the VA's traditional function of providing complete medical and hospital services to veterans.

The compromise bill authorizes $525 million, an appropriation of $75 million annually for the next 7 years beginning in fiscal 1973, to expand the VA's health care manpower training program and those of affiliated schools.

The Veterans' Administration health and hospital system, with its budget for fiscal year 1973 of approximately $2.8 billion, is already the largest single source of health care manpower training in the United States. Presently more than 55,000 medical and health care personnel are receiving education and training in VA medical facilities. In fiscal year 1972, the figures were:

Medical residents	9,467
Dental residents	193
Medical interns	2,090
Dental interns	99
Medical and osteopathic students	11,435
Dental students	868
Nurses	17,783
Other professionals (at graduate level)	3,085
Allied health trainees	10,070
Administrative trainees	596
Total	55,686

SUMMARY OF COMPROMISE VERSION

Mr. President, the compromise version of the bill before us does the following:

First. Authorizes for each of 7 fiscal years beginning in fiscal year 1973 the appropriation of $75 million for a new chapter 82 in title 38, containing four major programs which would be established—all stressing development of innovative health programs, greater career advancement opportunities, and development of new types of training procedures and types of health care personnel:

One. VA grants to State universities to assist in the establishment of up to eight new schools at VA hospitals. VA assistance could include the leasing cost-free to the institution of unused VA hospital and other health facilities; remodeling and extension of such facilities when necessary to make them suitable for such educational purposes; and reimbursement of the costs of faculty salaries for the first 7 years of the operation of the new school or center—90 percent for the first 3 years, decreasing by 10 percent each year for the next 4 years to 50 percent in the seventh year. Provisions are included to insure the maintenance of high standards both of education and the health care provided in such facilities, including appropriate consultation with the Secretary of Health, Education, and Welfare and academic accrediting bodies. A separate $25 million is authorized to be appropriated each year for this purpose.

Two. Authorize the VA to make grants to medical schools affiliated with VA hospitals and other VA facilities for the purposes of assisting such schools to expand and improve their training capacities and to cooperate with other health professions, allied health and other health manpower training institutions in the improvement and expansion of the training of the health personnel trained at such other institutions, and to assist in the development and evaluation of new health careers, interdisciplinary approaches and career advancement opportunities in the health manpower field.

Three. VA grants to any nonprofit and other health professions, allied health or other health personnel training institution or area health education center, which maintains a teaching affiliation with the VA Department of Medicine and Surgery, for the purpose of expanding and improving the capacity of those institutions—including the establishment of an area health education center—but not for construction of new free-standing facilities. Again, provision is made for receiving reasonable assurance from recognized academic accrediting bodies that the caliber of training will not be diminished due to substantial increases in the number of trainees at the recipient institutions.

Four. Expansion of the VA's own hospital education and training capacity through remodeling and renovation of existing facilities to provide for expanded education programs as well as through special allocations to particular VA hospitals to develop, or develop and initiate, programs for improved methods of education and training—up to 30 percent of the amount appropriated each year may be used for this purpose.

Second. Authorizes a program for continuing medical education for health care staff of VA medical facilities and staff of other Federal medical facilities and members of the surrounding medical community on a reimbursable basis utilizing certain VA hospitals as Regional Medical Education Centers. This would help keep VA medical care modern and innovative and also help the VA recruit new and high quality health professionals.

Third. Provides generally that in making grants under the new chapter 82 added to title 38, United States Code, the Administrator shall give special consideration to institutions providing reasonable assurances—which assurances shall thereafter be included in the grant agreement—that priority for admission to all health manpower and training programs carried out by such institutions will be given to otherwise qualified veterans who during their military service acquired medical military occupational specialities—MOS's—and that among such qualified veterans with medical MOS's those who served during the Vietnam era—after August 5, 1964—and those disabled in service will be given the highest priority. It also provides that the Administrator, in carrying out the new chapter 82, as well as section 4104(b) of title 38—which is revised and expanded in regard to health manpower training in the compromise version of H.R. 10880 which we are about to take up this morning—in connection with all health manpower and training programs assisted or conducted under title 38 or in affiliation with a VA medical facility, shall encourage such institutions to afford the priority for admission described in the first sentence and, most significantly, to advise all qualified veterans with military MOS's, including servicemen about to be separated, of the opportunities available to them for admission to training programs at such institutions.

Mr. President, although much attention has been devoted to the establishment of new medical schools, as authorized in this bill, it is also important to stress that $50 million is authorized to be appropriated in the compromise version for the expansion of health education and training opportunities in VA hospital and in affiliated training institutions. A 1971 survey of all VA hospitals showed that for a cost of approximately $37.5 million, the VA could expand its own education and training program by over 12,000 additional physicians, dentists, nurses and allied health and paramedical personnel if existing capabilities were fully utilized. This would entail certain space modifications and renovations and payment of stipends for traineeships and certain research projects.

This would mean that over the next 5 years the VA would be able to more than double its present 55,000 annual total of health personnel trained.

A full hospital-by-hospital description of this training potential was set forth in appendix A of the subcommittee hearings. For example, in the 10 VA hospitals and medical facilities existing at that time in California, 941 more health care personnel could be trained with the addition of $4.9 million.

Mr. President, the substitute version also retains the basic provision of the Senate amendment to provide for the designation of area medical education centers at appropriate VA hospitals. These provisions are contained in section 3 of the compromise version, although a minimum number of centers is not specified in the compromise version.

SENATE PROVISIONS NOT INCLUDED

Mr. President, I would like to explain at this point that several provisions included in the Senate amendment are not included in the compromise version.

First, the statement of findings and declarations included in section 2 of the Senate amendment is not set forth. Although an agreement had been reached which would have blended together the Senate's findings and declarations with the whereas clauses in the House bill—which would have made them reflective of the compromise version—because of a technical problem the whereas clauses were unable to be further amended and thus do not fully reflect the purposes and provisions of the compromise version.

Second, section 3 of the Senate amendment included a rewrite of section 4101 (b) of title 38 to expand the mission of the VA's Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower for national needs in addition to providing a complete medical and hospital service for veterans. It also required a separate line item in the annual budget for estimated expenditures for the education and training of health care manpower and placed special emphasis on programs to recruit and train veterans with medical military occupation specialties and to employ them in the VA, enabling them to pursue civilian health careers. The crux of this provision is now included in section 201 of the H.R. 10880 compromise version.

Third, the compromise version does

not include the Senate provision—section 5—requiring that a new hospital—other than a replacement hospital—be constructed, to the extent feasible, in close proximity to an affiliated medical school, and that such new hospital include necessary classroom and teaching facilities. Since this provision merely sets forth in statutory form the present policy of the Veterans' Administration, and since the VA has no intention to alter it, it was not felt necessary to place this requirement in the statute at this time.

EXPLANATION OF CONGRESSIONAL INTENT

Mr. President, there is also some clarification required with respect to the intent in retaining or modifying certain provisions that are now included in the compromise version.

First, section 5073 (a)(1)—Language in the comparable Senate provisions. Section 5067(a)(1) authorized the leasing of VA land, buildings and structures to institutions for nominal or no consideration. As worded it appeared to preclude requiring in any case consideration other than nominal. Accordingly, this language is stricken in the compromise version but authority is retained to lease "for such consideration and under such terms and conditions as the Administrator deems appropriate." This gives the Administrator flexibility to require either substantial, nominal, or no consideration, as may be indicated in any given case.

Section, section 5073(a)(1) and (2)—Provision of and leasing of equipment. In retaining sec. 5073(a)(1) and (2) specifying that leases in connection with new medical schools may include equipment, the compromise version contemplates that the equipment which the VA would provide would be that essential to the effective use of the facility leased to the medical school for the purpose for which it is leased, which generally would include furnishings and basic equipment integral to the operation of the facility which is leased. It is not intended that this would include the furnishing of valuable specialized medical resources or extensive equipping beyond the immediate teaching needs of the medical school. The compromise version also makes clear that any provision of equipment under clause (2) must be included in the lease under clause (1), either initially or through amendment to the lease.

Third, section 5083(a)—Use of grant funds for renovation and improvements of medical school facilities. The House language is retained in section 5083(a) to the effect that no subchapter II grants to affiliated medical schools may be used for the construction of any building which will not be located on land under the jurisdiction of the Administrator. This provision is, of course, not intended to prohibit use of such grants for renovation or improvement, as distinguished from new construction, of any facilities located on the medical school's property.

Fourth, section 5083(b)(2) and section 5093(b)(2)—The original House provision language (sec. 5085 and sec. 5096), which could be construed to require a full 50 percent matching for grants to affiliated medical schools and other health manpower institutions, was not retained in the compromise version in order not to place an unreasonable administrative and cost accounting burden on both the VA and the schools. Rather, it is required that the Administrator find that—and the grant application include adequate assurances that—there will be supplementation of the VA funds from some other source. In this connection, it is expected that the school will bear its fair and substantial share of the project costs.

Fifth, subchapter III—Although not making specific reference to the establishment of area health education centers, as in the Senate bill, section 5091 in subchapter III in the compromise version clearly would include a grant for the establishment of such a center.

FISCAL YEAR 1973 FUNDING

Mr. President, last night, the Senate voted to adopt an amendment I offered to the supplemental appropriation bill (H.R. 17034) to provide $40 million in appropriations to carry out the new chapter 82 in House Joint Resolution 748, $25 million of which was provided for the establishment of new medical schools under the new subchapter I. I was extremely gratified by this action by the Senate and hope very much that the House conferees will give the most careful consideration to the importance of moving forward immediately with this vital program.

CONCLUSION

Mr. President, the compromise version of House Joint Resolution 748, which I will move that the Senate agree to, is the result of enormously effective staff work on both sides of the Congress. Particularly, I have reference to Oliver Meadows and Don Knapp from the House side and Jon Steinberg, Guy McMichael, and Louise Ringwalt from the Senate side.

I also wanted to express my deep appreciation to the chairman of the Health and Hospitals Subcommittee in the other body, Mr. SATTERFIELD and the chairman of the full Veterans' Affairs Committee in the House, my good friend from Texas (Mr. TEAGUE), who have made it possible for us to reach this most effective accommodation. Finally, I am indebted to the leadership and contributions of both the distinguished chairman of the Committee on Veterans Affairs (Mr. HARTKE) and the ranking minority member (Mr. THURMOND), and to the Senate leadership for their cooperation in bringing this bill to the successful conclusion which we will reach today.

Mr. President, the VA operates the country's largest medical system—166 hospitals and 202 outpatient clinics—and is affiliated with 84 medical, 52 dental and 304 nursing schools, and 400 institutions of higher learning which train health care personnel. The bill we are about to pass this morning aims to utilize to the fullest extent these extensive VA facilities and relationships to overcome current national health-care shortages and to meet today's pressing medical needs. Enactment of the compromise version will insure both maximum utilization of the VA potential for training health care personnel and the highest quality medical services for the veteran.

AN INDEPENDENT VA MEDICAL SYSTEM

In closing, Mr. President, let me utter one cautious note. The administration has strongly opposed this bill from the outset. Many expect that this is because strengthening the VA medical system through the expansion and improvement of health manpower training and education will help preserve the VA system as a separate and independent one—a goal to which I am irrevocably and most strongly committed. I hope that those in the administration who wish to abolish the VA medical system or to bring it under some other agency within an overall health-care insurance program will not prevail upon the President to disapprove this legislation. For that is what I think such disapproval would indicate.

HOUSE JOINT RESOLUTION 748

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for House Joint Resolution 748, the Veterans' Administration Health Manpower Training Act of 1972. I also wish to compliment Senator CRANSTON for the fine leadership he has demonstrated in handling this bill.

While I would have preferred to see enactment of the Senate version of this bill, S. 2219, which passed the Senate on April 27, 1972, I feel that House Joint Resolution 748 is preferable to having no bill at all. The major difference between the two bills is that the Senate bill authorized construction of 10 new hospitals at an annual expenditure of $125 million, whereas the House bill provides for eight new hospitals at an annual expenditure of $70 million.

The purpose of this resolution is to utilize, to the fullest extent possible, VA hospitals and other VA health facilities for the training and education of physicians, dentists, nurses, and other health professionals. This bill will improve the capacity of the VA to train these personnel and will provide the VA with the medical resources to exercise leadership within the medical community in providing these highly innovative health manpower education and training programs.

House Joint Resolution 248 authorizes programs which will make available a continuing medical education for the health-care staff of VA hospitals, the staffs of other Federal medical facilities and members of the surrounding medical community. These programs would operate on a reimbursable basis and would utilize certain VA hospitals as regional medical centers. This approach would serve a dual purpose, in that it would keep existing VA medical-care centers modern and innovative and at the same time help the VA to prepare new and high-quality health professionals. It also directs that, to the extent feasible, all new VA hospitals are to be constructed in close proximity to an existing medical school.

The total amount authorized by the joint resolution is $75 million per year for 7 years beginning with fiscal year 1973, which would be allocated as follows: $25 million of this amount is authorized for VA grants to State institutions to assist them in the establishment of up to 8 new medical and allied health professions schools or area health education centers; 30 percent of the remaining $50 million, or the amount appropriated each year, could be used for expansion of the VA's own hospital education and training capacity through remodeling and renovation of existing facilities to provide for expanded education programs as well as through special allocations to particular VA hospitals to develop and initiate improved programs for education and training.

Any unused balances could be used for VA grants to any nonprofit medical and other health professions training center which maintains a teaching affiliation with the VA Department of Medicine and Surgery. These grants would be for the purpose of expanding and improving the capacity of those institutions to train health manpower, and while they could be used to remodel existing facilities, they could not be used for the construction of new facilities.

Mr. President, I believe the Veterans' Administration can make an enormous contribution to the improvement of health personnel training programs. House Joint Resolution 748 will give the Veterans' Administration the needed authority and the resources to make that contribution and, in addition, it will insure better care for veterans and an improved health care for all Americans.

I want to note that, if this resolution is enacted into law, I would hope that one of the eight authorized hospitals will be located in Huntington, W. Va. I have been in contact with officials of the VA and other Federal agencies in this regard and I have participated in several meetings which I believe will further these efforts. Officials of Marshall University, the medical and civic community are fully supporting the establishment of this proposed medical school at Huntington, and I hope that the VA will promptly take actions to implement this new act and to site one of these hospitals at Huntington.

Mr. THURMOND. Mr. President, as the population of the United States increases, so does the need for quality health care and modern medical facilities.

The Veterans' Administration has long played an integral part in our health care program. We should all be proud of the efforts the Veterans' Administration has made to provide medical services for our veterans, but we cannot be satisfied with past accomplishments alone. We must insure that it keeps pace with the rapid developments in the medical field.

Particularly, there is a need for modern equipment, hospitals, and medical schools. Equally as important as the new ventures in experimentation and construction is the necessity to upgrade our existing equipment, hospitals, and medical schools.

Mr. President, there are now over six million veterans of the Vietnam war. There are millions of veterans from other periods of service in our Armed Forces. Many have physical disabilities and health problems which require immediate attention. Others are physically fit and healthy today, but will require hospitalization or medical care in the future.

Mr. President, House Joint Resolution 748 deals with this problem. It authorizes the Veterans' Administration to provide assistance in establishing new State medical schools and to upgrade existing medical schools affiliated with the VA.

The Senate-House compromise would authorize $25 million for pilot programs to establish up to eight new medical schools. These schools would be located in proximity to and operated in conjunction with existing VA medical facilities. Further, $50 million is authorized to support the new facilities and to improve programs at existing medical schools connected with the Veterans' Administration. This will be a 7-year program, authorizing a $450 million expenditure.

I cosponsored the Cranston amendment to the 1973 Supplemental Appropriations Act. This amendment, which was passed by the Senate last evening, makes $40 million available this fiscal year to begin the implementation of the goals outlined in House Joint Resolution 748. Of course, the effectiveness of this amendment is subject, first of all, to the Senate's approval of House Joint Resolution 748.

Mr. President, the Veterans' Administration now operates one of the largest medical care systems in the world, and enhancing the ability of the Veterans' Administration to provide quality medical care will benefit us all. House Joint Resolution 748 will allow us to train more doctors, who in turn will serve all of our communities. It will aid in alleviating the medical manpower shortage. It will increase the medical care capability of our Nation.

Mr. President, I urge my colleagues to support House Joint Resolution 748.

Mr. HARTKE. Mr. President, as chairman of the Senate Committee on Veterans' Affairs I am pleased to rise in support of the amendments to House Joint Resolution 748 which embody the compromise reached as to the respective versions of the bill as passed by the House and by the Senate—which was reported to the Senate originally as S. 2219. As agreed upon by the Senate and House Committees, the compromise version which passed the House of Representatives Wednesday night and is before the Senate today would provide assistance in the establishment of eight new medical schools. The original House bill would have authorized five such schools and the Senate version made provision for 10 new medical schools.

With respect to funding, the House version originally authorized a total first year appropriation of $33 million with similar appropriations for the next 7 years. Senate amendments authorized $125 million for the first and succeeding years. As agreed upon by the two committees House Joint Resolution 748 as now amended provides for $25 million in each fiscal year for the purpose of assistance in establishing new medical schools, plus an additional $50 million for each such fiscal year for financing the remaining programs under the resolution. The compromise version also incorporates certain additional provisions contained in the Senate version of House Joint Resolution 748 which are designed to emphasize and strengthen the health manpower training programs in the Veterans' Administration and affiliated institutions.

Mr. President, I believe this bill presents a major step forward in improving the capacity of the Veterans' Administration to train needed health personnel and to maximize the potential of its medical resources in providing leadership to the Nation's medical community in the development of health-care manpower education and training programs. Both our veterans and our Nation will be the beneficiaries of this farsighted program. I particularly wish to commend the House Committee and its able and distinguished chairman, OLIN "TIGER" TEAGUE for his leadership in developing this legislation. On the Senate side I want to particularly praise the hard work of the chairman of the Subcommittee on Health and Hospitals, Mr. CRANSTON, whose dedication and commitment to providing the best in health care to our Nation's veterans has found fruition in this bill. The interest and effort to secure passage by the senior Senator from West Virginia, Mr. RANDOLPH, who has been a hard working member of the committee also has been instrumental in obtaining the bill which we will send to the President.

I would also hope that the fiscal year 1973 supplemental appropriations bill as it is cleared for signature will retain the initial funding of this bill in the amount of $40 million.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendments to the Senate amendment to the bill.

The motion was agreed to.

VETERANS HEALTH CARE EXPANSION ACT OF 1972

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10880.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 10880) "to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery, which was in lieu of the matter stricken and inserted by the amendment of the Senate, insert:

That this Act may be cited as the "Veterans Health Care Expansion Act of 1972".

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

SEC. 101. (a) Subparagraph (C) of section 601(4) of title 38, United States Code, is amended to read as follows:

"(C) private facilities for which the Administrator contracts in order to provide (i) hospital care or medical services for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service; (ii) hospital care for women veterans; (iii) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight coniguous States; but authority under this clause (iii) shall expire on December 31, 1978; or (iv) hospital care, where appropriate facilities defined in clauses (A) and (B) are not available, for the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and the widow or child of a veteran who died as a result of a service-connected disability.".

(b) Section 601(5) of such title is amended to read as follows:

"(5) The term 'hospital care' includes—

"(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation;

"(B) such mental health services, consultation, professional counseling, and training (including (1) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability or in the case of a dependent or survivor of a veteran under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or a dependent or survivor of a veteran, or, in the case of a veteran or dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or a dependent or a survivor of a veteran; and

"(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran, and (ii) transportation and incidental expenses for a dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation."

(c) Section 601(6) of such title is amended by inserting immediately after "treatment," the following: "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran,".

Sec. 102. Section 610 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "or nursing home care" immediately after "hospital care" where it first appears;

(2) striking out clause (1)(B) of subsection (a) and inserting in lieu thereof the following:

"(B) any veteran for a non-service-connected disability if he is unable to defray expenses of necessary hospital care;";

(3) amending subsection (c) to read as follows:

"(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran."; and

(4) adding at the end thereof the following new subsections:

"(d) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care to the following individuals, in accordance with such regulations as he shall prescribe, to the extent that the provision of such care does not interfere with the furnishing of hospital and domiciliary care under subsections (a) and (b) of this section:

"(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability; and

"(2) the widow or child of a veteran who died as the result of a service-connected disability.

"(e) In no case may nursing home care be furnished in a hospital not under the direct and exclusive jurisdiction of the Administrator except as provided in section 620 of this title."

Sec. 103. Subsection (f) of section 612 of title 38, United States Code, is amended to read as follows:

"(f) The Administrator may also furnish medical services for any disability on an outpatient or ambulatory basis—

"(1) to any person eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or to obviate the need of, hospital admission, or (B) where such a person has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care; and

"(2) to any veteran who has a service-connected disability rated at 80 per centum or more."

Sec. 104. (a) The first sentence of subsection (a) of section 620 of title 38, United States Code, is amended by redesignating clauses (1) and (2) as clauses (i) and (ii), respectively; by striking out "veteran" in redesignated clause (i) and inserting "person"; and by amending that portion preceding such clauses to read as follows:

"(a) Subject to subsection (b) of this section, the Administrator may transfer—

"(1) any person who has been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, and

"(2) any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nuring home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—".

(b) The second sentence of section 620(a) of such title is amended by striking out the designations (A) and (B) and inserting in lieu thereof (I) and (II), respectively; and by striking out "veteran" wherever it appears in such sentence and inserting in lieu thereof "person".

(c) Section 620(b) of such title is amended by (1) striking out "veteran" and inserting in lieu thereof "person"; (2) by adding "or admitted" after "transferred" and (3) by adding at the end thereof the following: "The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.".

(d) Section 620 of such title is further amended by—

(1) adding at the end thereof the following new subsection (d):

"(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee ararngement, based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section."

Sec. 105. (a) Section 626 of title 38, United States Code, is amended by striking out "fire" and inserting in lieu thereof "fire, earthquake, or other natural disaster".

(b) The catchline at the beginning of section 626 of such title is amended to read as follows:

"§ 626. Reimbursement for loss of personal effects by natural disaster".

Sec. 106. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 628. Reimbursement of certain medical expenses

"(a) The Administrator may, under such regulations as he shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

"(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

"(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected diability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible his entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

"(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

"(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

"(1) to the hospital or other health facility furnishing the care or services; or

"(2) to the person or organization making such expenditure on behalf of such veteran."

(b) The table of sections at the beginning of such chapter is amended by deleting

"626. Reimbursement for loss of personal effects by fire.
"627. Persons eligible under prior law."

and inserting in lieu thereof

"626. Reimbursement for loss of personal effects by natural disaster.
"627. Persons eligible under prior law.

"628. Reimbursement of certain medical expenses."

SEC. 107. (a) Chapter 17 of title 38, United States Code, is amended by striking out sections 631 and 632 in their entirety and inserting in lieu thereof the following:

"§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

"§ 632. Contracts and grants to provide hospital and medical care

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1972, and ending on June 30, 1978, under which the United States—

"(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in Veterans' Administration facilities, or by contract, or otherwise, by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans determined by the Administrator to be in need of such hospital care or medical services for service-connected disabilities;

"(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

"(3) will pay for hospital care, determined by the Administrator to be necessary, at the Veterans Memorial Hospital for new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities, if they enlisted before July 4, 1946, and if they are unable to defray the expenses of necessary hospital care;

"(4) will pay for medical services for new Philippine Scouts determined by the Administrator to be in need thereof for service-connected disabilities as authorized for Commonwealth Army veterans in clause (1) of this subsection;

"(5) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans in connection with hospital care or medical services furnished them;

"(6) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator. The Administrator is authorized to furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

"(7) may provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(8) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

"(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one fiscal year ending before July 1, 1978.

"(c) The contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines, except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

"(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the six years beginning July 1, 1972, and ending June 30, 1978—

"(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel at the hospital; and

"(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by him of all education and training programs conducted by the hospital under such grants."

(b) The table of sections at the beginning of such chapter 17 is amended by striking out

"631. Grants to the Republic of the Philippines.

"632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948."

and inserting in lieu thereof

"631. Assistance to the Republic of the Philippines.

"632. Contracts and grants to provide hospital and medical care.".

(c) Nothing in subsection (a) of this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89-612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section.

SEC. 108. (a) Chapter 17 of title 38, United States Code, is further amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"§ 651. Screening, counseling, and medical treatment

"The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

"§ 652. Research

"The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§ 654. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary."

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.

"652. Research.

"653. Voluntary participation; confidentiality.

"654. Reports.".

TITLE II——AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 201. Section 4101 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery to provide a complete medical and hospital service for the medical care and treatment of veterans and to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technicians (including advising all such qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.".

"(c) In order to attain comparability in the staff-to-patient ratio in the several services of Veterans' Administration hospitals with like services of other public and private hospitals, the Administrator shall, on a geographical or regional area basis, select as an index for such purpose any hospital or hospitals (or other medical installation or installations having hospital facilities) having an optimum staff-to-patient ratio in such services. Within three years after the date of the enactment of this subsection, the staff-to-patient ratio in each such service at each Veterans' Administration hospital, domiciliary, and clinic within the same geographic or regional area shall be comparable to that in the index service of the index facility in such area at such time, taking into consideration the composition of patient population. To secure the information and statistical data necessary for the selection of such index hospital, the Administrator may make arrangements, by contract or other form of agreement, for such medical information services. The Administrator shall submit to the Congress, not more than sixty days after the end of each fiscal year, a report describing the actions taken to implement the provisions of this subsection and the extent to which such provisions have been implemented. Such report shall also include a service-by-service description of the index ratios and established staff-to-patient ratios in each Veterans' Administration facility."

Sec. 202. Section 4103(a) of title 38, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendations of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service."; and

(2) by amending paragraph (7) to read as follows:

"(7) A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry, appointed by the Administrator."

Sec. 203. Section 4107 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"SECTION 4103 SCHEDULE

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $39,693.

"Medical Director, $34,335 minimum to $38,915 maximum.

"Director of Nursing Service, $34,335 minimum to $38,915 maximum.

"Director of Chaplain Service, $29,678 minimum to $37,590 maximum.

"Director of Pharmacy Service, $29,678 minimum to $37,590 maximum.

"Director of Dietetic Service, $29,678 minimum to $37,590 maximum.

"Director of Optometry, $29,678 minimum to $37,590 maximum.

"(b)(1) The grades and per annum full-pay ranges for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $29,678 minimum to $37,590 maximum.

"Executive grade, $27,581 minimum to $35,852 maximum.

"Chief grade, $25,583 minimum to $33,260 maximum.

"Senior grade, $21,960 minimum to $28,548 maximum.

"Intermediate grade, $18,737 minimum to $24,362 maximum.

"Full grade, $15,866 minimum to $20,627 maximum.

"Associate grade, $13,309 minimum to $17,305 maximum.

"NURSE SCHEDULE

"Director grade, $25,583 minimum to $33,260 maximum.

"Assistant Director grade, $21,960 minimum to $28,548 maximum.

"Chief grade, $18,737 minimum to $24,362 maximum.

"Senior grade, $15,866 minimum to $20,627 maximum.

"Intermediate grade, $13,309 minimum to $17,305 maximum.

"Full grade, $11,046 minimum to $14,358 maximum.

"Associate grade, $9,524 minimum to $12,377 maximum.

"Junior Grade, $8,153 minimum to $10,601 maximum.

"(2) No person may hold the director grade in the 'Physician and Dentist Schedule' unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."; and

(2) adding at the end thereof the following new subsections:

"(d) The limitations in section 5308 of title 5 shall apply to pay under this section.

"(e)(1) In addition to the basic compensation provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional compensation as provided by paragraphs (2) through (8) of this subsection.

"(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional compensation for each hour of service on such tour at a rate equal to 10 per centum of the employee's basic hourly rate, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of work performed between those hours.

"(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional compensation for each hour of service on such tour at a rate equal to 25 per centum of such nurse's basic hourly rate.

"(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's basic hourly rate, not to exceed one and one-half times the basic hourly rate for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

"(6) For the purpose of computing the additional compensation provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's basic hourly rate shall be derived by dividing such nurse's annual rate of basic compensation by two thousand and eighty.

"(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of duty, the amounts of such additional pay shall be computed separately on the basis of such nurse's basic hourly rate of pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

"(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be compensated for each hour of such on-call duty, except for such time as such nurse may be called back to work; at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

"(9) Any additional compensation paid pursuant to this subsection shall not be considered as basic compensation for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic compensation."

Sec. 204. (a) Section 4108 of title 38, United States Code, is amended to read as follows:

"§ 4108. Personnel administration

"(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilites under this title of any physician, dentist (other than an intern or resident appointed pursuant to section 4114 of this title), or nurse appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

"(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the individual, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

"(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with his responsibilities under this title;

"(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by him while carrying out his responsibilities under this title;

"(4) accept from any source, with respect to any travel performed by him in the course of carrying out his responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

"(5) request or permit any individual or organization to pay, on his behalf, for insurance insuring him against malpractice claims arising in the course of carrying out his responsibilities under this title or for his dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

"(6) perform, in the course of carrying out his responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

"(A) the affiliated institution shall submit semi-annually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

"(B) no physician, dentist, or nurse may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

"(b) As used in this section, the term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement pursuant to section 4112(b) of this title for the training or education of health manpower.

"(c) As used in this section, the term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities."

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking out

"4108. Administration."

and inserting in lieu thereof

"4108. Personnel administration.".

SEC. 205. (a) Section 4109 of title 38, United States Code, is amended by striking out "the Civil Service Retirement Act" and inserting in lieu thereof "chapter 83 of title 5".

(b) Subsection (b) of section 4112 of such title 38, is amended by striking out "service personnel" in the first sentence immediately after "health" and by inserting in lieu thereof "manpower".

SEC. 206. Section 4114 of title 38, United States Code, is amended as follows:

(1) by striking out the words "ninety days" in the last sentence of paragraph (3)(A) of subsection (a) and inserting in lieu thereof "one year";

(2) by inserting "(1)" immediately after "(b)" at the beginning of subsection (b) of such section and by adding at the end of such subsection a new paragraph as follows:

"(2) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such interim or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection, (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim he might have to any payment of stipends or employee benefits to which he may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by each intern and resident for the period during which he serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which he is serving at the time the leave is to be used to the extent of his total accumulated leave, whether or not earned at the hospital in which he is serving at the time the leave is to be afforded."; and

(3) by adding at the end thereof the following new subsection:

"(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physicians' assistant or dentists' assistant shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined class room (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week."

SEC. 207. Section 4116 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows: "(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.";

(2) by striking out the last sentence in subsection (c) and inserting in lieu thereof the following: "After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case shall be remanded to the State court."; and

(3) by adding at the end thereof the following new subsection:

"(e) The Administrator may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of his duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to a State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury."

SEC. 208. Section 4117 of title 38, United States Code, is amended to read as follows:

"The Administrator may enter into contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel)."

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SEC. 301. (a) Subsection (a) of section 5001 of title 38, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "but in no event shall the Administrator provide for less than an average of 98,500 operating beds in Veterans' Administration hospitals, nor maintain an average daily patient census in such beds of less than 85,500 in any fiscal year."; and

(2) striking out in the first sentence of paragraph (3) "is authorized to" and inserting in lieu thereof "shall", and by striking out "four thousand beds" and inserting in lieu thereof "eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter".

(b) Subsection (b) of section 5001 of such title is amended to read as follows:

"(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise him on all matters of structural safety in the construction and remodeling of Veterans' Administration facilities in accordance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or his designee, and the Veterans' administration official charged with the responsibility for construction shall be ex officio members of such committee."

(c) Section 5001 of such title is further amended by adding the following new subsection:

"(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress."

Sec. 302. Chapter 81 of title 38, United States Code, is amended—

(1) by adding at the end of subchapter I the following new section:

"§ 5007. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.";

(2) by inserting immediately after the first sentence in subsection (a) of section 5012 thereof the following: "Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of his intention to do so in the newspaper of the community in which the lands or buildings to be leased are located."; and

(3) by inserting in the table of sections at the beginning of such chapter

"5007. Partial relinquishment of legislative jurisdiction."

immediately after

"5006. Property formerly owned by the National Home for Disabled Volunteer Soldiers.".

Sec. 303. (a) Section 5053(a) of title 38, United States Code, is amended by striking out "or medical schools" at the beginning of the material contained in parentheses, and by inserting immediately after the close parenthesis the words "or medical schools or clinics".

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

Sec. 401. Section 230(b) of title 38, United States Code, is amended by striking out "July 3, 1974" and inserting in lieu thereof "June 30, 1978".

Sec. 402. (a) Section 234 of title 38, United States Code, is amended by inserting immediately after the words "telephones for" the following: "nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and".

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out

"234. Telephone service for medical officers."

and inserting in lieu thereof

"234. Telephone service for medical officers and facility directors.".

(c) The catchline at the beginning of section 234 of such title is amended by inserting immediately after the word "officers" the words "and facility directors".

Sec. 403. (a) Section 641 of title 38, United States Code, is amended by—

(1) striking out in clause (1) "$3.50" and inserting in lieu thereof "$4.50";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$6";

(3) striking out in clause (3) "$7.50" and inserting in lieu thereof "$10"; and

(4) inserting immediately after the words "veteran of any war" the following: "or of service after January 31, 1955".

(b) Section 644(b) of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

(c) Subsections (a)(1), (b)(2), and (d) of section 5035 of such title are amended by striking out "50 per centum" wherever it appears therein and inserting in lieu thereof "65 per centum".

(d) Section 5036 of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

TITLE V—EFFECTIVE DATES

Sec. 501. The provisions of this Act shall become effective the first day of the first calendar month following the date of enactment, except that sections 105 and 106 shall be effective on January 1, 1971, and section 203 shall become effective beginning the first pay period following thirty days after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, the House amendment to the Senate amendment is the result of extensive negotiations between the Committees on Veterans' Affairs of the two bodies and represents, in my opinion, an appropriate and effective accommodation of the different versions of this bill as passed by the two Houses.

The bill retains the basic provisions and philosophies of the Senate amendment with a few exceptions which I will point out subsequently, after I have outlined the basic provisions in the compromise version now before us.

SUMMARY OF COMPROMISE VERSION

Mr. President, the Veterans Health Care Expansion Act of 1972 is designed to launch the Veterans' Administration on the most comprehensive series of medical reforms in its 42-year history. This far-ranging measure calls for expenditures over 5 years of $497 million—$85 million of it in fiscal 1973.

Mr. President, I would like to describe in more detail the basic provisions of the compromise version.

First, as in the Senate amendment, new emphasis is to be placed upon treating the patient as part of a family unit, not as an isolated individual removed from any family or social setting. This is particularly essential for patients undergoing psychiatric treatment, but in addition, total care of a physically disabled veteran also may require that his family be fully oriented on the philosophy, goals, and achievements of his rehabilitation program. The bill thus authorizes bringing key family members to VA hospitals for such orientation.

It also stresses home health care programs under which mobile teams will train families to care for patients so they can be released from the hospital sooner and removed from the debilitation and stagnation of institutional life. This could in many cases provide more compassionate, more effective and far more economical care.

Second. An estimated 204,808 veterans with 80 percent—compromised from 50 percent in the Senate amendment—or more service-connected disabilities are, for the first time, made eligible for VA outpatient care and medicines (including by fee or contract) for all their non-service-connected disabilities regardless of their financial status or a future need for hospitalization. At present, only those with 100-percent service-connected disabilities are provided such total care. The annual cost of this expanded program is estimated at $13.5 million.

Third. As under the Senate amendment, some 150,000 peacetime veterans who are suffering from non-service-connected disabilities and are unable to afford private care will, for the first time, be eligible for VA hospital, nursing home and certain outpatient care under regular VA eligibility requirements. These are veterans whose service ended prior to April 6, 1917, and those who served between November 12, 1918, and December 6, 1941, or between January 1, 1947, and June 27, 1950. The VA estimates the annual cost at $6.9 million.

Fourth. Also for the first time, as proposed in the Senate amendment, 282,000 veterans' dependents not covered by medicare, medicaid, or military medical benefits programs will become eligible for VA medical care. They are the wives and children of veterans with total and permanent service-connected disabilities, and the widows and orphans of veterans who died from service-connected disabilities. The annual cost is estimated to be $16.9 million.

Fifth. Both these groups—totaling 432,000 new VA health care beneficiaries—and all veterans presently eligible for VA hospital care, will also for the first time be eligible for outpatient care if such treatment would obviate the need for hospitalization. This outpatient care may be provided by fee or contract where necessary. The estimated annual cost of this expanded program is $20.18 million. Presently, outpatient care for veterans with non-service-connected disabilities—except for 100-percent service-connected disabled veterans—is available only if they cannot afford hospital care—this is unchanged by the compromise version—and only when such outpatient care is necessary to prepare for or follow up on a hospitalization.

Sixth. The compromise version also includes, with some modifications, the basic Senate provision to establish a sickle cell anemia screening, counseling and medical treatment program. Under the compromise version, the Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment and provision of information under the provisions of chapter 17 of title 38. This would authorize the VA to carry out all those programs included specifically in the Senate amendment for which the VA estimated a 5-year cost of $10 million. Under the compromise version it would be appropriate for the VA to provide appropriate counseling on a voluntary basis to a spouse of an eligible veteran, who was found to have the sickle cell trait. We would assume that the VA would advise every black veteran receiving outpatient or inpatient VA care or undergoing a VA physical examination about the availability of sickle cell anemia screening under this new subchapter.

The compromise version also includes authority for the VA to carry out a special research and training program in the prevention, diagnosis, and treatment of sickle cell anemia based upon screening examinations and treatment provided under the new subchapter.

Seventh. To meet the needs of an aging veterans population, the compromise version permits veterans and eligible dependents to enter a VA nursing home without immediately prior hospitalization, and raises the present statutory minimum of 4,000 VA nursing home beds to 8,000 by fiscal 1974. It also permits veterans at VA expense to enter community nursing homes without first going into a VA hospital if such action is certified necesary for their service-connected disabilities by a VA physician, or to enter directly from military hospitals.

Eighth. The compromise version includes the Senate provision giving the VA 3 years to raise the staff-to-patient ratio in every VA service facility to the point where such facilities will be comparable on a service-by-service basis with other comparable medical services in facilities in the community. The present ratio is 1.5 to 1 in the average VA general hospital compared with a 2.7 to 1 ratio for the average community hospital and up to 4 to 1 at a university hospital.

A survey conducted in 1971 shows some of the wide variations that exist in staffing intensity between VA hospitals and community hospitals. The VA hospitals used in the survey ranged in size from 188 beds to 1,565 and contained 5,339 operating beds. The gross staffing ratios in VA hospitals ranged from 1.19 to 2.49 employees per operating bed. The overall ratio for the nine VA hospitals surveyed was 1.70 employees per operating bed. Since outpatient staffing could not accurately be separated from inpatient staffing in several of the hospitals, all statistics were included in the total.

The community hospitals ranged in size from 130 beds to 1,063. The eight community hospitals surveyed contained 3,678 operating beds. The gross staffing ratios in community hospitals ranged from 2.08 to 4.33 employees per operating bed. The overall ratio for the eight community hospitals was 3.23 employees per operating bed.

Overall, the community hospitals were staffed almost 2 to 1 over VA hospitals. The overall occupancy rate of the VA hospitals surveyed was 89 percent compared to 85 percent for the community hospitals. Percentagewise, the VA utilizes almost three times as many volunteer and other nonpaid productive workers as the community hospitals. This amounted to 6½ percent over the paid VA hospital combined staffs. When the unpaid personnel are added to the paid staff, the overall VA ratio rises from 1.70 to 1.81. The community hospital ratio rises from 3.23 to 3.31.

A survey of nursing service statistics illustrates that community hospitals are staffed for nursing personnel on the average about twice as well numerically as VA hospitals. The cumulative averages showed VA hospitals have one nursing employee to every 1.8 beds while community hospitals in the survey have one nursing employee to every one bed. It is important to note that staffing of nursery, labor, and delivery rooms in community hospitals was not included in these figures because VA hospitals do not have these services.

Moreover, the study showed that community hospitals have approximately twice as many registered nurses per bed as VA hospitals. It should be remembered however that special duty nurses in the community hospitals are not part of the hospital staff, unlike the VA.

The following charts show the three basic tours that all hospitals use. The statistics gathered show the average VA hospital nursing unit was 33 beds and the average community hospital nursing unit was 30 beds. For the total Nursing Service, personnel were assigned as follows:

ALL NURSING PERSONNEL

DAY TOUR, EVENING TOUR, AND NIGHT TOUR

(In percent)

Veterans' Administration: 64, 20, and 16.
Community: 57, 26, and 17.

This chart and the survey data show that the day tour was staffed almost 50 percent better per nursing unit in community hospitals than VA hospitals. The evening tour in community hospitals was staffed twice as well as the VA hospitals, and the night tour was staffed a little less than twice as well in the community hospitals.

In terms of numbers of nursing personnel, for the night shift the VA hospitals surveyed had an average 2.9 nursing personnel per unit in the hospitals surveyed for 7-day coverage. The community hospitals averaged 5.2 nursing personnel per unit.

Regarding the evening shift, the community hospitals used more of their staffs than did the VA hospitals—26 percent versus 20 percent. By contrast, the VA staffed its day shift with a higher proportion of available staff than community hospitals—64 percent versus 57 percent. The night shift was about the same—VA 16 percent versus community 17 percent.

The following chart shows registered nurses by shift; the percentage assigned to the three shifts are in the same approximate proportion as for all nursing personnel:

REGISTERED NURSES

DAY TOUR, EVENING TOUR, AND NIGHT TOUR

[In percent]

Veterans' Administration: 67, 19, and 14.
Community: 58, 24, and 18.

The survey also showed that community hospitals are staffed nearly three times as well in X-ray units as VA hospitals. This is in part attributable to the fact that community hospitals tend to use scheduled staff at night and on weekends rather than to use callback.

I think this study and the figures I have cited quite clearly demonstrate the types of startling staffing disparities that exist today between VA and community hospitals.

The compromise version includes in section 201 a provision which is modeled upon section 3 of House Joint Resolution 748 as passed by the Senate unanimously and section 201 of the Senate amendment of H.R. 10880 which would have added a new subsection (c) to present section 4101 of title 38. In effect the provisions of the revised subsection (b) of House Joint Resolution 748 and the proposed new subsection (c) in H.R. 10880 as passed by the Senate have been blended together in a revised subsection (b) included in the compromise version, the revised subsection (b) in section 4101 expands the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans.

The provision stresses the development and establishment of new health careers, interdisciplinary approaches and career advancement opportunities and directs the VA to carry out a major program for the recruitment, training and employment within the VA of veterans with medical military occupational specialties. Such veterans would train to become and serve as physicians' assistants, dentists' assistants, and medical technicians, and the VA is charged in the compromise provision with the responsibility to advise all veterans, and servicemen about to be discharged, with such MOS's of the opportunities for training and employment in the VA.

Tenth. To facilitate employment of veterans as physicians' assistants by the VA, the compromise version provides that they be eligible for full-time GI bill benefits, just as medical interns and residents are now, while they receive on-job training in the VA.

Eleventh. The compromise version includes the Senate provision directing the VA to take steps to assure that all VA hospitals, domiciliaries, and other medical facilities are resistant to earthquakes and other natural disasters. The Administration is instructed to prescribe construction standards on a State or regional basis—based on a survey of pertinent State and local ordinances, building costs, and climatic and seismic conditions,

Mr. President, the tragic consequences of a number of natural disasters within recent years has pointed to the need for stricter safety standards in the construction and maintenance of VA facilities. I refer to the disastrous loss of lives due to earthquake damage at San Fernando, Calif., closely followed by a tornado at Fayetteville, N.C., in early 1971. Also, a number of veterans lost personal effects at both places and at VA facilities at Gulfport and Biloxi, Miss., struck by Hurricane Camille.

Twelfth. The compromise version includes the Senate provision authorizing reimbursement for such property losses—retroactive to January 1, 1971, whereas reimbursement from such national disasters under present law is limited to property destroyed by fire.

Thirteenth. The compromise version includes all of the Senate provisions regarding overtime and premium pay for registered nurses employed within the VA Department of Medicine and Surgery. The benefits provided with respect to on call pay are unprecedented within the Federal service, as are the provisions with respect to overtime pay for holidays and Sundays. I am particularly proud of the adoption of these provisions and hope that they will lead the way toward similar, more equitable benefits for all Federal employees.

Fourteenth. The compromise version includes the Senate provisions directing that at the least the VA maintain an average of 98,500 operating beds in any fiscal year and maintain an average daily patient census of no less than 85,500 in any fiscal year, rather than only in fiscal year 1973 as provided in the Senate amendment.

Fifteenth. The compromise version also includes Senate provisions with respect to authorization to cede concurrent jurisdiction over VA lands to a State, with respect to reimbursement of certain medical expenses—a very similar provision also was included in the House bill—for assistance to veterans medical programs in the Republic of the Philippines; for the appointment of a director of optometry—the House bill provided for a chief of optometry service; and for central administration of medical resident and intern programs—previously passed by the House in a separate bill.

Sixteenth. The compromise version includes two provisions which appeared neither in the House nor Senate version: To authorize the Administrator to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to VA medical facilities when deemed necessary for safe access—a provision included in the fiscal year 1973 VA appropriation item; and to increase the rates for VA payments to State veterans hospitals and nursing homes and to make such payments in the case of veterans of the post-Korean conflict.

Seventeenth. The compromise version includes a provision from the House bill dealing with the outside employment of VA nurses, dentists, and physicians as a new section 4108 in title 38. The provision was modified from the version in the House bill. The compromise version includes in section 204(a) provisions comparable to those included in the House bill in section 205(a)—personnel administration—regarding permissible outside employment by physicians, dentists, and nurses appointed in the Department of Medicine and Surgery.

With respect to clause (1) of the new section 4108(a), limiting the assumption of responsibility for the medical care of other than a VA patient, it is intended that the present policy with respect to exceptions to permit the assumption of such responsibilities, particularly by a physician, would continue to be applied as follows: The Chief Medical Director would delegate to the station director responsibility for granting an exception so that consulting services for up to 6 months would be permissible when necessary to provide scarce expertise to help the non-VA community to provide otherwise unavailable services; and the Chief Medical Director himself would continue to approve, on a doctor-by-doctor basis, all requests for exceptions to provide medical care on a continuing basis—for up to 6 months—when the first situation does not exist.

The basic concept adopted in these provisions in the compromise version was to make clear that VA employees in the Department of Medicine and Surgery were required to be on the job 80 hours every 2-week pay period. The provisions were carefully worked out with the VA Department of Medicine and Surgery in order to insure that it would not impose any crippling restrictions which would impair the VA's ability to carry on its effective VA affiliations with medical schools. In addition, all of the concerns which were expressed to me by various medical schools in California, which I included in the RECORD in my statement upon passage of the Senate amendment on this bill, were carefully considered in the drafting of the compromise version.

SENATE PROVISIONS NOT IN COMPROMISE

The compromise version does not include several provisions from the Senate amendment.

A. AUTHORITY TO INCREASE DEPARTMENT OF MEDICINE AND SURGERY PAY RATES TO MEET REGIONAL COMPETITION

The compromise version does not contain paragraph (h), which section 206(a) of the Senate bill would have added to present section 4107 of title 38, to provide authority for the Administrator to increase pay rates for certain health professionals employed under the Department of Medicine and Surgery personnel system in order to meet regional competition or to attract such personnel to remote VA stations. This provision was deemed unnecessary in view of the March 28, 1972, VA report stating that authority to grant such exceptions would be similar to authority already vested in the President—and delegated to the Civil Service Commission—under 5 U.S.C. 5305 for which exception the VA stated it had not previously felt the necessity to apply, and in view of the May 16, 1972, report of the Civil Service Commission stating that it would "give careful and sympathetic consideration to any request that the Veterans' Administration may make for increasing salaries under" the title 5 provision.

It is noted that the original VA estimate of the annual cost for such a provision was $13 million. In view of all of the above, it is suspected that if, as seems to be the case based upon the cost estimate cited above, there is a real need for increasing VA salaries to meet competition, the VA will request the Civil Service Commission to approve such increases under the title 5 provision and that, in line with its assurances in the report quoted above, the CSC will grant such approval.

B. EXPANDING DEPARTMENT OF MEDICINE AND SURGERY PERSONNEL SYSTEM

The compromise version does not include various provisions in sections 203, 204, 205, and 206 of the Senate bill, which would have placed the position of physicians' and dentists' assistant under the Department of Medicine and Surgery rather than under the General Schedule—GS. Regrettably, the Civil Service Commission and the House Committee on Post Office and Civil Service strongly objected to such a provision. In addition, the provisions in section 206(2) which would have provided the same overtime and differential pay benefits for licensed practical or vocational nurses and nursing assistants employed by the Veterans' Administration—section 4107 (f)(9)—as for VA nurses were also not included in the compromise version in light of similar such objections. It is intended, however, that, to the maximum extent permissible under law, VA nurses, for whom overtime and premium pay benefits are provided for the first time under title 38 by H.R. 10880, and all other VA nursing personnel will be treated as nearly alike as possible for the purposes of overtime and premium pay benefits.

In addition, it would seem desirable for those committees with jurisdiction over GS employment to review overtime and premium pay benefits under the General Schedule with a view toward bringing them into accord with the provisions in the compromise version for such benefits in the case of VA nurses. Both Veterans Affairs' Committees have devoted the most careful study to make such benefits as equitable and consistent with practice in the non-VA medical community as possible.

C. SHARING OF VA BEDS

The compromise version does not contain the Senate provision which would have permitted under very restrictive circumstances the sharing of certain VA hospital beds not needed for the care of veterans. The House was adamant in opposition to any such provision even with the very carefully drawn limitations included in section 303(a)(4) and (b) of the Senate amendment.

D. INCLUSION OF "NURSING HOME CARE" IN CHAPTER 17

The compromise version does not include within the definition of "hospital care" specification of "nursing home care" as provided in section 101(b) of the Senate amendment, in view of the VA recommendation that nursing home care not be considered a part of hospital care but rather be added throughout subchapter II of chapter 17 as a separate service which could be provided. This has been done in the compromise version. The definition contained in present section 101(28) of "nursing home care" would apply to the provision of such care under chapter 17.

CONCLUSION

Mr. President, as the above description should indicate, we believe we have produced a most comprehensive and effective measure in the compromise version, for which I wish to reiterate the deep appreciation I expressed earlier this morning during consideration of House Joint Resolution 748 for the efforts of the Senate and House committees leaders and their staffs who were indispensable to the resolution of the differences between the House bill and the Senate amendment.

Mr. HARTKE. Mr. President, it is my pleasure as chairman of the Veterans' Affairs Committee to urge passage of H.R. 10880 as amended by the House. These amendments contain the compromise agreement reached as to the respective versions of the bill as passed by both Houses—originally reported in the Senate as S. 2354.

As agreed upon by the committees, this bill represents, I believe, an important milestone in improving the ability of the Veterans' Administration to deliver quality medical care. I particularly want to commend the diligent work of the senior Senator from California (Mr. CRANSTON) who as chairman of the Subcommittee on Health and Hospitals, has worked so diligently to create the final bill we have today.

Briefly, the Veterans Health Care Expansion Act of 1972 would extend hospitalization to wives and children of totally disabled service-connected veterans and to widows and children of our war dead and those who have died of service-connected disabilities. The bill would also authorize out-patient care for all veterans and for dependents and survivors previously mentioned when it is necessary to obviate the need for hospitalization. There are provisions for a liberalization of Veterans' Administration nurses' pay for authorizing differential rates for overtime, night and holiday and Sunday work.

In the face of continuing threats of budgetary cuts from the Office of Management and Budget, the bill also requires that Administrator to provide for no less than an average 98,500 operating VA hospital beds in each fiscal year, and an average daily patient census of not less than 85,500.

Nursing home care beds to be operated by the Administrator are increased from 4,000 to 8,000. To further provide for quality health care and to protect against unwarranted staff reductions, the bill provides for staff-to-patient ratios in VA medical services comparable to that of equivalent services in community facilities.

The Health Care Act also provides for increases in the per diem rates payable to State soldiers homes as well as authorizing the increase in grants to State homes for construction, remodeling, or alterations of existing facilities from 50 to 65 percent of the total cost. A further added provision specifically authorizes the Administration to carry out a comprehensive program of providing sickle cell anemia screening, counseling treatment, and furnishing of relevant information with respect to the disease.

Mr. President, I believe, these and the other provisions of the Health Care Expansion Act of 1972, which will cost approximately $88.9 million the first year, will go a long way toward fulfilling our responsibility to our Nation's veterans. I urge the adoption of these amendments.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to the bill.

The motion was agreed to.

REHABILITATION ACT OF 1972—CONFERENCE REPORT

Mr. CRANSTON. Mr. President, I submit a report of the committee of conference on H.R. 8395, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8395) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD at page 35141, October 2, 1972.)

Mr. CRANSTON. Mr. President, I ask unanimous consent that during consideration of the conference report, H.R. 8395, Mr. Robert Humphreys of the Committee on Labor and Public Welfare be allowed the privilege of the floor.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the printing requirement on this report be waived, because it has been printed as a House report, 92–1581, and that the joint explanatory statement of the conferees be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT EXPLANATORY STATEMENTS OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8395) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment strikes out all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the Senate amendment and the substitute agreed to in conference are noted in the following outline, except for incidental changes made necessary by reason of agreements reached by the conferees and minor and clarifying changes.

DECLARATION OF PURPOSE

A number of purposes in the Senate amendment established a Rehabilitation Services Administration in the Department of Health, Education, and Welfare. The House bill provided that the Administration shall be the principal agency in the Department for carrying out and administering programs and performing services related to the rehabilitation of handicapped individuals, as authorized under the Act. The Senate amendment provided that the Commissioner of the Administration shall carry out and administer all programs and direct the performance of all services for which authority is provided to the Secretary of HEW under the Act. The conference agreement adopts the provision of the Senate amendment, except that reference to the Secretary's authority is deleted throughout titles I through IV.

The Senate amendment, but not the House bill, established within the Rehabilitation Services Administration a Division of Research, Training, and Evaluation to administer title IV of the Act. The Senate amendment, but not the House bill, established within the Division of Research, Training, and Evaluation a Center for Technological Assessment and Application which is responsible for developing and supporting innovative methods of applying technology to resolve rehabilitation problems including the administration of Rehabilitation Engineering Research Centers. The conference report adopts the provisions of the Senate amendment on both these matters. The Senate amendment also increased the number of certain personnel positions authorized for the Rehabilitation Services Administration. The conference agreement retained the Senate provisions with an amendment that the Assistant Commissioner be responsible to the Commissioner and that such Assistant Commissioner be of outstanding "scientific and technical" rather than "medical or technical" as in the Senate amendment qualifications.

Joint funding

Both the House bill and the Senate amendment provided for joint funding of rehabilitation projects. The provisions differed in the following ways:

The House bill provided that any one Federal agency providing funds may be designated to act for all participating agencies, whereas the Senate amendment required the administering agency to be the Federal agency principally involved. The House recedes.

The Senate amendment, but not the House bill, authorized joint funding to the extent consistent with other provisions of this Act. The House recedes.

The House bill, but not the Senate amendment, allowed a single non-Federal share requirement for projects being jointly funded. The Senate recedes.

The House bill, but not the Senate amendment, authorized a waiver of inconsistent technical grant or contract requirements where a project is being jointly funded. The conference report adopts a provision somewhat comparable to a House provision under which, when the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement, as defined by the presidential regulations, under any law other than this Act if the requirement is inconsistent with similar requirements of the administering agency under this Act.

Definitions

The Senate amendment defined the term "criminal act" and the term "public safety officer", which are terms used in the Senate amendment in provisions describing services to be provided under the State plan for vocational rehabilitation. The conference substitute includes these provisions of the Senate amendment.

The House bill contained a definition of "evaluation and work adjustment services". The Senate amendment contained a definition for "evaluation of rehabilitation potential" which was similar, except that a provision was added requiring that once in every 90-day period an assessment be made to determine if the individual undergoing evaluation is eligible to receive rehabilitation services as a handicapped indvidual.

Both the House bill and the Senate amendment provided the same Federal share for the basic program (80 percent) and for construction of rehabilitation facilities. Federal shares for other programs in the House bill were prescribed in individual sections. The Senate amendment defined the term "Federal share" for the entire act (meaning 85 percent, except where otherwise provided). The conference agreement provides for the 80 percent share for the basic program except that "Federal share" shall mean 90 percent for the purposes of part C (Innovation and Expansion Grants) of title I and for title II.

The term "rehabilitation facility" is similarly defined in both the House bill and the Senate amendment, except that the Senate amendment includes in the list of provisions to be provided in such facilities orientation and mobility services to the blind. The conference substitute retains this provision.

Both the House and the Senate amendment use the term "severely handicapped individual", but defined such term in different ways in the two versions. The conference substitute drops the use of this term entirely and refers instead to handicapped individuals with "the most severe handicaps". The term "severe handicap" is defined in the conference substitute to mean a disability which requires multiple services over an extended period of time resulting from blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, and any other disability, specified by the Commissioner in regulations he shall prescribe. Individuals who are not handicapped are not eligible for services. Departmental regulations have allowed individuals without handicaps to receive services under this program by characterizing such individuals as having "behavioral disorders." The Conferees wish to make clear that such individuals in the absence of a physical or mental disability shall not be eligible for services under this Act.

The Senate amendement but not the House bill included Indian tribal organization under the definition of "local agency." The House receded.

The term "handicapped individual" was defined in the Senate amendment to mean an individual with physical or mental disability which *for such individual* constitutes *or results in a substantial* handicap to employment. The House definition did not contain the italicized words. The conference substitute retains the Senate provision with a modification to specify that eligibility for comprehensive rehabilitation services—for a nonvocational goal—is tied to services provided under titles other than title I.

Consolidated rehabilitation plan

The House bill provided that a State could submit a consolidated rehabilitation plan for its programs for vocational rehabilitation services, evaluation of rehabilitation potential, the severely handicapped and persons with developmental disabilities. There was no comparable Senate provision. The Senate recedes with amendments in conformance with agreements made in other parts of the Act, and with the following amendments:

(1) The agency administering the Developmental Disabilities Service and Facilities Construction Act must agree to the consolidated plan;

(2) The Secretary of Health, Education, and Welfare may reject any consolidated plan; and

(3) The 10 percent transferability of appropriated funds is deleted.

Audit

Section 8 of the Senate amendment required grant recipients to keep such records as the Secretary may prescribe, including amounts and disposition of funds received, and other records to facilitate an effective audit. The section authorized access by the Secretary and Comptroller General to any books or records pertaining to such grants. The House had no comparable provision. The House recedes.

Nonduplication

The House bill, with respect to comprehensive services, and the Senate amendment with respect to the basic program, required that in determining the amount of a State's Federal share there shall be disregarded any portion of such expenditures which are financed by Federal funds and the amount of non-Federal funds required as a condition of receipt of such Federal funds. The conference substitute adopts both provisions and adds a third provision taken from several other provisions of both the House bill and Senate amendment which provides that no payment may be made from funds provided under one provision of the Act relating to any cost with respect to which any payment is made under any other provision of the Act.

VOCATIONAL REHABILITATION SERVICES

General provisions

Declaration of purpose; authorization of appropriations

The House bill states that it is the purpose of the title to authorize grants to meet the needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities. The Senate recedes.

Under the conference substitute, there is authorized to be appropriated $800,000,000 for fiscal year 1973 and $975,000,000 for fiscal year 1974 to assist States in meeting the costs of vocational rehabilitation services and the cost of carrying out the State's plan for vocational rehabilitation services. The comparable authorizations in the House bill were $800,000,000 for fiscal year 1973, $950,000,000 for fiscal year 1974, and $1,100,000,000 for fiscal year 1975. The Senate amendment provided authorizations in one lump sum amount for both handicapped individuals and severely handicapped individuals (those for whom the provision of services is more costly and of longer duration) regardless of whether such individuals can have an employment objective. It provided that 15 percent of the amount appropriated must be used for services to the severely handicapped. The amount authorized to be appropriated by the Senate amendment was $900,000,000 for fiscal year 1973 and $1,150,000 for fiscal year 1974.

State plans

Both the House bill and the Senate amendment required as a condition for the receipt of funds that a State plan be submitted. Under the House bill the plan related to the provision of vocational rehabilitation services while the provision of comprehensive rehabilitation services for the severely handicapped was controlled by a separate State plan. Under the Senate amendment the State plan which was required to be submitted annually, controlled the provision of both vocational rehabilitation services and comprehensive rehabilitation services. The conference substitute adopts the approach of the Senate amendment.

The following are the particular differences between the State plan provisions in the two versions of the bill:

(1) The House bill would permit the required matching funds to be provided only by the State and its political subdivisions while the Senate amendment would permit matching funds to be provided by the State and by "local agencies," as defined in section 7(8).

(2) The Senate amendment required the State plan to show how it proposes to expand and improve services to severely handicapped individuals. It further provided that if vocational and comprehensive rehabilitation services could not be provided to all eligible persons, the plan must show the order to be followed in selecting those to whom such services will be provided and the outcome and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals. The order of selection was required to place special emphasis on severely handicapped individuals, and could not be inconsistent with priorities for these matters established by regulations of the Secretary. The House bill contained no comparable provision. The conference substitute follows the Senate amendment, but with the following modifications: First, here and elsewhere in the report references to "severely handicapped individuals" is changed to "individuals with the most severe handicaps", thus conforming to the change in definition provided for in the definition section. Second, the requirement that an order of selection be shown is made to apply only to the provision of vocational rehabilitation services. Third, the requirement with respect to what must be included in the order of selection is modified to require that the order of selection be determined on the basis of serving first those individuals with the most severe handicaps and that such order must be consistent with priorities in such order of selection (which shall require serving first those with the most severe handicaps) established in regulations of the Commissioner. By providing that those with the most severe handicaps be first served, the conferees do not intend that handicapped individuals whose handicaps are not the most severe be excluded from receiving services.

(3) The Senate amendment required that the State plan provide assurances that no comprehensive rehabilitation services will be paid for unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services. The House bill contained no comparable provision. The conference substitute remains in a different clause the provision of the Senate amendment.

(4) Both the House bill and the Senate amendment required the State plan to contain provisions relating to the establishment and maintenance of personnel standards. The Senate amendment, but not the House bill, required such standards to be consistent with State licensure laws and regulations. This requirement is retained in the conference substitute.

(5) The House bill required the State plan to provide for evaluation of rehabilitation potential, counseling and guidance, personnel and vocational adjustment, training, maintenance, physical restoration, placement, follow-up and follow-along services. The Senate amendment requirement that the plan provide, at a minimum, for the provision of the type of vocational rehabilitation services referred to in the first three

paragraphs of section 103(a) (relating to the scope of vocational rehabilitation services). The conference substitute adopts the provision of the Senate amendment.

(6) The House bill provided that services other than those referred to in the preceding paragraph may be provided only after full consideration of eligibility for any similar benefit by way of pension, compensation, and insurance. The comparable provision of the Senate amendment provided that services other than those referred to in the preceding paragraph may be provided only after full consideration of eligibility for similar benefits under any other program, but provides an exception in the case of services specified in clauses (4) and (5) of section 103(a) where such consideration would delay the provision of such services to any individual. The conference substitute adopts the Senate amendment provision.

(7) The Senate amendment required the inclusion in the State plan provisions relating to administration of a provision for the establishment of a client advocacy system as required by section 112. This provision of the Senate amendment is not included in the conference substitute.

(8) The Senate amendment provided that an individualized written rehabilitation program (required by section 102) must be developed for each handicapped individual and that vocational and comprehensive rehabilitation services be provided under the plan in accordance with such program. There was no comparable House provision. The conference report retains this provision with the addition of a requirement that records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this title or pursuant to title II and are determined not to be eligible therefor, the reasons for such determinations.

(9) Under the House bill State agencies were required to make such reports in such form and containing such information as the Secretary may require. The Senate amendment contained the same provision and also specified that the State agencies' reports must specifically include periodic estimates of the population of handicapped individuals eligible for services under the Act, specifications of the number of such individuals who will be served, and the outcome and service goals to be achieved for such individuals in each priority category established as required in the earlier provisions of this section, and the service costs for each category. The conference substitute adopts the Senate provision, and, in addition, the information required in the new provision referred to in the preceding paragraph must be included in such reports.

(10) Both versions of the bill required the State agency to enter into cooperative arrangements with other governmental agencies. The Senate amendment, unlike the House bill, made specific references to veterans' programs and to the Veterans' Administration. This provision of the Senate amendment is retained in the conference substitute.

(11) The Senate amendment required the plan to give assurances that in the provision of vocational rehabilitation services under the program maximum use will be made of public and other vocational or technical training facilities or other appropriate resources in the community. The House bill contained no comparable provision. The House recedes.

(12) The Senate amendment contained a requirement, which had no counterpart in the House bill, which required that special consideration be given to the rehabilitation of handicapped individuals whose handicapping conditions arose from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was an apparent criminal act or a hazardous condition resulting from the officer's performance of duty in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities. The conference substitute retains this provision.

(13) The Senate amendment required statewide studies of the needs of handicapped individuals and of how these needs may best be met, with a view toward the relative need for services to significant segments of the population of handicapped individuals. There was no House provision. The House recedes.

(14) The Senate amendment required the State plan to provide for periodic review and reevaluation of individuals placed in extended employment to determine the feasibility of their employment, or training for employment in the competitive labor market, and that maximum efforts be made to place such individuals in such employment or training. There was no comparable House provision. The conference report retains this requirement.

(15) The Senate amendment, unlike the House bill, contains in its provisions requiring consultation in the administration of the State plan the requirement that the views of groups, as well as of individuals and of parents and guardians of clients, be taken into account. This requirement is retained in the conference agreement.

(16) The House bill required the plan to provide for subsequent program evaluation, contain a clear statement of the goals of the services to be provided, and that these goals be listed in order of priority, and stated as much as possible in a form amenable to quantification. The comparable Senate provision required satisfactory assurances that such continuing studies, as well as annual evaluations of program effectiveness will form the basis for submission from time to time of appropriate amendments to the plan. The conference report follows the Senate provision.

Both versions require approval of the State plan, but the Senate amendment requires that before disapproving a plan the State shall be given notice and reasonable opportunity for a hearing. This provision is retained in the conference substitute.

The Senate amendment, unlike the House bill, permits the payments under the State plan to be reduced rather than discontinued where the plan is changed without compliance with the Act, or where there is a failure to comply with provisions of the plan. The conference substitute retains this provision.

Individualized written rehabilitation program

The Senate amendment required the Secretary to insure that the individualized written rehabilitation program required under section 101 be developed jointly by the handicapped individual and the vocational rehabilitation counselor or coordinator. This understanding should include a statement of goals and other stated requirements. The individual shall be afforded an opportunity to review his program annually and renegotiate its terms. Subsection (c) of section 102 required the written program to emphasize a vocational goal or objective for the individual, and where it is determined that no such goal can be met, safeguards are required to insure that such a determination is absolutely necessary. Such a determination must be reviewed at least once each year. There were no comparable House provisions. This provision is retained in the conference report.

Scope of vocational rehabilitation services

The House bill dealt with the type of services that can be provided under the title through a definition of "vocational rehabilitation services" which lists the services which may be provided. The Senate amendment in this section provided that vocational rehabilitation services provided under the Act are goods and services necessary to render a handicapped individual employable. It goes on to provide that such goods and services include, but are not limited to, goods and services subsequently described. The provision of the Senate amendment are adopted in the conference report.

The differences between the House description of the services to be provided and the Senate list (and the conferee actions) are the following:

(1) The Senate amendment includes in the description of evaluation services, examination, where appropriate, by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist. The House recedes.

(2) The House bill and the Senate amendment both included counseling, guidance, and placement services. The Senate amendment also included referral and client advocacy services. Referral services are included in the conference substitute but client advocacy services were rejected.

(3) The House bill includes training services for handicapped individuals (including personal and vocational adjustment, books, and other training materials). The Senate amendment added services to the families of handicapped individuals which are necessary to the adjustment and rehabilitation of such individuals. It also provided that no training services could be provided in institutions of higher education unless maximum efforts have been made to secure grant assistance from other sources to pay for such training. The conference substitute adopts the Senate provisions.

(4) Both bills included restoration services. The House bill refers only to physical restoration services while the Senate amendment refers to both physical and mental restoration services. Further, the Senate amendment includes diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist. The Senate amendment unlike the House bill includes transplantation and dialysis among the special services which are available for renal diseases. In each of these respects the conference substitute includes the Senate provision.

(5) The Senate amendment lists rehabilitation teaching services and orientation and mobility services for the blind, and telecommunications, sensory and other technological aids and devices. These services are not referred to in the House bill. They are included in the conference substitute.

Title I—Basic Vocational Rehabilitation Services

State allotments

Both bills contain formulas for alloting funds for vocational rehabilitation services among the States. They differ in that the House bill would allot on the amounts authorized to be appropriated whereas the Senate amendment would allot on the amounts appropriated. On this point, the conference substitute adopts the provisions of the House bill.

The House bill provided for a minimum allotment of $2,000,000 whereas the Senate amendment provided a minimum allotment of $2,500,000. The House provision is retained in the conference substitute.

Payments to States

Both the House bill and the Senate amendment provided for reductions in allotments where the State reduces its expenditures from non-Federal sources. The House bill uses FY 1969 as the base year whereas the Senate amendment uses FY 1972 as the base year. The conference substitute adopts the Senate provision.

The Senate amendment provided a 1 percent set aside from its State allotment for establishing and maintaining a State advisory council. It limited the amount which could be expended for such purpose to not more than $150,000 or less than $50,000. The Senate recedes.

Innovation and expansion grants

Allotments to States

Both the House bill and the Senate amendment provided programs for making innovation and expansion grants to States under a State allotment formula. The Senate amendment, unlike the House bill, provided that for FY 1973 and FY 1974 no State shall receive less under this provision than the amount necessary to cover 90 percent of the cost of continuing projects of this type assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act. This requirement is qualified in the Senate amendment by a provision that no such program may receive assistance under both this Act and the Vocational Rehabilitation Act for an aggregate period in excess of three years. The conference substitute retains this provision of the Senate amendment in a separate part C.

Payments to States

The Senate amendment, but not the House bill, authorized the Secretary to require that up to 50 percent of each State's allotment be expended only in connection with projects which he has first approved. This provision is retained in the conference substitute.

The Senate amendment, but not the House bill, specified that programs to initiate or expand services to severely handicapped individuals qualify for assistance under this program. The conference substitute adopts this provision except that, as is the case in other instances in this report, the reference to "severely handicapped individuals" is modified to refer to "individuals with the most severe handicaps". Further, the Senate amendment in describing the type of handicapped individuals who may be assisted provides that such services be made available particularly to handicapped individuals who are poor. The House bill did not contain this qualification. It is included in the conference substitute.

The House bill provided that funds appropriated for these grants shall remain available through June 30, 1976. The Senate amendment did not contain this provision. The Senate recedes.

Evaluation of rehabilitation potential

The Senate amendment provided special emphasis through part C of title I on the provision of vocational and comprehensive rehabilitation services to severely handicapped individuals by means of a 15-percent set aside of title I appropriations for supplementary funding for the provision of such services to severely handicapped individuals. The term "severely handicapped individuals" in the Senate amendment referred to those persons for whom services are appreciably more costly, and of appreciably greater duration than those provided to the average client. Supplementary funds under part C of title I would be "triggered" when the cost of providing services to a handicapped individual exceeded 200 percent of the average cost of services.

Part C of title I in the Senate amendment was dropped in favor of providing in the basic programs State plan that those with the most severe handicaps would be served first under the basic program of vocational rehabilitation services.

The House bill provided a separate title to authorize grants to States to assist them in evaluating the rehabilitation potential of handicapped and disadvantaged individuals, including the vocational evaluation and work adjustment of disadvantaged individuals. The Senate amendment incorporated the concept of evaluating rehabilitation potential into the basic State program for rehabilitation services as a mandatory service under that program, but did not authorize a special program for disadvantaged individuals. The House recedes.

Title II—comprehensive rehabilitation services

Purpose

The House bill authorized a new title III to provide grants, supplemental to title I grants, to assist States to develop plans for meeting the needs of the severely handicapped (defined as those for whom an employment objective is not feasible), including an assessment of the disability and of rehabilitation potential, training of specialized personnel, and research. There was no comparable Senate provision, although the Senate did provide for the provision of rehabilitation services to those for whom employment is not feasible, limited to no more than 10% of title I appropriations. The Senate recedes to the approach of the House contained in a new title II, as described below and includes the House declaration of purpose.

Authorizations

The House bill authorized the appropriation of $30 million for FY 1973, $50 million for FY 1974, and $80 million for FY 1975 to carry out the purposes listed above. The Senate amendment earmarked 15% of the title I appropriation for services to severely handicapped individuals (defined in the Senate amendment to mean those for whom the cost of providing services is more than double the average) or, if greater, $135 million for FY 1973 and $173 million for FY 1974.

(1) The House bill bases State allotments on population, adjusted to reflect relative per capita income, with a minimum of $50,000 per State. The conference agreement adopts a minimum of $150,000 per State which was the minimum in part C of title I in the Senate amendment.

(2) The Senate amendment provided that not more than 10% of the total funds allotted to a State under title I shall be expended for comprehensive rehabilitation services for non-vocational goals. The House bill did not open the basic title I program to non-employment objectives, but did allow the entire title III allotment to be used for that purpose.

(3) The conference agreement calls for a project grant program instead of a formula grant program in any fiscal year in which the appropriations for the program do not exceed $20,000,000.

State plan

The House bill stated as a condition for receiving grants under title III that the State must submit to the Secretary a State plan.

"The conference agreement provides that to receive funds for FY 1973 under this Act, a State must submit within 180 days after the date of enactment an amendment to its plan, submitted to the Secretary under section 101 or section 5 of the Vocational Rehabilitation Act, which includes a provision of comprehensive rehabilitation services, that such a program will be included in the section 101 plan submitted each subsequent year, and that services to homebound and institutional individuals be among the services that State must demonstrate it has considered."

The House recedes.

Federal share

The House bill and the conference report stipulate that the Federal share for this title will be 90%. The House bill included a provision that expenditures by a political subdivision shall, subject to limitations, and conditions as prescribed by regulations, be regarded as State expenditures. The Senate recedes.

Definition

The House bill defines "severely handicapped individuals" to mean any individual who has a disability so serious that it limits substantially his ability to function in his family and community and who can reasonably be expected to improve his ability to live independently if provided with comprehensive rehabilitation services.

The Senate amendment defines severely handicapped in terms of the cost and duration of the services required to enable to individual to engage in gainful employment, or his ability to function normally and independently in his family or community.

The conference report, as stated earlier in this statement, does not use the term "severely handicapped individual". Instead, for purposes of this title only, it defines the term "rehabilitation" to mean the goal of achieving, through the provision of comprehensive rehabilitation services, substantial ability to live independently or function normally with his family or community on the part of a handicapped individual who is not capable of achieving a vocational goal.

Special projects

The House bill but not the Senate amendment authorizes 10%, but not more than $500,000, of sums appropriated under title III to be used by the Secretary for special projects for research, demonstration, and training relating to the rehabilitation of severely handicapped individuals. The conference report adopts the House provision.

Special Federal responsibilities

Declaration of purpose

The House bill but not the Senate amendment contained a declaration of purposes which listed existing Federal responsibilities in research, training, demonstrations, and other projects and cited the new centers, commissions, and services authorized as new responsibilities. This provision is retained in the conference agreement as modified to reflect the contents of the title.

Grants for construction of rehabilitation facilities

Both the House bill and the Senate amendment contained provision for Federal grants for the construction and initial staffing of rehabilitation facilities. The provisions were substantially the same except that the amounts authorized to be appropriated by the House bill were $35,00,000 for FY 1973, $45,000,000 for FY 1974, and $55,000,000 for FY 1975, while the Senate authorized $35,000,000 for FY 1973, $40,000,000 for FY 1974, and $45,000,000 for FY 1975. The conference report adopts the authorization in the Senate amendment. The Senate amendment grouped in section 313 all grant and contract requirements including those applicable to construction. This pattern is followed in the conference agreement.

Vocational training services for handicapped individuals

The conference report authorizes appropriations for grants to provide vocational training services to handicapped individuals in the amounts of $30,000,000 for FY 1973; $35,000,000 for FY 1974; and $40,000,000 for FY 1975. This provision differs from the House bill in that the authorization for this purpose in the House bill was combined with the authorization for construction of facilities under rehabilitation facilities improvement; it is the same as the Senate provision.

The conference report authorizes the Commissioner to pay 90 percent of the cost of training services to handicapped, especially those with the most severe handicaps, in rehabilitation facilities, to include occupational skill training, work evaluation and testing, provision of tools and equipment, job tryouts, and payment of weekly allowances. Allowances may not be paid to an individual for more than two years and shall not exceed $30 per week plus $10 for each dependent, or $70, whichever is the lesser. Grants may be made only if the project's purpose is to prepare the handicapped individual for gainful employment; if those to be trained are deemed suitable for such purpose by the State agency; if the full range of training services is available to all; and if the project meets other requirements the Commissioner may prescribe. This provision differs from the Senate amendment in that under the Senate amendment the Federal share would be 85 percent rather than 90 percent. It differs from the House bill in that (1) the projects must be designed to provide vocational training services especially to the severely handicapped, (2) under the House bill the allowance may not exceed $65 a week, and (3) the House phrase "fitness to engage in a remunerative occupation" is replaced by the phrase "capacity to engage in gainful and suitable employment".

The conference report also authorizes the Commissioner to make grants to rehabilitation facilities to improve management effectiveness and other assistance to improve the operation of such facilities, but prohibits grants being used for construction.

Mortgage insurance for rehabilitation facilities

Both the House bill and the Senate amendment contained provisions for mortgage insurance covering the construction of rehabilitation facilities. The House bill, but not the Senate amendment, stated it would be the purpose of the provision to assist and encourage the provision of urgently needed facilities for programs for the handicapped. The conference substitute contains the House declaration.

The Senate amendment authorized insurance for rehabilitation facilities whereas the House bill authorized insurance for multipurpose rehabilitation facilities. The conference agreement adopts the Senate provision.

The Senate amendments, but not the House bill, requires the Secretary to consult with the Secretary of Housing and Urban Development in carrying out this section. This provision is retained in the conference agreement.

The House bill authorized 100 percent of the mortgage to be insured, but provided that the mortgage may not involve a principal obligation in excess of $250,000 and may not exceed 90 percent of replacement costs. The Senate amendment, in contrast, authorized insurance of 90 percent of the mortgage. The conference agreement adopts the House provision, except that the amount of individual mortgages is limited to 100 percent of the replacement costs.

The conference report includes a provision from the Senate amendment, which had no counterpart in the House bill, allowing the Commissioner to delegate, pursuant to delegation agreement, to the Secretary of Housing and Urban Development authority to administer this mortgage insurance program, and the program of annual interest grants for mortgages for rehabilitation facilities which is provided for later in the report.

Both the House bill and the Senate amendment authorized appropriations for initial capital for the insurance fund, but the Senate amendment also provided that the total amount of outstanding mortgages insured may not exceed $250,000,000. The Senate limitation is retained in the conference agreement.

Annual interest grants for mortgages for rehabilitation facilities

Both the House bill and the Senate amendment authorized the Secretary to pay annual interest grants to States and public nonprofit agencies to reduce the cost of borrowing for construction of rehabilitation facilities. The conference report includes a provision from the Senate amendment, which had no counterpart in the House bill, which subjects this program to the general grant contract requirements which are described later in this statement. Under the House bill the grant would be not greater than the difference between the interest which would be paid on the loan if it were borrowed from other sources, and 3 percent. Under the Senate amendment the grant would be not greater than the difference between the interest which would be paid on the loan if it were borrowed from other sources, and 3 percent. Under the Senate amendment the grant would be an amount sufficient to reduce by 3 percent the interest rate otherwise payable on the loan. Under the conference report the grant will be sufficient to reduce by 4 percent the interest rate otherwise payable or be one-half of such rate, whichever is the lesser.

Both versions of the bill authorize necessary appropriations for these grants. They both provide that the amount payable for FY 1973 shall not exceed $1,000,000. The House bill provides that that amount will be increased by $3,000,000 for FY 1974, and by $5,000,000 for FY 1975. In contrast, the Senate amendment would increase such amount by $1,000,000 for FY 1974, and by $2,000,000 for FY 1975. The conference agreement adopts the Senate figures.

The House bill provided that no more than 12½ percent of the funds provided for interest grants may be used in any one State. The Senate amendment sets this figure at 15 percent. The conference agreement adopts the Senate figure.

Special Programs and Projects

Both the House bill and the Senate amendment authorize appropriations for special projects. The House bill authorizes $100,000,000 for FY 1973, $125,000,000 for FY 1974, and $150,000,000 for FY 1975. The Senate amendment authorizes $50,000,000 for FY 1973, $100,000,000 for FY 1974, and $150,000,000 for FY 1975. The conference agreement authorizes $50,000,000 for FY 1973, $125,000,000 for FY 1974, and $150,000,000 for FY 1975.

The House bill authorized, in addition, appropriations of $10,000,000 for each year for migrant programs and provided that, if funds were not sufficient to pay at least ⅔ of the total amounts to fund approved grants, the Secretary would allocate for grants under this section the funds appropriated for other activities under the Act. The Senate amendment made available for migrant programs 10% of the appropriations for special projects for each year, but also provided that no more than $10,000,000 shall be used for that purpose and authorized the appropriation of the amount necessary to raise the funds available for migrant programs to $10,000,000 where 10% of the appropriations for special projects is less than that amount. The conference substitute adopts the Senate provision.

The conference report authorizes the Commissioner to make grants to pay 90% of the cost of projects or demonstrations for the provision of vocational and comprehensive rehabilitation services to handicapped individuals who are migratory agricultural workers or seasonal farm workers, and their families. It differs from the Senate amendment in that only 90% of the cost of providing these services will be borne by the United States, instead of the full amount as under the Senate amendment.

The conference report authorizes the Commissioner to make grants for paying part of the cost of special projects and demonstrations for establishing facilities and providing services which hold promise for expanding or otherwise improving rehabilitation services for the handicapped, especially those with the most severe handicaps, and for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals and other individuals in programs serving handicapped individuals).

The corresponding provision of the House bill differed from the conference report in that it did not contain specific references to persons who are severely handicapped, it provided for assistance to projects making a substantial contribution to the solution of rehabilitation problems, to all or several States, and problems related to the rehabilitation of individuals with developmental disabilities and other severe handicaps.

National Center for Deaf-Blind Youths and Adults

Both the House bill and the Senate amendment contained provisions for a National Center for Deaf-Blind Youths and Adults. The House bill had open ended authorizations for FY 1973, FY 1974, and FY 1975, for this provision. The Senate amendment authorized appropriations of $5,000,000 for FY 1973 for construction, and $800,000 for that year for its operation. $1,200,000 was authorized for FY 1974 and $200,000 for FY 1975, for the operation of the center. The conference agreement adopts the Senate authorization figures.

Rehabilitation Centers for Deaf Individuals

The House bill provided for rehabilitation centers for deaf youths and adults. The Senate amendment provided for such centers for deaf individuals, made certain changes in terminology, and specified, unlike the House bill, that no services under the section may be provided to individuals who have not attained age 16 and the State age for compulsory school attendance. The House recedes. The House bill authorizes unlimited appropriations for FY 1973, FY 1974, and FY 1975, for the centers. The Senate amendment authorizes the appropriation of $5,000,000 for FY 1973, $7,500,000 for FY 1974, and $10,000,000 for FY 1975, for the centers. The conference report would authorize the appropriation of $2,000,000 for FY 1973, $4,000,000 for FY 1974, and $7,000,000 for FY 1975.

National Centers for Spinal Cord Injuries

Both the House bill and the Senate amendment authorized the Secretary to enter into agreements with public and nonprofit agencies to pay part or all of the cost of establishing or operating National Center for Spinal Cord Injuries. The respective versions of the bill differ in the stated purposes of the program. Under the House bill, the purpose is to demonstrate methods of providing services to persons suffering from spinal cord injuries and the training of professional and allied personnel needed to staff these facilities, to conduct research on the problems of rehabilitating persons suffering from spinal cord injuries, and to aid in the conduct of related activities to expand and improve the services for or help improve public understanding of the problems of persons suffering from spinal cord injuries. Under the Senate amendment, the purposes of the provision are to help form a national network of centers with special competencies in providing complete rehabilitation services and acute medical care to individuals with spinal cord injuries, to assist in meeting the costs of such services to the individuals, to encourage and assist in the study and development of methods for the provision of such services, and to develop new means of achieving cooperation among concerned organizations. The conference agreement adopts the Senate provision except that the establishment of "national centers" is called for rather than a "national network of centers", and that where appropriate and desirable research and training related to the study and development of methods for the provision of these services may also be provided.

Grants for services for end-stage renal disease

Both the House bill and the Senate amendment authorized grants for projects for providing special services for individuals suffering from end-stage renal disease. The House bill authorized the appropriation of $25,000,000 for FY 1973 and each of the two succeeding fiscal years for this program. The Senate bill authorized the appropriation of $20,000,000 for FY 1973; $25,000,000 for FY 1974, and $30,000,000 for FY 1975. The conference agreement adopts the level of funding provided by the House, and includes a

Senate parenthetical which assures that transplantation and dialysis are included services.

Rehabilitation Services for Older Blind Individuals

The Senate amendment, which had no counterpart in the House bill, authorized a program of grants for older blind individuals. It authorized the apropriation of $10,000,000 for FY 1973, $20,000,000 for FY 1974, and $30,000,000 for FY 1975, for this program. Funds were allotted among the States on a formula based on population and relative per capita income. Older blind individuals were defined as those aged 55 and over whose visual impairment makes gainful employment difficult to obtain. Special provisions are required to be included in the State's rehabilitation plan if it is to participate in this program. The conference agreement retains this provision, but modified so that the program will be administered on a project basis. Thus, the provisions for State allotments and State plans are dropped.

National Policy and Performance Council

The House bill but not the Senate amendment established in the Department of HEW a National Policy and Performance Council, consisting of 12 members. The Council advises the Secretary with respect to policies and criteria for making grants for rehabilitation facility improvement; makes recommendations to the Secretary on workshop improvement and the extent of this section in carrying out its purposes, and performs other services as requested by the Secretary. The Senate amendment contained no comparable provision, but established a National Council on Rehabilitation of the Handicapped to replace and expand the authority of the National Advisory Council on Vocational Rehabilitation. The House recedes.

National Advisory Council on Rehabilitation of Handicapped Individuals

Both the House bill and the Senate amendment provided for the establishment in the Department of Health, Education, and Welfare of National Advisory Councils. The Councils created by the two versions of the bill differ in the following respects:

(1) In the Senate amendment, the Council consists of 20 members appointed by the Secretary. In the House bill the Council consists of the Secretary or his designee and 15 members appointed by the Secretary.

(2) The Senate amendment, but not the House bill, required that 10 of the 20 members must be selected from leading medical, educational, or scientific authorities with outstanding qualifications in the field of rehabilitation of handicapped individuals.

(3) The Senate amendment further required that eight of the 20 members of the Council must be persons who are themselves handicapped or have received rehabilitation services. The House bill requires that ⅓ of the members must be recipients of rehabilitation services, including those who are severely handicapped.

(4) The Senate amendment, but not the House bill, required the Council to meet not less than four times a year. The House bill authorized the Council to review applications for special projects and make recommendations with respect thereto. In the Senate amendment, the Council has a much broader mandate, including policy, advice, and consultation on the planning, conduct, and review of programs authorized under the Act reviewing the administration and operation of vocational rehabilitation programs under the Act, and advising the Secretary with respect to the conduct of individual evaluations and providing such other advisory services as may be requested.

(5) The Senate amendment, but not the House bill, authorized the appropriation of $100,000 for FY 1973, and $150,000 in each of FY 1974 and FY 1975 to provide technical assistance and staff support for the Council.

(6) The Senate amendment but not the House bill, required the Council to review the possible duplication among rehabilitation programs and make recommendations.

The conference agreement includes the provisions of the Senate amendment, but with changes to make its services available to the Commissioner as well as to the Secretary.

State Advisory Councils

The Senate amendment required each State to establish a State advisory council. Such councils were to advise the Governor or State agency on policy matters of administration of the State plan, to advise on long-range planning and studies, to evaluate programs assisted under the Act, and to submit to the Governors and the Council an annual report of its recommendations and comments. Councils must meet at least four times a year and have one public meeting each year. Under the Senate amendment the councils would have been funded from a 1% setaside from the State's title I allotment. There are no comparable House provisions.

The conference report follows the provisions of the Senate amendment, except that (1) funding is separately authorized at $2 million for each of FY 1973, 1974, and 1975, and (2) the States are not required to establish councils in order to receive funds under the Act.

General Grants and Contract Requirements

The Senate amendment provides in one section the requirements which must be met with respect to all projects assisted under the special Federal responsibilities title, including the following:

(1) Construction projects must be used as public and nonprofit facilities for not less than 20 years;

(2) Sufficient funds must be available to meet the non-Federal share;

(3) Annual reports must be submitted;

(4) Plans and specifications must give due consideration to excellence of architecture and works of art;

(5) Plans must comply with regulations concerning occupational safety and health and comply with the Architectural Barriers Act;

(6) Applications must meet Davis-Bacon requirements;

(7) The Federal Government shall be entitled to reimbursement for facilities used for other than what was intended within 20 years after date of completion;

(8) Completion of grants may be made in advance or by reimbursement;

(9) Authorizes construction of residential accommodations when necessary in connection with workshops;

(10) Prohibits use of funds for facilities which will be used for religious worship;

(11) Requires that funds be utilized consistent with State plans;

(12) Requires the Secretary to afford State agencies reasonable opportunity to comment on applications.

Comparable House provisions are for the most part authorized in individual sections. This section is adopted in the conference substitute.

Title IV—Research and training

Title IV of the Senate bill consolidated all research and training activity in a new title. There is no comparable consolidation in the House bill. Title IV of the Senate amendment provided specific authority as follows:

Declaration of purpose

The Senate amendment authorized assistance to the States to plan and conduct research, demonstration, and related activities in the rehabilitation of handicapped persons and to plan and conduct training courses to increase the number of and skills of rehabilitation personnel.

Authorization of appropriations

Fiscal year:	
1973	$75,000,000
1974	100,000,000
1975	150,000,000

The amount appropriated each fiscal year 15 per centum in FY 1973 and 25 per centum for each of the two subsequent fiscal years shall be for the priority research categories listed below.

Section 301(a)(2) of the Senate amendment authorized the following appropriations for section 303 (training):

Fiscal year:	
1973	$50,000,000
1974	75,000,000
1975	100,000,000

All funds appropriated pursuant to this section shall remain available until expended.

Research

The Senate amendment authorized grants to and contracts with States and other organizations to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities to develop methods, procedures, and devices to provide vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals. Such projects may include medical, scientific and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, studies and analyses of factors affecting the rehabilitation of handicapped individuals and special problems of homebound and institutionalized individuals, and related activities which hold promise of increasing knowledge and improving methods in rehabilitating handicapped individuals.

The Senate amendment established the following priority research categories:

(1) Authorizes grants to pay part or all of the costs of activities to establish and support Rehabilitation Research and Training Centers operated with institutions of higher education to coordinate and advance programs of research and training in rehabilitation.

(2) Authorizes grants for the establishment and support of Rehabilitation Engineering Research Centers to apply advanced technology and other knowledge in solving rehabilitation problems through research, including cooperative research with other organizations designed to produce new knowledge, equipment and devices. Also provides for cooperation with the Office for the Handicapped in developing information exchange systems and coordination to promote utilization of engineering and other research.

(3) Authorizes a program for spinal injury research in support of the National Centers for Spinal Cord Injuries. The purpose of such research is to insure dissemination of research findings among all spinal cord injury centers, provide encouragement and support for new approaches, and establish close working relationships with other organizations to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Authorizes a program for international rehabilitation research, demonstration, and training to develop new knowledge in rehabilitating handicapped individuals. The purpose of such program also would be to cooperate with other nations in sharing and developing information in rehabilitation, and initiating a program to exchange experts and technical assistants with other nations.

The Senate amendment applies the general provisions of section 313, unless the context indicates to be the contrary; particularly noteworthy is the provision that funds used for direct services to handicapped individuals shall not be inconsistent with the State plan approved under section 101.

Training

The Senate amendment authorized the payment of part of the cost of training and related activities to increase the number and skills of trained rehabilitation personnel.

It is provided that funds under this section will be utilized for projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology, speech audiology, rehabilitation nursing, workshop and facility administration, prosthetics and orthotics, psychology, specialized personnel for deaf and blind persons, recreation for ill and handicapped individuals and other fields contributing to rehabilitation, including for homebound and institutionalized individuals. Education grants are limited to not more than 4 years.

Reports

The inclusion in the annual report, of a report with respect to research and training activities undertaken pursuant to this title, is required, with emphasis on the contribution of such activities to the improvement of vocational and comprehensive rehabilitation services.

The conference report retains the Senate research and training provisions with conforming amendments.

Administration and program and project evaluation

Administration

Both the House bill and the Senate amendment authorized the provision of training and instruction in technical matters relating to vocational rehabilitation services. Under the House bill training may not exceed a four-year period, whereas under the Senate bill it may not exceed a two-year period. The Senate recedes.

The House bill authorized the Secretary to make rules and regulations governing the administration of this Act. In the Senate amendment, the Secretary is authorized to make rules and regulations governing the administration of titles IV, V, and VI of the Act, and such rules and regulations and those prescribed by the Commissioner of the Rehabilitation Services Administration under titles I, II, and III are required to be published in the Federal Register on an interim basis within 90 days after enactment of the Act.

The Senate amendment, but not the House bill, required the Secretary to insure maximum coordination and consultation with the Administrator of Veterans' Affairs concerning programs for the rehabilitation of disabled veterans. This requirement is retained in the conference agreement.

Program and Project Evaluation

Both the House bill and the Senate amendment require the Secretary to evaluate all programs authorized under the Act and to determine their effectiveness. The Senate amendment, but not the House bill, requires that in the case of research and related activities, the Secretary is to reassess priorities for such research and related activities and to review existing research and related activities to determine the basis for their continuation, revision or termination. In this connection, under the Senate amendment, the Secretary is further required to submit an annual report to the appropriate Committees of the Congress on his review of research activities. The House recedes.

Both the House bill and the Senate amendment require that the Secretary consider the extent to which standards for evaluation have been met in deciding whether to renew or supplement financial assistance. Under the Senate amendment, but not the House bill, such decisions must be made in accordance with the procedural protection governing approval and disapproval of State plans under title I. The House recedes.

The House bill requires that the Secretary publish the results of evaluative research and evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof. This is also required in the Senate amendment. However, in the Senate amendment, publication is required no later than 90 days rather than 60 days, and summaries of evaluations rather than evaluations themselves are to be published. In addition, the Senate amendments but not the House bill requires that copies of all such research studies and evaluation summaries be submitted to the appropriate committees of Congress. The House recedes.

The House bill authorizes the appropriation of such sums as the Secretary may require for evaluation, but not to exceed 1 per centum of the funds appropriated under title I or $2,000,000, whichever is greater. The Senate amendment authorizes to be appropriated such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of the Act or $2,000,000, whichever is greater. The Senate provision is retained in the conference report with conforming modifications.

Both the House bill and the Senate amendment require that the annual report include statistical data reflecting vocational rehabilitation services provided handicapped individuals. The House bill requires statistical data reflecting services provided each handicapped individual, whereas the Senate amendment requires statistical data reflecting "with the maximum feasible detail" services provided handicapped individuals. The House recedes.

The Senate amendment, but not the House bill, specifically requires that the report include a detailed evaluation of services provided to severely handicapped individuals.

The conference report retains this provision with conforming amendments.

Sheltered Workshop Study

The House bill authorizes the Secretary to conduct a special study of sources of income and other financial support presently being received by handicapped persons employed in workshops. The Senate amendment contains similar provisions, but includes a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals. The study will incorporate guidelines in accordance with criteria in resolutions adopted by the Committee on Labor and Public Welfare, the Committee on Education and Labor, or both. The Senate amendment further requires site visits and interviews of handicapped trainees and clients and prohibits the awarding of contracts to individuals or groups with financial or direct interest in sheltered workshops. The report and recommendations will be due 24 months after enactment of the Act in the Senate amendment and not later than July 1, 1973, in the House bill. The conference report adopts the provisions of the Senate bill with an amendment that the study be "original".

The conferees generally approve the Senate committee resolution adopted September 22, 1972, which states as follows:

RESOLUTION OF THE U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE, ADOPTED SEPTEMBER 22, 1972

Whereas Section 405(a) of the Rehabilitation Act of 1972 directs the Secretary of Health, Education and Welfare to carry out a study of sheltered workshops under criteria set forth in resolutions by the Committee on Labor and Public Welfare;

Whereas the Committee finds that such study must be comprehensive in nature and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act, and the relationship between workshops and other programs for handicapped individuals, and programs for vocational training;

Whereas the Committee presents the following questions to be answered and by listing these questions does not intend to limit the scope of the study;

Be it resolved that the Committee on Labor and Public Welfare believes the following questions must be covered along with other pertinent information by the study:

1. What should be the role of sheltered workshops or rehabilitation facilities? To what degree does the present system of workshops fulfill this role? How does this role relate to the broader continuum of employment and day care settings?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work activity centers, etc.) are now in existence? How many handicapped individuals do they employ? What is the nature and degree of their responsibilities? How many staff are employed?

What are their job functions and qualifications? Describe the work opportunities provided including a measure of the range of complexity of the jobs available in each workshop. How much money is paid by the State Vocational Rehabilitation agency to "workshops" on an individual basis by state?

3. What are the standards used by vocational rehabilitation agencies to determine that a sheltered workshop or other rehabilitation facility is the most suitable in the community or state for training or employing a handicapped individual? What alternatives are considered and what rights does a handicapped individual have in selecting the site and type of training or employment to be provided?

4. How many handicapped individuals are placed for training in workshops by state vocational rehabilitation agencies? How much money is paid by the state agency for these training services? What is the length of training? What type of training is provided? How many individuals are placed in competitive employment following training? How many handicapped individuals are placed in sheltered workshops for extended evaluation? How much money is paid by the state agency for these services? How many are placed in employment outside of a workshop, or unplaced of those evaluated? To what extent are handicapped individuals, placed in workshops by rehabilitation agencies for training purposes, integrated with extended evaluation clients and terminal employees of the workshop? What is the nature and degree of the handicaps of the individuals placed in workshops for training or extended evaluation purposes?

5. How many handicapped individuals are in extended employment in sheltered workshops? What is the nature and degree of their handicaps? What type of employment activities are provided? How many individuals are ultimately placed in competitive employment?

6. How many individuals in workshops are in terminal employment? What is the nature and degree of their handicaps? What are the standards used by rehabilitation agencies or workshop personnel for determining that these individuals are incapable of competitive employment? How might careers ladder opportunities within workshops be developed to enable handicapped individuals to move into competitive employment?

7. What are methods for the determination of wages for handicapped individuals in workshops? What distinctions are there between piece work and hourly employees? How many persons are receiving wage subsidies? What are the amounts of such subsidies and the sources of funding for such subsidies? What effect do wage payments have on the amount of public assistance received by handicapped individuals in workshops, since assistance payments vary from state to state? What is the relationship of the industrial efficiency of the workshop to the amount of wages paid? What is the relationship of the types of contract work performed by workshops to the amount of wages paid to employees? What is the relationship of the specific abilities of the employees to the

contract capability and wage payments? Do workshops for any particular type of handicapped individuals generally pay higher wages than those paid in other workshops? If this is true, is it because of their contract work or because they receive their contracts through a single source? How are contracts procured? Is the type of contract pursued by a workshop related to the needs of present workers, or are workers selected by jobs available? Are there any state, regional or national procurement and coordination processes available for obtaining contracts for sheltered workshops? What should such a process entail? Compare wage payments to handicapped workers in sheltered workshops to payments made for similar employment to workers in competitive employment in comparable labor markets or otherwise.

8. Has the Wage Hour and Public Contracts Division of the Department of Labor issued certifications of exemption from the prevailing minimum wage for individual handicapped workers within workshops or have they been issued on a blanket basis per workshop? How many sheltered workshops have been issued exemptions from the minimum wage under section 6 of the Fair Labor Standards Act as work activity centers? What is the nature and degree of handicaps of handicapped individuals in such centers? To what degree has the number of such exemptions increased annually since 1967? How often do officials of the Wage Hour and Public Contracts Division inspect sheltered workshops and work activity centers to determine compliance with minimum wage requirements? How often do officials of the Department of Health, Education and Welfare inspect sheltered workshops? Officials of State agencies?

9. What fringe benefits are provided to handicapped individuals in extended or terminal employment in sheltered workshops (e.g. coverage under the Old Age, Survivors and Disability Insurance Program and Medicare of Title II and Title XVII of the Social Security Act; unemployment compensation; health care and retirement plans to which other non-handicapped workshop employees are entitled; and collective bargaining)?

10. What is being done to coordinate the wide variety of vocational training programs administered by the Rehabilitation Services Admnistration, the Office of Education and the Department of Labor for severely handicapped individuals who appear to have a high chance of requiring sheltered employment for some period of time?

11. Discuss and analyze the possible forms of wage supplements, their advantages and disadvantages, and their effects where applied.

Office for the Handicapped

The Senate amendment establishes an Office for the Handicapped within the office of the Secretary to be headed by a Director. This Office is charged with the preparation of a five-year planning document for the provision of services to handicapped individuals, the analysis and review of program operation and budgeting to assure progress toward implementation of such a plan, providing assistance to advisory committees and programs which serve the Secretary, the coordination and encouragement of cooperative planning among programs for handicapped individuals, taking steps to assure the prompt utilization of engineering and other research planning among programs for handicapped individuals, and the evaluation of existing information systems in order to develop a coordinated system of information retrieval and dissemination. For this purpose, there is $1,000,000 authorized for FY 1973, $2,000,000 for FY 1974, and $2,000,000 for FY 1975. There are no comparable House provisions.

The conference report includes these provisions with several amendments to make clear the relationship of this Office to existing operating programs.

The Conference agreement directs the Office to prepare, with the assistance of and in consultation with agencies of the Department of Health, Education, and Welfare and other departments and agencies, handicapped individuals and public and private agencies and organizations, a long-range projection for the provision of comprehensive services to handicapped individuals, with the understanding that such projection shall relate individual agency plans to one another in order to provide maximum effectiveness, sensitivity and continuity in the provision of services to handicapped individuals. It should be clear that this long-range projection for services shall represent the direction toward which the Department intends to proceed in providing services to handicapped individuals and shall include a plan for implementation, including costs of such plans. Under no circumstances do the Conferees intend that this projection be implemented without opportunity for Congressional review and enactment of any necessary authorizing legislation.

The Conference agreement further deletes all reference to budgeting and provides language to make clear that such Office shall be vested only with advisory functions and that no authority has been provided to this Office for budgetary, policy, or program control by the Office over any program, except as such authority relates to a central clearinghouse for information and resource availability. The conferees intend that no operating program shall report to, or through such office to the Secretary.

The House bill established a National Information and Resource Center under title IV of the House bill to collect, review, organize, publish and disseminate information and data related to problems caused by handicapping conditions in title IV.

The Senate bill and the Conference agreement direct the Office for the Handicapped to serve as a clearinghouse for information and resources through the evaluation of existing information and data systems in order to develop within the Department of Health, Education and Welfare a coordinated system of data and information retrieval and dissemination. It is the intent of the Conference agreement that maximum utilization should be made of existing information and data systems and that, as a priority, this Office will identify data, information and statistical needs. The Conferees emphasize that where data, information and statistics do not exist or are not currently available, the Office will take immediate action to ensure that such data, information and statistics are collected and will be made available for use by the Congress, the Secretary, operating programs, and interested individuals and organizations.

TITLE VII.—MISCELLANEOUS

Effect on existing laws

The Senate amendment but not the House bill repealed the Vocational Rehabilitation Act 90 days after the date of enactment of the new Act, and further provided that references to such Act in any other provisions of law shall 90 days after enactment, be deemed to be references to the Rehabilitation Act of 1972. There were no comparable House provisions. The House recedes.

Federal Interagency Committee on Handicapped Employees

The Senate amendment established the Federal Interagency Committee on Handicapped Employees, comprised of the heads of the Civil Service Commission, the Veterans Administration, and the Departments of Labor and Health, Education, and Welfare. The Chairmen of the President's Committee on Employment of the Handicapped and of the President's Committee on Mental Retardation are ex officio members; the Commissioner of the Rehabilitation Services Administration serves as the Executive Director, and the Secretary of Health, Education, and Welfare as chairman of the Committee. The various departments and agencies in the Executive Branch are required to submit an affirmative action program concerning the hiring, placement and advancement of handicapped individuals; the Committee is to develop and recommend to the Secretary of Health, Education, and Welfare procedures for hiring the handicapped individuals. The Committee shall report to the Congress on June 30, 1973, regarding the status of the handicapped employed by the Federal Government, along with its recommendations. This section also prohibits volunteer work in a government from being considered Federal employment for certain purposes; and authorizes appropriations of $1 million for FY 1973 and $1,250,000 for FY 1974. There were no comparable House provisions. The House recedes.

National Commission on Transportation and Housing for Handicapped Individuals

The House bill established a National Commission on Transportation and Housing for the Handicapped headed by the Secretary of Health, Education, and Welfare or his designee.

The membership of the Commission is not to exceed 15 members, with the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of the Treasury (or their designees) serving as ex officio members. The purpose of the Commission shall be to study problems and make recommendations with respect to transportation and housing for the handicapped. There was no comparable Senate provision.

The conference agreement retains the essential elements of the House bill by establishing a National Commission on Transportation and Housing for Handicapped Individuals and requiring the coordination of such Commission with the Architectural and Transportation Compliance Board.

Architectural and Transportation Barriers Compliance Board

The Senate amendment established the Architectural and Transportation Barriers Compliance Board composed of the heads of the Departments of Health, Education, and Welfare, Transportation, Housing and Urban Development, General Services Administration, the Department of the Interior, the U.S. Postal Services, the Veterans Administration, and the Department of Labor. The function of the Board is to insure compliance with standards prescribed by GSA, The Department of Defense, and HUD pursuant to the Architectural Barriers Act of 1968, and make appropriate investigations, and issue necessary orders. The Board is authorized to appoint necessary hearing examiners and receive administrative assistance for the Board by involved agencies. An annual report to Congress and an authorization of $1 million for FY 1973, $1,250,000 for FY 1974, and $1,500,000 for FY 1975 are provided for. There were no comparable House provisions. The House recedes with a conforming amendment requiring coordination between the Board and the National Commission on Transportation and Housing of Handicapped Individuals.

Employment under Federal contracts

The Senate amendment required that any Federal procurement contract contain a provision requiring Federal contractors and subcontractors to take affirmative action to employ qualified handicapped individuals. These provisions shall be implemented 90 days after enactment. A complaint may be filed by any aggrieved handicapped individual with the Department of Labor, which shall investigate and take appropriate actions. There was no comparable House provision. The House recedes.

Nondiscrimination under Federal grants

The Senate amendment provided that no otherwise qualified individual shall be discriminated against or excluded from participation in or benefits of any program or activity receiving Federal assistance. There was no comparable House provisions. The House recedes.

RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS

The conference report does not include title VII from the Senate amendment, relating to the Randolph-Sheppard Act for the blind. Under the Rules of the House of Representatives, and pursuant to the Legislative Reorganization Act of 1970, such title would not be considered germane and would thus be subject to a point of order in the House.

The conferees stress that exclusion of title VII is not due to any lack of concern for, or disregard of the need for, strong and forward-looking amendments to the Randolph-Sheppard Act. The conferees expect that both committees will consider these matters in depth after the 93d Congress convenes.

The conferees are deeply concerned that the Congress has not been able to obtain any definitive information concerning legitimate uses of vending machine income on federally-controlled property. In view of this concern, the conferees urge that the General Accounting Office conclude, at the earliest possible date, its audit and study of such funds and their legitimate uses made pursuant to resolution of the Subcommittee on the Handicapped of the Senate Committee on Labor and Public Welfare; and that any recommendations of the General Accounting Office include recommendations with respect to procedures to insure full public disclosure and accountability with respect to the use of such funds.

CARL D. PERKINS,
JOHN BRADEMAS,
PATSY T. MINK,
ALBERT H. QUIE,
ORVAL HANSEN,
Managers on the Part of the House.

ALAN CRANSTON,
JENNINGS RANDOLPH,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ADLAI E. STEVENSON,
ROBERT T. STAFFORD,
ROBERT TAFT,
J. JAVITS,
RICHARD S. SCHWEIKER,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

REHABILITATION ACT OF 1972

Mr. CRANSTON. Mr. President, as chairman of the Senate conferees and of the committee on conference on H.R. 8395, I am privileged to speak in support of the conference report I filed yesterday morning. The Congress can well be proud of the compromise this report represents. In my opinion, the resulting measure is a stronger piece of legislation, with a few exceptions, than the provisions of either version separately.

At the outset, let me say that the conference report includes in the introductory sections and titles III through VII almost all of the provisions contained in the introductory sections and titles II, III, IV, and V of the Senate amendment. These include:

First. The Rehabilitation Services Administration—RSA—provisions regarding the independent status of that administration and the independent authority of the RSA Commissioner over all the basic grant, and research and training programs, including the Senate provision to expand the staff of the RSA and to establish within RSA a new Division of Research, Training, and Evaluation and within that Division a new center for Technology Assessment and Application;

Second. Individualized written rehabilitation program;

Third. Construction grants—no substantive difference from House bill;

Fourth. Vocational training services—no difference in operative provisions from House bill;

Fifth. Mortgage insurance with a compromise with the House on the maximum amount of the mortgage—90 percent of replacement cost—and the percent insured—100 percent;

Sixth. Annual interest grants, with a compromise with the House on the rate of interest subsidy—four interest points or one-half of the annual interest rate, whichever is the lesser;

Seventh. Special projects and demonstration;

Eighth. National Center for Deaf-Blind Youths and Adults—no difference in operative provisions from House bill;

Ninth. Rehabilitation Centers for Deaf Individuals;

Tenth. Spinal Cord Injuries Centers, with a compromise with the House to include necessary and appropriate related research and training activities and deleting reference to a network of such centers;

Eleventh. Grants for end-stage renal disease—accepting the House authorization figure of $25 million for each of the next 3 fiscal years;

Twelfth. Rehabilitation services for older blind individuals, with a compromise with the House to make the program one of project grants rather than State formula grants;

Thirteenth. National Advisory Council on Rehabilitation of Handicapped Individuals;

Fourteenth. State advisory councils with a compromise with the House to make the establishment of such councils discretionary and to authorize the appropriation of $2 million rather than set aside funds from basic State grant appropriations; and

Fifteenth. General grant and contract requirements.

Title III of the Senate amendment, on research and training, is retained in title IV of the committee report. This title includes special emphasis on the development of rehabilitation engineering research centers which would seek to apply the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, including the design, development, and production of suitable equipment and devices. It is a crime, in my judgment, Mr. President, that this country so wealthy in technology and so rich in scientific achievement has made only the most minimal use of this science and technology for the benefit of handicapped individuals.

Many European countries have developed and made available to handicapped individuals far more sophisticated orthotic and prosthetic devices, as well as other mechanisms and devices for handicapped individuals, than are generally available here. Moreover, although there may be isolated instances where certain rather sophisticated mechanisms have been produced and made available to enhance the living and employability of handicapped individuals, these advances are generally available only to a few and there is no central agency charged with responsibility for developing, producing, and disseminating these devices throughout the country.

I believe that our science and technology belong to all Americans. That is one of the reasons I strongly support the space program. I believe that our science and technology should not be withheld from those less fortunate who because of their handicaps cannot take full advantage of much of the technology we take for granted. There are millions and millions of such Americans—perhaps 30 million—and I think that simple justice requires that we give them the benefit of a more independent, self-sufficient, and remunerative existence.

That is what the conference report provisions seek to do by establishing the new Center for Technology Assessment and Application and earmarking 15 percent in fiscal year 1973 and 25 percent in fiscal years 1974 and 1975 for the establishment of Rehabilitation Engineering Research Centers to be coordinated by the Center for Technology Assessment and Application.

Title IV of the Senate amendment, on administration and program and project evaluation, is also maintained, virtually intact, in title V of the conference report, including endorsement by the conferees of the Senate provision directing an original study of sheltered workshops and the Senate committee resolution setting forth the scope of that study.

Title V of the Senate amendment, on the Office for the Handicapped, also is basically retained in the conference report as title VI. Certain modifications, explained in detail in the joint explanatory statement of managers, were made to make clear that the Office would carry out coordinating and recommending functions, not line or sign-off responsibilities, except for the information clearinghouse functions assigned to it.

Title VI of the Senate amendment was also retained—in title VII—and adds as a section 702 the House provision—section 413 of the House bill—establishing a National Commission on Transportation and Housing for Handicapped Individuals, which is to operate in coordination with the Architectural and Transportation Barriers Compliance Board established in section 703 of the conference report. Thus, the report includes the Senate provisions on the Federal Interagency Committee on Handicapped Employees, the Architectural and Transportation Compliance Board, employment under Federal contract, and nondiscrimination under Federal grants.

Essentially, Mr. President, the basic compromises made by the Senate were as follows:

First. We receded from the more equitable allotment for 15 percent of the funds—for severely handicapped individuals—under part C of title I of the Senate amendment.

Second. We receded from the cost/durational model for providing services to such individuals in the Senate amendment and particularly the definition of "severely handicapped."

Third. We receded from the higher authorization of appropriations figures for the title I basic grant program in the Senate amendment, to the House figure—$800 million—for fiscal year 1973, and to a compromise—$975 million—for fiscal year 1974.

Fourth. We adopted the basic provisions of the separate title III in the House bill—title II in the conference report—for services for handicapped individuals without a vocational goal.

Fifth. We were unable to retain the full client advocacy system which the Senate amendment required be established to serve clients in every geographical area—citywide, countrywide or statewide.

Sixth. The Senate also receded from the experimental appeals provision which the House would not accept, but the Commissioner has general authority to carry out such experimental programs under innovative and expansion grants, special project and demonstrations, or research.

Seventh. The Senate reluctantly receded from its title VII amendments to the Randolph-Shepard Act because they were considered nongermane under the rules of the other body.

Eighth. We accepted a joint compromise to allow a single non-Federal share requirement for projects being jointly funded, but provided for such joint funding only when the administering agency is the Federal agency principally involved and that when the principal agency is the Rehabilitation Services Administration that inconsistent grant or contract requirements may be waived for laws other than this act.

Ninth. The Senate accepted the House provision for the submission by a State of a consolidated rehabilitation plan with amendments to preclude transfer of funds and to provide a veto over such plan to the State administrator for the Developmental Disabilities and Facilities Construction Act, and the Secretary of Health, Education, and Welfare.

With respect to the title I part C formula in the Senate amendment—population multiplied by per capita income—the House conferees were adamant in their opposition. They did accept, however, the 2-year authorization—through fiscal year 1974—in the Senate amendment for the basic title I State formula grant program. This will mean that the question of developing a more equitable allotment formula will be taken up again in the first session of the next Congress. I spoke at some length when the Senate amendment was adopted on the inequity for the more populous States entailed by the present Hill-Burton type formula, and I thus will not discuss this further at this time except to note that we were most disappointed that a more just formula could not be agreed to.

With respect to the basic question of how to achieve a far greater stress on serving those with the most severe handicaps, and accommodation between the two bills was reached in line with the State plan requirements in the Senate amendment, but with substantially more responsibility granted to the Federal Government.

The House was convinced that the Senate plan to trigger extra funds for supplementary funds for serving severely handicapped individuals—a term dropped entirely in the conference report—to be available after double the average case cost was expended—would not have the desired effect. On the Senate side, we were convinced that a strong statutory provision had to be included, rather than relying on committee report language, in order to bring about a dramatic reordering of service priorities. The result is section 101(a)(5)(A) in the conference report which provides that the State plan must—

> Contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cnnot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and show the order to be followed in selecting individuals to whom, comprehensive rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Commissioner.

The conference report thus requires a dramatic reorientation for the vocational rehabilitation program carried out by the Rehabilitation Services Administration in HEW. Under the conference report, for the first time in the law, maximum emphasis is given to providing rehabilitation services to handicapped individuals with the most severe handicaps. This direction to serve first those with the most severe handicaps arose from findings in both the House and Senate hearings that this program was serving basically those with the least severe handicaps and that the most severe handicapped individuals were receiving the very least services, if any at all.

The Senate also agreed to accept the basic concept of a separate authorization of appropriations for services to those handicapped individuals for whom a nonvocational goal is not possible or feasible, rather than serving these individuals with up to 10 percent of the basic grant title I funds as in the Senate amendment. This provision is contained in title II of the conference report and is modeled on title III of the House bill with the following exceptions: The conference provision: First, includes the Senate provision that alternate funding sources must be sought; second, includes the Senate concept that this program must be carried out in general compliance with—and as part of—the basic State plan—except for the first service priority for those with the most severe handicaps; third, as in the Senate amendment, requires that individuals shall be served for nonvocational goals only after the individualized written rehabilitation program procedures are fully carried out with maximum emphasis on achieving a vocational goal; fourth, distributes funds as project grants until appropriations exceed $20,000,000 at which point the State formula allotment is used in the House bill; fifth, increases the State minimum from $50,000 to $150,000 and sixth, drops all reference to severely handicapped individuals.

I personally was convinced that this was a preferable approach to the Senate amendment approach in so far as nonvocational goal rehabilitation is concerned.

The greatest single disappointment to me in the conference report is the alterations which were made in the client advocacy provisions in section 112 of the Senate amendment, also section 112 in the conference report. This issue consumed more time in the conference than any other. The belief of the Senate conferees was that a client advocacy system was needed to serve all vocational rehabilitation projects and programs in order to provide clients and client applicants with the opportunity to achieve a fair shake from the system.

After a great deal of consideration, the House finally receded to the Senate provision with an amendment under which the title of the program was changed to "Client assistance" and the number of projects would be carried out were limited to between 10 and 20 with up to $2.5 million in fiscal year 1973 and up to $5 million in fiscal year 1974 from special projects and demonstrations appropriations under section 305 of the conference report. Most significantly, however, the conference report provisions do earmark no less than $1 million in each of these fiscal years for the purpose of establishing these client assistance projects.

It was made quite clear within the conference that if these client assistance projects prove themselves to be useful and effective in improving the sensitivity and responsiveness of projects, programs and facilities, the House members would be willing to give sympathetic consideration to the expansion of such projects to a system of client assistance to serve all programs under the State plan, as was provided in the Senate amendment.

We intend to watch very closely the administration of these new projects and expect the Rehabilitation Services Agency to devote substantial time and energy to designing the most appropriate and effective client assistance projects possible and to consult with and keep closely advised the appropriate congressional committees.

Mr. President, the crucial thrust of the conference report title I program is to eliminate the creaming and shift the focus to harder cases in order to serve individuals with more severe handicaps. Because it seemed clear to us that, generally, in order to carry out this new priority for serving those with the most severe handicaps, more funds would be required if we are not going to experience a severe cutback in the numbers of handicapped individuals helped by this program, and because the estimates of the total number of handicapped individuals requiring VR services range from 7 million to 30 million, for these two reasons, we authorized $800 million for the basic State program. Pursuant to that authorization, last night during consideration of the Supplemental Appropriations bill, I indicated my interest, along with other Senate conferees, Senators Williams, Randolph, and Stafford in offering an amendment to increase the appropriations for the basic State grant program by approximately 20 percent over the level of appropriations for fiscal year 1972—that is, from $560 million to $672 million, of which $50 million had already been recommended in the committee bill and was approved by the House.

With respect to the innovation and expansion grants, special projects, research and training, and program and project evaluation, we planned to propose a $38 million increase.

On October 9, 1972, Senators Williams, Randolph, Stafford, and I had written to the distinguished subcommittee chairman requesting full funding of the authorization figures, and I ask unanimous consent that the text of that letter be included in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Labor and
Public Welfare,
Washington, D.C., October 9, 1972.

Hon. Warren G. Magnuson,
Chairman, Subcommittee on Labor-HEW Appropriations, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As Senate conferees on H.R. 8395, the Rehabilitation Act of 1972, we would like to recommend that you place emphasis on several important aspects of the vocational rehabilitation program appropriations which you are currently considering for Supplemental Appropriations. We are aware of the fact that you are considering the Administration's budget request which was sent to the Congress in January of this session, but believe that important changes have been made in the authorizing legislation which will soon be reported from the Committee on Conference and necessitate a reassessment in the figures which were recommended by the Administration earlier this year.

Both the Senate and the House Committees in reviewing this legislation found that important changes were needed in the authorizing legislation in order to ensure that the vocational rehabilitation program might better meet its stated goal of providing counselling, evaluation and vocational training services to handicapped individuals. Most prominent in these changes, which have been agreed upon by the Senate and House conferees, are: (1) that a greater emphasis be placed on providing services to those individuals with the most severe handicaps who have the greatest need for vocational rehabilitation services, and (2) that the Rehabilitation Services Administration place greater emphasis on rehabilitation research and training which has a direct relevance to improving services, so that advances in rehabilitation methods and techniques can be translated into services for handicapped individuals.

We would, therefore, recommend that you now reevaluate administration requests for the following categories: basic grants to States, grants for innovation and expansion, and research, training and special project authority under Special Projects.

1. We believe that expanded funding will be needed by the States in order to carry out the directive, in the conference report, to place emphasis on serving those individuals with the most severe handicaps in the State vocational rehabilitation program. Both Committees found during hearings that State programs tended to concentrate on the easier cases because, being less costly and taking less time, this emphasis resulted in higher "closure" statistics and "success" rules. We, therefore, recommend that your Committee recommend appropriation of $800 million (which is the full authorization agreed to in conference) for basic grants to States.

2. The conferees recognize that States will have to undertake an expansion of services in order to serve those with the more severe handicaps, and we, therefore, recommend that you approve funding at the full authorization for expansion and innovation grants to States—$50 million.

3. Both the Senate and House Committees were disturbed to find during hearings that little coordinated emphasis was being placed on research and the translation of research into technology for methods, techniques and devices which would enable many handicapped individuals to ameliorate their handicapping conditions, and to make full use of their skills. The Committees found that much of this technology development and research has been or can be done, but that the effects were not being integrated into the vocational rehabilitation service program. The conferees have placed great emphasis on this area within the Conference report, and we believe that an early appropriation is necessary to render these vital, redirected, research programs operative as soon as possible. We, therefore, request that you approve $60 million specifically to carry out the new research authority contained in the Conference report.

4. The Committees found that in recent years the Social and Rehabilitation Services Administration has cut back drastically on the training of rehabilitation personnel, thus producing gaps in the fields where advances are being made, and placing great stress on rehabilitation programs, facilities and specialized services as to which an increase in personnel is badly needed. If this additional personnel is not available, there will be no advances in research and programs will have to cut back on services and the number of handicapped individuals served, and we, therefore, recommend that you provide an appropriation of $50 million, specifically to be used for such personnel training.

5. One of the important methods of producing new techniques and methods in the field of rehabilitation has been to award grants for special projects and demonstrations to develop and demonstrate innovative methods of delivery of services and application of devices for the benefit of handicapped individuals. The Committees found during hearings that there was a great need for new emphasis on such projects, and we, therefore, request your approval of $50 million for special projects and demonstrations.

The Rehabilitation Act of 1972 totally revises the Vocational Rehabilitation Act, and, in doing so, authorizes many new programs for specific disability groups.

These programs and authorities include: non-vocational services for handicapped individuals, services to individuals with spinal cord injury; services to individuals with end-stage renal disease; services for older blind individuals; rehabilitation centers for deaf individuals; mortgage insurance and annual interest grants for construction of rehabilitation facilities; the establishment of an Office for the Handicapped; and an important study of the role of sheltered workshops.

Although we believe that appropriations for these new programs will be needed very soon, we also recognize that it will take some time for the Administration to implement these new programs, and that there will be time, at the beginning of the next Congress, to request appropriations for this new authority in the Second Supplemental Appropriations bill. We do believe however, that efforts must begin now toward the revision of this program in the direction of services to individuals with the most severe handicaps, and toward a greater emphasis on relevant research, training and demonstration projects, and strongly urge your inclusion of the amounts recommended above for these areas in the Supplemental Appropriations bill.

With warm regards,
Sincerely,
Harrison A. Williams, Jr.
Jennings Randolph.
Robert Stafford.
Alan Cranston.

Mr. CRANSTON. However, I decided not to offer that amendment after talking to the distinguished chairman of the Labor-HEW Appropriations Subcommittee (Mr. Magnuson) who suggested that we wait until early next Congress and assured me that he would then work with us to increase these appropriations.

Mr. President, the authorizations for appropriations in the conference report for fiscal year 1973, just for the basic vocational rehabilitation program—apart from the new programs—are $800 million for the basic State grant program under section 110; $50 million for innovation and expansion grants under section 111; $50 million for special projects and demonstrations under section 305; $75 million for research and $50 million for training under title IV; and up to one-half of 1 percent of the funds appropriated under titles I, II, III, and IV of that act or $2 million, whichever is greater, for program and project evaluation under section 501.

The authorization figures contained in the conference report were arrived at after the most painstaking consideration by the authorizing committees in the two bodies.

In the Senate, I was privileged to chair extensive hearings of the subcommittee on the handicapped covering 5 full days on this legislation. Those hearings documented in the most forceful and poignant way the inadequacies of our efforts in trying to provide an equitable program of services in order to achieve the greatest employment potential for handicapped individuals. Despite estimates of the total of handicapped individuals in the United States who could benefit from services of up to 30 million, in fiscal year 1972 the vocational rehabilitation program provided some services to only 1,100,000 individuals of whom 326,138 individuals were considered rehabilitated. These figures, no matter how much they may represent in terms of individual success stories, are pitifully low in terms of the enormous universe of need for these services.

I believe we can and must do more, and I know we can count on Senator MAGNUSON to do all possible to provide a more realistic level of basic program appropriations to met the enormous universe of need for vocational rehabilitation services.

Mr. President, the joint explanatory statement of managers on the conference report—House Report 92-1581—already printed in the RECORD, sets forth in more detail on the accommodations between the House and Senate versions of the bill.

In closing, I want to express my appreciation to my fellow Senate conferees, especially Senator WILLIAMS, chairman of the full Committee on Labor and Public Welfare, Senator RANDOLPH, chairman of the Subcommittee on the Handicapped, and Senators STAFFORD and JAVITS, the ranking minority members of the subcommittee and full committee, respectively. They most ably represented the Senate position at the conference. Also, I wish to thank the distinguished chairman of the House conferees, Mr. PERKINS, and of the House subcommittee, Mr. BRADEMAS, for their great spirit of compromise and accommodation. Their leadership and the cooperation of the other House and Senate conferees has produced what I believe is a truly important piece of legislation to help America's millions of handicapped persons.

Mr. RANDOLPH. Mr. President, adoption of the conference report on H.R. 8395, The Rehabilitation Act of 1972, is the culmination of months of effort on the part of a number of Senators and their staffs.

It is also the beginning of the realization of the hopes and dreams of thousands of handicapped individuals throughout the country.

H.R. 8395 is a thoughtful, forward-looking measure which, if it is fully implemented, will drastically expand services, research and training in the field of vocational rehabilitation. In addition to the basic program for provision of rehabilitation services, authorized at a level of $800 million for the first year, and $975 million for the second year, H.R. 8395 provides a number of special programs to emphasize services to groups of handicapped persons who have in the past been inadequately served.

For the first time, strong emphasis is placed on serving those with the most severe handicaps. This is a change in the direction of the rehabilitation program, and in my view it is a needed and progressive change.

The Rehabilitation Services Administration has, under H.R. 8395, responsibility to administer the programs under the act.

New emphasis is placed on research and training through a separate title on these subjects. Research and technology in the field of rehabilitation have lagged far behind in their application to the problems and the needs of handicapped individuals. In fact, technology in other countries has surpassed technology in this country, and to make matters worse, such technology is not being transferred for use in the United States. It is hoped and expected that this situation will be altered when H.R. 8395 begins to take effect.

I would like to bring to the attention of my colleagues a number of provisions in my bill, S. 3987, which were retained in conference. These are matters which I sponsored and which I believe are most important to the increased provision of services to handicapped individuals.

First, I have proposed, and the conferees have accepted, a new Architectural and Transportation Barriers Compliance Board. Handicapped persons each day of their lives struggle with physical and attitudinal barriers which do not affect those of us who are not handicapped. Flights of stairs and narrow doorways may be minor inconveniences to most of us, but to the person in a wheelchair they are real, and often insurmountable, obstructions. It is the purpose of the Board to assure that Federal facilities, as well as facilities which are constructed with Federal assistance, are as fully accessible to the handicapped as possible.

Public transportation, too, and housing, are not generally provided with the needs of handicapped individuals in mind. The Board is expected to make legislative and other recommendations as to the need for improving accessibility by the handicapped with respect to these and other areas of everyday life.

I also sponsored the Federal interagency Committee on Handicapped Employees which will insure that all Federal departments, agencies, and instrumentalities make every effort to hire, place, advance in employment, and recognize the special needs, of handicapped persons in Federal service. This committee will help make the employment environment easier for those handicapped individuals who wish to enter, or have entered, Federal employment.

I also sponsored a provision to bring additional personnel into the Rehabilitation Services Administration to help that agency cope with its new responsibilities, as well as one to raise the authorization ceiling for the President's Committee on Employment of the Handicapped and to require the Department of Labor and Health, Education, and Welfare to cooperate with that committee in carrying out its functions.

I sponsored a special provision for rehabilitation services to older blind individuals, which I introduced last year as S. 1030. That provision is in the conference bill.

To my deep regret, my Randolph-Sheppard Act for the blind amendments were not adopted in conference because of a rule of the House of Representatives that would result in those amendments being considered nongermane to the Rehabilitation Act, and thus subject to a point of order on the House floor. The conferees, both House and Senate, did agree, however, that the Comptroller General should complete his audit and study of the sources and uses of vending machine income on federally controlled property, as quickly as possible, and that upon review of such audit and study, the House Committee on Education and Labor and the Senate Committee on Labor and Public Welfare should and will consider and propose early in the first session of the 93d Congress such legislative action as they determine to be appropriate in light of the results of such study and audit.

I strongly believe that improvements to the Randolph-Sheppard Act are urgently needed and long overdue. I pledge to do my utmost to see that such improvements are enacted.

As chairman of the Subcommittee on the Handicapped, and as chief sponsor of the legislation, S. 3987, that was approved in the Senate, I am gratified with the results of the conference report. I want to thank the House conferees, particularly Chairman PERKINS and Congressman BRADEMAS for the fine effort and cooperation they provided.

Special mention must be made of the outstanding contribution to the success of this legislation of Senator ALAN CRANSTON. As he chaired the hearings on H.R. 8395 at my request, as he provided leadership as manager of the bill on the Senate floor and as chairman of the House-Senate Conference, the Senator from California performed yeoman service in an efficient, strong, and humanitarian manner. I also want to thank Senator WILLIAMS, Senator JAVITS, Senator STAFFORD, Senator BEALL, and Senator TAFT for their able and valued assistance.

Finally, Mr. President, I want to say to the handicapped Americans who will benefit so greatly from this legislation, that a new day is dawning for many of you. The Congress has awakened to your needs. We do now, and will continue to do so in the future, protect and expand your horizons, and with your help, bring a new dimension of dignity, hope, and self-sufficiency to all handicapped individuals.

Mr. JAVITS. Mr. President, the Vocational Rehabilitation Act of 1972, the conference report now before us, both continues and improves the longstanding and successful vocational rehabilitation program. The bill also continues unchanged State allotment formula in the State programs—programs being funded at the $600 million level. While the bill—except for this provision—runs through fiscal year 1975, this particular provision covers only through the next fiscal year. This will give the Congress next year an opportunity to review carefully the existing formula with a view to modifying its provisions so that it will not be discriminatory against the urbanized States and the handicapped citizens of the Nation living in the great metropolitan areas.

Mr. STAFFORD. Mr. President, during the final days of this session, most of the news headlines focus on issues like welfare reform, revenue sharing, school busing, and other partisan political subjects. Less attention has been given to the bill stated in the conference report which is now before us and that, I believe, will help millions of handicapped Americans to live fuller and better lives.

Simply stated, the goal of this new law is to help handicapped individuals to achieve their full potential of participation within our society. The Senate-House Conference Committee, I think, has worked out a significant step forward in our vocational-rehabilitation programs that are well worthy of becoming law during the closing days of the 92d Congress.

There are an estimated 7 to 12 million handicapped individuals in our Nation who have not realized their full potential in performing at some job. In the most recent fiscal year, more than 1.1 million disabled persons were served by State vocational rehabilitation agencies, and more than 300,000 of those individuals were reported to have been rehabilitated.

It is clear that we still have a long way to go, just as it is clear that this new law and the funds authorized by it will not meet all of our national needs.

But, this new law can guarantee that many more individuals with severe handicaps will be served than at present. The new law provides particular emphasis on a method of making available services that will be responsive to individual needs. It will also insure that no one will be excluded from the program simply because his or her handicap is too severe.

During extensive hearings on the bill, I became convinced that this Nation could improve the effectiveness of our vocational rehabilitation programs by giving our handicapped citizens the power to help shape their own future in the program.

With that conviction in mind, I proposed a method by which the handicapped client would be guaranteed the right to participate in planning his own rehabilitation program. I am pleased to report that idea was accepted by the conference committee.

The idea is called the individualized written rehabilitation program, and it insures the protection of the individual rights of the handicapped person in the system. It offers both the system and the handicapped person the opportunity to work together in developing a program designed for the rehabilitation of the individual.

In short, the written program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that the terms of the understanding will be carried out unless circumstances convince both parties that the original goal should be renegotiated.

I am convinced that this new approach will bring more dignity and greater achievement to our rehabilitation efforts. It will also help us to better evaluate our system at all stages of its operation.

In keeping with the belief that the handicapped should have a greater voice in the shaping of their own future, the Congress also adopted my proposal that requires special consideration be given to hiring handicapped individuals to fill all positions in the new Office of the Handicapped and on the President's Committee on Employment of the Handicapped. The Federal Government is asked to match its words with deeds.

The law breaks new ground in other areas of vocational rehabilitation, and it will bring new hope, dignity, and fulfillment to thousands of handicapped citizens of our Nation.

Mr. President, I can assure you that the many long, hard and arduous hours that went into developing the bill in both the House and Senate were well spent when we look at the end product. This conference report and bill deserves unanimous support of all the Congress and the American people.

Thank you, Mr. President.

Mr. CRANSTON. Mr. President, I move adoption of the conference report.

The motion was agreed to.

RESTRICTION ON DUMPING OF MATERIAL IN OCEANS, COASTAL, AND OTHER WATERS—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 9727, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 9, 1972, at pages 34378–34382.)

Mr. HOLLINGS. Mr. President, the conferees on this bill were in conference for quite some time, but the report submitted today was ultimately agreed to without dissent. Three issues occupied most of our time in conference: The matter of permits for the discharge of dredge spoil into the oceans, the geographical coverage of the bill, and the question of marine sanctuaries. On the dredging question, the Senate had given primary authority to the Environmental Protection Agency to regulate dredge spoil discharges, while the House bill conferred lead agency authority on the Corps of Engineers. After considerable discussion the conferees reached agreement that the corps would issue the permits but subject to a veto from the Environmental Protection Agency in the case of each and every permit. We regard this compromise as essentially favorable to the Senate position since in the event of disagreement between the two agencies, the Environmental Protection Agency will prevail.

On the two other issues, the Senate yielded as the price necessary to get a bill out of conference. The two Houses had differed on the geographical coverage of the statute, with the House favoring control of discharges into all ocean waters and the Senate covering only those discharges 3 miles from the coast and beyond. On the question of marine sanctuaries, the House had adopted a provision authorizing the Secretary of Commerce to create sanctuaries for the purpose of preserving such areas for their ecological or recreational values, while the Senate was silent on the subject. In the case of each of these provisions, the Senate position was based less on substantive considerations than on a reluctance to impinge upon jurisdictional relationships among Senate committees. Having agreed to the House provisions on these matters, I think the record should show that it was not our intention to disturb existing jurisdictional divisions of labor now or in the future.

Mr. President, what has emerged from the conference in my view is a fine bill which I believe will prove adequate to deal with the immediate and long-range problems of ocean pollution. Too long we have allowed indiscriminate ocean dumping of pollutants without examining the harmful consequences that may result. This bill will give us reason to breathe easier with respect to the future of our precious ocean resources.

It was the intent of the framers of this legislation that the kinds of dumping which are now going on be prohibited, except under criteria to be established by the Administrator of the Environmental Protection Agency. Present dumping activities, except as expressly provided for in the legislation, must come under new permit requirements as set forth by the Administrator. Any existing permits, once the law takes effect, shall be superseded by new permits which may be issued by the Administrator.

Much credit is due the administration, of course, for its efforts in promoting this legislation. Thanks should also go to the very able conferees and committee members who participated in the development of the bill. What we have is a good report which I would hope my colleagues would adopt quickly and without reservation. The health and welfare of our oceans demands no less.

Mr. JACKSON. Mr. President, I want to compliment the distinguished Senator from South Carolina for the important work he has done on the Marine Protection, Research, and Sanctuaries Act of 1972. This important measure establishes new Federal policies designed to protect the marine environment and to improve the Nation's management of our ocean resources.

Title III of the conference report deals with the designation of marine sanctuaries by the Secretary of Commerce. This title did not appear in the Senate-passed bill which was considered in the

Senate on November 24, 1971. During debate on the measure on the Senate floor there was discussion of the Interior and Insular Affairs Committee's legislative jurisdiction and interest in any changes which were proposed for the management of the resources of the Outer Continental Shelf.

Mr. President, I have worked closely with the Senator from South Carolina on this matter and he has kept me advised of developments in the conference committee. We are in agreement that adoption of the conference report will not in any way affect the present legislative jurisdiction of either the Senate Commerce Committee or the Senate Committee on Interior and Insular Affairs over the ocean resources and the Outer Continental Shelf. I understand that the Senator from South Carolina has acknowledged that this is the case in his statement on the conference report.

Mr. HOLLINGS. Mr. President, I want to confirm the statement of the Senator from Washington (Mr. Jackson) and his understanding with relation to the jurisdiction of the Committee on Interior and Insular Affairs and the Committee on Commerce, that he is correct.

Mr. STEVENS. Mr. President, H.R. 9727, the antiocean dumping bill, is a major piece of environmental legislation. It involves intensive effort by both the Senate and the House. This will prohibit the transportation from the United States of any radiological, chemical, or biological warfare agent or any high level radioactive wastes or any other material for dumping except under permit. It will prohibit the dumping of any such warfare agent or radioactive wastes or any other material except under permit transported from any location outside the United States into either the territorial sea or the contiguous zone which extends 12 miles seaward from shore. Additionally, it prohibits Federal Agencies from transporting any such warfare agent or radioactive wastes or other material except under permit for the purpose of ocean dumping. This is a major step forward to insure the cleanliness of our ocean.

Jacques Cousteau, Thor Heyerdahl, and other ocean explorers have commented extensively upon the pollution problem of the world's oceans. Material dumped offshore thousands of miles away across the Pacific can within a matter of weeks find its way onto our beaches. No nation is safe. The oceans are everyone's concern.

This bill will significantly advance the cleanup of the world's oceans. Marine life will directly benefit. So will those people around the world who depend upon marine resources for their livelihoods. People far inland who journey to the sea for recreation or travel will similarly reap the benefits of this massive cleanup.

I hope other countries will take heed and enact similar legislation. I hope this country takes the lead internationally in cleaning up the world's oceans. This country must work together with other nations around the world. No nation is safe from pollution which travels by water. The Convention for the Prevention of Marine Pollution by Dumping From Ships and Aircrafts signed at Oslo, Sweden, in February of this year was a major step in the right direction.

When William Ruckelshaus, Administrator of the Environmental Protection Agency, testified before the Senate on this subject, he recommended—

> The creation of the farthest reaching and strongest authority that law and technology will allow.

Mr. Ruckelshaus and all citizens genuinely concerned about this problem can be proud of H.R. 9727.

I am particularly pleased that the conference committee has exempted organic fish wastes in areas of tidal flushing. This provision in section 102(b) will permit the return of natural fish wastes to the oceans where they form a vital source of food for the other animals in the oceanic food chain. This provision will mean much to fishermen on both coasts and will also positively assist the sea creatures themselves.

As the Senate committee stated in its report on this bill:

> We have treated the oceans as enormous and indestructible—145 million square miles of surface—the universal sewer of mankind. Previously we thought that the legendary immensity of the ocean was such that man could do nothing against such a gigantic force. But the real volume of the ocean is very small when compared to the volume of the earth and to the volume of toxic wastes that man can produce with his technological capacity. And, again, as Captain Cousteau has said:
>
> "The cycle of life is intricately tied with the cycle of water. Anything done against the water is a crime against life. The water system has to remain alive if we are to remain alive on this earth."

I am extremely pleased that Congress has taken strong steps to preserve the oceans and to prevent the continuation of this "crime against life."

Mr. HOLLINGS. Mr. President, I move adoption of the conference report.

The motion was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 16593, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Gambrell). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of today.)

Mr. McCLELLAN. Mr. President, this report represents the results of three long meetings of the conference committee which were well attended by the conferees on the part of both Houses. While the total money differences between the House and Senate versions of the bill were small, there were many major differences with respect to various programs and activities. The conference committee considered and resolved approximately 250 separate areas of disagreement between the two Houses. This conference was typical of conferences on major appropriation bills in that there were strong feelings on the part of the conferees on many of the issues, but these differences were compromised in the spirit of give and take which must prevail in order for the legislative process to function.

As the bill passed the other body, it provided for appropriations totaling $74,577,548,000 for the programs and activities of the Department of Defense, the Army, Navy, Marine Corps, and Air Force. The Senate bill provided $74,571,698,000 for these programs and activities—$5,850,000 less than the House bill.

The conference committee agreed to appropriations totaling $74,372,976,000 which is under the budget requests of $79,594,184,000 by $5,221,208,000; under the House allowances by $204,572,000; and under the Senate allowances by $198,722,000.

When I presented this bill to the Senate, I called attention to the fact that the committee's recommendations for reductions in the budget requests totaling $4,989,486,000 reflected reductions resulting from the transfer to appropriations in the bill of $1,315,900,000 from other accounts and funds available to the Department of Defense. The conference committee adopted the Senate proposals for these transfers of funds which exceed the transfers proposed in the House bill by $666.4 million. When you compare the conference committee's recommendation for new appropriations and transfers providing a total availability of $75,688,876,000, it is under the budget program by $3,905,308,000; over the House program by $461,828,000; and under the Senate program by $198,722,000.

Mr. President, I ask unanimous consent to have included in the Record at this point in my remarks a summary tabulation reflecting the action of the conference committee on the basis of new appropriations and total availability.

There being no objection, the summary was ordered to be printed in the Record, as follows:

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1973, H.R. 16593, SUMMARY

	Budget	House	Senate	Conference	Conference compared to— Budget	House	Senate
New obligational authority	$79,594,184,000	$74,577,548,000	$74,571,698,000	$74,372,976,000	−$5,221,208,000	−$204,572,000	−$198,722,000
Use of funds other than new obligational authority	None	649,500,000	1,315,900,000	1,315,900,000	+1,315,900,000	+666,400,000	
Total availability	79,594,814,000	75,227,048,000	75,887,598,000	75,688,876,000	−3,905,308,000	+461,828,000	−198,722,000

Mr. McCLELLAN. Mr. President, the action of the conference committee is explained in detail in the joint explanatory statement of the committee of conference which is included in the conference report. However, at this time, I want to comment briefly on the action of the conference on a few of the major issues.

NAVY'S NEW S-3A ASW AIRCRAFT

The budget included $519.9 million for the procurement of 42 of the Navy's new S-3A Viking ASW aircraft. The House bill provided $387.7 million for the procurement of only 23. The conference agreed on $472.4 million for the procurement of 35. However, the conference committee provided that these funds are not to be obligated until the Secretary of Defense assures the committees that the continuation of this program is fully justified after reviewing such matters as cost effectiveness and requirements.

MARINE CORPS' HARRIER AIRCRAFT

The budget included a request of $7,100,000 for advance procurement to support the procurement of 24 AV-8A Harrier vertical take-off and landing aircraft in fiscal year 1974. These funds were allowed by the House and disallowed by the Senate. The conference agreed to the restoration of these funds. The Senate conferees were convinced that these 24 aircraft—the last of the planned procurement of 114—should be funded as planned.

AIR FORCE'S F-15 AIR SUPERIORITY FIGHTER

The budget request included $421.6 million for the initial procurement of 30 F-15 air superiority fighter aircraft. The House bill provided only $320.6 million for the procurement of 15 of these aircraft. It was the view of the Senate committee, concurred in by the Senate, that it was not in the interest of the Government to slow down the planned production of this aircraft, and the allowance of the full request of $421.6 million for 30 aircraft was recommended. The conference adopted the Senate position on this aircraft.

AIR FORCE'S A-7D ATTACK AIRCRAFT

The budget request did not include any funds for the continuation of procurement of the Air Force's A-7D attack aircraft. However, the Department of Defense Authorization Act, 1973, included $83.2 million for the procurement of 24 of these aircraft, and the House bill included these funds. The Senate bill did not include any funds for the procurement of A-7D's.

It was the view of the House conferees that the production of this aircraft should be continued and that there is a valid requirement for additional A-7's primarily to provide the Air Force Reserve components with more modern aircraft. While the Senate conferees agreed with the House conferees on this point. It was our view that 12 of these aircraft were adequate, however, the House insisted on 24, and the conference committee agreed on $83.2 million for 24 aircraft.

ADVANCED AIRBORNE NATIONAL COMMAND POST AIRCRAFT

I think the most difficult issue before the conference was the number of advanced airborne national command post aircraft to be funded. It will be recalled that the budget request included $249.6 million for the procurement of six Boeing 747 aircraft to be configured for this mission. The Department of Defense Authorization Act included $127 million for the procurement of four of these aircraft. The House bill included only $28.7 million for the procurement of one aircraft to serve as the "test-bed" for the new electronics and communications equipment being developed. The Senate bill included the $127 million for the four aircraft, as authorized. During the consideration of the bill in the Senate, an amendment to return to the House position of one aircraft was rejected by a vote of 62 to 14, and the Senate conferees felt strongly that the Senate position should prevail. However, the purpose of a conference is to compromise differences, and the conference agreed on three aircraft—one to be funded with $28.7 million included in the "Research, Development, Test, and Evaluation" appropriation and two to be funded with $69 million included in the "Aircraft Procurement" appropriation.

ARMY'S HEAVY-LIFT HELICOPTER PROGRAM

The House bill and the Senate bill included $38 million for the continuation of the Army's heavy-lift helicopter program. However, the House directed that the current Army program for the development of a prototype by one contractor be terminated and that the program proceed on the basis of a competitive component development program. It was the view of the Senate committee that this program should proceed in accordance with the Army's current plans. The committee took this position after being advised by the Army and Department of Defense:

> The House Appropriations Committee instruction would increase the cost of the component development phase by more than $100,000,000 for no commensurate return (in the judgment of the technical evaluators and responsible decision authorities) and delay the prototype phase by 18–24 months.

The conference adopted the Senate position on this matter.

The action of the Senate committee in this instance does not reflect any opposition to competitive development. On this point, the Senate committee stated in its report:

> While the Committee strongly favors the competitive development approach as a general rule, it feels that it offers no advantage with respect to the Heavy-Lift Helicopter.

Mr. President, in order that there be no misunderstanding of the position of the committee on this matter, I ask unanimous consent to have included at this point in the RECORD the statement in the committee report on the heavy-lift helicopter program.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[Excerpt from Senate Report No. 92-1243]

Heavy lift helicopter program.—The committee recommends concurrence in the House reduction of $15,000,000 in the budget request of $53,000,000 for the continuation of the development of the Army's new heavy lift helicopter. In recommending this reduction of $15,000,000, the House committee stated in his report:

"The Committee, in denying the request for funds for the prototype directs that the Army Heavy Lift Helicopter program be conducted as a competitive component development program. . . ."

The Army's original plan for this program was basically a competitive component development program as directed by the House committee. However, this plan was discarded following a detailed technical evaluation of contractor proposals. On May 7, 1971, then Deputy Secretary of Defense David Packard advised the committee:

". . ., we have received and evaluated proposals from five separate contractors. As a result of our evaluation some reorientation of our program is necessary.

"The evaluation clearly disclosed that the Boeing Company submitted the best HLH design proposal with a configuration using tandem rotors and transmissions not greatly larger than systems with which we have experience. The result is a lower technical risk than was initially expected, as well as lower costs for development and production. Hence, an investment in a parallel and directly competitive HLH Advanced Technology Component program as we originally proposed does not appear warranted. . . ."

The Army and the Department of Defense has advised the committee:

"The House Appropriations Committee instruction would increase the cost of the component development phase by more than $100,000,000 for no commensurate return (In the judgment of the technical evaluators and responsible decision authorities) and delay the prototype phase by 18–24 months."

While the committee strongly favors the competitive development approach as a general rule, it feels that it offers no advantage with respect to the heavy lift helicopter program and recommends that the Army should continue the program in accordance with its current plans.

AIR FORCE'S MEDIUM STOL AIRCRAFT PROGRAM

Mr. McCLELLAN. Mr. President, the budget request, and authorization act, included $51.8 million for the Air Force's medium short takeoff-and-landing aircraft, of which $35.8 million was for the continuation of the competitive airframe development program, and $16 million was for the development of the advanced turbofan engine. The House allowed only the $16 million requested for the engine development. The Senate allowed the total requested, and authorized, of $51.8 million. The conference committee concluded that work should proceed on the development of the airframe and allowed $25 million for this effort. However, the conference committee determined that the development of the advanced turbofan engine could be deferred, and no funds are provided for this program.

RESEARCH AND DEVELOPMENT—GENERAL REDUCTIONS

The House allowances for the various "research, development, test, and evaluation" appropriations were based on general unallocated reductions totaling $457.2 million ($457,204,000). The Senate restored $250.5 million of this reduction, and the conference committee agreed to accept $125.3 million ($125,250,000) of the Senate's restoration. Therefore, the conference committee's allowances for the various "research, development, test, and evaluation" appropriations are based on general unallocated reductions as follows:

Army, $72.5 million ($72,516,000);

Navy, $99.6 million ($99,589,000);

Air Force, $135.3 million ($135,349,000); and

Defense agencies, $24.5 million.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

During the consideration of the bill in the Senate, an amendment offered by the senior Senator from Massachusetts (Mr. KENNEDY), deleting section 729 of the House bill was adopted. This provision authorizes the Secretary of Defense to make certain ammunition available to the National Board for the Promotion of Rifle Practice for distribution to rifle clubs, and the use of funds for travel expenses of military and naval personnel attending regional, national, and international rifle matches.

With respect to the transfer of ammunition authorized by this section, I have been advised that the total involved is about $85,000 per year used to provide .22-caliber ammunition to eligible junior rifle clubs. With respect to travel expenses, I have been advised that no specific figures are available because each of the military services provide for this cost as a part of their normal operating cost. However, based on the number of military personnel participating in the 1972 National Rifle Matches, it is estimated that the annual cost of travel expenses associated with various rifle team competitions is in the range of $2 to $2.5 million.

Mr. President, the House conferees were insistent on their position on this matter, and after considerable discussion, it was apparent to the Senate conferees that we could not maintain the Senate position on this amendment and we had to recede.

SECTION 724: BUY AMERICAN—SPECIALTY METALS

In acting on the bill, the House added "specialty metals" to the list of items protected under the "buy American" provision of the bill. In recommending the deletion of "specialty metals" from the list of protected items, the Senate committee stated in its report:

> . . . this matter was not considered by the committee during its hearings on the bill and the committee is not in a position to recommend the addition of "specialty metals" to those items in Section 724. Accordingly, its deletion is recommended.

This matter was considered in the second meeting of the conference late Monday afternoon, and after discussion, the Senate conferees receded. On Tuesday morning, I received a letter from the Acting Secretary of State, the Honorable John N. Irwin on this matter. The Secretary stated:

> . . . European and Japanese steel producers have agreed to limit their exports of steel, including specialty steel products, to the United States. This arrangement is, however, conditioned upon the absence of any new restrictions on imports of steel products into the United States. . . .
>
> I would be grateful if you could take this factor into consideration in making the judgment on this matter.

Mr. President, I ask unanimous consent that Secretary Irwin's letter of October 10 be included in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 10, 1972.

Hon. JOHN L. MCCLELLAN,
Chairman on Appropriations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Conference Committee on the Department of Defense Appropriations Act will reconvene shortly. We are concerned about a House amendment which would subject certain alloy steels to the Buy-America provisions of the Act.

As you may know, European and Japanese steel producers have agreed to limit their exports of steel, including specialty steel products, to the United States. This arrangement is, however, conditioned upon the absence of any new restrictions on imports of steel products into the United States. We are concerned therefore that adoption of the Buy-America provisions could jeopardize the continuation of the voluntary restraint arrangement which is of benefit and interest to the entire domestic steel industry of the United States.

I would be grateful if you could take this factor into consideration in making the judgment on this matter.

Sincerely yours,

JOHN N. IRWIN,
Acting Secretary.

Mr. McCLELLAN. Mr. President, I want to emphasize that I did not receive this letter until after the matter had been considered in the conference committee and the Senate conferees had receded.

When the conference committee met at 5 p.m. on Tuesday, I brought this matter to the attention of the committee and read Secretary Irwin's letter. The Senate conferees voted unanimously to reconsider the matter along with Senate amendment No. 86 dealing with foreign research and development contracts on which the House had receded. However, the House conferees would not agree to a reconsideration of the previous action of the conference on these amendments.

INVOLUNTARY RESEARCH ON HUMAN BEINGS

The conference committee adopted the amendment offered by the senior Senator from Massachusetts (Mr. KENNEDY) prohibiting the use of funds provided in this bill for "any research involving uninformed or nonvoluntary human beings as experimental subjects."

TERMINATION OF HOSTILITIES IN INDOCHINA

The Senate adopted an amendment offered by the senior Senator from Maryland (Mr. MATHIAS), the effect of which was to repeat the statement of policy with respect to the termination of hostilities in Indochina set out in section 601a of Public Law 92-156. It was the view of the conferees that the existing section is permanent law and that there was no purpose to be gained through amendment No. 87, and the Senate receded.

Mr. President, I will be glad to respond now to any questions following the report by my distinguished colleague and ranking member of the Appropriations Committee. I yield to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I thank the distinguished chairman of the committee, Mr. McCLELLAN, for reviewing the total availability of funds and figures contained in the bill that he has just made. He covered the major points very accurately.

The cut in the appropriations is still more impressive, however, when we use the new obligational authority figures, which I would like to give.

The budget request was $79,594,184,000.

The total cut in the conference report with the new obligational authority requested by the Bureau of the Budget was $5,221,208,000, or nearly five and a quarter billion dollars.

The conference report, which the distinguished chairman just mentioned, the figure was $198,722,000 below the amount of the appropriations bill as it passed the Senate bill, and $204,572,000 below the total amount appropriated by the House bill.

It is a rather unusual situation this year, Mr. President, in that the conference report is both below the House figure and the Senate figure.

I realize that those who believe in a strong national defense will say that this is too much of a cut.

I believe that if we were to continue budget cuts of this size, it is entirely possible that Russia could exceed us in military capability in 2 or 3 years.

Others will contend that the budget should have been cut $5, $10, or even $30 billion more.

Mr. President, I do believe that the actions of the Senate and the House of Representatives is about the best compromise that could be reached for the funds of the Defense Department and they can live with these funds for the next coming year.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have included in the RECORD at this point a summary tabulation of the Department of Defense appropriation bill, 1973, giving the budget request, House allowance, Senate allowance, and conference agreement on each appropriation included in the bill.

Mr. President, I move that the Senate concur in the amendments of the House to Senate amendments numbered 3, 7, 19, 24, 30, 34, 55, and 89.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE APPROPRIATION, 1973—BILL (H.R. 16593)

					Conference compared with—		
Appropriations (by functional titles)	Revised fiscal 1973 budget request	House allowance	Senate allowance	Conference agreement	Budget estimate	House allowance	Senate allowance
TITLE I—MILITARY PERSONNEL							
Military Personnel, Army	$7, 708, 063, 000	$7, 488, 461, 000	$7, 533, 063, 000	$7, 528, 000, 000	−$180, 063, 000	+$39, 539, 000	−$5, 063, 000
Military Personnel, Navy	5, 381, 749, 000	5, 260, 081, 000	5, 306, 749, 000	5, 306, 749, 000	−75, 000, 000	+46, 668, 000	
Military Personnel, Marine Corps	1, 537, 792, 000	1, 536, 436, 000	1, 536, 436, 000	1, 536, 436, 000	−1, 356, 000		
Military Personnel, Air Force	7, 275, 575, 000	7, 122, 703, 000	7, 150, 575, 000	7, 150, 575, 000	−125, 000, 000	+27, 872, 000	
Reserve Personnel, Army	529, 534, 000	498, 734, 000	453, 734, 000	453, 734, 000	−75, 800, 000	−45, 000, 000	
Reserve Personnel, Navy	230, 640, 000	228, 960, 000	228, 960, 000	228, 960, 000	−1, 680, 000		
Reserve Personnel, Marine Corps	78, 155, 000	76, 806, 000	76, 806, 000	76, 806, 000	−1, 349, 000		
Reserve Personnel, Air Force	131, 442, 000	123, 542, 000	123, 542, 000	123, 542, 000	−7, 900, 000		
National Guard Personnel, Army	616, 250, 000	578, 179, 000	568, 179, 000	568, 179, 000	−48, 071, 000	−10, 000, 000	
National Guard Personnel, Air Force	169, 359, 000	167, 919, 000	167, 919, 000	167, 919, 000	−1, 440, 000		
Total Title I—Military Personnel	23, 658, 559, 000	23, 081, 821, 000	23, 145, 963, 000	23, 140, 900, 000	−517, 659, 000	+59, 079, 000	−5, 063, 000
TITLE II—RETIRED MILITARY PERSONNEL							
Retired pay, Defense	4, 358, 684, 000	4, 358, 684, 000	4, 358, 684, 000	4, 358, 684, 000			
TITLE III—OPERATION AND MAINTENANCE							
Operation and maintenance, Army	7, 142, 914, 000	6, 587, 250, 000	6, 866, 619, 000	6, 636, 570, 000	−506, 344, 000	+49, 320, 000	−230, 049, 000
Transfer from other accounts		(100, 000, 000)	(100, 000, 000)	(100, 000, 000)	+(100, 000, 000)		
Operation and maintenance, Navy	5, 353, 968, 000	5, 134, 779, 000	5, 287, 798, 000	5, 145, 754, 000	−208, 214, 000	+10, 975, 000	−142, 044, 000
Transfer from other accounts		(50, 000, 000)	(50, 000, 000)	(50, 000, 000)	+(50, 000, 000)		
Operation and maintenance, Marine Corps	383, 263, 000	372, 429, 000	381, 823, 000	373, 729, 000	−9, 534, 000	+1, 300, 000	−8, 094, 000
Operation and maintenance, Air Force	6, 460, 505, 000	6, 173, 680, 000	6, 424, 705, 000	6, 200, 372, 000	−260, 133, 000	+26, 692, 000	−224, 333, 000
Transfer from other accounts		(50, 000, 000)	(50, 000, 000)	(50, 000, 000)	+(50, 000, 000)		
Operation and maintenance, Defense agencies	1, 305, 101, 000	1, 267, 644, 000	1, 273, 244, 000	1, 270, 444, 000	−34, 657, 000	+2, 800, 000	−2, 800, 000
Operation and maintenance, Army Reserves[1]		199, 299, 000		199, 299, 000	+199, 299, 000		+199, 299, 000
Operation and Maintenance, Navy Reserves[1]		136, 119, 000		136, 119, 000	+136, 119, 000		+136, 119, 000
Operation and Maintenance, Marine Corps Res.[1]		8, 094, 000		8, 094, 000	+8, 094, 000		+8, 094, 000
Operation and Maintenance, Air Force Reserves[1]		189, 250, 000		189, 250, 000	+189, 250, 000		+189, 250, 000
Operation and Maintenance, Army National Guard	468, 510, 000	433, 120, 000	453, 267, 000	443, 194, 000	−25, 316, 000	+10, 074, 000	−10, 073, 000
Operation and Maintenance, Air National Guard	461, 743, 000	448, 508, 000	460, 143, 000	456, 726, 000	−5, 017, 000	+8, 218, 000	−3, 417, 000
National Board for the Promotion of Rifle Practice	126, 000	159, 000	100, 000	159, 000	+33, 000		+59, 000
Claims, Defense	52, 900, 000	45, 000, 000	45, 000, 000	45, 000, 000	−7, 900, 000		
Contingencies, Defense	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000			
Court of Military Appeals, Defense	914, 000	914, 000	914, 000	914, 000			
Total, Title III—Operations and Maintenance	21, 634, 944, 000	21, 001, 245, 000	21, 198, 613, 000	21, 110, 624, 000	−524, 320, 000	+109, 379, 000	−87, 989, 000
Transfers from other accounts		(200, 000, 000)	(200, 000, 000)	(200, 000, 000)	(+200, 000, 000)		
TITLE IV—PROCUREMENT							
Aircraft Procurement, Army	162, 900, 000	43, 500, 000	38, 800, 000	33, 500, 000	−129, 400, 000	−10, 000, 000	−5, 300, 000
Transfer from other accounts		(85, 000, 000)	(95, 000, 000)	(95, 000, 000)	(+95, 000, 000)	(+10, 000, 000)	
Missile Procurement, Army	896, 700, 000	691, 100, 000	663, 900, 000	668, 200, 000	−228, 500, 000	−22, 900, 000	+4, 300, 000
Transfer from other accounts		(13, 600, 000)	(36, 500, 000)	(36, 500, 000)	(+36, 500, 000)	(+22, 900, 000)	
Procurement of weapons and Tracked Combat Vehicles, Army	375, 100, 000	279, 200, 000	190, 400, 000	186, 800, 000	−188, 300, 000	−92, 400, 000	−3, 600, 000
Transfer from other accounts			(56, 000, 000	(56, 000, 000)	(+56, 000, 000)	(+56, 000, 000)	
Procurement of Ammunition, Army	1, 350, 400, 000	1, 318, 800, 000	1, 262, 800, 000	1, 262, 800, 000	−87, 600, 000	−56, 000, 000	
Transfer from other accounts			(56, 000, 000)	(56, 000, 000)	(+56, 000, 000)	(+56, 000, 000)	
Other Procurement, Army	654, 000, 000	597, 500, 000	592, 700, 000	592, 700, 000	−61, 300, 000	−4, 800, 000	
Transfer from other accounts		(25, 000, 000)	(37, 500, 000)	(37, 500, 000)	(+37, 500, 000)	(+12, 500, 000)	
Procurement of Aircraft and Missiles, Navy	4, 118, 600, 000	3, 682, 140, 000	3, 578, 040, 000	3, 541, 340, 000	−577, 260, 000	−140, 800, 000	−36, 700, 000
Transfer from other accounts		(40, 000, 000)	(155, 000, 000)	(155, 000, 000)	(+155, 000, 000)	(+115, 000, 000)	
Shipbuilding and Conversion, Navy	3, 564, 300, 000	3, 017, 600, 000	2, 970, 600, 000	2, 970, 600, 000	−593, 700, 000	−47, 000, 000	
Other Procurement, Navy	2, 501, 200, 000	2, 328, 400, 000	2, 316, 400, 000	2, 310, 900, 000	−190, 300, 000	−17, 500, 000	−5, 500, 000
Transfer from other accounts		(25, 000, 000)	(90, 000, 000)	(90, 000, 000)	(+90, 000, 000)	(+65, 000, 000)	
Procurement, Marine Corps	191, 100, 000	173, 400, 000	162, 400, 000	162, 400, 000	−28, 700, 000	−11, 000, 000	
Transfer from other accounts		(10, 000, 000)	(21, 000, 000)	(21, 000, 000)	(+21, 000, 000)	(+11, 000, 000)	
Aircraft Procurement, Air Force	3, 255, 700, 000	2, 368, 000, 000	2, 152, 100, 000	2, 239, 300, 000	−1, 016, 400, 000	−128, 700, 000	+87, 200, 000
Transfer from other accounts		(135, 000, 000)	(443, 000, 000)	(443, 000, 000)	(+443, 000, 000)	(+308, 000, 000)	
Missile Procurement, Air Force	1, 816, 800, 000	1, 637, 500, 000	1, 670, 000, 000	1, 670, 000, 000	−146, 800, 000	+32, 500, 000	
Transfer from other accounts		(25, 000, 000)	(35, 000, 000)	(35, 000, 000)	(+35, 000, 000)	(+10, 000, 000)	
Other Procurement, Air Force	2, 210, 300, 000	2, 139, 300, 000	2, 099, 300, 000	2, 099, 300, 000	−111, 000, 000	−40, 000, 000	
Transfer from other accounts		(23, 200, 000)	(23, 200, 000)	(23, 200, 000)	(+23, 200, 000)		
Procurement, Defense Agencies	72, 730, 000	62, 030, 000	62, 030, 000	62, 030, 000	−10, 700, 000		
Transfer from other accounts		(7, 700, 000)	(7, 700, 000)	(7, 700, 000)	(+7, 700, 000)		
Total, Title IV, Procurement	21, 169, 830, 000	18, 338, 470, 000	17, 759, 470, 000	17, 799, 870, 000	−3, 369, 960, 000	−538, 600, 000	+40, 400, 000
Transfer from other accounts		389, 500, 000	1, 055, 900, 000	1, 055, 900, 000	(+1, 055, 900, 000)	(+666, 400, 000)	
TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION							
Research, Development, Test and Evaluation, Army	2, 122, 716, 000	1, 746, 132, 000	1, 879, 002, 000	1, 829, 032, 000	−293, 684, 000	+82, 900, 000	−49, 970, 000
Transfers from other accounts		(60, 000, 000)	(60, 000, 000)	(60, 000, 000)	+(60, 000, 000)		
Research, Development, Test and Evaluation, Navy	2, 813, 787, 000	2, 504, 343, 000	2, 598, 213, 000	2, 545, 213, 000	−268, 574, 000	+40, 870, 000	−53, 000, 000
Research, Development, Test and Evaluation, Air Force	3, 262, 177, 000	3, 080, 940, 000	3, 161, 040, 000	3, 122, 940, 000	−139, 237, 000	+42, 000, 000	−38, 100, 000
Research, Development, Test and Evaluation, Defense Agencies[2]	[2] 520, 087, 000	435, 513, 000	467, 313, 000	435, 313, 000	−84, 774, 000	−200, 000	−32, 000, 000
Director of Test and Evaluation, Defense[2]		27, 000, 000		27, 000, 000	+27, 000, 000		+27, 000, 000
Emergency Fund, Defense	50, 000, 000				−50, 000, 000		
Transfer authority	(50, 000, 000)				(−50, 000, 000)		
Total, Title V, R.D.T. & E.	8, 768, 767, 000	7, 793, 928, 000	8, 105, 568, 000	7, 959, 498, 000	−809, 269, 000	+165, 570, 000	−146, 070, 000
Transfers from other accounts		(60, 000, 000)	(60, 000, 000)	(60, 000, 000)	(+60, 000, 000)		
Transfer authority	(50, 000, 000)				(−50, 000, 000)		
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM							
Special Foreign Currency Program	3, 400, 000	3, 400, 000	3, 400, 000	3, 400, 000			
TITLE VII—GENERAL PROVISIONS							
Additional transfer authority, Sec. 735	(1, 000, 000, 000)	(750, 000, 000)	(850, 000, 000)	(750, 000, 000)	(−250, 000, 000)		(−100, 000, 000)
Total, Titles I–VII:							
New obligational authority	79, 594, 184, 000	74, 577, 548, 000	74, 571, 698, 000	74, 372, 976, 000	−5, 221, 208, 000	−204, 572, 000	−198, 722, 000
Transfers from other accounts		(649, 500, 000)	(1, 315, 900, 000)	(1, 315, 900, 000)	(+1, 315, 900, 000)	(+666, 400, 000)	
Total funding available	79, 594, 184, 000	75, 227, 048, 000	75, 887, 598, 000	75, 688, 876, 000	−3, 905, 308, 000	+461, 828, 000	−198, 722, 000
Transfer authority	(1, 050, 000, 000)	(750, 000, 000)	(850, 000, 000)	(750, 000, 000)	(−300, 000, 000)		(−100, 000, 000)

---

[1] Operation and maintenance funds provided for the Reserves in fiscal year 1972 and budgeted for them in the parent appropriations were provided by the House for fiscal year 1973 in separate appropriations. The Senate committee recommended that they be returned to the parent appropriations. The Conference agreed to the House action.

[2] Funds for the Director of Test and Evaluation, Defense, were provided in fiscal year 1972 and budgeted for fiscal year 1973 in the appropriation "Research, Development, Test, and Evaluation, Defense Agencies." The House provided these funds in a separate appropriation. The Senate committee recommended that they be returned to the previous appropriation. The Conference agreed to the House action.

THE SPECIALTY METALS AMENDMENT

Mr. JAVITS. Mr. President, it is my understanding that the Senate accepted a provision of the House in the conference report on the Department of Defense appropriations bill, H.R. 16593, which would add "specialty metals" to the "Buy America" provision which prohibits the use of funds provided in the Defense Appropriation for the procurement of certain items not produced in the United States.

I further understand that the Department of Defense requested that this item not be accepted on the grounds that—First, the administrative task of implementing this provision would be an onerous one and very expensive and, second, the provision would not substantially aid the specialty metals industry since the Department of Defense consumption accounts for less than 5 percent of total U.S. consumption.

To my knowledge, there was little testimony during the hearings in either House which might have pointed up problems which could arise in the administration of this provision both by the Department of Defense and by Government contractors. As an example, I would certainly hope that the Department of Defense in administering this provision would take into consideration the fact that it would be a virtual impossibility for a company participating in a defense contract to try to ascertain for itself, let alone for the myriad of suppliers of small component metal parts, that there was no small amount of metal used which would come within the definition of specialty metals. I would hope that the Department of Defense in the administration of this provision, while seeking to carry out the broad intent of protecting the special metal industry, would have sufficient flexibility and discretion under this provision so that they would not be required to go to ridiculous extremes which would result in an almost impossible administrative burden placed upon Government contractors, and the addition of needless expenses to the Government in carrying out its procurement practices.

In addition to the severe administrative burden that the specialty metal amendment imposes on the Department of Defense and on contractors to it, the amendment could be used by foreign signatories to the voluntary steel arrangements as a way to seek to cancel either part or all of their commitment to restrain steel exports to the United States. The foreign steel producers agreed to limit their exports to the United States on the conditions that the United States would:

> Take no further unilateral actions to restrict the quantity of steel mill products to be imported by the United States . . . or to raise the tariffs thereon, including the imposition of a surcharge, or to impose any other measure of similar effect.

In short, Mr. President, in a conference report of such a very major proportion coming before us in the very last hours of this Congress, we have adopted a provision which could be very mischievous and very difficult, and which people would suddenly discover to be disastrous. I call that to the attention of all Senators, as well as to the attention of the Department of Defense.

A realistic administration of this provision might result in its not having any particularly harmful effect. But I urge all Senators to examine very carefully what I have said, so that they may be aware of what could occur, and help to avoid the worst results of that.

I thank the Chair and yield the floor.

Mr. HART. Mr. President, on final passage of this appropriation bill I voted aye, the "no money to be used in Indochina" amendment of Senator MATHIAS having been added. That amendment has been lost in the conference.

The vote now is on $74.3 billion for the military functions of this country, and much of it should be funded—to pay men in the service, to house and service them. But I record my vote against the report as protest—futile though it is—at our role in continued destruction of the people and land of Indochina. That destruction will be funded, in large part, from this appropriation.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The report was agreed to.

Mr. McCLELLAN. Mr. President, on the amendments in disagreement, I move that the Senate concur in the amendments of the House, to Senate amendments numbered 3, 7, 19, 24, 30, 34, 55, and 89.

The motion was agreed to.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment, as follows:

In Senate amendment number 3, after "appropriation", insert: "*Provided further*, That these funds shall not be available until a report has been submitted as required by Revised Statute 3679 (31 U.S.C. 665)."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted, insert:

"For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, including administration; medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment), and other measures necessary to protect the health of the Army; care of the dead; chaplains' activities; awards and medals; welfare and recreation; recruiting expenses; transportation services; communications services; maps and similar data for military purposes; military surveys and engineering planning; repair of facilities; hire of passenger motor vehicles; tuition and fees incident to training of military personnel at maneuvers; expenses for the Reserve Officers' Training Corps and other units at educational institutions, as authorized by law; and not to exceed $3,453,000 for emergencies and etxraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; $6,636,570,000, and in addition, $100,000,000 which shall be derived by transfer from the Army Stock Fund, of which not less than $231,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That the budget estimates for this fiscal year ending June 30, 1974 for the appropriations "Operation and Maintenance, Army", "Operation and Maintenance, Navy", "Operation and Maintenance, Marine Corps", and "Operation and Maintenance, Air Force" shall be submitted on a basis providing for the appropriation of specific sums for the various budget programs and activities, generally in accord with the structure included in H.R. 16593, 92d Congress, as passed by the House of Representatives."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$33,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$186,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$3,541,340,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$2,310,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$435,313,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed, insert:

"SEC. 801. In addition to any other funds authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement, there is hereby authorized to be appropriated during the fiscal year 1973 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, and other weapons, as authorized by law, in amounts as follows:

"Aircraft	
"For aircraft:	
For the Navy and Marine Corps	$134,400,000
For the Air Force	397,500,000
Missiles	
"For missiles:	
For the Army	4,300,000
For the Navy	65,300,000
For the Air Force	39,800,000
Other Weapons	
"For other weapons:	
For the Army	3,600,000"

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard and the Diplomatic and Foreign Service, placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gambrell). Without objection, it is so ordered.

AUTHORIZATION FOR SELECT COMMITTEE ON SMALL BUSINESS TO HAVE REPORTS ON COMMITTEE ACTIVITIES PRINTED DURING ADJOURNMENT OF CONGRESS

Mr. BIBLE. Mr. President, I ask unanimous consent that the Select Committee on Small Business may be permitted to print, during adjournment of Congress, several committee reports dealing with committee activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES, 1973—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on H.R. 14989, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of October 12, 1972.)

Mr. PASTORE. Mr. President, I have but a few brief remarks to make in connection with the conference report making appropriations for the Departments of State, Justice, Commerce, the judiciary, and related agencies for fiscal year 1973. The report was signed by all members of the conference committee.

The total of the bill, as agreed to by the conference committee was $4,681,017,850. This sum is $23,308,750 below the total budget estimates of new obligational authority for fiscal 1973; $139,699,919 below the sum recommended in the bill as passed by the Senate but $93,913,500 more than the sum recommended by the House. Such increase over the House bill includes the following major items that I consider of importance to Members of the Senate. Namely:

First, $24,070,500 for full payment of U.S. assessment at going rate for the United Nations and affiliate agencies;

Second, $4,184,000 for the educational and cultural exchange program;

Third, $30 million for EDA development facilities;

Fourth, $2,600,000 for the Regional Action Planning Committee; and

Fifth, $13,067,000 for the National Oceanic and Atmospheric Administration.

In addition, $19 million is available by transfer for a total of $32,067,000 for OAA.

Sixth, $7 million for the National Bureau of Standards;

Seventh, $1,655,000 for the judiciary branch;

Eighth, $6,890,000 for the Equal Employment Opportunity Commission; and

Ninth, $1,552,000 for USIA special international exhibits in the U.S.S.R.

This is a very involved bill. We have had a serious conference. While what was arrived at does not completely please everyone, I want to say as emphatically and as unequivocally as I can that we worked long and hard and did the best we could, and I think we did produce before the Senate a conference report that not only makes sense but justifies the position of the Senate and also that of the House. It was a unanimous conference report. Realizing the fact that in these conferences you participate in the tactics of give and take. I think we came back with a lot more than the conferees of the House were able to take back to their own branch. This is no reflection on them. This is not bragging on our part. The fact still remains that I think the conferees who participated with me deserve gratitude for their diligence and effective work from all the Members of the Senate.

If there are any questions, I shall be glad to answer them.

Mr. ERVIN. Mr. President, I would like to ask the distinguished Senator from Rhode Island several questions.

When this bill was before the Senate Appropriations Committee, the Senate Appropriations Committee adopted an amendment which I suggested. This amendment had the effect of providing that none of the appropriations for the Subversive Activities Control Board could be used to implement the executive order by which the President undertook to expand the powers of the board beyond its statutory powers. As I understand it, the conference committee retained this amendment.

Mr. PASTORE. It certainly did.

Mr. ERVIN. There was also an amendment offered by the Senator from Wisconsin (Mr. Proxmire) and myself which eliminated from the bill when it was before the Senate the entire appropriation for the Subversive Activities Control Board. As I understand the conference report, this amendment was deleted in conference with a reduction in the amount of the appropriation, so that the appropriation was reduced approximately $100,000, but the Subversive Activities Control Board is still permitted to exercise any statutory powers it might have if its powers are constitutional.

Mr. PASTORE. The point is that even if all its money were eliminated, the Board would still have statutory authority, because the jobs would not be eliminated. It would merely make it possible for those working at the job not to be paid. These men were appointed by the President, and they were confirmed by the Senate. The only way we can get rid of the agency, of course, is by legislative action. I would hope that would occur.

I want the Senator to know that I was one of those who joined in voting against the appropriation because, while we could not hit the nail directly, we would do it indirectly, and I think the blow we struck in the Senate had its effect in the conference, and I think it will have made its effect felt downtown. The original budget estimate on the part of the administration was $706,000. The House reduced it to $450,000, which, of course, was a big cut to begin with.

When we went to the conference, we worked hard and long, but after all, the House is adamant on keeping the Board and the Senate is adamant on eliminating the Board. I think the Senate vote was in the neighborhood of 42 to 25, if I remember correctly. So there is a strong feeling in the Senate that the Board should be abolished.

We tried to do it in the Senate, the matter went to the House, and it just remained there. I would hope that, in view of that, the House now realizes the strong position the Senate has taken. When we sliced the appropriation again by $100,000, it leaves just about enough to pay the salaries of the Commissioners—there is a vacancy which I hope they will never fill—and it might take care of a secretary or two. But the fact remains that that was the best that we could possibly achieve at this juncture.

I was one of those who joined with the Senator, but the fact remains that they have a right to their opinion as we have a right to ours, and when two positive poles meet, you do not get a contact.

That is about the size of it.

Mr. ERVIN. Is it not correct that the Senate conferees were unable to have a meeting with the House conferees prior to the last part of the session, owing to the fact that one of the House Members was involved in a campaign for reelection, and necessarily they had to postpone the actual meeting of the conferees?

Mr. PASTORE. Yes, these hearings were completed a long time ago. The bill was marked up on June 15, I am told. As Senators well know, Mr. ROONEY, a Member of the other body and a very fine gentleman, was at that particular time involved in fighting for his political future, and we could not meet. Then, of course, the Supreme Court decreed a new primary, and that took some more of his time, and then the gentleman took ill. As a matter of fact, he was still feeling the effects of the illness when he appeared before our committee, and was under terrific strain.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ERVIN. The Senator from Rhode Island has the floor.

Mr. HRUSKA. Will the Senator yield for a brief question on this point?

Mr. PASTORE. I yield.

Mr. HRUSKA. Is it not also true, however, that an additional reason for not taking up this conference sooner was the pendency of certain authorizing legislation, particularly on the Department of Commerce?

Mr. PASTORE. That is correct; and, of course, that is an item that has plagued us from the beginning. Unless we resolve that in the Senate somehow, I think we will meet this dilemma every year. We are getting now to where we have the cart before the horse. Sometimes we have to write into the bills "subject to an authorization." I think that is bad business, and that authorizations ought to precede appropriations, because then we would be in a better position to know just what the guidelines are.

But that has happened. And I am sure we will run up against the same problem again.

I hope that in the future legislative committees will be more alert and report out their bills. Senator ELLENDER did a fine job along that line; he more or less instituted a policy that unless they reported out their bills before a certain day in June, they would have to go on a supplemental.

That did not work out, either, because we have a defense bill that runs into billions of dollars. The Armed Services Committee has to work long and hard on that; it takes a long time, and they cannot meet the deadline.

Then we run up against another proposition: These appropriation bills have to originate in the House of Representatives, and by the time we get them we are right in the heat of the summer, and that is a problem, because we cannot move or report out a bill until they pass a bill. So there you are.

Mr. ERVIN. I have one or two further questions.

The appropriation bill that we have under consideration is a bill which, in part, covers several months that have already expired, is it not?

Mr. PASTORE. That is right.

Mr. ERVIN. Another thing is that if the conference report were rejected, the matter would have to go back to a conference, and the Senate might not fare as well in its positions in a further conference as in the previous one?

Mr. PASTORE. I would not say that, exactly. I think you always fare pretty well if you work hard enough at it.

Frankly, I do not want to shower any bouquets on myself, but I tip my hat to no one when it comes to operating in a conference.

Mr. ERVIN. To put that question in another way——

Mr. PASTORE. The Senator from Nebraska says he agrees with that statement. He was there.

Mr. ERVIN. Yes. But in the closing days of this session, it would impede what we think is our drive toward adjournment if the conference report were rejected, would it not?

Mr. PASTORE. It would be an exercise in futility, and I would hope I would not be pressed in that regard, because my heart and my sympathies go along the lines expressed by the Senator from North Carolina. The fact remains, however, that if we did go back, it would be the same thing all over again. The House taken a strong position. I say we were lucky to reduce the appropriation to $350,000. As a matter of fact, if I were a member of that Board, after the action we took, I would resign in humiliation.

Mr. ERVIN. I cannot see that there is much that the members of the Board can do during this fiscal year except to draw their breaths and their salaries.

Mr. PASTORE. Or resign.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. PROXMIRE. I am one of those who have been fighting for years against the Subversive Activities Control Board. Finally, this year, we thought that we had killed the Subversive Activities Control Board, by deleting all the funds for it in the Senate.

MUST WE CONTINUE THE SACB?

Mr. President, I cannot support the conference report on H.R. 14989, the State-Justice-Commerce appropriations bill for fiscal 1973. The conference report would continue funding for the Subversive Activities Control Board, in direct contravention of the Senate's decision earlier this year to cut off all funds for the Board.

The original budget request for the Board was $706,000. The House Appropriations Committee cut this to $450,000, last year's funding level. Now the conference committee has cut this still further—to $350,000—and provided that none of this money may be used to carry out the Executive order which would otherwise empower the Board to compile the so-called Attorney General's list.

Mr. President, this is no solution at all. The apparent intention of the conferees was to provide just enough money to allow the Board members and their staffs to draw their salaries. No money for hearings. No money for travel. No money for investigations. In fact, no money for any activity whatsoever, except to make sure that the Board members and their staffs do not have to go out and hunt for new jobs.

Is it hoped that new cases will be coming before the Board? Then why was not money provided to handle them? Is it hoped that new groups—potentially subversive—will be uncovered? Then why was not money provided to uncover them?

It is clear, Mr. President, that what the conference committee contemplated was a holding action with respect to the SACB—that enough would be provided to enable the Board to continue to exist, but absolutely nothing more.

Mr. President, if there is anything more wasteful than this, I am hard pressed to think of it. The President has asked us to impose a ceiling on expenditures at $250 billion. In order to do so, many vital programs will have to be trimmed, or cut altogether. Spending will have to be held to the absolute minimum. In light of this, it is the height of folly to throw money down the drain on the SACB, simply so that a group of benchwarmers do not have to give up their sinecures.

This is hardly the first time we have faced this issue. Nor is this the first time we have been asked to fund the SACB for just one more year to give the agency an opportunity to prove itself.

The Subversive Activities Control Board was originally established pursuant to the Internal Security Act of 1950. The act was passed by Congress over the veto of President Truman, who recognized the inherent dangers to liberty the act represented.

By the terms of the act, the Board was to identify "Communist action," "Communist front," and "Communist infiltrated" groups. It was to require both the groups and their members to register their existence. But the Board has been in existence for 22 years now, and it has never—repeat never—successfully carried its procedures to completion in any case.

There have been occasions when the

Board heard cases. And there have been some groups that the Board has sought to register. But today the registry remains a complete blank sheet. The reason is simple: The Board's basic function—to chastise groups and individuals for the ideas they hold, rather than their actions—is an unconstitutional infringement on the first and fifth amendment freedoms.

This has repeatedly been the view of the courts. In 1965, in Albertson against SACB, the Supreme Court ruled on the question whether subversives could be compelled to come forward and register themselves, as required by the original act. The Court held that to impose such a requirement, with the Smith Act on the books, was tantamount to self-incrimination, and thus a violation of the fifth amendment.

For 2½ years following the Albertson decision, the Board was totally paralyzed. It held no hearings. It received no new cases. It did nothing whatsoever, except issue paychecks to its staff.

Then in 1967 Congress amended the law. It provided for the Attorney General to cite individuals and groups to the Board, rather than requiring potential subversives to come forward themselves. It provided that the Board would then hold hearings to determine if the individuals or groups cited by the Attorney General were in fact subversives, within the definition of the act.

In view of its then blank record—at that time of 17 years' duration—Congress also stipulated that the Board be given a limited time to prove itself. The 1967 amendments provided that if no new cases came before the Board by the end of 1968 the Board would cease to exist. In other words, the Board was to be given one last chance.

At the 11th hour the Justice Department submitted seven new cases to the SACB, and the Board was saved from extinction. But the seven cases suffered exactly the same fate as every previous case—indeed, as every subsequent case, too—nothing ever came of them.

In 1969 the U.S. Court of Appeals for the District of Columbia found the new provisions as unconstitutional as the original ones. In Boorda against SACB, the court held that penalizing membership in an association, without requiring any finding that the member knew of the group's purposes, or participated actively in them, violates the freedom-of-association guarantees of the first amendment.

Again, the Board was stalemated. And again, it was back to the drawing boards for those who would perpetuate the agency. In the meantime, another 2 years passed with no activity.

In 1971 the administration came up with another device. This one called for the Board to take over from the Justice Department the function of compiling the Attorney General's list. Under Executive Order 11605, the Board would determine whether an organization is "totalitarian, Fascist, Communist, or subversive," and whether an organization "has adopted a policy of the commission of acts of force or violence to deny others their rights under the Constitution of the laws of the United States or any State."

Last year we were again told that this would revitalize the Board, and that it should again be given still one more chance to prove itself. Never mind that the Executive order was unconstitutionally vague. Never mind that it represented an unconstitutional usurpation of the congressional power to enact and amend legislation. Let us give the Board another chance.

Well, the Board has had another chance. It has had another chance ad infinitum. It has operated under the Executive order for the past year, and Congress has now decided to adopt the Ervin rider which will preclude the SACB from taking any action with respect to the Attorney General's list.

Mr. President, if we give the Board $350,000 more, it is with the tacit understanding that this money will go for no purpose at all, other than to save Congress from having to make a final decision on the SACB. This Board has no useful function. We all know it. Let us own up to it. Let us relegate this agency to the history books, which is the place where it belongs.

I know the problem in conference. It is late. And since this is a very important appropriation for three departments, under the circumstances I think I cannot responsibly oppose the conference report on the grounds that they did not kill this agency, although I feel very strongly about it.

I would like to reaffirm what the Senator from North Carolina has said, and I serve notice that certainly next year I intend to fight as strongly as I can to kill this agency once and for all. As the Senator from North Carolina points out, they are now drawing $350,000 a year for nothing. There is no money for investigations, nothing for hearings, nothing for travel expenses, nothing except funds for them to draw their salaries and maybe play bridge with each other. It is a disgrace.

Mr. PASTORE. The point that the Senator from Rhode Island made is that this agency should be killed. I voted to cut out the appropriation in its entirety, and we worked hard for that position in conference. But the fact remains that by eliminating the money, we would not eliminate the job. They would still have a claim in Claims Court. They would still have their jobs, and at some time would be entitled to be paid, if they stayed there.

All I am saying is that this agency should be killed the proper way. The way to do it is legislatively. When we do that, one of the fellows who will be in the vanguard, side by side, shoulder to shoulder with the Senator from Wisconsin, and the Senator from North Carolina will be the senior Senator from Rhode Island.

I thank the Senator.

Several Senators addressed the Chair.

Mr. PASTORE. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, this Senator was one of those who took a stand opposite to those who favored the abolition of this board. However, when it came to the negotiations in conference, I spoke up for the amendment of the Senator from North Carolina which would not permit the expenditure of any of these funds for the purpose of implementing the executive order of the President creating in the board certain additional powers. I made the point that if we did not include that amendment, a great effort would be made, and in great likelihood it would be successful, to reject the conference report and insist upon its being done. I did so out of deference to the will of the Senate, as expressed here in no uncertain terms, both in this bill and a year ago when we considered the same point.

I fully agree with the sentiment expressed by the Senator from Rhode Island that this is a legislative matter, and should be decided on that basis. Personally, this Senator will try to see to it that some mechanism, some agency, will be charged with this particular effort, which is based upon personnel security. In more recent years the Subversive Activities Control Board has, because of the limited scope of its activities and the decisions of the Supreme Court, accumulated a rather undesirable connotation and reputation. I do believe, however, that this Government is so large and it has so many activities that must necessarily be discharged by people that one of our big jobs is to assure and guarantee that personnel security will remain an active item on the agenda.

How that can be done, I am not prepared to say. The Executive order, if it were implemented, would change the name of the board—it would no longer be Subversive Activities Control Board; I believe it was Internal Security Board, or something of that kind—and assign to it different duties and responsibilities. But that is something we can get at, and I hope we do get at it early next session, because the other body has already passed a bill which will accomplish what I have just indicated.

I do hope that the Committee on the Judiciary will take up this bill or its equivalent early next session and hammer it out, either accept it and report it to the floor for consideration or reject it, and thus determine that issue on the legislative basis to which the Senator referred.

I want to say that I fully agree with what the Senator from Rhode Island has said: This is the best we could do in light of the adamant situation in the House on one point and the adamance of the Senate on another point. This is just about halfway between those two places, where the dissatisfaction is fairly equitably distributed.

Mr. ERVIN. I should like to make the further observation that I think the Senate conferees have done the very best they could under the circumstances to sustain the Senate's viewpoint.

I say to my good friend the Senator from Nebraska that it is said a rose by any other name would smell as sweet, but a crushed gentian weed by any other name would smell just as bad.

Mr. PASTORE. The Senator from

Rhode Island answers by saying, "Touche." [Laughter.]

Mr. ERVIN. So in the next session I hope to join the Senator from Wisconsin and other Senators in a bill which would eliminate this agency, which has no rightful place in a free society, from further existence on this earth, and let the hiring of people be left up to the departments and agencies, with investigations by the FBI and other investigatory agencies, instead of having an agency whose sole function is to brand certain Americans, by reason of their organizational membership, as undesirable citizens or as citizens who are intellectually or politically dangerous to the established order. Such an agency has no place in a free society.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. JAVITS. On that point, I should like to associate myself with what I consider to be a most eloquent statement by Senator ERVIN on this matter, involving, as it does, the liberties of all Americans. I congratulate him on making it.

Mr. President, I should like to raise the issue of the Equal Employment Opportunities Commission, which has suffered a considerable cut from the Senate figure and which believes it really is going to be very much curtailed in its operation.

I know where we stand in this Congress, and I know Senator PASTORE, and if anything could have been done, he was the man to do it. But I did wish to make the reservation of record. If a case can be proved that their responsibilities really are being curtailed and that they find it impossible to operate with the limited appropriation which has been made, I will try, with others, to see what can be done for them in the January supplemental.

Mr. PASTORE. I say to the distinguished Senator that, of course, he knows where my sympathies lie with respect to this matter.

Mr. JAVITS. Of course.

Mr. PASTORE. While we did not get everything we wanted, we are about $9 million over last year, but we have assigned new duties to them. There is no question about it. They need new personnel, and I think the money we have provided will provide for 400 or 500 additional jobs.

That is not completely the amount sought by the administration. As a matter of fact, the budget estimate was $46,434,000. The House cut it considerably, as the Senator knows. They cut it down to $25,110,000. We lifted it in the Appropriations Committee of the Senate to $42,896,000. So in conference the best we could do was to come out with $32 million.

Mr. JAVITS. There is no question about the Senator's feeling in this regard and the feeling of the Senate committee. I am not challenging that for a minute.

I only say this: We gave them new duties; we gave them the right to sue. We expected, because of that, that they would do a more effective job on a cost-benefit ratio. Righting the lack of opportunity in respect of employment is probably the best thing we can do for minorities, especially the black minority; and the cost-benefit ratio, considering the fact that we are paying only for costs of administering the law, is very high.

I appreciate the situation; and I was just recording now the fact that if we find in the next month or so that they really cannot do what we want them to do, I reserve the privilege of coming back and seeking added help in the supplemental. I did not want in any way to indicate other than my knowledge that, so far as the Senator managing the bill is concerned, he would give them every penny for which the administration asked.

Mr. PASTORE. That is correct.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MANSFIELD. I note that the budget request for the National Oceanic and Atmospheric Administration, research, development, and facilities was for $144,721,000, but the House had allowed only $127 million. Within the House reduction was the weather modification program and the Western Great States weather modification project. Would the manager of the bill advise me as to the amount appropriated by the conference committee?

Mr. PASTORE. We went the full estimate, and the Senator has recited the figure—$144,721,000. The project that he mentions is in.

Mr. MANSFIELD. Fine. Therefore, if I understand correctly, the full amount was restored to the budget request, and this conference report reflects total funding as requested and as enunciated by the distinguished manager of the bill.

Mr. PASTORE. That is correct.

Mr. MANSFIELD. Which means, of course, that a State such as Montana would have a better chance now to be considered in this program.

Mr. PASTORE. As long as our distinguished majority leader represents Montana, it will always have an advantage.

Mr. MANSFIELD. Just like Rhode Island.

I am advised that invitations to bid have been issued on a study to recommend six possible sites for the location of the headquarters facility for the Western Great States weather modification project. The cost of this study is approximately $500,000. These invitations to bid are subject to the availability of appropriations. In view of the action by the conferees, is there any reason why the Agency should not proceed with this important study, and, in doing so, give the utmost consideration to the State of Montana?

Mr. PASTORE. The Senator can rest assured that tonight he can have a good sleep.

Mr. MANSFIELD. One more question: Would the manager of the bill agree with me that it is clearly the intent of Congress that by appropriating this money, the National Oceanic and Atmospheric Administration should proceed without delay to conduct the study on this important weather modification project?

Mr. PASTORE. I would hope that they would do that, of course.

Mr. MANSFIELD. Mr. President, I should like to comment on another sub- Rhode Island, indicated that the conference report showed a net reduction of ject. I note that the distinguished manager of the bill, the senior Senator from $23,308,000 below the budget request of the President. Is that correct?

Mr. PASTORE. That is correct.

Mr. MANSFIELD. I should like to point out that we have considered three conference bills in a row. Last night it was the military construction bill, which showed a saving below the President's budget request—a saving of $337,981,000. Before the distinguished chairman took up the present bill, the defense appropriation bill was considered, and that showed a saving, below the President's budget request, of $5,221,208,000.

So that as a result of the last three conference reports, covering State, Commerce, and Justice, covering military construction, covering defense, the total figure below the President's budget requests in these three areas is $5,572,597,000, and I think that is something to crow about.

Mr. PASTORE. Mr. President, if the Senator will permit, the Senator from Rhode Island is not prone to making political speeches on the floor of the Senate. But I think one of the biggest hoaxes being perpetrated on the American people is the propaganda that is afloat today, that unless we give the President a ceiling on spending we will have an increase in taxes next year.

If we will but look at the record, this is the game being played downtown: They send up their regular request. We cut it—and as the Senator from Montana has already pointed out, by almost $5 billion out of the defense budget and $23 million out of this one. What happens? Before we turn around, they send up a supplemental request, either for a new program that they ask for, or to replenish by reclaimer the cuts that we made.

Mr. President, you should sit in the hearings and look at the fellows from the administration marching along, saying, "Put it back. Put it back. Put it back." The President should tell them to stay away from the committee and not ask for their reclaimers and he would not have to be asking for this legislation.

But, you know, Mr. President, this is the political season. They have got to make the Congress of the United States look bad.

But if we look at the record we find that Congress has done a good job. Many amendments have been inserted on the floor. Many times they have been inserted on the floor, as happened here yesterday. Of course, we have to go to conference and many times they knock them out.

But I want to give notice to the administration: Let them stop asking for reclaimers and they will not need a ceiling on expenditures.

Mr. MANSFIELD. Let me reiterate, on the basis of the last three conference reports, what Congress has done: It has reduced by $5,572,597,000 the amount below the budget request of the President of the United States.

Mr. PASTORE. That is correct. And, let the record show that the Senator from Rhode Island was not making a political speech. [Laughter.]

Mr. MAGNUSON. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. MAGNUSON. Mr. President, the President vetoed the original HEW bill on the ground that it was too high. But then they sent up another supplemental appropriation for $5 billion.

Mr. PASTORE. That is correct.

Mr. MAGNUSON. But they did not like the $1.7 billion for HEW in the original bill.

What kind of thing is that? Five billion dollars.

Mr. PASTORE. We can take that one step further. On June 30, about 6 weeks before the President vetoed the bill the Senator is talking about, they sent a request up here for $2 billion for Vietnam. Two more billion dollars for Vietnam and no one downtown uttered a word about what that would do to inflation.

But when we took care of the health and welfare of our people, they began to wave the flag of inflation. Well, if they want to stop inflation, then get out of Vietnam and we will get back to our senses.

Mr. MANSFIELD. One more thing, if my memory serves me correctly, when the 4th year of the present administration is concluded, it will have piled up deficits, I believe, covering the years, in the amount of $110 billion.

Mr. PASTORE. The largest deficits in the history of any particular President no matter how long he served.

Mr. MANSFIELD. Did Congress do it?

Mr. PASTORE. We did not do that. That was the gimmick they used for deficit spending and to create jobs. So they did create deficit spending, but they did not create the jobs. They met themselves coming down the hill.

Mr. ERVIN. Mr. President, will the Senator from Rhode Island yield for a nonpolitical question?

Mr. PASTORE. This is a nonpolitical answer, because I usually do not do that until much later in the morning. I like to do it around noontime.

Mr. ERVIN. Is it not true that under our Constitution, Congress cannot authorize the expenditure of a single penny of public funds without the consent of the President, unless Congress overrides the President's veto of an appropriation bill by a two-thirds majority of both Houses?

Mr. PASTORE. That is absolutely correct. That is in the Constitution.

Mr. ERVIN. Does the Senator from Rhode Island recall any time that Congress has overridden a presidential veto of an appropriation bill during the present administration?

Mr. PASTORE. I doubt it. I do not recall it.

Mr. MAGNUSON. The education bill in the last session.

Mr. MANSFIELD. One.

Mr. ERVIN. Will the Senator permit me to ask the distinguished Senator from Washington (Mr. MAGNUSON), how much Congress exceeded the budget in that particular bill?

Mr. MANSFIELD. How much?

Mr. ERVIN. How much did it exceed the budget request where the President's veto was overridden?

Mr. MAGNUSON. I will get the figures and put them in the RECORD.

Mr. ERVIN. Anyway, it is not large enough to account for any substantial part of the $110 billion deficit during the present administration.

Mr. MAGNUSON. That is right.

Mr. ERVIN. I thank the Senator.

Mr. MAGNUSON. Mr. President, could I ask the distinguished Senator from Rhode Island a question to clarify a part of the bill? There is $30 million in maritime appropriations for the acquisition of vessels for the reserve fleet. Part of that is to be available for the purchase of the SS *United States*, in accordance with the provisions of Public Law 92-296. Under the bill as it now stands, they could purchase the SS *United States*, is that correct?

Mr. PASTORE. Well, the question was raised as to the ambiguity of the language, as to whether they could. The language has been changed. When the head of the administration appeared before our committee on supplemental requests, I brought that matter up. Of course, that is feasible. I think myself that, unless they do it, I do not know what else they will do with the $30 million.

Mr. MAGNUSON. In other words, it is permissible.

Mr. PASTORE. If they want to take it up with the General Accounting Office, let them do it, but let us get an answer.

Mr. MAGNUSON. All right—all right.

Mr. PASTORE. Mr. President, I yield the floor.

Mr. HRUSKA. Mr. President, there has been a little bit of discussion here which probably would be more in order following 8 to 10 a.m., but inasmuch as there have been some political overtones in it, I rise to invite attention to some facts which I think should be brought out so that the entire picture will be clear to Members of the Senate and to those who might have the temptation to read the CONGRESSIONAL RECORD at any later time.

It is said here, for example, that the President, after complaining about a bill that is too high in appropriations—HEW, I believe it was—then sent down a supplemental request for $5 billion.

To be sure, he did; but let us remember that it is not in the field only of appropriations that we are operating when it comes to the authorizing of expenditures of money but, likewise, in acts, in bills other than appropriations which make it mandatory for the President to come here and ask for money in order to discharge the obligations imposed upon him.

For example, a social security benefit increase or the example of $1 billion for the black lung, that is not in the budget. That is not something the President asked for. That is something that Congress imposed on him and he must, in order to obey that legislative mandate, come here and ask for the money.

Mr. PASTORE. Mr. President, will the Senator from Nebraska yield at that point?

Mr. HRUSKA. Let me finish my little statement first——

Mr. PASTORE. On that black lung, he sent that request up——

Mr. HRUSKA. Indeed he did——

Mr. PASTORE. He asked for the money.

Mr. HRUSKA. Indeed he did, but not in that amount.

Mr. COTTON. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. COTTON. I think it should be borne in mind—and I say this as the ranking minority member of the HEW Appropriations Subcommittee—that, along with my distinguished chairman, the Senator from Washington, we marched up the hill and down again. It is perfectly true that the President vetoed the bill which I believe was $1.8 billion over the budget.

This $5 billion that came up for the OEO, higher education, vocational rehabilitation, the aging, et cetera, in the supplemental was already provided for in the budget when we passed the bill. However, we could not include it because the authorizing legislation had not been reported by the legislative committees.

Mr. HRUSKA. The Senator is correct.

Mr. COTTON. So, in justice to the President, it cannot be said that when he vetoed the bill, he reached into the air and pulled out $5 billion more and dropped it in our laps. It was in the budget at the time the main bill passed. However, we could not handle it in the main bill, because it had not been authorized, and it had to go over until the supplemental.

It was just as the Senator said. Much of it was mandatory obligation that the Congress had theretofore authorized and required that the formulas and matching funds be met.

We always go through this. My mind runs back to my early days in the Congress when President Truman called the 80th session back into session and had a field day. However, I do not think this administration is trying to have a field day with us. I think the administration would be happy if we wended our way back to our respective homes.

I voted against the supplemental because I thought it was too much. However, in justice to the President, that $5 billion was not an afterthought that he threw at us. It was in the budget all the time.

Mr. HRUSKA. Mr. President, I thank the Senator from New Hampshire for bringing that matter to our attention. That had been included in a mental note of this Senator, because that is a fact. The $5 billion in the supplemental was included in the budget. These are some items that are not included in the President's budget.

Mr. President, I refer to the statement of Caspar Weinberger, Director of the Office of Management and Budget in the White House, in his reply to Senator

HUMPHREY published in the Washington Post of October 10, 1972. Among other things, he said:

> It is simply not true that Congress has been cutting spending. When all actions are taken into account, the Congress has not, as Sen. Humphrey suggested, cut spending by $16 billion since this administration took office; in fact, it has not cut spending at all. The increases in spending—not appropriations, and not authority to spend, but the spending increases forced in the past four years—total more than $13 billion. Coincidentally—or is it deliberate?—most of this increase is taking place in the current fiscal year.

What does that consist of? It consists in round figures of $9.5 billion of the President's budget, added to the deficit and not contained in an appropriation bill, but what is often referred as backdoor spending. It is mandatory spending. It is never processed by the Appropriations Committee. We are shortchanged in that respect as a committee.

Mr. PASTORE. Mr. President, that was the complaint of the Senator from Rhode Island when we were confronted with the recommendations made by the administration on revenue sharing. All we are trying to do here is to say, "We will give you the money for 18 months. But beyond that, we want the matter to come before the Appropriations Committee so that we can be a watchdog."

We had a fight on the Senate floor over that measure, and all we were trying to do was to protect ourselves. We were giving away $30 billion without any supervision on the part of the Congress of the United States.

Mr. President, the Senator talked about the 20-percent increase in social security. Was that the $13 billion that the Senator was talking about? Did not the President sign it? After he said, "I can only give you 5 percent," he signed the bill for a 20-percent increase. And now he is taking credit for it.

Mr. HRUSKA. Mr. President, in all fairness, it should be said that the 20-percent increase in social security was attached to a measure that had to be signed by the President because in a matter of hours, a fraction of a day, we would run out of spending authority. And that matter had to do with the debt limitation. Had it not been that way, we cannot speculate on whether he would have signed the 20-percent increase. That was not in his budget or in his message to the Congress on that score.

Insofar as the revenue sharing is concerned, I say to the Senator from Rhode Island that this Senator shared the same belief and same view the Senator expressed. It will be my hope that somewhere along the line we will subject that spending to the process of the Appropriations Committee, and we should have in accordance with the Budget Act of 1921. That is where it belongs.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the article published in the Washington Post on October 10, 1972, by Caspar Weinberger. The title is "Roles Reversed on Spending Restraint."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROLES REVERSED ON SPENDING RESTRAINT

(By Caspar W. Weinberger)

There once was a time, as Sen. Humphrey indicated in a recent article in The Washington Post, when the Congress was a potent force for spending restraint, and the President was the big spender. Certainly, this was true during the 1960's. But that era ended on Jan. 20, 1969. Now the roles are reversed.

So when Sen. Humphrey persists in measuring Congressional action in terms of Congressional changes to the President's appropriation requests, he overlooks the fact that actions on bills other than appropriations often force spending increases which appropriations acts (and the President's proposals for appropriations) then have to accommodate. Following is a table which shows our estimate of the effect of Congressional actions on spending in the current fiscal year:

EFFECT OF CONGRESSIONAL ACTION ON THE 1973 BUDGET DEFICIT, AS OF OCT. 2, 1972

[In billions of dollars]

	House	Senate	Enacted
Appropriation bills:			
Agriculture, EPA, etc.	+0.2	+0.4	+0.3
HUD, Space, Science	+[1]	+.1	+.1
Labor-HEW (vetoed)	(+0.6)	(+1.1)	(+.7)
Labor-HEW (new bill)	+.2	[2]	[3]
Defense and military construction	−2.0	−1.6	[3]
Foreign assistance	−.1	+.7	[4]
Other (net changes)	−.2	−.7	+.2
Total, appropriation bills	−1.9	−1.0	+.7
Other actions and inactions:			
Social security program:			
Debt limit bill:			
Revenue loss	+1.6	+1.6	+1.6
Benefit increase	+4.1	+2.1	+2.1
Further liberalizations		[2]	[3]
Total, social security	+5.7	+3.7	+3.7
Railroad retirement benefit	+.4	+.4	[5] +.4
Black lung benefits	+1.0	+1.0	+1.0
General revenue sharing	+3.1	+3.1	[6] +3.3
Housing Act of 1972	[2]	+.5	[3]
Urban special revenue sharing	−.5	−.5	−.5
Water Quality Control Act amendments	+.7	+.7	[4]
Rural Development Act	+.3	+.6	+.3
Vocational Rehabilitation Act	+.3	+.4	[4]
Economic Opportunity Act amendments	+.5	+.8	[5] +.2
Federal-aid highways	[3]	+.2	[3]
Veterans benefits	+.3	+1.1	+.1
School Lunch Act amendments	+.2	+.2	+.2
Other actions affecting the deficit (mandatory if enacted)	+1.7	+.7	+.2
Total effect on budget deficit	+11.7	+11.9	+9.5

[1] Less than $50,000,000. Detail may not add to total because of rounding.
[2] Reported.
[3] No action.
[4] Conference.
[5] Enrolled.
[6] Based on report on conferees.

The Congress may reduce the President's appropriation requests (although at the moment it is $700 million above them). But other acts during this session, nearly all of them mandatory, have caused significant increases. In fact, there have been bills in each house adding nearly $12 billion to the deficit in the President's budget, and $9.5 billion of these have been enacted this session. Many of these legislative actions require the President to request additional appropriations. For example, the bill providing additional benefits for coal miners with black lung disease required the President to send up an appropriation request for nearly $1 billion.

The Congress also has raised social security benefits by more than $2 billion this year over the social-security budget proposals of the President. That increase never appears in Sen. Humphrey's figures because it does not affect any appropriation bill or serve his argument. Nevertheless, the increase must be included in the President's budget in all future years. Next year, the 1972 social security increase will add $6 billion to 1974 spending over the level contemplated by the President.

It is simply not true that Congress has been cutting spending. When all actions are taken into account, the Congress has not, as Sen. Humphrey suggested, cut spending by $16 billion since this administration took office; in fact, it has not cut spending at all. The increases in spending—not appropriations, and not authority to spend, but the spending increases forced in the past four years—total more than $13 billion. Coincidentally—or is it deliberately?—most of this increase is taking place in the current fiscal year. As the table shows, actions of this Congress have already added more than $9 billion to the 1973 deficit estimated by the President last January. Even taking account of the prospective decrease in the appropriations for the military functions of the Department of Defense, the final result threatens to be higher. This is because Congress has not completed action on civilian bills either. For example, it is considering further social security, Medicare and adult assistance liberalizations for which the Senate Finance Committee proposals would add almost $9 billion annually.

The proposed spending ceiling is absolutely essential to the nation's economic well-being. We must not repeat the fiscal mistakes of 1965 to 1968. This Congress has proved beyond any reasonable doubt that it has been incapable of exercising effective control over total spending. It takes a year (or longer in the past two fiscal years) to complete action on appropriation bills, and requires the President to transmit a budget for the coming year without knowing the action of Congress for the current year. The Congress pays excessive attention to details and virtually no attention to overall totals or to the effect of individual separate acts of spending on the budget totals. This is the very antithesis of fiscal responsibility.

In his 1973 budget message, the President observed that: "The American people deserve, and our government requires, a more orderly and more rational budget process." A year earlier, in his 1972 budget message, the President had invited the cooperation of the Congress in making the budget an efficient and effective instrument for coordinated management of federal programs and finances. Congress has not yet responded, and the weaknesses of the present process have compounded. For this reason, the Ullman amendment, now contained in the spending ceiling proposal, is doubly welcome. It offers the hope of a vastly better system.

Unless Congress now—with the fiscal year almost half over—approves the proposed spending ceiling, we face the very real prospect of higher taxes in the future, write to each other."

Mr. HRUSKA. Mr. President, the article that I have just had printed in the Record contains a tabulation of the effect of the congressional action on the 1973 budget deficit as of October 2, 1972.

These discussions of whether Congress passed more or less in the appropriations bill will even themselves out after awhile. In fairness to both sides, we ought to wait until after all the appropriation bills are passed, together with the supplemental. We should then make an assessment. However, that is not all of it. Those bills passed by the Congress imposed mandatory spending on the Executive.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. MAGNUSON. Mr. President, Congress voted for these things practically unanimously. There were very few votes against them. The HEW appropriation bill passed 75 to 1. We in the Congress will be the judge of these things. After we go to conference, we uphold the Senate's position.

Mr. President, I do not know why the blame is thrown up here because we do these things. If we are against them, we ought to vote against them. However, we do not. Everyone votes for his own program or project. And when we got to the social security increase, the White House wanted a 5-percent increase. Maybe they had some good reasons. We voted for a 20-percent increase.

The President sent out a message in an envelope saying: "The President of the United States is happy to announce that your social security is being increased 20 percent." That is like Scrooge taking credit for Christmas.

Let us get this thing in perspective.

Mr. HRUSKA. The Senator is correct. I agree with the Senator from Washington that it ought to be in perspective.

Mr. MAGNUSON. In perspective, this Congress has been fiscally responsible and consistent with what the President has sent up in the budget requests.

When we add it all up, we will give the Senator the figures. The Washington Post article does not mean anything. The only instance in which we are going above it is the one that we all come to agreement on, the health, education, and welfare. All the other appropriation bills are under. And that is a question of priority. That is a question of whether we want to spend billions chasing little people in black pajamas all around Southeast Asia or whether we want to spend it at home on health, education, and welfare. It is as simple as that.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. COTTON. Mr. President, there is no one that I admire more and to whom I owe more than the distinguished Senator from Washington. I call his attention to the fact, however, that when the vetoed version of HEW bill passed the Senate, I did not look at the vote after that, but the Senator from New Hampshire was one of those who cast negative votes.

I felt constrained to do so after we had worked so hard during many, many months on the HEW bill. The additions in the bill finally caused the President to veto it. Those matters were added on the floor of the House and on the floor of the Senate by Members of Congress who were very sincerely interested in various projects. All the while we knew that when the authorizations were through, we would still have the $5 billion to deal with. And so, I could not in good conscience vote for the passage of that bill with all that was loaded upon it.

I had hoped that after the reductions we were able to bring about in conference that the President would not veto it, because although we are all statesmen, we are also political animals. I felt it was unfortunate to have a veto on that particular bill.

Now as far as the little black pajamaed people running around Southeast Asia are concerned, they are still running around. But there are a half million American boys who were running around after them under the previous administration, and they have been brought home. The President is entitled to some credit for that.

Mr. MAGNUSON. Yes. I do not say we should not be doing what we are doing. I say if we are going to have a ceiling about our capabilities, we have to establish priorities. This is what this amendment is about—priorities.

We have only certain capabilities in the Federal Government, fiscal and otherwise, and we have only so much money. It is almost like a household budget. What do you do here, and what do you do there?

The whole argument with the President, especially as to HEW, is priorities.

The Senator from New Hampshire and I tried to hold this amount down. On the supplemental, we did. People wanted us to move right into higher education with $2 billion.

Mr. COTTON. That is right.

Mr. MAGNUSON. We said no; let us see how this program goes. But that is what this is all about. Within our capabilities, how far do we go?

Mr. COTTON. That is what I said. The Senator from Washington, the chairmain of the subcommittee, is not the man who puffed up that bill.

Mr. MAGNUSON. That is right. The Senator from New Hampshire and I were the ones who were trying to keep it down. We were the first ones to take on social services at $2.5 billion, and we lost.

We could talk about some other things in this bill, such as impacted aid. I know the Senator's proposition, and it is good. Nobody wants to change that. Everybody votes for it, and it is one of the big parts of this bill.

The Senator from New York (Mr. Javits) has his programs in New York. I guess they are good. We try to accommodate everybody.

I think we arrived at a pretty good solution yesterday, when we said that we cannot take one program and cut it out, as against another one. But we could cut the HEW budget now by 13 percent, this is the fight, if we want it.

Some programs, in my opinion and in the opinion of the Senator from New Hampshire, ought to be cut. Is that right?

Mr. COTTON. That is right.

Mr. PASTORE. I would hope that the Senators would let us adopt the conference report.

Mr. MAGNUSON. This has been a healthy discussion.

Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the Record the editorial entitled "Congress' Responsibility," published in the New York Times today.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Congress' Responsibility

Senate Majority Leader Mansfield's warning that "you might as well abolish Congress" if it gave the President power to enforce a spending ceiling was obvious hyperbole—but it touched an important issue. In all democratic states, the power to determine how much the Government spends and what it spends it for has been an ultimate weapon, jealously guarded and defended by legislators. The 221-to-163 vote of the House of Representatives to surrender a major part of that power to President Nixon represents a serious flight from responsibility. It is bound to injure and diminish the prestige of Congress even if, as we hope, the Senate refuses to go along.

What the House has voted is not in the real sense an "item veto" of the kind that has long been advocated by many political scientists. Nor is the House action a grant of limited flexibility, such as this newspaper has in the past urged that the executive branch be given in fiscal matters. Rather, the House has voted a blanket grant of power to the President to make any and all budgetary cuts he deems necessary to reduce the total of Federal spending in this fiscal year to $250 billion. There is no provision for Congressional consultation or review, merely the gift of a budgetary ax to be used wherever Mr. Nixon wishes.

In effect, the House has announced to the country that it knows budgetary cuts are necessary, but that it is unwilling to pay the political price implicit in making them. Instead, it is willing to turn its power over to the President and let him harvest whatever political assets and liabilities accrue from the cuts he makes.

This action would be wrong no matter who was President. The American constitutional system is one of defined powers distributed among three branches of government. The House has no right to default in exercise of the powers specifically reserved to Congress. Since it has elected to duck the responsibility for determining what appropriations should be cut, it now becomes the duty of the Senate to save the prestige and power of Congress by frustrating the flight from constitutional obligation.

Mr. PASTORE. Mr. President, I submit a summary of the bill and ask unanimous consent that it be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1972 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1973

TITLE I—DEPARTMENT OF STATE

[Note.—All amounts are in the form of "appropriations" unless otherwise indicated]

Item (1)	New budget (obligational) authority, fiscal year 1972 (enacted to date) (2)	Budget estimates of new (obligational) authority, fiscal year 1973 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)
Administration of Foreign Affairs:					
Salaries and expenses	$249,368,000	$261,744,000	$260,500,000	$261,200,000	$260,800,000
Representation allowances	993,000	993,000	993,000	993,000	993,000
Acquisition, operation, and maintenance of buildings abroad	18,750,000	28,814,000	27,000,000	27,000,000	27,000,000
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	6,850,000	6,485,000	6,485,000	6,485,000	6,485,000
Emergencies in the diplomatic and consular service	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000
Payment to Foreign Service retirement and disability fund	2,972,000	2,972,000	2,972,000	2,972,000	2,972,000
Total, administration of foreign affairs	281,033,000	303,108,000	300,050,000	300,750,000	300,350,000
International Organizations and Conferences:					
Contributions to international organizations	162,172,360	180,900,000	152,120,250	184,808,169	176,190,750
Missions to international organizations	4,843,000	5,119,000	5,097,000	5,097,000	5,097,000
International conferences and contingencies	2,177,000	2,611,000	2,400,000	2,400,000	2,400,000
Total, international organizations and conferences	169,192,360	188,630,000	159,617,250	192,305,169	183,687,750
International Commissions:					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	1,161,000	1,182,000	1,182,000	1,182,000	1,182,000
Operation and maintenance	2,838,000	2,945,000	2,945,000	2,945,000	2,945,000
Construction	6,280,000	10,246,000	10,246,000	10,246,000	10,246,000
American sections, international commissions	738,000	750,000	735,000	735,000	735,000
International fisheries commissions	3,114,000	3,327,000	3,234,500	3,327,000	3,276,000
Total, international commissions	14,131,000	18,450,000	18,342,500	18,435,500	18,384,000
Educational Exchange:					
Mutual educational and cultural exchange activities	40,816,000	52,860,000	40,816,000	52,860,000	45,000,000
Center for cultural and technical interchange between East and West	5,630,000	6,800,000	6,000,000	6,320,000	6,200,000
Total, educational exchange	46,446,000	59,660,000	46,816,000	59,180,000	51,200,000
Total, title I, Department of State	510,802,360	569,848,000	524,825,750	570,670,169	553,621,750
TITLE II—DEPARTMENT OF JUSTICE					
Legal Activities and General Administration:					
Salaries and expenses, general administration	$10,509,000	$12,498,000	$12,000,000	$12,000,000	$12,000,000
Salaries and expenses, general legal activities	40,669,000	47,415,000	46,000,000	46,000,000	46,000,000
Salaries and expenses, Antitrust Division	12,340,000	12,836,000	12,836,000	12,836,000	12,836,000
Salaries and expenses, U.S. attorneys and marshals	85,240,000	91,487,000	91,000,000	91,000,000	91,000,000
Fees and expenses of witnesses	8,900,000	11,250,000	10,500,000	10,500,000	10,500,000
Salaries and expenses, Community Relations Service	5,944,000	6,924,000	6,800,000	6,800,000	6,800,000
Total, legal activities and general administration	163,602,000	182,410,000	179,136,000	179,136,000	179,136,000
Federal Bureau of Investigation: Salaries and expenses	336,116,000	351,675,000	351,675,000	351,675,000	351,675,000
Immigration and Naturalization Service: Salaries and expenses	130,944,000	135,084,000	135,084,000	135,084,000	135,084,000
Federal Prison System:					
Salaries and expenses, Bureau of Prisons	104,863,000	115,417,000	115,417,000	115,417,000	115,417,000
Buildings and facilities	59,801,000	48,899,000	42,616,000	42,616,000	42,616,000
Support of U.S. prisoners	14,545,000	18,090,000	17,000,000	17,000,000	17,000,000
Total, Federal prison system	179,209,000	182,406,000	175,033,000	175,033,000	175,033,000
Law Enforcement Assistance Administration: Salaries and expenses	699,919,000	850,597,000	850,597,000	850,597,000	850,597,000
Bureau of Narcotics and Dangerous Drugs: Salaries and expenses	65,812,000	74,053,000	74,053,000	74,053,000	74,053,000
Total, title II, Department of Justice	1,574,602,000	1,776,225,000	1,765,578,000	1,765,578,000	1,765,578,000
TITLE III—DEPARTMENT OF COMMERCE					
General Administration: Salaries and expenses	$7,462,000	$8,015,000	$7,900,000	$7,900,000	$7,900,000
Social and Economic Statistics Administration:					
Salaries and expenses	28,685,000	38,828,000	34,300,000	35,872,000	34,800,000
1972 census of governments	1,472,000	1,446,000	1,446,000	1,446,000	1,446,000
1972 economic censuses	3,842,000	11,857,000	10,500,000	11,857,000	11,178,500
1974 census of agriculture		1,360,000	1,360,000	1,360,000	1,360,000
19th decennial census	13,618,000	(1)	(1)	(1)	(1)
Total, Social and Economic Statistics Administration	47,617,000	53,491,000	47,606,000	50,535,000	48,784,500
Economic Development Administration:					
Development facilities	190,000,000	160,000,000	160,000,000	190,000,000	190,000,000
Industrial development loans and guarantees	50,000,000	40,000,000	50,000,000	50,000,000	50,000,000
Planning, technical assistance, and research	20,855,000	22,368,000	22,368,000	22,368,000	22,368,000
Operations and administration	23,615,000	23,363,000	23,363,000	23,363,000	23,363,000
Total, Economic Development Administration	284,470,000	245,731,000	255,731,000	285,731,000	285,731,000
Regional action planning commissions: Regional development programs	39,054,000	39,072,000	39,072,000	62,672,000	41,672,000
Domestic business activities: Salaries and expenses	15,445,000	16,364,000	16,364,000	16,364,000	16,364,000
Trade adjustment assistance: Financial and technical assistance	65,000,000	(1)	(1)	(1)	(1)
International activities:					
Salaries and expenses	23,262,000	24,898,000	24,200,000	24,200,000	24,200,000
Salaries and expenses (special foreign currency program)	200,000	400,000	400,000	400,000	400,000
Export control	6,138,000	5,802,000	5,802,000	5,802,000	5,802,000
Total, international activities	29,600,000	31,100,000	30,402,000	30,402,000	30,402,000
Foreign direct investment regulation:					
Salaries and expenses	2,572,000	2,600,000	2,300,000	2,300,000	2,300,000
(By transfer)				(300,000)	(300,000)

Footnotes at end of table.

Item (1)	New budget (obligational) authority, fiscal year 1972 (enacted to date) (2)	Budget estimates of new (obligational) authority, fiscal year 1973 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)
Minority business enterprise: Minority business development	$43,668,000	$63,934,000	$63,934,000	$63,934,000	$63,934,000
U.S. Travel Service: Salaries and expenses	6,480,000	12,081,000	8,500,000	10,000,000	9,000,000
National Oceanic and Atmospheric Administration:					
Salaries and expenses	185,167,000	205,026,000	197,000,000	215,265,000	199,026,000
(By transfer)				(6,000,000)	(6,000,000)
Research, development and facilities	108,697,000	144,721,000	127,000,000	184,612,000	131,721,000
(By transfer)				(13,000,000)	(13,000,000)
Research and development (special foreign currency program)	500,000				
Satellite operations	33,120,000	36,320,000	30,000,000	43,036,000	36,320,000
Administration of Pribilof Islands	2,966,000	3,232,000	3,232,000	3,432,000	3,232,000
Limitation on administrative expenses, fisheries loan fund	(425,200)	(435,000)	(435,000)	(435,000)	(435,000)
Fishermen's protective fund	61,000	61,000	61,000	61,000	61,000
Total, National Oceanic and Atmospheric Administration	330,511,000	389,360,000	357,293,000	446,406,000	370,360,000
Patent Office: Salaries and expenses	62,372,000	69,191,000	67,000,000	68,000,000	67,500,000
National Bureau of Standards:					
Research and technical services	48,000,000	78,089,000	62,100,000	76,100,000	69,100,000
Research and technical services (special foreign currency program)	500,000	1,000,000	1,000,000	1,000,000	1,000,000
Plant and facilities	2,325,000	1,970,000	1,850,000	1,850,000	1,850,000
Total, National Bureau of Standards	50,885,000	81,059,000	64,950,000	78,950,000	71,950,000
Office of Telecommunications:					
Research, engineering, analysis, and technical services	4,986,000	7,705,000	5,800,000	7,005,000	5,800,000
(By transfer)				(700,000)	(700,000)
Maritime Administration:					
Ship construction	229,687,000	250,000,000	280,000,000	280,000,000	280,000,000
Operating-differential subsidies (appropriation to liquidate contract authority)	(239,145,000)	(232,000,000)	(232,000,000)	(232,000,000)	(232,000,000)
Research and development	23,750,000	30,000,000	29,000,000	29,000,000	29,000,000
Salaries and expenses	22,647,000	24,390,000	24,390,000	24,390,000	24,390,000
Maritime training	7,602,000	7,854,000	7,854,000	7,854,000	7,854,000
State marine schools	801,000	978,000	978,000	978,000	978,000
(Appropriation to liquidate contract authority)	(1,399,000)	(1,312,000)	(1,312,000)	(1,312,000)	(1,312,000)
Total, Maritime Administration	284,487,000	313,222,000	342,222,000	342,222,000	342,222,000
Total, title III, Department of Commerce	1,274,609,000	1,332,925,000	1,309,074,000	1,472,421,000	1,363,919,500
(By transfer)				(20,000,000)	(20,000,000
TITLE IV—THE JUDICIARY					
Supreme Court of the United States:					
Salaries	$3,482,000	$3,834,000	$3,770,000	$3,784,000	$3,784,000
Printing and binding Supreme Court reports	317,000	355,000	355,000	355,000	355,000
Miscellaneous expenses	318,750	534,000	423,000	423,000	423,000
Automobile for the Chief Justice	13,400	14,600	14,600	14,600	14,600
Books for the Supreme Court	49,000	55,000	55,000	55,000	55,000
Care of the building and grounds	560,600	1,090,000	1,000,000	1,000,000	1,000,000
Total, Supreme Court of the United States	4,740,750	5,882,600	5,617,600	5,631,600	5,631,600
Court of Customs and Patent Appeals: Salaries and expenses	664,000	684,000	684,000	684,000	684,000
Customs Court: Salaries and expenses	2,355,000	2,455,000	2,241,000	2,341,000	2,341,000
Court of Claims: Salaries and expenses	2,087,000	2,139,000	2,139,000	2,139,000	2,139,000
Courts of appeals, district courts, and other judicial services:					
Salaries of judges	26,143,000	26,500,000	26,500,000	26,500,000	26,500,000
Salaries of supporting personnel	69,854,000	84,153,000	75,663,000	78,518,000	76,008,000
Representation by court-appointed counsel and operation of defender organizations	14,500,000	15,083,000	13,500,000	15,083,000	14,500,000
Fees of jurors	18,130,000	18,830,000	18,500,000	18,500,000	18,500,000
Travel and miscellaneous expenses	9,600,000	11,668,000	10,506,000	10,959,000	10,626,000
Administrative Office of the U.S. Courts	3,165,000	3,862,000	3,600,000	3,600,000	3,600,000
Salaries and expenses of U.S. magistrates	5,700,000	6,258,000	6,258,000	6,258,000	6,258,000
Salaries of referees (special fund)	6,416,000	7,062,000	6,991,000	6,656,000	6,991,000
Expenses of referees (special fund)	11,495,000	12,985,000	12,660,000	12,660,000	12,660,000
Total, courts of appeals, district courts, and other judicial services	165,003,000	186,401,000	174,178,000	178,734,000	175,643,000
Federal Judicial Center: Salaries and expenses	1,255,000	1,544,000	1,544,000	1,544,000	1,544,000
Commission on Bankruptcy Laws of the United States: Salaries and expenses (special fund)		426,000	350,000	426,000	426,000
Total, title IV, the judiciary	176,104,750	199,531,600	186,753,600	191,499,600	188,408,600
TITLE V—RELATED AGENCIES					
American Battle Monuments Commission: Salaries and expenses	$3,367,000	$3,370,000	$3,370,000	$3,370,000	$3,370,000
Arms Control and Disarmament Agency: Arms control and disarmament activities	9,116,000	10,253,000	10,000,000	10,253,000	10,000,000
Commission on American Shipbuilding: Salaries and expenses	450,000	579,000	550,000	550,000	550,000
Commission on Civil Rights: Salaries and expenses	3,816,000	4,820,000	4,820,000	4,820,000	4,820,000
Commission on International Radio Broadcasting: International radio broadcasting activities	32,225,000	38,795,000	38,795,000	38,795,000	38,795,000
Equal Employment Opportunity Commission: Salaries and expenses	23,000,000	[2] 46,434,000	25,110,000	42,896,000	32,000,000
Federal Maritime Commission: Salaries and expenses	5,300,000	5,679,000	5,679,000	5,679,000	5,679,000
Foreign Claims Settlement Commission:					
Salaries and expenses	750,000	793,000	743,000	743,000	743,000
Payment of Vietnam and U.S.S. Pueblo prisoner of war claims	100,000				
Total, Foreign Claims Settlement Commission	850,000	793,000	743,000	743,000	743,000
National Commission on Fire Prevention and Control: Salaries and expenses	300,000	476,000	450,000	450,000	450,000
National Tourism Resources Review Commission: Salaries and expenses	300,000	400,000	400,000	400,000	400,000
Small Business Administration:					
Salaries and expenses:					
Appropriation	23,000,000	22,800,000	22,560,000	22,560,000	22,560,000
Transfer from revolving funds	(61,650,000)	(67,440,000)	(67,440,000)	(67,440,000)	(67,440,000)
Payment of participation sales insufficiencies	1,487,000	970,000	970,000	970,000	970,000
Business loan and investment fund	275,000,000	395,000,000	395,000,000	395,000,000	395,000,000
Disaster loan fund	170,000,000	80,000,000	80,000,000	80,000,000	80,000,000
Total, Small Business Administration	469,487,000	498,770,000	498,530,000	498,530,000	498,530,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1972 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1973—Continued

TITLE V—RELATED AGENCIES—Continued

[Note.—All amounts are in the form of "appropriations" unless otherwise indicated]

Item (1)	New budget (obligational) authority, fiscal year 1972 (enacted to date) (2)	Budget estimates of new (obligational) authority, fiscal year 1973 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)
Special Representative for Trade Negotiations: Salaries and expenses	$814,000	$1,160,000	$925,000	$1,100,000	$1,000,000
Subversive Activities Control Board: Salaries and expenses	450,000	706,000	450,000		350,000
Tariff Commission: Salaries and expenses	5,299,000	6,353,000	5,800,000	6,160,000	6,000,000
U.S. Information Agency:					
Salaries and expenses	181,173,000	188,406,000	188,000,000	188,000,000	188,000,000
Salaries and expenses (special foreign currency program)	13,000,000	12,500,000	12,500,000	12,500,000	12,500,000
Special international exhibitions	3,519,000	[3] 4,946,000	3,394,000	4,946,000	4,946,000
Special international exhibitions (special foreign currency program)	306,000	357,000	357,000	357,000	357,000
Acquisition and construction of radio facilities	1,100,000	1,000,000	1,000,000	1,000,000	1,000,000
Total, U.S. Information Agency	199,098,000	207,209,000	205,251,000	206,803,000	206,803,000
Total, title V, related agencies	753,872,000	825,797,000	800,873,000	820,549,000	809,490,000
Total, titles I, II, III, IV, and V, new budget (obligational) authority—appropriations	4,289,990,110	4,704,326,600	4,587,104,350	4,820,717,769	4,681,017,850
(By transfer)				(20,000,000)	(20,000,000)
Memoranda:					
Appropriations to liquidate contract authorizations	(240,544,000)	(233,312,000)	(233,312,000)	(233,312,000)	(233,312,000)
Total appropriations, including appropriations to liquidate contract authorizations	(4,530,534,110)	(4,937,638,600)	(4,820,416,350)	(5,054,029,769)	(4,914,329,850)

[1] Language only.

[2] Includes $14,786,000 contained in H. Doc. 92-300 not considered by House.

[3] Includes $1,552,000 contained in H. Doc. 92-286 not considered by House.

A WASTE OF $350,000

Mr. ERVIN. Mr. President, the conference committee report on H.R. 14989, the appropriations bill for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies is disturbing to me for two reasons.

First, the appropriation of $350,000 for the Subversive Activities Control Board is an outright waste.

Second, the conference committee has eliminated language from the bill which would have prevented the Justice Department from distributing arrest records on innocent citizens.

THE SACB

The expenditure of $350,000 on the Subversive Activities Control Board amounts to little more than unemployment benefits for five bureaucrats, for the Board members have no functions whatever except to meet, draw salaries, and prepare next year's budget. The Board has had nothing to do because the courts have found most of its original functions under the Internal Security Act of 1950 to be unconstitutional.

Such waste is especially inexcusable in this fiscal year when the administration has asked Congress to increase the national debt and to place a ceiling on Federal spending. With our Government in a state of heavy deficit financing, it can be said that this appropriation puts us another $350,000 in debt.

Until 1971, the Attorney General had brought only 25 petitions alleging organizations to be "Communist action," "Communist front," or "Communist infiltrated" as defined in the Internal Security Act. On these 25 petitions, the Board issued only eight final orders determining that the organizations fell within the definitions of the act. Only one organization was designated a "Communist action" organization, and seven groups were found to be "Communist front" organizations.

The majority of the remaining cases were dropped either because the Board found that the organizations did not fall within the provisions of the act, or because the Board's orders were vacated pursuant to a Federal court decision.

In an attempt to revive the moribund Board, President Nixon issued Executive Order No. 11605 on July 2, 1971. The order purports to amend Executive Order No. 10450, which was issued by President Eisenhower on April 27, 1953, to establish loyalty and security requirements for Government employment.

President Eisenhower's Executive order applies only to persons presently enjoying or presently seeking employment in Federal executive departments and agencies, and requires the Civil Service Commission, the employing department or agency, or the FBI to investigate matters relating to them as individuals, including their individual memberships in subversive organizations, which are relevant to the determination of whether the employment or retention in employment of each of them is clearly consistent with the interests of national security.

Hence, the Eisenhower order establishes forthright and circumscribed procedures for insuring the loyalty of Federal civil servants. Moreover, it merely implements powers vested in the President by the Constitution and acts of Congress relating to Government employment.

President Nixon's Executive order is a different kettle of fish. To be sure, it professes itself to be a mere amendment to the Eisenhower order, and it does alter that order in one or more insignificant respects. In reality, the major provisions of his Executive order represent an attempt on the part of President Nixon to amend the Internal Security Act of 1950 by bestowing upon the Subversive Activities Control Board new, sweeping powers far in excess of those Congress sought to give it.

To this end, the Nixon order declares in express terms that the Board shall henceforth possess and exercise the power to conduct, on petition of the Attorney General, hearings to determine whether any of the innumerable organizations which claim the membership of millions of Americans who do not enjoy or seek Federal employment are: First, totalitarian; second, Facists; third, Communist; fourth, subversive organizations; fifth, organizations which have the policy "of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State;" or sixth, organizations "which seek to overthrow the Government of the United States or any State or subdivision thereof by unlawful means."

The Nixon order further declares that in making its determinations, the Board shall have power to investigate the activities and objectives of every group in America which commits acts of force or violence; or unlawfully damages or destroys property, or injures persons; or violates laws "pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States, or related crimes or offenses."

The Nixon order provides that the Attorney General will transmit to each Federal executive department or agency the names of all organizations condemned by the Subversive Activities Control Board for use in determining whether persons seeking or enjoying Federal employment should be employed or retained in employment.

It is manifest, however, that the real objective of the order is to empower the

Board to brand the organizations and groups specified in it as intellectually or politically dangerous to the established order. It is equally as manifest that such branding of these organizations and groups will place a political or social stigma on their members, and tend to minimize their exercise of freedom of speech, association, and assembly.

I submit that the provisions of the Nixon order which purport to confer new powers on the Board have no legal force for these reasons:

First, their promulgation was beyond the constitutional power of the President;

Second, they are void for overbreadth; and

Third, they violate the first amendment and due process rights of all the members of the organizations or groups designated except those who share the illegal aims of the organizations or groups.

What was said by the Supreme Court in respect to President Truman's Executive order in the steel-seizure case, *Youngstown Sheet and Tube Company* v. *Sawyer*, 343 U.S. 598, 588, makes it plain that in his attempt to expand the power of the Board, President Nixon undertook to make law.

> The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress—it directs that a Presidential policy be executed in a manner prescribed by the President.

It necessarily follows that the major provisions of the Nixon order are void under sections 1 and 8 of article I of the Constitution, which give Congress all the lawmaking power of the Federal Government and deny any of it to the President.

I do not question the power of the President under the Constitution and acts of Congress governing Federal employment to establish by Executive order procedures to assure the loyalty of Federal civil servants. But I do assert with confidence that even if it were a bona fide effort to accomplish that objective, the Nixon order would be void for overbreadth.

The order brings within its coverage the organizational memberships of millions of Americans who neither enjoy nor seek employment in the Federal Establishment. Besides, it applies to the activities and objectives of groups past numbering which have no relationship whatever to the loyalty of Federal civil servants.

The President has no power to subject the organizational memberships, activities, or objectives of all Americans to the scrutiny of the Subversive Activities Control Board because some of them may be employed by the Federal Government or some of them may hereafter seek employment by it.

The Nixon order also violates the first amendment and the due process clause by applying the theory of guilt by association and stigmatizing politically and socially all the members of all the organizations or groups branded by the Subversive Activities Control Board, including those who may be passive or inactive members of such organizations or groups, or those who may be unaware of unlawful aims of such organizations or groups, or those who may disagree with those lawful aims.

While I do not care to belabor the points, a pretty good case can also be made for the proposition that some of the powers the order attempts to allot to the Board trespass upon areas the Constitution reserves to the States, and others offend the first amendment principle that Government cannot touch the mere advocacy of ideas, no matter how reprehensible they may be.

Apart from its constitutional infirmities, President Nixon's Executive order is to be deplored because it has no rightful place in our land. It is not the function of Government in a free society to protect its citizens against thoughts or associations it deems dangerous, or to stigmatize its citizens for thoughts or associations it thinks hazardous. Yet that is exactly what the Executive order undertakes to empower the Subversive Activities Control Board to do.

If America is to be free, her Government must permit her people to think their own thoughts and determine their own associations without official instruction or intimidation; and if America is to be secure, her Government must punish her people, not for the thoughts they think or the associations they choose, but only for the crimes they commit.

Fortunately, the bill approved by the conference committee contains a rider inserted by the Senate Appropriations Committee at my urging which will prevent any of the $350,000 from being used by the SACB to implement the Nixon order.

With this rider in effect, the $350,000 will be spent to pay the $36,000-a-year salaries of the five Board members, who will have nothing to do, and the salaries of their secretaries, who will assist them in doing nothing.

ARREST RECORDS

On the other hand, the conference committee has inserted a provision which is intended to reverse a decision by the U.S. district court for the District of Columbia which found—and rightly so—that Congress had never authorized the Justice Department to collect arrest record information on citizens who have not been convicted of crime, and to disseminate it to private employers.

On June 15, 1971, the district court for the District of Columbia handed down the decision in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718. The ruling prohibited the FBI's dissemination of arrest and fingerprinting records to nonlaw enforcement agencies. The court based its decision upon an interpretation of section 534 of title 23 of the United States Code, the provision which the Justice Department has relied upon as authority for its collection of fingerprint and arrest record information. The petitioner, Menard, had argued that inasmuch as he was never convicted, the maintenance and use of his arrest record violated the presumption of innocence, due process, the right of privacy, and freedom from unreasonable search and seizure. Although the court refused to expunge the record on Menard on these constitutional grounds, it recognized that section 534 had to be interpreted narrowly to avoid constitutional infirmities. In the court's words—

> Viewed in this light, it is abundantly clear that Congress never intended to or in fact did authorize dissemination of arrest records to any state or local agency for purposes of employment or licensing checks.

As in the fable "The Emperor's New Clothes," the court is merely pointing out to the Justice Department and to the Congress what should have been obvious. When Congress passed section 534 almost 30 years ago it was only attempting to facilitate coordinated law enforcement activities between the Federal and local governments. In the court's words, Congress was only trying "to assist arresting agencies, courts and correctional institutions in the apprehension, conviction, and proper disposition of criminal offenders." There is absolutely nothing in the statute or in the debate that even suggests that confidential or harmful information, such as the arrest record of a person whom the government does not even bother to prosecute, should be collected by the Justice Department and disseminated to private employers to help them in job screening.

Obviously, the Federal Government has no business distributing arrest records to help private enterprise in its hiring practices. Private industry has its own means of checking on applicants, and whom they hire is none of the Government's business. The distribution by the Justice Department of arrest records, just like the listing of "subversives," places an unbearable stigma on citizens who may be innocent of wrongdoing. The distribution of an applicant's arrest record almost invariably means that he will not get the job he seeks. The FBI Identification Division receives over 11,000 requests for record searches each day. We cannot know how many times Americans have been denied jobs even though they were found innocent of charges, or the case was dropped, or the original arrest was a mistake, or illegal, or even unconstitutional. Simple justice means that a man should not be denied employment because of an arrest record unless a complete trial record shows he was found guilty by a court of law.

The only way to correct this problem is for Congress to enact legislation defining and controlling the power of the Justice Department to collect and disseminate criminal history information. I recognize that there are legitimate uses for arrest information by law enforcement officials. But I must admit I have trouble seeing any legitimate use whatsoever in a bare record of an arrest which is not followed by a conviction. And I certainly think it improper to provide such information for employment purposes. The Justice Department should not be allowed to engage in such a practice until we have thoroughly considered the problem here in Congress. The conference committee, on the other hand, in adopting the language in amendment 9 to H.R. 14989 takes the position that we should let the

Department go ahead and stigmatize innocent citizens until the Congress gets around to enacting arrest records legislation authorizing it to do so.

My view is just the reverse, and is reflected in an amendment to the bill which was adopted unanimously by the Senate but unfortunately was dropped by the conference. I feel that Congress should not permit the Justice Department to invade the constitutional rights of innocent citizens and run an employee screening program for private enterprise. An appropriations bill is the wrong vehicle for substantive legislation, and both the House and Senate Rules so state.

When H.R. 14989 was on the Senate floor with this very same amendment and I was about to make a point of order striking the provision under the Senate rule, I was persuaded to agree to a proviso which would have permitted the dissemination of conviction records only for strictly law enforcement purposes. But by dropping this proviso, the conference has increased the authority of the Justice Department far beyond that authorized by the Senate and, of course, far exceeding the House version, which contained no dissemination authority at all.

If this conference report is adopted and the language on arrest records retained, I would like to make my intention clear today. If such language is in the bill the next time this appropriations bill comes up, I will make the point of order unless the Congress considers and adopts effective legislation on arrest records information. A few months ago, the administration proposed legislation designed to deal with this question, S. 3834, which has been referred to the Subcommittee on Constitutional Rights, which I chair. Although I believe this legislation relies too heavily on the "self-restraint" of the Attorney General to determine what information can be collected and to whom it may be disseminated, I believe that it provides a good vehicle for consideration of the issue. I intend to introduce my own arrest record bill next Congress, and I hope to be able to present substantive legislation to the Senate before the year is out.

Also, I intend to introduce a bill which will provide once and for all the abolition of the Subversive Activities Control Board, an alien relic in modern America. I hope that this is the last year in which an appropriation bill will include money to be wasted on this Board.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER. The amendment in disagreement will be stated.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

"The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used hereafter, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation."

Mr. PASTORE. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 9.

The motion was agreed to.

Mr. PASTORE. I want to thank the Chair and also the distinguished Senators who have participated in the debate.

DESIGNATION OF "NATIONAL BETA CLUB WEEK"

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 251.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendments of the House of Representatives to the joint resolution (S.J. Res. 251) to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week," which were, in line 5, strike out "of each year" and insert "1973".

And amend the title so as to read "Joint resolution to designate the week which begins on the first Sunday in March as 'National Beta Club Week'."

Mr. JORDAN of North Carolina. Mr. President, I move the Senate concur in the amendments of the House.

The motion was agreed to.

ACCOMPLISHMENTS OF THE 92D CONGRESS

Mr. MANSFIELD. Mr. President, each year the Congress must review and act upon annual authorizations and appropriations that provide an opportunity for a continuous oversight of the many established programs so vital to our society. This process provides the opportunity for refinement and modification of these programs, an opportunity that has been used this Congress. In addition, the 92d Congress has devised many creative and significantly innovate measures. While there have been disappointments, the 92d Congress can well be proud of its record. Although some new programs never reached final enactment this year, the groundwork has been laid and will prove invaluable in obtaining the expeditious disposition of those measures early in the next session of Congress.

In many areas—education, health, crime control, environmental protection, consumer interests—strides have been made by the 92d Congress toward responding to the vast problems facing this country.

In education Congress has approved an expansion of the basic student aid program, authorized new direct-aid-to-institutions grants for higher education and approved a 3-year appropriation for the National Institute of Education.

In addition to expanding cancer research within the National Cancer Institute, the Congress enacted health manpower aid to nursing and medical schools, authorized funding of a program for detection and treatment of sickle cell anemia and greatly improved drug abuse control legislation which has impact upon not only the health field but upon law enforcement efforts as well.

The list of positive, creative legislation is long. It includes the Tax Revenue Act of 1971, which afforded tax cuts to middle- and low-income families;

The wage-price control authority for phase II;

The reorganization of the Post Office;

The provision for the lottery system in the draft—and provisions leading toward an all-volunteer army;

Constitutional amendment to lower the voting age to 18;

The equal rights amendment.

In the environment area, the Congress has enacted an expanded and greatly strengthened water pollution control measure. Increases in social security benefits, extension of expanded OEO programs, and the creation of a new rural development program to improve the quality of life for Americans living in small towns and on farms were enacted during the 92d Congress.

Reform measures have been enacted dealing with various aspects of national concerns—comprehensive rules on campaign spending and fundraising and the full disclosure of each; the Hazardous Products Act and the insecticide control measure. Also, the Congress has approved a comprehensive Older Americans Act and the Comprehensive Manpower Training Act of 1971—both of which will offer valuable assistance to those most in need of help in our society.

In the area of crime control, in addition to the measures passed to control the flow of dangerous drugs into this country from countries which accept our foreign aid, funds have been approved to establish a National Drug Abust Training Center to conduct programs on combating drug abuse and drug crimes. The Revenue Sharing Act of 1972 provides for the first time a source of revenue for the cities which have exhausted the local means of raising revenue to provide the basic services for their inhabitants.

There have been some disappointments in this Congress. The measures which have not been approved by both Houses and sent to the White House include some of the most conceptually exciting and vitally needed legislation to be considered for some time. All of these measures will hopefully be reported from the various committees early in the next session of Congress and be enacted into law as rapidly as possible.

This list of "must" legislation for the next session of Congress includes: Comprehensive housing, which died in the House; Consumer Protection Agency, which died in the Senate; no-fault insurance, which died in the Senate; minimum wage, which died in the House; pension reform, which died in the House and the Senate; comprehensive health insurance, which has not been taken up in any reasonable sense by either House, unfortunately; health maintenance organizations—again both Houses are at fault; strict strip mining controls. The House passed a reasonably good bill. What was passed out by the Senate committee was a very weak bill. I have tried, and I think I should say this in explanation again, to reach an accommodation so that the House bill, which would have been my preference, could have been considered on a time limit basis. Unfortunately, I was unable to reach an agreement or such an accommodation. Because of the shortness of time and the lateness with which the House passed the bill, that, too, will be one of the first orders of business, I hope, next year, and I believe I am correct in so stating.

I see the Senator from Utah (Mr. Moss) on the floor, who has done so much pioneer work in this field. I believe he indicated on yesterday, at the time the Montana moratorium bill was passed, that he would report a bill out of committee, if possible, by March 1973.

Mr. MOSS. Mr. President, if the Senator will yield, yes, indeed. Our subcommittee could very well begin hearings in January and try to have on the floor for Senate consideration by the first of March a surface mining bill.

Mr. MANSFIELD. I appreciate that statement. That confirms what I just said.

The omnibus crime victims bill passed this body in good shape, but, unfortunately, has been bogged down in the House. That bill has to do with compensation for policemen and firemen killed in the line of duty. It has much to do in the way of compensation for the innocent victims of crime, including good samaritans—a piece of legislation which was long overdue. This matter is one of my gravest disappointments. I am very proud of what the Senate has done. I am very disappointed in what the House has not done in not acting on the omnibus crime victims bill, because it was needed. It should have been passed, but it looks like that is over for this session of Congress.

Let me say, in that respect, I have nothing but words of commendation for the distinguished Senator from Arkansas (Mr. McClellan) for the great skill and the knowledge he showed in managing that omnibus bill through the Senate and having it passed in such excellent shape.

Hearings have been held on all of the measures which have been mentioned, and the people of this country are entitled to early consideration during the next Congress.

I would hope, as long as the groundwork has been laid, that that action would be taken and that that legislation would be brought to the floor of the Senate as expeditiously as possible after the 93d Congress convenes.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on October 12, 1972, the President had approved and signed the act (S. 1475) to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat *Cairo*, and for other purposes.

REPORT OF NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Bayh) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I am transmitting herewith the Annual Report of the National Corporation for Housing Partnerships for the period July 1, 1971 to June 30, 1972.

I commend this Report to your attention.

Richard Nixon.

The White House, *October 13, 1972.*

REPORT OF ECONOMIC STABILIZATION PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Bayh) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

Through the Economic Stabilization Program, which was introduced as part of the New Economic Policy of August 15, 1971, we have taken forceful steps to curb the spiraling inflation that was eroding the buying power of the American wage earner—and that program is working. This fourth quarterly report of the Economic Stabilization Program describes the solid gains which have been made in revitalizing our economy and stemming the erosion of the value of the dollar.

I invite your special attention to the rise of more than 4 percent in real weekly spendable earnings which the American worker has enjoyed over the past year. This is three times the average rate of increase from 1960 to 1968.

To the average production worker, this gain represents an annual growth in purchasing power of more than $200—the equivalent of two extra weekly paychecks. Clearly, the treadmill of inflation is being transformed into wheels of economic progress.

Each American can take pride in the encouraging achievements which we have realized in the past year, for they have been made possible only through the determined efforts and the voluntary cooperation of all our people.

As this report points out, problems remain—but if our stabilization program continues to receive the wide public support it has received over its first year, and which it enjoys today, they will be solved.

This Administration will continue to exercise strong leadership in furthering that progress—we are determined to control inflation. Ultimately, however, it will be only through the determination, resourcefulness and patriotic cooperation of the American people that the victory of a full new prosperity will be won.

Richard Nixon.

The White House, *October 13, 1972.*

INCREASED ANNUAL APPROPRIATION AUTHORIZATION, NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Presiding Officer, the Senator from Alaska (Mr. Stevens) and myself, I ask the Chair to lay before the Senate a message from the House on H.R. 15280, authorizing the increased annual appropriation authorization of the National Advisory Committee on Oceans and Atmosphere, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Stevens). The Chair lays before the Senate H.R. 15280. Is there objection to its immediate consideration?

There being no objection, the Senate proceeded to consider the bill, which was read twice by its title.

Mr. HOLLINGS. Mr. President, the Committee on Commerce has been considering legislation which authorizes an increase in the annual appropriation of the National Advisory Committee on the Oceans and Atmosphere. This Committee is doing an outstanding job in assisting the President and the Congress in helping this Nation plot a correct course to fully protect and utilize the vast resources of the oceans and coastal zones.

The Senate bill, S. 3668, is virtually identical to the House bill H.R. 15280. identical to the House bill, House Resolution 15280.

In order to facilitate this matter in the waning hours of this Congress, Mr. President, I have asked that the Senate proceed immediately to consideration of House Resolution 15280.

Mr. President, as this Nation has become increasingly aware of its natural need to rely more and more on the benefits to be derived from the oceans which lap its shores, we in the Congress have recognized the fundamental need to provide and fund viable and productive governmental entities to direct the Nation's activities in realizing those benefits in an orderly and rational manner. The genesis of this realization can be traced to the Stratton commission report, "Our Nation and the Sea," which recommended the establishment of a top-level advisory committee to serve as a focal point for the channeling of communication between government and the many private and public groups vitally interested in our link with the sea.

The outgrowth of that recommendation is the National Advisory Committee on the Oceans and Atmosphere—NACOA—comprised of 25 capable members with varied backgrounds but all close to the Nation's many ocean interests. The Committee was appointed only a year ago and has just released its first annual report.

The report itself is a tribute to NACOA's vitality and its member's dedication to increased awareness of marine affairs. The topics covered, "Law of the Sea," "United States Fisheries," "Weather Modification and Coastal Zone Management," were especially timely. In regard to the latter, the report urged the passage of national coastal legislation, an urging which saw reality just last night.

Now that this always difficult first year of operation has passed, NACOA has clearly justified both its continued existence and the increase in its appropriation level authorized by H.R. 15280. The additional funds will enable the commissioners to continue to fulfill their statutory responsibilities without having to rely on outside staff support and logistical assistance thereby preserving the independence conducive to their continued success. Based on its record, NACOA promises to produce increasingly significant results with each additional year of existence.

Mr. STEVENS. Mr. President, I am pleased to see the passage of H.R. 15280, the bill increasing the annual appropriation authorization figure of the National Advisory Committee on Oceans and Atmosphere—NACOA. This will increase the annual appropriation authorization from $200,000 to $400,000. The House of Representatives amended the bill to permit continued funding only through 1975. At that time, Congress will again examine the progress of NACOA.

NACOA's members are the most respected people in this field. They come from all parts of the country and, indeed, from other countries as well. They are academicians, Government administrators, labor leaders, industry representatives, and legislators.

NACOA has made an impressive beginning. It has already undertaken its advisory capacity and appears to be doing a highly creditable job.

I wish the committee well and am sure that it will continue its impressive performance. This legislation will provide the funding necessary for it to do so.

Mr. HOLLINGS. I move the adoption of the bill.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, and was passed.

AIRPORT DEVELOPMENT ACCELERATION ACT OF 1972—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 3755, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BAYH). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3755) to amend the Airport and Airway Development Act of 1970, as amended, to increase the U.S. share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. CANNON. Mr. President, the House of Representatives has adopted the conference report on S. 3755. I ask unanimous consent that the report together with the explanation of the conference agreement be printed in the RECORD at this point.

There being no objection, the report and the explanation were ordered to be printed in the RECORD, as follows:

CONFERENCE REPORT (H. REPT. No. 92-1543)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3755) to amend the Airport and Airway Development Act of 1970, as amended, to increase the U.S. share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Airport Development Acceleration Act of 1972".

SEC. 2. Section 11 (2) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by inserting immediately after "Federal Aviation Act of 1958," the following: "and security equipment required of the sponsor by the Secretary by rule or regulation for the safety and security of persons and property on the airport,".

SEC. 3. (a) Section 14(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)) is amended—

(1) by striking out "1975" in paragraph (1) and inserting in lieu thereof "1973, and $312,500,000 for each of the fiscal years 1974 and 1975"; and

(2) by striking out "1975" in paragraph (2) and inserting in lieu thereof "1973, and $37,500,000 for each of the fiscal years 1974 and 1975".

(b) Section 14(b) of that Act (49 U.S.C. 1714(b)) is amended—

(1) by striking out "$840,000,000" in the first sentence thereof and inserting in lieu thereof "$1,540,000,000"; and

(2) by striking out "and" in the last sentence thereof and inserting immediately before the period ", an aggregate amount exceeding $1,190,000,000 prior to June 30, 1974, and an aggregate amount exceeding $1,540,000,000 prior to June 30, 1975."

SEC. 4. Section 16(c) (1) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(c)) is amended by inserting in the last sentence thereof "or the United States or an agency thereof" after "public agency".

SEC. 5. Section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) relating to United States share of project costs, is amended—

(1) by striking out subsection (a) of such section and inserting in lieu thereof the following:

"(a) GENERAL PROVISION.—Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any approved airport development project submitted under section 16 of this part may not exceed—

"(1) 50 per centum for sponsors whose airports enplane not less than 1.00 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board; and

"(2) 75 per centum for sponsors whose airports enplane less than 1.00 per centum of the total annual number of passengers enplaned by air carriers certificated by the Civil Aeronautics Board."; and

(2) by adding at the end thereof the following new subsection:

"(e) SAFETY CERTIFICATION AND SECURITY EQUIPMENT.—

"(1) To the extent that the project cost of an approved project for airport development represents the cost of safety equipment required by rule or regulation for certification of an airport under section 612 of the Federal Aviation Act of 1958 the United States share may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after May 10, 1971.

"(2) To the extent that the project cost of an approved project for airport development represents the cost of security equipment required by the Secretary by rule or regulation, the United States share may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after September 28, 1971.".

SEC. 6. The first sentence of section 12(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712(a)) is amended by striking out "two years' and inserting in lieu thereof "three years".

SEC. 7. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"STATE TAXATION OF AIR COMMERCE

"SEC. 1113. (a) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom: *Provided, however*, That any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied and collected a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until July 1, 1973.

"(b) Nothing herein shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and nothing herein shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

"(c) In the case of any airport operating authority which—

"(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements;

"(2) is collecting, without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and

"(3) has no authority to collect any other type of tax to repay such loan or loans.

the provisions of subsection (a) shall not apply to such authority until July 1, 1973.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following:

"Sec. 1113. State taxation of air commerce.".

And the House agree to the same.

That the House recede from its amendment to the title of the Senate bill.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

WARREN G. MAGNUSON,
HOWARD W. CANNON,
PHILIP A. HART,
NORRIS COTTON,
JAMES B. PEARSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3755) to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such Act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill, and the Senate disagreed to the House amendments.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill. The committee of conference also recommends that the House recede from its amendment to the title of the Senate bill.

The differences between the text of the Senate bill, the House amendment thereto, and the substitute agreed to in conference are noted below.

Unless otherwise indicated, references to provisions of "existing law" contained in this joint statement refer to provisions of the Airport and Airway Development Act of 1970.

SHORT TITLE

Senate Bill

The first section of the Senate bill provided that the legislation could be cited as the "Airport Development Acceleration Act of 1972".

House Amendment

No provision.

Conference Substitute

The conference substitute is the same as the Senate bill.

State Taxation of Air Commerce

Senate bill

Section 7 of the Senate bill provided for a permanent prohibition against the levy or collection of a tax or other charge on persons traveling in air commerce or on the carriage of persons so traveling or on the sale of air transportation or on the gross receipts derived therefrom by any State or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, territories or possessions of the United States or political agencies of two more States. There were two exemptions from this prohibition. First, any State which levied and collected such charges before May 21, 1970, would be exempt from the prohibition until July 1, 1973. Second, any airport operating authority which (1) has an outstanding obligation to repay money borrowed and expended for airport improvements, (2) has collected a head tax on air passengers, without carrier assistance, for the use of its facilities, and (3) has no authority to collect any other type of tax to repay the loan, would be exempt from the prohibition until July 1, 1973.

The Senate bill also provided that the prohibition would not extend to the levy or collection of other taxes, such as property taxes, net income taxes, franchise taxes, and sales or use taxes, nor to the levy or collection of other charges such as reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of aircraft facilities.

House amendment

The first section of the House amendment provided for an 18-month moratorium on the levy or collection of any tax, fee, or other charge on persons traveling in air transportation or on the carriage of persons in air transportation.

Section 2 of the House amendment provided for an investigation of fees and charges levied and collected by States on persons traveling in air transportation in order to determine the effect of such charges on air transportation in the United States. The investigation was to be conducted by the Civil Aeronautics Board, which was required to report the results of the investigation to the President and to the Congress, together with its recommendations, not later than twelve months after the date of enactment of this legislation.

The House amendment authorized an appropriation of $100,000 to carry out the investigation.

Conference substitute

The conference substitute is the same as the Senate bill.

Annual authorizations for airport development grants

Senate bill

Section 3(a) of the Senate bill amended section 14(a) of existing law—

(1) to increase the minimum annual authorization for airport development grants to air carrier and reliever airports from $250 million per year to $375 million per year for each of the fiscal years 1974 and 1975; and

(2) to increase the minimum annual authorization for airport development grants to general aviation airports from $30 million per year to $45 million per year for each of the fiscal years 1974 and 1975.

House Amendment

No provision.

Conference Substitute

The conference substitute follows the Senate bill with the following changes:

The minimum annual authorization for grants to air carrier and reliever airports is increased from $250 million to $312.5 million for each of the fiscal years 1974 and 1975.

The minimum annual authorization for grants to general aviation airports is increased from $30 million to $37.5 million for each of the fiscal years 1974 and 1975.

Obligational authority for aircraft development grants

Senate Bill

Section 3(b) of the Senate bill amended section 14(b) of existing law to increase from $840 million to $1.68 billion the authority of the Secretary of Transportation to incur obligations to make airport development grants. This section of the Senate bill also extended from 1975 to 1978 the authority of the Secretary to liquidate obligations incurred before July 1, 1975, and provided that not more than $1.26 billion in such obligations could be liquidated before June 30, 1974, and not more than $1.68 billion in such obligations could be liquidated before June 30, 1975.

House Amendment

No provision.

Conference Substitute

The conference substitute follows the Senate bill with the following changes:

The authority of the Secretary to incur obligations is increased from $840 million to $1.54 billion.

There is no extension of authority to liquidate obligations after June 30, 1975.

The authority to liquidate obligations is limited to $1.19 billion before June 30, 1974, and to $1.54 billion before June 30. 1975.

U.S. SHARE OF PROJECT COSTS IN GENERAL

Senate bill

Paragraph (1) of section 5 of the Senate bill amended section 17(a) of existing law to provide that the United States share of allowable project costs of any approved project shall be—

(1) 50 percent for sponsors at airports which enplane not less than one percent of the annual total of passengers enplaned by all certificated air carriers (large hubs); and

(2) 75 percent for sponsors at airports which enplane less than one percent of the annual total of passengers enplaned by all certificated air carriers (medium hubs, small hubs, non hubs, and general aviation airports).

Under existing law, the United States share may not exceed 50 percent, regardless of the passenger enplanements at the airport.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill except that the United States share may not exceed 50 percent for airports classified as large hubs and may not exceed 75 percent for smaller airports.

Safety certification and security equipment

Senate bill

Paragraph (2) of section 5 of the Senate bill added a new subsection (e) to section 17 of existing law to provide that the United States share of allowable project costs of an approved project shall be—

(1) 82 percent of that portion which represents the cost of safety equipment required for airport certification under section 612 of the Federal Aviation Act of 1958 and incurred under a grant agreement entered into after May 10, 1971; and

(2) 82 percent of that portion which represents the cost of security equipment required by rule or regulation of the Secretary of Transportation and incurred under a grant agreement entered into after September 28, 1971.

Under existing law, such costs would be governed by the general provision that the United States share may not exceed 50 percent.

Section 2 of the Senate bill also amended section 11(2) of existing law, relating to the definition of "airport development", to specify that required security equipment is a part of airport development.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill except that the United States share may not exceed 82 percent.

Land for future airport development

Senate bill

The Senate bill contained amendments to section 17 of existing law (relating to the United States share of project costs) and to section 11(2) of existing law (relating to the definition of "airport development") to provide that the initial United States share of costs representing the cost of acquisition of land or any interest therein or any easement or other interest in airspace purchased after May 21, 1970, for future airport development would be 100 percent of the allowable cost thereof. The Senate bill further provided that the sponsor receiving such assistance must agree to reimburse the United States for all such land acquisition costs in excess of the allowable project costs, with interest, within a period to be determined by agreement between the Secretary of Transportation and the sponsor. Depending on the size of the airport, the allowable project costs would be up to 50 percent or up to 75 percent.

House Amendment

No provision.

Conference Substitute

The Senate receded and these provisions are omitted from the conference substitute.

Terminal facilities

Senate Bill

The Senate bill contained three provisions designed to make airport terminal facilities eligible for Federal financial assistance. These provisions amended section 11(2) of existing law (relating to the definition of "airport development"), section 17 (relating to United States share of project costs), and section 20(b) (relating to costs not allowed).

Under these provisions, airport development would include the construction, alteration, repair, or acquisition of airport passenger terminal buildings or facilities directly related to the handling of passengers or their baggage at the airport and the United States share was 50 percent of the allowable cost thereof.

Under existing law such facilities are not eligible for Federal financial assistance.

House Amendment

No provision.

Conference Substitute

The Senate receded and these provisions are omitted from the conference substitute.

APPROVAL OF PROJECT APPLICATIONS ON UNITED STATES-OWNED AIRPORTS

Senate Bill

Section 4 of the Senate bill amended the last sentence of section 16(c)(1) of existing law to permit the Secretary of Transportation to approve an airport development project submitted by a public agency (as defined in section 11(11) of existing law) if the United States or an agency thereof holds good title to the landing area of the airport, or gives assurances that good title will be acquired. Presently, title to the landing area must be held or acquired by a public agency and, as defined in existing law, the term "public agency" does not include the United States or an agency thereof.

House Amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

WARREN G. MAGNUSON,
HOWARD W. CANNON,
PHILIP A. HART,
NORRIS COTTON,
JAMES B. PEARSON,
Managers on the part of the Senate.

Mr. CANNON. Mr. President, I am pleased to report to the Senate that the conference report on this important legislation will be very gratifying to the members of the Senate as most of the vital provisions of the Senate version were agreed to in conference and the legislation as approved by the conference is, I think, a splendid bill. The conference agreed to prohibit head taxes on airline passengers in the United States thus ending what is becoming a growing menace and annoyance in transportation and interstate commerce and forbids a discriminatory form of local taxation with the airline passenger as the victim.

In addition to prohibiting onerous and distasteful taxes, the conference agreed to significantly strengthen the Federal airport grant-in-aid program established by the Airport and Airways Development Act of 1970. The conference approved provisions increasing the level of Federal grant assistance to a minimum of $350 million dollars per year, an increase of $70 million over the current funding level.

The conference also agreed to provide Federal financial aid in airport grants at a level of 75 percent Federal participation at all airports in the United States except the 22 largest known as the large hubs. Present Federal limit is 50–50. Further, the conference committee agreed to increase the level of Federal participation in projects involving security and airport certification requirements to 82 percent thus significantly easing the burdens on local communities to meet airport development costs.

Mr. President, I am disappointed that a provision of the Senate bill I felt strongly about was not adopted by the conference. That was the provision which would have allowed Federal grants-in-aid for airport development projects in passenger terminals provided such benefits were related to the movement of the passengers and their baggage.

Presently, passenger terminal facilities are not eligible to receive Federal funds and, in the committee's opinion, this is a serious inadequacy in the present law. Hopefully, next year this can be again considered by the Senate and the House in an effort to make the program more responsive to the needs of airline passengers who pay for most of the program.

Notwithstanding my disppointment on that facet of the conference agreement, the conference report represents an excellent piece of legislation and is a great step forward in providing more Federal assistance in developing the Nation's air transportation system without burdening passengers with locally imposed discriminatory taxation.

Mr. President, I urge the Senate to unanimously approve the conference report on S. 3755 so that it will be sent to the White House without delay. We expect the President to approve the bill, particularly because of the important Federal commitment to help local communities finance security programs to thwart the threat of air piracy, violence, and terrorism.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the conference report not be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROPRIATIONS FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF COMMERCE

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 16987.

The PRESIDING OFFICER laid before the Senate the bill (H.R. 16987) to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MAGNUSON. Mr. President, this will only take half a minute.

The administration sent up a budget

request the day before yesterday, which we considered in the Commerce Committee appropriation which was just before the Senate. This measure merely increases the authorization figure from $280 million to $455 million, to build x number of ships which are required by law. Everyone is in agreement; the matter was unanimously agreed to in both the House Committee and the Senate Committee on Commerce.

The PRESIDING OFFICER. If there be no amendment, the question is on the third reading of the bill.

The bill (H.R. 16987) was read the third time, and passed.

Mr. PEARSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so ordered.

A MAN OF HISTORY: JOHN SHERMAN COOPER

Mr. HUMPHREY. Mr. President, I was not present in the Senate the other day when many of our colleagues paid their tribute, and a well-deserved tribute, to a great U.S. Senator and a dear and wonderful friend of many of us, John Sherman Cooper. I have prepared a brief statement concerning my relationships with this fine man and my evaluation of his splendid service to our country.

Mr. President, the 92d Congress is coming to a close, and with it comes the close of another phase in the career of my very dear friend, Senator Cooper. I call it the close of another phase in Senator Cooper's career because I know full well that this great man will not be idle. He will be applying his great talents and energies, just as he has so skillfully done in the past, to areas of his own personal interest and, consequently, to the interest of this entire nation.

John Sherman Cooper has never retired in the sense of withdrawing from the challenges of life. He has met them head on as a practicing lawyer, judge, statesman, and Senator. There is no doubt that we will be seeing and hearing from the Honorable Senator Cooper in the next session of Congress. He is in an enviable position. He has opted at this stage in his life to reflect upon it, to build upon it, and to reach out in new directions.

John Milton put in very succinct, poetic terms in his great work, "Paradise Lost," the serene, renewing direction which Senator Cooper has chosen to follow:

> For solitude sometimes is best society,
> And short retirement urges sweet return.

I do not, regrettably, have the poetic command of a John Milton, but I do now and then engage in lofty thoughts. I do feel the way any other sensitive individual would feel about friendship and admiration. John Sherman Cooper elicits all this in me, and having said how much I look forward to working with him in his new capacity, I will now contradict myself, as befits a politician, and say how much I will miss him.

John Cooper and I have worked closely together on the Foreign Relations Committee. His advice and leadership have been most helpful to me, as well as to all my colleagues in the Senate. He has been a great force for support of arms control agreements. His voice rang loud and clear as a warning knoll, and a light out of the darkness during the long and trying debate in this Chamber on Vietnam.

John Sherman Cooper has been a great Senator. He has been an independent, courageous, and wise leader in the Senate. He has been a great friend and respected gentleman. He is a man of history, and his absence in this Chamber will be felt for a long time to come.

To my dear friend and colleague, I ask you to listen to Milton. Listen to your colleagues, and listen, since you have no choice to do otherwise, to your friend Hubert. Enjoy the beauty and fulfillment of the step you are about to take, but remember us. Call on us; advise us. We need your experience and wisdom to help us along.

CONSUMER PROTECTION

Mr. HUMPHREY. Mr. President, I greatly regret that the Senate has been unable to act upon the Consumer Protection Protection Organization Act of 1972, S. 3970, despite a recorded vote of a clear majority of Senators on three occasions that this action be taken. I believe that this important legislation should have been considered on its merits, and I was prepared to give careful consideration to numerous pending amendments, some of which would have further refined and improved this bill.

It has often been said that the major work of Congress is accomplished in its committees. The Senate Committee on Government Operations, of which I am a member, gave in-depth consideration to the Consumer Protection Organization Act in seven executive sessions totaling some 17 hours. There was a deep concern in our committee that the final product reported to the Senate should be a responsible and balanced bill, fair both to business and to consumers. The original legislation was extensively amended in these executive sessions to achieve this goal and was finally ordered reported by a bipartisan vote of 11 to 2.

It has been abundantly clear that there can be no further delay by the Federal Government in providing effective protection for the rights and interests of American consumers, and this fact was underscored in 1970 by the Senate passage of strong legislation by a vote of 74 to 4. The clear consensus is that this protection can only be assured through the establishment of an independent Consumer Protection Agency to advocate the interests of consumers, as provided for in S. 3970. However, the administration has consistently taken a position against this consensus, prefering that a consumer affairs office function basically in a limited advisory capacity.

The fact is that the interests of consumers have lacked the continuing effective representation that other interests have had before Federal agencies and courts. It was to meet this important need that the present legislation authorized the Administrator of the Consumer Protection Agency to intervene as a party or to participate in any Federal agency proceeding when he determines that the result of the proceeding might substantially affect consumer interests, and to obtain judicial review of any agency action reviewable under law and to intervene as a party or to participate in any Federal court civil proceeding.

Numerous provisions were added or revised in committee to assure that the rights of all parties would be protected prior to or during such proceedings or court actions, and, in general, to prohibit the unfair disclosure of confidential business matters or information. And the committee gave extensive consideration to the need to prevent the disruption of Federal administrative and court proceedings, and to carefully define procedures for the handling of consumer complaints.

I believe the Consumer Protection Organization Act strikes a good balance between the public's right to know about products or services which may endanger their health or safety, or which may cause substantial economic injury to consumers, and the right of those complained against to answer and protect their reputation.

I believe this bill establishes a necessary and proper emphasis at all levels of Government upon consumer protection activities, and that it provides the sharp organizational focus now required of many Federal programs created by numerous consumer protection laws enacted during the past 6 years.

Finally, I believe the time for the enactment of effective consumer protection legislation has now come, and can no longer be delayed. The American consumer has a right to be heard, to be informed, to be safe, and to choose. I urge immediate action at the outset of the next Congress to guarantee these rights.

THE WORKER'S RIGHT TO RETIREMENT INCOME SECURITY

Mr. HUMPHREY. Mr. President, I profoundly regret that this Congress will not be able to complete action on legislation that is of vital importance to the workers of America in protecting their right to a decent pension income in retirement.

The Retirement Income Security for Employees Act, S. 3598, was reported last month by the Senate Labor and Public Welfare Committee as the refined product of several years of nationwide hearings and intensive studies. It provides that after 8 years of work an employee would have a vested right to at least 30 percent of his pension benefits, with 100 percent vesting achieved after 15 years. And to provide fair and equitable protection to older workers, the legislation as finally amended in committee stipulates that a person now enrolled in a pension plan who would be 45 or older on the effective date of the law would be credited for employment prior to that date.

To meet the all too frequent problem of private pension plan defaults or abrupt terminations, this legislation would require pension plan managers to accumulate assets to meet pension plan liabilities in full after 30 years, and it would establish a Federal reinsurance program to cover vested benefits if a plan was forced to terminate before full funding was achieved. The bill also proposes innovative steps to address the reality of increasing labor mobility, where the price of a job change is usually the loss of pension credits, by providing for the establishment of voluntary portability programs for the transfer of certain pension benefits from job to job.

Basically, the pension plans covered under the Retirement Income Security for Employees Act would be those of medium and larger corporations. Title I of the act creates an Office of Pension and Welfare Plan Administration in the Labor Department responsible for the supervision of these private pension plans and the enforcement of regulations established under the act. And title V amends the Welfare and Pension Plans Disclosure Act of 1958 to set more comprehensive reporting requirements on pension plans and stricter standards to assure that plan administrators carry out their fiduciary responsibilities, in addition to clearly explaining to employees the exact benefits they will receive under a plan and the conditions under which they could lose their pension rights.

This, then, is the substance of the bill as it was reported to the Senate by the Senate Labor and Public Welfare Committee in mid-September. However, upon referral to the Senate Finance Committee on a procedural motion which prevented immediate floor consideration, this vital legislation was given only cursory consideration, all of its essential titles were struck out, and an emasculated measure was reported within only 1 week. It consisted basically of only the reporting and disclosure provisions of title V of the original historic legislation. The political and economic forces gathered around these two entirely different bills on pension reform, explain an apparent stalemate in further legislative action to which, it has been reported, the administration is not averse, having stated its preference for its own comparatively weak and ultimately self-defeating bill.

But where is any sense of public responsibility to be found in this legerdemain?

Let the administration and Congress be placed on notice that the workers of America are not deceived. Thousands of employees, after years of hard work, have seen a long awaited pension suddenly wiped out by an abrupt dismissal notice only months or even days short of retirement, or by an unexpected job transfer, or by the sudden termination of a pension plan as a result of inadequate funding or a corporate merger. They have relied on Congress to provide the essential protection that is only fair and right, in exercising its constitutional power to regulate interstate commerce with respect to the largest aggregate of unregulated money in the United States, currently estimated at over $150 billion.

It is profoundly wrong that this protection should continue to be denied to men and women who have accepted their own responsibility to work for a living and who have accepted the promise of a pension in place of higher current wages. It is wrong that those who have lived in accordance with a deep sense of personal responsibility and belief in the terms of a pension plan contract should continue to be treated with scorn, condemned to retirement in personal deprivation and disgrace. They have earned better. They deserve dignity. They demand fair and honest treatment from their Government and in the administration of their private pension plans. I and many other Senators and Congressmen are determined that these demands will be met.

Mr. President, I traveled this Nation for more than 6 months this year, standing many times at factory gates and talking to the workers and their families. No subject is more distressing or disturbing to the working families of this country than what is happening to their pension rights. In every city in America, thousands of workers or hundreds of workers—depending on the size of a plant—are worried and concerned that they are going to lose their pension rights when there are mergers, when a plant has a slowdown or closes down, or when there is a shutdown.

I have often stood there and heard men who are 50, 55, and 60 years of age tell me that the plant is closing down and that their 22 years of employment, with pension rights in those 22 years, all are lost.

Hundreds of thousands of families in America have been punished because Congress and this Government and this economic system of ours does not protect the pension rights of employees who have given full and faithful service on the job.

I think it is a terrible mistake that we go home in this session of Congress, in a presidential election year, and not do something about protecting the employees' retirement security.

Many of these good people, who have worked for 15, 20, 25, or 30 years and have had their pension included in their wage settlements, through the negotiating of their unions, as a part of the wage package, find that that pension was taken away. It was as if somebody had robbed the bank. It was as if somebody had, in a sense, taken their billfold and all their savings.

We become very excited in Washington, and rightly so, when somebody is mugged, as we put it, on the streets, when someone has his billfold taken. We become very concerned about theft, as we should, and there are many outcries about law and order or the breakdown of law and order.

Mr. President, the greatest breakdown of law and order is the breakdown of the pension system in this country. Industry and government have failed miserably to protect the legitimate economic rights of hundreds of thousands of workers and working families throughout this Nation. Many a company has kept back money in a fund, called a pension retirement withholding, that belonged to an employee, and that worker has lost every dollar that his union negotiated for him in terms of pension funds.

I consider one of the major scandals in America what is happening to workers' pension funds in corporate industry.

This Congress and this Government becomes excited over Watergate, becomes excited over ITT and we should. But all that is peanuts, practically nothing, compared to what is going on with workers' pension rights, their retirement income. Hundreds of millions of dollars that belong to workers have been literally taken away from them because there is no protection of a worker's pension fund in a plant.

I recall that when I came to the Senate there was a great outcry because certain union leaders—they were a limited number—were being held responsible for the misuse of workers' pension funds. We passed laws to protect those pension funds, so that the union representatives could not misuse them. But the same Congress that was worried about the union representatives misusing or misappropriating or running away with or stealing pension funds did not give one bit of attention to the fact that corporate industry, through merger, through bankruptcy, through closing, through shutdown, or through slowdown, has taken hundreds of millions of dollars of funds that were due the working families of this country and has taken them away completely from those working families.

Mr. President, in my home city of Minneapolis, thousands of workers—literally thousands—have been affected by the loss of their pension funds. A plant closes down in Milwaukee; all workers are laid off; their pensions are gone. And we sit around here and say that is a problem that is going to require some more study. Yet, we have people who ring out their voices in anguish when somebody downtown steals an apple pie.

There are all kinds of stealing; there are all kinds of theft. I do not say that the pension funds that have been denied these workers were deliberately stolen. I simply say that we have given no protection, as a Government. We have laid down no guidelines or ground rules that protect these funds for the private employee. If you are a public employee, you have protection. If we work for the city, State, or Federal Government, we have protection, but if we work for most of private industry, we have no protection. It has got to stop.

A couple of weeks ago, representatives of workers came to see me and they were very much upset over the fact that we are not able to do anything in the Senate or in the other body.

I hope and pray that at the next session of Congress at the top of the list will be the protection of the savings and earnings of hundreds and thousands of workers in America, those savings and earnings today which have no protection.

We have Federal insurance for bank deposits. We have Federal insurance for savings and loans. But we have no Federal insurance for another kind of deposit, held privately by a company, known as pension funds.

What a tragedy it is that a man who may be 58 years old, 60, or 62, who has worked for a company for 25, 27, or 30 years, who has paid out every year into a pension fund, or by agreement with the company or the union a certain amount of money set aside for his pension. That is part of his take-home pay. It is part of his life savings. Then there is a merger, or a plant closes down, or technology changes which compel the plant to move and the worker is out of business. He has lost all of it.

How any Senator or Representative can contend with this kind of mess is beyond me.

We get so excited when something goes wrong in the Government—and rightly so. If someone should misappropriate money, we are concerned about that—and we should be.

But what I want to know: When is Congress going to wake up and do something to protect the pension rights of hundreds of thousands of working families in this country?

I wonder how many people in this body have members of their own families who have lost all of their savings in pension funds?

Sometimes I think that being in Washington as long as we are and for as many months as we are every year insulates us from the realities of what is going on in America.

When I read what I read in the newspapers here, it has no relationship to where my folks live back home. This is a separate world, seemingly removed from the realities of what is going on in America.

I do not believe there are three factories in all of Washington, D.C. They would not recognize an industrial enterprise if they saw one. There is not a newspaper in this town that covers the problems of the factory, because there are no factories in the District of Columbia to speak of. This is all government. Government employees are protected. They get automatic wage increases. They get retirement benefits, all richly deserved. No complaints about that.

But what about the employee for Allis-Chalmers? What about the employee of some private plant? What about the working family out in Illinois, or Iowa, or Minnesota? What do they get from this Congress?

Well, we are too busy. We are arguing about something else. In the meantime, the lifetime savings of hundreds of thousands of families go down the drain. And we say, "Well we will take care of it next year."

That is not soon enough for me, Mr. President. If I have learned anything this past year, and I learned a great deal traveling around the country—as has the present Presiding Officer, the distinguished Senator from Indiana (Mr. BAYH), as he has traveled around the country—just stand outside a factory gate any time and ask a worker what he is worried about. Ask him whether he is worried about inflation, or whether he may lose his job. At the top of the list, wherever we go, in a steel plant, an automobile plant, farm machinery plant—wherever we go, Mr. President, the No. 1 concern of every single worker that walks out of that plant gate or walks in is the question, "Mr. Senator, what are you going to do about my pension?"

They are not asking us to get a pension for them. They are not asking us to raise their wages. They are asking us to protect their pension funds so that when they retire, those funds are there if they should be compelled to retire because of the closing off of a plant or the shutting down of one. They want those funds protected.

I hope and pray that we will have some action next year. I intend to lend myself to it.

The PRESIDING OFFICER (Mr. BAYH). The Chair would observe that the Senator from Indiana, if he were permitted to do so under the Senate rules while in the Chair, would associate himself unequivocally with the remarks of distinguished Senator from Minnesota (Mr. HUMPHREY). But since the rules prohibit his commenting thusly, he will not comment.

Mr. MANSFIELD. Mr. President, the Senator from Indiana has made his views known in an effective manner.

May I say, speaking as the majority leader, that I feel the same way.

May I say also that if we want to get pension legislation—and it is badly needed—we will have to get a good bill like the one reported by the Committee on Labor and Public Welfare, not the one reported by the Finance Committee which is not worth the paper it is printed on. But most important, we have got to get the House to take some action and they have not even reported a bill this year.

I have stated that if a bill was reported by the House, we would take up the pension bill in the Senate; but I do not believe that we should raise false hope by taking up a bill in the Senate which, in the first place, is too weak and, in the second place, would be subject to long and drawnout debate; and, in the third place, would mean nothing because there would be no chance for the House to report a bill and to pass it.

The promise has been made—incidentally, I happen to be one of the sponsors of the bill reported by the Committee on Labor and Public Welfare—that it would be one of the first orders of business in the 93d Congress.

I see the distinguished Senator from New York (Mr. JAVITS) has just come into the Chamber. He has been a great supporter of pension legislation and has been trying to work out a good bill over the past few years which deserves passage by this body. He and the chairman of that committee, the distinguished Senator from New Jersey (Mr. WILLIAMS) have stated that they will report a bill dealing with private pensions at the earliest possible opportunity, next year. I ask the Senator from New York, Is that correct?

Mr. JAVITS. Of course the distinguished majority leader is correct. He has done everything he could, that anyone could ask for, with respect to this matter. I thoroughly sympathize with his position. It is a most unhappy situation that he is placed in, where he has to make these points in considering his own good faith and obvious support for the legislation.

Mr. MANSFIELD. I appreciate the latter part of the Senator's statement, because someone has to be a sitting duck. All too often the man who occupies this chair is the one who gets the flak—once in a while a little credit—but most of the time a good deal of criticism and blame which, I think, goes with the job. I wanted to make my position clear, as I have several times.

Mr. HUMPHREY. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. HUMPHREY. Mr. President, in my statement I commended the distinguished majority leader and I also commended the Committee on Labor and Public Welfare. I also said that I did not agree with the Finance Committee. I also pointed out that, as a Congress, we have these great problems but we cannot legislate in this session, the House having done nothing. But we cannot leave here without having expressed our feelings on this matter.

I am privileged to be a cosponsor of the bill that the majority leader wants to pass, but it would do no good because the House has not acted.

My point was, as the Senator from Montana was reviewing the legislative session and pointing out some of the things we have done which were a singular achievement and, he mentioned also some of the disappointments that have taken place, that I wanted to list one of them, the failure of Congress, not a Senate committee, but Congress, to come to grips with pension legislation.

Mr. MANSFIELD. Lest there be any misunderstanding, I want to say that I heard the distinguished Senator speak and I agree with every single word he said; but I wanted to set the record straight not because of what was said in this Chamber but because of what was being said outside. I think the record should speak for itself. If we are going to do something here, we should do it in good faith with a reasonable prospect of success.

Mr. BAYH. Mr. President, a moment ago, I was handcuffed by Senate precedent and rule as the Presiding Officer over this Chamber, but now I want to take just a moment of time to express the thoughts that were mine as I listened to the distinguished Senator from Minnesota (Mr. HUMPHREY).

I know of nothing really that can add to his eloquent expression, because he covered the whole field. However, I want to say amen to what he did say because, as he mentioned, I have talked to the working men and women across this country.

It does not make any difference whether one lives in the North or the South, the East or the West, even those who have just been working for a year or two and are hardly old enough to vote, are planning ahead and are concerned about pensions. They are concerned about their mothers and fathers who perhaps work in the same plant—and perhaps other generations of the family have worked in the same plant—because they see what happened next door or they know what happened to their Uncle Joe in another county. They are concerned about how they can plan for their lives later on.

It is a matter of some tragedy to know of the number of people who are losing their pension rights.

I want to associate myself on the floor with the remarks of the Senator from Minnesota. And I compliment the distinguished majority leader for the efforts he has made. Hopefully, if we work hard enough and talk long enough and if the wheel squeaks loud enough, we can get some action through the other body and through this body and do something to assure a financially solvent twilight period for those who have worked all their lives and yet might otherwise find themselves on welfare.

Mr. MANSFIELD. Mr. President, I agree with the Senator from Indiana.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I hope that the majority leader will communicate his intentions to all parties concerned.

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. Mr. President, I am not a bit intimidated, any more than is the majority leader, by the Finance Committee report stripping the bill of all the appropriate provisions. That may have a stimulating effect and may cause interest in the bill which would be very helpful in the passage of the measure and having it become law. I am delighted to see that the majority leader is not intimidated either, and nothing that he has said or indicated would support any view that he is.

He understands that other Senators could very well have opinions quite contrary to those of the Finance Committee. However, his reasons for being unable to bring up the bill for consideration at the present time are other reasons, including the fact that there is no House action, and that there are other pressures where there has been House action.

I join in the hope that our brother body will act early on this measure, as the majority leader has assured us that we would undoubtedly act on it.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HUGHES). The Senator will state it.

Mr. STEVENS. Mr. President, is there a time limitation on the revenue sharing report?

The PRESIDING OFFICER. There is not.

Mr. PELL. Mr. President, will the Senator from Montana yield to me briefly so that I might join in the colloquy on the pension bill?

Mr. MANSFIELD. Mr. President, I yield to the Senator from Rhode Island for that purpose.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Would the Chair clear the wells and the aisles while the Senator is speaking?

The PRESIDING OFFICER. There will be order in the Senate. Senators and aides will please take their seats while the Senator from Rhode Island is speaking.

Mr. PELL. Mr. President, I associate myself with the statements made in support of the Williams-Javits bill. It is an excellent piece of legislation. I also associate myself with and applaud the positions expressed by the junior Senator from Minnesota and the junior Senator from Indiana.

This pension reform bill is acutely needed. As I travel through my State I am again and again impressed by the need for pension protection. There is a real necessity for a bill of this sort.

One can, almost daily, see the hardships that have been caused by the lack of a measure like the proposed bill. One can read of the hardships in our daily constituents' mail. I recall one man, 58 years of age, who had been working for the same company for many years. That company is going out of business, and that man is left with no pension rights whatever. People pay in over the years only to find that the plans have not vested and their pension does not exist.

This bill is sorely needed. I think it is a disgrace that the measure has not been handled expeditiously. I hope that pressure will continue to be exerted so that we can get a pension reform bill of this sort passed as quickly as possible.

TIME LIMITATION ON NOISE CONTROL ACT, S. 3342

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when S. 3342, the Clean Air Act, is laid before the Senate—and I hope it will be brought up immediately after this colloquy is concluded—there be a time limitation of one-half hour on amendments, the time to be equally divided between the sponsor of the amendment and the manager of the bill, and 1 hour on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. STEVENSON. Mr. President, reserving the right to object, may I inquire what bill the agreement is on?

Mr. MANSFIELD. The agreement is on the Clean Air Act.

Mr. STEVENSON. Mr. President, I have no objection.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I wonder if the majority leader would allow me to speak for some 5 minutes with regard to a piece of legislation, and I will withdraw my objection.

Mr. MANSFIELD. Surely.

The PRESIDING OFFICER. Is it the intention of the Senator from Montana to modify the agreement?

Mr. MANSFIELD. It is my intention to vitiate the agreement. And this is a new agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL EDUCATIONAL OPPORTUNITIES ACT 1972

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I enjoyed listening to the remarks of the distinguished majority leader as he listed some of the measures that the Senate had passed that he approved and some of the measures that the Senate had failed to act on, to his regret. I did not hear him however, mention, as either having passed or regretting that it did not pass, H.R. 13915, the Equal Educational Opportunities Act of 1972, which has sometimes been called the antibusing bill.

I do commend the majority leader however, for bringing that bill before the Senate and giving the proponents of the bill a fair opportunity to pass the bill if we had had sufficient votes. I was pleased with the fact that on each vote on cloture taken in the Senate, the majority in favor of cutting off debate, and thereby favoring the passage of the bill, increased from a margin of eight on the first day, to a margin of 10 on the second day, to a margin of 11 on the third day.

The distinguished majority leader knows that when he made the motion to proceed to the consideration of another bill, the supplemental appropriations bill, the proponents of the antibusing bill could have debated that bill on that motion to proceed to the consideration of another bill for a 2-day period. However, that would have thrown the proceedings of Congress into a deadlock and would not have been in the public interest.

I was pleased that a majority of the Senate took the position that legislation was needed to put some reasonable limits on the use of forced, massive busing of schoolchildren in the process of desegrating our public schools. And I feel that something was accomplished in aid of putting some limits on the abuse by the Federal courts of their authority by having that matter debated in the U.S. Senate. It was somewhat unusual to see members of the liberal bloc, so-called, filibustering a measure, because I have sat here in the Senate as debate proceeded on motions to invoke cloture and I have heard these very same Senators who did not want cloture invoked on this issue saying they always favor bringing a matter to a vote and that they always voted to take a stand and vote up or down on an issue. But I noticed when it came to this bill they took exactly an opposite position. By their filibuster they were able to kill this bill because the Senate, by voting 49 to 38 with an 11-vote margin on the last vote to shut off debate on the motion, showed that if those opposing the bill had allowed the bill to come to a vote it would have been passed by the Senate by a substantial margin.

So, Mr. President, I would like to list, since the majority leader did not, as a bill that he regrets not having been enacted by this Congress, H.R. 13915, the Equal Educational Opportunities Act of 1972, sometimes called the antibusing bill, as a bill that should have been passed by this Congress.

I regret very much that the filibuster by people who always have said in the past they did not believe in a filibuster prevented the Senate from voting on this bill. I feel that the Senate acted unwisely in not passing this bill.

I would like to offer that as a bill that should have been passed by this Senate and was not passed.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Senator from Alabama I wish to say that all the legislative matters to which I referred had come out of committee. If a bill in the nature of the one mentioned by the Senator from Alabama comes out of committee in the regular order I assure him that, along with others, it will receive expeditious consideration.

Mr. ALLEN. I am not objecting to the fact that it did not receive expeditious consideration. I was merely pointing out to the distinguished majority leader that he did not list this as a bill he regrets not having passed.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Yes, sir.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Environmental Noise Control Act be made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I ask unanimous consent that Arthur Pankopf, the minority counsel of the Commerce Committee, be allowed on the floor during its consideration and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that six members of the staff of the Commerce Committee, who will be needed on the floor, be permitted to do so—at least two, I think.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations which have been reported earlier today from the Committee on Armed Services, and about which I understand there is no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

SUNDRY NOMINATIONS REPORTED BY THE COMMITTEE ON ARMED SERVICES

The assistant legislative clerk proceeded to read sundry military nominations reported by the Committee on Armed Services.

Mr. STENNIS. Mr. President, I have filed sundry nominations from the military departments, including the Reserve and the National Guard that came late, but they have been considered by the committee. All these names except three or four have been with the committee the required length of time of 7 days.

As a matter of getting business disposed of, I ask that they be filed, taken up now in executive session, and disposed of.

Mr. President, the Senator from Arizona (Mr. FANNIN) is present. I have checked this matter with him. This matter has been cleared with the Senator from Maine (Mrs. SMITH).

Mr. FANNIN. That is correct.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ENVIRONMENTAL NOISE CONTROL ACT OF 1972

The Senate resumed the consideration of the bill (S. 3342) to amend title IV of the Clean Air Act, and for other purposes.

Mr. TUNNEY. Mr. President, I send to the desk amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments, ordered to be printed in the RECORD, are as follows:

At page 89, line 14, strike out, "emissions from" and insert in lieu thereof, "emission standard for".

At page 89, line 15, strike out, "in his judgment are" and insert in lieu thereof, "he determines are necessary and".

At page 89, beginning at line 18, amend subsection (b)(1) to read as follows:

"Any regulations under this section or amendments thereof, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the reasonableness of the cost of compliance and the demonstrable public benefit that will result, as determined by the Administrator of the Environmental Protection Agency after consultation with the Administrator of the Federal Aviation Administration and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and that any proposed standard, rule, or regulation has been demonstrated to be technologically available for application to types of aircraft, aircraft engine, appliance, or certificate to which it will apply."

At page 90, line 16 after the period insert the following sentence, "Provided, however, that the Administrator of the Environmental Protection Agency, within nine months of the date of enactment of this Act, shall review all noise emission standards, rules, or regulations in effect under section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the title."

At page 90, line 19 after the word "emissions," strike out, "including the Civil Aeronautics Board, the Federal Aviation Administration, and the Environmental Protection Agency".

At page 91, line 1, strike out "individuals" and insert in lieu thereof "persons".

At page 91, line 13, after the word "title" strike out the comma and insert a period and delete the remainder of the sentence.

At page 91, line 15, strike out "The Administrator of the Federal Aviation Administration", and insert in lieu thereof, "The Secretary of Transportation."

At page 92, line 23, after the word "aircraft" delete the remainder of the sentence and insert in lieu thereof, "unless such type certificates apply all of the standards promulgated by the Administrator of the Environmental Protection Agency prior to the date of issuance of such certificates."

At page 93, line 1, delete section 505.

At page 93, line 12, strike out "506" and insert in lieu thereof, "505".

At page 93, line 13, strike out the words "attempt to" and at line 14, after the word "thereof" insert a period and strike out the remainder of the sentence.

At page 93, line 17, strike out "507" and insert in lieu thereof "506".

At page 93, line 20, after the period insert the following, "Notwithstanding any other provision of this Act, the sole authority to establish aircraft noise emission standards is contained in Part A of this title.".

At page 93, line 22, strike out "508" and insert in lieu thereof "507".

At page 94, line 23, strike out the words "Administrator of the Environmental Protection Agency." and insert in lieu thereof "Administrator of the Federal Aviation Administration, in consultation with the Administrator of the Environmental Protection Agency.".

At page 95, line 12, strike out "may" and substitute "will".

Mr. PEARSON. Mr. President, will the Senator yield to me for about 3 minutes for the purpose of addressing a question to the distinguished manager of the bill?

Mr. TUNNEY. I yield.

Mr. PEARSON. I thank the Senator.

Mr. TUNNEY. Does the Senator wish me to yield on these amendments?

Mr. PEARSON. No.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PEARSON. I intend to be very brief.

Some expression of apprehension has been voiced on the part of airline pilots as to the mechanics of this particular bill, given circumstances which in case of emergency or unforeseen events might require an acceleration of power which, in and of itself, would violate the standards of noise abatement.

Their understanding is that this is something that might be a rather frequent occasion. There is a concern that the procedures under this particular bill would not lend themselves to a review and a determination of extenuating circumstances.

I would like to inquire whether or not, given that sort of hypothetical case, there is protection here and there is not an arbitrary sort of lifting of the certification of any pilot because of these circumstances.

Mr. TUNNEY. I am pleased the Senator has brought this matter up on the floor of the Senate because I would like to make it absolutely clear that it is the intention of the committee to make sure that airline pilots are not going to be subject to administrative penalty or criminal penalty for going over the noise emission levels through use of additional power if the safety of the passengers is involved. In the first place, the Federal Aviation Administration can veto any noise emission regulation which is not consistent with the highest degree of safety in air commerce.

So it is clear that the FAA has the responsibility to make sure that regulations which are developed are safe. This responsibility is given solely to the FAA.

Second, section 415 of the bill specifically provides for judicial review of the final regulations promulgated under section 501 and other sections of the act. Thus, if the Airline Pilots Association feels that the regulations as promulgated do not protect their interests, there is a right for judicial review. Third, the Administrative Procedure Act would also apply. And, fourth, the 14th amendment to the Constitution requires due process, and, thus, it would be unconstitutional to deny a person a hearing if he were charged with violation of a regulation.

Mr. PEARSON. The Senator's statement is most helpful. It will allay some of the fears that have been expressed.

As I understand the Senator from California, the procedures for review are to come out of FAA regulations existing now or to be promulgated by them.

Mr. TUNNEY. The procedures for review are included in section 415 of the act. The APA and the 14th amendment also apply.

Mr. PEARSON. Either.

Mr. TUNNEY The FAA would have the right to veto regulations promulgated under the act if they are inconsistent witht the highest degree of safety. The FAA should guarantee that regulations, which become effective, assure that airline pilots can fly safely. If the Airline Pilots Association is not satisfied with specific final regulations, the bill provides for judicial review of the regulation, so that they could make their claim in a court of law. In addition, the pilot will be entitled to a full hearing as provided by the Administrative Procedure Act and to constitutional protection.

Mr. PEARSON. The hearing mechanism is not in this bill covering that kind of situation; is it? It would reflect back to FAA regulations or to the Administrative Procedure Act. Is that correct?

Mr. TUNNEY. Section 415 of this bill does provide for periodical review. However, this act would not affect any rights to a hearing now afforded by the FAA Act. FAA regulations would remain in effect as provided in section 501(b)(2) of this act. The Administrative Procedures Act would also apply.

Mr. PEARSON. I thank the Senator.

Mr. TUNNEY. I wish to thank the Senator for bringing that point up, because I would not want the pilots of this country to feel that the passage of this noise abatement bill was going to subject them to any potential liability if they used their best judgment in trying to protect the safety of their passengers by increasing power.

Mr. PEARSON. I thank the Senator for yielding.

Mr. TUNNEY. Mr. President, I am pleased to offer, on behalf of the Public Works Committee, perfecting amendments to part A of title V of S. 3342, respecting control and abatement of aircraft noise and sonic boom. Through certain small changes in language in some provisions of part A, these amendments would clarify and speed up the long overdue relief from noxious aircraft noise.

The amendments will leave unimpaired the basic regulatory framework for the section: EPA would be lead agency in the setting of aircraft emission standards to meet the health need, with a twofold FAA veto on grounds of technological availability and safety.

In section 501(a)(2), language changes would insert the requirements that the health levels set in the EPA standards be "necessary" in addition to "adequate" to meet the health needs. This determination is made by EPA and is consistent with the intent of the committee.

In section 501(b)(1) a certain ambiguity respecting a joint determination by EPA and FAA on technology and cost of compliance has been cleared up. The amendment clarifies the fact that the determination is made by EPA, after consultation with FAA—a result which is certain to expedite the promulgation process. It will also assure that the issue of reasonable cost has a thorough airing as standards develop, but that such considerations cannot be the basis for an FAA veto of the standards. Moreover, a second criterion—demonstrable public benefit—is now added to the list of factors to be considered in developing the standards.

It is most appropriate that we should be considering reasonable cost and demonstrable public benefits when we are establishing these regulations, because we would not in any way want, through some frivolous action, to bankrupt the airlines. The net effect of this provision is to streamline the process of promulgating regulations, and the committee expects that, pursuant to this provision, regulations will be promulgated very, very soon.

In section 501(b)(2), language is transferred from section 505 and will require EPA to review all standards under section 611 of the Federal Aviation Act within 9 months of enactment of the bill. Failure to perform this nondiscretionary duty would subject EPA to citizen suits under section 413.

Names of specific agencies have been deleted from section 501(c) in order that it will be clear that no specific agencies were meant to be excluded. The language in the report on the bill explains the types of measures contemplated by this section.

In section 502, the word "individuals" has been changed to "persons" in order to make it clear that corporations can also be consulted. The last phrase, "together with his recommendations for legislation" has been deleted in order to make it clear that EPA need not submit recommendations for legislation if it determines that no additional legislation is needed. However, it is anticipated that EPA's report will include legislative recommendations, arrived at after consultation with relevant agencies.

In section 503, "Administrator of FAA" is changed to "Secretary of Transportation" in order to comport with the existent regulatory framework. Of course, implementing standards and inspections would be carried out by the FAA, which has the appropriate powers.

Section 504 is clarified to refer to "any original" type certificate, and to require all such type certificates to conform to applicable regulations. It is thought that process set in motion in 501(a)(2) and expedited by the changes in language in 501(b)(1) will result in thoroughly considered and adequate standards and that, when promulgated, such standards must apply to the issuance of original type certificates. The hope is that EPA will move quickly to quiet as much of the fleet as possible.

Section 505 is deleted, because the requirement of EPA review is inserted in section 502(b)(2).

Section 506 is clarified to preclude States and localities from enacting identical standards. This added pressure was thought essential in the absence of a tough and effective regulatory program. However, requirements of section 501 and enforcement provisions in the legislation give sufficient tools to accomplish a tough and coordinated enforcement program on the Federal level. There was no intention in the committee bill to alter the relative powers of the Federal Government, State and local government, and airport operator, over the control of aircraft noise. This amendment would also retain the same powers for all parties.

An additional sentence is added to section 507 to clarify the relationship of part A to the rest of the bill. Noise emissions standards are tied into certain other parts of the bill, as specifically cross-referenced. However, authority to establish aircraft noise emissions standards is contained in part A of title V only.

With the acceptance of these changes, we in no way dilute the strength of the bill as reported from the Public Works Committee, rather the bill is improved by clarifying the process by which noise emission standards will be established. In addition, we have assured that EPA's role as lead agency in setting health levels on aircraft emissions will not be stalemated. At the same time we continue to accept the advisability of and necessity for a two-fold FAA veto on grounds of technological availability and safety.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Have the amendments been offered, and are they now pending?

The PRESIDING OFFICER. The amendments are pending en bloc.

Mr. CANNON. Will the Senator yield to me for a question on the amendments?

Mr. BROOKE. I believe I have the floor, Mr. President.

The PRESIDING OFFICER. The Chair has recognized the Senator from Massachusetts. Who yields time?

Mr. TUNNEY. I am prepared to yield the Senator from Massachusetts some time on the bill, but I believe that the Senator from Nevada wants to speak of these amendments that have already been offered.

Mr. BROOKE. Very well.

Mr. CANNON. I thank the Senator for yielding.

My question, Mr. President, relates to section 501(c). It is my understanding that section 501(c) conveys no new authority on any Federal agency to regulate or control the air transportation system of the United States. I ask the Senator if that is correct?

Mr. TUNNEY. That is correct.

Mr. CANNON. With further reference to section 501(c), is this provision in subsection (c) intended to encourage citizens to file suits of harassment against Federal agencies charged with the responsibility for maintaining air commerce, in which the citizens seek to disrupt the air transportation system of the United States?

Mr. TUNNEY. Absolutely not. There is no desire at all on the part of the committee or on the part of the proponent of these amendments to disrupt air commerce through harassment-type suits.

As a matter of fact, section 501(c) adds no new authority to the mandate given to any agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft emissions.

Mr. CANNON. I thank the Senator for yielding.

The PRESIDING OFFICER. The question is on agreeing to the amendments. Do the Senators yield back the remainder of their time?

Mr. STEVENS. Mr. President, who controls the time in opposition to the amendments?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BOGGS. How much time does the Senator want?

Mr. STEVENS. I would like to ask the manager of the bill a few questions concerning the impact of this proposal.

Mr. BOGGS. I yield the Senator whatever time he needs.

Mr. STEVENS. As I understand the compromise worked out here, EPA will build up a force of experts to deal with the safety aspects of aviation. Does it decrease the authority of the FAA in any way, in terms of the people who now have the expertise and are dealing with the safety aspects of aviation in this country?

Mr. TUNNEY. No.

Mr. STEVENS. I am glad to hear that. We had great concern about that in the Commerce Committee, as I think the distinguished chairman of our subcommittee has reported.

I am fearful as to the ultimate result of what we are doing with regard to EPA generally. It seems that in almost every major bill this year, we have given EPA a license to substantially expand and threaten the expertise of other agencies. They, as I understand it, will not promulgate the regulations dealing with safety or with financial aspects; those will originate with the FAA?

Mr. TUNNEY. That is correct. Now, of course, EPA is going to be promulgating regulations over aircraft noise emission levels, which will have an impact on safety, and what we have done in this bill is given to the FAA a veto power over any such regulations.

In other words, the regulations that come out governing noise emission levels of aircraft are going to have to be consistent with what the FAA considers to be the highest degree of safety.

Mr. STEVENS. I shall not speak to this at length, because I understand the time situation of Congress and the hard work that our committee staff and the chairman of the Subcommittee on Aviation in the Committee on Commerce have done to try to work out the matter. But I am still feaful that the result will be that EPA will have a little FAA under its wings, and will start writing the regulations and sending them over to FAA to check them, and they will be permitted to exercise their veto if the regulations affect the financial and safety aspects of aviation.

I do not believe that EPA should expand itself to the position where it is an action agency. As I understood, they are a standards agency, and it seems to me they should have taken the regulations from the FAA in any area where they affect safety or financial aspects of aviation.

Mr. TUNNEY. In effect, they are going to have to take the FAA standards when it comes to safety and technological availability, factoring in a reasonable cost.

Mr. STEVENS. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. I am prepared to yield back the remainder of my time, if the Senator from Delaware yields back his time.

Mr. BOGGS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HUGHES). All remaining time having been yielded back, the question is on agreeing to the amendments, en bloc, of the Senator from California.

The amendments were agreed to.

Mr. BROOKE. Mr. President, I send an amendment to the desk on behalf of Senator MUSKIE and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE's amendment is as follows:

On page 90, between lines 23 and 24, insert the following:

"(d) Regulations shall be promulgated under this section which require that, effective not later than January 1, 1978, all subsonic transport category aircraft and subsonic turbojet aircraft, except aircraft owned or operated by any military agency, shall operate in compliance with either—

"(1) the maximum noise level standards specified for new subsonic jet aircraft in Appendix C of Part 36 of the Federal Aviation Regulations as in effect on September 1, 1972; or

"(2) the best attainable noise level in accordance with the criteria established in subsection (b)(1),

whichever is the lower level:

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. I yield myself such time as I may require.

Mr. President, aircraft engine noise is a serious environmental hazard affecting the lives of millions of Americans.

From Inglewood, Calif., and Oak Lawn, Ill., to East Boston, Mass., and Queens, N.Y., and even to 1600 Pennsylvania Avenue in Washington, D.C., our citizens are subjected to a regular bombardment of noise from over-flying aircraft.

The increasing size and power of the 1960's generation of jet aircraft first elevated aircraft noise to a primary national problem. Yet, despite countless congressional hearings, agency and industry studies, and citizen protests, there has been distressingly little aircraft noise reduction.

The airlines argue that the traveling public demands swift aircraft. The first generation of jet aircraft was built with this need in view. The airlines contend that decreasing the noise from this fleet would be too great a cost burden for them or their passengers to shoulder. This argument, together with the claim that the technology was not yet available, governed our policy during the 1960's.

Over and against these arguments, however, are the benefits of quieter jet engine. Most obviously, of course, airport neighbors would no longer suffer either the physical or mental torture of jet noise. But there would be cost benefits as well. For example, less high-priced land would have to be bought by airport authorities as a buffer between the airport and the neighboring community.

There would be less need to soundproof surrounding schools, businesses and homes. And, perhaps most importantly, residential property values in these areas would be significantly enhanced.

Research on the development of quieter engines has been in progress for several years. Within the Government, the most significant programs have been coordinated by NASA and the Department of Transportation. DOT, which includes the Federal Aviation Administration within its organization, has conducted programs to modify aircraft flight and landing patterns in order to expose the planes as little as possible to inhabited areas. Also, it has authorized experiments with various forms of acoustical treatment of the engines. But although the Congress gave FAA the power to regulate aircraft noise in 1968, it regrettably has not yet used that power to require a reduction in noise among the existing fleet.

More recently, the NASA Office of Aeronautics and Space Technology has initiated work on a program to replace the front fan of jet aircraft; it is estimated that the resulting decrease in noise would be at least 75 percent. Earlier this year, the Congress appropriated $25 million for continued research and development of this important project.

In addition, several of the major aerospace companies as well as the airlines themselves have sponsored studies on jet noise reduction. Yet, in spite of all this research, there has been painfully little reduction of noise from the 1960's generation of jet aircraft. There are encouraging signs that the new generation of aircraft, the 747's, the DC–10's, and the L–1011's, will have significantly lower noise levels. But this new technology has not been applied to the 1960's generation of aircraft, which will be with us for many years to come.

At the same time, Federal policy—executive, judicial, as well as legislative—has preempted local or State action to regulate aircraft noise through such means as establishing municipal noise levels or local landing pattern regulations. The Federal Government cannot continue an essentially hands-off policy with respect to demands for regulation of aircraft noise, and at the same time deny other governmental authorities the right to adopt their own policies.

Clearly, it is long past time when Congress should lead the way off of this treadmill, and enact the appropriate and necessary legislation to relieve millions of citizens across the Nation of this serious noise problem.

Many Senators have argued that the solution of this problem is essentially a bureaucratic one: who will administer the program for the Government. But I believe a more important question must still be resolved: namely, what will the program be? Simply to shift some or all responsibility from one agency to another will not necessarily do anything more than create another layer of personnel familiar with the problem. But, if Congress establishes a goal that can be achieved, then we can reasonably expect that any agency designated to administer and enforce that goal will meet the congressional intent.

As a minimum goal, Congress should require that all commercial jet aircraft, except those owned or operated by a military agency, shall operate by January 1, 1978, in compliance with maximum Federal noise regulations. The specific standards would be those set forth in appendix C of part 36 of the Federal Aviation Regulations in effect on September 1, 1972. This so-called part 36 noise level was established by the FAA in 1969 as the "technologically practicable" and "economically reasonable" limits of aircraft noise reduction technology. Regrettably, however, the setting of this regulation has had little noticeable or real effect on the current level of aircraft noise.

It is true that the so-called part 36 regulations have been met by the new wide-bodied passenger jets. However, available projections show that the numbers 727, 737, and DC–9 jet airplanes will increase during the next decade, until there will be more than 1,200 of these planes operating on U.S. certificated scheduled airlines in 1980, as compared to fewer than 1,100 from these groups at the current time. Each of these planes exceeds by a considerable margin in the applicable part 36 standard.

This situation can be changed. The Joint DOT/NASA Noise Abatement Office has been conducting extensive research and development on programs to reduce the noise in these and the other noisy jet aircraft now flying. Charts and projections have been made readily available to Members of the Congress which show that these agencies are now close to developing the technology needed to retrofit these jets, either by means or accoustical treatment or through the replacement of their front fans.

They anticipate ground tests for some types of aircraft by the end of 1972, and ground and flight tests for most of the remaining aircraft by the end of 1973. The charts prepared by the Noise Abatement Office also project a notice of proposed rulemaking during the early part of next year, and the issuance of rules in 1974 requiring the retrofitting. First deliveries of the quieter airplanes should be in 1975, and the targeted completion date for all retrofitting is 1979.

Now, Mr. President, these projections are well known to many knowledgeable Members of the Senate, as well as the aircraft community itself. In fact, the president of American Airlines, in a letter to Senator TUNNEY reprinted in the Senate Public Works Committee's report on the pending legislation, stated that:

> The earliest achieveable date (to modify aircraft now in service to meet FAR 36 specifications) in our opinion is January 1, 1978.

So, quite clearly, the Federal projections are attainable and, more likely, represent conservative estimates.

I believe that these projections should become a national commitment. The aircraft noise reduction program has received more than enough preliminary study and planning. It is a program that I believe is a realistic national goal. In fact, as is indicated by the plans which I earlier described, there is every reason to believe that it is already an accepted program of the Joint DOT/NASA Noise Abatement Office.

Thus, to mandate a January 1, 1978 date for all nonmilitary commercial jet aircraft to meet the part 36 deadline is not radical or unrealistic. In fact, it is well within our grasp, and Congress would be delinquent if we did not do everything possible to insure that the goal is reached.

The amendment which I propose would grant the administrator of the aircraft noise abatement program, as well as the airlines themselves, flexibility as to the means of meeting the maximum noise levels of part 36. In addition, the amendment is consistent with the principles of the best use of available financial resources, technology, and safety factors as indicated in both the original Senate and House sections on the administration of Federal aircraft noise regulations. Thus, any of a number of alternatives including retirement of certain aircraft can be chosen to meet the criteria in this amendment by 1978.

Finally, there is one remaining but vitally important issue that must be resolved before aircraft noise abatement can become a reality. There must be a means of paying for the program. Already, several proposals have been put forward, including bills introduced by Senator CRANSTON and myself requiring limited Federal assistance to finance retrofitting. Furthermore, the administration is in the midst of its own study to determine the most appropriate means of financing a retrofitting program. Therefore, it is my intention to introduce a second amendment, following the disposition of the pending amendment, to require the Secretary of Transportation to report to Congress by July 1, 1973, his recommendations for financing the program.

In summary, Mr. President, I believe that the pending legislation provides a logical and appropriate opportunity for the Senate to place itself on record in support of an environmental goal for which there is a demonstrable need. It is a goal which is achievable, and toward which the administration itself is now striving. The adoption of this amendment would be a clear signal that the Senate intends to act responsibly in meeting America's noise problems. I urge its adoption.

Mr. TUNNEY. Mr. President, it would be my hope that the Senator from Massachusetts, whose amendment I think points out one of the most important areas of concern in the reduction of noise, would withdraw his amendment, and perhaps next year this could be the subject of legislation by Congress.

The matter has been studied by the Committee on Public Works. Also, hearings have been held by the Committee on Commerce, and at the present time the Department of Transportation is also studying the matter. In our bill, in section 501, we anticipate that there will be retrofit.

Although we do not have a timetable, the very fact that we have set out a program for the establishment of noise emission levels necessary and adequate to protect the public health and welfare indicates that the only way these levels are going to be achieved is if there is retrofit or retirement of noisy aircraft. Even so, we did not set out a definite time in the bill, because it was felt that not enough information had been developed so that we could set a specific target date.

It seems to me that with the language of the bill in section 501, which requires that standards be set by EPA, with the FAA veto over safety and technological availability, and with the provisions in section 502 whereby EPA must study the adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofit and phase out all existing aircraft, we will be in a better position next year to set a timetable for retrofit or retirement than we are this year.

I am fully cognizant of the tremendous problem the Senator has at Logan Airport because I, having gone to school at one point in the neighborhood, and spent a good deal of time in that area in my younger years. Particularly in South Boston there are terrible problems. Clearly we do need a retroschedule or retirement schedule; but it would seem to me to be better to wait until next year when we would have the benefit of the studies that will be done, as mandated by this legislation and of the studies ongoing by the Department of Transportation. Then we would know precisely what we are doing, and also so that we would have developed a mechanism to finance retrofit at the time that we require it.

On this last point, I feel that the subject of financing retrofit is one which all of us have to be concerned with, because it is not the intention of any of us to bankrupt the airline industry. At the same time, we do not want to destroy the health and welfare of the citizens who live adjacent to airports.

I might add a final point which is that I am an enthusiastic supporter personally of a retrofit or retirement schedule; hopefully, next year we will be able to establish such a schedule. I am convinced that if we could have a retrofit or retirement schedule, it would provide thousands and thousands of new jobs in the aerospace industry. This nice side benefit will require people to build the systems for retrofitting, and in the case of some of the older aircraft which would likely be retired rather than retrofitted, it will help the airframe manufacturers as well. So that I think everyone will benefit by a retrofit or retirement schedule.

At this point in time, however, it is my hope that the Senator from Massachusetts could find his way to withdraw his amendment today with the recognition that he has demonstrated great leadership in bringing this matter to the attention of the Senate, and that he will be demonstrating this leadership next year when this matter comes up before the Senate again.

Mr. BROOKE. Mr. President, I thank the distinguished manager of the bill. I have been much concerned, as has he, about the aircraft noise abatement problem. Several years ago, I presented to the Senate a program for retrofitting, because I believed we all understand that we will not get rid of the existing fleet overnight. It will take some time. Retrofitting represents an investment of hundreds of millions of dollars. Although I have been encouraged by what we have done with the new "wide-bodied" jets, nevertheless, we must be concerned with the excessive noise from the great majority of aircraft flying today over the United States.

I recall that the distinguished Senator from California went to school in Cambridge when he was in Massachusetts and I can assure him that the people of Cambridge do not suffer as much as do those of South Boston, East Boston, Revere, and Winthrop and other surrounding towns where one literally cannot sleep at night. When the planes take off and land, it sounds like they are coming into your own house. The value of these residential properties has decreased. And this phenomenon has taken place not only in towns surrounding Logan Airport but at other airports across the country.

There is also a health problem and a psychological problem affecting the children who live close to airports. Of course the economic costs of noisy airplanes has already been discussed.

I believe the financing program and the official commitment to retrofitting are matters that can be resolved separately. What I hope can be achieved through the useful discussion of this amendment is to get the Senate on record as making a commitment to retrofitting by a time certain. I think that that time certain is not next year or the year after because as a practical matter it just cannot be done. We know that. But I do believe, and I hope that my colleagues agree, that 1978 is a realistic and attainable target.

I understand the position of the airlines. I know retrofitting will be costly, but as I have indicated, even one of the airlines agrees that 1978 is an achievable goal.

I am not going to belabor this matter. I will not ask for a rollcall vote on this amendment. I have great faith in the Senator from California's personal commitment to the program. I am very much encouraged by the fact that he will hold early hearings next year. The distinguished ranking member, the Senator from Delaware (Mr. BOGGS) has made a similar commitment that we will have hearings and see if we cannot move to making it certain that by 1978, all U.S. aircraft which do not already meet Federal noise abatement limits, will be retrofitted. At least the American people will know of the Federal Government's plans for enforcing aircraft noise limitations. And they are clearly entitled to have some knowledge of when they can expect that this will be done, instead of people repeatedly saying to them, "well, it is coming, it is coming."

With the assurance of the Senator from California and the Senator from Delaware that we will have early hearings next year on this matter, and that the Senator from California will consider making a commitment for a time certain for retrofitting, I would certainly agree to withdraw the amendment.

Mr. TUNNEY. I should like to thank my distinguished friend from Massachusetts for doing that. He has performed a very valuable service by bringing this matter to the attention of the Senate. When such a matter is brought up solely before a Senate committee, it does not get the public attention that it has gotten today on the Senate floor. He has performed a valuable service by pointing out that there has to be a time definite for retrofit or retirement of noisy aircraft. I think there should be, too.

I should like to point out to my good friend that the letter I received from the American Airlines dated September 15, 1972, which is included in the appendix to the committee report on the bill, stated that—

> The earliest achievable date for requiring all aircraft to meet the 108 EPNdB standard in FAR 36 in our opinion is January 1, 1978.

This was an opinion not generally shared by other members of the airline industry and other aerospace companies.

Mr. BROOKE. Does not the Senator feel that this is a realistic goal?

Mr. TUNNEY. I think that it is a realistic goal, and that we should be pointing to it next year when we will have the opportunity to evaluate some of the studies. Then I would be most enthusiastic to join the Senator as a cosponsor of his bill, a retrofitting bill, assuming that the studies demonstrate that by 1978 we can, in fact, as we push technology, achieve a full retrofitting schedule or a retirement schedule.

Mr. BROOKE. I thank my colleague from California very much.

Mr. BOGGS. Mr. President, will the Senator from Massachusets yield?

Mr. BROOKE. I yield.

Mr. BOGGS. I want to take this opportunity to commend the distinguished Senator from Massachusetts for his leadership and for his actions in regard to the retrofitting program. I join the distinguished Senator from California (Mr. TUNNEY) in giving assurance that certainly the committee will give every consideration to this, and will hold hearings.

I agree 100 percent with the Senator from Massachusetts that this is of primary importance. I believe that progress will be made on it and we will accomplish our objective, under the leadership and the understanding and the drive which the distinguished Senator from Massachusetts has to put this through. He is to be commended.

Mr. BROOKE. Well, Mr. President, that is more assurance than I need from my good friends from Delaware and California.

Mr. President, in keeping with that understanding, I withdraw the amendment.

Mr. TUNNEY. Mr. President, before the Senator withdraws his amendment, I ask unanimous consent to have printed in the RECORD one letter on this subject that I sent and the answers I have received from the various airline companies, engine and airframe manufacturers, and Federal agencies. It appears as an appendix to the committee report.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

APPENDIX

(Responses to letter from Senator TUNNEY concerning establishment of a mandatory schedule for achieving reductions in aircraft noise emissions)

Letter from Senator Tunney to which the following are responses

SEPTEMBER 8, 1972.

Mr. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration, Department of Transportation, 400 Seventh Street NW., Washington, D.C.

DEAR ADMINISTRATOR SHAFFER: As you know, the Senate Public Works Committee has been marking up a noise pollution control act (S. 3342) which I introduced with Senator Muskie in March, 1972.

In the context of provisions respecting control of aircraft noise, it has been suggested that a retrofit schedule be established in the legislation. In order to meet the deadlines, aircraft which could not be retrofitted economically could be retired and replaced by the new generation of quieter aircraft already under construction.

Suggested language to be added to S. 3342 would provide that no aircraft could land at U.S. airports after January 1, 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulations (i.e., 108 EpndB). New aircraft types manufactured after date of enactment would be required to meet best available technology, or, at a minimum, a noise level 15 EpndB lower than the Part 36 standard by January 1, 1975. Additionally, the EPA Administrator would be required to identify further noise reductions which would be contemplated thereafter.

Because of the press of Committee business and the short time left in this session of Congress, I am writing to solicit your views on this subject which, I am aware, has been discussed in the context of previous legislation and subjected to considerable study in the industry and Administrative agencies.

Specifically, I hope you will address yourself to the current state of technology respecting retrofit (and will consider new front fan treatment in addition to nacelle treatment), costs of retrofit or retirement and replacement and suggestions as to which procedure might be more appropriate for certain types of aircraft, necessary lead times, alternative specific language which could be inserted in the legislation.

If I could receive your comments by Monday, September 18, I would be in a position to advise my colleagues on the Committee of your views. I recognize that you are not given much time in which to respond, but I hope that you will be able to cooperate with us. Correspondence should be brought to the attention of Mrs. Jane Frank, my legislative assistant.

Thank you for your prompt attention to this matter. The Public Works Committee will meet on Tuesday, September 19, and I would hope that we will be able to report the bill to the Senate floor at that time.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

AIRPORT OPERATORS COUNCIL
INTERNATIONAL, INC.,
September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to comment on your proposal that the Noise Pollution Control Act (S. 3342) includes language which calls for either the retrofitting or retirement of noisy aircraft that do not meet FAR 36 maximum noise requirements by January 1, 1976. Your proposal also specifies that new aircraft types manufactured after the date of enactment would be required to meet the best available technology or, at a minimum, a noise level 15 EPNdB lower than the Part 36 standard by January 1, 1975. Airport operators believe this is an excellent approach. We have long recognized that aircraft noise pollution constitutes a primary constraint upon the U.S. aviation system.

The proposal to include a specific date at which time all aircraft must meet or better the noise levels of FAR Part 36 is an absolutely essential component of any noise abatement plan. Progress in noise reduction will be made only if specific future goals are set now, and adhered to by those Federal agencies charged with the responsibility of reducing aircraft noise.

Although the NASA and Rohr studies of 1969 and 1970 clearly indicated that technology existed to retrofit existing aircraft, the FAA began another comprehensive study regarding retrofit. These studies are nearing completion. A flight test of the retrofitted 727 will take place this fall with a final report due in the first quarter of 1973. A flight test of a retrofitted 707 will take place during the summer of 1973 with a final report due in the fourth quarter of 1973. Contracts have been awarded for studies of the DC-8 and DC-9 with their completion dates scheduled for late 1973. A contract for the study of retrofitting the 737 will be awarded this fall with the completion date as yet undecided. Preliminary test results from the above studies, that is static ground tests and other acoustical data, indicated that it is technologically possible to retrofit aircraft to meet FAR Part 36. These studies strongly support your proposed additions to S. 3342.

While it is clear that the technology exists to mandate retrofit, the decision to either retrofit or retire should be left to the individual airlines. The language that is suggested would permit the owner of the aircraft to consider any option, that is, retrofit, retirement or other conforming use. We do not believe that the airlines can be burdened with the costs of retrofit or retirement to an extent that would seriously impair their financial position. It is very important that this country have a financially healthy national air transportation system. Several different approaches exist for providing financial assistance to an aircraft owner if that assistance is needed or requested. They include: accelerated tax depreciation benefits, Federal funding and loan guarantees, or a small increase in passenger ticket and cargo waybill user charges for the short period of time required to assist in financing the above options. Another economic consideration which must be considered is the great boost that a decision to retrofit, or replace noisy aircraft, would give to the sagging aerospace industry. We believe that your second concept requiring that new types of aircraft manufactured after January 1, 1975 meet either the best available technology or, at a minimum, a noise level 15 EPNdB lower than Part 36 is a laudable goal.

In summary, we believe that the proposal to require that all aircraft after January 1, 1976 meet FAR Part 36 in an excellent one. We further support the proposal for setting a goal of reducing the noise by 15 EPNdB within three years. I would refer you to our more detailed presentation before the Subcommittee on Air and Water Pollution on April 13, 1972 at which time we discussed at some length our support for these proposals. There must be action now to reduce aircraft noise pollution. We believe that the best way to accomplish this without incurring further delays is to mandate the agency which is conducting investigations and studies in this field at this time to issue such regulations. This would be the Federal Aviation Administration. Further delays in the implementation of aircraft noise regulations only increase the grave threat that noise pollution presently poses to our national air transportation system.

Sincerely,

J. DONALD REILLY,
Executive Vice President.

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY,
New York, N.Y., September 18, 1972.

Hon. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR TUNNEY: Thank you for your letter of September 12, concerning proposed changes to the noise pollution control bill (S. 3342).

We believe that language such as that suggested in your third paragraph is essential if the new bill is to result in timely and effective reduction of aircraft noise. The best information available to us indicates that January 1, 1976 is a reasonable target date for a retrofit program if action is started now. Of critical importance, however, is the development of a financing program for the capital required to accomplish retrofit. Without Federal Government leadership in this area, I am afraid that retrofit will be jeopardized.

The suggested limit of 15 EPNdB below FAR Part 36 seems excessive for the present state of the art. The joint DOT-NASA "CARD" Study indicated that a 10 dB reduction seemed feasible within 10 years. We suggest that, in the language of **Part 36, new aircraft** for which *application* **for a type certificate** is submitted on or **after January 1,** 1975, be required to meet **noise levels at** least 10 EPNdB lower than those of present Part 36. Only by early action of this sort can the public be assured that developing technology will be applied to further noise reduction rather than increased payload and range.

Thank you for the opportunity to comment on these aspects of S. 3342.

Sincerely,

NEAL R. MONTANUS.

CITY OF SAN JOSE,
San Jose, Calif., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Your letter of September 8, 1972 to Donald Reilly of Airport Operators Council International relative to S. 3342 has come to my attention. I enjoyed our meeting at Oakland Airport when you met with RASSC relative to our Bay Area Systems Study. I feel rather strongly on the subject and would like to comment further. I would like to offer you a summary of recommendations, my credentials, and discussion giving reasons for the recommendations. In summary, it is technologically and economically feasible to accomplish these recommendations. It is specifically recommended that:

1. FAA be required to establish a retrofit trust fund with the monies to come from a national enplanement tax levied against the air passenger;

2. That the FAA establish a formula for paying for the retrofit, said formula to consider cost of retrofit and tax credits:

3. The retrofit program be as follows:

(a) That existing aircraft not now meeting FAR 36, be required to have nacelle retrofits and meet FAR 36 by January 1, 1976, with funds from the trust fund;

(b) The same aircraft be required to re-engine or incorporate the new NACA front fan treatment by January 1, 1979, with funds from the trust fund;

(c) That both (a) and (b) may be accomplished by January 1, 1976 if desired by the air carrier, with total payment to come from the trust fund formula;

(d) That in lieu of retrofit, an air carrier may choose to retire existing aircraft from service, in favor of purchasing new, quieter aircraft, and that in such cases, the equivalent of retrofit be awarded from the trust fund to the air carrier toward purchase of the new aircraft;

4. That any language relative to new aircraft be explicit to include new aircraft, regardless of country of manufacture.

As to my credentials, I graduated from the University of California at Berkeley, with a BS degree in Mechanical Engineering, with an aeronautics option. I am a registered Professional Engineer in the State of California. I served four years as a naval aviator, flew airline with Pan American, spent five years as an experimental test pilot with the National Advisory Committee for Aeronautics (now NASA) and North American Aviation, and twenty-five years as Airport Manager. I served as an airport representative on the Aeronautics and Space Engineering Board ad hoc study advisory committee which resulted in the joint DOT/NASA civil aviation R&D policy recommendation. I have kept in close contact with my former associates at NASA and feel I have fairly good knowledge of the state of the art of research and development.

To solve the problem, we ask what is technologically and economically feasible. The airlines say they cannot afford to retrofit and they cannot. We would take the position and state that aircraft must be retrofitted (including new front fan treatment) by a given date, then if we say how to finance it, we will have the solution. The NASA–GE quiet engine research program has yielded noise reductions greater than anticipated when the contract was let. We know that noise can be reduced to about one-fourth of what it is now and, in the case of the 707 and DC–8 aircraft, the noise footprint under the 90 PNDB contour can be reduced from the present 47,500 acres to about 3,000 acres. If all air carrier aircraft today were equipped with this new generation of quiet engines, I believe that every air carrier airport in the United States would be environmentally acceptable from a noise standpoint. This then states that by some year, say 1985, we will have an environmentally acceptable industry. The problem is, then, how do we live until that time, I believe that a strong, firm act by the Federal Government, such as you are proposing, is our only salvation.

We have plotted the noise contours for the San Jose Municipal Airport and have determined that we can meet State of California noise requirements, and have no residency inside the 65 CNEL curve by purchasing houses in the immediate vicinity of the Airport, and by having all aircraft equipped with the new generation of quieter engines. Thus, the current state of technology has reached the plateaus of offering known solutions. With continuing research, even greater strides can be made for the future.

If your bill would provide the means of financing retrofit, then it might offer a clearer method of solving the problem. If society has to pay for noise reduction, then the user should be given the opportunity to pay for that reduction. A passenger head charge of say $1.00 per passenger would currently generate some 175 Million Dollars annually. The money could be borrowed against this revenue which yields 1.75 Billion Dollars. I agree with James Carr that the airline passenger should be given the chance to pay to reduce the noise and thereby improve the environment.

The acoustically treated nacelle and the new treated front fan installation could be financed by this method by having the FAA levy an enplanement tax, with the proceeds to go to a trust fund to pay for the retrofit. As James Carr has pointed out, the equivalent of the retrofit cost could be given to an airline if a noisy aircraft is retired, and new aircraft meeting new noise standards is purchased. This is an economical and not a technological problem. This alternative would help modernize our air fleet and would stimulate our air frame and engine industry.

For the above reasons, I support the addition of language that requires all aircraft to meet Part 36 by January 1, 1976. We know how to do it and it can be financed by a user tax.

I think there might be some problem in requiring retrofit of aircraft manufactured after date of enactment to meet the noise level of 15 EPNdB by 1976. I would suggest that 10 EPNdB by 1975 would be more realistic criteria. If the criteria is too severe and applies only to new types of aircraft, it might tend to discourage design and development of new aircraft unless some premium or assistance were offered. It would be more economical to continue to manufacture the same aircraft. I suggest that the language state that *new* aircraft manufactured after January 1, 1976 be clarified to include aircraft, regardless of country of manufacture, or the foreign manufacturers would have an unfair advantage over United States manufacturers.

I further suggest that the 707 and DC–8 aircraft can be reasonably retrofitted with acoustically treated nacelles, and retirement may be more attractive than subsequent engine retrofit; however, that would be the airline's decision. The B–727, 737 and DC–9 are expected to be with us well into the 1980's. I suggest that the nacelle retrofit as you propose be required by January 1, 1976 and that the new NACA front fan be required by January 1, 1979, with the airline having the option of doing both by January 1, 1976 if they desire, with payment being made from the new trust fund. This would result in a mix of aircraft that by 1980 would consist principally of a re-engine 727, 737 and DC–9, wide body jets and some new aircraft with the new generation of quiet engines. The DC–8 and 707 will probably be retired in favor of the new aircraft with quieter engines. This would result in a positive program that would stimulate the aircraft industry and would give the general public which must endure the noise relief with programmed reduction for the future. The user would pay the tab and the United States would set the pattern for the rest of the world to follow. The rest of the world is waiting for the United States to come to grips and solve the noise problem before they take a hard stand. This has come to light at international meetings on the noise problem.

Specific recommendations were presented at the start of the letter and I appreciate the opportunity to offer my comments to you.

Very truly yours,

JAMES M. NISSEN,
Airport Manager.

GENERAL ELECTRIC CO.,
West Lynn, Mass., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

Attention of: Mrs. Jane Frank, Legislative Assistant.

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of September 8 addressed to Fred J. Borch requesting specific comments on the current state of engine noise technology with respect to retrofit of the older aircraft types, retirement of these aircraft and their replacement by the new quieter types, the appropriateness of the FAR36 noise standard for all aircraft landing at U.S. airports after January 1, 1976 and FAR36 minus 15 EPnL for new aircraft types by January 1975. I have not attempted to address myself to the specific language of your Bill but rather to the basic issues raised in your letter.

As you indicate in your letter, different approaches to the noise problem may be appropriate for the different classes of aircraft.

I believe that the 707/DC8 fleet represents the greatest problem and is the main source of complaints (for such major airports as JFK and Los Angeles). The first attached noise footprint chart illustrates this problem. I am not aware of any practical way to retrofit their current engines by nacelle treatment alone to achieve FAR36 noise. NASA is now financing a technology program to test a redesigned fan section for these engines which might show the technical feasibility of retrofitting the 707/DC8 with these quieter engines plus new nacelles and reversers. While we believe that it might be technically possible for such substantially modified engines and nacelles to meet FAR36, we believe this approach will prove to be a very poor investment for the industry and the Government. These airplanes are already obsolete.

A much better and proven solution to the 707/DC8 noise problems already exists in the DC10/L1011/ and 747 series of wide-body jets. These modern aircraft, incorporating the latest in noise reduction and smoke reduction technology have already been certified at noise levels below FAR36. The aircraft types using the General Electric CF6 engine in the 1971–1976 time period including the DC10–10, DC10–30, 747–300, and A300B have noise levels ranging from 3 to 7 EPnL below FAR36 on a traded basis. This is a huge improvement over the 707/DC8, as shown in the second chart attached, and is much quieter than is possible with 707/DC8 engines retrofitted with new fans, nacelles, and reversers. I believe that it would be much more sensible for the Government to find ways to accelerate the retirement of these old aircraft in the 1973–1978 period and replace them with the modern quieter aircraft available.

The smaller aircraft such as the 727/DC9/737 can be approached in a different way. We believe it is possible for this class of aircraft to have their nacelles modified in such a way that FAR36 can be met and that their noise footprints could be reduced with proper consideration of takeoff and approach aircraft operating procedures (such as power cutback and 2 segment approaches). Whether engine retrofit of the existing aircraft fleet is sensible is another matter—particularly if the dominant 707/DC8 noise can be handled by replacement with available quiet wide-body transports, and if 727/DC9/737 noise footprint areas can be ameliorated by operating procedures alone.

With regard to the retrofitting of the 727/DC9/737 fleet with their existing engines rebuilt with new larger fans (development of which is now funded by NASA) plus new nacelles and reversers, we believe that this approach will also prove to be a very poor investment for its incremental noise improvement. Here again, it appears to me that the wiser and more effective solution lies in the new aircraft types using high bypass turbofans such as the CF6 or the new 20–25 000# thrust turbofans now under consideration which will replace the 727/DC9/737 fleet. Typical noise levels for such new aircraft are shown on the third chart.

These new twinjets and trijets in the 150–180 passenger short to medium haul category certificated in the 1976–1978 period may be able to meet FAR 36 minus 10 EPnL. Although this has not yet been achieved in an economically attractive way, it is our goal and we are making progress toward it. We consider FAR36 minus 15 EPnL out of reach for the 1970's, and furthermore, doubt that there is a need to achieve this level when operating from current airports.

In summary, I would like to emphasize that I believe that the real problem of resolving the current noise situation with respect to meeting FAR36 on any accelerated time schedule such as you propose is primarily one of economics—not technological. This real problem is not being addressed, in my opinion. The DC 10/L1011 and 747's can solve most of the public problem—the question is how to get many more of them in service sooner. Revised aircraft operating procedures can help 727/DC9/737 noise now; newly manufactured 727/DC9/737 could have nacelle treatment added and new types of short and medium haul twinjet/trijet transports with high bypass turbofans will completely solve the noise problem posed by this class of aircraft in the post 1976 period. The U.S. Government should concentrate more on helping to modernize the U.S. fleet with new wide-body high bypass turbofan powered transports than on the modification and retrofit of obsolete engines and aircraft. If such a solution can be found, it would be the best solution for noise, pollution, passenger comfort, U.S. sales/jobs/balance of trade, and the general health of the aircraft and airline industry.

Sincerely,

Gerhard Neumann.

Gilbert, Segall & Young,
New York, N.Y. September 14, 1972.
Senator John V. Tunney,
Committee on Public Works,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: I have your letter of September 8, 1972 concerning S. 3342. Unfortunately, this did not reach me until yesterday, after being forwarded through Washington and New Jersey. You will recall that your letter was addressed to me as President of Rolls-Royce, Inc., 45 Rockefeller Plaza, New York 10020. Rolls-Royce, Inc. has since 1969 had no connection with aviation, and is strictly an importer and distributor of Rolls-Royce and Bentley motor cars. It has not been located at 45 Rockefeller Plaza for some years, and I no longer have any association with it or its parent company in England.

I am, however, U.S.A. counsel for Rolls-Royce (1971) Limited, of London, Derby and Bristol, England, which is the successor to the gas turbine business of Rolls-Royce Limited, and for its subsidiary, Rolls-Royce Aero Engineers, Inc., of which I am also a Director. The address of Rolls-Royce (1971) Limited headquarters is 14–15 Conduit Street, London WIA 4EY, England. The address of Rolls-Royce Aero Engines, Inc. is 551 Fifth Avenue, New York, New York 10017.

Since receiving your letter yesterday I have learned from Mrs. Frank and Mrs. Deller that the time schedule has been speeded up so that you require comments by Friday, September 15, 1972, rather than Monday, September 18. I had hoped to make a truly useful reply to your inquiry, but unfortunately the time is really too short to do this.

Perhaps, however, I can respond in a general way to certain aspects of your inquiry.

1. It would appear to me that noise limitations upon the operation of aircraft should remain with the Federal Aviation Administration rather than the EPA. I say this because the nature of the problem requires careful consideration of problems far beyond the normal concerns of the EPA. From the nature of the matters to which your letter addresses itself I infer that, to some degree, you may agree. I suggest, therefore, that the bill should not vest sole authority in the EPA, but should leave it primarily in the FAA which is currently engaged in very comprehensive studies of all aspects of the problem.

2. I would not think that it would be wise to provide by statute that no aircraft can land at U.S. airports after a fixed date unless certain specific noise level standards are met. Rather, I think that the authority to fix and enforce noise level standards should be left primarily to the FAA. To impose a rigid statutory rule with rigid dates would, to my mind, lead to very unfortunate complications, both with respect to the entire aviation industry and all U.S.A. commerce, and with respect to the commercial relations between the U.S.A. and foreign countries into which U.S. carriers fly.

3. Similarly, because of the complexity of the problem I would not think that the imposition by statute of arbitrary noise limits would be desirable. Rather, I would think that the best results would be obtained by leaving the matter primarily to the FAA, which is the expert public agency capable of taking into account all of the necessary considerations. Further, the dates and standards the bill would set appears to me to be very optimistic on the basis of present knowledge, though I recognize that predictions in this area are very difficult.

4. As to your specific inquiries, it is not possible on such short notice for me to give you useful responses. Beyond that, I do not believe that there is sufficient data presently available concerning retrofit, the cost of retrofitting, lend times and procedures respecting specific types of aircraft. One can only be sure that retrofit of older aircraft, including, as you suggest, new front fan treatment, would be enormously costly and disruptive, but it would be premature to make any dependable estimate along these lines. Rolls-Royce, of course, like other engine manufacturers, is expending great efforts with respect to those of its engines which power commercial aircraft. These include the Spey engine on the BAC 111 and Gulfstream II (efforts concerning the Spey being the subject of an article in Aviation Week for September 4, 1972), the Dart, which powers various types of aircraft, including the FD27, the Grumman Gulfstream I, the Viscount and others. The Conway engine, which is installed on the VC–10 and certain models of the Boeing 707 and Douglas DC–8, is not in service with any U.S. airline. All of the aircraft powered by Rolls-Royce engines do, however, utilize U.S. airports in international travel. The RB 211, which is installed on the Lockheed L–1011, is, of course, a new technology high thrust engine with outstanding noise characteristics, and it does not, I believe, fall within the ambit of your inquiry.

In a nutshell then, aside from my being able to make the remarks above, I do not think that there has been time enough to collect reliable data and to put it in a usable form for you. I am not at all sure that even if more time were available I would be able to give you comparative costs of retrofit and retirement and replacement, nor do I believe that I could make informed comments concerning aircraft which are powered by engines other than Rolls-Royce. I regret that I cannot do more at this time. If developments are such and the time available is expanded so that we can be of assistance in the future, and if we can be given sufficient advance notice to permit the development of appropriate data, we shall certainly do our best to assist you in any way we can.

Yours sincerely,

Phil E. Gilbert, Jr.

Lockheed Aircraft Corp.,
Burbank, Calif., September 14, 1972.
Hon. John V. Tunney,
U.S. Senate,
Committee on Public Works,
Washington, D.C.

Dear Senator Tunney: We at Lockheed have been doing everything in our power to see that our new L–1011 transport has as low a level of noise as can practically be reached, and we are working hard with propulsion manufacturers and NASA seeking out any new ideas which will improve urban acceptability of future airplanes. I think we have demonstrated that a new "good neighbor" transport can be developed without destroying the inherent efficiency which has made our air transport system a mainstay of the national economy, and our aircraft the major element in sustaining our international balance of trade. I believe that the low certificated noise levels and our worldwide demonstrations of the L–1011 attest to the success of our efforts.

We appreciate the opportunity which you have afforded us to contribute our thoughts toward rational legislation for improving the over-all acceptability of an airport within a community, and we recognize that more must be done. Addressing the points which you have outlined in your letter, we have the following comments:

STATE OF TECHNOLOGY

Knowing that we would have to work within the framework of legislation and regulations when we first addressed the problem of reduced aircraft noise, we, with the rest of the Industry, pointed out that it was impossible to create products with design lead-times of three to five years, followed by production durations of ten to fifteen years, against a "floating target" for required noise performance.

Although our L–1011 has bettered current noise standards by several EPNdB, we see no reasonable way to achieve a 15 EPNdB improvement over Part 36 as your letter suggests. We have no promising clues to pursue and must await the results of research programs that have as yet not been formulated. The CARD Study done by the Department of Transportation suggested the possibility of 10 EPNdB below Part 36 might be possible in 1980. We believe that this is a reasonable target for certification of a new airplane, even though we still do not know how to achieve this goal with a practical design.

In our efforts to set targets for incorporating improvements as the state of the art changes, the legislation should identify potential *certification* dates rather than new airplane *delivery* dates. It is not clear in your letter whether "new aircraft types manufactured after date of enactment . . ." refers to any new airplane or only to new airplane types *certified* after enactment. If it means "all new aircraft manufactured" this will result in the shutting down of programs which fulfilled all regulations at their inception, and for which contracts have been entered into.

SPECIFIC REQUIREMENTS FOR NEW AIRCRAFT

Your suggestion that the regulations be lowered 15 EPNdB for any new aircraft type manufactured after date of the enactment of the legislation leads to major inconsistencies in the permissible noise levels of "old" and "new" aircraft. It would:

a. Allow the manufacture and operation of older type airplanes indefinitely utilizing a refanned powerplant or modest suppression techniques only meeting Part 36 noise requirements.

b. "New aircraft types", on the other hand, would have to meet a sound level 15 EPNdB below Part 36 by January of 1975. This would, in effect, force redesign of current wide-bodied aircraft now sold, all of which have utilized everything practically available in the state of the art to improve noise performance. In Lockheed's case, this would affect 100 to 200 airplanes which now are under firm contracts, or second buys, or additional follow-on airplanes from present customers.

c. If your reference to "new aircraft types manufactured . . . actually means "certified" after enactment, there is still a major problem with new versions of present designs, such as twin conversions, long-bodied modifications, extended range conversions, and similar models. These would all have to incorporate entirely new powerplants, and since we do not know how to meet a 15 EPNdB reduction, any such extension of our current models would be effectively stopped.

RETROFIT

Although Lockheed does not have current large transport aircraft which exceed the maximum noise level standards of Appendix C of Part 36 of the Federal Aviation Regulations, we recognize that most of the existing operational transports and some current production transports and business aircraft produce noise levels well above the regulations.

We also recognize that the airlines are in no financial position to modify these airplanes, even if a powerplant existed which would bring them into full compliance. The extent of the problem is dramatized by the estimates of research and development for such a powerplant installation that vary between $100 million and $200 million. To this must be added retrofit costs that approach $2 million for each four-engine transport. It is our estimate that between 400 and 500 of these airplanes would still have a useful economic life by January of 1976, all of which suggests that development and retrofit costs might approach $1.25 billion to bring these aircraft into noise compliance—a cost which the airlines and the aircraft manufacturers could not afford without major compensating increases in revenue.

This estimate does not include retrofit of the smaller twin and trijet transports which would certainly average $300,000 to $500,000 per aircraft. We estimate that approximately 1300 of these would still have an economic future in January 1976, and retrofit of this number would therefore be nearly another $700 million.

By introducing these costs, we do not wish to leave the impression that we oppose retrofit; we only want to emphasize the financial impact of the legislation which you propose, and to suggest that normal channels for financing such an endeavor do not exist to our knowledge.

It is our opinion that the best approach to retrofit is by the use of a new fan on existing four-engine aircraft to increase the bypass ratio of the powerplants. We believe that the alternate concept of massive muffling of present powerplants which are inherently noisy leads to major cost burdens and inefficiency as well as excessive operational difficulties. This same comment holds true when the use of similar massive suppression is proposed to achieve the very last dB of more modern engines which are quiet to begin with. Modern high bypass engines could, indeed, be further suppressed, but the noise alleviation is so small that it probably would be unrecognizable by the community. Furthermore, it is obtained at a cost in operational economy which will make new aircraft unattractive to domestic investors and foreign purchasers alike.

In summary, we recognize and applaud the national emphasis on aircraft noise reduction. The Industry, without special financial assistance from the Government has made monumental efforts to respond, and is now delivering "quiet" aircraft which have retained the earning power to make them attractive to domestic and foreign airlines. The problem now is to bring the existing airline fleet into compliance with the new noise standards which have already been set. This will require Government financing in some form, and the dates for accomplishment must be compatible with this financial support to prevent a disastrous turmoil within our air transport system. We urge that the creators of new legislation recognize the strides we have made, and address the real problem of making our existing fleet suitable for the community. We also urge that the setting of goals for future development remain with the FAA (DOT), ably supported by the technical talent within NASA.

Very sincerely yours,

D. J. Haughton,
Chairman of the Board.

The Boeing Co.,
Seattle, Wash., September 18, 1972.
Hon. John V. Tunney,
U.S. Senate, Committee on Public Works, Washington, D.C.

Dear Senator Tunney: Your letter of September 8, 1972, poses many complex questions that are of vital interest to all parties concerned with aircraft noise. The timing of your request and the complexity of the questions make complete answers difficult if not impossible. My first impression is that passage of a law with the language as suggested in your letter would inevitably bring air transportation, as we know it today, to a standstill.

My second impression is that legislating technology and schedule of accomplishment is unsound. There exists today industry and government sponsored research work aimed at producing a valid decisionmaking base. It is not clear how new legislative acts can establish both levels and schedules for noise reduction before government and industry can develop the technology required to do the job. It seems there is risk of establishing a law that is not enforceable.

Your proposal to require all aircraft landing at U.S. airports to meet Appendix C noise levels by January 1, 1976, could have a far reaching impact. It would stop a major portion of domestic and international air service. There is no apparent way the current JT8D and JT3D fleet of commercial aircraft could be retrofit or replaced by January 1, 1976, as you suggest, regardless of research and development funding or monetary support to the airlines.

The suggested 15 EPNDB reduction by January 1, 1975, cannot be commented on unless the specific meaning of "new aircraft types manufactured after" is interpreted. If this includes 747, DC–10 and L–1011 aircraft types, it would stop production of these new quieter airplanes. If the requirement applies only to future new type designs, it would stop development of new designs until that required noise reduction technology could be developed. Although certainly later than 1975, the timing for this accomplishment is unknown and is completely dependent upon an adequately funded research program. In either case, the noise reduction capability to accomplish this objective does not exist today.

Boeing is taking part in both the nacelle retrofit feasibility program and the new front fan program. Our original estimate for the required new front fan R&D was for about 130 million dollars. We most emphatically endorse pursuing the new front fan concept because of its great promise for meaningful noise reduction as well as airplane performance improvement. However, we are extremely concerned that a partially funded program will not produce timely results.

As you may know, the Aerospace Industries Association (AIA) has been opposed to giving prime responsibility to the EPA for prescribing and amending aircraft noise standards. We consider it inadvisable and potentially dangerous to the traveling public, as well as those living under flight paths to give authority to a new agency to rule on matters that can affect flight safety. Today air transportation has an enviable flight safety record and no action should be taken that puts this in jeopardy.

I share the frustrations that exist relative to the noise problem. Currently we have over 400 scientists, engineers and technicians at Boeing directly involved in noise reduction research and development. The attachment to this letter contains a summary of expenditures at Boeing since 1958 on noise reduction research. Over 43 million dollars of Boeing funds have been spent on this problem. Even though we have made significant progress through the use of these resources, the greatest lesson we have learned is that the problem is complex; and that simple, fast, inexpensive solutions do not exist.

Although not answering your questions to the extent I'm sure you desired, I hope these comments might be of help to the Public Works Committee in their deliberations on this very significant legislation. My recommendation for alternate rule language would be to suggest funding programs at a level to accomplish noise reduction to the extent technically feasible and at the rate the Congress and the Nation desires.

Very truly yours,

T. A. Wilson.

[Attachment.]

BOEING NOISE REDUCTION RESEARCH

[In millions of dollars]

	Boeing R. & D.	Government contract	Total
Year:			
1958	0.601		0.601
1959	.106		.106
1960	.282		.282
1961	.472		.472
1962	.550		.550
1963	.310	0.022	.332
1964	.140	.330	.440
1965	1.384	.210	1,594
1966	2.528	.925	3.453
1967	3.197	2.484	6.661
1968	10.957	6.878	17.835
1969	8.508	2.873	11.381
1970	4.447	1.082	5.529
1971	3.594	9.788	9.382
1972	6.031	10.918	16.948
Total	43.107	32.460	75.567

Note: Above expenditures do not include production development costs fof airplane noise reduction activities totaling over $23,000,000.

McDonnell Douglas Corp.,
St. Louis, Mo., September 15, 1972.
Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: I am writing in response to your letter of September 8 addressed to J. S. McDonnell, concerning provisions of the noise pollution control act (S. 3342) introduced by you and Senator Muskie. Clearly there is too much noise around airports and we are determined to do our part to help.

The attached letter from Jack McGowen, President of our Douglas Aircraft Company, to Jack Shaffer, Administrator of FAA, in response to his request for informal comments on tentative FAA regulations in this area, is a good statement of our position.

I would like particularly to emphasize that the current state of the art in technology makes it impossible to promise today that commercially viable airplanes and engines can be produced which generate far less noise than the requirements of F.A.R., Part 36, without cost and other penalties in excess of what the taxpaying public will accept. Research and development can undoubtedly improve our ability to produce airplanes which generate less noise, but there is no way to reliably evaluate the cost of reaching specific quantitative goals until after adequate research, development, testing and evaluation has been accomplished. I therefore urge that the government place great emphasis on expediting the necessary RDT & E so as to establish what is feasible, and only then stipulate dates when mandatory accomplishment will be required.

The FAA has experience in regulations of this kind, whereas the EPA has little. We would urge that advantage be taken of such experience in establishing the requirements and their administration.

McDonnell Douglas is devoting a great deal of attention to the problem of noise. If you or your staff would be interested in having one of our technical specialists provide a briefing covering the many complex aspects of this problem, I would be most happy to arrange it.

Sincerely,

KENDALL PERKINS.

DOUGLAS AIRCRAFT CO.,
August 18, 1972.

Hon. JOHN H. SHAFFER,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR JACK: Your letter of August 11, 1972, in which you discussed a notice of proposed rule making that would require noise levels 10 EPNdB below FAR Part 36, for future production aircraft, has convinced me that you take the airport noise problem as seriously as I do. I really believe we must think in such terms if we are to achieve an air transportation system that meets the requirements for compatibility with communities around our airports.

I'm not suggesting that we know how to accomplish reductions which are in all cases as large as 10 EPNdB, nor am I suggesting that we could accomplish significant reductions by July 1, 1976. However, I believe that the industry and the FAA should get together to determine the noise reductions that can be accomplished and the time required to accomplish them. A quick look at our DC–10 would say we might be able to achieve noise levels between 5 and 10 EPNdB below FAR 36 depending on the reference location. Some of our research programs with your organization and with the NASA may also lead to similar possibilities for the low bypass ratio turbofan powered aircraft. Perhaps additional research may lead the way to the full 10 EPNdB below FAR Part 36.

One word of caution. All our studies show that regardless of how quiet we make the future production aircraft, the overall community noise situation will not benefit significantly until something is done to also reduce the noise of the JT3D and JT8D powered aircraft now in the fleet. Those aircraft must be considered along with future production aircraft. We recognize that the airlines do not have the resources to pay for a noise retrofit program and investigations to develop means of financing such a program should be conducted along with the research to develop the technology.

Frankly, I believe that other modifications to Part 36 that are currently being considered, such as temperature/altitude accountability and requiring future production aircraft to meet Part 36 offer no help to the noise problem and should be dropped in favor of a single modification to Part 36 which addresses the total problem and requires that all practical steps be taken to solve it. I would pledge my support to a program to develop such a modification.

We, at Douglas, will be most happy to work with you and your people both directly and through the Aerospace Industries Association to find solutions to this most serious problem.

With best regards.

Sincerely,

JACKSON R. MCGOWEN.

UNITED AIRCRAFT CORP.,
Hartford, Conn., September 16, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: In your letter of September 8, 1972, you asked for comments on proposed changes by the Senate Public Works Committee to the aircraft noise control provisions of the noise pollution control act (S. 3342). As indicated in your letter, it is proposed that all existing aircraft comply with the maximum noise level standards in Appendix C of FAR Part 36 after January 1, 1976, and that all aircraft which could not be retrofitted economically to comply be replaced by a new generation of quieter aircraft. It is also proposed that new aircraft types manufactured after January 1, 1975 meet a noise level at least 15 EPNdB lower than FAR Part 36.

Because of the very short response time requested in your letter, my comments must be brief and general in nature since there is insufficient time to provide in-depth replies to your proposals.

We do not believe it is possible, either technically or logistically, to retrofit or replace current aircraft with quieter versions meeting FAR 36 noise requirements by January 1, 1976. The existing fleet of aircraft in question currently provides approximately 80% of the present U.S. domestic seat capacity, and we estimate that in 1976 these aircraft will still represent approximately 60% of the domestic seat capacity.

Both the FAA and NASA are funding extensive programs to establish noise reductions possible on 727, 737, DC–9, 707 and DC–8 aircraft through a retrofit program. The FAA retrofit feasibility program includes nacelle acoustical treatment and jet suppressors while the NASA program includes nacelle treatment and new front fan engine modifications. Most of the JT8D powered aircraft (727, 737 and DC–9) could probably be retrofitted with nacelle treatment alone to meet the noise limits of FAR 36. Because these aircraft are at present so close to meeting the FAR 36 requirement, however, the improvement resulting from such action would hardly be perceptible to the human ear, and thus would not provide any appreciable noise relief to the airport communities. The current FAA and NASA programs are planned to accomplish reductions in jet noise as well as fan noise for both JT8D and JT3D powered aircraft in order to obtain meaningful community noise reduction. Provided these programs continue at adequate funding levels, a decision on the appropriate action for a retrofit program is expected by late 1973 or early 1974. On this basis, aircraft retrofit could not be initiated sooner than 1976 or be completed earlier than 1979.

With regard to the proposal that current aircraft which cannot be economically retrofitted be replaced with new generation quieter aircraft already under construction, there are no new quiet aircraft under development to directly replace the smaller 727/737/DC–9 class of aircraft or the 707/DC–8 aircraft serving low density routes. Such new aircraft are not likely to be available in quantities earlier than the 1980's.

In the case of new aircraft/engine designs, industry does not have in hand either the technology or adequate funds to accomplish a noise level 15 EPNdB lower than FAR Part 36 for aircraft manufactured after January 1, 1975. With strong government support, the technology may be developed during the next few years to accomplish a noise level 10 EPNdB lower than FAR Part 36 for aircraft manufactured in the late 1970's or early 1980's.

We strongly recommend that prior to establishment of aircraft noise standards for future application, a joint task force, consisting of FAA, NASA and industry personnel, be established to recommend the noise levels which can be practically achieved within the 1970 and 1980 time periods. We further recommend that the FAA, for reasons of safety, be continued in the primary role for regulation of aircraft noise, with the EPA taking the advisory role.

As I am sure you know, the United States airlines have been suffering severe economic problems for several years. The financial burden of any prescribed retrofit program which provides no economic return to the airlines presents a major obstacle to its accomplishment, and may require that the government plan a significant role in making such a program financially possible.

Please be assured of our vital interest in the noise reduction question. We appreciate the opportunity you have afforded us to comment on your proposal, and we would be pleased to participate in further discussions or in any task force established to further define future requirements for noise certification.

Sincerely,

B. H. TORELL,
Division President,
Pratt & Whitney Aircraft Division.

NORTH AMERICAN ROCKWELL,
El Segundo, Calif., September 15, 1972.

Hon. JOHN V. TUNNEY,
Committee on Public Works,
U.S. Senate, Washington, D.C.
Attention: Mrs. Jane Frank

DEAR SENATOR TUNNEY: In Bob Anderson's absence, I am replying to your letter of September 8 asking for our comments on the additions which are being proposed to the noise pollution control act (S. 3342).

We are, of course, in general agreement that control of airport noise is an important objective and believe that industry would welcome assistance from the Government in the further development of noise abatement technology. However, in view of the present state of the art, we do not believe it is desirable to incorporate firm requirements in federal legislation at this time.

The specific questions which you have asked concerning the technical and economic aspects of retrofit can better be responded to by those companies who manufacture commercial aircraft. Our endeavors have been limited to general aviation aircraft. Airplanes of this type are a smaller part of the overall aircraft noise problem which is dominated by the large commercial aircraft. For one thing, it is not clear what portion of the airport noise problem results from the operation of general aviation aircraft. In this connection, we would particularly welcome the opportunity to work with Government agencies to develop the information necessary to determine the kinds of constructive actions which would be required.

Most of the engines for general aviation aircraft are well over ten years in production, and there are few practical engines in the 3,000-pound to 4,000-pound thrust class that would be available in the next few years. For engines in this class, we believe there is limited technical information available with respect to noise reduction. This has contributed to the impracticality of working up economics of retrofit or retirement and replacement.

In general, taking into account the wide spectrum between very small general aviation aircraft and the large commercial airliners as well as the limited technology regarding noise abatement, we believe that it is premature to establish absolute standards by legislation and that the flexibility permitted by regulatory rather than legislative control is desirable. A further point we would make is that separation of authority over noise control from responsibility for operational safety could lead to safety problems.

I am sorry that the timing of action by your committee on this bill does not permit us to give you a more extensive reply.

Sincerely,

WALLACE W. BOOTH.

AEROSPACE INDUSTRIES ASSOCIATION
OF AMERICA, INC.,
Washington, D.C., September 14, 1972.

Hon. JOHN V. TUNNEY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: We are in receipt of your letter of September 8, 1972, informing us of proposed amendments to S. 3342 calling for new aircraft noise reductions.

First, it is the firm finding of our member companies, which make up the bulk of the transport aircraft manufacturing industry and as such are amply qualified to make such judgments, that the new aircraft noise reduction schedule of 15 EPNdB below the Part 36 standard by January 1, 1975, proposed in your letter would be impossible to achieve. A 10 EPNdB reduction by 1981 was suggested by the Civil Aviation Research and Development Policy Study (CARD) published by the Department of Transportation. Industry considers this an attainable goal, providing the costly technological development involved continues to receive appropriate funding, public and private.

Second, to prohibit any aircraft which does not comply with the maximum standards in Part 36 by January 1, 1976, from landing in the United States could have the practical effect of ending commercial air service here as of that date.

It is difficult to believe that diminution of progress in either of these areas is the intention of the Committee on Public Works. It would certainly seem that further study of these proposed measures would be in order.

For instance, in response to your inquiry about the current state of technology with respect to front fan treatment in addition to nacelle treatment we can refer you to a NASA contract awarded this year on this very subject. The engine in question is an experimental rather than a production model, however, and the results of that contract will not be available for three years. Furthermore, this is not the only relevant research now underway. As you must be aware, the transport aircraft and engine manufacturers have, at great expense, made tremendous reductions in aircraft engine noise during the past several years and are acutely aware of the need for further reductions. Unfortunately the availability of the technology to accomplish these additional decreases cannot be effectively legislated.

We urge you to delve into the existing knowledge on this subject and for your convenience include a copy of an article on the subject which appeared in the Association's Aerospace Magazine.

In addition, we would again recommend that the FAA, for reasons of safety, exercise the primary responsibility, in consultation with the EPA, for setting aircraft noise standards. In the present context, we would urge also that the standards-setting agency not be limited by legislated noise reduction goals.

Yours very truly,

Karl G. Harr, Jr.

American Airlines,
New York, N.Y., September 15, 1972.
Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: Thank you for the opportunity to comment on the proposed modifications to the Noise Pollution Control Act (S. 3342.) We are mindful of the need to help develop solutions to the noise problem. Our commitment to this goal is illustrated by the fact that American Airlines developed the noise abatement specifications that were built into both the DC–10 and L–1011.

Because of the admitted urgency of finding a solution to noise developed by our older aircraft, we have been studying this matter in considerable depth from both the technical and financial point of view. We have come to certain conclusions which I am pleased to pass along to you:

(1) We believe it is technically possible to modify aircraft now in service to meet FAR 36 specifications, if sufficient time is made available to do so.

(2) The cost of retrofit, even within the minimum time limits that we consider achievable, is beyond the capability of the airline industry to support, and would require public funding.

(3) The January 1, 1976 date is not feasible. The earliest achievable date in our opinion is January 1, 1978.

(4) There are promising options to reduce the noise level of operations at such points as Los Angeles by altering take-off and approach procedures. These revised procedures offer a reasonable hope for more prompt relief than could be accomplished through aircraft retrofit.

(5) The proposed January 1, 1975 requirement for new aircraft to comply with FAR 36 minus 15dB is unrealistic.

Regarding conclusion (1), we believe that with the knowledge and material available to us today, it appears possible to develop a modification for each type of aircraft now in service so that compliance with these levels can be obtained. This cannot be done, however, without adequate time to design and test the specific hardware to be used. The retrofit design must not only produce the required noise levels, but must also be thoroughly tested to assure continued operational safety and reliability required to maintain airline service in the public interest.

To avoid unnecessary waste of resources, it is necessary to determine which retrofit approach is most effective and desirable. As you note in your letter, there are two basic approaches to noise reduction now being funded by the government: the nacelle and jet suppression treatment and the new front fan design. The latter approach is most desirable from an operational point of view, but it is already clear to us that the conversion cost is much higher. Given the magnitude of the retrofit problem, it would be unconscionable to make a forced choice between these two approaches until thorough testing of both solutions have been completed. This process can be expected to take at least two years at the rate at which the government has been funding these studies.

When the preferred approach is determined, our engineers estimate that it will take at least three years from the time of delivery of the first kit to install a modification on our complete fleet, assuming that all air carrier airplanes were simultaneously modified. The cost to our industry of attempts to speed up this time span increases at an enormous rate and I would estimate that our costs would double if, for example, a two-year time period were required. For the same reason, a considerable reduction in cost would be possible if the time period were extended.

With regard to conclusion (2), the cost of retrofit, we estimate that to comply with these programs by January 1, 1978, which we believe to be the earliest achievable date, the cost to the American Airlines would range from $120 to $315 million, depending on whether nacelle treatment or a new front fan approach is chosen. We believe these figures, expressed in 1972 dollars, are accurate to within plus or minus 20%. American Airlines cannot conceivably fund a program of this magnitude. The suggested alternative, which is to replace these airplanes by that date, is also unworkable. We would be required to retire ninety-seven 707-type aircraft. Even assuming that our route structure and traffic demand would permit replacement of the lift provided by these aircraft with DC–10's (which is not the case), we would have to purchase fifty-seven new DC–10's at a cost of approximately $1.1 billion. Faced with these staggering costs, which we believe are entirely realistic estimates, I cannot in any good conscience support a retrofit program of this nature, unless it is accompanied by an outright financial grant to make this modification in the public interest.

The foregoing explains the basis for our conclusion (3) that the proposed January 1, 1976 date is not feasible. If we were required to comply with FAR 36 by January 1, 1976, it would be impossible for us and other airlines to meet the public need for transportation and the requirements of our certificates of public convenience and necessity. Under such restrictions we could not provide service on a majority of the routes we are certificated to serve. While it is more difficult and time-consuming to modify some types of aircraft than others, the January 1, 1976 proposal is, in my opinion, impossible to achieve.

Regarding conclusion (4), we believe that strict compliance with FAR 36 by engine or nacelle retrofit may not be the most effective way to reduce noise. There are several promising options to reduction of noise level by altering take-off and approach procedures. We have already implemented new take-off and approach procedures which have reduced noise exposure, but considerably greater progress can be achieved, we believe, through our program of active testing, with support from NASA, of two-segment approach procedures. We believe it can already be established that noise relief of the magnitude you seek is possible by the use of this technique. This approach offers the best hope, in my opinion, of reasonably prompt relief in the Los Angeles area.

Noise abatement achieved by revised approach procedures could resolve a significant concern over another aspect of the retrofit proposal. Specifically, the difference between the current noise levels of certain aircraft (in our case the 727's) and the requirements of FAR 36 will be so minimal as to be almost imperceptible to the public. It would be a tragic waste of resources to effect this retrofit only to find that the public wholly unsatisfied. Relief through modification of approach procedures may consequently offer a better solution than retrofit, both in terms of cost impact and more prompt conformity with FAR 36. This is certainly true with respect to the quieter of the older aircraft, such as the 727's, and might provide an acceptable solution to the problem of the 707 and DC–types as well.

Regarding our conclusion (5) the proposed requirement that new types of aircraft to be manufactured after January 1, 1975 comply with FAR 36 minus 15dB is in the opinion of our engineers totally unrealistic. Such a requirement would necessitate the use of a new engine vastly quieter than any now existing. It has been our experience that an absolute minimum of four years is required to develop such a new engine even when the technology is in hand to permit commitment to the project.

It is also worth pointing out that prohibiting operation to the United States of aircraft of foreign registry that do not comply with these noise levels would present a most difficult international problem for our country. Foreign governments could hardly be expected to permit U.S. carriers to serve their countries if the operation of their own flag carriers to the U.S. was prohibited.

Sincerely,

George A. Spater.

Trans World Airlines,
New York, N.Y., September 14, 1972.
Hon. John V. Tunney,
U.S. Senate, Committee on Public Works,
Washington, D.C.

Dear Senator Tunney: TWA is pleased to have this opportunity to respond to your letter query of September 8 on the control of aircraft noise.

As you know perhaps, TWA has been instrumental and successful through the years in forcing the development of quieter and more pollution free aircraft. TWA, along with several other leading airlines, has always contractually required the incorporation of the latest noise attenuation technology that is practical and effective when procuring aircraft. This continues to be our policy and our objective. Current examples of good progress are the Boeing 747 and Lockheed 1011.

TWA has also studied the various programs and designs targeted toward the development of retrofit technology which have existed throughout the jet age. It is also familiar with current programs including the front fan and nacelle treatment programs mentioned in your letter. In fact, TWA just completed a comprehensive review of all known possibilities and programs last week.

Through the years, TWA has encouraged the development of those technologies which stand to reduce external aircraft noise. It was hoped that by now practical designs for effectively reducing noise from the older aircraft in our airport communities would be in hand. This is not the case and, unfortunately, little prospects for early practical solutions exist. However, all reasonable efforts to advance applicable technologies and to develop suitable designs should continue.

As matters now stand, either the predicted noise improvements are so low as to be completely cost ineffective or they are impossibly expensive and would occur in a time frame that would not permit completion of retrofit programs prior to the 1977–1981 time period. This is too late since by then the majority of the older narrow bodied four-engine jets will either have been retired or will be on the eve of retirement from commercial service.

You may be interested to know that four-engine aircraft retrofit capital costs are estimated to run from approximately $1,200,000 per airplane for the quiet nacelle to approximately $1,900,000 per airplane for the new and as yet undeveloped front fan. Parts obsolescence costs, revenue loss from added fuel consumption and/or empty weight increases, and loss of utilization during the conversion period are all in addition and would total a very appreciable amount. The capital costs alone would result in a minimum increase in seat mile cost of from approximately 7.0% to 13%. Capital required for TWA aircraft alone could total as much as $300 Million. This quite obviously would be totally unacceptable.

Costs and timing indicated herein are preliminary estimates since neither the quiet nacelles nor the new front fans are fully developed or have been tested in flight. The quiet nacelle being developed by Boeing Wichita will not fly until next year and the new front fan won't be in the air for several years and then only if engine ground tests are successful. It is of the greatest importance that such devices be tested for acceptibility by human ears on a controlled empirical basis. History shows that meters and forecasted results simply are not reliable in this regard. In no event should retrofit programs or implantation schedules be adopted until this is done.

Thus, summarily, the suggested FAR 36 compliance date of January 1, 1976 for all aircraft operating into U.S. airports is totally unrealistic and cannot be achieved. At this time it is impossible to rationally set a date for the mandatory achievement of this objective. Applicable technologies must be advanced, noise reduction effectivity determined by flight tests and economic feasibility established first. Any language additions to S. 3342 along the lines suggested in your letter of September 8 are premature and ill advised.

As to the proposed requirement that new types of aircraft manufactured after January 1, 1975 comply with noise standards 15 EpnDB less than FAR 36 App. C., TWA understands this subject is currently being considered by the FAA. TWA doubts that the attainment of a 15 EpnDB reduction is realistic by then and suggests that a 5 to 8 EpnDB reduction would be more realistic. However, since action is under way, language additions to S. 3342 would seem unnecessary and duplicative.

TWA respectfully suggests that prior to the inclusion of any language in S. 3342 on aircraft noise alleviation requirements or retrofit schedules that an informal meeting be held between you and/or your staff and selected airline representatives. Such a meeting could serve to discuss and clarify significant facets of retrofit to a greater extent than is practical in this letter. If you consider such a meeting appropriate, TWA would, of course, be happy to participate.

Very truly yours,

F. C. WISER.

INSTITUTE OF NOISE CONTROL ENGINEERING,
Cambridge, Mass., September 18, 1972.
Senator JOHN V. TUNNEY,
New Senate Office Building,
Washington, D.C.
(Attention: Mrs. Jane Frank).

DEAR SENATOR TUNNEY: I am pleased to respond to your letter of 12 September 1972 in which you solicit my views in regard to the Noise Pollution Control Act (S. 3342). The comments offered herein are based on assessment of the status of aircraft acoustics technology and regulation available to me as a Member of the Aeronautics and Space Engineering Board of the National Academy of Engineering and upon jet engine and airport noise research in studies performed by me and my colleagues as Bolt Beranek and Newman Inc.

The current state of technology supports the addition of language to S. 3342 that, "No aircraft could land at U.S. airports after 1 January 1976, unless such aircraft complied with the maximum noise level standards in Appendix C of Part 36 of the Federal Aviation Regulation." However, the requirement that new aircraft meet a noise level 15 EPNdB lower than the FAR Part 36 standard by 1 January 1975 is incompatible with development, manufacturing, and certification schedules and possibly beyond the state of art of noise-control technology for large transport aircraft. A careful look at available noise control technology and at the length of time it takes for manufacturing and certification schedules to be accomplished, convinces me that new aircraft could realistically be required to meet noise regulations that are 10 EPNdB lower than FAR Part 36 by 1 January 1978. In making this statement I have not balanced the technological and time schedule against economic considerations because I feel that this balance must be made by government and not by engineering people. A 15 EPNdB reduction below FAR Part 36 might be feasible by 1982, but further study is necessary to confirm this statement.

I strongly recommend that the Environmental Protection Agency be given the responsibility for specifying and enforcing noise exposure criteria for communities near airports. Although, the Federal Aviation Administration and the Department of Transportation along with NASA have supported technology development in this area, the FAA has shunned the responsibility for setting aircraft community noise exposure criteria. The EPA should be given the authority for selecting and enforcing these criteria, but the specific methods and individual aircraft numbers involved in meeting these goals should be selected in collaboration with NASA, which has responsibility for aeronautics research, and with the FAA, which has the ultimate responsibility for the refinement and application of aviation technology to the civil air transportation system.

If the Noise Pollution Control Act is still an issue during the next session of Congress, my colleagues in this country, in particular the NAE Board, INCE, and Bolt Beranek and Newman Inc. and other research companies would be pleased to provide you with detailed comments in regard to the present status of acoustical technology pertinent to the subject of aircraft retrofit and new aircraft development.

Sincerely,

LEO L. BERANEK,
President, INCE.

Mr. BROOKE. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 21, following "SEC. 502.", insert "(a)".

On page 91, following line 14, add the following subsection:

"(b) The Secretary of Transportation, after consultation with the appropriate Federal, State, and local agencies and interested individuals, shall conduct a study of the means of financing the retrofitting of existing jet aircraft (excluding aircraft owned or operated by any military agency) in order to carry out the purposes of this part, and shall make recommendations, taking into consideration what is economically reasonable, technologically practicable, and appropriate for the types of aircraft and aircraft engines to which the recommendations will apply. He shall report on such study to the Committees on Interstate and Foreign Commerce, and Ways and Means of the House of Representatives, and the Committees on Commerce, Finance, and Public Works of the Senate by July 1, 1973, together with his recommendations for whatever legislation may be required.

Mr. BROOKE. Mr. President, I believe this amendment is noncontroversial, and I hope that the distinguished Senator from California and the distinguished Senator from Delaware will agree to accept it.

This amendment requires the Secretary of Transportation to submit to the Congress by next July 1, a report on the various means of financing the retrofitting of jet aircraft, and to recommend appropriate legislation to achieve that goal.

While the Federal Government already has ample authority to promulgate noise standards for existing aircraft, no action has yet been taken officially to finance the means of meeting these standards. Depending on the extent of retrofitting, the estimated cost will be between one billion dollars and two and one-half billion dollars. And, no matter what the ultimate financing plan, the Federal Government will have a role to play, if only because airlines are a regulated industry.

The retrofitting/financing issue already has received considerable attention in Congress, the executive branch, and the industry itself.

On August 2, 1971, I introduced S. 2398, which would provide grants to the air carriers to pay for up to two-thirds of retrofitting costs. The source for these funds would be the trust fund created by the Airport and Airway Development

Act of 1970 as well as an increase from 8 to 10 percent in the air user tax.

My colleague Senator CRANSTON introduced S. 1566 on April 19, 1971. This bill would finance a retrofitting program by means of guaranteed loans. In addition, there have been other proposals that would provide financing through fare increases, stepped-up tax depreciation, and assumption of the costs by the airlines themselves, among others. There are advantages and disadvantages to each of these plans, and I am confident that I speak on behalf of both Senator CRANSTON and myself when I say that neither of us is wedded to our own proposal. Ultimately, I believe that the financing package will include a mix of several of the proposals that have been made.

The amendment which I now offer would allow us to have the benefit of the views of the executive branch on this crucial matter. In fact, it is my understanding that such a study is already under review within the executive branch, including the Department of Treasury and the Office of Management and Budget. Thus, adoption of this amendment will not require the executive branch to undertake a new study. It will simply set a date of July 1, 1973, for its completion, and require that legislative recommendations be made to the Congress if the Secretary of Transportation finds legislation to be necessary.

The amendment designates that Secretary of Transportation conduct the study because his Department has been in the forefront of administration efforts to reduce aircraft noise. Specifically, the Federal Aircraft Noise Abatement Plan has been developed by the Office of Noise Abatement within the Office of the Secretary of Transportation.

The amendment also authorizes the Secretary to consult with other appropriate Government and private agencies and individuals. Since the Federal Aviation Administration is within the Department of Transportation, it goes without saying that the FAA would be asked to contribute its extensive expertise in the formulation of the financing proposals.

Again, Senators should understand that this amendment complements plans already established by the executive branch to develop both the technology and financing of aircraft retrofitting. Its effect is simply to emphasize Congress' continuing interest in this vital issue, and to make sure that Federal programs will proceed quickly, so that citizens across the Nation can be relieved as soon as possible from the bombardment of jet aircraft noise.

Mr. TUNNEY. Mr. President, I have had an opportunity to look over this amendment with the distinguished Senator from Massachusetts. I think it is a good amendment. It demonstrates once again the leadership role that the Senator from Massachusetts has played in this area. It is quite true that studies are going on in the executive branch. However, the studies are no good unless they are completed and unless the information is available to the public at large and to the Congress in particular.

So I am going to be able to accept this amendment on behalf of the committee. I have discussed the matter with the distinguished Senator from Delaware, and he is also agreeable to having this amendment accepted by the committee.

We expect that any financing study will consider proposals like a ticket tax on airline users and not just consider Government subsidies.

Mr. BROOKE. The Senator is correct.

Mr. TUNNEY. I know that the Senator from Massachusetts feels the same way.

Mr. BROOKE. Mr. President, I thank the distinguished floor manager of the bill for accepting the amendment. I want to say again that I am very much encouraged that the Senator from California (Mr. TUNNEY) and the Senator from Delaware (Mr. BOGGS) are in the leadership role on this particularly important issue because it is so important to so many people across this country to have their understanding and sympathetic leadership on this important legislation. It is a matter of great consolation to the people who have waited and suffered so long to know that hope is at last on the way.

I pledge if I am reelected to the Senate to continue to work very closely with them during the years ahead.

Mr. TUNNEY. Mr. President, I thank my friend so much for those words. He has certainly demonstrated his leadership today and in years past by calling this matter continually to the attention of the Congress.

Mr. President, I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 95, between lines 21 and 22, insert the following:

SUPERSONIC AIRCRAFT

SEC. 509. No civil aircraft capable of flying at supersonic speed shall land at any place under the jurisdiction of the United States unless in compliance with the noise levels prescribed for subsonic aircraft by the Administrator of the Federal Aviation Administration and in effect on September 1, 1972.

Mr. CRANSTON. Mr. President, in March of this year I introduced two proposals restricting supersonic transports such as the English-French Concorde and the Russian TU-144 in flights over and landings in U.S. territory.

The first of my proposals, prohibiting flight at supersonic speeds over the United States and its territorial waters or the contiguous zone, has been incorporated into the bill we are now considering and I think that is one of the fine features of this measure.

I will not take up the time of this body in outlining the need for such a restriction, other than to point out that if the Concorde were permitted to fly coast to coast at supersonic speeds it would create a path of successive sonic booms 50 miles wide and 3,000 miles long. According to conservative estimates, these sonic booms could cause $35 million to $160 million in property damages every flight.

My second proposal, which I have just introduced as an amendment to this bill, prohibits these same aircraft from landing in U.S. airports unless they meet the same noise emission standards which now are required for subsonic aircraft under FAA regulations.

At current levels, the Concorde produces 10 times the noise emitted by a 747. A single Concorde produces as much noise when it lands as 10 747's. Aircraft noise is measured in effective perceived noise decibels. FAA regulations now permit a maximum noise level of 108 EPNDB for subsonic aircraft. Measurement of the emission level of the Concorde places it in a range between 114 and 120 EPNDB.

When measured on a logarithmic scale, as noise calculations are made, the Concorde will produce between six and 12 times more noise than is permitted for subsonic planes. In terms of the total noise environment around an airport, this would be a dramatic step backward. The progress we have made toward making our environment more livable will suffer a serious setback. Though a single Concorde produces the same noise when it lands as 10 747's, it carries only 150 passengers compared to 350 carried by a 747. That means it would need to make more than twice the number of flights to deliver the same number of passengers while making 10 times the noise.

The high level of noise produced was one of the major reasons the American SST was discontinued. Can we apply lesser standards to European supersonic transports? The aircraft noise problem was realized, yet work continued on the Concorde. Britain and France had no reason to believe our position would be different on the Concorde than it was on the American SST. If the Concorde cannot meet acceptable noise standards, then it should not be allowed to land in the United States.

Mr. President, I want to stress that this amendment does not raise the questions about jurisdiction of FAA that have been involved in some of the controversy relating to this bill. I believe it is vitally necessary to protect both the American aircraft industry and the people who live around airports from this particular problem and the threat it poses to them.

If these planes start coming into American airports no one will know exactly what they are and there will be a new uprising at and around airports that will threaten our ability to continue airport operations; there will be new lawsuits and hang-ups, and people around airports will be unable to distinguish between new planes bringing this new noise and American planes.

All of us will suffer as a result.

I urge my colleagues to apply the same standards to supersonic aircraft as we mandated for subsonic aircraft.

Mr. TUNNEY. Mr. President, I have had an opportunity to review this amendment with my distinguished senior colleague. I have not had an opportunity to consult with the distinguished Senator from Delaware. As far as the majority side of the committee is concerned, I can accept this amendment.

I think it is clear that we could require the same compliance for supersonic transport planes that we require for other airplanes that are landing at American airports. It is ony fair and there is no reason why the citizens of our country who live adjacent to international airports should be subjected to the deafening roar of supersonic aircraft simply because it is from a foreign manufacturer and owned by a foreign airline.

So on behalf of the majority of the committee——

Mr. CANNON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. CANNON. Mr. President, before the Senator accepts the amendment I would like to sound a note of caution. This type amendment can be very important with respect to international negotiations and the international aspects of air transportation. I would simply caution my friends that I hope they have considered this in consultation with the State Department to try to take into full account what the implications are that might be involved.

I can see that if a foreign air carrier is denied the right to fly any place in the United States with a particular aircraft, they might then impose the same type of refusal to fly all of our aircraft in foreign countries. This could be much more devastating to us than to them because we have the largest air carrier system in the world today, and it would be our carriers that would be affected if retaliatory action were taken.

Again, I am sounding a note of caution. I am not going to call for a rollcall vote if the Senate wants to accept it, but this is something that may have very grave implications in the field of international air transportation and may result in a very detrimental way to U.S. air carriers if it is adopted without some provision made, some escape provision or some outlet being taken into consideration so that these aircraft might be able to fly to some particular location in this country.

Mr. TUNNEY. I appreciate the Senator from Nevada raising those points. I think they are points that have been considered by the Senator from California. I think that they are strong points.

On the other hand, I cannot help but feel, after the Senate rejected a domestic SST which would have been heavily subsidized by our Federal Government, that we should say we are not going to allow our noise emission levels, which are health levels, to be violated by a foreign SST which is landing at our airports.

It would be my hope that we would not allow any American airline that violates our noise levels to land at our airports, so it is even-handed that we ask that foreign aircraft landing at our airports be subject to the same standards of health and welfare that our domestic lines are required to adhere to.

Mr. CANNON. Mr. President, will the Senator yield further?

Mr. TUNNEY. I yield.

Mr. CANNON. This is certainly a subject that comes under the jurisdiction of my Aviation Subcommittee. If the Senator is not of a mind to press this amendment at this time I would assure him that we would hold hearings on this very subject next year. We want to take whatever steps should be taken, but my caution comes from the fact that this is an important area of concern to our State Department and it is an important area of concern to U.S. carriers, and perhaps there should be some area defining what could be done at someplace in the country that would not be affected. If the Senator would care not to press the amendment my committee can hold hearings next year and consider these aspects and then if it is of a mind to do something, we would have the time because they are not going to be able to fly in here until next year.

Mr. CRANSTON. I thank the Senator for his concern. It would seem to me that if we were producing planes that would be as noisy as foreign supersonic planes when landing and taking off at subsonic levels of speed, we would recognize the right of other countries if they have standards to exclude them.

I do not believe other nations will retaliate against us in a totally arbitrary way not taking into account the noise factor of our planes.

Therefore, I do not believe we will have this sort of problem that has been suggested as a possibility. Certainly, I grant that it is a possibility. What I would prefer to do is to proceed with the amendment, but also to proceed in conjunction with the Senator to see if there might be problems that could indicate a modification of the provision.

I am afraid if we drop this matter it might not be possible for a vehicle to exist to prevent this problem affecting people who live around airports and in the long run we may find the American aircraft industry suffers as a result of the noise, with the accompanying lawsuits that would tie up the airports.

My friend and colleague from California has expressed a willingness to accept the amendment, and I deeply appreciate it. I took a moment of time to talk to the Senator from Delaware representing the minority on the committee. He said as far as he is concerned, the minority on the committee is perfectly willing to accept the amendment.

Mr. CASE. Will the Senator yield?

Mr. TUNNEY. I am delighted to yield to the Senator from New Jersey.

Mr. CASE. I ask that my legislative clerk, Mr. Gambock, be permitted to be on the floor throughout the session today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Bill Hancock of my staff be allowed on the floor today and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I support the Senator's amendment, and I want the record to show that I do.

In that connection, I want to make one point, and that is that I am deeply distressed at the unwillingness of the FAA to give what I regard as adequate assurance to the neighborhoods and communities near airports of its consideration of their concerns about expansion, noise pollution, and other nuisances that are involved.

I have specifically in mind the community of Morris County, N.J., where Morristown Airport is located. The city of Morristown has an airport which is not within the city's own geographical boundaries, but outside the community where it is located and others adjacent to it, and is properly concerned about expansion without due consideration of the needs and interests of the residents.

I have been unable to get the kind of assurance that I think these communities are entitled to from the agency, but I am not going to give up trying.

I fully support the amendment, partly on that account, but in general on its own merits.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. TUNNEY. Would the Senator be prepared, inasmuch as a yea-and-nay vote is now ordered, to yield back the balance of his time?

Mr. CRANSTON. Certainly. First, I want to take a minute to make one point.

In further reply to the Senator from Nevada in regard to the questions he raised, no supersonic planes will be ready to land in this country until 1975 or 1976. That would allow adequate time for the sort of hearings and inquiries that the Senator would like to make, to see if it is advisable to make any modifications.

Second, it will serve notice on the manufacturers of supersonic planes that they must reduce their noise. They have the capability technically now to do this. This will give them time to do that, and then we will not have a problem.

Mr. TUNNEY. Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 62, nays 17, as follows:

[No. 553 Leg.]

YEAS—62

Allen
Anderson
Bayh
Beall
Bentsen
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Ervin
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hughes
Humphrey
Inouye
Jordan, N.C.
Jordan, Idaho
Mansfield
Mathias
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams

NAYS—17

Aiken
Bellmon
Bennett
Cannon
Eastland
Fannin
Fong
Hollings
Jackson
Javits
Long
Magnuson
McClellan
Moss
Saxbe
Taft
Young

NOT VOTING—21

Allott
Baker
Bible
Cook
Curtis
Edwards
Goldwater
Harris
Hatfield
Hruska
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Randolph
Scott
Stafford
Tower

So Mr. CRANSTON's amendment was agreed to.

Mr. HARTKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> Line 1 on page 98, insert after the words "to be" the words "necessitated by special local conditions and . . ."
>
> Line 12 on page 100, insert after the words "to be" the words "necessitated by special local conditions and . . ."

Mr. HARTKE. Mr. President, one of the basic purposes of title V of this bill, as explained in the committee report, is to assure the maximum practical uniformity in regulating the noise characteristics of interstate carriers such as the railroads and motor carriers which operate from coast to coast and through all the States, and in hundreds of communities and localities.

Without some degree of uniformity, provided by Federal regulations of countrywide applicability which will by statute preempt and supersede any different State and local regulations or standards, there would be great confusion and chaos. Carriers, if there were not Federal preemption, would be subject to a great variety of differing and perhaps inconsistent standards and requirements from place to place. This would be excessively burdensome and would not be in the public interest.

At the same time, States and localities ought to have and retain the power to develop and enforce noise standards and regulations that are needed and designed to meet special local situations even though such standards and regulations may differ from the Federal rules.

The problem, of course, is to strike a proper balance that will take account of and protect all of these interests.

My amendment will do this. In essence it merely clarifies the intention of the bill as already stated in the committee report at page 19. The Federal regulations will, as a general proposition, supersede and preempt State and local standards that are different, but States and localities would be left with the right to establish and enforce such differing standards and controls, and even license or restrict the use and operation of equipment, to the extent necessitated by special local conditions and not in conflict with the Federal regulations. These determinations, again in order to achieve desirable and reasonable uniformity in carrier equipment and carrier operations, would be subject to review by the Environmental Protection Administrator in consultation with the Secretary of Transportation.

Mr. President, I have discussed this matter with the manager of the bill, and I think the wording of the bill is in conformity with what the manager thinks is the intent of the bill.

Mr. TUNNEY. It is my understanding that this amendment would substantially strengthen the Federal preemption.

Mr. HARTKE. Mr. President, I ask unanimous consent to modify the amendment to delete the word "and" at the end of the sentence and include the word "or".

The PRESIDING OFFICER. The amendment is so modified.

Mr. TUNNEY. Could the Senator indicate what the effect of that modification of his amendment would be?

Could the clerk restate the amendment?

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> Line 1 on page 98—insert after the words "to be" the words "necessitated by special local conditions and . . ."
>
> Line 12 on page 100—insert after the words "to be" the words "necessitated by special local conditions and . . ."

Mr. TUNNEY. That was my understanding of the original amendment.

Do I correctly understand that the amendment as modified reads "necessitated by special and local conditions or"?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. CANNON. May we have some kind of explanation?

Mr. HARTKE. This amendment applies to an interstate carrier that moves across the Nation. It provides that they shall not be subjected to and harassed by unreasonable standards in separate localities. It provides that local communities can still have standards which are more strict than those at the Federal level, but that there shall be a standard in the regulations that shall be governed by such items which are necessities to deal with the local noise conditions. Otherwise, the trains and the carriers coming through could have 75 different regulations which would apply to them.

Mr. CANNON. Do I correctly understand, then, that the Senator is modifying the preemption provision that is now in the bill? It says that a local community could establish a different and more stringent standard than the national standards?

Mr. HARTKE. It would be a limitation on the local communities to the extent that it was necessitated by local conditions. In other words, we need some type of national standard for these carriers which are moving from State to State.

Mr. CANNON. I still do not understand.

Let me ask the Senator this: Does the amendment say that the local community can modify by reducing or increasing the amount of the national standard that is prescribed by either EPA or by EPA and the FAA?

Mr. HARTKE. No. It says, in effect, that the Federal Government shall preempt, generally speaking, all the local situations to the extent that they prescribe the standard. If a local community, under the bill presently, wants to prescribe standards which are at a higher level than Federal standards, it is permitted to do so.

This amendment says that shall be permitted only to the extent necessitated by local conditions—in other words, that they cannot put an unreasonable burden on a train, a bus, or a motor carrier coming through a community. Otherwise, there will be chaos in this industry. All of this is subject to the ultimate control of the Environmental Protection Agency. But they cannot lower the standards.

Mr. TUNNEY. I should like to make sure that I understand what the difference is between the amendment as originally offered and as modified.

Mr. President, could the clerk restate the amendment as modified?

The PRESIDING OFFICER. The clerk will state the amendment as modified.

The assistant legislative clerk read as follows:

> Line 1 on page 98—insert after the words "to be" the words "necessitated by special local conditions or . . ."
>
> Line 12 on page 100—insert after the words "to be" the words "necessitated by special local conditions or . . ."

Mr. TUNNEY. The Senator has discussed this matter with the committee staff, and it is my understanding that the amendment would not strengthen the preemption as it is in the bill. Is that correct?

Mr. HARTKE. The amendment still would provide that the Federal regulations would generally rule. The bill provides at the present time that local standards can be provided which are at a higher level than Federal levels.

This amendment says, basically, that to the extent that they are necessitated by special local conditions, they can do so. In other words, when you have a motor carrier going through, and if they are following the Federal standards and then are going to go ahead and have some local community put in an unreasonable standard, you might stop the whole operation of the interstate carrier.

This amendment also provides and still preserves that any regulation of this kind, before the preemption by the Federal Government would be effective, would still be subject to review by the Department of Transportation and by the Environmental Protection Agency.

In other words, the intent of it is in general accord with the bill, but at the same time to provide some type of uniformity for these interstate carriers.

Mr. TUNNEY. The committee, on page 19 of its report, indicated that the Federal regulatory program for railroads under this part completely preempts the authority of the State and local governments to regulate such noise after the effective date of adequate Federal standards, except where the administrator determines it to be necessitated by special local conditions or not in conflict with the regulations under this part.

Do I correctly understand that what the Senator is doing is merely clarifying in the bill the intention of the committee as expressed in the report? As I read the language, it would seem to be doing just that.

Mr. HARTKE. That is exactly right. In other words, it follows the intent of the report. It follows the intent of the bill, generally speaking. The wording must be changed to be in accord with the intent of the report as well.

Mr. TUNNEY. The committee clearly wanted to allow it, but to make exceptions if it is determined it was necessitated by special local conditions.

Mr. HARTKE. That is exactly right.

Mr. TUNNEY. As I understand the language, it is necessitated by local conditions that they are not in conflict with regulations promulgated under the bill and is consistent with what they intended.

Mr. HARTKE. That is right.

Mr. MAGNUSON. Mr. President, that is the trouble with the bill. It has not been thought out properly in many respects. Now we are getting down to surface transportation, and if we do not watch out, it will completely deny—there are 50 different regulations on interstate trucks, or railroads, or buses traveling across the country. We can have some minimum standards. The cities and towns now have their own standards. Some one city or some one town under the amendment, unless we have it cleared up, could establish something that would be absolutely impossible for buses or trucks to go through that territory. That is the trouble with this. We are getting into it so deeply that all the cities and towns now have regulations. I think we had better know what we are doing here. Sometimes, I think, some people around here would like to tie up all transportation because somebody makes a noise. But if one starts an engine running, it has to make some noise. I do not like noise. No one else likes noise either, but if we are going to start out making all these regulations about noise, that might tie up the whole thing. I do not know whether this amendment does that. We have preempted local people many times. That is traditional, particularly with many standards, and if they want to be tougher they can, but there should be a minimum. Is that what the Senator is trying to do?

Mr. HARTKE. That is right. We have done the same thing. This is what the framers of the bill intended. That is what is sought in the report. What we are saying is that we are not creating an unreasonable burden but at the same time we want to protect the rights of the Federal Government to proceed to establish the standards.

Mr. MAGNUSON. We have gone through this for years. It used to be that every State had different regulations on trucks as to the weight, size, how they would go, the number of axles, and so forth. At one time there were 36 different regulations. A truck going between States, going across the country, might have 15 different things to do, such as throwing off part of the cargo, or doing this or that. We worked for years through State organizations, and finally we have pretty much uniform laws now.

If this is going to be a uniform law on noise relating to surface transportation, that is fine——

Mr. HARTKE. That is what it does.

Mr. MAGNUSON. A number of towns today have certain ordinances that a railroad train cannot blow its whistle going through at night because it will wake the people up and that will be disastrous to them, because they could not get back to sleep. Many things happen on account of that. Many, many things happen. We finally had to straighten that out. I hope that this will be a step toward uniformity in this whole field. But I do not know whether it will be. Does the Senator from California think it will be?

Mr. TUNNEY. I have reviewed the amendment and it is in comformity with what the committee intended. The report states there is a complete preemption and also orders the administrator in conjunction with the Secretary of Transportation to grant exemptions where there are special local conditions. So it is clear it is a total preemption. We should also recognize that there may be local conditions which would necessitate that the national standard should not apply.

Mr. HARTKE. That is a local ordinance.

Mr. MAGNUSON. How many times have we driven around and there will be a big sign "Quiet, hospital zone"?

Mr. TUNNEY. This would give the Administrator——

Mr. MAGNUSON. A truck slows down for a little bit and does not make as much noise. But we are getting deeper into things here. Who will handle all this?

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Michael Helfer of my staff be permitted the privilege of the floor during debate on this bill and the spending bill.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I should like to say in conclusion that I have studied this amendment and it in no way violates the principle of preemption which the Senator was pushing for as part of the bill. As a matter of fact, the language suggested by the Senator from Indiana (Mr. HARTKE) is almost the exact language in the committee report and has now been put into the bill.

Mr. MAGNUSON. That might be a step forward but on some of these things we should watch what we are doing here in the last few hours of this session.

Mr. JORDAN of North Carolina. Mr. President, would this permit the EPA Director to tell the man on the freight train not to blow his whistle going through a town or what the noise level should be?

Mr. TUNNEY. He has to do it in conjunction with the Secretary of Transportation.

Mr. JORDAN of North Carolina. Yes. In other words, we will tell the man on the freight train how many times he can blow his whistle, two short, or three long, or whatever it is, or not three long. This is going to get us into hot water wherever we go on this. I think it is totally beyond what we started out with on this airport bill.

Mr. TUNNEY. The reason we put this language into the bill was that we wanted to make it clear that it was Federal preemption for interstate trades and the railroads. It was not initially in the bill, so we put in the preemption so that we would give the railroads and the carriers some awareness and some security that they would not have to abide by 50 different State jurisdictions and Lord knows how many tens of thousands of local jurisdictions. It is in the bill now. It is a complete preemption.

Mr. JORDAN of North Carolina. Then this applies to trucks, automobiles, to everyone. They are all in there.

Mr. TUNNEY. Mr. President, I yield back my time.

Mr. HARTKE. I yield back my time.

The PRESIDING OFFICER (Mr. BEALL). The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. BEALL). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CANNON. Mr. President, it is with great reluctance that I support the provisions of this otherwise very fine bill that relate to the control of noise from aircraft. As the Senate knows, this bill was only very recently reported by the Public Works Committee and because of the lateness of the date the Commerce Committee and the Aviation Subcommittee, which I chair, has had no opportunity whatsoever to formally consider it, nor have we had a chance to hold hearings on some of the issues which the bill presents.

Mr. President, the consideration of this bill in the form we are looking at today is a dangerous precedent in the legislative process. This bill has never been considered nor have we heard any witnesses on the vital aspects of air transportation and the interests of safety and reliability of transportation as affected by the bill. The Committee on Commerce has sole and total jurisdiction over civil aeronautics, we have the responsibility to protect the safety of the public from transportation disaster—airline crashes—as well as from unwarranted noise, but Mr. President, we are in a position of having a bill forced on us at a late hour in this session because of the fact that the American public and this Congress wants relief from noise.

Mr. President, the goals of this legislation are laudable and every Member of the Senate, of course, can support them. The public wants and needs protection from noise from all sources, not only aircraft, but from other transportation vehicles and from other sources in everyone's daily lives. The bill before the Senate today, however, as it relates to regulation of aircraft is far reaching in its scope and is inconsistent with a decision of Congress in 1958 in which we decided that aviation safety was of such paramount concern, that all Government regulation and control of aviation had to be vested in one single agency. The bill before us today negates that basic principle which I believe is still sound. But more importantly the process, as it has worked, has completely circumvented the committee which has the primary responsibility to insure safety in air transportation. Obviously the members of our committee were reluctant to take any action on the bill at this late hour which would result in its not being brought up. We were under great pressure to waive our jurisdiction on the matter and to simply acquiesce in the action of the Public Works Committee which is before the Senate today. In the spirit of cooperation, although feeling deeply about it, we did acquiesce. We waived the jurisdictional rights of our committee.

The Senator from California has been most gracious in meeting with me and discussing my concerns with the legislation and seeking to come up with amendatory language which would ease some of the more serious problems which I and the Committee on Commerce found in the bill. While I appreciate very much the support and the kindness shown me and the committee on this matter by the Senator from California, I still have grave concern about the bill itself. The Committee on Commerce in executive session decided that while it would waive jurisdiction of the bill, it would offer a floor amendment substituting the House passed language on aircraft noise control to the provisions in the Public Works bill. After considering the House language we found it to be responsible, workable and a step forward in the regulation of aircraft noise and a program that all could live with. After taking that action, however, we became convinced that the forces seeking to protect the environment were mobilized in strong opposition to our position and were unwilling to support passage of the House language. Therefore, very reluctantly, Senator MAGNUSON and I and others in the committee determined that we would seek to work out an agreement with Senator TUNNEY and others which we would hope would be agreeable to all of us. Therefore the committee determined that it will not offer on the floor today an amendment seeking to insert the House language on this matter and has reluctantly agreed to support the language which the Tunney amendment to the bill presently contains. Nonetheless, it is important to note the basic objection to the Tunney bill still remains. That is the splitting up of the authority to regulate noise from aircraft into two different governmental agencies both having vastly different responsibility. Under the Tunney proposal, as it is amended, the regulation of aircraft noise will be split between the Environmental Protection Agency and the Federal Aviation Administration. It is my view that any legislation which provides for fractionated authority to regulate in the public welfare is weak. It leads to diffusion, delay, inaction, bickering back and forth and often ineffective regulations. A far preferable situation would be to leave this authority within the Federal Aviation Administration, the supreme authority in the field of air commerce, and charge the administration with increasing its activities to regulate noise from aircraft. As the Senate knows well, the FAA has ample statutory authority at the present time under the bill passed in 1968 to regulate aircraft noise. Some think the FAA has gone too slow. Mr. President, this is a difficult, tedious and very costly matter and while I sometimes think the agency has not moved fast enough I am also very sympathetic to the problems faced by the agency and by the air transportation industry in trying to quiet its products.

There is no doubt that the industry and the FAA have made significant progress, as we all know. The new generation of jet aircraft equipment is quieter than older aircraft by half; promising breakthroughs on other phases are being made at this time. Technology apparently has been developed which might make it possible to reequip older jet aircraft with quieter engines, without compromising safety and reliability, and flying characteristics. But the costs of this kind of program could be very expensive, in fact, it could be prohibitively so. And I think while the Senate will hear much more on the subject from others on the floor today, we have not yet determined the feasibility and the practicability of moving forward at the present time with this new technology. I mention it only to point out that there has been much action in the area of aircraft noise control despite what some of the critics might have you believe. The FAA has recently adopted new regulations relating to the way aircraft are flown, the flight paths that must be followed and the flight regimens which must be maintained by the crews. These new regulations will result in aircraft being kept higher over our urban areas which will greatly reduce the amount of noise reaching the ground. The airlines themselves are beginning on their own initiative to impose certain flying characteristics on their airplanes and crews which result in reductions in power, consistent with safety, and of course protect the public from excessive noise. These things are being done today and they will continue to be done whether this bill is passed or not. But I also recognize that there is great sentiment within the Government and from without, that all environmental programs be coordinated by one agency; namely, the Environmental Protection Agency. While in most cases this may be a wise course to follow, I am not convinced of its wisdom in the area of regulating aircraft noise, therefore, my reservations with the Tunney bill. But in the spirit of cooperation and in the spirit of wanting to see noise legislation enacted during this session of Congress, I will vote for it despite my doubts of its wisdom.

Mr. BUCKLEY. Mr. President, I believe that certain important distinctions must be kept in mind in considering the merits of the Environmental Noise Control Act of 1972 as reported out by the Committee on Public Works.

The general responsibility of the Federal Government in the area of environmental protection is now generally recognized; but having said that, it then becomes necessary to distinguish between the various kinds of pollution which, taken together, adversely affect the human and natural environment, so that we can properly assess the extent of the role which the Federal Government ought to be asked to play in order to bring the various components of environmental pollution under appropriate control.

If one State or community is negligent in its approach to air and water pollution, the environment of other States will be adversely affected because the movement of water and air is unaffected by State lines. In most instances, however, the sources of noise pollution do not have an interstate impact. You can generate quite a bit of noise in Poughkeepsie, N.Y., before the neighbors in New Jersey and Connecticut will have cause for complaint.

The following provisions of the bill, in my view, go beyond what is the appropriate or useful role of the Federal Government in reducing the level of noise in the environment. The benefits of certain of these provisions in achieving the objectives of the legislation at reasonable costs to the taxpayer; that is, administrative expenses, and to the consumer; that is, increased product costs, are probably of marginal significance. Other provisions represent expensive Federal intrusion even which are fully within the competence in State or local governments to compel, or into the private production and marketing of consumer goods.

To cite some examples:

Section 408, that provision which directs the Administrator to promulgate noise emission standards for categories of new products which he has found to be major sources of environmental noise, gives the Administrator authority to control over a broad variety of products which can be or already are effectively controlled at a lower level of government. Section 408 allows him to promulgate standards for construction equipment, transportation equipment, motors or engines, electrical and electronic equipment, among others. This permits yet another agency of the Federal Government to influence the design features of a wide variety of occupational equipment and consumer products. Mr. President, in my view it is not the proper concern of the Federal Government to attempt to control those forms of environmental pollution which can be controlled effectively by city ordinance or State regulations. It is clear that in the case of air pollution and water pollution the Federal Government does have a necessary and legitimate role. These pollutants are not constrained by artificial political boundaries. Air blows freely from State to State. Almost all streams or their tributaries cross State lines. Noise, on he other hand, is a very peculiar kind of polluant. Noise does not accumulate in the environment; it dissipates almost immediately. It would be the exception rather than the rule if noise crossed State or city lines.

I believe the Federal role ought to be restricted to the control of noise levels in automobiles, aircraft, trucks, and other products which in their normal use can be expected to cross political boundaries. It is on this basis that I can support those sections of this bill which authorize the establishment of Federal environmental regulations to control noise emissions from aircraft, railroads, motor carriers, and other transportation vehicles. However, I do not see why the Environmental Protection Agency ought to be in the business of setting emission standards for consumer goods which are used in the home, and equipment used in industry where workers are already protected through the Occupational Health and Safety Act. A number of communities, the city of Chicago is outstanding among them and New York City is about to follow suit, have established effective noise control codes which protect the public from the damaging effects of excessive noise. There is every reason to believe that this trend will spread to other communities and thereby obviate the need for a larger Federal program.

I also object strongly to the so-called "preemption" provision in section 408 which prohibits any State or local government from adopting or enforcing any noise emission standard which is not identical to the standard prescribed by the EPA Administrator. It is true that this section does not preclude or deny the right of any State or city to establish controls on environmental noise through the licensing, regulation or restriction of the use, operation, or movement of any product for which EPA has set emission controls. This limits the ability of State or local authorities to apply one of the most efficient devices for controlling noise.

A number of other provisions in this bill strike me as unnecessary and only marginally useful in controlling the level of noise in our environment. Some of these represent unnecessary Federal meddling into the production of consumer goods. They are the imposition of product warranties on a manufacturer, extensive labeling requirements, costly recordkeeping, and recording.

I also question whether it is wise for Congress to launch into yet another grant-in-aid program for noise control as provided in section 418. Would it not be better for the Federal Government to use the limited amount of money which would be available to enhance the technical assistance and the information base which would be of great value to State and local authorities?

Finally, section 419 authorizes $5 million for incentive purchases of low noise emission products. The provision is simply not necessary in order to achieve desired reduction of noise levels and it represents a large proportion of the total authorization for the program. These resources could be used more effectively elsewhere.

AIRCRAFT NOISE

If reports from my constituents who live in New York's great metropolitan areas are any indication, it is the noise emitted from aircraft flyovers which represents the most objectionable form of noise pollution. It has historically been the role of the Federal Government, acting through the Federal Aviation Administration, to control all aspects of air commerce. This helps to establish the validity of a Federal program to control noise emitted from aircraft. These two points convince me that if we are to have a Federal noise control program, it ought to be a program which places effective control on aircraft noise. If our bill is weak in the area of controlling aircraft noise, it is my personal preference to have no bill at all.

The major controversial issue in constructing an effective and responsible Federal program for aircraft noise emission control is which agency shall have the authority to set those admission standards: Environmental Protection Agency or Federal Aviation Administration. It is clear that a major portion of the expertise in the performance of commercial aircraft resides in the FAA. This agency has a mission; that is, to promote the development of an efficient, responsible, and safe system of civil aviation in the United States. By all indications, they have done an excellent job. A recent experience has indicated, however, that regulation of noise from aircraft is not necessarily consistent with that mission. The FAA has not moved as rapidly as some have expected in implementing the noise reduction which was required in the 1968 Federal Aviation Act. Since that bill passed, there has been created the EPA, whose primary responsibility is to effect all of the Federal Government's environmental policies. It is, therefore, appropriate that the EPA should set the emission standards for the control of noise emissions from aircraft.

The EPA, of course, should consult with those agencies having expertise in the field but the determination of the level of noise which would protect the public health and welfare, including taking into consideration a judgment on the cost of compliance should be made solely by the EPA. Of course, the FAA because of its responsibilities for air safety, should have a veto over any standard promulgated by EPA if the Administrator of the FAA determines that such standard would in any way jeopardize the safety of air travel.

Happily, amendments made on the floor now rest in the EPA, the appropriate authority, subject to the appropriate FAA veto where questions of safety are concerned. To this extent, the bill is constructive. But unfortunately, its fundamental effects far exceed the good; defects are too extensive to be subject to corrections through amendments offered on the floor.

Mr. PERCY. Mr. President, we now have an opportunity to respond to the unquestioned need for a comprehensive Federal noise control program in this country. The need for noise control legislation has been recognized by the administration, by all cognizant professional societies concerned about noise pollution, by the major labor unions, by countless citizens' organizations, and by millions of Americans exposed to excessive or unnecessary noise.

I feel very deeply about this issue due to the fact that constant exposure to the noise of aircraft engines and machinegun fire, as a gunnery officer in the Naval Air Corps in World War II, destroyed my ability to hear certain higher frequency sound levels, a disability that has handicapped and bothered me ever since. Thank heavens the widespread use of ear mufflers at airports now and on firing ranges helps to minimize this hazard for those constantly exposed.

In 1972, the President's Council on Environmental Quality—CEQ—included a noise control proposal in the administration's package of environmental protection legislation. In complying with title IV of the Environmental Protection Act of 1970, the newly created Environmental Protection Agency reported to the President and Congress in December 1971, on the organizational deficiencies for noise control among several Federal agencies and the inadequacy of existing laws to remedy the situation.

S. 3342, the Environmental Noise Control Act of 1972, was reported favorably by an overwhelming majority of the Committee on Public Works, from which so much of our environmental protection legislation has originated. I consider S. 3342, as reported, a considerable achievement in reflecting a fine balance between the concerns of affected industry and those of environmental purists. This bill consolidates responsibility for the establishment of national noise control standards and guidelines from a variety of sources within the EPA, the agency created to deal with environmental problems. Most importantly, in my judgment, title V of the measure requires control of noise and its exposure upon people caused by transportation sources arising in interstate commerce—a requirement the States and localities cannot accomplish for themselves.

Approximately 80 million Americans are adversely affected by noise. In addition to hearing damage, other health effects from noise include loss of sleep, anxiety, and interference with classroom learning and with normal conversation. Under this bill the EPA would be given unchallenged authority to regulate noise emissions from such sources as electric blenders, vacuum cleaners, jackhammers, buses, trucks, and trains.

Neither logic nor the demands of a comprehensive program justify excepting aircraft from this authority. For the first time, through EPA-required actions, aircraft noise emission levels would be based on public health and welfare needs—with FAA review on grounds of technological availability and safety. Current FAA regulations require that new planes, such as the Boeing 747 and the McDonnell Douglas DC–10 meet stringent noise abatement standards. They do not, however, set such standards for other existing jet aircraft.

I think that the policy is totally inadequate, and I believe it is imperative that existing jets be retrofitted or otherwise be made to conform to strict noise abatement standards, so that our citizens living in the vicinity of great airports such as O'Hare can live more normal lives, free from earsplitting intrusions throughout each day.

What then is the difficulty in passing S. 3342? It appears to be primarily the airline industry that opposes this needed legislation, although I note that the airport operators, through the Airport Operators Council International, have strongly indicated their support of S. 3342 with strengthening amendments.

What is the root of this opposition? The airlines claim that shifting lead agency responsibility for aircraft noise control from FAA to EPA might imperil flight safety procedures.

In this context, it is important to look to the history of FAA, and before it the Civil Aeronautics Administration—CAA—regulation of aircraft noise. In summary, such regulation has been virtually nonexistent. Perhaps the best illustration of FAA inertia in the area of aircraft noise control is the agency's failure to implement an operating rule for noise abatement.

The "Report of the President's Airport Commission—The Airport and Its Neighbors," submitted to President Truman in May 1952, urged adoption of a variety of aircraft noise abatement measures with particular emphasis on the regulation of operating procedures. During the intervening 20 years, the National Aeronautics and Space Administration, individual airlines, the National Aircraft Noise Abatement Council and, more recently, the Boeing Co. have strongly advocated the use of operating procedures for reduced community noise. That such procedures exist, have long been available, and can be effective cannot be denied. Let me quote the two conclusions of the Boeing Co.'s testimony before a public hearing held by the EPA in Washington, D.C., November 10, 1971:

> (1) Significant reductions in community noise can be attained through early adoption of readily available regulatory and procedural operations changes in the vicinity of airports. Such changes can be made at little cost, would require no particular increase in pilot skill or pilot workload, and are not considered to have any effect on safety.
>
> (2) Further noise reduction benefits are available through certain additional operating procedures requiring development of techniques and equipment modifications to avoid increasing pilot workload.

What has been the FAA's response to Boeing and to the NASA and American Airlines successful demonstration over a year ago of an effective and safe two-segment approach procedure? I refer my colleague to a letter from FAA Administrator John Shaffer, dated July 17, 1972, responding to my inquiries regarding the abominable noise conditions around Chicago's O'Hara Airport. Mr. Shaffer says:

> The Federal Aviation Administration has taken several recent steps at the national level to reduce aircraft noise. Federal Air Regulation Part 36 requires that all newly certified turbo-jet aircraft meet stringent noise requirements. As a result, new aircraft such as the McDonnell-Douglas RC–10 and the Lockheed–1011 are significantly quieter than their predecessors. As more of these aircraft are produced they will be replacing older, noisier turbo-jet aircraft. FAA is now evaluating a program to reduce engine noise on the remaining jet fleet. We will proceed with this program when it is determined to be technically effective and economically feasible. The FAA is also sponsoring a number of other research projects on ways and means of reducing engine noise. We work closely with the Department of Defense and the National Aeronautics and Space Administration to assure a proper emphasis in their particular areas of interest and to prevent any duplication of effort in noise reduction research.
>
> At O'Hara, as well as all other major terminal areas, we are constantly working to develop procedural innovations in handling aircraft so as to reduce noise. For example, the controllers keep jet aircraft as high as possible prior to landing and get them as high as practical as soon as possible after departing. When weather conditions permit, runways are changed periodically in order that aircraft do not proceed over a given area for long periods of time. When wind conditions preclude shifting of runways, controllers will vary the headings of departing aircraft after leaving the runway to ensure that there will not be a concentration of aircraft passing over a small area for extended periods. Also the preferential runway system used during the night is designed to avoid the most noise-sensitive areas, generally located east of the airport.

To me, this response says that "we're aware of the problem, trying to do something about it and hope that things will straighten themselves out." My constituents near airports will not consider that kind of response satisfactory, particularly when FAA has had, over the years, comprehensive rulemaking authority to reduce aircraft noise pollution which it steadfastly refuses to exercise.

In his communications to the Congress and public pronouncements, Administrator Shaffer calls attention to the "exemplary cooperation" for noise abatement purposes between the FAA and the airlines. He refers to the "voluntary" adoption of a noise abatement takeoff procedure in August of this year by all the airlines. I am reliably informed that all airlines do not follow the "voluntary" procedure and that it does not in fact provide meaningful relief for close-in airport community residents, such as those around O'Hara Airport, whose problem is most severe.

The FAA has abdicated the regulatory responsibilities Congress has entrusted to it. Provisions of the Federal Aviation Act of 1908 and the Aircraft Noise Certification Act of 1968, Public Law 90–411, require the Administrator to adopt measures for "the present and future relief from aircraft noise—for the benefit of persons on the ground."

The FAA claims that the reduced noise generating qualities of second generation high bypass ratio engines and new aircraft types is attributable to FAA and airline efforts. But should not credit go to airframe and engine manufacturers for their foresight and ingenuity in introducing new quieter aircraft with reduced exhaust emissions?

While claiming on the one hand that it alone has authority for the regulation of aircraft operation for aircraft noise abatement, the FAA simultaneously maintains aircraft noise control is a local problem. Yet when States and localities attempt measures to protect citizens from excessive aircraft noise levels, FAA asserts Federal preemption rights.

This is a situation which the Congress cannot allow to continue. S. 3342 goes a long way toward correcting the errors of the past and providing for a responsible and comprehensive plan of noise pollution control whatever the source. I strongly urge adoption of this vital legislation.

I would like to take this opportunity to express my gratitude to George J. Franks, chairman/president of the O'Hare Area Noise Abatement Council, to Theodore Berland, president of Citizens Against Noise, to John D. Varble, village president of Bensenville, Ill., and director/secretary of NOISE, and to Herbert H. Behrel, mayor of the city of Des Plaines—each of whom has taken a leadership role in the worthy struggle for aircraft noise abatement and, together with many others, has endeavored to keep me informed of the personal traumas suffered by over more than 4½ million Illinois citizens in some 21 communities subject to noise depredations around O'Hare Airport.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TUNNEY. Mr. President, I yield back my time.

Mr. BOGGS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the bill has now been yielded back.

The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 75, nays 5, as follows:

[No. 554 Leg.]

YEAS—75

Aiken
Bayh
Beall
Bennett
Bentsen
Boggs
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—5

Allen
Anderson
Bellmon
Buckley
Jordan, N.C.

NOT VOTING—20

Allott
Baker
Bible
Cook
Curtis
Edwards
Harris
Hatfield
Hruska
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Randolph
Scott
Stafford
Tower

So the bill (S. 3342) was passed.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Committee on Commerce and the Committee on Public Works be discharged from further consideration of H.R. 11021.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11021.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (H.R. 11021) to control the emission of noise detrimental to the human environment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

There being no objection, the Senate proceeded to consider the bill.

Mr. TUNNEY. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of S. 3342, just passed by the Senate, be inserted in lieu thereof, and that the Senate bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11021) was read the third time and was passed.

Mr. TUNNEY. Mr. President, I ask unanimous consent that H.R. 11021 be printed, and printed in the RECORD as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 11021) as passed is as follows:

H.R. 11021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. This Act may be cited as the "Environmental Noise Control Act of 1972".

SEC. 2. Title IV of the Clean Air Act Amendments of 1970 is amended to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SEC. 401. This Act, including the following table of contents, may be cited as the 'Environmental Noise Control Act'.

"TABLE OF CONTENTS

"Sec. 401. Short tile; table of contents.
"Sec. 402. Findings and policy.
"Sec. 403. Office of Noise Abatement and Control.
"Sec. 404. Definitions.
"Sec. 405. Research, investigation, training, and other activities.
"Sec. 406. Federal programs.
"Sec. 407. Noise criteria and control technology.
"Sec. 408. Noise emission standards for new products.
"Sec. 409. Labeling.
"Sec. 410. Imports.
"Sec. 411. Prohibited acts.
"Sec. 412. Enforcement.
"Sec. 413. Citizen suits.
"Sec. 414. Emergency situations.
"Sec. 415. Judicial review.
"Sec. 416. Records, reports, and information.
"Sec. 417. Federal procurement.
"Sec. 418. Grants for support of environmental noise planning and control programs.
"Sec. 419. Development of low-noise-emission products.
"Sec. 420. Authorization of appropriations.

"FINDINGS AND POLICY

"SEC. 402. (a) The Congress finds—

"(1) that environmental noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

"(2) that the major sources of noise emissions include aircraft, vehicles, machinery, appliances, and other products in commerce; and

"(3) that, while primary responsibility for control of environmental noise rests with State and local governments, Federal regulatory action is essential to deal with major noise emission sources, and Federal assistance is necessary to encourage and support programs for the control of environmental noise.

"(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their public health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in environmental noise control, to authorize the establishment of Federal noise emission standards for new products, to provide information to the public of the noise emission and noise reduction characteristics of new products, to encourage and support State and municipal programs for the control of environmental noise through planning and program grants to State and local environmental noise control agencies, and to provide information to the public on the control of environmental noise through regulation of use of products and other methods and procedures to reduce environmental noise.

"(c) Public participation in the development, revision, and enforcement of any regulation, noise emission standard, program or plan established by the Administrator or any State or municipality under this Act shall be provided for, encouraged, and assisted by the Administrator and the States and municipalities. The Administrator, in cooperation with the States and municipalities, within ninety days after enactment of this section, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"OFFICE OF NOISE ABATEMENT AND CONTROL

"SEC. 403. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare and administer the provisions of this Act.

"(b) The Administrator is authorized to prescribe such regulations as are necessary to carry out his function under this Act. The Administrator may delegate to any officer or employee of the Environmental Protection

Agency such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(c) Upon the request of an environmental noise control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"(d) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator.

"DEFINITIONS

"SEC. 404. For purposes of this title and title V of this Act:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) The term 'person' means an individual, corporation, partnership, or association, and (except as provided in section 413(a)(1) of this Act) includes any officer, employee, department, agency, or instrumentality of the United States, a State, or any political subdivision of a State.

"(c) The term 'product' means any manufactured article or goods or component thereof; except that such term does not include—

"(1) any aircraft, aircraft engine, propeller, or appliance, as such terms are defined in section 101 of the Federal Aviation Act, as amended (49 U.S.C. 1431); or

"(2)(A) any military aircraft, rockets, weapons, or equipment which are designed for combat use; or (B) any aircraft, rockets, launch vehicles, spacecraft, or equipment which are designed for research, experimental, or developmental work to be performed by the National Aeronautics and Space Administration, as determined by the President under section 406 of this Act.

"(d) The term 'ultimate purchaser' means the first person who in good faith purchases a product for purposes other than resale.

"(e) The term 'new product' means a product the equitable or legal title to which has never been transferred to an ultimate purchaser. Products remanufactured or rebuilt by a manufacturer from used products to restore original functions shall be considered to be new products for the purposes of this title and title V of this Act.

"(f) The term 'manufacturer' means any person engaged in the manufacturing, assembling, or importing of new products, or who acts for, and is controlled by, any such person in connection with the distribution of such products, but shall not include any dealer with respect to any new product received by him in commerce.

"(g) The term 'dealer' means any person engaged in the sale or the distribution of new products to the ultimate purchaser who may prepare a product for sale or distribution to the ultimate purchaser: *Provided*, That when such dealer's preparatory or final assembly work involves modifications which increase the noise emission characteristics of such product, such dealer shall then be considered a manufacturer of such product for the purposes of this title and title V of this Act.

"(h) The term 'commerce' means trade, traffic, commerce, or transportation—

"(1) between a place in a State and any place outside thereof, or

"(2) which affects trade, traffic, commerce, or transportation described in paragraph (1) of this subsection.

"(i) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(j) The term 'Federal agency' means any department, agency, or instrumentality of the United States including United States Postal Service.

"(k) The term 'environmental noise control agency' means any of the following:

"(1) A single State agency designated by the Governor of that State as the official State environmental noise control agency for purposes of this Act;

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of environmental noise;

"(3) A city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of environmental noise; or,

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of environmental noise.

"(l) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(m) The term 'noise emission standard' means a statement of a noise level or other acoustical characteristic which may not be exceeded under specified conditions or method of operation. Such standard shall include the test procedures to be followed and shall be stated in terms of performance rather than design criteria.

"(n) The term 'environmental noise' means the intensity, duration, and character of sounds from all sources.

"(o) The term 'cumulative noise exposure' means the exposure of individuals in defined areas around airports to noise from aircraft operations weighted by time of day."

"RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

"SEC. 405. (a) The Administrator shall establish a national research and development program for the prevention and control of environmental noise and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of environmental noise;

"(2) conduct and finance research by contract with any person, on the effects, measurement, and control of noise, including but not limited to—

"(A) investigation of the direct or indirect effects of noise on humans (including physiological and psychological effects), and the direct or indirect effects of noise on domestic animals, fish, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects; and

"(B) development of improved methods and standards for measurement and monitoring of noise in cooperation with the National Bureau of Standards, Department of Commerce.

"(3) encourage, cooperate with, and render technical services (including the drafting of model ordinances) and provide financial assistance to environmental noise control agencies and other appropriate public or private agencies, institutions and organizations, and individuals in the conduct of such activities;

"(4) conduct investigations and research and make surveys concerning any specific problem of environmental noise in cooperation with any noise pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the noise is located; and

"(5) establish technical advisory committees composed of recognized experts in various aspects of noise to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research, and for other purposes.

"(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of activities pursuant to subsection (a) and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal agencies, with environmental noise control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities, including technical assistance;

"(3) make grants to environmental noise control agencies, to other public or nonprofit private agencies, institutions and organizations, and to individuals, for purposes stated in subsection (a) of this section;

"(4) contract with public or private agencies, institutions and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training (without fee) for, and make training grants to personnel of environmental noise control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and make available through publications and other appropriate means, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on physical, and human and other effects of varying levels of noise and other information pertaining to noise and the prevention and control thereof; and

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of environmental noise.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known noise sources.

"(d) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of environmental noise on public health and welfare.

"FEDERAL PROGRAMS

"SEC. 406. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 402 of this Act.

"(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the emission of noise shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products specified pursuant to section 404(c)(2) of this Act may be granted from the requirements of sections 408, 511, and

521 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year from the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) (1) The Administrator shall coordinate the programs of all Federal agencies relating to environmental noise research and environmental noise control. Each Federal agency shall furnish to the Administrator such information as he may reasonably require, to determine, as provided under section 309 of the Clean Air Act, if the nature, scope, and results of the noise research and environmental noise control programs of the agency are consistent with the purposes of this Act.

"(2) Each Federal agency shall consult with the Administrator in prescribing any regulations respecting environmental noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation of any Federal agency, respecting noise, does not protect the public health and welfare to the extent he believes to be required he shall request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request shall be published in the Federal Register and shall be accompanied by a detailed statement of the information on which such request is based. Such agency shall complete the requested review and report to the Administrator within 180 days after the date of the publication in the Federal Register of the request. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standards or regulation.

"(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish annually a report to the Congress on the status and progress of Federal activities relating to environmental noise research and environmental noise control. This report shall describe the environmental noise control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control environmental noise.

"NOISE CRITERIA AND CONTROL TECHNOLOGY

"SEC. 407. (a) The Administrator shall, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, within nine months after the date of enactment of this section, issue noise criteria. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise, and such criteria shall set forth levels of environmental noise the attainment and maintenance of which in defined areas under various conditions are requisite to protect the public health and welfare with an adequate margin of safety.

"(b) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall within fifteen months after date of enactment of this section compile and publish a report or series of reports (1) identifying products (or classes of products) which on the basis of information available to him appear to be major sources of noise, and (2) giving information on the processes, procedures, or operating methods which result in the control of the emission of noise, to implement noise emission control standards under section 408, 501, 503, 511, and 521 of this Act, which such information shall include technical and other data, including costs, as are available on alternative methods of noise control.

"(c) The Administrator, after consultation with appropriate Federal, State, and municipal agencies, and other appropriate persons, shall compile and provide information on methods and techniques of controlling environmental noise through, among other means, product use control, land use regulation, and construction and building standards. Such information shall be compiled and published to assist State and local governments in establishing and enforcing environmental noise control programs supported under section 418 of this Act.

"(d) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or reports published under this section.

"(e) Any report under subsection (b)(1) of this section identifying major noise sources shall be published in the Federal Register. The publication or revision of any criteria or information on control techniques under this section shall be announced in the Federal Register, and copies shall be made available to the general public.

"NOISE EMISSION STANDARDS FOR NEW PRODUCTS

"SEC. 408. (a) (1) The Administrator shall publish proposed regulations establishing noise emission standards for new products or classes of products—

"(A) identified in any report published under section 407(b) (1) of this Act as a major source of noise, and

"(B) which falls in one of the following categories:

"(i) Construction equipment.

"(ii) Transportation equipment (including snowmobiles, motorcycles, and recreational vehicles and related equipment).

"(iii) Any motor or engine (including any equipment of which an engine or motor is an integral part).

"(iv) Turbines and compressors.

"(v) Electrical and electronic equipment, except those products which are designed for the production or reproduction of music or sound (to the extent such reproduction is identical, except in amplitude, to the source reproduced).

"(vi) Percussion and explosive equipment.

"(2) (A) Regulations proposed under paragraph (1) shall be promulgated not later than eighteen months after the date of enactment of this Act, and shall apply to any appropriate new product described in paragraph (1) which is identified (or in a class identified) in any report published under section 407(b) (1) of this Act on or before the date of publication of such initial proposed regulations.

"(B) In the case of any new product described in paragraph (1) which is identified (or is part of a class identified) as a major source of noise in a report published under section 407(b) (1) of this Act after publication of the initial proposed regulations under subparagraph (A) of this paragraph, regulations under paragraph (1) of this subsection for such new product shall be promulgated by the Administrator not later than nine months after such report is published.

"(b) The Administrator may publish proposed regulations establishing noise emission standards respecting any new product for which he is not required to establish standards under subsection (a) of this section but for which, in his judgment, noise emission standards are requisite to protect the public health and welfare. Not later than six months after the date of publication of such regulations respecting such new product, he shall promulgate regulations establishing noise emission standards for such new product.

"(c) (1) Any noise emission standard prescribed under subsection (a) or (b) of this section respecting a new product shall set limits on noise emissions from such new product over the useful life of the product (as determined by the Administrator taking into account the range of possible uses for the same type of product) and shall be a standard which in the Administrator's judgment, based on information published under section 407 of this Act, reflects the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. In establishing such standards for any new product the Administrator shall assure that such standards are compatible with standards under other laws respecting emission of air or water pollutants and safety, including (but not limited to) any standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Clean Air Act (42 U.S.C. 1857 et seq.), or the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.). Any standard prescribed under subsection (a) or (b) of this section may contain provisions respecting instructions of the manufacturer for the maintenance or use of the product.

"(2) After publication of any proposed regulations under this section, the Administrator shall allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"(3) The Administrator may revise any noise emission standard prescribed by him in accordance with this section.

"(4) Any regulation prescribed under this section (and any revision thereof) shall take effect after a period not to exceed two years or such lesser time as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. Standards prescribed under this section shall apply to products manufactured on or after the effective date of such standards.

"(5) The Administrator may prescribe regulations defining 'effective date' for the purpose of assuring that products manufactured before the effective date of a regulation under this section were not manufactured for purposes of circumventing the effective date of such regulations.

"(d) (1) On and after the effective date of any standards prescribed under this section, the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that such product is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under this section, and (B) free from defects in materials and workmanship which cause such product, under normal use, operation, and maintenance to fail to conform with applicable regulations for its useful life, as determined by the Administrator, taking into account the range of uses for such product.

"(2) Any cost obligation of any dealer incurred as a result of any requirement imposed by paragraph (1) of this subsection shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(3) If a manufacturer includes in any advertisement a statement respecting the cost or value of noise emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Clean Air Act, as amended.

"(e)(1) No State or political subdivision thereof may adopt or enforce, with respect to (A) any product manufactured after the effective date of a regulation prescribed by the Administrator under this section or (B) any component incorporated into such product by the manufacturer of such product, any standard setting a limit on noise emissions from such product enforceable against the manufacturer which is not identical to the standard prescribed by the Administrator.

"(2) Subject to paragraph (1) of this subsection, nothing in this section shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products: *Provided,* That such control, licensing, regulation, or restriction shall not, in the case of any motor carrier engaged in interstate commerce or any equipment or facility of a surface carrier engaged in interstate commerce by railroad, result in a limit on noise emissions for any carriers, equipment, or facility different than any limit contained in any regulation applicable thereto prescribed by the Administrator under this section or title V of this Act, except that in the case of such carriers the Administrator may by regulation, upon the petition of a State or political subdivision thereof and after consultation with the Secretary of Transportation, permit such more restrictive limits on such noise emissions through the application of use, operation, or movement controls or regulations as in his judgment are necessitated by special local conditions.

"(3) If, after promulgation of any standards and regulations under this section and prior to their effective date, a product is manufactured in compliance with such standards and regulations such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such product on the date of such compliance.

"LABELING

"SEC. 409. (a) The Administrator shall by regulation for any new product (or class thereof)—

"(1) identified pursuant to section 407 (b)(1); or

"(2) which is sold wholly or in part on the basis of its effectiveness in reducing noise, require either (1) that a notice of the level of noise emission including the relationship to any applicable noise emission standard under section 408, or notice of the effectiveness in reducing noise (as the case may be) supplied by the manufacturer, be affixed to the new product and to the outside of its container at the time of its sale to the ultimate purchaser, or (2) that such notice of such level or effectiveness supplied by the manufacturer otherwise be given to the prospective user. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose. Section 408(c)(2) shall apply to the promulgation of any regulation under this section.

"(b) This section does not prevent any State or political subdivision thereof from regulating product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

"IMPORTS

"SEC. 410. Any product offered for entry into the United States for which a standard or regulation has become effective pursuant to this title, which is not accompanied by certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause disposal or storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 411. (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product, aircraft, or aircraft engine manufactured after the effective date of noise emission control standards prescribed under sections 408, 501, 503, 511, and 521 of this Act which are applicable to such product, unless such product is in conformity with such standards.

"(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, testing, repair, or replacement, of any device or element of design incorporated into any product, aircraft, or aircraft engine in compliance with noise emission standards promulgated under sections 408, 501, 503, 511, and 521 of this Act prior to its sale or delivery to the ultimate purchaser or during its term of use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative.

"(3) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(b) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(3)(A) In the case of a manufacturer or dealer, the assistance of any person in a violation of paragraph (2)(A) of this subsection or the furnishing of information with respect to a violation of paragraph (2)(A) of this subsection.

"(B) In the case of a manufacturer, the sale in, the offering for sale in, or the introduction or delivery for introduction into, commerce of any new product manufactured after the effective date of regulations promulgated under option (1) in section 409(a) of this Act (requiring information respecting noise) which are applicable to such product, unless it is in conformity with such regulations.

"(4)(A) The removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 409(a) of this Act prior to the sale of the new product to the ultimate purchaser, or (B) the sale of such product or container from which such notice has been removed.

"(5) The importation into the United States by any person of any new product in violation of regulations promulgated under section 410 of this Act that are applicable to such product.

"(6) The failure of any person to comply with any order issued under section 412(d) or 414 of this Act.

"(b)(1) The Administrator may after public hearings exempt for a specified period of time not to exceed one year, any new product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall be subject to noise emission standards of the country which imports such product. In no event shall the Administrator allow the export from the United States of any product subject to section 414 of this Act as a product, the noise emissions from which are an imminent and substantial endangerment to public health.

"ENFORCEMENT

"SEC. 412. (a) Any person who willfully or negligently violates paragraph (1), (3), (5) or (6) of subsection (a) of section 411 of this Act shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of paragraph (1) or (6) of subsection (a) of section 411 of this Act the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(b) For the purpose of this section, each day of violation of section 411(a) of this Act shall constitute a separate violation of that section.

"(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 411(a) of this Act.

"(d)(1) Whenever any person is in violation of section 411(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, to notify ultimate purchasers of the risks associated with such violation, to make public notice of such risks, to recall any products responsible for such violation, to repurchase any such products, or to replace any such products. Such order may also require the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"(e) When authorized by State law—

"(1) The Administrator may, by agreement with any environmental noise control agency with or without reimbursement, authorize law enforcement officers or other officers or employees of such environmental noise control agency to bring civil actions in the appropriate State courts to restrain any person from violating section 411(a).

"(2) The courts of such State may entertain any such civil action.

Nothing in this section shall affect the authority of an environmental noise control agency to commence a civil action under section 413 of this Act.

"CITIZEN SUITS

"SEC. 413. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (f) of this section), or

"(2) against—

"(A) the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator.

"(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under this Act or section 611 of the Federal Aviation Act of 1958 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator of the Environmental Protection Agency (and to the Federal Aviation Administrator in the case of a violation of a noise emission control requirement with respect to aircraft under this Act or section 611 of the Federal Aviation Act as amended) and (ii) to any alleged violator of such requirement, or

"(B) if an Administrator has commenced and is diligently prosecuting a civil action to require compliance with the noise control requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protection Agency or, if appropriate, the Administrator of the Federal Aviation Administration, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any noise control requirement or to seek any other relief (including relief against an Administrator).

"(f) For purposes of this section, the term 'noise control requirement' means any prohibition, standard, or requirement under section 408, 411, 501, 503, 508, 511, or 521 of this Act or a prohibition, standard, rule, or regulation issued under section 611 of the Federal Aviation Act of 1958, as amended.

"EMERGENCY SITUATIONS

"SEC. 414. (a) The Administrator or the Attorney General shall file, in a district court of the United States having venue thereof, an action against any product the noise emissions from which are an imminent and substantial endangerment to public health, or against any person who manufactures for sale, sells, or offers for sale, in commerce, or imports into the United States, such product. Such an action may be filed, notwithstanding the existence or nonexistence of a noise emission standard applicable to a product, or the pendency of administrative proceedings initiated pursuant to this Act.

"(b) The district court in which such action is filed shall have jurisdiction to declare such product a product the noise emissions from which are an imminent and substantial endangerment to public health, and to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent equitable relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of the original purchasers of such product of such risk, public notice, the recall, the repurchase, the repair, the replacement, or the seizure of such product.

"JUDICIAL REVIEW

"SEC. 415. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that:

"(a) a petition for review of action of the Administrator in promulgating any standard or regulation under section 408, 501, 511, or 521 of this Act or any labeling regulation under section 409 of this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

"SEC. 416. (a) Such manufacturer of a new product, aircraft, or aircraft engine to which standards or regulations under sections 408, 501, 503, 511, or 521 of this Act or regulations under section 409 apply shall (1) establish and maintain such records, make such reports, provide such information, and make such tests, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act, (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and the results of such tests and to copy such records, and (3) make new products coming off the assembly line or otherwise in the hands of the manufacturer available for testing by the Administrator, to the extent required by regulations of the Administrator.

"(b) For the purpose of obtaining information to carry out titles IV and V of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof (other than noise emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any communication from a person to the Administrator or any other employee of the Agency concerning a matter presently under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"FEDERAL PROCUREMENT

"SEC. 417. (a) No Federal agency may enter into any contract for the procurement of goods, materials, or services with any person, who has been convicted of a criminal offense under section 412(a) of this Act and who, upon consideration of the gravity of the violation and the good faith of the person charged in attempting to achieve rapid compliance, the Administrator determines should be subject to the prohibition of his section. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act, the President shall, not more than one hundred and eighty days after its enactment, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purposes and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States, and he shall notify the Congress of such exemption.

"GRANTS FOR SUPPORT OF ENVIRONMENTAL NOISE PLANNING AND CONTROL PROGRAMS

"SEC. 418. (a)(1). The Administrator may make grants to environmental noise control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining programs for the prevention and control of environmental noise.

"(2) Before approving any grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator (when appropriate) shall receive assurances that such agency provides for adequate representation of State, interstate, local, and international interests in its area of jurisdiction. Before approving any grant under this subsection the Administrator shall determine that the recipient is the appropriate environmental noise control agency for the jurisdictions involved in order to minimize overlap and duplication of effort.

"(3) Before approving any planning grant under this subsection to any environmental noise control agency within the meaning of sections 404(k)(3) and 404(k)(4) of this Act, the Administrator shall receive assurances that such agency has the capability of developing and enforcing a comprehensive environmental noise control plan.

"(4) Before approving any grant for purposes other than developing a program under this section to any environmental noise control agency within the meaning of section 404 of this Act, the Administrator shall determine that such agency has the authority—

"(A) to regulate the location, modification, and construction of any facilities within the area of jurisdiction of such agency which may result in the generation of environmental noise; and

"(B) to assure that the use of any product in the area of jurisdiction of such agency will not exceed applicable noise control levels;

"(C) to (i) identify, if appropriate, sources of environmental noise within the jurisdiction of such agencies, and (ii) set forth procedures, processes, and methods (including land use requirements and design and construction standards) to control such sources to the extent feasible;

"(D) to acquire, maintain, and operate noise monitoring facilities in the field and otherwise, making public reports of noise emissions and levels of environmental noise disclosed by such monitoring, which reports shall be related to any applicable standards or limitations; and

"(E) to issue abatement orders.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to environmental noise control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purposes of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential environmental noise problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of environmental noise unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for environmental noise control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 403(c) of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purposes of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

"(e) There is authorized to be appropriated for this section $5,000,000 for fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"DEVELOPMENT OF LOW-NOISE-EMISSION PRODUCTS

"SEC. 419. (a) For the purpose of this section:

"(1) The term 'Committee' means the Low-Noise-Emission Product Advisory Committee.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'low-noise-emission product' means any product which emits noise in amounts significantly below the levels of other products in the competitive market for such product at the time of procurement.

"(4) The term 'retail price' means (A) the maximum statutory price applicable to any type of product; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

"(b)(1) The Administrator shall determine which products qualify as low-noise-emission products in accordance with the provisions of this section.

"(2) The Administrator shall certify any product—

"(A) for which a certification application has been filed in accordance with paragraph (5)(A) of this subsection;

"(B) which is a low-noise-emission product as determined by the Administrator; and

"(C) which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the Federal Government.

"(3) The Administrator may establish a Low-Noise-Emission Product Advisory Committee to assist him in determining which products qualify as low-noise-emission products for purposes of this section. The Committee shall include the Administrator or his designee, a representative of the National Bureau of Standards, and representatives of such other Federal agencies and private individuals as the Administrator may deem necessary from time to time. Any member of the Committee not employed on a full-time basis by the United States may receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day such member is engaged upon work of the Committee. Each member of the Committee shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) Certification under this section shall be effective for a period of one year from the date of issuance.

"(5)(A) Any person seeking to have a class or model of product certified under this section shall file a certification application in accordance with regulations prescribed by the Administrator.

"(B) The Administrator shall publish in the Federal Register a notice of each application received.

"(C) The Administrator shall make determinations for the purpose of this section in accordance with procedures prescribed by him by regulation.

"(D) The Administrator shall conduct whatever investigation is necessary, including actual inspection of the product at a place designated in regulations prescribed under subparagraph (A).

"(E) The Administrator shall receive and evaluate written comments and documents from interested persons in support of, or in opposition to, certification of the class or model of product under consideration.

"(F) Within ninety days after the receipt of a properly filed certification application the Administrator shall determine whether such product is a low-noise-emission product for purposes of this section. If the Administrator determines that such product is a low-noise-emission product, then within one hundred and eighty days of such determination the Administrator shall reach a decision as to whether such product is a suitable substitute for any class or classes of products presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator shall publish in the Federal Register notice of such determination or decision, including reasons therefor.

"(c)(1) Certified low-noise-emission products shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other products if the Administrator of General Services determines that such certified products have procurement costs which are no more than 125 per centum of the retail price of the least expensive type of product for which they are certified substitutes.

"(2) Data relied upon by the Administrator in determining that a product is a certified low-noise-emission product shall be incorporated in any contract for the procurement of such product.

"(d) The procuring agency shall be required to purchase available certified low-noise-emission products which are eligible for purchase to the extent they are available before purchasing any other products for which any low-noise-emission product is a certified substitute. In making purchasing selections between competing eligible certified low-noise-emission products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low-noise-emission qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute.

"(e) For the purpose of procuring certified low-noise-emission products any statutory price limitations shall be waived.

"(f) The Administrator shall, from time to time as he deems appropriate, test the emissions of noise from certified low-noise-emission products purchased by the Federal Government. If at the time of purchase he finds that the noise-emission levels exceed the levels on which certification under this section was based, the Administrator shall give the supplier of such product written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Administrator, he may order the supplier to show cause why the product involved should be eligible for recertification.

"(g) There are authorized to be appropriated for paying additional amounts for products pursuant to, and for carrying out the provisions of, this section, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each of the two succeeding fiscal years.

"(h) The Administrator shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 420. There are authorized to be appropriated to carry out this Act (other than sections 418 and 419) $18,000,000 for the fiscal year ending June 30, 1973; $36,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975."

SEC. 3. The Clean Air Act is amended to add a new title V as follows:

"TITLE V—MAJOR MOVING SOURCES

"PART A—CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

"SEC. 501. (a) In order to afford present and future relief and provide protection to public health and welfare from aircraft noise and sonic boom—

"(1) the Administrator of the Environmental Protection Agency, after consultation with the Administrator of the Federal Aviation Administration, shall promulgate and amend standards for the measurement of aircraft and aircraft engine noise and sonic boom; and

"(2) the Administrator of the Environmental Protection Agency shall promulgate and amend regulations with respect to noise emission standard for aircraft and aircraft engines which he determines are necessary and adequate to protect the public health and welfare with an adequate margin of safety.

"(b) (1) Any regulations under this section or amendments thereof, with respect to noise emissions from types of aircraft or aircraft engines, shall reflect the degree of noise reduction achievable through the application of the best available demonstrated technology, taking into account the reasonableness of the cost of compliance and the demonstrable public benefit that will result, as determined by the Administrator of the Environmental Protection Agency after consultation with the Administrator of the Federal Aviation Administration and shall not be promulgated until the Administrator of the Federal Aviation Administration has determined that such regulations are consistent with the highest degree of safety in air commerce and that any proposed standard, rule, or regulation has been demonstrated to be technologically available for application to types of aircraft, aircraft engine, appliance, or certificate to which it will apply.

"(2) All standards, rules, and regulations prescribed pursuant to section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the Environmental Noise Control Act of 1972 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations promulgated and approved pursuant to this part: *Provided, however,* That the Administrator of the Environmental Protection Agency, within nine months of the date of enactment of this Act, shall review all noise emission standards, rules, or regulations in effect under section 611 of the Federal Aviation Act, as amended, prior to the date of enactment of the title.

"(c) Each Federal agency with regulatory authority over air commerce, aircraft or airport operations, or aircraft noise emissions, shall exercise such regulatory authority so as to reduce noise in airport environments and surrounding areas.

"SEC. 502. (a) The Administrator of the Environmental Protection Agency, after consultation with appropriate Federal, State, and local agencies and interested persons, shall conduct a study of the (a) adequacy of Federal Aviation Administration flight and operational noise controls; (b) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phaseout of existing aircraft; (c) implications of identifying and achieving levels of cumulative noise exposure around airports; and (d) additional measures available to airport operators and local governments to control aircraft noise. He shall report on such study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committees on Commerce and Public Works of the Senate within one year after enactment of this title.

"(b) The Secretary of Transportation, after consultation with the appropriate Federal, State, and local agencies and interested individuals, shall conduct a study of the means of financing the retrofitting of existing jet aircraft (excluding aircraft owned or operated by any military agency) in order to carry out the purposes of this part, and shall make recommendations, taking into consideration what is economically reasonable, technologically practicable, and appropriate for the types of aircraft and aircraft engines to which the recommendations will apply. He shall report on such study to the Committees on Interstate and Foreign Commerce, and Ways and Means of the House of Representatives, and the Committees on Commerce, Finance, and Public Works of the Senate by July 1, 1973, together with his recommendations for whatever legislation may be required.

"SEC. 503. (a) The Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 501 of this Act. The regulations of the Secretary of Transportation shall include provisions making such standards respecting noise emissions from any type of aircraft applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act, as amended, or the Department of Transportation Act, as amended. Such Secretary shall insure that all necessary inspections are accomplished, and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards, rules, or regulations applied to aircraft or aircraft engines existing on the date of enactment of the Environmental Noise Control Act of 1972, is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609 of the Federal Aviation Act, as amended, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standards, rules, or regulations, and that such amendment, modification, or revocation by the Board is consistent with safety in air transportation.

"SEC. 504. The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603(a) of the Federal Aviation Act, as amended, for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, unless such type certificates apply all of the standards promulgated by the Administrator of the Environmental Protection Agency prior to the date of issuance of such certificates.

"SEC. 505. No State or political subdivision thereof may adopt or enforce any standard respecting noise emissions from any aircraft or engine thereof.

"SEC. 506. Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 101 of the Federal Aviation Act of 1958, as amended. Notwithstanding any other provision of this Act, the sole authority to establish aircraft noise emission standards is contained in part A of this title.

"CIVIL AIRCRAFT SONIC BOOM

"SEC. 507. (a) No person may operate a civil aircraft over the territory of the United States, the territorial sea of the United States, or the waters of the contiguous zone (as defined under Article 24 of the Conservation of the Territorial Sea and the Contiguous Zone) at a true flight mach number greater than 1 except in compliance with the conditions and limitations in an authorization to exceed mach 1 issued to the operator under this section.

"(b) For a research and development flight in a designated flight test area an authorization to exceed mach 1 may be issued if the applicant shows one or more of the following:

"(1) The flight is necessary to show compliance with an airworthiness regulation or is necessary for aircraft development.

"(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

"(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight mach number of 1 will not cause a sonic boom to reach the land or water surface of the earth.

"(c) An application for an authorization to exceed mach 1 must be made on a form and in a manner prescribed by the Federal Aviation Administrator in consultation with the Administrator of the Environmental Protection Agency. In addition, for an authorization covered by subsection (b) of this section, each application must contain—

"(1) information showing that operation at speeds greater than mach 1 is necessary to accomplish one of the purposes specified in subsection (b) of this section;

"(2) a description of the flight test area proposed by the applicant; and

"(3) conditions and limitations that insure that no sonic boom will reach the land or water surface outside of the designated flight test area.

"(d) An application for an authorization to exceed mach 1 shall be denied whenever the Administrator of the Environmental Protection Agency finds that such research and development flight or flights will adversely affect public health or welfare or the quality of the environment.

"(e) An authorization to exceed mach 1 is effective until it expires, or until it is surrendered, and shall be terminated by the Administrator whenever he finds that such action is necessary to protect public health or welfare or the quality of the environment.

"(f) Any violation of this section shall be subject to the penalties prescribed under subsection (a) of section 412 of this Act.

"Supersonic Aircraft

"Sec. 508. No civil aircraft capable of flying at supersonic speed shall land at any place under the jurisdiction of the United States unless in compliance with the noise levels prescribed for subsonic aircraft by the Administrator of the Federal Aviation Administration and in effect on September 1, 1972.

"Part B—Railroad Noise Emission Standards

"Sec. 511. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"Sec. 512. The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 511 of this Act. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section and section 511 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"Sec. 513. Notwithstanding any other provision of this Act, after the effective date of regulations under this part, no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: *Provided, however,* That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"Sec. 514. The terms 'carrier' and 'railroad' as used in sections 511, 512, and 513 of this part shall have the same meaning as such terms have under section 22 of title 45 of the United States Code.

"Part C—Motor Carrier Noise Emission Standards

"Sec. 521. (a) Within nine months after the date of enactment of this title, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 408 of this Act.

"(b) Within ninety days after the publication of such regulations as may be proposed under subsection (a) of this section, and subject to the provisions of section 415 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this section.

"(c) Any standard or regulation, or revision thereof, proposed under this section shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(d) Any regulation or revision thereof promulgated under this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"Sec. 522. The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under section 521 of this part. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section and section 521 of this part shall be subject to the provisions of sections 411, 412, 413, 415, and 416 of this Act.

"Sec. 523. Notwithstanding any other provision of this Act, after the effective date of regulations under this part no State or political subdivision thereof may adopt or enforce any standard respecting noise emissions resulting from the operation of motor carriers engaged in interstate commerce unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section: Provided, however, That nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product as the Administrator, after consultation with the Secretary of Transportation, may determine to be necessitated by special local conditions or not in conflict with regulations promulgated under this part.

"Sec. 524. The term 'motor carrier' as used in sections 521, 522, and 523 of this part shall have the same meaning as those terms as defined in section 303(a) (14), (15), and (17) of title 49 of the United States Code."

Sec. 4. There is hereby authorized to be transferred to the Administrator any function or personnel of the Department of Transportation with respect to the control and abatement of aircraft noise which the President determines is necessary to carry out section 3 of this Act.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE SHARING—PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the Senator from Arizona (Mr. Fannin) that Mr. George W. Pritts have the privilege of the floor during the debate on the conference report on the revenue-sharing bill and the debt ceiling bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the Senator from New York (Mr. Javits), that Mr. J. Scales have the privilege of the floor during the discussion of this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT CEILING BILL—PRIVILEGE OF THE FLOOR

Mr. HANSEN. Mr. President, I ask unanimous consent that from the Joint Committee on Internal Revenue, Dr. Larry Woodworth, Al Buckberg, Bob Shapiro, Mike Bird; and from the Finance Committee, the following staff members: Mike Stern, Bob Best, Bob Willan, Bill Morris may be permitted on the floor during the debate and the vote on the debt ceiling and spending limitations debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask

unanimous consent that, during the debate and the votes on the debt ceiling bill, my legislative assistant, Mrs. Kester, may be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 635. An act to amend the Mining and Minerals Policy Act of 1970; and

H.R. 10729. An Act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The PRESIDENT pro tempore subsequently signed the enrolled bills.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 13, 1972, he presented to the President of the United States the enrolled bill (S. 635) to amend the Mining and Minerals Act of 1970.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. Beall) laid before the Senate a message from the President of the United States submitting sundry nominations, which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of Senate proceedings.)

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 98) authorizing the printing of the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings" as a Senate document.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mahon, Mr. Whitten, Mr. Evins of Tennessee, Mr. Obey, Mr. Flood, Mr. Casey of Texas, Mr. Sikes, Mr. McFall, Mr. Steed, Mr. Bow, Mr. Jonas, Mr. Cederberg, Mr. Michel, Mr. Conte, and Mr. Robison of New York were appointed managers on the part of the House at the conference.

REVENUE SHARING—CONFERENCE REPORT

Mr. YOUNG. Mr. President, I submit a report of the committee of conference on H.R. 14370, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of September 26, 1972, at pp. 32156–32161.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Richard Fay have the privilege of the floor during the consideration of the conference report and the debt limit bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on the conference report on the revenue sharing bill.

The yeas and nays were ordered.

Mr. LONG. Mr. President, we have been successful in getting the House conferees to accept a great many of the vital changes in the House bill that we developed so painstakingly here in the Senate. As a result, the conference report now embodies most of the improvements that were incorporated in our bill—improvements in such areas as the formulas for the distribution of the aid funds, greater flexibility for the local governments in the use of these funds, and reform of the Federal matching program for social services. The provisions in this conference report are, of course, not always in the precise form that we enacted them since we have naturally had to accommodate the House views and could not have our way in all matters. But I think that after examining this report, Senators will agree with me that it contains the substance of what the Senate developed in its bill. As a result, what we have here is good legislation which will effectively provide sorely needed aid to our States and local governments and which will provide a real measure of reform in Federal matching expenditures for social services.

Mr. President, I ask permission to include in the Record a table which compares the amounts appropriated for aid to the States and localities by the conference report with the amounts appropriated under the House and Senate bills by fiscal years.

There being no objection, the table was ordered to be printed in the Record, as follows:

	Conference agreement	House bill	Senate amendment[1]
Period:			
Jan. 1, 1972, through June 30, 1972	2,652.39	2,650	2,652.39
Fiscal year beginning July 1, 1972	5,642.28	5,450	5,954.78
Fiscal year beginning July 1, 1973	6,054.78	5,750	6,754.78
Fiscal year beginning July 1, 1974	6,204.78	6,050	7,054.78
Fiscal year beginning July 1, 1975	6,354.78	6,350	7,354.78
July 1, 1976, through Dec. 31, 1976	3,327.39	3,325	3,827.39
Total	30,236.40	29,575	33,598.90

[1] These amounts are based on (1) the appropriations contained in sec. 102 of the Senate amendment as limited by sec. 104(a) thereof, and (2) the appropriations contained in sec. 121(a) of the Senate amendment.

Mr. LONG. Mr. President, the table shows that over the life of the program the payments under the conference report are about $600 million larger than those scheduled under the House bill and about $3.4 billion less than the total payments provided under the Senate bill. However, the total payments under our bill included some $4 billion of payments in lieu of grants for social services over the period July 1, 1972, through December 31, 1976, which, in conference, have been deleted and included in matching grants which are given directly. So actually, the revenue sharing funds provided by the conference report are also about $600 million larger than those that were originally scheduled in the Senate bill.

Perhaps the most difficult matter that we wrestled with in conference concerns the formulas that are to be used in distributing the revenue sharing funds. This, of course, touches the heart of the matter since it determines how much of the revenue sharing funds each State and local government will get.

The bill that the Senate passed, in my opinion, used a distribution formula that was highly successful in putting the money where the needs are. Under our bill, the funds would be distributed to the States and their localities on the basis of one single formula; namely, population weighted by relative income and weighted again by general tax effort. This had the virtue of giving a relatively larger share of the funds to governmental units which had relatively poor residents and which made a greater than average tax effort.

The House bill, on the other hand, uses different formulas for allocating the funds to local governments and to States. The distributions to the States are based one-half on income tax collections and the other half on general tax effort. The distributions to the local governments are based on three factors: population, urbanized population, and population inversely weighted by per capita income.

In conference, we were faced with a difficult problem, because we wanted our distribution formula and the House conferees wanted theirs. We finally agreed to resolve this issue by computing the total State area allocation on the basis of the House formula or the Senate formula, whichever produced the higher payment.

In the first year of the revenue-sharing program, the additional cost involved in using whichever formula is more liberal is offset by a 9-percent reduction in the allocation which is initially determined for each State area on the basis of the particular formula that the States select. This was necessary to bring the cost of the program in the first year of operation within the total figure of $5.3 billion appropriated for this purpose. In the subsequent years of the program, the additional cost resulting from the option is absorbed for the most part by reducing the annual increases in payments that were provided under both the Senate and the House bills, from $300 million a year to $150 million.

Mr. President, I ask permission to include in the Record a table comparing the allocations to the various State areas under the conference report with those resulting under the Senate bill and the House bill for calendar year 1972.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—COMPARISON OF ESTIMATED DISTRIBUTION OF FUNDS TO THE STATES UNDER THE HOUSE BILL, SENATE BILL, AND CONFERENCE AGREEMENT FOR CALENDAR YEAR 1972

[In millions of dollars]

State	House bill	Senate bill [1]	Conference agreement			
			Before scaling to 5.3 billion	After scaling to 5.3 billion	State share [4]	Local share [5]
United States, total	5,300.0	5,300.0	5,821.1	5,303.9	1,767.8	3,536.1
Alabama	80.2	127.6	127.6	116.1	38.7	77.4
Alaska	6.6	5.5	[2] 5.5	[3] 6.3	2.1	4.2
Arizona	46.1	55.1	55.1	50.2	16.7	33.5
Arkansas	38.3	60.4	60.4	55.0	18.3	36.7
California	610.8	510.4	610.8	556.1	185.4	370.7
Colorado	59.4	60.0	60.0	54.6	18.2	36.4
Connecticut	72.6	57.5	72.6	66.2	22.1	44.1
Delaware	17.3	12.9	17.3	15.8	5.3	10.5
District of Columbia	26.0	14.1	26.0	23.6	7.9	15.7
Florida	150.0	160.3	160.3	146.0	48.7	97.3
Georgia	103.4	120.7	120.7	109.9	36.6	73.3
Hawaii	25.9	22.7	[2] 22.7	[3] 23.8	7.9	15.9
Idaho	15.4	21.8	21.8	19.9	6.7	13.2
Illinois	301.8	250.9	301.8	274.7	91.5	183.2
Indiana	113.8	114.6	114.6	104.3	34.8	69.5
Iowa	67.8	84.6	84.6	77.0	25.6	51.4
Kansas	47.7	58.0	58.0	52.8	17.6	35.2
Kentucky	71.8	95.9	95.9	87.3	29.1	58.2
Louisiana	83.2	124.8	124.8	113.6	37.9	75.7
Maine	19.9	34.2	34.2	31.1	10.3	20.8
Maryland	117.5	94.8	117.5	107.0	35.7	71.3
Massachusetts	179.0	143.5	179.0	163.0	54.3	108.7
Michigan	243.7	210.9	243.7	221.9	74.0	147.9
Minnesota	114.1	108.2	114.1	103.9	34.6	69.3
Mississippi	46.0	99.6	99.6	90.7	30.2	60.5
Missouri	107.6	108.5	108.5	98.8	33.0	65.8
Montana	16.7	22.6	22.6	20.6	6.9	13.7
Nebraska	34.5	47.1	47.1	42.9	14.3	28.6
Nevada	12.2	11.9	12.2	11.1	3.7	7.4
New Hampshire	13.5	16.7	16.7	15.2	5.1	10.1
New Jersey	179.7	142.6	179.7	163.6	54.5	109.1
New Mexico	22.5	36.5	36.5	33.2	11.0	22.2
New York	649.6	507.1	649.6	591.4	197.1	394.3
North Carolina	113.0	148.8	148.8	135.5	45.2	90.3
North Dakota	12.0	21.7	21.7	19.7	6.5	13.2
Ohio	227.4	185.4	227.4	207.0	69.0	138.0
Oklahoma	52.9	65.3	65.3	59.4	19.8	39.6
Oregon	60.1	61.8	61.8	56.2	18.7	37.5
Pennsylvania	300.9	290.2	300.9	274.0	91.3	182.7
Rhode Island	25.9	23.1	25.9	23.6	7.9	15.7
South Carolina	57.9	89.5	89.5	81.5	27.2	54.3
South Dakota	13.5	27.6	27.6	25.1	8.4	16.7
Tennessee	79.3	108.1	108.1	98.4	32.8	65.6
Texas	248.3	268.6	268.6	244.5	81.5	163.0
Utah	29.0	34.5	34.5	31.4	10.5	20.9
Vermont	11.0	16.3	16.3	14.8	4.9	9.9
Virginia	115.6	109.7	115.6	105.2	35.0	70.2
Washington	79.1	92.3	92.3	84.1	28.1	56.0
West Virginia	36.4	57.5	57.5	52.3	17.4	34.9
Wisconsin	137.0	147.1	147.1	133.9	44.6	89.3
Wyoming	6.1	10.7	10.7	9.7	3.2	6.5

[1] Excluding social service grant.

[2] Before adjustment for noncontiguous States.

[3] After adjustment for noncontiguous States.

[4] ⅓ to State governments and ⅔ to local governments.

[5] Local share includes amounts redistributed to the States because of limitation. These amounts are shown in the tabulation which follows on the 1st page for each State.

Note: Details may not add to totals because of rounding.

Mr. LONG. Mr. President, for calendar year 1972, most State areas will receive payments coming within 9 percent of the payments that they would receive under the higher of the Senate or the House distribution formulas. And in subsequent years, the payments to each State area will at least be equal to the higher of the amounts computed under the Senate and the House formulas.

Once the total allocations to State areas have been determined, the procedure used under the conference report to distribute funds to specific States and specific localities closely follows the Senate provisions. I am glad to report the distribution of the total funds set aside for the local governments in each State to specific local governments is made on the basis of the Senate formula—population weighted by relative income and weighted again by general tax effort. This has the virtue of distributing a relatively larger share of the funds than would the House bill to the poorer rural localities and also to the poor core cities.

We were also successful in persuading the House conferees to accept a number of other Senate provisions which make the distribution formulas more equitable. This includes giving the State governments the right by law to select alternative formulas to govern the distribution of funds to their local governments.

The conference agreement also accepts a Senate amendment which specifies that the per capita allocation to any specific local government is not to be less than 20 percent nor more than 145 percent of the average per capita allocation to local governments throughout the State. This limitation prevents the allocations to specific local governments from being either unduly low or unduly high.

The House conferees also accepted the Senate amendment which provides larger allocations to the States of Alaska and Hawaii because the costs of providing government services are unusually high in those States. Finally, the conference report adopts, with certain changes, the Senate amendment to grant aid funds to Indian tribes which are self-governing units.

I want to say a few words now about the question of how the local governments are to spend the aid funds. As Senators know, the Senate bill did not provide any limitation on the local governments in this regard. Local governments, like the State governments, were left free to determine how they would spend the revenue sharing funds. This was in accord with the theory that they would know better than people in Washington what their needs are and could make more efficient use of these funds if they were not hampered by restrictions.

The House, however, did not agree with us on this. Their bill required the local governments to spend the revenue sharing funds on a specified list of high priorities.

This is because the House seemed to believe that the Federal Government should provide guidance as to how the local governments should spend the funds furnished to them by the Federal Government.

In conference, we were not able to shake the House conferees from their position. Although I think it would have been preferable to eliminate this priority expenditure requirement entirely, in practice, I finally concluded that little harm has been done by permitting a modified version to stay in the bill. One reason for this is that we were able to get the House conferees to agree to expand the list of permissible expenditures for the local governments. As a result, the list of priority expenditures in the conference report now includes necessary maintenance and operating expenses not only for public safety, environmental protection and public transportation as under the House bill, but also expenditures for health, recreation, libraries, social services for the poor and aged, and financial administration, which were not included in priority expenditures under the House bill.

In addition, under the conference bill, we were successful in expanding the permissible capital expenditures for local governments to include all ordinary and necessary capital expenditures authorized by law. The House bill limited funds for capital expenditures to those for sewage collection and treatment, refuse disposal systems, and public transportation.

In other words, in the conference agreement, we have expanded the list of eligible priority expenditures to the point where they now include the bulk of the items on which local governments ordinarily spend their money.

The conferees also accepted basically as the Senate passed them a whole series of relatively technical amendments including those dealing with State maintenance of effort, requirements for reporting by local governments, antidiscrimination at the State level, and a Davis-Bacon requirement.

The conference report also provides for the Federal collection of State income taxes on a voluntary basis. As Senators will recall, both the Senate and the House bills provided for this "piggyback" procedure. Under the conference report, the piggyback provision becomes effective on January 1, 1974, provided at least two States whose residents filed 5 percent or more of all Federal income tax returns during 1972 to elect to have their taxes collected by the Federal Government. This requirement is very nearly the same as that in the Senate bill.

Finally, I am glad to report that the bill as it came from the House contains provisions which are designed to bring the present costly and rapidly expanding program of Federal matching grants to State and local governments for social services under control. The House bill contained no provision on this subject. However, the Senate adopted remedial provisions in the revenue sharing bill because this matching program was clearly going out of control.

Under the Senate amendment, 75 percent Federal matching for social services would have been limited to child care and family planning services with an overall ceiling of $600 million for these two services. In addition, the Senate bill provided $1 billion in supplementary revenue-sharing funds in recognition of the termination of funding for other social services. The conferees agreed instead to retain the social services provisions of present law but to place an overall limit on Federal funding for social services.

Under the substitute, Federal matching for social services under programs of aid to the aged, blind and disabled and aid to families with dependent children would be subject to a State-by-State dollar limitation, effective beginning with fiscal year 1973. Each State would be limited to its share of $2,500,000,000 based on its proportion of population in the United States. Child care, family planning, services provided to a mentally retarded individual, services related to the treatment of drug addicts and alcoholics, and services provided a child in foster care could be provided to persons formerly on welfare or likely to become dependent on welfare as well as present recipients of welfare. At least 90 percent of the expenditures for all other social services, however, would have to be provided to individuals receiving aid to the aged, blind and disabled or aid to families with dependent children. Until a State reaches the limitation on Federal matching, 75 percent Federal matching would continue to be applicable for social services as under present law.

Under the substitute, services necessary to enable AFDC recipients to participate in the Work Incentive Program would not be subject to the limitation described above; they would continue as under present law, with 90-percent Federal matching and with funding of these services limited to the amounts appropriated. In addition, the conference substitute incorporates the provision of the State bill reducing Federal matching for emergency social services from 75 to 50 percent.

The conference substitute directs the Secretary of Health, Education, and Welfare to issue regulations prescribing the conditions under which State welfare agencies may purchase services they do not themselves provide.

In the conference we were told that the Secretary of Health, Education, and Welfare has issued new regulations requiring States to report how social services funds are used. We expect the Secretary to have available detailed information on how social services funds have been spent and are being spent, and on the effectiveness of the programs we are paying for.

In conclusion, I want again to emphasize the importance of this legislation and the need for its prompt adoption. This has not been an easy bill to develop. There are so many different considerations to be taken into account under many of the provisions that probably none of us is completely satisfied with every aspect of this bill. However, we have tried to reach as good a balance in dealing with these various problems as possible. In my opinion, the legislation that we now have before us achieves such a balance. It will provide urgently needed assistance to State and local governments and at the same time will provide sorely needed reform in the program of Federal matching for social services. This legislation merits our support, and I urge the Senate to adopt it.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Alaska.

Mr. STEVENS. First, I want to express the appreciation of the Senators from Hawaii and Alaska to the manager of the bill and the ranking minority member of the Finance Committee for taking to conference the question of the cost of living in Hawaii and Alaska, and I am grateful for what has resulted in the final conference report.

I have discussed the language with the Senator from Louisiana and the Senator from Utah, and, as they will recall, we do have an amendment on H.R. 1 concerning the problem of the small States, in particular, that have been providing services in excess of those which will now be permitted on the population formula.

I have called to the attention of the Senator from Louisiana the statements made by the chairman of the Ways and Means Committee last night on the floor of the House of Representatives, and I would like to put them in the RECORD here.

Representative MILLS said last evening:

> I would not be for that, frankly.

He was talking about a hold harmless provision. He said:

> I have suggested that if the Senate would add an amendment to the bill that we could consider that would allow a redistribution under the formula of moneys that are not to be used by the States or by some States within this $2.5 million ceiling, so that some States could get more because some other States were not using all of their part, then I would have no objection to such an amendment and I would support it, but I cannot go beyond that.

The chairman of the Ways and Means Committee also said specifically:

> Another State adversely affected is Alaska. I was told by representatives of the State government of Alaska that in their social services program—I do not know how many people they have, but I understand it is somewhere around 300,000—they had over 2,000 people on the payroll in Alaska trying to render services in the nature of social services who would lose jobs following this distribution.

We have a great problem in dealing with the highest unemployment in the country and the largest percentage of native and Indian population in the country, and I am naturally anxious to see this matter resolved. On the other hand, I understand the chairman's position.

I would like to ask, if the Senator from Louisiana will tell me, have the conferees reached the point yet on the H.R. 1 conference where the amendment the managers accepted in connection with this problem has been discussed there?

Mr. LONG. No; we have not.

I might say that in the limited time available to us, working on the mammoth bill that is H.R. 1, the conference is coming along very well, but we have not yet come to the provision the Senator is referring to. When we do, I will make it a point to show the chairman of the House conferees what he said on the floor. I have no doubt that the chairman of the Committee on Ways and Means is a man of his word. If he says something, he has a way of backing it up.

I see no reason at all to think that we could not prevail upon the House conferees to accept the amendment which was sponsored by the Senator from Alaska to H.R. 1, to achieve what the Senator is discussing here, in view of what was said on the House floor.

We would be forced to resist such an amendment if it were offered on the bill now, because we want to agree to this conference report and send the bill on to the President. But the provision is in

H.R. 1. I am confident that we will bring back a conference report on H.R. 1. I see no reason to believe that we will deadlock in conference. The conference is going along very well. Both sides seem to be conciliatory to one another, as we always have been. I see no reason to think that if the chairman of the House conferees would take it on this bill, he would not take it on H.R. 1, to which it is relevant and germane.

Mr. STEVENS. I am grateful to the Senator from Louisiana for that statement.

I think we are in a strange situation. The statement was made by the chairman of the Ways and Means Committee last evening. As I take it, he must have been referring to H.R. 1, since the matter was subject to amendment in the House at that time, with this one amendment, No. 20, which is in disagreement at this time, as I understand.

I am inclined to rely again, as we have done in the past, on the assistance of the Senator from Louisiana and the Senator from Utah in trying to prevail with respect to our amendment to H.R. 1. It is a matter of great consequence to us, because we have determined, if what the chairman has said is correct, that there will be 2,000 people who are presently providing services to the Indians, the Eskimos, alcoholic services, family planning, with various types of contracts outstanding—approved, incidentally, by HEW—and they have been outstanding for a period of time and will have to be canceled because we have such a very small population. We would get the very lowest amount under this population formula.

Strangely enough, I might point out that the other State that would be harmed the greatest is the State of New York, with its very large population. It is one of those strange things, and I am sure the Senator knows that the Senator from New York (Mr. JAVITS) has been very interested in this matter.

We have determined that at this time we will rely on the amendment that was offered and is in H.R. 1; and I can only hope and pray that the Senator will prevail in that conference and bring us back a portion, if not all, of the amendment we put on that bill.

Mr. LONG. I thank the Senator. I assure him that we certainly respect the will of the Senate. We will direct the attention of the chairman of the House conferees to the fact that he did say he would agree to such amendment if it were offered on some other legislation. We think that the appropriate bill on which it belongs is the one it is already on, H.R. 1. In view of his statement, I would think there is every reason to anticipate that the chairman would support it and that his conferees would go along with him.

Mr. STEVENS. I am entirely in accord with the Senator from Louisiana, because many of the services provided under H.R. 1—the child centers, the increased asistance to States to maintain such services—will come into play by the end of this fiscal year. All our amendment did was to provide the bridge between the existing social services program and the time when H.R. 1 assistance will be available to the States. It was available only for fiscal 1973.

I am grateful to the Senator from Louisiana, and I hope he will succeed in connection with that conference.

Mr. JAVITS. Mr. President, as the Senator knows, we are seriously hurt in New York by the situation which finally developed in revenue sharing on social services, our request was over $800 million, while this bill provides only $223 million.

But I should like to ask the Senator from Louisiana as follows: If our hopes are dashed with respect to the Stevens amendment where it is now, would the Senator be willing to see it put on some other bill where it might have a better likelihood of success in view of the fact that this is all for this fiscal year and it has to be done within an approximate time for the States to know where they stand?

Mr. LONG. Mr. President, my guess is that we have a good chance of getting this provision accepted on H.R. 1. If we cannot get it accepted on H.R. 1, to which it is germane, then I do not think we will have any way to persuade the same House conferees to accept it on any other bill. I think I would be less than forthright if I presented it to the Senator in any other way. But the prospects are good.

Mr. JAVITS. That is fair. I should like to endorse what the Senator from Alaska (Mr. STEVENS) has said, although it is cutting us very badly in New York, but I know that the Senator is now really trying to help us.

Mr. LONG. We also accepted the Javits amendment to the Stevens amendment, which gives New York an additional $5 million, and I hope the House agrees to it.

Mr. JAVITS. I appreciate that. I should like to endorse what the Senator from Alaska (Mr. STEVENS) has said.

Mr. LONG. I yield to the Senator from Arkansas.

Mr. McCLELLAN. I ask the distinguished Senator whether there is anything in the bill that would prevent the President from making reductions in the authorized payments to the States in order to reduce expenditures and bring the amount down to the $250 billion limit that is authorized and directed by H.R. 16810, which has been passed by the House and which will be considered by the Senate before adjournment.

Mr. LONG. Nothing in this bill would prevent him from doing that.

Mr. McCLELLAN. Unless there are some provisions, unless some formula is provided in H.R. 16810, it would appear to me that the President would have the power to cut very heavily into the funds that are being authorized and that are being appropriated under this law, the payment of this revenue sharing to the States.

Mr. LONG. I say to the distinguished Senator from Arkansas, the chairman of the Committee on Appropriations, that the President would have the power to hold up every nickel of it.

Mr. McCLELLAN. That is what I wanted to emphasize.

Mr. LONG. To be entirely forthright with the Senator, I should add that the Secretary of the Treasury testified that he did not intend to hold up any of it. But the President has the power to hold up all of it. If the debt limit as it is before the Senate, to be the next order of business, is passed as it stands, he would have the power to hold up every nickel of it.

Mr. McCLELLAN. So there is at least another $5 billion item that the President cannot touch in trying to reduce expenditures to $250 billion, if that pledge is to be kept.

Mr. LONG. They told us that they were not going to do it; yet, they have the power, under this proposal, to hold up all of it.

Mr. McCLELLAN. Does the Senator agree with me that it might be wise to have some kind of formula, some limitations or restrictions on the power of the President to manipulate the expenditures?

Mr. LONG. Not only do I agree with the Senator, but also, I sought his advice on the subject and followed it. Unfortunately, those who tend to partake of that point of view did not prevail. We failed on a tie vote.

Mr. McCLELLAN. That is not the final answer. We still have an opportunity to make a determination about that in this body before the enactment of H.R. 1681.

I think—I am just presenting the idea—it is something that this body and this Congress should consider, along with granting to the President all the power to cut wherever he might wish, in any program Congress has authorized and for which we have appropriated money. That is the feature that gives me concern. I think we have to cut expenditures. I do not question that. If we have to do it as a last resort, perhaps we must give this power to the President. I think it is possible and prudent for Congress to work out some formula by which it can share in that responsibility and not completely abdicate its responsibility to the President.

I just project this as a thought at this moment. H.R. 16810 will come up later for the Senate's consideration.

Mr. LONG. I want to make the point clear that, in my judgment, the legislative responsibility for a spending limitation more properly belongs in the Committee on Appropriations than it does in the Committee on Finance. It is only because the bill came to the Senate with that amendment in it—the spending limitation—that it is there now, so far as this Senator is concerned. It was not the suggestion of the Senator from Louisiana that it be in the bill. That is how the House sent it to us. When we took a spending limitation from here to them earlier this year, the conferees for the Ways and Means Committee made the point to us that this was a matter on which their own Appropriations Committee would proceed and would properly want to exercise its judgment. So we recognize that in this matter. I personally think, as one person looking at the problem, that it would be better procedure if Congress would make its plans on a spending limitation and get all the appropriations bills passed as soon as possible. Then if the total is beyond the estimated revenues of the Government, pass a final resolution or a supplemental bill to reduce the overall level of spending and try to get it within our estimated revenues and, if not, then to get it as near as we can.

Mr. McCLELLAN. I agree with the Senator in many respects. I think it is the primary duty of Congress and the responsibility of Congress to determine the amount of expenditures of the Federal Government, but it has been the practice of appropriating far in excessive revenues and is rapidly becoming a tradition in Congress. I think we have reached the point where some critical action must be taken. This is certainly a kind of radical departure from the responsibilities of the two branches of Government, what we are doing when we give him authority to reduce wherever he wants to.

So I think it is imperative that Congress try to retain, even in this critical situation, as much of its responsibilities as possible. It may well be that each year we would have to do as the Senator suggests, that is, after adding up the total of all the appropriations, make some overall provision insofar as reductions are concerned to bring them to a tolerable total consistent with sound fiscal policy. That may well be. But even doing that, I think that Congress should share and should assume some responsibility in doing it and not shift that burden and responsibility altogether to the President of the United States. I just mention this at the time of consideration of this problem.

I now have to leave the floor to go to a conference on the supplemental appropriation bill, but we will have up the other measure later, the House bill to which I have referred.

I think we should, and I hope that my colleagues will begin to think about some of these problems which, I say, are involved here, and maybe we can find, not a complete or satisfactory solution, but we can do something to minimize the abdication of power and authority that we are being asked by this debt limit proposal to do.

I thank the distinguished Senator from Louisiana for yielding to me.

Mr. AIKEN. Mr. President, will the Senator from Louisiana yield for a question?

Mr. LONG. I yield.

Mr. AIKEN. On page 21 of the report, section 103, it lists the purposes for which revenue funds will be used. Included in that list is "Libraries." The use of funds for educational purposes is clearly excluded from the list. However, on line 2, it authorizes the use of funds for ordinary and necessary capital expenditures authorized by law. Is that intended to permit the building of schoolhouses?

Mr. LONG. Yes, it can.

Mr. AIKEN. It can. I thank the Senator.

Mr. STEVENSON. Mr. President, first, I want to commend the distinguished chairman of the Finance Committee who has labored long, hard, and heroically on behalf of revenue sharing. I cannot support the result; revenue sharing is a governmental monstrosity, giving away the taxpayers' money for State and local governments to spend as they please is not sound public policy either for the Federal Government or for the State and local governments.

Mr. President, I intend to vote against accepting the conference committee report on revenue sharing for the same reasons I opposed the legislation when it was originally before the Senate. Revenue sharing is a program which makes little sense for the Nation and even less sense for my own State of Illinois.

Illinois citizens will pay $371 million in Federal income taxes to finance the $5.3 billion revenue-sharing program, but the State and its localities will receive only $274.6 million back. Revenue sharing will mean a loss of $96 million for the State I have been elected to represent. In addition the conference committee placed a $2.5 billion limit in funding for the existing social services program and changed the method of allocation to a per capita formula basis. As a result, Illinois, which now receives $182 million in Federal social services funds, will now receive only $135 million—a net loss of $47 million—even though it will contribute $172.5 million in taxes to finance the program. So the conference committee report before the Senate represents a net loss of $143 million for Illinois.

But my objections to revenue sharing go far beyond the inequitable manner in which my own State is treated.

During my service in the Illinois State Legislature and as Illinois State Treasurer, I became increasingly alarmed over the financial crisis facing some—but not all—States and local governments. But I did not believe then and I do not believe now that giving away the taxpayers' money for State and local governments to spend as they please is sound public policy either for the Federal Government or for States and local governments.

The Federal Government has an obligation to account for each and every dollar which it raises by taxing the income of American families. I do not see how providing Federal tax dollars for other governments to use for any purpose can be considered consistent with that obligation.

It is particularly ironic that revenue sharing should become law at a time when the call for reordering our national priorities is being increasingly heard. For revenue sharing sets no priorities at all. It delegates that responsibility of the Federal Government, and of Congress in particular, to State and local governments.

Furthermore, revenue sharing is a luxury the Federal Government simply cannot afford. At this moment in history the Federal Government does not have revenues to share. The Federal deficit for the last fiscal year was $23 billion; the Federal deficit predicted for this fiscal year is $35 billion.

The President has now come to Congress and asked it to abrogate its constitutional responsibility by allowing him to cut whatever programs he wishes, in order to keep the budget under control. He did not feel so moved by the need for fiscal responsibility when he pushed through Congress his revenue-sharing proposal adding $5.3 billion to this year's budget deficit.

A recent study by the highly respected American Enterprise Institute projects a 1975 full employment budget deficit of $20 to $21 billion under President Nixon, should he be reelected, and places a substantial portion of the blame for this deficit on the revenue-sharing program. The study entitled "Nixon, McGovern, and the Federal Budget" concluded:

> The federal government is apparently in the process of impoverishing itself while putting the states and local governments as a group in a position of relative fiscal affluence. The combination of sharply higher federal aid through revenue sharing and other programs and reduced pressures for spending as school enrollments slow down or even fall and population grows more slowly looks as if it may put the state and local government sector in a position to sharply reduce revenue growth, or increase spending, or both.

Mr. President, I ask unanimous consent that a more detailed account of the American Enterprise Institute's findings be inserted in the Record at this point.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpt

Effect on State and Local Government Finances. The AEI budget model also produces projections of state and local budget expenditures and receipts for each set of federal expenditure and receipts projections. The base on which each major type of state and local tax is levied (personal taxable income, corporate profits, consumption) is projected and then revenues are projected using the historical responsiveness (including legislated changes) of various sources of state and local government tax revenue to the growth in the tax base. Expenditure projections are built around two demographic variables, the projected number of students enrolled in public education at all levels and projected population. In addition, a "quality adjustment" is built in—that is, allowance is made for the trend rate of increase since 1954 in *real* state and local education expenditures per pupil and real per capita expenditures for other purposes.

The result of projecting state and local budget receipts and expenditures under the Nixon and McGovern programs, together with the recent behavior of this sector's spending and receipts, provides useful insight into one basic ingredient in the federal budget "crunch." It also may suggest avenues for alleviating the budget situation at the federal level.

Table 8 shows projected state and local receipts, expenditures, and surpluses for 1975–80 under the budgets of the two candidates as projected in this study. In both instances, we find the state and local governments incurring large surpluses over the projection period. Under the Nixon budget projection, these surpluses are large but decline slightly from almost $24 billion in 1975 to under $21 billion in 1980. Under the McGovern budget projection, the surplus in the state and local sector is both larger and growing: it ranges from some $47 billion in 1975 to just over $60 billion in 1980.

TABLE 8.—PROJECTED STATE AND LOCAL RECEIPTS, EXPENDITURES AND SURPLUS, NIXON AND McGOVERN BUDGETS, 1975–80

[NIA basis, billions of current dollars]

	Calendar year					
	1975	1976	1977	1978	1979	1980
Nixon budget:						
Receipts	225.5	241.5	259.3	279.0	300.7	324.2
Expenditures	201.5	218.9	237.3	257.6	279.6	303.5
Surplus	23.9	22.6	22.0	21.4	21.1	20.6
McGovern budget:						
Receipts	235.3	251.1	268.9	288.9	310.5	334.2
Expenditures	188.2	203.0	218.5	235.5	253.4	273.1
Surplus	47.2	48.1	50.4	53.4	57.1	61.1

Note: Details may not add due to rounding.

Source: LRBP estimates.

Aside from the differences in the state and local government surpluses indicated under the budgets of the two candidates, the fact that such large surpluses exist at all is significant. If World War II years are excluded, in the whole period from 1929 to 1969, the state and local government sector never produced a surplus for any one year of over $2 billion (in 1946 it was $1.9 billion). Typically, this sector comes in with a balance of $2 billion, plus or minus. Based on this experience, it would seem reasonable to argue that state and local governments will either cut taxes (or at least forego some increases in rates) or spend more or do both and, in any event, will end up with little if any surplus. However, since the first quarter of 1971, the state and local government sector has not only run surpluses, but surpluses that have grown at an astonishing rate (Table 9). As of the second quarter of 1972, the surplus in the state and local government sector was running at an annual rate of close to $15 billion![1] Given such rapid change, it is difficult to predict the path of the state and local government sector's overall surplus without further study.

TABLE 9.—STATE AND LOCAL GOVERNMENT SURPLUSES, QUARTERLY, 1979–I TO 1972–II

[Seasonally adjusted at annual rates; billions of dollars]

	State and local government		
Period	Receipts	Expenditures	Surplus
1970:			
I	130.1	126.5	3.6
II	133.6	129.8	3.8
III	137.1	134.1	2.9
IV	139.1	138.2	.9
1971:			
I	144.2	142.2	2.0
II	150.1	145.2	5.0
III	154.0	147.8	6.2
IV	158.7	152.7	6.0
1972:			
I	164.8	157.7	7.1
II	175.2	160.4	14.8

Note: Details may not add due to rounding.

Source: Department of Commerce, "Survey of Current Business," various issues.

Regardless of the outcome, such large potential surpluses may be indicative of the overall fiscal outlook for the state and local government sector. However they might be used, the fact that they may be there at all represents a marked lessening of the fiscal strain this sector has experienced over the past decade or so. At the same time, individual units in the state and local sector may continue to face a fiscal squeeze, reflecting loss of population, industry and tax base, the costs of equalizing school outlays between districts, or special expenditure needs not foreseen, or accounted for, in the projection of aggregate outlays.

If this outlook for the state and local sectors is generally correct, it may explain much of the federal budget dilemma facing both Nixon and McGovern. In response to the pressing needs of state and local governments in the 1960s—when school enrollments were soaring and needs for other public services were pressing because of rapid family formation—the federal government sharply increased its aid to this sector. In the years ahead, large increases in federal financing will be continuing as pressures on total state and local spending may well be abating—although some parts of the sector will still be in a fiscal bind. To oversimplify: *the federal government may be in the process of beggaring itself to relieve many state and local governments from having to finance outlays that may never be needed, while failing to provide enough help to some "pockets of poverty" that remain.* This would indicate that the problem is now one of bringing federal aid to state and local governments more in line with their overall future needs, not the needs of the past, and to see that such aid goes to those states, cities, and towns where real fiscal distress remains.

The projections in this study show large surpluses for state and local governments because they reflect the thinking of Nixon, McGovern and their advisers that aid to state and local governments should continue to have high priority. Under the Nixon budget, general revenue sharing becomes operative and a new welfare program would relieve states of part of their share of the costs of welfare. McGovern not only embraces general revenue sharing, but would also have the federal government finance all welfare, and in addition, his health insurance plan would relieve states of their share of the cost of medicaid. The result would be a net decrease of state and local spending of $13 billion in 1975 under the McGovern budget. Coupled with a rise in grants of some $7 billion (net of reduced grants under medicaid and welfare) and increases in tax revenues of $3 billion (due to the higher GNP path), the aggregate state and local surplus under McGovern would be $23 billion higher than that under Nixon in 1975.

Mr. STEVENSON. Mr. President, the cause of fiscal responsibility would be much better served by congressional disapproval of irresponsible and expensive programs such as revenue sharing than by a congressional delegation of its constitutional authority to the President.

Equally important our States and cities will not be well-served by mindlessly providing them with free Federal funds. Money alone will not solve problems; structural reform is needed at the State and local level as well as better management, new ideas, and, most important, the will to act.

Revenue sharing is an incentive to spend for the sake of spending. It would embalm the status quo. And it is not temporary. If revenue sharing begins under the pressures we have all felt it will not be stopped against even greater pressures.

Revenue sharing is a threat to the very viability of State and local governments. In the future they will look to the Federal Government to provide them with funds rather than to their own initiative. As a consequence, States and local governments will become increasingly more dependent upon the Federal Government and increasingly more impotent themselves.

There is no doubt in my mind that the Federal Government must help hard-pressed State and local governments. But it can help best by providing assistance in a manner consistent with its responsibility to solve national problems. I, therefore, again urge that the Senate direct its attention to truly pressing problems such as the need for welfare reform, general aid to education, and public service employment. Constructive legislation in these areas would represent sound and responsible public policy at the same time as it would relieve the fiscal pressure on States and localities.

Mr. President, I would point out in conclusion, that under revenue sharing the Federal Government drives itself deeper and deeper into debt in order to finance greater and greater surpluses at the State and local government levels. The point has been overlooked in the course of the debate, but according to the American Enterprise Institute, which has projected State finances and local finances, as well as Federal finances, the Federal budget is subject to continued deficits while State and local budgets face growing surpluses.

State and local governments have since the first quarter of 1971 run surpluses that have grown at an astonishing rate—from $2 billion at an annual rate in the first quarter, to $6 billion at an annual rate in the fourth quarter of 1971.

The aggregate State and local fiscal surplus amounted to approximately $5 billion in fiscal 1971. In the second quarter of fiscal 1972, the aggregate State and local surplus climbed to $14 billion on an annual basis.

The American Enterprise Institute projects a State and local surplus of $24 billion for 1975 under President Nixon's projected budget, and a surplus of $47 billion under that of the McGovern administration. At the same time it projects a very substantial deficit for the Federal Government.

Under this proposal we are beggaring the Federal Government, starving Federal programs, driving us further into debt and toward increased taxes in order to finance the surpluses of governments at the State and local levels.

I submit that does not make any sense. For that reason, I will oppose the conference report. I also shall offer at the appropriate moment an amendment to the debt ceiling bill which will require the President to withhold expenditures for revenue sharing before he withholds any other funds in order to meet the ceiling for Federal expenditures.

---

[1] The $14.8 billion surplus is partly a statistical aberration. Federal grants were abnormally high in 1972–II because of an advance payment of one-month's public assistance money. This raises the figure some $3 billion above what it would have been, but the remaining $12 billion or so is still large.

It seems to me that the Federal Government ought to finance its Federal activities before it undertakes to finance activities of other governments when those other governments, State and local, are increasing their surpluses.

Mr. President, I thank the chairman of the committee for yielding.

Mr. FANNIN. Mr. President, I note that while the priority areas in section 102(a) of the House bill seem to be defined broadly, the bill does not contain a definition of law enforcement and I have been unable to get a clear picture of the scope of law enforcement from the legislative history to date. Since both the House and the Senate wanted to provide broad latitude for the state and local governments, in the choice of programs to be funded, and since both bodies intended to have maximum participation by all major levels of government, including counties, it appears that a definition of law enforcement broad enough to insure this broad latitude in law enforcement programs that could be funded was intended.

In explaining the House special expenditure categories, the Ways and Means Committee interpreted these categories to be identical to those listed in the Bureau of Census reports on expenditure and employment data, but the committee did not make it clear whether all the criminal justice categories were included within the definition of "law enforcement."

The Census report for law enforcement expenditures in fiscal year 1969 lists five major categories of criminal justice activity: Police protection, judicial, prosecution, indigent defense and correctional.

A review of the law enforcement expenditures for fiscal year 1969 in the 128 largest county governments reveals that the "police protection" category represented only 33.5 percent of the total law enforcement expenditures. The other four categories were as follows: Judicial, 30.2 percent; prosecution, 7.4 percent; indigent defense, 1.7 percent; and correctional, 27.3 percent.

Mr. President, I believe it is imperative that the Senate clearly indicate that its understanding of the definition of law enforcement as a high-priority category includes police, courts, and corrections.

Mr. President I would like at this time to pose a couple of questions to the distinguished chairman of the committee.

First, could the distinguished committee chairman tell me what the understanding of the conference committee was on the scope of law enforcement programs?

Mr. LONG. Mr. President, it is my interpretation that since the Senate did not have limited categories and receded to the House on this point, the Senate conferees did so with the understanding that law enforcement was to include, police, courts, and corrections.

Mr. FANNIN. Mr. President, it is then the chairman's opinion that all the programs included in the definition of law enforcement in the Omnibus Crime Control and Safe Streets Act, such as crime prevention and control, activities of the criminal courts, and activities of corrections, including probation, parole, juvenile delinquency prevention, and drug rehabilitation, can be funded under the public safety category in the conference bill.

Mr. LONG. Yes, I believe a broad range of programs was intended to be included in the scope of law enforcement and public safety.

Mr. FANNIN. Mr. President, I certainly thank the distinguished chairman and manager of the bill. I am pleased with the chairman's answers.

It will enable the counties to be full partners with the States and local units of government. Since a large portion of the law enforcement expenditures by the counties is in the fields of courts and corrections, I believe that law enforcement must be broadly defined to include police, courts, corrections, and juvenile delinquency prevention and control to insure that the revenue-sharing program is to be equitable for all levels of government.

Mr. DOLE. Mr. President, in studying the Revenue Sharing Act of 1972 as reported by the conference committee, I noted with considerable concern the language chosen to describe one of the special categories made eligible for receipt of Federal matching funds in the social services section of the act.

I was disappointed that the conferees stipulated "aid to the mentally retarded" as one of the categories rather than "aid to the developmentally disabled." I believe this change is of such importance that it should be clarified.

Mr. President, I want to discuss with the chairman whether or not the term, the phrase, in the conference report "mentally retarded" would include cerebral palsied and epileptic children and adults or whether there is any intention on the part of the conference report to leave out those suffering from cerebral palsy and epilepsy in this favored category, currently called mentally retarded.

Mr. LONG. There are some people who have epilepsy who are mentally retarded and some who are not.

The conference agreement retains the provision of present law providing Federal matching for services to family members "for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

If a "developmentally disabled" person is mentally retarded, then Federal matching is available whether or not the person is on welfare. If "developmentally disabled" persons are not mentally retarded, then they fit in the category in which 90 percent of the funds must go for welfare recipients.

Mr. DOLE. The Developmental Disabilities Act of 1970 established the precedent that mentally retarded persons were made part of the classification of "developmentally disabled," which also included persons who were disabled because of cerebral palsy and epilepsy. The statute reflected a realization that agencies with a categorical focus could cooperate to provide comprehensive programs to serve individuals suffering from a variety of serious disabilities. The trend since 1970 has been to avoid separating particular disabilities by categories and provide services to disabled persons requiring similar types of services regardless of the cause of their disabilities. Related needs, rather than diagnostic labels, became the primary consideration for serving the disabled.

The social services program has helped the cerebral palsied and other substantially handicapped persons make progress toward two goals. The first goal is to restore them to their homes and communities by getting them out of State institutions. The second and related goal is to enable them to function more independently in their homes and reduce their dependence on public assistance.

But the language adopted by the conference could limit social services to the mentally retarded with the result that the cerebral palsied and other substantially handicapped will be excluded from coverage; thus, many of them could become more dependent on the State, be forced to remain in State residential facilities, and remain on welfare and other forms of assistance.

It would be incorrect to assume that broadening the category from "mentally retarded" to "developmentally disabled" will increase the total number of eligible persons and result in substantially increased expenditures under the social services program. Not all of the 6 million mentally retarded persons in the United States—3 percent of population—require social services. Of this number, some 5 million people—2.5 percent of the population—are classified as mildly retarded, and with adequate educational and vocational training, most of them can eventually take their place in society. Combining a variety of data, it is estimated that there may be as many as 3.5 million developmentally disabled adults and between 3 and 4 million children in the United States who require services—3.5 million included the mentally retarded, cerebral palsied, and epileptic.

I hope that a colloquy with the chairman of the Senate Finance Committee will clarify the true intent of the language used.

I understand the term "mentally retarded" in one of the special categories would excude children and adults that suffer from epilepsy and cerebral palsy.

I wonder what the intent of the conference might have been in that regard.

Mr. LONG. It would depend on whether they are aslo mentally retarded. One person can have epilepsy and not be mentally retarded, and yet another person can have epilepsy and be mentally retarded. So, if he were mentally retarded he would be treated as mentally retarded under the conference agreement. But it is not our view that a person is mentally retarded just because he has epilepsy.

Mr. DOLE. Nor is it the intent of the conferees to exclude anyone suffering from cerebral palsy or epilepsy or some other disability, I understand. The point is that we had this Development Disabilities Act of 1970 that used the broad term "developmentally disabled." Now, in the conference report, the more restrictive term "mentally retarded" is used.

The Senator from Minnesota is in the Chamber and may wish to comment because of his interests. Some children suffering from epilepsy or cerebral palsy would be excluded from any benefits under revenue sharing. It is my hope that it was the intent of the conferees not to exclude them though some may not be mentally retarded.

Mr. LONG. Even if a developmentally disabled person were not mentally retarded, we still have provided a 10-percent leeway, so that in addition to the people on welfare, 10 percent of those who are benefited by the program can be persons who are not on the welfare rolls.

It is the thought that the person who has cerebral palsy may also be mentally retarded, but that is not necessarily the case. But he can be benefited from social services as a result of being on the welfare rolls or by being one of the 10 percent not on the welfare rolls. If he is mentally retarded in addition to being developmentally disabled, the 10-percent limitation would not apply.

I know this will not please those who are interested in the program as much as they would like, but it leaves a considerable area in which they could benefit from the 75 percent Federal matching and the $2.5 billion in funds made available.

Mr. DOLE. I know it is too late to do so, but understand if the term were broadened to "developmentally disabled" it would not be a greatly increased number and would not be forcing those suffering from cerebral palsy or epilepsy on to welfare. I was not a conferee but hope in the administration of revenue sharing those who have the responsibility for funding and directing various programs, particularly under special categories, keep in mind that cerebral palsied and epileptic children and adults suffer from developmental disabilities. Some may suffer from some form of mental retardation, and some may not. We are shoving some into the category of welfare because they may not be retarded.

It seems to be a strange distinction, and I hope the matter can be taken care of.

If the chairman has any comment which might be helpful, it would be appreciated.

Mr. LONG. I would think this area is one of those in which we might act further and provide more funds. As meritorious as the case may be, sometimes it is not within our capabilities to solve all these problems at one time. I hope the Senator will bring this matter back before our attention so far as the program we have fails to provide for some of these people.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. I thank the Senator from Kansas for bringing this point to the attention of the Senate. The whole subject of development for physically, mentally, and emotionally disabled is of tremendous importance. I think it is wrong for us to differentiate between these different categories. I hope we can treat them all alike.

As a colleague was saying privately, a person with epilepsy most likely is not mentally retarded. As a matter of fact, some people who might be considered geniuses have been epileptic. I would not want to put them in that category. Many times they need developmental assistance or a particular rehabilitative assistance.

It seems to me there should not be this breaking off into different categories but rather to include them all; for example, if they are educable, or can be trained to be self-sufficient, or if they are victims of a physical or biological handicap they should be given the same treatment.

I hope the proper officials take notice of the record that is being made here. This causes trouble in the States. There is an attempt in my State to include all these groups under one kind of program.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOLE. There is an effort to categorize and fragmentize the benefits that may be available to those suffering developmental disabilities. Whether a person has cerebral palsy or some other specific disability, the benefits should be consistent. I hope we can pursue it early next year.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CHILES. Along the same vein, as I understand it, some of the people in Florida have been able to ascertain what they think is in the conference report, which they have not had a chance to thoroughly study.

We had a program under social services which was going to run $114 million. With the CAP Florida's share would be $90 million, with the provision to provide that in other than the categories which were expanded by the House and Senate conferees. But even so, Florida is one of those States, following existing legislation, that was able to come up with programs to keep people off welfare and not just taking people off of welfare and transferring that money to the State government. Because of those programs Florida failed to receive some $40 million of those $90 million.

Mr. LONG. Of course, that is a problem. On the other hand, Florida does receive $146 million in revenue sharing funds. Of that amount, $48 million of that goes to the State level and about $98 million goes to the local level.

Mr. CHILES. What is going to happen is we are going to have $42 million on the State level and transfer it to keep up with programs.

We are not going to have that many dollars if we want to keep those existing programs. Once we put the cap on of $2.5 billion, why handicap the States, within what their social services can do, if 90 percent have to be welfare recipients, if they have a program that is going to keep somebody off welfare?

Mr. LONG. As the Senator knows, this program had been expanded far beyond anything that anybody had in mind when we enacted the social services program. You in Florida had a good administrator, Jim Bax. He saw the possibility of the expansion of social services in the State and, as a good administrator, he explained the program to take full advantage of Federal funds in all the categories where he thought it could be done. Both as a Florida official and also as one who retained an interest in Florida even when he came to Washington, obviously he would encourage Florida to go ahead in areas of this sort. I applaud him for doing it. I think it was wise that Florida did.

But that program has gotten so completely out of control by expanding it in so many ways that those of us who voted for it initially did not have in mind, that we had to try to get it back into control. Of course, a State can use revenue-sharing money in areas where it deems it desirable.

I have not the slightest doubt in my mind that any State in this Union that has taken full advantage of the possibilities open to it in social services has a lot of fat in there. There are programs of relatively low priority that States have put into effect, and in some cases have shifted money from areas that would have had higher priority, if they were using their own money, into this program because there was 75 percent Federal matching.

So it is very difficult for me to believe that, as they look at the funds available to them and think of the areas that they think it best to put money into, they are not going to have money to put in the area of services for which they do claim priorities, such as the one the Senator is addressing himself to, whereby, by a mere rearrangement of priorities, they can take care of retarded children, children with cerebral palsy, for example, and perhaps reduce some other program that they claim has a less demanding priority.

We have in conference H.R. 1, in which is contained an amount of $800 million in additional moneys for child care. I do not know what the result of the conference will be. We have not reached that stage in the conference between the Senate and the House. But I would point out that if that $800 million of additional money for child care should be agreed to by the House conferees, that will free more money and make it available in the child care area, and offer the States an opportunity to provide more money for the kind of services the Senator is speaking to.

Mr. CHILES. The major point of the Senator from Florida is that under the cap of $2.5 billion, we would get $90 million, but of that $90 million under our existing program, we are going to be able to use only $50 million, because of the formula that 90 percent has to go to welfare recipients.

Mr. LONG. The Senator from Florida has a good point. I have to concede that. But that is a great deal more than Florida would have had under the Senate amendment, because the Senate amendment would have given Florida less.

Mr. CHILES. The Senator will recall

that I said, in the first part of my statement. God bless the House, because they certainly helped in that cause.

Mr. LONG. Of course, Senator, there may be some good services that will have to be reduced. I can only suggest that when we come back next year, if the Senator from Florida feels that the Federal Government should make a contribution to some desirable services, he can advocate it. I will be glad to cooperate in trying to see that such a proposal is considered.

Keep in mind that we had a program that started with an estimate of $40 million a year in cost. We found it had the prospect of costing $4.7 billion for this coming fiscal year. We found it was projected to cost $7 billion next year and that it would eventually cost $20 billion or more. So we had to put a lid on it.

Mr. CHILES. I do not disagree with the CAP.

Mr. LONG. Having done that, we now find that there are some very worthy services that a number of States are performing—the point of the Senator from Florida is well taken—which will be restrained, not because they were not good, but because we did not have that in mind when we initiated the program of social services for welfare recipients, and now we are trying to put the program under control.

I would think that next year would be a good time to look at these various programs, such as the one the Senator is concerned about, and perhaps early in the year we might say, "Perhaps we cut back too much with regard to some States. Let us see what we can do about it."

At this time this is the best we can work out. I think the Senator will agree that it is an even better solution from his standpoint than it was when we went to conference.

Mr. CHILES. I certainly do.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. FULBRIGHT. I think the Senator did an excellent job in bringing back this conference report. It is well balanced. It takes into account as much of the position of the Senate as possible. I share the sentiments raised by the Senator from Illinois. Still, I think the Senator from Louisiana brought back the best bill possible.

Mr. HUGHES. Mr. President, in a very short time, perhaps just a matter of days, we will probably witness via our television screens another historic bill signing. I suspect that every Governor, every county official, and every mayor throughout the land would like to be present. For on that occasion President Nixon will sign into law "An act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes." In other words, Mr. President, revenue sharing.

As revenue sharing becomes law, I think it appropriate for us to give credit where credit is due, to the man who has been consistently behind the idea of revenue sharing from the first. I refer to our distinguished colleague from Maine (Mr. Muskie). Senator Muskie introduced the first revenue sharing bill in 1969—over 3 years ago. One of the key elements of his program then was the need factor, which has been largely carried over into today's legislation.

The story of Senator Muskie's involvement with revenue sharing is ably told by Don Larrabee in the Maine Sunday Telegram of September 17, 1972. I urge all Senators to read it, and I ask unanimous consent that it be printed in the Record at this point.

Without objection the article was ordered to be printed in the Record, as follows:

[From the Maine Sunday Telegram, Sept. 17, 1972]

REVENUE SHARING: MUCH OF IT WAS SENATOR MUSKIE'S DOING

(By Don Larrabee)

Washington.—Now that a program of revenue-sharing is about to become law, it is fascinating to look back 18 months to a time when the legislation was virtually written off as a hopeless gesture by the Nixon Administration.

While the concept of providing states and cities with large chunks of general financial assistance had bi-partisan support, there were powerful men in Congress who questioned the approach. One of these was Chairman Wilbur Mills, D-Ark., of the Ways and Means Committee who frankly agreed to hold hearings in June of 1971 only as an exercise to justify killing the bill.

The surprising conversion of Wilbur Mills to revenue sharing may well have started June 1 when Sen. Edmund S. Muskie, D-Me., jumped the gun on the Ways and Means Committee with his own revenue sharing hearings.

The Muskie Subcommittee on Intergovernmental Relations had a vested interest in the subject but, from a purely technical standpoint, it had no jurisdiction. Revenue bills must originate in the House.

But the Maine Senator informed Mills that he wanted to give mayors, governors and other interested senators a chance to explain why they thought the revenue sharing idea would be helpful. The Arkansas Democrat interposed no objections and, in turn, invited Muskie to visit his committee and make the case at a later date.

Muskie's interest in revenue sharing was sparked during the Johnson Administration by Dr. Walter Heller, LBJ's Economic Adviser, who made the mistake of allowing his proposal to surface before the President was ready to embrace it. Johnson never sent it to Congress.

When President Nixon took office, he talked vageuly of revenue sharing but while he was trying to decide on a formula, Muskie introduced the first bill. It called for a $5.3 billion annual program, combining $3.5 billion in direct assistance and $1.8 billion in income tax credits for the states.

Joining with Muskie on the bill in 1969 was former Sen. Charles Goodell, the New York Republican who was purged by the White House in the 1970 campaign. There were seven days of hearings then but not much indication of a congressional groundswell for the idea.

In 1970, the President advanced a modest program which was ignored by Congress. Last year, the White House produced the $5 billion package that will soon go on the statute books, with some major refinements by Congress. Chief of these will probably be a guarantee that the greatest help will go to those cities and counties that need it the most.

The "need" factor was not in the Nixon program. It was a key element of the Muskie bill and is now a part of both the Senate and House versions, although not in precisely the form Muskie suggested two years ago.

When he went before Mills' committee on June 9 last year, the Maine senator played heavily to the Arkansan's vanity. And he played up the "deficiencies" in the Nixon Administration's proposal which were causing Mills the most concern—the failure to emphasize "need," the lack of incentives to the states to improve their own systems of raising revenue and the lack of protective provisions against the shared revenues being used in a discriminatory manner.

The Nixon formula distributed assistance at the local level solely on the basis of revenues raised. This, Muskie said, would not get maximum help to the cities and counties that need it the most nor did it take into account the eroding tax bases of the cities.

Muskie's own bill recognized population and tax effort but also apportioned financial assistance on the basis of a "poverty" ratio—the percentage of families within a city receiving public assistance and the percentage with annual incomes below the poverty line.

The conference committee on the revenue sharing bill will probably end up with something along these lines and it may very well contain an incentive to the states to improve their own systems of taxation.

Muskie succeeded in building steam for the revenue sharing program on the Senate side. His hearings showed the extent of bi-partisan support and reflected the strong sentiment of the mayors for having a "need" factor.

When Muskie went before the Mills committee, he was ready for some tough questioning by the chairman. It never happened. Mills slipped out of the room, without as much as a comment and turned the gavel over to a subordinate, as Muskie was completing his formal presentation. Was Mills showing his disdain for the whole idea or was he trying to avoid a confrontation with the man who, at that time, was the acknowledged front-runner for his party's presidential nomination?

Later in the day, there was an auspicious meeting between several mayors, Muskie, Mills and Senate Democratic Leader Mike Mansfield. It was not generally known at the time but Mills agreed on the spot not to hold up the revenue sharing bill. He promised there would, indeed, be legislation to help the cities, particularly those in the deepest trouble.

Wilbur Mills told Muskie quietly that day that there would be a bill and that he was particularly impressed with the Muskie concept of a "need" formula. It might not be called revenue sharing, he said with a twinkle, but there would be a state and local assistance act. And it appears now, some 15 months later, that there will be.

For Maine, this will mean in the neighborhood of $30 million a year, depending upon the final settlement by the Conference Committee. The House bill allocates $19.9 million to Maine. The Senate version provides an additional $16.8 million or roughly $36.7 million. There will be a compromise to help the larger states which suffer under the Senate version.

The bill that emerges from the House-Senate conference won't have Muskie's name attached but the legislative history of revenue sharing, as it is known to the bill's supporters in Congress, bears the Muskie imprint as much as anyone's.

Mr. TAFT. Mr. President, for several years I have been a stanch advocate of the principle of revenue sharing as being vital to our States and local governments. From 1960 to 1969, employment of State and local governments increased several times more rapidly than the civilian employment of the Federal Government. During the last 25 years, State and local expenses have increased twelvefold. State revenues, on the other hand, are relatively inelastic. I believe that it is more socially desirable to finance State and local needs through the more progressive Federal income tax system.

If State and local governments are to be responsive to the needs of the people our State and local officials will have to have the resources to do the job.

The bill passed by the Senate, however, was a serious blow to the State of Ohio. If the revenue-sharing funds were divided on a per capita basis, Ohio's share would be $277.7 million. The Senate, however, short-changed Ohio by over $90 million. It costs just as much to solve the problems of crime, pollution, and urban decay in Ohio as it does in other States. If anything, an urban State, such as Ohio, should receive more than its per capita share; but certainly nothing less. The conference committee raised Ohio's share, but we are still $70 million short.

The disparities between States resulted from the fact that the factors used in the allocation formula were multiplied together. Consequently, instead of allocating a third of the funds according to each of the three factors—population, relative income, and tax effort—the Finance Committee decided to multiply the factors together. This multiplication tended to distort the entire allocation for any State which had one low factor.

In addition, the tax effort factor is unfair to the people of Ohio because we receive no credit for license fees, proceeds of State liquor sales, and the profits earned by municipal powerplants. Other States, however, receive full credit for severance taxes and use taxes paid by nonresidents.

Because of the inequities in this formula, Ohio is short-changed and there are wide disparities between communities within the State. In one county the per capita allocation among comparable communities varies by 738 percent.

While the Senate rejected my attempts to improve the formula, I hope that next year the Congress will recognize how unfair this formula is and undertake corrective action. Meanwhile, I shall reluctantly note for the conference report, because I believe the principle of revenue sharing is sound. Only our execution of it is faulty.

Mr. DOLE. Mr. President, the Congress has today taken one of the most important and far-reaching actions in recent years by granting final passage to general revenue sharing. This legislation is a bold first step in the unprecedented new concept proposed by President Nixon to revitalize State and local governments and thereby establish a more workable balance within the federal system.

The revenue sharing concept, since it was first put forward by President Nixon nearly 2 years ago, has gained the overwhelming support of State, city, and local officials throughout the Nation. These officials have backed the concept because they feel that they are most aware of the problems in their local communities and best understand solutions which are suitable for meeting their specific needs. They justifiably feel that all they need to enable them to solve their own problems in their own way is adequate financial resources—not increased Federal programs and redtape.

Revenue sharing helps meet the financial needs of States and local governments by authorizing the disbursement to them of $33.5 billion over the next 5 years. These funds will have substantial impact on the ability of each State and its local units of government to meet the needs and deal with the problems of its citizens. Kansas, for example, will receive $52.8 million the first year in direct grants of which one-third will go to the State government and two-thirds will pass through to local and city governments. In addition, Kansas would be eligible to receive a maximum of $27.5 million on a 3 to 1 Federal matching basis for State social services programs.

By passing general revenue sharing, Congress recognized that States, cities, and local communities can best diagnose their own problems and define their own needs, and can, given adequate resources, be more responsive to the people and more responsible in the exercise of the powers of the Government than the Federal Government in Washington.

But revenue sharing is more than a new approach to financing Government and solving local problems. Revenue sharing will also encourage the development of a new confidence in Government and its ability to serve the people by opening new channels for citizen participation. As Federal revenues are made available to State and local government units throughout the United States in the coming months, I believe all Americans can and should take a renewed interest in the operation of these local bodies. Too often the complaint is heard that Government is not responsive, that it is too remote and too removed from the real problems in the world. The funds to be made available under revenue sharing are the best hope for changing what is wrong and old and out of date about Government. Every citizen through his participation and interest in local government now has an effective opportunity to assume responsibility for seeing that these funds are used wisely and effectively.

General revenue sharing is, however, only the beginning, for it was proposed and conceived as part of a comprehensive plan to making Federal funds available to State and local government units. Special revenue-sharing plans for rural and urban and law enforcement have also been requested by the President to bring about a full-scale realinement of the financial and operational relationships in our federal system.

In addition the President has also proposed a major restructuring of the executive branch to create fewer and better organized Federal Departments. So, now that Congress has demonstrated its acceptance of the revenue-sharing concept, it should make a commitment to undertake full implementation of executive reorganization and the special revenue-sharing plans and complete the job set out by President Nixon. General revenue sharing is important; it is a big first step. But, now, we must proceed to fully enact the broad and far-reaching governmental reforms which the President has put forward. Special revenue sharing and government reorganization will complete the job; and, although the outlook for enactment this year is disappointingly dim, the continued support of Governors, mayors and citizens will assure that there will be growing pressure for enactment of these vital proposals in the next session of Congress.

Mr. BURDICK. Mr. President, this question is directed to the chairman of the Senate Finance Committee, Senator LONG.

It relates to section 103 of the bill, as agreed to by the conferees of the House and Senate.

Section 103—of title I of H.R. 14370—specifies what priorities must be adhered to by local governments when they are spending the funds made available thru H.R. 14370.

Would the Senator kindly advise us whether it is his understanding that the categories of health and social services for the poor and aged—as listed in section 103—also were intended to include services for the mentally ill and disabled, particularly active treatment services whose object is to keep persons out of long-term institutionalization?

As the Senator knows, there are now well established mental health programs at the local or community level in all the States, whose purpose is to restore persons with emotional disorders to self-sufficiency and personal independence within their own communities.

It is my sincere hope that it was the intention of the Senator, that when he included the categories of health and social services as priorities for local expenditures, he meant those categories to include community programs for the mentally ill.

Mr. LONG. In providing that revenue sharing money could be used to provide social services to the poor and for health, it was intended that the communities should be permitted to do just about anything they wanted to provide in the way of a health service or any other kind of service to the poor. Within any sort of rule of reason, it is intended that the communities can define "the poor" or "health" for this purpose quite broadly and that this would clearly cover community programs for the mentally ill.

Mr. BURDICK. I thank the Senator.

Mr. COOPER. Former Gov. Louis Nunn and several of my constituents have expressed concern that programs for the developmentally disabled would be restricted because of the limitations on social service grants, and urged that the term mentally retarded in title III be changed to developmentally disabled. Since this change was not made, I would like to determine if programs for developmentally disabled individuals will be protected in some measure by the conference report.

Does the term "health" under the list of priority expenditures under the revenue sharing bill include programs for the developmentally disabled so that State and local governments will be permitted to use revenue sharing money for these programs?

Mr. LONG. Yes.

Mr. COOPER. Will Kentucky's share

of the $2.5 billion limit cover Kentucky's estimated social service spending in 1973?

Mr. LONG. Yes, according to the figures supplied to me by the staff of the Finance Committee, the ceiling on social services expenditures for Kentucky is greater than the estimate of such expenditures by Kentucky for fiscal year 1973. In fact, based on Kentucky's estimate, submitted at the Governors' Conference in July of this year, it appears that Kentucky will be entitled to additional funds for social services under the provisions of this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE), is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE), the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Vermont (Mr. STAFFORD) would each vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 59, nays 19, as follows:

[No. 555 Leg.]

YEAS—59

Aiken
Allen
Anderson
Bayh
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cannon
Case
Cooper
Cotton
Cranston
Dole
Dominick
Eastland
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Long
Magnuson
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Roth
Schweiker
Smith
Spong
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Williams

NAYS—19

Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Eagleton
Ervin
Fannin
Gambrell
Jordan, Idaho
Mansfield
Nelson
Proxmire
Saxbe
Stennis
Stevens
Stevenson
Young

NOT VOTING—22

Allott
Baker
Bible
Cook
Curtis
Edwards
Goldwater
Harris
Hatfield
Hruska
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Randolph
Scott
Sparkman
Stafford
Tower

So the conference report was agreed to.

The PRESIDING OFFICER. The Chair lays before the Senate the amendment in disagreement, which the clerk will report.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

TITLE III— LIMITATION ON GRANTS FOR SOCIAL SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

SEC. 301. (a) Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"LIMITATION ON FUNDS FOR CERTAIN SOCIAL SERVICES

"SEC. 1130. (a) Notwithstanding the provisions of section 3(a) (4) and (5), 403(a) (3), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and (5), amounts payable for any fiscal year (commencing with the fiscal year beginning July 1, 1972) under such section (as determined without regard to this section) to any State with respect to expenditures made after June 30, 1972, for services referred to in such section (other than the services provided pursuant to section 402(a) (19) (G)), shall be reduced by such amounts as may be necessary to assure that—

"(1) the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under subsection (b)); and

"(2) of the amounts paid (under all of such sections) to such State for such fiscal year with respect to such expenditures, other than expenditures for—

"(b) (1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) the Secretary shall allot to each State an amount which bears the same ratio to $2,500,000,000 as the population of such State bears to the population of all the States.

"(2) The allotment for each State shall be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time; except that the allotment for each State for the fiscal year beginning July 1, 1972, and the following fiscal year shall be promulgated at the earliest practicable date after the enactment of this section but not later than January 1, 1973.

"(c) For purposes of this section, the term 'State' means any one of the fifty States or the District of Columbia."

(b) Sections 3(a) (4) (E), 403(a) (3) (D), 1003(a) (3) (E), 1403(a) (3) (E), and 1603(a) (4) (E) of such Act are amended by striking out "subject to limitations" and inserting in lieu thereof "under conditions which shall be".

(c) Section 403(a) (5) of such Act is amended to read as follows:

"(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children."

(d) Sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a), of such Act are amended, in the matter preceding paragraph (1) of each such section, by striking out "shall pay" and inserting in lieu thereof "shall (subject to section 1130) pay".

(e) The amendments made by this section (other than by subsection (b)) shall be effective July 1, 1972, and the amendments made by subsection (b) shall be effective January 1, 1973.

"(A) services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

"(B) family planning services;

"(C) services provided to a mentally retarded individual (whether a child or an adult), but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual by reason of his condition of being mentally retarded;

"(D) services provided to an individual who is a drug addict or an alcoholic, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

"(E) services provided to a child who is under foster care in a foster family home (as defined in section 408) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such child because he is under foster care, not more than 10 per centum thereof are paid with respect to expenditures incurred in providing services to individuals who are not recipients of aid or assistance (under State plans approved under title I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance.

Mr. JAVITS. May we know what this is all about?

Mr. LONG. This amendment is the social services part of the Senate amendment on the revenue sharing bill. I explained it in my presentation before the Senate. It simply provides a $2.5 billion ceiling. The comparable provisions of the Senate bill included $1.6 billion for that purpose. I believe all Senators understand the provision.

On the House side, under their rules, it was necessary to take this amendment back in disagreement because it was not germane to the revenue sharing bill. This is the compromise that the conference brought to us.

Mr. JAVITS. Mr. President, may I be recognized on the matter?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this is the amendment which is not yet compromised, because it fails to contain the hold-harmless and redistribution clause inserted by Senator STEVENS and amended by me, which, incidentally, is a small drop in the bucket for the major urbanized States. My State drops $400 to $600 million per year in this little operation, though we are the main source of the taxes that are revenue shared. The most we would get back on the hold-harmless amendment would be some $20 million.

Mr. President, I have said before—and I stand by it—that we are extremely hopeful that at least the hold-harmless provision will be saved. But that does not change the basic situation. The fact is that, notwithstanding quite a struggle we put up here, the shape of revenue sharing, when you add it to the social services as heretofore administered, materially reduces the interest of the industrial and urbanized States in the total package.

It is very harmful to them, notwithstanding that they have the greatest revenue problems and that revenue sharing was supposed to help them. It is not workiing that way. On the contrary, they are getting much less.

The only solace in the bill is that revenue sharing goes on for a period of time. It was probably most unlikely that the social services situation could remain what it was. The fact is that 24 States out of the 50 will lose on this item.

So, Mr. President, this is really outrageous. It demonstrates that there is still a very heavy rural cast to the thinking here and in the other body, quite unrepresentative of what the country amounts to, where more than 70 percent of our people are in the cities.

With that understanding of the situation, having fought the battle and lost it, I still want to make clear that this consummates our loss, that we had better not have any delusions about it, and that we will return to fight another day, and to again express the hope that the chairman will at least save this small crumb of hold harmless and redistribution for the current fiscal year, upon which all these States have figured, including the 24 that are losing, and losing heavily, and that at least they will be somewhat held harmless for that period.

It might interest the Senators from those 24 States to know that in the other body, when this matter was debated, Representative MILLS said that if you get an allocation of less under this bill for 1973, you may have to pay back money to the Federal Government, because this covers the current fiscal year; and unless you get the hold harmless clause, some of us may owe the Federal Government money. I do not think my State does, but others may. Let us not forget that.

I know that Senator LONG will understand this and not consider it unfriendly. He is a pretty good fighter himself. I want to make that clear. I am under no illusion on this matter; and whether we have a rollcall vote or not, I wish to be recorded as voting "No," because it is very unfair to the urbanized States. We will be back to fight this battle. There are many other things that people want, and things around here have a habit of leaning on each other.

That is all I have to say at the moment.

Mr. LONG. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREPARATION OF A HISTORY OF PUBLIC WORKS IN THE UNITED STATES

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 204.

The PRESIDING OFFICER (Mr. BROCK) laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 204) to authorize the preparation of a history of public works in the United States, which was, on page 3, lines 5 and 6, strike out "provide such assistance as may be required," and insert "cooperate".

Mr. JORDAN of North Carolina. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to.

TEMPORARY INCREASE IN THE DEBT LIMIT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1234, H.R. 16810.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments at the top of page 4, insert:

No person appointed by reason of his membership on any of the committees referred to in paragraphs (1), (2), (4), and (5) shall continue to serve as a member of the joint committee after he has ceased to be a member of that committee from which he was chosen, except that the members chosen from the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives who have been reelected to the House of Representatives may continue to serve as members of the joint committee notwithstanding the expiration of the Congress. A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection.

On page 5, after line 12, insert:

(d) The expenses of the joint committee, which shall not exceed $100,000 through February 28, 1973, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee.

At the beginning of line 17, strike out "(d)" and insert "(e)"; and, after line 18, insert:

SEC. 302. For purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the joint committee, or as chairman of the joint committee, shall not be taken into account.

Mr. BENNETT. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc and that the bill as so amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I may yield to the Senator from Indiana (Mr. HARTKE) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that Guy McMichael have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, because the chairman of the Committee on Finance does not feel that he can wholeheartedly support the President's request for the privilege of cutting appropriations or other funds down to a spending ceiling which is contained in this bill, he has asked me to report and manage the bill, and I am here in that capacity, under his permission.

Mr. President, a description of H.R. 16810 is relatively easy, but an indication of its significance requires far deeper analysis.

Let me begin with the brief description before I discuss the implications of the bill.

Present law provides for a temporary debt limitation of $450 billion until the end of this month. At that time, the debt limitation reverts to $400 billion. The bill before us would raise this temporary debt limitation to $465 billion and extend its application through the rest of this fiscal year or until June 30, 1973.

The bill also provides a $250 billion expenditure ceiling applicable to the remainder of this fiscal year. In other words, the expenditure ceiling and the debt limitation would both expire on the same day, June 30, 1973. The last report from the Joint Committee on Federal

Expenditures informs us that, on the basis of appropriation bills passed to date, we can expect an expenditure level of approximately $257 billion. In other words, this ceiling is likely to require a reduction of approximately $6 or $7 billion.

It should be clearly understood that this expenditure ceiling is closely tied in with the debt limitation asked for in this bill. Without the $250 billion limit on expenditures, it probably would be necessary to raise the debt limitation, at the least, to something like $272 billion.

The title establishing the expenditure ceiling also contains a provision which authorizes the President to reserve appropriated funds from expenditure and to apply formulas, whose use in determining distribution of funds is required by Congress, to the new, smaller expenditure level. Without this provision, the President's ability to bring outlays down to the $250 billion level would be seriously restricted. Essentially, this is the same formula which Congress approved for the same purposes in the Revenue and Expenditure Control Act of 1968 and also in a resolution in 1967 continuing appropriations pending final action on regular appropriations.

Finally, the bill recognizes the present inability of Congress to control expenditures and would create a temporary joint committee to study ways in which Congress can gain control of the Federal budget. The members on this new temporary joint committee, for the most part, are to come from the two Appropriations Committees in the Congress and the two tax committees in the Congress. Seven members are to come from each of these four committees, with an additional one being appointed by the President pro tempore of the Senate and another by the Speaker of the House, making a total of 30 members on the committee.

Having outlined briefly for you the principal features of the bill, I would like now to turn to a discussion of its substantive importance. In my view, this could well be one of the most important bills, if not the most important bill, we will have considered in this Congress.

Gradually, over a period of time, the Congress has been losing control over spending. I am inclined to think that the administration, too, shares considerable blame in this respect. However, we must acknowledge that the President can never spend funds that have not first been made available by the Congress.

Expenditures have been rising inexorably from year to year, usually by increasing amounts. From 1968 to 1969, they rose by nearly $6 billion. From 1969 to 1970, they rose by $12 billion. From 1970 to 1971, they rose by nearly $15 billion. From 1971 to 1972, they rose by slightly over $20 billion, and even with the expenditure limit of $250 billion provided by this bill, from 1972 to 1973, they would still rise by slightly more than $18 billion.

Without this ceiling, they would probably reach $25 billion.

The question before us is whether we will hold the increase in the current year to $18 billion or whether it will grow to $25 billion or perhaps even more. It seems to me that this kind of expenditure increase when the economy has just started a solid recovery is intolerable.

While I hate to admit the fact, I must, nevertheless, point out that the Federal funds deficits in the fiscal years 1970 through 1973, even if the expenditure limit in this bill is accepted, can still be expected to amount to $104 billion—a level of increase that we must bring to a stop if we are to preserve our economy from recurrent inflationary pressures.

As I have suggested, the time when economic indicator after economic indicator gives evidence of an improving economy, certainly is not the time to superheat the economy by coming up with another oversized deficit, as will certainly be the case without the expenditure limit provided by this bill.

Our concern with the revival of inflationary pressures cannot stop just with the domestic economy. A rising surge of inflation will increase the prices of domestic production relative to the prices of imported articles and therefore will make our sales efforts abroad less competitive. We cannot permit inflationary pressures to offset the gains we attained in the revaluation of exchange rates last December in the Smithsonian agreement.

Despite the awareness of our lack of control over the budget and the widespread concern over the alternative prospect of rising inflationary pressures or a tax increase, there still is reluctance to adopt this proposal because it is claimed that Congress is abdicating its responsibility to cut expenditures and is turning that privilege over to the Executive.

I would like to examine this issue quite closely because it seems to me that this is at the heart of the present argument.

I think it is important to recognize that we are giving the President authority to cut expenditures only temporarily, that is, through the remainder of the current fiscal year, roughly for about 9 months.

In addition, the bill deals with this problem for the future by setting up a committee to find mechanisms or procedures that Congress can put into effect to regain its control over spending. It is worth noting in this respect that the committee is required to report by the 15th of next February, which should give time for carefully considered action on this problem in the next Congress. Certainly we could begin our action before the expiration of this privilege that the bill would give the President. Certainly an expenditure limitation that is agreed to early in a congressional session and used subsequently as a guideline by the Appropriations Committees is one possible way for Congress to regain control of spending.

It is also important to recognize that the authority given the President under this bill does not give him an item veto. Although the expenditure ceiling places on the President the responsibility of bringing total outlays this year within the ceiling set by Congress, it differs from an "item veto," however, in that it does not cancel appropriations. Under an expenditure limitation, funds which are reserved generally remain available for expenditure in subsequent years, but an item veto cancels appropriations leaving no funds available for expenditure in the next or other years.

Actually, this bill does not so much give authority to the President as impose a burden upon him. Presidents have been reserving funds from expenditure from time immemorial. I understand that Thomas Jefferson was the first of our Presidents to practice this by reserving funds for expenditure on a gunboat. Although Congresses have from time to time disputed the right of Presidents to reserve funds, in practice they have done so quite consistently. The President has asked for a responsibility that I am sure he will not enjoy and one which can hardly be politically profitable for him. Certainly this task of carrying out an expenditure ceiling is no way to win friends and influence people or win votes.

It is also important to recognize that an expenditure ceiling of $250 billion does not cut back expenditure levels. This is still $18 billion above the level of outlays in the fiscal year 1972. An increase of this size will provide for any needed growth in existing programs and also for the beginning of new programs. It certainly cannot be viewed as a cutback.

Actually it is a restraint on expenditures above last year's level rather than a cutback on that level.

Our discussions in the committee have made it clear that attempts will be made to limit the extent to which the President can reduce particular expenditure categories. I know that we will have a number of amendments offered this afternoon suggesting different formulas and different conditions under which the President can act. I will try to deal with specific proposals in this respect as they arise. However, in advance let me make these general comments. It will be very difficult for the President to reduce expenditures to a level of $250 billion. Any restrictions we place on him will make that job doubly difficult. The budget document shows that in the original $246 billion expenditures estimate, $174 billion are classified as either uncontrollable or relatively uncontrollable items. This means that, even before the increases added by Congress, there would be only about $72 billion against which the necessary cuts can be applied. Moreover, a very large proportion of this is in the defense budget. The information I have is that approximately $55 billion is in the defense budget as against the $72 billion. If we are to place percentage limitations on the extent to which the President can reduce any categories of expenditures, we will make it far more difficult for him to do an effective job in this respect. I really do not believe that we want to hamstring the President in carrying out this very unpleasant job of reducing the expenditure level to $250 billion.

Mr. President, I urge the passage of the bill as it came from the House. I think I will have to resist most, if not all the amendments that may be offered, for the general reasons I have indicated.

I have only one plea to make to my fellow Senators. This is Friday of what is presumably the last week of the session. Let us not take too much time to make our case.

I think everybody can quickly understand the point of view that each of us has.

I hope that those who are going to present amendments will be content to present them and limit their time in so doing. Certainly I will be prepared to keep my responses to a minimum, so that we can get this matter behind us, in the hope that we can get it to conference and back here tomorrow in time to pass it—in whatever form it is adopted—before adjournment.

I would also like to remind the Senate that the Finance Committee and the Ways and Means Committee, who must go to conference on this bill, are also in conference on H.R. 1. I am sure that all of us hope that H.R. 1 can be handled, hopefully before we adjourn tomorrow night, and I just make the plea for the most rapid handling of this bill as possible. I will cooperate in any way.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that during the pendency of the discussion on this bill, not during votes, my staff assistant Stan Heisler and Ed Kemp be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that members of my staff, Ken Guenther and Gene Mittleman be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that my assistants, Mr. Solomon and Mr. Wickens, be granted the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. I wanted to ask the Senator a substantive question. I wanted to ask about the distinction the Senator made about the item veto, in contrast to what is still available.

I did not get the implication. Did I understand him to say that under this bill the amount appropriated would still remain available for future years and it would not be canceled?

Mr. BENNETT. That is right. The President simply reserves it. He does not impound it.

Mr. FULBRIGHT. It would be available for subsequent years?

Mr. BENNETT. That is right, but an item veto would mean removing the money from a particular purpose, and it would no longer be available.

Mr. FANNIN. I would like the Senator to yield so that I might make a statement in support of the Senator, if it is permissible.

Mr. BENNETT. I will be happy to yield for that.

Mr. FANNIN. Mr. President, the case for immediate congressional enactment of an ironclad, no-exceptions ceiling of $250 billion for Federal outlays in this fiscal year is both simple and compelling.

The Federal budget is out of control. Who is to blame—Congress or the Executive—is beside the point. When Lyndon Johnson became President, budget outlays were $118 billion. By the time he left office and Richard Nixon became President, outlays had swelled to $185 billion. This year, if the ceiling is not enacted, they could well exceed $260 billion—an increase of 120 percent since Lyndon Baines Johnson took office.

If the situation were not so urgent—if it were midafternoon or even early morning, instead of 1 minute to midnight—this space could be devoted to a scholarly discussion of the inherent tendency to overspend in a true democracy such as our own. Voters like high spending, low taxes, and easy money, thus creating a built-in bias toward inflation. Such a discussion would examine in depth the ways and means by which Congress could and should reform the spending process.

At the least, such reform should afford a congressional decision regarding overall spending and revenues early in each session—whether we should have a surplus because the economy is overheated, a deficit because the economy is slack, or a balance because the economy is balanced. Amazing to note, Congress does not now do this despite legislation in 1946 requiring such action.

Mr. President, also, true reform of the congressional appropriations process would result in a systematic congressional approach to establishing priorities in Federal spending. Now, a procession of bills for "worthy causes" comes to the floor, one by one, each difficult for the conscientious Senator or Representative to oppose on its apparent merits.

But even if Congress had the will—and I think that will is beginning to emerge—it cannot reform the entire spending process in the next few days. And the situation requires urgent attention.

Why? Because this Nation stands in imminent danger of repeating the overspending which started us on the inflationary treadmill in the first place—back in 1965–68, when a war costing up to $30 billion a year was superimposed on an economy already at full employment, when domestic spending also ballooned, and when efforts to pay for "guns and butter, and everything else" came too little and too late.

Mr. President, to stop this classic inflation of "too much money chasing too few goods," the American people had to take some bitter economic medicine between 1968 and 1971—medicine that should not go for naught. Thanks to that distasteful medicine, cost-push inflation is coming under control, the economy is growing rapidly, and unemployment is declining. But if we spend ourselves back into demand-pull inflation—with memories of the last round so fresh in everyone's mind—then we shall again face credit markets distorted by inflationary expectations, higher interest rates, and a tendency for excessive wage increases—now moving into balance with productivity gains—to renew strong cost-push pressures.

Mr. President, this is not a partisan issue. The stakes are too high. This is precisely why a Democrat of the stature of Mr. WILBUR MILLS is leading the fight to enact the spending ceiling in the House of Representatives. Mr. MILLS was joined by 10 Democrats and 10 Republicans on the Ways and Means Committee in recommending, 21 to 4, the spending ceiling to the House.

The arguments made against the ceiling does not hold water. It is not a "domestic Tonkin Gulf," but a last-minute emergency measure that would expire next June 30. It gives a special blue-ribbon congressional commission plenty of time to recommend to Congress how it can reestablish its own control and priority system. In addition, the House-passed bill is strongly supported by all living former Secretaries of the Treasury.

Mr. President, strange to say, other Members of Congress make just the opposite argument that the President already has full authority to impound spending in amounts sufficient to honor the ceiling. The legality of impounding has been a matter of debate between Congress and various Chief Executives for a long time. But Chairman MILLS put the matter in proper perspective when he told the House Rules Committee that the impounding controversy aside, Congress should enact the ceiling so that the President can enter this undertaking "secure in having a partner."

Will Congress enact the ceiling in the form the President has requested? I do not know. But I do know that enactment would be very well received by a nation of people now pretty well convinced that they are not getting sufficient return for the billions of dollars they are sending to Washington annually in taxes. A lot of programs have been put on the books apparently on the assumption that spending alone is the answer to our domestic problems. When the problems have not been solved, or even grown worse, the easy answer is more spending, or what the typical American calls "throwing good money after bad."

I have believed for some months that the President had a good chance of getting the ceiling. This is because we do have a democracy and Congress responds to the people, and in my recent travels around the country I have always asked a question—"Do you not think Uncle Sam ought to be able to struggle along on a quarter of a trillion dollars a year?"

Mr. President, seldom—but very seldom, indeed—do I receive a negative answer.

I wish to thank the distinguished manager of the bill and the distinguished ranking Republican member of the committee. I support his viewpoints. I know the problems we face if we do not live up to our obligations in regard to keeping our budget within the boundaries set. We still have great problems even with that.

I thank the distinguished Senator for yielding to me so that I could make this statement.

Mr. BENNETT. Mr. President, I appreciate the Senator's statement.

There may be other general statements with respect to the bill, and I would hope they could be made before we start the amendment process.

Mr. President, I ask unanimous consent that I may yield without losing my right to the floor, to the Senator from Delaware (Mr. ROTH) for the purpose of making a general statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Senator from Utah for yielding to me.

Mr. President, I ask unanimous consent that my staffman, Nathan Hayward, be permitted in the Chamber during the proceedings, including the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATED SPENDING CEILING

Mr. ROTH. Mr. President, I rise to support the efforts of both the House of Representatives and the Senate Finance Committee in placing a firm hold on fiscal year 1973 expenditures at $250 billion.

My plea will ring a familiar note with all my colleagues here, for it deals with the problems of runaway Federal spending, a subject of great concern to me and many people throughout the United States, and in fact, throughout the world.

I am calling now on the Senate to uphold the House's airtight lid at $250 billion on Federal outlays—expenditures plus net lending—for the fiscal year ending next June 30, 1973.

The Senate will remember that I introduced language—S. 3123—similar in philosophy last February 4, at which time I opted for the $246.3 billion level the President recommended in his January budget message. The House-passed bill also mirrors legislation which I introduced last November but failed by only seven votes to win the Senate's approval.

Since March, though, the administration has stressed that the $246.3 limit is practically untenable, largely because action on the $2 billion revenue-sharing bill has been delayed until now, a 20-percent increase in social security benefits was voted in June, and an additional $900 million has been requested to help aid the thousands of people devastated in the Rapid City and Agnes disasters. President Nixon has, therefore, asked that the ceiling be upped to $250 billion, the level which the House and Finance Committee have adopted.

Let me say now, though, that I would not be adverse to a lower limit, but it would be a difficult, downward adjustment.

Recently, I have testified in behalf of this discipline before both the Ways and Means Committee and only 2 days ago before the Senate Finance Committee. It seems to me that both House and Committee action is indicative of the pressing need for this legislation.

And so, Mr. President, I am asking now that the Senate: First, review with me the language of title II; second look carefully at the encouraging, but still fragile state of this Nation's economy; third, examine the accelerated pace of Federal spending during the past few years; fourth, weigh the arguments pro and con a spending ceiling; and finally, fifth, to enact this measure which will apply to both the congressional and executive branches of government.

INTENT OF THE LANGUAGE

Mr. President, as I have stated earlier, this title will have the effect of placing an absolute lid on fiscal year 1973 outlays at $205 billion. Unlike ceilings which have been offered or enacted in the past, this proposal permits no exceptions; if uncontrollable increases are required or if the Congress mandates additional spending in one area, there must be equivalent reductions in other programs. This seems to me to be the only realistic way to apply an effective brake on outlays in the current fiscal year.

The mechanism for enforcement is direct and simple. If Congress overspends above the $250 billion mark, the President is authorized to make cuts sufficient to trim outlays down to the ceiling. I want to emphasize that the amendment does not force Congress to accept the President's requested appropriations. It is our prerogative to spend within responsible parameters. We can increase or reduce old programs or add new legislation; in short, work our will on the administration's requests. This amendment merely forces on both the President and the Congress the discipline of a stimulative, but not a reckless budget.

THE STATE OF THE NATION'S ECONOMY

A little more than 1 year ago, President Nixon took decisive actions to freeze wages and prices, to trim some spending from the fiscal year 1972 budget, and to request Congress to selectively reduce taxes and provide other incentives to corporate and private spending. Specifically, his gaols included reducing the 6.0 percent unempolyment rate, reversing the devastating imbalance in our foreign trade accounts, increasing manufacturing plant utilization from its laggard level of 75 percent, and encouraging retail purchases, through high levels of consumer credit and a moderation of the personal savings which reached a rate of 8.6 percent in the second quarter of 1971.

There were hard goals to set, and hard goals to achieve, largely because this country was caught in one of the worst inflationary periods of its history, while simultaneously experiencing persistent unemployment. I heartily endorsed the President's courage in taking the bold steps necessary to reverse these deteriorating economic barometers. And I think experience has proven their success.

I ask unanimous consent to include in the RECORD at this point a brief summary of some key indicators which help to demonstrate the true value of the President's program.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—COMPARISON OF ECONOMIC INDICATORS

	August 1971 (SA)	September 1972 (SA)
Consumer price rise	5 percent	2.4 percent.
Unemployment rate	6.1 percent	5.5 percent.
Total persons employed (civilian).	79.2 million	81.9 million.
Total persons unemployed	5.1 million	4.8 million.
U.S. balance of payments (net liquidity).	—$22.8 billion [1].	—$9.6 billion.[2]
U.S. balance of payments (Merchandise Act).	—$4,048 million.[1]	—$7,716 million.[2]
Industrial production (1967=100).	105.6	113.7.
Manufacturing plant utilization.	74.6 percent	77.4 percent.
Total consumer credit	$129.7 billion	$143.5 billion.
Personal income (disposable)	$742.9 billion [1]	$782.6 billion.[2]
Savings rate	8.6 percent [1]	6.4 percent.[2]

[1] 2d quarter 1971.
[2] 2d quarter 1972.

Source: Council of Economic Advisers.

Mr. ROTH. Mr. President, as my colleagues can see all of these show major improvement with the exception of the balance of payments merchandise account. We are still importing far more than we export. But statistics such as these can be fragile indications of success. We have not yet reached a satisfactory rate of inflation or unemployment, and we certainly should not be lulled into believing that our objectives have been met. The American economy may now be out of the intensive care unit, but it is still on the danger list.

The job left to do is still an enormous one. It will require the continuing cooperation of individuals, business, labor and government. We here in Congress can, and must, set the example for the rest of the American people if we expect to enlist support from the private sector. We have authorized the President to establish wage and price boards to administer a complicated and delicate system of controls. We have, in fact, called on business, labor, and every citizen to make some short term economic sacrifice for the long term good of the country. But can we really expect their further cooperation if Congress does not put its own fiscal house in order?

If restraint in spending cn the part of the Federal Government were nothing more than the example of leadership the American people have a right to expect from their government, that would be sufficient reason to support this language. But Federal spending has an enormous effect on the general economy of this nation. Just as it can be an important stimulus to a sluggish economy, it can become, when resultant deficits grow too large, an uncontrollable engine of inflation.

THE RECORD OF FEDERAL SPENDING

Unfortunately, this administration's record has been weak when we look at the deficits accumulated over the last 3 years. For fiscal years 1969 through 1971, Federal deficits totaled $48.8 billion. And in fiscal year 1972, we accumulated a shortfall of $28.9 billion.

I am talking here, of course, about the deficit in regular Federal funds—not including the trust funds which are accounted for under the unified budget of recent years, and not the so-called full employment budget. The money in the trust funds, as we all know, is not money that can be used for general Government purposes. The unified budget may help to make a bad situation look a little better, but its use does not disguise the fact that the real deficits continue to show up in the growing national debt.

But even keeping in mind the shortcomings of the unified budget as a realistic yardstick for measuring Federal spending, it should be noted that even after that cosmetic has been applied, the deficit for fiscal year 1972 was $23 billion.

A third presentation—the full employment budget—has been sponsored by this administration in an effort to clarify the economic facts of life; namely, that we have come to regard some degree of deficit spending as a necessity when the economy is operating below full capacity.

The presumption under this methodology is simply this—calculate total revenues at full employment and then gear Federal spending to equal those. Yet, we showed a $3.6 billion deficit under this formula for fiscal year 1972, in violation of the President's well stated insistence that a full employment balance should be a cardinal rule of responsible fiscal management.

But, I am not completely convinced that our trading partners embrace the full employment method of budgeting. Many of our foreign friends see only another total U.S. deficit running near $38 billion for the current fiscal year unless we act to curb spending. It is these perceived deficits which will continue to place pressure on the dollar and perhaps erase the small gains we have made in the last few months.

Mr. President, I believe it would be most helpful for my colleagues to have available this table which shows concisely the Federal deficit between 1963 and 1973 calculated three different ways—Federal funds, the unified budget, and the full employment budget. In addition, it recounts the total gross Federal debt and the annual interest payments for these 11 years.

I ask unanimous consent that this table be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE II.—BALANCES IN FEDERAL FUNDS, UNIFIED BUDGET, AND FULL EMPLOYMENT; LEVELS OF FEDERAL DEBT, AND DEBT INTEREST, 1963-73, INCLUSIVE

[In billions of dollars]

Fiscal year	Federal funds	Unified budget	Full employment budget	Total gross Federal debt at Dec 31	Total debt interest
1963	−$6.5	−$4.8	+$4.4	$310.8	$9.2
1964	−8.6	−5.9	+2.1	316.8	9.8
1965	−3.9	−1.6	+2.4	323.2	10.3
1966	−5.1	−3.8	−6.1	329.5	11.3
1967	−15.0	−8.7	−10.6	341.3	12.6
1968	−28.4	−25.1	−25.2	369.8	13.7
1969	−5.5	+3.2	0	367.1	15.8
1970	−13.1	−2.8	+2.6	382.6	18.3
1971	−30.2	−23.2	−3.2	409.5	19.6
1972	−28.9	−23.0	−3.6	[1] 455.8	21.8
1973 [1]	−39.0	−31.9	−4.5	493.1	22.1

[1] Estimates: Assumes no ceiling.

Source: Office of Management and Budget.

Note: If $250,000,000,000 spending ceiling is imposed, Federal funds dificit is estimated to be $32,400,000,000, and the unified budget deficit to be $25,000,000,000.

Mr. ROTH. Mr. President, an analysis of other budget figures shows that Government spending has—as we all know—risen steadily over the past decade. In 1960, for example, Federal, State, and local government spending amounted to 27 percent of the gross national product. This year government spending on all levels will account for more than 32 percent of the GNP.

Even more alarming is the fact that Federal spending is becoming less and less controllable. In 1960, income security, veterans' benefits and services, and interest payments on the national debt amounted to 34.6 percent of total outlays. In 1973, it is estimated they will equal 41.1 percent.

As a result of the enormous rise in Federal spending, and the failure of tax revenues to keep pace with the spending, the public debt may rise to a record $493 billion from about $311 billion just 10 years ago. Though this figure has been a declining percentage of our GNP between 1954 and 1968, the trend has begun to reverse itself. In 1969, total debt was 40.9 percent of GNP, but is estimated to be 42.6 percent in 1973. Interest expense too has been rising both as a percent of GNP and as a percent of total Federal outlays, thereby foreclosing other spending options.

ADMINISTRATION CALLS FOR A CEILING

As everyone here is well aware, President Nixon last January, asked the Congress to impose a strict ceiling on the fiscal year 1973 budget. Many times since then, his chief economic advisers—the CEA, Treasury Secretary, and Budget Director—have testified to the urgent need for this legislation.

Most recently, of course, the President issued another statement last Saturday night, warning the Congress that his administration would not sit idly by and watch a ballooning deficit erode both domestic and international confidence in the dollar. At the same time that he has been indicating his intention to veto inflated appropriation bills, his top advisers have testified before several congressional committees on the need for a tight ceiling of $250 billion.

Mr. Weinberger, now Director of the Office of Management and Budget, put it very succinctly in his prepared statement on July 25. At that time, he underlined the urgency of this measure by pointing out:

> The wisdom of the President's proposal of last January for a *fixed*, rigid spending ceiling to apply to both the Congress and the Executive becomes increasingly apparent with each passing day. We did not request such a ceiling idly. The results of the failure of the Congress to enact such a limit prior to its consideration of other legislation, as the President had recommended, are now apparent.
>
> However, it is still not too late, although the task is much more difficult. The Congress should now set, and maintain, a fixed expenditure ceiling. An appropriate level would be $250 billion. Thus any legislation that would cause total outlays to exceed that ceiling would have to be offset by reduction in other program outlays.
>
> The ceiling would be good discipline for both the Executive and Legislative branches. It would focus attention on the budget total. Each spending initiative could be more responsibly considered against all spending items, and thereby insure that the budget total will not become the engine of inflation or result in unwelcome tax increases.
>
> More than that, and not to put too fine a point on it, a spending ceiling is one of the few routes left open to fiscal salvation.

And on the following day, Chairman Arthur Burns of the Federal Reserve, spoke strongly in favor of a legislated ceiling. Dr. Burns' vantage point, as an objective expert on the problems of deficit financing, gives added weight to the importance of his message:

> A proposal that could produce immediate beneficial results has already been studied by many members of the Congress—namely, the President's recommendation for a legislative ceiling on this year's budget expenditures. I strongly support this recommendation in the hope that the ceiling would be a rigid one, that it would admit of no escape hatches whatever, and that it would apply both to the Executive and to the Congress.

I would be remiss to omit the later testimony of three prominent economists, all of whom clearly identify themselves with the Democratic Party. Walter Heller, in fact, served Presidents Kennedy and Johnson as Chairman of the Council of Economic Advisers.

Senator Proxmire, the very astute chairman of the Joint Economic Committee, asked each of these men to give his opinion on the appropriateness of a "no holes" ceiling. Each one felt that such a constraint could choke off the present economic recovery, if it were imposed at this time. But despite their overall objection, each one agreed that if further deficits mount through fiscal year 1973 and 1974, a major tax increase would be necessary in the coming calendar year.

Mr. President, I cannot presume to discredit men whose professional eminence has brought them such high national acclaim. But I shall point out that if Congress continues on its present spending course, a vote against this ceiling is a vote for new taxes next year. Are my colleagues here willing to stand on that ground? It cannot be otherwise. Though Professors Samuelson, Heller, and Galbraith disagreed with the timing of this measure, they agreed unanimously with the administration's warning that more spending today must bring more taxes tomorrow.

And, these will be tax increases that hit straight at the heart of middle-income Americans. Let us not fool ourselves, "soak the rich" tax schemes simply will not produce the kind of revenue we will need to cover these skyrocketing Federal expenditures.

We have enacted stimulative tax cuts only 10 months ago in order to bolster a sagging economy. Let us not force ourselves into reversing this trend by yielding to the easy temptation to spend. I ask each of my colleagues here to weigh the short-term, politically pleasing inclination to appropriate more public funds against the long-term, and irreparable harm of inflation which hurts both private and public pocketbooks.

THE NEED FOR ACTION

I could pursue this litany of support expressed by top officials within the administration, but I think it important to recognize the impact this legislation will have on the confidence of the American people.

Last year, the deficit ballooned to more than three times its original estimate. The year before it was 30 percent more than predicted. We cannot continue to spend endlessly, each year increasing outlays over expectations. The erosion of the consumer's dollar at home and the scrutiny of foreign nations are developments which have reached, and temporarily survived, a crisis situation.

Mr. President, I shall not detain the Senate longer. The House language is direct, and to the point. It places a firm lid on Federal spending for fiscal year 1973. It allows no leaks in any account.

It uses the President's revised budget figure of $250 billion, but that in no way restricts the Congress to a line item approval of the budget as written. We still have ample room in which to make our priorities known, confident that our choices must be honored so long as the total of enactments does not exceed this limit.

I think any fears that a ceiling such as this will require drastic cuts in needed programs are entirely unfounded. Surely there is enough "water" in the great complex of programs administered by the Federal Government to absorb this ceiling without any serious effects. And, we must all recognize that even with a ceiling of $250 billion, outlays for fiscal year 1973 will be some $18 billion higher than fiscal year 1972. I do not call that a starvation diet. If we are to strike a balance between private and public awareness of productivity as the index for increased spending, Government must look to its own operations for new and better ways to achieve greater ends with more efficiently allocated resources.

Adoption of this language will show the American people that the Government is willing to exercise a little restraint in the fight against inflation, too. I think the importance of this psychological factor cannot be overemphasized. We are dealing here with one of the most serious domestic problems we have, and its solution is one which demands leadership from the Federal Government and the Congress. I urge the Senate to include this measure in the debt bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia (Mr. HARRY F. BYRD, JR.) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that James Savedge, of my staff, and John Brooks, of my staff, be granted the privilege of the floor during the discussion of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the issue before the Senate today is whether the Congress should set a limit on Federal expenditures.

I think it should.

In my judgment, the dominant domestic problem facing our Nation is the need for the Government to put its financial house in order. Today's legislation will not do that, but it will help.

The alternative to controlling Government spending is wage-eating inflation, or a drastic increase in taxes, or both.

As a result of the steps taken by President Nixon on August 15, 1971—including the initiation of wage and price controls—the rate of inflation has slowed.

But there are increasing signs that the inflationary spiral is beginning to accelerate. In response to questions from the senior Senator from Virginia, Secretary of the Treasury Shultz reluctantly admitted as much at a session of the Senate Finance Committee this week.

In the third quarter of this year, wholesale prices rose at a 6.7 percent annual rate. This compares to a 4.9 rate increase in each of the two prior quarters. In the normal course of events, these wholesale price increases will be transmitted into retail price increases in a period of 3 to 6 months.

Another measure of increased inflationary activity is the rise in outstanding consumer credit. Total consumer credit increased by 12 percent from July 1971 to July 1972. In the last 3 months, however, consumer credit has increased at an annual rate of 16 percent. Bank loans have increased at a similar rate, which again is higher than earlier rates.

Still another measure of increasing inflationary pressure is a rise again in interest rates. Just today concern was expressed in this regard by Chairman Burns of the Federal Reserve Board.

All of these factors place increased pressure on the money supply. The pressure is made far worse by the borrowings of the Federal Government.

From October 1971 to August 1972, the basic money increased by about 5 percent. But the estimated increase from August to September of this year is an annual rate of 7 percent.

To date, the administration seems to be looking to the Federal Reserve to solve its problem by the monetary route; namely, the printing of more dollars. But there is a limit to which this can prudently be done. Fortunately, Chairman Burns is wise enough and independent enough to call a halt at the appropriate time to the increasingly high rate of money expansion. The appropriate time is rapidly approaching.

The able chairman of the House Ways and Means Committee pointed out in House debate Tuesday—

> Our concern for the renewal of inflationary pressures cannot, however, be restricted just to the domestic economy. A renewal of inflation will increase the prices of our production relative to the prices of imported articles and will also make us less competitive in our sales abroad.

The deficit in our foreign trade—merchandise, investment, travel, and other services—has continued to worsen.

In 1964, we had a favorable balance of $7 billion. Last year the deficit—the deficit—was approximately $3 billion. Now the deficit is running at an annual rate of $7 billion.

Thus, from 1964 to present, we have come from a foreign trade surplus of $7 billion to a deficit—deficit—of $7 billion. Our liquid liabilities to foreigners now total $67 billion. To put this in perspective, on December 31, 1970, our liquid obligations to foreigners were $43.3 billion.

So one can see that within a 15-month period the liquid liabilities to foreigners have increased by something over 50 percent.

Mr. President, I ask unanimous consent to insert in the Record at this point a table dealing with reserve assets and liquid liabilities.

There being no objection, the table was ordered to be printed in the Record, as follows:

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.8
Dec. 31, 1957	22.8	24.8	15.3
Dec. 31, 1970	10.7	14.5	43.9
Dec. 31, 1971	10.2	12.2	64.2
May 31, 1972	10.5	13.3	[1] 67.0

[1] Estimated figure.

Source: U.S. Treasury Department, June 1972.

Mr. HARRY F. BYRD, JR. Mr. President, we have a public debt—and the bill before us at this time is one dealing with the public debt—of $440 billion. The interest on that debt included in the present budget is $22.7 billion.

Another way to put that interest in perspective is this: Of every income tax dollar paid into the Federal Treasury by the personal and corporate income taxpayers, 17 cents goes to pay the interest on the debt.

When Richard M. Nixon sought the Presidency in 1968, he told the American people again and again that the major cause of the inflation the Nation was experiencing resulted from the 4-year Federal funds deficits of the Johnson administration, which totaled $54 billion.

I agreed with candidate Nixon's appraisal.

I applauded his demand for fiscal responsibility.

I supported him firmly and strongly during the first 2 years of his Presidency in his efforts to hold down Government spending.

But then we come to January 1971. It was then that the administration reversed itself. Economic theorists in the administration sold the President on the idea of what they call a full employment budget. That means that the administration recommends that Congress appropriate the amount of money that the Government would take in if we had full employment, but we do not have full employment. The Secretary of the Treasury and the Budget Director have testified before the Committee on Finance that we will not have full employment. No one expects full employment. So the so-called full employment ploy is, in my judgment, fictitious, misleading, distorting, and wrong.

It is very much like an individual saying, "I would not be broke if my uncle had left me a million dollars."

I think we must be aware of the fact that the budget submitted to Congress by the President was itself an unbalanced budget. It was deliberately unbalanced. If Congress were to add not a single dollar to the expenditure sought, we would end up with a smashing deficit.

While I feel that Congress must cooperate with the President, this cooperation is a two-way street. The administration must submit to Congress realistic spending programs reasonably within the amounts of revenues which the Government will take in. But that was not done. The administration embarked on a planned program of heavier and heavier deficits. It was desirable, we were told, as the Nation was experiencing a recession and that the way to get the country moving again was to spend our way to prosperity.

Now, less than 2 years later, Treasury Secretary Shultz and his associates are becoming alarmed—and rightly so—at Federal spending which is virtually out of control.

For the 4 fiscal years of the Nixon administration, ending next June 30, the Federal funds deficits will total at least $105 billion, double the four Johnson deficits.

This President and the one before him had the albatross of Vietnam. The next President, in my judgment, will have the albatross of a government financial situation which is completely out of hand.

Never before in any other 4-year period in the history of the American Government have there been such deficits, except during World War II, when we were fighting in both Europe and the Pacific and when we had 12 million Americans under arms.

Aside from the spending, the reason why this budget is so badly out of balance is due to the tax reduction bill which passed in December of 1971, less than a year ago, in which we reduced Government revenues by $14 billion per year at a time when we were running smashing deficits of $30 billion. I might add, in regard to that tax reduction bill, it gave very, very little help, if any, to the average citizen of our Nation.

So the United States is faced with a financial crisis.

What do we do?

At the moment, the alternatives are not many—and none will solve the problem, but only alleviate it. The alternatives are best summed up, it seems to me, by two able, experienced, and knowledgeable Members of the House of Representatives. I. refer to Wilbur Mills, chairman of the House Ways and Means Committee, and George Mahon, chairman of the House Appropriations Committee.

Chairman Mahon's view, persuasively argued in the House debate, would require the President to tell the Congress where the Congress should reduce appropriations to hold expenditures to $250 billion for the current fiscal year.

Chairman Mills successfully argued that the Congress should establish a ceiling of $250 billion and direct the President to stay within that ceiling, thus authorizing him to make reductions to effectuate that ceiling. The Mills position was sustained by a vote of 216 to 167.

There are aspects of the Nixon-Mills proposal which I do not like. It would in effect give the President additional authority, and, I was inclined to think, in effect, and item veto, but the senior Senator from Utah indicates that this may not be the case, as it may be an impoundment rather than an actual cut. Although the Governors of many States have such authority, I do not favor it for the President of the United States, who already, I feel, has too much power.

So I am not totally in accord with the Nixon-Mills proposal.

But believing as I do that Government spending has got out of control, believing as I do that accelerated inflation fueled by Government spending is imminent, and seeing no effective alternative to spending ceiling approach, I expect to vote for some such ceiling.

This concession of power to the President will apply only during the next 8 months. I will not regard my vote today as a precedent for a similar vote in the future. The hard way, but the right way, to get spending under control would be for Congress to retain its power of spending—and use it sensibly.

While I shall support a spending ceiling, thus giving the President additional authority in regard to cutting appropriations, I want the record to show that I am not hoodwinked as to where the responsibility lies.

In my judgment, the responsibility for runaway spending lies equally with the administration and the Congress. The administration encouraged and initiated the spending spree. The Congress responded like rabbits in a lettuce patch.

I have little sympathy for the Congress or the administration. I reserve my sympathy for the taxpayers who must foot the bill.

I ask unanimous consent, in concluding my remarks, to have printed in the Record a table showing deficits in Federal funds and interest on the national debt, 1954 to 1973, inclusive.

There being no objection, the table was ordered to be printed in the Record, as follows:

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1954-73 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1954	62.8	65.9	−3.1	6.4
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.2
1958	66.6	69.7	−3.1	7.6
1959	65.8	77.0	−11.2	7.6
1960	75.7	74.9	+.8	9.2
1961	75.2	79.3	−4.1	9.0
1962	79.7	86.6	−6.9	9.1
1963	83.6	90.1	−6.5	9.9
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	20.8
1972	149.0	178.0	−29.0	21.2
1973[1]	152.6	190.4	−37.8	22.7
20-year total	1,929.5	2,140.9	211.4	241.9

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department, Oct. 11, 1972.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. Let me congratulate the able Senator from Virginia on his presentation. I respect him, when it comes to fiscal and financial matters, at least as much as any other Member of this body.

If I understood his thought correctly, he would approve the $250 billion limitation provided there was some overall arrangement whereby the President could not take out of the bill every item Congress had passed; in other words, we would not leave the reductions entirely up to him; is that correct?

Mr. HARRY F. BYRD, JR. Well, I am inclined at the moment to support a spending ceiling of $250 billion. As a matter of fact, I expect to support an amendment to be offered by the Senator from Wisconsin to make the ceiling $245 billion. Unless some formula can be worked out that it appears would be effective, I shall support the ceiling without additional restraints. But if a ceiling can be worked out in a fashion which appears to me to present an effective way of holding these expenditures down, then I would prefer to support that.

Mr. SYMINGTON. I ask the able Senator, has he seen the amendment being offered by the distinguished junior Senator from Idaho; and if he has, does he approve its contents?

Mr. HARRY F. BYRD, JR. Before making a decision on that, I want to hear the debate. I frankly have not reached a conclusion on that amendment.

Mr. SYMINGTON. I thank the Senator.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Missouri.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9554. An act to change the name of the Perry's Victory and International Peace Memorial National Monument, to provide for the acquisition of certain lands, and for other purposes; and

H.R. 13067. An act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Fla.

TEMPORARY INCREASE IN THE DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. BENNETT. Mr. President, I ask unanimous consent that I may yield to the Senator from Minnesota for the purpose of making a general statement on the bill without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank the distinguished Senator from Utah.

Mr. President, we are faced today with a momentous decision, a decision of historic proportions. This is not an ordinary piece of legislation that is before us, nor is this an ordinary time in which we live.

The issue before this body is not merely one of a budget spending ceiling. Congress can and very well may decide to establish such a ceiling. It may do that as a result of its own evaluation of the economic conditions in our country and the fiscal situation of our Government That is within the powers of Congress in the exercise of our legislative authority.

The issue, however, is whether Congress will give over to the President the power of exercising an item veto; or to put it another way, do we have the self-discipline to manage our own affairs, or are we going to run willy-nilly without that discipline, and then rely upon the Chief Executive, to determine through an item veto what the future course of governmental policy in this country will be.

Already, Presidents—not only this President, but others—have exercised the power of impoundment of funds appropriated by Congress. I do not think that is constitutional. I have protested and will continue to protest the impoundment of duly appropriated funds by the Congress of the United States, the elected representatives of the people.

But this goes far beyond impoundment, Mr. President. What we have before us in this bill is a proposal to give to the President of the United States the power to exercise ultimate control over the budgetary process by the exercise of an item veto.

The Senate of the United States must decide whether it is willing to acquiesce in a presidential request which demeans its own powers and responsibilities, or whether it will stand its ground and say no to a President.

I know what the political environment is. I know that the action taken by the President and the request made and the action taken by the other body have occurred at a time in the political environment when people are concerned about spending and inflation. I, too, am concerned, and Congress has been concerned; but it is my judgment that there is a better way to meet the problem than the manner that has been prescribed. At stake is nothing less than the separation of powers doctrine—the heart of the Constitution.

We know that a President can appoint judges, and Presidents generally appoint judges who are somewhat sympathetic to their political philosophies. That is understandable. We know it happens. Other Presidents have done it, and this President has done it and will do it. We have given the President almost unlimited powers in the field of national security. Congress, over the years, has been willing to give to the President of the United States, whoever that President may be, incredible power and authority in the use of the armed forces of the United States and the resources of this country.

As I say, the President has exercised his power, as he sees it, of impoundment of appropriated funds. And now, so help me, strict constructionists in this body and in the other body are prepared to give the President, whomever he may be—remember, this is not just President Nixon we are talking about—to give a President the right to trim budgets, to cut appropriations, to exercise an item veto, to violate the very essence of the separation of powers as prescribed in the Constitution.

"Oh," I hear Senators say, "it is for 8 months."

Now, look. How many times have Senators in this body been told, that the grant of power we are now extending is just for a limited period of time. Once the precedent is established, Mr. President, it will be in the law books permanently. I am not going to let that happen by my vote. As I have said, at stake is nothing less than the separation of powers doctrine, the removal of viable checks and balances between the executive and legislative branches, and the role of Congress as a partner in governing this land.

It is an indisputable fact today that there has been an accretion of power in the hands of the executive branch. All of us have witnessed this. Indeed, many of us have participated in actions that have unfortunately diminished our own authority.

When a President takes powers previously unknown to him—as this President is trying to do now—he must take those powers from somewhere. And that somewhere is the Congress of the United States.

Someone once suggested that the balance of power between Presidents and Congresses is like a swinging pendulum—that we need not worry when it moves nearer to the Executive because someday it will retrace its route in favor of Congress. The problem with this analogy is that the balance of power is set forth in the Constitution. That great document permits some power shifting back and forth, but it sets outer limits to control the distance that the pendulum may move. And it is these outer limits that the proposed spending ceiling would ignore.

The genius of our system of government is undone when power is shifted beyond the tolerance allowed by the Constitution. James Madison in the Federalist, No. 47, wrote:

> The accumulation of all powers, legislative, executive, and judicial in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elective may justly be pronounced the very definition of tyranny.

These words written almost 200 years ago take on prophetic meaning when we stop to consider that the President of the United States asks the Congress to allow him complete authority to do what he so wants in the setting of priorities and the actual expenditure of funds. Implied in this unprecedented grant of authority is nothing less than an unconstitutional item veto over congressional appropriations.

For the life of me, I cannot imagine Senators and Representatives permitting this. I have been in this body when members of the Appropriations Committee would fight almost to the death for the jurisdiction of that committee. How many of us have served on conference committees with the other body and have had prolonged arguments over a few million dollars in an appropriation bill or a tax bill because the other body has said—

> This is the constitutional power of the House of Representatives; all tax measures will be initiated in the House and, by precedent, appropriation measures?

How many Members of this body recall a few years back when the chairman of the Appropriations Committee of this body and the chairman of the House Appropriations Committee could not even agree on where to meet, and for months appropriations were held up, because the Senate was sick and tired of having the other body determine that every time they got together, the chairman of the House Appropriations Committee was chairman of the conference committee? We have had bitter arguments in this body for years over the powers of Congress and appropriations.

The next thing we will do is give the President the right to adjust taxes. He practically has it already, by Executive order. They decided that there should be an accelerated depreciation schedule which reduced the taxes of certain corporations by billions of dollars. This is a basic issue.

I am supposed to be a liberal in politics. Here I am, trying to defend the Constitution, and the strict construction conservatives are trying to give away the power of Congress. The world is upside down. No wonder people are confused. No wonder they ask, "Who is for what and what is for whom?"

The proposition before us is unbelievable. Let us get it clear. The proposition before us says to the President, "You can cut anything you want except the uncontrolled items, such as interest on the public debt, such as certain benefits that are prescribed by law." In fact, the bill before us would permit the President to cancel out programs voted by Congress. It would permit massive cuts in programs voted by Congress.

I hope we will ponder well what we are about to do or what we are about to vote upon.

I use the term "unconstitutional" about an item veto because the Constitution of the United States, in article I, section 7, clause 2, indicates that there is a duty upon the part of Congress to reconsider any bill returned by the President along with the precise objections voiced by the Executive. That is when the President vetoes a bill. The final decisionmaking power over vetoes rests with the Congress—not with the President.

Yet, in this measure we are permitting the President to veto our actions, with no recourse. The language of this article in the Constitution indicates that Congress has no power to make the President's judgment on a bill the last word. The last word is here in the Congress.

We proved that the other day in the railroad retirement bill. Congress proved it not long ago when we could not override the President's veto on Health, Education, and Welfare appropriations, but the last word was here.

The only exception to this principle is the pocket veto, and the Constitution itself makes this exception.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. SYMINGTON. Let me commend and congratulate the Senator upon the logic of his reasoning with respect to this all-important matter.

Not many weeks ago, a new weapons system came up for discussion before the Committee on Armed Services, and a subcommittee was assigned to look it over. The subcommittee reported to the full committee unanimously—those who were there—that this weapons system, based on its examination, was not necessary. When the matter went to the full committee, however, there was a great deal of administration lobbying; and although the recommendation of the subcommittee had been made unanimously, it was rejected by the full committee even though the latter had looked into the subject only casually. When the subject came to the floor, the pressures became even greater, and it all passed by a substantial majority.

Another case, which the Senator is fully aware of, is when this administration—the President—vetoed an education bill that would have helped with one of our greatest needs, in favor of problems that seem so important in other countries, at least in the minds of this administration. The measure was vetoed, and an overwhelming majority of the House and the Senate passed the bill over the veto.

As I understand it, listening to the Senator and his very able presentation of this problem, if the President decided to do so, he could take all the money out of any education bill and leave in the other matters where the Congress had worked partially against his will. Am I correct?

Mr. HUMPHREY. The Senator is absolutely correct, in terms of the bill that is now before the Senate. That is its weakness. I hope and pray that no President would do it; but I simply say that within the structure and the framework of the measure before us, the President would have that power.

Mr. SYMINGTON. Some 15 years ago, one of the great statesmen of our time, Dean Acheson, wrote a book in which he said the greatest single change in the Government of the United States in this century was the further delegation of the authority of the legislative branch to the executive branch. And that was before recent administrations. He would really be shocked if he knew what we were considering delegating this afternoon, would he not?

Mr. HUMPHREY. He surely would.

Mr. SYMINGTON. If the President is allowed to obtain the last great opportunity, the right of the legislative branch to have any influence on policy—which we would be doing if we gave him this right to an item veto—would there be any real necessity for Congress? Could we not stay home and have our checks sent there, knowing that whatever our decisions, they could be changed by the executive branch?

Mr. HUMPHREY. Well, for the purpose of dramatic emphasis, I think the Senator's statement is correct. We seem to have become an unlordly House of Lords. It is bad enough just to be the other, without the unlordly.

Mr. SYMINGTON. Where would the dignity of the Senate be if we arbitrarily abrogated our right to control the appropriations made by Congress?

Mr. HUMPHREY. Congress does so because of the frenzy over what is called spending; and then we will have abrogated any right that we have to be called public servants.

Mr. SYMINGTON. Mr. President, I thank my eloquent and persuasive colleague for his able explanation of this matter this afternoon.

Mr. HUMPHREY. I thank the Senator from Missouri.

Mr. MILLER. Will the Senator yield?

Mr. HUMPHREY. The Senator from Virginia asked me earlier if I would first yield to him.

Mr. SPONG. I thank the Senator from Minnesota for his presentation this afternoon. I should like to commend the Senator. We have been down this road before. This year, in March, the Senator from Delaware (Mr. ROTH) introduced a bill to provide a ceiling on spending.

I was successful at that time in amending his proposal to provide that everything over the limitation had to be referred back to Congress.

In the debate thus far, it has been suggested that this is not an item veto, that it should be regarded as an impoundment. The Senator from Virginia believes that impoundments are just as unconstitutional as item vetoes. The very learned Senator from North Carolina (Mr. ERVIN) has for years maintained this position. He has conducted very thorough hearings and has demonstrated very forcefully, in my judgment, that the process of impoundment that has taken place in past years by Presidents of the past two administrations have resulted in circumventing the constitutional intent, insofar as appropriations are concerned.

Mr. President, while I support a spending ceiling for fiscal 1973, I am opposed to granting the President—any President of any political party—authority to make spending reductions wherever he may see fit without consulting with the Congress.

The framers of our Constitution granted the appropriations power to Congress. They specifically denied the President an item veto over appropriations. Yet, Congress is now about to turn around and give the President what amounts to an item veto.

I believe this is constitutionally unsound. I believe it is historically unsound. Furthermore, I believe it is an abdication of congressional responsibility to take this action. At a time when the American people have many questions about their Government and about what their Representatives are doing. I believe we in Congress should face the matter of making appropirations reductions and do it now.

Last March I supported a spending ceiling for this fiscal year and I offered my own proposal for carrying out reductions which exceed a spending ceiling limit. I continue to believe we should have a spending ceiling. But there should be some provision to insure that Congress has a voice in determining where reductions should be made.

I believe it would be a complete abdication of responsibility for Representatives to appropriate money, to suggest to the people they represent that they have approved spending with their needs in mind, and then to turn the matter of making reductions over to the President.

It might appear politically wise to take such a course—and it might help shift the blame for reductions to the President, but it also means that Congress has failed to set priorities or to stand up for those programs it believes in.

Quite frankly, I have some very personal interests in seeing that Congress has a voice in determining where any cuts are made. If it does not, I see them being made in impact aid, in hospital construction, and in several similar programs which I believe Virginians want and need.

In each of the past 6 years, under Presidents of two different parties, I have fought for adequate appropriations for the impact aid program. And, it seems to me pennywise and pound-foolish to turn over to the executive branch the authority to reduce programs when I am 99 and 44/100 percent certain that my priorities are not all the same as theirs and that the impact program will bear a disproportionate share of the reductions.

Congress knows how to make reductions. It has, according to one of the Senate's leading budget authorities, reduced the proposed budget for fiscal 1973 by $4.4 billion. Certainly if it can make reductions in someone else's proposals, it can make them in its own.

Consequently, I am supporting the spending ceiling as well as appropriate legislation to permit Congress to have a voice in determining where reductions in spending will be made.

So I would ask the Senator from Minnesota if he agrees with me that whether we call it an item veto or an impoundment, it is still unconstitutional, in that it thwarts the intent of the Constitution that Congress has the power of the purse to make appropriations and the choice of priorities after the appropriations are made should not rest with the executive branch alone.

Mr. HUMPHREY. I could not agree more with the Senator. I want to issue a warning that unless Congress puts a stop to the constant demands of the executive branch—not just the President, but department heads, as well—it makes us look like we are useless around here. Unless we put a stop to this, for all practical purposes we have forfeited our right to be called public servants.

There are Senators who know that department heads, who are appointed in the name of the President, disregard the laws that we pass and refuse to take action upon policies that are adopted by this Congress or any other Congress.

Listen: The time has come to blow the whistle. The time has come for us to say: "No more."

Amendments are going to be offered that will see to it that we do not go on a wild spending spree, which I think we can prove we have not done. But to permit a spending ceiling, with the President to have the right of item veto or impoundment, call it what you want, is to break down the separation of powers, to violate the Constitution of the United States, and to erode any effectiveness or prestige or power on the part of Congress. We cannot do that.

Mr. President, let me just show you. When the President can veto a part of a bill, he emerges from the political mainstream and seeks a power given to no other person in Government. He seeks to avoid political give and take and to invoke some superior authority. Such authority is clearly not within the spirit of democracy and public accountability.

An item veto gives the executive branch an immense political club to use for virtually any purpose so desired. The Executive can avoid the pressures of publicly having to announce whether or not he is going to take certain actions. The Executive can say to the beneficiaries of any Federal expenditures—such as our States and local governments—that they had better cooperate and do what the Federal Government wants them to do or there may have to be cutbacks in some of their grants. It is a negative power. It is a disruptive power. And as Daniel Webster said:

> The separation of the departments (of government) so far as practicable, and the preservation of clear lines between them is the fundamental idea in the creation of all of our constitutions, and doubtless the continuance of regulated liberty depends on maintaining these boundaries.

I want Senators to think about what the President can do under this bill. Some Senators have worked for 10 years to get a needed program in their States. They may have had to fight the Bureau of the Budget, as has been my experience in these projects. Finally a Senator has been able to convince his colleagues and those of the other body that this particular program ought to be undertaken. But there are these faceless, nameless people in the bureaucracy of the Government who pass up papers to the President and say, "Mr. President, this is one project your predecessor did not like 2 years ago. Another President did not like it 8 years ago, so this is one you will want to delete."

I want to warn my colleagues, some Senators have been interested in rivers, harbors, and canals. Some Senators have been interested in highways and other programs in their States.

Now it is proposed to give the President of the United States the greatest political whip and club that any man ever had. He will bring us to heel. He will tell us what we are going to do. He will say what our program is about, as did McNamara's goat, "Unless you line up."

I am about to line up to President Nixon or President McGovern or President Anybody. I think the Senate had better stand up, instead of lining up.

I yield to the Senator from Rhode Island.

Mr. PASTORE. I think the Senator from Minnesota has just hit the nail squarely on the head. It is not a question of who has been appropriating too much money. That is not the question in this bill. I can tell you, Mr. President, this Congress has been a lot more frugal than the administration has been.

As I said here this morning, they ought to stop these department heads from coming up here and lobbying for reclaimers every time we cut their funds. It is not a matter of who is going to spend the money. It is a question of whose program are we going to have?

Mr. HUMPHREY. The Senator is right on target.

Mr. PASTORE. There is nothing sacrosanct when the President sends up a budget estimate for his program. We can cut it or add on. But they do not like that. They want the power to cut out the programs that we want and put in the programs that they want—and they will do it every time.

Mr. HUMPHREY. The Senator is right on.

(Applause in the galleries.)

Mr. PASTORE. What happened was that we cut the defense bill by more than $5 billion. But we were told we had to add funds for the Navy; we had to add for the Army; and we had to add for the Air Force; and everybody in every office in the Capital was trying to put back the money.

Mr. President, we took the $5 billion out of the military budget, but we are putting it in where it going to do our people some good: housing for the elderly, more social security for our elderly; more health care for our people and more housing for our poor. That is what we are talking about and that is what Congress is doing. But all the administration wants to do is send it to Vietnam. They have got a bus running every hour on the hour with American dollars. Into whose pockets is it going? I read in the newspaper that Ky was leading a life of leisure, a plush life. With whose money? When he was in Paris, his wife was the best dressed woman in all France. Where did they get the money?

This is what this is all about. We want the privilege to speak for the people, because we are elected by the people. We are saying, "Yes, maybe you ought to spend $250 billion a year or more, but you are not the one to say where it ought to go."

We should not have to abrogate our powers. That is what this is all about. They would make us think that unless we pass this bill, we are going to get a tax increase. That is the greatest political hoax in 1972.

They are trying to frighten the American people into believing that if they do not vote for this, they are voting for a tax increase. I say that is just plain baloney.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, I would be happy to yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I would like to ask the Senator from Minnesota whether he favors a limit on spending.

Mr. HUMPHREY. Yes. I will favor a limit on spending. But I want to do it here. And I will not let the President of the United States pick and choose what program it will be. And I say that every time we vote, we put a limit on spending.

We are supposed to have enough sense when we get elected to the Congress, to make these decisions.

Mr. President, I have a tabulation here, and I will ask unanimous consent that the tabulation be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

IX. COMPARISON OF BUDGET ESTIMATES AND APPROPRIATIONS BY SESSIONS OF CONGRESS

[Note.—Concept of "budget estimates" and "appropriations" as used in this tabulation, beginning with the 90th Cong., 2d sess., differs to some limited general extent from previous tabulations, and significantly differs in respect to inclusion of trust fund appropriation amounts not included in this tabulation prior to the 90th Cong., 2d sess. (See explanation, par. 5 "Compilers' Notes", p. 3.) Also, beginning with the 85th Cong., 2d sess. (fiscal year 1959), figures exclude amounts relating to refunding Internal Revenue collections and sinking fund and other debt retirement funds.]

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates
79th Cong., 1st sess., fiscal year 1946 and prior fiscal years	$68,941,364,648	$67,545,660,880	−$1,395,703,768
79th Cong., 2d sess., fiscal year 1947 and prior fiscal years	35,153,239,093	33,571,494,011	−1,581,745,082
80th Cong., 1st sess., fiscal year 1948 and prior fiscal years	36,725,853,652	34,159,097,708	−2,566,755,944
80th Cong., 2d sess., fiscal year 1949 and prior fiscal years	41,053,346,713	38,282,717,957	−2,770,628,756
81st Cong., 1st sess., fiscal year 1950 and prior fiscal years	45,524,384,067	43,708,265,798	−1,816,118,269
81st Cong., 2d sess., fiscal year 1951 and prior fiscal years	80,172,585,565	78,200,190,841	−1,972,394,724
82d Cong., 1st sess., fiscal year 1952 and prior fiscal years	102,449,917,037	97,729,806,397	−4,720,110,640
82d Cong., 2d sess., fiscal year 1953 and prior fiscal years	91,205,894,252	82,596,777,411	−8,609,116,841
83d Cong., 1st sess., fiscal year 1954 and prior fiscal years	73,976,821,699	61,942,992,897	−12,033,828,802
83d Cong., 2d sess., fiscal year 1955 and prior fiscal years	57,422,327,386	54,812,457,263	−2,609,870,123
84th Cong., 1st sess., fiscal year 1956 and prior fiscal years	62,030,092,195	59,954,284,321	−2,075,807,874
84th Cong., 2d sess., fiscal year 1957 and prior fiscal years	68,587,724,820	68,330,229,608	−257,495,212
85th Cong., 1st sess., fiscal year 1958 and prior fiscal years	73,113,555,340	68,070,096,556	−5,043,458,784
85th Cong., 2 d sess., fiscal year 1959 and prior fiscal years	81,737,060,999	81,119,818,276	−617,242,723
86th Cong., 1st sess., fiscal year 1960 and prior fiscal years	83,452,687,259	81,572,357,732	−1,880,329,527

Congress and session	Budget estimates	Appropriations	Increase (+) or decrease (−), appropriations compared with estimates
86th Cong., 2d sess., fiscal year 1961 and prior fiscal years	84, 010, 398, 836	83, 799, 241, 957	−211, 156, 879
87th Cong., 1st sess., fiscal year 1962 and prior fiscal years	101, 185, 574, 673	96, 194, 946, 610	−4, 990, 628, 063
87th Cong., 2d sess., fiscal year 1963 and prior fiscal years	107, 203, 876, 735	102, 661, 536, 812	−4, 542, 339, 923
88th Cong., 1st sess., fiscal year 1964 and prior fiscal years	110, 270, 774, 856	103, 798, 634, 671	−6, 472, 140, 185
88th Cong., 2d sess., fiscal year 1965 and prior fiscal years	[1] 110, 204, 088, 176	[2] 106, 070, 110, 056	−4, 133, 978, 120
89th Cong., 1st sess., fiscal year 1966 and prior fiscal years	[3] 121, 719, 754, 896	[4] 119, 310, 113, 527	−2, 409, 641, 369
89th Cong., 2d sess., fiscal year 1967 and prior fiscal years	[5] 144, 812, 809, 086	[6] 143, 883, 626, 282	−929, 182, 804
90th Cong., 1st sess., fiscal year 1968 and prior fiscal years	[7] 162, 988, 905, 929	[8] 156, 917, 115, 912	[9] −6, 071, 790, 017
90th Cong., 2d sess., fiscal year 1969 and prior fiscal years	[10] 209, 439, 260, 996	[11] 196, 537, 244, 324	−12, 902, 016, 672
Consisting of:			
Regular annual and supplemental appropriation acts	(147, 908, 612, 996)	(133, 339, 868, 734)	(−14, 568, 744, 262)
Appropriations in legislative acts	(1, 332, 500, 000)	(2, 999, 227, 590)	(+1, 666, 727, 590)
Permanent appropriations, Federal and trust funds	(72, 998, 148, 000)	(72, 998, 148, 000)	
Adjustments for interfund and intergovernmental transactions	(−12, 800, 000, 000)	(−12, 800, 000, 000)	
91st Cong., 1st sess., fiscal year 1970 and prior fiscal years	[12] 210, 843, 237, 215	[13] 207, 248, 481, 494	−3, 594, 755, 721
Consisting of:			
Regular annual and supplemental appropriation acts	(142, 701, 346, 215)	(134, 431, 463, 135)	(−8, 269, 883, 080)
Appropriations in legislative acts	(5, 000, 000)	(4, 680, 127, 359)	(+4, 675, 127, 359)
Permanent appropriations, Federal and trust funds	(82, 052, 416, 000)	(82, 052, 416, 000)	
Adjustments for interfund and intergovernmental transactions	(−13, 915, 525, 000)	(−13, 915, 525, 000)	
91st Cong., 2d sess., fiscal year 1971 and prior fiscal years	[14] 217, 605, 978, 434	[15] 232, 139, 894, 882	+14, 533, 916, 448
Consisting of:			
Regular annual and supplemental appropriation acts	(147, 778, 903, 434)	(114, 273, 528, 504)	(−3, 505, 374, 930)
Appropriations in legislative acts		(18, 039, 291, 378)	(+18, 039, 291, 378)
Permanent appropriations, Federal and trust funds	(88, 059, 842, 000)	(88, 059, 842, 000)	
Adjustments for interfund and intergovernmental transactions	(−18, 232, 767, 000)	(−18, 232, 767, 000)	
92d Cong., 1st sess., fiscal year 1972 and prior fiscal years	[16] 248, 329, 646, 937	[17] 245, 707, 600, 635	−2, 622, 046, 302
Consisting of:			
Regular annual and supplemental appropriation acts	(167, 969, 353, 937)	(165, 225, 661, 865)	(−2, 743, 692, 072)
Continuing appropriations act		(75, 000, 000)	(+75, 000, 000)
Appropriations in legislative acts		(46, 645, 770)	(+46, 645, 770)
Permanent appropriations, Federal and trust funds	(100, 764, 691, 000)	(100, 764, 691, 000)	
Adjustments for interfund and intergovernmental transactions	(−20, 404, 398, 000)	(−20, 404, 398, 000)	

---

[1] Includes $225,000,000 requested in 1965 for fiscal year 1966.

[2] Includes $75,000,000 appropriated in 1965 for fiscal year 1966.

[3] Includes $937,500,000 requested in 1966 for fiscal year 1967.

[4] Includes $926,000,000 appropriated in 1966 for fiscal year 1967.

[5] Includes $900,000,000 requested in 1967 for fiscal year 1968.

[6] Includes $875,000,000 appropriated in 1967 for fiscal year 1968.

[7] Includes $1,055,000,000 requested in 1968 for fiscal year 1969.

[8] Includes $995,000,000 appropriated in 1968 for fiscal year 1969.

[9] Does not reflect additional reductions in controllable obligations effected pursuant to Public Law 90–218 (H.J. Res. 888) estimated at $3,400,617,000 on June 30, 1968. Reserves established, $6,075,520,000; reserves subsequently released, $2,674,903,000; reserves remaining, $3,400,617,000.

[10] Totals adjusted to exclude $12,800,000,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes", p. 3. Budget estimates include $2,895,000,000 requested in 1969 for fiscal year 1970.

[11] Totals adjusted to exclude $12,800,000,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes" p. 3. Appropriations include $1,965,814,300 appropriated in 1969 for fiscal year 1970.

[12] Totals adjusted to exclude $13,915,525,000 of interfund and intergovernmental transactions—see par. 5. "Complier's Notes", p. 3. Budget estimates include $1,651,000 requested in 1970 for fiscal year 1971.

[13] Totals adjusted exclude $13,915,525,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes", p. 3. Appropriations nclude $214,000,000 appropriated in 1970 for fiscal year 1971.

[14] Totals adjusted to exclude $18,232,767,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes", p. 3. Budget estimates include $188,011,000 requested in 1971 for fiscal year 1972.

[15] Totals adjusted to exclude $18,232,767,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes", p. 3. Appropriations include $150,000,000 appropriated in 1971 for fiscal year 1972.

[16] Totals adjusted to exclude $20,404,398,000 of interfund and intergovernmental transactions——see par. 5, "Compilers' Notes", p. 3. Budget estimates include $174,321,000 requested in 1972 for fiscal year 1973.

[17] Totals adjusted to exclude $20,404,398,000 of interfund and intergovernmental transactions—see par. 5, "Compilers' Notes", p. 3. Appropriations include $174,321,000 appropriated in 1972 for fiscal year 1973.

Mr. HUMPHREY. Mr. President, this shows that every year since 1946 the Congress reduced appropriations below the President's request.

Mr. PASTORE. Mr. President, only this morning we adopted a conference report on State, Justice, and Commerce. And it was $23 million below the budget estimate. What did we do? We put the money where it had to go. And we took it away from those projects which we disapproved.

I say this is a two-way street. If the President of the United States wants to sit down with Congress and decide what we should do, I say that I am all for that. However, as to this idea that we pass a law and he select his programs and freezes ours, I say shame on the President and shame on us if we allow him to do that.

I say that there is no use for us to come here to Washington and collect $42,500 a year, because we would not be earning a dime of it if we were to give up and lose that responsibility.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, first I want to say that the Senator from Rhode Island in his inimitable fashion has once again pointed out the basic issue. It is whether the Congress of the United States is going to have something to say and some right to make decisions on the programs we believe we ought to have and how they are to be funded, or whether we are going to turn that over, at least in part, to the President of the United States with no opportunity on our part to have any kind of decision.

I think we cannot do that. We cannot do it, and let me just say for a moment that if we pass this particular measure, it will haunt us just like the Mideast resolution haunted us and just like the Gulf of Tonkin resolution haunted us. This is a domestic Gulf of Tonkin resolution. It would give the President of the United States the authority to do whatever he thinks he ought to do in the best interests of the country. I believe that all Presidents have the interest of this country at heart. I believe that President Nixon has the interests of this country at heart. I am not trying to make him look like some sort of an evil spirit.

I say that as elected representatives, we know as much about this country and maybe more than any one man. And I know that we know more about it than some appointed officials who do not have to see the people. I travel this country. I have to live or die by elections. I have to know what the people are thinking.

I might say that some of the people in the bureaucracy tend to say that they have a passion for anonymity. I say that is a contradiction. How can one be passionate and be anonymous? They have their prejudices. And we have our ideas, and I suppose we have our prejudices. However, the ultimate decision is on us, in this body.

If we do not do our jobs to satisfy the people, we are out. We have no tenure. We have no civil service. We are either going to produce to satisfy what this Nation wants and needs or we will lose. That is what elections are all about.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I thank my colleague, the Senator from Minnesota.

Mr. President, I would like to ask my friend, the Senator from Missouri, a question with a view to possibly clearing up what I am sure he did not intend to say, but what I feel might be misunderstood.

Did I correctly understand the Senator from Missouri to say that the President vetoed the education appropriations bill and that his veto had been overwhelmingly overridden, because, if I understood that correctly, I am sure that the Senator did not intend to say that.

I think that the bill he was referring to was the appropriations bill for the Department of Health, Education, and Welfare, and related agencies.

If my memory serves me correctly, the veto of that measure was not overridden. As a result, the committee report came before the Senate just last week. And I am not sure it was overwhelmingly adopted. I know that I voted for it.

I thought that unless the Senator from Missouri was speaking of another measure, that ought to be pointed out, because I know he did not intend to make a mistake.

Mr. SYMINGTON. Mr. President, I say to my good friend, the Senator from Iowa, that it was a bill first vetoed, then passed in both Houses over the veto.

If I am wrong, I will correct the RECORD.

Mr. MILLER. Mr. President, we just passed the second go round on this matter. The conference committee tried very hard to come up with something they thought would be acceptable to the President. We did adopt it in the Senate on a very substantial vote. That was the new conference report on a new appropriation bill. It was not a vote to override.

Mr. HUMPHREY. Mr. President, I want to say that the Senator has refreshed my memory. In August 1970, the Congress did override a Presidential veto on a health and education appropriation. I was running for office at the time. I know that my opponent was quick to get back home and tell the people about it.

Mr. MILLER. Mr. President, I appreciate that statement.

The Senator from Missouri was talking about a 1970 bill rather than a 1972 bill.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, I yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, I appreciate this contribution by the Senator from Minnesota. In any case, what I was trying to get at, if I may say to my able friend from Iowa, was the attitude of almost contempt that has developed among members of the executive branch for the Congress of the United States.

I would give one illustration. Not too long ago perhaps the richest man to come into Government in a long time was confirmed for a Government appointment. Some felt that because he had so much money he should not be confirmed for the job in question which tied into his business. I did not, and worked for his confirmation. He immediately was considered an authority in the field. I mention this because the Senator from Minnesota referred to knowledge. The Senator from Minnesota has been in this Government for 25 years, and I believe he knows at least as much about it as some of these people who grace us by coming into Government for a few months from private business.

Mr. President, after leaving Government, this gentleman was given an award. He was always handled with respect when he came before committees where I heard his testimony.

After leaving Government, he was given an award for his public service. I heard later on about the talk he had made after going back to private business, a pleasure obviously much more satisfying to him than working for his Government.

I had heard that in his talk he said, "I tried to be polite before those congressional committees when I really wanted to say, 'Why don't you keep your cotton picking hands out of our business?' "

How could a man who had been treated with respect and consideration by a congressional committee make any such statement?

They said he had a printed speech, so I wrote and asked for a copy of it. He sent me a copy, and the quotation just given was in that speech. In other words, when he left the Government, he told us specifically what he thought of the legislative branch.

I again congratulate the Senator from Rhode Island as well as the Senator from Minnesota for their logic before the Congress this afternoon in presenting what could be the most important piece of legislation in the 27 years I have been in the Government.

It is about time the legislative component of the Government of the United States, a Government which under our Constitution has three branches, did something to halt, and hopefully reverse this steady denigration of its authority in its relationship with the other two branches of our Government.

Mr. HUMPHREY. Mr. President, I would like to finish my remarks. I have held the floor much longer than I anticipated. I see my friend from Utah, the ranking minority member of the committee, and I know he wants to get on with the bill.

Mr. MILLER. Mr. President, would the Senator indulge me for one more question?

Mr. HUMPHREY. Well, I am generous. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. And also in the galleries. We have to respect the Senate rules and we cannot tolerate any outbursts.

Mr. MILLER. Mr. President, I heard the Senator from Minnesota make the comment about Congress cutting some appropriation requests. I could not resist the temptation to point out something that he is very much aware of, and that is that appropriations are only part of the picture, and that is what really counts. What the people are concerned about is the spending.

I regret to say the spending which comes along under both appropriated and unappropriated items is running about $9 billion in excess of the President's spending budget this year. I believe it is that which has caused this message to come before Congress.

Mr. HUMPHREY. Yes, I understand that argument. I read in the Washington Post where a member of the President's administration attempted to answer my letter—and I repeat "attempted to answer my letter."

Mr. ROTH. Mr. President, will the Senator yield?

Mr. HUMPHREY. I shall be happy to yield to the Senator in just a moment, but first I wish to finish this thought.

One of the major increases in spending was in the social security 20-percent increase, all funded by increased taxes. That is not inflationary. We have been told for years, from Econ. I, economics course No. 1, that if you appropriate it over here and take it in over there and it balances out, it is not inflationary.

If anyone wishes to talk about budget increases, the President came in with requests over his budget and asked for $4.4 billion for the military, $2.8 billion for bombs in Vietnam, $3.3 billion for general revenue sharing, $2 billion for disaster relief from the devastation caused by Hurricane Agnes and other natural disasters. I am not being critical of all those disasters, but is it not interesting that whenever we tamper with the budget it is dangerously inflationary, and when the President and his aides and members of the bureaucracy fool with the budget it is statesmanship?

We have heard a lot about secret documents on this floor. There was a great uproar here about the Pentagon papers. Well, I want to say that the most secret document this Government has is the budget. It comes down in a leather binding with steel straps, and with sealing wax on it. Nobody knows what is in it before it arrives, no mayor, no Governor, no legislator, no business leader knows what is in it.

Mr. President, do you know who prepares it? People inside the pipelines of Government, people reaching out to state what the Government needs over in the Executive office. Well, I have been over there. I want to tell you that I believe Members of Congress know more about what should be in that budget than the executive branch, and I will tell you why. It is because you have to go home all the time and face the electorate. I do not think you become a more honest man when you become a member of the Office of Budget and Management or that you become more intelligent when you get into the executive branch.

Some people had serious doubt about me when I got into the executive branch, and according to what I read in the newspapers it did not increase my intelligence or my ability. But if I am not too late I would like to reclaim some of that.

Mr. President, I yield to the Senator from Delaware.

Mr. ROTH. I thank the Senator. I think certain charges have been made that should be answered. I would like to point out that this is not a fiscal Tonkin resolution. All we are doing is giving certain authority for an 8-month period, and that is all.

It takes no action whatever on the part of Congress after the end of fiscal year 1973.

It is important to recognize, furthermore, we do not control spending today, and to pretend Congress has taken on this responsibility is contrary to fact.

I would like to read a brief statement made by the chairman of the House Ways and Means Committee, perhaps our greatest fiscal expert. He said:

> Let us not talk about the fact that we have control over spending. We do not have control of spending in the present situation. We have control of how much we will put

> into the pipeline for future spending; yes, $540 billion in the pipeline.
>
> I shall never forget a conversation I had in the White House with a former President one time. I told him that if he made a recommendation to Congress he was then considering making, that in my opinion, humble as it might be, the Congress would undoubtedly defeat his request for additional authority to spend in the field of foreign aid. He said—
>
> All right, let the Congress do it; I have got $17 billion in the pipeline that I can spend.
>
> Now, this is the way we operate this Government. This is the way we operate.

I agree Congress should assume this responsibility. One of the benefits of the Finance bill is that it provides for a special committee to give us ways and means to control the budget. It is high time we decide how much in total we want to spend and then see how to fit the priorities in the overall spending.

But in my opinion we have not discharged this responsibility. We have a critical situation today and the only way to budget it in the next 8 months period is to give the authority to the President.

Mr. HUMPHREY. Mr. President, I have the highest regard for the Senator from Delaware, and he knows that I recognize the integrity and the decency of his argument, but I want to say most respectfully that the so-called pipeline idea does not influence my decision on this matter.

One thing the executive branch is good at is getting moneys into the pipeline. They are the ones who have been for that. I have been engaged in debates here in connection with the pipeline. What happened? What happened in the foreign aid pipeline? Pump it up. What happened in the military pipeline? You have enough in that to circumnavigate the world, but pump it up another $500 million.

We have the right to make our decisions. That is my point. I do not think we should look on this as one of the ordinary pieces of legislation.

The Senator from Arkansas who just left the Chamber said in 1967:

> The Executive has acquired virtual supremacy over the making as well as the conduct of the foreign relations of the United States.

Next year, I do not want any Member of Congress to stand on the floor of either body and state the President now has virtual supremacy over the making of domestic policy.

How many of us could find time on television; how many of us could get a chance to get up and explain our point of view? We might get 3 minutes on the Today Show and 6 minutes on the Tonight Show just before it goes off the air. But when the President, whoever he is, wants to put his ideas across to the people, the eagle has its wings up, and the whole Nation is called to attention. But what do you hear about Congress? We are wasteful, spendthrifts, and irresponsible.

We have been a bit irresponsible at times. We have given to the President, whomever he may be, more authority than he needs over our money.

Mr. President, for the last 25 years Congress has cut the President's budget—no amount of budget gimmickry can dispute that fact.

For example, in fiscal 1970, Congress cut $8.2 billion from the President's budget. In fiscal 1971, it cut $3 billion. In fiscal 1972 Congress cut $2.7 billion. This year the total expected cuts in the President's budget are expected to be $5 billion.

But somebody is going to say, "Oh, but you have social security." As I said a moment ago, "But you raise taxes for social security." We are talking about appropriated funds for the Government, where we have other spending authority and where we raise taxes for it. It cannot be called inflationary.

So we come right down to it: The Congress is not the big spender. We are not the wastrels. Who presented the unbalanced budget to this Congress? Who came out with this brand new way to make sin look like decent living called the "full employment budget"? It was this administration.

For years I was here as a Democrat being told that deficit financing was a moral evil. It was evil, degrading. It was ugly. And all at once I found out that it really was not, that you could have all these big budget deficits, and all you needed to do was change the labels and call it "full employment budget." Now we have had a full employment budget, but we have not had full employment.

Now the President has gotten into a fiscal jam. We have tried to help him get out a little bit. We have cut the budget a little bit. I was away for a couple of years while you were doing some good budget cutting.

The President made a speech in which he said there would be no tax increase, and then one of those people who has a passion for anonymity said, "Mr. President, in case you get elected, you may have to ask for a tax increase."

Why? There are good reasons why. Because this administration has been adding $3 billion more for welfare and $2.1 billion more for unemployment compensation. It has interest rates up so high that the interest on the public debt has become the third largest item in size. First is defense, then Health, Education, and Welfare, and then interest on the public debt. I can remember the good old days when the Government could borrow money for 2 or 3 percent.

Be that as it may, the President has decided he is in a fiscal jam, so he is not going to take the blame for it. He does not take the blame for anything, from the Watergate to the Congress. So what does he do? He says it is our fault. It is the Congress' fault, even that of his own Members. He did not exclude the possibility that his Republican colleagues were guilty of this sin of expenditures and spending and waste, when the truth is that we are in this jam today, because revenues are down. We are in this jam today, because there has been recession. And every man in this body, every Member, every Senator, every person in the Congress knows that a 1-percent increase in unemployment costs $35 billion in lost gross national product. For every percent of unemployment, a million people are out of work and production. Inflation has increased 19 percent in the last 3½ years.

Mr. President, we are paying the price for economic recession. We, the Congress, are not guilty of wasting and spending and extravagance. As a matter of fact, this Congress in many instances has been mighty frugal.

I am going to be voting for an amendment that will permit us to have a spending ceiling, but it will be by the direction of Congress, and it will not permit the President of the United States to pick and choose every program that he wants to pick and choose.

I am going to preserve the integrity of this body and the legislative process, if I can, and I am going to try to preserve the fundamental principle of this Constitution, which is a system of checks and balances and separation of powers.

I have listed in my prepared remarks items that would be subject to a presidential item veto, and I hope that, as we look ahead, we will keep in mind just what could happen.

I will oppose the President of the United States in his attempt to cut programs such as the Neighborhood Youth Corps, model cities, Headstart, food stamps, school lunch, child nutrition, Older American Employment, and the many other humane and desperately needed programs that we have worked for and fought for so hard the last 15 years.

Mr. President, as I stand in the Senate I speak to a body conceived by such men as Jefferson, Madison, Adams, and Hamilton, and in their tradition, great Senators like Webster, Clay, Calhoun, Douglas, Borah, Hiram Johnson, LaFollette, Howard Taft, and Richard Russell have given nourishment to this institution, and they have protected it from encroachment by overzealous Chief Executives. These great men of the Senate—and there are others—realized full well the principle of restrained and separated powers as expressed by Joseph Story in his "Commentaries on the Constitution of the United States." Story said:

> Power, however, is of an encroaching nature, and it ought to be effectively restrained from passing the limits assigned to it. Having separated the three great departments by a broad line from each other, the difficult task remains to provide some practical means for the security of each against the meditated or occasional invasions of the others.

This great legal mind warned us that once power is on the move, it has an insatiable appetite.

In the name of those men who have gone before us, in the name of those men who have stood in this Chamber and steadfastly refused the encroachment of executive power on the people's representatives, we must not forsake our responsibility to retain the authority granted us by the Constitution. If we relinquish these rights for one moment, we do so at the peril of this great institution.

Mr. President, if it is right to give the President this power for 8 months, there will be people here a year from now who will allege it is right to give it to him for 2 years, 4 years, 10 years—forever. Everybody knows that. Once you have established a precedent, you have opened the floodgates, and there will be other Presidents, after this President, who will be down here before the Congress demanding more power, more erosion of our responsibilities and authority, and the people's representatives will no longer be worthy of the name "representative of the American people."

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. FULBRIGHT. I just want to congratulate the Senator on his presentation. I think he has enunciated the issues here very well.

I wanted to emphasize one point he made about foreign aid. The Foreign Relations Committee certainly has done its best to reduce this expenditure, yet each time we have brought out a bill, it has been increased, led by spokesmen for the administration, as happened within the last month. This has happened nearly every year for the past several years.

The Senator has covered the basic data quite well. The truth of the matter, however, is that our fiscal situation is so bad that, no matter who is elected, a tax increase is inevitable. It has to be, unless we go all-out down the inflation route. What the President is simply preparing to do is to shift the burden of what he has created on to the shoulders of what he calls the Democratically controlled Congress. Is that not, in essence, the significance of this ploy?

Mr. HUMPHREY. I could not agree more. I said, in my own way, that the President had got himself out on the line this election year by saying there would be no tax increase. Then he took a good look at the total fiscal situation and somebody reminded him—and I give him full credit for knowledge of what is going on—and he said:

> Well, I had better back off on that one, but how can I do it? I cannot deny I said it.

He presumes he may be reelected and he has to look down the line. He said:

> Now, in order to get myself off that hook, I have got to put the responsibility for this on someone else.

Mr. FULBRIGHT. Yes.

Mr. HUMPHREY. And so who is it? Congress. And do you know what we are about to do? We are about to let him get by with it.

Mr. FULBRIGHT. Well, I hope not.

Mr. HUMPHREY. I hope not. But the other body did. I hope not, because just as surely as we are in this Chamber right now, if this weak economic situation continues as it is, and budget deficits continue to mount, even if they are below the President's budget request, something will have to be done with the tax code—tax reform, I hope—and there will undoubtedly be some tax increases. But the President wants to be sure that we caused it, that Congress did it, that he has no blame, that it is all our fault.

Well, I say to my fellow Senators, if you want to join in on that game, and be used and be caught up, do so. But not with my vote. I happen to think that this is possibly the most important issue we have debated in this Congress this year, affecting as it does the long-term relationship of the departments of Government under our constitutional system.

Mr. President, I ask unanimous consent that my entire prepared statement be inserted at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, we are faced with a momentous decision—a decision of historic proportions. The issue is not merely one of a budget or spending ceiling. The Congress can and may well decide to establish such a ceiling. The issue is whether the Congress will give over to the President the power to exercise an item veto. The Senate of the United States must decide whether it is willing to acquiesce to a presidential request and diminish its own power and responsibilities, or whether it will stand its ground and say "No" to a President.

At stake is nothing less than the separation of powers doctrine, the removal of viable checks and balances between the Executive and Legislative Branch and the role of Congress as an equal partner in governing this land.

It is an indisputable fact today that there has been an accretion of power in the hands of the Executive Branch. All of us have witnessed this. Indeed, many of us have participated in actions that have unfortunately diminished our own authority.

When a President takes powers previously unknown to him—as this President is trying to do now—he must take those powers from somewhere. And that somewhere is the Congress of the United States.

Someone once suggested that the balance of power between Presidents and Congresses is like a swinging pendulum—that we need not worry when it moves nearer to the Executive because someday it will retrace its route in favor of Congress. The problem with this analogy is that the balance of power is set forth in the Constitution. That great document permits some power shifting back and forth, but it sets outer limits to control the distance that the pendulum may move. And it is these outer limits that the proposed spending ceiling would ignore.

The genius of our system of government is undone when power is shifted beyond the tolerance allowed by the Constitution. James Madison in the Federalist, No. 47 wrote: "The accumulation of all powers, legislative, executive, and judicial in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elective may justly be pronounced the very definition of tyranny."

These words written almost two hundred years ago take on prophetic meaning when we stop to consider that the President of the United States asks the Congress to allow him complete authority to do what he so wants in setting of priorities and the actual expenditure of funds. Implied in this unprecedented grant of authority is nothing less than an unconstitutional item veto over Congressional appropriations.

I use the term unconstitutional because the Constitution of the United States in Article I, Section 7, clause two indicates that there is a duty upon the part of Congress to reconsider any bill returned by the President along with the precise objections voiced by the Executive. The final decision making power over vetoes rests with the Congress—not with the President.

The language of this article indicates that Congress has no power to make the President's judgment on a bill the last word, the only exception to this principle is the pocket veto and the Constitution itself makes this exception.

Yet, what President Nixon wants us to do is to make his word the last word. And when a President can veto part of a bill he emerges from the political mainstream and seeks a power given to no one person in our government. He seeks to avoid political give and take and invokes some superior authority. Such authority is clearly not within the spirit of democracy and public accountability.

An item veto gives the Executive Branch an immense political club to use for virtually any purpose so desired. The Executive can avoid the pressures of publicly having to announce whether or not he is going to take certain action. The Executive can say to the beneficiaries of any Federal expenditures—such as our States and local governments—that they had better cooperate and do what the Federal Government wants them to do or there may have to be cutbacks in some of their grants. It is a negative power. It is a disruptive power. And as Daniel Webster said: "The separation of the departments (of government) so far as practicable, and the preservation of clear lines between them is the fundamental idea in the creation of all of our constitutions, and doubtless the continuance of regulated liberty depends on maintaining these boundaries."

I say to you today that Richard Nixon's spending ceiling is one of the most blatant frontal assaults on Congressional authority I have witnessed since coming to the Senate in 1948.

The spending ceiling legislation is nothing more than a domestic Gulf of Tonkin resolution. It is a cynical election year ploy, a perversion of prudent fiscal management, a cover-up of the President's failure to halt inflation, a protective shield for an oversized military budget, a way to erase the social progress of the 1960's, and as I pointed out previously, an outright theft of congressional authority.

I call the President's request a "domestic Gulf of Tonkin Resolution" because it grants to him similar unlimited power over domestic spending that he has been able to achieve over the control and direction of foreign policy.

In 1967, my distinguished colleague from Arkansas, Senator Fulbright, said: "The Executive has acquired virtual supremacy over the making as well as the conduct of the foreign relations of the United States." Next year, I do not want any member of Congress to stand on the floor of either body and state the President now has virtual supremacy over the making of domestic policy.

President Nixon has made a public plea that Congress provide him with the authority to hold spending to $250 billion. He has accused Congress of being spendthrift. Implied in his request is the assumption that Congress is totally unable to police itself, to be frugal and to control spending prudently.

The President's assumptions deny twenty-five years of hard, cold, fiscal facts. Furthermore, it is a deliberate public deception designed to gather votes and mask his own budget ineptness.

For the last 25 years the Congress has cut the President's budget—no amount of budget gimmickry can dispute that fact. For example, in FY 1970, the Congress cut $8.2 billion from the President's budget. In FY 1971, it cut $3 billion. In FY 1972, the Congress cut $2.7 billion. And this year expected total cuts in the President's budget are estimated to be approximately $5 billion.

Administration spokesmen are quick to point out their contention that Congressional action on bills other than appropriations have actually increased spending this year.

But what the Administration doesn't say in that connection is that they, themselves, have requested or approved the additional spending for which they are so quick to blame Congress.

The President has requested over and above his original budget the following items:

$4.4 billion for military activities;

$2.8 billion for the bombing of North Vietnam;

$3.3 billion for general revenue sharing;

And $2 billion for disaster relief necessitated by hurricane Agnes.

He accuses the Congress of passing an exorbitant social security bill. But he conveniently forgets to tell the American public that the social security bill also raised the taxes to pay for it.

I do not deny that Congress took needed action to increase black lung benefits, railroad retirement benefits, water quality control programs, veterans benefits and inincreases in the school lunch program. These increases totaled only $3.1 billion over the President's budget requests. This is still less than the additional funds needed to continue the war in Vietnam another year.

But just as Congress has increased the President's budget because of its deficiencies in programs desperately needed to improve the quality of life, so have we cut the presidential budget.

This year we are likely to have defense cuts totalling $5 billion.

Cuts in military construction items will total about $250 million.

Cuts in the postal service, treasury and general government will total $8.7 million. And there are others.

Mr. President, I ask unanimous consent that a table detailing Congressional cuts in Presidential budgets since 1946 be inserted at this point in the Record.

Congress is not the big spender. We are not wastrels. Richard Nixon is the big spender and Richard Nixon's budgets have reflected this year in and year out.

The President contends that without a spending ceiling, there will be a tax increase.

This is political blackmail.

This is an election year ploy.

This is a coverup for his own inability to manage the economy.

And this is a cynical way to blame Congress for something the President does not have the courage to do himself.

The President and his economic experts know that economists of both Democratic and Republican persuasion have predicted that a tax increase of still-to-be-determined proportions will be needed sometime before 1976.

An economy in recession has made that tax increase very likely.

The Nixon Administration has postponed facing this inevitability through massive borrowing. The last four years have seen an accumulation of nearly $90 billion in budget deficits. One quarter of the present federal debt has been added during the Nixon Administration.

These huge budget deficits were further compounded by big tax cuts in 1969 and 1971 accounting for at least $15 billion in lost tax revenue this year alone.

At the same time, a recession economy has forced the Administration to add $3 billion more for welfare and $2.1 billion per year to pay for unemployment compensation.

If we had a booming economy, with more people working and fewer people receiving unemployment compensation and welfare checks and if we had a fair tax system, the Nixon Administration would not be forced to incur the huge deficits needed to make up for lost revenues.

Finally, what is the logic of the President's tax increase threat?

Without a spending ceiling, federal outlays this year will reach a unified budget deficit of $31.8 billion. With the President's proposed ceiling, once appropriations are complete, the deficit is likely to be about $25 or $26 billion.

It is difficult for me to believe that the President can say that we will have to ask for a tax increase with a deficit at $31 billion, but not at $26 billion.

Not only has President Nixon threatened us with a tax increase if we do not pass his spending ceiling, but he also is ready to blame the Congress for continuing inflation if we say, "No."

All of us realize that a spending ceiling is a poor tool with which to control inflation.

There are more effective ways, I believe, to control inflation. We should have begun inflation control four years ago—instead of on August 15, 1971—with wage and price guidelines that had bite. Since we did not, inflation control can best be achieved now through a truly effective wage-price mechanism covering those large firms that have a significant impact on the economy. A spending ceiling is only a ruse and cannot substitute for the needed mechanisms to halt inflation.

If the Nixon Administration were serious about controlling inflation, it would move forcefully in such areas as ending wasteful procurement practices, improving inadequate antitrust enforcement and revising weak regulatory practices.

As people concerned with the well-being of the American public, all of us must ask what programs would feel the Presidential knife if we enacted his spending ceiling.

We must first recognize that there are programs that he cannot cut, and are not likely to be cut:

Social security benefits;

Interest on the public debt (a debt 25% of which Nixon is responsible for);

Retirement trust funds for federal employees and railroad employees; and

Medicare and Medicaid.

A second category of federal expenditures are not subject to rigid spending controls because the total amount of outlays are not known until the end of the fiscal year. Included in this group are: various veterans benefits such as pensions, GI Bill, and hospitalization; military retirement pensions; public assistance grants; farm price supports; and the postal service deficit.

What remains for the Presidential scalpel are relatively controllable outlays including portions of both the defense and non-defense budgets.

The Joint Committee on the Reduction of Federal Expenditures estimates that it will take $6.9 billion of cuts to reach the $250 billion spending ceiling. Richard Nixon's past actions indicate he will not cut the military budget one nickel. So that leaves us people programs such as:

In the Office of Child Development, the Head Start Program;

Programs for the aging;

Vocational rehabilitation;

Education follow-through programs;

Family planning, maternal and child health;

Mental retardation;

Library resources and higher education;

Water and sewer grants for both urban and rural areas;

Manpower training, emergency employment, and reconversion activities;

Older Americans employment;

Model Cities grants;

Drug Abuse and Law Enforcement programs;

Environmental protection funds;

Relocation, rehabilitation and renewal assistance for housing;

Public health training;

Emergency medical services; and

Black lung benefits.

This is just a partial list of programs deemed expendable by the President.

And in one area the President is about to begin a federal funny money game. With his spending ceiling, he would also have to cut into federal grants in aid to state and local government. Since he has strongly backed revenue sharing to the same institutions, he would be forced to give money with his right hand and take it back with his left.

There is more to Richard Nixon's pious pleas for fiscal responsibility than simply requesting a spending ceiling. The fact is that the spending ceiling—as his Deputy Treasury Secretary Charles Walker told a closed door meeting of the American Banking Association—provides the President with a retroactive item veto. Using this, Mr. Walker indicated, the Administration would be able to eradicate on a pick and choose basis the social programs of the 1960's.

We know that no one in the Nixon administration will openly or publicly try to destroy these programs. But they are extremely willing to do so through the back door with the spending ceiling's retroactive item veto.

Mr. President, I will oppose the President of the United States in his attempt to gut programs such as the Neighborhood Youth Corps, Model Cities, Headstart, Food Stamps, school lunch, child nutrition, older American employment and the many other humane and desperately needed programs we launched under the leadership of John Kennedy and Lyndon Johnson.

Mr. President, as I stand in the Senate I speak to a body conceived by such men as Jefferson, Madison, Adams and Hamilton. And in their tradition, great Senators like Webster, Clay, Calhoun, Douglas, Borof, LaFollette, Taft, and Russell have given nourishment to this institution, and they have protected it from encroachment by over zealous Chief Executives. These greats of the Senate realized full well the principle of restrained and separated powers as expressed by Joseph Story in his *Commentaries on the Constitution of the United States*. Story said:

"Power, however, is of an encroaching nature, and it ought to be effectively restrained from passing the limits assigned to it. Having separated the three great departments by a broad line from each other, the difficult task remains to provide some practical means for the security of each against the meditated or occasional invasions of the others."

This is our task today.

In the name of those men who have gone before us, in the name of those men who stood in this chamber and steadfastly refused the encroachment of Executive Power on the people's representatives, we must not forsake our responsibility to retain the authority granted us by the Constitution.

If we relinquish these rights for one moment, we do so at the peril of this great institution.

No President has a need so great, no series of events has such an urgency, and no political pressure should ever cause us to abandon our responsibility to the people to resist the undue accumulation of power by any one man.

ORDER TO PRINT IN THE RECORD CERTAIN FINANCE COMMITTEE PROPOSALS

Mr. LONG. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield to the Senator from Louisiana for the purpose of making insertions in the Record.

Mr. LONG. Mr. President, I ask unanimous consent to file a committee report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, we were hopeful that we would have the opportunity to offer a number of amendments that have been recommended by a number of Senators, some of whom were members of the Finance Committee and some of whom were not, to a variety of House-passed bills.

Unfortunately, there seems to be a logjam and a controversy in the House of Representatives that has kept it from sending a number of routine bills to the Senate. So it might be necessary to offer all of these various legislative proposals on one or two bills. That would be contrary to the best judgment of the majority of the Committee on Finance, as to how the amendments should best be handled to permit the Senate an opportunity to legislate.

As Senators know, the House must originate revenue measures, although the Senate may amend them. The Senate ordinarily dislikes to add as many as a dozen amendments to a single House-passed bill. The House of Representatives, of course, objects to the Senate legislating in that fashion. But we may not be offered any choice.

In order that Senators and the press may know about these measures that have been tentatively agreed to by the Finance Committee, I ask unanimous consent that summaries of these amendments be printed in the RECORD, so that Senators may review the RECORD tomorrow morning, and the press may have the information now, to see the various and sundry amendments that the committee felt, as indicated by majority vote, should be recommended to the Senate.

They are submitted in this fashion because if we are offered no other opportunity, we would be required to offer these amendments on one or two bills. We had hoped that the House of Representatives would send us a dozen various and sundry bills which have been recommended by the Ways and Means Committee, so that these amendments could be offered—trade amendments on trade bills, tax amendments on tax bills, and so on—so that, generally speaking, the amendments would have at least some degree of relevance to the subject matter as compared to the Senate amendments.

There being no objection, the proposals were ordered to be printed in the RECORD, as follows:

PROPOSALS

(1) TREATMENT OF NET OPERATING LOSSES OF REGULATED AIR TRANSPORTATION CORPORATIONS AND AIRCRAFT MANUFACTURERS

The committee amendment relates to the treatment of net operating losses of regulated air transportation corporations and aircraft manufacturers. Under present law, airlines are allowed to carry back a net operating loss for 3 years preceding the loss year and to carry forward any remaining part of the loss for 7 years. The committee amendment maintains this 10-year period for spreading net operating losses but extends the carryback from 3 years to 5 years and shortens the carry forward from 7 years to 5 years. The amendment also extends the carry back years of net operating losses of corporations that manufacture and sell completed aircraft to airlines. Under present law, these corporations are allowed a period of 8 years to spread losses. This 8 years period is continued by the committee amendment but the amendment extends the present 3-year carryback to 5 years and shortens the present 5-year carry forward of any unused part of the losses to 3 years after the loss year.

(2) DEDUCTION OF INTEREST ON ACQUISITION INDEBTEDNESS IN CERTAIN CASES

This committee amendment deals with the deduction of interest on certain debt issued in connection with corporate acquisitions. The Tax Reform Act of 1969 enacted a provision which, in general, disallows a deduction for interest on debt obligations which a corporation issues in order to acquire another corporation. However, if the acquiring corporation had effective control of the acquired corporation (50 percent or more of the stock) on October 9, 1969, it may deduct the interest on debt issued subsequent to that date to acquire control of that corporation for tax purposes (80 percent of the stock of that corporation above this amount is not deductible by the taxpayer. This provision was adopted in the 1969 Act in order to deny a taxpayer a deduction for interest on debt issued simply to acquire stock of another corporation beyond the amount necessary for control (reg. in excess of 50 percent). However, in those cases where a corporation already had control for tax purposes (that is, 80 percent control) of a corporation on January 29, 1969, debt issued to acquire the remaining shares was not issued in order to acquire the corporation. For this reason, the committee amendment provides that in certain cases where corporations had control of another corporation on January 29, 1969, the interest on debt obligations issued before 1980 to obtain additional stock in the corporation may be deducted.

(3) ELIMINATION OF ADVANCE APPROVAL FOR CERTAIN LIQUIDATIONS OF SECOND TIER FOREIGN SUBSIDIARIES

The committee amendment relates to the elimination of the advanced approval requirement for certain liquidations of second tier foreign subsidiaries. Present law provides that, where a foreign corporation is involved in an exchange which otherwise would be a tax-free transaction, tax-free treatment is not available unless prior to the transaction the Internal Revenue Service has made a determination to the effect that the transaction is not being made to avoid Federal income taxes. Under current practice, the determination is made by the issuance of a ruling. Present law provides that the required determination may be obtained after (as well as before) the transaction in the case of a transaction which involves only a change in the form of organization of a second (or lower) tier foreign subsidiary when there is no change in ownership. The committee amendment provides a second situation under which the required determination may be obtained after (as well as before) the transaction. Under the committee amendment a taxpayer may also obtain a determination after the transaction in the case where an exchange is incident to a complete liquidation of a second tier foreign corporation into the first tier foreign corporation, which is wholly owned by a U.S. corporation, if both foreign corporations are incorporated under the laws of the same country.

(4) PARTS FOR LIGHT-DUTY TRUCKS

The amendment added by the committee provides that the 8-percent manufacturer's excise tax on truck parts and accessories is not to apply in the case of any part or accessory sold on or in connection with the first retail sale of a light-duty truck (which is not subject to the truck tax). A refund or credit is allowed where the parts and accessories tax has been paid by the manufacturer and it is thereafter determined that the sale of the part or accessory is tax free.

(5) REQUIREMENTS OF SHOWING TOTAL COST ON AIRLINE TICKETS

The committee amendment removes the requirement that the airline ticket show in the case of each segment of a trip the total amount (including the tax) paid with respect to the segment. However, the amendment continues the rule of existing law which requires the ticket to show the total amount (including the tax) paid by the passenger. This means that on a ticket showing separate segments of a trip there needs to be shown only the basic fare for each segment. However, all tickets must continue to show the total amount paid (including the tax) by the purchaser. As under present law, the tax may be shown separately on the ticket.

(6) RELIEF FROM LIABILITY OF INTEREST FOR THE LATE PAYMENT OF WITHHOLDING TAXES IN CERTAIN CASES

This committee amendment forgives the 6 percent interest owed to the U.S. Government for the late payment of withholding taxes which were otherwise to be withheld by a taxpayer who was a chief officer, and not a layman, of a tax-exempt organization described in section 501(c)(3) during the period July 1, 1966 through June 30, 1968. However, this provision only applies to interest attributable to taxes required to be withheld on wages for that period, and only if the Internal Revenue Service has determined by August 16, 1972, that the failure to deposit these taxes was due to reasonable cause and not to willful neglect.

(7) ELECTION AS TO POSSESSION-EXCLUSION TREATMENT

This Committee amendment deals with the exclusion in present law for income derived by domestic corporations from other than U.S. sources where most of their income is from sources within U.S. possessions. Under present law, a corporation entitled to the benefits of this exclusion may not file a consolidated return with other corporations. Because of this latter provision, the Internal Revenue Service has held that a corporation automatically is disqualified from filing a consolidated return with other corporations if it meets the two gross income tests of the present statute for this possessions-exclusion treatment, even where this results in no reduction in the tax liability for the corporation. The Tax Court, on the other hand, has held that a consolidated return may be filed in such a case because the corporation derived no "benefit" from the possessions-exclusion treatment. The amendment resolves this conflict by making the possessions-exclusion treatment elective. However, the amendment also provides that once a corporation elects the benefits of the possessions-exclusion treatment it may not file a consolidated return until 10 years after it so elects under this provision.

The amendment also eliminates an unintended benefit in existing law by providing that the dividends received deduction is not to be available with respect to dividends received from a corporation which excluded this income from its tax base in a prior year when it was eligible for the possession-exclusion treatment even though it is not eligible for this treatment in the year the dividend is paid.

(8) EXTENSION OF TIME TO CONFORM CHARITABLE REMAINDER TRUSTS FOR ESTATE TAX PURPOSES

The Committee amendment deals with the extension of time to allow charitable remainder trusts to conform to the requirements provided in the Tax Reform Act for purposes of an estate tax deduction.

As a result of the 1969 Act, charitable remainder trusts must meet certain requirements in order for an estate tax deduction to be allowed for the transfer of remainder interest to charity. In general, these requirements must be met in the case of a decedent dying after December 31, 1969. Present transitional rules have been provided to allow a trust created after July 31, 1969, to qualify if the governing instrument of the trust is amended to meet these new requirements by December 31, 1972. However, because of the complexity of these rules, many nonconforming charitable remainder trusts are unable to meet this deadline. Accordingly, the committee amendment extends these transitional rules to December 31, 1974.

(9) MODIFICATION OF THE TRANSITIONAL RULE UNDER THE TAX REFORM ACT OF 1969 FOR THE TAX TREATMENT OF BONDS OF FINANCIAL INSTITUTIONS

The committee amendment relates to the transitional rule provided in the Tax Reform Act of 1969 for bonds (and other evidences of indebtedness) purchased at a discount by banks or similar financial institutions. The Tax Reform Act provided that the gain or loss on the sale of the bonds by financial institutions was to result in ordinary income and ordinary loss, rather than a net capital gain or a net ordinary loss as under prior law. Generally, the new treatment applied to bonds purchased on or after July 12, 1969. For bonds purchased before that date the old rule applies—that is, capital gain treatment is continued—with respect to the portion of the gain which the portion of the holding period before July 12, 1969 bears to the financial institutions total holding period. The amendment provides as an alternative to this transition rule that, if the bonds are held to a maturity which is before 1975, all of the gain to the extent of the discount on the redemption is treated as capital gain. This same general treatment is also provided where U.S. Government bonds which meet the tests set out above are exchanged, in tax-free exchanges, for other U.S. Government bonds.

(10) ELECTION BY FOREIGN INVESTMENT COMPANIES TO DISTRIBUTE INCOME CURRENTLY

The committee amendment relates to the election by foreign investment companies to distribute income currently. Present law provides that foreign investment companies registered with the Securities and Exchange Commission which made an election before 1963 to distribute income currently are treated similar to a domestic mutual fund if they (1) distribute 90 percent of their taxable income, (2) allocate to their shareholders on a pro rata basis, the excess of net long-term capital gain over net short-term capital loss; and (3) satisfy certain reporting requirements. The committee amendment would give foreign investment companies that were eligible to make the election in 1962 but were unable to do so, the opportunity to make the election on or before December 31, 1973. If a foreign investment company avails itself of the opportunity to make the election, the rules treating it similar to a domestic mutual fund would apply to taxable years beginning after the date of the election.

(11) POSTPONEMENT OF CAPITAL GAINS THROWBACK RULE FOR ACCUMULATION TRUSTS

This committee amendment deals with the postponement of the capital gain throwback rule for accumulation trusts. The Tax Reform Act of 1969 added a new capital gain throwback rule to the tax law applicable in the case of certain trusts. This provision, however, was deferred in the 1969 Act until 1972. The Revenue Act of 1971 deferred the application of this provision one more year until 1973, to give more time to the study of the impact of this provision. Since Congress was unable to review this provision this year, the committee amendment postpones the application of this provision an additional year until 1974.

(12) USE OF APPRECIATED PROPERTY BY CORPORATIONS TO REDEEM THEIR OWN STOCK

The amendment makes a technical change in the rules determining whether a shareholder owns at least 10 percent in value of the stock of a corporation which makes a distribution of appreciated property in complete redemption of all the shareholder's stock. Present law provides, in general, that a corporation will recognize gain where it distributes appreciated property in redemption of its stock. An exception to this rule is provided if a stockholder owning at least 10 percent in value of a corporation's shares completely terminates his interest in the corporation. For purposes of determining whether a redemption of a shareholder's interest is in complete termination of his interest, the constructive stock ownership rules of section 318 of the code apply, but these constructive ownership rules do not apply to determine whether the shareholder meets the 10-percent ownership test. The Committee amendment makes a technical change to apply the constructive ownership rules also for purposes of the 10-percent ownership test.

(13) ESTATE TAXATION OF DEBT HELD BY FOREIGN PERSONS WHERE INTEREST EQUALIZATION TAX APPLIES

This amendment relates to estate taxation of debt held by foreign persons where the interest equalization tax applies. Present law contains a procedure which enables domestic corporations and partnerships to obtain foreign funds for use of their foreign affiliates in a manner which complies with the restrictions on foreign investment imposed by the Office of Foreign Direct Investment in the Commerce Department. Under the procedure, the domestic company or partnership elects to treat such an issue of debt as subject to the interest equalization tax. Where this procedure is elected under present law, the flat 30 percent (or a lower rate imposed by treaty) U.S. tax (generally imposed on interest and other payments by U.S. persons to foreign persons) does not apply to interest payments on debt where the election referred to above has been made. This Committee amendment provides that in the case of debt where this election has been made, the value of the debt is not to be included in the U.S. estate tax base of the nonresident alien holder of the debt.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BENNETT. Mr. President, I ask unanimous consent that I may yield to the Senator from Florida so that he may question the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. With the amendments is there a committee report or a hearing report or something?

Mr. LONG. There will be the equivalent of a committee report at the time we legislate on these proposals.

What I have submitted is, in effect, a mere summary, which will be a part of a committee report, on each of these measures. There are enough so that those who are interested in these items should review them from the RECORD tomorrow morning. I think there is an adequate description of what the legislative proposals are so that the press and the Senate can be advised that these are matters that will be offered as amendments to either the bills that I have reported to the Senate today or, hopefully, as amendments to about a dozen House-passed bills. There are 13 suggested amendments. We had hoped to offer one amendment to a bill, but if we have no choice, we will have to offer 13 amendments on one bill, perhaps.

Mr. CHILES. But will there be some hearings or committee reports that we will be able to see?

Mr. LONG. We are preparing committee reports. We will not have time to hold hearings on these measures.

For the most part, they are not measures of any great consequence. One or two of them might involve a substantial amount of revenue, but most of them are relatively minor amendments.

Mr. CHILES. So there will not be any hearing reports on the amendments?

Mr. LONG. There will be reports. We will not have time to hold hearings.

Mr. JAVITS. Mr. President, will the Senator from Utah permit the Senator from Louisiana to answer some further questions?

Mr. BENNETT. I ask unanimous consent that I may yield to the Senator from New York under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Are any of these amendments going to be offered on this bill?

Mr. LONG. No.

Mr. JAVITS. Not on the debt ceiling?

Mr. LONG. No. Frankly, the amendments I have reference to—and so far as I know, none of these are proposals of the Senator from New York, but if the Senator wishes, he can look at them at the desk, or he will see them in the RECORD tomorrow—are matters of the sort which the President can veto, if he wishes, without doing violence to his overall program. These are matters as to which the President should be able to feel, in vetoing them, that he does not have to strike down other important items.

They are measures which involve a relatively small amount of money as revenue measures ordinarily go. They should be attached to measures of similar consequence from the House of Representatives. I had hoped that we could put them on a dozen different bills, so that he would not have to veto a dozen things in order to veto one.

In any event, if they were on House-passed bills of similar consequence, we would hope that the President could agree with them, but if not, we would like to offer him the privilege of vetoing those matters without vetoing something as significant as this measure.

Mr. JAVITS. Is one of them the unemployment compensation measure?

Mr. LONG. There is no unemployment compensation measure among these, but there is an unemployment compensation amendment at the desk. I know that is a matter in which the Senator from New York is deeply interested.

Mr. JAVITS. The Senator is correct.

Mr. CHILES. We will not be asked to vote on these measures before we have a commitee report?

Mr. LONG. Oh, no. I simply want to offer the press and the Senate as much notice as we can that these are measures we would like the Senate to take a position on before it adjourns. I wanted to get them in the RECORD at the earliest possible moment, in view of the lateness of the hour as far as the session is concerned, and in view of the fact that we are going to ask the Senate to take a position on these matters.

As far as I am concerned, it is of no personal interest to me; Senators can vote them all up or vote them all down, or postpone them, but these are matters that individual Senators feel are very important, usually because of the importance to their particular States or their constituents, and they are, generally speaking, revenue amendments that Senators are entitled to have considered.

Some of them have been before the committee for a long time. Some of them have been discussed, but have not been proposed until recently. But in any event, they were all matters that I would commend to the attention of Senators, which we believe the Senate would probably wish to pass upon, even though there may be one or two the Senate might not agree with. If so, of course, the Senate should vote them down. But they are matters we think the Senate should act on.

The Senator can get a very good idea of what they are from the summaries.

Mr. BENNETT. Mr. President, the Senator from Indiana has been very patient. He has waited a long time to give his colleagues a chance to make their statements on the bill, and I am not going to take any more time now except to say that it is now 6 o'clock on Friday evening. We have this bill to get through, and if Senators want H.R. 1, that has to get through, and they both have to go through conference with the same committee.

If we feel that we want to take time to make political speeches on the Senate floor, or to go over the history of what past Presidents have done and a lot of other things, we will either have to stay here all night or one of these bills will go down. It will not be this one, because there is a deadline on it; or we will be here until Monday, Tuesday, or Wednesday.

That is the problem we face. We are about to start on the first amendment. I am glad we have reached that point. I hope we will not feel it necessary to try to make an eternal record on any of these subjects. I think they are not hard to understand. I think we do not need hours of debate or discussion on any of them. Certainly, I am not going to take any more time than I think is necessary to explain them. So let us get on with the business of amendment.

I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 3310) to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 12186) to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes.

The message further announced that the House had passed the bill (S. 216) to permit suits to adjudicate certain real property quiet title actions, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 6482) to provide for the regulation of surface coal mining for the conservation, acquisition, and reclamation of surface areas affected by coal mining activities, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 16654) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 6482) to provide for the regulation of surface coal mining for the conservation, acquisition, and reclamation of surface areas affected by coal mining activities, and for other purposes, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

AMENDMENT NO. 1753

Mr. HARTKE. Mr. President, I call up amendment No. 1753.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

> On page 2, line 7, strike out subsection (b) of section 201 of the bill and in lieu thereof insert the following:
>
> (b)(1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraph (2), reserve from expenditure and net lending, from appropriations or other obligational authority heretofore or hereafter made available, such amounts as may be necessary to effectuate the provisions of subsection (a).
>
> (2) In carrying out the provisions of paragraph (1), the President shall reserve amounts proportionately from appropriations or other obligational authority available for all programs and activities except for expenditures and net lending for veterans' benefits, services, and programs.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. BENNETT. I understand that the assistant majority leader has discussed with the Senator the question of a time limitation on this amendment.

Mr. HARTKE. Yes, he has discussed the matter with me and we have reached an agreement.

Mr. President, in an agreement with the floor manager of the bill, the Senator from Utah, I did agree with the assistant majority leader that we would have an hour and a half limitation on the debate, to be equally divided between the proponent of the amendment and the Senator from Utah. I now ask unanimous consent for that time limitation.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARTKE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, first, I should like to say that there is no question in my mind that this is one of the most unfortunate bills to hit the floor of the Senate. It is not a bill which will benefit the people.

We have known through the years that a debt limit bill does not limit the debt, and that a spending limit bill will not limit spending.

With that understanding, there is no reason to anticipate that we are going to do anything other than violate the basic principles of the Constitution of the United States by adopting this bill.

There is no question that this bill, if it passes, will be subject to judicial challenge for being an unconstitutional delegation of authority to the President. I think there is no question that that court action will follow if we pass this bill.

I agree with those who have expressed their opinion here today that a great deal of violence is done to the Constitution whenever we propose to surrender, once again, the legislative authority to determine how much and in what way the taxes of the citizens of the United States are going to be spent.

I suppose also that people will view the recent action of Congress as a rather perculiar operation. That is, very simply, on the one hand we passed a large revenue-sharing bill and now we are going to follow that with a spending limit bill, and do it all in the same day. I imagine it will all look rather unusual to the ordinary, rational, and objective individual.

The whole situation reminds me of what Arthur Miller said before the Press Club yesterday, when he referred to an excerpt from his own work, "The Creation of the World," in which Lucifer offers God a program by which they could control the world's future, a future which would be devoured by war.

God said:

> You can never change the future, only the past.

Lucifer asked him:

> How can you change the past?

God replied:

> The past is always changing. People can never remember anything, or else you just lose a few documents.

I suppose that is true. We could not even remember that we passed a revenue sharing bill here, out of a deficit that is going to be one of the largest in this country's history.

I think it would be appropriate to note for the RECORD at this time that receipts in fiscal year 1969 were $187.8 billion. The outlay for that year was $184.5 billion, which produced in that last year of the Johnson administration, a $3.2 billion surplus.

Moving to the first Nixon administration year, in fiscal 1970, receipts were $193.7 billion while outlays were $19.6 billion, producing a deficit of $2.8 billion.

Then we went into a period in which for the first time in the history of the United States, an administration intentionally caused a recession. That was the admitted testimony of the then Secretary of the Treasury, Mr. Kennedy, before the Finance Committee. He stated that the administration did intend to increase unemployment; that they intended to decrease the output of the United States;

that they intended to decrease the production—all of which is admitting in effect that they intended to intentionally cause a recession.

And what was the result of this deliberate recession? In fiscal year 1971, receipts went down by more than $5 billion to $188.4 billion. At the same time we increased our expenditures to $211.4 billion and created the first deficit of the Nixon administration in two figures, which put us at a deficit of $23 billion.

In 1972, the receipts were $208.6 billion and the outlays were $231.6 billion, repeating the $23 billion deficit of the previous year.

In fiscal 1973, receipts are estimated at $223 billion and outlays at $250 billion. Estimates of this years' deficit range in the neighborhood of $27 million to $32 billion. In sum, in the past 4 years of this administration one-fourth of the national debt has been created which we are now being asked to extend once again.

As I said earlier, we can easily decide to do that, but a debt limit will not stop the increasing of the debt.

But the real philosophy of the bill before us today is that the President exercises more mature judgment than does Congress. But is it the truth? In fiscal year 1970, the administration requested $195.3 billion which did not include supplemental requests. Congress appropriated $196.6 billion, for a deficit between the amount requested and congressional appropriation of $1.3 billion.

In 1971, the amount requested was $200.8 billion, and we appropriated $211.4 billion. That was the biggest differential in a year between congressional action and Presidential request—$9.6 billion.

In 1972, the outlay requested by the administration was $229.2 billion, and the congressional appropriation was $231.6 billion, for a difference of $2.4 billion.

In 1973, the actual request was $246.3 billion, just $3.7 billion short of the amount, and the outlay is estimated at $250 billion.

As I said before, this creates only a $15 billion, the difference between Congress and the President during the 4 years of the administration.

I would imagine that President Nixon has two fears. One, he is fearful that the polls are wrong and therefore he could be defeated for reelection. Second, he is fearful that the polls are right and that he will be elected President again, and then he will have problems of his own creation, one of which will be what to do if this bill becomes law. If we give him the $250 billion spending limitation, by March there will not be enough money to pay the bills, and this will be the first time since 1957 that the Government will find itself in the position of not being able to pay the war contractors or any others and he will have to come back to Congress and ask for additional spending authority.

I would like to say that some people are so afraid of America's future that they are afraid to let everyone have a job, to let factories produce goods. I do not share these fears. We can eliminate stagnation in our economy. We should stop dragging our feet. We should stop disappointing people's expectations for the future. There is deep anguish and deep despair throughout the Nation and it will be revealed in this election by the fact no one is excited about what is going on in this presidential election.

I do not think the people have great faith in the ability of the President to do anything about the economy. I do not think the people have any great faith that the President can do anything about inflation. I do not think that the President, who has doubled unemployment, will at the same time be able to do something more about reducing it in the future.

This brings me back to what this amendment is all about. This amendment deals with one facet and it dramatizes the whole futility of the bill before us. It says simply that the President shall have no authority whatsoever to cut into Federal spending for veterans' benefits, services, and programs.

I am a member of the Finance Committee. I opposed this measure in the committee. I believe that the debt limit ceiling is a farce and that the spending limit bill is a farce. But I am also chairman of the Veterans' Committee and I say to you, Mr. President, with that should Congress adopt this measure there is no reason we should be permitted to treat veterans as second-class citizens. They were first-class soldiers and as they return to the United States they have a right to be treated as the first-class citizens they are.

We passed a bill today increasing veteran educational benefits for those coming back from the war in Vietnam. Single veterans will now be entitled to $220 a month instead of the present allowance of $175 a month. I know there are those who will say, "Oh, no, the President will not cut the veterans' rates." I say, "Oh, no? You are wrong." This administration only favored increases to $190 a month and they strongly opposed the inceases we passed. He will say that all he asked for was $190 a month and that is all the veteran should receive.

This he will say to veterans who have surrendered the only thing which we never get back for them and that is time. Once time disappears it is gone forever, and that boy who went to Vietnam, who gave of his body—some of them gave their lives and they will never come back—will never reclaim time. Of those who came back, some returned with no arms, or no legs, the President will be able to say that they are entitled to $190 a month if we do not adopt this amendment.

I say to those who will vote against this amendment, when the President cuts educational benefits back to $190 a month, do not say you did not have a chance to stop him, because you could have.

Mr. TAFT. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield if it is a question.

Mr. TAFT. I am confused by the fact that the Senator's amendment, unlike some others, does not include an exemption for social security or an exemption for interest on the debt. As I understand the import of his amendment, the amendment would affect both a reduction in social security payments. Is that the Senator's intention by this amendment?

Mr. HARTKE. What is the question?

Mr. TAFT. Is it the Senator's intention by this amendment to direct a cut in social security benefits because I think that would be the effect of the amendment unless it includes exemption for social security benefits.

Mr. HARTKE. A cut in social security benefits?

Mr. TAFT. Yes.

Mr. HARTKE. No.

Mr. TAFT. But would it include, then, the obligational authority——

Mr. HARTKE. All this amendment does would be to prevent any spending cuts to veterans.

Mr. TAFT. It would not do that. The first portion of the amendment, on a proportional basis, says——

Mr. HARTKE. I understand what the Senator is saying and I will say that I do not intend to allow the President to cut back on social security payments. I would certainly vote for any amendment which would exempt these other programs. I think the distinguished Senator from Ohio understands that I do not want the President to tinker with veterans' benefits. Has the Senator ever visited veterans' hospitals and seen veterans who have to be lifted and carried to the bathroom and back to their beds? I have seen them and I do not want the medical programs for such men cut. Has the Senator ever been to an employment office where veterans cannot even get a chance to ask for a job and whose unemployment rate continues to be higher than a nonveteran of the same age?

I do not want to cut disability pensions of World War I veterans whose average age is 77 years old. Are we going to cut their pensions? "Oh, no," you say, "the President will not." But this bill gives him the power to do so. I do not want that done. This amendment is intended to serve notice that veterans' benefits should not be reduced. If anything they should be increased. There is no humanity in the bill; it is absolutely a blank check for the President to keep on dropping bombs in Vietnam to kill more babies and more women, so that we can pay the bill for the largest plastic surgery hospital in the world over there which takes care of little babies who have been burned by rockets, the flesh torn from their bodies—babies without arms, women without arms or legs. The President will not even stop sending in foreign aid to countries like Laos, Thailand, and Vietnam, when they are shipping in enough heroin to supply the entire American market. Why do you not do something about foreign aid? That is the kind of limit we should adopt. Why do you not vote to cut out funds for bombs to kill babies and mothers, to kill innocent people, to bomb the rice fields where people earn their daily bread. Why do you not vote to put a spending limit on war, but rather to limit everything else?

This is a ridiculous bill. It is a farce. It is a shame for the people of this country to be put through such an ordeal.

Mr. TAFT. Will the Senator yield?

Mr. HARTKE. If you have a question.

Mr. TAFT. Mr. President, would the Senator from Indiana be willing to amend his amendment to exclude in the exemption, as other amendments about to be proposed would do, the interest on the national debt and interest on the social security trust fund?

Mr. HARTKE. Mr. President, I would be glad to do that.

Mr. JORDAN of Idaho. Mr. President, I send to the desk an amendment in the nature of a substitute for the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> In lieu of the language to be inserted by the Senator from Indiana, insert the following:
>
> (b) (1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraph (2), reserve from expenditure and net lending, from appropriations or other obligational authority heretofore or hereafter made available, such amounts as may be necessary to effectuate the provisions of subsection (a).
>
> (2) In carrying out the provisions of paragraph (1), the President shall reserve amounts proportionately from appropriations or other obligational authority available for all programs and activities except for expenditures and net lending—
>
> (1) for interest,
>
> (2) for veterans' benefits and services,
>
> (3) for payments from social insurance trust funds,
>
> (4) medicaid,
>
> (5) public assistance maintenance grants,
>
> (6) social services grants under Title IV of the Social Security Act, as amended,
>
> (7) food stamps,
>
> (8) military retirement pay, and
>
> (9) judicial salaries.
>
> (3) In carrying out the provisions of paragraphs (1) and (2), no amount specified in any appropriation or any activity, program or item within such appropriation, may be reduced by more than 10 per centum.

Mr. HARTKE. Mr. President, I want to say that I would be more than willing to accept the amendment as a substitute for my amendment. If the Senator from Idaho wants a vote, I would be glad to vote for it. The Hartke amendment was designed to make a point about the veterans. That is what I did, I hope. However, I want the Senator to know that I would vote for his amendment as well.

Mr. JORDAN of Idaho. Mr. President, I appreciate that.

Mr. President, this amendment has been cosponsored by the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. CRANSTON), the Senator from Maryland (Mr. MATHIAS), the Senator from North Carolina (Mr. ERVIN), the Senator from New York (Mr. JAVITS), the Senator from New Jersey (Mr. CASE), the Senator from South Carolina (Mr. THURMOND), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Carolina (Mr. JORDAN).

Mr. PASTORE. Mr. President, would the Senator add the name of the senior Senator from Rhode Island as a cosponsor?

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that the name of the Senator from Rhode Island (Mr. PASTORE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Would the Senator from Idaho also add the name of the Presiding Officer?

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 1-hour limitation on the substitute amendment, the time to be equally divided between the distinguished Senator from Idaho (Mr. JORDAN) and the manager of the bill, the distinguished Senator from Utah (Mr. BENNETT).

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JORDAN of Idaho. Mr. President, 2 days ago the Senate Finance Committee conducted hearings on H.R. 16810, a bill to extend the debt limit of the United States to $465 billion and for other purposes. This bill will provide borrowing capacity for the Federal Government that is more than $100 billion greater than it was 4 years ago.

Section 2 of this bill provides a debt spending limit of $250 billion for fiscal year 1973 and provides further that the President may reduce appropriation bills passed by the Congress wherever he chooses to cut in order to achieve that spending limitation.

Testimony of administration witnesses Secretary of the Treasury Shultz and Director of the Office of Management and Budget Weinberger indicated they had no idea where cuts would be made but insisted that the President must have this unprecedented power and that no other alternative would serve the purpose.

They flatly rejected my amendment which provides for a proportional reduction of all reducible items in the budget sufficient to bring spending within the $250 billion limitation.

Likewise they flatly rejected any limitations whatsoever on the absolute power of the President to cut spending anywhere he wishes and as deeply as he wishes subject only to the same $250 billion limitation.

While I approve the concept of a $250 billion limitation, I do not agree with the administration proposal to vest this congressional power in the President.

This is a transfer of the appropriative power of Congress which I am not willing to endorse. It would permit the President to make the final decision on how much is spent for various programs which the Congress, in its wisdom, has given equal dollar priority.

As a former Governor I recall that the problem was less complicated than at the Federal level because our State constitution prohibited deficit spending. I think this is true in most States. There we met the issue head on. Only two options were available—reduce spending or raise taxes—or perhaps a combination of both. The objective of achieving balance or equilibrium between the taxing power and the spending authority had to be met—and we did it.

Unfortunately, this is not the case at the Federal level of Government.

We have implemented a third alternative, that is, increase the Federal debt to achieve that balance. For many years this fiscal escape was used only in time of emergency such as wars or depression. Now we have come to regard it as the remedy of first resort and as an escape from the rigors and discipline of reducing expenditures or the "heaven forbid in an election year" alternative of raising taxes.

Some say that Federal spending is out of control. That may well be but spending at State and local levels is increasing even faster. Spending at all levels of government has increased from about 21 percent of the gross national product in 1950 to about 34 percent of GNP in 1972.

At what level do we reach the point of diminishing return?

At what level will the taxpayers revolt?

It is high time that Congress faces up to its constitutional responsibility. We must have the courage to bite the bullet and reduce those expenditures that can be reduced on a proportional basis.

The record is clear and unmistakable: Whatever erosion of congressional power to the Executive has taken place is because of congressional abdication of its constitutional duties rather than a usurpation of congressional power by the Chief Executive.

The issue before us involves more than numbers to be fed into a computer. To me it involves also the recognition and defense of a principle too precious to discard so lightly.

If ever the day comes when the Congress surrenders its control, or even part of its control over the purse strings of this Nation, on that day the Congress will have reduced itself, by self immolation, to the ashes of sterility.

Mr. President, I yield to the Senator from Pennsylvania.

Mr. SCHWEICKER. Mr. President, I rise to support the pending amendment to H.R. 16810. And I commend the Senator from Idaho for his leadership, for his initiative, and for his work in this very important effort.

Mr. President, this amendment, of which I am a cosponsor, to the debt ceiling would have the effect of preserving a $250 billion spending ceiling but would at the same time provide that spending cutbacks must be made proportionately to all appropriation bills, including unspent prior appropriations, with the exception of uncontrollable items.

I support, as does the Senator from Idaho, the President's effort. I strongly support the President's efforts to impose a spending ceiling. President Nixon indicated very clearly in his speech to the American people of October 7 that if we do not hold down spending, tax increases could be necessary. The American people are already bearing a heavy burden of taxation, and I commend the leadership of the President in taking the initiative to avoid tax increases.

However, I also strongly believe that the Congress must preserve its authority over priorities. This amendment permits a spending ceiling, but preserves congressional authority over priorities. The proportionate cutback for each appropriation is estimated to be 3.6 percent. The President would not be permitted to make cutbacks of over 10 percent on any one item program or activity to meet the spending ceiling. He would have to take a look at the level of appropriations for each appropriation including supplement and continuing appropriations, and make across-the-board cuts for all programs proportionately. Spending would therefore continue at the same relative rate with respect to every appropriation. Within each appropriation cuts could be made in any specific activity only up to 10 percent.

The only exception would be expenditures which are uncontrollable within the Federal budget.

Under this amendment, uncontrollable items are defined as interest on the national debt, social security trust funds, veterans benefits, medicaid, public assistance maintenance grants, food stamps, social services, judicial salaries and retired military pay. Estimates are that uncontrollable items amount to about $117 billion. Thus, remaining expenditures of approximately $133 billion must be reduced proportionately in order to meet the $250 billion spending ceiling.

There are three major features of this amendment:

First, it retains the authority of Congress over spending priorities and the distribution of funds within the Federal budget. It therefore avoids giving the President direct item veto authority.

Second, it permits the establishment of a spending ceiling for fiscal year 1973 of $250 billion.

Third, it decreases the possibility of a tax increase.

The amendment specifically states that—

> The President shall reserve amounts proportionately from appropriations or other obligational authority available for all programs and activities, except for certain uncontrollable items.

By doing it this way, Congress preserves its overall decisionmaking authority over where the money will be spent. Yet, it preserves the spending ceiling, which I agree is very much needed.

Here is a rundown on how this amendment would work:

The present rate of spending is $257 billion for fiscal year 1973. The proposed ceiling is $250 billion. This means that we must cut back our rate of spending by about $7 billion.

This amendment exempts certain "uncontrollable items." It applies, however, both to appropriations for relatively controllable items for fiscal year 1973 as well as to carryover appropriations from fiscal year 1972 and prior years. At the end of fiscal year 1972, we had left over about $60 billion in funds which were appropriated but unspent. Total appropriations for fiscal year 1973 are expected to be about $171 billion. Of this, about $133 billion have been appropriated for relatively controllable items. Thus, adding the $60 billion carryover and the $133 billion fiscal year 1973 figure, we have total appropriations for relatively controllable items as being about $193 billion.

As I indicated, we must cut our rate of spending by about $7 billion. Under this amendment, that $7 billion must come out of the $193 billion in appropriations available for relatively controllable items. Dividing 7 by 193, we come up with 3.6 percent which is the proportional cut required for each appropriation to meet the $250 billion spending ceiling. That is, each appropriation must be cut by 3.6 percent in order to reduce spending by $7 billion and meet the $250 ceiling.

No item, project, or activity within that appropriation could be cut more than 10 percent. This would make it very clear that this bill does not have a Presidential veto. It would make it very clear that the power of the purse of Congress is being preserved; and it would mean that Congress is preserving its congressional spending authority and constitutional power.

Mr. President, this amendment is very similar to an amendment passed by the Senate back in 1968. At that time, the Senate agreed on a spending ceiling of $180.1 billion. Interestingly, here we are only 4 years later discussing a ceiling which is nearly 30 percent higher than that of 1968. The estimated ceiling then was $186.1 billion and the Senate agreed by a vote of 53 to 35 to reduce the ceiling by $6 billion. Several of the exemptions for uncontrollable items which were permitted under that legislation are similar to the exemptions in this amendment. The 1968 legislation also included an exemption for defense spending in Vietnam of $2.3 billion.

This does not have that feature in it.

This amendment, sponsored by the Senator from Idaho, is a very sound, safe, and prudent way of meeting a very serious fiscal problem. This is an amendment that all of us, regardless of our political philosophy and party, can support to meet the needs of the economy, to meet the demands of the President and his desire to control spending and prevent a tax increase, with which we are 100 percent in accord. I believe this amendment is a proper and appropriate way to proceed with this very important and difficult problem. I urge its adoption.

Mr. CRANSTON. Mr. President, I rise to briefly but strongly support the amendment offered by the distinguished Senator from Idaho, an amendment for which the distinguished Senator from Pennsylvania and I have been working most strongly for the past 48 hours.

I was present in the Chamber this morning when a number of Senators were speaking in praise of the distinguished Senator from Idaho. I listened with great interest to those remarks and decided to make a few remarks of my own at this point about the distingushed Senator from Idaho.

In this amendment he is capping a great career in the Senate with an outstanding proposal and very great effort to insure that we restore fiscal responsibility to our operations and our Government while at the same time he is coming to grips with the great issue of whether or not we retain our responsibilities and exercise our rights appropriately in this matter, or whether we abdicate that responsibility to not only this particular President, but to any President, with what I believe will be the success of this approach at this time in our country. I think the Senator from Idaho will have written a great, great finish to a great, great Senate record with this accomplishment.

I praise him for this as I praise him for the other wonderful things he has done for his State, his Nation, and the world in his time in the Senate.

I would simply like to say that I am supporting this amendment because it fixes a spending limit at a time when we need it. Certainly, a quarter of a trillion dollars should be enough to meet our Nation's needs, but I oppose the give-away of the right and responsibility of the Congress to decide which programs shall be cut.

Countless Californians have expressed their deep concern over the prospect of further governmental ravages of their earnings and their savings. It is time now to bring a halt. This proposal, combined with a spending ceiling, provides a way.

Frankly, I am convinced that both Congress and the President have lost control of Government spending. Middle-income workers, wage earners, the poor, the elderly are victims of inflation and ever-higher taxes.

Mr. President, I strongly support the amendment offered by the distinguished Senator from Idaho, a proposal the distinguished Senator from Pennsylvania and I have been working for most strenuously for the past 48 hours.

I will support action in the Senate to impose a firm $250 billion limit on Government spending. A quarter of a trillion dollars should be enough to meet our Nation's current needs.

I will oppose a give-away of the right and responsibility of Congress to decide what programs should be cut. We must not establish one-man Government by surrendering that power to any President—now or ever.

Countless Californians have expressed to me their deep concern over the prospect of further governmental ravages of their earnings and their savings. They feel caught in a fiscal vise through no fault of their own. The last 4 years have brought them:

The highest unemployment in a decade;

The worst inflation in two decades;

The highest budget and trade deficits in four decades;

The highest interest rates in 100 years; and

Ever-higher taxes.

Frankly, I am convinced that both Congress and the President have lost control of Government spending. Middle-income working families, wage earners, businessmen, the poor, the elderly are all the helpless victims of inflation and a bureaucratic tax juggernaut gone wild.

Our failure to reform welfare, to hold down war expenditures, to end wasteful foreign aid, has put us into a crisis. So has the congressional practice of piecemeal budgeting, appropriating funds for this program and then that, in response to this demand and then that, without prudent regard for the availability of adequate revenues. Adding to the crises are administration policies that in 4 years have produced requests for $15 billion more in appropriations than Congress has actually provided. Just this year the administration has called for an $18 billion increase in expenditures and a $32 billion increase in the national debt.

We have managed to move, however, to help local government gets its financial house in order through revenue sharing. We must now get the Federal financial house in order.

But let me make clear the difference between what I support—through this amendment—and what President Nixon has proposed and the House of Representatives has approved. Their plan goes far beyond the matter of simply halting inflation and taxes. It strikes at the very heart of our constitutional balance of powers. That brand of spending limit would strip Congress of its powers to alter national spending priorities and substitute spending by Presidential decree regardless of laws, appropriations, and programs established by Congress. The Congress would no longer be an equal partner with the executive branch of Government.

Instead, I support—through this amendment—a $250 billion spending limit that cuts spending equally, agency by agency, across the board, in a giant step toward relief for taxpayers. The only exceptions should be for irreducible obligations—interest on the national debt, entitlements for veterans, and payments from social insurance trust funds such as social security.

There will be no equity, no fairness for the American people, if the budget slashing that is so badly and immediately nedeed becomes a free for all with each Senator and each Representative fighting to save his or her "pet" program from either the President's blue pencil or from a congressional axe.

Each of us, legislators and constituents alike, have our own favorite bills, programs, and projects. But a spending limit will only work fairly and realistically if it is uniform, proportionate, and across the board.

Under such a plan there will be none of the feared presidential raids on social programs for the aged, the ill, and others in need of assistance; none of the feared selective sacrificing of mass transit, housing, health, education, and pollution programs.

I will support a spending ceiling that will allow for sound, responsible budgeting.

I will support a spending limit that will give the besieged American taxpayer the first real break he has had in a long time.

But I will not support abdication of congressional authority. I will fight any proposal to give away Congress right to govern how and where Federal funds will be spent.

It is time for the bloated Federal bureaucracy to go on a diet. And I predict that, when it does, those who fear a spending ceiling will find that when the bureaucrats in the agencies are given a leaner diet they will buckle down and make each dollar go much farther. In the end, I believe, little of real value in Federal programs will be lost.

This, then, is a necessary 1-year first step toward a congressional budgetary process that must link overall spending to overall income under a sensible annual ceiling.

There is an amendment to be offered later tonight—by the distinguished Senator from Illinois (Mr. Percy) and myself—proposing an annual congressional budgeting process. Under it, Congress would annually fix a spending ceiling, then fit income and outgo within.

But that is the second step.

Let us now take the first step, by adopting the Jordan amendment.

Mr. NELSON. Mr. President, I join the Senator from California in commending the Senator from Idaho and those Senators who worked in designing what is a reasonable proposal to set a debt ceiling and retain the authority of Congress to control what should be put in this budget.

I would like to ask unanimous consent, if there is no objection by the author of the amendment, to be added as a cosponsor of the amendment.

Mr. JORDAN of Idaho. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that Senator Nelson and Senator Church be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I just have a brief comment to make.

I endorse the amendment. I think it is the right approach. I wish to comment briefly on the proposal that was requested by the President and sent to us from the White House.

It would, I think, be a dangerous delegation of power to grant the President's request for authority to cut the budget wherever he wishes without consulting Congress.

While I approve a $250-billion spending limitation at this time, it would be a disastrous mistake for Congress to create a super legislator in the White House.

The Congress has two obvious options which will accomplish the objective of a spending limitation and at the same time prevent both the further erosion of the constitutional authority of Congress and the further aggrandizement of power in the Presidency.

Those options are: first, for Congress to make an across-the-board percentage cut in the budget, or second, request the President to make recommendations for cuts to be considered by the Congress.

Over the years, a dangerous concentration of power has accumulated in the Presidency. That process has dramatically accelerated in the past 4 years. Presidents have increasingly usurped legislative power, refused to comply with legislative mandates, and arbitrarily construed laws contrary to legislative intent in order to serve their own political purposes. In addition, Congress itself has supinely ceded authority to the President by neglect, default, and positive legislative action. Each step along this route has seriously eroded the constitutional authority of the Congress.

To grant the President this unrestricted power to cut the budget will be a giant step toward total abdication of constitutional congressional authority. Not only does this grant of authority raise an important constitutional issue, it places a dangerous political power in the hands of the President which, inevitably, will be abused by everyone who holds that office.

Cuts will be made which suit the whim of the President while projects and programs will be funded which reward friends in the Congress and punish enemies. When the President acquires that kind of power, it will not be long before the Congress will be reduced to little more than a group of vassals whose only function is to pay homage to the king by rubber stamping whatever he wants.

If Congress passes this proposal, we should make a drastic cut in our salaries commensurate with the reduction in our responsibilities.

I have voted in the past 3½ years for a net budget reduction of about $40 billion below the President's own budget requests in that period. Furthermore, I voted against the tax reduction last year, which was costing the Treasury more money than it is proposed to reduce the spending in order to achieve a $250 billion limit. So I, among others here, am not among those who have been supporting a runaway budget.

As a matter of fact, I might further comment that the President recommended and supported a revenue-sharing plan which is going to cost $33 billion in the next 5 years, and refused to support any taxes to fund it. So he participated in throwing the budget out of balance almost exactly in the same amount as he now says he has to cut back spending.

That falls with the President. It was his proposal. He pushed it through Congress. I thought it was totally fiscally irresponsible and voted against it.

I might just make one further comment that the President opposed an increase in social security above 5 percent. His representatives so advised us in the Finance Committee time after time when the issue was raised. But he signed the 20-percent increase and the additional cost to the taxpayer. Now he is on TV advertisements taking credit for the 20-percent increase he opposed all along.

Mr. President, the Nixon administration, having lost all control of the Federal budget, is desperately looking for a scapegoat. President Nixon has decided that Congress must be blamed for the failure of his economic game plan and its consequences. By adopting the new economic plan President Nixon abandoned his old plan but he cannot escape its consequences. The old economic plan of deliberately slowing down the economy failed to control inflation, but brilliantly succeeded in creating a recession, throwing millions of Americans out of work and plunging the Government budget into debt. President Nixon assumed office pronouncing his firm commitment to a balanced budget. In fact, the Nixon administration budgets have always been in the red. For fiscal year 1970, the Nixon administration predicted a budget surplus of $5.8 billion. In fact, the budget was $2.8 in the red. For fiscal year 1971, Nixon administration estimated a budget surplus of $1.3 billion; in fact, they made a whopping $24.3 billion error ending for that year with a $23 billion deficit. For fiscal year 1972, the Nixon administration achieved another $23 billion deficit and for fiscal year 1973 they now estimate a budget deficit of $25 billion. On August 24 of this year, the Joint Committee on the Reduction of Federal Expenditures estimated that the deficit will actually be $33.5 billion.

In 3½ years, the Nixon administration has achieved a staggering $73.8 billion deficit. Incredibly, the Nixon administration in 4 years has exceeded the budget deficits of the preceding 16 years. The Nixon deficit of $73.8 billion exceeds the total budget deficit of $69.6 billion of the entire Eisenhower, Kennedy, and Johnson administrations. Mr. President, I ask unanimous consent that a table showing the Nixon administration budget estimate and the actual results be inserted in the RECORD at this time and also a table showing the growth in the debt be included.

There being no objection, the tabulations were ordered to be printed in the RECORD, as follows:

TABLE I.—NIXON ADMINISTRATION ORIGINAL BUDGET ESTIMATES SUBMITTED COMPARED TO ACTUAL BUDGET RESULT ON A UNIFIED BUDGET CONCEPT

[In billions of dollars]

Fiscal year 1970	Budget receipts	Budget outlays	Surplus or deficit (−)
Feb. 15, 1969, Nixon's revised budget	198.7	192.9	5.8
Actual	193.7	196.6	−2.8
Fiscal year 1971, submitted January 1970	202.1	200.8	1.3
Actual	188.4	211.4	−23.0
Fiscal year 1972	217.6	229.2	−11.6
Actual	208.6	231.6	−23.0
Fiscal year 1973, January	220.8	246.3	−25.5
Latest estimates Sept. 18, 1972	225.0	250.0	[1] −25.0
Total deficit as of Sept. 18, 1972			[2] 73.8

[1] According to the Joint Committee on the Reduction of Federal Expenditures on Aug. 24 Federal budget outlays for fiscal year 1973 will exceed receipts by $33,500,000,000.

[2] The Nixon budget deficit of $73,800,000,000 exceeds last 3 administrations' (Eisenhower, Kennedy, and Johnson) entire budget deficits of $69,000,000,000.

Note: The figures are rounded and may not necessarily add to total.

BUDGET DEFICITS FOR THE LAST 20 YEARS

[Dollar amounts in billions]

President	Deficits		
	Fiscal year	Federal funds	Unified budget
Eisenhower	1954–61	$21,836	$15,806
Kennedy	1962–64	22,038	17,810
Johnson	1965–69	57,762	36,019
Total		101,636	69,635
Nixon	[1] 1970–73	109,742	73,901

[1] Includes the latest official estimate for fiscal year 1973 which is generally considered to be understated by about 7 to 10,000,000,000.

[From Washington Post, Sept. 19, 1972]

Public debt (in billions)

1962	303.5
1963	309.3
1964	317.9
1965	320.9
1966	329.3
1967	344.7
1968	358.0
1969	368.2
1970	389.2
1971	424.1
1972 (estimated)	445.0

Mr. NELSON. Mr. President, $73.8 billion deficits are largely a result of Nixon-induced recession itself. This recession has had drastic consequences both for the Federal Government and the American worker. According to estimates of the Joint Economic Committee staff in the 1972 mid-year review of the economy, the country lost $160 billion in potential GNP during the Nixon administration; $160 billion in goods and service could have been produced but were lost because of the failure of the administration to maintain a full employment economy. This lost GNP caused $42.1 billion in Federal revenue also being lost in the Nixon years. In 3 years, the Nixon administration failed to achieve projected revenues by $27.7 billion. It also should be remembered that the Nixon administration induced recession results in not only lost revenue but in increased cost for the Federal Government. Nancy Teeters, a noted economist at the Brookings Institution estimated that as of December 1971 the Federal Government was obligated to spend $6.4 billion more for such programs—such as unemployment compensation—because of the slowdown in the economy.

Mr. President, I ask unanimous consent that a Washington Post article describing more fully Mrs. Teeter's conclusion be inserted in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BROOKINGS REPORT—RECESSION COST IS $6.4 BILLION

(By Hobart Rowen)

The 1970 recession cost the federal government about $6.4 billion in extra payments last year for unemployment compensation, old-age insurance, aid to families with dependent children and other programs responsive to high jobless rates.

And if unemployment should continue at 6 per cent, "recession-induced federal expenditures could rise to $10 billion in 1972 and $13 billion in 1973," with additional amounts coming from the states.

These are among key points of a study by Brookings Institution economist Nancy H. Teeters designed to show how a shift in the economic climate affects not only the tax side of the budget, but expenditures as well.

She notes that "there are new elements in the sensitivity of expenditures to economic conditions." One is the Medicaid program. Another is a growing number of people getting retirement benefits, especially since older people frequently find retirement "more socially acceptable than unemployment."

Since the test of how much a person can earn without losing Social Security benefits is applied monthly, "it (is) easy to go on and off the rolls depending on the employment opportunities available."

Mrs. Teeters' report was released over the weekend as part of the new volume of Brookings' "Papers on Economic Activity," published three times a year.

A former Budget Bureau official, Mrs. Teeters set out to demonstrate that there is a more flexible response from expenditures than often realized. Not only are unemployment insurance payments involved, but today, a declining economy stimulates more federal payments for retirement, welfare, veterans' benefits, Medicare, Medicaid and aid to families with dependent children.

To cite just one of her statistics, the 1971 combined federal-state costs for Medicaid were $5.6 billion, up $1 billion from what they would have been had the level of unemployment stayed at the 4.2 percent level of the first quarter of 1970. Yet another $1 billion will have to be tacked on to this total if the unemployment level should stay at 6 percent in 1972.

Yet, the flexible response of the expenditure side of the budget has not been taken into account by the federal government in calculating the "full employment" budget. To date, only the potentially higher revenues have been calculated, with no adjustment made for recession-induced expenditures.

The practical result is that the "full employment deficit," assumed to be running at a rate of about $8 billion for fiscal 1972, would be essentially in balance if allowances were made for the spending that could have been avoided at full employment.

In other Brookings' papers released at the same time:

George L. Perry estimated that the potential Gross National Product had grown somewhat slower in 1965–1970 than earlier because productivity has been lessened by sharply increased labor force participation by women and young people. But with a return to former productivity trends. He predicted a big boost in potential output for the 1970s, suggesting that "the government will have to step in" to make a meaningful dent in the unemployment rate.

William Poole, a Federal Reserve System economist (offering his own, not the institutional view), conducted experiments showing that a steady growth of the money supply at 7 percent creates an erratic economy; but aiming at a steady growth in money GNP, and varying the money stock growth produces better results. Poole apparently suggests boosting the money supply when the economy is sluggish, then touching the brakes as the economy nears full employment.

Two papers disagreed wholly on the potential impact on unemployment of various kinds of manpower programs. An optimistic assessment by Charles C. Holt and others predicted that a batch of programs for training, up-grading, youth work, etc., costing $14 billion would return $30 billion in GNP, and cut a 4.5-percent unemployment rate to 2.4 percent. Nonsense, said MIT economist Robert Hall, who saw only one-fifth of the results calculated by the Holt group. The problem, according to Hall: ". . . the good jobs are filled in other ways and, in general, already have long lines of workers waiting to fill them."

Mr. NELSON. Mr. President, the human cost of the almost 4 years of the Nixon economic stewardship is just as great. In January 1969, there were only 2.6 million Americans unemployed. The September unemployment figures show that overall there were 4.7 million persons unemployed. Over 2 million people have been forced from their jobs since January 1969. When Nixon took office, the unemployment rate was 3.3 percent. Today it is 5.5 percent. This is an intolerable level of joblessness.

The unemployment rate among professional and technical workers was 1.2 percent in 1968. Now it is 2.2 percent. Among skilled workers, it was 2.4 percent in 1968 and is now 4.2 percent. The present unemployment rate for blacks is 10.2 percent, more than double the unemployment rate for whites. The unemployment rate for teenagers is 16.5 percent.

I ask unanimous consent to insert my minority views.

There being no objection, the views were ordered to be printed in the Record, as follows:

V. Minority Views of Senator Gaylord Nelson in Opposition to One Expenditure Limitation

["The History of the present King of Great-Britain is a History of repeated Injuries and Usurpations, all having in direct Object the Establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid World.

"He has refused his Assent to Laws, the most wholesome and necessary for the public Good.

"He has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their Operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them * * *"]—*Declaration of Independence, July 4, 1776.*

The experience of Colonial United States under King George III led to the formation of our democratic form of government under a written Constitution. The experience under the Crown's tyranny also produced a form of government that was represented by the Founding Fathers as a balancing of powers between the executive, the judicial, and the legislative branches.

Thus Article I, Sect. 7 of the Constitution provides that "All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills." And Article I, Sect. 9 of the Constitution further states that "No money shall be drawn from the treasury, but in consequence of appropriations made by law; * * *" From these two express provisions of the Constitution, it would appear that the "power over the purse" was exclusively given to the legislative branch of our federal government.

In the balance between the three branches of government, it is evident that the constitutional grant of "power over the purse" to the national legislature was felt to endow that branch with substantial representative and political force. In *The Federalist* (No. 58), James Madison explained:

"The House of Representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government. They, in a word, hold the purse * * *. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

But just as an express endowment of money requires careful husbandry to prevent it from being squandered, so must express grants of constitutional authority be carefully tended and conserved. This century has seen the steady attrition of the power of Congress in relation to the strength of the executive branch. In foreign policy, one only has to look at the tragic example of Vietnam to measure the feeble power over foreign affairs that remains in the hands of Congress.

Today we are being asked to transfer what is left of the Congressional "power over the purse" to the President. In fact, the legislative branch of the federal government has ceded a great deal of authority on the control of the national purse to the executive branch already.

In the Anti-Deficiency Acts of 1905 and 1906, the Congress gave the President authority to reserve appropriations in order to reflect savings in authorized programs and to prevent deficiencies from too rapid expenditure of funds. Then under the pressures of national crisis—the Great Depression of the 1930's and later World War II—the principle of a difference between permissive and mandatory appropriations was asserted. In 1942, President Franklin D. Roosevelt claimed that just because Congress appropriated funds for certain governmental programs, this is only a ceiling on possible expenditures and "is not a mandate that such funds must be fully expended."

A number of articulate defenders of constitutional integrity in this Congress have vehemently protested this executive exercise as Constitutionally prohibited. In particular, Senator Ervin and his Separation of Powers Subcommittee have been forceful in their argument that executive impoundment of duly appropriated funds constitutes an item or line veto. Although such an item or line veto is not permitted by the Constitution, the practice of Presidential impoundment of funds has continued with every occupant of the White House since FDR.

In addition to the impoundment of funds under so-called permissive appropriations, recent Presidents have been given express authority to withhold appropriated funds under certain conditions. Under Title VI of the Civil Rights Act of 1964, the President may refuse to expend funds in areas which practice discrimination.

The one area in which there appears to be a clear constitutional bar to unilateral Executive action and impoundment of appropriated funds without Congressional approval is where there is a clear Congressional "direction to spend". The distinction between "direction" to spend and "authorized" to spend was articulated in the 1962 controversy over the B–70 bomber between President Kennedy and Chairman Carl Vinson of the House Armed Services Committee. The President, opposing the program, requested the latter wording.

The lack of constitutional authority for the President to act contrary to the mandate of Congress and withhold legislatively appropriated funds whenever and wherever he pleases is equally clear. In a memorandum dated December 19, 1969, by then Assistant Attorney General William H. Rehnquist, the Deputy Counsel to President Nixon was advised that "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent."

If this legislation is approved in the form that it was sent over to the Senate by the House, the final grant of broad power over the purse strings of our federal government will be given to the executive branch. What no President could do under the Constitution, he will be able to do because Congress has traded the last of its fiscal controls for a worthless promissory note.

If it is now true that the term "separation of powers" is no longer the appropriate phrase to describe the relationship between the three branches of our federal government, then Richard Neustadt's replacement phrase "separate institutions sharing powers" is also inaccurate in the case of fiscal controls. Already Congress is the weaker branch in controlling the federal budgetary process and determining fiscal priorities for the nation. In Ralph Nader's recent publication on Project Congress, *Who Runs Congress?*, the chapter describing the power of the purse is aptly titled "The Broken Branch: Congress vs. The Executive". It is inconceivable to me that anyone could argue that the "Broken Branch" could be healed by further delegating the powers which the Constitution expressly reserved for Congress. With this legislation arguments over Presidential authority to exercise an item veto will be moot.

In a 1955 essay on the balance of functions included in Chapter 3 of *The Public Philosophy*, Walter Lippmann stated:

"The executive is the active power in the state, the asking and the proposing power. The representative assembly is the consenting power, the petitioning, the approving and the criticizing, the accepting and the refusing power. The two powers are necessary if there is to be order and freedom. But each must be true to its own nature, each limiting and complementing the other. The government must be able to govern and the citizens must be represented in order that they shall not be oppressed. The health of the system depends upon the relationship of the two powers. If either absorbs or destroys the functions of the other power, the constitution is deranged. * * * For in the derangement of the two primary functions lie the seeds of disaster.

No one can honestly contend that the "consenting power, the petitioning, the approving and the criticizing, the accepting and the refusing power" will be on equal footing with the "asking and proposing power" of the executive when each and every budgetary and fiscal priority is initiated, determined and acted upon within the Office of Management and Budget.

It is not a question of Congress getting the short end of the stick in this deal; we get no stick at all. And as far as the people of the State of Wisconsin and every other state of the union are concerned, their participation in the determination of national priorities through the activities of their elected representatives in Congress would be ended by this legislation. The vital sounds of participatory democracy in the hearing rooms of Congress would be replaced by the quiet squish of rubber stamps in the Executive Office Building.

Mr. CHILES. Mr. President, H.R. 16810 contains three separate titles. The first increases the debt ceiling. The present temporary debt ceiling of $450 billion is increased to $465 billion effective through June 30 of next year.

The next title places a limitation on spending through the balance of fiscal 1973. We are now into the 4th month of fiscal 1973.

In addition, title II permits the President to cut spending so that the overall limit of spending in fiscal 1973 will not exceed $250 billion. It is to these two titles that I address my remarks today.

This is the third time during the present session of Congress that we have been confronted with the unhappy task of either increasing or extending the public debt limit.

If you go to the man in the street and ask him if he thinks the Government is spending too much, he will tell you it is. If you ask him whether he thinks the Government should cut spending, he will tell you "yes"; and I would agree with that.

This feeling on the part of our taxpayers is no reason to enact this legislation in its present form. It should not be billed as a matter of economy alone because more importantly, it is a matter of principle that relates to the preservation of our kind of government.

As Speaker Albert said in talking about this question:

> We are being asked to give to the Chief Executive powers never contemplated by the founding fathers and specifically prohibited by the Constitution.

The essential lever of Congress' check and balance over the executive stems from the power to raise revenue, appropriate money, and determine in what areas it is to be spent. Without this power over how much is spent, the Legislature's role in the separation-of-powers relationship is but a sham.

This power of the purse, the power to determine national priorities, will be turned over to some faceless bureaucrat in the Office of Management and Budget. This is a person with no constituency except the President. He is unelected and totally unresponsive to the people.

There has been a lot of talk of congressional reform recently but I hardly believe that we could link this legislation with congressional reform. What it does is delegate to the executive branch the authority to write law. This authority and responsibility is given to the legislative branch by the Constitution, and I do not see why we should delegate legislative responsibility for any period of time and certainly not even for 8 months as proposed in this bill.

There have been political charges calling this a spendthrift Congress. However, in appropriated items, we have reduced the President's budget request by almost $15 billion in the last 4 years. And yet he has built up the largest deficit of any President since World War II—more deficit than Eisenhower, Kennedy, and Johnson all put together.

As cuts are needed in the Federal budget, let the peoples' elected representatives decide where and how much. This is our responsibility under article I of the Constitution. We should not abdicate it.

When I go back to my State of Florida, I do not want to have to tell my people that they should write to OMB to see how much money will be allowed for the programs of my State. When a senior citizen asks me about increased benefits to help meet the cost of living, under this bill we would have to tell them that the President has to decide whether the 20 percent social security benefit increase will be funded this year.

The President already enjoys ample power to control and limit expenditures. He has the power of his budget requests, budget amendments, and the power of the veto to assert himself effectively on the question of Federal spending.

Especially through the use of his veto power any President has the right to cut funds. It strikes me as strange that on the one hand the President called the 20-percent increase in social security inflationary and irresponsible and threatened a veto, but instead he signed the increase into law and sent a letter to each and every recipient of a social security check taking the credit for the increase. And again through the impoundment of funds. For example, I have found many millions of Federal dollars affecting rural citizens which were endangered by this process; research in nonchemical pest control, water and waste disposal grants, rural electrification, food stamps, and loans from the Farmers Home Administration have been hurt by this withholding of funds.

Congress already is the weakest link in our Federal system. Now we are being asked to pass the buck to the bureaucracy. We have already given up most of our authority in foreign affairs, and now we are being asked to give up what authority we have in domestic affairs.

I really cannot believe this is what the people sent us here to do, to give the executive this kind of grant or authority. And yet I know the people in my State of Florida share my concern about Government spending and inflation which steals from their pocketbooks, and I cannot stand back and watch the Senate and the Congress give away their constitutional responsibilities quietly.

Mr. President, when I was chairman of the Florida Senate ways and means committee several years ago, we followed the old-fashioned balanced budget system. We took a hard look at the State's needs, then we looked at anticipated revenue. If the revenue did not measure up to spending proposals, we either cut some or we found new revenue sources, and we did not quit until we had balanced the budget. The Governor has the power of the veto, but once the appropriations bill is approved, that is it. I believe the sound fiscal condition in our progressive State is testimony enough to the value of this old-fashioned system.

In the Federal Government, though, it seems to me we go about this thing backward and inside out. We approve all kinds of programs we cannot pay for, and both Congress and the administration choose to disregard this. Then we go through this game—three times this session—raising the debt limit so we can spend more money we do not have. This just is not a responsible way to perform, and I am afraid H.R. 16810 only gets us in deeper.

Mr. HANSEN. Mr. President, I wish to make a few comments about H.R. 16810, the debt ceiling and spending limitation bill.

I believe this is important and timely legislation which deserves our attention in the last days of this session.

There seems to be no question about the extension of the debt limit to $465 billion. The question and controversy arises over title II of this bill, the $250 billion spending ceiling. There are three schools of thought on this issue.

First. Some Senators believe there should be no set spending ceiling. Congress will then have the power to continue making appropriations as they see fit, and the sky is the limit.

Second. Some believe that a spending ceiling should be set and the President given the authority to reduce the appropriations for selective programs after the ceiling amount has been exceeded.

Third. Others think a spending ceiling should be set, but guidelines for excessive spending cuts should also be established. One amendment has been proposed which specifies that all programs within the reducible portion of the budget be cut proportionately when the spending ceiling has been exceeded. Another proposal would be for Congress to approve cutbacks in various programs on a priority basis.

I would like to direct my remarks at these three possibilities.

NO SPENDING CEILING

If Congress decides not to place a ceiling on spending, what will happen? We will continue along with our day-to-day approval of appropriations without being able to see the total picture. The result would be a budget so badly out of balance that it would be inflationary and damaging to the economy as well as necessitating an increase in taxes.

How can we, as Members of the governing body of this country, justify to ourselves and our constituents this type of irrational behavior? If this country were a business, it could not possibly survive if we, as its board of directors, continually operated in the red.

Is it not about time that we begin to look and plan ahead rather than stumble along on a day-to-day basis allocating $5 million to this project and $25 million to another project without even considering the long-range forecasts of what will be needed in total for fiscal year 1973? Are we so fiscally irresponsible that we can do no more than legislate from one appropriation request to the next? If so, I think it is about time that we accept the responsibility for our actions and begin to plan ahead.

We are, of course, guided in our appropriation efforts by the Office of Management and Budget which works with the various Government agencies in order to establish necessary request levels. However, too often we are influenced by other factors and thereby unhesitatingly increase budget requests unreasonably. The result is that we compound the problem in order to save face with the special-interest groups coming before us with these requests. But if we are not willing to accept the responsibility for our actions, then we should not be accorded that responsibility.

SPENDING CEILING WITH PRESIDENTIAL AUTHORITY OVER EXCESSES

The President is constantly briefed on the state of the economy, the needs of the Nation, and world affairs. He should, therefore, have the resources at hand for determining national priorities at any given time. This being the case, is it not in the best interests of our Nation to give the President this authority for the remaining 8 months of this fiscal year? It could help us avoid disasters in the years ahead.

I, personally, am hoping that the President will be returned to office, and polls give us reason to support that statement. However, the fact remains that anyone occupying the office of President has historically done his best, judiciously and advisedly, to protect the national interests. Therefore, I think he will act in a responsible manner and will not prejudiciously cut funds for certain programs. If we do not give the President this authority, and Congress does not take the initiative, what will happen to this Nation? We should not make everyone in the Nation suffer because of Congress' inaction in restraining inflation.

SPENDING CEILING WITH LIMITATIONS

The President believes that anyone occupying that high post must have flexibility in making cuts in various programs. As I understand, the application of this authority cannot be exercised as an item veto for the complete elimination of any program. This bill will give the President authority over appropriations, but he will have no power over the congressional authorization of individual programs.

Testimony before the Senate Finance Committee indicates that a method of limiting or restricting the President's control over these appropriations will make the budget-reduction task a formidable one and will defeat the whole purpose of this legislation. Also to be considered is the fact that the fiscal situation is an ongoing process necessitating day-to-day judgments. Therefore, an across-the-board cut of all programs within the reducible portion of the budget would not be a very analytical way of making appropriation cuts. The national budget is such a complex instrument that Congress cannot, on the spur of the moment, sit down and decide which programs should be completely exempted from cuts and which programs could be cut.

Of these three proposals, then, there is only one proposal which is workable for the mess in which we now find our economy. We must pass title II of H.R. 16810.

The fact that the President has had to request this type of legislation shows us that there is a definite need for congressional reform of our appropriations procedures so that we, as legislators, will be able to see the budget and expenditures as a whole rather than on a piecemeal basis.

As a former Governor of Wyoming, I know how difficult it is for a legislating body to approve and maintain a balanced budget. However, State operations and the procedures for appropriations approval are different on the State level than they are on the national level, but we might be able to learn something from these State procedures.

From the way we have been acting in this body, one would think that Federal revenues represent an endless pot of gold, and that we can appropriate money for all special interest groups requesting aid. This is not to say that there are not worthy causes which should be given money, but we should be able to look at the total picture and thereby establish our priorities. Then, if we decide to set up a new program or give an additional amount of money to an already established project, we will have the responsibility and authority to determine what other project or programs will be cut back in order to finance this additional expenditure or to justify a tax increase. It is vitally important that we change our allocation procedures.

Congressional reform is necessary, but what do we do right now? We certainly do not want to increase inflation; we cannot justify a tax increase at a time when we are trying to increase job opportunities and decrease unemployment; and we want to protect the stability of the U.S. dollar in the world market.

Let us act now, then, in a responsible manner, showing that we recognize the need for a spending limitation, and give the President this opportunity to put the lid on spending for 8 months—the remainder of fiscal year 1973. Then, as the 93d Congress begins, let us make a pledge to look into this matter of congressional reform. The joint committee, established by title III of this bill, should be able to give us a head start on this reformation. By taking this action we are not, as some suggest, abdicating our control over appropriations. I contend that we abdicated this power long ago by failing to initiate a workable appropriations procedure.

This bill, therefore, is of utmost importance to us now for three reasons. First, it will show that we are acting now in order to demonstrate fiscal responsibility. Second, it will help to reduce the otherwise large budget deficit and thereby be a significant factor in restraining inflationary trends in the economy. Third, this legislation will help protect the stability of the U.S. dollar in the world markets.

The time to act is now, and I strongly urge Senators to support all three titles of H.R. 16810 without amendment.

MESSAGE FROM THE HOUSE

A message from the House by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the bill (S. 1928) to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wisc., as a component of the national wild and scenic rivers system; and the joint resolution (S.J. Res. 221) to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as the Benjamin Franklin National Memorial.

The message also announced that the House had agreed to the amendment of the Senate numbered 1 to the bill (H.R. 5066) to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act; that the House insists on its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill; and that the House receded from its disagreement to the amendment of the Senate to the title of the bill and concurred therein.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes.

TEMPORARY INCREASE IN THE DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. TAFT obtained the floor.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TAFT. I yield.

Mr. CRANSTON. Mr. President, I ask that Ken McLain, of the Labor and Public Welfare Committee staff, may be permitted on the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JORDAN of Idaho. Mr. President, will the Senator from Ohio yield so that I may ask for the yeas and nays on this amendment?

Mr. TAFT. Mr. President, I would suggest that I not yield for that purpose until the amendment I am about to offer is offered.

Mr. President, at this time I offer an amendment in the nature of a perfecting amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of line 11 amend section 201(b) by adding the following:

(d) The President shall not reserve funds from obligation in any single budget account by an amount in excess of 10 percent of the amount heretofore or hereafter made available for obligation during fiscal year 1973 by the Congress or in the case of a budget account available for obligation in more than one fiscal year, by an amount in excess of 10 percent of the estimated obligations to be incurred from such account as proposed to be included in the budget for fiscal year 1973 unless—

The President transmits to the Congress a separate notification of each such reservation made with respect to any single budget account, together with a detailed justification therefore, within ten days from the date on which such reservation was made; and

A period of thirty calendar days of session of the Congress following the date on which the notification is transmitted elapses, and during such period there is not passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed reservation with respect to such account. In the event of a resolution of disapproval by either the Senate or the House of Representatives, the President shall within ten days make available for obligation the amount of funds reserved in excess of 10 percent of the amount made available for obligation during fiscal year 1973 by the Congress or in the case of a budget account available for obligation in more than one fiscal year, the amount of funds reserved in excess of 10 percent of the estimated obligations to be incurred from such account as proposed to be included in the budget for fiscal year 1973. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of the Congress sine die.

For the purposes of this section the term "budget account" means any appropriation account or other account granting obligational authority including, but not limited to, contract authority, authority to spend public debt receipts, and authority to spend agency debt receipts.

The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under this section (d) in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this section to refer to a resolution of disapproval under this section.

The President shall not establish separate ceiling on expenditures or net lending for any budget account which will prevent the obligation of all funds made available for obligation pursuant to this section.

Mr. TAFT. Mr. President, the amendment is in the nature of a perfecting amendment. The amendment, however, in language, is exactly in the form which has been distributed to all Members of the Senate and it relates to a very different approach to the whole problem of a spending ceiling and a limitation on the President's authority to cut back than that of the amendment which was previously pending before the Senate.

Mr. President, I agree that today we are faced with an issue of great constitutional significance with, I think, very historic consequences for our Nation. The question, very simply, is whether the Congress is willing to relinquish it to the President—any President—the uncontrolled power to curtail or eliminate programs which have been enacted into law.

I share the strong position of the administration that there ought to be a limitation on expenditures. I also believe that the $250 billion is an appropriate ceiling. But I am not willing to relinquish into the hands of any Chief Executive the power to make unlimited decisions cutting Federal programs which have been passed by Congress as representatives of the entire Nation. Such a course would be a wholesale abdication of congressional authority.

What is at stake here is more than a struggle between the executive and the legislative branches of our Government. With spending for social security, medicare, veterans' benefits, and interest on the national debt mandated, all Presidential cuts will have to be made in other areas. This means that a President could dry up programs for school lunches, for housing, for urban development, for education, and for pollution control.

Do we want an Executive to be able to eliminate the school lunch program under the mantel of budgetary prudence? Should this decision be his to make alone?

Once enacted, this law may be renewed and extended from year to year. Do we want a practice that would permit a President to emasculate our Navy and cut away at over two-thirds of our military budget? Should any President be immune from congressional review in these matters? I think not.

The Founding Fathers recognized that one of the weaknesses in the Articles of Confederation was their failure to provide for a clear separation of powers. In an address before the Austrian Parliament in 1931, the Nobel Prize winning president of Columbia University, Nicholas Murray Butler, described the separation of powers as "the foremost particularity" of the American Constitution, "invented by Aristotle, taught by Montesquieu, and regarded as the most important thing by the founders of the American Constitution."

This measure is not unlike the suspending power which the eminent English historian, Taswell-Langmead, has described in his classic "English Constitutional History." At 212 he states:

> The suspending power was employed during the latter part of the Seventeenth Century only, and consisted in temporarily suspending the entire operation of any statute or any number of statutes; and was in its nature incompatible with the existence of constitutional government.

It amounted, in the words of a Mr. Justice Powell of that day:

> To an abrogation and utter repeal of all the laws; for I can see no difference, nor know of none, in law, between the King's power to dispense with laws ecclesiastical and his power to dispense with any other laws whatsoever. If this be once allowed of, there will need no parliament. All the legislature will be in the King, which is a thing worth considering. *Seven Bishops' Case*, 12 State Trials, 427 (1688).

Now there are those who would have us blur that separation of powers, and emasculate our system of checks and balances. They do so in a misguided belief that this is the only path to fiscal responsibility. It is not. There are others and we must seek them.

Feeling strongly in this regard, I have, over the last week, been carefully studying the various alternatives we do have, and I believe that the amendment I have offered is the most responsible approach to the problem which would provide any meaningful solution.

The amendment which I offer would allow either House of Congress to override proposed reductions of 10 percent or more by the President in any budget item for fiscal 1973. Within 10 days after the President reserved more than 10 percent of any appropriation or other obligation, in other words budget account—1,500—he would be required to notify Congress of his action and to supply a detailed justification for making such an extensive reduction. Either branch of Congress would then have 30 days, not including time elapsing during sine die adjournment, to pass a resolution which would disapprove of the President's action. Within 10 days after either House of Congress passed such a resolution, all funds reserved in excess of 10 percent of the budget item would have to be made available for obligation. The President could not prevent the obligation of funds made available in this manner by establishing a separate expenditure ceiling for any particular budget account.

A "resolution of disapproval" would be afforded expedited congressional treatment; so that a final vote on any such resolution could occur before the reduction in expenditure is scheduled to take effect. A motion to discharge a committee of its responsibility to consider the resolution, if made by a proponent of the resolution, would be in order 10 days after the resolution has been referred to committee. Debate on such a motion would be limited to 1 hour, and no amendments or motions to reconsider would be in order. Once the resolution is reported out of committee, a motion to consider it would be highly privileged and not subject to debate. Debate on the resolution would be limited to 10 hours, and a motion to recommit it would not be in order. Motions to postpone consideration of the resolution, and appeals relating to Senate or House procedural rules, would be decided without debate.

These are the same provisions, basically, as those in the Reorganization Act.

I believe that my amendment strikes a proper and workable balance between the necessity to control Government expenditures and the need to retain congressional control of the Nation's pursestrings over the next 8½ months. Unlike the approach of requiring congressional ratification of any cut the President wants to make, my amendment would afford the President the flexibility to effectuate the $250 billion expenditure ceiling without creating a political circus. In view of the strong constituencies in favor of any given budget expenditure, I do not believe we can expect any plan calling for the Congress to ratify all proposed reductions to be workable. We cannot expect to have an effective and prudently administered budget ceiling if proposed cuts have to go through the entire legislative process, in a highly charged political atmosphere, before they take effect.

My amendment would remedy this problem by allowing the President unilaterally to cut any expenditure by up to 10 percent. He could cut by even greater amounts if neither House of Congress overrode him. On the other hand, Congress would have the power to prevent any really significant presidential alterations in congressionally approved budgetary priorities. In its budget estimate for fiscal 1973, the administration classified approximately $79.8 billion as "relatively controllable," of which $51.6 billion are defense expenditures. To reduce expenditures by the necessary $6 billion across-the-board would take a 7-percent cut in all "relatively controllable" programs. A 10-percent figure as the "trigger" for congressional intervention would therefore allow some leeway, but not any tremendous amount, really not a great deal more than the amendment proposed to the amendment by the Senator from Indiana, without giving the President the power to distort significantly the priorities which we in Congress have already determined.

A congressional veto arrangement is a much more effective way to retain congressional purse power than a requirement that Congress come up with a comprehensive alternative list of cuts before the President can be overruled. Such a veto arrangement would also provide for a more intelligent budget control rather than a "meat ax" approach of cutting all reducible expenditures by the same percentage.

When spending reductions reach 10 percent on any program, it is clear that there is a type of significant policy decision which calls for congressional review. It should not be made by one man alone, no matter who he is or what his party may be.

A spending limit is vital if we are to reserve our fiscal integrity and keep the inflationary forces at bay. We can achieve this within the context of our historic principles of separation of powers and checks and balances. The real question is whether we want to wake up some morning to find that a President has eliminated school lunches, environmental programs, or a major part of our education program and that we are powerless to stop it. This is what is at stake here. That is why I hope the Senate will take this approach in preference to the other amendment pending before the Senate, because I feel the other amendment, even with the new exceptions that have been added to it, will still inevitably cause, require, and mandate very sizable cuts in many programs which really, from the point of view, I am sure, of the priorities, if the matter came before the Senate, should not be cut $1.

On the other hand, there are many programs which I believe the President ought to cut considerably more than the 10-percent figure he would be authorized to, and he could do that under this amendment if he would come to Congress and say, "This is what I am going to do," and not be vetoed by one House of Congress or the other.

I think the amendment I have proposed is a workable solution, maintaining the degree of legislative control I think it is important to maintain, and at the same time a workable solution for arriving at a budgetary limitation, and for giving the President the kind of flexibility he is going to need to do a really effective and efficient job in cutting back to and sustaining a limitation.

Mr. BENNETT. Mr. President, when I was young, there were three famous baseball players on the Chicago Cubs whose names made history with respect to the double play.

Today we have seen a triple play.

Tinkers to Evers to Chance. HARTKE to JORDAN to TAFT.

Before the manager of the bill could get an opportunity to criticize any one of these amendments, the ball had gone to the other fellow.

So I think I will go back and start with Senator HARTKE, and then show how each of these men, instead of leading us out of the wilderness, leads us deeper in.

Senator HARTKE would give the President no choice. He would mandate the President to cut every program in the United States, every Federal program in which Federal money is spent, proportionately, except veterans' benefits, for which he made a beautiful 4th of July speech.

Before I had a chance to point out how impossible that was, the Senator from Idaho came along and said he recognized what I recognized—at least, in part—that there were some programs that the President could not cut, by their very nature. So he said the President must cut the other programs proportionately, with no choice. The President has to figure out the amount by which he has to cut outlays, divides into each program, $1.25 here and $1,050 dollars here. But the Senator from Idaho says there are $114 billion on which no reductions can be made. That left $132 billion which the President could cut proportionately—not could cut, must cut.

The Senator listed a group, and I might as well put it in the RECORD: Interest, veterans' benefits, payments from social insurance trust funds, medicaid, public assistance maintenance grants, social services under title IV of the Social Security Act as amended, food stamps military retirement pay, and judicial salaries.

There is another fatal weakness in his amendment, because it says that in carrying out the provisions of paragraphs 1 and 2, no amount specified in any appropriation or any activity program or item within such appropriation may be reduced by more than 10 percent.

Stop and look those two things in the face. All reductions must be proportionate, but none may be reduced by more than 10 percent. That is an internal contradiction. On the basis of his figures, the average reduction would have been about 5.9 percent, if it were applied across the board to every program other than those he exempted.

If we had stopped there, we would have faced that internal contradiction, plus the fact that there is another $57 billion worth of expenditures which are also uncontrollable. But he would require the President to cut them by 5.9 percent, when the President has no power to control them. For the RECORD, they are farm price support programs, $4.3 billion; the Postal Service, $1.4 billion; and listen to this—legislative salaries, $0.7 billion; and other miscellaneous programs.

Then there are outlays from prior year contracts and obligations: National Defense, $19.7 billion; civilian programs, $23.1 billion. Then there are allowances for pay raises: Department of Defense, $2.7 billion; civilian agencies, $8 billion.

These add up to $57 billion more that the President would be mandated to cut 5.9 percent, when, as a matter of fact, he could not cut them at all. If those are taken out, it leaves $75 billion on which the President can exercise his power to cut.

Now comes the third play. Senator TAFT takes out the requirement that all programs must be cut proportionately. He says that, instead, the President should be given the broad power to cut up to 10 percent without coming back to Congress. That is a beautiful privilage to give the President, because after you take the additional $57 billion of uncontrollable expense out, you have $75 billion less; and it just happens that the President would have to cut every one of those between 9 and 10 percent in order to achieve this without coming back to Congress.

Mr. TAFT. Mr. President, will the Senator yield for a question?

Mr. BENNETT. I yield.

Mr. TAFT. The exemptions are in the other amendment. In my amendment what could be cut would be approximately $150 billion.

Mr. BENNETT. The Senator is assuming that those additional programs are susceptible to the President's ability to cut. The information of the Senator from Utah is that, in effect, they are not subject to such ability and in practice the President could not cut them. The Senator may say he can cut them, but what good is permission to do something that he cannot do?

Mr. TAFT. I just comment that if he cannot do it under this proposal, it has a strange effect on the other amendment, because it would mandate what the Senator says are impossible cuts in the other amendment.

Mr. BENNETT. That is correct. I am telling the Senator that this ball bounces from one to the other, and we are still left with a solution that will not work.

Let us look at the $75 billion that is left. The President can cut, according to the Taft proposal, up to 10 percent of the $75 billion. That is $7.5 billion, and that is approximately the amount he feels he needs to cut; $52 billion of that is in the Department of Defense. So he has to cut $5.2 billion out of the Department of Defense. He has no choice. He has nowhere else to go.

Five billion dollars of it is in revenue sharing, so he has to cut $500 million out of revenue sharing. That leaves him approximately $15 billion of programs scattered all through the Government which he must search out and which he must cut.

So we now find ourselves back more or less in the same position from which we started. In spite of the fact that we have said the President can have the power to cut up to 10 percent, we reduce the base to the point where, if he is going to get the amount of cut he needs, he has to cut everything else by 10 percent.

At this point, let me say this: I have listened to a great deal of discussion this afternoon and this evening about how we are surrendering our power to the President. Senator Hartke started out by saying that we are not going to surrender any power to the President; we are going to tell him exactly how he has to cut. Senator JORDAN said, "Well, we are going to tell him that he has to cut everything equally, but we will give him the privilege to go down to 10 percent if he likes," which, as I said, is an internal contradiction. But it crosses the threshold and say that we will give the President a little leeway.

Then Senator TAFT—I am sure not realizing how uncontrollable these additional $57 billion were—says:

> We will give him leeway up to 10 percent, full leeway up to 10 percent, and then the privilege of coming back and asking us for more leeway when he goes above the 10 percent.

That is quite a problem, but there is still another one, a problem that will plague every attempt to write proportional cuts into this legislation. It is a problem which is avoided by the bill that came over to us from the House.

At what point in the organizational structure do we apply the cut?

To try to make the thing clear, although this is not the intent of either of the bills, if the President could say, "All right, I will take the Secretaries of the various agencies and the various Government departments and say to each of them, 'You have got to cut your department 5.9 percent and I do not care where you take it,' " that leaves a lot of leeway. The President does not have it then. He has given it to his appointed Secretaries. Then we can go one step further and keep coming down, until we eventually get to the point of what is known in the appropriations process as the line item.

Now in the bill of the Senator from Indiana (Mr. HARTKE) and the bill of the Senator from Idaho (Mr. JORDAN), these are the words that describe the level at which the cut must be applied:

> . . . shall reserve the amounts proportionately from appropriations or other obligational authority available for all programs and activities.

What is a program? What is an activity?

There is no clear definition. These are not words that are used in the budget. These are words that are used occasionally in appropriation bills.

So, we are still left with this basic decision: Do we really mean that the President has got to apply the cut across the board on the last ultimate subdivision of an appropriation?

We do not mean that. At what level above that do we expect to apply the cut?

Some organizations, the staff of a department like HEW has, I do not know—15?—20?—levels of expenditures, but there are many organizations with simple programs for a single purpose that may have only one or two levels.

I do not think it is possible to write language which will make it absolutely clear at what level in each agency this proportional cut must be applied.

Now in a way, this criticism I am making is academic, because I come back to the mathematics, that if the Taft amendment is adopted, the President has only $75 billion from which to cut and he will effectively have to use the limit of 10 percent on those agencies in order to get the amount of cut he wants. In effect, two-thirds of the cut will come from the Department of Defense, the other $5 billion will come from revenue sharing, and the rest has got to come, a dollar here, a thousand dollars there, from all Government.

He will have a hard time defining it.

I have sympathy with my friends who are trying to face this dilemma: How do we preserve the power of Congress to control the purse and still, in an emergency, give the President some leeway to make sure that the expenditures are within a limit?

The President only asked for this privilege for 9 months. The bill contains a provision which sets up a committee consisting of the senior members of the Appropriations Committee of the two Houses, the tax committees of the two Houses—Ways and Means and Senate Finance Committees, to meet and report in February, presumably to try and make recommendations which can solve this problem and leave control of expenditures in the Congress.

I am sure that the President does not want it. When we do it in Congress, we scatter the responsibility among 535 men, and each of us can take less than one-fifth of 1 percent of the responsibility. But the President has to stand up as a single official and take the full brunt of the cuts that he recommends. Rather than being a grasp for power, as some of my friends seem to think, I think this is a courageous representation of a man who is determined to try to handle the immediate problem and bring spending under control.

Now, Mr. President, for these reasons I think this pile of amendments which began with the Senator from Indiana (Mr. HARTKE) and then followed with the Senator from Ohio (Mr. TAFT) should be rejected. By rejecting the Taft amendment, of course, we then have to peel the layers off, one at a time. But I think that we should do it and go back and trust the President for 9 months to solve this immediate problem.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any yea and nay vote during the remainder of today be limited to 10 minutes, with the warning bell to sound at the end of the first 2½ minutes.

The PRESIDING OFFICER (Mr. MONDALE). Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Maryland will state it.

Mr. MATHIAS. Is a perfecting amendment to the amendment of the Senator from Ohio (Mr. TAFT) in order?

The PRESIDING OFFICER. In one degree.

Mr. MATHIAS. Mr. President, I offer an amendment to the perfecting amendment and send it to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> Nothing herein shall be deemed to authorize any reduction or diminution in the amount appropriated for the payment of judicial salaries or the administrative expenses of any courts.

Mr. BENNETT. Mr. President, will the Senator from Ohio yield?

The PRESIDING OFFICER (Mr. MONDALE). The Chair is advised by the Parliamentarian to ask, where does the Senator put his perfecting amendment?

Mr. MATHIAS. As a new section at the end of the Taft amendment.

The PRESIDING OFFICER. That will be in order.

Mr. BENNETT. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I am happy to yield to the Senator from Utah, without losing my right to the floor.

Mr. BENNETT. The amendment the Senator from Idaho contains what I think the Senator is trying to accomplish.

Mr. MATHIAS. It refers to judicial salaries. It does not, however, refer to the administrative expenses of the courts.

Mr. TAFT. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I yield, without losing my right to the floor.

Mr. TAFT. As a procedural matter, I believe I am correct, but let me pose a parliamentary inquiry to the Chair: Is it not correct that my amendment is not affected by the reservation as to judicial salaries and other expenses in the amendment of the Senator from Idaho?

The PRESIDING OFFICER (Mr. MONDALE). The Parliamentarian advises the Presiding Officer that the Presiding Officer does not interpret pending bills or legislation.

Mr. MATHIAS. Mr. President, would the Chair repeat that?

The PRESIDING OFFICER. The Chair was not too sure of it himself. [Laughter.]

It is the Parliamentarian's advice that the Presiding Officer does not interpret pending bills or legislation.

Mr. MATHIAS. I thank the Presiding Officer.

Mr. TAFT. Mr. President, all I am trying to point out is that the Senator's amendment is perfectly appropriate to this. It does not duplicate the provisions of the amendment of the Senator from Idaho, because the amendment of the Senator from Idaho, as I understand it, if it passes, would be superseded and no longer have any effect. I do not know whether that is a correct parliamentary ruling on this or not. That is the way I understand it.

I want to further say that the Senator from Maryland has a good point in his amendment. I point to the serious constitutional implications, which are not too far from my feelings with regard to the risk of putting some limits on the power of the President to cut back. And if there is a requirement to cut back more than 10 percent, the President would have to come to Congress or to either house in advance of the veto.

I would support the amendment of the Senator from Maryland.

[Cries of "Vote!" "Vote!"]

Mr. MATHIAS. Mr. President, I would like to make just a few observations. I see that the distinguished assistant majority leader, as always, is urging us on to action. I will not say anything later in the proceedings, if I can just make a few remarks now.

I agree that this bill may serve at least one useful purpose, and that is, that it has to force us to face the facts, as the distinguished Senator from Utah has outlined in all their grim reality, because they are very grim facts.

I think the fact that last year when the country was in a slump, we had a $23 billion deficit and this year when we are having an economic upturn, it looks like we are going to have a $35 billion deficit. We have something pretty grim to contemplate. The long and short of it is that we are printing money, greenbacks. I am no fiscal expert, but I do know that no nation in the world can print money indefinitely. We cannot possibly escape the fate of other nations which is, of course, a continued ruinous inflation. Congress needs to act and act now. But I do think there are certain considerations that are even more important than money. One of them is the integrity of the Constitution itself.

This amendment—which I have offered on the same assumption and with the same view of the law as the Senator from Ohio—if his perfecting amendment would prevail, would supersede the amendment of the Senator from Idaho. It merely carries out the guarantees, the execution of the constitutional provisions contained in article III, section 1, that judges shall receive for their services a compensation which shall not be diminished during their continuance in office.

I think it is vital that judges are independent, which is an integral part of our constitutional system and should be guaranteed. I think this does it.

I am grateful to the Senator from Ohio for accepting this amendment. I am hopeful that his amendment, or the amendment of the Senator from Idaho, will be adopted, because without it I think we are creating a mold that will not be broken at the end of 8 or 9 months.

Mr. BENNETT. Mr. President, since I sat down after I discussed the series of amendments that ended up with the past amendment, another and more horrible thought has occurred to me. Let us suppose that the amount over the $250 billion is more than $7 billion. Suppose it is $10 billion and with only $75 billion available to cut, the President cannot get down to $250 billion on a 10-percent cut. That would mean he would have to come up to ask for permission for every cut that he makes.

Mr. TAFT. Mr. President, if the Senator will yield, I think he misunderstood the import of what I mean. Under the circumstances, he could still cut 10 percent on any program he decided that he wanted to cut 10 percent on. However, if he wishes to cut more than 10 percent on any program, he would have to come to Congress. And Congress does not have to act if it does not like the program as a matter of policy. It could then be cut by an act of Congress.

It seems to me that this would ideally handle the situation which the Senator from Utah described, and the other amendment does not meet the problem at all.

Mr. BENNETT. Mr. President, I thank the Senator. I have a different idea of his amendment. Assume that there is some $77.5 million increase in a program which automatically forces the President to come to Congress in order to carry it out. I think in the spirit of the other amendments, which his amendment is replacing, he should at least give the President enough leeway so that he can handle the problem without having to come up.

I just think this is another weakness of the amendment of the Senator.

Mr. CRANSTON. Mr. President, I think that the distinguished Senator from Utah has given a good argument from one vantage point in favor of the Jordan amendment, because under the Jordan amendment there would be cuts that would insure that we get down to the $250 billion ceiling. The cuts would be made in accordance with whatever is necessary to get down to the $250 billion ceiling.

We do have, as the Senator indicated, three major amendments before us at the present time. The Taft amendment, I believe, is very preferable to the committee bill, because while all three of these proposals get us obviously down to the $250 billion spending ceiling, the committee bill provides a 100-percent abdication of authority to the President to make whatever cuts are necessary. The Taft bill makes a 10-percent abdication of authority to the President. The Jordan proposal makes a zero percent of abdication of authority to the President.

The cuts will be made in accordance with an act of Congress. It will be made through the power of the Congress.

It will be made on the basis of priorities set by Congress, because they will be related in proportion to an act of Congress.

I would vastly prefer the Taft amendment to the committee proposal. Over that, I vastly prefer the Jordan proposal because it recognizes the importance of keeping the congressional power alive and we recognize that the Jordan amendment is the one that preserves the fort.

Mr. BENNETT. Mr. President, the Senator was not in the Chamber when I pointed out——

Mr. CRANSTON. I have been in the Chamber the whole time. I have been listening very carefully.

Mr. BENNETT. Let me repeat. In giving his uncontrollables, the Senator from Idaho (Mr. JORDAN) left out $57 billion of uncontrollables. And so under his amendment, it would be impossible for him to get down to the $250 billion without a 10 percent cut of the remaining amounts. After all, it does not matter whether it is the Jordan amendment, the Taft amendment, or the Hartke amendment. The fact remains that there is only $75 billion left in the budget which the President can cut. It does not matter. We can appreciate that there is only $75 billion. Anyway, the amendment of the Senator from Idaho (Mr. JORDAN) mandates that it will be across the board. It will be 10 percent across the board under his amendment. The Taft amendment provides that he can have up to 10 percent. But he has no leeway, because it would have to be 10 percent or thereabouts anyway.

Mr. CRANSTON. Mr. President, there is a difference of opinion on the floor and among experts on and off the floor as to what is controllable and what is not controllable.

I believe that the Senator from Idaho and others have worked on this and researched this very carefully. I believe their figures are correct. The Senator from Utah mentioned congressional salaries as one item. I presume that the Senator would hope they should be cut, that we should take cuts, if others take cuts.

Mr. BAYH. Mr. President, I rise to oppose the House-passed version of the spending ceiling. That proposal would give the President the authority to reduce or eliminate any Federal programs he wants in order to keep Federal spending to $250 billion in the current fiscal year.

I am prepared, Mr. President, to agree to a meaningful spending limitation—a limitation which sets Federal expenditures at a level which will put the economy on the right track, away from our present course of high unemployment and high inflation; and a limitation structured in a way which assures Congress its proper constitutional role in setting national priorities. But the proposal before us is not that kind of spending limitation. It is, instead, an abdication of one of Congress' most important powers: the power of the purse. It would grant to the President alone the power to decide where the tax dollars we raise will be spent—a power which under the Constitution belongs to Congress, subject only to a Presidential veto.

The last decade has seen a disturbing flow of power from the Congress to the Executive. In foreign affairs, Congress has too often been excluded from its proper, constitutional role, and its explicit instructions to the Executive have too often been ignored. The result has been disastrous: the war in Vietnam continues to drain American lives, American spirit, and American dollars. Now we are being asked by the President to give up our constitutional responsibility for the allocation of Government funds. Why should we expect that the result of the unprecedented grant of this power to one man will be any better than the results of the Gulf of Tonkin resolution?

The basic principle of our Constitution is that by dividing up government power we can insure liberty to our citizens. To support the House version of the spending ceiling is to violate that principle.

We are told, however, that this principle must be temporarily laid aside, because the spending ceiling is going to be an important political issue, because the President will blame Congress for a tax increase next year if we do not bow to his wishes right now. That argument is both invalid and unsupportable. It is invalid because we should not make an important constitutional decision like this on merely political grounds. If we in Congress stand our ground and it hurts us politically—and I for one do not think it will—then that is simply the price we must pay to do our jobs.

Moreover, even this President with all his experience will not be able to fool the American people into believing that Congress is responsible for our present economic and fiscal problems or for a tax increase, if one is needed next year. The record will show that because of the President's mishandling of the economy, because of his refusal to control wages and prices until the last moment, and because of his continued support of the "trickle-down" theory of economics, we now have severe inflation and unacceptably high unemployment at the same time. And we have a President who has run up the largest deficits of any President since World War II. Why these enormous deficits? Not because of congressional spending which the President opposed, but rather because the President has supported tremendous tax cuts for big business and because the President's economic policies have not produced full employment revenues. A President with this record will not be able to convince anyone that Congress is to blame for unemployment, inflation, deficits, or taxes.

Let me focus for a moment on taxes, and whether the proposed spending ceiling will really have any effect on tax rates. We are asked to let the President cut spending to $250 billion at his pleasure, from the $256–$258 billion which might otherwise be spent. This means a cut of about 3 percent in total expenditures. Can anyone seriously suggest that this is the crucial 3 percent—that if we do not make this cut we will need a tax increase, and if we do, we will not need a tax increase? I do not think that case can be made. So the threat that a tax increase will come if—and because—we refuse to abdicate our constitutional responsibility is a phoney, political threat.

And if, because of the failures of the Nixon economic policies, we need to raise taxes next year, we should do it not by some blanket increase across the board, but by restoring equity and fairness to our tax system. We can raise revenues—more than enough revenues—by repealing the Nixon administration's unnecessary rapid depreciation tax break to business, by reforming the minimum tax provisions, and by revamping the oil depletion tax system to eliminate tax loopholes. There is no need to take more from the already overburdened individual taxpayer.

And where, Mr. President, where does the difference between the proposed $250 billion ceiling and the estimated $257 billion go? Part of it—about $2.1 billion or close to a third of the total differential—goes for increased social security payments our citizens vitally need. Another large chunk of it—about $1.5 billion—will go for disaster relief incident to Hurricane Agnes; clearly a vital need. But another large part of it, $1.2 billion, will go for additional outlays for the Vietnam war—a pointless, useless waste of funds. Under the proposed ceiling, the President could cut any or all of these vital programs; but given the position he has taken on military spending and on the war for the last 4 years, who can realistically hope that he will cut useless programs instead of vital ones?

We can and should control spending and taxes by putting out money into programs which meet our social needs—full employment, health care, equal educational opportunities, among others—and reducing the money which flows wastefully into military cost overruns, into the war in Vietnam, and into weapons systems which will not work and are not needed. The way to control spending is by serious discussion and decisions on priorities—and Congress must play the major role in making these determinations. It is hard, of course, to choose priorities among Federal programs, but the difficulty of the task does not relieve Congress of its responsibility to complete it.

To assist Congress in establishing priorities, we need to reform the process by which spending decisions are made.

On that point, I fully agree with the President, Mr. Weinberger and others in the administration. There was a time when Congress passed a single bill making appropriations for a fiscal year, instead of a series of bills as we do now. Perhaps that method is too cumbersome and complicated, but at least it permitted Congress to focus on priorities and on the effect of Federal spending on economic and fiscal policy. An alternative way to proceed would be for us to require ourselves to pass a congressional budget—one which focuses on actual expenditures as well as new obligational authorities—before considering any appropriations bill. But no matter what the mechanism is, the clearest point is that Congress itself must make decisions on priorities, and must establish a process with teeth that leads to those decisions being made before, not after, the appropriations work is done. That is why I will support title III of the bill before us, which establishes a joint committee to review and report on new procedures by February 15, 1973. I plan to submit some suggestions to that committee, along the lines I have outlined.

But the immediate concern is the flat spending ceiling—a proposal I must oppose in its present form, because it violates our most basic notions of the separations of powers.

I certainly think we should, and I hope we can, find a way to bring that about.

Mr. BENNETT. That is seven-tenths of a billion dollars. Does the Senator think farm price support programs are controllable?

Mr. CRANSTON. No. I do not think senatorial and congressional salaries amount to much in dollars in the terms we are talking about. They amount to a great deal in moral impact.

Mr. BENNETT. Let us forget that item. Does the Senator think farm price support programs are controllable?

Mr. CRANSTON. I think we can find a way to control that.

Mr. BENNETT. How?

Mr. CRANSTON. I am not prepared to answer that at this point but it must be if we are to go ahead.

Mr. BENNETT. The Department of Defense has made contracts and has obligations of $19.7 billion. Those obligations were made in previous years. Does the Senator think those are controllable?

Mr. CRANSTON. I think they are in terms of time, and the Jordan amendment talks of cuts in terms of percentages across the board.

Mr. BENNETT. The Senator said there are differences of opinion as to what is controllable and what is uncontrollable. The examples I used and the figures have been regarded by all administrations as being uncontrollable.

Mr. TAFT. Mr. President, I ask unanimous consent that the amendment of the Senator from Maryland be incorporated as a part of my amendment; that my amendment be amended to include that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. What is the Senate voting on?

The PRESIDING OFFICER. The Taft amendment as modified.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bible), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from West Virginia (Mr. Randolph), the Senator from Louisiana (Mr. Long) and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), and the Senator from West Virginia (Mr. Randolph) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Stafford) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Texas (Mr. Tower) would vote "nay."

On this vote, the Senator from Kentucky (Mr. Cook) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from South Carolina would vote "nay."

I also announce that the Senator from Delaware (Mr. Boggs), the Senator from Massachusetts (Mr. Brooke), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Saxbe) and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The result was announced—yeas 7, nays 66, as follows:

[No. 556 Leg.]

YEAS—7

Beall
Buckley
Mathias
Proxmire
Stevenson
Taft
Weicker

NAYS—66

Aiken
Allen
Anderson
Bayh
Bellmon
Bennett
Bentsen
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Gurney
Hansen
Hart
Hartke
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
McClellan
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pell
Percy

Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Symington
Talmadge
Tunney
Williams
Young

NOT VOTING—27

Allott
Baker
Bible
Boggs
Brooke
Cook
Curtis
Edwards
Goldwater
Griffin
Harris
Hatfield
Kennedy
Long
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Thurmond
Tower

So Mr. TAFT's amendment, as amended, was rejected.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Idaho.

Mr. JORDAN of Idaho. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following Senate bills without amendment:

S. 2741. An act to amend the Act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such act;

S. 3843. An act to authorize the Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of natural disasters during the month of June 1972; and

S. 4022. An act to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, and for other purposes.

TEMPORARY INCREASE IN THE DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. PACKWOOD. Mr. President, I had intended earlier in the day to speak at length on this issue, but the hour is late, and I will not take up the time of the Senate with the rather lengthy speech I had prepared to deliver.

I ask unanimous consent at this time that the speech I would have read in its entirety be placed in the RECORD at the conclusion of my remarks, along with a historical analysis prepared by my legislative assistant, Stan Heisler, backgrounding the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PACKWOOD. Mr. President, this issue of a debt ceiling that we are considering and probably are going to vote on in the next hour or two has not been a significant issue before this Congress before perhaps 6 weeks ago. When it was in the House of Representatives, it was not seriously regarded, apparently, until the chairman of the Ways and Means Committee took it seriously and apparently met with the President, and then that bill was passed by the House.

Earlier tonight, the Senator from Minnesota (Mr. HUMPHREY) spoke upon some of the constitutional issues that we face. When most of the other speakers tonight have spoken, it has not been on the substance or merits of the issue that the Senator from Minnesota raised. We have talked about pragmatics. We have talked about whether the President or Congress is at fault for the $25 billion or $30 billion or $35 billion or $40 billion deficit, but we have not really examined this issue in as much depth as I think the junior Senator from Minnesota and some of the others of us would like to see it examined.

We spend a year in a presidential campaign. We talk about the environment and population stability. We talk about spending in the campaign. We spent 6 or 7 weeks on the floor talking about the direct election of the President. Last week we spent a week talking about consumer protection. We talked about busing. In both cases we could not get any action because we could not break a filibuster.

Some of those issues have been talked about for years.

Yet the issue we are on tonight is of greater significance to the Senate and the country. This entire issue has been discussed in the news media for over 20 years. Yet we are going to rush it through without sufficient consideration of what we are doing or perhaps the background as to why we ever got to where we are and why this power we are so anxious to give away to the President adheres in the Congress at all.

I am not altogether impressed necessarily with the consistence of some Members of this body who say we are guilty of giving our power away to the President. I think it would be a lot better if we did not give away our power to the President in all kinds of actions that we take here.

I do not think we really became concerned about giving away our power to the President until the Vietnam war. Regardless of what our feelings may have been about Vietnam 10 years ago, regardless of whether we would have opposed or supported it, most of us now, I think, regret that we ever got into it at all.

If one can point to any single thing that caused Congress to start thinking about giving away its powers, it was the Tonkin Gulf resolution, passed with only two dissenting votes in this body, cast by former Senator Morse and former Senator Gruening. As this war began to go badly and as the light did not appear at the end of the tunnel, as we were told it would, we began to have second thoughts about why the Senate had given away such power. We began flagellating the President, to whom we had given the power, and saying he should not have done the things he did.

Whether or not he had the power under the Tonkin Gulf resolution, I am not sure, but with this feeling of self-guilt setting in, we began to take back some of the power. We repealed the Gulf of Tonkin resolution a couple of years ago, which was a good step. We passed the Church-Cooper amendment, prohibiting the introduction of American troops into Cambodia, Laos, and Thailand. That was a good step.

Then, in April of this year, we passed the war powers bill, which would have very severely limited the power of the President to send troops overseas. That bill is still in conference. It appears to be a casualty because of failure of the conferees to agree. It appears that it will not come out in this Congress.

But after we had done those things, we sat back. Have we really started to take back the power we have given to the President?

My fellow Senators, we have not really scratched the surface. Let me read the Formosa resolution, which is still on the books. It reads as follows:

> That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

We voted on that. We voted to repeal that resolution. It failed by a 43 to 40 vote. We have left on the books a loop hole big enough to allow any President to drive 10 Mack trucks through if he wants to take us into a war in Asia.

Then the Senator from Minnesota mentioned the Middle East resolution, which is still on the books. We have not had the courage to vote on whether that resolution should be left on the books. It has been on the books since 1957. It states:

> the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism:

Whatever that means. I think what it means is that the President wants to say that if Syria is controlled by international communism, we can probably bomb Damascus. We have left it on the books. So when we start talking here tonight about how holy we are, and "Don't give the President this power to cut expenditures to $250 billion" and "Isn't it time we took this back to ourselves," let us just begin to wonder, what about the others?

What about the Spanish bases, and the extension of a five-year executive agreement whereby we are going to pay the Spaniards $400 million, as far as I can figure it out, without so much as concurrence by Congress? Or the bases in the Azores, or the naval base we are going to take over from the British in Bahrain, where we have never had a military base before of any kind, and I do not know what kind of agreements we have entered into? Congress has not been asked whether we think it is wise, and apparently we are not going to be asked.

But I know what will be said. This is foreign relations. Apparently throughout history the President has had some sort of paramount position in foreign relations, and it is therefore argued that Congress should not impinge too much upon the Executive's power in foreign affairs and should not bother itself too greatly with how the Executive chooses to run foreign policy.

But let us take a look at the last 3 years, domestically, at what we have done. We would think at least in the area of domestic affairs Congress would want to keep its power. But what have we done with the Post Office? We used to run the Post Office—badly and politically. Now we have given it away to the President, and he runs it through the U.S. Postal Service, and it is run just as badly.

Mr. PASTORE. Even worse.

Mr. PACKWOOD. Even worse. I thank the Senator from Rhode Island. But we have given all that away. It is no longer our responsibility.

What about the wages for all the white-collar workers in the executive branch? We used to have a comparability board that reported to us, and we decided whether or not to raise their wages.

We changed that a year and a half ago, and now the board is the President's agent, and reports to the President what the salaries should be. And the President has two alternatives. He can send along the recommendations of his agents to Congress just as he got them, and they go into effect automatically—we cannot even veto them. Or, if the President does not like the salaries, he can send his alternative schedules to Congress, and either house of Congress can veto those. But do you know what happens then? If either house vetoes the alternative suggestions, the recommendations of the President's agent go into effect. In neither event does Congress have anything it can do about it.

But neither of those concessions holds a candle to what we have done with wage and price controls. I was privileged to be a member of the Banking, Housing and Urban Affairs Committee when the suggestion came along that we should undertake the responsibility of delegating to the President the power to set wage and price controls. One of the witnesses who came to testify was Arthur Burns, Chairman of the Federal Reserve Board.

As I listened to Dr. Burns and others who testified before him, I thought to myself, "why should this power of whether or not to administer wage and price controls, the decision whether to have them, if we have them, when to have them, and what to control, have to be delegated to the President? Why cannot Congress make that decision? Why can we not at least say that until Congress passes a concurrent resolution there will be no wage and price controls?"

Dr. Burns said it would be very simple. Then Charlie Walker, the Under Secretary of the Treasury, testified. I asked him some questions in the same vein as Dr. Burns: Why could we not add an amendment so that before the President could institute wage and price controls, Congress would have to at least pass a resolution directing him to do so?

Charlie Walker said that would be very simple. Then Representative Reuss of Wisconsin testified, and I posed much the same question to him.

Perhaps he was more realistic—and I am afraid that is where the problem, unfortunately, lies.

He said that Congress could do it and Congress should do it, but Congress probably will not do it, and so we must give the authority to the President.

That did not satisfy me. I drew up an amendment which would have prohibited the President from instituting wage and price controls without a prior concurrent resolution from Congress. It was a simple amendment, which said:

> Whenever the Congress shall by concurrent resolution determine that the public interest requires the imposition of general controls affecting all industries and segments of the economy, the President may issue such orders and regulations as he deems appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970.

I send the amendment off to Charlie Walker, and asked, "Could I have your opinion about it?"

Two or 3 days later, I got a letter back from the then Secretary of the Treasury, John Connally. Connally's letter said:

> This letter is in response to your request for Administration views on your proposed amendment to H.R. 4246, "To extend until March 31, 1973, certain provisions of law relating to interest rates, mortgage credit controls, and cost-of-living stabilization.
>
> As we understand your amendment . . . institution of a general wage-price control program would have to be preceded by adoption of a concurrent resolution by the Congress.
>
> We support your amendment. It provides a workable mechanism with the safeguards we have consistently advocated with respect to such powers, namely, that general wage-price controls should not be instituted by the Chief Executive—short of an all-out national emergency—without a further mandate from the Congress.

I offered the amendment on the floor. It failed 41 to 30 in this body, and we gave away to the President the most significant domestic economic power we can give away; for until we have come to the situation we are considering tonight, we did not even want the power. When the administration was not even asking for it, we gave it away.

But as I look at everything that has gone before, it pales into insignificance in comparison with what we are considering tonight. Because, for all of the powers this Congress has, we have only two great ones. One is the power to tax; the other is the power to spend. It is through those two powers that we are able to transmute the rhetoric of politics into the actuality of policy. If we give either one of those powers away, we are giving away our ability to affect the priorities and the policies of this Nation.

The thing that bothers me, as I see us approaching this issue, is that I feel we have no appreciation for why we have this power.

All one has to do is look at English history, where we got most of our laws and the bulk of our interpretations, to see that for almost five centuries the predominant battle between the king and parliament was over only two things: Who had the right to tax and who had the right to control expenditures.

It started with the Magna Carta, and that is a significant document, because up until that time the king was entitled only to feudal dues. All nobles were entitled to a certain type of feudal dues, and it did not require any type of authorization. But prior to the Magna Carta, the king tried to tax the barons with taxes that were not customary and the barons did not like it, and forced him to sign the Magna Carta, which said that he could not levy any taxes on them, other than the customary, normal feudal dues, without their consent.

That was the start. And you know why the king, from time to time, would have to come to the national council which finally came to be the Parliament? It is no different now than it was 800 years ago. He would have to call them together because the normal feudal dues that he was entitled to as a matter of right did not give him enough money to fight wars.

So every time he wanted to fight a war, he would call Parliament together, and he would plead for money; and if he was a popular king or the war was popular, they would give him the money he requested. If it was an unpopular war or an unpopular king, they probably would not vote him the money. Or even if he was popular and they liked the war, but Parliament felt they had any of a variety of grievances against the king to which the king had not paid enough heed, they would come together, dally and delay, or give the king less than what he wanted, until he would meet with the parliamentary leaders and they would come to some kind of conclusion about their grievances.

It was a gradual development through this evolutionary process, with the kings wanting to go to war and Parliament saying, "Okay, but not until we get this grievance met, or not until you stop trying to assess illegal taxes or forced loans or benevolences will we try to get you the money."

If they had strong kings and weak parliaments, the king would dominate, or if, as finally under the Lancastrians, they had a strong Parliament and weak kings, the parliaments dominated.

Finally the showdown came in the 16th century, when the Stuarts came to the throne, who believed in the "divine right of kings" and were not going to have any truck with Parliament. James I was first, but he died. Then Charles I came on the throne, and he could not stand Parliament, and finally decided, in 1622, that he was going to abolish it. He did not call Parliament together for 11 years, until 1640. And do you know why he called it then? Because he had gone to war with the Scots, they had beaten him in the Battle of Newburn, and were knocking on the doors of London. Nothing could be more humiliating to an Englishman than to be defeated by the Scots.

So he called Parliament together to ask for money to fight the Scots; only at this stage Parliament had had it, not only with the Scots but also with the King. So, instead of giving money, it passed a bill of attainder, impeaching one of the King's ministers and sentencing him to death. The civil war started afterward, and Parliament won, and the King was captured and executed, which was unheard of in that day and age.

England went for 11 years as a republic, but finally, in 1660, it restored the monarchy. But by this time an uneasy but understood truce existed. There were no written documents, but it was understood that the King could not spend nor tax without parliamentary acquiescence.

So, for 25 years, under Charles II, things went along reasonably smoothly.

When James II came to the throne in 1685, he did not have his father's tact or diplomacy. He was a Scotch Catholic and was determined to try to return his country to Catholicism. But his country was principally Protestant. So in 3 short years Parliament threw him out and invited William of Orange to come from Holland and become King.

They passed the Declaration of Right, which, with one or two very minor changes, became the Bill of Rights in 1689. Under that document, henceforth, every king of England, every queen of England served at the sufferance and the will of Parliament. They had no power to tax, no power to spend.

By 1689, a hundred years before our Constitutional Convention, England had settled upon itself who was going to have the power to tax and the power to spend, and it was Parliament.

So when we get to our Constitutional Convention—you can search the Federalist Papers or the debates and you will find that there was very little discussion about who shall have the power to spend and tax. Nobody seriously thought anyone other than Congress should have it. No one seriously thought the President should have any power at all in terms of setting fiscal policy. They very clearly set it forth in Article I, section 8, of the Constitution:

> The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common defense and general welfare of the United States.

And article I, section 9:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Here it is, in simple and straight language. What happened? We went from the time of our Constitutional Convention all through the 1800's with Congress perfectly able to draw budgets, determine priorities, and raise money.

In the First Congress, Alexander Hamilton, who was the first Secretary of the Treasury, tried to come forth with an Executive budget, and Congress rejected it. We did not have an Executive budget in this country until 1921, when we passed the Budget and Accounting Act. Of course, the President obviously had a hand in talking with his Cabinet heads; but every department submitted its budget and it was sent to Congress, and Congress made the decision.

We can do it again, if we want to. When people say, "It is beyond us. That was 1921. We were talking about a budget of $3 or $4 billion. We cannot do it now with a budget of $250 billion. Nobody in Congress can fathom that"—I say that is baloney.

Every parliamentary democracy in the world today manages to come up with legislative budgets. A few of them have executives, but they are weak executives. In England, France, Germany, and in the Scandinavian countries there are legislative budgets, and the majority party is able to determine how much they can raise and spend. They come to the parliament with it and debate it, but it is a legislative budget. If it can be done in any other country in the world, why can it not be done in this country?

The fact that we have not done it in the last 10 or 20 years is no reason why we cannot do it again.

The reason why I worry about this bill tonight is that it is not the first time we have toyed with the idea of delegating fiscal matters to the President. Senators will recall that in the late 1950's and early 1960's there was support for a bill to give the President power to raise or lower taxes by 10 percent. It was even endorsed by two of the major newspapers on the east coast that most of us read. Congress kindly did not adopt it.

In 1968, we got the first of our debt ceilings, another in 1969, and another in 1970; but they were really porous. We put enough exceptions in them so that they really were not debt ceilings, especially one which said there shall be a debt ceiling except for those things Congress appropriates over the debt ceiling. That was not much we had to worry about. We had given away no power.

But now we Senators are sitting here like a child on the beach with his sand castle, watching the waves come in; and as the tide comes in, the waves come closer, and now, for the first time, tonight, we are seriously toying with giving away half of the significant power that Congress can have.

I look at us and I say, "Why the dickens do we do it? Why are we willing to give away this power?" I can only come up with two reasons. One is that we really do not want it. We really do not want it.

I see nothing in the legislation about the Post Office, wage and price controls, the Formosa resolution, and the Middle East resolution to convince me that we want the power to make the decisions in this country. It is easy to give the power to the President. Let him make the tough decisions; we will not have to do it. Let him decide where to spend $2 or $3 billion. We will sit back, and if it is unpopular, we will criticize him. We will say, "What a foolish mistake. Any man in the White House who would do that should be defeated. We would not have done it. But, of course, we do not have the power. We have given it to the President." If he happens to make a popular decision and cuts something nobody likes, we applaud him, and we all get reelected together. In neither event have we had to make the prospective decisions and the tough ones as to what to cut ahead of time.

In addition to not wanting it, I think we have gotten in the habit in Congress of saying, "Can't—can't be done." We cannot run the Post Office. We cannot determine wage and price policies. We cannot determine where military bases ought to be placed overseas. We cannot set executive salaries. We cannot fathom the Federal budget. So we delegate it to the President.

Well, "can't, can't, can't," to my mind, is just an excuse for "don't want to." "Can't" is an excuse to avoid the onerous and unpleasant task of leadership, because leadership is no fun. It is a lonely job, and you make decisions in isolation. You make decisions that you later wish you had not had to make. So we delegate the leadership because we say it cannot be done.

Let me make clear that I am not a defender of Congress. I spoke earlier about the argument we had back and forth about who was responsible for the deficits, and we say we have trimmed appropriations, and we do. We trim appropriations every year after we pass authorizations the year before, requiring the President to double his budget, and then we trim it.

I think this Congress is fiscally corrupt. I do not think we have the discipline or courage to raise the taxes or lower the expenditures; or, at least, nothing I have seen since I came to the Senate in 1969 would convince me that we have the ability, capacity, wisdom, or discipline to do it.

So we are faced with a Hobson's choice: Either we delegate these powers to the President in order to save the country from Congress, or we keep the powers in Congress and perhaps run the country into bankruptcy. What it amounts to is a choice between a fiscally irresponsible Congress and a totally irresponsible Congress. If I have to make a choice between the two, I will choose the fiscally irresponsible Congress, because anything we do that is wrong, if we keep the power, we can right. Once we give it away, we have no capacity to right it; and, frankly we have no course of complaint if we once give it away.

When President Kennedy was a Member of this body, he was appointed chairman of a committee called the Committee on the Senate Reception Room. For the life of me, I do not know the history of why the committee was created. But one of the things the committee undertook was to determine the five greatest Senators of all time. Their pictures are now in the Reception Room.

The committee picked two people out of this century, Bob Taft and Bob LaFollette, and three out of the last century, Daniel Webster, John C. Calhoun, the great southerner, and Henry Clay, who is perhaps by historical acclaim the greatest Senator of all time. It is interesting that Clay, Calhoun, and Webster all served in the Senate at about the same time. They served in that little Senate Chamber down there across the hall from the Senate Disbursing Office, which I am delighted to see we are going to restore under the Legislative Appropriations Act of 1973 which we passed. The room is kind of dusty. It is not used any more, but if we go down there and sit quietly in the room, we can, with any degree of imagination, almost hear the Clays, the Calhouns, and the Websters arguing the great issues of those days: The Missouri Compromise, the Kansas-Nebraska Act, the Tariff of Abominations where they argued about the opening of the West, the Bank of the United States, and the theory of nullification so eloquently argued in the Webster-Hayne debates. The theory of nullification, if it had prevailed, would have meant the dissolution of this country. It was a theory that finally led to the War Between the States.

Mr. President, as I think about those men, I cannot help recalling the banquet at the Indian Queen Hotel in Washington in 1830. It was a Jefferson Day Banquet and the Democrats were celebrating Thomas Jefferson. Andrew Jackson was President then and he was, of course, trying to put down the theory of nullification if he could. Calhoun was there. He was actually Vice President but that was through a quirk of the electoral college process, which allowed a man who ran second to be the Vice President, although Calhoun said he would much rather be a Senator than a Vice President.

When the banquet reached the time appropriate for the toast, Jackson rose and looking squarely at Calhoun proposed:

> Our Federal Union—it must be preserved.

Calhoun rose to the occasion. He raised his glass and said with feeling:

> The Union—next to our liberty—the most dear.

Those were great men and great times. They did not agree among themselves. The enmity among Clay, Webster, and Calhoun is legendary. But they almost spanned 50 years, the length of time those three men served here. They had many bitter battles but they all agreed on one thing; they agreed on the fact that the policies of this country were going to be made on the floor of Congress and not in the White House. It was not that they were unaware of the dangers of usurpation of Executive power, because Clay said in 1840:

> In my deliberative opinion, the present distressed and distracted state of the country may be traced to the single cause of the action, the encroachment, and the usurpations of the Executive Branch of the Government.

So, they were aware of the problems. They are not new. Only we face graver problems now. The President has not tried to steal our power. We want to give it away.

Congressional power is like chastity, it is seldom lost by force because it is usually given up voluntarily. We will give up our power here tonight, if we vote for this bill.

Short of physical or mental limitations that God places on any man, there is nothing that cannot be done by man if he believes it. God did not bless or circumscribe the President with any greater physical or mental limitations than he did us. Anything he can do as a President, we can do as a Congress—if we want to. But we must have the will and the capacity to do so.

There is no reason today why we cannot appropriate money sufficient for ourselves and for the committees to come forth with a legislative budget.

There is no reason why the distinguished majority leader cannot come forth with a Democratic budget, and there is no reason why our distinguished minority leader cannot come forth with a Republican budget.

Even Senator McGOVERN has a budget and he is only a candidate. So, it can be done.

I am simply saying: Why are we not willing to do it? Why, after we have spent—as I look around this Chamber, some of us are only 2 or 4 years in national politics, but there are others here who have spent 30 years of their adult lives in the service of their country, who ask the voters to delegate to them the power to make the policies of this Nation—why are we so wild to hand over our power to someone else?

Mr. President, I tell you what will happen if we adopt the Jordan amendment. It will not be a cure-all. Twenty years ago, in politics, the cry was of the 5 percenters. What we will have if we pass the Jordan amendment will be the cry of the 10 percenters. Everyone will have a favorite project and will come on the floor of the Senate and want to get his appropriation increased 10 percent to take care of the 10 percent cut that will be made in the budget by the Executive. Everyone will do the best he can, whatever committee it may come from that has jurisdiction over it, to get his particular little bailiwick, whether it be veterans, or social security, put into the "uncontrollable items" list, so that it cannot be cut at all.

We will find some way to weasel around the Jordan amendment, some way to increase the appropriations enough so that when they are cut 10 percent it will still be too much. So, I fear, instead of an 8-month experiment, we will find it too easy so that we will say education needs $10 million more, so make it $20 million. Housing needs $20 million so make it $40 million, and we can go out and tell the people that the President is the one that has got to cut the budget and he does not have any humaneness or understanding of the problem so that we can blame it on him. We can go out and say to the poor, "We want to try to help you. It is that man in the White House that does not have any sympathy for you."

Mr. President, let me make it clear that by that time, Congress will be reduced to passing on minor matters of trivia. The Senate will be called upon from time to time to confirm judges and ambassadors and that will be the sum total of the function of this body, if we adopt the Jordan amendment, or if we adopt the committee position.

When Benjamin Franklin was leaving the Constitutional Convention, walking down the steps of Independence Hall, a woman, Mrs. Powell, came up to him and said:

> Dr. Franklin, what have we got—a republic or a monarchy?

Benjamin Franklin replied:

> A republic, if you can keep it.

We are all going to be celebrating the 200th anniversary of this Nation in 1976. I am curious whether we will be celebrating 200 years as a Republic, or as year three of an Executive monarchy.

Can we keep it?

That choice is ours.

I hope that the Senate will opt on the side of the republic.

Mr. President, I yield the floor.

EXHIBIT 1

A REPUBLIC OR A MONARCHY?

(By Senator BOB PACKWOOD)

Mr. President, we are approaching the closing days of the 1972 presidential election. Many issues have been raised and discussed. Among those are Vietnam, the economy, environmental problems, race relations, equal rights for women, and numerous others. Some of these were issues in 1968. Some were not. Some might still be issues in 1976 but the greater likelihood is that most of the issues of 1972 will be but dim memories in 1976. For if there is any one constant in history, it is that the only constant is change.

We are at this moment in the United States Senate, however, facing an issue that transcends all others. That issue, and how we decide it, will be more important to the future of this country than how we decide all other specific issues combined. That issue is who will decide the main policies of this country —the Congress or the President.

For the past decade, we've heard a great deal in Congress about the delegation of powers to the President. Much of this has stemmed from the tragic conflict in Vietnam. Regardless of our feelings a decade ago, most of us today realize that we'd be better off if we had never become involved in Vietnam.

If any specific vote can be pointed to as the vote which focused attention on delegation of power to the President, it would be the vote in 1964 on the Gulf of Tonkin Resolution. Whether or not under that Resolution Congress gave to the President authority he did not have is now moot, as the Tonkin Resolution has now been repealed. But, from the date of the passage of the Gulf of Tonkin Resolution onward, many in Congress have become troubled by the erosion of congressional powers and the increased authority and power of the President. As the war dragged on, self-guilt in the Congress, caused by the passage of the Tonkin Resolution, increased. Congress started to flagellate the President and to question the wisdom of the Tonkin Resolution specifically and executive power in general.

With much hoopla and breast beating, Congress, in June 1970, passed the Cooper-Church Resolution which prohibited funds from being used to introduce American ground combat troops in Laos, Thailand or Cambodia.

In July of 1970, we repealed the Gulf of Tonkin Resolution.

In April of 1972, the Senate passed the war powers bill substantially curtailing the power of the President to involve the United States in armed hostilities overseas, but that bill has yet to be enacted by the Congress.

Having accomplished all of the above, Congress sat back with a certain degree of smugness and prattled about its reassertion of congressional authority.

But what about the Formosa Resolution initially passed in 1955. That Resolution reads, ". . . The President of the United States be and he hereby is authorized to employ the armed forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and the protection of such related position and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores." The Senate specifically refused to repeal that resolution by a vote of 43–40 on October 28, 1971.

Or consider the Middle East resolution passed in 1957. That resolution reads, ". . . the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against aggression from any country controlled by international communism. . ." Congress has never even voted as to whether or not we should repeal this resolution.

Under either the Formosa resolution or the Middle East resolution, the President, if he didn't already have the power, was certainly delegated the power by Congress to take whatever military action he wishes in those areas under the flimsiest of pretexts. If Congress wants to make sure that some future President doesn't get us into a war over Formosa, or the Middle East, they have done nothing to prohibit it by leaving these two resolutions on the books.

There are other examples. We've extended our lease on our bases in Spain for 5 years through an executive agreement which doesn't even require Senate ratification or congressional concurrence. In this executive agreement, we have agreed to pay Spain $400 million dollars. All of this without so much as a by-your-leave of Congress even though it is Congress that must find the money to fulfill the agreement.

We've extended our agreement with Portugal for the use of bases in the Azores—again without so much as a request for congressional acquiescence.

In addition we apparently, by executive agreement, intend to establish a naval base in Bahrain where we have never had a naval base before, nor for that matter, any military base of any kind in that country. Congress has never been asked whether or not we thought the establishment of this base was in our national interest. It may be. It may not be. But, apparently it is going to be established without asking for the benefit of Congress' thought on the matter.

Now it might be said that all of these matters involve foreign policy, and that constitutionally the President is given paramountcy in foreign affairs and within reason ought to be able to conduct the foreign policy of the nation as he chooses. It is therefor argued that Congress should not impinge too much upon the executive's power in foreign affairs and should not bother itself too greatly in how the executive chooses to run foreign policy.

I don't agree with that premise. But, putting it aside for the moment, without arguing for or against it, one might at least suppose that Congress in the area of domestic matters would be concerned with maintaining its preeminence in deciding what policies shall be followed in running this country.

But what have we seen in the last few years. Well, to begin with—take the Post Office. Congress used to run the Post Office—politically and badly, now, Congress has delegated its authority to run the Post Office to the United States Postal Service, governed by a board of directors, appointed by the President. And now, instead of the Post Office being run politically and badly—it's just run badly. But don't complain to Congress anymore about bad mail service, because, you see, it's no longer our responsibility.

Congress used to set the salaries of the workers in the Executive Branch of the Federal Government. Now, we've given that away also. Today the President receives reports from various boards, appointed, I might add, by the President. These boards recommend what the salaries of the employees in the Executive Branch ought to be. The President passes along these recommendations to Congress. They go into effect automatically. No longer does Congress have to worry about setting the policy as to what the wages in the Executive Branch should be.

Example upon example of such delegation can be compiled. Some of it minor, some of it major. But the most sweeping and dramatic power that Congress has recently delegated to the President is in the field of wage and price controls—the most critical power over the private lives of all of us. We have delegated this power so broadly to the President that he has virtually a carte blanche to set the wage and price policies of this Nation—at his sole discretion.

When Congress was first considering the matter of whether to establish wage and price controls, the matter was referred to the Banking, Housing and Urban Affairs Committee which I'm privileged to be a member. Numerous witneses testified. As I listened to the witnesses, I began to think to myself, why can't the specific decision as to when and whether there should be wage and price controls be decided by Congress. Why did we have to delegate to the President the decision when to institute them or if to institute them. I posed this question to Dr. Arthur Burns, the Chairman of the Federal Reserve Board who was then testifying:

PACKWOOD. "I have some misgivings about yielding this power to the President. Is there any reason why the legislation we chose to enact cannot leave with Congress the discretion as to whether or not to trigger the policy decision to institute wage and price controls?"

Dr. BURNS. "It could be done through a triggering device."

PACKWOOD. "It would not be that difficult a piece of legislation to enact, would it?"

Dr. BURNS. "I would think that a triggering device could be written into legislation, a device that would work reasonably well."

Another witness was Charls Walker, the Under Secretary of the Treasury, and I posed essentially the same question to him as follows:

PACKWOOD. "Let me ask you the same question I asked Dr. Burns. While I have misgivings about giving the power to the executive to make the decision to impose general controls, I don't argue with giving the executive the authority to administer such controls.

"Would it be relatively easy to draw a piece of legislation which would enable Congress to quickly trigger the policy decision as to whether or not we should institute either general or specific wage and price controls and also providing for the administration to administer them?"

Dr. WALKER. "I think it would be."

Finally, Congressman Henry Reuss from Wisconsin was testifying. He agreed that Congress ought to exercise this power rather than the President, but he didn't have much hope or faith that Congress would. I questioned him as follows:

PACKWOOD. "What you are saying is that Congress could do it; Congress probably should do it, but in all likelihood Congress probably will not do it?"

Mr. REUSS. "A fair statement."

I had an amendment drafted that would reserve to Congress the power to specifically decide when and whether we should have wage and price controls. That amendment read:

"Whenever the Congress shall by concurrent resolution determine that the public interest requires the imposition of general controls affecting all industries and segments of the economy, the President may issue such orders and regulations as he deems appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970."

I mailed the amendment to Under Secretary Charls Walker, and asked for his comments and suggestions. In a few days, I received a letter from Secretary of the Treasury, John Connally. He indicated that the administration supported my amendment. They did not want the power to institute general wage and price controls without a further mandate from the Congress. He indicated that I was free to use that letter in support of my amendment on the floor of the Senate. That letter, dated April 30, 1971, reads as follows:

"This letter is in response to your request for administration views on your proposed amendment to H.R. 4246, 'To extend until March 31, 1973, certain provisions of law relating to interest rates, mortgage credit controls, and cost-of-living stabilization.'

"As we understand your amendment . . . institution of a general wage-price control program would have to be preceded by adoption of a concurrent resolution by the Congress.

"We support your amendment. It provides a workable mechanism with the safeguards we have consistently advocated with respect to such powers, namely, that general wage-price controls should not be instituted by the Chief Executive—short of an all-out national emergency—without a further mandate from the Congress.

* * * * *

"We have been advised by the Office of Management and Budget that there is no objection to the submission of these views.

"JOHN CONNALLY."

I offered the amendment on the floor of the Senate and it was defeated by a vote of 41–30 on May 3, 1971. When the Senate, on a silver platter, was handed the opportunity to limit the President's power in the field of wage and price controls and to reserve unto Congress the final decision as to when and if wage and price controls should be instituted, the Senate refused to accept the opportunity. They preferred to give away the power.

Well, all the powers that Congress has delegated to the President, be they in foreign affairs or domestic affairs, pale into insignificance when we consider the matter now under discussion.

Congress has only two great powers—the power to tax and the power to spend. It is through the exercise of these two great powers that much of the rhetoric of politics is transmitted into the fulfillment of policy. Now Congress is seriously considering delegating to the President the power to cut all Federal expenditures over $250 billion—wherever he wants to cut them. The President is a good and able man. I support his re-election and I'm certain that he will be overwhelmingly re-elected. But no President should have this power.

Justice Oliver Wendell Holmes once said: "A page of history is worth a volume of logic." This statement should be considered carefully by those in this body who contemplate delegating the power of over-spending to the President.

America received most of her concepts of government from England. One of the most controversial of all subjects in the history of England was the issue of who would have the power to levy taxes and to appropriate money—the Parliament or the King.

The battle started in 1215 with Magna Carta. Under this document, King John was forced to sign an agreement with the nobles that he would levy no extraordinary taxes (as distinct from the customary feudal dues to which the king was entitled as a matter of right) without the consent of the nobles. From that date onward for almost five centuries the battle waged back and forth between king and the parliament. Parliament was at its strongest when the king wanted to wage war. The king's normal feudal dues simply would not produce enough revenue to wage war.

The king was, therefore, forced to go to parliament from time to time and ask them to assess taxes for the starting or continuance of a war. If the king or the war happened to be popular with parilament, they would normally acquiesce. If the king or the war was unpopular, it was quite common for parliament to be quite miserly in providing funds. And even if the war or the king was popular, if parliament felt that it had other grievances to which the king had given little heed, parliament might delay or appropriate less than the king requested until the king would meet with parliamentary leaders to discuss the grievances about which parliament had complained.

In spite of the efforts of parliament, it was not uncommon for the king to attempt to levy what parliament regarded as illegal or unconstitutional taxes. Under the Lancastrian monarchs, parliament was greatly strengthened because the kings respected the growing power of parliament and didn't seriously attempt to undermine or circumvent it. But, under the Yorkist and Tudor monarchies, arbitrary taxes, "forced loans", and "benevolences" and other illegal methods of extracting revenue without parliamentary consent were attempted.

The showdown arrived with the era of the Stuarts (James I, 1603 to 1625; Charles I, 1625 to 1649; Charles II, 1660 to 1685, and James II, 1685 to 1688). In the era of James I and Charles I, not only did the normal contest between the king and the parliament over the power to tax continue, but fused into the dispute was the rise to power in England of the Puritans and Oliver Cromwell.

Parliament became more and more truculent. Not only would the members of parliament refuse on most occasions to authorize the taxes requested by the king, but in addition, members would make speeches on the floor of the parliament assailing the king and his ministers. Parliament attempted to impeach ministers. The king, in turn, imprisoned members of parliament.

In the 1640's, the century's long battle erupted into a bitter and bloody civil war. Cities divided against cities. Nobles chose sides between the King and parliamentary forces. Members of Parliament were imprisoned, their estates forfeited and on occasion their lives lost. Finally in 1649, the parliamentary forces led by Cromwell and his new model army, were completely victorious; the King was captured and executed. England ceased to become a kingdom and became a republic with Cromwell at its head.

But Cromwell proved in the long run to be the leader in not of the entire country nor even of all the parliamentary factions. Instead Cromwell's power rested narrowly on a zealous band of religious fanatics known as Puritans. What they tried to impose upon England was an anathema to everything that that great country ever wished or ever willed. Cromwell died in 1658. In 1660, the monarchy was restored and Charles II became King.

The House of Stuart was restored, however, with not constitutional guarantees. The supremacy of Parliament was not declared in any formal document nor was the King required to acknowledge that his powers were limited or derived from the people. And while in form and law, the King was supreme—in fact, he was no subservient to Parliament.

During the reign of Charles II (1660 to 1685) there was a de facto truce between the King and Parliament. The King refrained from imposing taxes or levies without parliamentary consent and the Parliament, in turn, granted the King greater privileges and liberties than they had been willing to grant to either James I or Charles I.

On Charles II's death, however, James II ascended to the English throne. But where Charles II had adjusted to the parliamentary system, James II did not. James II lacked Charles II's tact and diplomacy. He assumed the crown with the full intention of exercising arbitrary authority. He attempted to discard the law. He attempted to bring Roman Catholicism back to an England that was now thoroughly Protestant. Immediately, an intense and bitter battle started between the King and Parliament. The King imprisoned some members of Parliament. In a short span of 3 years, the situation became so tense that James was driven from the throne.

William of Orange was invited by Parliament to come to England to assume the throne. William came and jointly assumed the throne with Mary, the daughter of James II. But at last, Parliament had proved itself supreme. William and Mary were crowned subject to the conditions expressed in "the declaration of right."

These set forth innumerable parliamentary grievances and asserted parliamentary powers. With slight changes "the declaration of right" was enacted by Parliament as *the Bill of Rights*. William and Mary, therefore, ruled England at the sufference and at the will of Parliament. They had limited powers and, most importantly, were subservient to a Parliament which had complete domination over the power to tax and the power to spend. The bill of rights said specifically,

"That levying money for or to the use of the crown by pretense or prerogative, without grant of Parliament for longer time or in other manner than the same is or shall be granted, is illegal."

The Bill of Rights is—without question—one of the most crucial documents in Anglo-American constitutional history. For it marked the end of a struggle which had taken almost five centuries. As the great historian, Maitland observed, with the passage of The Bill of Rights "one great chapter of English history had been closed." Or as Shepard Morgan in his history of parliamentary taxation in England said:

"With the passage of the Bill of Rights the principle was vindicated that Parliament rather than the Crown has the power to tax. . . . The corollary principle that Parliament has the power to appropriate supplies for specific purposes and that it can demand an accounting for the money so appropriated were accorded general acquiescence then and thereafter." (The History of Parliamentary Taxation in England by Shepard Morgan, New York: 1911; pp. 307, 308).

The passage of the English Bill of Rights in 1689 occurred almost a 100 years before our constitutional convention. By the time we held our constitutional convention and started discussing the theories of separation of powers, there was relatively little debate on the power of the purse—that is the power to tax and the power to spend. There was relatively little debate because to everyone involved the question had been irrevocably settled. Congress was to have the power of the purse and no one seriously disputed it, challenged it, or thought that any other conclusion should be reached. To insure that Congress would be the ultimate repository of the power of the purse, the constitutional convention enacted article 1, section 8, of the Constitution which says:

"The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States."

and article 1, section 9:

"No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

The issue of legislative fiscal supremacy could not have been made more clear than it was in the first Congress. Alexander Hamilton, the first Secretary of the Treasury, tried to persuade the Congress to allow the President to establish an executive budget. The effort was rejected out of hand by the Congress. As one author has observed:

". . . jealousy between the legislative and executive branches of the Government became so intensified that Congress sought executive decentralization in budgetary matters . . . thus budget making became an exclusively legislative function in the National Government and as such it continued for more than a century." (Public Budgeting, by A. E. Buck, p. 17)

No—American blood has never been spilled, brother has not been turned against brother nor the President against Congress over the issue of taxing and spending, because nobody, and I re-emphasize, nobody including Presidents, thought the President should have that power.

During the entire nineteenth century, Congress alone determined the budgetary priorities of the United States. As is required by the constitution, fiscal matters originated in the House of Representatives. As a matter of fact, until 1865, the ways and means committee of the House was responsible both for taxation and appropriations. In 1865, the House appropriations committee was created to consider appropriations and in 1867, the Senate followed suit. But, regardless of the method of handling fiscal matters in the Congress, it is fair to say that it was exclusively handled in Congress.

Even into the twentieth century, Congressional Supremacy of budgetary matters continued. As a matter of fact, there was no executive budget until 1921. Up to that time, although the executive obviously had a hand in determining what the budget recommendations of each of its cabinet departments would be, the various recommendations from all departments were simply given to the Secretary of the Treasury and he in turn presented them to Congress. It was Congress that estimated revenues, set priorities and determined appropriations.

Then in 1921, Congress enacted the budget and accounting act of 1921. This act was not designed to give the President the power to determine the policies of this country, but rather to give the President the power to administer the Government—the fiscal power of planning and oversight—the power that any executive officer of a corporation has to run the corporation.

And, what do we see today? We stand here in the Senate of the United States, considering the possibility of giving the President the power to limit all Federal expenditures over $250 billion. We are considering saying: "Cut where you want, Mr. President. It doesn't matter what Congress thinks our national priorities should be. You do whatever you want to limit Federal expenditures to $250 billion. It's beyond us."

The suggested $250 billion expenditure ceiling is not the first time Congress has toyed with the idea of delegating fiscal powers to the President. In the late '50's and early 1960's, the idea was in vogue of delegating to the President the power to raise or lower the tax rates in the United States by as much as 10% a year. Fortunately, this suggestion received short shrift from Congress. Then in 1968, the Congress passed the first of its so-called expenditure ceilings. This ceiling, however, was not a firm ceiling. First, "uncontrollable" programs were exempt. Secondly, a two billion dollar cushion was allowed. So a ceiling that was originally enacted to be $180 billion dollars in 1960, totalled $185 billion.

A ceiling was again tried in 1969, but the exemptions enacted with the ceiling were sufficiently porous that the effect was no ceiling at all. A similar attempt in 1970 was equally unsuccessful. Thus the efforts in 1968, 1969, and 1970 were illusory. There were too many holes to call these genuine expenditure ceilings. But the efforts may have, unfortunately, foretold the future. Like an incoming tide, the waves of an expenditure ceiling crept ever closer to surrounding the fiscal powers of Congress.

Now, Mr. President, we stand on the threshold of the decision which may make the difference as to how this country is governed in the future. We soon will vote on whether or not to give the power to control spending to the President.

Why does Congress give away this power? Why does Congress not hold this power unto itself? I can find only two reasons. First, it's easier to give it away. That way we don't have to make the tough decisions prospectively. We can wait until the President makes them and then we can applaud or criticize him as we choose, depending upon public opinion. If he makes an unpopular decision, Congress can stand back and say—that was a foolish thing for the President to do.

Congress would not have made such a terrible decision. And if the President happens to make a decision that is popular, Congress can come forward and applaud the President, exclaim how wise we all are, bask in the collective glory of the popular decision, and hope that we'll all be re-elected together. But in either event, Congress has no responsibility, because we will have given that power to the President.

The second reason we give away these powers is that we say to ourselves "it can't be done." We "can't" really run the post office well, if at all. We "can't" make decisions about military bases overseas. We "can't" set the wages for government employees. We "can't" determine when or whether to institute wage and price controls. We "can't" fathom the Federal budget and how to control Federal expenditures, so we must delegate that power to the President. "Can't"—can't—can't." Well, Mr. President, "can't" is just an excuse to avoid the onerous and rather unpleasant task of leadership. It's not that Congress can't answer these questions—it's just that Congress has no desire to.

Mr. President, the intricacies and mysteries of the Federal budget are not beyond us. It is self-evident that every parliamentary democracy in this world manages to estimate government income, set priorities, determine appropriations and put it all into a document called a budget.

Most of these democracies don't even have the independent executive and those that do usually have a weak executive totally dependent upon the legislative branch of government. The making and fashioning of taxation and expenditures in most free countries of the world are done by the legislative body, not by an executive, and if it can be done in those countries, it can be done here.

Mr. President, I am the first to fault Congress. We are fiscally corrupt. Left to Congress, we will probably succeed in bankrupting this Nation. We haven't the discipline and courage to either expand revenues or trim expenditures. We don't like to raise taxes and we're reluctant to cut appropriations. The answer is said to be, "delegate the power to the President." Mr. President, this is a Hobson's choice—leave the power with a Congress with no discipline or delegate it to the President to save the country from Congress and the devil with what may be the ultimate consequences of the delegation. It's the unfortunate choice between a fiscally irresponsible Congress and a totally irresponsible Congress.

When Jack Kennedy was a member of this body, he headed a commission to determine the five greatest Senators of all time. The committee heard experts from all over the United States. It weighed and sifted recommendations from the best scholars in the field of American Government this country could produce. And finally the Commission named the five greatest Senators of all time. Two were from this century—Bob Taft of Ohio and Bob La Follette of Wisconsin—and three out of the last century—Daniel Webster, perhaps the greatest orator in the history of the Senate, John C. Calhoun, the great southerner and Henry Clay, who is perhaps by historical acclaim, the greatest Senator of all time.

It is interesting that the latter three, Clay, Calhoun and Webster, all served in the Senate at about the same time. They served at a time when that small room across from the Senate disbursing office was the Senate Chamber. I'm happy to see that the Legislative Appropriations Act of 1973 provides for the restoration of this beautiful old Senate Chamber. But even in its present rather disheveled condition, a person can go into that room and sit quietly and with any degree of imagination can hear the Clays, the Calhouns, and the Websters debating the great issues of those days. The Missouri compromise, the Kansas-Nebraska Act, the tariff of abominations, the opening of the West, the Bank of the United States, and perhaps most importantly, the theory of nullification so strongly championed by Calhoun and so eloquently argued in the Webster-Hayne debates. This theory of nullification was, of course, the precursor of the eventual War Between the States.

The theory of nullification produced an extraordinary struggle between the congressional forces led by Calhoun who supported nullification and President Andrew Jackson who opposed it with all his might and main.

There perhaps could have been no more illustrative and dramatic moment in the history of our country than at that small banquet at the Indian Queen Hotel in Washington in 1830. President Jackson and Calhoun were at the banquet. Calhoun and his supporters were determined to use the banquet as a vehicle for furthering nullification. Jackson was equally determined that no such effort succeed.

When the banquet reached the time appropriate for toasts Jackson rose and looking squarely at Calhoun, proposed the following toast:

"Our Federal Union—it must be preserved!"

Calm and reposed, Calhoun rose, gazed with determination at the President and raised his glass and said:

"The Union—next to our liberty—the most dear."

These were great men facing momentous decisions. These were men aware of the dangers of executive power and the possibilities of the loss of Congressional prerogative. Henry Clay was quite disturbed about it when he said in 1840:

"In my deliberate opinion, the present distressed and distracted state of the country may be traced to the single cause of the action, the encroachment, and the usurpations of the executive branch of the government.

Yes indeed these were great men—striding these corridors—sitting at some of the very desks we now use—debating the critical issues of their day. But while these men may have been divided in their opinions they were united on one thing. And that was that the policies of this country should be made on the floor of Congress—not in the White House.

Today, the problem is not that the executive is trying to steal our powers. The graver problem is that we are prepared to give them away. Congressional power is like chastity. It is seldom lost by force. It is usually yielded voluntarily. We sit here a timid and tremorous little band, too undisciplined to exercise our prerogatives and too unwilling to exercise our authority.

It's time to return to the courage and conviction of the Clays and the Calhouns and the Websters—to determine for ourselves as a Congress what the policies of this country should be.

It does require courage and determination, and most of all it requires leadership. We can make the policies of this country. Short of the physical and mental limitations that God imposes upon man, there is nothing that man cannot do if he believes in it. And Congress is nothing but man combined into a legislative body for the purpose of governing a country.

The only thing that distinguishes us as members of the House and Senate from the rest of our citizens is that we have been elected to a position of political leadership, and the minimum that the voters of this country have a right to expect is leadership. It's incredible that the members of Congress, who have spent the better part of their adult lives asking the voters of their respective constituencies to delegate to them the power to determine the policies of this country, should now run from the chance to make those decisions. Decisions, I might re-emphasize, that Englishmen died for, so that policy might be made in parliament rather than by a king. Decisions that a Clay, Calhoun or a Webster would never delegate to a president. They would be aghast at what we are contemplating and they would be ashamed to be associated with such an act.

We can delegate this power to the President, and having done it once this year, we'll surely do it again the year after that, and the year after that, and the year after that. Once having told the President that he spend only $250 billion, the last restraints are off Congress. We can then appropriate $260, or 70 or 80 or 90 billion dollars without care. The responsibility will no longer be ours. We can then, with total abandon, go back to our constituents and tell them that we tried to appropriate $10 billion dollars for housing, but the President cut it. We can tell educators that we tried to appropriate $30 billion dollars for education, but the President cut it. He's the one that has no heart or humaneness, no understanding of the problems of this country. We can say it in perfect safety because we know we can never be called to account for our actions. And after four or five years of making these reckless statements, Congress will then gradually wither into a moribund instrument, called forth from time to time to confirm ambassadors and judges and to pass routinely upon matters of trivia.

I'm reminded of that fateful day long ago in Philadelphia as Benjamin Franklin emerged from the constitutional convention in Independence Hall. A woman, Mrs. Powell, anxiously approached Dr. Franklin and said: "Well doctor, what have we got—a republic or a monarchy?" "A republic," replied Benjamin Franklin, "If you can keep it."

We will soon be celebrating the 200th anniversary of that republic. During those years, we have undergone much change. But, throughout, we have jealously guarded the principles upon which this republic was built and has flourished.

Can we keep it? Will 1976 mark the celebration of 200 years of a glorious republic or year 3 of an executive monarchy? The decision is ours. What do we want: A republic or a monarchy?

HISTORICAL ANALYSIS OF ENGLISH HISTORY

(Prepared by Stanley D. Heisler, Legislative Assistant to Senator PACKWOOD)

Congressional control of taxation and the purse strings of government is not new—it is largely derived from England.

Prior to the rise of Parliament, the medieval English king was expected to pay for his government and his personal household from revenues received from his own estates, from feudal dues, etc. Taxation—as we now know it—was only resorted to on extraordinary occasions. Indeed, Maitland notes that "it is not until the very end of the Anglo-Saxon time that we hear of anything that can be called a tax."

After the Norman conquest, Maitland enumerates seven different source of royal revenue:

In the first place there were the demesne lands of the crown. The remnant of the old folk land had become *terra Regis,* and this constituted the ancient demesne. Then escheats and forfeitures were constantly bringing to the King's hand new demesne lands. Apart from his being the ultimate lord of all land, the King was the immediate lord of many manors—he was by far the largest landowner of the kingdom. Secondly, there were his feudal rights—rights which had steadily grown in some directions, if they had been deminished in others . . . Thirdly, the profits of justice in the King's court must have been very considerable. Under John the sale of justice had become scandalous. By the charter, he promised to sell justice to none—but without exactly selling justice, there was much profit to be made by judicial agencies: fees could be demanded from litiants, and in the course of proceedings, civil as well as criminal, numerous fines and emercements were inflicted. Fourthly, the King had many important rights to sell, in particular the right of jurisdiction, and though the more far sighted of the Kings dreaded and checked the growth of proprietary jurisdiction, there was always a temptation to barter the future for the present. The right to have a market was freely sold, and many similar rights. Pardons again were sold. The towns had to buy their privileges bit by bit. What is more, the grantee of any privilege had in practice to get the grant renewed by every successive King. That the King was bound by his ancestors' grants might be the law, but it was law that no prudent man would rely on. Offices too, even the highest offices of the realm, were at times freely bought and sold—this does not seem to have been thought disgraceful. Fifthly, a good deal could be made out of the church—when a bishop died, the King took the temporalities, the lands, of the see into his own hand, and was in no hurry to allow the see to be filled; this however was an abuse. Sixthly, the King had a right to tallage the tenants on his demensne lands were found many of the most considerable towns . . . Lastly, somehow or another, the process is obscure, the King had become entitled to certain customs duties: Magna Carta recognizes that there are certain ancient and right customs (antiquae et recate consuetudines) which merchants can be called upon to pay, and with these it contrasts unjust exactions, or maletolts. To all this we may add that the obligations of tenure supplied the King with an army which could be called up in case of war.

(The Constitutional History of England by F. W. Maitland, pp. 92–94)

However, in the reign of King John, taxes were so oppressive that the barons were driven to revolt. The result was Magna Carta.

Magna Carta was, in essence, a treaty between the King and the barons. And, though it antedated Parliament, in a very real sense, it was a Parliamentary document. For it established, if not the right, at least the unremitting claim of the community of the realm to be consulted in matters of high policy and in the demand that no extraordinary taxation (as distinct from customary feudal dues) should be levied without consent.

Though Magna Carta spelled the beginning of the end of absolutism—arbitrary rule lingered on, in one form or another, for another four and a half centuries.

During the reign of Henry III, it became customary for the National Council to grant money to the King. On January 24, 1218 "suctage" or "shield-money" was exacted by the National Council. Also, one writer has found a note of a land tax levied by the National Council on January 9, 1218.

(The History of Parliamentary Taxation in England by Shepard Morgan P. 77).

The above appear to be the very earliest instances of general taxation in England through the National Council.

In 1224, England was at war with Phillip II for the possession of Poictou. But, as the taxes were insufficient to fund Henry III's war effort, the King demanded that a tax be placed on moveables. The Barons on the National Council refused to consent to the tax unless the King should "of his own natural and good will" renew Magna Carta. The King yielded and re-issued Magna Carta. And, this re-issue took the form of a contract between the barons and the King—as it stated that:

"The archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and all persons of the realm, give the fifteenth part of all moveables to the King for this concession and granting of liberties."

(Quoted in The History of Parliamentary Taxation in England, P. 80.)

This is likely the first—but certainly not the last—conditional grant of taxation of the King of England. Indeed, there were instances in the thirteenth century when the Council refused to make any grant of taxation on the King's request. In 1232, for instance, the Earl of Chester—speaking for the barons—objected to a request for money with which to carry on the war with France because the barons had served in France themselves.

In 1242, as England was on the brink of war with France, Henry III summoned the National Council. But realizing that the King sought more revenue, and

"That the King had so often harassed them in this way on false pretenses . . . they made oath together that at this council no one should on any account consent to any extortion of money to be attempted by the King."

(Quoted in The History of Parliamentary Taxation in England by Shepard Morgan, Pp. 84–5.)

When the Council met, it refused to raise money as the King requested on the grounds that he had engaged in the war without asking their advice and that he had so often extorted large sums of money from them.

But though the Council refused Henry III's demand for revenue, he induced the barons individually to give him what he had been unable to induce the Council to give him.

In 1224, Henry asked the Council to raise funds to fight a war in Scotland. Being unwilling to make an unconditional grant of revenue, the Council appointed a committee of twelve to respond to the King's demand. The Committee complained of the King's nonobservance of Magna Carta, of the King's reckless expenditure of money, and demanded the appointment of a justiciar and a chancellor. However, as the King would not submit to this compulsion, he refused the petition and ordered the Council to reassemble in 1245. The nobles then expressed their willingness to grant him revenue, provided that in the meantime the King would choose proper counselors and institute reforms. The nobles insisted that whatever money was granted to the King should be expended not by the King, but by a committee of twelve nobles for the King's benefit. But Henry III refused to agree to these terms and the Council adjourned.

In 1245, during Henry III's absence in Gascony, the Regents—Queen Eleanor and Earl Richard Cornwall—broadened the base of the Council by summoning two knights from each county to meet with the Council. The knights were to be chosen by the counties themselves, probably in the county court, since there the machinery of election already existed. In 1246, at the assembly of the National Council in London, the name "Parliament" was first applied to it.

At the Parliament of 1255, the magnates of the realm were summoned to Westminister. This was necessary because in 1254, in an effort to secure the crown of Sicily for his son, Henry III had agreed to pay the Pope 90,000 Pounds. But the Parliament refused to grant this money to the King because all the members of the Parliament had not been summoned, according to the terms of Magna Carta.

At the first Parliament of 1258, the barons refused to help Henry III pay an installment on the 90,000 Pounds he owed the Pope. The barons, led by Simon de Montfort, attacked the King for reducing the realm to destitution by mortgaging it to the Pope, and for granting such enormous favors to his followers that it was now impossible to shake off even such insignificant enemies as the Welsh. The barons insisted that they intended to put an end to the King's excesses. They demanded that the King sanction the appointment of a committee of twenty-four "by the whole of Parliament on behalf of the community" which would have complete control over the Exchequer and full power to reform the government.

The King relented and chose twelve persons and the barons chose twelve more to compose the committee. The committee began by drawing up a set of articles known as the Provisions of Oxford, by which all the powers of government were placed in their hands. In effect, this put the kingship into a commission. All important administrative officials—i.e. the chancellor, justiciar and treasurer—were appointed by and responsible to the barons. The sheriffs were likewise under control of the Council.

However, in actual operation, the Provisions of Oxford were unsuccessful. The provisional government lasted for a year and a half from its creation in June, 1258, without interruption. Thereafter, it continued for four years with a number of breaks until 1263, when the civil war began between Simon de Montfort and the King.

In 1261, Pope Alexander VI absolved Henry III from his oath to obey the Provisions of Oxford and excommunicated all those who opposed the King's absolution.

This all but brought about the impending civil war. In 1264, Louis IX of France agreed to arbitrate the dispute between Henry III and the barons. In the famous Mise of Amiens, Louis decided in favor of Henry III. The result was civil war.

At the Battle of Leives, in May, 1264, Simon de Montfort defeated and captured Henry III and his son, Prince Edward. In January, 1265, de Montfort summoned a Parliament to London, including the barons and ecclesiastics and two knights from the shires and two burgesses or citizens from each larger town. This led to de Montfort's fame as: "The founder of representative government in England."

In calling to the Parliament elected representatives of the boroughs, de Montfort completed the formation of the English Parliament on substantially the same basis on which it operates today.

De Montfort's action outraged many of the barons and he quarreled with his principle supporter, the Earl of Gloucester. In May, 1265, Prince Edward escaped from his captors and was joined by Gloucester. In August, 1265, Simon de Montfort was defeated and killed in the Battle of Evesham. De Montfort's death was followed by Henry III's restoration to the throne. On Henry's death in 1272, his son Edward I became King.

Edward I was a wise and prudent monarch. And, as one historian has written:

"It was in the reign of the valiant and sagacious Edward I that our Parliamentary institution and the civil law began to advance by rapid strides."

Edward I's first Parliament met in April, 1275. This Parliament consisted, not only of the prelates and barons but of four knights from each county and four burgesses from each borough. This Parliament enacted the first statute of Westminster which was composed of 51 articles including a provision for regulating the feudal aids which were required upon the knighting of the lord's son or the event of the marriage of his daughter. Twenty shillings on the knight's fee and 20 shillings from each parcel of land held in socage yielding 20 pounds a year would be the maximum rates.

This same Parliament also made a grant of customs duties on wool, wool-felts, and leather. The grant of a duty on wool by Parliament has great significance to the constitutional history of England because, in granting this customs duty, Parliament assumed the power of assenting to a tax which previously had been considered within the prerogative of the King himself.

The knights of the shire were summoned to Edward's second Parlianment which met in October, 1275. This Parliament granted the King a tax on movables.

In 1282, Edward I was involved in a war to conquer Wales. Finding himself in financial difficulty, Edward initially sought to avoid calling a Parliament by negotiating with individuals for the money he needed to carry on the war. But as these private offerings were insufficient, the King decided to call his second Parliament.

On November 24, 1282, the King issued writs to the sheriffs, ordering them to send to Northampton or York—as the case may be—on January 20, 1283:

All freeholders, not already with the army capable of bearing arms and holding lands of more than 20 pounds annual value; Four knights from each county having full power over the community of the same county; and two men from each city, borough and market town having like power for the community of the same.

The knights and burgesses—meeting at Northampton granted a tax to the King. At York, the knights and burgesses also made a grant to the King. In this manner the King discovered that it was easier to raise his revenue through a Parliament than through private solicitations.

Four years later, on October 8, 1294, King Edward I being in need of money—both to suppress a rebellion in Wales and for his projected expedition against Phillip the Fair for the recovery of Gascony—again summoned Parliament to meet at Westminster on November 12. This Parliament granted Edward I a tax.

The following year, 1295, is a landmark in Parliamentary history. For, in this year, Edward I summoned the first full and model parliament in English history. This Parliament was so constituted as to represent, and have the power to tax, the entire nation.

Edward I summoned the Model Parliament on the theory that "what touches all, by all should be approved." It met on November 27, 1295. Each of the estates met by itself and each made its grant to the King independently of the others. The barons and the knights of the shire gave Edward an eleventh of their moveables, the clergy a tenth, and the burgesses and citizens a seventh. One author has remarked that this is probably the first instance where the three estates taxed themselves in different proportions.

But Edward I's financial problems grew with the passage of time. To raise money to carry on his extensive wars, Edward I needed massive infusions of revenue—which he raised by arbitrary exactions from all classes of his subjects—both lay and clerical. The clergy resisted these taxes, under the bull of Pope Boniface VIII, Clericis Laicos, which forbade—under pain of excommunication—the payment of any tax, whatever, on the revenues of the church to a layman.

However, Edward I's outlawry of the clergy in January, 1294 and the temporary confiscation of the estates of the see of Canterbury which followed, compelled the clergy to abandon their untenable position and to yield to the King's demands.

The merchants were also upset with the King at this time, because the King had taxed them heavily and seized their wool (as wool was most readily convertible into currency). The barons were irritated by the King's flagrant disregard of the many provisions of Magna Carta and the Charter of the Forest.

Edward I next summoned a "Parliament" to meet at Salisbury on February 24, 1297—but invited only the baronage without any bishops or representatives of the Commons. The King proposed that the barons should go to fight in Gascony. But the barons refused and—on their refusal, the King threatened to confiscate their lands and give them to those who would go. The assembly broke up.

On May 15, Edward I issued writs for a general military levy on all the landowners of the kingdom, the value of whose lands exceeded 20 Pounds. The barons were to assemble in London on July 7, prepared to go to France. However, the barons violently opposed this unconstitutional tax.

As he was still in need of money to finance this war, Edward I induced an irregular assembly of some of the barons and others who had attended the military summons to make a grant of an eighth from the barons and knights and a fifth from the towns. Edward ordered the collection of the eighth and fifth and directed the seizure of all the wool in the kingdom—promising to pay for it as soon as he was able.

As the King was prepared to embark for the continent, a bill of grievances prepared by the barons was presented to him. The barons complained of the heavy taxes which reduced them to poverty; that they were not treated according to law and custom; that the provisions of Magna Carta and the Charter of the Forest had been breached; and that the tax on wool was too heavy.

Rather than answer the remonstrance, the King sailed to Flanders leaving his son—the Prince of Wales—as regent. But as soon as the King had sailed, the barons entered the Exchequer and forbade the barons there to seize the wool or collect the taxes until the charters had been confirmed. The barons were supported by a large military following and by the citizens of London.

Assessing the gravity of the situation, the Prince of Wales called a full Parliament—at which knights of the shire attended as representatives of the commons as well as the lay and clerical baronage. The Confirmatio Cartarum was published on October 10, 1297 and immediately sent to the King at Ghent, and there confirmed by him on November 5. The former tax of an eighth and a fifth were annulled and a new grant of a ninth was substituted.

The Confirmatio Cartarum was not merely a re-issue of Magna Carta and the Charter of the Forest. It also enacted a series of new provisions intended to deprive the Crown, in the future, of its assumed right of arbitrary taxation. The most critical parts of this covenant are clauses 6 and 7. After enumerating, in the fifth clause, the illegal taxes and exactions of Edward I, the 6th clause declares:

"Moreover we have granted to us and our heirs, as well to archbishops, bishops, abots, priors and other folk of holy church, as also to earls, barons and to all the community of the land, that no business from henceforth will we take such manner of aids, mises, nor prises from our realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed."

Clause 7 relates to the new duty on wool—"the Maletote"—and provides that:

"The King shall never take this nor any other without common consent and good will; saving to us and our heirs the custom of wool, skins and leather granted before by the commonalty."

This "Confirmation of the Charters" of 1297 is of crucial significance to English constitutional history. One author has observed that as a part of the foundation on which the English constitution was built, the Confirmation is hardly less important than Magna Carta itself.

(Constitutional History of England, by George Buxton Adams, p. 190).

The significance of this Charter rests on the fact that it established the exclusive right of Parliament to tax the people of England—except for the collection of the customary feudal dues.

It has been written that:

"The articles generally represented the gain of a struggle extending over a period of eighty-two years; and while verbally they seemed to indicate but little advance over John's Great Charter, in reality they were infinitely more important as there was a power now behind them with due machinery for their enforcement.

(History of the English Parliament, Vol. I by G. Barnett Smith, p. 162).

In 1307, Edward I died. Six months later, on February 25, 1308, the new king was crowned. But, where Edward I was strong and prudent, his son—Edward II—was weak and inept.

The oath which Edward II took in French (as he was not familiar with Latin) was of great constitutional importance, for it not only recognized the limitation of the Royal power by existing laws, but that the power to alter these laws and enact others could only be exercised with the consent of the people. In fact, Edward II's oath was unusually stringent. The last of the four promises required of the King was this:

"Sire, do you grant to hold and to keep the laws and righteous customs which the community and the realm shall have chosen, and will you defend and strengthen them to the honor of God, to the utmost of your power.

Edward answered:

"I grant and promise."

Edward II didn't call on Parliament until April, 1309. It was fully attended by the clergy, lords, burgesses and knights. The Commons granted the King a twenty-fifth of their movables, on condition of a redress of grievances which were detailed in eleven articles.

Two of the eleven articles dealt with taxation. The first complained of the abuses of purveyance, and the seizure of articles of food, the imposts on wine, cloth, and merchandise. The second dealt with the New Customs which Edward I had provided for in the Carta Mercatoria in 1303. The king agreed to these conditions.

In 1327, Edward II was deposed by a revolution. He was succeeded by his son, Edward III, then only 14-years old. The new King took the same stringent oath that his father had taken earlier.

The regularity with which Edward III summoned Parliament had a decisive impact on English constitutional history—for it strengthened the power of the House of Commons by affording them an opportunity for its frequent exercise. As Edward III was perpetually involved in wars, he was repeatedly compelled to ask Parliament to raise money to pay for them. Thus during the fifty years of his reign, forty-eight sessions of Parliament were held.

In spite of the Confirmatio Cartarum, Edward I, occasionally Edward II, and Edward III continued to levy arbitrary taxes of every kind. The Commons, however, by their continual remonstrances, their conditional grants and their liberal subsidies, succeeded in establishing its control over direct taxation.

In 1332, because rebellion had broken out in Ireland, the King assigned commissioners to tallage—a tax levied at a feudal lord's arbitrary discretion upon more or less servile dependents, who had neither the power nor the right to refuse—the cities, towns and royal demesnes throughout England. But Parliament met three months later, on September 9, 1332, and persuaded the King to revoke these commissions to collect tallage. Parliament then offered, as a substitute, the grant of a fifteenth from the shires and a tenth from the towns. In accepting this grant, Edward III promised for the future that he would not lay such a tallage,

"Except as was customary in the time of our ancestors, and as he might rightly do."

Paralleling the struggle against tallaging the royal demesne, was the contest with the King in matters of custom on wool. In 1303, Edward I established the Nova Custuma ("New Customs") on wools and other articles.

This was annulled by the Ordinances of 1311 but renewed by Edward II in 1322 and confirmed on the accession of Edward III, who later—with his Council—imposed other similar taxes. Repeatedly, the Commons petitioned against these exactions or attempted to set up a precedent in its favor by granting a similar tax. It was not until 1340 that Parliament succeeded in controlling this illegal tax.

On January 20, 1340, Parliament met. The Lords offered to grant the King "the tenth sheaf, the tenth lamb, and the tenth fleece, payable in two years" and the Commons granted the King 30,000 sacks of wool—on condition that the King accept certain articles drawn up by them. (In the event that the King rejected the articles, they offered a free gift of 2500 sacks of wool).

Edward did reject them and called a new Parliament which met on March 29, 1340. Instead of a tenth, the prelates, barons and knights of the shire granted the king the ninth sheaf, fleece and lamb for two years. The towns granted a ninth of goods and the rest of the nation a fifteenth. In addition, a custom of forty shillings was granted on each sack of wool, on each three hundred wool-fells, and every last of leather. But the grants were conditional: the King had to accept the articles prepared by the Commons. The king finally accepted them and the articles were re-drafted into statutory form.

The statute pertaining to the duty on wool provided that:

"And for this grant, the King by the assent of the prelates, earls, barons, and all others assembled in Parliament, hath granted, that from the feast of Pentecost that commeth in a year, he nor his heirs shall not demand, assess, or take, nor suffer to be take more custom of a sack of wool of any Englishmen but half a mark of custom only; and upon woolfells and leather the old custom . . . And this establishment lawfully to be holden and kept, the King hath promised in the presence of the prelates, earls, barons, and others in his Parliament, no more to charge, set, or assess, upon the custom, but in the manner as afore is said."

The second statute is much more sweeping. It stated that:

"We . . . will and grant for us and our heirs, to the same prelates, earls, barons, and commons, citizens, burgesses, and merchants . . . that they be (not) from henceforth charged nor grieved to make common aid, or to sustain charge, if it be not by the common assent of the prelates, earls, barons, and other great men, and commons of our said realm of England, and that in the Parliament; and that all the profits raising from the said aid, and of the words and marriages, customs, and escheats, and other profits rising of the said realm of England, shall be put and spent upon the maintenance of the safeguard of our said realm of England and of our wars. . . ."

These statutes are crucially important to the constitutional history of England for they clearly enunicated the principle that Parliament was the sole authority for levying taxes on the nation at large.

As one writer has observed:

"The promise of Edward to abide by the recommendation of Parliament in the matter of the subsidy on wool, was an admission by the King that not he but they had final control over the laying of customs duties. Thus was established the principle to be defended and likewise to be questioned in the future. that Parliament alone had the power to lay a tax on wool. . . . (Also), by the statute which provided that no charge or aid should be levied but by consent of Parliament, tallage died a legislative death. And not only was this statute aimed at tallages but as well at every species of unauthorized taxation."

(The History of Parliamentary Taxation in England by Shepard Morgan; NY–1911; Pp. 178–9).

After the enactment of the vital statutes of 1340, Parliament was willing to bargain with the King for the control of his customs duties. But problems developed because, at this time, Parliament could not yet enforce this right, but rather could only petition the King for redress. And, the King frequently assented to Parliamentary petitions and then broke his word. For instance, in 1340, Edward III received a grant from Parliament of forty shillings on a sack of wool, for a year and a half, on condition that he would abolish the maletolt—Maletolt was "evil tolls"—i.e. unconstitutional duties or taxes.

In 1342, the King procured a duty of forty shillings per sack of wool from the merchants without the consent of Parliament and issued orders for its collection. Parliament balked at this because it realized that the tax fell not on foreign merchants but upon English wool growers. Edward III then declared that the price of wool would remain fixed, pursuant to an act of Parliament, and that consequently the foreign merchants would have to pay the tax. Commons agreed to this and granted the King a duty of forty shillings on a sack of wool for three years.

After the passage of three years and the revocation of the act fixing the price of wool, as the King had no authority to continue the duty, Parliament petitioned against its continuance. When the King replied that he had secured the approval of the barons and of the merchants for the duty, and that he had already pledged the revenue to be raised by the duty to his creditors, the House of Commons—finding that it couldn't win their point—contented themselves with the belief that having established the principle, they could at anytime demand the implementation of it, and extended the duty for another two years.

In 1348, the Commons presented a remonstrance to the King, asserting that the wool subsidy was, in actuality, a land tax. Parliament then granted a fifteenth for three years on condition that the subsidy of wool should cease in three years, and that for the future "no such grant should be made by the merchants." The language was all-encompassing: no "imposition, tallage or charge by way of loan or in any other manner," was to be laid "without the grant and assent of the commons in Parliament." Edward III accepted the grant and the conditions.

However, in 1362, arbitrary exactions on wool received the attention of the Commons and the statute passed in that year provided that thereafter no subsidy should be set on wool without the assent of Parliament. But notwithstanding these explicit and repeated assertions that Parliament had the sole right to levy the subsidy on wool, Edward at times continued to exact the maletolt. The matter arose again in 1371 and was met with a similar statute.

As Parliament's power grew, so too did its faculty to supervise the expenditure of money so raised—which would later evolve into the "power of the purse". In 1237, during the reign of Henry III, William of Raleigh had suggested to the National Council that it appoint a committee with whom the proceeds of a grant of taxation be deposited and by whom the money be expended. One writer has suggested that the reason this proposal was not taken was perhaps, "due to the ignorance of the baronage" of its ramifications.

(The History of Parliamentary Taxation in England by Shepard Morgan, pp. 184–5)

Parliament never asserted the power to supervise the expenditure of money during the reign of Edward I, because he was too strong; or during the reign of his son, Edward II, because the power of the Crown was for a time delegated to others. But during the reign of Edward III—primarily because of his endless and extravagant military expenditures—Parliament demanded a voice in the disposition of public funds. In 1340, a Parliamentary Committee was appointed to examine the accounts of the collectors of the last grant of taxation to the King. In the words of the statute, the committee was assigned to see that the "profits of the said realm of England shall be put and spent upon the maintenance of the safeguard of our said realm of England, and of our wars."

(Quoted in The History of Parliamentary Taxation in England, by Shepard Morgan, p. 185).

The following year, Parliament appointed commissioners for the same purpose. The 1341 act said:

"The great men and commons of the land pray, for the common profit of the King and themselves, that certain persons be deputed by commission to audit the accounts of all those who have received the wool of our said lord, or other aid granted to him; and also of those who have received and paid out his money, as well beyond the seas as in the realm from the commencement of his war until now; and that the rolls and other remembrances, obligations and other things made abroad be delivered into the chancery, to be enrolled and recorded, just as was wont to be done heretofore."

(Quoted in The History of Parliamentary Taxation in England, by Shepard Morgan, p. 186).

In time, this power of Parliamentary oversight evolved into the "power of the purse". In 1344, for instance, Parliament demanded that the money granted should be spent solely for the purpose for which it had been asked. In 1348, it granted money specifically to defend England against Scotland. And, in 1353, a subsidy on wool was granted which could only be applied to fighting the war.

In fact, all of these acts were the starting point of Parliamentary (and Congressional) appropriations. And, though the Parliamentary appropriations we now perceive did not exist at this time, the foundations for the appropriations process were firmly laid by the end of the fourteenth century.

On Edward III's death in 1377, his eleven-year-old grandson—Richard II—assumed the English throne. Parliament took full advantage of Richard II's youth. It not only solidified its power that no money could be levied or laws enacted without Parliament's consent and that the administration of government was subject to their inspection and control but it also secured two vital rights which were first established in the reign of Edward III—viz. the right to examine public accounts and appropriate supplies and the right to impeach the King's ministers for misconduct.

At Richard II's first Parliament in 1377, grants of two fifteenths and tenths were made for the prosecution of the French war on the express condition that two persons be appointed as Treasurers, to receive the money granted to the King and to spend it "for the said wars and for no other work."

(Quoted in The History of Parliamentary Taxation in England by Shepard Morgan; p. 185).

Richard II's next Parliament met in 1378. The House of Commons demanded that it be allowed to examine the public accounts. The King ordered the governmental accounts produced with the understanding:

"That this shall not in future be considered a precedent or an inference that this should have been done otherwise than by the personal volition and command alone of our said lord the king . . ."

(Quoted in The History of Parliamentary Taxation in England by Shepard Morgan, p. 192).

In 1379, as England was in imminent danger of invasion, Richard II called on Parliament to raise the needed money. It is significant that this year, the King voluntarily, without reservation and without waiting for a petition from Parliament, informed the Commons that the Treasurers were prepared to show them "in writing their receipts and expenditures made since the last Parliament."

(Quoted in The History of Parliamentary Taxation in England by Shepard Morgan, p. 193).

In 1380, a similar committee, with more extensive powers, was appointed. Thus, it became apparent that by 1380, the right of the Commons to investigate the accounts and appropriate the supplies was clearly established.

However, during this period, the expenses of the wars in France and Scotland and the ordinary expenses of government were so great that the Royal treasury was bare. Indeed, the King had even pawned the Crown Jewels. To remedy this problem, the House of Commons set up a poll tax and continued the duty on wool. But as the new tax was the equivalent of a laborer's weekly earnings, it ignited a political explosion. Indeed, the poll tax of 1380 has been termed the last precipitating cause of the great Peasant Revolt of 1381.

The bloody rebellion was quelled within a short time, but it had taught the members of Parliament what can happen when the weight of taxation burdens the people.

From 1389 to 1397, Richard was a model monarch—ruling within the constitution and allowing Parliament to control both taxation and the expenditure of public money. But in 1398, Parliament granted Richard II a custom on wool for five years, tunnage and poundage for life and a duty on wool, woolfells and leather for life. Further, Parliament gave the King a tenth and a half and a fifteenth and a half for a year and a half. And, if this wasn't enough, Parliament recklessly delegated its authority to eighteen members chosen from the whole body—ten lords temporal (six to be a quorum), two earls as proctors for the clergy, and six members of the House of Commons. As one commentator has observed:

"The committee consisted of persons devoted to the King's interests, and its powers were so indefinitely expressed that it completely usurped the rights of the legislature, and exercised all the powers and functions of a full parliament."

(History of the English Parliament, Volume I, p. 237 by G. Barnett Smith).

Whatever Parliament's intention, these actions had the effect of installing Richard II as an absolute monarch. The cumulative effect of this delegated authority was to destroy the limitations which Parliament had so painstakingly placed on the King's prerogative.

But Richard's despotism sealed his fate. He banished the Dukes of Hereford and Norfolk. And then seized the estates of John of Gaunt—in spite of his promise to secure them to Hereford in the event of his father's death. Richard II's tyranny incited Henry of Lancaster to action. While Richard II was in Ireland, Henry led a revolt against the King. With no difficulty, he raised an army of 60,000 men. On Richard's return to England, he resigned his throne—and Parliament accepted his resignation.

Richard's fate—much like that which awaited Charles I and James II—resulted from his failure to understand the developing constitutional history of England. As one writer has observed:

"The trouble with Richard was that he did not go to school to (learn) history. Parliament was putting into practice what it could learn from the experience of its predecessors. Richard, swept with a desire, intense and perhaps insane, to wield the septre of absolutism, was blinded to what he might have read, and underwent the consequences."

(The History of Parliamentary Taxation in England by Shepard Morgan, p. 202.)

Henry of Lancaster was crowned Henry IV on October 13, 1399. The new King chose not to buck the tide of increasing Parliamentary authority. Indeed, during the reigns of the three Lancastrian Kings, the power of the Parliament was more complete than ever before—fuller than it would be until the Bill of Rights was enacted in 1689. Parliament voted the taxes, appropriated money to the King and examined public accounts. Indeed, instances of direct taxation without Parliament's assent were very rare under the Lancastrian kings.

An example of the freedom Parliament enjoyed under the Lancastrians was the Common's attempt to make the granting of appropriations dependent upon the redress of grievances a regular Parliamentary procedure. In 1401 the House of Commons asked that the King respond to their petitions before they granted supplies. The King resisted firmly and the Commons relented for the time being, but the practice gradually became established.

In 1410, Henry IV asked Parliament for permission to collect a tenth and a fifteenth annually, whenever Parliament was not in session. But Parliament had learned the effect of such a grant from Richard II and was resolved never again to foster the rise of a tyrant. Accordingly, it refused the King's request.

When Henry IV died in 1413, his son—Henry V—acceded to the throne. Though his reign lasted less than a decade, he proved to be a wise King and a brilliant soldier. And though the taxation during his reign was heavy, Parliament willingly granted taxes to the King to fight France.

When Henry V died at the age of thirty-five, his son and heir—Henry VI—was barely a year old. Henry VI won the dubious distinction of being one of the only Lancastrians to attack Parliament's supremacy in taxation. In 1425, while the King was still a child, his uncles—the Duke of Bedford and the Duke of Gloucester—as regents, united with other lords and announced in Parliament that, with the advice of the justices, a tax granted upon certain conditions by the House of Commons in the previous Parliament should be collected and levied by the King—notwithstanding any conditions in the grant. The Commons, though, firmly established their undoubted right by making a fresh grant and restating the former conditions with the following explicit addition:

"No part thereof be beset ne dispendid to no othir use, but oonly in and for the defense of the seid roialme."

(Quoted in English Constitutional History by Thomas Pitt Taswell-Langmead, p. 207)

The War of the Roses—the intermittent civil and dynastic war between the Houses of York and Lancaster—was responsible for the fall of the Lancastrians and the accession of the Duke of York to the throne in 1461. As one writer summed up the reign of the three Lancastrian kings:

"The right of Parliament as against that of the King to control taxation was enunciated again and again, not only in the instance of direct taxation, including the levies of tallage, but in the case of the customs, as indicated in the legislation prohibiting the maletolt.

"But the enunciation of powers of Parliament was not followed by complete and undisputed exercise of the rights so enunicated. The Kings clung to what they deemed their ancient prerogatives and more than once over-stepped the law. The Yorkists and Tudors showed a disposition somewhat less amendable."

(The History of Parliamentary Taxation in England by Shepard Morgan p. 212.)

While the Lancastrians respected the taxing powers of Parliament, the Yorkist and Tudor monarchs continually assailed them. Parliament granted Edward IV tonnage and poundage and a duty on wool for life in 1465. Besides this, Parliament granted the new Yorkist King frequent fifteenths and tenths.

But, not content with Parliament's generous grant, Edward initiated a new method of extracting money from his subjects, without the consent of Parliament—called "benevolences". The benevolence was a "gift" made to the King by individuals or groups, ostensibly out of charity, but really under coercion. This means of extortion differed from the "forced loans" of Richard II only in that the King incurred no obligation for repayment.

Apparently no objection was made in Parliament to this unconstitutional tax. Edward IV also raised additional revenue by reviving obsolete statutes and laying fines for breaches of them. He also collected ancient debts due the Crown. This enabled Edward IV to rule England as an absolute monarch. He raised revenue in violation of the English Constitution and the clear weight of precedent. During his rule not a single statute was enacted in redress of grievances. And, amazingly, Parliament seemed to acquiesce to the King's assertion of his prerogative. Edward IV surely set back the development of English constitutional history.

Upon Edward IV's death in 1483, the crown passed to his son—Edward V. But the twelve year old King lost his crown in two months to his scheming uncle, Richard III. Richard III received a grant from Parliament in 1484 of tunnage and poundage and a duty on wool for life. But as his reign ended with his death on Bosworth Field the next year, he didn't have an opportunity to emulate the despotism of either Richard II or Edward IV.

However, Parliament spoke out against benevolences during Richard III's reign. The address which was presented to Richard in 1483, when he was invited to assume the throne said:

"For certainly wee be determined, rather to aventure and committe us to the perill of oure lyfs and jepardye of deth, than to lyve in suche thraldome and bondage as we have lyved long tyme heretofore, oppressed and injured by Extorcions and newe Imposicions, ayenst the Lawes of God and Man, and the Libertee, old Police and Lawes of this Realme, wheryn every Englishman is enchanted."

(Quoted in English Constitutional History by Thomas Pitt Taswell-Langmead, Pp. 232–3.)

Further, Richard III's first and only Parliament in 1484—declared benevolences illegal and said that they were to be "dampened and annulled forever."

(Quoted in The History of Parliamentary Taxation in England by Shepard Morgan p. 217)

Henry VII—the first of the Tudor kings—won his crown at the Battle of Bosworth. During his reign—and that of the other Tudor monarchs—Parliament didn't increase its powers; but, rather, it lost ground.

Though Henry VII ruled for nearly a quarter century, he only called seven Parliaments—and six of the seven met within the first eleven years of his reign. Henry's first Parliament gave him a grant of tonnage and poundage and a duty on wool for life. In 1491, Henry VII resorted to benevolences to raise needed revenues. And, in 1495, Parliament turned its back on the precedents and made this benevolence lawful ex post facto. It further impowered the King to enforce the promises of those who had promised money but not yet paid it. The act points up the validity of Maitland's observation that:

"Under the Tudors the danger is of a different kind—it is not so much that the King will tax without Parliamentary consent, but that Parliament will consent to just whatever the King wants and will condone his illegal acts."

(The Constitutional History of England By F. W. Maitland, p. 181).

Like Edward IV before him, Henry VII revived ancient statutes and rigorously exacted fines for every violation of them.

Henry VII was succeeded by his son, Henry VIII, in 1509. His first Parliament granted him tunnage and poundage for life, but with the distinct proviso:

"That these grants be not taken in example to the Kings of England in time to come."

(Quoted in English Constitutional History by Thomas Pitt Taswell-Langmead p. 256)

The four following parliaments granted Henry VIII liberal subsidies to wage the war with France. But in 1523, Cardinal Wolsey committed a severe breach of Parliamentary privilege. Since the time of Henry IV it was the custom that the King should not know of the progress of a grant of taxation until the House of Lords and Commons had agreed on the grant. Wolsey reversed this process.

He went to the House of Commons with all his following:

"With his maces, his pillars, his pole-axes, his cross, his hatte, and the great seal too. . ."

(Quoted in the History of Parliamentary Taxation in England by Shepard Morgan, p. 223)

Wolsey asked the Commons for 800,000 Pounds, collected over four years and to be raised by a 20% property tax on everyman's lands and goods. He addressed the House of Commons and it debated the question for fifteen days. At the end, Parliament granted the King a graduated property tax, much smaller in amount and to be paid over four years.

As a consequence of this action, Henry VIII did not summon the next Parliament for seven years. In the meantime, the King raised needed revenues through "forced loans" and "benevolences". The forced loan of 1522 required every man to swear to the value of his possessions and to contribute a ratable portion according to such declaration, on the King's promise of repayment out of the next subsidy granted by Parliament.

In 1526, commissions were issued for the collection of a sixth from the goods of the laity and a fourth from the clergy. This demand was unanimously resisted. The people knew enough law to know that these exactions were illegal. The clergy led the movement against the tax, asserting that:

"The king could take no man's goods without the authority of Parliament."

(History of Parliamentary Taxation in England by Shepard Morgan, p. 225)

The royal commissions were forcibly resisted in several counties and open rebellion erupted in Suffolk. The effect of this was to force Henry VIII to withdraw the commission.

As his "forced loan" scheme had failed, Henry VIII now demanded a voluntary benevolence. However, the people of London objected so strenuously to this, as it was illegal under the statute of Richard III, that it also had to be withdrawn.

In 1544, Henry VIII again sought a "forced loan" from all persons who earned 50 Pounds or more a year. Parliament was so subservient to Henry VIII in this that a statute was enacted granting the King all sums borrowed from his subjects since 1542, with a further provision that any money which his Majesty should have already paid in discharge of these debts, should be refunded by the creditor or his heirs.

Henry VIII died in 1547. He was succeeded by his son, Edward VI, who died a child. Edward was followed by Mary. After Mary's five year reign, Queen Elizabeth I ascended to the throne.

Though Queen Elizabeth's rule was despotic, she was loved by the people of England. And, Parliament granted her taxes with great liberality. She exacted "forced loans" from the wealthy—but endeavored to repay them as soon as possible. Elizabeth circumvented Parliament by raising revenue through the grant of monopolies—based upon the right of the Crown to assure an inventor the exclusive benefits of his invention or innovation.

The importance of the Yorkish and Tudor monarchs is that though they did little to advance Parliamentary supremacy in taxation and spending—they did not destroy whatever progress had been made. And, the later effort of the Stuart kings to end Parliamentary supremacy was responsible for the establishment of permanent parliamentary control over taxation and appropriation.

James I—the first of Stuart Kings was a staunch advocate of the "Divine Right of Kings." He earnestly believed that a King was appointed by God and responsible only to him. His subjects could not resist the King's commands, as that was a sin. James I felt that, as God's deputy on Earth, he was above Parliament, above the laws of England and above the people. He believed that it was his duty to see to the welfare of his subjects, for God would hold him accountable for his stewardship. But beyond that point he had no responsibility. Whatever privileges Parliament possessed, the courts possessed, or any individual possessed, were theirs by grace of the King, and were not held by any right. Clearly a conflict between such a monarch, on the one hand, and Parliament and the courts on the other was brewing.

The Common Law courts were strongly opposed to James I's concept of absolutism. Led by Sir Edward Coke—a noted author, Chief Justice of the Court of Common Pleas and later Chief Justice of the Court of King's Bench—many influential judges and lawyers insisted that the Common Law controlled the King's royal prerogative. They asserted that the rights of both Kings and Parliament were derived and limited by precedent.

The Common Law courts did not, however, early accept Coke's view of the King's limited powers. This fact is pointed up by Bate's Case (2 St. Tr. 371; 1606). As King James I needed more revenue to pay for the necessary expenses of the state, instead of applying to Parliament, he acted on his own prerogative and imposed a duty of five shillings per hundredweight on imported currants—over and above the duty which was set on them by the Statute of Tunnage and Poundage.

John Bate, an English merchant trading with the East, refused to pay the duty. Bate was brought to trial before the Court of Exchequer. The judges were unanimous in approving of the King's right to impose the extra duty on his own prerogative. However, as it was to later develop, this was in incorrect statement of the Common Law.

The right of earlier sovereigns to raise and lower tariff duties by proclamations had been established. But the right had been limited to trade regulation, to secure protection or retaliation and fair trade. As one distinguished English constitutional historian has written:

"In using it not for such purposes but to raise revenue, James was assuming an important constitutional power which the precedents did not warrant. It was perhaps natural, however, that a court of law, bound normally by the letter of precedents rather than by the remote consequences which might be involved, should decide as it did." (Constitutional History of England by George Buxton Adams (Holt, 1938).)

Bate's Case is representative of the conflicts between the Crown and Parliament that dominated England for the next eight decades. The King would stretch a precedent to cover a substantial increase in royal power, and the courts held that the precedent justified the new application. On the basis of the decision in Bate's Case, for instance, James I shortly afterwards issued a new "Book of Rates" in which heavy additional duties were placed on a great number of imports.

However, Parliament did not sit idly by as the King imposed new and unlawful taxes. In 1610, the Commons objected to the schemes James I had used to raise more royal revenue. It enacted a bill providing that no new duty could be imposed without the consent of Parliament; but the House of Lords rejected it.

King James then forbade the Commons to continue. The Commons thereupon refused and announced that they would proceed to "a full examination of the King's alleged prerogative powers regarding taxation." As James had tired of Parliament's haggling and at its delay in granting money to him, he dissolved Parliament in February 1611 and didn't call a second Parliament until April 1614.

But, James I's second Parliament was inflamed over the King's imposition of new taxes without Parliament's consent and unanimously enacted a bill denying the King's right to impose taxes on his own initiative. As Parliament refused to grant the King the taxes he desired, James dissolved it in June before it had voted him any taxes—and sent four members of the House of Commons to the Tower in punishment for their conduct.

James I's third Parliament did not meet until January, 1621—and during the decade from 1611 to 1621, when no Parliament except that of 1614 which did nothing, had met, James resorted to a host of extra-legal means of raising revenue. "Forced loans" were used, old debts and fines were ruthlessly collected, titles were sold and a new title of baronet was created.

The outbreak of the Thirty Years' War between the Catholic and Protestant states of Germany (whose leader, Frederick, the Elector of the Palatinate, was James' son-in-law) incited England to go to the aid of the Protestants and the people bitterly opposed the King's policy of securing peace in Europe through an alliance with Spain. As Spain's invasion of the Palatinate in 1620 signaled that England's involvement in the conflict was imminent, James summoned Parliament to meet at the end of January, 1621 to provide for a war if it should prove necessary.

When Parliament met, James asked that it appropriate 500,000 Pounds for an army. Parliament appropriated 160,000 Pounds for the King and then began to debate their grievances. Led by Sir Edward Coke, Commons attacked the granting of industrial patents to courtiers; it impeached the Lord Chancellor—Francis Bacon—for accepting bribes; and it placed "The Great Protestation" in their Journal which declared that the Commons' privilege were "the ancient and undoubted birthright and inheritance of the subjects of England."

This infuriated the King. He ripped the "Great Protestation" from the Journal and then dissolved Parliament. Two leaders of the House—one of them Sir Edward Coke—whom the King had earlier dismissed from the post of Lord Chief Justice for refusing to accept his commands—were imprisoned. Another member—John Pym—a wealthy landowner who sat for a small Wiltshire borough, was placed under house arrest.

As James I couldn't wage war with Spain without Parliament's granting him taxes to raise an army and buy supplies, he sent his son and The Duke of Buckingham to Madrid in 1623 to arrange a marriage with the Infanta. But when the negotiations broke down they returned to England hot for war. James now called the Parliament again.

James' fourth Parliament was summoned in 1624 and unlike the earlier Parliaments of his reign, it felt more friendly toward the King. This Parliament was determined to fight a war against Spain in the Elizabethan manner and it was eager to assist the Protestant cause in Germany. The House of Commons voted 300,000 Pounds for the war against Spain but, as it concluded that the King was often spending money for purposes against its wishes, Commons devised a scheme for parliamentary control, not only of its levying but of its spending. Therefore, to ensure the proper expenditure of money, the Subsidy Bill contained a clause whereby money was paid into the hands of commissioners appointed by the House of Commons, to be expended by them upon direction of the council of war.

James I's death in 1625 brought his son Charles I to the throne. As he was eager to wage war with Spain, he asked his first Parliament for a large grant of money for that purpose. However, as the Commons were resolved to abolish the abuses of Royal prerogative it refused to vote adequate funds to fight Spain.

The House of Commons immediately made it clear that they intended to debate foreign affairs and religious reforms as they didn't want to take any chance on Charles dissolving Parliament as soon as it had granted him the needed taxes. Instead of granting tonnage and poundage duties to the new King for life—as had been the custom of two centuries—the Commons gave them for one year only. In fact, Charles didn't get this income at all as he later dissolved Parliament before the House of Lords had passed the bill.

The second Parliament of Charles I met from February to June, 1626. The House of Commons proceeded to prepare for the impeachment of the Duke of Buckingham—the King's favorite minister—whom it believed responsible for the worst abuses. The King told the Commons that he would not permit Buckingham to be impeached and informed them that their first business was the granting of supplies and that he would not permit his servants in high posts to be impeached for they merely acted at this command. The Commons refused to grant supplies until their grievances were redressed.

On May 8, the impeachment of Buckingham was brought up to the House of Lords by the managers for the Commons. Two of them were immediately thrown into the Tower for things they said in their speeches—and the Commons resolved to do no further business until the release of their members. The King yielded with reluctance, but when the Commons resolved that tonnage and poundage could not legally be collected unless granted and that no supply would be voted until Buckingham was removed, the King dissolved his second Parliament on June 15.

Clearly since Charles' accession to the throne, Parliament had assumed a new place of power in the state. Not even the relatively powerful parliaments of the Lancastrian era, or of James I showed the same spirit. But Charles' Parliament felt themselves on a par with the King. They were resolved to do battle with the sovereign on equal terms—for the passage of time had given Parliament formidible weapons: the levying of taxes, the power of impeachment and the various other privileges of Parliament.

As the Commons had once again refused to vote the King supplies for the war, he had to find a way to meet the necessary expenses of government. Charles I now pawned the Crown jewels and mortgaged Crown lands. He began to levy tonnage and poundage without Parliamentary consent and tried to exact the revenue denied to him by levying a "forced loan" which, again, was taxation without Parliamentary sanction. The "forced loan" was widely resisted, whereupon a number of knights and rich men were arrested under royal warrants for their refusal to pay, while soldiers were quartered with the King's poorer subjects.

Chief Justice Carew, who refused to find these "forced loans" legal, was dismissed from office. After this, the Court of King's Bench granted Writs of Habeas Corpus to five knights who had been imprisoned by the Crown for refusing to contribute to the "loan." But, though the Writ was granted, the Warden of the Fleet refused to release the prisoners because he declared that he was acting on a warrant from two members of the Privy Council ordering that the knights be held "by special order of his Majesty."

This precipitated a grave constitutional crisis. The prisoners, upon being informed that they were not entitled to bail asserted that the ancient rights of the subject set forth in Chapter 39 of the Magna Carta were at stake. They contended that freedom from arbitrary arrest was basic to English liberty. But the knights were not released, and Chief Justice Hyde held in the Case of the Five Knights (or Darnel's Case) that:

"If no cause of the commitment be expressed, it is to be presumed to be a matter of state which we cannot take notice of."

Thus, the constitutional question of whether Charles I could imprison his subjects without cause was, for the time, left unsettled.

After flagrantly violating the liberties of his subjects in unexampled fashion, Charles was compelled—by the necessities of the war with France—to call another Parliament which met on March 17, 1628. Among the members of the new House of Commons were no fewer than twenty-seven of the men who had been imprisoned by orders of the King for refusal to pay the "forced loan."

When Charles I addressed Parliament, he concentrated upon the grave dangers that England faced in the war with France and Spain. He declared that it was their duty to find a speedy way of supplying the government's needs and that if they failed to do so, he would have to use those other means which God hath put into my hands, to save that which the follies of particular men may hazard to lose.

But Parliament paid no attention to the King's urgings. Instead of making even a small grant, the House of Commons immediately set to work to reform the abuses before granting a tax. However, unlike earlier Parliaments, this concentrated not on the King's ministers—but on the King's misinterpretation" of the constitution which Commons felt threatened to establish absolute government. The Commons—and the nation—were greatly inflamed about four specific grievances: illegal taxation, arbitrary imprisonment, the billeting of soldiers on individuals and punishment by martial law. The Commons put their grievances to the King in the Petition of Right.

In the Petition of Right, the Commons did:

Humbly pray your most excellent Majesty that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax or such like charge without common assent by act of Parliament.

The King reluctantly agreed to consent to the Petition of Right. And, though it was of little or no immediate practical value, ". . . the historical and constitutional meaning of the Petition of Right stands in line with the more important Magna Carta of 1215 and the Bill of Rights of 1689 . . . It stated principles and precedents and it became a precedent itself in the long assertions of the powers of Parliament and the supremacy of law in England." (A Constitutional and Legal History of England by Goldwin Smith (New York; 1955) P. 320.

As another noted scholar has written of the Petition of Right, it was: . . . the first attempt made since the beginning of the struggle between King and Parliament to draw a definite line between prerogative and law, to fix with some exactness the point where the power which is above the law shall end and where the reign of law shall begin. This it attempts to do, not as to a general matter but in specific particulars. That in doing this it reduces the King's prerogative powers and sets new limitations to them is quite in harmony with the spirit of past constitutional growth." (Constitutional History of England by George Burton Adams (NY; 1938) P. 295).

After Charles I accepted the Petition of Right, the Commons voted him money. But relations between the King and Parliament had by no means healed. They soon clashed on the question of tunnage and poundage—which the King had exacted without the consent of Parliament and the Commons was determined to place the grant upon its true constitutional basis. A bill was then prepared granting tunnage and poundage, but it was delayed to remonstrate against the King's illegal collection of tunnage and poundage duties. To prevent this Charles brought the session to an end.

When the second session of Charles' third Parliament opened six months later, Commons was still incensed with the King and proceeded in its battle against unlawful taxation. Fuel had been added to the fire by the proceedings against certain merchants who had refused to pay the duty. Their goods had been distrained, and when the owners sued on writs of replevin, the courts found for the Crown holding that the King's right had been established beyond question in the Case of Bate—which had arisen two decades earlier.

In order to prevent the Parliament from further remonstrating against the King's claim to tunnage and poundage, Charles at first ordered a short adjournment and then a longer one. But this time, Commons was in no mood to go home until it had placed its opinions on record. The House of Commons accordingly voted against adjournment.

When the Speaker declared that he had the King's orders to leave his chair, he was forcibly held down by two members, while the door was locked to prevent members who wished to go from leaving. The House then passed resolutions providing that:

(1) Whoever advised the collection of tunnage or poundage without Parliamentary consent should be considered "a capital enemy of the kingdom and commonwealth."

(2) Whoever voluntarily paid tunnage and poundage thus levied should be considered a traitor to the liberties of the land.

After these resolutions were passed, the Commons voted to adjourn.

The King was outraged at the Commons' action. He accused the Commons of attempting to exert an universal, overswaying power which belongs only to me and not to them.

The King dissolved Parliament on March 10, 1629—and it would not meet again for eleven years. The King was determined to govern England "by those means God put into my hands."

Charles moved swiftly to punish the leaders of the opposition. Nine members of the House of Commons were arrested, sent to the

Tower and their papers seized. When they sought a Writ of Habeas Corpus, the prisoners learned that they were detained under the King's order. At their trial, the prisoners pleaded the privileges of Parliament and declined to make any other plea. The court found that they should each be imprisoned at the King's pleasure.

As no adequate grant of taxes had been made by any of his three Parliaments and he no longer dreaded the checks which might be imposed by Parliament, the King proceeded to govern England without Parliament. He continued his illegal levies of tunnage and poundage. He revived such obsolete customs as the compulsory distraint of knighthood and forest fines based upon Henry II's Assize of the Forest of 1184. He expanded his extensive sale of monopolies—soap, fisheries, the vintner's company, etc. He collected feudal dues whenever he could.

But the most important discovery of new revenue was the revival and extension of "ship money." In medieval times this had been a levy imposed in times of national emergency on the port towns of England by which these ports were asked to provide ships for the navy. Charles' first writ for ship money was issued in October, 1634 and it was near enough to the traditional practice not to lead to serious opposition. It called upon port towns to furnish ships of war, but of a size which were only found in London, or in lieu of these to levy a sum of money sufficient to cover the cost of one. As one author has observed: "The demand was a transition from ancient precedent to a practically undisguised tax." (Constitutional History of England by George Burton Adams (New York, 1938) P. 301).

The Lord Mayor of London at first resisted the writ. But it was soon acceded to with little opposition.

When the second writ appeared in August, 1635, it was extended to all the Kingdom on the ground that as the support of the navy concerned the safety and defense of all, so all should contribute to that end. It then became clear that ship money had become a general tax on the people of England. For, whereas the earlier writs only demanded the actual equipment of ships, the latter writs directed the sheriffs to assess every landowner and other inhabitants—according to his particular means—and to enforce the payment by distress.

Considerable resistance developed to the second writ. It was felt that ship money had become, in fact, a tax levied without Parliamentary grant—violating the Petition of Right.

The third writ was issued in October, 1636, and like the second extending the levy to the whole kingdom made it plain to everyone that the King had discovered a method of annual taxation which could be used to finance the government.

And, it soon became evident that if the King could lay such a tax upon alleged grounds of national necessity—determined by himself alone—that there was no limit to this arbitrary taxation. And, believing that the writs of ship money were clearly an unconstitutional tax, many persons resisted them. But by far the most celebrated case was that of John Hampden. In 1637, the sum of 4500 Pounds was demanded from Buckinghamshire. John Hampden—a cousin of Oliver Cromwell—refused to pay twenty shillings assessed upon his land in the parish of Stoke Mandeville. Hampden was tried before the Court of Exchequer in November, 1637.

Hampden was eloquently defended by Oliver St. John who argued against the tax alleging that it violated the Magna Carta, the statutes of Edward III, the Petition of Right and there was no national emergency as England was not actually engaged in a war at that time. But the judges found for the King. Two judges decided in favor of Hampden on technical grounds and three judges found for him on all counts. But the remaining seven held against him. One judge wrote that:

"The King pro bono publico may charge his subjects, for the safety and defense of the kingdom, notwithstanding any act of Parliament, and a statute derogating from the prerogative doth not bind the King; and the King may dispense with any law in cases of necessity."

Further, another judge wrote that:

"No act of Parliament can bar a King of his regality—therefore acts of Parliament to take away his royal power in the defense of his kingdom are void."

But, though Hampden had lost the case, he had won a place in the hearts of the people of England for resisting the hated tax. The trial galvanized the resistance of the people to the tax. But, in spite of popular resistance to it, the King succeeded in financing the government without Parliament for eleven years. As one writer has observed:

"The financial dependence of the King on Parliment, which was at that date the only thing making a meeting of Parliament necessary, seemed for the moment at least to be successfully overcome."—Constitutional history of England by George Buxton Adams (New York, 1938, P. 304–5).

For a period, Charles I's arbitrary measures were successful and it appeared that Parliament would never again be summoned to Westminster. During this period Charles and Archbishop Laud endeavored to reconstruct the Church of England according to the aristocratic ideas of the high church party—which had the effect of ending religious and political liberty in England. And, the ensuing persecution of the Puritans drove many to America.

The oppressive policies of Charles I are of more than passing interest to Americans because they generated the basic constitutional ideas which the English Puritans brought to America and which—in a century and a quarter—became the bedrock on which the American Constitution was fashioned.

As Charles was apparently successful in reconstructing the Church of England, he endeavored to do the same thing to Scotland by crushing Presbyterianism in Scotland. In the summer of 1637, Charles and Archbishop Laud sought to impose a version of the English Book of Common Prayer on the Church of Scotland. But the Scots were too thoroughly devoted to Presbyterianism to accept this. When an attempt was made to read services from the Book of Common Prayer in Edinburgh, riots broke out. The Scots set up a resistance group known as "The Tables" and the Scottish Covenant was drafted inviting the Scottish Protestants to swear the resist to the death these religious innovations. To meet the Scottish resistance, Charles was compelled to raise an army—which placed too great a strain on his makeshift finances.

When the Chancellor of the Exchequer informed him that the Royal Treasury was empty, Charles sought a contribution from London and then from the entire nation and loans were requested. Another obsolete levy upon the counties for the support of a military force—"coat and conduct money"—was revived. But every levy was resisted and failed to raise the needed revenue.

Therefore, the King bowed to necessity and called what became known as the "Short Parliament"—which met on April 13, 1640. But it soon became evident that the members of the House of Commons sympathized with the Scots and would do nothing until their many grievances were redressed. The King pressured Commons to vote an immediate grant of money to allow him to prosecute the war—and to settle their grievances later. The House of Lords voted that appropriations should come before grievances which the Commons rejected as a "high breach of privilege." The King then offered to give up ship money in return for a grant of twelve subsidies. But the Commons balked at this too—holding the collection of ship money to be a crime and the judgement against Hampden an infamy; which they would never assent to.

When Charles was convinced that they could not be moved, he dissolved the Parliament, after a three week session in which nothing had been done. But, though Parliament accomplished little of a tangible nature, it learned how strong it was against the King and it learned that the bulk of the English people were united behind them.

After the dissolution of the "Short Parliament", the King imprisoned some members of the House of Commons and the sheriffs ruthlessly proceeded to collect ship money and coat and conduct levies. The King seized pepper from the warehouses of the East India Company and bullion from the London goldsmiths. The Lord Mayor and aldermen of London were coerced into making a "loan." A convocation—which supported the King's Scottish policy—tried to support a general benevolence; two attempts were made to get a loan from Spain in return for help against the Dutch; it was proposed that the coinage be debased and it was planned to seize Spanish bullion deposited in the Tower for coinage. But all these efforts were of no avail. They generated very small sums while the expenses of government skyrocketed.

Meanwhile, the army which had been raised posed a critical problem. It was undisciplined, poorly supplied, and scarcely paid at all. It had to be quartered on the country and martial law had to be rigorously enforced—both in violation of the Petition of Right.

Finally, in August of 1640, the Scots crossed the border. When the two armies confronted each other at Newburn—near Newcastle—a mere cannonade dispersed the English ranks. Newcastle surrendered to the Scots and once more the King was forced to come to terms with them.

As the historian Thomas Pitt Taswell-Langmead has observed:

"After the defeat at the ford of Newburn-on-Tyne, the English army, disheartened, undisciplined, and disaffected, had retreated to York, leaving the counties of Northumberland, and Durham to be possessed by the victors. 'The game of Tyranny' observes Macaulay, 'was now up. Charles had risked and lost his stake. . . . His army was mutinous, his treasury was empty; his people clamoured for a parliament; addresses and petitions against the government were presented. Strafford was for shooting the petitioners by martial law; but the king could not trust the soldiers.' "—(*English Constitutional History* by Thomas Pitt Taswell-Langmead; P. 440.)

At the end of August, 1640, twelve peers petitioned the King "to summon a Parliament within some short and convenient time." But in a last-ditch effort to avoid summoning Parliament, Charles seized on an old precedent. As the National Council had once performed some of the functions of Parliament—and as it had continued to meet long after Parliament had been established—the King issued writs for a meeting of Peers at York on September 24, 1640. The Great Council met and concluded a treaty with the Scots, by which they were to hold the two northern counties until a definite peace was made and to receive 25,000 Pounds per month for their expenses. The Council also pledges the security of the Peers to a loan to fill the King's sagging coffers.

But, as this expedient proved inadequate to solve the King's staggering problems, King Charles reluctantly called his fifth Parliament—the so-called "Long Parliament." It met at Westminster on November 3, 1640.

The entire House of Commons stood united in their opposition to the King. Roughly sixty percent of the members of the previous "Short Parliament" were reelected. As one historian has observed:

"The King addressed the Commons in an unusually conciliatory speech, but the Stuart tyranny had gone too far, and the Lower House was absolutely bent upon redress. Neither can the men who came to this Parliament with such a resolve be blamed, for it depended upon them whether people and Parliament should recover their ancient liberties, or become the mere vassals of the Sovereign."—(*History of the English Parliament* By G. Barnett Smith; Volume I, Page 399)

And, in a large sense, it was the Long Parliament which framed the basic constitutional ideals upon which the ,American Republic was fashioned.

Under the leadership of John Pym and John Hampden, the House of Commons struck first at the King's advisors—by impeaching the Earl of Strafford. Strafford was accused of subverting "the fundamental laws", of "exercising tyrannical and exorbitant power." When it became clear that Strafford would never be found guilty of high treason by the judicial process of impeachment before the House of Lords, the Commons turned to condemn him to death by a Bill of Attainder. The bill passed both Commons and Lords. Realizing that he, too, was in peril, the King signed the Bill and on May 12, 1641, over 200,000 people saw Strafford executed.

Meanwhile, Parliament acted to make arbitrary rule impossible in the future. First, to protect itself against a possible "untimely adjourning, proroguing, or dissolving" by the King, it provided that a Parliament could not be dissolved without its consent. Second, in the Triennial Act, it established that Parliament was to meet once every three years, whether or not it had been summoned by the King.

Ship money was next attacked and declared illegal—and the judgment against John Hampden was annulled. The collection of tunnage and poundage duties without the consent of Parliament was made unlawful. Compulsory knighthood and the abuse of forest fines were prohibited.

However, in November, 1641, Parliament prepared the Grand Remonstrance which recited the wrongdoings of Charles I, and set forth what had to be done to remedy national grievances and set forth further demands. For example, it proposed that the King's ministers should be "such as Parliament may have cause to confide in." This Grand Remonstrance passed Commons by a majority of only eleven out of over 300. This angered Charles I and he directed the Attorney General to lay articles of impeachment for treason before the Lords against five members of the House of Commons. And, though the men excaped before they could be arrested, this greatly inflamed the passions of the people and hastened the drift toward civil war.

But, before the civil war actually broke out, Parliament presented its final demands to the King in the so-called Nineteen Propositions. By the terms of the Nineteen Propositions, the privy councillors, the principal officers and judges of the state, the tutor's of the King's children, all were to be appointed only with the approval of Parliament. It asked the King to put royal forts and castles under Parliamentary control, to dismiss his military forces; to take away the votes of all Roman Catholic peers, and to promise that his children would not conclude any marriage not approved by Parliament.

Charles refused and the civil war began—to be terminated in a little over two years. After the Presbyterians had been expelled from Parliament, the remainder (known as the "Rump"), tried the King for treason and sentenced him to death.

What followed were eleven years of military despotism. After Cromwell's death, the dead King's son, Charles II, was placed on the throne. The House of Stuart was restored to the throne, but with no constitutional guarantees. The supremacy of Parliament was not declared in any formal contract, nor was the King required to acknowledge that his powers were limited by, or derived from, the people. Indeed, there was nothing of a constitutional character to even indicate that Charles I had been deposed. And, though, in form and law, the King was supreme—he was now, in fact, subservient to Parliament.

Charles II's first Parliament granted him the proceeds of the Customs for life. Parliament abolished the feudal incidents, e.g., wardship, marriage and knight's service, and the three feudal aids: knighting the King's son, ransoming the King, and furnishing a dowry for his eldest daughter. Parliament made up for the revenues lost by abolishing these by granting the Crown an hereditary tax on beer and some other liquors.

The year 1665 marked the reassertion of legislative control over the spending of the public money, viz., the practice of Parliamentary appropriations. Prior to this time, the King went to Parliament with requests for money. But, generally, once the money was raised, the King could spend it as he wished.

Sir George Downing amended the Subsidy Bill of 1665 to provide that the money raised in accordance with the Bill be applicable soley to the prosecution of the Dutch War—and that money could not be paid out by the Exchequer save by special warrant stating that as the purpose of the payment.

In 1667, Parliament solidified its control of the purse strings of England by appointing a Parliamentary commission to examine the public accounts in order to determine that the funds raised in the Supply Bill of 1665 were, in fact, spent solely for the Parliamentary designated purpose. This Parliamentary commission later expelled the Treasurer of the Navy from the House of Commons for spending public money without a warrant.

As one author has observed:

"The bill was the natural consequence of the liberty of appropriation enjoyed under the Commonwealth. The exercise of the principle of appropriating supplies in detail was not carried to its full extent until after 1689. Its importance is difficult to overestimate. It placed the executive power in a position of perfect dependence upon the bill of Parliament, for the money requisite for any administrative act was to be forthcoming only in accordance with the previously expressed intent of Parliament."—(The History of Parliamentary Taxation in England by Shepard Morgan; New York: 1911; Pp 304–5).

Another writer has written:

"The foundation was securely laid for the changes that followed after his expulsion. Modern Angle-Saxon legislatures have considered the practice of appropriations, now extended to even minute items of expense, to be one of the most essential sources of their power and have guarded it with the utmost care. It is a check upon government policy not by calling a minister to account for what he has done, but by rendering action which is not approved of impossible in advance. The full establishment of the right of appropriation should probably be regarded as the last step in the creation of so great a power in Parliament over the executive that resistance was hardly possible . . ."—(Constitutional History of England by George Buton Adams, New York: 1938, P. 349).

On Charles II's death in 1685, James II acceded to the English throne. But where Charles II had been willing to adjust to the Parliamentary system, James II was not. James II lacked Charles II's tact and diplomacy. He assumed the Crown with the full intention of exercising arbitrary authority—as had the earlier Stuart Kings. He attempted to bring Roman Catholicism back to England.

Prior to calling his first Parliament James II had collected customs duties by proclamation—i.e. without Parliamentary sanction. But, in spite of this poor beginning, the Parliament—which was overwhelmingly royalist—granted him a large revenue for life and seemed ready to do anything else within reason which the King wished. But this spirit of harmony didn't last long.

Primarily because of his zealous desire to restore England to Catholicism, James clashed with Parliament. In 1685, Parliament balked when the King asked that a large standing army be raised in which Roman Catholics were to hold key positions. Instead of complying with the King's request, the Commons gave the King less than he sought and attempted to impose conditions. This infuriated the King to the extent that he committed a member of the Parliament to the Tower for saying: "We are all Englishmen and not to be frightened out of our duty by a few high words."

Refusing to tolerate such criticism, the king dismissed his first, and only, Parliament.

These and other outrages so inflamed the nation that in November, 1688, William of Orange was invited to come to England. An advisory "assembly" was called to assume the provisional government of England pending the calling of a Parliament—composed of the Lords and of the members of the House of Commons which last met in the Parliament of Charles II. The assembly advised the calling of a convention Parliament, and letters were issued for the holding of Parliamentary elections. The convention Parliament met on January 22, 1689, and remained in session until August 20, and later continued its work in a second session.

On February 13, 1689, William and Mary were crowned subject to the conditions expressed in the *Declaration of Right*. That same day, the Convention Parliament declared itself to be the Parliament and its acts valid law.

The *Declaration of Right* with some slight changes was—in the second session of Parliament—incorporated into the *Bill of Rights*. Specifically, the *Declaration of Right* enumerated the arbitrary acts of James II and declared each of them specifically to be illegal.

On October 25, 1689, the *Declaration of Right* was enacted by Parliament, in statutory form, as the *Bill of Rights*. It stated that King James "did endeavor to subvert and extirpate . . . the laws and liberties of this kingdom . . . by levying money for and to the use of the crown, by pretense of prerogative, for other time and in other manner than the same was granted by Parliament." Then followed the absolute assertion "that levying money for or to the use of the crown by pretense or prerogative, without grant of Parliament for longer time or in other manner than the same is or shall be granted, is illegal."

The *Bill of Rights* is—without question—one of the most crucial documents in Anglo-American constitutional history. For, it marked the end and summed up the results of a struggle which had lasted for over four centuries. As Maitland observed, with the *Bill of Rights* "one great chapter of English history had been closed."

Clearly the impact of the *Bill of Rights* was not limited to England. It had as great an impact on the British colonists who came to America—who had suffered as much in their charters and in their free governments from the absolutism of Charles I and James II as had the people of England. And, reacting from British experience—and from their own experience under British rule—the Framers wrote into our Constitution the exclusive function of Congress to impose taxes and to control public expenditures by appropriations.

As one author has observed:

> "With the passing of the Bill of Rights the principle was vindicated that Parliament rather than the crown has the power to tax . . . The corollary principle that Parliament has the power to appropriate supplies for specific purposes and that it can demand an accounting for the money so appropriated were accorded general acquiescence then and thereafter."—(The History of Parliamentary Taxation in England by Shepard Morgan; New York: 1911; pp. 307–8).

The PRESIDING OFFICER (Mr. BENTSEN). The question is on agreeing to the amendment of the Senator from Idaho (Mr. JORDAN).

Mr. McCLELLAN. Mr. President, I just want to make a brief statement about this.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I have prepared a comparable amendment, not identical, to be introduced and would have possibly offered it had I the opportunity to do so. However, during the afternoon, I was engaged in a conference with the House members of the Appropriations Committee on the Supplemental Appropriation bill. I would prefer to have had the amendment I prepared to the one of the Senator from Idaho (Mr. JORDAN), but it will have to go to conference if it is adopted and some moderate change would be made in conference if it is found advisable to do so. Since it does have the basic approach that I have in the amendment that I intended to offer, I intend to support this amendment.

Now I want to say at this time that I will have serious difficulty voting for the House bill just voted for the $250 billion limitation.

I am reluctant, most reluctant, to vote for a measure and confer upon the Chief Executive the power to completely reject and to strike from the bill what Congress, on any project or program that Congress, in its judgment and wisdom, has established and authorized under the law.

For that reason, Mr. President, I hope that the Senator's amendment will be agreed to.

While I have this moment, Mr. President, I would like to say to the Senate that immediately after action on this amendment, if I can get the floor, I intend to offer an amendment, adding a new title to the bill.

It will be noticed in this bill that provision has been made for a joint committee to deal with the study from now until some time next year. That would be a temporary committee. And that committee's functions and duties would expire.

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Mr. President, I am very interested in the Senator's proposed committee.

However, I would like to tell the Senator that at about 2:30 this afternoon I was to be recognized. And I understood that I was the next one to follow the Jordan amendment. I will not take very long.

Mr. McCLELLAN. Mr. President, I am very sorry. The Senator understands that I have not been on the floor. If that is the order, of course, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I would be happy to yield to the chairman of the Appropriations Committee if he desires. However, I would prefer it if I could proceed.

Mr. McCLELLAN. No. I will confer with the Senator about this in the course of our voting. However, in the meantime I intend to advise the Senate that I shall offer an amendment to add a new title, and the new title will be practically identical to a bill that the Senate passed on eight different occasions to create a Joint Committee on the Budget, not temporary, but permanent. I have added one thing to its duties, and that is that after performing the duties already provided in that bill, that it submit its recommendations with respect to a ceiling each year in the budget on the amount of appropriations we should make.

I hope that amendment will be adopted. I have just taken this moment to make mention of my purpose to support the distinguished Senator's amendment. And I think that it may need some small modifications, at least in conference. But I shall support it. And I would hope that the Senate would agree to it. At least, we passed this bill eight times, and the House only rejected it one time, and only rejected it by 15 votes. That is the first time they considered it. They never could get to a vote before that because it was opposed by the chairman of the Appropriations Committee of the House primarily. Now that the House has awakened to the necessity for some kind of committee, for some kind of study, and for some kind of additional service that is necessary for the Congress to ably and properly and effectively perform its duties, I think it is time to consider the bill that the Senate has already passed eight times. I think it is perfectly appropriate that that measure be adopted as an amendment and add a new title to the bill.

Mr. PASTORE. It was my privilege for the past several years each time the distinguished Senator, the chairman of the Appropriations Committee, introduced his bill for a joint committee, to consponsor that particular legislation. As I understood, it was not exactly a study. It was not a study at all. But here we are dealing with $250 billion every year, which is a tremendous amount of money. It comes to the committee under 12 different titles, and there is no coordination.

We do not know once we have appropriated the money just how the money is being spent. We have no facilities, no faculties, to follow that money to make sure. The only opportunity we have is when they come up again, to ask them how they spent the money last year. We have to take their word for it.

After all, the Office of Budget and Management has a continuance of operation. They can follow these things through with the administration. But we have no facilities, no faculties at our disposal.

What the Senator did suggest was that we would have a joint operation with the House, that we would have proportional steps in there, that once we appropriate money, we make sure that the money has been used for the purpose for which it was appropriated. That was the purpose of his bill.

Mr. McCLELLAN. That was one of the purposes. We hear only the appropriations on most every bill, with one or two exceptions, like Public Works. But we hear primarily from agencies that want the money to spend, but there is no way for us to check against the immediate intentions they say they have and the information they submit to us.

While I have the floor, I would like to suggest to my colleagues that this bill to which I have referred and that has passed a number of times had many cosponsors. In the 87th Congress it had 67 cosponsors. In the 88th Congress, it had 77 cosponsors. In the 90th Congress it had 66 cosponsors. So at least nearly two-thirds of the Senate have cosponsored the bill each time in the past.

Now, I do hope tonight, or when this amendment is offered, that I will have the support of my colleagues who have heretofore been very well advised as to what this proposal will do and the need for it.

Mr. BENNETT. Will the Senator yield to me?

Mr. McCLELLAN. I am glad to yield.

Mr. BENNETT. As the manager of the bill, I think I am prepared to accept the amendment of the Senator. I would like to see it. I would appreciate the opportunity to look at a copy of it. By the time the Senator is ready to offer it, I think we would probably be willing to accept it without question.

Mr. McCLELLAN. I will be glad to do that. I would like to suggest one thing to be added to the bill, other than technical amendments not necessary to meet existing law. This clause has been added to the bill. This is under subsection (2) of some section of the bill—the duty of the committee:

> Recommend to the appropriate standing committees of the House of Representatives and the Senate such changes in existing laws as may effect greater efficiency and economy in government.

And we added at that point:

> (b) a ceiling for expenditures and net lending under the budget of the United States Government for the fiscal year.

Mr. BENNETT. May I see that?

Mr. McCLELLAN. Yes. This is the only one I have before me now. It is one I shall want to introduce.

Mr. BENNETT. After the Senator from Wisconsin is recognized. I will be glad to discuss it with the Senator.

Mr. McCLELLAN. That is the only substantive change made in the bill as it passed the Senate.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. CRANSTON. Mr. President, I am delighted that the chairman of the Committee on Appropriations lends his support to the Jordan amendment. The Jordan amendment is the way we can have a ceiling without delegating the authority of this body to the executive branch.

The distinguished Senator from Oregon (Mr. PACKWOOD) made an eloquent, articulate address on this topic, and it is a very important topic.

I believe, contrary to his conclusions, that the Jordan amendment gives us the opportunity to behave in a fiscally responsible way while retaining our power.

The Senator went through a long history respecting the abdication of power.

Mr. President, behind the Jordan amendment is the Percy amendment, which I have been privileged to cosponsor. It does set a procedure where we can have a solid, constructive, prudent approach to this matter, to set a ceiling that takes into account what we can expect to come in and take out, and put that together in an overall budget, which is what the Senator from Oregon discussed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The message also announced that the House insists upon its amendment to the bill (S. 2087) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. RODINO, Mr. SEIBERLING, Mr. DANIELSON, Mr. DENNIS, and Mr. MAYNE were appointed managers of the conference on the part of the House.

TEMPORARY INCREASE IN THE DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. JAVITS. Mr. President, I shall be brief. I wish to put the Senate in mind of another point which has been made, in addition to the very, very moving address of the Senator from Oregon. I think we all liked it so much because he does not speak too often and it was really a great speech. Many of us feel he is entitled to our sincere congratulations.

He put me in mind of talk in the corridor that whatever we pass will go right down the hatch in conference and we will be right back here with a $250 billion ceiling, which is just like the administration asked for and which passed the other body.

So I express the hope, as one Senator, that when I vote "yea" on the Jordan amendment, because I agree with the Senator from Georgia, the Senator from California (Mr. CRANSTON) and many other Senators that this is the way to do it under present circumstances and because the people have a say, in this, too, and I think they have a right to feel as they do about expenditures and taxes, that we are going to stay with this and we should. By the size of the vote we serve notice that conference reports coming back here with these provisions dropped down the nearest hole are not going to find favor in the Senate.

Mr. President, that is one of the things that the speech of the Senator from Oregon should inspire in us all. This is not just a vote that we are not for giving up our powers on this amendment, but these things have a way to come back in a final way with lots of feeling.

I hope Senators will vote with the understanding that when they vote this way on the Jordan amendment they will vote so that there votes will not be meaningless. I hope very much the size of the vote and the conviction of the Senate will carry that message.

Mr. SCHWEIKER. Mr. President, I rise to strongly associate myself with the remarks of the Senator from New York (Mr. JAVITS). As a cosponsor of the amendment of the Senator from Idaho (Mr. JORDAN) I believe this is a very important basic principle. I certainly concur with the thoughts of the Senator from Oregon.

I thought the Senator made some very fine statements, explicit points, and pertinent principles. I differ with him slightly. I feel that the way to do the things that he wants to do is to vote for the Jordan amendment, to stand up and vote on that measure. Nevertheless, I commend him and I join with the Senator from New York (Mr. JAVITS) in saying that if this body expresses its favor with the Jordan amendment, and I hope for that, I could not vote for a conference report which would come back and incorporate the House approach, which is the reason the Senator from Oregon so well outlined it. I associate myself with the Senator from New York because that could be the issue.

I believe the Senator from Idaho (Mr. JORDAN) has the votes to win that basic issue. I hope it does not stop there. The conferees should take this into account in conference because it is a gut issue and as a gut issue I am going to vote down any conference report that goes back to the House approach of giving away economic responsibilities.

Mr. GRAVEL. Mr. President, I share the same views as my colleague. I, too, went over to my colleague from Oregon and congratulated him on a fine speech. In fact, I can say that during my service here it is the finest speech I have heard in this Chamber. I have heard better rhetoric but I have heard no better grasp of history or better logic of an important problem affecting this Nation. So I am going to pay him what to my mind is the ultimate compliment, when I hear something very good. I say to him that he persuaded me. I was going to vote for the Jordan amendment; I am now going to vote against it.

It is not too often in the legislative process that minds are really changed in this Chamber, because of the operation of the system. But I was persuaded. I went up to my colleague from Oregon and I asked what solution he had. I understand the Jordan amendment. It is a tinkering process to get to another goal. Of course, it is true, and I understand the statement of the Senator from New York and the statement of the Senator from Pennsylvania, that we are going to continue that quid pro quo; we will go for that if something does not occur; but that is the way erosion usually takes place, with one simple act.

I asked the Senator from Oregon what his solution was. He said he was going to vote against the Jordan amendment. Then, he was going to vote against the whole piece of legislation. That strikes me as logic because there is no way we will get into trouble if we do not hold things down.

I do wish to address a question to a member of the committee. What would happen if we voted this down? I address that question to the Senator from Utah (Mr. BENNETT), who has just returned to the floor.

Mr. BENNETT. One week after October 31 the Federal Government would be unable to pay its bills. It could not meet its obligations. The dollar would die in the world market because nobody could trade it. We would have about 1 week's flow; 1 week's money in the bank, After that week the Federal Government would be bankrupt, unable to pay its bills, and I cannot conceive that any Senator would want to take the responsibilty for voting for that.

I have been in the Senate a long time and I know there are always votes against the debt limit. Remember that the debt limit is the basic objective of this bill—the spending ceiling is the secondary objective. I know many Senators are going to vote against the debt limit in this bill—I suppose praying in their hearts that enough of us will vote for it so that this event will not take place, but there is not any question about it. This is what would happen.

Mr. GRAVEL. If my colleague will excuse my ignorance, I would like a little information as to how this would be precipitated. What would really happen?

Mr. BENNETT. The debt limit would fall from $450 billion to $400 billion on that day. We already have more than $400 billion of debt outstanding—something like $435 billion. That debt outstanding is represented by bonds that constantly need to be renewed. Some of them are notes that have to be renewed every week. We could not renew another note. Then all we could do would be to float around on the amount of money in the bank. That would last until about election day, and then the Federal Government would grind to a halt.

It could not pay its bills, it could not pay its salaries. The dollar would drop in the world market so precipitously that no one can imagine the debacle it would create.

Mr. GRAVEL. How much are we shy between now and the end of the fiscal year if we leave the debt where it is right now?

Mr. BENNETT. I will answer that question. The Treasury says they need a limit of $465 billion to get us through the fiscal year, but if we let the bill die, the Federal debt limit drops back to $400 billion. That would be disastrous. We do not have a continuing debt ceiling of $450 billion. We only have a ceiling of $450 billion to the end of October. Then it drops to $400 billion.

Mr. GRAVEL. So if we do not get it, what is it we are talking about? A difference of $15 billion?

Mr. BENNETT. I cannot tell the Senator to the day. We probably would have to be back here in February or March to pass it again.

Mr. GRAVEL. Suppose on Monday we pass a ceiling out of this body which is the ceiling we have now? What is the ceiling now? $450 billion? Is that not what the ceiling is now?

Mr. BENNETT. Yes.

Mr. GRAVEL. What catastrophe would be visited upon this occasion if that were to occur?

Mr. BENNETT. That would take us to about March, and then we would face the same situation.

Mr. GRAVEL. Which would mean it would put the responsibility on the rest of us. Is that right?

Mr. BENNETT. I have been through this many, many times in my 22 years in the Senate. We come up to this point, we argue about it, and we rail about the fact that the Government should not go into debt, but we eventually face up to the fact that none of us wants the responsibility of letting the Government go bankrupt.

Mr. GRAVEL. I want to assure my colleague that I do not want to let the Government go bankrupt, but I like the concept that my colleague from Oregon has enunciated, and I am not reluctant to take the responsibility of lowering taxes or raising taxes to raise money. I want to make my vote meaningful in that direction. If that means voting against this amendment and voting against them all, that may be the way to do it.

What happens if we continue the debt ceiling at $450 billion?

Mr. PACKWOOD. Mr. President, if the Senator will yield, I would like to propound a question to my friend from Utah. Could not we do better simply by deleting title II of this bill, which is the debt limitation, and send that out from Congress?

Mr. BENNETT. No. It would have to eliminate the $465 billion.

I am reminded that it automatically drops to $400 billion. If we want to keep going as we are now, we have to replace the $465 billion figure with the figure of $450 billion.

Mr. GRAVEL. This is title I.

Mr. PACKWOOD. That is title I of the bill.

Mr. BENNETT. Yes.

Mr. GRAVEL. I address myself to my colleague from Oregon. If we wanted it to stay the same, we would substitute for title I a provision saying we raise the debt ceiling to $450 billion. That would be a check on the administration and protect us. Is that correct?

Mr. PACKWOOD. These sections are severable. Title II has the debt limitation. That could go. We could amend title I to make it whatever we wanted.

Mr. GRAVEL. That would give us some control, because that would give us a $15 billion hammerlock on the administration, which we are giving away now.

Mr. BENNETT. It would not have that effect. It would merely bring us back that much sooner to face the same problem. We have already faced it twice this year. This is the third time. If we put it off until March, we will have to come back in March.

Mr. GRAVEL. What is the problem we are facing? Is it the fact that we are spending money?

Mr. BENNETT. No, that is not the problem. The problem is that full faith and credit of the United States dies because we can no longer sell any bonds.

Mr. GRAVEL. But my colleague overlooks one thing. I say this humbly. The full faith and credit is attached to borrowing money to spend money on projects. That is what the $15 billion is for.

Mr. BENNETT. No.

Mr. GRAVEL. What are they borrowing for if it is not to spend money?

Mr. BENNETT. Because we already have a debt of $450 billion. We turn it over. It is not like a continuing debt such as one might have in a bank for 20 years. It is represented by hundreds of issues. It is represented in large part by notes which are floated for 90 days or 6 months.

Mr. GRAVEL. I confess I do not have the brain power or understanding, but if we are borrowing money just to tread water, then we can tread water with $450 billion. If through some device the interest is creeping it up and making it $465 billion, then obviously that increase is all due to an increase in the interest. I do not think that is the case, because we are supposed to be servicing the debt by appropriating money for it. Where is that $15 billion?

Mr. BENNETT. That comes from increased appropriations which the Congress has already made, and they have got to be met. Congress has appropriated the money. We have to have it. That is a part of the problem. The other part is that we have accumulated a debt over many years. I cannot think of the year when we had no Federal debt.

Mr. GRAVEL. Was not this debt contributed to by a deficit this year?

Mr. BENNETT. Yes.

Mr. GRAVEL. Will not this debt be contributed to by a deficit next year?

Mr. BENNETT. Yes.

Mr. GRAVEL. What is the best way to get our hands on that deficit? It is to stop the spending. Is that right?

Mr. BENNETT. Yes.

Mr. GRAVEL. A good conservative, however, in my mind, if a person is fiscally responsible, is not going to let them run wild by raising the ceiling. That is the first grip we could get on this problem.

Mr. BENNETT. Unfortunately, that does not work.

Mr. GRAVEL. Why?

Mr. BENNETT. Because it is not an effective brake. It does not say to the American people, "We are going to stop spending when we reach this point." It says to all the people who own bonds, including people who own savings bonds, "Your bonds are no longer worth anything, because we cannot redeem them."

Mr. GRAVEL. I do not understand that, and I do not think I can accept it at face value. Does the Senator mean to tell me that $15 billion is all the money that is going to redeem bonds?

Mr. BENNETT. Look——

Mr. GRAVEL. I am prepared to vote for $450 billion, which is what we have now. All I am suggesting is the possibility of continuing that. The Senator is telling me they need another $15 billion to redeem bonds that people are going to put up.

Mr. BENNETT. No. I have to go back and start all over again. We now have a debt ceiling of $450 billion, which permits the Treasury to borrow what it needs.

Mr. GRAVEL. Up to that amount.

Mr. BENNETT. Up to $450 billion. All the money that Treasury is borrowing is represented by bonds that are outstanding. Does the Senator follow that?

Mr. GRAVEL. I follow that, but let me ask one point. In that $450 billion we already have covered the deficit of this year, which was over $20 billion. Was it not?

Mr. BENNETT. No; we do not have it covered, because this is the fiscal year of 1973, and to cover that deficit we have got to have the additional $15 or $16 billion, in the opinion of the Treasury. They are the people we have to trust in these matters.

Mr. GRAVEL. That is money we have appropriated. That is the point I am trying to make. It accounts for that increase?

Mr. BENNETT. But in the management of the debt, which is another part of the function of the Treasury, these outstanding bonds keep coming due every day or two.

Mr. GRAVEL. I realize that, and I realize that we must meet our obligations, but I am not sure by the Senator's argument, that we have to increase the debt to meet the bonded indebtedness. Our indebtedness today is $450 billion. If we raise the ceiling, that is raising spending.

Mr. BENNETT. Let me go back further. I have said that if we keep it at $450 billion—and we can—that simply means we will be back in February or March to raise it again. What we have already appropriated will carry us to another crisis, and we will have to raise the debt ceiling to take care of the deficit that will accumulate during the fiscal year 1973.

Mr. HUMPHREY. Will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. HUMPHREY. I am beginning to get the sense of this debate. For a period of time it was somewhat difficult, but what I believe I am hearing is that Congress cannot adjourn and there would be no problem in the next 3 months.

Mr. BENNETT. No, no.

Mr. HUMPHREY. Wait a minute. This Congress could adjourn——

Mr. BENNETT. This Congress could not adjourn without having to come back on October 31, because on October 31 we will be $50 billion over the authorized debt ceiling.

Mr. GRAVEL. Perhaps I can help the Senator from Minnesota. If we took title 1 and just made it the status quo—that is, left it at $50 billion, which would give us a ceiling of $450 billion, which is what it has been, and then throw the rest of this away—we would still have some power left.

Mr. HUMPHREY. That is exactly what the Senator from Minnesota was getting at: that we could leave the debt ceiling at what it is. Instead of inserting the figure $65 billion, it would be $50 billion, and it would carry us through until March.

Mr. BENNETT. The Senator is correct. It will be $450 billion on January 1. On January 15 we will be over the $450 billion.

Mr. HUMPHREY. So before the new Congress would come into operation or session——

Mr. BENNETT. That is right.

Mr. HUMPHREY. We would have, as a matter of Government, to default on the payments.

Mr. BENNETT. That is right. We would have to be called back.

Mr. GRAVEL. Would not that depend on the revenues received between now and then? If the economy were in good shape, obviously the revenues would increase.

Mr. BENNETT. This is based on past estimates by the Treasury Department of the revenues that will be available between now and then. But I do not think we can take that chance and say that revenues will be better.

Mr. CRANSTON. Will the Senator yield?

Mr. GRAVEL. I yield.

Mr. CRANSTON. We are talking about two ceilings. One is the ceiling on the debt, and we will have to keep upping that until we get a ceiling on spending. Once we get a ceiling on spending and get a budget that takes into account what is incoming and what is outgoing, then we will not have to get together on the ceiling or deficit. We will finally get the deficit in hand. But we will not get it in hand without a ceiling. That is why I am supporting the Jordan amendment.

Mr. BENNETT. But we cannot go home until this bill expires. We would destroy the credit of the United States, and we cannot leave the debt limit at $450 billion, unless we come back before January 15 and go through the same exercise.

Several Senators. Vote, vote.

Mr. PACKWOOD. Mr. President, regardless of the outcome, whether the Jordan amendment is voted up or down, I will offer an amendment to strike title II of the bill, which is the expenditure ceiling.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Several Senators: Vote, vote.

Mr. AIKEN. If the Jordan amendment is approved by a sizable majority, then I suggest that when we go into conference, after the conferees have been appointed, they be instructed to stick with the amendment. That will save them a lot of time on rejecting an undesirable conference report, which I feel will not be passed.

I hope the Jordan amendment will be adopted and that the Senate sticks with it. Such action will save us hours before the end of the session—possibly several days.

Mr. BUCKLEY. Mr. President, I am deeply troubled by the proposal that the Executive should be delegated the authority to cut expenditures at will in order to maintain a $250 billion ceiling on Federal spending during the current fiscal year.

I am troubled, in large part, because it represents a delegation of congressional authority which could establish a most dangerous precedent. But I am even more troubled by the abdication of fiscal responsibility, on the part of the Congress which has made the proposed delegation probable and even necessary.

We are caught on the horns of the proverbial dilemma. On the one hand, we are faced with the fact that the Congress has shown no disposition to exercise that self-restraint which is essential to avoid adding new fuel to our inflationary pressures. The political and social consequences of a significant rise in the rate of inflation are simply too serious to ignore. They will not be alleviated by asserting prerogatives which on the record the current Congress will not exercise. On the other hand, we run the danger of establishing a practice which is subject to the gravest abuse by a future President and which will merely encourage a further abdication of fiscal responsibility by future Congresses.

This lack of self-discipline on Capitol Hill forces us to consider alternatives each of which poses substantial dangers. And in this there is a lesson. The Constitution will safeguard our liberties only so long as each branch of our Government will face up to its responsibilities.

On balance I would approve a delegation of budget-cutting authority to the President within reasonably narrow limits. This is why I have voted for the Taft amendment. I must oppose the Jordan amendment, however, because of its mechanical rigidity. I simply do not feel that it is prudent to require one reciprocal percentage cut in each of the nonexcluded categories of expenditures.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nebraska (Mr. Bible), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from West Virginia (Mr. Randolph), the Senator from Louisiana (Mr. Long), and the Senator from Albama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), and the Senator from West Virginia (Mr. Randolph would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Stafford), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Texas (Mr. Turner) would each vote "nay."

On this vote, the Senator from Vermont (Mr. Stafford) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Vermont would vote "yea" and the Senator from South Carolina would vote "nay."

I also announce that the Senator from Delaware (Mr. Boggs), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Saxbe), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The result was announced—yeas 46, nays 28, as follows:

[No. 557 Leg.]

YEAS—46

Aiken
Anderson
Bayh
Beall
Bellmon
Bentsen
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Cranston
Eagleton
Ervin
Fulbright
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Magnuson
Mathias
McClellan
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Percy
Ribicoff
Schweiker
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams

NAYS—28

Allen
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Cooper
Cotton
Dole
Dominick
Eastland
Fannin
Fong
Gambrell
Gravel
Gurney
Hansen
Hruska
Mansfield
Miller
Packwood
Proxmire
Roth
Scott
Smith
Taft
Weicker
Young

NOT VOTING—26

Allott
Baker
Bible
Boggs
Cook
Curtis
Edwards
Goldwater
Griffin
Harris
Hatfield
Kennedy
Long
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Thurmond
Tower

So the amendment of Mr. Jordan of Idaho was agreed to.

Mr. JORDAN of Idaho. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr.' HARTKE. Mr. President, the amendment of the Senator from Idaho accomplishes the purposes for which I originally submitted my amendment. The fact is that the amendment of the Senator from Idaho is much more preferable, and in my opinion it does justice to what we intended to do. I still intend to vote against the bill. I think it is a bad bill.

The yeas and nays have been ordered, and I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. I object.

Mr. MANSFIELD. It is just the same vote twice. The Senator just asked to withdraw the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the order is vacated.

The question is on agreeing to the amendment of the Senator from Indiana as amended.

The amendment, as amended, was agreed to.

Mr. WILLIAMS. Mr. President, I wish to express my stanch opposition to the administration proposal for Congress to surrender its historic right to determine taxes and expenditures. This right has traditionally been the paramount assertion of legislative bodies. Legislatures have struggled for centuries to obtain this prerogative, and until now, the legislatures in democratic nations have guarded it carefully.

These historical forces which have strengthened legislatures are being rapidly eroded. And, of all the techniques Congress has at its disposal to preserve itself against this trend, the power of the purse is the most important. Any failure on our part to assert our legitimate constitutional role over spending policy will be one of will, rather than capability.

While there may be substantial evidence to indicate a need to restrict total Federal spending this fiscal year, the crucial issue is who should decide where and how it is to be cut. Should the decision be left solely with the President and his advisers or should Congress have a voice in these vital decisions? Should Congress finally yield the item-veto to the President? We are being encouraged to abrogate our constitutional duties because this administration is attempting to frighten the American public and various Members of Congress into believing that only this can save the American economy from the potential disaster which he has authored. I cannot see the logic in giving this administration the opportunity to aggravate the damage it has already done.

The President already has the power to veto spending increases, but he is always eager to take undeserved credit for programs such as the congressional increase in social security benefits. Yet he refuses to accept any responsibility for increased spending. We must not permit the President to compound this duplicity by surrendering our constitutional obligations. Such a response would present our society with a constitutional as well as an economic crisis.

To give the administration the power to cut the budget by eliminating any programs it sees fit, without having to account to anyone, would guarantee the death of key domestic programs. The President has frequently demonstrated his support for excessive farm subsidies to the wealthy, and swollen defense budgets. But he has also consistently cut back on aid to schools and hospitals, has shown that housing for the elderly and the poor are of no concern to him, and has placed full employment, consumer rights, and environmental protection at the bottom of his list of real, rather than rhetorical, priorities. Perhaps the President feels we can afford to neglect these programs. But Congress has declared that these programs are vital to the future of our Nation, and we must not allow them to be decimated.

Mr. FULBRIGHT. Mr. President, after having accumulated the largest budget deficits in our Nation's history—primarily because of escalated military spending—the Nixon administration now has the audacity to tell Congress that it should surrender its remaining control of the Federal budget to the Executive.

Equally unjustified is the effort by the President and other White House officials to try to blame any future tax increase on Congress. Mr. Nixon recently attempted to rationalize his disdain for the American public by demonstrating once again his disdain for Congress. The President said he was staying in Washington, rather than campaigning among the American people, "to fight the battle against bigger spending that would lead to higher taxes."

Mr. Nixon and his public relations staff tell us we must "respect the President." But while he hides behind the shield of the Great Seal, he does not respect the Congress, attempting instead to use this institution as part of a political ploy; nor apparently does he respect the American people, choosing instead to mislead them about the actual facts of Government spending and the record of his administration.

At the same time we are being asked to put a limitation on spending and grant unlimited authority to the President, we are being asked to raise the limit on the public debt from $450 billion to $465 billion. By the end of this fiscal year, a deficit of approximately $110 billion—about one-fourth the total national debt—will have been accumulated under the Nixon administration. What an ironic situation—the Nixon administration is apparently trying to draw attention away from its recordbreaking budget deficits by asking for a spending ceiling.

Why does Mr. Nixon wait until now, shortly before the elections and the adjournment of Congress, to push for a budget ceiling? He submitted a budget in January, just as he has in previous years, and Congress actually cut that Presidential budget request—just as it has in previous years.

In the first 3 years of the Nixon administration, Congress cut $14.5 billion from administration spending requests. Final figures are not yet available for this fourth year. However, it appears that the Congress will have cut the Nixon budget by another $4 to $4.5 billion.

The President requested $82.3 billion for direct military expenditures and military construction for fiscal 1973. The Senate cut this figure by more than $5 billion—not enough of a cut in my view—but still significantly below the President's request.

In 4 years the President has asked for $297.1 billion for direct military spending, but Congress has allocated $281.5 billion—a difference of $15.6 billion. Again, I believe the reductions have been too small, but the President has opposed any reduction. For foreign aid, much of which is military related, the President has asked for $16.1 billion, but Congress has granted about $3 billion less.

While trimming back some of the extravagance in military and foreign spending, Congress has allocated increases over the Presidential budgets in several areas, including health and education, areas which have obviously been of little concern to the administration. Still, overall, Congress will have cut nearly $20 billion from Presidential appropriations requests in 4 years.

It is true that Congress has initiated increases in social security benefits, "black lung" benefits, and veterans benefits. However, in each case the President has gone along; indeed, he tried to take credit for some of the increases. Spending will also be increased by revenue sharing which, as we know, the President strongly favored. Additionally, it should be remembered that the President asked for a $2.8 billion supplemental increase—beyond the original military budget—to pay for stepped-up bombing and military activities in Southeast Asia.

The President refuses to say where he would make cuts if the spending ceiling was approved. He is asking for a line-item veto, a power not granted him by the Constitution. His record thus far makes it all too clear where he would make cuts—not in military spending, which dominates the Federal budget, but in vital human need programs. When the spending ceiling was first discussed, there were cries of outrage from the Department of Defense, which wanted no part of a limit on spending.

Those cries have now been muted because the Pentagon has been assured there will be no cuts in military spending, although in a classic understatement, Treasury Secretary George Shultz said:

> Let's face it, there probably is even some money you can save in defense.

Mr. President, the political gimmickry of this spending limitation proposal is obvious. It would be much more sensible to propose an across-the-board percentage cutback in all "controllable" programs. I would certainly favor such a limitation, which would apply equally to all programs requiring appropriated funds. The President does not want this, however, and insists on having total authority to determine where cuts would be made.

This effort by the administration to obtain such control is one more example of the move to consolidate all significant power in the executive branch, further undercutting the constitutional authority of Congress.

We have seen in recent years a severe erosion of congressional power in other areas, notably in foreign policy. Indeed, Vice President AGNEW recently asserted that the President has "sole responsibility for developing and initiating foreign policy."

The Vice President says that a President "must be able to make hard choices—alone—and then rally the country to support this decision."

The President has made it clear that the constitutional authority of Congress and the concept of separation of powers have little meaning to him. As the President now largely ignores the elected representatives of the people in foreign policy, so would he like to see these representatives sign away to him their control over appropriations, one of the last vestiges of congressional power.

One may wonder why the President has asked for this power through legislation since he has already arrogated to himself the power to impound appropriated funds. Is this request simply a political ploy to try to embarrass the Congress?

Further, the President retains the power to veto legislation, a power he has not hesitated to use, having vetoed 17 bills, most of them involving major legislation for health, education or community development.

The executive branch's Office of Management and Budget wields tremendous power, and yet most Americans have never heard of this agency which often exercises life or death control over public programs. Earlier this year, "under authority delegated by the President," the OMB had impounded more than $12 billion. Subsequently some of the funds were released, but the President is still relying heavily on impoundment as a means of holding up appropriated funds. Among the funds held up by the President have been those appropriated for rural water and sewer system grants, which are of major importance to Arkansas. Such water and sewer systems are the backbone of growth for our smaller towns and by aiding their development we can ease the burden on our urban areas. However, for fiscal 1973 the President asked no new funds for FHA water-sewer grants, proposing only to spend a portion of the $58 million impounded in fiscal 1972. In fiscal 1971, only $44 million was allocated by Mr. Nixon from a $100 million appropriation.

The study prepared under the direction of Congressman MORRIS K. UDALL earlier this year for the House Committee on Post Office and Civil Service entitled "A Report on the Growth of the Executive Office of the President, 1955–73" is most enlightening.

I would like to quote briefly from Mr. UDALL's conclusions:

> In modern times virtually every President has come to the White House pledging to cut back the bureaucracy, to find the best Cabinet members available and to rely on the regular departments for advice and executive administration. Without exception, each President despite his promises has left behind a staff somewhat larger than when he took office.
>
> Yet the pace of growth, for the most part, was reasonably gradual. But with the inauguration of Richard M. Nixon in 1969 something unprecedented in the history of the Presidency began to happen. The addition of staff quite suddenly and without apparent reason sky-rocketed beyond all previously known limits. Whole bureaucracies were created where only a few people with some typewriters and telephones were needed before. The now huge White House staff—that is the personal entourage of the President responsible to no one except Richard Nixon—has become in effect this country's equivalent of a Palace Guard.
>
> In his message to Congress explaining his proposed reorganization of the executive office (March 12, 1970) the President said he needed the "* * * tools * * * to reduce duplication to monitor performance and to promote greater efficiency throughout the executive branch, this also will enable us to give the country not only more effective but also more economical government * * *"
>
> That was Mr. Nixon's promise. What he actually accomplished is, bluntly, bad economics, bad management and bad government.

A look at the record shows the basis for Congressman UDALL's strong statement. Here are some of the facts.

The total Nixon White House staff is up by 25 percent over 1970.

Nine new satellite offices have been created within the Executive Office of the President, ranging from the Domestic Council and the Office of Management and Budget to the Office of Telecommunications Policy. The OTP has a staff of 65 employees, and as has been suggested, its basic function seems to be to attempt to influence the theoretically independent Federal Communications Commission.

Dr. Kissinger's National Security Council staff is up at least 50 percent.

As Congressman UDALL points out:

> The White House now has enough people with fancy titles to populate a Gilbert and Sullivan comic opera. A 'special assistant' under President Kennedy was considered top rank; under President Nixon it is at best third-rate on a staff that abounds with counselors, assistants, special consultants, all of whom require their own staffs, complete with secretaries.

Salaries in the EOP have gone from $32 to 41 million annually under Mr. Nixon. During the administration of President Johnson the annual increase was $1.9 million, but since the Nixon administration has been $4.45 million.

Mr. President, it is clear that the President meets neither the test of credibility or sincerity on this issue.

The legislation approved by the House has been referred to as a "domestic Gulf of Tonkin resolution."

If that infamous resolution was, as was later claimed by the executive branch, a virtual declaration of war, then this would be a virtual declaration of surrender—surrender of the constitutional authority of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Hobart Rowen, entitled "Phony Budget Issue," published in the Washington Post of October 5, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1972]

PHONY BUDGET ISSUE

(By Hobart Rowen)

White House aide John Erlichman and other administration officials are now trying to blame any future tax increase on irresponsible congressional spending.

This is a phony issue, as Mr. Ehrlichman and all of the technicians in the Office of Management and Budget know.

The fact, which is recognized by non-politicians within the government, and practically everybody outside, is that an increase in federal taxes sometimes in the next two years is virtually a certainly because of commitments already made by the Nixon administration.

The administration could consult, for example, its former Treasury specialist on economic affairs, Murray Weidenbaum. Prof. Weidenbaum, a Republican, has been making a series of forthright speeches on budget realities. In his latest, sketching out the "hard fiscal facts of life," Weidenbaum said: "We have literally mortgaged available federal revenue for many years into the future."

The same situation would confront Sen. McGovern, should he be elected. But the Republicans are promoting the notion that a wave of a magic budget-cutting wand will solve the problem. The idea doesn't survive non-partisan scrutiny.

Take one example cited by a conservative research group, the American Enterprise Institute: based on bills already passed, and on legislation proposed by the Nixon administration, the actual spending total, in fiscal 1975, two years from now, will be $301 billion, up $51 billion from the $250 billion expenditure ceiling Mr. Nixon is trying to squeeze out of Congress.

That doesn't take into account Mr. Nixon's promise (State of the Union Message) for a federal education program, or any other new initiatives—just what's already been cranked into the spending machine.

It covers an increase of $10 billion for defense; $19 billion for income security; $6 billion for health; $5 billion to expand existing education programs; and $5.3 billion for revenue sharing.

Says the AEI report: "The picture that emerges is a rather grim one for the Nixon administration."

To meet its self-imposed test of maintaining a "full employment balance," says the research group, would require "tax increases of some $21 billion in (fiscal) 1975, $13 billion in 1976, and $6 billion in 1977."

This analysis matches almost exactly the projections made earlier by the Brookings Institution. But the administration tends to brush Brookings aside as a haven for Democrats out of office.

Facts don't have a political bias. The administration's problem is that it won't face up to the tax issue during the election. Instead, it talks of a water-tight ceiling on expenditures.

Former Budget Director Charles Schultze of Brookings—a McGovern adviser, a Democrat, and an economist of unimpeachable integrity—pointed out the other day the impractical nature of Mr. Nixon's proposed $250 billion ceiling.

If Congress were to limit spending to $250 billion for fiscal 1973, Schultze points out, it would have to cut $7 billion to $10 billion from Mr. Nixon's January proposals. But by the time a ceiling goes in effect, five months of the fiscal year would have elapsed, requiring cuts of $12 to $15 billion at an annual rate.

Where would they come from? Certainly not from defense, already trimmed $3.6 billion from Secretary Laird's requests. And it is not possible, for legal or political reasons, to touch Social Security, veterans benefits, interest on the debt, public assistance, unemployment compensation, or revenue sharing.

That leaves Ehrlichman & Co. about $75 billion in such programs as grants-in-aid to the states for education, manpower training, health, pollution control, urban mass transit and similar objectives. These would have to be slashed about 20 per cent to bring the total budget with a $250 billion ceiling. It just is not a realistic concept. The Administration ought to quit playing politics, and buckle down to the important job of deciding what tax program will put its fiscal house in order.

Mr. INOUYE. Mr. President, in recent days our President has projected himself as a lone fighter in the struggle to hold down the cost of Government. However, we, Members of Congress, are equally concerned with the upward spiraling cost of Government, and justifiably somewhat resentful of the President's effort to point the finger of blame at us while gathering about him the cloak of self-righteousness.

In this connection two sets of statistics should be highlighted. First, the administration of President Nixon has to date submitted budget requests to the Congress totalling $636 billion. Congress has responded to those requests by appropriating almost $617 billion, resulting in a net reduction of more than $19 billion.

If the Congress had appropriated all that President Nixon has requested, our national debt would have increased by $95 billion. It should be duly noted that even so, this administration has been responsible for adding $76 billion to the national debt—a sum larger than the combined deficits incurred under Presidents Eisenhower, Kennedy, and Johnson. In fact, it exceeds the total incurred from the administration of George Washington through to the mid-point of Franklin Roosevelt's third term.

Second, and finally, I recall vividly the President's admonition during his campaign for that office that if we are to expect the households of America to operate within a balanced budget, then we in Government must also adopt frugal standards. I assume the President had in mind that we should set a prudent example and I applaud that suggestion.

I would suggest that this objective should have particular relevance for the President's staff and his household. In view of his admonition and his present posture as the foremost exponent of Government frugality, I wish to bring the following to your attention.

	Fiscal 1969		Fiscal 1973 (request)	
	Average number of employees	Amount (thousands)	Average number of employees	Amount (thousands)
The White House	220	$3,229	510	$9,767
Executive residence	84	823	85	1,372
Special assistance to the President	None		38	773
Office of Intergovernmental Relations (Vice President)	None		9	322
Domestic Council (Erlichman)	None		73	1,847
National Security Council	38	610	85	2,762
Total	342	4,662	800	16,843

Although I recognize that I may be getting into a dispute over semantics, I often wonder who should be looked upon as a spender. In the average American household, the principal wage earner, usually the husband, provides his wife with an allowance or budget to cover household expenses. When things get tight, conceivably the husband can cut that allowance. At the same time, the housewife could cut spending. She is not required to spend currently every cent which is provided.

In like manner, we have the Congress giving the executive branch an allowance. While we have not given the Chief Executive all he requested, he has the option also of not spending all that has been appropriated. Except for the uncontrollable accounts such as interest on the debt, social security payments, veterans' benefits, and a few others the President can exercise control over the rate of spending. He has in fact impounded many billions of dollars. An estimated $10 billion are not being spent as appropriated. The President has exercised that power.

This leads to but one conclusion. Apparently, what he wants is for the Congress to further legitimize the practice of impoundment and delay in making appropriated expenditures. The only rational explanation for the President's request is, therefore, that he is engaged in a patent political ploy by which he hopes to sell the American people that Congress is the great spender and that he, Nixon, is the careful and frugal budgeter, the facts notwithstanding.

We are fully aware of the inflation which has ravaged our pocketbooks. We are fully aware of the increased cost of Government and the increased cost of maintaining our desired high quality of life. But at no place has that cost increased more than at the White House and in those offices of Government immediately and most directly under Presidential control.

Expenditures by the White House for the above items have increased by 360 percent. The number of personnel increased 234 percent. All expenditures of the Executive Office exclusive of the Office of Economic Opportunity have increased from $33 million to $165, or 500 percent. There are those in the White House who will tell you this is an unfair comparison—that President Johnson detailed people from other agencies. I want to tell you that that practice still goes on today and that the above is not a full measure of President Nixon's total Executive Office expenditures.

It is a travesty, not just on the Congress when the President now seeks to pin the label of spendthrift on this body—it is a fraud and a disservice to the American people which we cannot abide. When he seeks to usurp the powers of the Congress and increase his Executive power over the spending of Government on the grounds of fiscal responsibility, and he comes before us with such a shoddy and disgraceful record, I say shame.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes.

TEMPORARY INCREASE IN THE DEBT LIMIT

Mr. PROXMIRE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 6, strike out "$250,000,000,000," and insert "$245,000,000,000."

Mr. PROXMIRE. Mr. President, I will not take more than 10 minutes.

My amendment would limit Federal expenditures for fiscal year 1973 to $245 billion instead of the $250 billion ceiling the President has asked for. There are a large number of reasons why, if we are to have a ceiling at all, it should be at this lower $245 billion level.

FULL EMPLOYMENT BALANCE BUDGET

It was with great fanfare that a year or so ago, the Nixon administration announced that they were going to follow the concept of the full employment budget. What that means is that the administration estimates what revenues would be received if there were full employment. Then, they should spend that much and no more.

This concept was unleashed with massive publicity. The President and his advisers were hailed for their forward looking ideas.

It was a remarkable change. One simple, clear consequence of the change was that at last there was an upper limit on Federal spending. If we spend more than that—that additional spending is inflationary unless taxes are raised.

Now, what is the full employment balance? Is it $250 billion? No. As given in the fiscal year 1973 budget itself, it is $245 billion. Not $250 billion or $260 billion. It is a cold, precise $245 billion.

If we spend $250 billion, the full employment budget will be out of balance by $5 billion. There will be a $5 billion deficit; by any definition this spells inflation.

That is reason No. 1, why the ceiling should be at $245 billion. It is a good reason. It follows the best, most logical, most intelligent economic doctrine about budgets that we rely on today. All it would do would be to ask the administration to carry out the full employment budget concept which they say is their policy. Some economists argue we should balance the budget, period. Some say we should run a deficit to stimulate the economy to achieve full employment. But to argue the deficit should be so deep that it will not even balance at full employment is to argue for a planned premeditated Government-fed inflation.

WHY GIVE MORE THAN ASKED FOR?

Let me give a second reason why the ceiling should be at $245 billion. At the beginning of the year the President asked for $246 billion. He did not ask for $250 billion.

But since then, the Bureau of the Budget itself has recommended more spending and the administration itself has increased outlays.

The bombing in Vietnam will cost at least another $1.5 billion, and if it continues it will cost $2 billion and perhaps $3 billion this year. If the military wants to bomb the Vietnamese back to the stone age, why should they not at least have to take the money out of the budget they asked for at the beginning of the year?

Let us take some other items. After the President submitted his budget of $246 billion, he and the Bureau of the Budget sent up additional requests for money to Congress. They asked for $17 million more for State-Justice-Commerce. They asked for $85 million more for HUD-Space-Veterans in the regular bill, and $250 million more for HUD in the supplemental. They upped their requests for Interior by $7 million. But the big one was Labor-HEW. Between the time the administration submitted the budget in January and the time the Senate considered the Labor-HEW bill, another $1.44 billion had been requested by the administration for Labor-HEW.

When Congress raises a President's request, we are damned as "big spenders." But when the Budget raises their own original requests—for the military, for HEW, for HUD, and for others, nothing is said.

What my amendment says is simply this. We should set the ceiling at an amount which is what the President originally asked for. I have put that at $245 billion which is within a billion of the $246 billion in the original Nixon budget. Thus, $245 billion would carry out the original budget request and would also meet the noninflationary full employment budget concept.

CUT BY CONGRESS OF $5 BILLION

There is a third reason why I am proposing a $245 billion ceiling. Unknown to most Members of the Congress and to most of the press, the Congress has cut $5 billion from the requests by the President for appropriations or for what is called new obligational authority. We have done that this year.

Unknown to most people, we do that every year. Congress has done it for 25 years.

In the 4 years since Mr. Nixon has been responsible for budgets, we have cut about $20 billion from his requests for funds.

No one seems to know that. No one reports that. At the same time we cut his requests by $5 billion we are called "wild spenders" and compared with drunken sailors on a spending spree.

What my amendment does, in addition to setting the budget ceiling essentially at the amount the President first asked for this year, is to reflect the $5 billion cut Congress has made in the President's appropriations requests.

I would reduce the ceiling from $250 to $245 billion for that reason, too.

CONGRESS AT FAULT, ALSO

Having criticized the President and the administration for spending too much—and he has spent too much—and having defended Congress for cutting $5 billion from the President's requests, let me nevertheless say that Congress is also at fault. Congress must bear a heavy burden for failing to do its job. Congress has given away far too much power. Congress has voted for big spending which should never be passed, which is irresponsible, and wasteful.

Let me be specific.

We have just passed an $18 billion social security bill in the Senate. At least $6 billion of that is unfunded. And the amount we funded is to be raised through an increase in the most regressive tax we have; namely, the social security or employment tax which has no relationship to ability to pay. And now it is going to accelerate taxes hardest for those whose family incomes are at $10,000 to $12,000 a year who are having a tough time making ends meet.

The Senate was irresponsible in not funding the $6 billion and in the way it funded the remaining $12 billion of the $18 billion total.

Congress was also irresponsible when it passed revenue sharing. We raised no new revenue to share. While the President and the administration were equally culpable, we did have the opportunity to be responsible. But we overwhelmingly voted down the amendment of my colleague, the Senator from Wisconsin (Mr. NELSON), to raise some of the money to fund the over $30 billion revenue-sharing bill.

There is at least one other way Congress is at fault. Most Members of the House and Senate—Democrats and Republicans alike—vote for almost any spending increase. Amendments I have put forward just to cut the fat and frills from Federal spending are overwhelmingly defeated.

We spend $60 million so that soldiers do not have to do their own KP. The House and Senate votes for that.

We commit ourselves to $27 million for a new garage for Senate employees where each parking space will cost $15,000. We are going to park $3,000 cars in $15,000 parking spaces. But the Senate votes for that overwhelmingly.

I put forward an amendment to knock out $250 million urban renewal funds which the testimony showed cannot and will not be spent for 3 or 4 years from now. And Senators rise to support that spending with tears in their eyes and a catch in their throats even though those funds are not needed now, cannot be spent now, and will not be spent for a single house or business or reconstruction for years to come.

NOT GIVING AWAY OUR POWER

Let me now meet one of the main arguments used against any spending ceiling; namely, that Congress is ceding to the President an unusual grant of congressional authority.

The distinguished Senator from Oregon (Mr. PACKWOOD) is one of the brightest Members of this body. He is a wonderful young Senator, but he is plain wrong on this issue.

I am one of those who thinks Congress has abandoned its responsibilities in countless ways and that we have ceded far too much power over the purse to the Executive.

But I do not agree that a ceiling on spending is one of the ways. Here is why.

Congress controls appropriations, or new obligational authority.

The President controls outlays or spending. We do not. He does. He decides how much will be spent, the pace of spending, and what the outlays will be each year from the appropriations we grant.

There is no absolute connection between the amount Congress appropriates and the amount the President spends. In the case of military procurement, for example, money we appropriate this year will not be spent until 1, 2, or 3 years from now.

In fact, over the past 5 fiscal years we have cut $18.4 billion from President Johnson's and President Nixon's military budget requests. But they have spent $22 billion more than we appropriated. That is the fact as of January 1, 1972.

Let me repeat. The Congress controls appropriations. But the President controls outlays or spending. Therefore, a spending ceiling which we impose on him, far from ceding congressional authority to the President, limits the President's powers to spend. Without such a ceiling, he can spend $250 billion, $260 billion, $270 billion, or in fact, he could limit his spending to $245 billion or $240 billion.

He has that authority. With a note to Mr. Weinberger or even a verbal statement to him, the President can say what the outlays or what the spending will be.

What Congress is doing by imposing a ceiling, is to limit the power the President otherwise has.

Therefore, I believe we should limit that power to spend at an amount which is almost exactly what he originally asked for, which is the figure that would carry out the full employment budget concept, and which reflects the $5 billion cut Congress has made in his appropriations requests.

NOT A MISERLY AMOUNT

A ceiling of $245 billion is not a mean, or miserly amount. It is a fantastic amount of money.

It is $14 billion more than the President spent last year.

It is $60 billion more than the $185 billion spent under the last Johnson budget.

And it is being imposed at a time when the budget deficit for each of the last 3 fiscal years is more than $23 billion. Why should we not limit spending when the budget deficits in the last 4 years have totaled over $70 billion?

Everyone knows there is waste in Government spending. Military procurement is a scandal. The welfare program is a mess. According to the study of the

Joint Economic Committee, in excess of $63 billion goes out in subsidies to every manner of interest group. No one can argue that all of this is spent efficiently.

The only way to force a reexamination of spending is to limit the funds.

For all of these reasons, I believe we should limit the amount the President can spend in fiscal year 1973 to $245 billion. That figure carries out the full employment budget concept. That is close to what the President originally asked for. That is certainly enough money to run the Government of the United States.

Mr. President, I have thought about this amendment for many months. I have felt strongly that the $250 billion ceiling is too high since it has been suggested in the past few weeks. But I am realistic enough to know, having taken a beating, as it were, in the past 3 or 4 days on the amendments I have offered, and in view of the context of the debate which has been concentrated on the $250 billion, that my amendment has no chance whatsoever, although a number of wonderful Senators, Senators ALLEN, BYRD, and others who have spoken to me have indicated that they support it, and they feel that $250 billion is too high. But that is only a handful of Senators, and I do not wish to waste the time of the Senate.

However, it is important to make this point because it must be made. I will withdraw the amendment and will not ask for a vote on it.

The PRESIDING OFFICER (Mr. MONTOYA). The amendment is withdrawn.

Mr. BENNETT. Mr. President, I am happy that the Senator from Wisconsin offered his amendment and made his speech on it because I think he has made one very important contribution to tonight's debate, when he reminds us that Congress controls appropriations but the President controls the spending. When we put this limit on the President, we are not giving up any power that Congress has. We are reducing the power of the President.

Mr. President, earlier, I indicated to the Senator from Arkansas (Mr. MCCLELLAN) that if he wished to offer the amendment we discussed, I would be prepared to take it. In order to hurry things along, if the Senator is ready——

Mr. McCLELLAN. I am ready.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill, add the following new title:

TITLE IV—JOINT COMMITTEE ON THE BUDGET

SEC. 401. (a) Part 1 of title II of the Legislative Reorganization Act of 1970 is amended—

(1) by inserting immediately after "title" in section 207 the following: "(other than section 208)"; and

(2) by inserting after section 207 the following new section:

"JOINT COMMITTEE ON THE BUDGET; BUDGET DATA

"SEC. 208. (a) There is hereby created a joint service committee, to be known as the Joint Committee on the Budget (hereafter referred to in this section as the 'joint committee') to be composed of fourteen members as follows:

"(1) seven members who are members of the Committee on Appropriations of the Senate, four from the majority party and three from the minority party, to be chosen by such committee; and

"(2) seven members who are members of the Committee on Appropriations of the House of Representatives, four from the majority party and three from the minority party, to be chosen by such committee.

For purposes of paragraph 6 of Rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the joint committee, or as chairman of the joint committee, shall not be taken into account.

"(b) No person shall continue to serve as a member of the joint committee after he has ceased to be a member of the appropriations committee from which he was chosen, except that the members chosen by the Committee on Appropriations of the House of Representatives who have been reelected to the House of Representatives may continue to serve as members of the joint committee notwithstanding the expiration of the Congress. A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection, except that (1) in case of a vacancy during an adjournment or recess of Congress for a period of more than two weeks, the members of the joint committee who are members of that appropriations committee entitled to fill such vacancy may designate a member of such committee to serve until his successor is chosen by such committee, and (2) in the case of a vacancy after the expiration of a Congress which would be filled from the Committee on Appropriations of the House of Representatives, the members of such committee who are continuing to serve as members of the joint committee, may designate a person who, immediately prior to such expiration, was a member of such committee and who is reelected to the House of Representatives, to serve until his successor is chosen by such committee.

"(c) The joint committee shall elect a chairman and vice chairman from among its members at the first regular meeting of each session, except that during even-numbered years the chairman shall be selected from among the members who are members of the House of Representatives and the vice chairman shall be selected from among the members who are members of the Senate, and during odd-numbered years the chairman shall be selected from among the members who are members of the Senate and the vice chairman shall be selected from among the members who are members of the House of Representatives.

"(d) The joint committee may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation or report shall be made to a standing committee of either House of Congress unless a majority of the joint committee assent.

"(e) It shall be the duty of the joint committee—

"(1)(A) to inform itself of all matters relating to the annual budget of agencies, including analytical, investigative, audit, and other reports on Federal operations prepared by the General Accounting Office pursuant to section 312 of the Budget and Accounting Act, 1921, the Government Corporation Control Act, and section 206 of the Legislative Reorganization Act of 1946, and by other Federal agencies, and including the initiation or continuation of Federal programs by utilization of borrowing authority, contract obligational authority, or other means which do not require direct appropriations for the initiation or continuation of such programs; (B) to provide the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate with such information on items contained in such budget, and the justification submitted in support thereof, as may be necessary to enable such committees to give adequate consideration thereto; (C) to consider the President's messages on the state of the Union and the Economic Report, to consider all information relating to estimated revenues, including revenue estimates of the Department of the Treasury and the Joint Committee on Internal Revenue Taxation, to consider essential programs, and to consider changing economic conditions; and (D) to report to the Appropriations Committees of the House of Representatives and the Senate its findings with respect to budget estimates and revisions in appropriations required to hold expenditures to the minimum consistent with the requirements of Government operations and national security;

"(2) recommend to the appropriate standing committees of the House of Representatives and the Senate (A) such changes in existing laws as may effect greater efficiency and economy in government; and (B) a ceiling for expenditures and net lending under the budget of the United States Government for each fiscal year.

"(3) make such reports and recommendations to any standing committee of either House of Congress, or any subcommittee thereof, on matters within the jurisdiction of such standing committee relating to deviations from basic legislative authorization, or to appropriations approved by Congress which are not consistent with such basic legislative authorization, or to cutbacks in previously authorized programs which require appropriations, as may be deemed necessary or advisable by the joint committee, or as may be requested by any standing committee of either House of Congress or by any subcommittee thereof; and

"(4) report to the Committees on Appropriations of the House of Representatives and the Senate at the beginning of each regular session of the Congress the total estimated costs of all programs and projects authorized by the Congress during the preceding year, together with estimated costs of such programs and projects during the current fiscal year, the ensuing fiscal year, and subsequent fiscal years, and to make such interim reports as may be deemed advisable.

"(f)(1) The joint committee, or any subcommittee thereof, is authorized, in its discretion (A) to make expenditures, (B) to hold hearings, (C) to sit and act at any time or place, (D) to subpena witnesses and documents, (E) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (F) to procure printing and binding, (G) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (H) to take depositions and other testimony.

"(2) Subpenas shall be issued under the signature of the chairman or vice chairman of the joint committee and shall be served by any person designated by them. The provisions of sections 102 through 104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this section.

"(g) The joint committee shall have a staff director, an associate staff director, and such other personnel, as may be necessary to carry out the duties of the joint committee. The staff director shall be appointed by and be responsible to the members of the party of which the chairman of the joint committee is a member, and the associate staff director shall be appointed by and be responsible to the members of the opposition party. No person shall be employed by the joint committee unless the members appointing him have favorably considered the data with respect to him submitted by the Federal Bureau of Investigation after a thorough investigation of his loyalty and security.

"(h) The joint committee shall make available members of its staff to assist the staffs of the Committees on Appropriations of the House of Representatives and of the Senate and the several subcommittees thereof during the periods when appropriations bills are pending.

"(i) Professional and technical personnel of the joint committee, upon the written authority of the chairman or vice chairman, shall have the right to examine the fiscal books, documents, papers, and reports of any agency within or without the District of Columbia, and data related to proposed appropriations incorporated in the annual Budget transmitted by the President.

"(j) The annual budget of the United States shall include a special analysis of all active long-term construction and development programs and projects authorized by the Congress, showing for each the total estimated cost, and the actual or estimated expenditures during prior fiscal years, the current fiscal year, the ensuing fiscal year, and subsequent fiscal years. All grant-in-aid programs shall be included in this analysis, in a separate grouping, showing under the heading 'Subsequent Fiscal Years' for grants of indefinite duration the estimated annual cost for a ten-year period. Each agency carrying on any program by utilization of the borrowing authority shall, at such times as the joint committee shall specify, report to the joint committee upon the extent of its borrowings under such program, and upon its operations generally under such program. Upon request of the joint committee, any agency shall submit to the Appropriations Committees of the House of Representatives and the Senate estimates for proposed appropriations on an annual accrued expenditure basis.

"(k) Qualified members of the staff of the Office of Management and Budget shall, at the request of the Committee on Appropriations of the House of Representatives or the Senate, or any subcommittee thereof, be assigned to attend executive sessions of the subcommittees of such committees and to explain the content and basis of proposed appropriations.

"(l) The Comptroller General of the United States shall, at the request of the chairman of the joint committee, make such investigations and reports with respect to any agency as will enable the joint committee to give adequate consideration to items relating to such agency which are contained in the Budget as submitted by the President, and the justifications submitted in support thereof. For purposes of this subsection, the Comptroller General is authorized to employ technical and professional personnel without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation without regard to chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates and limitations.

"(m) When used in this section, the term 'agency' means any executive department, commission, council, independent establishment, Government corporation, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government, and the Comptroller General of the United States, the General Accounting Office, and any and all parts of the government of the District of Columbia except the courts thereof.

"(n) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Appropriations for the expenses of the joint committee shall be disbursed from the contingent fund of the Senate by the Secretary of the Senate upon vouchers signed by the chairman or vice chairman."

(b) Title II of the table of contents of such Act is amended by inserting immediately below item 207 the following new item:

"208. Joint Committee on the Budget; budget data."

SEC. 402. Section 252 of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(c)(1) Each Federal agency primarily responsible for carrying out, if enacted, the provisions of a bill or joint resolution of a public character to be reported out by a committee of either House of Congress (other than the Appropriations Committees of the two Houses, and the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct of the House of Representatives) shall furnish such committee with an estimate of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is to be reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such estimates shall require only an estimate of the gain or loss in revenues for a one-year period. If the chairman of the committee determines that no existing agency is primarily concerned with the legislation, the estimate shall be made by the Office of Management and Budget.

"(2) Estimates received from a Federal agency under this subsection may be submitted by any such committee to the Office of Management and Budget for review, and such reviews, when practicable, shall be included in the report before such bill or joint resolution is reported.

"(3) The Joint Committee on the Budget shall maintain compilations of all such estimates, and semiannually shall print those compilations (together with any comment of the Office of Management and Budget) for the information of the Congress."

SEC. 403. (a) Part 4 of title II of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new section:

"JOINT HEARINGS

"SEC. 244. The Joint Committee on the Budget is authorized to recommend that joint hearings be held by the Committees on Appropriations of the House of Representatives and the Senate, and of subcommittees thereof; but such joint hearings shall not affect the power of the respective committees, and of subcommittees thereof, to conduct separate additional committee hearings, and shall not affect the independence of committee deliberations and decision. The chairman of each such joint hearing shall be the chairman of the Committee on Appropriations, or of the appropriate subcommittee thereof, of the House in which the bill is pending at the time of the hearing, and the vice chairman shall be the chairman of the Committee on Appropriations of the other House, or of the appropriate subcommittee thereof."

(b) Title II of the table of contents of such Act is amended by inserting immediately below item 243 the following new item:

"244. Joint hearings."

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Mississippi (Mr. STENNIS), and Senators MONTOYA, ERVIN, BUCKLEY, ALLEN, PERCY, HART, BEALL, DOMINICK, JAVITS, and FONG, be added as cosponsors. And if other Senators wish to be listed as cosponsors, they can be listed at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McCLELLAN. I yield.

Mr. PERCY. Mr. President, I ask unanimous consent that Mr. Robert Vastine, a member of the staff of the Government Operations Committee, be permitted the privilege of the floor during the debate this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, a major—and constant—problem facing the people of the United States is the maintenance of our fiscal solvency and integrity. We have just approved a $75 billion defense bill which was $5 billion below the budget request. But even so, it was the largest single appropriations bill ever approved by the Congress.

I believe that we must maintain an adequate system—a strong posture—of defense whatever the price. But we also have mushrooming demands for spending on domestic programs and services, and in addition to all this, we recently passed a new $5 billion revenue sharing program with the States. We have levied upon our people a heavy burden of taxes that has grown with every new demand to which we accede.

The time has clearly come when we must act to conserve our fiscal resources just as we have moved to conserve our natural resources. The time has come when we must take an aggressive and positive approach toward the elimination of extravagance, waste, and needless expenditures of public funds.

So, Mr. President, I am indeed pleased and gratified to note that the House of Representatives has included in title III of H.R. 16810 a provision to establish a joint committee to recommend procedures to improve congressional control of budgetary outlay and receipt totals.

This proposal is similar in many respects to one which I first introduced as long ago as 1950 and repeatedly sponsored in the intervening years. I sought the creation of a Joint Committee on the Budget to provide the Congress with the machinery necessary to enable it to meet its constitutional responsibilities with respect to the appropriation of funds required for the conduct of the Federal Government.

Composed of Members of the Senate and House Appropriations Committees, the committee was to have assisted the Congress in exercising adequate control over the expenditure of public funds by the executive branch of the Government.

The Joint Committee on the Budget was designed to remedy serious deficiencies in congressional appropriations procedures by providing the Congress with the same type and caliber of detailed technical information in the appropriation field, as the Joint Committee on Internal Revenue Taxation provides for the revenue committees of Congress and the Office of Management and Budget now provides for the executive branch.

I first introduced this measure on February 19, 1950, but no action was taken upon it in the 81st Congress.

In 1951, at the start of the 82d Congress, I reintroduced the bill, with certain modifications. On April 8, 1952, the Senate approved the measure by a vote of 55 to 8 but it was not acted upon by the House.

A similar bill was introduced in the 83d Congress with 57 cosponsors. It passed the Senate on May 23, 1953, but once again the House took no action.

In the 84th Congress, a bill was passed unanimously by the Senate on May 19, 1955, only to expire in the House Committee on Rules.

I introduced a further revised bill in the 85th Congress with 70 Senators as cosponsors which was passed without opposition on April 4, 1957. This, too, was in effect, blocked by the House.

In the 87th Congress the bill was introduced with 67 cosponsors, passed the Senate, but died in the House.

In the 88th Congress, the measure was cosponsored by more than three-quarters of the Senate—77 Senators. Once again, the Senate approved the bill only to have it blocked by the other body.

The bill passed the Senate in the 89th Congress, but was not approved by the House.

Sixty-six Members of the Senate sponsored the bill in the 90th Congress. It passed the Senate on May 15, 1967, but the House Committee on Rules again failed to act.

For 22 years, the same fundamental problem has been allowed to exist. The Appropriations Committees of both Houses labor under a tremendous disadvantage in their efforts to pass upon requests from the executive body for Federal expenditures.

While Congress has been generous in equipping the executive agencies with personnel to handle their affairs, it has neglected to provide itself with the necessary machinery to carry out one of its most vital functions and responsibilities—the appropriation of funds for the conduct of the people's business.

Instead of equipping itself with an adequate number of experts and technicians to examine every detail of the appropriations requests submitted by the executive branch, the Congress has been content to limp along without the staff assistance, fiscal data and information required by its work.

The staffs of the Senate and House Appropriations Committees are hardworking and extremely competent, but they cannot possibly perform the kind of analysis of budget requests which the Congress needs in the time available. As a result, members of the Appropriations Committees are forced to rely largely upon the testimony of the representatives of the executive branch who formulate the spending programs and present them in a light most favorable to their own views.

This appears to be an opportune time to propose, as an amendment to H.R. 16810, the major provisions of my bill. Title III of H.R. 16810 would create a temporary joint committee which would be required to make a full study and review of, first, the procedures which should be adopted by the Congress for the purpose of improving congressional control of budgetary outlay and receipt totals, including procedures for establishing and maintaining an overall view of each year's budgetary outlays, fully coordinated with an overall view of anticipated revenues for that year, and, second, the operation of the limitation on expenditures and net lending imposed by section 201 of this act for the fiscal year ending June 30, 1973, set at $250 billion.

The joint committee would report the result of its study and review to the Speaker of the House and President pro tempore of the Senate not later than February 15, 1973, and cease to exist at the close of the 93d Congress.

My amendment does not affect title III. It would add a new title IV which would establish a permanent joint committee with a bipartisan staff, and vest it with the powers normally vested in the standing committees in each House. In addition, my amendment would give the joint committee various other functions and duties which are essential if the Congress is to properly exercise its constitutional responsibilities relative to the appropriation of funds required for the conduct of the Federal Government. One of its most important functions would be to recommend to the appropriate committees of the Congress a ceiling for expenditures and net lending under the annual budget for each fiscal year.

In addition, the joint committee would, first, review and analyze, on a continuing basis, all aspects of the annual budget of the United States and the agency estimates and justifications set forth therein; second, examine, on a continuing basis, all analytical, audit, investigative and other reports on Federal operations prepared by the General Accounting Office under its various statutory mandates, as well as those prepared by other agencies; third, review and analyze the initiation or continuation of Federal programs by utilization of borrowing authority, contract or obligational authority, or other means which do not require direct appropriations for the initiation or continuation of such programs; fourth, provide the House and Senate Committees on Appropriations with such information on items contained in the budget, and the justifications submitted in support thereof, as may be necessary to enable such committees to give adequate consideration thereto; fifth, review and analyze the President's messages on the State of the Union and the Economic Report, as well as all information relating to estimated revenues, including revenue estimates of the Treasury Department and the Joint Committee on Internal Revenue taxation; and sixth, report to the Appropriations Committees of both Houses its findings relative to budget estimates and revisions in appropriations required to hold expenditures to the minimum consistent with the requirements of Government operations and national security.

The joint committee would also be required to, first, recommend to the appropriate standing committees of both Houses such changes in existing law as may effect greater efficiency and economy in Government; second, make reports and recommendations to such standing committees on matters within their jurisdiction, relative to deviations by the executive branch from basic legislative authorization, or to appropriations approved by the Congress, which are not consistent with such basic legislative authorizations, or to cutbacks in previously authorized programs which require appropriations; and, third, report to the Committees on Appropriations of both Houses at the beginning of each regular session of the Congress the total estimated costs of all programs and projects authorized by the Congress during the preceding year, together with estimated costs of such programs and projects during the current, subsequent, and succeeding fiscal year, if the program extends for more than 1 year.

I believe that my proposed amendment would equip the Congress and its committees with the staff and machinery needed to ferret out, develop and present the data and detailed information which would enable the Congress to arrive at more fully informed decisions relative to the essential fiscal requirements of the executive agencies of the Government.

Mr. President, 22 years is indeed a long time to wait to see an idea come to fruition. But when an idea is as important to our governmental system as I believe this one is, it is certainly worthy of patience and persistence, and I hope it will now come into fruition.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am a member of the committee which the Senator from Arkansas chairs so graciously. I have one question that I want to ask. The fundamental purpose of this committee is to take a look at the whole of the budget problem before Congress, all of it together in one piece, and then make recommendations to the individually affected committees as to what it thinks they ought to do in respect of the total budget overview.

Mr. McCLELLAN. Insofar as it affects the fiscal affairs of our Government. The Senator is correct.

Mr. BENNETT. Mr. President, as manager of the bill, I am prepared to accept the amendment and urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. BELLMON. Mr. President, I have an amendment No. 1749 at the desk and ask that it be reported. It is a modified amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill insert the following:

TITLE IV—ANNUAL CEILINGS ON EXPENDITURES AND NEW OBLIGATIONAL AUTHORITY

SEC. 401. (a) After the submission of the Budget of the United States Government and upon recommendation of the President for each fiscal year (beginning with the fiscal year ending June 30, 1974), the Congress shall, by law, prescribe a limit on—

(1) the total amount of expenditures and net lending to be made by the United States Government during such fiscal year, and

(2) the total amount of new obligational authority and loan authority to be made available for such fiscal year.

Provided that no change in a limitation once established for the fiscal year by the provisions of this subsection shall be made except by an affirmative vote of two-thirds of the membership of the House of Representatives and the Senate present and voting.

(b) (1) Notwithstanding the provisions of any other law, the President shall in accordance with paragraph (2), reserve from expenditure and net lending during each fiscal year, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year within the limit on the total amount prescribed for the fiscal year pursuant to subsection (a) (1).

(2) In carrying out the provisions of paragraph (1) for any fiscal year, the President shall reserve amounts proportionately from appropriations or other obligational authority available for such fiscal year for all programs and activities of the Government (except for expenditures and net lending—for interest; for veterans' benefits and services; for payments from social insurance trust funds; medicaid; public assistance maintenance grants; social service grants under Title IV of the Social Security Act, as amended; food stamps; military retirement pay; and judicial salaries).

(c) (1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraph (2), reserve from the new obligational and loan authority for each fiscal year such amounts as may be necessary to keep the new obligational authority and loan authority for the fiscal year within the limit on the total amount prescribed for the fiscal year pursuant to subsection (a) (2). The amounts so reserved are hereby rescinded as to the close of such fiscal year. Within 90 days after the close of such fiscal year, the President shall make a report to the Congress identifying the amounts reserved pursuant to this paragraph.

(2) In carrying out the provisions of paragraph (1) for any fiscal year the President shall reserve amounts proportionately from new obligational authority and loan authority made available for such fiscal year for all programs and activities of the Government (except for expenditures and net lending for interest; for veterans' benefits and services; for payments from social insurance trust funds; medicaid; public assistance maintenance grants; social services grants under Title IV of the Social Security Act, as amended; food stamps; military retirement pay, and judicial salaries).

(d) In the administration of any program as to which—

(1) the amount of expenditures or obligations for any fiscal year is limited pursuant to subsection (b) or (c), and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution for such fiscal year, the amount available for expenditure or obligation (as determined by the President pursuant to subsection (b) or (c)) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

SEC. 402. (a) Except as provided in subsection (b), it shall not be in order, in either the House of Representatives or the Senate, to consider any bill or joint resolution making appropriations for any fiscal year, beginning with the fiscal year ending June 30, 1974, prior to the date of the enactment of a law prescribing, pursuant to section 401, a limit on the total amount of expenditures and net lending to be made by the United States Government during such fiscal year and a limit on the total amount of new obligational and loan authority to be made available for such fiscal year.

(b) Subsection (a) shall not apply with respect to any appropriation requested by the President if, in submitting the request for such appropriation, the President certifies that an emergency requires the prompt enactment of legislation making such appropriation.

(c) Subsection (a) shall not be construed to preclude the holding of hearings or other consideration by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, with respect to proposed expenditures and proposed new obligational authority and loan authority set forth in the Budget of the United States Government submitted by the President for any fiscal year.

(d) This section is enacted by the Congress—

(1) as an exercise of the rulemaking powers of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

Mr. BELLMON. Mr. President, copies of this amendment are on the desk of each Senator. However, we have a slightly modified version that the clerk has just reported. This is a follow-on to the amendment that the Senate adopted, the amendment of the Senator from Idaho (Mr. JORDAN). It puts into effect the process in the Jordan amendment, established for the current fiscal year into operation on a current basis.

The amendment is intended to assist the President and the Congress in our joint efforts to hold Federal spending in line with Federal income.

I would like to be able to report to the Senate what we have been able to do with our Federal income in case we have not kept track if it.

Federal tax collections amounted to $5.1 billion in 1942, and $36.4 billion in 1950. In 1960, the Government collected $77.7 billion. In 1970, our receipts had gone up to $193.7 billion. This shows that we have not lacked for income. This year, fiscal year 1973, our Federal receipts will total approximately $223 billion.

But if we look at what we have done and have spent in those same years, we find that in 1940 we spent $9 billion. In 1950, we spent $39.5 billion. In 1960, we spent $75.5 billion. In 1970, we spent $196.5 billion. In 1973, we will spend approximately $265 billion. At least we have appropriated about $265 billion.

So, in spite of the increase in collections every year, including a 3-fold increase in the last 13 years, we have still experienced an increase in the national debt since 1940 in the amount of $433.3 billion. The devastating effect of this burden on persons with fixed income, and the value of savings and insurance, and on the stability of the dollar is well known.

We are beginning now to see that this huge debt is also hampering the ability of the Federal Government to cope with current problems.

The interest on the Federal debt this year amounts to $23.1 billion. Think how much could be accomplished if this sum were available for education, health, housing, or other services.

Mr. President, I strongly support the concept of a limitation on Federal spending provided it is agreed upon in a timely and orderly manner. And this is the purpose of this amendment, and this is the difference between my proposal and others.

It is obvious that the management of our economy has not been effective. We have observed it in the rising cost of living, in higher prices for food, clothing, housing, transportation, and other essentials.

This type of fiscal fiasco has drawn justifiable criticism, both on the domestic front and among our partners in world trade, who complain because we have passed on our inflation to them through massive outflows of inflated dollars to Europe and other parts of the world.

In addition, the inflationary trend in the United States has undermined the export efforts of American industry, and it has led to a massive growth in imports with a corresponding loss of jobs for American workers. These two factors have combined to wipe out the substantial trade surplus of the mid-1960's, causing other nations to lose confidence in the full convertibility of the U.S. dollar.

Our fiscal madness, unless cured, could shortly mean the disruption of all the substantial progress which has now become evident on many fronts of our economy.

Mr. President, it is obvious that the fiscal policies that this country has been following need serious examination and re-evaluation. Clearly some more definitive actions must be taken as an ongoing effort to protect our standard of living and to maintain our leadership position in world affairs.

The simple truth is that no government can for long continue to spend wildly beyond its income if it is to retain the confidence of its own citizens and other peoples.

To my mind, it is time for Congress to act to rectify this dangerous situation which has been caused by continually spending in excess of our income.

I share the concern expressed by many here tonight that Congress should exercise primary control of fiscal affairs and in so doing act as a watchdog over the Federal budget. This amendment preserves the historic role of Congress in the appropriative process and at the same time provides new tools to help the process function better.

Mr. President, briefly here is how the amendment would work.

At the time the President submits his budget at the beginning of Congress, he would recommend a limit on spending for the fiscal year. The Congress would then proceed to establish a spending ceiling.

If appropriations made during the fiscal year exceed the spending ceiling, my amendment would require the President to proportionately reduce spending on all controllable items.

If Congress appropriates in excess of the spending limitations, the limit could be raised, but only by a two-thirds vote of both Houses. This would go far in establishing fiscal responsibility without surrendering to the President the historical role and the power that Congress has exercised in the appropriations process.

Enactment of a ceiling on expenditures under appropriations before the appropriations process begins would require Congress to continually monitor the level of appropriations to hold the total at or below the ceiling and hopefully within anticipated revenues.

Such constant attention to the Nation's fiscal condition is an important step toward greater fiscal responsibility. Already most States and municipalities follow some such practices, as do successful business enterprises, and millions of American families as they plan the household budget.

We have already appropriated the money, and now we come to the end of the year. Had we had a ceiling all along we could have done a better job holding expenditures below the level set.

The Federal Government cannot forever continue its current profligate financial course without risking economic catastrophe.

Mr. President, under existing practices and even under the proposal which would allow the President to selectively make a reduction in the level of Federal spending, the Congress has the best of all possible worlds. We can say "yes" to every group that comes to us with a request for more money, but tell the President to withhold and not spend a portion of the funds appropriated. Then we point an accusing finger at the administration when citizens demand to know why the full amount appropriated has not been released for spending. Frankly, this system seems not only unfair, but downright hypocritical and callous. It must be brought to an end.

By requiring a proportionate "across the board" reduction of all controllable budget items when the spending limitation is exceeded, we would reverse the trend to delegate more and more authority to the President. It is time that Congress asserted and fully exercised its responsibilities in fiscal affairs.

Mr. President, as a former governor of a State which once faced financial chaos but which now operates on a balanced budget, I know that Government can operate in a fiscally responsible manner. I know, also, that Government officials need certain tools and restraints to help them resist the constant pressures to spend more and more and tax less and less.

This amendment, if adopted, would be a major improvement in the process of appropriation and fiscal management.

Mr. STENNIS. Mr. President, I insist that the Senator have a chance to speak. It is impossible for him to be heard under such conditions.

The PRESIDING OFFICER. Will Senators please take their seats. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a limitation of 15 minutes on the pending amendment, the time to be equally divided and controlled between the manager of the bill and the sponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I agree to that.

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. Mr. President, my interest in this whole subject matter springs from the fact that as a former Governor of the State of Oklahoma I lived with a requirement in our State constitution for a balanced budget. Our State was required year after year to spend not more than it raised in taxes. I know a government can be fiscally responsible if it knows what it is doing from day to day. I do not see how Congress can ever achieve fiscal responsibility unless we have a target when we first go into session. The purpose of the amendment is to set up a target, to set up a process whereby we will continually monitor our appropriation process and Members will know when we go beyond the limit we set and so we will have a process for adjustment by a two-thirds vote.

This is the same provision we adopted in the Jordan amendment, but it puts the process into operation on a continual basis. The amendment, which is printed amendment No. 1749, has been amended to include the language for exemption in the Jordan amendment, which the Senate accepted a few moments ago.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, the amendment by the Senator from Oklahoma is a very ingenious and interesting proposal. It has not had any study. It represents an extension of the proposal which the Senate feels is an invasion of its rights, with no opportunity in years ahead to change the pattern. If this amendment is agreed to it wipes out the McClellan amendment and an amendment that will be offered later by the Senator from Delaware (Mr. ROTH), because there is no longer anything to study. This amendment writes a pattern into law which the committee has not seen and which no Member of the Senate has seen.

It may be the wisest solution. The Senator from Utah would suggest that the Senator from Oklahoma refer this amendment to the committee, which would be set up if the amendment by either or both Senators passes, and let them study it, rather than imposing it on the President and on the Congress now and completely eliminate any further opportunity for study of the problem.

Mr. President, I am prepared to yield back the remainder of my time if the proponent of the amendment is.

Mr. BELLMON. Mr. President, I am willing to do so but I first wish to make one brief comment. This amendment would not in any way stop the study. This amendment would simply require the President when he submits his budget to submit a ceiling on expenditures and if after a study is completed a better way is arrived at Congress can change the law. But without this amendment we will be back in the same shape next year that we are in tonight. By adopting the amendment at this time we will give the President guidance so that when he submits his budget he will submit a recommendation for a ceiling on expenditures, which we did not have this year.

Mr. BENNETT. Mr. President, it is true that perhaps the study can go on, but there is nothing left to study. The pattern has been set and the study committee, instead of having the whole question before it, is forced to consider how to get rid of this problem. I hope the proposal is rejected.

I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), and the Senator from Georgia (Mr. GAMBRELL), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the

Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "nay."

I also announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. SAXBE), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The result was announced—yeas 9, nays 62, as follows:

[No. 558 Leg.]

YEAS—9

Bellmon
Dominick
Jordan, Idaho
Mansfield
Pell
Percy
Proxmire
Schweiker
Symington

NAYS—62

Aiken
Allen
Bayh
Beall
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Cotton
Cranston
Dole
Eagleton
Ervin
Fannin
Fong
Fulbright
Gravel
Gurney
Hansen
Hart
Hartke
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Magnuson
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Ribicoff
Roth
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—29

Allott
Anderson
Baker
Bible
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Kennedy
Long
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower

So Mr. BELLMON's amendment was rejected.

Mr. BEALL. Mr. President, at the request of the Senator from Texas, I ask unanimous consent to have printed in the RECORD a statement on the bill.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR TOWER

I am in full support of the House bill to put a firm limit on federal spending this fiscal year. The federal government simply spends too much money. It spends not only all the tax revenue that it can gouge out of the taxpayers of this country, but it also spends money that it does not have, and the government consequently keeps building deficit upon deficit.

Much is made of the supposed role of defense expenditures in this deficit spending habit. But the defense expenditures have been kept rather steadily around the $80 billion mark for some years now, and their share of the total federal budget has declined from 44% in the last year of the Johnson Administration to 32% in the present year. Those who have seen the declining state of the physical plants of our military installations and who are concerned about inadequate research and other defense funds know that the defense end of the budget is doing its share of the sacrificing to keep federal expenditures down.

The sector that is not making that sacrifice is the social programs sector of the budget. Every Committee and nearly every Member of Congress has pet programs in the domestic area, which he supports for either philosophical reasons or for the reason that they will be of particular benefit to his constituency. When the cost of all these programs are totaled up, they go far beyond the limits which the taxpayers want the federal government to go. Consequently an *overall* spending limit will have to be established if there is going to be meaningful control of federal spending. The control of the separate elements of the federal spending process is too limited under the present authorization and appropriation procedure.

This will mean that some programs will have to be cut back in relation to the money made available to them by Congress, and the areas of the economy or society that derive special benefit from them will no doubt be screaming at Congress for enacting the spending ceiling. But we have to consider the whole country, and particularly the overburdened taxpayer in America. He cannot afford the bill for the federal government to be all things to all people. The fact that Congress has been pushing in that direction for four decades has also left State and local governments, which provide the most essential domestic services of government, stripped of tax resources and consequently of the ability to pay for adequate police and fire protection, waste treatment systems, recreation areas, and the like. This has necessitated the paradox involved in revenue sharing, with the federal government having to bring back to its sources some of the funds it has greedily taken away from those same sources.

The taxpayer wants less money taken away from him by the federal government, and more of his pay check or pension check left for his own use and for the adequate provision of vital state and local government services. The spending ceiling will be a major step in this direction, and I am most emphatically going to support this and future attempts to get federal spending under control, as I have in the past. It is past time for Congress to realize that it cannot buy everything for the American people, and to realize that the American people can provide most things for themselves, if only they are not overwhelmed by the excessive taxation and inflation caused by big federal spending.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the two amendments to be offered by the Senator from Oregon, on one amendment there be a limitation of 40 minutes, the time to be equally divided and controlled and on the other there be a time limitation of 20 minutes, the time to be equally divided and controlled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in addition to the request just made, I ask unanimous consent that on the amendment to be offered by the Senator from South Carolina (Mr. HOLLINGS) there be a time limitation of 20 minutes, with 10 minutes to a side, equally divided and controlled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limit of one-half hour on the amendment to be offered by the Senator from Washington (Mr. MAGNUSON) the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. What did the Senator say? Was it one-half hour?

Mr. MANSFIELD. Yes, equally divided.

Mr. MAGNUSON. There are about 17 cosponsors.

Mr. MANSFIELD. I will withdraw the request. I thought it met with the Senator's approval.

Mr. MAGNUSON. It should not take us over a half hour. I hope I will not take more than 5 minutes. I do not object.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a limitation of 5 minutes on the Roth amendment, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title III, section 301:

Beginning on line 6, strike out all through line 23, and insert in lieu thereof.

SEC. 301. (a) There is hereby established a joint committee composed of thirty-two members appointed as follows:

(1) seven members from the Committee on Ways and Means of the House of Representatives, appointed by the Speaker of the House;

(2) seven members from the Committee on Appropriations of the House of Representatives, appointed by the Speaker of the House;

(3) two additional Members of the House of Representatives, one from the Majority Party, and one from the Minority Party, appointed by the Speaker of the House;

(4) seven members of the Committee on Finance of the Senate, appointed by the President pro tempore of the Senate;

(5) seven members of the Committee on Appropriations of the Senate, appointed by the President pro tempore of the Senate; and

(6) two additional Members of the Senate, one from the Majority Party, and one from the Minority Party, appointed by the President pro tempore of the Senate.

Mr. ROTH. Mr. President, this is a very simple amendment that involves the joint committee to review operations of the budget ceiling. I am proposing that the amendment of this body be increased from 30 to 32 members.

The present language provides that there will be one additional Member of the House of Representatives appointed by the Speaker of the House, and what I am proposing is that there be two additional Members from the House of Representatives, one from the majority party and one from the minority party, appointed by the Speaker of the House.

I make the same change as to the Senate: Instead of one additional Member of the Senate, there would be two, one from the majority party and one from the minority party, appointed by the President pro tempore of the Senate.

I think in this kind of study, it makes good sense to have equal representation, because the committee can only make recommendations to Congress, and I feel that there has been considerable tradition and precedent in the past for this approach.

Mr. BENNETT. Mr. President, it presumably might give two more votes on the committee to the minority, but the majority would still be maintained. It would not upset that pattern. I assume my friends of the majority will join me in the decision to accept the amendment, and I hope the Senate will agree to it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BENNETT. I yield back the remainder of my time.

Mr. ROTH. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Delaware (Mr. ROTH).

The amendment was agreed to.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, strike title II.

Mr. MANSFIELD. Is this the one with the time limitation?

Mr. PACKWOOD. Ten minutes. Mr. President, without losing any of my time, I believe that the Senator from Utah is on my side on this amendment, and I do not know who is handling the time for the opposition.

Mr. MANSFIELD. I will take it, and give it to anybody who wants it.

Mr. HANSEN. There is no opposition.

Mr. PACKWOOD. Good; I am delighted. The Senator from Wyoming says there is no opposition.

This amendment strikes the entire expenditure ceiling, title II of the bill. I do not think there is any need for extended debate. The bill in its original form would have been an extraordinary delegation to the President. And, as the Jordan amendment would be as bad as the original bill, I voted against it.

I hope that I am now providing another choice, and in fact I believe this is substantially the lesser evil, because if this amendment passes, the entire title II, which is the expenditure limitation, would be stricken from the bill. It is as simple as that.

Mr. MANSFIELD. May I ask one question? Will this knock out the Jordan amendment?

Mr. PACKWOOD. It is my understanding that it will knock out the Jordan amendment; that is correct.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, when I entered the Senate, I took an oath to uphold the Constitution. I cannot keep that oath and vote to give the President blanket authority to determine the Federal Government's fiscal priorities. That is a duty vested in the Congress by the Constitution. I, for one, will not vote to nullify the Constitution by transferring the authority to determine how much will be spent for defense, or social security or education to Mr. Nixon. We might as well abolish the Congress; it retains little enough power as it is.

It is said that this ceiling is necessary to curtail spending. I agree that Federal spending must be reduced. But the full responsibility for Federal extravagance does not rest with the Congress. General-revenue sharing was Mr. Nixon's proposal. The Congress only went along.

In other instances, the Congress has been more responsible. It has cut money from the Nixon budget as well as added money. The obsessive spending of this administration for military hardware and such luxuries as the manned space shuttle together with its mismanagement of the economy are what have driven the Government into the ground—not the Congress.

Where we have failed in the Congress is to discipline President Nixon. And now, ironically he blames the Congress. He does not need this spending limitation. He already has the power to limit spending. He can veto congressional appropriations. Once he approves appropriations he can withhold expenditures. President Nixon is not seeking a ceiling so much as he is seeking to put the onus for high spending and the higher taxes his policies court upon the Congress.

A statesman accepts responsibility—at least shares it. Mr. Nixon blames others.

I hope the Senate will rise up now and accept its constitutional responsibility to determine the Federal Government priorities.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PACKWOOD. I yield back the remainder of my time.

Mr. MANSFIELD. I yield back the time in opposition.

The PRESIDING OFFICER (Mr. MONTOYA). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Georgia (Mr. GAMBRELL) would each vote "nay."

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. STAFFORD) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Ohio would vote "yea" and the Senator from Texas would vote "nay."

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

I also announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. SAXBE), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The result was announced—yeas 24, nays 48, as follows:

[No. 559 Leg.]

YEAS—24

Aiken
Bayh
Beall
Bennett
Brooke
Buckley
Burdick
Chiles
Fannin
Gravel
Gurney
Hartke
Hughes
Inouye
Mansfield
Mathias
Moss
Packwood
Scott
Stevens
Stevenson
Tunney
Weicker
Williams

NAYS—48

Allen
Bellmon
Bentsen
Boggs
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Ervin
Fong
Fulbright
Hansen
Hart
Hollings
Hruska
Humphrey
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
McClellan
Miller
Mondale
Montoya
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Smith
Spong
Stennis
Symington
Talmadge
Young

NOT VOTING—28

Allott
Anderson
Baker
Bible
Cook
Curtis

Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower

So Mr. Packwood's amendment was rejected.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 5 minutes on the Humphrey amendment, which is about to be submitted, time to be divided equally in the usual manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 5, line 23, insert the following:

At the end of title III, add another title, title IV, to read:

TITLE IV—FEDERAL IMPOUNDMENT INFORMATION

Short Title.—This title may be cited as the "Federal Impoundment and Information Act".

Amendment of the Budget and Accounting Procedures Act of 1950.—Title II of the Budget and Accounting Procedures Act of 1950 is amended by adding at the end thereof the following new section:

"REPORTS ON IMPOUNDED FUNDS

"Sec. . (a) If any funds are appropriated and then partially or completely impounded, the President shall promptly transmit to the Congress and to the Comptroller General of the United States a report containing the following information:

"(1) the amount of the funds impounded;

"(2) the date on which the funds were ordered to be impounded;

"(3) the date the funds were impounded;

"(4) any department or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

"(5) the period of time during which the funds are to be impounded;

"(6) the reasons for the impoundment; and

"(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

"(b) If any information contained in a report transmitted under subsection (a) is subsequently revised, the President shall promptly transmit to the Congress and the Comptroller General a supplementary report stating and explaining each such revision.

"(c) Any report or supplementary report transmitted under this section shall be printed in the first issue of the Federal Register published after that report or supplementary report is so transmitted."

Mr. HUMPHREY. Mr. President, this amendment is identical to the one that was adopted on the tax bill when we had it here. It is also the same amendment that was discussed at length at the time we were on the welfare bill, and at that time the distinguished chairman of the committee, Senator Long, said that if we would bring it up on this bill, he would have no objection, as I recall, and would look with favor upon it.

This is the same amendment that has been advanced here—the substance of it—by Senator Ervin and myself on other occasions. All it asks is that the President shall promptly transmit to Congress and the Comptroller General of the United States a report containing certain information relating to impounded funds.

Mr. BENNETT. Mr. President, when this amendment was offered on the previous bills to which the Senator from Minnesota has referred, it was not germane. But I think it is properly germane on this bill, and I am very happy, as manager of the bill, to accept it and recommend to my colleagues that they approve the amendment.

I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I forgot to say that the distinguished Senator from Florida (Mr. Chiles), the distinguished Senator from New York (Mr. Javits) and the distinguished Senator from New Jersey (Mr. Williams) are cosponsors of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I send to the desk an amendment on behalf of myself and Senator Jackson, Senator Tunney, Senator Cranston, Senator Case, Senator Brooke, Senator Muskie, Senator Pell, Senator Ribicoff, Senator Hart, Senator Humphrey, and Senator Javits.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Pell). Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE IV—MISCELLANEOUS PROVISIONS

AMENDMENT TO FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

Sec. 401. Section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof.".

Mr. MAGNUSON. Mr. President, I do not want to take much time. I think I can explain this amendment very briefly.

The amendment would allow the States to repeal the so-called 120 percent off-and-on trigger that applies to unemployment benefits. The 120-percent trigger in the law arbitrarily and harshly discriminates against an unemployed worker residing in a State with a persistently high rate of unemployment. At the time it was put in, no one expected that unemployment would persistently continue in a State for 2 years.

Because the requirement is there, a State must have an unemployment rate which is at least 120 percent of the rate prevailing in that State for a corresponding period of the previous 2 years, and it has the adverse effect of eliminating States in which the unemployment level has stayed at a high rate.

My own State is one instance. Unemployment is more than 10 percent. It has stayed there consistently. Many other States would qualify for these extended benefits; but it must be remembered that the amendment requires that the States act themselves to suspend the 120 percent.

The House Ways and Means Committee has reported a similar bill. The Senate Finance Committee has reported H.R. 640 with an identical amendment, but it is doubtful that we would have a conference on H.R. 640; and many of us who are interested in the bill—many cosponsors—and who want to do something about this matter feel that this is our only opportunity to get the matter before the House and get something done. We only have a few hours to do this.

It would be much better, of course, if this were a separate bill, but sometimes we are forced to do these things. I just want to cite the States that would qualify if their legislatures wanted to act:

Alaska
Arkansas
California
Connecticut
Hawaii
Idaho
Kentucky
Louisiana
Maine
Massachusetts
Michigan
Minnesota
Montana
Nevada
New Jersey
New Mexico
New York
North Dakota
Ohio
Oregon
Pennsylvania
Rhode Island
Utah
Vermont
Washington
West Virginia

Mr. RIBICOFF and Mr. JAVITS addressed the Chair.

Mr. MAGNUSON. Mr. President, before I yield, I want to thank the Senator from Louisiana (Mr Long), the chairman of the Finance Committee and others on the committee for their help and support in getting this measure out. But we are forced to do something about it for legislative reasons right now, as well as the time element. They provided great leadership for people who have lost their jobs.

One other thing, if the 26 States do this, the Federal share would be only one-half of what they did, which would run about $175 million to $200 million. If we do not do this, these people will be on welfare. The Senator from New Hampshire (Mr. COTTON) and I will tell you, Mr. President, that it costs about $4,000 a year each to put them on welfare and they will be losing their dignity and everything else.

Mr. President, I now yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from Washington. As he points out, we are dealing with people whose benefits have run out. These are not people who are not trying to get a job. Rather, these are people with skills who are trying to get a job. But the unemployment rates in the States are so high it is impossible for them to go to work. There are no jobs. The only alternative is to go on welfare, which is demeaning and will be more costly. This is an unemployment insurance program. I commend the Senator and urge the Senate to adopt the amendment which would give new life to the extended benefits unemployment insurance program.

This vital program, which was enacted in December of 1970 to help those workers who had exhausted their regular 26 weeks of unemployment insurance benefits, would allow workers to receive benefits for an additional 13 weeks. Because of the quickly rising unemployment situation in 1970 the original program was geared to help those States whose unemployment rates were rising each year. Thus the program specified that a State's insured unemployment rate had to be at least 120 percent of the average rate for the last 2 years.

Because of the drastic unemployment situation in America, benefits have been paid in 37 States to three-quarters of a million persons. The amount of benefits paid amounts to almost $250 million.

Today, however, unemployment has leveled off at high levels. Thus many States, Connecticut included, have triggered out of the program because their rates are not increasing by 120 percent. In fact, only four jurisdictions—Hawaii, Pennsylvania, Vermont, and Puerto Rico—have not triggered off the program. And it appears that Vermont and Puerto Rico will soon become ineligible.

The amendments adopted by the Finance Committee at my urging would allow States to waive the 120-percent provision. By this action the 37 States originally receiving benefits would again become eligible under the extended benefits program. One other problem has to be rectified, however, so that States can become eligible for this program. In addition to the 120-percent requirement, a State's "insured unemployment rate" has to be at least 4 percent. The insured unemployment rate differs from the regular unemployment rate in that the regular rate compares total unemployment to population. Connecticut's regular rate is around 8 percent. But the insured unemployment rate is measured by the number of people receiving unemployment benefits compared to population. Since the number of people receiving benefits is lower than the total number of unemployed, the insured unemployment rate is a lower figure than the regular unemployment rate. Connecticut's insured unemployment rate is around 4.5 percent.

Mr. President, in the waning days of the 92d Congress we should be careful not to ignore the legitimate needs of many Americans who need help. They are not asking for welfare or handouts. They are hard-working wage earners who have lost their jobs and need temporary help. We cannot overlook their plight.

By enacting this legislation we will be potentially aiding between 920,000 to 1.12 million unemployed workers at a cost shared evenly by the Federal Government of between $440 to $590 million. In Connecticut alone between 46,000 and 58,000 workers would receive benefits of a magnitude between $28 million and $35 million.

I strongly urge the U.S. Senate to aid the cause of workers throughout the country who need temporary help.

CONNECTICUT EMPLOYMENT SITUATION

Mr. President, Connecticut's unemployment situation over the last few years has not been unique.

While the work force increased 3.5 percent between 1969 and 1971, nonagricultural employment fell off by almost 2.5 percent. Manufacturing employment, which consistently accounts for over one-third of all nonagricultural employment in the State, dropped 15 percent and annual average total unemployment more than doubled, increasing from 51,700 in 1969 to 122,700 in 1971. Substantial declines in durable goods manufacturing were responsible for most of the changes in Connecticut's economy. They accounted for almost 88 percent of the employment loss in manufacturing and far exceeded—more than twice as much—the total decrease in nonagricultural employment.

While machinery and fabricated metals showed decreases, hardest hit was transportation equipment—mostly aircraft and related parts. Military prime contracts awards for aircraft engines, airframes, and related parts dropped from $1 billion in 1969 to $561 million in 1971.

Mr. President, I ask unanimous consent to have printed in the RECORD a table on National and State indicators under extended benefits of Public Law 91–373.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NATIONAL AND STATE INDICATORS UNDER EXTENDED BENEFITS OF PUBLIC LAW 91-373 AND TEMPORARY COMPENSATION OF PUBLIC LAW 92-224 AS OF SEPT. 23, 1972

Trigger Notice No. 84, Oct. 6, 1972—Refer to UIPL No. 1103 and 1156 for Public Law 91-373 extended benefits, and sec. 617.11-12 of temporary compensation regulations for Public Law 92-224 TC benefits]

NATIONAL INDICATOR INSURED UNEMPLOYMENT RATE FOR MOST RECENT AVAILABLE 3 MONTHS (SEASONALLY ADJUSTED): JUNE 3.92, JULY 3.91, AND AUGUST 3.52 PERCENT

State	Public Law 91-373 extended benefit				Public Law 92-224 temporary compensation benefit			
	Periods		Indicators (percent)		Rates (percent)		Periods	
	1st day	Elapsed weeks [1]	Public Law 91-373 IUR	Prior 2 years	Exhaustion	Public Law 92-224 UR (cols. 4+6)	1st day	Elapsed weeks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Alabama			2.46	78	0.87	3.33		
Alaska			5.49	94	1.94	7.43	Jan. 30, 1972	34
Arizona			2.08	75	.52	2.60		
Arkansas			2.27	79	.75	3.02		
California			INA	INA	INA	INA		
Colorado			.97	83	INA	INA		
Connecticut			4.33	65	INA	INA		
Delaware			2.46	86	.53	2.99		
District of Columbia			2.17	132	.44	2.61		
Florida			INA	INA	INA	INA		
Georgia			1.51	82	.52	2.03		
Hawaii	Oct. 10, 1971	50	4.35	134	.95	5.30		
Idaho			3.40	92	.89	4.29	Apr. 9, 1972	24
Illinois			2.23	94	INA	INA		
Indiana			1.68	79	.89	2.57		
Iowa			1.39	73	INA	INA		
Kansas			2.01	56	.74	2.75		
Kentucky			2.18	79	.68	2.86		
Louisiana			2.90	82	1.02	3.92		
Maine			4.56	84	1.90	6.46	Jan. 30, 1972	34
Maryland		(12)	2.80	100	.74	3.54		
Massachusetts		(13)	4.81	94	1.34	6.15		
Michigan			4.49	83	INA	INA		
Minnesota		(11)	2.61	116	.90	3.51	Apr. 9, 1972	24
Mississippi			1.28	64	.38	1.66		
Missouri			2.79	93	.76	3.55		
Montana			2.92	109	1.07	3.99		

See foo'note at end of table.

NATIONAL AND STATE INDICATORS UNDER EXTENDED BENEFITS OF PUBLIC LAW 91-373 AND TEMPORARY COMPENSATION OF PUBLIC LAW 92-224 AS OF SEPT. 23, 1972—Con.

Trigger Notice No. 84, Oct. 6, 1972—Refer to UIPL No. 1103 and 1156 for Public Law 91-373 extended benefits, and sec. 617.11-12 of temporary compensation regulations for Public Law 92-224 TC benefits]

NATIONAL INDICATOR INSURED UNEMPLOYMENT RATE FOR MOST RECENT AVAILABLE 3 MONTHS (SEASONALLY ADJUSTED): JUNE 3.92, JULY 3.91, AND AUGUST 3.52 PERCENT

State	Public Law 91–373 extended benefit				Public Law 92–224 temporary compensation benefit			
	Periods		Indicators (percent)		Rates (percent)		Periods	
	1st day	Elapsed weeks [1]	Public Law 91–373 IUR	Prior 2 years	Exhaustion	Public Law 92–224 UR (cols. 4+6)	1st day	Elapsed weeks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Nebraska			1.28	94	.59	1.87		
Nevada		(5)	4.39	103	1.63	6.02		
New Hampshire			2.05	72	INA	INA		
New Jersey		(6)	5.35	105	INA	INA	Jan. 30, 1972	34
New Mexico			3.28	87	.62	3.90		
New York		(9)	INA	INA	.94	INA		
North Carolina			1.28	64	.36	1.64		
North Dakota	July 2, 1972	12	2.14	152	.66	2.80		
Ohio			1.62	68	.55	2.17		
Oklahoma		(12)	2.74	90	1.05	3.79		
Oregon			3.26	75	.84	4.10		
Pennsylvania	Jan. 31, 1971	86	4.43	127	.66	5.09		
Puerto Rico	Jan. 2, 1972	38	16.01	120	4.15	20.16	Mar. 12, 1972	28
Rhode Island			5.24	85	1.65	6.89	Jan. 30, 1972	34
South Carolina			1.80	68	.59	2.39		
South Dakota			1.42	113	.48	1.90		
Tennessee			INA	INA	.63	INA		
Texas			1.27	85	.47	1.74		
Utah			2.77	88	.70	3.47		
Vermont	Jan. 3, 1971	90	4.95	126	1.06	6.01		
Virginia			.85	83	.25	1.10		
Washington			5.84	55	2.35	8.19	Jan. 30, 1972	34
West Virginia		(9)	INA	INA	.63	INA		
Wisconsin			2.19	85	.65	2.84		
Wyoming			.82	88	INA	INA		

[1] Elapsed weeks of nonpayment from last EB period are greater than 13 for all States unless otherwise noted in parentheses.

Note: State EB indicators and TC rates at or above 4 and 120 percent, or 6.5 percent, respectively, are starred

Mr. JAVITS. Mr. President, this is a very serious problem. The arguments have been well made. Only one fact has not yet been stated, that there are some 658,000 to 797,000 persons involved. The Senator from Washington approached with great reluctance putting this amendment onto this bill, but since we are in the waning hours of Congress and this matter has not been acted on, unless it goes onto some kind of "must" bill, it may not be acted on at all. Therefore, it is essential—as this is a humanitarian proposition and a highly economic proposition—that it be done this way and I hope the Senate will approve the amendment.

Mr. BENNETT. Mr. President, at the right time, I shall move to lay this amendment on the table, so that if the Senator from Washington wants to make another statement I will be happy to withhold.

Mr. MAGNUSON. I should like to ask for the yeas and nays, but as long as the Senator is going to move to table I will ask for the yeas and nays.

Mr. BENNETT. Does the Senator want to wait until I make the motion to table and then ask for the yeas and nays?

Mr. MAGNUSON. We can ask for them ahead of time because every one is still here in the Chamber.

The PRESIDING OFFICER (Mr. PELL). The Senator must ask unanimous consent first.

Mr. JACKSON. Mr. President, I ask unanimous consent that the yeas and nays may be ordered on the motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, I am not going to take any particular time on this. I have expressed the opinion to the sponsors of the bill that by putting it on this particular bill, they insure that it will be dropped out in conference because of the rules of the House. This amendment would have to go to the House in disagreement and would have to be voted on separately.

A big drive will be made to adjourn by tomorrow night, and I just think this is going for a ride to nowhere.

There is another bill to which this amendment could be attached. It would be germane and that House proposal could not lie against it, if that bill were brought up and passed tonight. The conference committees of the two tax-writing committees will be in session all day tomorrow handling H.R. 1 and this bill, and there would be a chance to get the other bill considered in conference.

My second reason for moving to table is that as a matter of policy I think every nongermane amendment to the bill, considering the conditions under which it must be handled, should be tabled.

There is a third reason, the cost of the amendment is between $350 million and $450 million, half of which will be borne by the States and the other half by the Federal Government. We have been trying to talk about a spending ceiling and a spending reduction. This amendment would add a Federal cost of roughly $200 million to $250 million to the budget.

So, Mr. President, under the circumstances, I move that the amendment be tabled.

Mr. MAGNUSON. Mr. President, will the Senator yield me 1 minute?

Mr. BENNETT. I yield to the Senator from Washington and withhold my request temporarily.

Mr. MAGNUSON. Mr. President, that is, if all the States did it. I do not know where there is a better place to spend $175 million or $150 million than on people who are walking the streets out of a job.

Mr. JAVITS. The cost will be covered by unemployment compensation taxes paid by the employers.

Mr. BENNETT. The cost will be covered by unemployment compensation paid by employers of the entire United States, so that the employers of the States other than those that will benefit would be paying a disproportionate share, in my opinion, for this benefit.

Now, if we listened to the list of the States the Senator from Washington read, the State of Utah was one of them. So, in a sense, I am voting against my own State. But the amount that would come to Utah is peanuts compared to the amount of money this bill would cost.

Mr. RIBICOFF. Mr. President, it should be pointed out that while it is costly, if we took 68,000 people and paid $4,000 a year each to their families, it would come to $272 million. So we would be responsible for $272 million in the Federal budget which is much more than $175 million that would come out of unemployment compensation which is provided for in the unemployment compensation funds, so that the net cost would be on the positive side instead of the negative side. I agree with my colleague who handles these matters on the Appropriations Committee.

Mr. BENNETT. The Senator from Utah estimated the cost at over $200 million and this, I think, would be negligible; but, Mr. President, it is getting late. We should move on. This amendment is not germane and on that basis I move that it be tabled.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. BENNETT. There was no time agreed on, Mr. President.

Mr. MAGNUSON. I have no time.

SEVERAL SENATORS. There is no time.

The PRESIDING OFFICER. Time was agreed on beforehand.

Mr. BENNETT. I am sorry. The Chair is correct.

The PRESIDING OFFICER. The time was for 30 minutes, to be equally divided.

Mr. BENNETT. The Senator from Utah was wrong. Mr. President, I yield back my time.

Mr. MAGNUSON. I yield back my time.

Mr. BENNETT. Mr. President, I make the motion to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah (Mr. Bennett) to lay on the table the amendment of the Senator from Washington (Mr. Magnuson).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Bible), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mr. Edwards), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from West Virginia (Mr. Randolph), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), the Senator from West Virginia (Mr. Randolph), and the Senator from Georgia (Mr. Gambrell) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Stafford), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

I also announce that, the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Saxbe), the Senator from Ohio (Mr. Taft), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

On this vote, the Senator from South Carolina (Mr. Thurmond) is paired with the Senator from Vermont (Mr. Stafford). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Vermont would vote "nay."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Michigan (Mr. Griffin). If present and voting, the Senator from Texas would vote "yea" and the Senator from Michigan would vote "nay."

The result was announced—yeas 22, nays 50, as follows:

[No. 560 Leg.]

YEAS—22

Allen
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Cotton
Dole
Dominick
Fannin
Fong
Gurney
Hansen
Hruska
Jordan, Idaho
Long
Packwood
Percy
Roth
Scott
Stennis
Young

NAYS—50

Aiken
Bayh
Beall
Bentsen
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Cranston
Eagleton
Ervin
Fulbright
Gravel
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Smith
Spong
Stevens
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams

NOT VOTING—28

Allott
Anderson
Baker
Bible
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower

So the motion to table Mr. Magnuson's amendment was rejected.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Mr. President, we now proceed to vote on the Magnuson amendment, up or down.

The PRESIDING OFFICER. The Senator is correct. The question is on agreeing to the amendment of the Senator from Washington.

Mr. BENNETT. Mr. President, it is now 20 minutes after 10. There is no sense in going through another rollcall vote for the sake of calling the roll. I will accept the amendment, and I ask my colleagues in the Senate to join me in accepting it on a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I call up my amendment No. 1755.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

At the end of the bill, insert a new title, as follows:

TITLE IV

Sec. 401. This title may be cited as the "Legislative Budget Act of 1972".

Sec. 402(a). The Committee on Ways and Means and the Committee on Appropriations of the House of Representative, and the Committee on Finance and the Committee on Appropriations of the Senate, or duly authorized subcommittee thereof, are authorized and directed to meet jointly at the beginning of each regular session of Congress and after study and consultation, giving due consideration to the budget recommendations of the President, the needs of the United States, and the state of the economy, report to their respective Houses a legislative budget for the ensuing fiscal year. Such report shall contain a recommendation for the maximum amount for all outlays in such fiscal year. If the estimated receipts exceed the recommended outlays, such report shall contain a recommendation for a reduction in the public debt. Such report shall be made by March 30.

(b) The report shall be accompanied by a joint resolution adopting such budget, and fixing the maximum outlays in such year. If the recommended outlays exceed the estimated receipts the joint resolution shall authorize that the public debt shall be increased in an amount equal to the amount by which the recommended outlays for the ensuing fiscal year exceed the estimated receipts.

(c) Until the joint resolution specified in subsection (b) has been agreed to by both Houses by record vote, no appropriation bill appropriating money for the ensuing fiscal year shall be passed by either House.

Sec. 403.(a) If on or before December 31 in the fiscal year and after the joint resolution specified in section 402 (b) has been agreed to by both Houses, the President finds that the aggregate amount of outlays for such fiscal year will exceed the receipts in an amount greater than the excess specified in the resolution, the President shall so proclaim; and on the date of such proclamation such outlays as the President may specify (except outlays for interest payments, for veterans' benefits and services, and social insurance trust funds) shall be reduced by a uniform percentage for each budget account (to be fixed by the President and included in such proclamation) as will reduce the aggregate amount of outlays in an amount equal to the difference between the excess proclaimed by the President and the excess specified in such resolution.

(b) Congress may, however, increase the appropriation amount specified in the joint resolution by a two-thirds vote of both Houses.

Sec. 404. This section shall have effect beginning January 1, 1973, and shall continue in effect through fiscal year 1974.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 15 minutes on this amendment, the time to be equally divided and controlled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I call up this amendment on behalf of the Senator from California (Mr. Cranston) and myself.

Mr. President, in this debate on H.R. 16810, we have the opportunity to answer two important questions—first, whether or not we will take steps to control the fiscal 1973 budget, which I think we must do; second, and more importantly, whether we can devise new mechanisms or revise old ones to provide more lasting solutions to these recurring budget problems.

My own belief is that we cannot only take responsible steps to control the budget on a temporary basis, but also, by using history and former statutes as our guide, develop permanent procedures to prevent such budget crises from exploding upon us again.

I feel that enactment of an expenditure ceiling is at this time a right and proper step. Congress must set a good example on spending. I am even willing to vote for a temporary ceiling with no exemptions at all, although I think the Congress can adopt a responsible method for setting some guidelines for the President to follow in maintaining the budget at or below $250 billion.

Without an expenditure ceiling for fiscal 1973—which, as everyone knows, we are nearly four months into—we can expect the following undesirable consequences:

First, the deficit, of course, will be higher than it would be otherwise. With deficits of $2.8 billion in fiscal 1970, $23 billion in fiscal 1971 and $23 billion in 1972, we obviously must keep the 1973 deficit, now estimated at 30.7 billion, as low as possible.

Second, if we do not control the Federal deficit, wage-price controls will likely be continued and tightened even further.

Third, with the economy in a period of rapid growth now, inflation will come roaring over us like a cyclone if the Federal budget is not held in check. Rising prices, and the consequent erosion of real purchasing power for everyone, from corporation chiefs to truckdrivers, will be one unhappy result.

I don't believe a tax increase can be avoided in the next Congress, even with a ceiling on spending. But, without such a ceiling, the tax bite will be bigger than it would be otherwise. And frankly, fellow colleagues, without such a ceiling, the blame will fall upon all of us here in the Congress if the economy falters, inflation continues, or taxes are increased considerably next year. If we enact an expenditure ceiling, and the economy does not live up to expectations, at least we can say we did everything requested of us by the President.

I will admit that the expenditure ceiling we are being called upon to enact this year—a rigid one, with no exemptions, and giving the President power to decide there and how much to cut in order to reach the figure of $250 billion—is different from expenditure ceilings we have enacted in prior years.

In 1968, the Congress enacted an expenditure ceiling as part of the 10-percent tax surcharge bill. The bill set a ceiling of $180.1 billion on Federal spending in fiscal year 1969 and directed reductions in the number of Federal employees back to June 1966 levels. It also called for rescinding $8 billion in previously appropriate but unused funds. The budget cuts called for in fiscal 1969 amounted to $6 billion. I worked in support of our distinguished former colleague, Senator WILLIAMS of Delaware, in his successful effort to control Federal spending in 1968.

That expenditure ceiling differed from the one before us today in that it raised the ceiling if Congress appropriated more funds and it exempted six categories of payments:

First. Vietnam spending;

Second. Interest on the public debt;

Third. Veterans benefit payments;

Fourth. Social Security trust fund payments;

Fifth. Farm subsidy payments; and

Sixth. Public assistance payments.

That expenditure ceiling was enacted, and even with the exemption, and as a direct result of our efforts, the end of fiscal 1969 saw the Federal Government with a surplus of $3.1 billion, the first surplus since the fiscal 1960 surplus of $240 million.

The euphoria, however, was short-lived. Early in the Nixon administration I urged ceilings on Federal spending and hiring. Similar expenditure ceilings were enacted for fiscal 1970 and 1971, but without the same results. With similar exemptions, the result was budget deficits of $2.8 billion in fiscal 1970 and a whopping $23 billion in fiscal 1971. The whole concept of an expenditure ceiling was abandoned for fiscal 1972 and we wound up this past fiscal year with another deficit of $23 billion. The ceiling over the debt was made of very soft elastic.

Last March, we tried again to impose an expenditure ceiling, but it also would have permitted automatic increases as appropriations and automatic outlays for permanent trust funds and other benefit programs rose. Recognized as just another piece of highly stretchable elastic, it was dropped in conference and the debt limit was simply extended.

Now, however, we have a different type of ceiling bill before us. The House, on Tuesday of this week, approved a ceiling of $250 billion as part of the debt limit extension bill with no exemptions. The elastic of old has been replaced with steel.

I am well aware of the fears which many of my colleagues have in granting to the President power to make cuts at will to keep the budget within a $250 billion ceiling. This is conferring some of the powers of Congress upon the President. I do not fear this is too big a congressional power give-away, however, if we limit it strictly to fiscal 1973. And I will later propose ways to prevent such situations from occurring in the future, simply by building on previous law.

I do have one concern, however, with the expenditure ceiling as it applies to fiscal 1973. I have voted to fund many worthwhile programs for fiscal 1972. I would not like to see them cut back arbitrarily or precipitously. We must be especially sure that programs on which the States rely heavily for matching funds are not gutted. Any cuts should be proportional, in line with a general belt-tightening, but no single program or family of programs should bear the brunt of all the reductions that will be needed to get the Federal budget back to $250 billion. Therefore, I cosponsored the amendment of the Senator from Idaho (Mr. JORDAN) which calls for all Federal programs — except uncontrollables — to share proportionately in the reductions needed to comply with the expenditure ceiling. This across-the-board approach is a fair way to make the budget reductions needed to meet the ceiling. It permits the President to make required cuts but maintains congressional spending priorities. The only exemptions under a proposal offered by Senator JORDAN would be interest on the national debt, veterans pensions and social security trust fund payments. These are automatic outlays, not subject to appropriations decisions. I am pleased that the Senator has adopted this amendment and hope that our conferees will insist upon it being included in the conference bill.

But, Mr. President, regardless of what we do about fiscal 1973, we still must act to prevent these budget crises from recurring in the future. We cannot afford to repeat this kind of crisis year after year.

Right now, I see absolutely no guarantee that we won't be back here next year at this same time debating these same issues because the budget once again is in serious deficit. Indeed, I predict we *will* be here debating these same issues unless the Congress develops a mechanism to consider the overall budget picture and take it into consideration when it votes on individual appropriations bills. We have no coordinated system in Congress for establishing overall program priorities.

The problems of the Congressional budgetary process are twofold:

First, there is almost no relationship between Congressional decisions to raise money, and decisions to spend it. Second, the fragmented Congressional appropriations process compounds the problems created by the absence of an over-all Congressional budget.

It's almost as though several members of the same family were constantly writing checks on the same account with no one keeping track of what the others were spending or even bothering to see what was in the account itself. Obviously, any family that runs its financial affairs this way quickly finds itself awash in red ink.

The congressional committees responsible for appropriating funds make no attempt to weigh the amounts available for spending, against the amounts they appropriate. The President makes his budget estimates and the Joint Economic Committee examines them. The information needed to implement a rational planning process is there, but it is never used in a systematic way, as in a business enterprise, or any other institution. The average household, where outgo must be geared to income, does a better job.

The result is that the government does not know how much it will have available to spend in any given fiscal year, or how much it will have to borrow until the end of that year, or even later. The effect is to make sound management of fiscal and monetary policy almost impossible. It is precisely because of this absence of any logical system that we must adopt this spending limitation measure.

Most of us are very familiar with the workings of the appropriations process. As a former member of the Appropriations Committee, I believe I am in a position to criticize it with constructive intent. One central fact is clear: there is no effort to adopt or enforce a system of spending priorities.

Consequently, total expenditures are the result of the action of individual subcommittees, whose separate, uncoordinated, fragmented appropriations are merely added up to produce an appropriations total. There is no overview by the full committee. There is no attempt to operate within some reasonable "target" expenditure ceiling.

Another problem we face in Congress is that we simply haven't kept up with the times. We are trying to operate with a system largely unchanged since the Civil War. Congress is like a giant corporation trying to run its financial office with an accountant who wears a green eyeshade and uses a quill pen while perched on a high stool at a slant-top desk.

The Legislative Reorganization Amendments Act of 1970 contain provisions that will helpfully result in a vastly improved budget and appropriations information system. This, when it is implemented, will be helpful, but it will not change the currently fragmented system. The efforts now being made by the full House Appropriations Committee to hold initial overview hearings before breaking into subcommittee consideration of budget requests also deserve recognition. This is a good development, and it should be emulated in the Senate.

I believe that much more can be done. I fear some of us take the grant of congressional power to the Executive in H.R. 16810 too lightly. I do not. I think we face a very grave crisis within our own institutions—and only we can correct it. We can alleviate the immediate problem by abdicating power to the Executive for one fiscal year. But we must correct the larger problem, which threatens the constitutional balance between the Legislative and the Executive branches.

The framers of the immensely significant, landmark 1946 Legislative Reorganization Act saw the problem then. At that time Congressmen Mike Monroney and Everett Dirksen argued vehemently for, and Congress enacted, a provision requiring a "legislative budget."

This provision—section 138 of that bill—would have resulted in creation of an annual budget based on estimated receipts, a determination of the amount of necessary expenditures, and an estimated deficit. It would have imposed a new discipline on the appropriations process. The provision was never implemented because of the implacable opposition of two of the most powerful Congressmen of the day, Clarence Cannon of Missouri and John Taber of New York, chairman and ranking Republican, respectively, of the House Appropriations Committee.

Had this provision of law been implemented in 1946 and subsequent years, we would not, I believe, have come to our present situation. An orderly budget process would, I believe, have very likely evolved.

Here is how it would have worked: At the beginning of every regular session of Congress, subcommittees of the House and Senate Appropriations, Ways and Means and the Finance Committee, would have met to make an estimate of expected revenues, and to decide on a total for all appropriations for the coming fiscal year. The spending budget would be expressed in a Joint Resolution, which would also contain the amount by which the public debt would have to be increased, if necessary.

The effect of this procedure would have been twofold. The committees responsible for spending, and for raising, revenues would have to agree jointly on the essential elements of national fiscal policy for the coming fiscal year, and then undertake their respective responsibilities with a clear objective. The Appropriations Committees would have had ceilings within which to operate. The revenue-raising committees would have been able to plan ahead either for tax measures, or for debt increases.

The effect on the appropriations process would have been striking. The Appropriations Committees would have had to meet at the start of the year and, using the amount determined by the Joint Resolution, would have examined spending priorities and have determined the amounts available for each subcommittee. A basic scale of spending priorities would thus have been adopted at the beginning of the appropriations process. Subcommittees, working within a basic budget, would have had to apply a tight discipline on programs in each of their jurisdictions. Instead of our budgetary process being upside down, as it is today, where, in effect, we decide how we are going to spend money we don't have, then worry about going out and finding it, this would have turned the process right side up. The Appropriations Committees and subcommittees would know before hand how much was going to be available, and from there they would work out the priorities. This is the way most people and companies handle their account—why not Congress?

Congressman Dirksen, then a very active member of the Joint Committee on Congressional Organization, and the major proponent of this legislative budget provision said:

> That is the whole weakness of the whole fiscal procedure of Congress today. We get so interested in the trees that we cannot see the forest. We get so interested in a few $5,000 and $10,000 items that the whole business of an overall budget finally escapes us. The thing to do is to see it on broad lines and in perspective, to get a real policy, to kick out the policies we do not want that cost money, and then finally restore it and let your subcommittees work under that ceiling, and even make that a target under which they can effectuate even greater reductions in appropriations and finally in the national debt.

What a sad indictment it is of our two Houses that the late Senator's words are as applicable in October 1972 as they were in July 1946.

Senator BROCK has introduced S. 3984, an "Act to Control Expenditures and Upgrade Priorities." One major element of this bill is to create a Joint Budget Committee to create a legislative budget. I wholeheartedly support this bill, which is reflective of the legislative budget provision of the 1946 Act.

Unfortunately, embarrassed no doubt by continuous failure to implement section 138 of the 1946 Legislative Reorganization Act, the Joint Committee on the Organization of Congress recommended its repeal in the 1970 Reorganization Act amendments, and Congress adopted it. Because it was never utilized, it was considered to be unusable. In fact, it was not used because congressional leaders lacked the leadership and will to implement it.

Full-fledged reform of the appropriations process is long overdue. The House-passed debt ceiling bill contains a provision creating a new Joint Committee to recommend a new appropriating process. I support this provision. I urge, however, that we go one step further.

I propose that we re-enact the basic "legislative budget" provision of the 1946 Legislative Reorganization Act, with some necessary amendments, to be effective for fiscal 1974. Under this proposal, this is what would happen:

First. At the beginning of the next Congress the Ways and Means, Finance, and House and Senate Appropriations Committees would appoint subcommittees to meet together to formulate a legislative budget for 1974 and report a Joint Resolution, containing a ceiling for fiscal year 1974 expenditures, which would be based on congressional and administration estimates of receipts. The resolution would also authorize the additional amount of public debt that would be necessary for fiscal year 1974. If continued, this procedure would eliminate the recurrent annual debt ceiling bills with which we now must deal.

Second. The Joint Committee would have to make its report by March 30.

Third. Until the Joint Resolution is agreed to, no appropriations bill can be passed by either House.

Fourth. If by December 31, 1973, the President determines that actual expenditures for fiscal year 1974 are at a rate greater than the Congressional ceiling for expenditures, the President shall cut each appropriation—except debt services, veterans benefits, and trust funds—by a uniform percentage in order to bring spending down to the legislative budget amount.

The Joint Committee should be authorized to use the staff of the Joint Committee on Reduction of Federal Expenditures as its own staff, and the services of the staff of the Joint Committee on Internal Revenue Taxation should also be available. Members of the Joint Committee should be invited to sit with the Joint Economic Committee in its annual hearings on the Economic Report of the President and the budget.

Mr. President, in 1946 the distinguished former Senator from Oklahoma, Mike Monroney, then the manager of the Legislative Reorganization Act in the House, said:

> For years we have been operating our revenue-raising committees ad our revenue-spending committees completely apart from any relationship one has with the other. You simply cannot have adequate budgetary control by such an independent procedure. . . .
>
> Today we start out without any idea of how much we spend, or where the money is coming from. We wind up the year wondering how many billions we are in the red or in the black. Surely, it is not asking too much to consider these two important things, income and outgo, together.

All of the above provisions have been previously enacted by Congress. Items 2, 3, and 4 were passed by the Senate in 1946, but were not contained in the bill considered by the House. The suggestion relating to the Joint Committee on Reduction of Federal Expenditures and the Joint Economic Committee were not in previous law.

I feel certain this legislative budget system would work if the leaders of the respective House and Senate Committees would make it work. There can be no doubt of the need for solution of our own organizational problems. The present system has led to oppressive debt and excessive inflation. We have a huge Federal budget, in which no effort is made to relate outgo to income. Until a more permanent solution is recommended and adopted, I urge that we re-enact and implement this former provision of law with the amendments I have suggested.

In summary, Mr. President, this amendment would create a congressional budgetary process for fiscal year 1974. It would go into effect immediately, as an interim measure, pending action on the report of the special joint budget study committee created by title III.

The amendment is a response to the cause of our present budget problems: the uncoordinated, fragmented congressional appropriations process.

The amendment is based on section 138 of the Legislative Reorganization Act of 1946, providing a mechanism for a legislative budget. This was never implemented because of the opposition of the key members of the Appropriations Committees of the time. In my view, it is still a sound basis for current action.

The amendment would add a new title providing that:

First. Before March 30 next year a Joint Committee composed of members from the Senate and House Appropriations Committees, and the Ways and Means and Finance Committees, report a joint resolution containing a total amount for all appropriations for fiscal year 1974. The Resolution would also contain an estimate of receipts and an amount by which the debt must accordingly be increased. It would authorize an increase of the national debt by that specific amount, thus making it unnecessary to consider later a debt limit bill.

Second. No appropriations bill could be passed by either House until the Joint Budgetary Resolution is passed.

Third. At the mid-point of the 1974 fiscal year the President, if he finds that expenditures are running at a rate greater than the amount specified in the Joint Resolution, can uniformly reduce each appropriation in order to reduce total spending to the authorized ceiling. The Congress may at that time increase the amount of the authorized ceiling by two-thirds vote.

I believe this is a reasonable, constructive, workable means of avoiding still another budget crisis next year. I agree with many Senators that carte blanche grants of power to the Executive of this kind are basically undesirable. We must correct our own institutional procedures. Until the special Joint Committee's recommendations can be studied and implemented, I suggest we take these steps now to provide a coordinated budget procedure for the coming fiscal year.

Mr. President, I yield to the Senator from California, who is a cosponsor of the amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I speak in support of the amendment, which was drafted and prepared by the Senator from Illinois, and which I cosponsor.

We need to get the budget into balance, as we work in Congress, taking into account the overall target for expenditures and the revenue we can anticipate and the needs of the people. Those are the essential elements.

We have in the bill before us that came from the House a provision to set up a committee to study this matter. We now have the proposal of the Senator from Arkansas (Mr. McCLELLAN) in the bill which creates a committee, which does not take into account the Committee on Finance or the Ways and Means Committee, and it does not fill the gap.

I think this amendment would bring the matter into focus with respect to the revenues we can expect and the expenditures we must meet for the people.

Mr. PERCY. Mr. President, I thank my colleague. Before yielding to the ranking minority member, who is the manager of the bill at this time for his comments, I would like to say this.

I am well aware of the problems presented if we push this proposal to a vote. It would be somewhat in conflict with an amendment accepted, the McClellan amendment, which I cosponsored. I had no idea when I introduced this amendment that the Senator from Arkansas would introduce the committee amendment. It is a good amendment and by agreeing to this amendment there could be a conflict in the same bill and we might be in danger of losing both of them in conference.

Therefore, I yield to the Senator from Utah, the ranking Republican member of the committee, who is managing the bill, so that he may advise what he has in mind with respect to this matter. I would very much appreciate his comments.

Mr. BENNETT. Mr. President, as pointed out already we have two committees in the bill, one a temporary study committee that must report by next February on a spending ceiling, and the other a permanent committee to meet every year, made up of members of the Appropriations Committees of both Houses, which would accomplish the same purpose.

Earlier we considered the proposal of the Senator from Oklahoma (Mr. BELLMON) for a pattern under which a spending ceiling could be operated on a permanent basis.

I would think the Senate might agree with me that this proposal of the Senator from Illinois and the Senator from California, as well as the proposal of the Senator from Oklahoma be referred to whichever of these committees survives, with the request that they study these possible solutions to the problem to which we hope to find a solution.

Therefore, I hope the Senator will not press the amendment for a vote, but on the promise that when we meet in conference we request the manager of the bill to recognize these suggestions and refer them to whatever committee system survives in the bill. I think that is the best solution. I hope the Senator agrees.

Mr. PERCY. Mr. President, I appreciate that very much, indeed. I would value, however, a judgment, if the distinguished Senator looks with favor on this proposal because, after all, it was a law, a statute. It was simply the intransigence of key, powerful members of the other body at the time which prevented it from being implemented.

Mr. BENNETT. Most of that is in the committee bill that came over to us. I can say that the temporary committee can study it. It is a good idea. The permanent committee can take advantage of the proposal in planning its own program.

I would like to repeat my request. Rather than voting it up or down, let us take the proposal to conference and get it referred to in the report, so that it will be referred to the study committee.

Mr. PERCY. With that assurance that it will be included in the report and definitely referred to the study committee for consideration, I trust that that committee, looking back into what we have done before in the record we have, and recognizing the urgent need for such a program to be implemented—I would rest it on the merits of the case and on that basis and with the consent of my cosponsor I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PERCY. I yield back my time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I call up my printed amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 2, after line 23, insert the following:
>
> "(d) The amounts proportionately reserved under subsection (b) of this section shall not include appropriations or other obligational authority available for fiscal year 1973 to which another statutory spending limitation of 10% or more applies."

Mr. HOLLINGS. Mr. President, the purpose of this amendment is to eliminate the overload factor when we take into consideration what we are about to do—and I supported the Jordan amendment of a 10-percent cut—with what already has occurred in the conference on the Labor-HEW bill this afternoon in agreeing in the conference report to fix a limitation of $29.3 billion. To bring it down to that, we authorized the President to reduce any and all expenditures some 13 percent.

Now if we adopt this particular measure, we do not want the President to be able to apply the 13-percent cut plus the 10-percent cut, to make it a 23-percent cut in health, education, and welfare.

I have discussed this amendment with the manager of the bill. I hope he will accept it.

Mr. BENNETT. Mr. President, the Senator from Utah cannot believe that the President would make that kind of cut—a double cut. I do not think it is the intention of the bill. Whenever a provision comes to us with an obvious across-the-board cut, that should be taken into consideration.

However, I shall be glad to accept the amendment, and I yield back my time.

Mr. HOLLINGS. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. PACKWOOD. Mr. President, I call up my Amendment No. 1687.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1687 is as follows:

At the end of the Act, add a new title as follows:

TITLE IV—TO PROVIDE FOR EQUITABLE TAX TREATMENT OF UNMARRIED INDIVIDUALS

Sec. 401. Section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(a) by striking out subsections (b) and (c);

(b) by redesignating subsection (d) as (b); and

(c) by striking out so much of subsection (a) as precedes the table therein and inserting in lieu thereof the following:

"(a) General Rule.—There is hereby imposed on the taxable income of every individual, other than an individual to whom subsection (b) applies, a tax determined in accordance with the following table:".

Sec. 402. Section 2 of such Code (relating to definitions and special rules) is amended—

(a) by striking out subsections (a) and (b); and

(b) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

Sec. 403. Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)" and inserting in lieu thereof "section 1(b)".

Sec. 404. Section 6015(a)(1) of such Code is amended to read as follows:

"(1) the gross income for the taxable year can reasonably be expected to exceed $10,000 ($5,000, in the case of an individual subject to tax imposed by section 1(b) for the taxable year); or".

Sec. 405. The amendments made by this title shall apply to taxable years beginning after December 31, 1972.

Sec. 406. The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this title which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after January 1, 1973.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment of my own to the amendment.

The PRESIDING OFFICER. Did the Senator wish to modify his original amendment.

Mr. PACKWOOD. Yes, I wish to modify it.

I ask that the modification be read.

The PRESIDING OFFICER. The clerk will read the modification.

The assistant legislative clerk read the modification, as follows:

On page 2, line 24, strike "1972" and insert in lieu thereof "1973".

On page 3, line 6, strike "1973" and insert in lieu thereof "1974".

Mr. PACKWOOD. Mr. President, at this time, I have called up my amendment No. 1687 dealing with Federal tax treatment of unmarried individuals. It is a matter of serious concern to me that today, in this country of nearly 210 million persons, the Federal Government is openly discriminating against 30 million of our citizens.

These "overtaxed Americans" come from all walks of life and are found across the entire spectrum of the socioeconomic scale. All, however, share two things in common: They are unmarried whether by choice or by fate, and they are the victims of gross inequities contained in the Internal Revenue Code.

Last November when the Revenue Act of 1971 was being considered on the Senate floor, I proposed an amendment identical to the one I am bringing before the Senate today. This amendment will authorize unmarried taxpayers to figure their tax using the table in section I of the Internal Revenue Code that is currently reserved for use by married couples filing jointly.

Under our current system of assessing tax liability on the basis of the taxpayer's marital status, we are unfairly asking these 30 million unmarried citizens to assume a disproportionate share of the cost of running our Government. It has been estimated that, the total cost of this discriminatory "surtax" on single people is about $1.6 billion. I ask unanimous consent to have printed at the conclusion of my remarks a table showing the extent to which this "surtax" is levied against unmarried taxpayers.

Let me cite two examples of the inequitable situation that results from the presence of the various tables in the Internal Revenue Code.

A single taxpayer having a taxable income of $8,000 pays $1,590 in Federal income taxes. By contrast, a married taxpayer having the same taxable income of $8,000 will pay only $1,380—a difference of $210.

In another instance, a single taxpayer having a taxable income of $14,000 will pay $3,210 in Federal income taxes compared to the $2,760 paid by his married friend living next door. That comes down to a single-person "surtax" of $450.

Those figures, Mr. President, graphically portray the extent to which the Federal tax law discriminates against single taxpayers. But there are those among our colleagues who would have us believe that such unfair treatment is justified on the basis of the additional burden of married life.

Let us, for the moment, assume that such a consideration is justified—mind you, I am not suggesting that it is—in fact, it is not—but let us just assume for the sake of the debate that it is. How then can we explain this discrimination to the 3.6 million taxpayers who file their taxes as heads of household? These taxpayers must meet all of the responsibilities of a married couple with a family. In fact, I would suggest that a head of household bears a greater burden in the raising of his or her family. This is so for a number of reasons—the most obvious being that with only one adult present, the potential income production of the family unit is half that of a married couple with a family, and that additional expenses are incurred in caring for the family while the sole wage-earner plys his or her trade.

Mr. President, it occurs to me that if our tax laws are to discriminate in favor of any class of taxpayers, we might logically conclude that that favored group would be those taxpayers who bear the burden of raising a family alone. But logic is not one of the characteristic features of our Federal tax laws; for these "parents without partners," as they are sometimes referred to, are not given preferential treatment, they are not even given equal treatment as compared with married couples. They, too, are discriminated against most unfairly by our tax laws. Granted, they pay only half the penalty single persons do—with a maximum of 10 percent more in taxes than a married couple with an identical amount of taxable income. Still this is a most unfair burden to ask these 3.6 million taxpayers to bear.

Let us look for a moment at the dollars and cents translation of this inequitable treatment of a head of household by our tax law. A head of household with taxable income of $8,000 pays $1,480 in taxes; his married neighbors—whether or not they have assumed the responsibility of raising a family—pay $1,380, for a net "surtax" of $100 levied against the unmarried family head. When the taxable income doubles to $16,0000, a head of household pays $3,540; his married neighbors pay $3,260, a net "surtax" of $280. This unfair treatment of these unmarried taxpayers must be stopped now.

It is only fair that the Federal tax laws recognize the varying living costs as between a family and a single individual. But the income tax laws should reflect such differences in condition and responsibilities by allowing reasonable deductions and exemptions. If we have not done this, as some suggest we have not, then it deserves a closer look in the future. In any event, such a failure on our part to adequately consider these matters through the vehicle of deductions from adjusted gross income is not to be viewed as an excuse for continuing 1 day longer our current discrimination as between taxpayers of differing marital status with identical amounts of taxable income.

Mr. President, this is the crux of the issue at hand. Once taxable income is determined, the same rate should apply to all who have the same income, regardless of their marital status. To achieve this desirable end, we must reorient our thinking and adjust the focus of our tax laws.

I would hazard a guess that the Congress is probably unaware that our decision to subsidize married couples through the tax laws to the extent we do—or, conversely, to penalize unmarried individuals—places America in exclusive and somewhat unpalatable company in the family of nations. Only six other countries tax their unmarried couples more heavily than their married couples. Of the six, five are totalitarian dictatorships: Russia, three of her satellites and Spain. Among democracies, only the Netherlands places a tax penalty on being unmarried.

Let me refer briefly to a principal argument presented by some people who are in favor of retention of the unfair applications of the tax laws. They argue that to eliminate this remaining major vestige of discriminatory treatment of unmarried individuals would undermine some mysteriously essential bulwark of marriage and that its elimination would encourage cohabitation, concubinage and other moral atrocities.

Frankly, I cannot bring myself to believe that the institution of marriage leans upon such a frail reed as the treatment accorded married people as opposed to unmarried people by the Federal income tax law. In any event, to the extent this argument is advanced by opponents of this amendment, I would counter by declaring that I subscribe completely with the sentiments of Vivian Kellems, that grand woman from Connecticut, who once said:

> Taxation is for one purpose only, to raise revenues for the legitimate functions of the Government . . . the people of this country are perfectly capable of taking care of their morals whether they are married or single.

She went on to say that:

> It is not the province of the Congress to legislate the peoples' morals by means of taxation.

During the last two decades, Congress has done much to approach the point where unmarried people are viewed as being equal to married couples in the eyes of the tax collector. But we have not yet gone the full distance. Notably, in 1969, Congress became openly concerned about the higher tax rate applied to the taxable incomes of unmarried persons and reduced it.

Opponents of my amendment when it was offered to the Revenue Act of 1971, argued that the tax schedules currently contained in the Internal Revenue Code provide that, in general, and given identical taxable incomes, the tax paid by an unmarried individual would never exceed the tax levied against a married couple filing a joint return by more than 20 percent. This compares with the 40 percent differential before the 1969 reform. They apparently look upon this as evidence that we in the Congress, in our benevolent munificence, have decided to grant 80 percent tax equality to our unmarried citizens.

I prefer to view it from another, slightly different perspective—we are still 20 percent wrong in our treatment of unmarried taxpayers. To put it another way, to pompously state that we are granting 80 percent equality to single taxpayers is not unlike the Congress publicly declaring in law that it shall henceforth be the policy of these United States that a black man can be equal to a white man 80 percent of the time—or, that a woman can rightly claim equality with a man 80 percent of the time. Ludicrous is not it? But that is precisely the metaphorical meaning of the argument presented by opponents of this legislation when they self righteously point to the 1969 Tax Reform Act as evidence of our good intentions.

When we are doing everything we can in the field of day care, when we have already done everything we can in the area of an equal rights amendment, and when we are doing everything we can to make it possible for men and women, married or single, to be treated equally, there is no longer any reason—if, indeed, there was ever any—to be found in our continuing this discriminatory treatment of one-fourth of our taxpayers.

Why should these 30 million people be compelled to contribute an estimated additional $1.6 billion to the Federal treasury this year simply because, whether by choice or by fate, they are unmarried? It is preposterous that this unfair element of the Internal Revenue Code has been allowed to go unchallenged in any serious degree for these many years. Congress is responsible for this gross inequity in our tax laws—only Congress can right this wrong.

I urge my colleagues in the Senate to take the initiative in putting the U.S. Congress on record as supporting the movement within which I and others have worked to right this wrong and give our 30 million, forgotten unmarried taxpayers the fair and equal treatment under the law that they should have been accorded years ago.

At this point in the RECORD, I ask unanimous consent to have printed a brief article prepared by the Congressional Research Service of the Library of Congress on the history of tax discrimination against unmarried individuals.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DIFFERENCES IN THE TAX TREATMENT OF SINGLE PERSONS AND MARRIED COUPLES: A BRIEF FACT SHEET

Prior to 1948 the same schedule of tax rates applied to the income of all taxpayers. The present difference in the tax treatment of single persons and married couples derives from the Revenue Act of 1948. This Act permitted married couples to divide their total incomes for tax purposes. The reason for this so-called split-income provision was to equalize the tax treatment of married couples in community property and noncommunity property States. Prior to 1948, court interpretations of Federal tax law permitted couples in community property States to file separate income tax returns upon which each reported one-half of the combined income of the couple. A married couple in a noncommunity property State could report on separate returns only the actual income received by each spouse. Where all or most of the combined income was received by one spouse, the filing of separate returns often resulted in a greater combined tax liability in the noncommunity property State than the couple would have incurred in a community property State. The Revenue Act of 1948 permitted married persons who file a joint return to compute their joint liability by applying the statutory rates applicable to single individuals to one-half their combined taxable income and multiplying the result by two. Because the tax rates are graduated, the provision for income splitting generally results in a lower overall tax liability than that on separate returns whenever the taxable income of either spouse exceeds the amount of taxable income in the first rate bracket.

Since single persons have not had a comparable income splitting privilege, they generally have paid higher taxes than married couples at the same income levels.

In order to extend some of the benefits of income splitting to taxpayers not having spouses but who are nevertheless required to maintain a household for the benefit of other individuals the head-of-household provision was enacted in the Revenue Act of 1951. A head of household was defined as a single person maintaining as his home a household which constituted the principal place of abode for an unmarried child or descendant of a child (whether or not they qualify as dependents), or any other person who is a dependent for tax purposes. Individuals who qualified under this provision were allowed approximately one-half of the income splitting benefits given to married couples. They used a different tax rate schedule which, at any given level of income, produced a tax liability about halfway between the tax paid by a married couple filing a joint return and a single individual.

A provision permitting surviving spouses with dependent children to use the joint return tax rates with full income splitting for two taxable years following the death of the husband or wife was adopted under the comprehensive revision of the Internal Revenue Code in 1954. The 1954 Code also extended the head-of-household provision to single persons who support one or more parents in a separate home.

The Tax Reform Act of 1969 provided, for taxable years beginning after December 31, 1970: (1) A new rate schedule for single persons which provides a tax that is no more than 20 percent in excess of that paid on a joint return with the same amount of taxable income (under prior law the difference was as great as 42 percent for some income levels); and (2) a new head-of-household tax rate schedule halfway between the schedule applicable to joint returns and the new schedule applicable to single persons. The Tax Reform Act of 1969, for taxable years beginning after 1969, extended the head-of-household tax rate to certain married individuals living apart from their spouses. The Act made no change in the tax treatment of surviving spouses.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to have printed in the RECORD several articles from newspapers and magazines commenting on this issue of tax equity for unmarried individuals. Also, I ask to have printed several tables portraying the number of taxpayers that file under the current system relative to their adjusted gross income. These tables, upon close analysis, point out the basic fallacy of the argument that married couples should be given a lower tax rate on taxable income than unmarrieds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE II-A.—CHARACTERISTICS OF TAXPAYERS BY FILING STATUS AND ADJUSTED GROSS INCOME, 1970

[Millions of persons]

Adjusted gross income class	Married filing jointly[1]	Married filing separately	Single	Head of household	Row total
Under $5,000[2]	14.1	1.5	18.0	1.7	35.3
$5,000 to $10,000	28.2	.7	6.0	1.4	36.4
$10,000 to $15,000	24.8	.1	1.2	.3	26.5
Over $15,000	17.9	.1	.4	.1	18.5
Total	85.1	2.4	25.7	3.6	116.7
Total adjusted gross income, (billions)	$493.9	$11.5	$104.8	$21.8	$632.0

[1] Number of tax returns doubled to find number of persons—includes persons filing as surviving spouse.

[2] Includes those with no adjusted gross income.

TABLE II-B.—CHARACTERISTICS OF TAXPAYERS BY FILING STATUS AND ADJUSTED GROSS INCOME, 1970

[Percentage of column total]

Adjusted gross income class	Married filing jointly[1]	Married filing separately	Single	Head of household	Row total
Under $5,000[2]	16.6	62.5	70.0	47.2	30.3
$5,000 to $10,000	33.1	29.2	23.3	38.9	31.2
$10,000 to $15,000	29.1	4.2	4.7	8.3	22.7
Over $15,000	21.0	4.2	1.6	2.8	15.9
Total	100.0	100.0	100.0	100.0	100.0

[1] Number of tax returns doubled to find number of persons—includes persons filing as surviving spouse

[2] Includes those with no adjusted gross income.

Note: Details may not add to total due to rounding.

TABLE II-C.—CHARACTERISTICS OF TAXPAYERS BY FILING STATUS AND ADJUSTED GROSS INCOME, 1970

[Percentage of row total

Adjusted gross income class	Married filing jointly[1]	Married filing separately	Single	Head of household	Row total
Under $5,000[2]	40.0	4.3	51.0	4.8	100.0
$5,000 to $10,000	77.4	1.9	16.5	3.8	100.0
$10,000 to $15,000	93.6	.4	4.5	1.1	100.0
Over $15,000	96.8	.5	2.2	.5	100.0
Total	72.9	2.1	22.0	3.1	100.0
Total adjusted gross income	78.1	1.8	16.6	3.4	100.0

[1] Number of tax returns doubled to find number of persons—includes persons filing as surviving spouse.

[2] Includes those with no adjusted gross income.

Note: Details may not add to total due to rounding.

TAX AND THE SINGLE MAN

(By Philip M. Stern)

There is no question: The tax laws of the United States are the result of a fiendish conspiracy among the AMA, the NAACP and the ADA, using the powerful medium of CBS and with potent, behind-the-scenes backing from HUAC. To anyone with a decent respect for bachelorhood, these initials stand for, respectively, the American Marriage Association, the National Association Association for the Advancement of Connubial Profit, the Abolish Divorce Association, a newly formed group named Chastise Bachelors and Spinsters and, finally, a powerful but covert organization called Housewives United Against Cohabitation. For the fact of America discriminate flagrantly and massively against unmarried citizens. For example, if you are a $12,000-a-year bachelor with a taxable income of $10,000, you are paying $502 more in taxes each year than the bridegroom in the apartment down the hall. The fact that your newly married neighbor has just acquired a dependent, allowing him to claim another $600 exemption, accounts for $132 of that amount in his 22-percent tax bracket. But almost three quarters of his tax saving—$370—is the result of a myth, embodied in Section 2 of the Internal Revenue Code, which permits any married couple in the United States to pretend, in computing their taxes, that half their income is earned by the wife. She may be as indolent as Scarlet O'Hara, but in the eyes of the friendly tax collector, she is responsible for half the family income.

This is an expensive myth for the bachelor. Section 2 grants the more affluent married couples of the United States a tax subsidy estimated at close to ten billion dollars a year. In other words, Congress' decision to tax wealthier married couples more lightly than single taxpayers deprives the United States Treasury of that much money each year, and the sum must be made up in higher taxes paid by single taxpayers and others who may not enjoy the blessings of Section 2. It is, in effect, a double penalty.

Congress is probably unaware that its decision to subsidize marriage to the tune of ten billion dollars places America in exclusive and (from Congress' point of view) unpalatable company in the family of nations. Only six other countries tax their unmarried citizens more heavily than their married couples. Of the six, five are totalitarian dictatorships: Russia, three of her satellites and Spain. Only the Netherlands, among democracies, places a tax penalty on being single.

How does the myth of Section 2 operate to save the $12,000-a-year newlywed $370 a year in taxes. While he was blissfully unwed the tax on his $10,000 taxable income amounted to $2190—$910 on the first $5000 and $1280 on the second $5000 (since, under the American system of graduated income-tax rates, the tax bite rises as income increases).

But once connubially joined, he and his wife may file a joint tax return. This has the effect of dividing his $10,000 taxable income into two $5000 parcels, marked HIS and HERS. The tax on each of these parcels is the same: $910; adding them together, the total tax on the $10,000 taxable income is now $1820, instead of his former tax of $2190. Saving: $370. This, together with the $132 saving from the additional personal exemption, means added annual "take-home pay" of $502, or $9.65 a week. This is the equivalent of a $14-a-week raise; for in order to receive an additional $9.65 *after* taxes, the bachelor's before-tax raise would have to amount to a little over $14 ($14.19, to be exact). This would amount to an annual pay increase of $738. If a married man needs to add allure to his thoughts about his wife (or if his eye begins to wander and his mind turns to thoughts of leaving her), he can figure up her capital value. In the case of the $12,000 chap, his wife may be considered an asset worth $16,075; in the sense that this much cash would be required, in a four-percent savings account, to net him an added $643 in before-taxes income, which, in turn, is what he would need in order to realize the after-tax saving of $502 that his wife represents.

Because the tax rate climbs more steeply in the upper ranges, the tax blessings of marriage (and, conversely, the financial penalties of bachelorhood or divorce) increase dramatically as one ascends the ladder of success. At $30,000 of taxable income, marriage represents about $67 in added weekly take-home pay (and one's wife assumes a capital value of $148,450). At $100,000 of taxable income, Uncle Sam confers a bonus for marriage of $205 a week—over $10,000 a year—in added after-tax spending money, and the capital value of one's wife becomes $711,525. At $200,000 of taxable income, one is living with a million-dollar asset—$1,243,150—for in the 70-percent tax bracket into which one would have ascended, that is the amount of cash needed to yield the additional $49,726 of before-tax income that, in turn, would be required to net the extra $287 a week of added pocket money deriving from marriage.

These tax blessings that descend upon a happy couple the instant they are pronounced man and wife have frequently been called Uncle Sam's dowry. But the financial aspects of marriage, American style, differ in one crucial respect from the European version. The Continental dowry is a one-time affair, whereas kindly, munificent Uncle Sam renews his gift annually, in ever more generous amounts as the prosperity of the couple increases.

Some pious souls have charged that Section 2 and its income-splitting myth are an essential bulwark of marriage and that its repeal would encourage cohabitation, concubinage and other moral atrocities. But the facts indicate that the institution of matrimony does not lean on such a frail reed. This is because Section 2 not only discriminates against single taxpayers, it also discriminates cruelly among various married couples—heaping generous but little-needed benefits upon the affluent, while largely or wholly excluding the majority of young newlyweds who most need tax relief to support the added expenses of married life. They are excluded because the splitting of a couple's income results in tax savings only when it helps bring heavily taxed high-bracket dollars down into lower tax brackets. But if all of a couple's income is either nontaxable (because of personal exemptions and deductions) or in the lowest tax bracket anyway, splitting it in half saves little or nothing. This is true for every family of four with an annual income of less than $3400, which includes roughly one fifth of all joint-return filers. For a family of four with an income of $5400—about one third of all joint-return filers—Section 2 adds just about 80 cents a week on the family grocery budget. Despite the absence of tax incentives, great numbers of these people still marry, giving the lie to the argument that marriage needs tax support to keep it from dying out altogether.

The tax benefits from income splitting also represent a ludicrous distortion of the *real* costs of married life, which begin to be felt far more acutely with the advent of offspring. For a bachelor with a taxable income of $25,000, the taking of a bride brings a tax saving of $2726, whereas the arrival of each child wins a tax abatement only about one tenth as large ($208). At the $100,000 level, the comparative savings are even more absurd: $10,310 at the time of the wedding and only $372 for each child.

Even the doubling of the personal exemption that accompanies matrimony discriminates unfairly against the unmarried taxpayer, since it seems to assume that connubial life is twice as expensive as single existence. The costs of both, however, have been minutely studied, revealing that, on the average, couples live on a budget about one third larger than that of a bachelor—not twice as large, as the tax laws assume.

One factor in this less-than-reasonable cost differential is that a married man is usually spared the bachelor's expense of paying a maid to do the housework. Thus, if the bride renders maid service that used to cost the bachelor $30 a week, she is, in effect, earning the maid's former salary. But the kindly Internal Revenue Service does not count these "earnings" as part of the couple's income.

Bachelors and bachelor girls who tend toward acute paranoia may imagine that this conspiracy against them is the conscious policy decision of Congressmen and Senators, 94 percent of whom are married, But those made anxious by such a thought may be soothed in the knowledge that the discriminatory Section 2 and its income-splitting feature, like so many other examples of tax legislation, was dictated by political convenience rather than by deliberate policy.

Ironically enough, the deed was done in the name of *ending* tax discrimination. Prior to 1948, married couples in eight states were blissfully and exclusively enjoying the tax advantages of income splitting, because under the community-property laws in their states, half of each couple's property legally belonged to the wife. The legislatures of other states, pained at seeing their residents discriminated against in their Federal income taxes, began enacting their own community-property laws. Congressional action was necessary to prevent an epidemic.

Conveniently enough, the 1948 community-property uproar happened to coincide with a political stalemate in Congress. The Republicans, in the majority for the first time in 16 years, had promised substantial tax reductions for middle and upper-bracket taxpayers; but their first two attempts, in 1947, had so blatantly favored the rich that President Truman had successfully vetoed them. The community-property problem provided the magic answer, for its solution—spreading the blessings of income splitting to married couples in all states—not only conferred far handsomer tax blessings on the affluent than the earlier, less subtle G.O.P. measures; it also carried the eminently respectable label of a "tax reform."

And so Congress ended one discrimination, in the way two groups of states taxed married couples; but in so doing, it created a new and far more serious discrimination: between the married and the unmarried in *all* states. While this new law worked to the great disadvantage of bachelors, there could be little doubt as to who profited most from it: 97 percent of the benefits went to the top five percent of the married taxpayers; while at the bottom of the economic pyramid, 80 percent of all married couples were completely denied the benefits of income splitting. So lopsided were its effects that Couple A, with 20 times the income of Couple B, could enjoy 319 times as much tax benefit.

Congress was so eager to seize upon this "tax-reform" solution to its political deadlock that income splitting was adopted with virtually no debate. But it soon became clear that Congress, in the process, had unwittingly discriminated against a large group of taxpayers: the single people who were obliged to support expensively dependent relatives and whose living costs were clearly equal to those of bridegrooms. And so, in 1951, Congress sought to right the wrong, by conferring half the benefits of income splitting on so-called heads of households—unmarried taxpayers who support their parents or whose dependent relatives live with them.

Some observe irreverently that a sponging relative is a vastly greater expense than an eager new bride and that Congress was niggardly in bestowing only half the blessings of marital income splitting upon heads of households. But there is an even more fundamental objection: Like the marital provision, the head-of-household tax concession confers the greatest benefits on the wealthiest taxpayers, while withholding benefits from the most sorely pressed, low-bracket taxpayers. Moreover, no income-splitting tax concession whatever is granted to the bachelor obliged to support his aged aunt (or any relative other than a parent) in, say, a nursing home, rather than in his own apartment.

Income splitting is the grossest of the tax discriminations against single persons, but there are other tax advantages that accrue to the married. A minor one is that the tax-deductible expenses of two persons are combined on one tax return. If, for example, both members of the marital combo invest in the stock market, the wife's capital losses may serve to offset the husband's capital gains—or vice versa. And if a bachelor's medical deductions fall just shy of the three-percent-of-income floor for deductibility, when he takes a bride, *all* of her medical deductions are deductible. Married couples also have the privilege of conferring on any favored friend or relative tax-free gifts up to $6000 per year, contrasted with a paltry $3000 tax-free-gift privilege for bachelors and single girls—a tax concession that is bound to bring cries of joy from fully four ten-thousandths of one percent of all who read these words.

Moreover, any unmarried man who feels his demise is close at hand should lose no time in securing a wife. He can leave half his worldly goods to her free of any estate tax; whereas, if he remains a bachelor, there is no one—not even his sainted mother—to whom he can make such a tax-free bequest. Even though the funds he lovingly leaves to his wife become subject to an estate tax upon *her* demise, the effect in death, as in life, is to split his hypothetical estate of $10,000,000 into two $5,000,000 parcels—half taxable at the husband's death and half at his wife's. The tax saving, in this instance, is $1,000,000. Moreover, if the wife had not been able to receive that $5,000,000 tax-free at the time of her husband's death, an added tax of $3,500,000 would have gone to the U.S. Treasury; but under the kindly estate-tax laws, that $3,500,000 is permitted to remain in the wife's mattress (or in her investment portfolio) as long as she lives. Assuming she survives her husband for ten years and earns only a paltry four percent on her money, this delay alone comes to be worth at least about $1,400,000.

Also nestled in the tax laws is a cluster of blessings that attach to the happy state of home ownership. While home ownership does not automatically accompany marriage and while it is certainly not barred to bachelors, the fact is that for most bachelors, it's not worth the effort. The homeowner sacrifices his freedom of mobility. This is a great deal for a bachelor to give up, but the married man—at least in the eyes of the bachelor—has already lost it and has little left to lose. Married persons receive 93 percent of Federal Housing Authority home mortgages.

To understand the tax advantages of home ownership, consider, for a moment, the example of two gentlemen, A and B, renting apartments at $200 a month, or $2400 a year. Suppose that at the same instant, each of them comes into a modest inheritance of $25,000. A, a bachelor who is happy in his in-town pad and does not need or want the bother of owning a home in the suburbs, invests his $25,000 conservatively in the stock market and realizes a four-percent return, or $1,000. This, of course, is added to his taxable income and, in his tax bracket, he must pay an additional $320 in taxes.

B, a new bridegroom whose union will soon bear issue, invests his $25,000 in the purchase of a handsome $50,000 house and moves out of his apartment. His return on his $25,000 lies in no longer having to pay $2400 a year in rent. True, as a homeowner, after the various tax write-offs he's entitled to, he still has to pay about $1700 a year on the mortgage; but compared with the $2400 rent he had been paying, he is still $700 ahead. Although A earned $1000, he had to claim this amount as income and paid $320 tax, for a net income of $680. But B's $700 appeared nowhere on his tax return.

This anomaly may become clearer by imagining that B's company sends him abroad for a year and he rents out his house while he is away. The rental income he receives while he is gone is clearly an income return on his investment—and, indeed, he must pay taxes on it. But the minute he moves back into the house—the same structure, worth precisely the same amount and capable of commanding the same rent—the dollar yield from this valuable piece of property vanishes, as far as the tax collectors are concerned.

But the generosity—or, more accurately, the schizophrenia—of the tax collectors extends even further. Consider, again, the example of B renting out his house for a year; clearly, his mortgage-interest and real-estate-tax expenses are outlays necessary to maintain the house and realize his rental income and, as such, are quite naturally tax-deductible, as all business expenses are. When he moves back into his house and the Government stops treating his home as an income-yielding investment, it would be logical for the IRS to cease treating mortgage-interest and property-tax outlays as deductible expenses. But, as is so often the case, the ways of the Government are not logical; these deductions are part and parcel of the tax perquisites of a homeowner. He's allowed the deductions as if his home were an investment. Heads, he wins; tails, the tax collectors and the Government—and other taxpayers—lose.

These deductions are sizable, both on an individual and on a national basis. For taxpayer B, for example, with $10,000 of taxable income, his mortgage interest means a tax deduction of $1500 and a tax saving of about $330 a year; and his real-estate taxes represent a further $700 deduction and a $154 tax saving. This is why his actual cost of maintaining the house is so low. Taxpayer A, who still rents an apartment, is also paying for taxes and mortgage interest on his apartment building—these are part of the $2400 rental payments he makes each year. But he gets no tax deduction for his outlay. That happy privilege goes to the owner of the building.

On a national basis, the discrimination between renters and homeowners is massive. In 1960, homeowners enjoyed a tax-free net return on their investments totaling an estimated 6.8 billion dollars. The cost to the Treasury (meaning the cost to the nonhomeowners who had to pay higher taxes as a result): 1.2 billion dollars. In addition, in 1960, homeowners were able to take property-tax deductions on 6.6 billion dollars of mortgage interest and 5.9 billion dollars of property taxes. Cost to the Treasury (i.e., to nonhome-owning taxpayers): 2 billion dollars. So, all told, the tax advantages of home ownership carry a 3.2-billion-dollar price tag, all of which must be made up by other taxpayers.

There have been some attempts, of late, in Congress and elsewhere, to ease the discriminatory treatment of unmarried taxpayers. Essentially, there are two ways to lessen or eliminate a tax discrimination. One is to end the preference enjoyed by the favored group. But this involves the risk of political retaliation by those who have grown accustomed to the benefits of discrimination. So Congress has traditionally shunned this method, preferring, instead, the more painless method of broadening the favored treatment to include those to whom it is presently denied.

The current legislative efforts on behalf of the unmarried are no exception. They are reflected in measures introduced last year by Democratic Senator Eugene McCarthy and 12 of his Senate colleagues and by Republican Congressman Theodore Kupferman in the House of Representatives. But even these proposals fall far short of what most bachelors would consider an equitable solution, since they would simply extend the tax privileges of heads of households to all single persons over the age of 35, including the divorced, the legally separated and the widowed. The eligibility requirement is debatable, but far from arduous: All that an over-35 unmarried person must do is "maintain his own household as his home."

According to Senator McCarthy, this legislation would benefit about 18,000,000 people—of whom 13,000,000 are women. Since married taxpayers would continue to enjoy their advantages, the McCarthy-Kupferman legislation would be entirely painless—except, perhaps, for those entrusted with trying to balance the Federal budget. To them would fall the unhappy task of finding a way to make up for the estimated $300,000,000 that the McCarthy-Kupferman measures would cost the U.S. Treasury. Assuming no other tax legislation, the burden would fall most heavily on single persons under 35—though they, in turn, would get their reward, when they crossed the magic age barrier.

In their compassionate concern for the plight of the over-35 unmarrieds. The sponsors of this legislation omit any mention in their press releases to constituents of this $300,000,000 price tag. This group is deserving of tax relief, reasons Congressman Kupferman, because it is usually the burden of supporting a dependent relative, during the prime marrying years, that keeps a person from snagging a mate—or getting snagged—prior to reaching 35. By the time this financial obligation is reduced or terminated, the single person has often, in the Congressman's tactful words, "reached the age at which his or her marriage prospects are not encouraging." Even so, says Representative Kupferman, such a person usually maintains living accommodations similar to either a head of household or a childless married couple, who enjoy, respectively, either half or all of the tax rewards of income splitting. Moreover, Kupferman says, the demands on over-35 unmarrieds "to provide for their future financial security are, in many cases, more pressing than in the case of other individuals who receive more favorable tax treatment." Ergo, he says, spread the tax blessing.

Senator McCarthy paints an even more public-spirited picture of the unmaried taxpayers over 35. "Often at this age," he says, "they are expected to—and do—make special contributions for the support of relatives and for social and civil welfare." Moreover, they are generally required, "because of their occupation, their place in society, or simply for the sake of decency and convenience in living," to maintain a household of their own; and the expenses thus imposed upon them by society should be acknowledged in our tax laws.

To help garner support for Congressman Kupferman's bill, an organization has been formed that should at least win the hearts of those who admire imaginative or far-fetched acronyms. It is called SIT-UP—which stands for Single Individuals' Tax Unification Program.

In bold-face capital letters, its literature implores unmarried taxpayers: "JUST DON'T SIT THERE—SIT-UP RIGHT NOW!" Sitting up consists of signing and circulating petitions to the House Ways and Means Committee (where all tax measures must originate) requesting that group to give Kupferman's bill "immediate consideration and approval and submission to the House of Representatives for approval." Thus far, SIT-UP's co-founder, Roy Morser, says, 20,000 persons have "sat up" and signed petitions to the House Ways and Means Committee. To date, the Committee has yet to respond.

In the shadow of an impending Presidential election, the U.S. Treasury Department has also been thunderingly silent about this bill. The chances are slim, however, that the Treasury will agree with Congressman Kupferman's characterization of the measure as a "tax-*reform* bill," since it would further weaken a tax system that is already so riddled with special exemptions, exclusions and deductions that over half of all personal income escapes taxation entirely—and much of the remaining half is taxed at preferential rates.

To a tax expert such as Joseph A Pechman of the prestigious Brookings Institution in Washington, the discrimination against single taxpayers is a serious matter; but so is the progressive "erosion" of the tax system. Pechman's solution to the single-versus-married-taxpayer problem is just the opposite to that of Congress: He proposes that instead of extending the unwarranted benefits of income splitting to more people, the discrimination should be ended by eliminating the principal tax favor—income splitting—now enjoyed by married people. (Pechman qualifies as an objective commentator, being a married man himself; in fact, he once told a Congressional committee that his views on marital income splitting not only did not represent the views of his employer but did not necessarily reflect those of his wife.)

Pechman's proposal would, if enacted, add a whopping ten billion dollars to Federal revenues—more than President Johnson was seeking with his 1967 ten-percent-surtax proposal. (Incidentally, if the tax surcharge eventually goes through, it will simply increase the discrimination against single taxpayers.)

The Pechman suggestion often provokes the outcry that it would merely revive the pre-1948 interstate discrimination and set off another epidemic of state community-property laws. But Pechman, an ingenious fellow, has devised a formula that circumvents this problem and equalizes taxation not only of the single and the married but also of the married in the two different groups of states. Under Pechman's plan, couples filing joint returns would pay the same rates as single persons; and those filing separate returns (as the community-property residents did prior to 1948, in order to get the benefits of income splitting) would be subject to a separate rate schedule whose net effect would be to permit the income splitting required of married couples in community-property states—but then to turn around and take away the tax advantages.

Such a move would eliminate the principal discrimination against single taxpayers, but would retain the lesser inequity of doubling the personal exemption at marriage. Pechman and others believe that the $600 personal exemption for the single person is outrageously and anachronistically low. It has remained unchanged for 20 years, during which the cost of living has increased 35 percent. Thus, in terms of what it will buy, the $600 exemption, enacted in 1948, has shrunk to only $444. But increasing the personal exemption across the board makes heavy inroads into Federal revenues (an $800 exemption would cost 5.5 billion dollars), a step unfavorably regarded at a time of heavy war and defense spending. Its chances of enactment are slim.

This account of the several tax discriminations against the unmarried may prompt those who prefer bachelorhood to conclude that there is no way for them to beat the tax game other than to sacrifice their most deeply held principles and plunge into matrimony.

It is true that to enjoy the tax comforts of income splitting, one must resort to the rash extreme of marriage. Taking a mistress will not do the trick; in fact, in almost all jurisdictions in which extramarital cohabitation is illegal, it will not even qualify the generous male for an extra $600 exemption. Still, even the most dedicated bachelor can take comfort in the knowledge that the ways of perfectly legal tax avoidance are not only devious, they are, thanks to Congress' generosity, many. If there exists a bachelor with enough means to be suffering from high taxes who has not already availed himself of the services of a tax attorney or a tax accountant, let him run, not walk, to the nearest expert. Let him be guided through the tax joys of oil investments (which permitted one oil tycoon to enjoy over $2,000,000 of income each year for 14 years *and never pay a penny in taxes*), or of putting his money into tax-free state and local bonds (which put auto heiress Mrs. Horace Dodge in a position to enjoy over $1,500,000 of income annually, without even having to file a tax return), or of having part of his salary paid in stock options (which put IBM's Thomas Watson in a position to realize a $1,882,000 profit, taxable at no more than 25 percent, for a tax saving of close to $1,000,000). Or, perhaps, if this bachelor is wealthy enough and influential enough and knows the right tax lawyer–lobbyist, he might even have a special provision of the tax law written for him (as movie magnate Louis B. Mayer did, for a tax saving of roughly $2,000,000).

While from time to time a few of the joyous paths of tax avoidance have been closed off or narrowed, over the years Congress has shown a far greater preference for broadening the avenues of escape or for open-up new ones.

In the case of income splitting, the chances are that when Congress does get around to dealing with this gross discrimination against single taxpayers, it will not be Pechman's preference-removing stratagem that will get the nod but something along the lines of the benefit-spreading tack taken by Senator McCarthy and Congressman Kupferman, though ideally, spreading the benefits to *all* single people, not just to those over 35. It really comes down to a matter of simple political arithmetic: The voters among the married couples, basking in the warmth of income splitting, outnumber by four to one the single folks who stand naked and shivering under the icy blasts of the normal tax rates. In terms of practical politics, there is only one way the unmarried can be relieved of the discriminations they endure: Bring them in out of the cold.

TAXES AND THE SINGLE PERSON

(By Donald A. Colburn)

It's that time of year again; the dreaded April filing date approaches. If you're fed up with taxes—and if the option is still available to you—you might consider getting married. And if the prospect of matrimony drives you back to liking, or at least tolerating taxes, then ponder the following:

Singles pay up to 20 per cent higher taxes than marrieds living on the same income.

If your taxable income for 1971 was $10,000 and you're single, your federal income tax amounts to $1,596. With the same income a married couple filing jointly (regardless of how many children they have) owes the IRS $339 less.

With a taxable income of $25,000, the difference is $1,097.

And if you're lucky enough to be earning $100,000 a year, and still have the gall to worry about such things, you can save an additional $6,874 by taking a spouse.

These differences result from a quirk in the law which enables a married couple to split their total income and pay taxes as if each spouse had earned exactly half of it. Such income-splitting saves married taxpayers, or penalizes single taxpayers, $1.6 billion annually.

But if you despair of both taxes and marriage, your best hope is to join a mounting crusade by single taxpayers to get Congress to change the law. Spearheading the cause of the nation's 30 million single taxpayers is a non-partisan group called CO$T, founded last summer by Robert Gray, a bachelor who was Secretary of the Cabinet in the Eisenhower administration. Former Senators Eugene McCarthy of Minnesota and George Murphy of California act as cochairmen of CO$T, whose ultimate goal is an equal tax base for all individuals regardless of their marital status.

The congressional sanctioning of income splitting by married couples for tax purposes began nearly 25 years ago almost by accident. Before World War II eight states had community property laws which treated a couple's income and property as though they were equally divided between husband and wife. When the Supreme Court ruled that couples in these states could divide their income and file separate U.S. tax returns, other states began to pass similar laws to give their residents this tax break. Finally, in 1948, Congress decided to "solve" the problem. But instead of abolishing income splitting, Congress made it a national practice; and singles, especially the wealthy singles, have borne the burden ever since.

SINGLE SUPPORTERS

Proponents of income splitting argue that a couple cannot live as inexpensively as one person and therefore should be taxed less heavily. CO$T and other advocates of an equal tax base for all individuals, however, point out that the major beneficiaries of income splitting are not the poor, but the rich. And the heaviest expense of marriage is usually child-raising, but income splitting benefits equally couples with a dozen children and those with none. Furthermore, many "single" taxpayers—the so-called "heads of households"—have to support children, grandchildren, dependent parents or relatives without the full benefits of income splitting. For example, a divorcee or widow with dependent children is not allowed the full benefits of income splitting, while a married couple with children is.

Until 1969 single taxpayers paid up to 41 per cent greater taxes than married people with the same taxable income. The Tax Reform Act of 1969 reduced, but did not abolish, the inequity. Under present law, singles pay up to 20 per cent higher taxes on the same income as income-splitting marrieds.

NEW BILLS PENDING

Two bills now before the Congress would wipe out the discrepancy entirely: H.R. 850, introduced by Rep. Ed. Koch, D.–N.Y., and co-sponsored by over a hundred House members; and the corresponding Senate bill, S. 869, introduced by Sen. Abraham Ribicoff, D.–Conn. Each bill proposes "to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns."

While both the Koch and Ribicoff bills were mired in committee, last November Sen. Robert Packwood, D.–Ore., introduced an amendment to the same effect during floor debate on President Nixon's tax bill. Packwood told his Senate colleagues: "Our present law says to a perfectly rational 20- or 25-year-old man or woman, 'Get married and we will give you an economic tax break. Don't stay single. As a single person you are a detriment to society. So we're going to give you a surtax and penalize you.'" But Sen Russell Long, D.–La., said Packwood's amendment was unjustifiable "unless one wants to contend that we ought to denounce the institution of marriage and encourage people not to marry and not to have their children born in holy wedlock." Packwood responded that he hoped there was a "stronger bond to induce people to marry than the fact that tax policies might encourage them to do so."

The Packwood amendment lost, 55 nays to 41 yeas. All the senators who are now running for the presidency voted for the measure, except Sen. Muskie, who was absent.

Mrs. Patty Cavin, executive director of CO$T, says she is hopeful that Congress will buck tradition and pass an equal tax base bill in this election year. With a growing membership of over 8,000 in its first half year, CO$T is trying to force the issue. For those interested, information can be obtained from CO$T, Inc., Box 1789, Washington, D.C. 20013.

There have been many tax crusaders in America, from those Massachusetts rowdies who dumped British tea in Boston Harbor in 1773, to Vivien Kellems, a 76-year-old Connecticut woman who is still urging irate taxpayers to send their complaints, along with an old teabag and some used coffee grounds, to Congress. Now, with more tact than Sam Adams and more clout than Miss Kellems, CO$T hopes to "liberate" 30 million single taxpayers.

(The following are excerpts from an interview with Mrs. Patty Cavin, executive director of CO$T, Inc. Mrs. Cavin whose husband died suddenly two years ago, has two children.)

Q. Will this kind of taxation be an issue in 1972?

A. Certainly it can be an issue. One of the things CO$T is doing at the moment is, initiating a survey of all the candidates to find out exactly who stands where on the individual income tax department.

Q. Would you consider endorsing a particular candidate?

A. No, we can't do that, because in our bylaws we're non-partisan and we're nonprofit. And it's a little difficult with Sen. McCarthy running for the presidency, but we don't endorse Sen. McCarthy. We endorse his views on an equal tax for all individuals, but we do not endorse his campaign. Nor would we endorse Ashbrook or Nixon or Muskie or McGovern or anyone, but we want to know where these candidates stand on the individual tax. Now Hubert Humphrey has come out for an individual tax, and we know where he stands. We've talked to Ashbrook. There's been a lot of talk both pro and con on lowering the individual income tax from the Nixon administration standpoint, but they feel that the 1969 Tax Reform Act was basically a step in that direction, and the general feeling seems to be that there won't be any further individual cuts in 1972.

As you know, it's kind of an established, I think fallacy, that you can't get a tax bill through in an election year. CO$T is out to try and prove that wrong. We feel that perhaps we can get a little tax help because it is an election year.

Now we have spent a little time with Mr. Mills, and as I said I cannot announce it—I will believe it when I see it—but there is some reason to feel that there will be hearings on the Koch bill within the next month and a half. So, you know, we're getting there. It's a slow, plodding process, but it's terribly exciting when you get a change. But we know that Wilbur Mills is not against us. If he were against us, we'd have to go out and start again.

Q. Is this argument—that granting income splitting benefits to single people would be an incentive to "live in sin"—one that you seriously have to deal with?

A. We don't take it seriously.

Q. But do the congressmen take it seriously? In other words, is it something you have to work against?

A. Well, it's kind of like taxi fares. You know, for years the taxi fares have not been raised in the District of Columbia, the reason being, everyone says, that the Congress does not want to have to pay a meter fare between the Capitol and, let's say, the Metropolitan Club or the Cosmos Club or their own home and what have you. And basically, that's pretty much the same situation when you use this old marital bit—that, you know, tee-hee, if we have this equal tax base for all individuals, nobody will get married. That's ridiculous. But I think it's the Congressman or the Senator whose salary is taxed, whose wife doesn't work, and who gets the full advantage of income splitting. It's the same thing as the taxi fares. So you certainly take every cognizance of the argument, and you fight it if you have to. But I don't see how any thinking individual who is at all in tune with inequities and injustice could possibly take that kind of an argument seriously. But they do.

Q. Do your operating funds come mostly from these ten-dollar memberships?

A. They do entirely. Our angel and the founder of CO$T is Bob Gray and he has put a lot of money into CO$T. We hope that eventually we'll be able to reimburse him a little. But in the meantime there are only two paid members of the CO$T staff. You can't start a national organization on a shoe string. And our money is used mostly for . . . I would say 96 percent of the money that comes in from across the country is used for printing, postage, and brochures.

We're doing as much with volunteers as possible. We have a corps of about 25 volunteers who work regularly with us here in Washington, and a potential of, I would say, a couple of thousand volunteers. We have volunteer chairmen in key cities, and they have in turn their own organizations.

Q. So you don't have any full time lobbyist as such?

A. Well, you can count both Bob Gray and Sen. Murphy as lobbyists if you wish. And they both do CO$T duty. But they are not getting paid for it.

Q. Do you have any difficulty trying to make taxation per se an issue? That is, do you find that its too bound up with other issues, such as how the Federal revenues are going to be spent, or the economy?

A. No. We find that taxation is a highly personal issue, and that people who are normally extremely calm get wild-eyed over taxes. We find, in states like California for instance, or Washington, but particularly in California where there is a high state income tax plus a high national income tax, that people are practically foaming at the mouth. They are worried, of course, about the fact that they are subsidizing schools in their own states. They're subsidizing parks, they're subsidizing all sorts of things that they as individuals aren't really . . . you know, why should they pay for their neighbor's family's schooling? But that basically is the way its handled, and that's more or less a local issue.

But we don't find that it's bound up in a lot of red tape and national issues and how it's going to be spent. We find it's a very personal item, and we find that the individual taxpayer is tired of being ignored.

Many of them have written letters to their senators and their congressmen for years, and nothing has happened, and that's what makes us feel that there is a place for us in Washington. We need to rally this group and make them from the silent majority into a major power group which can command action.

Q. Do you find that you get more response among the poor, the middle income people, the wealthy or is it across the board?

A. It's kind of across the board. It's a little hard to find out what their incomes are, because . . . our membership blank is pretty impersonal.

On the whole, the people that take time to send us money and sit down and write a letter about their particular beef are, I would say, upper middle class. We got a lot of, you know, "sock it to 'em! Right on!" and that sort of stuff scribbled on plain old paper, sometimes wrapping paper, so you know that you're hitting on all levels. By and large, the people who really correspond with us and have written in to us and have asked for information and have sent lists and what have you, have written highly intelligent letters.

Q. As I understand it, you support equitable taxation for all single taxpayers . . .

A. For all individuals. We don't care whether they're single or married. We want an equal tax base for all individuals, and the best way I can equate that is, for instance: You are marketing for the week and you go to Giant. You check out with your $76 dollars worth of groceries in three bags. Does the cashier stop and ask you if you are a bachelor, a spinster, a widow, married, or what? You pay the same tax on your food as the guy behind you or the gal in front of you. And that's the way we feel it ought to be on income taxes, that it should be an equal tax base for all individuals, that the only fair tax is a tax based on income. We're not trying to take away deductions.

Q. That's what I wanted to ask you.

A. No. We're not trying to take away deductions at all. Let the deductions come as they are warranted. We don't want to take away the children deductions or the mother who lives with a family and is totally dependent on the family. Not at all. We just want to be sure that each taxpayer pays an equal tax on income. And why should it be graded because he's married, or he's single or he's widowed.

Q. But it should be graded in terms of his income?

A. Of his income. Exactly. We're not trying to discriminate against anybody. We think there should be an equal tax for all individuals.

[From The Arizona Daily Star, Sept. 25, 1972]

INEQUITY SHOULD END

Single persons—those who have never married, the widowed and the divorced—have a legitimate complaint about the federal income tax system. They, as a group comprising about 30 million taxpayers, pay higher rates than married persons earnings comparable incomes.

Leaders of this group who have become more and more disturbed about the inequity have formed an organization to fight in and lobby on Capitol Hill for a change in the laws. The Committee for Single Taxpayers (CO$T) is a non-partisan, non-profit organization whose purpose is to exert pressure in Washington and speak for the single taxpayer.

CO$T has worked with the House Ways and Means committee on a new plan for single taxpayers. On the Senate side, a new single taxpayer's amendment will be cosponsored by Sen. Bob Packwood of Oregon and Sen. Walter F. Mondale of Montana.

With the persistence of such an organization there is hope that the single taxpayer, in the not too distant future, will shoulder a lesser, more equitable share of the national income tax burden.

[From Singles/Mingles, October 1972]

CO$T FIGHTS FOR THE SINGLE TAXPAYER

We are living in an age and time where discrimination in any form is being fought. Yet, there are more than 30 million Americans who are being discriminated against, and who are treated like second-class citizens. They are the single people of this great nation, who pay federal taxes as single individuals.

Our federal tax laws recognize special tax problems of the poor, the elderly, the oil-well owner and the real estate investor—but they discriminate against the bachelor, the unmarried woman, the widow or widower and the divorcees.

Our tax laws grant special privileges to the married, whether or not married couples have responsibilities comparable to some persons who pay taxes as individuals.

Over a working lifetime such rate inequities can cost an individual tens of thousands of dollars worth of earnings.

These inequities have been built into the federal tax system for years. Sporadic efforts to make corrections have been made, but there has been no concerted, persistent movement to see that fair treatment for the single individual is written into law! That is until recently.

CO$T, an organization of concerned citizens has begun to fight back. CO$T, which means, Committee for Single Taxpayers, was founded in Washington, D.C., by Robert Gray, and has on its advisory board two former United States Senators who have long fought for the inequities of the single taxpayer. Former Senator Eugene J. McCarthy of Minnesota and George Murphy of California.

Since their inception, they have labored hard for a new plan for single taxpayers within the Ways and Means Committee of the House of Representatives, and further legislative insurance in the form of a New Single Taxpayer Amendment.

CO$T, a nonprofit, nonpartisan organization has concentrated, with some success, on the powerful Ways and Means Committee, of which Senator Wilbur Mills is the Chairman.

Senator Mills is personally sympathetic to the plight of the single taxpayer and the double-income marrieds, but faces opposition from within his committee. Administration supporters there feel single tax equity is much too costly now and should wait until next year's proposed major tax reform. As one member put it, "The Committee seems just not ready yet to eliminate the family as a unit!"

CO$T has been quietly calling on key members of the Ways & Means Committee to determine their hangups, explain their position and enlist their support for no-compromise single tax equity.

A new 50% plan, a compromise of the original Koch Bill (which leaves out the double-income marrieds) has developed from these meetings. One version currently under study would grant single taxpayers and heads of households 50% of the benefits of married couples filing joint returns the first year it takes effect. The initial cost to the government would be 800 million dollars, with complete equity granted the second year for a total price tag of 1.6 billion dollars.

Mr. Mills is optimistic that this plan will be reported out of Committee. If and when it hits the floor, CO$T can report growing support for the single taxpayer within the House of Representatives as evidenced by the Koch Bill co-sponsors who now number 181.

On the Senate side, action is also brewing. CO$T has been conferring with Oregon's Senator Bob Packwood and with Connecticut's Senator Abraham Ribicoff. At CO$T instigation Senator Packwood agreed to ready a new Single Taxpayer Amendment to tack on to any viable legislation that might come through the Senate these final days of the 92nd second session, in case of no further action from the House side.

Both the Democratic and Republican Platform Committees heard CO$T's message but took no visible action.

CO$T has been waging a long and lonely battle for the single taxpayer, to succeed, they need grass roots support on the letter writing front single taxpayers to their elected representatives and to members of the Ways & Means Committee. They are also in need of financial support, and Singles/Mingles urges its members to join CO$T's fight.

We also urge all single people to write to their representative NOW, and stress your voice as a minority that wants equal tax action from the Ways and Means Committee THIS YEAR. Put it in your own words, and try to get your letters there before the 92nd Session is over. Remember, elected officials take greater notice of minority issues and major inequities in an election year! And when going to the polls in November, you can exercise your power by voting against anyone who has not taken a positive stand on behalf of the single taxpayer.

[From the Chattanooga Times, Mar. 12, 1972]

ASKS BREAK FOR SINGLES

As state chairman for CO$T, Inc., the Washington-based Committee of Single Taxpayers, may I through the medium of your editorial page discuss some of the aspects of the 1969 Tax Reform Law as it pertains to single taxpayers. Apparently, there is now a misunderstanding that single people are being given a better tax break and that under this law it would be more economical to "live more prosperously in sin,"—so to speak. Actually, this is not a new inequity placed against married couples but people in this category are simply feeling a small part of the tax burden we singles have carried for years. While we now pay 20 per cent more than joint-filing marrieds (even though one's household expenses may be about the same), until the 1969 Tax Law we paid up to 40 per cent more. A married couple can elect to file either as an individual or jointly whichever works to their best advantage, whereas a single taxpayer must file simply as such though in most instances they are "heads of a household" also.

Many single householders' expenses are way up close to that of a married couple but there are two incomes in the latter to meet expenses. Auto insurance is the same whether there are one or two drivers; that auto cost as much for one person as for two; garbage fee is the same; homeowners insurance is the same; fire protection is the same; upkeep and maintenance is the same for one as for two on one's dwelling; utilities are not very much more for two than for one (the dwelling or apartment has to be heated whether one or two live therein; also cooled in the summer); an apartment that will accommodate two rather than one is very little more in rental and, even so, your single person needs an extra bedroom just as much as a couple; possibly there are houses built with the individual in mind but where; it is difficult to prepare food for one at just half what it cost for two, etc., etc.

CO$T in no way wishes married couples to have less of a tax break; we simply believe in a fair tax treatment for the single "head of household" for that is what we are unless of such a young age as to be living still with parents. Present laws compute separate rates for married and single individuals—all earning the same income—and levy penalties up to 20 per cent higher for single individuals. Married couples are really objecting to the fact that the new 1969 tax law does not continue to give them a big advantage over the single head of households—but should it? There are two incomes to support that one household, in many instances.

If any of your single, widow or widower, married or divorced readers are interested in a fair tax treatment, please contact the nonprofit, nonpartisan organization CO$T, P.O. Box 1789, Washington, D.C. 20013. This organization is cochairmaned by former Senators George Murphy and Eugene McCarthy and is working for a fair tax structure for everyone—single and married alike. We need and solicit your support.

D. MOYERS.

[From the Ocean County (N.J.) Reporter, Apr. 12, 1972]

TAX REFORM

TO THE EDITOR: April 15th draws near and again the single taxpayer has his income taxed at a rate up to 20 per cent higher than others with the same taxable income. This is unconstitutional because the 16th amendment gave Congress the Power to "tax income" not people.

Why should the nation's 30 million bachelors, spinsters, widows and widowers, and divorced people have to foot an undue share of the federal tab?

Prior to the 1969 Tax Reform Act all single taxpayers were required to pay up to 40 per cent more than their counterparts even though their single expenses (household, car insurance, etc.) were approximately the same. Since this tax reform singles can NOW only be taxed up to 20 per cent more than their married friends.

To end this unfair treatment you can join the crusade for tax equity launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, non-partisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to end.

CO$T has an advisory board co-chaired by two former United States senators, Eugene J. McCarthy of Minnesota and George Murphy of California. It is enlisting support from every walk of American life. CO$T supports legislation introduced by Rep. Edward I. Koch and Sen. Abraham Ribicoff to tax single persons at the same rate as married couples, and it plans to do more—to seek out and change other inequities.

If you believe in fair tax treatment send a note or postcard to CO$T, Inc., P.O. Box 1789, Washington, D.C., 20015, and they'll send you further information.

GERTRUDE LA PLACA,
Lakewood.

[From Singles Critique, Sept. 1, 1972]

CO$T CARES FOR THE SINGLES

Long a focal point of the local social scene, the Washington, D.C., townhouse of Patty Burwell Cavin, '47, has become the hub of even greater activity in recent months. The first floor has been turned into the national headquarters of the Committee of Single Taxpayer (CO$T), and she is the budding organization's executive director.

Widowed less than two years ago, she lent a more than sympathetic ear when Robert Keith Gray, a bachelor who served as secretary of the Cabinet in the Eisenhower Administration, began delineating the ways in which the income tax discriminates against those who file singly—be they bachelors, spinsters, widows, widowers, the divorced, or the married who file singly. They then contacted former Senators Eugene McCarthy and George Murphy, who lent their support as co-chairmen of the advisory committee and the non-profit organization was launched last August.

Patty's background in public relations and journalism (she is former PR director of RCA in Washington, women's director of the NBC radio outlet in the capital, and fashion and beauty editor of the Times-Herald) was put to work, and the eight syndicated columns telling the CO$T story have resulted in a response from more than 15,000 individual taxpayers. The word is also being spread on Capitol Hill, where CO$T is actively supporting H.R. 850 and S. 869, both of which would "extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns." Though some of the bills' enthusiasts have tried the gimmick of sending used tea bags to members of Congress (instead of dumping tea in the Boston Harbor), Mrs. Cavin says that CO$T frowns upon this. "We feel our full-time representation of the individual taxpayer will be more effective."

Though the discriminatory income tax, which may vary as much as 20 percent, the immediate target, CO$T may well zero in on a host of other inequities—social security, credit, etc.—suffered by the individual taxpayer.

About 30 million taxpayers in the U.S. are single—the-never-been married, the widowed, the divorced. Increasingly angry about Federal tax laws that force single persons to pay higher rates than married persons earning the same incomes, leaders of this group have formed a new organization to lobby to end discrimination against the unmarried.

CO$T is a non-paritisan, non-profit organization (for Committee of Single Taxpayers), is based in Washington, D.C., (P.O. Box 1789).

Their purpose is to maintain a consistent and persistent pressure in Washington. The single taxpayer's voice has simply not been heard and so we will be that voice, before the committees of Congress and in other public forums. The tax laws have been adjusted to reflect the special problems of other persons who have made their voices heard on Capitol Hill. A group of 30 million Americans is a substantial part of our population and is entitled to tax equity. The right to petition is a basic right which all citizens have and we will make this our mission until we have achieved our goals.

[From the New York Post, Aug. 26, 1971]

THE SINGLE TAXPAYER

(By Sylvia Porter)

About 30 million taxpayers in the U.S. are single—the never-been-married, the widowed, the divorced. Increasingly angry about Federal tax laws that force single persons to pay higher rates than married persons earning the same incomes, leaders of this group have formed a new organization to lobby to end discrimination against the unmarried.

This non-partisan, non-profit organization is called CO$T (for Committee of Single Taxpayers), is based in Washington, D.C., (P.O. Box 1789) and has as co-chairmen of its advisory board two former Senators of widely differing political viewpoints: Eugene J. McCarthy of Minnesota and George Murphy of California. Here is how McCarthy and Murphy explain the problems of single taxpayers and what CO$T intends to do about them.

Q. How much more does a single taxpayer have to pay than a married person with the same income?

A. The penalty can be as high as 20 per cent. For instance, using the standard deduction, a married couple earning $10,000 in 1971 will pay $270 less than a single individual. At $20,000 the difference is $850. At $36,000, the difference is $1,950 in taxes.

Q. What reform legislation is pending now?

A. There are identical bills in both the House and Senate. The Senate bill, introduced by Sen. Ribicoff (D-Conn.), and the House bill, introduced by Rep. Koch (D-N.Y.), would treat single persons on the same basis as married couples for tax purposes. There are 133 co-sponsors of the House bill and hearings are slated before the House Ways and Means Committee this fall.

Q. How do you rank the Tax Reform Act of 1969 on this question?

A. It didn't go far enough. It reduced the difference in tax rates between single and married persons: the differential used to be as high as 42 per cent. The reforms acknowledged that the old rates were confiscatory but they did not really tackle the essential unfairness of a system of separate tax rates.

Q. Where is the major inequity in today's system?

A. It is in the area of income-splitting—which has been part of our tax laws since 1948 and which got into our laws by accident as a result of court rulings that dealt with taxing the earnings of families in community property states. To achieve some kind of uniformity, Congress wrote into law that all married couples filing joint returns could enjoy the benefits of income-splitting.

This solved a problem for married couples, but it didn't touch the tax burden carried by single citizens. While it is often argued that income-splitting helps married couples finance the costs of bringing up children, the truth is the law gives a couple this benefit whether or not they have children. A widower or divorcee with children to care for has no such tax benefit, even though his or her responsibilities may be equal to that of a married couple with children.

Q. What has been the response so far to CO$T?

A. We're getting letters from all over the country. A single woman in Ohio wrote that she found out how unjust the law was when a clerical error in her office listed her withholding tax under "married" and as a result her taxes were under-withheld to the point where she was hit by a big extra tax bite. A woman who is a physician in North Carolina wrote that she has contributed thousands to help educate young people but has never been able to claim a deduction.

A bachelor professor in Maryland who lives in a house noted that he has virtually the same living expenses as a married couple next door. Another Marylander, with three children, wrote that his tax burden was grossly unjust because the "head of household" schedule does not properly recognize the responsibilities he obviously has.

Q. What does CO$T plan to do to achieve tax reforms?

A. To maintain a consistent and persistent pressure in Washington. The single taxpayer's voice has simply not been heard and so we will be that voice, before the committees of Congress and in other public forums. The tax laws have been adjusted to reflect the special problems of other persons who have made their voices heard on Capitol Hill. A group of 30 million Americans is a substantial part of our population and is entitled to tax equity. The right to petition is a basic right which all citizens have and we will make this our mission until we have achieved our goals.

[From The Christian Science Monitor, July 18, 1972]

Are You Paying Too Much Tax?

(By Josephine Ripley)

Are you paying income taxes at a higher rate than your next-door neighbor?

You are if you are single—a widow, widower, divorcee, spinster, or bachelor. Or if you are a married couple and both of you work. And if your next-door-neighbor happens to be a married couple, with the wife a nonworking partner.

Your rate of taxation is 40 percent higher than your neighbor's in this case if you are a double-income married couple.

The rate of taxation is 20 percent higher for the singles group.

What can you do about it? Write to your congressman and your senators without delay. You may already have done so, but an extra reminder will not be amiss.

For Congress will be adjourning the session in the fall. Two bills, one in the House of Representatives, and one in the Senate, have been introduced for the purpose of correcting the tax inequity for both groups.

If passage of these bills is put off, they may be lost in the shuffle in the next Congress when a general overhaul of the tax laws is contemplated.

DRIVE IS ON

That is the concern of organizations that represent the singles and the double-income married couples.

The House Ways and Means Committee held hearings last spring on the tax treatment of single persons and married couples where both spouses are working.

Last November a last-minute taxpayer rider for singles was tacked on to the President's tax bill and narrowly defeated, 55 to 41.

Sen. Robert Packwood (R) of Oregon, one of the sponsors of the rider, was gratified by this show of hands and promptly proclaimed, "We'll get it through in '72."

The drive is on and there isn't much time.

How did this all come about? It began in 1948 when Congress passed a law that permitted married couples (with a non-wage-earning wife) to split their income and file jointly. This had the effect of reducing taxation for this favored group.

And it meant that single persons, as a result, were left with a tax rate of some 40 percent higher than married couples who could take advantage of income-splitting.

The 1948 bill was passed by a Republican Congress over President Truman's veto.

Singles battled for tax equality for years until in 1969 Congress passed a bill that revised the tax laws so that a single person would have to pay only 20 percent more than married couples.

TAX EQUALITY SOUGHT

But a funny thing happened to this tax bill on its way through Congress. It partly righted one inequity only to cause another.

It revised the tax laws in such a way that double-income couples could not benefit from income-splitting and therefore were left paying income taxes at a rate 40 percent higher than other married couples.

Now married couples who work have joined the tax revolt. They want tax equality with other married people. They do not want to be penalized because both husband and wife work to support the home.

And singles are not satisfied with what the administration has termed "a reasonable compromise." They don't want a compromise. They want equal treatment on the income-tax form.

The only fair tax is a tax on income, insists Mrs. Patty Cavin, executive director of the Committee on Single Taxpayers, a widow and mother of two children.

Vivien Kellems of Connecticut, who has been protesting the flaws in the laws for years, says that the Constitution does not tax people, "it taxes income."

Miss Kellems is well known as a woman of action. She has a suit pending against the U.S. Internal Revenue Service to recover "what they have taken from me illegally," as she puts it.

LEGISLATIVE EFFORTS

The Committee of Single Taxpayers, commonly known as "CO$T," was organized last year. It is a Washington-based organization (P.O. Box 1789) and headed by well-known Washington "pros."

Two former senators are co-chairmen, Sens. Eugene McCarthy and George Murphy. The chairman is a former Secretary to the Cabinet in the Eisenhower administration, Robert Keith Gray.

It has members all over the U.S. who have contributed a $10 minimum membership to the all-out drive for all-out equity on the income tax tables.

Double-income married couples have joined hands in the National Association of Married Working Couples, with executive director Britten D. Richards, tax attorney, to speak for them. The association is located in Bloomington, Ind.

Congress has before it a bill by Rep. Edward I. Koch (D) of New York (HR 1493). Originally drawn to correct the tax discrimination against single people, it now includes the proposed changes in the law that would also lift the unfair tax burden from double-income married couples.

In the Senate, Senator Packwood is teaming up with Senator Walter Mondale (D) of Minnesota to file similar legislation in a bill or possibly a rider to provide similar relief for both groups.

[From the Christian Science Monitor, Aug. 23, 1971]

Single Taxpayers, Arise!

(By Josephine Ripley)

Washington is full of causes, big and little. But this one, new and largely unheralded as yet, is up and away even before the official lift-off date.

Contributions from all over the country are coming in from single taxpayers eager to join in a battle against unfair taxation.

What these contributors are doing is joining the Committee of Single Taxpayers, Inc. The Committee just has to be called CO$T, and is, except that the correct spelling is CO$T.

Its goal is a membership of 100,000 and the drive will be opened officially in mid-September at a Washington press conference.

CO$T is a nonprofit, nonpartisan organization dedicated to helping establish a uniform tax structure so that single taxpayers will not have to pay a substantially larger tax than a married couple with the same income.

Its formation is just about as secret as the Pentagon papers, and since many people are already joining the outfit, we might as well tell you that the membership fee is $10. You may send it, along with your name, to CO$T, Inc., P.O. Box 1789, Washington, D.C.

LOBBY FOR REVISIONS

The brochures aren't even out yet, but the new committee will support and lobby for a revision of the tax laws to give singles an even break on the income tax schedule.

Founding members of the committee are former Senators Eugene McCarthy (D) of Minnesota and George Murphy (R) of California, Robert Keith Gray, former secretary to the Cabinet in the Eisenhower Administration, and now a public relations executive, and Mrs. Patty Cavin, well-known for her work in radio and television.

For Senator McCarthy the issue is not a new one. He fought for this cause as a member of the Senate Finance Committee and helped promote the reforms embodied in the Tax Reorganization Act of 1969 which improved the situation for single taxpayers to some extent.

He is bound to win votes with this issue if he hits the Presidential campaign trail again, considering the fact that there are some 30,000,000 singles in the country, including widows and widowers, as well as people who are legally separated along with the unmarrieds.

BILLS INTRODUCED

CO$T will not have to start from scratch in its crusade, as bills have been introduced in both the House and Senate to establish parity for the single taxpayer. The committee is backing the legislation.

The House bill, HR 850, has been introduced by Rep. Edward Koch (D) of New York, and the Senate bill by Sen. Abraham Ribicoff (D) of Connectitcut.

Technically, these bills would give the single taxpayer the benefits of "income splitting" now allowed to married persons. This would mean that everyone would use the same tax schedule.

"Under the present rate structure," Rep. Koch points out "a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children.

For instance, a single person with an income of $10,000 pays an income tax of about $2,190, while a married couple with the same income would pay about $1,820.

Going up the scale, the disparity is even greater. A single person with an income of

$20,000 would pay in taxes about $6,070, while a married couple would pay about $4,380.

The inequity came about in this fashion, as Rep. Koch explains it: "In the mid-forties several states enacted community property laws which treated a couple's income—even if earned only by one person—as being divided equally between husband and wife.

"This enabled a couple in those states with community property laws to divide their incomes and file separate returns at a lower rate. To restore tax equity between the states, the Congress in 1948 extended the 'income splitting' benefits to all married persons and established a special tax schedule for taxpayers filing a joint return."

The Tax Reform Act of '69 has increased the tax exemptions for singles, but even with that taxes paid by single persons are about 20 percent higher than those paid by a married couple.

The single taxpayer who has long been smarting under this inequity is speaking up. Letters enclosing membership checks tell the story.

A retired army colonel wrote: "As a widowed father of three and a head of household, my tax burden is grossly unjust. In fact, because I chose to establish a second career after my retirement from the Army, most of my pension must now be paid out in income tax. I would probably be better off to loaf and let someone else finance our national deficit. Good Luck."

From a certified public accountant: "It has always been my personal opinion that the tax rates applicable to single individuals are discriminatory and patently unconstitutional on their face. . . . I hope your organization will be successful in achieving tax rates equitable to a single person."

A bachelor also expressed the view that "The tax law burden on single people is unconstitutional."

A "working widow" wrote that she has found the high taxes placed on a single person "not only a financial drain but an actual threat to my present and future well being."

A career teacher who owns her own home said that her only tax break was her property tax. "I am 'taken' taxwise every year. When I read that millions of dollars are wasted by mismanagement and poor judgment, I become increasingly angry."

All express gratitude that CO$T has come forward to "stand up for our rights," as many put it and stop this tax discrimination.

[From the Birmingham (Mich.) Eccentric, July 29, 1971]

P.S.

Ever wonder what happens to U.S. Senators when they get beaten by new political flesh? Former Senator George Murphy of California probably could have gone back into the song and dance business (actually isn't that what politics is all about?), but he hasn't.

And Eugene McCarthy, darling of the peace set, probably could have gone back into the poetry writing business, but he hasn't either.

Both these men, instead, have joined forces (p.s. believe it or not) to help a cause celebre called CO$T. CO$T is the Committee Of Single Taxpayers, and the idea is to lessen the burden of higher taxes levied (unconstitutionally, maintains McCarthy) against single taxpayers.

The definition of "single" as in taxpayer, includes all those who are divorced, widowed or single as in unmarried. CO$T will attempt to build a broadly based crusade built on the lobbying strength of the nearly 30 million "single" taxpayers in the country.

As figureheads, Murphy and McCarthy should, one or the other, appeal to almost any person who has the single taxpayer's blues.

Patty Cavin of Washington, who is the real doer of the CO$T organization, told p.s. that McCarthy has long been the champion of the single taxpayer.

"He even managed to have a bill passed which lowered the taxes for single taxpayers over 35, but since then the age has been lowered, too," she explained.

According to IRS figures single taxpayers now pay from 20 to 40 percent higher taxes than their married counterparts. What it amounts to is that singles of any sort are taxed because they don't have a legal spouse.

For example, if a couple is divorced and the child is living with the mother, she can pay a sizable portion of that child's support without being able to claim a deduction.

If the father pays a majority—not necessarily all—of the child's support, he can claim the child as an exemption. The mother's only tax break is the unmarried head of a household classification which she can claim.

And the notion that people who are not ensconced in permanent relationships, i.e. married with new family groupings, don't have as many expenses is ridiculous.

Indirectly a single taxpayer may benefit from other people's children getting a good education, but if that same taxpayer can't afford to send his orphaned niece to a good school because of it, where is the equity in that?

Both honorary co-chairmen will be engaged in speaking tours soon throughout the country Mrs. Cavin said. Currently CO$T is supporting U.S. House bill HR 850—the Koch bill.

It provides for extending the full tax benefits of income splitting to all unmarried individuals which is now enjoyed by married individuals. The bill was introduced into the Senate by Abraham Ribicoff.

CO$T suggests that persons interested in seeing this bill passed write to House Ways and Means chairman Wilbur Mills, who, Mrs. Cavin said, has delayed hearings on the bill for a month.

"We think the time is right for this kind of tax reform," said Mrs. Cavin. "But it must instigate equal taxation for all taxpayers."

CO$T will not stop at tax reform. According to the expectations of the co-chairmen it will also endeavor to get into social security reform and establishing child care centers for single parents.

The fact that CO$T (that's Box 1789, Washington, D.C.) has been inundated by letters positive and supportive even before official public announcement says something about the attitudes in this country about unequal taxation.

The first mailing of CO$T will be in September. Mrs. Cavin said the $10 it costs to be a CO$T member will probably pay for itself in taxes saved—and soon.

[From The Oregonian, Mar. 22, 1972]

THE PEOPLE'S OWN CORNER

SINGLES STILL HURT

To the Editor: The headline of your March 4 editorial, "Law favors singles" is biased and neither expresses the content of your comments, nor the law.

You quite accurately state that even the IRS statisticians and computers were surprised to find that due to 1969 changes in the tax laws, the tax for two working singles filing separately is considerably less in some brackets, than for a married couple filing jointly.

Quite simply, the facts are these. Prior to 1969 and the Tax Reform Act of that year which takes effect on our 1971 returns, the single taxpayers were penalized up to 40 percent more than their married counterparts who could file jointly. The 1969 Act reduced that penalty 20 percent, but the individual taxpayer (be he bachelor, spinster, widow, widower, divorced or married but filing singly) still pays on a sliding scale up to 20 percent more than the couples who can split incomes. If that's favor, I'll eat my hat.

Because of this fact, two former senators, George Murphy and Eugene McCarthy, and Robert Keith Gray, secretary of the Cabinet during the Eisenhower Administration, formed a new national action group called CO$T, to speak and act for the nation's 34 million individual taxpayers. This Washington-based Committee of Single Taxpayers (P.O. Box 1789, Washington, D.C.) has since its incorporation last June as a nonprofit, nonpartisan group effectively rallied a sizeable portion of this silent minority into a major power group to push for an equal tax base for all individuals.

CO$T feels the only fair tax is a tax on income, regardless of the fickle finger of fate that renders one single, divorced, married or a widow.

CO$T (and Oregon's Sen. Packwood) backs two bills curently pending before Congress. Rep. Ed Koch's H.R. 850 (now in the Ways and Means Committee) and Sen. Abraham Ribicoff's S. 869 (which is with the Senate Finance Committee) would "extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns." The Committee of Single Taxpayers is pushing for hearings on both, and is hopeful of action before the poor overtaxed, putupon, discriminated-against single taxpayer has to file in 1972.

PATTY CAVIN.

[From the Oregon Journal, Mar. 16, 1972]

THE SINGLE SILENT MINORITY

Among a great many other things, all of them complicated, the 1969 Tax Reform Act reduces somewhat the inequitable burden long imposed upon single taxpayers.

But not by a great deal, and not enough.

Before Congress passed the reform act, single persons were taxed as much as 42 per cent more than married couples who were allowed to split their incomes by filing joint returns. Under the new law—and 1971 is the first tax year under which it is fully effective—the inequity is reduced to 20 per cent.

The reduction is significant but hardly magnanimous.

Rep. Edward I. Koch, D-N.Y., takes note that even with the new break, a single person making $8,000 a year pays $210 more in federal income taxes than a married person making the same amount; a single person making $12,000 a year pays $370 more.

If joint returns are justified as a help in reducing the cost of raising children, what about the widows and widowers, or divorced parents, who have children to raise but get no such tax break? Koch, a bachelor, said that under the present tax structure, a divorcee or widow with three children, even using head-of-household status, pays taxes at a higher rate than a married couple with no children.

Now two things are happening in an effort to change this state of affairs. Koch and Sen. Abraham Ribicoff, D-Conn., have introduced bills which would eliminate any discrimination against single taxpayers; and an energetic band of reformers has organized the Committee of Single Taxpeyers (the acronym is CO$T) to gain public support for the bill.

Most of the interested public would come from the single taxpayers in the land, but there are 30 million of them, and the organization campaign is going full blast. CO$T's honorary co-chairmen are former Sens. Eugene McCarthy of Minnesota (separated) and George Murphy of California (married), but the real work is being done by Robert K. Gray, former secretary of the cabinet under President Eisenhower (bachelor), and Mrs. Patty Cavin, former Oregon resident and news commentator for NBC in Washington (widow with two sons).

Sen. Bob Packwood, R-Ore., joined Ribicoff in trying to add his singles amendment to the President's tax bill during Senate floor debate last fall. They lost, but only 41–55, and Packwood averred that, "Now we know who the bad guys are . . . We'll make it yet."

And CO$T's gimmickry campaign its Washington phone number is 387–CO$T) is out to enlist support from a million of the 30 million singles. It is this "put-upon, overtaxed silent minority," as Mrs. Cavin expressed it, that looks for action in 1972, which happens to be election year.

[From the Ocean County (N.J.) Daily Times, Apr. 4, 1972]

HIGH PRICE OF BEING SINGLE

EDITOR, DAILY TIMES: As April 15 draws near, again the single taxpayer has his income taxed at a rate up to 20 percent higher than others with same taxable income. This is unconstitutional because the 16th amendment gave Congress the power to "tax income" not people.

Why should the nation's 30 million bachelors, spinsters, widows and widowers, and divorced people have to foot an undue share of the federal tab?

Prior to the 1969 Tax Reform Act all single taxpayers were required to pay up to 40 percent more than their counterparts even tho their single expenses (household, car insurance, etc.) were approximately the same. Since this tax reform singles can now only be taxed up to 20 percent more than their married friends.

To end this unfair treatment you can join the crusade for tax equity launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, non-partisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to end.

CO$T has an advisory board co-chaired by two former United States Senators, Eugene J. McCarthy of Minnesota and George Murphy of California. It is enlisting support from every walk of American life. CO$T supports legislation introduced by Rep. Edward I. Koch and Sen. Abraham Ribicoff to tax single persons at the same rate as married couples, and it plans to do more to seek out and change other inequities.

If you believe in fair tax treatment send a note or postcard today to CO$T, Inc., P.O. Box 1789, Washington, D.C., 20015, and they'll send you further information.

GERTRUDE LA PLACA.

[From The Tacoma News Tribune, Mar. 15, 1972]

SINGLES AND TAXES

To the Editor: Income tax day is just around the corner and if you pay federal taxes as a single individual, as I do you're once again painfully aware that as an individual taxpayer you pay rates up to 20 percent higher than others with the same taxable income.

If you'd like to have a voice in the use of your income, and want to join the effort to bring about tax equity, drop a note to CO$T, Inc. (Committee of Single Taxpayers), P.O. Box 1789, Washington, D.C. 20013, for information on how you can help. CO$T is a nonprofit, nonpartisan organization formed last year to work for national legislation on behalf of the 30 million taxpayers in the singles category (single, widowed, divorced).

Two bills are due for hearings later this year, Rep. Loch's House Bill 850 and Sen. Ribicoff's Senate Bill 869, both of which would "extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns."

This just could be the year to bring about legislation for fair tax treatment, but it will take the help of all those who are affected by the present discriminatory tax structure. Why not add your voice and support to this long-needed effort!

E. A. MAJESKIE.

[From the San Francisco Chronicle, Jan. 12, 1972]

OPPORTUNITY

EDITOR.—If you pay taxes as a single individual, here's your chance to do something about ending unfair federal tax laws which discriminate against you. You probably know that as an individual taxpayer you pay rates up to 20 per cent higher than others with the same taxable income.

You can join the crusade for tax equity being launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, non-partisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to be ended . . . Drop a note or postcard to CO$T, Inc., P.O. Box 1789, Washington, D.C., 20013 for further information.

H. PAT BALEN.

[From the Seattle Post-Intelligencer, Feb. 17, 1972]

VOICE OF THE PEOPLE—REASSESSING SOME VALUATIONS: SINGLE TAXPAYERS

As a single person I've long been concerned that my income is taxable at a rate up to 20 per cent higher than others with the same taxable income. Now, however, the formation of a non-profit, non-partisan organization in Washington, D.C., known as CO$T, Inc. (Committee of Single Taxpayers) is providing a focal point for a national campaign to equalize our federal tax laws on behalf of the 30 million taxpayers in that category (singles, widowed, divorced).

CO$T recognizes that a sustained effort is necessary if we are to make our voices heard in Washington, and is backing two excellent Bills which are due for hearings later this year. Both Rep. Edward I. Koch's House Bill 850 and Sen. Abraham Ribicoff's Senate Bill 869 would "extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns."

But it takes the help of all those who are affected by the present discriminatory tax structure. If you believe in fair tax treatment and want to join in this effort, send a note today to CO$T, Inc., P.O. Box 178, Washington, D.C. 20013 for further information. Every individual who enrolls in CO$T is taking a positive step toward ending this unfair drain on his hardearned income.

E. A. MAJESKIE.

[From the Chattanooga News-Free Press, Mar. 11, 1972]

MARRIED, SINGLE TAX PAYING AIRED

To The News-Free Press:

As state chairman for CO$T, Inc., the Washington-based Committee of Single Taxpayers, may I through the medium of your editorial page discuss some of the aspects of the 1969 Tax Reform Law as it pertains to single taxpayers. Apparently, there is now a misunderstanding that single people are being given a better tax break and that under this law it would be more economical to "live more prosperously in sin"—so to speak. Actually, this is not a new inequity placed against married couples but people in this category are simply feeling a small part of the tax burden we singles have carried for years. While we now pay 20 per cent more than joint-filing marrieds (even though one's household expenses may be about the same), until the 1969 Tax Law we paid up to 40 per cent more. A married couple can elect to file either as an individual or jointly, whichever works to their best advantage, whereas a single taxpayer must file simply as such though in most instances they are "heads of a household" also.

Many single householders' expenses are way up close to that of a married couple but there are two incomes in the latter to meet expenses. Auto insurance is the same whether one or two drivers; that auto costs as much for one person as for two; garbage fee is the same; homeowners insurance is the same; fire protection is the same; upkeep and maintenance is the same for one as for two on one's dwelling; utilities are not very much more for two than for one (the dwelling or apartment has to be heated whether one or two live therein; also cooled in the summer); an apartment that will accommodate two rather than one is very little more in rental and, even so, your single person needs an extra bedroom just as much as a couple; possibly there are houses built with the individual in mind but where; it is difficult to prepare food for one at just half what it costs for two, etc., etc.

CO$T in no way wishes married couples to have less of a tax break; we simply believe in a fair tax treatment for the single "head of household" for that is what we are unless of such a young age as to be living still with parents. Present laws compute separate rates for married and single individuals—all earning the same income—and levy penalties up to 20 per cent higher for single individuals. Married couples are really objecting to the fact that the new 1969 tax law does not continue to give them a big advantage over the single head of households—but should it? There are two incomes to support that one household, in many instances.

If any of you single, widow or widowers, married or divorced, readers are interested in a fair tax treatment, please contact the non-profit, non-partisan organization CO$T, P. O. Box 1789, Washington, D.C. 20013. This organization is cochairmaned by former Senators George Murphy and Eugene McCarthy and is working for a fair tax structure. Senators George Murphy, and Eugene McCarthy need and solicit your support.

D. MOYERS.

[From the Berkeley (Calif.) Daily Gazette, Jan. 6, 1972]

Voice of the People—Pro and Con—The Open Forum: Single Taxpayers, Unite

If you pay taxes as a single individual, here's your chance to do something about ending unfair federal tax laws which discriminate against you. You probably know that as an individual taxpayer you pay rates up to 20 percent higher than others with the same taxable income. Now you can do something to end this unfair treatment.

You can join the crusade for tax equity being launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, nonpartisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to be ended.

CO$T has an advisory board co-chaired by two former United States senators, Eugene J. McCarthy of Minnesota and George Murphy of California. It is enlisting support from every walk of America life. CO$T supports legislation introduced by Rep. Edward I. Koch and Sen. Abraham Ribicoff to tax single persons at the same rate as married couples. And it plans to do more—to seek out and change other tax inequities, to battle for legislation which recognizes changing responsibilities and expenses among unmarried persons.

If you believe in fair tax treatment and you want to join in this crusade, send a note or postcard today to CO$T Inc., P.O. Box 1789, Washington, D.C. 20013 and they'll send you further information. Every individual who enrolls in the CO$T crusade is taking a positive step toward ending this unfair confiscation of his hard-earned money.

MR. H. PAT BALEN.

[From The Oregonian, Sept. 22, 1971]

EX-PORTLANDER HEADS TAX INJUSTICE GROUP

A green-eyed widow, ex-newspaperwoman and former Portlander, Mrs. Patty Cavin, has become executive director of a national action committee called CO$T.

CO$T, whose concern is the discrimination suffered by the single American taxpayer, has embarked on a membership drive and mounted a congressional lobby.

Visiting Tuesday in her hometown, the former Patricia Ann Burwell of 2404 NE 38th Ave., related that Sen. Eugene McCarthy (married, with four children, but separated) and ex-Sen. George Murphy (married with a son) are co-chairmen of COST, principally because they are "beautifully united" on this program, although politically poles apart.

Mrs. Cavin has two sons, 11 and 13, but lost her husband, a real estate president, a year and a half ago.

"We are the nation's first professional, year-round organized corporation designed to speak for 30 million individual taxpayers—the single individuals," she said, "the bachelors, spinsters, widows, widowers, divorced, those married but who file income taxes singly."

Mrs. Cavin waved a tax penalty chart showing that the single person with $1,500 income paid $225, and the married person $215 on that same income, $10 less.

Up the scale, the difference became $110 by the time the income gets to $6,000; becomes $370 at $12,000; $2,250 by $40,000, and $12,110 by $200,000.

NEW YORKER'S BILL PUSHED

"The inequities have been built into the federal tax system for years," said Mrs. Cavin, "but there has been no concerted, persistent movement to see that fair tax treatment for the single individual is written into law."

She said CO$T is trying to boost one House bill put in by Rep. Edward I. Koch, a Democratic New York bachelor, with 133 cosponsors. One of Murphy's last Senate acts was to introduce a pioneer tax reform bill, she said Sen. Abraham Ribicoff, with 13 cosponsors, has one in the hopper on the Senate side.

Mrs. Cavin went to Fernwood school in Portland, Grant High School and Stanford University. She has been a newspaper fashion and beauty editor, a radio commentator and is a past president of the Women's National Press Club.

CO$T has a $10 membership fee, which goes for newsletters, bulletins, lobbying costs, and Mrs. Cavin and her co-chairmen are aiming for a 100,000 membership. Material will be sent to persons interested in tax reforms if they request membership, P.O. Box 1789, Washington, D.C. 20013. Offices are currently in the Cavin home, a townhouse on Washington's Embassy Row.

The founding of CO$T came about through conversations with Bob Gray, once a secretary to the Cabinet, now in advertising. He was a bachelor.

Mrs. Cavin, whose husband died suddenly the day one of her sons, seriously burned, came off the critical list in a hospital, has been free-lancing a bit since, putting out bulletins for the Atomic Sciences and North American Newspaper Alliance. Because she's a widow, the tax differentiation doesn't affect her yet, because she can file jointly for three years after her husband's death.

[From the Tacoma News Tribune, June 11, 1972]

CO$T WORKING TO EQUALIZE TAXES FOR SINGLE PERSONS

(By Emily Walker)

WASHINGTON, D.C.—A letter from Mrs. Elizabeth Majeskie, who lives at 921½ N. G St., asked me to betake myself downtown someday and apprise myself of the efforts of a year-old organization which calls itself CO$T, in behalf of the overburdened, discriminated against, and voiceless, single federal income taxpayer.

Being one of these myself, I should have acted on Mrs. Majeskie's suggestion long before I finally got around to it last week. So, in the interest of all you singles, men and fame, this is what I discovered.

According to Mrs. Paty Cavin, executive director of CO$T (Committee of Single Taxpayers), you're being had. Many of you don't realize it, and those of you who do may be at a loss as to what to do about it. No more.

You are now represented by this organization which was sponsored by former Sen. Eugene McCarthy (separated from his wife and four children), former Sen. George Murphy (married, one son) and Robert Gray (bachelor), who was secretary of the Cabinet during the Eisenhower administration. It was Gray, who first got in touch with Mrs. Cavin, who is a story in herself.

NEEDS MONEY

CO$T, composed entirely of volunteers except for an overworked secretary, Mae Rapport, has its headquarters at 1628 21st St. NW, zip 20013, on the ground floor of Mrs. Cavin's home, next to the Phillips Gallery. The mailing address is P.O. Box 1789 (because it was the first year of the republic). I tell you this because CO$T must have money in order to operate. Ten dollar annual donations have been coming in, as have letters from disgruntled single taxpayers, since the beginning, but, naturally, the interests and the complaints have not been matched by financial help.

To correct these tax inequities, a bill, HR 850, was introduced in the 91st Congress which took no action. However, the 92nd has at least made a start. The Ways and Means Committee held hearings about a month ago, but so far no further action has been taken. The present goal of CO$T is to get the committee to report the bill so that the House can act on it before adjournment. CO$T is working toward this end, as well as toward guaranteeing passage once the bill reaches the floor. You can help by writing to your congressman as well as to Rep. Wilbur Mills, Ways and Means Committee chairman. That's what you can do.

Now, this is how you singles are being taken. You pay up to 20 per cent higher taxes than marrieds living on the same income. If your taxable income for 1971 was $10,000 and you're single, your income tax amounts to $1,596. With the same income, a married couple filing jointly (regardless of how many children they have) owes IRS $399 less. With a taxable income of $25,000 the difference is $1,097. And should you be one of the carefree ones raking in $100,000 per annum you can save $6,874 by taking a spouse, in case that amount of dough means anything to those who orbit in that bracket.

The bill now pending, which was introduced by Rep. Edward Koch D-N.Y., was cosponsored by over a hundred House members. A companion bill, pending in the Senate, has been introduced by Sen. Abraham Ribicoff, D-Conn. Both seek to wipe out these inequities, which also affect married couples filing individual returns.

Mrs. Cavin, a dynamo if ever there was one, is a prominent figure on the Washington social scene. She is a widow with two sons. Her original home was in Salem, Ore. She attended the University of Washington and was graduated from Stanford. Practically immediately thereafter she landed a job as fashion editor of the now defunct Washington (D.C.) Times-Herald. When it was taken over by the Washington Post about two years later, she was hired as fashion editor, beauty editor and special features writer.

At the end of seven years she left the Post to become a daily news commentator on NBC radio, with her own 45-minute show. She left NBC after another seven years to join the corporate staff of RCA where she stayed for another seven years until Robert Gray enticed her into running CO$T. Because the organization is so in need of money, she decided to give up the offices for which it had to pay rent, and donate space in her home. She also gave up her salary, until such time as incoming donations justify her receiving it.

In addition to being dynamic, enthusiastic and extremely bright, Patty Cavin looks like a page out of Vogue.

Mrs. Majeskie, who put me on to all this, is Washington State CO$T chairman, along with Mrs. Pauline Johnson of Seattle.

PANELISTS URGE EQUITY—SEX IN TAXES AXES INCOMES OF SINGLES

"Sex and the Tax Return" was the attention-grabbing title of a panel discussion last night which turned into a gripe session about tax inequities of single people or married couples where both work.

The discussion, sponsored by the American Newspaper Women's Club and the local chapter of American Women in Radio, came the day after witnesses urged the House Ways and Means Committee to make basic changes in federal tax law.

The outspoken Connecticut industrialist, Vivien Kellems, who mails tea bags to the government instead of tax returns and who opposes the requirement that she withhold taxes from the paychecks of her employes, spoke first:

"We should understand," said Miss Kellems, that there is no law which says single people have to pay more than married. Neither is there any law which says married couples, both of whom work, should be penalized."

Miss Kellems said Congress thru a 1948 law which attempted to catch up with the community property laws in a number of states and allowed "married couples all over the country the right to split their income and save." She said she was "all for" saving money on taxes but wanted "everybody to pay the same rate on gross adjusted income."

Present tax laws are unconstitutional, she said, because the 16th Amendment allows Congress to tax "not people but income."

STERN VIEW

Philip Stern, co-founder and former publisher and editor of the Northern Virginia Sun, claimed that the tax laws hurt the little man and let the big wage earner go free. The savings for persons filing a joint return who make from $3,000 to $5,000 per year is an average of 72 cents, he said, while the average tax savings for couples earning over $1 million per year is $11,000.

Mr. Stern said such tax breaks for the rich could be equated to "welfare handouts, and the total cost of these handouts is $21½ billion a year."

The solution, Mr. Stern said, is to collect the money "not being collected from the people who don't really need it" and establish a graduated scale from 7 to 40 per cent.

Panelist Robert Gray, former secretary of the cabinet under President Eisenhower and president of the Committee of Single Taxpayers (CO$T), said that single persons have suffered higher tax rates thru the years "because of a bad habit. We've put up with this discrimination for so long, we've grown to accept it."

[From the Evening Star, Apr. 12, 1972]

U.S. TAXATION AND MORALS

(By Jackie Stone)

"It is not the province of Congress to regulate the morals of the people of this country by taxation," militant anti-tax crusader Vivien Kellems stated at a symposium on "Sex and the Tax Return."

Miss Kellems, former Sen. George Murphy, senior vice president of Hill and Knowlton

Robert K. Gray and author Philip Stern were members of a panel discussion on tax equity and tax reforms in the National Press Club ballroom last night before a combined audience from The American Newspaper Women's Club and the D.C. Chapter of American Women in Radio and Television.

SHOW STEALER

Miss Kellems, who at first glance would be typecast as a sweet elderly lady, effectively stole the show with her caustic and witty criticism of the IRS, which she termed the "Gestapo of the United States."

Gray, former cabinet secretary to the late President Eisenhower, termed the double standards of taxation where single persons pay as much as 20 percent more income tax than married couples with the same income "a bad national habit."

Founder of the Committee of Single Taxpayers (CO$T), Gray observed that since a heavy portion of tax revenue is channelled into educational funding, single taxpayers are, in effect, bearing an added burden of educating children they do not have.

Stern whose book, "The Great Treasury Raid," is a close-up look at tax loopholes, advocated raising the tax rate for married couples to a level equal to what singles pay. Amid groans from the audience, he explained why he felt the government could not stand the revenue loss of lowering the single tax rate.

"Not ten blocks from this building you can see what looks like a city that's been bombed out, the ghettos of this city," Stern said. "People are starving . . . the arts and literatures are starving. We cannot erode by $1.6 billion (estimated revenue loss per year if singles taxes are lowered) a nation that is publicly poverty stricken."

[From the Washington Post, Apr. 12, 1972]

AIRING TAX GRIEVANCES

(By Jeannette Smyth)

Vivien Kellems, the septuagenarian tax maverick, declared that the "Internal Revenue Service is the Gestapo of the United States," that income tax is unconstitutional, and called for a taxpayer's revolt last night.

"I haven't refused to pay my taxes," said she. "I have simply suspended payment until the IRS pays me what they owe me."

Miss Kellems, who maintains that single people are overtaxed because they cannot file joint returns as married people do, spoke at a "Sex and the Tax Return" symposium at the National Press Building. Four panelists—Miss Kellems, Robert Keith Brown, Philip Stern, and former senator George Murphy—took part in the discussion, which was cosponsored by the American Newspaper Women's Club and the American Women in Radio-Television. The panelists spoke less to the point of "Sex and the Tax Return" and more to the grinding of personal axes—grievances which were well received by the 200-member audience.

Brown, a bachelor and Washington businessman who helped found the Committee of Single Taxpayers (CO$T), maintained that high education costs raise tax rates. He said that single people, who produce no children to educate, bear the cost without having contributed to the expense.

Philip Stern, a writer who is updating his book about tax loopholes, "The Great Treasury Raid," said that only rich married people benefit from filing joint tax returns. According to his figures, couples with incomes of $3,000 to $5,000 a year who file jointly save 72 cents annually, while couples who earn $1 million and over get a tax break of over $11,000 yearly. Stern said the government loses $21½ billion yearly through such loopholes, which income, Stern said, could be used to bolster the social and cultural bankruptcy of the nation.

Former senator Murphy, who, although married was also a founder of CO$T, said his tax return has been audited yearly for many years. He said that in his years in the Senate, he heard a lot of talk about "spending federal money. There is no federal money, it's the taxpayer's dollars. Taxpayers must insist," said Murphy, "that the expenditures of their dollars are scrutinized as carefully in Congress as they are at home."

The symposium followed a day of special tax reform hearings held by the House Ways and Means Committee, at which Miss Kellems and Murphy testified.

[From The Evening Bulletin, Pa., Feb. 7, 1972]

THERE'S A NEW TEA PARTY BREWING OVER TAXES

(By Susan Jenks)

A tax structure once crumbled because of tea.

And thousands of the nation's 30 million single taxpayers are hoping it will happen again. But this time instead of dumping tea into Boston Harbor, used teabags are mysteriously finding their way into the mails of the 92d Congress.

Because singles are tired of what they consider the tax gap between themselves and married taxpayers.

"It's a crashing inequity," says Patty Cavin, executive director of the Committee of Single Taxpayers (CO$T), a national, non-profit organization incorporated last June. "The only fair tax is the tax on income regardless of the fickle finger of fate."

That "fickle finger of fate" may bring widowhood to some, legal separation to others or merely a lifetime of being single. All are tantamount to a singles tax status in the eyes of the Internal Revenue Service. (Widows or widowers may have one or two years tax grace as "surviving spouses," providing there are dependent children.)

Until the 1969 Tax Reform Act, which went into effect Jan. 1, 1971, singles paid up to 40.9 percent more in taxes than married persons. Now, however, that amount has been pared in half under a new "singles" tax table, leaving singles with a maximum 20 percent "penalty" between their taxes and those of married friends.

The tax rub, as singles see it however, is the joint return or "income splitting" allowed married taxpayers. Couples can treat their income as though each spouse had earned half the money, thus exposing it to tax at lower bracket income tax rates.

But singles with an identical income—after exemptions and deductions are made—must use the higher tax rate schedule.

For example, a single person with an income of $10,000 on the 1971 tax schedule would pay an income tax of about $2,190, while a married couple with the same income would pay only $1,820. Going up the scale, the disparity becomes even greater, with a tax gap of more than $1,500 between marrieds and singles earning $20,000 a year.

CO$T's aim, according to Mrs. Cavin, is to focus national attention on the single taxpayer's plight and ultimately to establish an "equal tax base for all." The Washington-based committee hopes to enlist at least 100,000 members by the end of this year.

Meanwhile, CO$T is putting its lobbying efforts behind legislation currently pending in both the House and the Senate.

The House bill, HR 850, has been introduced by bachelor Congressman Edward Koch (D–NY) and the Senate bill by Sen. Abraham Ribicoff, a married Democrat from Connecticut.

Technically the same, these bills would give the single taxpayer the benefits of "income splitting" now enjoyed by marrieds and permit everyone—including unmarried heads of household and married persons filing separately—to use the same tax schedule instead of four different ones.

An ardent champion of this equilization measure for years in Vivian Kellems, perhaps the nation's most vocal and best known single taxpayer. At 76 years of age, the peppery tax-hating Connecticut Yankee is still waging the good fight against that "bete noire" of her existence—the IRS.

Her latest tax gambit is a tax suit before the U.S. Tax Court Judge Graydon G. Withey.

"The IRS claims I owe them $800 for that year," Miss Kellems says, "but I say they owe me $3,000 for taxing me for not having a husband."

Far more important to Miss Kellems that the small sum of money involved in this case, is the constitutional issue at stake.

The 16th Amendment, she contends, gave Congress the power to "tax income," not people. "Not black people. Not white people. Not singles or widows or those who are married."

As recently as late last month, Miss Kellems finally decided to turn her loner's tax stance into a group effort by joining forces with CO$T. Initially, she spurned their efforts as being "at cross purposes" with her own goals.

Unquestionably, Miss Kellems' tax rebel reputation will be an asset to CO$T. But the union will also give the singles tax crusade a more united front and a time-honored symbol.

For it was Miss Kellems who first stuffed her letters to Congress with used teabags and urged her "22,000 correspondents" to do the same.

Of the teabag tactic, she says, "it's been tremendously successful." So successful in fact that at least two Congressmen, according to Miss Kellems, have asked that the deluge stop because they favor tax parity for singles.

Less successful in Miss Kellem's mind have been the recent tax reforms which she feels are really "a cheat and a fraud." While halfing the tax disparity between singles and married taxpayers is progress, she says, it still isn't an equal tax.

And by avoiding total tax equalization, she contends, Congress has inadvertently "backed itself into a hornet's nest" which will help the singles cause.

That "hornet's nest" is the unexpected upset (in some cases) of the old saw that it pays to be married or two can live as cheaply as one.

Married couples who are in the low and middle income bracket—especially working couples with nearly identical incomes—actually have to pay a higher tax than they'd pay if they were unwed and living together.

Two singles earning $10,000 each, or $20,000, total, would be subject to taxes of $2,090 each or a total of $4,180, on the singles tax table. A married couple with the same income, filing separately or even jointly since their incomes are identical, would pay $2,190 each or a total of $200 or more on the table for marrieds.

This curious tax backlash has resulted in a moralistic furor on Capitol Hill with many congressmen now wondering whether they have built in a tax incentive to sin.

But Miss Kellems thinks the furor is "great."

"I love it," she says. "Maybe now more married people will join the fight for fair taxes."

[From the Atlanta Journal, Apr. 1972]

HIGH-PAY BACHELOR ASK TAX EQUALITY

WASHINGTON.—A receptive House Ways and Means Committee heard pleas to end income tax discrimination against single persons and families where both husand and wife work.

A score of witnesses including former movie star Gloria Swanson, antitax crusader Vivien Kellems and former Sens. Eugene J. McCarthy and George Murphy, all representing groups of single taxpayers, said the present system isn't fair. Chairman Wilbur D. Mills, D-Ark., indicated that he will ask the committee to act to erase or narrow the differential.

The situation arose because Congress in 1948 permitted husband and wife to split their income to file joint returns. This meant they paid taxes on two incomes at lower rates. But single workers had no one to split income with and continued paying at higher rates.

Single persons—those 18 or older who are unmarried, widowed or divorced—paid up to 40 percent more than a married couple until 1969, when the differential was lowered to a maximum of 20 percent. Single workers want the differential wiped out entirely.

The 1969 law accidentally created a new problem. Families where both husband and wife work now, in many cases, are required to pay more taxes than two unmarried working persons living together. Critics say this may encourage couples to live together unmarried.

Rep. Edward Koch, D-N.Y., a bachelor earning at least $42,500 a year and sponsor of a bill to tax all categories at the same rate, said a single worker earning $12,000 a year pays $370 more in taxes than a married couple filing jointly with the same income.

A working husband and wife earning $12,000 pay $156 more in taxes than two singles earning $6,000 each, he said.

Miss Kellems, Connecticut businesswoman, is asking the courts to declare such tax discrimination unconstitutional.

Miss Swanson, who said she was 73 and has paid a lot of taxes over the years, said her principal concern was with the plight of widows. She said she believed the average worker does not object to paying fair taxes, but "rejects, as I do, paying more taxes than some oilmen, some millionaires, some large corporations and crooks."

Murphy and McCarthy appeared for a committee of single taxpayers. Murphy said 67 million single persons or husband-wife working teams pay higher taxes than families with single workers.

[From the Harrisburg (Pa.) Patriot, Feb. 29, 1972]

SINGLES UNIT

Editor: In reply to the Feb. 19 letter from "An Irate Single," CO$T (Committee or Single Taxpayers) is now being formed; it has been in existence for some time. Under the non-partisan leadership of the ex-Senators Murphy and McCarthy, this organization is the effective voice of the single taxpayer on Capitol Hill. Vivien Kellems, long the champion of tax equality for all individuals, has joined forces with CO$T.

We came within eight votes of victory on the Senate floor on the Packwood amendment. In this session, CO$T will appear before the House Ways and Means Committee in its hearings on tax reform. I am currently canvassing the Pennsylvania members of the House; based on the votes already received, the majority is with us.

WILLIAM J. BOROS,
Pennsylvania Chairman for CO$T.

[From the Washington Post, Jan. 31, 1972]

TAX INEQUITY NOT NEW

TO THE FINANCIAL EDITOR: Judging from Robert J. Samuelson's story (Jan. 22), "Is the Tax Collector Subsidizing Sin", . . . you haven't heard about CO$T! Nor has the baby-faced Kathryn McGrath!

This inequity is not new. Prior to the 1969 Tax Reform Act, all single taxpayers were required to pay up to 40 per cent more than their married counterparts, even though their single expenses (household, car insurance, etc.) were approximately the same.

Since this '69 reform, singles can NOW only be taxed up to 20 per cent more than their married friends . . . and this is still a crashing hardship to those who don't have the double income of the McGraths nor the joys of wedded bliss!! So Mrs. McGrath got winged . . . 'tis a pity. But what about the nation's 30 million bachelors, spinsters, widows, the divorced and those other married who've been filing singly all along???

This is precisely why Robert Keith Gray, former Sen. Eugene McCarthy, George Murphy and I started CO$T this past July. We are the nation's newest action group, dedicated to an equal tax base for all individuals. We are also the first professional group to work on a full time basis from Washington on behalf of the individual taxpayer.

PATTY CAVIN,
Executive Director, CO$T.

[From The Evening Star, Jan. 28, 1972]

LETTER TO THE EDITOR

SIR: Mrs. McGrath has turned the spotlight on the tax inequity which has plagued single taxpayers for years!

Through a quirk in the rates in her particular bracket, she has discovered that she and her husband pay a trifle more when filing jointly on their double incomes than do two individual taxpayers with the same incomes who might be living together.

Does this mean, she asks, that the government favors their filing separately and perhaps living in sin? Silly question! Unlike citizens who must file as individuals, Mrs. McGrath and her husband can elect to file jointly or as individuals, whichever gives them a tax advantage.

What the lady from Georgetown Law School is objecting to is that in her particular bracket the new tax law does not continue to give her an unfair advantage. Why should it?

Should the married taxpayer who suddenly finds himself a widower have an increased tax burden added to his agonies? Should the unmarried woman whose expenses (household, car insurance, etc.) may be the same as her married sister be saddled with extra taxes because she does not have a husband to share the nest or the expenses?

Under the 1969 tax reform, taxpayers who file as individuals can still be taxed up to 20 percent more than their married friends. This can amount to tens of thousands of dollars over a lifetime of earnings—a crashing hardship to those who do not have the double income nor the joys of wedded bliss.

Although discriminatory from its origin, the tax advantage given to marrieds may have had some justification when there were national advantages in increased population. Now, population is our problem. Today's major drain on state and local incomes is the high cost of our schools. While there is an obvious advantage to us all in having an educated populace, should the individual taxpaper pay a heavier share of the cost of education than the family man who produces the students?

By the same token, should the single taxpayer have to foot the federal tab for higher welfare and social security benefits which go to married couples and their progeny?

The obvious inequity is outrageous, yet it has been perpetuated largely because moves to correct it have been met with implications like Mrs. McGrath's that only the marrieds are moral and that the nation's 30 million widows, widowers, the divorced, the unmarrieds and the marrieds who file singly are a threat to the institution of matrimony.

ROBERT KEITH GRAY,
Committee of Single Taxpayers.

[From the Rapid City Journal, Nov. 1, 1971]

FOR SINGLE TAXPAYERS

If you pay taxes as a single individual, here's your chance to do something about ending unfair federal tax laws which discriminate against you. You probably know that as an individual taxpayer you pay rates up to 20 percent higher than others with the same taxable income. Now you can do something to end this unfair treatment. You can join the crusade for tax equity being launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, non-partisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to be ended.

CO$T has an advisory board co-chaired by two former United States senators, Eugene J. McCarthy of Minnesota and George Murphy of California. It is enlisting support from every walk of American life. CO$T supports legislation introduced by Rep. Edward I. Koch and Sen. Abraham Ribicoff to tax single persons at the same rate as married couples. And it plans to do more—to seek out and change other tax inequities, to battle for legislation which recognizes changing responsibilities and expenses among unmarried persons.

Our federal tax laws recognize special tax problems of the poor, the elderly, the oil well owner and the real estate investor, yet they discriminate against the bachelor, the single woman, the widow or widower and divorcees—30 million Americans in all. The present laws compute separate rates for married and single persons earning the same income, levying penalties up to 20 per cent higher for single individuals. And they grant these special privileges to the married, whether or not those couples have responsibilities comparable to some individual taxpayers. Over a working lifetime such inequities can cost an individual tens of thousands of dollars in earnings!

If you believe in fair tax treatment and you want to join in this crusade, send a note or postcard today to CO$T, Inc., P.O. Box 1789, Washington, D.C. 20013 and they'll send you further information. Every individual who enrolls in the CO$T crusade is taking a positive step toward ending this unfair confiscation of his hard-earned money.

TOM BRENNAN.

[From the Rapid City Journal, Feb. 17, 1972]

TAX DISCRIMINATION

As state chairman for CO$T, Inc., the Washington-based Committee of Single Taxpayers, I would like to refer to and take issue with some misconceptions about the 1969 tax reform law created by an article in TIME magazine Jan. 31, page 8, fatuously entitled "What Price Virtue?"

It tells of an affluent Washington couple named McGrath (both attorneys) who, when they found they would save about $1,000 in income taxes if they filed as singles rather than marrieds, wrote Chairman Wilbur Mills of the House Ways and Means Committee complaining that Congress had given them a strong economic incentive to get a divorce and "live more prosperously in sin." Mills' staff replied that this "inequity" was the result of giving a fairer break to single people. We of CO$T say baloney!, for these reasons:

This is not a new inequity—the McGraths are only feeling a small part of the tax burden we singles have suffered from for years. While the individual now pays 20 percent more than his joint-filing married friends (even though his household expenses may be about the same), he paid up to 40 percent more prior to the '69 Tax Reform Act. That added 20 percent can amount to thousands in a lifetime and is still a real hardship to us who, incidentally, don't enjoy double incomes.

Unlike citizens who must file as individuals the McGraths can elect to file jointly or as individuals, whichever gives them a tax advantage. They are really objecting because the new law doesn't continue to give them an unfair advantage. Why should it? No, the government doesn't really favor couples living in sin, and the nation's 30 million bachelors, spinsters, widows and widowers, and divorced people don't really pose a threat to the institution of matrimony. But neither should the single taxpayer have to foot an undue share of the federal tab for higher educational, welfare and Social Security benefits that go to married couples and their offspring.

If the McGraths—and others—want an effective means of fighting the remaining tax inequities, we strongly recommend they join CO$T, the nation's newest action group that's working for an equal tax base for all individuals. Co-chaired by former Senators George Murphy and Eugene McCarthy, CO$T feels that the only fair tax (and the one provided for in the Constitution's 16th Amendment) is a tax on income, regardless of the circumstances of fate that render a person married, single, widowed or divorced. Those who agree, especially you single people, should send $10 to non-profit, non-partisan CO$T at P.O. Box 1789, Washington, D.C. 20013, and join a national movement that is fighting to eliminate tax discrimination not only for the McGraths, but for 30 million other individual taxpayers. Or write CO$T for a progress report. It's making encouraging strides toward further tax reform, but it needs your support now.

THOMAS M. BRENNAN.

[From the Pittsburgh Press, Mar. 22, 1972]

TAX BREAK FOR MARRIEDS HIT; WHY NOT BONUS FOR SINGLES?

In regard to your March 13 news story, "Singles' War On Tax Led By City Man":

William J. Boros' fight against income-tax inequities for single taxpayers is commendable. Why should single people pay as much as 29 percent higher income tax to the federal government?

On the one hand the government is concerned with the population explosion, and on the other it is making it economically feasible to get married and increase the population.

If anything, the unmarried people and clergy should be given a bonus for keeping the population down.

I think they will be satisfied to be treated like other taxpayers instead of being penalized.

FRED D'ORAZIO.

[From the San Jose (Calif.) Mercury, May 1, 1972]

CO$T

EDITOR: Treasury Secretary Connally was recently quoted in the San Jose Mercury on the dubious chances of a major tax reform bill this year. His words could well trigger the major tax revolt that's been smoldering this past 12 months among the nation's 30 million individual taxpayers.

Once again this year the nation's bachelors, spinsters, widows, widowers, the divorced and the married who file singly were forced to pay up to 20 per cent more personal tax than their income-splitting married counterparts. This 30-million segment of US citizenry has had it with tax discriminations and wants action now!

If democracy is to work at all, an election year would seem to be the MOST TIMELY PERIOD of all to start the reform machinery rolling for an EQUAL TAX BASE for ALL individuals. And this is precisely the goal of a new and growing national action group called the Committee of Single Taxpayers (CO$T). . . .

The only Fair tax is a tax on income, according to CO$T, and let the deductions fall where they may!

PATTY CAVIN,
Executive Director,
CO$T, Washington, D.C.

[From the Indianapolis Star, May 8, 1972]

THOSE FILING INCOME TAX SINGLY GET RAW DEAL, SAYS CO$T OFFICER

TO THE EDITOR OF THE STAR: Treasury Secretary Connally was recently quoted in The Indianapolis Star on the dubious chances of a major tax reform bill this year. His words could well trigger the major tax revolt that has been smoldering this past 12 months among the nation's 30 million individual taxpayers.

Once again this year the nations bachelors, spinsters, widows, widowers, the divorced and the married who file singly were forced to pay up to 20 percent more personal tax than their income-splitting married counterparts. This 30 million segment of U.S. citizenry has had it with tax discrimination and wants action now!

If democracy is to work at all, an election year would be a most timely period to start the reform machinery rolling for an equal tax base for all individuals. And this is precisely the goal of a new and growing national action group called the Committee of Single Taxpayers (CO$T).

CO$T is the brainchild of Washington bachelor Robert Keith Gray, former secretary of President Eisenhower's cabinet, and former Senators George Murphy and Eugene McCarthy. All serve on a volunteer, no-salary basis. As the nonpartisan, nonprofit professional voice of the single taxpayer, CO$T is out to mobilize the previously unorganized individual into a major power block to push from Washington for equal tax legislation.

The only fair tax is a tax on income, according to CO$T, and let the deductions fall where they may! Those who share CO$T's sentiments are advised to register their support with the Committee through Post Office Box 1789, Washington, D.C. 20013.

While the Committee admits it's in the red, it has so far recruited members in all 50 states and Puerto Rico, triggered single tax support in both Senate and House, expedited long awaited hearings on single tax inequities before Wilbur Mills' Ways and Means Committee, and testified this month before Mills' men. CO$T will be on hand when the hearings resume this month.

Numbers count when it comes to Congress, Secretary Connally notwithstanding!

PATTY CAVIN,
Executive Director, CO$T.

[From the St. Louis Globe-Democrat, May 4, 1972]

CO$T CONSCIOUS

TO THE EDITOR: Treasury Secretary John Connally was recently quoted on the dubious chances of a major tax reform bill this year. His words could well trigger the tax revolt that has been smoldering this past 12 months among the nation's 30 million individual taxpayers.

Once again this year the nation's bachelors, spinsters, widows, widowers, the divorced and the married who file singly were forced to pay up to 20 per cent more personal tax than their income-splitting married counterparts. This 30 million segment of United States citizenry has had it with tax discrimination and wants action now!

If democracy is to work at all, an election year would be a most timely period to start the reform machinery rolling for an equal tax base for all individuals. And this is precisely the goal of a new and growing national action group called the Committee of Single Taxpayers (CO$T).

As a nonpartisan, nonprofit professional voice of the single taxpayer, CO$T is out to mobilize the previously unorganized individual into a major power bloc to push from Washington for equal tax legislation.

The only fair tax is a tax on income, according to CO$T, and let the deductions fall where they may!

PATTY CAVIN,
Executive Director, CO$T.

[From the Asbury Park (N.J.) Evening Press, Apr. 4, 1972]

SINGLE TAXPAYERS FORMING CRUSADE

EDITOR, PRESS: As April 15 draws near, again the single taxpayer has his income taxed at a rate up to 20 per cent higher than others with the same taxable income. This is unconstitutional because the 16th Amendment gave Congress the power to "tax income" not people.

Why should the nation's 30 million bachelors, spinsters, widows and widowers, and divorced people have to foot an undue share of the federal tab?

Prior to the 1969 Tax Reform Act all single taxpayers were required to pay up to 40 per cent more than their counterparts even though their single expenses (household, car insurance, etc.) were approximately the same. Since this tax reform singles can now only be taxed up to 20 per cent more than their married friends.

To end this unfair treatment you can join the crusade for tax equity launched by CO$T, Inc. (Committee of Single Taxpayers), the non-profit, non-partisan organization which recognizes that a national campaign to equalize our tax laws is necessary if unfair taxation is to end. CO$T has an advisory board co-chaired by two former United States senators, Eugene J. McCarthy of Minnesota and George Murphy of California. It is enlisting support from every walk of American life. CO$T supports legislation introduced by Rep. Edward I. Koch and Sen. Abraham Ribicoff to tax single persons at the same rate as married couples, and it plans to do more—to seek out and change other inequities.

If you believe in fair tax treatment, send a note or postcard today to CO$T, Inc., P.O. Box 1789, Washington, D.C. 20015, and they'll send you further information.

GERTRUDE LA PLACA.

[From the Time Magazine, Feb. 21, 1972]

SUPPORTING MARRIED COUPLES

SIR: As a bachelor, I have little sympathy for the married McGraths' complaint about their taxes [Jan. 31]. I've been supporting married couples for years by paying a disproportionate share of income taxes. I've been educating their kids, too, with property taxes. And I'll be footing the bill for their vacation. Married couples flying together have a cheaper rate than singles. It's time marrieds started paying their own way.

VENLO WOLFSHON,
Bethesda, Md.

[From the Washington Evening Star, May 9, 1972]

REFORM TAXATION

SIR: No administration slide show (or its side show?) will convince 34 million single taxpayers that the present outrageously discriminatory income tax laws do not need reform.

In spite of the so-called Tax Reform Act of 1969, single taxpayers still subsidize many others by paying up to 20 percent higher taxes on precisely the same taxable income. Any system that so drastically penalizes bachelors, spinsters, widows and widowers, those divorced and married couples filing separately demands correction.

For years, single taxpayers have silently suffered this burden. Now, through CO$T (Committee of Single Taxpayers) they have a voice. This issue is not one of principle or hoked-up economic theories. It is one of hard-earned money, a fact the administration finds it convenient to overlook but which CO$T is working to bring forcefully to its attention.

The cynicism of its spokesmen is insulting. First, we have Secretary of the Treasury Connally, a former Texas governor, warning against tax reform. An ex-governor of Texas is hardly one to espouse any kind of reform. Then, a government lawyer plans to talk to other lawyers against change to protect the tax shelters so many of them find helpful. Tax reform is a major issue of the day, as voters are showing in every primary. The administration should heed the message.

VENLO WOLFSOHN.

Mr. PACKWOOD. Mr. President, this is an amendment to treat single people, heads of households, widows, widowers, with the same tax tables as married couples filing joint returns are now treated.

It authorizes about 30 million people to file in the same way that married people may file returns. By that I refer to heads of families—widows, widowers, and other unmarried heads of households.

I will give some comparative statistics in order that Senators may understand the burdens on these unmarried taxpayers. Take $8,000 of taxable income. After all the deductions are made, a couple pays $1,380. If the taxpayer is single he pays $1,590, or a penalty of $210. If the taxpayer is the head of a household, he pays $1,480, or a penalty of $100.

The same type of discrimination exists all the way up and down the tax table.

I would like to call to the attention of the Senate the fact that it was an inadvertence and accidental, at least as far as Congress was concerned, that we ever got into this discrimination to begin with. Prior to 1948, single people, heads of households, were treated just as married couples were, because prior to 1948 if the husband made $10,000 and the wife made $2,000, they filed two returns, one on the $10,000 income, and one on the $2,000 income. In 1948, especially, there was a rash of States adopting community property laws, which attributed the income earned for a couple half to each, and because that determined the legal status of the couples, we began to have the situation where in those States with community property laws couples could file returns on income of $6,000 each, rather than, as in the federal requirement, a return on $10,000 and one on $2,000.

A good many States began to look into the Internal Revenue Code for ways of taking advantage of the split income provisions. They began to change the law. Oregon changed it in 1948. Then Congress permitted taxpayers to file joint returns. Two months later, Oregon repealed that law. Lawyers may be interested in what may have happened to the vested interest in that 5- or 6-month period when we had a community property law and then left it.

All I am asking is that we go back to what it was in 1948.

To be frank, there is a $1.6 billion revenue loss in this amendment, because that is the surtax that single people, widows, widowers, and heads of families, now pay, and that is why I have moved the effective date of this amendment back a year. It does not go into effect until January 1st for the calendar year 1973.

There will be no loss until 1974. There will be no revenue loss for the first 6 months of this year. We will have a chance in the interim to correct the inequities and look down the road. This is an inequity that should never have existed. Congress did not intend it. We will have a year to provide ways and means to make up the difference in the revenue.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. ERVIN. Before Congress enacted this law, there was a discrimination in Federal income taxation between community property States and common law States like my own State. The income was split between husband and wife in community property States, but was not split between husband and wife in common law States. So this amendment, if I understand it, would restore the discrimination which Congress attempted to abolish and did abolish between community property States and common law States, and put them both on the same basis.

Mr. PACKWOOD. No. I can answer the question. It does not change the status of married couples now. The tax tables that have to be changed will be for singles who are heads of households. Those married and filing returns and those who are heads of households will be taxed at the same rate, but it does not give advantage which those who lived in community property States were given prior to 1948 when we did not allow joint taxation.

Mr. ERVIN. This amendment puts the taxation of single and married people on exactly the same basis?

Mr. PACKWOOD. Yes.

Mr. ERVIN. Why does the Senator do it?

Mr. PACKWOOD. It puts single people who are heads of households on the same basis as married couples.

Mr. ERVIN. Maybe I am dense or maybe it is because it is 11 o'clock p.m., but something tells me this is not a measure that should be adopted as an amendment to this bill.

Mr. PACKWOOD. It is germane. It deals directly with revenue. That is why I think the House will have no qualms about this amendment being germane to revenue, because this is a revenue bill.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. PASTORE. There is nothing new about this amendment. A Senator is either for or against it. It was proposed by Mr. McCarthy when he was a member of this body. He made the pitch that we had many heads of households, schoolteachers, for example, who are not married. As I understand it, this amendment puts single heads of households in the same tax schedules as married couples. One has to be, first of all, the head of a household.

Mr. PACKWOOD. Yes.

Mr. PASTORE. It cannot apply in the case of a daughter, for example, who lives at home and is working.

Mr. PACKWOOD. That is correct.

Mr. PASTORE. It would not apply to her. It would apply to a woman who has to maintain her own house, who may have a mother living there, who has to pay rent, and all that kind of thing. That is why this concession is being made.

Mr. President, I support the amendment.

Mr. BENNETT. Mr. President, here we go again. This is a problem that has been before the tax-writing committees for years, and they have yet been unable to find the formula which will do exact equity between married couples and individuals.

This amendment would give single persons the income splitting benefits now available only to married persons.

This amendment would result in a revenue loss of $1.6 billion per year. It would upset the treatment of married persons which has been established under our tax laws for nearly 25 years, a treatment which is thoroughly sound and rational. Finally, it ignores the fact that Congress carefully considered this matter only 3 years ago in 1969 and reduced the tax on single persons to achieve a proper allocation of the tax burden.

The tax law has for a number of years given married couples the right to file a joint income tax return, thus combining the income of both spouses on one return. Because our tax rates are progressive—the tax rate goes up as total income subject to tax increases—this combining of income on one return would increase the total tax the married couple would pay over the total amount they paid before marriage when each spouse reported his taxable income separately. For that reason, the income on a joint return is "split"—the tax imposed is double the amount of tax which would be paid on half the income taxed at the normal progressive rates. Another way of stating the same thing is that a less progressive rate of tax is applicable to married couples filing a joint return than that applicable to single persons.

In 1969, the Congress became concerned about the lower rate of tax applicable to married couples and reduced the rate of tax on single persons so that, in general, the tax paid by a single person would never exceed the amount of tax by a married couple filing a joint return by more than 20 percent.

There is a rational basis for imposing a smaller tax on married couples than single persons. If both spouses work or each have their own income, it clearly does not make sense to add their independent incomes together and thus push them into a significantly higher tax bracket. We cannot impose such a penalty on marriage.

In approximately 40 percent of married couples today, both spouses work. In addition, in many cases both spouses will have independent incomes even where only one spouse works. For all of these couples it is obviously equitable to allow income splitting.

Even in the case of a married couple where only one spouse has income, there is a sound basis for allowing income splitting. Such a couple makes a conscious choice—one partner chooses not to work outside of the home but contributes to the marital partnership by caring for the house and children. She could have chosen to work and earn additional income with which to pay someone to perform the household chores. In either case, she contributes in a very real sense to the couple's total income. Consequestly, it is rational to split the total income between the spouses for tax purposes.

A single person, on the other hand, obviously does not present the same equitable claim for income splitting. There is simply no rational basis for allowing income splitting with respect to the income of one taxpayer. Our progressive rates of tax are designed to tax such an individual at higher rates as his income increases. This is the essence of our system—it taxes according to the ability to pay.

In 1969 when we considered this problem and reduced the tax burden on single persons, the report of the Finance Committee recorded the reasons as follows:

> The committee concluded that the difference in tax liability between single persons and married couples filing joint returns is too large. Under present law, the tax rates imposed on single persons are too heavy relative to those imposed on married couples at the same income level; a single person's tax is as much as 40.9 percent higher than the tax paid on a joint return with the same amount of taxable income. While some difference between the rate of tax paid by single persons and joint returns is appropriate to reflect the additional living expenses of married taxpayers, the existing differential of as much as 41 percent which results from income-splitting cannot be justified on this basis.
>
> The committee concluded that the proper solution to the tax differential between married and single taxpayers is a new single person rate schedule that insures the tax of single persons will never be more than 120 percent of that married taxpayers with the same amount of taxable income.

Thus, Congress has assessed the relative burden of single persons and married couples and made a decision. Congress further reduced the tax rate on single persons who are heads of households, halfway between the new single person's rate schedules and the joint return schedule, based on evaluation of the relative burden of single persons with dependents. We should not change these decisions as to relative burdens without public hearings and committee action.

The present tax treatment of single persons does not, as many persons mistakenly allege, involve a penalty to single persons. A single person does not pay a higher tax on an amount of income than a married person with the same income if the other spouse also has income. The single person's tax is higher only if the combined income of the married couple is the same amount, and the tax is higher in this case only because the combined income of the married couple is treated as if half was earned by each spouse—a wholly rational concept.

Thus, if the husband and wife both have incomes equal to the single person's income, there is no advantage and in fact is a disadvantage; their combined tax will be more than twice as high as the single person's tax because they individually cannot qualify for the new lower single person's rate schedule. The joint return principle merely provides for taxing each spouse on one-half the income of the two of them combined, an entirely reasonable concept.

For these reasons the Senate should reject the Packwood amendment.

This is the amendment that the Senator from Louisiana, the chairman of the committee, used to call the "living in sin" amendment, because if a couple is married and file a joint return, they will pay more taxes, much more taxes, than if they separate and file returns under this proposal.

In 1969 we faced this problem and tried to minimize the difference by providing that there could be no more than a 20 percent difference between a married couple and a single individual, but the difference is still in favor of the married couple.

As I say, if this proposal goes into effect, a couple can separate and pay much lower taxes than they pay if they remain married.

It is never wise to try to write technical tax legislation on the floor of the Senate at 20 minutes to 11 at night.

The other point on which I completely disagree with my friend from Oregon is on the question of germaneness. The bill before us is not a revenue raising measure. It is a measure having to do with a ceiling on the public debt and a spending ceiling. If we took this amendment to conference, the House of Representatives would say it is not germane, it would have to be treated in disagreement, and it would face still another problem in the conference.

The House of Representatives is very jealous of its constitutional privilege to initiate tax legislation, and if we take a nongermane tax amendment subject to a point of order, the committee will just simply rise up and say, "This violates our constitutional privilege; we did not send you a tax bill. This is a tax provision, and we will not agree with it."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. PASTORE. For the reasons just stated—as I say, I would support it if it came to a vote—I would hope the Senator from Oregon would not pursue it at this time, because I think he would weaken his chance for a later time. It is a good amendment; I think at a proper time he ought to advance it. But there is no question but that this is subject to a point of order. If I were he, I would withdraw the amendment. I am not asking that he do it, but that is my suggestion, and that he then pursue it at a more propitious time, on a bill where it would be more germane.

Mr. PACKWOOD. With all deference to the Senator from Rhode Island, I will not withdraw it. I think it is timely. I have circulated this for 3 or 4 weeks—we now have 25 cosponsors—indicating we were going to attach it to this bill.

In response to the statement of the Senator from Utah that the Finance Committee and the Ways and Means Committee have wrestled with this problem and cannot come up with a solution, all I can say is, with this amendment we would go back to the solution we had in this country from 1913 to 1948, when we had married couples and singles treated the same way, and that obtained until the community property States started to get our tax codes messed up.

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished Senator from Oregon (Mr. PACKWOOD) in calling up Amendment 1687 to reform the Internal Revenue Code as it affects single individuals.

As many of us know the income splitting procedure arose out of a historical accident. Before World War II, eight States had community property laws which treated income as divided equally between husband and wife. The U.S. Supreme Court ruled that married couples in the States could divide their income and file separate U.S. tax returns. With this in mind, several other states soon passed laws giving their citizens a similar break. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income-splitting a national procedure.

This solved the problem for all the married couples, but only served to increase the relative tax burdens on single citizens. As Joseph Pechman has pointed out:

> The practical effect of income splitting is to produce large differences in the tax burdens of single persons and married couples, differences which depend on the rate of graduation and not the level of rates. Such differences are difficult to rationalize on any theoretical grounds.

The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions. However, once the taxable income is determined the same rate should apply to all who have the same income, regardless of whether they are married or single.

Many people attempt to explain the present system by saying that single persons do not bear the costs and responsibilities of raising children. But income splitting under the present law does not differentiate among taxpayers in this respect, since the benefit is the same whether or not they have children.

The Tax Reform Act of 1969 moved toward eliminating this inequity, but did not go far enough. The bill introduced today finishes the job. It provides the benefits of income splitting for unmarried taxpayers placing them on an equal footing with married couples filing joint returns.

Much of the credit for the progress already made in this area goes, I am pleased to say, to a constituent of mine, Miss Vivien Kellems, of East Haddam, Conn. Vivien has been the founder and guiding force behind the movement to free single persons from the inequities of higher taxes. She has refused to retreat from her position and has even gone so far as to join battle personally with the Internal Revenue Service.

Because of her efforts on behalf of millions of men and women across the land, Miss Kellems was chosen as Citizen of the Year—1970—by the New Haven Register. It was a well deserved honor.

Vivien Kellems has pointed the way and now it is up to those of us in the Congress to follow through. I hope that my colleagues will join us in this effort.

The legislation we are proposing would take effect on January 1, 1973. It would benefit all unmarried taxpayers who file a return on April 15, 1974, and from there on.

It is estimated by the Department of the Treasury that the cost of this amendment will be $1.6 billion. But this cost will be more than offset by the increased earning power of 34 million single persons and heads of households.

I ask unanimous consent to have printed in the Record a fact sheet and a table on the tax as it affects single individuals.

There being no objection, the items were ordered to be printed in the Record, as follows:

Fact Sheet on the Single-Person Tax Amendment

How would the amendment operate?

Currently, there are *four* tax tables for use by taxpayers in different categories: unmarrieds, heads of household, married filing jointly, and married filing separately. The amendment would result in having *two* tax tables: married filing separately and everyone else.

When would the amendment go into affect?

The change in the tax law would be effective beginning January 1, 1973. It would benefit all unmarried taxpayers who file a return on April 15, 1974, and from there on.

What would be the cost of the amendment?

It is estimated by the Department of the Treasury that the first year loss in revenues from passage of this amendment will be $1.6 billion. Thereafter, the loss in revenues would increase proportionally to the increase in the personal income tax base.

How many taxpayers will be affected by the amendment?

Estimates indicate that there are approximately 34 million single persons and heads of household who will benefit by approval of this amendment. These taxpayers are, of course, located throughout the nation.

Why doesn't the amendment address itself to the problems being experienced by dual-income marrieds?

This is, perhaps, the most frequently asked question—second only to: How much will it cost? It is felt that there simply is not adequate data to indicate the scope of the problem associated with dual-income marrieds. We all know of specific instances which have been drawn to our attention, but the speculation as to the aggregate totals involved is far from specific. Estimates as to the cost of remedying the developing inequity as regards dual-income marrieds ranges from $1.5 billion upwards to $5–6 billion.

Simply stated, it is felt that until specific—or, at least, more specific—data can be developed, we would be ill-advised to add this factor to the amendment. We recognize the existence of this development inequity, and we have every intention of addressing our attention to this problem in the immediate future.

It is felt that to hold up efforts to reform the tax laws as they discriminate against unmarried taxpayers, pending the development of these data, is simply unfair to the more than 34 million individuals affected.

Can you give me some examples of how this amendment would change the income tax liability of a single person?

Certainly! First, though, it is imperative that we remember that the change in the tax laws would affect the tax liability based on *taxable* income. The effect of this fact is that a married couple could very well earn more money—as reflected in Adjusted Gross Income—than an unmarried person and still have an identical tax liability.

Enough said, following are a few examples of how a single person's tax liability would be reduced (equalized) by virtue of passage of this amendment:

Taxable Income	*Present Tax*	*Proposed Tax*
$8,000	$1,590	$1,380
14,000	3,210	2,760
20,000	5,230	4,380

FEDERAL INCOME TAX SURTAX LEVIED AGAINST UNMARRIED INDIVIDUALS

		Tax liability					
		Single individual			Head of household		
Taxable income	Married filing jointly	Tax	Surtax	Percentage[1]	Tax	Surtax	Percentage[1]
$6,000	$1,000	$1,110	$110	11.0	$1,040	$40	4.0
$8,000	1,380	1,590	210	15.2	1,480	100	7.2
$10,000	1,820	2,090	270	14.8	1,940	120	6.6
$12,000	2,260	2,630	370	16.4	2,440	180	8.0
$14,000	2,760	3,210	450	16.3	2,980	220	8.0
$16,000	3,260	3,830	570	17.5	3,540	280	8.6
$20,000	$4,380	$5,230	$850	19.4	$4,800	$420	9.6
$24,000	5,660	6,790	1,130	20.0	6,220	560	9.9
$28,000	7,100	8,490	1,390	19.6	7,800	700	9.9
$32,000	8,660	10,290	1,630	18.8	9,480	820	9.5
$44,000	14,060	16,590	2,530	18.0	15,340	1,280	9.1

[1] Surtax as a percentage of the tax liability of married couples filing jointly.

Fact Sheet on the Single-Person Tax Amendment

How will the amendment operate?

Currently, there are four tax tables used by taxpayers of different marital status: single persons, heads of household, married couples filing jointly, and married couples filing, separately. The amendment will result in having *two* tax tables: one for use by married couples filing separately; the other for use by single persons, heads of household, and married couples filing jointly.

When will the amendment go into effect?

The change in the tax law will be effective beginning January 1, 1973.

What will be the cost of the amendment?

Treasury estimates that the annual loss in revenues from passage of this amendment will be $1.6 billion.

How many taxpayers will be affected by the amendment?

IRS' 1970 data show that there are 25.7 million single taxpayers and 3.6 million taxpayers who file as heads of household. All of these people, located throughout the nation, will benefit by approval of this amendment.

Why doesn't the amendment address itself to the problems being experienced by dual-income marrieds?

This is one of the most frequently asked questions—secondly only to: how much will it cost? It is felt there simply is not adequate data to indicate the scope of the problem associated with dual-income marrieds. We all know of specific instances which have been called to our attention, but the speculation as to the aggregate totals involved is far from specific. Estimates as to the cost of remedying the developing inequity as regards dual-income marrieds ranges from $1.5 to $5 billion.

It is felt that until specific—or, at least, more specific—data can be developed, we will be ill-advised to add this factor to the amendment. We recognize the existence of this developing inconsistency, and we have every intention of addressing our attention to the problem in the immediate future.

To hold up our efforts to reform the tax laws as they discriminate against 30 million unmarried taxpayers, pending the development of these data, would be unfair.

Mr. BENNETT. Prior to 1948 married couples were treated as single people, and filed separately. Under the Senator's proposal, they are not treated as single people.

Mr. PACKWOOD. Well, they can choose to be treated as single people under this proposal.

Mr. BENNETT. They cannot choose to be one or the other; they have to use the schedule of married people filing separately.

Mr. PACKWOOD. They can only be one. I mean they cannot be both.

Mr. BENNETT. That is right. Mr. President, I am sorry; maybe I sound a little bit egotistical, but, having served on the tax-writing committee for quite awhile, I know what the House conference committee members will feel is germane, and this amendment is not germane. On that basis, when time is yielded back, I shall move to table the amendment, so that there will not be an up or down vote on it.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. HARTKE. I am a member of the committee, and I agree with the Senator from Oregon. I think it is germane. I just want him to know that as far as I am concerned, I do not want to be put in the position of having the Senator from Utah say I would agree that it was not germane.

Mr. BENNETT. Well, having been in conference with the House, I know what will happen when it gets to conference.

If time is yielded back——

Mr. PACKWOOD. I yield back the remainder of my time.

Mr. BENNETT. I yield back the remainder of mine, Mr. President, and

I move to lay the amendment on the table.

The PRESIDING OFFICER (Mr. Pell). The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oregon (Mr. Packwood).

Mr. PACKWOOD. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Pell). The question is on agreeing to the motion of the Senator from Utah (Mr. Bennett) to lay on the table the amendment of the Senator from Oregon (Mr. Packwood). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Bible), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from West Virginia (Mr. Randolph), the Senator from Alabama (Mr. Sparkman), the Senator from Mississippi (Mr. Eastland), and the Senator from Georgia (Mr. Gambrell) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), the Senator from West Virginia (Mr. Randolph), and the Senator from Georgia (Mr. Gambrell) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Stafford), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

On this vote, the Senator from South Carolina (Mr. Thurmond) is paired with the Senator from Oregon (Mr. Hatfield). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Oregon would vote "nay."

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from Ohio (Mr. Taft) would each vote "yea."

I also announce that, the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Saxbe), the Senator from Ohio (Mr. Taft), and the Senator from South Carolina (Mr. Thurmond), are necessarily absent.

The result was announced—yeas 19, nays 53, as follows:

[No. 561 Leg.]

YEAS—19

Aiken
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cooper
Cotton
Ervin
Fannin
Fong
Fulbright
Hansen
Hruska
Jordan, N.C.
Jordan, Idaho
Long
McClellan
Young

NAYS—53

Allen
Bayh
Beall
Bentsen
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Dominick
Eagleton
Gravel
Gurney
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Magnuson
Mansfield
Mathias
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams

NOT VOTING—28

Allott
Anderson
Baker
Bible
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower

So the motion to table was rejected.

Mr. BENNETT. Under the circumstances, Mr. President, I ask that the amendment be approved.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS WEICKER, ALLEN, SCOTT, BEALL, AND JAVITS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after both leaders have been recognized tomorrow, the Senator from Connecticut (Mr. Weicker) be recognized for not to exceed 15 minutes; the Senator from Alabama (Mr. Allen) be recognized for not to exceed 10 minutes; the Senator from Pennsylvania (Mr. Scott) be recognized for not to exceed 10 minutes, and the Senator from Maryland (Mr. Beall) be recognized for not to exceed 10 minutes.

Mr. JAVITS. May I have 10 minutes, also?

Mr. MANSFIELD. And that the Senator from New York be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senators Weicker, Scott, and Beall be grouped together.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SCOTT, Mr. President, I rise to ask a question which will not surprise anyone and which is on the minds of all.

I am inquiring as to the hope of seeing four lights go up on the board some time tomorrow, and I should like to inquire of the distinguished majority leader whether or not there is light at the end of the tunnel and how close we are to the light.

Mr. MANSFIELD. I hope we are close.

May I say that, contrary to the rumors, the innuendos, and the reports which have been bruited about this town today, it is our intention, if at all possible, to wind up tomorrow night and adjourn sine die.

We are going to be subject to the results of conference reports and what occurs in the other day as well. But, on behalf of the joint leadership, we wish to emphasize again that, if it is at all possible, it is our intention to adjourn sine die tomorrow night. I would say the chances are probably 60–40, 70–30.

Mr. SCOTT. If the majority leader will yield further, the present opinion, I understand, is that we may be getting a conference report on H.R. 1 some time during the afternoon of tomorrow. Is that a wise surmise?

Mr. MANSFIELD. I hope so.

Mr. SCOTT. In any event, we are seeking to advise all Senators that we may well be in session late tomorrow.

Mr. MANSFIELD. Mr. President, in further response to the question raised by the distinguished minority leader, it is the intention to lay before the Senate tonight, so that it will be the pending business tomorrow, Calendar No. 1165, H.R. 12807, which I understand the distinguished Senator from Washington (Mr. Jackson) will handle. I would hope that it would not take too long and that it might be possible to achieve a time agreement.

Following that, it is the intention of the leadership to call up Calendar No. 921, H.R. 7093, a bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. I hope it will be possible to get a time agreement on that bill.

Other odds and ends will be called up during the day which will be interspersed with conference reports and the like.

That is about it up to this moment, and I would be delighted to have the distinguished minority leader yield to the Senator from New York at this time.

Mr. SCOTT. I will be glad to yield to the distinguished Senator from New

York, after one further comment, and that is that the minority leader will submit his annual report tomorrow in the event that someone will volunteer to read it.

Mr. JAVITS. Mr. President, if I could have the attention of Senators for 1 minute, I thought, and others thought, about the possibility of moving to instruct the conferees respecting the Jordan amendment but the fact is, such instructions are not binding and the only result might be some feeling of lack of confidence in the conferees. I have no such feeling of lack of confidence, but I think that Senators should be alert to the fact that this could come back in a way which is unacceptable to those of us who, as a matter of principle, support the Jordan amendment. I hope that Members will arrange to be here and be constant to the principle involved. I express the hope that in view of the seriousness of this matter, if the conferees decide that they have to drop the Jordan amendment, they will at least bring it back for a separate vote. That is understandable. I have been in many conferences and in fairness to the Senate it should be that way. Because I have these convictions, I shall not personally suggest any motion to instruct.

Mr. MATHIAS. Mr. President, if the distinguished minority leader will yield me 30 seconds for this observation, I think that this has been a historic debate tonight. It focuses on the essential problem of democracy, which is the sharing of power. I think that if we are going to win the struggle that we have engaged in tonight, we have to consider sharing power within Congress so that we can use power effectively.

Two years ago, we had an ad hoc committee which held hearings on congressional organization. I would propose tonight that we reconvene those hearings. I want to ask other Members of the Senate to join in the ad hoc hearings which I think we can hold in the coming months, so that we can reverse the flow of power from the Congress by utilizing it effectively within the Congress.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Pell). The bill having been read the third time, the question is, Shall the bill (H.R. 16810) pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Bible), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mrs. Edwards), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from West Virginia (Mr. Randolph), and the Senator from Arkansas (Mr. Sparkman), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), is absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell), the Senator from New Hampshire (Mr. McIntyre), the Senator from West Virginia (Mr. Randolph), and the Senator from Mississippi (Mr. Eastland), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Nebraska (Mr. Curtis), the Senator from Oregon (Mr. Hatfield), the Senator from Vermont (Mr. Stafford), and the Senator from Texas (Mr. Tower), are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt), is absent because of illness.

On this vote, the Senator from South Carolina (Mr. Thurmond), is paired with the Senator from Ohio (Mr. Taft). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Ohio would vote "nay."

If present and voting, the Senator from Nebraska (Mr. Curtis), and the Senator from Texas (Mr. Tower), would each vote "yea."

I also announce that the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Saxbe) the Senator from Ohio (Mr. Taft), and the Senator from South Carolina (Mr. Thurmond), are necessarily absent.

The result was announced—yeas 61, nays 11, as follows:

[No. 562 Leg.]

YEAS—61

Aiken
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Fong
Fulbright
Gurney
Hansen
Hart
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
Miller
Mondale
Montoya
Nelson
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—11

Allen
Chiles
Ervin
Fannin
Gravel
Hartke
Jordan, N.C.
Mansfield
Moss
Packwood
Weicker

NOT VOTING—28

Allott
Anderson
Baker
Bible
Cook
Curtis
Eastland
Edwards
Gambrell
Goldwater
Griffin
Harris
Hatfield
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mundt
Muskie
Pearson
Randolph
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower

So the bill (H.R. 16810) was passed.

Mr. LONG. Mr. President, I have a series of motions to make. First, I move to reconsider the vote by which the bill was passed.

Mr. JORDAN of Idaho. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR SECRETARY OF SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF BILL.

Mr. LONG. Mr. President, I ask unanimous consent that the bill be printed with the amendments of the Senate numbered, that and in the engrossment of the amendments of the Senate to the bill, the Secretary be authorized to make all necessary technical and clerical changes and corrections, including corrections in sections, subsections, et cetera, designations, titles, and cross references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Senators Long, Talmadge, Hartke, Bennett, and Miller conferees on the part of the Senate.

AMENDMENT OF THE COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16675.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 16675 which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 16675) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for 1 year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, it so ordered.

The Senate proceeded to consider the bill, which was read twice by title.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add the following:

LEAD BASED PAINT POISONING

(a) Section 503(a) of the Lead Based Paint Poisoning Prevention Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $20,000,000 for the fiscal year 1973."

(b) Section 503(b) of such Act is amended (1) by striking out the word "and" and inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $25,000,000 for the fiscal year 1973."

(c) Section 503(c) of such Act is amended (1) by striking out the word "and" and by inserting in lieu thereof a comma, and (2) by inserting before the period a comma and the following: "and $5,000,000 for the fiscal year 1973."

(d) Section 503(d) of such Act is amended by striking out all matter after the semicolon and inserting in lieu thereof "any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year."

Mr. JAVITS. Mr. President, this is the lead-base paint bill, a bill that was sponsored by Senators KENNEDY and SCHWEIKER.

Mr. MANSFIELD. Mr. President, I think we ought to bring this matter to a head. I would like to withdraw the motion made. Because the Senator from Iowa had no idea this would be coming up. And on that basis, I withdraw the motion.

Mr. JAVITS. Mr. President, if the Senator would yield, I talked with the Senator from Iowa about putting this on the bill and told him that it was in a form acceptable to the House. He said it was fine. I had no desire to encumber the bill. I will gladly take it.

Mr. HUGHES. Mr. President, the Senator from Iowa did talk to the Senator from New York earlier today. I asked the Senator from New York if he had cleared it with the Members of the House to make sure that it would not kill the bill. I have no objection to the amendment if he is sure it will not kill the bill. If the Senator from New York gives that assurance, I have no objection to the amendment.

Mr. JAVITS. Mr. President, we have that assurance, and I will state to the Senator now that if there is any problem whatever that the amendment creates with the bill, I would tell the Senate that we would drop it. I have no desire to encumber the bill.

Mr. MANSFIELD. Mr. President, I understand that had not been discussed, and the Senator from Iowa was a little surprised.

Mr. JAVITS. Mr. President, I wish to repeat to the Senate that if it creates any problem, I agree thoroughly that it should be dropped.

Mr. HUGHES. Mr. President, I have no objection to accepting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 16675) was read the third time and passed.

ADJUDICATION IN CERTAIN REAL PROPERTY SUITS

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 216.

The PRESIDING OFFICER (Mr. PELL) laid before the Senate the amendment of the House of Representatives to the bill (S. 216) to permit suits to adjudicate certain real property quiet title actions, which was to strike out all after the enacting clause and insert:

That section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

SEC. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts, in any of such districts."

SEC. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest, other than a security interest or water rights. This section does not apply to trust or restricted Indian lands, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, the United States nevertheless may retain such possession or control of the real property or of any part thereof as it may elect, upon payment to the person determined to be entitle thereto of an amount which upon such election the district court in the same action shall determine to be just compensation for such possession or control.

"(3) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to the plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by order of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1346(f) of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless it is commenced within twelve years of the date upon which it accrued. Such action shall be deemed to have accrued on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item:

"2409a. Real property quiet title actions."

Mr. CHURCH. Mr. President, the amendment of the House to S. 216 in my judgment poses no problem, and my colleague and cosponsor (Mr. JORDAN of Idaho), has informed me that the House amendment is acceptable to him.

Mr. JORDAN of Idaho. The amendment is acceptable to me.

Mr. CHURCH. Mr. President, I have also discussed the matter with the distinguished chairman of the Senate Committee on Interior and Insular Affairs. And he takes no exception to the amendment. The matter has been cleared on both sides of the aisle. And the amendment itself has been recommended by the Department of Justice, according to my information. Therefore, on behalf of my colleague, the Senator from Idaho (Mr. JORDAN) and myself, I move that the Senate concur in the amendment of the House to S. 216.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

TRANSFER OF VESSEL BY SECRETARY OF COMMERCE TO THE BOARD OF EDUCATION OF THE CITY OF NEW YORK

Mr. JAVITS. Mr. President, I hope that the majority leader would yield. I have talked with the majority leader and the chairman of the Commerce Committee and the ranking minority member of the Commerce Committee about a small bill that is of great interest to Representative MURPHY in the other body but before I could stop it at the desk, H.R. 15735, which came from the House, was referred to the Committee on Commerce.

Both the ranking minorty member and the chairman are agreeable to the bill being passed on the consent calendar and the committee being discharged.

It is a bill, Mr. President, authorizing the transfer of the Navy vessel called the *Twin Falls*—U.S. Navy Ship *Twin Falls*—by the Secretary of Commerce to the Board of Education of the City of New York for educational purposes with very elaborate provisions for return when it is not required for those purposes, et cetera. And unless the leadership has some objection to it, I ask unanimous consent that the Committee on Commerce be discharged and that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. The bill will be reported by title.

The legislative clerk read as follows:

Bill (H.R. 15735), to authorize the transfer of a vessel by the Secretary of Commerce to the Board of Education of the City of New York for educational purposes.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from New York? The Chair hears none, and it is so ordered.

The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 15735) was ordered to a third reading, was read the third time, and passed.

PERSONAL EXEMPTIONS FOR AMERICAN SAMOANS; ESTATE TAX TREATMENT OF ANNUITIES IN COMMUNITY PROPERTY STATE; GUARANTEED RENEWABLE LIFE, HEALTH, AND ACCIDENT INSURANCE CONTRACTS; ACCRUED VACATION PAY

Mr. LONG. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1232, H.R. 1467.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1467), to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to, and the Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments on page 2, after line 4, strike out:

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1970.

After line 7, insert:

(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1971.

After line 10, insert a new section, as follows:

SEC. 2. (a) Section 2039 of the Internal Revenue Code of 1954 (relating to estate tax treatment of annuities) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—In the case of an employee on whose behalf contributions or payments were made by his employer or former employer under a trust or plan described in subsection (c) (1) or (2), or toward the purchase of a contract described in subsection (c)(3), which under subsection (c) are not considered as contributed by the employee, if the spouse of such employe predeceases him, then, notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the gross estate of such spouse the value of any interest of such spouse in such trust or plan or such contract, to the extent such interest—

"(1) is attributable to such contributions or payments, and

"(2) arises solely by reason of such spouse's interest in community income under the community property laws of a State."

(b) The amendment made by subsection (a) shall apply with respect to estates of decedents for which the period prescribed by the Internal Revenue Code of 1954 for filing of a claim for credit or refund of an overpayment of estate tax ends on or after the date of enactment of this Act. No interest shall be allowed or paid on any overpayment of estate tax resulting from the application of the amendment made by subsection (a) for any period prior to the expiration of the one hundred and eightieth day following the date of the enactment of this Act.

On page 3, after line 17, insert a new section, as follows:

SEC. 3. (a) Section 809(d)(5) of the Internal Revenue Code of 1954 (relating to certain nonparticipating contracts) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957. No interest shall be allowed or paid on any overpayment of tax resulting from the application of the amendment made by subsection (a) for any period prior to the expiration of the one hundred and eightieth day following the date of the enactment of this Act.

And, on page 4, after line 5, insert a new section, as follows:

SEC. 4. Section 97 of the Technical Amendments Act of 1958 is amended by striking out "January 1, 1971" and inserting in lieu thereof "January 1, 1973".

Mr. LONG. Mr. President, this bill is a House passed bill which would extend the present definition of a "dependent" for purposes of claiming an income tax personal exemption to include "nationals" of the United States who otherwise would qualify as dependent but for the fact that they are not citizens of the United States—American Samoans.

The committee added three amendments to the bill. The first of these relates to the estate tax treatment of annuities in community property States. This amendment removes a discrimination in existing estate tax law against spouses of employees in community property States who die before the employee spouse.

Generally, an estate tax exclusion is provided for the proportion of the value of a survivor annuity to the extent it is attributable to the contributions of the employer. In a common law State where the nonemployee—often the wife—dies first, no value representing the employer's contribution is included in her estate tax base. However, in a community property State, as a result of the operation of community property laws, half of the value of the annuity in such a case is included in the estate tax base of the nonemployee spouse, even though attributable to employer contributions. This amendment overcomes this discrimination against nonemployee spouses in community property States.

The second amendment relates to guaranteed renewable life, health and accident insurance contracts. Generally, life insurance companies are allowed a 3-percent-of-premium deduction on nonparticipating contracts of life, accident and health insurance issued or renewed for periods of 5 years or more. This amendment makes clear that the period for which a contract is issued, or renewed, also includes the period for which a contract is guaranteed renewable. As a result, it will be clear that guaranteed renewable life, health, and accident insurance contracts are eligible for the 3-percent-of-premiums deductions available to nonparticipating contracts issued for 5 years or more. The amendment is to be effective as of the general effective date of the Life Insurance Company Income Tax Act of 1959.

The third amendment extends for 2 years—until January 1, 1973—the provision of the Technical Amendments Act of 1958 which provides that a deduction for accrued vacation pay is not to be denied solely because the liability for it to a specific person has not been fixed or because the liability for it to each individual cannot be computed with reasonable accuracy. However, for the corporation to obtain the deduction, the employee must have performed the qualifying service necessary under a plan or policy which provides for vacations with pay to qualified employees and the plan or policy must have been communicated to the employees involved before the beginning of the vacation year. This is a continuation for 2 more years of the treatment which has been available for taxable years ending before January 1, 1971.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

MR. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amendment to H.R. 1467 at the end of the bill, add the following new section:

SEC. 5. (a) section 164(b)(2) of the Internal Revenue Code of 1954 (relating to general sales taxes) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax."

(b) The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 1971.

Mr. ROBERT C. BYRD. Mr. President, West Virginia currently has in effect a motor vehicle privilege tax, which until very recently has been treated by the Internal Revenue Service as a sales tax on automobiles. As long as this automobile tax was 3 percent, the same rate as West Virginia's general sales tax, the IRS treated it as a sales tax and West Virginians were permitted to deduct these payments on their Federal Tax returns.

Last year, the West Virginia Legislature raised this vehicle privilege tax to 5 percent, and IRS has now ruled that inasmuch as this tax exceeds the 3 percent sales tax rate, none of this amount can be deducted from Federal returns. I think this is unfair and should be corrected.

My amendment will permit West Virginians to deduct 3 percent of this 5 percent automobile privilege tax and would make this provision retroactive to January 1971, in order that those persons who have purchased automobiles subject to this tax ruling would be covered.

I have discussed the amendment with the able manager of the bill and with the able Senator from Utah (Mr. BENNETT), the ranking member of the committee, and I believe they have agreed to accept it.

I ask unanimous consent to add my colleague, Mr. RANDOLPH, as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. LONG. Mr. President, we have discussed the amendment and the Committee on Finance has agreed to the amendment. As far as I am concerned it can be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. I thank the distinguished manager of the bill.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the end of the bill add the following:
Section 308(b) of Public Law 92-178 is amended, so that as amended it shall read as follows:

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1969, except it shall not apply to transfers in which delivery occurred prior to June 25, 1971, described in section 57(a)(6) of the Internal Revenue Code of 1954, or to sales and exchanges of capital assets in which delivery occurred prior to such date, which involved, in either case, solely shares of stock of a foreign corporation which prior to January 1, 1970, and until the date of such delivery continuously had its principal place of business and conducted a substantial part of its business in the foreign country in which such delivery occurred.

Mr. LONG. Mr. President, I have a letter from the Treasury Department which expresses no objection to the amendment. The Treasury Department stated:

We do not believe that there is any basis upon the part of taxpayers for reliance upon the silence of the original proposed regulations on this point which would warrant a change in the effective date of the minimum tax. Retroactive application of the 1971 amendment is, of course, particularly important in the case of taxpayers who carried out sales of stock or stock options in foreign tax haven countries for the sole purpose of avoiding the minimum tax in transactions that had no substantial connection with the foreign country in question. The attached language appears adequate to limit relief to bona fide foreign transactions and to have no significant revenue impact. Thus, so long as the bill is confined to the narrow situation which it describes, and so long as it is accompanied by the proposed floor statement, Treasury would not oppose it.

Mr. MILLER. Mr. President, if I may be permitted I would like to read a brief statement in order to give the legislative intent.

Section 308(b) of Public Law 92-178—the Revenue Act of 1971—constitutes a retroactive change in the description of "tax preferences" for purposes of the minimum income tax. The change was designed to tighten up the law. However, the retroactivity feature could be unduly harsh in the case of bona-fide situations established prior to the effective date of the minimum tax.

Accordingly, with a view to avoiding an unintended unfair application of the retroactive feature, this amendment is being offered. For purposes of the legislative history and for guidance to the Treasury Department in administering the law, the intention here is to avoid application of the retroactivity of section 308(b) only in "bona fide" situations; and by "bona fide" is meant: A corporation having its principal place of business in a foreign country and conducting a substantial part of its business in the foreign country prior to the effective date of the minimum tax; and actual delivery of capital assets prior to June 25, 1971, the date of House action on section 308(b). The latter would preclude "dating back" of agreements for sale or exchange for purposes of avoiding application of section 308.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. LONG. Mrs. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended, so as to read: "An act to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans, and for other purposes."

ADDITIONAL INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON:

S. 4105. A bill for the relief of Rosina C. Beltran. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. MAGNUSON, Mr. MANSFIELD, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. THURMOND, and Mr. WILLIAMS):

S. 4106. A bill to establish a temporary commission to evaluate the development of automatic data processing systems for legal and legislative research and analysis and related areas and other purposes. Referred to the Committee on Government Operations.

By Mr. STEVENS:

S. 4107. A bill to amend section 607 of the Merchant Marine Act, 1936, relating to vessel construction reserve funds, in order to provide that the modification or installation of certain radio equipment be included in the definition of "reconstruction" for the purpose of such section. Referred to the Committee on Commerce.

S. 4108. A bill to authorize the conveyance of certain property of the United States to the State of Alaska. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMINICK:

S. 4109. A bill to amend the Wild and Scenic Rivers Act of 1968 (82 Stat. 906) by designating a portion of the Colorado River, Colorado, for study as a potential addition to the National Wild and Scenic Rivers system. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself, Mr. MAGNUSON, Mr. MANSFIELD, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. THURMOND, and Mr. WILLIAMS):

S. 4106. A bill to establish a temporary commission to evaluate the development of automatic data processing systems for legal and legislative research and analysis and related areas and other purposes. Referred to the Committee on Government Operations.

Mr. MATHIAS. Mr. President, today I am joined by Senators MAGNUSON, MANSFIELD, STAFFORD, STEVENSON, TAFT, THURMOND, and WILLIAMS in introducing a bill which will establish a Commission on Computerized Research and Analysis in Law. The objectiveness of the Commission will be to conduct a study of the needs of automatic data processing systems within the Federal Government and among the 50 States in the area of legislative and legal research analysis.

It is evident that computers and technology will play a major role in the implementation and delivery of many of our social services. We have seen already the value of this advanced technology in the area of law enforcement and the administration of criminal justice. Courts are gradually adopting the ways of the computer in order to make the judicial process more efficent and less costly. The police community has now recognized the need for technology in analyzing crime. It is only a question of time until we see most of our social professions being served in one form or another by this advance technology.

One area in which computers and data processing will certainly play a major role is the dissemination of law information.

We have seen that the more diverse and demanding the American people become the more governments must respond and, accordingly the more rules, regulations and laws we will see enacted. And with this proliferation of law, the question appropriately becomes how to disseminate the information to the public, to governments, to the legal community, to the courts and to all of the Nation's communities. We have all seen that irrelevant, unenforced and uncommunicative law breeds disrespect for the law and for the governments which enact them. Certainly the more we know about the laws which we have, the more we are able to judge their effectiveness and thus establish new laws which will be able to respond to the growing social needs and challenges of our nation. If we are to prevent the breakdown of law in our society, we must promote and maintain a modicum of order and clarity among our nation's laws. Can the computer and data processing be used to further these necessary goals; this is one of the challenges of this Commission.

The rapidly expanding body of laws, rules and regulations which are promulgated daily from our executive, legislative and judicial branches are often not heard nor read, except by a few while they affect millions of Americans. Consider the area of environmental control, civil rights, crime prevention, consumer protection and numerous laws which are never communicated, digested and understood by the public and the professional community. To rescue our environment for instance, new legal standards are being developed daily. It is essential that these new laws be communicated to the public at large in an easily understood and accessible form.

This Commission would perform an in-depth study of the flow patterns of law information, analyze information decay and judge the appropriateness of data processing in developing new dimensions and tools for legal research and law information dissemination.

Today many nations outside the North American Continent are deeply concerned with law-information technology. Czechoslovakia, Poland, U.S.S.R., Sweden, Denmark, Switzerland, The Netherlands, Germany, Italy, France, England, Scotland, Israel, Japan, and Canada have all established some form of computerized legal or legislative research and analysis. Are we falling behind in this area? This shall be one of the areas of investigation for the Commission.

There are, of course, some fundamental policy questions which the Commission must address. It must for instance, determine the proper role for the Federal Government. Shall the Federal Government be responsible for this entire dissemination process or shall it encourage the private sector to maintain or share this responsibility. And, in those areas in which it is essential for the Government to take charge, how do we assure that it will be adequately equipped to discharge its responsibility to disperse effectively its vast body of valuable information.

What should be the role of the Library of Congress. The Congress, the private bar, and the private community. All this should be examined by the Commission with the objective of creating the most efficient and fair system of disseminating and analyzing law information.

Already, the Government has employed computers such as project LITE of the USAF, at a cost, I am told, of $10 million and project JURIS of the Justice Department. The Law Enforcement Assistance Administration is funding projects for the development of computer capability in crime control. NASA has spent millions of dollars on data processing and advanced technology. There are three computers now presently being used by the Congress, primarily I am told, for payroll purposes. The Bureau of Census also utilizes computers.

Every agency has a computer in use in some form or another. I am told there are some 5,660 computers in use in just the civil agencies of the Federal Government. Are these computers being used to their fullest capabilities? Is there any duplication or waste? Should these systems be expanded, curtailed, and coordinated?

In other words we must have a systematic and calculated approach to the use of data processing both in and out of the governments. The Commission would assess this need carefully.

To what extent can modern technology play a vital role in improving the effectiveness of the judicial process? How can it improve the effectiveness of the conduct of trials and further the orderly administration of justice. If the legal profession is to continue to be officers of court and leaders of the community, we must assure that they continue to be informed on the developments of the law.

An Iowa University study indicates that in 1962 only 3 percent of the case law was recorded in that year.

A Shepard's Citator for New York alone has as many as 8 million entries. By the year 2000, this figure will likely double or triple. How is the legal community going to prepare itself for this massive influx. Already the volume of appeal cases has increased 100 percent. Civil appeals are up to 90 percent and the backlog according to the Chief Judge John Brown of the fifth circuit court has risen 300 percent. The caseload of the Supreme Court has risen more than 400 percent over the last 30 years.

The problem of lagging judicial machinery can be best summarized by the remarks of former Chief Justice Earl Warren; he said:

> In a century which has been characterized by growth and modernization, science and technology, the legal fraternity is still living in the past . . . year after year I have discussed the subject of the ever mounting caseload and the resulting backlogs in our federal courts. I have repeated many times my firm belief that the greatest weakness in our judicial system lies in its administration, yet we have not been able to progress beyond the talking stage about this. . . .

Chief Justice Warren E. Burger reiterated these feelings when he said:

> I am usually inclined to optimism, but I will take the risk of saying flatly that if we fail to do this, (reform our courts) we will experience chaos in the courts with enormous and adverse impact on private civil homes and property, and with all this a loss of public confidence in our system.

Certainly, this same criticism can be said for the workings of Congress. Congress too requires up-to-date information and sustained analysis in order to develop responsive knowledge and expertise. We cannot afford to tolerate the gaps between fact and fiction; people and governments. No one knows better than I the limit of money, space, and staff. We must find new ways to deal with the growing demands of our constituency and with the growing demands for responsible information gathering.

The Commission should consider all the current proposals in this area. It should have before it, all legislative proposals including the one recently introduced by my colleague from Minnesota, Senator HUMPHREY, S. 3612, which establishes a National Institute of Justice.

Proposals by the American Bar Association, the Associations of Law Schools and Law Libraries, the Library of Congress, universities and colleges as well as those submitted by other private and public associations and concerned citizens should be submitted to the Commission for review. For instance a proposal entitled "The National Center for Law Information—Washington, D.C." should be submitted for review by the Commission. The Commission would take a very practical outlook toward its job of reviewing these various proposals. It would look at the realities of the commercially and publicly available services with the objective of providing readily available and easily understood information.

In 1950 there were only 15 computers in the United States and now there are more than 70,000, a figure some experts predict will soar to 300,000 by 1980. We have not yet seen the affect of this revolution upon our social services and institutions. But it is clearly incumbent upon us to make sure that its development serves the needs of our constituents and the needs of quality legislative research.

Every major bar association in this Nation has a committee on law and technology. There are numerous annual conventions held throughout the country to discuss the role of computers in the legal profession and in the area of law information, in general. This is a recognized area of concern which should receive some congressional oversight. More than ever before, we have the capacity to shape America; this is the by-product and the burden of a educated and technologically advanced society. If we do not study and apply all out potential tools, we will be negligent in our duties.

In these harsh economic times we must consider congressional programs which will both correct the social problems, and also add jobs for the millions of men and women in America who are unemployed. The area of computer science might serve both of these concerns.

The bill does not purport to have the final answers, it creates a responsible forum in order that we may attempt to ask some intelligent questions and hopefully encounter some reasoned solutions.

I have been in contact with various bar associations throughout the country, including the ABA and Maryland Bar Association, as well as numerous trade associations including Information Industry Association of Bethesda, Md., and I am encouraged by their response to the bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) There is hereby established a temporary commission to be known as the Federal Commission on Computerized Research and Analysis in Law (hereby referred to as the "Commission") which shall conduct a comprehensive study and investigation of the development, use and integration of automatic data processing systems within the Federal Government and among the fifty

States for legal and legislative research and analysis and shall make recommendations for the coordination and expansion of the use of such systems.

(b) The Commission shall be composed of thirteen members appointed for terms of two years by the President. Commission members shall reflect the necessary expertise and professionalism needed for such a job.

(c) The members of the Commission shall elect a chairman and a vice chairman from among their members.

(d) Seven members of the Commission shall constitute a quorum. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e)(1) Any members of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(2) Members of the Commission shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties as members of the Commission including travel time and, while so engaged away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

DUTIES OF THE COMMISSION

SEC. 2. It shall be the duty of the Commission to assess and make recommendations to the Congress with respect to the needs of the Federal Government, the State government and the public at large for the use of automatic data processing in the area of legal and legislative research and analysis and closely related areas.

SEC. 3. (a) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths affirmations or issue subpoenas to witnesses appearing before the Commission, any subcommittee thereof, or that member.

(b) The Chairman shall appoint an executive director and appoint and fix the compensation of such personnel as needed to carry out the functions of the Commission.

(c) The Commission may procure temporary or intermittent services of experts and consultants to the extent authorized by section 3109, title 5, United States Code.

(d) The Commission may negotiate and enter into contract with business, nonprofit research organizations, including educational institutions, to conduct such studies and to prepare such reports as the Commission feels necessary in order to discharge its duties.

REPORTS

SEC. 4. The Commission shall submit to the President for transmittal to the Congress an annual report and such interim reports as it deems necessary. The initial report shall contain the Commission's analysis of all current proposals in this area.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

By Mr. STEVENS:

S. 4107. A bill to amend section 607 of the Merchant Marine Act, 1936, relating to vessel construction reserve funds, in order to provide that the modification or installation of certain radio equipment be included in the definition of "reconstruction" for the purpose of such section. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today, I introduce a bill to assist fishermen and vessel owners who must buy new marine radio equipment required by Federal regulation. The cost of this required radio gear ranges from $250 to $3,500. It is required by the Federal Communications Commission for all vessels—pursuant to an international agreement designed to make efficient use of the radio spectrum.

This international agreement stems from the 1967 Marine World Administrative Radio Conference. Its ramifications were not reviewed by the Senate. One of these ramifications is the added cost to vessel owners who must purchase new equipment required by regulations pursuant to the agreement. Granted that FCC has phased in the requirements over a length of time which attempts to minimize the burden on vessel owners, costs are still being incurred in many instances that would not be incurred without the requirements.

The purpose of this bill is to assist vessel owners to meet these costs through the capital construction fund provisions of the Merchant Marine Act of 1970. This bill would broaden the meaning of "reconstruction" as defined in the basic Merchant Marine Act of 1936 to include radio modifications required by the FCC.

Mr. President, I believe this proposal has merit and would be of assistance to boatowners and fishermen, especially those suffering economic hardships due to extremely poor salmon runs in Alaska this year. I intend to follow through with this legislation in the next Congress. Its introduction now gives the Federal agencies adequate time to study and prepare their reports for prompt consideration in the next Congress.

I move and ask unanimous consent to have the bill's text printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 607(k) of the Merchant Marine Act, 1936 is amended by inserting at the end thereof the following:

"(9) The term 'reconstruction' includes the modification or installation of radio equipment in order to meet requirements of the Federal Communications Commission established in 47 Code of Federal Regulations 83.351(c)(3)(1)."

By Mr. DOMINICK:

S. 4109. A bill to amend the Wild and Scenic Rivers Act of 1968 (82 Stat. 906) by designating a portion of the Colorado River, Colo., for study as a potential addition to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMINICK. Mr. President, I introduce, for appropriate reference, a bill to amend the Wild and Scenic Rivers Act by designating a portion of the Colorado River in Colorado for study as a potential addition to the national wild and scenic rivers system. This bill would authorize the Bureau of Outdoor Recreation to study a 12.5-mile segment of the river and to report back to the President and Congress within 2 years with its recommendations regarding suitability for prospective classification under the Wild and Scenic Rivers Act.

As all of my colleagues are aware, the purpose of the Wild and Scenic Rivers Act is to help preserve some of the most valuable natural resources this country possesses—our remaining rivers which have not yet been encroached upon by man. Section 2 of the Act sets out its policy:

> . . . Certain selected rivers of the nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

Mr. President, I support this policy fully, and believe the portion of the Colorado River which would be studied under this bill meets the criteria set out in the act. The 12.5-mile segment flows free and essentially undisturbed between Loma, Colo., and the Colorado-Utah border. A similar reach of free flowing river in Utah has been proposed by Senator Moss for study as a wild and scenic river.

The river flows through highly scenic Ruby Canyon in a remote area of western Colorado. The narrow cut, varying from one-fourth to three-fourths of a mile, made by the river through the north edge of the Uncompahgre Uplift, reveals interesting geologic formations. The canyon's steep walls expose several sedimentary beds laid down during the Triassic and Jurassic ages. These colorful formations are dominated by sandstone, with some black metamorphic rock outcroppings. There are several interesting and scenic side canyons. One of these, Horsethief Canyon, which was a favorite hideout for cattle rustlers, is of interesting local historical significance. Another, Rattlesnake Canyon, contains several large natural arch formations.

The area is rich in wildlife. The river and its surrounding area provide excellent habitat for deer, elk, coyotes, bobcats, Chukka Partridge, Canadian Geese, and wild ducks. Although there is a stretch of Denver and Rio Grande Railroad track, and one small unimproved access road, most of the canyon is accessible only by footpath or boat. Excellent opportunities exist for canoeing, kayaking, rubber raft float trips, camping, bicycling, photography, and canyon hiking. For white-water enthusiasts, the "Black Rock Rapids" offer an exciting challenge. By raft, the float trip through the canyon to Westwater, Utah, can be made in 1 day during high water, and 2 days during low water. Since about 80 percent of the land along the river is currently administered by the Bureau of Land Management, classification under the Wild and Scenic Rivers Act would have minimal impact on private ownership.

Mr. President, a large portion of this country's water resources are found in Colorado. Colorado is the only State in the continental United States into which no appreciable water flows. Snowbanks high in the Colorado Rockies form the headwaters of all its rivers and streams which then flow downward through the mountains and out across its borders. Four of our major river systems originate in Colorado—the Colorado, the Rio Grande, the Arkansas, and the Platte. These rivers and their tributaries pass through some of the most beautiful and unspoiled areas in the United States. Yet, at present, not a single mile of river in Colorado is included in the Wild and Scenic Rivers System. I will be delighted if the study authorized by this bill results in the designation of a small portion of the upper Colorado River for preservation under the Wild and Scenic Rivers Act.

ADDITIONAL COSPONSOR OF BILL

S. 3598

At the request of Mr. WILLIAMS, the Senator from Montana (Mr. MANSFIELD) was added as a cosponsor of S. 3598, the Retirement Income Security for Employees Act of 1972.

INCREASE IN THE PUBLIC DEBT LIMITATION—AMENDMENT

AMENDMENT NO. 1757

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973.

Mr. STEVENSON. Mr. President, I introduce an amendment to H.R. 1681 to require that the President reserve Federal revenues from revenue sharing for State and local governments before reserving Federal revenues from Federal programs.

As reported by the Finance Committee, the debt limit bill contains a provision conferring on the President the extraordinary power to cut any Federal expenditures he chooses so that total Federal expenditures for fiscal 1973 will not exceed $250 billion.

When the debt limit bill is called up, I intend to offer an amendment which establishes a reasonable order of priorities if it becomes necessary for the President to exercise his expenditure-reducing power. The amendment provides that any reductions needed to meet the ceiling must first be made in the new and untested revenue-sharing program. Only if such reductions are not sufficient to bring aggregate Federal spending down to $250 billion would the President be permitted to cut existing Federal programs.

The amendment is based on a simple proposition: if the Federal budget is in such imbalance that extraordinary cuts are required, we should postpone giving away Federal funds to other governments before we starve existing Federal programs to ease the crisis.

Frankly, it does not make any sense for the Federal Government—which is running a deficit for this fiscal year of approximately $35 billion—to provide revenue sharing funds to all State and local governments—which, according to a recent study of the highly respected American Enterprise Institute, ran a surplus of nearly $15 billion on an annual basis during the second quarter of this year. And the situation will worsen. According to the AEI study the Federal budget will suffer a $21.5 billion deficit in fiscal 1975, assuming there is full employment and that there is no tax increase. State and local governments in the aggregate will have a surplus of $23.9 billion in 1975, $6.275 billion of which will come from the Federal deficit in the form of revenue sharing. In short, a deficit budget is going deeper into debt to finance budgets which, in the aggregate have huge surpluses.

Since the new revenue-sharing program is retroactive to January 1 of this year, nearly $8.3 billion in revenue-sharing funds are slated to be paid out this year. If the President was required to reserve these funds first, it is unlikely that he would have to cut any other existing program from its present level of expenditure in order to meet the $250 billion ceiling.

If we do not first postpone revenue sharing, existing high priority programs which unlike revenue sharing are funded through the appropriations process—will have to be cut first. The disruption caused by an 8-month delay in the funding of the new revenue-sharing program is minor when compared with the chaos which would ensue if existing Federal programs are in midyear reduced according to the whims of the Office of Management and Budget.

My amendment also minimizes the degree of Presidential subversion of the appropriations process and of Congress constitutional responsibility to determine how Federal tax dollars are spent.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1757

Add a new paragraph (4) after paragraph (3) of subsection (b) of Section 201 as follows:

"(4) Prior to applying the provisions of paragraphs (2) and (3) of this subsection, the President shall first reserve from expenditure and net lending all, or as much as is necessary to effectuate the provisions of subsection (a), of the amount entitled to be paid to state and local governments from the State and Local Government Fiscal Assistance Trust Fund provided for in the State and Local Fiscal Assistance Act of 1972."

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the sequence in which the five Senators are to be recognized for special orders on tomorrow be as follows: Mr. ALLEN, Mr. JAVITS, Mr. WEICKER, Mr. BEALL, and Mr. SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader has stated the program for tomorrow within the last hour, so I need not repeat it.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. tomorrow.

The motion was agreed to; and at 11:30 p.m. the Senate adjourned until tomorrow, Saturday, October 14, 1972, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 13 1972:

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be lieutenant colonel, regular Army and colonel, Army of the United States

Dahl, Laverne H., [redacted].

To be captain

Turpin, William C., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be colonel

Doane, David G., [redacted].

To be major

Broskey, Richard D., [redacted].
Goiser, John L., [redacted].
Mathison, Francis G., [redacted].
Reese, Joseph W., [redacted].

Schmidt, Charles E., [redacted].
Smith, Joseph A., [redacted].

To be captain

Addison, Charles B., [redacted].
Bickerdike, Edwin V., [redacted].
Bunner, Ronald C., [redacted].
Ferguson, Richard L., [redacted].
Garraway, Samuel W., Jr., [redacted].
Gray, Kenneth E., [redacted].
Koller, Conrad F., [redacted].
Lawhead, Gary W., [redacted].
Long, Donald W., [redacted].
Neely, James M., [redacted].
Neves, Eugene E., [redacted].
Newby, John H., Jr., [redacted].
Riddle, Steven G., [redacted].
Sauer, James B., [redacted].
Schweitzer, William C., [redacted].
Shipp, Donald R., [redacted].
Taylor, Larry A., [redacted].
Ward, George S., [redacted].
Woody, Jerry M., [redacted].
Yearby, Calvin G., [redacted].

To be first lieutenant

Armstrong, Michael D., [redacted].
Arquilla, Alfred F., [redacted].
Aust, Lorraine L., [redacted].
Bolt, Brenda A., [redacted].
Brewer, Thomas L., [redacted].
Browning, Judith A., [redacted].
Callaway, Larry W., [redacted].
Caudle, Michael E., [redacted].
Craig, Aubrey D., [redacted].
Crockett, Rudolph, Jr., [redacted].
Dix, Drew D., [redacted].
Frank, Mitchell C., [redacted].
Gahan, Sharon M., [redacted].
Hammack, Richard T., [redacted].
Harris, Thomas W., [redacted].
Henry, Ronald M., [redacted].
Hinson, Alan L., [redacted].
Holt, Robert H., [redacted].
Hoover, Steven P., [redacted].
Hopkins, Frank E., Jr., [redacted].
Jacobsen, Craig C., [redacted].
Johnson, Gerald K., [redacted].
Johnson, Terry D., [redacted].
Jones, Frank F., III [redacted].
Jarjala, John C., [redacted].
Kearns, Michael B., [redacted].
Keyser, Collette P., [redacted].
Kinzey, Bertram Y., III, [redacted].
Larson, Douglas F., [redacted].
Lawson, Willie A., [redacted].
Lewis, Richard L., [redacted].
Logan, William M., [redacted].
Mayfield, Truman M., [redacted].
MacDougall, Parker, [redacted].
Meigel, Glenn J., [redacted].
Meyers, Sharleen G., [redacted].
Michaud, Philip L., [redacted].
Millican, Jerry W., [redacted].
Montgomery, Daniel A., [redacted].
Mullins, Stephen A., [redacted].
Murphrey, Sheila M., [redacted].
Nelson, Paul R., [redacted].
Nickisch, Ward B., [redacted].
Njuguna, Joshua F., [redacted].
Oldmixon, Robert J., [redacted].
Pemberton, Clem J., [redacted].
Ray, Delton B., [redacted].
Reilly, William P., [redacted].
Roberts, Donald R., [redacted].
Robinson, Rosemary L., [redacted].
Schone, Carl L., [redacted].
Shaffer, Gayle A., [redacted].
Shipley, Susan B., [redacted].
Silkman, Billy D., [redacted].
Smith, Byron W., [redacted].
Smith, Robert A., [redacted].
Sparacino, Ronald A., [redacted].
Stephanik, Gerald V., [redacted].
Stewart, Randall T., [redacted].
Stratta, James M., [redacted].
Taylor, Rex E., [redacted].
Thomson, Joseph S., [redacted].
Townsend, Jamis C., [redacted].
Tull, Clyde H., [redacted].
Vihinen, Ruthanne, [redacted].
Walker, Richard S., [redacted].
Ward, Bobby R., [redacted].
Wholfeil, Paula K., [redacted].

To be second lieutenant

Bankirer, Harold, [redacted].
Basye, Richard E., [redacted].
Bosley, James M., [redacted].
Burge, Larry W., [redacted].
Cart, Carl E., [redacted].
Cooper, Marcellous, [redacted].
Crosbie, Philip A., [redacted].
Crouch, Sammy E., [redacted].
Crump, Howard M., [redacted].
Ericson, Andrew F., [redacted].
Garcia, Albert B., [redacted].
Hills, James P., [redacted].
Gibson, Elizabeth L., [redacted].
Johnson, Richard W., [redacted].
Kearin, Timothy D., [redacted].
Leblanc, James M., [redacted].
Lots, James V., [redacted].
McMaughan, Patrick M., [redacted].
O'Brien, Michael D., [redacted].
Morgan, Mary E., 004-50-3594.
Pearson, Charles D., Jr., [redacted].
Peters, Anthony L., [redacted].
Radwick, Michael J., [redacted].
Rickman, John C., [redacted].
Riedel, Peter E., [redacted].
Rodda, Peter H., [redacted].
Rose, Robert W., [redacted].
Rosenquist, David L., [redacted].
Smith, Wallace E., Jr., [redacted].
Steiner, James E., [redacted].
Van Horne, Ralph J., [redacted].
Varnado, Talmadge R., Jr., [redacted].
Ward, Robert L., [redacted].
Williams, Reginald F., [redacted].

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Richardson, Michael A., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 13, 1972:

IN THE COAST GUARD

Coast Guard nominations beginning Donald M. Thomson, Jr., to be commander, and ending Robert V. Fischer, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1972.

IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Charles S. Ahlgren, to be a Foreign Service officer of class five, and ending Donald J. Yellman, to be a Foreign Service officer of class five, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 9, 1972.

IN THE ARMY

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Joseph Miller Heiser, Jr., 240–03–6883, Army of the United States (major general, U.S. Army).

Lt. Gen. Charles William Eifler, 176–32–5546, Army of the United States (major general, U.S. Army).

Lt. Gen. John Macnair Wright, Jr., 562–54–2446, Army of the United States (major general, U.S. Army).

Lt. Gen. Fillmore Kennady Mearns, 561–54–4071, Army of the United States (major general, U.S. Army).

IN THE NAVY

The following-named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

George G. Halvorson
John D. H. Kane, Jr.
Edward L. Feightner
John M. Thomas
Brian McCauley
Thomas E. Bass III
Billy D. Holder
Richard E. Henning
William H. Shawcross
Robert P. Coogan
Ralph S. Wentworth, Jr.
Daniel J. Murphy
Thomas B. Hayward
John J. Shanahan, Jr.
John S. Christiansen
Richard E. Fowler, Jr.
William M. A. Greene
Julian S. Lake
Joe Williams, Jr.
Joe P. Moorer
Walter N. Dietzen, Jr.
Harvey E. Lyon
Emmett H. Tidd
Robert O. Welander
Robert Y. Kaufman
Stansfield Turner
William R. St. George
John G. Finneran

CIVIL ENGINEER CORPS

Albert R. Marschall

Vice Adm. Dick H. Guinn, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Fred G. Bennett, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. George E. Moore II, Supply Corps, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Ralph Weymouth, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning Robert H. Boehringer, to be lieutenant colonel, and ending Jerral V. Skinner, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1972.

Air Force nominations beginning Philip J. Blank, to be lieutenant colonel, and ending Charles W. Taylor, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1972.

Air Force nominations beginning Raymond G. Armstrong, to be colonel, and ending Alfred S. Windeler, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1972.

Air Force nominations beginning Donald L. Abbott, to be major, and ending Sherman G. Madere, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1972.

Air Force nominations beginning Roland D. Aarons, to be captain, and ending William B. Poore, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1972.

Air Force nominations beginning Alvin D. Aaronson, to be colonel, and ending Lorraine E. Stuckman to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 12, 1972.

Air Force nominations beginning Richard F. Abel, to be lieutenant colonel, and ending Marion J. Stansell, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 12, 1972.

IN THE ARMY

Army nominations beginning P. L. Barrett, Jr., to be colonel, and ending William K. White, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1972.

Army nominations beginning Enrique Irkzarry-Toro, to be lieutenant colonel, and ending Donald S. Rennie, to be first lieuten-

ant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1972.

IN THE NAVY

Navy nominations beginning John Abbott, to be captain, and ending Joanne Marie Wilke, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1972.

Navy nominations beginning Emile W. Achee, to be captain, and ending Jacob V. Eskenazi, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1972.

IN THE MARINE CORPS

Marine Corps nominations beginning Mary E. Bane, to be colonel, and ending Kathleen Wright, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1972.

HOUSE OF REPRESENTATIVES—*Friday, October 13, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord will give strength unto His people; the Lord will bless His people with peace, Psalms 29: 11.

Eternal God, our Father, we thank Thee for the deep and abiding faith which through all the trials and tribulations of these troubled times holds us close to Thee. We are grateful for the star of hope shining forever in our sky, illumining our way leading us to nobler endeavors, and for the spirit of good will which binds us together and which can unite us as a nation seeking justice with freedom for all.

As we wait upon Thee, grant unto us light to guide us, strength to sustain us, and wisdom to help us; that we may be true servants of Thine and faithful in our devotion to our country. Keep us as individuals and as a nation on the march to a better day for all people on this planet.

We pray in the spirit of Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on October 12, 1972, the President approved and signed bills of the House of the following titles:

H.R. 11047. An act for the relief of Donald W. Wotring;

H.R. 11629. An act for the relief of Cpl. Bobby R. Mullins; and

H.R. 14909. An act to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 9554. An act to change the name of the Perry's Victory and International Peace Memorial National Monument, to provide for the acquisition of certain lands, and for other purposes;

H.R. 15280. An act to amend the act of August 16, 1971, which established the National Advisory Committee on Oceans and Atmosphere, to increase the appropriation authorization thereunder;

H.R. 16444. An act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes;

H.R. 16987. An act to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce; and

H. Con. Res. 721. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 3507.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 12186. An act to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes;

H.R. 15641. An act to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3507) entitled "An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9727) entitled "An act to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8395) entitled "An act to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16754) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16593) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 17034) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Young, Mrs. Smith, Mr. Hruska, Mr. Cotton, Mr. Case, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2087) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Ervin, Mr. Hart, Mr. Hruska, and Mr. Scott to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills and a joint resolution of the Senate of the following titles:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 2411. An act to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes;

S. 2454. An act to amend the Youth Conservation Corps Act of 1970 (Public Law 91-378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program, and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico;

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R.

14989) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 9 to the foregoing bill.

The message also announced that the Senate agrees to the amendments of the House to amendments of the Senate to bills and a joint resolution of the House of the following titles:

H.R. 10880. An act to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery;

H.R. 12828. An act to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes;

H.J. Res. 748. Joint resolution amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3070. An act to amend title 38, United States Code, to provide for a special addition to the pension of veterans of World War I and to the pension of widows and children of veterans of World War I; and

S. 3326. An act for the relief of the Appalachian Regional Hospitals, Inc.

DAN ROSTENKOWSKI HONORED BY NATIONAL RECREATION AND PARK ASSOCIATION

(Mr. ASPINALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, I have learned that my esteemed colleague and good friend, Mr. Dan Rostenkowski of Chicago, has been honored by the National Recreation and Park Association for his leadership in this House on a subject of importance to every citizen of this Nation—the recognition of the importance of decent park and recreation opportunities to the quality of our lives.

Mr. Rostenkowski received the organization's coveted Congressional Award, which I gather is not bestowed lightly, as it has been given only twice in the history of the organization. As a Member who is sincerely interested in such programs, I would like to congratulate the Congressman from Chicago, and I also think it fitting to include the remarks of Mr. Daniel Shannon, president of the Chicago Park District, in presentation the award at the National Recreation and Park Association's annual Congress in Anaheim, Calif.

The National Congressional Award is presented when a member of the United States Senate or House of Representatives has by his leadership and action, enhanced the park and recreation movement.

The National Recreation and Park Association is happy to have this privilege of honoring just such an outstanding Congressman tonight. This man has dedicated his efforts over many years to improve park and recreation services nationwide. His contributions in behalf of better legislation and funding for parks and recreation, have been truly significant. The nation's cities have benefited from his tireless efforts to increase appropriations for the summer Recreation Support Program. His speech before the House this past February entitled, "Recreation: A Redefinition," truly stimulated major interest and focus on the recreation and park movement.

It is indeed an honor for me on behalf of the National Recreation and Park Association to present the 1972 National Congressional Award to a Member of the House of Representatives from the 8th District of the State of Illinois, the Honorable Daniel T. Rostenkowski.

APPOINTMENT OF CONFEREES ON H.R. 17034, SUPPLEMENTAL APPROPRIATIONS, 1973

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Whitten, Evins of Tennessee, Obey, Flood, Casey of Texas, Sikes, McFall, Steed, Bow, Jonas, Cederberg, Michel, Conte, and Robison of New York.

PARLIAMENTARY INQUIRY

Mr. REUSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. REUSS. There are still on the calendar 14 unanimous-consent bills from the Committee on Ways and Means, many of them putting new loopholes into the tax system. Because Members desire to be present when those are called, I inquire when the Chair intends to recognize the chairman of the Committee on Ways and Means for these unanimous-consent bills.

The SPEAKER. The Chair has not had any communication from the chairman of the Committee on Ways and Means on this subject. I am sure that the gentleman from Arkansas will advise the Chair when he intends to do that.

Mr. REUSS. Mr. Speaker, a further parliamentary inquiry. Can the Speaker inform me of the order of business for today, listing those items which will be recognized for action prior to any requests on the unanimous-consent Ways and Means Committee bills?

The SPEAKER. This is a question which the majority leader can answer. Will the gentleman address his question to the majority leader.

LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, will the gentleman from Wisconsin repeat his question?

Mr. REUSS. Mr. Speaker, my question is: Can the majority leader inform me of the order of business today, listing those measures which will be brought up for action prior to the putative unanimous-consent requests of the chairman of the great House Committee on Ways and Means with respect to the 14 Ways and Means unanimous-consent bills?

Mr. BOGGS. Mr. Speaker, aside from some requests which I understand are the printing requests and are pro forma, we have scheduled two resolutions from the Rules Committee, one of which I might say to the distinguished gentleman will demonstrate the electronic voting device that has been installed above the press gallery. Shortly before that resolution is called up I will have a quorum call because I would like to have as many Members as possible here to witness the demonstration.

I will have to confer with the chairman of the Committee on Ways and Means to give the gentleman a definite answer, but the answer is if they come up today at all they will not come up for some time.

Mr. REUSS. As a very distinguished alumnus of the great House Committee on Ways and Means, would the gentleman use his best effort to ascertain from that committee its intentions on the matter and announce it to Members on both sides of the aisle as early as possible, so that we may make our plans to be here?

Mr. BOGGS. I see one of the members of the distinguished committee. Can he give any information?

Mr. BURKE of Massachusetts. Mr. Speaker, if the gentleman will yield, I assure the gentleman the committee is working as expeditiously as possible. We are dealing with a very complex question.

Mr. BOGGS. I know the gentleman is helpful but that is not the question the gentleman is asking.

Mr. REUSS. When will the gentleman's committee bring up those unanimous-consent bills?

Mr. BOGGS. Only the chairman can answer that question, I would inform the gentleman.

In reply to the gentleman's request, during the period of the quorum call, which will come very soon so that the Members can see the new voting system, I will inquire specifically of the chairman and I will inform the gentleman.

Mr. REUSS. I thank the distinguished

majority leader. I hope—and I know—he will inform not just the gentleman from Wisconsin, but also all the Members, because we want to know.

Mr. BOGGS. In further reply to the gentleman, I announced the list specifically and had it printed in the RECORD as far as the leadership is concerned. There is certainly no intention on the part of Chairman MILLS or the leadership to have these bills called up surreptitiously.

Mr. REUSS. I thank the gentleman.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished gentleman from Louisiana, the majority leader, clarify the program? As far as I understand it, we will have a printing resolution and then the two resolutions from the Committee on Rules. When do the suspensions that are on the list come up?

Mr. BOGGS. The Speaker has said on several occasions that we will work the suspensions in as we go along. As long as we have conference reports that have to be disposed of, we will put them in advance of the suspensions.

I might say to the gentleman in further reply that we will be in session tomorrow. We hope to adjourn this Congress tomorrow night, and we are going to work as hard as we know how.

I want to direct the question to the distinguished chairman of the Committee on Ways and Means. Mr. Chairman, I have been requested by the gentleman from Wisconsin to answer a question which only the gentleman from Arkansas can answer.

I will ask the gentleman from Wisconsin to restate his question.

Mr. REUSS. I ask the distinguished chairman of the House Committee on Ways and Means when he intends to bring up under unanimous consent the 14 Ways and Means Committee bills.

Mr. MILLS of Arkansas. Will the distinguished majority leader yield?

Mr. BOGGS. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. First of all, they do not all deal with taxation by any means. Some of them have to do with the continued suspension of duties that have been in suspension for some years on items that are not available in the United States through domestic production. One of them has to do with the matter of the determination for tax purposes of vacation pay, which we feel must pass. In all probability, I will ask unanimous consent that that bill be brought up under suspension of the rules.

I am going to talk to the Chairman of the Committee on Banking and Currency about another one which he thinks should be under the jurisdiction of the Committee on Banking and Currency. If we can get together on that, I would want that to come up under suspension of the rules. It has to do with the establishment of a Federal bank which would do most of the borrowing for all of the various agencies of Government that are not excluded under the bill.

There are one or two others, I feel should come up under suspension of the rules. We will give those bills that should come up that way to the majority leader some time today. In all probability the schedule of the House is such that we would wait until tomorrow to call the others up.

Mr. BOGGS. I might add to what the distinguished chairman of the Committee on Ways and Means has said, that at no time has there been any intention on the part of the chairman of the committee or on the part of the leadership to bring these bills up without due notice.

Mr. MILLS of Arkansas. Absolutely not. That is why we give them to the majority leader, so that all Members may know when they are coming up.

Mr. REUSS. I appreciate the help that I am getting from all quarters.

I asked the majority leader this question once, and I put this further question to the chairman of the Committee on Ways and Means: Could the gentleman from Arkansas (Mr. MILLS) indicate when tomorrow the 14 items—less the two or possibly more than two coming up on suspensions—will be brought up under unanimous consent?

Mr. MILLS of Arkansas. There will be more than two called up under suspensions. I cannot tell you that.

Mr. REUSS. However many more than two there are, subtracting those from the 14, my question is: When will the remainder of the 14 be brought up?

Mr. MILLS of Arkansas. My good friend from Wisconsin knows that I cannot come up and present bills until I am recognized by the Speaker. I have to talk to the Speaker to find out when he will recognize me.

Mr. REUSS. After that conversation has taken place, will the gentleman, either directly or through the majority leader, notify Members in good time so that they may be here?

Mr. MILLS of Arkansas. Yes. I would like to have 435 Members on the floor. We may even have a quorum call to call them up. I want my friends to have every opportunity to move along with me.

THE NATIONAL SECURITY AFFAIRS FORUM

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, for the second year, the Capitol Hill Chapter of the Reserve Officers Association is conducting the monthly National Security Affairs Forum series. This is a unique endeavor which is worthy of support. It has attracted the attention of a number of distinguished citizens as members or as program speakers.

When the Capitol Hill Chapter of ROA was formed, composed of key assistants to Senators and Members of Congress, it was decided to forgo the usual lobbying effort and to concentrate instead on providing its personnel with insight into the current national security program. The operation has been a successful one and under the leadership of its president, Marvin A. Leibstone, major, U.S.A.R., the Hill ROA Chapter will continue the monthly series.

It will be of interest that speakers have ranged from Senator STROM THURMOND to Lt. Gen. William Depuy, to Professor John Henessian of George Washington University, to the Honorable Kenneth Balieu, Under-Secretary of the Army, and to Mr. John Maury, general counsel, Central Intelligence Agency.

Each session features a question-and-answer period and there are many who can testify from firsthand experience that these are spirited and stimulating meetings.

I strongly urge my colleagues in the Congress to alert their key staff members of these meetings and suggest they attend as many as possible. The Capitol Hill Chapter of ROA sends out fliers announcing the meetings and the speakers help close the communications gap which so often exists between staff people on the Hill and those who make or shape our Nation's policies. I feel that a valuable service is being provided by this organization through its forum for dissemination of nonpartisan information on the security position in the world.

It is fitting that those of us in the Congress who take an interest in such things commend this fine organization for its effort and wish them every success as they begin their second year of National Security Affairs Forum programs.

TRIBUTE TO CLEVELAND TUCKER, OFFICIAL REPORTER OF DEBATES, U.S. HOUSE OF REPRESENTATIVES

(Mr. FLOWERS asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. FLOWERS. Mr. Speaker, I take this time, at the end of this Congress to commemorate the retirement of one of our familiar faces. I am speaking of Mr. Cleveland Tucker, one of the official reporters of debates.

Cleveland entered into the service of this House as administrative assistant to one of my distinguished predecessors from the Fifth District of Alabama, the Honorable Edward de Graffenreid.

Many of you will remember Ed de Graffenreid. He is a treasured friend of mine, as he has been to many of you.

Cleve began his career of public service as a court reporter for the Sixth Judicial Circuit of Alabama.

For 4 years beginning in 1949, he was administrative aide to Congressman De Graffenreid. Then he became, under appointment of Speaker Rayburn, an official committee reporter. And in 1961 he was appointed one of the Official Reporters of Debates. He is now completing 24 years of valuable service to this House and to the American people.

He was born and raised in the hometown we share, Tuscaloosa, Ala. Cleve is retiring and going back home to Tuscaloosa, where we will shortly be neighbors.

During his years in Washington, he has made many friends while performing his duties in the highest traditions of public service.

I want to express the appreciation, I know, of all the Members of this body over a long number of years, when we say "thank you" to Cleveland Tucker for many, many jobs well done for this

House and for his patriotic service rendered to our country.

Let me also take this opportunity to welcome him back home to Tuscaloosa, where I hope to continue to see him often in the years to come.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the distinguished Speaker.

Mr. ALBERT. Mr. Speaker, I thank the gentleman for yielding. I join my distinguished colleague from Alabama in paying tribute to Mr. Cleveland Tucker, who retires at the end of this year. Cleveland Tucker has been a friend to all of us during his many years of service as a Reporter of Debates. One of the most able and hard-working House employees, he will be greatly missed by all of us who have known him through the years.

I do want to say that the House has never had a better servant than Mr. Tucker. He has worked conscientiously not only doing his own job but also to uphold the high traditions of the Reporters of Debates of this House. He has been one of the best in that job that I have ever seen anywhere, one of the finest men I have ever known. He has not only served the House with distinction and he has not only done his job well, but I am happy to say that he is my friend. I wish him well in his retirement as he returns to his native State of Alabama.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the distinguished majority leader.

Mr. BOGGS. I shall take only a few seconds simply to reiterate the words of commendation made by the distinguished gentleman from Alabama and the distinguished Speaker. Mr. Tucker has served the leadership particularly well under difficult circumstances, but his service has not been limited to the leadership. He has served all the Members of this body. I wish him well in his retirement.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I rise today to pay tribute to Cleveland Tucker, Official Reporter of Debates in the U.S. House of Representatives. He will be retiring on December 31 after 24 years of distinguished service to this body and to our Nation.

Cleveland Tucker came to the Nation's Capital in January of 1949 as an administrative assistant, after serving for 8 years as the official court reporter for the Sixth Judicial Circuit of Alabama. In 1953, he became an official committee reporter under an appointment from the late Speaker Sam Rayburn. In 1961, he assumed his present high position in the U.S. House of Representatives.

Accuracy, dependability, and productiveness have been constant characteristics of Cleveland Tucker's work in the House. We will miss him here in the House. We will miss his excellent work, and his friendly smile, and his great attitude. He has been my friend for the last 8 years.

I wish him well as he returns to his native Tuscaloosa, Ala.

Mr. GRIFFIN. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Mississippi.

Mr. GRIFFIN. I should like to join in paying tribute to Cleve Tucker. I have known him for more than 20 years. We were fellow secretaries together when he was with Ed de Graffenreid. He has been a loyal and dedicated employee of the House. I wish him the very best in the future.

Mr. FLOWERS. I thank the gentleman for his remarks.

Mr. MAHON. Mr. Speaker, I wish to say a word in regard to one of the stalwart employees of the House of Representatives, Cleveland Tucker, who is leaving his position with the House at the end of this session. Cleveland Tucker, who has done an outstanding job as an Official Reporter of Debates through the years, was at one time on the staff of the official reporters to House committees. During this period Cleve spent a large part of his time reporting the hearings of the Defense Appropriations Subcommittee of which I was and am chairman. Due to the fact that the hearings were always so lengthy, complex, and technical, only the highest caliber reporters were called upon to report them. The highest security clearance available was always necessary for this reporting. Cleve Tucker rendered an outstanding performance in these Defense Appropriations hearings and in other hearings which he reported for the Appropriations Committee.

Let me take advantage of this occasion to join with others in honoring this top-flight American, who has served so faithfully and well through the years the institutions of our country and who has been loyal to the traditions of our land. We will miss his excellent service here, his friendly nod, and his infectious good humor. We will wish him good health and happiness in the coming days.

Mr. JONES of Alabama. Mr. Speaker, I join with his many friends who today are paying tribute to Mr. Cleveland Tucker who is retiring as one of the Official Reporter of Debates for the House of Representatives.

Cleveland has faithfully and diligently served as an official reporter in the House for more than a decade. Prior to that, he served Members of the Congress in various capacities. In one way or another, he has been associated with the House for approximately 30 years.

As an Alabamian, he has been well known to the many residents of our State who live in the National Capital area through his membership and work in the Alabama State Society.

As he takes his leave of his duties in the House, I want to wish Cleveland and Mrs. Tucker the very best in the way of happiness and good health.

GENERAL LEAVE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the retirement of Cleveland Tucker.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

THE FAMILY UNIT—IN GRAVE DANGER

(Mr. SCHEUER asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the ever-increasing rate of technological change is subjecting our society to severe stress and strain. As a consequence, the basic unit of our society—the family—is in grave danger, and young people are increasingly resorting to various kinds of self-abuse, as a result of their frustration, confusion, alienation, and profound self-doubt.

Increased mobility, changing mores, rapid worldwide communications, and increased leisure brought about by an economy larger than any ever known, have all combined with other factors to put great pressure upon today's nuclear family.

As a consequence, the divorce rate is accelerating. One of every two marriages in California ends in divorce.

Juvenile delinquency rates are increasing. A most substantial portion of today's violent personal crime is carried out by youngsters in their teens. Indeed, the highest incidence of criminal activity is during the 16th year; the 15th year is next highest.

Venereal disease, in the words of a recent report on the New York schools, has reached "epidemic" proportions. Thousands of girls—14, 15, and 16 years old, are forced to leave the normal school environment because of teenage pregnancy.

I am today introducing a bill—the Family Life, Venereal Disease Prevention, and Sex Education Act of 1972—which I hope will help us develop educational programs that will enable us to begin to deal with some of the problems now faced by today's family.

The goal of the programs established by the bill is to develop methods of teacher training and educational reform which will replace inadequate lectures, embarrassing personal conferences, and piecemeal health courses with methods that will enable the students to develop their own successful response to the very real personal and social problems that confront them in today's world.

The bill attempts to accomplish this goal by providing for Government funding of locally developed and run educational programs in the schools and in the community.

Mr. Speaker, today's world changes rapidly. Information imparted today is obsolete tomorrow. We cannot expect, therefore, to educate today's child by merely imparting information which will be of no use to him by the time he graduates.

Rather, we must teach him a process—a process which will enable him to develop his own techniques of coping with the new problems that confront him. In addition, we must teach him to respect himself, to have enough self-esteem to prevent him from abusing himself through drugs, alcohol, or sexual promiscuity, or from psychologically or physically abusing others.

Only through this type of process which my bill will help us to develop, can we hope to teach today's child to become tomorrow's proud, mature, and responsible adult.

THE TALE OF A DOG

(Mr. CARTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, the Members of this august body are growing weary. Many of us are faced by attempts, termed by some as "well-meaning people," by others "reprehensible reprobates," to wrest from us the positions which we now hold. During this session we have fought a valiant fight and we have almost finished our course, and we want to go home.

However, Mr. Speaker, the Members of the other body continue in their long filibusters and horrendous harangues. It brings to mind an incident which once occurred in eastern Kentucky.

I often went hunting with Col. Otley Gilpin of Coburg, Ky. He had a wonderful bird dog, whose name was "Old Congressman." This dog was a superb pointer and retriever.

One year, when I was invited back for another hunt with Colonel Gilpin and his famous pointer, I asked Otley about his dog. He told me he had shot him. "Why did you shoot that wonderful dog?" I asked.

He said:

> You know, some city slickers came out here and took my dog hunting. They renamed him "Old Senator." And after that, every time I took that dog out, all he would do was to sit on his hiney and howl. And, by gum, I shot him!

I do hope, Mr. Speaker, that our verbose and loquacious friends in the other body will put a brake on their propensity to speak and settle down to business, so that each and every one of us may return to our homes and hunt for the votes which we so badly need.

TRIBUTE TO ROY P. CROCKER

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, Roy P. Crocker of South Pasadena has given his entire life in unselfish service to others. Roy is a highly successful free enterprise advocate who has built a savings and loan business from very humble beginnings into a substantial financial institution. In this free enterprise activity his prime emphasis has always been complete and total service to his customer. Even though this achievement by itself is substantial in a vast way, his active service to his community, southern California, the State of California, and his Nation appears almost infinite. In Roy's quiet, positive, and constructive manner, he has gone about all the tasks, whether assigned to him or volunteered by his own initiative, in a way that is so respected by all that I cannot recall an occasion where even those who are in disagreement with him have had anything but praise for his high standards and great moral character.

As an extremely devoted father and family man, as a director and chairman of the board of the Salvation Army, as an active trustee of Claremont Men's College, as a member of the board of counselors at the University of Southern California's School of Business, as a strong campaigner for solid constitutional government, as an early and vigorous supporter of many Presidents of the United States, U.S. Senators, U.S. Congressmen, Governors, State senators, and State assemblymen, he is surpassed by no one in quality and noble deeds.

Acknowledgment of his excellence has been appropriately shown in awards such as the Distinguished Service Award from the Los Angeles Young Men's Christian Association in 1969. In addition to a deservedly long list of achievements, he is known as a genuinely warm friend, as all who have touched his life in one way or another will fully testify. Roy Crocker is esteemed by all who know him for he fulfills the very meaning of a friend. The poet, Kahlil Gibran, describes him this way:

> Your friend is your needs answered.
> He is your field which you sow with love and reap with thanksgiving.
> He is your board and your fireside.
> For you come to him with your hunger and you seek him for peace.

REPRINTING OF HOUSE REPORT ENTITLED "SECURITIES INDUSTRY STUDY"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1594) on the concurrent resolution (H. Con. Res. 718) providing for the reprinting of additional copies of House Report 92-1519, entitled "Securities Industry Study," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

H. CON. RES. 718

> *Resolved by the House of Representatives (the Senate concurring)*, That there shall be reprinted for the use of the House Committee on Interstate and Foreign Commerce four thousand copies of House Report 92-1519, entitled "Securities Industry Study".

PRINTING OF "SEPARATION OF POWERS AND THE NATIONAL LABOR RELATIONS BOARD: SELECTED READINGS" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1595) on the Senate conconcurrent resolution (S. Con. Res. 98) authorizing the printing of the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings" as a Senate document, and ask for immediate consideration of the concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 98

> *Resolved by the Senate (the House of Representatives concurring)*, That the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by Doctor James R. Wason of the University of Maryland, formerly specialist in labor economics and relations, Economics Division, Legislative Reference Service, the Library of Congress; and the Congressional Research Service and the Library of Congress, in cooperation with the staff of the Subcommittee on Separation of Powers, be printed as a Senate document.
>
> SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by section 1 of this concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR PERIOD JULY 1, 1971, TO JUNE 30, 1972—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

To the Congress of the United States:

I am transmitting herewith the Annual Report of the National Corporation for Housing Partnerships for the period July 1, 1971 to June 30, 1972.

I commend this Report to your attention.

RICHARD NIXON.

THE WHITE HOUSE, *October 13, 1972.*

ECONOMIC STABILIZATION PROGRAM FOURTH QUARTERLY REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

To the Congress of the United States:

Through the Economic Stabilization Program, which was introduced as part of the New Economic Policy of August 15, 1971, we have taken forceful steps to curb the spiraling inflation that was eroding the buying power of the American wage earner—and that program is working. This fourth quarterly report of the Economic Stabilization Program describes the solid gains which have been made in revitalizing our economy and stemming the erosion of the value of the dollar.

I invite your special attention to the rise of more than 4 percent in real weekly spendable earnings which the American worker has enjoyed over the past year. This is three times the average rate of increase from 1960 to 1968.

To the average production worker, this gain represents an annual growth in purchasing power of more than $200—the equivalent of two extra weekly paychecks. Clearly, the treadmill of inflation is being transformed into wheels of economic progress.

Each American can take pride in the encouraging achievements which we have realized in the past year, for they have been made possible only through the determined efforts and the voluntary cooperation of all our people.

As this report points out, problems remain—but if our stabilization program continues to receive the wide public support it has received over its first year, and which it enjoys today, they will be solved.

This Administration will continue to exercise strong leadership in furthering that progress—we are determined to control inflation. Ultimately, however, it will be only through the determination, resourcefulness and patriotic cooperation of the American people that the victory of a full new prosperity will be won.

RICHARD NIXON.

THE WHITE HOUSE, *October 13, 1972.*

ELECTRONIC VOTING IN THE HOUSE OF REPRESENTATIVES

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1123 and ask for its immediate consideration.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 438]

Abourezk
Anderson, Tenn.
Annunzio
Badillo
Baring
Bell
Blanton
Boland
Bolling
Broomfield
Burke, Fla.
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clausen, Don H.
Clay
Conyers
Corman
Cotter
Crane
Davis, S.C.
Devine
Dickinson
Diggs
Donohue
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Fish
Flood
Ford, William D.
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Gibbons
Goldwater
Grasso
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Harrington
Hastings
Hébert
Heinz
Hungate
Jarman
Jonas
Kemp
Kuykendall
Link
Lloyd
Long, La.
McCloskey
McClure
McCormack
McDonald, Mich.
McMillan
Macdonald, Mass.
Martin
Matsunaga
Mollohan
Monagan
Murphy, N.Y.
Nichols
O'Hara
Pelly
Pepper
Peyser
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Scherle
Scheuer
Schmitz
Scott
Snyder
Springer
Stanton, J. William
Stanton, James V.
Steiger, Ariz.
Stokes
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thone
Van Deerlin
Vander Jagt
Whitehurst
Widnall
Wilson, Charles H.
Wydler
Yatron

The SPEAKER. On this rollcall 319 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ELECTRONIC VOTING IN THE HOUSE OF REPRESENTATIVES

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 1123

Resolved, That (a) clause 5 of Rule I of the Rules of the House of Representatives is amended to read as follows:

"5. He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: 'As many as are in favor (as the question may be), say "Aye".'; and after the affirmative voice is expressed, 'As many as are opposed, say "No".'; if he doubts or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one or more from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. However, if any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speaker in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal, together with the names of those not voting. Members shall have not less than fifteen minutes to be counted from the ordering of the recorded vote or the ordering of clerks to tell the vote.".

(b) Clause 2 of Rule VIII of the Rules of the House of Representatives is amended to read as follows:

"2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.".

(c) Rule XV of the Rules of the House of Representatives is amended to read as follows:

"RULE XV.

"ON CALLS OF THE ROLL AND HOUSE

"1. Subject to clause 5 of this Rule, upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called, and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

"2. (a) In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent Members; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

"(b) Subject to clause 5 of this Rule, when a call of the House in the absence of a quorum is ordered, the Speaker shall name one or more clerks to tell the Members who are present. The names of those present shall be recorded by such clerks, and shall be entered in the Journal and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker. Members shall have not less than fifteen minutes from the ordering of a call of the House to have their presence recorded.

"3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

"4. Subject to clause 5 of this Rule, whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members; and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this clause shall be vacated.

"5. Unless, in his discretion, the Speaker orders the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call the names of such Members voting or present shall be recorded by electronic device. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of the names of those Members recorded as voting in the affirmative, of those Members recorded as voting in the negative, and of those Members answering present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions. Members shall have not less than fifteen members from the ordering of the roll call or quorum call to have their vote or presence recorded.".

(d) Clause 2 of Rule XXIII of the Rules of the House of Representatives is amended to read as follows:

"2. Whenever a Committee of the Whole finds itself without a quorum, which shall consist of one hundred Members, the Chairman shall invoke the procedure for the call of the roll under clause 5 of Rule XV, unless, in his discretion, he orders a call of the committee to be taken by the procedure set forth in clause 2(b) of Rule XV; and thereupon the Committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the Committee shall thereupon resume its sitting without further order of the House.".

Mr. SISK (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself 1 minute, at the conclusion of which I am going to yield to the distinguished chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS).

Mr. Speaker, the principal purpose, of course, of House Resolution 1123 is to provide orderly procedures for the use of the electronic voting machinery now installed in the Chamber of the House. We will, in a few moments, be offering an amendment which will make the act effective just before noon on January 3.

At this time, Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. HAYS) for a brief demonstration.

Mr. HAYS. Mr. Speaker, I thank the gentleman for yielding.

I want to briefly try to explain what this is about. In the first place, let me say this was not a decision on my part or on the part of the committee; this was a mandate from the House of Representatives to proceed with the installation of this system. The system is just in. It is not completed. It has not been checked out.

There will be a console right at the end of that table where the distinguished gentleman from Illinois (Mr. GRAY) is sitting, and one in the equivalent position on the minority side, at which the majority and minority leaders can call up any section of that, or any group of names, and find out how they voted.

So they can keep the tally down at the desk, as well as the tally that is kept at the board.

If the Members will notice the tallies on either side of the Chamber, it can be noticed the time is ticking away. When the votes start, where it says "time," it will be 15 minutes, and it keeps ticking down to zero. When it reaches zero, the Chair will announce that all the voting is over, and unless there is a Member in the Chamber who has not voted, then he will be permitted to vote, and the Chair will be able to lock the vote in, and that will be it, and it will tell instantaneously what the vote is, the "yeas" and "nays."

In addition to that, there will be a printout available for the members of the press out in the lobby almost immediately after the vote is over, telling exactly how each and every Member voted.

Mr. Speaker, the voting will be done by a little plastic card which is punched on either end identically, so you can put it in upside down or backwards. No matter how you put it in, it is supposed to work, and it will key only your name.

If the Members will note during this demonstration, under my name we just have one card made up as a sample at the moment. Every Member will get one. There is a red light at the left of my name. That means I have inserted the card and voted "no." If I decide to change my vote, I will put the card back in one of the slots and press the "yea."

Mr. Speaker, I will now press the "yea" button, and hopefully the red light will change to a green light.

Mr. Speaker, just to show the Members what a riverboat gambler I am, I will try my luck again and see if I can vote "present."

Well, at least I am happy to say to the Members that it works better now than it did the first time we checked it out.

Mr. Speaker, this is a very complicated electronic device. The scanner scans every station. There are 49 stations. I think it scans them once every 5 seconds.

Mr. Speaker, I have been informed that I am in error; it scans every station once every second. So that there are 49 of these stations scattered around the Chamber, and as long as the little blue light that says "open" is on, that means that voting station is available to put a card in and vote.

Mr. Speaker, if the Members have any questions—I know this has been very brief—if there are any questions by the Members, in the amount of time I have left I will be glad to answer them.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. HAYS. Yes; I will be glad to yield to the majority leader.

Mr. BOGGS. Mr. Speaker, first let me say to the gentleman that I think he and his committee have done a splendid job.

This system is very unobtrusive. It does not do any harm to the body or to the decor of the House of Representatives. It took a great deal of research to bring this about.

Mr. Speaker, I would just like to ask the gentleman this question: On the time clock over here, does the board automatically go off when the time limit has expired?

Mr. HAYS. No, it does not. It does not go off until it is locked out up at the Speaker's desk.

Mr. BOGGS. So that means we now have 1 or, rather, 1½ minutes to vote. May I ask, when it becomes zero, then how long is it open there at the desk?

Mr. HAYS. When it comes to zero, the Speaker will bang down his gavel and will say, "All time has expired," or "Are there any Members in the Chamber who desire to vote?" It is just like we do it now on a teller vote. If there are any who desire to vote, he will give them a minute or two more to do so, and then he will lock the machine out, and that is the end of it.

If a Member has misplaced a card, then he can go to the desk, and there will be an arrangement where he can fill out a card, an arrangement where he can sign a red or green or amber ballot, just like we do now for a teller vote. Then the Clerk up there will put a master card in and vote for the Member, and it will show up as on the teller votes.

There are one or two other things I would like to say——

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. HAYS. Mr. Speaker, somebody has asked how much the system cost to contract. It is for the amount of $1,065,000. They have not been paid, and they will not be yet because it requires my signature, and until such time as I am satisfied it works they will not be paid.

Mr. Speaker, I do want to say this to the Members, though: It does sound like a lot of money, but again we were mandated to do it. If this system had been in effect during the first session of this Congress, I have been informed that it would have saved 15 minutes per rollcall or a total savings of 91 hours, which would have accrued to each Member: 91 hours per Member or a total of 39,585 hours would be saved during the first session of Congress. If you figure that out at the number of times the Member's salary that would be, 40 hours a week, and at the hourly rate, the thing would pay for itself in about one Congress. Of course, if you figured at $1.60, the minimum wage, it will take longer.

I have one further thing to announce, that is, in addition to this. We will have the bill retrieval system hopefully ready by the 1st of January by which you can call a central station and get a printout of any bill that has been introduced and find out where it stands and what action has been taken on it and whether it has been heard or whether it has been reported out of the committee and so on.

At the moment we have six committees on the line on what they call a Linotron in which committee calendars are composed in a machine up here in the committee office, and that goes by wire to the Government Printing Office and the type is set by a computer and the committee calendar is printed. It is done much faster and at a considerable saving. We estimate that will save in the first year $200,000 for all of the committees—about $200,000 a year in addition to being much more accurate and much faster.

I just say this to you, while we have a viable computer staff, they are not sitting over there doing nothing. They have this program in operation, and they have the other two partly in operation.

Mr. SISK. Mr. Speaker, I yield myself such time as I may consume.

I will be very, very brief.

First let me congratulate the gentleman from Ohio on the fact that the system did work. We do appreciate the demonstration and the opportunity to see how it will work starting with the 93d Congress.

Let me say that an amendment will shortly be offered which will make the effective date just before noon on January 3 of next year.

I would briefly like to comment in

connection with the fallback or fail-safe position with regard to the voting and other matters contained in the resolution.

In brief we propose that machinery be used in all appropriate voting situations, that is, whenever names of Members are to be recorded. We also propose to put in the rules substitution of present procedures as a backup in case the machinery becomes unavailable for whatever the reason may be. We also propose that we use the backup procedures at the discretion of the Chairman of the Committee of the Whole.

We also are suggesting two additional changes in the backup procedure. The first occurs in the procedure for tellers with clerks or what is called the recorded teller vote.

I want to emphasize that the amendments we offer do not in any way alter the basic substance of that procedure. What we are trying to do is to simplify the process.

I might add what we propose is substantially the way the Democratic caucus asked for during the past year. As the rules now stand a Member must make two separate requests to get a recorded teller vote, and we know the procedures.

We propose that that two-step procedure be dropped and that a single-step procedure be substituted therefor. A Member will simply request a recorded teller vote, and that will take care of any situation.

We further propose doing away with the time-consuming process of making Members act as tellers in the recording of the teller votes. There is no reason why Members must be found to stand at the head of the aisle to record the vote. Clerks will simply be required to do that in the future in the event that there are teller votes.

Mr. Speaker, we are also proposing a new method for recording Members during quorum calls. At the present time, as you know, the Clerk calls the roll twice and recognizes Members in the House in a time-consuming process. Again we have a recommendation from the caucus in connection with this matter. In effect this method would have the Clerks tell the Members just as they do in a recorded teller vote, for instance, in recording the presence of the Members.

Instead of calling the roll, the Clerks would merely record the names of the Members as they came up the aisle in the Chamber, or in any other fashion that the Speaker made known.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I will be glad to yield to the gentleman from Ohio.

Mr. HAYS. You could use the electronic system for a quorum call.

Mr. SISK. Certainly. In almost all cases I think the electronic system will be used. What I am explaining is the so-called backup procedure in the event that we did not desire to use the electronic system.

Mrs. HECKLER of Massachusetts. Mr. Speaker, with the gentleman yield?

Mr. SISK. I will be glad to yield to the gentlewoman from Massachusetts.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I thank the gentleman from California for yielding to me.

I must confess, Mr. Speaker, that I am quite impressed with this proposed system, and I am especially hopeful that the time savings that have been indicated will actually occur. However, I am somewhat concerned about the fact that there are two HECKLERS in the Congress, one from Massachusetts and one from West Virginia, and there is a very close spelling in the two names. I am wondering whether this could produce a situation in which precise voting would not be recorded for each of these individuals. I am wondering actually whether there is such a potential for confusion for having a mistake occur in the RECORD, and whether or not we should add the names of the States after the names.

Mr. SISK. Let me say to the gentlewoman from Massachusetts that I appreciate her remarks, and certainly there may have to be some variations that would have to be made, it would seem to me, for proper identification so as to make a distinction in a number of cases where you have Members with the same names from different States.

Take the State of Massachusetts, for example, that could be added after the name of the gentlewoman from Massachusetts, and West Virginia could be added after the name of the gentleman from West Virginia, Mr. HECHLER.

Mr. HAYS. Mr. Speaker, would the gentleman yield?

Mr. SISK. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I might state to the Members that this is one of the oversights that has not been taken care of, and that will be done so that there will be further identification after the name of any individual where there are duplicate names in the Chamber.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I have worked for the last 10 years on computers for the Government, for the Congress, in the executive branch as well as the administrative branch, and I wish to say that I believe that the Committee on House Administration under the leadership of the gentleman from Ohio, WAYNE HAYS, has done an exceptionally fine job in trying to implement that which most of us in the House of Representatives thought would be a step forward.

I might add that we have had computer voting in the Texas Legislature for 30 years, and I believe that it is high time that we in the Congress of the United States try to implement the program. As in the case with the State of Texas, it may not be absolutely perfect, and there may be some necessary changes to be made in the system if it does not work out; and if it does not it certainly can be corrected.

Mr. Speaker, again I want to say that this Congress owes a debt of gratitude to the gentleman from Ohio, WAYNE HAYS, for his courage in taking this matter on despite the jibes and the comments of people who are really not too well informed on this matter, and I personally want to congratulate the gentleman from Ohio (Mr. HAYS).

Mr. HALL. Mr. Speaker, I desire to join in the tributes paid to our colleague, H. ALLEN SMITH, for his service in the House of Representatives. During our association together in this body I have come to admire Representative SMITH for his keenly analytical mind, his dynamic dedication to his duty as a legislator, his mature and judicious judgment, and his articulate advocacy of his positions, all of which has been made more effective by his pleasing personality.

For the record, I should like to report briefly on Representative SMITH's contribution to legislation which has been a high mark in my own career in the House of Representatives, namely the Legislative Reorganization Act of 1970.

Mr. Speaker, as one of the original members of the Joint Committee on the Organization of Congress created in March of 1965, I labored many long hours in the cause of congressional reorganization and was fortunate enough to see our work enacted into law in October of 1970 as the first major legislative reform since the Legislative Reorganization Act of 1946.

As a result of the study of the Joint Committee on the Organization of Congress, a bill, S. 355 passed the Senate March 7, 1967 by a vote of 75 to 9. In the House it was referred to the Rules Committee and after one-half day of hearings, no further action was taken in the 90th Congress.

Notwithstanding the absence of overt action I want my colleagues to know that Representative H. ALLEN SMITH devoted many hours to a study of the provisions of S. 355 and the objections to its provisions by various Members of the House. With the aid of the former Counsel of the Joint Committee on the Organization of Congress, our former colleague, George Meader of Michigan, Mr. SMITH worked out a revised version of S. 355 which I inserted in the CONGRESSIONAL RECORD together with other material relating to congressional reform on October 11, 1968.

In the 91st Congress Mr. SMITH as ranking minority Member of the Rules Committee and the Subcommittee on Legislative Reorganization worked diligently and effectively in hammering out a bill which eventually became the Legislative Reorganization Act of 1970.

Mr. Speaker, this act does not bear Mr. SMITH's name but I am sure that in his review of his legislative career one of his most satisfying achievements will be the part he played in the passage of this act so important to the Congress and to the cause of representative self-government.

I wish my friend AL SMITH the best of success and happiness in future years, as we both conclude our service in the U.S. House of Representatives.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, as the Members know, I cannot vote in this Chamber, and I would like to, and I am very anxious to do so some day. But I would ask, under this proposed system, what would prevent someone who is as anxious as I am to vote, of someone handing me their card, and punching the card for them?

Mr. SISK. Let me make a brief comment here. Actually, the Members of the Congress work on their own honor, as we are today. As you will recall, there was an incident in the last Congress in which accusations were made. I do not think anything deliberate had been done, but there were mistakes, apparently, by the clerks. But again it gets down to a matter of the integrity of each Member.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I will be glad to yield to the gentleman from Ohio for any further comments he would care to make on that subject.

Mr. HAYS. Mr. Speaker, I think that the gentleman from California (Mr. Sisk) has summed it up very well, and if I may say so, knowing the high moral principles of the gentleman who is the Delegate from the District of Columbia, I believe, of course, that that would prevent the gentleman from doing anything like that.

But I can tell you that there are some national legislatures in which it is perfectly all right for them if they desire to do so, to do that. One of the most recent incidences of this occurring took place in the French National Assembly on a very close vote, where there were only 17 members on the floor, but the vote was something like 321 to 319.

Mr. SISK. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The gentleman has 15 minutes remaining.

Mr. SISK. Mr. Speaker, I would like to reserve the balance of my time, and I yield to my colleague, the gentleman from California (Mr. Smith).

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Resolution 1123 is to make the changes in the House rules which will be required in order to use the electronic voting equipment installed in the House Chamber. Changes are made at four different points in the rules.

The first change in rule I, clause 5, which deals with how votes may be taken in the House. House Resolution 1123 adds language, which provides that a recorded vote may be taken by electronic device. The procedure would be as follows: A Member may request a recorded vote at any time after the question has been put by the Speaker. The intent is that a request for a recorded vote shall be in order before or after a voice vote, a division vote or a teller vote. If a Member requests a recorded vote and is supported by one-fifth of a quorum, the vote will be taken by electronic device. A Member may no longer demand a vote by tellers with clerks. However, once a recorded vote is ordered, the Speaker in his discretion may order a recorded vote with clerks. This would be similar to the present vote by tellers with clerks, except that the Speaker will appoint clerks to count, rather than Members. A Member shall have not less than 15 minutes to be counted. The time begins to run from the ordering of the recorded vote or the ordering of clerks to tell the vote.

The second change in the rules affects rule VIII, clause 2, which deals with the announcing of pairs. The present rule provides in relevant part, that—

> Pairs shall be announced by the Clerk, after the completion of the second rollcall.

The new language provides that—

> Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote.

This is a technical change to reflect the fact that there will no longer necessarily be a rollcall preceding the announcement of pairs, because of the use of the electronic device.

The third change in the rules affects rule XV which deals with calls of the roll and House. House Resolution 1123 adds language which provides that any rollcall or quorum call may be taken by electronic device. This new language is in clause 5 of rule XV. However, the Speaker in his discretion, may order that the names be called in the traditional manner. The first four clauses of rule XV, which describe the traditional system for taking rollcalls and quorum calls, are left intact for the most part, but are made subject to clause 5, which provides for the use of the electronic device.

As in the case of a vote, Members have not less than 15 minutes from the ordering of a call of the House to have their presence recorded by the electronic device.

In addition to changes in wording necessary to provide for rollcalls or quorum calls by electronic device, there is one part of the present rule XV which is dropped under this resolution. The present clause 2(b) of rule XV allows the Speaker discretion to order the use of tally sheets to record a quorum; once a quorum is recorded, it is in order to dispense with the rest of the call, allowing Members 30 minutes to record their presence on the tally sheet. This procedure was put into the rules as an amendment to the Legislative Reorganization Act of 1970. However, the procedure has never been used, and is removed from the rules by House Resolution 1123.

The fourth change in the rules affects rule XXIII, clause 2, which deals with the Committee of the Whole House. The language changes permit the use of the electronic device to record the presence of a quorum in the Committee of the Whole.

In summary, the major effect of House Resolution 1123 will be to provide for the use of the electronic device, while giving the Speaker the discretion to return to the traditional system as a backup.

Mr. Speaker, the change takes effect on January 3, 1973. I urge its adoption.

Mr. Speaker, I will say to the gentleman from California (Mr. Sisk) that I have four requests for time. Does my colleague have any requests for time?

Mr. SISK. Mr. Speaker, I have only one or two requests, and if the gentleman wishes, he can yield time on his side.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield to me for a question?

Mr. SMITH of California. I am happy to yield to the gentleman.

Mr. ANDERSON of Illinois. In listening to the explanation of the electronic voting system, there is one question that I had and perhaps it would be more properly addressed to the chairman of the Committee on House Administration.

Is there any system connected with the electric voting system itself which would provide for a printed read-out or a breakup, for example, by States so that you can very quickly determine, once the electronic calculator had reflected the totals here on the wall, how a particular State delegation voted—whether it was 19 to 7 or anything of that kind of form of printed breakdown?

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. HAYS. We have not included that in the system at the moment. It can be done. It would involve some more money.

Members of the press have told me that they would like very much to have a print-out for their convenience because one of them told me that it takes him 15 minutes to make a breakdown by himself. Of course, I do not know just how far I would go to spend the taxpayers' money for the convenience of somebody else.

What we are trying to do, I will say to the gentleman, is to get a minimal simple system so that we can have a print-out alphabetically and operative so that the House of Representatives can take another look, and then if the House wants that done, we can do it. It can be done.

Mr. ANDERSON of Illinois. I thank the gentleman.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first of all I want to commend the Committee on House Administration for producing this elaborate and sophisticated and apparently effective system of electronic voting.

As author of the broad amendment to the Reorganization Act 2 years ago, which authorized the action which we are taking today I certainly want to compliment the committee on the effective way in which they have carried out what the House directed or requested at that time.

I want also to pay tribute to my colleague, the gentleman from California (Mr. Leggett) who participated very actively on the authorizing legislation at that time. However, this was not a new idea. I would like to point out that ever since 1914, there have been recommendations of one kind or another for some kind of automatic voting here in the House.

Mr. Speaker, I recall the earlier extended debates when the amendment to the rules which I offered in 1970 was presented and ultimately adopted. As I recall, it was reported that some 6 months of time was spent by this House over an 8-year period simply answering quorum calls and rollcalls. While the accurate recording of votes is vital to this body, it is most unfortunate that we have waited this long to install modern electronic equipment to more accurately and more expeditiously record our attendance and our votes.

Mr. Speaker, I am happy indeed to have contributed to the result which we are witnessing today—and look forward with some pride to the new system of electronic voting which will soon become routine in this Chamber.

Mr. Speaker, at this time I am pleased to give my wholehearted support to House Resolution 1123. I welcome the change which this provides and the historic step forward which we are taking today.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Zwach).

Mr. ZWACH. Mr. Speaker, I thank the gentleman for yielding.

I want to say that this is, indeed, an historic day, and an historic bill.

As this body knows, I am the one who has to suffer through the longest wait to vote in this Chamber. I am aware of the fact that we waste a great many minutes that could be saved.

It was my rare privilege to help install this type of a system in the Minnesota House of Representatives in the 1930's, in the Minnesota State Senate in the 1940's, and I am particularly pleased to be able to participate in this installation here today. It will take us out of the 18th century and put us into the 20th century.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. McEwen).

Mr. McEWEN. Mr. Speaker, I want to commend the chairman of House Administration and the members of his committee for bringing what many of us are confident is going to be a fine, modern, and efficient voting system.

Mr. Speaker, I think we would be remiss today, however, if we did not pay tribute to the work that was done by the former chairman of the Subcommittee on Electrical and Mechanical Equipment, the gentleman from Louisiana (Mr. Waggonner).

I had the privilege, Mr. Speaker, of serving with him on that subcommittee some 2 years. I confess that I did not get to each one of the day-after-day, week-after-week meetings that the gentleman from Louisiana (Mr. Waggonner) had, with a very able staff of consultants that were put together to work this system out.

I will say to my colleague from Minnesota, that as Mr. Waggonner just pointed out, it is true that this is the first electronic system. We have had electrical-mechanical systems, but this is a completely electronic system.

I think we owe a great deal to the gentleman from Louisiana for his leadership that made it possible to bring this to fruition today.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. Schwengel).

Mr. SCHWENGEL. Mr. Speaker, I thank the gentleman for yielding to me and giving me this time to speak briefly.

I want to join in the accolades due our chairman, Mr. Hays, and say to this House that as a member of that committee and the subcommittee that worked on this from the beginning, the chairman and the staff have been very cooperative, very helpful, very thorough, and they did everything to make possible the installation at this early date. This is not an easy thing to do in this House.

I, too, want to pay tribute to others, and one in particular, Mr. Waggonner, whose name has already been mentioned, with whom I served on the committee before he chose to go to another committee. He laid the groundwork—and I think the chairman will agree with this very well—for this legislation. I commend him, and I say to him it was a pleasure to work with him to initiate this program.

I would like also to point out that there are others besides myself who have long looked forward to this day, this historic day, for this opportunity to save money; and, most importantly, to make this House more effective and more responsive to the country's needs.

I predict also what we are doing here will put the pressure on the other body and somehow they will find some way to economize and become more effective over there as a result of the fine example we are setting, and as a result of the additional pressures that have come with time, because of the fact that this will facilitate our work.

Also great tribute must go to a man who has written about this ever since he has been here, especially I think since 1965 he has promoted this idea for this House, and that is the gentleman from Missouri, Dr. Hall.

Mr. Speaker, in the magnificent book entitled "We Propose: A Modern Congress," the chapter on electric voting in the House, by Durward Hall, is a fine argument for this equipment. He says:

> On Bloody Monday, September 13, 1965, the U.S. House of Representatives set a record by remaining in session for 12 hours and 31 minutes. Nine of those hours were consumed just answering rollcalls, 22 of them, each lasting an average of 24.5 minutes.

And he further says:

> From January 4 through October 23, 1965, the House was in session for a total of 798 hours and 25 minutes. Its Members answered 201 rollcalls and an additional 182 quorum calls. The average rollcall takes 25 to 30 minutes; a quorum call, on the average, takes 20 to 23 minutes. Reckoning with the lowest figures in each category, Members of the House last year spent 83 to 84 hours answering rollcalls and another 60 hours responding to quorum calls. The two combined accounted for roughly one-fifth of the total time that the House was in session. (Of course, all the time is not wasted by the individual after he answers or votes, to wit, the famous floor and/or lobby conferences.)

So, Mr. Speaker, we are going to save a lot of time. The time saved will present us with opportunities to do much more important work than waiting for our names to be called on rollcalls.

Mr. Speaker, this is a day I have looked forward to since I came to Congress, having served in the Iowa Legislature, where we had electrical voting machines. I learned the advantage of this equipment, and have thought many times since that time, what a shame that the most important legislative body in the world did not avail itself of the opportunity to install an electrical system like the one we are approving today.

Again, I commend the leadership that made this possible. I commend the Members of Congress who supported the idea, and say that together we can look forward to a more effective and efficient Congress, and one that will be more responsive to the country's needs.

Mr. SMITH of California. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

I have a modest question for someone familiar with the operation of this system and that is, is any record kept if a person changes his vote using this system?

Mr. HAYS. Mr. Speaker, if the gentleman will yield, I would say there is a basic record kept of all actions in the system, but if a Member comes here of course and votes before the final tally has been announced and changes his vote electronically, it will not be in the print out. Only the result will show.

Mr. CONABLE. I thank the gentleman for his answer.

Under the present system, if a person changes his vote we keep a record of it, and it has had the effect of discouraging the changing of votes. I wonder if there is not a possibility that we will have a great deal of strategic maneuvering using this system when there is a close vote and the leadership does not wish the other side to know exactly where the votes are at any given time? We ought to discourage a vote lightly cast, or one changed for strategic reasons or reasons of floor pressure.

Mr. HAYS. Let me say to the gentleman that is the handle perhaps for some further additional system, a simple additional matter, the gentleman tells me, of some further programing so that an additional record can be made. Also there can be a system where after nearly everyone has finished and the time has run out, then the time will be in the control of the Speaker and we can have the people come down and announce their changes orally in the well and it can be recorded at the desk. That can be handled orally or by a change in the rule.

Mr. Speaker, someone facetiously asked me a minute ago if we would have a system for retrieval of Members who voted and rushed out of the Chamber before the respective leadership on either side can latch onto them. I can say to the gentleman there is no plan for such a retrieval system.

Mr. SMITH of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, before I came to this Chamber I was in the printing and publishing business, and in that work I was always impressed with the value of using large and small letters that is, in printer's parlance, upper and lower case, for ease in reading. I raise the question if the committee did look into the possibility of using large and small letters so that there can be an easier reading of the names. The use of large and small letters does give a distinctive conformation to a word and I think makes it easier from a distance to read. All capitals, as now shown, tend to blur into a single bar. If this has not been explored, I simply make that suggestion. It might have the further value of shortening the length of some names so that a State designation could be more readily added.

Mr. SMITH of California. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding. The chairman has already answered my question. I was the one who asked him about this problem of devising an instant retrieval system for Members.

In a less serious vein, I think what is going to happen is that we are going to see the passage of one of the most time-honored traditions around this House. That is the system of putting pressure on Members to change their votes in the well. I think we have to be aware of the fact that a Member can vote and instantly leave the Chamber. I just asked the gentleman from Ohio whether something can be done to equip the leadership with the proper tools, maybe a tracking and retrieval system.

Mr. HAYS. That is really a leadership problem. It will be possible for Members to come into the back of the room and vote and go on their way.

Mr. ASHBROOK. That might help our processes.

Mr. SMITH of California. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. Hall), and that is all the requests I have for time.

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Ohio that the day has come before this lame-duck by self-decision departs, that when we can see this excellent demonstration. I think as the author of the chapter on "electronics" in the book "We Propose" that came out of the Joint Commission on the Reorganization of the Congress between 1965 and 1970 with the help of the Committee on Rules, I can say that this is truly a "red letter" day.

I am happy to hear the additional word, not only about the voting process, about the shortened time, and particularly about the data retrieval and long-line information for the committees and the Record—but, I would hope that the committee, in its wisdom, would go one step further and request the electronic taking down of the spoken words of the Members, simply as a backup to our overworked stenographers. I know the "steep" of tradition, the fears, and the resistance of patronage, but I also recognize the rapidity of Members' technical jargon and human error.

In this day and age there is no excuse for less than total accuracy in transcription.

Mr. SISK. Mr. Speaker, I yield to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I certainly commend the chairman of the committee, the distinguished gentleman from Ohio, and his committee for a magnificent achievement.

I would like to ask a single question. As the result of the alphabetic placement of the names of the Members, some of us find ourselves at the extreme left or extreme right, as the case may be, alphabetically. Since the House is divided traditionally into the majority and the minority sides of the House, I am wondering if it would be feasible, from the standpoint of being better able to see one's own name, if one happens to have his name on the opposite side of the board, to have the Republican Members' names on their side and the Democratic Members' names on their side, instead of completely alphabetical.

Mr. SISK. Let me say that this question, I understand, has been raised by several people here who ask if these names can be changed. There is no question but what the system is built in such a way that it can be. Of course, come January of 1973, there are going to be substantial changes. So, there is no question but what, if it is decided to in the best to do that, I am sure that can be done.

I yield to the gentleman from Ohio (Mr. Hays).

Mr. HAYS. The gentleman is exactly right. The names are on a plate which simply slides in and out of a slot, so there is no great problem to rearrange the names.

Again, that is a question for the Committee on Rules to decide and for the House to decide. We were told to put the names alphabetically, so that is what we did. It would be a matter of hours to change the style.

Mr. SISK. Mr. Speaker, I yield to the gentleman from Texas (Mr. White).

Mr. WHITE. Mr. Speaker, I would like to ask the gentleman from Ohio (Mr. Hays) two questions.

Presently, when someone in the House suggests the absence of a quorum, the Chairman or the Speaker counts those present under the present rules. Under the proposed rules, does the gentleman from Ohio believe the Chair or Speaker could ask the Members to register without record in order to determine whether or not a quorum exists at that time?

Mr. HAYS. That would be possible, but I suspect that there would be no great amount of time saved.

Mr. WHITE. Will the committee entertain such a suggestion?

Mr. HAYS. Again, that would be a matter for the Committee on Rules, I think.

Mr. WHITE. On a division of votes under the proposed rules as we will have them before us today, could the Chairman call for a registration by the membership in order to determine the vote on a division vote, without record?

Mr. HAYS. Again, that is up to the Committee on Rules. I would think that if anyone wanted a recorded division, he could simply do it as everyone does it now by demanding tellers, recorded tellers, and that would do it.

Mr. WHITE. I am asking about unrecorded.

Mr. HAYS. If anyone is dissatisfied with the division now, he asks for recorded tellers. They can do the same.

Again, I think it would get into a matter which would take a long time when you do it the other way. You have to set a time to allow the Members to register their votes.

Mr. LEGGETT. Mr. Speaker, I want to sincerely compliment my colleague, Wayne Hays of Ohio, for effecting the installation of the electronic voting system in the House of Representatives. The reference has been made that the House mandated this installation. Actually this statement is not correct.

Back on July 27, 1970 when we had the Sisk congressional reorganization bill before the Congress, the gentleman from Illinois, Bob McClory, offered the amendment to allow the installation of a modern electronic voting procedure. I offered subsequently an amendment to mandate the installation of a 15-minute system by the opening of the current Congress.

Upon the assurance of the distinguished subcommittee chairman, Joe Waggoner of Louisiana, that his committee would move ahead forthwith to award a contract on the study and construction of this system, I withdrew my amendment. All of the House Administration Committee are to be congratulated on implementation of the McClory-Waggonner electronic voting system. A portion of the 1970 colloquy follows:

AMENDMENT OFFERED BY MR. McCLORY

Mr. McClory. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 39, immediately below line 4, insert the following:

"RECORDING OF ROLLCALLS AND QUORUM CALLS THROUGH ELECTRONIC EQUIPMENT

"Sec. 119. (a) Rule XV of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"5. In lieu of the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call, the names of such Members voting or present may be recorded through the use of appropriate electronic equipment. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of the names of those Members recorded as voting in the affirmative and those Members recorded as voting in the negative, or a list of the names of those Members voting present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions.'

"(b) The contingent fund of the House of Representatives shall be available to provide the electronic equipment necessary to carry out the purposes of the amendment made by subsection (a)."

(By unanimous consent, Mr. McClory was allowed to proceed for an additional 5 minutes.)

Mr. McClory. Mr. Chairman, in the course of the debate on the last amendment, we had a great deal of discussion of the subject of electronic voting and the recording of votes by the use of electronic equipment.

What my amendment would do is to merely make it permissive for the House to adopt an electronic system for recording rollcall and quorum call votes. The amendment would recognize on the part of the House that we can utilize electronic equipment effectively in connection with such rollcall votes and quorum calls. It does not require any particular system or device. It makes the electronic method permissive. It provides an alternate system by which we can record these votes and hopefully save a great deal of time of the House in connection with these time-consuming oral rollcalls and quorum calls as required now under rule XV.

This is not a new suggestion by any means. It was recommended to the House in 1914, and has been the recommendation of a number of committees. I might say that in 1914 it was rejected because it was reported that the House did not need to save time. It was pointed out in the minority views at that time that there was no need for the House to save time, because the House was completing its work before the Senate, and also it was felt that the use of any such electronic equipment was incompatible with legislative work.

I am sure we recognize now that to adopt a modern system, a modern method, of recording our votes, will enable us to save time for our multitudinous other legislative duties. Such a change is consistent with the entire purpose of the Reorganization Act.

I cannot help but feel that this amendment would be a signal to the American people that we are determined to modernize our methods and procedures to the end that we can perform our jobs in a more efficient and less time-consuming manner.

I should like to point out that a report on this subject was made by a member of the original Reorganization Committee, the gentleman from Missouri (Mr. Hall). It is also the subject of legislation at this session introduced by the gentleman from Florida (Mr. Bennett), and the gentleman from Wisconsin (Mr. Davis).

I know that the Committee on House Administration has already undertaken studies. I know that the Clerk has made recommendations to the Committee on House Administration, and I feel that this amendment is an expression of support of the House for the work of the Committee on House Administration and perhaps to emphasize the need to bring their recommendations to the floor of the House in the form of a more specific and detailed change at the earliest possible time. It does not specify a particular system.

Mr. Chairman, may I say that there are some fears that somehow we are going to spoil the appearance of this Chamber. This is something I certainly do not want to do. I would like to point out that there are methods now by which you can have a clear, frosted glass panel with no names appearing on it, but upon which the names will appear electronically only at the times that the rollcall vote or the quorum call is occurring.

The question also has been raised as to whether or not we will have to assign seats. We do not have to have assigned seats in order to locate activating buttons or devices for indicating our votes. We can have stations or tables at which the activating buttons may be placed. There are a great many details that can be worked out, but first of all we have to grant the authority for such an alternate system. That is the entire purpose of the amendment I am offering. It is an alternate method of voting on rollcalls and quorum calls other than the laborious system required under rule XV of the present rules.

Mr. Hechler of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. McClory. I am glad to yield to the gentleman from West Virginia

Mr. Hechler of West Virginia. Mr. Chairman, I very strongly support the amendment offered by the gentleman from Illinois. It seems to me that the Congress ought to be at least as up to date as many State legislatures which have already installed electronic voting and thereby brought their procedures up to date. We waste so much time on this floor by rollcalls and quorum calls. I think we can logically extend what we have done through the amendment offered by the gentleman from Massachusetts (Mr. O'Neill) to provide for electronic voting on the floor. I commend the gentleman from Illinois and all of his associates who are supporting this amendment.

AMENDMENT OFFERED BY MR. LEGGETT TO THE AMENDMENT OFFERED BY MR. M'CLORY

Mr. Leggett. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Amendment offered by Mr. Leggett to the amendment offered by Mr. McClory.

After the word "rollcall" on line 4 strike "or".

After the word "present" strike the word "may" and insert the word "shall".

After the words "electronic equipment" insert the following: "commencing with the opening of the second session of the 92d Congress.

"The automatic voting procedures shall be established by the Clerk with the advice and counsel of the House Administration Committee which will meet the following minimum criteria:

"All foregoing votes shall be—

"(a) Recorded within a maximum 15 minute period of time, and

"(b) Supervised, such that the integrity of the voting system will be preserved".

Thereafter strike the words "In any such case,".

Mr. Leggett. Mr. Chairman, my amendment to the amendment offered by my colleague from Illinois (Mr. McClory) is very simple, and will bring this body under appropriate safeguards 18 months to come into the 20th century with appropriate modern machinery.

The amendment would require and authorize the Clerk of the House, with the advice and counsel of the House Administration Committee—particularly the Waggonner subcommittee—to install a system that would be as secure or more secure than the pending system and that would allow the completion of a rollcall or quorum call in a maximum of 15 minutes.

Gentlemen, I think we are all too busy to spend 25 percent of our total floor time in the recording of our vote or presence under the very cumbersome procedure now in effect.

In one of the flyers I sent around to every Member of the House, I said that my amendment could save you 2 hours a week. This amendment could do better than that.

Let us look at the record of the past three sessions of this House. How much time was in session? How much time was required for rollcalls and quorums, but not including standing and teller votes?

An analysis of the time spent follows:

1967

Time House Convened: 868 hours, 16 minutes.

Time Calling Roll (including both Roll Calls and Quorum Calls): 201 hours, 9 minutes, equaling 22.3%.

Average time for Roll Call was 27 minutes.

1968

Time House Convened: 726 hours, 36 minutes.

Time Calling Roll (including both Roll Calls and Quorum Calls): 198 hours, 32 minutes, equaling 27.8%.

Average time for Roll Call was 27.8 minutes.

1969

Time House Convened: 747 hours, 21 minutes.

Time Calling Roll (including both Roll Calls and Quorum Calls): 172 hours, 11 minutes, equaling 23%.

Average time for Roll Call was 29.3 minutes.

Source: Annual report of House Reading Clerks to the Clerk of the House.

The enactment of the pending amendment could change all this. A maximum time of 15 minutes would be provided for each voting procedure. The Clerk would be mandated with appropriate advice and counsel of the House Administration Committee to create and deploy a system—a system whereby each Member could perhaps individually pick up his electronic card—like a charge plate or bank card or thumbprint—and could vote yes or no and visually observe on an electric panel or sedate screen his vote. This he cannot do under the present system.

He could visualize his colleagues' vote before he voted if he so desired. This he cannot do under the present system. The leadership could visually observe the whole board were they interested in effecting a voting change during the 15-minute period.

We would effectively get rid of dead time—that time after the bells ring when we continue to sit in our office until after the second bells ring to move to the floor.

Mr. Chairman, do you realize that on every rollcall the Clerk calls out 1,000 names—1,000 chances for human error—2 times 435 plus recognition of 200 Members many times in the well of the House.

Consider the value of the time lost—the average time for a rollcall is 30 minutes, of late 45 minutes—we could save half of this time.

If this rule had been in effect last year, every Member of the House could have saved 100 hours to do people's business or anything else. At $20 per hour, that would equal $2 million of productive work saved for the people.

We would be creating more democracy on the floor—more time might mean more votes on important issues and more time to express the will of this House.

Mr. Hechler of West Virginia. I support what the gentleman from California is saying. I think the only way that this can be attained is to do it and to mandate it. I, therefore, plan to support the Leggett amendment. I have been officially informed that 37 out of the 50 State legislatures now have electronic voting. I repeat, can we not in Congress be at least as up to date as 37 out of the 50 State legislatures? I think we can do it. I hope the Leggett amendment is supported and adopted.

Mr. Gude. Mr. Chairman, will the gentleman yield?

Mr. Rees. I yield to the gentleman from Maryland.

Mr. Gude. I merely wish to support the comments of the gentleman from California on the Leggett amendment. The gentleman spoke of the members of the committee having gone to California to study the equipment there, I point out that we have electronic voting in Annapolis and it works perfectly. I hope the amendment will be adopted.

Mr. Steiger of Arizona. Mr. Chairman, will the gentleman yield?

Mr. Rees. I yield to the gentleman from Arizona.

Mr. Steiger of Arizona. I thank the gentleman. Is it the gentleman's understanding that the 18-month time prescribed by the Leggett amendment to the McClory amendment would preclude an earlier installation than 18 months? Is there a technological barrier?

Mr. Rees. I believe the Leggett amendment states "shall be installed" by X date, and X date would be the beginning of the second session of the next Congress.

Mr. Waggonner. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman, I believe that anyone who has been round here for awhile will realize that what the gentleman who just preceded me says we can do cannot be done, or else we would not have this proposed reform package of rules here today under the circumstances that we do.

Let us get one thing in proper perspective. Nobody has been studying, except in the

91st Congress, anything having to do with an electronic voting device.

Let us get some other things in proper perspective. All the voting devices which exist in every one of the State legislatures are either electrical or mechanical. None of them are electronic. The Committee has been working just in the 91st Congress.

What we have just done in the previous amendment was to adopt an amendment which provides a record vote, utilizing either of two alternative methods in recording teller votes in the Committee of the Whole. What we are talking about now has nothing whatever to do with the functions of the House in the Committee of the Whole. What we are talking about now has to do with the operation of the House and the recording of votes when we are in the Whole House out of Committee.

Let us devise something that can work in both places. Let us meld the two. Let us have a little bit of opportunity to provide something that will work in the Committee of the Whole and in the Whole House. Do not be swayed by the fallacious argument that you can go to the Rules Committee and bring back a rules change almost the same day. You know it cannot be done. It never has been done and it never will be done. The Committee on House Administration has been working just in this Congress. The Committee on House Administration is going to bring back some proposals, some recommendations to this Congress.

I want to tell you what we found out. I did not go, but some of the committee went to California and to Washington State. They told me that the legislators out there told them that there was more hanky-panky with the voting devices out there than we have with our system. There are two criticisms of what we are doing: We use too much time, and sometimes there is some hanky-panky. You cannot eliminate either problem but you can reduce them to a minimum.

We have to be practical. We have to think about a system that will work. We must be realistic.

How many Democrats are in the House of Representatives today? It was 244, I believe—before we lost our esteemed colleague from Ohio, tragically enough, last night.

How many seats are there on this side of the aisle? There are 224. And there are 224 over there.

What sort of system will we use? We do not have assigned seats so we cannot have individual stations. We will develop one that will work, after we give it proper study? We have a mandate from the Congress, I believe, to provide a recommendation. We can proceed to do it under the language of the McClory amendment. We can dovetail that with what was proposed and adopted here today in the O'Neill of Massachusetts-Gubser amendment.

If the Members want something that will work, and will be better for this Congress just give us an opportunity to put it all together. I suggest it would be far better for us today to reject the Leggett substitute for the McClory amendment and to go ahead with the McClory amendment, and let us proceed, in due time and with haste.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding. The proposer of the amendment stated that it would give 15 minutes' time, and it would take 2 or 3 minutes to get the total. That is 18 minutes.

Mr. WAGGONNER. Let me say that there is nothing in the amendment which has to do with time.

Mr. ROBERTS. It takes 27 minutes now. That means at the most it would save 9 minutes. On 100 votes, saving 9 minutes for each, that is 900 minutes a year, at a cost of $200 million. I believe we could wait until we can get a machine to do the job.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding and for his expression of support. It seems to me that the gentleman's argument is very valid.

Is it not true that if we adopt an electronic method of recording votes on rollcall votes and quorum calls, we will need detailed changes in the rules in order to accommodate ourselves to this alternative system that would be developed?

Mr. WAGGONNER. There is no question about it. Everything we are doing here today is going to project some other rules changes.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman from California.

Mr. LEGGETT. I compliment the gentleman for the good work he is doing with the Mechanical Data Processing Subcommittee. I presume the reason why we have not gotten through the electronic rollcall recommendations is that the gentleman has been spending so much time with the data processing procedures up to now during the 91st Congress.

I am pleased to have the assurance of the gentleman that this committee, and the subcommittee of which he is chairman, will make recommendations during this Congress. With that in mind, I believe I will take his assurance. I know he is doing good work He has several subcontracts out now for data processing.

I rely on that, and I am willing to withdraw my amendment to the McClory amendment at this time.

Mr. PRICE of Illinois. Mr. Speaker, today, by adopting House Resolution 1123, providing for electronic voting, this body took a giant stride toward greater efficiency and enlarged confidence in the work of the House of Representatives.

Few people appreciate the tremendous amount of just plain hard work that is necessary before such a step as this can be taken confidently, but all of us realize that behind all real accomplishments there is leadership, and in this case we owe a debt of gratitude to Chairman WAYNE HAYS and his colleagues on the Committee on House Administration. Though others also deserve credit, WAYNE HAYS was the catalyst that brought all of the various contributions together into this single accomplishment.

Over 4 years ago, the Honorable Speaker John McCormack called upon the Committee on Standards of Official Conduct to investigate alleged irregularities in vote recording procedures. The committee, which I am honored to chair, concluded, after an in-depth examination, that the entire system was in serious need of overhaul and recommended modernization. This has now come about, and I am confident that the results will be worth the considerable effort that WAYNE HAYS and the Committee on House Administration have devoted to it.

Mr. Speaker, I support the installation of electronic voting in the House. Unquestionably, there is a need for improving our present voting procedure, which is both cumbersome and time consuming. Too much time is wasted on rollcalls and quorum calls when the Members of the House could be deliberating more important matters. The installation of this electronic system will allow us to devote more time for the business of the House.

However, I must caution my colleagues that the installation of this system opens other doors, which are not necessarily desirable. There is always the possibility the new system could be abused or misused. For example, it could lead to the practice of "ghost voting," such as happened recently in the State government of Pennsylvania where votes were cast for members of the general assembly who were not on the floor or, in one instance, even in the country.

I urge my colleagues to support this improvement in House procedure, but emphasize we must guard against any misuse of the new system which could tend to destroy the credibility of Congress in the eyes of the public.

AMENDMENT OFFERED BY MR. SISK

Mr. SISK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SISK: On page 6, immediately below line 19, insert the following:

SEC. 2. The amendments made by the first section of this resolution shall become effective immediately before noon on January 3, 1973.

Mr. SISK. Mr. Speaker, the reading of the amendment makes it very clear that this will simply make this system effective as of January 3, 1973, immediately before noon, which, of course, will be for the 93d Congress.

I ask for a vote on the amendment.

The amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks on the resolution.

The SPEAKER pro tempore (Mr. BOGGS). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZED STRENGTH OF NAVAL RESERVE, JUDGE ADVOCATE GENERAL'S CORPS, GRADE OF REAR ADMIRAL

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3310) to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (3) of section 5457(a) of title 10, United States Code, is amended to read as follows:

"(3) Supply Corps—7.".

(b) Section 5457(a) of such title is further amended by redesignating clause (6) as clause (7) and adding after clause (5) a new clause (6) as follows:

"(6) Judge Advocate General's Corps—1.".

Mr. NEDZI. Mr. Speaker, S. 3310 is a bill to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes.

The Judge Advocate General's Corps was established as a staff corps of the Navy in 1967. Officers of both the regular Navy and the Naval Reserve who, before creation of the new corps, were law specialists in the line of the Navy became members of the Judge Advocate General's Corps by operation of the new law. Before establishing the Navy Judge Advocate General's Corps as a staff corps, Reserve law specialists could aspire to flag rank as line officers. This 1967 law, however, removed from Naval Reserve judge advocates the possibility of promotion to flag rank. Only one Reserve law specialist was ever promoted to rear admiral under the line officer opportunity.

Section 5457(a) of title 10, United States Code, provides an authorized strength in the Naval Reserve in officers in an active status in the grade of rear admiral at 48, distributed among the line and staff corps as follows:

(1) Line, 28.
(2) Medical Corps, 7.
(3) Supply Corps, 8.
(4) Chaplain Corps, 1.
(5) Civil Engineers Corps, 2.
(6) Dental Corps, 2.

But when thse law created the Judge Advocate General's Corps as a staff corps of the Navy, it did not change section 5457(a) of the Code and no provision was made for authorizing flag officer strength for Reserve officers in the Judge Advocate General's Corps.

By this bill, we reduce the number of authorized rear admiral strength of the supply corps by one—from 8 to 7—and authorize in its place a rear admiral strength of one in the Judge Advocate General's Corps of the Navy. The effect of this is to provide a billet for one rear admiral in the Judge Advocate General's Corps in the Naval Reserve without altering the current total authorized rear admiral strength of the Navy Reserve. In reality, this would correct an inequity in the present law and would result in no additional cost to the Government.

I urge each of you to support this bill.

Mr. BRAY. Mr. Speaker, I rise in support of S. 3310.

When we created the Judge Advocate General's Corps, we really should have amended section 25457(a) of title 10, United States Code, which distributes the rear admiral strength in the Naval Reserve at 48 and assigned at least one of the billets to the Judge Advocate General's Corps. However, because of an oversight, this we did not do.

The legislation before you today really corrects that oversight.

It would not add any additional admirals. It will not add any additional cost. It merely redistributes the rear admiral positions, taking away one from the Supply Corps and assigning it to the Judge Advocate General's Corps.

This is a fair bill and I urge the support of every Member of this body.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NONGERMANE SENATE AMENDMENTS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1153 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1153

Resolved, That (a) the last two sentences of clause 1 of Rule XX of the Rules of the House of Representatives are amended to read as follows: "Any motion to agree, or agree with amendment, to any House or Senate bill or resolution or amendment thereto (other than a motion to agree to a conference report) shall require for adoption, or demand of any Member, a separate vote on each such amendment (including a separate vote on any nongermane part of an amendment in the nature of a substitute), if, originating in the House, such amendment would be subject to a point of order on a question of germaneness under clause 7 of Rule XVI. Before such separate vote is taken, it shall be in order to debate such amendment or part for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such amendment or part.".

(b) Clause 3 of Rule XX of the Rules of the House of Representatives is repealed.

(c) Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"4. (a) With respect to any report of a committee of conference called up before the House containing any matter which would be in violation of the provisions of clause 7 of Rule XVI if such matter had been offered as an amendment in the House, and which—

"(1) is contained in any Senate amendment to that measure (including a Senate amendment in the nature of a substitute for the text of that measure as passed by the House) accepted by the House conferees or agreed to by the conference committee with modification; or

"(2) is contained in any substitute agreed to by the conference committee;

it shall be in order, at any time after the reading of the report has been completed or dispensed with and before the reading of the statement, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in the report.

"(b) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

"(c) Notwithstanding the final disposition of any point of order made under paragraph (a), or of any motion to reject made pursuant to a point of order under paragraph (b), of this clause, it shall be in order to make further points of order on the ground stated in such paragraph (a), and motions to reject pursuant thereto under such paragraph (b), with respect to other nongermane matter in the report of the committee of conference not covered by any previous point of order which has been sustained.

"(d) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected, and the question then pending before the House shall be whether to recede and concur with an amendment which shall consist of that portion of the conference report not rejected. If all such motions to reject are defeated, then, after the allocation of time for debate on the conference report as provided in clause 2(a) of this Rule, it shall be in order to move the previous question on the adoption of the conference report.".

SEC. 2. (a) The first sentence of clause 2 of Rule XXVIII of the Rules of the House of Representatives is amended to read as follows: "It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding any Saturday, Sunday, or legal holiday) after such report and the accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session.".

(b) Clause 2 of Rule XXVIII of the Rules of the House of Representatives is amended—

(1) by inserting "(a)" immediately after "2."; and

(2) by adding at the end thereof the following new paragraph:

"(b) It shall not be in order to consider any amendment (including an amendment in the nature of a substitute proposed by the Senate to any measure reported in disagreement between the two Houses, by a report of a committee of conference that the committee have been unable to agree, until the third calendar day (excluding any Saturday, Sunday, or legal holiday) after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any such amendment unless copies of the report and accompanying statement, together with the text of such amendment, are then available on the floor. The time allotted for debate on any such amendment shall be equally divided between the majority party and the minority party.".

(c) The first sentence of clause 27(d)(4) of Rule XI of the Rules of the House of Representatives is amended to read as follows: "A measure or matter reported by any committee (except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct) shall not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report of that committee upon that measure or matter has been available to the Members of the House.".

SEC. 3. (a) Clause 3 of Rule III of the Rules of the House of Representatives is amended—

(1) by striking out ", the Delegate from the District of Columbia," at the first, second, and fifth places occurring therein and inserting in lieu thereof ", Delegates,"; and

(2) by striking out ", the Delegate from the District of Columbia," at the third and fourth places occurring therein and inserting in lieu thereof ", Delegate,".

(b) Clause 1 of Rule IV of the Rules of the House of Representatives is amended by striking out "keep the accounts for the pay and mileage of Members, the Delegate from the District of Columbia," and inserting in lieu thereof "and keep the accounts for the pay and mileage of Members, Delegates,".

(c) Rule VI of the Rules of the House of Representatives is amended by striking out ", the Delegate from the District of Columbia," and inserting in lieu thereof ", Delegates,".

(d) Clause 1 of Rule XXXII of the Rules of the House of Representatives is amended by striking out ", the Delegate from the District of Columbia," and inserting in lieu thereof ", each Delegate to the House,".

(c) The second paragraph of clause 8 of Rule XLIII of the Rules of the House of Representatives is amended by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "each Delegate to the House".

(f) The last paragraph of part B of Rule XLIV of the Rules of the House of Representatives is amended by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "each Delegate to the House".

Sec. 4. (a) Clause 3 of Rule X of the Rules of the House of Representatives is amended by striking out "be" and inserting in lieu thereof "is".

(b) Clause 26(e) of Rule XI of the House of Representatives is amended by striking out "clause 3" and inserting in lieu thereof "clause 4".

(c) Clause 27(a) of Rule XI of the Rules of the House of Representatives is amended by striking out "Committees" in the second sentence and inserting in lieu thereof "Each committee".

Sec. 5. Clause I of Rule XXXII of the Rules of the House of Representatives is amended by inserting immediately after "any bill pending before Congress," the following: "elected officers and elected minority employees of the House (other than Members), the Parliamentarian and former Parliamentarians of the House, former elected officers and former elected minority employees of the House (other than ex-Members) who are not interested in any claim or directly in any bill pending before Congress,".

Mr. SISK (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The **SPEAKER** pro tempore. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Smith) pending which I yield myself such time as I may consume.

This resolution, House Resolution 1153 covers several other topics: nongermane Senate amendments to House-passed bills; the 3-day rules on conference reports and committee reports; procedure when House conferees report they have been unable to come to an agreement with Senate conferees; the rights and privileges of the delegates from Guam and the Virgin Islands, who will be with us in the next Congress; extending the privilege of the floor to former officers of the House; and a few technical amendments to correct bad grammar and incorrect cross-references in the rules.

Most of these are explained in detail in the report on the resolution, House Report 92-1451, which I hope Members have read very carefully. My own remarks will be limited to describing the problems that prompted us to suggest these rules changes.

Mr. Speaker, the first section of the resolution grapples with this thorny problem of Senate nongermane amendments. Frankly, I thought we had settled that matter through section 126 of the Legislative Reorganization Act of 1970. But our experiences under the rules changes brought about by that act make it pretty clear that our rules do not yet adequately deal with the situation.

I think we all understood the basic purpose of section 126. It was to give the House an opportunity to have separate debate and a separate vote on Senate nongermane provisions attached to House-passed measures. Unfortunately, the way in which that section was written did not take into account the special parliamentary problems raised by amendments in the nature of a substitute. Our present rules permit us to debate and vote on the whole of nongermane Senate amendments, but not on the specific nongermane parts of Senate amendments. This means that when we are dealing with a Senate amendment in the nature of a substitute, under the present rules and precedents we are limited to a single vote on the whole amendment—all up, or all down. We cannot separate out the nongermane parts of that amendment in the nature of a substitute for individual consideration.

Mr. Speaker, the Committee on Rules literally spent months trying to find a way out of this dilemma. We finally settled on the approach that appears in the first section of this resolution.

I will not go into the details of the proposed procedure; most of them are laid out in the report. But I do want to point out to the House that this approach will introduce three new parliamentary devices into the practices of the House.

First, it will permit us to have separate votes on the nongermane parts of conference reports, where now we may not have such separate votes.

Second, it will permit the House to debate and vote separately on all nongermane parts of a conference report, even after the House has rejected any one of them.

Third, and this is a modification of what we originally reported—we retain the present concept that when any part of the conference report has been rejected, the whole report is automatically rejected. But, we provide that if any part is rejected, the pending question will then be to recede and concur with an amendment, and that amendment shall consist of all of the conference report except the rejected parts. With this device we will give the Senate an opportunity to accept our version, to ask for another conference, or to deal with the measure in some other suitable way.

Section 2 of House Resolution 1153 does two things.

First, it changes the wording of the 3-day rule on conference reports and the 3-day rule on committee reports to make it clear that what we mean is 3 days and not 4. As the rules are presently interpreted, a conference report filed on a Monday is not eligible for floor consideration until Friday. We think this is unreasonable. So we suggest changing the language of the rule to make sure that a conference report filed on Monday could be considered on Thursday. Surely, this should give Members enough time to study the report.

Mr. Speaker, there was some dissatisfaction with the language we originally proposed to deal with this problem. It was suggested that our original language would not have insured the printing of conference reports and accompanying statements in the Congressional Record 3 days before consideration. We have amended the resolution to accomplish that very thing.

Some concern was also expressed about the language we originally suggested to amend the 3-day rule on committee reports, where we face the same problem. Here again, we have changed the resolution to make it clear that a measure may be considered on the third calendar day on which it has actually and physically been available to Members. If a report becomes available on Tuesday, the measure to which it applies will be eligible for floor consideration on Thursday.

Section 2 of the resolution also takes care of a problem that arose recently concerning situations in which House conferees report they cannot come to an agreement with the Senate. The Chair has ruled that in situations of this kind, the normal rules on conference reports do not apply. The report of the conferees need not be available for 3 days before consideration; the report need not be available on the floor; and the debate time does not have to be equally divided for and against.

The Committee on Rules believes that all reports of conferees should be subject to these conditions, even when the conferees have not come to an agreement. House Resolution 1153 will accomplish this goal.

The remainder of the resolution, Mr. Speaker, makes some adjustments in the rules to accommodate the presence of delegates from Guam and the Virgin Islands, who will be among us next year. The resolution also extends the privilege of the floor to former officers of the House, former elected minority officers—by which we mean the minority Clerk, Sergeant at Arms, Doorkeeper, and Postmaster—and former Parliamentarians. We believe this is a reasonable courtesy we should extend to officials who have given the House such loyal and devoted service.

COMPARISON OF DIFFERENCES BETWEEN H. RES. 1138 AND H. RES. 1153

1. DISPOSITION OF CONFERENCE REPORTS

H. Res. 1138

If any motion to reject a portion of a conference report has been agreed to, the question recurs on agreeing to that portion not rejected.

Rejected portions only are thereupon automatically recommitted to conference.

H. Res. 1153

If any motion to reject a portion has been agreed to, the question recurs on receding and concurring with an amendment, the amendment to consist of that portion of the conference report not rejected.

2. THREE-DAY RULE ON CONFERENCE REPORTS

H. Res. 1138

Required printing of conference report in the Congressional Record, but for no specific number of days.

3. THREE-DAY RULE ON REPORT OF CONFEREES IN DISAGREEMENT

H. Res. 1153

Requires printing of the conference report and accompanying statement in the Record of the day on which it is filed, thus assuring 3-day availability to Members.

Required printing of report in the Record, but for no specific number of days.

Requires printing of the report and accompanying statement in the Record of the day on which they are filed, thus assuring 3-day availability to Members.

4. THREE-DAY RULE ON COMMITTEE REPORTS

H. Res. 1138

Did not specify the number of days a committee report must be available to Members before the measure involved might be considered on the House floor.

H. Res. 1153

Specifies 3-day availability of committee report to Members before the measure involved may be considered on the House floor.

5. FLOOR PRIVILEGES

Extended floor privilege to former House elected officers.

Extends floor privileges, in addition, to elected minority employees, former elected minority employees, the Parliamentarian, and former Parliamentarians of the House.

Mr. Speaker, of course, I urge the adoption of the resolution. I will have an amendment which I will offer a bit later.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman.

Mr. STEIGER of Wisconsin. I appreciate the gentleman from California yielding to me.

I would want to make clear, Mr. Speaker, at the outset that I am pleased that the Committee on Rules has brought to the House floor this resolution in order to clarify the nongermane question.

I have two questions I would like to direct to the gentleman from California if he would be willing to respond.

One, it is my understanding from your description and the committee report that accompanies this House resolution that if a nongermane amendment is rejected by the House, the situation is such that the conference report is rejected—and the whole conference report goes back to the conference committee with the other body. Is that a clear understanding of the situation?

Mr. SISK. If I can correct the gentleman right there, it goes back to the Senate and not to the conference after the proceeding has been completed and the conference report adopted with amendments. These amendments, of course, would amount to changes by the fact that nongermane matter has been rejected. If the House passes the conference report with the amendments, it is returned to the Senate, at which time they can either accept it on that basis or they can seek another conference with the House or they can use other methods or let the bill die, of course. But it does not go back to conference. After we have acted it goes back to the other body.

Mr. STEIGER of Wisconsin. Will the gentleman yield further?

Mr. SISK. I yield to the gentleman.

Mr. STEIGER of Wisconsin. What goes to conference if the other body requests a conference?

Mr. SISK. Then the entire matter is open in the conference and the original bill as well as the House position expressed in the most recently expressed act of the House. It all goes to conference.

Mr. STEIGER of Wisconsin. So that the situation is——

Mr. SISK. Both the Senate and the House version.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's clarification of that point.

That then leaves us, does it not, not quite as well off as I had hoped we would be in terms of the original resolution reported by the Committee on Rules. I think it is an improvement, however.

My second question is on a matter of timeliness. A point of order, in order to be recognized by the Chair, must be made prior to the reading of the report or the statement of the managers. Is that correct?

Mr. SISK. Yes. That would be correct. It would require that in order to be considered to be timely under the rules of the House.

Mr. STEIGER of Wisconsin. Failure to have raised it at that point would mean it could then not be raised at another point during the consideration of the conference report?

Mr. SISK. That is right. The gentleman is correct.

You understand that a series of points of order could be made on a series of nongermane amendments.

Mr. STEIGER of Wisconsin. Yes. I understand that.

Mr. SISK. But they do have to be raised timely.

Mr. STEIGER of Wisconsin. I was only concerned as to whether it would be possible to raise a series of points of order on a timely basis should we be in that kind of a situation.

Mr. SISK. That is exactly correct.

Mr. STEIGER of Wisconsin. I do compliment the Committee on Rules. I am not certain that we have fully resolved this. I recognize the difficult situation in which both the Committee on Rules has to operate and the House and Senate have to operate. I hope this resolution is adopted so that it will give the House a chance to exercise a legitimate prerogative to have a separate vote and debate on nongermane matters.

I thank the gentleman for yielding to me.

Mr. BINGHAM. Will the gentleman yield to me?

Mr. SISK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to express my satisfaction at the action of the Committee on Rules in amending the resolution originally proposed which would have intolerably limited the time that Members would have to study conference reports and committee reports.

I have no problem with the provisions of the resolution with respect to conference reports. It seems that a full 3 days would be adequate, and may well accord with the House's intention in adopting the present rule. I am somewhat concerned with the provision for the handling of committee reports, and I am not entirely clear as to the effect of this resolution in that regard.

Would this be accurate, that a committee report could be filed at the end of the day Monday and would be available only on Tuesday and then might be brought up on Wednesday?

Mr. SISK. No. If the report was filed on Monday, the committee report—which is what we are talking about?

Mr. BINGHAM. Yes. The committee report.

Mr. SISK. If the committee report was filed on Monday, the way the language is worded, that then could not be called up on the House floor any sooner than Thursday.

Because the report, assuming it is timely printed, would not be available until Tuesday, and under our rules we require the third day, so, Tuesday, Wednesday, Thursday, it would have to be available and could not then be called up until Thursday. In the event, for example, that, let us say the GPO, and as you know, they have had some problems there, and assuming that we filed the report—and normally they would print it that evening so that it would be available on Tuesday, but assume something developed and it was not available on Tuesday, then under the rule it could not be called up until the third day after it is available. We are trying to guarantee the availability of the report for 3 days.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield further, does this mean, in effect, then, that the time for these reports to be studied would be the same as the time for conference reports?

Mr. SISK. Exactly the same. That is what we are trying to do, to conform across the board both the conference reports and the committee reports as to the time that the reports must be available to the membership.

Mr. BINGHAM. Again I would like to thank the gentleman and to express my satisfaction at the action of the Committee on Rules in this regard, changing the original proposal which would, as I understand it, have cut way back on the time reports would be available to Members. It is terribly important if Members are not to operate in the dark with important questions being dealt with under a veil of secrecy, that the Members have adequate time within which to study conference and committee reports. I think this resolution does do that.

With the effective 3-day time period provided for in this resolution, hopefully in the future the number of waivers of the rules in this respect requested and agreed to will be lower than it has been in the past. It is these waivers that have too often frustrated the intent of the House that Members should have time to study reports.

In addition, I believe this resolution makes an improvement in the handling of nongermane amendments, and I shall vote for the resolution.

Mr. SMITH of California. Mr. Speaker,

I yield myself such time as I may consume.

Mr. Speaker, I am taking the well of the House in order to make a few remarks because this will be the last participation I will have in connection with nongermane Senate amendments, and for what value it might be worth when the House starts interpreting this rule after January 3, 1973.

I want the record to show what my intention has been ever since we started on this study of reorganization for what help or what hindrance it may be when you interpret this new rule.

When I first came to the Congress some 16 years ago it was not too long before I heard various Members make objections to nongermane amendments which were added to House-passed bills by the other body.

Then when I was appointed to the Committee on Rules some 11 years ago, it became considerably more of a subject, and one which was discussed at great length. I remember that the former chairman of the committee, the distinguished gentleman from Virginia, Mr. Smith had legislation pending. The present chairman, the distinguished gentleman from Mississippi (Mr. Colmer), was always interested. In fact, it became known as the "Colmer amendment." The Rules Committee discussed it many, many times. We would get to the point where we thought we might be able to bring something to the floor of the House, and then we were discouraged from doing so because of the fear of the leadership that it might affect comity with this body and the other body; that we might cause some hard feelings; and that the other body might take retaliatory action on some House-passed legislation. So nothing was ever done until we had the reorganization study. At that time we came to the conclusion, so far as I am concerned, that the reorganization bill should contain some language as to nongermane Senate amendments.

It seemed to me, if we were going to consider nongermane Senate amendments that we do it under the same rule that we consider suspensions; that we should have a two-thirds vote.

That was in the original reorganization bill when we brought it to the floor. But when we got it to the floor and discussed it at great length, it was determined, I think, by many of us on the floor that we could not get enough votes to sustain that part of the reorganization bill on the two-thirds requirement. So the distinguished chairman Mr. Colmer, if my memory is correct, suggested a majority. It was agreed to and accepted.

Accordingly, if a point of order were made and sustained, a separate vote could be obtained to determine if the House desired to consider it. There would first be 20 minutes of debate for the nongermane amendment and 20 minutes in opposition.

That is the way the Reorganization Act contained the language which went into effect 2 years ago.

For some reason or another, and I am not certain I am ever going to be able to understand it myself, the language covering nongermane amendments was written into a couple of different sections in the rules.

But be that as it may, I thought it could be interpreted in the House and I believe that it was. But the other body did not make the same interpretation that we did.

As I understand from letters I have seen and from conversation I have had, they interpreted the language to say that the Senate could not even consider any nongermane amendments, that conferees could not consider any nongermane amendments and that accordingly the rules of the House were running the Senate and they did not like it.

That was never my intent and I do not think it was the intent of anybody else.

I personally intended that they could consider any nongermane language that they wanted to. If they wanted to take a simple immigration bill and put in a 20-percent social security increase or highway funds or anything nongermane they would have a right to do it and pass the bill and send it back to the House.

Then when it came time to consider the bill here, an objection could be made to any Senate amendment which was not germane and a separate vote could be had with 20 minutes debate on the pro side for the amendment and 20 minutes against it. Then a vote on it. If the majority of the Members rejected the amendment, then that would be out and we could go back to conference with the procedure we finally have here. If we agreed to all of it, the Senate amendments were accepted. I think in the military procurement authorization bill, on that conference report there were several nongermane Senate provisions such as buying chrome from Rhodesia, the so-called Mansfield amendment on ending the war, and others. The rules committee granted a special rule to provide for votes on three of them. We only had votes on the one regarding buying chrome from Rhodesia. It was accepted and then we voted on and accepted the conference report.

In any event, the Speaker brought this to the attention of the Committee on Rules and the chairman reestablished the reorganization subcommittee. We started working on it again and we wrote it and rewrote it and wrote it and rewrote it about a dozen times trying to satisfy everybody. I do not think we can ever satisfy everybody, however we tried.

I attempted to expain this on a conference report earlier this year, when I explained this situation once before. I thought and still feel that only the rejected nongermane amendments should go back to conference. That is the way this resolution was originally written. But that seemed to cause some conflict with the other body. They wanted the whole conference report to go back for further consideration.

So we changed it and it is before us today. I am perfectly agreeable to it. That is the way it will be handled starting next session if House Resolution 1153 is adopted. I want my intention about this to be very clear. The other body can add all the nongermane amendments to a House bill that they want to. The conferees can consider all nongermane Senate amendments. When the amended bill comes back to the House with nongermane Senate amendments, or when a conference report is brought up in the House with nongermane Senate provisions or nongermane parts of the conference report, a Member can make a point of order to any and all nongermane provisions. If the point of order is sustained by the Speaker and subsequently by a vote of the House it will not be in the final consideration of the conference report.

It will go back to the conference, or a new conference, for further consideration. The entire conference report can be reconsidered, not just the rejected parts.

That is my interpretation and I will be interested to see what will happen when the problem arises next year.

I hope this resolution will clear it all up. It is my intention to do so. The following are my comments in explanation of House Resolution 1158.

The purpose of House Resolution 1153 is to provide in one package, several different amendments to the rules of the House. The first section of the resolution deals with nongermane Senate amendments. Section 2 deals with the 3-day rules and rules governing conference reports in disagreement. Section 3 makes rules changes necessary to provide for the new delegates from Guam and the Virgin Islands. Section 4 makes technical corrections in three rules. Section 5 deals with floor privileges.

More specifically, the first section of House Resolution 1153 is designed to give the House an opportunity for separate debate and a separate vote on nongermane provisions attached by the Senate to House-passed measures.

The procedure on conference reports would be as follows. After the reading of the conference report has been completed or dispensed with, and before the reading of the statement, any Member may make a point of order that the conference report contains nongermane provisions, which shall be specified. If that point of order is upheld, it is in order to offer a motion to reject the nongermane material. There would then be 40 minutes of debate and a vote. If one of the motions to reject is adopted it is still in order to offer additional motions to reject other nongermane provisions. If any motion to reject has been adopted, after final disposition of all motions to reject, the conference report is to be considered as rejected, and the question then pending will be whether to recede and concur with an amendment, which is to consist of that portion of the conference report not rejected.

On the other hand, if all motions to reject are defeated, then after debate on the conference report it will be in order to move the previous question on the adoption of the conference report.

The first section of House Resolution 1153 also deals with the situation where the Senate returns a bill or resolution to the House with nongermane Senate amendments or nongermane material included in a Senate amendment in the nature of a substitute. In order to deal with this situation, House Resolution 1153 amends rule XX, which deals with amendments of the Senate. House Resolution 1153 will permit the House to consider and vote separately on parts of a Senate amendment in the nature of a substitute, after 40 minutes of debate, equally divided between proponents and opponents. Since these amendments provide for the handling of nongermane Senate amendments in the House, the present clause 3 of rule XX, which prohibits the consideration of nongermane Senate amendments by House conferees unless previously authorized to do so by the House, will be unnecessary. Therefore clause 3 of rule XX is repealed.

Section 2 of House Resolution 1153 deals with the 3-day rules. One part of this section is intended to make certain that the 3-day rule on conference reports is interpreted as a 3-day rule rather than as a 4-day rule. It says, in effect, that the 3 days are to begin on the day after a conference report is filed, and that the conference report may be brought up on the third day. For example, if a conference report is filed on Monday, it would be eligible for consideration on Thursday. The rule also will require the printing of the conference report and the explanatory statement in the CONGRESSIONAL RECORD on the day on which the report is filed.

Section 2 also deals with conference reports in disagreement. The procedure of reporting a conference report in disagreement was used by Chairman MILLS on June 30, 1972, to attach a 20 percent social security increase and one other amendment to the debt limit extension. The procedure used by Chairman MILLS enabled him to avoid the usual requirement that conference reports be printed in the RERORD at least 3 days prior to consideration. He also avoided the rule which requires that copies of amendments be available on the floor. Section 2 of this resolution is designed to prevent this situation from recurring. Under this resolution, rule XXVIII is amended to require that a conference report in disagreement, the accompanying statement and the text of the Senate amendment shall not be considered until the third calendar day—excluding any Saturday, Sunday, or legal holiday—after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the CONGRESSIONAL RECORD for the day on which such report and statement shall have been filed. This provision will not apply during the last 6 days of a session. Copies of the conference report in disagreement, the accompanying statement and the text of the Senate amendment must be available on the floor at the time of consideration. And finally, House Resolution 1153 requires that the time for debate on amendments to the conference report in disagreement be equally divided between the majority and minority party.

Section 2 also provides that committee reports cannot be considered in the House until the third calendar day—excluding Saturdays, Sundays, and legal holidays—that the committee report has been available to Members of the House. Under present rules interpretation, a committee report which is filed on Monday cannot be considered until Friday. This change means that a committee report can be filed on Monday and considered on Thursday.

Section 3 of House Resolution 1153 makes the rules changes necessary to accommodate the new nonvoting Delegates from Guam and the Virgin Islands. These changes grant the delegates from Guam and the Virgin Islands the same rights and privileges as the Delegate from the District of Columbia, with one exception. The delegates from Guam and the Virgin Islands are not given the right to vote in committee.

Section 4 of this resolution makes three technical corrections in the rules. Two are changes in grammar, and one remedies an inaccurate cross reference.

Section 5 of this resolution extends floor privileges to former Parliamentarians of the House, former elected officers, and former elected minority employees of the House, who are not interested in any claim or directly in any bill pending before Congress. Section 5 also amends the language of clause 1 of rule XXXII to recognize an existing situation which is not reflected in the rules. The present rules do not specifically extend floor privileges to elected officers and elected minority employees of the House and the Parliamentarian. Section 5 of this resolution will alter the rules so as to include these people, who are required to be on the floor in order to do their jobs.

Mr. Speaker, these changes will not take effect until the 93d Congress. I urge passage of House Resolution 1153.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. KYL. Mr. Speaker, we will not have many more opportunities in this body to praise the gentleman who is now in the well, and who has voluntarily decided to seek other occupation. His efforts on the matter which is before us are typically conscientious and studious. They are exemplary of the kind of service that he has rendered to this Nation in his 16 terms here in Washington.

I certainly did not want to let this opportunity go by without expressing my own, and I am sure the thanks of so many Members of this body for the kind of service that he has presented.

Mr. SMITH of California. I thank the gentleman.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. COLMER. Mr. Speaker, will the gentleman yield to me?

Mr. ANDERSON of Illinois. Mr. Speaker, I am certainly glad to yield to the distinguished chairman of the Committee on Rules (Mr. COLMER).

Mr. COLMER. I thank the gentleman from Illinois. I should make it clear to my friend from Illinois that I do not intend to deprive him of his time, but I merely want to comment with some continuity here on the remarks that were made by the gentleman from Iowa (Mr. KYL) about my friend, the gentleman from California (Mr. SMITH). I will make it brief, if the gentleman will permit me to do this.

Mr. ANDERSON of Illinois. I certainly will be pleased to yield to the distinguished gentleman from Mississippi.

Mr. COLMER. Mr. Speaker, I did not realize that this was to be the occasion when tributes were to be paid the ranking minority member of the Committee on Rules at this time. I do not have the time here now, nor do other Members who would like to pay tribute to our friend, under the allotment of time here to pay the proper respect to this great statesman—and that is exactly what he is in my book—the gentleman from California (Mr. SMITH). I could go on and on, but that would in the end be about what I would say.

I want to say, however, that I have never served with a man on the committee who was more dedicated to the preservation of this Republic and to the welfare of his people than is the gentleman from California (Mr. SMITH). As a matter of fact, he has been so helpful to me in the trying job that I have had in trying in my limited capacity to serve as chairman of the Committee on Rules, that I have often referred to him as cochairman of that committee. "I never make a move without first clearing it with SMITH."

Mr. Speaker, for more than three decades I have had the privilege of serving on the House Rules Committee. During that time there have been a substantial number of members serve on the committee. Coincidentally two of them were Smiths. One was my former chairman, the distinguished and able gentleman from Virginia, Congressman Howard W. Smith. The other, of course, is the other able and distinguished gentleman from California, whom we honor here today, H. ALLEN SMITH. It is indeed an interesting fact that both of these gentlemen served with unusual ability and distinction on the Rules Committee. They both possess splendid intellect and no other member exceeded them in devotion to our great common country. They share, generally speaking, my own philosophy of government and are my close personal friends as well. Mr. Speaker, I must confess sadness over the fact that the paths of H. ALLEN and my own separate as we both retire from the Congress in the next few days, even as I was saddened by the departure of the other Smith, Congressman Howard W., who served as my predecessor as chairman of this important committee. Mrs. Colmer joins me in the wish that ALLEN and Mrs. Smith may enjoy many more years of happiness in their beloved California.

I thank my friend, the gentleman from Illinois, for his graciousness.

Mr. ANDERSON of Illinois. Mr. Speaker and Members of the House, the record of the proceedings of this particular session of the 92d Congress will not reflect—unless I mention it now—the fact that following the tribute which was given to the gentleman from California (Mr. SMITH) by his colleague, the gentleman from Iowa (Mr. KYL), out of respect for one man the Members present in the Chamber rose to their feet and joined in spontaneous applause in recognition of how rightly deserved is the tribute that was paid to the gentleman from California (Mr. Smith).

Like the gentleman from Mississippi, the distinguished chairman of the Committee on Rules, it was not, frankly, until a few minutes ago, as I was seated at yonder committee table that I realized that in the presentation of the resolution dealing with this very technical and very complicated subject of how we act on nongermane Senate amendments, it would probably in connection with that resolution that I would have a final opportunity to say a few words about the gentleman from California, with whom I have served on that committee these past 9 years.

I could not help but notice that it was almost with a look of pained embarrassment that he accepted the tribute paid him by the preceding speaker. I think this is merely indicative and reflective of the unusual modesty which he displays on every occasion. Yet even at the risk of compounding his feelings of embarrassment, I certainly want to add my voice to that of the chairman of the committee and the others who have both spoken and will follow me. One cannot sit next to a man for 9 years, for almost a decade without having the opportunity to observe him and to observe him very well. I have certainly formed an impression over those years of Allen Smith as being a conscientious, patriotic, and dedicated public servant.

He has a knowledge of the rules of this House that I think is virtually unsurpassed as far as any other Member is concerned. He has taken the time, which frankly few of us have, to inform himself about the intricacies of some of those rules.

If I were to speak to the subject of the resolution which the gentleman just presented, there would be very little if anything I could add for the simple reason that on this occasion as well as on any other the gentleman has taken the well of this House to discuss and to explain a resolution from the Committee on Rules, he has with clarity and with precision and with unusual succinctness presented that resolution and the reasons which led to its adoption in the committee.

As I have had occasion to say in times past in commenting on the record of service of other Members, we have not always agreed, and yet those occasions have never been unpleasant because of the kind of man he is, because of his character, because of his honesty, because of the deep conviction with which he has held his own views, and because of the generosity that he has accorded to mine. So I, like the chairman of the Committee on Rules, could take more time perhaps than I should on this closing or perhaps penultimate day of this session of the Congress to praise the work of our colleague. Suffice it to say we will miss him, we will miss him on the Committee on Rules, we will miss his wise counsel and the wisdom he has imparted. We will miss him as a fellow Member of this body, where with great capacity and courage and conviction he has presented his views over the last 16 years.

We wish him only long life and good health and the very best that life has to offer as he returns to the very pleasant climate of southern California.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan, the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, the words of the gentleman from Mississippi, the chairman of the Committee on Rules, and the observations by the gentleman from Illinois I do not think can be improved upon in referring to the many outstanding characteristics and achievements of the gentleman from California, Mr. H. Allen Smith.

I would simply like to make a comment or two about a personal relationship that means much to me. It has been my privilege for the last 7½-plus years to be the Republican floor leader. During most of that time the gentleman from California has been the ranking minority member of the Committee on Rules. I did not know Allen Smith too well prior to this opportunity to become better acquainted, but with the responsibilities that he has and the ones I have we became very close in a personal way. In that kind of association we have learned to know each other through good times and bad. I have learned to respect and admire the kind of person Allen Smith is. We have not always agreed but where differences existed they were honest and in good faith.

I could never challenge his integrity or his knowledge of any subject matter. I might say in passing that I do not know of a member of the Committee on Rules—and I do not mean to downgrade any of the other outstanding members of that committee—but, he knew every bill that came before it as well, if not better than, any Member in the House of Representatives.

That storeroom of knowledge was invaluable in his judgment on whether a rule should be granted or what kind of a rule should be granted. It was helpful to me to know that Allen Smith in his capacity on the committee was so well informed on the substance of any legislation.

In other ways, Allen and I had a close association. For the last two Republican National Conventions I was permanent chairman, and he was parliamentarian. Again, if I wanted anything from a technical point of view, from a point of view of good judgment, I could always refer to Allen Smith, and I could trust the decision.

I would like to close by saying that the things which I said related primarily to our political or legislative responsibilities, but I can also say that I and my wife, Betty, will deeply and greatly miss Elizabeth Smith, along with Allen Smith, because the two of them have been not only good friends to us, but, I am sure, great and good friends to many in the Congress.

I wish both of them the very, very best on behalf of all the Members of this House.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the minority leader for his contribution.

I yield to the gentleman from California (Mr. Mailliard).

Mr. MAILLIARD. Mr. Speaker, everything that really needs to be said has been said, and I subscribe to every word that has been said by Allen Smith's associates on the Committee on Rules, and by the distinguished minority leader.

I have had the privilege during the last few years of being chairman of the California Republican delegation in the House, the largest in the House, with 18 members. It carries some responsibility with it. If there was ever anyone upon whom one could rely totally, whether or not in agreement, to be helpful in trying to resolve problems that has been Allen Smith.

As our distinguished minority leader said, it goes much deeper than that. He has not only been a great legislator and a real helper in getting things done, but also a very close personal friend. He knows I will miss him very much.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am happy to yield to the distinguished majority leader.

Mr. BOGGS. I thank the gentleman for yielding.

There is little that I can add to what has already been said. As majority leader, and as majority whip, I have had very close contact with Allen Smith for a long time. I know of no Member who has been more cooperative.

There have been occasions, of course, when he and I have been on different sides. That is as it should be in a two-party system. But, I have never known a time when he has deliberately obstructed the consideration of legislation, regardless of how he may have felt about it personally. Nor have I ever known a time when he has not shown total and complete respect for this institution and the rules under which we are governed.

He, in my judgment, has been a dedicated, hardworking and loyal Member of the House of Representatives. In addition to that, and certainly not least, he has been a very dear friend of mine.

I shall miss him greatly. I wish for him the very best of everything in his retirement.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. I thank the gentleman from Illinois for yielding to me.

Knowing that our good friend and colleague, H. Allen Smith, likes to get to the point, I shall be brief. So many of the fine things that can be said about "Al" Smith have already been said. We could really spend the entire afternoon talking about his fine qualities.

I should just briefly like to say, that we can always count on Al Smith to get the job done the way he said it would be done. I especially am aware of that quality because my district adjoins Al Smith's and we have had many opportunities to observe that characteristic.

The gentleman from Illinois and others have already referred to Al's precision in legislative affairs and the absolute fidelity of his word. He not only keeps his word, but he goes beyond the call of duty in seeing that his word is carried forward, as well as helping others he has agreed to support and help.

Much has already been said by the gentleman from Illinois and our good minority leader as to how one could be sure, if one wanted to know both sides of an issue on any bill AL SMITH could give it in great detail, because he always did his homework prior to presenting a rule for House consideration. Many times he had to stay long hours into the night so that he would be properly prepared the next day on the floor when he presented the rule. AL took the time always to prepare himself so that he would know both sides of the issue well enough, so that Members would have a clear, concise, and fair analysis of every bill.

Those of us in California from both sides of the aisle will miss his leadership. Because of his superior performance in the California State Legislature prior to 1956 he brought an added dimension of leadership to the House of Representatives. In legislative affairs ALLEN SMITH excelled.

In addition the Nation can be proud of AL's thorough knowledge of constitutional issues which effected the freedom and security of all Americans. More important AL fought for those constitutional principles with determination and outright courage.

We are grateful, AL, for your splendid performance in this House and above all your warm friendship. We thank you.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MINSHALL).

Mr. MINSHALL. I thank the gentleman for yielding.

Mr. Speaker, so many accolades have been paid to my good friend, H. ALLEN SMITH, or, as we know him, AL or SMITTY, that I am not going to burden the RECORD right now by saying all of the wonderful things I would like to say about my good friend from California. Suffice to say we are going to miss SMITTY and Elizabeth.

I could not help, while standing here and hearing all these fine things said about him, but to think back to our good friend Glen Lipscomb, who with his lovely wife, Ginger, was a close and dear friend of AL's and Elizabeth's. AL served in the legislature in California with Glen and they came here, I believe, just a year or two part. It was my good friend, Glen, whom I sat next to on the Committee on Government Operations and later the Committee on Appropriations, from whom I learned about the qualities of H. ALLEN SMITH, and what a great guy he was, even before I knew him well, because the friendship those two had for one another was not only close both in their work together but socially as well.

AL, we are going to miss you and, as I said before, your lovely wife. We all wish you the very best for the years to come. Your dedication to the Congress, California and the country is an example for all of us here in the House to follow.

I should like to conclude by saying that its not just the Members who so highly admire you but those who work there in the House as well. As one very top appointed official from the other side said just a few moments ago—"He is the finest, I wish the House rules permitted me to get on the floor and tell all the Members just that."

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker, knowing H. ALLEN as well as I do and having known him as long or longer than most else here, and having resided in the same apartment house with H. ALLEN and Elizabeth for several years, I know he does not want this prolonged.

I would just like to echo everything that has been said. It could not be exaggerated. I associate myself with the remarks which have been made.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield to the distinguished chairman of the Committee on Appropriations (Mr. MAHON).

Mr. MAHON. Mr. Speaker, when people talk about Members of Congress they often have in mind Democrats and Republicans. When I think of ALLEN SMITH I think in terms of statesmanship.

I have had the opportunity, as many of the other Members have had, to observe this man in operation. I have seen him at work in the great Committee on Rules on many occasions when I appeared before that body as a witness. I have seen him at work on the floor helping to guide important legislation through the House. I know of his good works and respect his effective deeds as a legislator. I am deeply appreciative of the fact that I have had the opportunity to associate for many years with a man of the stature of H. ALLEN SMITH.

All of his colleagues here in the House are going to miss him. We are going to remember him as a strong, sturdy, devoted, dedicated citizen of the United States who has done a good job for his people and for the Nation.

Mr. Speaker, I salute him.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, my remarks will be very brief, because so much has been said by my colleagues that have preceded me, who admire and respect my fellow Californian, H. ALLEN SMITH.

As I have worked with and grown to know H. ALLEN SMITH, I have come to recognize him as one of the most principled men who has ever served in the Congress of the United States. He is a man of integrity, and I would say if there is any label that would fit H. ALLEN SMITH, he will leave this House with the name, in my view, as the "Conscience of the House."

He stood like the Rock of Gibraltar on all matters and legislative proposals that were consistent with the basic guidelines of our Constitution and our Republic.

"SMITTY," as we affectionately called him, and his immaculate and lovely wife, Elizabeth, are now and always have been an inseparable combination—she as the devoted and supportive wife and he as the conscientious, courageous and considerate legislator—recognized and respected by all Members of the House of Representatives as the perfectionist.

Many Members of the House and the Senate tend to make the headlines or are considered the newsmakers. To me, it is regrettable that so little attention is given to the men and women of the Congress who actually get the job done, keep the Congress operating and, most importantly, preserve and protect the rights and privileges of the American people in our free society.

H. ALLEN SMITH is that kind of man—quiet, unassuming, methodical, punctual, precise and articulate.

As a friend, I will miss him very much. As a fellow Californian, I can say, without fear of contradiction, California is losing its most able Congressman, H. ALLEN SMITH. The Nation and our people have stood the test of time because of men like "SMITTY."

"SMITTY" succeeded in building an extraordinary legislative career, both in Sacramento and here in Washington. He did so because as a negotiator, his guiding principle seemed to be, "the only way to settle a disagreement was on the basis of what is right—not who is right."

Or, put another way, nothing which is morally wrong can ever be politically right.

This is the man that I know—H. ALLEN SMITH of California—the "conscience of the House of Representatives."

May the good Lord be kindly to you and Elizabeth in your retiring years.

Mr. DEL CLAWSON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a personal privilege for me to join in the accolades extended to my good friend, H. ALLEN SMITH, and to his lovely wife, Elizabeth, and to echo those fine sentiments that have been expressed by others.

Mr. Speaker, long before coming to the Congress it was my privilege to know of H. ALLEN SMITH and of his service to the State of California and of the very real sense of obligation he had in that oath of office to uphold and protect the Constitution.

When I came here, Mr. Speaker, I discovered he was one on whom I could lean, and lean heavily, for advice, for counsel, and for the kind of response that I always respect in a personal relationship.

So it is a personal pleasure to share with the other Members of this body in a tribute to H. ALLEN SMITH in recognition of his service to the Nation and particularly to the State of California, where he will long be recognized as one of the stalwarts, not only in the Congress of the United States but in the Nation as a dedicated and faithful public servant.

Mr. McCULLOCH. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman from Ohio (Mr. MCCULLOCH).

Mr. McCULLOCH. Mr. Speaker, and my good friend from Illinois, Mr. Anderson, I just want to rise to say this: H. Allen Smith pleases me, and I am notoriously hard to please.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I wish to say that during the years I have listened to the Honorable H. Allen Smith's explanations of different bills as they came before the House, and I must say that his explanations have always been clear, correct, and succinct.

Mr. Speaker, it happens he is a next-door neighbor of mine, and has been for several years. I want to say that he certainly is hospitable; not only that, he is a good neighbor.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I hesitate to interject myself into this, because I neither have the number of years at my disposal to have gained the friendship of Mr. Smith, nor really a full knowledge of his contributions to the House. May I simply say also that I have never in truth had a conversation with Mr. Smith, and I doubt very much if he would know me if we passed on the street.

However, Mr. Speaker, I have frequently clipped from the next day's Record those articles which the gentleman from Illinois has earlier indicated have given a succinct, very clear, and extraordinarily precise description of the more complicated rules. If I have learned anything about the procedures of this great body, I have learned as much from the gentleman from California, Mr. H. Allen Smith, as I have from anyone.

Therefore, Mr. Speaker, I thank him and wish him well on his retirement.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join my colleagues in paying tribute to a great American, Mr. H. Allen Smith.

His retirement will leave a void in the Committee on Rules and in the House of Representatives.

Allen Smith first began his congressional career 16 years ago and has, from the first day, fought for the preservation of the ideas and traditions which have made America great.

His good judgment deserves a sincere word of gratitude from those who have benefited from his outstanding record. In addition, his high ranking position on Rules has been a source of fine leadership and great inspiration to those of us who serve with him on the committee.

Allen Smith's deep devotion to the principles of justice and freedom for all men and his great concern for each and every constituent of his district have built for him many achievements which he can be justly proud. He is a dedicated, able, and hard-working statesman who has fulfilled his service in Congress with great distinction.

We will all miss Allen Smith when he leaves this Chamber, but his retirement leaves Congress enriched by his contributions. He will not be forgotten. I wish him a long, healthy, and happy retirement.

Mr. KING. Mr. Speaker, it is with great pleasure that I join with my colleagues in paying tribute to H. Allen Smith upon his retirement from the House of Representatives.

I am personally going to miss the gentleman from California because of the friendly relationship we have enjoyed over the years. Our votes and our philosophy concerning legislation have been similar in nature and I am proud to say that I have always followed his recommendations with regard to the critical issues facing the country. One of the admirable qualities of H. Allen Smith is that he can express himself clearly and concisely on any issue and no one ever has to ask where he stands on legislation.

It is a great pleasure for me to join with my colleagues in extending to H. Allen Smith my very best wishes for his continued success, good health, and happiness in the years ahead.

Mr. McCLORY. Mr. Speaker, I feel privileged to join in this final tribute to our colleague from California, H. Allen Smith, who is voluntarily retiring after 16 illustrious years as a Member of this House of Representatives. Having observed the conscientious—and even painstaking consideration which Allen Smith has given to virtually every major piece of legislation during the years of his service—particularly, his service on the Rules Committee—it can be said with confidence that Congressman Smith was as our colleague from Mississippi (Mr. Colmer) declared "a statesman."

Congressman Allen came well equipped for the service he has rendered here for his California constituents. A native of Dixon, Ill., his adopted State of California became his first love and earned his principal loyalty together with that of the beloved Nation which he has served so well.

A former special agent with the FBI, Allen Smith has displayed an alertness and acuity in the legislative business of our Nation from which all of us have benefited.

I subscribe to all of the other generous remarks which my colleagues have uttered in his behalf on the floor of the Chamber today. My wife Doris and I extend to him and his attractive and faithful wife, Elizabeth, best wishes for many productive, healthy, and happy years.

Mr. VEYSEY. Mr. Speaker, it is with a genuine sense of loss that I realize that this resolution may be the last to be managed on this floor by the distinguished ranking minority Member of the Rules Committee, H. Allen Smith of California.

Al Smith has, over the years, developed the reputation of being absolutely direct, open, and honest; of knowing the technicalities of rules and procedure; of being a great and effective Californian and American; and of giving the fullest measure of himself to any project he undertakes.

Coming to this House as he did with a rich background of legislative experience in California, he was immediately effective, and has continued to produce results through this session.

As I entered this body in January 1970, the newest member of the California delegation, Al Smith befriended me and offered guidance and counsel. I am grateful for that help, and I wish to express my thanks publicly.

In addition, let me say that the distinguished gentleman from Californian H. Allen Smith, has done much to make America a better and stronger Nation. He will long be remembered for those contributions.

I am sure we wish Al and Elizabeth good health and much happiness as they leave us.

Let me also state that I support House Resolution 1138 because it clarifies a number of cloudy areas in the rules and particularly because it guarantees the House may have a separate debate and vote on all nongermane Senate amendments.

Mr. EVINS of Tennessee. Mr. Speaker, it is to be regretted that our colleague, H. Allen Smith, the gentleman from California, who is retiring at the end of this session after more than 15 years of distinguished and dedicated service in the House, will not be with us in the next session of Congress.

Allen Smith is the ranking minority member of the Committee on Rules of the House—the little Congress—and in that capacity has contributed greatly to the legislative process of the House.

He served for a number of years as the ranking minority member of the Select Committee on Small Business, and in this role our relationships were pleasant and cordial and cooperative.

Allen Smith is a personable, genial gentleman who has gained the high respect of his colleagues—and he will be greatly missed. Certainly we all wish him the very best of good luck and success as he enters upon his retirement.

Mr. VAN DEERLIN. Mr. Speaker, my friend and colleague, the Honorable H. Allen Smith, will end his service to the Nation as a Member of Congress at the conclusion of this term. When he retires after 16 years in the House, Mr. Smith will leave behind a void difficult to fill.

It has been my privilege to serve with Mr. Smith for 10 of the 16 years he has been a Member of Congress, and I have developed a great admiration and respect for him and for his achievements. He has worked indefatigably on behalf of his native State of California, and through his expertise and efforts the citizens of that State have benefited enormously.

I recall particularly the manner in which he spearheaded the fight to assure a rule allowing a successful amendment to the 1967 Clean Air Act, which permitted California to set its own automobile emission standards. In this fight Mr. Smith, as always when high principles were at stake, did not hesitate to cross party lines and work closely with Members across the aisle.

He will carry with him in his retirement the best wishes of Members from both sides.

GENERAL LEAVE

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the public service and accomplishments of the gentleman from California (Mr. H. Allen Smith).

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. SISK

Mr. SISK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sisk: On page 5, line 4, after the word "committee" strike the word "have" and insert in lieu thereof the word "has."

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SISK

Mr. SISK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sisk: On page 8, immediately below line 5, insert the following:

"Sec. 6. The amendments made by the foregoing sections of this resolution shall become effective immediately before noon on January 3, 1973."

Mr. SISK. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, with reference to this amendment, I would simply like to say this: This nongermane amendment provision in connection with this resolution which we have before us is now and has been from the beginning of its consideration by the committee known as the Colmer amendment.

I might say that the distinguished gentleman from Mississippi, the chairman of the Committee on Rules, for many, many years has sought to do something about the matter of unrelated, nongermane matters that have been attached to House-passed bills over the years, so as a result for many years he has introduced legislation to do something about it.

Finally, then, when the Reorganization Subcommittee was set up in the 91st Congress, that was one of the matters we early began consideration of.

As a result of the work and the efforts of the distinguished chairman of the Committee on Rules, the gentleman from Mississippi (Mr. Colmer) our committee brought to the floor the Reorganization Act, which did contain the Colmer amendment.

One of the reasons why we have the resolution before us today, House Resolution 1123, is because we thought it was necessary in order further to clarify some of the provisions because of the fact that the matter has not operated as the committee originally thought it would.

I did want to call the attention of my friends and colleagues in the House to the fact that I thought this was very apropos since this will be the closing days of the service of this distinguished American to pass this resolution and hopefully to make fully effective the Colmer amendment in connection with seeing to it that the actions of the House of Representatives, which he loves so dearly, are fully preserved.

I want to say during my 18 years of service in this body one of the truly great pleasures and great memories I will have has been my service with Bill Colmer of Mississippi. His distinguished leadership, his counsel, his advice, his kind admonitions from time to time have been something that mean a great deal to me and they will be remembered all the rest of my life.

I would hope as a result of this resolution that the preservation and the greatness of this House will be sustained, because, as I say, that has been Mr. Colmer's concern because of his great love for this body as the greatest legislative body in the world.

Of course, Mr. Speaker, I wish to join with all my friends who have paid tribute to my able and distinguished colleague from California (Mr. Smith).

As I told him the day after I read that announcement, I said, "Al, you deserted me."

There is no Member of this House with whom I have worked more closely. Al and I have not always voted together—in fact, as recently as last week we have been on opposite sides of issues—but there is no one in this House I have greater respect for and who has been a greater defender of this Nation as well as the State of California.

I wish you had not made the decision you did, Al, but you know my strong feeling for you and Elizabeth.

Mr. COLMER. Mr. Speaker, I take this opportunity to extend my congratulations and appreciation to the Subcommittee on Legislative Reorganization headed by the gentleman from California (Mr. Sisk), as chairman. I also extend my appreciation to the other members of the subcommittee, Messrs. Smith, Bolling, Young, and Latta. This subcommittee, worked long and diligently to bring about some of the needed reforms in the reorganization bill adopted in the last Congress. While I had some reservations about some of the changes that were made in the rules of the House, on the whole I think they rendered yeoman service. They did not embrace in their recommendations to the full committee some of the more liberal recommendations that were made to that committee. They did, I repeat, make some splendid recommendations.

Mr. Speaker, one of the facets of the change in the rules proposed today is the amendment to which my colleague (Mr. Sisk) referred a few moments ago and that is the amendment which hopefully the House will adopt in the next few minutes with reference to the treatment of nongermane amendments placed on House-passed bills by the other body. I hope I may be pardoned if I state that for more than 20 years as a member of the House Rules Committee I have been deeply concerned and often irritated by the other body, which has few rules of procedure, placing amendments on House-passed bills that are not only nongermane but totally unrelated to the subject matter involved in the House bill. It is therefore with some gratification that here in the waning days of my service on the Rules Committee, and after years of trying to bring about a needed change, we have about reached the day of fruition in having this matter resolved. I shall not go into detail about it since the chairman of the subcommittee (Mr. Sisk) and the ranking minority member (Mr. Smith) have already explained it. I hope the House will approve House Resolution 1153.

Mr. SISK. I now yield to my colleague from California (Mr. Burton).

Mr. BURTON. I thank the gentleman for yielding. I regret the bringing up of this resolution at this time. I think it should be defeated and we should deal with it at the beginning of next session.

But having said that, I wish to say I really sought recognition so that I myself could express from the bottom of my heart the great esteem and fondness in which I hold our distinguished colleague, H. Allen Smith.

H. Allen Smith, as all of us from California know, came to the Congress from the State Legislature in California where he was acknowledged to be without peer as an outstanding member of that body, and an outstanding leader of that body. So it was no surprise to those of us who came from the legislature to the Halls of Congress to see that the same strength of character, his enormous capacity for work, his absolute personal and political integrity, and his profound love for this country propelled H. Allen Smith into this body and into leadership in this House.

Our delegation from California next year will be the largest in the country. We are pretty large now——

The SPEAKER. The time of the gentleman from California has expired.

Mr. SISK. Mr. Speaker, I yield myself 2 additional minutes, and I yield further to the gentleman from California.

Mr. BURTON. As I started to say, Mr. Speaker, we are a pretty large delegation now, but I dare say perhaps we are not the most powerful. I do not know what power we will have in the next Congress, but I know it is fair to state that H. Allen Smith has been a bulwark of power and strength not only to this House but for those of us from California, and the California delegation, and oftentimes when you consider the interests of such a large State which is growing every day, and a State that is at the other end of the country, there have been many occasions when we have needed help, and it has been H. Allen Smith's excellent reputation that has oftentimes saved our hides, if you will.

Well, Allen, I personally deeply regret in every way that you have made this judgment. All of your friends of course accept the wisdom of that judgment because the judgment was yours to make. We in the Congress and, more particularly, everyone in the California delegation, and certainly all the people of our State and this Nation, are going to miss you sorely.

Mr. REES. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. REES. Mr. Speaker and Members of the House, I certainly agree with my colleague, the gentleman from California (Mr. Burton) and I am voting against this resolution as I think we should take it up at the beginning of the next session. We do not need to do so this session. There might be other changes in the rules that some of us might want to bring up at the beginning of the next session and I think consideration of rules changes should all be done at one time.

Mr. Speaker, I would like to also add a few words on H. ALLEN SMITH's retirement. I served in the State legislature with AL, and when I came up to the California Legislature I was the youngest member, and very scared, AL helped me out a great deal. We in the legislature hated to see him go to Congress, but our loss was the Nation's gain. I know that we also hate to see him leave us here in Congress. It has been a pleasure and an honor for me to have worked with ALLEN these many years. Goodby ALLEN, we will miss you.

The SPEAKER. The time of the gentleman from California has again expired.

Mr. SISK. Mr. Speaker, I yield myself 2 additional minutes.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman.

Mr. HOLIFIELD. I thank the gentleman for yielding.

I just came into the Chamber and I recognized the fact that we are engaged in a eulogy to our colleague from California, H. ALLEN SMITH.

As a senior Member on the Republican side of the California delegation—and I occupying that position on the Democratic side—we have worked together for many years and we have worked together in harmony. There has never been a harsh word between us. We have disagreed on issues, but we have disagreed pleasantly.

To ALLEN and his wife, whom Mrs. Holifield and I have always considered two of our dearest friends, and I will ask permission to extend my remarks so I will not take up the time of the House too long, I would like to say that in my opinion we are losing one of the most valuable men from the California delegation and like my friend, PHILIP BURTON, I do not question his judgment in leaving.

But nevertheless there is no Member on the Democratic side of the aisle, and I am sure it is true on the Republican side of the aisle, there is no Member of the California delegation who does not regret that he has made this decision and I would publicly say that the California delegation is less strong and will be less valuable in its work here with H. ALLEN SMITH absent.

Congressman H. ALLEN SMITH has been a valuable member of the House Committee on Rules. His explanations of the rule pertaining to a specific piece of legislation has been clear and to the point. In my opinion he has been a strong advocate for his position. Strong advocacy is vital to the perpetuation of the democratic process of a free people. I honor and respect the gentleman from California the Honorable H. ALLEN SMITH.

Mr. SISK. Mr. Speaker, I yield to the gentleman from California (Mr. GUBSER).

Mr. GUBSER. Mr. Speaker, I certainly want to join in this much deserved tribute to our colleague, the gentleman from California (Mr. SMITH).

I first learned to know him when he and another former colleague, the Honorable Glenn Lipscomb, sat together in the back of the room in the California Legislature. They were frequently referred to as the Katzenjammer twins—they were always together.

They both came here to this House and both have left a distinct and distinguished mark on our National Government.

I shall miss our colleague (Mr. SMITH). And all I will say about him is that I have never known a man who could tell you what he had in his mind more directly and more succinctly than H. ALLEN SMITH.

You never need to wonder what he means. You always know. This is the mark of a truly honorable man—this is the mark of H. ALLEN SMITH.

Mr. SISK. Mr. Speaker, I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, there are so many people better qualified to speak about our distinguished colleague, the gentleman from California, that I hesitate to rise on this occasion.

But I feel there are a couple of things I would like to say on the occasion of his retirement.

In my brief time here, I have found out two or three things about our distinguished friend and colleague. The first is that behind an exterior, which sometimes seems a little bit crusty, he is a very nice individual and a very likeable person.

The second is, from where I sit, that philosophically and politically he is a very sound thinker.

The third is that he has a rare ability to expound a rule.

I do not believe there is a Member of this body who is his equal in explaining a rule. All any Member has to do is to come in here and listen to the gentleman from California explain the rule, and he knows what the House is voting on.

That is an unusual accomplishment and it is not an easy one to have. I have very great respect and admiration for that ability of the gentleman and for his ability in general. I certainly wish him every good thing in the future.

Mr. MIKVA. Mr. Speaker, I rise in opposition to House Resolution 1153. This is no time for regressive changes in the rules of the House, changes which would undercut reforms adopted in 1970 that were designed to open up the legislative process to greater scrutiny and participation.

The resolution before the House would amend the requirement that committee reports and conference reports be printed and available to Members for at least 3 days before being considered on the floor.

It could lead us back to the days of back room legislation, when bills could be whistled through a floor vote on a busy legislative day, before the press, the interested public, and the Members themselves had a chance to be alerted to the substance of the legislation and to bring before the House the arguments for and against.

The 3-day rule is no guarantee that bills will be fully deliberated and openly considered. We saw that recently when the House Administration Committee brought to the floor with no hearings and little notice a bill whose effects on recent reforms in campaign financing are at best unclear. But the 3-day rule helps. It increases the likelihood that some Member, of the House, or the press, or the public, will spot an apparently innocuous bill which turns out to have a substantial impact on the public interest.

Sound legislation thrives on careful consideration and vigorous debate. Sound legislation does not need the insulation from public scrutiny which House Resolution 1153 can cause to occur.

At a time when the people of our country are so clearly disgusted with politics as usual, it is very unfortunate for this House to draw the blinds and turn down the lights illuminating the legislative process, as this resolution would do.

Mr. Speaker, I hope that the House will turn back this last-minute effort in the closing hours of the 92d Congress to stem the tide of reform which the 93d Congress will bring. I am further confident that the 93d Congress will carry on the reform begun by the Legislative Reorganization Act of 1970, and will let the sunshine in by requiring open committee hearings, more open markup sessions, and more complete disclosure of Members' financial positions.

I urge my colleagues to keep the road to reform clear by defeating this ill-conceived and hastily contrived resolution.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the pending resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from California (Mr. SISK).

The amendment was agreed to.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. MIKVA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 281, nays 57, not voting 93, as follows:

[Roll No. 439]

YEAS—281

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Ashley
Aspinall
Baker
Begich
Belcher
Bergland
Betts
Bevill
Biester
Bingham
Blackburn
Blatnik
Boggs
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conover
Conte
Coughlin
Culver
Curlin
Daniel, Va.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Dingell
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Wolff
Wright
Wyatt
Wylie
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gettys
Goldwater
Goodling
Gray
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Hall
Halpern
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Harvey
Hastings
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Kazen
Keating
Kee
Keith
King
Kluczynski
Kyl
Landgrebe
Landrum
Latta
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClory
McCollister
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minshall
Mizell
Mollohan
Montgomery
Wyman
Yates
Young, Fla.
Young, Tex.
Moorhead
Morgan
Mosher
Moss
Myers
Natcher
Nedzi
Nelsen
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Pirnie
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Quie
Quillen
Railsback
Randall
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Rooney, Pa.
Rostenkowski
Rousselot
Roy
Runnels
Ruppe
Ruth
St Germain
Sandman
Satterfield
Saylor
Schneebeli
Schwengel
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Spence
Springer
Staggers
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Calif.
Terry
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Zablocki
Zion
Zwach

NAYS—57

Abzug
Adams
Addabbo
Anderson, Calif.
Badillo
Barrett
Bennett
Biaggi
Brademas
Burton
Chisholm
Collins, Ill.
Conyers
Daniels, N.J.
Dellums
Diggs
Drinan
Dulski
Eckhardt
Edwards, Calif.
Gonzalez
Green, Pa.
Hamilton
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Helstoski
Kastenmeier
Koch
Kyros
Leggett
McCormack
Meeds
Melcher
Metcalfe
Mikva
Minish
Mink
Mitchell
Murphy, Ill.
Nix
Obey
Rangel
Rees
Reuss
Riegle
Roe
Rosenthal
Roush
Roybal
Sarbanes
Scheuer
Seiberling
Stokes
Vanik
Waldie

NOT VOTING—93

Abourezk
Anderson, Tenn.
Annunzio
Aspin
Baring
Bell
Blanton
Boland
Bolling
Bow
Burke, Fla.
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Corman
Cotter
Crane
Davis, S.C.
Davis, Wis.
Derwinski
Devine
Dickinson
Donohue
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Flowers
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Grasso
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Hays
Hébert
Hungate
Jonas
Jones, Tenn.
Kemp
Kuykendall
Link
Long, La.
McCloskey
McClure
McDonald, Mich.
Martin
Matsunaga
Monagan
Murphy, N.Y.
Nichols
Pelly
Peyser
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Scherle
Schmitz
Scott
Snyder
Stanton, J. William
Stanton, James V.
Steiger, Ariz.
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thone
Whitehurst
Widnall
Winn
Wydler
Yatron

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Thompson of New Jersey against.

Mr. Hébert for, with Mr. Rooney of New York against.

Mr. Davis of South Carolina for, with Mr. Reid against.

Mrs. Hansen of Washington for, with Mr. Byrne of Pennsylvania against.

Mr. Teague of Texas for, with Mr. Carey of New York against.

Mr. Jones of Tennessee for, with Mr. Celler against.

Mr. Nichols for, with Mr. Dow against.

Mr. Hays for, with Mr. James V. Stanton against.

Mr. Rhodes for, with Mr. Abourezk against.

Mr. Martin for, with Mr. Clay against.

Until further notice:

Mr. Chappell with Mr. Widnall.

Mr. Cabell with Mr. Devine.

Mr. Boland with Mr. Bow.

Mr. Donohue with Mr. Clancy.

Mr. Evans of Colorado with Mr. Snyder.

Mr. Murphy of New York with Mr. Kemp.

Mr. Monagan with Mr. Peyser.

Mr. Matsunaga with Mr. Whitehurst.

Mr. Edmondson with Mr. J. William Stanton.

Mr. Hungate with Mr. Davis of Wisconsin.

Mr. Yatron with Mr. Esch.

Mr. Hanna with Mr. Steiger of Arizona.

Mr. Anderson of Tennessee with Mr. Schmitz.

Mr. Blanton with Mr. Crane.

Mr. Caffery with Mr. Kuykendall.

Mr. Corman with Mr. Bell.

Mrs. Grasso with Mrs. Dwyer.

Mr. Cotter with Mr. Thompson of Georgia.

Mr. Flowers with Mr. Dickinson.

Mr. Fuqua with Mr. Burke of Florida.

Mr. Giaimo with Mr. Thone.

Mr. Gibbons with Mr. Price of Texas.

Mrs. Green of Oregon with Mr. Talcott.

Mr. Pucinski with Mr. McCloskey.

Mr. Purcell with Mr. Scherle.

Mr. Haley with Mr. Jonas.

Mr. Roncalio with Mr. Scott.

Mr. Link with Mr. McClure.

Mr. Clark with Mr. Winn.

Mr. Pryor of Arkansas with Mr. McDonald of Michigan.

Mr. Aspin with Mr. Wydler.

Mr. Gallagher with Mr. Rarick.

Mr. Baring with Mr. Galifianakis.

Messrs. FASCELL, BRASCO, and HANLEY changed their votes from "yea" to "nay."

Messrs. RANGEL, GONZALEZ, and NIX changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

House Resolution 1138 was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I take this time to announce to the House that there will be added to the list of measures for consideration today House Joint Resolution 1301, which is the housing program extension, and to concur in the Senate amendments.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 17034, SUPPLEMENTAL APPROPRIATION BILL—1973

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 17034, the supplemental appropriation bill for fiscal year 1973.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 16598, DISASTER RELIEF ACT OF 1970

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 16598) to amend the Disaster Relief Act of 1970 to provide that community disaster grants be based upon loss of budgeted revenue, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1819, AMENDMENTS TO UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill,

S. 1819, amendments to the Uniform Relocation and Real Property Acquisition Act.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask my friend, the gentleman from Texas (Mr. ROBERTS), what the subject of the Senate bill is. I did not hear the gentleman.

Mr. ROBERTS. If the gentleman will yield, it is to file a conference report on S. 1819, Amendments to the Uniform Relocation and Real Property Acquisition Act.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

BALD EAGLE PROTECTION ACT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12186) to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 8, strike out "negligent" and insert "wanton".

Page 4, lines 11 and 12, strike out "or eggs or nests thereof".

Page 4, line 12, strike out "falconry." and insert "falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry."

Page 4, strike out all of line 24 and insert "of this Act; and may, with or without a warrant, as authorized by law, search any".

Page 5, line 21, strike out "forfeited" and insert "subject to forfeiture".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 16654, DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

Mr. FLOOD. Mr. Speaker, I call up the conference report on the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

The Clerk read the title of the bill.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of October 12, 1972.)

AMENDMENT IN DISAGREEMENT

The SPEAKER. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Manpower Administration

SALARIES AND EXPENSES

For necessary expenses for the Manpower Administration, $37,704,000; together with not to exceed $26,989,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $2,640,000 shall be for carrying into effect the provisions of title IV (except section 602) of the Servicemen's Readjustment Act of 1944 (38 U.S.C. 2001–2002).

MANPOWER TRAINING SERVICES

For expenses necessary to carry into effect the Manpower Development and Training Act of 1962, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) $719,554,000, to remain available until June 30, 1974; *Provided,* That the amounts appropriated herein for title II, parts A and B of the Manpower Development and Training Act of 1962, as amended, for expenses of the Private Sector On-the-Job Training and the Special Targeting programs authorized under that title shall not be subject to the apportionment of benefits provisions of section 301 of the Manpower Development and Training Act.

EMERGENCY EMPLOYMENT ASSISTANCE

For expenses necessary to carry into effect the Emergency Employment Act of 1971, $1,250,000,000, of which not to exceed $91,766,000 shall be available for program direction and support, administration of the program at the local level, and for agent assistance and statistics, to remain available until June 30, 1974.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to unemployed Federal employees and ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, and for trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941–1944 and 1952), $475,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of benefits for any period subsequent to June 15 of the current year.

ADVANCES TO THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

For making repayable advances to the extended unemployment compensation account in the Unemployment Trust Fund, as authorized by section 905(d) of the Social Security Act, as amended, $120,000,000 to enable the Secretary of the Treasury to make such advances: *Provided,* That the Secretary of the Treasury shall make such repayable advances at such times as he may determine, in consultation with the Secretary of Labor, that the amount in the extended unemployment compensation account is insufficient for the payments required by law to be paid therefrom to States.

FEDERAL GRANTS TO STATES FOR EMPLOYMENT SERVICES

For grants as authorized by section 5(a) of the Act of June 6, 1933, as amended (29 U.S.C. 49–49n), including, upon the request of any State, the purchase of equipment, and the payment of rental for space made available to such State in lieu of grants for such purpose, $66,700,000: *Provided,* That any funds granted to a State in the current fiscal year from this appropriation and not obligated by the State in that year shall be returned to the Treasury.

LIMITATION ON GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n, 39 U.S.C. 3202(a)(1)(E)), and for carrying into effect section 602 of the Servicemen's Readjustment Act of 1944, for grants to the States as authorized in title III of the Social Security Act, as amended (42 U.S.C. 501–503), including, upon the request of any State, the purchase of equipment, and the payment of rental for space made available to such State in lieu of grants for such purpose, and necessary expenses for carrying out 5 U.S.C. 8501–8523 and 38 U.S.C. 2003, $800,300,000 may be expended from the Employment Security Administration account in the Unemployment Trust Fund, of which $24,000,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant (or the allocation for the District of Columbia) was based, which increased costs of administration cannot be provided for by normal budgetary adjustments: *Provided,* That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

Labor-Management Services Administration

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, $25,202,000.

Employment Standards Administration

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $49,139,000, of which not to exceed $32,000 shall be transferred to the fund created by section 44 of the Longshoremen's and Harbor Workers' Compensation Act as amended.

FEDERAL WORKMEN'S COMPENSATION BENEFITS

For the payment of compensation and other benefits and expenses (except administrative expenses) authorized by law and accruing during the current or any prior fiscal year, including payments to other Federal agencies for medical and hospital services pursuant to agreement approved by the Department of Labor; a continuation of payment of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the advancement of costs for enforcement of recoveries in third-party cases; the furnishing of medical and hospital services and supplies, treatment, and funeral and burial expenses, including transportation and other expenses incidental to such services, treatment, and burial, for such enrollees of the Civilian Conservation Corps as were certified by the Director of such Corps as receiving hospital services and treatment at Government expense on June 30, 1943, and who are not otherwise entitled thereto as civilian employees of the United States, and the limitations and authority formerly provided by the Act of September 7, 1916 (48 Stat. 351), as amended, shall apply in providing such services, treatment, and expenses in such cases and for payments pursuant to sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App 2012), $81,992,000, together with such amount as may be necessary, to be charged to the subsequent year appropriation, for the payment of compensation and other benefits for any period subsequent to June 15 of the current year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $72,207,000.

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing three persons or less for compliance with the Occupational Safety and Health Act of 1970.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursement to State, Federal, and local agencies and their employees for services rendered, $45,240,000, of which $10,216,000 shall be for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for departmental management and $890,000 for the President's Committee on Employment of the Handicapped, $24,196,000, together with not to exceed $797,000 to be derived from Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $100,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

This title may be cited as the "Department of Labor Appropriation Act, 1973".

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health and, except as otherwise provided, the Community Mental Health Centers Act (42 U.S.C. 2681, et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91–616), and the Narcotic Addict Rehabilitation Act of 1966 (Public Law 89–793), (80 Stat. 1438), and the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255), $783,323,000, of which $75,000,000 shall remain available until June 30, 1974, for grants pursuant to parts A, C, and D of the Community Mental Health Centers Act.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in the scientific research into the nature, causes, prevention, and treatment of mental illness, $30,664,000, or such amount as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and $58,307,000.

HEALTH SERVICES PLANNING AND DEVELOPMENT

To carry out titles VI and IX, sections 314(a) through 314(c), and except as otherwise provided, sections 301, 304, 311, 402(g), 403(a)(1) and 433(a) of the Public Health Service Act; $489,573,000, of which $197,200,000 shall be available until June 30, 1975 for grants pursuant to section 601 of the Public Health Service Act for the construction or modernization of medical facilities, and $2,500,000 shall remain available without fiscal year limitation for payment of interest on guaranteed loans as authorized by section 626 of the Act.

HEALTH SERVICES DELIVERY

For carrying out, except, as otherwise provided, sections 301, 310, 311, 314(d), 314(e), 317, 321, 322, 324, 326, 328, 329, 331, 332, 502, 504, title X of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1010 of the Act of July 1, 1944 (33 U.S.C. 763c), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), and title V of the Social Security Act, $798,046,000, of which $1,200,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That any allotment to a State pursuant to section 503(2) or 504(2) of the Social Security Act shall not be included in computing for the purposes of subsections (a) and (b) of section 506 of such Act an amount expended or estimated to be expended by the State: *Provided further*, That when the Health Services and Mental Health Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That in addition, $4,719,000 may be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from any one or all the trust funds referred to therein: *Provided further*, That amounts received for services rendered under section 329 of such Act shall be credited to this appropriation.

PREVENTIVE HEALTH SERVICES

To carry out, to the extent not otherwise provided, sections 301, 308, 311, 314(e), 315, 317, 318, 322(e), 325, 328, 353, and 361 to 369 of the Public Health Service Act, the functions of the Secretary under the Federal Coal Mine Health and Safety Act of 1969, as amended; the Lead-Based Paint Poisoning Prevention Act (Public Law 91–695) except section 301; and sections 6–8 and 18–27 of the Occupational Safety and Health Act of 1970; insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft; $209,372,000.

NATIONAL HEALTH STATISTICS

For carrying out, except as otherwise provided, sections 301, 305, 311, 312(a), 313, and 315 of the Public Health Service Act; $18,514,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and payments for medical care of dependents and retired personnel under the Dependent's Medical Care Act (10 U.S.C., ch. 55), such amount as may be required during the current fiscal year.

BUILDINGS AND FACILITIES

For construction, alterations, major repair, improvement, extension, and equipment, of facilities of or used by the Health Services and Mental Health Administration, not otherwise provided, $19,457,000 to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For expenses necessary for the Office of the Administrator, $13,126,000.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

There are hereby authorized to be deposited in the "Medical facilities guarantee and loan fund" amounts received by the Secretary from operations under part B of title VI of the Public Health Service Act and such amounts shall be available to the Secretary without fiscal year limitation for carrying out his functions under section 626(a)(1) of the Act: *Provided*, That sums received from the sale of loans made pursuant to section 627 of the Act shall be available to carry out the purposes of that section.

NATIONAL INSTITUTES OF HEALTH

BIOLOGICS STANDARDS

To carry out sections 351 and 352 of the Public Health Service Act pertaining to regulation and preparation of biological products, and conduct of research related thereto, $9,528,000.

NATIONAL CANCER INSTITUTE

For expenses necessary to carry out title IV, part A, of the Public Health Service Act, including construction under grants and contracts and direct construction; $492,205,000 to remain available until June 30, 1974.

NATIONAL HEART AND LUNG INSTITUTE

For expenses, not otherwise provided for, necessary to carry out title IV, part B, and title XI of the Public Health Service Act, $320,000,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV, part C, of the Public Health Service Act, $49,795,000.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV, part D, of the Public Health Service Act with respect to arthritis, rheumatism, metabolic diseases, and digestive diseases, $173,190,000.

NATIONAL INSTITUTE OF NEUROLOGCAL DISEASES AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV, part D, of the Public Health Service Act with respect to neurology and stroke, $136,403,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for to carry out title IV, part D, of the Public Health Service Act with respect to allergy and infectious diseases, $122,048,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV, part E, of the Public Health Service Act with respect to general medical sciences, including grants of therapeutic and chemical substances for demonstrations and research, $192,302,000.

NATIONAL INSTTUTE OF CHLD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV, part E, and title X of the Public Health Service Act with respect to child health and human development, $142,257,000.

NATONAL EYE INSTITUTE

For expenses necessary to carry out title IV, part F, of the Public Health Service Act, with respect to eye diseases and visual disorders, $41,137,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301 and 311 of the Public Health Service Act, with respect to environmental health sciences, $31,374,000.

RESEARCH RESOURCES

To carry out, except as otherwise provided, section 301 of the Public Health Service Act with respect to the support of clinical research centers, laboratory animal facilities and other research resources, **$78,244,000.**

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $5,200,000, of which not to exceed $500,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

HEALTH MANPOWER

To carry out, to the extent not otherwise provided, sections 301, 306, 309, 311, and 422 with respect to training grants, title VII, and title VIII of the Public Health Service Act, $846,428,000; of which $2,000,000,000 shall be available for loan guarantees and interest subsidies under part B of title VII and part A of title VIII, $140,000,000 shall be for grants for construction of facilities (including $28,000,000 for dental teaching facilities) under part B of title VII, and $30,000,000 shall be for grants for construction of facilities under part A of title VIII: *Provided*, That the funds appropriated under part B of title VII and part A of title VIII shall remain available until expended.

Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, D, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C, D, and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year.

NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, $28,818,000, of which $2,902,000 shall remain available until June 30, 1974.

BUILDINGS AND FACILITIES

For construction, major repair, improvement, extension, alteration, and equipment, including acquisition of sites, of facilities of or used by the National Institutes of Health, where not otherwise provided, $12,580,000, to remain available until expended.

OFFICE OF THE DIRECTORS

For expenses necessary for the Office of the Director, National Institutes of Health, $12,542,000.

Appropriations in this Act available for the salaries and expenses of the National Institutes of Health shall be available for entertainment of visiting scientists when specifically approved by the Surgeon General: *Provided*, That not to exceed $5,000 shall be used for this purpose.

Funds advanced to the National Institutes of Health management fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act and for the purchase of not to exceed twelve passenger motor vehicles for replacement only.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses for conducting scientific activities overseas, as authorized by law, $25,619,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations for such activities, for payments in the foregoing currencies.

PAYMENT OF SALES INSUFFICIENCIES AND INTEREST LOSSES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in the Health Professions Education Fund assets or Nurse Training Fund assets, authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302 (c) of the Federal National Mortgage Association Charter Act, $170,000, and for payment of amounts pursuant to section 744(b) or 827 (b) of the Public Health Service Act to schools which borrow any sums from the Health Professions Education Fund or Nurse Training Fund, $3,830,000: *Provided*, That the amounts appropriated herein shall remain available until expended.

HEALTH PROFESSIONS EDUCATION FUND

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Health Professions Education Fund and the Nurse Training Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year.

GENERAL RESEARCH SUPPORT GRANTS

For general research support grants, as authorized in section 301(d) of the Public Health Service Act, there shall be available from appropriations available to the National Institute of Mental Health for operating expenses, the sum of $60,700,000: *Provided*, That none of these funds shall be used to pay a recipient of such a grant any amount for indirect expenses in connection with such project.

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I ($1,810,000,000), title III ($171,393,000), and title V, parts A and C ($53,000,000), of the Elementary and Secondary Education Act, $2,034,393,000: *Provided*, That the aggregate amounts made available to each State under title I–A for grants to local education agencies within that State shall not be less than such amounts as were made available for that purpose for fiscal year 1972: *Provided further*, That the requirements of section 307(e) of Public Law 89–10 as amended shall be satisfied when the combined fiscal effort of the local education agency and the State for the preceding fiscal year was not less than such combined fiscal effort in the second preceding fiscal year.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $681,405,000, of which $645,495,000, including $41,450,000 for amounts payable under section 6 and $10,000,000 for complying with section 403(1) (C) shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 3, 1950, as amended, and $35,910,000, which shall remain available until expended, shall be only for providing school facilities as authorized by section 5 and subsections 14(a) and 14(b) of said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 77 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, and section 5 of Public Law 85–905, $162,359,000.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($29,898,000), parts B and C ($449,682,000), D, F ($38,322,000), G ($24,500,000), H ($10,524,000), and I of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), and the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($75,000,000), $659,162,000, including $20,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1974, and not to exceed $23,000,000 for research and training under part C of said 1963 Act: *Provided*, That grants to each State under the Adult Education Act shall not be less than grants made to such State agencies in fiscal year 1971: *Provided further*, That grants to each State under the Vocational Education Act shall not be less than grants made to such States in fiscal year 1972.

LIBRARY RESOURCES

For carrying out, to the extent not otherwise provided, titles I ($62,000,000), II, and III ($7,500,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title II ($100,000,000) of the Elementary and Secondary Education Act; title III–A ($50,000,000) of the National Defense Education Act of 1958; and title VI ($12,500,000) of the Higher Education Act; $247,000,000, of which $15,000,000, to remain available through June 30, 1974, shall be for grants for public library construction under title II of the Library Services and Construction Act.

EDUCATIONAL RENEWAL

For carrying out, to the extent not otherwise provided, titles VII and VIII of the Elementary and Secondary Education Act, part B–1 of the Education Professions Development Act, section 309 of the Adult Education Act, as amended, part IV of title III of the Communications Act of 1934, the Cooperative Research Act (except section 4), the Drug Abuse Education Act of 1970, the Enivronmental Education Act, and sections 402 and 412 of the General Education Provisions Act, $238,315,000, of which $15,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

EDUCATIONAL ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Office of Education, as authorized by law, $3,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such Office, for payments in the foregoing currencies.

SALARIES AND EXPENSES

For the necessary expenses of the Office of Education, not otherwise provided, including rental of conference rooms in the District of Columbia; and not to exceed $1,000 for official reception and representation expenses, $68,360,000.

STUDENT LOAN INSURANCE FUND

For the Student Loan Insurance Fund created by the Higher Education Act of 1965, as amended, $29,047,000 to remain available until expended.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interests or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) $2,921,000, to remain available until expended.

SOCIAL AND REHABILITATION SERVICE

GRANTS TO STATES FOR PUBLIC ASSISTANCE

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, XVI, and XIX of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $13,344,704,000, of which $46,000,000 shall be for child welfare services under part B of title IV.

For making, after June 15 of the current fiscal year, payments to States under titles I, IV, X, XIV, XVI, and XIX, respectively, of the Social Security Act, for any period during the last fifteen days of the current fiscal year (except with respect to activities included in the appropriation for "Work incentives"); and for making, after April 30 of the current fiscal year, payments for the first quarter of the next succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year.

In the administration of titles I, IV (other than part C thereof), X, XIV, XVI, and XIX, respectively, of the Social Security Act, payments to a State under any such titles for any quarter in the period beginning April 1 of the prior year, and ending June 30 of the current year, may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which such plan was submitted for approval.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to March 31 of that year.

WORKING INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by section 402(a) (19) (G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, and $150,000 for transfer to the appropriation for "Departmental management", $455,133,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes for the current fiscal year.

GRANTS FOR THE DEVELOPMENTALLY DISABLED

For carrying out, except as otherwise provided, sections 301 and 303 of the Public Health Service Act, and parts B, C, and D of the Developmental Disabilities Services and Facilities Construction Act, $51,250,000, of which $32,500,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, to remain available until June 30, 1975, and $9,250,000 shall be for grants under part B of the Developmental Disabilities Services and Facilities Construction Act, to remain available until expended: *Provided*, That grants made under part C of the Developmental Disabilities Services and Facilities Construction Act after June 30, 1973, shall be for construction only as specified in section 132(a) (3) of such Act: *Provided further*, That there may be transferred to this appropriation from the appropriation "Mental Health" an amount not to exceed the sum of the allotment adjustment, made by the Secretary pursuant to section 202(c) of the Community Mental Health Centers Act.

NUTRITION PROGRAM FOR THE ELDERLY

For carrying out title VII of the Older Americans Act of 1965, $100,000,000.

RESEARCH AND TRAINING ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Social and Rehabilitation Service, and the Social Security Administration, as authorized by law, $8,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such Service and Administration for payments in the foregoing currencies.

SALARIES AND EXPENSES

For expenses, not otherwise provided, necessary for the Social and Rehabilitation Service, $60,215,000, together with not to exceed $600,000 to be transferred from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as provided in section 201(g) (1) of the Social Security Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance, the Federal Disability Insurance, the Federal Hospital Insurance, and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 228(g), 229(b), and 1844 of the Social Security Act, and sections 103(c) and 111(d) of the Social Security Amendments of 1965, $2,475,485,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, including necessary travel incident to medical examinations, reconsideration interviews, or hearings for verifying disabilities or for review of disability determinations, $1,526,500,000, to remain available until expended: *Provided*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare, and the Postal Service shall be used for payment, in such manner as said parties may jointly determine, of postage for the transmission of official mail matter by States in connection with the administration of said Act.

Benefit payments after April 30: For making, after April 30 of the current fiscal year, payments to entitled beneficiaries under title IV of the Federal Coal Mine Health and Safety Act of 1969, for the last two months of the current fiscal year, such sums as may be necessary, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year.

Whenever the Commissioner of Social Security finds it will promote the achievement of the provisions of title IV of the Federal Coal Mine Health and Safety Act of 1969, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for hearing examiners appointed not later than December 31, 1973: *Provided* further, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such title.

LIMITATION ON SALARIES AND EXPENSES

For necessary expenses, not more than $1,256,498,000 may be expended as authorized by section 201(g) (1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay the cost of necessary travel incident to medical examinations, reconsideration interviews or hearings for verifying disabilities or for review of disability determinations, of individuals who file applications for disability determinations under title II of the Social Security Act, as amended: *Provided further*, That $25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and section 221 of title II of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare and the United States Postal Service shall be used for payment, in such manner as said organizations may jointly determine, of postage for the transmission of official mail matter in connection with the administration of the social security program by States participating in the program.

LIMITATION ON CONSTRUCTION

For construction, alterations, and equipment of facilities, including acquisition of sites, and planning, architectural, and engineering services, and for provision of necessary offsite parking facilities during construction, $1,000,000, to be expended as authorized by section 201(g) (1) of the Social Security Act, as amended, from any one or all of the trust funds referred to therein, and to remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101–105), $1,696,500.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681, et seq.), $4,694,000.

MODEL SECONDARY SCHOOL FOR THE DEAF

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027), $4,625,000, of which $1,000,000 shall be for construction and shall remain available until expended.

GALLAUDET COLLEGE

For the partial support of Gallaudet College, including repairs and improvements as authorized by the Act of June 18, 1954 (68 Stat. 265), $15,082,000, of which $5,460,000 shall be for construction and shall remain available until expended: *Provided*, That if so requested by the college, such construction shall be supervised by the General Services Administration.

HOWARD UNIVERSITY

For the partial support of Howard University, $58,881,000, including $8,408,000 to remain available until expended for planning and site development of buildings and facilities: *Provided*, That if requested by the university, such planning, site development, and construction of buildings and facilities shall be supervised by the General Services Administration.

OFFICE OF THE SECRETARY

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $13,587,000, together with not to exceed $1,180,000, to be transferred and expended as authorized by section 201(g) (1) of the Social Security Act from any one or all of the trust funds referred to therein.

DEPARTMENTAL MANAGEMENT

For expenses, not otherwise provided necessary for departmental management, $56,893,000, together with not to exceed $6,846,000 to be transferred and expended as authorized by section 201(g) (1) of the Social Security Act from any one or all of the trust funds referred to therein; and not to exceed $29,000 to be transferred from "Revolving fund for certification and other services," Food and Drug Administration: *Provided,* That the period of availability of funds under this title for the Commission on Medical Malpractice shall be extended from June 30, 1972, to June 30, 1973.

General Provisions

Sec. 201. None of the funds appropriated by this title to the Social and Rehabilitation Service for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any States which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

Sec. 202. The Secretary is authorized to make such transfers of motor vehicles, between bureaus and officers, without transfer of funds, as may be required in carrying out the operation of the Department.

Sec. 203. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

Sec. 204. None of the funds contained in this Act shall be used for any activity the purpose of which is to require any recipient of any project grant for research, training, or demonstration made by any officer or employee of the Department of Health, Education, and Welfare to pay to the United States any portion of any interest or other income earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the Untied States of any portion of any interest or other income earned on payments made before July 1, 1964, to the American Printing House for the blind.

Sec. 205. Expenditures from funds appropriated under this title to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, the Model Secondary School for the Deaf and Gallaudet College shall be awarded to these institutions in the form of lump-sum grants and expenditures made therefrom shall be subject to audit by the Secretary of Health, Education, and Welfare.

Sec. 206. None of the funds contained in this title shall be available for additional permanent Federal positions in the Washington area if the proportion of additional positions in the Washington area in relation to the total new positions is allowed to exceed the proportion existing at the close of fiscal year 1966.

Sec. 207. Appropriations in this Act for the Health Services and Mental Health Administration, the National Institutes of Health, and Office of the Secretary shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light, and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; not to exceed $2,500 for entertainment of visiting scientists when specifically approved by the Surgeon General; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Surgeon General, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18.

Sec. 208. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Sec. 209. No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

This title may be cited as the "Department of Health, Education, and Welfare Appropriation Act, 1973".

TITLE III—RELATED AGENCIES

Cabinet Committee on Opportunities for Spanish-Speaking People

SALARIES AND EXPENSES

For expenses necessary for the Cabinet Committee on Opportunities for Spanish-Speaking People, and the Advisory Council on Spanish-Speaking Americans, $1,000,000.

Commission on Railroad Retirement

SALARIES AND EXPENSES

For necessary expenses of the Commission on Railroad Retirement, established by the Act of August 12, 1970 (Public Law 91–337), $101,000: *Provided,* That the unobligated balance of the appropriation granted under this heading for the fiscal year 1972 shall remain available during the current fiscal year.

Federal Mediation and Conciliation Service

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President; hire of passenger motor vehicles; not to exceed $500 for official reception and representation expenses; and rental of conference rooms in the District of Columbia; $10,650,000.

National Commission on Libraries and Information Science

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345) $406,000.

National Commission on Marihuana and Drug Abuse

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Marihuana and Drug Abuse, authorized by section 601 of the Act of October 27, 1970 (Public Law 91–513), as amended by the Act of May 24, 1971 (Public Law 92–13), $1,440,000 to remain available until expended.

National Labor Relations Board

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $50,456,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

National Mediation Board

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $2,888,000.

Occupational Safety and Health Review Commission

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $5,979,000.

Railroad Retirement Board

PAYMENT FOR MILITARY SERVICE CREDITS

For payments to the railroad retirement account for military service credits under the Railroad Retirement Act, as amended (45 U.S.C. 228c–1), $21,645,000.

LIMITATION ON SALARIES AND EXPENSES

For expenses necessary for the Railroad Retirement Board, $19,822,000 to be derived from the railroad retirement accounts.

United States Soldiers' Home

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' Home, to be paid from the Soldiers' Home permanent fund, $12,591,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army, upon recommendations of the Board of Commissioners of the Home and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction of buildings and facilities, including plans and specifications, and furnishings, to be paid from the Soldiers' Home permanent fund, $2,114,000, to remain available until expended.

CORPORATION FOR PUBLIC BROADCASTING

PAYMENT TO THE CORPORATION FOR PUBLIC BROADCASTING

To enable the Department of Health, Education, and Welfare to make payment to the Corporation for Public Broadcasting, as authorized by section 396(k)(1) of the Communications Act of 1934, as amended, for expenses of the Corporation, $40,000,000, to remain available until expended: *Provided*, That, in addition, there is appropriated in accordance with the authorization contained in section 396(k)(2) of such Act to remain available until expended, amounts equal to the amount of total grants, donations, bequests or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation during the current fiscal year, but not to exceed a total of $5,000,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 402. Appropriations contained in this Act available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 403. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 404. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses.

SEC. 405. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 406. No part of any appropriation contained in this Act shall be used to finance any Civil Service Interagency Board of Examiners.

SEC. 407. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 408. The Secretary of Labor and Secretary of Health, Education, and Welfare are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 409. Notwithstanding any other provision of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,603,448,500 in the aggregate for the appropriations made herein: Provided, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 10 per centum: Provided further, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds.

This Act may be cited as the "Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1973".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate to H.R. 16654 and concur therein with an amendment, as follows: Delete section 409 and insert in lieu thereof the following:

"SEC. 409. Notwithstanding any other provisions of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,300,000,000 in the aggregate for the appropriations made herein: *Provided*, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 13 per centum: *Provided further*, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds: *Provided further*, That notwithstanding any other provision of this Act, none of the funds contained herein shall be used to carry out the provisions of Section 403(1)(c) of Title I of the Act of September 30, 1950, as amended."

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) is recognized.

Mr. FLOOD. Mr. Speaker, the House and Senate took basically quite different approaches to drawing up a new Labor-HEW bill. The House took the bill as reported from the Appropriations Committee with just four changes—to take out of the bill 12½ percent of four of the largest increases over the budget.

The Senate struck out all of the House bill and substituted the text of the vetoed bill with the addition of one new section at the end giving the President the authority to cut any items in the bill up to a maximum of 10 percent until the bill would be reduced to not less than $29,603,448,500—the total amount of the House bill and $835,815,000 more than the President's budget.

Under ordinary conditions I would be opposed to giving the President the rather broad authority to make reductions that was contained in the Senate bill, but we are not operating under ordinary conditions. Moreover, this House just this week voted to give the President even broader authority to make reductions in appropriations than that contained in the Senate Labor-HEW bill. Therefore, we felt that it was in keeping with the most recent actions of the House on such matters to adopt the Senate approach.

The managers on the part of both the House and the Senate agreed that at this very, very late date it is certainly desirable to send to the President a bill that will not be vetoed. They also agreed that to send him a bill that is more than $800 million over his budget would be inviting a veto under the present circumstances and atmosphere. The conferees, therefore, agreed to support the Senate version of the bill, but amended to permit the President to make reductions up to 13 percent on individual items and reduce the total bill to not less than $29.3 billion, or a little more than $500 million over the budget, but about $1.2 billion under the vetoed bill. We think this is very reasonable, and we expect the President will sign it if we send it to him at that level.

The only other change that the pending motion would make in the Senate amendment would be to delete the funds for the so-called "C" entitlements under the program for aid to schools in federally impacted areas. No funds have ever been appropriated for this part of the program and a large majority of the conferees thought we should not start funding it now.

Mr. Speaker, I think this is as good a compromise as we could hope to attain under all the circumstances. I trust that the great majority of the House will agree.

Mr. McCLORY. Mr. Speaker, will the gentleman yield for a question?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. McCLORY. I do not quite understand what effect this language has on the A and B impacted school allocation. Does it reduce the percentage further?

Mr. FLOOD. What happens is we take out the C's and that gives the A's and B's about $10 million more than they had before.

Mr. McCLORY. I thank the gentleman.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. FINDLEY. The gentleman well knows that when the initial HEW appropriation bill came forward, this body by a very substantial record vote required that no funds be made available to pay the salaries of Federal employees who enforce the OSHA standards against employers of 25 persons or less.

That was subsequently reduced to employers of 15 or less in the bill that was ultimately vetoed. Then the exclusion at the level of 15 employees or less was inserted in the second House version. This was accepted by the Senate committee, but on the Senate floor it was reduced to three or less. Could the gentleman state what finally happened to this exclusion provision in conference?

Mr. FLOOD. Well, the gentleman dies hard. I well recall the fight the gentleman originally led on this. He did a great job, believe me. I couldn't have done better myself. But the calendar has done the gentleman evil. Members have reassessed their positions and very recently, the gentleman will recall, when we moved to send the bill to conference the gentleman from Illinois (Mr. Findley) moved to instruct the conferees to hold to 15. The gentleman speaking moved to table that motion and the House, in its wisdom, just a couple of days ago, by 30 votes, did not agree with my distinguished friend.

May I add this. The gentleman from Iowa (Mr. Smith), a member of the committee who is on the Small Business Committee is very knowledgeable on this subject.

Mr. FINDLEY. I wonder if the gentleman from Iowa could state in at least approximate terms how many business firms in the United States will be exempted from enforcement of OSHA standards under the exclusion at employers of three persons or less that now stands in the conference report.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, as the gentleman knows, the House exemption was 15 and the Senate was three. The administration was vigorously opposed to the 15 exemption, also a great many employer groups were opposed, and practically all the employee groups opposed the exemption. So we got into the numbers game about how many to exempt. An exemption of 15 would exempt about 84 percent of the employers. I do not have exact figures on the tip of my tongue but I believe three or less is something like 4 million. However, that is something less than 5 percent of the work force, a small percentage of the work force.

Mr. FINDLEY. I am sure those rather small employers, employing three or less, which are by the gentleman's testimony of today still rather numerous in our economic life, are going to appreciate this exclusion.

I might add further, if the gentleman from Pennsylvania will permit me, I believe this exercise we have been through, while not leading to the effect I had really desired, has nevertheless been beneficial. It has caused the OSHA administration to take another look at the standards they were applying so unreasonably to small firms. Some have been modified. There is pending and I believe will be passed by this House a bill which will insure onsite negotiation for small employers. So even though I am disappointed at the number involved in the final compromise, I nevertheless believe it has been beneficial to many employees and therefore an important victory.

Mr. SMITH of Iowa. Mr. Speaker, the onsite consultation provision which I certainly support and cosponsored will be helpful, but on the other hand, as the gentleman indicated the real answer is not onsite consultation or exemption only. There needs to be a change in enforcement policies, more information and option of reasonable, enforceable, and relevant rules for each industry keeping the objectives of the law in mind rather than relying upon some obsolete codes which both employers and employees agree are not relevant today to either health or safety hazards.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I am very pleased that $20 million is retained in the conference report for pulmonary research and coal miners' clinics for pneumoconiosis. I would like to commend the gentleman from Pennsylvania and ask him about the validity of this item, and his view of how it can be protected against possible Executive reduction?

Mr. FLOOD. The gentleman is no more pleased than I. I sponsored the amendment, the so-called Flood bill. I come from the hard coal area and the gentleman from West Virginia comes from the soft coal area. We do not recognize there are differences in this particular respect. I agree with the gentleman. I hope it stays available for expenditure, and I think it will.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Michigan (Mr. William D. Ford).

Mr. WILLIAM D. FORD. Mr. Speaker, the joint explanatory statement of the committee of conference states:

> That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 10 per centum.

Would that be changed by the compromise the gentleman offers to 13 per centum?

Mr. FLOOD. Up to 13 percent.

Mr. WILLIAM D. FORD. It says "provided further, that the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds."

Does this not repeat what we did the other day in giving the President the authority to ignore the program of grants under title I of ESEA and impact aid and Public Law 874? Could he, in fact, cut off the "B" category children, if he wishes to do it, as he proposed in his budget?

Mr. FLOOD. No, this bill would permit maximum reductions of 13 percent not just by appropriation, but by activity within appropriations. The answer to the gentleman's question is "no."

Mr. WILLIAM D. FORD. Then, if he attempts to make the cut in category B, he is authorized up to 13 percent?

Mr. FLOOD. That is all.

Mr. MICHEL. Mr. Speaker, would the Chairman yield?

Mr. FLOOD. I yield to the ranking minority member of the committee, and thank him for his very, very great help.

Mr. MICHEL. Mr. Ford just made an observation relative to the figure of 73 percent for category B students. We had voted category B at 77 percent level, so you should add 4 percent to both figures you were talking about.

Mr. Speaker, if I might take a few moments here, may I personally say that I am supporting this conference report.

Members will recall that when we brought the new bill back to the floor of this House, I expressed some reservations about the money figure, feeling that it was several hundreds of millions of dollars too high, and that we might run the risk of a second veto.

I support this particular conference report because as the chairman so ably pointed out, while it is a reenactment of the vetoed bill, it gives this discretionary power to the President to withhold down to a level that conceivably could only be $536 million over his budget—down to a level of $29.3 billion.

Personally, I would have liked to have seen that percentage of 13 percent raised to 15, or even 20, to give the administration more flexibility to do what I think should be done on some of these items. Nevertheless, it is much better than a continuing resolution so far as the folks downtown are concerned.

It is my own personal feeling that the President will sign this, although I have no direct communication to that effect.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to my friend from California (Mr. Rousselot).

Mr. ROUSSELOT. I would like clarification on the point just discussed. Is it my understanding now that this bill before us as it has come back, category B under Public Law 874, will be funded at 77 percent; is that correct?

Mr. MICHEL. Yes. That is the figure in the bill.

Mr. ROUSSELOT. So the funding figure, as I understand it, will be increased from 73 percent as originally contemplated to 77 percent?

Mr. MICHEL. The bill last year provided 73-percent level of funding for category B, but in the new bill we originally passed in the House, we had increased funding to provide for a level of 77 percent.

Mr. ROUSSELOT. That is sustained in the bill before us today?

Mr. MICHEL. That still is sustained in here, but as the gentleman from Michigan (Mr. William D. Ford) pointed out, if the President decides to withhold any amount, he is limited in his withholding on any specific item to 13 percent.

Mr. ROUSSELOT. Does that mean then it is primarily at the President's discretion as to whether that 77-percent funding of category B, Public Law 874, is sustained, or is it mandatory that the President must maintain the 77-percent level?

Mr. MICHEL. Oh, it is not mandatory in the legislation at all. It would be discretionary on the part of the President.

My own personal feeling is that on some of these items because of what could conceivably happen if the President wanted to cut to the fullest extent he is given the power to do here some of these items could be cut to the point where there could be so much backfire the administration would be hard put to make each and every reduction required to achieve the lower overall figure of $29.3 billion.

I believe that what will happen is, as the gentleman from Florida (Mr. GIBBONS) pointed out on the floor, during the expenditure ceiling debate, there will be so much pressure built up from around sections of the country that the administration will have to release funds in those areas where they are getting the most pressure.

Mr. ROUSSELOT. Many of these school districts under this program are in the middle of the school budget year. Several already have gone well past the time when they have had to make hard decisions, even as to whether or not they cut teachers off the payroll.

Mr. MICHEL. Yes.

Mr. ROUSSELOT. My question was directed as to how much discretion was allowed the President in category B?

Mr. MICHEL. He has this discretion to withhold up to 13 percent in each line item of the bill. We hope we can at least get this into law, so that we will have some guidelines from the administration and the word can go out to the educational communities as to just where they stand. Otherwise we will be back to a continuing resolution indefinitely.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. YATES. With reference to the 13-percent discretionary figure, does that apply to other funds in this bill as well, such as social security funds?

Mr. MICHEL. No. Just those over which we have some measure of control and social security benefits are not funded in this bill. They are disbursed from the trust fund, but salaries and expenses and overall administration of the program not funded by the trust fund are subject to the discretionary reduction.

Mr. FLOOD. I might say this to the gentleman from Illinois: technically it would apply to social security funds in the bill, but on the mandatory social security programs such as public assistance grants to the States, that money has to be paid out on a matching formula. I just cannot imagine that the President would exercise his technical right to cut such funds because, if I did, later on we would have to appropriate the money to make up the deficit. I cannot imagine the President wasting his ammunition like that.

Mr. YATES. The gentleman knows that with respect to the last 20-percent increase in social security benefits the President said, as he signed the bill, that it was "inflationary" and "fiscally irresponsible." Why does the gentleman feel he will not cut it back?

Mr. FLOOD. I remember that very well. But that is not in this bill.

Mr. YATES. Does the gentleman mean the 20-percent increase in payments is not included in the appropriations in this bill?

Mr. FLOOD. Not in this bill. Those funds are paid directly out of the trust fund without going through the usual appropriation process.

Mr. YATES. Let us go back to the social security grants that are in this bill.

The gentleman says the President can cut them?

Mr. FLOOD. Yes, but—capital B, capital U, capital T.

I am not very good as a bettor. I am no gambler. I do not win even at church fairs—but—I will bet that the President is not going to waste his ammunition on that, because it would have to be paid right back in a supplemental appropriation.

That would not save money, because it would have to be appropriated the next morning.

Mr. YATES. Will the gentleman state what was the figure agreed upon by the conferees for bilingual education? The House approved originally $45 million.

There was $45 million in the second bill that left the House. What was the figure agreed upon in the conference?

Mr. FLOOD. Mr. Speaker, the answer is: $60 million.

Mr. YATES. $60 million. I thank the gentleman.

Mr. McCLORY. Will the gentleman yield for a point of clarification?

Ms. MINK. Will the gentleman yield?

Mr. FLOOD. First let me yield to the gentlewoman from Hawaii.

Ms. MINK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think all of us who have been involved in the impact aid program are deeply gratified by the action taken by the conference committee in increasing the percentage of allotment for the category "B" children.

May I ask the gentleman, is it not a fact that in each one of the major messages sent to the Congress by the President with respect to the education budgets that he has singled out the impact category "B" program for special criticism? So we should not be trying to fool ourselves that by increasing the funding as appropriated by the conference committee that this is the kind of funding we will actually receive?

I think that in all honesty we have to look at this conference report knowing that the President has singled out the impact aid program for extinction and view this bill in that light; that we will only get, at the very most, 64-percent funding for category "B."

Mr. Speaker, for that reason I must vote against this conference report.

Mr. FLOOD. Plus the fact, of course, Mr. Speaker, as I have said quite a number of times, by cutting out the "C" category $10 million more goes to the "A" and "B" categories.

Mr. McCLORY. Will the gentleman yield?

Mr. FLOOD. I yield to the gentleman.

Mr. McCLORY. I would like to ask this question, Mr. Speaker, as a point of clarification: In granting authority to the President to reduce appropriations by 13 percent, is it 13 percent of 77 percent or is it 13 percent of 100 percent of the A and B categories of impacted school aid. If appropriations could be reduced by 13 percent below 77 percent as the gentlewoman from Hawaii (Mrs. MINK) has said, this would mean possibly from 77 percent to 64 percent? Is her statement correct?

Mr. FLOOD. This is 13 percent of the funds in the bill. I have not calculated the percent of entitlement this results in providing.

Mr. McCLORY. In other words, the only possible reduction of impacted school aid below the 77 percent for category B would be 13 percent of 77 percent—or a maximum additional reduction of about 10 percent. Therefore, the total of category B impacted aid might possibly be 67 percent—if the 13 percent option is fully utilized. But, in no event could it be reduced to 64 percent, as the gentlewoman from Hawaii (Mrs. MINK) suggested.

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. FLOOD. I yield to the gentleman.

Mr. SMITH of Iowa. Mr. Speaker, I cannot help but observe at this point that some of those who are so concerned about category B got themselves into this hole. If they had supported the original bill we brought out here, they would have been guaranteed 77 percent.

Mr. FLOOD. The gentleman is correct.

Mr. SMITH of Iowa. And now they are getting into the same situation we had 2 years ago when we ended up with less for several programs than was in the original committee recommendation. We ended up with less because the bill was boosted so much that when it was vetoed, we could not override the veto.

Perhaps after this more members will learn a lesson and will in the future support the committee recommendations so we will not get in this particular situation.

Mr. PICKLE. Mr. Speaker, the conference report for appropriations for HEW is quickly coming to a vote. We must fund the many vital programs that HEW administers. This is why I vote for the conference report on H.R. 17034.

But, Mr. Speaker, I must register strong disagreement, and dismay, over the provision of this bill that allows moneys to be spent under the Occupational Safety and Health Act to inspect businesses with more than three employees.

The House made it clear that it wanted OSHA enforcement limited to businesses with more than 15 employees. The House voted for this level not once, but twice.

I introduced a bill this session to limit OSHA enforcement to businesses with 25 or more employees. The House felt this limited OSHA too severely. The House adopted the 15-employee cutoff. I understood and appreciated the 15-employee level in lieu of my 25-employee level, even though I did not originally support the 15-employee level.

Mr. Speaker, I say with frankness and with conviction that I can neither understand nor appreciate the three-employee level.

This includes the smallest corner grocery, the service station of small volume, the stationery stop, and I could add more.

The OSHA rules and regulations are chaotic—everyone admits it—the Congress, the Executive, the unions, and businesses. To apply these chaotic, and sometimes archaic, OSHA regulations to these very small businesses will mean higher costs.

Higher costs means lower profits. Lower profits mean more small business failures.

Mr. Speaker, it may be easy for the huge, multinational, conglomerate corporations to meet higher costs. This is not true of small businesses that are being gobbled up by big corporations.

Big corporations, big bureaucracies, and big unions mean more impersonal relations.

Impersonal relations mean more alienation.

The OSHA provision in H.R. 17034 means all these stringent steps resulting from the growing loss of America's small businesses.

I do not approve the three-employee level regulation in this bill. I think we should take steps at the first of next session to establish a more realistic level.

I vote to fund this conference report, not in support of the OSHA proviso in H.R. 17034.

Mr. MAHON. Mr. Speaker, under leave to revise and extend, I would like to make the point that I signed the conference agreement on the 1973 appropriations bill for the Departments of Labor and Health, Education, and Welfare with some reluctance. Under the agreement the minimum total dollar figure was, of course, under the total amount in the House bill by several hundred million dollars. That is the overriding fact that led me to sign the agreement.

I do object in principle, however, to the operation of the formula in its other respects. Permitting the Executive to reduce programs of his choosing up to a specified maximum percentage cut, in my judgment involves an unnecessary delegation of legislative responsibility to the executive branch.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DELLENBACK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 289, nays 41, not voting 101, as follows:

[Roll No. 440]

YEAS—289

Abernethy
Abzug
Adams
Addabbo
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashley
Aspinall
Badillo
Barrett
Begich
Belcher
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Blatnik
Boggs
Brasco
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton
Byrnes, Wis.
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Cleveland
Collins, Ill.
Conable
Conover
Conte
Conyers
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Diggs
Dingell
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gettys
Goldwater
Gonzalez
Goodling
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Keating
Kee
Keith
King
Kluczynski
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lent
Lloyd
Long, La.
Long, Md.
Lujan
McClory
McCollister
McCormack
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Mathias, Calif.
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Wilson, Bob
Wilson, Charles H.
Wolff
Wright
Wyatt
Wydler
Wylie
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Minshall
Mitchell
Mollohan
Montgomery
Morgan
Mosher
Murphy, Ill.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Riegle
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
St Germain
Sarbanes
Scheuer
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Springer
Staggers
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Calif.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waldie
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki
Zwach

NAYS—41

Abbitt
Anderson, Calif.
Archer
Ashbrook
Baker
Bingham
Blackburn
Bray
Burleson, Tex.
Byron
Clawson, Del
Collier
Collins, Tex.
Colmer
Daniel, Va.
Dennis
Edwards, Ala.
Findley
Flynt
Ford, Gerald R.
Griffin
Hagan
Hall
Ichord
Kazen
Landgrebe
Lennon
Mallary
Mathis, Ga.
Mink
Mizell
Robinson, Va.
Rousselot
Ruth
Sandman
Satterfield
Saylor
Schneebeli
Smith, Calif.
Terry
Zion

NOT VOTING—101

Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Annunzio
Aspin
Baring
Bell
Blanton
Boland
Bolling
Bow
Brademas
Burke, Fla.
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Corman
Cotter
Crane
Davis, S.C.
Davis, Wis.
Derwinski
Devine
Dickinson
Donohue
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Grasso
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Hays
Hébert
Hungate
Hunt
Johnson, Pa.
Jonas
Jones, Tenn.
Kemp
Kuykendall
Link
McCloskey
McClure
McDonald, Mich.
Martin
Matsunaga
Monagan
Moorhead
Moss
Murphy, N.Y.
Myers
Nichols
Pelly
Peyser
Powell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Scherle
Schmitz
Scott
Snyder
Stanton, J. William
Stanton, James V.
Steiger, Ariz.
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thone
Vigorito
Waggonner
Whitehurst
Widnall
Winn
Yatron

So the motion was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Bell.
Mr. Hébert with Mr. Martin.
Mr. Thompson of New Jersey with Mr. Burke of Florida.
Mr. Rooney of New York with Mrs. Dwyer.
Mr. Reid with Mr. Rhodes.
Mr. Celler with Mr. Pelly.
Mr. Carey of New York with Mr. Kuykendall.
Mr. Hays with Mr. Hunt.
Mr. Alexander with Mr. Johnson of Pennsylvania.
Mr. Blanton with Mr. Anderson of Illinois.
Mr. Matsunaga with Mr. Peyser.
Mr. Moorhead with Mr. Snyder.
Mr. Murphy of New York with Mr. Talcott.
Mr. Pucinski with Mr. Widnall.
Mr. Giaimo with Mr. Esch.
Mrs. Green of Oregon with Mr. Dickinson.
Mr. Nichols with Mr. Devine.
Mr. Moss with Mr. Myers.
Mr. James V. Stanton with Mr. McDonald of Michigan.
Mr. Boland with Mr. Bow.
Mr. Chappell with Mr. Price of Texas.
Mr. Davis of South Carolina with Mr. Crane.
Mr. Donohue with Mr. Davis of Wisconsin.
Mr. Purcell with Mr. McClure.
Mr. Fuqua with Mr. Jonas.
Mr. Brademas with Mr. Kemp.
Mrs. Hansen of Washington with Mr. Powell.
Mr. Teague of Texas with Mr. Scherle.
Mr. Yatron with Mr. Scott.
Mr. Cabell with Mr. Clancy.
Mr. Cotter with Mr. J. William Stanton.
Mrs. Grasso with Mr. Winn.
Mr. Evans of Colorado with Mr. Thompson of Georgia.
Mr. Vigorito with Mr. Derwinski.
Mr. Waggonner with Mr. Schmitz.

Mr. Anderson of Tennessee with Mr. Thone.
Mr. Aspin with Mr. Steiger of Arizona.
Mr. Link with Mr. Whitehurst.
Mr. Jones of Tennessee with Mr. McCloskey.
Mr. Symington with Mr. Abourezk.
Mr. Bryne of Pennsylvania with Mr. Caffery.
Mr. Clark with Mr. Clay.
Mr. Corman with Mr. Dow.
Mr. Gibbons with Mr. Edmondson.
Mr. Monagan with Mr. Gallagher.
Mr. Roncalio with Mr. Pryor of Arkansas.
Mr. Hanna with Mr. Baring.
Mr. Rarick with Mr. Galifianakis.
Mr. Haley with Mr. Hungate.

Messrs. TERRY and BAKER changed their votes from "yea" to "nay."

Messrs. WILLIAM D. FORD, ARENDS, and CARLSON changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce that we have added to the suspension program S. 1928. It is my understanding that the bill is noncontroversial, and involves amending the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system.

FACILITATING COMPLIANCE WITH TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15461) to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 6, strike out lines 20 to 25, inclusive.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. WHITE. Mr. Speaker, reserving the right to object—and I shall not object—I should like to ask the chairman of the subcommittee a question relating to section 109 of the House bill as passed, which was deleted by the Senate.

I should like to ask whether the committee will entertain a separate bill this coming session in order to restore this language into the act by amendment. This provision is:

For purposes of chapter 1 of the Internal Revenue Code of 1954, any property or business, or interest therein, located in the same general area as the property acquired by purchase or condemnation under paragraph (2) of section 101 of this title shall be treated as property similar or related in service or use to the property so acquired.

The reason why I ask this be included in the act is that these farmers in the remote area of Presidio County along the Rio Grande have no other farms in the area into which they can invest this money, in order to gain a tax advantage in 5 years.

I hope that the chairman will consider such a bill in the future before his committee.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Florida.

Mr. FASCELL. I can assure the gentleman from Texas that he made quite a case before our subcommittee. I believe there is some consideration which ought to be given to this. I can assure the gentleman we will consider it at the next session of Congress.

Mr. WHITE. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

AMENDING SECTION 319 OF THE IMMIGRATION AND NATIONALITY ACT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1536) to amend section 319 of the Immigration and Nationality Act.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. DENNIS. Mr. Speaker, reserving the right to object, I ask the gentleman to make a brief explanation of the bill, and I yield to the gentleman.

Mr. SEIBERLING. I thank the gentleman from Indiana.

The purpose of this bill, as amended, is to provide for the expenditious naturalization of a surviving parent or adoptive parent of a member of the Armed Forces of the United States who dies during a period of honorable service on active duty status in the Armed Forces, during a period of war or armed hostility.

The bill has been amended in accordance with the recommendation of the Department of Justice.

Mr. DENNIS. I thank the gentleman. I concur with his recommendation.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 319 of the Immigration and Nationality Act (8 U.S.C. 1430) is amended by adding at the end thereof the following new subparagraph (e) to read as follows:

"(e) A person residing in the United States pursuant to a lawful admission for permanent residence, who is of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States, who is the surviving parent or adoptive parent of a member of the Armed Forces of the United States who dies during a period of honorable service in an active duty status in the Armed Forces of the United States during either World War I, or the period September 1, 1939, to December 31, 1946, or the period June 25, 1950, to July 1, 1955, or the period February 28, 1961, to a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which the Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, shall, from and after the taking of the oath of allegiance required by section 337 of this title, be a citizen of the United States without filing a petition for naturalization and notwithstanding any of the other provisions of this title, except the provisions of section 313."

SEC. 2. (a) The table of contents of the Immigration and Nationality Act is amended by changing the citation to section 319 to read as follows:

"Sec. 319. Married persons, employees of certain nonprofit organizations, and parents of deceased servicemen."

(b) The section heading of section 319 of the Immigration and Nationality Act is amended to read as follows:

"MARRIED PERSONS, EMPLOYEES OF CERTAIN NONPROFIT ORGANIZATIONS, AND PARENTS OF DECEASED SERVICEMEN"

With the following committee amendment:

Beginning on page 1, strike out lines 6 through 11, and lines 1 through 16 on page 2, and insert in lieu thereof the following:

(e) Any person who is the surviving natural or adoptive parent of a person who dies during a period of honorable service in an active duty status in the Armed Forces of the United States during a period prescribed in section 329 of this Act, may be naturalized upon compliance with all the requirements of this title except the requirements of section 312 and except that no prior residence or specified physical presence within the United States, or within the jurisdiction of the naturalization court shall be required.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING SECTION 301 OF THE IMMIGRATION AND NATIONALITY ACT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8273) to amend section 301(b) of the Immigration and Nationality Act, as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. DENNIS. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Ohio (Mr. SEIBERLING) for an explanation of the measure.

Mr. SEIBERLING. The purpose of this measure, as amended, Mr. Speaker, is to amend section 301(b) of the Immigration and Nationality Act relating to the residence requirements requisite to a potential U.S. citizenship acquired by birth to a U.S. citizen parent and an alien parent.

The bill further provides for a savings clause for those persons now required under existing law. In addition, it would repeal section 16 of the act of September, 1957.

Mr. DENNIS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(b) of the Immigration and Nationality Act (8 U.S.C. 1401) is amended to read as follows:

"(b) Any person who is a national and citizen of the United States at birth under paragraph (7) of subsection (a) shall lose his nationality and citizenship unless—

"(1) he shall come to the United States prior to attaining the age of twenty-eight years and shall be physically present in the United States for at least two years in the aggregate: *Provided,* That such physical presence follows the attainment of the age of fourteen years and precedes the age of thirty years; or

"(2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years."

With the following committee amendment:

On page 1 after line 4, strike out the remainder of the bill and insert in lieu thereof the following:

(b) Any person who is a national and citizen of the United States under paragraph (7), of subsection (a) shall lose his nationality and citizenship unless—(1) he shall come to the United States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or (2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years. In the administration of this subsection, absences from the United States of less than 60 days in the aggregate during the period for which continuous physical presence in the United States is required, shall not break the continuity of such physical presence.

SEC. 2. Section 16 of the act of September 11, 1957, is hereby repealed.

SEC. 3. Section 301 of the Immigration and Nationality Act is amended by adding at the end thereof a new subsection (d) to read as follows:

"(d) Nothing contained in subsection (b), as amended, shall be construed to alter or affect the citizenship of any person who has come to the United States prior to the effective date of this subsection and who, whether before or after the effective date of this subsection, immediately following such coming complies or shall comply with the physical presence requirements for retention of citizenship specified in subsection (b) prior to its amendment and the repeal of section 16 of the act of September 11, 1957."

The committee amendment was agreed to.

Ms. MINK. Mr. Speaker, I rise in support of H.R. 8273, legislation to amend section 301(b) of the Immigration and Nationality Act, as amended.

The basic purpose of this bill is to equalize the provisions of the act in regard to the perfection of citizenship by children born abroad of one U.S. citizen parent and one alien parent.

Currently, there is a disparity of treatment in that a child who acquires citizenship through the naturalization of an alien parent fares better than one who has citizenship at birth but does not perfect it.

Section 301(b) of the act requires that a person who acquires U.S. citizenship by virtue of having been born abroad to parents, one of whom is a U.S. citizen and the other an alien, shall lose his citizenship unless he comes to the United States and is continuously present for 5 years between the ages of 14 and 28.

By contrast, a child born overseas who is not a citizen at birth can nevertheless obtain citizenship with no retention requirements much more readily. Such a case arises when the citizen parent lacks the physical presence requirement for transmission of citizenship under section 301(a) of the act.

The requirement is that the parent must have lived in the United States for not less than 10 years, at least 5 of which were after attaining the age of 14 years. When a citizen parent does not meet this test, the child can later acquire citizenship if the other spouse becomes naturalized before the child's 16th birthday. The child then needs only to begin permanent residence in the United States. There is no 5-year residence requirement for the child, and citizenship can be obtained promptly and with no conditions for retention.

It makes little sense to favor a child who was not a citizen at birth over one who was. H.R. 8273 would remedy this anomaly in the act by permitting a child who was a citizen at birth to perfect his citizenship by residing in the United States for 2 years between the ages of 14 and 28, or by beginning permanent residence before the age of 18 if his alien parent becomes naturalized.

The effect of this change would be to ease the burden of perfecting citizenship. Since World War II, more and more Americans are living abroad as employees of U.S. corporations, the U.S. Armed Forces, and the Government. Many of our citizens marry noncitizens while serving abroad. The children of such citizens must bear the burden of retaining—or perfecting—their citizenship, and this often involves hardships for young families.

My own attention to this problem began in 1966, when I was contacted by a Hawaii resident whose children were born overseas while he was employed by a firm under an Air Force contract. He was advised by the Immigration and Naturalization Service that his children would have to reside in the United States for 5 years between the ages of 14 and 28 if they wanted to keep their citizenship. Obviously, this would involve long separation from the parents if the father kept his overseas job.

I introduced legislation on this subject in 1966. In the 92d Congress, the proposal to amend section 301(b) is section 2 of H.R. 3572. Sections 1 and 3, dealing with other inequities in the Immigration and Nationality Act, have already been passed by the House as H.R. 1534 and H.R. 1535.

I was advised by the House Committee on the Judiciary that no legislative action was necessary because section 301(b) was held unconstitutional by a three-judge court in the case of Aldo Marion Bellei against Dean Rusk, in 1969. Subsequently, however, the decision was appealed to the Supreme Court, and on April 5, 1971, in Rogers against Bellei, it was reversed. The Supreme Court held that Congress had the power to enact laws governing the retention of citizenship in such cases.

I am glad that we are now having an opportunity to consider legislation to resolve this problem. H.R. 8273, essentially embodying the proposal I made in 1966, would assist many American families who are temporarily living abroad. It would remove the disparity in the treatment of children who are citizens at birth as compared with those who are not. It is sound legislation, and I urge its adoption.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend section 301 of the Immigration and Nationality Act."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that any Member desiring to do so may have 5 legislative days in which to revise and extend his remarks in the RECORD immediately preceding the passage of this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DESIGNATING A SEGMENT OF ST. CROIX RIVER, MINN. AND WIS., A COMPONENT OF NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1928) to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minn. and Wis. as a component of the national wild and scenic rivers system.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. KYL. Mr. Speaker, reserving the right to object, I would like to state for the RECORD there never has been a question but what this river should receive this kind of attention, and the manner in which the job was done was in controversy for some time, and that controversy has now been eliminated and this bill should be adopted.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1928

An act to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minnesota and Wisconsin, as a component of the national wild and scenic rivers systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lower Saint Croix River Act of 1972".

SEC. 2. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"(9) LOWER SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the States of Minnesota and Wisconsin."

SEC. 3. The Secretary of the Interior shall, within one year following the date of enactment of this Act, take, with respect to the Lower Saint Croix River segment, such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act: *Provided*, That (a) the action required by such section shall be undertaken jointly by the Secretary and the appropriate agencies of the affected States; (b) the development plan required by such section shall be construed to be a comprehensive master plan which shall include, but not be limited to, a determination of the lands, waters, and interests therein to be acquired, developed, and administered by the agencies or political subdivisions of the affected States; and (c) such development plan shall provide for State administration of the lower twenty-five miles of the Lower Saint Croix River segment and for continued administration by the States of Minnesota and Wisconsin of such State parks and fish hatcheries as now lie within the twenty-seven-mile segment to be administered by the Secretary of the Interior.

SEC. 4. Notwithstanding any provision of the Wild and Scenic Rivers Act which limits acquisition authority within a river segment to be administered by a Federal agency, the States of Minnesota and Wisconsin may acquire within the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior such lands as may be proposed for their acquisition, development, operation, and maintenance pursuant to the development plan required by section 3 of this Act.

SEC. 5. Nothing in this Act shall be deemed to impair or otherwise affect such statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements.

SEC. 6. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $7,275,000 for the acquisition and development of lands and interests therein within the boundaries of the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior.

(b) No funds otherwise authorized to be appropriated by this section shall be expended by the Secretary of the Interior until he has determined that the States of Minnesota and Wisconsin have initiated such land acquisition and development as may be proposed pursuant to the development plan required by section 3 of this Act, and in no event shall the Secretary of the Interior expend more than $2,550,000 of the funds authorized to be appropriated by this section in the first fiscal year following completion of the development plan required by section 3 of this Act. The balance of funds authorized to be appropriated by this section shall be expended by the Secretary of the Interior at such times as he finds that the States of Minnesota and Wisconsin have made satisfactory progress in their implementation of the development plan required by section 3 of this Act.

Mr. ASPINALL. Mr. Speaker, the bill now before the House is S. 1928 which provides for the addition of the lower segment of the St. Croix River in the States of Minnesota and Wisconsin to the National Wild and Scenic Rivers System.

In 1968, the upper reaches of the St. Croix River were included in the "instant river" provisions of the Scenic Rivers Act. At that time, the lower segment was not authorized for inclusion, but its outstanding character was recognized and the legislation included it in the list of rivers to be studied for possible future authorization.

The legislation now before the House provides for a blend of Federal and State cooperation on this lower segment which seems to be a reasonable method of dealing with this area. It contemplates a comprehensive master plan which would be prepared jointly by the Secretary of the Interior and representatives of the States of Minnesota and Wisconsin. The upstream unit, comprising about 27 river miles, would be administered by the Secretary of the Interior and the downstream unit, comprising about 25 river miles, would be administered by the States under the element of the program which permits national recognition to be extended to qualifying State-administered rivers.

Mr. Speaker, the Governors of the States of Wisconsin and Minnesota have agreed to this joint venture and I ask unanimous consent to include a letter dated October 6, 1972, from them in the RECORD at this place.

Altogether, about 5,400 acres of land would be acquired in fee or easement in the Federal area. The legislation limits the Federal investment to no more than $7,275,000 for both land acquisition and development and prohibits any Federal expenditures until the Secretary is satisfied that the State programs will go forward in a reasonable and orderly manner.

Mr. Speaker, I recommend the approval of S. 1928 by the Members of the House.

Mr. SAYLOR. Mr. Speaker, I rise in support of this legislation.

The purpose of S. 1928 is to designate a segment of the St. Croix River in the States of Minnesota and Wisconsin as a component of the national wild and scenic rivers system which was established by the act of October 2, 1968, Public Law 90-542 in the 90th Congress.

S. 1928 as amended and passed in the other body late last week is the same identical bill which was introduced in the House of Representatives on October 4, 1972, by our colleagues Mr. THOMSON of Wisconsin and Mr. QUIE, of Minnesota.

At this point, I want to commend my colleague, the gentleman from Wisconsin (Mr. THOMSON) for his persistent efforts on behalf of this legislation. I know this firsthand, because, as the ranking minority member of the Committee on Interior and Insular Affairs, the gentleman from Wisconsin (Mr. THOMSON) has constantly been on my back to get the Department of the Interior to go along with the bill he and other Members of the House introduced back in July of 1971.

You may recall that when we established the national wild and scenic rivers system in the 90th Congress, the Upper St. Croix River was included as an original component of that system. Well, ever since that time, the gentleman from Wisconsin (Mr. THOMSON) has been trying to get the Lower St. Croix River also established as a component of the national wild and scenic rivers system.

The problems which the gentleman from Wisconsin encountered seemed insurmountable in view of the position of the Department of the Interior and the Office of Management and Budget against the inclusion of the lower 25 miles of the Lower St. Croix River as a component of the national wild and scenic rivers system. Nonetheless, the gentleman from Wisconsin kept on and persistently badgered me, the Department, and the Office of Management and Budget to try and work something out. But, the gentleman from Wisconsin did not stop there. He solicited his colleagues from both Wisconsin and Minnesota to introduce similar or identical legislation as a display of congressional support. In fact, he brought the Governors and officials of both States into the fray by setting up meetings to work something out.

After an extended period of negotiations, the gentleman from Wisconsin decided to cut through the bureaucratic maze and on May 25, 1972, personally visited with officials in the Department of the Interior and the Office of Management and Budget to persuade them to save the Lower St. Croix River and to agree to work something out on the lower 25 miles of the river.

Once again, the negotiations began, and on October 4, 1972, the Department of the Interior and the Office of Management and Budget agreed to the provisions of H.R. 16996 and introduced the same day by our colleagues, Mr. THOMSON and Mr. QUIE. But, in the closing days of this 92d Congress, the chances of passing H.R. 16996 looked very slim, indeed. Once again, I began to feel the constant pressure from VERN THOMSON to get his bill up before the Committee on Interior and Insular Affairs and passed.

Well, as my colleagues know, many things begin to happen in the closing days of a session and they happen rather quickly. Lo and behold, on October 6, 1972, the Committee on Interior and Insular Affairs in the other body met in executive session and amended S. 1928 to include the provisions of H.R. 16996 as agreed upon by the administration. On the same day, the bill S. 1928, as amended, containing the language of H.R. 16996, was reported in the other body. On October 9, 1972, S. 1928, as amended, passed the other body and was referred to the House. I do not know, but I suspect that our colleague from Wisconsin, VERN THOMSON, had something to do with the deliberative action of the other body on this legislation.

I cite the experience of my colleague (Mr. THOMSON) on this legislation for three reasons: The first reason is to show that his experience is an example of how persistence and tenacity pay off in this legislative game; the second is that his experience demonstrates even what a Republican Member of Congress has to go through to get a favorable reaction from a Republican administration on legislation affecting his own congressional district, and, third, I am glad to have the gentleman from Wisconsin off my back.

Mr. Speaker, I strongly support the passage of S. 1928. The bill provides that a segment of the Lower St. Croix River in the States of Minnesota and Wisconsin shall be designated as a component of the national wild and scenic rivers system. Under the terms of this legislation, the upper 27 miles of the Lower St. Croix River shall be so designated and administered by the Secretary of the Interior. The lower 25 miles of the river between Taylors Falls and its confluence with the Mississippi River will be so designated by the Secretary of the Interior upon approval of an application for such designation made by the Governors of Minnesota and Wisconsin.

The bill also provides for the preparation of a comprehensive master plan in conjunction with the two States within 1 year following the enactment of this bill. The master plan is to set forth the specific boundaries and plans for the acquisition of lands and development.

The bill authorizes the appropriation $7,275,000 for the acquisition and development of lands and interests in lands within the boundaries of the 27-mile segment to be administered by the Secretary of the Interior. This section of the bill also provides that the Secretary of the Interior is limited in his authority to expend appropriated funds and cannot do so until the States of Minnesota and Wisconsin have initiated land acquisition and development as required by section 3 of the bill.

The passage and enactment of this bill will be a tremendous step forward in preserving one of the Nation's outstanding scenic and recreational rivers. Action on this bill is timely because plans for commercial and residential construction along the banks of this beautiful river are off the drawing boards and awaiting construction.

In conclusion, let me assure my colleagues that this legislation has received the careful attention of the Committee on Interior and Insular Affairs. The committee was well informed on the St. Croix River prior to the enactment of the National Wild and Scenic Rivers Act in the 90th Congress. As recent as this session of Congress, members of the House Committee on Interior and Insular Affairs visited this Lower St. Croix River area, spoke with people in the area, and witnessed its scenic and recreational values. This 52-mile segment of the St. Croix River is a natural resource which will provide present and future generations the opportunity for swimming, boating, fishing, and other recreational pursuits. Its outstanding qualities demand that we take action to preserve this segment of the St. Croix River.

Mr. Speaker, I urge the passage of this bill.

Mr. QUIE. Mr. Speaker, the fact that this bill comes before the House of Representatives today is a testimonial to the effectiveness of the distinguished gentleman from Wisconsin (Mr. THOMSON).

VERN THOMSON labored tirelessly to persuade the Department of Interior to reverse itself on an adverse report on the original legislation to authorize the Lower St. Croix River as an addition to the national scenic riverways system.

It was my privilege to accompany him to the conference with Interior Secretary Morton last summer when the Department dropped its opposition. Secretary Morton suggested the compromise plan of a cooperative State-Federal management plan for the Lower St. Croix. That arrangement was endorsed speedily by the Governors of the great States of Minnesota and Wisconsin.

Subsequently, we encountered difficulties in getting the draft language through the Office of Management and Budget. Again VERN THOMSON demonstrated great skill and tenacity in securing changes which were agreeable to all concerned. This resulted in the legislation that comes before the House today, already approved by the other body.

I also want to include for commendation the distinguished chairman of the House Committee on Interior and Insular Affairs (Mr. ASPINALL) and particularly the ranking member of that committee (Mr. SAYLOR). Were it not for their prompt cooperation and agreement to take up this noncontroversial legislation in committee yesterday, many months of effort by numerous individuals concerned with saving this river would have gone for naught. We would have had to come back next year and go through this whole exercise all over again.

This legislation was reported unanimously by the House Committee on Interior and Insular Affairs. The distinguished gentleman from Wisconsin personally buttonholed virtually every member on the committee. Never was it more apparent that he enjoys the confidence and the respect of numerous Members of this body on both sides of the aisle.

Earlier I alluded to a somewhat unique plan of Federal-State cooperative management of the Lower St. Croix. Because of its outstanding scenic and recreational values, the Upper St. Croix River was designated as one of the original streams authorized to be part of the wild and scenic riverways system. The Wild and Scenic Rivers Act specifically identified the 52 miles of the Lower St. Croix as one of the streams to be studied for later inclusion in the system.

Because of the beauty and largely unspoiled state of the Lower St. Croix, a drive to have it incorporated into the system was begun. The need became all the more apparent when reports of widespread commercial and residential development along its shorelines became known.

The Interior Department based its original opposition on the premise that there should be State administration of the Lower St. Croix. The compromise agreement provides for the lower 25 miles from the log boom site at Stillwater, Minn., to its confluence with the Mississippi River to be administered by the States of Minnesota and Wisconsin. The 27 miles from Stillwater to Taylors Falls will be administered by the National Park Service.

A comprehensive master plan will be prepared within 1 year from the date of enactment of this act to define the lands, waters, and interests to be acquired, developed and administered by the Federal Government and the two States. This will involve acquisitions in fee and scenic easements to assure that the shorelines and the view will be guarded.

The rights of property owners will be protected under the terms of the parent Wild and Scenic Rivers Act. Land adjoining the river that is protected by means of easement will remain in private ownership and on the tax rolls.

I should point out that the basic law prohibits the use of condemnation procedures in incorporated communities which have adopted appropriate zoning ordinances contributing to the protection and preservation of the riverway.

The bill before us authorizes not to exceed $7,275,000 for acquisition and development on the upper 27-mile segment to be administered by the National Park Service, provided that the States of Minnesota and Wisconsin have complied with the terms of the agreement by initiating land acquisition and development on the lower 25-mile segment. The States will accomplish their roles with the help of land and water conservation fund moneys to supplement State appropriations.

The vast majority of the people who live on both sides of the Lower St. Croix have expressed support for this concept of preserving and protecting the riverway.

Some questions have arisen concerning the use of motorboats on the protected stream. I would like to point out that neither the basic Wild and Scenic Rivers Act nor the legislation before us says one word about motorboats. Of the eight rivers originally designated part of the system, including the Upper St. Croix, the use of motorboats is prohibited on only one and part of another, and the action banning motorboats on one entire stream was taken by means of county ordinance, rather than Federal regulation.

There is no flat policy dealing with the use of motorboats on streams included in the national scenic riverways system.

It will be up to the States of Minnesota and Wisconsin and the National Park Service to specify all zoning and other restrictions, both on land and water, once the Lower St. Croix is added to the system. Any such restrictions will be spelled out in the State-Federal master plan.

I am confident and I would urge that motorboats be permitted on the Lower St. Croix. Owners of these craft have assured me they will comply with any necessary regulations such as a "no wake" rule to protect the shoreline and islands. In some reaches of the river, this may mean no waterskiing, but it could be permitted in other reaches.

In closing, Mr. Speaker, I should like to say that the action the House is taking today will save for posterity what I believe will become one of the real jewels in the national wild and scenic riverways system. It is especially unique in that it lies within a half-hour's drive of a major metropolitan area, the Twin Cities, with a population exceeding 2 million persons.

The President has pledged publicly that safeguarding scenic and recreational opportunities adjacent to metropolitan areas is a major concern of his administration. I am confident, therefore, that he will sign this measure into law.

Mr. THOMSON of Wisconsin. Mr. Speaker, addition of the Lower St. Croix River to the national wild and scenic rivers system will be a giant stride toward fulfilling the policy set forth in the original wild and scenic rivers legislation in 1968:

> That certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

Protecting this beautiful 52-mile stretch of the Lower St. Croix would also be a building block in President Nixon's proposed "legacy of parks"—an invaluable scenic and recreational resource within easy driving distance of a major metropolitan area.

Yet, it is for the very reason of its proximity to the Twin Cities that the river requires protection. Pressure for unplanned and potentially destructive development along both sides of the river is severe now; and that pressure is increasing week to week.

The Lower St. Croix River is eminently suited to be included in the wild and scenic rivers system. In fact, the upper reaches of the river were protected under the original legislation and the lower portion, between St. Croix Falls, Wis., and Prescott, Wis., is one of the 27 rivers designated by the original act as potential additions to the system. The act calls for a determination of the suitability of inclusion of the Lower St. Croix.

In response to this legislative directive, a study team composed of members from the Bureau of Outdoor Recreation, U.S. Forest Service, National Park Service, U.S. Fish and Wildlife Service, Corps of Engineers, State of Wisconsin, State of Minnesota, and the Minnesota-Wisconsin Boundary Area Commission was organized. Its report determined that the Lower St. Croix satisfied the requirements of scenic, esthetic, recreational and geologic values and recommended that the river be included in the national wild and scenic rivers system.

Early in the 92d Congress in 1971, Senators Nelson of Wisconsin and Mondale of Minnesota introduced S. 1928, to add the river as a federally administered component of the wild and scenic rivers system. Congressman Vernon Thomson of Wisconsin introduced an identical bill, H.R. 9692, in the House of Representatives on July 8, 1971.

The Senate Interior Committee conducted field hearings on the bill in St. Croix Falls where an overwhelming number of people testified in favor of the proposal. Congressman Thomson led Representative Taylor of North Carolina and several of his House Interior Subcommittee members in a helicopter flyover and brief visit with concerned parties at Hudson. All was going well.

On April 14, Congressman Thomson testified for the bill at the Senate hearings in Washington. But the testimony of the Department of the Interior had a far greater impact. The Department recommended against the bill and in favor of a State-administered wild and scenic river. When the dust settled, the Senate backers of the bill were shellshocked and completely immobilized.

Congressman Thomson immediately began working for an acceptable alternative plan which could secure administration backing and thus be enacted. He first joined with Representative Al Quie, of Minnesota, in a joint letter of April 21, to Secretary of the Interior Rogers Morton urging him to take a personal interest in the decision and reverse the position of his subordinates. Then he broadened his base, recruiting as cosponsors, Representatives Quie, Williams Steiger of Wisconsin, David Obey of Wisconsin, Bill Frenzel of Minnesota, Joseph Karth of Minnesota, and Donald Fraser of Minnesota. They introduced an identical bill on May 4, 1972, as a demonstration of their intent to proceed. Congressman Quie joined as Thomson's partner in the attempt to rescue the proposal.

On May 17, Congressmen Thomson and Quie conducted a meeting in Thomson's office with officials of the USDI with no apparent progress.

Refusing to accept defeat, Congressmen Thomson and Quie insisted on a private meeting with Secretary Morton which was held in the Secretary's office on May 25. At that crucial meeting, the two Congressmen and Secretary Morton agreed on a compromise solution which would add the Lower St. Croix to the wild and scenic rivers system. Under the terms of the compromise reached at that meeting, Secretary Morton would use his influence with the Office of Management and Budget and with the Congress to pass legislation which would include the upper 27 miles between St. Croix Falls, Wis., and Stillwater, Minn., in a federally administered component of the wild and scenic rivers system while the lower 25 miles, from Stillwater south to the confluence of the St. Croix and the Mississippi Rivers near Prescott, Wis., would be jointly managed by the States of Wisconsin and Minnesota.

Congressman Thomson immediately called Wisconsin Governor Lucey to secure his approval of the plan—he agreed. And, Congressman Quie won approval from Minnesota Gov. Wendell Anderson.

On June 9, representatives of both States and the U.S. Department of Interior met in Madison, Wis., to finally ratify the agreement.

This accomplished, the entire matter was referred to the Federal Office of Management and Budget—OMB—for its approval of the $7,275,000 of Federal funds involved—$2.55 million the first year. Congressman Thomson and Congressman Quie each personally met with OMB Director Caspar Weinberger to urge his approval of the proposal. Both Congressmen wrote to Weinberger as well as Senators Nelson and Mondale who had been informed of the compromise agreement.

On October 4, 1972, the OMB announced its approval of the plan. Congressmen Thomson and Quie immediately introduced the compromise plan bill in the House. Senators Nelson and Mondale introduced the Thomson-Quie bill as an amendment to their bill in the Senate committee on the next day. It was approved by the Interior Committee on October 6 and by the full Senate on October 9.

Congressmen Thomson and Quie contacted members of the House Interior Committee, specifically Chairman Wayne Aspinall, Democrat of Colorado, Subcommittee Chairman Roy Taylor and ranking minority member John Saylor, Republican of Illinois. The bill was approved by the House Interior Committee without hearing on October 11 and brought to the floor under "unanimous consent" as a suspension of the rules on October 12 when it was overwhelmingly approved. The bill will go to the President for signature.

Passage of this far-reaching legislation to protect the Lower St. Croix River would have been impossible without the capable and effective efforts of Representative Al Quie. Throughout the difficult struggle to achieve the compromise and pass it into law, Congressman Quie showed a deep understanding both of the environmental threat and the legislative process. His persuasive arguments during the three-way meeting we had with Secretary Morton when the final compromise agreement was worked out were of critical importance in securing the Secretary's acceptance to the plan. People living along both sides of the Lower St. Croix River as well as those who will enjoy the benefits of its beautiful recreational opportunities, owe Al Quie a deep vote of thanks.

Secretary of the Interior Rogers Morton recently wrote me expressing his appreciation for congressional action to include the Lower St. Croix River in the national wild and scenic rivers system. I am pleased to include his letter for the Record:

The Secretary of the Interior,
Washington, D.C., October 12, 1972.

Hon. Vernon W. Thomson,
House of Representatives,
Washington, D.C.

Dear Vern: I have noted that the legislation which you and Congressman Quie introduced last week regarding the Lower St.

Croix River has been promptly passed by the Senate and has been reported favorably by the House Interior Committee. It now appears that your bill will be enacted into law during this session of the Congress.

I want to congratulate you for your outstanding efforts in support of this legislation. The leadership position you took to compromise the differences between State and Federal proposals, and to arrange support for this bill within the Administration were instrumental in moving this legislation forward. Were it not for your efforts, the Lower St. Croix would not now be on the threshold of becoming the newest addition to the Wild and Scenic Rivers System.

On behalf of the Department of the Interior and the entire Administration, I want to thank you for your important work in support of this bill.

Best regards,

Yours sincerely,

ROG MORTON,
Secretary of the Interior.

Mr. FRENZEL. Mr. Speaker, I want to congratulate my colleagues, the gentleman from Minnesota (Mr. QUIE) and the gentleman from Wisconsin (Mr. THOMSON) for their excellent work in bringing this bill to the House.

It was introduced in far different form, and was subjected to great changes. Only through the energies and abilities, and superior negotiating skills of these two gentlemen could the various interests of the public, the States, and the Department of the Interior be brought together.

The passage of this bill will protect the Lower St. Croix River and at the same time, protect property owners on the river. The States of Minnesota and Wisconsin will have control over decisionmaking which will preserve the beautiful characteristics of the Lower St. Croix for the people of our area.

Mr. TAYLOR. Mr. Speaker, I rise in support of S. 1928—a bill providing for the recognition of the Lower St. Croix River in the States of Wisconsin and Minnesota as a component of the national wild and scenic rivers system.

BACKGROUND

A few years ago, the Congress enacted the Wild and Scenic Rivers Act. At that time, we recognized that the Lower St. Croix had unusual outdoor recreation potential and we included it in the study provisions of the act. Since that time, several members of the Subcommittee on National Parks and Recreation have had an opportunity to see part of this area and to talk with some of the people living in the area.

At that time, the administration had not concluded that a reasonable working arrangement had been established between the Federal Government and the agencies involved; consequently, no further action was taken. Now, I am happy to report, the Secretary of the Interior and the States have arrived at an understanding for the development and administration of the remainder of this important riverway and we have a favorable report from the Department concerning this legislation.

Mr. Speaker, no one has been more interested in this project than our colleague from Wisconsin (Mr. THOMSON). He encouraged the members of the Subcommittee on National Parks and Recreation to visit the area early last spring and he made special arrangements so that we could get the broadest possible understanding of all issues affecting the project. I know that the members of the Subcommittee on National Parks and Recreation join me in expressing our gratitude to him for his assistance and his patience and we are all delighted to have this opportunity to bring this bill, which is really the outgrowth of his original legislation (H.R. 9692) to the floor of the House. Without his persistent efforts, the St. Croix legislation would probably not be before the House today.

I am pleased to join the chairman of the full Committee on Interior and Insular Affairs and the ranking minority members of the committee in urging the adoption of this bill by the House.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member desiring to do so, including myself, may include our remarks in the RECORD immediately preceding the passage of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

BENJAMIN FRANKLIN NATIONAL MEMORIAL

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 221), to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as the Benjamin Franklin National Memorial.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 221

Whereas the American people feel a deep debt of gratitude to Benjamin Franklin for his outstanding services to this Nation as a statesman and for his achievements as a scientist and inventor;

Whereas the Franklin Institute, of Philadelphia, Pennsylvania, has played a leading role in promoting the development of science and technology in the United States;

Whereas the said Franklin Institute named the Benjamin Franklin Memorial Hall in honor of Benjamin Franklin over thirty years ago;

Whereas the year 1974 is the one hundred and fiftieth anniversary of the founding of said Franklin Institute;

Whereas the city of Philadelphia, Pennsylvania, is a most appropriate location for a national memorial to Benjamin Franklin since Philadelphia was his home for many years;

Whereas Benjamin Franklin Memorial Hall is a fitting memorial to this great American: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Benjamin Franklin Memorial Hall located in the Franklin Institute of Philadelphia, Pennsylvania, is hereby designated as Benjamin Franklin National Memorial.

SEC. 2. The designation made by the first section of this resolution shall become effective upon conclusion of a cooperative agreement satisfactory to the governing body of the Franklin Institute and the Secretary of the Interior.

FRANCIS R. VALEO,
Secretary.

Mr. ASPINALL. Mr. Speaker, the purpose of Senate Joint Resolution 221 is the same as the purpose of House Joint Resolution 1152 which was introduced by Representative MORGAN and our other colleagues from Pennsylvania. It provides for the designation of the Benjamin Franklin Memorial Hall in Philadelphia as the Benjamin Franklin National Memorial.

This structure houses the statue of Benjamin Franklin which is famous throughout the land. It is located on the grounds of the Franklin Institute and would remain a property of the Institute. It is not contemplated that any Federal funds would be utilized for the development, operation, or maintenance of this facility, but that the Secretary would enter into an agreement with the Institute to assure its continued use in a manner consistent with the high standards applicable to other similar units of the National Park System. When that agreement is concluded, then this site would be designated as a national memorial in commemoration of one of the great Americans of all time—Benjamin Franklin.

Mr. Speaker, I support the enactment of Senate Joint Resolution 221. It is true to the character of Benjamin Franklin and worthy of the support of all of the Members of the House. I urge its adoption.

Mr. SAYLOR. Mr. Speaker, I rise in support of Senate Joint Resolution 221.

The purpose of this resolution is to designate the Benjamin Franklin Memorial Hall at the Franklin Institute in Philadelphia, Pa., as the Benjamin Franklin National Memorial.

The Franklin Institute represents the efforts of many people to create a unique memorial to Benjamin Franklin, the distinguished scientist, inventor, statesman, and leader in the struggle for American independence. For years the Franklin Institute, a nonprofit organization, has provided a beautiful and impressive physical memorial to this remarkable man, along with being a scientific and technological museum.

Within the large marble rotunda of Franklin Memorial Hall sits an impressive four-times-the-life-size statue of Dr. Benjamin Franklin. Through the years, millions of visitor have passed through this great memorial and museum, which has been created to insure a continuing living monument to Benjamin Franklin.

The resolution provides that the designation of the Benjamin Franklin National Memorial will be effective upon a cooperative agreement with the institute for preservation, public viewing and publication of the national memorial. It is anticipated that the enactment of this legislation will not result in an increase in Federal expenditures.

Mr. Speaker, it is incredible that we have not so honored this gifted American prior to this time. I strongly support the passage of this resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member desiring to do so, including myself, may include his remarks in the RECORD immediately preceding the passage of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

JUDGMENT FUNDS OF MISSISSIPPI SIOUX INDIANS

Mr. ASPINALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6067) to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay compromise judgments to the Mdewakanton and Wahpakoota Tribe of Sioux Indians, and the Sisseton and Wahpeton Tribes of Sioux Indians, in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, together with interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this Act, shall be distributed as provided in this Act.

TITLE I

SEC. 101. (a) The Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall bring current their membership rolls as of the date of this Act. The Lower Sioux Indian Community at Morton, Minnesota, the Prairie Island Indian Community at Welch, Minnesota, and the Shakopee Mdewakanton Sioux Community of Minnesota shall prepare rolls of their members who are lineal descendants of the Mdewakanton and Wahpakoota Tribes, and who were born on or prior to and are living on the date of this Act, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Mdewakanton and Wahpakoota Tribe who were born on or prior to and are living on the date of this Act whose names or the names of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

SEC. 102. After deducting the amounts authorized in section 1 of this Act, the funds derived from the judgment awarded the Indian Claims Commission dockets numbered 360, 361, 362, 363, and one-half of the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of the rolls prepared pursuant to section 101 of this Act. An amount equivalent to the proportionate shares of those persons who are members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be placed on deposit in the United States Treasury to the credit of the respective groups. Eighty per centum of such funds on deposit to the credit of the Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall be distributed per capita to such tribal members, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior. One hundred per centum of such funds on deposit to the credit of the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be distributed per capita of such tribal members: *Provided,* That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 2 of this Act. The shares of enrollees who are not members of such groups shall be paid per capita.

TITLE II

SEC. 201. (a) The Devils Lake Sioux Tribe of North Dakota, and the Sisseton and Wahpeton Sioux Tribe of South Dakota, shall bring current their membership rolls of the date of this Act. The Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana, shall prepare rolls of their members who are lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, who were born on or prior to and are living on the date of this Act, and who are entitled to enrollment on their respective membership rolls in accordance with the applicable rules and regulations of the tribe or group involved, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications for enrollment shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and are living on the date of this Act whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

SEC. 202. (a) After deducting the amount authorized in section 1 of this Act, the funds derived from the judgment awarded in Indian Claims Commission docket numbered 142 and the one-half remaining from the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of reservation residence and other residence shown on the 1909 McLaughlin annuity roll, as follows:

Tribe or group	Percentage
Devils Lake Sioux of North Dakota	21.6892
Sisseton-Wahpeton Sioux of South Dakota	42.9730
Assiniboine and Sioux Tribe of Fort Peck Reservation, Montana	10.3153
All other Sisseton and Wahpeton Sioux	25.0225

(b) The shares of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, Montana, as apportioned in accordance with subsection (a), shall be placed on deposit in the United States Treasury to the credit of the respective groups. Seventy per centum of such funds shall be distributed per capita to their tribal members: *Provided,* That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 201(a) of this Act. The remainder of such funds may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided,* That, in the case of the Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana, the Fort Peck Sisseton-Wahpeton Sioux Council shall act as the governing body in determining the distribution of funds allotted for programing purposes: *Provided further,* That the Sisseton-Wahpeton Sioux Tribe of South Dakota shall act in concert with its membership residing in the Upper Sioux Community in Minnesota and its membership affiliated with the Urban Sisseton-Wahpeton Council of the Minneapolis-Saint Paul area in jointly submitting programing proposals to the Secretary.

(c) The funds allocated to all other Sisseton and Wahpeton Sioux, as provided in subsection (a), shall be distributed per capita to the persons enrolled on the roll prepared by the Secretary pursuant to section 201(b) of this Act.

TITLE III

SEC. 301. No person shall be eligible to be enrolled under this Act who is not a citizen of the United States.

SEC. 302. Any person qualifying for enrollment with more than one group shall elect the group with which he shall be enrolled for the purpose of this Act.

SEC. 303. The sums payable to enrollees or their heirs or legatees who are minors or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interest of such persons after considering the recommendations of the governing bodies of the groups involved.

SEC. 304. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 305. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

The SPEAKER. Is a second demanded?

Mr. KYL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ASPINALL. Mr. Speaker, H.R. 6067 provides for the distribution of several Mississippi Sioux judgments among the Lower Mississippi Sioux groups. H.R. 6070 provides for the distribution of two Mississippi Sioux judgments among the Upper Mississippi Sioux groups.

The subcommittee has reported H.R. 6067 with amendments that add the substance of H.R. 6070, thus combining the two bills.

Legislation applicable to these same judgments, and applicable to both the Lower and the Upper Mississippi Sioux, was enacted by the House in the 91st Congress, but it died in the Senate.

The bill before us today differs from the bill that was passed in the 91st Congress in one important respect. Two years ago the Department told the committee that there is no present-day successor to the aboriginal Mississippi Sioux Tribe. The Secretary recommended, and the House agreed, that the judgments should therefore be distributed on a descendancy basis—that is, to all persons who can show that they are direct lineal descendants of a member of the aboriginal tribe.

This year, the Department changed its position and told us that five present-day tribes are partial successors. The Department recommended that two of these tribes share in the judgments on the basis of their relative tribal membership numbers, compared to nonmembers who are listed on a descendancy roll to be prepared. The Department further recommended that three other tribes share in the judgments on the basis of their relative numbers in 1909, rather than today.

The Department's recommendation was supported by all of the groups involved, and there are 10 of them, except the Fort Peck Sioux. The bill reported by the subcommittee followed the Department's recommendation.

The bill adopts a pragmatic approach, reflecting the wishes of what appear to be the overwhelming majority of the Indians concerned. The Upper Sioux want to use the 1909 roll for the purpose of dividing the money among the groups, but not for per capita distribution after the money is divided. The Lower Sioux will have nothing to do with the 1909 roll. The bill therefore provides differently for the two.

Although the subcommittee amendment strikes everything after the enacting clause and inserts new text, this approach was taken primarily as a drafting device to combine the two bills. The only substantive change made by the amendment relates to the recognition of successor tribes as recommended by the Department. The other changes are of a technical and perfecting nature.

The provisions of the bills relating to programing part of the money and distributing the rest of it have not been changed. All descendants who are not members of the five successor tribes will receive a 100-percent per capita. The two Lower Sioux Tribes will retain 20 percent for reservation programing. The three Upper Sioux Tribes will program 30 percent.

Mr. Speaker, this is a bill we had on the unanimous-consent calendar in order the other day, but the gentleman from Montana (Mr. MELCHER) wanted to state his position on the bill.

I now, Mr. Speaker, yield 3 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, I wish to point out the Sioux Indians at Fort Peck in the Sioux Indian Reservation in Montana who are entitled to participate in this judgment have been treated as stepchildren.

If Members will refer to the bill, they will notice that while the number of Sioux at Fort Peck, on the Committee on Consent Rule, would far exceed 10 percent under the terms of the bill, only 10 percent of the judgment will be divided among them.

It is unfair and unwise to provide this type of percentage in a judgment bill. I would have preferred, as the Sioux in Montana at Fort Peck prefer, to have the type of lineal descent as followed in the so-called Haley bill, passed by the Congress 2 years ago, incorporated in this bill.

Therefore, I protest the fairness of the bill on behalf of the Sioux at Fort Peck.

(Mr. SAYLOR, at the request of Mr. KYL, was granted permission to extend his remarks at this point in the RECORD.)

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 6067.

The purpose of this bill is to authorize the distribution of judgment funds awarded by the Indian Claims Commission in favor of the Mississippi Sioux Indians.

The total amount to be distributed among the five tribes which are modern-day successors to the aboriginal bands is $12,250,000. The five tribes are the Santee Sioux Tribe of Nebraska, Flandreau Santee Sioux Tribe of South Dakota, the Sisseton Wahpeton Tribe of South Dakota, the Devils Lake Tribe of North Dakota, and the Sioux Tribe on the Fort Peck Reservation.

The judgment award is to be distributed on a per capita basis pursuant to the preparation of current membership and descendancy rolls and a certain portion of the per capita distribution will be programed for reservation purposes.

Mr. Speaker, I urge the passage of this legislation.

Mr. FRASER. Mr. Speaker, I rise to urge support for H.R. 6067, which provides for distribution of $12.25 million in judgment funds to several Mississippi Sioux tribal groups. This settlement was awarded by the Indian Claims Commission in 1967 as additional payment for nearly 30 million acres of land in Minnesota, Iowa, and South Dakota taken from the Indians by the Federal Government during the first 60 years of the 19th century.

The descendants of the original Indian groups have waited over 100 years for the redress of their ancestors' grievances and I think it is unconscionable for us to ask them to wait any longer. Already 4 years have passed since Congress appropriated the funds to pay for the Indian Claims Commission judgment. Now the only job remaining before us is to determine how the funds will be distributed.

I know it has not been easy for the Indian people to agree on distribution procedures but that agreement has been worked out and it is embodied in the bill before us today. After the original agreement was reached, one of the Indian groups reversed its position and is now unhappy with some aspects of the bill. But the vast majority of the more than 12,000 Indian people affected by H.R. 6067 are actively advocating its passage.

Any further delays at this point would only compound the grievances that this legislation seeks to redress.

Mr. FRENZEL. Mr. Speaker, I rise today in enthusiastic support of H.R. 6067. It is a rare and pleasurable experience for me to be able to endorse a bill which has the approval of the House Committee on Interior and Insular Affairs, the Department of the Interior, and more importantly, the active support of the tribes involved.

The intention of this legislation is to distribute $12 million to the Mississippi Sioux Tribe. This total amount will be allocated in the States of North and South Dakota, Montana, Nebraska, as well as my State of Minnesota.

This settlement will satisfy an obligation for a claim by the Indians Claims Commission in 1967. I hope H.R. 6067 will be speedily passed.

Mr. MELCHER. Mr. Speaker, the bill before us today is unfair to the Sisseton-Wahpeton Sioux Council of the Fort Peck Reservation in Montana on the distribution of judgment funds awarded by the Indian Claims Commission on the basis of a percentage pay out.

In fact—the Assiniboine-Sioux of the Fort Peck Reservation are treated like stepchildren and are to receive under the terms of the bill less than their fair share of the judgment moneys. I oppose the percentage listed for the Assiniboine-Sioux Tribe of Fort Peck Reservation in section 5(a) of the bill which only allows these Indian people 10.3 percent of the judgment even though they represent much more than that percentage of the people eligible for the judgment.

I would like the bill amended and would do so at this time if this bill were not before the House under rules prohibiting an amendment.

It is unfair and unjust not to have followed a distribution on the basis of lineal descendants per capita as was done in the Haley bill that passed this House 2 years ago and as was also the basis followed in the Haley bill introduced into this Congress. Instead, we are following a system of percentages for the various groups who are lineal descendants of the Sisseton-Wahpeton Mississippi Sioux Tribes. I object, and I oppose the passage of the bill in this form and urge that the method of distribution in the Haley bill be followed rather than in this bill.

The SPEAKER. The question is on the motion offered by the gentleman from Colorado that the House suspend the rules and pass the bill H.R. 6067, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes."

A motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1462). To provide for the distribution to the Sisseton and

Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets Nos. 142 and 359, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay compromise judgments to the Sisseton and Wahpeton Tribes of Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, together with interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this Act, shall be distributed as provided in this Act.

SEC. 2. (a) The Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assinibone and Sioux Tribes of the Fort Peck Reservation, Montana, shall prepare rolls of their members who are lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, who were born on or prior to and are living on the date of this Act, and who are entitled to enrollment on their respective membership rolls in accordance with the applicable rules and regulations of the tribe or group involved, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications for enrollment shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and are living on the date of this Act whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

SEC. 3. No person shall be eligible to be enrolled under section 2 who is not a citizen of the United States.

SEC. 4. Any person qualifying for enrollment with more than one of the named Indian groups shall elect the group with which he shall be enrolled for the purpose of this Act.

SEC. 5. (a) After deducting the amounts authorized in section 1 of this Act, the funds derived from the judgment awarded in Indian Claims Commission docket numbered 142 and the one-half remaining from the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of reservation residence and other residence shown on the 1909 McLaughlin Annuity Roll, as follows:

Tribe or Group:	*Percentage*
Devils Lake Sioux of North Dakota	21.6892
Sisseton-Wahpeton Sioux of South Dakota	42.9730
Assiniboine and Sioux Tribe of the Fort Peck Reservation, Mont.	10.3153
All other Sisseton and Wahpeton Sioux	25.0225

(b) The shares of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, Montana, as apportioned in accordance with subsection (a), shall be placed on deposit in the United States Treasury to the credit of the respective groups. Seventy per centum of such funds shall be distributed per capita to their tribal members: *Provided,* That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 2(a) of this Act. The remainder of such funds may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided,* That, in the case of the Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana, the Fort Peck Sisseton-Wahpeton Sioux Council shall act as the governing body in determining the distribution of funds allotted for programing purposes: *And provided further,* That the Sisseton-Wahpeton Sioux Tribe of South Dakota shall act in concert with its membership residing in the Upper Sioux Community in Minnesota and its membership affiliated with the Urban Sisseton-Wahpeton Council of the Minneapolis-St. Paul area in jointly submitting programing proposals to the Secretary.

(c) The funds allocated to all other Sisseton and Wahpeton Sioux, as provided in subsection (a), shall be distributed per capita to the persons enrolled on the roll prepared by the Secretary pursuant to section 2(b) of this Act.

SEC. 6. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interest of such persons after considering the recommendations of the governing bodies of the groups involved: *Provided, however,* That no restrictions shall be placed upon payments to persons eighteen years of age or over who are married and are not under a legal disability for any reason other than age.

SEC. 7. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 8. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

AMENDMENT OFFERED BY MR. ASPINALL

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Strike out all after the enacting clause of S. 1462 and insert in lieu thereof the provisions of H.R. 6067, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6067) was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have permission to extend their remarks immediately preceding passage of this bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CONFERENCE REPORT ON H.R. 9727, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

Mr. LENNON. Mr. Speaker, I call up the conference report on the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 9, 1972.)

Mr. LENNON. Mr. Speaker, I urge the support of the House for the conference report on H.R. 9727. It represents, in my opinion, a reasonable, rational, and a practical resolution of the differences between the two bodies on this very important legislation.

For many years, this Nation, along with other nations in the world, have treated the oceans as an unrestricted dumping ground. Quantities of garbage, sewage sludge, laboratory wastes, contaminated dredge spoils, industrial wastes, munitions, and radioactive materials have all be casually disposed of into the ocean "sink," in ever-increasing quantities, with little or no consideration of the impact on the receiving waters. In the past few years, we have begun to realize some of the consequences of our past actions.

Our attention has been drawn to emergency situations where large quantities of nerve gas, enclosed in supposedly leakproof containers, have been transported from the center of our country to be loaded on vessels for disposition at sea. Congressional hearings to inquire into the need for such an action resulted only in declarations that it was too late to take any other disposal action. The truth of the matter is that no alternative plans were considered, and the nerve gas, together with its propellant charges, were simply allowed to reach a point where their threatened deterioration might create a major hazard unless they were immediately disposed of. The solution for the disposal was the selfsame ocean waters where the feeling in the past has been "out of sight, out of mind."

The various dumping activities have been coupled with agricultural runoff from the land and vast quantities of waste materials deposited into our river systems for transportation to the sea. Added together, they have had a massive deleterious effect on our offshore waters. Plants and animals have been killed by toxic wastes, areas of ocean bottom, such as the New York Bight, have been suffocated and turned into "ocean deserts," cancerous growths have been found on fishes in areas polluted by waste material, reduced growth rates and lowered reproductivity activity of fishes have occurred.

The lower levels of the food chain in the ocean waters have been obliterated in some areas, the concentrations of pesticides and heavy metals have rendered some fish species unsafe for consumption and have threatened the existence of other species higher in the food chain, the oxygen in many water areas have been depleted below the level necessary either to support marine life or to degrade the deposited wastes, and beaches have been closed to swimming and shellfish beds closed to harvesting because of high concentrations of coliform bacteria and of viruses causing various types of infection and diseases.

Aside from the massive threat to animal and human health, the results of this pollution have caused significant economic losses. Resort areas have experienced a loss of income-producing visitors, and commercially valuable fisheries have suffered, with the loss to the shellfish catch alone estimated at $63 million in the 1969 harvest. This situation requires prompt action.

The Members of the House will recall that this body on September 9, 1971, took a major step down the long road to correction by passing H.R. 9727. The bill did several important things. It banned the transportation from the United States for dumping at sea of all radiological, chemical, and biological warfare agents, as well as high-level radioactive waste. In addition, it required for materials other than those banned, a permit system to be administered by the Environmental Protection Agency for materials with the exception of dredged material, the permits for which would be handled by the Corps of Engineers.

The division of responsibility was deliberate in that the Environmental Protection Agency was given the primary responsibility for protecting the oceans from materials transported from the United States at the same time the bill recognized the responsibility of the Army Engineers in that maintenance of our waterways and, therefore, left the disposal of dredged material to be handled by the Engineers subject to the overall direction and standard development by the Environmental Protection Agency. I felt then and I feel now that the result is a reasonable balance between the demonstrated needs to protect our marine environment and economic needs of our domestic and foreign water commerce.

The bill included two additional titles which are complementary to title I. The first of these focused attention on necessary research to evaluate both short-term and long-range effects of ocean pollution, and the second title provided a scheme whereby particular areas may be preserved or restored in order to insure their maximum overall potential.

H.R. 9727 developed from an administration proposal which was considered along with some 50 other bills in joint hearings and executive sessions of the Subcommittees on Oceanography and Fish and Wildlife Conservation. The bill was unanimously reported from the joint subcommittees, unanimously adopted and reported to the House by the Merchant Marine and Fisheries Committee, and passed by the House by a vote of 304 to 3.

I have reviewed the background for a specific purpose, since the conference report has in general resolved the differences between the two bodies in favor of the House approach. As to the coverage of the bill, there was a compromise. The House version applied to all navigable waters, consistent with the recommendation of the administration. In view of the fact that it felt that the dumping problem was adequately taken care of in the Federal Water Pollution Control Act in internal waters, the Senate made the coverage applicable only to the waters outside the territorial limits of the United States.

The conferees compromised at the baseline, that is the line between internal waters and the open seas. This decision was based on a simple truth. As far as movement of ocean pollutants are concerned, there is no such thing as territorial waters. While we may draw a line on the ocean floor, and lay claim to the bottom land, the water above it is as independent as the atmosphere above dry land. Since the ocean waters constitute one unified mass, the conferees felt that it made little sense to handle dumping permits for ocean waters outside the territorial seas and leave the ocean waters within the territorial sea to be handled by other means.

In other respects, the conferees, with refining language changes, adhered to the House position. They retained the title III marine sanctuary provisions, tightening the language to make it clear that the implementation of that title could not in any way conflict with international law or principles. The conferees also retained, at the insistence of the House conferees, the provisions relating to the Corps of Engineers control over the disposal of dredge material, subject to more explicit language delineating the overall responsibilities of the EPA. The resolution of other differences is covered explicitly in the report, resulting in overall improvement to the legislation.

The conference report contains no nongermane matters. As to the appropriation authorizations, the conferees accepted the Senate limitations for title I, compromised between the House and Senate provisions for title II, and accepted the House provisions under title III.

I urge your support of the conference report.

Mr. MOSHER. Mr. Speaker, I rise in support of the conference report on H.R. 9727, the Marine Protection, Research, and Sanctuaries Act of 1972.

Approximately 2 years ago on October 7, 1970, President Nixon transmitted to the Congress a message recommending the enactment of legislation to ban the unregulated dumping of all materials into the oceans. At that time, he submitted a study conducted by the Council on Environmental Quality which found that the volume of waste material being dumped into the oceans is increasing rapidly throughout the world, and that unless we act now the problem will reach unmanageable proportions in the very near future.

At the same time, the President initiated a number of steps to bring the problem of ocean dumping to the attention of the international community, recognizing that in the long run the health of the world's oceans must be preserved through internationally agreed and enforced measures. As a result of the President's initiatives at the international level, a plenipotentiary conference to adopt an ocean-dumping convention will convene in London on October 23.

Our enactment of H.R. 9727 will place the United States in the forefront of nations at this conference as the only major power to have adopted comprehensive domestic legislation curtailing the use of the oceans for disposal of land-generated waste.

This legislation, therefore, marks a turning point in man's destructive use of the seas as a garbage dump. Hopefully, in the very near future all nations will follow our lead recognizing that the global oceans can no longer tolerate such abuses. This legislation and an earlier bill, the Ports and Waterways Safety Act, form a comprehensive package of legislation to minimize pollution of the oceans resulting from deliberate discharges of material into the seas and accidental pollution, the result of marine casualties.

Again, at the international level, amendments to the Oil Pollution Convention have been adopted to minimize global oil pollution from the routine discharge of oily wastes from tankers and to minimize the pollution potential of very large tankers in the event of a casualty. The 92d Congress, therefore, has been an extremely productive Congress from the standpoint of reversing this dangerous spiral of ocean pollution.

It has been a bipartisan effort, both in the Congress and between the Congress and the administration.

The work of the committee on conference has extended over a period of almost 11 months. There were significant differences between the bill as passed in the House and in the other body. These differences have been fully explained by my distinguished colleague, the gentleman from North Carolina (Mr. LENNON), and I will not attempt to amplify on his concise remarks.

The principal issue resolved by the conference committee dealing with the issuance of permits for the disposal of dredge spoil material has been, I believe, resolved in a manner which is satisfactory to all interested parties, and which will insure that dredge spoil will pose no threat to the quality of our ocean waters in the future.

In closing, Mr. Speaker, I would like to comment briefly upon titles II and III of the bill, dealing with research and marine sanctuaries, respectively.

The research work to be conducted by the Commerce Department acting through NOAA, in coordination with the Coast Guard and the Administrator of EPA, is of vital importance to our long-range effort to stop all dumping. It is important to note that the research work called for in title II is not limited to international ocean areas but also encompasses our domestic coastal waters, the Great Lakes, and their connecting waters.

The problem of pollution in the Great Lakes is acute, and as a Representative from the Great Lakes area, I am naturally anxious that every possible effort be made to insure that the quality of the Great Lakes is restored to a high level of purity. I expect that the Secretary of Commerce will utilize the authority set forth in title II of the act to significantly expand efforts already underway in the Environmental Protection Agency and NOAA to restore the Great Lakes. It should be noted that sections 202 and 203 of the act authorize the Secretary of Commerce to utilize other agencies and to render financial assistance to Federal, State, interstate, or local authorities that are engaged in projects leading toward the termination of dumping.

In a similar vein, title III authorizes the Secretary of Commerce to establish marine sanctuaries in the Great Lakes and their connecting waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. Again, I anticipate that the Secretary, in cooperation with the Governors of the Great Lakes States, as called for in section 302(b) of the act, will move vigorously to establish marine sanctuaries at appropriate Great Lakes areas. The marine sanctuary concept should be an important adjunct to our efforts to preserve shoreline areas of the Great Lakes that are of significant value.

Last night, Mr. Speaker, the House adopted the conference report on the coastal zone management bill, S. 3507.

Section 312 of that bill authorizes the Secretary of Commerce to make grants to the States of up to 50 percent of the cost of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone.

This is another complementary step which, in conjunction with the ocean dumping bill, will insure a great advance in our understanding and wise use of ecologically fragile estuarine areas.

Mr. Speaker, this legislation is a well-developed approach to ocean dumping regulation which deserves the support of every Member of this House. I urge adoption of the conference report.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on H.R. 9727, the Marine Protection, Research, and Sanctuaries Act of 1972.

Clearly, Mr. Speaker, the present system we have for controlling ocean dumping is not working. In fact, it is not a system at all. We have a permit program which is administered by the Army Corps of Engineers, but it is so full of gaps and loopholes that it cannot fairly be called a regulatory system. It is more like a sieve through which is filtered every kind of junk imaginable: sewage sludge, dredge spoil, garbage, chemical wastes, and debris of all sorts. I recall a CBS documentary of about a year ago in which the writer said we were spilling into the oceans "the gross national product of yesterday." And gross it is: "black liquor" from paper mills, sulfuric acid residues, germ-laden sludge from sewers, the junk and filth from a thousand towns that border the oceans or touch on the Great Lakes.

The Corps of Engineers is really not to blame for the sorry state of affairs: there are no standards or criteria in the present law which would give them guidance. The present statute and the regulations issued under it came into being before our national consciousness was aroused, before we began to realize the danger to our environment. The considerations of the past were economic. The oceans that surround our country were looked upon as cheap, convenient areas in which to discard the garbage and wastes we had generated. And that was not long ago, Mr. Speaker. In 1965, for example, officials of New York City were boasting of the "flush action" of the tides in New York Harbor. Because of this "flush action" they said there was no danger to human health in dumping thousands of tons of raw sewage in the Hudson at midtown Manhattan.

We know now how distastrously wrong those gentlemen were: whole areas of the New York Bight are now dead, incapable of supporting life. Many beaches are unsafe. Spawning grounds of countless local fish species have been fouled and catches drastically reduced. The stench that pervades the harbor gives the lie to their assurances and their promises.

To my mind, that is the important thing about this ocean dumping bill: it recognizes in its preamble the fact that we should have recognized long since: that unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentials.

In section 2(b), Congress declares that "it is the national policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health—or the marine environment . . .".

This is done, Mr. Speaker, by a strict permit system administered by the Administrator of the Environmental Protection Agency or the Corps of Engineers, as the case may be. The bill essays to control all dumping into the ocean, estuaries and the Great Lakes where the material and cargoes originate from our shores as well as dumping within waters over which the United States exercises jurisdiction by foreign nationals or where the dump cargoes originate from other nations. There are stiff penalties—civil and criminal. The bill directs a civil penalty for each violation of up to $50,000 and criminal penalties of $50,000 per day for each violation or imprisonment for up to 1 year.

We are particularly concerned in this legislation about radioactive wastes, chemical or biological warfare agents, and high level radioactive wastes: we expect that if this bill becomes law, dumping of this material will be stopped.

A special provision was written in this bill concerning dredge spoils, material which is dredged or excavated from the navigable waters of the United States. Dredge spoils, according to the 1970 report on ocean dumping by the Council on Environmental Quality—CEQ—makes up 80 percent of the material currently dumped from our shores. It has been estimated that a third of this tonnage is polluted. The Corps of Engineers is, of course, responsible for creating most of this dredge spoil. Therefore, under section 103, the Secretary of the Army is authorized to issue permits permitting the disposal of dredge spoils at sea after notice and an opportunity for public hearings "where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare or amenities or the marine environment, ecological systems or economic potentialities." The bill spells out what criteria the Secretary must use in arriving at that determination—section 103(b).

Mr. Speaker, in the course of our hearings on ocean dumping, we began to realize that in so many areas our knowledge of the ocean environment was fragmentary and incomplete.

Ignorance, St. Thomas Aquinas said in the Summa, is essentially a failure to know something which we ought to know. Our ignorance of the lifegiving oceans and marine ecosystems in this context is to my mind inexcusable. To make a beginning then at knowing what we ought to know, we have provided in this bill for a comprehensive program of research on ocean dumping, its effects, long and short term.

This research will be carried out by the Department of Commerce, the Coast Guard, the Corps of Engineers, and the EPA. The Secretary of Commerce will coordinate and report his findings to Congress on a semiannual basis.

The bill also provides for the creation of marine sanctuaries to be designated by the Secretary of Commerce within our territorial waters. If the sanctuary is to be located outside our territorial waters, the bill authorizes the Secretary of State to enter into negotiations with other governments to accomplish this end. Section 109 also authorizes the Secretary of State, after consultation with the Administrator, to "seek effective international action and cooperation to insure protection of the marine environment * * *" and to "formulate, present, and support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations in support of the policy of this act."

Mr. Speaker, this is a bill which deserves the support of the House. Much hard work has gone into it. We have relied heavily on the report on ocean dumping which was issued by the Council on Environmental Quality in October of 1970. It was an excellent report and many of its more important recommendations are found in this bill. Our hearings were long and informative. What we found the problems to be, we addressed in this bill. If this conference report is passed—and I am confident it will be—and if President Nixon signs this measure into law—and I am confident that he will—we will have done something which we can be proud of—something which the American people will be proud of.

Under the law of trusts, a trustee cannot with impunity dissipate the property which forms the corpus of the trust. He is held strictly accountable for his actions, and if he wastes the resources of the trust, he must make restitution; he must square the accounts.

We have been given our world in trust by a beneficent and a benevolent God. We are going to be held strictly accountable. We cannot dissipate the corpus of the trust—our land, our air or water—our oceans. The time has come to begin to make restitution for the negligences of the past, the recklessness with which we have spent our resources.

I invite the attention of my colleagues to a statement by Capt. Jacques-Yves Cousteau submitted for inclusion in the printed record of our hearings. It is not an ordinary piece of prose or everyday sort of testimony before a congressional hearing. It is simple, direct, and almost poetic:

> Because 96 percent of the water on earth is in the ocean, we have deluded ourselves into thinking of the seas as enormous and indestructible. We have not considered that earth is a closed system. Once destroyed, the oceans can never be replaced. We are obliged now to face the fact that by using it as a universal sewer, we are severely overtaxing the ocean's powers of self-purification.
>
> The sea is the source of all life. If the sea did not exist, man would not exist. The sea is fragile and in danger. We must love and protect it if we hope to continue to exist ourselves.
>
> Men of all nations must join together in an effort to save our seas. I am sure that by such measures as are called for in H.R. 805 (now H.R. 9727) we will succeed. (Committee on Merchant Marine and Fisheries, Subcommittee on Fisheries and Wildlife Conservation and Subcommittee on Oceanography: *Ocean Dumping of Waste Materials*, April 6, 1971 at page 162.)

Mr. Speaker, I urge my colleagues to support the conference report and to put the Congress on record in opposition to irresponsible and indiscriminate dumping in the beautiful waters that surround our country.

Mr. Speaker, I would like at this time to briefly describe the conference bill and make a few comments on the differences between the House and Senate versions of the bill.

Title I of H.R. 9727 would prohibit unregulated dumping of waste material into our coastal and offshore waters.

In accomplishing this purpose, the transportation and dumping of radiological, chemical, or biological warfare agents or high level radioactive waste would be banned. There would also be a ban placed upon the transportation and dumping of all other waste material, unless authorized by a permit to be issued by the Administrator of the Environmental Protection Agency or the Secretary of the Army, as the case may be.

The House bill assigned the responsibility for issuing dumping permits to the Administrator of EPA in all cases except those involving dredge and fill operations; in which case the Corps of Engineers would continue in its responsibilities. As to corps issued dredge permits, the Administrator would be given power to designate areas which might not be used as disposal sites. Material could be placed in those areas only when the Secretary of the Army certified that no economically feasible alternative was reasonably available.

The Senate alternative to this approach was to concentrate the disposal permit issuance responsibilities in EPA.

This extremely complex question was resolved by the committee of conference by allowing the Secretary to issue permits for transportation of dredged material for dumping. However, in issuing such permits, he would be required to follow the criteria set down by EPA.

It is expected that the Secretary, when selecting sites for disposal of dredged material, will select economically feasible sites. In any case in which he finds that there is no economically feasible site which would not violate the EPA criteria or the EPA restrictions as to critical areas, then the Secretary would be authorized to request a waiver from EPA. In turn, the Administrator of EPA would have to grant the waiver unless he found that the preposed dumping would result in an unacceptably adverse impact upon the area concerned.

As enacted, the House bill extended the coverage of the Act to oceans, estuarine waters, other coastal waters affected by the tides, and the Great Lakes. The Senate bill provided coverage only to the ocean waters beyond the territorial sea of the United States. The conference bill would resolve the conflict by drawing the line at the "base line," that is the line from which the territorial sea is measured.

The House bill contained language that would permit any State to impose additional requirements to the criteria developed by the Administrator relating to dumping of materials. The Senate version of the bill restricted the right to cases in which a State proposed additional criteria which was subsequently accepted by the Administration and thereafter treated as Federal. The Senate version was adopted by the conferees.

The House bill contained an open-ended authorization as to time and funds whereas the Senate version of the bill would authorize to be appropriated not to exceed $3.6 million for fiscal year 1973 and $5.5 million for fiscal year 1974. The conference bill adopted the Senate version and added that for fiscal years after fiscal year 1974, funds would be provided for by subsequent congressional action.

The House version of title II provided for research by the Secretary of Commerce, the department in which the National Oceanic and Atmospheric Administration is currently operating, on the effects of dumping and on global monitoring of ocean problems. It authorized $2 million for these purposes. The Senate bill increased the authorization to $12 million, added a reporting requirement and instructed the Secretary of Commerce to do research to determine means of ending all dumping within 5 years. The conferees decreased the authorization to $6 million, incorporated an annual reporting requirement and instructed the Secretary, in cooperation with other interested agencies, to do research aimed at reducing or eliminating ocean dumping within 5 years.

The House version of the bill contained a title III which would authorize the Secretary of Commerce to establish marine sanctuaries in our coastal and offshore water out to the edge of the Continental Shelf. The concurrence of the Governors of the affected States would be required where the proposed sanctuary falls within State jurisdiction.

There was authorized to be appropriated $10 million per year for a period of 3 years to carry out the purposes of this title.

The Senate version of the bill contained no provision at all on marine sanctuaries.

Mr. DOWNING. Mr. Speaker, I am proud to rise in support of the conference report on H.R. 9727, the so-called ocean dumping bill. I urge its rapid passage because I believe it is essential for the Congress to act now, in order to stop the indiscriminate and uncontrolled dumping of harmful waste material into America's coastal and offshore waters.

In an era that has been distinguished by a new and genuine concern for our environment, this report should certainly become landmark conservation legislation, because it represents the first attempt by Congress to prevent the oceans from becoming dangerously polluted and irreversibly damaged.

Basically, the conference report we are considering today is designed to establish a concerted, national policy on ocean dumping. It represents the final results of the sincere efforts of both the Senate and the House to produce a practical, workable program.

Mr. Speaker, I am especially proud of the role our Committee on Merchant Marine and Fisheries played in the evolution of this report, because our members drafted the legislation with great care and thoroughness. In addition to extensive open hearings, long hours of executive sessions were held, and I estimate that more than 75 hours were spent on the legislation by the committee members.

The hearings were jointly held by our Subcommittee on Oceanography and our Subcommittee on Fisheries and Wildlife Conservation. Congressman ALTON LENNON, and Congressman JOHN D. DINGELL, the respective chairmen of those subcommittees, jointly chaired the hearings. I am indebted to both of these distinguished colleagues for the exceptional job they did on this subject.

I would like to say, however, that in addition to probably becoming landmark legislation, this conference report will be an outstanding contribution to the environmental cause for another reason: I think it will set an example for all future environmental legislation. I say this because it attempts to guard against over-reaction to pollution problems by establishing a sensible balance between the need to protect and preserve our environment and the need to maintain and promote industrial and economic development.

That kind of balance was not easy to attain, and this is one of the reasons the committee members worked so long and hard. Their efforts were fruitful, because they have produced legislation that will effectively protect and preserve the vast ocean resources, and at the same time, satisfy the justifiable concerns expressed during our hearings by the port authorities, by the steamship industry and by the great industrial interests of our Nation; all of these were concerned, and justifiably so—that our Nation's economy and, therefore, our national welfare, could be adversely affected by legislation that was too hurriedly drawn, or that was drawn with a prejudiced viewpoint.

Mr. Speaker, this is a good and a sensible report. And, when enacted, the legislation will fulfill a great and vital need. The Senate approved this conference report today, just a few hours ago. I urge all my colleagues in the House to join me in supporting and passing this report, and I earnestly hope it will be enacted yet this year.

I rise to pay my great respect to a gentleman in our midst who has done so much for his district, State, and Nation and who should really go down in history as the father of the Nation's oceanography program as the chairman of the Subcommittee on Oceanography he has done more than any Member of the Congress to see that this "last frontier" for mankind is properly explored and exploited by this nation. He has studied. He has worked. He has persevered. Our Nation's progress in the field of oceanography is directly attributed to the efforts of ALTON LENNON.

I often think of my friend as the "ideal" Congressman. For in him, I see what I would like to be. Hidden by modesty is a man of intelligence, integrity, and courage, a man who has dedicated himself to his country as few ever have.

When ALTON LENNON retires from the Congress this year our Nation will have suffered a loss. Someone will replace him, of course, but no one will ever fill his shoes.

From here on in, whenever I hear the phrase "the gentleman from North Carolina," I shall think of my friend ALTON LENNON.

Mr. LENNON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LENNON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 3419, CONSUMER PRODUCT SAFETY ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to call up the conference report on the Senate bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the requests of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1972.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, with relatively few substantive amendments, the committee of conference has agreed to accept the House bill. Let me comment briefly on the most significant matters agreed to in conference.

As the Members will recall, the House bill proposed to establish a new independent regulatory commission with comprehensive authority to protect consumers from hazardous products. The House bill did not disturb the Food and Drug Administration's authority over foods, drugs, medical devices, or cosmetics. The Senate bill went much further. Under its terms the Food and Drug Administration would have been abolished and its responsibilities entirely transferred to a new safety agency. The committee of conference has agreed to the more limited purposes and scope of the House bill.

Two amendments to the House bill agreed to by your conferees require special mention. First, we have accepted a Senate amendment which adds to the provisions in the House bill which allowed interested persons to petition the Product Safety Commission to initiate a rulemaking proceeding for the development of a consumer product safety standard or to ban a hazardous product. The House provisions required the Commission to publish in the Federal Register its reasons for denying any such petition. The Senate amendment agreed to by the conferees will allow a petitioner whose request is denied to apply to district court for review of the Commission's denial. If the petitioner is able to convince the court by a preponderance of evidence that the product presents an unreasonable risk of injury and that the Commission's failure to initiate a rulemaking proceeding unreasonably exposes the petitioner or other consumers to a risk of injury, the court may compel the Commission to begin a proceeding. Two important limitations are placed on this authority.

First, the court may not order the Commission to take any action beyond the initiation of a proceeding. It could not, for example, order the Commission to adopt a particular standard. Second, we have decided to delay the effective date of this provision until 3 years after enactment. Several members of the conference expressed concern that the Commission should have an opportunity in the first years of its existence to properly order its priorities.

The National Commission on Product Safety has identified over 40 products which may require mandatory safety standards. Accordingly, the committee felt that the Commission should be given 3 years in which to act before allowing interested persons to bring a proceeding to compel action.

The second substantive addition to the House bill which I want to mention relates to stockpiling. In the past, under other safety laws, unscrupulous manufacturers have taken advantage of the lag between the date on which a safety standard is promulgated and the date on which it takes effect to produce nonconforming products in great quantity. This practice obviously defeats the purpose of the safety standard. Accordingly, the Committee on Conference has agreed to accept a provision from the Senate bill which would allow the Commission to prohibit stockpiling in order to prevent circumvention of a consumer product safety rule.

Mr. Speaker, I believe the committee of conference has reported a good bill. As I noted, it departs in only minor ways from the House passed bill and I strongly urge the House to agree to the conference report.

Mr. BROYHILL of North Carolina. Mr. Speaker, I rise in support of the conference report and the following is a brief discussion of the major differences.

The House bill was used as the vehicle for conference and came out essentially unchanged although numerous language changes were involved.

When the bill was before the House many members were concerned about a provision called the Nelson amendment which did not appear in the House bill but which had been inserted in the Senate bill.

The Nelson amendment prohibited manufacturers and other business interests from participating in the standard-setting process. This was diametrically opposed to the philosophy of the House bill which encouraged such participation.

The conference version retains a very limited portion of the Nelson amendment providing that in the very limited situation wherein a manufacturer of a product is the one and only offeror in a bid to create a product standard, the Commission may concurrently investigate and develop a similar standard.

Such a provision is justified in that the Commission should have independent knowledge of the subject matter where only one outfit is working up a standard which will apply to its product and similar products of possible competitors. In all other cases the Commission is foreclosed from duplicating the work of offerors to avoid unnecessary double expense.

The House bill allowed for individuals or groups to request action by the Commission on products not already subject to safety standards. If the Commission did not see fit to start such a proceeding it was required to state its reasons in the Federal Register. The Senate bill provided for a court appeal and a forcing of Commission action.

The conference version adds to the House version a provision for appeal to a district court with the petitioner bearing the burden of showing by a preponderance of the evidence that a safety standard is needed for the particular product. If the court agrees it must remand the case to the Commission which is then required only to commence a rule making proceeding. Thereafter the matter goes along in the same manner as a proceeding initiated by the Commission. Persons unhappy with the resulting standard may appeal under the provisions of the Administrative Procedures Act.

In addition to the safeguards insisted upon by the House it was also agreed that the right to so petition would be delayed for 3 years. A new entity such as this Commission must first of all get organized. When it has done so there will be many obvious products needing attention. These should be handled before the Commission is beleagured by everyone's pet peeve.

A Senate provision set penalties for producing inventories of noncomplying items between the time a standard is set and it becomes effective. Many circumstances may influence a decision to continue or step up production at any given time. To avoid injustice from such an automatic offense, language was inserted to make clear that the so-called stockpiling had to be done to circumvent or flout the new safety standard.

Except as to injunction proceedings for imminent hazards, a power which exists in the other regulatory agencies, the basic control of litigation was left with the Department of Justice.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FLAMMABLE FABRICS ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5066) to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act, with Senate amendments thereto, and consider the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, last year the House passed H.R. 5066 to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act. That bill authorized a total of $4 million for fiscal year 1972.

The Senate has returned to us a bill which authorizes these same amounts for current fiscal year 1973. We believe the House should concur in this amendment.

The Senate also added an amendment which would require the Department of Commerce to promulgate and make effective by July 1973 a flammability standard applicable to children's sleepwear covering sizes 7 to 14. It is my understanding that the Department of Commerce has already begun a proceeding for the development of this standard. In the past, Members of both the Senate and the House have expressed dissatisfaction with the administration of the Flammable Fabrics Act by the Department. Allegations have been made that the Department lacked vigor and was too often dissuaded from adopting needed standards on the basis of industry objections that more than was required to study the problem or that the necessary technology did not exist. I am informed that the sponsors of the Senate amendment decided to place a statutory requirement that the Department act by July 1, 1973, in order to assure that similar arguments do not again delay a needed standard.

I recommend that we disagree with the Senate amendment on this point not because I disagree with the objectives of this amendment. Today the House has agreed to a report of the committee of conference on product safety legislation which, among other things, proposes to transfer the administration of the Flammable Fabrics Act to a new independent regulatory commission. We fully expect that this new agency will act vigorously in carrying out its responsibilities under the Flammable Fabrics Act as well as the other tasks which are assigned to it. I do not, therefore, feel that it is appropriate to impose a statutory mandate that the Commission act by a stated date. In the interim before this transfer takes place, it is my hope and expectation that the Department of Commerce will diligently proceed with the development of a flammability standard for children's sleepwear in sizes 7 to 14.

I have discussed this matter with several Members of the Senate and it is my understanding that the Senate will agree to deleting amendment No. 2 as I have proposed.

Mr. SPRINGER. Mr. Speaker, some while ago the House passed a 1-year extension of the Flammable Fabrics Act authorizing $4 million for fiscal year 1972. The Senate failed to act on our bill for many months, but has secretly acted and has provided an authorization of $4 million for fiscal year 1973. However, in addition to the authorization, the Senate also directed that the Department of Commerce establish, by July 1, 1973, a flammability standard for children's sleepwear, sizes 7 through 14.

The Department of Commerce objected to the directive to establish a standard on the ground that it could not be done by July 1, 1973.

The Senate seems to have been convinced that a standard could not be developed by July 1, 1973 and have indicated their willingness to drop the provision directing the development of a standard. Now that fiscal year 1972 has passed, the House should accept the Senate amendment authorizing $4 million for fiscal year 1973 and send the bill back to the Senate for their approval of what would now amount to a simple 1-year extension.

SENATE AMENDMENTS

The SPEAKER. The Clerk will report the first Senate amendment.

The Clerk read Senate amendment No. 1 as follows:

Page 1, line 7, strike out "1972" and insert: "1973".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the amendment of the Senate No. 1, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next Senate amendment.

The Clerk read Senate amendment No. 2, as follows:

Page 1, after line 7, insert:

SEC. 2. That the Flammable Fabrics Act be amended by adding a new section at the end thereof, as follows:

"Sec. 18. Interim children's sleepwear standard for sizes 7 through 14.

"(a) Congressional finding.

"The Congress finds that there is a need for a standard for children's sleepwear in sizes 7 through 14 in order to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.

"(b) Children's Sleepwear Standard for Sizes 7 through 14.

"The Congress directs the Secretary of Commerce to promulgate under the procedures set forth in this Act insofar as practicable a standard for children's sleepwear, sizes 7 through 14, effective not later than July 1, 1973."

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House disagree to Senate amendment No. 2.

The motion was agreed to.

The SPEAKER. The Clerk will report the Senate amendment to the title of the bill.

The Clerk read the Senate amendment, as follows:

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1973 to carry out the Flammable Fabrics Act."

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to concur in the Senate amendment to the title of the bill.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AMENDMENTS OF 1972

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15375) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973, with a Senate amendment thereto, and consider the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SEC. 2. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act the sum of $52,714,000 for the fiscal year ending June 30, 1973.".

SEC. 3. Section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410) is amended to read as follows:

"(a) Except as provided in subsection (d) of this section, upon application by a manufacturer at such time, in such manner, and containing such information as required in this section and as the Secretary shall prescribe, the Secretary may, after publication of notice and opportunity to comment and under such terms and conditions and to such extent as he deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from any motor vehicle safety standard established under this title if he finds—

"(1) (A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted, or

"(B) that such temporary exemption would facilitate the development or field evaluation of new motor vehicle safety features which provide a level of safety which is equivalent to or exceeds the level of safety established in each standard from which an exemption is sought, or

"(C) that such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle, or selling a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles; and

"(2) that such temporary exemption would be consistent with the public interest and the objectives of the Act.

Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(b) The Secretary shall require permanent labeling of each exempted motor vehicle. Such label shall either name or describe each of the standards from which the motor vehicle is exempted and be affixed to such exempted vehicles. The Secretary may require that written notification of the exemption be delivered to the dealer and first purchaser for purposes other than the resale of such exempted motor vehicle in such manner as he deems appropriate.

"(c) (1) No exemption or renewal granted under paragraph (1) (A) of subsection (a) of this section shall be granted for a period longer than three years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(2) No exemption or renewal granted under paragraph (1) (B), (C), or (D) of subsection (a) of this section shall be granted for a period longer than two years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(d) (1) No manufacturer whose total motor vehicle production in its most recent year of production exceeds 10,000, as determined by the Secretary, shall be eligible to apply for an exemption under paragraph (1) (A) of subsection (a) of this section.

"(2) No manufacturer shall be eligible to apply for exemption under paragraph (1) (B), (1) (C), or (1) (D) of subsection (a) of this section for more than two thousand five hundred vehicles to be sold in the United States in any twelve-month period, as determined by the Secretary.

"(e) Any manufacturer applying for an exemption on the basis of paragraph (1) (A) of subsection (a) of this section shall include in the application a complete financial statement showing the basis of the economic hardship and a complete description of its good faith efforts to comply with the standards. Any manufacturer applying for an exemption on the basis of paragraph (1) (B) of subsection (a) of this section shall include in the application research, development and testing documentation establishing the innovational nature of the safety features and a detailed analysis establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which exemption is sought. Any manufacturer applying for an exemption on the basis of paragraph (1) (C) of subsection (a) of this section shall include in the application research, development and testing documentation establishing that the safety of such vehicle is not unreasonably degraded and that such vehicle is a 'low-emission vehicle'. Any manufacturer applying for an exemption on the basis of paragraph (1) (D) of subsection (a) of this section shall include in the application a detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall level of safety of nonexempted motor vehicles.

"(f) The Secretary shall promulgate regulations within 90 days (which time may be extended by the Secretary by a notice published in the Federal Register stating good cause therefor) after enactment of this Act for applications for exemption from any motor vehicle safety standard provided for in this section. The Secretary may make public within 10 days of the date of filing an application under this section all information contained in such application or other information relevant thereto unless such information concerns or relates to a trade secret, or other confidential business information, not relevant to the application for exemption.

"(g) For the purpose of this section, a 'low-emission vehicle' means any motor vehicle which—

"(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under the Clean Air Amendments of 1970 (42 U.S.C. 1857f-1) at the time of manufacture to that type of vehicle;

"(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under the Clean Air Amendments of 1970 (42 U.S.C. 1857f-1) at the time of manufacture to that type of vehicle."

Mr. STAGGERS. Mr. Speaker, I have sent to the table a substitute amendment which merely makes necessary technical and conforming changes in the Senate amendment to H.R. 15375. It does not alter the substance of the Senate's proposal.

As the Members will recall, this last summer we passed the bill, H.R. 15375, for the limited purpose of extending the authorization for the motor vehicle safety program under the National Traffic and Motor Vehicle Safety Act. The House agreed to authorize an amount of $37,461,000—which amount was equal to the Department of Transportation's budget request for the administration of this program.

The Senate amendment increased the authorized levels by more than $15 million to a total of $52,714,000 for fiscal year 1973. It is my understanding that the supplemental appropriations bill will appropriate somewhere between $32 million and $37 million. Accordingly, our acceptance of the increase in the Senate amendment is likely to have no impact on the appropriation for this fiscal year. For this reason, I recommend we accept the Senate amendment so that we can finish this legislation before the Congress adjourns.

The Senate amendment also establishes a carefully drawn exemption authority which would enable the Secretary of Transportation to exempt certain motor vehicles from compliance with motor vehicle safety standards. The Department of Transportation believes that this is needed authority and supports its passage. Among other things, it will allow exemptions for manufacturers whose total motor vehicle production does not exceed 10,000, if compliance would cause the manufacturer substantial economic hardship. Exemptions are also permitted for production runs of 2,500 vehicles or less to permit experimentation in new motor vehicle safety equipment, emission control devices and new safety systems.

The committee recommends that the House agree to providing this exemptive authority with the understanding that the committee will in the early months of the next Congress reexamine this matter. As the committee noted when H.R. 15375 was first brought to the floor, several important bills have been introduced which propose substantive amendments to the National Traffic and Motor Vehicle Safety Act and we intend to conduct thorough hearings on these proposals in the beginning months of the next Congress.

Mr. SPRINGER. Mr. Speaker, in August of this year the House passed a bill which extended the authorizations under the National Traffic and Motor Vehicle Safety Act for fiscal year 1973, at a level of $37.4 million which was the exact amount requested by the Department of Transportation.

The Senate amended the House bill by increasing the authorizations to $52.7 million for fiscal year 1973 and by adding an exemption section which would allow the Secretary of Transportation to temporarily exempt a motor vehicle from any motor vehicle safety standard if the manufacturer of the motor vehicle produced no more than 10,000 vehicles in preceding year. The need for an exemption provision was to protect Checker Motor Co.'s ability to continue production of its automobiles while it tooled to adapt the new safety equipment, which it purchases from the big automobile manufacturers, to its own automobiles.

The authorization figure for fiscal year 1973 is now unimportant since the appropriation for the Department of Transportation has already passed the House and the Senate.

I urge acceptance of the Senate amendments inasmuch as the Senate and the Subcommittee on Commerce and Finance of the House Commerce Committee have both agreed to fully explore these and other provisions of the act next year in detailed hearings.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves to concur in the Senate amendment with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "National Traffic and Motor Vehicle Safety Act Amendments of 1972".

Sec. 2. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"Sec. 121. For the purpose of carrying out this Act there is authorized to be appropriated $52,714,000 for the fiscal year ending June 30, 1973.".

Sec. 3. Section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410) is amended to read as follows:

"Sec. 123. (a) Except as provided in subsection (d) of this section, upon application by a manufacturer at such time, in such manner, and containing such information as required in this section and as the Secretary shall prescribe, the Secretary may, after publication of notice and opportunity to comment and under such terms and conditions and to such extent as he deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from any motor vehicle safety standard established under this title if he finds—

"(1) (A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted,

"(B) that such temporary exemption would facilitate the development or field evaluation of new motor vehicle safety features which provide a level of safety which is equivalent to or exceeds the level of safety established in each standard from which an exemption is sought,

"(C) that such temporary exemption would facilitate the development or field evaluation of a low-mission motor vehicle and would not unreasonably degrade the safety of such vehicle, or

"(D) that requiring compliance would prevent a manufacturer from selling a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles; and

"(2) that such temporary exemption would be consistent with the public interest and the objectives of the Act.

Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(b) The Secretary shall require permanent labeling of each exempted motor vehicle. Such label shall either name or describe each of the standards from which the motor vehicle is exempted and be affixed to such exempted vehicles. The Secretary may require that written notification of the exemption be delivered to the dealer and first purchaser for purposes other than the resale of such exempted motor vehicle in such manner as he deems appropriate.

"(c) (1) No exemption or renewal granted under paragraph (1) (A) of subsection (a) of this section shall be granted for a period longer than three years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(2) No exemption or renewal granted under paragraph (1) (B), (1) (C), or (1) (D) of subsection (a) of this section shall be granted for a period longer than two years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(d) (1) No manufacturer whose total motor vehicle production in its most recent year of production exceeds 10,000, as determined by the Secretary, shall be eligible to apply for an exemption under paragraph (1) (A) of subsection (a) of this section.

"(2) No manufacturer shall be eligible to apply for exemption under paragraph (1) (B), (1) (C), or (1) (D) of subsection (a) of this section for more than 2,500 vehicles to be sold in the United States in any 12 month period, as determined by the Secretary.

"(e) Any manufacturer applying for an exemption on the basis of paragraph (1) (A) of subsection (a) of this section shall include in the application a complete financial statement showing the basis of the economic hardship and a complete description of its good faith efforts to comply with the standards. Any manufacturer applying for an exemption on the basis of paragraph (1) (B) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing the innovational nature of the safety features and a detailed analysis establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought. Any manufacturer applying for an exemption on the basis of paragraph (1) (C) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing that the safety of such vehicle is not unreasonably degraded and that such vehicle is a low-emission motor vehicle. Any manufacturer applying for an exemption on the basis of paragraph (1) (D) of subsection (a) of this section shall include in the application a detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall level of safety of nonexempted motor vehicles.

"(f) The Secretary shall promulgate regulations within 90 days (which time may be extended by the Secretary by a notice published in the Federal Register stating good cause therefor) after the date of the enactment of this subsection for applications for exemption from any motor vehicle safety standard provided for in this section. The Secretary may make public within 10 days of the date of filing an application under this section all information contained in such application or other information relevant thereto unless such information concerns or relates to a trade secret, or other confidential business information, not relevant to the application for exemption.

"(g) For the purpose of this section, the term 'low-emission motor vehicle' means any motor vehicle which—

"(1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 of the Clean Air Act (42 U.S.C. 1857f–1) at the time of manufacture to that type of vehicle; and

"(2) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 202 of the Clean Air Act at the time of manufacture to that type of vehicle."

The motion was agreed to.

A motion to reconsider was laid on the table.

EMERGENCY HEALTH PERSONNEL ACT AMENDMENTS OF 1972

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16755) to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This may be cited as the "Emergency Health Personnel Act Amendments of 1972".

Sec. 2. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"Sec. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the 'Corps') which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages."

(b) Section 329(b) of such Act is amended to read as follows:

"(b) (1) The Secretary shall (A) designate those areas which he determines have critical health manpower shortages, (B) provide assistance to persons seeking assignment of Corps personnel to such designated areas to provide under this section health care and services for persons residing in such areas, and (C) conduct such information programs in such designated areas as may be necessary to inform the public and private health entities serving those areas of the assistance available under this section.

"(2) (A) The Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for persons residing in an area designated by the Secretary under paragraph (1) if——

"(i) the State health agency of each State in which such area is located or the local public health agency or any other public or nonprofit private health entity in such area requests such assignment, and

"(ii) the (I) local government of such area, and (II) the State and district medical, dental, or other appropriate health societies (as the case may be), certify to the Secretary that such assignment of Corps personnel is needed for such area.

If with respect to any proposed assignment of Corps personnel to an area the requirements of clauses (i) and (ii) of the preceding sentence are met except for the certification by the State and district medical, dental, or other appropriate health societies required by clause (ii) and if the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, the Secretary may, after consultation with appropriate medical, dental, or other health societies, assign such personnel to such area. Corps personnel shall be assigned under this section on the basis of the extent of an area's need for health care and services and without regard to the ability of the residents of an area to pay for health care and services.

"(B) In providing health care and services under this section, Corps personnel shall utilize the techniques, facilities, and organizational forms most appropriate for the area and shall, to the maximum extent feasible, provide such care and services (i) to all persons in such area regardless of the ability of such persons to pay for the care and services, and (ii) in connection with (I) direct health care programs carried out by the Service; (II) any direct health care program carried out in whole or in part with Federal financial assistance; or (III) any other health care activity which is in furtherance of the purposes of this section.

"(C) Any person who receives health care services provided under this section shall be charged for such care or service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining (i) the amounts of appropriations to be requested under subsection (h), and (ii) the amounts to be made available from appropriations made under such subsection to carry out this section."

(c) Section 329(c) of such Act is amended (1) by striking out "Service" and inserting in lieu thereof "Corps" and (2) by inserting at the end thereof the following: "The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip."

(d) Section 329(d) of such Act is amended—

(1) by striking out "Service" in the first sentence and inserting in lieu thereof "Corps", and by inserting before the period at the end of such sentence the following: ", except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability in such area of care and services by Corps personnel, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area but only to the extent that such utilization will not impair the delivery of care and treatment through such hospital or facility to persons who are entitled to care and treatment through such hospital or facility";

(2) by striking out "If there are no such facilities in such area" in the second sentence and inserting in lieu thereof "If there are no health facilities in or serving such area";

(3) by adding after the second sentence the following new sentence: "In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals."; and

(4) by inserting "(1) after "(d)" and by adding at the end the following:

"(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps."

(e) Section 329(f) of such Act is amended (1) by striking out "Service" in paragraphs (1) and (3) and inserting in lieu thereof "Corps", and (2) by striking out "to select commissioned officers of the Service and other personnel" in paragraph (2) and inserting in lieu thereof "to select personnel of the Corps".

(f) Subsection (g) of section 329 of such Act is redesignated as subsection (h) and the following new subsection is inserted after subsection (f) of such section:

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application."

(g) Subsection (h) of section 329 of such Act (as so redesignated by subsection (f) of this section) is amended by striking out "and" and after "1972;" and by inserting immediately before the period at the end the following "; and $25,000,000 for the fiscal year ending June 30, 1974".

(h) Section 329 of such Act is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this section, the term 'State' includes Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 3. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on which such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall—

(1) contain (A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided equivalent care and treatment through such hospital or other facility or under a new arrangement, and (B) an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer; and

(2) the comments (if any) made by each—

(A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which the hospital or other facility is located or which is served by the hospital or other facility, and

(B) section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such area,

after the Secretary has provided each such agency a reasonable opportunity to review and comment on the proposed closing or transfer.

For purposes of paragraph (2), the term "section 314(a) State health planning agency" means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (referred to in paragraph (2) as a "section 314(a) plan"), and the term "section 314(b) areawide health planning agency" means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314 (b) (referred to in paragraph (2) as a "section 314(b) plan").

SEC. 4. Section 741(f) (1) (C) of the Public Health Service Act is amended by striking out "agreement with the Secretary to practice his profession for a period of at least two years in an area in a State determined by the Secretary" and inserting in lieu thereof "agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State designated under section 329(b) or otherwise determined by the Secretary".

SEC. 5. Title II of the Public Health Service Act is amended by adding after section 224 the following new section:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 225. (a) The Secretary shall establish the Public Health and National Health Service Corps Scholarship Training Program (hereinafter in this section referred to as the 'Program') to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Service.

"(b) To be eligible for acceptance and continued participation in the Program, each applicant must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health-related specialty, as determined by the Secretary;

"(3) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve, as prescribed by subsection (e) of this section, in the Commissioned Corps of the Service or as a civilian member of the National Health Service Corps.

"(c) Each participant in the Program will be authorized a scholarship for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The scholarship shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O-1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in the Program. If necessary, persons participating in the Program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"(e) A person participating in the Program shall be obligated to serve on active duty as a commissioned officer in the Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under the Program. At least one-half of the period of service required by the preceding sentence must be spent providing health care and services (1) in an area designated under section 329(b), (2) as a member of the Indian Health Service or the Federal Health Programs Service and in an area (determined under section 329 or otherwise) to have a health manpower shortage, or (3) in connection with any program, designated by the Secretary, for the provision of health care and services in such an area. For persons receiving a degree from a school of medicine, osteopathy, or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this subsection unless the internship or residency is served in a facility of the Service or other facility of the National Health Service Corps.

"(f) (1) If, for any reason, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition and other education expenses, and scholarship payments, paid under this section, plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(2) When a person undergoing training in the Program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for him from Federal funds plus any scholarship payments which he received under the Program.

"(3) The Secretary shall by regulation provide for the waiver or suspension of any obligation under paragraph (1) or (2) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(g) Notwithstanding any other provision of law, persons undergoing academic training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(h) The Secretary shall issue regulations governing the implementation of this section.

"(i) To carry out the Program, there is authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974."

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 16755, a bill to extend the Emergency Health Personnel Act of 1970 for 1 year. This act authorizes the program known as the National Health Service Corps, which provides doctors and other health professionals to areas with critical shortages of health manpower. H.R. 16755 will extend the program; make several improvements in it; authorize programs designed to insure an adequate supply of manpower for the corps; and resolve the issue of the U.S. Public Health Service hospitals and clinics.

The legislation was reported after hearings unanimously from our Subcommittee on Public Health and Environment and by voice vote from the full Committee on Interstate and Foreign Commerce. It would authorize the expenditure of a total of $30 million during fiscal years 1973 and 1974.

The changes made by the legislation in the National Health Service Corps program include: a requirement that the Secretary of Health, Education, and Welfare designate all those areas in the country which are eligible for assistance under the program; provide for an appeal from communities in which local professional societies have refused to certify the need for assistance under the program; direct that the assignment of scholarships for training in return for a commitment to practice in the corps for 1 year for each year in which they had a scholarship.

This bill will also help to resolve the issue of closure or transfer of the U.S. Public Health Service hospitals by requiring that the Department of Health, Education, and Welfare give the Congress a 90-day notice of any proposed hospital closure or transfer along with a detailed explanation of that proposal giving assurance that those being served by the hospital will continue to receive comparable service, and including information on the consideration that HEW has given to the need for care of residents of the areas being served by the manpower be made solely on the basis of communities' need for assistance; and authorize the program in a flexible manner to use whatever facilities, equiment, organization forms, or temporary personnel are appropriate—including, where possible, existing Public Health Service hospitals and facilities.

The provisions designed to assure an adequate supply of manpower for the program include: the authorization of necessary information and recruiting programs; the use of existing loan forgiveness programs for personnel of the Corps; and the creation of a scholarship program—directly comparable to that being created for the Armed Forces—in which students would receive National Health Service Corps using the hospital, the future of teaching programs in the hospital, and the comments of the appropriate comprehensive health planning agencies. The requirement for a 90-day notice will in future, unlike the past, give the Congress an appropriate opportunity to take whatever action is necessary on the proposal.

Mr. Speaker, the National Health Service Corps has already proven itself to be a good and valuable program. Many Members of Congress—including, particularly, Mr. METCALFE of Illinois, who sponsored similar legislation to this bill—have expressed their interest in the program and support for it to me. This bill is a good bill which will make it possible for the program to both expand and improve itself, and I urge its passage.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. HALL. I appreciate the gentleman yielding.

We have been moving pretty fast here through some listed and other not listed pieces of legislation. I wonder if the gentleman would go a little further at this time into the increase of cost, as I understand it, by $30 million in 1973 and 1974 and also the requirement written in here that no U.S. Public Health Service hospitals may be closed without notification to the Congress—and what the Congress intends to do if such notification is given?

I would also like to know a little bit more about the loan forgiveness programs.

I am very anxious that the Public Health Service hospitals not be closed.

I really concur in this, but I think this is too important a piece of legislation to wheel through as rapidly as we have been.

I am referring to the RECORD of the House of October 2, 1972, when this passed after considerable debate, and the need for further consideration of H.R. 16755 under suspension of the rules.

Mr. STAGGERS. As the gentleman knows, the Public Health Service hospitals are scattered throughout the country. We have had considerable survey and discussion of them. This bill simply requires the Department, if they determine that a hospital is not needed, to notify us at least 90 days before closing it, so that we have a chance to take a look at it and to see whether we need to do anything.

We do not say what we might do, or should do about a proposal, but we want to be informed and see the reasons why the Department proposes to take any particular action.

Mr. HALL. Did the gentleman give any consideration to making a similar requirement in future legislation?

Mr. STAGGERS. Yes.

Mr. HALL. That is before the commissioned officers corps and the U.S. Public Health Service is eliminated by Federal directive downtown by a simple mention and recommendation, without the Congress being notified?

Mr. STAGGERS. I might say that such notification is already statutory. We have done things very carefully looking into many of these situations and have directed the Department to keep us informed of any actions they propose to take on the commissioned corps or the hospitals.

We think, with this 90-day requirement, Congress could act and do something about it.

I would say to the gentleman from Missouri that I am like he is—I believe we ought to have some permanent requirement as to what we are going to do about these Public Health Service hospitals.

Mr. HALL. And not only that—but the commissioned officers corps of the United States.

Mr. STAGGERS. That is right. I agree with the gentleman perfectly. Further, on the proposed scholarships, what we are doing here is to make them available like the military has done, because the draft is going out and they will be needed as an incentive for manpower recruitment.

A certain amount of money is set aside from the total money authorized for the scholarship program. The loan forgiveness program is not new. It is used in other programs and we have suggested this in order to have it adopted. So the National Health Service Corps.

Mr. HALL. Mr. Speaker, if the gentleman would yield further, I appreciate his forthright response, but is not the authorization of a $30 million increase for 1973 and 1974 each, and is not there a considerable duplication of services over legislation already in existence?

Mr. STAGGERS. I might briefly say there is no increase. The authorization for fiscal year 1972 was $30 million, it will be $25 million in fiscal year 1973, and a small initial authorization for the scholarship program. We have an agreement with the Senate that will actually increase the total authorization in the bill to $28 million for the total program.

Mr. HALL. Well, that is a 2-year extension. Is there any other esoteric agreement with the other body, if this bill passes here under suspension today, that it will add on or take from?

Mr. STAGGERS. No, sir. That is the reason why we are trying to work everything out, so that we would not have to go to conference. They have agreed to take our bill.

Mr. HALL. I thank the gentleman.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. SPRINGER. Mr. Speaker, I might say in response to the gentleman from Missouri that we took out the $2 million in 1973 for scholarships for MOD because the year was almost expired.

This bill reviews a useful program already underway. Since originally created the program has placed 152 doctors, 20 dentists, and 116 other health personnel in areas having no medical manpower. Now we are extending it for 1 fiscal year at the level of $25 million and adding some new features which should improve its operation.

In order to assure a supply of personnel both loans and scholarships are added. This is necessary to overcome the dwindling numbers due to the cutback in the draft. By committing himself to service wherever he may be assigned the student may receive assistance with his education. The military departments have done this for years.

Further, the bill attempts to settle the disputes which arise each time the Department of Health, Education, and Welfare proposes to close or curtail the services of a public health facility. By requiring a 90-day previous notice to Congress it is hoped that problems may be worked out without the usual crisis and recrimination.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I rise in full support of H.R. 16755 as reported by the full Interstate and Foreign Commerce Committee. The principal purpose of the bill is to extend for 1-year section 329 of the Public Health Service Act which authorizes the use of volunteer Public Health Service physicians and other health personnel to provide health services to persons living in areas of the United States experiencing a critical shortage of health personnel and services.

The original legislation was enacted in December 1970. After a rather slow beginning, some 250 health professionals are providing services to over 100 communities located in health shortage areas.

Hearings before the Subcommittee on Public Health and Environment revealed that while the program has broad general acceptance, there are some inadequacies in its implementation. This bill attempts to respond to these inadequacies as well as make the program more attractive to young physicians. The principal substantive changes this bill makes in the present program are:

First, the National Health Service Corps is named in the law thus providing better identification to the program—in existing practice it is named by regulation.

Second, many obviously eligible areas have not been designated as critical health manpower shortage areas for the simple reason that they cannot be so designated unless they request such designation. Experience has shown that in many cases this is due to the fact that members of eligible communities have no knowledge of the program. For this reason, existing law is amended to require the Secretary to designate all communities which he determines have critical health manpower shortages and to provide assistance to those communities to secure the assignment of Corps personnel to the area if they so desire.

Third, the bill retains the concept that assignment may be made only upon approval by the State or local public health agency and the State and district medical societies, but because this requirement has been used in a few instances to prohibit assignment of NHSC personnel where they are clearly needed, a new provision authorizes waiver for arbitrary or capricious action.

Fourth, the bill requires that the services provided shall "utilize the techniques, facilities, and organizational forms most appropriate for the area." This section is intended to respond to the criticism that many of the programs established use office-based practices, whereas it is more appropriate in many areas to use such techniques as mobile clinics through the use of housetrailers and the like.

Fifth, the bill authorizes lease or purchase of equipment and supplies and the hiring of temporary nurses and other health professionals for use in the program.

Sixth, the bill requires establishment of an information and recruiting program at health professional schools.

Seventh, the bill requires a report to the Congress each year concerning the areas designated as critical health manpower shortage areas.

Eighth, loan forgiveness for members of the National Health Service Corps who will practice in a critical shortage area identical to those already provided in the Health Manpower Act is authorized.

Ninth, a new section authorizes a scholarship program whereby medical, osteopathic, and dentistry students may receive up to the pay of a second lieutenant each month plus tuition and fees in exchange for an agreement to join the National Health Service Corps. Service must be for 1 year for each year of scholarship, and at least one-half of the service must be spent providing health care and services in a critical shortage area.

Perhaps the most important feature of this bill, Mr. Speaker, is its attempt to resolve once and for all the uncertainties surrounding the fate of the Public Health Service hospitals and clinics in this country.

To date, the general position of the Congress has been that the PHS hospitals and clinics should be viewed as assets of the Federal Government with a great potential for service. The general position of the administration—and past administrations—has been to explore the efficacy of transfer or closure with an obvious view toward decreasing Federal involvement. The response of the Congress to date has been to pass resolutions prohibiting closure or transfer until certain dates. Unfortunately, such actions can be only temporary in nature. Because further temporary resolutions would only produce more uncertainty, this bill is designed to provide a permanent basis on which judgments can be made whether to close or transfer PHS facilities.

It provides, first, that if a critical shortage area is served by a PHS hospital or clinic, that facility shall be used to support the provision of care and services by National Health Service Corps personnel, with priority, however, for beneficiaries of the facility. Second, the bill would require that a PHS facility may not be closed unless the Congress has been notified at least 90 days in advance, thus affording it a chance to veto the action, and that the notification contain assurances that the PHS beneficiaries will continue to receive equivalent care.

In addition, the committee expects that the decision whether to close or transfer would be based in part on the needs of National Health Service Corps patients receiving care at the facility, on whether ample provision could be made for university-affiliated teaching programs conducted at the facility, and on comments from the local comprehensive health planning agencies.

I believe that this proposal provides a satisfactory solution to this issue and satisfies the interests of the Congress and the administration—and most importantly, the beneficiaries entitled to care at the facilities.

Mr. Speaker, I think this is one of the most important bills to pass out of the Public Health and Environment Subcommittee this year and I urge its adoption.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 16755, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 3858) to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3858

An act to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Health Personnel Act Amendments of 1972".

SEC. 2. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the 'Corps') which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages."

(b) Section 329(b) of such Act is amended to read as follows:

"(b)(1) The Secretary shall (A) designate those areas which he determines have critical health manpower shortages, (B) conduct information programs in such areas as may be necessary to inform the public and private health entities serving those areas of the benefits available under this Act and to encourage their application for such benefits, and (C) assist such entities to apply for the assignment of Corps personnel and other benefits authorized under this Act.

"(2)(A) Upon request of a State or local health agency, or any public or nonprofit private health entity in an area designated by the Secretary under paragraph (1)(A), and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for all persons residing in such areas except that where all of the foregoing conditions are met in an area, except certification of need by the State and local medical, dental, or other health societies, and the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, then the Secretary may, after consultation with the appropriate medical, dental, or other health societies, assign such personnel to that area. Corps personnel shall be assigned to such area on the basis of the extent of the need for health services within the area and without regard to the ability of the residents of the area to pay for health services.

"(B) In providing health care and services under this section, Corps personnel shall utilize the facilities and organization forms adapted to the particular needs of the area and shall make services equally available to all persons in such area regardless of the ability of such person to pay for the care and services provided in connection with—

"(i) direct health care programs carried out by the Service;

"(ii) any direct health care programs carried out in whole or in part with Federal financial assistance; or

"(iii) any other health care activity which is in furtherance of the purposes of this section.

"(C) Any person who receives health care or services provided under this section shall be charged for such care or service at a rate and in a manner (including prepayment, capitation, incentive reimbursement, fee-for-service, or other basis) established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect on a capitation, prepayment, incentive reimbursement, fee-for-service, or other basis from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and funds allocated or obligated under this section shall not be dependent on or related to such fees collected in any way.

"(D) Notwithstanding the provisions of the Federal Property and Administrative Services Act (40 U.S.C. 471), the Secretary may transfer the title to any or all facilities, equipment, and supplies, belonging to the Service and being utilized by the Corps in a medically underserved area designated by the Secretary under subsection (a) to any public or private nonprofit institution which the Secretary determines will conform to minimum standards of operation prescribed by him. In a case where the Secretary determines, after a hearing on the record, that such real or personal property is not being utilized in conformance with such minimum standards, title shall revert (after payment of proper compensation for facility improvements, if any) to the United States. This paragraph shall not apply to any hospital or clinical facilities operated by the Service prior to December 31, 1971."

(c) Section 329(c) of such Act is amended by striking out "Service" and inserting in lieu thereof "Corps".

(d) Section 329(d) of such Act is amended—

(1) by striking out "Service" in the first sentence and inserting in lieu thereof "Corps", and by inserting before the period at the end of such sentence the following: ", except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability of care or services by Corps personnel in the area, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area, but only if such utilization shall assure the continual provision of care to persons entitled to care and treatment at such facilities at such time.";

(2) by striking out "If there are no such facilities in such area" in the second sentence and inserting in lieu thereof "If there are no health facilities in or serving such area";

(3) by adding after the second sentence the following new sentence: "In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals."; and

(4) by inserting "(1)" after "(d)" and by adding at the end the following:

"(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"(3)(A) For the purpose of recruiting persons for the Corps who have gained experience in the provision of health services as a direct result of specialized military training, the Secretary, in cooperation with the Department of Defense and the Veterans' Administration shall develop a list of persons having such experience.

"(B) In the assignment of personnel to designated health manpower shortage areas, the Secretary shall give priority to persons recruited from the list developed under paragraph (A), with respect to such individuals' desires.".

(e) Section 329(f) of such Act is amended (1) by striking out "Service" in paragraphs (1) and (3) and inserting in lieu thereof "Corps", and (2) by striking out "to select commissioned officers of the Service and other personnel" in paragraph (2) and inserting in lieu thereof "to select personnel of the Corps".

(f) Subsection (g) of section 329 of such Act is redesignated as subsection (k) and the following new subsections are inserted after subsection (f) of such section:

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application."

"(h) Section 5532 of title 5, United States Code shall not apply to a retired officer of a regular component of a uniformed service who holds a full-time position with the Corps, during the time he holds such position.

"(i) The Secretary may from time to time and for such period as he deems advisable, secure the assistance and advice of experts, scholars, and consultants, including the services of advertising and other public information specialists, to foster, promote, and improve the image of the Corps with regard to the provision of health services and with the further aim of emphasizing recruitment of new and retention of present members of the Corps.

"(j) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip."

(g) Section 329(k) as redesignated by this Act, of such Act is amended by striking out "and" after "1972;" and by striking out the period at the end and inserting in lieu thereof "; $30,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975, sums appropriated under this section shall remain available until expended."

(h) Section 329 of such Act is further amended by adding at the end thereof the following new subsection:

"(l) Where the Corps requires personnel assigned to designated shortage areas to obtain State and local licenses or permits, the Secretary shall pay the fees therefor."

SEC. 3. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on which such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall contain—

(1)(A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided such equivalent care and treatment through such hospital or other facility, or under such new arrangement and (B) a detailed explanation of how such care will be provided to such persons, and an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer;

(2)(A) assurances that the capacity to supply health services to the critical manpower shortage areas near the facility will not be impaired by the closing or transfer and (B) a detailed explanation of how persons residing in such areas will be provided such care and treatment after the proposed closing or transfer;

(3)(A) assurances that any teaching program conducted at the hospital or other facility proposed to be closed may be conducted at other appropriate facilities, and (B) a detailed explanation of how such program will be conducted after the proposed closing or transfer; and

(4) the approval of those agencies established under section 314 (a) and (b) of the Public Health Service Act, having jurisdiction in the area in which such hospital or other facility is located, where both such agencies exist or the approval of only one such agency where only one exists in such area.

SEC. 4. Section 741(f) of the Public Health Service Act is amended (1) by striking out "The payments" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this paragraph, the payments", and (2) by adding after and below subparagraph (C) the following:

"In the case of any individual who qualified under paragraph (1) for payments on the principal of and interest on a loan and who, as a member of the National Health Service Corps, practices his profession in an area designated under section 329(b), the portion of the principal of and interest on the loans for which payments may be made for and on his behalf under paragraph (1) shall, upon completion of the first year of such practice, be 50 per centum and, upon completion of the second year of such practice, be the remaining 50 per centum."

SEC. 5. Section 218 of the Public Health Service Act is amended to read as follows:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 218. (a) The purpose of the Public Health and National Health Service Corps scholarship training program (hereinafter referred to as 'such program') is to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health related specialty, as determined by the Secretary;

"(3) be eligible for, or hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section, in the National Health Service Corps, the Indian Health Service, the Federal Health Programs Service, and such other programs as the Secretary may designate.

"(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, osteopathy or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this section except that if such residency is served in a Public Health Service facility or facility of the National Health Service Corps such residency shall be counted as satisfying the active duty service obligation under this section.

"(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury with respect to the grant on account of which such amount is due the United States.

"(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"(k) To carry out the purposes of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975."

SEC. 6. Section 2(f) of the Public Health

Service Act is amended by inserting after "Puerto Rico," the following: "Guam, American Samoa, and the Trust Territory of the Pacific Islands,".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of S. 3858 and to insert in lieu thereof the provisions of H.R. 16755, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 16755) was laid on the table.

TOXIC SUBSTANCES CONTROL ACT OF 1972

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1478) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Toxic Substances Control Act of 1972".

TABLE OF CONTENTS

Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Test protocols.
Sec. 5. Limited premarket screening of substantially dangerous chemical substances.
Sec. 6. Regulations applicable to hazardous chemical substance or class of substances.
Sec. 7. Imminent hazards.
Sec. 8. Reports.
Sec. 9. Exemptions and relationship to other laws.
Sec. 10. Chemical Substances Board.
Sec. 11. Research.
Sec. 12. Administrative inspections and warrants.
Sec. 13. Exports.
Sec. 14. Imports.
Sec. 15. Confidentiality.
Sec. 16. Prohibited acts.
Sec. 17. Penalties.
Sec. 18. Injunctive enforcement and seizure.
Sec. 19. Citizen civil action.
Sec. 20. Environmental prediction and assessment.
Sec. 21. Cooperation of Federal agencies.
Sec. 22. Health and environmental data.
Sec. 23. State regulations.
Sec. 24. Judicial review.
Sec. 25. National security waiver.
Sec. 26. Authorization for appropriations.

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some which may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their safety to health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards;

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment; and

(4) as set forth herein, citizens should be encouraged to participate in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element;

(3) "environment" includes water, air, land, all living things therein, and the interrelationships which exist among these;

(4) "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance;

(5) "importer" means any person who (A) imports a chemical substance for sale or distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for sale or distribution in commerce for commercial purpose;

(6) "manufacturer" means any person who manufactures a chemical substance;

(7) "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product, as defined by rule by the Administrator;

(8) "manufacture" means to produce or manufacture;

(9) "test protocol" means—

(A) a test designed to determine the effect of a chemical substance (or class of chemical substances) on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance (or class of substances) on health or the environment,

(B) the procedures to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to show that such chemical substance (or class of substances) does not pose an unreasonable risk to health or the environment;

(10) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands;

(11) "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce;

(12) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof; and

(13) "United States" when used in the geographic sense, means all of the States (as defined in paragraph (10)).

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance (or class of chemical substances) in accordance with a test protocol for such substance (or class of substances) is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance or class of substances, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Such test protocols may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance (or class of substances) and epidemiological studies of the effect of such substance (or class of substances).

(d) A rule under this section may require that any person who is a manufacturer, processor, or importer of the chemical substance (or class of substances) perform the test called for in the test protocol. In the case of a test protocol for a chemical substance (or class of substance) for which there is more than one manufacturer, processor or importer, the Administrator may, in appropriate cases, permit the manufacturers, importers or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If the manufacturers, importers or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may designate one or more of such manufacturers, processors or importers, or may designate a qualified independent third party, to perform the required test, and may require such manufacturers, processors or importers to contribute to the costs of such tests.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may direct any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKET SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or classes of chemical substances) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, severe personal injury or illness, or severe harm to the environment.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data which show that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not produced or distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance, submits to the Administrator test data which show that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) If a test protocol has been prescribed under section 4 for a chemical substance or class of substances) which is listed pursuant to subsection (a) of this section and such protocol is applicable to the intended use of the chemical substance, test data satisfying such protocol may be submitted in satisfaction of the requirements of subsections (c) and (d) of this section. If no test protocol applies to the intended use of the chemical substance listed under subsection (a) of this section, the person intending to manufacture or distribute the chemical substance may, in satisfaction of the requirements of subsections (c) and (d) of this section, submit such test data as he believes are sufficient to make the showings required under those subsections. If no test protocol prescribed under section 4 is applicable to an intended use of such substance, the person intending to produce or distribute such chemical substance or member of a listed class of substances may petition the Administrator to develop and issue a test protocol for such substance (or class of substances) or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance (or class of substances). If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f) The Administrator may exempt any person from the requirements of subsections (c) and (d) of this section where he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with these subsections.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take immediate effect pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes; upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment; and under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE OR CLASS OF SUBSTANCES

SEC. 6. (a) Upon a finding that a rule under this section is necessary to protect against unreasonable risk to health or the environment the Administrator may prescribe rules—

(1) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce;

(2) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) for a particular use or uses or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce for such use or uses; and

(3) requiring that a chemical substance (or member of a class of substances) or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal in such form and bearing such content as the Administrator determines to be appropriate.

(b)(1) Rules under this section may be limited in application to specified geographic areas.

(2)(A) Rules under subsection (a)(1) of this section which limit the amount of a chemical substance (or class of substances) which may be manufactured, imported, or distributed in commerce, and rules under subsection (a)(2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance (or classes of substances). The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagrah (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all revelant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas.

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation.

The last sentence of section 24(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical sub- the environment prior to the completion of a rulemaking proceeding under subsection (a) and where the Administrator determines that such action is necessary in the public interest, he may declare proposed rules under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause

to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f) (1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to any opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2) (A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person participates in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all participants are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b) (2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in an unreasonable risk to health or the environment prior to the completion of an administrative proceeding under this Act.

(b) (1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a) (2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a) (1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d) (1) An action under subsection (a) (2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a) The Administrator may by rule require any manufacturer or importers of any chemical substance and, where appropriate, any processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following——

(1) the names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(3) the categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(4) reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(b) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products, or

(2) foods, drugs, devices, or cosmetics (as such terms are defined in sections 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act). The term "food" as used in this paragraph includes poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance (or class of substances) or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law, including the Federal Insecticide, Fungicide, and Rodenticide Act; the Atomic Energy Act of 1954; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Substances Act; and the Occupational Safety and Health Act of 1970.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Such Board shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such Board, other than chemical industry representatives, shall have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a list of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5(1) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the list of consultants to the Board, except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such committee shall have a significant economic interest in the manufacturing, processing, distribution, or sale of any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized: (1) to make contracts and grants for such research and monitoring; and (2) to plan and design such research laboratories as may be necessary to carry out the purposes of this Act.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrants. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building, to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export, except that (1) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (2) no chemical substance or article containing such substance may be exported if the Administrator by rule finds that the chemical substance or article as exported and used will, directly or indirectly, pose an unreasonable risk to health within the United States or the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or

5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, shall furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a). The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or article containing such substance offered for entry if it fails to conform with rules, promulgated under this Act. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act including the Chemical Substances Board and committees formed under section 10, or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, 6 or 8 of this Act or any rule prescribed under those sections, or with any restriction under section 5(k) of htis Act;

(2) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(3) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6 of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation. For the purposes of this subsection, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(b) Any person who willfully violates section 16 of this Act shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

CITIZEN CIVIL ACTION

SEC. 19. (a) Except as provided in subsection (b) of this section, any interested and adversely affected person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule promulgated under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award fees for expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not establish or continue to enforce any restriction of its own applicable to such substance or class for purposes similar to such rule after the effective date of such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 24. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review rules promulgated by the Administrator under sections 4, 5, and 6 in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under sections 4, 5, and 6 of this Act shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the Administrator that the requested waiver is in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $10,000,000 for the fiscal year ending on June 30, 1973, June 30, 1974, and June 30, 1975, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. SIKES. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 441]

Abourezk
Abzug
Alexander
Anderson, Tenn.
Annunzio
Ashley
Aspin
Baring
Blanton
Blatnik
Boland
Bolling
Brademas
Broomfield
Broyhill, Va.
Burke, Fla.
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Crane
Davis, S.C.
Davis, Wis.
Delaney
Derwinski
Devine
Dickinson
Dingell
Donohue
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Fish
Fisher
Forsythe
Fountain
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Gross
Haley
Halpern
Hamilton
Hanna
Hansen, Wash.
Harsha
Hays
Hébert
Holifield
Horton
Hungate
Hunt
Jarman
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Keating
Kemp
Kuykendall
Landrum
Link
Lujan
McClure
McDonald, Mich.
McMillan
Martin
Matsunaga
Melcher
Minshall
Monagan
Moorhead
Mosher
Moss
Murphy, N.Y.
Myers
Nichols
Patman
Pelly
Pepper
Peyser
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Rosenthal
Roush
Runnels
Sandman
Scherle
Scheuer
Schmitz
Schwengel
Scott
Skubitz
Smith, N.Y.
Snyder
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Stratton
Symington
Talcott
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thone
Vigorito
Waggonner
Whitehurst
Widnall
Wilson, Charles H.
Winn
Wolff
Yatron

The SPEAKER. On this rollcall 288 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

TOXIC SUBSTANCES CONTROL ACT OF 1972

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, this legislation is designed to give to the Environmental Protection Agency comprehensive authority to protect health and the environment from hazardous chemical substances. This bill is based upon legislative proposals submitted by the administration and is grounded on a detailed study prepared by the Council of Environmental Quality.

Despite the numerous laws which have been enacted over the last 10 years to safeguard health and the environment, many chemical substances continue to find their way into the marketplace and into the environment which pose great potential for harm. As evidenced by our experience with mercury poisoning and PCB contamination, there exist conspicuous gaps in the existing regulatory machinery.

This legislation is designed to fill those gaps by giving the Environmental Protection Agency a means of focusing on the entire range of activity by which chemical substances enter our environment—from extraction to production to consumer use and to disposal. As such, it will permit the Environmental Protection Agency to protect against hazardous chemicals which are not reachable under other Federal authority. Let me emphasize that this bill is not intended to duplicate or in any way conflict with the responsibilities of other Federal agencies under other laws. Section 9 specifically states that the Environmental Protection Agency may not act under this legislation if a risk to health or the environment associated with a particular chemical substance could be prevented under other Federal law.

This bill would authorize appropriations of $8 million for fiscal year 1973, $11 million for fiscal year 1974, and $10 million for fiscal year 1975. These amounts are consistent with cost estimates supplied to the committee by the Environmental Protection Agency.

The committee met over a 3-week period in executive sessions in consideration of this bill. In the end, we have agreed on legislation which, I believe, presents the most workable means of providing necessary protection for health and the environment without stifling technological innovation. The bill was reported by voice vote—without dissent. In its final form this bill has gained the active support of the Environmental Protection Agency and several major chemical manufacturers.

Mr. STAGGERS. Mr. Speaker, this bill came to our committee through the recommendation of the White House—as an administration proposal.

The gentleman from Illinois and I were cosponsors of the bill. The bill is principally the recommendations from the administration with one exception, and that exception is that there is a screening period of 90 days. But if the agency does not act within the 90 days, the manufacturer is permitted to go ahead and put his product on the market.

I think the bill is a good bill. I think it is an essential bill. I think it might help to save an awful lot of dangerous products from reaching the market and would help in our efforts to protect the environment.

Before I go any further I would like to announce to the House that several Members of the House have come to me and said that they do not want to take up a Senate version of this bill. I would like to assure the House now that at this late hour, if this bill passes this House today, that there will not be any conference with the Senate. I do not see how it can be done.

So with that assurance, I would like to proceed with the bill and explain what the provisions are.

As I said when I started, I have a letter from the President of the United States saying that he wished the bill to be passed. I would like to read just one paragraph, if I might put it into the RECORD.

This part of the President's letter is as follows:

> On February 8, 1971, I recommended to the Congress the enactment of a Toxic Substances Control Act. I greatly appreciated the fact that both you and Congressman Springer introduced bills embodying the Administration proposals.
>
> In the intervening year, the Senate Commerce Committee has devoted extensive hearings to similar legislation; we are now hopeful that the Senate bill will be reported out of Committee and passed in the near future. I am writing you to urge expeditious consideration by your Committee of this important legislation. Recognizing that your Committee has a very busy schedule, I still feel that the need for public protection against the rapidly increasing introduction of toxic substances into the environment gives this bill a special claim to prompt bipartisan action.

Some have said that there is some objection to the 90-day screening period—but let me emphasize that the premarket screen only applies to chemicals which are identified as posing substantial dangers to health or the environment. Those are the only ones that have to be screened.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, if a chemical substance is determined under the terms of this bill to be a hazardous chemical substance and its distribution in commerce is prohibited, what will be the status of a manufacturer who has manufactured goods and inventory which were manufactured prior to that declaration, but which contained the dangerous substance?

Mr. STAGGERS. If they are dangerous and determined to be a dangerous product, they can be seized under the law; and I think the gentleman would want this to be done, if they were determined to be dangerous.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. WIGGINS. Did I understand the gentleman to say prior inventory in manufactured goods could contain products containing a dangerous substance?

Mr. STAGGERS. Could not contain, if it is dangerous to the health of the Nation.

Mr. WIGGINS. Is such a manufacturer entitled to indemnity for goods he may have in inventory which he may have manufactured in good faith prior to the declaration that the contents thereof were dangerous?

Mr. STAGGERS. It seems to me that it would not be reasonable to seize a manufacturer's inventory unless it is extremely dangerous. But if it is, then I would say it would be taken off the market—and it should be taken off the market. I am sure that the agency under the bill would certainly use their discretion not to work any unnecessary hardship on any manufacturer.

Mr. WIGGINS. Mr. Speaker, if the gentleman would yield further, I am thinking specifically of the cyclamate situation. Had this bill been law, how would the cyclamate matter have been handled?

Mr. STAGGERS. This would not affect that. We have exempted tobacco, tobacco products, food, drugs, medical devices, and cosmetics.

Mr. WIGGINS. If the gentleman will yield further, is there any analogy that can be drawn?

Mr. Speaker, this bill requires appropriations of only $10 million or thereabouts, but, I regret, this Congress authorized and appropriated nearly $50 million in the case of one product which contained a substance which was determined to be hazardous to health.

I wonder if any analogy exists or might exist in the future if this bill were law to the product we got involved with in the case of cyclamates?

Mr. STAGGERS. One safeguard we have is that we require the Administrator to act by rule and to afford persons an opportunity to present views. Also, the Administrator is required to support his administrative findings with substantial evidence upon judicial review. But let me again say that the cyclamate situation would not have anything to do with what we are trying to do here.

Mr. WIGGINS. If the chairman would yield to one final comment, did I understand the chairman to say that a manufacturer who may have produced a product which thereafter was determined to contain a dangerous substance, and he has such product in his inventory, he would not be entitled to the indemnity even though he could be prohibited from distributing those products?

Mr. STAGGERS. No, we have not provided for that.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. KYL. I have a number of serious questions about this legislation. The first deals with language on page 11 of the report on which I should like some clarification.

It provides that the Administrator shall have no authority under this bill to take action to prevent or reduce an unreasonable risk to health or the environment association with a chemical substance if such risk could be prevented or reduced to a sufficient extent by actions taken under any other Federal law.

For legislative history and for clarification, is that what this action means, that the EPA Director does not have the option to use the toxic substances law or the pesticide law, if the chemical involved is a pesticide?

Mr. STAGGERS. This is correct.

Mr. KYL. Would the gentleman turn to the language on page 13 of the report. It says:

> Section 10 establishes in the Environmental Protection Agency a Chemical Substances Board consisting of twelve scientifically qualified members, eleven members of the Board being appointed by the Administrator from a list of individuals recommended to him by the National Academy of Sciences,

Not more than one-third of the Board may represent the chemical industry. It is my understanding that these are to be not employees of the Government while they are working on this Board, but they would receive compensation at a set civil service level. Is that correct?

Mr. STAGGERS. They could get a per diem.

Mr. KYL. Yes. There would be industry representatives?

Mr. STAGGERS. There could be.

Mr. KYL. Leaving that and turning to the section on confidentiality, if this Board includes a man from the chemical industry and if they have all the basic information concerning the toxic substances and the generation of those substances, would not this provide the means of having one chemical company representative pirating information from another which had a product before the Board for review?

Mr. STAGGERS. No. The Board only gets the information that is given to it by the Administrator and certainly he would not be giving trade secrets to an industry that would be represented on the Board.

Mr. KYL. What is the exact duty this Board has?

Mr. STAGGERS. The Board is to help make rules and advise the Administrator. It has several different duties. We felt that the industry and others should be on the Board because it affects them and they should have the right to sit in when there are going to be rules made or standards set. We felt industry should be represented and that is the reason for them being on it.

Mr. KYL. One further question. This relates to the question asked earlier by the gentleman from California. I assume that the Federal Government under this act would be requiring the toxic substance to be withdrawn from the market immediately. Under this act, the Government has the power to seize, for instance, polychlorinated biphenols, whether someone is using them in plastics or as additives, et cetera. Under the law, whose responsibility would it be to dispose of those toxic substances?

Mr. STAGGERS. I would say it would have to be the Government's responsibility, but let me point out that the Environmental Protection Agency may only seize this after a rule has been made and after there has been a court order.

Mr. KYL. So suppose a rule has been made and the court order has been made and we have seized the polychlorinated biphenols, then whose duty is it to take these substances out and dispose of them in a satisfactory fashion?

Mr. STAGGERS. It would have to be the Government.

Mr. KYL. Does the Government today have the equipment necessary to do this kind of work?

Mr. STAGGERS. I do not envision any great amount of this after we have set up the rules and everybody is conforming with what the standards and rules are that have been set. I just cannot believe any manufacturer in this Nation would manufacture anything that could be harmful if it knew that it was dangerous.

Mr. KYL. If the gentleman will yield, I do not think he means that, because the report shows there are thousands of toxic substances which are manufactured today, and obviously if there is a reason for this bill some action has to be contemplated to stop this sort of thing.

Mr. STAGGERS. That is the reason I am convinced we should have this and that is the reason we should set up the machinery to set standards and rules to conform to, and then after there is a determination that there is a violation, and even on the old ones, then there has to be a finding that they violate the standards, then the manufacturer may take it to court, and then by substantial evidence it has to be shown that the substance is harmful.

I believe after the standards are set up there is a lag time, and by the time the standards are set up I believe that the manufacturer could certainly take cognizance of the standards which have been set.

Mr. STAGGERS. There is going to be a list of them, and certainly they are not going to then be producing something that is in opposition to the rules.

Mr. CEDERBERG. Will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, we are dealing here, as I see it, with a bill that is very complicated. It is late in the afternoon, and very, very late in this session.

The Interstate and Foreign Commerce Committee has held hearings on the bill; there is a different version in the Senate. From the colloquy that has taken place so far, we can see that there are real problems and real questions involved in this legislation.

To bring this legislation up under suspension, which limits the time in which it can be discussed and prevents any amendments to this legislation, just seems to me a bad way to legislate.

I can appreciate the problem the chairman has. I have had discussions with him on this subject.

Mr. STAGGERS. Let me explain that when we got this out of committee, we did not have time to get to the Committee on Rules.

I would have brought it up under the regular procedure, since I have always believed in this, but we did not have that avenue available to us.

The only open avenue which we had, and because of the request of the President and how important this is to America, I told my committee that we should do everything possible to get it before this House. They considered it for 3 weeks and marked it up and went over it as carefully as any bill we have ever had before our committee.

When you only have one alternative, that is what you have to do.

Mr. CEDERBERG. I do appreciate that, but there are other alternatives. I do not think legislation necessarily has to be concluded in this section.

Mr. STAGGERS. The gentleman's opinion differs from the White House. The President says it is so important to America to have this done now.

Mr. CEDERBERG. I can understand that, but I understand that there are some differences in the House version.

Mr. STAGGERS. I told the gentleman that we will not take the Senate version. We will not have a conference because it is too late in the session, and there will be no conference.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield.

Mr. ECKHARDT. Mr. Speaker, I understand that this bill as it has been drawn is one of the most carefully drafted bills to protect the rights of those controlled under it that has ever been devised, and particularly with respect to rulemaking.

I am sure that my colleagues on the other side of the aisle will agree with me that there is no other piece of legislation passed in this House at any earlier time that affords as much protection or cross-examination even in the rulemaking processes as does this bill.

Mr. BROYHILL of North Carolina. Will the gentleman yield?

Mr. STAGGERS. Yes.

Mr. BROYHILL of North Carolina, Mr. Speaker, on that point I wanted to agree with the gentleman from Texas that the committee very carefully drew these rulemaking sections. I hope he will have an opportunity to study them and to read them. The affected industries, regulated industries here——

Mr. SPRINGER. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL) who is the ranking member of the subcommittee.

Mr. BROYHILL of North Carolina. If I may continue my statement, this rule is very carefully drawn to give protection to the affected industries, to provide them hearing opportunities, opportunities for cross-examination.

I agree with the gentleman from Texas that all of their rights are going to be protected here.

There is a section in this bill which deals, one might say, harshly, but if it does it is with the dangerous chemicals, with those chemicals most dangerous to health and the environment. So far as the other chemicals are concerned, the bill does not deal in any way harshly with them.

It may require labeling, for example.

The bill as written is very similar to the bill that the administration spokesmen requested. The administration spokesmen have been anxious to get the bill before the House and enacted into law before we adjourn.

The bill before us today, S. 1478, is designed to provide Federal control over toxic chemicals which pose a danger to health and the environment. It is concerned with the control of potentially dangerous chemicals such as mercury, lead, and other heavy materials, and polychlorinated biphenyls—PCB's.

The initial legislative proposal was made by the administration and grew out of a report published in April 1971 by the Council on Environmental Quality. This bill, which is the result of long and detailed deliberation, represents an accommodation between the legislative recommendations of the administration embodied in H.R. 5276 and the provisions of a Senate-passed bill (S. 1478).

In order to accomplish the objectives

of the bill the Administrator of the Environmental Protection Agency is given a broad range of authorities. Under section 4 of the act, he is authorized to require testing of chemical substances and to require the submission of this test data by manufacturers, processors, and importers.

Section 5 of the act directs the Administrator to establish a list of substantially dangerous chemical substances. The act requires that persons intending to manufacture or distribute a chemical substance which has been identified as substantially dangerous and which is contained on the published list to submit test data to the Administrator prior to the manufacture or distribution of such substance so that the Administrator would have an opportunity to determine whether the intended manufacture and distribution would pose an unreasonable risk to health and to the environment.

Under section 6 of the Act the Administrator may, if he finds that it is necessary to protect against unreasonable risk to health or to the environment, prescribe rules:

First. Prohibiting the manufacture or distribution in commerce of a chemical substance;

Second. Prohibiting the manufacture or distribution in commerce of a chemical substance for a particular use or limiting the amount of a substance which may be produced; and

Third. Require that a chemical substance be labeled with appropriate warnings. Rules under this section may be geographically limited.

Other provisions of the act are:

First. Permit the Administrator to apply to U.S. district court to protect the public from imminently hazardous chemical substances;

Second. Establish a system for the accumulation of data on the numbers, quantity, uses, and byproducts of chemical substances which are manufactured in or imported into the United States;

Third. Establish a Chemical Substances Board to advise the Environmental Protection Agency in the exercise of authority under this bill; and

Fourth. Permit administrative inspections and seizure of nonconforming chemical substances.

Enforcement of the bill may be obtained through court injunctions or through imposition of criminal and civil penalties. Private persons are also permitted to bring court action to compel compliance with the requirements of this act.

I sincerely believe that this legislation is needed to protect the health and environment of this country and I recommend it to my colleagues for their approval.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Texas.

(Mr. MOSS, at the request of Mr. ECKHARDT, was granted permission to extend his remarks at this point in the RECORD.)

Mr. MOSS. Mr. Speaker, this legislation is designed to give the Environmental Protection Agency the tools to adequately protect our Nation's environment. We can no longer be satisfied with repairing environmental damage after it has been done. We cannot continue to allow our environment or our population to be used as a laboratory. This legislation is designed to insure that testing and evaluation of chemical substances will precede, not follow, their commercial use.

The need for a Toxic Substances Control Act is apparent. In the last 20 years the Nation's consumption of metals and new metallic compounds has dramatically increased. For example, in the 20-year period from 1948 to 1968 U.S. consumption of beryllium is estimated to have increased by 7,300 tons or 507 percent; our consumption of cadmium increased by 2,700 tons or 70 percent. The commercial use of synthetic organic compounds is growing at an even more startling rate. There are over 9,000 synthetic compounds used commercially each year in amounts of 1,000 pounds or more. In 1968 these totaled nearly 120 billion pounds—a 15 percent increase over 1967 and 161-percent increase over 1958.

The chemical abstracts registry system has registered approximately 1.8 million chemical compounds. Each year approximately 250,000 chemicals are added to this list and between 300 and 500 new chemical substances are actually introduced into commercial use each year.

The Toxic Substances Control Act gives the Administrator of the Environmental Protection Agency a variety of tools to insure that these chemical substances do not unreasonably harm the environment. The bill provides that the Administrator may prescribe test protocols for chemical substances or classes of chemical substances necessary to protect against unreasonable risk to health or to environment. The legislation also authorizes the promulgation of regulations restricting the manufacture or use of chemical substances where this is necessary to protect the environment. Further, it provides that the Administrator may require reports on the identity of chemical substances from manufacturers, creates a chemical substances board of balanced representation to advise the Administrator and authorizes research into the effects of chemical substances on the environment.

Mr. Speaker, the legislation which was recommended by the administration was significantly improved in committee. Some of the things which the committee did to strengthen it are as follows:

First, the bill authorizes limited premarket screening of those chemical substances which the Administrator finds may be substantially dangerous to health or to the environment. Under such circumstances prior to marketing a manufacturer must submit test data to the Administrator, which establishes that the intended use of the chemical substance will not pose an unreasonable risk to health or to the environment.

Second. Where a substantially dangerous chemical substance is about to be marketed, the Administrator may propose a regulation of production or use of the substance and may make it effective immediately pending completion of a rulemaking proceeding. This provision is designed to protect health and the environment until administrative proceedings can be completed.

Third. The bill provides that where the Administrator has good cause to believe that a manufacturer is processing or manufacturing a substance in a manner in which permits adulteration he may require adequate quality control procedures to prevent adulteration, after a hearing pursuant to section 554 of title 5 of the United States Code.

Fourth. The committee also strengthened the legislation by adding a provision authorizing citizens civil actions to assist in the enforcement of the law. The bill provides that interested and adversely affective persons may commence actions for injunctive relief against any person alleged to be in violation of an Environmental Protection Agency rule or against the Administrator where he failed to perform any act which is not discretionary. The court may in such actions award a reasonable attorney's fee to any party.

Mr. Speaker, it is generally accepted that as we greatly increase the number of chemical substances in commercial use we increase the risk of producing substances which will cause serious and irreversible environmental damage. This legislation is designed to reduce that risk and to preserve our environment for the benefit of the citizens of the United States and future generations.

Mr. SPRINGER. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. MCCOLLISTER) a member of the committee.

Mr. McCOLLISTER. Mr. Speaker, if I may have the attention of the chairman of the committee, the chairman will recall the concern that was expressed in the full committee on our markup of this bill concerning reports. This is under section 8.

Remembering that the definition of chemical substances is very broad and all-inclusive, I should like to have the chairman express himself regarding the possibility of these reports being required by the Administrator from every manufacturer of every chemical substance in the United States. Would the chairman have any remarks to reassure me as to the reporting being carried that far?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. McCOLLISTER. I yield to the gentleman from West Virginia.

Mr. STAGGERS. We changed the word "shall" and said that the Administrator "may". We have a section in the report concerning these reports.

When the bill came up it had the word "shall" in it, and the committee, in its wisdom, made it "the Administrator may".

Mr. McCOLLISTER. Would the chairman respond further? Surely it is not our intention to require every manufacturer, distributor or importer of chemical substances to report to the Administrator in every case of production that can have any possible bearing or adverse effect on health and the environment.

Mr. STAGGERS. That is right. In our report, on page 11, we recognize this fact. We say:

> Recognizing that such reports can be burdensome to the manufacturers of chemical substances, especially small businesses, your committee cautions the Administrator to only require such reports, in such detail, as may be required for the purposes of this Act.

Mr. McCOLLISTER. I thank the chairman for his comments.

Mr. SPRINGER. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. Hall).

Mr. HALL. Mr. Speaker, we are obviously all tired. Certainly the press and squeeze is on for legislation, including the good and including the "cats and dogs."

In retrospect we obviously erred in making everything from Tuesday on eligible under suspension of the rules without declaring a sine die date certain. This I predicted.

Mr. Speaker, we need this additional legislation just to prove that we are in favor of a good environment, like we need extra holes in the head. This is one of the worst pieces of legislation that I have heard in 12 years here.

The report itself admits it is duplicative, overlapping, biased, and not thought out as to whose responsibility is what. Certainly there are several basic things wrong with it.

There were too few hearings, and there is a bill in the other body lurking in the wings which, of course, I know the chairman of the committee has said he will not accept, but paradoxically that puts us in the position of forcing this down their throats.

It is very redundant. It is redundant as stated by the committee's own report on page 2, I believe, where it lists all of the overlapping agencies. Just to mention a few, there are the FDA, the Food, Drug, and Cosmetic Act, the Hazardous Substances Act, the Pesticide Act—which we just put through here this week—the Anti-Air Pollution law, the anti-water pollution law, the various State laws, and the Products Safety Act whose conference we agreed to today—to say nothing of many other acts.

But, Mr. Speaker, the main thing wrong with this bill is that it will take all chemical manufacturing, research, development and production of needed toxic substances out of the United States of America, and send them overseas because of the requirement of premarket screening and because of the need for clearances in advance, prior even to research and, certainly, prior to marketing.

Premarketing screening is unnecessary because the other provisions of the bill would give the Administrator of EPA more than adequate authority to prevent the adverse consequences against which the screening is directed. I am not even sure that chemical research and development or control should be under the EPA; I am not sure but what it should not be under HEW or the Department of Commerce.

But outside of the question of the jurisdictional fight between EPA and the Department of Commerce or others, and maybe even committee jurisdictions, there are many things wrong with this bill. I repeat that we should not have premarketing screening and clearances.

Second, Mr. Speaker, this screening would drastically change the concept of regulation and make the Government responsible, as has been brought out here, not only for the safety of chemical substances and the users and the land, but it imposes severe penalties up to $25,000 a day and criminal penalties, including imprisonment for a period up to a year. We should never use taxpayers funds for reimbursement of legislatively ordained set asides. We should never countenance such legislation.

Mr. Speaker, I just cannot imagine why, with limited hearings, and with this redundancy, and including the need for premarketing clearances, and the overlapping, we want to give the administration the power to impose a quota system—a quota system, if you please. This is a subject for the law of supply and demand and the open marketplace, when did we go to quota systems in America?

Mr. Speaker, this will cause a 2 to 3-year delay in production of needed and worthwhile substances for production and growth, and we are going to have to decide whether we want power and food or whether we want a plus-perfect environment.

I do not think the Chemical Manufacturers Association is opposed to this bill, because I suspect they are afraid to take a stand in either direction.

Mr. Speaker, I strongly recommend that this bill not be passed by a two-thirds margin.

The SPEAKER. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Speaker, I will yield 1 additional minute to by distinguished colleague so that the gentleman from Indiana (Mr. Dennis) may direct a question.

Mr. DENNIS. Mr. Speaker, I thank the gentleman from Illinois (Mr. Springer) for yielding, and I also thank the gentleman from Missouri.

Mr. Speaker, I merely want to say I do not know whether I would be for this bill or against it under normal circumstances. Unlike the gentleman from Missouri (Mr. Hall), I have not had a chance to study it. I do not think many of the Members have studied it. Obviously, it is a very important bill, and I object to being put in this situation.

I do not think it is fair to Members of the House either to require them to buy a pig in a poke and take what this committee says on faith, all of which might be perfectly true, or else to perhaps vote against a bill which, it may be, under reasonable circumstances, one might favor. I think it is a very, very objectionable procedure.

Mr. HALL. It certainly is. And the arrangements that have been made in advance leave much to be desired. All you have to do is read the report of the committee itself, which points out the vacillation and the backing and filling in this area.

Mr. SPRINGER. Mr. Speaker, I yield the gentleman an additional minute to respond to a question of the gentleman from Texas (Mr. Roberts).

Mr. ROBERTS. Will the gentleman yield?

Mr. HALL. I am glad to yield to my friend from Texas.

Mr. ROBERTS. I appreciate the gentleman yielding.

I represent an area that has one of the largest chemical plants in the country making photographic supplies and chemicals. I am told that these photographic supplies and equipment were not even considered and this would actually put them out of business, and they are one of the largest in the country.

Mr. HALL. If you pass this bill, you will see an exodus from this country of many big manufacturing plants. But more serious than that, you may eliminate "PCV" or others, but it will be 3 years before you get something to replace it, and then it will come from foreign manufacturers.

Mr. SPRINGER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. Eckhardt) who wishes to be heard.

Mr. ECKHARDT. Mr. Speaker, I would like to speak on this particular point, and I would like to point out there is absolutely nothing in this bill that would deal with photographic substances unless they create a poison, a dangerous poison, that when passing through the use of the consumer would ultimately reach the environment. I do not know how they would, and I do not believe any commission, after the careful rule-making procedures in this bill, would so determine.

Mr. SPRINGER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. Quillen).

Mr. QUILLEN. Mr. Speaker, there are thousands of small chemical companies in this country, and each of them has innumerable customers who are users, processors, or consumers of chemicals. Does this bill apply to all of these people? How on earth can these small businesses keep themselves informed and the Administrator of EPA informed about all of the details which must be sanctioned and approved for every chemical substance they handle. It boggles the mind.

I believe we are just going to move into another OSHA. Instead of promoting safety, I am afraid we are going to promote a small business revolt—if this bill is passed. It should be defeated.

Mr. STAGGERS. Mr. Speaker, would the gentleman yield me 2 minutes?

Mr. SPRINGER. Mr. Speaker, I yield the chairman of the committee 2 minutes.

Mr. STAGGERS. I thank the gentleman from Illinois for his generosity.

In closing, Mr. Speaker, let me say to all of the Members of the House that the only reason this bill is before the House today is because the President of the United States requested it.

I quoted from a letter he wrote to me saying it was one of the important bills that should be passed during this session of Congress, and we have altered the bill he sent up so slightly from what he had, with just one single point, really.

Mr. HALL. Would the gentleman yield on that?

Mr. STAGGERS. Very briefly, because I want to make another point.

Mr. HALL. What was the date of the President's letter?

Mr. STAGGERS. April 24, 1971.

Mr. HALL. That is correct.

Mr. STAGGERS. No. It was 1972. I am sorry. The letter is——

Mr. HALL. The letter itself was in 1972.

Mr. STAGGERS. Yes. The letter is dated April 24, 1972.

Mr. HALL. How many other similar bills, then, have we passed for like purposes, including the ones that I related in the well?

Mr. STAGGERS. I have no other bill that the President wrote me about.

For that reason I insisted on the full committee staying in executive session for 3 weeks to work the bill over fully and to get it finally worked out. If it had not been for that, this bill would not have been brought to the floor of the House because we did work hard and long, as I say, in the full committee. The hard work is, of course, immaterial, but I think the House ought to have a chance to vote on this. I have also given the House the assurance that we will not go to conference on it, and hope that the Senate will accept our version.

I might add that several major chemical manufacturers in the country, including Union Carbide and du Pont, have said they are in favor of the bill. In the face of this I think the bill should be passed on a two-thirds vote.

Mr. MONAGAN. Mr. Speaker; I support S. 1478, Toxic Substances Control Act, which is similar to legislation which I had introduced to provide a system for the regulation of the distribution and use of toxic chemicals.

U.S. manufacturers produce hundreds of new organic and inorganic chemical substances each year. It is shocking to realize that many of these chemical substances, whether distributed in their existing form or utilized in the manufacture of other products, are available to the general public without having been adequately tested for their impact upon human health or the environment through the existing regulatory authority of the Department of Agriculture, Food and Drug Administration, or the Environmental Protection Agency.

Both the general public and the manufacturer suffer from the absence of adequate pretesting of these chemical substances before they are placed on the market. Authorizing the Environmental Protection Agency to develop a systematic approach to the task of protecting health and the environment from hazardous chemical substances as provided in this legislation is a substantial step in the right direction. The need for effective uniform regulation and testing of all these chemicals has been graphically demonstrated by several incidents which have occurred in the past year.

A growing environmental awareness on the part of the purchasing-public created a demand for a substitute for phosphates in laundry detergents. This substitute had to work as effectively as phosphates and the manufacturers hit upon NTA—Sodium Nitrilotriacetate. Substantial sums were spent for the alteration of manufacturing processes, advertisement and distribution. Subsequent testing revealed that the breakdown products of NTA could cause birth defects rashes and other adverse effects. As a result of these shocking disclosures, the product was removed from the market. The manufacturers lost their substantial investment, and at the same time the general public was exposed to this potentially dangerous product for a substantial time before its removal.

More recently it was learned that PCB's—polychlorinated biphenyls—had been found in chickens, eggs, turkeys, breakfast cereals and other foods. These ubiquitous industrial chemicals are similar to DDT in the ecological systems and are toxic in the food chain. Feed grains of these animals had been contaminated by a leakage of PCB's from electrical control units. The primary use of PCB's is as an insulating material in electric transformers but they have also been used in a wide variety of products including newsprint. Greater knowledge of the potential effect of chemical substances must be available so that they will be used in a proper manner and all necessary precautions taken.

Incidents such as these have occurred too often. Implementation of the Toxic Substances Control Act would provide an effective mechanism for preventing similar dangerous situations in the future.

Both the general public and the manufacturers would benefit from the registration and testing procedures embodied in this proposed legislation. From a pretesting of new organic and inorganic chemical substances for environmental consequences and effects on humans before they are placed on the market, the general public would be protected from exposure to hazardous products. Manufacturers would also be saved the expense of producing a product which would never be pressed to completion if there were adequate testing.

I urge my colleagues to support S. 1478 to provide a comprehensive system for the regulation of the distribution and use of toxic substances.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill S. 1478, as amended.

The question was taken.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the clerk will call the roll.

The question was taken; and there were—yeas 240, nays 61, not voting 130, as follows:

[Roll No. 442]

YEAS—240

Abzug
Adams
Addabbo
Anderson, Calif.
Ashley
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Brasco
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carlson
Carney
Carter
Chamberlain
Chisholm
Clausen, Don H.
Cleveland
Collier
Colmer
Conover
Conyers
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
de la Garza
Dellenback
Dellums
Denholm
Dent
Diggs
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Eshleman
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Garmatz
Gaydos
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Halpern
Hamilton
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Howard
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Kee
Keith
Kluczynski
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McDade
McFall
McKay
McKevitt
Macdonald, Mass.
Madden
Mailliard
Mann
Mathias, Calif.
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Morgan
Mosher
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pepper
Perkins
Pettis
Pickle
Pike
Powell
Preyer, N.C.
Price, Ill.
Quie
Railsback
Randall
Rangel
Rees
Reuss
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roy
Roybal
Ruppe
St Germain
Sarbanes
Saylor
Scheuer
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Smith, Iowa
Springer
Staggers
Stanton, J. William
Steele
Steiger, Wis.
Stokes
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Calif.
Terry
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Veysey
Waldie
Wampler
Ware
Whalen
Whalley
White
Williams
Wilson, Bob
Wilson, Charles H.
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Tex.
Zablocki
Zion
Zwach

NAYS—61

Abbitt
Andrews, Ala.
Archer
Arends
Ashbrook
Baker
Belcher
Betts
Bevill
Blackburn
Bow
Bray
Breaux
Brown, Mich.
Burleson, Tex.
Byrnes, Wis.
Camp
Casey, Tex.
Cederberg
Clawson, Del
Collins, Tex.
Conable
Daniel, Va.
Davis, Ga.
Dennis
Dorn
Downing
Duncan
Evins, Tenn.
Findley
Flynt
Gettys
Goodling
Griffin
Hagan
Hall
Hammerschmidt
King
McEwen
Mahon
Mallary
Mathis, Ga.
Montgomery
Passman
Poage
Quillen
Roberts
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Slack
Smith, Calif.
Spence
Steed
Stephens
Vander Jagt
Whitten
Wiggins
Young, Fla.

NOT VOTING—130

Abernethy
Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Aspin
Baring
Bell
Blanton
Boland
Bolling
Brademas
Broomfield
Burke, Fla.

Byrne, Pa.
Byron
Cabell
Caffery
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Crane
Davis, S.C.
Davis, Wis.
Delaney
Derwinski
Devine
Dickinson
Dingell
Donohue
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Esch
Evans, Colo.
Fascell
Fisher
Flowers
Forsythe
Fountain
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Goldwater
Green, Oreg.
Gross
Haley
Hanna
Hansen, Wash.
Hays
Hébert
Heckler, Mass.
Horton
Hull
Hungate
Hunt
Johnson, Pa.
Jonas
Jones, Tenn.
Keating
Kemp
Kuykendall
Landgrebe
Link
Long, La.
McClure
McDonald, Mich.
McKinney
McMillan
Martin
Matsunaga
Monagan
Moorhead
Moss
Murphy, N.Y.
Myers
Nelsen
Nichols
Patman
Pelly
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Roush
Sandman
Scherle
Schmitz
Schwengel
Scott
Skubitz
Smith, N.Y.
Snyder
Stanton, James V.
Steiger, Ariz.
Stratton
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Vigorito
Waggonner
Whitehurst
Widnall
Winn
Wolff
Yatron

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Anderson of Illinois.

Mr. Thompson of New Jersey with Mr. Rhodes.

Mr. Hébert with Mrs. Dwyer.

Mr. Hays with Mr. Conte.

Mr. Wolff with Mr. Pirnie.

Mr. Nichols with Mr. Martin.

Mr. Rooney of New York with Mr. Kuykendall.

Mr. Roush with Mr. Johnson of Pennsylvania.

Mr. Fascell with Mr. Pelly.

Mr. Celler with Mr. Sandman.

Mr. Moorhead with Mr. Schwengel.

Mr. Murphy of New York with Mr. Talcott.

Mr. Waggonner with Mr. Winn.

Mr. Teague of Texas with Mr. Goldwater.

Mr. Boland with Mr. Devine.

Mr. Brademas with Mr. Crane.

Mr. Cabell with Mr. Burke of Florida.

Mr. Chappell with Mr. Bell.

Mr. Matsunaga with Mr. Andrews of North Dakota.

Mr. Podell with Mr. McDonald of Michigan.

Mr. Reid with Mr. Kemp.

Mr. Fuqua with Mr. Horton.

Mr. Roncalio with Mr. Myers.

Mr. Clark with Mr. Broomfield.

Mr. James V. Stanton with Mr. Scherle.

Mr. Caffery with Mr. Smith of New York.

Mr. Cotter with Mr. Thone.

Mr. Delaney with Mr. Price of Texas.

Mr. Davis of South Carolina with Mr. McKinney.

Mr. Dingell with Mr. Esch.

Mr. Donohue with Mr. Clancy.

Mr. Dow with Mr. Nelsen.

Mr. Eilberg with Mr. Landgrebe.

Mr. Fountain with Mr. Hunt.

Mr. Giaimo with Mrs. Heckler of Massachusetts.

Mr. Gibbons with Mr. Peyser.

Mr. Hull with Mr. McClure.

Mr. Blanton with Mr. Jonas.

Mr. Anderson of Tennessee with Mr. Steiger of Arizona.

Mr. Alexander with Mr. Forsythe.

Mrs. Hansen of Washington with Mr. Dickinson.

Mr. Hanna with Mr. Scott.

Mr. Byron with Mr. Thompson of Georgia.

Mr. Link with Mr. Derwinski.

Mr. Vigorito with Mr. Keating.

Mr. Stratton with Mr. Davis of Wisconsin.

Mr. Hungate with Mr. Whitehurst.

Mr. Collins of Illinois with Mr. Widnall.

Mr. Pucinski with Mr. Snyder.

Mr. Flowers with Mr. Skubitz.

Mr. Fisher with Mr. Thomson of Wisconsin.

Mr. Purcell with Mr. Schmitz.

Mr. Rarick with Mr. Patman.

Mr. Monagan with Mr. McMillan.

Mr. Edmondson with Mr. Evans of Colorado.

Mr. Clay with Mr. Gallagher.

Mr. Moss with Mr. Long of Louisiana.

Mr. Symington with Mr. Jones of Tennessee.

Mr. Aspin with Mr. Baring.

Mr. Abernethy with Mr. Abourezk.

Mr. Corman with Mrs. Green of Oregon.

Mr. Haley with Mr. Pryor of Arkansas.

Mr. Byrne of Pennsylvania with Mr. Dowdy.

Mr. Galifianakis with Mr. Yatron.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to regulate commerce to protect health and the environment against toxic chemical substances."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2087, PUBLIC SAFETY OFFICERS BENEFITS ACT OF 1972

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2087) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HALL. Mr. Speaker, reserving the right to object, I wonder if the gentleman from New Jersey (Mr. RODINO) under my reservation, will explain the Senate amendments, as to whether they are germane or not, what they do add and any additional costs.

Mr. RODINO. There are a number of differences in the Senate version, Mr. Speaker.

There is a difference in cost, and it is for that reason that the House wanted to insist on the House version, which was well considered, and I believe that the House can, with a conference, arrive at some agreement.

Mr. HALL. Did the gentleman ask for a conference?

Mr. RODINO. Yes, sir.

Mr. HALL. Mr. Speaker, I am awfully sorry. I understood that the gentleman requested that we concur in the Senate amendments.

Mr. RODINO. No, sir; Mr. Speaker.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Messrs. RODINO, SEIBERLING, DANIELSON, DENNIS, and MAYNE.

CONFERENCE REPORT ON S. 4018, FLOOD CONTROL ACT OF 1972

Mr. ROBERTS. Mr. Speaker, I call up the conference report on the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1972.)

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, the conference report which is before the House is the report on S. 4018, "The Flood Control Act of 1972." The bill as agreed to by the conferees is a sound measure which will continue the vitally important water resources development program of the Corps of Engineers.

The Joint Subcommittee on Rivers and Harbors and Flood Control and Internal Development held 3 weeks of hearings on this bill. We received testimony from the Corps of Engineers on the projects that we have included. Private citizens, organizations, and various Members of Congress testified before the committee on projects which they were interested in.

The conferees from the House and Senate met in a spirit of cooperation. As in most conferences, on some issues the House prevailed; and on some issues the Senate prevailed. I believe we have put together an outstanding bill, one which I can recommend wholeheartedly to this body.

I am happy to say that the differences with the Senate were few. We still have before us today one of the smallest Flood Control Acts in history. The compromise legislation that the conferees have worked out is still less than one-third the size of the 1968 act which totaled over $1,000,000,000.

We have kept intact the House provision for developing the water resources in Appalachia but we have added more funds for the initiation of these badly needed projects.

The conferees decided that the important section in the House bill that will prevent anyone but the Congress from raising the interest rates on water resource projects should remain in the compromise with a slight technical modification.

Projects in the Senate bill that were under $10,000,000 do not appear in the conference report. These projects are handled by a committee resolution under the authority of section 201 of Public Law 89-298. This has now been completed by both the House and Senate Public Works Committee and these 10 projects are not authorized.

I would conclude by thanking all the members of the conference on both sides of the aisle for their outstanding efforts on this legislation. I sincerely appreciate the support given to me by the gentleman from South Carolina (Mr. Dorn), the gentleman from North Carolina (Mr. Henderson); the gentleman from California (Mr. Clausen); and the gentleman from Kentucky (Mr. Snyder).

I yield to the gentleman from Alabama (Mr. Jones).

Mr. JONES of Alabama. Mr. Speaker, I do not think I could pay a high enough compliment to the gentleman from Texas (Mr. Roberts) for the great work he has done through the long number of months that he has dealt with this proposition. I think he has given prompt and studious consideration to all of the proposals submitted to the Committee on Public Works regarding this matter. I believe the gentleman from Texas deserves a special commendation for the outstanding job he has done. I am certainly proud of the work that he and his subcommittee has performed in bringing out this fine report and this splendid piece of work, recognizing the great problems and pressures that Mr. Roberts has been faced with. Again Mr. Speaker I want to commend the gentleman from Texas on the job he has done.

Mr. ROBERTS. Mr. Speaker, I yield to the chairman of the full committee, the gentleman from Minnesota (Mr. Blatnik).

Mr. BLATNIK. Mr. Speaker, I want to join my right-hand man, Bob Jones, in commending the very modest gentleman from Texas (Ray Roberts) the chairman of the subcommittee of which I was chairman for a long time, the Subcommittee on Rivers and Harbors.

Of course, Bob Jones was chairman of the Subcommittee on Flood Control for many years.

However, in all of the years we worked on that committee we never were able to do a finer piece of work than the distinguished gentleman from Texas (Mr. Roberts).

Mr. Speaker, at this point let me say that, as the Members undoubtedly know, we do work well as a team, by and large, on our committee. Of course, we have differences, but almost always, with very few exceptions, we resolve them in the committee between the majority and the minority without burdening the membership of the full House.

The gentleman from Texas, the chairman of the Rivers and Harbors and Flood Control Subcommittee, in my opinion, conducted these hearings in the most responsible, thorough, and honorable way. He gave serious attention to every detail and gave the most thorough consideration to everyone's point of view and kept everyone informed as I believe it has never been done previously.

Mr. Speaker, I am very happy to join at this point in extending on the record my heartfelt congratulations to the gentleman from Texas for a job exceptionally well done.

Mr. ROBERTS. Mr. Speaker, I thank the distinguished chairman.

I now yield to the gentleman from California (Mr. Don H. Clausen), the ranking minority member, who did a great job on this report.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the conference report on S. 4018, the Flood Control Act of 1972. The House-Senate conference met on Tuesday of this week and agreed on a bill that will serve the pressing needs to control flooding, mitigate streambank erosion where serious erosion exists, undertake a shoreline erosion control demonstration program, make necessary changes in ongoing projects, give the Corps of Engineers more discretionary authority for emergency situations, and make other necessary revisions.

I am pleased to report that the Senate agreed to the House provision to authorize the water resource development projects in Appalachia. The Senate authorized specific projects included in the recommendations by the Secretary of the Army, but agreed to the House approach to authorize all recommended projects, except Royal Glen, as a unit. The conference agreed to emphasize certain projects that merit priority funding because of local problems that require immediate attention.

The conferees agreed to authorize $50,000,000 for initiation of these projects representing a $29,908,000 reduction from the amount authorized in the Senate bill.

The conferees agreed to delete the projects at Sixes Bridge and Verona until the Corps has an opportunity to resubmit them to Congress. The conferees thought it necessary in view of the low-flow augmentation provisions in the projects. There is great interest in this project but there is also evidence of controversy. I hope these divergent views can be ameliorated so the committees can consider the projects on their merits.

The conferees also deleted Highland Lake project from the bill to assure adequate hearings on the project before authorization.

Many areas of the country are experiencing serious streambank erosion problems, due to altered streamflow, as well as natural erosion. The conferees agreed to authorize projects where streambank erosion is threatening homes, buildings, and facilities. It is hoped that the committee can address the problem of streambank erosion on a national scale, rather than a case-by-case approach, to effectively prevent further erosion and subsequent loss of property, tax revenue, and provide safety to those along the banks of our rivers.

The shoreline erosion control demonstration program authorizes the Corps of Engineers to plan, construct, operate, evaluate, and demonstrate prototype shoreline erosion control devices, both engineered and vegetative. This program will last 5 years and $6 million is authorized for these purposes.

Many ongoing projects have from time to time needed revision or modification to meet current circumstances, when such circumstances did not prevail at the time of authorization of the resource projects. The conferees agreed to many such changes, some of which were in the House-passed bill and others were in the Senate bill. All of these modifications are worthy of authorization and will enhance the original projects to create a better, more comprehensive purpose.

I would like to comment specifically on one particular provision in this bill—the authorization for the San Francisco Bay delta hydraulic model which the Corps of Engineers operates in Sausalito, Calif.

Maintenance of the model will be an invaluable environmental tool whose use will not be limited to the Federal Government. It can be used by State, local, regional, and private bodies as it has been in the past. Its use has already resulted in the development of master planning on a regional scale which has prevented continuing degradation of many areas of San Francisco Bay.

If we expect to be able to prevent further environmental degradation of the bay and if we hope to move now to permit the bay to achieve its full enviromental, economic, recreational, esthetic, and natural potential it is important that we have the means to assess scientifically every proposal for use or protection of the bay that is made. The bay delta model will provide the means to this end.

The Senate conferees also accepted an important provision in the House-passed bill, concerning the policies, standards, and procedures in the formulation, evaluation, and review of water and water related resources and land related resources. The intent of this provision is to allow Congress an opportunity to review the resource project criteria and make appropriate recommendations. I am sure my colleagues will agree that the congressional review and comment is necessary to formulate a new set of rational and reasonable project criteria guidelines. It is necessary to have all benefits and all costs be reflected in these guidelines, taking into account the total environment and environmental impact of the important resource development projects, quantify them and expand project purposes that will genuinely reflect the very obvious total benefits.

Finally, I wish to congratulate my colleagues, Mr. Roberts, chairman of the conferees, Mr. Dorn, Mr. Henderson, and Mr. Snyder, the other House conferees for the outstanding work they performed in the conference.

Mr. ROBERTS. Mr. Speaker, I now yield to the gentleman from Iowa (Mr. Kyl).

Mr. KYL. Mr. Speaker, on page 16 of the report, section 61, I have discovered an old friend which was sent to the Committee on Interior and Insular Affairs of the House by the Speaker as a bill to establish a national recreation area. I think that the House ought to understand what is being done here. I am not laying any blame at the doorstep of the House conferees in this matter, but I want to point out that the Secretary of the Army in this instance shall establish the Big South Fork National River and Recreation Area, by publication of notice thereof in the Federal Register, a job which is properly the job of the House Committee on Agriculture, and the House Committee on Interior and Insular Affairs.

I point out further that in section 61 we find this language:

> . . . the Corps of Engineers, the Department of the Interior, and the Department of Agriculture as modified by this act. . . .

And this section of the bill does provide a major modification of law. If this were a House bill it would clearly be nongermane. I do want to call the attention of the House to this matter because as soon as the Congress reconvenes there ought to be action taken to straighten this matter out. At this time it would kill the whole bill if we objected.

Mr. ROBERTS. Mr. Speaker, I would say to the gentleman from Iowa that I do not disagree with the gentleman, and I would say to the gentleman from Iowa that section 61 originated in the Senate bill and not the House bill. This will take the place of a project called Devils Jump, a recreation project. I agree that perhaps next Congress we can take a closer look at this proposal.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I wish to join in with and to back up what the gentleman from Iowa has stated. Serving as I do on the Committee on Interior and Insular Affairs with the gentleman, I raised this point with the gentleman in the conference, and also the fact that the Agricultural Department and the Interior Department both do not appreciate the preemption of their own prerogatives. But as the Senator from Kentucky, Senator COOPER, quite candidly insisted upon this being in the legislation, therefore in the spirit of compromise we found ourselves in the situation of either getting the bill out or not, and that is the reason that is in the bill.

Mr. DORN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the distinguished gentleman from South Carolina (Mr. DORN).

Mr. DORN. Mr. Speaker, I too want to join in commending the distinguished and able gentleman from Texas (Mr. ROBERTS) for the excellent work that the gentleman has done, and for the way that the gentleman has conducted the conference. I have never seen a conference on a bill that was handled better than this was under the gentleman's great leadership.

Mr. Speaker, I especially want to pay tribute to the gentleman from Texas (Mr. ROBERTS) who provided such splendid leadership throughout consideration of this legislation and in the conference. This is a good bill, with many worthwhile and necessary projects, and it is a tribute to RAY ROBERTS. May I commend the able and distinguished gentleman from California (Mr. DON H. CLAUSEN), the great gentleman from Kentucky (Mr. SNYDER), and my dear friend from North Carolina (Mr. HENDERSON), as well as my colleagues from the other body, the able chairman of the conference, EVERETT JORDAN, JOHN SHERMAN COOPER, and LLOYD BENTSEN from the great State of Texas.

Mr. Speaker, never have I participated in a more efficient and productive conference than the one we just completed on this bill. In this connection I would like to call to the House's attention the simply superb job rendered by our counsel, Les Edelman. His wise counsel and knowledge of every detail of the bill was invaluable to the conferees and greatly expedited the success of the conference. We are greatly indebted to Les Edelman for this outstanding service.

Mr. ROBERTS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AIRCRAFT LOAN GUARANTEE PROGRAM

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14740) to amend the Act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such act, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for Government guaranty of private loans to certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note), is amended—

(1) in section 4(d) by striking out "$10,000,000" and inserting in lieu thereof "$30,000,000"; and

(2) in section 8 by striking out "fifteen" and inserting in lieu thereof "twenty".

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this legislation provides for a 5-year extension of the Government Guarantee of Equipment Loans Act of 1957. The original act (Public Law 85–307), was for a 5-year period and it was renewed for additional 5-year periods in the 89th and 90th Congresses. It was used to secure the purchase of 81 aircraft. Under this program a total of $55,200,000 has been borrowed and 90 percent of this amount has been guaranteed. There has never been a default by a carrier and the Government has collected over $500,000 in guarantee fees. The carriers represented in our hearings made two very convincing points which we believe fully warrant this extension.

First. The mere presence of the law enables the carriers to get loans at lower interest rates than would otherwise be available if the guarantee program was not there as a backup.

Second. Several of the carriers plan to use the program to purchase equipment in the extended period.

This bill will also increase the guarantee available to any one carrier at any one time from $10 million to $30 million. We believe that this is desirable because of the revolutionary changes in aircraft from the 1950's to the 1970's. For example, a 1958 F–27 cost about $700,000; in 1966 a Lockheed Hercules cost approximately $2,775,000. Today a DC–9 or Boeing 737 costs over $4 million. This bill will help the carriers and should not cost the Government any money and I urge its passage.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. VANIK. I have a question about this whole business of Government guarantees by various agencies of the Government.

I appreciate the work that the gentleman's committee has done. The chairman always goes over legislation very thoroughly. But I am very much concerned about all of the various agencies of Government. There must now be in the neighborhood of 40 agencies that have the right to issue guarantees and have the right to increase the debt of the United States.

A few days ago, earlier this week, this House passed an expenditure ceiling, a bill giving the President the right to hold expenditures to $250 billion.

Now there is a tremendous amount of borrowing that is outside of the Federal debt, and this is that kind of borrowing.

That borrowing in this year totaled $28.2 billion, which is uncontrolled by the Congress and uncontrolled by the Executive.

At the present rate, we expect this borrowing that is outside of the debt will total $224 billion at the end of 1973. When there is borrowing outside of the national debt, it causes a drain on the money markets, it affects the Government's credit when it comes to borrowing within the debt, and has the effect of spiraling inflation.

I am a little bit concerned. I am afraid that this bill rather than being a bill to help the carriers and rather than being a bill to help the aircraft industry might end up being a bill to help the banks. The banks have most of the paper on the construction of aircraft, and they enjoy the tax investment credit. They have all the benefits of the tax writeoff.

Now that the benefit of the investment credit is used up, they want to transfer this obligation into another market and let it now become a government guaranteed loan.

I am very much afraid that this legislation might end up being a bankers' bill rather than a bill to stimulate the aircraft industry, or to make our local carriers more self-sufficient.

Can the gentleman, my good friend, the chairman of the committee, the gentleman from West Virginia, give me the assurance that this will not move in that direction?

Mr. STAGGERS. I listened carefully to the gentleman's very good comments about the running of the Government, but I do not think it applies at all to this program here. This has been in effect for over 15 years and there has never been a default on it. Instead the Government has increased their money by over $500,000 in fees from the loans. It is only to help those smaller companies that need it, and it enables them to get a better loan than they could otherwise be able to get.

I can assure the gentleman, from all of the past history, that this would have no effect on the debt limit or have any thing to do with it because the Government does not do it. They go to the banks and they get a better rate there.

Mr. VANIK. Mr. Speaker, if the gentleman will yield further, we had exactly the identical situation with the Overseas Investment Corporation. They were making a lot of money. They were building up a fund, and then suddenly their investments in South America were subject to expropriation, and all of a sudden then they were faced with the obligation we are faced with here, the obligation of replenishing and making up the Government's promise to pay on the overseas investment insurance loans in South America.

Mr. STAGGERS. Would the gentleman let me just explain this. The gentleman is talking about some overseas foreign aid, and that does involve money which is appropriated. This involves no appropriated money.

Mr. VANIK. I understand it does not involve appropriated money.

Mr. STAGGERS. This money only affects our banks here. As I say, it has been a very successful program. Over 15 years there has never been a default, and actually the Government has made money.

Mr. VANIK. I appreciate the tremendous work that the gentleman, the chairman, and his committee have done on this matter. I am getting around to the point where I think that this entire guarantee program, instead of being scattered around the whole spectrum of the Congress, ought to be acted upon by one committee so that there is some centralization of the responsibility. I will carefully watch this program to see how it moves, and I certainly hope it will not involve any outside funding or the selling of bonds or the borrowing outside of the debt.

Mr. STAGGERS. There is no way that can be done.

Mr. VANIK. I am glad to have the gentleman's assurance, but I am certainly going to watch the program. I want to thank the gentleman from West Virginia.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Missouri.

Mr. HALL. I wonder if the distinguished Chairman of the Committee on Interstate and Foreign Commerce would explain why, in the face of the GAO, the OMP, and the Department of Transportation, and the General Counsel for the Treasury, all being in opposition to this extension, we still find it is necessary and must legislation. In passing, I will say, of course, that that is the only reason it is on the suspension calendar instead of on the Consent Calendar, because it did not meet the criteria because of the departmental adverse report.

Mr. STAGGERS. I might say to the gentleman that the testimony of everyone who came before the committee was that it was needed, with the exception of the reports that came before our committee. The only reason they are opposed to it is the fact that they say it is not needed; but it is needed, and it is needed today as much as it was in 1957.

Mr. HALL. There is just one loan outstanding at this time; is there not? It is Alaska Airlines, Inc.?

Mr. STAGGERS. One loan is outstanding, but there are several who say that they do need it and do want it.

Mr. HALL. I just want to be sure that we are not up against a situation that only those who testify in favor thereof are the ones with their hats in hand.

Mr. STAGGERS. No. I will say to the gentleman that the bill and its history would not show this at all.

Mr. HALL. I have never seen a case before where we have extended 15-year-old legislation. It has been a record. The gentleman's word is good enough for me, but where all departments having jurisdiction therein were opposed to it, still we bring it up as emergency legislation.

Mr. STAGGERS. I can understand this. We have done this each 5 years, and they say they do need it—several of these companies—and that is the reason for it.

Mr. SPRINGER. Mr. Speaker, I yield myself 3 minutes only with respect to this point.

First of all, this loan cannot be obtained except under certain conditions. This is only being used by feeder airlines. Those members who come in here on feeder airlines and not main trunks are advised that this is legislation which helps those feeder lines to stay on their feet.

It is true at the present time Alaska Airlines is the only one that is using this loan at this time, but there are others that I know who do want to use it at this time in order to expand their equipment. So all of the Members who use feeder airlines should know this is their only source of staying in business, for some of these would have been out of business if they had not had this loan for them, because a bank would not make it. Under this they have to prove that other financing is not available. If there is financing available from some other loan source, they cannot get it.

This has not been a loss program. This has been a profit program all the way through. They have to pay the going rate of interest. This is the most successful loan guarantee program I know of in the Federal Government. Mr. Chairman, not only is this needed, but this is good legislation in behalf of helping to keep the airplanes on the ground in the smaller feeder airlines. If we do not have this, I know there are several that simply would not survive.

The gentleman from Missouri I believe has raised a question, and he has Ozark Airlines in his territory which has been borrowing under this program and probably would not have made it without this kind of loan guarantee.

I just want to be sure everybody understands this is not a give-away program. It is a profitable program for us. It is simply to provide loans they are not able to get from the banks. This is all paid back, every nickel of it, plus a fee. This is good legislation. I certainly defend it.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 14740, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 2741) to amend the Act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such Act.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

An act to amend the Act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for Government guaranty of private loans to certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes," approved September 7, 1957 (49 U.S.C. 1324 note), is amended—

(1) in section 4(d) by striking out "$10,000,000" and inserting in lieu thereof "$30,000,000"; and

(2) in section 8 by striking out "fifteen" and inserting in lieu thereof "twenty".

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the enacting clause of S. 2741 and insert in lieu thereof the provisions of H.R. 1470, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14740) was laid on the table.

EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16676) to amend the Community Mental Health Centers Act to extend for 1 year the programs of assistance for community mental health centers, alcoholism facilities, drug abuse facilities, and facilities for the mental health of children.

The Clerk read as follows:

H.R. 16676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) section 201 of the Community Mental Health Centers Act (relating to construction grants) is amended (A) by striking out "and" after "1972,", and (B) by inserting before the period at the end thereof the following: ", and $40,000,000 for the fiscal year ending June 30, 1974".

(2) Section 207 of such Act is amended by striking out "1973" and inserting in lieu thereof "1974".

(b) (1) Section 224(a) of such Act (relating to staffing grants) is amended (A) by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years", and (B) by striking out "each of the thirteen succeeding years" and inserting in lieu thereof "for each of the next fifteen fiscal years".

(2) Section 221(b) of such Act is amended by striking out "1973" each place it occurs and inserting in lieu thereof "1974".

(c) Section 246 of such Act (relating to special projects for alcoholism) is amended by striking out "1973" and inserting in lieu thereof "1974".

(d) Section 247(d) of such Act (relating to grants for prevention and treatment of alcoholism) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years".

(e) Section 252 of such Act (relating to special projects for drug abuse) is amended by striking out "1973" and inserting in lieu thereof "1974".

(f) Section 253(d) of such Act (relating to drug abuse education) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years".

(g) (1) Section 261(a) of such Act (relating to authorization of appropriations for drug abuse and alcoholism programs) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years".

(2) Section 261(b) of such Act is amended (A) by striking out "each of the next nine fiscal years" and inserting in lieu thereof "for each of the next eleven fiscal years" and (B) by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

(h) Section 264(c) of such Act (relating to grants for consultation services) is amended (1) by striking out "and June 30, 1973" and inserting in lieu thereof "June 30, 1973, and June 30, 1974", (2) by striking out "next eight fiscal years" and inserting in lieu thereof "next ten fiscal years", and (3) by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

(i) (1) Section 271(d) (1) of such Act (relating to grants for mental health of children) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years".

(2) Section 271(d) (2) of such Act is amended (A) by striking out "each of the next eight fiscal years" and inserting in lieu thereof "for each of the next ten fiscal years", and (B) by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974".

(3) Section 272 of such Act (relating to grants for training and evaluation) is amended by striking out "1973" and inserting in lieu thereof "1974".

(4) Section 271(a) of such Act is amended by striking out "section 272(a)" and inserting in lieu thereof "subsection (d)".

(j) (1) Sections 220(b) (1) and 242(b) (1) of the Community Mental Health Centers Act are each amended by striking out "eight years" and inserting in lieu thereof "nine years"; and section 220(b) (1) of such Act is amended by striking out "four years" and inserting in lieu thereof "five years".

(2) Sections 220(b) (2), 242(b) (1), and 242(b) (2) of such Act are each amended by striking out "three years" and inserting in lieu thereof "four years".

(3) Section 256(b) of such Act is amended (A) by striking out "eight years", in paragraph (1) and inserting in lieu thereof "nine years", and (B) by striking out "three years" in paragraphs (2) and (3) and inserting in lieu thereof "four years".

(4) The amendments made by paragraphs (1), (2), and (3) of this subsection shall apply with respect to the period of each staffing grant first made under sections 220, 242, 243, 251(a), 264, and 271 of the Community Mental Health Centers Act after June 30, 1973, and to the period of each special project grant first made under section 256 of such Act after such date. The period of each staffing grant and of each special project grant first made under such section 220, 242, 243, 251(a), 256, 264, or 271 before such date shall end on the date prescribed by the applicable provisions of section 220(b), 242(b), or 256(b) of such Act as amended by this subsection if under such provisions in effect before the amendments made by this subsection the period of the grant ended on a date after June 30, 1972.

The **SPEAKER.** Is a second demanded?

Mr. HALL. Mr. Speaker, I demand a second.

The **SPEAKER.** Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 16676, a bill to amend the Community Mental Health Center Act to extend for 1 year the programs of assistance for community mental health centers, alcoholism facilities, drug abuse facilities, and facilities for the mental health of children.

As we all know, this program, first authorized by the Congress in 1963, has become one of the Nation's most valuable resources for the provision of mental health services. At the present time our committee feels that the legislation for this program warrants a simple 1-year extension and H.R. 16676 is intended to accomplish this. The bill makes one substantive change in the existing legislation in that it extends the period for which Federal support for community mental health centers staffing is available from 8 to 9 years. The authorizations in this bill are the same as were available for fiscal year 1973 except that the authorization for construction grants is reduced from $100 million to $40 million to reflect the realities of recent appropriations. The total authorization in this bill for fiscal year 1974 is $279 million, plus the sums necessary for continuing staff grants to centers presently funded under the act.

Mr. Speaker, this bill was reported unanimously after hearings from both our Subcommittee on Public Health and Environment and the full Committee on Interstate and Foreign Commerce. I urge its passage at this time.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. SPRINGER. Mr. Speaker, I will just run briefly through several salient points about this bill.

The first point is construction grants. The present authorization for fiscal year 1973 is $100 million. The appropriations have fallen far below this figure and the reported figure takes this into account. For the second year, fiscal year 1974, the authorization is $40 million.

The second point is staffing grants. There is a straight 1-year extension of the authorization for fiscal year 1973, for one more year, of $60 million.

A second point under staffing grants is that such initial staffing grants have been previously authorized for a total of 8 years. This bill makes a substantive change in the law to extend this to a maximum of 9 years per project. The cost of these later years is never detailed but covered by a provision which authorizes whatever funds are necessary to carry them out. We do not know how much these run-downs really cost or how much the addition of 1 year will add.

The third point is alcoholism projects, and under this we have for counseling, education in communities and cooperation with schools, courts and penal institutions, a straight 1-year extension of $50 million.

A fourth point is construction and staffing for alcolohism and drug abuse. This includes funds for special projects, training, demonstrations and surveys. There is a straight 1-year extension for fiscal year 1974 of $80 million. The facilities may be part of community health centers but not necessarily.

A fifth point is drug abuse information and education. Under this we have grants to States or cities plus public or nonprofit agencies, a 1-year extension for fiscal year 1974, of $14 million.

Sixth, grants to pay for professional consultation services for alcoholics, drug addicts and children, straight 1-year extension, $5 million.

Seventh, construction, staffing, training, surveys for children's mental health, straight 1-year extension, $30 million.

Eighth, total authorization, $279 million.

We went into this very carefully. We tried to keep the figures as best we could with the others and with the Senate. I believe we have.

The legislation is necessary. It is in the public interest. I recommend passage of the legislation.

Mr. HALL. Mr. Speaker, I have no requests for time. I appreciate the explanation that both gentlemen have made on this bill.

I object to it, because I think it is too much of an increase, too precipitous, and there are no departmental reports. Of course, the program is just getting started, and where I have seen it in operation, it has evidenced that it will in due course yield returns to our own people.

Mr. Speaker, I yield to the gentleman from Illinois.

Mr. FINDLEY. I wonder if the distinguished Chairman of the Committee on Interstate and Foreign Commerce could explain why there is no administration request for this legislation, and if there was no request pending when the report was made, can we really consider it to be emergency type legislation?

Mr. STAGGERS. I might answer the gentleman's question this way: Next year we have 16 health bills to extend. We just took two or three of them which we thought we could get out of the Rules Committee this year and do them so that we would not have all this piled up next year, which is going to just be almost prohibitive.

Mr. FINDLEY. Is the administration aware that this legislation is pending?

Mr. STAGGERS. Yes.

Mr. FINDLEY. Have you had any reading from them as to their position?

Mr. STAGGERS. No. They would have no opposition to this, I am sure.

Mr. HALL. I appreciate the gentleman asking that question. It is why I raised the question of no departmental report.

As for the 16 health bills that have to be extended next year, I could advise the gentleman that that is 16 sacred cows the 93d Congress will be considering in a row.

Mr. SPRINGER. Next year I am not going to be here.

Mr. HALL. Neither am I.

Mr. SPRINGER. But I do know this, the legislation turned out in this Congress over the last Congress was three times over that.

The gentleman may disagree with the legislation, but I want to say to you, the way this Congress is going at the present time, the demand for the programs by the administration now as well as by the public generally is tremendous.

It is loading onto this committee. They come in and are asked why in thunder they do not do a better job. They just sit there day after day with nothing but testimony. They are asked to take up 16 bills on this one subject alone in 1973, and it just is not right. That is why they are in here with this bill today.

Mr. HALL. Mr. Speaker, I say to the gentleman, my fellow lame duck, welcome to the club, because this is the wine press of forced legislation if I ever saw it.

Mr. SPRINGER. To that extent, I want to agree with the gentleman. I admit that I hate to see all of this legislation coming in during the last 72 hours. I am only defending the legislation which comes from my committee.

Mr. HALL. Would the gentleman care to alter his remark and make it, "the last 24 to 36 hours"?

I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 16676 which would provide a simple, 1-year extension to the Community Mental Health Centers Act at 1973 authorization levels.

In October 1963, Congress established the community mental health centers program by authorizing grants to meet part of the costs of constructing facilities to house comprehensive programs of mental health services, tailored to meet the needs of individual communities. Since that time, the act has been revised on five occasions to allow community mental health centers to respond to special national and local needs. In their 9-year history community mental health centers have become a major factor in the delivery of mental services in this country.

Action on this legislation is necessary at this time, Mr. Speaker, because the Subcommittee on Public Health and Environment is faced with the responsibility for 16 separate bills which expire on the same date—June 30, 1973. The burden this creates makes it necessary to extend authorizations for some of the programs this year. Because we only found time to hold a 1-day hearing on extension legislation, the subcommittee felt that it should report only a 1-year extension and conduct a more thorough review of the community mental health centers programs in late 1974.

Mr. Speaker, I urge adoption of H.R. 16676.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 16676.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SECURITIES PROCESSING ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16946) to amend the Securities Exchange Act of 1934 to provide for the regulation of securities depositories, clearing agencies, and transfer agents, and for other purposes, as amended.

The Clerk read as follows:

H.R. 16946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Securities Processing Act".

SEC. 2. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulations and control reasonably complete and effective," and by adding the following immediately after that phrase: "and to provide for the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions,".

SEC. 3. Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)) is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, banker's acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) to regulate the time and method of making settlements, payments, and deliveries and of closing accounts; and

"(B) to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances. Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations.

Nothing in subparagraph (A) of this paragraph shall be construed (i) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, or (ii) to authorize the Commission to prescribe such rules or regulations for such purpose."

SEC. 4. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of closing accounts."

SEC. 5. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22)(A) The term 'clearing agency' means any person who acts as an intermediary in making payments or deliveries (or both) in connection with transactions in securities, or who provides facilities, (i) to reduce the number of settlements of securities transactions, or (ii) for the allocation of securities settlement responsibilities.

"(B) The term 'securities depository' means any person who acts as a custodian of securities in connection with a system which permits securities so held to be transferred, loaned, or pledged without physical delivery of securities certificates, or which otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.

"(C) The terms 'clearing agency' and 'securities depository' shall not include (i) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks, or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (ii) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by them on the date of enactment of this paragraph.

"(D) The terms 'clearing agency' and 'securities depository' shall not include (i) life insurance companies, or their registered separate accounts, by reason of functions commonly performed by such entities in connection with variable annuity contracts issued by insurance companies; or, (ii) registered open end investment companies or unit investment trusts by reason of functions commonly performed by such entities in connection with shares in registered open end investment companies or unit investment trusts.

"(23) The term 'participant', when used with respect to a clearing agency or securities depository, means any person who uses a clearing agency or securities depository for the purpose of settling or comparing transactions in securities or making or receiving payment for or delivery, lending, or hypothecation of securities; but does not include a person whose only use of a clearing agency or securities depository is through another person.

"(24) The term 'transfer agent' means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of this title or of securities which would be required to be so registered except for the exemption from registration provided by sections 12 (g)(2)(B) or 12(g)(2)(G) of this title, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities. The term 'transfer agent' shall not include any person who performs such functions solely with respect to variable annuity contracts issued by insurance companies.

"(25) The term 'appropriate regulatory agency', when used with respect to a clearing agency, securities depository or transfer agent required to be registered under this title means—

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or a subsidiary thereof;

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof; and

"(D) the Commission, in the case of all other transfer agents, clearing agencies, and securities depositories."

SEC. 6. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"PROCESSING OF SECURITIES TRANSACTIONS

"SEC. 17A. (a)(1) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a clearing agency, securities depository or transfer agent with respect to any security unless such person is registered under this section. The Commission, by rules and regulations or by order, upon its own motion, or upon application, may conditionally or unconditionally exempt any person, security, transaction, clearing agency, securities depository, transfer agent, or any class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents from any provision or provisions of this section or of any rule or regulation prescribed under this section if the Commission specifically finds that the application of such provision or provisions to such person, security, transaction, clearing agency, securities depository, transfer agent, or class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(2) The Commission shall include in its annual reports to Congress required by section 23(b) of this title information concerning the number of requests for exemptions received, the number granted, and the basis or bases upon which the exemptions were granted.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the Commission a registration statement which shall state the address of its principal office or offices for transfer agent activities, the identity of the issuers and issues of securities for which it is then acting as transfer agent, and such other information in such detail as the Commission may by rule require as necessary or appropriate in the public interest or for the protection of investors.

"(c) Any person may register with the Commission as a clearing agency or a securities depository under the terms and conditions hereinafter provided in this section by filing with the Commission a registration statement in such form as the Commission may prescribe setting forth the following information and accompanied by the following documents:

"(1) Copies of its constitution, articles of incorporation, bylaws, or rules or instruments corresponding to the foregoing, and its stated policies and practices relating to its organization, participation, rules of procedure, financial condition, methods of safekeeping, transferring, hypothecating, lending and accounting for funds and securities, hereinafter collectively referred to in this section as the 'rules of the clearing agency or securities depository'.

"(2) Such other information as the Commission may, by rule, require.

"(d) An applicant shall not be registered as a clearing agency or a securities depository unless the Commission finds that—

"(1) such clearing agency or securities depository is organized so as to facilitate the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, and to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purposes of this section;

"(2) the rules of the clearing agency or securities depository provide that (A) all registered brokers or dealers, (B) other registered clearing agencies or securities depositories, (C) registered investment companies, (D) banks (as defined in section 2(a)(5) of the Investment Company Act of 1940), and (E) such other persons or classes of persons as the Commission may from time to time designate by rule as necessary in the public interest, are eligible to become participants in such clearing agency or securities depository, subject only to such other rules of the clearing agency or securities depository as are expressly permitted under this paragraph. The rules of the clearing agency or securities depository may restrict or condition participation on the geographical location of participants or upon deposit with the clearing agency or securities depository of an amount which bears a reasonable relationship to the value of positions maintained and transactions processed by the participant, and may deny participation to persons who have been expelled or suspended by a registered clearing agency or securities depository during the period of such expulsion or suspension. With respect to persons not included in clauses (A) through (D) above, the rules of the clearing agency or securities depository may also restrict or condition participation on the basis of the ability of the participants to meet reasonable requirements as to financial condition or operations capability and may provide for the exclusion of persons not included in clauses (A) through (D) who have been convicted within ten years preceding the filing of the application for participation of any felony or misdemeanor which the clearing agency or securities depository finds—

"(i) involves the purchase or sale of any securities, or

"(ii) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or

"(iii) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code;

"(3) the rules of the clearing agency or securities depository assure a fair representation of its shareholders (or members) and participants in the adoption of rules of the clearing agency or securities depository and any amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(4) the rules of the clearing agency or securities depository provide for the equitable allocation of dues, fees, and other charges among its participants;

"(5) the rules of the clearing agency or securities depository do not impose any schedule of prices, or fix minimum rates or charges, for services rendered by its participants;

"(6) the rules of the clearing agency or securities depository are designed to promote the prompt and orderly settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations, other clearing agencies or securities depositories, and with other members of the financial community, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency or security depository;

"(7) the rules of the clearing agency or securities depository provide that its participants and officers, directors, employees, and agents of participants shall be appropriately disciplined for any violation of its rules by expulsion, suspension, fine, or censure, or in the case of an officer, director, or employee of a participant, by being suspended or barred from being associated with participants; and

"(8) the rules of the clearing agency or securities depository provide a fair and orderly procedure with respect to the disciplining of participants and officers, directors, employees, and agents of participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant or officer, director, employee, or agent of a participant should be disciplined, such rules shall require that specific charges of any rule violation be brought; that such participant or officer, director, employee, or agent of such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such participant or officer, director, employee, or agent of such participant may be found to have engaged, or which such participant or officer, director, employee or agent of a participant may be found to have omitted;

"(B) a statement setting forth the specific rule or rules of the clearing agency or securities depository which any such act or practice, or omission to act, is deemed to violate; and

"(C) a statement setting forth the penalty imposed.

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept and that the determination shall set forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency or securities depository may provide for the temporary suspension of a participant and the closing of its accounts pending determination on the merits of any disciplinary proceeding if, in the opinion of the clearing agency or securities depository, such suspension and closing of accounts are necessary for the protection of investors, or participants of the clearing agency or securities depository, or to facilitate the orderly and continuous performance of the clearing agency's or securities depository's services. The rules shall afford the participant an expedited hearing on the merits in the case of any temporary suspension.

"(e) Within thirty days of the filing of an application for registration pursuant to subsection (b) or (c) the Commission shall:

"(1) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

"(2) institute appropriate administrative action to determine whether the application should be denied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, or, in the case of an applicant who is a transfer agent, that the applicant does not have procedures or the means to be able to comply with the provisions of this section and the rules and regulations promulgated under those provisions, the Commission shall by order deny such registration.

"(f) A clearing agency, securities depository, or transfer agent, registered under this section may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel or deny the registration.

"(g) No clearing agency, securities depository, or transfer agent registered under this section shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as clearing agency, securities depository, or transfer agent with respect to any security in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(h) If any registered clearing agency or securities depository takes any disciplinary action against any participant therein, or any officer, director, employee, or agent of such a participant, or denies admission to any person seeking participation therein, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action, unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(i)(1) If, in a proceeding to review disciplinary action taken by a registered clearing agency or a securities depository against a participant or an officer, director, employee, or agent, of a participant the Commission, after notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant—

"(A) finds that such person has engaged in such acts or practices, or has omitted such acts, as the clearing agency or securities depository has found him to have engaged in or to have omitted, and

"(B) determines that such acts or practices, or omission to act, are in violation of such rules of the clearing agency or securities depository as have been designated in the determination of the clearing agency or securities depository,

it shall by order dismiss the proceedings, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or securities depository or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the clearing agency or securities depository.

"(2) With respect to any penalty imposed by a clearing agency or a securities depository upon a participant or an officer, director, employee, or agent of a participant the Commission may, having due regard to the public interest, affirm, increase, or decrease the penalty.

"(j) If, in any proceeding to review the denial of participation in a registered clearing agency or a securities depository, the Commission, after appropriate notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, it shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the clearing agency or securities depository and require it to admit the applicant to participation therein.

"(k)(1) Each registered clearing agency or securities depository shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any changes in, additions to, or amendments to the rules of the clearing agency or securities depository, and each registered clearing agency, securities depository and transfer agent shall file with the Commission, in accordance with such rules as the Commission may prescribe, such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (b) or (c).

"(2) The Commission shall publish notice of changes in, additions to, or amendments to the rules of any clearing agency or securities depository, and such changes, additions, or amendments shall take effect sixty days after publication of such notice by the Commission, unless the Commission disapproves such change, addition, or amendment as inconsistent with the purposes of this section or otherwise inconsistent with the public interest.

(l) The appropriate regulatory agency may, after appropriate notice and opportunity for hearing, by order, censure, bar, suspend for a period not exceeding twelve months, or place limitations upon any transfer agent, or any officer, director, or employee of any such transfer agent, or revoke the registration of any transfer agent, if the appropriate regulatory agency finds that such censure, barring, suspension, placing of limitations, or revocation is in the public interest or necessary for the protection of investors and that such transfer agent or any officer, director, or employee thereof has willfully violated or is unable to comply with any provision of this section or any rule or regulation promulgated thereunder.

"(m) The appropriate regulatory agency is authorized, if such action appears to it to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or revoke the registration of a registered clearing agency or a securities depository or impose limitations with respect to such clearing agency or securities depository, if the appropriate regulatory agency finds that such clearing agency or securities depository has violated any provision of this title, or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or expel from a registered clearing agency or securities depository any participant therein, or suspend for a period not exceeding twelve months or bar any officer, director, employee, or agent of the participant, if the appropriate regulatory agency finds that such person has violated any provision of this title or any rule or regulation thereunder or any rule of the clearing agency or securities depository; and

"(3) after appropriate notice and opportunity for hearing, by order remove from office any officer or director of a registered clearing agency or a securities depository who, the appropriate regulatory agency finds, has willfully failed to enforce the rules of the clearing agency or securities depository, or has willfully abused his authority.

"(n) If a proceeding under subsection (m)(1) of this section results in the suspension or revocation of the registration of a clearing agency or a securities depository, the Commission shall, upon notice to such clearing agency or securities depository, apply to any court of competent jurisdiction specified in section 21(e) or 27 of this title for the appointment of a trustee. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency or securities depository involved, and the books, records, and assets thereof, wherever located; and the court shall appoint the Commission or a person designated by the Commission as the trustee with the power to take possession and to continue to operate or to terminate the facilities of such clearing agency or securities depository in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(o) Each registered clearing agency, securities depository, and transfer agent shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest, or to facilitate cooperation among clearing agencies and securities depositories and the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, or for the protection of investors. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as the appropriate regulatory agency may deem necessary or appropriate in the public interest or for the protection of investors. Appropriate regulatory agencies other than the Commission shall make a full and detailed report of all examinations conducted by them of a registered clearing agency, securities depository, or transfer agent and shall immediately furnish to the Commission a copy of the portion of any such report which is relevant to functions regulated under this section.

"(p) The appropriate regulatory agencies shall consult and cooperate with each other, as may be appropriate, toward the end that their mutual regulatory needs and responsibilities be fulfilled to the maximum extent practicable.

"(q)(1) In the case of any disagreement between the Commission and any other appropriate regulatory agency concerning any rule of the Commission with respect to any clearing agency, securities depository, or transfer agent, the determination of the Commission shall be definitive.

"(2) In the case of a clearing agency, securities depository, or transfer agent for which the Commission is not the appropriate regulatory agency, the Commission shall rely on the appropriate regulatory agency for the conduct of routine or periodic inspections or examinations under this section, except that, notwithstanding any provision of this section, the Commission shall have authority to make special or other examinations and to require reports of such clearing agencies, securities depositories, or transfer agents in those situations where the Commission determines that such action would be appropriate.

"(r) Compliance with the requirements of this section may be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the appropriate regulatory agencies other than the Commission. For the purpose of the exercise by the appropriate regulatory agency of its powers under section 8 of the Federal Deposit Insurance Act, a violation of any requirement imposed under this section is a violation of the requirements imposed under the Federal Deposit Insurance Act and shall constitute adequate basis for the issuance of orders under section 8(b) and 8(c) of that Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such appropriate regulatory agencies may, for the purpose of enforcing compliance with this section (or any rule thereunder), exercise any other authority conferred on it by law.

"(s) The provisions of this section 17A or of any rule or regulation thereunder shall not apply to any person acting as transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless such person acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this title."

Sec. 7. Section 24 of the Securities Exchange Act of of 1934 (15 U.S.C. 78x) is amended to read as follows:

"INFORMATION FILED WITH THE COMMISSION

"Sec. 24. (a) Any person filing information contained in a registration statement, document, report, contract, correspondence or other paper filed with the Commission pursuant to this title may make written objection to the public disclosure of such information stating the grounds for such objection. The Commission is authorized to hear objections in any such case where it deems it advisable. The Commission shall grant confidential treatment to such information for which application has been made if it finds (1) that disclosure is not in the public interest, and (2) that disclosure would (A) jeopardize the safety of funds or securities, (B) require the revealing of trade secrets or processes, or (C) impair the value of a contract.

"(b) The Commission is authorized to treat such information as confidential pending the findings required by subsection (a), but if the Commission does not make such a finding within thirty days from the date the information is received by the Commission, then the information shall cease to be afforded confidential treatment.

"(c) Nothing in this section shall prohibit the Commission from disclosing any information in any administrative or judicial proceeding.

"(d) Nothing in this section shall authorize the Commission to withhold information from the duly authorized committees of the Congress.

"(e) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any registration statement, document, report, contract, correspondence, or other paper filed with the Commission which is not made available to the public pursuant to subsection (a) of this section: *Provided*, That the Commission may make available to an appropriate regulatory agency any information requested by such agency for the purpose of enabling it to perform its duties under this title."

Sec. 8. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by inserting after subsection (i) the following new subsection:

"(j) It shall be unlawful for an issuer, any class of whose securities is registered under this section or which would be required to be so registered except for the exemption from registration provided by paragraph (2)(B) or (2)(G) of subsection (g), by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form or format contravenes such rules and regulations as the Commission may prescribe as necessary for the prompt and accurate processing of transactions in securities."

Sec. 9. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by inserting after subsection (e) the following new subsections:

"(f) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about elimination of the stock certificate as a means of settlement among brokers or dealers in transactions consummated on national securities exchanges or by means of the mails or other means or instrumentalities of interstate commerce. On or before December 31 of each year, commencing in 1972 and ending in 1976, the Commission shall report to the the Congress (1) the steps it has taken and progress it has made toward elimination of the stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the stock certificate.

"(g) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this title, with particular reference to section 14, and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of this subsection, and its final results and recommendations within one year of such date."

Sec. 10. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection.

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or securities depository or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or depository or any nominee thereof or custodian therefor, unless such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or securities depository or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."

Sec. 11. Section 6(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended by inserting before the period at the end thereof the following: ", except that no registered national securities exchange shall by constitution, bylaw, rule or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title".

Sec. 12. Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended by adding at the end thereof the following new subsection:

(o) No registered national securities association shall by constitution, bylaw, rule or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title."

Sec. 13. This Act shall become effective on the date of its enactment, except that section 17A(a)(1) of the Securities Exchange Act of 1934 (as added by this Act) shall become effective on July 1, 1973.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

This legislation is designed to strengthen Federal control over the clearance and settlement of securities transactions for the purpose of developing a modernized national system for the prompt and accurate processing of transactions in securities.

In very brief summary this bill would—

First. Give to the Securities and Exchange Commission direct rulemaking authority over all participants in the clearance and settlement process;

Second. Require clearing agencies, securities depositories and transfer agents to register with the Securities and Exchange Commission;

Third. Direct the Securities and Exchange Commission to take appropriate steps to eliminate the use of the stock certificate as a means of settlement of securities transactions between brokers and dealers;

Fourth. Prohibit the imposition of certain State and local taxes which may unnecessarily inhibit the development of a modernized national securities processing system; and

Fifth. Direct the Securities and Exchange Commission to conduct a study to consider the public policy implications of the growing practice of registering securities in "street name."

As most Members are aware the securities industry, in 1968 through 1970, suffered the most prolonged and severe crisis experienced in the last 40 years. During this period—in the words of the

Securities and Exchange Commission—a "veritable explosion in trading volume clogged an inadequate machinery for control and delivery of securities."

In the end, Congress was required to enact legislation to safeguard investors from loss in the event of brokerage house failures. In passing this legislation, I announced to the Members on the floor that we would take steps to find out what went wrong and bring legislation to the floor which would assure that this crisis would not be repeated.

The bill before you today is the first step in that effort. Studies by both the Securities and Exchange Commission and your committee have identified the industry's inability to process transactions expeditiously as the principal cause contributing to the financial difficulties of the 1960's. This bill proposes to make more efficient the system for clearance, settlement, delivery, and transfer of securities by providing a mechanism for the development of a modernized national system for the prompt and accurate processing of transactions in securities.

I would like to emphasize that the bill before the House was reported by your committee's Subcommittee on Commerce and Finance unanimously and carries the names of each member of the subcommittee. It was reported by the full committee without amendment by a voice vote.

I believe this is important legislation, and I urge its favorable consideration.

Mr. SPRINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are four things this bill will do. I believe it is important for Members to know them.

The Chairman of the Securities and Exchange Commission came down and said to us, "Please, if you expect us to do a job you have to give us more authority. If we are not going to have a breakdown, such as we had in the past 3 years, we need more authority."

There were some 15 companies, not only in New York but all over the country, that failed.

This was a unanimous request of the Commission, with three Republicans now and two Democrats. It was a unanimous recommendation on the part of all that they need this legislation.

This bill is the result of a year-long exhaustive study of the securities markets. It does not purport to tackle or to solve all of the problems presented, but it does get to the principal ones, puts them on top of the table, and attempts to settle them.

Second, the main problem the bill aims at is the settlement and clearance process, which almost broke down in the past 3 years. Members who have dealt in the market in the past 3 years know that is true.

Third, to do this the bill provides:

Authority to the SEC to make rules on clearance and processing;

Registration and reports by clearing agencies, depositories and transfer agents;

A direction to the SEC to work toward a settlement system which does not require certificate shuffling;

A stopping of State taxes which make modernization difficult;

And a study of the implication of the use of "street name."

Fourth, banks, being used for many of these functions, I believe are going along with this. There was some opposition, but for the most part I believe they are going along.

The bill does allow the SEC to make special examinations. This is intended to be used only where banking agencies fail or refuse to act.

All I can find, from what was presented, is that this legislation is needed. I believe that in order to do the job down there properly they do have to have the additional authority contained in this bill.

(Mr. MOSS (at the request of Mr. STAGGERS) was granted permission to extend his remarks at this point in the RECORD).

Mr. MOSS. Mr. Speaker, as the gentleman from West Virginia has indicated, this bill has its origins in the great paperwork crisis that struck the securities industry in the late 1960's. One consequence of that crisis was that over 180 stock brokerage firms went out of business, causing financial hardship to their customers and endangering this country's securities markets themselves. It was not just the small firm, or the new firm that went "belly up," to use the phrase heard too often during those troubled times. No, indeed, some old, large brokerage houses also succumbed to the paperwork blitz. Finally it was necessary for the Congress to step in and pass the Securities Investor Protection Act to provide Federal insurance for customers of brokerage firms, much the way the FDIC insures customers of banks. This Federal insurance is backed by $1 billion of U.S. Treasury credits. At the time that legislation was passed, the chairman of this committee, the distinguished gentleman from West Virginia, pledged that this committee would undertake a study of the securities industry to determine the causes of the crisis and to recommend appropriate solutions.

For the past year and one-half, the committee, through its Subcommittee on Commerce and Finance, which I have the privilege to chair, has undertaken such a study. One of the first problems to come to our attention was the inability of brokerage firms to process the mounds of paperwork involved in transferring stock certificates from seller to buyer. The subcommittee heard testimony from representatives of the securities industry and the banking industry. We heard from accountants, transfer associations, and systems analysts. We heard from the Securities and Exchange Commission. And we heard from investors. Our hearings covered numerous days, and the printed hearings, with exhibits, cover hundreds of pages.

The clear consensus arising out of those hearings was the long-term need to abolish the stock certificate and the immediate need to create one central authority to have control over the industry's paperwork process, with the goal of creating a single national system for clearance and settlement of securities transactions. In issuing its report on its study of the securities industry, the subcommittee unanimously concluded that:

The development and implementation of a national system of clearance and settlement integrated with a network of depositories is urgently needed to remedy the problems associated with the physical handling of stock certificates.

The bill now pending before the House, H.R. 16946, seeks to accomplish these ends. It reflects features of three bills that were referred to the subcommittee—one submitted by the Securities Exchange Commission, one passed by the other body, and one introduced by myself and the gentleman from North Carolina (Mr. BROYHILL). The bill as reported reflects the unanimous judgment of the subcommittee based on the many days of hearings held during the course of its study, and the additional days of hearings held specifically to deal with this legislation.

The bill directs the Securities and Exchange Commission to take steps to start us down the road toward the certificateless society, and gives the SEC rulemaking authority over the entire spectrum of the securities paperwork process. There was a strong feeling on the subcommittee that there should be only one Federal authority involved in the securities handling process and that that authority should be the Securities and Exchange Commission. Others argued, however, that entities involved in the securities handling process that are organized as banks should be regulated by the Federal banking authorities, rather than the SEC.

The bill as reported reflects an accommodation between those viewpoints by giving the SEC rulemaking power over all entities, but leaving inspection and enforcement of rules with respect to banks with the Federal bank regulators. It is my judgment, and I believe the judgment of every member of the subcommittee, that this bill goes as far as we can go in splintering authority in this area and still achieve a workable single national securities processing system.

The SEC has estimated that the enactment of this bill will save the securities industry between $400 and $700 million a year—savings that can be passed on to the investing public in the form of lower charges. I commend this bill to the house and recommend its swift passage.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 16946, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 3876) to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3876

An act to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking out "and to impose requirements necessary to make such regulation and control reasonably complete and effective," and inserting in lieu thereof "to impose requirements necessary to make such regulation and control reasonably complete and effective, and to provide for the development of an integrated national system for the prompt and accurate processing, clearance, and settlement of securities transactions,".

SEC. 2. Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)) is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) to regulate the time and method of making settlements, payments, and deliveries and of closing accounts; and

"(B) to provide safeguards with respect to the financial responsibilities and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers securities, and the carrying and use of customers' deposits or credit balances. Such rules shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations.

Nothing in this section shall be construed (1) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations with respect to the extension, maintenance, or arranging of credit to purchase or carry any security, or (2) to authorize the Commission to prescribe such rules or regulations."

SEC. 3. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3 (k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of closing accounts."

SEC. 4. Section 3(a) of the Securities Exchange Act of 1934 (5 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22) The term 'clearing agency' means any person who acts as intermediary among participants in making payments or deliveries in connection with transactions in securities or who engages in providing facilities for participants for netting of purchases and sales of specific securities to reduce the number of settlements of individual transactions, or for allocation of cash and securities settlement responsibilities among itself and participants. Such term also means a person who is the custodian of securities in accordance with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery thereof. The term 'clearing agency' does not include (i) Federal Reserve banks, Federal home loan banks, or Federal land banks, or (ii) banks, brokers, life insurance companies or their registered separate accounts, registered open end investment companies or unit investment trusts, building and loan, savings and loan, and homestead associations, and cooperative banks by reason of the lending, fiduciary, correspondent, or safekeeping functions commonly performed by them.

"(23) The term 'participant', when used with respect to a clearing agency, means any person who maintains one or more accounts with a clearing agency for the purpose of settling or comparing transactions in securities or making or receiving payment for or delivery or hypothecation of securities.

"(24) The term 'transfer agent' means any person who engages, on behalf of an issuer (including itself) of securities, in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities. Such term does not include any person who performs such functions solely with respect to variable annuity contracts issued by insurance companies.

"(25) The term 'appropriate regulatory agency', when used with respect to a clearing agency or a transfer agent required to be registered under this title, means:

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary thereof other than a nonbank subsidiary of a bank holding company;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a nonbank subsidiary of a bank holding company;

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof other than a nonbank subsidiary of a bank holding company; and

"(D) the Commission, in the case of all other transfer agents and all other clearing agencies.

"As used in this paragraph, the terms 'bank holding company' and 'subsidiary' have the meaning given them in section 2 of the Bank Holding Company Act of 1956, as amended."

SEC. 5. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"REGISTRATION OF CLEARING AGENCIES

"SEC. 17A. (a) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a clearing agency with respect to any security (other than an exempted security) unless such person is registered under this section. The Commission, by rules and regulations or by order, upon its own motion, or upon application, may conditionally or unconditionally exempt any person, security, transaction or clearing agency, or any class or classes of persons, securities, transactions, or clearing agencies from any provision or provisions of this section or of any rule or regulation prescribed under this section if the Commission specifically finds that the application of such provision or provisions to such person, security, transaction, clearing agency, or class or classes of persons, securities, transactions, or clearing agencies is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(b) Any clearing agency may be registered with the Commission under the terms and conditions hereinafter provided in this section by filing with the Commission a registration statement in such form as the Commission may prescribe setting forth the following information and accompanied by the following documents:

"(1) Such data as to its organization, participation, rules of procedure, financial condition and results of operation, methods of safekeeping, transferring, hypothecating and accounting for funds and securities as the Commission may by rules and regulations require.

"(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its existing bylaws, operational rules, forms, and procedures and of any rules or instruments corresponding to the foregoing, whatever the name, hereafter in this section collectively referred to as the 'rules of the clearing agency'.

"(3) Such other information as the Commission may by rule require.

"(c) An applicant shall not be registered as a clearing agency unless it appears to the Commission that—

"(1) by reason of the number of its participants, the scope of their transactions, and the geographical distribution of its participants such clearing agency will be able to comply with the provisions of this title and the rules and regulations thereunder and to carry out the purposes of this section;

"(2) such clearing agency is so organized, is of such a character and its rules applicable to the handling of securities transactions by and for participants are so structured as to facilitate the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, and to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purposes of this section;

"(3) the rules of the clearing agency provide that all brokers or dealers making use of a national securities exchange or of the mails or any means or instrumentality of interstate commerce to effect any transaction in any security, other clearing agencies, registered investment companies, banks (as defined in section 2(a)(5) of the Investment Company Act of 1940), and such other classes of persons as the Commission may from time to time designate by rule as necessary to facilitate the prompt and orderly settlement of securities transactions, are eligible to become participants in such clearing agency, subject only to such other rules of the clearing agency as are expressly permitted under this paragraph. The rules of the clearing agency may restrict or condition participation in such agency on the geographical location of participants, on the type of business done by participants, and upon deposit with the clearing agency of an amount which bears a reasonable relationship to the value of positions maintained and transactions processed by the participant, and may deny participation to persons who have been expelled or suspended by a registered clearing agency during the period of such expulsion or suspension;

"(4) the rules of the clearing agency assure a fair representation of its shareholders or members and participants in the adoption of rules of the clearing agency and amendments thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(5) the rules of the clearing agency provide for the equitable allocation of dues, fees, and other charges among its participants;

"(6) the rules of the clearing agency do not impose any schedule of prices, or fix minimum rates or charges, for services rendered by its participants;

"(7) the rules of the clearing agency are designed to promote the prompt and orderly settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations, brokers, dealers, banks, registered investment companies, with other clearing agencies, and with other persons engaged in the settlement of securities transactions, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency;

"(8) the rules of the clearing agency provide that its participants shall be appropriately disciplined by expulsion, suspension, fine, or censure, for any violation of its rules; and

"(9) the rules of the clearing agency provide a fair and orderly procedure with respect to the disciplining of participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant should be disciplined, such rules shall require that specific charges be brought; that such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such participant may be found to have engaged, or which such participant may be found to have omitted;

"(B) a statement setting forth the specific rule or rules of the agency of which any such act or practice, or omission to act, is deemed to be in violation; and

"(C) a statement setting forth the penalty imposed."

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept and that the determination shall set forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency may provide for the temporary suspension of a participant and the closing of its accounts pending determination on the merits of any disciplinary proceeding if, in the opinion of the clearing agency, such suspension and closing of accounts are necessary for the protection of investors or of the clearing agency or to facilitate the orderly and continuous performance of its services. The rules of the clearing agency shall afford the participant an expedited hearing on the merits in the case of any temporary suspension.

"(d) Within thirty days following the filing of an application for registration pursuant to subsection (b), the Commission shall by order grant such registration if the requirements of this section are satisfied. If after appropriate notice and opportunity for hearing it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

"(e) A registered clearing agency may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, or for the facilitation of prompt and accurate processing and settlement of securities transactions withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel the registration.

"(f) Each registered clearing agency shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, copies of any changes in, additions to, or deletions from the rules of the clearing agency, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (b). Upon the filing of any change in, addition to, or deletion from the rules of a registered clearing agency the Commission shall, after opportunity for public comment, by order declare such change, addition, or deletion effective if the rules of the clearing agency, as so changed, satisfy the requirements of this section relating to registration of clearing agencies. The Commission shall, after notice and opportunity for hearing, disapprove the change, addition, or deletion in whole or in part if it is contrary to the public interest or contrary to the purposes of this section. If the Commission does not declare the change, addition, or deletion to be effective or institute a proceeding for its disapproval within thirty days from the date it is filed, the change, addition, or deletion shall become effective on such thirtieth day with the same force and effect as though it had been declared effective by the Commission.

"(g) The Commission may, after notice and opportunity for hearing, and upon a determination that such action is necessary or appropriate in the public interest or to effectuate the purposes of this section, by order require the adoption, amendment, alteration of or supplement to, or rescission of any rule of a registered clearing agency.

"(h) Each registered clearing agency shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest, or to facilitate cooperation among clearing agencies and the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, or for the protection of investors. Such acounts, correspondence, memorandums, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as the appropriate regulatory agency may deem necessary or appropriate in the public interest or for the protection of investors. The appropriate regulatory agency shall make a full and detailed report of any examination made of a registered clearing Commission shall immediately furnish to the Commission a copy of any such report. The Commission shall immediately furnish to the appropriate regulatory agency any report which is received from a registered clearing agency and is required under this section.

"(i) Each clearing agency shall, at the time of filing a registration statement with the Commission pursuant to subsection (b), file a copy of such registration statement with the appropriate regulatory agency. Each registered clearing agency shall, at the time of filing a notice of withdrawal, amendment, or supplement to its registration statement, or copies of any changes in, additions to, or deletions from the rules of the clearing agency, file copies of such documents with the appropriate regulatory agency.

"(j) If any registered clearing agency takes any disciplinary action against any participant therein, or denies admission to any person seeking participation therein, such action shall be subject to review by the appropriate regulatory agency, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the appropriate regulatory agency may determine. Application to the appropriate regulatory agency for review, or the institution of review by such agency on its own motion, shall not operate as a stay of such action unless such agency otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(k)(1) If in a proceeding to review disciplinary action taken by a registered clearing agency against a participant the appropriate regulatory agency, after notice and opportunity for hearing and upon consideration of the record before the clearing agency and such other evidence as it may deem relevant—

"(A) finds that such participant has engaged in such acts or practices, or has omitted such act, as the clearing agency has found him to have engaged in or omitted, and

"(B) determines that such acts or practices, or omission to act, are in violation of such rules of the clearing agency as have been designated in the determination of the clearing agency,

it shall by order dismiss the proceedings, unless it appears to such agency that such action should be modified in accordance with paragraph (2) of this subsection. If it appears to such agency that the evidence does not warrant the finding required in clause (A), or if such agency determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or that such act as is found to have been omitted is not required by such designated rule or rules, such agency shall by order set aside the action of the clearing agency.

"(2) If after appropriate notice and opportunity for hearing the appropriate regulatory agency finds that any penalty imposed upon a participant is excessive or oppressive, having due regard to the public interest, such agency shall by order cancel, reduce, or require the remission of such penalty.

"(3) If in any proceeding to review the denial of participation in a registered clearing agency the appropriate regulatory agency, after appropriate notice and opportunity for hearing and upon consideration of the record before the clearing agency and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, it shall by order dismiss the proceeding. Otherwise, the appropriate regulatory agency shall by order set aside the action of the clearing agency and require it to admit the applicant to participation therein.

"(l) The appropriate regulatory agency is authorized, if such action appears to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) after appropriate notice and opportunity for hearing, by order, to suspend for a period not exceeding twelve months or revoke the registration of a registered clearing agency, or place limitations upon the activities, operations or policies of such clearing agency if the appropriate regulatory agency finds that such clearing agency has violated any provision of this title, or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) after appropriate notice and opportunity for hearing, by order, to suspend for a period not exceeding twelve months or expel from a registered clearing agency any participant therein if the appropriate regulatory agency finds that such participant has violated any provision of this section or any rule or regulation thereunder or any rule of the clearing agency; and

"(3) after appropriate notice and opportunity for hearing, by order, to remove from office any officer or director of a registered clearing agency who, the appropriate regulatory agency finds, has willfully failed to enforce the rules of the clearing agency, or has willfully abused his authority.

"(m) If a proceeding under subsection (l)(1) of this section results in the suspension or revocation of the registration of a clearing agency, the appropriate regulatory agency may, upon notice to such clearing agency, apply to any court of competent jurisdiction specified in section 27 or 21(e) of this title for the appointment of a trustee or may avail itself of any other procedures available under relevant laws. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency involved, and the books, records, and assets thereof, wherever located; and the court shall appoint the appropriate regulatory agency or its designee as the trustee who, with the approval of the court, shall have the power to take possession and to continue to operate or to terminate the facilities of such clearing agency in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(n) The agencies enumerated in section 3(a) (25) of this title shall consult and cooperate with each other and shall advise one another promptly of the pendency or determination of any proceedings, of the promulgation of any rules, and of the entry of any order relating to a clearing agency, participant, class of clearing agencies, or class of participants. At least fifteen days prior to the issuance for public comment or adoption of any proposed rule or regulation regarding clearing agencies pursuant to this section, the agency contemplating issuance or adoption of any such rule or regulation shall first consult with and request the views of each of the other agencies enumerated in section 3(a) (25) so that rules and regulations applicable to bank clearing agencies may be in accord with sound banking practices and fulfill mutual regulatory needs to the extent practicable. Nothing in this section shall impair the authority of any State banking authority or other State or Federal regulatory authority having jurisdiction over a person registered as a national securities clearing agency from making or enforcing rules governing such person which are not inconsistent with this section or any rules promulgated hereunder.

"(o) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about the elimination of the negotiable stock certificate as a means of settlement among brokers or dealers of transactions consummated on national securities exchanges or by means of the mails or other means or instrumentalities of interstate commerce. On or before December 31 of each year, commencing in 1972 and ending in 1976, the Commission shall report to the Congress (1) the steps it has taken and the progress it has made toward the elimination of the negotiable stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the negotiable stock certificate."

SEC. 6. The Securities Exchange Act of 1934 is further amended by inserting after section 17A (added by section 5 of this Act) the following new section:

"TRANSFER AGENTS AND THE FORM AND FORMAT OF SECURITIES

"SEC. 17B. (a) (1) Except as otherwise provided in this subsection, no person shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, in order to perform the function of a transfer agent with respect to any security unless such person is registered in accordance with this section. The Commission, by rules and regulations or by order, upon its own motion or upon application, may conditionally or unconditionally exempt any transfer agent or class of transfer agents or security or class of securities from any provision or provisions of this section or any rule or regulation if the Commission specifically finds that the application of such provision or provisions to such transfer agent or class of transfer agents or such security or class of securities is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(2) The provisions of this section shall apply only to securities and to persons performing the function of transfer agent with respect to securities which are registered under section 12 of this title or which would be required to be so registered except for the exemption from registration provided in subsection (g) (2) (B) or (g) (2) (G) of that section. The provisions of this section shall not apply to variable annuity contracts issued by insurance companies.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the appropriate regulatory agency a registration statement which shall state the address of its principal office or offices for transfer agent activities, the length of time it has been acting as a transfer agent, and the identity of the issuers and issues of securities for which it is acting as transfer agent, and shall contain such other information in such detail as the appropriate regulatory agency may require as necessary or appropriate with regard to performance capability, standards and procedures for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process. A regulatory agency other than the Commission shall file with the Commission for any transfer agent required to register with such regulatory agency under this section, a notice which shall state the name of such transfer agent, the address of its principal office or offices for transfer agent activity, the identity of the issuers and issues of securities for which it is then acting as a transfer agent, and shall file with the Commission such information as the Commission shall require to keep reasonably current the information and documents required to be filed with the Commission under this subsection. Except as otherwise provided in subsection (d) of this section, a registration of a transfer agent filed under this subsection shall become effective thirty days after the receipt of the registration statement by the appropriate regulatory agency or within such shorter period of time as such agency may determine.

"(c) The appropriate regulatory agency shall, after appropriate notice and opportunity for hearing, by order, deny registration to any transfer agent seeking registration if it finds that such denial is in the public interest and that such transfer agent does not have procedures or the means to be able to comply with the provisions of this section and the rules and regulations prescribed under this section.

"(d) Pending final determination whether any registration of a transfer agent under this section shall be denied, the appropriate regulatory agency may by order postpone the effective date of such registration for a period not to exceed ninety days, but if, after appropriate notice and opportunity for hearing (which may consist solely of affidavits and oral arguments), it appears to such agency to be necessary or appropriate in the public interest or for the protection of investors to postpone the effective date of such registration until final determination, such agency shall so order.

"(e) Any transfer agent registered under this section may, upon such terms and conditions as the appropriate regulatory agency may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with such agency. If such agency finds that any such transfer agent for whom a registration statement is pending is no longer in existence or has ceased to do business as a transfer agent, it shall by order revoke, deny, or cancel the registration.

"(f) Every transfer agent required to be registered pursuant to this section shall file with the appropriate regulatory agency, in accordance with such rules or regulations as such agency may prescribe as necessary or appropriate to carry out the objectives of this section, such information and documents as such agency shall require to keep reasonably current the information and documents required to be included in or filed with the registration statement.

"(g) Every transfer agent required to register pursuant to this section shall make, keep, and preserve such accounts, correspondence, memorandums, papers, books, records, and other data for such periods and shall make such reports and file such information and documents with the appropriate regulatory agency, as such agency by rule or regulation may prescribe as necessary or appropriate to carry out the objectives of this section. Such accounts, correspondence, memorandums, papers, books, records, and other data shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as such agency may deem necessary or appropriate to carry out the objectives of this section.

"(h) No transfer agent shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as transfer agent in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate with regard to minimum standards for the performance of transfer functions, measures and personnel standards for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process.

"(i) The appropriate regulatory agencies shall consult and cooperate with each other and, as may be appropriate, with State banking authorities having supervision over banks so that the accounts, correspondence, memorandums, papers, books, records, and other data required of banks acting as transfer agents, and the inspections thereof, may be in accord with sound banking practices and fulfill mutual regulatory needs to the extent practicable. Nothing in this section shall be construed to impair the authority of any State banking authority or of any other State or Federal regulatory authority which has jurisdiction of a person registered as a transfer agent to make or enforce rules governing such person if such rules are not inconsistent with this section or any rules prescribed under this section.

"(j) Compliance with the requirements imposed by this section shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the case of—

"(1) national banks or banks operating under the Code of Law for the District of Columbia, or subsidiaries thereof other than nonbank subsidiaries of bank holding companies, acting as transfer agents, by the Comptroller of the Currency;

"(2) State member banks of the Federal Reserve System, subsidiaries thereof, bank holding companies, or nonbank subsidiaries of bank holding companies, acting as transfer agents, by the Board of Governors of the Federal Reserve System; and

"(3) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) or subsidiaries thereof other than nonbank subsidiaries of bank holding companies, acting as transfer agents, by the Federal Deposit Insurance Corporation.

For the purpose of the exercise by any bank regulatory agency referred to in this subsection of its powers under section 8 of the Federal Deposit Insurance Act, a bank holding company and a nonbank subsidiary of a bank holding company, acting as a transfer agent, shall be considered a bank; and a violation of any requirement imposed under this section upon banks, bank holding companies, or non-bank subsidiaries of bank holding companies registered as transfer agents is a violation of the requirements imposed under the Federal Deposit Insurance Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such bank regulatory agencies may exercise, for the purpose of enforcing compliance with any requirement imposed under this section, any other authority conferred on it by law.

"(k) All of the functions and powers of the Commission under this title are available to the Commission to enforce compliance by any person with the requirements imposed under this section. Except to the extent that enforcement of the requirements imposed under this section is specifically committed to some bank regulatory agency under subsection (j), the Commission shall enforce such requirements.

"(l) The Commission may, after appropriate notice and opportunity for hearing, by order, censure, or bar or suspend or place limitations upon any transfer agent, other than a transfer agent referred to in subsection (j), or any officer, director, or employee of any such transfer agent, or revoke the registration of any transfer agent, other than a transfer agent referred to in subsection (j), if the Commission finds that such censure, barring, suspension, placing of limitations, or revocation is in the public interest or for the protection of investors and that such transfer agent or any officer, director, or employee thereof has willfully violated or is unable to comply with any provision of this section or any rule or regulation promulgated thereunder pertaining to such transfer agent or any officer, director, or employee thereof.

"(m) At least fifteen days prior to the issuance for public comment or adoption of any proposed rule or regulation regarding transfer agents pursuant to this section, the agency contemplating issuance or adoption of any such rule or regulation shall first consult with and request the views of each of the other agencies enumerated in section 3 (a)(25) so that rules and regulations applicable to bank transfer agents may be in accord with sound banking practices and fulfill mutual regulatory needs to the extent practicable.

"(n) It shall be unlawful for an issuer, by use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, any securities to which this section applies, whose form or format contravenes such rules and regulations as the Commission may prescribe as necessary or appropriate for the prompt and accurate processing of transactions in such securities."

Sec. 7. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by adding at the end thereof the following new subsection:

"(f) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this Act, with particular reference to section 14, and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of this section, and its final results and recommendations within one year of such date.

Sec. 8. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or any nominee thereof or custodian therefor, unless such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."

NATIONAL COMMISSION ON UNIFORM SECURITIES LAWS

Sec. 9. (a) There is established the National Commission on Uniform Securities Laws (hereinafter referred to as the "Commission").

(b)(1) The Commission shall consist of fourteen members to be appointed by the President as follows:

(A) two from among persons who represent the securities industry;

(B) two from among persons who represent organizations or associations which are engaged in the preparation of uniform State laws;

(C) two from among persons who represent the private investor;

(D) two from among persons who administer State laws relating to securities;

(E) two from among persons who represent the banking industry;

(F) two representatives of the Securities and Exchange Commission; and

(G) two from among persons who represent issuing corporations.

(2) The President of the United States shall designate a Chairman from among the members of the Commission. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(c)(1) The Commission shall—

(A) determine the necessity for revising State laws to facilitate the establishment of an effective network of securities depositories;

(B) furnish advice and assistance in the planning, development, and execution of methods to evidence ownership of securities by means other than paper certificates;

(C) prepare, in cooperation with such other organizations or persons as may be appropriate, such amendments or revisions to those laws as may be necessary; and

(D) prepare and circulate such reports, drafts, or other papers as may be necessary to facilitate the enactment of any such amendments or revisions in any State.

(2) The Commission shall make such interim reports of its findings and recommendations as it deems advisable, and it shall make a final and complete report of its findings and recommendations to the Congress and the President not later than February 1, 1975. Sixty days after the submission of its final report the Commission shall cease to exist.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(3) hold such hearings and sit and act at such times and places as the Commission may deem advisable.

(e)(1) A member of the Commission who is otherwise an officer or employee of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the Commission.

(2) A member of the Commission from private life shall receive $125 per diem when engaged in the actual performance of duties of the Commission, and shall receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(f) Each department, agency, and instrumentality of the United States and of any State, is urged to furnish to the Commission, upon request made by the Chairman, such information and services as the Commission deems necessary to carry out its functions under this section.

(g) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

Sec. 10. This Act shall become effective on the date of its enactment, except that sections 17A(a) and 17B(a) of the Securities Exchange Act of 1934 (as added by this Act) shall become effective on July 1, 1973.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Staggers: strike out all after the enacting clause of S. 3876 and insert in lieu thereof the provisions of H.R. 16946, as passed.

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "To amend the Securities Exchange Act of 1934 to provide for the regulation of securities depositories, clearing agencies, and transfer agents, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 16946) was laid on the table.

CARGO SECURITY

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10295) to establish a Commission on Security and Safety of Cargo, as amended.

The Clerk read as follows:

H.R. 10295

That this Act may be cited as the "Cargo Security Act of 1972."

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that one of the fundamental bases for the development and growth of commerce and trade on an interstate and international basis is the security and safety of movement of property by the various modes of transportation. The Congress has become aware that there is an alarming growth of criminal activity which results in loss of and damage to property moving in interstate and foreign commerce. Losses resulting from such activity are increasing to a degree that represents a clear and present danger to the national economy. The Congress finds that there is an urgent need for Federal coordination of an effort to assist carriers involved in the transportation of property by air, truck, rail, and water to estabilsh deterrents and preventive measures and utilize available resources to combat criminal activity. The Congress further finds that the State and local governments have an equal responsibility in stimulating measures to improve the safety and security of property moving in interstate and foreign commerce by the various modes of transportation, and that attempts by the Federal Government to deter and curb losses of and damage to such property should be coordinated at all levels of government.

(b) It is the purpose of this Act to establish a program of uniform Federal regulation, under the direction of a single Federal agency, designed to assure maximum security and safety of properly moving in interstate and foreign commerce by any of the various modes of transportation, including the security and safety of such property while in storage in the course of any such movement in interstate and foreign commerce. It is further the purpose of this Act to provide for coordination with and between the carriers and their agents, as well as appropriate Federal, State, and local governmental agencies having jurisdiction to enforce criminal statutes and ordinances relating to the subject of theft of property.

CARGO SECURITY REGULATIONS

SEC. 3. (a) The Secretary of Transportation shall, after notice and opportunity for public hearing in accordance with section 553 of title 5 of the United States Code, establish such regulations as he may deem necessary to assure the security and safety of property in transportation (including at terminals) by all carriers (including freight forwarders) subject to the Federal Aviation Act of 1958, the Interstate Commerce Act, or the Shipping Act of 1916.

(b) In establishing regulations under subsection (a) of this section, the Secretary of Transportation shall take into consideration, among other things—

(1) the differences between the various modes of transportation and between the various types of carriers (including freight forwarders) subject to regulation;

(2) the geographical area within which transportation subject to regulation is conducted;

(3) the cost to carriers (including freight forwarders) of compliance with such regulations; and

(4) the economic loss to be prevented or reduced by such regulations.

(c) In carrying out the provisions of subsection (a) of this section, the Secretary of Transportation shall consult with and consider the views of the Attorney General, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Defense, the Civil Aeronautics Board, the Interstate Commerce Commission, and the Federal Maritime Commission.

CIVIL PENALTIES

SEC. 4. (a) Whoever, being a terminal operator or a carrier (including a freight forwarder) subject to the Federal Aviation Act of 1958, the Interstate Commerce Act, or the Shipping Act of 1916, violates any regulation issued under this Act shall be assessed a civil penalty by the Secretary of Transportation of not less than $100 nor more than $300 for the first violation and not less than $200 nor more than $500 for any subsequent violation.

No civil penalty shall be assessed by the Secretary under this subsection unless the person charged is given notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(b) Any order of the Secretary of Transportation assessing a civil penalty under subsection (a) of this section shall be subject to review by the courts of appeals of the United States in accordance with chapter 7 of title 5, United States Code, upon petition filed within sixty days after the entry of such order by any person aggrieved thereby. A petition under this subsection shall be filed in the court of appeals of the United States for the circuit in which the act or omission constituting the violation occurred, or in which the petitioner is an inhabitant or transacts business, or in the United States Court of Appeals for the District of Columbia. A copy of the petition shall, upon filing, be forthwith transmitted to the Secretary by the clerk of the court, and the Secretary shall thereupon file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

(c) Any such civil penalty may be compromised by the Secretary of Transportation. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation.

(d) The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any amount owed by the United States to the person charged or may be recovered in a civil action in a United States district court.

INJUNCTIONS AND RESTRAINING ORDERS

SEC. 5. (a) The United States district courts shall have jurisdiction, subject to rules 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of or to enforce regulations established under this Act upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary of Transportation shall give notice to a person against whom an action for injunctive relief is contemplated and afford an opportunity to present his views, and, except in the case of a knowing and willful violation shall give him reasonable opportunity to achieve compliance. However, the failure to give that notice and opportunity does not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of a regulation established under this Act, trial shall be by the court or, upon demand of the accused, by a jury. The trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under this section or to collect a penalty assessed under section 4 of this Act may be brought in the district in which the act or omission constituting the violation occurred, or in the district in which the defendant is found or is an inhabitant or transacts business, and process may be served in any other district of which the defendant is an inhabitant, transacts business, or may be found.

(d) In any action referred to in subsection (c) of this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

AUTHORITY OF SECRETARY OF THE TREASURY

SEC. 6. Nothing in this Act shall be construed to affect the authority of the Secretary of the Treasury with respect to terminals within ports of entry and shipments in customs bond to and from such terminals of merchandise imported into the United States.

REPORTS

SEC. 7. The Secretary shall prepare and submit to the Congress, not later than one year after the date of enactment of this Act and annually thereafter, a comprehensive report on the administration of this Act. Each report shall contain such recommendations for additional legislation as the Secretary deems necessary to carry out the purposes of this Act.

ECONOMIC REGULATION

SEC. 8. Nothing in this Act shall be construed to authorize the Secretary of Transportation to issue any regulation relating to the operating authority or tariffs of any carrier or freight forwarder subject to the Federal Aviation Act of 1958, the Interstate Commerce Act, or the Shipping Act of 1916.

COOPERATION WITH FEDERAL, STATE, AND LOCAL AGENCIES

SEC. 9. (a) In carrying out the provisions of this Act, the Secretary of Transportation shall, to the maximum extent practicable, cooperate with and utilize the services and facilities of other Federal departments and agencies and of State and local agencies.

(b) Departments, agencies, and instrumentalities of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the provisions of this Act.

APPROPRIATIONS AUTHORIZED

SEC. 10. For the purpose of carrying out the provisions of this Act there are authorized to be appropriated not to exceed $1,000,000 for the fiscal year ending June 30, 1973; not to exceed $1,000,000 for the fiscal year ending June 30, 1974; and not to exceed $1,000,000 for the fiscal year ending June 30, 1975.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from West Virginia, Mr. STAGGERS, is recognized.

Mr. STAGGERS. Mr. Speaker, this legislation as introduced and as passed by the Senate (S. 942) would establish a 2-year presidentially appointed commission to make a study of all aspects of cargo security. The Subcommittee on Transportation and Aeronautics and the Committee on Interstate and Foreign Commerce determined that a temporary commission is not necessary and substituted a permanent program in the Department of Transportation.

A brief description of the committee action follows:

1. *Findings and Purpose.*—Section 2 recites a need for regulation and generally describes the program.

2. *Regulations.*—Section 3 requires the Secretary of Transportation to issue cargo security regulations under administrative procedures.

3. *Penalties.*—Section 4 with an amendment provides for civil penalties of $100 to $300 for a first violation, and from $200 to $500 for any subsequent violation.

4. *Injunctive Relief.*—Section 5 provides that injunctions may be granted by U.S. district courts to enforce regulations.

5. *Treasury Authority.*—Section 6 disavows any intent to affect authority of Treasury Department.

6. *Reports.*—Section 7 requires annual reports to Congress.

7. *Economic Regulation.*—Section 8 prohibits any economic regulation of carriers under this bill.

8. *Cooperation of Government Agencies.*—Section 9 requires coordination between Federal, State and local agencies.

9. *Authorizations.*—Section 10 authorizes $1 million for each of 3 years.

Mr. SPRINGER. Mr. Speaker, there are six things that this bill does, and I will go through them rather quickly. I think the House should have some more complete knowledge of what the bill encompasses.

Mr. Speaker, the Department of Transportation makes the rules for cargo protection;

Second, we have provision for civil penalties up to $2,500 per day for violations;

Third, we do have enforcement by injunction. You can get an injunction under certain circumstances;

Fourth, the Treasury keeps its authority in customs as it is at the present time;

Now, fifth, we do provide $1 million per year for 3 years.

In September, 1971, the other body passed a bill to establish a 10-member commission with no rule-making power, and to expire in 2 years. The administration proposed the commission approach also, and we felt that this ought to be pinned down.

Mr. Speaker, we believe the Department of Transportation is the proper place to put this. Most of us are familiar with the thefts that have been going on for the past 3 years. This has reached a sizeable proportion in our metropolitan areas, and we felt there was a direct need for this, and we could not do it in any other way.

In view of the fact so much of this was taking place, in the theft of cargoes, in the Air Force especially, we felt there was no other approach to this except at the Federal level.

For this reason, Mr. Speaker, we have brought this bill before the Members, and we believe it is in the public interest.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 10295.

I introduced H.R. 10295, the Cargo Security Act, early this year. In its original form, H.R. 10295 was similar to S. 942, which passed the Senate over 18 months ago.

The Senate bill, and my original version called for the creation of a Commission to study the cargo security crisis. The study was to recommend steps that the Department of Transportation could take to conquer this problem.

I think that this was a sound approach.

The crisis is so great, and so evident, however, that the Transportation Subcommittee of the House Interstate and Foreign Commerce Committee felt that immediate action was needed.

For my proposal, the subcommittee substituted language that would give the Department of Transportation immediate authority to issue rules and regulations for cargo security.

Mr. Speaker, my purpose today is singleminded—I ask this body to pass H.R. 10295. It is imperative that we act today.

I realize that H.R. 10295 is not what I proposed; but I say that cargo theft is so great a problem that the particular vehicle used to fight this problem is not all important.

We must have a vehicle. I do not nitpick over whether my proposal or the subcommittee's proposal is better. I preferred the commission approach. I now support this legislation fully.

Mr. Speaker, I do not hesitate in saying that H.R. 10295 is one of the most important pieces of consumer legislation this Congress could enact.

Who pays for the estimated $1.47 billion worth of cargo pilfered from our trucks, our planes, our ships, and our loading docks? The consumer.

Mr. Speaker, the consumer is being fleeced by organized crime, and flimflammed by those who should do something about it.

When I hear that people in the Garment District of New York pack six-shooters, and that one trucking company has an armored car escort its trucks, I know that the only people really doing their job where cargo theft is concerned is organized crime.

Mr. Speaker, I have spoken many times and in many places on this problem.

In doing so, I have highlighted nine suggestions that could be solutions in this fight against cargo crime.

In capsule form, here are these suggestions:

MANDATORY REPORTING

Let us have it. And let us have it for all the transportation industry, not just 12 percent here and there. Let us find out the actual value of how much is being stolen, where it is stolen, and what kind of things are being stolen. We have got to identify the problem and its scope before we can attack it. Failure to report losses is nothing but a cover-up, just barely short of a crime itself. I think there must be some kind of mandatory reporting system to get information and to indicate the performance records of individual carriers.

UNIFORM CARRIER LIABILITY

Liability rates should apply equally throughout the entire industry. We have regulations left over from the Wells Fargo days. The airlines' reimbursements of 50 cents per pound not to exceed $50 per package is a perfect example.

We need to get domestic rates in line with overseas rates.

And liability rates should be published on the bill of lading so shippers will know exactly where they stand.

ENFORCEMENT

The Federal Government is lax—there is no other word for it. That is one of the big reasons I introduced my legislation. We need a big umbrella for cargo security encompassing the ICC, the FMC, the CAB, Customs, the Coast Guard, Treasury—and there is still enough room for the Keystone Cops—about the only thing we have right now. It is not enough to say that we need more law enforcement officers. In New York City alone there are nine—count them—nine different police jurisdictions which investigate cargo theft. More important than just adding more policemen is better cooperation among the police we now have. And we need the FBI on the job even at the smallest level. Then perhaps we could get real interstate action. A crime is a crime is a crime whether it is above or below an arbitrary dollar value.

In a coordinated matter, let's bring in the Feds almost from the beginning.

MINIMUM PHYSICAL SECURITY REQUIREMENTS

I realize the small shipper and carrier can stand just so much overhead, but I think DOT is on target with recommendations for security guidelines. Security is too lax, although some progress is being made. Some carriers are realizing higher profits now by instituting some capital improvements for better security instead of writing off losses as business expenses. Let us hope the word will spread.

But where the spotlight dims, security fades. New York airports actually reduced their losses last year—but only their losses at the airport itself. The crime just moved outside the gates and hit the airport-owned trucks. Losses there soared.

INSURANCE

The Department of Transportation reports that no one is actually "denied" insurance coverage. The premiums just skyrocket and the deductible goes up as high as $25,000—enough to cover a hijacking, but not enough for those 85 percent box here, crate there, thefts. I think the insurance companies should insist—nay, demand—that the shipper tighten his security.

CARRIERS

Perhaps the most deplorable situation comes when the carriers place an embargo on certain cargoes—like furs and apparel and watches. This constitutes in my mind a restraint of free trade, if not a clear and present danger to the free enterprise system itself. It must not be tolerated, and carriers who institute embargoes instead of investing in security should be penalized in my thinking.

UNIFORM PACKAGING

Another field open for increased Federal activity is in containerization. I think management should encourage it and I think unions should not resist it.

I have introduced legislation which will facilitate equipment interchange among the several modes of transportation. Let's get rid of horse-and-buggy thinking. It is inexcusable that we can ship the same person by train, bus, ship, and air all through your friendly travel agent but we cannot put a bunch of goods in a big box or sack and do the same thing. The day of containerization is here and the DOT ought not to just encourage it but to emphasize it—and not hid behind technical arguments between voluntary and mandatory rates. DOT and the Congress are derelict in these instances now.

RESEARCH GRANTS

Obviously, crime has the edge on us and we should pump more Federal dollars into research and development of modern, computerized methods of getting into the fray. Transportation security is just coming out of the technological dark ages. And the efforts are tenuous and fragile.

LICENSING AND/OR IDENTIFICATION OF EMPLOYEES

This is perhaps the most controversial area of possible Federal participation—the licensing or clearance of employees to work in high security areas. Lots of ethics, lots of morals, lots of individual and union rights are at question here. But something must be done to stop the theft—especially the sinister insider-operated thefts which look like they constitute the bulk of our problem.

Mr. Speaker, H.R. 10295 does not accomplish all these goals. But H.R. 10295 is a start. We have to start.

Mr. Speaker, as I became more and more involved in this problem, I heard from more and more groups in industry.

Quite frankly, each group, from the smallest union local to the most powerful management team, claimed that the fault lay elsewhere.

My study shows laxity everywhere. Let us stop pleading, "Me No Alamo," and say "It Is I."

The Federal Government has taken steps to stem the problem. Gen. Benjamin O. Davis heads the recently created office of Safety and Consumer Affairs in the Department of Transportation. General Davis is an able man.

But just as industry and labor, the Government can do more.

Let us do more. Let us take steps to stamp out cargo theft. If we do not, I am afraid that someday we may see organized crime controlling transportation from top to bottom.

Mr. Speaker, I urge members to vote for H.R. 10295.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 10295, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 942) to establish a Commission on Security and Safety of Cargo.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 942

An act to establish a Commission on Security and Safety of Cargo

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cargo Commission Act of 1971."

FINDINGS OF FACT AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that one of the fundamental bases for the development and growth of commerce and trade on an interstate and international basis is the security and safety of movement of cargo. The Congress has become aware that there is an alarming growth of criminal activity which results in loss of and damage to goods moving in interstate and international commerce. Such loss and theft are increasing to the degree that it represents a clear and present danger to the national economy, especially American business and particularly the small business community, which bears the greatest portion of such losses. The Congress further finds that the Constitution places the control, regulation, and stimulation of interstate and international commerce and trade within the purview of the Federal Government. Prevention of larcenies and malfeasances in connection with goods in interstate and international transit is an inherently difficult phase of crime control; goods in motion or in large-scale storage are hard to watch closely; the multijurisdictional nature of thefts facilitates criminal evasion; and protection arrangements impose unwelcome and often disastrous expenses in terms of operational delays, added paperwork, and increased costs for insurance and protection. The Congress finds that common carriers in cargo transportation by air, truck, rail, and water, manifest a serious deficiency in the level of coordination and effort needed to establish deterrents and preventive measures and utilize resources to combat criminal activity. These criminal activities and attendant losses pose an especially serious threat to the economic stability of small business. The apparent magnitude of the resultant costs suggests that the Federal Government make a further detailed and continuing inquiry to determine what remedial measures can and should be implemented by cargo carriers, their agents and assigns, possibly supported by Federal assistance, to minimize criminally inspired losses of cargo during storage and transit.

(b) The Congress further finds that State and local governments, through exercise of their regulatory powers, have an equal responsibility in stimulating measures to enhance the safety and security of cargo storage and transport. Accordingly, attempts by the Federal Government to deter and curb such losses, thefts, and pilferages should be coordinated at all levels of government.

(c) It is the purpose of this Act to establish a commission which shall conduct an inquiry and research into matters of cargo security for the purpose of designing programs to achieve maximum security and safety for such cargo when in storage and in transit in interstate and foreign commerce, and shall administer this Act so as to implement its purpose by establishing liaison and coordination with and between common carriers, their agents and assigns, as well as supporting organizations such as private terminal operators, port authorities, and others, engaged in all modes of transportation, distribution and storage of goods and cargo in transit, and by fostering consultation and coordination with appropriate governmental and private agencies and concerns.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) For the purpose of carrying out the intent of Congress as expressed in this Act, there is hereby created a commission to be known as the Commission on Security and Safety of Cargo (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of individuals who, by virtue of their education and experience, demonstrate an ability to discover causes, develop solutions, and implement strategies to solve the problem of cargo loss and theft. Members shall include one representative from each mode of the cargo transportation industry, air, truck, rail, and water; two representatives from the cargo handlers labor organizations; one representative from a shipper-import/export concern; and three representatives of the Federal Government, consisting of the Attorney General of the United States, the Secretary of Transportation, and the Secretary of the Treasury. If a member designated to represent the Federal Government on the Commission is unavoidably absent, he may designate any officer of his department appointed with the advice and consent of the Senate to serve on the Commission as his alternate.

(c) The members of the Commission, other than those designated to represent the Federal Government, shall be appointed by the President. Not more than four of such appointed members shall be members of the same political party.

(d) The Chairman and Vice Chairman of the Commission shall be elected annually from among the members of the Commission.

(e) The following shall be ex officio members of the Commission; the Chairman of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission; a representative of the Secretary of Commerce; one representative having expertise in providing security for the storage and movement of Federal cargo appointed by each of the following: the Secretary of Defense, the Atomic Energy Commission, and the National Aeronautics and Space Administration; one representative of the National Bureau of Standards appointed by the Secretary of Commerce; one representative from the Law Enforcement Assistance Administration appointed by the Attorney General; and one representative from the cargo underwriters-insurance industry and one representative from the freight forwarders industry to be appointed by the President. Ex officio members of the Commission shall not participate except in an advisory capacity to the Commission in the formulation of its findings and recommendations.

(f) Vacancies on the Commission shall be filled in the same manner as initial appointments.

(g) A quorum of the Commission shall consist of six members, but two members shall be sufficient for the purpose of taking testimony, or conducting any hearings on a matter within the purview of the Commission's jurisdiction.

(h) In addition, the Commission shall have four advisory members composed of—

(1) two Members of the House of Representatives who shall not be members of the same political party and who shall be appointed by the Speaker of the House of Representatives, and

(2) two Members of the Senate who shall not be members of the same political party

and who shall be appointed by the President of the Senate.

The advisory members of the Commission shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

COMPENSATION OF COMMISSION MEMBERS

SEC. 4. (a) Members of the Commission who are officers or full-time employees of the Government (including advisory Members of Congress appointed under section 3(h) of this Act) shall serve without compensation except for that received for their services as such officers or employees; but they shall be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) Other members of the Commission who are not officers or officials in the employ of the United States shall be compensated at the rate of $50 per day when engaged in the actual business and duties vested in the Commission, and in addition be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code.

STAFF OF THE COMMISSION

SEC. 5. (a) The Commission may appoint such personnel as it deems necessary without regard to the provisions of title 5 of the United States Code concerning appointments in the competitive services and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 under such title.

(b) The staff of the Commission shall be composed of, but not limited to, individuals having expertise determined to be pertinent to the conduct of a systematic operations research study of the problem of cargo theft, such as persons qualified in statistical mathematics, applied mathematics, human factors engineering, security engineering, cargo operations and movement, police and law enforcement, social psychology, criminology, business management, traffic engineering, security architecture, and deterrence, detection, and apprehension technology and methodology.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission, or any two members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data. In connection therewith the Commission is authorized by the majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) and require by subpena the attendance and testimony of witnesses to the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under this subsection, to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under clauses (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information it deems necessary to carry out its functions under this Act; and each such department, agency, or independent instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research, surveys, and the preparation of reports. All contracts negotiated without advertising pursuant to this subsection shall include a clause to the effect that the Commission and the Comptroller General of the United States or any of his duly authorized representatives shall until the expiration of three years after final payment have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit persons reasonable access to documents furnished by such persons for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designated individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

DUTIES OF THE COMMISSION

SEC. 7. It shall be the duty of the Commission to undertake and compile inquiries and studies to determine the causes, and practical and effective measures for the prevention and deterrence of loss due to theft and pilferage of cargo in interstate and international commerce. It shall be a further duty of the Commission to encourage the use of existing preventive technology and to promote the development of new techniques, procedures, and methods to enhance the safety and security of cargo storage and transportation. Such duties shall include, but not be limited to—

(1) definition and description of the causes, scope, and value of losses due to cargo theft;

(2) evaluation of methods to deter cargo theft, including analysis of labor-management practices; packaging and labeling of cargo; containerization; prevention, detection, and apprehension systems and devices; physical security protection, including lighting, fencing, gate placement, and other similar means; sociological and psychological deterrents and remedies; liaison of cargo security programs between law enforcement agencies and cargo terminal operators, forwarders, and transporters;

(3) design, implementation, and analysis of pilot experimental programs to demonstrate the effectiveness of different security systems;

(4) establishment and maintenance of liaison with the various modes of transportation of cargo to exchange and disseminate data to promote safety and security of cargo;

(5) periodic consultations with appropriate governmental and private agencies to discuss problems and investigate solutions;

(6) complementing programs and activities of different modes of cargo transport to produce an effective and low-cost program of safety and security;

(7) development of a system of comprehensive, continuous, and uniform loss and damage reporting by the different modes of transportation;

(8) study and evaluation of present carrier liability limits for losses incurred in the transport of cargo by the different modes of transportation, and evaluation of the adequacy of such limits of liability;

(9) evaluation and recommendation on the need and desirability of developing a federal system for the licensing and/or identification of all individuals engaged in the handling of cargo, in any mode of transportation, moving in interstate or international commerce. The report under this section shall be made to the President and to the Congress pursuant to the provisions of this Act;

(10) development of physical facility security standards;

(11) continuous reassessment of programs, plans, and operations to determine necessary revisions; and

(12) recommendations for legislative, administrative, or other actions deemed necessary to promote the safety of cargo transport.

REPORTS

SEC. 8. The Commission shall report to the President and to the Congress its findings and recommendations as deemed desirable and necessary, but in no event less often than annually.

AUTHORIZATION

SEC. 9. There are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this Act.

FREIGHT SECURITY STANDARDS

SEC. 10. Upon the submission of the Commission's final report as provided in section 12 of this Act, the Secretary of Transportation, after consultation with the Commission, the Department of the Treasury, the Civil Aeronautics Board, the Interstate Commerce Commission, and the Federal Maritime Commission, shall promulgate such regulations as may be necessary for the security and safety of freight in transportation (including at terminals) by each of the separate carrier modes including freight forwarders under the jurisdiction of each agency.

UNIFORM WATER CARRIER LOST AND DAMAGED CARGO REPORTING

SEC. 11. (a) Section 21 of the Shipping Act, 1916, is amended by inserting "(a)" after "SEC. 21" and by inserting at the end thereof a new subsection as follows:

"(b) The Federal Maritime Commission is authorized to require of each common carrier subject to this Act periodic reports listing and evaluating all cargo damaged, lost, missing, stolen, or presumed stolen from such carrier or any agent thereof during such period. The Commission is authorized to promulgate such rules as may be necessary to effect the provisions of this subsection."

(b) The amendment made by this section shall be effective on the first day of the first calendar month beginning after the date of enactment of this Act.

TERMINATION DATE

SEC. 12. Not more than two years after the appointment of its members pursuant to the provisions of this Act, the Commission shall submit to the President and the Congress a final report on its activities pursuant to this Act, and its recommendations. The Commission shall cease to exist ninety days after the submission of such report.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike all after the enacting clause of S. 942 and insert in lieu thereof the provisions of H.R. 10295.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of Transportation to issue regulations to assure the security and safety of property in transportation, and for other purposes."

A motion to reconsider was laid on the table.

PROHIBITING POTATO FUTURES TRADING

Mr. HATHAWAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7287) to prohibit trading in Irish potato futures on commodity exchanges.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no contract for the sale of Irish potatoes for future delivery shall be made on or subject to the rules of any board of trade in the United States. Notwithstanding the foregoing, such futures trading shall be permitted in the case of any future in which trading has been initiated on or before the date of enactment of this Act, but in no event shall such trading be permitted in the case of any future which would mature more than twelve calendar months after the calendar month in which this Act is enacted. The terms used in this Act shall have the same meaning as when used in the Commodity Exchange Act.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than $5,000.

The SPEAKER. Is a second demanded?

Mr. FINDLEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HATHAWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain very briefly at the outset what the mechanics of futures trading is. It is a very simple mechanism by means of which a person agrees to sell at a future date a certain commodity at a certain price and certain other persons agree to buy that commodity on that day and at that price, which establishes a futures price for that commodity. The person selling it may or may not have that commodity, and in most cases he does not. In other words, he may be what they call a short seller.

This procedure came into being in order to help farmers. It was primarily designed for farmers not for speculators. It was to help the farmers create a market for their commodities so that they would be less subject to the price fluctuations of the ordinary market.

In the case of many commodities futures trading has been of considerable benefit over the years in order not only to establish a market for the commodity but to allow the farmers to hedge their commodities on the market and thereby obtain some financing so that they could buy fertilizer and seed and what-not that they might need at the beginning of the growing season.

What I mean by "hedge" is when you sell your commodity at a future date or when you agree to sell your commodity at a future date and you get a pledge of money based on that. Then with that pledge you are able to buy whatever fertilizer, seed, and what-not you might need.

For both of these purposes, marketing and hedging, this futures trading has generally served a useful purpose for most commodities. However, in the case of potatoes we have found in Maine over the years that it has not served a useful purpose for either marketing or hedging.

In the first place, 85 percent of the potatoes in this Nation are not marketed on a futures exchange but, rather, are marketed to processers and on the fresh food market and are marketed to people who make potato chips and what-not. So 85 percent of the potatoes in this Nation are not traded on the exchange, and nearly all of the remaining 15 percent of the Maine potatoes which are traded are traded on the New York Mercantile Exchange. There is some trading of Idaho potatoes, but very little, on the Chicago Board of Trade.

As far as using the futures mechanism as a hedging device is concerned, no farmers, or very few of them at least, need this for that purpose. They can find other means for financing their crops, such as through crop mortgages and other types of loans. When we analyze the activity on the potato futures market exchange, we will find that 93.6 percent of the trading on that exchange is done by speculators and only 6.6 percent of the trading is done by legitimate hedgers or farmers.

There is no doubt that past history shows that the futures exchange in potatoes has been subject to manipulation. Even though there are very stringent rules and regulations against manipulation, it is not very difficult, we have found, to get around those rules. There are many documented cases.

One is a very recent case involving the Chicago Board of Trade.

I refer to a Wall Street Journal article of Tuesday, September 12 of this year, where the Commodity Exchange Authority has charged 17 individuals and companies with having participated in a supposed power play to regulate the price of potato futures on the Chicago Mercantile Exchange.

This is not the only instance of manipulation on the exchange. This has happened occasionally in the past, and there are other documented cases of record.

But the real reason that I think that trading on the Futures Exchange should be abolished is because it inhibits the farmers from selling their potatoes in an orderly manner. Potatoes, unlike any other commodity that is traded on the exchange at the present time, are not only a perishable product, they are harvested about this time of the year—and I am talking about Maine potatoes because they are the ones that have 90 percent of the activity on the Potato Exchanges in this country. As I say, they are harvested about this time of the year, and by the middle or the latter part of May they begin to sprout, they are perishable, you cannot sell them after the end of May. So there is just a limited season, a limited time of the year in which potatoes can be sold, unlike other commodities such as grain that can be stored so that if the price is not good in May the farmer does not have to sell it in May, he can store his crop and sell it at a later time when the price is better.

The Futures Exchanges will post their prices on potatoes, say, at this time of the year, for March, April and May of next year. And because of the anticipated shortages of potatoes the price next spring will be higher than the price it is now. As a result, the farmers looking at the board prices, which are higher now than the present prices, will hold their potatoes until next spring in hopes of getting a better price because the board now states that the price of potaoes will be higher in the spring.

As the spring approaches, and more and more farmers are holding their potatoes, the supply of course is increasing, and of course the demand price, because of the principle of supply and demand, as the supply increases, the price starts to drop. And if it does start to drop, then the farmers are put into a squeeze because they have to get rid of all of their potatoes by the end of May.

Statistics have shown that since the board has been in operation that 60 percent of the Maine potato crop has been sold in those last three months whereas before the board was in operation only 40 percent of the Maine potatoes were marketed during those months. In other words, they were marketed in a much more orderly manner, starting with the harvest in October, and extending through the month of May, before the board came into operation.

In marketing in a more orderly way, the average price of return to the farmer was much better than it has been since the board has been in operation.

I am not saying that if we get rid of trading on the potato futures that this is going to be a panacea, and that this will cure all of the problems of the potato farmers, but I am saying it will be a giant step in the right direction. It will then be up to the potato farmers themselves to market their potatoes in a more orderly manner, and thereby get the better prices.

This bill has been endorsed by the Governor of Maine, by the Maine State Legislature, and by the Agricultural Committee. The subcommittee voted it out with a margin of 6 to 2, and the full committee voted it out with a margin of 20 to 4.

This is not an unprecedented measure. Onion futures were voted out in 1968.

Mr. Baldwin, the head of the Onion Growers Association, testified before our committee and stated that onions have done much better since the futures trading in onions has been abolished.

Some people argue that the result, if you eliminate potato trading, may lead to the abolition of other commodities and other commodities being taken off the futures exchanges. This simply is not so.

As I mentioned earlier, potatoes differ from every other commodity in that not only are they perishable but they have to be marketed during a short season.

I just mentioned that onions were removed from the board in 1958. No other commodity has been removed since then. Onions and potatoes fit that category of being both perishable and being a short season crop.

So if potatoes are removed, there will no longer be other short season crops left on the board so the danger of other commodities being eliminated from the futures exchange is not very great at all.

The real issue that exists before us is whether we want to benefit the speculators or benefit the farmers. I know that many people say—well, futures trading is real good for these farmers.

Eighty-one percent of all the farmers—and I know you want to benefit the farmers—have voted that they do not want it. I know that you can say it is conceivable that they do not know what is good for them, but if 81 percent of any group of people tell me that they do not want certain federal legislation that is designed to benefit them, then we ought to get rid of it.

Since 81 percent of the farmers in Maine voted not only last year but repeatedly to get rid of the futures trading on the exchange we ought to go along with them and help them out.

Mr. KYROS. Mr. Speaker, will the gentleman yield?

Mr. HATHAWAY. I yield to my colleague from Maine.

Mr. KYROS. Mr. Speaker, I rise in support, and in strong support of this bill, H.R. 7287, and associate myself with the remarks of my colleagues.

I cannot stress too much the importance of this legislation to the Maine potato farmers as well as to the potato growers across the country. I am proud to be a sponsor of this bill.

I think my colleague, Mr. HATHAWAY, has pointed out fairly that the Maine potato farmers produce approximately 15 percent of the potatoes in the United States. They are largely the only growers who will be affected by this legislation.

The gentleman has pointed out that futures trading is harmful to the Maine potato farmers and that they would like a change in the situation. The Maine potato farmer today, as in no time in history, is undergoing a period of severe economic distress.

I strongly urge the passage of this legislation.

Mr. KYROS. Mr. Speaker, I rise today in strong support of the bill, H.R. 7287 to prohibit trading in Irish potato futures on commodity exchanges. I cannot stress too much the vital importance of this legislation to Maine potato farmers, as well as to potato growers across the country. I am proud to be a sponsor of this bill.

It is well known that for the past 15 years, Maine farmers have regarded futures trading as a burden. Instead of creating favorable economic conditions based upon a market of supply and demand, futures trading has resulted in disorder and unjustified price movements. With the apparent manipulation that is practiced, and the lack of facilities to pack and deliver upon closing, the futures board cannot be used by growers as a true and beneficial hedge, as intended. As volume and speculation increase, price movements are stimulated. Maine farmers know from experience that such large-scale gambling in their product creates wide price swings and causes recurring chaotic conditions in their market. The daily price fluctuation has continued to be wide, wider than would be the case without futures trading.

Another point to be considered is that the perishability of potatoes makes them unadaptable to futures trading, and many growers unable to make delivery are hurt through settlement requirements. Perishability encourages trading in futures contracts before final delivery, encouraging price instability.

The Maine potato industry needs a stable economic market. This is not being provided by the current arrangement of futures trading. In 1958, the Congress enacted legislation to abolish onion futures trading, and market conditions for that product have steadily improved. The futures trading noose should be lifted from the Maine potato farmers' necks.

I sincerely hope that the House of Representatives will consider carefully the merits of H.R. 7287, and approve this much needed legislation.

Mr. FINDLEY. Mr. Speaker, I realize that the gentleman from Maine (Mr. HATHAWAY) in a sense is making his swan song here to the House of Representatives inasmuch as he is not a candidate for reelection.

I know too he has a very wide circle of friends and I count myself as being in that circle of people in this body who would like very much to give him support and a measure of good will on the eve of his departure from this Chamber.

I wish that he were proposing a new highway in his district or a lake or a Federal building or something positive that I could enthusiastically support. If it were of that character, I assure him I would be here supporting him and voting for it.

Mr. HATHAWAY. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman.

Mr. HATHAWAY. I have proposed a number of times a hydroelectric project in Northern Maine, but I do not believe the gentleman supported that in the past.

Mr. FINDLEY. I would like to say to the gentleman that if he will somehow transfer this into a proposal to establish a Dickey-Lincoln Memorial any place in this country, I would gladly support it.

But I want to add that the gentleman is in a unique position, not being a member of the Committee on Agriculture but nevertheless he is handling this bill on the floor and I think it is a compliment to him. But I cannot overlook the fact that the chairman of the committee, the ranking Member of the committee and the chairman of the subcommittee who handled it were among those who are critical of the proposal. I think for a very good reason.

I said that I would gladly support a positive initiative in his district, but I view this as totally destructive and negative. This is a proposal to remove what I consider to be a very valuable and legitimate and proper and beneficial part of the merchandising system that we have in this Nation. It is an asset to our country and not a liability.

The administrator of the Commodity Exchange Authority who I think by all standards would be accepted as a person detached from the political realm and able to render an objective judgment on this likens the futures market on potatoes to a thermometer that would take the temperature of the market and indicate the condition of the market and the prospective prices at some future date. But the presence of the thermometer does not contribute either in a plus or minus way to the temperature of that commodity. The thermometer could be withdrawn and the temperature would remain the same. It is very true that the futures trading in onions has been discontinued by an act of Congress—and that is a mistake, I think.

It is also very true that the price of onions has fluctuated more greatly since futures trading in onions was discontinued. Futures is an accepted and important part of our merchandising system. This is well established, even though by and large farmers do not participate widely in futures trading. The farmers can use the futures trading market if they wish to. It is a way to produce for an advanced contract to be sure of a given price at a future date for all or a part of their crop. It is true that not many Maine potato growers do take part in the futures market, but they have the opportunity. It is an asset that, according to the CEA Administration, would be of benefit to them if they so chose to use it.

I feel that the futures market on potatoes has actually been used as a whipping boy in this circumstance. The bill originated at a time when the price of potatoes was depressed very sharply. I have not checked the last day or so, but very recently the price of potatoes was up far higher than it was when the bill was originally introduced, and it raises in my mind the question as to whether these farmers would have been coming down to Washington railing against this Wall Street monster—the futures trading as done on Wall Street. Perhaps it is just a knee-jerk reaction against an unfortunate price situation at a given moment.

In fact, the farmers themselves reduced their production of potatoes, and the price of potatoes is up at the present time.

The futures market for potatoes has been analyzed thoroughly by USDA unbiased technicians, recognized experts in their field, to a greater extent than any other single commodity. The conclusions drawn from these analyses are distilled in the USDA report on H.R. 7287 submitted to the chairman of the Committee on Agriculture on September 24, 1971.

Witness the following from the report:

> Futures trading, as in many other commodities, fulfills a useful and needed economic function in the marketing of potatoes. The facilities of the exchanges are being used by many growers, cooperatives, shippers, merchants, chainstores, and processors as a means of hedging price risks. The proportion of futures trading in potatoes reported as being used for hedging purposes compares favorably with that of other commodities. Potatoes have been subject to wide price fluctuations. By use of hedging, farmers, dealers, and others in the potato industry have been able to protect themselves from this price variability and able to market potatoes on an economic basis.
>
> The potato futures market also fulfills a vital economic function by furnishing a pricing basis open and known to all. The focusing of supply and demand forces into one place, and the wide dissemination of prices competitively determined in the market, are of benefit to all persons concerned with the marketing of potatoes.
>
> Even though there is a wide variation in potato prices from season to season and within a particular marketing season, price fluctuations do not appear to be increased by futures trading. The prohibition of futures trading would not be expected to eliminate wide price movements which are inherent in the marketing of a commodity having, as do potatoes, an inelastic demand and substantial variations in the size of the crop from year to year.
>
> The banning of futures trading in potatoes will not solve the problems plaguing the potato grower. It will not remove the problems of overproduction, rising production costs, the need to improve mechandising methods to present an attractive product to the consumer, and the pressing competition among potato producing areas for markets.

With a successful history of trading in potatoes for over 3 decades, what is the major argument for this drastic proposal? Fundamentally, I feel that the Congress needs to take a long hard look at any legislative proposal that eliminates a field of economic activity—especially one that has a proven record of successful operation—and especially the fundamental right of freedom of contract.

The sponsor of this legislation has testified,

I believe the principal reason is that such trading prevents orderly marketing.

I have examined the printed record for evidence by the proponents of this legislation that futures trading "prevents orderly marketing." While the record reveals some opinions, there is not a scintilla of statistical or other hard economic evidence justifying that position. Basic decisions affecting so important an area of economic freedom must be based on a statistical and factual record so that the case can be fairly and objectively appraised.

The record reveals that during the last 5 years, grower shipments have been well distributed over the year. From page 135 of the hearing record, we find the following statistics:

PERCENTAGES OF RAIL AND TRUCK SHIPMENTS, BY MONTHS FOR MAINE POTATOES

Month	1965	1966	1967	1968	1969
September	0.2	0.3	0.2	0.4	0.7
October	.6	1.3	.6	1.7	2.3
November	6.0	5.9	4.6	4.5	5.3
December	8.3	7.4	8.0	5.5	7.4
January	11.7	9.1	10.5	10.2	12.0
February	12.1	11.9	12.4	11.1	11.2
March	24.2	21.2	17.8	20.5	18.8
April	21.3	21.2	22.0	22.1	23.3
May	10.8	14.6	17.4	14.6	13.2
June	3.6	5.1	5.9	7.0	5.4
July		1.4	.1	1.0	.2

These figures show that by the end of May, between 92 percent and 96 percent of the crop was shipped. I must conclude that Maine producers have an outstanding record of orderly marketing.

This marketing pattern is showing good results.

For example, from page 137 of the hearing record:

> 1. Maine potato producers are receiving increasingly higher proportion of the U.S. average price.

Ratio of Maine to U.S. Average Price Received by Farmers

1949–58	86.4
1959–68	89.6
1969–70	95.0

And from page 135 of the record—

> 2. Statistical evidence revealed that Maine potato producers profited from their orderly marketing and received the following price advantages as a result of holding a portion of their sales off the market until May:

Average	Season average price received hundredweight	Average price received in May hundredweight	Additional return versus season average price cents per hundredweight
1949–58	1.73	2.19	+.46:+27%
1959–68	1.90	2.35	+.45:+24%
1969–70	2.09	2.53	+.44:+22%

In 16 of the last 22 years, the May price received by farmers exceeded the season average price.

Another argument utilized by the proponents of the bill was the matter of perishability. The experienced and unbiased experts of USDA carefully examined this question and came to the following significant conclusion:

> It is our opinion that this commodity is suitable for futures trading as now conducted on the New York Mercantile Exchange. The maturity date of the May or final future traded . . . . is well within this period in which the commodity can be carried in storage.

One of the world's leading experts on futures trading, Dr. Roger W. Gray, professor of Food Research Institute at Stanford University said in a recent publication, entitled "The Futures Market for Maine Potatoes—An Appraisal":

> An organized futures market is the logical mechanism through which to enable producers to plan production according to prospective prices, and to convert these to certain prices through hedging. The potato futures market was the first ever to attract significant hedging business in the context of discontinuous inventories and a cyclical price-production pattern. The forward pricing and inventory rationing functions are both more difficult and more important in this case, as compared to such continuous inventory, non-cyclical cases as the grains. The success of this market, in economic terms, has already been demonstrated—it has provided reasonable signals to those who would look and price certainty at reasonable levels to those who would avail themselves of it by hedging. The level of hedging use has continued to grow, hence the measure of success has gradually increased. Anything like full success from a total industry standpoint cannot be achieved until a much larger segment makes use of this or other potato futures markets, but already there are signs of improvement in industry production response. Most importantly to date, however, has been the contribution of this market to the vanguard to potato growers and shippers who use it. The analysis in this paper can leave no doubt as to why its users support it.

The problem facing potato growers lies not with the futures market, but with the excessive level of potato production. Mr. Alex Caldwell, Administrator of the Commodity Exchange Authority testified correctly:

> Futures markets are like a thermometer. They register prices based on supply and demand conditions. If the thermometer is removed, the temperature is not changed. It follows that the removal of futures trading in potatoes will not change the supply and demand conditions that are affecting price.
>
> The problems facing Maine and Idaho potatoes are not to be found in the futures market but arise from the total supply picture for potatoes in the United States. Production and available supply are major forces that affect potato prices.

There is need for reduced production of fall potatoes in line with USDA guides. This is the best and only approach to higher prices for farmers.

The imperatives of potato marketing are such that if Congress should eliminate futures trading in potatoes, forward sales could not stop. Actually, potato trading would revert to a more primitive form with major but well hidden flaws. The Irish potato market for forward sales and deliveries would be unregulated. The defects of forward selling which require either the buyer or the seller to bear the whole risk of loss which makes hedging impossible and which is not subject to Federal regulation should be clear. I do not profess that futures trading is perfect, but let us not destroy this closest approximation to perfect competition.

With respect to the indicated vote of Maine potato producers, the following colloquy between the Honorable Representative ZWACH and the expert witness Alex C. Caldwell, Administrator, CEA should be considered:

> Mr. ZWACH. Is it your contention that this exchange accrues to the benefit of potato growers?
>
> Mr. CALDWELL. That is our belief; yes, sir.
>
> Mr. ZWACH. In spite of the fact that 80 percent of them feel it does not?
>
> Mr. CALDWELL. Our feeling is that growers

who use the market properly are obtaining a benefit from it. We do not believe that other growers, who do not use the market are faced with any problems as a result of it.

Fundamentally, eliminating futures trading in potatoes will hurt the small family farmer who obtains his financing by hedging his potatoes. To urge farmers to finance their potato crop through crop mortgages requires not only higher interest rates, but also makes the farmer a speculator who must rely on the market price at harvest time. Of course, he can do this currently, but knows that this is a poor choice.

The futures market helps maintain the family farm. It is a great tool for minimizing costs between producer and consumer.

This proposal should be defeated. There has not been presented to this committee satisfactory evidence for eliminating the futures trading in potatoes.

Mr. MAYNE. Mr. Speaker, I rise in opposition to this bill which would prohibit trading in Irish potato futures on commodity exchanges. I feel that the passage of this bill would set a very dangerous precedent, realizing that uninformed growers of other commodities may make similar moves to prohibit futures trading on their commodities as well.

Futures trading is a very necessary part of the marketing process of commodities today. Farmers, elevators, and other handlers of commodities could not produce and market their product nearly as efficiently and orderly as they now do without the futures market.

The supporters of this bill use arguments, all of which are very old, and have been clearly refuted in the literature of the senior academic journals in the field of agricultural economics many times. First, futures markets allow potato growers the option to take advantage of hedging opportunities which may seasonally occur. Second, so-called perishable commodities do lend themselves to orderly futures trading, and "unnatural" price volatility is not a result thereof. Third, it has been shown that futures trading causes less volatility in the market price, not more volatility as has been charged. Fourth, a survey of potato producers does not show that they favor prohibition of futures trading in Irish potatoes, but in fact, the contrary is the case.

The reason futures contracts exist is to serve hedgers who desire stability, either agricultural or financial. Futures contracts for which there turned out to be no need have always died on their own without any help from Congress. A number of futures contracts have gone by the wayside over the years. Why should Congress kill a living-breathing contract for potatoes for which none of the usual symptoms of a sick contract can be found?

For these reasons, I urge you to vote against this bill.

Mr. HATHAWAY. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. BERGLAND).

Mr. BERGLAND. Mr. Speaker, I thank the gentleman from Maine for yielding.

I rise in strong support of this measure. I want to commend the gentleman from Maine (Mr. HATHAWAY) for sponsoring legislation that has widespread and general support among the potato growers of the United States. As a member of the Committee on Agriculture I can attest to the fact that it had general support in our committee.

The Subcommittee on Domestic Marketing and Consumer Relations held hearings for 4 days on this bill. Over 100 witnesses either appeared or submitted statements, and I think it can safely be said that all persons wanting to express their views were given an opportunity to do so.

Mr. Speaker, among the many organizations that have endorsed this legislation are the Red River Valley Potato Growers of Minnesota and North Dakota, the Empire State Potato Club of New York, the Maine Potato Council, the National Potato Council, the National Farmers Organization, the North Carolina Potato Growers and Dealers Association, The National Grange, the Idaho Farm Bureau, the Tulelake Growers Association of California, the New Jersey State Potato Council, the Oregon Potato Council, the Ohio Potato Growers Association, the Wisconsin Potato and Vegetable Growers Association, and others.

Mr. Speaker, I urge the adoption of this badly needed legislation.

Mr. FINDLEY. Mr. Speaker, I would like to add just one further comment. I should like to mention that when this proposal was presented to the Committee on Rules, it failed to get a rule, and the vote on that occasion was 8 to 4 against.

I also have a copy of a letter that the Farm Bureau Federation of the State of Idaho, which, of course, is a major producer of potatoes, issued stating that organization's opposition to this bill, which would abolish futures trading in potatoes.

The letters referred to are as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 24, 1971.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in answer to your request for a report on H.R. 7287.

The bill proposes to prohibit trading in Irish potatoes for future delivery on any board of trade in the United States. Most of the futures trading has been in Maine-grown potatoes at New York, although there has been a substantial recent growth in futures trading in Idaho-grown potatoes at Chicago. Therefore, the bill, in effect, will ban futures trading in potatoes from Maine and Idaho.

We recommend that H.R. 7287 not be enacted.

Futures trading, as in many other commodities, fulfills a useful and needed economic function in the marketing of potatoes. The facilities of the exchanges are being used by many growers, cooperatives, shippers, merchants, chainstores, and processors as a means of hedging price risks. The proportion of futures trading in potatoes reported as being used for hedging purposes compares favorably with that of other commodities. Potatoes have been subject to wide price fluctuations. By use of hedging, farmers, dealers, and others in the potato industry have been able to protect themselves from this price variability and able to market potatoes on an economic basis.

The potato futures market also fulfills a vital economic function by furnishing a pricing basis open and known to all. The focusing of supply and demand forces into one place, and the wide dissemination of prices competitively determined in the market, are of benefit to all persons concerned with the marketing of potatoes.

Even though there is a wide variation in potato prices from season to season and within a particular marketing season, price fluctuations do not appear to be increased by futures trading. The prohibition of futures trading would not be expected to eliminate wide price movements which are inherent in the marketing of a commodity having, as do potatoes, an inelastic demand and substantial variations in the size of the crop from year to year.

The banning of futures trading in potatoes will not solve the problems plaguing the potato grower. It will not remove the problems of overproduction, rising production costs, the need to improve merchandising methods to present an attractive product to the consumer, and the pressing competition among potato producing areas for markets.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD LYNG,
Assistant Secretary.

IDAHO FARM BUREAU FEDERATION,
Boise, Idaho, April 17, 1972.

Hon. W. R. POAGE,
Chairman, House Agricultural Committee, House Office Building, Washington, D.C.

DEAR REPRESENTATIVE POAGE: HR 7287 is before your committee for consideration. We recommend this legislation not be passed.

The opportunity to hedge potato growing and selling risks should not be taken away from Idaho farmers. Margins are continuing to narrow and we need to use every possible way to market, or obtain a risk reduction in the management of our farming operations. Hedging on the exchange is a way of marketing that has proven successsful in other agricultural products and many changes in the contracts were made before they became successful.

Idaho Potatoes have been offered on the exchange since 1968 and changes have been made in the contract which have provided a better means for hedging. We should not prohibit potato futures trading without more information on results of these changes.

It is our opinion that taking onions from the board did not improve or change the marketing of onions, but did limit the selling option and opportunities of producers.

One of the ways producers would be limited if potatoes were removed comes when there are more sellers than buyers at a particular time on the fresh market. Simplified this would be when three carloads of potatoes are offered by three growers and only two of these have buyers. One grower cannot sell. If the futures market price is acceptable allowing for freight, storage, packing commission etc. a sale can be made by all three growers and thus we have averted a temporary imbalance in marketing, and also a possible price depressing situation.

We thank you for your efforts in behalf of agriculture and hope HR 7278 is not passed into law.

Sincerely,

W. DALE ROCKWOOD,
President.

Mr. HATHAWAY. Mr. Speaker, I should like to point out that in Idaho the head of the Potato Council testified in favor of the bill, and the Agriculture Committee, which has experts in this matter, passed the bill by an overwhelming vote of 20 to 4.

I would like to yield 1 minute to the gentleman from California (Mr. SISK).

Mr. SISK. I thank the gentleman from Maine for yielding.

As a member of the subcommittee, I might say that in spite of the fact that the Chairman of the subcommittee did vote against the bill, the gentleman from Illinois, who is opposing it here, was the only other member. Actually the bill came out of the subcommittee by a vote of 6 to 2.

We were deeply impressed by the unanimity of the people in Maine in support of this legislation. I have no personal interest in it. I happen to believe in futures trading basically for the basic commodities. I think hedging is an excellent tool for farmers generally, particularly in cotton, wheat, and livestock. However, perishable commodities are a different matter.

As has already been indicated, not only did the subcommittee report this bill by a vote of 60 to 2 but also the full committee reported it by a vote of 20 to 4. There was substantial support in the Committee on Agriculture for this legislation. Certainly in view of the fact that, as I understand it, it affects only Maine and the Maine people do want it, then I am inclined to say it must be good legislation for Maine at least.

The SPEAKER. The question is on the motion offered by the gentleman from Maine (Mr. HATHAWAY) that the House suspend the rules and pass the bill H.R. 7287.

TELLER VOTE WITH CLERKS

Mr. FINDLEY. Mr. Speaker, I demand tellers.

Tellers were ordered.

Mr. FINDLEY. Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chair appointd as tellers Messrs. HATHAWAY, FINDLEY, SISK and BELCHER.

The House divided, and the tellers reported that there were—ayes 116, noes 150, not voting 165, as follows:

[Roll No. 443]

[Recorded Teller Vote]

AYES—116

Abbitt
Adams
Anderson, Calif.
Andrews, Ala.
Badillo
Baker
Begich
Bennett
Bergland
Biester
Brasco
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney
Cleveland
Conyers
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
de la Garza
Dellums
Dent
Drinan
Dulski
Eckhardt
Edwards, Calif.
Ford, William D.
Fraser
Gaydos
Gonzalez
Grasso
Gray
Griffiths
Hamilton
Harrington
Harsha
Hathaway
Heckler, Mass.
Helstoski
Hicks, Mass.
Holifield
Howard
Ichord
Jacobs
Johnson, Calif.
Kastenmeier
Kazen
Kluczynski
Kyros
Leggett
McFall
Macdonald, Mass.
Mathias, Calif.
Mathis, Ga.
Meeds
Melcher
Metcalfe
Miller, Ohio
Minish
Mink
Mollohan
Montgomery
Morgan
Murphy, Ill.
Nedzi
Obey
O'Hara
O'Konski
Patten
Pickle
Pike
Price, Ill.
Randall
Rangel
Rees
Reuss
Roberts
Rodino
Roe
Rogers
Rooney, Pa.
Rostenkowski
Roy
Roybal
St Germain
Sarbanes
Scheuer
Seiberling
Sisk
Slack
Staggers
Steed
Steele
Steiger, Wis.
Stokes
Stuckey
Sullivan
Teague, Calif.
Tiernan
Udall
Van Deerlin
Vanik
Waldie
Wampler
White
Whitten
Wilson, Charles H.
Wyman
Yates
Young, Tex.
Zablocki

NOES—150

Abzug
Addabbo
Archer
Arends
Ashbrook
Ashley
Aspinall
Belcher
Betts
Bevill
Bingham
Blackburn
Boggs
Bray
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burleson, Tex.
Byrnes, Wis.
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Clawson, Del
Collier
Collins, Tex.
Colmer
Conable
Conover
Coughlin
Dellenback
Dennis
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Findley
Fish
Flood
Flynt
Ford, Gerald R.
Frelinghuysen
Frenzel
Frey
Gettys
Goodling
Griffin
Grover
Gubser
Gude
Hall
Hammerschmidt
Hanley
Hansen, Idaho
Harvey
Hastings
Hechler, W. Va.
Heinz
Henderson
Hicks, Wash.
Hillis
Hogan
Hosmer
Hutchinson
Jarman
Kee
Keith
King
Koch
Kyl
Landgrebe
Landrum
Latta
Lent
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McKay
McKevitt
Madden
Mahon
Mailliard
Mallary
Mann
Mayne
Mazzoli
Michel
Mills, Md.
Mizell
Mosher
Natcher
O'Neill
Passman
Perkins
Pettis
Poage
Powell
Quie
Quillen
Railsback
Riegle
Robinson, Va.
Robison, N.Y.
Rosenthal
Runnels
Ruppe
Ruth
Satterfield
Saylor
Sebelius
Shoup
Shriver
Smith, Calif.
Smith, Iowa
Spence
Springer
Stanton, J. William
Stubblefield
Terry
Vander Jagt
Veysey
Ware
Whalen
Whalley
Wiggins
Williams
Wilson, Bob
Wright
Wyatt
Wydler
Wylie
Young, Fla.
Zion

NOT VOTING—165

Abernethy
Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Aspin
Baring
Barrett
Bell
Biaggi
Blanton
Blatnik
Boland
Bolling
Bow
Brademas
Broomfield
Brotzman
Broyhill, Va.
Burke, Fla.
Byrne, Pa.
Byron
Cabell
Caffery
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Crane
Curlin
Davis, S.C.
Davis, Wis.
Delaney
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Esch
Evans, Colo.
Fascell
Fisher
Flowers
Foley
Forsythe
Fountain
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Green, Oreg.
Green, Pa.
Gross
Hagan
Haley
Halpern
Hanna
Hansen, Wash.
Hawkins
Hays
Hébert
Horton
Hull
Hungate
Hunt
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Keating
Kemp
Kuykendall
Lennon
Link
Long, La.
McClure
McCulloch
McDonald, Mich.
McKinney
McMillan
Martin
Matsunaga
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Mitchell
Monagan
Moorhead
Moss
Murphy, N.Y.
Myers
Nelsen
Nichols
Nix
Patman
Pelly
Pepper
Peyser
Pirnie
Podell
Preyer, N.C.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rarick
Reid
Rhodes
Roncalio
Rooney, N.Y.
Roush
Rousselot
Sandman
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Shipley
Sikes
Skubitz
Smith, N.Y.
Snyder
Stanton, James V.
Steiger, Ariz.
Stephens
Stratton
Symington
Talcott
Taylor
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Ullman
Vigorito
Waggonner
Whitehurst
Widnall
Winn
Wolff
Yatron
Zwach

So (two-thirds not having voted in favor thereof) the motion was rejected.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3755) entitled "An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1437) entitled "An act to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes."

The message also announced that the Senate agrees to the amendment of the House to an amendment of the Senate numbered 20 to the foregoing bill.

The message also announced that the Senate agrees to the amendment of the House to joint resolution of the Senate of the following title:

S.J. Res. 204. Joint resolution to authorize the preparation of a history of public works in the United States.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 16071. An act to amend the Public Works and Economic Development Act of 1965.

EMERGENCY RAIL FACILITIES RESTORATION ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3843) to authorize the Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of natural disasters during the month of June 1972.

The Clerk read as follows:

S. 3843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That this Act may be cited as the "Emergency Rail Facilities Restoration Act".

DEFINITIONS

SEC. 2. For the purpose of this Act—

(a) "Secretary" means the Secretary of Transportation.

(b) "Railroad" means any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1–27).

(c) "Net income" means ordinary income reported to the Interstate Commerce Commission pursuant to the relevant railroad annual report form, adjusted for extraordinary items of a nonrecurring nature and directly related to railroad operations.

AUTHORIZATION

SEC. 3. The Secretary is authorized to make loans, upon such terms and conditions as are specified by this Act and any others he deems appropriate, in an aggregate amount not to exceed $48,000,000 to railroads undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), to railroads which have reported to the Interstate Commerce Commission in the railroad annual report a deficit net income for either of the last two calendar years, and to railroads whose certified damage to railroad facilities or equipment as a result of the natural disasters which occurred during the month of June 1972 exceeds their net income for either of the last two calendar years for the purpose of restoring or replacing railroad facilities, equipment, or services which are determined to be essential to public service (including, without limitation, bridges, track, track structures, signal and communication systems, and rolling stock) damaged or destroyed as a result of the natural disasters which occurred during the month of June 1972. There are authorized to be appropriated to the Secretary to remain available through June 30, 1975, such sums as are necessary to carry out the purposes of this Act.

TERMS AND CONDITIONS

SEC. 4. (a) Prior to making a loan under this Act the Secretary shall—

(1) find in writing that there is no other practicable means of obtaining funds from either private or government sources than a loan pursuant to this Act;

(2) require that application be made by a railroad in such form and substance as the Secretary shall prescribe;

(3) require satisfactory proof in writing of costs incurred or to be incurred in the restoration or replacement of essential railroad facilities, equipment, or services;

(4) take appropriate action to insure that funds loaned under this Act are used solely for the purpose of restoring or replacing facilities, and equipment (including the upgrading of such facilities and equipment) damaged or destroyed as a result of the natural disasters of June 1972;

(5) obtain satisfactory assurances from the applicant railroad that the restoration or replacement to be accomplished with funds made available under the loan shall be completed without undue delay;

(6) require as a condition of the loan that the United States obtain such security as the Secretary deems will adequately protect the interests of the United States except that, in the case of a railroad undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), if the Secretary expressly determines in writing that the railroad does not have sufficient working capital to fund the restoring or replacing of essential railroad facilities, equipment, or services, he may, notwithstanding section 3466 of the Reivsed Statutes (31 U.S.C. 191) or any other law, require any priority or subordination of the interests of the United States he deems to be appropriate in relation to the claims of any other creditors of the railroad or its trustees, so long as such position is not lower than that of a prebankruptcy unsecured creditor of the railroad; and

(7) require that no part of the restoration or replacement work to be financed by the loan program hereunder which is presently or should be performed under collective bargaining agreements by railroad employees shall be subcontracted by the railroad; except that to the extent that the Secretary finds in writing that railroad employees, including employees on furlough, in the affected region are insufficient to perform such restoration or replacement work and that such railroad employees on furlough, if not recalled by the railroad will be employed by a subcontractor to perform such work in which event such employees shall be deemed to be railroad employees retaining all the rights and priviledges of railroad employees while so employed.

(8) None of the foregoing conditions shall apply to such work undertaken prior to the enactment of this Act.

(b) No loan application shall be approved under this Act after eight months have elapsed from its date of enactment.

(c) (1) The Secretary in reviewing applications for loans shall examine such applications to determine whether any service or facility which is essential to the public interest in maintaining transportation service, including specifically the Sunbury-Wilkes-Barre (Buttonwood) line, will not be restored or replaced. In making such determination the Secretary shall take into consideration the interests of persons and communities affected thereby; existing rail facilities and the pattern of service by railroads; and the public interest in a balanced and economical transportation system responsive to the needs of the public and the users of such system.

(2) If after such determination the Secretary finds that any such service or facility of the applicant railroad will not be restored or replaced, the Secretary shall not approve such application unless and until such application is amended to include such restoration and replacement.

(3) As an aid to the formulation of public policy regarding rail transportation, the Secretary shall prepare and keep current a comprehensive schedule setting forth transportation facilities and services that he believes should be provided by railroads in the northeastern region of the United States. In formulating such a schedule the Secretary shall take into consideration the interests of persons and communities affected thereby; existing rail facilities and the pattern of service by railroads; and the public interest in a balanced and economical transportation system responsive to the needs of the public and the users of such system.

(4) The Secretary shall provide as a condition of the loan that, in consideration of the relief provided by this Act, the railroad shall offer to convey to the State, for just compensation, or in the event any such railroad is subject to a proceeding under the bankruptcy laws, the court having jurisdiction in such bankruptcy proceedings shall direct the trustee or trustees or the debtor to offer to convey to the State, for just compensation all of his right, title, and interest free and clear of all encumbrances, in any right-of-way, track, and other related real and personal property on any branch line within such State which has been damaged or destroyed as a result of the natural disasters of June 1972; which have not been scheduled for restoration or replacement under the loan program as approved by the Secretary; and which such State, or subdivision thereof, proposes to restore or replace.

STATE AND LOCAL AUTHORITY

SEC. 5 (a) The Secretary is authorized to make loans pursuant to this section to assist regional, State, and local public bodies and agencies thereof in financing the restoration and replacement of railroad facilities and equipment damaged or destroyed as a result of the natural disasters of June 1972. Eligible facilities and equipment may include railroad right-of-way, track, rolling stock, and other real and personal property needed for an efficient and coordinated railroad transportation system and conveyed in accordance with the provisions of section 4(c)(3).

(b) No such loan shall be provided unless the Secretary determines that the applicant has or will have—

(1) demonstrated a valid need for the establishment or reestablishment of railroad service in the affected area; and

(2) the technical capability to carry out the proposed project.

(c) Any such loan may be made for not to exceed 80 percentum of the total costs of the proposed project and shall be subject to such other terms and conditions as the Secretary may determine are necessary to carry out the purposes of this section.

(d) There is authorized to be appropriated not to exceed $10,000,000 to carry out the provisions of this section. Sums so appropriated shall remain available through June 30, 1975.

(e) The Secretary shall impose as a condition of any such loan under this section such fair and equitable labor protective arrangements as are described in the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 565).

LINE ABANDONMENT

SEC. 6. (a) Except as provided in subsection (b) of this section, and except for the conveyance of facilities pursuant to subsection 4(c)(3), all abandonment of facilities and services shall continue to be subject to the appropriate provisions of the Interstate Commerce Act.

(b) The damage or destruction caused by the natural diasters of June 1972 to any railroad facility, equipment, or service therefrom, of a railroad obtaining assistance under this Act, or any action taken pursuant to this Act affecting any railroad, shall not be evidence in any proceeding before any Federal agency or in any court in which line abandonment is an issue. Any violation of this section shall be deemed to be prejudicial.

INTEREST RATES

SEC. 7. Any loan made under this Act shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 per centum per annum. In no event shall any loan made under this Act bear interest at a rate determined by the centum per annum.

DEFERRAL OF PAYMENT

SEC. 8. Whenever he determines it necessary to insure the provision of essential transportation services of a railroad, the Secretary may in his discretion provide in the terms and conditions of a loan under this Act for deferral of the payment of principal and interest on the loan for a period not to exceed ten years from the date the loan is made.

RULES AND REGULATIONS

SEC. 9. The Secretary shall issue such rules and regulations as are appropriate to carry out the purposes of this Act.

ENFORCEMENT

SEC. 10. The Secretary shall insure that railroads which obtain loans under this Act comply with the provisions of this Act and any rules, regulations, or conditions imposed by the Secretary pursuant to this Act. In the event of any failure to comply with such provisions, rules, regulations, or conditions, the Secretary may take such enforcement action as he deems appropriate including a declaration that the obligation of applicant railroads is immediately due and payable as a claim of the United States without regard to any other provision of the loan or of this Act.

REPORTS

SEC. 11. The Secretary shall, within one year after enactment of this Act, report to the President and to the Congress with respect to his activities pursuant to this Act, including an evaluation of the financial conditions of railroads which obtained loans under this Act and including an evaluation of the impact of this Act on the condition of the rail facilities and services described in the schedule prepared under subsection 4(c)(1) of this Act. Such report shall also include recommendations, if any, for additional legislation action.

AUDIT

SEC. 12. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to such information, books, records, and documents as he determines necessary to effectively audit financial transactions and operations carried out by the Secretary in the administration of this Act. The Comptroller General shall make such reports to the Congress on the results of any such audits as are appropriate.

INTERSTATE COMMERCE COMMISSION APPROVAL

SEC. 13. A railroad qualifying for a loan or loans under the provisions of this Act shall not be required to comply with the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a) with respect to such loan or loans.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill, S. 3843.

Mr. Speaker, this is actual emergency legislation.

I know all of us are tired of hearing about emergency legislation involving the railroads. However, this is a different kind of emergency. This emergency has arisen because two kinds of disasters have combined: The first kind of disaster to which I am referring was a natural disaster—namely the floods which devastated much of the eastern seaboard and parts of South Dakota during the month of June 1972. The second kind of disaster is man-made. Here I am referring to the fact that six of the 11 railroads which were seriously affected by these floods are in bankruptcy while most of the others are not far from it.

Why do I ask the House to pass this legislation in the closing days of this Congress? It is not because I want the Congress to benefit financially the railroads involved. It is because the citizens living in the affected regions—the shippers, the businessmen, and the consumers—all continue to suffer grievous losses because most of the railroads serving these regions are unable—because of their financial condition—to restore much needed railroad services.

I know full well that this is stop-gap legislation. However, only last week the House, over President Nixon's veto, passed another stop-gap measure to do justice to retired railroad workers and to increase temporarily their retirement benefits to match increases in social security benefits.

In passing that legislation we fully realized that something more basic would have to be done during the next Congress to find a satisfactory long-range solution for the railroad retirement system. The same thing is true with regard to the operation of the railroads in the Northeastern sector of this Nation. During the next Congress we shall have to face up to the need for enacting long-range solutions for the railroads in this sector which are either in bankruptcy or close to it.

I am appealing to you today to support this emergency legislation which is designed to assist active and furloughed railroad workers and other citizens in the affected disaster areas just as last week the House overwhelmingly supported stop-gap legislation to assist retired railroad workers.

Mr. Speaker, the legislation before us authorizes an appropriation of $48 million to make possible direct Government loans to the affected railroads. The legislation authorizes another $10 million for direct Government loans to States which are willing to restore and operate spur lines which are not included in the railroad restoration program.

The bill spells out the terms and conditions under which such loans shall be made by the Secretary of Transportation. The legislation extends job protection to railroad labor in connection with restoration work. Under the provisions of this legislation, loans to railroads will be available only if such loans cannot be obtained either from private sources or under other government programs.

Mr. Speaker, all of us must recognize that we are faced with a very special situation and unless the Congress steps in to help out, it will not be the railroads that will suffer, it will be the businessmen, the citizens and the railroad workers in the affected disaster areas who will be left victims of conditions over which they have no control. Therefore, Mr. Speaker, I am confident the Members of the House will support my call for passage of this emergency legislation.

Mr. KAZEN. Will the gentleman yield?

Mr. STAGGERS. I am glad to yield to the gentleman.

Mr. KAZEN. How many railroads are involved?

Mr. STAGGERS. Eleven.

Mr. KAZEN. How much are the anticipated loans?

Mr. STAGGERS. $48 million is set up that can be loaned.

Mr. KAZEN. $48 million?

Mr. STAGGERS. That is right.

Mr. KAZEN. For all of them?

Mr. STAGGERS. That is right.

Mr. KAZEN. At what rate of interest?

Mr. STAGGERS. Not to exceed 6 percent.

Mr. KAZEN. Not to exceed 6 percent?

Mr. STAGGERS. That is right.

Mr. KAZEN. Anything under 6 percent?

Mr. STAGGERS. That is right. At the discretion of the Secretary of Transportation. They have taken every precaution that these loans will be repaid. This is put in the bill. It is only those railroads that cannot get any money from any other source that are involved here.

Mr. KAZEN. I thank the gentleman.

Mr. VANIK. Will the gentleman yield?

Mr. STAGGERS. I am very happy to yield to the gentleman.

Mr. VANIK. I would like to inquire of the distinguished chairman of the committee on Interstate and Foreign Commerce why the railroads should not pay the Government rate, because this is a great deal of help.

Mr. STAGGERS. This is the Government rate.

Mr. VANIK. It is up to the Government rate, then?

Mr. STAGGERS. That is right.

Mr. VANIK. Do I understand these loans will be made directly to the railroads and we will not take on anyone's bank loans or other loans in a refinancing program?

Mr. STAGGERS. That is correct.

Mr. VANIK. It is a direct loan to the railroad, and the Government will be protected?

Mr. STAGGERS. That is right.

Mr. VANIK. I want to say to the gentleman I do feel we have to put an overall limit on spending outside of the debt ceiling which goes beyond the control of the Congress. I think we ought to overhaul all of these programs and try to consolidate them, because they do have a direct effect on inflation and the cost of the Government's own borrowing for all other programs. It is time we had an overall indication of the guarantees and lending and borrowing by the Government within and without the debt ceiling.

Will they use any of this for administration?

Mr. STAGGERS. No. It is just for equipment and restoration.

Mr. Speaker, I yield such time as he may use to the gentleman from Illinois (Mr. SPRINGER).

Mr. SPRINGER. Mr. Speaker, just to amplify on what the chairman said, there are certain points that I would like to dwell on very quickly. I am sure you want to know about them before you vote.

The purpose of the bill is to authorize Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of storms and floods during June 1972.

There are certain features which I would like to briefly describe.

Section 3 authorizes $48 million in loans from DOT to railroads that are: Undergoing reorganization under section 77 of the Bankruptcy Act; reporting a deficit net income for either of the last 2 calendar years; certifying damage in June 1972 exceeding their net income for either of the last 2 calendar years.

Section 4 gives the Secretary of Transportation extensive authority to impose conditions on the railroads prior to approving loans. Such conditions and requirements include: A finding that there is no practicable alternative; assurance funds are used to restore or replace damaged facilities, including upgrading; obtaining appropriate security except that where the railroad is undergoing reorganization DOT may subordinate the creditor position of the United States; and requiring that railroad employees be given employment priority in restoration work.

DOT Secretary may also: Examine applications and determine whether an essential service, including the Buttonwood line, will not be restored—if not, application shall not be approved until amended; prepare a comprehensive master plan of facilities and services that should be provided in the northeastern region of the United States; require the sale to a State of a line which was damaged, if not scheduled for replacement, and which the State proposes to restore.

Section 5 authorizes $10 million in loans to State and local authorities to restore railroad facilities and equipment conveyed under the previous section, up to 80 percent of cost. DOT may impose as a loan condition labor protective arrangements as in the Rail Passenger Service Act of 1970.

Section 6 precludes ICC from considering damage to facilities and equipment, or loss of service in making decisions on abandonment proceedings.

These I think are the essentials that you want to do. I think we have tried to put in this bill every safeguard we possibly could. It is emergency legislation. I see no other alternative except what we have done. Therefore I recommend the legislation.

Mr. VANIK. Mr. Speaker, I oppose this bill, because it would provide for loan of public money for the benefit of private investors. While there is some public benefit in the restoration of equipment and service, I question if it should become a public obligation to bail out every failing railroad in America.

This Congress has gone further than any other Congress in the history of America to provide for assistance after a common disaster, such as Hurricane Agnes. The principal beneficiaries of the legislation which we are considering tonight are already substantially covered under the provisions of that earlier emergency legislation.

The loans provided by this program have to be financed out of public borrowing, which is already straining the money markets. This borrowing fuels inflation and increases the burden on every taxpayer of America.

I feel that it is time for the Congress to put a ceiling on all Federal borrowing within and without the Federal debt limitation. It is foolhardy to assume that we can fight inflation solely by reducing Federal expenditures while continuing to go to the Nation's money markets with tremendous borrowing outside the Federal debt limit. In 1972, the Federal Government borrowed over $28 billion outside the debt limit. The total borrowing outside the debt ceiling will be $224 billion by the end of fiscal year 1973.

It is impossible for Congress to control inflation unless Congress enacts a ceiling on borrowing as well as on spending. It is my hope that next year the Congress will vest the Ways and Means Committee or another committee with full authority to provide an expenditure ceiling, a borrowing ceiling, and a guarantee ceiling. This is the only way that we can responsibly control inflation, the increase in the deficit and the integrity of the American dollar.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill S. 3843.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. FLOOD. Mr. Speaker, the title of this bill is aptly named—"Emergency Rail Facilities Restoration Act"—for this is truly an emergency. There must, by now, be no need for me to repeat what I have reminded this body of many times; namely that hurricane Agnes, and the resultant flooding of rivers and streams, towns and cities, was the greatest civil disaster in the history.

This disaster did not stop at destroying lives and homes and businesses; it struck at the very heart of the economy, hitting airports and destroying miles and miles of railroad track. In the Agnes disaster area, the railroads are the vital link between towns and cities and between both large and small businesses. This vital link must be restored if the area is ever again to recover its former vitality, and this bill before us this evening will be a giant step in bringing that restoration closer.

This bill is not primarily a railroad bill. Not at all. The bill is for the people and communities who so desparately rely upon the services which the railroad does provide. Remember, the money will be for repair, rehabilitation, and restoration only—administrative costs are not included; and all money will be made available at the current Government interest rate.

Enumerated in the bill is the Buttonwood line. This stretch of railroad line which links many areas and notably the Wilkes-Barre to Sunbury, Pa., area, was among the hardest of all those hit. In the Wilkes-Barre area alone, this will mean the restoration of 400 men to their jobs with the railroad and bring new hope to the 2,000 other workers whose firms were served by the rail line. We cannot turn our backs upon these people.

It should be noted that next year the Congress will examine in detail, and with formal hearings and other means of investigation, legislation for aid to railroads. This will come in time; however, I can tell you, that the people who have already suffered so greatly as a result of this disaster are running out of time. This emergency legislation will assure that not only are they given more time, but that the initiative for full economic recovery and a full contribution to this nation, will become a reality.

Mr. McDADE.. Mr. Speaker, when Hurricane Agnes struck in Pennsylvania, the quantity of damage was so enormous that this disaster was termed by the Corps of Engineers as the greatest natural disaster in the history of the Nation.

The Congress has come to the aid of the people of the stricken region with the most outstanding disaster relief in history, but in one particular area there is still a notable need. That is in the area of repairing the tracks of the rail lines throughout the flood region.

I would call the Members' attention in particular, to the plight of the farmer in Pennsylvania in the wake of this flood. He had counted on the feed for his livestock coming through to him over the rail lines which had been used in many cases for over half a century. Overnight, he found not only his fields devastated, the topsoil in many cases washed away to such a degree that any hope of growing a feed crop this year was reduced virtually to zero, while at the same time the rail lines which might have taken up the job of transporting his feed to his livestock were washed away also.

There is a real and immediate need for assistance in the reopening of the rail lines in the flood areas. This legislation will provide the assistance necessary, and may be used as the vehicle to get the railroad stock rolling once again.

I hope the Members of this House will give this legislation overwhelming support. This is a good bill, an investment of Federal money in an area which is a most productive and most essential part of our national community, our farming community, and the outstanding Americans who run those farms. And the passage of this legislation will very significantly remind the people of the flooded areas that Congress has not forgotten them in the aftermath of the flood, just as we did not forget them when the flood was at its crisis.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the bill, just passed.

The SPEAKER. Is there objection to the request of the gentlemen from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 2280, ANTIHIJACKING ACT OF 1972

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances:

CONFERENCE REPORT (H. REPT. NO. 92–1599)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances, having met, after full and free conference, have been unable to agree.

Harley O. Staggers,
John Jarman,
John Dingell,
James Harvey,
Joe Skubitz,
Managers on the Part of the House.

Warren Magnuson,
Howard W. Cannon,
Vance Hartke,
Ted Moss,
Ted Stevens,
J. Glenn Beall,
Lowell Weicker, Jr.,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances, report that the conferees have been unable to agree.

Harley Q. Staggers,
John Jarman,
John D. Dingell,
James Harvey,
J. Skubitz,
Managers on the Part of the House.

Warren Magnusen,
Howard W. Cannon,
Vance Hartke,
Ted Moss,
Ted Stevens,
J. Glenn Beall,
Lowell Weicker, Jr.,
Managers on the Part of the Senate.

TO NAME A BRIDGE ACROSS A PORTION OF OAKLAND HARBOR, CALIF., THE "GEORGE P. MILLER-LELAND W. SWEENEY BRIDGE"

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13158) to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge."

The clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bridge across the Oakland tidal canal, a part of Oakland Harbor, California, between the cities of Oakland and Alameda, California, authorized for modification in section 101 of the River and Harbor Act of 1962 (Public Law 87-874) and known as the Fruitvale Avenue Bridge, shall hereafter be known as the George P. Miller-Leland W. Sweeney Bridge. In any law, regulation, map, document, record or other paper of the United States in which such bridge is referred to shall be held to refer to such bridge as the "George P. Miller-Leland W. Sweeney Bridge."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING OAKLEY RESERVOIR ON THE SANGAMON RIVER AS THE WILLIAM L. SPRINGER LAKE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 17038) designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 17038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Oakley Reservoir on the Sangamon River at Decatur, Illinois, authorized by section 203 of the Flood Control Act of 1962, shall hereafter be known as the William L. Springer Lake, and any law, regulation, document, or record of the United States in which such project is designated or referred to shall be held to refer to such project under and by the name of "William L. Springer Lake."

Mr. HARSHA. Mr. Speaker, this refers to the Oakley Reservoir caused by the Oakley Dam on the Sangamon River at Decatur, Ill.

We authorized this project back in 1962. It is under some phase of construction and we are now endeavoring to name it after the distinguished ranking Minority Member of the House Committee on Interstate and Foreign Commerce who has served in this House with great distinction for some 20 years and this is an honor that we wish to bestow upon him in recognition of his outstanding service to his district and to his country.

There have been a number of Members who have sponsored bills, companion bills to this, and we on the Committee on Public Works are unanimous in agreement on this legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman.

The William Springer Lake

Mr. DON H. CLAUSEN. Mr. Speaker, it is, indeed, an honor and a very great personal privilege to have been the author of this legislation naming a very important project after our beloved and highly respected colleague, Bill Springer.

As Mr. Harsha, our ranking Republican on the Public Works committee has stated, this man is so deserving of this recognition.

In all candor, it seems to me, a very small recognition of the extradorinary job this great legislator, William L. Springer, has done for his District, his people and, most importantly, his country.

The Nation will remain deep in his debt for the years of dedicated service this man has rendered.

He was one of the Members of Congress that we all depended on in his key Interstate and Foreign Commerce Committee assignment because if Bill Springer put his stamp of approval on a piece of legislation one could rely on its contents and vote reassured for it.

As a professional pilot and one who is dedicated to the advancement of aviation and our total air transportation system, I came to appreciate the exceptional talent of the gentleman from Illinois. His ability to analyze and grasp technical details and information relating to air traffic, airports and airway facility requirements was a constant source of amazement to me.

Bill Springer was always approachable. He always took time to listen if one had something constructive to offer in the way of a suggestion.

The airport-airways systems that are to be built in the future, thus guaranteeing the safest, most reliable air transportation system in the world, will stand as a monument to the work of this great and outstanding Congressman, Bill Springer of Illinois.

As President of the Congressional Flying club, I must state, categorically, that we, in the aviation community shall remain eternally grateful to you.

As we all know, there is no better exercise for strengthening the heart than reaching down and lifting people up.

Bill Springer has helped many people in his lifetime by putting to use his God-given talents. His dedication to purpose has left a mark, here in the Congress, that will remain unmatched for years to come.

Bill Springer not only committed the Golden Rule to memory . . . Bill Springer committed it to his life.

I am proud to claim him as a friend.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARL L. ESTES DAM AND LAKE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 16804) to rename the Mineola Dam and Lake as the Carl L. Estes Dam and Lake.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 16804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mineola Dam and Lake on the Sabine River, Texas, authorized by the Flood Control Act of 1970 shall be known and designated hereafter as the "Carl L. Estes Dam and Lake". Any law, regulation, map, or record of the United States in which such dam and lake is referred shall be held and considered to refer to such dam and lake by the name of "Carl L. Estes Dam and Lake".

Mr. PATMAN. Mr. Speaker, Carl Estes is a name that means something in east Texas. True, it is a name that is known throughout the world wherever solid accomplishment and sound journalism are recognized, but in east Texas the name of Carl Estes evokes overtones of love and affection, the haunting charisma of a great man who above all else loved his fellows and loved every aspect of the land, the water, and the growing things that nurture people.

He delighted in the great green forests, the scent of the east Texas piney woods, the murmur of streams through woods and meadows, the glint of the close-hovering Southwestern moon on placid waters, and the brilliance and throbbing heat of the Texas sun at noon as he sat in a boat with his line over the side, patiently enjoying the wonders of a beneficent nature. He wanted these treasures for all the generations of Americans that would follow him.

Carl Estes recognized that there is and should be a balance in nature, a harmony that must be maintained, and he helped to provide and strengthen the sinews of industry in our State. I quote here from a telegram I sent to Carl Estes in the year 1947—a quarter of a century ago:

> I saw your footprints in everything done for the great Lone Star Steel plant. In the movement to raise the large amount of money necessary to put it over, your efforts have been substantial and our success would have been jeopardized without your formidable assistance. Put another feather in your cap next to the LeTourneau feather for this great accomplishment for Texas and the Southwest.

With a prescience that is truly remarkable in these days of environmental turmoil, Carl Estes knew that people must work as well as live on the land and that with careful planning there would be no conflict. It is, therefore, more than fitting—it is precisely right and correct—that a great body of water in the basin of the Sabine known in its schematic stage as Mineola Reservoir should be named in honor of Carl L. Estes, an appropriate union of the nobility that individual man can achieve through character, rectitude, energy, and skill, with one of the higher objectives of our society—the preservation and beautification of a vital natural resource.

The Carl L. Estes Dam and Lake was in a very real sense made possible through his leadership and through his lifetime of labors. This name will be a reminder and an inspiration for each and every one of us that the earthly span of an individual human being can reflect the transcendent spirit of the Creator himself.

Mr. Speaker, the question is always asked with respect to a great man like the Honorable Carl L. Estes: Just how did such an outstanding and notable leader go about building his career? This question is asked particularly by young people in today's confused world who wish to build a meaningful life. With this in mind, I would like to set down briefly just those major milestones that brought Carl L. Estes lasting fame and recognition.

Carl L. Estes, the noted Texas publisher, leader, developer, and conservationist, was born November 10, 1896, and died May 29, 1967. He became one of America's giants of journalism, working his way up from newsboy to reporter, advertising manager, foreign correspondent, and finally to the position of editor-publisher.

Born in New Market, Tenn., Carl Estes came to Texas in his youth. At the early age of 23, he founded the East Texan at East Texas State University in Commerce, Tex. He later worked on a number of fine Texas newspapers including: the Commerce Journal, Denison Herald, and Tyler Courier-Times. He founded two more journals, the Tyler Morning Telegraph and in 1934, the Texas Oil Journal, and he purchased the Longview Daily News and Morning Journal which, under his editorial pen, became a powerful voice for the people of east Texas.

Dynamic, forceful, philanthropic—firm but fair—Carl Estes devoted his keen abilities and dramatic talents to conserving for human betterment the vast wealth of the east Texas oilfield which was the largest in the world when it was discovered in the 1930's. He fought "hot oil" runners who risked the future of this entire great field for the sake of immediate profits. He promoted highway and air travel facilities, expanded educational and medical resources, and was a strong and effective spokesman for land and water conservation.

As president of the Sabine River Watershed Association, he was instrumental in the creation of the Sabine River Authority of Texas in 1949. Working closely with Texas and Louisiana officials, he helped establish the Sabine River Compact Commission, under which the Toledo Bend Reservoir was built. He also worked to build Lake Tawakoni. He served several years as a member of the National Rivers and Harbors Congress, always advocating and encouraging more water development.

His work attracted to east Texas manufacturers whose payrolls and investments poured hundreds of millions of dollars into the economy of the area.

He was a veteran of World Wars I and II and was internationally known and respected.

These, then, are the building stones with which a good and wise man constructs a life of great service. Carl Estes was knowledgeable, intensely patriotic, formidably aggressive in just causes, sensitively humanitarian in outlook, hard working around-the-clock, a cooperative realist, a practical and imaginative thinker, and a fund of inexhaustible energy. To all of this it must be added and emphasized that he was blessed with a life companion who was his partner and his inspiration—the greatly gifted, lovely, and charming Margaret Estes. Loyalty, affection, and respect accompanied Carl Estes for the days of his life. It is our privilege now to accord him the honor that is his, the Carl L. Estes Dam and Lake.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HARSHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the bill, H.R. 16804.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING SPEAKER TO APPOINT DELEGATES TO ATTEND UNITED NATIONS EDUCATIONAL SCIENTIFIC, AND CULTURAL ORGANIZATION CONFERENCE IN PARIS

Mr. SISK. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 1162.

The Clerk read the resolution as follows:

H. Res. 1162

Resolved, That the Speaker of the House of Representatives is hereby authorized to appoint a member from the majority and a member from the minority of the Committee on Education and Labor to attend the seventeenth session of the United Nations Educational, Scientific, and Cultural Organization in Paris, France, from October 17 to November 18, 1972.

Notwithstanding the provisions of H. Res. 213 of the Ninety-second Congress, first session, local currencies owned by the United States shall be made available to the members of the Committee on Education and Labor of the House of Representatives engaged in carrying out their official duties for the purpose of carrying out the authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee in any country where local currencies are available for this purpose.

(4) Each member of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(5) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period in any other country, irrespective of differences in time zones.

The SPEAKER. Is there objection to

the request of the gentleman from California?

Mr. KYL. Mr. Speaker, reserving the right to object, I should like to direct a couple of questions to the gentleman on the Committee on Rules.

Has there been some change in the rules of official procedure which brings this resolution to the floor in this fashion rather than in the fashion that they have usually been considered in the past?

Mr. SISK. Mr. Speaker, if the gentleman will yield, I will be glad to comment on that.

Mr. KYL. I yield to the gentleman.

Mr. SISK. Frankly, I was handed this resolution a very few moments ago. The situation, as I understand it, is this.

Normally Representatives of the House in attending the sessions of UNESCO are actually transported by the State Department or at least the State Department picks up the tab.

This is the annual meeting in Paris of UNESCO. Apparently, only as late as yesterday it was understood that this year the State Department was not going to do that and that if the House was to be represented, as I understand by two Members—one a Republican and one Democratic Member—to attend the meeting in Paris from October 17 to November 18. This is the only method in which this could be brought up. So they did file a bill. The Committee on Rules has not acted upon it. I want to be perfectly frank about that with my colleague because more or less it is being brought up under a unanimous-consent request in order to permit, as I say, Members of the House—a Republican and a Democrat—to attend this conference.

Mr. KYL. I would direct one further question to the gentleman from California. Is there any particular reason why the State Department is not picking up the tab for this particular trip? Is it to be policy so far as they are concerned from this time on? Will the gentleman elucidate?

Mr. SISK. I wish that I could give the gentleman some enlightenment on that. I was just very briefly informed in the past there has been a normal practice that Members of Congress, usually two Members, would accompany the State Department, and basically they picked up the transportation, but this year there has been a change in that they are not doing so and, therefore, they needed permission to make use of counterpart funds. Of course, that is the only involvement we have here, to authorize counterpart funds.

Mr. HALL. Mr. Speaker, would the gentleman yield?

Mr. SISK. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I would say that probably maybe the junketeers have overindulged.

Mr. KYL. I thank the gentleman for the response.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. SISK).

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

U.S. PARTICIPATION IN INTERNATIONAL EXPOSITION ON THE ENVIRONMENT

Mr. FRASER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 4022) to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Washington, in 1974, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. FINDLEY. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota for the purpose of explaining the bill.

Mr. FRASER. Mr. Speaker, S. 4022 authorizes the President to provide for participation by the Federal Government in the International Exposition on the Environment to be held in Spokane, Wash., in 1974. Participation would include the construction and operation of a U.S. pavilion and the appointment of a U.S. Commissioner General for the Exposition. The bill authorizes $11.5 million to accomplish its purposes.

Although this bill was introduced in the closing days of this Congress, it would be incorrect to assume that it was thrown together hurriedly without careful consideration. On the contrary, it was introduced only after the Spokane Exposition had met each of the strict requirements of Public Law 91-269 which sets forth permanent standards and criteria for all U.S. international expositions seeking Federal endorsement and support. Public Law 91-269 insures that only the most viable international expositions in the United States will gain recognition by the President and qualify for congressional approval of participation by the Federal Government.

The Spokane Expo made its initial application under the law in November 1970, and during the intervening 2 years up to the present, the Expo has been granted Federal recognition, was registered by the Bureau of International Expositions in Paris and a detailed plan for Federal participation was developed in the executive branch for submission to Congress. In addition, four foreign countries—Canada, Iran, Japan, and U.S.S.R.—have accepted invitations to participate in the Exposition.

Should this legislation not pass during this Congress, it would be very difficult, if not impossible, to complete the proposed U.S. pavilion in time for the spring 1974 opening of the Exposition.

The President has determined that U.S. Government participation would be in the national interest and the basis for his determination was the law passed by Congress. The Committee on Foreign Affairs, after a public hearing before the subcommittee which I chair, ordered the bill favorably reported without a dissenting vote. I urge the House to approve this measure today.

Mr. FINDLEY. Mr. Speaker, I support passage of S. 4022. This legislation, which was requested by the President, is further evidence of the administration's positive interest in improving the environment of the world in which we live.

The bill before us would provide for the Federal Government's participation in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, including the construction and operation of a U.S. pavilion. An appropriation of $11.5 million would be authorized. The expenditure for fiscal 1973 will be within the budget request.

I would like to emphasize that the exposition has strong local participation. The land for the proposed pavilion is being deeded without cost to the Federal Government. Also the Washington State legislature and the city of Spokane are providing funds for a state pavilion and site development.

As noted in the report, the environmental theme of the exposition, "How Man Can Live, Work, and Play in Harmony With His Environment" is of current national interest and importance, and the exposition will provide presentations of proven educational value.

Mr. Speaker, the exposition is a worthwhile endeavor, and this legislation should be approved.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 4022

An act to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Washington, in 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Public Law 91-269 (22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in the International Exposition on the Environment (hereafter in this Act referred to as the "exposition"), which is being held at Spokane, Washington, in 1974. The purposes of such exposition are to—

(1) offer to United States citizens and to people throughout the world a program for the improvement of man's physical environment; demonstrate through improved projects how the resources of air, water, and land can be utilized to man's benefit without pollution; and broaden public understanding of ecology and related sciences;

(2) encourage tourist travel in and to the United States, stimulate foreign trade, and promote cultural exchanges; and

(3) commemorate the one hundredth anniversary of the founding of the city of Spokane.

SEC. 2. (a) The President, through the Secretary of Commerce, is authorized to carry out in the most effective manner the proposal for Federal participation in the exposition transmitted by the President to the Congress pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803).

(b) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner for a Federal exhibit at the exposition (as provided in the proposal referred to in subsection (a)) who shall be in the Department of Commerce and receive compensation at the rate prescribed for level V of the Federal Executive Salary Schedule. The Commissioner shall perform such duties in the execution of this Act as the Secretary of Commerce may assign.

Sec. 3. (a) The Secretary of Commerce is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, to the extent he deems it necessary to carry out the provisions of this Act. Persons so appointed shall be reimbursed for travel and other necessary expenses incurred including a per diem allowance, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(b) The Secetary of Commerce is authorized to appoint and fix the compensation of persons, other than consultants and experts referred to in subsection (a), who perform functions to carry out the provisions of this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided, however,* That no person appointed under this paragraph shall receive compensation at a rate in excess of that received by persons appointed subject to chapter 51 of such title for performing comparable duties.

(c) The Secretary of Commerce is authorized to enter into such contracts as may be necessary to provide for United States participation in the exposition.

(d) The Secretary of Commerce is authorized to erect such buildings and other structures as may be appropriate for the United States participation in the exposition on land (approximately four acres including land necessary for ingress and egress) conveyed to the United States, in consideration of the participation by the United States in the exposition, and without other consideration. The Secretary of Commerce is authorized to accept title to such land or any interest therein: *Provided, however,* That the land or interest may be accepted only if the Secretary determines that it is free of liens, or of any other encumbrances, restrictions, or conditions that would interfere with the use of the property for purposes of the United States or prevent the disposal of the property as hereinafter set out. In the acceptance of such property and in the design and construction of buildings and other structures and facilities thereon, the Secretary of Commerce shall consult with the Secretary of the Interior, the Administrator of General Services, and the heads of other interested agencies to assure that such activities will be undertaken in a manner that (1) minimizes to the greatest extent practicable any adverse effects on the recreation, fish and wildlife, and other environmental values of the area; and (2) preserves and enhances to the greatest extent practicable the utility of the property for governmental purposes, needs, or other benefits following the close of the exposition.

(e) The Secretary of Commerce is authorized to incur such other expenses as may be necessary to carry out the purposes of this Act, including but not limited to expenditures involved in the selection, purchase, rental, construction, and other acquisition, of exhibits and materials equipment therefor and the actual display thereof, and including but not limited to related expenditures for costs of transportation, insurance, installation, safekeeping, printing, maintenance, and operation, rental of space, and dismantling; and to purchase books of reference, newspapers, and periodicals.

Sec. 4. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary of Commerce with respect to carrying out any of the provisions of this Act; and

(2) to make available to the Secretary of Commerce, from time to time, on a reimbursable basis, such personnel as may be necessary to assist the Secretary of Commerce to carry out his functions under this Act.

Sec. 5. The Secretary of Commerce shall report to the Congress within one year after the date of the official close of the exposition on the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate, except those which may be extended by the President for such additional period of time as he deems necessary to carry out the purposes of this Act.

Sec. 6. After the close of the exposition, all Federal property shall be disposed of in accordance with provisions of the Federal Property and Administrative Services Act of 1949, and other applicable Federal laws relating to the disposition of excess and surplus property.

Sec. 7. The functions authorized by this Act may be performed without regard to the prohibitions and limitations of the following laws:

(1) That part of section 3109(b) of title 5, United States Code, which reads "not in excess of one year)".

(2) Section 16(a) of the Administrative Expenses Act of 1946 (ch. 744, August 2, 1946; 60 Stat. 810; 31 U.S.C. 638a) to the extent that it pertains to hiring automobiles.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of public moneys).

(4) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, ch. 288, 63 Stat. 393 et seq.) as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts, advances).

(5) Section 322 of the Act of June 20, 1932 (ch. 314, 47 Stat. 412; 40 U.S.C. 278a) (lease of buildings to Government: maximum rental).

(6) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (advertisement of proposals for competitive bids).

(7) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(8) Section 2 of the Act of March 3, 1933 (ch. 212, 47 Stat. 1520; 41 U.S.C. 10a) (Buy American Act).

(9) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(10) Section 501 of title 44, United States Code (printing by Government Printing Office).

(11) Section 3702 of title 44, United States Code (advertisements without authority).

(12) Section 3703 of title 44, United States Code (rates of payment for advertisement).

Sec. 8. There are hereby authorized to be appropriated not to exceed $11,500,000, to remain available until expended, to carry out United States participation in the exposition.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRASER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GLEN CANYON NATIONAL RECREATION AREA, ARIZ. AND UTAH

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15716) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

The clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The clerk read the bill, as follows:

H.R. 15716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Boundary Map, Glen Canyon National Recreation Area," numbered and dated , which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description, but the total acreage of the national recreation area may not exceed one million, two hundred and one thousand, four hundred and eighteen acres.

Sec. 2. (a) Within the boundaries of the national recreation area, the Secretary of the Interior may acquire land and interests in land by donation, purchase with donated or appropriated funds, or by exchange, except that land owned by a State, political subdivision thereof, or an Indian tribe may be acquired only with the concurrence of the owner.

(b) When acquiring property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national recreation area, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(c) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B."

Sec. 3. (a) The lands within the national recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary of the Interior shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the national recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary of Interior shall administer, protect, and develop the Glen Canyon National Recreation Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided, however*, That nothing in this Act shall affect or interfere with the authority of the Secretary of the Interior granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 6. The administration of mineral and grazing leases within the recreation area shall be under the jurisdiction of and shall be administered by the Bureau of Land Management. The same policies followed by the Bureau of Land Management in issuing and administering mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 3(a) and 4 of this Act.

SEC. 7. The Secretary shall grant easements and rights of way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights of way would have significant adverse effects on the administration of the recreation area.

SEC. 8. (a) The Secretaries of the Department of Interior and the Department of Transportation, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the Glen Canyon National Recreation Area. Such study shall locate the specific route of a scenic, low speed road, hereby authorized from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan.

(b) The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in section 8(a) and the Secretary shall adhere to said timetable in every way feasible to him.

(c) If, for any reason, the construction does not proceed according to the said timetable, the Secretary shall contract with the State of Utah (the State consenting) for the construction and maintenance of the said road. The existence of any such contract shall not impair the eligibility of the State of Utah for Federal funding under any program for which it would otherwise be eligible for funds to build this road; nor shall the existence of such a contract invalidate any authorization for appropriation available to the Secretary for such road construction. The contract shall contain such terms and conditions as the parties shall determine necessary to implement the purposes of this Act.

(d) The Secretary is authorized to construct and maintain markers and other interpretive devices consistent with highway safety standards.

(e) The study specified in section 8(a) hereof shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of this Act and to connect with all roads of ingress to, and egress from the recreation area.

(f) The findings and conclusions of the Secretaries of Interior and Transportation, and the Highway Department of the State of Utah, specified in section 8(a), shall be submitted to Congress within one year of the date of enactment of this Act, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in section 8(b).

SEC. 9. (a) The Secretary of the Interior, in consultation with the State of Utah and interested political subdivisions thereof, and the National Park Service, shall conduct a study with a view to identifying areas of the public lands adjacent to or within the Glen Canyon National Recreation Area, which are suitable for private development of recreation homes, condominiums, and commercial enterprises, and which the State of Utah might select in exchange for State school sections preempted by the Federal Government.

(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress prior to the expiration of the two year period following the date of the enactment of this Act, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study.

SEC. 10. The Secretary shall issue such regulations as he deems necessary to carry out the provisions of this Act.

SEC. 11. There are authorized to be appropriated such sums as may be necessary to accomplish the purposes of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and preserve scenic, scientific and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area (hereafter referred to as the "recreation area") to comprise the area generally depicted on the drawing entitled "Boundary Map, Glen Canyon National Recreation Area," numbered GLC–91,006 and dated August 1972, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter referred to as the "Secretary") may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description, but the total acreage of the national recreation area may not exceed one million, two hundred thirty-six thousand, eight hundred eighty acres.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and interests in lands by donation, purchase or exchange. Any lands owned by the States of Utah or Arizona, or any State, political subdivisions thereof, may be acquired only by donation or exchange. No lands held in trust for any Indian tribe may be acquired except with the concurrence of the tribal council.

(b) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B."

SEC. 3. (a) The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided, however*, That nothing in this Act shall affect or interfere with the authority of the Secretary granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 6. The administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management.

The same policies followed by the Bureau of Land Management in issuing and administering mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 3(a) and 4 of this Act.

SEC. 7. The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the recreation area.

SEC. 8. (a) The Secretaries of the Department of Interior and the Department of Transportation, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the recreation area. Such study shall locate the specific route of a scenic, low-speed road, hereby authorized, from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred-foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan. In no event shall said route cross the Escalante River north of Stephens Arch.

(b) The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in section 8(a) and the Secretary of the Interior shall adhere to said timetable in every way feasible to him.

(c) If, for any reason, the construction does not proceed according to the said time table, the Secretary of the Interior shall provide an easement to the State of Utah (the State consenting) for the construction and maintenance of the said road. The existence of any such easement shall not impair the eligibility of the State of Utah for Federal funding under any program for which it would otherwise be eligible for funds to build this road; nor shall the existence of such an easement invalidate any authorization for appropriation available to the Secretary of the Interior for such road construction. The easement shall contain such terms and conditions as the parties shall determine necessary to implement the purposes of this Act.

(d) The Secretary of the Interior is authorized to construct and maintain markers and other interpretive devices consistent with highway safety standards.

(e) The study specified in section 8(a) hereof shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of this Act and to connect with all roads of ingress to, and egress from the recreation area.

(f) The findings and conclusions of the Secretaries of Interior and Transportation, and the Highway Department of the State of Utah, specified in section 8(a), shall be submitted to Congress within two years of the date of enactment of this Act, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in section 8(b).

SEC. 9. Within two years from the date of enactment of this Act, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the recreation area for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with said Wilderness Act.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $175,000 for the acquisition of lands and interests in lands and not to exceed $37,325,400 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act.

Mr. ASPINALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. HALL. Mr. Speaker, reserving the right to object, is this not one of the bills we had listed under suspension of the rules?

Mr. ASPINALL. Mr. Speaker, if my colleague, the gentleman from Missouri, will yield to me, this is one of the bills we had listed under suspension of the rules. I was informed that it had been cleared by everybody to bring it up tonight under unanimous consent.

Mr. HALL. Obviously of course it has not been cleared by everybody, I will inform my friend, the gentleman from Colorado. In view of the pleasant relationship we have had on the suspensions and unanimous consent and with all the travesties which have been perpetrated in these last few days in the press of legislation prior to alleged sine die adjournment, I will inform the gentleman from Colorado it has not been cleared with me.

Mr. ASPINALL. Mr. Speaker, I asked Mr. TAYLOR to go over and speak to my friend, the gentleman from Missouri to see whether or not this had been cleared and I have just come back to the floor. I am only acting in accordance with what I considered a situation that had been cleared.

Mr. HALL. I will say to my distinguished friend that certainly as one individual out of 435 I do not expect to have everything cleared with me. I am very humble and inconsequential and I do not know the rules, or comity, or anything like that, but I think this is much too inflexible. It is much too much money and it is filed much too late. The Department is questionable about it, but I will withdraw my reservation of objection.

Mr. ASPINALL. Mr. Speaker, the matter before the House is the consideration of H.R. 15716, by our colleagues from the State of Utah—Representatives MCKAY and LLOYD. This legislation provides for the establishment of the Glen Canyon National Recreation Area in Arizona and Utah.

DESCRIPTION

Glen Canyon is located in the heart of some of the world's greatest canyon country. Nearby are Canyonlands National Park, Grand Canyon National Park and Monument, Marble Canyon National Monument, Capitol Reef National Park, and Rainbow Bridge National Monument. This entire area is a maze of intricately carved canyons and weirdly eroded geological features.

One of the greatest working river systems in the world sculptured this area—the Colorado River and its tributaries. In many places the river still runs free, but at Glen Canyon it is temporarily "tamed" by a massive high arch concrete dam constructed as a part of the Upper Colorado River Storage Project. Glen Canyon Dam and Lake Powell are the dominant features of the recreation area. The dam, with its huge generators, is an engineering marvel which enables man to convert the latent energy of the river into useful hydroelectric power. Standing alone, it can produce enough electricity for a city of a million people. As a collateral benefit, it has created a huge, beautiful, clear lake stretching upstream for 186 miles.

Visitors come to the area by the thousands. Most of the visiting public comes to enjoy the lake. Notwithstanding the fact that there are no major urban communities in the immediate vicinity, the Glen Canyon area enjoys about 750,000 days of visitor use each year at the present time and it is anticipated that the number will increase to 1¼ million by 1975.

There is no question about the attractiveness of this region as a national recreation area. Boating, fishing, water skiing, and many other activities make it the popular place that it is, but it is also an extremely scenic area having significant geologic features which merit national recognition.

LEGISLATIVE CONSIDERATION

Mr. Speaker, the members of the Subcommittee on National Parks and Recreation visited this area during the Memorial Day recess and conducted field hearings on the proposals then before the committee. Later, Washington hearings were held and the subcommittee developed the basic provisions of the bill now before the House.

The committee bill provides for the creation of a national recreation area totaling 1,236,880 acres. Practically all of the area is in the State of Utah and much of the area is presently inaccessible by automobile. One major road which crosses the river at the headwaters of Lake Powell, has spur roads to Bullfrog Basin and Halls Crossing. The only other modern, improved highway in the region is located at the lower end of Lake Powell at Page, Ariz.

Under the terms of the committee bill, a road connecting Bullfrog Basin with Glen Canyon City is contemplated. If approved in its present form, H.R. 15716 authorizes the Secretaries of the Interior and Transportation to study the road alinements in the area. The bill permits the Secretary of the Interior, subject to appropriations being granted, to construct a scenic, low speed road. If constructed, the road is to be carefully designed to minimize any adverse environmental impact.

If the Secretary does not construct the road, then he is required to grant the State a right-of-way so that it can construct it with any funds which it might have available.

In effect, Mr. Speaker, this bill requires a study to be made for the construction of a road which will cross the Escalante River below Stephens Arch, but it does not require the Secretary to construct it unless appropriations are made for this phase of the project.

COST

The land acquisition costs involved in this legislation are minimal, because most of the lands involved are already federally owned. Some of the lands are presently being administered for recreation purposes by the National Park Service under an agreement with the Bureau of Reclamation and other portions of the area will be transferred to the jurisdiction of the Park Service from the Bureau of Land Management. All State-owned lands included in the recreation area will be acquired by donation or exchange only. Private lands in the area total only 160 acres but there are also some existing mining claims which must be adjudicated. It is anticipated that these costs will not exceed the $175,000 authorized by the bill.

Development costs will involve a more substantial sum. It is anticipated that major public use facilities will be needed in order to accommodate future heavy visitor utilization of the area. The bill contemplates an appropriation of $37,325,400 which would, of course, be spread over a period of several years.

RECOMMENDATION

Mr. Speaker, H.R. 15716 represents a considerable effort on the part of the members of the Utah delegation to reach a reasonable compromise and it constitutes a considerable effort on the part of the members of the committee to work out the details. While some of its provisions are somewhat controversial, I believe it is a bill that we can take to conference and work out to the satisfaction of almost everyone.

I support the enactment of H.R. 15716 and urge its approval by the Members of the House.

Mr. SAYLOR. Mr. Speaker, H.R. 15716 will establish the Glen Canyon National Recreation Area in the States of Arizona and Utah. The boundaries of the area are drawn by reference to a map as is customary in this kind of legislation and the recreation area will comprise 1,236,880 acres.

The bill authorizes the Secretary of the Interior to acquire lands and interests in land by donation, purchase or exchange. Lands owned by the States or political subdivisions can be acquired only by donation or exchange. Indian lands may be acquired only by concurrence of the tribe.

The Secretary of the Interior is required to administer the area in accordance with the existing law and policies applicable to the National Park System.

The National Park Service presently administers public recreation on about 1,196,500 acres of land withdrawn from public entry or acquired for the Glen Canyon Reservoir project pursuant to a cooperative agreement dated April 18, 1958, with the Bureau of Reclamation and revised on September 17, 1965.

The major features of the recreation area are Lake Powell, with a surface area of 256 square miles—at the 3,700-foot elevation—extending 186 miles along the Colorado River and 71 miles along the San Juan River; the striking Glen Canyon walls; and the remarkable arches, bridges, coves, and numerous wild areas. With these features and the opportunity for a variety of recreational uses, such as fishing, swimming, boating, water skiing, picnicking, and sightseeing, it is expected that Glen Canyon will be comparable to Lake Mead as a tourist attraction within a few years. With about one-fourth of the development program complete, the area is already receiving about 900,000 visitors annually.

H.R. 15716 authorizes the appropriation of $175,000 for land acquisition and not to exceed $37,325,400 for development.

I consider the establishment of this recreation area a worthwhile addition to our units of the National Park System. But, there are some features of this bill which I think are undesirable in terms of national parks.

The first of these undesirable features is the authority granted in the bill to the Secretary of the Interior to grant easements and rights-of-way. This authority is much too broad and should, if necessary, be very prudently exercised by present and future administrators.

The second feature of the bill which is undesirable is the language of Section 8 pertaining to the road study. The language of this section, in my judgment, mandates the construction of a road from Glen Canyon City to Bullfrog Basin. It would have been better to provide for the study and review by Congress prior to authorizing the Secretary to grant an easement to the State of Utah for construction and maintenance of the road.

The road which is to be studied and eventually proposed for construction crosses some prime desert wilderness area in the lower Escalante Canyon. The committee received a great deal of testimony concerning the unique wilderness character of this area and the impropriety of the proposed trans-Escalante road.

These two features of H.R. 15716 could seriously threaten the scenic and recreational values of the Glen Canyon area and, at the same time, serve as precedents to undermine the standards for the administration of the entire national park system.

Despite these undesirable features of the bill, I support the passage and enactment of this bill to establish the Glen Canyon National Recreation Area.

I support the establishment of this receation area because it is an area of great scenic beauty and recreation potential which can and will be enjoyed by present and future generations. At the same time, I am confident that any proposed impairment of these values will not be permitted without sufficient public reaction.

Mr. TAYLOR. Mr. Speaker, I am pleased to speak in support of the enactment of H.R. 15716—the proposed Glen Canyon National Recreation Area legislation. This bill is the product and contributions of many people. Our colleagues from the State of Utah—Hon. GUNN MCKAY and Hon. SHERMAN LLOYD—have worked with their counterparts in the other body and with the Governor of Utah in an effort to resolve the controversies involved. They have been very persuasive, active and interested in the consideration of this matter by the Subcommittee on National Parks and Recreation and the Committee on Interior and Insular Affairs.

COMMITTEE CONSIDERATION

Late last May, several members of the subcommittee visited this area and spent the better part of 2 days looking it over. We held a full day of public hearings in Kanab, Utah, and listened to well over a hundred witnesses who expressed their views on the subject.

It was a productive and enjoyable trip. Not only did we have an opportunity to see what is involved, but we got a very good impression of the magnitude and character of this rugged area. Regardless of the action we take, it is my personal opinion that most of this area will remain virtually unchanged in the foreseeable years ahead.

While much of the area involved is not accessible by modern roads, a considerable amount of it can be reached by water. The tremendous lake created by the construction of the Glen Canyon Dam has opened up hundreds of side canyons and other remote areas which have seldom been visited by man.

Lake Powell is a valuable recreational resource itself. When it is full it will have a surface area totaling 256 square miles and it will have an 1,800 mile shoreline. Its beautiful blue waters are warm enough to permit waterskiing and boating and at the same time it is deep and cold so that sport fishing is a popular activity.

Mr. Speaker, the area is almost totally undeveloped. In many respects, nature has forced it to remain as it is, but at the present time none of the area is designated as wilderness. As reported by the committee, H.R. 15716 requires the entire area to be reviewed by the Secretary of the Interior who will report his recommendation as to the suitability or nonsuitability of any part of the area for wilderness designation to the Congress.

CONCLUSION

Undoubtedly, this area qualifies for national recognition. It is part of one of the greatest canyon systems in the world. The scenic values of the area, together with the geologic and recreation resources which it contains, make it an area worthy of congressional attention. While development costs are substantial, they will be spread over a period of years, and land acquisition costs will be minimal, since all except a few acres are publicly owned.

I support the enactment of H.R. 15716, as recommended, and I am pleased to join my colleagues from Utah in urging the House to approve the bill.

Mr. UDALL. Mr. Speaker, I am strongly opposed to the enactment of H.R. 15716 in its present form for the reasons I expressed in my separate views in the report as follows:

> I am seriously concerned about the provision of H.R. 15716 which authorizes the construction of a road from Glen Canyon City to Bullfrog Basin and further specifies the point at which the proposed road is to cross the Escalante River. This language is

much too inflexible and presents a grave threat to orderly planning procedures. It effectively forecloses consideration of significant alternatives as required by the National Environmental Policy Act of 1969. Placing rigid restrictions on the study of alternatives is unwise at this stage in the planning of a largely undeveloped and unspoiled region. Such a precedent in the planning of this area could well threaten other units of the National Park System.

The Secretaries of Interior and Transportation should have the discretion to consider all options in their study of the area's transportation needs as well as methods to meet these needs including alternative road alinements. In fact, a number of viable alternatives to the road location specified in H.R. 15716 are known to exist, but they have not been adequately investigated.

I have reluctantly decided not to object to consideration or passage of the bill at this stage only because I believe in the main goals of the bill and because we find ourselves in a critical point just before adjournment. I have been assured by the principal sponsor of this legislation in the other body that some modification of section 8 of the House bill will be obtained in the form of a Senate amendment, or that we will have an opportunity in a conference committee to resolve the serious questions stated in my separate views. Based on these assurances—and only because of them—I have decided to forgo any attempt to kill the bill. I trust that the House sponsors and proponents of this legislation will display a spirit of compromise and accommodation so that we can have a law rather than an argument as our final product in 1972.

Mr. McKAY. Mr. Speaker, I rise in support of this bill. It represents the best judgment and collection effort of the entire Utah Congressional delegation, the Governor and the majority people of the State. The path which had led to this bill is marked by hearings, many long days of difficult and delicate negotiations, and considerable give and take on the part of many people.

There are some who object to certain provisions of this bill, namely the provision calling for a road into the recreation area. I merely want to remind my colleagues that we are not talking about a wilderness area nor even a national park. What we are creating is a recreation area for the people of America to enjoy. This requires access.

Some will claim that this bill denies EPA its proper role in determining the best location for a road. This is not true. The bill requires the State of Utah and the Department of the Interior to conduct a study and determine the route which is most in harmony with the natural beauty of the area. The road must meet the guidelines of the EPA. The bill specifies a certain narrow corridor through which the road must pass only at a point where the road actually crosses the Escalante River.

This bill is the result of years of effort. A number of unfortunate, but legitimate, problems have delayed its progress this year. I hope that now that we are so near the end of this session we will pass the bill and not let it die.

If we do pass it we can hope that the Senate will adopt the House language and thus obviate the need for a conference.

Mr. Speaker, I stress again that this bill has been agreed to by the two Senators from Utah, Senators Moss and BENNETT, and is cosponsored in the House by both myself and Congressman LLOYD. It is supported by the Governor and has the general agreement of the city and county officials in the State.

The SPEAKER. The question is on the the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of a similar Senate bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, and ask for its immediate consideration.

The clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. SAYLOR. Mr. Speaker, reserving the right to object, I have agreed to let this bill be brought up. All I can tell the Members is it is a bad bill. It has some provisions in it which tie the hands of the Department of the Interior and we have had some adverse reports on it.

Very frankly one of the things that should be done in this bill is to allow more flexibility, but the House committee decided they would not do it. Those from Utah got together and decided how the public land should be used, and this is the reason we have the bill before us in the form it is right now.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to my chairman.

Mr. ASPINALL. Mr. Speaker, I have all the respect in the world for my friend, the gentleman from Pennsylvania, my colleague, and also my colleague, the gentleman from Missouri (Mr. HALL). It is my understanding that if we pass this bill tonight and it goes to the other body there will be Senate amendments that will be offered over there to the bill—and if these are not acceptable this will end this legislation.

I may say to my colleague, the gentleman from Pennsylvania and also my colleague, the gentleman from Missouri, that this is an important bill. To bring it up under unanimous consent perhaps denies us some of the rights of consideration. On the other hand in the waning hours of the 92d Congress this is the only way we can get the bill up for consideration.

Mr. SAYLOR. Mr. Speaker, I just want to say to the Members of the House that it is only because I have been assured by the chairman and word has come to me that Members in the other body will offer an amendment wher it gets over there which will be in conformity with the wishes of the Department of the Interior and with what I think are the best interests of this country that I will withdraw my reservation of objection, and before I do so I yield to my colleague, the gentleman from Utah.

Mr. LLOYD. Mr. Speaker, I thank my colleague, the gentleman from Colorado, for yielding. I do appreciate the courtesy which has been extended by the gentleman from Missouri (Mr. HALL) and others here tonight.

This is legislation which has brought anguished concern and controversy to the people throughout the West, particularly people throughout Utah, for many years. The Interior Department, the Interior Committee, the Subcommittee on Parks have had hearings.

The bill passed by the other body is not the same in language. The major controversy has to do with access roads. Now, if this is the last opportunity for legislative action on this bill for which we have struggled for many, many long, long months, the result of this will be that if this bill passes, it will go to the other body. The other body will either accept it or reject it. If they reject it, there will be a conference committee.

All the views of others who have conflicting views will at that time have ample opportunity to be explored and to be considered, so that it does not seem to me that this House is taking any action involving any risk.

As has been said by the gentleman from Pennsylvania himself, that is the procedure which will follow and which will guarantee that every possible precaution is taken before the final passage of the bill.

This House bill represents the culmination of many months and even years of evaluation and consideration by Utah's congressional delegation, by the Governor of Utah and by the involved elected county officials, and as such represents a consensus of the possible and of the essential.

Every possible consideration has been given to those holding strong views on this legislation. In addition to the Washington hearings, field hearings were held in Kanab, Utah, by the subcommittee after on-the-spot examination of the area encompassed by this bill. The Kanab hearings were requested by those unable to come to Washington, and I personally appreciate the extraordinary efforts which Chairman TAYLOR of the subcommittee and subcommittee members made to give a fair and proper hearing to those interested in this bill.

More than 95 percent of Lake Powell is in the State of Utah and yet most of the Utah area is not readily accessible to the principal traffic into the recreation area which comes from the southwest. Additionally, Utah has long envisaged an essential access across southern Utah linking the great number of national parks and recreation areas located in Utah's southern area and at the same time providing cross-state access.

Many trade-offs have been made in an effort to attain a consensus most acceptable to a majority of the citizens of Utah. Thus, boundaries for the recreation areas have been enlarged although considered detrimental by many individuals in the livestock and mining industries. Unfortunately, authority to secure specific land for recreational development was not contained in the committee language. A larger area which I originally proposed as a conservation area to be administered by the Bureau of Land Management has been surrendered because of expected difficulties in the U.S. Senate. Provision for wilderness study of the Escalante River tributary has been included at the request of spokesmen for conservation organizations. Additional area was added to the recreation area in committee which raised new apprehension in the minds of many local residents.

Language mandating construction of a road is a clear and present need agreed to by the Utah consensus. It is opposed by some backpackers and others representing conservation groups, but the total needs of society are entitled to the highest priority in the congressional consideration of this legislation.

Mr. SAYLOR. With that understanding, Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 27

An act to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Boundary Map, Glen Canyon National Recreation Area," numbered Arizona-Utah-GLC 91004, and dated June 1971, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The total acreage of the national recreation area may not exceed one million two hundred eighty-five thousand three hundred and ten acres.

SEC. 2. (a) Within the boundaries of the national recreation area, the Secretary of the Interior may acquire land and interests in land by donation, purchase with donated or appropriated funds, or by exchange, except that land owned by a State, political subdivision thereof, or an Indian tribe may be acquired only with the concurrence of the owner.

(b) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B".

SEC. 3. (a) The lands within the national recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary of the Interior shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the national recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary of the Interior shall administer, protect, and develop the Glen Canyon National Recreation Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided, however,* That nothing in this Act shall affect or interfere with the authority of the Secretary of the Interior granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable Federal and State laws, except that the Secretary may designate zones where and establish periods when no hunting, fishing, or trapping may be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game commission. Nothing in this Act shall affect the jurisdiction or responsibilities of the States of Utah and Arizona under other provisions of State laws with respect to hunting and fishing.

SEC. 6. The Secretary of the Interior shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the Glen Canyon National Recreation Area, if he finds that such easements and rights-of-way would not have significant adverse effects on the administration of the national recreation area pursuant to this Act.

SEC. 7. (a) The Secretaries of the Interior and Transportation, in consultation with other Federal departments involved, and with the States of Arizona and Utah, shall conduct a study of proposed road alinements within and adjacent to the Glen Canyon National Recreation Area. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of this Act as well as to connect with roads of ingress and egress to the area.

(b) A report of the findings and conclusions of the Secretaries of the Interior and Transportation shall be submitted to the Congress within two years of the date of enactment of this Act, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study.

SEC. 8. The Secretary of the Interior shall conduct a study of the Escalante River Drainage encompassed within the boundaries of the Glen Canyon National Recreation Area as set forth in this bill to determine the suitability of any part of such drainage to be designated as wilderness, and shall report to Congress within two years of the date of this Act.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

AMENDMENT OFFERED BY MR. ASPINALL

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Strike out all after the enacting clause of S. 27 and insert in lieu thereof the provisions of H.R. 15716, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15716) was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days to revise and extend their remarks on the subject of the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CONFERENCE REPORT ON S. 1852, GATEWAY NATIONAL RECREATION AREA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (S. 1852) providing for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1972.)

Mr. ASPINALL (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ASPINALL. Mr. Speaker, the conference report which I bring to the floor of the House at this time involves the Gateway National Recreation Area in the States of New York and New Jersey (S. 1852).

I am pleased to advise my colleagues, that the recommendation of the Conference Committee is very close to the language approved by the House. I do not want to take the time of the Members to detail all of the differences between the two bills, but will concentrate my remarks on those principal items which represent departures from the language recently approved by the House.

First, the House redesignated the area as the "William Fitts Ryan Gateway National Urban Recreation Area". During the conference, it was persuasively argued that no other national recreation area and no other national park had ever been named after a single individual, because generally many people dedicate many years of their time and talent to make these projects a reality. The House conferees argued to maintain the House position, and we did get the committee to agree to place in the bill a mandatory provision requiring the Secretary to name the main visitor center for this important recreation area after cur late colleague in the House, the Honorable William Fitts Ryan. This is comparable to the naming of the visitor center at Glen Canyon after the late Senator Carl Hayden.

Second, at the Breezy Point Cooperative, the basic approach approved by the House was approved by the Conference Committee; however, it was argued that one of the provisions in the House bill seemed too restrictive. As a compromise, the conferees agreed to revise the language so that the co-op would not be required to forego, by agreement and without compensation, the beneficial use of its lands between the existing line of dwellings and the take-line along the beach. This agreement seems to be reasonable and fair and should constitute no serious problem for the administration of the recreation area.

Third, the Senate bill contains two provisions which were not included in the House version. One is a provision authorizing the Secretary to accept donated funds to provide services and facilities in connection with the recreation area and the other is a provision requiring the Secretary to permit hunting, fishing and trapping subject to State and Federal laws and subject to reasonable regulations. Mr. Speaker, both of these provisions seemed reasonable and were accepted by the House conferees.

Finally, Mr. Speaker, the House bill had a significantly lower price tag than its Senate companion. Our measure authorizes $11,250,000 for land acquisition compared to $40,000,000 contained in the Senate version. With the adoption of certain provisions in the House language requiring the donation of all publicly held lands and with the elimination of the provisions which required ferry terminal facilities, these costs need not be increased significantly. The conference committee agreed to increase the amount authorized to not more than $12,125,000 to cover all land acquisition costs, including administrative costs associated with the land acquisition program.

In terms of development costs, the House bill provided authority to appropriate $92,813,000 compared with $98,148,000 contained in the Senate version. The elimination of the provisions dealing with transportation more than offset the costs associated with the House addition of the lands along Staten Island so that the House authorization was considered ample to carry out the purposes of the legislation.

Mr. Speaker, as recommended by the Conference Committee, S. 1852 is a good, sound, constructive measure. No changes were made in the provisions dealing with the federally held lands so that the language approved on the floor of the House—as recommended by Representative STRATTON—remains the same as the language adopted by the Conference Committee. In short, this legislation is essentially the same as the House-passed bill with the few changes which I have discussed.

It is a bill that I know our colleagues can be proud of and it represents a real accomplishment which will benefit millions of Americans living in the greater New York City area now and for generations yet to come. I urge the approval of the conference report.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman from New Jersey.

Mr. HOWARD. I would like to ask the Chairman whether or not the funds and the authorizations which were authorized in the Senate bill for transportation from the urban areas around the New York and New Jersey areas were retained in the conference, or were they dropped?

Mr. ASPINALL. I say to my friend that they were dropped. We considered that this is not a part of this operation, and there should be other arrangements made for transportation.

Mr. HOWARD. I thank the chairman.

I might say that it is very, very disturbing, the actions taken by the conferees in this matter, because never before have we attempted to put a National Recreation Area within 2 hours' driving distance of 23 million people, and then not provided any adequate means to get them there. I think that this is somewhat disastrous, and I would just hope the House through the Interior Committee perhaps or through the Committee on Public Works might be able to see, now that we have created this beautiful, as it admittedly is, area for the public, that we might possibly consider means of getting them there.

I do intend, in this one small instance, reluctantly to support the conference report.

Mr. ASPINALL. May I say to my colleague, never in our history is there any precedent to provide for what was suggested by the other body. If it is necessary later on I believe this will be taken care of by a future Congress.

Mr. HOWARD. I hope so. I thank the gentleman.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I am glad to yield to my friend from New York, one of the great sponsors of this legislation.

Mr. ADDABBO. I thank the gentleman very much.

On behalf of the people of New York, and the people of my district, I thank the gentleman and all the Members of his committee for giving us this great national park. The people in my district will sleep quiet and a little better at night knowing that Kennedy Airport will not be expanded.

Mr. BRASCO. Mr. Speaker, as of tonight, Gateway National Park becomes a reality at long last. It is my pleasure to at this time extend my heartiest thanks on behalf of millions of New Yorkers to the Interior Committee of the House for their dedication and understanding. Without that effort and commitment, Gateway National Park would still be a dream. I also wish to thank my colleagues and the leadership of this House for understanding the vital need that dictated the action by this body.

Gateway National Park was the last chance the New York metropolitan area had for a new recreational area. As many here know, space of any kind, especially for recreation, is at an absolute premium around most major cities. Urban dwellers are increasingly pressed for any kind of place to escape to in order to enjoy a little clean air, some greenery and clean water.

New York has perhaps the worst problem of all. That was the genesis of the Gateway National Park concept. As one whose district is perhaps most intimately involved in this facility, I especially know how desperately our people wanted this measure passed.

Throughout this Congress, I have joined with other members of the New York delegation in pressing the case for the park. Many officials of the State and city of New York joined with me in this undertaking. At times we thought we would not attain our goal. An ill-fated attempt was made to require public housing on a portion of the park. Floyd Bennett Field, now included in the recreation area and safe from housing encroachments, is an integral part of this measure now. Once again there was cooperation and understanding by all concerned.

It is my hope that our successful effort will be the first of many such endeavors. We must recognize that urban life requires outlets for the average citizen, and they must be located near cities so millions now without alternatives may take advantage of them. A concerted effort can and must be mounted in each city to set aside these areas for the people.

Tempting as it may seem at times to take or carve out a portion of these disappearing green areas for some other public need, we must resist such blandishments. Sometimes we help our people most by simply letting some beautiful area alone. In the case of Gateway, it was a battle just to accomplish that.

Now we have come to the end of a successful struggle. Divisions over how it should be done are past. Let us again be thankful that we have saved a part of our environment and saved it for all the people.

Mr. ASPINALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member desiring to do so may have 5 legislative days to extend his remarks immediately prior to action on the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CONFERENCE REPORT ON S. 141, FOSSIL BUTTE NATIONAL MONUMENT, WYO.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1972.)

Mr. ASPINALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ASPINALL. Mr. Speaker, the conference report now before the House represents the joint work of the managers on the part of the House and Senate on the bill S. 141.

The House version of this legislation (H.R. 1553) was approved as an amendment in the nature of a substitute to the Senate-passed bill. Basically, the legislation agreed upon by the conferees follows the form of the House amendment; however a few revisions have been made which seem to be a reasonable compromise of the principal differences between the two versions.

First, the conferees recommended that the language requiring the State lands to be donated be revised so that they can be acquired by either donation or exchange. Since the lands involved are State school sections which cannot be conveyed except by public sale, it was agreed that the Secretary should have the authority to acquire them by exchange if they are needed for the purposes of the monument.

Second, there was a difference on the language involving grazing within the monument boundaries. The House language was restrictive in that it required all grazing to be phased out within 10 years, but the Senate language allowed this activity to continue for 30 years and left open the possibility for its further extension. The conference committee recommends that the Secretary be permitted to continue existing grazing uses for a period of 10 years, and for an additional 10-year period, if he finds that this use is not incompatible with the purposes for which the monument was created.

Third, there was a difference on the amount authorized to be appropriated. The Senate bill placed no ceiling on land acquisition appropriations. The House language on this point was adopted by the Conference Committee so that the bill, in this respect, is identical with the measure originally approved by the House.

Mr. Speaker, there were a few other technical and minor differences which have been resolved, but which require no lengthy explanation. I feel that the compromise reached by the managers on the part of the House represents a reasonable solution of the differences and that the conference report should be adopted. I commend it to my colleagues and ask for their support.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I am happy to yield to the gentleman from Pennsylvania.

Mr. SAYLOR. I should like to direct a question to the chairman of the committee on Interior and Insular Affairs.

As a result of the conference, the usual rules and regulations which the committee on Interior and Insular Affairs of the House and the House have insisted on, with respect to the establishment of monuments, were placed in effect as to this monument in Wyoming; is that correct?

Mr. ASPINALL. The gentleman is correct.

Mr. SAYLOR. So far as the State lands are concerned, we will not buy them but we did permit the State to exchange those school lands for lands of equal value in another part of the State?

Mr. ASPINALL. Mr. Speaker, if my friend will yield to me, it is my understanding that will be the procedure. If it is absolutely necessary, we would have to pay a small price, if necessary, to get the State land.

Mr. SAYLOR. Mr. Speaker, I urge the conference report be adopted.

Mr. ASPINALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks in the RECORD on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

FINANCING ECONOMIC DEVELOPMENT OF INDIANS AND INDIAN ORGANIZATIONS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8063) to provide for financing the economic development of Indians and Indian organizations, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1971".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources; where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities; and where they will have the opportunity to be integrated socially, politically, and economically into American life.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior.

(b) "Indian" means any Indian, Aleut, or Eskimo having one-quarter or more degree of Indian, Aleut, or Eskimo blood.

(c) "Tribe" means any tribe, band, community, pueblo, or other group of Indians having an organization acceptable to the Secretary.

(d) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

TITLE I—INDIAN REVOLVING LOAN FUND

SEC. 101. In order to provide credit that is not available from private money markets, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single revolving loan fund and shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members as well as, for administrative expenses incurred in connection therewith.

SEC. 102. Loans may be made for any purpose that will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members, including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians.

SEC. 103. Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions. Before a loan may be made from the revolving loan fund, Indian tribes shall be required to use their own funds, those funds being funds available to them from uncommitted or unprogramed funds on deposit in the United States Treasury or elsewhere, or funds accruing from income.

SEC. 104. Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yields on municipal bonds: *Provided*, That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose: *Provided*, That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

SEC. 105. The Secretary shall pay from the revolving loan fund into miscellaneous receipts of the Treasury, at the close of each fiscal year, interest on the amount of outstanding loans of the revolving loan fund. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 106. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds which he determines to be uncollectible in whole or in part, or which is collectible only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States. He may also adjust, compromise, subordinate, and modify the terms of any mortgage, lease, assignment, contract, agreement, and other document taken to secure such loans.

SEC. 107. The Secretary may sell, with the approval of the Secretary of the Treasury, to any person or entity any loan heretofore or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds and may guarantee any loan thus sold, subject to the same conditions, terms, and limitation of any loans guaranteed pursuant to title II of this Act. The receipts from any such sale shall be deposited in the revolving loan fund and be available for other loans from such fund.

SEC. 108. Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken in trust unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian that is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

SEC. 109. Title to property purchased with a loan from the revolving loan fund shall be pledged or mortgaged to the lender as security for the unpaid indebtedness to the lender, in such manner and upon such terms as may be prescribed by the Secretary: *Provided*, That this requirement may be waived or modified if the Secretary determines that the repayment of the loan is otherwise reasonably assured. Land purchased with a loan, title to which is taken in trust and pledged or mortgaged as security, shall be subject to foreclosure and sale, free of such trust or restrictions, in accordance with the laws of the State in which the land is located.

SEC. 110. Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds, unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

SEC. 111. A loan from the revolving loan fund that becomes delinquent, and the interest thereon, may be collected by the Secretary from per capita payments or other distributions of tribal assets due the delinquent borrower, without prejudice to the right to foreclose on the securities for the loan. If, during the period of repayment of any loan made under this section, a tribe is awarded a money judgment against the United States, and if the payment of any installment on a loan is in default, the installment(s) in default or the balance of the loan, in the discretion of the Secretary, shall be collected from the appropriation to satisfy the judgment insofar as the amount of the appropriation will cover the same.

SEC. 112. There is authorized to be appropriated, to provide capital and to restore any impairment of capital, for the revolving loan fund $50,000,000 exclusive of prior authorizations and appropriations, or such other amount as may be provided in appropriation Acts.

SEC. 113. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE II—LOAN GUARANTY AND INSURANCE

SEC. 201. In order to provide access to private money sources that otherwise would not be available, the Secretary is authorized (a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to any organization of Indians having a form or organization satisfactory to the Secretary, and to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan.

SEC. 202. The Secretary may, to the extent he deems consistent with the purposes of the program, fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 217(a) of this title.

SEC. 203. Loans guaranteed or insured pursuant to this title shall bear interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

SEC. 204. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary will issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed $100,000. No loan in excess of $100,000, or such lower amounts as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

SEC. 205. Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

SEC. 206. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, shall not be eligible for guaranty or insurance hereunder.

SEC. 207. Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

SEC. 208. Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 206. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

SEC. 209. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

SEC. 210. The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

SEC. 211. In the event of a default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty, and receive an assignment of the obligation and security. The Secretary may cancel the uncollectible portion of any obligation to which he has an assignment or a subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

SEC. 212. When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he will reimburse the lender therefor, and the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided*, That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further*, That before any reimbursement is made, all reasonable collection efforts have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectible portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

SEC. 213. Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided*, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

SEC. 214. Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this Act and the amount of such guaranty or insurance: *Provided*, that nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

SEC. 215. Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this title may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian that it is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser. Land purchased with a loan, title to which is taken in trust and pledged or mortgaged as security, shall be subject to foreclosure and sale, free of such trust or restrictions, in accordance with the laws of the State in which the land is located.

SEC. 216. The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this title, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed or insured hereunder;

(c) pay, or compromise, any claim on, or arising because of any loan guaranty or insurance;

(d) pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property required or held pursuant to the guaranty or insurance program authorized by this title.

SEC. 217. (a) There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the "fund") which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purpose of the fund.

(b) The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed or insured under this title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to $200,000,000 as authorized in appropriation Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. Guaranteed or insured loans acquired with the fund may be collected in accordance with their terms or may be sold by the Secretary with or without guaranty or insurance thereof. The Secretary is authorized to make agreements with respect to servicing loans held, guaranteed, or insured by him under this title and purchasing such guaranteed or insured loans on such terms and conditions as he may prescribe.

(d) If at any time the moneys in the fund are not sufficient to enable the Secretary to discharge his responsibility under any insurance or guaranty contract, the Secretary is authorized to issue notes to the Secretary of the Treasury in such amounts as may be necessary to discharge such responsibilities but only in such amounts as may be specified from time to time in appropriation Acts. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes issued by the Secretary to the Secretary of the Treasury shall constitute obligations of the fund. The Secretary of the Treasury is authorized and directed to purchase any obligations issued pursuant to this subsection, as now or hereafter in force, and for such purpose as the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(e) The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed or insured under this title or held by the Secretary, to acquire such security property at foreclosure sale or otherwise and to pay administrative expenses.

SEC. 218. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE III—INTERESTS SUBSIDIES AND ADMINISTRATIVE EXPENSES

SEC. 301. The Secretary is authorized to pay to the revolving fund established by section 101 interest subsidies in amounts which shall be equal to the difference between the amounts of interest paid to the Secretary of the Treasury pursuant to section 105 and the amounts of interest earned on direct loans pursuant to section 104.

SEC. 302. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed or insured under the provisions of title II of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 104 of this Act.

SEC. 303. There is authorized to be appropriated to the Secretary such sums as may be needed (a) to carry out the provisions of sections 301 and 302, such sums to remain available until expended, and (b) for administrative expenses under this Act.

With the following committee amendments:

Page 1, line 4, strike out "1971" and insert in lieu thereof "1972".

Page 3, line 3, after "fund" insert "under the provisions of this Act".

Page 3, line 7, strike out "as well as" and insert ", and ".

Page 4, lines 4 through 6, strike out "market yields on municipal bonds: *Provided*, That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the".

Page 4, line 13, after the period insert a new sentence as follows:

"Loans that are outstanding on the date this Act is approved shall be conformed to the provisions of this section as soon as the loan agreements permit."

Page 5, lines 5 and 6, strike out "cost, or when such action would, in his judgment, be in the best interests of the United States." and insert in lieu thereof:

"cost: *Provided*, That such action shall not be effective until 60 days (not counting days when Congress is adjourned sine die or when the Congress is in recess for more than 3 days) after notice has been given to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate."

Page 5, line 8, strike out "and" and insert in lieu thereof "or."

Page 5, line 15, strike out "of any" and insert in lieu thereof "that apply to".

Page 5, line 20, strike out "loans" and insert in lieu thereof "a loan".

Page 6, line 18, after "laws" insert "and under the jurisdiction of the courts".

Page 7, line 2, strike out "delinquent" and insert in lieu thereof "delinquent,".

Page 7, line 7, strike out "section," and insert in lieu thereof "section".

Page 7, lines 16 through 18, strike out "authorizations and appropriations, or such other amount as may be provided in appropriations Acts." and insert in lieu thereof "appropriations."

Page 8, lines 10 and 11, strike out "may, to the extent he deems consistent with the purposes of the program," and insert in lieu thereof "shall".

Page 13, line 12, strike out "it" and insert "is".

Page 15, line 15, strike out "fund." and insert in lieu thereof "fund, but not to exceed $30,000,000."

Page 15, lines 20 and 21, strike out "$200,000,000 as authorized in appropriation Acts." and insert in lieu thereof "$200,000,000."

Page 16, line 15, strike out "Acts." and insert in lieu thereof "Acts, and any amounts so specified shall be charged against and limited by the appropriation authorization contained in subsection 217(a)."

Page 18, lines 15 and 16, strike out "the rate determined under section 104 of this Act." and insert in lieu thereof "a rate determined by the Secretary of the Treasury under section 104 of this Act, plus such additional charges as the Secretary of the Interior deems appropriate to cover other costs of the Title II program."

Page 18, following line 21, insert a new Title as follows:

"TITLE IV—INDIAN BUSINESS GRANTS

"SEC. 401. In order to stimulate and increase Indian entrepreneurship and employment, and to establish or expand profit-making Indian-owned economic enterprises, there is authorized to be appropriated for an Indian Business Grant Fund not to exceed $5,000,000 for the fiscal year beginning after the date of this Act and for each of the following nine fiscal years, a total of $50,000,000.

"SEC. 402. The Secretary of the Interior is authorized to make grants from such fund under the following terms and conditions:

"(a) A grant may not exceed $50,000 or 25% of the total cost of the economic enterprise to be financed by a combination of loans, grants, and funds of the applicant.

"(b) A grant may be made only for the portion of the total cost of the economic enterprise that is, in the judgment of the Secretary, beyond the ability of the applicant to repay within thirty years.

"(c) The Secretary must determine that an applicant for a grant is not able to borrow the amount requested from any available commercial or Governmental source, and that he is ineligible to borrow the amount requested from the revolving loan-funder under Title I of this Act.

"(d) A grant may be made only to individual Indians or to Indians having a form of organization that is satisfactory to the Secretary, or to individual Indians.

"(e) A grant may be made only for an economic enterprise that is Indian-owned, as defined by the Secretary."

Mr. SAYLOR. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would just like to ask for an explanation from the chairman of what the amendments do.

Mr. ASPINALL. Will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman.

Mr. ASPINALL. Mr. Speaker, H.R. 8063 is a major piece of Indian legislation. It will satisfy an immediate need, and it will have long-term and lasting effects.

Historically, Indians have found it difficult to borrow money in the marketplace. Their lack of experience, their isolation, their lack of collateral security have all contributed to this situation. In a sense, it is surprising that they have been able to borrow to the extent they have.

The picture is changing, however. Although at one time the Indians were forced to rely for credit principally on direct Federal loans and on loans from tribal funds, at the present time 66 percent of all outstanding Indian loans are financed by customary lenders.

This bill is intended to give momentum to this trend. It does so by initiating a program to guarantee or insure up to 90 percent of each loan to an Indian or Indian organization that is made by customary lenders, subject of course to strict supervision by the Secretary of the Interior. As much as $200,000,000 in loans can be guaranteed or insured at any one time, and as loans are repaid new loans can be made.

The fact that $200,000,000 in loans can be guaranteed or insured does not mean that that amount of money must be appropriated from the Federal Treasury. On the contrary, experience with similar programs administered by the Federal Housing Administration and by the Veterans' Administration shows that an appropriation of 15 percent of the outstanding loans should be adequate to finance the program.

The guaranty and insurance program is intended to be self-sustaining. The Secretary of the Interior will charge an insurance premium that is designed to cover losses and cost of administration.

In order to give the program additional attractiveness to Indians, and to encourage them to utilize the credit resources of the open market, the bill includes an interest subsidy, which is openly identified, and which can be justified as a cheap way to encourage the development of Indian business initiative and experience.

The subsidy works like this. The Indian borrower will negotiate his loan from one of the customary lenders, and he will of course agree to pay the going commercial interest rate. In order to give the Indian the advantage of a lower rate, the Secretary of the Interior will agree to pay, on behalf of the Indian, the difference between the commercial rate charged the Indian and the rate which the Government must pay when it borrows money. The spread between these two rates is expected to be about 2 percent. In this way the Indian gets the advantage of the Government's borrowing rate, but he uses the resources of the private money market. The 2-percent cost to the Government is the subsidy.

It is more honest to identify the subsidy openly in this way than it is to hide the subsidy by lending money directly at an interest rate that is lower than the Government's cost of borrowing money. If the Government were to borrow money at 5 percent and relend it to an Indian at 3 percent, there would be a 3-percent subsidy but the subsidy would be hidden. In this bill the subsidy is clearly identified and the money for it must be appropriated each year.

The subsidy is necessary in order to make the insured loan program, using commercial lenders, competitive with the direct Federal loan program that is provided for through the revolving loan fund, which is a second feature of this bill.

We have had a revolving loan fund for Indians for almost 40 years, and it has been effective. This bill increases the capital in that fund from about $24,000,000 to about $74,000,000. When you consider the fact that the $24,000,000 fund has financed more than $66,000,000 in loans, the scope of the program that can be financed with $74,000,000 should be about three times the $66,000,000 financed in the past.

The bill provides that direct Federal loans from the revolving loan fund will bear interest at a rate that reflects the Government's cost of borrowing money, which is of course a very favorable rate, plus a charge to cover losses and administration. This means that the fund should be self-sustaining, and if it works successfully it should not cost the Government anything. The Government will borrow the money which it relends to the Indian, but the interest which the Government pays on its loan will be recovered from the Indian.

In order to borrow from the revolving loan fund, the Indian must show that he is unable to borrow from any other source. That is why the loan guaranty and insurance program must make it possible for the Indian to borrow at the low net rate he would pay if he borrowed from the revolving loan fund.

A third program authorized by the bill is a business grant program. It is intended to stimulate the development of Indian enterprises when the Indian is not able to borrow the full amount of money needed. For example, an Indian might want to start a filling station that costs $20,000. He might be able to amortize a $18,000 loan and still make a decent living for himself, but if he were required to amortize the full $20,000 the business would fail. In this hypothetical case a $2,000 grant would enable the Indian to establish an economically sound business that would give him a decent standard of living, and also provide employment for other Indians.

The committee has written some very specific standards into the bill. A grant can not be made unless the Secretary of the Interior determines that a loan of the same amount would be beyond the Indian's ability to repay, judged of course on the basis of reasonably available information. Also, a grant may not be made if the applicant is eligible for a loan from any source. He would of course be eligible for a revolving fund loan if he had a reasonable prospect of repaying the money.

The bill specifically provides that the Secretary must make specific findings regarding eligibility for a loan and ability to repay. He may not make assumptions based upon what some other lender thinks.

With these safeguards, I believe that the grant program has a legitimate function. It may mean the difference between a successful enterprise and a failure. The program requires careful evaluation, however, and it is, therefore, limited to 10 years, with a request that the Secretary submit annual evaluations.

I think that the bill is a good bill and I urge its enactment.

Mr. SAYLOR. Mr. Speaker, as a principal sponsor of this legislation, I rise in support of H.R. 8063, as amended, and reported by the Committee on Interior and Insular Affairs.

President Nixon, in his message to Congress on July 8, 1970, transmitting recommendations for an Indian policy, stated that—

> The first Americans—the Indians—are the most deprived and most isolated minority group in our Nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

The President also stated in that same message that—

> The story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittant remorse and prolonged failure. It is also a record of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country—to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

President Nixon called upon this Congress to pass legislation which began to recognize and build upon the capacities and insights of the Indian people. H.R. 8063 is that kind of legislation and I am pleased to have the opportunity to be the principal sponsor of legislation which will go far toward the economic development of Indians and Indian organizations. H.R. 8063 will in my judgment do more than that; it will encourage and foster greater individual initiative, responsible character among our American Indians. H.R. 8063 will give the Indian either individually or collectively through his organization the opportunity to make and be responsible for his own economic decisions.

This bill, H.R. 8063, will, hopefully, be the start of ameliorating a most serious Indian program—economic deprivation. Unemployment among Indians is ten times the national average and runs as high as 80 percent on some Indian reservations. At the same time, some 80 percent of the reservation Indians have an average annual income of $1,500 which is below the poverty line.

The need for this legislation can be further established if necessary and I can assure my colleagues that even though this legislation is expensive, it must be kept in mind that the programs established by this legislation are essentially loan programs which are expected to be self-sustaining. A minimum of Federal expense is involved through business grants and the administrative costs involved while at the same time providing the Indians with a tremendous economic opportunity.

H.R. 8063, as amended and reported by the Committee on Interior and Insular Affairs, essentially establishes three programs for enhancing the economic development of Indian and Indian organizations. The first program is established by title I. This title combines the three existing Federal loan funds to Indians into a single revolving loan fund and increases the amount available for loans from $23,799,600 to $73,799,600 by authorizing the appropriation of an additional $50,000,000. These funds are to be made available to Indians and Indian organizations on a loan basis for economic development projects.

The second program is a loan guaranty and insurance program established by title II of this bill. This title authorizes the Secretary of the Interior to guarantee or insure 90 percent of loans make by commercial lenders to Indians and Indian organizations for economic projects. To accomplish this, title II authorizes the Secretary to guarantee or insure loans up to a limit of $200 million in the aggregate and authorizes the appropriation of $30 million to pay any losses as a result of such guaranteed or insured loans.

The third program established by H.R. 8063 is an Indian business grant fund in title IV. This program is limited to a 10-year period with a total authorized appropriation of $50 million. This program is intended to provide the capital for Indians or Indian organizations having insufficient equity to qualify for small business loans from either public or private sources to arrive at the 100-percent financing needed for a business venture.

Mr. Speaker, I am strongly in support of this legislation which will become the Indian Financing Act of 1972 and urge my colleagues to suspend the rules and support its passage.

Mr. STEIGER of Arizona. Mr. Speaker, I rise in support of this legislation as reported by the Committee on Interior and Insular Affairs.

The purpose of this bill is to provide the individual Indian and Indian organizations with the necessary "seed" money in the forms of loans and grants to meaningfully provide the economic development of American Indians.

H.R. 8063, as amended and reported by the Committee on Interior and Insular Affairs, embodies the provisions of draft legislation recommended by President Nixon in his message to the Congress on July 8, 1970, transmitting recommendations for an Indian policy.

The bill is divided into five titles, and, if enacted, will be known as the Indian Financing Act of 1972. Title I sets up the self-sustaining revolving loan fund of direct Federal loans. This title combines the previous three revolving loan funds into a single revolving loan fund, increases the amount available for loans by $50,000,000 and sets out the statutory guidelines for the revolving loan fund program. All loans will bear interest at a rate which reflects the cost to the Federal Government of borrowing money.

Title II of the bill authorizes the Secretary of the Interior to set up a guaranty and insured loan program. Under this title, individual Indians or Indian organizations will borrow directly from a commercial lender and the Secretary, by the provisions of this title, can guarantee or insure up to 90 percent of the loan. This title, in addition to providing statutory guidelines, limits the authority of the Secretary to guarantee and insure loans up to an aggregate of $200,000,000 and provides the appropriation authorization of $30,000,000 to pay any losses.

Title III authorizes the Secretary of the Interior to pay interest subsidies on loans made from the revolving loan fund and the guaranty and insured loan program. This interest subsidy is the difference between the interest rate charged by the bank or lending institution and the rate the Federal Government must pay to borrow money. It is estimated that this total subsidy could be approximately $4,000,000 a year.

Title V of the bill establishes an Indian business grant fund for a period of 10 years and authorizes the Secretary of the Interior to make grants from the $50,000,000 fund to stimulate and increase Indian employment and entrepreneurship and to expand existing profitmaking Indian-owned economic enterprises.

Mr. Speaker, I urge my colleagues to support the passage of this legislation which is most meritorious for the economic well-being of our American Indian people.

The SPEAKER. The question is on the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member desiring to do so may have 5 legislative days in which to extend his remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

LAND ACQUISITION FUNDS FOR DELAWARE NATIONAL RECREATION AREA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware National Recreation Area, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the bill, as follows:

H.R. 13396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Act of September 1, 1965 (79 Stat. 612, 614), is amended by deleting the figure "$37,412,000" in the first sentence and substituting in lieu thereof the figure "$68,812,000".

Mr. ASPINALL. Mr. Speaker, H.R. 13396 is a bill which was introduced by our colleagues—Representatives McDADE, DOW, ROONEY of Pennsylvania, and THOMPSON of New Jersey. It is not a complex measure as bills go, it simply provides for an increase in the authorization ceiling for land acquisition at the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey.

BACKGROUND

The recreation area involved in this legislation was authorized by the Congress in 1965. At that time, it was agreed that the total area should include 47,675 acres of land adjacent to the area being set aside for the then-authorized Tocks Island Dam project. It is an outstanding natural area which is within easy reach of the millions of people living near the Delaware River Valley.

At the time of its authorization, it was estimated that all of the lands involved could be acquired for the amount authorized—$37,412,000; however, actual acquisition costs have far exceeded the original estimates. All of the authorized moneys have been appropriated and expended or obligated, but some 21,806 acres remain to be acquired.

Mr. Speaker, the Delaware Water Gap National Recreation Area remains a good, sound outdoor recreation project. A tremendous investment has been made, but a viable administrative unit does not presently exist, because the land acquisition program has not been completed. The only question before the House at this time is whether or not we want to complete the work which we began when we authorized this recreation area in 1965. If we do—and I think that we should—then this bill must be enacted and the earlier it is done the less it will ultimately cost the American people.

Mr. Speaker, H. R. 13396 increases the authorization for land acquisition from $37,412,000 to $68,812,000. According to testimony before the Subcommittee on National Parks and Recreation presented by witnesses for the Department of the Interior, this amount should cover all of the remaining costs involved.

I support the enactment of the legislation and urge its approval by my colleagues in the House.

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 13396, to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area.

The act of September 1, 1965 authorized the acquisition of certain lands in the States of New Jersey and Pennsylvania to provide the Delaware Water Gap National Recreation Area for public outdoor recreational use and enjoyment in a manner coordinated with the purposes of Tocks Island Dam and Reservoir which had been separately authorized.

The gross acreage authorized to be acquired for the Delaware Water Gap National Recreation Area amounted to 47,675 acres. Some 10,000 were not to be acquired because the act provided for certain adjustments in the acreage or because it was in public ownership. Therefore, the private lands to be acquired actually amounted to 37,349.47 acres. The act authorized appropriations for the acquisition of lands and interests in lands of not more than $37,412,000, all of which has been appropriated. The land purchased to December 31, 1971, amounts to 21,806.78 acres at a cost of $34,686,593. The balance remaining is only $2,725,407 to acquire the remaining 15,542.69 acres which, of course, is totally inadequate.

The reasons for this inadequacy of the initial funding are manifold. The Jackson-Cross Co., a large and reputable real estate service in Philadelphia has very carefully and fully articulated these reasons in its report on the matter to the Department of the Interior and the National Park Service. Let me highlight for you the primary reasons for a $31,400,000 increase over the original authorization. The primary contributing factor is the fact that there has been a 15 percent per annum increase in property values in this area based on paired sales. These sales, after excluding extreme resale percentages, show a range in increase of from 5 to 89 percent per year. This is much higher than the national average, and is largely due to the expanded second-home requirement brought about by the advent of high-speed highway patterns which have reduced the travel time from New York City and northern New Jersey via Interstates 80 and 84, bringing these metropolitan areas within 1 hour's driving time of the whole Pocono Mountain region.

A restudy by the Jackson-Cross Co. shows that numerous unrecorded sales existed within the boundaries of the Delaware Water Gap National Recreation Area at the time of the original report and exceeded what was estimated in that report, making the market more retail than wholesale as assumed. The original Jackson-Cross report estimated 2,000 individually owned lots within two New Jersey subdivisions when, in fact, it later developed there were slightly more than 3,000 because of the larger number of unrecorded contracts for deeds than originally believed. The same general trend prevailed on the Pennsylvania side.

The general imbalance of appropriations between the Delaware Water Gap National Recreation Area and the Tocks Island Dam is another contributing factor preventing land for the two projects from being acquired concurrently. This tended to defeat the plan to effect an overall economy contemplated by the Congress when it assigned land acquisition responsibility for both Federal projects to a single agency.

Another factor increasing the cost is the considerable amount of improvements which occurred between the completion of the original cost estimate and the time of acquisition.

The cost for court awards on deficiency judgments has been an exceedingly expensive item and the $31.4 million figure includes some $5.6 million for this item alone. Deficiency judgment awards may or may not occur in this total amount, but it is a necessary item for inclusion based on the outcome of trials to date.

There is also incorporated in the contemplated increase in authorization an entirely new cost not included in the original estimate, and that is to provide the necessary payments under the Act of January 2, 1971 (84 Stat. 1894), Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This item alone adds an estimated $2.7 million.

A complete breakdown of the $31.4 million additional estimate is set forth below:

Valuation of lands and improvements remaining to be purchased	$21,700,000
Administrative cost	1,400,000
Costs under Public Law 91–646, act of January 2, 1971 (84 Stat. 1984)	2,700,000
Estimated adverse court award cases filed on original fund allocation	2,400,000
Estimated adverse court awards on properties yet to be acquired	3,200,000
Total	31,400,000

It is interesting and beneficial to note that purchases made since the date of the Jackson-Cross restudy have been made at prices in the vicinity of their new estimate, which is indicative of the authenticity of the restudy.

Authorization of the Delaware Water Gap National Recreation Area provided for the coordination of that project with the Tocks Island Dam project which was authorized by the Flood Control Act of 1962. In furtherance of that concept, and in order that the landowners would not be forced to negotiate with two Federal agencies in the acquisition of the private property, the Congress authorized the Secretary of the Army to conduct all the negotiations for land acquisition through the U.S. Army Corps of Engineers.

The Tocks Island Dam project has encountered numerous and serious difficulties causing considerable speculation whether the facility will ever be constructed. This fact has caused considerable concern as to whether the failure to construct this impoundment might have an adverse effect on a viable recreation area. The National Park Service has considered this matter and is pleased to report that its studies indicate a very fine recreational area with substantially as great a carrying capacity could exist without an impoundment as with one; provided, the increase in land acquisition funds, as contained in this legislation, is granted.

In this connection, the corps has to date acquired more than 10,000 acres of the area needed for the impoundment and, with their current appropriation of $14.6 million for fiscal year 1973, together with funds on hand, should substantially complete the impoundment area with acreage inside the Delaware Water Gap National Recreation Area. If then the dam were not to be constructed, this land could be transferred to the Department of the Interior as excess property for recreational use in connection with the Delaware Water Gap National Recreation Area.

The Delaware Water Gap National Recreation Area was established to serve the recreational needs of an estimated 10 million people a year within the most densely populated area of this Nation. For 8 years now, the people of this area have been kept in a state of uncertainty as to their lands and future. At the same time, the cost of establishing this national recreation area to the Federal Government and essentially the American people continues to escalate for the lack of adequate funding.

If we are to keep faith with the American people in the establishment of national parks and recreation areas, and so forth, then Congress must provide the necessary funding to accomplish within a reasonable period of time the projects promised to the American people.

Mr. Speaker, I support and ask my colleagues to support the passage of this legislation.

Mr. SKUBITZ. Mr. Speaker, I rise in support of this bill.

The purpose of H.R. 13396, as reported by the Committee on Interior and Insular Affairs, is to increase the amount authorized to be appropriated for the acquisition of lands at the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey.

The amount of additional funds needed to acquire the lands authorized for acquisition within the boundaries of the national recreation area are $31.4 million.

The history and background of this legislation is beginning to sound like a broken record. Time and time again the National Park Service, for various reasons, is required to seek an increase in the appropriation authorization to acquire lands and interests in lands in parks and recreation areas, and so forth, which have been established by Congress.

It is becoming increasingly clear to me, as the ranking minority member of the Subcommittee on National Parks and Recreation, that the National Park Service is in dire need of some detailed legislative oversight and scrutiny; especially in regard to its land acquisition and development practices and policies. And this legislation, H.R. 13396, serves as a prime example of why that kind of oversight is needed.

In 1965 Congress authorized the acquisition of 57,650 acres of land for the establishment of the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey. At that time, Congress authorized the appropriation of $37,412,000 for land acquisition.

Since the authorization, 21,806 acres of the 37,349 acres of privately owned lands have been acquired at a cost of $34,686,593. There remain to be acquired 15,542 acres of land within the recreation area boundaries and only $2,725,407 of the original authorization remains unexpended—all of which is being held in reserve to satisfy any deficiency judgments which might arise.

The estimated cost of acquiring the remaining 15,543 acres of privately owned lands is the $31.4 million of additional funds being requested by this legislation.

While many reasons are advanced by the National Park Service to justify this request for additional funds, the fact is that National Park Service failed to accurately appraise and assess its land acquisition costs initially. And this has been so in a number of bills which have been before the Committee on Interior and Insular Affairs.

The result has been that Congress is made the fall guy for the mistakes of the National Park Service. Congress is put in the position of having made a substantial Federal investment. There is no precedent for backing away or out of these circumstances.

Mr. Speaker, I support the passage of this legislation because we, the Congress, made a commitment to establish the Delaware Water Gap National Recreation Area. In the process, we told the people in that area that if their lands had to be acquired, they would receive just compensation for them. We have now acquired some of their lands to the tune of $37.4 million. Either we provide the additional $31.4 million requested or sell back the 21,806 acres acquired and deauthorize the National Recreation Area.

Mr. TAYLOR. Mr. Speaker, I rise in support of the enactment of H.R. 13396 which is a bill to authorize an increased ceiling for appropriations for the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey.

COMMITTEE CONSIDERATION

This legislation was the subject of a public hearing before the Subcommittee on National Parks and Recreation. At that time, we were advised that this project requires additional funding if it is to be completed as originally planned by the Congress.

I regret that the original estimates for land costs which we relied upon were so inaccurate. Naturally, the members of the subcommittee inquired about the factors which resulted in such a gross error. We were told that there were several reasons why the original estimates were lower than the actual acquisition costs:

First, there were a large number of unrecorded sales that exceeded the estimates at the time of the original authorization;

Second, the coordinated land acquisition program contemplated by the Congress when the project was authorized did not materialize so that key tracts in the taking area had to be bypassed when prompt acquisition might have resulted in their purchase at a lesser cost;

Third, we have learned that when a project is authorized prompt funding is essential if the costs are to be minimized, but in this case funds were not available and landowners in the area continued to improve their properties and increasing costs resulted.

Fourth, since the enactment of the authorization of this recreation area, the Congress has approved legislation providing for relocation assistance which materially affects the cost of the project; and

Finally, the court awards have exceeded the estimated value of the lands involved so that deficiency judgments must be contemplated in future acquisitions.

Mr. Speaker, the members of the Committee on Interior and Insular Affairs have always tried to ascertain what projects of this kind will cost so that the Members of the House will be fully informed when the legislation is initially considered. It has been our longstanding policy to adopt what we affectionately call the Haley amendment which places the customary limitation on appropriations found in our bills. Then, if the estimates are wrong, the Congress at least, has an opportunity to review the program before additional funds can be appropriated. We believe that this has kept the program honest and, notwithstanding the fact that increases are sometimes required, that it has required those recommending projects to make a reasonable effort to ascertain what the costs might ultimately be.

CONCLUSION

I join in supporting this legislation. While I wish the amount could be less, I believe that the facts dictate that this increase will be required. I urge my colleagues to approve H.R. 13396.

Mr. McDADE. Mr. Speaker, this bill which we are considering today is a bill that has truly national significance.

Every Member of Congress is aware of the magnificent work the Department of Interior has done in the creation of national parks in America, and all of us have been enthusiastic in the celebration of the 100th anniversary of the national park system in this year of 1972. Very justly we are proud, not only of our national parks, but of the fact that they have become a model for the whole world to admire and emulate.

And that is what this bill is all about. It is about a national recreation area, the first national recreation area east of the Mississippi to be authorized by Congress, the Delaware Water Gap National Recreation Area. Congress authorized the creation of this most significant recreation area in legislation of September 1, 1965. It was the hope and expectation of Congress at that time that the recreation area would come into being with no undue delay, but we see now a situation which is utterly deplorable. We do not have a national recreation area; we have half a national recreation area, and nothing could be more sad than half a national park.

The purchase of land in this recreation area has come to a halt. There is a remaining 40 percent of the land to be acquired for the recreation area, and we have exhausted the authorization for the purchase of this land. Yet, in the area, the people who own that 40 percent of the property are living daily under the certainty of condemnation and purchase without the actuality of their properties being purchased. It is an unconscionable hardship pressed down upon these people, and it is a reproach to the Federal Government to have half a park which is worse than none at all.

For nearly 10 years, the people of Pennsylvania and New Jersey in the recreation area have lived under this threat of condemnation. They have seen the patchwork quilt of land purchases which has developed, the departure of their neighbors, and the incursion of squatters onto the abandoned land. These squatters have made life something of a nightmare in the region, through a program of nearly complete lawlessness that has seen the life of at least one Federal Ranger threatened and the destruction of property which we all had hoped to preserve as historical treasures.

We need this legislation. We need to provide the authorization to purchase all the land needed to complete this recreation area, and to do so as soon as possible.

There is no finer man in the Park Service than Pete de Gellecke, the Superintendent of the Delaware Water Gap National Recreation Area. Here is a man who has the desire to provide a multitude of excellent services to the people of this Nation in the recreation area, but who cannot do so in its present incomplete form.

I urge my colleagues to vote for passage of this legislation. It will not only be the final step in making this national recreation a complete recreation area, but it will relieve the hardships suffered by those people who live within the boundaries of the area, but who have had only promises to acquire their property, not the actuality of purchase.

It is a good bill, well worthy of a unanimous vote of approval by the Members of this House.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member of the House, including myself, who desires to do so, may extend his remarks in the RECORD immediately preceding the passage of this bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the retirement of Chairman EDWARD GARMATZ.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

APATHETIC RESPONSE TO REPORTS OF DRUG TRAFFICKING

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, in today's New York papers there are articles on the drug crisis in our elementary and high schools in New York City. One of the news headlines reads, "Forty-five Percent of High School Pupils Here Said To Take Drugs." The New York State Fleischmann Commission, which issued its report covering the entire State, estimated that in New York City, where the drug problem was most serious, 45 percent of the students in the 10th through 12th grades and 20 percent of those in the seventh through ninth grades are currently users of some psychoactive drug.

So often in discussions I have had with parents of children in our schools, a parent will say so eloquently and tearfully at times, "Why is it if I see the drug pushers when they stand in front of our schools, the police can't?" Their observation is accurate and there is no adequate response to that poignant question.

When I take the matter up with police authorities I am told it is the fault of the courts. When I discuss it with the court officials, I am told it is the fault of the police. Somewhere the buck must stop and someone must take responsibility.

Let me show how frustrating it is to deal with law enforcement authorities on the subject of drug addiction. On September 8 I received an anonymous letter from a constituent calling my attention to an alleged condition concerning drug traffic existing on the Upper East Side of Manhattan in my district. I thought this would be a good opportunity to test the law enforcement agencies which do have jurisdiction in a matter of this kind to see what actions they would take. The letter of September 12 which I sent to six law enforcement agencies, together with the anonymous letter, is appended.

As of today, a month later almost to the day, I have received a total of three responses which follow. Two of those responding advise that they have referred the matter to other agencies. One stated that he was having the matter investigated and would keep me informed. At the present time, I have received no further report from anyone on any investigation which may have ensued.

Among those that I have not heard from is Myles Ambrose, Special Assistant Attorney General for the Office of Drug Abuse. This is particularly noteworthy in view of the flourish and publicity with which the administration announced the establishment of its "heroin hotline" program last April. The stated purpose of the hotline was to enable individual citizens to volunteer information in confidence on heroin traffickers and pushers. One toll-free call could be dialed anywhere in the United States and presumably would catalyze immediate action by the Government.

One cannot help but question the seriousness of the administration in establishing this so-called hotline at a cost of $260,000 for the first 4 months of operation when a letter from a Member of Congress does not even get a response. If I, as a Member of Congress, alerting law enforcement officials to a serious situation involving drugs, can get so little reaction, imagine how frustrating it must be for the average citizen. Is it any wonder that so many of the people of this country are angry, indeed, disgusted, with the manner in which officials charged with the duty of investigating alleged crimes, apprehending the criminals, and sending them to jail, are doing their duty. This is particularly true in the instances of drug trafficking that is ruining the lives of so many of our children.

The correspondence follows:

SEPTEMBER 8, 1972.

Congressman EDWARD I. KOCH,
Washington, D.C.

Dear CONGRESSMAN KOCH: I call your attention to the following condition existing in your district.

A ring of upper echelon drug pushers operating out of — Street. — and they are inter-state. They meet in the early morning hours, usually weekends and Mondays. Their cars are usually parked on — Avenue near — Street.

Following is a description of the cars and their plates:

(Color) Cadillac, License —.
(Color) Cadillac, License —.
(Color) Mercedes, License —.

A number of letters have been written to Commissioner Murphy and Captain D. McGowan of the 19th Precinct about these pushers. I believe these letters have been buried, as nothing has been done.

I insist that you exert every effort to rid the neighborhood of these people. The district has an elementary school on York Avenue and an intermediate school on 76th Street.

Thank you.

My letter containing the above enclosure was sent to the following law enforcement officials:

LIST OF LAW ENFORCEMENT OFFICIALS

Myles J. Ambrose, Special Assistant Attorney General, Office of Drug Abuse, Law Enforcement, U.S. Department of Justice.

Patrick T. Burke, Assistant Attorney in Charge, Joint Strike Force, U.S. Department of Justice.

Frank S. Hogan, District Attorney, New York County.

Louis J. Lefkowitz, New York State Attorney General.

Patrick V. Murphy, New York City Police Commissioner.

Robert K. Ruskin, New York City Commissioner of Investigation.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1972.

DEAR ——: I have received an anonymous letter, a copy of which is enclosed, concerning alleged drug pushing at — street. The letter, as you will note, contains the license plate numbers of cars allegedly belonging to those in the operation.

I am bringing this matter to your attention knowing that it would be of interest to you. I would appreciate your advising me as to the outcome of any investigation you make in the matter.

Sincerely,

EDWARD I. KOCH.

DISTRICT ATTORNEY
OF THE COUNTY OF NEW YORK,
New York, N.Y., September 14, 1972.

Hon. EDWARD I. KOCH,
Congress of the United States,
House of Representatives,
Washington, D.C. 20515

DEAR ED: Thank you for your letter of September 12, 1972 in which you enclose an anonymous communication having to do with alleged drug pushing at —— Street.

I am referring this matter for investigation to Assistant District Attorney Frank Rogers who is the Coordinator for the Special Narcotics Courts for the City of New York. I am asking Mr. Rogers to keep you and me advised of developments.

With kindest regards.

Sincerely,

FRANK S. HOGAN.

THE CITY OF NEW YORK,
DEPARTMENT OF INVESTIGATION,
New York, N.Y., September 26, 1972.
Congressman EDWARD I. KOCH,
New York, N.Y.

DEAR CONGRESSMAN: Thank you for your letter of September 12, 1972 with which you enclosed an anonymous complaint dated September 8, 1972 alleging that drug pushers are operating out of —— Street.

I have referred the matter to Police Commissioner Murphy and asked him to report to us the progress of his investigation into the matter.

Sincerely yours,
ROBERT K. RUSKIN, *Commissioner.*

U.S. DEPARTMENT OF JUSTICE,
ORGANIZED CRIME AND
RACKETEERING SECTION,
New York, September 18, 1972.
HON. EDWARD I. KOCH,
Congress of the United States,
New York, N.Y.

DEAR CONGRESSMAN KOCH: I have received your letter of September 12, 1972 concerning drug pushing at ——— Street. Although the Strike Force does not have jurisdiction over narcotics offenses, this type of information is most valuable.

I have forwarded a copy of both your letter and the anonymous message to Mr. Andrew Maloney, Head of the Department of Justice Office of Drug Abuse and Law Enforcement in the New York metropolitan area. I am sure Mr. Maloney will appreciate this information and be able to take some action on it.

Very truly yours,
PATRICK T. BURKE,
Assistant Attorney in Charge, Joint Strike Force.

"HBA'S LEON JAWORSKI—A PROFILE OF A LAWYER'S LEADERSHIP"

(Mr. CASEY of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CASEY of Texas. Mr. Speaker, I am privileged to know and have as my warm friend a brilliant and unusual man who just recently completed his services as president of the American Bar Association.

Many of my colleagues have had the privilege of meeting and knowing Leon Jaworski, but possibly they do not know his illustrious background as well as I.

Mr. Speaker, it is with pride that I share with my colleagues an article from the Houston Bar Association's publication, the Houston Lawyer which briefly outlines the highlights in the life of this great American:

HBA's LEON JAWORSKI—A PROFILE OF A LAWYER'S LEADERSHIP

The legend of Texans is well established in these United States and in the world—they are bigger and better. Houston's many contributions to this legend is well exemplified by the leadership, contributions and achievements of the HBA's own Leon Jaworski, senior partner of Fulbright, Crooker & Jaworski.

Even a cursory examination of Mr. Jaworski's activities over a lifetime in professional and civic endeavors reveals the principal theme to which he has dedicated himself—that the nourishment of the rule of law in a democratic society is man's most important endeavor and that lawyers are well equipped to lead our country's civic institutions by virtue of their understanding that the rule of law in a democratic society is the warp and woof of that society upon which the ultimate well-being of the people in all areas depends. A corollary to that axiom is Mr. Jaworski's firm conviction that lawyers are obligated so to serve by virtue of their special professional qualifications in comprehending that principle.

Perhaps this philosophy, which has urged our able fellow lawyer to the heights of achievement, was best expressed by Mr. Jaworski himself in his closing address to the American Bar Association's Annual Meeting held this month in San Francisco when he said: "As members of the legal profession, we have a special competence to provide technical advice and counseling in what needs to be done to improve the administration of justice. We also have a responsibility to govern our own ranks in the Bench and the Bar to assure that we are faithful to our professional obligations. But we have a wider responsibility as well.

We must, each of us, exemplify in our own civic life the personal involvement and acceptance of public leadership that we would expect of all concerned citizens. We must do this because the legal profession cannot by itself bring to realization the great goals to which we have committed ourselves. We must do so because there are legislative bodies not inclined to act unless there is a momentum of public demand that is real and visible. We must strive to generate this broad public support because so many of our fellow citizens, both young and old, look to our profession for guidance in community affairs."

Leon Jaworski was early marked as an able devotee of orderly progress through the use and improvement of existing institutions. Born at Waco on September 15, 1905, Mr. Jaworski was the son of Joseph and Marie Jaworski. His father was a minister in the Evangelical and Reformed Church at Waco. He has one sister and two brothers, now Mrs. Walter Fuchs of Pflugerville; Dr. H. L. Jaworski, a surgeon in Waco; and Joseph, now deceased, who was an electrical engineer and graduate of MIT.

As a high school student, he was an outstanding debater and graduated at Waco as an honor student at the age of fifteen in 1920. Enrolling in Baylor University in 1921, he graduated from the Baylor Law School at 19, finding it necessary to have his minor's disabilities removed so that he could receive his license to practice law. In 1925 and 1926, Mr. Jaworski attended George Washington University Law School at Washington, D.C., where he earned a LL.M at 20, working part time in the office of then-Congressman Tom Connally.

Returning to Waco, Mr. Jaworski entered the civil and criminal practice of law for some five years, following which he moved to Houston, joining his present firm in 1934. Today, Fulbright, Crooker & Jaworski is one of the three largest firms in Houston and one of the largest firms in the nation, numbering 160 lawyers in its ranks.

In addition to serving as President of the Houston Bar Association (1949–50) and as President of the State Bar of Texas (1962–63), Mr. Jaworski has just completed thirteen months as President of the American Bar Association (1971–72). He is a member of the American College of Trial Lawyers and served as President of that organization in 1961–62. Additionally, he has served as president of the Texas Civil Judicial Council (1950–52) and as Chairman of the Board of Trustees of the Southwestern Legal Foundation (1968 to present). He holds honorary degrees from Baylor University (LL.D), Suffolk University (JS.D) and Washburn University (LL.D).

But not all of Mr. Jaworski's time in the practice has been spent in Bar leadership and the representation of ordinary business and individual clients. In June, 1942, Mr. Jaworski volunteered for service in the Army Judge Advocate General's Corps and was commissioned as a Captain. He was rapidly promoted to Major and Lieutenant Colonel, being assigned to the handling of special assignments for the Judge Advocate General's office. The highlight of his service career was the prosecution of the first war crimes trials in the European Theater, including the Russelsheim death march trial, the Hadamar mercy killing trial and the Dachau concentration camp trial. Mr. Jaworski has set forth some of his experiences as a war crimes prosecutor in a book published in 1960, "After Fifteen Years".

In more recent times, Mr. Jaworski served as a Special Assistant United States Attorney General in 1962–65, during which time he represented the United States at the designation of President Kennedy in the contempt proceedings against Governor Ross Barnett of Mississippi in connection with the Governor's defiance of Orders of the United States Court of Appeals for the Fifth Judicial Circuit. In 1963–65 Mr. Jaworski served as Special Council to the Attorney General of Texas in connection with the proceedings of the Warren Commission investigating the assassination of President Kennedy.

Subsequently, Mr. Jaworski served as a member of the President's Commission on Law Enforcement and Administration of Justice (1965–67) and as a member of the President's Commission on the Causes and Prevention of Violence (1968–69). He also has served at the pleasure of the President as the U.S. member of the Permanent Court of Arbitration at The Hague (1965–69); as a member of a National Commission on Marine Science, Engineering and Resources (1967–69); and as a member of the International Center for Settlement of Investment Disputes (1967–69).

True to his thesis set forth above about the lawyer's obligation to actively participate in civic endeavors, Mr. Jaworski has served as President of the Houston Chamber of Commerce (1960); President of the Houston Rotary Club (1956); President of the Houston Chapter of the American Red Cross; President of the Baylor Medical Foundation; trustee of the M.D. Anderson Foundation; trustee of the Baylor College of Medicine; trustee of the Texas Medical Center; and as Protestant Chairman of the Houston Chapter of the National Conference of Christians and Jews, Inc. (1955–61). Likewise, as one of the outstanding leaders of the business community in Houston, Mr. Jaworski serves as Chairman of the Executive Committee of the Bank of the Southwest and is a director of Anderson, Clayton & Co. and Coastal States Gas Producing Company.

Mr. Jaworski married Jeannette Adam in 1931 and has three children, Mrs. William H. Worrell, Mrs. Robert E. Draper and Joseph Jaworski, a partner in the Houston firm of Bracewell & Patterson.

CORRECTION OF THE RECORD

Mr. QUIE. Mr. Speaker, I ask unanimous consent to correct for the permanent RECORD a statement I made on the floor yesterday.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE HONORABLE EDWARD A. GARMATZ

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. DOWNING) is recognized for 60 minutes.

Mr. DOWNING. Mr. Speaker, I have taken this time to tell EDDIE GARMATZ specifically over the country generally just how much we all appreciate his service in the Congress of the United States.

I have worked side by side with this great man for over 14 years. He is a man of quiet dignity with great warmth and kindness. When the occasion warrants it, he is also a man of great force.

When the late beloved Herbert H. Bonner passed away in 1966, EDDIE GARMATZ became chairman of the Merchant Marine and Fisheries Committee. Since then he has wielded that gavel of power with fairness and effectiveness. Under his leadership the greatest landmark maritime legislation since 1936 was passed—the Merchant Marine Act of 1970.

This legislation came at a time when our merchant marine was rusting in obsolescence and our balance of trade deteriorating. It gives our Nation a chance to become a viable power on the high seas again.

Under his chairmanship, great progressive strides have been made in the exciting new field of oceanography; new laws protecting the environment have been passed; the Coast Guard has been strengthened and expanded; and the resources of the sea have been protected and promoted.

EDDIE GARMATZ has served his district, State, and Nation in an exemplary manner. The people whom he loved and served so well over so many years have lost a forceful friend on Capitol Hill.

I wish for him and his devoted wife Ruth, every success and happiness in the years to come.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks in the RECORD on this subject.

The SPEAKER. Is there objection to the request of the gentleman from Virigina?

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, as all of the Members know, our distinguished colleague from the State of Maryland, the Honorable EDWARD A. GARMATZ, decided earlier this year not to run for reelection and will be retiring from the House of Representatives at the end of this term. And because EDDIE GARMATZ will be missed in the 93d Congress, I think we should tell him now how much we appreciate his service to the people of the United States and how much we appreciate what he has contributed to the smooth operations of the House of Representatives in his capacity as chairman of the Committee on Merchant Marine and Fisheries.

On July 15, Congressman GARMATZ observed the 25th anniversary of his first election to Congress. During those 25 years he has worked for and supported some of the most important legislation passed during the history of this Republic, legislation which helped to shape a vibrant world economy growing out of the ashes and destruction of World War II. Congressman GARMATZ has always voted for things which will help the average family, the rank and file of American workers and their dependents and also the elderly retiring after a lifetime of hard work.

Representing a maritime city, one of the great ports of the United States and of the world, the city of Baltimore, Congressman GARMATZ has worked with all of his heart and all of his energy to advance and strengthen the maritime industry of this country. But as chairman of the Merchant Marine and Fisheries Committee he has also been deeply conscious of the importance to the people of the United States of the broad range of other legislation within the jurisdiction of our committee.

He has been instrumental in placing this committee in the forefront of the effort to rescue the American environment from all forms of pollution. He has worked hard on conservation issues generally.

But primarily, EDDIE GARMATZ has been "Mr. Merchant Marine" in the Congress of the United States. He has handled before the House with skill and dedication far-reaching bills to authorize the construction of American flag vessels of every type, and then has done his best to make it profitable, or at least practical, for those ships to operate under the American flag. It has not been an easy assignment. Competition among maritime nations is so intense that without the legislation EDDIE GARMATZ has sponsored and pushed through Congress, our flag would certainly have disappeared from the high seas.

The maritime industry knows this and so do the Members of Congress. Unfortunately, the importance of our merchant shipping fleet to the economy of this country and to our national defense is not recognized by the American people to the extent it should be.

As he prepares to cast the final votes in the remaining days of this Congress, and to gather together the books and documents and hearings and committee reports and his extensive correspondence covering 25 years of devoted service as a Member of Congress, Chairman GARMATZ has the rare satisfaction of knowing that he has earned not only the affection and good will of his colleagues in this body, but also our deep respect for his ability as a legislator. Whatever he does after leaving the House at the end of his distinguished congressional career of more than 25 years, he will carry with him the best wishes and the warm regards of everyone who has served with him in the Congress.

EDDIE GARMATZ has always been a strong and solid Democrat who believes sincerely in the principles and programs of the Democratic Party. But this has not prevented him from working effectively and graciously with those of the opposite party in behalf of causes in the national interest. I am therefore most gratified that the ranking minority Member of our Committee, the gentleman from Washington (Mr. PELLY) has joined me in requesting this time in order that the Members of the House on both sides of the aisle can participate in this demonstration of our respect for a Colleague whose friendship we treasure. I do not know of anything EDDIE GARMATZ could do after leaving Congress that would bring him more satisfaction and enjoyment than the work he has done so well for so long as a Member of the House of Representatives, but in view of his decision to retire, we can only wish him the very best that life has to offer and assure him that his place in our esteem is, and always will be, at the very highest. Good luck, EDDIE; good health and may God bless you for what you have done in behalf of the people of this country, the economy of this country, and the cause of freedom in the world.

Mr. GOODLING. Mr. Speaker, EDDIE GARMATZ, my good friend and colleague, is everything you would want to find in a chairman for an important committee of the House of Representatives.

He is competent, having a wonderful grasp of the intricacies of maritime and fishery problems, along with a thorough understanding of the vital needs of our merchant marine fleet. He knows how to set up committee meetings so that the best results can be obtained in the least amount of time.

He is fair, providing an opportunity for all parties interested in a bill before his committee to be heard. He feels that the best and fairest bill is one that is refined through the filtering process of vigorous pro and con exchange.

He is cordial, always displaying courtesy with witnesses who appear before the committee and always friendly with committee members. He is quick to give recognition to the fine work performed by committee staff members, and finds it easy to extend compliments for a job well done.

Most important of all, he is a warm personality that has gained the admiration and affection of all those who associate with him. He has won respect not only because he has earned it, but because he has freely given it.

EDDIE GARMATZ' departure from the Congress will leave a great vacuum. As he leaves this legislative body in which he served so long and well, I sincerely wish that his harvest of contentment is proportionate to the contribution he has made to his constituents, his committee, the House of Representatives, and his country.

So long, and good luck, Mr. Chairman.

Mr. SIKES. Mr. Speaker, I am pleased to join today in paying tribute to my good friend and colleague, the Honorable EDWARD A. GARMATZ, who is retiring from Congress at the end of the current session. He has represented the Third District of Maryland for the past 25 years and there is abundant record that he has done so ably and well with complete dedication not only to his State but to the Nation as well. EDDIE GARMATZ has been an exemplary public servant. He has been a foremost patriot. He has demonstrated many times not only political courage but a high order of selflessness in service to our Nation. He has been faithful to friends, a hard-hitting but fair partisan, a dynamic and effective leader. He has made valuable contributions to the House Committee on Merchant Marine and Fisheries and has served as its chairman for the past 6 years. He has demonstrated time and time again his able and forceful manner as a legislator and a leader.

It has been my good fortune to know and serve with Congressman GARMATZ and, we will certainly miss him very much in this body. I heartily congratulate him upon his fine service and wish for him and his family all choicest blessings of continued good health, happiness, and peace for many years to come.

Mr. MORGAN. Mr. Speaker, I want to join with my colleagues in paying tribute to EDDIE GARMATZ who is leaving us after 25 years' service in the House.

I had been here only a year when EDDIE began his long and distinguished service in the House of Representatives, and we have been close friends ever since.

His service on the Committee on Merchant Marine and Fisheries, in recent years as chairman, has caused his name to be known in shipping circles throughout the world. The House has benefited from the store of knowledge he has accumulated over the years, and we will all miss his counsel and guidance.

There have been numerous occasions when matters of primary concern to the Committee on Merchant Marine and Fisheries have had important foreign policy aspects. There have also been issues with which the Committee on Foreign Affairs was directly concerned which had an impact on the work and interests of the Committee on Merchant Marine and Fisheries.

EDDIE GARMATZ and I have always been able to talk frankly with each other on issues before our committee in which we had a mutual concern. I welcomed his thoughtful observations and suggestions. He always put the interest of the country over all other considerations.

I will miss EDDIE GARMATZ, not only as a wise counselor but as a good friend. He takes with him my best wishes for many more years of public service in whatever endeavor he chooses.

Mr. FREY. Mr. Speaker, 4 years ago when I came to the Congress, I was fortunate in being named to the Merchant Marine and Fisheries Committee. As a member of this committee, I was able to see first-hand what an outstanding job its chairman, Congressman EDDIE GARMATZ of Maryland, was doing and how much his guidance was meaning to the entire country. Under his leadership, landmark legislation has been enacted. The Environmental Protection Agency was established, and we now have the basis for the rejuvenation of our merchant marine fleet. Time and time again, his outstanding leadership has been demonstrated by the quality of legislation emanating from his committee.

We will miss EDDIE GARMATZ, but I congratulate him on his many years of service and dedication to his Nation, his State, and the people of the Third District of Maryland. And I join with his colleagues in wishing him a most successful and rewarding retirement.

Mr. SPRINGER. Mr. Speaker, I want to thank our distinguished colleagues from Missouri (Mrs. SULLIVAN) and Washington (Mr. PELLY) for arranging this tribute to the retiring chairman of the Committee on Merchant Marine and Fisheries, our good friend EDDIE GARMATZ.

EDDIE is leaving the Washington scene after 25 years of distinguished service on Capitol Hill. A product of the Baltimore public schools and the Polytechnic Institute, he was in the electrical business and in local politics in Baltimore before his election to the House in 1947 to fill a vacancy. He was reelected to the 81st and each succeeding Congress.

As chairman of the Merchant Marine and Fisheries committee, EDDIE has performed extremely valuable service for not only the people of his own great State of Maryland but also for the other maritime States whose economies are so dependent on the health of the shipping and fishing industries. They will miss EDDIE GARMATZ and so will all of us in this Chamber who have enjoyed his friendship over so many years.

Mr. REUSS. Mr. Speaker, I join in saluting Congressman EDWARD GARMATZ as he nears the end of 25 years of service in this body to his district, the State of Maryland, and the Nation.

I have been honored to serve with EDDIE GARMATZ on the Government Operations Committee and on its Special Studies Subcommittee, and recently to work with him as the subcommittee has taken a close look at what can be done to ease the problems of the aging in this country.

Representing a district which includes the great seaport of Baltimore, EDDIE GARMATZ was naturally drawn to maritime problems. The interest led him to membership on, and then chairmanship of, the Committee on Merchant Marine and Fisheries, where he gained his prime public identification as a leader in the fight to revitalize our sagging merchant marine.

His work was instrumental in passage of major environmental measures, including the National Environmental Policy Act, endangered species legislation and a variety of bills designed to protect fish and wildlife values.

EDDIE GARMATZ leaves behind him a record of which he can be proud. I wish him all the best as he returns to private life.

Mr. ANDERSON of Tennessee. I wrote the following letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 12, 1972.

Hon. EDWARD A. GARMATZ,
Chairman, Merchant Marine and Fisheries Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: When you leave the United States House of Representatives, the American people will have suffered a tremendous loss, for you have been a stalwart champion of the American maritime and fisheries industries and the welfare of the nation for 25 years.

I, personally, will miss you as a friend and adviser. I have learned much from you during the eight years I have been privileged to serve with you in the House, and I am very grateful for the many kindnesses and courtesies you have extended to me.

Thank you for having served the people of Maryland and of the United States so well for so long. You will, indeed, be missed.

I hope that you will return to visit with us often. I envy you your retirement from the House in the beautiful City of Baltimore, but I know you too well to believe that you actually plan to retire. We expect to hear much more from Eddie Garmatz in the years ahead, and we welcome the prospect.

A fond farewell to a friend and colleague.

Sincerely yours,
WILLIAM R. ANDERSON.

Mr. HATHAWAY. Mr. Speaker, it gives me great pleasure to join with our colleagues in saying a fond farewell to our good friend EDDIE GARMATZ.

Chairman GARMATZ has done an outstanding job as a Member of the House and especially as chairman of the House Merchant Marine and Fisheries Committee. Under his leadership and guidance we have witnessed the establishment of many programs to assist the fishing industry and to build up our merchant marine fleet. The chairman's efforts in behalf of our merchant fleet are especially notable in the enactment of the Merchant Marine Act of 1970. I was privileged to work with the chairman as a member of the Merchant Marine and Fisheries Committee on this landmark legislation. I greatly benefited from the chairman's expertise on merchant marine and fisheries matters, and I shall always be grateful to EDDIE GARMATZ for his many kindnesses to me as a member of his committee and as a colleague in the House, and I shall always treasure his friendship.

EDDIE, I extend to you my very best wishes for every future happiness. We will miss you.

Mr. CORMAN. Mr. Speaker, I wish to associate myself with the tribute being paid here today to our distinguished colleague, EDDIE GARMATZ.

For 25 years, as a Member of the House, Congressman GARMATZ has served his district, his State, and the Nation with deep devotion and dedication. His chairmanship of the House Committee on Merchant Marine and Fisheries has been outstanding.

EDDIE GARMATZ has always been, and I am sure he will always remain, a fine public servant. As he leaves here, he carries with him not only deep regret about his decision to retire, but also the affection, respect and admiration of all who know him and have worked with him.

I extend my best wishes to EDDIE for contentment and happiness in the years ahead, and hope that he will always remember he will be sorely missed in these halls.

Mr. FUQUA. Mr. Speaker, the House of Representatives is going to miss the leadership of a great American when EDDIE GARMATZ retires with the close of this Congress. Few men have represented their constituents with greater concern and sincerity. EDDIE's service in this body for a quarter of a century has been inspiring indeed and I am proud to have served with him during my years in Congress.

We both serve coastal districts and I have appreciated the reasoned concern that he has shown for our merchant fleet and those citizens who depend on the oceans for their livelihood. The chairman has guided many bills through the legislative process which contribute to the research and development of commercial fishing and have made possible the prudent harvesting of food sources.

It has been my pleasure to serve with EDDIE on the House Committee on Government Operations and I have found him knowledgeable and responsive to the demands of that assignment. He will be truly missed by me and the rest of my colleagues in the House and the void he leaves will be difficult indeed to fill.

I wish EDDIE every happiness in his retirement years and appreciate this opportunity to pay tribute to my friend and colleague.

Mr. RHODES. Mr. Speaker, it is with real regret that I see my friend, the Honorable EDWARD A. GARMATZ, leave the House of Representatives at the end of this session. In every respect over the 25 years that he has served, EDDIE has been a fine Congressman. He has provided strong and responsible leadership to his committees and colleagues; he has been the good right arm of the citizens of Maryland's Third District, to whom he has given devoted and loyal service; he is a patriotic and proud American who has worked untiringly for the betterment of his country. EDDIE will be greatly missed—but he leaves his friends in the House with fond memories and takes with him only good wishes for the days ahead.

Mr. ASPINALL. Mr. Speaker, I wish to join with our colleagues as we pay tribute to the fine and effective service of the Honorable EDDIE GARMATZ, chairman of the House Committee on Merchant Marine and Fisheries.

Throughout my years here in Congress, it has been my pleasure to know and work with this outstanding and respected member of the House of Representatives. His work as chairman and member of the Merchant Marine and Fisheries Committee has brought him in close contact with the work which has been my responsibility here on the Hill. He has always been friendly and cooperative, and it has been a joy to work with him. Even in our necessary differences his understanding and pleasing personality has helped bridge many difficulties that we might otherwise have had.

During my membership in this great House, EDDIE GARMATZ has been favorably known and respected not only for his work, but for his congenial and friendly personality. He shall be sorely missed in the days ahead. However, he leaves with a fine record of accomplishment and the Congress and the people of the Nation are his debtors because of his service among us.

Mr. ROYBAL. Mr. Speaker, It is a privilege to join with my colleagues in paying tribute to the Honorable EDWARD A. GARMATZ, whose distinguished career in the House of Representatives is drawing to a close after 25 years of dedicated service.

As chairman of the Merchant Marine and Fisheries Committee, he has continually demonstrated his leadership, diligence, expertise, and ability. I know that he will be sorely missed by all who have had the opportunity to work with him.

EDDIE GARMATZ has made a record here of which he can be extremely proud and he will, I am confident, continue to contribute significantly to the well-being of the Nation.

I extend to him my sincere best wishes as he prepares to return to private life.

Mr. DERWINSKI. Mr. Speaker, I am pleased to have this opportunity to join the many friends of EDDIE GARMATZ in honoring him upon his retirement. He has been a very effective legislator and has earned the respect of all of his colleagues who were privileged to know him well.

EDDIE was an outstanding chairman of the Merchant Marine and Fisheries Committee as evidenced by the very successful functioning of the committee under his jurisdiction. He will long be remembered by us for the high standard of public service he set throughout his career.

Mr. BYRON. Mr. Speaker, today the 92d Congress reluctantly bids farewell to a colleague who has diligently and loyally worked for the betterment of our country in the highest traditions of public service.

EDWARD A. GARMATZ is stepping down on his own accord after 25 years of representation to the citizens of Maryland's Third Congressional District. When he first came to Congress in 1947 he set out on a distinguished career which was to make him the champion of the American merchant marine and the entire maritime industry.

He fought for upgraded safety standards aboard passenger ships of all countries, he toiled vigorously to revitalize our merchant fleets, he aggressively espoused the cause of our American fishermen to protect them from illegal seizures and harassments and he crusaded outspokenly against foreign fishing vessels that poached in American waters.

As chairman of the Merchant Marine and Fisheries Committee he was instrumental in the enactment of the Merchant Marine Act of 1970 which is designed to rebuild our Nation's prestige in the area of modern merchant marine.

I have had the pleasure of knowing Chairman GARMATZ over the years and have experienced the pleasure of working under his leadership of the Maryland Delegation during the last 2 years. I will miss him personally—we all will miss him. But one thing is certain, EDWARD GARMATZ has left his mark on Congress and our Nation and his works and deeds will never be forgotten—by you, or I, or the fishermen and seamen he loyally served. Mr. Chairman, I hope you will have many years of good health and enjoy the retirement years you so richly deserve.

Mr. GIAIMO. Mr. Speaker, I am pleased to have this opportunity to express my great esteem for a man who has been a dedicated Member of this Chamber for over a quarter of a century. EDWARD GARMATZ, U.S. Representative from the city of Baltimore, has enjoyed a distinguished career in the House of Representatives since he first entered this hall for the opening session of the 80th Congress.

This man's greatest service however, has been performed in another room on the Hill, the meeting room of the House Committee on Merchant Marine and Fisheries, where EDDIE GARMATZ has presided as the distinguished and dedicated committee chairman. His determination and leadership in effecting consideration and action on much important legislation to improve the maritime and fisheries industries in the interest of the national welfare have earned him the respect of not only his fellow committee members and the majority of his colleagues throughout the Congress, but also of his constituents in Maryland and many appreciative citizens throughout this country.

It is satisfying to know that, along with the contributions and associations he leaves behind for our benefit, EDDIE will also be taking with him scores of fond memories of his vast career, spanning five eventful and diverse administrations. He has had the privilege of witnessing the recent history of our country and Government from a special vantage point only a limited number of men can occupy for any extended period of time. It is from that vantage point that one begins to develop a broader picture of world events, a picture that can only be clarified by a "stepping away" in order to gain the necessary perspective for evaluation.

EDDIE GARMATZ will now have this opportunity to "step away" and study the order of things. As he does so, I would like to offer him my heartiest congratulations and warmest wishes for the future. I hope that he does not allow the short distance from his home in Baltimore to prevent him from revisiting, and thus honoring, his long-standing home in the House of Representatives.

Mr. DELANEY. Mr. Speaker, I am happy to join my colleagues today in paying tribute to the highly esteemed gentleman from Maryland, the Honorable EDWARD A. GARMATZ, who has chosen to retire at the end of the 92d Congress.

EDDIE GARMATZ is a man of warmth and dignity, who has given much of himself to render outstanding service to the people of his district and to the Nation at large. He has earned the trust and respect of his colleagues on both sides of the aisle, and those who have known him as an opponent on some issues have never lost their sincere respect for him as a man of great decency and integrity.

His effectiveness as chairman of the great Committee on Merchant Marine and Fisheries is well known, and we were fortunate to have the benefit of his leadership and expertise in this field that is so vital to the national interest.

ED GARMATZ will leave this Chamber secure in the knowledge that he has given many years of service that possibly might be matched, but can never be excelled.

It has been a genuine privilege and pleasure to have known him and worked with him. As EDDIE GARMATZ ends his service in the House, I wish him many happy and productive years in his future endeavors.

Mr. MONAGAN. Mr. Speaker, the retirement of my good friend and colleague, EDWARD GARMATZ of Maryland, from the House marks the departure of a valuable and dedicated Member who has served his constituents and the Nation for a quarter of a century.

Consistently reelected to Congress since the 80th Congress, ED GARMATZ has gained national recognition as the champion of the American merchant marine and the entire maritime industry. As chairman of the House Merchant Marine and Fisheries Committee he has striven to revitalize our declining merchant marine and to that end he has supported and guided through the House numerous legislative proposals including legislation which is designed to build 300 modern merchant vessels in the next decade, the Merchant Marine Act of 1970.

ED has also striven to guarantee that high standards of safety are maintained both here and abroad in the maritime industry for the greater protection of American employees, passengers and property.

A strong advocate of America's position on the seas, he has worked to protect American fishermen from illegal seizures and harassment and has been outspoken against the intrusion into American waters of foreign fishing fleets.

Congressman GARMATZ has also served with distinction on the House Government Operations Committee and is a ranking member of the Subcommittees on Legislation and Military Operations and Special Studies.

I personally shall miss ED and I hope that he will have a happy and fulfilling retirement.

Mr. PATMAN. Mr. Speaker, may I join at this time in paying tribute to a respected colleague, the distinguished dean of the Maryland delegation, the Honorable EDWARD A. GARMATZ, with whom I have had the privilege of being associated in this Chamber for a quarter of a century.

EDWARD GARMATZ entered the House of Representatives with an excellent and firm background in business and public service. During his many years in this House, he has earned the esteem and admiration of his colleagues through his steadfast and heartfelt concern for the welfare of this Nation and by his remarkable dedication to the needs and interests of the people of his District. He has served with high distinction as chairman of the Committee on Merchant Marine and Fisheries, a position from which he has been a powerful force to infuse new life into the merchant marine which is so critical to our country's economy and an important adjunct of our national defense. The citizens of my own great home State of Texas, which is fifth in the Nation in miles of coastline, have had occasions to be grateful to Mr. GARMATZ for his wonderful leadership in programs to strengthen our oceanborne commerce and vital lifelines.

On the occasion of his impending retirement, I would like to express to EDDIE my very best wishes for a continuation of the outstanding success that has marked his brilliantly constructive career. He is a statesman and a patriot and he will always be a champion for the American people.

Good luck to you, Mr. GARMATZ.

Mr. RODINO. Mr. Speaker, those of us know him well can readily attest to the deep sincerity and the extreme conscientiousness my colleague and friend, the Honorable EDWARD GARMATZ, has continually demonstrated over these 25 years. He has carried forth the responsibilities and commitments of his chairmanship with the devotion, the sensitivity, leadership and the tenacity which deserves only the highest of praise.

Having worked so closely with EDDIE GARMATZ, I have grown to respect and to admire his thorough approach to all matters brought to his attention and his firm commitment to the preservation and the enforcement of just rights for all. We will surely miss his presence among us come January. Yet, Mr. GARMATZ can depart from these Chambers with the knowledge and the personal satisfaction that he has surely served his constituents and the citizens of this entire Nation well.

Mr. LENNON. Mr. Speaker, it has been a special privilege for me to have served for 16 years on the Committee on Merchant Marine and Fisheries with our colleague, EDDIE GARMATZ. He has ably chaired this committee for the past 6 years.

I know no more dedicated and conscientious Member of the Congress. There is no one more concerned about our maritime and marine interests, or more knowledgeable of the problems and the importance of this vital field of our economy and national defense. His effective leadership has produced a legislative record replete with landmark achievements.

I am deeply fond of EDDIE as a personal friend. I am grateful for the benefit of his cooperative understanding, keen judgment, and his always helpful counsel. To have been closely associated with this outstanding committee chairman and legislator will remain one of the cherished highlights of my service in the Congress.

EDDIE, I proudly salute your distinguished service to your constituency and to our Nation. You and Ruth have the best wishes of Kay and AL LENNON for a retirement filled with relaxation, good health, and happy days.

Mr. KARTH. Mr. Speaker, it has been an honor and privilege to serve on the Merchant Marine and Fisheries Committee under the dedicated chairmanship of Representative EDWARD GARMATZ. Under his steady leadership this committee has helped to revitalize the shipping industry in this country for the benefit of all of its citizens. And as the focus of public attention became more and more concerned with conservation, the importance of Congressman GARMATZ' leadership once again came to the forefront. As Chairman GARMARTZ retires after 25 years of service to the country and his district, we should also recognize his leadership on the House floor. It is a wise and effective leader who has the respect of both sides of our aisle, and ED GARMATZ has that respect.

When the 93d Congress convenes this coming January we shall miss Chairman GARMATZ' wise counsel and leadership.

Mr. ANDERSON of California. Mr. Speaker, I wish to join with my colleagues who have expressed tributes to EDDIE GARMATZ, a great American who has made a lasting mark in the U.S. Congress as a leader in the improvement of the maritime and fisheries industries, and the national welfare.

The House of Representatives and the Nation have indeed been privileged to benefit from his efforts, especially through his long and tireless service as chairman of the Merchant Marine and Fisheries Committee where he has applied both wisdom and understanding to the problems of our shipping and fishing community.

It is with profound regret that this body will no longer be graced by the wisdom, the judgment, and the intelligence of this distinguished gentleman and friend.

Mr. Speaker, as a member of the Merchant Marine and Fisheries Committee for the past 2 years, I have felt extremely fortunate to serve with Chairman GARMATZ, and to admire his courage and his legislative skill as he articulately spoke in behalf of the causes of our country.

As our friend and colleague approaches a well-deserved retirement, he can be assured that what he has accomplished, what he has stood for, will live to serve the future for the betterment of all.

Mr. PELLY. Mr. Speaker, rising to say a few words about the chairman of the House Merchant Marine and Fisheries Committee, EDDIE GARMATZ, I am mindful of an old saying that the best way to make a friend is to ask him a favor. Well, ever since EDDIE GARMATZ became chairman, I have asked favors of him and certainly the result has been a wonderful friendship.

Mr. Speaker, as ranking Republican of the Committee, I was always asking favors; I wanted a more adequate minority staff, I wanted hearings often on very short notice on my administration and personal bills. I wanted these reported to the House favorably and promptly. I wanted certain people on my side of the aisle appointed conferees with the Senate on certain measures and often requested that he make appointments to subcommittees or as special observers to our committee to various important international meetings. I guess, you might say, I always wanted my chairman's help on something and now I can say he never turned me down. Furthermore, the longer we served together the better friends we became.

Mr. Speaker, this close relationship resulted in a consistent effort on our part to benefit the American Merchant Marine and other important agencies under the jurisdiction of our committee. Important legislation has resulted to benefit our American fishing industry and also to fill the need for legislation to improve the environment and to increase conservation.

So all that remains for me at this time is to publicly thank my colleague as I have done privately for his great contribution to the national interest and likewise for the privilege of working with him.

Mr. Speaker, never once in these many years did my chairman fail to respond when I needed his help. So, for the administration and for myself personally, I offer my most heartfelt thanks. I could not have had greater cooperation.

My wife joins me in wishing EDDIE GARMATZ well in the future. Meanwhile, he has been a great chairman and deserves fully a long and happy retirement.

Mr. CONTE. Mr. Speaker, it is with profound regret that the House of Representatives bids farewell to our distinguished colleague from Maryland, Ed Garmatz.

As chairman of the Committee on Merchant Marine and Fisheries, he has shown himself to be one of the hardest working and most competent men in Congress. In his 25 years as a Member of this House, his longstanding interest in and innumerable hours of work on maritime matters have been a credit to his constituents in the great port city of Baltimore, to his State, and to the Nation.

Ed Garmatz, in the best sense of the word, has been a true professional. He is a man who has enjoyed the political life, and has enriched it immensely. As one who has had the privilege of watching him and working with him since I first came to the Congress, I too can attest to the profound respect he has earned from all his colleagues.

Mr. Speaker, I am sure it is hard for all of us to imagine Ed in retirement. One thing we can be sure of is that Ed Garmatz is not headed for a period of inaction. He knows only one way to live a life, and that is to live vigorously. We can be certain, as he leaves this House after a quarter century of public service, that Ed Garmatz will continue to serve the public good in other places and other ways.

Mr. ICHORD. Mr. Speaker, earlier this year when I heard the news that one of the ablest Members of this House was adding his name to the many of our colleagues who are retiring at the end of this 92d Congress, I could hardly believe the report.

The man of whom I speak is one of the most respected and effective committee chairman we have and the youth and vigor he contributes to our legislative work belie the suggestion he is even eligible to retire.

I speak, of course, of Congressman Edward A. Garmatz, that distinguished Marylander who has so long guided the fortunes of the Merchant Marine and Fisheries Committee. I know of no man who has made a greater contribution to the critically needed development of America's port and shipping facilities. His work has been acknowledged, by those far more expert than I, to have been outstanding.

He has served his Baltimore constituency ably since coming to the House in 1947 and, throughout the Nation, he is recognized as a powerful voice on the "Hill" for the interests of organized labor, for our shippers, importers and exporters, and for the kind of people who make up his constituency—Mr. and Mrs. America, the man on the street in our urban society .

I believe I can say for all of my colleagues that Ed Garmatz is looked upon as a chairman who is eminently fair, high principled and very understanding. His presence in this chamber will be sorely missed. I join in wishing him the happiest of retirements.

Mr. JOHNSON of California. Mr. Speaker, it is a pleasure to join my colleagues today in paying tribute to the Honorable Eddie Garmatz, who is retiring after 25 years of loyal service in the House of Representatives.

As we all know, Eddie has contributed so much to the maritime and fisheries industries and to the welfare of his district, his State and the Nation.

Since I was first elected to the Congress Eddie has been most helpful to me in matters affecting the State of California, and he has always been willing to assist his colleagues. I want to thank him for his assistance and commend him on a job well done.

It has been a privilege and a pleasure to serve in the House of Representatives with Eddie. His leadership, his guidance and his dedication will be missed in future Congresses.

Mrs. Johnson joins me in wishing him a long, healthy and happy retirement.

Mr. ADDABBO. Mr. Speaker, for the past 25 years Eddie Garmatz has given dedicated service to his constituents, to his State and to his country.

Under his chairmanship during the past 6 years, the Merchant Marine and Fisheries Committee has initiated and pushed through many bills which contributed significantly to the maritime and fisheries industries of this Nation.

While our colleague has earned the right to retire by his long and outstanding service, I express regret that he has decided to leave. He takes with him the good will of all of us who have had the pleasure of knowing him over the years.

The knowledge and judgment which he possesses are the result of years of hard work and diligent effort. This body will be poorer without his presence.

I join with my colleagues in wishing Eddie Garmatz continued good health and happiness in the years ahead.

Mr. METCALFE. Mr. Speaker, I am very honored to have been a member of the Merchant Marine and Fisheries Committee with Chairman Edward Garmatz who is retiring at the end of this Congress.

The chairman has been a member of the U.S. House of Representatives for the last 25 years, six of which he has served as chairman of the very important House Committee on Merchant Marine and Fisheries. Having served on that committee with him, I have come to know him as a dedicated servant of the American people. He is first and foremost an American of the highest order. He has worked hard to protect American shipping rights around the world while working diligently to promote the American merchant marine.

One only need look at the record of our distinguished chairman and he will see that when the going gets tough, Edward Garmatz is in there fighting. For example, the Merchant Marine Act, 1971, represents only one of the times that the chairman has worked to promote the well-being of the American merchant marine. This law provides that 300 highly productive ships will be built over a 10-year period. This is all the more impressive when one considers the fact that this is the first time in many years that our merchant marine has been overhauled.

With the knowledge that our merchant marine was going to be the finest, Mr. Garmatz strove during this Congress to bring the productivity of the American flag ships up to par with the rest of the world. The chairman introduced the cargo preference bill, H.R. 12324, which would require that at least 50 percent of all the oil imported into this country be carried on American flag ships.

The bill, controversial in its nature, has been opposed by the whole oil lobby, which has even asked the White House to intervene and prevent passage of this bill. Mr. Garmatz' will has not yielded to the pressures that exist; he is still determined to see this bill passed. That determination is what has marked the chairman throughout his career. It is further exemplified by the way he fought for and gained an upgrading of the safety standards aboard passenger ships of all nations. These are but a few of the many examples which prove that Edward Garmatz, an individual who has stood the ground for those things he believes, is a highly principled man.

I am sure that this is all a result of his background. Chairman Garmatz is a man who has come up through the ranks. His career began as an electrician's helper at the rate of 37½ cents an hour; and he is still carrying an active, up-to-date union card. He comes from an area that we can call a "melting pot" of all the nationalities and religions of the world. The chairman, himself, likes to refer to this areas as the "Little League of Nations." Like his constituents, Mr. Garmatz is down to earth, a grassroots type of person, who is direct and honest with all of the people.

We are going to miss this great man of courage and determination in Congress. He definitely has not outlived his usefulness to either his country or the world. We will miss everything about the chairman, and I know that I will miss him as a friend and a colleague.

Mr. GUDE. Mr. Speaker, I rise to share in tribute and to extend my warmest good wishes to my dear colleague and good friend, the Dean of the Maryland Delegation, Mr. Garmatz. My distinguished colleague is indeed a great friend who helped me to adjust and learn the ways of the House when I first came to the House. I think he helped me because he was interested in seeing to it that all of Maryland had the fairest representation and treatment, just as he has contributed so much to greater Baltimore and the entire State through his long service and chairmanship of the Merchant Marine and Fisheries Committee. My Maryland colleague fought for years to revitalize our ailing merchant fleet, and as chairman, was instrumental in the enactment of the Merchant Marine Act of 1970; the first concrete rebuilding program since 1936, this act is designed to build 300 modern merchant vessels in the next decade.

He also gained an international reputation for his courageous fight to upgrade safety standards aboard passenger ships of all countries and he was instrumental in encouraging foreign nations to adopt the higher American standards.

He has been extremely active in the entire field of maritime safety. He fought constantly to protect American fishermen from illegal seizures and harassments. In the same typical desire to protect American interests, he has often lashed out at foreign fishing fleets poaching in American waters.

But really his generosity and kindness were a mark of the man, a genuine decency, which his constituents had come to know as well. He has been a pillar of strength in the Maryland Delegation and in the House, and a warm friend to us all.

Mr. ANNUNZIO. Mr. Speaker, the distinguished chairman of the Merchant Marine and Fisheries Committee, the Honorable EDWARD A. GARMATZ of Maryland's Third District, is retiring after more than 25 years of service in the U.S. Congress.

Having served under his authority, as a member of the Committee on Merchant Marine and Fisheries, I have come to regard him as a man of high purposes and considerable accomplishment—an able, industrious co-worker of the finest kind.

EDWARD A. GARMATZ is a true son of Maryland, in every vital respect. Born in Baltimore some 69 years ago, he grew up and was educated in Baltimore, and attended the Polytechnic Institute before entering the electrical business, in which he proved a remarkable success. In addition to his commercial enterprise, he was associated for 3 years with the Maryland State Racing Commission and 3 years as a police magistrate.

During the Truman administration, in 1947, ED GARMATZ was prevailed upon to seek election to the seat left vacant by the retirement of Baltimore Congressman Thomas D'Alasandro—and in the ensuing canvass proved himself a vigorous and effective campaigner. He was duly elected, and took his seat as a member of the 80th Congress, in which he at once identified with the Fair Deal programs of President Truman, which then were under siege.

In the 1948 campaign, with President Truman the heavy favorite to lose, ED GARMATZ stumped his District talking up the President and Fair Deal policies. While others held back, fearing political disaster, ED GARMATZ campaigned like a whirlwind for Truman and the liberal cause. When the votes were in, the State of Maryland had gone Republican; but Baltimore went for Truman, and ED GARMATZ had carried his own District.

As a Congressman, he wanted to serve the port of Baltimore to the best advantage, and therefore sought and was accorded a position on the Committee on Merchant Marine and Fisheries. And with the passage of time, invaluable service to the committee, and repeated reelection by his grateful constituents, ED GARMATZ advanced to the exalted position of committee chairman, which position he holds today.

Upon assuming the chairmanship, ED GARMATZ found himself confronted by the fact of a staggering increase in Soviet merchant shipping, at the expense of American interests. And from the moment of his ascendency, as chairman, he has worked to alter the preexisting trend in this regard, to some considerable effect.

No harder working committee chairman is to be found in the halls of Congress today than this remarkable man, EDWARD A. GARMATZ, whose performance in the interest of our Merchant Marine has earned him the thanks of everyone concerned with every aspect of American commercial shipping, from coast to coast.

We shall be sorry to see him go, and I would like at this time to express my admiration for his magnificent performance in Congress over the past quarter century, in which he established himself as a major legislator, basically concerned for the interests of his District and his Country.

He is an outstanding public servant, a credit to the people of the State of Maryland, and a great American. He will be missed in the halls of Congress, both by his constituents whom he has served so well, and by his fellow legislators.

I would like to extend my congratulations to EDDIE GARMATZ for a job well done, and best wishes for the future.

Mr. EVINS of Tennessee. Mr. Speaker, as Congress nears adjournment at the conclusion of this session I realize regretfully that our colleague, EDWARD A. GARMATZ of Maryland, will not be with us in the 93d Congress.

The distinguished chairman of the Committee on Merchant Marine and Fisheries is retiring at the conclusion of this Session of the Congress and as he takes his leave of the House I want to join our colleagues from Maryland and others in paying a brief but sincere tribute to him and his record of public service in the Congress.

ED GARMATZ—a personable, genial friend—has served more than a quarter century in the Congress. We came to Congress together as classmates in the 80th Congress and it has been my privilege to watch EDDIE GARMATZ become one of the outstanding legislators in the House—one of the great chairmen in the Congress.

He has dedicated his career to strengthening the merchant marine and to developing the waterways of our country—much legislation bears his imprimatur.

Chairman GARMATZ has served his district, State and Nation faithfully and well and we shall miss him in the 93d Congress.

As he nears a richly deserved retirement I am sure all of us wish him good luck, good health and much happiness.

Mr. STUBBLEFIELD. Mr. Speaker, I am pleased and proud to join my colleagues in paying tribute to the outstanding character, dedication, and service of EDWARD GARMATZ. All of us who have had the privilege of knowing him and working with him will miss him terribly, and I am sure that his constituents in Baltimore will never find a more loyal, able or hardworking Representative than he.

Since 1947, when he first came to Congress, Representative GARMATZ has consistently upheld the proudest traditions of service in the House, and he has earned the respect and admiration of all who know him. His constituents, his colleagues, his fellow committee members, the members of the Maryland Delegation, and his many, many friends are saddened by the thought that the Nation is losing one of its finest servants, but we are united in wishing him the very best in the years to come.

In particular the House Committee on Merchant Marine and Fisheries will miss Representative GARMATZ' brilliant direction and expertise. As its chairman, he has made an inestimable contribution to the health and growth of one of the most vital areas of our economy. No one has worked harder or more effectively to find solutions to the pressing problems of our struggling merchant marine.

A true son of Maryland, Representative GARMATZ has maintained Baltimore's role as one of the great port cities of our Nation. He has fought to increase the flow of cargo around the world carried in American ships sailed by American seamen. He has not only sought solutions to problems of the present; he has looked ahead to plan for the future, to assure the continued growth and vitality of our merchant marine industries.

The retirement of EDWARD GARMATZ is a great loss indeed to his district, to Maryland, and to Congress, but the magnificent contribution he has made in a quarter century to service to the Nation remains with us. Once again, I am proud to join his many friends, colleagues, and admirers in wishing him the very best in the years to come.

Mr. DENT. Mr. Speaker, it has indeed been a privilege and a profound personal pleasure to have served with the gentleman from Maryland. I am certain that the work of the good gentleman, who has served faithfully as a Member of this Body for 25 years, will not quickly pass from memory.

The citizens of the Third District of Maryland will be hard pressed to find a servant as capable as he to fill his chair in the House. But I am sure they will be delighted to again have the gentleman from Maryland as a permanent resident in his home State once again. Although the gentleman from Maryland has undoubtedly earned the right to rest and enjoy his family, I doubt that he will cease to be an active and interested member of the community.

Though I do not know what his future pursuits may be, I am sure that his absence in the Congress will be felt. I wish to extend my personal best wishes for his good health and happiness.

Mr. JONES of North Carolina. Mr. Speaker, it is with pleasure that I join with others in paying tribute to the outstanding record of public service of Congressman EDWARD GARMATZ which he has rendered his own State of Maryland and the entire Nation during his past 26 years in the U.S. House of Representatives.

His able leadership as chairman of the House Committee on Merchant Marine and Fisheries, of which I have been privileged to be a member since coming to the Congress, has won him the respect and admiration of his colleagues. Due to his keen understanding and knowledge of vital legislation affecting the fishing, shipping, and related industries, as well as the U.S. Coast Guard, he is held in the highest esteem by both the military and business segments of our society. His presence in the 93d Congress will be missed, but all wish him a well-deserved retirement.

To him and his family, I join with his many friends in extending our hopes for many years of health and happiness in the years ahead.

WHO KILLED THE CONSUMER PROTECTION AGENCY BILL?

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. HOLIFIELD) is recognized for 60 minutes.

Mr. HOLIFIELD. Mr. Speaker, the 92d Congress is about to adjourn without passing the bill to establish an independent Consumer Protection Agency. It passed the House a year ago, but it died in the Senate. It was filibustered to death.

A golden opportunity was missed. This Congress and preceding ones have enacted many bills to help the American consumer, but the Consumer Protection Agency would have been, in a very special sense, the most important measure of all. It would have given consumers a spokesman and a defender in governmental affairs affecting their health and their safety, their well-being and their pocketbook. This consumer legislation would have been a new charter for consumer rights, a congressional declaration that consumers have co-equal standing with producers in the regulatory concerns of Government.

Why did the consumer legislation fail? We must ask that question, Mr. Speaker, because the people will be asking it, and we should try to give an answer.

The Washington Post, October 6, 1972, under the frontpage caption "Consumer Agency Killed by Senate," described the consumer legislation as "the victim of business lobbying, administration hostility and a Senate filibuster." These are the immediate reasons for the demise of the consumer bill, but another one lurks in the background.

The consumer bill was killed by some of its avowed friends as well as its enemies. Take Ralph Nader, who is reputed to be the great friend of the consumer. By insisting on the politically impossible, he helped us get nothing at all. He played into the hands of the business lobbies by his shrill denunciations of the House-passed bill—a bill he never seems to have fully understood.

The business lobbies were more politically sophisticated than Ralph Nader. He attacked them, and they used him. They got what they wanted—no bill at all. Perhaps he got what he wanted—an issue. The consumers of America are the great losers.

How did it come about? The crucial time was 1 year ago. Remember that the consumer bill passed the House on October 14, 1971 by an overwhelming vote of 344 to 44. A Senate subcommittee held hearings shortly thereafter, and Mr. Nader was a key witness.

What did this self-appointed consumers' advocate do? He urged the Senate subcommittee to lay the bill aside until the following year. This was done. The momentum of the House action was lost. The business lobbies had more time to maneuver. Nader's counsel of delay enabled the forces of obstruction to prevail.

Why did Mr. Nader press for delay? Well, he fancied himself a political expert, and the bill which we passed in the House did not suit him. He argued that if the Senate waited until this year—an election year—his kind of bill would stand a much better chance. Mr. Nader gambled and lost. And what the American people lost was the Consumer Protection Agency.

I do not want to exaggerate Mr. Nader's importance in influencing legislation, but neither do I want to underrate it. He had the greatest reputation in the country as the consumers' friend, and he misused that friendship. He became obsessed with maintaining his prestige rather than seeking practical means of getting legislation through the Congress.

The story of Mr. Nader's role in the failure of the consumer legislation bears telling in some detail, Mr. Speaker, because it is not well understood. There has been much error and confusion in the press coverage of this complicated affair. Also, some deliberate falsehoods have been bandied about by Mr. Nader or his partisans, I am sorry to say. Specific examples will be cited in these remarks.

The story starts a few years ago when Mr. Nader, working closely with some Members of Congress—whom I will refer to as the Nader group—developed legislation for an independent agency to serve as the consumers' advocate in Government. This legislation evolved from numerous ideas by Members of Congress and others concerning the functions and and location of a consumer agency in the executive branch.

One of these earlier proposals was an ambitious but impractical scheme to establish a Department of Consumer Affairs. Mr. Nader, to his credit, opposed the creation of such a department because he saw rightly that many operations and functions of Government involve or affect consumer interests. Rather than attempt to concentrate consumer functions in a single department, it was preferable to have a consumer advocate with authority and flexibility to champion the consumers' interests throughout the Government.

The Committee on Government Operations—I was not then the chairman—reported out a consumer bill in December 1970. It had Mr. Nader's approval. Indeed, it was, in significant part, his handiwork. At least the Nader group in Congress was quick to acknowledge his influence and his contribution.

Unfortunately, as so often happens when new ideas take legislative form, the bill was not too well drawn. Possibly it suffered from attempts to compromise too many conflicting ideas. There was too much duplication between an Office of Consumer Affairs and the Consumer Protection Agency, both provided in the bill. It carried no definition of "consumer" or "consumer interests," leaving uncertain its scope and coverage. It had excssively broad powers of investigation, including subpena, and additional authority to compel investigations by the regulatory agencies, which invited sharp controversy and the risk of rejection in the House.

The bill was stopped in the Committee on Rules. Members of that committee set forth a long list of objections to specific features of the bill, and in many ways, these were well taken. We were faced with a practical problem. If we wanted a consumer bill, it would have to be rewritten and recycled through the Committee on Rules. This meant no consumer legislation in the 91st Congress, even though the Senate had passed its own version of the bill on December 1, 1970, by a vote of 74 to 4.

In the 92d Congress, a new effort was made. A subcommittee under my direction went to work on consumer legislation. We held extensive hearings, consulted with experts, patiently examined suggestions from all interested parties, spent many long hours in markup sessions, and finally developed H.R. 10835. It was a new consumer bill, retaining much that was in the previous one, but carrying the necessary definitions, safeguards, and clarifications of scope and function.

This time the Rules Committee let it go through. Although not all its members were supporters of the consumer bill as reported by our committee, they recognized that we had done a workmanlike job and that the bill made more sense than before.

As the consumer bill progressed from my subcommittee to the full committee, and then to the House floor, we had to ward off disabling amendments from two sides.

The approach from the right, spurred by the business lobbies, would have limited the Consumer Protection Agency to an amicus curiae role, meaning a "friend in court" for the consumer, who would be relatively ineffectual—a mild, harmless sort of fellow, approaching the regulatory agencies with hat in hand.

The approach from the left, led by the Nader group, would have made the Consumer Protection Agency a super agency with unnecesary snooping powers—not a friendly harmless fellow with hat in hand, but a mean, nasty fellow with brass knuckles.

Yielding to the amicus curiae sponsors would have meant a weak bill. The heart of the new consumer legislation was the representational role of the Consumer Protection Agency. We wanted more than a friend of the court, we wanted a consumer advocate who could participate in old line agency proceedings.

Yielding to the Nader group would have meant defeat in the House of Representatives. Essentially they were aiming for a consumer agency which would be much more than an advocate and participant in proceedings of other Government agencies. Counseled by Nader, they wanted to make the Consumer Protection Agency a sort of regulatory agency in its own right, with wide-ranging investigative and subpena powers.

The House of Representatives chose to walk a middle path on consumer legislation. It passed a strong and effective bill. It chose not to pass the weakening proposal from the right or the unworkable proposal from the left.

This middle path made sense. It made sense politically because it was the best bill we could get. It also made sense administratively because the new agency would need a little time to get established, gain experience, and decide what else it needed in sources and authority.

The overwhelming vote in the House of 344 to 44 vindicated our position on the consumer bill. Both the amicus curiae and the Nader group amendments were defeated. Both had their day in court, both were tested in committee and in the House, both were defeated—by a constitutional majority.

Mr. Nader contended all the while that I was misjudging the sentiment of the U.S. House of Representatives, that I was proposing a bill unnecessarily weak—I doubt that he ever grasped its real strength. Instead of supporting the consumer bill as the best obtainable from the Congress, and as a sound base upon which to build for the future, he tried to tear it down. He did not want to take my political judgment; he wanted me to take his. The House votes on the bill and its amendments show as clearly as anything can show that my political judgment was right and his was grievously wrong.

Mr. Nader needed an explanation for the defeat of the Nader group in committee and on the floor of the House. Instead of taking his defeat graciously and according me at least the benefit of good intentions, he depicted me as not only a tool of business interests, but as a White House minion working in cahoots with Peter Flanigan and others to sabotage the consumer bill. He helped to spread false rumors and fanciful stories like the one in his little paperback study, "Who Runs Congress," that I was converted to President Nixon's ideas on the consumer bill after a ride on Air Force One. This is an outright falsehood.

I never discussed consumer legislation with President Nixon on Air Force One or anywhere else. I rode on Air Force One at the President's invitation once in my life, months before the consumer bill was actively before the committee. Since the purposes of that trip to California and that episode had nothing to do with consumer legislation, Mr. Nader's scribes saw fit to invent a second trip, which never took place. They had me riding on Air Force One again in mid-1971, at which time, according to this wholly imaginary account, I agreed to support "an administration version of a consumer-protection law."

This fiction was nourished by a Nader henchman and would-be lobbyist, one Gary Sellers. He spread the false rumor that I was peddling a "secret draft" of a consumer bill, prepared by White House aides, and he tried to persuade a Los Angeles representative of the Consumer Federation of America to organize a picket line in front of my district office in Pico Rivera, Calif. Failing in this, he arranged a picket line of his own. The pickets carried signs protesting this—wholly imaginary—"secret draft." This event was written up in the Los Angeles Times of November 3, 1971.

One of Nader's Raiders, by name Robert Scott Michaels, got so carried away with this conspiratorial theory that he gave angry press interviews in my district and even decided to run against me in the Democratic primary—until he found that he was not qualified. It seems that he had been registered as a Republican until a few months before he filed as a candidate.

The consumer bill was our own product. It was the result of painstaking work by the staff over a period of days and weeks. To suggest that the bill was drafted in the White House was not only false but malicious.

Of course, it was necessary to consult experts in the executive agencies on technical points in this complex legislation. One of those whom we consulted was Roger C. Cramton, then chairman of the Administrative Conference of the United States, a body of experts created by Congress to continuously study and recommend improvements in administration.

Even this fact was distorted. Mr. Cramton was made to appear in some news stories as an administration official, in effect a White House agent, shaping the consumer bill. I might add, Mr. Speaker, that the Senate committee also consulted Mr. Cramton. His advice was strictly professional and helpful with regard to administrative procedures, but in no sense did it reflect White House or administration policy positions.

Certainly there were administration spokesmen and executive agency officials who were opposed to the consumer bill or had specific reservations about it. Most of the regulatory agencies were opposed to an independent Consumer Protection Agency. The Federal Trade Commission wanted to acquire the consumer mission. The Office of Consumer Affairs, possibly torn between its professional interest and its understanding of White House opposition, had reservations about the bill. I am sure there were many in the executive branch and White House orbit who would have preferred that the bill die a natural death.

The White House record on consumer legislation, I might say, is a record of changing attitudes over a period of time, no doubt influenced by White House appraisal of the political necessities. In 1969 President Nixon had designated Mrs. Virginia H. Knauer as his Special Assistant for Consumer Affairs. In the face of mounting pressure for legislative action, the President proposed late in 1969 that there be established a statutory Office of Consumer Affairs in the Executive Office of the President and a new Consumer Protection Division in the Department of Justice. In February 1971, he created the Office of Consumer Affairs by executive order.

When we held hearings on pending consumer bills in April 1971, Mrs. Knauer, now Director of the Office of Consumer Affairs, appeared on the President's behalf and conveyed his views that legislative action should be deferred until the President could evaluate recommendations in a report of his Advisory Council on Executive Organization—Ash Council—that the consumer advocacy function be placed in a reorganized Federal Trade Commission.

On September 27, **1971**, a day after my Committee on Government Operations reported the consumer bill by a vote of 24 to 4, Mrs. Knauer issued a statement in support of this bill. To Ralph Nader that was proof of how bad the bill was. I prefer to think that the administration had enough political sense to see that the vote in committee pointed to preponderant support in the House, and that it was good politics to jump on the bandwagon. Whatever the White House motivations on the consumer bill, to suggest that I sold out to the White House was a bare-faced lie.

Mr. Nader not only suggested it, he encouraged or influenced dozens of articles excoriating the "sellout." Publications such as Progressive magazine and Consumer Reports, and various newspaper columnists and reporters, taking the Nader cue, ran articles linking me with the White House and Business interests in an alleged conspiracy against the consumer.

Some newspapers to this day repeat erroneous characterizations of the consumer bill, which appeared frequently in the press coverage at the time of the committee and floor debate a year ago. Recently, September 22, a writer in the Washington Post, not with intent to deceive but because of the legacy of misinformation in earlier press stories, identified my bill as carrying the amicus curiae concept put forward by filibustering Senators. When I wrote a rebuttal letter, the editor of the Washington Post added this italicized comment below the printed letter:

> *Mr. Holifield is correct.*
>
> See edition of October 2, 1972.

Many fictions were spread by Mr. Nader and his aides, but perhaps their crusading zeal made them engage in such fantasies. One of their more vivid fantasies was that the gentleman from Arkansas (Mr. MILLS) the distinguished chairman of the Committee on Ways and Means, was in the Nader camp. Mr. Nader widely advertised on the eve of the House debate on the consumer bill that the gentleman from Arkansas would support the amendments of the Nader group. When this proved to be fantasy and not fact, Mr. Nader made insulting remarks about Chairman MILLS.

In Mr. Nader's eyes the difference between a hero and a villain is whether or not one agrees with him. No matter that a man has a long and distinguished record of public service. If he does not play the Nader game, he is public enemy No. 1.

The Nader derogation of the consumer bill reached a peak when the bill passed the House by a resounding majority without the Nader amendments. Mr. Nader referred to the bill as a "legislative fraud against the consumers." He charged me with gutting the bill. He announced to the press:

> Chairman HOLIFIELD, the White House and the business lobbies have won today.

Then Mr. Nader, the self-appointed political pundit and legislative strategist, saw clearly what must be done: Dissuade the Senate from taking any action on such a terrible bill. Next year, in an election campaign, things would be better. The public, more sensitive to the political issues, would rally to the Nader cause. The politicians would be less inclined to vote the dictates of the special interests. The Nader bill would triumph.

So Mr. Nader thought—and so he argued before the Senate subcommittee which held hearings a few weeks after H.R. 10835 passed the House. Mr. Nader painted before the Senators a picture of a White House plot to run the bill through the Congress in a preelection year to avoid a stronger bill—meaning the kind of bill which Mr. Nader preferred.

Senator PERCY, a strong supporter of consumer legislation, asked a pointed question as Mr. Nader proferred his advice on political tactics: Would we not lose momentum for consumer legislation which had passed the House with such a resounding majority?

"No," said Mr. Nader, the political expert. In his view the momentum for consumer legislation really would be generated in the election year. He wanted action put off until then. That was his advice to the Senate subcommittee in November 1971.

Not only would the election contest generate Senate support for this kind of bill, Mr. Nader advised, but the Senators would gain points for bargaining with the House in conference. Listen to this, Mr. Speaker. Here are Ralph Nader's exact words to a Senate subcommittee during a colloquy with Senator Percy: "Have you ever talked to the senior members of the House of Representatives about how they view the Senators' role in a conference committee? To describe their attitude as utter contempt and overconfidence would be an understatement."

Mr. Nader, you see, is the expert on conference committees and bicameralism, the adviser on parliamentary and political tactics, the great student of the Congress. He has not served in elective office a single day, but he knows all about the political process. I have served in Congress 30 years, Mr. Speaker, and I am still learning about politics.

When I appeared before the Senate subcommittee, accompanied by Congressman FRANK HORTON, ranking minority member of my subcommittee, our advice was exactly the opposite of that urged by Mr. Nader. Here is what I said, Mr. Speaker:

> I would hope that your committee, in its wisdom, elects to report the House-passed version, in the interest of expediting action in this session of Congress. I would urge the subcommittee not to be persuaded by those who want no bill at all, or those who want an issue instead of a bill.

Note what I said:

In the interest of expediting action.

I could foresee that undue delay would jeopardize this legislation. The political momentum of the House-passed bill had to be maintained in the face of organized opposition, which could only get stronger as more time passed.

The Senate committee decided to put things off. They let a year go by. They did not get around to action on the consumer bill until this fall. That is what Mr. Nader had preferred.

The Senate Committee on Government Operations reported out S. 3970 on September 8, 1972. It accommodated Mr. Nader's concerns to some degree, but a careful reading will show that in the representational power—a key element—the Senate bill is much closer to the House bill than to the Senate bill passed in 1970, which Mr. Nader had endorsed. In any case, the new Senate bill died on the Senator floor, suffocated by a filibuster.

Through all the filibustering on the Senate side, nothing much was heard publicly from Mr. Nader until he dashed off a telegram to a one-time Nader Raider, Mr. Edward Cox, son-in-law of President Nixon—see Washington Post, October 3, 1972. Mr. Nader urged Mr. Cox to appeal to the President to save the consumer bill from a Senate filibuster.

This gesture to one of the President's in-laws was belated, futile, and ridiculous—belated because there was not time enough left in the session for the House and Senate to compromise their differences, even if the Senate could pass their own bill; futile because the kind of things Nader wanted in the bill could not get through the Congress; and ridiculous because a young son-in-law was expected to override the President's seasoned political advisers.

The only practical way to save consumer legislation in the closing days of the session would have been for the Senate to lay aside its own bill, blocked by a filibuster, and adopt the house version. In this way there would be no need for a conference. The bill could have been quickly passed and sent to the President for signature.

After three unsuccessful attempts in the Senate to break the filibuster on the consumer bill, the alternative of passing the House bill began to look more and more attractive to Senators interested in getting consumer legislation this year. Several of them appealed to the President to lend a hand in this effort. Mr. HORTON and I made a similar appeal. Evidently these appeals were of no avail, but at least they pointed to a practical means of getting the consumer legislation passed.

Now you see, Mr. Speaker, we do not have any consumer legislation at all. When H.R. 10835 passed the House last fall, I called it landmark legislation, while the Nader group scorned it as a fraud. Had the Nader group, and Mr. Nader himself, gone to the Senate last year, not to oppose our bill but to stand with me and support it, then the consumer bill would be the law of the land, and the Consumer Protection Agency would be a reality.

There is irony in all this, Mr. Speaker, and also an object lesson. Mr. Nader, who claims to be the consumers' friend, has been instrumental in denying to consumers an effective Government agency for their protection. The House bill did not measure up to his concept, and so he insisted on one which could not be passed by Congress. Perhaps he thought he was working for a better bill, but knowing nothing about politics, he worked for the unattainable. He helped to bring about precisely what the special interests wanted—no bill at all.

Mr. Nader thought he knew something about politics. He tried to instruct me on what kind of bill would get through this House. He undertook to advise the Senators on political tactics. His handiwork made the consumer bill an exercise in futility rather than a big step forward toward consumer protection.

There are those who say that Mr. Nader wanted an issue instead of a bill. They hazard the belief that this self-styled and self-appointed consumer advocate wants to be a one-man Consumer Protection Agency; that he is afraid that once the Agency is created by law, the steam will go out of his own enterprise and the sources of his financial support will dry up.

Perhaps so, Mr. Speaker, but I would prefer to identify a more serious issue. The policy of rule or ruin is uncongenial to a democracy. We, in this House, know that rigid adherence to doctrinaire positions is not the way to get legislation enacted.

We know that in areas of sharp controversy—and certainly the consumer bill was controversial—every reasonable effort must be made to compose differences in the interest of majority support. We know that in a complex society such as ours, conflicting interests and competing values must be reconciled in legislation if our society is to stay together, not fall apart.

Mr. Nader was not interested in the politics of constructive achievement. Yes, he played politics, but it was his own brand of politics, played according to his own rules. He wanted to rule or ruin. In the case of the consumer bill, saving face was more important for him than saving the legislation.

If I may draw an object lesson, Mr. Speaker, the Nader Congress project depicts, on a larger scene, what Mr. Nader failed to understand about the consumer bill. He tried to cast the Consumer Protection Agency in his own image. Now he wants to reorganize the Congress according to his own lights. Those who differ with him can expect to be maligned.

Taking on the whole Congress seems absurd to many but not to Mr. Nader. He is corrupted by the illusion of power. He seems to think that being on what he considers the right side of causes automatically endows him with superior wisdom. He criticizes not only the Congress as a whole but the committees, their chairmen, legislative tactics and decisions. His pervasive sense of righteousness leads him to believe that he knows more about legislation than the legislators.

The consumer bill, as passed by the House, is a case study for Mr. Nader's devil's view of the world. He was trapped by his own ambitions and the numerous misconceptions he spread about. His opposition to our bill was marked by increasing stridency and exaggeration. Never once did he state fairly the provisions of the House bill.

Now the legislative program for consumer protection lies in shambles. Its enemies have smelled blood and may have wrecked the legislation for years to come. Selfish commercial interests want no bill; sanctimonious fanatics want an impossible bill. Both pursue their aims at the people's expense. Ralph Nader's involvement in the legislative process had the same result as that of the special interests he deplores—he helped kill the Consumer Protection Agency.

THE HONORABLE JOHN L. McMILLAN

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. Dorn), is recognized for 60 minutes.

Mr. DORN. Mr. Speaker, it is a very distinct honor for me tonight to pay tribute to one of the greatest South Carolinians of our time.

John McMillan is not only a great South Carolinian, but, an able American who helped guide our national ship of state during critical and trying times.

John McMillan served in this august body for 34 years. For 10 years prior to that time he served with dedication as counsel of the District Committee and as secretary to Congressman Gasque.

Mr. Speaker, John McMillan has dedicated 44 years here on Capitol Hill, in the national arena, as a public servant in that long period of excelled public service. John McMillan earned the respect of countless colleagues, his constituency of South Carolina, and the American people.

John McMillan is an assuming, modest leader. He is a fine Southern gentleman with his bearing marked by the utmost courtesy and good manners.

As chairman of the District Committee, he was the guardian and champion of our Federal City. He believed in maintaining the Nation's Capital as envisioned by George Washington and the Founding Fathers of our country.

He provided the leadership for the District of Columbia during a tumultuous time of change. Washington today is emerging as one of the most beautiful, serene, and sophisticated capitals in the world—due in no small measure to the superb leadership of John McMillan.

"Johnny Mac," as he is affectionately known, in addition to devoting long hours to the Nation's Capital and to agriculture, devoted a special concern to those not as well off.

No request was too small to warrant his personal attention, no citizen so humble, or underprivileged, who could not find an audience with John McMillan. His congressional district blossomed, and progressed, under his guidance.

Florence, his home town, became one of the greatest commercial and industrial market centers in the Carolinas. Myrtle Beach grew from a deserted strand into one of the greatest recreational centers in the world.

John McMillan was born and reared on a farm—he devoted much of his talents to agriculture, and the development of rural America. Soil conservation, watersheds, farm ponds, and forestry throughout the Nation, are monuments to his foresight and love of rural America.

Agriculturalists in the United States will never cease being grateful to this champion of the farmer, with his rural philosophy that made America great.

As dean of the South Carolina delegation, he is loved and respected by his colleagues, and admired by the people of the entire State. Before the sessions of the Congress became so long, he inaugurated the policy of holding a public hearing in the State capitol with any citizen, regardless of station in life, invited to appear and make known his or her recommendations on national issues and policies.

Mr. Speaker, we will greatly miss, here in the Halls of Congress, this man of unquestionable character, uncorruptible honestry, and determined, courageous leadership.

We will miss his charming, cultured, and lovely wife Margaret, and his wonderful son Johnny. However, Mr. Speaker, I can assure you—he will be at home, and extend a welcome hand, in his beautiful city of Florence, to any of us who might have the pleasure to visit the great Pee Dee area of South Carolina.

Personally, I sought his wise counsel, and shall always cherish his friendship.

My wife Millie, and my children, join with me in wishing John McMillan much happiness, every success, and the very best always.

(Mr. DORN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, I am proud to rise in tribute to my good friend, John McMillan.

I regret that this must be a valedictory of parting for a man whose unswerving dedication has been to serve his people and his country in the Congress of the United States for 34 years.

My friend, John McMillan, has always been a gentle and courteous man—win, lose, or draw in the political wars where his convictions led him to take a stand. He stands here unbowed today.

Time, I am convinced, will prove that whenever he was forced to the wall of decision, he chose well, for his country, for her future, for her heritage, and her security.

No Congress, no country, can ask more of any man. He served for 34 years with the full might of his convictions, and he served with distinction. And I honor him for that and for being a gentleman, a patriot, and a friend I shall miss with everlasting regret.

Mr. LANDGREBE. Mr. Speaker, it has been my great privilege and pleasure to serve on the District of Columbia Committee since December 1967 with John L. McMillan, distinguished chairman of that important committee.

I have only the high words of praise for this fine, dedicated American and must confess that the news of his defeat by his own party caused me deep anguish and regrets. As Chairman John L. McMillan leaves the U.S. House of Representatives my most sincere best wishes go with him.

Mr. MONAGAN. Mr. Speaker, the retirement of my good friend and colleague, John L. McMillan, dean of the South Carolina delegation, from the House marks the departure of a valuable and dedicated Member who has served his constituents and the Nation for 34 years.

Consistently reelected to Congress since the 76th Congress, John McMillan has gained national recognition as the chairman of the House District Committee, a position in which he has served for 24 years. He has also represented the United States Congress as a delegate to the Interparliamentary Union in London in 1960 and again in Tokyo, Japan the following year.

Congressman McMillan has served with distinction on the House Agriculture Committee and is chairman of the Subcommittee on Forests and vice-chairman of the Tobacco Subcommittee.

I personally shall miss John McMillan and I hope that he will have a happy and fulfilling retirement.

Mr. JOHNSON of California. Mr. Speaker, it is a pleasure to join my colleagues in paying tribute to the Honorable John L. McMillan, dean of the delegation from the great State of South Carolina.

Since he was elected to the Congress in 1938 he has served his district, the State of South Carolina, and the Nation with distinction. As chairman of the Committee on the District of Columbia, and a senior member of the Committee on Agriculture he has been instrumental in having legislation enacted which was vital to the welfare of his district, the District of Columbia, and the Nation.

I want to thank Mr. McMillan for his cooperation and assistance, and to commend him on a job well done. His leadership and guidance will be missed by all who have been privileged to serve with him in the House of Representatives.

Mrs. Johnson joins me in wishing him every success in his future endeavors.

Mr. ICHORD. Mr. Speaker, I wish to add my voice to those who have so eloquently recorded their dismay over the forthcoming departure from this august Chamber of the distinguished gentleman from South Carolina, the Honorable John L. McMillan.

He has served his district, State, and Nation ably since 1938. Though perhaps best known as the long-standing chairman of the House District Committee, John McMillan should also be remembered by us for his work as the officially designated representative of this Congress to the Interparliamentary Union in London in 1960 and in Tokyo in 1961.

As No. 2 man on the House Agriculture Committee his statesmanship has been demonstrated in his talented chairmanship of the Forestry Subcommittee.

It has been an honor and a privilege to serve with Congressman McMillan and he has often rendered invaluable help to me at times when such assistance is most needed in meeting the challenges we all must face. I am sure I express the views of my colleagues when I say—we hate to see him go but we wish him every success and happiness in the years that lie ahead.

Mr. MANN. Mr. Speaker, I am both pleased and saddened to join in this tribute to our retiring dean of the South Carolina congressional delegation, the Honorable John L. McMillan, who has so outstandingly served our

State and our Nation for more than 34 years. We of South Carolina are especially proud of and indebted to "Mr. MAC" for his consistent dedication to good government. This dedication, I know, will stand as an outstanding example to future generations.

Although his legislative contributions during his long and fruitful career are too many to cite individually, I should like to pay special tribute to the exception service he has rendered to farmers and those in our rural communities in his capacity as ranking member of the House Committee on Agriculture and to his vital role in the enactment of much important legislation affecting our Nation's Capital as the chairman of the House District Committee for 24 years.

"Mr. MAC" will be deeply missed by all those whose honor it has been to serve with him, but especially by those of us who have had the privilege to work closely with him. He and his most gracious wife have our fondest wish for continued success and happiness. I know that he will continue his service to his fellow man in the years ahead.

STATEMENT BY CONGRESSMAN FLOYD D. SPENCE ON THE FLOOR OF THE HOUSE OF REPRESENTATIVES

Mr. SPENCE. Mr. Speaker, when the 93d Congress convenes in January, an honored chair in this great hall will stand empty. An extensive career of public service is gradually waning, as this session moves into its final days.

Recently, a reporter asked me what I though of Congressman JOHN L. McMILLAN, and the first thing that came to mind was, "He is a gentleman." That is a common reaction, even though the word is not thrown about lightly in my part of the country. All who know him agree that "Mr. MAC" is a gentleman in the highest and truest sense.

To me, the distinguished dean of the South Carolina delegation has long represented an ideal—a model of devotion to country and constituency which I have attempted to approach. Today, while I am grieved that he will not be among us in the next Congress, I am also thankful to have served with him in this one.

South Carolinians throughout the State share the pride that those in the Sixth District have long felt for Mr. McMILLAN. He is a native son who "made good" in a big way, and they all know what he has accomplished. They know, for example, that he has served many terms at the pinnacle of power and prestige in Congress as the chairman of a congressional committee. They realize that this is an achievement attained by few in the history our Government.

Mr. MAC's achievements and honors are a matter of public record, and there is no need to detail them here. But we are fortunate to have this opportunity to remind ourselves of the impact his presence has had on our congressional experience.

Congressman McMILLAN was often pilloried by small minds which apparently could not grasp the realities and intricacies of what it takes to be a committee chairman. They blamed him for the way the Constitution set out the Federal City, instead of acknowledging the long hours he devoted to the problems of the District. Surely the use of his quintessential legislative skills to guide District bills through Congress could have been better emphasized. But this is not their way.

Congressman McMILLAN has served with great ability and dignity in a thankless position, and one must admire his unflinching demeanor before controversy and invective which often reached the extreme. Those "in the know" who are fair-minded will acknowledge that Mr. MAC has been a valuable friend of the District of Columbia. The rest do not matter.

More importantly, however, is the fact that JOHN McMILLAN has served his country with high distinction. For this, he will most rightfully be remembered and honored for years to come.

I join my colleagues today in saluting a great American—my warm friend, the Honorable JOHN L. McMILLAN of South Carolina.

Mr. Chairman, we will miss you.

Mr. ABERNETHY. Mr. Speaker, I deeply regret the forthcoming departure of JOHN McMILLAN from this body. Such will leave a void that will be difficult to fill.

"JOHNNY MAC", as we all have known him, will leave behind a fine record of service in behalf of his great State and also his country. South Carolina is a great agricultural State. It has been in the field of agricultural legislation, particularly in support of forestry, cotton, and tobacco, that he has been a tower of strength. From his service here the economy of his farmers, and in turn that of all of his constituents, has been enhanced.

As chairman of the Committee on the District of Columbia of the House of Representatives, a very thankless job, Mr. McMILLAN has rendered service far beyond the call of duty. Regrettably, the people, and more especially the news media, of the District have not exhibited the appreciation that his efforts deserve.

He has fought for legislation that would put down crime, that would elevate the standards of education, and the economic status of teachers, policemen and firemen here in the District. They will miss him as they will soon find out.

During my 30 years here, I have been closely associated with "JOHNNY MAC" as a member of both the Agriculture Committee and the District of Columbia Committee. I have been in position to really know of the tremendous time and effort he has put in on legislation before these committees.

He has been a dedicated Congressman. He is a clean, honest, and forthright gentleman. And he has never exhibited anything but the kindest of spirit toward anyone, even those who wrongfully criticized him.

For his service I say, "Well done." For his friendship, I am grateful. I wish him and his charming wife, Margaret, a long and restful retirement back in his beautiful Carolina country.

Mr. DERWINSKI. Mr. Speaker, I take this opportunity to join the many friends of JOHN McMILLAN in congratulating him on his outstanding career as a Member of Congress. His effective leadership throughout his career set the highest standard of public service.

JOHN was an outstanding chairman of the District of Columbia Committee as evidenced by its very effective and successful functioning under his jurisdiction. He will long be remembered by us for his loyalty to principles and his dedication to the interests of his constituents and the Nation.

Mr. MORGAN. Mr. Speaker, I rise to join with my colleagues in expressing esteem for the distinguished gentleman from South Carolina, the Honorable JOHN L. McMILLAN.

Since his election to the House of Representatives in 1938, JOHN McMILLAN has been a stalwart defender of the rights and prerogatives of the legislative branch. Few members in this body have dedicated themselves as he has to a deep understanding of parliamentary government and how it may be used for the benefit of people.

As chairman of the House District Committee since 1948, he has had difficult responsibilities in a period of rapid change. Similarly, as second-ranking Democrat on the House Agriculture Committee, he has helped make possible the vast productivity of our farms and ranches.

Because of his knowledge of the rules and procedures of this body, it was indeed fitting that the Speaker of the House in 1960 chose him to represent the U.S. Congress at the Interparliamentary Union in London, and in 1961 to represent this body at the Interparliamentary Union in Tokyo.

The wisdom and knowledge which JOHN McMILLAN takes with him can never be replaced. I know, however, that he will always be ready to provide us with his counsel, and hope he will return often to the Halls of Congress where he spent so many eventful years.

Mr. DAVIS of South Carolina. Mr. Speaker, my colleagues, I rise today to join the Members of my distinguished delegation, to pay tribute to the dean of the South Carolina delegation and my good friend Mr. JOHN "JOHNNY MACK" McMILLAN. As the newest Member of the South Carolina delegation I must admit when I first arrived at the House of Representatives I was somewhat apprehensive about the greeting I might get from such a busy and important Congressman. After all, I knew he was chairman of the House District Committee, and had ranking duties on the Agriculture Committee, and had many other things going every day. How much time could he possibly devote to a freshman Member? With my first meeting with the chairman I had my mind put to rest on that score. There was never a problem, and believe me I had a few, that he did not have time to discuss and then offer his good advice. He has constantly been a most trusted counsel on all matters. He has constantly kept abreast of the issues of the day, and is always ready to share his expertise. Mr. MACK has been to me a wise captain who has pointed out the shoals upon which many a freshman Congressman has foundered, and has gone out of his way to help me around them. I can only hope my own career will be as long and distinguished as Mr. McMillan's. The House will miss his wise leadership, the delegation will miss his readiness to be of aid, and I will miss his warm friendship. I wish him, Miss Margaret, little "Johnny Mack" and his family all of the success in the world in their future endeavors.

Mr. GRIFFIN. Mr. Speaker, at the end of the 92d Congress, the Honorable John L. McMillan of South Carolina will be retiring from the House of Representatives and returning home. This body will be diminished by this man's absence and his loss will be keenly felt.

John McMillan was born, not too many years ago, in the great Southern State of South Carolina. He grew up there and came to Congress as one of the youngest Representatives in that State's proud history. His distinguished contributions as a civic and political leader and committee chairman have marked him as an outstanding leader of men and always a gentleman. I wish him well in the future.

Mr. FISHER. Mr. Speaker, I join with my colleagues in paying tribute to our distinguished colleague, John McMillan. It is most unfortunate that a Member who has done so much for our country will not be returning to the Congress next year. He has given much of his time and great talent to the affairs of the District of Columbia, in which capacity he has done a remarkable job for this city and for the Nation.

In addition, John has, of course, been a leading advocate of sensible and prudent agricultural legislation. His leadership in that respect has been truly outstanding.

In a broader sense, he is a statesman who has always fought for what is best for the country, unmoved by the greed and selfish demands of special interests. As is well known here, John McMillan is one of the most valuable and trusted members of the House of Representatives.

His removal from Congress is a personal loss to me. I value and cherish his friendship. He will have made a record here of which he and his family can be justly proud. I extend my very best wishes in their retirement.

Mr. WHALLEY. Mr. Speaker, at the conclusion of the 92d Congress, the House will lose an able and distinguished Member whose dedication has become nearly legendary over the past 34 years. John L. McMillan of South Carolina will return home.

Can it be nearly 34 years since this leader came to our Nation's Capital as a freshman Representative? Time has passed by swiftly, but not so swiftly that an indellible mark will not be left on the House of Representatives by John McMillan, for indeed it will.

Chairman McMillan has been steadfast in defense of his principles in the face of nearly constant aggression. As chairman of the District of Columbia Committee since the 79th Congress, Chairman McMillan was a source of strength to those who believed in his philosophy.

His time-tested leadership proved resilient to his adversaries, but it was not so immobile as to resist change for the sake of progress. John McMillan kept up with the times. Those close to him can attest for his fairness and good judgment.

Everything that John McMillan does he does with honor and valor in a manner reflecting on himself and his constituents. He will be sadly missed in the Halls of Congress.

For the future years, we wish John McMillan the best of everything. May he find peace and happiness, for if anyone in Congress truly deserves it, that man is John McMillan.

Mr. POAGE. Mr. Speaker, within the last few days we have become aware of the fact that many of our good friends are leaving the Congress. We regret to see them go because we know of the many contributions they have made in the past.

I have been closely associated with Hon. John J. McMillan. For more than a quarter of a century he has served with me on the Committee on Agriculture. He has been the vice chairman of my committee and the chairman of the Subcommittee on Forests. I have relied on him and I have appreciated his outstanding work. We are going to miss him here in the Congress but he will be especially missed by the Agriculture Committee.

We want to join with his many other friends in extending our very best wishes for his future health and happiness.

GENERAL LEAVE

Mr. DORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on this special order in regard to the distinguished dean of the South Carolina delegation, the Honorable John McMillan.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE LIFE AND WORK OF JAMES KEE

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. Schwengel) is recognized for 60 minutes.

Mr. SCHWENGEL. Mr. Speaker, for a number of years, I have served in the Congress with a member of the Kee family. And early, I learned to respect their interest in good government, their concerns for their people, and their devotion to the country.

In recent years, it has been my pleasure to serve on the Public Works Committee with Congressman James Kee of West Virginia and the last 2 years, I served under him as the ranking member of the Subcommittee on Conservation and Watershed Development. As a conservationist and as one who has great faith in the watershed program and in conservation, I am glad to report that he responded to the opportunity as chairman magnificently, adequately, and with a great sense of devotion. One of his greatest and boldest acts was to take the Subcommittee on Conservation and Watershed Development on an inspection tour of the country to gather information and to hear testimony from the grass roots, so to speak, and to learn two very important things—the effectiveness of the small watershed program and of the great need for conservation.

The series of meetings held under his leadership proved to be successful beyond the fondest hopes of anyone. During the hearings, we collected a most valuable storehouse of knowledge and experience that set the stage for the initiation, through legislation, of a plan to complete the watershed and conservation needs program in a foreseeable future. Without exception, the testimony was very favorable. The only qualification in the testimony was who should administer the program.

With this program and with the information at hand, we have formed a basis and background of knowledge and experience that will be invaluable as we tackle the problem of water pollution. It is evidenced from the testimony, Mr. Speaker, that until and unless we resolve the watershed problem and the conservation development problem, we will not find any real and complete answers to the water pollution problem.

Mr. Speaker, this fine gentleman will not be with us in the next session and on his parting, he deserves a tribute and I am very glad to encourage and initiate this tribute at this point.

Congressman Kee is one Member in the U.S. House of Representatives who has had a rare and unique opportunity to learn all phases of our Government and the desires and needs of the people of his district, his State, and our Nation. This is true because of the Kee family background and their 40 years of diligent efforts and dedicated public service in the U.S. House of Representatives. This they considered their most important and sacred obligation.

Jim's father, the late John Kee, referred to as "Judge Kee" by his friends, was a distinguished lawyer, member of the West Virginia State Senate, and became a Member of the U.S. House of Representatives during the 73d Congress in 1933. He was chairman of the House Foreign Affairs Committee and was presiding over the committee at the time of his death on May 8, 1951. He always kept the committee strictly nonpartisan.

Jim's mother, the Honorable Elizabeth Kee, was an author of a weekly West Virginia newspaper column, court reporter, sponsor of a library for the physically-handicapped, and served as her husband's executive secretary from November 1932 until his death. She was elected to fill the vacancy in a special election and served in the 82d Congress from July 19, 1951, having been reelected to the 83d and five succeeding Congresses. She retired for health reasons, thereby ending her tenure of office on January 2, 1965.

Mrs. Kee served on the House Committee on Interior and Insular Affairs and the House Committee on Veterans Affairs. She was chairman of the Veterans Affairs Subcommittee on Hospitals.

Our friend and colleague, Jim Kee,

has an excellent background on his own. He served as Assistant to the Clerk of the U.S. House of Representatives for 4 years; was Housing Adviser to the former U.S. Housing Authority; served in the U.S. Army-Air Force; and Career Foreign Service Staff Officer of the U.S. Department of State, with both domestic and foreign duties, including service as a member of the U.S. Delegation to the Third North American Regional Broadcasting Conference.

For approximately 12 years prior to election as a Member of the U.S. House of Representatives, JIM served as Administrative Assistant to his mother.

During these years, he worked diligently with people from all walks of life, from various levels of government, and more specifically with people at the local level. In fact, it was during the early part of 1960 that he became extremely active in local redevelopment programs to stimulate economic growth and employment opportunities throughout southern West Virginia. JIM devoted a considerable amount of his time in working with local, State, and Federal officials in putting together local overall economic development programs, securing formal approval by State and Federal officials, and conducting local conferences to iron out problems and secure expeditious and favorable results.

After his election to the House of Representatives in 1965, JIM continued, as a Congressman, to prepare legislation for economic development programs throughout Appalachia and the Nation. Congressman KEE was an original cosponsor of extremely important Federal legislation, such as the Public Works and Economic Development Act; the Appalachian Regional Development Act; Federal Coal Mine Health and Safety Act, and many others.

He supported legislation involving watersheds, soil conservation, highways, recreation, tourism, social security, VA, housing, mining, water pollution, sewer and water systems, desalinization programs, and other vital legislative measures.

Since 1965, JIM has been successful in securing over $1½ billion Federal investment for his congressional district. This includes new hospitals, recreation and tourism facilities; postal facilities; general and commercial airports; vocational education facilities; sewer and water facilities; elementary, secondary, and higher education assistance, and other related projects.

Congressman KEE sponsored and conducted the first congressional districtwide series of conferences dealing with narcotics and dangerous drug abuse in the Nation, pulling together representation from all facets of local human resources.

He introduced the very first bill in the Congress, H.R. 9850, dealing with respiratory problems of coal miners, later to become known as black lung legislation. Other legislation was introduced with broader coverage in the coal mining industry to provide for health and safety provisions.

JIM was designated to represent the House of Representatives at important international conferences in Canada, Spain, and Antarctica.

He serves on the House Committee on Public Works, with membership on the Subcommittee on Flood Control and Internal Development; Public Buildings and Grounds; Special Subcommittee on Economic Development Programs, and is chairman of the Subcommittee on Conservation and Watershed Development.

Congressman KEE also serves as a Member of the House Committee on Interior and Insular Affairs, with membership on the Subcommittees on Mines and Mining, Public Lands and The Environment.

In May of this year, JIM completed 32 years of public service in his own right.

Mr. Speaker: Mr. KEE has earned the respect of his Colleagues, the gratitude of his people and is entitled to continued good health and happiness and I join with his many friends to wish him happiness, long life and all kinds of prosperity.

Mr. STAGGERS. Mr. Speaker, the breaking up of pleasant and long-established working relationships is always a trumatic experience. Especially is this true when it comes to the affable and courteous JIMMY KEE, whose friendship I have been privileged to enjoy through a good many years. His retirement from the House leaves a void that it will be difficult to fill.

Congressman JIMMY came to the House in January 1965, having succeeded his mother, the distinguished Congresswoman Elizabeth Kee as Representative from the Fifth West Virginia District, who in turn had followed his father in the same post. Before 1965, the present Congressman had served in several capacities in the House, and was thoroughly grounded in the traditions and practices of Congress.

The Kee dynasty is a tribute to the integrity and ability of a conscientious and useful family in the public affairs of an area. The Fifth West Virginia District embraces the richest coal reserves in the whole world. Its representatives were called upon to uphold the interests of wealthy and powerful coal and railroad barons, and at the same time the interests of the great variety of working men who operated these great industries. The election of father, mother, and son, Congress after Congress, by overwhelming majorities, is fitting testimony to their fidelity to their trust.

The West Virginia Representatives in Congress have traditionally been a happy and effective working group. To add to the prestige and good name of their native State has engaged all their faculties. It is no secret that Congressman KEE has contributed his full share of energy and ability to an active and effective team. We shall miss him in the years to come.

But I am confident that West Virginia may still command his talents in its service. His interests cover the public and private affairs of the State. In the years to come, we all wish him the satisfaction and happiness that come from an unimpeachable record of duty performed and obligations met. To him and to his fine and closely knit family we extend our warmest wishes for many joyous and successful years to come.

Mr. HECHLER of West Virginia. Mr. Speaker, the Kee family constitutes an unparalleled tradition in West Virginia politics. The Honorable John Kee, who served as chairman of the House Foreign Affairs Committee, was first elected to the House in the Roosevelt landslide of 1932 and served until his death in 1951. At that time, he was succeeded by his widow, Mrs. Elizabeth Kee, who served for 13 years, and our colleague JAMES KEE who was first elected in 1964.

JIM KEE serves on the Interior and Insular Affairs Committee and the Public Works Committee. He has worked hard to build up the West Virginia State Society in the District of Columbia, and has also served in numerous posts in the American Legion. He is a fine gentleman, and I am pleased that my colleague from Iowa (Mr. SCHWENGEL) is paying tribute today to his service and to the service of the Kee family.

Recently, I was fascinated to read a little volume by Howard B. Lee, written in his 92d year, and entitled "My Appalachia." Mr. Lee served as attorney general of West Virginia during the period 1925 to 1933. One chapter of his book is entitled "The Rise of the Kee Political Dynasty." This constitutes such an interesting story that under unanimous consent I include it with my remarks on our colleague, Hon. JAMES KEE, and his remarkable family:

CHAPTER 11. THE RISE OF THE KEE POLITICAL DYNASTY OR IN THE SHADOW OF THE GALLOWS

For nearly forty years the Kee family has represented the West Virginia Fifth (coal field) Congressional District in the United States Congress. First was Honorable John Kee, a brilliant lawyer of Bluefield, elected in November, 1932. He died in office in May, 1951, after serving nineteen years. By virtue of his seniority, he was Chairman of the powerful Foreign Affairs Committee at the time of his death. He was succeeded by his widow, the talented Mrs. Elizabeth Kee, who served thirteen years and retired voluntarily in 1964. She was succeeded by their son, James Kee, who is still (1971) a member of that body. Thus the "Kee Political Dynasty" lives on—a family record for Congressional service without parallel in the history of the United States House of Representatives.

Why this long-time fealty to the Kee family by the voters of their Congressional District? The answer is in the story of the long-time fight made by Attorney John Kee to save an innocent Negro from the gallows.

Lord Byron once said that "truth is stranger than fiction." The accuracy of that aphorism has never been shown more clearly than in the fight of Payne Boyd to escape the gallows for a murder he did not commit, and never heard of until he was arrested as the killer—all caused by his almost-fatal physical resemblance to Cleveland Boyd, the actual murderer.

The savants tell us that Mother Nature produces no duplicates. But in the case of those two men, both Negroes, she developed such a physical sameness that thirty work-companions and long-time associates of the former believed and testified the Payne Boyd, an innocent man, was Cleveland Boyd, the killer.

As a result of that whim of Mother Nature, and the fallibility of witnesses, Payne Boyd was twice convicted by juries in Mercer County, West Virginia, of murder in the first degree. The first verdict carried the death penalty, by hanging; and the second, life imprisonment. Both convictions were set aside because of errors committed during the trials.

Cleveland Boyd, an Alabama criminal, was brought into Mercer County, West Virginia, on a coal operator's labor train. He worked as a miner for a couple of years, and then became a "moonshine runner" and "bootlegger." In 1917, during World War I, he was convicted of vagrancy and sentenced to thirty days on the public roads by Justice of the Peace Harry Cook.

As the Justice and Constable were taking Boyd to jail they passed his shanty, and he asked them to stop and let him change to his work shoes. They told him to go in and make the change, and they sat down on the edge of the porch to wait for him. In a few seconds Boyd came out with a pistol in each hand and began firing at the officers. The Justice was killed instantly, but the Constable saved himself, as he said, by his "fast foot work." The killer escaped into the junglelike mountain fastness.

A substantial reward was offered for Boyd's arrest and this writer, as Prosecuting Attorney, mailed a circular describing the murderer and announcing the reward to hundreds of sheriffs and chiefs of police east of the Mississippi River.

In the meantime, a few months before the murder, Cleveland Boyd had registered for military service with the County Draft Board. From that record we learned that he was born in Selma, Alabama. A letter and reward circular were sent to the chief of police of that city, who replied that he knew Cleveland Boyd when he lived in Selma, and should he return he would be arrested, and we would be notified.

Thus matters rested until August, 1924, seven years after the murder, when I received a telegram from the Chief of Police of Norfolk, Virginia, stating that he had Cleveland Boyd in jail, and I should send an officer for him at once.

I sent two officers who had known Boyd for a few years prior to the murder. In the Norfolk jail at the time were more than one hundred Negro prisoners. The officers entered the jail separately, as they had been instructed, and each one identified the same man as Cleveland Boyd, and they brought him to Mercer County jail.

The prisoner was penniless, and at the October (1924) Term of Court the Judge appointed attorneys John Kee and C. B. Martin to defend him, and the case was continued until the January (1925) Term of Court.

On January 1, 1925, Walter V. Ross succeeded me as Prosecuting Attorney and took over the prosecution of the Boyd case. The Cook family assumed that the prisoner was Cleveland Boyd, and employed two very able attorneys to assist Ross in the prosecution. In the meantime, I had been elected Attorney General of the State, but would not assume the duties of that office until March 4. Being "temporarily out of employment," I attended Boyd's first trial, as an observer only.

Attorney Kee's opening statement to the jury clearly stated the issue—mistaken identity. In part, he said:

"This man before you is not Cleveland Boyd. He is Payne Boyd. He was not born and raised in Selma, Alabama, but in Danville, Virginia. This man was never in West Virginia, until he was brought here by the officers. He is not a deserter from the army, as is Cleveland Boyd. This man served in the army, spent eighteen months overseas, and was honorably discharged. This man never murdered Harry Cook, or even heard of him until he was brought here by the officers."

In effect, the Prosecuting Attorney replied:

"The State will prove that the man now on trial is Cleveland Boyd, and that he murdered Harry Cook."

The prosecution introduced thirty witnesses, white and colored, who testified that they knew Cleveland Boyd for a few years prior to the murder of Harry Cook, and that the man on trial was Cleveland Boyd. But the most damaging testimony was given by a miner and mountain Baptist preacher, who testified that he worked in the mines with Cleveland Boyd for two years, and knew him well. He was asked to tell the jury whether the man on trial was Cleveland Boyd. He turned to the Judge and said: "Your Honor, I would like to pray over this before I answer." The Judge told him that he might do so. The witness went into an adjoining room, got on his knees, and prayed fervently for a few minutes, asking for "divine guidance."

After the prayer the witness returned to the stand and said: "This man is Cleveland Boyd, and there can be no mistake. If you will look under his jaw on the right side you will find a scar. Also, on his right shoulder blade is a scar that he told me was caused by a bullet. I have seen this scar many times when he was in the bathhouse."

The prisoner was required to stand before the jury and lift his chin, and there was the telltale scar. He was also required to remove his shirt and undershirt, and on his right shoulder blade was what appeared to be a scar.

The defense introduced forty-seven witnesses, white and colored, who testified that they knew Cleveland Boyd for a few years before the murder, and that the man on trial was not Cleveland Boyd. The prisoner testified that his name was Payne Boyd; that he was born in Danville, Virginia; that he was never in West Virginia until he was brought into the State by officers; that the scar on his jaw was caused by the kick of a mule, received while in the army in France; that he did not know that he had a scar on his shoulder blade; and that he did not kill Harry Cook. A local doctor testified that the "blemish" on the prisoner's shoulder blade was a birthmark, and not a scar. The father of the accused, and a white man who owned a textile mill in Danville, Virginia, for whom the father had worked for thirty-five years, testified that the accused was Payne Boyd and that he was born in Danville, Virginia.

But all this was unable to overcome the "scars" and the evidence of the praying preacher who asked for "divine guidance." The jury found the prisoner guilty of murder in the first degree, without a "recommendation for mercy," which then meant death by hanging. But, because of an improper instruction given the jury, the trial Judge set the verdict aside and ordered a new trial for the accused.

Before the second trial got started, one of the privately employed prosecutors stated to the Court that he was convinced that the prisoner was not Cleveland Boyd, returned the fee paid him by the Cooks, and withdrew from the case.

At the second trial, the evidence was practically the same as in the first trial. Even the preacher again prayed for "divine guidance"; and again the jury found the accused guilty of murder in the first degree, but "recommended mercy," and he was sentenced to the penitentiary for life.

Mr. Kee was convinced of his client's innocence, and so appalled was he at the death verdict in the first trial and the life-imprisonment penalty in the second, that he personally paid the expense of the appeal of the latter to the higher court, where the jury's verdict was set aside and a new trial ordered.

Because of the widespread prejudice in the county against the prisoner, as the supposed murderer of a very popular official, his attorneys secured a change of venue, and his trial was transferred to Cabell County, city of Huntington, 150 miles distant.

In the meantime, the Negroes in the coal fields of Mercer and McDowell counties became aroused. Pastors preached sermons on the "enormity of the sin of convicting an innocent man." A committee began the collection of a "Payne Boyd Defense Fund," and soon had sufficient money to pay the attorneys a reasonable fee and to meet their necessary expenses. The lawyers went to Washington and secured from the War Department certified copies of Payne Boyd's complete military record, including his military discharge, which he had lost; and, also, a certified copy of Cleveland Boyd's registration card, which showed him as a "Deserter" for failure to report for military service when called by his draft board.

These records disclosed that Payne Boyd was born in Danville, Virginia; that he registered for military service in Roanoke, Virginia, on the same day that Cleveland Boyd registered in Mercer County, West Virginia; that he was inducted into the army at Winston-Salem, North Carolina, on the same day, and two hours before, Harry Cook was murdered in Mercer County, West Virginia—225 miles distant; that he served eighteen months overseas; and that while in France he was kicked by a mule, which left a permanent scar on the right side of his face, just under the jawbone.

This made it certain that Payne Boyd did not murder Harry Cook. But was the prisoner Payne Boyd, or was he actually Cleveland Boyd now masquerading under the name of Payne Boyd? Only by a comparison of the prisoner's fingerprints with those of Payne Boyd in the army files could this be factually determined. Attorneys for the accused employed the fingerprint expert in the Huntington police department to make this test.

On October 13, 1925, Boyd's case was called for trial in the Circuit Court of Cabell County, but the fingerprint expert was not ready to report. An hour went by—an hour of suspense. If the prints were identical, the prisoner would be a free man. If they were different, he would be tried and possibly hanged or sent to the penitentiary for life, as the jury might find.

Suddenly, the expert came into the courtroom with his report, walked straight to the counsel table and said: "You sure as hell have the right man, for these prints are identical." He did not understand that if they were the same, the State had been holding and trying an innocent man.

The jury found that "the prisoner at the bar is Payne Boyd, and not Cleveland Boyd, and he is not guilty of murder, as charged in the indictment." After fifteen months in jail, and being twice convicted of murder in the first degree, Payne Boyd was completely exonerated and received the apologies of the Court and Prosecuting Attorney. But, to the shame of the State, under the law, there was no way to compensate this unfortunate man, not even for his loss of time, to say nothing of his great mental and physical torture. Just an apology, that was all.

Payne Boyd returned to Mercer County along with the attorneys and witnesses, settled down in Bluefield, lived there a few years and disappeared.

Cleveland Boyd, the murderer, has never been apprehended.

Shortly after the termination of the case, Attorney Kee told me that on the train going back to Bluefield he asked Boyd if he were scared at any time during the proceedings in Huntington, and he replied:

"No, Mr. Kee, when you has been in jail and lived in the shadow of the scaffold for a year and a half for something you knows you didn't do, you don't git scared. You just gits numb, numb all over, Mr. Kee. Nothin' seems to matter."

I also asked Attorney Kee why Boyd's military records were not used in his first and second trials. His explanation was: (a) Boyd had lost his army discharge; (b) these certified army records were expensive, and Boyd was penniless; and (c) his attorneys thought that they had sufficient evidence to acquit him without his army records.

But the most baffling thing in this weird case is the fact that nature could produce two men, in communities 300 miles apart, bearing the same surname, but not related by any blood ties, who were such counterparts that the most intimate associates and work companions of one could detect no physical differences between them. And the awesome thing about that fantastic vagary of nature is that it almost brought about the execution of an innocent man.

This case also had far-reaching political repercussions. A few months after Payne Boyd was exonerated, Attorney Kee became the Democratic candidate for Congress in his coalfield Congressional District. At that time the miners were not unionized, the Negroes were Republicans, and the District was a Republican stronghold. Kee's chances for election seemed slim.

But a few Negro leaders took up Kee's cause. Their appeal was that Kee's successful fight to save a penniless, friendless, but innocent, Negro, showed that he was a friend of, and would deal fairly with, the Negro race. Kee sentiment in the coal fields began to grow and spread from camp to camp with the rapidity of a woods fire. "Kee For Congress" clubs were organized by the scores, and by election day the sentiment for Kee for Congress was overwhelming, and he was elected by a large majority.

And thus the Kee Political Dynasty was launched on its phenomenal career.

STATEMENT OF HONORABLE WALTER V. ROSS

On January 1, 1925, I succeeded Howard B. Lee as prosecuting attorney of Mercer County, West Virginia, and took over the prosecution of the Cleveland Boyd murder case. I have read Chapter 11 of Mr. Lee's book, and it gives an accurate account of the trials and final termination of the case.

Signed: WALTER V. ROSS.

BLUEFIELD, W. VA., *June 28, 1961.*

THE RECORD OF THE 92d CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 60 minutes.

Mr. PRICE of Illinois. Mr. Speaker, with adjournment pending, it is appropriate to review the role of the 92d Congress in national affairs during the past 2 years. It was a time of testing old assumptions and new ideas. The process is not completed, but there are several discernible trends that relate to Congress.

First, there was increasing interest in Congress. The general public focused greater attention on congressional affairs and the impact Congress has on public policy. Second, there was increasing interest within the Congress to strengthen its role in the policymaking process. Consequently, the 92d Congress initiated important legislation in various areas. Third, relations with the Executive branch were reexamined, not because of partisanship, but because of recognition on the part of Congress that the Federal Government cannot ignore pressing public problems.

As the most representative legislative body in the world, the Congress is particularly sensitive to public needs and more attuned to filling voids left by the more remote Executive branch. This sensitivity produced solid legislative accomplishments for the American people in the 92d Congress.

ECONOMIC AFFAIRS

The uncertain state of the economy was the major policy concern of the Congress. Confronted with the administration's record of the highest inflation in 20 years, the highest unemployment in 10 years, the highest trade deficit in 10 years, and the highest interest rates in 100 years, the Congress acted to achieve the goal of a balanced economy with adequate rates of economic growth, full employment of resources—both men and material—and reasonable price stability.

Faced with compounding budget deficits since 1969 that will total an expected $110 billion by the end of this fiscal year, more than all the debt this Nation accrued before World War II, the Congress sought to restore the confidence in the American dollar that has been battered in the international markets.

Specifically, the Congress provided the President with standby authority to impose wage and price controls. Initially, the President opposed controls. However, faced with a rapidly deteriorating economy, the President finally followed congressional initiative by imposing a 90-day wage-price freeze in August 1971. Since then the authority has been extended at the request of the administration in conjunction with phase II of its economic program.

The critical unemployment situation prompted the Congress to act; however, the President vetoed two measures designed to help put the unemployed back to work: The 1970, Public Service Employment Act authorized $7½ billion for public service employment, expanded Federal manpower services and improved manpower programs and the Accelerated Public Works Act, which I cosponsored, authorizing $2 billion to create an estimated 170,0C0 jobs in the public sector. Successfully, the Congress enacted the Emergency Unemployment Compensation Act earmarking $275 million for extended unemployment benefits and allowances.

To further spur the economy, the Congress passed the Revenue Act of 1971 increasing the personal exemption for Federal income tax purposes, liberalizing deductions for child-care expenses, repealing the automobile excise tax, providing a 7-percent investment tax credit for new equipment purchases and establishing a tax credit for employees hiring persons on long-term basis through the work incentive program.

To aid small business, when business failures began mounting at an alarming rate, the Congress approved legislation increasing the amounts of loans and guarantees provided by the Federal Government.

Recognizing the impact excessive Federal spending has on the economy, the Congress cut presidential budget requests by $4.2 billion. Cuts were made in foreign aid, defense spending, military construction and public works. Also, pending at this time is imposition of a $250 billion ceiling on Federal expenditures. I opposed this approach because it meant the complete abdication of congressional authority by granting the President an item veto over important programs.

In reviewing the 18 bills the President has vetoed in 4 years of office, 10 of them pertain to appropriations or authorizations for important domestic programs such as child care, veterans, housing, education, health, railroad retirement benefits, blue-collar wage increases, employment and economic development. Given this past record, I could not grant the President further authority. In addition to his veto power, the President is not compelled to spend the funds that Congress appropriates; therefore, he does have the authority to control Federal spending.

In the international monetary field, the Congress approved legislation the administraion requested which amounted to devaluating the dollar because of the lack of confidence in the American dollar abroad because of our weakened economy at home.

FOREIGN AFFAIRS

Congress approved a 5-year interim agreement between the United States and the Soviet Union on limiting nuclear weapons. President Nixon, in conjunction with his trip to the Soviet Union, recommended the agreement which is designed as a first step toward a permanent nuclear arms control treaty. In approving the agreement, Congress added an amendment calling for numerical missile equality in the permanent treaty. As vice chairman of the Joint Atomic Energy Committee, it has been my privilege to serve as congressional adviser to the U.S. delegation to the strategic arms limitation talks where much of the preliminary work was done on the United States-U.S.S.R. agreement.

The Senate ratified a treaty under which the United States and the Soviet Union agree to limit ABM installations to two sites in each country.

Concern with the war in Indochina resulted in passage of legislation in both the House and Senate defining the war powers of Congress and the President. Under both versions, the President would report to the Congress whenever he acted without prior congressional authorization to commit U.S. forces to hostilities. In addition, the Congress adopted my amendment to the Selective Service Act of 1971 calling for a cease-fire as a means of ending the hostilities.

The Middle East continued to draw congressional attention. The Olympic tragedy underscored the importance of the United States maintaining its commitment to Israel. Congress repeatedly took the initiative in making certain that Israel has sufficient wherewithal to protect her integrity.

HUMAN RESOURCES

The strength of America is with her people. That strength is in large measure based on the economic security and spiritual well-being of the people. Quality educational opportunities, adequate health care and retirement security contribute to the well-being of the American people.

In the field of education, Congress enacted an omnibus higher education bill which included operating and maintenance funds for many hard-pressed institutions. Expanded student assistance programs were authorized also.

Congress grappled with the very emotional issue of busing. It approved language restricting busing to achieve racial balance. Notwithstanding this action, the Congress must continue to act to provide quality education for all students, which is the basic issue.

Health education opportunities were greatly expanded by congressional action. The Health Manpower Training Act and Nurse Training Act were expanded to provide greater assistance for students in health profession and institutional assistance in an effort to offset the critical shortage in health manpower.

In responding to the health crisis, Congress also enacted the National Cancer Act of 1972, the National Heart, Blood Vessel, Lung and Blood Act of 1972, the National Institute of Arthritis, Metabolism and Digestive Diseases Act, the Communicable Disease Control Amendments Act, and Sickle Cell Anemia Prevention Act and the National Cooley's Anemia Control Act.

In the health and welfare sector, Congress established a special drug abuse prevention structure to coordinate national programs for drug abuse control. Also, the national school lunch program was expanded.

An omnibus welfare reform bill was passed by both houses. It includes provisions for expanding medical care protection and coming to grips with the welfare crisis in this country.

Our older Americans benefited from congressional action. Despite administration opposition the Congress raised social security benefits by 32 percent in the 92d Congress. Congress approved legislation providing nutritious meals for senior citizens, especially for the homebound. Comprehensive services were authorized including low cost transportation, expanded employment and volunteer services, community centers, improved service delivery and expanded health, education and other social services. Additionally, the Congress created a National Institute of Aging to conduct research on the aging process and on the special health problems of older persons.

Clearly, the 92d Congress made a commitment to the principle that our older citizens should be able to live their lives in comfort and dignity.

ENVIRONMENTAL AFFAIRS

After 2 years' work, Congress enacted a far-reaching water pollution control act allocating $18 billion for the construction of waste treatment plants over a 3-year period. The Federal share for such projects is increased to 75 percent and does not require State involvement. The measure establishes as national policy the goal of ending all pollution discharge into navigable waters by 1985.

Pesticide control was strengthened considerably by providing the Environmental Protection Agency with primary regulatory authority over all pesticides moving in commerce. The measure also establishes registration and classification of pesticides to protect humans and the environment.

Congress moved to establish a national environmental data system with a clearinghouse facility in order to strengthen and expand the information base on environmental matters. This will assist policymakers in determining the impact technology has on our environment.

In our area, Congress appropriated $30,210,000 to continue planning and construction on area flood control and navigation projects. Included in this total are: Madison-St. Clair County interior flood control plan, $250,000 for advance engineering; Kaskaskia navigation project, $18,000,000 for construction; Alton Lock and Dam No. 26, $2,300,000 for advance engineering; Chain of Rocks navigation project, $8,100,000 for construction; Mississippi River regulating works, $1,500,000 for construction, and Silver Creek Reservoir project, $60,000 for general investigation.

CONSUMER AFFAIRS

The consumer protection movement won an important legislative victory as Congress approved the creation of an independent Food, Drug, and Consumer Product Agency designed to protect consumers from hazardous products. The House approved the Consumer Protection Act that is designed to expand Federal protection of consumer interests; unfortunately, the Senate was not able to complete action on the bill because of intense opposition to the legislation.

Both the House and Senate passed legislation strengthening flammable fabrics protection by requiring manufacturer certification of fabrics and materials against fire hazard.

In the field of automobile safety, Congress enacted legislation requiring auto manufacturers to construct front and rear bumpers that will withstand low-speed collisions.

GOVERNMENTAL REFORM

A governmental system must be accountable to the people it serves if it is to remain viable and legitimate. Our Government is no different. Recognizing this, the Congress acted on four important measures that expanded the scope of our democratic system. Eighteen-year-old citizens were granted the right to vote; female citizens were granted equal protection and status under the law by passage of the equal rights amendment; and legislation was enacted repealing the onerous emergency detention program that remained on the law books as a painful reminder of the treatment accorded Japanese-Americans during World War II.

Importantly, Congress enacted a campaign finance reform law that provides pending limits for political campaigns and requires disclosures of contributions and expenditures over $100. Further consideration must be given to developing legislation concerned with the raising of political funds. Also, legislation covering the disclosure of lobbying activity is needed. I am pleased to report that the House Ethics Committee, of which I am chairman, is working on these two subjects.

VETERANS AFFAIRS

Congress did not overlook our Nation's debt to our veterans. Veterans' Administration medical care was extended to wives, widows, and children of veterans who were either totally and permanently disabled or died as a result of service-connected disability. The measure expanded outpatient hospital treatment for veterans. Congress also passed legislation providing comprehensive drug treatment and rehabilitation for veterans.

In the education field, Congress passed legislation raising educational assistance grants to a level equal to the rate of benefits provided for World War II veterans. These benefits are authorized for those who served in the armed forces after January 1955.

Disabled veterans benefits for service-connected disabilities were increased by 10 percent and a clothing allowance of $150 a year was authorized for veterans whose disability required the wearing or use of a prosthetic or orthopedic device.

A new survivors benefit program for retired military personnel was enacted. It enables a military retiree to leave an annuity of up to 55 percent of his retirement pay for his dependents.

LABOR

Congress enacted legislation beneficial to the working men and women of America. The black lung disability benefits program was liberalized and expanded because of dissatisfaction with the abnormal number of claims that were denied initially. Railroad retirement benefits were boosted 30 percent as the result of two separate measures that were passed over administration opposition.

Efforts were made to increase the minimum wage, but administration opposition thwarted final congressional action. Both the House and Senate passed bills improving the standard of living for individuals covered by the minimum wage law.

INTERGOVERNMENTAL RELATIONS

American federalism took on a new dimension as Congress enacted the revenue-sharing bill that will mean approximately $9 million for the local governments in Madison and St. Clair County. The funds may be utilized for a number of public services, including public safety, financial administration and environmental programs.

Another landmark piece of legislation approved was the Rural Development Act that greatly expanded Federal assistance to rural America. It increased Federal assistance for water and sewer grant and loan programs; provides assistance for community centers and firehouses; and provides Federal support for industrial development.

LAW ENFORCEMENT

Congress continued to act in the crime control field. Juvenile delinquency prevention and control programs were extended; narcotic addiction rehabilitation programs were expanded.

In closing, it should be noted that unfinished business remains. Clearly, priorities for the new Congress include private pension protection and reform legislation, tax reform legislation and health security legislation.

FAIR SHARE OF POVERTY PROGRAM FOR RURAL AMERICA

The **SPEAKER.** Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL), is recognized for 15 minutes.

Mr. RANDALL. Mr. Speaker, during December 1971 our office was the recipient of about 8,000 letters concerning the President's veto of the extension of the poverty program. Those letters urged me, their Congressman, to start over and try to pass a new measure that would be approved by the President, rather than suffer another veto.

I take this means to summarize my views on the poverty programs of the past and also to outline the reasons, for my constituents, why I supported and voted for the new effort, notwithstanding my opposition in former years.

Mr. Speaker, on August 8, 1964, please note the year, I joined with a majority of the Congress in voting for the first Economic Opportunity Act. I was enthusiastic that it might strike a telling blow against poverty in this Nation. It seemed to me the programs proposed in that act and the manner provided to carry them out would give new promise and new hope to all the poor and underprivileged no matter where they lived.

I was soon to be disappointed, however. Disillusionment was not long in coming to a substantial segment of our people for whom life had held little or no opportunity to rise above poverty conditions inflicted upon them by the circumstances in which they were born, or of the changing economics of a growing and shifting nation. I refer, of course, to the rural poor and the economically deprived citizens in the small towns of America.

In its first year of operation, it became clear that the Economic Opportunity Act discriminated against our rural people, and beamed most of its benefits to poverty pockets of the big cities. Speaking plainly, to the ghettos. The Office of Economic Opportunity seemed to exist and to function only for the relief of those men, women, and children in the large cities.

True, the percentage of our total population who still live in rural areas is small by comparison with the cities. But more than 60 percent of our substandard housing is to be found in rural areas. While the Office of Economic Opportunity directed its attention to the urban poor who may have suffered from some insufficient or inadequate plumbing, hundreds of thousands of the poor suffered in the countryside with no plumbing at all. While Federal assistance programs struggled to overcome what was termed under-employment and deficient opportunities among the urban poor, the rural poor continued to live with no employment and no opportunities.

When the Economic Opportunity Act was before the Congress for renewal and extension in 1967, I tried to get several amendments into the Act through which the needs of the rural poor would get greater recognition. Had my amendments been adopted, the benefits of the war on poverty would have been more equitably delivered to the rural poor, who were described by President Johnson's Commission on Rural Poverty of that same year as "the people left behind." The majority of the House did not agree with me that a fairer share of the Economic Opportunity Act's funding should be directed to the rural poor and voted down my amendments. In protest against the continuation of this kind of discrimination, I had no choice but to vote against continuing the program in 1967. Again in 1969 I voiced my protest and disapproval of the Economic Opportunity Act for exactly the same reasons.

As late as December 7, 1971, I voted against further extension of the act for the reasons stated above and in addition, because that extension proposed a new comprehensive child development program which, although exorbitantly expensive, did not provide for the needs of our rural communities.

As you know, President Nixon vetoed that 1971 bill, calling the child development program's cost the "greatest flaw" in the bill. It then became absolutely necessary or imperative to pass a new bill if the war on poverty were to avoid a sudden death.

As things worked out, February 17, 1972 was a good day for the poor and especially for the elderly poor who, in their rural status, had for too long been too much left behind as far as the good things in life are concerned. When the House on that date considered extending the Economic Opportunity Act a provision had been added which specifically provided $35 million in the next 2 years for improving rural housing. Not enough but at least a start. On that day, I also had the opportunity as one of two cosponsors to work for and pass an amendment which added $50 million to the bill to serve the rural elderly poor who are at present being under-served or not served at all by any existing programs. My amendment is of specific benefit to the poor in rural areas like ours where there are few or no programs serving them. This amendment especially serves the elderly poor. My amendment was adopted overwhelmingly on a voice vote. In the debate on this bill I helped write legislative history to make it clear that this $50 million was to help meet the needs of the poor who are not touched by any other helping-hand program. By the very nature of their circumstances, the elderly poor in rural areas are singled out for this new, special help.

But the good news of February 17, 1972 did not stop here. $8 million was included in the bill to finance the Senior Opportunities Services that have been so beneficial, especially to the older people in rural areas.

For the three above-listed provisions of the 1972 Economic Opportunity Act, I am most grateful. I thank my colleagues in the House for recognizing the truth of the axiom that:

> It is bad enough to be poor; it is worse to be poor and also old, but worst of all is to be poor and old and isolated in a rural area.

I am glad that the Congress has reshaped the Economic Opportunity Act in such a way that I can now enthusiastically support its programs. I have never opposed any of the worthwhile objectives of this act. My opposition has been based upon omission heretofore from its benefits for that important segment of our poor who live outside the big cities, in the rural areas. Until now, as I have pointed out, nearly all of the OEO programs were concentrated in the huge metropolitan centers. I said last year that all the rural areas received in the past from the poverty program were the crumbs that fell from the tables from the generous helping of benefits provided for the big cities. Because we changed that, I am happy and proud that on February 17 and again on September 5, 1972, I could vote "yes" to the extension of the Economic Opportunity Act.

But we are not yet through, Mr. Speaker, in our job to make the Economic Opportunity Act and its administering agency, the Office of Economic Opportunity, truly efficient and effective in fighting the war against poverty.

In July of this year some constituents of Missouri's Fourth Congressional District wrote our office, bringing to my attention newspaper reports that one of the programs under the jurisdiction of the Office of Economic Opportunity was being mismanaged in the state of New Jersey. The Government Operations Subcommittee on Special Studies, of which I am chairman, investigated the report and held hearings which revealed that a local Community Action Agency in Monmouth County, N.J. had conducted a program under which 67 youths had been sent on a trip to Europe, Asia, Africa, the Philippines and perhaps other countries. Such a project was without a doubt unrelated to fighting poverty. To compound this wrongdoing, it was found that several of these young people were from families whose incomes ranged from $10,000 to an alleged $50,000 a year and yet were touring abroad at taxpayers' expense. This investigation led us to other allegations of some highly questionable battle tactics in the war on poverty.

Why do I mention this investigation to my constituents? For two reasons. First, because mal-administration of this kind must be stamped out or it may yet contribute to the demise of the entire program, and, second, to show the striking contrast between such instances or examples of loose and careless administration and the excellent management and fine administration of the programs in west central Missouri. But until we can stamp out all mismanagement and misdirection anywhere in the Office of Economic Opportunity or by any of its employees who oversee the administration of poverty programs, the job of the Congress in authorizing or approving these programs will remain difficult.

In the meantime, the poverty program has been extended and has been given a new lease on life. The new 1972 Economic Opportunity Act is now at work, and is now directing for the first time at least some of its benefits to the rural poor, and particularly to the elderly poor who happen to be in rural areas. Once these amendments were adopted, I enthusiastically supported passage of the new bill. I am proud to have had a part in the improvements we have accomplished this year.

INVESTIGATIONS BY COMMITTEE ON BANKING AND CURRENCY

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. Frenzel) is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, during the last 8 weeks, the Banking and Currency Committee has been conducting an interesting series of investigations, meetings, and press conferences occasionally concerning its own oversight jurisdiction in the field of banking, but always directed at the political impact of the Watergate incident.

These adventures may, or may not, have culminated yesterday in two sessions, both lacking a quorum of Congressmen, but with nearly perfect attendance by the press. Since the afternoon session took place during debate on the revenue sharing bill, I did not attend.

On October 3 the committee defeated 20 to 15 a motion by Congressman Reuss to grant to the committee extensive subpena powers, which, in the judgment of most committee members, could have prejudiced the rights of those persons under criminal indictment in connection with the Watergate affair.

No one condones the incident. It is a scandalous affair, and another symptom of the sickness of our society, which now seems to place high monetary value, or other high values, on information gained by illegal means. Those responsible, at any and all levels, should be indicted, and if guilty, convicted. The criminal investigation should be thorough and wide ranging—but the criminal aspects of the case should be left to the Justice system until the guilt or innocence of the accused parties has been proved.

There are two edges to the sword. Undue publicity can free those already convicted and proved guilty, as demonstrated by the Delaney case; or, worse, it can imply guilt for those who may be innocent.

The worst aspect of the Banking Committee caper—a 2-month caper by now—is that during this extensive period the committee could have carried out its jurisdictional responsibilities by conducting hearings on the bank charter in question and on the transfers from foreign banks.

In a short phrase, the committee blew it. It allowed itself to be seduced from its responsibilities by the sweet smell of political gain. The chairman's political circus had to take priority over solid committee work. And so the Congress failed in its responsibilities.

There is an especially interesting contrast in the other body. There, Senator Kennedy, who according to the New York Times article on page 18, October 13, is "under pressure" from George McGovern and Larry O'Brien "to conduct an inquiry into the Watergate affair," said, as reported on an AP wire of September 30, that he does not plan to hold hearings on the Watergate affair. The same wire quotes him as saying:

> This is a criminal indictment, and we must be sensitive to the fact that any adverse publicity might impinge on a fair trial.

I am particularly concerned because a bank charter, issued for the Ridgedale National Bank in Minnetonka, Minn., within my district, was questioned by the chairman of the committee. His statements and reports said the charter was issued "in an unusually rapid time" and that there was a deviation from normal practices. Yesterday he referred to it as a "quickie bank charter."

I take no position on the issuance of that charter, except that for 2 months the person to whom it was granted have been tried in the press by the chairman's allegations, which, up until now, have been unbacked by evidence. I have begged the chairman to hold a hearing to determine whether he can prove his allegations.

The Comptroller of the Currency, a Johnson appointee, takes the opposite point of view. He says the charter was normal and not unusual, and he offered to present additional information to the committee. Apparently the chairman thought the facts might interfere with the politics of the situation, because the Comptroller was never asked for more information, nor was he asked to appear before the committee.

The Comptroller's letter to Chairman Patman follows:

The Administrator of
National Banks,
Washington, D.C., September 28, 1972.

Hon. Wright Patman,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

Dear Mr. Patman: This is in further reference to your letter of September 5, 1972, wherein you requested information concerning applications for new national banks within the past five years.

There is enclosed a tabulation showing all bank applications since January 1, 1967, which contains the date each application was accepted, the decision rendered with respect to such application, whether or not a hearing was conducted, the date the charter was issued, the location of the proposed new bank and the names of the applicants appearing on the application.

The attached tabulation does not include applications for new national banks which were organized in connection with corporate reorganizations as they relate to holding company banks. There have been 244 corporate reorganization applications during the past five years.

The attached list of all applications processed by this office during the past five years reflects 424 cases. The tabulation shows that the processing period on new bank applications varies substantially from case to case. This is due to many factors. For instance, applicants are normally given 30 days after the application is accepted for filing to prepare supportive material to present to the investigating examiner. The examiner must work out a mutually agreeable time to meet with the applicants and proposed directors for the purpose of reviewing all banking, economic, personal and other data in connection with the application. On occasion the applicants file additional data to the application which must be evaluated. In many instances additional individuals are added as organizers and proposed directors. Evaluating new information, of course, lengthens the processing period. The investigating examiner is then required to interview a good cross-section of people representing the business, civic and consumer life of the community in order to determine their views as to the need for a bank. It should be noted that the examiners who conduct the regular examinations of banks also conduct the field investigations. The scheduling of these field investigations are therefore sometimes delayed in view of the work loads in the respective regions. As a matter of procedure we do not disrupt the examiner's schedule to conduct field investigations for new bank applications. All of these features present many variables as to the time taken in processing new bank applications.

In addition, the processing time is sometimes substantially affected if a request is received for a public hearing. If a request is received from any party in interest, this office grants a public hearing on new bank applications.

You will note that there were 50 applications on which decisions were rendered in a period of less than 100 days. The processing time on these applications ranged from 49 days to 99 days. There follows a list of days required to date of decision:

	Days
Heflin, Alabama	90
Chatom, Alabama	71
Selma, Alabama	99
Ventura, California	99
Arcadia, California	65
Santa Rosa, California	84
Gilroy, California	94
Longmont, Colorado	84
Winter Park, Florida	86
Dade County, Florida	71
Deerfield Beach, Florida	82
Sarasota, Florida	87
Palm Spring, Florida	74
Dade County, Florida	89
North Miami Beach, Florida	89
Plantation, Florida	69
Orlando, Florida	95
Fort Myers, Florida	98
Brandon, Florida	98
Miami, Florida	84
Pinellas Park, Florida	72
Hillsborough Co., Florida	97
Loves Park, Illinois	78
Oak Brook, Illinois	98
Mandeville Parish, Louisiana	61
Kentwood, Louisiana	77
Wellesley, Massachusetts	98
Portage, Michigan	49
Oak Park, Minnesota	92
Olivia, Minnesota	90
Minneapolis, Minnesota	93
Minnetonka, Minnesota	86
Corinth, Mississippi	84
Mt. Laurel, New Jersey	85
Pennsville, New Jersey	91
Melville, New York	49
York, Pennsylvania	60
Pasadena, Texas	78
Tomball, Texas	78
Pharr, Texas	84
Austin, Texas	57
Ft. Worth, Texas	71
Richfield, Utah	99
Kennewick, Washington	97
Chester, West Virginia	67
Huntington, West Virginia	94
New Berlin, Wisconsin	69
Hales Corners, Wisconsin	74
Monona, Wisconsin	97
Sheridan, Wyoming	89

There were 79 applications processed in 100 days to 130 days. In summary, 30.3% of all applications handled by this office were processed within a period of 130 days.

All of this means that the processing time on new bank applications will vary widely from case to case and from region to region throughout the country.

Formal hearings were held on 152 cases representing 35.9% of all cases processed. These formal hearings are conducted whenever requested and a transcript is made by a court reporter.

The above data shows clearly that there was absolutely nothing unusual about the processing of the Minnetonka application.

Far from being hasty or unusual, as apparently characterized by your well-publicized staff report, of which we have not been furnished a copy, the record shows the usual routine of filing, investigation and office processing. We cannot understand how any fair-minded person could conclude that the subject applicant got a federal bank charter faster than most people do. The fact that the location of the proposed bank was in a large shopping center complex to occupy approximately 1,100,000 square feet of retail space, was not a reason to delay processing. Quite the contrary, normal business and lease requirements demand that final commitments must be made well in advance of construction and completion of such a large project.

As you well know, there is nothing secret about the filing or processing of new bank applications. This office publishes a complete summary of actions each month. In addition, all applications for national bank charters are required to be published in a paper of general circulation in the area where the bank would be located. This publication includes the names of applicants, the proposed location and the proposed capital structure. Specific notice is also sent to the State Banking Supervisor and to competitor banks.

Over the years all of us have heard criticism of Government agencies, for failure to respond timely to requests from citizens generally. It seems strange to me that the Comptroller's office now would be criticized for endeavoring to process an application before this office on a timely basis.

If there is any further information you require on this matter, we shall be glad to cooperate.

Sincerely,

WILLIAM B. CAMP,
Comptroller of the Currency.

The other banking aspect of the case, foreign bank transactions, could also have been investigated by the Committee. The chairman of our International Finance Subcommittee said yesterday that he has tried to get the committee to investigate this aspect since 1966. On October 3 he reported in the RECORD that he had asked the chairman that his subcommittee be allowed to investigate this aspect of the Watergate incident or of other campaigns. I joined in his request. Yesterday, I challenged the chairman on this authority, got no response, and I believe that the authority has not yet, nor will be, granted.

Many Members will be queried on this subject during the campaign. Therefore, Mr. Speaker, I am inserting now my remarks made yesterday during the quorumless morning meeting of the Banking and Currency Committee:

STATEMENT BY MR. FRENZEL ON OCTOBER 12, 1972 BEFORE THE COMMITTEE ON BANKING AND CURRENCY

Mr. Chairman, because you refused to recognize me during the Committee hearing of October 3, I have prepared a lengthy statement, for which I request time now. I request unanimous consent that this statement be put in the record.

During the last week in August I received several phone calls from local bankers that the staff of this Committee was making phone calls and asking for information relating to the charter recently granted to the Ridgedale National Bank in Minnetonka. As the questions were explained to me, they were couched in such a way as to encourage the local bankers, most of whom had protested the issuance of that charter within their trade area, to indicate that the charter had been issued hastily.

Bankers also asked me what kind of investigation our Committee was carrying on. Since there had been no information from you or the staff that an investigation was in process, I could only advise them that I was unaware of such activities. When I returned after Labor Day to the Congress, I saw in the newspapers that you were investigating the Watergate incident. During the hearings on the Housing Bill, one of our Committee's notable failures, I talked to the staff member who had been identified to me as one of the callers into my district. He admitted to making the telephone calls and indicated that he was not looking for anything special except some comment from the local bankers.

During that week, following a point of personal privileges requested by Congressman Brown on the same subject, I asked for the same privilege. I asked you during one of our housing meetings what the scope of the investigation was, why the Committee could not be involved and why I could not be involved as to the nature of the investigation. You benignly smiled my request into oblivion and made no reply.

After that meeting I talked to you briefly and explained the local nature of the problem. The location of the charter is within my district, but I did not know of the application, nor of the granting of the charter until I read it in the newspapers. The individuals who were granted the charter, or at least some of them, are constituents; and some have been contributors to various of my political campaigns. At that time you gave me no further explanation of the investigation but told me that you would release a confidential report to committee members when it was completed.

Your next action was to release a confidential memo dated September 12 which I heard read on television by Jack Anderson the evening before it was delivered to my office. I note that across the face of the report was written the word "confidential".

In that "confidential" report, on Page 5, you, or your staff, wrote:

"In the midst of the investigations of the Watergate incident, at least two major newspapers reported that the contributor of one of the sums in question—the $25,000—had received a bank charter on August 22—just 88 days after the application was filed with the Comptroller of the Currency. The $25,000 is now an integral part of the campaign law violations reported by the GAO to the Justice Department and this is a portion of the money which went into the bank account of Bernard Barker, a suspect in the Watergate case.

"A preliminary investigation indicates that the bank charter was granted in an unusually rapid time—88 days—particularly considering the fact that the shopping center in which the bank is to be located has not been constructed and apparently the bank could not be ready for banking operations until 1974 or 1975. In addition, a preliminary investigation has indicated that the Comptroller of the Currency may have deviated from the normal practices in the procedures leading up to the granting of the charter. There seems no question of the Committee's jurisdiction over the activities of the Comptroller and the granting of national bank charters."

After the release of the confidential memo, both to the press and to the Committee, I again spoke to you indicating that an investigation was in order since the bank charter issued in my district had been questioned in your report. Your report indicated that the charter was received "in an unusually rapid time" and that there was a deviation from normal practices.

In your later press release of October 3, which is headed "Opening Statement of Chairman Wright Patman", you also refer to the phrase "unusual practices" in connection with this bank charter and of the men in the group to whom the charter was issued, Dwayne Andreas and Kenneth Dahlberg.

On September 5 you had written to the Comptroller of the Currency requesting information concerning applications for new national banks. On September 28 Mr. Camp, who I understand is an LBJ appointee, responded to you. On Page 3 of his letter to you was the following paragraph;

"The above data shows clearly that there was absolutely nothing unusual about the processing of the Minnetonka application. Far from being hasty or unusual, as apparently characterized by your well-publicized staff report, of which we have not been furnished a copy, the record shows the usual routine of filing, investigation and office processing. We cannot understand how any fair-minded person could conclude that the subject applicant got a federal bank charter faster than most people do. The fact that the location of the proposed bank was in a large shopping center complex to occupy approximately 1,100,000 square feet of retail space, was not a reason to delay processing. Quite the contrary, normal business and lease requirements demand that final commitments must be made well in advance of construction and completion of such a large project."

Perhaps of greater importance than the Comptroller's statement that there were no irregularities in connection with the charter was his offer to volunteer further information. It is of special interest to me that you were not interested in further information on this matter at all. I have asked the question a number of times in the pages of the Congressional Record why this Committee and its Chairman have not been willing to investigate those materials which lie within its jurisdiction. A simple calling of the Comptroller of the Currency before this Committee would, I believe, go a long way toward clearing up questions raised on the bank charter. Somehow since the 28th of September you haven't been able to squeeze enough time in to ask the Comptroller to come here and make his explanation.

I don't know whether there were "unusual procedures" in connection with the Minnetonka charter or not. At this time it seems to be your allegation against a letter from the Comptroller of the Currency. Based on the record to date, that makes it an easy choice. However, I believe that further investigation is warranted. I believe that the persons who were granted the charter have stood accused by you in the press. Whether their charter had any irregularities deserves a hearing. We should get the Comptroller in here to see if your staff or you can prove that his statements are wrong. If you can't, there should be a public apology by you and your staff. If you can, then there ought to be legislation, or indictments.

I only ask that your allegations stand or fall on their own merits. No subpoenas are needed. The Comptroller's letter indicates his willingness to appear here. If you need his secretary or his file cabinets, I am sure that their appearances can be arranged as well. Because of your failure to ask for such testimony, I am led to the conclusion that you are afraid to ask him to come in because it would spoil the political nature of these hearings.

On October 3 you called this Committee into session for a meeting on the Watergate incident. The meeting was open to the public, a procedure I applaud.

Although you had indicated that there was to be a Committee meeting, the procedure was run as a press conference for yourself. You ignored points of order. You refused to answer parliamentary inquiries. You refused to accept preferential motions, especially made by the Ranking Minority Member. The "gag-rule" procedures of that meeting again led me to the conclusion that whatever it is you do want to do, there is no intention to hold an investigation of matters within the jurisdiction of our banking duties.

In the Congressional Record of October 10 on page 9385, you are quoted as making the following statement:

"Another reason why I resent the bill is that it comes to the floor under a double gag rule. One gag rule is bad enough, but here in this rule no Member has permission to strike out the last word and speak for 5 minutes. There are only four amendments, and the rule provides 5 minutes to the side on each amendment. With these four amendments then the show is over and the gag rule prevails. I do not believe that is right. I think that is taking advantage of the Members."

In addition to this statement, I have heard you previously on the floor accuse the Chairman of the Ways and Means Committee of denying Members a chance to amend bills or to speak on bills, indicating that it was an important point of principle to you. If there ever was a case of the pot calling the kettle black, your statement in the Record must be such a case. This Committee's performance on October 3 was the worst case of gag rule that I have witnessed in my short time in Congress.

On October 3, the same day, Mr. Gonzalez wrote in the Record that he had requested authority to investigate certain foreign banking transactions through his subcommittee. On the following day I wrote him indicating my endorsement of your suggestion, with a copy to you, also asking that another subcommittee be authorized to investigate the Minnetonka charter. Mr. Gonzalez responded on the 6th that you had given him no authority for such an investigation as yet. I'll bet that today, 6 days later, he still does not have the authority.

On my return to Washington on October 10, after a weekend of campaigning, I find that you had held another press conference and announced that you were calling another Committee meeting with witnesses from the Committee to Re-elect the President. If such a meeting were to take place today, it would, of course, be out of order under the rules because of insufficient notice. You invited people to testify today who undoubtedly cannot appear. Unfortunately, Mr. Chairman, some of us, namely a few Members of this Committee, feel an obligation to be here, but I do not want the public to think that by my presence here I am condoning any of your personal political press conferences carried on under the guise of Committee meetings.

This whole series of episodes began on August 17, according to your "confidential" staff report. It is now October 12 and nothing has happened except that you have regularly appeared on TV, and on the front pages of some of the printed media, notably the local ones. Other than information already revealed in the Watergate cases pending in the courts, you and your staff in all of your press releases and interviews and conferences have brought forth little but allegations. On my calendar, that's almost two months. Seldom during that period have you discussed the banking problems. You have always centered your attention on the political figures. While you could settle the bank charter question with calling of voluntary witnesses, and at least begin to build a basis for the investigation of foreign bank transactions, not only in this election but in many elections, as has been suggested by Mr. Gonzalez, there has been no real effort to investigate these banking matters.

The whole attention of your series of press conferences and the direction of this Committee (because you have not allowed other Members to be recognized) has been politically aimed at the criminal aspects of the Watergate affair, which are pending in a court of justice.

With respect to this question, I think that the statements of the Gentleman from New York, Mr. Brasco, at our meeting of October 3 are well taken. They coincide very closely with the remarks of Senator Edward Kennedy, reported in the Associated Press wire of September 30 of this year. On that wire Kennedy is identified as one of the few Senators in a position to hold hearings on the Watergate affair. He is quoted as follows: "This is a criminal indictment, and we must be sensitive to the fact that any adverse publicity might impinge on a fair trial. So far as I am aware, the Senate has not felt a need to get into the criminal aspects of this case with the same enthusiasm as the Chairman of this Committee has.

Although I have restated this proposition many times, I do so again. This Committee has an obligation to investigate banking matters. It has miserably failed in that obligation. It has no obligation, and, in fact, no authority, to investigate the criminal aspects of the break-in.

We could have made an investigation. We could have identified irregularities or exonerated the people who stand accused in the public press by you. Instead we have had only bright lights and front page stories.

Mr. Chairman, this Committee has had a wonderful record during the last two years. During 1971 we spent more time on your Bank Reform Act than on any other single piece of legislation, but after a couple of months and some nice TV coverage, we never brought it to a vote. This year we hurriedly called up a redundant sewer and water bill which was decisively rejected on the House floor. Recently we put in about three months struggling with a Housing Bill which passed this Committee by a significant majority but which perished in the Rules Committee. I am informed that you exerted no influence to pass it.

With a record like that, it seems highly unlikely that this Committee is going to be able to conduct any significant business between now and Saturday, when the Congress adjourns. Our own record, coupled with your obvious lack of enthusiasm to conduct fair and reasonable investigations, is extremely disappointing.

Mr. Chairman, the way this Committee has been run, as a private vehicle for your own publicity, with little regard for the public interest, with no regard for other Members or for House and Committee rules and with little record of effectiveness (except some bills which were proposed by the Administration), I personally would not vote to give you any kind of powers whatsoever. I hope that the criminal cases pending on the Watergate will bring forth the information that is needed and that this Committee next year will show the courage that is necessary to conduct the real investigations which we should have done this fall.

NORTH VIETNAM'S LONELY WORLD WAR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Don H. Clausen) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, in an August 17 editorial entitled "Victory of the Revolutionary Trend," the Hanoi daily, Nhan Dan, placed the Vietnam conflict in the forefront of what it termed "a mighty current of revolution that is shaking imperialism and colonialism to their very foundation." It stressed that—

> The victory of the revolution in a country is not the end *but only the beginning* of the long travel toward the triumph of communism on the world scale. . . . We communists must persist in revolution and *should not compromise*." [Emphasis added.]

The editorial has the following to say to those who might think North Vietnam's tactics of armed invasion are out of step with the rest of the world.

> The victory of the National Liberation Movement and of the [recent non-aligned nations'] Georgetown Conference is actually failure of the "Nixon Doctrine." This victory should serve as a serious warning to those who are departing from the great, all-conquering revolutionary thoughts of the time and who are pitifully bogging on the dark, muddy road of compromise.

In an even more specific reference to North Vietnam's supporters, the Hanoi daily cautions:

> For the socialist countries, safeguarding peace and carrying out peaceful coexistence cannot be separated from the world movement of independence, democracy, and socialism. If this is aimed only at caring for the narrow, immediate interests of a country, it will not only harm the revolutionary movements of various countries, but, in the end, will bring to these very countries incalculable losses and make them give up their *lofty internationalist duty*. The vitality of Marxism-Leninism and proletarian internationalism manifests (itself) first of all in the revolutionary deeds, not in empty words. [Emphasis added.]

These states are exhorted to an even greater militance, despite the movement among the vast majority of the world's people away from confrontation toward cooperation in a spirit of enlightened mutual interest:

> The policy of principled reconciliation with the imperialist powers must aim at consolidating and strengthening the revolutionary forces, isolating and differentiating the enemy of the class, directing the spearhead of the revolution at opposing the schemes of the bellicose forces of the imperialist ringleaders. In given conditions, it is correct to make some reconciliation in order to impel the offensive of the revolutionary forces. But, if out of the narrow interests of one's nation one tries to help the most reactionary forces avert the dangerous blows just like throwing a life-buoy to a drowning pirate, that is a cruel reconciliation beneficial to the enemy and not beneficial to the revolution.

North Vietnam seems strangely anachronistic in this new era characterized by the rapprochement underway on the Korean Peninsula and in Germany, the negotiation of strategic arms limitations and a variety of other agreements by the Soviet Union and the United States, and the growing reconciliation between the People's Republic of China and the United States.

Nor is this rapprochement limited to states that were once cold-war antagonists. The Simla Agreement between India and Pakistan and the steps taken by Indonesia and Malaysia toward greater cooperation indicate that this spirit, not Hanoi's much-belated "protracted struggle" theme, is the way of the future. Nhan Dan's statement that "we are fighting staunchly, unflinchingly, without compromise" proves how out of touch North Vietnam's aged Politburo remains with a world much changed from the times of Joseph Stalin.

Mr. Speaker, I include in the Congressional Record the full text of the Nhan Dan editorial following my remarks:

Victory of the Revolution Trend

An important international political event of profound significance, has just taken place at the conference of foreign ministers of non-aligned countries in Georgetown, Guyana. The conference, representing the will of almost half of the countries in the world with a population of over 1 thousand million, focused its discussions and adopted many resolutions on questions related to the struggle against colonialism and neo-colonialism, against the imperialists' war of aggression, and for peace and national independence. It accepted as full members the delegation of the Provisional Revolutionary Government of the Republic of South Vietnam and that of the Royal Government of National Union of Cambodia.

The Georgetown conference clearly is a conference of solidarity among nations, first of all the nations in Asia, Africa and Latin America, and of opposition to U.S.-led imperialism and colonialism. Since the first conference of this kind held in September 1961, the movement of the non-aligned countries has witnessed new steps of development in terms of the number of participants as well as the content of its activities. Starting with 25 countries, it now has a membership of 64 countries and six national liberation movements. The voice of opposition to imperialism, colonialism and neo-colonialism is prevailing more and more over the aberrant voice in face of the tide of national independence now surging in all continents.

The recognition of the full membership of the representatives of the South Vietnamese resistance and those of the Cambodian resistance is an expression of the warm feelings other nations are nurturing toward the just struggles of the Indochinese peoples. It is a strong, precious support for our stand on a correct political solution to the Vietnam issue and the problems of other countries of Indochina. This support is encouraging the three Indochinese peoples to persist in and step up their resistance against U.S. aggression and for national salvation, till the complete triumph of this stand. While U.S. imperialism is resorting to the "Nixon doctrine" and taking advantage of the reconciliation among a number of countries in an attempt to negate the RSV Provisional Revolutionary Government and the Royal Government of National Union of Cambodia, this event spells out the ardent feelings of the third world nations toward the just patriotic struggle of the nations of Indochina. This recognition is an affirmation of the will of the third world nations to take their destinies in their own hands and oppose all the U.S. imperialists' schemes of settling international problems with certain countries, in disregard of their own interests and aspirations.

The nonaligned movement representing the third force made its appearance after the formation in the world of two systems—the socialist system and the capitalist system. Belonging to the third world are the countries that have got rid of colonialist rule or that are carrying on their struggle to achieve national independence. As such, these countries naturally constitute a great anti-imperialist force. The independence movement, developing incessantly, has become a trend of history, which together with two other trends—the socialist trend and the peace and democratic trend—form a mighty current of revolution that is shaking imperialism and colonialism to their very foundation. The storm of revolution is surging on in Asia, Africa and Latin America. The center of this storm, as recognized by the whole mankind through practical deeds, lies in Vietnam and the other countries on the Indochinese peninsula, which has been singled out by U.S. imperialism—the international gendarme, the enemy number one of all nations and the biggest exploiter and aggressor of the present-day world—for the main place to check the national liberation movement and the testing-ground of its various strategies of neo-colonialist war. That is why the victories of the peoples of Vietnam, Laos and Cambodia and the defeats of the U.S. aggressors are playing an important role in accelerating the movement of national liberation, and the movement of peace and democracy, in helping to ensure the security of the socialist countries, and in the weakening of U.S. imperialism.

In view of its role and character, the patriotic struggle of the Indochinese countries has the sympathy and support of the socialist countries, the working class in various countries, the peace, independence and freedom-loving nations and the whole progressive mankind.

In the global strategy U.S. imperialism has been pursuing since the World War Two, neo-colonialism forms an important part. This is the scheme to replace the old-type colonialism of the other imperialist forces on Asia, Africa and Latin America by U.S. neo-colonialism, and to turn these vast regions of the world into the rear of the U.S., a spring-board and a ring to encircle, contain and attack the socialist countries. This strategy of the U.S., however, is an anachronism born at a time when deep changes have taken place in the world, where the socialist system has become the factor that decides the trend of development of the human society, where imperialism and colonialism, condemned by history, is in the process on crisis and disintegration, and where the enslaved nations have risen up for the right to live in independence and freedom.

As the political representative of American military-industrial corporations, the clique of the biggest reactionaries and war-maniacs headed by Nixon is carrying out a new global strategy called the "Nixon doctrine." In the context of this strategy, an equilibrium of forces among the big powers and the division of the socialist countries, especially the division of the main components of the socialist system, is conceived as a shield to give U.S. imperialism complete freedom of action in checking, by means of violence, the national liberation movement, first of all hurling back the patriotic struggle of the nations on the Indochinese peninsula. The offensive and uprising that has been going on without interruption in South Vietnam since March 30 is breaking the backbone and shattering by big chunks the "Vietnamization" strategy. The aggressors have had to hurriedly re-Americanize the war by throwing in a huge American air-naval force, going far beyond the limits the "Nixon doctrine" has set to the war. This great material and technological force and the unprecedented barbarities of the U.S. however, have failed to stop the heroic fight of the armed forces and people in both zones of Vietnam. Neither can it check the valorous struggle of the resistance forces in Laos and Cambodia either. The complete defeat of the U.S. aggressor is inevitable.

The national liberation movement continues to rise in various countries while Nixon is seeking every means to contain it. We have witnessed, in the recent years, the emergence of many independent countries: Bangladesh, Sri Lanka, and many others, which makes the ranks of the [word indistinct] nations swell incessantly. The Georgetown conference, held in the immediate neighbourhood of the United States, is a reflection of this new situation. This conference clearly embodies a new trend of the time: The struggle of small nations to shape their own destinies in defiance of all sinister schemes of imperialism and regardless of all rightist tendencies and unprincipled compromises.

The victory of the national liberation movement and of the Georgetown conference is actually failure of the "Nixon doctrine." This victory should serve as a serious warning to those who are departing from the great, all-conquering revolutionary thoughts of the time, and who are pitifully bogging on the dark, muddy road of compromise.

How is the basic situation of the world at present? Are the forces of revolution repelling the forces of imperialism? Or is imperialism having things its way? Is the world revolution on the offensive, or is it in regression? Which force is deciding the course of history? Who is the chief enemy of the world revolution? Where lies revolution and where counterrevolution? These questions which were easy to answer in the past have become today puzzling questions because of unhealthy tendencies. To make things worse the perfidious imperialists capitalize on the general confusion to confound wrong and right, black and white.

For the revolutionaries and people in Vietnam who are standing at the forefront of the fight against U.S. aggressors, for peace, national independence, democracy and socialism, to elucidate the above problems bears an important significance in the domain of knowledge as well as in practical deeds.

We are living in an era where the invincible revolutionary thoughts of Marxism-Leninism have won the minds and hearts of hundreds of millions of people, scientific socialism has become the lively reality of more than 1 thousand million people and is exerting a deep influence on the trend of development of history.

Our generation which has the rare privileges reserved by history, has witnessed one big revolutionary change after another as never seen in the past centuries and even millenaries. We have witnessed almost every few years the outbreak and success of a revolution and the emergence of many independent countries.

We have witnessed the disintegration and collapse, one after the other, of the imperialist forces which formerly seemed to last forever to rule over other peoples. The myths about the terrible and almost matchless power of U.S. imperialism have before long gone up in smoke. The "miracles" of the U.S. scientific and technical revolution have also very soon revealed their negative aspects, and the wrong view according to which the big forces of production of imperialism could avert its economic crisis and repel the revolution has today been shattered by realities.

Those people who persist in revolution and are loyal to Marxism-Leninism have witnessed the bankruptcy and failure, one after the other, of the opportunist tendencies of all states, including the forces that once lorded it over.

However, the current reconciliation is a product of a world situation that has changed: The revolutionary forces, though still having to overcome many difficulties in their march forward, continue to grow, whereas imperialism is facing a new period of its general crisis. A general and acute crisis is taking place in the United States, the main bastion and last support of imperialism. The repeated defeats sustained by the U.S. everywhere, including the bitter setbacks incurred in Vietnam, have turned it into a "clay footed colossus." Right in the United States, the popular masses, particularly the youth, are demanding a change to the U.S. policy. . . .

The policy of genuine reconciliation among various countries must be based on the respect for the independence, sovereignty, unity and territorial integrity of all nations, big or small. However, for the U.S. imperialists, reconciliation is but a Machiavellian policy to materialize designs of aggression, enslavements, subversion and peaceful evolution by new methods. In other words, to carry out the "Nixon doctrine" U.S. imperialists have applied the policy of reconciliation toward a number of big powers in the hope of having a free hand to consolidate their forces, oppose the world revolutionary movement, suppress the revolution at home, bully the small countries, break the national liberation movement while not relinquishing its plan to prepare a new world war.

For the socialist countries, safeguarding peace and carrying out peaceful coexistence cannot be separated from the world movement of independence, democracy and socialism. If this is aimed only at caring for the narrow, immediate interests of a country, it will not only harm the revolutionary movements of various countries, but, in the end, will bring to these very countries incalculable losses and make them give up their lofty internationalist duty. The vitality of Marxism-Leninism and proletarian internationalism manifests [itself] first of all in the revolutionary deeds, not in empty words. We have, in the world today, numerous examples to show that very seldom is there a clash between the genuine interests of a nation and the common interests of the world revolution. The policy of principled reconciliation with the imperialist powers must aim at consolidating and strengthening the revolutionary forces, isolating and differentiating the enemy of the class, directing the spearhead of the revolution at opposing the schemes of the bellicose forces of the imperialist ringleaders. In given conditions, it is correct to make some reconciliation in order to impel the offensive of the revolutionary forces. But, if out of the narrow interests of one's nation one tries to help the most reactionary forces avert the dangerous blows just like throwing a life-buoy to a drowning pirate, that is a cruel reconciliation beneficial to the enemy and not beneficial to the revolution.

The struggle to solve the question of "who will win"—socialism or capitalism—during the period of transition from capitalism to socialism on the worldwide scale is a protracted, hard and complicated struggle, but is also one with very diversified forms, contents and concrete steps. This is a violent and non-violent struggle, in the military, political, economic and ideological fields. The revolutionary trends which are rising are actually part of the development in this transitional period. To safeguard peace, prevent a world war and carry out principled reconciliations as required by the necessity to broaden the possibilities of the revolutionary struggle of the masses, that alone is a revolutionary policy.

We hold that to strengthen and increase the socialist forces is an important historic task. Many more countries in the world still have to achieve liberation and hundreds of millions more of workers still have to be liberated from slave labour.

The existence and development of the world socialist system is the factor deciding the trend of development of history, but this trend can become a reality only through the persistent revolutionary struggle of thousands of millions of people. The evolution of each country is an integral part of the world revolution and the revolutions in all countries have the effect of impelling and assisting one another.

The victory of the revolution in a country is not the end but only the beginning of the long travel toward the triumph of communism on the world scale. Socialism and communism are tens of thousands of times better than feudalism and capitalism. Compared to capitalist nationalism and national selfishness, proletarian internationalism is like light compared to darkness. The road of revolution is full of fragrant grass and flowers. Opportunism is a stinking swamp. We communists must persist in revolution, and should not compromise. Under the leadership of our party our Vietnamese people have persistently struggled for decades against three brutal imperialists one after another, and the reactionary forces, their henchmen. Hundreds of thousands of our comrades and millions of our compatriots have gloriously laid their lives for the independence and freedom of the fatherland, for the liberation of the working class and the oppressed peoples on this globe. We are standing steadfastly on the stand of Marxism-Leninism. This is also the stand of the patriotism and proletarian internationalism. We are fighting staunchly, unflinchingly, without compromise. The battles which are going on in Quang Tri are standing out as a new epic. North and South Vietnam are fighting like a prodigious force. The enormous strength of the U.S. air and navy forces cannot subdue the Vietnamese people, on the contrary the U.S. aggressive will is being crushed by the strength of our people.

We are resolved to persist in our revolution to achieve a peaceful, unified, independent, democratic and prosperous and powerful Vietnam.

THE IMPACT PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, on Thursday, October 12, I was pleased to join the majority of my colleagues in casting an affirmative vote for H.R. 14989, Departments of State, Justice, and Commerce, the judiciary, and related agencies appropriation bill. I am particularly encouraged that adequate funding of at least $30 million was sustained for the public works impact program which is conducted by the Economic Development Administration of the Department of Commerce.

The public works impact program was established by Public Law 92–65, Public Works and Economic Development Act Amendments of 1971. As the title implies, this act provided for certain amendments to the Public Works and Economic Development Act of 1965, which created the Economic Development Administration within the Department of Commerce. The mission of the EDA is to encourage economic growth in those areas of the United States which are below the national norms in employment opportunities and income levels. The framers of the original legislation believed that the quality of life in these depressed areas could be improved by creating new jobs, by taking steps to encourage the continuation of existing jobs threatened one way or another, by generating local income, and by stimulating the economic development process at the local level.

To attain these goals, the legislation established a comprehensive program consisting of grants and loans, loan guarantees, and technical planning, and research assistance designed to help communities solve their economic problems.

The public works impact program—PWIP—was first implemented in fiscal year 1972. Areas eligible for PWIP grants include those communities or neighborhoods which experience one or more of the following conditions:

First. Substantial unemployment;

Second. An actual or threatened sharp rise in unemployment because of the closing or curtailment of a major source of employment;

Third. Substantial outmigration—applicable primarily to rural areas; and

Fourth. A large concentration of low-income persons.

While EDA projects have typically been of a relatively long-range developmental nature, PWIP projects are designed for almost instantanteous effect—to create jobs immediately in economically distressed areas.

Results of the public works impact program may be summarized as follows:

First. PWIP appropriations for fiscal year 1972 totaled $47,775,000;

Second. As of June 16, 1972, $47,671,405 had been obligated for PWIP projects;

Third. A total of 203 projects had been funded, including projects in 49 States, the District of Columbia, Puerto Rico, and U.S. territories in the South Pacific;

Fourth. PWIP projects included the creation of useful facilities such as community buildings, fire stations, and water and sewerage systems;

Fifth. In fiscal year 1972, 10,773 persons who were unemployed or underemployed were given jobs;

Sixth. 34,600 man-months of employment will have been generated by the projects completed or currently underway.

In my own State of Illinois, as of June 16, 1972, six PWIP projects had been established and $1,187,900 had been obligated by EDA for these projects. An estimated 197 persons previously unemployed or underemployed were given jobs.

It is clear that PWIP has been a successful and worthwhile undertaking. However, there has been an extensive demand from States and localities for PWIP expenditures which cannot oftentimes be fulfilled. In fiscal year 1972, 98 projects involving $28,300,000 in expenditures were denied because of lack of funds. Unemployment remains a serious problem in the country. Although the latest Department of Labor statistics reveal the situation is improving with regard to unemployment, our current level is still too high.

I believe the public works impact program is one means of helping resolve the Nation's unemployment problem, and I am pleased the Congress yesterday responded properly to the program's need for additional funds. The action will be of encouragement to all PWIP projects, notably the ones in Rock Island, Ill., which I am proud to represent.

FINAL REPORT ON HIGHLIGHTS OF THE 92D CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 10 minutes.

Mr. FRELINGHUYSEN. Mr. Speaker, at the end of each session of Congress since being sworn in as a Member of Congress in 1953, I have prepared a final report outlining some of the highlights of the session. Included in this report is a record of bills I have introduced or cosponsored and my vote on some of the more important bills.

After a long and occasionally controversial session, Congress stands ready to adjourn. In some ways this session has been productive, legislative landmarks including passage of the President's revenue-sharing bill and a far-reaching water pollution control bill. In other areas there has been disappointment. We took no action on a major revision of the welfare system or on Government reorganization—two of the many recommendations urged on us by President Nixon.

In all, of 64 major requests sent to Capitol Hill, only one-third were enacted. Many others, in various stages of completion, were acted upon by the House but not by the Senate, or vice versa, and some have been ignored altogether.

As usual, many of the most important issues were left to the waning days of this 92d Congress—a $250 billion spending ceiling, the highway funding measure and the Consumer Product Safety Act, to name a few.

A great disappointment to me was the failure of Congress to provide an authorization this year for foreign military assistance. Both the House and the Senate had approved substantial military assistance, along the lines of what was requested by President Nixon. However, a deadlock developed in the House-Senate conference over a separate matter—congressional approval of certain executive agreements—approved by the Senate. The Senate conferees refused to compromise with House conferees, and we then were obliged to break up. As a consequence, foreign military aid will have to be funded at a lower level than would otherwise have been the case, by means of a continuing resolution.

Of particular satisfaction to me was approval by Congress of the strategic arms limitation agreements reached by President Nixon during his visit to Moscow last May. As a senior member of the Foreign Affairs Committee, I had the pleasure of attending the ceremonies at the White House when Soviet Foreign Minister Andrei Gromyko and the President formally signed the accords. As Mr. Nixon said, this represented "a significant step" toward peace, and we hope that further negotiations on offensive weapons can soon be initiated with the Soviet Union.

CONSUMER PRODUCT SAFETY ACT

Members of Congress, like the general public, are often at a loss to explain the function of the dozens of temporary commissions that seem to be established each year. For example, few people remember that nearly 5 years ago Congress voted to establish a National Commission on Consumer Product Safety. In the intervening period this particular Commission was hard at work researching an area of concern to all Americans. They reported its findings and recommendations to Congress and in September the House passed the Consumer Product Safety Act.

This measure would set up a permanent agency whose job it would be to insure the safety of consumer products—articles used in the home, at school or work. The agency would have considerable power to enforce its rulings. At the time of this writing, however, the measure is stalled in the Senate, partly because it is the target of intense lobbying efforts.

REVENUE SHARING

For the past 3 years I have been urging that Congress enact revenue sharing measures. Sharing Federal revenues with hard-pressed State and local governments is a practical way to assist other levels of government financially, and to encourage them to solve their own problems. I have long felt that local and county governments are best equipped to cope with many of our Nation's pressing needs.

In the closing days of this Congress agreement was finally reached on a general revenue sharing bill, and payments retroactive to January 1, 1972, should soon be reaching State and local governments. Nationwide, revenue sharing will provide $30.1 billion in Federal funds over a 5-year period—with a first year ceiling of $5.3 billion.

New Jersey's share for the first year will be $163.5 million, of which $54.5 million goes to the State and $109 million to local governments, according to a formula based on population, tax effort, and relative poverty.

Under this formula the Morris County area will receive more than $3½ million; the Somerset County area will receive in excess of $1.6 million.

Each community will decide how best to use the money. Some may spend it on existing programs and thus will be able to reduce local property taxes; others may choose to expand existing programs, or institute new ones.

While I applaud congressional approval of general revenue sharing, it is unfortunate that President Nixon's "special" revenue sharing measures were not acted upon. Special revenue sharing would make an additional $12 billion available to local communities for six specific purposes: Law enforcement, education, transportation, urban community development, rural community development, and manpower training.

As President Nixon put it, Federal assistance programs are suffering from "hardening of the arteries," with a bewildering multiplicity of narrow, separate grant programs. This kind of aid in many cases develops expectations, but little is provided in the way of performance. In 1963, there were some 160 individual grant programs providing $8.6 billion; today nearly 1,000 programs disburse almost $40 billion. These rigid categories, in the President's words, represent "the worst kind of arrogance"—that only the Federal Government knows local needs and how to cope with them.

WATER POLLUTION CONTROL ACT

The Water Pollution Control Act represents a very substantial commitment to the protection and enhancement of the Nation's waters. More than a year and a half ago I cosponsored legislation which both Houses of Congress—in somewhat different form—passed at the end of the session.

The measure sets a goal of clean water by 1985. To accomplish this, the bill authorizes the expenditure of $24.6 billion in Federal funds over a 3-year period. Nearly $18 billion will be available in contract authority for Federal grants to municipalities through the fiscal year 1975, for the construction of waste treatment plants. For every $3 the Federal Government pays out, the States and municipalities must match it with $1 of their own.

In a time of continuing heavy Federal spending this measure will not add to current deficits. Because it only provides authority to make agreements, no significant impact will be felt on the Federal budget until the fiscal year 1975; at that time major appropriations will be required to pay off the contracted Federal obligations.

WELFARE REFORM

Three years ago President Nixon first proposed major reforms in the Nation's welfare system. Since that time more than 3.5 million persons have been added to the welfare rolls, to bring the total to nearly 15 million. Federal costs have skyrocketed by 55 percent in that period, to over $17 billion per year.

The House of Representatives has twice passed a welfare reform measure only to have the Senate after lengthy debate fail to agree on a major revision of welfare reform. I consider this regrettable. The measure as passed by the House would provide a basic Federal minimum of $2,400 a year for a family of four. At the same time some 200,000 jobs would be established and job training would be provided for the able-bodied on welfare. To encourage recipients of welfare to seek employment, some payments would continue to be made as adults find work; the more they earn, the lower the payments.

The Senate, however, rejected a major reform of the chaotic welfare system, and the bill passed by the Senate increased social security, medicare and medicaid benefits, and also included a plan to test three rival welfare plans.

FRELINGHUYSEN VOTES, 92D CONGRESS, 2D SESSION

The items listed are a sampling of the many important votes taken during the second session of the 92d Congress. While it is impossible to list all my votes during the past session, a complete record is maintained at my Morristown and Somerville offices.

I voted in favor of the following measures: Establish Consumer Protection Agency, higher education funding, increase in minimum wage, congressional guidelines for busing of schoolchildren, Water Pollution Control Act, Strategic Arms Limitation Agreement, Noise Control Act, Drug Abuse Office, assistance to National Rail Passenger Corporation, and revenue sharing.

I include the following:

LEGISLATION INTRODUCED AND COSPONSORED BY CONGRESSMAN FRELINGHUYSEN, 92D CONGRESS, 2D SESSION

ARMED SERVICES

H.R. 13542 Permit sons of "missing" servicemen appointments to military academies.

H.R. 14560 Uniformed Services Special Pay Act of 1972 to aid establishment of all volunteer army.

CONSUMER INTEREST

H.R. 13151 Amend Federal Trade Commission Act re trademark licensing.

ECONOMY

H.R. 12982 30% credit on income tax for college.

H.R. 16306 to place a $250 billion budget ceiling.

ENVIRONMENT

H.R. 13812 U.N. cooperation to protect oceans and atmosphere.

H.R. 15787 Environmental Quality Corps.

H.R. 16110 Establish Airport Noise Control Commission.

H.R. 16581 Tax incentives to encourage recycling.

H.J. Res. 1163 Designating support for the U.S. delegation to U.N. Conference on Human Environment.

EDUCATION

H.R. 14511 Higher Education Funding Act of 1971.

FIREMEN'S BILLS

H.R. 16961 Creation of a National Fire Academy.

H.R. 16963 To provide grants for community fire training programs.

H.R. 16965 To provide grants for higher education fire science programs.

H.R. 16967 To provide aid to fire departments in purchase of advanced equipment.

H.R. 16969 To Provide aid to fire departments in purchase of suits and breathing apparatus.

H.R. 16971 To extend authority for fire safety and research programs.

H.R. 16975 To establish toxicity standards for construction materials.

H.R. 16990 To amend Disaster Relief Act.

FOREIGN AFFAIRS

H. Res. 973 Nuclear test ban treaty to include underground testing.

H. Res. 977 Withdrawal of U.S. Forces from Viet Nam.

H. Con. Res. 609 Withdrawal of U.S. Forces from Viet Nam.

HEALTH, WELFARE, HUMAN RESOURCES

H.R. 13447 Emergency Medical Services Act.

H.R. 14717 Training of personnel for child care centers.

H.R. 16649 To correct inequities created by social security increases.

H.R. 16650 To correct inequities created by social security increases.

LOCAL INTEREST

H.R. 8595 Limit State authority to impose tax on residents of other states.

H.R. 14110 Expansion of Beverly National Cemetery, Burlington County, N.J.

H.R. 14180 Additional school board, town, and township officials to Advisory Commission on Intergovernmental Relations.

H.R. 14487 Prohibit funds for certain airport development without public hearings.

H.R. 16682 To provide greater flexibility in utilizing highway funds.

H.R. 16312 Safe States Act of 1972; establishes minimum Federal standards for disaster preparedness.

H. Con. Res. 707 Flood Control Study of Green Brook Basin.

H. J. Res. 1193 Designating September 24, 1972 week as National Microfilm Week.

H.R. 16977 To provide placards for vehicles carrying dangerous materials.

MISCELLANEOUS

H.R. 12848 Amend Railway Labor Act and Labor Management Relations Act concerning national disputes.

H.R. 13623 To require flood insurance coverage for property covered by Federal insurance.

THE ILLEGAL VIETNAM WAR

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, 4 years ago, Richard Nixon, the candidate, made two main promises to the American people which resulted in his election as President.

One promise was to bring what he called "law and order" to America. On November 30, 1967, Richard Nixon stated:

> I have a full program—with regard to technical ways to improve law enforcement.

Now, after 4 years of the Nixon administration's reign, the true nature of that "full program" stands revealed for what it really is. For while Richard Nixon has always been a "law and order" advocate, it is now clear that on several occasions, he has abused his powers as President and placed himself above the law. At the same time the FBI reports show that over the past 3 years, reported serious crime has increased 30 percent to an alltime high in the Nation's history. Meanwhile, the courts continue to be so overburdened that the quality of justice is dreadful. Conditions in our correctional institutions have degenerated to the point where the scourge of Attica had to remind us of the unconstitutional perpetuation of conditions of "cruel and unusual punishment" that this administration has done nothing to end.

Many of us, particularly black people, saw the "law and order" promise as an assurance of continued racism on the part of the Federal Government; as a kind of code language to local officials to "get them colored folks off the streets." "No," the Nixon people assured us; it meant that a democracy could only function if all citizens were equitably held accountable to the Nation's laws. But today it has become apparent that the Nixon administration believes that "some are more equal than others" before the law. A strict legal eye has focused on poor people, students, people of color, and political activists, while the illegality of conduct among the wealthy and favored few under the Nixon administration has reached incredible proportions. For this is the "law and order" administration that has given us the ITT scandal, the dairy fund scandal, the secret $10-million campaign fund, the wheat scandal, the secret Mexican bank accounts, the break-in of the Democratic Party headquarters, and now a systematic espionage campaign against political opponents. The first promise now lies exposed for what it really was: A vain and cruel hoax on the American people.

The utter failure of Richard Nixon to keep his second promise is even more serious. I am speaking here of the empty pledge to end the war in Vietnam. This promise was no casual campaign remark. It was a solemn pledge, repeatedly stated by Mr. Nixon:

On March 5, 1968, candidate Nixon said:

> I pledge to you the new leadership will end the war and win the peace in the Pacific.

On May 14, 1969, Nixon as President said on nationwide television:

> In my campaign for the Presidency, I pledged to end this war in a way that would increase our chances to win true and lasting peace in Vietnam, in the Pacific, and in the world. I am determined to keep that pledge. If I fail to do so, I expect the American people to hold me accountable for that failure.

On September 26, 1969, he said:

> Once the enemy recognizes that it is not going to win its objective by waiting us out, then the enemy will negotiate and we will end this war before the end of 1970. That is the objective we have.

On April 30, 1970, Richard Nixon said:

> I promised to end this war. I shall keep that promise.

On June 3, 1970, Richard Nixon said:

> I have pledged to end this war. I shall keep that promise.

On November 13, 1971, in response to a question about his 1968 pledge to end the war, Nixon curtly replied:

> I would suggest that every promise that I have made I have kept to this date and that usually is a pretty good example of what you might do with regard to future promises.

Mr. Speaker, after 4 years of the Nixon administration, we now know without doubt that these promises were cynical and worthless. Contrary to all the promises, this war has not ended, and neither, by any stretch of the imagination, has American participation in it terminated. Mr. Nixon has endeavored to make the war more invisible to the American public, but the killing and slaughter go on as bitterly as ever. A decrease in American ground troop involvement in the war has been accompanied by a corresponding increase in the American air war there. Vietnamization has proven to be a racist policy of replacing American ground troops with American bombs, and American casualties with Vietnamese corpses.

The war in Indochina has become Richard Nixon's war. Elected on a pledge to end it, the administration has acted to perpetuate it, at an enormous cost to the American and Indochinese peoples.

Since Nixon took office in January 1969, over 4½ million Indochinese civilians have been killed, wounded, or made refugees. Since Nixon took office, the war has cost more than $59 billion, more than 20,000 dead Americans, more than 110,000 wounded Americans, and well over 200 captured or missing Americans who were alive and well in January, 1969. In spite of all the promises, 165,000 South Vietnamese civilians have been killed under Richard Nixon's policies; 410,000 have been wounded, and 1,855,000 have been made refugees. The South Vietnamese people have continued to survive by dealing in opium, heroin, or the black market; by pimping and prostitution; by "joining" the army or by begging in the streets.

Since Mr. Nixon ascended the great marble steps of the White House, nearly 1.5 million combatants have been killed or wounded; over 3.7 million tons of bombs have been dropped, more than by any other President in history; and the wholesale devastation of four Indochinese countries and the creation of a nation of refugees in Vietnam has continued. By universal agreement, the war has been the chief stimulant for the runaway inflation that has plagued the economy since the mid 1960's, and added $450 to the average family's grocery bill since January 1969. Under the Nixon administration, the amount of heroin entering the United States from the operations of the ruling elites of Laos, Thailand, and South Vietnam has risen to one-third the total flow, while efforts to halt it have been compromised by Nixon in order not to lose their support in waging the Indochina war. He has dropped more bombs on Indochina than were expended during the Korean and Second World War combined. His renewal of the massive bombing over North Vietnam beginning April 6 and his mining of the port of Haiphong on May 8, tactics which the Kissinger papers had shown to be totally useless, constituted an inexcusable reneging on the "Nixon promise."

The $12 billion plus cost of the war in 1971 alone exceeds the 1971 census bureau estimate of the $11.4 billion necessary to bring all poor American families above the poverty line. The $8–$10 billion cost of the war this year tallies twice the Urban Coalition's estimate of the $4–$5 billion necessary to eliminate hunger in the United States. The cost of one aircraft carrier equals $1 billion, or the equivalent of public housing for 270,000 people. The $3 billion plus lost in aircraft losses in the last 3½ years could have built more than 200,000 low cost $15,000 two-bedroom homes. The $52.5 million cost of the helicopters lost in the Laos invasion of 1971 equals the cost of 17 local health centers, each treating 40,000 patients annually. These costs in terms of losses to poverty, hunger, housing, and health programs, because of Mr. Nixon's utter failure to keep his grandiose promise, are items which are of particular significance to the thousands of inner-city residents of my district in Detroit who cry out for an extension of those services inevitably lost to Mr. Nixon's war.

I think it extremely important to emphasize at this point that by breaking his second promise, Richard Nixon has inevitably made a mockery of his first. For all his talk about law and order, he has conducted this war in direct contravention of American and international law. Those who promised an end to the war and to foster a respect for law continue to fight a lawless war.

The war policy of Richard Nixon, for example, is violative of Article I, section 8 of the Constitution of the United States, which gives the Congress sole power to declare war. The Nixon administration claims that Congress has given de facto assent to the war by appropriating funds for its continuation. It is true that bullied, misled, and lied to for 12 years by the Executive branch, Congress has meekly acquiesced in allowing the war to go on. Yet this acceptance was and remains a response after the fact; a decision to be made after the President had already committed American troops to the thick of combat. By no stretch of the imagination did the authors of our Constitution have such a passive role in mind when they granted Congress the power to declare war. The only congressional action which conceivably permitted any kind of military action in Vietnam was the 1964 Gulf of Tonkin Resolution, which was repealed in January, 1971. Contrary to the administration's insinuations, no treaty commits the United States to military use of force in Indochina.

The Vietnam war is also violative of the Mansfield amendment (Public Law 92–156, section 601) which declared it to be:

> The policy of the United States to terminate at the earliest practical date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war.

U.S. District Judge John F. Dooling ruled earlier this year—*DaCosta* v. *Nixon*, 72 Civil Action 207—that when Richard Nixon signed this law, he "illegalized the pursuit of an inconsistent executive or administration policy."

I hold that the immoral Vietnam war violates various treaties which the United States has signed, thus giving them the force of law under Article VI, clause 2 of the Constitution. These treaties, such as the 1949 Geneva Convention relative to the protection of civilian persons in time of war, are systematically undermined by the Commander in Chief's indiscriminate bombing campaign against civilian targets throughout Indochina. Mr. Nixon's blatant violations of international law lead me to the inescapable conclusion that the war in Indochina constitutes an international crime under the 1946 Nuremberg Principles which define war crimes and which were adopted unanimously by the United Nations General Assembly at the urging of the American government. These principles, written with the horrors of World War II vividly in mind, state clearly that certain acts of war, and certain wars themselves, are total obscenities to the human community, no matter what political views are involved, and must not be tolerated by the nations of the world. I would like the RECORD at this point to print the Principles of Nuremberg:

PRINCIPLES OF NUREMBERG

In 1945, at the initiative of the United States, the General Assembly of the United Nations affirmed unanimously "the principles of international law recognized by the Charter of the Nuremberg Tribunal." In 1950, the International Law Commission formulated the Principles of Nuremberg, which offer the most complete set of guidelines presently available on the relationship between personal responsibility and war crimes.

PRINCIPLE I

Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

PRINCIPLE II

The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

PRINCIPLE III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

PRINCIPLE IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible for him.

PRINCIPLE V

Any person charged with a crime under international law has the right to a fair trial on the facts and law.

PRINCIPLE VI

The crimes hereinafter set out are punishable as crimes under international law:

a. Crimes against peace:

(i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

(ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

b. War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

c. Crimes against humanity:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connexion with any crime against peace or any war crime.

PRINCIPLE VII

Complicity in the commission of a crime against humanity as set forth in Principle VI is a crime under international law.

I particularly call your attention to principle VI, which defines crimes against peace as the:

> Planning, preparation, initiation, or waging of a war of aggression or a war in violation of international treaties, agreements, or assurances.

And so, lawlessness and the war in Vietnam continue, and the promises remain forever broken. It is literally true that Mr. Nixon is allowing perfectly innocent people to be killed in a random way for the sake of the assured continued reign of President Thieu, whose regime has been dishonored and discredited and whose corruption has been exposed in every way, a thousand times over. That the President daily breaks his pledges of the past is an ignoble policy; it is one more indication of the low cast of mind, the distorted ethics and absence of humanitarian consideration that now rule in the White House.

Meanwhile, Congress continues to acquiesce in the continuation of this war. For too long, most of us have been browbeaten and silenced by sinister hints. For too long, we have placed our own political careers before our moral and legal duty to use congressional power to end the war.

We must end our complicity and assume our responsibilities under the Constitution. By so doing, the Congress can assert that we believe in justice under the law applied equally to all, instead of lawlessness as a reward for power. And we must finally assert that a light of human decency in America still seeks to turn us away from our Nation's crimes in Indochina.

Mr. Speaker, I yield at this point to the distinguished gentleman from California, one of the most highly esteemed Members in the Congress who has opposed this war since its inception, the Honorable RONALD V. DELLUMS.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding.

First I would like to applaud the gentleman from Michigan for conducting this special order.

Secondly, I applaud him for his very articulate statement with respect to a war that we for so long have considered illegal, immoral, and insane.

I would further, Mr. Speaker, like to join my distinguished colleague, the gentleman from Michigan, in his opposition to the war and address myself to one aspect of the war, namely genocide.

Mr. Speaker, it is of more than passing interest that after 25 years, the United States has still failed to ratify the 1946 Convention on the Prevention and Punishment of the Crime of Genocide. While Mr. Nixon gave his approval to such ratification in February 1970, the United States has yet to take action. Indeed, it would be the supreme irony that this Government should outlaw genocide while waging its war in Indochina in direct violation of the convention under consideration.

Strong words, Mr. Speaker? I ask you to consider the text of the Genocide Convention which I would like to enter into the RECORD at this point:

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided:

ARTICLE I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

ARTICLE II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) Killing members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

(*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(*e*) Forcibly transferring children of the group to another group.

ARTICLE III

The following acts shall be punishable:

(*a*) Genocide;

(*b*) Conspiracy to commit genocide;

(*c*) Direct and public incitement to commit genocide;

(*d*) Attempt to commit genocide;

(*e*) Complicity in genocide.

ARTICLE IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

ARTICLE V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

ARTICLE VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

ARTICLE VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

ARTICLE VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

ARTICLE IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

[Articles X–XIX deal with implementation of the agreement]

I call your attention to Article II, sections (a) and (b), where Genocide is defined as actions "with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group", by such acts as killing or—among other things—"deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part".

The United States says it is supporting "self-determination" in South Vietnam, but in fact our government maintains a corrupt dictatorship which draws almost no support from the South Vietnamese people as a whole. When our ground troops were there, they treated every Vietnamese citizen as a potential "Vietcong"—which meant in fact that civilians were often attacked without provocation, merely on suspicion. Coupled with the military's procedure of measuring the war's "progress" through the body count, this attitude led to the maxim that "any dead Vietnamese was a Vietcong". Thus every killing became sanctioned.

This process was made easier for our army by American racism, the belief that nonwhite peoples are somehow less than human. Racism has long stoked the fires of America's wars. This is the country that exterminated the Indians in order to possess all of this vast land rather than share it.

This is the country which destroyed whole civilizations in Africa in order to bring black slaves to America. The U.S. Constitution, which articulates on paper the freest possible society under law, condoned slavery and defined a black person as "three-fifths of a man".

This is the country that, while fighting fascism in Germany, saved its most violent hatred for the Japanese. In the press they were called "slant-eyes," "rats" or "rodents."

This is the only country in the world ever to drop a nuclear bomb in combat—and we dropped two of them on the civilian population of nonwhite cities. About 300,000 Japanese died while the President of the United States proudly declared,

This is the greatest thing in history.

So the systematic destruction of the Vietnamese merely echoed the more sordid episodes of the American experience. The Vietnamese just were not people as far as our military was concerned; they were "gooks," they ignored any consideration of which Vietnamese supported the government and which did not. We can be sure that many who have supported the American mission, did not after coming in contact with the Americans.

With our air war, things are much simpler. The United States has designated entire areas "free-fire zones" in which any living person is presumed to be an enemy. Those who refuse to leave their ancestral villages—which are an important aspect of life in Vietnamese culture—are ripped apart by American bombing and anti-personnel weapons. Those who flee the bombing are forced into the cities where they face the total destruction of their culture as well as extreme poverty—at best, a life of degradation servicing American GI's as laundry women, shoeshine boys, prostitutes and junkies.

Or they may go to the relocation centers, the new hamlets set up by the government—where living conditions are deplorable, there is not enough to eat, the guards are brutal and authoritarian, the identity and cultural life of their former villages is destroyed. These centers are little more than concentration camps.

Mr. Speaker, the facts are clear for those who merely have the courage to look. All of the things we have talked about here today have been documented over and over again. Americans no longer even have to search for this evidence; most of it comes in the daily newspaper and the nightly television news.

American soldiers have come home from this war, scarred by what they have seen and what they themselves have done—and they have spoken openly about all of these crimes. Last year I held unofficial hearings here in Washington in which I took testimony from dozens of Vietnam veterans. I have listened to soldiers explain what they used to do on "search and destroy" missions, and how captured troops of the other side were treated. I have listened to pilots describe their bombing missions.

And I have seen the photographs of our victims—maimed, blown apart, barely recognizable as human beings, and I have felt physically sick.

From all of this, Mr. Speaker, I have found that American strategy in Vietnam—with its forced relocation of population, its "free-fire zones," its use of antipersonnel weapons, its programs of massive crop destruction, its saturation bombing, and its entire supposition of counterinsurgency—is unable to make distinctions between different political groupings of Vietnamese. They are being killed and destroyed as a people simply because they are Vietnamese; that is, simply because the United States chose this country in which to fight.

This I submit, is the essence of genocide, as defined by the 1946 convention. It is the logical end to a war which, from conception, was racist, illegal, immoral, and insane. My fear is that Richard Nixon intends to carry this war to its logical end.

I thank the gentleman from Michigan for allowing me this opportunity to make my own statement with respect to our involvement in Indochina.

(Mr. DELLUMS asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, I want to commend the gentleman in the well for raising this important issue at this time. As we speak here, some of the last pieces of legislation before final adjournment, before an election, are being passed.

It is very important that the gentleman from Michigan has asked for this special order to remind us that we are still very much in a war in Vietnam.

We have been treated to many rumors and travels back and forth between Saigon, Paris and Hanoi, but not yet have we been treated to the fulfillment of the promise made 4 years ago last Monday that there would be an end to this war.

I believe that detailing the way in which this war is being conducted, despite the fact that many troops have been withdrawn, shows our continuing presence. The use of air warfare, the use of serious violations of the human rights of civilians, and the hopes and aspirations of the people in South Vietnam and North Vietnam all remind us that Mr. Nixon's vicious and cruel war continues unabated.

This issue is very much an issue before the American electorate, who long ago asked and still ask that this war be ended. The leadership in this House has a responsibility here, because steps have not been taken to insist that we use our power to end it.

We all hope and pray that the war will be ended, but we want to always remember that those who had the opportunity to end it, and did not end it, should not—in the words of our own President—be given another chance.

Mr. CONYERS. I appreciate the remarks of the gentlewoman from New York. Her reputation for trying to speak out against this war from across the country is well known. Her participation in the Congress at every level upon the legislation, in terms of policy and terms of representing the constituency, which goes beyond her own Congressional District, has earned her the commendations of Americans far and wide in the conduct of the attempt to bring more clearly to the American people the true nature of the war in Vietnam.

Mr. Speaker, principle VI, sections b and c of the Nuremberg Principles forbids the murder or ill-treatment of the civilian population in time of war. This was reiterated in article 3 of the 1949 Geneva Conventions on the Law of War, as well as by other treaties which the United States has signed.

In spite of the above restrictions, the United States has for years waged a particularly vicious form of warfare against the civilians of Indochina through the use of anti-personnel bombs. These weapons cannot destroy factories, bridges, or anti-aircraft sights. They are only effective against human flesh. Moreover, since they are only effective on people out in the open, they tend to kill civilians much more than soldiers. When the United States declares a "free-fire" zone, as it has throughout much of South Vietnam, it asserts that everyone in that area is an enemy and devices such as these may be dropped at will. The civilian casualties from such practices have been overwhelming.

I hold in my hand a "pineapple" bomb. It contains an explosive charge and 250 steel pellets. The fins spring out when the individual bomblets are released to stabilize it; the device explodes on impact with the ground. One fighter-bomber can carry some 360 pineapples; when released they create a killing zone the size of four football fields.

This is the "Guava" bomb or a BLU 24/26 as it is known to the Pentagon.

Considered an improvement over the pineapple, the guavas contain 260 to 300 steel pellets and are packed in "mother bombs", which hold about 600 bomblets. The mother bomb splits in two high in the air, scattering the guavas over a wider area. Unlike the pineapples, the guavas can be fitted with different fuses, to explode them in the air, when they touch or after being on the ground for some time—so as to injure rescuers. The guavas spew out their deadly pellets in all directions, so as to hit people who might be hiding in bunkers. Some of the guavas have been defined—as this one has—so that the bomblet casings explode into thousands of jagged slivers of metal.

Other antipersonnel bombs use these tiny flechettes instead of pellets. I would like the RECORD to indicate that I am holding one in my hand at this point. This flechette is only an inch long, essentially a nail with tiny fins. Much more destructive than round pellets, the flechettes peel off the outer flesh when they hit a human being, enlarge the wound as they enter the body, and shred the internal organs.

Some newer antipersonnel weapons—this is a part of one—are made totally of plastic. They splinter into thousands of deadly slivers, which cannot be detected in the body by X-ray machines—only by highly sophisticated ultrasonic equipment which the NLF and North Vietnamese largely do not have. Victims of such weapons require lengthy and dangerous exploratory surgery in which they are cut open and carefully "fingered through" for bomb fragments.

This final device is a Rockeye bomb. Some 247 units a rocket motor, which spins upon release from the aircraft to insure a wide dispersal pattern.

In addition to all of these weapons, U.S. planes are dropping hundreds of thousands of "area denial mines", a couple of inches in size, which are used to insure certain large regions will remain uninhabitable. These weapons cannot harm a truck; they are used only against people.

Profs. E. W. Pfeiffer and Arthur Westing of the American Academy for the Advancement of Science report that approximately half of the total tonnage of U.S. bombs dropped in Indochina consist of antipersonnel weapons such as these. The use of the weapons I have described here have been thoroughly documented by American soldiers and journalists from several countries and other independent observers.

Mr. Speaker, I include in the RECORD at this point the article "The Death of a Thousand Cuts":

THE DEATH OF A THOUSAND CUTS

(By Tim Butz)

According to myths and American late night movies, a torture known as "The Death of a Thousand Cuts" is native to Asia. The death of a thousand cuts is a combination of torture and execution that requires 1,000 separate cuts inflicted on the victim before he dies.

The U.S. Government has perfected this method of death, and uses it on the people of Indochina. The death of a thousand cuts has a new name and a new form; it is now called Cluster Bomb Unites (C.B.U.'s) and, unlike the old form, the executioner is several thousand feet above the victim and never has to look the victim in the eye.

Antipersonnel weapons such as the C.B.U.'s currently in use in Southeast Asia are barbaric. The refugee camps and hospitals are overcrowded with the results of the seeding of Indochinese fields with C.B.U.'s. Walter Haney, a former U.S. Agency for International Development worker in Laos, conducted a private study in 1970 entitled "A Survey of Civilian Casualties Among Refugees from the Plain of Jars." The study documents 189 separate cases of civilian deaths from American bombings.

TARGET: THE HUMAN BODY

An official United States Information Service (U.S.I.S.) report made at approximately the same time supports Haney's study. The report, "Survey of Refugees from the Plain of Jars," shows that 97 percent of the refugees have witnessed a bombing, 95 percent have had their villages bombed, and 71 percent felt the Americans were responsible for the bombings. These 1970 figures are frightful when placed in the context of the estimated 100,000 refugees in Laos and the over 300 bombing missions per day now being flown over Indochina.

The figures are even more frightening when one realizes that approximately one-half of the total tonnage dropped on Indochina consists of C.B.U.'s, according to the American Association for the Advancement of Science investigators, Professors E. W. Pfeiffer and Arthur Westing.

Cluster Bomb Units are the result of research and development in antipersonnel weaponry, and their primary target is the human body. The concept behind the C.B.U. is simple, the operation a little more complex.

C.B.U.'s such as the BLU 24/26 are an integral part of the strategy of the air war. The guava is a three-inch sphere containing 50 grams of Cyclotol explosive, a fuse, and 260 to 300 steel pellets. Hundreds of guavas are loaded into a container called a SUU (Suspension Unit, Utility, referred to as a Sue), and the final product is the Cluster Bomb Unit. When over the target the pilot releases several of the SUU's and they begin to tumble toward the ground. At a certain point, a fuse splits the SUU casing longitudinally, and the guavas fall to the ground covering a wide area. The rotation of the bomblet through the air arms the fuse for detonation.

At this point, three things can happen. The guava can detonate in the air, on impact with the ground, or at a later time as a result of a time-delay fuse.

When the guavas explode, the ball-bearing pellets fly out in a 360-degree pattern, killing wounding, or maiming anything in their path. A single guava contains enough pellets to make it equivalent to 15 clips of M-16 rifle ammunition.

Through a malfunction in the fuse, the bomblet can lie on the ground indefinitely and detonate from the vibrations of a passing person or vehicle. With the guava, such seismic-induced explosions are the result of a faulty bomblet, but in other systems such characteristics are preplanned.

One of the most insidious aspects of the air war has been the development of area denial weapons. The concept of area denial is to flood an entire area with undetonated bomblets, rendering it unsafe and uninhabitable, rather than bombing a specific military target. The type of area denial weapons currently in use in Indochina include the Gravel and Dragontooth mines.

These mines are dropped from American aircraft in the same fashion as the guavas, and lie on the ground, undetonated, until stepped on. The Gravel mine (officially called the XM41-E1) looks like an oversized teabag, about three inches square. It contains an explosive mix, a "stiffener" to retain its shape, and two plastic pellets. When stepped on, the plastic pellets fragment and enter the foot.

The Dragontooth, used in the MK-36 "Destructor" system, is another part of the area denial program. The Dragontooth looks like two thick three-inch arrowheads, mated at 90-degree angles. Again, several hundred of these mines are spread over a large area with the release of a single SUU.

Air Force Maj. Raymond Anderson told a Senate subcommittee in November, 1970 that both the Gravel mine and the Dragontooth were developed by the Air Force, and that both weapons were "purely antipersonnel. If a person steps on it, it could blow his foot off. If a truck rolls over it, it won't blow the tire."

The primary contradiction in this phase of the air war is very clear, for neither the Dragontooth nor the Gravel mine can distinguish between soldier and civilian.

On the mantle in the Project Air War office, a Washington-based research group, are two reminders of the air war. The defused shell casings from two kinds of C.B.U.'s are evidence of the progress of technological warfare. One of the bomblets is called a pineapple, one of the first types of bomblets used in Indochina. The pineapple looks like a perforated sterno can with six steel, spring-loaded fins on the top, and 250 pellets in the casing.

One plane can drop 1,000 of these bomblets over an area the size of four football fields. In a single strike 250,000 pellets are sent spewing in a horizontal pattern over the land below.

Although everything above ground in the area is hit, the horizontal pattern proved to be ineffective for penetrating the bunkers, caves, and shelters where the people were hiding. This led to the development of the other bomblet, the guava, with a 360-degree spraying pattern. Even the guava has been modified, improved, and used as a model for new bomblets.

One such modification has replaced the ball-bearing pellets with flechettes, one-inch barbed nails. The flechette bombs are dispensed and detonated in a fashion similar to the guava, but they have a special horror of their own. Following the path of least resistance through the body, the barbed nails lacerate body organs and muscle tissue as they ricochet through human flesh.

THE SHREDDING EFFECT

Army pilot Capt. Bill Bunton, speaking with a C.B.S. reporter in March, 1971, stated that the flechettes are preferred by some pilots who "like to use them in the trees, because the nails [flechettes] will penetrate the trees all the way to the ground." Pilots such as Bunton rarely see firsthand the results of their work, but the men on the ground do.

A former marine, stationed at Quang Tri, described the survivors of a South Vietnamese Army platoon that had been hit by a single flechette bomblet. "It landed in the middle of them—just ripped them apart. Thirty people shredded or killed . . . it will take the meat right off of your arms. It will shred your skeleton, breaking bones . . . the closer you are, the greater the shredding effect."

Former Special Forces Sgt. 1st Cl. Donald Duncan offers a more technical explanation. "Because of their shape and/or velocity, once they [pellets and flechettes] enter the body they move in a complex path, doing great damage and complicating removal."

Extracting the C.B.U. pellets or flechettes can be a complicated task. As many as six medical and paramedical personnel may be needed to treat one C.B.U. victim, rather than the one or two required to treat conventional wounds. Because modern medical equipment and X-ray machines are scarce in the refugee camps and rural areas of Indochina, exploratory surgery has become a vital, life-giving skill. Exploratory surgery is a dangerous, time-consuming method used to insure that all the pellets are removed.

In cases where the victim has stepped on a Gravel mine, even an X-ray machine would not help, for the plastic fragments would not show. The only alternative to exploratory surgery is the possibility of a slow and agonizing death from internal bleeding or damaged body organs.

PSYCHOLOGICAL IMPACT

Beyond the physical damage these weapons do, there is a distinct psychological impact from them. C.B.U.'s can be demoralizing and frightening. The trails that connect villages, the streams that supply water and fish, and the paddies that supply rice may all have undetonated bomblets or mines in them.

Dispatch News Service International correspondent Mike Morrow described two unexploded C.B.U.'s he found in a walk near the Laotian village of Ban Dorn Jok (AR, Jan. 21, 1972). Morrow states, "It is difficult to walk in the area for fear of stepping on a bomb . . . it is easy to understand the villagers' complaints that they no longer tend some of their bananas, plant hill rice, nor let their children out to play freely."

Fear of C.B.U.'s is real and justified, for they have made rural life a nightmare, if not a total impossibility, in a subcontinent where over three-fourths of the people still earn their living from the soil.

Perhaps the brutality and the consequences of American involvement in Indochina will never come to the surface. The evidence is plentiful, but the conclusion is painful in a country where the national tolerance level for atrocities is increasing.

For the people of Indochina, however, that pain is still real—maimed, shattered bodies, disrupted lives, devastated cultures, and friends and relatives who are still dying because of American bombs dropped by American pilots over 300 times a day.

These people who have suffered so long, so patiently, and so courageously, would perhaps enjoy what the people of America seem to be enjoying, a vacation from the reality of the war. Unfortunately for the Indochinese, there is no escaping The Death of a Thousand Cuts.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Mr. Speaker, I will yield at this time to the distinguished chairman of the Congressional Black Caucus, the gentleman from Ohio (Mr. Stokes).

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would at this time like to associate myself with the remarks of both the gentleman in the well and my colleagues who have spoken here this evening.

Mr. Speaker, I think the gentleman in the well is to be commended for having performed a service to both this Congress and to this Nation for having gone in the well this evening and in a very articulate and perceptive and precise manner to have been able to describe to us what the past 4 years have been like under the Nixon administration, not only with respect to the war in Vietnam and in Indochina, but also with reference to many other failures, domestic failures.

Mr. Speaker, I think the distinguished gentleman from Michigan (Mr. Conyers) in the well this evening has performed an additional service by having brought into this Chamber the very graphic evidence which was produced by which we get some description and some realistic idea of how we are spreading death in Indochina.

I think to that degree he is to be commended for having taken the time to perform this service this evening.

Now, Mr. Speaker, I would like to say that in my opinion the best solution to the war is for Mr. Nixon to lose to Senator McGovern on November 7.

If Mr. Nixon is reelected, however, I am convinced that the situation will become even more serious. The last 4 years have clearly shown us that as long as the United States props up the Thieu regime in South Vietnam, the war will go on and direct U.S. military involvement will be required.

The other side's offensive of the past spring demonstrated the hollowness of our so-called Vietnamization policy. While the South Vietnamese Army was crippled in several areas, the United States was forced to rush a hugh armada of bombers to Southeast Asia. Between January and June, the number of B–52's for use in Indochina tripled and the number of fighter-bombers doubled. Four aircraft carriers were added to the two already there. The average number of sorties jumped from 383 to 900 a day.

The importance of this U.S. escalation to the Thieu regime can be seen in the recent staff report of the Senate Foreign Relations Committee, entitled "Vietnam: May 1972". After touring Vietnam for 12 days, 2 of its staff members, Mr. Moose and Mr. Lowenstein, discovered that—

Everyone with whom we spoke, including American military officers, believed that U.S. air support had been the critical element in averting a South Vietnamese defeat.

They added as well that—

No one with whom we talked, American or Vietnamese, thought that the South Vietnamese could have held had there not been American advisers.

In some instances American advisers became virtual field commanders over the South Vietnamese forces.

Whatever the goals or accomplishments of the North Vietnamese offensive may be, the present level of combat testifies to the hollowness of Nixon's claim that the war is winding down. While American casualties averaged 45 to 50 a week this year, casualties for Vietnamese combatants total 4,119 a week; in July 25,000 ARVN were wounded in combat, the equivalent of more than two divisions. Several thousand civilians are killed or wounded or made homeless each week by the war. While the United States spends $20 million a day to fight the war, it has continued since April to lose on the average a pilot a day.

Finally, Richard Nixon has no plan—secret or otherwise—for ending direct U.S. military involvement in the war. On August 24, certain Air Force generals privately admitted to the press that the United States might well be bombing in Indochina for another 2 to 3 years.

President Nixon labeled this estimate quite ridiculous in a press conference, but he pointedly refused to make any prediction as to when the U.S. bombing might cease. Secretary of Defense Laird had admitted before the House Appropriations Committee in June that the United States could well be providing air and naval support for the South Vietnamese for another 4 or 5 years.

An even more somber assessment comes from Malcolm Browne who reports in the New York Times:

> Provided that American support of the war effort is not radically reduced by Congress or the election to the Presidency of Senator George McGovern, South Vietnamese commanders foresee an indefinite military conflict with Hanoi that could last years or decades.

Mr. Speaker, I for one am not willing to see this atrocious war be an issue in the 1976 presidential campaign. If Mr. Nixon manages to get reelected, then we must vigorously oppose his war policy in the name of international law and fundamental human decency.

Mr. Speaker, once again I commend the gentleman in the well for having provided each of us with an opportunity this evening to address ourselves to one of the most crucial problems America has ever faced.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. Stokes) for his perceptive comments, they have been consistent, and unceasing, in terms of opposing the war in Vietnam, since his entry into these Chambers. It is my profound hope that this dialog engaged in in the House of Representatives on this day will help elevate the understanding and the awareness of the American people as to the nature of our involvement in one of the most disastrous episodes in American history.

So, Mr. Speaker, I express my deepest appreciation to each and every one of the Members who have contributed to this discussion tonight.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members who would wish to associate themselves with this special order I have taken tonight be given 3 legislative days to extend their remarks.

The SPEAKER pro tempore (Mr. Hechler of West Virginia). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CHAOS BEING CAUSED BY SKYROCKETING COSTS OF CATTLE HIDES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Harrington) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, as Representative of one of the largest shoe and leather producing districts in the country, I have seen first hand the chaos that the skyrocketing cost of cattle hides has created. Since February, when I first called for an export controls program, I have seen tanneries close down, and workers sent to the unemployment lines.

While I have introduced legislation to protect firms and workers who are being hurt by the lack of controls on cattle hides—legislation that has been endorsed by the Tanners Council of America—the solution to the problem lies with the President who is directly responsible for the current situation which is threatening to destroy the leather industry.

The President delayed instituting a program of cattle hide export controls until the market situation assumed crisis proportions. I, and other members of the New England delegation, worked for 6 months before convincing a reluctant administration to initiate the controls program.

The President refused to involve himself when the Congress debated, and passed by a narrow margin, an amendment which terminated the controls after just 1 month of operation. I spoke and voted against the amendment—the President signed it into law.

The President has not acted to reinstitute the controls program, although termination of the program has resulted in layoffs of workers, closing of firms, and a 20-percent rise in the cost of hides.

I have heard that no action on the cattle hide situation will be taken until after the election. The reason is obvious. But the question must be asked: "How many jobs will be lost between now and next year? How many firms will have to close down permanently, regardless of what actions are taken in 1973?"

These questions must be answered, and I believe President Nixon must answer them now, and must answer them publicly.

Mr. Speaker, I ask unanimous consent to have reprinted an open letter to the President from Seymour Fabrick, president of Vogue Shoe, Inc., which appeared in the Washington Post of October 11, 1972. This letter outlines the President's disregard of the leather and shoe industry.

I also request to have reprinted copies of my correspondence with the President, which further documents his disregard; and letters sent to the President by shoe and leather company presidents and union leaders, demonstrating the seriousness of the present situation.

The materials follow:

[From the Washington Post, Oct. 11, 1972]

OPEN LETTER TO PRESIDENT NIXON

Vogue Shoe, Inc.,
Los Angeles, Calif.

Dear Mr. President: Do you realize that you, personally, are responsible for the consumer paying from $2 to $4 more for a pair of shoes at retail in the past 3 months, and your failure to put price controls on hides and continuing to let them flow out of our country will cause the consumer to pay an additional $2 to $4 increase on shoes because hide prices are advancing every day?

Do you realize that you, personally, caused the closing down of 200 shoe factories in America during the past 18 months, with the loss of 50,000 jobs, because imported shoes are deluging our stores from 71 countries, all of which pay sub-standard wages?

Do you realize your inaction to help the domestic shoe industry from cheap, low labor countries will force another 200 factories to close, with another loss of 50,000 jobs?

Do you realize that nearly 4 years ago you ordered the Tariff Commission to make a report on the shoe industry and that this report has been sitting on your desk since December of 1970; and, during the past 4 years, you have not allowed a shoe man to visit you and discuss the problems of the shoe industry?

Do you realize that we have visited all of your departments, including the Commerce Department, the Tariff Commission, the State Department and innumerable members of your White House staff, all of whom told us that you are the only one who can help us. Your failure to see us or act on our behalf is the cancer that is killing us.

There are 300,000 shoe and tannery workers around the nation, in small towns, who need your help, and they deserve a better break from you than continued silence.

You are our President and we look forward to you to help us. The consumers do not want higher-priced shoes. Our workers want work, not welfare. You have advocated that you want people to work, yet you do nothing about our problem and refuse to see a shoe man. We are your friends and neighbors and fellow Americans. Help us and look kindly upon our needs.

Thank you.

Seymour Fabrick,
President.

CONGRESS OF THE UNITED STATES,
September 14, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: We, the undersigned Members of Congress, urge you to exercise your prerogative under the Export Administration Act, as amended on August 3, 1972, and authorize the Secretary of Agriculture to permit the reinstitution of the cattlehide export control program.

Passage of the Gonzalez amendment, which rescinded the cattlehide export control program, has already had serious detrimental effects on the leather and footwear industry. Exports for the month of July were at an all time record high—2,152,000 hides. The price of hides has risen more than 20 per cent since July—increases that will soon be reflected in higher consumer costs for shoes. And, most serious of all, a number of tanneries have indicated that they will be forced to lay off workers if there is no relief granted shortly, thereby exacerbating the already critical unemployment situation in New England and elsewhere in the nation.

In short, the same problems that lead to the imposition of quotas by the Secretary of Commerce in July still exist, and they are growing worse. Under the provisions of the Export Administration Act, export controls can be placed on cattlehides only if you certify that they are necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities or if the increased exports affect the national security of the United States.

We believe that the present situation merits action under both criteria. The entire cattlehide problem arose primarily out of the unilateral actions of Brazil and Argentina in embargoing cattlehide exports. The rationale behind these actions was to allow the two countries to develop their own shoe industries, undermining still further the American shoe industry.

As President, we feel that you must have the authority to deal with actions such as these on an unrestricted basis. To permit other countries to completely restrict their own exports without taking any steps to counter the harmful effects of these actions, on American firms and workers, can only be viewed as a step backward in the development of a flexible foreign trade policy.

In our opinion, you are also justified to order the Secretary of Agriculture to act under the national security provision. The largest single purchase of footwear in the United States is the Defense Department. Last year alone, it purchased 4,984,240 pairs of leather shoes for use by our Armed forces. Clearly, a healthy American shoe industry is in the national security interest of the United States. And unless steps are taken to stem the rising tide of hide exports, the domestic shoe and leather industry will have a difficult time surviving.

Therefore, we ask you to use the power granted under Section 4(e) of the Export Administration Act, to authorize and urge the Secretary of Agriculture to permit the Secretary of Commerce to reinstate the cattlehide export control program.

Yours sincerely,
MICHAEL J. HARRINGTON,
JAMES A. BURKE,
ROBERT F. DRINAN,
SILVIO O. CONTE,
PETER N. KYROS,
FRANK T. BRASCO.

THE WHITE HOUSE,
Washington, D.C., September 20, 1972.

Hon. MICHAEL J. HARRINGTON,
House of Representatives,
Washington, D.C.

DEAR MR. HARRINGTON: I would like to acknowledge and thank you for your September 14 letter to the President in which you joined with several of your colleagues in urging the President to authorize the Secretary of Agriculture to permit the reinstitution of the cattlehide export control program.

As you know, on July 15 Secretary Peterson announced that after careful study of data collected by the Department of Commerce concerning the cattlehide situation, he had determined that export controls were required to protect the domestic economy from excessive drain of such hides and to reduce the serious inflationary impact of abnormal foreign demand.

However, in extending the Export Administration Act, the Congress adopted the Curtis-Gonzalez Amendment which terminated the Commerce Department's export controls on cattlehides. Further, it requires that any future controls on exports of an agricultural commodity must have the prior approval of the Secretary of Agriculture, such approval not to be given during any period when the supply of such commodity is in excess of domestic requirements. (P.L. 92–412).

Although the legislative history will require the most careful analysis by the Departments of Commerce and Agriculture, it appears that P.L. 92–412 expresses a clear Congressional mandate that controls on cattlehides not be reimposed.

Nevertheless, we share your concern with the cattlehide situation and the Commerce Department will continue to monitor matters closely.

Sincerely,
RICHARD K. COOK.
Deputy Assistant to the President.

CONGRESS OF THE UNITED STATES,
October 2, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have received from your assistant, Richard Cook, a reply to my letter of September 14 concerning the reimposition of export controls of cattlehides.

Although the letter stated that "export controls were required to protect the domestic economy from excessive drain of hides and to reduce the serious inflationary impact of abnormal foreign demand," it contained no commitment to reimpose the controls program.

The cattlehide situation, which was serious on September 14, has worsened considerably. The price of hides rose another 10 per cent last week.

The time for action is now. If controls are not reinstituted, thousands of American workers will lose their jobs, and the industry will be permanently damaged. No cattle producers will be put out of business if controls are put on. The hide is a relatively insignificant by-product of the cow.

I am asking that you announce, immediately, the reimposition of the export control program. To do less will be to endanger the survival of an important American industry.

Yours sincerely,
MICHAEL J. HARRINGTON.

THE WHITE HOUSE,
Washington, D.C., October 5, 1972.

Hon. MICHAEL J. HARRINGTON,
House of Representatives,
Washington, D.C.

DEAR MR. HARRINGTON: This will acknowledge and thank you for your October 2 letter to the President commenting on my previous letter to you concerning the reimposition of export controls on cattlehides.

We will be pleased to ask that your views on this problem be reviewed by those who have the matter of export policies under continuing observation.

With cordial regards,
Sincerely,
RICHARD K. COOK,
Deputy Assistant to the President.

N. H. MATZ LEATHER CO.
October 10, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We urge you to reinstitute export controls on cattle hides. If this is not done immediately, we will be forced to close our tannery and our workers will join the ranks of the 190,000 unemployed in the State of Massachusetts.

The governments of Argentina and Brazil, have embargoed their cattle hides to protect their leather and shoe industries, as you know. Why doesn't this administration apply the same rule for our protection, without the constant frustrating pleas for relief.

What, Mr. President, is it going to take to make this government aware of this very, very, serious plight concerning the leather and shoe industries?

Very truly yours,
BERTRMAN MATZ.

BOND LEATHER & SPLITTING CO., INC.
Peabody, Mass., October 10, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As requested by our Congressman, Michael J. Harrington, we urge you to use the power granted under Section 4(e) of the Export Administration Act, to authorize and urge the Secretary of Agriculture to permit the Secretary of Commerce to reinstitute the cattlehide export control program.

Because of the shortage of cattlehides and the exorbitant price of same, our tannery faces a lay off of workers or possible closing, if relief is not forthcoming.

Very truly yours,
MAURICE O. RAIN,
Vice President.

UNITED SHOE WORKERS OF AMERICA,
Lynn, Mass., October 10, 1972.

President RICHARD M. NIXON,
White House,
Washington, D.C.

MR. PRESIDENT: This is to inform you that Officers and Members of Local #2, United Shoe Workers of America, AFL–CIO, CLC strongly urge that you authorize the Secretary of Agriculture to reinstitute the cattlehide export control program.

Our industry of shoe manufacturing, so hard hit by imports, is now threatened unilaterally by the high cost of domestic finished tanned hides. This will result in more factory shutdowns and loss of jobs, plus higher consumer costs for shoes. For any manufacturer of footwear, the lifting of the controls on hides will mean the death knell of his factory.

Therefore, we ask you again to use the power granted to you for the reimposition of the export control program. Unless this is done the Tanning and Footwear industry will become extinct.

Yours truly.
NICHOLAS PAPPAS,
Business Agent, Local 2.
ANN MOLEA,
Secretary-Treasurer.

BARRY MANUFACTURING CO., INC.,
October 11, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: With the large problems of the world on your shoulders, it is understandable how smaller problems may escape being called to your attention.

We are manufacturers of Baby shoes. For the past twenty years we have been able to supply shoes to the volume retailer to retail at from $2.00 to $3.00. Today with the leather market escalating daily the same shoes have to be priced to sell at $5.00 to $6.00.

In order for us not to lose the volume market we are being forced against our better judgment to manufacture imitation material shoes for babies to keep the shoes in a $3.00 to $4.00 bracket.

As for the babies, we believe this type of footwear to be detrimental to their health for any number of reasons. One being, that tender baby feet should not be confined in material that fails to shape naturally to their delicate bones.

We cannot believe that you, Mr. President, would allow conditions in our industry to run uncontrolled and at a rate that really spells doom for independent manufacturers. We are hurting and calling "uncle" as a last resort.

If your Department of Health and Welfare is concerned about its citizens, it could speak to its babies—on the other hand babies can't defend themselves. You Can Help—will you?

Yours very truly,

JACK ROTHBARD.

POLITICAL EXPEDIENCY VERSUS TIMELESS CONSTITUTIONAL GUARANTEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BRASCO) is recognized for 10 minutes.

Mr. BRASCO. Mr. Speaker, in recent days a massive furor has caught the public eye as a result of the Watergate incident and facts emerging from that event.

Part of the fallout has dropped in the House Banking and Currency Committee, of which I am a member. A question has arisen as to whether or not it is proper for that committee to conduct hearings with subpena power into the Watergate incident before individuals under indictment have had their day in court.

In the partisan confusion and attendant publicity, I did cast a vote against holding committee hearings before trial. If an opportunity should again arise, I would cast a similar vote.

I would like to take this opportunity to set forth the reasons for my position.

On the surface, the "Watergate Incident," is a far-reaching imbroglio, fraught with immeasurable political consequences of a national nature. The Democratic Party, understandably, is desirous of airing all facts in this matter as soon and widely as possible.

I sympathize with this goal, and feel that the public has a right to be fully informed on all aspects of what seems to be an appalling breach of criminal law plus every elementary rule of political conduct.

To date, the Justice Department has secured criminal indictments against seven men. A civil suit has been initiated by the Democratic Party.

However, as yet there has been no trial of any kind of these accused people. Each of the defendants in this case is entitled to the full range of protections provided accused persons under our Constitution. Such rights are elementary, forming the foundation of the entire American system of justice.

These rights include, first and foremost, trial by jury in a courthouse, not trial by publicity before a congressional committee. The sole constitutional forum for such a proceeding is the courtroom.

We are, therefore, confronted with a wrenching choice. How to air the facts in the Watergate affair, while ensuring that every basic right of all defendants remains inviolate.

Can a congressional committee expand its jurisdiction to air such a situation in spite of the fact that no trial has been held? Does this not jeopardize the right of the defendants to a fair trial? Does not such a congressional hearing or hearings constitute trial by committee and trial in the media as opposed to the courthouse?

In our efforts to secure the truth before trial, are we not using the right of a congressional committee to investigate, subpena and hold hearings as a political club which violates the rights already mentioned?

In the much-lamented McCarthy era, we sustained terrible institutional damage through political abuse of constitutional guarantees. Hindsight and historical perspective have rendered the judgment that such activities were in fact attempted trials by hearing and publicity. Even today, our society bears the scars of those turbulent times.

Similar perils confront us through abuse of congressional authority by the House Un-American Activities Committee. For that reason, since first coming to Congress, I have voted against such abuse by that body.

Very recently, a legislative attempt was made by HUAC in the heat of emotions roused by the headlines, to grant the President the right to impose travel restrictions on American citizens seeking to enter areas of armed conflict. This was actually motivated by the activities and public statements of Ramsey Clark and Jane Fonda.

No action by this body could have been more misguided or foolhardy. No action could be more fraught with future peril for the liberties of our citizens. I opposed that ill-starred effort to use legislative power as a bludgeon against those holding such views and espousing such causes, even though I did not then and do not now agree with their conduct or activities.

I do not believe we should blithely place a legislative time bomb under our civil liberties, trusting to the good faith and judgment of future Presidents the right to pick and choose who should travel. A few years hence, a future chief executive could prevent media personnel from traveling to report news or restrict the elementary right to travel each American presently possesses and takes for granted. Any such punitive law is inordinately flexible, holding itself open to any negative interpretation.

It was for these and similar reasons that I voted against granting subpena power to the chairman of the House Banking and Currency Committee. For it would set the precedent for further unraveling of the fabric of constitutional and judicial guarantees. As a former legal aid attorney and assistant district attorney, I know all too well how such abuses grow and are utilized by the unscrupulous.

I hold no brief for the Nixon administration, many of whose actions I find repugnant. My statements disagreeing with the President, taking his administration to task, opposition to many of his policies and votes against many of his party's positions stand by themselves and are a matter of public record.

Nor do I possess sympathy for any attempt to violate the elementary rules of political behavior, as may be the case in the Watergate affair and in similar happenings which have recently come to light.

I am a Democratic partisan, as my activities in my home district on behalf of our presidential standard bearer amply indicate. I have toured with the nominee in my home area, an act which more than one member of my own party has refused to do.

Yet in spite of partisanship, there are issues that transcend it; national questions of permanent interest which touch the lives of all Americans in the present and for years to come. The war in Vietnam has been a glaring example of nonpartisan divisions.

Curtailment of Government secrecy; curbing invasion of privacy; civil liberties; none of these issues are negotiable. Once we allow such elementary guarantees to be eroded, no matter by whom and for what reason, we have taken an irreversible step toward a less free society.

None of these comments are offered as excuses for my vote today. Rather, they are facts which seek to place my position in some historical perspective.

In the heat of the moment, passion dictates condemnation. But we cannot allow passion to override the fundamental rights of our citizens. In the calm of future times, when perspective is available, I believe my position will be seen as the correct one in terms of American liberties.

A decade hence, the party and President in power may well be of another ideological stripe. Other such incidents may take place. Shall another committee then, using the House Banking and Currency Committee's precedent, step forward seeking to deprive other American citizens of their elementary rights in the name of political expediency and partisanship?

A GAO investigation is very legitimate and in order; so are probes by the media. But as I see it, a public hearing by a congressional committee armed with subpena power before any trial is held is prejudicial in that all testimony would of necessity be dealing with the alleged criminal conduct of the defendants.

We would be sacrificing permanent, elementary legal rights for temporary political gain. Are we not above that?

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. GRASSO) is recognized for 5 minutes.

Mrs. GRASSO. Mr. Speaker, I regret that I was unavoidably detained and was unable to be present for rollcall No. 440. Had I been present, I would have voted "yea" on rollcall No. 440, the conference report to H.R. 16654, the Labor-HEW appropriations bill.

REPORT FROM WASHINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 5 minutes.

Mr. FISH. Mr. Speaker, in a few days I will mail to all postal patrons in my district a wrap-up report from Washington outlining some of my activities during the 92d Congress, and would like to make it available to readers of the CONGRESSIONAL RECORD.

The report follows:

HAM FISH, JR., REPORTS ON THE 92D CONGRESS

As the 92d Congress ends, it is time once again to attempt to sum up some of the legislative accomplishments, and some of the disappointments, of the past two years. In session almost steadily for the past 22 months, with over 580 pieces of legislation enacted into law, any objective assessment is difficult.

One standard of measurement—although certainly not the only one—is the number of Presidential requests to Congress for action which have found their way into our statute books.

Of the 58 Presidential requests during the past two years, 29 did not reach the Floor of either Senate or House, 24 have been enacted into law, while the remainder have died after passing either the House or Senate, or in Conference.

For me, the 92d Congress held a number of legislative dissapointments. Among the most discouraging was the failure of Congress to develop meaningful Welfare Reform, Health Insurance legislation, Parole Reform, or Housing reform, a Consumer Protection Agency or a National Land use Policy. Mass transit was aided but we are far from the National Committee I support.

A major achievement of the 92d was the enactment of a Revenue Sharing Act. This will mean that $5.3 billion in Federal revenues will be returned annually for the support of State and local governments.

Under the formula adopted in Conference, New York State will receive a total of $591.4 million, with $197.1 million going to state government, and the remaining $394.3 million distributed to local governments. For the four counties which in whole or in part make up the 25th Congressional District, this will mean a flow-back of $13,401,072 to help defray county and local government costs.

First proposed by President Nixon in the 91st Congress, the Revenue Sharing Act was hammered out in four years of study and debate by Congress. Although the wisdom of having the Federal level of government raise money to be spent by lower governmental levels on a no-strings-attached basis still raises doubts, at the moment it remains the single best hope for easing regressive property tax burdens.

In other areas, the 92nd Congress has acted aggressively to alleviate the plight of older Americans, both through passage of the Older Americans Act Amendments and in providing a 20 percent Social Security Benefits increase.

In Health (Act to Conquer Cancer), Drug Abuse (Drug Abuse Prevention Act), Education (greater funding for higher education) and Environment (Water Pollution Control Act, Pesticides Control Act), as well as in many other areas, Congress has taken meaningful progress.

But—as always happens—a large number of important measures on which work was completed, were lost in the final rush for adjournment. They will have to be taken up when the 93rd Congress convenes on January 3, 1972.

FISH BILLS PASSED BY 92ND CONGRESS

The following bills, either sponsored or cosponsored by Ham Fish, Jr., have been passed by the 92nd Congress and are now Public Law.

Drugs and Crime

H.R. 10841—Drug Abuse Prevention Act, P.L. 92-255.

H.R. 4240—To Prevent Emergency Detention Camps, P.L. 92–128.

Health and Education

H.R. 10739—Additional Funds for Higher Education, P.L. 92–318.

H.R. 2294—Encourage Doctors, Dentists and other Medical personnel to practice in rural areas, P.L. 92–157.

H.R. 11302—Act to Conquer Cancer, P.L. 92–218.

Environment and Conservation

H.R. 13724—Federal Water Pollution Control Act, P.L.

H.R. 10017—Act to Protect Wild Mustang Horses, P.L. 92–1.

Senior Citizens

H.R. 12719—Older Americans Act (Hot Meals for the Elderly), P.L. 92–258.

H.R. 15366—20 percent increase in Social Security, P.L. 92–336.

H.R. 15894—20 percent increase Railroad Retirement Act, P.L.

Fiscal and Business

H.R. 5026—Extend Farmer's Home Administration Loan Program, P.L. 92–133.

H.R. 9782—Restoration of Investment Tax Credit, P.L. 92–178.

H.R. 11736—Rural Development Act, P.L. 92–419.

H.R. 12521—Income Tax Exclusion for POW's, P.L. 92–297.

H.R. 4168—Revenue Sharing Act, P.L.

The above list covers only those bills which have become law. It does not include legislation I have introduced which has either been reported from Committee (my anti-UDC legislation) or passed the House (to increase allowable outside earnings under Social Security) or passed both House and Senate and is in Conference (Ocean Mammal Protection Act), to name only three examples.

FISH ECONOMY VOTES IN 92ND CONGRESS

With one Federal budget deficit being piled upon another for over a generation, it has long been my position that one of the greatest challenges facing Congress is to trim spending in every possible area while still maintaining essential government services.

The alternative to this is either radically higher tax burdens or substantial and continuing cheapening of the buying power of the American dollar. Either alternative marks the road to economic disaster. The only sane alternative then is to trim our spending. As a step in this direction, I strongly back the proposal of an annual spending ceiling.

In order to give a concise picture of where I stood on economy in the 92nd Congress, I have prepared the following voting record. Each vote, while reflecting my opposition to steadily increasing Federal spending, also represents my view of the sort of areas which can be cut without reducing essential services.

Against—Federal Subsidy for Rural Telephone Corporation, March 24, 1971.

Against—$728.6 million for already inflated Education budget, April 7, 1971.

For—Deletion of $2 billion from Public Works bill, April 22, 1971.

Against—Additional Funds for Foreign Travel by Members of Congress, May 6, 1971.

Against—Government Subsidy for development of the SST, May 12, 1971.

Against—$4.9 billion for 150,000 additional government employees, July 2, 1971.

Against—Adding $200 million to the Labor-HEW Appropriation bill, June 27, 1971.

Against—Child Development Program, September 30, 1971 and December 7, 1971.

Against—Sugar Quotas which penalize the American consumer, October 4, 1971.

Against—5.5% Federal Employee Pay Raise, October 4, 1971.

For—Prohibition against use of Federal Funds to support Forced Busing, November 4, 1971.

Against—$5 million for Transportation Exposition at Dulles Airport, December 6, 1971.

For—5% Cut in Labor-HEW Budget, June 15, 1972.

For—Limit of $20,000 on Farm Subsidies, June 29, 1972.

For—Upholding President Nixon's veto of inflated Labor-HEW budget, August 16, 1972.

For—Trimming $4.3 billion from 1973 Military Budget, September 13, 1972.

Against—$65 million Convention Center in Washington, D.C., October 3, 1972.

For—$250 billion ceiling on Federal Spending, October 10, 1972.

BILL TO CUT UDC MAKES PROGRESS

The thrust of my legislation to restrict the power of UDC to enter a community without local governmental approval through a cutoff of Federal funds, should such approval be lacking, was incorporated in the Omnibus Housing Act Amendments of 1972. It became Sec. 116 of that 300 page bill.

Reported by the Banking and Currency Committee in late September, unfortunately the act was not given a clearance for a vote by the powerful Rules Committee as other sections of the bill were strongly opposed by a number of Members of Congress.

In a bid to salvage this important legislation during the twilight hours of the 92nd Congress, I attempted to move the bill forward by either of two routes: (1) by lifting the language of Sec. 116 and moving to have it incorporated in a Continuing Resolution, or (2) to have the legislation brought to the Floor under a suspension of the Rules—a move which would have required approval by a two-thirds majority of the House.

Both these moves failed. But the issue is far from dead. I will be pushing for enactment of the bill when the 93rd Congress convenes in January.

$50,000 LIFE INSURANCE FOR POLICE APPROVED

I am happy to report that my House Judiciary Committee has approved legislation to provide a flat grant of $50,000 to the survivors of any police officer, correctional institution guard, paid or volunteer fireman killed in the line of duty.

This proposal, which originated in the Senate, has been broadened by my House Committee to make any death in the line of duty eligible for this insurance benefit, rather than limiting such insurance to only those officers killed while attempting to prevent a crime.

CONSUMER NEWS

Congress has acted to establish an independent agency to protect consumers against injury and death from hazardous products.

Under the bill, a five member independent commission with broad authority to set and enforce safety standards for household consumer products will be established, excluding only food, drugs and cosmetics which will remain under the jurisdiction of the FDA.

Among other things the Agency will: 1) collect and disseminate information on consumer related injuries; 2) establish mandatory safety standards to reduce unreasonable product hazards, or where not feasible, to ban the product from the market; 3) provide a system of product certification and 4) permit suits for damages by consumer to compel compliance with safety rules.

With 20 million injuries sustained annually by Americans in their homes, many from use of hazardous consumer products, this new agency spells a massive step forward in insuring product safety.

LETTER FROM THE CHIEF JUSTICE OF THE UNITED STATES

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, I submit for inclusion in the CONGRESSIONAL RECORD the following letter from the Chief Justice of the United States received by me today:

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., October 13, 1972.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Thank you for your telephone call in which you advised me that, quite contrary to some rumors and reports, no one had ever communicated with you purporting to express my views on any legislation or speaking in my name. I would have written you earlier but for the fact that the Court has been sitting all this week.

Your assurances are, of course, in accord with the facts but I am glad of the opportunity to make this a matter of record with you and confirm our telephone conversation.

As you know, Congress by statute requires the Administrative Office of the United States Courts to maintain extensive records relating to the federal courts, including particularly such records as enable Congress to measure the caseloads and to secure forecasts as to caseloads.

The Congress makes countless requests for information and probably not a week passes that the Administrative Office does not supply information either in writing, by conferences with Members, or by formal testimony before the Committee. Thus, on August 31, 1970, at the written request of the Senate Committee on the Judiciary, Mr. Rowland F. Kirks, Director of the Administrative Office of the United States Courts, appeared and testified in public hearings before the Committee on the potential impact upon the workload of the United States District Courts of S. 3201, a bill known as the Consumer Protection Act of 1970. Mr. Kirks emphasized that he took no position as to the substance of the proposed legislation. Thus, Mr. Kirks' activity is a matter of public record and in response to a Congressional mandate.

As to the substance of the particular bill or bills the New York Times account refered to, neither I nor the Administrative Office has a position now nor did we in 1970. The adoption of this legislation is purely a policy matter for the Congress. Indeed, I have never read either the legislation itself or any digest or summary of it.

However, I do have, and always will have, a strong view that when the Congress considers legislation that will add a substantial volume of cases in the federal courts, the Congress should also provide the means to handle those cases. The creation of new rights cannot have real meaning if the litigants must wait endlessly for recovery.

I expressed this view in Annual Reports in 1970, 1971 and 1972 to the American Bar Association, the most recent statement being:

"In recent years, Congress has required every executive agency to prepare an environmental 'impact statement' whenever a new highway, a new bridge or other federally funded projects are planned. I suggest, with all deference, that every piece of legislation creating new cases be accompanied by a 'court impact statement,' prepared by the reporting committee and submitted to the Judiciary Committee of the Congress with an estimate of how many more judges and supporting personnel will be needed to handle the new cases.

"This is not to suggest that Congress reject legislation simply because it would increase litigation, but only to suggest that Congress consider the needs of the courts along with the need for new legislation."

My duties as Chief Justice and Chairman of the Judicial Conference require me to comment from time to time on the problems of the judiciary and matters relating to the administration of justice, such as the provision for judges, court facilities, and supporting personnel for the courts. No expression of mine can rationally be construed as relating to the merits of the substantive legislation in question. Any statement or intimation to the contrary is unjustified.

You are, of course, aware of my position, and any responsible person who wanted to secure the facts could have secured them from me.

Again, my thanks for your kindness in calling me on this subject.

Respectfully,

WARREN E. BURGER.

THE PITY OF A LOST OPPORTUNITY FOR WELFARE REFORM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is a great pity that welfare reform legislation appears to be dead for this session of Congress. The public wants welfare reform. The public is tired of expanding welfare rolls with no serious effort being made to limit welfare expenditures. All the bright promise which was reflected in the efforts by Congress earlier this year for welfare reform now have wound down to some sort of an experimental program which is little more than a joke. A guaranteed annual income certainly is not welfare reform. It is an invitation for bigger welfare rolls.

This is not a procedure that helps the reputation of Congress. We had an opportunity to do something. The public wanted it done. I do not believe there is a single Member of Congress who is prepared to express satisfaction with the welfare mess. The General Accounting Office has advanced the opinion that 15 percent of those drawing welfare do not belong on the rolls.

I have repeatedly voiced my opposition to so-called welfare reform proposals which would do nothing except place more people on the rolls and guarantee them an annual income in many cases larger than that earned by those working full time. But I have supported welfare reform proposals which would require work from the able bodied in exchange for financial help. I believe that welfare reform also includes enough money for a decent livelihood for the aged, the blind and the disabled. This truly would be reform. Yet this kind of welfare reform draws opposition from many in and out of Congress. There are those who want the present deplorable system to continue. There have been demonstrations against work by welfare recipients and these have been supported by Members of Congress.

If we continue to put off the welfare situation it will truly become a racket paid for by an ever diminishing number of downtrodden taxpayers who work for a living, pay their taxes, and wonder whether they too would be better to join the ranks of the welfare recipients. If Congress is to accept responsibility for a realistic program for the betterment of America, welfare reform should be high on the list for the next Congress.

PERSONAL ANNOUNCEMENT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, on yesterday I was absent for the record teller vote on the conference report on H.R. 10729, to amend the Federal Insecticide, Fungicide, and Rodenticide Act. Had I been present, I would have voted "nay."

CONSUMERS, JOBS, AND U.S. TRADE POLICIES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker today I am introducing a comprehensive international trade bill aimed at providing increased protection for the American consumer public and the American worker. This bill draws heavily on proposals recently made by my distinguished colleague from Ohio (Mr. SEIBERLING) as well as on certain provisions of the Burke-Hartke bill. I also want to acknowledge my indebtedness to the very thoughtful report entitled "Trade Adjustment Assistance," submitted by the Subcommittee on Foreign Economic Policy under the able chairmanship of the gentleman from Iowa (Mr. CULVER).

The subject matter of this bill is U.S. international trade policy. American consumer organizations and some industries are demanding liberal import trade policies while some major labor organizations are convinced that those same liberal trade policies have caused increased unemployment in the United States. Consumers see free trade policies as an anti-inflationary method of obtaining an increased selection of available goods at lower prices. Certain labor organizations, on the other hand, insist that "cheap labor" imports put Americans out of work by decreasing the demand for American products and that American investment abroad "exports" jobs out of the United States, resulting in a direct loss of one American job for every job created overseas.

We must bear in mind that in an already tight job market, the American worker perceives the rising tide of imports as a serious threat to his security. Concern about jobs lost to imports has provoked calls for a review of our foreign trade policies and for a reversal of the open trade philosophy which guided these policies through the last three decades.

For most of the period since World War II, these policies have worked well.

This period has seen a phenomenal growth in world trade and in the economy of the United States. However, the very success of our international trade and investment policies, together with certain negative factors, including the Vietnam war and enormous military budgets, have led to a basic shift in America's competitive position.

Today, those who advocate freezing imports and restricting the export of American capital do so out of a legitimate concern for the welfare of the American worker. It is a concern which is shared by many of those who have misgivings about the imposition of such controls on trade. The dislocation of any worker is a personal tragedy and a loss to the community and the Nation. Loss of employment means more than just the loss of current income. The problem of adjustment to foreign competition is also a social problem which involves the loss of seniority rights, health insurance, and pension benefits. The psychological shock of unemployment and the breaking of strong ties to one's community if relocation is required are blows which we must strive to prevent.

At the time I became a Member of Congress, hundreds of workers in my congressional district were unemployed. Hundreds of them are still unemployed. Many more live in fear of losing their jobs. To say that I am concerned about their situation is putting it mildly. Since being in this House, I have spent a great deal of time attempting to get a clear understanding of the causes of unemployment and possible legislative action to remedy the situation.

This bill seeks to achieve a middle ground between the positions of consumers and labor, protecting the interterests of both groups. But it must be emphatically stressed that, in America, all workers are consumers and most consumers are workers. Hence, policies which benefit the one "group" do not disadvantage the other "group," for the two "groups" are essentially one and the same.

As the cost of living and the rates of unemployment continue to rise in this country, hard-pressed consumers and workers turn to their elected representatives in Congress for assistance. The purpose of this bill is to respond to that urgent public appeal for solutions to economic woes which confront our Nation. This bill includes elements of tax reform, stimulation of the economy, increased employment, consumer protection, and unemployment benefits all aimed at preserving the advantages of foreign trade and relieving the hardships it might impose on Americans.

The bill which I am proposing would do five basic things:

First, it would insure that Federal tax advantages and incentives to U.S. corporations investing abroad would be granted only if those overseas operations stimulate the U.S. economy, improve the U.S. balance of payments, and benefit the overall employment picture in the United States. Tax incentives would no longer be granted for those U.S. corporate investments overseas which produce a net drain on the U.S. economy.

Second, it would help prevent foreign trade practices which give to foreign producers an unfair advantage over American products on the U.S. market. Imported products would then carry prices which reflect actual production costs.

Third, existing adjustment assistance programs would be revised to facilitate and insure the provision of Federal financial assistance and retraining for American workers who have lost their jobs due to the purchase of foreign imports by U.S. consumers.

Fourth, it would guarantee that the U.S. consumer public would receive the vital advantage of maximum fair competition between American and foreign products. This competition would result in higher quality consumer products at more reasonable and affordable prices. The "laws of the market place"—natural economic forces—would weed out inferior or overpriced products. Both United States and foreign producers would be given the impetus to strive for improved productivity and quality, all to the benefit of the U.S. consumer.

Fifth, full and clear disclosure of the origin of foreign-made products and components would be required in advertising and packaging. This would aid U.S. consumers in making informed purchasing decisions. Those who want to "buy American" would be able to do so.

A more detailed discussion of the elements of this legislation follows:

TAX REFORM

The present Internal Revenue Code tax structure permits U.S. corporations which invest in overseas subsidiaries producing or assembling consumer goods to defer U.S. income tax on the profits earned by those subsidiaries until the profits are "repatriated" to the United States. "Repatriation" is the term applied when a foreign subsidiary returns earned profits to its U.S. parent corporation in the form of dividend payments.

In contrast to this, all U.S. parent corporations and their U.S.-based subsidiaries must pay U.S. Federal income tax on their profits in the year in which those profits are earned within the United States. Income tax is paid by a U.S.-based subsidiary even if it retains its earned profits instead of paying them at once to its parent corporation.

Thus, foreign subsidiaries of U.S. corporations presently enjoy the considerable advantage of using their profits, free of U.S. income tax, as long as those profits remain abroad. This tax advantage and incentive for overseas investment is not an evil in itself, but the indiscriminate application of the incentive to all foreign subsidiaries has led, in certain cases, to results which are detrimental to the U.S. economy.

This bill would ensure that these tax incentives for U.S. corporate investment abroad would be retained when the overseas investment and production is necessary for the United States to remain competitive with foreign products abroad or here at home, or to gain a foothold in foreign markets. This situation arises when domestic U.S. production, assembly, or transportation costs would be too high to permit a U.S. product to remain competitively priced in world markets, necessitating actual production abroad in order to take advantage of less expensive foreign labor and transportation rates. In this manner, a U.S. corporation can justifiably utilize an overseas subsidary in order to retain or obtain a share of the world sales market for its product. In this case, no jobs are "exported" from the United States and no U.S. workers are put out of their jobs.

Various foreign countries presently grant their own producers tax deferrals and incentives on income earned outside their homelands. In certain instances, unless the U.S. Government grants similar tax advantages to U.S. corporations with foreign-based production or assembly subsidiaries, goods produced or assembled by those foreign subsidiaries will not be competitively priced and will be unsalable.

Tax revenues are generated only when foreign source profits exist which can be repatriated. Tax revenues, even if they are delayed until some time after the foreign profits are earned, are certainly better than no tax revenues at all. Consequently, it is desirable that this particular "tax break," which is merely a deferral rather than a forgiveness of a tax liability, be retained where needed to maintain the competitiveness of certain American products manufactured or assembled abroad.

However, in other instances these tax deferral privileges may tend to encourage U.S. firms to shut down operations in the United States and open plants abroad without producing any real benefit for the American economy. This situation arises when foreign production is not necessary for a U.S. product to be competitive, but U.S. companies are seeking even greater profits through cheaper overseas production or assembly costs than they are already earning with competitive American-based production.

American workers are then, indeed, thrown out of work merely to increase corporate profits at the expense of American society as a whole. In these cases, my bill would deny the tax advantage of deferral of U.S. corporate income tax on the overseas income. This step would serve to discourage U.S. corporations from making unnecessary or marginal investments abroad, and would discourage the needless "export" of U.S. jobs and resulting unemployment here at home.

The responsibility for the administration of this program would be placed in the U.S. Tariff Commission, which would make the decisions as to which American overseas investments are, on balance, beneficial to the U.S. economy. American corporations seeking deferral of taxes on their subsidiaries' earnings would have to make application to the Tariff Commission for that privilege. The burden of proving that the foreign investment is necessary to maintain a U.S. competitive position would rest with the corporations seeking the tax deferral.

The purpose of this tax reform is to encourage a rational and defensible national policy on U.S. investment abroad. Unfortunately, the evolution of our tax laws in the international arena has not kept pace with the changing realities of world economic development and foreign trade. The goals of our present tax laws, which date back to the turbulent post-World War II years during which American investment abroad was encouraged in order to bring financial stability and economic rehabilitation to a war-ravaged Europe and parts of Asia, have long since been fulfilled with the economic rebuilding of those areas.

Those goals are now outdated and require fresh analysis and reformulation. This bill aims to retain those tax incentives which benefit the U.S. economy through strengthening the U.S. balance of payments while maintaining maximum possible U.S. employment. It also aims to deny tax incentives to those overseas investments of U.S. capital which, on balance, are no longer in the national interest.

To advocate a blanket abolition of all U.S. tax incentives for foreign-source income would be to "throw out the baby with the bath water," a step which must be avoided if the United States is to maintain a strong position in international commerce.

ANTIDUMPING AND COUNTERVAILING DUTY PROCEDURES

The greater the freedom to trade, the more necessary it is to have effective means of insuring fair trade. There are foreign firms which seek to gain an unfair competitive advantage by "dumping" their goods on the American market at artificially low prices, attempting to wipe out their American competitors in the process in order to gain a monopolistic control of the market.

Furthermore, some foreign governments seek to subsidize their export industries by picking up the tab for losses which those foreign firms sustain by selling their goods below cost on the American market. The danger inherent to the U.S. consumer in this process is that U.S. domestic industries will be dealt a crippling blow which will drive them out of business, and, when the smoke has cleared, foreign interests will have control of the U.S. market and can demand excessive prices for their goods because of the absence of domestic U.S. competition.

At present, the United States has certain antidumping and countervailing duty laws on the books aimed at preventing such unfair trade tactics. An "antidumping duty" is a special tax collected from the importer of a product which is being priced for sale in the United States below its fair market value. The tax assessed is the sum which represents the difference between the product's U.S. sale price and its fair foreign market value. Antidumping duties are charged when the foreign producer of the imported goods takes the initiative in cutting prices below a fair market value.

"Countervailing duties," on the other hand, are charged when a foreign government pays an export grant or subsidy to one of its own producers in order to enable that producer to cut its sales costs on the American market. The countervailing duty assessed against such goods represents the amount of the subsidy paid to the foreign manufacturer by its own government.

In practice, administrative procedures have made the present antidumping and countervailing duty laws difficult to invoke. This bill would simplify and accelerate the pace of those procedures. Workers and management of industries affected by dumping or foreign subsidiaries could appeal directly to the U.S. Tariff Commission, seeking an investigation of the alleged trade offenses. Present law does not set a time limit on the Commission's deliberations, but this bill would remedy that by setting a time limit of 3 months from date of complaint to the handing down of a Commission decision. The Commission would be empowered to order the Secretary of the Treasury to impose antidumping duties and countervailing duties where appropriate.

These changes would assure U.S. manufacturers and workers timely relief in the event of unfair foreign competition. Furthermore, U.S. consumers would be guaranteed that all producers, foreign and domestic alike, would have an equal opportunity to compete in the U.S. marketplace with products which reflect true costs and actual competitiveness. Unfair trade practices which could force genuine competition out of the marketplace, leading to foreign monopolistic exploitation of the U.S. consumer, would be prevented.

Also in the field of tariffs, this bill would reform the present preferential treatment of products assembled abroad from component parts made in the United States. Reduced tariffs would be permitted only if foreign assembly is necessary to maintain the U.S. competitive position and does not negatively affect the U.S. economy. The U.S. Tariff Commission would have the responsibility for making that determination, and imported products made from U.S. components which do not qualify would be subject to the same tariffs as goods made from foreign components. This step would discourage the unnecessary "export" of American jobs out of this country and reduce unemployment here at home.

ADJUSTMENT ASSISTANCE FOR AMERICAN WORKERS

The free flow of foreign products to the U.S. market, given conditions of fair competition, will result in a greater variety of products available to the U.S. consumer at lower prices. Domestic and foreign producers will be spurred to increase their productivity and to seek technological developments, all to the consumer's benefit.

However, these free market conditions will inevitably lead to situations in which U.S. consumers may prefer certain foreign products over their domestic U.S. counterparts because of better quality or more favorable pricing. U.S. workers involved in the production of these American goods which fall out of favor with U.S. consumers will lose their jobs. It is the responsibility of this nation to shoulder the task of assisting those workers whose jobs are phased out due to the increased consumer benefits of free international trade.

This bill provides that full adjustment benefits would be made available to those U.S. workers who become unemployed because their companies' production has suffered from the competition of increased foreign imports or transferral of U.S. production or assembly facilities to overseas locations. To qualify for benefits on grounds of increased imports, American workers would only need to show that a decline in their firm's output was accompanied by an adverse change in that industry's trading position, either an increase in imports or a decrease in exports, or that a decrease in their employer's production was due to reduced sales to customers who had made increased purchases of the product from foreign competitors. Workers whose "multinational" U.S. employers transfer production or assembly facilities abroad would be eligible for these benefits as well.

Existing law on adjustment assistance frequently shortchanges American workers. Presently, it is extremely difficult for an unemployed worker to establish eligibility for benefits. First, he must show that increased imports are a "major factor" contributing to an industry's decline. Second, he must demonstrate that these imports resulted in "major part" from trade concessions. In arriving at these highly subjective and often arbitrary decisions, the U.S. Tariff Commission has repeatedly decided against workers.

The new criteria which I am proposing would link the determination of a worker's eligibility for adjustment assistance to specific, readily available economic data and statistics. The U.S. Tariff Commission would no longer have broad discretion which could be utilized to the disadvantage of American workers.

The increased financial benefits proposed by this bill would compensate unemployed workers at the rate of 80 percent of their old wages until they are able to locate suitable replacement work. If the replacement work pays less than the job lost because of foreign imports, the Federal Government will pay the difference so that the worker receives the same income he originally was earning.

Workers who had been employed for less than a year before losing their jobs would be eligible to receive these adjustment benefits for 1 year. Workers who had been on the job for more than 1 year but less than 11 years would be entitled to benefits for 1 year, plus 4 weeks of benefits for every year worked in excess of the first year. Those senior workers who had been with a firm for more than 11 years would be entitled to the benefits described for more junior workers, plus 8 additional weeks of benefits for every year worked in excess of 10 years. These financial benefits are a much-needed improvement over existing law, which only allows a worker assistance payments for a maximum of 1 year, at a rate amounting to merely 65 percent of the national average manufacturing wage.

Job retraining and relocation assistance would be furnished by the Federal

Government. Eligibility for adjustment assistance would be contingent upon a worker's making a good faith effort in the job retraining programs offered him by the Government. The entire adjustment assistance program would be administered by a separate Office of Adjustment Benefits within the Department of Labor.

IDENTIFICATION OF FOREIGN PRODUCTS

In order for American consumers to make informed purchasing decisions, they must be aware of the country of origin of imported products. This bill would introduce a strong provision, a form of truth-in-packaging law, which would require that the packaging of imported products or of U.S.-made products containing foreign components conspicuously indicate the names of the foreign countries of origin. It would ensure to the American consumer that if he desires to purchase an American product, he will not be misled into buying a foreign substitute. This is in no way a discriminatory provision against foreign goods, but rather it is a method of ensuring the fair and honest packaging and competition to which the American consumer is entitled.

I have adopted this provision from a similar section of the Burke-Hartke bill. There are many people in this country who wish to "buy American," and it is entirely fair that they be given every opportunity to do so. Some people "buy American" because they feel that American goods are superior in quality to imported products. Others "buy American" as a patriotic gesture. Whatever their motivations, this provision will guarantee that foreign products or U.S. products containing foreign components will be packaged in such a manner as to clearly indicate, in English, the foreign origins of the items in question.

Mr. Speaker, the proposals contained in my bill are intended to be suggestive of legislative solutions to our foreign trade problems. They do not purport to be exhaustive. Other actions may be desirable, especially in emergency situations. Certainly the Burke-Hartke bill deserves careful study and analysis. There may well be cases where import quotas, limited in extent and in duration, and intended not to reduce particular imports but to hold them at a certain level, become necessary. America's role in world trade and the effect of trade upon the American economy and the U.S. consumer require extensive consideration, analysis, and deliberation, and one cannot be rigidly bound by what may be outdated concepts of the past.

Our goal should be to develop an overall policy which best balances the interests of all Americans—consumers, labor, management, and investors. I hope that the legislation which I am offering will serve as food for thought, stimulating further suggestions and revisions from other Members of Congress as well as the American public. As a member of the House Committee on Foreign Affairs, I feel that the American public must be made aware of all the issues in this area of foreign policy. The interests of the American consumer and working man are of paramount importance in our formulation of national legislation.

In order to help bring these issues before the public, I am planning to sponsor a community conference in my congressional district this year. The conference, on the topic, "The World and Your Pocketbook," will deal with the general problem of the effect which U.S. foreign policies have upon the American economy and the American consumer. Participating will be a number of distinguished public figures representing various viewpoints and interest groups, from whose interactions with my constituents seeds for further national legislation may germinate.

The present economic problems and attendant unemployment in this country have given rise to various proposals which, if put into effect, would in my judgment operate against the overall, long-term interest both of the American working man and of the American consumer. Two of the approaches suggested are particularly troubling.

In the first category are proposals to institute widespread restrictive quotas and high tariffs on imports. The second concept is to attempt to restrain all or virtually all overseas investment by U.S. corporations. These proposals have been offered with the best intentions of improving the U.S. balance of payments and cutting down on unemployment here at home. However, careful analysis reveals that their long-range effects would not be salutary, and would in fact be diametrically opposed to the interests of the American worker and consumer. Consequently, I have not included any such provisions in the bill which I am introducing today.

It is true that restrictions, quotas, and higher tariffs on foreign imports would result in increased purchasing of U.S.-made products, thus temporarily providing extra employment in the United States. However, history has shown that unilateral trade actions of this type soon draw retaliatory responses from other nations which trigger trade wars, resulting in increased unemployment everywhere. For example, the disastrous results of the 1930 Smoot-Hawley Tariff were a major factor contributing to the great depression.

During that period of time, American exports fell more than $3.5 billion, a loss of almost 50 percent of pre-Depression exports. Many American jobs today depend upon the export of U.S.-made products, as well as on the importation of goods from abroad. Jobs for American factory workers, clerks, truckers, merchant marine personnel, longshoremen, railway workers, and a long list of other occupations can be traced directly to American exports and foreign imports.

Unless we buy goods from abroad, foreign countries will not possess the U.S. dollars needed to finance their purchases of our exports, demand for U.S. goods will drop, and many American workers will find themselves on the unemployment rolls. Similarly, those Americans who owe their jobs to the import trade would find that import restrictions and reductions would spell unemployment for them. Department of Labor statistics reveal that more than 2.5 million Americans across the land are directly dependent on imports into the United States for their jobs.

Thus, the short-lived employment gains resulting from drastic restrictions on foreign trade would soon vanish as foreign retaliatory quotas on American exports were introduced, available dollars to purchase U.S. goods on world markets dried up, and both imports and exports decreased. An unemployment picture far worse than the present one would emerge. This effect might well be more severe in the New York City area, with its great seaport, air cargo, railway, trucking facilities, and its thousands of importing firms, than in any other part of the country.

On this topic the U.S. Department of Commerce has reported in an April 1971, bulletin that:

> As the leading U.S. port in terms of the value of goods moving to foreign markets, New York City has a strong economic interest in exports. The shipment of goods through the port provides considerable income and employment from financing, insurance, forwarding, warehousing, transport, loading, and trade-related services.

The Commerce Department went on to note that:

> In the field of actual production for export, New York State was the Nation's leading exporter of products of the printing and publishing industry, that New York exports of manufactured products, notably of both electrical and non-electrical machinery, amounted to over $2.3 billion annually, that $40 million of New York State's agricultural products were exported each year, and that the state's economy benefits from goods produced not only for direct export but also for ultimate export through other states, such indirect exports being of particular importance in industries whose products require further processing or constitute components and parts for assembly into machinery or transport equipment.

The import business is also essential to employment in the New York City area. For example, plans were recently unveiled to construct a $37-million refrigerated warehouse and pier facility for imported meats in Bronx County, part of which I am privileged to represent in Congress. The purpose of this facility is to maintain New York's position as America's leading meat import center. Located in an economically depressed area, this facility will provide 2,000 new jobs with an annual payroll of over a million dollars. Through this installation will be funneled a major part of the 526 million pounds imported annually through New York Harbor, as well as of the 15.4 million pounds of meat exported through New York each year. The much-needed economic impact of a facility of this type upon the Bronx and upon residents of the New York metropolitan area is clear. Restrictive economic legislation would spell disaster for this and similar projects.

Writing to me on the subject of the impact of foreign trade on employment in the New York area, the chairman of the Port of New York-New Jersey Authority, Mr. James C. Kellogg III, stated that:

> As the nation's premier gateway for goods moving in international commerce, the bi-state Port of New York-New Jersey would be

among the foremost to feel the impact of constriction of world trade. Here an estimated one out of every four residents depends on the flow of international trade for the economic basis of his livelihood. There are approximately 23,500 longshoremen handling waterborne export-import cargoes at the port. Some 51,000 truckers and railroad workers transport oceanborne freight to and from the port district. Another 6,500 employees of local motor carriers are engaged in delivering to or picking up freight from marine terminals. Some 55,000 persons are employed by export-import wholesaling organizations, export management companies, combination export managers and the like. Institutions financing international transactions and marine insurance firms provide employment for at least 25,000 persons; ocean freight forwarders, customs brokers, warehousemen, and export packing firms employ another 16,000. There are over 18,000 steamship company employees including headquarters staff, crews, ship brokers, and agents. Nearly 12,000 workers earn their paychecks through maritime equipment supply and service.

"These are but a few examples, for as a result of the current flow of international commerce between this nation and its trad- Commerce estimates that 67,500 persons in New York and 28,700 persons in New Jersey ing partners there is work for thousands of others who provide essential services to shippers and traders. Moreover, a recently released report by the U.S. Department of are engaged in manufacturing for export.

The thrust of these reports is clear: continued high levels of imports and exports are essential to the economic health of the United States, especially in the New York metropolitan area.

As for Federal tax incentives for U.S. overseas investment, blanket removal of such incentives would result in increased unemployment here at home. The National Association of Manufacturers places at 200,000 the number of people who would be put out of work if tax incentives for overseas investment were abolished. High U.S. costs of labor, transportation, and raw materials make some American products uncompetitive abroad.

In order to sell those particular goods in foreign markets, it is necessary for U.S. corporations to produce them abroad. Their overseas sale results in more jobs for American workers, increased income for U.S. investors, and greater taxes collected by the U.S. Treasury—provided reasonable tax policies are followed.

An example of this can be found with American citrus products, whose high domestic prices prevented their export to Europe. Ten years ago, Florida orange growers began planting groves in Brazil to capture the European export market. Today, juice from those Brazilian oranges is shipped to the United States, where it is repackaged for sale in Europe. That processing and packaging in Florida provides jobs for Americans. The Florida Citrus Commission has acknowledged that the Brazilian juice has helped Florida exporters to maintain a share of the European market, the cost of Brazilian orange juice being less than half that of Florida juice.

A second example is that of a major Midwest manufacturer of farm machinery with principal production facilities in Iowa and Illinois, employing over 38,000 people. In 1956, that corporation exported $30 million worth of its products. In the same year, the company began its first overseas investments. Fifteen years later, in 1971, the company reported $91 million in exports of its U.S. production. That corporation attributes the $61 million increase in exports directly to its foreign investments. It has stated that, as a result of its overseas production and greater visibility in foreign sales markets, foreign customers increased orders of spare parts as well as of machinery manufactured in this country.

Furthermore, that same corporation now exports over $13 million worth of U.S.-made components to its overseas production facilities for integration into machinery produced abroad. The manufacture of these component parts, spare parts, and whole farm machines for export means increased employment here in the United States. This foreign investment has not brought about the "export" of jobs out of America, but has instead had the effect of creating—one might even say "importing"—new job positions for American workers.

As a third example, a major New Jersey-based producer of industrial machinery has increased its exports by 150 percent since it began investing overseas 10 years ago. It now states that 4,000 U.S. employees owe their jobs directly to the export of the firm's products. To illustrate this position, the company reported that following its commencement of production of industrial condensers in Spain, the export of U.S.-made pumps needed for those condensers increased by 158 percent.

Its 1971 annual corporate financial statement revealed that 37 percent of the firm's total sales was of products manufactured abroad, but it also showed that 45 percent of those foreign sales represented component parts manufactured in America and exported to foreign production facilities. Were restrictive foreign investment legislation to be enacted, the corporation estimates that 1,815 workers at plants in New Jersey and Pennsylvania and 836 employees in New York State would lose their jobs.

In the last decade, domestic U.S. employment in "multinational" U.S. corporations with overseas operations rose by 27 percent, while total U.S. manufacturing employment grew by the lower figure of 17 percent. This suggests that jobs here at home may indeed be generated by necessary production abroad. Fears of a massive flight of U.S. capital out of the country, resulting in widescale domestic unemployment, are unfounded, according to the Commerce Department. Last month it estimated that expenditures for plants and equipment by foreign affiliates of U.S. concerns would rise by only 4 percent in 1972 and 6 percent in 1973. Where capital exporting is abused, let us discourage it, but where it produces overall gains for the U.S. economy, it deserves our support.

American consumer organizations and others have warned against restrictive trade and foreign investment policies because of their effect on prices. For example, the League of Women Voters of the United States has pointed out that "protectionist" legislation would mean that:

> Prices in this country would tend to go up, reducing the real income of Americans, affecting particularly those who can least afford it. The consequences of higher prices and a more limited choice of goods would fall especially on the lower income families who are the major buyers of less costly imports of clothing, footwear, and other consumer necessities.

The American Consumer Education Council on World Trade echoes that warning, stating that:

> Tariffs and quotas reduce the competitive pressures on domestic industries, permitting them to charge higher prices and reduce the quality of their products.

Virginia Knauer, Special Assistant to the President for Consumer Affairs, cautions that:

> The imposition of import quotas will hurt virtually every consumer in the U.S., particularly lower income consumers. Higher prices, fewer product choices, reduced competition and a limited supply of imported products are the probable result of proposed import legislation.

Consumer advocate Ralph Nader strikes a key nerve when he warns that:

> Imports are the only real competition for many American firms. The consumer benefits from this competition in price and quality. The American firms gain because they are motivated to increase their productivity for markets both at home and abroad.

In the light of all the evidence and informed opinion available to me, I am convinced that the solution to unemployment does not lie in widespread trade quotas, high tariffs, or excessive overseas investment restrictions. Better answers, I believe, are along the lines of the approaches I have suggested, as well as in increased productivity and technological advances, and a complete overhaul of our national spending priorities.

I do not pretend to have all the answers to the questions and problems raised in this broad area of foreign trade policy and the American worker and consumer. However, I do hope that Congress can soon apply its collective energies, drawing upon the intellectual resources of the American public, to devise a rational, progressive national policy on foreign trade. In that hope, I offer this legislation for consideration.

SECTION-BY-SECTION ANALYSIS

TITLE I—TAX LAW AMENDMENTS

Section 101 indicates that these tax law amendments pertain to the Internal Revenue Code of 1954.

Section 102 provides for the taxation of earnings and profits of controlled foreign corporations.

Section 991 requires that earnings and profits from foreign investment be reported with a breakdown as to the source of the income (i.e.—from each country) for the year in which profits were earned; and that reported earnings and profits follow generally the rules now applied to corporations within the U.S., with adjustments for prior year's deficits, and exemptions for reporting of income where foreign legal restrictions make such reporting unrealistic or U.S. laws make such reporting unfair.

Sec. 992 defines the U.S. corporation as one with 10% or more of the foreign company's stock and defines "control" as ownership of more than 50% of the stock. It defines the foreign corporation with provisions for assuring that indirect control shall be included.

Sec. 993 establishes the mechanism for determining what is considered stock ownership, either direct or indirect.

Sec. 994 provides against double taxation by exempting income that has already been reported for taxes in the U.S. or abroad through a chain of relationships which would be taxed anyway. Proof is required for this exemption, so that information on relationships will be available.

Sec. 995 makes provision so that the U.S. stock has a taxable value related to the new provisions. The basis or the taxable value of the corporate stock will be adjusted by whatever amount is included or excluded in the gross income of the U.S. corporation. This assures that U.S. income abroad does not escape proper capital gains or other revenue collection. The adjustment in the "basis" may be upward for inclusions or downward for exclusions.

Sec. 996 provides that the U.S. Tariff Commission may grant an exemption from the provisions of sections 991–995 to any U.S. firm with respect to its foreign-source earnings, if it finds that the firm's foreign investments and operations do not adversely affect the U.S. balances of trade and payments, or U.S. domestic employment, and that the firm could not domestically produce the articles it is producing in whole or in part abroad and market them abroad competitively with like or similar articles produced by foreign-owned firms.

TITLE II—ANTIDUMPING ACT, COUNTERVAILING DUTY LAW, TARIFF SCHEDULES AMENDMENTS AND OTHER PROVISIONS

Sections 201 and 202 amend the Antidumping Act and countervailing duty statutes of the Tariff Act to expedite antidumping and countervailing duty procedures by placing their administration in one agency and setting a time limit of three months for the processing of a complaint.

Section 203 amends the U.S. Tariff Code to provide that those items permitting the importation of articles assembled abroad from U.S.-made components at reduced tariffs (items 806.30 and 807.00) shall apply only in cases where the U.S. Tariff Commission finds that the importation of such articles will not adversely affect U.S. exports, the U.S. balance of payments, or domestic employment, and that the importer could not produce the article domestically and market it competitively with like or similar articles produced by foreign-owned firms.

TITLE III—ADJUSTMENT ASSISTANCE AND TRADE

Section 301 is a short title.

Section 302 contains definitions.

Section 303 establishes a separate Office of Adjustment Benefits in the Department of Labor to administer the Adjustment Benefits Program.

Section 304 establishes the criteria for determining workers' eligibility for benefits under this Act. The criteria tie eligibility to easily obtained and readily correlated objective, economic data, assuring that eligibility determinations under this Act will be fair and equitable.

Section 305 establishes the amount and duration of cash benefits under this Act. The benefit levels established are higher than those available under the present Adjustment Assistance Program. Unemployed workers would receive 80% of their own former weekly wages. Eligible workers taking new jobs at reduced wages would receive compensation to bring them up to 100% of their old earning levels, giving workers an incentive to seek new employment as quickly as possible. Workers deemed eligible for Adjustment Benefits would receive them for at least one year, and longer depending on their previous length of service with the firm which lays them off.

Section 306 provides for job retraining for workers deemed eligible for Adjustment Benefits.

Section 307 provides for assistance for eligible workers in relocating within the United States, if such relocation is necessary to obtain suitable employment.

Section 308 authorizes the Director of the Office of Adjustment Benefits to contract for health insurance coverage in behalf of workers deemed eligible for Adjustment Benefits.

Section 309 requires U.S. employers engaged in interstate and foreign commerce to give their employees at least three weeks advance notice of any impending lay-offs or reductions in working hours. Failure to give such notice under this section would be punishable by a $5,000 fine.

TITLE IV—LABELING OF FOREIGN PRODUCTS

Section 401 requires that all foreign products or goods containing foreign components, even if those goods are assembled in the U.S., must bear labeling which clearly indicates, in English, the country of origin of the foreign products or foreign components.

Section 402 empowers the Secretary of Commerce to issue regulations necessary to effectuate this policy.

Section 403 provides for fines ranging up to $10,000 for willful violation of this title.

VICTORY FOR TRUMAN RESERVOIR

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, an organization calling itself the Environmental Defense Fund filed a lawsuit in Federal court on March 6, 1972, seeking to halt action on construction of the Truman Dam and Reservoir. The reaction of the good people of west central Missouri was in successive stages of first shock, then amazement, turning to a mood of disappointment, and finally into a fighting spirit, determined that the plaintiffs would not have their way.

As a result of this suit, our office received petitions from several thousand petitioners. We have not responded until now because of the pending lawsuit. It is because of such reasons that I take this opportunity at this time to make these remarks on the floor of the House and provide some measure of publicity on my position regarding this litigation. I intend to furnish reprints of these remarks to all of those who have written to our office.

The fact that we have not responded earlier to our petitioners should not be construed either as a lack of interest in the damage that could come from this lawsuit or a lack of activity to try to be helpful to the cause of the defendents. We immediately recognized the legal ethics involved and the fact that courts and the Congress are two separate branches of the Federal tripod.

Notwithstanding, it is a fact easily verified that my first offer of help was to become a party defendant. Later I offered to become an amicus curiae or friend of the court which in effect gives the right to interplead as a party and to present arguments on the side of one's choice. Later during the course of the trial, I offered to be a witness. The special counsel that had been retained considered until the very last calling the Congressman and the Senators who represent the area of the Truman Reservoir as witnesses.

At all times, I have cooperated very closely and communicated regularly with the Special Counsel employed by the citizens of our area. I have phoned from Washington to Kansas City regularly and frequently to know the course or correct status of the proceedings. It was the consensus of all that the Members of Congress should not make any preliminary comment that would reach the ears of the court, and which might or could result in an adverse reaction by the court.

I report now to the friends of Truman Reservoir that while it may have appeared that I was silent concerning this litigation, it was not by preference, but by suggestion of counsel. This turned out to be a wise course, because if we have not won a full victory, we have won the first round of the battle started by the strangers from upstate New York.

There is so much that could or ought to be said about this lawsuit. I will not take the time of my colleagues except to put on the record some things my constituents may read. First I wish to make it clear that I was present at the very first conference and discussions in the days when we called it the Kaysinger project.

I was present at these discussions in Clinton, Osceola, Butler, Nevada, and elsewhere. That was way back in 1960. In those days it was not always easy to persuade everyone of the great benefits or the tremendous long-run advantages of this project, consisting of flood control, recreation, and hydroelectric power.

At long last a consensus was reached and authorization was finally accomplished. Then who can ever forget the dramatic moment in the Oval Office of President Johnson when he picked up the phone to call the Budget Bureau, and turned back to the roomful of Kaysinger boosters saying it would be possible to give our project the green light instead of a project in Indiana?

When some of us, on that beautiful fall day back in 1964 participated in the groundbreaking ceremonies we thought all our troubles were over. Little did any of us the dream that the Vietnam buildup, which happened in 1965, would limit funding for constructon and land acquisition over the years ahead, and reduce the program on the project to only a snail's pace. In the years that followed, some of those who had been supporters of the project began to have doubts, and genuinely became concerned as to when this project would ever be completed.

During all of these years your Congressman and our Senators have tried to get every last dollar of appropriations that was possible. In 1 or 2 years we appropriated more than the administration would use. Some of it was impounded into what they called budgetary reserve.

It has been bad enough to move along so slowly. But then the real blow was the lawsuit. Yet, Mr. Speaker, this lawsuit did not cause those who had worked so hard for the Truman Reservoir to lose spirit or become despondent. It only caused them to fight a little harder with a determination that this ill-advised litigation would not be successful. I attended what was called a victory dinner in the Clinton High School a few weeks ago to help raise funds for counsel's fees. The sponsors were good enough to let me sit up at the speaker's table. From that vantage point, as I looked down into the eyes of those assembled there that night, I saw a group of fighters who were not going to give up no matter what amount of adversity they had experienced or what might come in the future. I came away from that meeting revitalized because of the dedicated determination of those who recognized the great value and understood the long range benefits that would come from the Truman Reservoir. You could easily sense the attitude that they would not be dissuaded by some outsiders who were bent on an arrest of progress for our area.

We have all heard a lot about the ecobalance. Sometimes it is called ecology. At other times the same thing is described as the problems of our environment. Such problems exist. There is no denying it. Great strides have been made to reduce water pollution. I suppose the biggest job of all is in the effort for environmental cleanup in the field of air pollution. Of course, the work here at Truman Reservoir would in no way contribute to the problems of air pollution.

Unfortunately, the allegations of the lawsuit, placed its entire emphasis on what would happen to the paddlefish and also on the loss of allegedly valuable archeological objects whose excavation would be denied by inundation. As could be expected, the petition was silent on the great benefits of flood control. It recited nothing at all about the impending energy crisis that could or might be alleviated if there were greater production of hydroelectric power, because of this and similar projects.

Mr. Speaker, I thought it was a well-known fact that this country is face to face with an energy crisis. That means the power for industry and light for residences is going to become a more precious commodity each year from now on. It means, moreover, that unless we do something to increase the output of our energy, the brownouts we now experience will, in the years ahead, become blackouts. Hopefully, some kind of new atomic process may be developed that will produce energy without the dangerous pollution that comes from atomic waste. But until that time comes, the very best kind of energy, the most pollution-free energy of all is that produced from hydroelectric sources. The foregoing dissertation should raise the question of who are the true environmentalists—those who would complete this project or the environmental defense fund, who would stop this project. I submit the answer is easy. The true environmentalists are those who would continue this project and the false or pseudo-environmentalists are those who would interrupt this completion, who have misnamed themselves the environmental defense fund.

The really thinking environmentalists are those who would see this project completed with all the vast benefits which will flow from it.

One of the most important benefits is large quantities of pollution-free energy which will be so desperately needed in this area in the years ahead.

When this suit was filed in March, it came like a bolt out of the blue. I just could not believe that the court would assume jurisdiction, because of the long delay in raising the question of danger to the environment from this project. Then I discovered there were some serious omissions in the drafting of the original environmental law. I could hardly believe that it did not contain a provision to exempt those projects which were already under construction at the time of the enactment of the law. To my surprise and dismay, I found that there was no such thing as a "grandfather clause" of any kind which would exclude the application of the environmental act to projects already underway. When this lawsuit was filed, and when I found the court did have jurisdiction I quickly responded with the comment, "There Ought To Be a Law." I meant that, even at this late date, there should be an enactment which would take away the jurisdiction of the courts as to projects that are as far along toward completion as the Truman Reservoir.

I have supported all of the water pollution and air pollution enactments that have been passed for the past several years. I am in agreement that we should and must think of the future of this small planet with its limited resources and its growing population.

But, Mr. Speaker, throughout all of the framework of the law there is what is known as the doctrine of latches which simply means that the law frowns upon anyone who sleeps upon his rights. Why, oh why is it equitable to permit these plaintiffs to wait until March of 1972 to file their suit? I submit that it is unconscionable that any plaintiff should not have to conform to some reasonable statute of limitations.

For my part I have never been able to understand why the original environmental laws did not contain a provision of exclusion exempting those projects under construction at the time, from the requirement of an environmental impact survey.

Accordingly, Mr. Speaker, I have recently introduced legislation which would deprive jurisdiction to any court of the United States to entertain a petition to halt any Federal construction project authorized prior to January 1, 1970, being built by the Corps of Engineers, provided there has been expended on such project by the date of the commencement of the litigation not less than 10 percent of the total authorized cost of such project or $15,000,000, whichever is greater.

The terms of my bill were considered before it was introduced. Certainly there was no environmental legislation of any consequence prior to 1970. As to those projects under construction before 1970, my bill will prevent the so-called environmental defense fund and others from sleeping on their rights. It is plain ordinary commonsense that a plaintiff just should not be permitted to file a lawsuit after $15,000,000 has been spent on a project, and thereby cause all that money to become a waste or total loss.

The figure of $15,000,000 is, of course, subject to amendment, as is the figure of 10 percent. This may be adjusted either upward or downward, depending upon the will of the Congress at the time of enactment.

Of course I do not have any illusions that this measure can be enacted and signed into law this Congress because of the lateness in the session. This bill could not be introduced until the court had rendered its decision. Let me say straightforwardly that in the event I should be a Member of the 93d Congress, I shall unrelentingly pursue the enactment of this piece of legislation with all the diligence and vigor that I can muster.

Yes, the lawsuit was quite a blow to the hopes of those who were friends of this project. But the lawsuit will not be fatal. We have already achieved a measure of victory by the judgment of the court. We are also assured now of the largest appropriation for FY 73 of any year since the commencement of construction. This is encouraging. It is not beyond the realm of possibility that if the bill I have introduced should become law it would not only eliminate the pending appeal, but would put to rest the issue of interruption of other projects across America.

PUERTO RICO'S POSITION IN UNITED NATIONS

(Mr. CÓRDOVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CÓRDOVA. Mr. Speaker, the people of Puerto Rico resent and totally reject the attempts of the Cuban Government to intervene in Puerto Rican affairs. Our position was vigorously stated 2 days ago at the United Nations by a distinguished Puerto Rican who is a member of the U.S. delegation, Mrs. Julia Rivera de Vincenti. Her statement follows:

> In the name of the delegation of the United States, and as a Puerto Rican, I must totally reject the statements by the Cuban representative that Puerto Rico has not yet achieved self-determination. I vehemently object to his continued interference in the internal affairs of the United States and Puerto Rico.
>
> It is a great irony that the representative of Cuba should make the statement which we have heard in this chamber today. Perhaps the representative of Cuba, whose people have not seen ballot boxes in their country in more than a decade, simply does not understand the meaning of the free electoral process and other democratic institutions which mean so much to Puerto Ricans. We in Puerto Rico know the meaning of self-determination which we have enjoyed and continue to enjoy, and we know from experience the true meaning of freedom.
>
> Again and again the Puerto Rican people have spoken in the free exercise of their options. Again and again they have demanded that Cuba cease interfering in their internal affairs. Must the people of Puerto Rico continue to be subjected to the calumnies we have heard today? Such slander is intolerable and degrading to the Puerto Rican people and to their free institutions. Must this organization continue to listen to such warped judgments of my people's ability to see and decide the issues for themselves?

Mr. Chairman, as a Puerto Rican and an American citizen, I must categorically reject the unwarranted and misleading allegations of the Cuban representative.

IN TRIBUTE TO HONORABLE PAGE BELCHER

(Mr. TEAGUE of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. TEAGUE of California. Mr. Speaker, I call the attention of my colleagues to the following speech made by Bryce Harlow on the occasion of a testimonial dinner given in honor of Page Belcher by his Republican friends and staff members of the House Committee on Agriculture.

Dear hearts and gentle people. What has risen before you is the erroded remnant of a giant of a man—one who has had the distinction and delight—yea, even the obligation—to labor well nigh a quarter of a century tete-a-tete with the incredible, peerless, formidable, lovably cantankerous Congressman Page Belcher of Oklahoma.

Well I recall our first encounter when I loomed over him when he first came to Congress. In that very first session, when I imprudently rendered a judgment counter to his, I discovered I quickly lost three inches in height due to his remarkably acerbic, rapier and scalpel-like tongue.

From that day forward I followed that old piece of doggerel in my relations with Page:

Those who fight
And run away
Live to fight
Another day.

Only by careful adherence to that doctrine have I survived to be here this evening, joining in tribute to one who has become a pillar in Congress, one who has been a mainstay of the Republican Party for the years I have known him.

Now let's be perfectly frank about Page. After all, he would expect that of us. The simple truth is, it would probably be easier now and then to live with Gloria Steinem than with Page Belcher, when you get right down to it.

My observation has been that there are two ways to get along with Page. One is his way. The other is his way. There's just no other way.

And that is precisely why he is what he has come to be—Page the Incredible.

I have seen this man, during my ten years in the White House, overcome not one, not two, not five, but a whole procession of obstacles before which lesser men would have quailed. Why, Page, even Ezra Taft Benson at the zenith of his imperturbable inflexibility never once even approximated your doggedness, your tenacity, your automatic, absolute insistence on achieving your purpose once your mind is made up.

Now in some people that kind of an attribute is not necessarily a handsome one. You know such a fellow can come to be viewed as dogmatic, or intolerant of others' views, or just plain bullheaded.

Well, to be honest about it, my friends, there have been times that I have thought Page was coming *just* a bit close to some of those things when, no matter what I tried to say, and no matter what the President or anyone else tried to say, he went cheerily careening down the highway of his choice, forcing the rest of us to dodge away for fear of our lives.

But there is a difference here—a really noteworthy difference. Let me put it this way.

Did you ever see a lovable cocklebur? Now some of you would say you haven't—but you lie in your teeth when you say that because that's precisely what is with us this evening.

Yes, Page is tough and Page is rough, and Page is demanding, and he will push around the biggest people in the entire United States without the slightest hesitancy, and virtually always with complete success in what he is trying to do.

But—and here's the big difference—always we have known, we who have been so lucky as to have worked with this gifted man, that his motives always have been gold undefiled. It is party loyalty that motivates Page. It is loyalty to our country that motivates Page. It is that grand concept of the long-term interest of the American people, the avoidance of the tawdry, the expedient, the short-sighted solutions that control Page. And so, a soft-hearted, a good-hearted thistle—a tough man, an able man, a driving man—but, oh, such a good man—that's our Page.

I, for one, am so mightily proud to have been able to work with him on many of his major achievements in his Congressional years, and as a fellow Oklahoman I glow like a firefly because he is a product of my state.

I guess one of the most enjoyable parts of what I am saying to you is to convey my understanding that he has decided to remain in these environs in which he has been so dominant and so constructive and so admired for so long. I frankly say Washington would be a far lesser place if he and Gladys should leave, and thank God they are staying, for their counsel, judgment and friendship will continue to be sorely needed by us all.

Let me close off with a sidebar comment—Gladys.

I have talked of Page being so big and so rough and tough, but, friends, everyone of us has seen him hunker down like the proverbial dog in the hailstorm when Gladys, irresistible Gladys, has turned and said, "Now, Page." So in saluting you, Page, we know full well we are saluting as well your wonderful lady, who I have reason to believe has been your anchor as well as your rudder, and I rather suspect also your engine, all of these years.

I suppose I am the right one to say one thing more, in light of the way this program has shaped out—a simple parting thought.

May the sun be in your face, may the winds be to your back, may all your breezes be fair and balmy, and may the Lord's hand be on your shoulder as you move down the street a piece but carry forward your devotion to the greatest country on earth.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record.)

Mr. MIKVA. Mr. Speaker, I regret that I was unable to be present when the House took action on four bills Wednesday evening, October 11, 1972. Had I been present I would have voted as follows:

Yes on roll 427, final passage of H.R. 16724, authorizing WMATA to purchase D.C. area bus lines;

Yes on roll 428, final passage of H.R. 6482, Strip Mining Reclamation bill;

Yes on roll 429, final passage of S.J. Res. 247, extending copyright protection until 1974;

Present on final passage of H.R. 15965, D.C. teachers' pay bill. I have taken no part in the consideration of this legislation in the D.C. Committee of which I am a member, due to a potential conflict of interest. My wife teaches in the D.C. school system, and is currently on leave for the 1972–1973 school year. Because she might benefit in the future from increases in salary and benefits enacted by Congress, I have abstained from voting on this legislation in committee and on the floor of the House.

THE INTERSTATE COMMERCE COMMISSION AND NEW RAILWAY FREIGHT RATES FOR RECYCLABLE MATERIALS

(Mr. VANIK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, last week, on October 4, 1972, the Interstate Commerce Commission proposed a general, across-the-board railroad freight rate increase of up to 6 percent. In some categories, the Commission limited the rate increases to a lower percentage figure.

At the present time, rail transportation rates are highly discriminatory: on a mile-to-mile basis, raw, primary materials can be shipped more cheaply than can secondary or recyclable materials. In permitting this rate discrimination—which in cases has amounted to a 50-percent differential—the ICC has encouraged the development of an extractive, depletion oriented economy. These freight rates have encouraged industry to destroy virgin timber rather than recycle waste paper: they provided incentives for the extraction of irreplaceable raw materials, such as iron ore, and have discouraged the careful preservation of waste materials. The ICC's freight rates have contributed to our Nation's solid waste problem and to the continuing destruction of our natural resources.

In the new proposed freight rate increases, the Commission made some effort to begin to lessen the discriminatory differentials between primary and secondary materials. For this first step—for this first recognition of the environmental problem which discriminatory freight rates have created, the Commission is to be commended. But, while the secondary materials' rail freight rate increases are generally held to half the rate increase for primary materials, the ICC's new tariff schedule has no real sound or logical basis. For example, the ICC does not explicitly state why the shipping rate for recyclable materials should be permitted to increase three percent. It would appear that the ICC hoped to satisfy the various conservation groups by merely pulling the 3-percent figure from the sky. At best, the 3-percent increase figure is extremely arbitrary, ambiguous, and highly debatable.

The ICC's recent approval of rail freight rate increases also violates the theme of U.S. Circuit Judge J. Skelly Wright's recent decision in S.C.R.A.P. versus ICC. In S.C.R.A.P. versus ICC, Judge Wright ordered that a proposed 2.5-percent increase in rail freight rates on goods being transported for purposes of recycling be prohibited pending further action by the court. In short, the ICC's recent decision defies the court's desire to stimulate the transportation and reuse of recyclable materials on a logical and orderly basis. In all probability, the ICC order of October 4 fails to satisfy the court's requirement of adequate environmental impact study.

Mr. Speaker, the ICC's recent action ignores recent legislative developments as can be seen in title VI of S. 2362, the Revenue Financing Division Act, currently pending before the Senate. In this particular piece of legislation, the Senate Commerce Committee states that—

> In order to accomplish the purposes of the Solid Waste Disposal Act of 1965, as amended by the Resource Recovery Act of 1970, it is essential to establish and maintain fair, reasonable, and nondiscriminatory transportation rates which will facilitate and encourage broader utilization of recycled solid waste materials and promote conservation of vital natural resources.

Recyclable goods must be used in production wherever and whenever it is possible. The present and proposed rail freight rate structure does not encourage this dire need—it actually discourages it. The ICC, therefore, is not acting in the public's best interest.

The ICC and the Nation's rail freight rate structure must be set back on the right track, through a complete study, review, and readjustment of all existing freight rates.

THE GLEN CANYON NATIONAL RECREATION AREA—A CORRECTION AND AN EXPLANATION

(Mr. LLOYD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LLOYD. Mr. Speaker, in the CONGRESSIONAL RECORD for October 12, 1972, page 35291, a statement is inserted by the junior Senator from Utah regarding action by the House Interior Committee on legislation to establish the Glen Canyon National Recreation Area.

Criticisms are leveled against the House committee which should be answered because the complaints are biased and in my opinion are meant to serve a purely political purpose.

The Glen Canyon National Recreation legislation as passed by the U.S. Senate was not acceptable to a great many Utahns for several reasons including the most hotly contested one which involves what I and many other Utahns consider to be essential and easily reached access to the Utah regions of the Glen Canyon National Recreation Area. Approximately 95 percent of Lake Powell is in Utah and yet access from the southwest to the Utah area is rendered difficult by inadequate roads. A large body of Utahns are of the opinion that unless this legislation mandates this road and allows the State of Utah road building jurisdiction in the event of default by the National Park Service, the road may never be constructed due to the opposition of some environmental groups who prefer a detour around the Escalante River rather than a span across the river at an appropriate location.

In an attempt to resolve these differences of opinion, I asked the Subcommittee on Parks and Recreation of the House Interior Committee to conduct field hearings. This is a request which had been made of me by environmental spokesmen who said it was difficult if not impossible for many of their members with a vital interest in the legislation to come to a hearing in Washington. Chairman ROY TAYLOR of the Parks and Recreation Subcommittee was immediately cooperative and at the first opportunity, which was the long Memorial Day weekend of 1972, five members of the subcommittee journeyed to Kanab, Utah, and conducted the requested field hearings.

There is a long backlog of legislation in this subcommittee. Despite this backlog, Chairman Taylor and other members of the subcommittee worked honestly and diligently to afford the Glen Canyon legislation every appropriate opportunity for expeditious advancement. Washington hearings were called soon after return from Kanab.

The junior Senator from Utah complains that the bill was not marked up until August 11. This was due to no dilatory tactics on the part of the subcommittee but was due to the great volume of work with which the subcommittee has been faced this year. I personally missed no opportunity to move this legislation steadily along.

The combination of a congressional recess the latter part of August and volume of work being performed by the staff of the Interior Committee under very pressing circumstances was another reason for delay in filing a report on the bill and I share the disappointment that it was not filed until September 26, but I cast no stones.

The junior Senator from Utah claims every effort made to discuss in advance possible basis for conference agreement between the House and Senate versions of the bill has been rejected. This claim is not correct and is made of whole cloth.

The junior Senator of Utah is not the only one who is disappointed with the progress of the bill thus far. The delays have been due to the controversy of a mandated road not to any deliberately dilatory tactics on either my part or on the part of the House Interior Committee or the Subcommittee on Parks and Recreation. The nature and form of the complaints issued by the junior Senator from Utah perform no useful function in assisting the enactment of this legislation. If he were not now demanding changes in language on which a general concensus had been previously approved including the approval of the Governor of Utah, the bill would not now be in danger of defeat through lack of time.

THE WAR IN VIETNAM—IMPLICATIONS OF INTERNATIONAL LAW

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, earlier in the summer I requested a report from the Library of Congress on international law as it relates to the bombing of dikes in Vietnam and the mining of the port of Haiphong.

Following my remarks, I would like to insert that report in the RECORD, for it raises some grave questions about the propriety of our military actions against a country with whom no war has been declared.

The report examines the various arguments relating to bombing of the dikes in North Vietnam, and concludes that even if the dikes were legitimate military targets it may be a breach of the rules of warfare to bomb them if their destruction would result in civilian casualties disproportionate to any military gain.

On the question of blockading the port of Haiphong, the report raises equally serious questions about excessive use of force affecting third party nonbelligerents, particularly in the absence of a declaration of war.

The report follows:

INTERNATIONAL LAW AS IT RELATES TO THE BOMBING OF THE DIKES AND THE MINING OF THE PORTS OF NORTH VIETNAM

The following memorandum and the attached papers are sent in response to your request of August 4 for a legal assessment of the questions of international law involved in the bombing of the dikes and the mining of the ports of North Vietnam. This memorandum does not purport to be a comprehensive treatment of the subject. Rather it attempts to outline and illustrate some of the major legal problems attendant upon the bombing of the dikes and the mining of the harbors. In preparing the memorandum, this Division surveyed a number of authoritative textbooks on international law as well as the literature in legal periodicals. We also conducted a search of our clipping files. Nothing specific on bombing the dikes was found, and it has proven necessary to reason by analogy from existing international law, which seems to be far from definitive on the entire question of bombing.

The law appears to be somewhat clearer as regards mining the ports, but the fact that the United States is not technically at war clouds the issue (although some would argue that for all practical purposes the U.S. is a belligerent in Vietnam). The following discussion and the papers sent herewith are designed to amplify the foregoing comments, and to show you a sample of the sources and commentaries related to the information you requested.

1. BOMBING THE DIKES

In 1907, when naval bombardment was an established tactic of war but aerial bombardment had yet to be developed, Hague Convention No. IX on Naval Bombardment in Time of War expressly forbade the bombardment of undefended ports, towns, villages, dwellings, or buildings. This same convention, however, just as expressly indicated that military works, depots, workshops or plants which could be utilized for the needs of a hostile fleet or army, were legitimate military targets.[1]

The Hague Rules of Aerial Warfare, adopted in 1923 by a Commission of Jurists but never embodied in an international convention, prohibit aerial bombardment for the purpose of terrorizing the civilian population. Aerial bombardment was characterized as legitimate only when directed at a military objective whose injury or destruction would constitute a distinct military advantage to the belligerent (attacker). Among such objectives are military forces, military works, establishments, and depots, factories making arms, ammunition or military supplies, and lines of communication or transportation used for military purposes. Where such objectives are situated so that they cannot be bombarded without indiscriminately bombing the civilian population, the aircraft

---

Footnotes at end of article.

are supposed to abstain from such bombing.[2] However cities, towns, villages, and buildings could be bombed when they lay in the immediate neighborhood of the operations of land forces, and there was reasonable presumption that the military concentration justified the bombardment. Again, the danger to the civilan population had to be taken into account.

Although these 1923 Rule of Air Warfare were not formally adopted they had, according to Greenspan, "strong persuasive authority"[3] since they were the chief existing guide to the rule of air warfare. The analogy to Hague Convention IX was easy to make. Just as it was legitimate for naval forces to bombard plants and installations which they could not seize and occupy and which could serve the needs of hostile forces, so it was legitimate to bomb military objectives behind enemy lines. Any incidental destruction suffered as a result of the bombing of a military objective was justified only in proportion to that objective. A whole town was not to be destroyed, in other words, in order to knock out a minor factory.

Whatever agreement there may have been on these principles was called into question as a result of practices developed by both sides during World War II. The Allies developed what is known as target-area bombing, in response to German concealment and camouflage of war industry, coupled with massive anti-aircraft defenses. The tactical conception was that since the attackers could not see their objective because of measures taken by the enemy, they could bomb the spot where they knew the objective to be. This meant saturating an area with bombs to make sure the objective was hit.

The legal justification of target area bombing was based on two factors. The first was that the area attacked was, in fact, so preponderantly used for war industry that it could be considered as an indivisible whole—*a place d'armes*—and the second was that the area was so heavily defended as to render the differentiation of specific targets wholly impracticable. J. M. Spaight, in his treatise called "Air Power and War Rights" (3d ed. 1947), put the matter this way:

"If in no other way than by target-area bombing can a belligerent destroy his enemy's armament centers and interrupt his enemy's process of munitionment, then target-area bombing cannot be considered to offend against the principles of the international law of war. To hold that it does offend against them is to subject bombardment from the air to a stricter test than has been applied in the past to bombardment from land or sea. Military effectiveness has been the test, and by that test target-area bombing passes muster. *It could be condemned only if it involved acts repugnant to humanity.*"[4]

Spaight goes on to say that indiscriminate bombing is still unlawful, that there is still no warrant for the deliberate bombing of a town which is neither the center of war industry nor otherwise immediately related to the enemy's war effort. *"It is the special, not the general, war potential of the enemy that is still the objective.* Bombing for a moral effect only remains unlawful. In that sense, attack on the civilian population is contrary to international law."[5]

Julius Stone, a prominent Australian authority, takes issue with some of these statements by Spaight. For one thing, he argues that the Second World War put it beyond surmise that belligerents would not be restrained from exploiting the air arm either out of respect for the analogies of land warfare or the immunity of noncombatants. He contends that if target area bombing is legal, then one cannot maintain that any resulting damage to civilian morale is really incidental. What Stone says, in so many words, is that since it is legal for a belligerent to bomb the war production facilities of his enemy, those who operate such facilities have in fact lost their immunity as civilians, and are simply treated as adjuncts of the enemy's war potential which an attacker can destroy. Traditionalists may abhor this state of affairs, argues Stone, but international practice, especially in World War II, has condoned it. He believes that any real approach to agreed legal regulation of this problem has to begin with the recognition of a distinction between this quasi-combatant workforce and genuine civilians, whose activities do not contribute to the war effort. The latter might be legally protected from bombings by removal to areas of sanctuary, as was done in China in 1937–38 and observed by the Japanese, for example.[6] Such a distinction between civilians is described as impossible by another commentator, however, who argues that to make it is to bring the whole question of the immunity of the civilian population in question.[7] Yet the same writer who also admits that the power of certain modern weapons and methods of warfare may make the distinction between armed forces and civilians illusory.

The opposing views outlined above serve to illustrate the conflict and confusion surrounding the status of aerial bombing under international law. (Indeed so uncertain is the situation and so fluid are the rules of air warfare that no charges concerning air warfare were brought against the Nazi leaders at Nuremberg).

The dikes of North Vietnam provide an object lesson in the legal dilemma posed by aerial bombing. In one sense the dikes, or parts of them, are legitimate bombing targets. There are roads on top of some of them, and trucks carrying military supplies may move on these roads. The Draft Rules of Aerial Warfare, which run back to 1923 and were previously cited in this paper, permit the bombing of means of communication of fundamental military importance. In addition, the dikes have apparently been used for the emplacement of anti-aircraft guns and missiles, and for the construction of oil pipeline pumping stations. A bombing attack on such installations could be construed as legitimate if nothing further were involved.

But obviously something else is involved, namely the possibility of enormous civilian casualties caused by the destruction of the dikes which might ensue if enough unquestioned legitimate targets were hit. At this point one may speculate how, reasoning by analogy, the divergent legal theories of aerial bombing might be applied to any attack resulting in massive damage to the dikes. If one follows the theory that pre-World War II limits still apply, that the destruction of civilian morale is not a legitimate objective of bombing, that target area bombing is at least legally questionable, that there can be no indiscriminate bombing of civilians, then one can argue that any bombing on or near the dikes which might produce a similar loss of life and destruction of morale may be legally forbidden. If, on the other hand, one accepts the arguments that target area bombing was legalized in practice in World War II, and that the attacker was not culpable for the damage to civilians and nonmilitary property resulting therefrom, which damage, furthermore, could not truly be described as incidental, then one might be inclined to contend that practice has given legal sanction to bombing on or near the dikes. All of this, it must be emphasized, is purely speculative.

One other aspect that must be considered in any legal assessment of the bombing of the dikes is the question of proportionality, which was mentioned on page three. What is meant by proportionality, to amplify what was previously stated, is that casualties and material destruction should not be out of proportion to any military advantage gained by the bombing. Disproportionate suffering is to be avoided, even if the target being bombed is wholly legitimate. During World War II and after, defenders of target area bombing said, in effect, that the great civilian casualties and general destruction resulting therefrom were proportionate to the military necessity of eliminating the targets involved.

In the present situation the United States claims that it is not engaged in any systematic bombing effort to breach the North Vietnamese dike system. Secretary Laird has simply stated that there have been times when our bombers have struck dikes which had roads or anti-aircraft sites on them. The State Department has admitted 12 hits on the dikes as a result of bombing targets that are characterized as legitimate. The administration appears to be arguing, as far as proportionality is concerned, that the damage inflicted by these hits is in proportion to the military worth of the targets.

Opponents argue, however, that the military targets to be found on or near the dikes are not sufficiently worthwhile for the United States to risk causing the catastrophe that could follow if the bombing sufficiently weakens the dikes. If the dikes do give way, they say further, and hundreds of thousands drown and perhaps even millions are faced with starvation, the United States will find it virtually impossible to convince world opinion that such a result was proportionate to the military value of the targets bombed. Rather, these opponents say, the United States could be accused of war crimes and/or crimes against humanity, and might find it difficult to counter such charges, either legally or morally. Thus from the legal aspect of proportionality alone, any bombing of the dikes, they would assert, is a game not worth the candle.

2. MINING OF THE PORTS

Although the mining of the ports of North Vietnam raised a broad legal question, the law is essentially straightforward compared with any applying to bombing of the dikes, and reasoning by analogy is not necessary. The state of the law with respect to mine warfare was set forth by Professor Howard S. Levie as follows: "It has been said that successful weapons are never outlawed by international action. On this basis we would certainly have to find that the much maligned mine is a successful weapon. The meaningful international controls that have been placed on it are minimal—the requirements that, if unanchored, it must disarm itself within 1 hour; and that, if anchored, it must disarm itself should it break loose from its moorings."[8] These restrictions date from the Hague Convention No. VIII of 1907, and have not been essentially changed in the intervening years. The terms of that Convention also provide that mining the coasts or ports of an enemy with the *sole object*[9] of intercepting commercial shipping is prohibited.

The difficulty of this language was pointed out at the time and since, namely the use of the words "sole object" offers a wide area for evasion. A state has merely to claim that its purpose in laying mines was broader than intercepting commercial shipping and the mining is perfectly legal. This distinction was used by the President when he announced the policy of mining the ports. He stated that its purpose was to prevent access to these ports and North Vietnamese naval operations from the ports. No specific mention is made of interdicting commercial shipping, although that inference may certainly be drawn. But since interdicting North Vietnamese naval operations would be legal, such interference with commercial shipping as might follow therefrom is legal as well,

---

Footnotes at end of article.

and there was thus really no need to specify whose access is being blocked.

The President also avoided the use of the term blockade. A blockade is normally considered an act of war, which may be why the President did not use the term, since neither the United States nor North Vietnam has ever declared war. Yet the bombing campaign is certainly an act of war, but the United States was not deterred from undertaking it originally, or renewing it, by that fact. Assistant Secretary of Defense for Public Affairs, Daniel Z. Henkin, has maintained that a blockade involves the stopping and searching of ships, and since the President's action called for no such follow up, no blockade could be inferred.[10]

It appears that the United States is trying to avoid any confrontation with Soviet, Chinese, or other vessels by warning of the minefields, and that the administration draws a distinction between this type of action and a traditional blockade. There is the further consideration that from a legal standpoint the use of mines to enforce a blockade is questionable. Mines, per se, have been considered unacceptable, as they make it impossible to observe one of the requirements of a blockade, namely warning the approaching vessel. Mines have been sanctioned as a method of increasing the effectiveness of a blockade maintained by ships. At least one writer, however, argues that modern methods of naval warfare, such as radar and aircraft will make mines more important to the establishment of blockades in the future.[11] For those who believe that the entire course of U.S. action in Vietnam is that of a belligerent, attempts to differentiate the President's action from a legal blockade, or even a discussion of the use of mines instead of ships, raise invalid distinctions. If the United States actions justify the view that it is a belligerent, then the laws of war apply, as they see it.

The main legal argument on which the United States appears to be relying for its action in mining North Vietnamese harbors is the right of collective self defense found in Article 51 of the UN Charter. This was the explanation given by George Bush, U.S. representative at the United Nations, who contended that the President's action was taken in response to the massive invasion across the demilitarized zone and international boundaries by the forces of North Vietnam. One legal scholar stated that if this point could be established the United States would have a pretty good legal case for its actions, but he pointed out that no international tribunal has yet ruled on which party is the aggressor in Vietnam, and that the North Vietnamese would no doubt assert that the conflict was a civil war.[12] Another legal scholar was even more skeptical, contending that the validity of the administration's argument depended on whether one believed that the safety of U.S. forces in South Vietnam was immediately threatened, and on whether direct confrontation with Soviet shipping in the waters off Vietnam was necessary to save them.[13] He argues further that the U.S. action amounts to the use of force against a state not party to the conflict, in effect violating the UN Charter. However another legal authority disputes this interpretation, pointing out that the phrase "internal and claimed territorial waters of North Vietnam," which the President used in his May 8 speech announcing the mining, was intended to minimize the risk of confrontation with the USSR by avoiding any implication of long distance blockade.[14] This same individual argues that the applicability of the law of blockade depends on the factual existence of a state of hostilities and does not require a formal declaration of war. He cites the blockade of the entire Korean coast during the Korean War as evidence of his contention. He goes on to defend our government's invocation of Article 51, arguing that the recent invasion of the South from North Vietnam amounts to an armed attack permitting a defensive response under the Charter. The necessity and proportionality of that response, he contends, must be related to the magnitude of the threat to South Vietnam, not just to the safety of the U.S. force there. He finds the U.S. action to have been a lawful interdiction of shipping not constituting a threat or use of force against a non-belligerent which could justify the use of force in response.

3. SUMMARY

The legal situation relative to the bombing of the dikes and the mining of the ports in North Vietnam may be summarized as follows: With respect to any bombing, the legal situation is not settled. While it may be considered legal to bomb strictly military objectives on or near the dikes, it is debatable as to whether such bombing can be separated from an attack on the dikes themselves. The weight of legal opinion, one can surmise, would not find the widespread destruction and casualties that could result from a substantial breaching of the dikes proportional to the military worth of the objectives attacked, and hence it would not be likely to assimilate it to the target area bombing of World War II. Accusations of war crimes and crimes against humanity can be envisioned as one result.

As far as mining the ports is concerned, there seems little doubt that the use of mines, per se, is legal. What is in controversy is whether such action constitutes a blockade, which as a non-belligerent the United States is not legally empowered to impose, and which, apparently is not yet legally acceptable when imposed entirely by mines. Finally there is the question of whether the U.S. can convincingly justify its actions under article 51 of the UN Charter.

FOOTNOTES

[1] Whiteman, Marjorie M. Digest of International Law, Vol. X Washington, Department of State Publication 8367. 1968. p. 411.

[2] Ibid., p. 413.

[3] Greenspan, Morris. The modern law of land warfare. University of California Press. Berkeley and Los Angeles. 1959. p. 334.

[4] Spaight, James M. Air Power and War Rights. 3rd Ed. Longmans Green. London. 1947. Quoted in Whiteman, op. cit., p. 418. Italics added in this memorandum.

[5] Ibid., p. 419. Italics also added herein.

[6] Stone, Julius. Legal controls of international conflict. New York. Rinehart and Co., 1959. pp. 625–631.

[7] Bendschedler, Robert, Denise. A reconsideration of the law of armed conflicts. In the Law of Armed Conflicts. N.Y. Carnegie Endowment for International Peace, 1971, p. 26.

[8] Howard S. Levie. "Mine Warfare and International Law." Naval War College Review. April, 1972. p. 33.

[9] Italics added.

[10] New York Times. May 9, 1972, p. 18.

[11] Whiteman, Digest of International Law, Vol. X. op. cit. pp. 865, 866.

[12] N.Y. Times. May 9, 1972, op. cit. p. 18.

[13] Washington Post. May 14, 1972. p. B6.

[14] Ibid., May 20, 1972. p. A14.

ON INTRODUCTION OF LEGISLATION TO PROVIDE A 3-YEAR AUTHORIZATION FOR CERTAIN REGULATORY AGENCIES.

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker. I have today introduced legislation to provide a 3-year authorization of funds for the following Federal regulatory agencies: Federal Trade Commission, Federal Power Commission, Federal Communications Commission, Interstate Commerce Commission, Federal Aviation Administration, Civil Aeronautics Board, and Securities and Exchange Commission. All of these agencies fall within the jurisdiction of the Interstate and Foreign Commerce Committee, of which I am a member.

For some time, I have been deeply concerned about the failure of the Congress to exercise its legislative oversight authority in a number of areas. The various regulatory agencies come readily to mind as examples of congressional abnegation of authority.

These agencies were established by the Congress as independent bodies charged with regulating various aspects of trade and commerce. In reality, however, there has been little or no congressional overview of the job they are doing, the way their authority is exercised, or the direction in which they are moving in the issuance of far-reaching regulations.

Some of the issues which the Congress should explore are whether regulated industries are being treated fairly, whether consumer interests are being protected, whether the public interest is being served, and whether these agencies are following the intent of the Congress in their day-to-day activities. In this overview, needed amendments to the acts should also be considered.

My bill, which would authorize funds for fiscal years 1973, 1974 and 1975 for the above-mentioned agencies, would insure a greater degree of congressional oversight by controlling the budgets of these agencies. Under present procedures, these agencies present their budget requests directly to the House Appropriations Committee. The committees with legislative authority over the activities of the regulatory agencies seldom take the opportunity to review their operations. At present, our only legislative contact with these agencies is to amend the enabling legislation to provide them with greater authority than they now possess.

By establishing a 3-year authorization of funds, my bill would permit the Congress to conduct an indepth study of each regulatory agency every 3 years. The authorizations provided under this bill are based on agency budgets for the current fiscal year, with moderate increases for succeeding years.

An example of the procedure which I am recommending is contained in the bill to establish a Consumer Product Safety Commission which has received final clearance by the House today. Under that legislation, which I had a large part in drafting, the Consumer Product Safety Commission will receive a 3-year authorization. After that time, the commission must come before the Interstate and Foreign Commerce Committee to request an extension of the act, and it is the firm intent of the committee to review the commission's activities at that time.

Mr. Speaker, it is very late in the congressional session to introduce far-reaching legislation of this kind. I have no expectation that my bill will receive the consideration of the House of Representatives during this Congress. However, I want to offer to the parties affected by the legislation the opportunity to be aware of my proposal and to offer their comments.

It is quite possible that this legislation will need polishing and perfecting before it is enacted into law. I want to state my strong intentions of pursuing this legislation in the 93d Congress, and I welcome the help and support of my colleagues in the House of Representatives.

CONFERENCE REPORT ON H.R. 17034

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 92–1601)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) "making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 7, 26, 27, 34, 35, 36, 37, 38, 66, 75, and 80.

That the House recede from its disagreement to the amendments of the Senate numbered 15, 16, 19, 21, 30, 31, 32, 62, 65, 67, 68, 69, 77, 82, and 83, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$500,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "three"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$19,740,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$2,500,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$1,495,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, part A ($11,500,000), part B ($5,000,000), and part C ($500,000) of the Indian Education Act, and General Education Provisions Act ($1,000,000), $18,000,000.

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$400,755,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$415,556,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$790,200,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$1,030,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$450,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$200,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$33,000,000"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to National Railroad Passenger Corporation," $9,100,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the matter stricken out and inserted by said amendment, insert: "$4,500,000"; and the Senate agree to the same.

Amendment numbered 81: That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 4, 9, 10, 11, 12, 13, 18, 20, 22, 23, 24, 25, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 70, 71, 76, 78, and 84.

GEORGE MAHON,
JAMIE L. WHITTEN,
ROBERT L. F. SIKES,
JOE L. EVINS,
DANIEL J. FLOOD,
TOM STEED,
JOHN J. MCFALL,
BOB CASEY,
DAVID R. OBEY,
FRANK T. BOW
(except amendments 18 through 33, 64, 65),
ELFORD A. CEDERBERG,
ROBERT H. MICHEL,
SILVIO O. CONTE,
HOWARD W. ROBISON
(except amendments 64 and 65),
Managers on the Part of the House.

JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
JOHN O. PASTORE,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
MARGARET CHASE SMITH,
ROMAN L. HRUSKA,
NORRIS COTTON,
CLIFFORD P. CASE,
TED STEVENS
(except amendments 36, 37 and 38),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

CHAPTER I

Department of Agriculture

Agricultural Programs Agricultural Research Service

Amendment No. 1: Deletes the item of $388,000 proposed by the Senate.

Rural Development Farmers Home Administration

Amendment No. 2: Appropriates $500,000 instead of $1,250,000 as proposed by the Senate. The Conferees agree that funds heretofore appropriated by the Congress and unexpended will enable the Department to implement the Rural Development Act, which the Conferees fully support. The Department of Agriculture is expected to begin implementation of the Act by utilizing the following fiscal year 1973 funds which are currently available under P.L. 92–399 (1973 Agriculture-Environmental and Consumer Protection Appropriation Act), but which have not been released by the Office of Management and Budget:

Cooperative State Research Service	$1,500,000
Extension Service	3,000,000
Farmer Cooperative Service	100,000
Rural Environmental Assistance Program	85,500,000
Rural Electrification Administration Loans	177,000,000
Rural Water and Waste Disposal Grants	108,000,000
Rural Housing for Domestic Farm Labor	1,250,000

Conservation Operations	5,000,000
Resource Conservation and Development	6,000,000
Watershed Planning	500,000
Watershed and Flood Prevention Operations	8,412,500
Great Plains Conservation Program	62,500

The Conferees also expect a relaxation of personnel ceilings to the degree necessary for the implementation of this program.

Environmental Programs, Agricultural Stabilization and Conservation Service

1972 Rural Environmental Assistance Program

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds for the 1972 Rural Environmental Assistance Program shall be available until June 30, 1973, rather than June 30, 1972 as provided in P.L. 92–399.

The Conferees intention is to permit an extension only for those individuals who could not act because of natural conditions beyond their control, and is not intended to apply to individuals who were simply tardy in installing 1972 practices.

National Study Commission

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $200,000 for a "National Study Commission".

CHAPTER II

National Science Foundation

Amendments Nos. 5 and 6: Appropriate $19,740,000 to procure three aircraft to provide support for national Antarctic programs instead of $26,320,000 for four aircraft as proposed by the House and $13,160,000 for two aircraft as proposed by the Senate.

Veterans' Administration

Amendment No. 7: Deletes $40,000,000 proposed by the Senate to provide Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions.

CHAPTER III

Department of the Interior

Amendment No. 8: Appropriates $2,500,000 for "Bureau of Indian Affairs, Education and Welfare Services", instead of $4,500,000 as proposed by the Senate.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides $118,000 for "Bureau of Indian Affairs, Construction".

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing language to authorize any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92–306), or the Act of August 10, 1972 (Public Law 92–369), to a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203), may be used by such Regional Corporation to loan to, and such Regional Corporation may also guarantee loans by third parties to, the Alaska Federation of Natives and/or Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such Regional Corporation, and in recognition of the services of said organizations in advancing land claims settlement legislation. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate Amendment which provides $350,000 for "National Park Service, Construction".

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that of the $2,000,000 appropriated to the National Park Service for expenses necessary for operating and maintaining the nonperforming arts function of the John F. Kennedy Center for the Performing Arts, not to exceed $630,000 shall be available for reimbursement to the Board of Trustees of the John F. Kennedy Center for operation and maintenance costs incurred for the period July 1–October 31, 1972.

Related Agencies

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $3,356,000 for "American Revolution Bicentennial Commission, Salaries and expenses."

CHAPTER IV

Department of Health, Education, and Welfare

Education Division

Amendment No. 14: Appropriates $1,495,000 for "Salaries and expenses, assistant Secretary for Education" instead of $2,242,000 as proposed by the Senate.

Office of Education

Amendment No. 15: Inserts heading, as proposed by the Senate.

Amendment No. 16: Appropriates $270,640,000 for "Emergency school assistance," as proposed by the Senate.

Indian education

Amendment No. 17: Appropriates $18,000,000 for "Office of Education, Indian Education", instead of $36,000,000 as proposed by the Senate.

Of the total amount provided, $11,500,000 is for financial assistance to local educational agencies for elementary and secondary education programs to meet the special educational needs of Indian children; $5,000,000 is for special programs and projects to improve educational opportunities for Indian children as authorized by section 810 of the Elementary and Secondary Education Act; $500,000 is for the initiation of a program of pilot demonstration projects and research and evaluation of adult education programs for Indians; and $1,000,000 is to provide the necessary funds for establishing the new Office of Indian Education, the National Advisory Council on Indian Education, and for planning for implementation of the Indian Education Act.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $577,500,000 for "Higher education" instead of $689,960,000 proposed by the Senate. The managers on the part of the Senate will move to agree to the amendment of the House to the amendment of the Senate. The managers on the part of both the House and the Senate are agreed on the following distribution of the total appropriation:

Program	*Amount*
Student assistance:	
Subsidies on guaranteed student loans	$215,000,000
Direct student loans	293,000,000
Allen J. Ellender fellowship grants	500,000
Institutional assistance:	
University community services	15,000,000
Construction—State administration	3,000,000
Bankhead Jones Act	10,000,000
Endowment in lieu of a land-grant for Virgin Islands and Guam	6,000,000
Post-secondary innovation	10,000,000
Veterans cost-of-instruction payments	25,000,000
Total	577,500,000

The managers on the part of both the House and Senate are also agreed on the importance of the program of aid to developing institutions, which assists many black colleges. They will expect that a supplemental budget estimate for this program will be submitted for consideration early in the next session of Congress.

Amendment No. 19: Appropriates $17,857,000 for "Library resources" as proposed by the Senate.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which appropriates $1,500,000 for "National Commission on the Financing of Postsecondary Education."

Amendment No. 21: Appropriates $81,165,000 for "Educational renewal" as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which appropriates $13,905,000 for "Salaries and expenses".

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $92,082,000 for "National Institute of Education" as proposed by the Senate, and will delete language proposed by the Senate making the appropriation available until expended. The managers on the part of the Senate will move to agree to the amendment of the House to the amendment of the Senate.

Social and Rehabilitative Service

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $898,648,000 for "Social and rehabilitation services" instead of $893,448,000 as proposed by the House and $899,268,000 as proposed by the Senate. The managers on the part of the Senate will move to agree to the amendment of the House to the amendment of the Senate. The managers on the part of both the House and the Senate are agreed that the increase over the amount contained in the House bill includes $200,000 for design of a project to test a new job and an income support program as a replacement for the existing Unemployed Fathers component of the AFDC program, and $5,000,000 for construction of permanent facilities for the National Center for Deaf/Blind Youths and Adults at Sands Point, N.Y.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that $5,000,000 for the construction of the National Center for Deaf/Blind Youths and Adults shall remain available until expended.

Amendment No. 26: Deletes appropriation of $17,000,000 for carrying out title IV of the Older Americans Act of 1965, proposed by the Senate.

Special Institutions

Amendment No. 27: Deletes appropriation of $7,545,000 for carrying out the Model Secondary School for the Deaf Act, proposed by the Senate.

Office of Child Development

Amendments Nos. 28 and 29: Appropriate $415,556,000 for "Child development" including $400,755,000 for Project Head Start, instead of $408,056,000, including $393,255,000 for Project Head Start as proposed by the House, and $422,056,000, including $407,255,000 for Project Head Start as proposed by the Senate.

Office of the Secretary

Amendment No. 30: Inserts heading as proposed by the Senate.

Amendment No. 31: Appropriates $1,322,000 for "Office of Civil Rights" as proposed by the Senate.

Amendment No. 32: Appropriates $541,000 for "Departmental management" as proposed by the Senate.

RELATED AGENCIES

Office of Economic Opportunity

Amendment No. 33: Appropriates $790,200,000 for "Economic opportunity program," instead of $760,200,000 as proposed by the House and $840,000,000 as proposed by the Senate.

The managers on the part of both the House and the Senate are agreed that the increase of $30,000,000 over the amount in the House bill is to be used for programs in Puerto Rico and for the nutrition component of the emergency food and medical services program.

Amendments Nos. 34 and 35: Delete language proposed by the Senate providing for transfer of assets and liabilities of the revolving loan fund established under section 306 of the Economic Opportunity Act from the Department of Agriculture to OEO. The conferees expect OEO to transfer from existing sources the necessary funds and personnel ceilings to the Department of Agriculture consistent with the original commitments of OEO to reimburse U.S.D.A. for the costs of administering loans made in previous years. Such reimbursements should continue for so long as U.S.D.A. services outstanding loans.

GENERAL PROVISIONS

Amendments Nos. 36, 37, and 38: Delete general provisions, Sections 401 and 402, proposed by the Senate, relating to the Administration of section 1130 of the Social Security Act, which deals with the allotment of funds to States for social services.

The managers on the part of the Senate and the House recognize that certain States will suffer undue hardship as a result of the ceiling on payments for social services which is imposed in the Revenue Sharing Legislation. However, the proper place to correct such inequities is in substantive legislation, rather than in an appropriation bill.

CHAPTER V

Legislative branch

Amendments Nos. 39 through 53: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements, and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 39 through 53.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the Capitol Police to carry firearms under regulations to be prepared by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives, as proposed by the Senate.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the provisions of House Resolution 890, 92d Congress, shall be permanent law only with respect to the compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives and shall not apply with respect to the compensation of the Chief of Staff of the Joint Committee on Internal Revenue Taxation, as proposed by the Senate. The House proposed the inclusion of the latter position as well as the above named officers of the House of Representatives.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $5,000 for the "Office of the Attending Physician" to be available as an allowance for a medical consultant, and include language providing that the Attending Physician to the United States Congress, while so serving, shall be considered to hold the rank of Rear Admiral, Medical Corps, United States Naval Reserve, as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $110,000 for "Senate Office Buildings" as proposed by the Senate.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $47,925,000 for "Construction of an extension to the New Senate Office Building" as proposed by the Senate.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $4,075,000 for "Acquisition of property as a site for parking facilities for the United States Senate" as proposed by the Senate.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $50,000 for "Plans for garage and related facilities for the United States Senate" as proposed by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with an amendment to appropriate $1,450,000 for the acquisition of the so-called Providence Hospital site (square 764) as an addition to the Capitol grounds for use as a green park area pending its development for permanent use as the site for the John W. McCormack Residential Page School as proposed by the Senate, and to authorize the Architect of the Capitol to carry out the provisions of the paragraph under the direction of the House Office Building Commission, as well as the Senate Office Building Commission as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER VI

Public Works

Amendment No. 62: Inserts new title.

Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, General Investigations

Amendment No. 63: Appropriates $1,030,000 instead of $1,705,000 as proposed by the Senate. The funds appropriated are allocated to the following studies:

Barataria Bay Waterway entrance channel study, Louisiana	$25,000
Delaware Bay Shore hurricane and beach erosion study, New Jersey	30,000
Impact of Tropical Storm Agnes on Chesapeake Bay studies	275,000
Metropolitan Atlanta comprehensive water study, Georgia	200,000
New Orleans-Baton Rouge metropolitan area waste water management study, Louisiana	250,000
Northwest Florida along Gulf of Mexico urban flood control study	150,000
Raritan Basin, N.J. flood control study	100,000
Total, General Investigations	1,030,000

Construction, General

Amendment No. 64: Appropriates $450,000 instead of $1,070,000 as proposed by the Senate. The funds appropriated under this heading are to be used to initiate preconstruction planning for the following projects:

Arkansas: Norfolk Reservoir highway bridge	$100,000
Kentucky: Big South Fork National River and Recreation Area, Ky. and Tenn.	50,000
Mississippi: Edinburg Dam and Lake	100,000
Nebraska: Missouri River bank stabilization, Gavins Point Dam, Nebraska and South Dakota to Sioux City, Iowa	50,000
West Virginia: Matewan and Williamson local protection	150,000
Total, Construction, General	450,000

Flood Control, Mississippi River and Tributaries

Amendment No. 65: Appropriates $1,000,000 as recommended by the Senate. The funds are to be used to initiate the acquisition of mitigation lands for the Cache River Basin Feature, Mississippi River and Tributaries Project in Arkansas.

Independent Offices, Water Resources Council, Water Resources Planning

Amendment No. 66: Deletes appropriation proposed by the Senate providing $850,000 for the Water Resources Council.

The Committee of Conference has deferred, without prejudice, the Water Resources Council's request of an additional $850,000 for the water resource assessment program.

Appropriations for FY 1973 water-use related studies exceed $43,000,000. This amount includes $100,000 which, taken together with $34,000 in carryover balances from FY 1972, provides a total of $134,000 for the Water Resources Council to initiate work on the second assessment of the adequacy of the Nation's water resources.

There is, however, no objection by the Committee of Conference to a modest reprograming of existing funds if necessary to continue the orderly progress of the second national water assessment.

CHAPTER VII

Department of Justice

Legal Activities and General Administration Salaries and Expenses, General Administration

Amendment No. 67: Appropriates $2,000,000 for maintenance and operation of a national narcotic intelligence system as proposed by the Senate instead of $2,100,000 as proposed by the House.

Salaries and Expenses, United States Attorneys and Marshals

Amendment No. 68: Appropriates $1,300,000 as proposed by the Senate instead of $1,200,000 as proposed by the House.

Department of Commerce

Amendment No. 69: Inserts heading.

Participation in United States Expositions

Amendment No. 70: Reported in technical

disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $3,500,000 to be available upon enactment of authorizing legislation instead of $11,500,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Maritime Administration, Ship Construction

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, appropriating $175,000,000 to be available upon enactment of authorizing legislation.

Related Agencies

Commission on the Organization of the Government for the Conduct of Foreign Policy

Amendment No. 72: Appropriates $200,000 instead of $1,000,000 as proposed by the Senate.

CHAPTER VIII

Department of Transportation

Amendment No. 73: Appropriates $33,000,000 for National Highway Traffic Safety Administration, traffic and highway safety instead of $32,200,000 as proposed by the House and $37,300,000 as proposed by the Senate.

The additional funds provided over the House bill are to be allocated as follows:

Occupant packaging research	$200,000
Passive restraints—fleet test	500,000
Accident investigation and data analysis	100,000

Amendment No. 74: Appropriates $9,100,000 for Federal Railroad Administration, grants to the National Railroad Passenger Corporation instead of $57,000,000 as proposed by the Senate.

The funds provided are to be used to cover anticipated additional operating deficits.

Related Agencies

Amendment No. 75: Deletes the appropriation of $11,400,000 for "Civil Aeronautics Board, payments to air carriers" proposed by the Senate.

The conferees anticipate the timely submission of a budget request at the beginning of the next Congress, and it is, of course, the intention of the conferees to recognize the obligations of the Government with respect to payments to air carriers under the applicable law.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $250,000 for "Commission on Highway Beautification, salaries and expenses."

CHAPTER IX

Department of the Treasury

Office of the Secretary

Amendment No. 77: Appropriates $3,800,000 for salaries and expenses as proposed by the Senate instead of $4,000,000 as proposed by the House.

Bureau of Customs

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows. In lieu of the language proposed by the Senate, insert the following:

: Provided, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out "March 31, 1973" and inserting in lieu thereof "May 15, 1973".

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Internal Revenue Service

Amendment No. 79: Deletes language authorizing purchase of vehicles, as proposed by the Senate, and appropriates $4,500,000 for compliance activities instead of $5,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Executive Office of the President

Council on International Economic Policy

Amendment No. 80: Restores language deleted by the Senate granting exemption from provisions of laws regulating employment and compensation of persons in the government service.

Special Action Office for Drug Abuse Prevention

Amendment No. 81: Appropriates $25,000,000 for the Special Fund instead of $20,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

Independent Agencies

Advisory Committee on Federal Pay

Amendment No. 82: Deletes the appropriation of $130,000 for salaries and expenses, as proposed by the Senate.

CHAPTER XI

General Provisions

Amendment No. 83: Changes section number.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires that each department, agency, or corporation report to the Congress no later than July 31, 1973, the total amount of appropriated funds used for the support of executive dining rooms or similar facilities during fiscal year 1973.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1973 recommended by the committee of conference, with comparisons to the budget estimate total, and the House and Senate bills follows:

Budget estimates	[1][2] $5,016,540,610
House bill	[2] 3,565,048,825
Senate bill	[2] 5,266,690,610
Conference agreement	[2] 4,933,415,610
Conference agreement compared with:	
Budget estimates	—83,125,000
House bill	+1,368,366,785
Senate bill	−333,275,000

[1] Includes $1,442,587,285 not considered by the House.

[2] Includes $12,702,100 for fiscal year 1972.

GEORGE H. MAHON,
JAMIE L. WHITTEN,
ROBERT L. F. SIKES,
JOE L. EVINS,
DANIEL J. FLOOD,
TOM STEED,
JOHN J. MCFALL,
BOB CASEY,
DAVID R. OBEY,
FRANK T. BOW
(except amendment 18 through 33, 64, 65),
ELFORD A. CEDERBERG,
ROBERT H. MICHEL,
SILVIO O. CONTE,
HOWARD W. ROBISON
(except amendments 64 and 65),
Managers on the Part of the House.

JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
JOHN O. PASTORE,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
MARGARET CHASE SMITH,
ROMAN L. HRUSKA,
NORRIS COTTON,
CLIFFORD P. CASE,
TED STEVENS
(except amendments 36, 37 and 38),
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. BURKE of Florida (at the request of Mr. GERALD R. FORD), for today and the remainder of the week, on account of official business.

Mr. JAMES C. CORMAN, for October 13 and 14, 1972, on account of official business.

Mr. BROTZMAN (at the request of Mr. GERALD R. FORD), from 3:30 p.m., October 13 and October 14, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. RANDALL, for 15 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. STAGGERS, for 15 minutes Saturday, October 14, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. CARLSON) and to revise and extend their remarks and include extraneous matter:)

Mr. FRENZEL, for 60 minutes, today.

Mr. DON H. CLAUSEN, for 15 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. FRELINGHUYSEN, for 10 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) and to revise and extend their remarks and include extraneous matter:)

Mr. CONYERS, for 60 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HARRINGTON, for 5 minutes, today.

Mr. BRASCO, for 10 minutes, today.

Mrs. GRASSO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RANDALL in two instances, and to include extraneous matter.

Mr. FLYNT in three instances and to include extraneous matter.

Mr. BROYHILL of North Carolina on toxic substances bill, and in another instance to extend his remarks in the RECORD.

Mr. LEGGETT, and to include extraneous material on H. Res. 1153, electronic voting in the House of Representatives.

Mr. BYRNES of Wisconsin, and to include a tabulation of his voting record during this Congress.

Mr. MAYNE, after the remarks of Mr. FINDLEY, and during the consideration of H.R. 7287, the potato bill.

Mr. STOKES, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,295.

All Members to extend their remarks on topic of the special order of Mr. SCHWENGEL on the Honorable JAMES KEE.

(The following Members (at the request of Mr. CARLSON) and to include extraneous matter:)

Mr. LLOYD.
Mr. SCHMITZ in 10 instances.
Mr. ROUSSELOT in three instances.
Mr. HOSMER in two instances.
Mr. SHRIVER in two instances.
Mr. DERWINSKI in two instances.
Mr. GUBSER.
Mr. MYERS in two instances.
Mr. DUNCAN in two instances.
Mr. FINDLEY in two instances.
Mr. BROYHILL of Virginia.
Mr. WYMAN in two instances.
Mr. DU PONT.
Mr. BURKE of Florida.
Mr. DELLENBACK in two instances.
Mr. BRAY in three instances.
Mr. VEYSEY in two instances.
Mr. PETTIS.
Mr. SCHNEEBELI.
Mr. HORTON.
Mr. FISH.
Mr. CARTER.
Mr. WHALEN.
Mr. TERRY.
Mr. BUCHANAN in three instances.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous matter:)

Mr. WOLFF.
Mr. ROSTENKOWSKI.
Mr. ROY.
Mr. BURTON in three instances.
Mr. EILBERG in 10 instances.
Mr. GAYDOS.
Mrs. HICKS of Massachusetts.
Mr. YATRON.
Mr. CASEY of Texas.
Mr. DANIELS of New Jersey in 10 instances.
Mr. STEPHENS.
Mr. BRINKLEY.
Mr. ROYBAL in 10 instances.
Mr. RODINO.
Mr. EVINS of Tennessee in four instances.
Mr. MONAGAN.
Mr. WALDIE in four instances.
Mr. DANIELSON.
Mr. MIKVA in 10 instances.
Mr. BERGLAND in three instances.
Mr. MONTGOMERY.
Mr. DORN in three instances.
Mr. LONG of Maryland.
Mr. DINGELL.
Mr. MOSS.
Mr. VANIK in two instances.
Mr. EDMONDSON.
Mr. DELANEY.
Mr. DENHOLM.
Mr. NEDZI in three instances.
Mr. BRASCO.
Mr. HAMILTON in 10 instances.
Mr. STOKES.
Mr. ST GERMAIN.
Mr. DE LA GARZA.
Mr. ROGERS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3070. An act to amend title 38, United States Code, to provide for a special addition to the pension of veterans of World War I and to the pension of widows and children of veterans of World War I; to the committee on Veterans' affairs.

S. 3326. An act for the relief of the Appalachian Regional Hospitals, Incorporated; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 635. An act to amend the Mining and Minerals Policy Act of 1970.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9554. An act to change the name of the Perry's Victory and International Peace Memorial National Monument, to provide for the acquisition of certain lands, and for other purposes;

H.R. 10729. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; and

H.R. 13067. An act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Fla.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 12 minutes p.m.) the House adjourned until tomorrow, Saturday, October 14, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2421. A letter from the Assistant Secretary of Defense, transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrat for the quarter ended June 30, 1972, pursuant to section 720, Public Law 92-204; to the Committee on Appropriations.

2422. A letter from the Acting Director, National Science Foundation, transmitting a revised table showing the reprograming requirements in case Congress authorizes four instead of five aircraft for logistic support of Antarctic research by the National Science Foundation; to the Committee on Appropriations.

2423. A letter from the president, Communications Satellite Corp., transmitting the 10th annual report of the corporation, pursuant to section 404(b) of the Communications Satellite Act of 1962; to the Committee on Interstate and Foreign Commerce.

2424. A letter from the Assistant Secretary of State for Congressional Relations; transmitting a draft of proposed legislation to amend title 18, United States Code, to provide for the punishment of serious crimes against foreign officials committed outside the United States, and for other purposes; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 718. Concurrent resolution providing for the reprinting of additional copies of House Report 92-1519, entitled "Securities Industry Study" (Rept. No. 92-1594). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 98. Concurrent resolution authorizing the printing of the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings" as a Senate document (Rept. No. 92-1595). Referred to the House Calendar.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 15831. A bill to make level III of the executive schedule applicable to the Administrator of the National Credit Union Administration (Rept. No. 92-1596). Referred to the Committee of the Whole House on the State of the Union.

Mr. DENNIS: Committee on the Judiciary. House Resolution 1155. Resolution opposing the granting of permanent residence in the United States to certain aliens (Rept. No. 92-1597). Referred to the Committee of the Whole House.

Mr. DIGGS: Committee on Foreign Affairs. Report on the faces of Africa: diversity and progress; repression and struggle (Rept. No. 92-1598). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of Conference. Conference report on S. 2280 (Rept. No. 92-1599). Ordered to be printed.

Mr. BLATNIK: Committee on Public Works. H.R. 16598. A bill to amend the Disaster Relief Act of 1970 to provide that community disaster grants be based upon loss of budgeted revenue; with an amendment (Rept. No. 92-1600). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee of Conference. Conference report on H.R. 17034 (Rept. No. 92-1601). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 17133. A bill to amend the tax and customs laws in order to improve the U.S. position in foreign trade, to improve adjustment assistance benefits, and to provide clear labeling of foreign products; to the Committee on Ways and Means.

By Mr. BROYHILL of North Carolina:

H.R. 17134. A bill to provide authorizations for appropriations for the regulatory agencies of the Federal Government for fiscal years 1973, 1974, and 1975; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.R. 17135. A bill to amend title 18 of the United States Code to alter the manner in which the dissemination of obscene material is a Federal crime; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 17136. A bill to provide that meetings of congressional committees shall be open to the public, and for other purposes; to the Committee on Rules.

By Mrs. GRIFFITHS:

H.R. 17137. A bill to provide for hospitals to allow the biological father to attend the birth of his child if the woman consents; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS (for himself and Mr. Frey):

H.R. 17138. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.R. 17139. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H.R. 17140. A bill to amend the River and Harbor Act of 1899 to assure the right of certain persons to institute civil suits to enforce certain penalties under such act; to the Committee on Public Works.

By Mr. MEEDS:

H.R. 17141. A bill to improve educational quality through the effective utilization of educational technology; to the Committee on Education and Labor.

By Mr. MOORHEAD (for himself, Mr. Moss, Mr. Macdonald of Massachusetts, Mr. Conyers, Mr. Alexander, Ms. Abzug, Mrs. Dwyer, Mr. Fuqua, Mr. Reuss, Mr. Rosenthal, Mr. Thone, Mr. Broomfield, Mr. Gibbons, Mr. Leggett, Mr. Obey, Mr. Reid, and Mr. Thompson of New Jersey):

H.R. 17142. A bill to amend section 552 of title 5, United States Code, known as the "Freedom of Information Act"; to the Committee on Government Operations.

By Mr. PREYER of North Carolina:

H.R. 17143. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. ROBISON of New York:

H.R. 17144. A bill to amend the Controlled Substances Act to increase the penalty under that act for the illegal distribution of narcotic drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 17145. A bill to provide Federal assistance to State and local governments for the purpose of developing and improving communication procedures and facilities with respect to the prompt and efficient dispatch of police, fire, rescue, and other emergency services; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H.R. 17146. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Brinkley, Mr. Byron, Mrs. Green of Oregon, Mrs. Griffiths, Mr. Seiberling, Mr. Williams, Mr. Wyatt, and Mr. Murphy of New York):

H.R. 17147. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 17148. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 17149. A bill to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973; to the Committee on Government Operations.

By Mr. McDADE:

H.R. 17150. A bill to amend the Housing and Urban Development Act of 1968 with respect to flood insurance by establishing the national disaster insurance fund, and for other purposes; to the Committee on Banking and Currency.

H.R. 17151. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 17152. A bill to amend the tariff and trade laws of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mr. Badillo, Mr. Bingham, Mrs. Chisholm, Mr. Conyers, Mr. Dellums, Mr. Diggs, Mr. Eckhardt, Mr. Edwards of California, Mr. Fauntroy, Mr. Fisher, Mr. Halpern, Mr. Hawkins, Mr. Helstoski, Mr. Hicks of Washington, Mr. Metcalfe, Mrs. Mink, Mr. Mitchell, Mr. Nix, Mr. Rangel, Mr. Rees, Mr. Rosenthal, Mr. Stokes, Mr. Thompson of New Jersey, and Mr. Udall):

H.R. 17153. A bill to promote public health and welfare by expanding and improving the family planning services and population research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHEUER:

H.R. 17154. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning family life, venereal disease prevention, sex education and for other related educational purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RAILSBACK:

H.R. 17155. A bill to make use of a firearm to commit a felony a Federal crime where such use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. RANDALL:

H.R. 17156. A bill to prevent any court of the United States from ordering a halt on environmental grounds of certain Federal construction projects after a certain amount of work on such project is completed; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 17157. A bill to amend the Interstate Land Sales Full Disclosure Act; to the Committee on Banking and Currency.

By Mr. BERGLAND:

H.R. 17158. A bill to establish a national policy regarding recreational use of snowmobiles on public lands, to provide for a coordinated national snowmobile safety program, and for other related purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS of Georgia (for himself) Mr. Stuckey, Mr. Sikes, Mr. Davis of South Carolina, Mr. Landgrebe, Mr. Burlison of Missouri, Mr. Veysey, Mr. Pepper, Mr. Thone, Mr. Griffin, Mr. Hicks of Washington, Mr. Halpern, Mr. Alexander, Mr. Waggonner, Mr. Buchanan, Mr. Blackburn, Mr. Winn, Mr. Spence, Mr. Crane, Mr. Derwinski, Mr. Cederberg, and Mr. Flowers):

H.J. Res. 1329. Joint resolution establishing a national commission to investigate the Olympic games of 1972; to the Committee on the Judiciary.

By Mr. ROGERS:

H.J. Res. 1330. Joint resolution to authorize the President to designate the period from November 5, 1972 through November 11, 1972, as "National Art Week"; to the Committee on the Judiciary.

By Mr. FRASER (for himself Mr. Drinan and Mr. Esch):

H. Con. Res. 722. Concurrent resolution calling the President to seek an international agreement prohibiting environmental warfare; to the Committee on Foreign Affairs.

By Mr. ROY:

H. Con. Res. 723. Concurrent resolution requesting the President to propose that the United Nations conduct a study of environmentally sound locations for the storage of radioactive wastes, and for other purposes; to the Committee on Foreign Affairs.

By Mr. WYMAN:

H. Res. 1164. Resolution expressing the sense of the House of Representatives that a bipartisan study group be established to consider the institution of a Federal College for Ombudsman; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRADEMAS:

H.R. 17159. A bill for the relief of Linda L. Davis; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 17160. A bill for the relief of Arturo Canestraro, Gilda Canestraro, Sandro Canestraro, and Marena Canestraro; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 17161. A bill for the relief of Mr. and Mrs. Raul Jose Rojas and minor children; to the Committee on the Judiciary.

H.R. 17162. A bill for the relief of Mr. and Mrs. Alejandro de la Cruz Gonzalez Donoso; to the Committee on the Judiciary.

H.R. 17163. A bill for the relief of Juan Carlos Lopez; to the Committee on the Judiciary.

H.R. 17164. A bill for the relief of Amalia Lopez; to the Committee on the Judiciary.

H.R. 17165. A bill for the relief of Patrice J. Bergoeing; to the Committee on the Judiciary.

H.R. 17166. A bill for the relief of Mr. and Mrs. Osvaldo Aguirre Rivera and three minor children; to the Committee on the Judiciary.

H.R. 17167. A bill for the relief of Mr. and Mrs. Hernan H. Molina and two minor children; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 17168. A bill for the relief of Dorothy Molter; to the Committee on Interior and Insular Affairs.

By Mr. PRICE of Illinois:

H.R. 17169. A bill for the relief of James E. Brown and his spouse, Gloria M. Brown, and Max D. Rogier, and Brown Lathing & Plastering, Inc.; to the Committee on the Judiciary.

By Mr. QUIE:

H.R. 17170. A bill for the relief of Archie N. Standler; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

DISCRIMINATION AGAINST URBANIZED STATES UNDER FEDERAL-STATE GRANT-IN-AID PROGRAMS

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Friday, October 13, 1972

Mr. JAVITS. Mr. President, in 1966 (March 8, 1966, vol. 112, No. 41—89th Congress) I published a study in detail of Federal programs of grants-in-aid to State and local governments in order to determine whether—and to what extent—such programs fairly allocate Federal resources among the States, particularly those which have enormous and pressing needs because of the massive flow of population into densely populated urban centers. The most recent decennial census indicates that 73 percent of our population now resides in urban areas and that more than three-fourths of the Nation's growth over the decade occurred in urban metropolitan areas.

This year this study was brought up to date for named selected programs. It concludes that serious inequities in the allocations of aid persist. While it may not be acceptable to reduce aid to States with less urban-centered populations—one cannot gainsay the problems which beset rural America, too—nevertheless programs directed primarily at urban problems should do what they were intended to do and Americans living in urban areas should not be shortchanged; especially so since a disproportionate cost of such Federal programs comes out of urban pocketbooks.

Congress should face this problem realistically. Allocation formulas cannot be tied to a computation devised when the legislation was first enacted 10, 15, 20 or more years ago nor can it be the product of the needs of States from which members of the authorizing committee and its chairman come. Not only do costs vary from one area to another but so do needs. Some States have much higher average per capita incomes than do others, but the allocation formula discounts this factor two and three times over and there is also great income variance within States which must be recognized. New York includes not only Manhattan's Park Avenue but also counties of Appalachia. Texas has its dry dirt farms but it also has its Dallas oil and corporation-filled skyscrapers. The farmer in New York's Appalachia, is economically, more of a brother to the Texas dirt farmer than he is to the Park Avenue broker. But Federal programs often fail to recognize this.

Illustrative of the growing concern regarding inequitable distribution of Federal funds is the following excerpt from the Senate Labor and Public Welfare Committee's report on the Rehabilitation Act of 1972, S-3987:

> For some time questions have been raised with respect to the State program allocation formula under the Vocational Rehabilitation Act. This formula is the product of population multiplied by the square of a reversed per capita income factor. It is this squaring aspect which, it has been felt, distorts the desirable policy of giving States with low per capita income a formula advantage, by creating widely varying differences between what various States receive for each handicapped individual residing there. Thus, while the average per capital vocational rehabilitation grant for handicapped for the Nation is $81.30, seven States receive less than $50 per capita while six States receive more than $100 per capita, as do the Virgin Islands, Puerto Rico, and the District of Columbia.

In submitting this report, I urge that much closer attention be given to the allocation of Federal funds. Simple justice demands this. I hope that I will be joined by enough of my colleagues in an endeavor to bring about a greater element of justice to our Nation's urban areas in this respect than now exists.

I ask unanimous consent that the report be printed in the RECORD at this point in my remarks:

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DISCRIMINATION AGAINST HIGHLY URBANIZED STATES UNDER FEDERAL GRANT-IN-AID PROGRAMS

(A report to the New York State Congressional delegation)

For many years we in the New York Congressional delegation have been deeply concerned about the relative proportion of Federal grant-in-aid assistance which our State has received. On many occasions I have stated that for every dollar of Federal taxes contributed by our State's citizens New York has received a highly disproportionate return in federal grants even considering per capita income differences. In 1971, for every dollar of Federal taxes contributed by New Yorkers', the State received only $.12 in federal grants. The national average in this respect was $.14. New York ranks very low—38th among the State. While States should not necessarily receive from the Federal government precisely what they contribute in Federal taxes, these statistics raise grave questions as to whether the allocation of Federal funds is fair in light of changing conditions and needs.

There are more than 350 grant-in-aid programs, each with its own unique impact on the States. The Advisory Commission on Intergovernmental Relations—the body established by Congress to consider on a long-term basis the relationships between the Federal Government and the States—found as early as 1964 that a confusing variety of technical formulas has grown up with the growth of Federal grant-in-aid programs.

The poorer States are no longer, relatively, as poor as they were when certain equalization factors in federal grant allocation formulas (designed to level out the differences in State and local government fiscal capacity) were introduced into the law.

In 1929 the per capita income of the highest income States was 4.8 times that of the lowest; by 1970 the figure had decreased to 2.1.

While the per capita income gap has narrowed, a significant change has occurred; namely, an enormous shift of population into the major urban centers of our Nation. While in 1930 only 56.2% of the Nation's population lived in urban areas, in 1970 the figure had increased to 73.5%. In absolute numbers of people this means an increase from 68.9 million people living in urban areas in 1930 to 150.5 million in 1970.

This change has brought with it a tremendous strain on the capacity of the major cities and the States in which they are located, to meet, even with maximum fiscal effort, the vastly increased demands for governmental services. The fiscal plight of these urban centers demonstrates that the per capita income basis for distributing federal funds among the States is no longer fair nor sound. The extraordinary growth of cities has multiplied the needs of those cities for federal funds far more sharply than even the income gap between the States has narrowed.

My own view is that matched against any standard, many of the current formulas are out of date, arbitrary and grossly unfair to the urbanized States. The attention of the Congress must finally be turned to the vast problems of these urban areas. The Congress must be concerned with whether its programs will help to meet these problems equitably.

The following detailed analysis of major programs affecting urban States is based on four issues:

I. What are these equalization factors?

These factors are (1) allocation formulas which usually combine population with the inverse ratio of per capita income—in several programs the reverse income factor is squared, thus greatly distorting differences in State grants; (2) maximum and/or minimum amounts for each State; and (3) matching requirements.

II. How much has New York received under the various programs in the most recent years in comparison with New York's percentage of the Nation's total population?

New York's share of the Nation's population in 1970 was 9.0%. Obviously there are defects in treating population as a perfect measure of the need for all States for all programs. However, it is a better measure—however imperfect—than the present mixture of population and the inverse ratio of per capita income.

It is also a useful gauge in determining need where a particular program is designed to meet a problem greatly aggravated by population density, such as water and air pollution, low-rent public housing, and urban renewal.

III. What has been the experience of several other States under the same provisions as compared with their percentage of the national population?

IV. What are the relevant New York State agency estimates as to the need for additional Federal funding under the various programs?

In this study, Part I under each program describes the current status of three equalization factors: allocation formulas, maximum and/or minimum amounts, and matching requirements. The report incorporates, but does not specify, changes in the law and in administrative regulations.

In Part II under each program, the report shows FY 1970 and FY 1971 total dollar amounts, dollar amounts for each of six States, the percentage for each State, and the percentage of population. Population figures are from the 1970 Census. Two factors, the State's proportion of U.S. population and the degree of urbanization within the State were criteria in selecting the States for the sample. The table below shows the range of these factors for the sample States.

	Percent of U.S. population	Percent urbanization	Population
New York	9.0	85.6	18,236,967
California	9.8	90.9	19,953,134
North Carolina	2.5	45.0	5,082,059
Mississippi	1.1	44.5	2,216,912
North Dakota	.3	44.3	617,761

The dollar amounts shown represent obligations, unless otherwise noted.

URBAN RENEWAL PROJECTS

I. Three factors are present:

1. Administratively, there is a formula using four measures of need—population, per cent of over crowding, housing conditions and poverty—for dividing new obligational authority between HUD regional offices.

2. There is a maximum limitation that not more than 12% of the funds may be expended in any one state.

3. Under the variable matching, the Federal share is generally two-thirds but may be three-fourths in communities with population under 50,000 or in communities with population under 150,000 which are designated as redevelopment areas.

II. Grants approved in calendar years:

	1969	Percent	1970	Percent	Percent population
United States	871,585,000	100.0	1,056,183,000	100.0	100.0
New York	90,749,000	10.4	106,418,000	10.0	9.0
California	87,749,000	10.0	61,885,000	5.8	9.8
North Carolina	30,802,000	3.5	27,816,000	2.6	2.5
Mississippi	16,613,000	1.9	8,472,000	.8	1.1
North Dakota	211,000	.02	9,003,000	.8	0.3
Washington			1,161,000	.1	1.7

Disbursement	1970	Percent	1971	Percent	Percent population
United States	1,053,351,000	100.0		100.0	100.0
New York	116,550,000	11.0	187,790,170	18.3	9.0
California	65,384,000	6.2	92,884,449	9.0	9.8
North Carolina	19,337,000	1.8	16,911,570	1.6	2.5
Mississippi	1,638,000	.15	8,252,305	.8	1.1
North Dakota	533,000	.05	1,414,726	.13	.3
Washington	2,145,000	.2	4,881,467	.47	1.7

LOW RENT PUBLIC HOUSING

Two factors are present:

I. Administratively, there is a formula using three criteria—demand, need and population—for dividing new obligational authority between regional offices.

2. Limitations:

a. Contracts for additional units for any one State may not exceed 15% of the aggregate amount not already guaranteed under contracts on June 30, 1961 with the exception that unused funds may be pooled and reallocated to the States which have used their maximum of 15%.

b. The per unit costs of equipment and construction for a project cannot exceed by more than 10% the prototype costs for an area. Under the 1971 schedule, for example, per unit prototype costs for an elevator building in New York City is $24,800 for a 2 bedroom unit.

c. Federal contributions cannot exceed a sum equal to the annual yield, at the applicable going Federal rate plus 2%, upon the development or acquisition of the project involved, and is for a maximum of 40 years.

II. Annual Contributions to Local Housing Authorities:

	Fiscal year 1969	Percent	Fiscal year 1970	Percent	Percent population
United States	360,026,000	100, 0	459,879,000	100.0	100.0
New York	58,788,000	16.3	62,395,000	13.7	9.0
California	21,359,000	5.9	31,302,000	6.8	9.8
North Carolina	7,479,000	3.0	9,202,000	2.0	2.5
Mississippi	2,565,000	0.7	2,202,000	0.6	1.1
North Dokota	468,000	.1	884,000	.1	.3
Washington	2,634,000	.7	4,821,000	1.0	1.7

III. New York State authorities estimate that in New York City alone 200,000 families live in substandard dwellings. In 1966, 7000 new units were being constructed in New York City annually. The need was estimated at 18,000 additional units per year which would amount to an additional $360 million per year, more than the entire amount spent for the nation in 1965.

INTERGOVERNMENTAL PERSONNEL ACT

I. Title II, to assist State and local governments to strengthen their staffs by improving their personnel administration, and Title III, to strengthen the training and development of State and local government employees and officials, contain all three factors:

1. An allocation formula under which 80% of the total available funds are distributed according to a weighted formula which considers the size of population and the number of State and local government employees. Administratively, equal weight is given to population and number of employees (less special district employees). The remaining 20% is to be distributed in a manner that will most nearly provide for an equitable distribution among States, and between State and local governments, and will take into account a number of factors including population, number of employees and urgency of the programs or projects.

2. A maximum statutory limitation for each State of 12½% of available funds.

3. Federal matching of up to 75%, which will drop to 50% after the first three years.

II	Fiscal year 1972[1] (first year of operation)	Percent funds	Population
United States	$10,377,000	100.0	100.0
New York	1,004,000	9.6	9.0
California	1,007,000	9.7	9.8
North Carolina	239,000	2.3	2.5
Mississippi	111,000	1.0	1.1
North Dakota	60,000	.5	.3
Washington	174,000	1.6	1.7

[1] Figure is for grants awarded from the 80 percent of funds which are distributed according to formula. Figures for the 20. percent discretionary funds are not yet available.

COMPREHENSVE PUBLIC HEALTH SERVICES—FORMAL GRANTS

Partnership for health

I. Two factors are present:

1. Under the allocation formula, each State receives $3 per capita for the first 100,000 of population. Half of the remaining funds available are distributed on the basis of population and half on the basis of population weighted by an index of financial need (per capita income) so that the total allotment to any State will not be less than the total amounts alloted to it under the formula grants for health services in effect for Fiscal year ending June 30, 1967.

2. Under the variable matching requirement, the State's share, which is determined according to a formula using the inverse of State's per capita income, may range between 33⅓ and 66⅔ per cent of costs incurred.

II	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	89,100,000	100.0	89,100,000	100.0	100.0
New York	6,151,900	6.9	6,063,300	6.8	9.0
California	6,581,200	7.3	6,539,900	7.3	9.8
North Carolina	2,359,800	2.8	2,337,200	2.8	2.5
Mississippi	1,388,300	1.5	1,365,200	1.5	1.1
North Dakota	547,300	.6	536,900	.6	.3
Washington	1,389,700	1.5	1,428,500	1.5	1.7

III. New York authorities estimate that total State and local expenditures for public health programs eligible for 314-d support will be somewhere between $175 million and $200 million during fiscal 1972-73. In the face of that great a need, a doubling or tripling of the 314-d Program would be necessary to meet all of the demands which could properly be placed on the program.

Maternal and Child Health Services

Three factors are present:

1. The allocation formula splits the funds into two equal parts, fund A and fund B. From fund A each State receives $70,000 plus a portion of the remainder based upon the ratio of live births in the State to those in the nation. From fund B, 25 per cent is reserved for regional or national special projects on a project basis. The remainder is apportioned on a per capita income and live birth basis, with a minimum of $70,000 to each State. Here, the live birth criterion is weighted so that each rural birth is given twice the weight of an urban birth.

2. Grants from fund A require equal matching; matching is not required for formula grants from fund B.

II	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	40,176,084	100.0	49,405,514	100.0	100.0
New York	2,029,262	5.0	2,649,384	5.3	9.0
California	2,301,643	5.7	2,834,834	5.7	9.8
North Carolina	1,548,028	3.8	1,908,325	3.8	2.5
Mississippi	877,060	2.1	1,085,847	2.1	1.1
North Dakota	206,786	.5	216,561	.4	.3
Washington	606,849	1.5	791,559	1.6	1.7

ELEMENTARY AND SECONDARY EDUCATION ACT

I. Title I (13,428), aid to local school districts to meet needs of educationally disadvantaged children in low-income areas has only one factor: an apportionment formula based on the number of children from 5 to 17 from (1) families having $2,000 or less annual income; (2) receiving aid for dependent children multiplied by one-half the State or National (whichever is greater) average expenditures per pupil.

Title II (13.480), aid to improve the quality of instruction by providing funds to States to acquire school library resources, textbooks, and other printed and published instructional materials for use in public and private elementary and secondary schools, contains one factor: an allocation formula based on the population of children enrolled in public and private elementary and secondary schools, in relation to the total number of children enrolled in schools in all the States.

Title III (13.519), supplementary educational centers and services, contains two factors:

1. An allocation formula, one-half based on the school-age population of the State, one-half on the total population of the State.

2. A minimum allotment of $200,000.

Title V (13.486), aid to strengthen State education agencies, contains one factor, a formula which allocates (1) 40% in equal amounts and (2) 60% according to the ratio of public school pupils in the State to the number of public school pupils in all the States.

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent	Percent population
Title I:					
United States	$1,219,136,495	100.0	$1,339,480,582	100.0	100.0
New York	170,301,358	13.9	191,230,096	14.2	9.0
California	87,531,244	7.1	103,125,700	7.6	9.8
N. Carolina	54,708,768	4.4	56,260,988	4.2	2.5
Mississippi	40,893,791	3.3	42,074,152	3.1	1.1
North Dakota	4,088,991	.3	4,153,410	.3	.3
Washington	9,811,283	.8	12,255,022	.9	1.7
Title II:					
United States	42,550,000	100.0	79,990,425	100.0	100.0
New York	3,465,109	8.1	6,522,557	8.1	9.0
California	4,081,360	9.5	7,682,559	9.6	9.8
North Carolina	993,298	2.3	1,869,199	2.3	2.5
Mississippi	491,458	1.1	925,097	1.1	1.1
North Dakota	136,301	.3	256,567	.3	.3
Washington	701,488	1.6	1,320,448	1.6	1.7
Title III:					
United States	$116,393,116	100.0	$143,064,905	100.0	100.0
New York	10,035,452	8.6	11,192,431	7.8	9.0
California	11,008,765	9.4	12,194,585	8.5	9.8
North Carolina	3,156,483	2.7	3,472,478	2.4	2.5
Mississippi	1,687,041	1.5	1,796,735	1.2	1.1
North Dakota	703,528	.6	728,287	.5	.3
Washington	2,084,890	1.7	2,291,307	1.6	1.7
Table V:					
United States	28,262,500	100.0	28,262,500	100.0	100.0
New York	1,477,979	5.2	1,477,979	5.2	9.0
California	1,910,647	6.7	1,910,647	6.7	9.8
North Carolina	659,015	2.3	659,015	2.3	2.5
Mississippi	432,249	1.5	432,249	1.5	1.1
North Dakota	272,292	.9	272,292	.9	.3
Washington	514,477	1.8	514,477	1.8	1.7

As a measure of need New York State authorities estimate additional requirements, based upon applications received to date as follows, for each of these titles for FY 1971:

Title I: $191 million

Title II: $6.5 million

Title III: $11 million

Title V: roughly $10 million based on high priority needs.

Although New York's allocation equals more than its population share this is a prime example in which density of population and the increased burden imposed upon the disadvantaged as a result of density should result in a higher percentage for such areas, than population alone would warrant. An amendment to Title I to achieve a higher standard than $2000 is needed. An amendment should also be made authorizing the reallocation of funds not used in some school districts to those whose needs have not been fully met. Reallocation provisions already exist in Titles II and V. Former Commissioner of Education James Allen suggested, over 5 years ago, that the reallocation be based on the proportion of each district's students from families receiving AFDC.

Title II: The State authorities contend that even a pure population standard is unfair to New York because of the critical need in large cities. We should consider an alternative which would stress those areas, perhaps a Title I type formula, amended as recommended above. Since a reallocation provision already exists its adequacy for meeting New York State's needs should be evaluated.

Title III: The $200,000 minimum should be reduced or eliminated.

ADULT EDUCATION

1. Funds are allocated to each State in proportion to the number of persons aged 16 and over who have not graduated from a secondary school or its equivalent and who are not currently required to be enrolled in schools.

2. Each State is allotted a minimum of $150,000.

3. The Federal share is 90%.

ADULT EDUCATION

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	40,000,000	100.0	44,866,102	100.0	100.0
New York	3,299,893	8.2	3,748,204	8.4	9.0
California	2,137,446	5.3	2,422,896	5.4	9.8
North Carolina	1,677,851	4.2	1,898,912	4.2	2.5
Mississippi	936,895	2.3	1,054,146	2.3	1.1
North Dakota	177,469	.4	188,322	.4	.3
Washington	3,333,131	8.3	365,793	.8	1.7

4. New York State authorities estimate the State need for additional funds to be approximately $8 million.

EDUCATIONAL BROADCASTING FACILITIES

1. There is a maximum of 8½% of the appropriation for each fiscal year allowed to each State.

2. The maximum Federal share is 75%.

EDUCATIONAL BROADCASTING FACILITIES 13,413

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	4,320,550	100.0	11,497,000	100.0	100.0
New York	185,506	4.3	8,897,929	7.8	9.0
California	313,885	7.3	613,926	5.3	9.8
North Carolina	0	0	47,032	.4	2.5
Mississippi	357,630	8.3	367,433	3.2	1.1
North Dakota	0	0	0	0	.3
Washington	32,969	.8	69,670	.6	1.7

LIBRARY SERVICES—GRANTS FOR PUBLIC LIBRARIES (TITLE I)

CONSTRUCTION OF PUBLIC LIBRARIES (TITLE II)

I. Three factors are present:

1. Funds are alloted on the basis of population.

2. There is a minimum allotment to each State $200,000 under Title I and of $100,000 under Title II.

3. Under the variable matching requirement, the State's share which is determined according to a formula using the inverse of the State's per capita income may range from 33⅓ per cent to 66⅔ per cent of the costs incurred.

TITLE I—LIBRARY SERVICES

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent funds	Percent population
United States	$33,178,000	100.0	$38,250,102	100.0	100
New York	2,422,050	7.3	2,906,520	7.6	9.0
California	2,278,774	6.8	2,732,497	7.1	9.8
North Carolina	777,399	2.3	908,926	2.3	2.5
Mississippi	$457,511	1.3	$530,380	1.3	1.1
North Dakota	249,585	.7	267,843	.7	.3
Washington	584,321	1.7	630,688	1.6	1.7

TITLE II—CONSTRUCTION OF PUBLIC LIBRARIES

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent funds	Percent population
United States	$7,807,250	100.0	$8,660,884	100.0	----------
New York	405,911	5.1	346,271	3.9	9.0
California	262,652	3.3	326,246	3.7	9.8
North Carolina	195,319	2.4	151,463	1.7	2.5
Mississippi	$122,724	1.5	$114,164	1.3	1.1
North Dakota	0	0	92,405	1.0	.3
Washington	54,296	.6	138,431	1.5	1.7

3. State authorities estimated that New York could have used an additional $2.2 million for title I in 1971; and an additional $4.7 million for title II in 1971.

4. The delegation should seek to reduce or eliminate the minimum allotment provisions of both titles.

VOCATIONAL EDUCATION—BASIC GRANTS TO STATES

I. All three factors are present:

1. An allocation formula which weights population of certain age brackets with the inverse ratio of per capita income.

2. A minimum allotment of $10,000.

3. 50–50 matching.

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent funds	Percent population
United States	$300,336,000	100.0	$321,699,853	100.0	100.0
New York	20,730,525	6.9	21,639,304	6.7	9.0
California	23,903,359	7.9	25,010,505	7.7	9.8
North Carolina	10,190,085	3.3	10,662,796	3.3	2.5
Mississippi	$4,772,410	1.5	$4,931,282	1.5	1.1
North Dakota	1,207,190	.4	1,263,226	.3	.3
Washington	4,777,695	1.5	5,001,295	1.5	1.7

3. The matching provisions should be amended to increase the Federal share from 50 to at least 75 percent.

4. State authorities estimate the fiscal year 1972 additional need for New York to be $43 million.

HEALTH FACILITIES CONSTRUCTION

1. The allocation formula for four programs, hospital, and health centers, long-term care facilities, out-patient facilities, and rehabilitation facilities weights the population of each State with the inverse ratio of the square of per capita income. Per capita income variations are limited to a range between 33⅓% and 75%. The allocation formula for the fifth program, facility modernization, weights population, the inverse ratio of per capita income (not squared), and modernization need.

2. Minimum allotments per State are: hospital and health centers—$300,000; long-term care facilities—$300,000; out-patient facilities—$200,000; rehabilitation facilities—$100,000; and facility modernization—$300,000.

3. The maximum Federal share is 66⅔%.

HEALTH FACILITIES—HILL-BURTON

	Fiscal year 1970—		Fiscal year 1971—		Percent population
	Number	Percent	Number	Percent	
United States	172,200,000	100.0	171,720,000	100.0	----------
New York	10,603,987	6.2	10,344,755	6.0	9.0
California	10,280,841	6.0	8,715,300	5.1	9.8
North Carolina	5,972,147	3.5	5,128,165	3.0	2.5
Mississippi	3,315,171	1.9	2,785,582	1.6	1.1
North Dakota	823,436	.5	1,281,757	.7	.3
Washington	2,667,889	1.5	2,461,557	1.4	1.7

4. New York State authorities estimated that an additional $48 million could have been used for planned hospital construction; the additional need in 1971 soared to $274 million. This includes the construction or modernization of 15,000 hospital "beds."

5. The enormous disproportions in distribution in this program in the light of the excess need in areas of very great population density clearly call for changes in all three allocation factors:

1. At the very least, legislation is needed eliminating the squaring of the per capita income factor in the allocation formula and substituting the usual per capita income factor (i.e. the higher the average per capita income in the State, the lower its share of funds). However, I believe even the straightforward per capita income formula may be grossly inadequate, as has been discussed above, and, particularly in this area of governmental service, in which density of population brings special communicable disease and other health problems, a straight population or density of population factor should be substituted. Certainly with the gross disproportion which the law has carried since its enactment in 1946, there should be careful examination as to whether the need for additional hospital space in the less densely populated areas matches the enormous needs in the heavily populated areas.

2. The minimum allotments per State should be repealed at this point, for the same reasons set out in (1) and for the additional reason that the specification of particular types of facility is unnecessary and creates its own distortion within the States.

3. Variable matching, while on its face complementary to the purpose of a per capita income allocation formula, serves actually to multiply its effect. Not only is a State with higher per capita income reduced to a smaller share of the Federal funds, but to utilize that share it must raise an even larger percentage of State funds to match the Federal money. Again, for the reasons stated in (1), the delegation should support legislation at the least substituting a flat matching requirement.

FAMILY PLANNING PROJECTS

I.

1. Family planning project funds are allocated first to continuation of programs. Remaining funds are allocated according to the number of women in a region who need family planning services.

2. Matching of 75% Federal-25% State or local.

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent	Percent population
United States	[1] $22,800,000	100.0	$28,623,000	100,0	100.0
New York	443,000	1.9	2,438,000	8.5	9.0
California	1,575,000	6.9	1,657,000	5.7	9.8
North Carolina	441,000	1.9	1,219,000	4.2	2.5
Mississippi	$1,102,000	4.8	$692,000	2.4	1.1
North Dakota	0	0	12,000	.04	.3
Washington	252,000	1.1	421,000	1.4	1.7

---

[1] Rounded to thousands.

3. As a measure of additional need, New York State officials estimate family planning expenditures to be $2.5 million in fiscal year 1972, and $2.89 million in fiscal year 1973.

REHABILITATION SERVICES AND FACILITIES—BASIC SUPPORT (BASIC SUPPORT PROGRAM)

I. Three factors are present:

1. An allocation formula which weights the population of each State with the inverse ratio of per capita income squared. This is achieved through a complex computation which also limits the per capita income variation to a range between 75 and 33⅓%.

2. A minimum allotment of one million per state.

3. The matching requirement is 80% federal, 20% State.

II	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	436, 000, 000	100.0	502, 745, 072	100.0	100.0
New York	27, 939, 645	6.4	28, 838, 090	5.7	9.0
California	28, 762, 962	6.5	23, 047, 115	6.3	9.8
North Carolina	16, 364, 902	3.7	19, 081, 989	3.8	2.5
Mississippi	10, 007, 912	2.2	11, 160, 340	2.2	1.1
North Dakota	2, 070, 888	.4	2, 079, 042	.4	.3
Washington	6, 341, 146	1.4	6, 718, 459	1.4	1.7

WASTEWATER TREATMENT WORKS

1. The allocation formula allots the first $100 million appropriated 50% on a population basis and 50% on the basis of the inverse ratio of per capita income. The balance is allotted on the basis of population alone.

2. At least 50% of the first $100 million appropriated must be used for municipalities of 125,000 or less population.

3. The Federal share is 30% if there is no State matching program; it is 40% if there is a 30% State matching program; and it is 50% if there is a 25% State maching program and the receiving stream has enforceable water quality standards. In addition the Federal share may be increased by 10% of the amount of the grant if the project is certified as conforming to a comprehensive plan for a metropolitan area.

WASTEWATER TREATMENT WORKS

II	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	800, 000, 000	100.0	1, 000, 000, 000	100.0	100.0
New York [1]	69, 938, 200	8.7	126, 039, 700	12.6	9.0
California	65, 554, 900	8.2	65, 557, 800	6.6	9.8
North Carolina	19, 881, 800	2.5	12, 756, 796	1.3	2.5
Mississippi	10, 377, 700	1.3	10, 359, 000	1.0	1.1
North Dakota	1, 078, 688	.13	56, 884	.006	.3
Washington [1]	12, 528, 700	1.6	12, 719, 900	1.3	1.7

[1] For fiscal 1971, totals include discretionary as well as formula grants

4. As a measure of additional need, New York State authorities estimated that $65.8 million was actually spent in 1964; more than $60 million of which was from non-federal sources. In addition New York has committed itself to a $1.7 billion program involving a projected State and local effort of $1.1 billion.

AIR POLLUTION PLANNING AND CONTROL PROGRAMS

I. All three factors are present:

1. An allocation formula which requires that consideration be given to three factors: (1) the population; (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. Administratively, the following criteria have been set: (1) "Population" means the population residing within the jurisdiction of the applicant according to the latest census data; (2) "The extent of the actual or potential air pollution problem" will be determined on the basis of (a) motor vehicles per square mile and (b) value added by manufacturing, within the jurisdiction of the applicant, according to the latest census data; (3) "Financial need" will be determined on the basis of the reciprocal of the median family income of families residing within the jurisdiction of the applicant according to the latest census data.

2. A maximum statutory limitation on each State of 10% of available funds.

3. Federal matching up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. In an area that includes two or more municipalities, whether in the same or in different States, the Federal share rises to three-fourths and three-fifths respectively.

II	Fiscal year 1970	Percent funds	Fiscal year 1971	Percent funds	Percent population
United States	$26, 076, 203	100.0	$29, 446, 996	100.0	100.0
New York	2, 527, 285	9.6	2, 887, 000	9.8	9.0
California	2, 470, 821	9.4	2, 440, 604	8.2	9.8
North Carolina	586, 448	2.2	505, 640	1.7	2.5
Mississippi	66, 000	.2	80, 000	.2	1.1
North Dakota	15, 000	.05	50, 477	.1	.3
Washington	1, 184, 855	4.5	1, 015, 719	3.4	1.7

NEIGHBORHOOD YOUTH CORPS

1. The allocation formula specifies as criteria population, unemployment, and family income levels.

2. The Statute states that "the Director shall establish criteria designed to achieve an equitable distribution of assistance among the States."

3. The Federal share is 90%.

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
National	315, 000, 083	100.0	426, 453, 000	100.0	100.0
New York	32, 523, 000	10.3	39, 315, 000	9.2	9.0
California	25, 256, 000	8.0	37, 136, 000	8.7	9.8
North Carolina	9, 817, 000	3.1	11, 389, 000	2.7	2.5
Mississippi	6, 782, 000	2.2	9, 139, 000	2.1	1.1
North Dakota	1, 002, 000	.3	1, 257, 000	.3	.3
Washington	3, 449, 000	1.1	6, 448, 000	1.5	1.7

COMMUNITY ACTION

1. The allocation formula for 80% of the funds appropriated allots one-third in proportion to the number of unemployed persons, one-third in proportion to the number of public assistance recipients, and one-third in proportion to the number of children living in families with annual incomes of less than $1000. The other 20% of the funds appropriated are allotted at the discretion of the Director.

2. The Federal share is 80%.

COMMUNITY ACTION (OBLIGATIONS)

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
National	334, 193, 176	100.0	367, 762, 518	100.0	100.0
New York	31, 083, 367	9.3	46, 802, 634	12.7	9.0
California	31, 566, 697	9.4	31, 951, 737	8.7	9.8
North Carolina	11, 297, 433	3.4	11, 969, 655	3.3	2.5
Mississippi	4, 283, 754	1.3	5, 157, 372	1.4	1.1
North Dakota	991, 468	.3	1, 389, 542	.4	.3
Washington	6, 283, 082	1.9	5, 969, 652	1.6	1.7

3. The $100 family income figure should be increased as it is unrealistic in the major urban centers.

URBAN MASS TRANSPORTATION

1. Project grants in any one State may not exceed 12½% of the appropriation each fiscal year.

2. The Federal share is 66⅔%.

URBAN MASS TRANSPORTATION

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
United States	132,675,000	100.0	340,689,000	100.0	100.0
New York	22,857,762	17.2	49,764,228	14.6	9.0
California	10,941,598	8.2	93,855,305	27.5	9.8
North Carolina	0	0	0	0	2.5
Mississippi	0	0	0	0	1.1
North Dakota	0	0	0	0	.3
Washington	0	0	120,741	.03	1.7

The need is greatest in the most congested cities. Many states do not need urban mass transit aid at all and get all they can use for roads in Federal Highway Trust Funds.

LAW ENFORCEMENT ASSISTANCE

1. The allocation formula specifies that 85% of the funds appropriated are to be distributed among the States in proportion to population, and that 15% are to be distributed at the discretion of the L.E.A.A.

2. The Federal share is 75% except for construction projects, for which the Federal share is 50%.

LEAA

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
National	[1] 182,750	100.0	340,000	100.0	100.0
New York	16,392	9.0	30,093	8.9	9.0
California	17,287	9.5	32,999	9.7	9.8
North Carolina	4,625	2.5	8,305	2.4	2.5
Mississippi	2,117	1.2	3,614	1.1	1.1
North Dakota	562	.3	1,022	.3	.3
Washington	2,971	1.6	5,612	1.7	1.7

[1] Thousands of dollars.

3. As a measure of additional need, one aspect of New York's criminal justice system has not been the target of any substantial part of Safe Streets Act funding. That is the area of construction and major rehabilitation of correctional institutions. This area of the criminal justice system which could be improved has had no attention under the Safe Streets Act. Any increase in New York's allocation under the Act could open the way for significant advance in that area.

COMPREHENSIVE PLANNING ASSISTANCE "701"

Two factors are present:

1. Administratively, there are formulas for dividing the new obligational authority available for different types of planning organizations between the HUD regions. The formulas use the following criteria:

a. Obligational authority for State wide planning: population, poverty (rural), housing deficiency.

b. Obligational authority for small cities under 50,000: population, poverty (rural), housing deficiency.

c. Obligational authority for cities over 50,000: Housing deficiency, poverty, SMSA population, number of eligible cities.

d. Obligational authority for metro areawide: SMSA population poverty, housing deficiency and number of agencies.

e. Obligational authority for non-metro areawide: non-SMSA population; non-SMSA poverty, non SMSA housing deficiency; non-SMSA agencies.

2. Under the variable matching, the Federal share is generally two-thirds but may be three-fourths for economic development districts, cities in redevelopment areas, regional commissions, and areas experiencing rapid urbanization or decline in employment opportunities as a result of an increase or reduction in a Federal installation.

GROSS GRANT APPROVALS DURING CALENDAR YEAR

II	1970	Percent fund	1971	Percent fund	Percent population
United States	$42,786,000	100.0	$50,641,000	100.0	100.0
New York	3,329,000	7.8	3,325,000	6.3	9.0
California	2,486,000	5.8	3,156,000	6.2	9.8
North Carolina	775,000	1.8	1,354,000	2.6	2.5
Mississippi	375,000	.87	798,000	1.5	1.1
North Dakota	51,000	.11	169,000	.33	.3
Washington	828,000	1.9	917,000	1.8	1.7

NEIGHBORHOOD YOUTH CORPS

1. The allocation formula specifies as criteria population, unemployment, and family income levels.

2. The Statute states that "the Director shall establish criteria designed to achieve an equitable distribution of assistance among the States.

3. The Federal share is 90%.

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
National	315,000,083	100.0	426,453,000	100.0	100.0
New York	32,523,000	10.3	39,315,000	9.2	9.0
California	25,256,000	8.0	37,136,000	8.7	9.8
North Carolina	9,817,000	3.1	11,389,000	2.7	2.5
Mississippi	6,782,000	2.2	9,139,000	2.1	1.1
North Dakota	1,002,000	.3	1,257,000	.3	.3
Washington	3,449,000	1.1	6,448,000	1.5	1.7

The states with big metropolitan centers certainly deserve a "bulge" here.

COMMUNITY ACTION

1. The allocation formula for 80% of the funds appropriated allots one-third in proportion to the number of unemployed persons, one-third in proportion to the number of public assistance recipients, and one-third in proportion to the number of children living in families with annual incomes of less than $1000. The other 20% of the funds appropriated are allotted at the discretion of the Director.

2. The Federal share is 80%.

COMMUNITY ACTION (OBLIGATIONS)

	Fiscal year 1970	Percent	Fiscal year 1971	Percent	Percent population
National	334, 193, 176	100.0	367, 762, 518	100.0	100.0
New York	31, 083, 367	9.3	46, 802, 634	12.7	9.0
California	31, 566, 697	9.4	31, 951, 737	8.7	9.8
North Carolina	11, 297, 433	3.4	11, 969, 655	3.3	2.5
Mississippi	4, 283, 754	1.3	5, 157, 372	1.4	1.1
North Dakota	991, 468	.3	1, 389, 542	.4	.3
Washington	6, 283, 082	1.9	5, 969, 652	1.6	1.7

CONCLUSION

This is the age of the cities. The Nation and the Congress need to recognize this fact. When the decline of the farm population loomed as a danger to our ability to feed our people, we reacted with a multibillion dollar rural aid program which has boosted our agricultural production so vastly that it is now the wonder of, and a major source of supply for the world. When the roads of our Nation were found to be so grossly inadequate, we reacted with a multibillion dollar interstate highway (trust fund) construction program.

Now the city must be the focus of our attention. The huge concentrations of population in major urban centers have created conditions entirely beyond the proportions ever experienced before. These are conditions which the cities and the States in which they are located are incapable of handling with their available resources. Only the Federal government can help do the job.

Yet this is not because the cities and urban States have not been trying. Between 1964 and 1970 local debt rose from $67.1 billion to $101.5 billion, a 51.4% increase. One a per-capita basis, local debt in that period rose from $481.99 to $706.42. This compares with a 15.3% increase in the per capita Federal debt for that same period.

The Federal commitment to aid the cities needs to be greatly expanded and as a first step discrimination against the cities in allocations of Federal aid to the cities and State is vital. It is almost unthinkable that in 1972 Federal aid to cities for housing and community development was only about $4 billion dollars. $10.5 billion dollars was spent by the Department of Agriculture. It is amazing that even without growing concentrations of urban problems, it has been estimated that urban expenditures account for less than 2% of the Federal budget.

Mr. JAVITS. Mr. President, finally, as this report demonstrates, there is much that could and should be done now to make many of the programs more equitably geared to the needs of urban dwellers:

First. Allocation formulas should be revised to keep in perspective the per capita income squared feature which too often distorts the shares received by urban States. For example, in those instances where this factor is squared—for example, vocational rehabilitation—a State with one-half the per capita income of another receives four times the per capita grant. Density of population, differing costs of living, and income differences within a State should also be a basis for allocation as well as overall population of the State.

Second. Maximum and minimum limitations on amounts for each State should be revised to realistic levels.

Third. Matching requirements should be reevaluated to determine their adequacy, particularly as some States cannot—or will not—provide funds to match Federal grants; and others have no need for particular programs.

Fourth. Legislators should seek alternative methods to determine the measures which effectively incorporate differences in the cost of providing governmental services in the more densely populated urban centers.

In short, the crisis of the cities is still very much with us. We must respond. Legislators from urbanized States need now to become as sensitive to the significance of allocation patterns for Federal funds as those from nonurban States so obviously have been for many decades.

THE 1972 QUESTIONNAIRE OF CONGRESSMAN BURT L. TALCOTT

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. TALCOTT. Mr. Speaker, in a large congressional district communication between Representative and constituent is often difficult because of distance, small remote cities, and the costs of travel and communication. I utilize every means of communication I know, TV, radio, newspaper, letter, telephone, personal appearances, and conferences with groups and individuals. One means of communication which permits every resident in my district to voice his or her opinion is my annual questionnaire.

Because of the unusual interest in the answers to my 1972 questionaire, I insert them at this place in the RECORD:

1972 QUESTIONNAIRE OF CONGRESSMAN BURT L. TALCOTT

OCTOBER 1972.

DEAR FRIENDS:

For seven years I have circulated a comprehensive questionnaire to ascertain the views of all residents of our district. The questionnaire requires considerable study and time, so I am most grateful to those who responded. Again the interest was extraordinary. As customary, I am sharing the answers and my abbreviated comments. The questions are designed to stimulate thinking and develop awareness of the complicated, complex issues that face us as citizens and public officials. The results indicate considerable divergence of opinion—and, of course, no federal question lends itself to a simple "yes" or "no" answer. The consensus is instructive to me and I trust informative to you.

My annual "end of Congress" report will be made shortly after the Congress adjourns. Also, I will again publish my complete voting record in the Congressional Record and provide copies for anyone upon request. Only a few Members of Congress do this; I was the first.

The answers were similar from all four counties; however, differences in "priorities" were significant. San Benito emphasized agriculture subsidies and employment; Monterey, environment and education; Santa Cruz, elderly and housing; San Luis Obispo, drugs and consumer protection. Women favored "no-fault" insurance and "total national health insurance" more than men; while men favored a dual minimum wage for handicapped and inexperienced more than women; otherwise men and women saw issues similarly. More women responded than men, which surprised me.

Space and time preclude extensive comments by me. I am pleased to share the tabulations and my comments. Questions in italics; my abridged comments in standard type; tabulations in percentages.

VIETNAM POLICY . . .

1. What is the best practical policy for Vietnam now?

a. the President's policy of withdrawing U.S. combat troops by stages while strengthening the South Vietnamese to assume responsibility for their own security? 31.0%.

b. immediate withdrawal of all U.S. troops? 17.7%.

c. publicly setting a specific date for withdrawal regardless of events in the meantime? 8.5%.

d. agreeing to withdraw all U.S. forces within four months after (1) *the establishment of an internationally supervised cease-fire throughout Indo-China, and* (2) *the safe return of all American prisoners of war and an accounting of all Americans missing in action as a result of the present conflict in Southeast Asia?* 41.8%.

Obviously still perplexing. An overwhelming number support the President. The picture is more clear now than last year. The stage-managed exploitation of the release of 3 POWs to the "war activists," the Easter invasion of the South by the North Vietnamese, the horrendous terror and executions of southerners, and the refugees (all to the South) have helped to identify the aggressor in this war. Everyone wants to end the war. Most everyone believes that the President's efforts are sincere; his rationale is correct; his offers of settlement are fair; the pressures upon him are immense. He has made every reasonable effort. Only a few want to withdraw on a specific date or unilaterally. With practically no publicity at home, my proposal for withdrawal (d above) was by far the most acceptable. I am confident that our well-intentioned involvement in a professionally fought, but grossly mismanaged, war will soon be terminated in a way that Peace may have a chance. Casualties are at an all time low, no draftees are being sent to Vietnam and, hopefully, the draft will soon be down to "zero." One word from the North Vietnamese government and we can withdraw our Navy and Air Force immediately. Caveat: our "POWs/MIAs" are not prisoners of war (never defined or treated as such); they are hostages for high ransom. All of us have a large obligation to help secure their humane treatment and safe return at end of war.

DO YOU FAVOR . . .

2. . . . a nationwide program of no-fault automobile insurance?

Yes, 80.5%.

No, 19.5%.

A strong majority believes in the "no-fault" concept of auto insurance. The intricacies of administration and long range consequences are not well understood. Various experimental projects in several states have disclosed serious flaws as well as advantages. Until a satisfactory plan evolves from the various state experiments, the Congress is reluctant to pass a nationwide law which would drastically change 200 years of common law. Some form of auto "no-fault" insurance is likely to be considered during the next Congress.

3. . . . the sharing of Federal revenues for municipal purposes by direct payment to state and local governments without specific Federal regulations for the use of these funds?

Yes, 43.3%.

No, 56.7%.

"Revenue sharing" is a new concept. It is designed to bring government back to the people, to local and state governments; to decentralize the cumbersome, remote Federal bureaucracy; to reduce "red tape," duplication and fragmentation of the narrow categorical federal programs; to free local officials from choking federal restrictions. The Federal Government is the most efficient tax collector, but least efficient tax spender. Government programs require close public scrutiny, which is more thorough at the local level. The present revenue sharing bill will need amendments, but it can rescue local governments from insolvency and relieve the property tax burden. I introduced one of the first revenue sharing bills (for education) in 1965. Local officials have strongly supported the bill. New concepts are often controversial; this one will change America and accrue to the benefit of all Americans.

4. . . . dual minimum wage—one lower for handicapped and for teenagers who want to work?

Yes, 52.1%.

No, 47.9%.

I support a dual minimum wage for handicapped and inexperienced youth—otherwise they won't get work because no employer can afford to pay them the same wages as fully qualified workers. Youth need work and experience, perhaps more than money. I disapprove of the present dual minimum for farm workers—(when they receive a lesser minimum wage than other workers)—they must spend the same for food, rent, clothes, and gasoline as other workers and they don't need to work just for experience. If minimums are to be imposed, they should be fair to all workers.

DO YOU BELIEVE . . .

5. . . . Federal or public employees should have the right to strike?

Yes, 37.8%.

No, 62.2%.

I believe the "strike" is an outmoded, less-than-civilized method for resolving disputes between persons who should be working for the same goals. A new legal technique of "mediation, arbitration, and negotiation" should be developed to take the place of the strike. I have made such a proposal. Both sides have the information, intelligence, and support to resolve any difference fairly. Strikes usually accomplish little for the employee; workers seldom recoup their losses; and innocent third parties are usually the most adversely affected. The progressive, enlightened and compassionate labor leaders concur with me. Public employees have an even greater responsibility to keep government functioning and should lead the way in working together as a team, and of developing new legal techniques for resolving disputes amicably, fairly, without waste or injury to others.

SHOULD THE FEDERAL GOVERNMENT . . .

6. . . . legalize the possession and private use of marijuana?

Yes, 39.6%.

No, 60.4%.

People seems to sense that the use of marijuana is a crutch which does no good—and could do harm. I encourage everyone not to use tobacco, alcohol, or drugs until they appreciate the consequences. I would not vote to legalize marijuana; however, the punishment for possession of small amounts and private use should be a fine; the penalty for trafficking in drugs, specially with youth, should be stiff and mandatory. We abuse our minds and bodies by the misuse of drugs; today alcohol must be the most misused drug, but this is not justification for legalizing another harmful substance.

7. . . . enact a "value added tax" (3% national sales tax) if it lowers your local property tax?

Yes, 36.9%.

No. 63.1%.

In seeking "tax reform" we should strive for tax relief and tax reduction. We should reduce federal expenditures to avoid tax increases and new taxes. Tax review and scrutiny of all expenditures should be continuous. Unfortunately, this Congress is not committed to fiscal responsibility—the "buy now, pay later" disposition can only result in new or higher taxes, which damages the poor, the elderly and the unemployed now, and the young who will have to pay our debts in the future.

IN YOUR OPINION . . .

8. . . . what approach to "National Health Insurance" should we take?

a. a total health program financed and operated by the Federal Government? 44.7%.

b. a Federally operated program financed by employer-employee contributions? 24.9%.

c. tax credits for purchase of privately financed health insurance? 15.8%.

d. complete reliance on the private health insurance structure except for veterans with service-connected medical problems and disabled and elderly under Medicare? 14.6%.

The problem of delivering health services to all citizens concerns everyone—doctors, patients, para-medics, taxpayers, governments. We enjoy the best health care known, but we need to make it more available to more people. A "total government" program has never produced quality health care. Delivering health services is different from arranging a system for payment. Preventative medicine, use of para-medics, more medical and dental schools, rural and ghetto health services need emphasis. Free enterprise medical and hospital care with financial insurance for needy patients and catastrophic illnesses should be given a chance before we resort to total socialization of health care.

9. . . . what is the most crucial problem facing the United States today?

1. Vietnam.
2. Crime.
3. Economy.
4. Overdevelopment.
5. Environment.
6. Drugs.
7. Welfare.
8. Education.

10. . . . what is the most crucial problem of our 12th Congressional District?

1. Overdevelopment.
2. Environment.
3. Economy.
4. Welfare.
5. Drugs.
6. Education.
7. Communism.
8. Unemployment.

The problems facing our district and Nation are naturally similar. The war is an international problem and extraordinarily complicated. Last year it overshadowed all other problems. We have made great progress withdrawing troops and reducing casualties. "Crime" and the "economy" are considered almost as critical as "war" this year. "Drugs" have fallen down the list—young people are wiser. "Over-development" and "environment" concerns seem related. The "welfare mess" will be a persistent irritant until completely overhauled. Unfortunately, welfare reform was deferred until next year.

11. . . . To better allocate Federal spending, it has been suggested that priorities be established. Listed below are some of the major programs in the Fiscal Year 1973 Budget. Please indicate the order of importance that you believe should be given to these programs. ("1" for most important through "14" for least).

1. Crime control.
2. Environmental protection.
3. Education.
4. Drug misuse.
5. National defense.
6. Consumer protection.
7. Aid to elderly.
8. Job training.
9. Housing.
10. Research and development.
11. Rural development.
12. Aid to cities.
13. Aid to agriculture.
14. Space exploration.

In almost all cases the shifting "priorities" of our district are compatible with the shifting emphasis in federal appropriations. More money is now being spent on crime, anti-pollution, education, consumer protection than ever before. A smaller percentage of our total budget outlays is spent on defense in spite of the extra costs of developing a volunteer army: 1962, 47.8%; 1972, 33% of total budget. For social services: 1962, 29% of total budget outlays; 1972, 44%. This is some progress. New Housing has increased from 1,879,000 units in 1969 to a projected 2,900,000 units in 1972, an all-time yearly record. It is estimated that this figure will be exceeded in 1973.

Two concerns were mentioned heavily in marginal notes and separate letters: alienation, which can only be ameliorated by sustained sincere individual effort toward reconcilliation of our unnatural differences, and fiscal responsibility. "Wage and price controls" and reductions of federal taxes have cut the rate of inflation in half; more jobs have been created in spite of dramatic conversion from a war economy which includes discharge of more than two million military personnel and defense workers. Total civilian employment is 2.5 million higher than a year ago. But deficit spending by the Federal Government must be curbed or all other efforts to achieve economic stability will be futile. Every "Budget busting" in any area inflates the costs of living and diminishes the value of the tax dollar in all areas.

We as a government, we as a society, are making great progress in curing our various ills and building and reforming to meet the changes. Some people seem to derive personal satisfaction by condemning and criticizing institutions and officials. Some compulsively judge others by their faults and flaws rather than even considering their virtues and strengths. But, happily, most people who responded to my questionnaire conveyed a feeling of gratitude for the progress and successes we have enjoyed in recent years; they were exceedingly proud of their country and its record, even in war; they expressed hope and confidence in our institutions even though they suggested numerous reforms; they were pleased that the "economic outlook" is so much better; they are relieved that world tensions have been lessened everywhere except for the terrorism boiling up and out of the Mid-east and Vietnam.

The answers to my questionnaire were instructive and encouraging. I thank each of you who responded.

Sincerely,

Burt L. Talcott,
U.S. Congressman.

TRIBUTE TO CONGRESSMAN JAMES KEE

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SCHWENGEL. Mr. Speaker, today I had planned to take an hour in special order to pay a deserved tribute to Congressman JAMES KEE. However, because of other special orders already planned and at the suggestion of several members of the Public Works Committee, I have arranged for a special order on the 13th of October. It is my hope that many of his colleagues will join me in this opportunity to pay tribute to this fine gentleman.

TAMBURITZANS SUCCESS ON FOREIGN TOUR

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, October 13, 1972

Mr. SCHWEIKER. Mr. President, the Duquesne University Tamburitzans this summer conducted a spectacularly successful 9-week tour of Europe, including concerts behind the Iron Curtain, winning many friends for America wherever they performed, their achievements included taking the first-place gold medal for excellence in performance at an international folk festival in Bulgaria. Their entire 2-hour performance was played on the Bulgarian television network—Inter-Vision—and was seen by an estimated 20 million people in the Soviet Union, East Germany, Bulgaria, Czechoslovakia, Hungary, and Romania. They were the first American group ever to appear in this international festival, and to appear in such a fashion on Eastern Europe television. In addition to native songs and dances, half their show included various types of American music, dance, and culture.

These talented young people have made important contributions to international good will, and to educating thousands of Eastern Europeans about life in America. They deserve the thanks and gratitude of all Americans.

Mr. President, an article that appeared in the Pittsburgh Press on August 27, 1972, entitled "Tammies Triumph Abroad," describes this impressive foreign tour by the Tamburitzans in greater detail. Mr. President, I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAMMIES TRIUMPH ABROAD

(By Carl Apone)

The U.S. ambassador to Bulgaria said their visit 'was a major contribution toward bettering international relations."

A newspaper in Volos, Greece, said: "They were the best group of people America could or has ever sent here." The La Provencal critic in Marseilles, France, wrote it was "a highly professional performance by young American students." And the Black Sea Front, Bulgaria, called them a "precise, disciplined ensemble and possessed of musicians of the highest quality."

GOLD MEDAL AWARDED

Officials of the international festival at Burgas, Bulgaria, awarded them a gold medal for excellence in performing.

Bulgarian television (Inter-Vision) taped their entire two-hour show at Burgas and the show was then seen by an estimated 20 million persons behind the Iron Curtain in Bulgaria, Czechoslovakia, Hungary, Romania, the Soviet Union and East Germany.

Impresarios in Poland, Yugoslavia, Romania and England are clamoring for them to visit their countries next year.

They are all talking about the Duquesne University Tamburitzans who recently completed a nine-week tour of Europe, much of it in Iron Curtain countries.

The tour was made possible by a $90,000 grant from the Richard King Mellon Foundation. Officials of the foundation are elated with the results.

PREPARING AT CAMP

Presently the Tammies are at their summer camp at Lake Nemakagan, Wis., preparing for a new program for the upcoming season.

The tour by the 46 members of the Tamburitzans opened in Czechoslovakia June 5. The U.S. ambassador there was surprised the Communists allowed an American group to enter the country, and the Czechs were careful to keep the Tammies away from the big cities. They played mostly in small theaters in Bohemia and Slovakia where they filled houses with a seating capacity which ranged from 600 to 1,000.

After that, they had one week of rest in Nice before giving three performances at an International Festival in Marseilles in a 1,500-seat theater. Some of the show was seen on French TV.

In Greece, there were 10 shows, the first two at Pireaus, for the Port of Athens Festival, where the Tammies played before crowds of 5,000 and 8,000 at an outdoor theater. The temperatures were around the 95 mark in northern Greece, but the Tammies didn't let the heat slow the pace of their shows.

RECEPTION "FANTASTIC"

The Bulgarians gave the Tammies "a fantastic reception" at the border, when they entered that country, the first American musical group to visit that Communist nation since before World War II.

Representatives of the various cultural groups were there; members of press, radio and TV were out in force; there were six members of Pirin (Bulgarian State Ensemble) in uniform; lots of flowers and speeches.

"The interviews with our young people were along cultural lines," said Mrs. Pat French, interpreter and head of overseas tours for the Tammies. "They were interested in Tammy activities and made no attempt to show our country as the 'bad guy' in political affairs."

The Tammies played 12 shows during their three week day in Bulgaria and got enthusiastic receptions at outdoor theaters where the seating capacity ranged from 1,500 to 5,000. They also spent one week in training with the Pirin ensemble, learning to perform on Bulgarian folk instruments and do native dances.

They will include three of those Bulgarian dances in their 1972–73 repertoire. The Bulgarians were so pleased with the Tammy showing during the one-week training period that they gave them instruments and costumes as gifts, as well as 300 books and hundreds of records on Bulgarian folk literature. Walter Kolar, director, and all members of the group also received personal gifts.

NEGOTIATED 8 YEARS

"We negotiated for eight years to be allowed to enter Bulgaria," Mrs. French said, "and I think we made the most of it. They were thrilled at hearing American music and seeing our dances for the first time, and members of Pirin were amazed at the Tammy discipline and ability to learn.

"We got to meet many of the people and I think we accomplished some good. We made positive steps toward improving relations between the two nations."

Mrs. French, a former Tammy, and her brother, Nick Jordanoff, who was also on the tour, made sure one of the Bulgarian concerts was in Tvrditz, their mother's native village.

Their great-aunt had them and 133 guests to dinner, while a folk orchestra serenaded them. Tammy member Bradley Novic also met relatives in Bulgaria, while Beverly Vesolich met relatives in Pilsen, Czechoslovakia.

At the international festival at Burgas, on the Black Sea, the Tammies were the first American group ever to take part and won the festival's highest rating, the gold medal. Taking part in that festival were two Bulgarian groups and ensembles from Armenia, Czechoslovakia, Yugoslavia, France, Hungary, Poland, Romania and Russia. Each group put on a two-hour performance at the 10-day festival. Bulgarian TV filmed 40-minute segments of each group but honored the Tammies by filming their entire show.

PERFORMANCES WANTED

The British ambassador to Bulgaria saw the Tammies perform in Sofia and immediately made preliminary plans to book them to London during the Christmas vacation. Impresarios from Poland, Yugoslavia and Romania want them to spend one month in each country next summer.

Touring in future years may have to be curtailed, however, as the Tammies are concentrating their efforts on creating a Folk Arts Institute within the music department at Duquesne University.

The recent summer tour marked the seventh trip abroad. They toured for the U.S. State Department to Yugoslavia in 1950, Latin America in 1968, and the Soviet Union in 1969. They have also traveled to Yugoslavia on their own in 1953 and 1962, and in Paris at Christmas time last year.

And don't think the news of Tammy fame has been lost on young people. They had 400 students audition for six 1972–73 openings. They chose three from the Pittsburgh area, one each from Pennsylvania, Chicago and Kansas City.

HON. CHARLES RAPER JONAS

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. FREY. Mr. Speaker, Congressman CHARLES RAPER JONAS has served his country and state so well for many years, and it is with sadness that I note his retirement. His distinguished leadership in the House and his guidance and personal assistance to the junior Members have been of immeasurable aid to me over the past 4 years.

CHARLIE was the ranking Republican on the subcommittee that controlled appropriations for the space program. As such he took great delight in needling me about the program and its future. Yet in this area as in every other area the Congressman from North Carolina was fair and objective—doing what he felt was right for this Nation. No one ever questions his integrity, his dedication, and his ability to get the job done.

The people of North Carolina have lost a great representative. The people of this country have lost one of the most effective Congressmen. I only hope that when I leave the Congress, I will have the respect and admiration that the Congressman from North Carolina—CHARLIE JONAS—has earned.

ARMY SURVEILLANCE OF CIVILIANS

HON. GAYLORD NELSON

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Friday, October 13, 1972

Mr. NELSON. Mr. President, as our Nation grows and becomes more and more dominated by the interests of a mass society and a common culture, the values of individuality and the rights of personal freedom and political expression seem to be increasingly threatened by the demands of expediency. In this unseemly rush to achieve goals dictated by the best of motives, it is often constitutional liberties that are seriously trampled.

A shocking example of the needless sacrifice of the private rights of individual citizens was outlined in detail on August 30, 1972, when Senator Sam J. Ervin, chairman of the Constitutional Rights Subcommittee, released a staff report of that subcommittee entitled, "Army Surveillance—A Documentary Analysis." This report publicly reveals for the first time the extensive degree to which the U.S. Army has monitored the activities of ordinary citizens and civilian organizations and filed this raw information in thousands of files, dossiers, and computer data banks.

Two years of intensive investigations and hearings in 1970 and 1971 by Senator Ervin and the Constitutional Rights Subcommittee, and now the results of this yearlong analysis of actual Army records, document the military's overzealous and dangerous invasion of first-amendment guarantees of free speech, assembly, religion, press, and petition. In Senator Ervin's statement of August 30, he revealed that there were "over 350 separate Army file centers—one in virtually every major stateside Army unit. At Fort Sam Houston, Tex., alone there were 120,000 file cards on 'personalities of interest' and at Fort Holabird, 113,250 entries on organizations and 152,000 records on individuals."

The report of the Constitutional Rights Subcommittee concludes that the Army's vast and outrageous snooping was useful for "no legitimate—or even illegitimate—military purpose." Still the files brimmed over with information on the intimate details of the private lives of law-abiding citizens. It would, therefore, appear that the military was selling the crown jewels of a free society—the individual rights and personal privacy of her citizens—for some juicy gossip that was unrelated to any legitimate purpose.

Mr. President, in order that a greater audience may discover and appreciate the vital service that Senator Ervin and his subcommittee are performing in uncovering these illicit and unconscionable invasions of privacy, I ask unanimous consent that Senator Ervin's preface to the report "Army Surveillance of Civilians: A Documentary Analysis" and the conclusion of that report be printed at this point in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

ARMY SURVEILLANCE OF CIVILIANS: A DOCUMENTARY ANALYSIS

PREFACE

Members of the Subcommittee: The following report by the Subcommittee staff analyzes certain computer print-outs and publications generated in the course of the Army's domestic intelligence program. I asked the staff to prepare this report so that members of the Subcommittee might be saved the labor of analyzing thousands of documents, many of which require painstaking translation from the original "computerese." In addition, it is sensible for us to work from an expurgated version of reports on the political and private lives of law-abiding citizens so that we would not be guilty of compounding the invasions of privacy which already have occurred.

In most instances where names of individuals or groups appear in this report, they are taken from examples presented at our hearings, or from news articles describing the various Army dossier collections. In a few cases, however, it has been necessary to mention some organizations by name in discussing data banks not previously known. Although there is a danger that the unscrupulous might misuse these identifications, on balance it is preferable that they be mentioned in the report. Only in this way can it be graphically demonstrated how the Army mischaracterized individuals and groups to their prejudice without foundation in fact, how arbitrary any judgments were, and how it continually exhibited a lack of appreciation for the potential harm that comes from indiscriminately listing together organizations with widely different aims, aspirations, methods, and behavior. These listings also show how ill-defined the Army programs were including as they do, small and *ad hoc* groups, street gangs, local organizations—some of them arms of government—along with national organizations of more permanent existence and importance. As the report makes clear, these listings demonstrate how worthless and unsubstantiated the Army's characterizations often were, while at the same time how dangerous they were to individual and associational rights. The evidence overwhelmingly demonstrates that the appearance of an individual or organization in the Army's files signifies no indictment of the person or group.

In my opinion, this report and the documents on which it is based demonstrate conclusively that the monitoring of individuals and organizations by military intelligence was of no practical value to military commanders charged with quelling civil disorders and safeguarding military security. The overwhelming majority of the reports pertain to the peaceful activities of nonviolent citizens lawfully exercising their constitutional rights of speech, press, religion, association, and petition. For reasons of efficiency alone, the Defense Department was right to order the reports destroyed. As the Army General Counsel said of the files: "They were the most worthless damn things I had ever seen in my life. It was a waste of paper. We said, 'Burn 'em.'"

However, it is equally clear that the reports posed a clear and present danger to the privacy and freedom of thousands of American citizens—citizens whose only "offense" was to stand on their hind legs and exercise rights they thought the Constitution guaranteed to them. These files confirm what we learned first from former intelligence agents—that Army intelligence, in the name of preparedness and security, had developed a massive system for monitoring virtually all political protest in the United States. In doing so, it was not content with observing at arms length; Army agents repeatedly infiltrated civilian groups. Moreover, the information they reported was not confined to acts or plans for violence, but included much private information about peoples' finances, psychiatric records, and sex lives.

This report further reveals the enormity of the data collection. Our hearings focused rather narrowly on the operations of the Intelligence Command and on one military intelligence detachment belonging to the Fifth Infantry Division. In contrast, the staff report demonstrates that virtually every major stateside Army unit had its own set of files on civilian politics. For example, in response to an inventory ordered by Army officials in the spring of 1970, Fourth Army Headquarters at Fort Sam Houston, Tex., reported the equivalent of 100,000 file cards on "personalities of interest." If that were not enough, III Corps at Fort Hood, Tex., reported a computer data file on civilian political groups within the same five-state area. The size of these and other data banks confirms that the Army's domestic intelligence operations did not begin with the Newark and Detroit riots of 1967. The events of that summer only expanded activities which had been going on, in varying degrees of intensity, since 1940, and which has its roots as far back as World War I.

The absence of *civilian* control over this surveillance prior to 1970 has already been established. This report proves the absence of central *military* control as well. Each major data bank developed independent of the others in a milieu which showed little concern for the values of privacy, freedom, efficiency, or economy.

The documents also demonstrate that the surveillance was not the result of any malevolent intent on the part of military officers. They merely did what they thought was their job in the manner in which they drew a false analogy between foreign counterintelligence and counterinsurgency operations and the Army's role in domestic civil disturbances. The hypothesis that revolutionary groups might be behind the civil rights and antiwar movements became a presumption which infected the entire operation. Demonstrators and rioters were not regarded as American citizens with possibly legitmate grievances, but as "dissident forces" deployed against the established order. Given this conception of dissent, it is not surprising that Army intelligence would collect information on the political and private lives of the dissenters. The military doctrines governing counterintelligence, counterinsurgency, and civil affairs operations demanded it.

If these mis-perceptions of dissent in the United States account for the direction Army intelligence took in the late 1960s, they do not explain the extraordinary growth of its operations. Responsibility here must lie with civilian authorities in both the Executive Branch and in Congress. In the midst of crisis, Pentagon civilians issued vague, mission-type orders which essentially gave intelligence officers a free hand in collecting whatever information they deemed necessary to the efficient conduct of civil disturbance operations. Subsequently, neither the Pentagon's civilian hierarchy nor the Congress had any routine means by which to review the appropriateness of those decisions until former agents came forward and blew the whistle in 1970.

Meanwhile, the surveillance grew, as most governmental programs grow, by the quiet processes of bureaucratic accretion. As the directives reproduced in the Appendix to the hearings graphically demonstrate, each subordinate element in the chain of command expanded on the orders it received from above, while the traditional secrecy we have granted our intelligence agencies immunized each echelon from effective review by its superiors.

Since the Subcommittee began its investigation in January, 1970, civilian officials in the Departments of Army and Defense have worked hard to reestablish civilian control. The task has not been easy; bureaucracies in motion tend to stay in motion. Many of the records undoubtedly have been destroyed; many others undoubtedly have been hidden away. For the moment, however, it would appear that the systematic monitoring has ceased.

The question this Subcommittee must decide is whether this cessation of operations is adequate for our purposes, or whether some other action, such as legislation modeled on the Defense Department's recent directives, is needed to bar a recurrence.

Sam J. Ervin, Jr.,
Chairman, Subcommittee on Constitutional Rights.

CONCLUSION

The foregoing analysis represents but a partial view of the Army's files on civilian political activity. As we have taken care to note throughout the report, our analysis has been limited by the fragmentary nature of our information and by the fact that the Departments of the Army and Defense apparently have not preserved one complete copy of each computer file and publication as promised in the *Tatum* case. In addition, the unwillingness of the Defense Department to permit certain intelligence officers to testify has forced us to rely on necessarily vague second-hand explanations and descriptions of what Army intelligence actually was doing.

At the same time, the civilian officials with whom we have dealt over the past two years have encountered great difficulty with their own investigations. Often it appeared that our sources knew more about the data banks than theirs did. In some instances they appear to have been lied to; in other instances they appear to have been victims of the art of "plausible denial"—a technique by which intelligence agencies (and others) admit just enough of the truth to mask an essential falsehood. For example, domestic intelligence specialists in the Office of the Assistant Chief of Staff for Intelligence denied any knowledge of the Fort Holabird biographic data file when its existence was first disclosed in January 1970. Later they "discovered" the CONARC computer after its existence had been revealed in the press. Still later they uncovered computers at III Corps, USSTRICOM, and the DCDPO. Yet the documents clearly establish copies of the MacDill and CONARC print-outs had been transmitted to the Office of the Assistant Chief of Staff for Intelligence as early as 1968. Similarly, the "task group" of intelligence analysts assigned by the ACSI to answer civilian and Congressional inquiries worked in the very room which housed the DCDPO's computer.

The secrecy which surrounds all military intelligence operations also hampered both Executive Branch and Congressional inquiries. The time it has taken to comprehend the structure and *modus operandi* of the Army's intelligence units has cut into our capacity to uncover and examine various files. Similarly, much time has been lost in discussions with Defense Department officials concerning what items may and may not be declassified. Nothing in the Army's own security regulations would appear to justify the classification of any of the documents we have examined, and nothing the Defense Department has said in correspondence with the Chairman in any way can change the plain meaning of those regulations. The key problem here, as with the surveillance in general, is not security, but privacy. In their concern for protecting the privacy of the government, Defense Department officials have continued to classify documents which under the regulations are inherently unclassifiable. Fortunately, it has been possible, through heavy editing and careful paraphrasing, to produce substitutes for the original documents that both preserve their significance and protect the privacy of individuals.

In addition, the lack of time and resources has prevented us from making the same kinds of inquiries of the Navy and Air Force that we have of the Army. There is no question that ONI (now NIS) and OSI reports were also stored in data banks substantially similar to those maintained by the Army, but it is unlikely that we will ever see their contents.

Most important, unless additional former agents come forward to tell what they know, it is unlikely that we will ever know the extent to which the monitoring and the data banks have been cut back. Shortly after our investigation began key files were classified and short-term agents replaced with career personnel. Personnel regulations were changed to exclude two- and three-year volunteers from service as special agents, and current agents were threatened with prosecution if they talked. As a result, military intelligence has become more of a closed society than at any time in its history.

Despite these limitations, however, it is possible to draw a number of conclusions about the nature and scope of the Army's data collection.

First, the files establish that the monitoring was far more extensive than we had imagined. In all, the Army appears to have had over 350 separate records centers containing substantial files on civilian political activity. But more striking than the number of offices with records was the size of some of the records centers. Fourth Army headquarters at Fort Sam Houston, Tex., for example, reported the equivalent of over 120,000 file cards on "personalities of interest." It seems likely that the subversives file at Fort Holabird contained even more. CIAB in Washington reported that the computerized index to its microfilm archive contained 113,250 references to organizations and 152,000 references to individuals.

Making estimates on the basis of such fragmentary evidence is always hazardous. Undoubtedly extensive duplication existed and thousands of files were maintained on dead men. Discounting for these factors, however, one can guess that Army intelligence had reasonably current files on the political activities of at least 100,000 civilians unaffiliated with the armed forces.

In addition, of course, the Army could draw upon the security clearance and investigative dossiers of all federal agencies for whatever political and private information they might contain on persons who were, or had once been, affiliated with the federal government. As of December 31, 1970, the Defense Central Index of Investigations alone reported 25 million index cards representing files on individuals and 760,000 cards representing files on organizations and incidents. What separates military intelligence in the United States from its counterparts in totalitarian states, then, is not its capabilities, but its intentions. This is a significant distinction but one which may not wholly reassure many Americans who rely on a government of laws and not of the intentions of men, no matter how honorable.

A second lesson learned from examination of these files is that Army intelligence was not just reconnoitering cities for bivouac sites, approach routes and Black Panther arsenals. It was collecting, disseminating, and storing amounts of data on the private and personal affairs of law-abiding citizens. Comments about the financial affairs, sex lives, and psychiatric histories of persons unaffiliated with the armed forces appear throughout the various records systems.

Third, the files confirm the testimony of former agents that Army intelligence was using a variety of covert means to gather information about politically active groups and individuals. As Secretary Froehlke noted in his testimony before the Subcommittee, much of the information called for in the collection plans could not be collected in any other way.

Fourth, at least two of the Army's data banks, those of Intelligence Command and of CONARC, had the capacity for cross-reference among organizational, incident and personality files. Without documentation, we cannot know the purpose of such capabilities, or even whether the programmers were simply providing for an unknown future contingency. Whatever the intention of Intelligence Command or of CONARC, their system had the technical capacity to produce correlations among persons, organizations and activities on the basis of frequently incomplete or inaccurate information.

Fifth, the size of the files confirms other reports that the surveillance dates back not to the Newark and Detroit riots of 1967, but to the reestablishment of Army counterintelligence on the eve of the Second World War. These other reports include letters from persons who served in military intelligence in the 1950's, an internal Army history of domestic intelligence activities from 1917 to the present, and an inventory of the Van Deman files supplied to the Subcommittee by a former intelligence analyst.

Sixth, the files examined by the staff confirm the view, advanced by Defense and Army officials at the hearings and in correspondence, that the surveillance was substantially beyond the Army's civil disturbance or military security missions. The files, with few exceptions, bear no demonstrable relationship to real military needs. From the point of view of efficiency and economy alone, there was no reason for their existence.

Finally, the major impression from our long study of these files is their utter uselessness. The collection of this information, and its attendant infringement on the constitutional rights and privacy of American citizens, has sometimes been justified on the grounds of necessity, chiefly that of public safety. Yet, it appears that the vacuum-cleaner approach of collecting all possible information resulted in great masses of data on individuals which was valuable for no legitimate (or even illegitimate) military purpose. These vast collections of fragmentary, incorrect, and irrelevant information—composed of vague conclusions and judgments and of overly detailed descriptions of insignificant facts—could not be considered "intelligence" by any sense of the word. They reflect an unfortunate tendency within the government to react to the problem of civil disturbances by conducting widespread and indiscriminate and duplicative surveillance. The result is a great collection of information which gives the illusion of knowledge, but which hampers the ability of responsible officials to make intelligent decisions. Unfortunately, it appears that the Army intelligence, uncertain of its stateside mission, took refuge in surveillance and dossier-building, and thereby deluded itself into thinking it was "doing something." In fact, it was merely wasting time, money and manpower, and infringing on the rights of the citizens it was supposed to be safeguarding.

The practical question which remains to be considered is how the scope of the Army's domestic intelligence operations can be controlled so as to guarantee that such unnecessary and wasteful data gathering which endangers civilian control of the military, individual rights and personal privacy will not reoccur when the present concern over military surveillance subsides.

SENATE—*Saturday, October 14, 1972*

The Senate met at 8:30 a.m. and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, grant that the service rendered by this Congress may be acceptable in Thy sight. Look not at our failures. Perfect our partial successes. Help us to refine and improve that which remains incomplete. Bless our accomplishments for the enhancement of the people. Lead us to a new era of peace and justice and hope for Thy coming kingdom.

Hallow the memory of our work together. Be in our hearts and in our homes. Accompany us as we travel. Lead us from strength to strength.

Guide the Nation through decisionmaking days that in all that is done Thy name may be glorified.

And now unto God's gracious mercy and protection we commit you. *The Lord bless you and keep you: The Lord make His face to shine upon you, and be gracious unto you.* Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., October 14, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 13, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATE NEEDS BIG VOICE IN COAL STUDY

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an editorial from the Montana Standard of Sunday, October 8, 1972, entitled "State Needs Big Voice in Coal Study."

There being no objection, the article was ordered to be printed in the Record, as follows:

State Needs Big Voice in Coal Study

Interior Secretary Rogers Morton has now made it official: A federal-state "task force" will be formed to develop policy guidelines for coal mining in a five-state area that includes eastern Montana. The task force will include representatives of the Interior Department, Agriculture Department, Commerce Department, the Environmental Protection Agency and the state governments.

The group, according to Morton, will assess the social, economic and environmental impact of developing the coal deposits.

Gov. Forrest Anderson said, after Morton's announcement was made, that the states have been promised a well-coordinated study between the states, the federal government and private enterprise. It sounds great, and we hope the promise becomes reality.

But let's wait and see. Gary Wicks, director of Montana's Department of Natural Resources and Conservation, plans to do just that. Wicks wants to see just how big a role the states do get in the study group before he endorses its activities. Wicks claims that in other regional energy studies, the states have been given only a token role.

The northern Great Plains coal deposit, a good deal of which lies in Montana, will be developed to meet energy needs across the middle of America. Thus the development of the coal fields is of national interest, and not just a local issue.

It must be kept in mind, though, that with President Nixon's re-election virtually a sure thing, the study group will be doing most of its work during a Republican Administration. And the Nixon Administration's Interior Department and Commerce Department have a record to date that many feel is generally pro-industry. There's nothing particularly the matter with this. Democratic Administrations are widely felt to be pro-labor, etc., at the expense of business.

On the other hand, the Montana agencies that are concerned with setting pollution rules, enforcing reclamation laws, etc., appear to be getting increasingly conservation-minded.

If the above assumptions are true, then Wicks is justified in expressing concern over how much representation the states will have in the upcoming study. If the mood of Montana does favor a more cautious approach to development than the federal government might recommend, then it's important that Montana have some real influence within the federal-state task force.

As we've said before, we are in favor of development and jobs, but we want strong protection built in.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

THE MINORITY LEADER'S REPORT—THE OVERVIEW FROM THE UNDERSIDE, OR A REOPENING OF PATHS (S. DOC. NO. 92–92)

Mr. SCOTT. Mr. President, as of yesterday, not counting any quorum calls, there were 523 rollcall votes. This is just 100 votes more than were ever cast in the Senate in this century.

The record Congress was the 47th, of 1881–83, when 986 votes were taken. One wonders what they found to talk about, but one wonders also what we find to talk about.

The 92d Congress even labored on Leap Year Day, February 29, and labored indeed when 10 votes were taken.

The President has sent up 318 Presidentially sponsored measures, and, sad but true, only 141 have been enacted.

This Congress gets a mark of 44 percent for Presidential support, while in the last session of President Johnson's administration, Presidential support was 60 percent.

Mr. President, I am offering my annual minority report today entitled "The Overview From the Underside, or a Reopening of Paths."

Senators may note on page 4 my fervent hope expressed there that the Senate will not be allowed to denigrate to the point where the Roman Senate fell when the Emperor Caligula designated his horse to the senate. I believe this was known as going "whole horse," or perhaps it was a horse on them. We have tried to avoid sending whole horses to the Senate, and I hope we can continue to do so.

The report contains a good many statistics, and it is normally the custom to read the report, but, in deference to the absence of my colleagues, I shall not do so. I do pray they consume as much of it as they can by digesting the "charge of the lightweight brigade" and various other aspects of this session.

I do hope at least the statistical part of this statement will be of use to some Senators. In any event, I believe it was Philip Sidney who said once, "It is fitting that a man give reasons for the faith that is in him." That is what I try to do, and I ask unanimous consent to include the report at this point in the Record.

I further ask unanimous consent that this report for the 92d Congress, 2d session, entitled "The Overview From the Underside," be printed as a Senate Document.

There being no objection, the report was ordered to be printed in the Record, as follows:

The Overview From the Underside or a Reopening of Paths

I. INTRODUCTION

Mr. President, as I present the Republican Leader's Report, I want once again to express my appreciation and high regard for the Majority Leader, the Honorable Mike Mansfield, the Senator from Montana. I have many times had occasion to be grateful for his cooperation and thankful for his courtesy. We have competed, but it has been an honest and aboveboard competition. I have never failed to admire the skill with which he has managed the sometimes very complicated business of the Senate. If I ever get the chance—and in this I expect some competition from him—I shall be more than satisfied if I can do as well. His credo is fairness, firmness, and quiet reasonableness. I know all of us in the Senate have reason to be grateful for the leadership demonstrated by Mike Mansfield over so many years.

I also wish to express my appreciation to my colleagues of the Republican Leadership, Senator Margaret Chase Smith, Senator Gordon Allott, Senator Robert Griffin and Senator Norris Cotton. Nor should I fail to mention our Regional Whips, who have done so much to help Senator Griffin and me carry out our floor responsibilities in this Chamber. And to bid farewell to three splendid Republican Senators who are retiring: John Sherman Cooper, Len Jordan, and Karl Mundt.

The U.S. Senate

Mr. President, when I began to compose these remarks for submission at the end of this exhausting session, I felt myself pulled several ways at once. First I enjoy my work, and feel strongly that nowhere else could anyone achieve the intimate satisfaction that comes from being a Member of this prideful Body.

Second, there is the comforting knowledge that we have progressed to the conclusion of yet another arduous session of the Congress. It has been a tough year. I have had to spend many hours in this Chamber. But we do deliberate, and we do legislate. That may not be the be-all and end-all; but it is something. And there are good reasons for it. There are few upper chambers in free parliaments around the world that have maintained their basic purposes and powers as has the U.S. Senate.

Each year, our Senate seems to be tested in a particular way. The past few years we had difficulty in finishing our appointed tasks, and the sessions carried late into December. . . .

So it has always been our concept that, in the long run, the greatest speed is most often made slowly. I learned this one in the Navy. It means that it is always preferable to do a thing right the first time, so that someone doesn't make you do it over.

But I am unfortunately pulled in another direction as well; for I have been watching the number of Senate Roll Call Votes.

When the Senate adjourns, it will have come very close to the all-time high of 986 Record Votes, cast in 1881–1883 by the Senate of the 47th Congress. It should be noted that in the sessions following this and other peak years, there were significantly fewer votes. Perhaps history will repeat itself. For now, we only know that in this second session of the 92d Congress we have cast more Record Votes than in any other single Senate session. We are high on a steeply rising curve.

I am, frankly, disturbed at the trend. Some Roll Call Votes on noncontroversial matters are clearly unnecessary.

Despite the record number of votes, certain important legislative proposals have been ignored.

As an example, the President of the United States proposed a far-reaching Government reorganization. The press and the public long have urged the streamlining of the ever-growing bureaucracy of Government. The President's recommendation was a proposal seriously offered, which the Senate should have seriously considered. Yet, only bits and pieces of this program have been put in effect. Not one major measure among the many he suggested has been given a chance to prove its value. Not once was the Congress given the opportunity of working its will upon any of the principal measures he put forth in this regard.

Perhaps this unhappy situation is a reflection of the fact that at no time since President Nixon was elected to the post of Chief Executive has the party of his Administration also been the party in control of the Congress.

I might point out that the Democratic Party has been in control of our Legislature for approximately 90 percent of the time during the last 40 years.

There is an old adage about the turtle to the effect that no progress can be made unless its neck is stuck out. At the risk myself of being compared to a turtle (I hope my friends will at least think of me as an affable turtle) I feel I must stick my neck out a little by suggesting that during this last session of the Senate we have voted too often and accomplished too little; and that some of the votes may have resulted from personal needs and egoisms which, in some cases at least, might appear to be less valuable to the business of our Government than the calm consideration of the issues which might have taken their place.

After a long and useful life, the Roman Senate degenerated to the point where a very handsome but mad emperor nominated his horse[1] to a Senate seat. I hope the mechanisms and procedures by which our Senate has functioned for nearly 200 years are not on the same path.

For erosion is the most difficult of all diseases to counteract.

Politics

There is, of course, one clear reason to which we can ascribe the great and somewhat less than totally useful number of votes we have taken this session: the pressures of an election year. More than that, the pressures of trying to function with an Administration of one party and a Legislature of another. Our far-seeing delegates to the Constitutional Convention in 1787 tried to provide simultaneously for both stability and the capability of rapid change when they set the terms of our Representatives in Congress at 2 years, that of the President at 4 years, and Senators at 6 years. So I cannot complain that the habit of the past 40 years, in terms of the composition of our Legislature, has not changed as rapidly as one might want. The change is proceeding. It is nevertheless a little disturbing to me to mark the growing inflation of our voting habits and reflect upon the erosion of substance which, I feel, they herald.

Last year, at the conclusion of the first session of this Congress, I mentioned that at no time since he became Chief Executive has Mr. Nixon had the comfort of having his own party in control of either House of the Legislature. I must do so again. This situation has existed only a few times in the history of our country, and never for very long. Not since 1849 has a President come into office without at least one of the two Houses being of his own party. Never has one had to work against comparable difficulties.

I am at this time reporting on the status of all major bills proposed to implement legislative messages of the President. If I may recapitulate, last year there were proposed a total of 104 such measures under 26 Presidential Messages to Congress. As of the close of the first session of the 92d Congress, only 11 of these 104 had been enacted into law.

How is the situation today?

Well, we have voted well over 515 times since that report, and there have been a cumulative total of 318 Presidentially-sponsored measures transmitted to the 92d Congress. Sad to relate, only 141 have been enacted or approved, for a total of only 44 percent.

I hope the American people have become tired of the futile churning of their elected representatives in Congress. I hope they have decided to give it a try the other way, with a Congress of the President's persuasion. If even only one House were to have a Republican majority—and I know my good friend the present Majority Leader will forgive me for hoping that it will become the Chamber in which I now speak—there might be at least some improvement in the enactment of the programs our President has put forward.

This may be a lot to hope for. But if the Senate at least were to have a Republican majority beginning in 1973, I think we might see some improvement in result, along with a reduction in the precedural obstacles that have unfortunately been our lot during so much of the past 4 years.

In the following pages are two legislative compendiums. The first lists all of the 67 laws enacted in 1971 by the first session of the 92d Congress which derive from legislative proposals sent to Congress by the President.

The second gives the current status—as of October 12, 1972—of all proposals presented in Presidential messages and sent to Congress in draft form during the entire 92d Congress, including 1972, and not enacted into law during the 1st session.

The second compendium makes it quite obvious there are a large number of proposals which make up the unfinished business of this Congress, and must be given priority status by the next.

First compendium

Agriculture, Rural Electrification Act of 1936, Telephones Financed, S. 70, PL 92-12.

Commerce:

Supplemental 1971 Maritime Authorization, H.R. 5352, PL 92-21.

Maritime Authorization, 1972, H.R. 4724, PL 92-53.

Requirement of Radiotelephone on Certain Vessels, S. 699, PL 92-63.

Defense:

Military Selective Service Act Amendments, H.R. 6531, PL 92-129.

Military Construction Authorization, 1972, H.R. 9844, PL 92-145.

Military Weapons Procurement Authorization, 1972, H.R. 8687, PL 92-156.

Additional ROTC Scholarships, H.R. 4729, PL 92-166.

Increased Subsistence Allowance for Senior Reserve Officers' Training Corps Members, H.R. 6724, PL 92-171.

Provide Subsistence Allowances for Marine Corps Officer Candidate Programs, H.R. 6723, PL 92-172.

Authorize Deputy Secretary of Defense, H.R. 8856, PL 92-215.

General Services Administration:

Diamond Crushing Bort, Disposal from Stockpile, S. 751, PL 92-83.

Vegetable Tannin Extracts, Disposal, S. 752, PL 92-89.

Mica, Disposal, S. 758, PL 92-91.

Thorium, Disposal, S. 753, PL 92-96.

Quartz Crystals, Disposal, S. 756, PL 92-97.

Iridium, Disposal, S. 757, PL 92-98.

Shellac, Disposal, S. 755, PL 92-99.

Manganese, Metallurgical Grade, Disposal, S. 759, PL 92-100.

Manganese, Battery Grade, Synthetic Dioxide, Disposal, S. 760, PL 92-101.

Diamond Tools, Disposal, S. 761, PL 92-102.

Chromium Metal, Disposal, S. 762, PL 92-103.

Amosite Asbestos, Disposal, S. 763, PL 92-104.

Antimony, Disposal, S. 765, PL 92-105.

Rare-earth Materials, Disposal, S. 767, PL 92-106.

Chromite, Chemical Grade, Disposal, S. 768, PL 92-107.

Diamonds, Industrial, Disposal, S. 769, PL 92-108.

Columbium, Disposal, S. 770, PL 92-109.

Selenium, Disposal, S. 771, PL 92-110.

Celestite, Disposal, S. 772, PL 92-111.

Vanadium, Disposal, S. 774, PL 92-112.

Magnesium, Disposal, S. 775, PL 92-113.

Abaca, Disposal, S. 776, PL 92-114.

Sisal, Disposal, S. 777, PL 92-115.

Kyonite-Mullite, Disposal, S. 778, PL 92-116.

Health, Education, and Welfare:

Amend the Social Security Act to Continue Assistance to Citizens Returned from Abroad, H.R. 8313, PL 92-40.

Public Health Service Act Amendments, Increased Manpower for Health Professions, H.R. 8629, PL 92-157.

Public Health Service Act Amendments, Increased Nurses Training, H.R. 8630, PL 92-158.

Interior:

Grants for Navajo Community College, H.R. 5068, PL 92-189.

Alaska Native Land Claims Settlement Act, H.R. 10367, PL 92-203.

Labor:

Prohibition Against Railroad Strikes and Lockouts, S.J. Res. 100, PL 92-17.

Cabinet Committee on Opportunities for Spanish-Speaking People, H.R. 7586, PL 92-122.

---

[1] This was known as going "whole horse."

State, Pacific Islands Trust Territory Compensation for World War II Damages, H.J. Res. 617, PL 92-39.

Transportation, Coast Guard Authorization, 1972, H.R. 5208, PL 92-118.

Treasury:

Public Debt Ceiling Increase, H.R. 4690, PL 92-5.

Interest Equalization Tax Extension of 1971, H.R. 5432, PL 92-9.

Export-Import Bank, Expansion of Export Trade, S. 581, PL 92-126.

Revenue Act of 1971, H.R. 10947, PL 92-178.

Economic Stabilization Act of 1970, Extend to May 1, 1973, S. 2891, PL 92-210.

Veterans' Administration:

Authority to Sell Veterans Direct Loans, H.R. 3344, PL 92-66.

Veterans Dependency and Indemnity Compensation, Liberalize, H.R. 11652, PL 92-197.

Veterans Disability and Death Pensions, Liberalize, H.R. 11651, PL 92-198.

Environmental Protection Agency:

Water Resources Planning Act Authorization Increase, H.R. 6359, PL 92-27.

Saline Water Conversion Act of 1971, Research and Development, S. 991, PL 92-60.

Action, Peace Corps Authorization, S. 2260, PL 92-135.

American Revolution Bicentennial Commission, Establish, S. 1538, PL 92-33.

Appalachian Regional Commission, Appalachian Regional Development Program and Public Works, Extension, S. 2317, PL 92-65.

Atomic Energy Commission, Authorization, 1972, H.R. 9388, PL 92-84.

Civil Rights Commission, Commission on Civil Rights, Authorization, H.R. 7271, PL 92-64.

National Aeronautics and Space Administration, NASA Authorization, 1972, H.R. 7093, PL 92-68.

National Science Foundation, Authorization, H.R. 7960, PL 92-86.

Office of Emergency Preparedness:

Emergency Loan Guarantee Act, H.R. 8432, PL 92-70.

Flood Insurance Act of 1968, Extend and Modify Interest Rates on Insured Mortgages, S.J. Res. 176, PL 92-213.

Office of Management and Budget, Reorganization Authority of the President, Extend, H.R. 6283, PL 92-179.

Renegotiation Board, Renegotiation Act Amendments of 1971, H.R. 8311, PL 92-41.

Small Business Administration, Increase SBA Loan Ceiling S. 1260, PL 92-16.

Second compendium

The following is a report on the current status of all programs presented in Presidential messages and sent to the Congress in draft form during the 92d Congress, but not enacted into law during the 1st session. This report was completed the morning of October 12, 1972.

Bills are listed by Executive Department, Commission, or Agency. The short title is followed by the bill number(s) as introduced, in parentheses. Bill numbers related to the original bill(s) are given; the bill on which the most action has been taken is accompanied by an asterisk(*).

The code indicates present status (first code is Senate status, second code is House status).

[Public Law 92- and Public Law number]

P: Awaiting Presidential action.

CRX—CRX: Conference Report defeated (in Senate if in first code, in House if in second code).

CR—CR: Conference Report agreed to.

CRP—CRP: Conference Report Pending.

CRF—CRF: Conference Report Filed.

CX—CX: Defeated in Conference (by Senate Conferees if in first code, by House Conferees if in second code).

C: In Conference.

SX—HX: Defeated on floor of Senate (SX) or House (HX).

S—H: Passed Senate (S) or House (H).

SP—HP: Pending in Senate (SP) or House (HP): under consideration, or on calendar.

SR—HR: Reported in Senate (SR) or House (HR).

SCT—HCT: Tabled in Committee in Senate (SCT) or House (HCT).

SC—HC: In Committee.

Some symbols are enclosed in parentheses to indicate that the bill referred to has been mentioned before in the given category.

Agriculture:

Insured Farm Operating Loans (S. 290, H.R. 3141). Included in H.R. 12931*, P.L. 92-419*

National School Lunch Act Amendment (S. 3661, H.R. 14872, H.R. 14898). H.R. 14896* passed in lieu, goes beyond Presidential recommendations, P.L. 92-433*.

Rural Community Development Revenue Sharing Act (S. 1612, H.R. 7993), SC, HC.

Federal Crop Insurance Act Amendment (S. 1601), SC.

Fees and Charges for FHA Real Estate Loans (S. 2029), S.C.

Commodity Exchange Act Amendment (S. 3354), SC.

Civil Service Commission:

Federal Wage System Act (S. 1636, H.R. 7691), H.R. 9092*, P.L. 92-392*.

Federal Executive Service (S. 1682, H.R. 3807), S, H.C.

Postal Service Payments to Civil Service Retirement Fund (H.R. 10484), HC.

Commerce:

Fire Research and Safety Act Appropriation Authorization (S. 1697, H.R. 7188), H.R. 13034*, P.L. 92-317*.

Standard Reference Data Act Appropriation Authorization (S. 1695, H.R. 7189). Included in H.R. 13034* (P.L. 92-317).

Maritime Appropriation Authorization, Fiscal 1973 (S. 3335, H.R. 13324*) P.L. 92-402*.

Export Administraion Act Extension (S. 1487), S. 3726*, P.L. 92-412*.

Fisherman's Protective Act Amendments (S. 3545, H.R. 14385), S, H.P.

International Voluntary Standards Cooperation Act (S. 1793, H.R. 8111), S, HC.

Metric Conversion (S.J. Res. 219, H.J. Res. 1092), S. 2483*, S, HC.

Consumer Product Test Methods Act (S. 1692, H.R. 6891), SC, HC.

Assistant Secretary of Commerce for Minority Enterprise (S. 2893), SC.

Ship Construction (MARAD), Appropriation Authorization Fiscal 1973 (S. 4036), SC.

Defense:

Federal Civil Defense Act, Extend/Amend (H.R. 14538), S. 3772*, P.L. 92-360*.

Armed Forces Survivor Benefit Plan (H.R. 1067*), P.L. 92-425*.

Armed Forces Health Professions Scholarship Program (S. 1317). Included in H.R. 2*, P.L. 92-426*.

Military Procurement Appropriation Authorization, Fiscal 1973 (S. 3108, H.R. 12604), H.R. 15495*. P.L. 92-436*.

Increase Authorizations for Military Procurement and Military Construction, Fiscal 1973. Included in H.R. 15495* (P.L. 92-436).

Authorize Additional Support for SEA Forces. Included in H.R. 15495 as passed House, deleted in conference, CX.

Uniformed Services Retired and Retainer Pay Equalization Act (H.R. 14524). (Revision of administration's proposals included in Senate version of H.R. 15495* but not agreed to by conferees. Back to HC.) CX.

Military Construction Appropriation Authorization, Fiscal 1973 (S. 3448, H.R. 14530) H.R. 15641* passed in lieu, P.

Armed Forces Drug Dependency Treatment and Rehabilitation Act (S. 2139, H.R. 9503) H.R. 9265* implements recommendations in part. (Staff level conf.), S—H.

Include Health Maintenance Organizations in CHAMPUS (H.R. 14546), HP.

Uniformed Services Special Pay Act (S. 3410, H.R. 14545), SC—HC.

Additional Deputy Secretary of Defense (S. 3237), SC.

District of Columbia Government:

Dwight D. Eisenhower Memorial Bicentennial Civic Center Act (S. 3943,* H.R. 16645), S—H.

D.C. Capital Program Financing Act (S. 1339), SC.

D.C. Stadium Act Amendment (H.R. 10654) HC.

General Services Administration:

Zinc Disposal (S. 766*), PL 92-283.*

Rental Charge/Purchase Contract (S. 2479, H.R. 10488) S. 1736,* PL 92-313.*

Nickel Disposal (S. 3086), PL 92-355.

Lead Disposal (S. 764), PL 92-356.

Historic Properties Preservation (S. 1152,* H.R. 6769), PL 92-362.*

Carbide, Silicon Disposal (S. 754*), S—HCT.

Chromite, Metallurgical Grade Disposal (S. 773*), S—HCT.

Molybdenum Disposal (S. 3085, H.R. 14539), SC—HC.

Relocation and Replacement of Federal Facilities (S. 1153, H.R. 6768), SC—HC.

Authorized Agency Activation Fund (S. 3026), SC.

Health, Education, and Welfare:

Higher Education Opportunities Act (S. 1123, H.R. 5191) S. 659,* Education Amendments of 1972, PL 92-318.*

National Foundation for Higher Education Act (S. 1062, H.R. 5192) S. 659* provides mechanism to reach Administration's goals, (PL 92-318*).

National Institute of Education (S. 434, H.R. 3606). Included in S. 659,* (PL 92-318*).

Emergency School Aid Act (S. 195, H.R. 2266) S. 659* includes funding provisions, though different from this bill (PL 92-318*).

Twenty Percent Increase in Social Security Benefits, and Cost-of-Living Increases. Included in H.R. 15390,* Public Debt Ceiling Increase, PL 92-336.*

Social Security Act, Extension of Authority for Special Projects Programs Under Title V of the Act (H.R. 9410*), PL 92-345.*

Comprehensive Youth Services Act (S. 3555) H.R. 15635,* PL 92-381.*

Student Loan Program (S.J. Res. 260*). Delays implementation of changes made by PL 92-318 to the guaranteed student loan program authorized by Higher Education Act of 1965, PL 92-391.*

Health Services and Family Planning Projects Grants (H.R. 14341) S. 3442.* Communicable Disease Control Act Amendments, provides increases in authorizations for family planning, PL 92-449.*

Consumer Product Safety Act (S. 1797, H.R. 8110) S. 3419* (H.R. 15003) CPR—CPR.

Vocational Rehabilitation Amendments (S. 3368, H.R. 13408) S. 3987, H.R. 8395* incorporate provisions of the bill, CR—CPR.

Welfare Reform, Social Security Amendments, and Medicare/Medicaid Amendments. Included in H.R. 1,* the Senate version of which provides for a two-year test of administration welfare reform provisions and two other reform proposals, C.

Equal Education Opportunity Act (S. 3395, H.R. 13915 *). SP—H.

Older Americans Act Amendments (S. 3391, H.R. 13925) S. 4044, H.R. 1567* contains provisions for National Older Americans Volunteer programs of ACTION, CR—CRP.

Wholesome Fish and Fisheries Products Act (S. 700, H.R. 3666) S. 2824,* amended, S—HC.

Health Maintenance Organization (S. 1182, H.R. 5615) S. 3327,* S—HC.

Student Transportation Moratorium Act (S. 3388, H.R. 13916), SC—HC.

Educational Revenue Sharing Act (S. 1669, H.R. 7798). SC—HC.

Drug Identification Act (S. 788, H.R. 3367), SC—HC.

National Health Insurance Partnership Act (S. 1623, H.R. 7741) SC—HC.

Medical Device Safety Act (S. 3028, H.R. 12316), SC—HC.

Allied Services Act (S. 3643, H.R. 15838, H.R. 15856, H.R. 15857), SC—HC.

Food Ingredient Labeling Act (H.R. 14641) H.R. 14498, HC.

Housing and Urban Development:

Extension of HUD Interest Rates on Insured Mortgages and Related Laws, and Authority of the Secretary of HUD (S.J. Res. 250),* PL 92–935.*

Community Development Act (includes urban community development revenue-sharing) (S. 1618, H.R. 8853) S. 3248, HUD Amendments (substitutes block grants for revenue sharing) H.R. 16704, S—HR.

Residential Historic Properties Loan Insurance (S. 1207, H.R. 5778). Included in S. 3248 and H.R. 16704, (S—HR).

Housing Consolidation and Simplification Act (S. 2049, H.R. 9331). Included in S. 3248, which differs from S. 2049 with reference to FHA-insured interest subsidy program, H.R. 16704, (S—HR).

FHA Mortgage Insurance Authority, Temporary Extension (H.J. Res. 1301), S—H.

Flood Disaster Protection Act of 1972 (H.R. 16831), HC.

Interior:

Wolf Trap Farm Park, Remove Statutory Ceiling on Funds (S. 2725, H.R. 11303) S. 2601,* PL 92–272.*

Saline Water Appropriation Authorization, Fiscal 1973 (S. 3097, H.R. 12749*). PL 92–273.*

Recreation User Charges (S. 1474, H.R. 6730, H.R. 7929) S. 1893.* PL 92–347.*

Gateway National Recreation Area (S. 1852,* H.R. 8543, H.R. 8816) S. 1852, H.R. 1121, CRP.

National Land Use Policy (S. 992, H.R. 4332, H.R. 5504) S. 632, H.R. 7211, S—HP.

Additional Assistant Secretary of the Interior (S. 2034, H.R. 8062) S. 291, S—HC.

Promote Indian Tribal Participation in Federal Programs and Services for Indians (S. 1573, H.R. 8796) S. 3157, S—HC.

Declaration of National Indian Policy (S. Con. Res. 26), S—HC.

Federal Animal Damage Control Act (S. 3334, H.R. 13152.* H.R. 13153), SC—H.

Federal City Bicentenial Development Corporation (S. 715, S. 4002, H.R. 10751, if amended), SR—HP.

Mined Area Protection and Restoration Act (S. 993, S. 1176, H.R. 5689) S. 630, H.R. 6482,* SR—H.

Golden Gate National Recreation Area (S. 3174,* H.R. 13018) S. 2342, H.R. 10220, H.R. 16444,* P.

Indian Financing Act (S. 2036, H.R. 8063), SC—HP.

National Resource Land Management Act (S. 2401, H.R. 10049) SR—HC.

Endangered Species Conservation Act (S. 3199, H.R. 13081) S. 3818, SR—HC.

Reform Mineral Leasing Laws (S. 2726, H.R. 11526), SC—HC.

Reform the Mining Laws (S. 2727, H.R. 11527), SC—HC.

Land and Water Conservation Fund Act Amendments (S. 990, S. 1175, H.R. 5599), SC—HC.

Amend Certain Laws Relating to Indians (S. 2033, H.R. 8064), SC—HC.

Federal Employees Indian Tribal Organization Transfer Act (S. 1574, H.R. 8014), SC—HC.

Indian Trust Counsel Authority (S. 2035, H.R. 8797), SC—HC.

Indian Business Development Program Act (S. 2237, H.R. 8340) H.R. 15322, SC—HC.

Johnson-O'Malley Act Amendments (Indian Education and Health) (S. 2238, H.R. 2376), SC—HC.

Terminate Certain Santa Barbara Oil Leases (S. 1853, H.R. 7991), SC—HC.

Big Cypress National Fresh Water Reserve (S. 3139, H.R. 13017), SC—HC.

Justice:

Narcotic Addict Post-Confinement Care (S. 2713.* H.R. 11352), PL 92–293.*

Narcotic Addict Rehabilitation Act Amendment (S. 2140, H.R. 9323*), PL 92–420.*

Protection of Public and Foreign Officials Act (S. 2436, H.R. 10502) H.R. 15883* passed in lieu (Foreign Officials only) P.

Protection of Official Guests (amendment to Senate version of H.R. 15883*), (P).

Police Officers Benefits Act (S. 2087,* H.R. 9139, H.R. 9177), C.

Prohibit Interstate Transportation of Salacious Advertising (S. 428, H.R. 2331) H.R. 8805, SC—H.

Prohibit Interstate Transportation of Salacious Materials to Minors (S. 429, H.R. 2330) H.R. 8805, (SC—H).

Fair Warranty Disclosure Act (S. 1221, H.R. 6314) S. 986,* H.R. 4809, S—HC.

Federal Trade Commission Act Amendments (S. 1219, H.R. 6313) S. 986, H.R. 4809, (S—HC).

Subversive Activities Control Act Amendment (S. 2294, H.R. 9669), SC—H.

Aircraft Piracy Amendments (S. 2567, H.R. 11111), S—HC.

Wagering Tax Amendments (S. 431, H.R. 1010) (House Consideration objected to), SR—HR.

District of Columbia Controlled Substances Act (S. 2692, H.R 11268), SC—HR.

Law Enforcement Revenue Sharing Act (S. 1087, H.R. 5408), SC—HC.

Nontestimonial Identification Procedures (S. 430, H.R. 2329), SC—HC.

Consumer Fraud Prevention Act (S. 1222, H.R. 6315), SC—HC.

Pretrial Detention (S. 1867, H.R. 8418, H.R. 8550), SC—HC.

Bail Reform Amendments (S. 1868, H.R. 8419), SC—HC.

Criminal Justice Information Systems Security and Privacy Act (S. 2546, H.R. 10789, H.R. 10892), SC—HC.

Psychotropic Substance Act (S. 3118, H.R. 12875), SC—HC.

Narcotic Addict Treatment Act (S. 3846, H.R. 16047, H.R. 16135), SC—HC.

Drug Abuse Procedures Act (S. 2192, H.R. 9381), SC—HC.

United States Marshals Appointment (S. 1831, H.R. 8317), SC—HC.

Genocide Convention, Implement (S. 3182, H.R. 13185), SC—HC.

Labor:

West Coast Labor Dispute (S.J. Res. 197, H.J. Res. 1025), PL 92–235.*

Emergency Unemployment Compensation Act—6-month extension (H.R. 15587*), PL 92–329.*

Fair Labor Standards Act Amendments (S. 2259, H.R. 9584) S. 1861, H.R. 7130* (House rejected motion to send bill to conference), S—H.

Longshoremen's Compensation Act Amendments (S. 525, H.R. 3505) S. 2318, H.R. 12006, S—HP.

Pension and Welfare Employee Benefits Protection Act (S. 3024, H.R. 12337) S. 3598, SR—HC.

Manpower Revenue Sharing Act (S. 1243, H.R. 6181), SC—HC.

Crippling Strikes Prevention Act (S. 560, H.R. 3596, H.R. 4116) H.R. 11281, SC-HC.

State:

International Development and Humanitarian Assistance Act (S. 1657) S. 2819,* PL 92–266.*

International Security Assistance Act Included in S. 2819,* (PL 92–226).

Narcotics Control Assistance, amend International Security Assistance Act. Included in S. 2819,* (PL 92–226).

International Coffee Agreement Extension H.R. 8293 *), PL 92–262.*

Radio Free Europe/Radio Liberty (American Council for Private International Communications, Incorporated, establish), (S. 1936, H.R. 9637) S. 18,* did not establish council, but authorized Fiscal 1972 appropriations, PL 92–264.*

Radio Free Europe/Radio Liberty Appropriation Authorization, Fiscal 1973 (S. 3645,* H.R. 15002), PL 92–394.*

Foreign Assistance Act Amendment (S. 3390,* H.R. 13759), SX.

Philippine Disaster Relief. Included in H.R. 16029,* (C).

American Mexican Boundary Treaty Act (S. 3560, H.R. 14573), H.R. 15461.* (Senate passed with amendment, returned to House), S—H.

Rumanian Trade Relations Act (S. 1389. H.R. 10076), SC—HC.

Nonimmigration Visa Act (S. 1899, H.R. 6366), SC—HC.

International Center, D.C.—Authorize Funds for Site Improvement; (Amend PL 90–553) (S. 4039), SC.

Immigration and Nationality Act Amendments (H.R. 2328), HC.

Transpotration:

Regulation of International Air Rates (S. 2920, H.R. 11825) S. 2423,* PL 92–259.*

Rail Passenger Service Act Amendment (S. 2760, H.R. 11417*), PL 92–316.*

Ports and Waterway Safety Act (S. 698, H.R. 3635) H.R. 8140,* PL 92–340.*

Coast Guard Appropriation Authorization, Fiscal 1973 (S. 3241, H.R. 13188*), PL 92–343.*

High-Speed Transportation. Remove Termination Date (S. 979, H.R. 8107, H.R. 8302), PL 92–348.*

National Capital Transportation Act Amendment (S. 2297, H.R. 11877), H.R. 15507,* PL 92–349.*

Highway Emergency Relief Appropriation Authorization (S. 3796, H.R. 15873) H.R. 15950,* PL 92–361.*

Automobile Owners Information Act (S. 2357, H.R. 9353) H.R. 11627, S. 976* (National Traffic and Motor Vehicle Safety Act), P.

Anti-Hijacking Act (S. 2820,* H.R. 9354) H.R. 16191, C.

Federal Aid Highway and Mass Transportation Act (S. 3590, H.R. 14759) S. 3939,* H.R. 16656, C.

Highway Safety Act (S. 3589, H.R. 14760) part of S. 3939* and H.R. 16656, (C).

National Traffic and Motor Vehicle Safety Authorization Act, Fiscal 1973 (S. 3474, H.R. 15111) H.R. 15375,* S—H.

Transportation Assistance Act (S. 2841, H.R. 11824) S. 1729,* H.R. 16281, S—HC.

Transportation Regulatory Modernization Act (S. 2842, H.R. 11826) S. 1729,* H.R. 16281, (S—HC).

Transportation Revenue Sharing Act (S. 1693, H.R. 13021), SC—HC.

No Fault Motor Vehicle Insurance (S. Con. Res. 23, H. Con. Res. 241) S. 945* (Reported from S. Commerce, Senate voted to refer to S. Judiciary on 8/8/72), SC—HC.

Eisenhowever Memorial Interstate (S. 2733, H.R. 8578, if amended), SC—HC.

National Capital Area Transit Act (H.R. 16724), HX.

Alaska Railroad Sale (H.R. 9619), HC.

Sale of Washington National and Dulles International Airports (H.R. 16221), HC.

Metro Station, Arlington Cemetery (S. 3966), SC.

Highway User Act (H.R. 12429), HC.

Treasury:

Asian Bank Special Fund Contribution (S. 749,* H.R. 5013), PL 92–245.

Inter-American Development Bank Contributions (S. 748,* H.R. 5014), PL 92–246.*

International Development Association Replenishment Act (S. 2010,* H.R. 8750), PL 92–247.*

Public Debt Ceiling Temporary Increase (H.R. 12910) *), PL 92–250.

Par Value Modification Act (S. 3169, H.R. 13120), S. 3160,* PL 92–268.*

Public Debt Ceiling, Four-Month Extension (H.R. 15390*), PL 92–336.*

General Revenue Sharing Act (S. 680, H.R. 4187 through H.R. 4193) H.R. 14370* (State and Local Fiscal Assistance Act), CRP—CR.

Federal Financing Bank, establish (S. 3001), S—HP.

Lost Currency Write-off (Silver Certificates, Adjust) (S. 670), S—HC.

Handgun Quality Control Act (S. 2507*), S—HC.

Environmental Financing Authority (S. 1015, H.R. 5970 through H.R. 5973) (Part of S. 2770 as passed by House), P.

Public Debt Ceiling Increase (H.R. 16810), SP—H.

Individual Retirement Benefits Act (S. 3012, H.R. 12272, H.R. 12302) S. 3598,* SR—HC.

D.C. Development Bank (S. 2196, H.R. 11313), SC—HC.

Customs Port-Security Act (S. 1654, H.R. 8476), SC—HC.

Environmental Protection Act (H.R. 14669) HC.

Income Tax Credit for Tuition, Nonpublic Elementary and Secondary Education (H.R. 13495) H.R. 16141, HC.

Pure Air Tax Act (H.R. 14931), HC.

Small Business Taxation Act (S. 544), SC.

Veterans' Administration:

Increase Compensation for Disabled Veterans (S. 3344, H.R. 13799) S. 3338,* PL 92–328.*

Veterans Education and Training Amendments (S. 3059, H.R. 11954) S. 2161, H.R. 12828,* P.

Grants to State Veterans' Homes (H.R. 13673), included in H.R. 10880* as passed by Senate, (P).

Require Reimbursement from Private Users for VA Hospital Care (S. 2807, H.R. 3350), SC—HC.

Repeal Savings Provision of Law Relating to Arrested Tuberculosis Compensation (H.R. 3347), HC.

Eliminate Duplicate Burial Benefit Payments (H.R. 3348), HC.

Veterans Drug Treatment (See Defense H.R. 9265*).

Environmental Protection Agency:

Water Pollution Control Act Extension (S. 3122*), PL 92–240.*

Marine Protection Act (Ocean Dumping) (S. 1238, H.R. 4247) H.R. 9727,* CR—CRP.

Water Quality Standards and Enforcement (S. 1014, H.R. 5966 through H.R. 5969) S. 2770,* H.R. 11896 (National Water Quality Standards Act provides for funding at three times administration level), P.

Waste Treatment Facilities Construction (S. 1013, H.R. 5962 through H.R. 5965) S. 2770,* H.R. 11896, (P).

Water Quality State Program Grants (S. 1012, H.R. 5958 through H.R. 5961) S. 2770,* H.R. 11896, (P).

Federal Environmental Pesticides Control Act (S. 745, H.R. 4152) H.R. 10729,* P.

Toxic Substances Control Act (S. 1478, H.R. 5276) S. 1478, H.R. 16245, S—HP.

Noise Control Act (S. 1016, H.R. 5275, H.R. 5388) H.R. 11021, S. 3342* (Clean Air Act, includes noise provisions), SP—H.

Water Pollution Control Act Amendments (S. 3910), SC.

Action:

Peace Corps Amendments (H.R. 14149) S. 3526. Included in H.R. 14734* (State, USIA Authorization), PL 92–352.*

Authorize $16 Million Additional ACTION Funds, Fiscal 1972.

Included in H.R. 12350,* OEO Authorization, PL 92–424.

ACTION Domestic Programs Act (S. 3450) H.R. 14828. (Older Americans Act, H.R. 15657 contains some provisions of this bill. OEO Authorization (PL 92–424) extends VISTA program temporarily), SC—HC.

Administrative Conference of the United States, Appropriation Ceiling and Certain Statutory Changes (H.R. 13644), S. 3671,* S—HP.

American Revolution Bicentennial Commission:

Program Amendments and Appropriation Authorization, Fiscal 1972 (S. 1857,* H.R. 7374), PL 92–236.

Amendments and Appropriation Authorization, Fiscal 1973 (S. 3307,* H.R. 13694), P.

Arms Control and Disarmament Agency, Appropriation Authorization for Fiscal 1973 and 1974 (S. 3200, H.R. 13336) Included in H.R. 14734* (State USSIA Authorization), PL 92–352.

Atomic Energy Commission:

Construction Permits and Interim Licenses (H.R. 13731) H.R. 14655,* PL 92–307.*

Appropriation Authorizations, Fiscal 1973 (S. 3103, H.R. 12826) S. 3607,* H.R. 14990), PL 92–314.*

License Fees for Power Reactors (S. 957, H.R. 5523). Included in S. 3607* (PL 92–314).

Commission on Civil Rights, Extend for 5 years; Expand Jurisdiction (S. 3121, H.R. 12652*), P.

NASA, Appropriation Authorization, Fiscal 1973 (S. 3094, H.R. 12824) H.R. 14070,* PL 92–304*.

National Science Foundation, Appropriation Authorization, Fiscal 1973 (S. 3324, H.R. 12753) H.R. 14108,* PL 92–372.*

Federal Home Loan Bank Board, Housing Institutions Modernization Act (S. 1671), SC.

Federal Power Commission:

Natural Gas Act Amendment, Information Gathering (S. 701, H.R. 3668) S. 2405, SC—HC.

Limited Deregulation of New Natural Gas Production (S. 2505, if amended, and H.R. 2513, if amended), SC—HC.

Indian Claims Commission, Extend Life (S. 2408, H.R. 10390*), PL 92–265.*

Office of Economic Opportunity:

Economic Opportunity Act Extension and Legal Services Corporation (S. 1290, H.R. 6394) S. 2007.* Pres. veto sustained.

Economic Opportunity Amendments, 1972 (H.R. 12350*). (Does not include Legal Services Corporation), PL 92–424.*

Office of Emergency Preparedness:

Defense Production Act Amendments (S. 669) S. 3715,* PL 92–325.*

Agnes Recovery Act (S. 3795, H. 15872, H.R. 15935) H.R. 15692,* PL 92–385.*

Flood Relief Funds for Private Nonprofit Educational Institutions (amendment to H.R. 15692,* agreed to), (PL 92–385).

Office of Management and Budget:

Special Action Office for Drug Abuse Prevention (S. 2097,* H.R. 9264),* PL 92–255.*

Council on International Economic Policy (S.J. Res. 139, S.J. Res. 141) S. 3726,* PL 92–412.*

Grant Consolidation Act (Title II of S. 3140 contains provisions for consolidation of Federal Assistance Programs), S—HC.

Joint Funding Simplification Act of 1971 (H.R. 6532) Title III of S. 3140 contains provisions of the bill, (S—HC).

Expenditure Limitation (S. 3977, H.R. 16090, H.R. 16205, H.R. 16304 through H.R. 16308) language of S. 3977 proposed as amendment to Public Debt Limit Increase, H.R. 16810,* SP—H.

Department of Community Development (S. 1430, H.R. 6962, H.R. 6964), SC—HP.

Department of Human Resources Act (S. 1432, H.R. 6961, H.R. 6966), SC—HC.

Department of Natural Resources Act (S. 1431, H.R. 6959, H.R. 6963), SC—HC.

Department of Economic Affairs Act (S. 1433, H.R. 6960, H.R. 6965), SC—HC.

Transfer Teacher Corps from HEW to ACTION (S. 3014, H.R. 12293), SC—HC.

Clarify President's Authority to Designate Chairman of FPC (S. 982, H.R. 6312), SC—HC.

Cost Accounting Standards Board in Executive Branch (S. 1901), SC.

Office of Science and Technology, Power Plant Siting (S. 1684, H.R. 5277, H.R. 5389) S. 1684, H.R. 11066, SC—HC.

Office of Telecommunications Policy:

Corporation for Public Broadcasting Authorization Increase and Extension for One Year (S. 2322, H.R. 13007) H.R. 13918,* vetoed by President.

Office of Telecommunications Policy Authorization of Appropriations, Fiscal 1973 (S. 3824*), PL 92–411.*

Securities and Exchange Commission, Securities Transaction Processing Act (S. 3412) S. 3876,* S—HC.

Small Business Administration:

Minority Enterprise Small Business Investment Act (MESBIC) (S. 3337,* H.R. 13805) H.R. 16732, P.

Small Business Amendments (S. 1224) implemented in part in PL 92–213. Also included in S. 1905,* S—HC.

Smithsonian Institution:

Contributions to Kennedy Center for Operating Costs (S. 2900, H.R. 9801, specific authorization, rather than Admin. supported open-end authorization) (Rental Charge/Purchase Contract) Included in S. 1736,* PL 92–313.*

Bicentennial Outdoor Museum (S. 2153, H.R. 10311, if amended), SC–HC.

Water Resources Council, Amend Water Resources Planning Act to Authorize Increased Appropriations (S. 3384, H.R. 14106*), PL 92–396.*

Bills included in legislative messages of the President, sent in draft form to appropriate congressional committees:

Federal Employee Insurance and Annuity Compensation Administration. (Civil Service Commission draft referred to Sen. Post Office and Civil Service and to H. Ed. and Labor 7/19/72).

Recreational Small Boat Harbors. (Army draft referred to Sen. Labor and Public Works 6/17/71; to H. Public Works 6/16/71).

Protection of Public Buildings. (GSA draft referred to Sen. Government Operations 1/27/71; to H. Government Operations 1/29/71).

Montreal Civil Aviation Convention, Implement. (Justice draft referred to Sen. Judiciary and H. Commerce 9/28/72).

Age Discrimination in Employment Act Amendment. (Labor draft referred to Sen. Labor & Public Welfare 7/18/72; to H. Ed. and Labor 7/19/72).

Increase Taxes for Plane Hijacking Prevention Program. (DOT draft referred to Sen. Finance 1/27/72; to H. Ways & Means 1/26/72).

Highway Revenue Act Amendments. (DOT draft referred to Sen. Finance 4/27/72; to H. Ways & Means 4/24/72).

VA Authority to Forego Making Direct Loans in Certain Cases. (VA draft referred to Sen. Veterans 2/8/72; to H. Veterans 2/7/72).

Disaster Relief Act Amendments. (OEP draft referred to Sen. Public Works 3/29/72; to H. Public Works 3/27/72).

Small Business Technology Investment Act. (SBA draft referred to Sen. and H. Banking 9/27/72).

(NOTE.—President Nixon has proposed the expansion of the Nation's wilderness system to nearly twice its present size. Of the 52 wilderness expansion proposals of the President, two have been enacted.)

It will be noted that the appropriations process did not bog down this year. Great credit in speeding up this whole process is due to the late, lamented Chairman of the Senate Appropriations Committee, Allen Ellender of Louisiana, aided by his Republican colleague Senator Milton Young of North Dakota.

As to the overall performance of Congress in recent decades, if we must be unsparing in judgment we also must be fair. Much of the criticism of Congress and the Senate is ill-informed and based on the cheap sort of comment which is sometimes uncritically accepted as "conventional wisdom".

The charge that Congress cannot effect needed legislative reforms is simply untrue. Two sweeping legislative reorganization acts have been enacted since 1946, as well as numerous individual procedural reforms. The seniority system has been considerably modified to give all Senators major committee responsibilities. Floor procedures have been speeded up. Senators and staff members are required to file comprehensive reports on outside income. An Ethics and Standards Committee has been created. The requirements on reporting of campaign contributions have been made far more stringent and comprehensive.

We have commented on the great increase in Record Votes during recent years. This, in turn, is symptomatic of the huge increase in monies appropriated by Congress, and the number of people who must be included in Federal social programs. It is also the result of our attempt to legislate on matters and problems which literally have never before been of principal concern to Congress.

These trends make for great difficulties in arriving at agreement as to the legislative specific to meet the problem. They would cause indigestion to a legislature even if it were the most procedurally perfect in the world.

II. STATECRAFT

The conventional wisdom has it that President Nixon has scored great successes in the conduct of foreign policy. The conventional wisdom, for a change, is right.

Such success is the mark of a great President. In part because the constitutional responsibility for the conduct of foreign relations weighs so heavily on the President, in part because great-power foreign policy is so incredibly difficult.

As to the latter, it is quite simply a fact that the great power today, unlike a small nation, cannot rest content with maintaining its own security and freedom. Like it or not, other nations look to it for leadership, and assistance. And this we have given unstintingly, beginning in World War II.

No one can deny the fact that during the long cold war period, the United States accepted such responsibility through triumph and tragedy. We offered to help rebuild all of Europe, and in fact did so this side of the Iron Curtain; we restored Japan, our former enemy, and brought it back into the family of nations; we held fast in Berlin and shaped the NATO defenses; we encouraged the development of the European Common market; we fought to maintain the independence of South Korea, and to contain imperial communism elsewhere; we aided the new and developing nations.

Yet, in 1968, after such sacrifice of talent, lives and treasure, the whole effort seemed to be coming unstuck. We had allowed ourselves to become tunneled into one small area in Southeast Asia, and seemed unable to extricate ourselves.

Only if we recall where we were in January, 1969, and where we are today, can we realize the dimension of change wrought by the Nixon Administraton in U.S. foreign policy.

This summer and fall of 1972 there have occurred events which reflect remarkably the possibilities for more peaceful international relations. Consider these few:

For the first time since the Korean War began in 1950, official representatives from North and South Korea have visited each other's capitals to discuss diplomatic, cultural and trade exchanges.

Japanese Prime Minister Tanaka journeyed to Peking to discuss diplomatic and trade initiatives, the first such official visit since the Sino-Japanese conflict in 1931.

East European countries, such as Poland, are now seriously considering establishing formal diplomatic relations with West Germany, broken off at the beginning of World War II.

In Egypt, almost the entire huge military mission from the Soviet Union has been withdrawn. Last year a potential armored invasion by Syria of Jordan was stalled when Soviet Union advisors finally balked at crossing the border; this year the Soviet Union provided Syria with new defensive weapons, but no Soviet instructors.

Each of these events increases the chance for peace in a particular area.

All of them together increase the chance for world peace.

None of them would have been possible without the changes in U.S. foreign policy worked by the Nixon Administration.

Fundamental to the changes is the Nixon Doctrine set forth in 1969.

It pledged we would continue to honor our alliances, and maintain a sufficiency of military strength.

But it called for a reassessment of what America should do and what our friends can do. It broke with the old assumption that Americans should write all the plans and dictate all the programs for the free world.

In plain, the U.S. would no longer be the cop on every beat around the world. We would begin an era of negotiation with friend and foe, around the world.

Thereafter in steadfast, determined order, President Nixon made clear what this meant.

First, disengagement in Vietnam. In three and one-half years, over half a million U.S. ground combat troops were withdrawn. As our units pulled out, Vietnamese units took over the defense of their own country. Today some 35,000 U.S. troops remain there to be reduced to 27,000 next month; none in a combat role, none of them draftees.

When the North Vietnamese armored divisions once more invaded South Vietnam this spring, they were met, stopped, and finally defeated by South Vietnamese troops.

In order, President Nixon conferred with all of our allies, in Europe and Asia, explaining our new policies, listening to their suggestions.

Thereafter, we cut our troops strength by one-half in South Korea. We reduced our troop strength in Japan and returned Okinawa and other islands to that nation.

We encouraged and assisted in the negotiations which led to agreement both on the status of Berlin, and the Polish-German border.

We effected a true, cease-fire and standdown in the Near East, after long patient negotiations by U.S. diplomats in almost every capital in that region, in Europe and particularly in Moscow. This cease-fire has held almost 22 months; in future years it may be cited as a textbook example of great power diplomacy to keep the peace.

In direct dealings with the great powers, we gave firm support to the Nuclear Non-Proliferation Treaty negotiated by the previous administration and ratified by the Senate in 1969.

We initiated the first direct negotiations between the U.S. and the U.S.S.R. on strategic arms limitations, the SALT talks, beginning November, 1969.

In 1971 we announced two prospective summit meetings for 1972, first at Peking, then at Moscow. Before the meetings took place, President Nixon conferred with Japan and our other Asiatic allies, and with all of our European allies.

We jointly agreed with other IMF members to changes in the old international monetary and exchange rates last year; this year, we set forth our suggestions for new international monetary policies.

This year, 1972, the famous meetings at Peking and then Moscow, took place. A cautious resumption of trade and informal diplomatic relations for the first time since 1950 resulted from the first; two important first-phase agreements on strategic arms limitations hammered out in the SALT talks, were the principal fruits of the second.

A new era of negotiation between the U.S. and the Soviet Union has certainly resulted. First came the billion dollar purchase of U.S. wheat and feed grains. Then, after quiet U.S. negotiation, the Soviet Union apparently agreed to reconsider its infamous tax recently levied against Jews migrating to Israel.

But there were other fruits, as well.

For from the formulation, explanation and adherence to the Nixon Doctrine have come the other peace initiatives listed earlier.

Initiatives undertaken by and between Koreans, by and between Japan and China, by and between the two Germanys and East European nations.

If direct negotiations between Israel and Egypt still seem far off, at least the peace has been kept, and there is a far more realistic attitude on the part of the Arab nations surrounding Israel. There seems to be some indication of restraint on the part of the Soviet Union in that area. And this in turn apparently is a spin-off from Mr. Nixon's meeting in Moscow.

These are all hard facts. Meanwhile George and Sarge are in full cry, attacking the world and U.S. foreign policy as it existed in 1968. The Nixon Doctrine has produced a whole new generation of peace initiatives all over the globe. George and Sarge resolutely close their eyes, their ears, their minds to the real world of 1972.

We were the cop on every beat in 1968, but not today.

We were hopelessly entangled in war in Vietnam, but not today.

Our NATO allies were seriously questioning our future interest in European security, but not today.

The Berlin question was firing up again, but not today.

In the Near East, it was taken for granted that Egypt and her allies would reopen the war against Israel; the only question was how soon thereafter the great powers would be dragged in, thus beginning World War III; but not today.

Finally, what of the fruits for our own Nation of the Nixon Doctrine? In 1968, our military budget took up 55 percent of our total budget, or 9 percent of our total GNP. Today it is down to 40 percent of our total budget, and 7 percent of our GNP. In 1968, we had 3,408,000 men and women in our armed services, of whom 1,170,000 were overseas. Today we have a million less in uniform, and only half as many overseas. Our draft calls have dropped almost to zero; the next step is an all-volunteer army.

Senator McGovern calls "come home America." President Nixon has already done most of George's work for him on that count, without repudiating our friends and allies, or endangering our national security.

The world will never be entirely peaceful. But Richard Nixon has worked unremittingly, doggedly, courageously to open new paths for peace, both for our generation and the next.

History will salute this as a great-hearted and successful exercise in statecraft.

And stagecraft

Nineteen hundred and seventy one was a vintage year for the species Presidentialis Senatorus. Like the windborn Gypsy Moth, the wings of ambition hovered over an incredible number of Senate seats. The leadership vacuum of the Democratic Party provided an irrestible climate; soon the species was popping out even as mushrooms in a hothouse.

Some died aborning due to a lack of monetary and intellectual nourishment; some grew only to be crocked with half-digested platforms and platitudes; some almost ripened for the harvest only to have their roots cut by more skillful agronomists.

The most common trait of the would-be's was a brave insistence on directing our foreign policy from the interior lines of the Senate, generally by firing paper missiles into the outside world containing talismanic phrases, in hopes their mechanistic invocation would transmute lead into gold.

Eventually, all contestants but one were eliminated. The Democratic Presidential Candidate has now had three months to stand alone on center stage, with no one else to blame or praise but himself.

In terms of a sense of prudent responsibility toward the conduct of foreign policy, the contrast between the Democratic candidate in 1972 and the Republican candidate of 1968 is startling, indeed. The 1972 Democratic candidate in his wisdom has seen fit to allow "emissaries" to flit about the world, e.g., Ramsey in Hanoi, Pierre in Paris, in attempts to deal with North Vietnamese officials in both capitals.

This, during a period when American officials appointed by the Chief Executive under his constitutional powers are engaged in direct negotiations with the North Vietnamese delegation to bring about a cease-fire.

The casual and contradictory statements from the shadowy McGovern diplomatic corps have caused confusion, hurt our position, and further delayed the chance for an early peace in South Vietnam.

Such crude manipulation of the Vietnam issue is in sharp contrast to the 1968 campaign of Richard Nixon.

In the fall of 1968 the Vietnam war offered a far more tempting target for the party out of power, than in 1972. By that year we had become involved in 80 percent of the ground combat. Troop levels had risen from zero combat forces and 650 advisors under President Eisenhower, to over half a million fighting men. Combat deaths in 1968 alone totaled 14,000 (almost as many in one year as the total for the years 1969–72). Hundreds of thousands of young men were being drafted each year to fill the ranks in Vietnam. The agreement to enter into cease-fire negotiations was not achieved until the 1968 Presidential campaign was in its last week.

There was enough frustration and dissatisfaction with the war to cause a President of the United States to retire, although I am sure he could have been renominated.

To repeat, this was a situation ripe for exploitation by the party out of power. Mr. Nixon refused saying he would do nothing to interfere with negotiations, that there could be but one President of the United States at one time who alone had the constitutional authority to direct our foreign policy.

Mr. Nixon's position in 1968 was not remarkable—rather it was a restatement of a norm of responsibility which had prevailed in previous elections during wartime regardless of party.

But Mr. McGovern's antics in 1972 make Mr. Nixon seem like St. Richard arrayed against George the juvenile dragon. It hardly improves the image of American politics if one of the major party candidates can't remember whether or not he "appointed" an off-shore security dealer in Paris to negotiate offhand with the North Vietnamese delegation on the matter of war or peace, and the treatment of U.S. prisoners of war in Hanoi.

Mr. McGovern has also contributed to the language of American diplomacy by expressing a desire to "crawl to Hanoi."

This week he abandoned such splendid rhetoric, and volunteered his final running-mate to make the trip to Hanoi. Mercifully, his envoy will be allowed to walk upright. It is not known whether his entourage will include Jane Fonda and Abby Hoffman.

Senator McGovern of late bestowed his own special brand of "forgiveness" on former President Johnson, his favorite punching bag during the fight for the Democratic nomination. He has discovered that the war was not Mr. Johnson's fault, rather it was an inheritance from the Kennedy Administration. This sent shock waves through the in-laws.

What Mr. Nixon has done with his inheritance is another matter, of course.

Mr. Nixon took the world as it was in 1969—with its fevers and hatreds—its immeasurable hopes and dreams—and set about the enterprise of peacekeeping.

After three and one-half years of patient, tenacious work in terms of peaceful improvement the results are in full view all around our world.

Mr. McGovern is blind to them all. He chooses to zero in only on Vietnam, and there to deliberately misread the record of U.S. disengagement, of Nixon peace terms, of Hanoi's intentions.

We are not, as he claims, supporting South Vietnamese forces to keep the Thieu Government in power. In fact, President Thieu has agreed to step down before elections are held in South Vietnam. George ignores as well the fact that the Vietnamization policy had succeeded to the point where by March 1972, the fighting in South Vietnam had almost ceased. It was only a direct, brutal invasion of South Vietnam by North Vietnamese armored divisions which caused the fighting to resume. The South Vietnamese troops have borne the entire brunt of the ground combat, have stopped their enemies and finally retaken most of the areas of their country so savagely overrun by the North Vietnamese divisions.

No foreign troops have been on North Vietnamese soil since the French in 1954. The peace terms offered by U.S. and South Vietnamese representatives in Paris would affect not one hectare of North Vietnam territory; the elections would take place only in South Vietnam; the North Vietnam regime would not be required to indulge in those democratic processes they scorn.

What is apparent and clear, certainly to the American voter, is that Senator McGovern to the contrary, the North Vietnamese regime is the source of continued combat in that tragic peninsula. Of the four countries only North Vietnam has invaded the other three and never in turn been invaded by the other three.

One gains a more disturbing insight into its ideological intransigence by recalling that but three weeks ago Hanoi publicly congratulated the Arab terrorists for murdering 11 Israeli Olympic team members in Munich.

All this is at best misunderstood, at worst ignored or forgiven.

Thus, out of contact with the real world, the Democratic Presidential candidate in his elocutions on foreign affairs prefers panache over policy, stagecraft over statecraft.

MINORITY LEADER'S REPORT

III. THE ECONOMY

About half a millennium ago, in Canton, China, an inspired artisan introduced the carving of concentric spheres from a single piece of ivory. Today, when a Westerner first sees one of these, he is most likely to ask, "How did they get the little spheres inside each other?"

And the answer that an Asian man or woman might give is, "The little spheres were always inside the larger ones, but it took the skill and vision of a master artist to set them free."

It would follow that if the potential for growth and economic stability has always existed within the framework of the American economy, then with infinite patience, consummate skill, and excruciating courage, it has been set free by the economic policies of this Administration.

A year ago last August, President Nixon confounded his critics, jolted the country, and gave the Gnomes of Zurich indigestion by announcing his New Economic Policy.

First, prices and wages were to be frozen in order to halt the inflationary spiral.

Second, certain taxes were to be delayed or reduced in order to stimulate industry and create new jobs.

Third, the United States dollar was to be cut loose from the gold standard internationally, so as to force a realignment of world currencies along lines considered more equitable to the United States.

Charge of the lightweight brigade

Yet if one has the misfortune to find himself unavoidably listening to the election year rhetoric of Mr. Nixon's critics, one gets the distinct impression that inflation is worse than ever, unemployment as intolerable as ever, and that the entire approach of the President to economic problems has been a bad show all around.

What does the record reveal?

It shows that the rate of inflation has dropped steadily downhill from 5.9 percent in 1970, to 4.3 percent in 1971, and to 2.9 percent in the year ending August, 1972.

Price controls

The record also shows that the inflationary spiral began to slow down before wage and price controls went into effect, and that prices have been held in check since the freeze. in fact, had it not been for the prices of certain farm products—which are not controlled—the average of all prices would have risen even less since the beginning of Phase II.

And, as has been widely noted in recent months, the United States has fared far, far better than other industrialized nations during the past two years of worldwide price inflation.

In the year ending May, 1972, inflation was running at a rate of over 4 percent in Canada, almost 5 percent in Italy, over 5 percent in Japan, 6 percent in Great Britain, over 6 percent in Switzerland, almost 7 percent in Norway, almost 8 percent in the Netherlands, and about 12 percent in Spain.

Compared to the rest of the world, the President's success in halting inflation brought on by the Credit-Card Sixties appears an act of sheer wizardry. And the critics? Rachmaninoff once told a story of playing, when very young, a Beethoven sonata with several long rests in it. During one of them, a motherly lady leaned forward, patted him on the shoulder, and said; "Play us something you know, dear."

Wage increases

Workers are far better off today than yesterday. While the cost of living increased 4.3 percent in 1971, average weekly wages increased 6.2 percent. And through July of 1972, average weekly wages had increased 4.1 percent faster than cost-of-living increases. In short, wage increases which formerly lagged behind the rate of inflation are now well above cost-of-living increases, yet still within the 5 percent range sought by Phase II of the New Economic Policy.

Industry and employment

As for business, it is doing remarkably well considering we are attempting to engineer a massive shift of our trillion-dollar economy from a war-time basis to a peace-time basis. Gross National Product showed a remarkable increase of about 9 percent in the second quarter of 1972, and employment is increasing.

Employment has reached an all time high of 86.8 million men and women at work in the civilian labor force. Unemployment, which stood at 6.1 percent in August of 1971, was down to 5.6 percent in August of 1972. All this was accomplished while 500,000 soldiers were being brought home from Vietnam to join the civilian labor force.

In the past year, the Administration has created more than 2.5 million new jobs, and those jobs are not in war plants. They are not in the defense industries. They are not making bombs, or bullets, or tanks or guns. Those are peace-time jobs, and the wages paid are at an all-time, record high.

Food prices

The ability of the average worker to pay for food has risen far more in the last year than has the cost of food. Specifically, food prices rose 3.7 percent in the 12 months that ended in July, 1972, whereas average weekly after-tax checks rose 7.2 percent. There is no doubt that workers in America are sharing profits of business far more than ever before and that, as economic recovery is attained, they will participate to an even greater degree as the wage freeze is removed. The basic point is that the American economic system is strong, and the unemployment problem is slowly being solved. The Conference Board reported on August 31, 1972, that its Help Wanted Advertising Index for July rose sharply to 103 percent from the June level of 96 percent of the 1967 average, seasonally adjusted.

Married men

The 2.6 percent unemployment rate in August for married men means most family breadwinners have a job. True, unemployment has not been slowing down as rapidly as desired because the labor force has been growing even more rapidly, fed by a surge of women and teenagers starting to look for work.

It has been said the voter knows full well who has just taken a new job and which relative is looking for work. His economic judgments are likely to be far more sensitive to such subtleties than is the gross unemployment rate.

Real spendable earnings

In terms of real progress against inflation, spendable income of a typical worker, after inflation and taxes, did not change much from the beginning of 1964 through the end of 1970. It hovered around $90 a week—in 1970—for a worker with three dependents. As the inflationary spiral was broken in 1971 and 1972, this figure now stands at nearly $96. And this little noticed number is probably the one that most nearly measures whether or not there is some money left over at the end of the week.

International payments and trade

In its quarterly review of the world economy, Britain's National Institute of Economic and Social Research last month predicted that world economic growth, led by the United States and Japan, will continue expanding in 1973 with major industrial nations matching U.S. success in curbing price inflation.

The Institute predicted that world trade will increase by about 9 percent in volume both this year and next, while total output in the industrial countries should increase by 5 to 5½ percent in 1972, and by even more in 1973.

Yet in what the late Professor Sumner Slichter of the Harvard economics faculty used to call a laboristic economy, stress continues to be on consumption as against investment. Although other factors enter in, the result is suggested in comparative figures on capital formation among the members of the Organization for Economic Cooperation and Development. Thus capital formation in Great Britain, where organized pressures for wage increases are strong, was 17.3 percent of Gross National Product in 1969. The figure for the United States was 16.7. But in Japan, where such pressures are milder and strikes are far less common, capital formation was 35.2 percent.

All of this affects the ability of a nation to compete on the world market.

Exchange rates

As the London *Economist* noted on the U.S. decision to loosen Japan's and Europe's monetary link with the dollar, "though no European or Japanese politician will admit it, the economic shock therapy which the United States chose to administer to itself and to its friends last August, has probably been the most useful, if brutal, way of waking up a world that was comatose. If the Americans made a mistake it was to ease up on the treatment in the Smithsonian agreement in December, when the moment presented itself to cure the patient for good."

The opportunities are seldom repeated. George III's coronation was a series of blunders, but the earl marshal in charge of it said to the King, "It's true, Sire, that there have been some mishaps, but I have seen to it the next coronation will be carried off with the greatest precision."

A trade surplus needed?

When all is said and done, the debate over whether or not America needs a trade surplus is perhaps the most pressing question of moment. One side says that to finance American commitments abroad, the need for a trade surplus is questionable since American investments are now returning profits at an annual rate of nearly $8 billion a year. This argument says if we can achieve a trade balance of zero, with exports equal to imports, it is quite reasonable to hope that this flow of profits can balance military costs and the outward movement of public and private capital.

The other side says that U.S. net payments for travel, transportation and miscellaneous service ($1.5 billion), and remittances, pensions and other transfers ($1.5 billion), take away $3 billion of the nearly $8 billion of net investment income, even before subtracting military transactions, U.S. Government grants and credit, and normal private capital flows. Military expenditures less transfers under military sales contracts are about $3 billion, and U.S. Government grants, excluding military, are about $2 billion, and U.S. Government loans and credits, excluding prepayments by Europe and Japan, are $2.1 billion, total net payments by the Government for military costs and foreign aid are about $7 billion. Thus our net investment income in 1971, for instance, was $2 billion short of covering U.S. payments, before allowing for any net private capital flow. Allowing for foreign investment in this country, the net outflow of U.S. private capital would probably be on the order of $4 billion a year, unless we impose stricter controls on capital outflow.

The debate has not been settled, and on it will hinge the U.S. role in world trade extending far into the next decade.

Congress and the budget

Meanwhile, bills in each House of Congress have added nearly $12 billion to the deficit in the President's budget, and $9.5 billion of these have been enacted this session. Many of these legislative actions require the President to request additional appropriations.

For example, the bill providing additional benefits for coal miners with black lung disease required the President to send up an appropriation request for nearly $1 billion.

Congress also raised social security benefits by more than $2 billion this year over the social security budget proposals of the President. That increase does not affect any appropriation bill. Nevertheless, the increase must be included in the President's budget in all future years.

Next year, the 1972 social security increase will add $6 billion to 1974 spending over the level contemplated by the President. Thus, it is simply not true that Congress has been cutting spending.

When all actions are taken into account, the increases in spending—not appropriations, and not authority to spend, but the spending *increases* forced in the last four years—total more than $13 billion. And most of it is taking place in the current fiscal year.

Actions of this Congress have already added more than $9 billion to the 1973 deficit estimated by the President last January. And Congress is considering further social security, Medicare and adult assistance liberalizations for which the Senate Finance Committee proposals would add almost $9 billion annually.

Thus, the President's proposed spending ceiling is absolutely essential to the Nation's economic well being.

CONCLUSION

If there is one certain thing in this life, it is that every part of our world is related to every other part. Nothing can be touched in the infinitely complex fabric of civilization without there being an effect on some other portion of it.

The economy, our foreign relations, legislation here at home—all are inextricably interwined. It is a mistake to suppose that free nations are removed from freer trade, and the two from a free economy.

If this Republican Administration be known for one thing, let it be for the avenues of peaceful competition and free communication it has reopened throughout our splendidly imperfect world as we move to a goal never before achieved in our time: full employment in a nation of peace.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. ALLEN. Does the distinguished Republican leader feel that the absence of his colleagues this morning might possibly be due to the fact that they feared that the distinguished Republican leader might read the full report this morning?

Mr. SCOTT. I try to keep my carrots as secret as possible, in accordance with our commitment here of the right to know. As far as I know, I have been reasonably stealthy, but perhaps, as always, word leaks out.

Mr. President, I ask unanimous consent that my report may be printed as a Senate document.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from Alabama (Mr. ALLEN) will be recognized for not to exceed 10 minutes.

RETIREMENT OF SENATOR B. EVERETT JORDAN OF NORTH CAROLINA

Mr. ALLEN. Mr. President, as we all know, words are at times inadequate to express a deeply felt reaction to events which involve family, friends, and close associates. In fact, I am still searching for words by which to convey my feeling of loss occasioned by the knowledge that the distinguished junior Senator from North Carolina, B. EVERETT JORDAN, will conclude nearly 15 years of distinguished service to his State and Nation as a U.S. Senator at the conclusion of this session of Congress.

Mr. President, my feeling of loss springs from considerations that lie deeper than personal friendship and high esteem. In truth, EVERETT JORDAN has always been to me something more than the kind, gracious, and considerate colleague whom we all know and so greatly admire. It was my great privilege and pleasure to have served as a member on the Senate Committee on Rules under his chairmanship. It was he who took me under his wing, so to speak, when I first assumed office and shared with me his keen and appreciative insights into the workings and traditions of the U.S. Senate.

Needless to say, I revere the Senate as an institution. I have often pondered the near magical function of the Senate as a catalyst which absorbs diverse views and disparate talents of its separate Members and gently enfold them into a body of tradition which binds and enriches and transcends its individual Members and inspires each to greater efforts in pursuit of the public interest.

I have always appreciated Everett Jordan as an important element in that catalyst. He came to the Senate in 1958 with a background of service in World War I; with the invaluable experience of one who had attained a successful career in business; with a distinguished political background—incorporating service as a member of the North Carolina Democratic Executive Committee and as Democratic national committeeman; and perhaps most significantly with a background of responsible leadership in numerous civic and benevolent organizations and enterprises. In addition, he knew the people of his State and faithfully represented their interests and highest aspirations with fidelity and great ability.

As a result of my close association with Senator Jordan, I came to cherish his friendship, respect his sound judgments, and to admire his integrity and profound sense of duty and dedication to the public interest and his ability—and I think this is most significant in his makeup—to cut through the redtape and high-sounding phrases to get to the real issue involved, to which he would always apply a commonsense, down-to-earth approach.

Mr. President, Senator Jordan has one of the most wonderful senses of humor of any man it has been my pleasure to know, and he has used that sense of humor in the discharge of his duties as a U.S. Senator and in the public interest. How often have Senators observed him smooth ruffled feelings with a well placed story? How often have we seen him make a point or settle an issue with a bit of down-to-earth humor, concerning which he is such an expert?

He has represented the people of North Carolina with great distinction. He has represented the national interest with honor and dignity. He has reflected credit upon the people of North Carolina, upon the Senate, and upon the Nation. As a result, Mr. President, Senator Jordan became to me and remains a personification—a symbol, if you will—of the finest attributes of the U.S. Senate as an institution.

I shall eternally be grateful for his sympathetic and understanding guidance and tutelage. The Senate will miss the valuable contribution of his sound counsel and judgments in matters vitally affecting the best interest and welfare of our Nation. His State and our Nation are losing the services in the Senate of a great and good public servant. I am losing a valued counselor and cherished friend.

My wife and I extend to him and to his lovely wife, Kathrine, our warm best wishes for a long and happy life in pursuit of their heart's desire. I hope that that desire will lead them to visit us often and to share with us their observations and judgments on matters of great moment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield to the majority leader.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from Alabama in his most gracious remarks about the Senator from North Carolina (Mr. Jordan). I have had the opportunity to serve with him during all of his years in the Senate. I have served with him on various committees. I have found him to be a man of understanding and character and a man who was willing to listen to the other man's point of view; a man who conducted himself with dignity, integrity, and dedication.

He has been a true representative of the people of his State. He is a valued Member of this body, and it is with deep personal regret that I note the passing from this scene at the end of this session of this outstanding Senator, who has contributed so much to his State, his region, and the Nation as a whole.

Mr. ALLEN. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from New York (Mr. Javits) is to be recognized at this time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. Beall) be recognized instead of Mr. Javits at this time.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Maryland will be recognized under the previous order for not to exceed 10 minutes, and without prejudice to the Senator from New York, who was to have been recognized at this time.

THE McGOVERN RECORD ON REVENUE SHARING

Mr. BEALL. Mr. President, for what seems like years Senator McGovern has stormed across the country pouring forth all manner of noxious statements about the President, about the President's handling of his office, and about America itself. We have heard the country indicted for every conceivable sin—and for some which stretch the imagination beyond recognition.

Everyone knows there is a great deal of difference between the President and George McGovern on the great issues that face America—and many are beginning to realize that there is a greater difference still between their views on the nature of this land. But today, I do not wish to speak merely about differences on issues. Instead, I want to speak about character and about how the characters of these two men differed in their approaches to the recently passed legislation on general revenue sharing.

I share the President's sentiments on this piece of legislation, which he first introduced nearly 3 years ago. He conceived revenue sharing as a pillar of what he called a "New American Revolution" intended to make Government more responsive to the needs of the people and better able to meet those needs. For 3 long years, the President labored to win passage of general revenue sharing—and he labors still to win support for his special revenue sharing proposals to improve government's ability to respond successfully to the people's needs in the crucial areas of law enforcement, urban development, rural development, manpower training.

I do not claim that George McGovern does not care about these issues—and I do not fault his character that he has not chosen to help the President in producing this legislation. Certainly George McGovern cares about these things—if his words can be any true guide. Indeed, he has traveled far and wide about the country haranguing the President for not having done enough in these areas.

On several occasions, he has stooped to the vilest of rhetoric to get across the point that he cares and that, in his tale of woe, President Nixon does not care about helping our cities and our States to survive the financial crunch they are now experiencing.

I promised that I would speak today about the character of the two men and it is there that I find George McGovern is lacking.

In a speech before the New York Society of Security Analysts, last August 29, Senator McGovern urged that:

> If we make the right choice, we can fulfill an agenda that includes revenue sharing with our cities and States.

Yet judging from the Senator's voting participation record, the only thing that any reasonable man could decide to the "right choice" would be a vote for President Nixon. In his performance as a member of the United States Senate, charged with making the laws of this Nation, George McGovern has proven himself to be no ally of the cities and the States in their fight against bankruptcy and in their struggles to meet the needs of their citizens. In fact, he has shown no real interest in addressing the needs of our cities and States save in his inflated rhetoric of promises betwixt and between every conceivable group of voters here and abroad. When it was his vote and not his voice which was important, he just was not there.

Let me illustrate my point with reference to revenue sharing, although nearly any topic would do as well because in the first 9½ months of 1972 his record of participation in Senate roll calls has been a paltry and pitiful 29 percent.

During September of this year, when there were 19 roll call votes directly relating to general revenue sharing, the month during which the Senate finally passed its bill, George McGovern missed all 19 votes. Every single one. And only on two of the votes about this issue of vital concern to States and localities did he even bother to announce a position.

The Senate on September 26th of this year finally passed a revised version of the legislation the President had proposed so long ago. That bill embodied a 5-year program to share nearly $30 billion in Federal revenues with State and local governments throughout the land and it also contained an appropriation of $1 billion a year for 4 years for supplementary social service grants. How did GEORGE McGOVERN vote on this key issue he claimed was so close to his heart? The answer is simple—he did not.

With particular reference to the needs of the cities, GEORGE McGOVERN in a news conference in New York City on September 28 of this year called the presidential election of 1972 "a referendum on the future of our cities." He went on to say:

> The sharpest differences between myself and my opponent Mr. Nixon, are the differences which directly affect our cities.

For once he was right, but not in the way he implied. President Nixon has fought long, hard, and successfully to improve the lot of the cities in many ways, one of which is through general revenue sharing. But GEORGE McGOVERN has not even bothered to take part in critical votes on the President's proposals.

In the Senate on September 6, just about 3 weeks before the Senator's news conference, an amendment was proposed revising general revenue sharing to give a greater share of Federal revenues to populous, highly urbanized States. How did Senator McGOVERN vote with the fire of conviction in his heart that the cities were being cheated? Well, the flame went out—because GEORGE McGOVERN did not vote. In fact, he did not even announce a position on the amendment.

Time and again, with reference to revenue sharing the Senator has abdicated his responsibilities as a Senator. Yet time and again he has gone from one end of America to another accusing President Nixon of not caring about the needs of the people. The President's record is clear and even considering general revenue sharing alone it is a record to be proud of, a record of helping State and local government to meet the people's needs. Senator McGOVERN's record is equally clear. And it is an ignoble record of hypocrisy. It is significant not just for what it says about the depth of Senator McGOVERN's commitment to making government more responsive to the people themselves, his commitment to helping the States and cities to survive, and his commitment to the voters of South Dakota who elected him. It is perhaps more important for what it tells us all about the Senator's character.

Perhaps the single most essential quality that a President must have, without which all other qualities are useless, are experience and the ability to lead. There was a time when no man dared even to aspire to the Nation's highest post if he were lacking in experienced leadership. But this year is a strange one for American politics—and even for the Democratic Party—because a man utterly devoid of these qualities presumes to run for the Presidency itself—a man who charges President Nixon with the basest of sins and who rolls about the country indicting America as well, yet a man who, when the time to be counted came, ignored the duties to which he was elected as a U.S. Senator and ignored the great problems of our time.

I do not claim that GEORGE McGOVERN had any responsibility to support the measures which the President has proposed to meet these problems. I only claim that he certainly had some responsibility to be present and to vote "yea" or "nay." He did neither in case after case. He tarried not in his pursuit of ambition—not even to deal concretely with the issues about which he claims to be so concerned. As a Member of this body, I am amazed at his pretension, but as an American citizen I am horrified that a man elected to do the people's business should self-righteously accuse so many others of not meeting their elected responsibilities and in the vilest of terms, yet fulfill so little of his own responsibility. At best this is unethical; at worst, demagogic.

NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

Mr. BEALL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16883.

The Presiding Officer laid before the Senate H.R. 16883, relating to compensation of members of the National Commission on the Financing of Postsecondary Education, which was read twice by its title.

Mr. BEALL. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BEALL. Mr. President, under the recently passed Higher Education Amendments of 1972, a commission to study the financing of postsecondary education was created; and this bill, which was passed by the House, provides for the compensation of the members of that commission.

I urge that the bill be passed.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16883) was ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from New York (Mr. JAVITS), for not to exceed 10 minutes.

Mr. JAVITS. Mr. President, I ask the Chair to give me notice when I have consumed 8 minutes.

The PRESIDING OFFICER. The Chair will do so.

(The remarks that Mr. JAVITS made at this point when he introduced S. 4110 are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. JACKSON. Mr. President, I ask unanimous consent that Jerry T. Verkler, William Van Ness, Jr., and Denny Miller of my staff be permitted the privileges of the floor today.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I want to take this occasion to note that in my 14 years' service in the Senate, and in my previous associations in the other body with the distinguished senior Senator from New York (Mr. JAVITS), I have been—as we all have—immensely impressed with his diligence, his faithfulness to the best interests of his constituents, his courage, his candor, and his unhesitating willingness and determination to defend those causes in which he believes.

We are all very proud that he is so much and so importantly a leader of thought in this body.

Mr. JAVITS. Mr. President, I thank my colleague from Pennsylvania for that very kind and gracious statement. I am very grateful.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). At this time, the Chair, without prejudice to the distinguished Senator from Connecticut (Mr. WEICKER), and under the previous order, now recognizes the distinguished Republican leader for not to exceed 10 minutes.

LAMENT FOR THE STRUTHIONINE

Mr. SCOTT. Mr. President, now that we are at the point, we believe, of what may be the last day of this session, I want to speak not so much of what we have done as to grieve a little bit over the fact that there were some who, for reasons of their own, were not here to help us and who did not furnish to us the kind of assistance we would have welcomed.

If time permits, I will discuss the "no-fault" foreign policy of the candidate of the opposition—no-fault, that is, to the enemy. But before doing so, I should like to point out that today's paper discusses what we did yesterday. We sent the largest defense appropriation bill since World War II to the White House. We also sent funds for the Departments of Justice and Commerce to the White House.

But the candidate of the opposition, who speaks so often of the need for doing something about our defense establishment—lo, he was not here.

The conferees appear to have found a solution to the problems of labor, health, and welfare. But the candidate of the opposition, who speaks so movingly on television of his interest in the poor, the underprivileged, the lame and the halt, was unrecorded not only in this step in the preceding steps but also on the preceding steps—for lo, he was not here.

Yesterday, the foreign aid bill appears to have ended in an inextricable morass where, it seems to me, we had more asinine reasons for not doing it than generally accumulate. But we did not have the help of the candidate of the opposition in solving this difficult and complex problem—for lo, he was not here.

Yesterday, too, we sent to the White House the GI education bill, increasing substantially benefits for single and married veterans and for those with one child or an additional child, including provisions for living expenses and tuition costs. On television, we see the candidate of the opposition promising to achieve for the veterans not only these benefits but in fact other benefits that we have already enacted, in a sort of ex post facto campaign appeal. But, when we provided these further benefits to the veterans yesterday and sent them on to the White House, the candidate of the opposition did not participate in helping the veterans—for lo, he was not here.

Then we had other veterans bills sent to the White House, to authorize the construction of eight new medical schools in connection with Veterans' Administration hospitals and to expand the health benefits of veterans. Need I add, Mr. President, that lo, he was not here.

We are in the area of final congressional approval of bills to forbid the official dumping of radiological, chemical, or biological warfare agents or radioactive wastes as well as other measures involving the Environmental Protection Agency. We see by way of television commercials that the candidate of the opposition loves the good earth, but when we acted upon a matter pertaining to the cleanliness of the waters of the sea, the lakes, and the rivers—lo, he was not here.

Then when we had a bill forbidding local governments from putting head taxes on passengers at terminals, and the product safety bill is about to go to the White House, I must add again that—lo, he was not here.

We are trying to do something about antinoise pollution. I diverge again a minute to say that this could also apply to campaigning. But the candidate for the opposition was not only not here to help us with the reduction of noise at airports, but he was out adding to the noise and polluting the environment.

How ridiculous and unsupported were his charges and his moral outrage at unsupported charges of moral corruption and prejudging alleged corruption without being able to support it. And—lo, the candidate was in far-off Seattle while we labored and functioned and accomplished through a good part of the night.

Then, the candidate made a speech on foreign policy which ought to have been called Why I Am An Isolationist. It could have been better delivered from under a bed than just off the Senate Chamber—which, by the way, he never deigned to enter.

But, in spite of the muffled form in the blankets and counterpanes which the candidate has wrapped around himself, there emerges a general, "Let us surrender everything note" in this speech.

Not content with the demands of Hanoi, the candidate went further than Hanoi. This is a kind of one-upmanship that I have not previously seen exercised on an enemy or an adversary. But the candidate for the opposition also proposed the ultimate indignity. Not only would we walk out of a war where we are bringing our participation to an end, and leave our ally to defend himself, but we would also even remove the rifles, the ammunition, the materials, and the planes which this Congress has appropriated money for, and which the taxpayers have paid for. He would remove them and bring them back home. And since it would cost more to bring them back, he could dump them in the sea and save money. He would remove them from the South Vietnamese and leave the South Vietnamese helpless and at the mercy of a raging enemy with no barrier between them and the south.

He should have inscribed this documen on white silk and sent it north, where it would have been better received by those people who are holding our prisoners of war, who as a condition for their betterment, are urged to advance the candidate for the opposition party to the presidency.

I do not charge that the candidate had anything to do with that situation. However, it is a picture with which we are left. And—lo, the candidate's mind is not where the candidate should be, that is, close to the facts.

Oh, we grieve and we suffer not so much for the absence of our colleague, because indeed we can function without him. We have functioned without him for something like 78 percent of the time this year. But we grieve for his absence because of the mischief he is up to. And one does grieve when one sees mischief on the loose, uncontrolled. For heavens' sake, one does not know what he will be doing on Halloween, conjuring up ghosts and goblins in the minds of people, and adjuring his adorers to fear that which is nonexistent.

He actually is a shadow figure moving in front of a paper screen on a platform of air and supported merely by the flatulence of his own nonconviction.

Oh, we do grieve for that kind of campaign. And we do suffer with our friend. And we will welcome him back as the Senator from South Dakota for a brief time thereafter. We will again instruct him in the ways of this body. We will show him how to come in and how to go out. We will show him how to answer the rollcall. We will indicate to him where he will find rest and succor. And we will cushion his return to harsh reality. Oh, Mr. President—lo, he is not here. But we will forgive him. And we will welcome him back into the bosom of this ever-loving body of his comrades.

So, GEORGE, next year come home. Come home. You will not be met with averted eyes, you will not be met with downcast countenances, O knight of the woeful countenance, you will be met as one who has erred and strayed from the path of rationality. But who in this body has not in a sense done things at the risk of error? We can only forgive the accumulation of errors in such degree and quality as to establish a new record, even for this body.

And so we assure you of a welcome home. We are glad you sought the affray.

Mr. President, I close now with this warm and friendly extension of my good will. It will be good, GEORGE, to see you end this campaign—good for you, good for the country, and who knows, but it may add one more vote in the Senate.

RESCISSION OF ORDER RECOGNIZING SENATOR WEICKER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order which had been granted to the distinguished Senator from Connecticut (Mr. WEICKER) be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from Wisconsin (Mr. NELSON), that Richard Fay be allowed the privilege of the floor during the day, except for rollcall votes.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate at this time turn to the consideration of Calendar No. 1165 (H.R. 12807).

The clerk will report the measure.

Mr. CHILES. Mr. President, I object.

Mr. MANSFIELD. Mr. President, I move at this time that the Senate turn to the consideration of Calendar No. 1165 (H.R. 12807).

The PRESIDING OFFICER. The clerk will report the measure.

The legislative clerk read as follows:

Calendar No. 1165 (H.R. 12807) a bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader that the Senate proceed to the consideration of calendar order No. 1165 (H.R. 12807). Putting the question.

All in favor of the motion say "aye"; opposed, "no."

Mr. CHILES. No.

The PRESIDING OFFICER. It appears to the Chair that the ayes have it. The ayes have it and the motion is agreed to.

The Senate proceeded to consider the bill.

Mr. McCLELLAN. Mr. President, 5 years ago the Comptroller General cast doubt on the legality of methods used to select architects and engineers for Federal Government contracts.

Since then, Congress has tried to clarify these procedures by legislation. In the 91st Congress, the House held hearings and passed such a measure only to have it blocked in the Senate (H.R. 16443). In this Congress, the House again held hearings and has passed legislation to alleviate the problem—H.R. 12807—and I am hopeful the Senate will settle the issue by acting on this bill today.

H.R. 12807 is similar to S. 3156—a measure which I introduced on February 9, 1972, and which Senators PERCY, BROCK, and GURNEY are cosponsoring. Last Congress, the Committee on Government Operations voted unanimously to report H.R. 16443 to the Senate. This year there were only two dissenting committee votes on H.R. 12807.

This bill would merely cast the traditional system of selecting architects and engineers—which has been used more than 30 years—into statutory form. It would continue the present Federal policy of negotiating contracts for A/E services on the basis of demonstrated competence and qualifications for the type of professional service required and, at a fair and reasonable price to the Government.

Under H.R. 12807, architectural and engineering firms would be encouraged to submit an annual statement of qualifications and any performance data which they deem pertinent to the procuring agency. These firms would then be ranked for each proposed project on the basis of their qualifications and experience to perform the required services. Thereafter, fee negotiations would be undertaken with the firm believed to be the most qualified. After careful evaluation of that firm's cost needs, its proposal would either be selected or rejected. Should the most qualified architect or engineer fail or refuse to accept a contract offer, negotiations would then begin with the second ranked firm. This process would be repeated until a contract is consummated.

Architects and engineers realize that regardless of how they might be ranked, failure to agree to a fee that is fair and reasonable to the Government would deprive them of the opportunity to obtain the contract in question. A so-called fair and reasonable fee, would take into account the estimated value of the service to be rendered and the scope, complexity and professional nature of this service.

H.R. 12807 contains two provisions which would raise and strengthen the level of architect-engineer competition for Federal contracts. First, there must be public announcements of all requirements for architect-engineer services; and second, discussions must be held with at least three firms. These requirements will be of particular help to smaller firms and younger professionals in the field, while also enhancing the overall degree of competitiveness for these Government contracts.

Mr. President, H.R. 12807 is designed to avoid pitfalls which accompany other selection methods—such as bidding—where fees sometimes take precedence over quality. In my opinion, the auctioning off of architect and engineer services on the lowest fee basis only paves the way for the lowest quality performance. Failure to make quality of workmanship the basic selection factor could result in higher construction costs, functionally inferior structures and maintenance problems that could plague the Federal Government for years to come. The selection of architects and engineers should be based on ability, not cut-throat bidding, or some other nonquality procurement system.

H.R. 12807 fully recognizes this fundamental fact by insuring that architect-engineer fees will come into play only after an individual or firm has been selected and ranked on the basis of his qualifications. By so doing, H.R. 12807 provides the Federal Government and our taxpayers with the most competent professional for the job and at a reasonable price.

Mr. President, one further matter relating to this legislation should be mentioned.

In 1969, Congress created the Commission on Government Procurement to study all Federal procurement policies and practices—including those concerning the selection of architects and engineers. Since the Commission is required to report its findings to Congress by December 31, 1972, the question has been raised about floor consideration of H.R. 12807 before the committee has received and studied this report.

I do not believe that any further delay is justified. Were H.R. 12807 to discontinue or alter present policies or practices, there might be some justification for postponing action on this bill until after congressional review of Procurement Commission recommendations. But H.R. 12807 makes no revisions or changes in the way architect-engineer procurement matters are being handled. It would not change or alter the procedures which have been utilized so effectively for more than three decades. Should the Procurement Commission recommend changes in current procedures, we can move to amend the law if Congress is so persuaded.

Meanwhile, however, the uncertainties created by the Comptroller General's 1967 opinion should be eliminated now. Further delays will do a great injustice, not only to those who provide such services, but also the Federal Government who uses these services.

Mr. President, the selection process embodied in H.R. 12807 is similar to that used in the case of attorneys. It is fair, reasonable and professional. I believe that the architects and engineers of America—who constitute a significant part of America's professional community—deserve to have this cloud removed from their participation in Federal undertakings. I, therefore, respectfully urge that this important bill—long overdue—be favorably acted upon.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. JACKSON. Mr. President, I would like at this time to direct a question to the distinguished Senator from Arkansas for the purpose of clarifying the scope of this legislation.

I would like to know whether in the opinion of the Senator, the services of landscape architects are within the purview of H.R. 12807.

Mr. McCLELLAN. I see no exceptions in the language of the bill. This proposal obviously is intended to apply to all the various classifications and types of architects, if the individual providing the services is professionally trained and qualifies under appropriate State law to practice the profession.

The bill as drafted would apply to landscape architects when the controlling jurisdiction, under appropriate registration laws, requires that these individuals acquire and maintain a proper level of professional excellence.

I do not think there is any exception. This bill is designed to maintain the integrity of the professional services. It is not intended to require fee competition between architects and engineers. For instance, if a person goes to one lawyer for advice he does not then go to a half dozen other lawyers and ask, "What will you take the case for?" If that is done, the person is likely to get unsatisfactory and disappointing results.

This bill attempts to maintain the high professional standards that our engineering and architectural services have enjoyed in the past and that they deserve to have continued in the future.

Mr. JACKSON. Mr. President, I urge approval of H.R. 12807, as passed by the House, in order that we may resolve an important policy question which has been before Congress more than 5 years.

This legislation would not establish any new policy regarding the procurement of architect-engineer services by Federal agencies, but it would confirm long-established existing practices whereby such professional services are secured by a professional selection and negotiation process under which the emphasis is on professional qualification and expertise for the specialized services which are needed from time to time for the Federal agencies to carry out their missions.

Although the professional selection and negotiation procedure has been employed for at least 30 years without any hint of disadvantage to the Government, the bill before us is needed because in April 1967 the General Accounting Office issued a report on architect-engineer services suggesting that the professional selection and negotiation procedure was not in accord with that part of the procurement laws which require competitive negotiation procedures for certain types of negotiated contracts. The GAO report recognized that there is some question about its conclusion and that in any event the question of utilizing professional selection and negotiation procedure or competitive negotiation procedures is a policy matter for resolution by the Congress.

This question has been studied very carefully by the Senate Committee on Government Operations on two occasions following passage of legislation by the House to confirm the successful professional selection and negotiation procedures traditionally employed for professional services. Both in 1970 and again in July of this year the House approved such legislation. Also, the Senate committee approved a similar bill in 1970, but the heavy schedule of the Senate in the closing days of the 91st Congress prevented it from coming to the floor for a vote.

The pending bill, H.R. 12807, was again approved by the Senate Committee on Government Operations on September 25, 1972 (S. Rept. 92–1219). It is now before us in exactly the form approved by the House and by passage of this bill we can resolve the question which has become of importance in order to clarify the law and erase any doubt or confusion which may exist regarding the intent of Congress.

For many years Congress has recognized that professional services are not appropriate for competitive bidding procedures. Thus, we have over the years excluded professional services from the normal competitive bidding requirements for Government purchase of services in the Federal Property and Administrative Services Act (41 U.S.C. 252(c)), the Armed Services Procurement Act (10 U.S.C. 2304(a)), and the Public Contracts Act (41 U.S.C. 5). Also, since the question was raised by the GAO report Congress has further indicated its policy favoring the traditional professional selection and negotiation procedure for A–E services by adoption of language in the Military Construction Authorization Act for the past 3 years to so indicate.

Mr. President, there are many sound reasons for this continued support of a procedure whereby professional services are obtained on the basis of selecting the most qualified individual or firm for the needed services. Experience leaves no doubt that it is in the interest of the Government to look for quality of expertise and performance for professional services. Such services cannot be secured on a price competition basis because it is not possible to define in advance the extent, scope, and nature of the services required to fill the requirements. More often than not these all-important factors cannot be developed until the agency reaches the point of detailed and specific negotiations with the firm selected as best qualified on the basis of proven experience, background, personnel, and ingenuity in the specialized professional area involved. Price competition for professional services would be meaningless and dangerous—a contracting officer faced with the widely ranging price proposals or bids would be under pressure to accept the low price. Yet that may be the most costly decision because the low bid for the design of the ultimate facility is but a small part of the total cost of construction and lifetime maintenance, yet a poor design at lower initial cost can result in much higher total lifetime cost of that facility to the Government.

Mr. President, I will not dwell further on the many reasons for enactment of H.R. 12807 because they are spelled out with clarity and force in the report of the Senate Government Operations Committee. In conclusion, I voice support for the bill because it confirms a tried and tested procedure which has served us well for many years in providing professional services on the most efficient and economical basis. If further studies by the Government Procurement Commission or other bodies indicate improvements in our present methods let us give those proposals careful study; meanwhile let us stand by a system of demonstrated and proven sound national policy.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, H.R. 12807, the bill to write into law the system of selecting architectural and engineering services, is a subject Congress has been discussing for some 5 years.

There is a subject somewhat broader in scope that Congress has also concerned itself with and that is the total procurement of Government services. Congress, in considering this subject, passed legislation which set up a Procurement Commission made up of members, some to be appointed by Congress and some to be appointed by the executive branch, to deal with all the subjects concerning Government procurement.

The distinguished chairman of the Committee on Appropriations, the Senator from Arkansas (Mr. McCLELLAN), serving in his former capacity as chairman of the Committee on Government Operations, appointed Members of the Senate to that Commission. The junior Senator from Florida was appointed to take the place of the distinguished Senator from Washington (Mr. JACKSON) who served on that Commission with distinction.

In that capacity, as chairman of the Procurement Commission, the junior Senator from Florida came into this subject, because the Commission was concerning itself with the overall question of professional services and the procurement of professional services, under the mandate from Congress that the Commission must report back to Congress in December of this year. There was appropriated from general funds, tax funds, some $7 million for the study of the Procurement Commission. One of the major items the Commission is concerning itself with is the procurement of professional services across the board. Of course, included in that are architectural and engineering services, as well as many other professional services.

Mr. President, the junior Senator from Florida feels that Congress should not legislate on this subject, pending the report of the Commission that is set up by legislation for which it appropriated some $7 million of public funds; and it would be the height of folly for Congress to now legislate on this subject pending the receipt of the report of the Commission.

The Comptroller General, who is a member of the Procurement Commission, has voiced his views in regard to this bill, to both the House Committee and the Committee on Government Operations on the Senate, in which he set forth that he feels Congress would be wise to sit on this subject until the report of the Procurement Commission is in. It is apparent that while the report of the Procurement Commission is not final, that they would defer some respects to the bill before us.

Mr. President, the bill before us says that when you are negotiating for architectural or engineering services you must talk to three firms, that you get some kind of idea of the work they are going to do; then, if you are the procurement officer, you classify those firms in regard to how you find them in their competence as one, two, three, and after that, when you sit down to negotiate a contract with them you negotiate with one at a time. You would negotiate with the top one you selected.

This kind of writing in the statute is going to prohibit a procurement officer from being able to have design competition if he desires or feels that is necessary or beneficial.

We in the Congress only have to look to the east side of the Capitol to see what can happen in those services when a procurement officer does not pay much attention to what the design competition is going to be or what the competence is going to be in the firm that is selected. Only look to the Rayburn Building. Only look to the New Senate Office Building. We get examples of what happens in tremendous cost overruns, buildings that are ill-suited for their purposes, buildings that cost the taxpayers millions and millions of dollars and hampers us in trying to carry out our functions every day. When we are building a $500 million building or a $50 million building, certainly a procurement officer should be able to sit down and require design concepts, and he should also be able to require life cost estimates, what it is going to cost to maintain that building for its lifetime.

The Procurement Commission is not seeking price competition between engineers and architects. The Procurement Commission feels it would be folly to try to select architects and engineers based on the lowest bid, but the Commission feels that what the cost of the building is going to be or what the cost of a new concept is going to be is tremendously important to the taxpayers and to the Government, as is what the lifetime cost of that building is going to be.

To write into a piece of legislation language that is going to prohibit one from looking into that would be the height of folly.

The Procurement Commission feels that we should probably negate the statute which now says we cannot pay more than 6 percent for such services on any job, the feeling being that right now the best firms will not bid or compete on certain jobs, depending on the amount of work needed, if the fee is to be limited to 6 percent. So, on the basis of the Procurement Commission studies, they are not trying to do anything that is going to provide for cost competition, for competition between architects or engineers or any professional services, and they are not trying to do anything to keep us from selecting the most competent architectural or other service firm; but the feeling is that the public is entitled to be protected, that when we are going into new design concepts—let us say we are going to build a new space center or going into another new concept—we should be able to have competition to determine what firm is going to be able to furnish the best design, what is going to be the best cost economically, what the lifetime maintenance cost is going to be.

Those are the kinds of studies the Procurement Commission is going to make.

No hearings were held in the Senate committee on this bill, to the knowledge of the junior Senator from Florida, this time or 2 years ago when this legislation was then taken before us. When the Procurement Commission has gotten into a study with architects, engineers, and businessmen who are daily buying and contracting for these services, to see how they are designing their buildings, and how they are obtaining their services, again the junior Senator from Florida feels it would be ill-advised indeed for the Senate to act on this piece of legislation, pending the filing by the Procurement Commission of its report.

The Senator from Florida would like to propose an amendment.

Mr. President, I send an amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER**. The clerk will please state the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill insert a new section as follows:

TERMINATION DATE

SEC. 905. The provisions of this title shall terminate at the end of January 31, 1974.

Mr. **CHILES**. Mr. President, I understand the hour is late, that many Senators want to have a vote on this measure, because it has been considered by the Congress before.

This amendment simply provides that the provision we are now writing into law would expire on January 31, 1974, which would insure that Congress is going to get an opportunity to look at the commission report and determine what that report comes forward with, and compare the recommendations of the Procurement Commission, for which Congress provided, and for which we are spending $7 million of the taxpayers' money. It can then look at the recommendations set forth and determine whether we want to amend the legislation, carry the law on as it exists, or amend it.

It appears to the junior Senator from Florida that this is the best way for those who say, "We have got to have some policy now, that we have been acting without a policy." This would allow some policy now, but it will provide that it will expire in 2 years and we will have an opportunity to look at the commission's report to determine whether that is the best way of going into this matter or not.

Mr. **PROXMIRE**. Mr. President, as a point of information, are we now on H.R. 12807, the engineer and architect bill?

The **PRESIDING OFFICER**. The Senator is correct. The Senator from Florida has offered an amendment, which is the pending question.

Mr. **PROXMIRE**. Mr. President, I commend the Senator from Florida for offering the amendment. I have the same reservation as the Senator from Florida has on this bill. Frankly, I blocked it 2 years ago. I have been concerned about the lack of competition in Government procurement. It has become a scandal. There is supposed to be a fixed policy in our Government of competitively advertised bidding, and yet only 10 percent of our military procurement is advertised for competitive bidding. Here we have a bill that would move us away in another area from competitive bidding.

The Senate in passing H.R. 12807 will be lessening competition in the procurement of architectural and engineering services without the benefit of a comprehensive report that should be available to the Congress by the end of the year.

Why is it that these bills always come up in the closing days of the session, always under pressure on us to pass it now or the bill will die, when we have not had the opportunity for debate or hearings, in an orderly way, during the 2 years of the congressional session.

No one is saying that an architect should be hired by the Government on the basis of cost alone. But a good argument can be made that cost should be a factor in contracting for architectural and engineering services. The bill we have before us today will codify a procurement approach that virtually eliminates price competition with respect to architectural and engineering services. The Comptroller General of the United States feels that there should be more competition between architects in the design concept area than this bill allows. He also believes that when two or more architects or engineers are found to be technically on a par consideration should be given to price.

The passage of this proposal is particularly unfortunate at a time when the Commission on Government Procurement is about to make its recommendations to the Congress on the best way to procure architectural and engineering services. The Congress is locking itself in before receiving the advice of the experts. I sincerely hope that we will not come to regret the enactment of this legislation. I am afraid we well may.

I commend the Senator from Florida for offering his amendment, which I think is the minimum kind of requirement we should demand.

This amendment would provide, as I understand it, that this law would have a life of only 2 years, until the end of the next Congress, and we would have a chance to review this question and determine whether or not we could provide for ways to secure a greater degree of competition, recognizing, of course, that we should not select architects, engineers, or other professionals, any more than we should select doctors or lawyers, strictly on the basis of cost.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Florida.

Mr. **McCLELLAN**. Mr. President, the purpose, I think, and certainly the effect, of this amendment would be to kill this bill in the late hours of the Congress. If the amendment is adopted, there is no chance of getting the bill further considered in the House of Representatives. Those who want to kill the bill, of course, can support the amendment. Those who feel we should have legislation will oppose the amendment. It is just that simple.

Under present law, there is a 6 percent fee limitation for architect and engineer services. But I would point out for the record, Mr. President, that the Government is not getting gypped on these services. As I say, these professionals, under the law, could go as high as 6 percent. That would still prevail if the bill is defeated. But the experience has been, as demonstrated by a recent survey, that on all contracts that are under $10 million, the average fee for the architects has been 4.23 percent, and where the projects are over $10 million, Mr. President, the average fee has been 3.69 percent.

I do not think there is any idea here that the Government is getting robbed or cheated or defrauded by reason of the present system, at all. There is nothing to indicate that, the head of an agency cannot have these men bring in schedules and plans if he requests. I am sure many do discuss with these men their concept of what the building should be. No one is excluded. Everyone has the ability to present his qualifications and to get his plans qualified to be considered by the procuring agents.

Mr. President, I hope this bill will be enacted. Remember, this bill is here today because the General Accounting Office suggested that they found no legal basis for the procedure that was being followed, and suggested that Congress have an opportunity to consider this matter.

For 5 years now we have been considering it. This is the second time a bill has come over from the other House. There has been no indication that anything has been wrong with this traditional approach. I hope the amendment will be defeated, because if it is not, it means that the bill will go down and we will have to go all through this process again.

Mr. **PROXMIRE**. Mr. President, will the Senator yield?

Mr. **McCLELLAN**. I yield.

Mr. **PROXMIRE**. I want to tell the Senator from Arkansas that I do not intend to talk at length on this bill, or do anything other than raise questions about it. I think there is a strong case for the bill.

But I am concerned about the fact that there has been continuous debate and a great deal of political pressure, including political contributions from architects and engineers to win political preference. I have been aware of that in my State. The architects do their best to put themselves in a strong political position with Senators, Representatives, and administrations, Democratic and Republican, and it has been my very strong feeling that the reason for this is that they feel very deeply that decisions are made on selecting architects on the basis of political preference rather than on an objective basis.

I realize there are other factors that are more important than strictly cost in many and perhaps most cases for architects. But certainly where we can find architects on a professional par, I would hope we could find some way of providing a degree of real competition on the simplest objective test, which is, of course, the test of cost.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, H.R. 12807 establishes Federal policy for procurement of architectural and engineering services. It would embody in law an administrative procedure for procurement of architectural and engineering services that has been used for some 30 years. The bill was passed by the House in the previous Congress and in this one. It was reported by our committee in the last Congress, but was not acted upon.

Present procedure essentially permits a Federal contracting agency to select—after limited advertising—the three firms it considers most qualified for a specific project, and then to negotiate with each separately until a reasonable price is agreed with one of them. However, the cost of the architectural or engineering services cannot exceed 6 percent of the construction cost of the project. The bill adds a new requirement that all government requirements for A-E services be advertised, a provision that I consider to be a safeguard because it will enable the entire profession to know about Federal projects, and hopefully limit favoritism in the selection process.

The major reason for casting this procedure into law now is that it has come under criticism from those who believe that the procurement of such services should be mainly on the basis of price competition. The committee, on the other hand, has accepted the validity of the argument that the Government should procure architectural and engineering services in much the same way that a private person does: by selecting a firm that he considers competent and in whom he has confidence, than agreeing on price.

Opponents argue that the bill should not be passed until the Commission on Government Procurement makes its report at the end of this year. The committee, however, having heard this argument made forcefully in executive session, believes that since the bill institutes in law a procedure that has been accepted practice for decades, there should be no objection to doing so. Furthermore, there has seemed to be a considerable degree of controversy within the Procurement Commission about the correct approach to this problem. To my knowledge the Commission has not yet been able to agree on a final recommendation to guide the Congress. When it does, the Congress can consider it along with all the other recommendations for new legislation that will be made by the Commission.

Opponents have argued that this is a bill for the "big man" in that the present procedure favors a small group of very large firms, and that the major procuring agencies all draw from the same small group. On the other hand, there is evidence from the House subcommittee's investigations that the different agencies do tend to draw from rather limited groups of firms, but that these groups are different for each procuring agency, and contain a significant number of small firms.

Opponents have suggested an implied violation of antitrust laws. This argument refers to previous Justice Department suits against three professional societies of architects and engineers on grounds that their ethics codes prevented price competition. I think it important to point out that all three associations subsequently changed their codes. There is no violation of antitrust laws in the bill, according to a Justice Department witness before the House subcommittee.

Mr. President, there is one section of this bill to which I want to refer specifically, because I find in it a considerable degree of reassurance. That is section 902, to which I referred briefly earlier, requiring public announcement of all bids for architect-engineer services.

I intend that legislative history show that this provision is to be specifically implemented by the procuring agencies. Each and every requirement for A/E services should be advertised. This is, it seems to me, a minimum kind of insurance against the possibility that the procurement system established by this bill could be used to favor certain architects, and certain contractors. I take considerable satisfaction from the fact that this provision was added in the House version of the bill at my suggestion. It is intended that it be implemented strictly.

I would now like to comment that I very much appreciate the questions raised by my colleague from Florida, who has a very perceptive mind. I think there is a tendency to run things through, in the final hours of a session, and that we ought to pause, look, and listen. My colleague from Wisconsin, who has worked so closely with me on the Banking and Currency, Appropriations, and Joint Economic Committee, has always advocated that we stop and look before acting.

Many times Government architectural contracts are made without full advertising. For that reason, I looked into this bill carefully, to make certain that we expressed, in section 902, a policy requiring full advertising. This is expressed in section 902 as follows:

> The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services.

Although this is stated as a policy, I want to make legislative history right now by stating that I intend, in the exercise of the oversight responsibilities we on the Government Operations Committee have, to make absolutely certain that there is public advertisement for all Government requirements for architectural-engineering services, so that there is an equal opportunity for everyone, big or small, to come in and bid.

However, I know when my son was injured yesterday in a football game, I did not go out and seek the lowest cost bidder to come in and examine him. I called one of the finest orthopedic doctors in the Washington area.

I think we ought to have the same general policy when procuring other types of professional services. I have followed this practice all my business life.

When we find out who is fully competent to do the job at hand, we can then turn our attention to the cost.

The less than 4-percent average the Senator from Arkansas has cited indicates that we have been bargaining, and bargaining very hard indeed, to keep cost down. If the one we are negotiating with does not appear competitive, we go to the next eligible one and possibly even the next one. But we only consider qualified bidders.

This is the procedure we have followed for 30 years. We know enough not to just have a 2-year bill. I hope the bill will be passed.

A further point, with regard to the comments of the Senator from Wisconsin about pressure. It may be that some architects and engineers have used pressure tactics. I have not felt any such pressure. I cosponsored this bill at the request of Senator McCLELLAN, as chairman and ranking Republican, respectively, of the Government Operations Committee, which, of course, has jurisdiction. I have found the arguments persuasive, and I am perfectly free to change my position if the arguments of merit indicate to me that I should. I would note that I know what pressure is—I have withstood intense pressure for months and months against my position on consumer production legislation.

Mr. President, I support this legislation because I believe it establishes a reasonable procurement system that results in high-quality architectural and engineering work. Over the years the system as it has operated under administrative guidelines has worked apparently well. Certainly the quality of the architecture of major Federal buildings in this city of Washington has improved. However, I do not consider that passage of this bill closes the door to enactment of a better system. I look forward to the report of the Procurement Commission. If the system it recommends has merit, I am certain our committee will perceive that merit and act accordingly.

Mr. CHILES. Mr. President, I am glad to hear the comments of the distinguished Senator from Wisconsin as well as those of the distinguished Senator from Illinois on the bill. Certainly I know the strong feelings that the distinguished Chairman of the Appropriations Committee, the Senator from Arkansas, has as to the need for this legislation.

But I really feel the Senate is missing the point, because the comments Senators are making with regard to whether we are paying 4 percent or 5.5 percent for the services is not the point. That is not what we really should be concerned with, or even whether it is 6 or 7 percent. What we really need to be concerned with is how many taxpayers' dollars are going into the building, and what will be the lifetime cost of the building. That is what we need to be concerned about.

Yes, we have been getting bids at 4 percent, certainly. And look at every kind of project you know or hear anything about that the Government has built; look at the tremendous cost overruns, in comparison with what we estimated the cost would be. What was the FBI Building estimated to cost, and what is it ultimately going to cost? What was the Rayburn Building estimated to cost, in comparison with the actual cost, or the New Senate Office Building? We got the architect 10 years before we built the building, and we went ahead and built from that set of plans. That building is a monstrosity, and we cannot efficiently utilize the space and make anything out of it.

Yet we concern ourselves about whether the fee is going to be 4 percent or 5 percent. I say that is ridiculous, because it has nothing to do with what the overall costs are going to be, the millions and millions of dollars.

This is what the Procurement Commission was trying to concern itself with. They were actually going to exempt the 6-percent ceiling; they were willing to pay more for good services, because we would come out cheaper in the long run if we pay the architect and engineer more, if we got the best, if we were able to have competition, good design competition as to what would be the life cycle cost, competition as to how is the better way to do something, so that we would not build a building where there is an underground river, or run into some of these horrible things that Senators know we have done up here and have done in every State where we have tried to build some kind of a Federal building. That is the point here, and we are missing it entirely when we are talking about what a fee is going to be.

This is the kind of thing Congress ought to look at. We ought to adopt this amendment. It would give us 2 years to operate under this bill, 2 years in which to know that we are going to be able to take advantage of a study that we pay $7 million to get. We are going to wipe that out of the window without any hearings on the Senate side and pass this kind of measure. I do not see how, as a responsible legislative body, we can do that.

Mr. GURNEY. Mr. President, I would like to express my support of H.R. 12807, both as a cosponsor of a nearly identical Senate bill—S. 3156—and as one who is deeply concerned over the need to resolve questions which have arisen regarding the intent of Congress on the matter of Federal architect-engineer procurement. In my opinion, H.R. 12807 is needed in order to clarify the fact that Congress desires that architects and engineers be selected for Federal work primarily on the basis of their qualifications rather than on the basis of a price competition. Bidding is not the proper method for obtaining professional-technical services.

It has been suggested that this legislation is unnecessary or premature; that congressional action on this subject will void any recommendations on A–E procurement by the Commission on Government Procurement. That Commission, upon which I am privileged to serve, is studying procedures for architect-engineer selection and the Commission will be making recommendations pertinent to this subject in its final report.

The final report of the Procurement Commission will undoubtedly contain recommendations on methods of Government selection of architect and engineer services, together with recommendations on all other aspects of Government procurement. These recommendations will almost certainly include a call for a consolidated Federal procurement statute, superseding the many specific and uncoordinated procurement laws now existing.

Should Congress act on those recommendations, as I hope it will, and produce such a consolidated procurement statute, the legislation now before us would simply be one of hundreds of other procurement statutes superseded by that omnibus statute. In the meantime—and let us not hide from the fact that it may be a very lengthy meantime—I believe that Congress should clearly record its intent on the manner of selection of architect and engineer services, as provided by the measure (H.R. 12807) now before us.

It is important to note that the method of architect-engineer procurement delineated in H.R. 12807 is actually a codification of existing procedure. For all intents and purposes, this bill establishes that architect-engineer services will be selected and contracts negotiated, pending any changes made by Congress subsequent to final Procurement Commission recommendations, in exactly the same manner they have been for the past 30 or more years. The bill does not establish anything new; it does not create a new procedure; it creates no new agencies; it requires no expenditures of tax moneys. Plainly and simply, it says to the executive agencies, "continue what you have been doing so successfully for the past 30 years until we find something better."

Why, then it might be asked, is this bill necessary? Its need, frankly, stems from a report by the Comptroller General to the effect that architects and engineers are subject to competitive negotiation provisions of Federal procurement laws and, as such, must submit competitive price quotations as a part of any proposals.

This would be a reasonable and acceptable practice in most procurement situations. However, a serious question arises when we consider the nature of the product which architect and engineers firms contract to provide. There can be no detailed bid specifications telling architects and engineers how many yards of concrete, feet of sewer pipe, or number of lighting fixtures they are expected to design into a job. Indeed, specifications that detailed would obviate the need for professional design. Architect and engineer firms are simply invited to submit proposals to prepare plans for a fuel storage depot, or a veterans hospital, or a similar facility and each firm is left to determine how best this may be accomplished.

Because of this new General Accounting Office opinion that the law requires architect and engineer price competition, several agencies have felt obliged to revise their longstanding procurement methods to ask architects and engineers to include fee quotations with statements of qualifications. The architects and engineers fear involvement in a bidding situation which will compromise the quality of their work.

They are well aware of the need for arriving at fair and equitable fees and are more than willing to negotiate with the Federal Government to determine a price for their services which is in line with accepted practice and is competitive with their industry. They do not, however, want to be selected on the basis of who will do the work for less. They recognize that the Government is dealing with intangibles such as imagination and creativity, and therefore, it is always possible for someone, regardless of qualifications to come up with a lower price, usually accompanied by equally lower quality standards.

Ask any practicing architect or engineer or any Federal procurement officer, and he will tell you that competition based on professional-technical qualifications is every bit as hot and demanding as competition based on price, perhaps more so. A recent study performed under the direction of the GAO, published as "report on AE services cost survey," found that costs for these services are running well below the statutory maximum of 6 percent of total construction costs. At the same time, Federal procurement officers are selecting architects and engineers from a list of the best qualified professionals available, and the Government is thus receiving the best architect and engineer services.

In other words, we are getting the best designs at less than our own Federal dollar-limit established for such services. While we are debating huge cost overruns in hardware procurement, and are assisting defense industries to avoid bankruptcy, top quality architects and engineers have quietly been planning, designing, and specifying our Government facilities at an average fee which is below the maximum set by statute. There have been no scandalous charges of cost overruns by architects and engineers. I have yet to hear of an architect or engineer firm gouging the Government through excessive fees for design services.

As I see it, this is a pretty good record. It is one which other Federal contractors would do well to emulate. All that H.R. 12807 will do is assure that the methods and procedures which have contributed to this outstanding record are continued, pending possible revelation of any new developments or considerations which would seem to mandate a change in this procedure. I think we are already doing pretty well in this regard and I join the distinguished Senator from Arkansas in urging adoption of this bill.

As a member of the Government Procurement Commission, I do not see that this bill would do any injustice or harm or deviate at all from what the Commission is doing. If the Government Procurement Commission does come up with suggestions to be incorporated into law, Congress can do that. There is no question that the report and recommendations of the Government Procurement Commission, arrived at over a long period of time, are going to take a great deal of digesting by Congress and a long time to implement into law.

Obviously, we need this bill until that implementation takes effect. We do not know whether it is going to be next year, the year after, or 3 or 4 years down the road.

There is a need for this bill. The General Accounting Office has said so. They need clarification on the subject, and that, of course, is what the bill seeks.

I certainly hope that the Senate will act with dispatch and speed and process this bill, a excellent piece of legislation, which is due now—in fact, overdue.

Mr. BOGGS. Mr. President, I want to express my support for H.R. 12807—the Architects/Engineers bill. The purpose of this bill is to clarify the statutory language which supports the traditional way in which Government agencies have selected private architects and engineers to design our Federal facilities. The bill, by amending the Federal Property and Administrative Services Act, expressly declares it to be the policy of the Federal Government to negotiate contracts for such professional services on the basis of demonstrated competence and qualifications for the type of professional services required at a fair and reasonable price.

Mr. President, what this bill really means is that architects and engineers will be competitively screened, as to their qualifications to do the particular project, from a large number of firms which have filed the appropriate forms with the Government agency. This screening process will identify the most qualified professional team to assist the agency in carrying out its responsibility to design a Federal facility which will justly represent the taxpayer's investment.

An illustration of what I mean is the recently constructed Federal Building in Wilmington, the largest city in Delaware. Architecturally and structurally, I am sure, that building represents the very best that our taxpayers' dollars could have bought in providing the necessary office space for the Federal Government. Indeed, I have no doubt that the new building in Dover will likewise prove to be of equally fine caliber.

I have been involved in the beginnings of both of these buildings. They are perfect examples of just how well the procedures are working in producing worthwhile Federal structures.

An architect/engineer as the legal agent of the procuring agency also has a traditional position of trust to be maintained. All the architects and engineers I have come to know have recognized the fiduciary relationship to their client.

A change in the way the Federal Government procures A/E services from one of qualification and negotiation establishing mutual trust to one of bidding and selection on the basis of the lowest price makes no sense to me and is not in the public interest. To ask someone to do his very best job for you based upon mutual agreement is just not the same as asking someone to do that same job based upon the lowest price. You always receive what you pay for and the professional treatment of your agent is reciprocal, establishing a loyalty that cannot be equated to money.

The question should be asked: Will the Government save money by competitively bidding for these services? In my judgment it will cost more of the taxpayers money to introduce any sort of price competition at the selection stage. I have been told that price will not be the only consideration but will be one of several considerations. This process would open the whole process to legal judgment whenever the low bidder is not selected. The process would be wrought with judicial review and delay. Unnecessary time expended in the construction industry means money wasted.

But even more important, the whole fiduciary relationship comes under attack. I want our agencies to get the best effort available from its professional agents, not just a best effort for the price.

If an A/E does not give his best effort to advise his client of all the alternatives and assist him in making the proper decision, the first cost or more importantly the life cycle cost of the facility can more than eliminate any savings gained by competitive bidding if in fact there is a gain which in my judgment is questionable.

Again, let me reiterate my support for H.R. 12807 and encourage my colleagues to vote for this bill.

As has been stated, this bill is necessary to clarify the law and to let not only the Government but also individuals involved know where they stand under the law.

I also want to express my opposition to the amendment because I believe, as the distinguished chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN), has stated, it would prevent the passage of this bill at this time. I do not believe the amendment is necessary, even though I can understand the goal and objective of it. I believe that without this amendment, Congress, a year from now or 2 years from now, can take up this matter and review it in light of whatever recommendations or studies have been made.

Although the amendment is well intended, I do not think it is necessary at this time. I oppose the amendment.

Mr. CHILES. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I further announced that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 8, nays 44, as follows:

[No. 563 Leg.]

Yeas—8

Chiles
Ervin
Gambrell
Hughes
Mansfield
Nelson
Proxmire
Stevenson

Nays—44

Aiken
Allen
Anderson
Beall
Bellmon
Bennett
Bentsen
Boggs
Buckley
Burdick
Byrd, Robert C.
Church
Cooper
Dominick
Eastland
Fannin
Gravel
Gurney
Hansen
Hollings
Inouye
Jackson
Javits
Jordan, N.C.
Long
McClellan
Miller
Moss
Packwood
Pastore
Percy
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith
Stafford
Stennis
Stevens
Symington
Talmadge
Weicker
Williams

NOT VOTING—48

Allott
Baker
Bayh
Bible
Brock
Brooke
Byrd,
Harry F., Jr.
Cannon
Case
Cook
Cotton
Cranston
Curtis
Dole
Eagleton
Edwards
Fong
Fulbright
Goldwater
Griffin
Harris
Hart
Hartke
Hatfield
Hruska
Humphrey
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Mundt
Muskie
Pearson
Pell
Roth
Sparkman
Spong
Taft
Thurmond
Tower
Tunney
Young

So Mr. CHILES' amendment was rejected.

Mr. McCLELLAN. Third reading, Mr. President.

Mr. ERVIN. Mr. President——

The PRESIDIN GOFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I move that the bill be recommitted to the Government Operations Committee.

I do that for this reason. As chairman of the committee, I have been requested by the General Accounting Office and also by the Commission on Government Procurement to do what I could to prevent action on this bill at this time. I am not passing on the merits of it. I express no opinion on the merits or demerits of the bill.

However, I have the conviction that when two responsible agencies of the Federal Government ask that action not be taken on a bill at a particular time, some heed ought to be paid to their request.

This is particularly so because Congress passed a law establishing the Commission on Government Procurement and instructed that Commission, as an arm of the Congress, to study the whole question of Government procurement, including that of procuring professional services. Over $7 million has been spent on this study. And the Commission has informed me that their report will be ready in December.

It does seem to me that under these circumstances, since the architects and engineers have done without this bill since George Washington took his oath of office as first President of the United States, we might well wait until January. I thought it was my duty to make this motion to recommit, especially in view of the fact that the Congress enacted the bill which the Government Operations Committee itself processed that created the Commission to make this study.

For that reason it seems to me that this bill ought to be recommitted to the committee until that report can be filed. I express no opinion with reference to the merits or demerits of the bill. However, it would be very unwise for Congress to pass legislation over the protest of the Commission it appointed to study the specific question that the legislation relates to.

Mr. President, I move to recommit the bill and ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. GURNEY. Mr. President, I always hesitate to differ with my very distinguished chairman of the Government Operations Committee, the very able senior Senator from North Carolina. However, I serve on that Commission, and I have served on it for the entire life of that Commission, ever since its inception. And I have been at the meetings of the Commission when we discussed this very issue back and forth. And it is my own conviction that we ought to go ahead and pass this legislation because there will be a voluminous report by the Government Procurement Commission covering several volumes and there will be a multitude of things about procurement and every conceivable facet of procurement by the Government.

It is very obvious that the report, when received by Congress, is going to be split among various committees. It will be studied probably for some years before it will ever be acted upon in toto.

It seems to me that it would be far wiser for the Congress to go ahead and enact this bill which is needed, which has been asked for by the General Accounting Office, and which is resolving the area of procurement where we have dispute and uncertainty at the moment.

Now, there is no reason in the world after the Government Procurement Commission report comes out that Congress cannot look at it. If we want to revise this bill or revamp it and come up with some other conclusion, we can do so at that time. But in the meantime, it seems to me we need this bill as part of our procurement legislation. As I say again, as a member of the Government Procurement Commission who has served on it since its inception and as one who has been privy to the discussions on this very issue, that I think we should go ahead at this time and pass the legislation.

Mr. CHILES. Will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. CHILES. I understand that the General Accounting Office has requested that Congress needs to work in this area to do something. But the distinguished chairman of the Government Operations Committee received, a letter, did he not, from Mr. Staats, the Comptroller General of the United States, in which he said:

> Finally, we renew our recommendation that legislative action be postponed pending the Commission on Government Procurement report on the procurement of professional services which will be made in December of this year. Passage of H. R. 12807 at this time would deny to the Congress the benefits of the Commission's report.

Mr. ERVIN. Yes; I received a letter from the Comptroller General to that effect, and the Comptroller General, as everyone knows, is the arm of Congress and of the Senate, with authority to deal with matters of this kind.

Just in reply to what my good friend, the Senator from Florida, has to say, there is no necessity to postpone action on a bill of this nature until somebody has studied the entire report on Government procurement. All a committee would have to do is study that part of the report which deals with this specific question. The Chairman of the Government Procurement Commission has informed me there has been no definite conclusion reached in this matter. There has been a good deal of discussion about it. But the Commission has not completed the study and has not reached a firm decision on this point.

It seems to me that if we are going to treat the Commission on Government Procurement with the lack of consideration which action on this bill would imply, we might as well tell them not to file any report at all.

Mr. McCLELLAN. Mr. President, I only wish to make this observation. Passage of this bill will do nothing on earth to vitiate whatever that Commission may finally recommend. We pass a law requested by the Comptroller General 5 years ago, in which he asked Congress to act. Now we are ready to act, so why not act? The Commission report will come in. Everybody will consider it. I do not know which way they will report. They do not know themselves. Let us
The PRESIDING OFFICER. The Sen-
pass this bill and legalize by statute the practice being followed.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Indiana (Mr. HARTKE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) and the Senator from Kansas (Mr. DOLE) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 6, nays 50, as follows:

[No. 564 Leg.]

YEAS—6

Chiles
Ervin
Jordan, N.C.
Mansfield
Nelson
Proxmire

NAYS—50

Aiken
Allen
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Buckley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Cooper
Dominick
Eastland
Fannin
Gambrell
Gravel
Gurney
Hansen
Hollings
Hughes
Inouye
Jackson
Javits
Long
Mathias
McClellan
Miller
Moss
Packwood
Pastore
Percy
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Weicker
Williams

NOT VOTING—44

Allott
Baker
Bible
Brock
Brooke
Case
Cook
Cotton
Cranston
Curtis
Dole
Eagleton
Edwards
Fong
Fulbright
Goldwater
Griffin
Harris
Hart
Hartke
Hatfield
Hruska
Humphrey
Jordan, Idaho
Kennedy
Magnuson
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Mundt
Muskie
Pearson
Pell
Roth
Sparkman
Spong
Taft
Thurmond
Tower
Tunney
Young

So the motion to recommit was rejected.

Mr. BENTSEN. I wish to announce my support for this legislation, H.R. 12807, which is urgently needed to insure that the Federal Government will continue to avail itself of the highest caliber architectural and engineering services so necessary to the efficient and economical execution of our Federal construction programs.

Annually we appropriate billions of dollars for Federal construction and the Federal agencies award construction contracts to the lowest responsive bidder on estimates based on the plans and specifications developed by the architect and engineer during the design stage. Quite obviously, it is to the advantage of the Government and the taxpayer to acquire the highest qualified services at this stage, for these services will be translated into the most efficient buildings and facilities costing less to construct and maintain. Considering the billions of dollars the Government will invest in construction during the decades ahead, I think it is only wise for us to make certain that we insist on getting the highest quality of services for the funds expended. Why attempt to save money in the short run by settling for second-rate services when the results of inferior quality are more costly in the long run?

It is important to keep in mind, during the course of our debate today, and in discussing architectural and engineering services, we are talking about professions which present very unique considerations as far as procurement is concerned. It is my understanding that many of our State and local governments have recognized this fact and exempted architectural and engineering services from price competition. These States, like virtually all of the A–E's private and industrial clients, recognize the complexity and nature of these services. I know that my own State of Texas has such a statute. The Texas Legislature, in its wisdom, realized that architectural and engineering services do not end at the drafting board, but rather they are the first and most critical step in the construction process.

Mr. President, I make this point because there will be those who will argue that we will be setting a very dangerous precedent by the enactment of this legislation. In response, let me only point out that it can hardly be a matter of precedence when we legislatively ratify a procedure that has been practiced for over 30 years; and second, that we recognize the very unique nature of the services involved in this legislation. I for one would certainly not condone this selection process in other areas of procurement where competitive bidding is so practical and necessary, and I do not see how a vote for this bill can be construed as setting precedence in these other areas. All we are doing in this legislation is recognizing that direct price competition will not secure the highest qualified professional services which are so crucial in insuring an efficient and economical facility. This must be our primary consideration if we are truly interested in a facility of high functional and esthetic value which has a reasonably low construction and maintenance cost. These benefits will simply not accrue if we do not demand the highest caliber of professional workmanship in the planning and design stages.

The traditional procedures for procuring architectural and engineering services, which have evolved over the course of the past years, are a proven success and have been adopted by Federal, State, and local governments as well as industry. I cannot understand why changes should be made to a proven system.

There are many complexities in this issue and I do not profess to fully understand them all, but I do know that it is a proven time-tested procedure and in my opinion it would be unwise to tamper with success. It is for these reasons that I urge passage of this legislation in its present form.

Mr. RANDOLPH. Mr. President, we are all aware of the contribution of American architects and engineers to our physical well-being and to our environment. In the public works field, architects, and engineers are responsible for the designs of our Nation's highways, airports, dams, bridges, tunnels, mass transit facilities, and dozens of similar projects. In view of the vast sums of tax dollars appropriated annually for the design and construction of such projects, it behooves the Congress and the executive branch to strive to obtain the best professional services at the most reasonable cost to the taxpayer.

I do not suggest that the Government should try to find the lowest A–E bidder and sign a contract. On the contrary, I am of the school that holds that a bargain is that which is excellent, not that which is cheap. The intent of this bill is to assure excellence in the quality of Federal designs. This should, in the long run, mean that we get better structures at lower construction costs and these structures will be designed in a manner that will permit their being maintained and operated economically and efficiently.

Ask 10 A–E firms to bid on the design of a particular facility and many agencies will take the easy way out and select the low bidder. Under such circumstances, we may end up with a technically capable architect or engineer, but one who, for lack of experience or because of a desire to stay within his bid, reduces the time spent on field surveys, or in the preparation of detailed drawings, or in providing inspection services. As a result, the Government may have saved itself a half of 1 percent on the design fee while adding 5 to 10 percent to the cost of construction, operation or maintenance.

The procedures for selecting architects and engineers, as stipulated in H.R. 12807, are sound. They have worked exceptionally well over the years. They begin with the widest competition possible. All interested A–E firms are invited to submit qualifications, experience résumés, and other data, indicating their competence to perform the work. From this information, a listing of potential A–E contractors is developed. This listing is then narrowed down to those firms which are most qualified, after which contracting offices may call in several firms for interviews to discuss particular approaches or to explain details which were impossible to cover in written requests for proposals.

Eventually this listing is further reduced to the three most qualified firms—the firms best suited to undertake the particular project. Because public works vary—both in scope and in what it is that is being built—the qualified firms vary. When the most qualified for a particular job is at last determined, its officers are invited in for detailed negotiations. This may take 1, 2, or even 3 days and, eventually, after reaching agreement on such finite details as depth-of-soils tests, number of progress reviews, and who will supervise the work, the A–E's and the Government contracting officials begin negotiations on a fee for the work which is fair and equitable both to the Government and to the A–E.

If they cannot reach an agreement, the second best firm is called in and the process starts all over again.

This system assures selection of the most skilled and responsible members of the architectural and engineering professions. Under this arrangement, architects and engineers find no need to compromise the quality of their designs or the level of effort which they will contribute to them in order to meet lower fee quotations of others.

More importantly, this system has proved to be one which protects the taxpayers for it involves two competitions. The first is a competition based upon quality of performance. The second is a competition to assure performance of the work within a cost estimate previously determined by competent, experienced, Federal contracting officers. The A–E must demonstrate on the basis of projected cost that his fee is fair and reasonable, and he must accept whatever adjustment the Government demands if he wishes to obtain the contract. He knows that if he holds out for an unreasonable fee, the Government will terminate negotiations and will call in the next most qualified firm.

Another important consideration in the selection of A–E firms, is their ability to meet design schedules to enable the timely award of construction contracts. Factors such as their current workload and the professional and technical manpower which a firm can commit are taken into consideration by the contracting agency in selecting the firm. As chairman of the Committee on Public Works, I have witnessed inflation in the construction industry reach an annual rate of 12 percent. In this atmosphere, the ability of the A–E firm to meet design schedules is crucial. Failure to do so will result in construction delays at a cost to the taxpayer approaching 1 percent a month caused by inflation. As you can see, it would not take many months for the inflationary effect to overcome the small percentage paid to the A–E for his services.

I have personally been pleased to note that traditional procurement methods have not excluded the new or small firms from engaging in Federal work. It has been suggested by some that selection of A–E firms solely on the basis of which is most qualified to perform the work will restrict contract awards to only large, well-established firms and will eliminate the small young A–E's from consideration. A look at the record proves the exact opposite. A General Accounting Office summary of the top 20, 1971, A–E contracts in each of four Federal agencies—Department of Defense, General Services Administration, National Aeronautics and Space Administration, and Corps of Engineers—shows only four A–E firms on more than one list and, of the 60 identifiable A–E firms on the four lists, 25 are so small they grossed less than $1 million in receipts in 1971. In fact, at least five firms on the four lists of top-dollar A–E contractors have less than 25 employees and two have less than four.

There seems to be little question but what the executive agencies are awarding contracts to A–E firms based upon their qualifications and without regard to their size of ability to submit grandiose proposals. The fact is that little firms—in fact, very small firms—are getting their fair share of Federal work, which is, after all, what the Congress, the agencies, and the professions have been saying all along and what this legislation seeks to preserve.

Until some better procedure is advanced, the present method of architect-engineer selection and negotiation is proving itself in terms of performance and I am happy to express my support of this bill which is intended solely to codify that procedure and to eliminate any further confusion regarding it.

PERSONAL TAX EXEMPTIONS FOR CERTAIN AMERICAN SAMOANS

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to H.R. 1467 and request a conference with House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to, and the Chair appoints——

Mr. JAVITS. Mr. President, may we know what the bill is? Senators get up and mention numbers.

Mr. LONG. That is the tax treatment bill for American Samoans.

Mr. JAVITS. That is fine. May I suggest to the leadership that instead of compelling one of us to raise any question, it be the standard rule that when a bill number is mentioned, the bill be described?

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 1467) to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to ask for a conference and appoint conferees. Without objection, the motion is agreed to——

Mr. NELSON. Mr. President, may I ask a question? Was it one of these amendments or bills that was discussed in the colloquy between the chairman of the committee and the Senator from Florida (Mr. CHILES) yesterday?

Mr. LONG. No.

Mr. MANSFIELD. That bill was on the calendar.

Mr. LONG. In the colloquy I discussed 13 legislative proposals we will have a chance to vote on today, if the Senate will let us vote on them, which I put in the RECORD. This is not one of the 13.

Mr. NELSON. Will the distinguished chairman of the committee answer another question? The Senator from Iowa (Mr. MILLER) had an amendment to that bill. Is that correct?

Mr. LONG. He offered an amendment, and it was agreed to.

Mr. NELSON. What were the provisions of that amendment?

Mr. LONG. It deals with the minimum tax. I might say that the Senator from Iowa (Mr. MILLER) is here. I would like him to explain the amendment. It is rather technical. It deals with the minimum tax and also deals with the effective date. It is limited to a very closely prescribed situation, as I understand it.

Mr. MILLER. Mr. President, if I could have the attention of the Senator from Wisconsin, the House on June 24, 1971, adopted an amendment to the minimum tax and made it retroactive. They adopted this amendment for the purpose of closing a gap in the definition of "tax purposes" for the minimum tax. This again actually originated in the House when the House defined "tax purposes." The Senate Finance Committee used the same definition. The same definition was used in my minimum tax amendment, which, the Senator may recall, was adopted on the floor.

The difficulty with the retroactive situation was that there were apparently a few bona fide operations which were in existence long before the Tax Reform Act of 1969, if they have their principal place of business in a territory or in a foreign country, and if they are doing a substantial amount of business; and our best information was that the House did not intend, in its definition of tax purposes, to do anything about them. Unfortunately, their retroactive amendment did so.

All this does is to make sure that the retroactive application of this House measure does not affect bona fide operations, and bona fide operations are defined in the amendment which—for the purposes of legislative history which I stated on the Senate floor last night—as coordinated with the Treasury Department, provides these definitions.

We are advised by the Treasury Department that there is no objection to this amendment, that it will have a negligible impact on revenue, and that they will administer it according to the bona fide definition.

Mr. LONG. Mr. President, I have just discovered, to my dismay, that the Congressional Record of last night, because of the late hours of the Senate, did not include all of the Senate's business. Senators will note that in the Daily Digest there is a statement that the American Samoan bill was passed. I only learned while this bill was pending that the Senate Record does not go through to present the letter which the Treasury sent to us.

Mr. NELSON. There is a second edition. It is in two parts.

Mr. LONG. I thought that I had put in the Record last night the letter from the Treasury.

Mr. MANSFIELD. One is Thursday and one is Friday.

Mr. LONG. I did offer for the Record last night the letter from the Treasury stating there is no objection to the amendment offered by the Senator from Iowa (Mr. Miller) as modified. The Senator had made a previous proposal about which the Treasury felt some concern. They did not object to the amendment limited to the type of situation to which the Senator wanted it to apply. They feared that it might be abused.

So the amendment was modified to satisfy the Treasury, and I offered the letter, at least, for the Record.

I am informed that it will be in the second part of the Record for yesterday, which is not yet on Senators' desks. All I am seeking to do at the moment is to obtain the appointment of conferees, so that we can talk about the amendment.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes.

Mr. NELSON. All I was trying to get clear in my mind was whether or not this bill, which was offered as an amendment to the bill that was considered last night, was a part of that group of bills that were taken up in the Committee on Finance and discussed in a colloquy between the chairman and the Senator from Florida.

Mr. LONG. No, it is not. Those measures will also apparently appear in the second section of yesterday's Record, because I wanted the Senate to know about them. That is just something beyond our control, when we overload the printer. I tried to get before us a record, which I thought was there. I understand the problem in these closing days, when we meet until midnight; by 9 o'clock the next morning he is not able to give us a record of everything that transpired.

It should be here later in the day, and I hope those matters will be in the Record, so Senators can look at them. I am sure the Senator is familiar with those proposals, because I believe he was in the Finance Committee meeting where we discussed them and voted on most of them.

Mr. NELSON. Yes, except there were some that were complicated, so I wanted a chance to study them before I took a position here on the floor of the Senate.

Are the committee reports here on the bills that were discussed by the Senator from Louisiana and the Senator from Florida yesterday?

Mr. LONG. We had hoped that the House was going to send us 12 bills that are on the House Calendar, and then we hoped that we would be able to report those 12 bills from the Finance Committee with a committee report, and each one containing at least one amendment, some containing two.

We are not going to be able to do that, because the House is not going to pass those 12 bills. That leaves us no alternative but to call up the one remaining tax bill which remains, H.R. 7577. It is not on the calendar yet, but the Finance Committee agreed to report it, and as soon as the committee report can be made available to the Senate we will report it. Then we will offer each Senator the opportunity to offer, if he cares to do so, any of those 13 amendments which I placed in the Record yesterday and made available to Senators and to the press, and then the Senate can work its will and do whatever it wants to do about it. At that point we will ask for a conference with the House.

Please understand that I do not arrogate to myself, as I do not think any Senator should try to arrogate to himself, the right to exclude anyone from having the opportunity to offer an amendment on that bill. If a Senator has something about which he is concerned, as do the Senator from California (Mr. Tunney) and the senior Senator from California (Mr. Cranston), I would cheerfully admit that they are right to offer their amendments and let the Senate vote however it wants to on them. At this late stage in the game, I am sure the Senator will understand that on any amendment that is offered, if the House says, "No, we are not going to be able to have any long conference to insist on it," we will have to take the House's bill in short order.

But I do think we ought to offer Senators the opportunity, particularly with respect to matters they have been thinking about and discussing for some time, to offer their tax measures, be they something to increase taxes or something to reduce taxes, on this bill. And I hope that we can send the President those measures that the Senate can agree to more or less unanimously without any serious objection.

Mr. NELSON. Respecting the 12 or so bills in the Finance Committee, there are three or four of them, anyway, that have some complicated detail in them that is not clear to me, and I am not sure that I would support them. My question is, Will there be committee reports on each of those before us, so that we can review them before there is any debate and vote on them?

Mr. LONG. It is my understanding that our staff has prepared a full written explanation of each of those legislative proposals, which we will be happy to make available to the Senate. At this point, assuming that we are going to adjourn tonight, I do not believe we will be able to go to the printer and get it printed and get it back, but we can use a Xerox machine and give the Senate as many copies as it wants of the same language. It is just that when you are acting on the last day of the session—and we hope this will be the last day—you are not able to bring something in in the nice, fine, polished paper and the print that you would like, when you are legislating on the last day.

We can make available to every Senator who wishes what the committee report would say if we had the opportunity to lay it on the table and vote on it in the normal course.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MANSFIELD. I think I should say that I was on the floor yesterday when the chairman of the committee sent to the desk 13 amendments which he thought might or might not be brought up today because there was no time for action in the committee, evidently, and the purpose, as I recall, was to have these printed in the Record so that Senators would be able to look at them and study them today.

Unfortunately, and despite the chairman's good intentions, half of the Record has not been printed because we were in session too late last night. But the intention was to give Senators who were interested, and those are many interested, some information as to what these amendments, proposed or otherwise, look like, and in that way the amendments were prepared ahead of time, so that nothing would be pulled on them in a shotgun fashion.

The question now is on a bill which was on the calendar, I believe, since Wednesday and is not included among the 12 or 13 which the distinguished Senator from Florida raised in a colloquy with the distinguished chairman of the committee last evening.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. Were hearings held on these 13 bills—not the one that is up now?

Mr. LONG. No. They were discussed in executive session. We are aware of the Treasury position with regard to those measures. These are not the kinds of bills on which we usually hold hearings. Generally speaking, they are small revenue measures, and they do not involve a large amount of money. They involve possibly a half million dollars. So far as I know, none of them involves more than that.

There is one amendment involving a carry-forward and carry-back proposal, with regard to which we are informed there is no long-term Treasury loss. I would assume, with regard to that item, that there would be a short-term Treasury loss which would be offset by the long-run effect. I do not know what the short-term impact of that bill would be. I know that the Treasury informs us that there is no long-term effect of it.

Mr. PROXMIRE. In view of the fact

that it is a policy of the committee not to hold hearings on these minor bills and that no report will be made available——

Mr. LONG. We will make available to the Senator, if he would like to have it, everything the report would say if we had a committee report, and answer any question he wishes to ask about it. So far as I am concerned, I would like to provide any information the Senator would desire. The only measure that involves more than a half million dollars is one I voted against. I was inclined to vote against it because it lacked any further information. We will make it available to the Senator when we call it up.

Mr. MANSFIELD. I have just received word that contact has been made with the Printer, and the second part of the Record will not be ready until tomorrow.

At this time, I want to issue a very strong request—as strong as I can make it—to the Printer to get the second part of yesterday's Record up today, and as early as possible.

Mr. PROXMIRE. We will not have a report. There were no hearings, for perhaps good reasons. But is there any reason why we should not consider these bills next year, in an orderly way, when we can have our staff check it? Here it is Saturday, and I do not have a staff member here. It is their day off. It is hard to come in with a stack of new bills and determine whether we should vote for or against them.

Mr. LONG. So far as the Senator from Louisiana is concerned, it is purely up to the Senate. The Senate can do whatever it wishes. Of all the measures we are talking about, not one has the least bit of interest to the Senator from Louisiana, but they are of concern to other Senators.

So far as this Senator is concerned, I am willing to stay here for another week and consider anything that would be unfinished business when we go home. But the House is planning to adjourn, and the Senate does have some unfinished business which I think should be concluded.

With regard to the 13 items I have mentioned, I have no doubt that 8 of them could pass by unanimous consent. As a matter of fact, there is another one that the Senator from Vermont wants to offer. It has to do with istle. I do not know what istle is, but they have an item about istle. He has an amendment that I think could be adopted unanimously. Ask the Senator from Vermont whether he is willing to wait until next year.

Mr. MANSFIELD. Mr. President, I wonder whether we could have a vote on the pending bill, so that the distinguished chairman of the committee can go to a conference, and then take up this matter again.

Mr. DOMINICK. Mr. President, before we do that, could I ask one question of the chairman?

Is this bill out of the Finance Committee a tax bill or a tariff bill? If it is a tariff bill, I am going to have an amendment, myself.

Mr. LONG. This is a tax bill, but I do believe we have a tariff bill on the calendar.

I have tried to see that the calendar was not stripped of every tax bill, because if we did that, it would mean that at that point the Senate would be foreclosed from acting on anything like what the Senator has in mind, even though it might meet with unanimous approval of the Senate and nobody in the Press Gallery or anybody else could conceive of any reason why it should not pass and it would have the support of the Treasury and everybody else, but could not be acted upon. I have tried to leave a bill available so that Senators could offer a proposal. I do not know what the proposal is, but if nobody has any reason why it should not be passed——

Mr. MANSFIELD. Could we pass this bill?

The chair appointed the following conferees on the part of the Senate: Mr. Long, Mr. Anderson, and Mr. Bennett.

H.R. 12807—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time, and passed.

PERSONAL TAX EXEMPTION FOR CERTAIN AMERICAN SAMOANS

Mr. MANSFIELD. Now, Mr. President, the colloquy can be resumed.

Mr. JAVITS. Mr. President, I should like to ask a question of the Senator from Louisiana.

As I understand it there will be a bill; the Senator will have it on the floor; and any of us who have amendments agreed to by the Government department concerned and the Treasury will have a reasonable opportunity to have them favorably considered.

Mr. LONG. That will be the Senator's only chance. For example, the Senator from California (Mr. Tunney) has a proposal that he wants to make.

Mr. JAVITS. I have one also.

Mr. LONG. Mr. Church has a proposal that has to do with writers donating their manuscripts to the Library of Congress. Mr. Aiken also has a proposal. If we do not know of any good reason why they should not be voted on, we will vote.

I regret that we have not had the opportunity for a dozen bills on which Senators could make their proposals. That is not within our province.

Mr. JAVITS. I think it is a very fair arrangement. I have a proposal that relates to qualifying certain types of housing projects.

Mr. PROXMIRE. If these bills come up without reports, without hearings, if they say they are minor bills but affect taxes, I am just going to talk and talk and talk—Monday, Tuesday, and Wednesday. Any Member can do that, and I am going to do that.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. TUNNEY. I would hope the Senator would not talk and talk and talk if a bill has gone through the departments and has favorable reports from every department, a bill which should come before the Senate and which we hoped to take up several weeks ago, but because of the revenue sharing bill and H.R. 1, we were not able to do so.

I have an amendment which has been cleared by all the departments. There is no objection to it whatever. It relates to wine. It relates to the carbon dioxide content in wine. It is going to improve the quality of wine, as a matter of fact.

Mr. PROXMIRE. You cannot improve the quality of California wine.

Mr. TUNNEY. I would agree that it is very difficult; but the fact is that in wines of low alcohol content, an increase in the amount of natural carbon dioxide which is allowed to be retained by law would improve the taste and color of those wines and in addition prevent it from spoiling as swiftly from the presence of oxygen.

I would hope the Senator would not make a general fiat that he is going to talk against all these small amendments that are coming up because they do not relate to his State or his province or his interest.

Mr. PROXMIRE. That is not the reason. This is Saturday. We all hope to adjourn. We do not have a staff available to analyze these bills. We are not in a position to make a serious judgment on them.

The Senator may be correct. He is enormously persuasive. He may be right. Much as I respect the President and much as I respect the agencies downtown, our function is to make our own judgments.

Mr. TUNNEY. That proposal has been introduced in the House and has been in the Finance Committee. The Senator from Louisiana (Mr. Long), the chairman of the committee, and the staff, have had the opportunity to look at it, so that I am sure the Committee would find it acceptable. Just look at the proposal and at the reports and at the reasons I have mentioned, and the Senator could not possibly say that this is a proposal that should not go through the Senate today.

Mr. LONG. Well, Senator, standing right beside me is the best tax expert available to us here and as soon as we have disposed of the debt limit bill in conference, I will be happy to make him available to the Senator. I say with confidence that the Senator does not have anyone on his staff who would be better able to understand this measure than Mr. Woodworth standing beside me right here. He will be glad to explain everything to the Senator.

The way I like to legislate is where we do business by unanimous consent so that everything that goes through is something that we want, and nothing goes through if it is something that we do not want. The Senator can do it on his own terms, of course, and if he does not like anything he can object. The Senator from Wisconsin has always been a reasonable man. He has never been arbitrary. He is fairminded. I would think that with regard to these matters, I will be happy to make our tax expert available to him on precisely every one of the items the Senator is interested in. We are satisfied that they should become law and when the Treasury is satisfied that they should become law, no one knows of any objection to them. The Senator is a fairminded person and I know that he will not refuse the right of the Senate unanimously to vote on something where everyone can agree it is a good bill. If the Senator has any doubt about a bill, I would concede his ability to prevent it from passing, and I respect the Senator for that. I have sat here when the Senator talked for 24 hours plus, when he spoke that long. He has the power to kill any bill of a revenue nature that we are talking about which has not yet passed the Senate. He could probably kill all those that have passed, if he wanted to. So I would plead with him to give Senators the same consideration if he were in their position. I will make available to the Senator the best tax expert we have on the committee.

Mr. CHILES. Mr. President, as I understand it, in spite of the fact that we do not have any printing—and that is not the fault of the distinguished chairman of the committee—he is going to make available to us in some form, whether mimeographed or not—Xeroxed, I believe—a list of the 13 bills because these are not in the RECORD and we will need a list of the things and what they do. All I want to find out is what they do, how much money they will cost, and whom they benefit, and then I can make up my mind whether I want to vote for them or not. That is one thing I would like to be able to get. I think the Senate is entitled to that, and then we can work our will.

Mr. LONG. By all means, I want the Senator to have it and we will make it available. I am sorry that the printer did not accommodate those of us who are concerned about this matter by having this on Senators' desks this morning. However, I thought it was there.

Mr. CHILES. One of the bills has gone to conference. We have completed that, but I do not know, now, who would benefit, or how much it would cost, and I would like to know that before the conference report comes back. I heard about the bona fide corporations and I heard about this definition and that definition—long term, short term, and so forth.

Mr. LONG. It benefits the State of West Virginia—who else, I do not know. West Virginia has a tax on automobiles which is a problem with that State. Who else, I could not tell the Senator except for Samoa.

Mr. CHILES. There was something about the minimum tax, was there not?

Mr. LONG. I have no idea. I did not ask. I do not have any idea. The Senator from Iowa offered the amendment. Maybe the Senator could find out what he wants to know from him, as to who the beneficiaries might be. I personally did not ask and would prefer not to. Just let us vote on the merits of the proposition and treat everyone alike. I would not want to be prejudiced by it.

Mr. NELSON. I am on the Finance Committee and I realize that the chairman has been busy and in conference. I have been trying for 3 days to find out, and to get a summary of the bills. I know that Mr. Woodworth, one of the ablest men in this Congress, and other members of the Finance Committee staff, have been tied up every single day on pending legislation. I asked for a summary 3 days ago, as a member of the committee. But they have been so busy that I still do not have the summary. I do not have a list of the bills. They are not here yet. I want a list of the bills—there are three or four of them that I want to be sure are carefully examined. I think I may oppose them but I do not know because I cannot get the bills to read them.

Mr. LONG. If it was within my power to compel the Senator's attendance at the committee meetings, he would know.

Mr. NELSON. I was at the committee meetings. The Finance Committee was passing on the bills. They were complicated, and he was trying to do so in 5 minutes, the day before yesterday. I asked the staff, Senator, for a summary, as a member of the Finance Committee, and I have not got that list yet. I was there, but I could not understand the explanations, and I do not know whether any other members of the committee understood them. I have been asking for the bills that they were explaining from prepared text. I was told that the staff would furnish it. So do not give me that. Just give me a list of the bills and a summary. That is all I am asking for.

Mr. LONG. It was put in the RECORD. I will be happy to provide it for the Senator. So far as I know, we have not yet voted on the bills or amendments. Perhaps someone protested that he wanted more time to study something on a particular subject.

Mr. NELSON. I said I wanted more time. On the airlines, I wanted to understand that one. The Senator said I was not there. I was there. I asked for a summary 3 days ago. All I want is a list of bills and I do not want any reflections on whether I was present or not.

Mr. LONG. I recall the Senator was there part of the time, but I do not recall whether he was there all the time or not. But if the Senator was there—frankly, I had to step out myself for a few minutes while the meeting was going on, but everyone who wanted to offer an amendment explained it, and every question was answered that was asked about it, so far as I can recall. I do not recall of any question that was asked that was not answered to the best of the ability of those present to answer them.

I did put a summary in the RECORD. It is there. So far as I am concerned, Senator, just do whatever you want to do about it. Let your conscience be your guide. I am only trying to accommodate other people. I would think, if the Senator had one of those 13 measures, or even 1, such as the Senator from Vermont wants to offer, that he would be asking people to take time to consider the proposition; and, as I understand it, that is all the Senator is asking.

Mr. NELSON. That is all I am asking. That is all. As a member of the committee, that is what I have asked for for 3 solid days.

Mr. LONG. The Senator will have it. I urge the Senator to be here because we will provide it to him.

Mr. HUGHES. When?

Mr. MANSFIELD. Mr. President, first, may I say—is the Senator from Florida here? Anyway, if I may have the attention of the Senate, I should like, if those who have amendments to offer to tariff bills, to take up the two carillon bills some time this morning and, later, for those who have amendments, to take up H.R. 640, which is also a tariff bill.

And in that way those who have indicated to the respective legislative committees that they are interested in these bills would have as much opportunity on this one and the other two could be cleared out of the way because they are of minor significance.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, that does not include tax items?

Mr. MANSFIELD. We have no tax bills. There are three tariff bills.

Mr. JAVITS. The Senator from Louisiana said that he would report one.

Mr. MANSFIELD. The Senator is correct.

Mr. JAVITS. So, the Senator would prefer that we have the tax items on the tax bills rather than on these.

Mr. MANSFIELD. I would not care.

Mr. JAVITS. I wonder if the chairman of the committee minds.

Mr. MANSFIELD. Mr. President, I could ask the chairman of the Finance Committee. I indicated that I would like to take up two carillon measures and that if anyone had an amendment, he could offer it to H.R. 2640, which is also a carillon bill. The Senator from New York raised a question about a tax bill being reported out. My answer was that none of these three were tax bills. And the Senator from New York said that you were going to report out a tax bill.

Mr. JAVITS. And that the Senator from Louisiana said that he would prefer to have us do it on a tax bill.

Mr. LONG. I believe that we will have a tax bill and a tariff bill. I prefer that Senators offer tax amendments on tax bills and tariff amendments on tariff bills.

H.R. 12807—ARCHITECTURAL AND ENGINEERING SERVICES

Mr. BEALL. Mr. President, I ask unanimous consent to have a statement by the distinguished Senator from Tennessee printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR BROCK

I am delighted with the Senate passage of H.R. 12807 which gives the Federal Government authority to negotiate contracts for architectural and engineering services on the basis of competence and qualification and not on the basis of the lowest bid.

This method of procurement will better assure high quality design, economical construction and maintenance, and facilities designed to "protect the health, safety and welfare of the American public" as obligated by the code of ethics of professional engineers.

The cost of intangibles such as imagination, technical skill, creativity, innovation and attention to details cannot be compared on a price basis.

H.R. 12807 does include a requirement which limits the cost of these services to no more than 6% of the construction cost of the project. It is realistic and sound legislation.

I was a cosponsor of the Senate version of this bill. I was also a sponsor of the 1970 House bill which died in the Senate when it was reported out of Committee too late to be considered before adjournment of the 91st Congress. So, I am doubly pleased with the Senate's action in passing H.R. 12807 during the closing days of the 92d Congress.

Mr. AIKEN. Mr. President, I have had for a long time an amendment extending for 3 years the suspension of the duty on istle fibers. That is a material that does not come into competition with anything in this country so far as I know.

It is practically all imported from Mexico and has been excluded from duty for 15 years. And the House Ways and Means committee has approved a companion bill for this suspension. They may vote on it late today, I understand. That means that it will not get here in time for any action on that bill by the Senate.

Our only recourse seems to be to include it as an amendment to the pending measure.

The Tariff Commission reported on August 8 that it has no objection to it. It has also been approved by the State Department and the Commerce Department. While it is not a major industrial item, its use does provide some business in this country for quite a few people.

Mr. MANSFIELD. Mr. President, before I ask that the Senate go into executive session, may I say that from what I have heard about the Tunney amendment and the Aiken amendment, it seems to me that they are of a nature which should be given consideration. And I hope that consideration will be forthcoming.

Mr. AIKEN. Mr. President, I would have submitted this to be printed except that up to now I had no idea what bill to offer it to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

RAILROAD RETIREMENT BOARD

The legislative clerk read the nomination of James L. Cowen, of Illinois, to be a member of the Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

PUBLIC HEALTH SERVICE

The legislative clerk proceeded to read sundry nominations in the Public Health Service.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc.

FEDERAL METAL AND NONMETAL MINE SAFETY BOARD OF REVIEW

The legislative clerk read the nomination of Peter J. Bensoni, of Minnesota, to be a member of the Federal Metal and Nonmetal Mine Safety Board of Review.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

ACTION

The legislative clerk read the nomination of Charles W. Ervin, of California, to be an Associate Director of ACTION.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the calendar, beginning with Calendar Order No. 1233 and up to and including Calendar Order No. 1241.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF CERTAIN RESTRICTIONS ON ACQUISITION OF LANDS FOR RECREATIONAL DEVELOPMENT AND PROTECTION OF NATURAL RESOURCES AT FISH AND WILDLIFE AREAS

The bill (H.R. 10384) to release certain restrictions on the acquisition of lands for recreational development and for the protection of natural resources at fish and wildlife areas administered by the Secretary of the Interior was considered, ordered to a third reading, read the third time, and passed.

INTERNATIONAL CENTER FOR SITES FOR CHANCERIES FOR FOREIGN EMBASSIES

The bill (S. 4039) to amend Public Law 90–553 concerning an international center for sites for chanceries for foreign embassies was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 6 of Public Law 90–553 (82 Stat. 958) is hereby amended to read as follows:

"There is hereby authorized to be appropriated without fiscal year limitation, not to exceed $2,200,000 to carry out the purposes of section 5 of this Act: *Provided,* That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from proceeds of the sale or lease of property to foreign governments and international organizations as provided for in the first section of this Act."

AUTHORIZATION FOR MEMBERS OF THE ARMED FORCES WHO ARE IN MISSING STATUS TO ACCUMULATE LEAVE WITHOUT LIMITATION

The Senate proceeded to consider the bill (H.R. 14911) to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes which had been reported from the Committee on Armed Services with an amendment on page 2, line 11, after the word "title", strike out "37." and insert "37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37."

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add the following new sections:

SEC. 4. Chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows:

§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence

"(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) The Deputy Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

"(c) The Deputy Secretaries take precedence in the Department of Defense immediately after the Secretary."

(2) Section 135(c) and 136(e) are each amended by striking out "Deputy Secretary" and inserting in place thereof "Deputy Secretaries".

(33) The item in the analysis relating to section 134 is amended to read as follows:

"134. Deputy Secretaries of Defense: appointment; powers and duties; preçedence."

SEC. 5. Section 171(a)(2) of title 10, United States Code, is amended by striking out "the" and inserting in place thereof "a".

SEC. 6. Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretaries of Defense (2)."

SEC. 7. Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended to read as follows:

"(c) Notwithstanding section 133(d) of title 10, United States Code, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).".

Amend the title so as to read: "An Act to amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes."

Amend section 3 of the bill to read as follows:

SEC. 3. The first and second sections of this Act become effective as of February 28, 1961.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment is identical to Calendar Order No. 1238, which is on the Consent Calendar, a bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Normally it would be called up in a few moments. The reason I am offering this as an amendment to H.R. 14911 is to facilitate the parliamentary situation in the House.

Mr. MANSFIELD. Mr. President, I had no idea that this would be done. I knew an amendment was going to be offered. However, I ask unanimous consent that the bill be withdrawn temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, there is nothing wrong with it. However, some questions will be asked and we will need a little more time.

DISTRICT OF COLUMBIA TEACHERS' SALARY ACT AMENDMENTS OF 1972

The bill (H.R. 15965) to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 3237), a bill to authorize an additional Deputy Secretary of Defense, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Mr. President, over.

The PRESIDING OFFICER. The bill will be passed over.

NORTH CAROLINA-VIRGINIA BOUNDARY

The joint resolution (H.J. Res. 912) granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary was considered, ordered to a third reading, read the third time, and passed.

PROVIDING FOR FREE ENTRY OF A CARILLON FOR USE OF THE UNIVERSITY OF CALIFORNIA

The bill (H.R. 4678) to provide for the free entry of a carillon for the use of the University of California at Santa Barbara was announced as next in order.

Mr. MANSFIELD. Mr. President, I would like to take up this bill. However, if anyone raises objection, there will be no sweat in passing it over.

Mr. BEALL. Mr. President, reserving the right to object, this is not a bill to which one could attach tax amendments.

Mr. MANSFIELD. No. It is one of three carillon bills, and I thought that we might get it out of the way.

Mr. BEALL. What bill is that?

Mr. MANSFIELD. Calendar No. 1240.

Mr. JAVITS. Mr. President, there is another carillon bill on the Calendar which could be used, calendar No. 1050.

Mr. MANSFIELD. Yes, but there is also H.R. 640.

Mr. JAVITS. There is some doubt about H.R. 640. This is a straight carillon bill.

Mr. MANSFIELD. Mr. President, over on Calendar No. 1240, a bill (H.R. 4678) to provide for the free duty of a carillon for the use of the University of California at Santa Barbara.

The PRESIDING OFFICER. The bill will be pased over.

WAIVER OF EMPLOYEE DEDUCTIONS FOR FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PURPOSES DURING A PERIOD OF ERRONEOUS REMOVAL OR SUSPENSION

The bill (H.R. 11563) to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension was considered, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate again go into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAST GUARD

Mr. MANSFIELD. Mr. President, I send to the desk two nominations in the Coast Guard, which have been cleared all the way around, and ask unanimous consent for their immediate consideration and that the committee be discharged from the nominations

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read the nominations of Rear Adm. Mark A. Whalen and Rear Adm. Benjamin F. Engel to be commander, Pacific area, and commnder, Atlantic area, U.S. Coast Guard with the rank of vice admiral, while so serving.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 1462) to provide for the distribution to the Sisseton and Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

DISPOSITION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS OF OKLAHOMA

Mr. MANSFIELD. Mr. President, I am about to ask unanimous consent that the Senate turn to the consideration of Calendar No. 921, H.R. 7093, an act to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. Before I make the request, I wish to make an explanation.

This bill has been on the calendar since July 19. There has been a hold on the bill, but about 2 weeks ago the joint leadership announced that holds would not be honored from that time on. Nevertheless, on several occasions when it was possible to bring up this bill, the majority leader decided not to, in the hope that it could be taken up at a time when all parties were present.

This bill has been reported by the Committee on Interior and Insular Affairs unanimously. The distinguished chairman of that committee, the Senator from Washington (Mr. JACKSON) has been after me to call up this bill, and the distinguished Senator from Oklahoma (Mr. BELLMON) has politely and courteously raised the question from time to time. We are down to possibly the last day of the session.

I had intended to bring up this bill two days ago. But when I found that a particular Senator was not in town I decided to wait until the next day, which was yesterday. Yesterday this matter could have been brought up but I decided to wait another day. I served notice last night that today we would take up the bill in which the distinguished Senator from Arkansas and the distinguished Senator from Florida (Mr. CHILES) were interested, and after that the Osage Indian bill.

I make this explanation at this time because I like to lean over as far backward as I can for every Senator. But with the time drawing to a close I feel I have to exercise a certain responsibility.

Mr. President, therefore, I ask unanimous consent at this time that Calendar No. 921, H.R. 7093, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7093) to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, at the beginning of line 2, strike out "the sum of $1,000,000" and insert "an amount equal to 30 per centum of the judgment together with interest thereon"; and, in line 6, after "(b)", strike out "The sum of $1,000,000 plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior" and insert "An amount equal to 30 per centum of the judgment together with interest thereon plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to all members of the Osage Tribe of Indians of Oklahoma, whether allotted or unallotted, such programs to be administered as authorized by the Secretary of the Interior".

Mr. MANSFIELD. Mr. President, I wish to make a request. If this bill is passed, I would hope there would be no motion made at this time to reconsider and table.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Utah was recognized.

Mr. MANSFIELD. Mr. President, will the Senator from Utah yield to me briefly?

Mr. MOSS. I yield.

DISPOSITION OF JUDGMENT FUNDS IN FAVOR OF CERTAIN INDIANS—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on S. 3230, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3230) to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket numbered 279–A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House to the Bill (S. 3230) to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket numbered 279–A, and for other purposes, having met, after full and free conference, have been unable to agree.

HENRY M. JACKSON,
LEE METCALF,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
ED EDMONDSON,
JOHN P. SAYLOR,
JOHN N. HAPPY CAMP,
Managers on the Part of the House.

The report was agreed to.

Mr. MANSFIELD. Mr. President, this is a matter of concern to Montana and has to do with the Assiniboine Indians.

I move that the Senate concur in the amendment of the House to S. 3230.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOSS. I yield briefly to the majority whip.

INDIAN PEAKS AREA, COLO.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1198.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1198) to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado, which was to strike out all after the enacting clause and insert:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-one thousand acres, lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the "Indian Peaks Area," as generally depicted on a map entitled "Indian Peaks Study Area", dated October 4, 1972, and shall report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness," together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, the House amendment to S. 1198 reduces the area to be studies for possible inclusion in the wilderness system by some 4,000 acres. This and other differences between the two versions might require a conference if more time remained. However, because of the lateness of the session, the sponsor of S. 1198, the senior Senator from Colorado (Mr. ALLOTT), has requested that we accept the changes.

Therefore, Mr. President, on behalf of the Senator from Washington (Mr. JACKSON) I move that the Senate concur in the amendment of the House to S. 1198.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

GATEWAY NATIONAL RECREATIONAL AREA, N.Y. AND N.J.—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I submit a report of the committee of conference on S. 1852, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of Oct. 12, 1972, at pp. 35539–35541.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I wish to say that the conference met and worked out what I believe to be a fair and equitable settlement of the differing versions of this important legislation. There is probably no other area of the Nation where recreational facilities are more sorely needed than in our great urban centers. With the enactment of the Gateway National Recreation Area in the East, the Congress will be establishing an area where public recreational facilities will be available to the Nation's largest metropolitan area, composed of Greater New York City and the surrounding communities.

Yesterday, Congress completed action and sent to the President a bill to establish the Golden Gate National Recreation Area in the West in the San Francisco metropolitan area. It is fitting and proper that we follow that action by completing the final steps in the legislative process in connection with the present bill.

I move the adoption of the conference report on S. 1852.

Mr. BUCKLEY. Mr. President, I take great pleasure in the Senate's approval of the conference report on S. 1852, a bill, which I cosponsored, to create a Gateway National Recreation Area in the States of New York and New Jersey. With persistence and hard work the Congress, the administration, and the many fine governmental and citizen groups in New York and New Jersey have brought into reality this novel concept, a national urban park in the midst of the largest metropolitan area of the Nation. The benefits which the creation of Gateway National Recreation Area will bring to the 20 million people residing within a day's traveling distance from the seashore are incalculable.

This country's coastal areas are among its greatest natural resources, and among its scarcest. The competing demands which are placed on the coastal areas for all kinds of activities make it all the more significant that the Congress has agreed to collect the various available properties in the area of New York Harbor and to set them aside for the recreational use of so many. The recreation area will contribute in a major way in making our crowded eastern cities more livable by bringing these cities' inhabitants within close reach of the ocean. By protecting the wetlands and wildlife preserve in Jamaica Bay, one of the units of the recreation area, we also contribute to the preservation of some of our most delicate resources, the primitive estuarine and marine life on which higher forms of life depend.

The creation of Gateway "East", like the proposal to create Gateway "West" in San Francisco, Calif.—the Golden Gate National Recreation Area—represents the epitome of the "parks to the people" recreational philosophy which President Nixon has promoted throughout his administration. The measure is now cleared for the President's signature, and I have no doubt that he will be tremendously gratified to have the opportunity to sign this fine piece of legislation into law.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ESTABLISHING THE FOSSIL BUTTE NATIONAL MONUMENT, WYO.—CONFERENCE REPORT

Mr. HANSEN. Mr. President, I submit a report of the committee of conference on S. 141, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 12, 1972, at pages 35541–35542.)

Mr. HANSEN. Mr. President, I am satisfied that the agreement reached by the conference committee on S. 141 is a reasonable compromise, and I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

WAIVER OF PRINTING OF CONFERENCE REPORTS AS SEPARATE SENATE REPORTS

Mr. ROBERT C. BYRD. Mr. President, did I not earlier in the session get blanket unanimous consent for the remainder of this session to provide that the printing of a conference report as a separate document by the Senate be dispensed with in all cases in which the House, which acts first on the conference report, had previously printed the report, together with the joint statements of the conference committee?

The PRESIDING OFFICER. That has been previously agreed to.

Mr. ROBERT C. BYRD. I thank the Presiding Officer, and I thank the Senator from Utah for yielding.

DISPOSITION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS OF OKLAHOMA

The Senate resumed the consideration of the bill (H.R. 7093) to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.

Mr. MOSS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Calendar No. 921, H.R. 7093.

Mr. MOSS. Mr. President, this is a bill having to do with disposition of judgment of funds of the Osage Tribe of Indians of Oklahoma. This is a judgment that has been granted according to the statute and this is a provision for distribution. This bill has been passed in the House and came to the Senate where it was considered; and the Senate made some amendments to the bill.

Mr. President, I ask unanimous consent that the Senate committee amendments be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. I might say, by way of explanation, again because of the lateness of the hour and the importance of the bill, it was deemed advisable by the sponsor of the bill in the Senate and the committee that the amendments not be pursued, so that we might act on the House bill, and perhaps complete our action here today.

This matter, as the majority leader pointed out, has been pending a long time on the calendar, and it is hoped that we can dispose of it today.

My colleague, the Senator from Oklahoma (Mr. BELLMON), is the author of the Senate version of this bill and serves on the committee. I am glad to yield to him for whatever time he needs.

Mr. BELLMON. Mr. President, I thank the distinguished Senator.

Mr. President, the Osage claim was filed on March 14, 1951, with the Indian Claims Commission. Final award was made by the Commission on September 15, 1970, and funds were appropriated in payment on January 8, 1971.

H.R. 7093, which we are now considering, was introduced in the first session of the 92d Congress. Hearings were held in the House, and the bill passed on April 19, 1972. The Senate Committee on Interior and Insular Affairs held hearings on S. 1456, which is the same bill as the House version, and S. 3234 on March 28, 1972, and reported the bill to the Senate on July 19, 1972, and it has been on the calendar since that time.

As amended, H.R. 7093 provides for distribution of $12,250,000, plus interest, on a per capita basis, with a reservation of $1 million to be used for programs of an educational or other socioeconomic nature.

This matter has been pending for more than 20 years. There has been a heavy cost of litigation. Legal fees amount to more than $1,300,000. Unless the Senate takes action today, these figures will continue to mount. There have already been more than 240 motions filed in connection with this claim.

In my opinion, the matter should have been settled years ago.

I am pleased that the Senate is taking action on it today.

I ask unanimous consent that a letter from Representative ED EDMONDSON, who represents the district where most of the Osage Indians live, be made a part of the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 2, 1972.

Hon. HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.

DEAR CHAIRMAN JACKSON: I have spoken to several members of your Committee about the need for action on the distribution bill for the Osage Indian Tribe, H.R. 7093, which passed the House on April 17, 1972.

I would deeply appreciate anything you can do to secure passage of this bill, in the form in which it passed the House, before the end of the current session of the Congress.

With best wishes and kindest personal regards,

Sincerely yours,
ED EDMONDSON,
Member of Congress.

Mr. BELLMON. Representative EDMONDSON states, briefly, that he would appreciate passage of the bill and asks that it be enacted before the end of the current session of Congress because he also knows the importance of this legislation to his constituents.

Let me say, in conclusion, that I appreciate the courtesy of the majority leader in bringing this matter before the Senate at this time. It has been on the calendar for more than 3 months. If we do not act, the matter will be put off for many additional months, during which time those who should benefit from this legislation will, in many cases, suffer hardships. I believe the majority leader is performing a very fine service to those affected by this legislation in bringing up the bill for action today.

The PRESIDING OFFICER. If there be no further discussion or amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

CONSUMER PRODUCT SAFETY ACT—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on S. 3419, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two houses on the amendment to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 12, 1972, at pp. 35592–35601.)

Mr. MOSS. Mr. President, I move that the Senate agree to the conference report on S. 3419.

This bill represents the culmination of 10 years of legislative effort to secure the consumer's right to safety in the marketplace. The bill creates an independent regulatory agency composed of five Commissioners who would have the authority to set product safety standards for consumer products of all types. The Commission would also be empowered to ban certain products which could not be made safe by the establishment of a safety standard. Consumer products which were imminently hazardous could be removed immediately without administrative proceedings through court action initiated by the Commission.

This bill provides the Federal Government with the weaponry to make significant inroads against unsafe consumer products in the marketplace, thereby preventing many of the 20 million product-associated injuries that occur each year. The bill also contains safeguards against bureaucratic indifference. Congress for the first time has created a mechanism whereby private citizens can compel, through petition court preceedings, an agency to initiate action to protect the public health and safety. The Commission responsibility provisions agreed to by the conference committee will guarantee that the promises of safety made by the sponsors of this legislation will be met in subsequent years.

Mr. President, while the bill agreed to by the conference committee is a great step forward for the American consumer, I cannot help but express my regret that the Senate was not able to prevail in its efforts to upgrade the quality of Government regulation of foods and drugs by transferring the Food and Drug Administration to this new, independent regulatory agency. Those of us concerned about the safety of products in the marketplace realize that we have more work to do with respect to the safety of foods, drugs, cosmetics, and medical devices. I share the frustration expressed by Senator PERCY that we have created a new, independent regulatory agency to watch out over consumer products but have done nothing to upgrade the performance of the agency responsible for the safety of foods and drugs. We must fight that battle again next year.

I understand the distinguished Senator from New Hampshire (Mr. COTTON) will be on the floor shortly and would like to be present before final action is taken on the conference report.

I also intend to insert a floor statement by the chairman of the Commerce Committee (Mr. MAGNUSON).

Mr. President, I would like to offer the following remarks concerning specific provisions of the product safety bill agreed to by the committee of conference. My comments will expand the joint statement of managers in those areas where I believe greater comment is appropriate:

First. Establishment of Federal agency to regulate consumer product safety: The Senate bill would have established a comprehensive program to regulate foods, drugs, cosmetics, medical devices, and other consumer products. The House bill provided only for the regulation of consumer products. In the Senate bill proper staffing of the agency was assured by a provision authorizing the appointment of 25 supergrades. In agreeing to the House amendment which contained no similar provision, the Senate did not in any way recede from its commitment to a properly staffed agency. It is my hope that sufficient supergrade positions will be allocated to this important new regulatory agency.

Second. Consumer information: The Senate bill provided for the establishment of a "public information room" designed to insure all interested parties access to consumer safety information. The House amendment had no specific provision requiring the establishment of a public information room. Although the Senate conferees agreed to the general language of the House bill, I am hopeful that the new independent regulatory agency will take appropriate steps to assure the public access to consumer safety information so as to prevent injury and make consumer participation in agency proceedings meaningful.

Third. Meaning of phrase "Unreasonable risk of injury associated with a consumer product": The Senate bill defined the phrase "unreasonable risk of injury presented by a consumer product." The definition set forth a balancing test which emphasized the primacy of health and safety over other factors. Two particular measures of public health and safety were to be considered: the degree of anticipated injury and the frequency of such injury. In those situations where either the degree of anticipated injury or the frequency of such injury could be reduced without affecting the "performance" or "availability" of that class of consumer product, then almost any risk capable of producing injury would become unwarranted. When "performance" or "availability" were affected, then a balancing of competing interests would have to be undertaken. The House bill did not contain a specific definition of "unreasonable hazard." Note that the House bill defined "hazard" as "risk of injury." The report accompanying the House amendment to S. 3419 set forth the same kind of balancing test which was incorporated in the definition of "unreasonable risk of injury presented by a consumer product" in the Senate bill.

While the full reach of the term "unreasonable risk" will be left for the courts to decide, it is my hope that they will be guided by this important legislative history which sets forth an important balancing test. It is also my hope that the courts will take notice of the fact that the word "associated" was chosen so as to convey the fact that the risk of injury did not have to result from "normal use" of the consumer product but could also result from such things as "exposure to or reasonable foreseeable misuse of the consumer product." See, for example, the definition of "use" in the Senate bill.

Fourth. Title V of the Senate bill: Title V of the Senate bill amended the Federal Hazardous Substances Act to strengthen that act by requiring submission of product formulas, the results of screening tests for hazards, and antidote and treatment information. Title V also deleted the present exemption from the Federal Hazardous Substances Act for food, drugs, and cosmetics in certain fields. The House amendment did not contain an express provision for the collection of this information. But under section 27(e), the House amendment authorized the Commission to require any manufacturer—

> To provide to the Commission such performance and technical data related to performance of safety as may be required to carry out the purposes of the Act.

In agreeing to the deletion of title V, the Senate conferees were hopeful that the Commission under authority of section 27(e) would obtain formulation, information and toxicological test data on consumer products so as to aid the poison prevention activities of the Consumer Product Safety Commission.

Fifth. Safety analysis: The Senate bill authorized the Commissioner of Product Safety to require the manufacturer of a consumer product to subject such product to a detailed safety analysis. The purpose of the safety analysis study was to identify and thereby eliminate risks associated with the use of consumer products short of promulgating a consumer product safety standard. The House amendment did not contain specific provisions relating to safety analysis. However, a House provision agreed to in conference—section 27(e)—does authorize the Commission to obtain information to the same extent as if the safety analysis provisions of the Senate bill had been included.

Sixth. Retention of the names of first purchasers: The Senate bill authorized the Product Safety Commissioner to establish procedures to be followed by those persons in the distribution chain and consumers themselves in securing and maintaining the names and addresses of first purchasers of consumer products. In determining whether or not to require the maintenance of the names and addresses of first purchasers, the Commissioner would be required to consider the severity of the injury that could result if the consumer product was manufactured not in compliance with an applicable standard, the likelihood that a particular type or class of consumer product would be manufactured not in compliance, and the burden imposed upon the manufacturer, and ultimately the consumer, in requiring the maintenance of the names. Although the names of first purchasers would not be required to be maintained for all consumer products subject to consumer product safety standards, the recall of noncomplying consumer products would be very difficult without the names of the first purchasers.

The House amendment did not contain a specific provision relating to the maintenance of the names and addresses of first purchasers. However, in section 16(d) of the House amendment, which was accepted by the committee of conference, the Commission is authorized to require any manufacturer, private labeler, or distributor—but not retailer—to establish and maintain such records as may be reasonably required for the purpose of implementing the act. Therefore, there is authority to require the maintenance of the names and addresses of first purchasers within the bill as reported by the committee of conference. It is my hope that retailers will cooperate with manufacturers, private labelers, or distributors who are requested by the Commission to maintain the names and addresses of first purchasers. It is also my hope that the Commission looks to the guidelines set forth in the Senate bill in order to determine which manufacturers, private labelers, or distributors should be required to retain such information.

Seventh. Submission of Legislative Recommendations: The Senate bill authorized and directed the Administrator of the Food, Drug, and Consumer Product Agency to submit legislative recommendations directly to the Congress without prior review of the Office of Management and Budget or any other Federal officer or Agency. The House amendment contained no comparable provision. The committee of conference agreed to the Senate provision authorizing and directing the direct submission of legislative recommendations. One might ask: "Why is this necessary?"

A recent situation involving administration proposed amendments to the Auto Safety Act illustrates the need for this provision. The agency responsible for implementing the Auto Safety Act, namely, the National Highway Traffic Safety Administration, submitted to the Secretary of Transportation, which in turn submitted to the Office of Management and Budget, a proposed amendment to the auto safety law to require automobile manufacturers to repair without charge vehicles which had been recalled because they contained a safety-related defect. The Department of Commerce communicated to the Office of Management and Budget their opposition to this amendment to the auto safety law. The Office of Management and Budget refused to submit the legislative recommendations for free repair of safety-related defects. In other words, the agency charged with responsibility of preventing death and carnage on our Nation's highways was precluded from communicating to Congress its desires concerning improvement of this legislation.

Only good fortune enabled the Congress to find out that there had been a difference of opinion and that, in fact, the National Highway Traffic Safety Administration endorsed legislation authorizing them to require the free repair of defective automobiles subject to recall. On the basis of this experience and similar experiences, those of us interested in a viable safety program want to know what the agency responsible for implementing the safety program thinks they need in the way of new authority to protect the health and safety of the American consumer. Therefore, we have required submissions of legislative recommendations to Congress, without prior review of OMB or anyone else.

Eighth. Private remedies: Both the Senate bill and the House amendment authorize an individual who has been injured by a consumer product that has been produced by a manufacturer who knows that the product does not meet an applicable product safety standard to sue such manufacturer in Federal court if the person's injuries were alleged to be greater than $10,000. In creating this Federal right but limiting the access to the Federal courts to injuries causing damage alleged to be greater than $10,000, the Senate and House conferees did not mean to preclude State courts from concurrent jurisdiction in enforcing the Federal right in those situations where the extent of injury was less than $10,000.

Ninth. Legal action by Commission: The Senate bill authorized the Administrator of the Food, Drug, and Product Safety Agency to "initiate, prosecute, defend, or appeal any court action in the name of the Agency for the purpose of enforcing the laws subject to its jurisdiction, through his own legal representative or through the Attorney General, and direct the course of all litigation." The House amendment had no similar authorization. The committee of conference agreed to a provision which gives the Commission the authority to initiate, prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the laws subject to its jurisdiction. But the Commission may not use its own legal representatives if the Attorney General notifies him that he does not concur. In the event of such notice the action would be handled by the Attorney General in the name of the Commission.

Mr. President, this concludes my detailed remarks concerning S. 3419. I urge my colleagues to report its passage in the Senate and I urge the President to sign this important consumer measure into law as soon as possible.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the chairman of the Committee on Commerce (Mr. Magnuson).

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR MAGNUSON

Mr. President, today is truly a momentous day for the American consumer. The enactment of the Consumer Product Safety Act will mark the culmination of five very long and intensive years of study and analysis of the problem of safety presented by the growing number of consumer products in the marketplace. The formulation of this bill is the result of work by many segments of the society: engineers, lawyers, businessmen, consumers, economists, statisticians and medical personnel, just to name a few.

The bill which the Senate and House conferees have agreed upon is an adequate start towards protecting the American consumer from unsafe products. The new Consumer Product Safety Commission has been given a strong mandate from Congress to drastically reduce losses from product-related injuries. We have armed the Commission with an administrative procedure which will enable it to act "before the bodies stack up" while at the same time, insuring affected industries due process. Finally, we have afforded consumers an opportunity to actively become involved in the regulatory process.

The great disappointment of the bill which the Conference Committee has produced is its failure to effect any change in the federal regulatory structure of foods, drugs, cosmetics and medical devices. It is a well known fact that the American people have lost faith in the Food and Drug Administration's ability to provide the required measure of protection against adulterated foods and drugs.

A recent G.A.O. report revealed that 40 per cent of the food plants in the United States operate under unsanitary conditions and that only 3 of every 10 plants are in compliance with existing sanitary standards. It was also of little comfort to learn of the totally inadequate "filth tolerance standards" that F.D.A. has adopted for the food industry.

The Senate adopted by a vote of 69–10 the recommendation of three Committees that responsibility for foods and drugs should be transferred to the new Product Safety Agency. Even when that provision was defeated in Conference, Senators Kennedy, Percy, Ribicoff and Javits persisted in attempting to create a more functionally independent F.D.A. within H.E.W. It was only when the entire product safety bill was threatened, that they receded in their efforts. To these colleagues, and to the American people, I pledge that next year we shall begin the badly needed work of revitalizing food and drug regulation in the federal government.

With the enactment of S. 3419, we begin a new era in the cause of the consumer. In 1962, President Kennedy told consumers that they had an inalienable "Right to Safety" in the products they purchase in the marketplace. Today, one decade later, we have finally crafted the machinery to begin insuring that right.

Mr. MOSS. I am very happy to yield to the ranking Republican member of the committee, the Senator from New Hampshire (Mr. Cotton).

Mr. COTTON. Mr. President, S. 3419—the Food, Drug and Consumer Product Safety Act of 1972—was considered and passed by the Senate this past June. At that time I voted against passage of the bill because:

First, there was no demonstrated need for the establishment of an independent food, drug, and product safety agency which would have had transferred to it the Food and Drug Administration now lodged within the Department of Health, Education, and Welfare;

Second, the impact of including "an electronic product" in the definition of "consumer product," coupled with the repeal of the Radiation Control for Health and Safety Act, was not clear; and

Third, the confusion arising out of the legislative interpretation given to the term "subject to regulation."

Mr. President, although there still exists opposition to the establishment of an independent product safety regulatory agency, I am pleased to note that my three principal concerns have, in large measure, been met by the conference report on S. 3419 now pending before the Senate.

The conference report on S. 3419 does establish an independent Consumer Product Safety Commission. But, it does not transfer to that Commission the functions of the Food and Drug Administration within the Department of HEW. The conference report in section 31 also provides that "the Commission shall have no authority under this act to regulate any risk of injury associated with electronic product radiation emitted from an electronic product—if such risk of injury may be subjected to regulation under" the Radiation Control for Health and Safety Act. The matter of the legislative interpretation of "subject to regulation," the exclusions from the definition of "consumer product," has been met, in large measure, by following the format of the House provision.

I am pleased to note, also, that as far as cost is concerned the 3-year appropriation authorization provided for the conference substitute is approximately one-fifth that which passed the Senate. It therefore represents a more reasonable and less costly approach.

Finally, Mr. President, the conference substitute in section 10 does provide for interested persons to petition the Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Quite frankly, I did have some initial concern that such an action against the Commission there might involve money damages to be recovered from the Commission. However, I am pleased to note that the joint explanatory statement of the Committee of Conference makes clear that this is not possible with the following language:

> Section 10 does not authorize the petitioner to recover damages from the Commission or any of its employees.

Mr. President, I fought long and hard last June in this very Chamber attempting to structure this organization within the Department of HEW. While I still feel that my proposal represents a more logical first step in approaching the problem of consumer product safety regulation, both this body and the House felt otherwise and, although not agreeing entirely, I can accept that result. If there is to be such an independent Product Safety Commission, then I believe the conference report, which is the result largely of the efforts of the distinguished chairman of our Committee on Commerce (Mr. Magnuson), represents a commendable approach.

Mr. President, I therefore urge the adoption by the Senate of the conference report on S. 3419—the Consumer Product Safety Act.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. MOSS. Mr. President, may I say just one further word? I wish to commend the Senator from New Hampshire for his very constructive and able assistance on this matter. It required a great deal of time and committee consideration. He was always very magnanimous during the consideration of the bill; he did not agree with all of it, and stated his position very clearly, but never at any time did he use any restraint on our going ahead. And when the committee finally acted, he cooperated, as he always does, fully and completely, in the presentation of the matter to the Senate for its action.

Mr. COTTON. Mr. President, I thank the distinguished Senator from Utah for his very generous words. We did have rather strong disagreements about the independent agency. As the Senator knows, when the bill passed the Senate I struggled to keep it within the HEW. But I do think the result of the conference is a very constructive one, and I am happy to join in advocating the passage of this measure. I am grateful to the distinguished Senator from Utah for his constant fairmindedness and courtesy throughout the consideration of this long and rather controversial measure.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

FLAMMABLE FABRICS ACT AUTHORIZATIONS, 1973

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5066.

The PRESIDING OFFICER (Mr. Chiles) laid before the Senate H.R. 5066, which was read as follows:

> *Resolved*, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 5066) entitled "An Act to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act."
>
> *Resolved*, That the House insists on its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill.
>
> *Resolved*, That the House recede from its disagreement to the amendment of the Senate to the title of the aforesaid bill, and concur therein.

Mr. MOSS. Mr. President, this bill has been acted upon by the Senate once before and amended to provide that the children's sleepwear standard which applies only to sizes 0 through 6X be extended to apply to all sleepwear up to size 14. This extension of the sleepwear standard was to be made by the Secretary of Commerce and was to be effective no later than July 1, 1973.

Because the Flammable Fabrics Act responsibilities are being transferred to the new Consumer Product Safety Commission, our House colleagues urged us not to place in cement the effective date of the new standard. They argued that the Commission would more adequately safeguard the interests of consumers and delay the effective date of such standard beyond July 1, 1973, only if the Commission were persuaded that that effective date presented a technically impossible situation for the textile industry.

In the interest of assuring authorization of this important consumer safety program and with the realization that the new independent regulatory agency will be very mindful of the consumer interest, I move that the Senate agree to H.R. 5066 as amended by the House.

I move that the Senate recede from its amendment No. 2.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1478) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 15375) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes, in which it requested the concurrence of the Senate.

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. Ken McLean, a staff member of the Committee on Banking, Housing and Urban Affairs, be permitted to remain on the floor for the consideration of a series of amendments that will be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CAPITAL AREA TRANSIT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1214, S. 4062.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 4062) to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the National Capital area, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that there be inserted in lieu thereof an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike out all after the enacting clause, and insert new language as follows:

SHORT TITLE

SECTION 1. This Act may be cited as "National Capital Area Transit Act of 1972".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds that (1) an adequate and economically sound transportation system or systems, including bus and rail rapid transit, serving the Washington metropolitan area is essential to commerce among the several States, and among such States and the District of Columbia, and to the health, welfare, and safety of the public; (2) economies and improvement of service will result from the unification of bus transit facilities within the Washington metropolitan area; (3) the Washington Metropolitan Area Transit Authority is a body corporate and politic organized pursuant to interstate compact among the States of Maryland and Virginia and the District of Columbia, with the consent of Congress, to plan, develop, finance, and operate improved transit facilities in the Washington metropolitan area transit zone; (4) an appropriate solution to the current bus transportation emergency is public ownership and operation of bus transit facilities within the Washington metropolitan area; (5) the cost of such public ownership should be shared by the Federal and local governments in the Washington metropolitan area in accordance with the matching formula authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601–1612); and (6) to these ends it is necessary to enact the provisions hereinafter set forth.

TITLE I

CONSENT TO COMPACT AMENDMENT

SEC. 101. (a) The Congress hereby consents to amendments to articles XII and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact (D.C. Code, sec. 1–1431 note) substantially as follows:

(1) Section 56 of article XII is amended by adding at the end thereof the following new paragraph:

"(e) The Authority may acquire the capital stock or transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to article VII, section 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition as soon as possible of the capital stock or the transit facilities of each of the other private transit companies within the zone requesting such acquisition. Lack of such request, however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to section 82 of article XVI."

(2) Subsection (a) of section 82 of article XVI is amended by deleting "or by a private transit company" at the end of such subsection and by inserting in lieu thereof the following: "whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority".

(b) The Commissioner of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth above, to title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

ACQUISITION OF PRIVATE BUS COMPANIES OPERATING WITHIN THE WASHINGTON METROPOLITAN AREA

SEC. 102. (a) Based on the findings set forth in section 2 of this Act, it is the sense of the Congress that the Washington Metropolitan Area Transit Authority (hereafter in this Act referred to as the "Transit Authority") should initiate negotiations as soon as possible with the ownership of D.C. Transit System, Incorporated (and its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company for acquisition by the Transit Authority of capital stock or facilities, plant, equipment, real and personal property of such bus companies of whatever nature, whether owned directly or indirectly, used or useful for mass transportation by bus of passengers within the Washington metropolitan area. It is further the sense of the Congress that representatives of the Transit Authority should participate in any labor contract negotiations undertaken prior to acquisition by the Transit Authority of such bus companies.

(b) The franchise to operate a system of mass transportation of passengers for hire granted to D.C. Transit System, Incorporated, by the Act of July 24, 1956 (70 Stat. 598) is hereby canceled, effective upon the date immediately preceding the date on which the Transit Authority acquires the transit facilities of D.C. Transit System, Incorporated.

(c)(1) The Transit Authority, and any transit company owned or controlled by the Transit Authority, may operate charter service by bus in accordance with article III of the Washington Metropolitan Area Transit

Regulation Compact only between any point within the transit zone and any point in the State of Maryland or Virginia, or a point within 250 miles of the Zero Mile Stone located on the Ellipse.

(2) For the purposes of this subsection, the term "transit zone" means the area designated in section 3 of article III of the Washington Metropolitan Area Transit Regulation Compact.

(d) D.C. Transit System, Incorporated, a corporation of the District of Columbia, may—

(1) continue to exist as such a corporation and amend its charter in any manner provided under the laws of the District of Columbia;

(2) avail itself of the provisions of the District of Columbia Business Corporation Act in respect to a change of its name; and

(3) become incorporated or reincorporated in any manner provided under the laws of the District of Columbia.

Nothing in this Act shall be construed so as to cause or require the corporate dissolution of D.C. Transit System, Incorporated.

TITLE II

DISTRICT OF COLUMBIA AUTHORIZATIONS

Sec. 201. (a) The Commissioner of the District of Columbia is authorized to contract with the Transit Authority for payment to it of the District's share of the cost to the Transit Authority of acquiring—

(1) the private bus companies referred to in section 102(a) of this Act; and

(2) any rolling stock, real estate, or other capital resources required for the operation of bus service in the District of Columbia either at the time of acquisition of such bus companies or at some future time.

(b) Subsection (b) of the first section of the Act of June 6, 1958 (D.C. Code, sec. 9–220) (relating to the borrowing authority of the District of Columbia), is amended by adding at the end thereof the following new paragraph:

"(5) Loans may be made under this subsection to carry out the purposes of section 210(a) of the National Capital Area Transit Act of 1972."

TITLE III

FINANCING

Sec. 301. The Transit Authority, for the purpose of effecting the acquisition of the mass transit bus system or systems as contemplated by this Act, together with such improvements or replacement of acquired equipment and facilities as may be found necessary or desirable by the Secretary of Transportation (hereafter in this title referred to as the "Secretary") in conjunction with such acquisition and within a reasonable time thereafter, not to exceed six months, is eligible for capital grant assistance pursuant to section 3 of the Urban Mass Transportation Act of 1964. For this purpose, the Transit Authority shall be considered a "local public body" within the meaning of that section and, accordingly, the Secretary may authorize and approve capital grant assistance to the Transit Authority in the maximum amount provided for in the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such bus system or systems, including the cost of improvements to or replacement of acquired equipment and facilities approved by the Secretary in conjunction with such acquisition. Such assistance shall be provided from funds available to the Urban Mass Transportation Administration of the Department of Transportation.

Sec. 302. (a) If the Secretary should determine that immediate action is urgently required to protect the public interest in the National Capital area, he may waive any or all provisions of the Urban Mass Transportation Act of 1964 (except section 13(c) thereof), and immediately grant to the Transit Authority from funds available to the Urban Mass Transportation Administration of the Department of Transportation such sums as are contemplated under section 301.

(b) The Secretary, after determining that immediate action is necessary in the public interest in accordance with subsection (a) of this section, may, in accordance with subsection (c) of this section, advance from funds available to the Urban Mass Transportation such funds as he determines to be necessary for payment to the Transit Authority to provide temporary financing for that portion of the cost of acquisition of the mass transit bus system or systems contemplated by this Act, together with associated improvements to or replacement of acquired equipment and facilities, which are not provided for by the Secretary pursuant to section 301 of this Act. For this purpose, such advance shall not be construed as a loan made under section 3 of the Urban Mass Transportation Act of 1964. Funds advanced pursuant to this section shall be considered as "other than Federal funds" within the meaning of section 4(a) of the Urban Mass Transportation Act of 1964.

(c) The Secretary shall not advance funds under this section until he has determined that the Transit Authority has the capacity and ability to arrange for repayment of such advance in accordance with section 303 of this Act.

Sec. 303. The advance authorized under section 302(b) shall be repaid by the Transit Authority to the Urban Mass Transportation Administration of the Department of Transportation from contributions by the District of Columbia and other local government jurisdictions or from other non-Federal sources as may be available to the Transit Authority and which were not estimated to be available for financing the mass transit rail rapid system authorized by the National Capital Transportation Act of 1969. Repayment of such advance may be deferred by the Secretary of Transportation, at the request of the Transit Authority, but not beyond the end of the fiscal year following the fiscal year in which the advance was made. Repayment shall be made with interest at a rate to be determined by the Secretary of the Treasury calculated in accordance with the formula set forth in section 3(c) of the Urban Mass Transportation Act of 1964. Principal and interest repaid pursuant to this section shall be credited to the Urban Mass Transportation Fund and shall be considered a restoration of obligational authority available to the Secretary under section 4(c) of the Urban Mass Transportation Act of 1964.

TITLE IV

Sec. 401. (a) The United States District Court for the District of Columbia shall have complete and exclusive jurisdiction over any proceedings by the Transit Authority for the condemnation of property, wherever situated, of D.C. Transit System, Incorporated (including its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company. Such proceedings shall be instituted and maintained in accordance with the provisions of this section and the provisions of subchapter IV of chapter 13 of title 16, District of Columbia Code, except that the court may appoint a commission in accordance with rule 71A(h) of the Federal Rules of Civil Procedure in connection with the issue of compensation arising out of any such proceedings.

(b) Any such condemnation proceedings shall be commenced by the Attorney General of the United States, upon the request of the Transit Authority, by filing with the United States District Court for the District of Columbia a complaint and declaration of taking containing a description of the land and other assets to be taken, together with a sum of money deposited with the registrar of such court in accordance with the applicable provisions of law set forth in subsection (a) of this section. Upon such filing and deposit, title to the possession of the assets described in any such complaint and declaration of taking shall pass to the Transit Authority and the value of the assets so acquired shall be determined as of that date.

(c) The trial of any such condemnation proceedings shall be a preferred cause and shall be commenced at the earliest date convenient to the court.

(d) Any proceeding brought by the Transit Authority under this section against the Alexandria, Barcroft, and Washington Transit Company shall be transferred, upon motion made by such Transit Company, to the United States District Court for the Eastern District of Virginia, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding. Any action brought by the Transit Authority under this section against the WMA Transit Company, shall be transferred, upon motion made by the WMA Transit Company, to the United States District Court for the District of Maryland, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding.

TITLE V

AUDIT AND REVIEW

Sec. 501. The Comptroller General of the United States shall have access to all books, records, papers, and accounts and operations of the Transit Authority, and any company with which the Transit Authority is conducting negotiations under this Act, and any company eligible to receive or receiving any funds authorized by this Act. The Comptroller General is authorized to inspect any facility or real or personal property of the Transit Authority or of such companies.

TITLE VI

ARLINGTON CEMETERY AND SMITHSONIAN STATIONS

Sec. 501. The Comptroller General of the tion Act of 1969, approved December 9, 1969 (83 Stat. 320) as amended, is hereby further amended by adding at the end thereof the following new section:

"Sec. 13. (a) The Secretary of Transportation shall make payments to the Transit Authority in such amounts as may be requisitioned from time to time by the Transit Authority sufficient, in the aggregate, to finance the cost of designing, constructing, and equipping (1) a rail rapid transit station partially under Memorial Drive designed to serve the Arlington Cemetery with two entrances surfacing adjacent to the sidewalks north and south of Memorial Drive and east of Jefferson Davis Highway, and (2) an additional entrance in the vicinity of the northeast end of the Smithsonian Station surfacing on the Mall south of Adams Drive; except that the aggregate amount of such payments shall not exceed $7,385,000.

"(b) There are authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, not to exceed $7,385,000 to carry out the purposes of this section. The appropriations authorized in this subsection shall not be subject to the provisions of this Act requiring contributions by the local governments and shall be in addition to the appropriations authorized by section 3(c) thereof."

Mr. INOUYE. Mr. President, S. 4062 has four principal purposes, first, to grant congressional consent to the public acquisition and operation of mass transit bus facilities in the Washington metropolitan area; second, to authorize payments by the District of Columbia Government for its share of the cost of acquiring those facilities; third, to authorize and approve capital grant assistance to the Washington Metropolitan Area Transit Authority under the provisions of the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such system; and fourth, to provide for a Metro station at the Arlington National Cemetery and an additional entrance from the Mall to the station serving the Smithsonian complex.

Mr. President, the committee amendment is very simple. It provides that any condemnation proceeding brought by the transit authority against the Alexandria, Barcroft, and Washington Transit Co. shall be transferred, upon motion made by such company, to the U.S. District Court for the Eastern District of Virginia; and similarly, if a suit be brought by the transit authority against the WMA Transit Co., it shall be transferred upon motion by that company to the U.S. District Court for the District of Maryland.

Mr. President, I have been advised that several Senators would like to speak on this subject. I am pleased to yield to the Senator from Maryland (Mr. Mathias).

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Hawaii for yielding. Speaking for the minority side of the Committee on the District of Columbia, I want to say we are in full accord with the committee amendment which the Senator from Hawaii has offered, and I thank the Senator from Hawaii and the chairman of the Committee on the District of Columbia, the Senator from Missouri (Mr. Eagleton) for expediting this legislation.

The doctors tell us that walking is a very healthful thing, but it might have been too much of a good thing around here in November and December for a great many residents of the Washington metropolitan area if this bill had not been passed. It is a very critical necessity, I think, that we do pass this measure.

Some Senators have come to me within the last 24 hours and said, "Why is it really so vital? We have Metro going. We hope some day we are going to ride the subway."

A critical necessity for the Washington metropolitan area is a balanced transportation system, and a functioning bus system is a necessary supplement to Metro and to every other form of transportation in the area.

It would be a very great tragedy if, because of the neglect of Congress, the bus companies were allowed to grind to a halt; then we would have to throw out the lifeline in some very expensive and difficult way.

I believe that this bill does set in motion the necessary authority to keep the bus transportation system moving as one of the ingredients to a balanced system within the District of Columbia.

I hope the Senate will adopt the committee amendment and pass the measure and get it to the House without any further delay.

Mr. INOUYE. I thank the Senator.

Mr. President, I yield to the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.).

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Hawaii and the distinguished Senator from Missouri, the chairman of the District committee, for the committee amendment which has just been presented. This amendment, insofar as the acquisition of any buslines in Virginia and Maryland are concerned, protects the owners of those buslines as to which court shall have jurisdiction. In the case of a Virginia busline, it would be the Federal district court in Virginia; and in the case of a Maryland busline, it would be the Federal district court in Maryland. I think this is an important and necessary amendment, and I am grateful to the District committee for presenting the amendment today.

I invite attention to one other aspect of the proposed legislation: As I understand it, the acquisition cost of these buslines, including the one in Washington, which is the largest of those involved, would be paid two-thirds by the Federal Government, and the remaining one-third would be divided among the jurisdictions of Maryland, Virginia, and the District of Columbia.

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. So, as a practical matter, the entire acquisition cost will be borne by the taxpayers—either the taxpayers of the United States, through the Federal share of the acquisition cost, or through the taxpayers of the local jurisdictions.

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. That being the case, I am wondering what safeguards there are in the proposed legislation as to the price that will be paid for the properties. I have particular reference to the property in the District of Columbia.

Mr. INOUYE. The safeguards would be the legal safeguards that would be provided by the appropriate courts in the condemnation suits.

Mr. HARRY F. BYRD, JR. I have been informed—I am not sure of the accuracy of the statement, and that is why I want to find out whether the distinguished Senator from Hawaii, a member of the District Committee, has additional information—that the unfunded retirement costs for the D.C. Transit System are in the neighborhood of $40 million.

Mr. INOUYE. I yield to the senior Senator from Maryland to respond to that inquiry.

Mr. MATHIAS. I thank the Senator from Hawaii for yielding.

There is an unfunded balance which is due to the employees' pension fund, and that, of course, would be a matter of negotiation between the union and D.C. Transit. It would be a consideration in any final transaction which would be concluded by the acquiring authority and by the stockholders of D.C. Transit before any final sale is concluded. We are aware of that. The District Committee will be watching it very closely.

Let me say this—and the committee report, on page 6, points it out: This would be a liability of the transit company which would have to be considered in fixing the price, and nothing in this act would be construed as granting the transit authority the power to assume or otherwise acquire liabilities of D.C. Transit. Whatever was due to the pension bond would be such a liability.

Another liability which has been mentioned is the obligation to remove tracks in various parts of the city which are lying under the paving of the streets. They have been ordered to be removed, and that is another obligation which will have to be negotiated before this transaction can be concluded.

Mr. HARRY F. BYRD, JR. Is it the Senator's view that under the proposed legislation, the taxpayers are adequately protected, particularly in regard to the unfunded retirement costs or obligations of D.C. Transit?

Mr. MATHIAS. I should like to respond by reading to the Senator a letter addressed by Jackson Graham, general manager of the Washington Metropolitan Area Transit Authority, to Senator Eagleton, dated October 13, 1972:

> In anticipation of the possibility that the Authority would be authorized to take over the four Washington area bus companies, there has been staff activity to prepare the organization for its responsibilities. As part of that effort, there have been informal meetings with representatives of the D.C. Transit Company and of the other area bus companies to identify areas in which negotiations would be necessary for orderly takeover and to establish the procedures by which these negotiations would be carried forward.
>
> There have been no agreements whatsoever between the Authority and any company concerning values or liabilities of any sort. We fully expect that the ultimate implementation of the take-over will be accomplished through such condemnation procedures as are provided for in the pending legislation and that values and liabilities, including liability for track removal and pension funds will be determined by the Court.

So I believe we can assure the Senator from Virginia that the taxpayers will not ultimately bear the burden of these liabilities of the companies.

Mr. HARRY F. BYRD, JR. I appreciate that comment from the Senator from Maryland.

That is basically what I am seeking to establish on the floor of the Senate—that nothing in the proposed legislation would permit the overlooking or the disregarding of unfunded obligations in the negotiations and in a condemnation suit.

Mr. MATHIAS. I think the Senator has served a very useful purpose in calling the attention of the Senate to these matters. But to make the legislative history perfectly clear, I ask unanimous consent that Mr. Graham's letter, addressed to Senator Eagleton, be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

WASHINGTON METROPOLITAN
AREA TRANSIT AUTHORITY,
Washington, D.C., October 13, 1972.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: In anticipation of the possibility that the Authority would be authorized to take over the four Washington area bus companies, there has been staff activity to prepare the organization for its responsibilities. As part of that effort, there have been informal meetings with representatives of the D.C. Transit Company and of the other area bus companies to identify areas in which negotiations would be necessary for orderly take-over and to establish the procedures by which these negotiations would be carried forward.

There have been no agreements whatsoever between the Authority and any company concerning values or liabilities of any sort. We fully expect that the ultimate implementation of the take-over will be accomplished through such condemnation procedures as are provided for in the pending legislation and that values and liabilities, including liability for track removal and pension funds, will be determined by the Court.

Sincerely,

JACKSON GRAHAM.

Mr. MATHIAS. I refer again to the language that appears on page 6 of the committee report which makes it clear that these liabilities are to be included as a part of the transaction, and that we will not simply wake up some day and find that they are another part of the public burden.

Mr. HARRY F. BYRD, JR. I think that is very important, and I thank the Senator from Maryland.

I have one other question. Does the committee have an indication or an estimate as to how much money may be involved in the purchase of D.C. Transit?

Mr. INOUYE. We have been advised that all three acquisitions would be in the vicinity of $40 million.

Mr. HARRY F. BYRD, JR. All three acquisitions would be in the vicinity of $40 million. Does the Senator have a breakdown so far as the cost of the D.C. Transit acquisition is concerned?

Mr. INOUYE. It is rather difficult to determine accurately. This is the purpose of the condemnation itself. The estimate is in the neighborhood of $20 million.

Mr. HARRY F. BYRD, JR. The other two, then, would be in the neighborhood, taken together, of $15 million, and D.C. Transit would be in the neighborhood of $25 million; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Hawaii.

Mr. PROXMIRE. Mr. President, will the Senator from Hawaii yield?

Mr. INOUYE. I yield.

Mr. PROXMIRE. Is there any precedent for simply providing two-thirds acquisition cost for any similar kind of facility in the past, either in the District of Columbia or anywhere else?

Mr. INOUYE. This is in accordance with the provisions of the Mass Transit Act.

Mr. PROXMIRE. Under the provisions of the Mass Transit Act, the Federal Government provides two-thirds of the cost?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. That is for the acquisition.

Mr. INOUYE. For the acquisition, yes.

Mr. PROXMIRE. The acquisition of a private mass transit system, whether in Milwaukee or in Honolulu.

Mr. INOUYE. The Senator is correct. This is in accordance with the provisions of the Mass Transit Act.

Mr. MATHIAS. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. I might point out, it even happens in Baltimore.

Mr. PROXMIRE. I can believe that it happens in Baltimore but not in Milwaukee or anywhere else in Wisconsin.

Did the Senator say that we have no way of telling how much this would cost or why the estimate is $20 million for acquisition of the District of Columbia Transit System? I have heard over the radio and read in the newspaper that the estimate would be much higher than that, that Chalk is talking about $75 million.

Mr. INOUYE. Mr. Chalk is a party to a suit——

Mr. PROXMIRE. I understand that, but what way do we have to put a ceiling on this thing? Do we rely entirely on the courts to decide whether it will be $30 million, $40 million, or $50 million, and that is it?

Mr. INOUYE. The bill does not provide for any ceiling. It would be determined by the courts as to what the final figure would be.

Mr. PROXMIRE. Is it possible that in the appropriations process the Appropriations Committee would simply just not appropriate the funds because they were too high, or are we committed?

Mr. INOUYE. I presume, as to the appropriating committees of the two houses, if they decided to withhold funds from the Mass Transit Authority, we could, indirectly, set a ceiling.

Mr. PROXMIRE. They could designate the funds for a particular system where the settlement seems too high that they would not pay it, or would that be subject to a point of order?

Mr. INOUYE. I would presume that we could do that in the appropriating process, or through legislation, but the committee has full faith and confidence in the three courts involved here and we feel that they will come out with a just result.

Mr. PROXMIRE. The Senator says this is in accordance with the provisions of the Mass Transit Act. In other acquisitions, is the Congress as equally uninformed as the size of acquisition costs?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. Is Congress in a position where it has to rely on our courts in other cities once they make a commitment in advance in this way?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. Does it not seem to the Senator from Hawaii that this is putting the taxpayer at a considerable disadvantage?

Mr. INOUYE. I agree with the Senator. The acquisition of the Metropolitan Area Transit Systems is by far the most public one. No one ever heard of a Baltimore acquisition, for example. We have had hearings on this acquisition.

Mr. PROXMIRE. If the courts should decide it was necessary to pay $50 million or $60 million, or whatever the cost may be by the legislation we pass this morning, we are committed to paying that amount and there is no further recourse unless the Appropriations Committee simply decided it will not appropriate the money; is that correct?

Mr. MATHIAS. Mr. President, will the Senator from Wisconsin yield at that point?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. Are we not, really, getting now into the philosophy of condemnation proceedings? If Congress is going to say—let us say we need a piece of land for national defense purposes, and we go through the normal condemnation proceedings, but regardless of what judge and jury come up with, we will not pay more than a certain amount; are we not then putting into question the whole nature of our approach to the acquisition of private property for paramount public interest?

Mr. PROXMIRE. I am not going to delay this. I just wanted to ask questions as to what our liability was here. I am sure it will go through. It has been approved. This is not a case of something being done at the last minute. There has been a great deal of deliberation about it, and hearings have been held. I just wanted to ascertain for the RECORD, as clearly and simply as I could, what this means. I am a member of the Banking Committee where we are responsible for mass transit and maybe we could work something out in the future so that we could provide a little more precise safeguard for the taxpayers, rather than rely on something that could be $20 million, $30 million, or $40 million, with no knowledge, no control over, and no limit to it.

Mr. MATHIAS. I wish to assure the distinguished Senator from Wisconsin that I was not implying for one moment that there was anything dilatory about his questions. They are very good questions. I am merely saying that we seem to be reaching dangerous ground by talking about changing the basic philosophy of our condemnation procedure, that we may be establishing a tribunal which at least in theory is equipped to ascertain what is the value of something and whether it is an accurate value or not, whether we would pay to a private owner what the proper value is, or what the tribunal might think it is.

I think that if Congress were to predetermine the ceiling, it would make it absolutely impossible to try any condemnation cases. I have had some small experience in that area. A jury, for example, would not be unaware of what the Congress' ceiling might be and that, in and of itself, might be detrimental, because the jury might assume that is what Congress thinks it is worth, and that is what the owner will get; so that this is an area we should approach with great caution.

Mr. PROXMIRE. The Senator is right. All I want to do is develop the principles which might apply to the future in such cases, so that when we do act in the future on mass transit legislation we will know more of what has been done and what the experience has been.

Frankly, in the 15 years I have served in Congress, it seems that every time we build a building in the District of Columbia, or buy something in the District of Columbia, the cost is two or three times what it would be in Providence, R.I., Milwaukee, or Baltimore. We build a little extension over in the New Senate Office Building and it costs more than the most expensive building in the history of Milwaukee, or in the State of Wisconsin, although Milwaukee is the same size city as Washington, and the labor costs are the same.

So this is something a little bit different and we should be more aware of and sensitive to it, and try to get as much information about it as we can. The points made by the distinguished Senator from Maryland are very good. I do not intend to delay this matter. I just wanted to elicit as much information for myself as I could on this subject.

Mr. MATHIAS. Mr. President, I thank the Senator from Wisconsin as well as my colleague (Mr. BEALL) and every other Member of the Senate. The Senator from Hawaii (Mr. INOUYE), is the moving figure in this matter. He has already made a distinguished record for himself, of careful observation of the events in the District of Columbia, and I certainly will be working with him and watching the cases very carefully.

Mr. INOUYE. Mr. President, I am pleased to yield now to the distinguished Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, I want to thank and to congratulate the distinguished Senator from Hawaii (Mr. INOUYE), the chairman of the Committee on the District of Columbia, the Senator from Missouri, and my distinguished colleague (Mr. MATHIAS), for their concern and perseverance in bringing this legislation up today, because it has been obvious for some time that the local transit system under the current ownership has not had the economic viability that would allow it to provide the services necessary.

My colleagues Mr. MATHIAS points out that it is absolutely essential to the maintenance of a balanced transportation system that this bill be passed before Congress goes home this year.

Now if my colleague from Maryland would engage in colloquy with me, I should like to ask him a question or two.

Concern was expressed by charter bus operators in the adjoining areas as to the kind of competition they might have.

My understanding of the bill is that it does not provide any monopoly situation for a publicly owned transportation system in the charter field, and no particular advantage will accrue to the new bus operator in this area. Also, as a result of the legislation and the hearings, rather than being opposed to the bill owners of public buslines in the area are very ardent advocates of the measure because they recognize that it is necessary for their own good that the transportation system have the kind of economic base and the kind of balance that would be created today. Is that a correct statement?

Mr. MATHIAS. Mr. President, to respond to the question of my colleague from Maryland, the committee certainly was aware of the concern that there might be at least some implication of a monopoly and we moved to deal with such an idea.

Mr. President, on page 5 of the committee report there is a paragraph on charter operations. The committee believes that the private companies which operate charter service in the Washington area have to have every opportunity for fair competition, and particularly in view of the fact that the new area, when and if consummated, would in effect be a public competitor with private enterprise.

So, I think we have made it clear in the committee report that there should be no monopolistic character to the charter service rendered by the new bus service of the transit authority.

I would say furthermore that the committee will be watching this particular area very closely. And I am grateful to my colleague, the junior Senator from Maryland, for raising this point.

I would like to make it perfectly clear that if there is any tendency to move out and saturate this field, Congress would have to react very vigorously.

Mr. BEALL. Mr. President, I thank my colleague for making the record abundantly clear on this point. I congratulate my senior colleague and also the Senator from Hawaii (Mr. INOUYE) for bringing the bill to the floor today.

It is much in the interest of this area that the bill pass before Congress adjourns.

Mr. INOUYE. Mr. President, I am pleased to submit a statement for the distinguished Senator from Virginia (Mr. SPONG), and I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SPONG

Efficient mass transportation services are essential to the National Capital Area and I commend the Chairman and Members of the District of Columbia Committee for their diligent attention to this subject. I also wish to express my appreciation for the willingness to accept my amendment relating to the condemnation procedures provided in the pending bill.

As I wrote the committee earlier, I strongly support the change that would provide that any condemnation suit in which two of the Virginia or Maryland bus companies are involved would be tried in that same state. I know of no justification for requiring these two Virginia or Maryland corporations to submit to a condemnation proceeding outside of the state in which they are incorporated. I believe it is wholly consistent with the intent of the transit compact and the rules of fairness to make this change in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 4062) was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I had considered, as I told the Senate, calling up Calendar Order No. 1169 (H.R. 640) a bill to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterers' pins free of duty.

I shall not do so at this time because I think that when I do the distinguished chairman of the Committee on Finance should be on the floor as well as all others who have indicated an interest in amendments to this bill and to the other two calendar bills.

In the meantime, Mr. President, I intend to ask unanimous consent at this time that the Senate stand in recess subject to the call of the Chair. However, before the question is put, I would request as strongly as I can that no unanimous-consent requests be granted unless they are cleared with the two leaders in case some Member comes on the floor and wants to make a speech, or something of that sort.

AMENDMENT OF COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. HUGHES. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HUGHES. Mr. President, last night, in the passage of a House bill relating to alcoholism, an amendment offered by the Senator from New York was agreed to with the understanding that the bill would be withdrawn if there was objection in the House to that amendment.

The Senator from Iowa determined and discussed with the Senator from New York the fact that there is objection in the House. The Senator from Iowa would like to have the bill reconsidered. The Senator from New York was on the floor a moment ago, and he has agreed to reconsider the bill and withdraw his amendment.

Mr. MANSFIELD. Mr. President, that is my understanding. And I would assume that proposal would be agreeable to both sides. It certainly is on this side.

Mr. President, this commitment was made last night in open session.

I therefore ask unanimous consent—and I would not do this unless I was positive that it met with the approval of the Republican leadership, and if there is any objection, I, of course, would not press this—that the Senate turn to the consideration of H.R. 16675 and that the—Mr. President, I withhold that. The Senator from New York is now in the Chamber.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC HEALTH SERVICE NOMINATIONS

Mr. MANSFIELD. Mr. President, as in executive session I ask unanimous consent because of an error that the confirmation of the nominations of Eddie G.

Smith, Jr., of the District of Columbia, and Ethel Weinberg, of Pennsylvania, be reconsidered. They should not have been on the calendar. A mistake was made. And I ask that the confirmation of the nominations be withdrawn or vitiated or abrogated, or reconsidered.

The PRESIDING OFFICER. Without objection the confirmation of the nominations is vitiated.

AMENDMENT OF COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. JAVITS. Mr. President, H.R. 16675, a bill relating to the extension of the so-called Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, is at the desk at my request. The bill was passed last night. No motion was made to reconsider. I propose to make such a motion in a moment, after explaining to the Senate why and to ask that the action taken last night be vitiated and the bill passed again. This is the reason.

Mr. President, I attached to the bill, at the suggestion of two Senators deeply interested, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Massachusetts (Mr. KENNEDY), an extension of the so-called lead-based paint bill. This measure is urgently needed because an appropriation has been made, but there is no law. The law expired; hence, the desirability to extend it.

I assured the Senator from Iowa (Mr. HUGHES)—and he and I are deeply concerned with the alcoholism extension bill; he is the chairman of the subcommittee and I am the ranking member of the subcommittee—that if any way that amendment interfered with the immediate transmittal of this bill as passed by the House and Senate, for the President's signature, that I would do everything I could to strike the amendment which was delaying it because the bill as passed could go to the President.

I have heard from the Senator from Iowa that there is such a possibility of delay.

Accordingly, Mr. President, I ask unanimous consent that the action taken on Senate for passage, free of any amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

this bill last night be now vitiated and that the bill again be laid before the

The bill was read by title as follows:

A bill (H.R. 16675) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for one year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16675) was ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR MEMBERS OF THE ARMED FORCES WHO ARE IN MISSING STATUS TO ACCUMULATE LEAVE WITHOUT LIMITATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1236, H.R. 14911, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was stated by title as follows:

A bill (H.R. 14911) to amend titles 10 and 37, U.S. Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment on page 2, line 11, after the word "title", strike out "37." and insert "37. However a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I sent to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill add the following new sections:

SEC. 4. Chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows:

"§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence

"(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) The Deputy Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is diabled or there is no Secretary of Defense.

"(c) The Deputy Secretaries take precedence in the Department of Defense immediately after the Secretary."

(2) Sections 135(c) and 136(e) are each amended by striking out "Deputy Secretary" and inserting in place thereof "Deputy Secretaries".

(3) The item in the analysis relating to section 134 is amended to read as follows:

"134. Deputy Secretaries of Defense: appointment; powers and duties; precedence."

SEC. 5. Section 171(a)(2) of title 10, United States Code, is amended by striking out "the" and inserting in place thereof "a".

SEC. 6. Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretaries of Defense (2)."

SEC. 7. Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended to read as follows:

"(c) Notwithstanding section 133(d) of title 10, United States Code, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).".

Amend section 3 of the bill to read as follows:

SEC. 3. The first and second sections of this Act become effective as of February 28, 1961.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment which I have sent to the desk which has just been stated is the same as Calendar No. 1238, S. 3237, which is on the calendar. It has been approved unanimously by the Committee on Armed Services. It provides for an additional Deputy Secretary of Defense.

At the present time, the Secretary of Defense has only one deputy. He has assistant secretaries, but only one deputy. The Secretary of Defense had strongly requested an additional deputy prior to the retirement of former Deputy Secretary David Packard. Mr. Packard came before the Committee on Armed Services and made what I thought was a very strong case for providing the Secretary of Defense with an additional deputy. Secretary Packard himself was a very able man. I thought he did a magnificent job as Deputy Secretary of Defense. It was his view and it is the view of Secretary of Defense Laird—and incidentally, I think Secretary Laird is making an outstanding Secretary of Defense—that we need one additional man in the top echelon.

The House has passed legislation, approved legislation, providing for a Second Deputy Secretary of Defense. The Senate has held it up because some members of the committee were not satisfied as to certain aspects of this matter. Since then, however, the Department of Defense has written the committee a letter taking care of the objection which was raised. The objection is that if there are two Deputy Secretaries of Defense, which one will have precedence and authority in the event the Secretary of Defense is not available?

The letter from the Department of Defense made clear that when the nomination is submitted to the Senate, the nomination for the office of Deputy Secretary of Defense, that the President or the Secretary of Defense through the President would make clear to Congress which of the two deputies would have precedence. That being cleared up, the committee was unanimous in its view that this legislation should be approved.

The reason I am suggesting this as an amendment to H.R. 14911, rather than as a separate bill is to alleviate and facilitate the parliamentary situation. S. 3237, of course, is a Senate bill, and it would complicate matters for a Senate bill to be handled in the House at this late date. But the House already has passed legislation authorizing a second deputy, and the appropriate officials in the House who have been contacted would prefer it to be handled as an amendment to H.R. 14911, a bill authorizing members of the Armed Forces who are missing in action to accumulate leave without limitation, and so forth.

So I recommend to the Senate that the legislation creating a Second Deputy Secretary of Defense be added to this House bill as an amendment.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I think there are considerable advantages in this proposal. The Defense Department deserves credit, for proposing it. Certainly, one of the great weaknesses we have suffered under other administrations, as well as this administration, is weakness in procurement. David Packard was an excellent Deputy Secretary of Defense and he was especially skilled in the procurement area, but there are not many David Packards in this country. I think it makes sense to have one Secretary of Defense for Procurement and one for Operations. I understand that is the purpose—providing we meet the divided authority problem in this measure?

Mr. HARRY F. BYRD, JR. The bill does not specify that, but it is my understanding that that is what is desired to be accomplished.

Mr. PROXMIRE. I understand that the Senator from Missouri (Mr. SYMINGTON), and perhaps others, also, were concerned about this divided authority. There is no Cabinet office for which it is more necessary to make clear who is going to be in charge. The Secretary of Defense, of course, under the President, has great responsibility to act with complete authority, and without any question as to who is in charge.

The reason why it is necessary to make a record on this is that the Defense Department refused to specify which of the two deputies would succeed the Secretary. It objected to the position of the Senator from Missouri (Mr. SYMINGTON). Finally the Department agreed it would indicate which deputy would succeed the Secretary and said it would specify that, when the nomination was sent up here, which Deputy Secretary who would succeed the Secretary of Defense in the event of his incapacity.

I want to make that change in attitude part of the legislative record in the first place.

In the second place, would the Senator from Virginia put the Defense Department's letter in the RECORD?

Mr. HARRY F. BYRD, JR. Yes.

Mr. PROXMIRE. I think it might be helpful to put that commitment of the Defense Department in the RECORD, to make it clear that although they disagreed at first as to who would succeed, who would be second to the Secretary of Defense, they now have changed their mind and would let us know at the time they send up the nomination.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the letter from the Secretary of Defense to the chairman of the Armed Services Committee dealing with this matter be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., October 12, 1972.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Even at this late date in the session, I would like to again request consideration of S. 3237 to provide authorization for a second Deputy Secretary of Defense.

From discussions between my staff and various members of your committee, it is my understanding that a question has been raised in connection with the assurance I gave in my letter of February 9 that if a second Deputy Secretary of Defense is authorized and appointed the President would formally designate which of the two Deputy Secretaries would take precedence, when both are present, to act in the absence of the Secretary of Defense. Please accept my assurance that at the time of the nomination of a second Deputy Secretary of Defense and at the time of the nomination of a Deputy Secretary of Defense to fill an ensuing vacancy, the President would designate which of the two Deputy Secretaries would take precedence to act in the absence of the Secretary.

It is my understanding that this assurance will allay previous objections to the legislation by members of your committee and under these circumstances I sincerely hope that your committee and the Congress will find it possible to enact this authorization prior to adjournment.

Sincerely,

MELVIN R. LAIRD.

Mr. PROXMIRE. I thank the Senator from Virginia, and I support the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I feel, just as the Senator from Wisconsin and the Senator from Missouri, that it should be made clear just what the line of authority is, and while I felt certain that that would have to be done, anyway, I think it is better to have the RECORD clear and I think it is better that the committee received, as it did, from the Defense Department the letter making it clear that when the nomination is submitted, the duties and precedents will be specified. I think it is an important point, and I commend the Senator from Missouri and the Senator from Wisconsin for their position in this regard.

I just want to say one other word. The Defense Department is responsible for the expenditure of $77 billion each year. That is a gigantic sum of money. I frankly do not see how they have been able to operate the Defense Department with one Secretary and one Deputy. I think they need additional help in the higher echelon. I think it is important, if they are going to keep a close eye on operations, they should also keep a close eye on procurement, and it will take two persons with carefully delineated responsibilities to do this.

So I am pleased to support this legislation, and I urge, first, adoption of the bill.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. DOMINICK. I congratulate the Senator on his amendment. I wanted to bring up another subject if I could. In our general legislative subcommittee we had a bill which, if I recall, was passed by the House, providing for increased pay or rank—I have forgotten which; pay, I guess—insofar as professors at the academies are concerned.

Mr. HARRY F. BYRD, JR. Yes.

Mr. DOMINICK. I have had a number of inquiries about it. My understanding is that we passed it through the subcommittee on which I serve, without any objection from anybody, and it is now before the full committee.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield at that point, hearings were held on that legislation, and, just as the Senator from Colorado has, I have received a great many phone calls in regard to that subject also. I might say that our distinguished colleague from Arizona (Mr. GOLDWATER) is very much interested in that. It has not been reported out of the subcommittee. The subcommittee has been polled—we were not able to have another meeting this late in the session—and the Senator from Colorado and the Senator from Virginia responded in the affirmative. Three other Senators responded in the negative. One Senator was not available and had not been in Washington, because of other commitments. The remaining member of the committee has not yet made a firm decision. So as it stands today, the subcommittee is three-to-two in opposition to the proposal.

Mr. DOMINICK. Are they in opposition to the proposal or are they just in opposition by holding it out?

Mr. HARRY F. BYRD, JR. The holding was done by the staff. My understanding is that the opposition is to the proposal.

Mr. DOMINICK. So it was not the intention of the Senator from Virginia to offer that as an amendment?

Mr. HARRY F. BYRD, JR. No. I doubt if that would be appropriate. If there were to be a meeting of the full committee, then I would propose to report to the full committee the attitude of the subcommittee and let the full committee make a decision, but, in the absence of the full committee, I would regard it as inappropriate for me, at least, to offer it.

Mr. DOMINICK. I appreciate the invariable courtesy and total integrity of the Senator from Virginia in taking this stand.

I do want to say that I am in favor of the bill. I think most of us will be when we finally come to grips with it. I hope if we do not do it in this bill—and I will not do it, in view of the position of the Senator from Virginia—that we insure that prompt action will be taken in the way of hearings and determination, because the academies are finding that they are losing very capable people when they can retire at the age of 52 at the same retirement pay that they would get if they retired at age 65. So we are losing their services for that 14-year period.

Mr. HARRY F. BYRD, JR. If the bill is introduced, and I think it will be—and it is referred to the committee which has such general legislation, I shall be glad to confer with the Senator from Colorado and the Senator from Arizona and call for early hearings on the bill, and hope the committee will make an early decision.

Mr. DOMINICK. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An Act to amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1238, S. 3237, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, Senate bill 3237 will be indefinitely postponed.

GLEN CANYON NATIONAL RECREATION AREA, ARIZ.

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 27.

The PRESIDING OFFICER (Mr. NELSON) laid before the Senate the amendment of the House of Representatives to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah," which was to strike out all after the enacting clause, and insert:

That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area (hereafter referred to as the "recreation area") to comprise the area generally depicted on the drawing entitled "Boundary Map Glen Canyon National Recreation Area," numbered GLC–91,006 and dated August 1972, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter referred to as the "Secretary") may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description, but the total acreage of the national recreation area may not exceed one million two hundred and thirty-six thousand eight hundred and eighty acres.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and interests in lands by donation, purchase, or exchange. Any lands owned by the States of Utah or Arizona, or any State, political subdivisions thereof, may be acquired only by donation or exchange. No lands held in trust for any Indian tribe may be acquired except with the concurrence of the tribal council.

(b) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B".

SEC. 3. (a) The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided, however*, That nothing in this Act shall affect or interfere with the authority of the Secretary granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 6. The administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management. The same policies followed by the Bureau of Land Management in issuing and advertising mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 3(a) and 4 of this Act.

SEC. 7. The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the recreation area.

SEC. 8. (a) The Secretaries of the Department of Interior and the Department of Transportation, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the recreation area. Such study shall locate the specific route of a scenic, low-speed road, hereby authorized, from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred-foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan. In no event shall said route cross the Escalante River north of Stephens Arch.

(b) The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in section 8(a) and the Secretary of the Interior shall adhere to said timetable in every way feasible to him.

(c) If, for any reason, the Construction does not proceed according to the said timetable, the Secretary of the Interior shall provide an easement to the State of Utah (the State consenting) for the construction and maintenance of the said road. The existence of any such easement shall not impair the eligibility of the State of Utah for Federal funding under any program for which it would otherwise be eligible for funds to build this road; nor shall the existence of such an easement invalidate any authorization for appropriation available to the Secretary of the Interior for such road construction. The easement shall contain such terms and conditions as the parties shall determine necessary to implement the purposes of this Act.

(d) The Secretary of the Interior is authorized to construct and maintain markers and other interpretive devices consistent with highway safety standards.

(e) The study specified in section 8(a) hereof shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of this Act and to connect with all roads of ingress to, and egress from the recreation area.

(f) The findings and conclusions of the Secretaries of Interior and Transportation, and the Highway Department of the State of Utah, specified in section 8(a), shall be submitted to Congress within two years of the date of enactment of this Act, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in section 8(b).

Sec. 9. Within two years from the date of enactment of this Act, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the recreation area for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with said Wilderness Act.

Sec. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $175,000 for the acquisition of lands and interests in lands and not to exceed $37,325,400 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act.

Mr. MOSS. I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, lines 9 and 10 strike everything after the word "The" through the comma on line 10 and insert in lieu thereof the word "Secretary".

On page 6, strike lines 6 through 18, and redesignate (d) (e) and (f) on the following subsections by striking those letters and inserting in lieu through the letters (c) (d) and (e).

On page 6, line 19, strike "of the Interior".

On page 7, lines 4 and 5, strike "Secretaries of Interior and Transportation" and insert in lieu thereof the word "Secretary".

On page 7, line 13, strike "of the Interior".

On page 7, line 23, strike "$175,000" and insert in lieu thereof "$400,000".

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, the House of Representatives has finally passed a modified version of my bill, S. 27, to establish Glen Canyon National Recreation Area in Utah and Arizona. Though the time is late, I have not given up hope that Congress might enact this bill into law in the 92d Congress.

In an effort to reach that goal, I am now presenting a bloc of amendments to the House-passed version. It is my hope that these changes will be accepted by the Senate and the bill returned to the House. If the House accepts these modifications, there will be no need for a conference committee. In the waning days of this Congress, this is perhaps the only way that the Glen Canyon National Recreation Area can be established this year. Some of my amendments are technical amendments, simply creating conforming language throughout the bill. I have stricken reference to the Secretary of Interior and the Secretary of the Department of Transportation and substituted simply the words "Secretary" which is defined in the bill as designating the Secretary of the Interior. This will clarify the authority and responsibility for any work regarding roads discussed in the bill. Language will remain in the bill mandating a study for the location of the specific route of a scenic, low-speed road, from Glen Canyon City to Bullfrog Basin.

My amendment eliminates section 8(c) which would have provided for State construction of the scenic road if the Interior Department does not maintain the timetable set in the bill. There is no precedent for this type of delegation of authority to any State, and members of the Senate Interior Committee absolutely will not accept this section of the bill.

One other change raises the level of authorization for acquisition of lands or interest in lands from $175,000 to $400,000. This change is based on current National Park Service estimates. Previous assessments of land value are very inaccurate today. Appraisals were made many years ago and current information indicates that $175,000 will not be enough to accomplish the purposes of this act.

The creation, by statute, of the Glen Canyon National Recreation Area will be warmly welcomed in Utah and Arizona and among recreation enthusiasts everywhere who seek to visit the remarkable area. I believe that the compromise I am proposing is workable and feasible and will benefit the public interest. I certainly hope that the Senate will agree to these amendments and that the House will subsequently follow that lead.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc, of the Senator from Utah.

The amendments were agreed to.

Mr. MOSS. I move that the Senate concur in the amendment of the House of Representatives, as amended.

The motion was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, to repeat, some time later today it is anticipated that the Senate will proceed to the consideration of Calendar No. 1169, H.R. 640, to amend the tariff schedules of the United States. However, that will not be done until and unless the distinguished chairman of the Committee on Finance (Mr. Long) is present in the Chamber. I think that is only proper, in view of the fact that he is engaged in two very important conferences at this time.

I request further that if the Senate is convened at the call of the Chair, all unanimous-consent requests except the ordinary ones about rescinding a quorum call or something like that be referred to the leadership for approval before any action is taken.

With that understanding, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 12:44 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:57 p.m., when called to order by the Presiding Officer (Mr. Beall).

DWIGHT D. EISENHOWER MEMORIAL BICENTENNIAL CIVIC CENTER ACT

Mr. GRAVEL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3943.

The PRESIDING OFFICER (Mr. Beall) laid before the Senate the amendment of the House of Representatives to the bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Dwight D. Eisenhower Memorial Bicentennial Civic Center Act."

Sec. 2. The Congress hereby finds and declares that—

(1) it is essential to the social and economic development of the District of Columbia to establish major centers of commercial and economic activity within the city;

(2) such a center of activity would result from the development of a civic center located in the downtown area of the District of Columbia;

(3) a civic center would (A) attract large numbers of visitors to the downtown area and result in increased business activity in the area surrounding the center; (B) enable national organizations to hold their conventions and other meetings in the District of Columbia and thereby encourage citizens from the entire Nation to visit their Capital City; (C) provide a new source of revenue for the District of Columbia as a consequence of its operations and the expanded commercial activities resulting therefrom; and (D) provide expanded employment opportunities for residents of the District of Columbia;

(4) it is fitting that said civic center be established as a memorial to the late President, Dwight D. Eisenhower;

(5) the prompt provision of major convention facilities in the District of Columbia will significantly contribute to the commemoration of the Nation's bicentennial year; and

(6) the powers conferred by this Act are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised, and the granting of such powers is necessary in the public interest.

Sec. 3. The Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq.), is amended by adding at the end thereof the following new section:

"Sec. 18. (a) In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings and other social, cultural, and business activites, the Commissioner of the District of Columbia (hereinafter, ':Commissioner') is authorized to provide for the development, construction, operation, and maintenance of the civic center to-designated as the Dwight D. Eisenhower Memorial Bicentennial Civic Center on a site in the Northwest section of the District of Columbia within an area bounded by Eighth Street, H Street, Tenth Street, New York Avenue, and K Street.

"(b)(1) Such civic center shall be in accordance with a plan, indicating the design and estimated costs, approved by the Commissioner and the District of Columbia Council, and approved by the National Capital Planning Commission pursuant to section 5 of the National Capital Planning Act of 1952 (D.C. Code, sec. 1-1005) and section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5-428), and reviewed by the Commissioner of Fine Arts to the extent required by section 1 of the Act approved May 16, 1930 (D.C. Code, sec. 5-410).

"(2) Notwithstanding the provisions of section 12 of the District of Columbia Redevelopment Act of 1945, as amended (D.C. Code, sec. 5-711), the urban renewal plan, approved pursuant to section 6(b)(2) of such Act (D.C. Code, sec. 5-705(b)(2)), for an urban renewal area in which the civic center is located shall be deemed to be modified by the plan approved pursuant to this subsection and the National Capital Planning Commission shall certify such urban renewal plan, as modified, to the District of Columbia Redevelopment Land Agency.

"(3) In the development of the civic center in accordance with the plan approved pursuant to this subsection, the Commissioner, notwithstanding any other provision of law, may open, extend, widen, or close any street, road, highway, alley, or part thereof, by the filing of a plat or plats in the Office of the Surveyor of the District of Columbia showing such opening extension, widening, or closing.

"(c) The Commissioner shall require by purchase, gift, condemnation, or otherwise all real property necessary to provide for the civic center.

"(d)(1) The Commissioner is authorized to enter into purchase contracts, including negotiated contracts, for the financing, design, construction, and maintenance of the civic center. The Commissioner is further authorized to lease the site described in subsection (a) at a nominal rental for a period of not more than thirty-five years. The payment term of said purchase contracts shall not be more than thirty years from the date of acceptance of the civic center and such purchase contracts shall provide that title to the civic center shall vest in the District of Columbia at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in the purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder.

"(2) Such purchase contracts shall include such provisions as the Commissioner, in his discretion, shall deem to be in the best interest of the District of Columbia and appropriate to secure the performance of the Obligations imposed upon the party or parties that shall enter into such agreement with the Commissioner. The purchase contracts shall provide for payments to be made to—

"(A) amortize the cost of site acquisition, including relocation payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such other moneys as may be advanced by the contractors to the District of Columbia;

"(B) amortize the cost of construction of improvements to be constructed;

"(C) provide a reasonable rate of interest on the outstanding principal as determined under subparagraphs (A) and (B) above; and

"(D) reimburse the contractors for the cost of any other obligations required of them under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractors.

"(3) For the purpose of the purchase contracts provided by this subsection for the erection of the civic center, the Commissioner is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity to effectuate any of the purposes of this subsection.

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to and approval by the Senate and House Committees for the District of Columbia, and the Senate and House Committees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

"(e) The full faith and credit of the Government of the District of Columbia is hereby committed to guarantee, upon such terms and conditions as may be prescribed by the Commissioner, the fulfillment of all obligations imposed by the provision of this section.

"(f)(1) The Commissioner is authorized to accept and administer gifts, personal services, securities, or other property of whatever character to aid in carrying out the purposes of this section.

"(2) The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the Government of the District of Columbia, or may provide for the performance of such operations, including the use or rental of the civic center or its equipment, motor vehicle parking facilities, concessions, and other activities, by contract entered into with any person, copartnership, corporation, or other public or private entity, upon such terms and conditions as may be stipulated in the agreements, and for such purposes may utilize or employ the services of personnel of any agency or instrumentality of the United States or the District of Columbia, with the consent of such agency or instrumentality, upon a reimbursable or nonreimbursable basis, and may utilize voluntary or uncompensated personnel."

SEC. 4. (a) There is authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to carry out the purposes of this Act. Such sums shall remain available for obligation until expended.

(b) There is authorized to be appropriated, without fiscal year limitation and out of any money in the Treasury not otherwise appropriated, not to exceed $14 million for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act.

SEC. 5. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue, in Atlanta, Georgia, is hereby designated as the "Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

SEC. 6. The Federal building to be constructed in the block bounded by the west side of New Orleans Avenue, north of Main Street, and the east of Jackson Street, in Hattiesburg, Mississippi, shall hereafter be known and designated as the "William M. Colmer Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "William M. Colmer Federal Building".

SEC. 7. The Federal building to be constructed in the block of West Commerce Street bounded on the west side by Columbus Street and on the east side by James Street, in Aberdeen, Mississippi, shall hereafter be known and designated as the "Thomas G. Abernethy Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "Thomas G. Abernethy Federal Building".

SEC. 8. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia, shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States, to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

SEC. 9. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

SEC. 10. The Federal building in the block bounded by Second Street Southwest, Third Street Southwest, Cleveland Avenue South, and Dewalt Avenue South, in Canton, Ohio, shall hereafter be known and designated as the "Frank T. Bow Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "Frank T. Bow Federal Building".

SEC. 11. The jet propulsion laboratory at 4800 Oak Grove Drive, Pasadena, California, shall hereafter be known and designated as the "H. Allen Smith Jet Propulsion Laboratory". Any reference in a law, map, regulation, document, record, or other paper of the United States to such jet propulsion laboratory shall be held to be a reference to the "H. Allen Smith Jet Propulsion Laboratory."

SEC. 12. The Federal building at 1515 Clay Street Oakland, California, shall hereafter be known and designated as the "George P. Miller Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "George P. Miller Federal Building".

SEC. 13. The United States courthouse and Federal building at 302 Joplin Street, Joplin, Missouri, shall hereafter be known and designated as the "Durward G. Hall Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Durward G. Hall Federal Building".

SEC. 14. The United States courthouse and Federal building at 225 Cadman Plaza, Brooklyn, New York, shall hereafter be known and designated as the "Emanuel Celler Federal Building". Any reference in a law map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Emanuel Celler Federal Building".

SEC. 15. The post office, United States courthouse and Federal building at 401 West Trade Street, Charlotte, North Carolina, shall hereafter be known and designated as the "Charles R. Jonas Federal Building,". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Charles R. Jonas Federal Building".

Sec. 16. The United States courthouse and Federal building at the corner of Princess Street and Water Street, Wilmington, North Carolina, shall hereafter be known and designated as the "Alton Lennon Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Alton Lennon Federal Building".

Sec. 17. The post office and Federal building now under construction in the block bounded on the north by East Sixth Street, west by North Diamond Street, south by East Fifth Street, and east by North Adams Street, Mansfield, Ohio, shall hereafter be known and designated as the "Jackson E. Betts Federal Building". Any reference in a law, map regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Jackson E. Betts Federal Building".

Sec. 18. The Federal building in the block bounded on the north by Edmond Street, south by Charles Street, west by Eighth Street, and east by Ninth Street, St. Joseph, Missouri, shall hereafter be known and designated as the "William R. Hull Federal Building". Any reference in a law, map, regulations, document, record, or other paper of the United States to such building shall be held to be a reference to the "William R. Hull Federal Building".

Sec. 19. The United States courthouse and Federal building to be constructed in the block bounded on the north side by Lombard Street, east by Hanover Street, south by Pratt Street, and west by Hopkins Place, Baltimore, Maryland, shall hereafter be known and designated as the "Edward A. Garmatz Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Edward A. Garmatz Federal Building".

Sec. 20. The post office and Federal building to be constructed in New Bedford, Massachusetts, under authority of the Public Buildings Amendments of 1972, Public Law 92-313, shall hereafter be known and designated as the "Hastings Keith Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Hastings Keith Federal Building".

Sec. 21. The post office and Federal building at 333 West Fourth Street, Tulsa, Oklahoma, shall hereafter be known and designated as the "Page Belcher Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Page Belcher Federal Building".

Sec. 22. The Federal building at the corner of Main Street and High Street, Farmville, Virginia, shall hereafter be known and designated as the "Watkins M. Abbitt Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Watkins M. Abbitt Federal Building".

Sec. 23. The Federal building to be constructed in Roanoke, Virginia, under authority of the Public Buildings Amendments of 1972, Public Law 92-313, shall hereafter be known and designated as the "Richard H. Poff Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Richard H. Poff Federal Building".

Sec. 24. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

Sec. 25. The Earth Resources Observation System Facilities Development Foundation at 101 West Ninth Street, Sioux Falls, South Dakota, shall hereafter be known and designated as the "Karl E. Mundt Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Karl E. Mundt Federal Building".

Sec. 26. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known as, the "Mary Switzer Memorial Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Mary Switzer Memorial Building".

Sec. 27. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on the Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

Sec. 28. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office and Federal Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

Sec. 29. The Federal building at 334 Meeting Street, Charleston, South Carolina, shall hereafter be known and designated as the "L. Mendel Rivers Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "L. Mendel Rivers Federal Building".

Sec. 30. The United States courthouse and Federal building at the corner of Avenue A and Seventh Street, Opelika, Alabama, shall hereafter be known and designated as the "George W. Andrews Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "George W. Andrews Federal Building".

Sec. 31. The Federal building to be constructed in Florence, South Carolina, on the site bounded east by Sanborn Street, west of North McQueen Street, and north by West Evans Street, shall hereafter be known and designated as the "John L. McMillan Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John L. McMillan Federal Building".

Sec. 32. The United States courthouse and Federal building located at 400 Rood Avenue, Grand Junction, Colorado, shall hereafter be known and designated as the "Wayne N. Aspinall Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Wayne N. Aspinall Federal Building".

Sec. 33. The post office, United States courthouse and Federal building at 207 West Main Street, Wilkesboro, North Carolina, shall hereafter be known and designated as the "Johnson J. Hayes Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Johnson J. Hayes Building".

Sec. 34. The effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238 Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional two years from the date on which (but for this section) such provision would expire.

Sec. 35. The United States courthouse and Federal building to be constructed in the block bounded by the proposed Makai Street, Halekauwila Street, Kakaako Street, and Ala Moana Boulevard, in Honolulu, Hawaii, shall hereafter be known and designated as the "Prince Jonah Kuhio Kalanianaole Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Prince Jonah Kuhio Kalanianaole Building".

Sec. 36. The Federal office building to be constructed in the city of Albany, New York, is hereby designated as the "Leo W. O'Brien Federal Building", in honor of Leo W. O'Brien, a distinguished Member of the United States House of Representatives from 1952 to 1967, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Leo W. O'Brien Federal Building".

Sec. 37. The United States Federal office bounded on the south side by Market Street, north by Art Street, east by Sixth Street, and west by Seventh Street, Philadelphia, Pennsylvania, shall hereafter be known and designated as the "William J. Green Jr. Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "William J. Green Jr. Federal Building".

Sec. 38. The United States courthouse to be constructed in the block bounded on the south side by Market Street, north by Art Street, east by Sixth Street, and west by Seventh Street, Philadelphia, Pennsylvania, shall hereafter be known and designated as the "James A. Byrne Federal Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "James A. Byrne Federal Courthouse".

Sec. 39. The Federal building at East Ninth Street and Lakeside Avenue, Cleveland, Ohio, shall hereafter be known and designated as the "Anthony J. Celebrezze Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Anthony J. Celebrezze Federal Building".

Sec. 40. The post office and Federal building at Jefferson and Walnut Streets, Green Bay, Wisconsin, shall hereafter be known and designated as the "John W. Byrnes Post Office and Federal Building". Any reference in a law, map, regulation, document, or other paper of the United States to such building shall be held to be a reference to the "John W. Byrnes Post Office and Federal Building".

Sec. 41. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Sections 6 and 7, sections 10 through 23, inclusive, sections 25, 31, 32, 38, and 40 shall take effect January 4, 1973.

Mr. GRAVEL. Mr. President, the construction of the Eisenhower Civic Center in downtown Washington is envisioned as the catalyst that will accelerate the revitalization of a part of our city that has long been neglected.

Washington is perhaps alone among major American cities in lacking a facility of this type where large gatherings of people can be held for a wide variety of purposes. As a result, the city cannot attract the kind of events that would further its position as a major center for tourists.

This gap in the civic amenities of Washington has long been recognized, and there have been numerous efforts to fill it. The legislation now before the Senate would permit the city to provide the kind of civic center worthy of our Nation's Capital.

The Subcommittee on Buildings and Grounds, which I chair, has examined the civic center proposals and we strongly endorse the legislation now before the Senate and urge its approval.

EISENHOWER CIVIC CENTER IS NEEDED TO SERVE THE NATIONAL CAPITAL

Mr. RANDOLPH. Mr. President, as a Member in the Congress for nearly 28 years, I have been aware of the need for a building in Washington where large gatherings could assemble. It seems ironic, in fact, that the city which is the seat of our Federal Government does not have the ability to host a national political convention.

Perhaps even more important for the thousands of people who live and work in Washington is the absence of a facility to help enrich the cultural and commercial life of the city.

Mr. President, the members of the Committee on Public Works and its Subcommittee on Buildings and Grounds under the able leadership of the Senator from Alaska (Mr. Gravel) have considered this deficiency very carefully. The need for the proposed Eisenhower Civic Center has been viewed in the light of how other public facilities have been developed in Washington. We are convinced that the need for the Civic Center is great and that the legislation before the Senate embodies the soundest method of providing it. We are here helping the people of the country as well as the Washington area.

Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. Beall). Without objection, it is so ordered.

JUDGMENTS IN FAVOR OF THE MISSISSIPPI SIOUX INDIANS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1462.

The PRESIDING OFFICER (Mr. Beall) laid before the Senate the amendments of the House of Representatives to the bill (S. 1462) to provide for the distribution to the Sisseton and Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, and for other purposes, which were to strike out all after the enacting clause and insert:

That the funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay compromise judgments to the Mdewakanton and Wahpakoota Tribe of Sioux Indians, and the Sisseton and Wahpeton Tribes of Sioux Indians, in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, together with interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this Act, shall be distributed as provided in this Act.

TITLE I

Sec. 101. (a) The Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall bring current their membership rolls as of the date of this Act. The Lower Sioux Indian Community at Morton, Minnesota, the Prairie Island Indian Community at Welch, Minnesota, and the Shakopee Mdewakanton Sioux Community of Minnesota shall prepare rolls of their members who are lineal descendants of the Mdewakanton and Wahpakoota Tribes, and who were born on or prior to and are living on the date of this Act, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Mdewakanton and Wahpakoota Tribe who were born on or prior to and are living on the date of this Act whose names or the names of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

Sec. 102. After deducting the amounts authorized in section 1 of this Act, the funds derived from the judgment awarded the Indian Claims Commission dockets numbered 360, 361, 362, 363, and one-half of the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of the rolls prepared pursuant to section 101 of this Act. An amount equivalent to the proportionate shares of those persons who are members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be placed on deposit in the United States Treasury to the credit of the respective groups. Eighty per centum of such funds on deposit to the credit of the Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall be distributed per capita to such tribal members, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior. One hundred per centum of such funds on deposit to the credit of the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be distributed per capita of such tribal members: *Provided,* That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 2 of this Act. The shares of enrollees who are not members of such groups shall be paid per capita.

TITLE II

Sec. 201. (a) The Devils Lake Sioux Tribe of North Dakota, and the Sisseton and Wahpeton Sioux Tribe of South Dakota, shall bring current their membership rolls of the date of this Act. The Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana, shall prepare rolls of their members who are lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, who were born on or prior to and are living on the date of this Act, and who are entitled to enrollment on their respective membership rolls in accordance with the applicable rules and regulations of the tribe or group involved, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval by the Secretary of the Interior. The Secretary's determination on all applications for enrollment shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and are living on the date of this Act whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

Sec. 202. (a) After deducting the amount authorized in section 1 of this Act, the funds derived from the judgment awarded in Indian Claims Commission docket numbered 142 and the one-half remaining from the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of reservation residence and other residence shown on the 1909 McLaughlin annuity roll, as follows:

Tribe or group	*Percentage*
Devils Lake Sioux of North Dakota	21.6892
Sisseton-Wahpeton Sioux Tribe of South Dakota	42.9730
Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana	10.3153
All other Sisseton and Wahpeton Sioux	25.0225

(b) The shares of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, Montana, as apportioned in accordance with subsection, (a), shall be placed on deposit in the United States Treasury to the credit of the respective groups. Seventy per centum of such funds shall be distributed per capita to their tribal members: Provided, That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 201(a) of this Act. The remainder of such funds may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior: Provided, That, in the case of the Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana, the Fort Peck Sisseton-Wahpeton Sioux Council shall act as the governing body in determining the distribution of funds allotted for programing purposes: Provided further, That the Sisseton-Wahpeton Sioux Tribe of South Dakota shall act in concert with its membership residing in the Upper Sioux Community in Minnesota and its membership affiliated with the Urban Sisseton-Wahpeton Council of the Minneapolis-Saint Paul area in jointly submitting programing proposals to the Secretary.

(c) The funds allocated to all other Sisseton and Wahpeton Sioux, as provided in subsection (a), shall be distributed per capita to the persons enrolled on the roll prepared by the Secretary pursuant to section 201(b) of this Act.

TITLE III

SEC. 301. No person shall be eligible to be enrolled under this Act who is not a citizen of the United States.

SEC. 302. Any person qualifying for enrollment with more than one group shall elect the group with which he shall be enrolled for the purpose of this Act.

SEC. 303. The sums payable to enrollees or their heirs or legatees who are minors or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interest of such persons after considering the recommendations of the governing bodies of the groups involved.

SEC. 304. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 305. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

And amend the title so as to read: "An Act to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes."

Mr. MANSFIELD. Mr. President, the Senate passed S. 1462 to authorize the distribution of the Sisseton-Wahpeton Tribes—Upper Sioux—of Sioux Indians' portion of a judgment against the United States recovered by the Mississippi Sioux Indians. The judgments in favor of the Sisseton-Wahpeton Tribes totaled $5,874,039.50.

The Mdewakanton-Wahpakatoo—Lower Sioux—tribes also shared in the Mississippi Sioux judgment. Their share totaled $6,375,960.50; S. 1462 as passed by the Senate did not provide for the distribution of Lower Sioux' share of the judgment.

The House of Representatives amended S. 1462 by adding the Lower Sioux' share of the judgment and providing for the distribution of the funds to the authorized tribes and descendents of the aboriginal tribes. The House amendment makes no substantial changes to the Senate's original language and I am satisfied with their language providing for the distribution of the Lower Sioux' share of this judgment.

Therefore, Mr. President, I move that the Senate concur in the amendments of the House to S. 1462.

The motion was agreed to.

AVAILABILITY OF CERTAIN MATERIAL

Mr. MANSFIELD. Mr. President, very shortly, we will take up the conference report on the HEW appropriation bill, but before the distinguished chairman of the committee, the senior Senator from Washington (Mr. MAGNUSON), is recognized, I invite attention of the Senate to the fact that there is certain material on their desks relative to the amendments which were asked to be printed in the RECORD last evening, as well as information containing summaries put out by the Finance Committee. Thus, every Senator has a copy on his desk and, furthermore, copies have been sent up to the radio and press galleries.

QUORUM CALL

Mr. MAGNUSON obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Washington yield to me without losing his right to the floor?

Mr. MAGNUSON. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AMENDMENTS OF 1972

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15375.

The Presiding Officer (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 15375) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973, which was in lieu of the matter proposed to be inserted by the Senate amendment, insert:

That this Act may be cited as the "National Traffic and Motor Vehicle Safety Act Amendments of 1972".

SEC. 2. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. For the purpose of carrying out this Act there is authorized to be appropriated $52,714,000 for the fiscal year ending June 30, 1973.".

SEC. 3. Section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410) is amended to read as follows:

SEC. 123. (a) Except as provided in subsection (d) of this section, upon application by a manufacturer at such time, in such manner, and containing such information as required in this section and as the Secretary shall prescribe, the Secretary may, after publication of notice and opportunity to comment and under such terms and conditions and to such extent as he deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from any motor vehicle safety standard established under this title if he finds—

"(1)(A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted,

"(B) that such temporary exemption would facilitate the development or field evaluation of new motor vehicle safety features which provide a level of safety which is equivalent to or exceeds the level of safety established in each standard from which an exemption is sought,

"(C) that such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle, or

"(D) that requiring compliance would prevent a manufacturer from selling a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles; and

"(2) that such temporary exemption woud be consistent with the public interest and the objectives of the Act.

Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(b) The Secretary shall require permanent labeling of each exempted motor vehicle. Such label shall either name or describe each of the standards from which the motor vehicle is exempted and be affixed to such exempted vehicles. The Secretary may require that written notification of the exemption be delivered to the dealer and first purchaser for purposes other than the resale of such exempted motor vehicle in such manner as he deems appropriate.

"(c)(1) No exemption or renewal granted under paragraph (1)(A) of subsection (a) of this section shall be granted for a period longer than three years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(2) No exemption or renewal granted under paragraph (1)(B), (1)(C), or (1)(D) of subsection (a) of this section shall be granted for a period longer than two years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(d)(1) No manufacturer whose total motor vehicle production in its most recent year of production exceeds 10,000, as determined by the Secretary, shall be eligible to apply for an exemption under paragraph (1)(A) of subsection (a) of this section.

"(2) No manufacturer shall be eligible to apply for exemption under paragraph (1)(B), (1) (C), or (1)(D) of subsection (a) of this section for more than 2,500 vehicles to be sold in the United States in any 12 month period, as determined by the Secretary.

"(e) Any manufacturer applying for an exemption on the basis of paragraph (1)(A) of subsection (a) of this section shall include in the application a complete financial statement showing the basis of the economic hardship and a complete description of its good faith efforts to comply with the standards. Any manufacturer applying for an exemption on the basis of paragraph (1)(B) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing the innovational nature of the safety features and a detailed analysis establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought. Any manufacturer applying for an exemption on the basis of paragraph (1)(C) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing that the safety of such vehicle is not unreasonably degraded and that such vehicle is a low-emission motor vehicle. Any manufacturer applying for an exemption on the basis of paragraph (1)(D) of subsection (a) of this section shall include in the application a detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall level of safety of nonexempted motor vehicles.

"(f) The Secretary shall promulgate regulations within 90 days (which time may be extended by the Secretary by a notice published in the Federal Register stating good cause therefor) after the date of the enactment of this subsection for applications for exemption from any motor vehicle safety standard provided for in this section. The Secretary may make public within 10 days of the date of filing an application under this section all information contained in such application or other information relevant thereto unless such information concerns or relates to a trade secret, or other confidential business information, not relevant to the application for exemption.

"(g) For the purpose of this section, the term 'low-emission motor vehicle' means any motor vehicle which—

"(1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 of the Clean Air Act (42 U.S.C. 1857f 1) at the time of manufacture to that type of vehicle; and

"(2) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 202 of the Clean Air Act at the time of manufacture to that type of vehicle."

Mr. HARTKE. Mr. President, I move that the Senate agree to the House amendment to the Senate amendment to H.R. 15375, authorizing appropriations for the National Traffic and Motor Vehicle Safety Act.

The motion was agreed to.

QUORUM CALL

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico;

S. 3755. An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such Act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes;

H.R. 8756. An act to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes;

H.R. 9727. An Act to regulate the transportation for dumping, and the dumping, of material into ocean waters, and for other purposes;

H.R. 14128. An Act for the relief of Jorge Ortuzar-Varas and Maria Pabia de Ortuzar.

H.R. 14370. An act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes;

H.R. 14424. An act to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging;

H.R. 14989. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; and

H.R. 16754. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS BILL, 1973—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 16654, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FANNIN). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of October 12, 1972 at page 35592.)

Mr. MAGNUSON. Mr. President, conferees met on Thursday, on H.R. 16654, on the second Labor and HEW appropriation bill for 1973. One was vetoed. The conferees accepted in concept the Senate bill—the total Senate bill—which approved of a formula which would meet some of the objections, hopefully we think, of the veto. The Senate bill would allow the President to scale down any item in the Senate bill by as much as 10 percent of what was in the vetoed bill. Therefore, the Senate programs would be existent and no one could take this program and throw it out and put this other one in. It was a question of priority.

The one difference in the conference agreement is that we lowered the total floor amount of the bill. The percentage now that the President may reduce the Senate bill by, in any item he may choose, is from 10 to 13 percent, and this would bring the bill, if he did this on every one, within the figure of the House bill, which lowered the original vetoed bill close to $935 million.

The conference bill now limits the use of the funds contained in the bill for operation and maintenance of schools in federally impacted areas to the entitlements based on the number of so-called A and B children. In all other respects, the House agreed with the Senate bill.

I think we should state that we had many votes here the other night on whether the industrial occupational health and safety laws would apply to anyone employing under 15 people.

The Senate finally arrived at the figure of 3, after several amendments. The House accepted that. So I want that in the Record.

Frankly, I was very pleased about it, because I thought maybe we might have to get somewhere in between, because originally they stuck to the 15. These are the only two amendments in the bill.

I move the adoption of the conference report, subject to any discussion other Senators may have.

Mr. JAVITS. Mr. President, would the Senator be kind enough to yield?

Mr. MAGNUSON. I yield.

Mr. JAVITS. I think the conference led by Senators MAGNUSON and COTTON did very well, considering the temper of the situation and the House and even here.

I would like to pledge, as I pledged before, our utmost effort in legislative oversight to see that it is intelligently administered. I would also say that we are pushing very hard for the bill, which will allow consultation with employers of 25 or less workers, without their places being inspected. Members of the Senate will remember that we discussed that the other day.

So I think the conferees did very well with that and I certainly am pleased. I think the Senate should be very gratified by the work of its conferees.

On the other subject of the cuts being made by the President, the plan of the Senate-adopted bill remains the same, except that the Senate included from 12 to 13 percent.

Mr. MAGNUSON. That is correct. In simple terms, if under the Senate program we appropriated and agreed on a thousand dollars, which was a vetoed bill, the President could make that $870, if he wished.

Mr. JAVITS. I see.

Mr. MAGNUSON. But he could not cut out the program.

Mr. JAVITS. I see. I think again, we do not like the whole thing; but still it is de minimis, and I wish we could have settled the debt ceiling that easily.

Mr. COTTON. If the Senator will yield.

Mr. JAVITS. I yield.

Mr. COTTON. I want to thank the Senator from New York for his kind words of assurance, particularly in view of the matter of trying to straighten out the situation so that employers with less than 25 employees can receive inspections without necessarily being penalized.

I also would emphasize, and I am sure that my chairman has already made plain—and I think everyone understands it—that this 13-percent cut which the President is permitted to take, is up to 13 percent. He does not have to take it all, unlike the bill that we thrashed out a couple of years ago.

This is not confined to line items. It means that no program—whether it is a line item or whether it is a subdivision of a line item—that Congress has appropriated for can be eradicated. The worst it can suffer is the 13-percent cut.

I am very hopeful that we now have a bill that can be signed and that at last the schools in the country and others will not have to wait any longer to know where they stand and to what they are entitled.

I would like to take this opportunity to say that it is always a privilege to work under the leadership of the Senator from Washington, who is fair, considerate, and practical.

It is always helpful to have our staff headed by Harley Dirks, along with our minority staff, member, Bob Clark, as well as Proctor Jones, and Mrs. Gloria Butland working with us.

This bill is always a long, hard trail. I hope we have reached the end of it for this year.

Mr. MAGNUSON. Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER (Mr. FANNIN). The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 42 of the Senate engrossed amendment, strike out all after line 13 over through and including line 5 on page 43, and insert:

SEC. 409. Notwithstanding any other provision of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,300,000,000 in the aggregate for the appropriations made herein: Provided, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 13 per centum: Provided further, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds: Provided further, That notwithstanding any other provision of this Act, none of the funds contained herein shall be used to carry out the provisions of Section 403(1)(C) of Title I of the Act of September 30, 1950, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Charles Cook, majority counsel for the Senate Interior and Insular Affairs Committee, be allowed the privilege of the floor at this time at the request of the chairman of the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION OF USE OF CERTAIN SMALL VESSELS IN U.S. FISHERIES

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3358.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3358) to prohibit the use of certain small vessels in U.S. fisheries, which was to strike out all after the enacting clause and insert:

That, during the five-year period beginning on the date of the enactment of this Act, it shall be unlawful for any person on board any prohibited vessel—

(1) to transfer at sea or cause to be transferred at sea any prohibited fish; or

(2) to land or cause to be landed any prohibited fish in any part of the United States.

SEC. 2. (a) Any person who knowingly—

(1) violates the first section of this Act;

(2) takes, sells, transfers, purchases, or receives any prohibited fish which are transferred or landed in violation of the first section of this Act; or

(3) violates any regulation issued pursuant to section 4 of this Act;

shall be liable to a civil penalty of not more than $1,000, in addition to any other penalty provided by law. Each separate unlawful transfer or landing of prohibited fish shall constitute a separate violation of the first section of this Act.

(b) Any prohibited fish transferred or landed in violation of the first section of this Act, or the monetary value thereof, shall be subject to forfeiture.

SEC. 3. (a) The judges of the United States district courts and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

(b) Enforcement of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating.

(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act and the regulations issued pursuant thereto.

(d) Such person so authorized shall have the power, with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States.

(e) Such person so authorized may seize, whenever and wherever lawfully found, all prohibited fish transferred, landed, taken, sold, purchased, or received in violation of the provisions of this Act or the regulations issued pursuant thereto. Any prohibited fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary concerned.

(f) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any prohibited fish seized if the process has been levied, on receiving from the claimant of the prohibited fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the violation, conditioned to deliver the prohibited fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the prohibited fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

SEC. 4. The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating are authorized jointly and severally to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 5. As used in this Act—

(1) The term "person" means a person as defined in section 1 of title 1, United States Code.

(2) The term "prohibited fish" means, with respect to any prohibited vessel, the fish, mollusk, crustacean, or other form of marine animal or plant life which such vessel was authorized to engage in the catching of before the prohibition described in paragraph (3)(C) of this section was imposed on such vessel by the foreign country concerned.

(3) The term "prohibited vessel" means any vessel of less than five net tons which was—

(A) constructed in a foreign country,

(B) used in a fishery of such foreign country, and

(C) subsequently prohibited by such foreign country from being used in such fishery;

but does not mean any such vessel which was acquired by a citizen of the United States or a resident alien before the date of the enactment of this Act.

Mr. STEVENS. Mr. President, on October 11 the House of Representatives passed S. 3358 with an amendment in the nature of the substitute. The differences, although several, are mainly technical in nature. The major differences are as follows:

Under section 2 of the House version either the fish or the "monetary value thereof" will be subjected to forfeiture. This will facilitate enforcement.

Section 3 of the House bill provides the National Oceanic and Atmospheric Administration with authority to enforce the bill and the procedure for doing so. Subsections (a), (c), (d), (e), and (f) were added by the House Merchant Marine and Fisheries Committee to specify the enforcement procedures. These provisions were patterned after the enforcement provisions of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959). After examination of the several acts under which NOAA has enforcement authority, it was believed by all parties that the Tuna Conventions Act provided the best vehicle. As a result, the provisions of that act granting to the agency the necessary powers of enforcement and providing a system of seizure and disposition of prohibited fish were included in this bill.

Section 5 of the House version adds a definition of "person" identical to that found in 1 United States Code 1. This was implicit in the Senate version. The definition of "prohibited vessel" in the same section was similarly clarified.

At this point, I request unanimous consent to insert in the RECORD a legal memorandum comparing H.R. 16793, as reported from the House Merchant Marine and Fisheries Committee, with S. 3358, as passed by the Senate.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

COMPARISON OF H.R. 16793 WITH S. 3358

The House version of S. 3358 as reported by the House Merchant Marine and Fisheries Committee (H.R. 16793) would make it unlawful for a prohibited vessel to transfer at sea or to land any prohibited fish in a port of the United States. The prohibition would expire five years from the date of enactment. The essential provisions of the House and Senate version are the same. As noted in the section-by-section comparison below, the House version containing more detailed enforcment provisions.

Section 1 of S. 3358 would make it unlawful for a prohibited vessel to transfer at sea or to land any prohibited fish in a port of the United States. The prohibition would continue for five years from the date of enactment. The House version is the same except that the phrase "for a period of five years from the date of enactment" in S. 3358 reads "during the five year period beginning on the date of enactment." This and the reparagraphing of the first sections of the House version so as to list transfer and landing in separate numbered subparagraphs are only stylistic changes.

Section 2 of the Senate version provides that fish landed in contravention of the Act are liable to forfeiture. The House version provides that the fish "or the monetary value thereof" are subject to forfeiture. This addition indicates more clearly that the fish themselves need not be impounded while waiting the outcome of judicial proceedings. This and the expanded provisions of Section 3 will facilitate enforcement of the bill and do not depart from the enforcement scheme contemplated in the Senate version.

Section 2 of the Senate version also provides for a $1,000 fine for knowingly taking, selling, transferring, purchasing, or receiving fish landed in contravention of the Act. The House version contains a similar provision, but also provides that an unlawful transfer and landing or a knowing violation of regulations issued under the Act would be subject to the same fine. These additions clarify a potential ambiguity in the Senate version and should promote effective enforcement.

Section 3 of S. 3358 provides that the Act will be jointly administered by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. The House version places enforcement responsibility in the same departments and, in added subsections 3 (a), (c), (d), (e), and (f) specifies the enforcement provisions. These provisions, patterned after the enforcement provisions found in the Tuna Conventions Act of 1950, (16 U.S.C. 959) expressly provide that the Secretaries of the departments concerned will have the necessary powers of enforcement and provide a system of seizure and disposition of prohibited fish which has been found to be fair and effective in the enforcement of the Tuna Convention Act.

Section 4 of S. 3358 exempts from the provisions of the Act any vessel acquired prior to the date of enactment by a citizen of the United States or a resident alien. This exemption is incorporated in the definition of "prohibited vessel" in the House version. The effect of each provision is identical.

Section 5 of S. 3358 is identical to Section 4 of H.R. 16793.

Section 6 of S. 3358 defines "prohibited fish," "prohibited vessel," and "offense." The House version does not include "offense" in the definition section but, in the final sentence of Section 2(a), incorporates the definition (each separate landing or transfer in contravention of the Act) found in S. 3358. The House version (Section 5) adds a definition of "person" which specifically refers to the definition of "person" found in 1 U.S.C. 1. The definition of 1 U.S.C. 1 is implicit in the Senate version. The inclusion of "offense" in the Senate definitions and "person" in the House version are stylistic only.

The definition of "prohibited vessel" contains the same elements in both versions of the bill (except that the House version includes in the definition the exemption provided as a separate Section 4 in the Senate bill as noted above). The slight difference in wording of the 3rd criterion in the definition of "prohibited vessel" (Senate: "has been subsequently prohibited in such country from continuing to engage in such fishery" *vs* House: "(was) subsequently prohibited by such foreign country from being used in such fishery") does not alter that criterion.

Similarly the definition of "prohibited fish" in the bills contain slight variations in wording which do not affect the substance of the definition.

Mr. STEVENS. Mr. President, H.R. 16793 is identical to the text of S. 3358, as passed by the House of Representatives on October 11.

Mr. President, I move that the Senate concur in the amendments of the House to S. 3358.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

EXTENSION OF PROVISIONS OF COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964, AS AMENDED

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3524.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3524) to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended", which was to strike out all after the enacting clause and insert:

That section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779(a)), as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969, and for the three" to "for the fiscal year beginning July 1, 1973, and for the four".

SEC. 2. Section 4(c) of the Commercial Fisheries Research and Development Act of 1964, as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969," to "for the fiscal year beginning July 1, 1973,".

SEC. 3. Section 4(b) of the Commercial Fisheries Research and Development Act of 1964, as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969, and for the three succeeding fiscal years, $650,000 in each year," to "for the fiscal year beginning July 1, 1973, and for the four succeeding fiscal years, $1,500,000 in each such year,".

SEC. 4. The provisions of this Act shall be effective July 1, 1973.

Mr. STEVENS. Mr. President, this bill is similar to H.R. 14384. The House Committee on Merchant Marine and Fisheries reported that bill with an amendment. The amendment would increase the amount of funds authorized to be appropriated to carry out section 4(b) of the act—the fisheries resource disaster provision—from $650,000 to $1.5 million per year. The need for this additional funding was recently highlighted by the tropical storm Agnes which inflicted millions of dollars of damage to the fisheries resources of the Chesapeake Bay.

The Representative from Maryland, the chairman of the House Merchant Marine and Fishers Committee (Mr. GARMATZ), pointed out to the House the necessity for this increase, and this is the only difference in the two bills.

Mr. President, I move that the Senate concur in the amendment of the House to S. 3524.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

AUTHORIZATION FOR INCREASE IN LAND ACQUISITION FUNDS FOR THE DELAWARE WATER GAP NATIONAL RECREATION AREA

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13396.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate H.R. 13396, a bill to authorize an increase in land acquisition funds for the Delaware Water

Gap National Recreation Area, and for other purposes, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. Jackson) and the Senator from Colorado (Mr. Allott), I offer the following amendments and ask that they be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

Sec. 2. That section 2 of the Act of September 1, 1965 (79 Stat. 612) is amended by adding at the end thereof the following:

"*Provided further*, That whenever an owner of property elects to retain a right of use and occupancy pursuant to this Act, such owner shall be deemed to have waived any benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (884 Stat. 1894)."

Mr. MANSFIELD. Mr. President, the purpose of this first amendment is to waive the application of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if property owners decided to retain possessory interests to which the act entitles them. The Interior Committee believes that when landowners take advantage of the so-called Cape Cod formula which allows them to remain in possession of their property within a park area, they or their heirs and successors should not also receive the same benefits for relocation which accrue under existing law for those whose homes are taken immediately for some public purpose such as for highway construction or urban renewal programs. Parks are unique in this regard and I believe the Government's acquisition policy should reflect this difference. Of course, if a person sells his home outright and must move, he would be entitled to all benefits accruing to a similar person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

If this amendment is adopted then the amount of money can be reduced over $3,000,000. Therefore, the second amendment would reduce the figure "$68,812,000" as passed by the House to "$65,000,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment will be stated.

The amendment was read as follows:

On page 1, line 6, strike "$68,812,000" and insert in lieu thereof "$65,000,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The third amendment will be stated.

The amendment was read as follows:

That the Secretary of the Interior is authorized and directed to issue, subject to the provisions of section 2, to Frank W. Whitenack of Georgetown, Colorado, a patent in fee (exclusive of oil, gas, and other mineral rights) to the following described tract of land, situated in the vicinity of Georgetown, Colorado:

Beginning at a stake at corner numbered 1, whence the northeast corner section 5, township 4 south, range 74 west, sixth principal meridian bears north 29 degrees 57 minutes west 761.7 feet, thence east 279.7 feet to corner numbered 2, thence south 176.0 feet to corner numbered 3, thence south 82 degrees 16 minutes west 200.5 feet to corner numbered 4 which is also corner numbered 1, survey numbered 18737, Dora Lode, thence south 7 degrees 44 minutes east 150 feet to corner numbered 5, which is also corner numbered 4, survey numbered 18737 Dora Lode, thence north 82 degrees 16 minutes east 180.1 feet to corner numbered 6, thence south 992.6 feet to corner numbered 7, thence west 660 feet to corner numbered 8, thence north 502 feet to corner numbered 9, thence south 60 degrees 20 minutes east 119.4 feet to corner numbered 10, which is also corner numbered 3 survey numbered 408 Mills Placer, thence north 17 degrees 30 minutes east 919.7 feet to the place of beginning.

The patent in fee authorized by this Act shall be issued subject to the payment by the said Frank W. Whitenack to the Secretary of the Interior of an amount equal to the fair market value of the property conveyed as determined by the Secretary after appraisal, exclusive of improvements placed thereon by Frank W. Whitenack and his grantees.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCOTT. Mr. President, I express my warm gratitude to the senior Senator from Nevada (Mr. Bible), chairman of the subcommittee that handled this bill, for his assistance in expediting its consideration by this body.

I also express my unrestrained support for the enactment of this important measure, which we also introduced in the Senate as S. 3497, increasing the amount authorized for purchase of the remaining land within the previously designated boundaries of the Delaware Water Gap National Recreation Area.

This increased monetary authorization of $31.4 million is based on the administration's latest estimate of the amount needed to complete acquisition of those 47,675 total acres previously authorized for this great national recreation area.

Enactment of this measure is urgently needed to alleviate the economic hardship too long endured by the owners of that remaining acreage. Many of these fine people have long been living in economic limbo, since 1965, awaiting for the Federal Government to purchase their property, ever since its designation that year as a part of this renowned recreation area. Their endurance has been admirable, their impatience understandable. We now urge the most expeditious administration of this act for their deserved relief.

The Delaware Water Gap National Recreation Area was established by Public Law 89–158 in 1965 as part of the Tocks Island multipurpose project. Its reservoir lake will serve our needed public purposes in the Delaware River Basin of flood control, water conservation, energy supply and water recreation; its surrounding national recreation area will serve its related land recreation purpose. The 1965 act directs the Secretary of the Army to acquire that related land as part of his acquisition of properties for the project, and periodically to transfer such land to the Secretary of the Interior for administration in a manner coordinated with other project purposes, as detailed in Public Law 89–158.

Mr. President, we are aware that the Governors of Pennsylvania and New Jersey recently proposed that the recreation use of this needed multi-purpose conservation development be limited to a level of 4 million visitor-days annually. The 1965 act directs that the administration of this combined development be coordinated with the Delaware River Basin Compact Commission, of which those honorable Governors are statutory members. We are thus confident that this matter will be resolved in a manner that reflects their proper concern with the optimum recreation use of this multipurpose development in years ahead.

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Allott

As amended by the Senate, H.R. 13396 has had added to it the provisions of S. 4067 which passed the Senate on Oct. 11th of this year.

The necessity for S. 4067 at this time is that a lawsuit has been filed by the United States to evict several impoverished families from some 14 acres of federally claimed land in Colorado.

These people are not trespassers or squatters, their good faith claim of title goes back to the 1930's.

In 1962, the Senate passed an identical measure but the House Interior and Insular Affairs Committee said it was unnecessary because of a general law, which became law that year.

Unfortunately, the federal government construes that general law differently and I am advised there is good reason to believe it is correct in interpretation.

The amendment, I hasten to point out does not donate any federal land. It, instead, provides that these families may get title to the land by paying its fair market value.

I believe it is incumbent upon the House to now pass legislation which will permit the longstanding dispute to be resolved short of forcing these innocent families off this land upon which they have built their homes. If the House acts on such legislation, the lawsuit may be equitably resolved. If not, the eviction proceedings will continue, including the effort of the United States to also require these people to remove their homes from the land and the additional attempt to actually charge these people rent for all the years they have lived there.

I was advised that the procedures in effect in the House at this time indicated that it might not be possible to consider S. 4067 independently.

By attaching the provisions of S. 4067 to

H.R. 13396, the opportunity is provided the House to act upon it.

Mr. CASE. Mr. President, I am glad to vide sufficient funds to complete the support the pending bill which will pro- 47,675-acre Delaware Water Gap National Recreation Area in New Jersey and Pennsylvania.

The proposed national recreation area was authorized by Congress in 1965 in legislation which I cosponsored. At the time it was the first such park established by Congress east of the Mississippi.

Part of the national recreation area lies in the northwest corner of my State. It is a beautiful area of rolling countryside bordering on the historic Delaware River.

But it also is on the edges of a rapidly growing urban region. It thus is subject to all of the pressures of urbanization and commercial exploitation.

Unless we lock up this land as part of the public domain, it will be chewed up and we will have lost a unique natural treasure.

Fortunately, Congress' action in 1965 has made it possible to begin the job of protecting this parkland. With the first $37 million authorized by Congress, 21,806 acres have been acquired, 14,900 acres in my State alone. In addition, the Government owns another 10,325 acres which will be part of the park. In all, about 15,542 acres remain to be purchased.

But land speculation, unexpectedly high condemnation costs and the costs of relocating residents, among other matters, have combined to use up all of the money authorized by Congress.

To finish the job, we are advised, it will take another $27.5 million. The authorization for this amount is provided in the pending bill. The House of Representatives already has passed the bill, although with a slightly different figure.

I urge our body to act promptly and affirmatively on the pending bill so that the difference may be ironed out in conference and the bill cleared for the President before this Congress adjourns.

And once the bill becomes law and the necessary additional appropriations are made, there should be no delay in completing the acquisition of the remaining 15,542 acres of the recreation area.

In this regard, it will be up to the Army Corps of Engineers promptly to buy the land. The corps was given this role because it also is buying land for the Tocks Island dam and reservoir project, which is adjacent to the national recreation area.

By having the corps buy the land for both projects, it is properly felt that the costs to the Government can be held down.

However, the two projects are separate; they are not interdependent. The recreation area may proceed to completion even if the dam and reservoir, as presently is the case, are delayed.

This noninterdependence, if I may call it that, was spelled out in an exchange of letters I had with the Department of the Interior earlier this year.

The essence of the Interior Department's advice to me is that completion of the park is legally permissible.

The Department strongly suggests that the park without the dam and reservoir would involve a more appropriate use of the natural resources of the area for recreational purposes than it would if the dam and reservoir were built. With this I warmly agree.

I ask unanimous consent that the full text of my exchange of letters with the Interior Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
April 4, 1972.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I am most concerned about a statement made by the Army Corps of Engineers in its environmental impact report on the Tocks Island dam and reservoir project. On Page II of the report entitled "Tocks Island Lake, Pennsylvania, New Jersey and New York," the Corps states that "under the authorizing statute and the legislative history (of Public Law 89–158 establishing the Delaware Water Gap National Recreation Area) the National Recreation Area cannot proceed without the Tocks Island multi-purpose project."

Please advise me whether this coincides with your own understanding of the law which created the recreation area. Specifically:

1. Does PL 89–158, in fact, require that "the National Recreation Area cannot proceed without the Tocks Island multi-purpose project"?

2. If construction of the dam and reservoir is delayed, or if this project is scrapped altogether, may the Department of the Interior continue to acquire land for the recreation area and, indeed, act to complete it?

I would appreciate hearing from you on this matter as soon as possible.

With best wishes,
Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: Secretary of the Interior Morton has asked us to thank you for your letter of April 4 concerning the Delaware Water Gap National Recreation Area. We are pleased to have the opportunity to comment on the statement made by the Corps of Engineers in its environmental impact report on the Tocks Island Dam and Reservoir Project to the effect that this Department cannot proceed under Public Law 89–158 without the Tocks Island multipurpose project.

In answer to your specific questions, Public Law 89–158 in no way requires that the recreation area cannot proceed without the Tocks Island Lake. While it was true that the recreation area when authorized was presumed to surround a large reservoir previously authorized for the Delaware River by the Flood Control Act of 1962 (P.L. 87–874) it would only require revision in planning to have a viable recreation area with the carrying capacity virtually as great as that provided with the original impoundment.

Public Law 89–158 was authorized in its specific form making the Secretary of the Army responsible for acquisition of the land for the recreation area rather than to have two Agencies of the Federal Government engaged in the acquisition of lands in the same area at the same time and under dissimilar authorities prior to the enactment of Public Law 91–646 on January 2, 1971, providing uniform acquisition and relocation procedures for all Federal Agencies and State Agencies using Federal assistance. Public Law 89–158 also provided that the land, when acquired, would be transferred to the Secretary of the Interior for administration. Moreover, historic land ownership pattern adjacent to the Delaware River was such that the farms took in some riverfront, some first and second beach lands, and some upland timber so that to have two Agencies engaged in acquisition would actually require the payment of severance damage where the tracts could not be acquired simultaneously. It is this to which the act refers when it speaks of having the recreation coordinated with other purposes and not as the Army would now try to make it appear—that one is mutually dependent upon the other.

The answer to your second question is categorically "yes," provided the monetary limitation which has been reached is increased in accordance with H.R. 13225 and H.R. 13396 (copies enclosed) which have been introduced to accomplish this. As a corollary of this question, if the Tocks Island Lake project were to be scrapped altogether, then the land which has been acquired for this would be excess to the needs of the Secretary of the Army and would be reported to the General Services Administration for disposition under the Real Property and Administrative Services Act of 1949. If this were to happen, we would certainly apply for transfer of the additional lands now totaling about 10,000 acres to be added to the recreational area lands which would increase the *land area* available for recreation by 25 percent.

The revised plan for the recreation area without the dam would give less emphasis to water-oriented facilities than did the reservoir-centered plan. This does not mean that water recreation would be seriously lacking; however, by utilizing the existing stream where we control some 7 miles below the site where the dam was originally to have been built and by obtaining the excess land of the Department of the Army, we would gain another 11 or more miles of riverfront which it has heretofore purchased under the Flood Control Act. Under this revised concept, there would be plenty of swimming and emphasis on the more subdued forms of boating, such as canoeing on the stream and in the various ponds which abound in the area. By having many separate water recreation units, this would provide a greater variety, with family and organizational groups having their own good time together with more privacy, freedom, and seclusion than might ever have been hoped for in large complexes where the danger of differing recreational attitudes can become competitive.

Probably one of the reasons that the Corps felt required to state as it did in its environmental impact statement related to Secretary Morton's press release of September 21, 1971, when he released copies of a staff report by the National Park Service, concluding that a viable recreation area would be possible with or without the Tocks Island Dam. This study was made at the request of the President's Council on Environmental Quality in response to the question from the Council "as to whether a viable recreation area would be possible without the Tocks Island Dam."

We very much appreciate the great personal interest you have shown in the Delaware Water Gap National Recreation Area and the support you have given this Department in its efforts to establish this outstanding recreational asset for the benefit of the American people.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an excerpt from the House report on H.R. 13396 be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware National Recreation Area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Amend the title so as to read:

To authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes.

PURPOSE

The purpose of H.R. 13396 which was introduced by Representatives McDade, Dow, Rooney of Pennsylvania, and Thompson of New Jersey, like that of H.R. 13225 by Representative McDade, is to authorize an increase in the appropriation ceiling for the acquisition of lands at the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey.

BACKGROUND

The Delaware Water Gap National Recreation Area was authorized by Congress in 1965. At the time that it was created, it was established that the natural, scenic, scientific and historic values in this large, relatively unspoiled area along the Delaware River could help to serve the recreation needs of the large population centers located nearby.

As authorized, the national recreation area includes 47,675 acres of land. In addition, the 24,300 acres included in the Tocks Island Dam project which was separately authorized, would be used in conjunction with the recreation area.

This legislation does not alter the present boundaries of the national recreation area in any way and it does not add any additional area for acquisition that was not originally contemplated for purchase. H.R. 13396 merely authorizes the additional appropriations which will be needed if the acquisition program for this recreation area is completed as originally planned.

NEED

Like other proposals which have been considered by the Congress in the past, the Delaware Water Gap National Recreation Area was established to help serve the recreation needs of the millions of people living in the communities and cities nearby. As an outdoor resource it offers outstanding potential for a variety of recreational opportunities and already enjoys extensive visitor use. While it is difficult to estimate the exact number of people who make side trips off of one of the Interstate Highways to enjoy a short scenic drive or a picnic lunch, the National Park Service has developed data showing the use made of existing visitor facilities which indicates that visitor use has grown from 666,000 visitor-days in 1969 to 1.7 million visitor-days in 1972. As the lands are acquired and the public use areas developed, the rate of visitation will continue to grow; however, until all phases of the project are completed, it is impossible to calculate what the annual visitor use might be.

Unfortunately, the present land acquisition authorization is inadequate to complete the land acquisition program for the national recreation area. Considerable progress has been made, but much of the land remains in private ownership and is not open to the public.

Since the enactment of the authorizing legislation, all of the $37,412,000 has been appropriated and all except $2,725,407 has been expended. To date only 21,806.78 acres of the 37,349.47 acres of privately owned lands have been acquired (the remaining lands are mostly in public ownership and are not to be acquired). It is estimated that an additional $31,400,000 will be required to purchase the remaining 15,542.69 acres within the recreation area.

The members of the Subcommittee on National Parks and Recreation were advised by a spokesman for the Department of the Interior that the increases in land acquisition costs are attributable to several factors which can be divided into two categories. The first are those related to the general land market in and surrounding the project area. Factors in this category are: (1) a 15-percent annual increase in property values, based on paired sales. These are sales used in preparing earlier acquisition estimates and used again, after having changed hands again in the interim, to prepare the present cost estimate. This annual increase, much higher than the national average, is primarily attributable to the influences of the rapidly expanding metropolitan areas surrounding the project. This manifests itself mainly in the form of a big burgeoning second home market at the present time although the beginning of permanent residential pressures, encouraged by improving highway access, is also on the horizon.

The second category are those factors that relate to this project specifically. These are: (1) Unrecorded outsales that existed at the time the original cost estimates were prepared substantially exceeded the allowances made for them. This is largely attributable to the vitality of the summer homesite market which was active within the project area during the legislative process and for some time after the area was authorized. (2) Land acquisition funds for the Tocks Island Lake project did not materialize in a timely manner, resulting in the loss of a coordinated land acquisition program. This made it necessary to bypass major properties that were involved in both Federal projects and thus left them subject to the high rate of annual increase in value. (3) The size of the project and funding limitations left the opportunity open for landowners within the area to improve their properties prior to acquisition. (4) The new costs resulting from the Uniform Relocation Assistance and Real Property Acquisition Act accounts for a substantial portion of the increase. (5) The final item is still largely a conjectural matter. This involves anticipated deficiencies in the original estimates of adverse court awards. Authorization for this purpose may or may not be used in its entirety.

COST

The provisions of H.R. 13396 authorize an increase in the land acquisition appropriation limitation from $37,412,000 to $68,812,000.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs considered H.R. 13396, approved the bill by a voice vote, and recommended its adoption by the House of Representatives.

The **PRESIDING OFFICER.** The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13396) was read the third time, and passed.

HOUSE CONCURRENT RESOLUTION 710—EXTENSION OF GREETINGS TO THE AMERICAN PUBLIC HEALTH ASSOCIATION ON 100TH ANNIVERSARY OF ITS FOUNDING

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 710.

The **PRESIDING OFFICER** (Mr. FANNIN). The Chair lays before the Senate a message from the House on House Concurrent Resolution 710, which the clerk will state.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the Congress extends its greetings and felicitations to the American Public Health Association on the occasion of the one hundredth anniversary of its founding.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for its immediate consideration.

The **PRESIDING OFFICER.** Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 718) providing for the reprinting of additional copies of House Report 92–1519, entitled "Securities Industry Study," in which it requested the concurrence of the Senate.

HOUSE CONCURRENT RESOLUTION 718—PROVIDING FOR REPRINTING OF HOUSE REPORT 92–1519 ENTITLED "SECURITIES INDUSTRY STUDY"

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate the message from the House of Representatives on House Concurrent Resolution 718.

The **PRESIDING OFFICER** (Mr. FANNIN). The Chair lays before the Senate a message from the House on House Concurrent Resolution 718, which the clerk will state.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That there shall be reprinted for the use of the House Committee on Interstate and Foreign Commerce four thousand copies of House Report 92–1519, entitled "Securities Industry Study".

Mr. MANSFIELD. Mr. President, I ask for its immediate consideration.

The **PRESIDING OFFICER.** Is there objection to consideration of the concurrent resolution?

There being no objection, the resolution was considered and agreed to.

AMENDMENT OF UNITED STATES CODE TO PROVIDE FOR TWO ADDITIONAL MEMBERS OF THE NATIONAL HISTORICAL PUBLICATIONS COMMISSION

Mr. ROTH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15763.

The PRESIDING OFFICER laid before the Senate H.R. 15763, an act to amend chapter 25, title 44, United States Code, to provide for two additional members of the National Historical Publications Commission, and for other purposes, which was read twice by its title.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, I am very much pleased that the Senate has been able to find time in this very busy period to give consideration to H.R. 15763. This bill is similar to S. 3899, which was introduced by Senators Pell, Brock, and myself. H.R. 15763 will permit an expansion of the work of the National Historical Publications Commission in assisting in the collecting, editing, and publishing of documentary source material important to American history. In particular, the passage of this bill will permit the Commission to engage in a broader range of projects pertinent to our Nation's bicentennial celebration.

During the past two decades, the Commission has assisted universities, foundations, charitable organizations, and other groups in the publication of the letters, papers and other documentary sources of famous Americans such as Thomas Jefferson, John C. Calhoun, Henry Clay, Benjamin Franklin, Alexander Hamilton, Woodrow Wilson, Andrew Johnson, James K. Polk, Ulysses S. Grant, John C. Fremont, Jefferson Davis, George Mason, and John Marshall. This important work helps to organize, preserve, and make readily available to all Americans the wisdom of the men and women who did so much to shape our Nation's values, traditions, and ideals.

This legislation is not expensive. There is an annual ceiling on appropriations under this program of $2 million—about the cost of a single bridge on an interstate highway. For every $1 of public money spent, $2 of private money goes toward these programs. I think this is money very well and wisely spent because our history helps provide the fabric of the Nation. I hope the Senate will give favorable consideration to H.R. 15763.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 15763) was ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mills of Arkansas, Mr. Ullman, Mr. Burke of Massachusetts, Mrs. Griffiths, Mr. Byrnes of Wisconsin, Mr. Betts, and Mr. Schneebeli, were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the bill (S. 942) to establish a Commission on Security and Safety of Cargo, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 3858) to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes, with with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3876) to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 3, 4, 9, 11, 12, 13, 20, 22, 25, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 71, 76, and 84 to the bill and concurred therein; and that the House receded from its disagreement to the amendments of the Senate numbered 10, 18, 23, 24, 61, 70, and 78 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1536. An Act to amend section 319 of the Immigration and Nationality Act;

H.R. 8063. An act to provide for financing the economic development of Indians and Indian organizations, and for other purposes;

H.R. 8273. An act to amend section 301 of the Immigration and Nationality Act;

H.R. 13158. An act to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge";

H.R. 16676. An act to amend the Community Mental Health Centers Act to extend for 1 year the programs of assistance for community mental health centers, alcoholism facilities, drug abuse facilities, and facilities for the mental health of children;

H.R. 16804. An act to rename the Mineola Dam and Lake as the Carl L. Estes Dam and Lake; and

H.R. 17038. An act designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10556) to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) subsequently signed the enrolled bill.

(The routine morning business transacted during the day is printed at this point in the Record, as follows:)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) laid before the Senate the following letters, which were referred as indicated:

Report of the Commission on the Organization of the District of Columbia

A letter from Congressman Ancher Nelsen, transmitting, for the information of the Senate, a report of the Commission on the Organization of the Government of the District of Columbia, Volumes I and II (with accompanying documents); to the Committee on the District of Columbia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS (for Mr. Magnuson), from the Committee on Commerce, with an amendment:

S. 1971. A bill to declare a portion of the Deleware River in Philadelphia County, Pennsylvania, nonnavigable (Rept. No. 92–1302).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 7577. A bill to amend section 3306 of the Internal Revenue Code of 1954 (Rept. No. 92–1303).

Mr. LONG. Mr. President, I ask unanimous consent to file a report on H.R. 7577.

The PRESIDING OFFICER. The report will be received.

Mr. LONG. Mr. President, in view of the fact that this will be the only tax bill on the Senate calendar and it is hoped that the leadership can schedule this bill to be considered some time later in the day, when all Senators have been notified, I ask unanimous consent that the bill may be called up and considered at some time later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia (Rept. No. 92–1304).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable report of a nomination was submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare; with a printed report (Ex. Rept. 92–39).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS:

S. 4110. A bill to strengthen State workmen's compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD (for Mr. McGovern):

S. 4111. A bill to provide for a national program of catastrophe insurance. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCOTT (for himself and Mr. Allott) (by request):

S. 4112. A bill to designate certain lands as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE (for himself, Mr. Magnuson, Mr. Beall, Mr. Cannon, Mr. Cotton, Mr. Griffin, Mr. Hollings, Mr. Long, Mr. Moss, and Mr. Stevens):

S. 4113. A bill to establish an international Commerce Service within the Department of Commerce. Referred to the Committee on Commerce.

By Mr. INOUYE (for himself and Mr. Magnuson):

S. 4114. A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes;

S. 4115. A bill to increase the recognition of foreign economic policy considerations in Federal decision-making.

S. 4116. A bill to provide for a system of uniform commodity descriptions and tariffs filed with the Federal Maritime Commission;

S. 4117. A bill to facilitate the exportation of recycled solid waste materials;

S. 4118. A bill to establish a Commission on Foreign Procurement Practices; and

S. 4119. A bill to increase the role of foreign trade zones in the expansion of United States exports. Referred to the Committee on Commerce.

S. 4120. A bill to amend the Export Trade Act. Referred jointly, by unanimous consent, to the Committees on the Judiciary and Commerce.

By Mr. HUMPHREY:

S. 4121. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 4122. A bill for the relief of Maria Helena de Souza; and

S. 4123. A bill for the relief of Lynne B. MacDonald. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 4124. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans' Affairs.

By Mr. HARTKE:

S.J. Res. 274. A joint resolution to protect nondisclosure of information and sources of information coming into the possession of the news media. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 4110. A bill to strengthen State workmen's compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

WORKMEN'S COMPENSATION IMPROVEMENT ACT OF 1972

Mr. JAVITS. Mr. President, I introduce a bill designed to establish minimum standards for State workmen's compensation laws and to assist and encourage the States in other ways to improve their workmen's compensation laws. I was the author of the law which established the National Commission on State Workmen's Compensation Laws, and the legislation I am introducing today is specifically designed to implement the Commission's comprehensive recommendations for improving State workmen's compensation without federalizing the whole workmen's compensation system.

Under the bill:

First. Each State would have until January 1, 1975, to meet 18 substantive minimum standards. The standards are based on the recommendations of the National Commission. The following are some of the more important standards:

Full coverage of all work-related injuries and diseases;

Compulsory coverage for all employers with respect to all employees on whose earnings social security taxes must be paid;

No maximum limitations on total benefits for death or temporary or permanent total disability;

No maximum limitation on the type or extent of medical care or rehabilitation services;

Totally disabled workers must be paid at least 66⅔ percent of their average weekly wage, subject to a maximum of no less than 100 percent of statewide average weekly wages during 1975, rising to no less than 200 percent of statewide average weekly wages commencing January 1, 1978;

Minimum payments of not less than 50 percent of statewide average weekly wages but not more than the injured worker's average weekly wage;

Survivor benefits to widows and children until at least age 18, or age 23 if a student;

Waiting period of not more than 3 days with retroactive benefits paid after 14 days;

Special provisions for dealing with injuries to employees suffering preexisting impairment, including establishment of a special fund;

Appropriate periodic adjustment of benefits for those already receiving benefits to reflect the increases in statewide average weekly wages and benefit levels;

Free choice of physicians;

The State agency to have the right to determine appropriate medical and rehabilitation services;

Attorney's fees to be added to an award where claimant has been successful in formal adjudicatory proceedings; and

Applicability of the State law if the injury occurs within the State, if the employment was principally located in the State, or if the employee was hired in the State.

Second. Each State would also have until January 1, 1975 to file an approved State plan providing for, among other things, the establishment of a single State workmen's compensation agency with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in controverted cases. Each such agency would also be required to provide fair and expeditious procedures for resolving contested cases and to take an active role in informing employees of the features of the State workmen's compensation program and assisting them in processing their claims.

Third. If the Secretary of Labor determines, after adequate notice and opportunity to be heard to the States and other interested persons, that the State law does not meet Federal minimum standards or that the State plan is not acceptable, the Longshoremen's and Harbor Workers' Compensation Act would apply within the State. The Secretary would be required to maintain continuing surveillance over State laws and State plans and to make a specific determination as to the adequacy of State laws at least once every 2 years. If a State law is found inadequate by the Secretary, the State could resume control of its workmen's compensation program if it is able to demonstrate compliance with minimum Federal standards at the next biannual examination of the Secretary of Labor.

Fourth. A Federal Workmen's Compensation Advisory Commission composed of five members, appointed by the President by and with the advice of the Senate would be established. Three members would be from the public, one would be from labor, and one would be from business or insurance. The Commission would monitor the progress of the States in making improvements and complying with minimum standards, advise the Secretary of its conclusions as to the status of State programs, review the adequacy of State plans, engage in research and development of recommendations for improvement in workmen's compensation programs, and recommend appropriate action for establishing new or improved standards. The Commission would be specifically directed to study the question of permanent partial disability, as recommended by the National Commission on State Workmen's Compensation Laws.

Fifth. New Federal minimum standards would be promulgated by the Secretary, but only after he has obtained a recommendation from the Advisory Commission and afforded all interested parties an opportunity to comment on and, where a hearing is requested, to appear at such hearing. New standards would have to be delayed for such period as would give the States a reasonable opportunity to take action necessary to comply with the new standard.

Sixth. States or other interested persons could obtain judicial review of decisions by the Secretary with respect to the status of State laws, State plans, or new standards.

Seventh. The Secretary of Labor could make grants to the States for the next 3 years to assist them in planning for improvements in State workmen's compensation laws. The Federal share for each grant could be up to 90 percent of the total cost of the project. $15 million would be available for such grants during each of the next 3 fiscal years.

Mr. President, the National Commission on State Workmen's Compensation Laws was charged with the responsibility of determining whether present State laws constitute an adequate, prompt, equitable system of workmen's compensation. It was the unanimous view of the 15 members of the Commission that present State laws fall far short of meeting that criterion. As the Commission stated in its report,

> Our intensive evaluation of the evidence compels us to conclude that State workmen's compensation laws are in general neither adequate nor equitable. While several States have good programs, and while medical care and some other aspects of workmen's compensation are commendable, strong points too often are matched by weak.

More specifically, the Commission found that despite widely accepted agreement in principle on recommended standards for workmen's compensation published by agencies such as the U.S. Department of Labor and and the International Association of Industrial Accident Boards and Commissions, as well as the Model Workmen's Compensation Code developed by the Council of State Governments, most States' laws fail to meet many of such recommended standards. As the Commission stated,

> Of 16 recommendations for workmen's compensation published by the Department of Labor, the average State meets only eight. The wide variation among the States also is disturbing. While 9 States meet at least 13 of the recommendations, 10 States meet 4 or fewer.

The shortcomings of present State laws are not merely technical. For example, 15 percent of all employees remain uncovered by any workmen's compensation law despite virtual unanimity in previous recommendations for more universal coverage. Exemptions based on number of employees or types of employment are still common. Many States also in effect limit coverage by compensating only "accidental" injuries or excluding full coverage of occupational diseases. My bill would require full coverage of all employees on whose earnings social security taxes must be paid—including domestics, farmworkers and public employees—and all types of work-related disability.

In the area of income replacement, the record is particularly bad. Despite many previous recommendations for a maximum weekly limit of at least 66⅔ percent of statewide average weekly wages, 32 States fail to meet this standard, which itself is woefully inadequate. As the Commission noted, the record on income replacement was better in 1940 than it is now. The Commission recommended, and my bill includes, minimum standards which provide for progressive increases in maximum benefit levels so that ultimately the maximum will be not less than 200 percent of statewide average weekly wages. With this kind of maximum, most workers who have the misfortune to suffer total disability will actually receive 66⅔ percent of their average weekly wages.

In dollar terms, under present maximums in effect in most States—generally less than $100 per week—any worker earning over $150 per week does not receive two-thirds of his lost wages if he is totally disabled. Under the maximums which would be established by my bill, maximums would be raised from their current levels to between $220 and $350 a week, depending upon the particular statewide average weekly wage. Assuming a maximum of $300 per week, that would mean that any worker earning $450 a week would actually get two-thirds of his income if he suffered a totally disabling work-related injury.

Another defect in present law which has persisted despite previous recommendations to the contrary are maximums on the total amount of benefits for permanent disability, death benefits, and expenses for medical care. There is no conceivable justification for such maximums, and my bill would eliminate them, in accordance with the Commission's recommendations.

My bill would also implement the Commission's recommendations that workmen's compensation agencies should play a more active role in seeing to it that injured workers receive proper medical attention, in furnishing assistance to workers in processing claims, and in evaluating questions of the extent and cause of disability. The State plan submitted by a State would have to demonstrate that the State workmen's compensation agency was implementing an effective administrative program in these and other areas. The objective here, which cannot be stressed too strongly, is to require State agencies to go beyond the functions of a passive referee adjudicating contested claims and actually reach out to help the injured worker, as recommended by the Commission.

Most of the provisions of my bill are specifically designed to translate the recommendations of the National Commission on State Workmen's Compensation Laws into a reality. However, my bill does go somewhat further than the Commission in certain respects. For example, under my bill the States would be required to establish maximum weekly benefit limitations of not less than 200 percent of average weekly wages by January 1, 1978. The Commission recommended that the States reach this level by 1981. In view of the small cost to raise maximums from 100 percent to 200 percent of statewide average weekly wages, as compared to the initial cost of reaching 100 percent of the statewide average weekly wage, a delay until 1981 does not seem justifiable.

Indeed, we did not wait this long in reaching 200 percent of national average weekly wages as the maximum limit in the longshoremen's and harbor workers' compensation bill recently passed by the Senate. Increasing maximum weekly benefits from 100 percent to 200 percent of statewide average weekly wages is estimated by the Commission to increase workmen's compensation costs by less than 5 percent.

On the other hand, the average cost of going from 50 percent—which is about what many State laws now provide—to 100 percent of statewide average weekly wages is estimated by the Commission as 35 percent of the current cost of workmen's compensation premiums. To put the matter in further perspective, it should also be noted that in the vast majority of States, workmen's compensation costs are now less than 1 percent of the payroll.

Another area in which my bill differs from the Commission's recommendations is in the requirement that State laws provide for adding legal fees to compensation awards, at least where a claimant has been successful in obtaining or increasing an award through formal adjudicatory proceedings before the State or on appeal. The Commission made no recommendations on this subject.

The standard in my bill is based on a comparable provision contained in the Model Workmen's Compensation Code developed under the auspices of the Council of State Governments in 1963. It is also consistent with the provisions included in the recently enacted amendments to the Longshoremen's and Harbor Workers' Compensation Act. The objective of this standard is to provide for payment of legal fees by the employer only where the parties have been unable to resolve the matter in informal proceedings.

The effect will be, especially when coupled with the provision of the bill which requires the agency to furnish assistance to the injured employee in processing his claim, to discourage the use of an attorney at the informal stages of the proceedings. But, where settlement proves impossible, and a claimant succeeds in obtaining or increasing an award through formal proceedings or appeals, the standard in my bill would spare the employee the necessity of bearing the cost of attorney's fees, as he does now under most State laws.

Another area in which my bill goes further than the Commission concerns the method of enforcement of Federal minimum standards. The Commission's suggestion was that in States with laws that did not meet Federal standards, employers should be subject to suits in the Federal courts by injured employees, or perhaps local U.S. attorneys, to recover benefits which would have been payable had Federal standards been met. With all deference to the Commission, this is in my opinion a cumbersome procedure inconsistent with the whole notion of workmen's compensation as an administrative system which is supposed to provide prompt and inexpensive relief to injured workers.

My bill adopts a plan which I believe is much simpler and much more efficacious. If the State law is determined by the Secretary of Labor not to meet Federal minimum standards, or the State does not file or implement an approved State plan, then the Federal Longshoremen's and Harbor Workers' Compensation Act will apply in the State. The Longshoremen's and Harbor Workers' Compensation Act, as amended by the bill passed recently by the Senate embodies all of the standards specified in this bill for State laws, so that the net result will be that if a State law does not meet the standards then employers will have to provide essentially the same benefits as a matter of Federal law. I am, of course, assuming that the amendments passed by the Senate to the Longshoremen's Act will be enacted into law.

In my opinion, this approach is calculated to encourage and preserve the State workmen's compensation system as we know it and at the same time provide a Federal fail-safe mechanism in the event that the States are just not willing to amend their laws to meet minimum standards of adequacy and fairness. This is basically the approach we took in connection with the black lung benefits program, and its simplicity and effectiveness make it the most sensible way to handle the issue. I recognize, of course, that there are many who still hold strong views about the right of the States to exercise exclusive authority over workmen's compensation and that this enforcement plan is bound to be one of the most controversial points about my bill.

I repeat now what I have said many times before in connection with this matter: the States deserve enormous credit for initiating this humane program; however, the mere fact that the States initiated workmen's compensation laws is no reason for the Federal Government to stay its hand forever in the face of the documented inadequacies of the workmen's compensation laws of many States.

Let me emphasize as strongly as I can that my bill does not federalize workmen's compensation. Rather, it attempts to build upon what is good in the present system of State laws and to give the States encouragement and technical and financial assistance in improving their laws to meet what amounts to universally accepted standards of decency. If the Federal effort is to be effective, there must be some mechanism for insuring that the States act to improve their laws, for our past experience with purely voluntary efforts and exhortation to the States leave no room for doubt that this matter cannot be left to voluntary action by the States. There must be a Federal stick as well as a Federal carrot if the standards that everyone agrees should be met are actually to be met.

For the same reason, I cannot accept the Commission recommendation that Congress enact no legislation before January 1, 1975, in this area in order to give the States a chance voluntarily to improve their laws. I do not quarrel with the thesis that the States should be given a reasonable amount of time to act to bring their laws up to date, but that does not mean that Congress should not act now. If we wait until 1975 even to consider acting, clearly much of the momentum which the Commission report has generated will be lost.

We ought to act now, but in our action give the States a reasonable time to act. This is why my bill provides that the minimum standards specified in it will not go into effect until January 1, 1975. Under my bill the States will have 2 full years to make the necessary improvements in their laws to meet the minimum standards; surely that is a reasonable time in which to make the necessary changes.

Mr. President, I recognize that we are in the closing days of the session and there is no prospect for action on my bill until next year. Nevertheless, I thought it would be important to introduce this proposal now so that the parties who are interested in workmen's compensation reform will have a chance to study it and so that perhaps we can refine it between now and the beginning of next year when I shall reintroduce it. I hope very much that the people throughout the country who are involved in workmen's compensation programs—from the business community, from the labor movement, from the insurance industry, and from State and Federal agencies—will study this proposal and will give me the benefit of their comments.

My bill does not embody every recommendation of the National Commission and, as I have indicated, in some respects it goes somewhat farther than the Commission recommended. I would be most interested in having the benefit of comments and suggestions of my colleagues and any expression of interest by any Senator; and of people who are interested in this issue during the coming months as we prepare to take up this issue next year. In that connection, I am pleased to say that the distinguished chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, has assured me that this legislation will be given high priority during the next session of Congress.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Workmen's Compensation Improvement Act of 1972".

FINDING AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the vast majority of American workers, and their families, are dependent on workmen's compensation systems for their basic economic security, medical treatment, and rehabilitation in the event such workers suffer disabling injury or death in the course of their employment, and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation in addition to an effective program of occupational health and safety regulation;

(2) each year fourteen thousand American workers die and ninety thousand workers are permanently impaired as a result of work-related injuries or diseases and that work-related deaths and disabilites strike men and women in their most productive years when they are most likely to have a dependent family;

(3) disabilities and deaths due to work-related injuries or diseases cause hardship for workers and their families, reduce the effectiveness of manpower resources in the United States, and impose a substantial burden on interstate commerce in terms of lost income, lost production, and diminished consumer expenditures;

(4) the four basic objectives of workmen's compensation include (A) broad coverage of employees and work-related injuries and diseases; (B) substantial protection against interruption of income; (C) the provision of sufficient medical and rehabilitative services; and (D) the encouragement of safety;

(5) the National Commission on State Workmen's Compensation Laws, established pursuant to the Occupational Safety and Health Act of 1970, determined that, despite recent improvements, many existing State workmen's compensation laws fail to meet objectives set forth in paragraph (4) and thus fail to provide adequate and fair protection to workers and the families of workers injured or killed on the job; and

(6) the improvements that are necessary to insure that an adequate, prompt, and equitable system of workmen's compensation is available to all American workers can and should be achieved without altering the primary legislative and administrative responsibility of the States for workmen's compensation programs, and there is a need for the Federal Government to encourage and assist the States in meeting this responsibility and, where necessary, to assure that workmen's compensation programs within the several States meet minimum standards of adequacy, promptness, and fairness.

(b) It is the purpose of this Act through the exercise of congressional power to regulate commerce and to provide for the general welfare to—

(1) encourage and provide technical and financial assistance to the States to make improvements in their existing workmen's compensation programs designed to provide all American workers and their families an adequate, prompt, and equitable system of workmen's compensation in the event they suffer work-related disabling injury or death;

(2) establish minimum standards of adequacy and fairness for State workmen's compensation programs and procedures by which such standards may be implemented by an appropriate Federal agency in those States which do not comply with them; and

(3) establish appropriate procedures for

monitoring the progress of the States in improving their workmen's compensation programs and meeting such minimum standards and for revising and improving such minimum standards.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "Advisory Commission" means the National Advisory Commission on Workmen's Compensation established under this Act.

(c) The term "employer" means any person who employs any individual but shall not include the United States.

(d) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(e) The term "employee" means any individual employed by an employer on whose earnings such employer is required to pay taxes under the Social Security Act, including any individual employed in domestic service, except that such term shall not include any individual insofar as his employment is covered by the Federal Employees Compensation Act (5 U.S.C. 81), the Federal Employees Liability Act (45 U.S.C. 51 et seq.), or the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), nor shall it include a master or member of a crew of any vessel.

(f) The term "statewide average weekly wage" means the average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls within the State, as determined by the Secretary.

MINIMUM STANDARDS; APPLICABILITY OF FEDERAL LAW

SEC. 4. (a) Commencing on January 1, 1975, and during each two-calendar-year period thereafter, unless the workmen's compensation law of a State has been determined by the Secretary during the calendar year preceding such two-year period to meet the minimum standards prescribed in or pursuant to this section during such two-year period, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.) shall apply within such State.

(b) The minimum standards which each State workmen's compensation law shall meet in order to satisfy the requirements of this section are—

(1) Compensation, medical benefits, rehabilitation services, and other benefits provided under the law shall be provided by each employer for disability or death to his employees caused by any injury arising out of and in the course of their employment. For the purpose of this section (A) the term "injury" means any harmful change in the human organism, whether or not the result of an accident, and includes damage to or loss of a prosthetic appliance and any disease, except communicable disease unless the risk of contracting such disease is increased by the nature of the employment, and (B) any injury shall be deemed to have arisen out of and in the course of employment is work-related factors were a significant contributing cause of the injury.

(2) Coverage under the State law shall be compulsory for all employers with respect to all of their employees.

(3) There shall be no maximum limitation on the total amount of compensation payable in cases of death or temporary or permanent total disability.

(4) There shall be no maximum limitations on the type or extent of medical care or rehabilitation services (or expenses for such care or services) in any case.

(5) The compensation payable to injured workers for temporary or permanent total disability or to surviving dependents in death cases shall be not less than 66⅔ per centum of the worker's average weekly wage subject to the following permissible maximums:

(A) During the period from January 1, 1975, to December 31, 1975, the maximum weekly benefits payable shall be not less than 100 per centum of the statewide average weekly wage on January 1, 1974.

(B) During the period from January 1, 1976, to December 31, 1976, the maximum weekly benefits payable shall be not less than 133⅓ per centum of the statewide average weekly wage on January 1, 1975.

(C) During the period from January 1, 1977, to December 31, 1977, the maximum weekly benefits payable shall be not less than 166⅔ per centum of the statewide average weekly wage on January 1, 1976.

(D) During the two-year period commencing on January 1, 1978, and during each two-year period thereafter, the maximum weekly benefits payable shall be not less than 200 per centum of the average weekly wage in the State on January 1 of the year preceding the commencement of the two-year period.

(6) The minimum weekly compensation benefits for temporary or permanent total disability shall be not less than 50 per centum of the average weekly wage within the State or the injured worker's actual weekly wage, whichever is less. The minimum weekly benefits in death cases shall be not less than 50 per centum of the average weekly wage within the State.

(7) Where an injury causes death, or an employee who is entitled to receive compensation for total permanent disability subsequently dies, death benefits shall be payable to the deceased employee's widow or widower for life or until remarriage, with at least two years' benefits payable upon remarriage, and to surviving children until at least age eighteen or until at least age twenty-three if the surviving child is a full-time student in an accredited educational institution.

(8) The waiting period for benefits shall not be longer than three days and the period for qualifying for retroactive benefits during such waiting period shall not be longer than fourteen days.

(9) There shall be special provisions for dealing with injuries to employees suffering a preexisting impairment, including provisions for the establishment and financing of a second injury found comparable to the provisions of sections 8(f) and 44 of the Longshoremen's and Harbor Workers' Compensation Act, as amended.

(10) Provision shall be made for appropriate periodic adjustment of benefits being paid for previously incurred disability or death, including death or disability incurred prior to the date of this Act, to reflect increases in statewide average weekly wage levels and the benefit levels, or maximum limits thereon, provided for under the State law.

(11) Injured employees shall have the right to make an initial selection of physican either from among all licensed physicians in the State or from among a panel selected or approved by the State workmen's compensation agency.

(12) The State workmen's compensation agency shall have the right to determine the appropriate medical and rehabiliation services in each case.

(13) Each employer, carrier, employee, attorney, physician, and other parties directly involved in carrying out the provisions of the law, shall be required to file with the State workmen's compensation agency such reports concerning the manner in which he has carried out his responsibilities under the workmen's compensation law as the agency may require.

(14) The time limit for filing a claim shall be three years after the date the claimant knew, or by the exercise of reasonable diligence should have known, of the existence of the disability and its possible relationship to his employment or, where payment of compensation has been made without an award on account of disability or death, within one year after the date of the last payment.

(15) Fees payable to claimants' attorneys shall be subject to regulation by the State workmen's compensation agency.

(16) Attorney's fees shall be added to an award where a claimant has succeeded in obtaining or increasing the award through formal adjudicatory proceedings.

(17) Compromise and release agreements shall be permitted only under conditions specified in the law and only with the approval of the State agency or a responsible official of the agency.

(18) An injured employee or the survivors of a deceased employee shall be permitted to claim benefits under the law if the injury or death for which benefits are claimed occurred within the State, if the employment of the employee out of and in the course of which the injury or death arose was principally localized within the State or if the employee was hired for such employment in the State.

(19) The State shall have filed a State plan which has been approved by the Secretary as meeting the requirements of section 5 of this Act.

(20) Such other standards as the Secretary may promulgate from time to time as hereinafter provided.

(c) During any period when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State pursuant to this Act, (1) it shall apply to all employers (as defined in this Act) within the State with respect to the injury or death of any employee (as defined in this Act) of such employers irrespective of the place where the injury or death occurred, and (2) if any of the minimum standards specified in subsection (b) of this section would require higher compensation or death benefits to be paid than would be required under the Longshoremen's and Harbor Workers' Compensation Act then such standard shall apply within such State during such period.

STATE PLANS

SEC. 5. (a) Any State which desires to maintain or assume responsibility for administration and enforcement of a workmen's compensation program shall submit to the Secretary a State plan which meets the requirements of this section.

(b) The Secretary shall approve the plan submitted by a State under subsection (a), or any modification thereof, if such a plan in his judgment—

(1) designates a State agency as responsible for administering the plan throughout the State;

(2) provides for the development and enforcement of a workmen's compensation program which meets the minimum standards prescribed in section 4 of this Act;

(3) provides for the establishment within the State Workmen's Compensation agency of a division with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in cases where controversy exists over medical questions such as the existence, degree or cause of disability;

(4) provides procedures for resolving contested cases, including appellate procedures within the agency or the courts which are fair and expeditious;

(5) provides for the appointment of employees of the State workmen's compensation agency through the State civil service system or other system based on merit;

(6) provides for the establishment and implementation by the State workmen's compensation agency of a continuing program to inform employees of the features

of the State workmen's compensation program and to assist employees in processing their claims before the agency;

(7) gives satisfactory assurances that the State workmen's compensation agency will be adequately funded and for maintenance of at least the current level of effort by the State;

(8) requires employers in the State to make such reports concerning work-related injuries and workmen's compensation benefits to the State workmen's compensation agency or to the Secretary as the Secretary may from time to time reasonably require;

(9) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time reasonably require.

(c) If the Secretary rejects a plan submitted under subsection (a), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

DETERMINATIONS BY THE SECRETARY

SEC. 6. (a) On or before January 1, 1974, and on or before January 1 of each second year thereafter the Secretary shall make a preliminary determination as to whether each State law meets the minimum standards prescribed in section 4 as applicable during the next two-year period, and as to whether the State has submitted a State plan meeting the requirements of section 5. The Secretary shall promptly publish his preliminary determination in the Federal Register and notify the Governor and the State workmen's compensation agency of his findings. Upon publication of his preliminary determination the Secretary shall afford the State agency, the advisory commission and other interested persons, a period of not less than one hundred and twenty days to present any information which may be pertinent to the making of a final determination with respect to the State law and the State plan, including any statutory or administrative changes which may have been made subsequent to the preliminary determination.

(b) On or before September 1, 1974, and on or before September 1 of each second year thereafter, the Secretary shall make a final determination as to whether the State law meets the minimum standards prescribed in section 4, and the State plan meets the requirements of section 5 for the two-year period commencing on the following January 1. He shall promptly publish his findings in the Federal Register and notify the Governor of the State and the State workmen's compensation agency of his determination.

(c) The Secretary may make such inspections as are necessary to ascertain whether a State plan should be approved and to evaluate the manner in which an approved State plan is being carried out. The Secretary shall, on the basis of reports submitted by the State agency and his own inspections, makes a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan, and meeting the minimum standards prescribed in section 4. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that during any two calendar year period in which a State plan is in effect there has been a failure to comply substantially with any provision of the State plan (or any assurance contained therein), or that the State law no longer meets the minimum standards prescribed in section 4, he shall notify the State agency of his withdrawal of approval of such plan. Thirty days after the State agency has received such notice such plan shall cease to be in effect, and the Longshoremen's and Harbor Workers' Compensation Act shall thereafter apply in such State during the balance of such two calendar year period, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(d) In making determinations under this section the Secretary shall consider, in addition to the applicable State statutes, the regulations of the State workmen's compensation agency and the body of administrative and judicial decisions interpreting and applying such law. A State law shall be deemed to comply with the minimum standards precribed in section 4 if it provides for benefits and procedures which are substantially equivalent to or more favorable to injured employees than the benefits and procedures specified in section 4.

NEW STANDARDS

SEC. 7. (a) The Secretary may by rule promulgate any new or improved minimum workmen's compensation in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by the Advisory Commission, an interested person, a representative of any organization of employers or employees, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of the Advisory Commission appointed under section 10 of this Act. The Secretary shall provide the Advisory Commission with any proposals of his own together with all pertinent factual information developed by the Secretary or otherwise available. The Advisory Commission shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of the Secretary's request or within such longer or shorter period as may be prescribed by the Secretary, but in no event later than two hundred and seventy days from the date of the Secretary's request.

(2) The Secretary shall publish a proposed rule promulgating a new or improved minimum workmen's compensation standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments.

(3) On or before the last day of the period for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary may issue a rule promulgating a new or improved minimum workmen's compensation standard or make a determination that a rule should not be issued. The Secretary shall delay the effective date of any new or modified standard for such period as is necessary to afford States or State workmen's compensation agencies a reasonable opportunity to take such action as may be necessary to comply with the standard.

JUDICIAL REVIEW

SEC. 8. Any State, any employer or association of employers employing more than one thousand employees in a State, or any organization of employees representing more than one thousand employees within a State, may obtain review of decisions by the Secretary under sections 5, 6, and 7 by filing in the United States court of appeals in the circuit in which the State is located within thirty days following receipt of notice of the Secretary's decision a petition to review in whole or in part the decision of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless otherwise ordered by the court on the basis of a clear showing of probable success on the merits, and a finding that irreparable injury would otherwise result, the filing of a petition for review shall not stay the effect of the Secretary's decision. Unless the court finds that the Secretary's decision is not supported by substantial evidence the court shall affirm the Secretary's decision. The order of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 9. (a) The Secretary is authorized, during the fiscal year ending June 30, 1973, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 5 to assist them—

(1) in identifying their needs and responsibilities in the area of workmen's compensation,

(2) in developing State plans under section 5, or

(3) in developing plans for—

(A) establishing systems for the collection of information concerning workmen's compensation;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in workmen's compensation programs; or

(C) otherwise improving the administrative and enforcement of State workmen's compensation laws, consistent with the objectives of this Act.

(b) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(d) The Secretary shall review the application, and shall approve or reject such application.

(e) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(f) Prior to June 30, 1975, the Secretary shall transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(g) There is hereby authorized to be appropriated during fiscal year 1973 and each of the next two fiscal years the sum of $15,000,000 for the purpose of carrying out the provisions of this section, which shall remain available until expended.

ADVISORY COMMISSION

SEC. 10. (a) There is hereby established the Federal Workmen's Compensation Advisory Commission, to be composed of five members, appointed by the President by and with the advice of the Senate. One of the members shall be appointed from among representatives of labor, one member shall be appointed from among representatives of business or insurance, and three members shall be appointed from among representatives of the general public. The President shall designate one of the public members to serve as Chairman. Three members of the

Commission shall constitute a quorum. The terms of office of the members of the Commission shall be four years, except that of the members first appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years, and two members shall be appointed for a term of four years.

(b) The Commission shall—

(1) monitor the progress of the several States in making improvements in their workmen's compensation programs and in complying with the minimum standards provided in section 4 of this Act;

(2) advise the Secretary of its conclusions as to the compliance or noncompliance of State programs with the minimum standards prescribed in section 4 of this Act;

(3) review the adequacy of State plans submitted under section 5 of this Act;

(4) engage in research and development of recommendations for improving workmen's compensation programs, including, without limitation, recommendations for standards for determining the compensation payable for permanent partial disability;

(5) recommend appropriate administrative or legislative action to establish new or improved standards under section 7 of this Act;

(6) furnish technical assistance to the States for the purpose of assisting them to improve workmen's compensation programs; and

(7) monitor and evaluate the administration of Federal workmen's compensation programs and make recommendations for appropriate administrative and legislative changes.

(c) (1) The Commission or any authorized subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any members authorized by the Commission may administer oaths of affirmation to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its function under this section.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermitent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(e) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(f) Members of the Commission, other than the Chairman, shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"( ) Chairman, Federal Workmen's Compensation Advisory Commission."

(h) The Commission shall transmit to the President and to the Congress, not later than February 1 of each year, a report of its activities, together with such recommendations as it deems advisable.

STATISTICS

SEC. 11. (a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of workmen's compensation statistics. Such program may cover all employments whether or not subject to any other provisions of this Act.

(b) To carry out his duties under subsection (a) of this section, the Secretary may—

(1) promote, encourage, or directly engage in programs of studies, information, and communication concerning workmen's compensation statistics;

(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with workmen's compensation statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) Employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and States pertaining to the collection of Workmen's Compensation statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

AUDITS

SEC. 12. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary shall prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of Workmen's Compensation, and any other relevant information.

SEPARABILITY

SEC. 13. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

SEC. 14. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 15. This Act shall take effect upon the date of its enactment.

By Mr. MANSFIELD (for Mr. McGOVERN):

S. 4111. A bill to provide for a national program of catastrophe insurance. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MANSFIELD. Mr. President, I send to the desk for introduction on behalf of my distinguished colleague, Senator McGOVERN, a bill, the National Catastrophe Insurance Act of 1972.

I also ask unanimous consent to have printed in the RECORD a statement of Senator McGOVERN which, in his absence, explains the purpose of the bill and the reasons for its introduction, together with the text of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR McGOVERN

Mr. President, in June of this year, Hurricane Agnes and the floods it created left a trail of incredible destruction and personal tragedy. Never before in our history has a natural disaster had such a cruelly devastating impact on the lives and property and futures of so many Americans. And yet the response to this great national disaster on the part of our national government has not been sufficient. Nixon Administration officials themselves have joined the voices of local governing officials to complain about the inefficiency with which rehabilitation is being carried out.

In August, I toured the flood-ravaged Wyoming Valley of Eastern Pennsylvania. What I saw there—nine weeks after Hurricane Agnes had rocked the East Coast from Florida to New York—was profoundly moving and deeply discouraging. The magnificent spirit of the homeless and destitute has been commendable as they attempt to reconstruct their lives. But they need more assistance. As my distinguished colleague in the House of Representatives, Representative Boland of Massachusetts, pointed out on Wednesday of this week, Hurricane Agnes's destruction has affected the lives of millions of people. He pointed out that an estimated $450 million of Federal funds are being made available to facilitate the recovery of the stricken seven-state area—$200 million in previously appropriated urban renewal funds and $250 million in new funds, approval of which is expected before Congress adjourns. These funds are urgently needed to restore damaged communities. But more needs to be done—one estimate is that damage to Pennsylvania alone is estimated at more than $2.5 billion.

Efforts to undertake a massive reconstruction are indispensable. But one should look to the future as well.

In this connection, I am introducing today The National Catastrophe Insurance Act of 1972 in order to establish financial protection against disasters of a similar magnitude if, unfortunately, these should occur. I want to acknowledge the work of Representative Daniel Flood of Pennsylvania, the able Member of the Pennsylvania delegation who has introduced financial-protection legislation in the House of Representatives. His bill has drawn 27 cosponsors. We share the same outlook—an ounce of prevention is worth a pound of cure.

My bill would establish a National Catastrophe Insurance Corporation to administer a program of national catastrophe insurance, designed to prevent severe economic dislocations from catastrophes, to provide reparations on an insurance basis, and to provide financial protection to those exposed to losses arising out of catastrophes. The Corporation would be a Federally chartered one composed of eleven Directors appointed by the President with the advice and consent of the Senate. The Board of Directors would consist of a majority of representatives of the Federal Government, but representation would also be drawn from state and local government and consumers. The Corporation would be provided at its beginning such money as the

Congress thinks necessary. Thereafter, the Corporation would have authority to borrow from the Secretary of the Treasury such interest-bearing funds as may be necessary to meet its obligations. Furthermore, the Directors, after public hearings, would specify a surcharge to be levied on existing property and liability insurance premiums. Maximum surcharge would be five percent. This surcharge would be paid to an individual's insurer along with the regular insurance premium. If the home-owner sustained a catastrophic loss, he would be reimbursed immediately through his insurance company in the same manner as if he had sustained a fire loss. All of his damage—to the extent of his property insurance coverage—would be repaid as a matter of right. No longer would the victim of a flooding catastrophe, for example, be required, in effect, to go to the government—hat in hand—and plead for help.

Under the terms of my legislation, I point out, there is a retroactive feature in that the Directors would be empowered to provide for payment of flood losses which were incurred since January 1st of this year and which were incurred in areas or localities declared major disaster areas by the President.

One point more, Mr. President. The Directors of the Corporation would be empowered, after public hearing, to specify perils other than flooding to be covered—perils that are typically uninsured or uninsurable such as earthquake, atomic accident, war damage, or mud-slide.

This Nation has been providing disaster relief for everyone except those who need it most and can afford it least. We can bail out the incompetent executives of Lockheed. We can provide disaster insurance for the mismanaged Pennsylvania Railroad. But when the ordinary family is wiped out by a disaster for which they bear no responsibility, we tell them that they must make it on their own—except for soup kitchens and emergency clothing distribution set up immediately after the tragedy.

The lesson of Hurricane Agnes is that we must establish a permanent, adequately financed apparatus to care not for the most advantaged in our society, but for the least advantaged.

The victims of Hurricane Agnes have shown courage and resourcefulness. We in government can do no less.

S. 4111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Catastrophe Insurance Act of 1972".

PURPOSE

SEC. 2. It is the purpose of this Act to provide for a National Catastrophe Insurance Corporation to administer a program of national catastrophe insurance, designed to prevent severe economic dislocations from catastrophes, to provide reparations on an insurance basis, to provide protection to all those exposed to losses arising out of catastrophes, and to encourage the prevention and minimization of losses arising out of catastrophes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "catastrophe insurance" means insurance against flood and other perils specified by the Board of Directors of the National Catastrophe Insurance Corporation to cover losses.

(2) "property insurance" means all insurance issued by insurance companies in force in any State on any real property or personal property located in any State other than insurance on motor vehicles.

(3) "insurance company" means any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State, and also includes any pool or association or insurance companies formed, associated or otherwise created for the purpose of sharing risks.

(4) "premium surcharge" means a percentage of property and liability insurance premiums to be specified by the Board of Directors of the Corporation on all types of property and liability insurance except workmen's compensation, bonds and health insurance.

(5) "State" means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Canal Zone.

(6) "jurisdiction" means any State or subdivision thereof which the Secretary finds has the legal authority to adopt and effectively enforce local land use and control measures to reduce the potential for covered catastrophe.

(7) "Corporation" means National Catastrophe Insurance Corporation.

(8) "Board of Director" means the members of the Board of Directors of the Corporation.

ESTABLISHMENT AND AUTHORITY OF THE NATIONAL CATASTROPHE INSURANCE CORPORATION

SEC. 4. (a) There is established a National Catastrophe Insurance Corporation, which shall have an eleven-member Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board shall consist of representatives of—

(1) State and local governments;

(2) the Federal Government; and

(3) consumer interests.

Not less than a majority of the Board at any time shall be representatives of the Federal Government, and every such representative shall immediately cease being on the Board as soon as he is removed from his Federal position. The Board of Directors is authorized to appoint such advisory committees as it may find useful.

(b) The Corporation shall have the following powers:

(1) To collect, manage and invest in United States Government securities, funds produced by the surcharge and other funds necessary to fulfill the purposes of this Act.

(2) To disburse funds to reimburse insurance companies, to pay reasonable operating expenses and make other reasonable disbursements in accordance with its corporate purposes.

(3) To purchase reinsurance to the extent deemed appropriate and available by the Board of Directors.

(c) The Corporation is authorized (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; and (8) to acquire, take, hold, and own, and to deal with and dispose of any property.

(d) (1) Members of the Board of Directors and advisory committee members shall be reimbursed for reasonable expenses incurred pursuant to their duties as members. The members of the Board of Directors and persons appointed to assist the Board shall not be liable personally on the bonds or other obligations of the Corporation and the right of creditors shall be solely against the Corporation.

(2) The Board of Directors may appoint such staff, technical experts and other agents and employees, permanent or temporary, as it may require and may determine the qualifications and fix compensation of such persons.

(3) The Board of Directors may delegate to one or more of its agents or employees such of its powers as it shall deem necessary to carry out the purposes of this Act.

(c) (1) The Board of Directors shall, after a public hearing thereon, specify the premium surcharge after consideration of actuarial data and the financial requirements of the Corporation, but the surcharge may not exceed five percent. The surcharge may vary on an individual basis, a State-wide basis, a territorial basis, a country-wide basis, or any combination thereof in order partially to reflect variation in risk and control measures. Each insurance premium shall be surcharged and the amount of surcharge shall not be subject to agents' or brokers' commission or company expense and shall be paid in its entirety by the insurance companies to the Corporation at such times as the Board of Directors shall specify.

(2) The Board of Directors shall submit an annual report of the Corporation's operations to the President for submission to the Congress and such report shall contain data on the Corporation's activities under this Act and may contain recommendations for necessary additional legislation related to purposes of this Act.

(3) The Board of Directors shall, after a public hearing thereon, specify the perils to be covered such as earthquake, subsidence, war damage, atomic accident, or mudslide. Such perils shall be those which are typically uninsured or uninsurable and of such a nature as to generate losses that are likely to result in a Federal disaster declaration.

(4) The amount of catastrophe insurance may be subject to such deductibles, coinsurance provisions, and other terms and conditions as may be necessary to achieve the purpose of the Act and the soundness of the financing arrangements.

(5) The amount of catastrophe insurance may be limited to a percentage of the property insurance in force for each owner. Such percent shall be established by the Board of Directors after public hearing, and may later be increased or decreased as the Board of Directors deems appropriate.

MANDATED COVERAGE

SEC. 5. Each property insurance policy now in effect or hereafter issued other than motor vehicle property insurance policies shall be endorsed to extend coverage to flood and other catastrophe perils as specified by the Board of Directors of the Corporation.

ELIGIBILITY FOR COVERAGE

SEC. 6. No catastrophe insurance or reinsurance shall be offered under this Act in any jurisdiction where the Board of Directors determines that appropriate and adequate land use and control measures to avoid and mitigate future catastrophes have not been adopted. The Board of Directors is authorized to require periodic and reasonable revision of zoning actions and building codes in eligible jurisdictions on the basis of past experience or new information as a condition of the continued eligibility of such jurisdictions for national catastrophe insurance.

FINANCING

SEC. 7. (a) There is established in the Treasury of the United States a fund for the operating expenses and capital fund of the Corporation.

(b) There is appropriated to the fund established under subsection (a), out of any money in the Treasury not otherwise appropriated, such sums as the Congress may determine to carry out the purpose of this Act.

(c) To maintain the fund established under subsection (a), the Corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized to purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations which shall be treated as public debt transactions of the United States.

RETROACTIVE PAYMENTS

SEC. 8. The Board of Directors shall provide for payment of flood losses and losses from other catastrophic perils which were incurred after January 1, 1972, and which lead to a declaration of a major disaster area by the President. Such loss payments shall be made to all insured and non-insured owners of real property and owners of household contents in accordance with loss settlement procedures normally employed by property insurance companies—to the extent of the existing property insurees' coverage. The Corporation may request the insurance industry, government agencies, and any other public or private agency or organization to assist it in adjusting such claims. All such loss payments shall be reduced by any State or Federal assistance grants or loans paids or payable to such owners.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. BEALL, Mr. CANNON, Mr. COTTON, Mr. GRIFFIN, Mr. HOLLINGS, Mr. LONG, Mr. MOSS, and Mr. STEVENS):

S. 4113. A bill to establish an international Commerce Service within the Department of Commerce. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, last year Senators MAGNUSON, COTTON, GRIFFIN, HOLLINGS, STEVENS, and I introduced S. 2754, the Export Expansion Act of 1971.

Title I of that bill authorized the establishment of a service to be known as the International Commerce Service within the Department of Commerce. This service would have been charged with the responsibility of representing American commercial interests in U.S. diplomatic missions abroad as commercial minister, counselor, attaché, officer or such other titles as may be prescribed by the Secretary of Commerce. Officers of the service would also have diplomatic immunity and a status equivalent to that enjoyed by Foreign Service officers of comparable rank and salary. In effect, then, the International Commerce Service would have assumed the function of commercial officer, which now resides in the Foreign Service.

The bill was prompted by a long, simmering dissatisfaction with the commercial representation that American business had been receiving overseas. In a study conducted by the consulting firm of Cresap, McCormick, and Paget, an overwhelming majority of American firms queried expressed displeasure with the services they had received—or failed to receive—from Foreign Service commercial officers.

This attitude was confirmed by a personal survey conducted by my own Subcommittee on Foreign Commerce and Tourism. By a 4-to-1 margin, the corporations responding to a question about the transfer of the commercial function to the Department of Commerce from the Department of State favored the move.

These complaints about inadequate field support are longstanding. During the post-World War II era, the United States concentrated on international political, diplomatic, and military problems. The creation of a stable, secure world order was quite properly given priority, and on the whole—but at great price—the sacrifices of the American people have been rewarded. The threat of a nuclear holocaust has receded somewhat, and the great powers have reached a delicate political equilibrium.

This progress has been similarly paralleled by the growth of the global economy. Immediately, after the Second World War, the United States was the world's preeminent economic power, the only major nation whose industrial plant was intact. Consequently, there was never any problem in selling American goods to other nations. The large payments surpluses which we accumulated after the war reflected our economic dominance. The combination of these two factors, the threat to our security and the vigor of American industry, resulted in concentrating on the political function and downgrading, or at least minimizing, the commercial function.

Today we no longer can afford this luxury of neglecting the commercial aspect of our foreign policy. For the first time last year the United States sustained a merchandise trade deficit of approximately $2.1 billion f.o.b. At midyear this figure had deteriorated further to an annual rate of $7.7 billion, and the latest August statistics show an annual deficit rate of $5.5 billion. As the dollar devaluation takes effect, this gap should narrow, but there is a strong difference of opinion whether devaluation will be sufficient to bring our trade account into balance. Furthermore, it is highly unlikely that simple monetary reforms and devaluation can restore our once healthy surpluses.

In 1970, for the first time the United States ceased to be the world's largest exporter of manufactured goods. That honor belongs to West Germany. In terms of volume and value, the European Community has far surpassed our foreign trade, although the United States remains the single largest exporting nation.

The changes in our economic status must be reflected by our commercial officers stationed abroad. Until very recently, the Department of State and the Foreign Service seem to have been oblivious to our relative economic decline and the shift of emphasis in international affairs to economic issues. Even today we have only 192 commercial officers stationed in 95 overseas posts. This figure is proportionately far less than any other major industrial country. The failure of the State Department to give appropriate attention to foreign trade prompted Senator MAGNUSON and me to include a proposed transfer in our omnibus export expansion bill.

The hearings which the Subcommittee on Foreign Commerce and Tourism conducted on title I of the bill convinced me that outside of the State Department there was very little interest in retaining the commercial function there. Nevertheless, at the request of the Administration, we defered action on this title until a study of the issue could be completed.

I am pleased to advise my colleagues that the Department of State has been aware of the Congress' concern and is acting to improve the commercial services program. It has taken several steps to improve its responsiveness on commercial matters. Most recently, on August 18, a decision memorandum was issued by Deputy Secretary John Irwin increasing the priority and importance of commercial work, improving career opportunities within the commercial cone for advancement within the Foreign Service, encouraging closer cooperation between private business and the Department of State, and providing more training and information to commercial officers serving overseas. I ask unanimous consent to have a copy of the memorandum and a summary of its major provisions printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION

In my circular cable to you on the occasion of the swearing in of Willis Armstrong, (State 026228, 15 February 1972), I stressed the importance the President and I attach to effective governmental support of American business. The Department is moving forward, in close cooperation with the Department of Commerce, to strengthen and improve our export promotion programs. The overseas element of this effort is one of the primary missions of the Foreign Service and of each of our diplomatic and consular posts.

I enclose with this airgram a copy of the decision memorandum of August 18 which details the Department's approach to business relations and directs the implementation of a series of specific measures. I would appreciate your seeing to it that your staff is familiar with this program and with the importance I wish to have devoted to it.

I am aware of the fine work our posts are doing to support American business objectives and I congratulate you upon your efforts to date. In a time of balance of payment pressures we must further reinforce our trade promotion programs. Many of the ideas submitted from the field have been incorporated in this decision memorandum. Additional thoughts and recommendations from the field are always of value and are welcome.

ROGERS.

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION

THE DEPUTY SECRETARY OF STATE,
Washington, D.C., August 18, 1972.

I have approved the action program which follows, and which was discussed in my meetings of July 13 and 14. This program incorporates, inter alia, recommendations of the Pritzlaff Report, Willis Armstrong's interim action program, the draft report of the Inspector General of the Foreign Service on the commercial function, several recent GAO studies, recommendations made to me by the Director General of the Foreign Service, and Open Forum Panel suggestions. You should proceed energetically to implement the various tasks assigned in this memorandum in the closest possible coordination with our colleagues in the Department of Commerce. I will plan to meet again with Secretary Peterson and his associates in the coming weeks to discuss the broad outlines of our mutual program.

This memorandum concerns governmental trade promotion and relations with American business. While it is essential that these services be strengthened, no amount of promotion can substitute for a national commercial policy which facilitates trade and makes exporting more profitable. The Bureau of Economic Affairs will take the lead in the Department in developing proposals, some of which may require legislation, that hold promise of a significant impact on the U.S. balance of trade.

I. ORGANIZATION OF THE STATE DEPARTMENT EFFORT

The Bureau of Economic Affairs will have basic responsibility for the function of trade promotion and business services. E, supported by the geographic bureaus, will be responsible for working with Commerce on substantive programming. E, in consultation with the Department of Commerce, the geographic bureaus, M, A, and M/DG will prepare a program budget presentation for the function, including identification of all related resources. E will take the lead in planning and recommending global allocation of resources. This will be done through the PARA system and the budget and execution process, with geographic bureau participation. E (with the support of Commerce Department officers) will help justify this budget before OMB and, based upon our judgment of the utility at the time, before the Congress.

The Director General will continue to be responsible for the personnel aspects of commercial work, including recruitment, training (with FSI), assignment, promotion and career planning. M/DG, after appropriate consultation, will develop the personnel system outlined in this paper, negotiate mutually satisfactory working arrangements with Commerce, and implement the economic/commercial cone program.

II. STATE DEPARTMENT POSITIONS ON THE CENTRAL ISSUES

A. Personnel management and career specialization

Commercial work will be integrated as fully as possible with other Foreign Service responsibilities. Economic specialization and commercial specialization will comprise a single career cone. There will be more cross fertilization between the various economic and commercial sub-specialties. Our ultimate objective is to have in supervisory counselor positions only persons who have demonstrated competence in both fields. There will be a maximum integration of commercial and economic activities and officers overseas. The role and prestige of the commercial officer will be enhanced; this is the objective of many of the reform actions now in train.

A recent paper drafted in the Bureau of International Commerce proposes the separation of commercial officers into a distinct commercial cone. This more restrictive approach would isolate commercial specialists. It would relieve the pressure for generalized attitudinal change in the FSO corps, and would tend to subordinate commercial work, the very opposite of our purpose. Commercial specialists deserve the same opportunities for broadening out-of-track assignments as their fellow FSOs, and the training they need to compete for senior executive positions. It is necessary that services to American business be regarded and be handled as an integral part of overseas mission responsibilities. The entire mission, starting with the Ambassador, must be concerned with business relations and export promotion.

The 1967 State/Commerce agreement on an integrated cone has not been effectively implemented. We must proceed expeditiously with such implementation, collaborating as fully as possible with the Department of Commerce. At the same time, we will define and catalogue the particular skills involved in trade promotion and business services and maintain improved records as to the qualifications of our officers for various commercial assignments.

M/DG will chair the State team in personnel discussions with the Commerce Department, and will explain the reasoning behind our firm preference for an integrated economic/commercial career specialization, operating, like the rest of the Foreign Service, under the ultimate authority of the Secretary of State. In this context, the State team will be prepared to work out mutually satisfactory arrangements regarding, *inter alia:*

1. Commerce participation in the recruitment, assignment, training and promotion of economic/commercial cone officers, and in the determination of commercial position responsibilities;
2. Increased in-and-out FSR appointments of executives from private business to positions designated for this purpose both in Washington and the field, subject to their demonstrated qualifications, position authorizations, and necessary appropriations;
3. Commerce participation in inspection and evaluation missions in coordination with S/IG;
4. An expansion of budgeted positions for FSO assignments in Commerce.

B. Budgeting

Our understood long range objective (to be realized if possible in FY 1975) is the development of fully compatible and coordinated business support budgets for State and Commerce. In fact, the joint budget should ideally be prepared, regarded and justified as an integrated functional resource package, dovetailing domestic and overseas commercial services/trade promotion programs. The fact that the same Congressional appropriations committees approve the budgets of the two departments will, we hope, facilitate this project. It will take patience and goodwill to develop the essential candor, trust, and cooperation between all levels of State and Commerce. We expect, therefore, that personnel involved will approach this task in the proper manner of cooperation designed to ensure success.

Meanwhile, starting with a scheduled PARA review, State will prepare a functional trade promotion/business services budget for its own resources for FY 1974 and will present it to OMB in this manner. The Congressional presentation will also be made functionally if the committee chairmen agree; if not, the appropriations request will be broken down geographically and the functional description added as an annex, or in some similar fashion. E should take the lead, in coordination with A, M, M/DG and the geographic bureaus, in seeking the assistance and collaboration of Commerce in this effort.

Of course, we will expect to be kept fully informed of Commerce FY 74 budget plans in order to prevent conflict and redundancy. For example, some of Commerce's market development programs, and particularly the Regional Trade Development Centers, appear to duplicate Embassy functions and to risk a fragmentation of overseas operations; such expanded overseas programs designed to focus upon particular markets should more appropriately be financed through the State budget and be directed by the Ambassador and his commercial counselor.

C. Programing

The Commerce and State Departments should allot high priority to the development of commercial operations programs by country and region. This subject is addressed clearly and succinctly in the draft S/IG report; it has been emphasized in every recent study of governmental trade promotion work. Objectives, priorities, and allocation of resources must be considered and tailored on a market by market basis. Both domestic and overseas activity must be included, and particular attention should be paid to the degree of development of each market. Such planning can succeed only as an intimate cooperative endeavor of the Commerce Department, the overseas missions, and the State Department, and should utilize existing PARA machinery. I recognize that this necessary cooperative effort will be hard work for both departments. In State, E and the geographic bureau country directorates must plan to devote time and attention to the development of market programs.

We should propose to Commerce that one country market in each geographic region be designated for an initial attempt to develop integrated trade promotion programs, and that these pilot programs receive favored attention for resources. It is essential to approach this major task on a functional as well as a geographical basis, so as to consider the validity worldwide of the various tools of trade promotion (missions, fairs, WTDRs, trade opportunity reports, trade centers, special trade development centers, etc.). Thus, different categories of markets should be chosen for the pilot projects so as to permit the various market plans to be coordinated and regarded collectively as a global pilot project. The State/Commerce Country Program Working Group could be expanded into a joint task force for this purpose. E should proceed with the geographic bureaus and Commerce to select the most useful markets in each region for this exercise and should seek the views of the Department of Commerce as to the most promising way to conduct the work.

D. Reforms of Current Commerce Department Procedures

A number of immediate and longer range State Department actions are set forth in this paper. Others will be developed in coordination with Commerce as the program progresses, and, of course, we will welcome other Commerce Department ideas. The Commerce Department has recognized the need for substantial changes in its own traditional practices as well. Without these changes, which have been recommended in the various recent evaluations, other reforms can have only limited impact. The State Department is prepared to assist in every way it can, but Commerce, like State, must accomplish its own internal reforms. The Pritzlaff Report, the S/IG draft, and particularly the McKinsey recommendations provide a useful blueprint. This challenging agenda appears to include:

1. Developing more integrated management of the export promotion effort, including particular attention to Commerce field offices and a reorganization of the Bureau of International Commerce.
2. Increased attention to stimulating American firms to enter the export market and to produce for export.
3. Introduction of a subscription service for the provision of commercial intelligence

to business. This proposal, already, we understand, generally favored in Commerce, is discussed in the draft S/IG report. The British system can provide a useful model and we can profit from their experience.

4. Reduction of Washington paperwork demands upon overseas missions to permit more time, with improved Washington guidance, for creative commercial work, development of contacts, and unearthing of export opportunities. This problem is described eloquently in the Pritzlaff Report.

III. IMMEDIATE ACTIONS

In addition to the implementation assignments related to personnel management, budgeting and programming, there is to be immediate implementation of the following more specific measures discussed in my meetings of July 13 and 14.

7. M/DG, in consultation with E, Commerce and the geographic bureaus, should designate approximately 25 consular posts in major markets, or markets with high potential, as "Commercial Interest Posts." The Director General should announce the Department's objective of assigning principal officers to these posts from the economic commercial cone, or from those officers of another cone who have had significant commercial experience and are otherwise qualified. I would appreciate a report from the Director General by September 30 and again by December 31 regarding our progress in meeting this goal.

2. The Director General will make known the Department's objective of drawing approximately one-fourth of DCM assignments from the economic/commercial cone or from those officers of another cone who have had significant commercial experience and are otherwise qualified. Nominations for Chief of Mission from the career service should reflect the growth in emphasis upon Foreign Service economic and trade promotion responsibilities. I would appreciate an interim report from the Director General by September 30 and again by December 31 on our progress toward reaching these goals.

3. M/DG and E should review positions in the Economic Bureau and by September 30 redesignate as "commercial affairs officer" a substantial number of positions now designated as "international economist." I understand INR will redesignate about three such positions, and each geographic bureau will redesignate approximately five. E and the other bureaus involved should coordinate with the position classification experts of M/DG to ensure logic and consistency in these changes of nomenclature. The redesignations should be based upon a broad definition of commercial work ranging from particular actions to general policy objectives relating to the support of American business abroad. The number of positions affected cannot be determined until the review is undertaken.

4. M/DG, after consultation with E, will by September 15 issue general instructions that rating officers comment in performance evaluations upon the rated officer's concern for American business interests and his effectiveness in this area. Such comment will apply to the performance year beginning this summer and to all officers of the Foreign Service, regardless of cone or personnel category.

5. S/PC, in consultation with E, M/DG and the geographic bureaus, will prepare by September 15 for my consideration a draft letter which, if approved, would be for the Secretary's signature to all Chiefs of Mission. It would suggest organizational and managerial approaches designed to improve services to American business and to enhance the prestige, job content and relative status of the commercial officer.

6. E, in consultation with EXIM Bank and Commerce, will by September 30 transmit to the field a new, comprehensive unclassified circular describing U.S. Government export credit and credit guarantee facilities.

7. E, in consultation with S/IG, M/DG, L, and Commerce, should draft a complete revision of 10 FAM 940 to 947. Developments in State/Commerce reforms over the next six months will shape the new regulations. However, E should recommend to me by September 15 new language for those sections of the manual which require urgent improvement. E should explore whether it is possible to draft legally and politically acceptable language defining the circumstances under which U.S. missions may properly concentrate their support on the efforts of one particular American firm seeking a foreign contract. Electrical communication of commercial traffic should be emphasized, and any regulatory inhibition to its use deleted.

8. M/DG, in consultation with E and other bureaus, should seek to effect by the end of this calendar year approximately five exchange assignments with private business, commercial or financial institutions. The various bureaus under M leadership will designate the positions into which these private experts will be placed, and I will appreciate a report on September 30 and again on December 31 regarding our progress in meeting this goal.

9. M/FSI, in cooperation with M/DG, E and Commerce, should, by reordering priorities within the limits of its present budgeting and personnel ceilings, prepare and schedule an appropriate course designed to orient senior officers without extensive economic background in the practical elements of business practices and international economics related to Foreign Service responsibilities. E should define the objectives of the course by September 15, and M/FSI should prepare the curriculum for implementation this autumn. I would appreciate a progress report from FSI by October 15.

10. M/FSI should, within its present ceilings, explore with private business corporations and associations the availability of suitable training programs in international business practice and the operations of multinational corporations, and report back to me by September 15.

11. M will adjust the list of positions qualifying for Career Minister eligibility to include the six economic/commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo.

12. The Bureau of Economic Affairs is renamed the Bureau of Economic and Business Affairs, with the symbol designation EB. M will publish the necessary instructions for this change in nomenclature by September 15.

JOHN N. IRWIN II.

DIRECTIVE ISSUED—DEPARTMENT TO STRENGTHEN TRADE PROMOTION EFFORT

Deputy Secretary John N. Irwin II, last month directed major changes designed to strengthen the Department's trade promotion effort.

In a Decision Memorandum issued August 18, Mr. Irwin instructed various offices within the Department to prepare to implement the following "immediate" actions:

Designate approximately 25 consular posts in important markets as "Commercial Interest Posts," with the objective of assigning principal officers to these posts from the economic/commercial cone, or from those officers of another cone who have had sufficient commercial experience.

Establish the objective of drawing approximately one-fourth of DCM assignments from the economic/commercial cone or from those officers of another cone who have had significant commercial experience.

Issue general instructions that rating officers comment in performance evaluations upon the rated officer's "concern for American business interests and his effectiveness in this area."

Prepare a letter from the Secretary to Chiefs of Mission, suggesting ways to improve services to American business and to enhance the prestige, job content and relative status of the commercial officer.

Transmit to the field an updated circular describing U.S. Government export credit and credit guarantee facilities.

Revise and update 10 FAM pertaining to commercial work.

Arrange approximately five exchange assignments with the U.S. private sector by the end of 1972.

Organize a course to orient senior officers without extensive economic background in the elements of business practices and international economics related to Foreign Service responsibilities.

Explore availability within private business of suitable training programs in international business.

Adjust the list of positions qualifying for Career Minister eligibility to include the six economic/commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo.

The Economic Bureau will also be renamed the Bureau of Economic and Business Affairs. In addition, a substantial number of positions in the "EB" Bureau will be redesignated from "international economist" to reflect the commercial as well as economic function of the position. INR will redesignate about three such positions and each geographic bureau will redesignate approximately five.

As in the past, the new "EB" Bureau will have within State the basic responsibility for the function of trade promotion and business services. The Department and the Foreign Service perform an essentially support role for the Commerce Department, which is primarily concerned with assisting the American business community.

The Irwin Memorandum calls for a closer coordinated Commerce/State effort in the planning, budgeting and operation of trade promotion programs.

Using the PARA mechanism, the full range of commercial activities will be evaluated on a country-by-country basis, and specific priorities established. These programs will be translated into a consolidated budget presentation for the entire commercial function. In this way, the memorandum suggests, resources can be allocated according to program priorities, and the State Department commercial budget can be dovetailed with Commerce's trade promotion budget.

In response to the Irwin Memorandum, Ambassador William O. Hall, Director General of the Foreign Service, has established a Special Group concerned with the personnel aspects of economic/commercial work.

The Special Group, headed by Robert B. Hill, will report through Robert C. Brewster, Deputy Director General and Director of Personnel. Members include Peter A. Seip and Albert L. Glad. Ruth Brill is the secretary.

Major objectives of the Group are:

(1) to monitor compliance with executive decisions affecting economic/commercial work, as these relate to M/DG responsibilities;

(2) to conduct talks with Commerce, in consultation with EB, on economic/commercial personnel operations;

(3) to review recommendations for improvement of the Foreign Service economic/commercial function, as these relate to personnel operations, seeking prompt implementation of those considered desirable and feasible, through the appropriate action officers in M/DG and in consultation with other Bureaus as necessary; and

(4) to serve generally as a catalyst in the development and implementation of other

proposals in the personnel area designed to enhance the prestige and effectiveness of economic/commercial work.

The Special Group will welcome all ideas. The offices are in 1873 N.S.

The Decision Memorandum resulted from a series of Departmental studies in recent months to identify weaknesses in the commercial program and recommended improvements. At the same time, the Commerce Department has been scrutinizing its own trade promotion organization and programs, and undertaking important changes. Although the OMB has not yet reported on its comprehensive review of the economic/commercial function, both State and Commerce are already taking actions to improve their performance in this area.

At the invitation of Assistant Secretary Willis C. Armstrong last May, State and Commerce began a series of detailed discussions on the commercial function, with a view towards recommending improvements for early implementation. Bruce C. Ladd, Jr., Deputy Assistant Secretary for Commercial Affairs and Business Activities, has represented State in these talks.

Another significant initiative was the appointment of a "Commercial Coordinator" in each of the geographic bureaus. These individuals are assuming responsibility for overseeing commercial activities in their area, to include country programs and resource allocation. They also serve as the principal point of coordination on commercial matters with the EB Bureau. The Commercial Coordinators are listed below:

Africa, Donald S. Spigler; East Asia, Henry Bardach; Europe, John D. Rendahl; Near East and South Asia, Stanley D. Schiff; Latin American, Jordan T. Rogers.

Within EB, the Office of Commercial Affairs (OCA) has been taking an increasingly active part in programming and resource allocation for the commercial program. OCA is establishing itself as the principal backstop office within State for overseas commercial activities.

DEPARTMENT OF STATE,
INFORMATION MEMORANDUM,
October 5, 1972.

To: The Acting Secretary
From: S/PC—Joseph W. Neubert, Acting

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION: PROGRESS REPORT

I am pleased to report that the action program set in train by your Decision Memorandum of August 18, 1972 is proceeding as directed. We are still, however, in the early stage of a long range undertaking which will require determined interagency effort and adequate appropriations by the Congress. This memorandum will summarize implementation to date.

A. Career management

The Director General (DG) established an "Economic-Commercial Special Group" of personnel experts to implement the improvements you directed in the integrated economic-commercial specialization cone of the Foreign Service. Actions already taken are itemized later in this memorandum.

Unfortunately, the Department of Commerce has preferred to postpone discussion of Commerce participation in the management of the strengthened economic-commercial cone pending release of the OMB Study. As you know, Assistant Secretary of Commerce Andrew Gibson recently forwarded to the Office of Management and Budget another new proposal for the transfer of jurisdiction from the Secretary of State to the Secretary of Commerce.

This delay in interagency discussion of the improvements we are introducing in the Foreign Service personnel system has not impeded the development of closer working relations between the two departments in other areas, nor has it delayed an energetic and welcome effort in the Commerce Department to proceed with recommended internal reforms.

B. The State Department's commercial and business services budget

The Bureau of Economic and Business Affairs (EB), with the help of officers of the Department of Commerce and of other interested bureaus in State, has prepared a global functional budget request for FY-1974, fully synchronized with the similar Commerce request. We are proposing 132 new commercial positions at home and abroad, of which 65 would be Americans and 67 would be local national employees. Our request reflects recommendations by our Ambassadors and geographic bureaus, needs identified in the PARA process, and Commerce Department evaluation of the most promising markets for American exports. The new commercial positions so urgently desired by our Ambassadors in Eastern Europe are included, for example.

We have proposed increases of $140,000 in travel funds, a need stressed by Ambassador Pritzlaff. The training system for economic-commercial officers throughout their careers has been revised in close coordination between the Foreign Service Institute (FSI), the Director General, EB and Commerce. Several courses have been added, and the content of others has been strengthened by more intensive work in international marketing, corporate finance, the multinational corporation, trade promotion operations, and so forth. At the suggestion of the Department of Commerce, FSI is integrating under its management certain courses previously supervised separately by Commerce.

Another new request is for funds to finance regional conferences in each major geographic area. This will permit executives from the Departments of State and Commerce to meet with our commercial attachés to discuss new export promotion programs, problems, and opportunities.

Altogether, we are requesting approximately $2.4 million in additional funds for the world-wide business services program; under a separate budget heading, we are also requesting increased representational funds for export promotion purposes.

EB, assisted by the geographic bureau executive directors, the Director of FSI, and three officials of the Department of Commerce defended this program budget request in a hearing before OMB examiners on October 3. The examiners complimented Department representatives on a presentation markedly improved over previous years. We hope our request for resources will be approved despite indications that the Administration's FY 74 budget must be unusually stringent.

C. Market programming

The Bureau of Economic and Business Affairs is consulting with the commercial coordinators of our geographic bureaus and with the Department of Commerce in selecting pilot markets for special review and planning, as you directed. The Commerce Department is interested in cooperating fully with us in market programming, and is itself making substantial progress in its export targeting system, an effort to identify product sectors for priority attention. Commerce is also expanding its campaign to persuade selected manufacturers to enter the export market, and our programming work will help identify the most promising opportunities for profitable export.

We intend to relate our market programming work closely to the PARA system and to the allocation of our resources. We have already agreed with the Commerce Department to add supplementary trade promotion resources in the form of special trade development centers in Seoul and in Caracas, and appropriations are being requested by both departments for this purpose in FY 74.

The staff positions in these experimental centers, of which three are already in existence, have been divided between State and Commerce. As you know, we anticipate that our evaluation of this problem will lead to the conclusion that trade development centers, like the other overseas operations of our missions, should be staffed by Foreign Service personnel in State Department positions. Our Foreign Service Reserve system provides flexible authority for appointing officers with special expertise, either from the private sector or from Commerce, when that is required. We have informed OMB and the Department of Commerce that we are reviewing this situation and may decide to place the 28 overseas American positions in these centers, now staffed by the Department of Commerce, under the State Department budget for FY 1975.

D. Immediate actions

Your Decision Memorandum assigned 12 actions for immediate implementation.

1. *Designation of "Commercial Interest Posts".*

The Secretary's airgram to all diplomatic and consular posts (A-9463, September 20, 1972) transmitted the text of your Decision Memorandum and publicized our intention to designate about 25 "Commercial Interest Posts" and to assign officers of the economic-commercial cone or with significant commercial experience as principal officers to such posts. This was also publicized in the lead article of the September "State Department Newsletter". A list of posts proposed for this designation has been developed by the Director General, EB and the geographic bureaus and is now being reviewed by the Department of Commerce.

2. *Selection of Deputy Chiefs of Mission.*

Our intention to select approximately one-fourth of our deputy chiefs of mission (DCM) from the economic-commercial cone (or from officers of other cones with significant commercial experience) has been publicized and the Director General has issued appropriate instructions to his staff. Since the date of your memorandum, only one DCM (a political officer to Bangladesh) has been named. However, three other DCM assignments are now under consideration and the primary candidates for two of these are economic-commercial officers.

3. *Redesignation of Positions.*

In consultations between classification specialists and the Bureau of Economic and Business Affairs, 69 positions in EB have been identified for redesignation from "international economist" to "economic/commercial officer". The necessary administrative action is in process. Other positions in EB, primarily "financial economist" and "international transportation and communications officer", have less relation to commercial matters and will remain unchanged. In the geographic bureaus, ARA has identified 5 positions for redesignation as "economic-commercial officer", AF has proposed 4, EA 4, EUR 4, and NEA 5. The Bureau of Intelligence and Research has proposed 4 positions for redesignation as "economic-commercial analyst". Classification specialists are conferring with these bureaus to ensure consistency of standards in implementing the changes.

4. *Performance Evaluation.*

By Circular Airgram 9648, September 25, 1972, the Director General instructed all rating officers, effective immediately, to comment on the rated officer's concern for American business and his effectiveness in this field.

5. *Letter from the Secretary of State to all Chiefs of Mission.*

In lieu of the proposed letter the Secretary has transmitted a personal airgram (CA-9463, September 20) enclosing copies of your Decision Memorandum and reaffirming his strong interest and that of the President in effective governmental support of American business. We intend to transmit suggestions for improved organizational and managerial treatment of the commercial function in separate messages.

6. *Circular Describing U.S. Government Export Credit Availability.*

The Export-Import Bank has agreed to prepare a circular message to overseas posts describing export credit and credit guarantee facilities available to American exporters. This message, now under preparation, will bring up to date a similar circular transmitted in December, 1969.

7. *Revision of the Foreign Affairs Manual.*

As a result of consultations between the Bureau of Economic and Business Affairs and the Department of Commerce, the World Trade Directory Report and Trade Opportunity Report programs have been thoroughly revised. Instructions have been sent to the field, including a directive that telegraphic facilities be used for commercial intelligence. The Foreign Affairs Manual is being revised to reflect the new standing instruction. The Department of Commerce, in coordination with the State Department, is installing facilities for direct two-way electrical communication of commercial intelligence with field posts.

In consultation with the offices of the Director General and the Legal Adviser, EB has drafted proposed new language for Section 10 of the Foreign Affairs Manual allowing increased prerogative to our posts, under appropriate circumstances, to concentrate their support behind that particular American exporter or contractor who has the prospect of winning a contract or making a major export sale against foreign competition. This suggested revision has been discussed with several offices of the Department of Commerce and is now being reviewed by that Department. The proposal has been discussed informally with the staff of the Senate Committee on Commerce, and EB plans to discuss it also with business leaders.

8. *Exchange Assignments with Private Business.*

After careful consideration of certain difficulties inherent in attempting to arrange exchanges through the President's Commission on Personnel Interchange, the Director General has determined that a separate Department of State exchange program should be established, administered by the Office of Personnel in cooperation with EB. A notice is in preparation to invite applications from interested Foreign Service Officers and further contact will be undertaken with business firms who have already expressed interest in participation.

9. *FSI Training for Senior Officers*

The Foreign Service Institute, after consulting with Assistant Secretary Armstrong has prepared the curriculum for a special one week course for senior officers at the office director/DCM level designed to orient individuals without extensive economic background in the practical elements of business practice, marketing, and international economics. The course will be addressed by senior government officials as well as private business and banking leaders. The first such course will take place November 13–17, 1972.

10. *Assignment of Foreign Service Personnel to Private Business Training Programs.*

FSI has consulted with the American Management Association, the American Banking Association, the New York World Trade Center, the Business Council for International Understanding, and several private corporations regarding the availability of suitable training programs on the part of these organizations and FSI is pursuing the project. Appropriations for this program have been requested in the FY 74 budget.

11. *Increased Stature for Economic-Commercial Minister Positions Overseas.*

On September 8, 1972, the Acting Deputy Under Secretary for Administration approved the addition of the economic-commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo to the list of those qualifying for career minister eligibility.

12. *Redesignation of the Bureau of Economic Affairs.*

The Bureau of Economic Affairs was renamed the Bureau of Economic and Business Affairs, with symbol designation "EB", effective September 15, 1972.

Mr. INOUYE. Mr. President, this increased attention to the needs of commercial services is very encouraging. I am hopeful that it reflects a fundamental change in attitude about the importance of a vigorous promotion of American goods and services and a new realism about the new international economic environment.

Unfortunately, reform within the Department of State has had a tendency to wither and fade. I remember only too well how an agreement between the Department of State and the Department of Commerce was rendered meaningless by the subordination of commercial needs to the grandiose political world views of the State Department. In view of the grave economic problems confronting our country, we cannot afford to neglect again our export industries.

In spite of the progress that has been made, I am not confident that the great urgency I and my cosponsors feel about our economic condition has been sufficiently conveyed to the Department of State for whom commercial issues are but one of many concerns. Therefore, I intend to reintroduce this bill in the next Congress and to keep reintroducing it until I feel adequate progress has been made in the Department of State to give our commercial interests appropriate priority and attention or until the bill is enacted.

I hope, of course, that a transfer will not be necessary. A unitary Foreign Service has a great deal of appeal and logic. However, we cannot continue to play a meaningful role in international affairs if our economic capabilities decline still further. I look forward to what the Department of State can do to reorder its priorities and trust that its successes may render this bill unnecessary.

By Mr. INOUYE (for himself and Mr. MAGNUSON):

S. 4114. A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes;

S. 4115. A bill to increase the recognition of foreign economic policy considerations in Federal decisionmaking;

S. 4116. A bill to provide for a system of uniform commodity descriptions and tariffs filed with the Federal Maritime Commission;

S. 4117. A bill to facilitate the exportation of recycled solid waste materials;

S. 4118. A bill to establish a Commission on Foreign Procurement Practices; and

S. 4119. A bill to increase the role of foreign trade zones in the expansion of U.S. exports. Referred to the Committee on Commerce.

S. 4120. A bill to amend the Export Trade Act. Referred jointly, by unanimous consent, to the Committees on the Judiciary and Commerce.

Mr. INOUYE. Mr. President, on October 27 of last year, Senator MAGNUSON and I introduced the Export Expansion Act of 1971, S. 2754, a bill designed to stimulate American exports by enlarging existing or authorizing new Federal export promotion projects, providing incentives to States, municipalities, and individuals to engage in exporting, streamlining existing programs to make them more effective in export expansion, and authorizing new funds for export expansion activities.

Hearings on S. 2754 were originally scheduled for November, but at the request of the administration, they were deferred until early the following year. They were finally held on January 24, 25, 26, 27, and 28, and February 17 and 18, 1972. Although they were very lengthy, I believe that it was imperative to give everyone—both proponents and opponents of the bill—a chance to be heard on the bill.

The bills that Senator MAGNUSON and I are introducing today are basically similar to the provisions of S. 2754, with modifications to reflect the testimony received during the hearings. However, for jurisdictional reasons, we have decided to break up S. 2754 into separate bills which can be referred more easily to committees in the House of Representatives which ordinarily handle these subjects, in the event that the measures receive favorable action by the Senate next year.

We are introducing these bills today to provide interested Senators and private individuals an opportunity to comment on them prior to action in the next Congress. As soon as the 93d Congress convenes, I intend to reintroduce these bills and to expedite their passage. The Subcommittee on Foreign Commerce and Tourism, of which I am chairman, has built an ample legislative record justifying rapid action on the legislation.

I have prepared a separate statement on one of the bills, which would transfer the International Commercial Service functions from the Department of State to the Department of Commerce. This is the only bill on which Senator MAGNUSON and I sought cosponsors from the Committee on Commerce because we wished to underscore the fact that there is broad discontent with the low priority which the State Department has hitherto given to the commercial function.

Mr. President, I do not believe that anyone in the Congress needs to be reminded of our grave international trade position. Through the end of June, we were running a merchandise trade deficit at an annual rate of $7.7 billion. The latest statistics for the month of August show a reduction in this figure to an annual rate of $5.5 billion. This decline is encouraging, but the size of the deficit is still very disquieting.

The deterioration from last year's $2.1

billion deficit should be the cause for great alarm to the Congress and the Executive. If these deficits were being matched by other earnings, we might have less cause for concern about our international trade position. However, our basic balance of payments is virtually unchanged, which means that the outflow of dollars has been little affected.

Many respected economists have argued that the dollar devaluation and reforms in the monetary system will bring our trade account closer to equilibrium. These changes would require two or more years to become fully effective, during which time we would continue to sustain massive outflows of dollars.

However, this conventional wisdom has been challenged by other economists. A recent study by the International Economic Policy Association entitled "The U.S. Balance of Payments: From Crisis to Controversy," concluded that only a limited volume of trade is price-sensitive and that even if we eliminate the trade deficit next year—which is by no means assured—we should not expect a large surplus for several years if at all.

This crisis in our balance of payments and foreign trade has prompted many calls for the establishment of barriers to imports into this country through a variety of means, including high tariffs, quotas, and "Buy America" requirements. I believe that such legislation is ill-considered and dangerous. The passage of such a bill would not only be an admission that we cannot compete with the rest of the world, but it would also precipitate a massive trade war in which everyone would lose. Proponents of such legislation sometimes forget that there are hundreds of thousands of Americans employed in export industries, which surely would suffer retaliation from nations affected by our protectionism.

The new legislation, which will be described in detail below, constitutes a positive program to encourage American exports. The package is not a panacea for our commercial ills. Rather, we believe that the bills would make a significant beginning in forging a coherent foreign economic policy and machinery to deal with the important economic issues of our time.

EXPORT EXPANSION

This is an omnibus bill covering a variety of subjects with the common objective of establishing new programs and new incentives to promote American exports.

Title I would establish a Trade Development Corps to consist of up to 500 Americans from private industry with master of business administration degrees or individuals who otherwise have exceptional skills to be assigned on trade development projects by serving abroad, making market analyses, assisting with trade exhibits, assisting other Government personnel or conducting investigations to make American exports more competitive.

Title II would authorize a program of grants to local, State, and regional governments for projects designed to encourage exporting by small, medium-sized, and inexperienced firms.

Title III would establish a new export training program within the Department of Commerce to train new and potential American exporters.

Title IV would authorize regional American merchandise centers, which would serve as multipurpose trade centers offering such diverse services as warehousing, distributing, translating, displaying, counseling, et cetera. The aim of this title is to provide these services to the new exporter on a variable fee basis until he is able to sustain himself in that particular market, at which time he would be replaced by another new American exporter.

Title V would establish a joint export association program to permit the Government to enter into cost sharing contracts with private firms and individuals.

Title VI directs the Secretary of Commerce to reduce to the greatest extent possible documentation requirements under this bill.

Title VII would reorganize the Department of Commerce by separating the post of Assistant Secretary of Domestic and International Business into two separate assistant secretaryships to provide a single focus within the Department for international business operations. This section would also establish an International Business Administration and a Domestic Commerce Administration, upgrading these two functions from Bureau level. Finally, title VII would require biennial authorizations for international business activities. This new requirement would enable the Congress to examine the budget requests for foreign commercial programs every other year apart from other Department of Commerce items and make such changes as may be necessary to improve our export performance.

WEBB-POMERENE ACT AMENDMENTS

Many businessmen have charged that the strict application of antitrust laws have had an adverse effect on American exports since foreign corporations do not face similar restrictions. The Export Expansion Act of 1971, S. 2754, contained a title authorizing chartered export associations, which would have allowed the establishment of groups of firms to engage in export activities as long as they operated within the legal confines of a charter approved by the Department of Commerce.

During hearings on the bill, Miles Kirkpatrick, Chairman of the Federal Trade Commission, testified in opposition to it and suggested instead that the Export Trade Act of 1918, more commonly known as the Webb-Pomerene Act, be amended to exempt trade associations from private treble damage actions and individuals from criminal penalties. The bill being introduced today embodies these suggestions. I ask unanimous consent to have printed in the RECORD a letter which I received from Chairman Kirkpatrick regarding his January statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., July 11, 1972.

Hon. DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Commerce and Tourism, Senate Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR INOUYE: This is with reference to my testimony before the Subcommittee on Foreign Commerce and Tourism on January 25, 1972, on S. 2754, the Export Expansion Act of 1971.

As I noted in my testimony, I have serious reservations concerning the use of antitrust exemptions as a means of increasing export trade. I do not believe that past experience gives any reason to expect significant benefits to come from such exemptions. Moreover, I fear that such legislation may have an adverse effect on domestic competition. However, should the Congress determine that legislation of this kind is needed, the Commission suggests amendment of the Webb-Pomerene Export Trade Act of 1918 rather than new legislation. In my testimony, I suggested several ways in which that Act could be broadened to accomplish some of the purposes of Title VII of the Export Expansion Act of 1971.

Subsequent correspondence with Mr. James B. Olsen, Editorial Assistant, Senate Commerce Committee, resulted in the Commission's General Counsel undertaking to draft language to amend the Webb-Pomerene Act in accord with my suggestions. In essence, the suggested amendments would: (1) eliminate the criminal sanctions under the Sherman Act and treble damage actions under the amended Clayton Act insofar as these antitrust laws relate to associations registered under the Webb-Pomerene Act, and (2) expands the coverage of the Act beyond the "goods, wares and merchandise" to which it is presently limited. On the enclosed redraft of the Act, the suggested amendments have been underscored.

Other changes have been made in the Act, principally to assist the Commission in the administration and enforcement of this Act, notably by providing that the Commission, by its attorneys, may seek compliance with the provisions thereof. Additional changes have been made in the interest of clarity, but do not substantially affect the purposes or intent of the Act.

If there are any questions regarding this proposed draft, you may wish to call Mr. Alan S. Ward, Director of our Bureau of Competition (962-5231).

Sincerely,
MILES W. KIRKPATRICK,
Chairman.

Mr. INOUYE. Mr. President, the bill also amends the Webb-Pomerene Act by including the export of services among those activities exempted. In an economy that is increasingly service-oriented, it is highly important to equalize the treatment accorded to manufactured goods and services.

The sponsors of this legislation intend this bill to be a working paper with provisions that may be changed as additional information becomes available. Neither Senator MAGNUSON nor I am wedded to the bill if data shows that these amendments are inappropriate. Nevertheless, the effect of antitrust laws on our export efforts is an issue that needs careful study if our competitive position is to be maintained.

FOREIGN TRADE ZONES

A recent study of foreign trade zones conducted by the General Accounting Office has concluded that foreign trade zones play a minor role in our export promotion efforts. This inadequate effort is the result of legal interpretations of the Foreign Trade Act and the lack of direction or interest by the Federal Government in using the zones for this purpose.

The bill being introduced today would allow the import of fuel, machinery, and goods into foreign trade zones for manufacture and export provided that none of these items is entered into the customs territory of the United States. Furthermore, the bill charges the Secretary of Commerce, who is the Chairman of the Foreign Trade Zones Board, to report to the Congress annually on what the Board is doing to encourage the use of the zones for export purposes.

COMMISSION ON FOREIGN PROCUREMENT PRACTICES

The bill establishes a Commission on Foreign Procurement Practices to study foreign governments procurement procedures and to compare them to American regulations. The Commission would be responsible for issuing a report on what can be done to equalize international procurement practices and, if discriminatory practices against American companies persist, how the United States should respond to foreign firms which seek to do business in the United States.

OCEAN FREIGHT RATE DISPARITIES

The hearings earlier this year also dealt with the subject of ocean freight rate disparities. At present, shipping conference tariffs frequently set forth a rate two or three times as high for carrying a commodity from a point in the United States to a foreign destination, as to carry the identically described commodity between the same two points in the opposite direction. The Export Expansion Act had a title in it which would have eliminated these disparities and would have substantially simplified tariffs. However, testimony at the hearings from the steamship industry indicated that the provisions as drafted would not be practical. However, that does not end the matter. I am still concerned about the possible impact of disparities in freight rates on our exports.

The bill I am introducing today is a substantial revision of the earlier title and would promote uniformity in tariff commodity descriptions. I believe this is a necessary first step to analyzing what disparities exist and to dealing with them.

GREATER RECOGNITION OF FOREIGN TRADE IMPACT OF FEDERAL DECISIONMAKING

It has frequently been stated that our Nation has given relatively less priority and emphasis to its international economic policies than have the other industrialized nations. That observation has been repeatedly echoed by public officials, study commissions and others concerned with our foreign trade problems. The reasons why such a difference in attitude and emphasis might exist are clear. Foreign trade has historically constituted a far smaller part of our total gross national product than it has for other nations. For example, combined imports and exports have constituted less than 9 percent of our GNP in recent years. Comparable figures for other countries are Germany 38 percent, United Kingdom 38 percent, and Japan 22 percent. It is thus understandable that these nations might give greater emphasis to their foreign economic policy interests in decisionmaking than has the United States.

Further, even in our international relations, economic and trade considerations have frequently been subordinated to our global military and political interests—a situation not shared by our industrialized trading partners.

Despite the fact that our historic lack of emphasis on international economic policy as a factor in decisionmaking is logically explicable, I believe it is a luxury we can no longer afford. I believe that we must give more careful consideration to our international economic interests, balance of payments, and balance of trade when we are making Government policy. One of the bills I am introducing today would require just that. This bill requires all Federal agencies to issue a foreign trade impact statement whenever they propose to take action significantly affecting our international economic relations, balance of payments, or balance of trade. In drafting the statement, the agencies are required to consult with other agencies within the Government and to take into consideration the impact of the proposed action on the following: Balance of payments; balance of trade; international economic relations; domestic employment; and alternatives to the proposed action.

The bill is frankly modeled on the National Environmental Policy Act of 1969—Public Law 91-190. I believe that the requirement in that legislation for an environmental impact statement as part of Government decisionmaking affecting the environment has heightened consciousness of the environmental results of Government actions. Similarly, I think that requiring Government officials to prepare foreign trade impact statements on actions significantly affecting foreign trade will increase the recognition that such issues receive and lead to greater emphasis on solving our foreign trade problems.

I ask unanimous consent that the bill to amend the Export Trade Act (S. 4120) be jointly referred to the Committees on Commerce and Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. HUMPHREY:

S. 4121. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

NATIONAL EDUCATION INVESTMENT ACT

Mr. HUMPHREY. Mr. President, I am today introducing legislation which carries through several major proposals I have made over the past months to address the financial crisis confronting the schools in our Nation and to guarantee to every American child the right to an equal opportunity to obtain a quality education.

My bill, S. 4121, the National Education Investment Act, in concert with other major educational assistance legislation currently before the Senate Committee on Labor and Public Welfare, and which I have jointly sponsored, would enable the Federal Government to take the long-overdue initiative in achieving these goals. It is my strong hope and expectation that action on this vitally important legislation will be undertaken without delay at the outset of the next Congress.

My bill would meet the critical problem of inadequate, obsolescent, and rundown school facilities in depressed areas by providing for Federal grants for the modernization and construction of elementary and secondary schools. It would address the nationwide condition of overcrowded classrooms and the high rate of voter turn-downs of bond referendums for financing new and expanded public education facilities, by encouraging private sector investment in this vitally important area through Federal loan guarantees and interest subsidies provided through a trust fund established in the U.S. Treasury.

And it would end the inherent disparity and injustice of making the quality of a child's education dependent on the wealth of the school district he happens to live in, by establishing a National Educational Trust Fund with a total authorization level of $15 billion. Payments from the National Educational Trust Fund by the Secretary of the Treasury to State and local governments would be tied to the reduction and elimination of the property tax for the purpose of financing elementary and secondary education, and to the improvement and overall balancing among school districts of per pupil expenditures.

Finally, my bill would firmly establish the priority that education needs must have in our national policies, by providing for the establishment of a Department of Education. This further strengthening and consolidation of Federal resources and programs for educational assistance, beyond affirmative measures taken in the enactment of the Education Amendments of 1972, is of the greatest importance.

The denial of opportunity to any American to obtain the best possible education works a profound injustice, which must be confronted decisively in the next Congress.

By Mr. STEVENSON:

S. 4124. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans' Affairs.

Mr. STEVENSON. Mr. President, during World War II, the armed forces of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, and Yugoslavia fought valiantly on the allied side. After the war, there was a change of government in each of those countries, a change which deprived the Eastern European people of the freedom for which they had fought. Consequently Eastern Europeans, by the hundreds of thousands, emigrated to the United States in search of the kind of life they could no longer lead in their own countries.

A great many of them are now American citizens who have enriched our Nation through hard work. The bill I introduce today recognizes the important contribution these brave Americans made to the Allied war effort by providing that they will be eligible for Veterans' Administration medical and hospital benefits on exactly the same basis as war veterans of the U.S. Armed Forces. The bill is limited to persons who have been American citizens for at least 10 years and who participated in armed conflict with an enemy of the United States during World War II while serving in the armed forces of the countries enumerated above. American citizens who fought in Gen. Joseph Haller's Army during World War I are covered on the same terms.

Under existing law, the U.S. Government pays for medical and hospital benefits given to persons who served in the Armed Forces of the Phillippines during World War II, even if such persons are not American citizens. We can do no less for Eastern European veterans who are American citizens. There is no reason to treat these first-class Americans as second-class citizens. At the modest cost of approximately $12 million annually, we can do justice to these veterans by providing them with the VA medical and hospital benefits they have earned.

I ask unanimous consent that the text of the bill, which is identical to a bill introduced in the House by Congressman ANNUNZIO, be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

"(c) (1) ANY PERSON WHO—

"(A) SERVED—

"(i) during World War I as a member of the military organization commonly known as General Joseph Haller's army; or

"(ii) during World War II as a member of any armed force of the government of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, or Yugoslavia, and participated while so serving in armed conflict with an enemy of the United States; and

"(B) has been a citizen of the United States for at least ten years

shall, by virtue of such service, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless, such person is entitled to, or would, upon application therefor, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or in World War II.

"(2) For the purpose of this subsection, World War I shall be deemed to have begun on July 28, 1914, and World War II shall be deemed to have begun on September 1, 1939."

FEDERAL AVIATION ACT—AMENDMENT

AMENDMENT NO. 1758

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. STEVENS. Mr. President, the amendment I submit today would broaden the public interest standard of the Federal Aviation Act of 1958. It would require the CAB to determine whether or not competing modes of transportation are available to communities for which the CAB authorizes airline service. If communities are isolated from railroad or highway transportation systems, then their dependency on air service is much more acute than if those other modes of transportation were available. The purpose of this amendment is to require the CAB to accommodate this dependency on air service by providing a sufficient amount of competition within the air mode.

This amendment extends the scope of S. 3838, which I introduced on July 24 last and amended on July 31. S. 3838 will require subsidization of airlines to points receiving neither competing highway nor rail service. This amendment will add a new provision to section 102. Section 102 details the considerations of the CAB in determining whether certification should be granted, altered, amended, modified or suspended under section 401 of the Federal Aviation Act of 1958. This amendment will make the same criteria applicable to certification that the other provisions of S. 3838 would do to subsidization. This is my intent as author of the bill and amendments.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1436

At the request of Mr. STEVENS, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 1436 intended to be proposed to the bill (S. 3771) to provide compensation to certain commercial fishing vessel owners.

(This marks the end of the routine morning business transacted today.)

RECESS UNTIL 4 P.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate at this time, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m.

The PRESIDING OFFICER (Mr. FANNIN). Without objection it is so ordered.

Thereupon, at 2:29 p.m. the Senate took a recess until 4 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

TO RENAME THE MINEOLA DAM AND LAKE AS THE "CARL L. ESTES DAM AND LAKE"

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16804.

The PRESIDING OFFICER laid before the Senate H.R. 16804, which was read as follows:

H.R. 16804, an act to rename the Mineola Dam and Lake as the "Carl L. Estes Dam and Lake."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

DESIGNATING THE OAKLEY RESERVOIR ON THE SANGAMON RIVER AT DECATUR, ILL., AS THE WILLIAM L. SPRINGER LAKE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17038.

The Presiding Officer laid before the Senate H.R. 17038, which was read as follows:

H.R. 17038, an act designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

TO NAME A BRIDGE ACROSS A PORTION OF OAKLAND HARBOR, CALIF., THE "GEORGE P. MILLER-LELAND W. SWEENEY BRIDGE"

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13158.

The PRESIDING OFFICER laid before the Senate H.R. 13158 which was read as follows:

H.R. 13158, an act to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there

objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

MAJOR MARITIME AGREEMENT BETWEEN SOVIET UNION AND UNITED STATES

Mr. BEALL. Mr. President, in spite of what Members of the Senate might have been led to believe in this morning's newspaper, the United States and the Soviet Union have, in fact, concluded a major maritime agreement. This pact, which was signed by the Secretary of Commerce, Mr. Peterson, and Mr. T. B. Gouzhenko, Minister of Merchant Marine of the Soviet Union, establishes the ground rules for maritime activities between our two nations.

Culminating over a year of intensive negotiations, this agreement should significantly expand and improve maritime relations between the United States and Russia.

Mr. President, this maritime agreement has two salient objectives:

First, to open 40 commercial ports in both nations to the flag vessels of the other nation. I am pleased to note, for instance, that the great port city of Baltimore, Md., is among those covered by this agreement. Soviet-flag vessels may enter these ports on 4 days' notice, and the same is true of U.S. vessels entering Soviet ports.

This constitutes a significant relaxation of existing rules and regulations and should help to expedite trade and commerce.

I might add that this agreement does not alter our present policy with regard to vessels which have the intention of, or will stop or have stopped in Cuban, North Vietnamese, or North Korean ports.

Second, the maritime agreement will insure that U.S.-flag vessels and Soviet flag vessels will have the opportunity to participate, equally, and substantially, in carrying ocean-borne cargoes between the two Nations. The flag vessels of each Nation will carry on less than one-third of all cargoes moving by sea, directly between them as well as those transshipped to third countries.

I would point out that this agreement applies retroactively to July 1, 1972, thus covering the United States-Soviet grain transaction.

Mr. President, this agreement marks another significant milestone in President Nixon's efforts to improve and expand the scope of United States-Soviet cooperation. The increased contacts brought about by greater commercial exchanges should serve further to reduce tensions and will most certainly be of great significance in expanding maritime industry and our merchant fleet. Undoubtedly, I believe, it will also improve chances for lasting peace.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the agreement, plus the accompanying fact sheet.

There being no objection, the text of the agreement and the fact sheet were ordered to be printed in the RECORD, as follows:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING CERTAIN MARITIME MATTERS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics;

Being desirous of improving maritime relations between the United States and the Soviet Union, particularly through arrangements regarding port access and cargo carriage by sea; and

Acting in accordance with Article Seven of the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics, signed in Moscow on May 29, 1972,

Have agreed as follows:

ARTICLE 1

For purposes of this Agreement:

a. "Vessel" means a vessel sailing under the flag of a Party, registered in the territory of that Party, or which is an unregistered vessel belonging to the Government of such Party, and which is used for:

(i) Commercial maritime shipping, or

(ii) Merchant marine training purposes, or

(iii) Hydrographic, oceanographic, meteorological, or terrestrial magnetic field research for civil application.

b. "Vessel" does not include:

(i) Warships as defined in the 1958 Geneva Convention on the High Seas;

(ii) Vessels carrying out any form of state function except for those mentioned under paragraph a of this Article.

ARTICLE 2

This Agreement does not apply to or affect the rights of fishing vessels, fishery research vessels, or fishery support vessels. This Agreement does not affect existing arrangements with respect to such vessels.

ARTICLE 3

The ports on the attached list of ports of each Party (Annexes I and II, which are a part of this Agreement) are open to access by all vessels of the other Party.

ARTICLE 4

Entry of all vessels of one Party into such ports of the other Party shall be permitted subject to four days' advance notice of the planned entry to the appropriate authority.

ARTICLE 5

Entry of all vessels referred to in subparagraphs a(ii) and a(iii) of Article 1 into the ports referred to in Article 3 will be to replenish ships' stores or fresh water, obtain bunkers, provide rest for or make changes in the personnel of such vessels, and obtain minor repairs and other services normally provided in such ports, all in accordance with applicable rules and regulations.

ARTICLE 6

Each Party undertakes to ensure that tonnage duties upon vessels of the other Party will not exceed the charges imposed in like situations with respect to vessels of any other country.

ARTICLE 7

While recognizing the policy of each Party concerning participation of third flags in its trade, each Party also recognizes the interest of the other in carrying a substantial part of its foreign trade in vessels of its own registry, and thus both Parties intend that their national flag vessels will each carry equal and substantial shares of the trade between the two nations in accordance with Annex III which is a part of this Agreement.

ARTICLE 8

Each Party agrees that, where it controls the selection of the carrier of its export and import cargoes, it will provide to vessels under the flag of the other Party partcipation equal to that of vessels under its own flag in accordance with the agreement in Annex III.

ARTICLE 9

The Parties shall enter into consultations within fourteen days from the date a request for consultation is received from either Party regarding any matter involving the application, interpretation, implementation, amendment, or renewal of this Agreement.

ARTICLE 10

This Agreement shall enter into force on January 1, 1973; provided that this date may be accelerated by mutual agreement of the Parties. The Agreement will remain in force for the period ending December 31, 1975, provided that the Agreement may be terminated by either Party. The termination shall be effective ninety days after the date on which written notice of termination has been received.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Washington this day of 1972, in duplicate in the English and Russian languages, both equally authentic.

For the Government of the United States of America: Peter G. Peterson, Secretary of Commerce.

For the Government of the Union of Soviet Socialist Republics: Timofey B. Guzhenko, Minister of Merchant Marine.

ANNEX I—PORTS OF THE UNITED STATES OF AMERICA OPEN TO CALLS UPON NOTICE

1. Skagway, Alaska.
2. Seattle, Washington.
3. Longview, Washington.
4. Corpus Christi, Texas.
5. Port Arthur, Texas.
6. Bellingham, Washington.
7. Everett, Washington.
8. Olympia, Washington.
9. Tacoma, Washington.
10. Coos Bay (including North Bend), Oregon.
11. Portland (including Vancouver, Washington), Oregon.
12. Astoria, Oregon.
13. Sacramento, California.
14. San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
15. Long Beach, California.
16. Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
17. Eureka, California.
18. Honolulu, Hawaii.
19. Galveston/Texas City, Texas.
20. Burnside, Louisiana.
21. New Orleans, Louisiana.
22. Baton Rouge, Louisiana.
23. Mobile, Alabama.
24. Tampa, Florida.
25. Houston, Texas.
26. Beaumont, Texas.
27. Brownsville, Texas.
28. Ponce, Puerto Rico.
29. New York (New York and New Jersey parts of the Port of New York Authority), New York.
30. Philadelphia, Pennsylvania (including Camden, New Jersey).
31. Baltimore, Maryland.
32. Savannah, Georgia.
33. Erie, Pennsylvania.
34. Duluth, Minnesota/Superior, Wisconsin.
35. Chicago. Illinois.
36. Milwaukee, Wisconsin.
37. Kenosha, Wisconsin.
38. Cleveland, Ohio.
39. Toledo, Ohio.
40. Bay City, Michigan.

ANNEX II—PORTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS OPEN TO CALLS UPON NOTICE

1. Murmansk.
2. Onega.

3. Arkhangel'sk.
4. Mezen'.
5. Nar'yan-Mar.
6. Igarka.
7. Leningrad.
8. Vyborg.
9. Pyarnu.
10. Riga.
11. Ventspils.
12. Klaipeda.
13. Tallinn.
14. Vysotsk.
15. Reni.
16. Izmail.
17. Kiliya.
18. Belgorod-Dnestrovskiy.
19. Il'ichevsk.
20. Odessa.
21. Kherson.
22. Novorossiysk.
23. Tuapse.
24. Poti.
25. Batumi.
26. Sochi.
27. Sukhumi.
28. Yalta.
29. Zhdanov.
30. Berdyansk.
31. Nakhodka.
32. Aleksandrovsk-Sakhalinskiy.
33. Makarevskiy Roadstead (Roadstead Doue).
34. Oktyabr'skiy.
35. Shakhtersk.
36. Uglegorsk.
37. Kholmsk.
38. Nevel'sk.
39. Makarov Roadstead.
40. Poronaysk.

ANNEX III—SUPPLEMENTAL AGREEMENT ON NATIONAL FLAG CARGO CARRIAGE

Whereas, each Party recognizes the policy of the other concerning the participation of third flags in its trade, each Party also recognizes the interest of the other in carrying a substantial part of its foreign trade in vessels of its own registry and thus both Parties intend that their national flag vessels will each carry equal and substantial shares of the trade between the two nations in accordance with this Annex, and

Whereas, each Party has agreed that, where it controls the selection of the carrier for its export and import cargoes, it will provide to vessels under the flag of the other Party participation equal to that of vessels under its own flag, it is agreed as follows:

1. Definitions

For the purpose of this Annex and the Agreement of which this Annex is a part:

a. "Substantial share of the trade between the two nations" means not less than one-third of bilateral cargoes.

b. "Bilateral cargo" means any cargo, the shipment of which originates in the territory of one Party and moves in whole or in part by sea to a destination in the territory of the other Party, whether by direct movement or by transshipment through third countries.

c. "Controlled cargo" means any bilateral cargo with respect to which a public authority or public entity of either Party or their agents has the power of designating the carrier or the flag of carriage at any time prior to such designation, and includes:

(i) on the United States side all bilateral cargo which a public authority or public entity of the United States has or could have the power at any time to designate the flag of carriage pursuant to cargo preference legislation, and

(ii) on the Soviet side all bilateral cargo imported into or exported from the territory of the USSR where a commercial body or other authority or entity of the USSR has or could have the power at any time to designate the carrier.

d. "Accountable liner share" means the U.S. dollar freight value of liner carryings of controlled cargo by vessels under the flag of each Party, computed for accounting purposes using the conference rates in effect at the time of carriage or, in the absence of such rates, using other rates to be agreed between the two Parties.

e. "Accountable charter share" means the U.S. dollar freight value of carryings under contracts or arrangements covering the carriage of controlled cargo by vessel under the flag of each Party, which are not in liner service, computed for accounting purposes at rates to be agreed between the Parties. Accountable charter share will not include movements of any bulk cargoes in shipload lots of 8,000 long tons or more from the Union of Soviet Socialist Republics to the United States that are carried by the national flag vessels of either Party provided the conditions stated in subparagraph b of paragraph 3 of this Annex have been complied with.

f. "Accounting period" means a calendar year or any portion of an incomplete calendar year during which this Agreement is in effect.

2. General Operating Rules

a. Each Party undertakes to ensure that its controlled cargo is directed in a manner which

(i) provides to vessels under the flag of the other Party an accountable liner share and an accountable charter share equal in each category to those of vessels under its flag, and which continually maintains parity during each accounting period, and

(ii) is consistent with the intention of the Parties that their national flag vessels will each carry not less than one-third of bilateral cargoes.

b. To the extent that bilateral cargo that is not controlled cargo is carried in a manner which does not maintain parity between national flag vessels, computed in accordance with the principles specified in subparagraphs d and e of paragraph 1 of this Annex, the excess of such carriage will be added to the accountable liner share or accountable charter share, as the case may be, of the overcarrier and will be offset to the extent possible by an entitlement of a compensating share of controlled cargo in the appropriate category to the undercarrier.

c. Whenever vessels under the flag of one Party are not available to carry controlled cargo offered for carriage between ports served by such vessels with reasonable notice and upon reasonable terms and conditions of carriage, the offering Party shall be free to direct such cargo to its national flag or to third flag vessels. Cargo so directed to the offering Party's national flag vessels will not be included in its accountable liner share or accountable charter share for purposes of subparagraph a(i) of paragraph 2 of this Annex, if the designated representative of the other Party certifies that its national flag vessels were in fact unavailable at the time of the offer.

d. Cargo not carried in the vessels of a Party because of nonavailability of a vessel shall nonetheless be included in bilateral cargo for purposes of subparagraph a(ii) of paragraph 2 of this Annex, and controlled cargo shall continue to be directed to meet the undertakings of said subparagraph. To the extent that deficiencies in meeting the undertakings in such subparagraph exist at the end of an accounting period because of unavailability of vessels of a Party which the representative of that Party has certified were unavailable as provided above in subparagraph c of paragraph 2, the other Party shall not be required to make up such deficiency in the following accounting period.

e. To the extent consistent with the foregoing provisions of this paragraph 2, each Party is free to utilize the services of third flag shipping for the carriage of controlled cargo.

3. Special bulk cargo rules

a. When controlled bulk cargo is carried from the United States to the Union of Soviet Socialist Republics by U.S.-flag vessels, such cargo shall be carried at a mutually acceptable rate, provided that this shall not prevent the offering and fixing of a lower rate if such lower rate is accepted by a U.S.-flag carrier at the time of offering.

b. It is recognized that movements of any bulk cargoes in shipload lots of 8,000 long tons or more from the Union of Soviet Socialist Republics to the United States shall be carried at the then current market rates. In furtherance of this objective, an equivalent quantity of such controlled cargoes as are offered to Soviet-flag vessels will be offered to U.S.-flag vessels at the current charter market rate and with reasonable notice. Any offerings of such cargoes that are not accepted by U.S.-flag vessels may be carried by Soviet-flag vessels or other vessels.

4. Implementation

a. Each Party shall designate a representative for implementation of the principles and rules of this Annex, the representative of the United States being the Maritime Administration, Department of Commerce, and the representative of the Union of Soviet Socialist Republics being the Ministry of Merchant Marine. Each Party shall authorize its representative to take action under its laws and procedures, and in consultation with the designated representative of the other Party, to implement this Annex as well as to remedy any departures from the agreed operating rules.

b. The Parties further agreed that the designated representatives shall:

(i) meet annually for a comprehensive review of the movement of bilateral cargo and for such other purposes related to the Agreement as may be desirable;

(ii) engage in such consultations, exchange such information and take such action as may be necessary to insure effective operation of this Annex and the Agreement of which this Annex is a part;

(iii) make mutually satisfactory arrangements or adjustments, including adjustments between accounting shares and accounting periods, to carry out at all times the objectives of this Annex and the Agreement of which this Annex is a part. Any departures from such objectives shall be accommodated on a calendar quarterly basis to the extent possible and in no event shall departures be permitted to continue beyond the first three months of the next accounting period; and

(iv) resolve any other problems in the implementation of this Annex and the Agreement of which this Annex is a part.

5. Commercial arrangements

a. The Parties recognize that, pursuant to their respective laws or policies, carriers under their flags may enter into commercial arrangements for the service and stabilization of the trade between them which shall not unduly prejudice the rights of third-flag carriers to compete for the carriage of controlled cargo between the territories of the Parties.

b. Such commercial arrangements shall not relieve the Parties of their obligations under this Annex and the Agreement of which this Annex is a part.

THE WHITE HOUSE FACT SHEET

A major maritime agreement with the Soviet Union was signed today by U.S. Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This Agreement represents another necessary link in the establishment of an expanding commercial relationship with the Soviet Union.

The negotiations which culminated in this Agreement were initiated in the latter part of 1971, and have been the subject of a series of meetings in Washington and Moscow throughout 1972.

By providing a broad framework and a clear set of ground rules for maritime activities between the two countries, this Agreement is an important step toward normalizing and expanding maritime relationships between the United States and the Soviet Union.

OBJECTIVES

The Agreement has two basic objectives; first, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S. flag and Soviet-flag vessels; and, secondly, to afford to US-flag vessels and Soviet-flag vessels the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

SALIENT POINTS OF THE AGREEMENT

Port access

The Agreement provides access to specified Soviet and United States ports to flag vessels of both countries engaged in commercial maritime shipping and merchant marine training activities. Under the Agreement, 40 ports in each nation are open to access by vessels of the other nation upon four days' advance notice to the appropriate authorities. The selection of the ports was based on commercial considerations, reasonable reciprocity and protection of national security interests. The U.S. ports open to access by Soviet vessels are:

Astoria, Oregon.
Baltimore, Maryland.
Baton Rouge, Louisiana.
Bay City, Michigan.
Beaumont, Texas.
Bellingham, Washington.
Brownsville, Texas.
Burnside, Louisiana.
Chicago, Illinois.
Cleveland, Ohio.
Coos Bay (including North Bend), Oregon.
Corpus Christi, Texas.
Duluth, Minnesota/Superior, Wisconsin.
Erie, Pennsylvania.
Eureka, California.
Everett, Washington.
Galveston/Texas City, Texas.
Honolulu, Hawaii.
Houston, Texas.
Kenosha, Wisconsin.
Long Beach, California.
Longview, Washington.
Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
Milwaukee, Wisconsin.
Mobile, Alabama.
New Orleans, Louisiana.
New York (New York and New Jersey parts of the Port of New York Authority), New York.
Olympia, Washington.
Philadelphia, Pennsylvania (including Camden, New Jersey).
Ponce, Puerto Rico.
Port Arthur, Texas.
Portland (including Vancouver, Washington), Oregon.
Sacramento, California.
San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
Savannah, Georgia.
Seattle, Washington.
Skagway, Alaska.
Tacoma, Washington.
Tampa, Florida.
Toledo, Ohio.

While the four-day notice requirement is more than the normal 24-hour notice period applicable to commercial vessels, it is substantially less restrictive than the 14-day advance request requirement now applied by the United States to Soviet vessels and the 30-day advance request required by the U.S.S.R. for U.S. vessels. Entry of vessels to ports not specified in the Agreement will continue to be permitted in accordance with existing rules and regulations, i.e., the 14- and 30-day prior request provisions will still apply. Requests for entry by Soviet vessels to U.S. ports not specified in the Agreement must be made of the Department of State, Washington, D.C., and must be accompanied by an itinerary complete with ports of call and dates. Maritime training vessels and hydrographic and other research vessels may enter the ports only for purposes of resupply, rest, crew changes, minor repairs and other services normally provided in such ports.

The Agreement does not involve any concessions in the policy of the United States with respect to ships which have called on Cuban, North Vietnam, or North Korean ports. Soviet vessels which have called or will call on Cuba, North Vietnam, or North Korea will not be permitted to bunker in U.S. ports and Soviet vessels which have called on Cuba or North Vietnam will not be permitted to load or unload in U.S. ports government-financed cargoes such as grains sold on Commodity Credit Corporation credit terms.

In addition, the Agreement contemplates the access of initially 81 U.S. and 50 Soviet vessels engaged in hydrographic, oceanographic, meteorological, or terrestrial magnetic field research of a civilian nature. The Agreement does not include vessels engaged in fishing or related activities since these matters are covered by separate agreements; nor does it include warships or vessels carrying out state functions other than those mentioned above. It is not intended to cover any liquefied natural gas trade which may develop between the nations.

TONNAGE DUTIES

Under the Agreement, neither nation shall charge vessels of the other tonnage duties which exceed duties charged to vessels of other nations in like situation.

EQUAL AND SUBSTANTIAL SHARING

The Agreement sets forth the intention of both governments that the national-flag vessels of each country will each carry equal and substantial shares of the ocean-borne commerce between the two nations. At the same time the Agreement recognizes the policy of both the United States and the Soviet Union with respect to participation in its trade by third-flag vessels.

The intention that a substantial share of the trade between the two nations will be carried by each national flag merchant marine is defined as meaning that the national-flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations, whether by direct movement or by transshipment through third countries. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972.

Equal share of the trade between the two nations is measured on the basis of U. S. dollar freight values of cargo carryings by the national-flag vessels of each party during each calendar year accounting period. Special accounting procedures are established to determine on a uniform basis the U. S. dollar freight value of cargo carryings and to protect against the possibility of disparities caused by the undervaluing of freight rates to increase the volume of cargo carried. These procedures are also designed to permit continuous monitoring so as to maintain parity of carriage throughout the accounting period. Cargoes carried in liner vessels and bulk cargoes carried in non-liner service are accounted for separately under the Agreement due to the difference in the methods of establishing freight rates.

The opportunity for carriage of equal and substantial shares of the trade between the two nations by national-flag ships is to be assured by the routing of controlled cargoes; i.e., cargoes with respect to which entities of either government have the power to designate the carriage. On the U. S. side, this includes only those cargoes which are subject to U. S. government control under our cargo preference laws. On the Soviet side, all exports and imports for which entities of the U.S.S.R. have or could have the power at any time to designate the carrier are included.

Recognition has been given to the practical commercial consideration that vessels of either nation may not be available to carry the amount of cargo to which they are entitled under the principles of the Agreement. Under such circumstances, a limited variance from the equal and substantial sharing rules is provided. Such variance is permitted where the cargo was offered on reasonable terms and conditions and where the unavailability of national-flag carriers is certified by a representative of the U.S. Maritime Administration or U.S.S.R. Ministry of Merchant Marine, as the case may be. Even though unavailability has been certified by the appropriate representative, there is still an obligation to continue to offer controlled cargo to restore the one-third share if possible within the same calendar year.

Freight rates

The matter of freight rates to be paid to U.S. vessels is an important provision of the Agreement. With respect to liner service, U.S.-flag carriers should face no significant problems because U.S. vessels can participate in this trade under the conference-rate system with the assistance of the U.S. operating subsidy program. Rates for shipment of bulk cargo, such as grain, however, present a different situation. Bulk cargo is shipped in world trade under charter rates which are set in competition with ships of nations with far lower costs than American ships. The United States has never before had a subsidy system which permits its vessels to compete in the bulk grain trade, although such a subsidy system was legislatively authorized in 1970. In lieu of a subsidy system for bulk cargo, there were regulations which required shipments of grain to the Soviet Union to move 50% in U.S.-flag vessels. This, however, never resulted in significant carriage for U.S. vessels. Freight rates are a substantial part of the cost of grain and without subsidy the rates charged by U.S.-flag carriers increased the cost of grain beyond the level buyers were willing to pay.

Under the Agreement, the two governments have worked out rate provisions for two categories of bulk cargo to be carried by U.S. vessels.

For nonagricultural bulk cargoes, the agreement in essence provides that American vessels shall be paid in each year the average of the freight rate for that category of cargo on the route in question over the prior three calendar years.

The other and far more important category of charter rates is for agricultural commodities and products. With respect to these cargoes the Soviet Union will offer to United States vessels the *higher of*:

1. a rate computed on the 3-year average formula described above for the years 1969, 1970, and 1971. This rate for the route most expected to be used for the current grain sales is $8.05 per ton for wheat and other heavy grains, or

2. 110 per cent of the current market rates for the shipment involved.

In addition to these provisions, for agricultural cargo the Soviet Union has also agreed to terms relating to unloading ships in the Soviet Union which are more favorable to United States vessels than would otherwise apply in this trade. Our maritime experts estimate these special terms represent a reduction from typical rates of at least $1.75 per ton.

These special provisions for rates on agricultural cargo apply through June 30, 1973, by which time the parties will negotiate future rates. This will permit review of the actual workings of this rate system near the close of the current unusual grain shipment season.

TERM OF AGREEMENT

The Agreement remains in force through 1975, subject to earlier termination by either party on 90 days' notice.

U.S. SUBSIDY

Although not part of the agreement, a necessary part of achieving its objectives is that the United States pay a subsidy to its own vessels in the carriage of agricultural cargo. This is not a financial advantage to the Soviet Union since it could carry all this cargo in its own vessels or third-flag vessels at lower costs than it will pay United States vessels. The combination of higher than market charter rates, and favorable terms for unloading, afforded US-flag vessels reduces the subsidy costs.

The subsidy system, to be published shortly, is authorized under the Merchant Marine Act of 1970. Because the ships which will be involved in this trade, unlike US-flag vessels carrying freight in the liner trade, have not received United States construction subsidies, the subsidy to be provided will take into account the amount by which U.S. construction costs exceed foreign construction costs. In order to keep the subsidy at a minimum, it has basically been designed to create no more than a break even situation at $8.05 for most ships which will be likely to participate. The estimated subsidy paid to vessels carrying agricultural cargo under the Agreement will be in the range of $8.00 to $10.00 a ton, if market rates stay in the range of $9.00 to $11.00 a ton, which compares to the current subsidy of about $19.00 per ton on PL-480 grain shipments.

Among provisions limiting the subsidy paid for movements under the Agreement will be the following:

1. Where market rates exceed the $8.05 all of the excess paid by the Soviet Union over market (i.e. 10% premium) is used to reduce the subsidy;
2. When the market rate is $9.00 or more, a substantial part of the amout over $9.00 will be used to reduce the sudsidy;
3. Each subsidy contract will have a renegotiation clause to ensure that no excess profits are made.

The exact amount of subsidy which will be involved with respect to carrying the American share of the grain cargo is difficult to predict with precision because it depends on factors such as (1) the volume of the Soviet grain trade actually carried by U.S. ships (which will be reduced to the extent that more attractive carriage is available (such as PL-480 or oil); (2) the level of market rates, since the U.S. subsidy paid will be substantially reduced as market rates go up.

PUBLIC AVAILABILITY OF THE AGREEMENT

A copy of the Agreement, Annexes, and the exchange of letters with respect to the bulk commodity rates is publicly available.

QUORUM CALL

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS BILL, 1973—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 17034, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FANNIN). The report will be stated by title.

The assistant legislative desk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of today.)

Mr. McCLELLAN. Mr. President, the conference with the managers on the part of the House of Representatives on this bill was concluded Friday evening. The bill, as it passed the Senate, contained appropriations in the amount of $5,266,690,610. This represents a considerable increase over the bill as it passed the House of Representatives. However, subsequent to consideration of the bill in the House Committee, budget estimates in a substantial amount were presented to the Senate by the President for consideration in the bill.

For example, the Senate committee considered in excess of $1,300,000,000 for higher education and other Labor-HEW items which had not been considered by the House. The Senate committee also considered $175 million for the Maritime Administration upon receipt of a supplemental budget estimate to the Senate from the President, and in addition, the Senate committee considered in excess of $53 million for Senate construction items.

The bill which was agreed to in conference Friday evening makes appropriations in the amount of $4,933,415,610. I am pleased to report that it is under the budget estimate submitted for consideration in the amount of $83,125,000.

The conference report has been printed and is available to all Members. Attached to it is a statement on the part of the managers of the two Houses which explains the final action which was agreed to on each amendment.

I would be pleased to answer any questions which any Senator might have, and the various subcommittee chairmen of the Committee on Appropriations, I trust, will be available to go into detail with regard to any item.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. YOUNG. Mr. President, this was one of the hardest fought conferences I have ever been on, especially for the size of the bill. One of the reasons why there was such a heated controversy between the two Houses is because the Senate inserted quite a few items that did not have a budget estimate. However, since we ended up $83,125,000 under the budget estimate, I think the conference did quite well.

I know that some Members of the Senate will be disappointed that all that they wanted was not approved by the House. However, in most cases, they were unbudgeted items.

Mr. JAVITS. Mr. President, I have a question of the subcommittee chairman in charge of HEW. I notice that he is not on the floor. I would hope very much, as he is not on the floor, that perhaps the chairman of the committee can answer the question, as I believe the staff is aware of the situation.

Mr. President, I know that the original act passed here provided for $840 million for the major economic opportunity programs. This was compromised at $790,200,000 a figure somewhere between the House and Senate figures. The Senate amount—the amount of some $80 million which was a figure which was in excess of the appropriation in the House—was specified to provide an additional fund for areas of special concern—Puerto Rico, where a deficiency was created by the Economic Opportunity Amendments of 1972 enacted last month: emergency food and medical; legal services; community economic development; and comprehensive health services.

These are five categories that were supposed to have a share in that $800 million. The five categories are cut to two in the manager's report—Puerto Rico and the nutrition component of emergency food and medical.

Mr. President, inquiry has now developed that it might just happen that if the agency does whatever is appropriate in respect of Puerto Rico and emergency food, there might be still some residual of this $30 million in funds, and in any event that it may be necessary in the event that a case can be made out—and I believe that it can be made out very strongly—for another supplemental which could come up in January. I would like to ask the manager of the bill these two questions:

First, to the extent that Puerto Rico and the emergency food are satisfied from the $790,200,000 which is provided by the conference report—and funds are still available—would the priorities with respect to community economic development and the other items in the Senate report apply so that they would have, in effect, a reversionary interest if anything remains.

Mr. McCLELLAN. My understanding is that they would. I regret that the manager of the bill, the chairman of the Subcommittee on Labor-HEW, is not presently on the floor to give the Senator a fuller explanation; but my understanding is that if anything is left out of the $30 million we provided for the two specified items, that it would be available for either of the others.

Mr. JAVITS. Mr. President, in the absence of the manager, or the chairman of the HEW Subcommittee involved, may we just consider the statement of the manager of the bill on this subject?

Mr. McCLELLAN. I hope that is correct.

Mr. JAVITS. I thank my colleague. The other question is this: To the extent that these programs not mentioned in the manager's report cannot be satisfied from the funds of the bill—and it is my view and the view of the other Senators that they cannot—does the chairman agree on the basis of the case that we made that we would have a right to seek—that does not mean we necessarily claim it, but that we have a right to seek it—to have these additional items considered in the supplemental early next year?

Mr. McCLELLAN. I am sure the Senator has that right. So would the committee that has jurisdiction have that right. And if the matter was presented to the Appropriations Committee by budget or by the request of some Senator, I am confident that the committee would consider it.

Mr. JAVITS. The only point is that we would not be preempted by the fact that the conference report having named the two items, we would then be faced with the answer that our case has been determined unfavorably "with prejudice."

Mr. McCLELLAN. The Senator would not be preempted from asking for appropriations at any time. He would have a stronger case, of course, if we had a budget request; but I do not think anything prevents us from asking for appropriations at any time. Certainly it is not the language here, nor is it intended to preempt further consideration of any request that might be received.

Mr. JAVITS. I thank the chairman. That is very helpful.

Mr. DOMINICK. Mr. President, would the chairman yield for a question?

Mr. McCLELLAN. I yield.

Mr. COTTON. Would the Senator be willing, without losing the floor, to withhold just one moment while I mention the items that have just been discussed?

Mr. DOMINICK. I would be happy to.

Mr. COTTON. May I say to the distinguished Senator from New York there was another item in the supplemental bill which had no relation whatsoever to this. There was a good deal of discussion about whether the funds available would last beyond the first day of February. And before the Senate conferees relinquish that item, the distinguished chairman of the Appropriations Committee of the House gave his word that if it became necessary to supplement those funds, he would see to it that we had a special supplemental not later than the first of February or middle of February next year. That may have some possible bearing on this.

Mr. JAVITS. What was that item?

Mr. COTTON. That item is the payment which is due to certain air carriers and which must be paid. It is a fixed obligation, but it had not yet arisen and had not been completely authorized, for some other reason. The House was desirous of withholding it at that time. I merely mention that as an indication. It is quite likely that there will be a supplemental bill next year because of this and other factors not related to HEW.

Mr. JAVITS. I thank my colleague.

Mr. COTTON. I thank the Senator from Colorado.

Mr. DOMINICK. Mr. President, if I may have the attention of the Senator from Arkansas for just a moment, the other day the Senator from Hawaii (Mr. FONG), on behalf of himself, the Senator from Massachuetts (Mr. KENNEDY) and me introduced an amendment which would have provided for four aircraft, ski-type, C-130 for the National Science Foundation. At that time, because of the pressure of time we did not force the amendment to a vote, but we urged the conferees to get the four aircraft if they could. The National Science Foundation, the Bureau of the Budget and everyone else have recommended five.

Is it my understanding that the conference came up with only three?

Mr. McCLELLAN. The Senator is correct.

Mr. DOMINICK. I would certainly respect the wishes of the conferees, and I am not going to fight it. Three is always better than two. But early next year at the earliest opportunity I hope that on behalf of the National Science Foundation we can get the necessary funding for two additional aircraft.

This is Operation Deep Freeze, and unless they have a replacement for the planes which now have 11,000 hours on them we will find our operation in Antarctica, which is very important to this country and to the world at large, jeopardized.

Mr. McCLELLAN. Mr. President, we can agree that would probably be adequate in the meantime. I do not know of anyone who was against the fourth or the fifth plane but there was some indication that this would be adequate to replace what they recently lost and give them one on top of that at this time.

Mr. DOMINICK. I understand. The problem is that if five could be ordered at a crack, they probably could be obtained cheaper than if it were done one at a time.

I thank the Senator.

Mr. JAVITS. Mr. President, if the Senator will indulge me, I have two other questions.

First, I gather there was excluded the so-called social services ceiling and the hold harmless offered by the Senator from Alaska (Mr. STEVENS).

Mr. McCLELLAN. That item was eliminated in conference.

Mr. JAVITS. I realize that. Would the Senator give us some reason? Was there an effort to deal substantively with the matter, or did they not feel it should be included?

Mr. McCLELLAN. The feeling was that this should be corrected by substantive legislation and not in an appropriation bill.

Mr. JAVITS. I did not hear the Senator.

Mr. McCLELLAN. The general consensus was that it should not be included in an appropriation bill. The managers on the part of the House and the Senate recognize and realize that certain States will suffer because of the ceiling which is imposed in the revenue sharing legislation. However, the proper place to correct such inequities is in substantive legislation rather than in an appropriation bill. That was the general feeling.

Mr. JAVITS. The other point I would like to make is that we had quite a discussion here on the item for a special action office for drug abuse prevention, and the Senate took a figure of $35 million, accepting an amendment which I offered for $5 million additional. The House had $20 million and the appropriation is $25 million.

Again, I repeat the points that were made when the Senate committee took the $5 million. The urgency of cleaning up the methadone waiting list is a matter of tremendous importance to every metropolitan city. Its sequel is in crime and violence of the worst kind. I would like to suggest again we may have to come back in January with adequate proof showing that by not providing the necessary money to clean up the waiting list we are ourselves being responsible for allowing people on the streets who are likely to be very serious criminals. This is almost unforgivable. I realize the problem with the other body.

Mr. McCLELLAN. We did have a problem on this and we were somewhat fortunate to get the increase of $5 million on this particular item. It was not just regularly agreed to; there was argument and discussion about it. Some of the conferees told me they could not see going any farther and they felt it should not go anywhere. Apparently, when witnesses appeared before the House Committee on Appropriations, they were not able to give a satisfactory explanation of what would be done with all this money.

Mr. JAVITS. We gave it on the floor of the Senate.

Mr. McCLELLAN. I understand, but the Senator knows how they feel about these things.

Mr. JAVITS. I know how the chairman feels and I have never stopped paying tribute to the fact that he, for the first time, introduced a program for that purpose in legislation some years ago. I would like to state this, without in any way impugning any fault to the conferees.

It seems to us we have a very strong case that must be made before the House and Senate Appropriations Committees in January, and we have to tell the local people in the various cities suffering from the most barbarous crimes because of these narcotics addicts loose on the streets that they better call their Senators and Congressmen and let them know how they feel about this. If I have ever seen anything pennywise and pound foolish, this is it.

Again, I have been in these conferences, even as a member of the Committee on Appropriations, and I know how tough they are, but I assure the chairman we will not take this lying down.

Mr. McCLELLAN. I yield.

Mr. PASTORE. Mr. President, I would

like to impose on this discussion at 4:30 p.m. on a Saturday afternoon on October 14. I assure the Senator from New York we fought hard as we could on many of these items, but as the Senator knows, there is a feeling in the House that unless they initiate something you have to engage in a tug of war to get anything done. We came out all over with an excellent compromise. I do not think the conferees of the Senate did anything to apologize for.

Mr. JAVITS. As I said originally, no one tries harder than the Senator from Arkansas (Mr. McClellan). He is a strong ally.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. COTTON. I would like to add that the House conferees led by one of their members particularly called attention to all the various appropriations dealing with drug traffic. For example, in the regular HEW bill there is $96 million plus under mental health and there is $60 million more in this supplemental bill. They added up all these sums and found that Congress has appropriated over a billion and a half dollars since 1969 for drug abuse prevention activities, including $594.2 million in the regular bills for 1973. Their chief objection was that the record had not shown, despite the untreated patients admittedly at large, how they were going to spend the money. Some of us did not take much stock in that argument. I mention this so that when the case is presented again, that even though the need was thoroughly shown, the exact method of using the money should be shown more clearly. Then we will be in a much stronger position.

Mr. JAVITS. I thank my colleague. It is not too long before January, and, unhappily for us, this will still be with us.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from Florida (Mr. Chiles), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mrs. Edwards), the Senator from Oklahoma (Mr. Harris), the Senator from South Carolina (Mr. Hollings), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from North Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Virginia (Mr. Spong), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senators from Nebraska (Mr. Curtis and Mr. Hruska), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. Jordan), the Senator from Kansas (Mr. Pearson), the Senator from Ohio (Mr. Taft), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Kentucky (Mr. Cook) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

I also announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. Percy), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Curtis), the Senator from Ohio (Mr. Taft), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 58, nays 0, as follows:

[No. 565 Leg.]

YEAS—58

Aiken
Allen
Anderson
Beall
Bennett
Bentsen
Boggs
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Cooper
Cotton
Dole
Dominick
Ervin
Fannin
Fulbright
Gambrell
Gravel
Gurney
Hansen
Hart
Hartke
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Long
Magnuson
Mansfield
Mathias
McClellan
Miller
Moss
Nelson
Packwood
Pastore
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stennis
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—42

Allott
Baker
Bayh
Bellmon
Bible
Brock
Brooke
Chiles
Church
Cook
Cranston
Curtis
Eagleton
Eastland
Edwards
Fong
Goldwater
Griffin
Harris
Hatfield
Hollings
Hruska
Jackson
Jordan, Idaho
Kennedy
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Mundt
Muskie
Pearson
Pell
Percy
Sparkman
Spong
Taft
Talmadge
Thurmond
Tower

So the report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"ALASKA NATIVE FUND

"Any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92–306), or the Act of August 10, 1972 (Public Law 92–369), to a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203), may be used by such Regional Corporation to loan to, and such Regional Corporation may also guarantee loans by third parties to the Alaska Federation of Natives and/or Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such Regional Corporation, and in recognition of the services of said organizations in advancing land claims settlement legislation."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"HIGHER EDUCATION

"For carrying out, to the extent not otherwise provided, title I, parts A, section 420, B, and E of title IV, and section 1202, of the Higher Education Act, as amended, section 506(b) of the Education Amendments of 1972, the Emergency Insured Student Loan Act of 1969, as amended, and sections 400, 404, and 421 of the General Education Provisions Act, section 207 of the National Defense Education Act, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), and S.J. Resolution 265, $577,500,000, of which $25,000,000 shall be for Veterans Cost of Instruction payments to institutions of higher education, and $215,000,000 to remain available until expended shall be for subsidies on guaranteed student loans: *Provided*, That the funds to carry out S.J. Resolution 265 shall be available only upon enactments of authorizing legislation."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"NATIONAL INSTITUTE OF EDUCATION

"For carrying out section 405 of the General Education Provisions Act, and for the necessary expenses of the National Institute of Education, including rental of conference rooms in the District of Columbia; and not to exceed $500 for official reception and representation expenses; $92,082,000: Provided, That funds included in the regular fiscal year 1973 appropriation for "Educational renewal" and "Salaries and expenses, Office of Education" for dissemination activities, except general program dissemination, and the District of Columbia schools project shall be transferred to the National Institute of Education."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$898,648,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

"To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided further*, That, upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission; *Provided further*, That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission and the House Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$3,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the language proposed by the amendment, insert: ": *Provided*, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out 'March 31, 1973' and inserting in lieu thereof 'May 15, 1973'."

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to amendments of the Senate numbered 10, 18, 23, 24, 61, 70, and 78.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a tabulation reflecting the totals by chapter of the bill, the budget estimates, the House and Senate amounts, and the final amounts agreed to in conference.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

THE SUPPLEMENTAL 1973 (H.R. 17034)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—SUMMARY

Chapter No.	Department or activity	Budget estimate	Version of bill: House	Version of bill: Senate	Conference agreement
I	Agriculture	$16,500,000	$16,500,000	$18,338,000	$17,200,000
II	HUD-Space-Science-Veterans	[1] 250,000,000	276,320,000	263,160,000	269,740,000
III	Interior and Related Agencies	9,937,000	2,825,000	11,149,000	9,149,000
IV	Labor and Health, Education, and Welfare	4,284,612,000	3,072,275,000	4,386,654,000	4,190,982,000
V	Legislative	84,838,885	28,769,100	82,484,885	82,484,885
	New budget (obligational) authority				
	Fiscal year 1973	(72,136,875)	(16,037,000)	(69,782,785)	(69,782,785)
	Fiscal year 1972	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)
	By transfer	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)
VI	Public Works-AEC	2,285,000	1,435,000	6,060,000	3,415,000
VII	State, Justice, Commerce, and Judiciary	187,264,000	11,082,000	198,582,000	189,782,000
VIII	Transportation:				
	New budget (obligational) authority	49,361,000	44,200,000	117,950,000	54,350,000
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
IX	Treasury, Postal Service, and General Government	76,999,000	56,899,000	65,569,000	61,069,000
X	Claims and judgments	54,743,725	54,743,725	54,743,725	54,743,725
	Grand total:				
	New budget (obligational) authority	5,016,540,610	3,565,048,825	5,204,690,610	4,933,415,610
	Fiscal year 1973	(5,003,838,510)	(3,552,346,725)	(5,191,988,510)	(4,920,713,510)
	Fiscal year 1972	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)
	By transfer	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)

[1] Excludes $32,900,000 heretofore submitted for the Department of Defense.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of Calendar No. 1169, H.R. 640, so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 640) to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 2, after line 8, to insert a new section, as follows:

SEC. 3. Section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'off' indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof; except that the provisions of this sentence shall not operate to prevent an 'off' indicator (as determined without regard to this sentence) from taking effect for any week if, for the third preceding week, the rate of insured unemployment under the State law is less than 5 per centum."

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Vermont will yield to me——

Mr. AIKEN. I simply want to offer an amendment.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, insert a new section:

"Sec. —. That (a) item 903.90 of the Tariff Schedules of the United States is amended by striking out '9/5/72' and inserting in lieu thereof '9/5/75'.

"(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after September 5, 1972."

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. MANSFIELD. I would like first to yield to the Senator from New Jersey (Mr. Williams), and then to suggest the absence of a quorum pending the arrival of the staff of the manager of the bill.

I yield to the Senator from New Jersey.

AMENDMENT OF SECURITIES EXCHANGE ACT OF 1934

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3876.

The PRESIDING OFFICER (Mr. Fannin) laid before the Senate the amendments of the House of Representatives to the bill (S. 3876) to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Securities Processing Act".

Sec. 2. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulations and control reasonably complete and effective," and by adding the following immediately after that phrase: "and to provide for the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions,".

Sec. 3. Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)) is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) to regulate the time and method of making settlements, payments, and deliveries and of closing accounts; and

"(B) to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances. Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations.

Nothing in subparagraph (A) of this paragraph shall be construed (i) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, or (ii) to authorize the Commission to prescribe such rules or regulations for such purposes."

Sec. 4. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of closing accounts.".

Sec. 5. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22)(A) The term 'clearing agency' means any person who acts as an intermediary in making payments or deliveries (or both) in connection with transactions in securities, or who provides facilities, (i) to reduce the number of settlements of securities transactions, or (ii) for the allocation of securities settlement responsibilities.

"(B) The term 'securities depository' means any person who acts as a custodian of securities in connection with a system which permits securities so held to be transferred, loaned, or pledged without physical delivery of securities certificates, or which otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.

"(C) The terms 'clearing agency' and 'securities depository shall not include (i) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks, or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (ii) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by them on the date of enactment of this paragraph.

"(D) The terms 'clearing agency' and 'securities depository' shall not include (i) life insurance companies, or their registered separate accounts, by reason of functions commonly performed by such entities in connection with variable annuity contracts issued by insurance companies; or, (ii) registered open end investment companies or unit investment trusts by reason of functions commonly performed by such entities in connection with shares in registered open end investment companies or unit investment trusts.

"(23) The term 'participant', when used with respect to a clearing agency or securities depository, means any person who uses a clearing agency or securities depository for the purpose of settling or comparing transactions in securities or making or receiving payment for delivery, lending, or hypothecation of securities; but does not include a person whose only use of a clearing agency or securities depository is through another person.

"(24) The term 'transfer agent' means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of this title or of securities which would be required to be so registered except for the exemption from registration provided by sections 12(g)(2)(B) or 12(g)(2)(G) of this title, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities. The term 'transfer agent' shall not include any person who performs such functions solely with respect to variable annuity contracts issued by insurance companies.

"(25) The term 'appropriate regulatory agency', when used with respect to a clearing agency, securities depository or transfer agent required to be registered under this title means—

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or a subsidiary thereof;

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof; and

"(D) the Commission, in the case of all other transfer agents, clearing agencies, and securities depositories."

Sec. 6. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"PROCESSING OF SECURITIES TRANSACTIONS

"Sec. 17A. (a)(1) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a clearing agency, securities depository or transfer agent with respect to any security unless such person is registered under this section. The Commission, by rules and regulations or by order, upon its own motion, or upon application, may conditionally or unconditionally exempt any person, security, transaction, clearing agency, securities depository, transfer agent, or any class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents from any provision or provisions of this section or of any rule or regulation prescribed under this section if the Commission specifically finds that the application of such provision or provisions to such person, security, transaction, clearing agency, securities depository, transfer agent, or class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(2) The Commission shall include in its annual reports to Congress required by section 23(b) of this title information concerning the number of requesets for exemptions received, the number granted, and the basis or bases upon which the exemptions were granted.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the Commission a registration statement which shall state the address of its principal office or offices for transfer agent activities, the identity of the issuers and issues of securities for which it is then acting as transfer agent, and such other information in such detail as the Commission may by rule require as necessary or appropriate in the public interest or for the protection of investors.

"(c) Any person may register with the Commission as a clearing agency or a securities depository under the terms and conditions hereinafter provided in this section by filing with the Commission a registration statement in such form as the Commission may prescribe setting forth the following information and accompanied by the following documents:

"(1) Copies of its constitution, articles of incorporation, bylaws, or rules or instruments corresponding to the foregoing, and its stated policies and practices relating to its organization, participation, rules of procedure, financial condition, methods of safekeeping, transferring, hypothecating, lending and accounting for funds and securities, hereinafter collectively referred to in this section as the 'rules of the clearing agency or securities depository.'

"(2) Such other information as the Commission may, by rule, require.

"(d) An applicant shall not be registered as a clearing agency or a securities depository unless the Commission finds that—

"(1) such clearing agency or securities depository is organized so as to facilitate the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, and to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purposes of this section;

"(2) the rules of the clearing agency or securities depository provide that (A) all registered brokers or dealers, (B) other registered clearing agencies or securities depositories, (C) registered investment companies, (D) banks (as defined in section 2(a)(5) of the Investment Company Act of 1940), and (E) such other persons or classes of persons as the Commission may from time to time designate by rule as necessary in the public interest, are eligible to become participants in such clearing agency or securities depository, subject only to such other rules of the clearing agency or securities depository as are expressly permitted under this paragraph. The rules of the clearing agency or securities depository may restrict or condition participation on the geographical location of participants or upon deposit with the clearing agency or securities depository of an amount which bears a reasonable relationship to the value of positions maintained and transactions processed by the participant, and may deny participation to persons who have been expelled or suspended by a registered clearing agency or securities depository during the period of such expulsion or suspension. With respect to persons not included in clauses (A) through (D) above, the rules of the clearing agency or securities depository may also restrict or condition participation on the basis of the ability of the participants to meet reasonable requirements as to financial condition or operations capability and may provide for the exclusion of persons not included in clauses (A) through (D) who have been convicted, within ten years preceding the filing of the application for participation, of any felony or misdemeanor which the clearing agency or securities depository finds—

"(i) involves the purchase or sale of any security,

"(ii) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or

"(iii) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code;

"(3) the rules of the clearing agency or securities depository assure a fair representation of its shareholders (or members) and participants in the adoption of rules of the clearing agency or securities depository and any amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(4) the rules of the clearing agency or securities depository provide for the equitable allocation of dues, fees, and other charges among its participants;

"(5) the rules of the clearing agency or securities depository do not impose any schedule of prices, or fix minimum rates or charges, for services rendered by its participants;

"(6) the rules of the clearing agency or securities depository are designed to promote the prompt and orderly settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations, other clearing agencies or securities depositories, and with other members of the financal community, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency or security depository;

"(7) the rules of the clearing agency or securities depository provide that its participants and officers, directors, employees, and agents of participants shall be appropriately disciplined for any violation of its rules by expulsion, suspension, fine, or censure, or in the case of an officer, director, or employee of a participant, by being suspended or barred from being associated with participants; and

"(8) the rules of the clearing agency or securities depository provide a fair and orderly procedure with respect to the disciplining of participants and officers, directors, employees, and agents of participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant or officer, director, employee, or agent of a participant should be disciplined, such rules shall require that specific charges of any rule violation be brought; that such participant or officer, director, employee, or agent of such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such participant or officer, director, employee, or agent of such participant may be found to have engaged, or which such participant or officer, director, employee or agent of a participant may be found to have omitted;

"(B) a statement setting forth the specific rule or rules of the clearing agency or securities depository which any such act or practice, or omission to act, is deemed to violate; and

"(C) a statement setting forth the penalty imposed.

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept and that the determination shall set forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency or securities depository may provide for the temporary suspension of a participant and the closing of its accounts pending determination on the merits of any disciplinary proceeding if, in the opinion of the clearing agency or securities depository, such suspension and closing of accounts are necessary for the protection of investors, or participants of the clearing agency or securities depository, or to facilitate the orderly and continuous performance of the clearing agency's or securities depository's services. The rules shall afford the participant an expedited hearing on the merits in the case of any temporary suspension.

"(e) Within thirty days of the filing of an application for registration pursuant to subsection (b) or (c) the Commission shall:

"(1) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

"(2) institute appropriate administrative action to determine whether the application should be denied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, or, in the case of an applicant who is a transfer agent, that the applicant does not have procedures or the means to be able to comply with the provisions of this section and the rules and regulations promulgated under those provisions, the Commission shall by order deny such registration.

"(f) A clearing agency, securities depository, or transfer agent, registered under this section may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel or deny the registration.

"(g) No clearing agency, securities depository, or transfer agent registered under this section shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as clearing agency, securities depository, or transfer agent with respect to any security in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(h) If any registered clearing agency or securities depository takes any disciplinary action against any participant therein, or any officer, director, employee, or agent of such a participant, or denies admission to any person seeking participation therein, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action, unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(i)(1) If, in a proceeding to review disciplinary action taken by a registered clearing agency or a securities depository against a participant or an officer, director, employee, or agent, of a participant the Commission, after notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant—

"(A) finds that such person has engaged in such acts or practices, or has omitted such acts, as the clearing agency or securities depository has found him to have engaged in or to have omitted, and

"(B) determines that such acts or practices, or omission to act, are in violation of such rules of the clearing agency or securities depository as have been designated in the determination of the clearing agency or securities depository,

it shall by order dismiss the proceedings, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or securities depository or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the clearing agency or securities depository.

"(2) With respect to any penalty imposed by a clearing agency or a securities depository upon a participant or an officer, director, employee, or agent of a participant the Commission may, having due regard to the public interest, affirm, increase, or decrease the penalty.

"(j) If, in any proceeding to review the denial of participation in a registered clearing agency or a securities depository, the Commission, after appropriate notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, it shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the clearing agency or securities depository and require it to admit the applicant to participation therein.

"(k)(1) Each registered clearing agency or securities depository shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any such rules as the Commission may prescribe, copies of any changes in, additions to, or amendments to the rules of the clearing agency or securities depository, and each registered clearing agency, securities depository and transfer agent shall file with the Commission, in accordance with such rules as the Commission may prescribe, such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (b) or (c).

"(2) The Commission shall publish notice of changes in, additions to, or amendments to the rules of any clearing agency or securities depository, and such changes, additions, or amendments shall take effect sixty days after publication of such notice by the Commission, unless the Commission disapproves such change, addition, or amendment as inconsistent with the purposes of this section or otherwise inconsistent with the public interest.

"(l) The appropriate regulatory agency may, after appropriate notice and opportunity for hearing, by order, censure, bar, suspend for a period not exceeding twelve months, or place limitations upon any transfer agent, or any officer, director, or employee of any such transfer agent, or revoke the registration of any transfer agent, if the appropriate regulatory agency finds that such censure, barring, suspension, placing of limitations, or revocation is in the public interest or necessary for the protection of investors and that such transfer agent or any officer, director, or employee thereof has willfully violated or is unable to comply with any provision of this section or any rule or regulation promulgated thereunder.

"(m) The appropriate regulatory agency is authorized, if such action appears to it to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or revoke the registration of a registered clearing agency or a securities depository or impose limitations with respect to such clearing agency or securities depository, if the appropriate regulatory agency finds that such clearing agency or securities depository has violated any provision of this title, or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or expel from a registered clearing agency or securities depository any participant therein, or suspend for a period not exceeding twelve months or bar any officer, director, employee, or agent of the participant, if the appropriate regulatory agency finds that such person has violated any provision of this title or any rule or regulation thereunder or any rule of the clearing agency or securities depository; and

"(3) after appropriate notice and opportunity for hearing, by order remove from office any officer or director of a registered clearing agency or a securities depository who, the appropriate regulatory agency finds, has willfully failed to enforce the rules of the clearing agency or securities depository, or has willfully abused his authority.

"(n) If a proceeding under subsection (m)(1) of this section results in the suspension or revocation of the registration of a clearing agency or a securities depository, the Commission shall, upon notice to such clearing agency or securities depository, apply to any court of competent jurisdiction specified in section 21(e) or 27 of this title for the appointment of a trustee. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency or securities depository involved, and the books, records, and assets thereof, wherever located; and the court shall appoint the Commission or a person designated by the Commission as the trustee with the power to take possession and to continue to operate or to terminate the facilities of such clearing agency or securities depository in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(o) Each registered clearing agency, securities depository, and transfer agent shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and make such reports, as the Commission by its rule and regulations may prescribe as necessary or appropriate in the public interest, or to facilitate cooperation among clearing agencies and securities depositories and the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, or for the protection of investors. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as the appropriate regulatory agency may deem necessary or appropriate in the public interest or for the protection of investors. Appropriate regulatory agencies other than the Commission shall make a full and detailed report of all examinations conducted by them of a registered clearing agency, securities depository, or transfer agent and shall immediately furnish to the Commission a copy of the portion of any such report which is relevant to functions regulated under this section.

"(p) The appropriate regulatory agencies shall consult and cooperate with each other as may be appropriate, toward the end that their mutual regulatory needs and responsibilities be fulfilled to the maximum extent practicable.

"(q)(1) In the case of any disagreement between the Commission and any other appropriate regulatory agency concerning any rule of the Commission with respect to any clearing agency, securities depository, or transfer agent, the determination of the Commission shall be definitive.

"(2) In the case of a clearing agency, securities depository, or transfer agent for which the Commission is not the appropriate regulatory agency, the Commission shall rely on the appropriate regulatory agency for the conduct of routine or periodic inspections or examinations under this section, except that, notwithstanding any provision of this section, the Commission shall have authority to make special or other examinations and to require reports of such clearing agencies, securities depositories, or transfer agents in those situations where the Commission determines that such action would be appropriate.

"(r) Compliance with the requirements of this section may be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the appropriate regulatory agencies other than the Commission. For the purpose of the exercise by the appropriate regulatory agency of its powers under section 8 of the Federal Deposit Insurance Act, a violation of any requirement imposed under this section is a violation of the requirements imposed under the Federal Deposit Insurance Act and shall constitute adequate basis for the issuance of orders under section 8(b) and 8(c) of that Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such appropriate regulatory agencies may, for the purpose of enforcing compliance with this section (or any rule thereunder), exercise any other authority conferred on it by law.

"(s) The provisions of this section 17A or of any rule or regulation thereunder shall not apply to any person acting as transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless such person acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this title."

SEC. 7. Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended to read as follows:

"INFORMATION FILED WITH THE COMMISSION

"SEC. 24. (a) Any person filing information contained in a registration statement, document, report, contract, correspondence or other paper filed with the Commission pursuant to this title may make written objection to the public disclosure of such information stating the grounds for such objection. The Commission is authorized to hear objections in any such case where it deems it advisable. The Commission shall grant confidential treatment to such information for which application has been made if it finds (1) that disclosure is not in the public interest, and (2) that disclosure would (A) jeopardize the safety of funds or securities, (B) require the revealing of trade secrets or processes, or (C) impair the value of a contract.

"(b) The Commission is authorized to treat such information as confidential pending the findings required by subsection (a), but if the Commission does not make such a finding within thirty days from the date the information is received by the Commission, then the information shall cease to be afforded confidential treatment.

"(c) Nothing in this section shall prohibit the Commission from disclosing any information in any administrative or judicial proceeding.

"(d) Nothing in this section shall authorize the Commission to withhold information from the duly authorized committees of the Congress.

"(e) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any registration statement, document, report, contract, correspondence, or other paper filed with the Commission which is not made available to the public pursuant to subsection (a) of this section: *Provided*, That the Commission may make available to an appropriate regulatory agency any information requested by such agency for the purpose of enabling it to perform its duties under this title."

SEC. 8. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by inserting after subsection (i) the following new subsection:

"(j) It shall be unlawful for an issuer, any class of whose securities is registered under this section or which would be required to be so registered except for the exemption from registration provided by paragraph (2)(B) or (2)(G) of subsection (g), by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form or format contravenes such rules and regulations as the Commission may prescribe as necessary for the prompt and accurate processing of transactions in securities."

SEC. 9. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by inserting after subsection (e) the following new subsections:

"(f) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about elimination of the stock certificate as a means of settlement among brokers or dealers in transactions consummated on national securities exchanges or by means of the mails or other means or instrumentalities of interstate commerce. On or before December 31 of each year, commencing in 1972 and ending in 1976, the Commission shall report to the Congress (1) the steps it has taken and progress it has made toward elimination of the stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the stock certificate.

"(g) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this title, with particular reference to section 14, and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of this subsection, and its final results and recommendations within one year of such date."

SEC. 10. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or securities depository or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or depository or any nominee thereof or custodian therefor, unless such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or securities depository or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision in the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."

SEC. 11. Section 6(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)) is amended by inserting before the period at the end thereof the following: ", except that no registered national securities exchange shall by constitution, bylaw, rule, or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title".

SEC. 12. Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by adding at the end thereof the following new subsection:

"(o) No registered national securities association shall by constitution, bylaw, rule or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title."

SEC. 13. This Act shall become effective on the date of its enactment, except that section 17A(a)(1) of the Securities Exchange Act of 1934 (as added by this Act) shall become effective on July 1, 1973.

And amend the title so as to read: "An Act to amend the Securities Exchange Act of 1934 to provide for the regulation of securities depositories, clearing agencies, and transfer agents, and for other purposes."

Mr. WILLIAMS. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. JAVITS. Mr. President, what is this all about? Again we are proceeding by number. Could the clerk be instructed to state the bill by title?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3876) to amend the Securities and Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Security Laws, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. PROXMIRE, Mr. MONDALE, Mr. BENNETT, and Mr. TOWER conferees on the part of the Senate.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty.

Mr. JAVITS. Mr. President, I ask unanimous consent that Eugene Mittleman of my staff be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may I suggest that the distinguished Senator from Vermont explain his amendment now, while the manager of the bill is awaiting the arrival of staff members?

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, is there a limitation on time?

The PRESIDING OFFICER. There is a limitation on time.

Mr. LONG. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, this amendment suspends the duty on istle fiber for another 3 years. This duty has been suspended for the last 15 years. I note that in a letter to the chairman of the Committee on Finance, the Commerce Department recommends that the suspension be made permanent, that it be taken off the dutiable list, since none of it is produced in the United States. There is no known domestic production of istle in the United States. Virtually all of it is imported from Mexico. The total value of the imports is about $3 million a year. The Commerce Department, the Treasury Department, and the State Department have reported favorably on this matter.

A bill has been approved by the Ways and Means Committee in the House, and it might be acted upon late today, but it probably will not get here in time to be acted upon by the Senate. That is why I am offering this as an amendment to the bill now before the Senate.

I know of no opposition to the amendment. In fact, everybody is in favor of it, but they have not gotten around to doing anything about it until now.

Mr. MANSFIELD. Mr. President, a time limitation was agreed to on this bill about a week ago. I ask unanimous consent that the order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. PROXMIRE. Is this the so-called istle amendment?

Mr. AIKEN. Istle fiber. The amendment has been approved unanimously by the House committee.

The PRESIDING OFFICER. The Chair advises the Senator that the committee amendment must be disposed of first.

Mr. MANSFIELD. Will the Chair repeat its statement?

The PRESIDING OFFICER. There is a committee amendment which must be disposed of before this amendment is in order.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment might be considered and that we vote on the committee amendment subsequently.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. AIKEN. There is no revenue loss in this amendment, because there has been no revenue from this since 1957.

Mr. PROXMIRE. Does the Senator say

that this amendment has the approval of the Treasury Department?

Mr. AIKEN. Yes, and the Customs Bureau. The Treasury Department has approved it, as have the Commerce Department and the State Department. I understand that the Commerce Department recommended in a letter to the chairman, the Senator from Lousiana, that this exemption be made permanent. Inasmuch as the House bill, which may or may not be passed some time before tomorrow morning, calls for a further 3-year suspension, I am offering this amendment so as to insure action by this Congress.

Mr. PROXMIRE. This proposal has been considered and approved by the Ways and Means Committee and the Finance Committee?

Mr. AIKEN. It has been unanimously approved by the House committee, I understand, and it is pending action by the House. Conceivably, there could be action on it before tomorrow morning, but that is taking a rather long chance.

Mr. LONG. It is my understanding that there are a number of bills on the House side that will not be considered; so that, while they have met with a favorable reaction in the House Ways and Means Committee, because of the situation that developed in the House, apparently it is the judgment of the chairman of that committee that he is not going to make the effort to move those bills in the House. So if this matter is to be acted on in this Congress, it would have to be acted in this fashion, I assume.

Mr. PROXMIRE. I thank the chairman. Does the chairman support this amendment?

Mr. LONG. I have no objection to it. The Senator from Vermont has been buttonholing me on the floor for the past month, saying that something must be done about this matter. I am aware of no objection to it.

Mr. PROXMIRE. I have no objection.

Mr. AIKEN. The General Counsel of the Treasury Department said there would be no additional administrative costs under the proposal and no loss of revenue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

IMMIGRATION AND NATIONALITY ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8273.

The PRESIDING OFFICER laid before the Senate H.R. 8273, to amend section 301 of the Immigration and Nationality Act, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, was read the third time, and passed.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty.

Mr. MAGNUSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 9, strike all up to and including page 3, line 2 and insert in lieu thereof the following:

SEC. 3. Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof, and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof."

to permit the importation of upholstery regulators, upholsterer's regulating

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. If the committee amendment is adopted, is it then open to amendment?

The PRESIDING OFFICER. It is not.

Mr. DOMINICK. This is what I wondered about, because there are other amendments around, and I do not want the committee amendment adopted and then to be foreclosed from offering an amendment.

Mr. LONG. The Senator is not foreclosed. We have not acted on the committee amendments to the House-passed bill yet, and I was withholding that until our staff expert on trade arrives in the Chamber. He has been helping us with other measures. Meanwhile, it only takes unanimous consent, and I do not see any reason why anyone would object. We can go ahead and consider the amendment of the Senator from Washington.

Mr. DOMINICK. Mr. President, I ask unanimous consent that if we adopt the committee amendment, the bill as then amended will be open to amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, this is an amendment on behalf of myself, Senator RIBICOFF, Senator JAVITS, Senator HART, and several other Senators that we adopted last night and attached to the debt limit bill. That measure is in conference today, and I understand from the chairman of the Senate committee that they have not yet reached any agreement on the debt limit bill, let alone the amendments that we put in the bill, which is the unemployment amendment. This is the same language. Because we are faced with this situation, we are putting it on this bill, which will go to the House, and we hope they will accept it.

Mr. LONG. May I say to the Senator that there is a very distinct possibility that Congress will adjourn without an agreement on the debt limit bill. It is entirely possible that that matter will be left for the President to decide, as to what he wants to do about it, perhaps after the election. If that situation should materialize, then if the Senator needs action on this measure, the debt limit bill would not be an appropriate vehicle to bring about consideration of the amendment.

Furthermore, I am on notice that the House conferees may very well insist that it not be on the debt limit bill, that they are not going to take it in disagreement on that bill, but that they would be willing to consider it on some other revenue bill, such as this one, or a tax bill.

Mr. MAGNUSON. I want to have all entries in this race that I can get, because the technicalities of running Congress might be very vivid to some of us, but a fellow walking the streets, unemployed, does not understand the rule of germaneness. He is out of work, and he will go on welfare when he exhausts his unemployment benefits; and he is not going to understand anything about the technicalities of the rule of germaneness or conference committees. He knows only one thing. That is why we want to put it on every bill that comes over here that would go to the House, so that it will have some chance, because the House Ways and Means Committee has passed the bill and they favor it and there should be some way we can figure it out. The Senator from Louisiana, has been most helpful in trying to achieve this.

Mr. RIBICOFF. May I say that the distinguished chairman has been most sympathetic to this problem. It was brought up by me in the committee and had the active support of the chairman and I want to express my appreciation to him for his understanding of the problem that we in Connecticut, your State and mine, face.

Mr. MAGNUSON. I do, too. The whole committee passed on this same amendment and there was a strong majority for it.

Mr. JAVITS. Mr. President, the text of the amendment contained in the bill is not quite what the committee reported. The Senator from Washington has substituted in his amendment what is the last text which the Finance Committee dealt with, as I understand it.

Mr. MAGNUSON. That is right. I am informed that is correct.

Mr. JAVITS. Therefore, it should be understood, because there is a little confusion about the committee amendment. The committee amendment, notwithstanding its adoption, is open to amendment, as the Senator's amendment is a substitute for what is now written in the bill as the committee amendment.

Mr. MAGNUSON. That is correct.

Mr. JAVITS. I hope the Chair will make that clear. I want to join my colleagues in thanking the distinguished Senator from Louisiana (Mr. LONG). We have deep problems here. This is not personal. But it is a problem deep and profound in our communities.

Mr. LONG. Mr. President, I am hopeful now that we can persuade the House to work this matter out, as the House in its conscience can do, and I am satisfied that they will do something to work this out. I would hope that they will agree to the amendment, but I fear it is not going anywhere on the debt limit bill, so we will have to put it on some other bill.

Mr. MAGNUSON. We all appreciate the wise advice of the Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. MAGNUSON).

The amendment was agreed to.

AMENDMENT NO. 1602

Mr. RIBICOFF. Mr. President, I call up my amendment No. 1602 and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill, insert the following:

SEC. 4. The Tariff Schedules of the United States item 680.50 is amended by inserting after "pillow blocks", "except ball or roller bearing pillow blocks" and that the superior heading to this item be amended by inserting after "pillow blocks", "except ball or roller bearing pillow blocks":

SEC. 5. The superior heading to the Tariff Schedules of the United States items 680.33, 680.34, 680.35, and 680.36 is amended by inserting "and including such bearings whether or not assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders; all the foregoing" before "and parts thereof:"

SEC. 6. The Tariff Schedules of the United States items 680.35 and 680.36 respectively is redesignated items 680.37 and 680.38 and inserting after item 680.34 the following new items:

" 680. 35	Bearings assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders, and parts thereof	9.5¢ ad val.	45% ad val.
680. 36	If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6)	Free	."

SEC. 7. The amendments made by sections 4, 5, and 6 of this Act shall apply as if made by the Tariff Schedules Technical Amendments Act of 1965; except that such amendments shall not apply with respect to any article entered, or withdrawn from warehouse, for consumption, on or before the sixtieth day after the date of the enactment of this Act.

Mr. RIBICOFF. Mr. President, this amendment simply clarifies a tariff schedule which was inadvertently left indefinite. In no way does it result in any modification of present duty rates. A similar amendment has passed the House and all the appropriate executive departments have indicated they have no objection to the change. This was discussed with Mr. Woodward and he understands it. It is exactly the same as the ones that passed the House. I hope that the chairman will be able to accept it.

Mr. LONG. Mr. President, I leave it to the Senate. I know of no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1602) of the Senator from Connecticut.

Mr. PROXMIRE. Mr. President, does this provision have any effect on tariff revenues?

Mr. RIBICOFF. Not a single penny. It does not change any rates whatever. It would allow a proper inventory to be taken as to how bearings are to be allocated in the different countries.

Mr. PROXMIRE. This has been approved by the Ways and Means Committee?

Mr. RIBICOFF. Yes. It has already passed the House.

Mr. PROXMIRE. I thank the Senator from Connecticut.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF), No. 1602.

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At end of bill, insert the following new subsection:

"SEC. 3 (a) the superior heading to items 687.50, 687.51, 687.60, and 687.61 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"Electronic tubes (except X-ray tubes); photocells; semiconductors, including transistors and integrated circuits, and related electronic crystal components; mounted piezoelectric crystals; all the foregoing and parts thereof:".

(b) Part 5 of schedule 6 of the Tariff Schedules of the United States is amended by inserting immediately after item 687.51 the following new item.

" 687.55	Parts of semiconductors, in part of ceramics	15% ad val.	60% ad val. ."

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act.

Mr. DOMINICK. Mr. President, I wish to explain the amendment because it is somewhat complicated. This is an amendment which would have the effect of raising the tariff on imported ceramics from 7 cents up to 15 cents. That is what it amounts to. It would have the effect, if it is adopted, and I hope that it will be, of raising the cost of imported ceramic chips by about one and a half cents.

If I may, I should like the attention of my colleagues to explain why this seems advisable.

Mr. President, at the present time, in the ceramic business in the United States, there are companies, not only in my State but also in California, Indiana, New Jersey, Ohio, Pennsylvania, South Carolina, and Tennessee. In the past, before the Kennedy round, the import duty on imported ceramic chips was approximately 25 cents. After the Kennedy round it was reduced to 15 cents, which is what we are trying to put it back to. But in the process of trying to get more imported ceramics into the country, exporters were able to persuade the Customs Bureau, by adding glaze and one little gold dot on it, so that they changed the classification of exactly the same item, thereby putting it in a different classification, which lowered the duty to 6 cents—percent.

In 1970, domestic plants shipped about 500 million pieces of ceramic parts—and these are used for things called integrated circuits; namely, for putting electrical circuits on, valued at approximately $28 million. The average unit value of the parts is small, ranging from about 5.5 cents each.

In 1970, imports accounted for 7 percent of domestic production or a total value that is based, I might say, on a previous tariff basis. So that the industry itself, in this particular branch, is directly affected by the ability of the exporters, largely from Japan, to persuade the Customs Bureau, without any hearings, to change the classification and reduce the amount of the tariff from the amount set by the Kennedy round, to about 6 percent—15 percent to 6 percent, or over 50 percent.

As I said, they did this by adding on a small glaze and one spot which, frankly, made no difference in the value of what the ceramic chip was supposed to be for; nevertheless, as I said, they did persuade them.

This is a reduction, so far as the imported articles are concerned, equal to 21 percent of the value of the packaging material. Meanwhile, as I said, we had had a reduction in the Kennedy round, which is what I am trying to get back to; and if this amendment is adopted it would put it back to the 50 cents. When this would be applied to the free on board origin value of 3½ cents for the ceramic packaging material, the increase in duty—I made a mistake before—in the amount of three-tenths of 1 cent, which is pretty small, so that the land cost, of course, of the foreign product would then be about 4.1 cents each.

Leaving the foreign product, which is mostly Japanese, still with a significant competitive advantage of nearly 1 and a half cents over the domestic products, even with this amendment. There is not much basis for regarding this moderate increase in duty as imposing any hardship on U.S. producers of semiconductor products over producers who would import ceramic products, who pioneered in this technological development.

So as I said, at best or at most, my amendment would restore less than half of the tariff protection which the domestic producers of ceramic packages enjoyed in 1968, but lost subsequent thereto as a result of the action of the Bureau of Customs' ruling.

I have to say in all justification that I do not believe that the Finance Committee, as such, considered this in any depth. A bill for the same purpose was put in the House. Chairman MILLS asked that the form of it be revised. A new bill was put in, but there was no further action in the House, because all the bills had left the House.

So at this point the amendment I am introducing is in the form which the chairman of the Ways and Means Committee had requested be inserted before. The Treasury Department has felt that this would have something to do with the GATT agreement. It does not. I want to assure my colleagues of that.

It simply overrules what we consider to be an extremely arbitrary and unnecessary ruling by the Bureau of Customs. It still leaves foreign products at a cost which is less than that offered by the domestic producers, so I would ask the chairman whether he would be able to accept this amendment and take it on to conference, to determine whether or not he could help me along this line.

Mr. JAVITS. Would the Senator answer a question?

Mr. DOMINICK. I would be happy to try to.

Mr. JAVITS. As I understand, the Senator is not changing the rate of duty. He is changing a finding by the customs authorities as to what classification this comes under. Is that correct?

Mr. DOMINICK. That is the net effect, although the amendment itself, as written, simply says a 15-percent ad valorem tax.

Mr. JAVITS. But it redefines the item.

Mr. DOMINICK. That is right.

Mr. JAVITS. Do we have any comment from the Treasury, in lieu of a hearing, which has obviously not been held, as to what that means to the GATT Agreements and the Kennedy round in our relations with Japan, which is a big trader with the United States? I have seen very little items cause big trouble far beyond the value of the items themselves.

It seems to me in this kind of a last gasp of Congress, we had better know very clearly about this one before we act. I am very solicitous about trade matters, as the Senator knows.

Mr. DOMINICK. Yes, I would say to the Senator that we have a letter from the General Counsel of the Treasury to the chairman, in which they say that the domestc producers of semiconductors have failed to present any decisive evidence resulting in damage from imports. Since they are going from a net of 27 cents down to 6 cents, we can see this is going to be pretty dramatic.

They also say, and they have said, that this would require compensation to GATT. This is simply not a fact. They are confusing what we are doing here with what they thought we were going to do, which is to put it back to where it was originally.

We are not doing that. We are leaving it in the area where it was after GATT and the Kennedy round had placed it at 15 cents.

Mr. JAVITS. Is this quite accurate, in view of the fact that the Senator is redefining the item? It is not really putting it back to GATT. He is redefining the item, which under the GATT agreement was at a lower rate, rather than the 15-cent rate, in order to bring it within the 15-cent rate.

Mr. DOMINICK. That is also accurate; but what we are doing, if this were adopted, is overruling what the Customs Bureau has done in determining what the classification was and the classification of what the item was was changed arbitrarily, simply because they added a glass frit and a gold dot to it.

Mr. JAVITS. With all due respect to my colleague, I think it is hardly within the spirit of the amendments that the chairman thought could be put on this tariff bill vehicle at this time.

The Senator differs with the Customs people. He differs with the diplomatic judgment or the legal judgment on the implications to the GATT agreements. Neither committee had a hearing on it.

It seems to me that it hardly qualifies as one of those things which is pretty unanimous, as the chairman said he can take whatever, generally speaking, is unanimous on the bill.

I would love to oblige my colleague, but it seems to me that we are venturing very much in a highly controverted area, without even the Government department concerned in agreement.

I would hope very much that the Senator does not feel he wants to press this amendment now, because as I say, the spirit of the chairman's offer to the Senate was that he would take things that were generally agreed to.

Personally, I do not see how I can possibly agree to this one.

Mr. PROXMIRE. Would the Senator yield?

Mr. DOMINICK. I would be happy to.

Mr. PROXMIRE. I find myself in sympathy with the Senator from New York. This is a policy which, it is true, involves a small amount for each item, but the total effect would be very considerable. As I understand, the percentage of increase in duty would be—did the Senator say 21 percent?

Mr. DOMINICK. It would go from 6 to 15, where it was, until the classification was changed by the Bureau of Customs.

Mr. PROXMIRE. I did not mean to ask the question that way. Would the change in duty change the price of the imported item by about 20 percent?

Mr. DOMINICK. No. It would change it by one-third of 1 percent per unit.

Mr. PROXMIRE. I did not say how much per unit. The unit cost is very low. One-third of 1 percent could be a considerable percentage change. This is a very big industry, the ceramic industry, and it could have a decisive effect.

Mr. DOMINICK. I am looking for that exact figure, because I remember something about a percentage. If the Senator will give me just a minute, I will find it for him.

I do not have it now.

What I am saying is that in following the Kennedy round agreements, it was reduced from 25 to 15 cents and then in 1970 the Customs Bureau changed the classification without any change in the economic desirability of the product and dropped it down, by so doing, from 15 to 6.

This could raise it up so that the cost, although it would be 4.1 cents, instead of 3.5, is still going to be below the 5.5 of the domestic manufacturers.

Mr. PROXMIRE. But as I understand, this is opposed, as the Senator from New York brought out, by the customs people and by the Treasury Department.

Mr. DOMINICK. I am sure it is opposed by the customs people, because they are the ones that made that idiotic classification to start with.

Mr. PROXMIRE. They are backed up by the Treasury Department.

Mr. DOMINICK. The Treasury Department is also confused with GATT, as I have tried to explain, but nobody has gotten into it deep enough to look into it.

The Treasury Department said they object to it. I agree, there is no doubt they said they object to it.

All I am saying is that we do not have to be bound by that.

We are trying to do something for our own people in our own country, trying to do it on a reasonable basis, where we still leave the imported article cheaper than our own and not run our people out of business.

Mr. PROXMIRE. Has the Ways and Means Committee and the Finance Committee acted on this amendment?

Mr. DOMINICK. No, they have not. They sent the bills over before there was a chance to get any action on this amendment; but the chairman did not like the form of the original amendment and asked that it be redrafted.

I will not commit him in any way, but the indications were that under the new form they did not think it was harmful.

Mr. PROXMIRE. Have hearings been held?

Mr. DOMINICK. No.

Mr. PROXMIRE. Mr. President, I must say I have great respect for the Senator from Colorado. I think his explanation is very clear. I understand the amendment. I must oppose it. I wholeheartedly agree with the Senator from New York. It could be a change in our customs system. It could have an adverse effect on our relationship with Japan. It is opposed by our experts in the administration. They may be wrong and the Senator from Colorado may be right, but there are no hearings to determine that. We have no recommendation from any legislative committee; we have the word of the Senator from Colorado, which is a word we have to respect. He has excellent judgment in this area and he is a very intelligent Senator. But I must oppose the amendment.

Mr. DOMINICK. I can understand their looking at this amendment with some concern. Some think that I am trying to put something over, but I am not. The Committee on Finance has been very busy, and they have not had a chance to hold hearings on this. The Ways and Means Committee went through their bills and sent them over here before they did anything over there.

What I am saying is here we are trying to do something for 10 domestic manufacturers. That is all we have in the country doing anything with ceramics. All of a sudden everybody gets excited over what we are going to do with Japan. I do not understand why we worry about them when we have our 10 manufacurers here to worry about, and the work they do, and the people they employ.

So I hope the chairman will at least take this to conference to see how the other side feels about it.

Mr. JAVITS. Mr. President, with all due respect to the Senator from Colorado he makes it very difficult. He tells us that some feel he is trying to put something over. I reject that. I have the highest respect for the Senator from Colorado and for his character. I know he believes sincerely every word he utters. That is why we have yea and nay votes and that is why some vote for a proposal and some vote against the proposal. Any time a Member opposes something, if we were to put it on a personal level we could hardly ever do business; it would make it difficult and embarrassing.

I respectfully submit that it is very hard to argue the whole tariff question, which involves domestic manufacturers, their products, our position in international trade, GATT, classifications, and 1,000 other things.

We will have quite a session on that subject next year, but I think at this particular time, when the ground rules which I think were fairly laid down by the Senator from Louisiana were the only things he could see taking were those generally agreed on, I could not agree.

If the Senator presses us we will have to use whatever machinery there is to bring about a decision by the Senate. No one wants to prejudice his case, least of all the Senator from Wisconsin or me. I hope very much the Senator understands that and that we love him dearly. There is nothing personal about it, but in all conscience we cannot move in this area under these circumstances. At some time a session has to end and another session begin. If we end on December 31 and begin a new session the next day, it would clean the calendar of all legislation, including this matter. We are dealing with the facts of life. I hope the Senator will not press us. But I could not sit here and honestly let this amendment pass and be placed on this bill.

Mr. DOMINICK. Mr. President, I appreciate the sentiments of the Senator from New York. I understand his concern. I know the great job he has done and I know of his interest in international trade. I might say I have a good deal of interest myself. But I really cannot understand what the concern is in this particular instance. Here we are dealing with something that is relatively simple—it is a relatively simple-type amendment. It is not going to cost the Treasury anything. It will make money for the Treasury; it will not cost jobs. It will make sure we continue to have jobs in these industries. It is not going to materially hurt Japanese industry, which was growing rapidly at the 25-percent rate.

All I am asking is to bring it up to the level that was set by the GATT Treaty under the Kennedy round.

For the life of me I do not understand the opposition. I would, however, accept the position of the Senator from New York, and under those circumstances if we can be relatively sure that we will get a good hearing on this in the coming year I am happy to withdraw it but I need assurance along these lines so that we can move on it early next year.

Mr. LONG. Mr. President, I would be happy to look into this matter next year and seek the cooperation of the Senator. I believe that it would be best to withhold at this time and I would be happy to help him get the matter considered.

Mr. DOMINICK. I thank the Senator from Louisiana. He worked with us very well and I know his staff did not feel there was anything wrong with this. I think the bugaboo was created by the Treasury Department. As far as I am concerned I hope they get a new lawyer. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON). The Chair, on behalf of the Vice President, appoints the Senator from Minnesota (Mr. HUMPHREY) as an adviser to the 17th General Conference of the United Nations Educational, Scientific and Cultural Organization—UNESCO—Paris, France, October 17–November 18, 1972, in lieu of the Senator from Louisiana (Mrs. EDWARDS).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2318) to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty.

Mr. WILLIAMS. Mr. President, I have an amendment at the desk, No. 1628, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> On page —, line —, insert the following: That (a) item 168.15 of the Tariff Schedules of the United States is amended by striking out "94¢ per gal." in rate column numbered 1 and inserting in lieu thereof "Free".
>
> (b) The rate of duty in rate column numbered 1 of item 168.15 of the Tariff Schedules of the United States (as amended by subsection (a)) shall be treated as not having the status of a statutory provision enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.
>
> (c) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1972.

Mr. WILLIAMS. Mr. President, this amendment could be described very simply. It is not an amendment of great significance. It deals with a product called bitters. This amendment would remove the duty on bitters not fit for use as beverages.

Mr. President, the reason is that there is no competition basically for this product. The revenue loss in minimal. While the revenue loss is minimal, it is a charge that is of considerable significance to the angostura bitters people. It has been discussed with the committee and I urge that the amendment be accepted.

Mr. JAVITS. Mr. President, applying the same rules to this as we are applying generally, what does the Treasury say?

Mr. WILLIAMS. The Tariff Commission says that the loss of money is minimal. It is not a matter of any great loss of revenue. The duty is 94 cents a gallon. The imports over the past 5 years have been varying around 100,000 gallons a year. The revenue would also be in the neighborhood of $100,000.

Mr. JAVITS. I do not think that worries me. What is the trade effect? Does the Treasury approve this amendment?

Mr. WILLIAMS. The statement from the Tariff Commission is:

> The degree of comparability among various brands of bitters is difficult to judge, but public preference in the United States almost exclusively favors Angostura bitters, a small amount of which is considered by many to be an essential ingredient in a number of traditional mixed drinks.
>
> Inquiries made of known U.S. producers in the past indicate U.S. production to be minor. The duty is not an important trade factor because of the specialty character of bitters and the fact that they are used in extremely small amounts in relation to other ingredients.

This is from the U.S. Tariff Commission.

Mr. JAVITS. Mr. President, I would like to ask the Senator, within the general spirit of these trade matters—these can be two-edged swords and can favor special interests, and I have not the remotest notion what it does—would the Senator at least withhold his amendment until the trade expert, who is not available now, can be here, so we can get some of the implications of it?

Mr. WILLIAMS. This represents the only interest here. This is not choosing between interests. There is basically one importer affected.

Mr. JAVITS. Why does this importer seek this trade concession? Just to save $100,000?

Mr. WILLIAMS. They think it is significant to them. I am not going to describe any great hardship on the company, but it is described as an important factor in their economic life.

Mr. JAVITS. Does this have any relation whatever to the trade policy of the United States, and if so, what, and has anybody passed on that?

Mr. WILLIAMS. The Tariff Commission says it is de minimis, de minimis—unimportant from any standpoint.

Mr. JAVITS. That is as to money. What about the important question of trade policy?

Mr. WILLIAMS. I do not think they view lowering the trade barrier on this item as having a great effect. I gather they did not generalize on whether this would put the pressure on having other barriers lowered. They did not generalize. They said in this case it is of very small importance.

Mr. JAVITS. Is there domestic competition?

Mr. WILLIAMS. The Tariff Commission says their investigation tells them "No."

Mr. JAVITS. Senator WILLIAMS, it is very difficult for me, and I have been put in a difficult position. It was understood the only matters which would be considered would be those which are generally agreed on. No Senator wishes to be unkind or ungracious to a brother. I am the ranking Republican member of this committee. I would be the last one to want to do that. Yet it seems difficult for us to venture blindly in a matter of trade without some concept of what we are doing except the general statement of the Commission that, well, it is not going to cost us much money in that period.

Could not the Senator, in all fairness, just withhold that for a month or two, until the committee can take a look at it?

Mr. WILLIAMS. As I understand it, the committee staff members have thoroughly examined this.

Mr. LONG. Mr. President, if the Senator will yield, we have an unfortunate situation at the moment. We have one of the chiefs of our Finance Committee staff who is well versed in trade, but who, unfortunately, had to have an operation for a ruptured disc in his back. He is in severe pain and confined to his home. We have a very able man in this Capitol Building, whom we are trying to find, who is undoubtedly familiar with this matter, but he is not immediately available to us.

I would hope the Senator would withhold his amendment until we perhaps could obtain some advice that would support his case. Under the circumstances, it would be best if the Senator from New Jersey would withhold his amendment until we can obtain information that perhaps would support his case.

Mr. WILLIAMS. May I ask a key question? This is about 90 percent of the whole bitters business in the country. It is composed of Angostura bitters. What other question is there? Ninety-four percent of the business with bitters happens to be by Angostura Wuppermann Corp.

Mr. LONG. I am sure the Senator would want to know what the Treasury's point of view is. The Senator has stated the view of the Tariff Commission. We would like to obtain, if we can, the view of the Treasury.

Mr. WILLIAMS. The Tariff Commission says $100,000 is involved. That is the amount of money that would be lost.

Mr. JAVITS. Why should the United States give up $100,000? To increase their profits?

Mr. WILLIAMS. Or lower prices to consumers.

Mr. JAVITS. Will they?

Mr. WILLIAMS. I always thought that if we took a duty off to give the consumer a break, that was a part of our policy. Perhaps I am wrong.

Mr. JAVITS. Does the Senator represent to us that this action will result in a price reduction of Angostura bitters?

Mr. WILLIAMS. I cannot say, but I would say they would be in a better position to reduce their prices than if they are paying this $100,000 tariff.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. I would agree that inflation has plagued all of us, but of all the consumers in this country for whom I have a concern, the least would be the people who consume Angostura bitters. Where do you put Angostura bitters? You do not put them inside milk. You do not put them on a cereal. You do not put them on bread or in staples. You use them when you drink booze. If you want to drink booze, that is great, but I do not see why the Treasury should lose $100,000 so people can use those bitters more cheaper for that purpose.

Mr. WILLIAMS. I happen to serve on the committee which deals with alcoholism, and I am not advocating booze drinking, but I will mention that bitters are also useful in other recipes that have nothing to do with alcohol.

Mr. PROXMIRE. That may well be. My experience is rather limited in this field. The only time I remember that bitters are used is when one puts it in an Old Fashioned, for example.

Mr. WILLIAMS. I am sure the Senator will find, on more careful examination that bitters are used in other recipes that have nothing to do with booze. I am glad the Senator mentioned booze. It happens to be a name of fame from the State of New Jersey, as a matter of fact.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Mr. President, may I suggest that the Senator from New Jersey withhold his amendment at this time?

The PRESIDING OFFICER. The Senator from New York has suggested the absence of a quorum. Does the Senator from New York withdraw that request?

Mr. JAVITS. I withdraw it.

Mr. LONG. Mr. President, may I ask that the Senator from New Jersey withhold his amendment? I am not going to support it at the present time, but perhaps if he withheld it, we might be able to get some information available, which I could have made available to him.

Mr. WILLIAMS. If I knew what the information was, I could help in finding that information.

Mr. LONG. The best information would be if the Senator could tell me where Robert Best is at the present time, but, for lack of that, I would like to suggest that we move on to something on which we have good information.

Mr. WILLIAMS. Fair enough.

Mr. LONG. For example, we would like to go back to discussing this other tax measure.

So, Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so we may return to the tax bill.

Mr. WILLIAMS. Whatever is necessary. I ask to withhold that amendment at this time.

Mr. HARTKE. Mr. President, may I take up a noncontroversial item? It will not take very much time.

Mr. LONG. Is the Senator sure it is noncontroversial?

Mr. HARTKE. Yes.

Mr. LONG. Then, Mr. President, I ask unanimous consent that we may return to the tariff bill so that the Senator from Indiana may offer an amendment.

Mr. HARTKE. Mr. President, I send an amendment to the desk and ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the end of line 3, insert the following new sections:

SEC. 2. Section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out "or other form of stamp" and inserting in lieu thereof "other form of stamp, or other device".

SEC. 3. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary or his delegate, under such controls for the protection of the revenue as shall be deemed necessary."

Mr. HARTKE. Mr. President, this amendment deals, again, with distilled spirits.

In support of the amendment, I ask unanimous consent to put in the RECORD at this time a letter from the Secretary of the Treasury with which they sent a draft bill to accomplish the very purpose this amendment would accomplish, that is, to provide that the tax on distilled spirits would not necessarily require the affixing of a paper tax stamp. Because of technological improvements, which consist largely of metal and aluminum stampings, there exists an improved method of placing the stamp on distilled spirits.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C. July 13, 1972.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill which would amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps to evidence tax payment of containers of distilled spirits.

Under existing law, the evidence of tax payment required to be placed on containers of distilled spirts is restricted to a stamp. Technological advances in the closure industry indicate that other methods of evidencing tax payment may prove satisfactory in the future. The proposed amendments to existing statutes will provide the necessary flexibility to accommodate such other methods.

A detailed analysis and comparative print are also enclosed for your consideration.

It will be appreciated if you would lay the proposed legislation before the Senate. A similar proposal has been transmitted to the House of Representatives.

Sincerely,

GEORGE P. SHULTZ.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. PROXMIRE. It was my understanding that this bill would be more or less reserved for tariff amendments. I would take that to be a tax matter, suitable for inclusion on a tax bill later.

Mr. LONG. I was under the impression that the Senator wanted to offer a straight tariff amendment.

Mr. HARTKE. I will be glad to withdraw the amendment, if that is the case.

Mr. President, I withdraw the amendment.

Mr. LONG. Then, Mr. President, I ask unanimous consent that the tariff bill be temporarily laid aside, and that the Senate proceed to the consideration of H.R. 7577.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

Mr. LONG. Mr. President, this bill is a noncontroversial measure that was passed, so far as I know unanimously, by the House of Representatives on November 17, 1971.

It would provide that the exclusion from the definition of the term "employment" under the Federal Unemployment Tax Act of services of insurance agents and solicitors who are compensated on a commission basis will be applied on a calendar quarter rather than an annual basis or individual pay period basis.

The committee found no reason to object to the House-passed bill, or any part of it. The committee did choose to recommend amendments to the measure. The first amendment relates to withholding for purposes of income taxes imposed by certain cities on the compensation of Federal employees. Present law provides that where the State laws require the withholding by the employer of a tax from the compensation of employees, the Federal Government, when certain conditions are met is, upon request, to enter into an agreement to withhold the State tax from compensation paid Federal employees who are employed in the State. This provision amends the statute to provide also for the withholding of city taxes by the Federal Government under certain conditions with respect to its employees who are employed in a city with such a tax if the city has a population of 60,000 or more.

This was a problem that was raised by the Senator from Ohio (Mr. TAFT) in connection with other legislation, and as the manager of the bill, at that time I assured him we would seek to see that the Senate had a chance to consider it and act on it on some appropriate measure, and the committee is now seeking to fulfill the commitment I made on that occasion.

The second amendment, Mr. President, relates to a general tax problem involving the tax on automobiles in the State of West Virginia. That matter has been dealt with by the Senate on another bill, but I see no harm in including it in this one, just as we have already passed the unemployment insurance bill on more than one matter, so that it might have a better chance to be considered on whatever measure might be agreed to by the House conferees.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, if this is a bill on which a number of amendments can be offered, I would like to send an amendment to the desk and ask for its immediate consideration.

Mr. LONG. First, Mr. President, I ask unanimous consent that the committee amendments I have described be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

Mr. PROXMIRE. Mr. President, before we agree to those amendments, could I ask the chairman of the committee, have the amendments been approved by the Treasury Department?

Mr. LONG. Yes.

Mr. PROXMIRE. What is their effect on revenue?

Mr. LONG. It is very slight. The only effect would be with regard—in just a moment, I think I can give both citations. Let me read from the committee report:

> The committee estimates that the provision of the bill dealing with the Federal unemployment tax in case of insurance agents remunerated solely by commissions will have an inconsequential effect on Federal unemployment tax revenue. The provision of the bill dealing with the withholding of city income tax on Federal employees will have no effect on the revenues. The provision of the bill dealing with the deductibility of a portion of a State tax on motor vehicles where the general sales tax rate is less is estimated to result in a decrease in 1972 Federal individual income tax liability of about $1.5 million.

Of course, that has been agreed to on a previous bill that we have passed, that involves people who buy automobiles in the State of West Virginia and in the State of Vermont, where those taxpayers are subject to discrimination against them for the reason that the State tax on their automobiles exceeds the general sales tax in those States, and they, at this moment, are being discriminated against.

The bill in that respect would simply say that they can receive the same consideration that all other taxpayers receive where the tax on automobiles in the State does not exceed the general sales tax in the State.

Mr. PROXMIRE. The reason I raise this point is to save the Senate's time and, since the chairman is so busy right now, to save some of his time. I have decided I am going to object, and fight and oppose as long as I can, any amendments called up on the floor that have not had hearings, and we have not had a report, where we can determine there is going to be a revenue loss

In this case, we have passed this before already. It does cost $1.5 million, but under the circumstances I would not oppose that, because it has been acted on in an orderly way.

But on the new amendments, I am serving notice that from now on, as long as I can be here, I am going to object to every proposal that will cost the Treasury money as long as it has not been considered in an orderly way.

Mr. LONG. I hope the Senator will let Senators explain their proposals and, if he is convinced beyond any doubt that it is a good proposal he would give it the same consideration as other measures. If he has any doubts about it, he would be acting properly in objecting.

Mr. PROXMIRE. I must say that the Senator was very hopeful in providing 13 amendments with an analysis of what they would do. I have had a chance to go over them, have discussed them with some research people, and am opposing each of those amendments that would cost the Treasury money. There are one or two that do not, to which I have no objection.

Mr. BENNETT. Mr. President, will the Chair have my amendment reported?

The PRESIDING OFFICER. First, is there objection to the request of the Senator from Louisiana that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment?

Without objection, the committee amendments are agreed to and the bill as thus amended will be treated as original text.

The amendments I agree to en bloc are as follows:

SEC. 2. Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b), and

(2) by inserting before the period at the end of subsection (c) the following: ", and 'city' means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request under subsection (a)) of sixty thousand or more individuals".

(b) The heading for such section 5517 is amended to read as follows:

"§ 5517. Withholding State and city income taxes."

(c) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes."

(d) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

SEC. 3. (a) Section 164(b)(2) of the Internal Revenue Code of 1954 (relating to general sales taxes) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax."

(b) The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 1971.

The PRESIDING OFFICER. The amendment of the Senator from Utah will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT's amendment (No. 1620) is as follows:

At the end of the bill add a new section:

Sec. —. Section 6601 of the Internal Revenue Code of 1954 shall not apply to a taxpayer who was required to deduct and withhold tax under chapter 24 of such Code for the period beginning July 1, 1966, and ending June 30, 1968, and who was a chief officer (other than a layman) of an organization described in section 501(c)(3) during that period. The preceding sentence shall be effective with respect to interest attributable to taxes required to be deducted and withheld under chapter 24 of such Code for the period beginning July 1, 1966, and ending June 30, 1968, if the Commissioner of Internal Revenue or his agent has determined not later than August 16, 1972, that the failure to deposit such taxes was due to reasonable cause and not due to willful neglect, in accordance with sections 6651(a) and 6656(a) of such Code.

Mr. BENNETT. Mr. President, I am submitting this amendment at the request of the two Senators from Michigan. The story behind the amendment is very simple.

In 1966 the archdiocese of the city of Detroit sponsored an OEO program, and apparently the heads of that religious organization did not realize that they were in fact the employers of the men who worked in this program, and they did not withhold taxes against their wages, as required by law.

This resulted, when the Department discovered it, in a substantial tax bill that was presented to the archdiocese—something over $100,000—and they have paid it. But because they did not discover it for 2 years, they developed an interest obligation.

The purpose of this amendment is to free the archdiocese from the responsibility of paying the interest on the tax that accrued before they realized what they had gotten themselves into. The amount involved is $50,000, and at the request of the Senator from Michigan I am offering this amendment, which would in effect relieve the archidiocese of the interest due under this responsibility; and I ask the chairman if he will accept the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. Is it the archbishop or the cardinal who finds himself in this position?

Mr. HART. I am sure it is not an assistant pastor. It is probably the cardinal.

I would hope very much that the equities of this plea persuade the Senator from Wisconsin to give it a good look.

Mr. PROXMIRE. I have had this matter explained. I understand that this would be a one-time loss only, not annual; No. 2, that it involves approximately $50,000; No. 3, that it affects OEO workers and was not an error on their part, but it is something that does provide for equity. Under the circumstances, I have no objection.

Mr. HART. I am very grateful. May I say that $300,000 is the principal sum.

Mr. BENNETT. I did not have that figure before me.

Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

TOXIC SUBSTANCES CONTROL ACT OF 1972

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1478.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the amendments of the House of Representatives to the bill (S. 1478) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Toxic Substances Control Act of 1972".

TABLE OF CONTENTS

Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Test protocols.
Sec. 5. Limited premarket screening of substantially dangerous chemical substances.
Sec. 6. Regulations applicable to hazardous chemical substances or class of substances.
Sec. 7. Imminent hazards.
Sec. 8. Reports.
Sec. 9 Exemptions and relationship to other laws.
Sec. 10. Chemical Substances Board.
Sec. 11. Research.
Sec. 12. Administrative inspections and warrants.
Sec. 13. Exports.
Sec. 14. Imports.
Sec. 15. Confidentiality.
Sec. 16. Prohibited acts.
Sec. 17. Penalties.
Sec. 18. Injunctive enforcement and seizure.
Sec. 19. Citizen civil action.
Sec. 20. Environmental prediction and assessment.
Sec. 21. Cooperation of Federal agencies.
Sec. 22. Health and environmental data.
Sec. 23. State regulations.
Sec. 24. Judicial review.
Sec. 25. National security waiver.
Sec. 26. Authorization for appropriations.

DECLARATION OF POLICY

Sec. 2 (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some which may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their safety to health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards;

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment; and

(4) as set forth herein, citizens should be encouraged to participate in carrying out the purposes of this Act.

DEFINITIONS

Sec. 3. As used in this Act the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element;

(3) "environment" includes water, air, land, all living things therein, and the interrelationships which exist among these;

(4) "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance;

(5) "importer" means any person who (A) imports a chemical substance for sale or distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for sale or distribution in commerce for commercial purpose;

(6) "manufacturer" means any person who manufactures a chemical substance;

(7) "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product, as defined by rule by the Administrator;

(8) "manufacture" means to produce or manufacture;

(9) "test protocol" means—

(A) a test designed to determine the effect of a chemical substance (or class of chemical substances) on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance (or class of substance) on health or the environment,

(B) the procedures to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to show that such chemical substance (or class of substances) does not pose an unreasonable risk to health or the environment;

(10) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands;

(11) "to distribute in commerce" and

"distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce;

(12) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof; and

(13) "United States" when used in the geographic sense, means all of the States (as defined in paragraph (10)).

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance (or class of chemical substances) in accordance with a test protocol for such substance (or class of substances) is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance or class of substances, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Such test protocols may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance (or class of substances) and epidemiological studies of the effect of such substance (or class, of substances).

(d) A rule under this section may require that any person who is a manufacturer, processor, or importer of the chemical substance (or class of substances) perform the test called for in the test protocol. In the case of a test protocol for a chemical substance (or class of substances) for which there is more than one manufacturer, processor or importer, the Administrator may, in appropriate cases, permit the manufacturer, importers or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If the manufacturers, importers or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may designate one or more of such manufacturers, processors or importers, or may designate a qualified independent third party, to perform the required test, and may require such manufacturers, processors or importers to contribute to the costs of such tests.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may direct any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKER SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or classes of chemical substances) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, severe personal injury or illness, or severe harm to the environment.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environment exposure; and

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data which show that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not produced or distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance, submits to the Administrator test data which show that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) If a test protocol has been prescribed under section 4 for a chemical substance (or class of substances) which is listed pursuant to subsection (a) of this section and such protocol is applicable to the intended use of the chemical substance, test data satisfying such protocol may be submitted in satisfaction of the requirements of subsections (c) and (d) of this section. If no test protocol applies to the intended use of the chemical substance listed under subsection (a) of this section, the person intending to manufacture or distribute the chemical substance may, in satisfaction of the requirements of subsections (c) and (d) of this section, submit such test data as he believes are sufficient to make the showings required under those subsections. If no test protocol prescribed under section 4 is applicable to an intended use of such substance, the person intending to produce or distribute such chemical substance or member of a listed class of substances may petition the Administrator to develop and issue a test protocol for such substance (or class of substances) or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance (or class of substances). If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f) The Administrator may exempt any person from the requirements of subsections (c) and (d) of this section where he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with these subsections.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take immediate effect pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes; upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment; and under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE OR CLASS OF SUBSTANCES

SEC. 6. (a) Upon a finding that a rule under this section is necessary to protect against unreasonable risk to health or the environment the Administrator may prescribe rules—

(1) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce;

(2) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) for a particular use or uses or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce for such use or uses; and

(3) requiring that a chemical substance (or member of a class of substances) or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal in such form and bearing such content as the Administrator determines to be appropriate.

(b) (1) Rules under this section may be limited in application to specified geographic areas.

(2) (A) Rules under subsection (a) (1) of of this section which limit the amount of a chemical substance or class of substances) which may be manufactured, imported, or distributed in commerce, and rules under subsection (a) (2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance (or classes of substances). The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation. The last sentence of section 24(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in serious damage to human health or the environment prior to the completion of a rulemaking proceeding under subsection (a) and where the Administrator determines that such action is necessary in the public interest, he may declare proposed rules under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f) (1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2) (A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person participates in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all participants are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designed by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b) (2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in an unreasonable risk to health or the environment prior to the completion of an administrative proceeding under this Act.

(b) (1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a) (2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a) (1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d) (1) An action under subsection (a) (2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a) The Administrator may by rule require any manufacturer or importers of any chemical substance and, where appropriate, any processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following—

(1) the names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(3) the categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(4) reasonable estimates of the amount of each substance manufactured, imported, or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(b) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products, or

(2) foods, drugs, devices, or cosmetics (as such terms as defined in sections 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act). The term "food" as used in this paragraph includes poultry and poultry products (as defined in section 4(e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance (or class of substances) or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law, including the Federal Insecticide, Fungicide, and Rodenticide Act; the Atomic Energy Act of 1954; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Substances Act; and the Occupational Safety and Health Act of 1970.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Such Board shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such Board, other than chemical industry representatives, shall have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a list of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5 (1) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the list of consultants to the Board, except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such committee shall have a significant economic interest in the manufacturing, processing, distribution, or sale of any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized: (1) to make contracts and grants for such research and monitoring; and (2) to plan and design such research laboratories as may be necessary to carry out the purposes of this Act.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act) —

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof,

in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building, to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a) (2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export, except that (1) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (2) no chemical substance or article containing such substance may be exported if the Administrator by rule finds that the chemical substance or article as exported and used will, directly or indirectly, pose an unreasonable risk to health within the United States or the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, shall furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act including the Chemical Substances Board and committees formed under section 10, or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, 6 or 8 of this Act or any rule prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(3) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6 of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation. For the purposes of this subsection, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(b) Any person who willfully violates section 16 of this Act shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

CITIZEN CIVIL ACTION

SEC. 19. (a) Except as provided in subsection (b) of this section, any interested and adversely affected person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule promulgated under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after giving of notice any such person giving such notice may intervene as a matter of right in such action.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award fees for expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the evironmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not establish or continue to enforce any restriction of its own applicable to such substance or class for purposes similar to such rule after the effective date of such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 24. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review rules promulgated by the Administrator under sections 4, 5, and 6 in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under sections 4, 5, and 6 of this Act shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the Administrator that the requested waiver is in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $10,000,000 for the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

And amend the title so as to read: "A bill to regulate commerce to protect health and the environment against toxic chemical substances."

Mr. MOSS. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the

Senate to S. 1478, with amendments which I now send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. MOSS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

On page 13, immediately following subsection (k), insert the following new subsection:

"(1) The Administrator may, by rule, prescribe procedures for the purpose of ensuring that manufacturers, processors, or importers of chemical substances which were not produced or distributed in commerce for commercial purpose prior to the date of enactment of this Act, furnish notice, a description of such chemical substance, and technical data relating to the environmental or public health effects of the substance to the Administrator before its distribution in commerce."

On page 22, line 19, strike "or".

On page 23, line 4, strike the period and insert in lieu thereof "; or".

On page 23, between lines 4 and 5, insert the following:

"(3) pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act and chemical substances used in such pesticides, except that if a chemical substance which constitutes such pesticide or such ingredient is used for any purpose other than such pesticide, this Act shall apply to such use."

On page 23, line 5, strike "The", and insert in lieu thereof "Except for sections 4, 5, or 8, the".

On page 23, line 10. immediately following "extent" insert "in a reasonable time and in a reasonable manner".

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, yesterday the House passed S. 1478, the Toxic Substances Control Act of 1972. The Senate acted on S. 1478 on May 30 of this year.

While the House bill contains many desirable features, there are two features of the bill which I feel the Senate should not agree to. As the Congress will adjourn either today or early next week at the latest, there is no time for a conference to determine and decide the issues. Consequently, the motion I have made is designed to reconcile the differences between the House and Senate versions. If Congress does not adjourn until early next week, the House will have an opportunity to consider the compromises which are embodied in the amendment I propose.

The first change in the House bill suggested by the amendment would treat the problem of to what extent EPA will have knowledge of new chemical substances prior to their introduction into the marketplace.

Under the Senate bill, EPA would receive premarked notification of new chemical substances at least 90 days prior to commercial production. The House version, on the other hand, provides for a similar procedure with respect to new chemical substances which are likely to pose substantial danger to the health of the environment, but provides no such procedure for new chemical substances for which dangers are unknown. The compromise suggested by the amendment would require premarket screening for those substances required to be screened by the House bill but would additionally authorize prescreening of other new substances as well.

After receiving notice from the manufacturer prior to distribution in commerce, EPA could prevent unreasonable environmental or public health threats prior to marketing by invoking the procedures of section 6 of the House bill which authorizes EPA to prescribe rules to protect against unreasonable risks to health or the environment. Thus, if the data that a manufacturer, processor, or importer furnishes prior to marketing shows that unreasonable threats may exist, or if the information is insufficient to make a judgment that it is safe, EPA would be expected to take appropriate regulatory action under section 6.

The other problem with the House bill concerns the relationship of this legislation to other environmental and public health statutes. The Senate bill provided that pesticides; foods, drugs, cosmetics, and devices subject to the Federal Food, Drug, and Cosmetic Act; and material subject to the Atomic Energy Act would not be regulated by this legislation. Tobacco and tobacco products and the extraction of minerals would likewise be excluded as would the regulation of hazards which are covered by the Occupational Safety and Health Act. The House bill exempts foods, drugs, devices, and cosmetics subject to the Food, Drug, and Cosmetic Act and tobacco products in a manner similar to that adopted by the Senate bill. However, the House bill imposes significant restrictions beyond those imposed by the Senate bill on the authority which the EPA might have with respect to other chemical substances.

The House version prohibits the Administrator from exercising his authority under this act if any risk to health or the environment could "be prevented or reduced to a sufficient extent by actions taken under any other Federal law."

The compromise suggested by the amendment would preserve the inapplicability of this act to tobacco; foods, drugs, devices, or cosmetics subject to the Food, Drug, and Cosmetic Act; and pesticides as regulated by the Federal Insecticide, Fungicide, and Rodenticide Act.

With respect to chemical substances which might fall within the scope of other environmental or public health law, the amendment requires that the Administrator shall not regulate risks arising from those chemicals if such risks could be "prevented or reduced to a sufficient extent in a reasonable time and in a reasonable manner." It is feared that if this provision of the House bill remains intact without the amending language, if any other law could reduce risks to a sufficient extent in any manner and after any amount of time had elapsed EPA could not act under this authority. Take the example of a consumer product which presents environmental risks because of the presence of a toxic constituent that might be controlled by sewage treatment. Even though the construction of those treatment facilities would be extremely expensive and would take a great deal of time to construct, the Administrator would have no authority under this act to prevent the presence of that toxic constituent in the consumer product. The amending language is intended to solve this problem by allowing EPA to act under this authority if the same result could not be obtained under other authority in a reasonable manner. What is intended is that the act could be used whenever the problem could be more effectively dealt with under this law rather than other authority. Since the only "reasonable" disposition of the problem involved would be that which controls it most effectively in terms of cost, time, and other relevant factors, EPA would be able to choose among its various authorities to determine the most effective way to proceed.

The amendment also authorizes EPA to gather information with respect to risks that might be controlled under other statutes. This provision will enable EPA to use this authority to gather data which will be useful in assessing risks that can be controlled by other statutes.

While there are other less acute problems with the House bill, in my view the amendments represent a reasonable compromise between the two versions. Should the amendments be accepted, I feel that the final product will be very similar to that which would emerge from conference and will provide an extremely workable framework for the control of toxic substances.

Mr. President, I emphasize that it was just last night that the House passed the bill and sent it here, thus it is necessary to use this means to see if we can compromise the differences to get what the Senate considers a reasonable bill. If the matter is sent to the House, they still have time to accept this amendment. Quite clearly there would be no time to convene a conference.

The ranking Republican member of the committee indicated, in conversations that I had with him before, that he had some reservations on this matter, and I will therefore be happy to yield to him if he cares to state any position at this time.

QUORUM CALL

Mr. COTTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE JOINT RESOLUTION 733—GRANTING CONSENT OF CONGRESS TO CERTAIN BOUNDARY AGREEMENTS BETWEEN THE STATES OF MARYLAND AND VIRGINIA

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 733.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 733) granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered and agreed to.

The preamble was agreed to.

QUORUM CALL

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOXIC SUBSTANCES CONTROL ACT OF 1972

Mr. COTTON. Mr. President, I had hoped that we would have more Members in the Chamber, which was the purpose of my calling a quorum. It was not a delaying tactic. I think that the Senate, or at least such Members as are present, should have clearly in mind the situation that has arisen.

Both the House and Senate passed so-called toxic substances bills.

The Senate bill is much more far-reaching than the House bill.

As a matter of fact, it should be borne in mind that we already have several laws enacted affecting this subject—and very laudable legislation—most of which has come from the Commerce Committee with support of the entire committee. For example, we have the Federal Food, Drug, and Cosmetic Act; the Poultry Products Inspection Act; the Federal Meat Inspection Act; the Egg Products Inspection Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Atomic Energy Act; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Substances Act; and the Occupational Safety and Health Act.

Now, the Federal Hazardous Substances Act might sound synonymous with the bill now under consideration. Actually, that act has to do with consumers and with substances that would be injurious to human beings. But, the point is that all of these acts are illustrative of the volume of laws we now have on the books.

Although this Toxic Substances Control Act was reported by the committee without dissenting votes, as I recall, the distinguished Senator from Tennessee (Mr. BAKER), did have some reservations and wrote supplemental views.

Under this bill as passed by the Senate, the Administrator of the Environmental Protection Agency was not only empowered, but required to take action against any substance which he considered posed a threat to health or the environment. And, it carried a fine of $25,000, I believe, for a knowing violation.

It made him practically a "czar" over future chemical substances.

For example, we all know about detergents. We know what is being done to reduce phosphates in detergents by industry itself.

But, so far as I have been able to ascertain, the Senate-passed bill would have reached even new substances that might come into being some time in the future. And, it puts in the hands of one man the power to regulate all such presently unknown substances.

We all realize the need of protecting the environment. It has become, in one sense, to a certain extent a phobia, because almost everything we do can be considered to have some effect upon the environment, however small or remote that may be.

However, there also must be some advantage to be derived from the large sums of money spent in scientific research by private chemical industries to develop new chemicals for some beneficial purpose. I do not say that such chemicals cannot carry side effects that should be guarded against, but neither should we unduly impede such research.

The House-passed bill, on the other hand, does not go as far. It did not, if my memory serves me correctly, propose regulation of future chemical substances that have not yet come into being, that are not even presently contemplated, and which could be regulated by one man who would be the "czar" of the enforcement of this act.

The House has taken an alleged position on this bill, which I do not advocate. It has taken such a position in several instances. And, without criticizing the other body, which cannot be permitted under our rules, I think the House has had a tendency to be arbitrary. Its position on this bill is—and I have been informed directly by those on the committee and I understand my colleague was so informed by the chairman of the House committee—the House bill or nothing. It will not accept the far-reaching provisions of the Senate-passed bill.

I can quite understand why my friend, the distinguished Senator from Utah (Mr. Moss), does not propose to disagree with the House, ask for a conference, and appoint conferees, even though we may still have until Monday or Tuesday to deal with that situation.

Instead, he wishes to offer certain amendments to S. 1478, as passed by the House. We can discuss these amendments which seem to me to be somewhat insignificant. For example, one would make it permissive for the Administrator of the Environmental Protection Agency to regulate any new chemical substances, with the only recourse being lengthy litigation in the courts. But, it does not require him to so regulate, but he may do it.

Mr. President, frankly, I do not think that this is the way to handle highly technical legislation such as this bill. All through the past months the Commerce Committee, on which I am proud to serve, has been grinding out legislation to protect the health and safety of human beings. They are good bills and it is a proud record.

I unhesitatingly praise the distinguished chairman of our committee, the Senator from Washington, the distinguished Senator from Utah (Mr. Moss) and all other committee members for these constructive legislative efforts. But, if the House has one version of this extremely technical bill; the Senate, another, and we are in the closing hours when we are legislating under the gun, then it is my opinion that nothing is to be gained by legislating on the floor—adding amendments to the bill and sending it back to the House.

If we want to put them to the test and find out if the House is willing to meet us halfway, we could disagree and ask for a conference. If they turn us down that is proof enough of who is to blame for the failure to legislate.

But, what we are talking about with this amendment are chemical substances that, as far as we know, no one has dreamed up yet. It is a substance that may be invented or devised at some future point in time. Yet, this amendment seeks to include it and confer on the Administrator of the Environmental Protection Agency this arbitrary regulatory power over something that has not even happened. Quite frankly, I doubt very much if between now and next spring some chemical company is going to come forth with something that is going to destroy our environment and make it hazardous to live on this earth.

I feel very strongly about trying to legislate at this point in time between the diametrically different views of the House and the Senate. It is an exercise in futility at the very best; and, at the worst, it is a very dangerous practice.

Therefore, Mr. President, the Senator from New Hampshire very strongly opposes this method of adopting at the last minute new amendments to House-passed bills, and sending them back to the House, when I doubt it would do any good. I doubt that they would be accepted. But, even if they were accepted, in my opinion it is not the careful and judicious way to legislate.

Mr. President, may I inquire what the parliamentary situation is? Some amendment has been offered. Is that correct?

Mr. MOSS. I made a motion to concur with amendments and that is the pending question.

Mr. COTTON. Would it be in order for me, with this amendment pending, to make a motion that the Senate disagree with the House and appoint conferees? Or, must that motion wait until the amendment is disposed of?

The PRESIDING OFFICER. The motion to concur takes precedence over a motion to disagree and ask for a conference.

Mr. COTTON. I do not think it was a question of a motion to concur.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. COTTON. Certainly.

Mr. MOSS. My motion was that we concur with the amendment of the House to the Senate bill with amendments. It is a motion to concur with amendments, and that takes precedence.

Mr. COTTON. And, that takes precedence. Very well, I will withhold such a motion, of course, under that ruling. But, I feel I must oppose the adoption of the amendments and this procedure for legislating. If the motion to concur does not prevail, then I serve notice that I will move that we disagree with the House, ask for a conference, and name conferees. I might have something more to say later about the merits of this matter, but I thank the distinguished Senator from Utah (Mr. Moss) for permitting me to make this statement.

Mr. MOSS. Mr. President, I understand the feeling of the Senator from New Hampshire on being presented on what even now we think is the last day of the session, with a House bill and being deprived of the opportunity to appoint conferees and go to a conference. But it is a factual situation that exists. When I called up the House message I pointed out that the Senate acted on this bill on May 30 of this year and it was not until today that the House bill came over and the House has made extensive amendments. We are faced with a situation in which we must do the best we can.

If we appoint conferees and send it to the House, there would be a question of how we could meet and we all know of the problems that prevail in a conference. So in an attempt to salvage at least the best part of this bill it was thought desirable that we propose the amendment now before us, hoping that a halfway position between the House bill and the Senate bill could be agreed to. In effect, we are sending them a compromise that might be expected from a conference if a conference were held.

I recognize there is no assurance that the House will accept that. They can sit on it and let it die and we are helpless to do anything about it, just as we could let it die here. But there is a possibility that the House may take our amendment.

As the Senator from New Hampshire pointed out, this bill deals with substances that are hazardous to public health or the environment and, therefore, we are talking about a very important area. As our senior Republican colleague on the committee pointed out, this was reported by the committee without dissent. There were additional views and explanation. One of the Senators wished to make additional views but he did not vote "No." So it came out by unanimous vote. We think it is a very good bill and we hope we can salvage the best features of the bill the committee reported. We are proud of the work done, as the Senator from New Hampshire said.

Therefore, I hope very much the amendment will be adopted by this body and that we will then send the bill to the House with the amendment. If they concur it could go to the President. If they do not concur there is nothing we can do to compel them.

Therefore, I submit the amendment and ask that it be voted on by this body.

Mr. COTTON. Mr. President, I will not take more than a minute.

First, I ask unanimous consent to have printed in the RECORD at this point the supplemental views of Mr. BAKER, in which some of us concur.

There being no objection, the supplemental views were ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL VIEWS OF MR. BAKER

While I support the purposes of this legislation and voted to report the measure to the Senate, I think that it is desirable to point out an inherent danger made possible by the pre-market screening provisions of section 104: that in our zeal to protect the populace from "unreasonable" health or environmental hazards we will also "protect" it from the benefit of many new chemical products and stifle development, particularly on the part of small chemical companies, of new products which may pose no such hazards.

It seems to me that proponents of consumer legislation have an unrealistic attitude toward industry in general. Examples of cases in which industry seems to disregard the public interest in order to increase profits are devoured by consumer groups and the press. We often fail to recognize, however, the simple fact that American industry is dependent on the people of this country for its success. While the public has a right from a moral standpoint, to expect fair and honest treatment from manufacturers, manufacturers have a material interest in such a fair and honest attitude toward the consumer. A company's reputation rests in large part on the quality of its products and it is to the company's interest to see that its products are carefully developed and tested before they are introduced in the marketplace.

Such an attitude toward industry can result in legislation which takes on punitive overtones and which seems to be based on the assumption that industry will try to get away with as much as possible, regardless of what the effects on the public might be, and that it is the responsibility of the Federal Government to shelter and protect the public against these outrageous attempts.

I feel that this attitude is unrealistic, unreasonable and unnecessarily restrictive of American industry, and I am concerned that traces of this attitude are evident in the pre-market screening requirements of Section 104 of this bill. I have not been convinced that pre-market screening of new chemical substances is necessary to protect the public health and safety. If this provision were to be deleted, as suggested by the Administrator of the Environmental Protection Agency, we would still be left with very strong testing and reporting requirements for industry and the Administrator would still have authority to restrict the use or distribution of chemicals and to condemn chemicals where imminent hazards exist.

While I hope that my fears will prove unfounded, I fear that we are imposing burdens on the chemical industry, and especially on small companies, which will be so heavy as to discourage research and development of new products and stifle the further growth of an industry which has made great contributions to progress in all aspects of our daily lives.

HOWARD H. BAKER, Jr.

Mr. COTTON. Mr. President, I do not know what Members of the House have indicated to my friend from Utah, but as far as this Senator is concerned, he has the adamant statement that the House will not accept anything that goes farther and grants more power than the House bill confers.

It has always been my understanding that the way to win friends and influence people is to try to reason with them. It seems to me that the suggestion of the Senator from Utah (Mr. Moss) is that the Senate take the same kind of adamant position the House is taking, and I know I find their position irritating. The House says, "Do not bother with it; do not fool with it; you take our bill or nothing."

Well, instead of saying, "We cannot take your bill; we ask for a conference; we name conferees; can we sit down and reason together?"—as our dear friend, former President Johnson, used to say so many times—the Senate will be saying, in defiance to the House, "We are sending the bill back to you with two amendments, now you take it or leave it."

The question is, when we get through with it, who is to blame? On whose back does the monkey rest?

What we should do, in the prescribed parliamentary way, is simply but courteously, say to the House, "We cannot agree. We ask for a conference. We name conferees and ask you to confer with us." Then, if they refuse to deal with us, and if—and it is a big "if"—between now and next May or June some laboratory produces some horrible chemical substance that is a menace to the environment, we are not to blame for it. The House stopped the legislation by not going to conference.

But, if we adopt the same tactics, and instead of saying, "We would like to sit down and talk with you," we amend the bill and send it back saying, "You take this or leave it," I think that is the surest way to get nowhere.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. MOSS. By sending this amendment back to the House, I do not think we are giving them any ultimatum and saying, "You now have to take this." They can always ask for a conference on that side, if they want to. What we have here is a reasonable compromise. It goes halfway. We have given a good bit to them, but we have restated some points that seem to be of great importance to us that we want to keep in the legislation. So it is a compromise. Perhaps the House will be adamant, as some think it will be, but at least we will have tried to do everything we can to get legislation this year.

Mr. COTTON. There are two answers to what the Senator has said. The first answer is that I cannot associate myself with the idea that this is halfway ground. It still confers upon one person, the Administrator of the Environmental Protection Agency, the arbitrary power to deal with any future chemical substance that might be brought forth. It simply says he is not compelled to, but he may. To my mind, that is not a halfway ground.

In the second place, if there is neither haste nor the possibility of adjourning in the wee hours tonight, but rather going over to next Monday or Tuesday at the latest, then all we are doing is delaying consideration of the bill by sending it back to the House with amendments for it to look at and see if it will accept them or ask for a conference.

The fastest, safest, most sensible and reasonable way, in my opinion is to respectfully disagree with the House, appoint our conferees, and let them sit down and decide.

I do not regard these two amendments of the Senator as anywhere near a halfway ground. And, I doubt that the House will either.

Mr. MOSS. May I just take 30 seconds to say that the chemical substances we are talking about are those for which little or no information exists with respect to damage to the health or environment, and the procedures that the EPA must follow under the act prevent arbitrary actions.

Mr. President, I yield the floor and ask for a vote.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not.

The yeas and nays were not ordered.

Mr. COTTON. Mr. President, I suggest the absence of a quorum. I would like to save this legislation.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I again ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to concur in the House amendment with a Senate amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Then Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from Kentucky (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. SAXBE), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) and the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 29, nays 22, as follows:

[No. 566 Leg.]

YEAS—29

Anderson
Bentsen
Boggs
Burdick
Byrd, Robert C.
Cannon
Case
Ervin
Gambrell
Gravel
Hart
Hartke
Inouye
Javits
Jordan, N.C.
Long
Magnuson
Mansfield
Miller
Moss
Nelson
Proxmire
Randolph
Roth
Schweiker
Stevenson
Symington
Tunney
Williams

NAYS—22

Aiken
Allen
Beall
Bennett
Buckley
Byrd, Harry F., Jr.
Cooper
Cotton
Dole
Dominick
Fannin
Fulbright
Gurney
Hansen
McClellan
Packwood
Smith
Stafford
Stennis
Stevens
Weicker
Young

NOT VOTING—49

Allott
Baker
Bayh
Bellmon
Bible
Brock
Brooke
Chiles
Church
Cook
Cranston
Curtis
Eagleton
Eastland
Edwards
Fong
Goldwater
Griffin
Harris
Hatfield
Hollings
Hruska
Hughes
Humphrey
Jackson
Jordan, Idaho
Kennedy
Mathias
McGee
McGovern
Metcalf
McIntyre
Mondale
Montoya
Mundt
Muskie
Pastore
Pearson
Pell
Percy
Ribicoff
Saxbe
Scott
Sparkman
Spong
Taft
Talmadge
Thurmond
Tower

So Mr. Moss' motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment, the following bills of the Senate:

S. 655. An act for the relief of certain postal employees at the Elmhurst, Illinois, Post Office;

S. 909. An act for the relief of John C. Rogers;

S. 2147. An act for the relief of Marie M. Ridgely;

S. 2270. An act for the relief of Magnus David Forrester;

S. 2275. An act for the relief of Wolfgang Kutter;

S. 2469. An act for the relief of Kenneth J. Wolff;

S. 2714. An act for the relief of Master Sergeant William C. Harpold, United States Marine Corps (retired);

S. 2753. An act for the relief of John C. Mayoros;

S. 2822. An act for the relief of Alberto Rodriguez;

S. 3055. An act for the relief of Maurice Marchbanks;

S. 3257. An act for the relief of Gary Wentworth, of Staples, Minnesota;

S. 3326. An act for the relief of the Appalachian Regional Hospitals, Inc.;

S. 3583. An act for the relief of Gerald Vincent Bull; and

S. 4059. An act to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent to a chemical test of his blood, breath, or urine, for the purpose of determining the blood alcohol content.

The message also announced that the House had passed the bill (S. 3483) for the relief of Cass County, N. Dak., with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 1467) to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. BYRNES of Wisconsin, and Mr. BETTS were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8395) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants to States for rehabilitational services to those with severe disabilities, and for other purposes.

The message further announced that

the House had agreed to the amendments of the Senate to the bill (H.R. 11032) to enable the blind and the otherwise physically disabled to participate fully in the social and economic life of the District of Columbia.

The message also announced that the House insisted on its disagreement to the amendment of the Senate to the bill (H.R. 11773) to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 3337. An act to amend the Small Business Investment Act of 1958, and for other purposes;

S. 3507. An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes;

J. Res. 204. Joint resolution to authorize the preparation of a history of public works in the United States; and

J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week."

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination which was reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. HART). The nomination on the Executive Calendar will be stated.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I think this is an excellent choice to the position to which he has been assigned. I am delighted that he has received the unanimous approval of the Senate.

Mr. JAVITS. Mr. President, I thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

AUTHORIZATION TO CARRY OUT JELLYFISH CONTROL PROGRAMS

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 16074.

The PRESIDING OFFICER (Mr. HART) laid before the Senate a message from the House of Representatives on H.R. 16074, which was read twice by its title.

Mr. STEVENS. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 16074) was ordered to a third reading, was read the third time, and passed.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

Mr. HARTKE. Mr. President, I have an amendment at the desk which I ask to have reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 2, at the end of line 3, insert the following new Sections:

SEC. 2. Section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out "or other form of stamp" and inserting in lieu thereof "other form of stamp, or other device".

SEC. 3. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary or his delegate, under such controls for the protection of the revenue as shall be deemed necessary."

Mr. HARTKE. Mr. President, under the existing law containers of distilled spirits——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Will the Senator please suspend?

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from Indiana may proceed.

Mr. HARTKE. Mr. President, under existing law, containers of distilled spirits must have affixed thereto a stamp, commonly known as a "strip stamp," as evidence of tax payment. The Hartke amendment would change section 5205 (h) of chapter 51 of the Internal Revenue Code of 1954—relating to the form of the stamp required to indicate payment of tax—to authorize the Secretary of the Treasury or his delegate to prescribe a "device" other than a stamp for use on containers of distilled spirits as evidence of tax payment.

The second proposed change would amend section 6801(b) of chapter 69 of the code to permit the Secretary of the Treasury to authorize persons outside the Treasury Department to prepare and distribute the stamps "or other devices" required or prescribed for use on containers of distilled spirits. Section 6801 (b) of the code currently restricts the preparation and distribution of stamps to the Secretary or his delegate.

Technological advances in the closure industry indicate that materials or methods other than strip stamps for evidencing tax payment of containers of distilled spirits may prove satisfactory in the future. If so, the addition of the words "or other devices," to section 5205 (h) will allow the Treasury Department to recognize such a development and to authorize other forms of evidence of tax payment.

In order to take advantage of possible future developments in the closure industry, it is necessary to amend section 6801(b) relating to the preparation and distribution of stamps. The present requirement that the Secretary or his delegate prepare and distribute stamps is entirely satisfactory as long as paper stamps are used, since the Bureau of Engraving and Printing is geared to the printing of paper. However, the restriction does, in effect, exclude consideration of most other methods and materials because the Government generally is not equipped to process other materials.

The proposed Hartke amendment to section 6801(b) would provide the authority needed by the Secretary to allow private firms or individuals to prepare and distribute any new devices that might be approved for use as evidence of payment of tax on containers of distilled spirits.

The stamps used on bottles of distilled spirits to evidence tax payment are representative in the aggregate of large amounts of taxes. Preparation and distribution of the stamps, or any other device that might be used to indicate payment of tax, could not be released from the control of the Secretary of the Treasury without abandoning the protection to the revenue achieved by the current statute. Therefore, the proposed amendment to section 6801(b) provides that the Secretary shall prescribe the controls believed essential to the protection of the revenue when authorizing persons other than the Treasury Department to prepare and distribute the stamps or devices required for evidence of payment of tax on containers of distilled spirits.

Mr. President, the Hartke amendment has the full approval of the U.S. Treasury. In a July 13, 1972, letter to President Nixon, George Shultz, Secretary of the Treasury, proposes the changes that would be made by the Hartke amendment. Mr. President, I ask unanimous consent that the text of Secretary Shultz' letter be included at this point.

Mr. President, the Hartke amendment has already received favorable action by the House Ways and Means Committee and is sure to receive favorable consideration in conference.

Mr. President, the Hartke amendment is really very simple. It would permit new methods of affixing a tax stamp to be used on an experimental basis. The Secretary of the Treasury has sent a draft of the amendment to Congress. I ask unanimous consent that the letter from the Secretary of the Treasury endorsing this amendment be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 13, 1972.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill which would amend the Internal Revenue Code of 1954 to permit the authorizing of means other than stamps to evidence tax payment of containers of distilled spirits.

Under existing law, the evidence of tax payment required to be placed on containers of distilled spirits is restricted to a stamp. Technological advances in the closure industry indicate that other methods of evidencing tax payment may prove satisfactory in the future. The proposed amendments to existing statutes will provide the necessary flexibility to accommodate such other methods.

A detailed analysis and comparative print are also enclosed for your consideration.

It will be appreciated if you would lay the proposed legislation before the Senate. A similar proposal has been transmitted to the House of Representatives.

Sincerely,

GEORGE P. SHULTZ.

Mr. HARTKE. Mr. President, the House is ready to proceed with a similar amendment. There is no revenue loss whatever.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I would like to proceed at this time with a series of amendments. There are seven amendments. These seven are a part of the amendments included in the Finance Committee summary which have heretofore been discussed by the chairman of the committee, the Senator from Louisiana (Mr. LONG). Mr. President, in the absence of the Senator from Louisiana, who is busily engaged in the conference on H.R. 1 and also the conference on the debt limit, he has requested that I proceed to manage these bills.

I have also discussed these amendments with the distinguished Senator from Wisconsin (Mr. PROXMIRE). Certain amendments which are in this list have now been deleted and will not be brought up. I would like it understood that certain amendments were omitted because there is no clear understanding that the Senator from Wisconsin could agree that they could be taken up at this time.

I do not want to leave any implication that there is any impropriety about the omitted amendments. It is simply for the purpose of expediting the action of the Senate that we not proceed with the omitted amendments at this time. If at a later time they can be cleared to the satisfaction of the Senator from Wisconsin and other Senators, they will be taken up.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. PROXMIRE. Mr. President, I very much appreciate the accommodation of the acting chairman of the Finance Committee and manager of the bill.

I would like to explain, as the Senator from Indiana has said, that the reason I am opposed to these amendments is not because they have no merit. They may have a good deal of merit. In every case they have had no reports and no hearings. There is a substantial revenue loss in every case, and special interests would gain a great amount by their adoption. And that kind of legislation must have more careful scrutiny than we have had in this case.

Mr. President, for example, there is a provision that the aircraft manufacturers would be able to get a special carryback advantage in handling their products that other corporations would not get. It would cost the Treasury $145 million.

We have a special proposal for light-duty trusts, and charitable trusts. There is a bank bond income provision that would cost the Treasury $70 million. There is a capital gains throwback program that is very small in its impact. It would have an effect obviously on people with very large incomes.

While this may be equitable and possible, this is exactly the kind of legislation that ought to receive careful scrutiny in the regular order of business and should not come up in one of the last days of the session without an opportunity to go into them, and without an opportunity to get a report on them or have hearings in the regular process.

For that reason, Mr. President, I have objected to these various measures. Others of the 13 so-called amendments that the Senator from Louisiana referred to earlier today either have an insignificant affect or would actually improve the 1969 act, as I understand it, or would actually in the case of two of these amendments increase the revenue for the Treasury. It would be in the interest of the taxpayers rather than penalize the taxpayers.

Mr. HARTKE. Mr. President, I want to say to the Senator from Wisconsin that those amendments to which he objected are not going to be brought up.

Mr. PROXMIRE. The Senator is correct.

Mr. HARTKE. And for that reason, they will not be considered.

Mr. President, at this time I would like to call up the first amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the act insert:

SEC. . Section 411 (c) of the Tax Reform Act of 1969 (Pub. Law 91–172) is amended by adding at the end thereof: "Notwithstanding the preceding sentence, the amendments made by this section shall not apply to indebtedness incurred before January 1, 1980, where the issuing corporation owned on January 29, 1969, at least 80 percent of the total combined voting power of all classes of stock entitled to vote of the acquired corporation, and if (under the rules contained in section 279 (c) of the Internal Revenue Code of 1954) the ratio of debt to equity of the issuing corporation does not exceed 4 to 1, and the projected earnings exceed the annual interest to be paid or incurred by at least 2 to 1."

Mr. HARTKE. Mr. President, this deals with a deduction of interest on the acquisition of indebtedness in certain cases.

This committee amendment deals with the deduction of interest on certain debt issued in connection with corporate acquisitions. The Tax Reform Act of 1969 enacted a provision which, in general, disallows a deduction for interest on debt obligations which a corporation issues in order to acquire another corporation. However, if the acquiring corporation had effective control of the acquired corporation—50 percent or more of the stock—on October 9, 1969, it may deduct the interest on debt issued subsequent to that date to acquire control of that corporation for tax purposes—80 percent of the stock of the corporation. Any interest paid on debt issued to acquire stock of the corporation above this amount is not deductible by the taxpayer. This provision was adopted in the 1969 act in order to deny a taxpayer a deduction for interest on debt issued simply to acquire stock of another corporation beyond the amount necessary for control; that is, in excess of 80 percent. However, in those cases where a corporation already had control of a corporation on January 29, 1969, debt issued to acquire the remaining shares was not issued in order to acquire the corporation. For this reason, the committee amendment provides that in certain cases where corporations had control of another corporation on January 29, 1969, the interest on debt obligations issued before 1980 to obtain additional stock in the corporation may be deducted.

This provision is estimated by your committee to result in an annual revenue loss of about $500,000. The Treasury Department agrees with this statement.

It is estimated by the committee that there will be annual loss of revenue of half a million dollars under this amendment. As far as I have been able to determine, no interest is given any special consideration under this amendment. And if anything, it eliminates a former inequity in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the act insert:

Sec. —. (a) Section 367(b) of the Internal Revenue Code of 1954 (relating to application of recognition of gain in certain exchanges involving foreign corporations) is amended to read as follows:

"(b) Application of Subsection (a)(2).—Subsection (a)(2) shall apply in the case of—

"(1) a mere change in form in which there is an exchange by a foreign corporation of—

"(A) stock in one foreign corporation for

"(B) stock in another foreign corporation

if the corporations referred to in subparagraphs (A) and (B) differ only in their form of organization, and if the ownership of the corporation referred to in subparagraph (A) immediately before such exchange is identical to the ownership of the corporation referred to in subparagraph (B) immediately after such exchange, and

"(2) an exchange incident to a complete liquidation of a foreign corporation into a second foreign corporation which is wholly owned by a United States corporation where both foreign corporations are incorporated under the laws of the same foreign country."

(b) The amendments made by this section shall apply to exchanges made after December 31, 1967; except that section 367(b)(2) of such Code shall also apply with respect to any exchange made after December 31, 1962.

Mr. HARTKE. Mr. President, this amendment deals with the elimination of advance approval for certain liquidations of second-tier foreign subsidiaries. The committee estimates that this amendment will result in a onetime revenue loss of less than $1 million.

The committee amendment relates to the elimination of the advanced approval requirement for certain liquidations of second-tier foreign subsidiaries. Present law provides that, where a foreign corporation is involved in an exchange which otherwise would be a tax-free transaction, tax-free treatment is not available unless prior to the transaction the Internal Revenue Service has made a determination to the effect that the transaction is not being made to avoid Federal income taxes. Under current practice, the determination is made by the issuance of a ruling. Present law provides that the required determination may be obtained after—as well as before—the transaction in the case of a transaction which involves only a change in the form of organization of a second or lower tier foreign subsidiary when there is no change in ownership. The committee amendment provides a second situation under which the required determination may be obtained after—as well as before—the transaction. Under the committee amendment a taxpayer may also obtain a determination after the transaction in the case where an exchange is incident to a complete liquidation of a second-tier foreign corporation into the first-tier foreign corporation, which is wholly owned by a U.S. corporation, if both foreign corporations are incorporated under the laws of the same country.

The committee estimates that this amendment will result in a one-time revenue loss of less than $1 million. The Treasury Department agrees with this statement.

Mr. President, I am also told that this amendment provides no special benefit to which any individual or corporation would be entitled and that it would eliminate the present inequity in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I send a third amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk proceeded to state the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the act insert:

Sec. —. (a) Subsection (a) of section 7275 of the Internal Revenue Code of 1954 (relating to the requirements of showing total cost on airline tickets) is amended to read as follows:

"(a) Tickets.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262) or would be taxable transportation if section 4262 did not include subsection (b) thereof, the ticket for such transportation shall show the total of (1) the amount paid for such transportation and (2) the taxes imposed by section 4261 (a), (b), and (c)."

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transportation beginning on or after the thirtieth day after the date of the enactment of this Act.

(2) The removal of the requirements with respect to segments of transportation which were contained in section 7275(a) of the Internal Revenue Code of 1954 (as in effect for any period before the amendment made by subsection (a)) shall apply to transportation beginning after June 30, 1970.

Mr. HARTKE. Mr. President, this amendment eliminates the requirement of showing the total cost of airline tickets. It is an amendment which the present Presiding Officer, the Senator from Michigan (Mr. Hart), and I are familiar with, because it was included as part of the Commerce Committee recommendations. This has no revenue effect whatsoever. However, it does provide for the elimination of certain clerical activities with regard to airline tickets.

The committee amendment removes the requirement that the airline ticket show in the case of each segment of a trip the total amount—including the tax—paid with respect to the segment. However, the amendment continues the rule of existing law which requires the ticket to show the total amount—including the tax—paid by the passenger. This means that on a ticket showing separate segments of a trip there needs to be shown only the basic fare for each segment. However, all tickets must continue to show the total amount paid—including the tax—by the purchaser. As under present law, the tax may be shown separately on the ticket.

This amendment has no revenue effect. The Treasury Department agrees with this statement.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the next amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

At the end of the Act insert:

Sec. —. (a) Section 931 of the Internal Revenue Code of 1954 (relating to income from sources within a possession of the United States) is amended—

(1) by striking out in subsection (a) "citizens of the United States or domestic corporations" and inserting in lieu thereof "a citizen of the United States, and in the case of a domestic corporation which elects the application of this section"; and

(2) by adding at the end thereof the following:

"(j) Election.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary or his delegate may by regulation prescribe. Such an election shall remain in effect until the expiration of the 9th taxable year following the taxable year for which (1) such election was first effective and for which (2) such taxpayer satisfied the conditions of paragraphs (1) and (2) of subsection (a). Such an election may be revoked prior to such time with the consent of the Secretary or his delegate."

(b) Section 1504(b)(4) of such Code (relating to definition of includible corporation) is amended to read as follows:

"(4) Corporations with respect to which an election under section 931 (relating to income from sources within possessions of the United States) is in effect for the taxable year."

(c) Section 246(a) of such Code (relating to deduction not allowed for dividends from certain corporations) is amended to read as follows:

"(a) Deduction not allowed for Dividends from Certain Corporations.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend—

"(1) from a corporation organized under the China Trade Act, 1922 (see section 941);

"(2) from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or

"(3) out of earnings and profits of a corporation for taxable years beginning after December 31, 1972, attributable to amounts excluded from the gross income of such corporation under section 931."

(d) (1) The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1972. Such amendments shall, at the election of the taxpayer made under this paragraph within one year after the date of the enactment of this Act, also apply to all taxable years beginning before December 31, 1972, to which the Internal Revenue Code of 1954 applies.

(2) The amendment made by subsection (c) shall apply with respect to dividends made after December 31, 1972, except that section 246(a) of such Code, as it existed on the day before the date of enactment of this Act, shall apply with respect to dividends made before January 1, 1974, by a corporation to which section 931 of such Code applies during the last taxable year of the corporation ending before January 1, 1973.

(e) No interest shall be allowed or paid on any overpayment of tax resulting from the application of the amendment made by this section for any period prior to the expiration of the 180th day following the date of the enactment of this Act.

Mr. HARTKE. Mr. President, this amendment deals with the exclusion in present law for income derived by domestic corporations from other than U.S. sources where most of their income is from sources within U.S. possessions. Under present law, a corporation entitled to the benefits of this exclusion may not file a consolidated return with other corporations. Because of this latter provision, the Internal Revenue Service has held that a corporation automatically is disqualified from filing a consolidated return with other corporations if it meets the two gross income tests of the present statute for this possessions-exclusion treatment, even where this results in no reduction in the tax liability for the corporation. The Tax Court, on the other hand, has held that a consolidated return may be filed in such a case because the corporation derived no "benefit" from the possessions-exclusion treatment. The bill resolves this conflict by making the possessions-exclusion treatment elective. However, the bill also provides that once a corporation elects the benefits of the possessions-exclusion treatment it may not file a consolidated return until 10 years after it so elects under this provision.

The bill also eliminates an unintended benefit in existing law by providing that the dividends received deduction is not to be available with respect to dividends received from a corporation which excluded this income from its tax base in a prior year when it was eligible for the possessions-exclusion treatment even though it is not eligible for this treatment in the year the dividend is paid.

This provision is estimated to increase revenues, probably by less than $100,000 a year. The Treasury agrees with this statement.

There is no special benefit given to any corporation or individual other than to correct inequities of the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the next amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

At the end of the Act insert:

Sec. —. (a) Section 1247 (a)(1) of the Internal Revenue Code of 1954 (relating to election by foreign investment company to distribute income currently) is amended to read as follows:

"(1) In general.—If a foreign investment company which is in existence on December 31, 1962, and which is described in section 1246(b)(1) elects (in the manner provided in regulations prescribed by the Secretary or his delegate) on or before December 31, 1973, with respect to each taxable year beginning after such election to—

"(A) distribute to its shareholders 90 percent or more of what its taxable income would be if it were a domestic corporation;

"(B) designate in a written notice mailed to its shareholders at any time before the expiration of 45 days after the close of its taxable year the pro rata amount of the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss of the taxable year; and the portion thereof which is being distributed; and

"(C) provide such information as the Secretary or his delegate deems necessary to carry out the purposes of this section,

then section 1246 shall not apply with respect to any qualified shareholder's ratable share of the earnings and profits of such foreign investment company accumulated during any taxable year to which such election applies."

(b) The amendment made by this section shall apply to taxable years ending after the date of enactment of this Act.

Mr. HARTKE. Mr. President, this amendment deals with the election by foreign investment companies to distribute income currently. Present law provides that foreign investment companies registered with the Securities and Exchange Commission which made an election before 1963 to distribute income currently are treated similar to a domestic mutual fund if they first, distribute 90 percent of their taxable income, second, allocate to their shareholders on a pro rata basis, the excess of net long-term capital gain over net short-term capital loss; and third, satisfy certain reporting requirements. The committee amendment would give foreign investment companies that were eligible to make the election in 1962 but were unable to do so, the opportunity to make the election on or before December 31, 1973. If a foreign investment company avails itself of the opportunity to make the election, the rules treating it similarly to a domestic mutual fund would apply to taxable years beginning after the date of the election.

The committee estimates that enactment of this amendment will result in a revenue gain of about $300,000 annually for the next few years. In the longer run, however, it is expected that there will be a slight revenue loss. The Treasury Department agrees with this statement.

As far as my information is concerned, there is no business to any corporation or individual, and it is only to correct inequities in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HARTKE. I yield.

The PRESIDING OFFICER. The Senator from Montana is recognized.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2318.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2318) to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972".

COVERAGE

Sec. 2. (a) Section 2(3) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 902) is amended to read as follows:

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net."

(b) Section 2(4) of such Act is amended by striking out "(including any dry dock)" and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

(c) Section 3(a) of such Act is amended by striking out "(including any dry dock) and if recovery for the disabliity or death through workmen's compensation proceedings may not validly be provided by State law", and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

STUDENT BENEFITS

Sec. 3. (a) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating paragraph (19) as paragraph (20) and adding a new paragraph (19) as follows:

"(19) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof,

"(B) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body,

"(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States."

(b) The last sentence of section 2(14) of such Act is amended to read as follows: "'Child', 'grandchild', 'brother', and 'sister' include only a person who is under eighteen years of age, or who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 4. Section 6(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out "more than twenty-eight days" and inserting in lieu thereof "more than fourteen days".

MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 5. (a) Section 6 of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) Except as provided in subsection (c), compensation for disability shall not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary under paragraph (3):

"(A) 125 per centum or $167, whichever is greater, during the period ending September 30, 1973.

"(B) 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974.

"(C) 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975.

"(D) 200 per centum beginning October 1, 1975.

"(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 10 are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

"(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after the enactment of this subsection.

"(c) The maximum rate of compensation for a nonappropriated fund instrumentality employee shall be equal to 66⅔ per centum of the maximum rate of basic pay established for a Federal employee in grade GS-12 by section 5332 of title 5, United States Code, and the minimum rate of compensation for such an employee shall be equal to 66⅔ per centum of the minimum rate of basic pay established for a Federal employee in grade GS-2 by such section.

"(d) Determinations under this subsection with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph (20) thereof as paragraph (21) and by inserting immediately after paragraph (19) the following:

"(20) The term 'national average weekly wage' means the national average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls."

(c) Section 8(d) of such Act is amended to read as follows:

"(d)(1) If an employee who is receiving compensation for permanent partial disability pursuant to section 8(c)(1)-(20) dies from causes other than the injury, the total amount of the award unpaid at the time of death shall be payable to or for the benefit of his survivors, as follows:

"(A) if the employee is survived only by a widow or widower, such unpaid amount of the award shall be payable to such widow or widower,

"(B) if the employee is survived only by a child or children, such unpaid amount of the award shall be paid to such child or children in equal shares,

"(C) if the employee is survived by a widow or widower and a child or children, such unpaid amount of the award shall be payable to such survivors in equal shares,

"(D) if there be no widow or widower and no surviving child or children, such unpaid amount of the award shall be paid to the survivors specified in section 9(d) (other than a wife, husband, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in section 9(d), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each under this subparagraph.

"(2) Notwithstanding any other limitation in section 9, the total amount of any award for permanent partial disability pursuant to section 8(c)(1)-(20) unpaid at time of death shall be payable in full in the appropriate distribution.

"(3) If an employee who was receiving compensation for permanent partial disability pursuant to section 8(c)(21) dies from causes other than the injury, his survivors shall receive death benefits as provided in section 9(b)-(g), except that the percentage figures therein shall be applied to the weekly compensation payable to the employee at the time of his death multiplied by 1.5, rather than to his average weekly wages.

"(4) An award for disability may be made after the death of the injured employee. Except where compensation is payable under section 8(c)(21), if there be no survivors as prescribed in this section, then the compensation payable under this subsection shall be paid to the special fund established under section 44(a) of this Act."

(d) The first phrase of section 9 of such Act, preceding the first colon, is amended to read as follows:

"If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:"

(e) Section 14 of such Act is amended by striking out subsection (m).

MEDICAL SERVICES

SEC. 6. (a) Section 7 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

MEDICAL SERVICES AND SUPPLIES

"SEC. 7. (a) The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

"(b) The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this Act as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

"(c) The Secretary may designate the physicians who are authorized to render medical care under the Act. The names of physicians so designated in the community shall be made available to employees through posting or in such other form as the Secretary may prescribe.

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have requested the employer to furnish such treatment or services, or to authorize provision of medical or surgical services by the physician selected by the employee, and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within ten days following the first treatment the physician giving such treatment furnish to the employer and the Secretary a report of such injury and treatment, on a form prescribed by the Secretary.

The Secretary may, however, excuse the failure to furnish such report within ten days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

"(e) In the event that medical questions are raised in any case, the Secretary shall have the power to cause the employee to be examined by a physician employed or selected by the Secretary and to obtain from such physician a report containing his estimate of the employee's physical impairment and such other information as may be appropriate. Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed or selected by the Secretary. The Secretary shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within two weeks from the date ordered unless the Secretary finds that because of extraordinary circumstances a longer period is required. The Secretary shall have the power in his discretion to charge the cost of examination or review under this subsection to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk, in appropriate cases, or to the special fund in section 44.

"(f) An employee shall submit to a physical examination under subsection (e) at such place as the Secretary may require. The place, or places, shall be designated by the Secretary and shall be reasonably convenient for the employee. No physician selected by the employer, carrier, or employee shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the Secretary. Such employer or carrier shall, upon request, be entitled to have the employee examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the employee may select, if any. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination.

"(g) All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community for such treatment, and shall be subject to regulation by the Secretary. The Secretary shall issue regulations limiting the nature and extent of medical expenses chargeable against the employer without authorization by the employer or the Secretary.

"(h) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or that suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 33(b) of this Act.

"(i) Unless the parties to the claim agree, the Secretary shall not employ or select any physician for the purpose of making examinations or reviews under subsection (e) of this section who, during such employment, or during the period of two years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer."

DISFIGUREMENT

Sec. 7. Section 8(c)(20) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation not to exceed $3,500 shall be awarded for serious disfigurement of the face, head, or neck or of other normally exposed areas likely to handicap the employee in securing or maintaining employment."

SPECIAL FUND

Sec. 8. (a) Section 44(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by adding a period after the word "fund" in the first sentence thereof and deleting the remainder of the sentence.

(b) Section 44 of such Act is further amended by redesignating subsections (d), (e), (f), and (g) as (f), (g), (h), and (i), respectively and by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Payments into such fund shall be made as follows:

"(1) Whenever the Secretary determines that there is no person entitled under this Act to compensation for the death of an employee which would otherwise be compensable under this Act, the appropriate employer shall pay $5,000 as compensation for the death of such an employee.

"(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and each carrier or self-insurer shall make payments into the fund on a prorated assessment by the Secretary in the proportion that the total compensation and medical payments made on risks covered by this Act by each carrier and self-insurer bears to the total of such payments made by all carriers and self-insurers under the Act in the prior calendar year in accordance with a formula and schedule to be determined from time to time by the Secretary to maintain adequate reserves in the fund.

"(3) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

"(d)(1) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

"(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

"(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

"(e) There is hereby authorized to be appropriated to the Secretary the sum of $2,000,000 which the Secretary shall immediately deposit into the fund. Upon deposit in the fund such moneys shall be treated as the property of such fund. This sum, without additional payments for interest, shall be repaid from the money or property belonging to the fund on a schedule of repayment set by the Secretary: *Provided*, That full repayment must be made no later than five years from the date of deposit into the fund. Each such repayment, as made, shall be covered into the Treasury of the United States as miscellaneous receipts."

(d) Section 44 of such Act is further amended by adding the following new subsections (j) and (k):

"(j) The proceeds of this fund shall be available for payments:

"(1) Pursuant to section 10 and 11 with respect to initial and subsequent annual adjustments in compensation for total permanent disability or death which occurred prior to the effective date of this subsection.

"(2) Under section 8(f) and (g), under section 18(b), and under section 39(c).

"(3) To repay the sums deposited in the fund pursuant to subsection (d).

"(4) To defray the expense of making examinations as provided in section 7.

"(k) At the close of each fiscal year the Secretary shall submit to the Congress a complete audit of the fund."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

Sec. 9. (a) Section 8(f)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows: "(1) In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If following an injury falling within the provisions of section 8(c)(1)–(20), the employee is totally and permanently disabled, and the disability is found not to be due solely to that injury, the employer shall provide compensation for the applicable prescribed period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater. In all other cases of total permanent disability or of death, found not to be due solely to that injury, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only. If following an injury falling within the provisions of 8(c)(1)–(20), the employee has a permanent partial disability and the disability is found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater.

"In all other cases in which the employee has a permanent partial disability, found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation for one hundred and four weeks only.

(2) After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due out of the special fund established in section 44."

(b) Section 8(f) of such Act is further amended by striking out paragraph (2).

DEATH BENEFITS

Sec. 10. (a) Section 9(a) of the Act is amended by striking out "$400" and inserting in lieu thereof "$1,000".

(b) Sections 9 (b) and (c) of such Act are amended by striking "35" and "15" wherever they appear, and substituting "50" and "16⅔" respectively.

(c) The first sentence of section 9(d) of such Act is amended to read as follows: "If there be no surviving wife or husband or child, or if the amount payable to a surviving wife or husband and to children shall be less in the aggregate than 66⅔ per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term 'dependent' in section 152 of title 26 of the United States Code, but are not otherwise eligible under this section, 20 per centum of such wages for the support of each such person during such dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency."

(d) Section 9(e) of such Act is amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not less than the applicable national average weekly wage as prescribed in section 6(b) but the total weekly benefits shall not exceed the average weekly wages of the deceased."

DETERMINATION OF PAY

SEC. 11. Section 10 of the Act is amended by adding the following new subsections:

"(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries sustained after the date of enactment of this subsection shall be increased by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1.

"(g) The weekly compensation after adjustment under subsection (f) shall be fixed at the nearest dollar. No adjustment of less than $1 shall be made, but in no event shall compensation or death benefits be reduced.

"(h)(1) Not later than ninety days after the date of enactment of this subsection, the compensation to which an employee or his survivor is entitled due to total permanent disability or death which commenced or occurred prior to enactment of this subsection shall be adjusted. The amount of such adjustment shall be determined in accordance with regulations of the Secretary by designating as the employee's average weekly wage the applicable national average weekly wage determined under section 6(b) and (A) computing the compensation to which such employee or survivor would be entitled if the disabling injury or death had occurred on the day following such enactment date and (B) subtracting therefrom the compensation to which such employee or survivor was entitled on such enactment date; except that no such employee or survivor shall receive total compensation amounting to less than that to which he was entitled on such enactment date. Notwithstanding the foregoing sentence, where such an employee or his survivor was awarded compensation as the result of death or permanent total disability at less than the maximum rate that was provided in this Act at the time of the injury which resulted in the death or disability, then his average weekly wage shall be determined by increasing his average weekly wage at the time of such injury by the percentage which the applicable national average weekly wage has increased between the year in which the injury occurred and the first day of the first month following the enactment of this section. Where such injury occurred prior to 1947, the Secretary shall determine, on the basis of such economic data as he deems relevant, the amount by which the employee's average weekly wage shall be increased for the pre-1947 period.

"(2) Fifty per centum of any additional compensation or death benefit paid as a result of the adjustment required by paragraphs (1) and (3) of this subsection shall be paid out of the special fund established under section 44 of this Act, and 50 per centum shall be paid from appropriations.

"(3) For the purposes of subsections (f) and (g) an injury which resulted in permanent total disability or death which occurred prior to the date of enactment of this subsection shall be considered to have occurred on the day following such enactment date."

TIME FOR NOTICE AND CLAIMS

SEC. 12. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"SEC. 13. (a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

FEES FOR SERVICES

SEC. 13. Section 28 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"FEES FOR SERVICES

"SEC. 28. (a) If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice of a claim for compensation having been filed from the deputy commissioner, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the deputy commissioner, Board, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

"(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner or Board shall set the matter for an informal conference and following such conference the deputy commissioner or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Secretary, as authorized in section 7(e) and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

"(c) In all cases fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Board or any court for review of any action, award, order, or decision, the Board or court may approve an attorney's fee for the work done before it by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the deputy commissioner, Board, or court shall fix in the award approving the fee, such lien and manner of payment.

"(d) In cases where an attorney's fee is awarded against an employer or carrier there may be further assesed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act.

"(e) Any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the deputy commissioner, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

HEARING PROCEDURE

SEC. 14. Section 19(d) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(d) Notwithstanding any other provisions of this Act, any hearing held under this Act shall be conducted in accordance with the provisions of section 554 of title 5 of the United States Code. Any such hearing shall be conducted by a hearing examiner qualified under section 3105 of that title. All powers, duties, and responsibilities vested by this Act, on the date of enactment of the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, in the deputy commissioners with respect to such hearings shall be vested in such hearing examiners."

REVIEW BOARD

Sec. 15. (a) Section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(b)(1) There is hereby established a Benefits Review Board which shall be composed of three members appointed by the Secretary from among individuals who are especially qualified to serve on such Board. The Secretary shall designate one of the members of the Board to serve as chairman."

"(2) For the purpose of carrying out its functions under this Act, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(3) The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this Act and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

"(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the hearing examiner for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

"(c) Any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the United States court of appeals for the circuit in which the injury occurred, by filing in such court within sixty days following the issuance of such Board order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court, to the Board, and to the other parties, and thereupon the Board shall file in the court the record in the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and shall have the power to give a decree affirming, modifying, or setting aside, in whole or in part, the order of the Board and enforcing same to the extent that such order is affirmed or modified. The orders, writs, and processes of the court in such proceedings may run, be served, and be returnable anywhere in the United States. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the employer, and specifying the nature of the damage."

(b) Redesignate subsections (c) and (d) of such section as (d) and (e), respectively.

(c) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 21 as paragraph 22 and inserting after paragraph 20 the following new paragraph:

"(21) The term 'Board' shall mean the Benefits Review Board."

(d) Section 14(f) of such Act is amended by striking everything after the words "section 21" and adding in lieu thereof the following: "and an order staying payment has been issued by the Board or court."

(e) Sections 23 and 27 of such Act are each amended by adding "or Board" after every reference to "deputy commissioner".

(f) Section 33(b) of such Act is amended by adding the term "or Board" after the term "deputy commissioner".

(g) Section 33(e)(1)(A) of such Act is amended by adding the words "or Board" after the term "deputy commissioner".

(h) Section 33(g) of such Act is amended to read as follows:

"(g) If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this Act, the employer shall be liable for compensation as determined in subdivision (f) only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made."

(i) Section 35 of such Act is amended by adding the words "the Board, or" after the words "deputy commissioner".

(j) Section 40(f) of such Act is amended by adding the words "or Board member" after the words "deputy commissioner," whenever they occur.

APPEARANCE FOR SECRETARY OF LABOR

Sec. 16. Section 21a of the Act is amended to read as follows:

"Sec. 21a. Attorneys appointed by the Secretary shall represent the Secretary, the deputy commissioner, or the Board in any court proceedings under section 21 or other provisions of this Act except for proceedings in the Supreme Court of the United States."

CLAIMANT ASSISTANCE

Sec. 17. (a) Section 39(c) of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating subsection (c) as paragraph (2) of such subsection and by insertng after subsection (b) thereof the following paragraph:

"(c)(1) The Secretary shall, upon request, provide persons covered by this Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this Act with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available."

THIRD-PARTY LIABILITY

Sec. 18. (a) Section 5 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"EXCLUSIVENESS OF REMEDY AND THIRD-PARTY LIABILITY

"Sec. 5. (a) The liability of an employer prescribed in section 4 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this Act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the Act, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

"(b) In the event of injury to a person covered under this Act caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 33 of this Act, and the employer shall not be liable to the vessel for such damages directly or indirectly and any agreements or warranties to the contrary shall be void. If such person was employed by the vessel to provide stevedoring services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing stevedoring services to the vessel. If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel. The liability of the vessel under this subsection shall not be based upon the warranty of seaworthiness or a breach thereof at the time the injury occurred. The remedy provided in this subsection shall be exclusive of all other remedies against the vessel except remedies available under this Act."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 22 as paragraph 23 and inserting after paragraph 21 the following new paragraph:

"(22) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member."

PROHIBITION AGAINST CERTAIN DISCRIMINATION AGAINST EMPLOYEES

Sec. 19. The Longshoremen's and Harbor Workers' Compensation Act is further amended by redesignating sections 49, 50, and 51 as sections 50, 51, and 52, respectively, and by inserting immediately after section 48 the following new section:

"DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

"Sec. 49. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this Act. Any employer who violates this section shall be liable to a penalty of not less than $100 or more than $1,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 44, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void."

MISCELLANEOUS PROVISIONS

SEC. 20. (a) Section 8(i) of the Longshoremen's and Harbor Worker's Compensation Act is amended to read as follows:

"(i) (A) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, nothwithstanding the provisions of section 15(b) and section 16 of this Act: *Provided*, That if the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subsection, to and for the benefit of the persons enumerated in subsection (d) of this section.

"(B) Whenever the Secretary determines that it is for the best interests of the injured employee entitled to medical benefits, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of this Act: *Provided*, That if the employee should die from causes other than the injury after the Secretary has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (d) of this section."

(b) Section 17 of such Act is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) Where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186 (c)) established pursuant to a collective-bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, the Secretary may authorize a lien on such compensation in favor of the trust fund for the amount of such payments."

(c) (1) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act as amended by this Act is further amended by striking out subsections (16) and (17) and inserting in lieu thereof the following new subsection (16) and by redesignating subsections 2 (18), (19), (20), (21), (22), and (23) as 2 (17), (18), (19), (20), (21), and (22), respectively.

"(16) The terms 'widow or widower' includes only the decedent's wife or husband living with or dependent for support upon him or her at the time of his or her death; or living apart for justifiable cause or by reason of his or her desertion at such time."

(2) Section 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by this Act, is further amended by striking the phrase "surviving wife or dependent husband" each time it appears and inserting in lieu thereof the phrase "widow or widower".

(3) The amendments made by this subsection shall apply only with respect to deaths or injuries occurring after the enactment of this Act.

TECHNICAL AMENDMENT

SEC. 21. Section 3(a) (1) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out the word "nor" and inserting in lieu thereof the word "or".

EFFECTIVE DATE

SEC. 22. The amendments made by this Act shall become effective thirty days after the date of enactment of this Act.

S. 2318. THE LONGSHOREMEN'S AND HARBOR WORKERS ACT OF 1972

Mr. WILLIAMS. Mr. President, the Senate is about to conclude action on S. 2318 the bill that I introduced last year to amend the Longshoremen and Harbor Workers Compensation Act.

This bill is endorsed by the AFL–CIO, the International Longshoremen's Association—whose 115,000 membership is covered by the act—the International Longshoremen and Warehousemen's Union—whose 20,000 members are also covered by the act—and by the overwhelming number of employers, port associations and others in the maritime industry. The bill had the strong endorsement of the administration and is consistent with the recently issued bipartisan recommendations of the Commission on State Workmen's Compensation programs.

On the Senate side, the committee, the Subcommittee on Labor with Senator EAGLETON chairing the hearings conducted 5 days of hearings. Every interested party was afforded an ample opportunity to present their testimony. Subsequent to the hearings in an unprecedented fashion, representatives from organized labor, from management, from the administration sat down together and hammered out the provisions of a decent, fair, and important Workmen's Compensation Act.

The full Senate has not been required to expend a great deal of time on this measure. Indeed, except for the members of the committee and those other Members of States with ports in them there is very little direct impact to their citizenry of these amendments. However, a great deal of time and energy has been extended in trying to come to grips with the modern and realistic thinking about the benefits and compensation to be awarded injured workers. This legislation represents the first serious step toward reform of our society's workmen's compensation laws in the past 50 years.

The present Longshoremen Act, passed by Congress in 1927, generally provides a Federal compensation program for injuries or death arising from employment on the navigable waters of the United States. Because this legislation was the only Federal control over private employment in workmen compensation matters.

The statute over the years has been extended to cover employees of the District of Columbia and other areas of Federal interest.

More than 200,000 longshoremen and ship repairmen are covered by the statute. In addition another 300,000 employees of private employers within the District of Columbia are protected by the law as well as an additional 200,000 workers in defense bases, in nonappropriated fund agencies such as post exchanges, and in work on the Outer Continental Shelf.

This act is intended to provide benefits to workers who suffer injuries on the job in the areas of employment which I have stated above. Last year there were more than 109,000 injuries in this statute; 240 workers covered by the act were killed. The vast proportion of these injuries relate to longshore workers—68,000—or injuries suffered by District of Columbia workers—27,000.

The tragedy of this act's administration lies in the fact that Congress has not been able to amend it in 12 years. This means that the benefits under this act have not been increased in 12 years. The cost to the injured worker of inadequate benefits has become a serious matter. For example the Longshoremen Act states that a totally disabled worker is entitled to receive two-thirds of his average weekly wage at the time of his injuries. However since 1961 there has been a limitation of $70 a week as the maximum payment for such permanent disability. The $70-a-week maximum results in injured longshoremen receiving less than 30 percent of their average weekly wage and District of Columbia workers receive less than 50 percent of their average weekly wage. And it must be remembered that these are benefits which are to be paid to workers with families who are injured in the service of their employers.

I have taken some time in explaining the background of this legislation in order to make clear the scope and significance of the amendments which are about to be enacted.

The National Commission on Workmen's Compensation laws which we created in passing the Occupation Health and Safety Act of 1970 has submitted a comprehensive report and recommendation of the need to upgrade workmen's compensation standards nationwide including if necessary the imposition of Federal standards.

In the limited but significant area covered by this Longshoremen Act we have attempted to provide a model of benefits and administration which we believe is in agreement with the aims of the National Commission.

I shall in the near future be giving careful consideration to a measure which will implement or improve upon the National Commission's recommendations and I certainly expect to use the improvements in this bill as a model.

The bill S. 2318 will make significant improvements in the Longshoremen Act in four principal areas: improved benefits, extended coverage, improved administration and a resolution of a long standing dispute of third party actions.

EXTENSION OF COVERAGE TO SHORESIDE AREAS

The present act, insofar as longshoremen and shipbuilders and repairmen are concerned, covers only injuries which occur upon the navigable waters of the United States. Thus, coverage of the present act stops at the water's edge; injuries occurring on land are covered by State workmen's compensation laws. The result is a disparity in benefits payable for death or disability for the same type of injury depending on which side of the water's edge and in which the accident occurs.

To make matters worse, most State workmen's compensation laws provide benefits which are inadequate; even the better State laws generally come nowhere close to meeting the National Commission on State Workmen's Compensation

Laws recommended standard of a maximum limit on benefits of not less than 200 percent of statewide average weekly wages. The following are the maximum limits on the compensation payable for permanent total disability in some maritime States:

California	$70.00
Florida	56.00
Hawaii	112.50
Louisiana	49.00
Maryland	85.68
Massachusetts[1]	77.00
New Jersey	101.00
New York	80.00
Oregon	62.50
Pennsylvania	60.00
Texas	49.00

[1] Plus $6 for each dependent.

Also, under the laws of some States due to exemptions based upon the number of employees hired some workers might be uncovered in the event they are unfortunate victim of an injury.

Compensation payable to a longshoreman or a ship repairman or builder should not depend on the fortuitous circumstances of whether the injury occurred on land or over water. Accordingly, the bill amends the act to provide coverage of longshoremen, harbor workers, ship repairmen, shipbuilders, shipbreakers, and other employees engaged in maritime employment—excluding masters and members of the crew of a vessel—if the injury occurred either upon the navigable waters of the United States or any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other area adjoining such navigable waters customarily used by an employer in loading, unloading, repairing, or building a vessel.

It is our intent to permit a uniform compensation system to apply to employees who would otherwise be covered by this act for part of their activity. To take a typical example, cargo, whether in break bulk or containerized form, is typically unloaded from the ship and immediately transported to a storage or holding area on the pier, wharf, or terminal adjoining navigable waters. The employees who perform this work would be covered under the bill for injuries sustained by them over the navigable waters or on the adjoining land area. We did not intend to cover employees who are not engaged in loading, unloading, repairing, or building a vessel, just because they are injured in an area adjoining navigable waters used for such activity. Thus, employees whose responsibility is only to pick up stored cargo for further transshipment would not be covered, nor would purely clerical employees whose jobs do not require them to participate in the loading or unloading of cargo. However, checkers, for example, who are directly involved in the loading or unloading functions are covered by the new amendment. Likewise there is no intention of extending coverage under the act to individuals who are not employed by a person who is an employer, this is, a person at least some of whose employees are engaged, in whole or in part in some form of maritime employment. Thus, an individual employed by a person none of whose employees work, in whole or in part, on navigable waters, is not covered even if injured on a pier adjoining navigable waters.

IMPROVEMENT OF THE BENEFIT STRUCTURE

MAXIMUM AND MINIMUM BENEFIT AMOUNTS

The basic requirement of the act is for the injured worker to receive 66⅔ percent of his average weekly wage. Historically, this two-thirds requirement has been subject to an arbitrary limitation in order to protect against a high compensation payment for injuries to highly paid workers.

The bill amends the act to provide that the maximum compensation for disability shall not exceed 200 percent of the national average weekly wage to be determined annually by the Secretary of Labor. The expectation is that a 200 percent maximum will enable approximately 90 percent of the work force covered by this act to receive two-thirds of their average weekly wage. In order to ease the adjustment of these benefits which at a minimum will result in doubling the compensation payment for most covered workers, the bill provides a phase-in in four steps as follows: 125 percent or $167 whichever is greater during the period ending September 30, 1973; 150 percent during the period beginning October 1, 1973 and ending September 30, 1974; 175 percent during the period beginning October 1, 1974 and ending September 30, 1975; and 200 percent beginning October 1, 1975. These maximums meet the recommended standards of the National Commission on State Workmen's Compensation Laws.

To the extent that employees receiving compensation for total permanent disability or survivors receiving death benefits receive less than the compensation they would receive if there were no phase-in, their compensation is to be increased as the ceiling moves to 200 percent.

The bill also requires an annual redetermination by the Secretary which will allow any increase in the national average weekly wage to be reflected by an appropriate increase in compensation payable under the act. A similar provision for upgrading benefits in future years for cases of permanent total disability or death benefits is contained in the bill. These employees will receive annual increases based on percentage increases in the national average weekly wage.

There is a requirement for a minimum payment of 50 percent of the national average weekly wage or the employee's full average weekly wage, whichever is less. The present minimum payment of $18 is unconscionable.

A separate computation of the maximum and minimum for nonappropriated fund employees is keyed to the GS schedule since such employees are closely related to the Federal employee program.

This bill also adds a very unique provision to assist those injured workers or the survivors who have been receiving compensation or benefits for total disability or death at levels ranging from less than $25 a week to the $70 a week maximum. The historical nature of workmen's compensation laws has left the injured worker with no provision for improvement of benefits even though we are all cognizant of living in a society where inflation and other factors have contributed to the increased cost of living on what is now an annual basis. The concept of increasing the benefits to the injured workers who will be receiving benefits after the effective day of this act is, of course, in line with our longstanding Federal policy for social security disability.

That particular provision, however, did not reach the several thousand cases who have been suffering these low maximums during the 45-year history of this act. Since many of the workers or survivors receiving these benefits were in the employ of companies no longer in business it was decided that the most appropriate way of taking care of the past benefit deficiencies for this group was to split the cost of upgrading these workers between the entire industry covered by this bill and the Federal Government. This will be done by a special assessment into the second injury fund and an appropriation from the Treasury. The cost to the United States is expected to be $2 million per year.

Another feature of the new benefit structure will be a provision whereby survivors of injured workers will continue to receive a portion of benefits in situations where a worker who is entitled to benefits for permanent total or permanent partial disability dies from causes other than the injury. Specific provision is made for protecting immediate survivors and making sure that scheduled awards are still paid in full. A further provision is made for payment of benefits due in scheduled award cases into the special fund under section 44 of the act when there are no survivors.

The benefit structure for survivors is altered to provide additional benefits for widows and children, and to expand the class of dependents entitled to receive benefits for survivors. The act is amended to increase funeral benefits from the present $400 to a more realistic amount of $1,000. The present act provides that a surviving wife or husband receives 35 percent of the award, and children receive 15 percent. The amended act will provide a 50-percent award to surviving wives or husbands and 16⅔ percent to the children, subject to a maximum of 66⅔ percent of the average weekly wages.

A special definition of dependency is also provided in order to take care of dependents as defined in the Internal Revenue Code who would otherwise not be eligible under this section. Their benefits are 20 percent of the award.

A minimum death benefit tied to the applicable national average weekly wage but not to exceed the employee's average weekly wage is also provided.

The present law contains a maximum limitation of $24,000 exclusive of medical payments in cases of temporary total and permanent partial disability. S. 2318, following the recommendation of the National Commission amends section 14 of the act to eliminate any maximum on these types of compensation payments. This change will avoid any injustice to injured workers who would reach this maximum payment but still be suffering from disability.

The bill amends section 8(f) of the act in order to limit the burden on employers in so-called second-injury cases. Many employers have an inaccurate impression regarding the liabilities for workmen's compensation when they employ handicapped workers. It is unfortunately a widespread belief that an employer is subjected to burdensome compensation costs where a handicapped worker receives an injury at the new place of employment. The provision in the bill makes clear that the employer's responsibility for the subsequent or second injury is limited to the scheduled award for the second injury of 104 weeks, whichever is greater. The remaining obligation to pay that employee where he is totally or partially disabled will fall upon the special funds existing under section 44 of the act. This method of spreading the risk among all employers is intended by the committee to encourage the employment of handicapped workers. It is strongly recommended by the National Commission.

SPECIAL FUND

An important feature of the bill is improvement of the financing of the second-injury fund. There will be a payment to the second-injury fund in death cases of $5,000, rather than $1,000, and in schedule award or permanent partial cases where there are no survivors, the award is paid into the fund.

The unique feature of the special fund will be an annual assessment of carriers to make certain the fund is maintained at a level judged to be adequate.

STUDENT BENEFITS

The bill extends to age 23 years the limit to which surviving dependent children, of fatally injured workers, seeking a higher education may continue to receive compensation payments.

The present law limits these benefits to children up to an age of 18 years. Today children are constantly urged to continue their education as long as possible, and, with the increasing number of children continuing their education into college, the 18 years of age limit is unnecessarily restrictive. This proposal would not establish any new concept related to workmen's compensation programs. It would, if enacted, simply bring the protection of the act into line with the other jurisdictions which have similar provisions in their programs—that is Hawaii, Kansas, Puerto Rico, Vermont, West Virginia, and Washington.

LEGAL FEES

S. 2318 amends section 28 of the act to authorize assessment of legal fees against employers in cases where the existence or extent of liability is controverted and the claimant succeeds in establishing liability or obtaining increased compensation in formal proceedings or appeals. Attorneys fees may only be awarded against the employer where the claimant succeeds, and the fees awarded are to be based on the amount by which the compensation payable is increased as a result of litigation. Attorneys fees may not be assessed against employers—or carriers—in other cases.

In all cases, the amount of attorneys fees payable to the claimants lawyer—either by the employer or the claimant—is subject to approval by the deputy commissioner, administrative law judge, board or court, as the case may be.

ADMINISTRATIVE CHANGES

S. 2318 amends the act to make clear that all hearings under this act are to be conducted in conformity with the Administrative Procedure Act by administrative law judges qualified under the act. It was our belief that the administration of the Longshoremen's and Harbor Workers' Compensation Act has suffered by virtue of the failure to keep separate the functions of administering the program and sitting in judgment on the hearings. Moreover, with the new responsibilities that will devolve upon the Secretary with the passage of this bill it will be extremely important to have full time able administrators who will not also have to wear the dual hat of being hearing officers for purposes of the disputes brought under this statute.

ASSISTANCE TO CLAIMANTS

The act is also amended to substantially increase the Secretary's responsibility for administering this program so far as providing services to employees. The bill will require the Secretary upon the request to provide assistance to persons covered under this act to understand the benefits and other matters relating to the operations of the statute and also to provide assistance in processing a claim. This assistance is to be all inclusive and enable the employee to receive the maximum benefits due without having to rely on outside assistance other than that provided by the Secretary. The bill also makes legal assistance in processing the claim for benefits under this act available in needy cases upon request subject to the Secretary's discretion. I would hope the Secretary will construe this provision as liberally as possible so as to provide any worker in need of legal assistance such counsel, especially where the employee is either indigent or of minimal means. It would also be appropriate for the Secretary to provide legal assistance in similar types of death cases as well as to provide as much assistance in other cases of hardship or unusual types of proceedings or different cases.

S. 2318 also requires the Department of Labor to take a more active role in assuring that injured employees receive, proper medical treatment and rehabilitation services. It is the Department's responsibility to take affirmative action in this area by actively supervising the medical care given to injured employees. This does not mean that the Department may tell doctors what to do, but it does mean that the Department should require periodic medical reports and take the initiative in contacting injured employees, especially in cases of serious injury to see that the employee is receiving proper care and that rehabilitation services are being provided, where required.

THIRD PARTY ACTIONS

One of the most controversial and difficult issues in this bill concerns the liability of vessels, as third parties, to pay damages to longshoremen who are injured while engaged in stevedoring operations. One proposal, originally advanced by the industry was that vessels should be treated as joint employers of longshoremen or other persons covered under this act working on board such vessels. This would result in restricting the vessel's liability in all cases to the compensation and other benefits payable under the act. This view was not accepted. We believed that where a longshoreman or other worker covered under this act is injured through the fault of the vessel, the vessel should be liable for damages as a third party, just as land-based third parties in nonmaritime pursuits are liable for damages when, through their fault, a worker is injured.

There is a present interpretation of the law that a vessel should be liable without regard to its fault for injuries sustained by employees covered under this act while working on board the vessel. Vessels have been held to what amounts to such absolute liability by decisions of the Supreme Court, commencing with *Seas Shipping* v. *Sieracki*, 328 U.S. 25 (1946) which held that the traditional seamen's remedy based on the breach of the vessel's absolute, nondelegable duty to provide a seaworthy vessel was also available to longshoremen and others who performed work on the vessel which by tradition has been performed by seamen. Under the Sieracki case, vessels are liable, as third parties, for injuries suffered by longshoremen as a result of unseaworthy conditions even though the unseaworthiness was caused, created, or brought into play by the stevedore—or an employee of the stevedore—rather than the vessel or any member of its crew. For example, under present law, if a member of a longshore gang spills grease on the deck of a vessel and a longshoreman slips and falls on the grease a few moments later, the vessel is liable to pay damages for the resulting injuries, even though no member of the crew was responsible for creating the unseaworthy condition or was even aware of it. Furthermore, in the example given above, under the Supreme Court's decision in *Ryan Stevedoring Co.* v. *Pan Atlantic S.S. Corp.*, 350 U.S. 124 (1956), the vessel may recover the damages for which it is liable to the injured longshoreman from the stevedore which employed the longshoreman on the theory that the stevedore has breached an express or implied warranty of workmanlike performance to the vessel. The end result is that, despite the provision in the act which limits an employer's liability to the compensaton and medical benefits provided in the act, a stevedore-employer is indirectly liable for damages to an injured longshoreman who utilizes the technique of suing the vessel under the unseaworthiness doctrine.

Given the improvement in compensation benefits which this bill would provide, it was our view that it would be fairer to all concerned and fully consistent with the objective of protecting the health and safety of employees who work on board vessels for the liability of vessels as third parties to be predicated on negligence, rather than the no-fault concept of seaworthiness. This would place vessels in the same position, insofar as third party liability is concerned, as land-based third parties in nonmaritime pursuits.

The purpose of the amendments is to place an employee injured aboard a vessel in the same position he would be if he were injured in nonmaritime employment ashore, insofar as bringing a third party damage action is concerned, and not to endow him with any special maritime theory of liability or cause of action under whatever judicial nomenclature it may be called, such as unseaworthiness, nondelegatable duty, or the like.

Permitting actions against the vessel based on negligence will meet the objective of encouraging safety because the vessel will still be required to exercise the same care as a land-based person in providing a safe place to work. Thus, nothing in this bill is intended to derogate from the vessel's responsibility to take appropriate corrective action where it knows or should have known about a dangerous condition.

So, for example, where a longshoreman slips on an oil spill on a vessel's deck and is injured, the proposed amendments to section 5 would still permit an action against the vessel for negligence. To recover he must establish that: first, the vessel put the foreign substance on the deck, or knew that it was there, and willfully or negligently failed to remove it; or second, the foreign substance had been on the deck for such a period of time that it should have been discovered and removed by the vessel in the exercise of reasonable care by the vessel under the circumstances. The vessel will not be chargeable with negligence of the stevedore or employees of the stevedore.

Under this standard, as adopted in the bill, there will, of course, be disputes as to whether the vessel was negligent in a particular case. Such issues can only be resolved through the application of accepted principles of tort law and the ordinary process of litigation—just as they are in cases involving alleged negligence by land-based third parties. We intend that on the one hand an employee injured on board a vessel shall be in no less favorable position vis a vis his rights against the vessel as a third party than is an employee who is injured on land, and on the other hand, that the vessel shall not be liable as a third party unless it is proven to have acted or have failed to act in a negligent manner such as would render a land-based third party in nonmaritime pursuits liable under similar circumstances.

The doctrine of the Ryan case, which permits the vessel to recover the damages for which it is liable to an injured worker where it can show that the stevedore breaches an express or implied warranty of workmanlike performance is no longer appropriate if the vessel's liability is no longer to be absolute, as it essentially is under the sea worthiness doctrine. Since the vessel's liability is to be based on its own negligence, and the vessel will no longer be liable under the seaworthiness doctrine for injuries which are really the fault of the stevedore, there is no longer any necessity for permitting the vessel to recover the damages for which it is liable to the injured worker from the stevedore or other employer of the worker.

Furthermore, unless such hold-harmless, indemnity or contribution agreements are prohibited as a matter of public policy, vessels by their superior economic strength could circumvent and nullify the provisions of section 5 of the act by requiring indemnification from a covered employer for employee injuries.

Accordingly, the bill expressly prohibits such recovery, whether based on an implied or express warranty. It is intended to prohibit such recovery under any theory including, without limitation, theories based on contract or tort. Under the amendments the vessel may not by contractual agreement or otherwise require the employer to indemnify it, in whole or in part, for such damages.

The committee recognized the need for special provisions to deal with a case where a longshoreman or ship builder or repairman is employed directly by the vessel. In such case, notwithstanding the fact that the vessel is the employer, the Supreme Court, in *Reed* v. *S.S. Yaka,* 373 U.S. 371 (1967), held that the unseaworthiness remedy is available to the injured employee. The rights of an injured longshoreman or ship builder or repairman should not depend on whether he was employed directly by the vessel or by an independent contractor. Accordingly, the bill provides in the case of a longshoreman who is employed directly by the vessel there will be no action for damages if the injury was caused by the negligence of persons engaged in performing longshoring services. Similar provisions are applicable to ship building or repair employees employed directly by the vessel. The same principles should apply in determining liability of the vessel which employs its own longshoremen or ship builders or repairmen as apply when an independent contractor employs such persons.

It is not intended that the negligence remedy authorized in the bill shall be applied differently in different ports depending on the law of the State in which the port may be located. Legal questions which may arise in actions brought under these provisions of the law should be determined as a matter of Federal law. In that connection, it is intended that the admiralty concept of comparative negligence, rather than the common law rule as to contributory negligence, shall apply in cases where the injured employee's own negligence may have contributed to causing the injury. Also, the admiralty rule which precludes the defense of assumption of risk in an action by an injured employee shall also be applicable.

SAFETY

Finally, I wish to emphasize that nothing in this bill is intended to relieve any vessels or any other persons from their obligations and duties under the Occupational Safety and Health Act of 1970. Progress may have been made in reducing injuries in the longshore industry, but longshoring remains one of the most hazardous types of occupations. I expect to see further progress in reducing injuries. If injuries are not reduced we may have to reexamine the whole third party suit question if it appears that the changes made in present law by this bill have affected progress in improving occupational health and safety.

I ask unanimous consent that the following telegrams of endorsement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW YORK, N.Y.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.:

The Executive Council of the International Longshoremen's Association, AFL–CIO, its highest governing body voted unanimously to support the Daniels Bill, H.R. 12006 which will substantially improve the benefits provided longshoremen under the Longshoremen and Harbor Workers' Compensation Act. The Daniels Bill has the full support of President Thomas W. Gleason and the following members of the executive council voted in favor of its passage:

President Thomas W. Gleason, New York, N.Y.

Executive Vice President, John Bowers, New York, N.Y.

Secretary-Treasurer Harry R. Hasselgreen, New York, N.Y.

General Organizer Fred R. Field, Jr., New York, N.Y.

Vice President David D. Alson, Norfolk, Va.

Vice President James T. Moock, Philadelphia, Pa.

Vice President Ralph A. Massey, Texas.

Vice President George W. Dixon, Mobile, Ala.

Vice President Alfred Chittenden, New Orleans, La.

Vice President Paul F. Koehne, Houston, Tex.

Vice President Thomas J. Burke, Savannah, Ga.

Vice President William P. Lynch, New York, N.Y.

Vice President Clarence Henry, New Orleans, La.

Vice President E. L. Slaughter, Duluth, Minn.

Vice President David M. Connors, Buffalo, N.Y.

Vice President W. H. Hopkins, Houston, Tex.

Vice President William Halle, Baltimore, Md.

Vice President Anthony Scotto, New York, N.Y.

Vice President Juan Perez Roa, San Juan, Puerto Rico.

Vice President, William Murphy, New Jersey.

Vice President George Barone, Miami, Fla.

Vice President Harrison Tyler, Chicago, Ill.

Vice President Edward Dalton, Boston, Mass.

Vice President Thomas O'Callaghan, New York, N.Y.

Vice President Chauncey Baker, Cleveland, Ohio.

Vice President Landon Williams, Florida.

President Emeritus William V. Bradley, New York, N.Y.

OCTOBER 10, 1972.

Hon. CARL ALBERT,
Rayburn House Office Building,
Washington, D.C.:

As reflected in the hearing record, our organizations (The Seafarers International Union and the AFL–CIO Maritime Trades Department) called for passage of H.R. 12006 to amend the Longshoremen's and Harbor Workers Compensation Act. We strongly support the position of the International Longshoremen's Association, AFL–CIO in favor of this bill. We urge you to move for its immediate and favorable consideration.

PAUL HALL,
President, Seafarers International Union.

Mr. JAVITS. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. JAVITS. Mr. President, is any further motion necessary to adopt the measure?

The PRESIDING OFFICER. That clears it.

Mr. JAVITS. Mr. President, I would like to state for the Senator from New Jersey (Mr. WILLIAMS) and myself that this is one of the most extraordinarily gifted solutions to a very difficult problem involving the whole Longshoreman's Workman's Compensation Act, which covers not only longshoremen, but also all private employees in the District of Columbia, as I have seen in my years as a lawyer and a Senator. The result is heavily attributable to the ingenuity of these men, Mr. Gerald Feder, who is the counsel to the Subcommittee on Labor and Mr. Eugene Mittelman, who is the counsel to the Committee on Labor and Welfare. Donald Elisburg, associate counsel to the Subcommittee on Labor also deserves recognition for his efforts on this bill.

The record should show the tremendous benefit these men have conferred on thousands of workers, as their efforts resulted in agreement between employers and employees, something no one thought would happen, relating to workmen's compensation and a difficult problem of third-party suits.

I think it will be of great benefit for thousands of workers.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARTKE. Mr. President, I call up the next amendment to be at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the act insert:

SEC. —. (a) Section 311(d)(2)(A) of the Internal Revenue Code of 1954 is amended by inserting after the word "owns" and before the words "at least 10 percent" the following: "(directly or constructively under the rules of section 318(a) which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b)(3), determined without the application of section 302(c)(2)(A)(ii))".

(b) Section 318(b) of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (7), (8), and (9), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) section 311 (d)(2)(A) (relating to taxability of corporations on distributions of appreciated property in redemptions of stock);".

(c) The amendment made by subsections (a) and (b) shall apply with respect to distributions made after the date of enactment of this Act.

Mr. HARTKE. Mr. President, this deals with the use of appreciated property by corporations to redeem their own stock.

The amendment makes a technical change in the rules determining whether a shareholder owns at least 10 percent in value of the stock of a corporation which makes a distribution of appreciated property in complete redemption of all the shareholder's stock. Present law provides, in general, that a corporation will recognize gain where it distributes appreciated property in redemption of its stock. An exception to this rule is provided if a stockholder owning at least 10 percent in value of a corporation's shares completely terminates his interest in the corporation. For purposes of determining whether a redemption of a shareholder's stock is in complete termination of his interest, the constructive stock ownership rules of section 318 of the code apply, but these constructive ownership rules do not apply in determining whether the shareholder meets the 10-percent ownership test. The committee amendment makes a technical change to apply the constructive ownership rules also for purposes of the 10-percent ownership test.

The provision of the bill which makes a technical change in the provision dealing with the use of appreciated property by a corporation to redeem its stock is estimated to have no revenue effect. The Treasury Department agrees with this statement.

Mr. President, the provisions of the amendment make a technical change in the bill. It has no benefit for any individual corporation, other than to correct inequities in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HARTKE. I yield.

PROGRAM

Mr. MANSFIELD. Mr. President, about 15 minutes ago I was informed that there is a possibility that the conference reports on H.R. 1 and the debt limit stand a reasonable chance of being agreed to tonight. I cannot guarantee it, but I make the statement at this time only to ask the Senate to be able to furnish a quorum if such an event occurs, and I would hope that attachés on both sides would contact all Senators so that if this does come to pass we would be prepared to have a quorum.

Also, the continuing resolution, I understand, will be considered in the House this evening and sent over here.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Might it be possible to help us all with planes, and so forth, to set some time? If it cannot be done by such-and-such an hour, we might as well disband instead of staying all night, twiddling our thumbs. Could we do that?

Mr. MANSFIELD. I would be glad to talk it over with the Senator. I just make the statement on what the situation is as I understand it.

Mr. JAVITS. I thank the Senator.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend Section 3306 of the Internal Revenue Code of 1954.

Mr. HARTKE. Mr. President, I call up another amendment to the bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the Act insert:

SEC. . (a) The last sentence of section 2104 (c) of the Internal Revenue Code of 1954 (relating to treatment of certain debt obligations for estate tax purposes) is amended by inserting "or section 861 (a)(1)(G)" after "by reason of section 861 (a)(1)(B)".

(b) The amendment made by subsection (a) shall be effective with respect to estates of decedents dying on or after April 1, 1971.

Mr. HARTKE. Mr. President, this amendment relates to estate taxation of debt, held by foreign persons where the interest equalization tax applies. Present law contains a procedure which enables domestic corporations and partnerships to obtain foreign funds for use of their foreign affiliates in a manner which complies with the restrictions on foreign investment imposed by the Office of Foreign Direct Investment in the Commerce Department. Under the procedure, the domestic company or partnership elects to treat such an issue of debt as subject under present law, the flat 30 percent—or a lower rate imposed by treaty—U.S. tax, generally imposed on interest and certain other payments by U.S. persons to foreign persons, does not apply to interest payments on debt where the election referred to above has been made and certain other conditions have been satisfied. This committee amendment provides that in the case of debt where this election has been made, the value of the debt is not to be included in the U.S. estate tax base of the nonresident alien holder of the debt.

The committee estimates that this bill will involve a revenue gain or loss of less than $100,000 annually. The Treasury Department agrees with this statement.

THE PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, this concludes the series of amendments I have. I express appreciation to the Senator from Wisconsin for his cooperation in this matter. Without his cooperation we would have been involved here for several hours.

None of the amendments adopted in this series were sponsored by the Senator from Indiana; I was only trying to expedite the work of the committee. Most of them are technical in nature. We have relied on the staff and the advice of the Treasury.

RELIEF OF CASS COUNTY, N. DAK.

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3483.

The Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 3483) for the relief of Cass County, N. Dak., which was, on page 1, line 6, strike out all after "by" down through and including "across" in line 8, and insert "Cass County, North Dakota, in reconstructing that portion of the Wild Rice Bridge which was designated as Federal-aid secondary Route 639, as of September 28, 1971, and which bridge crosses".

Mr. BURDICK. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota.

The motion was agreed to.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. JAVITS. Mr. President, I have an amendment I wish to bring up. I send to the desk an amendment on behalf of myself and the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. MAGNUSON), the Senator from New Jersey (Mr. CASE), and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, insert the following:

Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof, and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof."

Mr. JAVITS. Mr. President, I wish to read into the RECORD the names of the Senators who join me in the amendment. They are Senators BROOKE, CRANSTON, HUMPHREY, KENNEDY, MUSKIE, PELL, STEVENS, SCHWEIKER, RIBICOFF, CASE, and WILLIAMS.

This is the same amendment the chairman of the committee, the Senator from Louisiana (Mr. LONG) suggested we put on H.R. 640 and this bill. The Senator from Washington (Mr. MAGNUSON) gave me the honor to present it. I hope the manager accepts it.

Mr. HARTKE. Mr. President, this is an amendment passed several times by the Senate. It is pending at the present time on the debt limit bill which is hopelessly deadlocked at this moment. Whether it can be resolved no one can say.

I have discussed this with the chairman of the committee and he has indicated he has previously agreed with the sponsor of the measure to accept the amendment. On that basis I accept the amendment.

Mr. PROXMIRE. If I understand correctly, No. 1, there is no revenue loss; No. 2, it is something that broadens the nonprofit——

Mr. JAVITS. No; this is not mine; this is the same unemployment compensation measure we passed.

Mr. PROXMIRE. This is the Magnuson measure?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Perhaps with the sponsorship on the other side of the aisle, it may increase the possibility of its ultimately being enacted into law.

Mr. BEALL. Mr. President, I have an amendment at the desk which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. ——. (a) Section 341(f)(1) of the Internal Revenue Code of 1954 (relating to certain sales of stock of consenting corporations) is amended by striking out "of a domestic corporation".

(b) Section 341(f)(4)(A) of such Code (relating to definition of subsection (f) asset) is amended by striking out "and unrealized receivables or fees (as defined in subsection (b)(4))" and inserting in lieu thereof "unrealized receivables or fees (as defined in subsection (b)(4)), and stock gain on the sale of which under subsection (a)(1) would (without regard to this subsection) be considered as gain from the sale of property which is not a capital asset".

(c) Section 341(f)(5) of such Code (relating to 5-year limitation) is amended to read as follows:

"(5) LIMITATIONS AS TO CERTAIN SHAREHOLDERS.—Paragraph (1) shall not apply to the sale of stock of a corporation by a shareholder if—

"(A) this section does not apply to such sale—

"(i) by reason of the application of the limitation contained in subsection (d)(1), or

"(ii) because such stock in the hands of the seller was property described in section 1221(1); or

"(B) during the 5-year period ending on the date of such sale, such shareholder (or any related person within the meaning of subsection (e)(8)(A)), in a sale to which paragraph (1) applied, sold any stock of another consenting corporation within any 6-month period beginning on the date on which a consent was filed under paragraph (1) by such other corporation."

(d) Section 341(f)(6) of such Code (relating to special rule for stock ownership in other corporations) is amended to read as follows:

"(6) SPECIAL RULE FOR STOCK OWNERSHIP IN OTHER CORPORATIONS.—If a corporation (hereinafter in this paragraph referred to as 'owning corporation') owns 5 percent or more in value of the outstanding stock of another corporation, whether domestic or foreign, on the date of any sale of stock of the owning corporation during a 6-month period with respect to which a consent under paragraph (1) was filed by the owning corporation, such consent shall not be valid with respect to such sale unless such other corporation has (within the 6-month period ending on the date of such sale) filed a valid consent under paragraph (1) with respect to sales of its stock. For purposes of its application to such other corporation, paragraph (1) shall be treated as referring to foreign as well as domestic corporations. For purposes of applying paragraph (4) to such other corporation, a sale of stock of the owning corporation to which paragraph (1) applies shall be treated as a sale of stock of such other corporation that is referred to in paragraph (1) whether such other corporation is domestic or foreign. In the case of a chain of corporations connected by the 5-percent ownership requirements of this paragraph, rules similar to the rules of the two preceding sentences shall be applied."

(e) The amendments made by subsections (a), (b), and (d) shall apply with respect to transactions after the date of the enactment of this Act in taxable years ending after such date. The amendment made by subsection (c) shall apply with respect to transactions after August 22, 1964, in taxable years ending after such date.

Mr. BEALL. Mr. President, this amendment bore the number 1569, originally proposed to H.R. 3786, which is the carillon bill, but this is a more appropriate vehicle for this amendment, and therefore it has been changed to be attached to this bill.

This is an amendment which amends section 341 of the Internal Revenue Code which deals with the so-called collapsible corporation problem.

Section 341 of the Internal Revenue Code was enacted in response to a situation wherein taxpayers attempted to channel regular income through the corporate form and convert it into long-term capital gains. Section 341 responded to this practice by closing this "loophole" and its effect is to tax stockholders of collapsible corporations at ordinary rates rather than capital gains from a transfer of assets purchased or manufactured by a collapsible corporation but subsequently disposed of before the corporation becomes responsible for the tax liability on the gain therefrom.

Thus, when Section 341 of the code applies, the gain resulting from the sale of stock of a "collapsible corporation" is treated as ordinary income. One of the exceptions under present law is set forth in Section 341(f). If the shareholders of a corporation wish to avail themselves of this exception, then the corporation "consents" to the recognition of gain by it on every future disposition of "subsection (f) assets"—in general, all assets other than certain capital assets—owned by it on the date of sale of stock.

After such an election has been made, the collapsible provision will not apply to the sale of stock during the 6-month period for which the consent is effective. However, present law provides that a shareholder who sells stock of a consenting corporation during the 6-month period which the consent is effective is barred for a period of 5 years from getting the benefit of a consent filed by any other corporation. This bar also operates against persons related to the selling shareholder.

Under section 341(D)(1) the collapsible provision does not apply to any shareholder who owns less than 5 percent in value of the outstanding stock of a collapsible corporation. For this reason, small shareholders get no benefit out of a 341(F) consent and have no interest in whether or not such a consent has been made by the corporation. Nevertheless, the present statute contains no exception for small shareholders so that if a small shareholder happens to sell stock during a period while a consent is effective, he will be prevented from getting any benefit from section 341(F) for 5 years.

This result under the statute as now effective is inappropriate. This view is shared by both Dr. Woodworth of the Joint Committee on Internal Revenue Taxation and also by the Treasury Department.

The Treasury Department, however, urged another amendment to correct another defect in the section involving the treatment of foreign corporations. It has been suggested that a foreign corporation, which may conduct all of its business and hold all of its assets outside the United States, may be authorized to file a consent and thereby secure for its selling U.S. shareholders capital gain treatment, even though the foreign corporation, by reason of the nature and location of its business and properties, will not be taxable by the United States on future dispositions of "subsection (F) assets."

My amendment would remedy both of these defects. It would eliminate the inequity in the first place, and it would close the loopholes that have been pointed out by the Treasury Department in the second place.

I may point out that the Treasury approves of this amendment. I have discussed the amendment with the chairman of the committee and, on advice of his counsel, he also indicated approval earlier in the evening, although I did not discuss it with the chairman of the committee. I think his counsel will advise him that this discussion took place.

We have just consulted the Treasury within the last half-hour. No one knows of any revenue loss under this provision. As a matter of fact, they think, in closing this loophole—although no one is taking advantage of the loophole, there is a possibility they can take advantage of it and there may be a considerable revenue loss—we may be protecting the Government from future revenue loss.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. PROXMIRE. Whenever we deal with collapsible corporations, as the Senator explained very well, it is a loophole in and of itself. A taxpayer creates a collapsible corporation so that he can report his earned income as a capital gain, so he reduces the effective ordinary rates to the lower capital gain rate.

As the Senator says, this amendment does not widen the loophole. In fact, I think the provision, as he explained it, is excellent. It provides a protection we do not have at the present time. It is one the Treasury has sought.

In view of the fact that this amendment in no way loses revenue, in view of the fact that it does not widen any loophole we have now, although it does not close the major loophole, I have no objection to it. I think the Senator from Maryland has offered a good amendment.

Mr. BEALL. I thank the Senator.

Mr. HARTKE. Mr. President, I have been advised that this measure has been previously acted on by the Senate as an amendment to another bill.

Mr. BEALL. That is my understanding.

Mr. HARTKE. The Senator from Wisconsin has accurately stated that it does not close loopholes, but it does accomplish what the Secretary of the Treasury has asked for. I have no further comment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following new section:

"Sec. 2. (a) Section 5041(a) of the Internal Revenue Code, as amended, is amended by striking out in the last sentence '0.277' and inserting in lieu thereof '0.392.'

"(b) The amendment made by subsection (a) of this section shall be effective on and after September 1, 1973."

Mr. TUNNEY. Mr. President, this amendment would amend the Internal Revenue Code to provide for an increase in the amount of carbon dioxide that may be contained in still wines.

The effect of this amendment is set forth in a letter to the chairman of the House Ways and Means Committee from the Treasury Department which I shall ask to have printed in the Record.

The letter recites also that the Treasury Department has no objection to the enactment of this amendment and that the Office of Management and Budget has advised Treasury that it has no objection.

Mr. President, this amendment is offered for the purpose of improving the quality of certain wines of low alcohol content by permitting an increase in the amount of carbon dioxide, a natural ingredient contained in wine. The effect of this increase is favorable for consumers because it improves the taste of wine, while also retarding deterioration. Carbon dioxide is a natural ingredient in wine which helps preserve flavor and color by displacing some of the oxygen which reacts with natural bacteria in wine.

Unless the natural carbon dioxide is allowed to be retained, some kind of artificial preservative would be required in those categories of wines with less than 10 percent alcohol content.

I might point out that I have discussed this proposal with academic experts in the field of viticulture—that is, the science of producing wine—at the University of California and they have assured me that the effect of this amendment is highly desirable from the consumer's point of view.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Frederic W. Hickman, Deputy Assistant Secretary of the Treasury, to the Chairman of the House Ways and Means Committee, Mr. Wilbur D. Mills.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Treasury,
Washington, D.C., April 17, 1972.

Hon. Wilbur D. Mills,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of this Department on H.R. 9716, entitled "A BILL to amend section 5041(a) of the Internal Revenue Code, as amended, to provide for an increase in the amount of carbon dioxide that may be contained in still wines."

Currently, wines are divided into two categories for tax purposes: still wines, and champagne and other sparkling wines. The rates on still wines are: 17 cents a gallon if containing not more than 14 percent of alcohol by volume; 67 cents a gallon if containing more than 14 percent and not more than 21 percent of alcohol by volume; and $2.25 a gallon if containing more than 21 percent and not more than 24 percent of alcohol by volume. Champagnes and other sparkling wines are taxed at $3.40 a gallon if naturally carbonated and $2.40 per gallon if artificially carbonated.

Prior to the Excise Tax Technical Changes Act of 1958, the law and regulations regarding still wines provided no tolerance as to carbon dioxide content. This resulted in compliance and administrative difficulties because a certain amount of carbonation is a normal consequence of the fermentation process by which wine is produced. Furthermore, the addition to, or retention in, still wine of small quantities of carbon dioxide improves its character and flavor.

The aforementioned 1958 legislation provided that still wines could contain not more than 0.256 gram of carbon dioxide per hundred milliliters of wine. The tolerance level for carbon dioxide was accepted with the understanding that it did not include effervescent wine. (House Report No. 481, 85th Cong., 1st. Sess., p. 111.) As a matter of fact, the 0.256 gram level definitely achieved this objective because the first 0.196 gram of carbon dioxide dissolves in the wine without a pressure increase and is quite slowly released when the wine is poured.

The permissible carbon dioxide content of still wine was increased to 0.277 gram per hundred milliliters of wine by the Excise Tax Reduction Act of 1965. The change was supported by the argument "that the present definition is too restrictive to serve adequately the purpose intended." (Sen. Report No. 324, 89th Cong., 1st. Sess., p. 52.) What the statement meant was that the degree of carbonation then permitted was so low that there were technical difficulties in determining when the limit was reached.

H.R. 9716 would further increase the amount of carbon dioxide permitted in still wine to 0.392 gram per hundred milliliters of wine.

The professed objective of the proposed increase is to improve the shelf life of wines of low alcoholic content, say below 10 percent of alcohol by volume. Still wines today generally do not contain less than 11–12 percent of alcohol by volume, but certain producers are working to expand the market for wines by producing wines with less than 10 percent of alcohol by volume. However, as the alcoholic content of a wine decreases, it tends to deteriorate more quickly because there is less alcohol to act as a preservative. If low alcohol content still wines were produced with a greater volume of carbon dioxide than now permitted, this would help preserve the color and flavor by displacing some of the oxygen which reacts with the bacteria in the product. Certain chemical additives provide an alternative to increased carbon dioxide for stabilizing wine.

Wine containing carbon dioxide at a level of 0.392 gram per hundred milliliters would have some appearance of effervescence, i.e., there would be a very modest amount of bubbles released during the period the product was in the consumer's glass. But the effervescence would in no manner be comparable to that of champagne or similar wines which customarily have a carbon dioxide content of 0.980—1.176 grams per hundred milliliters. Consequently, we do not feel that wines carbonated to the 0.392 gram level would be purchased in lieu of champagne, or sparkling wines with a similar level of carbonation. In addition, it should be noted that labeling and packaging of still wine to misrepresent it as an effervescent wine is prohibited by regulations (27 CFR Part 4) implementing the Federal Alcohol Administration Act and by section 5662 of the Internal Revenue Code.

There is a small amount of carbonated and sparkling wine marketed which has a level of carbonation not greatly in excess of the 0.392 gram level. e.g., some imported hard ciders, which could be affected by liberalizing the carbon dioxide content of still wine. It might be possible for producers to reformulate some of these products to come within the 0.392 gram limit, or some consumers thereof might transfer their purchases to still wines produced in accordance with the liberalized carbon dioxide levels proposed by H.R. 9716. These moderately carbonated wines enjoy an extremely limited market, however, and the revenue from them is not significant.

Since practically all the revenue from carbonated and sparkling wines comes from champagne and wines with a similar high level of carbonation and we do not believe champagne sales would be affected by the proposed liberalization of the carbon dioxide content of still wines, the revenue effect of H.R. 9716 should be minimal.

In view of the above considerations, the Treasury Department has no objection to the enactment of H.R. 9716.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

FREDERIC W. HICKMAN,
Deputy Assistant Secretary.

Mr. TUNNEY. Mr. President, I understand that the Senator from New York (Mr. JAVITS) has in his State a wine industry that would also like to try this slight increase in carbon dioxide in its wine.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. JAVITS. Mr. President, I have been informed that the winemakers in what we call the Finger Lakes region of New York have a similar interest to that of the winemakers in California.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. PROXMIRE. Earlier today I stated I would oppose all these amendments. I have had an opportunity to discuss this amendment in some detail, and I understand there is no significant revenue loss involved in this amendment.

Mr. TUNNEY. That is correct.

Mr. PROXMIRE. And that it is a provision that might well be in the interest of the consumer as well as the interest of the industry.

Mr. TUNNEY. That is correct. It is in the interest of the industry because it would prevent the deterioration of wine, and also the wine that is going to be affected is wine that has less than 10 percent alcohol.

So I think it is probably desirable from the point of view of the country that people drink wine with an alcoholic content of less than 10 percent.

Mr. PROXMIRE. As I understand, there is no opposition on the part of the Treasury?

Mr. TUNNEY. No opposition on the part of the Treasury or OMB.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. HARTKE. Would this addition to the wine move it into a different classification, as to possibly being sparkling wine?

Mr. TUNNEY. No, it would not. As the Senator knows, if you have a higher alcoholic content, you have to pay more excise tax.

Mr. HARTKE. That is right.

Mr. TUNNEY. This wine will have less of an alcoholic content. Also, if you have champagnes, highly carbonated wines, you pay a substantially greater excise tax. This still wine, assuming this amendment is agreed to, will still have less than one-third of the carbonation that champagne would have, and in the Treasury Department letter they make it clear that they do not think it would have any impact at all on the sale of champagne, and therefore it would have a minimal effect on revenues from excise taxes, because it would not be competing with champagne.

This still wine pays 14 cents a gallon, whereas with champagnes it is from $2.40 a gallon to $3.40 a gallon, as excise tax. It would not compete with champagne; so therefore, although the still wines pay less of an excise tax, it would have very litle impact on revenue.

Mr. HARTKE. In other words, there is just a little bit of carbonation, is that right?

Mr. TUNNEY. A little bit of extra carbon dioxide to replace the oxygen, to preserve the wine a little bit longer and add to the quality of taste.

Mr. HARTKE. So it does not, then, create a competitive situation with champagne?

Mr. TUNNEY. No, it does not.

Mr. HARTKE. Therefore, it would not have any effect on revenues?

Mr. TUNNEY. That is correct, according to the Treasury Department letter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Javits amendment is as follows:

At the end of the bill add a new section:

(a) IN GENERAL.—Section 1039 of the Internal Revenue Code of 1954 (relating to certain sales of low-income housing projects) is amended by—

(1) Changing subsection (b)(1)(A) to read as follows:

"(A) with respect to which a mortgage is insured under section 221(d)(3) or section 236 of the National Housing Act or with respect to which a mortgage is insured or housing is financed or assisted by direct loan or tax abatement under similar provisions of State or local laws," and

(2) strike the period at the end of subsection (b)(2) and add the following language: "or, in the case of a sale or disposition of a qualified housing project with respect to which a mortgage is insured or housing is financed or assisted by direct loan or tax abatement under State or local laws referred to in subsection (1)(A), which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a "qualified housing project" under section 221(d)(3) or 236 of the National Housing Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions made after the date of enactment of this Act.

Mr. JAVITS. Mr. President, this is a question of assimilating, for tax purposes, the sale with nonrecognition of gain of a qualified housing project to the extent that the proceeds are invested in another qualified housing project, without a tax applying.

Right now, the law provides that such treatment is extended to projects which are insured under section 221(d)(3) or section 236 of the National Housing Act. This is thus an inducement for private people to get out of the ownership of such a project or out of the ownership of a group of properties and sell them to another cooperative or another qualified owner for such a project, limited only to federally sponsored housing projects.

There are a number of States, about 19 States—I will submit a list for the record—where similar housing projects come under State law also, with limited return, limited rate of occupancy charges, et cetera. Those States are Alaska, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, and West Virginia.

The amendment simply provides that the same treatment may be afforded if the Secretary of HUD certifies that the ownership will be the same kind of ownership as under projects under section 221(d)(3) or section 236 of the National Housing Act.

If the clerk will return the bill, I will read the pertinent portions.

The PRESIDING OFFICER. The Chair is advised that the bill has been sent to the Secretary's office.

Mr. JAVITS. All right. We will do it later.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. Does the Senator, in saying "the same kind," mean nonprofit?

Mr. JAVITS. That is correct.

I have letters from the Treasury Department and the Secretary of Housing and Urban Development commenting on this legislation. I ask unanimous consent that my letters to the Treasury Department and HUD, together with their replies, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NOVEMBER 19, 1971.

Hon. GEORGE W. ROMNEY,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: The Tax Reform Act of 1969 as enacted into law contained a provision allowing for nonrecognition of gain to the initial investor in a housing project insured under Section 221(d)(3) of Section 236 where the properties are sold to the occupants or a tax-exempt organization managing the property, but only to the extent that the investor reinvests the sale proceeds in other similar housing.

At the time this legislation was considered in the Senate I offered an amendment to extend this favorable tax treatment to projects which are insured under state or local programs which have been certified by the Secretary of Housing and Urban Development to be in accord with the standards used in approving the sale or disposition of a qualified housing project under federal programs. Unfortunately this amendment was deleted in the Conference Committee and did not become law.

I am planning to submit the amendment again on the pending tax legislation since many states, like New York State, now have responsible state programs for low and moderate income housing. I believe it is essential to extend Section 1039 to these state-assisted programs so that it can work more effectively.

I would appreciate your comments as to the merits of my amendment and any other suggestions you might have on the matter.

With warm regards,

Sincerely,

JACOB K. JAVITS.

THE SECRETARY OF HOUSING,
AND URBAN DEVELOPMENT,
Washington, D.C., December 9, 1971.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This letter is in response to your letter of inquiry of November 19, 1971, regarding a proposed amendment to Section 1039 of the Internal Revenue Code. I appreciate your desire to obtain our opinion prior to the introduction of such a measure.

At the present time the Department "certifies" state and local programs for the purpose of qualifying them to receive interest subsidy payments under Section 236(b) of the National Housing Act. Our certification for that purpose does not include any review of the standards used in approving the sale or disposition of a qualified housing project. Perhaps the legislation should call for a separate certification by the Department to the Internal Revenue Service of the fact that the standards used by the state and local program in question for such purposes are in accord with the standards used under Federal programs.

I certainly agree that the extension of Section 1039 to the state and local programs, where they qualify, would be in our interests in assisting the growth of those programs. I would also like to suggest that you consider a further extension of Section 1039 to include non-profit sponsors.

I appreciate your inquiry.

Sincerely,

/s/ George
GEORGE ROMNEY.

NOVEMBER 22, 1971.

Mr. JOHN B. CHAPOTON,
Tax Legislative Counsel Department of the Treasury, Washington, D.C.

DEAR MR. CHAPOTON: The Tax Reform Act of 1969 which is now Section 1039 in the Internal Revenue Code which allows for nonrecognition of gain to the initial investor in a housing project insured under Section 221(d)(3) or Section 236 of the National Housing Act where the properties are sold to the occupants or a tax-exempt organization managing the property, but only to the extent that the investor reinvests the sale proceeds in other similar housing.

At the time this legislation was considered in the Senate I offered an amendment to extend this favorable tax treatment to projects which are insured under state or local programs which have been certified by the Secretary of Housing and Urban Development to be in accord with the standards used in approving the sale or disposition of a qualified housing project under federal programs. Unfortunately this amendment did not become law.

I am planning to submit the amendment again this year to an appropriate tax bill since many states, like New York State, now have responsible state programs for low and moderate income housing. I believe it is essential to extend Section 1039 to these state-assisted programs so that it can work more effectively.

I would appreciate your comments as to the merits of my amendment and any other suggestions you might have on the matter. I am enclosing a copy of the amendment language for your review.

With best wishes,

Sincerely,

JACOB K. JAVITS.

OFFICE OF THE SECRETARY,
OF THE TREASURY,
Washington, D.C., December 10, 1971.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: This is in response to your letter of November 22, 1971, in respect to a proposed amendment to section 1039 of the Internal Revenue Code of 1954.

Section 1039 generally provides for nonrecognition of the gain realized on the sale of a "qualified housing project" to the extent the proceeds are reinvested in another qualified housing project. Under section 1039 (b) a "qualified housing project" is a project with respect to which the owner is limited as to the rate of return and limited to rate of occupancy charges; and with respect to which a mortgage is insured under section 221(d)(3) or section 236 of the National Housing Act. Thus, section 1039 is presently limited to Federally-sponsored housing projects.

Your amendment would extend section 1039 to apply to state or local housing projects which have been certified, under standards approved by the Secretary of Housing and Urban Development, as being comparable to qualified housing projects under Federal programs. A similar amendment to the Tax Reform Act was introduced in 1969, but did not become law.

I agree that there is no meaningful distinction between housing projects sponsored under Federal programs and similar housing projects sponsored under state and local programs. In either case, the statute is primarily concerned that the project have a limited rate of return and that rental or occupancy charges also be limited. Where a state or local program meets these conditions, and where the program has been certified in accordance with standards approved by the Secretary of Housing and Urban Development as being consistent with the standards applied under the Federal programs, I can see no objection to extending the benefits of section 1039.

Section (b) of the proposed amendment would make these changes apply to "taxable years" beginning after December 31, 1971. Since section 1039 itself applies to "dispositions" of qualified housing projects after the effective date, you may wish to revise section (b) of your amendment to apply to dispositions after the date of enactment of the amendment.

Sincerely,

JOHN E. CHAPOTON,
Tax Legislative Counsel.

Mr. JAVITS. The tax legislative counsel of the Office of the Secretary of the Treasury, in replying, said:

> I agree that there is no meaningful distinction between housing projects sponsored under Federal programs and similar housing projects sponsored under State and local programs.

In the letter received from George Romney, the Secretary of Housing and Urban Development, he stated:

> I certainly agree that the extension of section 1039 to the State and local programs, where they qualify, would be in our interests in assisting the growth of those programs.

The pertinent provision of the bill is as follows:

> Which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a "qualified housing project" under section 221(d)(3) or 236 of the National Housing Act.

Mr. President, I am very mindful of the ground rules the Senator has laid down, and I would like to explain why I believe this amendment qualifies.

The staff of the committee apparently felt that, it being a technical thing we were trying to do here, it was not the sort of thing that was susceptible to hearings, so we were advised to bring it on an appropriate tax bill, at a time when there was a catchall bill like this one.

I might point out also that this particular provision was attached to the Tax Reform Act at the time that it was passed. For whatever reason, it was dropped in conference, and there it has been in limbo since.

I would hope very much, as we are advised by the Treasury Department that there is no appreciable revenue loss, and that this is being used as a totally new effort to get housing in this kind of field, or at least to broaden the utilization of the channel, that it could be taken to conference. Obviously, if the House objects again, it will be dropped, but at least we will have this chance.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. As I understand what it would do, it would simply broaden the sponsorship for housing projects which Congress has been so anxious to get moving. It would increase private ownership of housing and would do so without providing for any further exemptions or loopholes in the tax law?

Mr. JAVITS. It simply assimilates State projects under the same definition.

Mr. PROXMIRE. The reason I raise the point is that I think recently much of the public and the press have become more aware of scandals in public housing. Last night, for example, one of the broadcasters had a special program on the enormous bonanza people have been making on these housing programs. I happen to be the chairman of the Subcommittee on Housing and Urban Development, and I hope next year we can go into this matter and get at it. Certainly one thing we have to be very careful about is that we not provide any more loopholes or giveaways, so that, in providing housing for those who desperately need it, we are enriching a few big investors.

The amendment of the Senator from New York, as I understand it, would provide for more nonprofit funding, and therefore do exactly what we want to do to provide more private homeownership, and do so in a way that is equitable and fair, and does not open up any loopholes. Is that correct?

Mr. JAVITS. What it really means is that one nonprofit will be passed on to another nonprofit. It is really a way of going beyond the initial investor. It has been kicking around for some time, and this is more or less our last chance. If the House will take it, I think something good can happen.

Mr. HARTKE. Mr. President, let me say to Senator from New York, that as I understand section 221(d) projects, they receive special tax consideration at the present time?

Mr. JAVITS. Right.

Mr. HARTKE. That deals with special depreciation allowances and with the question of disposition, and they receive special treatment. The special tax treatment has been a foundation upon which the Federal Government has hoped to build the opportunities for low-cost housing.

As I understand the amendment of the Senator from New York, he wants to extend this special tax treatment to a project if it is built and arranged for and financed under State law, as contrasted to being done under Federal law.

Mr. JAVITS. A State law which is comparable with the Federal law.

Mr. HARTKE. Under such circumstances, does the State facility, the State sponsored facility, have to be approved by the Department of HUD?

Mr. JAVITS. In effect, because he must approve the rules which the State authorities make, and they must be the same rules that he is applying to Federal projects.

Mr. HARTKE. What I am asking is whether or not, before this special tax consideration would apply, HUD would have to give its approval to the project?

Mr. JAVITS. It would not have to give its approval to the individual project, but it would have to give its approval to the rules under which the State authority which would give its approval is operating.

Mr. HARTKE. Would that include the establishment of building standards and the availability of space arrangements?

Mr. JAVITS. Whatever standards he is applying to 221(d)3 and 236 projects, he will apply to these.

Mr. HARTKE. Would it also apply to any subdivision of the State, such as a municipality? Take a city, for example, which is operating under the jurisdiction of a State government—would the same principles apply?

Mr. JAVITS. Provided that it, too, is enforcing rules which are the same as or substantially the same as those the Secretary of Housing and Urban Development is enforcing.

I should like to read it again to the Senator:

> . . . which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a qualified housing project under section 221(d)3 or section 236.

Mr. HARTKE. As I understand the existing programs, 221(d) projects could be built by either a nonprofit corporation or a corporation for profit, with a limitation upon return.

Mr. JAVITS. A limited dividend.

Mr. HARTKE. Is that true?

Mr. JAVITS. Yes.

Mr. HARTKE. The same qualifications would still apply?

Mr. JAVITS. Completely.

Mr. HARTKE. Let me ask a question with regard to these projects. What would be the effect of the property tax upon these properties? At the present time, as I understand, these properties, under Federal law, are subject to all the same application of property tax as any other property which is similarly situated, whether it be a nonprofit corporation or privately owned.

Mr. JAVITS. Under the Mitchell-Armour law in my State, the same is true, except for this point, and the Senator should keep this in mind: Often they are especially set up under tax abatement agreements with local authorities, but that is true with Federal projects, too; they are often set up under special tax abatement agreements. But in those cases, it takes two to agree. It is nothing mandated by law. Does the Senator see my point?

Mr. HARTKE. I understand what the Senator is saying, but I am not clear in the interpretation of what he is saying. What the Senator is saying is that a local organization can enter into an agreement with a State or municipality to have either a reduction or complete abatement of the property taxes?

Mr. JAVITS. For a given period.

Mr. HARTKE. But this is only being done on a voluntary basis.

Mr. JAVITS. I agree.

Mr. HARTKE. Upon the initiative of local organizations. The present situation with regard to 221(d), as I understand it, and one of the inhibitory factors, is that under the wage-price controls there is no opportunity for increasing the rents, and at the same time property taxes have been increased rather substantially in most jurisdictions, to the extent that most 221(d) projects are unoccupied throughout the country at the present time.

Mr. JAVITS. This is a big problem of conforming the law or bringing the law abreast of new situations; but this amendment in no way makes or breaks that problem.

Mr. HARTKE. I am willing to accept the amendment, on the basis of the statements of the Senator from New York; but I am not very enthusiastic about the present tax consideration of 221(d) on the Federal level, let alone extending it to the State and local level. But until such time as there is a complete review, I see no objection to applying it to the other jurisdictions which comply with Federal law.

I wish the Senator from Wisconsin would give this matter a complete review, because in some cases I think it has been abused and in other cases it is not being used properly.

Mr. JAVITS. As Everett Dirksen used to say, the hide will go with the hare.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 7625. An act to revise the pay structure of the police forces of the Washington National Airport and Dulles International Airport, and for other purposes;

H.R. 9604. An act to prohibit the unlawful use of a rented motor vehicle;

H.R. 10751. An act to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes;

H.R. 13895. An act to amend title 5, United States Code, to revise the pay structure for nonsupervisory positions of deputy United States marshal, and for other purposes;

H.R. 14171. An act to incorporate in the District of Columbia the American Ex-Prisoners of War;

H.R. 14934. An act to amend title 5, United States Code, to make levels III and IV of the Executive Schedule applicable to certain positions within the Department of Justice, and for other purposes;

H.R. 15188. An act to incorporate in the District of Columbia Pop Warner Little Scholars, Inc.; and

H.R. 15453. An act to incorporate in the District of Columbia the National Inconvenienced Sportsmen's Association.

The message also announced that the House had passed without amendment the following bills:

S. 3545. An act to amend section 7 of the Fishermen's Protective Act of 1967; and

S. 4022. An act to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus systems engaged in scheduled regular route operations in the National Capital area, and for other purposes.

The message further announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes.

The message further announced that the House had passed the bill (S. 3671) to amend the Administrative Conference Act with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 216. An act to permit suits to adjudicate certain real property quit title actions;

S. 1852. An act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes;

S. 1928. An act to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system:

S. 2411. An act to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes;

S. 2454. An act to amend the Youth Conservation Corps Act of 1970 (Public Law 91-378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program and for other purposes;

S. 2741. An act to amend the act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such act;

S. 3310. An act to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes;

S. 4018. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

H.R. 14542. An act to amend the act of September 26, 1966, Public Law 89-606, to extend for four years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes.

H.R. 15280. An act to amend the act of August 16, 1971, which established the National Advisory Committee on Oceans and Atmosphere, to increase the appropriation authorization thereunder.

H.R. 16444. An act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes.

H.R. 16987. An act to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce.

S.J. Res. 199. Joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., the first university in the United States to bear the full name of the third President of the United States.

S.J. Res. 251. Joint resolution to designate the week which begins on first Sunday in March 1973 as "National Beta Club Week".

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

HOUSE BILL REFERRED

The bill (H.R. 16598) to amend the Disaster Relief Act of 1970 to provide that community disaster grants be based upon loss of budgeted revenue, was read twice by its title and referred to the Committee on Public Works.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 14, 1972, he presented to the President of the United States the following enrolled bills:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico; and

S. 3755. An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HART). The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from North Carolina (Mr. JORDAN) as alternate delegate to the North Atlantic Assembly, to be held in Bonn, Germany, November 18-24, 1972.

ADDITIONAL STATEMENTS

SENATOR LEN JORDAN HAS BEEN FAITHFUL TO EVERY TRUST

Mr. RANDOLPH. Mr. President, it is with satisfaction that I join Senators in expressing tribute to one of our number who will retire from the Senate at the end of the 92d Congress.

It has been a personal satisfaction for me to have served with LEN B. JORDAN of Idaho. For several years he was a member of the Committee on Public Works and there brought his considerable talents to bear on the development of legislation and projects for the benefit of millions of Americans.

As a member of the Committee on Interior and Insular Affairs, Senator JORDAN has been deeply involved in our country's fuel and energy needs. I share his concerns in these areas, and we have been able to work together for a solution to these problems.

In all of his labors in the Senate, Senator JORDAN exhibited all of the finest qualities that are expected of a legislator whose thoughts are ever on the people he serves. He is a man of high purpose, but he also exhibited great patience as he went about his duties with little regard for public fanfare.

The character of LEN JORDAN as a human being is best reflected, I believe, in his faithful participation in the Senate Prayer Breakfast group each week. He is a man of strong will, but he also is gentle of heart, a man who drew much of his strength from a firmly held religious conviction. It was fitting that LEN JORDAN presented the program for the last meeting of the Senate Prayer Breakfast before his retirement.

Mrs. Randolph joins me in wishing to LEN and Grace Jordan continued years that are productive and fruitful, for he is a man of such energy and dedication that total retirement will be impossible.

There is a little poem which reads:

Faithfully faithful to every trust,
Honestly honest in every deed,
Righteously righteous and justly just:
This is the whole of the good man's creed.

Mr. President, these words characterize our friend, LEN JORDAN.

TRIBUTE TO SENATOR JORDAN OF NORTH CAROLINA

Mr. HOLLINGS. Mr. President, last night the Capitol Hill colleagues, staff, and friends of Senator B. EVERETT JORDAN gathered at a reception in his honor. There was a sincere outpouring of warmth and dedication for this kind and gentle and yet so effective public servant from the great State of North Carolina. In fact, there was real love and esteem for him.

I have seen EVERETT JORDAN at work on behalf of the constituents of his State and his Nation. I can testify—as can all Senators—to the dedication and commitment of the man as he went about his work. He labored long and hard, with diligence and with a quiet persuasiveness that enabled him to be a distinguished legislator. Senator JORDAN always puts first things first—and at the top of his list was a deeply held commitment to the concept of America and the well-being of its citizens.

On innumerable occasions, it has been my privilege to consult with my friend, EVERETT JORDAN. On issues of common interest to our neighboring States—such as agriculture and industry—I always found him keenly aware of the problems and helpful in suggesting ways to meet our common challenges. I have seen him at work in committee, putting his obvious talents to work on a wide variety of issues. No one can ignore the positive record of accomplishment that Senator JORDAN has compiled in his years in this Chamber.

Mr. President, we will miss the presence of Senator EVERETT JORDAN. But we are grateful for the time he served here and the record he has made. And we join today in wishing him well in the years ahead, in the hopes that we may continue to draw upon his ability and experience in years to come.

SENATOR B. EVERETT JORDAN

Mr. YOUNG. Mr. President, we all feel bad that a great legislator, one of the best liked Members of the U.S. Senate, and one of its best storytellers—Senator EVERETT JORDAN—will be leaving us.

EVERETT JORDAN has been a very effective Senator, especially in the field of agriculture. While agriculture in North Carolina is considerably different than in my home State of North Dakota, I have found EVERETT JORDAN to always be sympathetic, understanding, and helpful to our agriculture. He spent many long hours as a key member of the Senate Agriculture Committee helping farmers and their friends in the Senate.

As chairman of one of the most important subcommittees of the Senate Agriculture Committee he played a key role in shaping important farm legislation. On many occasions he went out of his way to be considerate and helpful to me when he thought I had a good case. This is typical of EVERETT JORDAN in his dealings with every Member of the Senate.

His leaving the Senate will be a great loss to this body and I—like every other Senator—will miss this friendly, kindly, and very decent person. Our best wishes will always be with Katherine and EVERETT JORDAN.

RETIREMENT OF SENATOR B. EVERETT JORDAN OF NORTH CAROLINA

Mrs. SMITH. Mr. President, there is a real personal sadness for me in the impending departure of Senator B. EVERETT JORDAN from the Senate. He has been a great Senator. But even more important than that—he is a wonderful human being.

I have never known a kinder, more considerate person than EVERETT JORDAN. Every Member of the Senate will attest to this. We have had real and personal reasons to know. For he has been the chairman of the Rules and Administration Committee, which does so much of the governing and administration of the Senate. It is this committee to which we have to turn with respect to vital matters concerning the running not only of the Senate but, as well, our individual offices.

It is a trying job because it requires saying "No" more often than "Yes." EVERETT JORDAN has endeared himself to his Senate colleagues not by saying "Yes" to them but rather by the way in which he has said "No" to them—with complete understanding, with patience, and with commensurate kindness.

But he is endeared to us for more than his great kindness, humility, and warm personality. He is endeared to us for his great courage—moral courage, and physical courage.

His great courage earlier this year on the gravely threatening physical condition that led to crucial surgery was an inspiration to all of us. He walked through the Valley of the Shadow of Death, and came through with flying colors, and back to the Senate with amazing activity and effectiveness following that tremendously successful surgery.

Then we watched him show a moral courage of rare quality and depth as he sought reelection to the Senate. We saw him stand tall and straight, and refuse to drop to the level of political invective and polemics—and we were immensely proud of him. By his conduct in the campaign, he reflected the highest credit on the U.S. Senate.

I shall always remember his exemplary campaign conduct and I shall strive to emulate him. And when I feel provoked because of what I consider an unfair political attack on me, I shall remember the performance of EVERETT JORDAN and try to emulate his exemplary restraint.

We will miss him greatly. We wish for him and his the very best of everything.

RETIREMENT OF SENATOR JOHN SHERMAN COOPER OF KENTUCKY

Mr. JORDAN of North Carolina. Mr. President, to me, one of the richest rewards of service in this great legislative body has been the rare privilege of coming to know and work with so many of the country's finest men and most outstanding public figures.

One of the most difficult parts of such an association comes when it is time to say goodby to one such man.

Thus it is with a mixture of pride and sadness that I add my personal tribute to those so many of you have already accorded our valued colleague, JOHN SHERMAN COOPER, on the occasion of his retirement.

Nothing I can say here today will add to the brilliant luster of his accomplishments as a soldier, diplomat, and statesman.

The record is there for all to see and admire.

What I will longest remember, however, are the qualities of JOHN SHERMAN COOPER, the man—his unfailing kindness and courtesy, his gentle humanity, and, when the occasion demanded, his iron will and resistance to those things he considered unwise or unethical.

It is for those qualities that I have admired and respected JOHN SHERMAN COOPER throughout our years of service together on the Rules Committee, on the Public Works Committee where he became ranking minority member, and on the Agriculture committee while he was assigned to it.

Even though our politics have differed, our aims and interests have been much the same throughout those years—particularly in our common desire for conservation and development of natural resources through public works projects and for advancement of human resources through education.

Those of us who have been privileged to know him here are wiser and richer for the experience. His native State of Kentucky, the country, and indeed the world, have been the beneficiaries of his effective and dedicated service.

I am proud today to salute him as both a very good friend and a great American.

JOHN SHERMAN COOPER

Mr. WILLIAMS. Mr. President, before the 92d Congress adjourns, I want to express my respect and admiration for one of the true pillars of this body who will not be with us when the 93d Congress convenes in January. The term of the senior Senator from Kentucky expires this year, and he has decided to retire.

JOHN SHERMAN COOPER has now served nearly 20 years in the Senate—longer than any other Senator from the State of Kentucky except one. The people of Kentucky have recognized the outstanding service he has rendered his State and the Nation, and reelected him with majorities of 199,000 votes in 1960 and 217,000 votes in 1966; no other candidate for a statewide office in Kentucky has ever rolled up that kind of majority.

To say that Senator COOPER has been a leader of the Senate would be a terribly inadequate understatement; indeed, he has been one of the most respected men to serve in this body, and close to a one-man institution.

He is one of the Senate's leading experts on foreign affairs, and has distinguished himself as a member of the Committee on Foreign Relations. He has also served with great distinction as the ranking minority member of the Committee on Public Works, and as a member of the Rules and Administration Committee, and the Select Committee on Standards and Conduct.

As the chairman or ranking minority member of the Subcommittee on Roads for 16 years of his service, Senator COOPER has participated in developing every major highway act in recent history. In the process, he has always paid particular attention to the need for environmental safeguards in connection with highway construction, and for compensation to individuals and businesses displaced by new roads.

Since 1967, Senator COOPER has been a member of the Subcommittee on Air and Water Pollution, and as such has played a major role in development and enactment of all the major environmental legislation of recent years. He has had a longstanding interest in environmental preservation, and among other things, he cosponsored the National Historic

Preservation Act of 1966 and the National Wild Rivers Act of 1968.

Senator Cooper has also compiled a long record of commitment to aiding our Nation's schools. In years past, he served as a member of the Committee on Labor, Education and Public Welfare, and was chairman of the Subcommittee on Education in 1953 and 1954. He joined the late Senator Robert Taft, Sr., in introducing the Education Financing Act of 1948, a measure which passed the Senate, but not the House.

It was, however, the first bill providing such Federal aid to schools to pass either Chamber and served as the forerunner of the Elementary and Secondary Education Act enacted in 1965. Furthermore, as a member of the Committee on Agriculture, Senator Cooper supported extension of the school lunch program to schools serving many children of low-income families. And in 1968, he helped secure a 3-year extension of, and increased appropriations for, the school breakfast program initiated in 1966.

In the field of foreign policy, Senator Cooper was a supporter of the Marshall plan, and of aid to Greece and Turkey after World War II. He has been a stanch protector of the congressional prerogative for deciding when the country should go to war, and in recent years has attracted wide attention as sponsor of measures to end U.S. involvement in the fighting in Indochina. The amendments he cosponsored to prohibit use of U.S. forces in Laos, Thailand, and Cambodia are the only binding restrictions which have been enacted into law concerning the war in Southeast Asia.

In addition to his work in the Senate, John Sherman Cooper has been a delegate or alternate delegate to four sessions of the United Nations General Assembly. He has also been an adviser at a number of international conferences and in 1956, during a break in his Senate service, served as U.S. Ambassador to India and Nepal.

Mr. President, I think it is clear that Senator Cooper has been one of the most active and influential Members of this body during the past two decades. He has, moreover, earned the unqualified respect of those of us who have been privileged to work with him, and the sincere appreciation of his constituents; although he is retiring now, he most certainly will not be forgotten.

JOHN SHERMAN COOPER

Mr. BAYH. Mr. President, I am pleased to join Senators in paying tribute to John Sherman Cooper for his fine and conscientious work during his many productive years as a Senator. The Senate will be the poorer without his principled and studious approach to legislation.

I have had the particular pleasure of working with John on a bill to provide a grievance system for all employees of the Foreign Service. During consideration of this proposal, John listened patiently to the arguments of all concerned, and made extraordinary efforts to find an accommodation satisfactory to all the parties. I will miss his independent thinking, his attention to detail, and his broad perspective.

I have also enjoyed working with John on the Public Works Committee and on its Subcommittee on Roads. As ranking minority member of the committee, John worked diligently and fought vigorously for the positions he believed in. His vast experience in public works matters was very helpful to me and to other committee members over the years.

Mr. President, John Sherman Cooper is a leader of this body, and for that reason we in the Senate are sorry he is retiring. But more important, John Sherman Cooper's strong stand against the continuing war in Vietnam, and his courageous position as a spokesman for equal justice and equal opportunity for all our citizens, have made him a leader of the Nation. For this reason, the whole country will miss having him in the Senate—though I am sure he will continue to be active in public affairs for many, many years.

On behalf of the countless citizens who have been helped and protected by John Sherman Cooper—and as a matter of my own personal feelings—I extend to him our thanks for a job well done, and our best wishes for his next endeavors.

TRIBUTE TO SENATOR McCLELLAN

Mr. ALLEN. Mr. President, this past Thursday, the Senator from North Carolina (Mr. Ervin), chairman of the Committee on Government Operations, presented to the Senator from Arkansas (Mr. McClellan), on behalf of the committee, a parchment scroll containing the Senate's unanimous resolution of August 16, 1972, which commended him for his outstanding service to the Nation. The scroll was signed by the committee's 17 members and by the junior Senator from Arkansas (Mr. Fulbright). Senator McClellan also was given an inscribed silver tray as a further token of the committee's esteem.

Senator Ervin's eloquent words on this occasion about our distinguished colleague and former Government Operations Committee chairman, reflected the heartfelt sentiments of all of us who have had the privilege and pleasure to serve with Senator McClellan. I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Sam J. Ervin, Jr., Chairman, Committee on Government Operations, in Appreciation of Former Chairman John L. McClellan

I have the honor of making certain presentations to our former Chairman and our friend, John McClellan, on behalf of the other members of the Committee. John is one of my—I started to say oldest acquaintances, but I'd better say—friends of long standing in the Senate because John had the good judgment to marry one of my constituents. So I knew John before I came to the Senate, and when I came to the Senate I was assigned to the Government Operations Committee of which he was the ranking Democrat and of which Joe McCarthy was Chairman. Although I haven't worked as closely with the Committee as some of you have, I have been on the Committee ever since.

I would say that John McClellan enjoys the admiration of all members of the Committee and has always—at all times—been fair and given every member of the committee an opportunity to present his bills and to have them acted on in the Committee. And I want to assure you, that as long as I continue to be Chairman I am going to do the same thing by his standards.

To my mind, John McClellan is the ideal public servant. He always had the characteristic of industry. He's willing to work. He informs himself as to the facts connected with every issue that comes before him. But he not only has the characteristic of industry—which I think is the first characteristic of a good legislator or a good public servant—he also has a high degree of intelligence. He reaches information by reasons of industry, and then forms conclusions, and by virtue of intelligence he reaches intelligent conclusions.

John's got another quality—the highest quality of anyone I've ever known—and that is the quality of intellectual integrity. So when John reaches a conclusion, it is not only an informed conclusion and an intelligent conclusion, but a conclusion which is intellectually honest in the highest degree.

Then he has another, what I consider the last of the fundamental traits of a good legislator, and he has it in as high a degree as any public servant in any capacity I've ever known. And that is the quality we sometimes are inclined to find in short supply in public men—that is moral and political courage.

So to my mind, John McClellan is the ideal legislator because of his industry, because of his intelligence, because of his intellectual integrity, and because of his unsurpassed moral and political courage. And I am sure that all of you agree with me in this summation of John's qualities as a legislator and the great services he has rendered to our country.

It is on account of these things that you have authorized me to present to John as a token of our admiration and affection, this scroll, which has been subscribed by all members of the Committee, and by my ol' colleague from Arkansas, Bill Fulbright.

RETIREMENT OF SENATOR CLINTON P. ANDERSON, OF NEW MEXICO

Mrs. SMITH. Mr. President, it has been a wonderful privilege for me to serve both in the House of Representatives and the Senate with that very great American and outstanding statesman, Clinton P. Anderson, the senior Senator from New Mexico. Most particularly gratifying has been to serve so many years with him on the Senate Committee of Aeronautical and Space Sciences. He has been a brilliant leader and chairman of this important committee. Because of him the United States is the foremost leader on space exploration and achievement. Under his direction as chairman of this committee, the United States staged a dramatic comeback after seriously trailing the Soviet Union following the advent of Sputnik to establish an overwhelming superiority over the Soviet Union on achievement in space exploration.

Without Clinton P. Anderson's brilliant leadership, this would never have been accomplished. I know, for I saw this firsthand in my capacity as the ranking minority member of this committee for many years.

But more significant than his impressive leadership on space matters has been the humanitarianism of Clint Anderson. Not only has he projected this in his championship of legislation for the welfare and betterment of people but as well in his everyday life relations with the Members of the Senate, the employees of the Senate, personnel in the other branches of the Government, the people of his beloved State of New Mexico, and the American public.

The Senate simply will not be the same without Clint Anderson. I shall miss him sorely.

We wish him and his wonderful wife the very best of everything in the retirement that they both so richly deserve.

RETIREMENT OF SENATOR KARL E. MUNDT, OF SOUTH DAKOTA

Mrs. SMITH. Mr. President, it has been my privilege to serve all of my time in Congress with Karl Mundt, the senior Senator from South Dakota. He preceded me in the House of Representatives by 17 months, as we were both Members of the 76th Congress. In 1948 we were both elected to the U.S. Senate. He, Senators Clinton B. Anderson and Russell B. Long, and I are the surviving members of the 1949 class of 19 freshman Senators that included such illustrious graduates as President Lyndon B. Johnson and Democratic Vice-Presidential nominee Estes Kefauver.

In the Senate we have served together on the Committees on Appropriations and Government Operations. He was an extremely articulate, incisive, and effective Senator for many years until his untimely stroke.

We have missed Karl Mundt. We shall continue to miss him. We wish for him the greatest possible return of full health and we wish for him and his wife, Mary Mundt, the maximum of happiness.

SENATOR HARRIS

Mr. WILLIAMS. Mr. President, when the 92d Congress adjourns sine die, a number of fine Members of the Senate will be leaving congressional service because their terms expire this year, and they have chosen not to seek reelection. One such is Senator Fred R. Harris, of Oklahoma, and I take this opportunity to note the outstanding service he has rendered this country.

In a relatively brief period of time, Fred Harris has become known as one of our Nation's most prominent leaders in the causes of justice, dignity, quality education, and adequate health care for all Americans. He first came to the Senate in 1964, when he was elected to a 2-year, unexpired term, after having served 8 years as a member of the Oklahoma State Senate; in 1966, he was reelected to a full 6-year term.

As a Member of the Senate, Fred Harris moved quickly into the vanguard of a movement to bring about much-needed reforms in the seniority system and other Senate procedures, and he now is chairman of the Committee on Senate Reform of the Senate Democratic Caucus. He also lost no time in becoming a leader of efforts to improve our Nation's health care system. As chairman of the Committee on Labor and Public Welfare, I can attest to the fact that Senator Harris has been one of the prime movers in the Senate of health and child care legislation.

Furthermore, Senator Harris has become expert on the complex problems of the welfare system, and has introduced legislation which would remove inequities in it, and assure an adequate level of support for those truly in need. He has also been deeply involved in efforts to protect the environment and conserve natural resources and I have been privileged to work with him on a number of bills in this area, particularly the Marine Mammal Protection Act.

Outside of the Senate, Fred Harris has distinguished himself as a leader of the Democratic Party; he was chairman of the Democratic National Committee from January 1969 to March 1970, and worked to reform delegate selection and national convention procedures, as well as to broaden the base of the party. In addition, Senator Harris served as a member of the President's National Advisory Commission on Civil Disorders—The Kerner Commission—in 1967 and 1968; currently, he is cochairman of the Commission on the Cities in the Seventies, a 12-member panel appointed by the National Urban Coalition to investigate the status of the Kerner Commission's recommendations for action, and to report on emerging urban issues.

Mr. President, it is clear that Fred Harris has committed himself to bringing about needed change in many areas of our national life. He has served with distinction in this body, and I regret very much that he will not be once again taking his seat here when the 93d Congress convenes in January. However, I know that Fred and his wonderful wife LaDonna intend to remain in Washington, each continuing the fine work they have been involved in, and I think all Senators would agree with me when I say I am very glad that they will.

RETIREMENT OF REPRESENTATIVE CHARLES RAPER JONAS

Mr. JORDAN of North Carolina. Mr. President, this week House colleagues from both sides of the aisle and from States scattered throughout the Nation paid well-deserved tribute to an outstanding North Carolinian, Representative Charles Raper Jonas, who is retiring after an illustrious 20-year career.

I am proud today to join in that salute and to bring to the attention of the Senate some of the reasons for that general acclaim.

One of the explanations, surely, is the fact that from the very start of his Capitol Hill career he established a reputation as a highly knowledgeable Member with a tremendous capacity for hard work and attention to detail.

He also demonstrated a strong sense of responsibility and integrity in both fiscal matters and questions of legislative principle.

Although he was just the second Republican Member of Congress to represent a North Carolina district in this century when elected in 1952, he has shown throughout his career a capacity for putting the needs of the State and country above purely partisan considerations.

Those qualities have earned him the respect and admiration of all who have known him and had the opportunity of either serving with him or observing the results of his work in the House.

The same attributes account for his assignment to the Appropriations Committee, a highly coveted position, early in his career and for the widening scope of his influence on the committee and in the House as a whole in the ensuing years.

The hallmark of his career and the trait for which he is best and most widely known has been his continuing battle against carelessness and waste in Government spending.

A colleague from another State said of him the other day that his contribution to the cause of good government is virtually immeasurable. If the taxpayers of the Nation knew how many millions of dollars Charlie's prudence had saved them, they would rise up to thank him with one resounding voice.

To that, those of us who have served with him in North Carolina's delegation for so long can say a fervent "amen" as well as "Godspeed."

RETIREMENT OF REPRESENTATIVE ALTON A. LENNON

Mr. JORDAN of North Carolina. Mr. President, as the second session of the 92d Congress draws to a close, I think it appropriate to bring to the Senate's attention the fact that it marks the end of the congressional career of a distinguished North Carolinian who some Senators will recall as a colleague in this body.

I speak in that regard of Hon. Alton A. Lennon who is retiring after eight terms in the House as Representative from North Carolina's Seventh District.

He was elected to that seat after serving as a Member of this body by gubernatorial appointment in the early 1950's upon the death of Senator Willis Smith.

His work has been of a distinguished caliber reflecting great credit to himself and to his State during both phases of his Capitol Hill career.

While serving with distinction as a member of the House Armed Services Committee and the Merchant Marine and Fisheries Committee, his most noteworthy House accomplishments have been in the area of marine resources research and development in his capacity as chairman of the Subcommittee on Oceanography.

He was signally honored recently by the National Oceanographic Association which presented him with its first "Man of the Year" award for the marine resources programs developed under his direction.

That was but one of the honors he has been accorded at various times during his career in which he has attained the respect not only of his own delegation but of the House as a whole for his legislative knowledge, for his close attention to issues affecting the interests of his State, and for his dedication to duty, and unflagging integrity.

North Carolina and the Nation have benefited greatly from his service and, as one privileged to work with him as a friend and colleague during most of his years in Washington, I am proud to bring his accomplishments to the attention of the Senate.

THE 175TH ANNIVERSARY OF THE U.S. FRIGATE "CONSTELLATION"

Mr. BEALL. Mr. President, it is with great personal satisfaction that I report to you today on the success of the recent celebration in connection with the 175th anniversary of the launching of the U.S. frigate *Constellation*. This vessel is now permanently docked at Pier 1, in her home port of Baltimore.

Congress recently passed and President Nixon signed into law S. 2499. This legislation, which I sponsored, authorizes the Secretary of the Treasury to strike up to 100,000 commemorative medals marking this anniversary. The design and specifications for these medals will soon be determined by the *Constellation* Committee and the Treasury Department. I believe that these medals will be an enduring and fitting tribute to this historic ship, the first ship of the U.S. Navy. The funds raised by the sale of these medals will substantially aid the untiring efforts of the *Constellation* Restoration Committee to return this 18th-century ship to its original condition, minus the structural changes necessitated by long years of service. Already, my office has received numerous inquiries regarding the purchase of these commemorative medals.

I wish to thank all Senators and the Members of the House of Representatives who supported this legislation, and to let them know that, by so doing, they shared in and contributed to the week-long dockside activities in honor of this vessel.

These festivities culminated Thursday, September 7, 1972. At this time I had the privilege of participating in a ceremony which served to remind all of us standing on the new *Constellation* Pier in Baltimore of our Nation's early struggles for freedom and liberty. We were pleased to have present the Soviet square rigger *Tovarish*, under the command of Captain Candenko, and a complement of Soviet cadets who were visiting Baltimore to honor the *Constellation*. We were especially pleased to have as our guest of honor Mrs. David Eisenhower. Mrs. Eisenhower graced not only these ceremonies, but the city of Baltimore and the State of Maryland as well, and I am happy to say that she was welcomed with warmth and enthusiasm. Both Senator MATHIAS and I were proud and honored to welcome these distinguished guests as they joined Baltimore in paying tribute to the *Constellation*.

During these ceremonies it was my pleasure to present to the *Constellation* Committee a framed copy of Senate bill 2499, a copy of the public law bearing the President's signature, and the pen used by the Chief Executive to sign this legislation into law.

Mr. President, I ask unanimous consent that the article entitled "The *Constellation* at 175," published in the September issue of Baltimore magazine be printed in the RECORD. The article summarizes the current activities of the *Constellation* Committee and indicates future plans for this noble and aged vessel.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "CONSTELLATION" AT 175

(By Christopher T. George)

One hundred and seventy-five years ago this month a large crowd gathered at a Fell's Point shipyard. They had come to see the 9 a.m. launch of the frigate *Constellation*, the second ship to be launched by the fledgling U.S. Navy and the first to put to sea. (The frigate *United States* had been launched several weeks before.)

To a succession of drum rolls, men removed wedges that held the ship above the dark waters of the Patapsco. The *Constellation* then slid slowly downward on ways greased with tallow. She glided to anchorage some 100 yards away. Volunteers on board fired 16 rounds in salute; they were answered by artillery in the Navy Yard. The spectators around the ship yard and on boats dotting the harbor erupted in loud cheering.

After the rejoicing of that early morning crowd in 1797, the *Constellation* had a long and noble career. She fought and defeated British and French men o' war, was instrumental in crushing the Barbary Pirates, and, in the 1840's, helped open China to Western trade. During the Civil War she protected Union interests by blockading against Confederate raiders. Then, even after the golden age of sailing ships had dimmed, she continued to serve her country in a high capacity when, on President Roosevelt's orders, she became the flagship of the U.S. Atlantic Fleet in World War II.

The *Constellation* was towed home to Baltimore in 1955, and this month she will be feted in honor of her one hundred and seventy-fifth year. These celebrations could not be possible were it not for the Constellation Restoration Committee. In fact, there would be no *Constellation* at all if the committee had not fought to save her—from the Navy itself.

In her last years with the Navy, the frigate decayed badly, and in 1953 Naval officials announced their intentions to scuttle her. Concerned Baltimore businessmen, who now make up the committee, initiated political action to save the *Constellation;* they brought her to Baltimore.

The committee, a private, nonprofit body, has labored throughout the ensuing 17 years to raise enough money to restore the ship. Close to $1.4 million has been gathered, but an additional $500,000 is needed to complete restoration—and further sums will be required for maintenance thereafter.

Earle Burger, an assistant director of the project, says that although no federal grants have been forthcoming, the committee receives matching grants from the city and the state. *Constellation* commemoration medals, struck about ten years ago from copper bolts withdrawn from the hull during early restoration, sell "very, very well" at $2 each. Requests for them are received from all over the world. But most of the funds come from visitors to the ship, who pay an admission charge of $1. Mr. Burger says that at one time a peak of 60,000 people a year paid to see the man-of-war, but because the temporary berth at Pier Two was a poor location, receipts dropped badly. He looks to an upswing in people visiting the frigate when she moves to her new home at Constellation Pier.

The 18th century ship which visitors see today is largely the result of restoration by Baltimore naval architect Leon D. Polland. Mr. Polland, who has been chief of construction and repair since work began in 1958, said recently, "The ship, when we got her, was what everyone calls a hulk, and I must admit they were close to the truth."

Mr. Polland, an average-sized man with short, gray hair and steel-rimmed glasses, stood on the top deck of the *Constellation*. "Nothing you see here—the spar deck, the bulwarks, the masts—existed as you see it when we received the ship. In addition to recent decay, naval modifications in 1853 had modernized her into a fast corvette. We are in the process of rebuilding her into a frigate."

A frigate, Mr. Polland explained, has two complete decks of guns. A corvette has only one. In the 1853 refitting, *Constellation* was "razeed," or cut down, and newer, heavier, guns were installed on the remaining deck. "During our restoration," he said, "we rebuilt the spar deck, which includes a forecastle and a quarter deck aft. Thus she again became a frigate."

Mr. Polland is guided in his work by David Steel's Dimensions, an extensive list drawn up in England in 1790. The original ship was almost certainly built to similar specifications.

"These figures are based on centuries of experience. You need dependable references and sources—no one can just built a frigate," he smiled. Other sources include drawings of sister ships such as *The Congress*. But great care must be taken to make every detail the right size. "The masts and spars, for instance, are all in a certain proportion to one another. Aside from the purely functional purpose, a shipbuilder invariably attempts to create something proportionally perfect for others to admire. He looks upon a well-proportioned ship as something akin to a beautiful woman."

The "beautiful woman" now berthed off Pratt Street has been the center of a raging controversy. Even though copper pins bearing the date 1797 and the name of the shipbuilder, David Stodder, have been discovered, some people have refused to believe that the *Constellation* is an 18th century ship.

"We guess around 25 per cent of the ship is original," stated Earle Burge in the frigate's defense. "That's quite a lot in a ship of *Constellation's* age. With wooden ships in salt water, the rate of replacement is quite high. Timber might be replaced every ten or 12 years—though wood in the lower decks and lower hull might last much longer."

Other details believed to have been on the ship since 1797 include the carved gangboards on the top deck, the hawser clamp for the old hemp anchor rope, iron hooks to hold the crew's hammocks, many of the "knees," or naturally curved beams connecting the sides of the ship to the decks, and the bilge pump. (There is a similar one on the *Constitution*, the only other U. S. ship of 1797 in existence.)

The bases of the *Constellation's* masts are girdled with iron hoops or bands of mid-19th century vintage.

"The wooldings—the word simply means *windings*—were originally rope," he explains. "Iron fastenings had not been invented when *Constellation* was built, and all rigging fittings consisted of rope instead of iron. Iron fittings were invented in the 1840's and forged in the shipyards. But the iron bands are so much stronger and so much more permanent than rope that I would hesitate to take them off." Precisely the same decision, he added, was reached by the caretakers of Boston's *Constitution* and the *H.M.S. Victory* in Portsmouth, England.

The iron hoops are the only iron to remain, however; the remaining fittings of the rest of the masts and of the spars have been recreated in the original rope. The latter iron fittings will be displayed below decks to show the development of naval architecture.

The topmasts and topgallants are the latest parts to be reconstructed. Mr. Polland's team of 12 craftsmen ("They do the work of 30 men—if we had sufficient money the job could have been completed in 12 months") should finish the renovation of *Constellation* by the end of this year.

Most of the carpentry has been carried out here, but materials have often come from far away. The upper sections of the masts came from Portland, Oregon; the ropes were made in New Bedford, Connecticut; and deadeyes, round wooden blocks used to tighten the shrouds, were carved in Portsmouth, England. Wherever possible, Mr. Polland prefers to "buy American" and to use products made in Baltimore. The cannons for the gun deck, for instance, are being cast in fiberglas by McClean Brothers of Baltimore. Mr. Polland explained that iron guns would be too costly to handle because of their great weight. (An 18-pounder cannon weighs 5,200 pounds.) McClean's cannons will look "just like the real thing," he says.

If people express disappointment that parts of the *Constellation* are "modern," it can be answered that Williamsburg is even less genuine. *Constellation* should be considered an authentic 18th century man-of-war, and repairs and replacements have been made only where necessary.

When *Constellation* has taken her place as one of the great tourist attractions of Baltimore's new Inner Harbor, she will look much as she did shortly after that September morning 175 years ago when the citizens of Baltimore came to cheer her at the start of her long career.

THE SALT TREATY AND THE INTERIM AGREEMENT

Mr. BAYH. Mr. President, last week the President signed the SALT Treaty and the interim agreement between the United States and the Soviet Union regarding the limitation of strategic arms. This vital step, approved by the Senate, was an important move toward the vital goal of reducing the risks of global conflict and destruction. The interim agreement lays the groundwork for what we all hope will be fruitful negotiations in the second round of the SALT talks directed toward a permanent treaty to end the deadly spiral of the arms race. For too long both of the great superpowers have devoted themselves to increasing their armaments and increasing the stakes in a worldwide balance of terror. Now we can begin to halt this perilous and wasteful process, and get on with the business of making our world safer, not more dangerous.

I believe that this interim agreement represents an important measure of progress toward the goal of a safer world. For the first time, both of the great nuclear powers have agreed to place some limits upon the scope of their awesome weaponry. Hopefully, the next round of negotiations will make some progress toward reducing the amount of destructive force that each nation has at its command. Arms reduction should be our ultimate goal; I am hopeful that this arms limitation agreement will be but the first step toward that vital end.

The President is to be commended for obtaining this agreement. The SALT negotiators worked long and hard to preserve U.S. security, and at the same time to provide significant and lasting limitations on strategic weapons. I believe that they drove an acceptable bargain in this round of talks. Had this interim agreement not adequately reflected the genuine security needs of the United States, I am confident that the President would never have approved it, and if I did not feel that way, I would not have voted to approve it. I believe that this interim agreement provides the United States with a subtantial margin of security, and that it can point the way for meaningful and fruitful negotiations in the next round of SALT talks.

I say this despite the long debate and eventual approval of the Jackson amendment to the joint resolution approving the interim agreement. I do not believe that the United States got the worst part of the bargain at the SALT I talks. Nor do I wish to commit our negotiators at the SALT II talks to any hard and fast formula for the next agreement, even before negotiations have begun. Nor do I wish to commit the Senate—which is constitutionally required to advise and consent to any treaty that may arise out of SALT II—to some formulation of policy which may not even be applicable for years to come. Yet that is one way in which the Jackson amendment might be construed.

Senator JACKSON's amendment urges the President not to agree to any further agreement with the Soviets which "limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union," and specifically sets forth as the standard by which "inferiority" is to be judged, the numerical equality expressed in the recently ratified ABM treaty. The Senator from Washington (Mr. JACKSON) stated repeatedly on the Senate floor that he did not believe that any agreement which did not provide for "equality" between the United States and the Soviet Union would be acceptable to him. Let me state, Mr. President, that I would heartily agree with Senator JACKSON on the point. We live in an extremely dangerous world. Unforunately, neither side of the global conflict has ever been able to bring itself to rely on the other side's professed good intentions. And so we have both built up these huge arsenals with which to deter the other side from launching any suicidal assault against the other. I believe that at a minimum, our deterrent capability should and does rest upon equality of forces with the Soviet Union. I believe that this has been—and should continue to be—the basis of our defense posture. I can see no greater risk in these times of high peril and uncertainty than creating or presenting a condition of strategic inequality; a condition which might prove a deadly temptation to the other side to attempt to gain some advantage from its own superiority.

So I believe in strategic equality. Without it I do not believe that we can maintain our own security; nor could we play our role in the maintenance of the security of our friends and allies in other parts of the world. And it is precisely because I believe in strategic equality that I opposed the Jackson amendment. Senator JACKSON suggests that the only equality that counted was the strict numerical parity of intercontinental land and undersea-based missiles, and strict parity of throw weight on a megatonnage basis. This narrow definition of equality of strategic forces would actually make more difficult the negotiation of a further arms limitation and reduction agreement.

This narrow definition of "equality" simply makes no sense in terms of present-day defense realities. The United States presently enjoys greater than a 2-to-1 advantage over the Soviet Union in the number of targetable, deliverable nuclear warheads. In 5 years, we will hold the same advantage, some 10,000 warheads to the Soviets' approximately 4,000 warheads. How can it be said then, that an agreement which does not exact as one of its terms strict numerical equality of missiles—of missiles, not targetable warheads—provides for strategic inferiority? Yet this is precisely how Senator JACKSON interprets his own amendment—that no matter how great our advantage in warheads, we must have numerical parity in intercontinental missiles, or we will be in an "inferior" position.

I cannot agree with this analysis, for our strategic strength is based upon our entire array of weapons systems deployed around the globe. Our national security is adequately protected not only by our intercontinental missiles, but by our sea-based Polaris force, and by our strategic bombing capability. In fact, any of these three forces is sufficient in and of itself to deliver the kind of destructive blow to any enemy that should deter that enemy from launching a first strike at the United States. Even under the most desperate type of circumstances, where a successful first strike could manage to destroy every last one of our land-based missiles, the nuclear destruction capable of being unleashed by our submarine-launched missiles and by our bombers would be sufficient to destroy any enemy many times over. And our submarine-based missile deterrent is as close to invulnerable as is possible. Our strategic bombers are in the air around the clock. Our security, in short, depends on no single element of our strategic forces. And thus, the level of strategic force which is necessary for us to deter any aggression against us need not be hinged upon any single element of weaponry.

Our superior technology has enabled us to develop weapons far more sophisticated than our adversaries. We do not need the same numbers of missiles to accomplish the same destructive results. Our MIRV warheads make possible the utilization of a single missile to produce far more destruction than our adversaries can produce with larger numbers of missiles. And our more compact warheads are equal in deadly force to the larger, heavier warheads of the Soviets.

Since we are some 2 years further advanced in the technology warhead delivery than are the Soviets, we have been able to amass an intercontinental strategic force which is far superior to the Soviets, and will continue to remain so.

Under these circumstances, there was no need for the Senate to pass the Jackson amendment. Indeed the language of the Jackson amendment might be termed meaningless—that is, in terms of strategic realities. However, it could have a most unfortunate effect. Through its insistence that we attain numerical parity with the Soviets in missiles, in addition to our overwhelming superiority in warhead technology, the Jackson amendment may have the effect of convincing the Soviets that we were not sincere in reaching an agreement to limit strategic arms. Indeed, given our great advantage in warhead technology, strict adherence to numerical equality in missiles—that is, delivery vehicles—might mislead the Soviet Union into fearing that we were preparing for a preemptive first strike capability. If this were to develop, I fear that the real incentive for the Soviets would be to step up development of their own MIRV technology, and to accelerate the momentum of their already burgeoning nuclear submarine fleet.

I am sure this was not the result intended by Senator JACKSON. But I fear that this might follow from such a construction of the Jackson amendment. Indeed, although spokesmen for the administration declared that the administration supported the Jackson amendment and the concept of "intercontinental strategic equality," the administration also made it clear that they did not support Senator JACKSON's interpretations of his amendment. This rather confusing distinction, I must confess, made it more difficult to gather exactly what was the position of the administration. But the crucial factor is that it will be the Executive who will be negotiating the next round of strategic arms agreements, and not the Senate. We will have our chance to advise and consent to agreements presented to us. It seems to me that that is the time for debate and decision as to the proper shape of these agreements—not before they are signed, much less negotiated.

Mr. President, recognizing the need to move forward to SALT II, I voted to approve this interim agreement despite the unfortunate and, I believe, unwise tacking on of the Jackson amendment. I am prepared to exercise my judgment upon any finished agreement when the proper time comes. I shall do this with an eye on protecting the security of the United States. That cannot be negotiated away. I hope that my reservations about the deleterious effect of the Jackson amendment are unfounded, and that the Governments of the United States and of the Soviet Union can move on now toward concrete agreements which will serve the cause of peace, in our time, and for all the generations to come.

ENCOURAGEMENT FOR BUSINESS ENTERPRISE

Mr. **FANNIN**. Mr. President, America must have a strong economy if we are to remain a strong Nation and if we are to solve the multitude of social problems today. The only way we will have a strong economy is to have a healthy climate for business and industry.

Yet today we find business under strong attack. We find a frightening lack of knowledge and understanding as to how our business enterprise system works, and how it must work to support the society we all want.

People who want a better life for everyone should seek to encourage business enterprise, not tear it down.

Mr. President, an excellent speech on this subject was delivered on August 3, 1972, by William P. Reilly, a civic leader and the chief executive officer of Arizona Public Service Co. The Arizona Legislative Review recently printed this speech which was delivered before the Business Political Committee of Arizona. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENCOURAGEMENT FOR BUSINESS ENTERPRISE

Fellow members of productive America:

You are highly complimented by being so addressed—all of us here represent the Productive America sector of our economy. And, we are bi-partisan' which means active in both parties. This is a far cry from being non-partisan which means inactive in both parties.

Productive America carries the burden of responsibility for providing the means for successfully meeting the total needs of the people of America—and large portions of the world.

There is a difference between those who produce and consume—and those who consume without producing.

You are producers.

Let's look at where we are—

209 million people
70 million under 18—not in work force
22 million over 64—not in work force
7 million—sick, lame and lazy

So, half of our people are not part of our productive work force.

How about the other half—

First, let's divide them—men and women, about 52 million each.

When you deduct people in schools and colleges, members of the armed services, in prisons, the young anti-establishment people who roam the country—the noble women who stay home to take care of their families—we get down to a labor force of about 85 million, of which about 30 million are women—thus you have 85 million men and women taking care of the 209 million.

But, within the 85 million labor force are those who provide services financed by the gross national product of America's productive system.

These people include those who run our federal institutions, our state, county, municipal governments, our schools, etc., etc.—who are entirely dependent for their livelihoods on the fruits of the productive sector.

Then there are those who depend on the voluntary contributions supported by businesses taking care of local unmet needs—and the foundations financed by the wealth of the nation to study and condemn our systems—

And, there are the unemployed who, through no fault of their own, are between jobs.

There is talk about a 4-day work week, more recreation, more leisure time activities—and at the same time a need for 35 million more jobs by 1980.

The reality to be faced is—all but those 17 and under can vote—producer or non-producer, and the non producers outnumber the producers.

Productive America provides the means—and is virtually non-existent in policy roles—taxation without representation was never greater.

Did you see one business executive at the last convention—one representing a large taxpayer—or a larger employer? (Editor's Note: Reference is to the Democratic National Convention. Mr. Reilly's address was delivered prior to the Republican convention.)

Did we see one on the list of Arizona delegates?

Did you read the platform adopted?

Did it sicken you as a productive American?

Are we not somewhat responsible for this?

Does it not bother you that we are left out of decisions? That we are led instead of leading?

During the next few months we will be under a barrage of criticisms—

And when it comes will we run and hide—or will we redouble our efforts to educate people—our employees, our customers—

Will we work harder to support candidates who know and understand the benefits of a productive America—and vote to preserve its benefits?

Recently I heard the statement made in an address that "The Business of America is Business."

The theme of this talk attacked the system that has made this country what it is today.

The business and industrial sector of America was castigated—portraying them as elements that are out to reap the highest profit possible, with little or no regard for the consequences of their actions.

In so doing, the speaker joined the ranks of an ever-increasing chorus of people who have launched an assault on the reputation of America.

These people question many of our national institutions, including our economic system. They crusade for radical changes in our system of corporate ownership, changes so drastic that they would all but destroy free enterprise as we know it. Their beliefs, their purposes, their actions run contrary to the principles of the majority of our people. Deliberately or not, they are also weakening our free competitive system.

And they are having an impact that is frightening to behold.

In one survey conducted recently, students on campuses from coast to coast were asked whether they agreed with this proposition: "Business is overly concerned with profits and not with public responsibility."

Sixty-one per cent of all students said they agreed strongly and another 34 per cent agreed partially. Only five per cent disagreed.

It's pretty obvious that the image of business in the eyes of college students isn't what it ought to be.

If you were so inclined you could write that off on the basis that college students are a relatively small portion of the total population.

But, let's look at another survey—which asked a representative sample of the American public: "Just as a rough guess, what per cent profit on each dollar of sales do you think the average manufacturer makes, after taxes?"

The median public estimate of a manufacturer's after-tax profits was 28 per cent.

But the correct answer for that particular poll was 4 per cent—and that figure has not been as high as 6 per cent since 1950.

It's a little disconcerting to know that at a time when profit margins for American industry are close to the lowest in a quarter of a century, the American public's estimate of profit is at its highest.

And this fallacy about profit is not limited to one segment of our population. The misconception exists among every group surveyed: men and women, young and old, whites and blacks, manual workers and farmers, Republicans and Democrats, Americans with high incomes and low incomes, those with some college education and those with none, those who own stock and those who don't. All guessed wrong, and all by a very wide margin.

Disturbing? It is to me. And I'm sure it is to you.

Surprising? Not a bit. Especially when you consider that few, if any, teachers in our high schools and universities have ever had basic courses in economics—and few, if any, have been exposed to the working world as employees of Productive America.

I'm sure all of you in recent months have seen results of surveys that paint an equally bleak picture.

They paint a picture of more than 200 million people supported and sustained by a system that is an integral facet of their daily lives—but about which they know or understand very little.

From the halls of Congress to the campus lecture circuit and the TV talk-show, every type of platform is being used to convince the American public that private business is a sinister influence on our society. The words and the bias may differ from person to person, but the basic contentions are always the same—our products are shoddy . . . our advertising is deceptive . . . our prices are rigged . . . our profits are excessive . . . our plants are the major sources of pollution . . . and our economic and political power is enormous.

That's the picture some people would like to paint of America, and its business system.

But that's not my picture, and I'm sure it's not yours.

My picture of America, though, contains exactly the same words I referred to at the outset.

But when you put them in their proper position in a sentence structure, you get a much more accurate and positive view of this country and its business enterprises.

That's why I think: "The Business of Business is America."

That statement gives me a picture of a life support system for this country.

There are nine million or so individually owned businesses of every conceivable type that provide jobs and goods and services for all the people of America.

Corporations alone, which seem to be the form of business that is the favorite target, number more than one and a half million.

In addition to the direct payroll that these businesses and corporations provide, they are also the major source of revenue for taxation at nearly every level of government.

They, therefore, provide the foundation for additional millions of jobs at the federal, state and local level.

In addition to that, they provide much of the dollar support for our schools, police and fire protection, construction of public facilities, roads, buildings and the sundry other governmental services.

And by far not the least, they provide much of the support for the defense of our country.

The reason that business is able to play such a major role in the support of life in this country today is because business is designed to operate at a profit—and share its profits with its owners, its shareholders, its employees, the various governmental taxing agencies, the volunteer service organizations and the preservation and defense of the nation. The sharing of its profits through dividends paid to investors underlie the integrity of our insurance policies life, health and liability, which give us such peace of mind. This is just one example of benefit to the American system of sharing in the country's productivity.

Let me give you an example of revenue sharing—by our company in one year—1971—

$37 million collected from our customers went into coffers of taxing agencies—

½ of our profits went to Uncle Sam—and he does not have one penny invested in our company but shares equally in our profits through his income tax portion—

When we needed a rate increase of $10 million—we had to ask for $20 million—½ to the company and ½ to Uncle Sam. This is inflation producing!

Each one of you is in the same boat—it will get worse instead of better—

Our first job, of course, is in Arizona—let's get with it.

What will you do about assuring that the Business of Business is Arizona and America.

NEED FOR FEDERAL WORKMEN'S COMPENSATION STANDARDS

Mr. WILLIAMS. Mr. President, when a worker is injured on the job today, his or her economic outlook is bleak. Disability and medical benefits differ in each State. In most jurisdictions the benefit levels may not even be adequate to maintain a subsistence level of existence.

Congress recognized the seriousness of this problem when the National Commission To Study Workmen's Compensation Laws was created as part of the Occupational Safety and Health Act of 1970, through an amendment by the Senator from New York (Mr. JAVITS).

The Compensation Commission studied the problems of workmen's compensation for more than a year before issuing a comprehensive report last July. That report contains a series of recommendations for sweeping changes and revisions in our system of workmen's compensation programs. The central focus of their recommendations is the need for uniform Federal standards for benefits and care administered, if at all possible, by the individual State jurisdictions.

These improvements are urgently needed. Many of the recommendations were incorporated into the amendments that the Senate recently passed to the Longshoremen's and Harbor Workers' Compensation Act which extends workmen's compensation protection to more than 800,000 workers in Federal areas of interest.

It is my intention to make the improvements in our workmen's compensation system one of the first priorities of our committee next year. At such time I expect to introduce proposed legislation to implement or improve upon the Commission's recommendations and to begin hearings at an early date.

FEDERAL GRAND JURY INDICTMENT OF FORMER BRIG. GEN. EARL F. COLE

Mr. GURNEY. Mr. President, I wish to associate myself with the remarks recently made by the distinguished senior Senator from Illinois (Mr. PERCY) when he commented on the recent indictment by a Federal grand jury for the northern district of Virginia of former Army Brig. Gen. Earl F. Cole, who figured prominently in the public hearings that the Senate Permanent Subcommittee on Investigations held last year in regard to irregularities in the management of the military post exchange systems.

As Senator PERCY has stated, Cole, who was retired by the Army on June 30, 1970, at the reduced rank of colonel, was indicted on October 12, 1972, for one count of conspiracy to defraud the Government by making false statements and claims along with 15 counts alleging the actual making of such false statements and claims. Also indicted was his former secretary, Catherine Jean Baker.

After some 17 days of hearings were held—commencing on September 30, 1969, and concluding on March 4, 1970—on the subject of fraud and corruption in the management of the military clubs and messes, as a member of the subcommittee I went to Vietnam, along with subcommittee staff members, in November of 1970 to continue the investigation into the post exchange system.

It was there we found that General Cole had cast a long shadow across Vietnam while serving as the Deputy Chief of Staff for Personnel and Administration at Headquarters, U.S. Army, Vietnam—USARV—from June of 1966 until January of 1968 and, later, as the Deputy Chief of Staff to Ambassador William Komer at the Civil Operations and Revolutionary Development Support—CORDS—portion of the Military Assistance Command for Vietnam—MACV—until December of 1968.

Colonel Cole initially appeared before the subcommittee in executive session on July 13, 1970, and, thereafter, in public session for 4 hearing days from March 10 through 17, 1971.

At the outset of his testimony, Colonel Cole read from his prepared statement as follows:

> For the last 18 months I have been the target of unprecedented, unproved, untrue and slanderous accusations which have destroyed my career and my very existence. (Hearings, Part 7, P. 1534)

Then, throughout his testimony, Colonel Cole steadfastly denied any wrongdoing of any nature whatsoever, this in spite of the fact that some two dozen or more witnesses—either through their personal appearances or by submitting sworn statements—testified in varying degrees as to Colonel Cole's several improperties. Whenever he was confronted with directly contradictory testimony, Colonel Cole would usually state, "I do not recall." He criticized the subcommittee for keeping track of the number of such statements and, in his closing statement on March 17, he found that some subcommittee staff members had very little else to do when they determined that he had used that phrase some 72 times during his testimony. Actually, the number was closer to 200.

After the hearings had terminated, the subcommittee members considered the evidence taken in some 1,200 pages of testimony and contained in some 365 exhibits and then proceeded to put together a report. That report, some 300 pages in length, was finalized and was filed with the Senate on November 2, 1971.

It is interesting to note that this report, which was agreed to unanimously by all nine of the subcommittee members, found essentially as follows in regard to the machinations of Colonel Cole:

The first finding was to the effect that the 2-year investigation showed a worldwide pattern of corruption and criminality in both the club system and in the Army-Air Force exchange system.

The subcommittee also found, that as a part of this, many American brokers and salesmen used every corrupting device—gifts, bribes, kickbacks, free housing, entertainment, sex—to persuade PX and club personnel to buy their goods. One such individual—perhaps the most powerful and influential in Vietnam, as he was in Korea before—was the infamous William J. Crum. Crum's two biggest lines of merchandise were liquor and slot machines. His ability to establish virtual monopolies—including the illegal entry of the slot machines in violation of Vietnamese Customs regulations—were aided and abetted time and time again by then-General Cole in that, as Deputy Chief of Staff for Personnel and Administration, he had administrative control over all post exchanges and clubs in Vietnam.

The subcommittee found that General Cole's influence was so strong as to, through intimidation of certain CID units and agents, deter them from further investigation of Crum's holdings once an irregularity was discovered. It also included the transfer of a USARV-Long Binh club officer by the name of Maj. Clement St. Martin to a remote location in Vietnam once St. Martin had uncovered a conspiracy between club custodian, Sgt. William Higdon, and vendor Crum. Incidentally, Sergeant Higdon has since been convicted by a military court for his own improprieties during this same period.

There is much more to this bizarre story. A portion of it pertains to the strange way in which several officers of general rank quietly acquiesced in Cole's whitewash of St. Martin's findings. Another portion pertained to the Army's own attempts to cover up the Cole matter, prematurely closing—and then reopening—the case when it learned of the dogged determination of the subcommittee's investigators.

The subcommittee members summed up their thoughts, however, when we stated that Colonel Cole's sworn denials of assistance to William Crum were in direct conflict with the preponderance of the evidence in the hearing record. This also included Cole's trips to Hong Kong, BCC. Accordingly, we stated that the report was being referred to the Department of Justice for appropriate action.

Significantly, the subcommittee also found as follows:

> The committee also finds that Earl F. Cole's conduct falls squarely under Article 134 of the Uniform Code of Military Justice in that his actions in Vietnam and in Europe were prejudicial to good order and discipline of the Armed Forces. *The seriousness of his misconduct as detailed in these hearings would have been cognizable by general court-martial.* (Report, Pp. 291–2) (Emphasis supplied.).

During the aforementioned executive session on July 13, 1970, Cole was asked several questions pertaining to his financial affairs—this testimony was made public on March 4, 1971. Thereafter, this matter was pursued in considerable depth by subcommittee investigators when Cole's various bank accounts and other financial records were duly subpenaed and carefully examined. The examination included a detailed analysis of his own travel records and those of his close employees.

Mr. Carmine S. Bellino, a former FBI agent and a certified public accountant who served as a consultant to the subcommittee, headed up this portion of the investigation and he testified, as to his findings, in Colonel Cole's presence on March 17, 1971. This testimony is in part 7 of the hearings record and is contained in pages 1920 through 1935 therein.

It is especially interesting to note that a portion of Mr. Bellino's testimony pertains to what appeared to be excessive living quarters claims to the Government, excessive overtime charges, and the securing of travel expense money to travel from Saigon to Hong Kong, BCC; Manila, Philippine Islands; and to New York, N.Y., while still ostensibly employed in Saigon. Who was the person or persons involved? Mrs. Catherine Jean Gault—also known as Catherine Jean Baker—and Earl F. Cole.

While I recognize that it is not the purpose of the Senate Permanent Subcommittee on Investigations to seek out criminal indictments, or to see how many persons who appear as witnesses are sent to jail, it is gratifying to know that when we all work so hard in attempting to bring out the truth—which may well include evidences of wrongdoing of a criminal nature in our inquiries into the economic and efficient operations of our Federal Government—the Department of Justice acts promptly and responsibly to our requests to charge those whom they determine, through the judicial processes, to be the wrongdoers. In so stating, I recognize that an indictment is merely a formal accusation that the defendant had committed a certain crime. Thereafter, all of the rights and privileges that the U.S. Constitution and the acts of Congress to assist an accused in the defense of the allegations against him come into play. And that is as it should be.

In closing, I want to refer to an accusatory statement that Colonel Cole made at the conclusion of his own testimony, which was an uncalled for comment in regard to the distinguished Senator from Illinois (Mr. PERCY) who is the ranking minority member of the Permanent Subcommittee on Investigations.

Colonel Cole succeeded in castigating the subcommittee in general, but at the outset of his criticisms he said the following:

> Sir, from the opening day, Senator Percy has made what I consider libelous and slanderous statements concerning me.
>
> He has impressed upon me that I possibly may have committed perjury, that I have disgraced my uniform, that I was unfit to wear a uniform . . ." (Hearings, Part 8, P. 1956)

It is my impression, and I am pleased to state, that the recent turn of events has completely vindicated my colleague, although I really do not believe that any vindication was necessary, as I think that Colonel Cole's ill-conceived comments were vilifying at their inception.

Senator PERCY pursued this investigation with his usual diligence and enthusiasm, in my opinion. In that regard, he is to be commended for the many contributions that he made. His leadership was an inspiration, particularly to those of us who serve as minority members of the Investigations Subcommittee.

I would not conclude, however, without expressing a further thought that those long and strenuous hearings were stewarded under the able direction of the acting chairman, the distinguished senior Senator from Connecticut (Mr. RIBICOFF).

VETERANS' ADMINISTRATION MEDICAL SCHOOL ASSISTANCE AND HEALTH MANPOWER TRAINING ACT OF 1972

Mr. HARTKE. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to support the amendments to House Joint Resolution 748 which embody the compromise reached as to the respective versions of the bill as passed by the House and by the Senate—which was reported to the Senate originally as S. 2219. As agreed upon by the Senate and House committees, the compromise version which passed the House of Representatives on Thursday and the Senate on Friday would provide assistance in the establishment of eight new medical schools. The original House bill would have authorized five such schools and the Senate version made provision for 10 new medical schools.

With respect to funding, the House version originally authorized a total first-year appropriation of $33 million with similar appropriations for the next 7 years. Senate amendments authorized $125 million for the first and succeeding years. As agreed upon by the two committees House Joint Resolution 748 as now amended provides for $25 million in each fiscal year for the purpose of assistance in establishing new medical schools, plus an additional $50 million for each such fiscal year for financing the remaining programs under the resolution. The compromise version also incorporates certain additional provisions contained in the Senate version of House Joint Resolution 748 which are designed to emphasize and strengthen the health manpower training programs in the Veterans' Administration and affiliated institutions.

Mr. President, I believe this bill presents a major step forward in improving the capacity of the Veterans' Administration to train needed health personnel and to maximize the potential of its medical resources in providing leadership to the Nation's medical community in the development of health care manpower education and training programs. Both our veterans and our Nation will be the beneficiaries of this farsighted program. I particularly wish to commend the House Committee and its able and distinguished chairman, OLIN "TIGER" TEAGUE for his leadership in developing this legislation. On the Senate side I want to particularly praise the hard work of the chairman of the Subcommittee on Health and Hospitals (Mr. CRANSTON), whose dedication and commitment to providing the best in health care to our Nation's veterans has found fruition in this bill. The interest and effort to secure passage by the senior Senator from West Virginia (Mr. RANDOLPH) who has been a hard-working member of the committee also has been instrumental in obtaining the bill which we will send to the President.

I would also hope that following the passage of this bill, the Senate would give serious consideration to providing in the fiscal year 1973 supplemental appropriations bill initial funding of this bill in the amount of $40 million.

THE DISTRIBUTION OF REVENUE SHARING FUNDS IN MARYLAND

Mr. BEALL. Mr. President, revenue sharing is among the most significant pieces of legislation to be acted on by the 92d Congress, or any Congress, for that matter. It marks the beginning of a new era in Federal and State relations. Local planners will now be able to make many decisions on needs and prorities without going through the redtape and overlapping programs that often characterize the present system of Federal grants.

For the State of Maryland, revenue sharing means $107 million for the 1972 calendar year, and the Treasury Department expects to begin mailing checks for the first half of the year on October 27. These initial payments for the January–June period will be followed up in early January with checks for the July–December period.

Mr. President, many inquiries have been made about the allocations to counties and municipalities in Maryland, and the Treasury Department has provided breakdowns for units with a population over 2,500. I point out that this legislation provides for a distribution to all communities, but the information is not yet available.

Mr. President, I ask unanimous consent that the data outlining revenue sharing allocations for the State of Maryland be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Revenue sharing funds for Maryland

Total allocation to the State of Maryland	$107,000,000
Total to Maryland State government	35,700,000
Total to county and municipal governments	71,300,000
Allegany County government	1,317,928
Cumberland	659,456
Frostburg	93,260
Westernport	81,895
Total Allegany County	2,215,969
Anne Arundel County government	6,744,163
Annapolis	409,813
Total Anne Arundel County	7,154,059
Total Baltimore County	$10,231,415
Total Baltimore City	23,881,944
Calvert County government	283,786
Municipalities	38,381
Total Calvert County	322,167
Caroline County government	365,595
Municipalities	89,795
Total Caroline County	455,390
Carroll County government	648,189
Westminster	62,086
Other municipalities	78,170
Total Carroll County	788,446
Cecil County government	491,193
Elkton	65,428
Other municipalities	98,886
Total Cecil County	655,507
Charles County government	467,127
Municipalities	36,226
Total Charles County	503,354
Dorchester County government	491,437
Cambridge	193,920
Other municipalities	41,209
Total Dorchester County	726,566
Frederick County government	690,310
Brunswick	84,913
Frederick	504,772
Other municipalities	176,015
Total Frederick County	1,456,010
Garrett County government	524,956
Municipalities	41,297
Total Garrett County	566,253
Harford County government	1,193,921
Aberdeen	125,131
Bel Air	58,689
Havre de Grace	108,108
Total Harford County	1,485,849
Howard County government	718,535
Total Howard County	718,535
Kent County government	141,152
Chestertown	29,459
Other municipalities	19,382
Total Kent County	189,993
Montgomery County government	3,871,718
Rockville	171,039
Gaithersburg	30,345
Takoma Park (part)	48,170
Other municipalities	39,838
Total Montgomery County	4,161,110
Prince Georges County government	7,806,374
Berwyn Heights	14,307
Bladensburg	27,232
Bowie	127,390
Brentwood	22,463
Capitol Heights	25,020
Cheverly	24,759
College Park	83,181
District Heights	27,725
Forest Heights	13,092
Glenarden	17,642
Greenbelt	61,330
Hyattsville	79,404
Laurel	96,992
Mount Rainier	37,198
Riverdale	31,097
Seat Pleasant	$36,008
University Park	10,641
New Carrollton	48,715
Takoma Park (part)	33,964
Other municipalities	34,132
Total Prince Georges County	8,658,668
Queen Annes County government	251,506
Municipalities	25,860
Total, Queen Annes County	272,367
St. Marys County government	1,226,460
Municipalities	23,009
Total, St. Marys County	1,249,469
Somerset County government	414,674
Crisfield	64,014
Other municipalities	20,277
Total, Somerset County	468,965
Talbot County government	371,383
Easton	88,680
Other municipalities	38,082
Total, Talbot County	498,145
Washington County government	$2,028,592
Hagerstown	566,837
Other municipalities	142,207
Total, Washington County	2,737,636
Wicomico County government	794,971
Salisbury	321,824
Other municipalities	130,781
Total, Wicomico County	1,247,576
Worcester County government	601,957
Pocomoke City	42,500
Total, Worcester County	644,457

PLIGHT OF SOVIET JEWS

Mr. CRANSTON. Mr. President, the plight of the Soviet Jews who wish to emigrate has, for the time being, moved off the front pages. But Soviet ransom fees remain and the oppression and humiliation of minority groups in the Soviet Union continue.

Some weeks ago, Richard Reston, of the Los Angeles Times, wrote an excellent article pointing out that President Nixon's recent trip to Moscow may have worsened rather than improved the situation for Soviet Jews.

Of course, that was not the President's intention. He went to Moscow to improve U.S. relations with the Soviet Union, and for that I applaud him mightily.

But because the United States, through our Presidential visit, may inadvertently have worsened an already bad situation, and because that bad situation persists, I think it proper that we have before us a constant reminder that a terrible inequity continues to be perpetrated against Soviet Jewry and that the United States has a responsibility to use our diplomatic and economic powers to persuade the Soviet Government to change its policy.

Accordingly I ask unanimous consent that the article by Richard Reston be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Sept. 24, 1972]

Private Note Says Nixon Soviet Visit Worsened Jews' Problems

(By Richard Reston)

WASHINGTON.—A confidential memorandum now circulating in the White House says that President Nixon's spring summit conference in Moscow has compounded the problems of Russian Jews.

"It is the conviction of the Soviet Jewish leadership that the President's trip was a disaster for them," a copy of the memorandum obtained by The Times says.

"They expressed the opinion that the United States seemed more interested in selling corn than in protecting human rights and individual freedom."

The document also warns of growing Jewish pressure on the United States to use economic pressure on the Soviet Union to obtain better treatment of the Russian Jewish population.

The private analysis of the Administration's Soviet policy comes at a time when Mr. Nixon and the Republican Party are wooing Jewish votes and campaign contributions.

The memorandum was submitted to the White House from outside the government. It was written by Leonard W. Schroeter, a Seattle attorney and an employe of the Israeli Ministry of Justice from 1970 until earlier this year.

Schroeter visited the Soviet Union to look into the status of Soviet Jewry after Mr. Nixon's trip.

Schroeter particularly was interested in the new education taxes imposed on those who want to migrate from the Soviet Union.

The Seattle attorney had lengthy conversations with Russian Jewish leaders and intellectual dissidents in Moscow, Leningrad, Minsk, capital of the Soviet republic of Byelorussia, and Riga, capital of the Baltic republic of Latvia, his document says.

"A view reiterated to me by Jewish leadership in all four cities was that they were living in the most difficult time they have faced in recent years," the memorandum declares.

"They attribute the difficulty of their situation to the recent visit of President Nixon."

The memorandum was sent to Leonard Garment, the President's top assistant on minority questions.

Asked about the report, Garment said that he received it and that he had met with Schroeter. "Beyond that, I wouldn't have anything to say," he said.

As the Israeli Embassy, a spokesman said the mission had studied the memorandum. "Everything stated in the document is correct. Schroeter saw the right people and the information is excellent," the spokesman said.

Besides quoting the fears of Russian Jews about the adverse repercussions of Mr. Nixon's Soviet policy, the memorandum cites additional information provided by U.S. embassy officials in Moscow and other non-Jewish persons in the Soviet Union.

SITUATION CALLED PERILOUS

"I was advised of . . . their belief that the Soviet climate for Jews is unusually perilous," the memorandum says.

"The indications of these men to me was that the rage, frustration and distrust on the part of Soviet leadership toward Jews have become so extensive that they cannot preclude the imminent possibility of measures far more serious than selective trials and existing repressive measures.

"They feel that there is grave danger of government-inspired and/or spontaneous physical attacks upon the Jewish population . . .

"Prior to (the Nixon) visit there were wholesale preventive arrests and the imprisonment of Jewish leaders without explanation in the jails of distant cities and the house arrest of scores of others. These men were not released until after the President's visit ended and they were told that their arrests were occasioned by the president's trip.

"Also, the telephones of virtually the entire Jewish leadership were cut off and have not to this date been restored. In addition, the jamming of broadcasts from foreign stations intensified massively at the time . . .

"These efforts to seal off the Soviet population from any foreign contact have continued and been intensified.

"Widespread interrogation by the KGB (the Soviet secret police), which commenced before the visit of President Nixon, has increased subsequent to it. The entire block across the street from the Moscow synagogue was razed because of the Soviet belief that the President might visit the synagogue."

The rising furore over the plight of Russian Jews confronts Mr. Nixon with a political dilemma in a presidential election year during which he is attempting to move Soviet-American relations forward on several fronts.

AREAS OF ACCORD

Washington and Moscow are moving rapidly toward a comprehensive trade agreement which eventually is expected to grant the Soviet Union most-favored-nation status. The two nations already have agreed to limit strategic nuclear weapons and to cooperate in a variety of other fields. They are now preparing to talk about European security arrangements and the mutual reduction of military forces in Europe. Huge wheat and feed grain deals between the two nations already have been concluded.

Meanwhile, some increasingly restless Jewish leaders in this country argue that this political and diplomatic momentum must stop until such time as the Soviet Union halts what these Jewish leaders have described as the "new slave trade in Jews."

The new Kremlin tax on those attempting to leave the Soviet Union can range from $5,000 to $35,000 for educated Jews.

Privately, Administration officials concede that the President's trip hurt Russian Jews in the short run. They argue, however, that broader Soviet American cooperation and contact cannot help but liberalize the internal Communist regime in the long run. And this, they say, will lead eventually to an easing of repressive measures against Russian Jews.

They also point out that whenever the Soviet Union makes a serious move toward East-West detente, the automatic response of the internal party and police apparatus is to tighten its grip on the population.

Despite the Administration's optimistic long-range view of Soviet-American relations, a number of U.S. senators have raised serious questions about the U.S. position in recent weeks. Ninety American congressmen and five university presidents recently protested the Kremlin's harassment of Jews.

The memorandum sent to the White House urges the President to point out in the sharpest terms that the present Soviet attitude toward Jews "has seriously jeopardized amicable American-Russian relations." The document suggests that the President express his embarrassment about the Soviet tax levy on Jews while noting its destructive impact on hopes for detente.

NEW ENGLAND'S NO. 2 FUEL OIL SITUATION

Mr. STAFFORD. Mr. President, fall has arrived, winter will soon be upon us, and we, in New England and the Northeast, are once again facing the possibility of a fuel oil shortage early next year. This is not a new problem for our area. We have long sought a high, permanent level of No. 2 fuel oil imports into the Northeastern States. Regrettably, our warnings have not all been heeded, and once again we must ask for prompt action to avoid a severe crisis.

It might be useful to review for a moment the frustrating history of New England's efforts to meet its fuel oil needs.

During August of 1969, the New England delegation began to warn of the threat of a fuel oil shortage in the forthcoming winter 1969–70. Our warnings were ignored with the comments that we did not know about the oil business and the major oil companies did. Unfortunately, they did not. A severe supply crisis occurred. It was only through the continuing efforts of the New England delegation that emergency relief was provided in February 1970, in the form of No. 2 fuel oil import allocations.

Two years ago about this time we began to warn of a residual fuel oil shortage, and bland assurances were once again given by the major oil companies. At that time, it was only through intervention by the White House and the Office of Emergency Preparedness that a crisis was averted.

Last year the New England delegation asked that the level of No. 2 fuel oil imports into district I, allocated to independent deepwater terminal operators, be increased to 100,000 barrels per day, and be made permanent, beginning on January 1, 1972. However, the No. 2 fuel oil import program for district I was increased by only 5,000 barrels per day, but it was made a permanent part of the oil import program.

This year we have again sought action to avoid a crisis during the coldest months of the forthcoming winter. The President's response has been encouraging and the supply situation for the remainder of 1972 appears to be under control. On September 18, President Nixon amended Proclamation 3279 to authorize an additional 5,000 barrels per day of No. 2 fuel oil imports into the east coast and to permit importers to borrow up to 10 percent of their 1973 quota for use in 1972. As General Lincoln has pointed out, home heating oil imports into the Northeast are now at an authorized level of 83,000 barrels per day for the last quarter of this year.

Unfortunately, all of the imported fuel oil is still subject to the Western Hemisphere limitation which forces New England importers to buy in the Caribbean market where two major oil companies exert dominant power. This limitation benefits those companies and Venezuela, and hurts independent marketers and consumers in the Northeastern States. I frankly cannot understand why this limitation cannot quickly be suspended permanently. The No. 2 fuel oil import program is supposed to help American consumers and our oil policymakers should recognize this basic fact.

The limitation makes it possible for Caribbean and Venezuelan refiners to raise prices, which they have done in recent weeks. It also allows tanker companies to raise their spot rates for shipments to New England, which they have done in recent weeks. This policy prevents New England importers from buying supplies that are available in Europe and at the Caribbean refineries which run on Eastern Hemisphere crude oil. In short, the Western Hemisphere limitation discriminates against New England and the Northeastern States in a vital program, and I strongly urge its prompt removal.

We still face a further problem with the No. 2 fuel oil import program in that there has been no announcement about 1973 program levels. As the Senators from New England are aware, two-thirds of the heating oil in any winter is consumed after January, and the real supply crisis usually occurs in February and March.

It is very possible that import levels could be sharply reduced on January 1. New England does not know what to expect. Unless the level is increased, and unless we have an announcement soon, there is sure to be a supply crisis, because no plans can be made at this time for the first month of 1973.

The solution remains the same as the one proposed for the last 2 years, that is increasing the level of No. 2 fuel oil imports for independent deepwater terminal operators in district I to 100,000 barrels per day. I might point out that this is only slightly more than the current level of 83,000 barrels per day.

At that level there would be a better supply picture for fuel oil in New England, the competitive position of independent marketers would be strengthened, and there could be some price relief to the consumers of our area.

Mr. President, the need for prompt action to provide such an increase is greater than ever. The signs of a fuel-oil shortage in the Northeast are growing each week. I believe we are on a collision course and that action must be taken by the Federal Government before the end of October if we are to avoid a crisis during the 1972–73 winter.

I should like to review for the Senate some of the factors which underscore the concern of those of us who live in the Northeast and depend so heavily on No. 2 fuel oil. Nearly 70 percent of New England's homes are heated by this fuel and the New England States, plus New York, New Jersey, and Pennsylvania consume more than 55 percent of the Nation's No. 2 fuel oil. The east coast from Maine to Florida acounts for nearly 70 percent of the Nation's consumption of home heating oil.

First. Stocks of distillate oil are far below normal. As of September 29, east coast stocks of distillate fuel oil were 15.1 million barrels, nearly 20 percent below last year's level. In districts I–IV, the area east of the Rockies, stocks were 21.8 million barrels, more than 10 percent below levels of last year. Given the sharp increase in demand that has occurred during the current year, these low levels are cause for grave concern, and underscore the severity of the supply problem afflicting the east coast.

Second. The current gasoline shortage provides strong evidence that we are fast approaching the point where domestic refining capacity is not sufficient to meet demand for all petroleum products. Gasoline production is at record levels and it still does not appear to be enough to meet surging demand. This increased gasoline production has reduced refinery output of distillate and has been a major factor in the slow stock build up. Gasoline stocks are low in many parts of the country, but as in the case of No. 2 fuel oil, most of the shortage exists on the east coast. The increased demand for gasoline will contribute to a fuel oil shortage in the coming winter.

The recent gasoline shortage points up another fact: with refinery capacity stretched to the limit the answer to the distillate supply tightness is not more crude oil imports because it cannot lead to more No. 2 fuel oil production. The answer is quite clear, more imports of the finished product itself, No. 2 fuel oil, and in some instances, gasoline.

I am aware that objections are always raised that finished product imports lead to "export of the refining capacity." We in New England are frankly tired of having this clouded issue raised. Current import rules governing the importation of crude oil and petrochemical feedstocks, and the proposed regulations for 1973, permit the "export" of many times the refining capacity involved in the No. 2 fuel oil program for district I.

Third. The major oil companies have recently admitted to the Price Commission that stocks on No. 2 fuel oil are low and have intimated that they will not increase domestic refinery runs of the product. This is blackmail to obtain higher prices and the answer from the consumers is clearly not higher prices, but more imports.

But a most significant fact is that the major oil companies themselves admit the clear possibility of a shortage. The fact that they have allowed distillate stocks to fall so low at this late date, it is likely to be physically impossible to produce enough No. 2 fuel oil to meet next winter's increased demands.

Fourth. As I have indicated we are rapidly running out of time in which to build up stocks, time in which to make plans for efficient shipment of No. 2 fuel oil into New England deepwater terminals after January 1. As the Members of the Senate from New England are well aware, a heating oil crisis involves not only a short supply of the product but also the lack of transport capacity. Long range planning is essential to assure that enough oil can be moved at the right time to meet the peak demands of winter; further, there must be some slack, some excess transport and refining capacity, to meet the demands of the Northeast in case of very severe cold.

In brief, as the lead time dwindles, the danger of shortage and supply disruptions increases. The continuing delay of Federal officials is thus cause for grave concern. Somehow whenever the major oil companies face a crisis in crude oil supplies and ask for increased import quotas they get a decision out of the Oil Policy Committee in a short time.

I trust that the critical heating oil problem for 1973 will receive equally prompt attention in the weeks ahead, and that New England will receive quick action on both the requests for suspension of the Western Hemisphere purchase limitation and for an increased level of imports in 1973.

Mr. President, the history and facts I have presented today underscore the need for a prompt decision to increase import allocations for district I. The Northeast is facing a severe problem; the solution lies in the hands of the Federal Government, particularly the Oil Policy Committee, which has before it the request of the people of New England.

In past years our requests have not been handled with dispatch. I trust that this year there will be a prompt decision, and that we can soon tell the fuel oil consumers of the Northeastern States that a supply crisis will not occur in 1973.

TRIBUTE TO MICHAEL J. BAKALIS, ILLINOIS SUPERINTENDENT OF PUBLIC INSTRUCTION

Mr. PERCY. Mr. President, I have placed in the RECORD through the past several years a number of articles about Governor Ogilvie and the leadership of the State of Illinois in various fields such as prison reform, drug abuse, mental health, revenue sharing, welfare reform, highway construction, and tax reform.

I am pleased to now reciprocate in a bipartisan sense and pay tribute in another area of accomplishment: education, under the able and competent leadership, with bipartisan backing, of our Illinois Superintendent of Public Instruction, Michael J. Bakalis.

I ask unanimous consent that an article published in Time magazine for October 9, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ILLINOIS INNOVATOR

Although he is superintendent of public instruction in Illinois and a former history professor, Michael J. Bakalis, 34, is convinced that education is far too important to be left solely to professional educators. "I have no allegiance either to the teachers or to the school board members," he says. His duties are to the children, he believes, and he is determined to take a fresh look at what they need. "What's wrong with our schools," according to Bakalis, "is a certain mindlessness about what we think they should be doing."

After his election to office two years ago, Bakalis held six regional hearings, gathering suggestions and discussing them at a meeting of 3,000 citizens. "We pour our money and, more importantly, our children into the public schools and are given no accounting of what happens to either," was the gist of many complaints. Out of 20 lbs. of testimony, Bakalis and his associates drew up a set of common goals for Illinois schools in the 1970s, the only ten-year plan of its kind in the U.S. Bakalis promises to experiment with more plans for individualzed, go-at-your-own-speed instruction, a frequently expressed demand at the hearings. In certifying teachers, he intends to play down education courses in favor of monitored teaching experience, including a compulsory one-year internship. He pledges prekindergarten programs (voluntary attendance for ages three and four) in every school district four years hence, new reading centers for adults, better schools for prisoners, new courses in consumer education, and more experiments with a twelve-month school year.

Even as he was drawing up his master plan, Bakalis was ordering improvements in the way Illinois educates its poor and minority children. Even if they cannot solve all social problems, "schoools have the responsibility to guarantee every child an ample opportunity to become self-sufficient," he believes. To that end, he has ordered a series of wide-ranging—and sometimes controversial—reforms. The most important:

That more centers be set up and staffed with bilingual instructors to teach Cuban, Mexican and Puerto Rican children social studies, science and math in their native tongue. There are 42 such centers now, but they reach only about 5,000 of the estimated 100,000 Spanish-speaking children in Illinois. Formerly, the chief goal of Illinois' public schools in educating such youngsters was to teach them English, despite a dropout rate that exceeded 70% in Chicago alone.

That the racial composition of all student bodies and staff must not vary more than 15% from that of the district as a whole. Bakalis asked each of the state's school districts to report to him the racial composition of its schools and found that 21 of the districts did not comply with his guidelines. For those districts he has provided a manual outlining various methods of desegregation, such as school pairings and pupil reassignments. If the districts do not soon come up with satisfactory plans, Bakalis has threatened them with court action. One of these areas is Chicago, where 501 of the city's 656 schools fail to meet the Bakalis standard.

That privately operated vocational education be revamped to give poor children another route to jobs. Cracking down on the 400 such schools in Illinois, whose courses ranged from poodle grooming to computer programming, his office ran frauds out of business. Among those closed was a school for innkeepers whose advertised job placement service turned out to be just a list of hotels and motels.

GREEK BAKER

Explains Bakalis: "The ultimate doers may be the local school districts, but this office has to be the mover and shaker." Ironically, Mayor Daley's Democratic machine expected no such innovations when it tapped Bakalis to run for superintendent against a well-entrenched Republican incumbent in 1970. Quiet and unobtrusive, Bakalis was known neither to politicians nor voters. The son of an unschooled Greek immigrant who ran a wholesale bakery, he grew up on Chicago's blue-collar West Side and graduated from Northwestern with a doctorate in 1966. He was a history professor and assistant dean of arts and sciences at Northern Illinois University in De Kalb when he agreed to run for office. To the surprise of the professional politicians, he led a vigorous grass-roots campaign and rode into office with a 500,000-vote margin, largely because of voters' disgust with his predecessor's patronage-ridden regime.

Bakalis quickly made it clear that his would be no ordinary politician's office. He refused to clear appointments with Democratic leaders, recruited a staff of enthusiastic young teachers anxious to try out new ideas and even managed to cut his administrative budget, eliminating jobs and seven staff automobiles, including his own limousine. He holds regular "bypass the bureaucracy days," during which anyone can talk with him without going through the regular redtape. To keep top assistants in touch with the classrooms, he ordered them to teach weekly courses at colleges throughout the state. Bakalis himself taught a course in public education at Rosary College outside Chicago last year, and next year will teach politics and education at Northwestern.

Above all, Bakalis' administration has a sense of urgency. Because of a constitutional change, his job becomes appointive by the state board in 1975. His reforms have offended so many groups—politicians and white parents over desegregation, school boards and teachers over certification—that his staff is worried about whether he will be appointed. Says one: "We've got to do all we can now."

H.R. 9265—VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION ACT OF 1972

Mr. CRANSTON. Mr. President, I rise to report to my colleagues on the status of H.R. 9265, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1972, as passed by the Senate on September 7, 1972. This bill which was unanimously approved in the Veterans' Affairs Committee and in the Senate represented the culmination of extensive work over the last year and a half by the Veterans' Affairs Subcommittee on Health and Hospitals, which I am privileged to chair.

Since passing this bill on September 7, we have been attempting to resolve the very substantial differences between the Senate amendment and the House bill through negotiations between the Committees on Veterans' Affairs of the two bodies.

Unfortunately, I very much regret to report today that these negotiations have not been successful in reaching a compromise. I wish to explain something about what has taken place and why we have not been successful.

Mr. President, the purpose of this statement today is to make a public accounting of the disposition of this important piece of legislation and not in any way to lay the blame for our impasse at the doorstep of either body of Congress.

During the period of the last 5 weeks since Senate passage of H.R. 9265, our two Committees on Veterans' Affairs have been engaged in extensive negotiations to resolve four very major pieces of veterans legislation, all of which this past week were sent to the President for signature. I refer specifically to the three bills which were the subject of final passage yesterday, H.R. 12828, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, House Joint Resolution 748, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972, and H.R. 10880, the Veterans Health Care Expansion Act of 1972, and to the bill sent to the President this past Wednesday, H.R. 12674, the National Cemetery Act of 1972. This was an enormous amount of legislation to conclude in the short time available, and I believe that our resolution of these bills in what I believe was a most effective and fair manner, without the necessity for formal conference, is a great credit to the members and staffs of both committees.

However, our extensive work to produce these four bills would not permit us the amount of time necessary to reach an accommodation on the veterans' addiction legislation.

Mr. President, the Senate amendment to H.R. 9265 had eight principal purposes related to addiction treatment, as follows:

First, direct the VA to carry out a broad-range program for treating and rehabilitating addicted veterans.

Second, require contracting for care in community facilities for Vietnam era addict veterans when VA services are not available.

Third, Set up VA machinery to seek out and counsel addicted veterans and help them obtain review and correction of less than honorable discharges by the military. The Defense Department established a drug amnesty program last summer. But, in general, the military efforts to rehabilitate men who have become addicted while in the ranks have been halfhearted, poorly coordinated, and ineffective. Incredibly, DOD has few, if any, reliable figures available of the number of men who are being rehabilitated, and little hard data on the effectiveness of various military treatment programs.

Fourth, give the VA authority to treat and rehabilitate some 18,000 addicted veterans who received less than honorable discharges because of drug use.

Fifth, establish VA programs, in cooperation with other Federal agencies and public and private employers, to assist recovered addicts in finding productive employment.

Sixth, guarantee that medical records of addicted veterans remain confidential. Veterans have been reluctant in the past to enter VA treatment programs for fear that their addiction will not be kept confidential. This fear has been well founded. Prior to enactment of the recent comprehensive drug act, establishing the White House Special Action Office for Drug Abuse Prevention, the VA had provided information on the drug treatment of numerous veterans, without their consent or knowledge, to State and Federal agencies, such as the Postal Service and the U.S. Civil Service Commission, when those agencies requested it.

Seventh, allow treatment of veterans even though their addiction may not have been acquired while in the service, thus eliminating the difficulty of establishing when an honorably discharged veteran, who escaped detection for his drug usage during service, actually acquired or aggravated his addiction disability.

Eighth, restore medical benefits for service-connected conditions to certain disabled veterans who were given undesirable discharges because of drug use or other reasons.

By contrast, the House-passed bill was considerably more circumscribed in its approach, and did not deal with alcoholism at all. The House bill took the approach of simply authorizing the VA to provide treatment for veterans' drug addiction without regard to the nature of the veteran's discharge or a finding of service-connection for his addiction disability. It also provided for VA treatment of active duty servicemen under military orders regardless of whether they elected treatment in a VA facility, and specifically authorized VA treatment, custody, and discipline of veterans civilly or criminally committed to the VA by a U.S. district court.

Thus, there were some very real and major differences in philosophy and legislative approach between the versions of the bill as passed by the two bodies. After considerable negotiation, a tentative accommodation that would have been reasonably agreeable to the Senate was reached, but the House members did not feel that there was sufficient time for them to study and investigate all the implications of all the provisions of the compromise we were attempting to negotiate.

I fully understand the concern of the House committee in this regard. The approach of the Senate bill was indeed a comprehensive and somewhat complicated one.

It was still open to us at this point to accept the provisions as passed by the House. But, we felt that certain principles in the Senate approach to the question of addiction treatment and rehabilitation were so fundamental and crucial to meaningful legislation that we could not, in good conscience, go along with the House approach.

Let me list those matters which we deemed so crucial:

First, we felt that a comprehensive rehabilitation program, to follow the period of detoxification, needed to be mandated in the law, and that during this period of rehabilitation for veterans with GI bill benefits the VA should be placed almost in the role of a guardian in order to be in the position to define and exercise control over the education and training to be pursued by the veteran addict during his rehabilitation period and also to be able to exercise control over the disposition of cash to such veteran based on his GI bill entitlement.

Second, we felt that, just as important as providing for comprehensive rehabilitation—which all experts agree is an indispensable part of any successful drug abuse program—was the notion that addicts undergoing such rehabilitation should not be given an advantage over nonaddict veterans and, therefore, that the GI bill entitlements of such veterans in a VA rehabilitation program should be reduced proportionately based upon the duration of their participation in such a VA rehabilitation program.

Third, we believed that the law must mandate the VA to provide alternative treatment modalities to each veteran, a matter of the most urgent concern in the case of providing treatment for very young addicts who may have acquired their addiction in an alien environment and whose addiction may have been of short duration. We were extremely concerned at the VA trend toward reliance on methadone maintenance in such cases.

Fourth, we felt that treatment and rehabilitation provided for veterans should not depend on the availability of a VA medical facility and that, therefore, the provision of such treatment and rehabilitation on a contractual basis in approved community facilities should be mandated in the law when the VA was unable to provide prompt treatment and rehabilitation—with the alternative modalities—for a veteran addict.

Fifth, we believed that the treatment program in VA facilities should be kept on a voluntary basis in order to enhance the success of the atmosphere through the motivation of the parties being treated.

Sixth, we felt that to deal in the law with the question of drug addiction and to ignore the pervasive problem of alcoholism addiction was not appropriate and that, therefore, at a minimum it would be necessary to provide a firm statutory direction for certain VA initiatives in the treatment and rehabilitation of veteran alcoholics.

Seventh, we felt—as a matter of morality—that if we were to legislate eligibility for VA treatment and rehabilitation of veteran drug addicts regardless of whether or not they acquired their addiction in service and even if they were court-martialed for the highest of crimes for which they received a dishonorable discharge—and both the House bill and the Senate amendment and the administration proposals would have covered such cases—that it was incumbent upon us, at the same time, to rectify the immorality of the present title 38 medical eligibility provisions, under which a veteran who may have received an undesirable discharge for a relatively minor infraction, such as repeated AWOL's, and who never was the subject of a court-martial is not now eligible for VA care for a battle wound received prior to such discharge, so that such a veteran could receive medical treatment for such a service-incurred disability even if he had an undesirable discharge.

Now, Mr. President, I do not wish to suggest that the Senate would necessarily have insisted that each and every one of these seven points be covered in compromise legislation. But we felt we could not recede on all of them together.

The result is, Mr. President, that the 92d Congress will not legislate specifically on the question of providing treatment and rehabilitation for veteran addicts. As all Senators are aware, the Congress has dealt extensively with the addiction problem—both alcoholism and drug addiction—in three separate pieces of legislation enacted in the last 3 years. Most recently, in the Drug Abuse and Treatment Act of 1972, Public Law 92–255, we provided for the establishment of a Special Action Office on Drug Abuse Prevention in the Executive Office of the President to give general direction to a most extensive and comprehensive treatment program for drug addicts in the Nation. Many veterans are and will be dealt with under this legislation.

Insofar as the VA's treatment of drug addiction is concerned, the present situation is as follows:

First, H.R. 10880, which the Senate sent to the President for signature yesterday, of which I was the author in the Senate, authorized the VA to provide outpatient and ambulatory care, by fee or contract, for the nonservice connected conditions of any veteran, wartime or peacetime, when necessary to obviate the need for the hospitalization of such veteran. Prior to this legislation, it was necessary for the VA, under the existing eligibility provisions of section 612(f) of title 38, to hospitalize a veteran addict prior to being able to provide him with followup outpatient care under the so-called "post-hospital" provision in paragraph (2) of that subsection. With the enactment of H.R. 10880, this period of hospitalization will no longer be necessary, and the VA will be able, in my judgment, to make a determination that outpatient care is necessary to obviate the need for hospitalization in the case of any veteran addict and therefore to provide all appropriate outpatient and ambulatory care for the treatment and rehabilitation of such addicts. This will remove a major statutory impediment which has restricted the effectiveness of the VA drug treatment program as it has been functioning over the last 18 months to meet the crisis of drug addiction among returning servicemen.

And as I indicated, this outpatient care can be provided by the VA on a fee or contract basis under the provisions of 612(f) as amended in H.R. 10880.

Second, the immediate need for being able to provide treatment to veteran addicts who received less than honorable or general discharges is not present in any way near the same degree as it was 2 years ago when the compelling need for this legislation first presented itself.

This is true for several reasons: First, since the initiation of the Department of Defense "amnesty" policy for drug abuse cases over a year ago very few addict servicemen have been receiving disqualifying discharges; second, the Defense Department has been undertaking—albeit far too slowly, and not in a comprehensive way—to alter the discharges of veterans given disqualifying discharges based on their drug addiction prior to institution of the amnesty policy, and third, under Public Law 92–255 substantial resources are being devoted throughout the country to drug treatment and rehabilitation, under the general direction of the Special Action Office, and these programs are now available to serve veteran addicts who would not be eligible—under present statutory requirements governing VA medical care—for treatment in VA drug programs because of the disqualifying nature of their discharges.

Third, the strong concerns which have been expressed by the veterans' organizations about the inability of their veterans' service officers to represent veterans who have received drug treatment should, I am advised, be resolved by the issuance of regulations next week by the Special Action Office pursuant to Public Law 92–255, which will lift the present interpretation that under the medical confidentiality provisions of that law veterans could not authorize the release of their drug treatment files to veterans' service officers to represent them in securing veterans' benefits. I do not mean to suggest that the provisions in section 659 of the Senate amendment to H.R. 9265 governing medical confidentiality, which would have specifically authorized such written releases to veterans' service officers, would not be a preferable approach, but merely to suggest for the interim, at least, that these new SAUDAP regulations should provide an amelioration of the problem.

In conclusion, I wish to point out that the House, by not being able to concur in the approach of the Senate bill under the very limited time available to study this bill, is not rejecting the Senate approach. Indeed, I have been advised that the House committee will engage with us at the start of the 93d Congress in a very careful investigation of the full veterans' addiction treatment question and particularly the approaches taken in the Senate amendment, which I intend to introduce as a new bill as soon as the 93d Congress convenes.

Again, Mr. President, I wish to express my appreciation to the House Committee, particularly to its chairman, my friend, Mr. Teague, and the chairman of the Hospitals Subcommittee, Mr. Satterfield, who have extended so much courtesy and cooperation to me in successfully resolving the three pieces of legislation sent to the President yesterday, in which I have been so deeply involved. I am hopeful that, when there is time to devote their usual thoughtful consideration to the addiction treatment and rehabilitation legislation, the same cooperation and constructive approach will produce an effective legislative measure in this field.

NOISE POLLUTION

Mr. MANSFIELD. The measure passed by the Senate on Friday—the so-called noise pollution bill—is the first major piece of legislation directed toward alleviating what is fast becoming one of the irreversible assaults on our environment. Had it not been for the dogged determination and efforts of the Senator from California (Mr. TUNNEY), this measure might still be stalled in jurisdictional controversy and disagreements between the committees sharing the responsibility. Through his sincere and hard-driving approach to working out the problems, our distinguished and able colleague, Senator TUNNEY, has worked what might be referred to as a legislative miracle. Working as a member of the Air and Water pollution subcommittee of the Committee on Public Works, he met many times with the members of the Committee on Commerce concerned with this legislation; and while some still hold reservations about some aspects of the measure, all concerned determined that it was important that the beginnings of control of noise pollution be made in this Congress.

The Senate is indebted to Senator TUNNEY and all other Senators who cooperated in allowing the Senate to work its will to lay out the groundwork for future protection of our environment.

SERIOUS SHORTAGE OF NATURAL GAS

Mr. FANNIN. Mr. President, when we talk about the serious shortage of natural gas in America, most people think about the homes and industries which receive natural gas through pipelines.

I call attention to the fact that the shortage of natural gas also is a threat to the millions of persons who depend on LP-gas, sometimes called bottled gas.

Through years of experience in the LP-gas business, I can tell the Senate personally that LP-gas is essential to many, many households for heating and cooking. It is especially important in rural or remote areas.

Mr. President, the board of directors of the National LP-Gas Association passed a resolution on September 28, 1972, calling attention to the plight of this industry and the customers who are dependent upon this product. I ask unanimous consent that this resolution be printed in the RECORD:

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas it appears that a shortage of natural gas and other forms of energy threatens our national interest, and

Whereas a substantial portion of liquefied petroleum gas is derived from natural gas sources, and

Whereas the liquefied petroleum gas industry serves nearly 13 million customers, predominantly households, and the threatened natural gas shortage can affect ability to service this important segment of the nation

Now, therefore, the Board of Directors of the National LP-Gas Association hereby resolves that:

1. Immediate steps should be taken to lease additional offshore areas, now controlled by the Federal and State Governments for immediate exploration and development;

2. There should be an immediate and intensive program of further exploration and drilling of the areas of the Continental Shelf, in the Atlantic, Gulf, and Pacific areas;

3. The Federal Power Commission be encouraged and requested to stimulate the increased drilling of wells in this country by removal of existing well head price controls or establishment of a more realistic price for domestic gas.

CHANGES IN TRANSPORTATION POLICY

Mr. WEICKER. Mr. President, the issue of transportation is not a fashionable issue; but it does involve the young, the old, the poor, the unemployed, the disabled and all of us stranded and choking because of the American obsession with the automobile.

The President has recognized the need for precedent-breaking changes in our transportation policy.

He has increased expenditures for mass transit sevenfold.

He has begun to revive rail passenger service.

He has upgraded our airports and airways.

He has, for the first time, made safety, housing and the environment equal partners to concrete, steel and oil in creating a national transportation system.

He has introduced transportation revenue sharing and has played a key role in urging the Senate to open up the Highway Trust Fund for mass transit.

But where has Senator McGOVERN been?

Where is the Democratic candidate's concern for the old, the poor, the young, the disabled, the homeless who are victims of our national transportation disaster?

On 19 key transportation votes over the past 2 years, Senator McGOVERN has managed to bestir himself to vote on exactly four.

Let us take a look at some of the other votes the junior Senator from South Dakota felt were so unimportant as to be undeserving of his presence.

Late in 1971, the highway lobby, not content with spending only $6 billion a year of the taxpayers' money on highways, decided to raid the liquor tax for another $350 million for highways. We gave Senator McGOVERN two opportunities to oppose this outrageous grab, but he did not bother to show up for either the Ribicoff amendment or the Percy-Weicker amendment.

About the same time, the Senate voted to give the many nearly bankrupt public transit companies a tax break by eliminating the 10-percent excise tax on new transit buses. Apparently Senator McGOVERN does not agree on the gravity of the situation facing many of these transit operators since, again, he did not bother to cast his vote.

The same problem—bankrupt transit companies—returned to the Senate on March 2 of this year when we voted $800 million for subsidies to public transit operators. But the Senator had still not come around to recognizing the very real danger of mass transit going out of business all over the country. Again, he did not bother to show himself.

Any discussion and any voting record on transportation would, of course, be incomplete without turning to Amtrak, the Nation's beleagured effort to restore truly excellent inter-city rail service. Unfortunately, we do not know Senator McGOVERN's stand on the problem. On April 27 the Senate approved a major new infusion of funds for Amtrak, but, again, we were without the Senator's wisdom and counsel.

But there is something of an irony in the McGOVERN Amtrak "nonstand." On August 18 of this year he did manage to issue a press release calling for "us to take advantage of the great potential for quiet, clean, and dependable transportation systems." So far, so good. Unfortunately he went on:

> Development elsewhere, notably the French Aerotrain, the British Hovertrain, and German and Japanese magnetic suspension vehicles, illustrates how far the United States has lagged behind in this area.

Well, first, I sincerely hope that the people at Sikorsky aircraft in my State of Connecticut do not see that statement.

After all, they have developed and built the Turbotrain, one of the most modern passenger vehicles in the world, and they might begin to think the Senator wants to import Japanese trains or have some other company in America subsidized to produce competition for the Turbo.

Second, seeing now how concerned Senator McGOVERN obviously is over excellence in intercity rail passenger service, I am particularly disappointed that he was unable to be with us on Thursday of this week when the Senate approved the supplemental appropriation bill which contained $57 million for Amtrak—much of which is intended to purchase additional Turbotrains.

Finally, Mr. President, we must come to the most important single transportation issue of the past 2 years—the 1972 highway bill.

In a policy statement on the environment delivered on Saturday, October 7, Senator McGOVERN called for the reallocation of revenues in the Highway Trust Fund that would appropriate more money for mass transit and less for highway construction.

That is nice, but on September 19, the Senate—shattering 16 years of precedent—did exactly what Senator McGOVERN wanted and he was not here to help. I might add, that those of us who were urging support of this legislation, the Kennedy-Weicker and Cooper-Muskie amendments, thought that the vote might be so close that we even attempted to get the candidate back to Washington for the votes. Obviously, we did not succeed. Senator McGOVERN did attempt to adopt our whole principle in a press release 2 weeks later, but votes, not press releases, are what will move America.

CHICAGO'S INDUSTRIAL SKILLS CENTER STRESSES PRODUCTIVITY, EMPLOYMENT, EDUCATION

Mr. PERCY. Mr. President, increasing productivity is generally taken to mean marginally increasing the real output per manhour of those people already employed. These productivity increases are critical to the continued growth and strength of our economy. But most important of all are productivity gains that are related to greater use of the Nation's unemployed work force. Such gains represent a jump in productivity in an order of magnitude greater than increases attributed to changes in the work practices of those already employed.

One mechanism for achieving fuller utilization of our human resources is to be found in the new coexistence between industry and education—not just a reworking of the old manpower training programs, but a new and creative relationship between the private and public sector. In this context, I am especially impressed by the principles and applications put into practice by Chicago's Industrial Skills Center. I believe the center presents a unique and viable solution for the problem of reducing our unemployment problem and achieving a quantum jump in increased productivity.

The Industrial Skills Center is an inner city Chicago high school devoted to reorienting high school dropouts. Its students, many of whom were unable to conform to the disciplines of high school, attend the Industrial Skills Center for the very reason that its policies and programs are vastly different from those common to the high schools they were forced to leave. The Skills Center has no specific rules or regulations. It requires only that all students treat each other with mutual dignity and respect. Placed in his own individual academic program, each student works through a standardized package of materials and progresses at his own pace.

When the students first enter the Industrial Skills Center they are given intensive counseling and the opportunity to motivate themselves. This dimension of the program aids in pinpointing the student's psychological, academic, or disciplinary problem which led to his premature departure from the traditional high school system. It also affords a continuing opportunity to develop a closer student-faculty relationship. An absence of disciplinary and tardiness problems and a building that is free from vandalism indicate, as much as anything, the students' appreciation of this atmosphere of trust.

The essence of the Skills Center idea is that high school students can be productive members of the work force and get paid for it while they pursue their high school education. In this new concept of high school education, half of the student's 8-hour day is devoted to academic endeavors and the remainder to industrial skills training through production of a marketable product.

Two years ago Western Electric recognized the potential rewards of a new alliance between industry and education. The company farmed out a small portion of its telephone cable assembly operation to the student-employees of the Skills Center. Within 6 months the center's student-workmen, who work 4-hour shifts, passed the break-even point and produced at a profit. Western Electric officials noted that the quantity, quality, and diversity of the product model in the Industrial Skills Center shop was as high or higher than comparable production at its large Hawthorne facility.

A year later Motorola, Inc., added an electronic dimension to the Skills Center. This outstanding Chicago-based electronics firm established a component testing and automotive radio repair shop adjacent to the Western Electric shop. Both industrial facilities are successful, socially and financially. Both afford the participating high school student a marketable skill upon graduation and income while pursuing his education.

The Skills Center's relationship with Western Electric and Motorola is designed so that the company and the school board share the startup costs. The school board provides for the floor space, maintenance, security, lighting, heat, water, and other such necessities. The company supplies desks, chairs, assembly lines, benches, tools, equipment, and security fencing—if necessary—all of which may be considered donations to the school or assets of the company returnable upon termination of the relationship. In addition, the company absorbs the salary of a supervisor who is responsible for training and overseeing the operation.

In the case of a product-producing shop, production materials are purchased by the board of education for the Industrial Skills shops. The materials, now the property of the school board, are assembled by the student-workers and returned for sale to the parent company. Then the company bills the board of education for acceptable products only. Material handling charges, pickup and delivery of product, and student salaries are absorbed in the price of the product.

Billing of an acceptable product, recording of accounts receivable, and disbursement of wages takes place in a school board account. By so doing, the student-workers remain the responsibility of the school board and do not become a liability to the company. As employees of the school board, the students begin working for $1.70 an hour with the opportunity of moving through a pay scale that approaches $3.

Though financial success has been important to this program, other measures of success depict the real rewards of the concept. In the Industrial Skills Center's first year, 78 Chicago dropouts appeared for reorientation and in less than a year returned to the high schools they had left. Seventy out of 78 of these dropouts were able to complete the requirements needed to graduate when they returned to the traditional high school system. There were also students who decided to continue their education at the Industrial Skills Center. In 1971, nine of the 13 members of the first graduating class continued their formal education and the remaining four found jobs. In the second graduating class, 12 of the 33 graduates went on to college and two of the 12 received scholarships.

The initial success has not stifled the Industrial Skills Center's desire to grow. The center continues to encourage Chicago area industrial enterprises to join Western Electric and Motorola in their proven success, and it is presently completing a building trades center which will stress multicraft skills, expose students to a wide range of building crafts, and function as a preapprenticeship program for the building industry. The administrators hope that when the facility is completed, the Department of Housing and Urban Development will award the Skills Center grant moneys so that its student-workers will learn through building, and begin the work of rehabilitating the deteriorating inner city. I intend to seek the assistance of the Department of Labor, the Department of Housing and Urban Development, and of the President's National Commission on Productivity in giving special consideration to this novel idea in the hope that it will become the prototype for a governmental initiative to reinvest, through education and industry cooperation, in the unemployed people of this Nation.

In addition to giving the dropout another chance and providing him with a marketable industrial skill, the Industrial Skills Center concept may have application to the area of penal reform. In the center's 2-year history, three convicted criminals have been students, attending the center during the day and returning to Cook County Jail at night. Today, after participating in the Industrial Skills Center program and acquiring a high school diploma, these three young men are employed and productive members of the community. There has been no recidivism.

I am glad to see that someone has finally discovered a workable formula for blending public education with the private sector. I feel strongly that broader application of the Industrial Skills Center concept could have nationwide ramifications by serving to more fully utilize America's human resources, revolutionize segments of our educational system, and offer a proven alternative to present-day prison work-release programs.

NATURAL GAS SHORTAGES IN NATION'S URBAN CENTERS REQUIRE IMMEDIATE ATTENTION

Mr. JACKSON. Mr. President, the United States faces a serious and growing problem: demand for natural gas is outstripping available supplies.

From 1950 to 1970 the demand for natural gas increased at an annual rate of 6.6 percent—a growth rate substantially higher than for other energy resources. Despite the fact that we have substantial natural gas resources yet to be discovered and developed, drilling activities for new supplies of crude oil and natural gas declined sharply.

From 1956 to 1971 the total number of wells drilled dropped by 53 percent, and exploratory drilling declined by 57 percent. Based on annual reports of 56 interstate pipelines, natural gas reserves, owned or controlled, declined in 1971 for the fourth consecutive year. During the years between 1968 and 1971, reserves declined 37.4 trillion cubic feet. In other words, we are producing and using up natural gas faster than it is being discovered and developed.

The inevitable result is that the Nation is experiencing a growing gap between supply and demand—a shortage of available natural gas supplies to meet present consumers' requirements.

As the shortage grows more severe, pipeline companies and gas distributors are forced to curtail—reduce or cut off—natural gas deliveries to customers who had been counting on certain supply levels promised them in contracts. Interstate pipeline companies submit their curtailment plans to the Federal Power Commission—FPC—for review, and the distributors' curtailment plans are similarly reviewed by State commissions.

Seven interstate pipeline companies instituted gas curtailments during last year's heating season, and to date 27 pipeline companies have submitted curtailment plans to the FPC. Since November 1970, the volumes curtailed exceeded 500 billion cubic feet.

A recent FPC analysis indicates, moreover, that supply deficiencies for the period from April 1972 through March 1973 will be substantially more severe than shortages in the same period from 1971 to 1972. For a group of 15 companies, combined shortages of approximately 1.0 trillion cubic feet are expected—nearly 10 percent of their total 1970 annual sales.

Gas sales by class of customer in 1971 reveal that, on a national scale, residential use accounts for 23.2 percent; commercial, 9.4 percent; industrial, 42.2 percent; electric utilities, 18.3 percent, with 4.9 percent listed as other—company use, transmission mainline fuel, and so forth. The percentages in these categories are strikingly different, however, in some areas of the country where serious shortages exist.

Gas sales made in 1971 in New England, for example, were distributed as follows: residential sales, 42.9 percent; commercial, 15.3 percent; and industrial, 29.4 percent. These figures are significant, for, should there be a severe winter ahead for New England, the inability of distributing companies to obtain enough supplemental supplies to make up for curtailment deficits could mean a crisis situation in the next several months in an area where residential customers would inevitably be affected.

If the winter becomes abnormally severe in Boston, to use only one example, areas of the city might be denied gas, forcing large blocks of small industrial buyers, commercial establishments, and residential consumers to turn off their gas outlets, stop business, and daily activity, and move out for as long as a month.

The reason for Boston's serious supply problem is that the distributing company has been unable to obtain enough imported or domestic supplies to make up for a 10-percent curtailment deficit authorized by the FPC and imposed by its major pipeline supplier. The Boston Gas Co. had been counting on foreign liquefied natural gas—LNG—supplements in September, but, because of project delays in Algeria, Boston will not see any LNG until February, and next year's supply will be only 40 percent of what was expected.

There is enough LNG in Alaska available to supplement Boston's supply shortage, but there are no American ships available to carry the needed LNG from Alaska to Boston. I am informed that the Boston Gas Co. has petitioned the Department of Defense and the administration for an exemption from the Jones Act which prohibits interstate shipments unless they are carried in American vessels. The administration apparently feels that the Boston natural gas situation docs not constitute an emergency sufficient to allow such an exemption, because the request was denied.

Meanwhile, throughout New England, distributors have used such staggering amounts of propane—a petroleum derivative that can be mixed up to 40 percent with natural gas before it becomes inefficient to use—that the available propane supplies in that area are sold out.

New York is similarly plagued with gas supply problems. It, too, is concerned not only with its ability to supply consumers with enough gas this winter but also next year. The Brooklyn Union Gas Co. in the New York metropolitan area is faced with escalating curtailment levels, starting with 12 to 14 percent for the winter months. By next summer, the supply deficit will have reached 18 percent of contract volume which means that there will not be enough gas available in the summer to store for the next winter's use. The consumers affected in New York are 77 percent residential, and the rest are small industrial and commercial users.

The growing crisis in natural gas supply is under review at a number of levels. Under Senate Resolution 45, the Senate Committee on Interior and Insular Affairs, in concert with the Committee on Commerce, the Committee on Public Works, and the Joint Committee on Atomic Energy, is studying natural gas policy issues and preparing a report on the hearings conducted over the past 2 years. The FPC expects to release the results of its National Gas Survey in January. This broad study, which has input from consumer representatives and academic experts as well as agency staff, should provide a reliable data base to define the outlook for the future. The Interior Department, meanwhile, is reviewing its 5-year plan for Outer Continental Shelf leasing in consideration of the need to accelerate lease sales of offshore acreage so that new resources may be found and developed. The Office of Emergency Preparedness, in conjunction with the Defense Department and Department of the Interior, forms the Emergency Petroleum and Gas Administration, and a recent meeting of its Emergency Advisory Committee for Natural Gas was convened to discuss the gas industry's ability to meet the Nation's requirements this winter.

But I am not confident that enough is being done to prevent the loss of essential services should an unusually severe winter hit the Nation this year. The near-term problems associated with the Nation's gas shortage deserve top-priority treatment. Much time and effort is being devoted to studying and planning for the future, but we need to know what plans have been made to meet possible emergency shortages in the next few months and for the following winter.

Accordingly, I ask unanimous consent to have printed in the RECORD a letter to Gen. George A. Lincoln, Director of the Office of Emergency Preparedness, requesting a report to be prepared by an interagency group and furnished to the Committee on Interior and Insular Affairs by December 1, 1972.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., October 14, 1972.

Gen. GEORGE A. LINCOLN,
Director, Office of Emergency Preparedness, Executive Office Building Annex, Washington, D.C.

DEAR GENERAL LINCOLN: As you know, the Senate Interior and Insular Affairs Committee, in conjunction with the Commerce Committee, the Public Works Committee and the Joint Committee on Atomic Energy, is engaged in a fuels and energy study under Senate Resolution 45. In the course of this study, the seriousness of the present and growing shortage of available natural gas has repeatedly come to our attention.

Although many studies are being conducted as to the nation's ability to cope with or minimize future shortages, immediate information is needed as to current supply problems and the status of emergency readiness in natural gas for the 1972–73 and 1973–74 heating seasons.

Accordingly, I hereby request that an interagency report be prepared under your direction and in conjunction with the Department of the Interior and the Federal Power Commission in response to the following quetsions:

1. In those states where natural gas curtailments are now or may be operative by 1974:

a. What is the status of distributors' ability to meet firm contract obligations from primary sources of supply, storage capacity and/or supplemental sources?

b. Which major metropolitan areas appear unable at this time to obtain enough supplies to meet the needs of their firm customers, should this or next winter prove severe?

c. What measures are being taken by federal agencies to help such distributors obtain needed supplies?

d. In the event of severe weather conditions and an urgent need for additional supplies in, for example, Boston, New York or Chicago, where would such supplies be found and how long would it take to reach those market areas?

e. Could interstate pipelines be used in such situations as common carriers?

2. What are the constraints on additional measures that might be taken to relieve the pressures caused by the shortage of natural gas in the interstate market?

3. Is Congressional action required to divert gas from the intrastate market in an emergency and, if so, what specific legislation would be needed?

4. What role does the Jones Act play in restricting our ability to supplement gas supplies? Is legislation needed to empower the Office of Emergency Preparedness to make exemptions so that natural gas distributors may prepare for possible emergency situations?

5. What are the criteria being used by State commissions and the Federal Power Commission when proposed curtailment plans are being analyzed or disputed? Is it advisable that these standards be reviewed and measured against environmental and energy conservation standards? If so, what agency or agencies should have that responsibility?

6. What is the extent and nature of fuel substitution taking place by major industrial gas users now (or soon to be) subject to curtailment?

7. What additional Congressional action might assist in meeting the problems of short-term gas shortages?

I would appreciate your cooperation in arranging for the preparation of responses to these questions by December 1, 1972, in order that the Committee may use this information in preparing its recommendations for the new Congress.

Sincerely,

HENRY M. JACKSON, *Chairman.*

THE OPPORTUNITY FUNDING CORP.

Mr. JAVITS. Mr. President, the Opportunity Funding Corp.—OFC—a private, nonprofit organization established with a $7.4 million grant from the Office of Economic Opportunity, held its annual meeting in Washington October 4. A list of the members of its board of governors is attached. The objective of this organization is to demonstrate that innovative applications of risk-reduction and other indirect financing techniques—guaranties, discounting, incentive—can increase the flow of private capital into low-income communities.

On July 15, 1971, I called to the attention of the Senate the launching of the first two programs announced by Opportunity Funding Corp.—its bank deposit program, designed to strengthen local financial institutions in poverty impacted areas, and a bonding program to assist minority construction contractors from such areas.

At that time I said that—

> OFC constitutes an important experimental effort to determine to what extent, and in what ways, the vast resources of the private sector can be brought to bear on the problems of urban and rural poverty and underdevelopment.

On that occasion I also introduced into the CONGRESSIONAL RECORD a statement by David B. Hertz, board chairman of OFC, describing those first two OFC programs and and noting that OFC would in the future be announcing additional programs including a program to provide flexible loan guarantees, a real estate development program, a program to make increased amounts of SBA loan money available for plant and facilities loans in poverty communities, and a consumer credit program. I am happy to note that today all of those programs but one have been announced and are now operational.

I note from the materials distributed at its annual board of governors meeting that OFC has achieved an overall leverage factor of approximately 23:1—that is, every dollar of OFC funds set aside for reserves against possible losses has produced $23 from other sources, predominantly private sector sources.

Thus, with only a relatively small amount of Federal funds, OFC in its short history has already demonstrated how taxpayer dollars when used as a catalyst—and a means of normalizing the risks of investment in the poverty community—can generate significant investment for the economic development of these areas.

OFC also published a preliminary summary and first-year findings of its banking and bonding program. These findings, included in a new OFC publication entitled "Case Studies and First-Year Findings of OFC's Banking and Contractor Bonding Programs," are summarized as follows:

SUMMARY OF FIRST-YEAR FINDINGS, BANKING AND BONDING PROGRAMS

1. That the Federal Government waive for minority banks the requirement that certain categories of federal deposits be collateralized by government obligations;

2. That the Federal Government, in its program to increase deposits in minority banks, seek to emphasize the inclusion of larger amounts which can be retained by these banks for periods of six months or more, thereby making more of these funds available for commercial and other loans in the minority community;

3. That deposits made in the Federal Government's program be distributed on a formula basis which gives enhanced incentive to minority banks to invest these funds in loans in their communities;

4. That the FDIC give consideration to more frequent use of the technique of purchasing the capital notes of capital-impaired, minority-owned banks where no other bank exists whose main purpose is to serve that minority community;

5. That an operating Federal program be established to provide guaranties to assist minority communities to raise capital for the establishment and support of minority-controlled commercial banks;

6. That SBA be permitted to guarantee letters of credit issued by commercial banks in lieu of bonds or as an inducement to surety companies;

7. That contractors participating under the SBA program be encouraged to take advantage of financial management services provided by commercial banks in conjunction with local contractors' assistance organizations such as those affiliated with the Minority Contractors Assistance Project;

8. That innovative technical assistance and working capital programs of organizations such as the Minority Contractors Assistance Project be expanded and strengthened;

9. That in view of the fact that the Federal Housing Administration will accept partial letters of credit in lieu of performance bonds on FHA-backed housing projects and in light of the recent recommendations by the General Accounting Office that performance bonds no longer be required for Federal construction contracts, a full review be made of Federal legislation and regulations to determine whether Federal performance bond requirements should be rescinded in favor of risk protection instruments which will be less costly and which will also afford greater opportunity for small and minority contractors.

While these findings necessarily are tentative, I believe that they deserve serious consideration by all who are concerned about the revitalization of our urban and rural poverty communities.

I ask unanimous consent that a list of the members of the Board of Governors be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MEMBERS OF BOARD OF GOVERNORS OF OFC

CHAIRMAN

David D. Hertz, Director, McKenzie and Company, New York, New York.

VICE CHAIRMAN

John D. Mabie, Vice President and Director, A. G. Becker and Co., Chicago, Illinois.

GOVERNORS

Robert O. Dehlendorf, II, President, Arcata National Corporation, Menlo Park, California.

Nathan T. Garrett, Executive Director, Foundation for Community Development Inc., Durham N.C.

Eli Goldstron, President, Eastern Gas and Fuel Associates, Boston, Mass.

James M. Hall, Executive Vice President, Music Corporation of America, Los Angeles, California.

Dr. Jesse D. Lay, Superintendent, Knox County Schools, Barbourville, Kentucky.

Dan W. Lufkin, Commissioner, Department of Environmental Protection, Hartford, Connecticut.

J. Howard Marshall III, Director, Texas Commoner Bank, N.A., Houston, Texas.

Alex P. Mercure, President, New Mexico Technical Vocational School, El Rito, New Mexico.

Dr. Robert C. Dowels, Dean, Graduate School of Business Administration, Atlanta University, Atlanta, Georgia.

C. Dolores Tucker, Secretary of State, State of Pennsylvania, Philadelphia, Pa.

Theodore Brown, Executive Vice President, First National Bank of Denver, Denver, Colorado.

SENATOR JOHN SHERMAN COOPER, REPUBLICAN OF KENTUCKY

Mr. HOLLINGS. Mr. President, the end of this Congress marks the retirement of JOHN SHERMAN COOPER and, with this, the culmination of a most distinguished career.

Through his many years of experience abroad, including his service in World War II, the United Nations, and as our Ambassador to India, he brought to the Senate a true knowledge of foreign policy and issues. Coming from the mountains of Kentucky, his roots are in the soil and he knows agriculture. Living there through the depression years, he knows poverty firsthand, and his compassion for the poor and needy has permeated his thinking.

JOHN SHERMAN COOPER is easily one of the most esteemed Members of the Senate and that respect comes from both sides of the aisle. The leadership which he has exercised in the Senate is patent. Whenever a Cooper amendment of a Cooper bill is called up, it passes. When JOHN SHERMAN COOPER addresses the Senate, the Senate listens.

He has served this body and this Nation with wisdom, judgment, compassion, and moral integrity. Always taking the position which his innate sense of justice demanded, he is a statesman in the truest sense of the word, and we will miss him.

DEATH OF ARTHUR H. BORNE, PIONEER AMERICAN AVIATOR

Mr. FANNIN. Mr. President, commercial aviation has reached such a state of sophistication that around-the-world flights in a matter of hours are taken for granted. Man's skills and knowledge have advanced perhaps more rapidly in this area than in any other field of science.

It is sometimes difficult to realize that such progress has been accomplished in the lifetime of one man. I think it appropriate to call to the attention of the Senate the recent death of one of America's pioneer aviators, Mr. Arthur H. Borne.

Mr. Borne was closely alined with aviation almost from its inception in this country, and continued to show great interest in flight advances at the time of his death on September 10, 1972, in Cananea, Sonora, Mexico.

Mr. Borne was privileged to have known the Wright brothers, and his first pilot's license was signed by Orville Wright. He literally was a pioneer aviator, having built and flown his own aircraft in the early days. He trained pilots for the Army in World War I and later was a test pilot for Boeing Aircraft. He was a member of the team which advised Kingford Smith in his early flight around the world, and also one of the early airmail flyers.

Mr. Borne was known and respected in Mexico as well as in this country, and flew for many Mexican Government officials and other dignitaries. The later years of his life were spent in northern Mexico, where he was engaged in mining as well as in aviation. He was buried in Cananea, and is survived by his wife, Teresa, of that city.

ANOTHER CONGRESS ENDS WITH NO ACTION ON GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the 92d Congress is about to adjourn with a substantial amount of unfinished business. But none is of longer standing than the genocide convention, which was originally submitted for ratification in 1950. That makes this the 11th Congress that has adjourned without taking action on this issue.

However, there were some encouraging developments. In May of last year, the Foreign Relations Committee voted to send the convention to the floor. Also last year, the administration came down firmly in favor of ratification, with the Attorney General and the Secretary of State strongly endorsing the convention.

Unfortunately, in the rush of business at the close of this session, the single objection to its consideration by the Senator from North Carolina was sufficient to block action this year. I would hope that the convention could be readied for floor action early in the 93d Congress, so that there will be ample time to debate its pros and cons, and finally permit an up-and-down vote on ratification.

I hope my colleagues will support early action on the genocide convention in the next Congress.

AMENDMENT 1687 TO PROVIDE FOR FAIR TREATMENT FOR SINGLE TAXPAYERS

Mr. GURNEY. Mr. President, late last night the Senate debated and voted on the amendment of the distinguished Senator from Oregon to equalize the taxes of single, unmarried taxpayers with those of married ones.

The hour was late and I did not wish to delay the Senate with my remarks. I desire at this time to make these remarks in full support of the amendment. I am very pleased to cosponsor and support this amendment which my distinguished colleague from Oregon has called up for consideration by the Senate. The amendment is not a very elaborate one or complicated one. It is, however, a most important one.

We hear much today, especially now that the political season is coming to an end, of the need to correct inequities in our Federal tax laws. We hear much of business deductions, depletion allowances, accelerated depreciation provisions. Yet, of all of the provisions of the Internal Revenue Code, the one which discriminates against more individual taxpayers than any other is the provision which discriminates against single persons.

Mr. President, there are perhaps 30 million unmarried taxpayers in this country working in every occupation, at every level of the socioeconomic scale. They work just as hard at the same kind of jobs as their married counterparts do. Yet, when April 15 rolls around, they pay out approximately 20 percent more in taxes than their married counterparts with the same taxable income.

Those unmarried individuals who are responsible as heads of households, just as much as if they were married, pay about 10 percent more on identical amounts of taxable income.

Mr. President, these people are being discriminated against for no just or valid reason. They are required to pay for more than their share of Federal income taxes simply because they have chosen not to, or have failed to marry.

As I said at the outset, the pending amendment is not an elaborate one or a complicated one. It is one, however, which is based on the premise that fundamental and basic fairness requires that the marital status of an individual taxpayer ought not be considered in the determination of how much of that individual's income is due to the Federal Government.

Mr. President, I join with the distinguished Senator from Oregon and the other cosponsors of the amendment in urging the adoption at this time of our amendment to the debt ceiling bill, H.R. 16810.

ANOTHER BARRIER FALLS

Mr. HART. Mr. President, some consider 22-year-old Barbara Barrett the next Amelia Earhart—for she, too, has broken a barrier in aviation.

Flying for Zantop International Airlines in Detroit, Miss Barrett is the first woman in the country hired as a pilot for a commercial airliner. She is the first woman officer on a 4-engine airliner and the first woman to fly the U.S. mail.

Her achievements were brought to my attention by the Michigan Chapter of the Ninety-Nines, Inc., an organization of women who are pilots. Earlier this month the group presented the Amelia Earhart Award to Miss Barrett, noting that her license represented some 3,000 hours of flying time during the last 3 years.

A resident of Niagara Falls, N.Y., Miss Barrett has been an instructor in a Cessna 150, copilot on a MU-2F—a high wing turbo prop—and copilot of a Lear-23. She attended flight school in San Angelo, Tex., and Cleveland, Ohio.

Flyers and nonflyers alike hail this long overdue forward step. Included in this commendation should be the management of Zantop International Airlines. Barriers such as the one involved here can be removed only if employers act responsibly.

INTERCHANGEABLE MANAGEMENT TEAM AT IBM

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the Record an article entitled "IBM's Interchangeable Management Team," published in Time magazine for October 9, 1972.

There being no objection, the article was ordered to be printed in the Record, as follows:

IBM's Interchangeable Management Team

In *The Organization Man,* William H. Whyte Jr. described the management training process at IBM: "By deliberately exposing a man to a succession of environments, they best obtain that necessity of the large organization—the man who can fit in anywhere. 'The training,' as an IBM executive succinctly puts it, 'makes our men interchangeable.'" Though that corporate portrait is 16 years old, IBM proved once again last week that its leadership, like its computers, is a smoothly running assemblage of interchangeable parts.

T. Vincent Learson, chairman and chief executive of the corporation for only 15 months, chose his 60th birthday to announce that he will retire next Jan. 1. He will be replaced by Frank T. Cary, 51, now IBM's president. Learson's departure, in fact, is little more than a routine management turnover. Back in 1966, when he became president, he expressed his intention of stepping down at 60. Learson will leave the corporation in brimming health; IBM's first-half net income rose 22%, to a record $618 million, on record revenues of $4.7 billion.

Beginning the day after Learson steps down, IBM will require its 37 other top officers to retire at 60. The new age limit will apply to Learson's predecessor, Thomas J. Watson Jr., who will turn 60 on Jan. 8, 1974. Chief executive of IBM for 15 years, Watson gave up that title last year after a heart attack but remained a member of the company's board and its top decision-making body, the Corporate Office. IBM's present retirement age of 65 will continue to cover the remainder of its 265,493 employees, but some expect that the new executive age limit will eventually be applied to all. IBM is not the first large firm to move toward earlier retirement for high officers. Last July Westinghouse Electric began requiring its top seven executives to retire at 60 and become "officer-directors," who devote their attention to "socially important issues" that affect the company.

Learson, a 37-year veteran of IBM, was responsible for developing many products, particularly the highly successful System/360. Introduced in 1964, the 360 has done more than any other recent innovation to maintain IBM's technological and financial lead over the rest of the computer industry.

Cary, the chairman-designate, joined the company in 1948 as a salesman in Los Angeles after he was graduated from U.C.L.A. He became a vice president in 1966 and successceded Learson as president last year. So far, no one has been named to replace Cary in the presidency. Likely contenders include two men from IBM World Trade Corp., the overseas arm that accounted for half of the parent firm's profits last year. They are Gilbert E. Jones, the Trade Corp.'s chief executive, who will move up into the Corporate Office on Jan. 1, and Jacques G. Maisonrouge, a French citizen, who will replace Jones as chief executive of IBM World Trade.

Learson will remain on IBM's board, but he says that he will take advantage of his retirement to "sharpen up my golf, do some more sailing, travel, and spend more time with my family. I've had 37 years of fun working with IBM. My wife and I now want to have some fun loafing." Spectacled and soft-spoken, Cary offers a noticeable contrast to his imposing and forceful predecessor. But Cary is not expected to introduce any alterations to IBM management style. Says a former IBM financial executive: "At IBM, the players may come and go, but the play remains the same."

PENSION REFORM LEGISLATION

Mr. ROTH. Mr. President, I regret that this Congress will come to a close before we can pass any pension reform legislation—action that is long overdue. Pension protection is essential to the financial security of millions of American workers.

All of us have come to realize the tremendous impact that the private pension system can have on the lives of working men and women and on the economy. About 30 million individuals, or almost half of the Nation's workers, are presently covered by private pensions. Pension assets now total approximately $150 billion and are growing at the rate of more than $10 billion each year.

Yet, the laws governing private pension plans are inadequate and ineffective to secure adequate protection of the benefits to which the workers are entitled. These deficiencies create many hardships for workers who thought they had planned for a secure retirement only to be disappointed. Thousands of workers are not realizing their expectations because of inadequate, inequitable, or nonexistent vesting provisions. The pension expectations of others are destroyed when pension plans are terminated as a result of going out of business or merging with another company. Many of these plans do not have adequate funds to pay all the vested benefits rightly due to the plan participants. On top of all of this is the lack of uniform minimum standards of conduct required of fiduciaries, administrators, and trustees which has jeopardized the financial security of employee benefits.

Many reform proposals are before us at the present time. This attests to the growing awareness of the need for effective pension legislation. Due to the importance of this legislation, I realize that we do not want to hurry into passing a so-called reform bill which will only prove to be ineffective. The whole pension area must be thoroughly studied to insure that we pass the best piece of legislation possible.

Fortunately, we have already laid some foundation for legislation. Three committees having legislative jurisdiction over these matters have held extensive hearings on the private pension system. The Senate Committee on Labor and Public Welfare recently reported out on a major bill—S. 3598—which is known as the Retirement Income Security for Employees Act. This measure passed the full committee by a unanimous vote and was referred over to the Senate Finance Committee on September 19, 1972.

The Finance Committee reported out on S. 3598 on September 25, 1972, but deleted from S. 3598 what it considered to be tax related matters traditionally dealt with by the tax committees. Senator LONG, in explaining the committee's position, said that his committee does not expect to act on pension legislation until next year.

The Senate Finance Committee has a number of other pension bills before it, including the administration's proposed Individual Retirement Benefits Act of 1971. The same holds true in the House Ways and Means Committee. Moreover, the House General Subcommittee on Labor is also reviewing the private pension system in depth.

Obviously, Mr. President, the 92d Congress will not act on pension legislation. Yet the need for comprehensive legislation is undeniable. I feel that pension reform is of the utmost importance to protect the retirement security of millions of workers. It is for these reasons that I feel pension legislation should be made the first order of business of the 93d Congress.

CONNECTICUT SOLID WASTE MANAGEMENT PROGRAM HAILED

Mr. WEICKER. Mr. President, there is much debate throughout the country on how best to manage the growing volume of solid waste that flows from our homes, offices, factories, farms, and institutions. There is no question about the fact that effective solid waste management is one of the major domestic needs of our times. It is unfortunate that some in both public and private life believe that the refuse problem can be solved by piecemeal and retrogressive approaches—that, for example, we can reduce the solid waste fallout to manageable proportions by outlawing the use by consumers of just some of the items that end up as refuse; or by forcing deposits on bottles and cans, or by placing burdensome taxes on some and not other products because they end up as trash.

Fortunately, there are others in this country—and I believe they are in the majority—who look forward in seeking solutions to our solid waste crisis. The people of the State of Connecticut speaking through their legislators, their Governor, and their Department of Environmental Protection, are among those who believe in progress rather than retrogression in protecting the environment of our beautiful State. They believe that we can move forward to our objectives by harnessing modern technology to the effective and hopefully profitable management of solid waste in Connecticut.

I wish publicly to congratulate the people of Connecticut, their farsighted legislators, and the enlightened members of the executive branch of the State government for their part in making Connecticut the first State in the Nation to tackle the problem of solid waste on a statewide basis. At the same time, I believe my colleagues in the Congress will be interested in knowing how the people of Connecticut plan to solve their refuse problems. The program I am about to describe implements Public Act 845 enacted last year by the General Assembly giving the Commissioner of Environmental Protection responsibility for statewide solid waste management. This act requires a statewide solid waste plan by July 1, 1973, with implementation to follow.

It is interesting to know that some 7 million tons of solid wastes will be generated in Connecticut in 1972. By 1985, wastes from homes, businesses, institutions, farms, and other sources are expected to total some 10 million tons. Like the rest of America we have a refuse problem pretty much in proportion to our population.

The State's 15 regional planning agencies and 169 cities and towns will play active roles in the planning and implementation process. A number of solid waste advisory committees, made up of municipal representatives, already have been formed and regional meetings with local officials have been held.

A major corporation, with outstanding management, planning, development and technical capabilities, has been selected to develop and manage Connecticut's statewide system for disposing of garbage, trash and other solid wastes with maximum recovery of materials and energy. The firm was chosen from among 22 organizations that submitted proposals to Dan W. Lufkin, commissioner of the Department of Environmental Protection.

In seeking these competitive proposals, the Department of Environmental Protection documented the State's solid waste management policy, which in broad terms calls for:

1. Maximum material reuse or recycling either through separation at the source, using separate collections where feasible or recovery of material after combined collection and volume reduction.
2. Resource recovery through use of refuse as a source of energy to the extent materials recycling is not feasible.
3. Maximum volume reduction of materials not recycled or recovered as energy so as to minimize landfill requirements.
4. Equitable distribution of the costs associated with the system among its users.

It was further stated that it is the policy of the State to accomplish these objectives with maximum participation by private enterprise in planning, construction, management and operation of facilities and the systems required.

It goes without saying that the system to be developed jointly by the State and industry must be environmentally sound and economically feasible.

The program consists of several phases, including design, construction and operation of the facilities for recovery, reuse and disposal of refuse. The first phase will be design of the system, which will include compatible existing and proposed facilities. It will require about a year to complete and is valued at $1,115,000. Of this amount, $450,000 are in contract funds from the State of Connecticut and the Federal Environmental Protection Agency. The balance will be in the form of work performed by members of the project team—the prime contractor, the State's department of environmental protection and two local utility companies.

The program being developed will be flexible. Commissioner Lufkin has emphasized that we cannot lock ourselves into any one process of resource recovery and/or disposal. The state of the art is changing so fast that we must remain open to technological and social innovations. The commissioner believes that such an approach based on the efficiency of the new machines and processes for recycling wastes from mixed refuse, the application of economic incentives and changes in laws and customs will make maximum resource recovery feasible within just a few years.

A major goal of the first year's effort will be to determine the best economic and environmental mix of solid waste processing, recycling and disposal in relation to facilities and markets which exist or can be developed in the different geographical regions of the State.

Connecticut within a year will begin building a $100 million statewide solid waste management system that will salvage all metal and glass for recycling, generate electricity from trash and extract gas and fuel from garbage. The Department of Environmental Protection has stated that starter units of the system will be built in Hartford, New Haven, and New Britain.

Although initial construction costs may be as high as $8 million just for the starter units, revenue from recovered resources and energy is expected to offset the operating costs. The three municipalities in which the starter units will be built are reported to be putting up more than half of the cost, with the State providing the remaining money.

Gov. Thomas J. Meskill, commenting on the statewide program, cited the "failure of piecemeal solutions in our race against environmental degradation." He added:

> Statewide planning for resource recovery, implemented regionally, in concert with local government, offers great potential benefits to the people of Connecticut. It will help to create a more liveable human environment, while conserving natural resources and providing additional jobs for Connecticut citizens.

We in Connecticut will be happy to share our experiences with the Members of the Congress and the governments of the several States as our program develops through the planning and implementation stages. We believe we are on a progressive, forward-looking, economic, and socially beneficial course that once again will enable the State of Connecticut to set the national pace in the constructive resolution of a major national challenge.

VETERANS' DAY IN BIRMINGHAM

Mr. ALLEN. Mr. President, on Sunday and Monday, October 22 and 23, as has been my custom for many years past, I will participate in National Veterans' Day in Birmingham—its 26th. This is a solemn occasion during which we in Alabama, and Americans everywhere, pay tribute to those brave men who gave their lives in service to their country and to those more fortunate men and women who performed their duties and returned home.

Previously known as Armistice Day, this observance was started after World War I and was held each year on November 11 to mark the end of hostilities in that war.

Planning for National Veterans' Day in Birmingham began in 1946 with Gen. Dwight D. Eisenhower lending his personal assistance. As President, he prevailed upon Congress to change the name of Armistice Day to Veterans' Day dedicated to veterans of all wars in which the United States has been engaged. When the Nation observed its first Veterans' Day, in 1954, it was actually Birmingham's seventh year.

Shortly thereafter, the National Veterans Organization, which is composed of nine leading veterans groups through the Nation, officially recognized Birmingham as being founders of Veterans' Day and created a National Veterans Award, authorized by Congress to be presented each year during the Birmingham observance honoring an outstanding citizen who has made the greatest contribution to further the patriotic interest of veterans. This year's award will be made Sunday night to Brig. Gen. Jimmy Stewart.

Once consisting of a colorful parade, National Veterans' Day in Birmingham is now a 2-day observance. In addition to the Sunday awards dinner, a full schedule of activities will be held on Monday. At 10 o'clock all religious faiths will participate in fitting memorial services with one church in the city to be designated to conduct official Veterans' Day memorial services and all other churches paying special tribute to our veterans.

A world peace luncheon, with Adm. Elmo R. Zumwalt, Jr., Chief of Naval Operations, as featured speaker, will be held at noon to reaffirm our faith in the principles of freedom throughout the world and to rededicate ourselves to active and forceful opposition to aggression and the favoring of strong military forces as our best guarantee for a continuing peace.

The annual Veterans' Day parade, which has a nationwide reputation as one of the most stirring held anywhere in the Nation, will start at 2 p.m. and will include air and ground units of the Alabama National Guard, Reserve, and ROTC units, bands, floats, and veterans organizations.

Veterans' Day is a day for hope and prayer for peace, and a day of remembrance and gratitude to America's veterans whose sacrifices have preserved the heritage of freedom and liberty which we enjoy today. Every man and woman who served our country, answered the call to duty according to the dictates of his or her own conscience. One of the most moving expressions of this individual sense of responsibility was made by the Father of our Country, George Washington, during his first year as President of the United States. He said:

> I have obeyed a summons to which I can never be insensible. . . . When my country demands the sacrifices, personal ease must always be a secondary consideration.

I am proud that in the State of Alabama more than 400,000 living veterans, from the Spanish-American War to Vietnam, are proof of Washington's words, for these Alabamians also "obeyed a summons" and answered the call of America when the need was greatest.

SUPPORTING FOR AMENDMENT ON PAYMENT OF EXTENDED UNEMPLOYMENT COMPENSATION BENEFITS

Mr. CASE. Mr. President, yesterday, I joined Senator MAGNUSON in offering an amendment to the debt ceiling bill to eliminate totally those restrictions which presently bar the payment of extended unemployment compensation benefits in all except three States and Puerto Rico. The Senate approved the Magnuson amendment.

The Federal-State Extended Unemployment Compensation Act, enacted in 1970, was designed to deal with the then-rapid surge in unemployment that this country was experiencing. Accordingly, it specified that this 13-week extension of unemployment benefits could not be paid unless a State's unemployment rate was sharply increasing—in technical terms, the rate has to be at least 120 percent of the rate prevailing in that State in the 2 previous years.

The present law simply does not apply to, or deal with, the persistent degree of high unemployment that many States are presently experiencing. In fact, the unanticipated effect of the 1970 law has been to end entitlement in those very States where unemployment has levelled off on a high plateau.

In effect, the thousands of jobless exhausting their 26 weeks of State benefits are told that the degree of unemployment does not matter. They are told that they are entitled to extended benefits only if conditions are becoming still worse at an ever-increasing pace.

Now we are paying the price of this oversight in the 1970 law. Twenty States, all with unemployment rates high enough otherwise to entitle them to these extended benefits, have been triggered out of entitlement solely because of a leveling-off in these rates. Truly, this represents a cruel "Catch-22" logic that I am certain the Congress never intended.

In my own State of New Jersey, unemployment stands at 7.3 percent of the work force—far above the national average and above the rate of a year ago. Yet on August 18 of this year, 24,000 workers in my State lost their entitlement to these extended benefits—not because the economic situation is improved, but because conditions have not gotten worse at a fast enough pace to satisfy the requirements of existing law.

Jobless workers in New Jersey have

been exhausting their normal State unemployment benefits at a constant rate of 10,000 per month. As in many other States, most will have no other recourse except to go on the welfare rolls—and this at a time when State and local governments across the country literally have their backs against the wall financially. The Federal Government finances 50 percent of the cost of this program of benefits.

I urge the House to join the Senate in correcting the oversight in the present law by striking entirely the "120 percent requirement" of the Federal-State Unemployment Compensation Act of 1970.

FAILURE OF LEGISLATION TO PROHIBIT TRADING IN IRISH POTATO FUTURES ON COMMODITY EXCHANGES

Mrs. SMITH. Mr. President, I deeply regret the action of the House yesterday in killing the legislation to prohibit trading in Irish potato futures on commodity exchanges. This was legislation keenly desired by the majority of farmers in Aroostook County, Maine.

The House of Representatives has again displayed a lack of consideration for the farmers of Aroostook County. For again it has killed this legislation by a distressingly overwhelming negative vote.

Back in 1964 the Senate passed this legislation without a dissenting vote. But when it went to the House, the House killed it by bottling it up in committee. Yesterday the House again voted to kill the legislation.

Earlier this year, at the request of the president of the Maine Potato Council, I introduced a bill to obtain $10 million for a land retirement program to give financial assistance to deserving farmers in Aroostook County. I was able to get the Senate to pass the bill and to appropriate such funds without a single dissenting vote.

But again the House of Representatives displayed its lack of consideration for the farmers of Aroostook County, and the House Appropriations Committee conferees killed this legislation of mine that the Senate had unanimously supported.

I simply cannot understand the negative attitude of the House of Representatives to the needs of Aroostook County. Not only has the House this year killed these two measures designed to aid Aroostook County farmers, but the House has also killed the Senate passed funds for the Dickey-Lincoln power project in Aroostook County.

Year after year at my request, the Senate has repeatedly appropriated $800,000 for the Dickey-Lincoln power project, but year after year the House has killed all such funds for Aroostook County by action on the House floor and by the action of the House appropriations conferees. The latest action of the House in killing the Senate appropriated $800,000 for the Dickey-Lincoln power project was that taken by the House appropriations conferees.

I deeply regret the lack of friends in the House for Aroostook County as most recently evidenced by the negative action in the House yesterday in killing the legislation it did. In contrast, I am very grateful for the repeatedly proved friendship of the Senate for Aroostook County in the unanimous support it has given over the years for, first, prohibition of potato futures trading; second, land retirement funds; and third, appropriations for the Dickey-Lincoln power project.

NUCLEAR SAFETY PROBLEMS DESCRIBED TO THE SCIENTIFIC COMMUNITY

Mr. GRAVEL. Mr. President, Science magazine, which is a publication of the American Association for the Advancement of Science, carried a series of four articles on nuclear power safety-problems during September. The magazine has a circulation of about 165,000 copies, mostly within the scientific community.

The articles are written by Robert Gillette, who has published several additional articles on nuclear power in previous issues of Science, including May 28, 1971, July 9, 1971, and May 5, 1972.

In his report September 15, 1972, Gillette quotes a prominent engineer at the AEC's Oak Ridge National Laboratory as follows:

> What bothers me most is that after 20 years, we are still making purely subjective judgments about what is important and what is not in reactor safety. Purely by decree, some things like the rupture of a reactor pressure vessel are ruled impossible. To decide these things without some objective measure of probabilities is, to me, almost criminal.

Nicholas von Hoffman, a columnist syndicated in the Washington Post, wrote as follows in his commentary October 11, 1972:

> Reading Gillette's series is the next best thing to coming down with a howling case of leukemia . . . This isn't an abstruse hair-pulling contest between a bunch of far-outs in white lab smocks. Your life may depend on the outcome.

Mr. President, I ask unanimous consent that Robert Gillette's four articles from the September 1, 8, 15, and 22 issues of Science magazine be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Science magazine, Sept. 1, 1972]

NUCLEAR SAFETY—THE ROOTS OF DISSENT

"It is somewhat confusing that concern over nuclear plant safety has increased recently. Some explanation to be found in sensationalist publications . . . but the most important reason appears to be the widespread lack of knowledge of both the excellent safety record of the nuclear power industry and the extreme efforts, unprecedented in any other industry, to assure that nuclear plants are designed, constructed, and operated with the highest attention to public and employee safety."—The U.S. Atomic Energy Commission, in a statement to the congressional Joint Committee on Atomic Energy, February 1972.

"This is being advertised as a no-risk business and that's not true. We don't know that reactors are unsafe, but we're concerned about their being as safe as the manufacturers would like you to believe. Maybe it's time the AEC told the public that if people want to turn the lights on they are going to have to expect to lose a reactor now and then, and possibly suffer great dislocations and property losses as well."—A senior reactor safety engineer, National Reactor Testing Station, Idaho Falls, Idaho.

The great public debate over radiation standards that flared up 3 years ago has peacefully declined in recent months, probably because the Atomic Energy Commission (AEC) decided to impose strict new limits on the nuclear power plant emissions that sparked the controversy in the first place. But even as that furor was dying down, a new one was swiftly rising in its place—this time over the ability of reactor safety systems to guard against a disastrous accident, should a nuclear plant suddenly lose its cooling water. Expressions of puzzlement from the AEC notwithstanding, the indications are that this new debate over reactor safety comes as less of a surprise than the commission's remarks to Congress would suggest.

To be sure, the AEC has spent tens of millions of dollars in the past 25 years to ensure the safety of nuclear power plants. And it is probably true, as the AEC claims, that the fears of an ill-informed public and the eagerness of "sensationalist" publications have helped to magnify and distort the risks inherent in nuclear plants.

Nevertheless, the new issues of nuclear safety are real. What is more, they appear to be a direct outgrowth of serious internal troubles that have been building up for several years within the AEC's $53 million reactor safety research program.

The new safety debate has centered mainly on the adequacy of backup cooling systems in nuclear plants; the technical substance of this issue has been discussed in previous articles (see *Science*, 5 May). This current article, and others to follow, trace the roots of the issue to problems in the management of the nuclear safety program, and to an intense discord that has developed between the AEC and its national laboratories. This first installment outlines the major grievances of safety researchers and the turbulent history of their program. A second article will discuss long delays in key research projects, and a third will take up the safety program's relations with the AEC's entirely separate regulatory arm.

The internal problems of the nuclear safety program are complex, but there are two main ones. First, at a time when more and more of the nation's utilities are building increasingly powerful nuclear plants, the safety program has accumulated an enormous backlog of unfinished research and unanswered questions. Construction of large experimental facilities the commission itself has repeatedly described as urgently needed has fallen years behind schedule. One nuclear test facility at the AEC's National Reactor Testing Station in Idaho that was supposed to have been finished in the middle 1960's is still being built, and it shows little promise of producing useful data before the middle 1970's. By then, as many as 80 benefited from these data will be near completion or in operation.

There are, in addition, dozens of "problem areas" in the safety of conventional water-cooled reactors that remain unresolved. Many of these problems are described in a 1970 AEC publication entitled "Water Reactor Safety Program Plan." The plan outlines 139 unsettled safety questions, and designates 44 of them (in the document's emphasis) as *"very urgent, key* problem areas, the solution of which would *clearly* have *great impact*, either directly or indirectly, on a major critical aspect of reactor safety."

The second major problem concerns the attitudes that safety researchers themselves, working in the national laboratories, hold toward all this unfinished business; a series of interviews during the past 2 months reveals that many of them are genuinely worried about it.

In Washington, the official position is that completion of this work certainly would be desirable, but that, in the meantime, nuclear plants are being designed with sufficient "conservatism" to make up for any uncertainties in their performance. In the national laboratories, however, a number of safety researchers are far less confident. "We are not trying to be accident-mongers," one project manager says. "But we don't think our tools are adequate for proving this assertion."

As the new debate has grown during the past 2 years, first internally, then out in public view, scientists and engineers in the safety program have come to believe that their work is linked to a vital national issue. At the same time, those interviewed say they have also become convinced that the AEC, in its eagerness to develop a thriving nuclear industry—and to get on with building the breeder reactors it has dreamed about for 20 years—has deliberately bypassed tough safety questions still hanging over ordinary, water-cooled reactors.

These beliefs are thoroughly entangled with widespread feelings of discontent over important changes that have occurred in relations between the AEC in Washington and its national laboratories. During the past several years, much of the old autonomy the laboratories had enjoyed for two decades has been supplanted by a forceful new style of management from Washington. And along with the new management has come a new emphasis on applied research and engineering tasks that seem inappropriate, if not distasteful, to many. Researchers and administrators in the laboratories do seem to recognize that, to some extent, these changes are an inevitable result of advances in nuclear technology. But they are nonetheless unhappy with what they consider to be a practice of "overmanagement" by Washington that allows little opportunity to appeal and debate decisions as to which research is important and which is not. The end result of all these feelings has been a deep, and for some, a rather bitter estrangement from AEC headquarters that has done nothing to speed the laggard pace of safety research.

To put things in an organizational context, it should be noted that all of the $53 million the AEC plans to spend on safety research this year will flow through the agency's main "promotional" branch, the Division of Reactor Development and Technology (RDT). This division holds jurisdiction over all civilian reactor R & D—including safety research and the commission's most prominent undertaking, the multibillion dollar breeder program. (Whereas this arrangement may make good sense from an administrative point of view, many of the AEC's critics—both inside and out—regard it as a built-in conflict of interest, in the sense that a single unit of the agency is responsible both for encouraging the growth of an industry and for supporting research with a high potential for raising embarrassing questions about the industry's safety. Thus, one of the key questions to be answered is whether the RDT has been able to discharge both duties with equal enthusiasm. Its critics contend that it has not.)

This year, roughly half the $53 million earmarked for safety will go into water reactor studies—the focus of concern—and half into breeder safety. Of the water-reactor money, about $6 million is destined for Oak Ridge National Laboratory to pay for a miscellaneous assortment of eight to ten projects involving 75 scientists and engineers. Some of this also goes for research contracted by Oak Ridge to a small number of universities and private firms.

The remaining $20 million for water reactor safety is destined for the National Reactor Testing Station (NRTS), where the AEC's "operating contractor," the Aerojet Nuclear Corporation, does most of the nation's water reactor safety research. About 120 scientists and engineers at Idaho draw their salaries from this money. Technically, all are employees not of the government but of ANC, a subsidiary of the Aerojet-General Corporation that exists solely for the purpose of running the Idaho installation.

Thus, in criticizing AEC policies, the dissident scientists and engineers at Oak Ridge and Aerojet place themselves in the difficult position of biting the only hand that feeds them—namely, the RDT, and more precisely, the division's controversial director, Milton Shaw.

A former aide to Vice Admiral Hyman G. Rickover, Shaw supervised the design and development of the nuclear propulsion plants aboard the aircraft carrier *Enterprise* and the cruiser *Long Beach* before taking up his present job in December 1964. Over the years—and in spite of criticism from the laboratories—he has acquired a reputation in Washington as a strong and competent administrator. A man of engaging bluntness, Shaw readily concedes that dissension exists in his safety program, though he says the reasons are not entirely clear to him.

"Unquestionably, people are unhappy, and morale at Idaho is poor," he said in a recent interview, "but sometimes it's hard to know why." Shaw suggested that some of the enmity may be a natural backlash to several traumatic but necessary management shakeups at Idaho over the past few years. He also spoke of an "unwillingness" in the laboratories to adapt to changes imposed by an advancing technology. Beyond this, he said, the closeness of researchers to their work may make the possibility of nuclear accidents "seem more real than it is" and thus may inflate the urgency of safety research in their eyes. There are, moreover, strong feelings among Shaw's staff that the laboratories simply are "hungry for contracts" and are willing to exaggerate safety problems to get them—an accusation the researchers angrily deny.

What, specifically, are the laboratories' grievances? During interviews, research administrators at Oak Ridge and Idaho expressed a variety of allegations, which will be examined in more detail later. Among these were charges that:

Between 1968 and 1971 the RDT bootlegged money from water reactor safety to accelerate the breeder, and in the process killed or cut back a number of key research projects that had just begun to raise questions about nuclear plants coming up for licensing.

Shaw had shown considerable indifference toward urgent needs of the regulatory branch for technical help during this period, and for several years forbade direct contact between safety researchers and the AEC's regulatory staff.

Shaw allowed reactor manufacturers to pass judgment on new research proposals from the laboratory, and tended to skirt questions the industry insisted it had solved, even though safety researchers disagreed. Some of those interviewed said they considered this an effort to curry the industry's financial support for the breeder.

Shaw had used contractors at Idaho as a scapegoat for long construction delays on major test facilities for which he himself was largely responsible.

Besides all this, there is a profound dissatisfaction with Shaw's tight control over RDT programs in the laboratories. His style of administration is often described in the laboratories as "vindictive" and "autocratic" and one that is not above "forcing out" competent research managers who persist in their dissent from official thinking. An Oak Ridge administrator in the middle of the feud with Washington summarizes this view:

> It's no secret that there has been a trend away from science and toward more engineering work in the laboratories for a good number of years, and this is understandable, given the state of the technology. I don't regard it with disfavor, although we would like to do more science. . . . My big complaint about Shaw's setup is that too often it runs on the assumption that the chief is always right, rather than in a manner consistent with the public welfare where open debate takes place. In my view, the wrong people are in charge of water-reactor safety.

In talking about their grievances, critics both at Oak Ridge and Idaho uniformly insisted on anonymity. They contended that use of their names in connection with criticism of AEC policies or officials would, in all probability, cost them their jobs. As evidence, several named colleagues who had once held high-level positions in the safety program and had been shuffled to "nothing jobs," they said, after clashing with Shaw. "His is a vindictive administration," said one man who supervises a large-scale project at Oak Ridge, "and people are frightened."

At the Idaho facility the level of anxiety seemed even higher, and not without reason. In an interview, Charles Leeper, a physicist who became president of Aerojet Nuclear last year, emphasized that it was essential that the company maintain good relations with its "customer"—in this case, the RDT and its director. "I'm accustomed to dealing with the Air Force," Leeper said, "and I've watched program managers go down the chute right and left because they had trouble with the customer."

Prior to this reporter's arrival at Idaho Falls, where the NRTS maintains its administrative offices, Leeper said he reminded his senior staff of a standing rule that only he would express the company viewpoint. Others, he said, were free to voice personal or professional opinions, but only under this proviso: that if any employee's comments "sour his relationship with the customer, we cannot guarantee that after some time has elapsed that he will still be in his same position. We would, however, make every effort to find him a suitable opening in this organization, or elsewhere in Aerojet, or allow him to look beyond the company."

For some Aerojet staff, discretion thus ruled out talking in company offices. They did, however, consent to make arrangements for evening meetings at a designated spot on a back street in Idaho Falls, followed by a drive to private homes some miles away.

That men nationally recognized in their profession should feel impelled to such maneuvers suggests how far relations between the commission and the Idaho installation have deteriorated. For a fair perspective on the long trail of events that led to this situation it is worthwhile to trace the early history of the NRTS, its mission and self-image, and the ways in which both were sharply transmuted in the mid-1960's.

The Idaho facility had a fitful beginning in the late 1940's as the newly formed Atomic Energy Commission began roughing out its ambitious peacetime plans for military and civilian reactors. The commission had chosen the freshly organized Argonne National Laboratory near Chicago to lead its reactor R & D programs, and it came close to going a step further and picking Argonne as the place to build a series of large experimental reactors—among them the first breeder, the first prototype propulsion plant for nuclear submarines, and the AEC's powerful Materials Testing Reactor.

The AEC changed its mind on this point largely at the behest of physicist Edward Teller, who argued that the "calculated risks" taken by the Manhattan Project during the stress of war could no longer be justified, least of all in the suburbs of what was then the nation's second most populous urban area. Adherents of the Argonne site—among them Enrico Fermi, Robert Oppenheimer, and Glenn Seaborg—complained that Teller and the safety advisory group he headed for the AEC had exaggerated the dangers of a nuclear accident, but Teller prevailed. In 1947, the commission began a search across the West for a place to establish a remote proving ground.

The site that the commission finally selected, an old Navy gunnery range 30 miles west of Idaho Falls, could scarcely have been more remote. Even today, as in the 1940's, the overwhelming impression a visitor receives of the NRTS is one of vast emptiness. Nearly the size of Rhode Island, the site sprawls across 893 square miles of sand and sagebrush and the black, contorted lava flows of the Snake River plain. Snowy peaks of three mountain ranges—the Bitterroot, Lemhi, and Lost River mountains—embrace the site on its western boundary. To the east, more than 100 miles across the flat desert (and well beyond the site's perimeter) three sharp spires of the Tetons are visible on the clearest days. Within the proving ground, clusters of reactors and laboratories are scattered miles apart.

BOOM TIMES IN THE 1950'S

During the 1950's the testing station grew rapidly—in fact, well beyond the commission's initial expectations—as Congress, at the urging of the Joint Committee on Atomic Energy, pumped more than $2 billion into military reactors and the AEC's burgeoning efforts to promote civilian power reactors. In 1949 the AEC thought it eventually might build as many as 10 reactors in Idaho; by the mid-1960's 40 dotted the landscape and 9 more were completed or under construction by last year. The total investment in hardware at the NRTS has since passed $500 million and the work force, though down from a peak of 5500, remains nearly 4000.

Despite its great cost and historic importance to nuclear technology though, the NRTS somehow always remained the ugly duckling in the commission's collection of research establishments, never quite achieving recognition as a full-fledged national laboratory. For one thing, institutional arrangements lent an overall incoherence to the installation that made it seem to outsiders as more of a melange of independent activities than a unified laboratory. It was thought of mainly as the place where separate groups—the Navy, Argonne, Westinghouse, General Electric, and others—went to build experimental reactors in secure isolation not only from the public, but, as things worked out, from each other as well. Above all Charles Leeper says, NRTS is still chiefly a proving ground. "One problem," he says, "is that some people would like it to be a national laboratory but it is not."

Even so, a collective sense of identity as an important and distinctive research institution did manage to take root over the years. It fluorished, interestingly enough, within the nuclear division of the Phillips Petroleum Company, which the AEC hired in 1950 as the site's operating contractor. During the next 15 years, the Phillips contingent provided a full range of "housekeeping" services for the site and it operated (and helped to design) a dozen test reactors for the commission. Along the way, Phillips acquired several hundred scientists and engineers, many of them reactor physicists and materials scientists who made important contributions to the scientific base for adavnced designs of reactors

Within Phillips the first semblance of a coherent safety research program appeared in the 1950's. It grew quickly, in step with the general pace of reactor R & D. As the program expanded it acquired a certain cohesiveness and esprit, nurtured partly by the exotic nature of its work—the abnormal behavior of nuclear plants—and partly by a large measure of freedom the commission granted it in choosing which problem demanded first and closest attention.

Reminiscing about happier times, one manager at Idaho described the mission of the safety program and its liberal relationship with the AEC this way:

"The commission put us out here 15 years ago to learn about abnormal reactor behavior and to think about what would happen if one of these machines went out of control. . . . You have to understand that an operating, pressurized water reactor contains an immense amount of stored energy—the equivalent of 50,000 pounds of TNT in the mechanical energy of the circulating hot water alone, and 50 to 100 times that in thermal energy. The whole problem comes down to containing *this* energy to squeeze a little more out of the nuclear fuel, and to *controlling* this energy in the event of an accident.

"This is such an extremely complicated area that, historically, Washington was content to let us tell them what their designs didn't cover, and to make research proposals. In effect, they let us tell them what we should be doing in reactor safety."

This prolonged honeymoon began a swift decline in 1965, shortly after Shaw took command of civilian reactor programs. By last year, the relationship had fully reversed itself: Now the NRTS, and the safety program in particular, function on a short, tight leash from Washington. Research proposals are subjected to painstaking scrutiny by teams of engineers under Shaw; money available and the tasks assigned to Idaho vary from month to month under strict control from headquarters.

"Isn't this reasonable?" Leeper says rhetorically. "The highly creative days and the permissive times are behind us, and the demands now are for a hard bitten reduction to economical practices."

The researchers themselves agree that times are hard all right, but not quite in the same sense. During one conversation three senior scientists and engineers complained that the budget now fluctuates wildly, that Washington often assigns new tasks without allocating more money, and that the emphasis in research programs continually varies—all with little explanation from Washington. Said one project manager:

"The budget has become a year-long confusion, a continuing battle. It gets rewritten four or five times a year; the year before last it was reprogrammed no less than 12 times. We are constantly having to accelerate some projects, decelerate others, and shift people from one thing to another. All of this gives the safety program a great instability and generally slows our progress."

Another critic at Idaho added this commentary:

"It has been impressed upon us that we are a captive contractor, and this is one of our main complaints. It means that we're not allowed to pick up contracts from elsewhere—from the AEC or the industry—in times of slack budgets. We're forever having to hire professional people, lay them off, hire them back. . . . Under manpower ceilings set in Washington, we sometimes have more money to spend than people to spend it on. After awhile, guys get tired of being shuffled from one job to another, or of pumping gas and selling real estate in town, waiting to be rehired, and they leave. It's pretty hard to keep research teams together under these conditions. . . "

Shaw says that when he took over in 1964, reactor R & D programs in all the national laboratories were in a "deplorable" state. Research on watercooled reactors, he says, was poorly coordinated among the laboratories, frequently redundant, and heavily entwined with basic research ventures to an extent that it was no longer appropriate for a technology presumably on the brink of commercial status.

As he saw it, there were two main tasks at hand: To wean the industry from government support of water reactors, and to marshal his forces for a concerted thrust on the commission's prime objective—an economical breeder. By all accounts, he took on both these tasks with immense energy and with a lesson learned from Admiral Rickover—namely, that a tough, centralized management stressing a "disciplined engineering approach" both to research and to construction of new reactors may not win friends, but it gets results.

The results so far are mixed, but certainly few friends have been won. Within months after taking office in December 1964, Shaw began a series of drastic reorganizations at Idaho that finally brought the demise of the Phillips organization last year, the rise of Aerojet in its place, and a continuing series of purges of old Phillips people from the new Aerojet structure.

Simultaneously, amid this turmoil, Shaw began imposing a rigorous and unfamiliar regimen of quality control standards and procedures on research projects in all the AEC's laboratories, Idaho included. It was all part of the new era of engineering discipline, and it was necessary, Shaw says, in order to rectify slipshod practices in the conduct of research. But to workers in the laboratories, the new regulations and the paperwork that came with them placed a staggering and, they felt, inappropriate and unnecessary burden on their work with little benefit in return.

"Engineering is the name of the game," says Shaw, an engineer.

"When he came in, science died," says a physicist at Idaho.

Thus, by 1967, the present conflicts had been kindled, and the forces were set in motion that would bring safety research of the highest priority to a virtual standstill.—Robert Gillette.

[From Science magazine, Sept. 8, 1972]

NUCLEAR SAFETY (II): THE YEARS OF DELAY

(By Robert Gillette)

Although it could hardly have foreseen so at the time, the Atomic Energy Commission embarked in 1963 on a construction project that was to become one of the longest-running, most trouble-ridden ventures of its kind in the commission's 25-year history. That was the year the AEC set out to build a modest little nuclear reactor called LOFT at the National Reactor Testing Station in the Idaho desert. The reactor's name was an acronym from "Loss of Fluid Test," and it aptly indicated the $18 million facility's unusual mission.

According to plans at the time, LOFT would be completed in 1966. It would then be studded with instruments and sealed inside a massive concrete and steel "containment" dome at the desert proving ground. After a series of small-scale experiments, technicians would run the reactor up to its full power of 50 megawatts and abruptly drain it of its cooling water.

Inside the dome, LOFT would partially melt. But in destroying itself it would give safety researchers their first look at a reactor in the throes of what the AEC had formally declared to be the "maximum credible accident" that a nuclear power plant could reasonably be expected to suffer—a major loss of cooling water through a ruptured pipe.

The LOFT project was, therefore, of central importance to the commission's safety research program. In making this point, in its annual requests to Congress for money, the AEC was not stingy with superlatives. LOFT was the "largest and most vital" test facility in the safety program. It was the "focal point which provides a fundamental sense of direction to water reactor safety investigations." Among other things, LOFT would demonstrate a "live accident [that] makes investigators face reality."

Later on, the AEC promised that LOFT could make "extensive contributions" toward erasing nagging doubts about the adequacy of backup cooling systems in nuclear power plants—a subject the commission considered to be "perhaps the most urgent problem in water reactor safety," even before it became a public issue.

For all its stellar importance though, the only reality LOFT has yet made anyone face is that putting together an experimental reactor—even a small one—can be a very trying experience. Nine years later, the AEC is still struggling to finish building the LOFT facility, let alone run it. At last report construction was 80 percent completed, but work is now more than 6 years behind schedule. LOFT's crucial experiments have been expanded in scope but postponed until 1974 or 1975; by then, as many as 80 nuclear power plants that might have made use of the results in their design will already be running. What's more, now that construction costs have ballooned to $35 million, AEC officials in charge of the project have just about given up the idea of letting such an expensive piece of equipment seriously damage itself, much less melt. So in all probability the consummate experiment originally planned will not take place.

Nor is LOFT the only major safety test facility to have sustained long delays and soaring costs. A second reactor at the Idaho installation—the Power Burst Facility (PBF)—was completed last summer, 4 years late and $8 million or 100 percent over the original cost estimate. The PBF was designed to subject nuclear fuel assemblies to abnormally stressful conditions, in order to better understand the behavior of fuel rods before and during an accident. The commission has designated fuel-failure research as being of highest priority; thus between the two test reactors, some of the most urgent safety research planned by the AEC has been postponed.

What happened to LOFT and PBF? Interviews with AEC officials in Washington, and with scientists and engineers at the NRTS in Idaho, turn up a tangle of conflicting charges and countercharges that reflect strong disharmonies that have grown up between the two sides in recent years. An article last week outlined the nature of these problems and some of their history. This week's article attempts to unravel the reasons for delays in important safety research projects that appear to be both cause and victim of this enmity.

The basic causes of delay and overrun are clear enough in themselves; the controversy arises over whom, if anyone, to blame. For both reactors, the first major delays occurred just at the point when detailed designs had been completed and construction was about to begin. In the case of the PBF, the fuel-testing facility, AEC headquarters sent down an order in April 1965 to revise the blueprints and build a more "versatile" reactor, capable of running in a steady state as well as of producing bursts of power. It was a major design change, and one that the Government Accounting Office (GAO), the investigatory arm of Congress estimates cost $1.3 million and 10 months in progress. The GAO, in a brief report on LOFT and PBF last year, did not comment on the merits of this decision.

As for LOFT, by far the more troubled of the two projects, the AEC decided in May 1967 to radically alter the reactor's main purpose from one of proof-testing a containment shell of the type that surrounds nuclear power plants to one of testing out emergency core cooling systems. In this case, the GAO report made no comment on the merits or the consequences of this decision, although a reasonable guess might attribute half the delay and overrun to it.

More controversial is the matter of "quality assurance." Both sides agree that Washington made a vigorous effort, beginning about 1966, to apply strict new quality standards to the construction of the two reactor plants, and it is evident to all concerned that both projects became bogged down in the process. But whose fault was it?

Milton Shaw, the AEC's director of reactor development and technology (RDT), and the central figure in this dispute, is explicit: The responsibility, he has made amply clear in interviews and in testimony before the congressional Joint Committee on Atomic Energy, belongs to the Phillips Petroleum Company, whose nuclear division was hired by the AEC in 1950 to run the NRTS and to manage the Idaho site's safety research programs. At Shaw's behest, the AEC severed its remaining ties with Phillips last summer and turned over full responsibility for safety programs to the new operating contractor at NRTS, the Aerojet Nuclear Corporation.

Shaw describes the years trying to complete the two projects—particularly LOFT—as one of the most frustrating experiences of his life. In the first place, he says, their objectives were "narrowly conceived" by Phillips. And second, for some reason, the company had endless problems getting pumps, valves, and other parts of "acceptable quality."

"For one reason or another," he told the Joint Committee in March 1970, "we were unable to get from Phillips the management talent necessary to get the LOFT and PBF projects done."

At Idaho, however, scientists and engineers in the safety program—some of them formerly employed by Phillips—tell a different story, the essence of which is that the AEC used Phillips as a scapegoat for much of its own ineptitude. To the extent that their story can be independently verified, there is evidence that Shaw shifted a significant portion of the blame for delays and overruns from the AEC to Phillips.

In interviews, the Idaho researchers conceded that the Phillips contingent at the NRTS did have some trouble hiring talented engineers and managers, partly because the site was so isolated.

At the same time, however, Shaw's explanations of the problems at Idaho appear to have omitted the fact that for virtually all the 15 years that Phillips ran the safety program it did not have full legal authority to administer design and construction contracts to the firms that actually built the dozens of test reactors at Idaho. Instead, that responsibility belonged to the AEC's own outpost at the proving ground, the Idaho Operations Office.

One senior engineer formerly with the PBF project explained the limits of Phillips authority this way:

"Our responsibility was limited to early, conceptual designs for projects like LOFT and PBF. The AEC operations office let the contracts to architect-engineers—the design firms—and to construction companies. Once detailed design began we merely had authority to review and comment on a project's safety and whether it was meeting its objective. These observations were passed on to the AEC."

As problems developed with LOFT and PBF, former Phillips officials at Idaho are said to have made a strong plea to Shaw in 1968 for full authority over the two floundering projects. The authority was granted in early 1969. Within 3 months, as problems continued and the Joint Committee wanted to know why, Shaw stripped Phillips of its management authority over the safety program on the grounds of its inability to hire sufficiently qualified staff. "The name of the game," said one man now employed by Aerojet, "is cover your number."

The GAO report on the two projects, issued in August 1971, confirmed but did not comment on, this train of events. Several researchers at Idaho, including two who had reviewed a draft version of the report, said that the final, public version omitted serious criticisms of the AEC's management of the LOFT and PBF projects. One of those who had read the draft said that, They attributed these deletions to pressure exerted by the commission, which customarily reviews GAO reports of AEC affairs before they are made public.

In an interview, Shaw was asked whether he thought it was fair to blame Phillips for delays in construction when they lacked full authority over contracts. "If they didn't have it, who did?" he said. The AEC, it was suggested. "Well, let's be fair. *Neither* Phillips nor the AEC out there had the necessary competence."

Perhaps the bitterest conflict of all at Idaho developed around Washington's efforts to institute stringent new quality standards in the construction of reactors—not only for commercial nuclear power plants, but for AEC's own test reactors as well. These two parallel efforts—one internal, one aimed at the industry—commingled to a large extent, and, in the view of a number of safety program staff, with disastrous results. An administrator at Oak Ridge National Laboratory who watched the battle at Idaho from afar says:

"You have to give Shaw credit for pushing the industry to adopt tougher standards. They were urgently needed, and some elements of the industry—and I refer to Westinghouse and General Electric [the two leading reactor manufacturers]—fought it all the way. The question is whether these or similar standards are appropriate for research facilities. We think they are not."

The critics in Idaho charge that in late 1966 Shaw co-opted the LOFT project for use as a "showcase" for standards, to prove to a reluctant industry that they really were feasible. The problem, says an engineer involved in the affair, was that some of the standards, in their initial form, turned out not to be feasible:

"The whole philosophy became one of using LOFT to develop standards and check them out, rather than producing the safety information we desperately needed. And some of them were a bit extreme, requiring that metals be traceable back to the mine. . . . The overall effect was to drive up costs of some components by a factor of 3 to 5 and to stretch out timetables by two and a half."

Months were consumed by haggling among Phillips, the AEC in Idaho, and teams of engineers under Shaw in Washington over the acceptability of particular pieces of plumbing. Voluminous documentation was required to verify that standards were being met and that tests and inspections were being carried out according to the new rules. (Meanwhile the Power Burst Facility was having problems of its own. No one tried to use it as a showcase, but the new standards meant redesigning many parts. To speed things along, project engineers tried to meet the "intent" of new standards for pipes, pumps, valves, and other parts while liberally construing the "letter" of the standards. For their trouble, some were fired. "It was a hard learning experience," one man recalls, and one the GAO says accounted for most of the slippage in schedule.)

Amid all the bickering, construction on LOFT came to an almost complete halt between May 1968 and October 1970. One problem, it developed, was that no manufacturer in the country would bid on such essential items as coolant pumps and valves and control-rod mechanisms that Washington wanted made according to its new standards. This impasse was finally resolved by "cannibalizing" these parts from a number of old reactors, including one aboard the scrapyard-bound N.S. *Savannah*, the nation's first and only nuclear freighter. "So here we sit," says an engineer at Idaho, "building it out of scrap."

Roy Swanson, the AEC's project manager for LOFT at Idaho, confirms that such parts are being used in the reactor, but he says it's unfair to characterize them as "scrap," even if they are 10 or 12 years old and don't fully measure up to the new standards. He said that the pumps and valves are now being refurbished in shops at NRTS and they'll soon be good as new.

Did the use of LOFT to develop new standards cause major delays in the project? Swanson said:

"Sure, it caused some delay, but the standards weren't *that* far out. They were based on experience in the Navy and elsewhere. And there were other problems, like building a 200-ton door for the containment (shell) so we could move the reactor in and out on a railroad car. . . ."

Was LOFT used to show industry that the new standards would work? Did this ploy work?

"Yes, this did happen. You'd take a company by the hand and show them step by step how they could meet a standard, and you're starting to see companies advertise in trade journals that they meet RDT-Shaw standards. . . . It's true that some were a little too tough, and we couldn't get bidders on pumps and valves at first, but you go in and negotiate these things. And sometimes you have to compromise a little."

Isn't it understandable, Swanson was asked in a conversation, that safety researchers should be upset at having their project "expropriated" for this purpose? "Sure," he said. "But whenever you get into standards you take a beating on the head."

In Washington, Milton Shaw says that it's "ridiculous" to think that so important a research facility would be used principally as a showcase to sell new standards to the industry, although if it did so "that might have been a worthwhile spinoff."

Shaw says it was all part of a strenuous effort on his part to introduce a "disciplined engineering approach" to the conduct of reactor R & D by the AEC's national laboratories. For the laboratories management, this entailed occasionally drastic reorganizations aimed at tying research more closely to specific goals—such as developing an economical breeder reactor—and it also meant establishing firm, clear lines of authority, modeled after the aerospace industry, leading back to Shaw's own teams of engineers in Washington. Moreover, laboratories were instructed to seek out and employ new program administrators who were familiar with the nuclear industry and sympathetic to the need for rigorous quality control in research.

This was necessary, Shaw says, to improve the reliability of expensive and potentially dangerous experimental facilities. "We were losing data because of breakdowns and defective equipment, and because some things were not being calibrated well enough to permit an experiment to be repeated."

The campaign for quality assurance at Idaho was prompted in part, he said, by the discovery in 1965 of "bum welds" in the Advanced Test Reactor while it was under construction. Repairs required virtually rebuilding the reactor, he said.

In the case of LOFT, Shaw conceded that he has had a hard time convincing experimenters at Idaho that their reactor should be built to higher standards than those applied to commercial nuclear power plants. This disparity is justified, he argues, because LOFT is meant to provide empirical verification of safety system designs, and it is not meant merely to "proof-test" a typical reactor. And he wants to prevent any mishaps, such as a ruptured pipe, that might accidentally damage the reactor. "We don't want the technology damned because of flaws in the equipment."

In important ways, during the past 8 years, Shaw has industrialized those segments of the national laboratories that come under his aegeis as director of civilian reactor R & D. Major portions of the laboratories, he reported to the congressional Joint Committee this year, have been "converted from a research orientation to one stressing disciplined engineering application, proof-testing, and quality assurance, as well as soundly developed applied technology."

The laboratories have not taken kindly to this discipline, which they are inclined to view as excessive. (One of the first and sharpest protests came in 1967 from Albert V. Crewe, then director of Argonne National Laboratory, who remarked in a speech that Argonne's purpose was "not to build submarines but to produce knowledge.")

At Idaho, a senior physicist associated with the LOFT project made his complaint:

"Around 1968 money for basic physics, such as nuclear cross-section work, just dried up. The philosophy was that if something didn't solve a problem—particularly for the breeder—it wasn't going to be picked up in the budget. . . . We can't even do *applied* research now in some cases. Money budgeted for development work on instruments for LOFT essentially stopped in 1968. We'd like to make some improvements in them to extend the data we get from this reactor. But we're forced to use instruments already 'on the shelf.' "

At Idaho and within the safety program at Oak Ridge National Laboratory equally strong feelings prevail that the new quality standards have driven up the cost of doing research without producing any visible improvement in the quality of the research itself.

Certainly test reactors at Idaho grew more expensive. At Oak Ridge, where a much smaller safety research program revolves to a lesser extent around great test facilities, estimates are that RDT standards have driven up the purchase cost of materials by 8 to 10 percent and doubled the cost of some equipment.

These added expenses—combined with the general inflation in the cost of doing research during the 1960's and on into the 70's—dealt a harsh blow to reactor safety research. As costs rose, the program's overall budget grew slowly in some years and remained static in others. At the same time, the Atomic Energy Commission, partly in response to prodding from the Joint Committee on Atomic Energy, found itself accelerating the breeder program, and dipping into money allocated to water reactor safety to do it. Something had to give, and what gave was research intended to resolve questions of the utmost urgency pertaining to dozens of commercial nuclear power plants then on the drawing boards and under construction.

[From Science magazine, Sept. 15, 1972]

NUCLEAR SAFETY (III): CRITICS CHARGE CONFLICTS OF INTEREST

(By Robert Gillette)

One February day in 1971, the Oak Ridge National Laboratory (ORNL) in Tennessee received a bit of bad news from Atomic Energy Commission headquarters in Washington that still evokes feelings of anger and resentment among the laboratory staff. With only a brief explanation, Oak Ridge administrators were told that a project they considered to be the laboratory's single most important piece of nuclear safety research—a study of how reactor fuel rods might behave during a major loss-of-cooling accident—was going to be canceled, even though it was nowhere near completion.

Oak Ridge had already absorbed significant cuts in its $5 million safety research budget, and the laboratory had suffered them in relative silence. But this was too much to bear: The project had run only 2 of a scheduled 4 years; it pertained to a problem that the AEC itself had said demanded urgent attention; the study was the only one of its kind then under way; it pursued issues of great interest to the AEC's regulatory staff, which depended on the safety program for technical support; and above all, in the opinion of Oak Ridge researchers, the fuel-rod study had begun to raise some troubling questions about the margins of safety in nuclear power plants then under construction.

"We are astounded at your decision to discontinue this experimental work," William B. Cottrell, ORNL's director of nuclear safety, protested in a memorandum to his counterpart at AEC headquarters, Andrew J. Pressesky, the assistant director for nuclear safety.

"This matter is of such grave concern to so many persons," Cottrell wrote on 4 March and again on 30 April, "that I expect ORNL management to raise questions with others in AEC. . . . No one really knows what will happen in a reactor core in the event of a loss-of-coolant accident [and] the AEC in general—but Regulatory in particular—needs an in-house program to assess this very complex matter."

The safety director's pleas were fruitless, however, and the project was killed. The official explanation had to do with a general shortage of funds for safety research, but one Oak Ridge administrator, who insists on anonymity, says that Pressesky offered a remarkably different explanation in private. "You won't find this in writing," the administrator said, "but the reason he gave for canceling the study was that it raised more questions than it solved."

Safety researchers took that to mean their findings were rubbing the reactor "vendors" or manufacturers the wrong way, but Pressesky denies this inference. In a recent interview he asked whether his quoted remarks were written or oral. Informed they were oral, he said, "What I probably meant was that I had misgivings about how well these experiments represented real nuclear fuel."

Whatever the truth of the matter, the incident served to reinforce a growing conviction among safety researchers, both at Oak Ridge and at the National Reactor Testing Station in Idaho, that authorities in Washington were shaping the safety program more to fit the desires of the nuclear industry than to accommodate the needs of the AEC's own regulatory and licensing staff. In its haste to get on with developing the breeder, Washington seemed to researchers in the field to be methodically sidestepping grave uncertainties that still surrounded ordinary, water-cooled nuclear power plants. Why it should do so was something of a mystery, but two possible motives suggested themselves to worried researchers at Oak Ridge and Idaho. Either officials in Washington attached far less urgency to water-reactor safety than they professed to, or they were deliberately attempting to "keep a low profile" on embarrassing safety questions that threatened to jeopardize the industry's financial support of the breeder program. "I am convinced," says one research manager at Idaho who subscribes to the latter view, "that RDT [AEC's Division of Reactor Development and Technology] is simply in bed with the vendors. Everyone wants his merit badge for the breeder."

The AEC's congressional testimony over the past few years leaves no question that large segments of the water-reactor safety program are lagging far behind schedule. What remains open to debate is whether these delays were as deliberate as they might appear. An article last week traced some major delays and shortages of funds to cost overruns and other administrative problems in building two major research reactors at the Idaho installation. This current article takes up the critics' contention that, fundamentally, the safety program's difficulties derive from serious conflicts of interest within RDT, of which the safety program is part.

Allegations of an inborn conflict of interest—on the ground that it both promotes and regulates the nuclear industry—are old hat to AEC. It has long since learned to shrug off such accusations with the argument that there was no reason why the same agency could not carry out both functions independently and with equanimity, so long as the proper checks and balances of internal power prevailed.

With this in mind, the AEC reorganized itself in 1961 in an effort to separate regulatory functions from the agency's "development" programs. These functions—including all the administrative machinery for licensing nuclear power plants—were joined together to form a distinct regulatory arm, whose director answered to the five commissioners. Glenn Seaborg, the former AEC chairman, has written that this organization "evolved for one simple reason: so that the right hand would know what the left hand was doing, yet be independent of it."

Looking back though, it appears that things never quite worked out that way. The regulatory staff never achieved full independence. Moreover, right from the beginning and all through the years, communication and coordination between the two sides was notoriously poor—in part because the commission simply neglected to establish clear and reliable lines of administrative contact between the two "hands" of its staff. Indeed, in April 1967, more than 5 years after a distinct regulatory staff came into being, Congress' usually friendly and paternal Joint Committee on Atomic Energy found itself imploring the commission to improve its internal communications:

"It appears to the committee that not all the necessary steps have been taken in the past to coordinate the work of these two organizations. The supposed ease of exchanging information and views between the operating and development staff, on the one hand, and the regulatory staff, on the other, is one of the chief arguments made against a complete separation of the AEC's regulatory functions from its other activities. It is most important that this exchange take place in fact as well as in theory, and that one of the results be a meaningful nuclear safety research effort."

The 1961 reshuffle had left both sides—the regulatory and development units—in a difficult situation, pregnant with conflicts of interest. For one thing, the safety research program had remained behind in the AEC's main development arm, the RDT. While this probably made eminent sense at a time when nuclear power plants were still under development and far from a commercial reality, times changed. Five years later, the regulatory staff would depend heavily on the safety program for help in assessing the safety of dozens of power plants coming up for licensing. Thus, in the middle 1960's, the RDT found itself in the position of conducting a research program that was actively engaged in raising pointed questions about the very reactors the RDT had worked so hard to develop. Moreover, the division could scarcely have hoped to avoid accusations of mutual backscratching with the industry when, precisely at the time the AEC began cutting back its reactor safety budget, it began spending lavishly on the breeder program and encouraged utilities and reactor vendors to do the same.

To make matters worse, the regulatory staff remained almost totally dependent on the charity of the RDT to pay for research on any broad, pressing question that new designs of nuclear power plants might raise. Whereas "Reg" could let small, special purpose consulting contracts to universities or private firms, the commission gave it no money for a coherent research program of its own. Nor has the regulatory arm ever had the option of paying money directly to the RDT for work it wanted done. Instead, the most it could do was submit a formal "request for information" and hope Shaw and his division could see their way clear to spend the time and money required. There is abundant evidence to suggest that, more often than not, the time and money was not available and the questions went unanswered.

The inherent drawbracks of these arrangements might have remained mostly academic, had two unforeseen problems not developed in the middle 1960's.

First, around 1966, the regulatory staff encountered what appeared to be major gaps in the information generated by the safety research program. Utilities had begun ordering nuclear plants of unprecedented size—with capacities of 1000 megawatts electrical, more than ten times the size of any pressurized water reactors then in operation—but the technical reports of the safety program dealt mostly with much smaller reactors. New information and new experimental data were needed to assess the safety of the mammoth plants that the utilities wanted, and the safety program would have to produce it as expeditiously as possible in order to make any contribution at all to the licensing process.

Then the second problem popped up. Just as the regulatory staff requested this new research, the budget for water reactor safety research hit a plateau and then, incredibly, declined.

What apparently triggered the regulatory staff's hunger for information was an application from Consolidated Edison of New York for a permit to build an 873-megawatt nuclear plant named Indian Point 2. The design of the plant proposed a dramatically high power level that in turn implied a new reliance on such safety features as the emergency core-cooling system to protect the reactor, as well as the nearby public, from an accidental loss of cooling water and a potentially disastrous melting of the core.

The AEC issued Con Edison its permit on 14 October 1966, but evidently did so with some misgivings. Two days earlier, the AEC's semiautonomous Advisory Committee on Reactor Safeguards (ACRS) issued a statement stressing an urgent need for new research to ensure the reliability of the hitherto untested backup cooling systems. Two weeks later, on 27 October, then director of regulation Harold L. Price took the unusual step of appointing a "task force" of 12 prominent scientists and engineers to review the information available on loss-of-cooling accidents, and the backup systems that were intended to lessen the consequences of such accidents. One year later, the task force, headed by the late William K. Ergen of ORNL, issued its findings in a 221-page report that pointed to a host of technical uncertainties. More had to be learned about the mechanisms and circumstances of pipe rupture, the presumed cause of a coolant loss. More had to be known about the behavior of fuel rods and the fission wastes inside the fuel rods during an accident. Improvements, based on experimental work, were needed in existing computer simulations of accidents.

The Ergen report was scarcely one to inspire confidence, and even at that, according to one man who helped write it, the document represented a "serious compromise" between the least sanguine members of the task force and the far more optimistic industrial participants. The AEC did eventually publish the report but went to no great lengths to encourage its circulation. The public version bore no date, price, or address of any place where it might be obtained, nor did it bear the identification numbers customarily assigned to such reports.

If the available correspondence on the subject is any indication, the RDT's response to the demands for new research on loss-of-cooling accidents was phlegmatic at best. To his credit, Milton Shaw in 1967 reoriented a major research reactor then under construction at Idaho to emphasize studies of emergency cooling problems. But the project, called the Loss of Fluid Test facility (LOFT), ran into prodigious cost overruns and delays and began gobbling up money that might have gone into research. More than 2 years after the Ergen group had dropped its bombshell, the ACRS complained to Glenn Seaborg, then chairman of the AEC, that its exhortations for more work on loss-of-coolant accidents and related problems seemed to be falling on deaf ears. In a letter of 12 November 1969, the ACRS told Seaborg:

"The committee has strongly recommended safety research of this kind several times during the last three years; the regulatory staff has also strongly supported such work. However, only small or modest efforts have been initiated thus far.

"In its comments on 20 March 1969, the committee also recommended that '. . . considerable attention be given now to the potential safety questions related to large water reactors likely to be proposed for construction during the next decade. Larger cores, higher power densities, and new materials of fabrication are some of the departures from present practice likely to introduce new safety research needs. . . .' It appears that, because of funding and for other reasons, the recommendations of the ACRS will not be implemented at this time."

It should be noted that this criticism also came 2 years after the Joint Committee on Atomic Energy upbraided the AEC for not fitting the safety program to the regulatory arm's needs.

Those needs, of course, had not been ignored altogether. Even the modest effort cited by the ACRS was producing results, and there results were even less encouraging than the Ergan group's findings. According to one man involved in this research at Idaho:

"The more we worked this problem the more it fell apart in our laps. Everything we did to analyze the physical phenomena, to improve correlations, to better describe what happens during blowdown [the explosive depressurization of a reactor vessel] pushed our predicted temperatures higher toward melting and the margins of fuel safety lower.

The more we got into this the more it became apparent that RDT was very unhappy with all this. The problems we were raising were upsetting their cozy relationship with the vendors and utilities, whose support they needed for the breeder. . . . It also became clear that Shaw and others just didn't believe a serious accident of this kind could happen, and that it was really worth working on. They'd say all the right things in public, but in the small, executive session their enthusiasm would cool off."

Both sides think the probability of a major accident is low, but low means different things to different people. In the spectrum of estimates, officials in Washington lean toward lower estimates—on the order of one chance in a billion—than researchers in the laboratories. "What bothers me most," says a prominent engineer at Oak Ridge, "is that after 20 years we are still making purely subjective judgments on what is important and what is not in reactor safety. Purely by decree, some things, like the rupture of a reactor pressure vessel, are ruled impossible. To decide these things without some objective measure of probabilities is, to me, almost criminal."

It is difficult for an outside observer to judge the extent to which estimates of accident probabilities have cooled or fired enthusiasm. Shaw and Pressesky acknowledge that differences of opinion exist, but they say the debate is irrelevant. "Our job is to work out these problems," Pressesky says, "and that's what we're trying to do. For our purposes, the probability of an accident is one." Shaw adds that he thinks serious reactor accidents will inevitably occur—but that safety systems will protect public life and property.

And yet, all this time, strange things were happening to the safety budget. As always, Congress authorized money for both breeder reactor and water-cooled reactor safety in one lump sum each year, and between 1969 and 1972 this sum oscillated gently between $34 million and $37 million. Within that essentially constant budget, though, money allocated to breeder studies during the 4-year period rose from $4 million in 1969 to more than $11 million in 1972.

The source of this added money was clear, and so were the effects of its transferral. Over the vigorous protests of the Advisory Committee on Reactor Safeguards and the regulatory arm, water reactor safety research was being sacrificed for the benefit of the breeder.

Who is responsible for this sacrifice is far less clear. One analysis suggests that not all the blame is Shaw's, although he has tended to serve as something of a lightning rod for the rancor of short-changed researchers. In his annual appearances before the Joint Committee's budget hearings, Shaw has forthrightly pointed out that pumping new money into the breeder has brought about cutbacks in "vital and important" studies pertaining to water-cooled reactors. Moreover, the records of the hearings show that he consistently asked for 10 to 20 percent more money for nuclear safety than he ultimately received. Just as consistently, the AEC's own budget-makers and the White House budget office markedly reduced the amount Shaw was allowed to request from Congress. It is difficult to imagine that these cuts were not approved, at least in part, by the five commissioners. And the Joint Committee, in its eagerness to press on with the breeder, has shown no public signs of anxiety over water reactor safety either.*

Nevertheless, the ups and downs of the safety budget, and the emphasis on the breeder, aroused strong suspicions among safety researchers that the RDT had been a bit too intimate with the industry. The suspicions have been further piqued by the RDT's efforts to escape its financial problems by divesting itself of major safety research tasks and inducing the nuclear industry—especially the utilites—to pay for the work instead. In Washington, it is argued that the industry really ought to shoulder a larger part of the burden for safety research, now that nuclear energy is a commercial reality. "They have to stand on their own two feet," Shaw says of the utilities and vendors.

But a number of the critics at Oak Ridge and Idaho fear that, if the commission is too successful in this endeavor (which to date it has not been), the AEC may cripple its own ability to judge the quality of industry-sponsored work. To Washington, this bears a taint of special pleading, but the critics respond that the entire effort raises still more questions of conflicting interests. As one senior administrator puts it, "This is like asking the agricultural chemical industry to tell us how safe pesticides are."

These feelings are coupled closely with the researcher's irritation at RDT's practice of letting reactor manufacturers review their proposals for new research, before RDT passes judgment on the proposals. In an interview, an administrator at Idaho expressed the complaint this way:

"Shaw will say, 'Have you found a problem? Just send us a proposal.' So we send a proposal. First it's screened by teams of engineers in his office before anyone, including REG, has a chance to comment on it. If it gets past this stage, they send it to the vendors for comment. Not to impartial experts in universities or foundations, but to the *vendors*. And great Scott, the industry is very upset by these proposals. We keep raising questions that they'd just as soon not hear about. They've already convinced REG that it's not a problem at all. . . . In the end, RDT chooses to identify with the needs of the industry, not the regulatory staff."

Officials in Washington have an explanation for this procedure, which is simply that they want to ensure that safety research is related to practical problems of reactor design. Pressesky makes the point that proposals go simultaneously to vendors and the regulatory staff, and sometimes not to vendors at all. Accusations of favoritism toward industry are flatly denied. "I hear things about conflict of interest all the time," Shaw says. "I can't let it bother me. . . . Some of the industry people come down on us just as hard."

How are relations now between the development and regulatory sides of the AEC? In some respects things are looking up. Funds for reactor safety are up to $53 million this year, and about half the increase since 1971 has gone toward water reactors. Perhaps the most charitable judgment of the present situation comes from L. Manning Muntzing, the director of regulation, who told the Joint Committee last March that his staff had a "very close working relationship" with the RDT.

If that is true, it would seem to represent a dramatic transformation. Only a month before, the ACRS again criticized the RDT for failing to head the interests of the regulatory staff. In a letter to the new chairman, James Schlesinger, the ACRS ticked off a list of problems yet unsettled, some still hanging fire from the middle 1960's. Among its demands, the ACRS asked for "special emphasis" on fuel studies of the sort Oak Ridge used to do, and it suggested that, "in the future, the AEC safety research program should reflect more directly in extent and detail the recommendations and needs of the Regulatory staff and the ACRS."

It was a familiar refrain, and one that evidently caught the ear of the General Accounting Office, the investigatory arm of Congress. Although no congressman has asked it to do so, the GAO has initiated its own investigation of the turbulent relations between the safety program and the regulatory staff. The GAO expects to have its report ready sometime next spring.

[From Science magazine, Sept. 22, 1972]

NUCLEAR SAFETY (IV): BARRIERS TO COMMUNICATION

(By Robert Gillette)

Amid all the other difficulties that have plagued the Atomic Energy Commission's safety research program in recent years—the upheavals in its management, the fluctuations in its budget, the long delays in getting major projects done—a number of laboratory workers have come to suspect that the AEC has tried to suppress discussion of reactor safety issues, not only before the public but within the nuclear profession as well. Specifically, the researchers allege that on three occasions the AEC has prevented them from meeting with foreign reactor experts to talk over problems of mutual interest; that the AEC tried last fall to block a professional symposium on reactor safety scheduled by the American Nuclear Safety Society next March; and that for years the AEC's Division of Reactor Development and Technology (RDT) sharply limited the circumstances under which even its top-level safety researchers could speak directly with the AEC's own regulatory authorities on matters pertaining to the licensing of nuclear power plants. Thus, "freedom of speech" joins the bundle of other issues raised by the years of unhappy relations between those who conduct safety research in the laboratories and those in Washington who hold the purse strings and set the course of the laboratories' work.

Allegations that the AEC had tried to limit discussion of safety issues in professional circles were made by several scientists, engineer, and research managers during a series of interviews at the National Reactor Testing Station in Idaho, the AEC installation where most of the nation's reactor safety studies are carried out. In some respects, the charges are reminiscent of those made 2 years ago by John Gofman and Arthur Tamplin, the AEC scientists whose criticism of radiation standards made their names household words, at least in environmentally attuned households.

There are important differences between the two cases, however. For one thing, the mutual name-calling that marked the AEC's dispute with Gofman and Tamplin is absent here; the Idaho researchers seem more inclined to view officials in Washington as being misguided, rather than malicious. It is also worth noting that—with the exception of testimony presented to recent AEC hearings on emergency core cooling—safety researchers have been reticent about voicing their complaints in public, in part to preserve a semblance of working relations with Washington, and in part out of the conviction that public criticism would leave their employer, Aerojet Nuclear Company, little choice but to remove them from their jobs.

Of the researchers' three main complaints, the best documented concerns their relations with foreign experts. A dispute in this matter arose earlier this year, when groups of Japanese and German nuclear researchers and regulatory officials sought permission from the AEC to visit the Idaho installation to talk over mutual concerns about the emergency core-cooling systems of nuclear power plants. Both Japan and Germany were following an internal AEC flap over the adequacy of these backup safety systems, both countries were pressing their own research programs on core-cooling problems, and the Germans, for their part, were mulling a public recommendation from their safety advisory committee to suspend all reactor licensing until the controversy was settled.

The AEC refused to allow either technical delegation to visit Idaho, although both groups did come to the United States. The Japanese spent 2 days in Washington, D.C., in February, and an 11-man West German group, headed by director of reactor safety research Wilhelm Sahl, spent about 3 weeks talking with AEC officials in Washington and touring nuclear power plants and AEC facilities. Klaus Gottstein, the science counselor of the German embassy in Washington, said the delegation's inability to visit Idaho was not disappointing "because we knew about this decision in advance."

Why were the two groups turned away? Gottstein says he was given to understand that a visit to Idaho would be "inconvenient," as researchers there were very busy and couldn't take the time to show visitors around. The Germans were also assured that any information available in Idaho was also available in Washington. Gottstein emphasized that the meetings in Washington "went extremely well" and resulted in an informal agreement to exchange safety information more fully.[1] Nevertheless, several senior researchers at Idaho said they thought face-to-face talks with both the Germans and Japanese would have been fruitful and would have caused only minimal interruption of their work.

---

* The Joint Committee may also have cast a skeptical eye on AEC requests for safety money after the agency diverted to other purposes or simply failed to spend $12 million or 8.5 percent of the funds appropriated for nuclear safety from 1965 through 1968. The committee said in 1969 that this was "indicative of persistent over-estimates of budget needs."

[1] There are indications, however, that the Germans came away with somewhat less than they had sought. An internal AEC memorandum, dated 8 May and initialed by the assistant director for nuclear safety, Andrew J. Pressesky, notes that the Germans are mounting a $45 million, 5-year research program on emergency core cooling problems that "should be very useful to the U.S. regulatory people and industry." However, the memo continues, when the German delegation proposed an "early exchange of raw data" and an exchange of research personnel, "the U.S. side discouraged both of these proposals and countered with the suggestion that a fuller exchange of published reports be made." The memo held out the possibility that a U.S. technical team might visit Germany later this year; during the past month, the AEC is said to have turned down a request from another group of German reactor specialists to visit the Idaho installation.

One official in the regulatory branch in Washington disagreed with the contention that the two groups had been barred from Idaho to stifle discussion of safety issues, but he was nonetheless critical of RDT officials for not allowing the visitors in. "The whole philosophy on foreign relations here is wrong," he asserted. "The thinking is that we're ahead, and so any interchange is a one-way street—we give and they take. But in issues like this we can't afford not to talk to others."

AN EMBITTERED SEMINAR

Another incident—this one with an apparently happier ending—raised the hackles of Idaho researchers last October. According to well-placed sources, executives of the Aerojet Nuclear Company at Idaho—acting on instructions from RDT officials in Washington—actively discouraged Aerojet scientists from planning a major national symposium reactor safety to be held at Idaho Falls in 1973. The sources said that the scientists first were told that they could not use company time and telephones to organize the meeting. When they offered to do it all on their own time, the sources said, they were told that would not do either. "Milton Shaw [the director of RDT] just didn't want them to have that meeting, even though there had been no open meetings on safety there in years," one source asserted.

Charles Leeper, the current president of Aerojet Nuclear, indicated in an interview that Washington's objections were part of a general complaint that professional staff in the national laboratories, as well as at Idaho, were spending too much time organizing and attending meetings, with the result that productivity was less than it could be. Leeper, a physicist, commented, "I came from an [industrial] environment where 3 days a year for professional meetings is considered pretty good."

In any case, as the story goes, plans for the symposium were revived after John Landis, then president of the ANS, took the matter up with several AEC commissioners and won a compromise. The meeting will now take place this coming March, but on "neutral ground"—at the University of Utah in Salt Lake City, and with a new cosponsor—the Atomic Industrial Forum, a trade organization.

Perhaps the most serious accusation of the three voiced by safety researchers concerns the rules governing communications between the safety program, in RDT, and the AEC's separate regulatory arm, which depended on the safety program for technical help in licensing nuclear power plants.

Researchers at both Idaho and Oak Ridge National Laboratory say that as long ago as 1966, and as recently as 1971, they were expressly forbidden to speak with members of the regulatory staff about such controversial matters of reactor safety as fuel-failure and seismic research, except in meetings prearranged and closely supervised by RDT offcals in Washington. During these formal meetings, the researchers said, RDT officials allowed them to answer specific questions propounded by the regulatory staff, but discouraged them from volunteering their concerns about the safety of specific nuclear power plants. Under no circumstances were they allowed to discuss "program planning" of future research with the regulatory staff or to collaborate with the regulatory staff to define technical uncertainties that might require new R & D.

The regulatory staff, of course, could always read the monthly progress reports that researchers at Idaho turned out, but the same restrictions that applied to meetings also applied to the reports. Those safety researchers interviewed invariably made the additional point that these curbs prevailed all during a time when the congressional Joint Committee on Atomic Energy and the AEC's Advisory Committee on Reactor Safeguards were imploring the commission to improve communications between its "promotional" and regulatory arms.

The purpose of these restrictions, several research managers' contended, was to allow RDT officials whom they considered "industry-oriented" to filter out information that might lead regulatory authorities to believe that serious uncertainties existed in reactor safety. Sources at Oak Ridge agreed that this may indeed have been one motive for screening out "speculative" information, although one research manager ascribed this procedure more to bureaucratic jealously. "They're also out to protect their prerogatives," he said. "Mainly, I think, they didn't want us to raise questions with the regulatory people and use them to bring pressure to bear for new R & D, necessary as it might have been."

Andrew J. Pressesky, RDT's assistant director for nuclear safety, denies any knowledge of taboos on direct communications with the regulatory arm, although he says he would "prefer to be informed" of any informal conversations of this sort. "The problem," he said in an interview, "is that when an idea or a concern first arises it sometimes doesn't stand the test of time. It may not be worth anything. We want to guard against that problem."

Pressesky's denial, however, is at variance with the statements of two senior researchers who both say they were instructed in no uncertain terms "not to consult with reguatory people." (One of them says he was roundly chastised when he did so anyway). The critics readily acknowledge that RDT supported a small "technical assistance" effort within the safety program that provided about $250,000 worth of consultative services to the regulatory staff each year (out of a total water reactor safety budget of $16 million to $20 million), but they maintain that this came nowhere near satisfying the regulatory arm's need for information, especially as concerns over the adequacy of emergency cooling systems grew during 1969–71.

How did these tightly leashed communications affect the licensing of nuclear plants? Several research administrators interviewed said they thought these barriers—combined with RDT's persistent reluctance or inability to carry out research the regulatory staff wanted—deprived the AEC of information urgently needed to judge the safety of plants coming up for licensing. As one program manager expressed it:

"Whether the regulatory staff sensed this or not—some did and some did not—these difficulties placed them at an extreme disadvantage in assessing the safety needs of reactors. In fact they have been a little lax in what they let the industry get away with, because in many cases the regulatory people had no independent evaluation of what the industry was telling them."

REMEDIES AND SECRECY

It should be clear by now that a great many problems afflict nuclear safety research in the AEC, and that these problems have been building and festering for a long time. It remains to be asked what role the five AEC commissioners played in the triangular battles between the safety program and its overlord, the RDT, and the regulatory staff. The answers, it turns out, are elusive.

Certainly there is good reason to believe that these problems have been of continuing interest to at least some of the commissioners. One can find conciliatory exhortations in occasional public speeches. But none of the commission's deliberations on this or any other subject are part of the public record. Indeed, during the years that Glenn Seaborg was chairman, from 1961–71, many of the staff once included in commission meetings were no longer invited, and the digests of commission meetings, once readily available to insiders, became scarce. In all probability the commissioners receded further than ever behind closed doors as a means of encouraging spontaneous and forthright discussions among themselves, but in the process they left few clues to their thinking.[2]

It is known that in 1966 the commission set up a "steering committee" of high-level staff from development and regulatory branches in an effort to bring the two sides together. Pressesky says the committee was disbanded this year because communications are now satisfactory and its services were no longer needed. Predictably though, opinions about the committee's effectiveness vary. One Oak Ridge administrator says that from his vantage point it appears the committee "never accomplished a thing."

It is also known that the commission recently considered at length, then rejected, the one remedy to current problems seemingly favored by a majority of safety program managers—that of removing the water-reactor portion of the safety program from the development side of the AEC and placing it under the wing of regulatory and licensing authorities.

This was a reasonable solution, those in the laboratories argued, because water-cooled reactors have essentially passed beyond the development stage, and what's more, such a move would liberate the regualtory staff from its reliance on the "promotional" side of the AEC for technical support. There is, moreover, a precedent for this arrangement: West Germany's safety research program is a subunit of the federal government's licensing arm.

The commission discussed the transplantation of safety research in executive (or secret) session with the Joint Committee on Atomic Energy on 25 April. The next day, in a letter subsequently made public by the Joint Committee, AEC chairman James Schlesinger said the commission had unanimously disapproved the idea. Schlesinger wrote, in part, that:

"Safety is a fundamental element in the basic design and development of a nuclear reactor. . . . Removing the safety research function from the Division of Reactor Development and Technology would likely have detrimental effects upon the overall safety of reactors. The proposed action would create a category of safety-oriented personnel and would hinder the intimate and day-to-day exchanges that they must have with those charged with reactor design and development. Such isolation would limit their effectiveness.

In the meantime, the AEC is left with something of a munity on its hands among some very "safety-oriened" personnel who have, to a large degree, lost faith in the ability of officials in Washington to conduct safety research in a manner fully befitting the public welfare. The problems linger on, and there is no assurance that they will not be duplicated in the multibillion program to develop an economical fast-breeder reactor. For the very same people who helped to make the water reactor safety program what it is today are fully in charge of the breeder.

TIME TO PREPARE FOR HEARINGS ON NUCLEAR REACTOR SAFETY

Mr. **GRAVEL**. Mr. President, on October 10, 1972, the Joint Committee on Atomic Energy announced that it will hold public hearings "on the general subject of nuclear reactor safety" early in the 1973 session of Congress.

---

[2] For an analysis of the closed nature of policy formulation in atomic energy, see Harold P. Green, "Nuclear safety and the public interest" (Nuclear News 15 (9), 75 (1972).)

I would point out that nuclear safety involves far more than just the reactors. Necessarily involved are the nuclear fuel-reprocessing plants, nuclear waste storage and burial practices, radioactive transport practices antisabotage measures, plutonium processing hazards, routine leakage of radioactive poisons all along the line, plutonium diversion prospects, and the preservation of national security.

When the radioactive fission-products and plutonium are shipped out of the powerplants where they are produced, nuclear safety problems spread far and wide. Man cannot get rid of long-lived radioactivity once he has created it. He can move it around, but it will always be somewhere. Some of it will have to be kept out of the environment for more than 100,000 years.

Mr. President, I ask unanimous consent that a prepared statement and a press release follow:

There being no objection, the material was ordered to be printed in the RECORD as follows:

A MILLION TIMES WORSE THAN ARSENIC

There is no large disagreement about the biological harmfulness of radiation. A single "curie" of lethal strontium-90, with a radioactive half-life of about 30 years, will spit out 37 billion high-speed particles per second, and each emitted particle has enough energy to smash about a quarter of a million chemical bonds in human tissue. Both cancer and genetic defects can start with radiation injury to a *single* cell, if additional variables are present.

Another way of describing the power of radiation is to consider a strong poison like arsenic. If you make ordinary arsenic radioactive, it becomes about a million times more harmful than it was before. Radioactivity is the ultimate pollutant.

THE RADIOACTIVE FUTURE

There is also no disagreement about the quantities of radioactive poison produced by so-called "clean" nuclear plants. In *one* year, one large plant produces as much long-lived radioactivity as the explosion of about 1,000 Hiroshima bombs (including a few million "curies" of strontium-90, plus about 600 pounds of plutonium-239 with a radioactive half-life of 24,000 years. A single pound of plutonium, escaping into the environment and inhaled eventually by humans, could cause several billion cases of lung-cancer.

The A.E.C. plans to license about 1,000 large nuclear power plants in the next 30 years—a plan which would produce the radioactive equivalent of 1,000,000 Hiroshima bombs every year plus 600,000 pounds of plutonium, annually.

REQUIREMENT FOR NEARLY PERFECT CONTROL

There is virtually no disagreement on the necessity of containing and isolating about 99.99% of a power-plant's long-lived radioactivity. For centuries or more. Experts have described the consequences of unsuccessful containment:

The 1970 Nobel Laureate for Physics, Dr. Hannes Alfven: "In a full-scale fission program, the radioactive waste will soon become so enormous that a total poisoning of our planet is possible." (*Bulletin of the Atomic Scientists*, September, 1971).

The former Director of the AEC's Argonne National Lab, Dr. Albert Crewe, after a discussion of the medical foresight, engineering skill, and administrative controls required by nuclear technology: "Should any of these three lines of defense fail, then the entire population of the world could be in serious danger." (*Science* magazine, February 25, 1972).

The present Director of the AEC's Oak Ridge National Lab, Dr. Alvin Weinberg: Technical "deficiencies" in a "plutonium economy", if unremediable, "could mean catastrophe for the human race." (*Nuclear News*, December, 1971).

THE ODDS AGAINST NEAR-PERFECTION

If the price of losing in nuclear roulette is "catastrophe for the human race", is an allegedly "remote" chance of losing OK? Are there any odds which are *acceptable?* When is gambling proper, and when is it morally degenerate?

The odds seem extremely high, or at least 50–50, that we *will* botch our way into a real radioactive mess if we continue building nuclear power plants.

There are still many *serious* unsolved problems in nuclear technology pertaining to the crucial "containment" requirement.

There are severe deficiencies in every other human technology, also. After 60 years of experience, we still make millions of defective cars.

Even when we apply both care and love, as in the Apollo program, about 10% of the missions have failed due to something simple like a faulty switch.

The military people also have trouble with key systems; in February 1971, the North American Air Defense Command sent a fully authenticated national emergency alert out over the A.P. and U.P.I. wires—by mistake. In May 1969, a $50 million nuclear submarine sank at dockside. Two nuclear submarines are also full of men at the bottom of the ocean, along with the "unsinkable" Titanic which sank on its first voyage.

In spite of the mathematical odds against it, two airliners collided in the wide open spaces above the Grand Canyon in 1956.

PROBLEMS WHICH CAN'T BE SOLVED

Because humans are fallible, careless, and sometimes demented, it is unreasonable to assume we will achieve a miraculous 99.99% success in the radioactive "containment" operation year in and year out.

Furthermore, it is reckless to count on some special immunity for nuclear facilities when it comes to sabotage, earthquakes, and war.

As Dr. Alfven has warned us: "If a problem is too difficult to be solved, one cannot claim that it is solved by referring to all the efforts made to solve it."

HYSTERIA, ARROGANCE, COMMON-SENSE

In a recent paper entitled "Energy and Environment", published in the May 1972 issue of the *Bulletin of the Atomic Scientists*, Dr. Alfven addresses the very issue which confounds so many members of Congress:

"The technologists claim that if everything works according to their blueprints, fission energy will be a safe and very attractive solution to the energy needs of the world. This may be correct. Hence, they consider all the objections to be due to 'ignorance', 'viciousness', or 'hysteria'. This is not correct. The real issue is whether their blueprints will work in the real world and not only in a 'technicological paradise'.

"Fission energy advocates say that in all other technologies one accepts certain risks, and that there is no way of completely eliminating all hazards. They claim to have taken all reasonable precautions to eliminate risks. What more can they do?

"This may very well be true, but it is irrelevant because we are facing risks the nature of which we have never before experienced. The consequences of nuclear catastrophes are so terrible that risks which usually are considered to be normal are unacceptable in this field."

OBJECTION TO GUINEA-PIGGERY

We are already involuntary guinea-pigs in some great biological experiments called "pollution" and "food additives". Forty years from now, today's babies may start registering the experimental results in a grisly rate of premature death. Maybe 99% of pollutant chemicals will turn out to be safe. But 1% may turn out to be as bad as thalidomide.

Are we willing to submit to the radioactive "containment" experiment also? The guinea-piggery principle is the same: industry claims the *right* to experiment on life until its activity is proven harmful, instead of sparing us until the activity is proven safe. When citizens try to resurrect their "inalienable right to life, liberty, and the pursuit of happiness", industry uses threats like totally unnecessary unemployment or blackouts.

A DEEPENING DEPRAVITY?

There are other fundamental questions about nuclear electricity.

Does anyone have the right to reach into the future and commit the next 50 generations to a legacy of our radioactive garbage, so that we can squander electricity today?

Where is the morality of building an energy technology which also creates the likelihood that private atom bombs will be made from stolen nuclear fuel?

Will nuclear electricity necessitate the substitution of a "nuclear priesthood" for democratically chosen leaders? This grim prospect is discussed by the Director of the Oak Ridge National Laboratory, Dr. Alvin Weinberg, in the July 7, 1972 issue of Science magazine.

Does the vulnerability of nuclear powerplants nullify national security efforts of the Defense Departments?

A HARD WAY TO BOIL WATER

Nuclear evangelists claim that the benefits of nuclear fission will outweigh the risks; enthusiasts urge us to contemplate the great benefits.

Positive thinking about nuclear fission inevitably fails to conjure up an exciting benefit. This touted technology, defying human fallibility, sporting huge control panels, computers, and "defenses in depth", all engineered by masters on the very "edge of the impossible", accomplishes only one useful thing: it boils water. That's a hard way to boil water.

AN UNNECESSARY TECHNOLOGY

In 1970, we got four times more energy from burning wood in this country that from nuclear fission. In 1971, we got less than 1% of the country's energy from fission. By 1985, if we hurry, the AEC says we might get about 15%. (fifteen percent).

The overwhelming share of this country's energy will be coming from our fission-free alternatives.

All the energy choices are intrinscially more attractive than fission. Coal gasification and geothermal technologies are starting to become commercially available now, and solar technologies would be certain to work, too.

Since these options could easily do 100% of the job, nuclear fission is unnecessary. It is not now, and never will be, a choice between nuclear electricity or blackouts.

NINETEEN YEARS UNDER THE ATOMIC ENERGY ACT

The wisdom, morality, and sanity of choosing nuclear fission to boil water, or to heat any other fluid, have needed full debate before Congress for a long time.

Is it rational to promote nuclear fission instead of power from sunlight?

Should we permit nuclear fission at all?

Is nuclear electricity compatible with civilized values?

Will the Joint Committee on Atomic Energy allow reexamination of the fundamental assumptions behind the Atomic Energy Act of 1954?

[From the Office of the Joint Congressional Committee on Atomic Energy, October 10, 1972]

JOINT CONGRESSIONAL COMMITTEE ON ATOMIC ENERGY ANNOUNCES PLANS TO HOLD PUBLIC HEARINGS ON NUCLEAR REACTOR SAFETY

Chairman John O. Pastore and Vice Chairman Melvin Price announced today that the Joint Congressional Committee on Atomic Energy is planning to hold public hearings on the general subject of nuclear reactor safety early in the forthcoming Congressional session.

The Committee is awaiting the completion of a comprehensive safety review report which was requested by the Committee of the Atomic Energy Commission in late 1971. The Committee was recently informed that the report is in the final stages of preparation. The Commission plans to solicit the views of knowledgeable organizations and individuals in the nuclear reactor, energy, and environmental fields as a final step in the completion of the study in order to assure that all significant aspects are covered.

The Committee has been informed that the Atomic Energy Commission expects to complete the safety study and publish the report in December. Chairman Pastore said:

"This report on reactor safety was requested by the Committee in order that an organized and comprehensive presentation of the subject would be available as the focal point for Committee hearings. The Committee plans to allow sufficient time for review of the report by all interested parties prior to the conduct of our hearings. Proceedings in this manner I would expect that we could have an orderly and efficient review of the present status of nuclear safety and the plans for future work in this field."

It was stated that one of the objectives of the planned hearing was to develop a public record in which all of the factors involved in reactor safety would be set down in proper perspective. It was also stated that neither the announcement of the planned hearings nor their conduct are intended to affect the AEC's present regulatory activities and responsibilities.

In making the announcement Chairman Pastore and Vice Chairman Price stated they believed that the hearings could be conducted early in the Congressional session next year. Congressman Price stressed the growing dependence on nuclear energy in the United States. He said:

"In 1963 the Joint Committee held extensive hearings on the role which nuclear power should play in meeting our long term energy needs. In these hearings general agreement was reached on the need for supplementing our longer term energy supplies by the development and utilization of nuclear energy. Events in the interim have increased the need for nuclear energy. As explained by Dr. Edward David, the President's Science Adviser, in his statement before the Committee last month, we are not doing as well as we had planned in reducing the environmental impact from the use of fossil fuels, particularly coal. Obviously we must do a better job in improving our use of coal. We must take greater advantage of our wealth of fossil fuels as was the intent when our civilian nuclear power program was established 10 years ago. The set-backs and uncertainties in the coal and petroleum industries place a greater load on nuclear energy than we originally anticipated."

Congressman Price referred to recent expressions of concern in some quraters relative to the safety of nuclear power. He went on to explain the primary importance which was given to obtaining the best solutions to environmental effects and general safety problems in all phases of the development of this new technology. He said:

"In no area of technology has greater emphasis been given to safety and environmental considerations than in the development of nuclear technology. From the very beginning we have recognized that these are areas on which we should not reduce emphasis. Since concern has developed in the minds of certain people, we believe it appropriate to have a comprehensive review of these matters. We chose to proceed in the same manner as was done in the early 1960's in setting up the nation's civilian nuclear power program. This was to initiate a comprehensive review and study of the matter by those specifically responsible for activities in this field and then obtain contributions from other knowledgeable sources."

The Committee plans to announce a specific schedule for the hearings after receipt of this study. One of the variables which precludes setting the date at this time was identified to be the unknown magnitude and nature of the contributions from knowledgeable people outside of the Atomic Energy Commission which must be considered in the completed report. Committee members have stressed the importance of considering such contributions in order that the Congress and the public receive a comprehensive and professionally sound review of these matters.

BRIEF IN SUPPORT OF CONSTITUTION OF THE UNITED STATES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there be printed in the RECORD a brief amicus curiae prepared by the Amicus Curiae Committee of State Chief Justice, retired, in support of the Constitution of the United States. The members of this committee are William C. Perry of Oregon, Charles T. Donworth of Washington, and Harry S. Harnsberger of Wyoming.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

BRIEF IN SUPPORT OF THE CONSTITUTION OF THE UNITED STATES

Supreme Court of the United States, October term, 1972; 69–5003, William Henry Furman v. State of Georgia; 69–5030, Lucious Jackson, Jr. v. State of Georgia, on writ of certiorari to the Supreme Court of Georgia; 69–5031, Elmer Branch v. State of Texas on writ of certiorari to the Court of Appeals of Texas

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

The appeal in the above cases arose from the claim of the defendants that the death penalty is unconstitutional—violative of the Eighth and Fourteenth Amendments. The State of Georgia and the State of Texas have filed petitions for rehearing re the decision of this Court in June, 1972—408 U.S. 238—that imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.

The Amicus Curiae Committee is interested in the decision of this Court due to the fact, in the main, that in the considered judgment of the Committee's members the Majority Opinions of the Court—in presenting the bases for the decision—failed to consider the controlling factor: that the Fourteenth Amendment does not make the Eighth Amendment apply against the States. That is, such applicability was merely assumed by the Majority Opinions—erroneously.

This assumption by the Court Majority was erroneous because not in conformity with the controlling intent of the State Legislatures which ratified the Fourteenth Amendment.

In view of the time exigencies, no attempt has been made to obtain the assent of Petitioner States to filing of this motion and the accompanying Brief Amicus Curiae; this omission being deemed to involve no prejudice to their rights due to the nature of the point presented by this motion and the Brief for this Court's consideration.

Wherefore, the Amicus Curiae Committee of State Chief Justices (Retired) in support of the Constitution of the United States respectfully requests permission to file with the Court, for its consideration, the attached Brief Amicus Curiae.

Respectfully submitted,
By HAMILTON ABERT LONG,
Sponsor-Director.
HARRY LEROY JONES,
Washington, D.C., Counsel.
SEPTEMBER 17, 1972.

BRIEF AMICUS CURIAE

Preliminary statement

The appeal in the above cases arose from the claim of the defendants that the death penalty is unconstitutional—violative of the Eighth and Fourteenth Amendments. The State of Georgia and the State of Texas have filed petitions for rehearing re the decision of this Court in June, 1972—408 U.S. 238—that imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.

The Majority Opinions of the Court—in presenting the bases for the decision—failed to consider the controlling factor: that the Fourteenth Amendment does not make the Eighth Amendment apply against the States; such applicability was merely assumed by the Majority Opinions—erroneously. This assumption was erroneous because not in conformity with the controlling intent of the State Legislatures which ratified the Fourteenth Amendment.

In view of the fact that the first eight Amendments were expressly made a bar initially against the Federal government only, this failure of the Fourteenth to make them—including the Eighth—apply against the States means inescapably that the abovementioned assumption in the subject cases was invalid and in conflict with the Constitution, as amended.

This presents a proper, indeed a compelling, reason in the eyes of the Constitution for reconsideration by this Court of the subject decision; in the considered opinion of the members of the above-named Amicus Curiae Committee.

We respectfully submit that the cases should be re-argued and reconsidered in all the fundamental, constitutional aspects—with special focus on the question noted above; and that the Petitioners' request for re-hearing be granted accordingly.

I. Fourteenth Did Not Incorporate the First Eight

Upon full consideration of the basic question: "Did the Fourteenth incorporate the first eight Amendments?" this Court decided in the negative (and has never held to the contrary)—in *Bartkus v. Illinois* (1959) 359 U.S. 121, the Court stating at 124:

"We have held from the beginning and uniformly that the Due Process Clause of the Fourteenth Amendment does not apply to the States any of the provisions of the first eight amendments as such. Citing earlier cases. The relevant historical materials have been canvassed by this Court and by legal scholars. Citing Fairman article which, with Morrison article, in Stanford Law Review of December, 1949 presented and discussed definitively all pertinent historical evidence supporting the stated conclusion indisputably. These materials demonstrate conclusively that the Congress and the members of the legislatures of the ratifying States did not contemplate that the Fourteenth Amendment was a shorthand incorporation of the first eight amendments making them applicable as explicit restrictions upon the States."

Since this 1959 decision, the Court has nevertheless repeatedly assumed—as in the subject cases—or ruled by "selective incorporation" that this or that part of the first eight Amendments was made by the Fourteenth to apply against the States. Yet there is not an iota of historical evidence, as to the State Legislatures' ratification, supporting any such "selective incorporation" theory; as observed, for example, by Chief Judge Henry J. Friendly of the 2d Circuit Court of Appeals (California Law Review October, 1965, at 934):

". . . it appears undisputed that the selective incorporation theory has none. [no historical support] And it does seem extraordinary that a theory going to the very nature of our Constitution and having such profound effects for all of us should be carrying the day without ever having been explicated in a majority opinion of the Court."

It is indisputable that the historical records as to the Fourteenth's ratification contain not a vestige of evidence indicating that it was intended to give the members of the Supreme Court any such Rule-by-Man power as this "selective incorporation" theory and practice involves. All evidence indicates that nothing could have been more alien to the thinking, discussion, intent of the Ratifying Legislatures.

II. The Intent of the Ratifying Bodies Is Controlling

It is the intent of the Ratifying Bodies (not debates in the Framing Body, *Maxwell v. Dow* (1900) 176 U.S. 581, 601–602) which controls the meaning of any part of the Constitution; for example:

McCulloch v. Maryland (1819) 17 U.S. 316, 403.

Lake County v. Rollins (1889) 130 U.S. 662, 670–671.

South Carolina v. United States (1905) 199 U.S. 437, 448–450.

Story: *Commentaries on the Cônstitution of the U.S.* (1833) Sec. 426, 451.

As to the Fourteenth Amendment, it follows that it did not—and today does not—grant to the Supreme Court any power of "selective incorporation" of the first eight Amendments so as to make them, in part or as a whole, apply against the States; in the complete absence of any historical evidence of such intent of the ratifying Legislatures. Nor did they intend to "incorporate" the first eight Amendments as a whole.

III. Death Penalty Not Intended To Be Barred by Fourteenth

The existence of Laws—Acts of Legislatures—in Ratifying States, authorizing the death penalty as punishment for specified crimes, at the time of adoption of the Fourteenth as well as thereafter proves conclusively that such Ratifying Legislatures did not intend to abolish this penalty—certainly not by way of authorizing Supreme Court members so to rule at their Rule-by-Man pleasure a century later. The nation-wide use of the death penalty, during the intervening century since adoption of the Fourteenth, provides compelling evidence of lack of its intent to abolish the penalty—even if there were otherwise any doubt as to this intent of the ratifying Legislatures.

Stuart v. *Laird* (1803) 5 U.S. 299, 309

McPherson v. *Blacker* (1892) 146 U.S. 1, 27

Fairbank v. *U.S.* (1901) 181 U.S. 283, 308–311

IV. The Constitution's Original Meaning—per the Ratifying Bodies' Intent—Is Controlling and Does Not Change With Any Change in Meaning of Words or in Public Sentiment Over the Years

The Ratifying Bodies' intent, fixing the original meaning, as to any part of the Constitution continues to be controlling, despite changing words or public sentiment as the years pass.

Dred Scott v. *Sanford* (1857) 60 U.S. 393, 426

South Carolina v. *U.S., supra*, 448–450

Schechter Poultry Corp v. *U.S.* (1935) 295 U.S. 495, 528–529

U.S. v. *Butler* (1936) 297 U.S. 1, 62–63

The Federalist, for example No. 78

Quoted at length in Appendix, *post*

In ruling against any pretense so to change by the Supreme Court to conform to changed public sentiment, regarding slavery, Chief Justice Taney stated for the Court in the *Dred Scott* case, *supra* 426:

"No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construcion in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, it must be construed now as it was understood at the time of its adoption."

This applies equally to any change in public sentiment, or governmental practice, with regard to the death penalty: the Supreme Court is powerless to make any change in the long-established meaning of the Constitution, as amended. For the Court to try to make any such change is usurpation: "treason to the Constitution"—as Chief Justice Marshall defined it in *Cohens* v. *Virginia* (1821) 19 U.S. 264, 404. He meant nothing to the contrary—of *change* by the people only and by amendment only—by his statement that: ". . . it is a *Constitution* we are expounding . . . to be adapted to the various crises in human affairs." *McCulloch* v. *Maryland, supra* 407, 415.

V. The Constitution Makes Null and Void, "AB Initio." All Things Governmental in Conflict With It—Including Any Supreme Court Pronouncements, Rulings, Orders—as if Non-existent

The Constitution controls the Courts including the Supreme Court.

Marbury v. *Madison* (1803) 5 U.S. 137, 177–180

The Federalist, for example Nos. 78, 80, 81

This basic law of the people itself makes null and void *ab initio* all things governmental in conflict with it—a nullity from the start as if never existing.

Marbury v. Madison, supra, 177–180.

Cohens v. Virginia (1821) 19 U.S. 264, 414.

Dodge v. Woolsey (1855) 59 U.S. 331, 347–348.

Norton v. Shelby County (1886) U.S. 425, 442.

Fairbank v. U.S. (1901) 181 U.S. 283, 285–286.

Adkins v. Children's Hospital (1923) 261 U.S. 525, 554.

The Federalist, for example Nos. 33, 78.

Story, *Commentaries on the Constitution of the U.S.*, Sec. 439–440.

This applies to the five-to-four ruling by this Court regarding the death penalty in subject cases.

VI. The Drastic, Fundamental, Sweeping Changes in the People's Lives for All Time, in American Civilization, Implicit in the Subject Death-Penalty Ruling, Make It Gravely Needful That This Court Permit Re-Argument

The basic importance of the death-penalty ruling in subject cases—due not only to its immediate effect but its implications for Posterity and the security of the liberties of the people over the generations, especially as to the method by which effected—cannot be exaggerated; as stressed expressly in all four of the strongly dissenting opinions. The ruling's drastic, fundamental, sweeping changes—caused or implied—in the lives of the people for all time (subject to constitutional amendment to remedy it) and in American civilization, make it of utmost importance that this Court grant re-argument and permit reconsideration as to all aspects, pertaining to interpretation of the Constitution. At stake are the well-being of self-government itself, the stability of the Republic and constitutionally-limited government, as well as public confidence in the moral and intellectual integrity of public servants as public trustees, chief of all the oath-bound members of this Court—historically so honored, even revered. The grave lack of clarity, unity, in The Majority's five separate opinions adds to the urgency, need.

CONCLUSION

The Eighth Amendment does not apply against the States, neither by reason of the Fourteenth Amendment nor by exercise of any power granted to this Court by the Constitution. The decision regarding the death penalty in the subject cases is not authorized by the Constitution and is based on an erroneous assumption to the contrary. The petitions of the State of Georgia and the State of Texas should, therefore, be granted so as to permit re-argument and reconsideration by this Court.

Respectfully submitted,
By Hamilton Albert Long,
Sponsor-Director.
Harry Leroy Jones,
Washington, D.C., Counsel.
September 17, 1972.

APPENDIX

The Supreme Court's ruling in the 1905 South Carolina case: The original meaning is controlling

The Supreme Court's power is limited with regard to interpreting the Constitution—ascertaining and defining the intent with which it was framed and ratified.

The rule is well-settled that the object of interpretation, or construction, of a provision of the Constitution ". . . is to give effect to the intent of its framers, and of the people in adopting it." *Lake County v. Rollins*, 130 U.S. 662, 670 (1899). In this opinion, the Court had earlier made it expressly clear that by the phrase, "the people in adopting it," the meaning was "the people who voted it into existence." This referred to the American people's intent expressed through their duly appointed agents—the members of the State Ratifying Conventions—in 1787-1788; or later, with regard to each amendment, in either the State Ratifying Conventions or the State Legislatures, depending upon which method of ratification was used in any particular instance to approve the amendment.

The basic rule of interpretation is clear and has been repeatedly stated by the Supreme Court, for example in *South Carolina v. United States*, 199 U.S. 437 (1905) at pages 448–449:

"The Constitution is a written instrument. As such its meaning does not alter. That which it meant when adopted it means now. Being a grant of powers to a government its language is general, and as changes come in social and political life it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred. In other words, while the powers granted do not change, they apply from generation to all things to which they are in their nature applicable. This in no manner abridges the fact of its changeless nature and meaning. Those things which are within its grants of power, *as those grants were understood when made*, are still within them, and those things not within them still excluded. As said by Mr. Chief Justice Taney in *Dred Scott v. Sandford*, 19 How. 393, 426:

"'It is not only the same in words, but the same in meaning, and delegates the same powers to the Government, and reserves and secures the same rights and privileges to the citizens; and as long as it continues to exist in its present form, it speaks not only in the same words, but *with the same meaning and intent with which it spoke when it came from the hands of its framers, and* *was voted on and adopted by the people of the United States.* Any other rule of construction would abrogate the judicial character of this court, and make it the mere reflex of the popular opinion or passion of the day.'

"It must also be remembered that the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men, dealing with the facts of political life as they understood them, putting into form the government they were creating, and prescribing in language clear and intelligible the powers that government was to take. Mr. Chief Justice Marshall, in *Gibbons v. Ogden*, 9 Wheat. 1, 188, well declared:

"'As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said.'"

(Italics added)

Immediately preceding the above-quoted statement from the opinion in the 1856 *Dred Scott* case—60 U.S. (19 Howard) 393 at 426, the Court had in that opinion made further clarifying remarks about negro slaves in explanation of its refusal to violate the intent of the Constitution—the intent of its Framers and Adopters—merely because of changed popular sentiment about slavery. It stated:

"No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, *it must be construed now as it was understood at the time of its adoption* (Italics added)

NOTE: The above-mentioned *Dred Scott* case concerned the negro slave of that name and this case—in which he sought his freedom—has ever since been famous for political as well as constitutional reasons.

IF YOU ARE GOING TO GET HURT, DO IT IN ILLINOIS

Mr. PERCY. Mr. President, I invite the attention of Senators to an important step in health care taken by the Illinois Department of Public Health, Division of Emergency Medical Services and Highway Safety. The department has established the Nation's first statewide system of emergency care for the critically injured. The Illinois Statewide Plan for Trauma Centers, consisting of a network of 40 centers across Illinois, has led to the reorganization and reorientation of medical resources throughout the State and serves as a national model for solving many of the complex problems of emergency health service.

Known as the Illinois Plan, the trauma center concept is a bold new approach to the treatment of critical injury. Elements of health care systems that are often fragmented have in this instance been brought together to provide expert care for accident victims. Existing hospitals have been designated as trauma centers and provide specific points of entry into the medical care system for critically injured patients in a geographical area. A uniform emergency medical communications system allows doctors to talk to outlying trauma centers and to emergency mobile vans. Air and ground transportation systems have been reorganized and upgraded as well.

Critically injured accident victims are not the only people to receive benefits from this new concept of health care. Medical personnel, particularly members of the nursing profession, are also receiving advantages as a result of the Illinois Plan. The advent of the state trauma program has provided nurses with the opportunity to accept new roles and responsibilities in critical care. To prepare them for this new role, a 4-week specialty course for graduate nurses has been developed. An outgrowth of the Nation's first system of trauma centers, this post-graduate education in trauma is also the first of its kind. The trauma nurse is a multipurpose, cross-trained, intensive care specialist able to cope with the total needs of the critically injured patient.

I commend Gov. Richard Ogilvie and the Illinois Division of Emergency Medical Services and Highway Safety for providing the opportunity for nurses to assume more responsibility and to contribute greater services to the severely overworked and seriously short-handed medical professions. Because of this progressive and unique program, nurses are coming to realize that their roles can and should be expanded. They now have a chance to realize more satisfactorily their own professional potential.

The Illinois Plan is making important progress in two areas of health care: critically injured patients are receiving a much better chance for survival and recovery, and medical personnel are being utilized more fully. I applaud this multifaceted approach to improved care for critically injured patients. I hope that many other States will benefit from Illinois' experience with this new concept in health services and will emulate our State's progressive attitude toward new methods of patient care.

I ask unanimous consent that an excellent article from Todays' Health, describing Illinois' unique emergency care system be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IF YOU ARE GOING TO GET HURT, DO IT IN ILLINOIS

(By David Zimmerman)

Jon Michael Nevious of Galatia, Illinois, has to agree with a recent remark of Illinois Governor Richard Ogilvie. "If you're going to get hurt," Ogilvie told a governors' convention, "do it in Illinois." The governor's offbeat boosterism was based on statistics showing that his state has found a unique workable plan to help accident victims survive.

No one knows this better than Jon Nevious, a 24-year-old construction worker. He didn't know it, though, at about 4:30 p.m. on June 29th 1972, as he pulled on his goggles, revved his Honda 350 motorcycle, and pulled out of the parking lot of the Tison and Hall Concrete Products Company in Harrisburg, about ten miles from his home at Galatia, Illinois.

Galatia is a tiny community in the undulating country of cornfields and coal mines at the southerly tip of Illinois. It has a population of 800, no doctor, and very little in the way of industry or work. Jon was fortunate to have a job as batch man at the cement company, and was content with his lot that bright late afternoon in June as he rode home to his wife, Treasa Darline and his two-year-old son, Michael O'Brien.

By about 4:40 p.m., Jon had neared the intersection of Route 44 and Raleigh Road. So had a 1966 Oldsmobile driven by 57-year-old Clarence L. Barnfield. According to the report of state trooper Bill Dial, the automobile, failing to yield right of way, turned left in front of the motorcycle. In the crash, Barnfield sustained minor injuries. Nevious, who did not have a helmet on was not so fortunate.

Jon's face was badly smashed, his jaw shattered in several places. He began to bleed profusely into the nasal passages to his windpipe. One clavicle (the so-called collar bone) was broken; there was the possibility of damage to major underlying blood vessels. The young man's neck was injured and there were deep cuts on his legs.

In the space of seconds, the strong, blond-haired young man had become a trauma case—or accident victim. The incidence of trauma has been called by doctors "an unchecked injury epidemic for which available medical care has been poor." As a killer, it trails only heart disease and cancer, taking 100,000 American lives each year.

Illinois has found a way to save the lives of many of those caught up in this epidemic. While trauma includes a variety of catasrophes such as home accidents, knife and gun wounds and industrial mishaps, a large proportion of its victims are persons involved in motor vehicle accidents. According to National Safety Council statistics, Illinois had a 12 percent drop in auto deaths last year and was one of only a few states to show improvement.

Siren howling, an ambulance whisked Jon, bloody and unconscious, over the seven miles from the accident scene to Doctors Hospital at Harrisburg, Illinois. It is a small hospital, with only 60 beds and limited facilities. The only doctor available was a general practitioner, Jon was severely hurt and it was clear that his urgent needs could not be met at Harrisburg.

Meanwhile, Jon's wife had been summoned. "When I arrived at the hospital," she recalls, "the scene was one of total confusion."

Jon remembers little. Most of the time he was unconscious.

It was at this time that the Illinois Trauma Care System swung into high gear. This system links 37 Illinois hospitals and borrows from medical evacuation techniques perfected in Vietnam, using flying ambulances, well-trained emergency crews, and on-the-spot field communications.

"Trauma care has been American medicine's most serious failing," says one veteran Illinois surgeon. The Illinois Trauma Care System, only 16 months old but already remarkedly effective, is trying hard to rectify that failing, both for the people of Illinois and perhaps as a model for the rest of the nation.

As Jon lay helpless and bleeding in the small downstate hospital, the system had slipped quietly into motion.

A call had been placed to Doctors Memorial Hospital at Carbondale, Illinois, about 40 miles distant. It went to Bob Motti, a new kind of severe-injury specialist called a trauma co-ordinator. Motti is a tall, laconic man in early middle age. He and some 40 specialists like him who have been hired by Illinois are former military corpsmen. They are non-M.D. specialists in emergency care and evacuation techniques. Most have battlefield experience.

Trauma co-ordinator Motti's job in the system was to get Jon to the care he needed. Safely. Quickly.

Meanwhile, at the Harrisburg hospital (Motti was informed) an airway tube had been slipped down Jon's throat to assist his breathing. An intravenous catheter (I.V.) was inserted to provide fluids to compensate for lost blood. The external bleeding was staunched. But Jon was bleeding, copiously, from internal injuries to his face. He well might choke to death on his blood or "bleed out"—die from its loss.

Quickly, Bob Motti weighed the options open to him. He could bring Jon there to Carbondale where Doctors Memorial, because of its large staff and excellent facilities, has been designated regional trauma center for all Southern Illinois. Alternatively, he could send Jon to a still-larger medical cènter upstate. From his experience in two wars, Motti knew that Jon's injury, a flail mandible (multiple-fractured lower jaw) was extremely dangerous—and required the services of a faciomaxillary surgeon, a specialist in jaw repair.

None was available in Carbondale. The closest faciomaxillary specialist and trauma team Motti could find was in Springfield, Illinois, 185 miles—and three-and-a-half hours by ambulance—from Harrisburg. In an ambulance, Motti decided, Jon could hardly hope to survive: "He would choke to death on his own blood."

Motti turned quickly to a second new trauma specialist, Carbondale trauma nurse co-ordinator Mrs. Joy Goodman. She is an attractive, decisive woman, a veteran nurse, whose job it is to teach trauma nursing techniques and to provide trained nurses for emergency needs throughout Southern Illinois. Mrs. Goodman agreed with Motti: speed was essential. As he picked up the phone to call Southern Illinois Airport, she grabbed her bag of special trauma equipment and, with two nurse trainees in tow, hurried out.

Minutes later they were airborne in a private plane which Southern Illinois University makes available as an emergency ambulance. The twin-engine Cessna 402 took off from Carbondale at 6:30 p.m. and touched down at Harrisburg at 6:45.

The ambulance carrying Jon from the hospital met the plane. Jon was semi-conscious. As they loaded him onto the plane, he suddenly reached up, pulled out his airway, and exclaimed: "I'm going to vomit!"

He did. He vomited up the blood that had run down into his stomach.

"There were puddles of blood all over the plane," Mrs. Goodman recalls. "At that moment, I thought, 'This is it!' He had so many fractures, you couldn't know if he had any airway left at all."

Eighteen precious minutes passed while she replaced the airway and suctioned out the blood and mucus that had collected in Jon's lungs. Jon's wife, Treasa, pale and distraught, felt helpless because there was nothing she could do—except hope and pray.

They took off at 7:03 p.m.

Jon Nevious is one of 15,000 trauma victims that the system handled in its initial year. And while the airplane or helicopter that whisks the critically injured over long distances in a short time is its most visibly dramatic aspect—it is not what accounts for its success. Planes long have been used as ambulances, Mrs. Goodman points out. The trick is in arranging for them to be at the right place at the right time, previously a time-consuming hit-or-miss proposition which could eat up an entire day. Now this can be achieved in minutes, through the preestablished contacts of each area's trauma co-ordinator, who is on call 24 hours a day. Says the system's innovator and director, Chicago surgeon David Boyd, M.D.: "It's not the aircraft that makes the system. It's the system that makes the aircraft work."

Aboard the Cessna, trauma nurse co-ordinator Mrs. Joy Goodman worked hard at keeping her patient alive. "I was on my knees over him," she says. "I suctioned him every two or three minutes. The oxygen was going. The I.V. glucose was going. But his blood pressure dropped . . .

"We were working with this boy all the way. The pilot knew he was bad. He really pushed it." Later, Treasa would remember Mrs. Goodman urging the pilot: "Can't you go faster?"

From Carbondale, meanwhile, trauma coordinator Motti spoke by phone to Springfield. The surgical team—a face surgeon, an ear, nose and throat man, and a bone specialist—were standing by. Motti checked to be sure an ambulance would meet the plane at Springfield airport.

Aware of the young man's desperate race against the clock, the pilot used the call signal designated to medical emergencies. "I've got a lifesaver!" he radioed down to the tower. All air traffic stopped so that he could land immediately. It was 7:54. At 8:20, Jon was in the trauma room at Springfield's St. John's Hospital, *alive*.

Donor blood and all else that Jon needed was on hand. And when he did choke on his own blood, skilled hands were there to quickly cut an incision into his windpipe so that he could breathe. For Jon, and for members of the highly specialized surgical team, it was to be a long night.

Dr. David Boyd also has put in many long days and nights to make the Illinois system work. A handsome man of medium height, with black hair and a determined set to his face, Dr. Boyd, who is in his mid-30's, has swarmed over Illinois' trauma care problem like a middleweight boxer vying for a knockout.

"People just *expected* to die after an accident," he told community planners and medical colleagues up and down the state. "Because a hell of a lot of them did die."

For the most part, he won agreement and consent. Occasionally, there was a sharp demur. One doctor stood up at a town meeting to say of Dr. Boyd: "That doctor is a liar!"

Excepting Chicago, this physician's town is one of only two or three in Illinois that have remained outside the system—which is voluntary. "They'll join," Dr. Boyd says, "when they begin to find out that Aunt Mary doesn't have to die. That young George who is injured doesn't have to be disabled for life. That there is no need to wait in an emergency room six hours for care. People's expectations for emergency care are rising."

Already, people are beginning to realize those expectations. People such as Jon Nevious.

Eight hours after he arrived at St. Joseph's, Jon was wheeled out of surgery from the first of three long, difficult operations that have mended his broken bones, reshaped his battered face—and restored his life. Had it not been for the system, which delivered him quickly to the care he needed, the outcome might have been different.

In setting up the system, Dr. Boyd and his close associate, Springfield surgeon Bruce Flashner, M.D., extended to most Illinoisans military trauma-care methods that have been proved in Korea and Vietnam, and for the poor in the Trauma Unit at Cook County Hospital, which daily handles dozens of gravely injured Chicagoans, many of whom are knife or gunshot victims. Because of this huge load of trauma cases, which most other hospitals are reluctant to admit, Chicago is not yet part of the trauma network—although Dr. Boyd is working to bring it in. In their campaign to build the new system, he and Dr. Flashner quickly found key help in an enthusiastic ally. Illinois Gov. Richard Ogilvie had been gravely injured during World War II when the tank he commanded was blown up. He was rescued by a military corpsman, and so knows the worth of expert first aid assistance. Gov. Ogilvie put the trauma co-ordinators on the state payroll, and used his power to help Drs. Boyd and Flashner set their system in motion.

A network of trauma centers has been created at 37 of Illinois' 305 hospitals. These are hospitals staffed and equipped to treat trauma—and it is to them, not to other hospitals, that police, ambulance drivers and other emergency workers have been instructed to take the badly injured.

With this concentration of cases, trauma teams, headed for the most part by general surgeons, spend much or even all of their time treating the gravely injured. To keep these personnel available, less-grave emergencies, which are the majority of cases, are diverted to other emergency rooms.

In trauma, the critical moment may occur long before a patient reaches the hospital, at the accident scene where emergency workers first find him. Mistakes are costly. An unsplintered fracture can become compounded, producing permanent crippling. An unsecured broken neck can produce permanent paralysis. An unstaunched wound can bleed out a patient's life. A comatose patient, without an airway, can choke to death on his tongue.

To provide at least the basics of on-the-spot emergency care, trauma staff are training ambulance attendants, for whom there have been no training or licensing requirements in Illinois. Soon, officials say, standards will be in force for attendants, vehicles and equipment.

Already, check-lists have been passed out to ambulance attendants, police and other emergency workers to help them evaluate critical-injury factors—including airway, breathing, respiration, bleeding, pulse, wounds and mental state. Another feature of the program will be the purchase of a mobile radio for every one of the 900 emergency ambulances in Illinois. Currently, only four percent of the ambulances in the state have radio communication with hospitals designated as state trauma centers. Most ambulance drivers have been able to communicate only with their own dispatcher and do not have contact with the hospital until they arrive at the emergency room door.

The radio network, called HEAR (Hospital Emergency Area Radio), was established as a cooperative effort by the member institutions of the Illinois Hospital Association. Trauma centers are linked to other hospitals, as well as to two state-owned helicopters.

With the new radio equipment in all emergency vehicles, those first upon the scene will be able to talk directly to their trauma co-ordinator. He can help them assess the injured person's condition, advise them on first aid, and tell them where to take him.

How well is the system doing? Data on all cases is fed into a computerized file in Chicago. Regrettably, there are few "before" statistics to provide baselines against which to compare it.

Dr. Boyd estimates, however, that previously eight percent of seriously injured persons died after the arrival of first aid. In a full year's operation, in which the system cared for 15,000 patients, he says mortality was two percent. This 98 percent survival matches life-salvage success among combat-injured men in Vietnam—which military medicine experts regard as a triumph.

The computer is helping, too, in pinpointing soft areas of trauma care. In analyzing spinal cord injuries, of which 400 occur each year in Illinois, experts found that few deaths occur in the first hours after help arrives.

"This is the kind of information we need," explains Dr. Boyd, "because it takes the pressure off of us to ship neurosurgical problems into local hospitals. Rather, there is time to get them into major centers, where there are neurosurgeons and support teams."

In contrast, analysis of another type of injury suggests the need for greater haste. In studying infection-prone, but non-fatal injuries to the right colon, Dr. Boyd and his colleagues found far fewer complications in persons brought directly to a trauma center, compared to those detoured through an outlying hospital's emergency room.

Adding to the computer file at the rate of 40 cases a day, planners hope soon to have enormous amounts of data to help trauma co-ordinators route their patients to care. And for long-term planning, too.

Even without statistical proof, the system has won widespread professional and popular acceptance. In part, this is because Drs. Boyd and Flashner have skillfully provoked public awareness of the trauma-care crisis.

In Carbondale, the director of Doctors Memorial Hospital, Jack Taylor, M.D., also is encouraged. On the first anniversary, he said: "I think we're now offering an alternative to what was a non-system. This is the beginning of a system. We've made a start, and the stage is set for us to grow."

In Springfield, the state capital, Governor Ogilvie says: "We'd like to see others, in other states, utilize our experience. I think this is something that is needed everywhere."

Far to the south, in tiny Galatia, Jon Nevious has come home. He still speaks unclearly, for his mouth is wired shut so that his facial bones will heal correctly. He has trouble moving one of his arms, and his body is stiff and pain-wracked. But he is mending, and one day, if he persists, he again may be able to work. Thanks to the system, Treasa Darline has her husband; little Michael O'Brien has a Daddy—and Jon Michael Nevious has a new lease on life.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON FOREIGN RELATIONS, 92D CONGRESS

Mr. FULBRIGHT. Mr. President, it is time once again to attempt to put into perspective what the Committee on Foreign Relations has done in the last 2 years.

There has been a great deal of activity as the statistics and summaries appended to this statement show. In every category of endeavor—except nominations—the Committee on Foreign Relations has had more subjects referred to it, and acted upon more matters, than in the previous Congress. In fact our calendar has been more voluminous than any which has ever compiled the committee. The statistics and summaries speak for themselves. I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, the real questions are what does this all amount to? What have we not faced?

It all amounted to considerable progress not only statistically but also qualitatively in the degree to which the Senate exercised its constitutional responsibilities. There was 34 treaties approved. Two years ago, I was forced to comment on the "shabby use" of the treaty process; so I am pleased to note significant improvement in the number and quality of the product. I have in mind the so-called ABM Treaty and others in the arms control area—the Seabed Arms Control Treaty and the Latin American Nuclear Free Zone Protocol—the Okinawa Reversion Treaty, Aircraft Hijacking, the Mexican Boundary, Narcotics Control, and the pace-setting Shrimp Agreement with Brazil.

Moreover, the enactment of the Case bill, requiring the submission of executive agreements, including those classified for our scrutiny, gives us a tool to insure proper use of the treatymaking process. Indeed, it may well be that the interim agreement with the Soviet Union on strategic offensive weapons or the Okinawa Reversion Treaty would not have been submitted for our consideration if the Senate had not shown its concern during the previous Congress over the use of executive agreements, as in the case of the Spanish bases.

There is, of course, some distance yet to go. The committee was unsuccessful in its efforts to make treaties out of the base agreements with Portugal and Bahrain. The Senate did vote to require such agreements to be treaties in the future, but could not prevail in conference with the House.

The Foreign Relations Authorization Act of 1972 was a step forward. It offered a very useful opportunity to examine the whole range of activities of our foreign relations establishment and some healthy corrective measures were adopted, including acceptance of a proposal by Senator AIKEN and me to create a Commission on the Organization of the Government for the Conduct of Foreign Policy.

Healthy also, in my view, was the fact that the Senate in 2 successive years rejected a foreign aid bill. This action underlined better than anything else the need for a new approach in the foreign aid field. The Senate voted twice to end our involvement in Vietnam only to see the efforts fail for lack of support in the House. One of the most important positive actions was Senate passage of a war powers bill to prevent similar entanglements in the future—another effort which failed in the House.

Other measures were taken to undo the mistakes of the past. The Gulf of Tonkin resolution was repealed and the Senate agreed to establish a special committee to study the termination of the Declaration of National Emergency issued by President Truman in 1950, which should lead to further momentum in this area.

Among other major steps the Senate authorized the replenishment of funds for the International Development Association, the Inter-American Development and the Asian Development Bank.

In the area of nominations progress was made. The practice of conferring the rank of ambassador, personal or otherwise, on a variety of persons not subject to confirmation was limited by requiring Senate confirmation of all whose service will exceed 6 months. The Senate exercised its constitutional prerogative on 10 such appointments. In one instance the committee refused to go along with bestowing this rank on someone who was not a chief of mission, and in two other instances made clear that its approval was "one time only." On the basis of principle also the committee refused to approve four nominees to an advisory commission and nine promotions in the Foreign Information Service. Like the treatymaking process, the confirmation process has been in danger of atrophying, but is becoming more meaningful again.

The legislative oversight activities have been very carefully pursued with excellent results. The Subcommittee on U.S. Security Agreements and Commitments Abroad continued its studies with in-depth review of U.S. activities in Greece, Laos, Thailand, Cambodia, and Vietnam.

Other subjects studied by committee members and staff included U.S. policies and programs in Brazil, prospects for a comprehensive nuclear test ban, the United Nations, the Soviet Union, Western Europe, Guatemala, and the Dominican Republic, the problem of heroin traffic, and the prospects for peace in the Middle East.

The committee's decision to review the Pentagon papers led to the publication of four excellent special studies on various aspects of the history of our involvement in that area. A fifth study, based on still-classified documents, remains unpublished—but available to Senators—at the insistence of the State Department.

Presently getting underway is an in-depth analysis of the role of multinational corporations in U.S. foreign relations.

The committee also devoted itself, among other things, to the SALT talks, the foreign policy implications of our defense budget, the developments in South Asia, and the unfolding relationship with the Peoples Republic of China.

It gives me great pleasure to acknowledge the contributions of all the members of the Committee on Foreign Relations in cleaning up so well the committee's calendar and in preserving the forward movement in exercising our responsibilities. The ranking minority member deserves particular credit for his wise counsel and for sustaining the nonpartisan spirit within the Committee on Foreign Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF WORKLOAD OF COMMITTEE ON FOREIGN RELATIONS, 91ST AND 92D CONGRESSES

(NOTE: The following statistics fail to take into account measures considered and acted on by the Committee on Foreign Relations in connection with other legislation. For example, 38 bills, separately introduced, were considered as amendments to the Foreign Assistance Acts of 1971 and 1972. Another nine were considered together with the Foreign Relations Authorization Act of 1972, and seven with the War Powers Legislation.)

	91st Cong.	92d Cong.
Treaties:		
Held over	14	21
Submitted	28	35
Withdrawn	1	
Approved	20	34
Left on Executive Calendar	1	2
Bills and Joint Resolutions:		
Referred	73	140
Reported		38
Passed Senate [1]	26	30
Defeated		2
Concurrent and Senate Resolutions:		
Referred	70	93
Agreed to in Senate [1]	13	17
Nominations:		
Submitted	2,754	2,586
Approved	2,744	2,425
Ambassadors		66
Executive branch		12
International organizations		36
Advisory Commission		12
Routine FSO's		2,299
Returned to President		135
Withdrawn		4
Not acted on		22

[1] Includes those passed without reference to the committee

TREATIES APPROVED

1. Treaty on the Limitation of Anti-Ballistic Missile Systems (Ex. L, 92–2). Approved August 3, 1972 by a vote of 88 to 2.

2. Seabed Arms Control Treaty (Ex. H, 92–1). Approved February 15, 1972 by a vote of 83 to 0.

3. Protocol to Latin America Nuclear Free Zone Treaty (Ex. H, 91–2). Approved April 19, 1971 by a vote of 70 to 0.

4. Convention on the Suppression of Unlawful Seizure of Aircraft (Ex. A, 92–1). Approved September 8, 1971 by a vote of 53 to 0.

5. Convention for the Suppression of Unlawful Acts Against the Safety of Aviation (Ex. T, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

6. Okinawa Reversion Agreement (Ex. J, 92–1). Approved November 10, 1971 by a vote of 84 to 6.

7. International Plant Protection Convention (Ex. D, 84–2). Approved June 12, 1972 by a vote of 74 to 0.

8. International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (Ex. G, 91–2). Approved September 20, 1971 by a vote of 75 to 0.

9. Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil (Ex. G, 91–2). Approved September 20, 1971 by a vote of 75 to 0.

10. Treaty on recovery and return of Stolen Archaelogical, Historical, and Cultural Properties between U.S. and Mexico (Ex K, 91–2). Approved February 10, 1971 by a vote of 72 to 0.

11. Termination of the Bryan-Chamorro treaty between the U.S. and Nicaragua (Ex. L, 91–2). Approved February 17, 1971 by a vote of 66 to 5.

12. Nice Agreement Concerning the International Classification of Goods and Services (Ex. M, 91–2). Approved December 11, 1971 by a vote of 75 to 0.

13. Extradition treaty with Spain (Ex. N, 91–2). Approved February 17, 1971 by a vote of 72 to 0.

14. Protocol to double tax convention with France (Ex. O, 91–2). Approved November 29, 1971 by a vote of 79 to 0.

15. Boundary rectification treaty with Mexico (Ex. B, 92–1). Approved November 29, 1971 by a vote of 79 to 0.

16. Inter-American Convention to prevent and punish acts of terrorism and related extortion (Ex. D, 92–1). Approved June 12, 1972 by a vote of 74 to 0.

17. International Wheat Agreement (Ex. F, 92–1). Approved July 12, 1971 by a vote of 78 to 0.

18. Locarno Agreement establishing an international classification for Industrial designs (Ex. I, 92–1). Approved December 11, 1971 by a vote of 75 to 0.

19. Protocol to the Convention on International Civil Aviation (Ex. K, 92–1). Approved December 11, 1971 by a vote of 75 to 0.

20. Convention on Taking Evidence Abroad in Civil or Commercial Matters (Ex. A, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

21. Cultural Property Convention (Ex. B, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

22. Amendment to Statute of the International Atomic Energy Agency (Ex. C, 92–2). Approved March 17, 1972 by a vote of 66 to 0.

23. Convention for avoidance of double taxation with Norway (Ex. D, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

24. Partial Revision of the Radio Regulations (Ex. E, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

25. Extradition Treaty with Argentina (Ex. F, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

26. Treaty on the Swan Islands with Honduras (Ex. H, 92–2). Approved June 12, 1972 by a vote of 74 to 0.

27. International Organization of Legal Metrology Convention (Ex. I, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

28. Protocol to the Single Convention on Narcotic Drugs (Ex. J, 92–2). Approved September 18, 1972 by a vote of 69 to 0.

29. Convention on International Liability for Damage caused by Space Objects (Ex. M, 92–2). Approved October 6, 1972 by a vote of 67 to 0.

30. Double taxation convention with Japan (Ex. E, 92–1). Approved November 29, 1971 by a vote of 79 to 0.

31. Universal Copyright Convention (Ex. G, 92–2). Approved August 14, 1972 by a vote of 67 to 0.

32. Protocol to Northwest Atlantic Fisheries Convention (Ex. C, 92–1). Approved October 3, 1972 by a vote of 89 to 0.

33. Amendments to the International Convention for Safety of Life at Sea (Ex. O, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

34. Shrimp agreement with Brazil (Ex. P, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

TREATIES CONSIDERED BUT NOT FINALLY APPROVED

Genocide Convention (Ex. O, 81–1). Reported, May 4, 1971.

International Convention on Civil Liability for Oil Pollution (Ex. G, 91–2). Reported August 5, 1971.

Geneva Protocol on Poison Gas (Ex. J, 91–2). Public hearings, March 1971.

Convention on Psychotropic Substances (Ex. G, 92–1). Hearing February 4, 1972.

Vienna Convention on the Law of Treaties (Ex. L, 92–1). Hearing August 3, 1972.

BILLS AND JOINT RESOLUTIONS PASSED BY THE SENATE

1. S. 2819, Foreign Assistance Act of 1971. Approved February 7, 1972. Public Law 92–226.

2. H.R. 16029, the Foreign Assistance Act of 1972. Passed Senate September 26, 1972.

3. H.R. 14734, Foreign Relations Authorization Act of 1972. Authorized appropriations for the Department of State, United States Information Agency, Arms Control and Disarmament Agency, and Peace Corps. Approved July 13, 1972. Public Law 92–352.

4. H.J. Res. 1227, Interim Agreement Between the United States and the Soviet Union on measures with respect to the Limitation of Strategic Offensive Arms. Approved September 30, 1972. Public Law 92–448.

5. S. 18, to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty. Approved March 30, 1972. Public Law 92–264.

6. S. 3645, to further amend the U.S. Information and Educational Exchange Act of 1948 with respect to Radio Free Europe and Radio Liberty. Approved August 20, 1972. Public Law 92–394.

7. S. 531, to authorize the U.S. Postal Service to receive the fee of $2.00 for execution of an application for a passport. Approved May 14, 1971. Public Law 92–14.

8. S. 596, to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof. Approved August 22, 1972. Public Law 92–403.

9. S. 748, to authorize payment and appropriation of the second and third installments of the U.S. Contributions to the Fund for Special Operations of the Inter-American Development Bank. Approved March 10, 1972. Public Law 92–246.

10. S. 749, to authorize U.S. Contributions to the Special Fund of the Asian Development Bank. Approved March 10, 1972. Public Law 92–245.

11. S. 2010, to provide for increased participation by the United States in the International Development Association. Approved March 10, 1972. Public Law 92–247.

12. S. 2260, to amend further the Peace Corps Act, as amended. Approved October 8, 1971. Public Law 92–135.

13. S. 2359, for the relief of Willard O. Brown. Approved July 26, 1972. Private Law 92–104.

14. S. 3160, to provide for a modification in the par value of the dollar (jointly with Committee on Banking, Housing, and Urban Affairs). Approved March 31, 1972, Public Law 92–268.

15. S. 3726, to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy and for other purposes. (Consecutively with Committee on Banking, Housing, and Urban Affairs). Approved August 29, 1972. Public Law 92–412.

16. H.R. 11948, to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International Institute (Rome) for the Unification of Private Law. Approved.

17. H.R. 15577, to give the consent of Congress to the construction of certain international bridges. Approved September 26, 1972. Public Law 92–434.

18. S.J. Res. 182, authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest-USA and the World Ploughing contest. Approved August 28, 1972. Public Law 92–407.

19. H.J. Res. 984, to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property. Approved.

20. H.J. Res. 1211, to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission. Approved.

21. H.J. Res. 1257, to authorize an appropriation for the annual contribution by the United States for the support of the International Agency for Research on Cancer. Approved.

22. H.J. Res. 1268, calling for an immediate and appropriate moratorium on the killing of polar bears. Passed Senate October 6, 1972.

23. S. 4022, to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane in 1974. Passed Senate October 5, 1972.

24. H.R. 7117, to amend the Fishermen's Protective Act of 1967 (consecutively with Commerce Committee). Conference report agreed to October 11, 1972.

25. S. 2700, to extend diplomatic privileges and immunities to the mission to the U.S. of the Commission of the European Communities and to members thereof. Passed Senate March 17, 1972.

26. S. 2956, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Sent to conference August 14 and 17, 1972.

27. S. 3722, to provide for the establishment of a Foreign Service grievance procedure. Passed Senate June 22, 1972.

28. S.J. Res. 115, instructing the Secretary of State to call for an international moratorium of 10 years on the killing of all species of whales. Passed Senate June 29, 1971.

29. S.J. Res. 217, to create an Atlantic Union delegation. Passed Senate October 4, 1972.

30. H.J. Res. 850, to authorize the Honorable Carl Albert, Speaker of the House of Representatives, to accept The Ancient Order of Sikatuna (Rank of Datu), an award offered by the President of the Philippines. Approved September 22, 1971. Private Law 92–24.

BILLS AND JOINT RESOLUTIONS REPORTED BUT NOT PASSED

S. 390, to provide for a U.S. Foreign Service scholarship program. Reported adversely June 24, 1971.

S.J. Res. 48, to repeal authorization for the employment of Armed Forces for the protection of Formosa and the Pescadores. Reported September 21, 1971.

S. 2224, to amend the National Security Act of 1947, as amended, to keep the Congress better informed on matters relating to foreign policy and national security by providing it with intelligence information obtained by the Central Intelligence Agency and with analysis of such information by such agency. Reported July 17, 1972. Referred to Senate Armed Services Committee.

S. 4039, to amend Public Law 90-553 concerning an International Center for Sites for Chanceries for Foreign Embassies. Reported October 12, 1972.

CONCURRENT AND SENATE RESOLUTIONS APPROVED

1. S. Con. Res. 38, commending the President for initiating a proposed "Journey for Peace." Agreed to by Senate August 2, 1971.

2. S. Con. Res. 54, relating to the printing of additional copies of hearings entitled "War Powers Legislation." Agreed to by Senate December 17, 1971; Agreed to by House May 9, 1972.

3. S. Con. Res. 55, providing for the recognition of Bangladesh. Agreed to by Senate March 21, 1972.

4. S. Con. Res. 73, relating to XXVth Congress of the Inter-allied Confederation of Reserve Officers to be held in Washington, D.C. Agreed to by Senate June 30, 1972; Agreed to by House July 27, 1972.

5. S. Con. Res. 82, to express the sense of the Congress that the United States Government urge the establishment of a United Nations Voluntary Fund for the Environment to which the United States would contribute its fair share. Agreed to by Senate June 12, 1972.

6. S. Con. Res. 97, in behalf of prisoners of war and missing in action. Agreed to by Senate September 27, 1972.

7. S. Con. Res. 100, requesting the President to consider sanctions against any nation that provides sanctuary to terrorists. Agreed to by Senate September 28, 1972 (without reference to Committee).

8. S. Res. 26, to provide for a study of matters pertaining to foreign policy of the United States by the Committee on Foreign Relations. Agreed to March 1, 1971.

9. S. Res. 136, requesting a negotiating conference in reference to the prices of wheat. Agreed to July 12, 1971.

10. S. Res. 140, authorizing special supplementary expenditures for an inquiry and investigation pertaining to the making of policy relating to United States involvement in Southeast Asia. Agreed to July 24, 1971.

11. S. Res. 214, relative to the submission of any Portugese base agreement as a treaty. Agreed to March 3, 1972.

12. S. Res. 237, authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States. Agreed to March 6, 1972.

13. S. Res. 246, extending the good wishes of the Senate to the citizens of Japan and the participants of the 11th Winter Olympic Games. Agreed to January 31, 1972 (without reference to Committee).

14. S. Res. 304, to establish a Special Committee on the Termination of the National Emergency. Agreed to September 11, 1972.

15. S. Res. 311, authorizing supplemental expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States. Agreed to June 23, 1972.

16. S. Res. 354, recognizing India's 25th anniversary as an independent, democratic nation. Agreed to August 15, 1972 (without reference to Committee).

17. S. Res. 358, expressing the sense of the Senate on the tragic killings of Israeli Olympic team members at the 20th Olympiad at Munich. Agreed to September 6, 1972 (without reference to Committee).

CONCURRENT RESOLUTION REPORTED BUT NOT AGREED TO

S. Con. Res. 21, calling for suspension of military assistance to Pakistan until present conflict is resolved. Reported May 13, 1971.

KENNEDY CENTER TRUSTEES RESPOND TO OPERATIONS REPORT BY COMPTROLLER GENERAL

Mr. RANDOLPH. Mr. Preident, approximately 13 months ago the John F. Kennedy Center for the Performing Arts was opened in our National Capital City. Since that time, this beautiful building has stimulated an upsurge in performing arts activities in Washington. Thousands of people have attended performances at the Eisenhower Theater, the Opera House, and the Concert Hall. More than 2 million other people have toured the Kennedy Center.

From the beginning, the Kennedy Center was conceived as a facility with a dual function—a national monument to President Kennedy and a center for artistic productions.

As with any enterprise of the size and diversity of the Kennedy Center, there have been problems during its initial phase of operations. Last December, the Committe on Public Works requested the Comptroller General to conduct an investigation into the financing and operations of the Kennedy Center. The Comptroller General's report was delivered to the committee on August 8, 1972. This document contained a thorough discussion of the center's organization and operations to date and offered recommendations as to how its management and financial structure might be revised so as to avoid situations such as occurred in the past year.

Mr. President, I have received a letter from Roger L. Stevens, chairman of the board of trustees of the John F. Kennedy Center for Performing Arts. In his communication, Mr. Stevens discusses the major points in the Comptroller General's report. There is widespread public interest in the Kennedy Center; and to add to the public knowledge of its operations I ask unanimous consent that the text of Mr. Stevens' letter, together with an accompanying table, be printed in the RECORD.

There being no objection, the material was ordered printed in the RECORD as follows:

OCTOBER 6, 1972.

Senator JENNINGS RANDOLPH,
Chairman, Public Works Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: As you know the Board of Trustees of the Kennedy Center appreciate that the Committee requested the report by the Comptroller General concerning "Financing and Operations of the Kennedy Center for the Performing Arts." This report, dated August 8, 1972, followed the Board of Trustees' expression to the Committee in hearings in December, 1971, of the critical need for additional construction funds, either from public or private sources.

The Trustees indeed welcome the comprehensive review of the General Accounting Office of our operations; we have had a close relationship with GAO over many years, hold their views in high regard, and have sought their counsel on numerous occasions. While reviewing the many difficulties in the early months of the Center's operation, which we have acknowledged in the past, the report confirms that the Trustees have taken action, at times drastic action, to put the Kennedy Center on a sound operational basis. We are confident today that with the changes in personnel, procedures, and auditors, the Committee would agree that our operations are conducted on a sound professional basis and our start-up difficulties generally have been overcome.

It should be pointed out, however, that a number of our problems were caused by our immediate success. We have exceeded all estimates for the first year's usage of the Kennedy Center. In a year of theater crisis, we have presented in the three theaters approximately 875 performances during the first year of operation. We have had a total of approximately 1.6 million attend performances, of which 75,000 received reduced price tickets to encourage use of the Center by students and those of all income levels. We have handled an estimated 2 million visitors to the Center, and the Kennedy Center stands second only to the Capitol of the United States as a tourist attraction for Americans and foreign visitors who come to Washington. I think the Congress has every reason to be proud of what it has accomplished, and we on the Board of Trustees feel we have fulfilled our mandate for operation of the Center.

There are several matters raised by the GAO Report, which I feel merit additional comment to avoid misunderstanding. I will, however, avoid any discussion of minor discrepancies between our views and those of GAO.

1. With respect to construction costs the GAO Report shows that $24,500,000 was furnished by the Trustees for construction purposes, which is $1½ million more than the Government matching grant called for, not including the $1,200,000 for land acquisition and the cost of the first concept by the architect. The contribution of the Trustees to the project does not include administration expenses, and the costs of planning and other items of operation over the 14-year period since the Act was enacted by Congress, which amounted to at least $3½ million. Thus, the Trustees have furnished for the purpose of completing the Kennedy Center at least $6 million more than the $23 million matching grant.

In considering the construction difficulties encountered by the Board of Trustees, the Committee should take into account the procedures followed by the Board in construction. Supervision of design and construction of the building—which is a "public building"—was required to be placed under the aegis of the General Services Administration, as agent for design and construction. This agency, which directs much of the Federal Government's construction, ensured that the structure was built in accordance with generally applicable federal standards and with the best construction expertise available. During the construction of the Center, the GSA has been paid fees of close to $1 million for its services. The general construction contractor was John McShain, Inc., which was paid a fee plus reimbursement for all expenses, on a cost-plus-fixed-fee basis, practically all subcontracts were all let by competitive bid. The procedures followed were approved by the Senate and House Public Works and Appropriations Committees and by GAO. The architect was the internationally known Edward Durell Stone, who used the engineering firm of Syska and Hennesey (engineers of the structural work on Lincoln Center).

Thus, the Trustees depended on the figures supplied by this experienced group of experts. We had regular project review meetings with them and had every reason to expect their estimates would be accurate. Further, our Building Committee and Executive Director of Engineering constantly review the progress of construction. In 1969, $66,400,000 was the estimated cost of finishing the building and was based upon data review by the GAO. The figures presented to your Committee and Congress have always been based on reports from the experts mentioned above.

Some reference appears in the report to the additional and unexpected costs incurred by the Board of Trustees after Congress authorized appropriations and borrowing in the amount of an additional $12.5 million in 1969. It was not anticipated at that time that the contractor and its subcontractors would subsequently assert delay damage claims, totalling $6.1 million, resulting from alleged mistakes of the architect, of the general contractor, of the Trustees, and of GSA in the preparation and administration of the construction contract. These claims only surfaced in January 1970 and reached a head in October 1970 when the mechanical and electrical subcontractors walked off the job, claiming that they were entitled to substantial delay damages. These two subcontractors walked off the job at a critical point, when the building would have been left exposed to the elements had they not returned before the onset of winter weather. At that point the Trustees were faced with the prospect of a cessation of building activities while litigation ensued. Expert advice given to the Trustees at that point indicated that rapidly accelerating building costs could result in an additional $10 million construction cost if a prompt settlement were not reached with the two subcontractors. On this basis, it clearly seemed prudent to settle the claims of the two subcontractors, even though we did not agree with their position. The result was the payment of approximately $2.2 million in delay damage claims. In addition to the $2.2 million paid to the two subcontractors referred to above approximately $150,000 in additional delay claims has been settled in order to keep the job progressing to its substantial completion in October 1971. The payment of these claims is directly responsible for the shortage of funds of the Trustees with which to make additional payments to contractors of approximately $2.4 million.

Appended to this letter for your information is a chart showing the steep escalation of building prices during the years of the Center's construction, which will throw further light on our problems. It can be seen that any delay in construction resulted in appreciable increases in costs which all construction sustained and which could not have been foreseen by our experts. Also attached is a summary of the cost of our facilities compared to those of Lincoln Center, on both a square foot and cubic foot basis. It shows our actual costs as two-thirds of Lincoln Center without any adjustment for the escalation of prices since the completion of their buildings. These figures were furnished by Col. William Powers, who supervised construction for the Lincoln Center, as he did for most of the construction of the Kennedy Center.

2. A reference is made in the GAO Report to a lease-purchase agreement on both the seating and carpets. Since these items were essential to our operation, and funds were not available to complete payment of the purchase prices, the only solution at the time was to finance them on terms customary in the trade. Many finance companies were contacted, and we, of course, took the best bids, which, considering the high interest rates the Government and large corporations are paying for money, were not excessive.

3. As to the parking concession, the report states that we could have entered into a more favo. .ble contract if we had not required an advance. In retrospect this might be true, but at the time, due to the escalation of construction costs, we needed an advance against rental to cover these increases. There were only two companies that were willing to make an advance. The other bids were for management contracts.

Inflation, which has resulted in greatly increased interest rates, has credited difficulties with respect to repaying the Government loan. As stated in the GAO Report, the original feasibility study for the garage was based on a 3% interest rate on the Government loan. But the rates at the time the financing was secured were nearly double this 3% rate. Of course, this makes repayment of the debt difficult. Further, the conclusions of GAO are based on existing parking rates; if the rates are increased in the future, the GAO conclusions would have to be modified.

4. With specific reference to Chapter 6 of the GAO Report, which reviews the problems in management of Center operation, the Trustees recognized its management difficulties soon after the commencement of the Center's operations. We are confident that the initial shakedown of our operation has resulted in a tight operation which compares favorably with that of other performing arts operations in the country.

The budgeting process of the Kennedy Center at the beginning of its operations was difficult to initiate. The Trustees had no experience on which to base the operation of three new theaters. Nevertheless, budgets were prepared, though they were not always met. The Committee should be advised that in their June, 1972, meeting the Board of Trustees adopted what we consider to be a realistic budget. The budget was prepared by our new Comptroller, who worked very closely with the Center's Finance Committee, which was established at the Board's Annual Meeting in January. This budget was premised on actual operating experience and reflects a good understanding of the costs which we can be expected to incur in the future.

I do take exception to the statement in the Report that the Center did not know the total costs relating to the operation of the theaters. I have been connected with the operation of many theaters for the last twenty years and can, within an hour of inspecting figures, tell whether the theaters are being operated correctly and at the right costs. It was from my experience in this field that I discovered many expenditures that were high, especially in the well publicized case of the stagehands. As a result, we immediately started negotiations with the Stagehands' Union to secure release from inefficient work rules; and eventually, with the help of our Executive Director for the Performing Arts, secured a very favorable reduction in cost.

5. With reference to difficulties which the Kennedy Center had in its beginning months with the box office operations, there were unfortunately very few experienced box office personnel available in the Washington area because of the lack of theater activity prior to the opening of the Kennedy Center. The result was poor service for the public and inadequate controls. During the past five months, however, most of the problems in our box office operations have been resolved, albeit with some difficulties encountered even today. Generally, GAO's criticism of our early auditing procedures is justified. To solve this problem we retained the CPA firm of Lutz and Carr, experienced in theater auditing, to assist us in revising our box office procedures. This revision has been effected, and we are confident that the procedures now followed are beyond criticism.

6. Chapter 8 on Theater Operations reflects some misunderstanding about the operations of the three theaters at the Kennedy Center.

First, as to the rental agreements on the theater, we have two arrangements for both the Eisenhower Theater and the Opera House. In the Eisenhower Theater, a non-profit institution may rent the house for $10,000 a week, with only the front-of-the-house supplied by the Kennedy Center. The Opera House is rented for $15,000 a week on the same basis. I do not recall any weekly bookings in the Concert Hall, and it is usually rented on a per performance basis, except in the case of the Washington Performing Arts Society and the Washington National Symphony. These are both local non-profit organizations, have financial difficulties of their own, and rent the halls at the same rent they paid at Constitution Hall, which is quite low.

The greatest confusion occurs where the report lists the results of productions on page 62. GAO's figures are not helpful in describing the results of theater operations. For example, there is no explanation of what is meant by "production expenses". When the Eisenhower Theater and the Opera House are rented to outsiders, each arrangement is usually different. The results of negotiations depend on whether the production wants our theaters or we want the production. Generally speaking, on all outside bookings there is a minimum guarantee against a percentage, which in the case of the Eisenhower Theater is usually 25%. In the Opera House the minimum is usually from $35,000 to $20,000 against a percentage, depending on the number of stage hands, advertising, take-in and take-out, etc. There are no so-called "production expenses," except in the case of those productions presented by the Kennedy Center itself. Nevertheless, the GAO Report designated many expenses as "production expenses" for attractions which the Center did not produce. I am at a loss to understand what is meant by the report.

7. The Trustees have formed a non-profit corporation called Kennedy Center Productions, Inc., to underwrite the cost of new plays and musical comedies, the performances of which are important to the Center. Also, so far as possible, the corporation will assist in sharing the cost of essential cultural and public service operations, such as opera and ballet. All profits, if any, will be turned over to the Kennedy Center, but all losses are borne by the Trustees and other public-spirited individuals. It is hoped that the Production Company will provide a means for raising funds for creative and innovative programming from Foundations, corporations and others, which would not be otherwise available.

The financial relationships between Kennedy Center and the Production Company vary in individual cases, depending upon circumstances, but the general pattern is as follows: from the proceeds of the ticket sales for the run of a production, Kennedy Center first retains the operating expenses of the production which it has advanced; it next retains its rental charge which is the same as that charged to any other non-profit tenant, ($10,000 per week for the Eisenhower Theater and $15,000 per week for the Opera House); any surplus income is returned to the Kennedy Center Productions, Inc., to reimburse it for its actual expenditures in connection with the production; any surplus is available for the underwriting of other attractions, some of which might have built in losses such as opera and ballet.

8. GAO failed to take into account the fact that the Trustees made a conscientious decision to expend funds for a suitable inauguration of the Center in September 1971. Instead, the GAO lumped the operation of ARIODANTE and MASS into the general theatrical operations of the Center. The

opening festival budget included $350,000 to produce MASS and $150,000 for ARIODANTE. MASS was to run for eleven performances and ARIODANTE two. No one could possibly expect to recover these funds, but this was an expenditure regarded as worthy of the vision of the Congress and the Presidents of the United States who created the Kennedy Center. None of the well-known art centers in the country have opened with the acclaim and artistic approval received by the Kennedy Center. Fortunately, there will be some recovery from the $500,000 allotted to these productions, because we still have the sets and costumes of both productions, which are worth $100,000. This should have been capitalized as an asset to offset the expenditure. Also we are entitled to revenue from the album sale and royalties from any productions from MASS that are done over the next decade. At the moment, productions of MASS are being planned all over the world, and there should be considerable revenue coming in.

Despite a chaotic season experienced throughout the country in the American Theater, during the first year's operation of the Kennedy Center, the Eisenhower Theater will have been occupied all but three weeks; this does not include the two weeks devoted to the University Theater Festival sponsored by the Kennedy Center, which during the two-week period presented the ten best productions selected from 335 university theaters throughout the country. The Eisenhower Theater, with the exception of the public events, has averaged $12,000 a week in gross income, which is a better result than that of any comparable theater in the country. Most recently, we have used the three theaters during the last week in August and the first week in September for a grand opening of a music festival called "The Old and the New in Music," to great critical acclaim. It showed a deficit as expected, and did not bring in any rent.

The Opera House had a similar successful season and was occupied each week to the middle of August, when it was necessary to replace light bulbs and perform cleaning tasks. Because most of the tenants were non-profit institutions, there was an average of $15,000 a week of gross income in this theater.

With the results mentioned above, the Trustees feel that we have successfully fulfilled the mandate of Congress to "present classical and contemporary music, opera, drama, dance, and poetry from this and other countries" and to "develop programs for children and youth and the elderly."

In conclusion we appreciate the attention which the Committee has given to the difficulties as well as triumphs experienced by the Kennedy Center during its first year of operation. We trust that with the continued support of Congress we can overcome the obstacles which remain to our continued financial viability and we can continue to provide leadership for the nation in the performing arts.

Sincerely,

ROGER L. STEVENS,
Chairman.

COMPARATIVE COSTS OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

	Date completed	Square feet	Cubic feet	Cost	Dollars per square foot	Dollars per cubic foot
Philharmonic Hall[1]	1962	230,000	4,620,000	19,270,000	84.00	4.17
New York State Theatre	1966	295,000	5,170,000	19,540,000	66.00	3.78
Metropolitan Opera[2]	1967	554,000	12,200,000	46,340,000	84.00	3.80
J.F.K. Center[3]	1971	1,500,000	27,100,000	[4]70,000,000	46.67	2.58

[1] The Philharmonic Hall was substantially completed in 1962. Since that date construction costs have escalated more than 70 percent.

[2] (1) Buildings in Lincoln Center serviced by Central Mechanical Plant which cost $3,500,000 additional. (2) The Metropolitan Opera was substantially completed in 1967. At this time the Kennedy Center was in its earliest construction phase. The cost of construction escalated some 50 percent between 1967 and 1971.

[3] Cost of construction escalated more than 25 percent between the last hearings in 1969 and 1971 when the Kennedy Center opened.

[4] Estimate.

SEPTEMBER 15, 1972.

Mr. ROGER L. STEVENS,
John F. Kennedy Center for the Performing Arts, Washington, D.C.

DEAR MR. STEVENS: In reviewing the G.A.O. report on the finances and operations of the Center, I would like to point out that "Production Expenses" as used by the G.A.O. on page 62 of the report is not used in accordance with the generally accepted theatrical useage of the term.

Most of the events shown were not productions of the Center and merely represented rentals of the various houses on either a straight rental, or percentage rental arrangement. I do not know what the G.A.O. considered a "Production Expense" in these rental situations.

Sincerely,

WILLIAM B. HERMAN.

M. E. HARRINGTON BACKS PRESIDENT IN LETTER TO LIGGETT & MYERS STOCKHOLDERS

Mr. GURNEY. Mr. President, in 1971 Congress provided that communications between corporations and stockholders and between union leaders and their membership would not be covered as a "contribution or expenditure" under the Federal election statutes.

The labor movement has, as it justly should, exercised this right. But, the business community has declined the opportunity to take advantage of this change by publicly expressing a preference for candidates, thus abdicating an important opportunity to be heard.

Such was the case, at least until M. E. Harrington, president of Liggett & Myers, Inc., came along.

Over Mr. Harrington's signature, Liggett & Myers, the Nation's 212th largest corporation, has sent its 45,000 stockholders a letter endorsing President Nixon's reelection. In the letter, Mr. Harrington states:

> I have been impressed with what I consider to be the basic soundness of the Administration's position in the economic, foreign relations and international trade areas insofar as they affect this corporation.

When these areas are compared to the positions of the Democratic nominee, Mr. Harrington concludes, these "are rightly matters of interest to you as stockholders."

Mr. President, I make this statement on this occasion for two reasons: First, to commend Mr. Harrington on his choice for President. Second, to salute him as a businessman who is willing to stand up and be counted by taking advantage of a right that Congress gave him and to lead the way for his colleagues in the executive suites to follow.

I ask unanimous consent that the New York Times article of October 11, discussing Mr. Harrington and his actions, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 11, 1972]

HEAD OF LIGGETT & MYERS BACKS NIXON IN LETTER TO STOCKHOLDERS

(By Ernest Holsendolph)

In a rare move among corporate executives, the President of Liggett & Myers Inc. has denounced the Presidential candidacy of Senator George McGovern and endorsed the re-election of President Nixon in a letter sent to 45,000 company shareholders.

M. E. Harrington, president of the New York-based company, criticized what he called Senator McGovern's "misunderstanding" of the business community. He said the Democratic nominee's election to the Presidency would likely result in a tax increase of $16 billion for individuals and businesses.

In previous years, election laws prohibited the "contribution or expenditure" by corporations in connection with elections, but an amendment passed by Congress last December permits electioneering in corporate communications to stockholders and communications between union leaders and their membership.

FIRST TO USE AMENDMENT

Liggett & Myers, which ranks 212th on Fortune's list of the nation's largest industrial companies, is believed to be the first to take advantage of the new law.

Mr. Harrington warned, in a letter mailed last week, that corporate income taxes could increase 25 per cent, "much of which would be used to support ill-conceived social goals."

Concerning Mr. Nixon, Mr. Harrington said:

"As chief executive officer of a large, diversified corporation, I have been impressed with what I consider to be the basic soundness of the present Administration's posture in the economic, foreign relations and international trade areas insofar as they affect this corporation."

Mr. Harrington continued:

"I am disquieted with the varied approaches of Senator McGovern whose program, if elected, appears to be based on a misunderstanding of the business community and its historical objectives of increasing gross national product, productivity, employment, and profit for the benefit of the investing public.

"These factors, and others, such as the treatment of depreciation, investment credit, individual gift and inheritance taxes are rightly matters of interest to you as stockholders, who would be among the first to feel their impact."

LAND USE CONFERENCE

Mr. MATHIAS. Mr. President, on September 18 I reported to the Senate a summary of the findings of a Land Use Conference held in Columbia, Md., as well as a partial list of invitees to that conference.

At this time I wish to complete the register of those in attendance, so that the full scope of the conference may be recognized.

I therefore ask unanimous consent that a list of names of Marylanders who attended the Land Use Conference be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Ralph Bitely, Chief, Wildlife Management, Maryland Department of Natural Resources, State Office Building, Annapolis, Md.

A. R. Bond, State Forester, Department of Natural Resources, State Office Building, Annapolis, Md.

Alvin Bowles, Bureau of Air Quality Control, Maryland State Department of Health, 610 N. Howard Street, Baltimore, Md.

Mrs. Charles Broderick, Glyndon, Md.

David L. Brown, The Marriott Corporation, 5161 River Road, Washington, D.C.

Joseph K. Burton, 6561 Bock Terrace, Oxon Hill, Md.

Donald O. Buttermore, Westinghouse Electric Corp., Box 1488, Annapolis, Md.

Eldon M. Chorney, The Rouse Company, Exhibit Building, Columbia, Md.

Jack Clifford, P.O. Box 67, California, Md.

Edward F. Connor, 7903 18th Avenue, Adelphi, Md.

John Capper, Deputy Adjutant, Chesapeake Bay Affairs, State Office Building, Annapolis, Md.

James M. David, Office of Planning Coordination, Courthouse, Upper Marlboro, Md.

Jeanne Davis, 10308 Crimson Tree Court, Columbia, Md.

Ann Marie DeBiast, Bureau of Air Quality Control, Maryland State Department of Health, 610 N. Howard Street, Baltimore, Md.

Eva Dieke, 38 Palmer Green, Baltimore, Md.

Sally Dieke, 38 Palmer Green, Baltimore, Md.

Mrs. Emory Dobson, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Allan M. Eddy, Bureau of L.A.S.H.A., Room 225, Brooklandville, Md.

Virginia J. Edwards, 5367 Storm Drift, Columbia, Md.

Richard W. Emory, Jr., Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Richard W. Emory, Jr., Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. W. G. Fastie, 220 Valley Road, Owings Mill, Md.

Mrs. Judson C. French, 1207 Azalea Drive, Rockville, Md.

Myron Goldberg, Maryland Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Md.

Mrs. J. Edward Hamel, 5128 Elliots Oak Drive, Columbia, Md.

Johnston N. Hegeman, R.D. 1, Box 240, Cool Spring Road, Bel Air, Md.

Donald Hildebrandt, Land Design Research, 316 Teachers Building, Columbia, Md.

H. Lee Hoffman, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Melvin L. Hughes, Sr., 2122 Park Beach Drive, Aberdeen, Md.

Wayne Hunley, Land Design Research, 316 Teachers Building, Columbia, Md.

Theodore H. Ifft, USDA Soil Conservation Service, Room 522, 4321 Hartwick Road, College Park, Md.

Stuart Janney, III, State's Attorney's Office, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Mrs. Randolph W. Jones, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Clarence J. Kern, Route 3, Box 182, Denton, Md.

Tom Kierzkowski, Whitman Requardt & Associates, 1302 St. Paul Street, Baltimore, Md.

Kenneth Landry, Land Design Research, 316 Teachers Building, Columbia, Md.

Randy H. Lee, State's Attorney's Office, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Judy Leonhard, 5862 Morningbird Lane, Columbia, Md.

Donald G. Lofgren, 25 Crescent Road, Greenbelt, Md.

Henry R. Lord, Deputy States Attorney, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Dr. Norman H. MacLeod, Code 652, Goddard Space Flight Center, Greenbelt, Md.

William Mangels, Bureau of Planning & State Highway Adm., Room 200, 1123 N. Eutaw Street, Baltimore, Md.

Michael Nawrocki, Hittman Associates, Box 810, Columbia, Md.

J. Michael Nethery, USDA Soil Conservation Service, Room 522, 4321 Hartwick Road, College Park, Md.

Wilson E. Nolan, 100 Chinquapin Round Road, Annapolis, Md.

Cy Paumier, Land Design Research, 316 Teachers, Columbia, Md.

Minny Pohlmann, R.D. 1, Dickerson, Md.

J. Frank Raley, P.O. Box 67, California, Md.

Mrs. J. Frank Raley, P.O. Box 67, California, Md.

Mrs. Lucile Roeder, 808 Trost Avenue, Cumberland, Md.

Mrs. Florence Rogers, 7800 Seven Mile Lane, Pikesville, Md.

Chuck Shaw, Land Design Research, 316 Teachers Building, Columbia, Md.

Harry W. Staley, Route 3, Box 64A, Westminster, Md.

John W. Stout, Jr., Baltimore Gas & Electric Company, 7017 Kenleigh Road, Baltimore, Md.

Christopher Tabor, Middle Patuxent Valley Association, Columbia, Md.

Mary Vincett, Baltimore County.

Mrs. George S. Wills, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Jean Worthley, Baltimore County.

Mrs. J. M. P. Wright, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Robert W. Ziehm, Howard County Soil Conservation Service, 9051 Baltimore National Pike, Ellicott City, Md.

George Siehl, Environmental Policy Division, Library of Congress, Washington, D.C.

Stanley G. Lemon, Chesapeake Instrument, Shadyside, Md.

Carl Tenner, Arundel Center, Annapolis, Md.

D. F. Tuthill, Department of Agriculture Resources and Economics, University of Maryland, College Park, Md.

Dr. Sidney Ishee, College of Agriculture, University of Maryland, College Park, Md.

Louis R. Van deVelde, IBM Federal Systems Division, 18100 Frederick Pike, Gaithersburg, Md.

Kenneth H. Steward, Engineering & Design Division, Maryland-National Capital Park & Planning Com., 8787 Georgia Avenue, Silver Spring, Md.

Hedley Clark, West Street, Annapolis, Md.

Mary Ellen Bay, Uniontown Historical District, Route 5, Westminster, Md.

SENATOR CHARLES H. PERCY'S 1972 ANNUAL REPORT

Mr. PERCY. Mr. President, I am pleased to submit to my Illinois constituents my sixth annual report on the legislative activities of Congress since assuming my seat in the U.S. Senate.

As the 92d Congress prepared to adjourn, it could look back upon an important list of accomplishments.

In March, President Nixon signed into law the bill establishing the Special Action Office for Drug Abuse. I was privileged to act as Senate sponsor of that measure, which is now an important weapon in our fight to cut down crime.

In May, the President signed into law a program providing important new benefits for miners, including thousands of Illinois miners, who have been disabled by black lung disease. In the field of transportation, $225 million has been authorized to enable Amtrak to continue its efforts to improve and expand rail passenger service throughout the United States.

The Higher Education Amendments Act, passed in June, provides new programs to assist colleges and universities, and their students. The measure includes grants for students from families with incomes below a certain ceiling, as well as emergency assistance to schools experiencing severe financial difficulties.

The 20-percent social security increase and the new cost of living escalator, both of which I cosponsored, head a series of important improvements enacted for our Nation's senior citizens.

The ceiling on retirement earnings was raised and widows will now receive the same pensions as their husbands, instead of 82.5 percent, as under the old law.

Also established were minimum benefits of $200 a month to individuals and $300 for retired couples who have paid social security taxes for 30 years, regardless of their levels of working income; and my proposal to have all but $1 of the cost of all drugs prescribed for illness covered under medicare was adopted.

My continued efforts to improve conditions in nursing homes and other long term health care facilities for the aged were marked by the adoption of two of my amendments. One authorizes $17.5 million over 3 years to develop programs to train nurses aides and orderlies; the other authorizes projects to rehabilitate elderly patients by encouraging them to join in activities and generally take an interest in their surroundings.

My proposal to create a special assistant to the Secretary of Housing who would be concerned principally with housing for the elderly is now a reality, and my bill to authorize half-fares on airlines for the elderly was approved by the Senate as the session prepared to end.

I was disappointed, however, that, after 3 years of intense discussion and debate, the Senate decided it was not yet ready to accept a complete overhaul of our disastrous and chaotic welfare system. Instead, it voted late in the session to test, over a 2-to-4-year period, three different welfare plans:

The President's original welfare reform plan, which would establish a nationwide, uniform Federal welfare system granting a minimum living subsidy to the poor—$2,400 a year for a family of four.

The Senate Finance Committee's "workfare" proposal, which would make any parent of a school-age child ineligible for welfare. Instead such parents could get a guaranteed Federal job at $48 a week with possible supplements raising it to $69 a week.

A third welfare reform plan which would establish a nationwide, uniform Federal welfare system granting a minimum living subsidy to the poor—$2,600 a year for a family of four.

This test approach was adopted largely because no single welfare reform plan won enough Senate support for a majority.

However, a number of important welfare changes were adopted, including a tax rebate of about 10 percent for low-income workers; an $800 million authorization to establish child-care facilities so that mothers on welfare can take jobs, and federally guaranteed minimum monthly incomes for the aged, the blind, and the totally disabled of $130 a month for individuals and $195 a month for couples.

The American consumer suffered a serious setback in the final weeks of the 92d Congress when the most important piece of consumer legislation ever presented before it was filibustered to death in the Senate.

As a principal author of this measure, which would have created an independent Consumer Protection Agency, I was deeply disappointed that a small group of Senators could prevent the Senate from acting upon legislation it had overwhelmingly approved in the previous Congress, and which the House resoundingly passed earlier this year.

This bill, representing more than 2 years of refinement and improvement over previous measures, provided a well-balanced program designed to safeguard consumer interests while protecting the rights of the vast majority of responsible businessmen. It was supported by Montgomery Ward and its parent company, Marcor, Inc., as well as by groups representing consumers and by the American Bar Association and the American Trial Lawyers Association.

The Consumer Protection Agency's principal functions would be to represent consumer interests in proceedings before Federal agencies and courts; conduct surveys and research on consumer matters, disseminate information on developments of interest to consumers, and provide grants for consumer research programs.

Essentially, the Agency would act as an advocate for consumers in the halls of government where, too often, the regulatory agencies created to act as watchdogs of industry, have instead become their lapdogs.

Although another 2 years of effort apparently have gone down the drain, too many people from all walks of life—Government, business, and the public—have invested too much time, energy, and effort in this bill to permit it to be written off for lost. This legislation will be actively pursued in the next Congress, until it is successfully passed and signed into law.

The revenue sharing bill enacted by Congress represents a far-reaching innovation in our system of supporting local public services, and embodies the principles of legislation I sponsored when I first came to the Senate. The historic measure we adopted earmarks $30.1 billion in Federal income tax revenue over 5 years for States and localities to enable them to deal with local needs and priorities.

Distribution of the funds is based upon the calendar year and is retroactive to January 1, 1972. The 1972 allocation is $5.3 billion, of which Illinois' share is $274.6 million, third highest in the Nation. The State will receive $91.5 million, while $183.1 million is distributed among the counties, cities, townships, and villages. For calendar 1973, Illinois will receive an estimated $309 million, with about one-third going to the State and the rest to localities.

These funds will provide an important source of revenue for local governments, which bear the brunt of our more difficult domestic problems, and are passed to the limit to meet the rising costs of vital public services.

In January 1972, I held in Carbondale the first official hearings by a Senate committee in southern Illinois in decades, and the first ever on revitalizing life in rural America. A few months later, the landmark Rural Development Act was signed into law by President Nixon. This legislation is designed to help make rural America a better place in which to live and work, and to make rural living more attractive for young families.

Briefly, this measure expands credit facilities for family farms, and provides for loans to small rural businesses. It also provides Federal funds for more municipal services and facilities, with particular emphasis on housing, and on water and sewage disposal systems, which are vitally important in attracting industries, and the jobs they create, to rural areas.

In this session, there was a determined move to reassert congressional authority and to accept congressional responsibility in the field of foreign policymaking. The Senate passed historic legislation, which I cosponsored, to delineate more clearly the executive-legislative relationship as it relates to war powers. The bill, which had broad conservative and liberal support, provides that American troops cannot be involved in future combat for longer than 30 days without congressional agreement. This would not impair the authority of Presidents to respond to instant threats to our security, but would be a deterrent to undesirable wars which are not generally considered to be vital to our national security interests. The House did not agree to this bill, but the groundwork has been laid for enactment in the next session.

Both Houses did agree to ratify the Strategic Arms Limitation Treaty on defensive nuclear weapons and to accept the executive agreement on offensive nuclear weapons. These accords, finally negotiated by President Nixon and Chairman Brezhnev in Moscow, set the stage for further negotiations to limit the strategic arsenals of the superpowers, thus curtailing the arms race, increasing chances for peace and hopefully releasing billions of dollars annually for domestic needs in both countries. I strongly supported the concept and worked closely with the Arms Control Agency both here and abroad as a member of the Senate Foreign Relations Committee.

Twice the Senate approved amendments to end American participation in the Vietnam war, but in one case the parent bill was defeated and in the other, the Senate-House conference committee killed the end-the-war amendment. As the session drew to a close, another effort was defeated narrowly. I voted for all three measures, which called for an end to the war 4 months after all our prisoners were returned and we had been given a full accounting of those Americans missing in action. I also was a cosponsor of the resolution urging all nations to bring pressure on North Vietnam to release our prisoners.

The Senate passed a foreign aid bill in late September which reaffirmed our support for the military and economic needs of the State of Israel, provided vital military assistance to our allies, and earmarked $5 million for the care and welfare of South Vietnamese children who are victims of the war. I supported all efforts to responsibly reduce unnecessary foreign aid and to move toward programs of multilateral rather than bilateral aid programs, thereby sharing costs with other developed countries.

While this session of Congress recorded significant advances in many areas, the list of problems requiring urgent attention remains long.

A high priority item must be a renewed effort to reform our costly and wasteful welfare system. We simply cannot afford to continue throwing good money after bad in obsolete programs which have signally failed to do the job. The cost, in budgetary terms as well as in wasted human lives, is just too high.

I believe that Congress also will focus its attention next year on tax reform and the need to develop some system of comprehensive health coverage.

Congress will continue its investigation by the Inter-Governmental Relations Subcommittee into the impact of local real estate and personal property taxation. While Congress cannot legislate directly in this area, it can offer incentives to encourage States to reform their property tax systems to make them more efficient, impartial, and equitable.

Soaring costs of public services accompanied by constantly rising tax bills have led to an understandable "taxpayers revolt" over systems that are unwieldy, archaic, and riddled with favoritism. It is imperative that something be done, and I am confident that Congress will develop a program to help alleviate tax burdens on such groups as the elderly and the poor for those States which undertake to revamp and modernize their tax systems.

In the field of health care, costs are skyrocketing to where even members of middle income families cannot afford to become ill. Fully 20 percent of all Americans have no health insurance of any kind, and the problem is especially serious among low-income families. Though medicaid was established to provide benefits for the poor, it has reached less than half of those it was designed to serve. At the same time, costs of both medicaid and medicare have far out-stripped estimates, and many beneficiaries have complained of long delays, poor service and bureaucratic snarls in their efforts to have claims validated and paid.

A variety of health insurance proposals have been introduced, ranging from some which would establish a monolithic Federal health insurance scheme, which I oppose, to others which would minimize Federal participation and rely heavily on private carriers.

Last year I introduced jointly with the minority leader, Senator Hugh Scott, a bill to establish a single unified health care delivery system available to all Americans on a voluntary basis.

It would provide financial protection against catastrophic illness by covering all costs above a certain ceiling determined by a formula which considers both family income and family size. I consider this essential to any health measure that is developed in the Congress.

This bill, which also provides coverage for comprehensive outpatient care, combines the resources of both the Federal Government and private enterprise in a pluralistic system in which all participants would pay at least something for their health protection.

Another area of congressional concern promises to be trade legislation, especially as prospects for improved relations with Russia and China offer the possibility of increased trade with those nations. A whole range of trade restrictions that developed during the cold war will now have to be carefully reviewed.

At the same time, efforts undoubtedly will continue to formulate new restrictions, as a way to meet rising competition from overseas and rectify our balance-of-payments deficit. The Hartke-Burke bill, in particular, is designed to curb the activities of American corporations with extensive overseas operations, in the mistaken belief that these facilities abroad are taking jobs away from American workers at home.

Based upon first hand experience of more than 25 years as a business executive, I can say flatly that this kind of legislation will not improve domestic employment, but in fact will undermine seriously the very sector of our economy that has consistently led in the creation of new jobs here.

The way to meet competition of imports is not by erecting higher tariff walls and throttling down our economic engine, but by assisting, through measures such as the Trade Adjustment Assistance Act I introduced this year, those communities and companies which have been hard hit by international competition.

This measure would make available Federal grants and loans to retrain, for employment in other industries, workers who have lost their jobs because of overseas competition. It also would provide assistance for hard-hit companies to adjust into other lines of endeavor, and to help communities that depend heavily on an import-hit industry to attract new business.

The priority list on the national agenda is considerably longer, but I have sought here only to offer a highlight of what I consider will be leaders among the many legislative proposals that will emerge next year.

Before closing this sixth annual report, I would like to thank all of you who have taken the time to express your thoughts and suggestions throughout the year. Your letters and telegrams constituted a very important source of information and guidance for me. I have enjoyed meeting with many of you during my frequent visits in Illinois, and in Washington. I appreciate your support and encouragement, and hope that the year ahead will bring you good health, happiness and prosperity.

THE EFFECTS OF FEDERAL OVERSPENDING

Mr. GURNEY. Mr. President, the American public's concern about the effects of Federal overspending is now being felt throughout Congress. This stimulus has resulted in a number of proposed solutions to provide coordination and restraint to congressional spending, some of which we will be discussing today as we consider the debt ceiling bill.

One approach to the problem has been proposed by the distinguished junior Senator from Tennessee (Mr. Brock). His bill provides that Congress account for the Nation's priorities in developing its own proposed budget. The bill has been referred to the Committee on Government Operations.

Mr. President, I ask unanimous consent that a transcript of the U.S. Chamber of Commerce's program, "What's the Issue," which explains the thrust of S. 3894, be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

What's the Issue?

(Chamber of Commerce of the United States Public Service Radio Program, MBS "Brock Bill to Control Spending" October 5, 1972)

Mr. Booth. The cost of government is literally eating the country out of house and home. In 1970, Americans spent $14 billion more for government than for food, clothing and new cars combined. The cost of running the Federal Government has increased by ⅔ from 1958 to 1971. It's frightening to think that the cost of government is still on the increase with no let-up in sight.

You may ask how can we do all of the things we're trying to do for people without adding more millions of dollars to the cost of government. Well, there may be some answers to that question and we've asked Sen. William E. Brock of Tennessee to discuss them with us. Our reporter today is Frank van der Linden of the Washington bureau of the *Nashville Banner*. I'm Arch Booth of the Chamber of Commerce of the United States.

Before we begin the general questioning, Sen. Brock, how did we get into this fix, if that's a fair question? Why isn't it that the Federal Government can't be under better control than it is today?

Sen. Brock. Well, I think in the first place, let's don't start taking the easy route of criticizing government for some evil intent. I don't think there was any malicious desire to create the problems we have in this country. I think it just sort of happened. We, since World War II, have had so many problems thrust upon the government and the people in this country that we responded to each in a piece meal fashion. And the government has sort of grown like Topsy. It's grown at an uncontrolled and unmanaged fashion so that today when an appropriations bill is presented to the Congress where we are trying to solve a particular problem, we have no mechanism in the Congress with which to evaluate that program in its relationship to things that are already going on in other programs. We don't have any method of evaluating its impact financially, fiscally, monetarily—its impact on the consumer and the taxpayer. As a result, we have situations where families can qualify for federal assistance under 16 different federal programs.

That means, in effect, that nobody knows who's qualified or who's not. That means also that people in some instances are getting money that they should not get; other people who really need help are not getting proper support. We have an audit agency in government which audits our federal programs in terms of dollars and cents, but we have no audit agency in government to measure human impact: What is this program going to do to people or for people? And this is the sort of thing that just must be stopped. The government must become more responsive to the American people or they're going to loose faith in the entire system of government in this free land of ours and I don't think any of us want that.

Mr. Booth. That's a very interesting summary. We've been growing very rapidly—population, economic size and strength and in our demands upon government to do things for us. So you're saying what we need is a better mechanism, a better means of analyzing where we are, where we're going and how all of that relates to the taxpayers. Well, Mr. van der Linden, there it is, so your question is next.

Mr. Van Der Linden. Senator, you've introduced a bill to reform the Congressional budgetary process. Could you tell us just what this bill would do?

Senator Brock. Well, it attempts to address that problem that I mentioned, Frank, of a lack of cohesion and planning at the level of congressional spending. The first thing that it would do is to set up a joint committee on the budget and that means that every bill that comes to the Congress would have to go through that committee first in order to see if it fitted within the overall limitations we have on our money.

There's just so much you can take from the American taxpayer. I think that we're about at that ceiling. I don't think we can increase taxes anymore without breaking the backs of some taxpayers in this country.

So the first thing we say is that a legislative committee that is created here in the bill would review all receipts and expenditures of government and establish broadly the amount that can be spent in program areas. In other words, what they would do, is to establish national priorities. That isn't done today. So we need to do that; we must do it in order to properly evaluate each program that is submitted to us.

Secondly, we require that programs that are going to be passed by Congress not only say how much they're going to spend this year, but how much is it going to cost next year and the following years—for five years. In other words, we require them to project their expenditures out for five years so we will know what the long term impact on the American people will be.

Thirdly, we require a three year limitation on authorizations for all federal programs and what that says is that there are some 1600 federal programs today. Some of them are out of date. Some simply aren't working. But they were authorized years ago and nobody seems to pay much atention to them so they just go on and on and on and cost the people more and more money. We require each agency, each program to come in and be re-evaluated at least once every three years.

Fourth, we require—before a new program

is adopted—that it be pilot tested. Too many times planners in Washington have engaged in social experimentation with the American people as a nation. Not only is it costly, but it's done great human damage to individual citizens and we require that each program that is going to be adopted at some point in the future be pilot tested on a limited basis so that we know whether it's going to work or not.

And finally, we require that the Congress appropriate the money every year—not a long term appropriation. We can give them a long term projection so that there can be adequate planning, but the appropriation should be done on an annual basis.

Mr. Van Der Linden. But as a practical matter, Senator, can this bill which is very idealistic in its aims be passed by this Congress in view of all of the different built-in interests in the old system?

Sen. Brock. That's a fair question. I don't know that it could pass in this particular Congress, but I know that it will pass at some point, hopefully in the next Congress because the American people know the price they're paying. Look at the situation. Today in this country, the average family cannot afford to own a home because the Federal Government has forced the price of housing beyond the reach of the average family. So what they have to do, the average family has to turn to the Federal Government for a subsidy to own a home. Now it's the average person that pays the taxes. It isn't the rich. There aren't that many. It isn't the poor, they don't pay taxes. But the working family in this country pays the taxes. How ridiculous can it be for them to have to turn to us and say, "Give me some of my tax dollars back so that I can even own a home." That's insane.

Mr. Van Der Linden. Would this bill actually result in placing the ceiling on expenditures that the President is asking Congress to do? Would it have that effect?

Sen. Brock. Well, not directly. What it would do is it would say that any expenditure must be considered in light of whether or not: 1. Is it going to create inflation? and 2. Is it going to raise taxes? If it would do one of those two things, then it will have some rough sledding.

Mr. Booth. Let me offer a viewpoint, Mr. van der Linden, to your question to Sen. Brock about whether the public is interested in whether this sort of a bill could be passed or not.

I would like to say that we, in the business community, are certain to have great enthusiasm for the bill which Sen. Brock is introducing. The bill, of course, is brand new. Just being introduced, the public doesn't know about it and the business people of the country don't know about it, but I can safely predict that it's going to have enormous support. We as consumers—as well as taxpayers as well as business people who are trying to run a successful and profit-making business—are terribly concerned about the drift of things in this country and it's easy to see that the bill itself, the five components that Sen. Brock just told you about, will have enormous popularity. The whole question is to get public attention focused on them and that's something that we're going to undertake at the National Chamber. We're going to give this bill all-out support because we think it's one of the finest things that's come along in the fiscal field in many a day.

Sen. Brock. Frank, let me add one point to that too. We hear an awful lot in this country about the alienation and frustration of young people, of minorities—Blacks, browns and all the rest—people who are literally being oppressed by the cost of living today. It's just very difficult for a young man who comes out of high school and goes to work; he gets married and he's got a new baby and he's trying to make payments on a refrigerator—it's getting harder all the time. These young people and I think the working people in this country simply are insisting that government be more responsive to the average citizen—that his voice be heard for a change. It isn't today. This is a government of pressure, of response to the large pressure-point politics that are being played. What we are trying to do in this bill is to make the government more responsive across the board to the needs of all people.

Mr. Van Der Linden. And it's your hope, I would presume, that if you could get Congress actually in control of the budget for the first time that you could weed out the nonessential program and concentrate on the essential ones.

Sen. Brock. Congress is the people's branch of government. Nobody elects the Secretary of Health, Education and Welfare or the Secretary of Housing and Urban Development, but every member of Congress is elected by the people of this country. That's where the voice is loudest and that's why the Congress must get control of the budget process.

Mr. Van Der Linden. Well, would it help in this Committee to have a big and adequate staff for your new committee. It seems to me that the weakness of Congress is that you don't have anywhere near the number of staff people that every federal bureau has. I notice this in Congressional hearings on appropriation bills. You may have a whole platoon of spokesmen for the HEW to testify, for example, for a bill and the Senate committee may have one man to handle it.

Sen. Brock. I'll buy that with limits. I don't want to create a new bureaucracy. We've got too much of that already.

Mr. Van Der Linden. That's true. But I think you do need to have an ability to get your own independent statistics to evaluate these programs and not have to rely on agencies' own statistics which of course are self-serving.

Sen. Brock. Absolutely.

Mr. Van Der Linden. Sen. Brock, you just told us about your bill to try to get some control over the Congressional budgetary process. Could you tell us what you will do now to follow through on this? Will this bill go to a certain committee and you'll have hearings, or just what will happen next?

Sen. Brock. Well, I think two things have to happen. First, I'm going to begin to personally contact my colleagues in the Senate and in the House and try to enlist their support. But probably more important than that, Frank, are things like this program where the general idea is presented to the American people because we need their help. I've been working for Congressional reform ever since I've been in the Congress and I often have said the reason we've had little success was because it was a cause without a constituency.

We must have help on this. The American people must realize that the way government is structured today, it is a government of advocacy, and with all due respect to the Chamber of Commerce, Mr. Booth, I don't see why we have to have a Department of Commerce and Department of Labor. I think that the government should be responsive to the people that work in this country and it should be designed to afford every person in America an opportunity to work and to maximize his own future—his own opportunity.

So we need active enlistment of support in the communities of America across the board. If they start writing their congressmen then we're going to start getting results.

Mr. Van Der Linden. What would you say is the best appeal that you could make to the people? Is this the idea perhaps that if you ever hope to get a roll-back in federal spending and, most important to the taxpayer, a reduction of the taxes that are so burdensome to people that you would find that this is one way actually to say we will get tax reform but we've got to reform the government in order to get the tax reform?

Sen. Brock. I think there are several areas of appeal. First of all, from a negative point of view, I don't know that it matters so much who is in control of the government—whether it's Democrats or Republicans. The way it's being run today, it's out of hand, it is out of control. So, in the first instance, we're going to have higher taxes if we don't do something about government. We're going to have more inflation if we don't do something about government. We're going to have government that is not responsive to the average working citizen of America.

So all of these things can be changed if the American people will get behind this kind of Congressional reform. We can have more economical and yet more workable government. We can have government that really responds to people—that is really people-oriented. We can have government that doesn't cost as much. We can have lower taxes and we can stop this inflation.

But more than anything else, we can put the hands of the people back in the government. We can enhance the voice of the American people, if they want it.

Mr. Booth. Let me offer this thought, Mr. van der Linden, to supplement and underscore what the Senator has said. For years, taxpayers at all levels in all walks of life have worried and complained about federal spending, about how to cut it, and have written to their senators and their congressmen calling for a cut. Now then, there would usually come back this almost unanswerable question: "Well, where would you cut the budget? You just write and tell me where to cut the budget," and they'll send them a picture, maybe, or if it's a personal interview they'll show them the budget which is bigger than the telephone book of most any city in the United States and you're baffled. You feel like climbing the wall.

Now, here's a ray of hope. Sen. Brock has offered this five-point program which he's just explained to us and at long last we can get a handle on this budget and we can have an answer—a constructive, positive answer to this challenge—"Where would you cut the budget?" I think that taxpayers all over the United States and consumers should and will applaud Sen. Brock for this fine five-point program for dealing with the budget. We aren't ever going to see any very cheap government in this country, but it's well-nigh out of control now and he's offering a way to control it.

Mr. Van Der Linden. Do you think that the one-year limit on expenditures might be one of the best features here so that Congress will actually never spend a nickel beyond this and have to come back every year for the money for each program?

Sen. Brock. Of course, I'm caught up in this bill and I'm prejudiced. I believe in it and I think it will work for the benefit of the people. But that's one point Frank. But it's also important that we look almost every year or certainly every year at a certain percentage of our federal programs to see if they're really working for the American people. You know the Senate did something just a couple days ago that was really great. I think. We've got well over a thousand commissions—advisory commissions—that cost the taxpayers millions of dollars in this country and are never reviewed. They just go on and on and on. And my committee just voted out a bill that required every commission to expire at the end of two years which means that if they've done a good job, they can come back and rejustify themselves and we will reinstitute them. But if they're not, we can stop them. That's what I'm trying to do with the federal programs that directly affect the American people as well. And if we can do that, I think we'll all benefit.

Mr. Booth. Again, to have a put-in here, you've asked which is the better of these points. I'd think that would be a hard question to answer. I think each of these five points, Mr. van der Linden, is indispensable. We usually talk about a three-legged stool being an ideal thing to sit on. I've never seen a five-legged stool but maybe Sen. Brock has invented one here. I think here's a five-legged stool which will work and I think it's the way out for us taxpayers in having a way to live with our government and live with our problems and to be sure that our senators and congressmen have a means of coping with an ever growing federal bureaucracy.

Mr. Van der Linden. Of course, the objection is undoubtedly going to be made that you want to cut back on social programs, that you want to starve the schools and starve the poor and all those programs.

Senator Brock. That's a lot of baloney. The thing about it is that we're not spending enough money in some of those very areas—problems of the environment, problems of our schools with the children of this country; they desperately need better educational opportunities. But when you have 10, 20, 30, 40 different programs, all in the field of manpower training, for example, the money isn't getting down. The old trickle-down theory that was established years ago isn't working any more. The money isn't trickling down. It's being shortstopped by an incredibly large and unresponsive bureaucracy.

Mr. Van der Linden. This is one thing you would cut, I would hope.

Senator Brock. Well, I think we very much can.

Mr. Booth. Or consolidate. Here's the Office of Management and Budget which lists 448 assistance programs in education alone and it strikes me that the very essence of what Senator Brock is offering here is a means of relating and consolidating and making us get more for our dollars.

Mr. Van der Linden. It would certainly cut out a lot of paper work. Any school administrator can tell you how many papers he has to file just to get one little grant.

Senator Brock. And we're going to let the schools have a voice in how to best educate the children, too, because today the Federal Government is coming in and saying, "Buy so many typewriters, even if you don't have a typing course." Now that's ridiculous.

Mr. Van der Linden. "It's free money so why don't you get the free typewriters." That's what they're telling them.

Senator Brock. That's right. And it is so immoral, so wrong, not to let the American people have a voice in what their problems are, what their priorities are, what their needs are. That's what we're trying to get at. There shouldn't be 500 different programs—as there are—that have an impact on American youth. There should be programs that help young people to achieve their own potential in their own way.

Mr. Booth. Senator, I am sure that one of the most troublesome problems that you grapple with is to try know whether or not programs that the Congress has on hand or is thinking of enacting are really doing the job they set out to do. Now is there, in your opinion, in your new proposal, the means of knowing whether the government is doing the job it sets out to do?

Sen. Brock. We would require that in my bill. We would require an audit of these programs to see that they're helping people, not just perpetuating the wages and salaries of bureaucrats who are not responsive to people. We require that these programs work for the benefit of the American people.

Mr. Booth. As I understand it, not only would you do that when enacting a program, but you have a three-year limitation on all programs and you would re-evaluate them every three years.

Sen. Brock. That's correct. That's the whole purpose of the bill.

Mr. Van Der Linden. Do you have strong support for this proposal from the Nixon Administration?

Sen. Brock. Well, we haven't even discussed it with them at this point. It's brand new, but I would hope and believe that the Administration could very much support something like this. They know the problem.

Mr. Booth. And again, I would like to say that whatever support the Senator needs, we're going to get it for him because this program is long overdue. Nobody's ever thought of it before, but something of this kind is necessary.

McGOVERN BUSING

Mr. GURNEY. Mr. President, Senator George McGovern is a man who says he cares. We all know that, because he has told us he does so many times. He has told us that he is a man who cares about all the people, those on welfare, and those who work, those who want, and those who have—and even those who have just enough to make ends meet. But I fear his vision is limited.

Nowhere can we see more clearly the true depth of his concern than in his many slightly different responses to the issue of busing. Senator McGovern began as an out-and-out foe of busing to achieve racial balance. Last February in a brunch he attended in Washington he showed the extent of his understanding of this issue quite clearly. He showed how much he cared about those whose children are bused. He showed how well he understood their resistance to busing. He commented:

> Suppose your kids have to ride the bus? What the hell difference does it make?

I suppose his cavalier approach stems from the fact that he probably has not been beseiged by constituents unfortunate enough to be caught in the numbers game imposed by some Federal courts not in the pursuit of educational excellence but rather in the pursuit of some arbitrary arithmetic racial percentage.

Mr. President, I have been, for Florida has borne an untoward and unfair burden in this regard.

For example, during the past 2 weeks, Mr. President, the offices of many of my Senate colleagues were visited by parents from the Jacksonville, Fla., area who came up here, many of them for the first time, and at their own expense, to talk about forced busing. They did not come here to march, to picket, or to threaten, but to tell their story, ask questions, and seek help. For those Senators who did not have the opportunity to meet with the citizens of Duval County, I should like to talk a little bit on just what is happening down there.

Since June of 1971, the Duval County school system has been under a court order requiring massive forced busing. Since that time, the school system has more than doubled its number of buses, from 200 to 420, to accommodate the 12,000 additional schoolchildren who are being shuffled around by HEW and judicial whim.

In the Tampa, Fla., area, approximately 23,000 youngsters had their school assignments altered by Federal court order last school year. The school board had to borrow $1 million from local banks, increase the county school tax, and cut expenditures for improvements in areas more directly connected with improving educational opportunity.

Situations like this explain the vote in the recent Florida presidential primary which indicated that over 75 percent of Floridians supported an end to forced busing. Parenthetically, it also helps to explain Senator McGovern's poor showing in the Florida primary.

By March of this year, however, Senator McGovern was trying to sidestep the issue just a bit. In Florida, he called busing a "phony issue" and a "red herring to divert our attention from the real issues today."

By April, his understanding reached new levels of excellence. So much so that he could respond in Philadelphia:

> I sympathize with the inconvenience it causes to both the student and the parent if they happen to be one of that very small percentage that is involved with changing schools.

And by May, with the whiff of the Democratic presidential nomination, he went so far as to say about the Richmond decision ordering massive city-to-suburb busing:

> I do have some question about it. It is entirely possible that the decision went too far. I'm not ruling that out.

By May he certainly did not sound much like a man who knew his own mind on the issue.

But these doubts were only momentary. By September, having received the nomination of his party, Senator McGovern has returned to the position that busing is a false issue, and he has begun striking out at the President's efforts to produce an equitable compromise fitted to the legitimate concerns of all. In Detroit, he accused the President of using the issue "for cheap political purposes in the most cynical and demagogic way possible." By that I assume he meant the President was attempting to strike a reasonable balance between the extremes of both sides. But the Senator clung to his view that the issue was only one of the President's making.

In fact, by October he had compared the Republican position on race with the Ku Klux Klan's. All this from the man who decries divisive rhetoric—anyone's but his own. All this from the man who wants to heal our wounds—even if he has to open a few old ones and inflict some new ones in the process.

The most interesting and discouraging thing about George McGovern's campaign rhetoric about race, and particularly about busing, is his continuing unwillingness to ascribe any but the worst motives to anyone with whom he does not happen to agree. Faced with widespread disdain for massive busing solely to achieve some arbitrary balance, he merely tries to find a scapegoat. He says we have to obey the courts and that President Nixon is a mean man trying to churn up an issue and drive blacks and whites apart. There is no compromise. There is only George McGovern and his own preconceptions—one of which must be the moral baseness of the majority of Americans, black and white, who overwhelmingly disapprove of the busing he applauds.

This self-righteous condemnation of everything that is not of McGovern, for McGovern, and by McGovern is the antithesis of democracy. It is rule by certainty. It is a moral condemnation of most Americans by default. Yet it is not the worst of GEORGE McGOVERN's sins this election year. No, not even his fulminations which drive a wedge between Americans of differing views and different colors—whose only sin is that they want to find a way to avoid busing over such large distances purely to meet some arbitrarily drawn minimum of racial balance, and a way to improve the educational opportunities for all their children.

The Senator's worst sin is his hypocrisy. This man who insists that so many Americans are either immoral or the pawns of someone else's political machinations cannot even bring himself to vote on the issues he delivers tirades about.

In 1971, he missed the rollcall on the Ribicoff equal education opportunities bill.

In February of this year, he missed four key votes on busing and aid to schools in disadvantaged neighborhoods—all the while covering the primary circuit and lecturing Americans from on high about their racism.

In May of this year, he missed the votes on busing and aid to school districts which are desegregating.

And now in the last few days, with nearly 90 percent of the Senate present, he misses the votes on cloture of debate which, if carried, would certainly have brought the President's equal educational opportunity legislation to a vote—the same legislation he fumes against.

Why has GEORGE McGOVERN failed to participiate here in the Senate on an issue about which he, at least lately, feels so strongly? Perhaps a better question to be asked is, "What does the public think about GEORGE McGOVERN and his positions?" Judging from public opinion polls, next month's election will answer that question decisively.

McGOVERN SILENCE OVER HANOI SUPPORT FOR MUNICH MASSACRE

Mr. GURNEY. Mr. President, the failure of Senator GEORGE McGOVERN to condemn North Vietnam's endorsement of the massacre by Arab terrorists in Munich is yet another example of his lack of concern about Israeli security and his oversolicitous attitude toward the ruthless leaders of Hanoi. Every nation—including the Soviet Union and the People's Republic of China—condemned the maniacal terrorists for their mindless murder of the Israeli Olympians, everyone, that is, except North Vietnam. I ask unanimous consent that copies of official North Vietnamese statements on this atrocity be printed in the RECORD at the end of my remarks.

These statements attest to the warm feelings the Communists in Hanoi have for the actions of the Black September Arab murderers. Why does Senator McGOVERN persist in believing that we are dealing with rational men when he tries to rationalize his easy "solution" to the Vietnam conflict? Indeed his facile "solution" has been described by James Reston, the New York Times columnist, as one of running up a white flag in the hope that Hanoi will salute it.

The Senator's silence is consistent with his past treatment of the North Vietnamese. He has never once condemned them for their ruthless murder of innocent men, women, and children in cities by rocket fire. He has never condemned their flagrant invasion of the South or their blatant tactics in the rest of Indochina. This is a shameful omission from a man who almost weekly condemns the President of the United States as a latter-day Adolph Hitler.

The American people are wise to the North Vietnamese and their inhumane ways. They have been since 1954 when France left Indochina and Hanoi began its callous disregard for the Geneva Convention rights bestowed on prisoners of war which we are all too familiar with today. North Vietnam has never accounted for tens of thousands of French Union and Vietnamese men. Today they continue to refuse to comply with international requirements of basic human dignities. It is high time for Senator McGOVERN to wake up to Hanoi's atrocities and to its callous disregard for human life and human rights.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NORTH VIETNAMESE STATEMENTS ON THE ARAB TERRORISTS

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio in English—February 29, 1972:

"In the Mideast, the universally supported fight by the Arab people in Palestine and other countries for independence and freedom, despite its present difficulties, has proved to be an irresistable process . . . The Vietnamese people, giving full support to the just cause pursued by the Arab people in Palestine and other countries in the Middle East, strongly condemn the new aggressive acts taken by the Israeli reactionaries against Lebanon and Syria. We demand the U.S. imperialists and their Israeli quislings to stop plotting against and wrecking peace and the national liberation movement in that region."

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio—March 2, 1972:

"Quan Doi Nhan, organ of the Vietnam People's Army, today warmly hailed Palestinian guerrillas and the Lebanon Army for driving the Israeli Aggressors out of the Southern part of Lebanon describing this as a 'due punishment' to the enemy . . .

The Vietnamese people give all their sympathy and support to the just struggle waged by the Arab people in Palestine and other countries in the Middle East against U.S. imperialism and its Israeli flunkeys, and for the independence and freedom of their nations."

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio in English—March 29, 1972:

"The underlying cause of the tension in the Mideast is the policy of war and aggression of Imperialism and its Israeli flunkeys. Strong with this knowledge, the Arab people will certainly step up their struggle to foil any design of the enemy in defense of their sacred national sovereignty, the paper stressed in conclusion."

Hanoi Daily Newspaper—Nhan Dan—Text broadcast on Hanoi Radio in English—May 15, 1972:

"On the occasion of the international day of solidarity with the Palestine people, the daily paper Nhan Dan today reiterated the Vietnamese people's full support for the Palestinian people's struggle for their sacred national rights."

The paper said: "The struggle of the Palestinian people for their fundamental and sacred national rights is the most direct struggle of the Arab people against the aggressive and expansionist ambitions of the U.S. imperialists and Israel in the Middle East . . . To identify themselves with the cause of the Palestinian people and support their resistance war is both the interest and duty of all the anti-imperialist forces . . . The just cause they are upholding is part of the present great revolutionary trend which is the national liberation tide that is surging all over the world . . ."

Hanoi Daily—Nhan Dan—Text broadcast on Hanoi Radio in English—June 5, 1972:

"One of the most dangerous schemes of the U.S., Israel and their acolytes against the struggle of the Arab people is to divide, isolate and finally to stamp out, the resistance war of the Palestine people. The staunch fight being carried on by the Palestine patriots is such a difficult situation as at present, as well as the movement of solidarity with the Palestine people in Arab countries, show that the flame of revolutionary ardor, far from dying, is alive in their hearts . . .

"Proceeding along the only correct path of unity in struggle against the U..S. and its henchmen for full independence and freedom, the Vietnamese people believe that the Palestinian people and other peoples of the Arab world, their comrades-in-arms, have enough strength and determination to fight till their sacred fundamental national rights are really respected. The dauntless Arab people will certainly foil the 'Nixon Doctrine' in the Middle East. Final victory belongs to the Arab people . . ."

Hanoi Daily—Nhan Dan—As reported in broadcast on Hanoi Radio in English—September 12, 1972:

"The articles recalled the bloody event that occurred in Munich on September 5 and said: This bloodshed, which could have been avoided, resulted, as pointed out by the Algiers Radio, from the fact that the Israeli and West German authorities had chosen the path of treachery and betrayal.'

"The paper noted that at the present international juncture, the recent Munich bloody incident once again laid bare the schemes of the U.S. and Israeli aggressors and the dark design of the Nixon Administration and their flunkeys to wreck peace under the hypocritical label of humanity and peace'. . .

"They are whipping up a chauvinistic hysteria in Israel and a 'protest' movement within the so-called 'civilized world' to vilify the just struggle of the Palestinian people and threaten to split the Arab countries. They plot to isolate the Palestinian patriotic movement . . . This U.S., Israeli scheme . . . is aimed at putting a cloak of 'justice' on the aggressors and the blame for 'injustice and barbarity' on a small nation (Lebanon) whose only crime is to fight and make sacrifices for its own survival."

SOVIET JEWS

Mr. GURNEY. Mr. President, I should like to direct a few remarks to a problem which has concerned me personally for some time. That problem is the persecution in the Soviet Union of Soviet citizens of the Jewish faith. This persecution is not a new policy; it is perhaps as old as the Russian nation itself. It has, however, reached a new level of refinement in the recent imposition of excessive exit visa taxes upon all who wish to leave that persecution behind them.

Mr. President, on September 27 I joined with the distinguished Senator from Washington (Mr. JACKSON) and eight other Senators in sponsoring an amendment to S. 2620, the East-West Trade Relations Act. By the time that amendment was offered on October 4, 72 other Senators had joined in cosponsorship. On that same day, the Washington Star published a story on negotiations for future United States-Soviet trade agreements which indicated that the Russians were retreating from their oppressive position on this head tax matter.

I think, Mr. President, that the change in the Soviet position was brought about by the realization that the private pressures being brought to bear by the Nixon administration to assist these Soviet citizens was beyond any doubt solidly supported by Congress.

Mr. President, last month's edition of the New Statesman contained an excellent article setting out the present anti-Semitic policies of the Soviet Union. I ask unanimous consent that a copy of that article, entitled "The Price of a Jew," be printed in the RECORD at the conclusion of these remarks.

Mr. President, this is a matter which has nothing to do with the internal policies of any sovereign nation. What this group of people is asking for is permission to leave a society which discriminates against them, in order to make a new life for themselves elsewhere. This they are prohibited from doing by this oppressive head tax—or ransom, if you will—which flies in the face of basic human rights. These people, Soviet Jews, are being placed in a position whereby they are made painfully aware that they are not welcome to remain in the Soviet Union and yet are prevented from leaving the place of their persecution. They are being compelled to remain prisoners in a society which does not want them to remain and will not permit them to leave. This has to be one of the paramount historical displays of societal sadism, and I am proud of the Senate—I am proud of the Nixon administration—for the forceful positions that both have taken.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PRICE OF A JEW

(By Philip Blair)

On 3 August the Council of Ministers of the Supreme Soviet of the USSR passed a resolution to levy a 'diploma tax' on all Jews who wished to go to Israel. This meant basically that all qualified Jews have to pay back the cost of their education to the Soviet government before emigrating. The tax scales run from 4,500 roubles (£2,250) for an ordinary teacher up to 32,000 roubles (£16,000) for an eminent professor. Vladimir Zaslavsky, a candidate in biological sciences (equivalent to a master's degree) is priced at 15,000 roubles (£7,500). Professor Benjamin Levich, an internationally known leading electrochemist, who has been refused permission to take up a research post at Oxford, must find £41,100 for his six-member family.

This tax does not apply just to scientists. For example, Victor Perelman, a Moscow journalist who was recently dismissed from *Literaturnaya Gazeta* after applying for an exit permit for Israel, must pay the cost of his law degree, journalist's diploma and his wife's medical degree in order to leave. This comes in total to 17,000 roubles (£8,500).

For most Soviet citizens these sums are an impossible ransom. Further, many Jews who wish to go to Israel are currently unemployed, having been dismissed from their jobs because they want to emigrate, and are therefore unable to earn any money at all. A number of Jews who have received exit permits are in fact unable to leave because they cannot raise the required sums. Another turn of the screw is that Soviet Jews with exit permits may be asked to pay up in a specified time limit or lose their right to emigrate. Jewish communities have reacted strongly to fight the 'Jews for sale' mentality of the Soviet authorities, have refused to pay one rouble.

This latest attempt to liquidate the Jewish exodus movement in the USSR is the peak of a campaign which started just before Nixon's visit in May. Since then there has been a sharp intensification of the general repression directed against those Jews who want to go to Israel. In the past five weeks there have been no fewer than six trials of Soviet Jews. Four of these were on charges of evading military service. The simultaneous conscription of Jewish activists into the Red Army was another tactic utilised to silence the Jews. One Odessa Jew who did not want to serve in the army, 22-year-old Yuri Pokh, was given three-and-a-half years' imprisonment at the end of July. In the cases of Ilya Glezer and Vladimir Markham, only a few hours' notice was given to their relatives before the start of the trials. This and the barring of Western journalists from the proceedings were clear indications that the accused were to be sentenced as soon as possible without demonstrative repercussions in the West.

This new policy of harassment manifested itself 24 hours before Nixon's visit when the telephone lines of many Jewish activists were disconnected. In June the 'Voice of Israel' radio transmission to the USSR were jammed in an attempt to stop news about Israel and Jewish communities at large reaching Soviet listeners. There has also been a clamp-down on the teaching of Hebrew in private *ulpanim*. This has been carried out by the refusal of local financial authorities to register these *ulpanim* officially as tax-paying bodies. In the words of one Pristavkin, a senior member of the Moscow municipal council on 20 June: 'There will be no registration. Soviet citizens do not need Hebrew—the teaching of Hebrew is forbidden.'

There have also been attempts to implicate leading Moscow Jews in other trials. Vladimir Slepak, for example, was mentioned in an article about the Glezer trial in last week's *Pravda*. He was said to be one of a sad band of 'amoral monsters' who were passing information over the telephone. On another occasion Victor Polsky was accused of 'giving instructions' to the Jews of Sverdlovsk during the investigation of Vladimir Markham, who was sentenced at the beginning of this month to three years' strict regime in a Soviet labour camp. This week Androsov, the man in charge of the Lubarsky affair, has been questioning other Moscow Jews about such basic things as why they write open letters to Soviet and world leaders demanding to go to Israel.

The diploma tax is, by far, the harshest of these repressive and reactionary measures. It is estimated that it will affect at least 30 per cent of emigrants awaiting exit permits. Although reaction to the tax has been vigorous, significantly no mention of it has appeared in the Soviet press. The decision to levy the tax, therefore still has to be officially ratified. In the interim comparisons with anti-semitic legislation of Czarist times are understandably being drawn.

WHEAT SALES TO RUSSIA

Mr. YOUNG. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Christian Science Monitor of October 14 under title of "Mirror of Opinion: Wheat Sales Are Good."

I am proud that the Christian Science Monitor based this article on a fine editorial appearing in the Record Herald of Cando, N. Dak., one of our very best weekly newspapers. The commonsense expressed in this editorial is so typical of this weekly newspaper.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MIRROR OF OPINION—WHEAT SALES ARE GOOD

We are glad they sold the wheat to Russia and we think everyone in rural America should be glad. We grow wheat for food. It is not feeding people while it is stored in government warehouses for years on end. In fact, to meet the first export commitment, government grain that had been in storage since 1968 was loaded.

The export houses that have handled these sales are the same ones, and the same method that has been used, under Democrat or Republican administrations for the past 100 years. The government is not equipped to load and sell wheat exports. They never have been and the first delivery had to be now.

There may be merit in looking into the possibility of government handling of grain exports in the future as hopefully the export market expands. However, it would mean setting up another bureau, another set of government employees and another possibility for graft. We are not well enough informed on export subsidies to judge if this would be a savings or not. . . .

Certainly the expected good prices for the future in farm products is what is the most important thing now. This could never happen with bulging farm and government granaries and with tax monies being eaten up in storage.

North Dakota farmers are able to grow more wheat if they are allowed to do so and still get a decent price with a decent market. Efficiency is not our problem. Production, with good weather, could be doubled and think what this would mean in the gross income of our state? . . .

The projected billion dollar sale will be no small gain for the American taxpayer, in the stability of foreign balance of payments. In addition, payback on grain loans already sealed by the government, which farmers can redeem and sell at 30 cents to 40 cents more a bushel will help both the farmer and the national treasury.

If wheat goes into hungry people's stomachs it is certainly better than lying in granaries. For years we considered it good business to give millions of bushels to India just to get it out of the country and no one griped. Now when it is being sold everyone is grumbling that the other guy might get a bigger piece of the pie.—Record Herald (Cando, N. Dak.)

MARITIME AGREEMENT

Mr. DOLE. Mr. President, this morning, Secretary of Commerce Peter G. Peterson and Russian Minister of Merchant Marine T. B. Gouzhenko signed a major maritime agreement between Russia and the United States.

The President's trip to Russia initiated talks between our two nations which have resulted in the agreement.

The recent sales of wheat and feed grains to Russia will be facilitated by this agreement. Movement of such a huge quantity of grain—about 400 million bushels of wheat—will be accomplished much easier now that U.S. vessels will have access to Russian ports and Russian vessels access to our ports. I ask unanimous consent that the summary presented at this morning's White House press briefing be printed in the RECORD to facilitate wider distribution of information on this vital agreement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

FACT SHEET

OFFICE OF THE WHITE HOUSE
PRESS SECRETARY,
Washington, D.C., October, 14, 1972.

A major maritime agreement with the Soviet Union was signed today by U.S. Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This Agreement represents another necessary link in the establishment of an expanding commercial relationship with the Soviet Union.

The negotiations which culminated in this Agreement were initiated in the latter part of 1971, and have been the subject of a series of meetings in Washington and Moscow throughout 1972.

By providing a broad framework and a clear set of ground rules for maritime activities between the two countries, this Agreement is an important step toward normalizing and expanding maritime relationships between the United States and the Soviet Union.

OBJECTIVES

The Agreement has two basic objectives; first, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S. flag and Soviet-flag vessels; and, secondly, to afford to U.S.-flag vessels and Soviet-flag vessels the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

SALIENT POINTS OF THE AGREEMENT

Port Access. The Agreement provides access to specified Soviet and United States ports to flag vessels of both countries engaged in commercial maritime shipping and merchant marine training activities. Under the Agreement, 40 ports in each nation are open to access by vessels of the other nation upon four days' advance notice to the appropriate authorities. The selection of the ports was based on commercial considerations, reasonable reciprocity and protection of national security interests. The U.S. ports open to access by Soviet vessels are:

Astoria, Oregon.
Baltimore, Maryland.
Baton Rouge, Louisiana.
Bay City, Michigan.
Beaumont, Texas.
Bellingham, Washington.
Brownsville, Texas.
Burnside, Louisiana.
Chicago, Illinois.
Cleveland, Ohio.
Coos Bay (including North Bend), Oregon.
Corpus Christi, Texas.
Duluth, Minnesota/Superior, Wisconsin.
Erie, Pennsylvania.
Eureka, California.
Everett, Washington.
Galveston/Texas City, Texas.
Honolulu, Hawaii.
Houston, Texas.
Kenosha, Wisconsin.
Long Beach, California.
Longview, Washington.
Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
Milwaukee, Wisconsin.
Mobile, Alabama.
New Orleans, Louisiana.
New York (New York and New Jersey parts of the Port of New York Authority), New York.
Olympia, Washington.
Philadelphia, Pennsylvania (including Camden, New Jersey).
Ponce, Puerto Rico.
Port Arthur, Texas.
Portland (including Vancouver, Washington), Oregon.
Sacramento, California.
San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
Savannah, Georgia.
Seattle, Washington.
Skagway, Alaska.
Tacoma, Washington.
Tampa, Florida.
Toledo, Ohio.

While the four-day notice requirement is more than the normal 24-hour notice period applicable to commercial vessels, it is substantially less restrictive than the 14-day advance request requirement now applied by the United States to Soviet vessels and the 30-day advance request required by the U.S.S.R. for U. S. vessels. Entry of vessels to ports not specified in the Agreement will continue to be permitted in accordance with existing rules and regulations, i..e, the 14 and 30 day prior request provisions will still apply. Requests for entry by Soviet vessels to U. S. ports not specified in the Agreement must be made of the Department of State, Washington, D. C., and must be accompanied by an itinerary complete with ports of call and dates. Maritime training vessels and hydrographic and other research vessels may enter the ports only for purposes of resupply, rest, crew changes, minor repairs and other services normally provided in such ports.

The Agreement does not involve any concessions in the policy of the United States with respect to ships which have called on Cuban, North Vietnam or North Korean ports. Soviet vessels which have called or will call on Cuba, North Vietnam, or North Korea will not be permitted to bunker in U. S. ports and Soviet vessels which have called on Cuba or North Vietnam will not be permitted to load or unload in U. S. ports government-financed cargoes such as grains sold on Commodity Credit Corporation credit terms.

In addition, the Agreement contemplates the access of initially 81 U. S. and 50 Soviet vessels engaged in hydrographic, oceanographic, meteorological or terrestrial magnetic field research of a civilian nature. The Agreement does not include vessels engaged in fishing or related activities since these matters are covered by separate agreements; nor does it include warships or vessels carrying out state functions other than those mentioned above. It is not intended to cover any liquefied natural gas trade which may develop between the nations.

TONNAGE DUTIES

Under the Agreement, neither nation shall charge vessels of the other tonnage duties which exceed duties charged to vessels of other nations in like situations.

EQUAL AND SUBSTANTIAL SHARING

The Agreement sets forth the intention of both governments that the national-flag vessels of each country will each carry equal and substantial shares of the ocean-borne commerce between the two nations. At the same time the Agreement recognizes the policy of both the United States and the Soviet Union with respect to participation in its trade by third-flag vessels.

The intention that a substantial share of the trade between the two nations will be carried by each national-flag merchant marine is defined as meaning that the national-flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations, whether by direct movement or by transshipment through third countries. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972.

Equal share of the trade between the two nations is measured on the basis of U.S. dollar freight value of cargo carryings by the national-flag vessels of each party during each calendar year accounting period. Special accounting procedures are established to determine on a uniform basis the U.S. dollar freight value of cargo carryings and to protect against the possibility of disparities caused by the undervaluing of freight rates to increase the volume of cargo carried. These procedures are also designed to permit continuous monitoring so as to maintain parity of carriage throughout the accounting period. Cargoes carried in liner vessels and bulk cargoes carried in nonliner service are accounted for separately under the Agreement due to the difference in the methods of establishing freight rates.

The opportunity for carriage of equal and substantial shares of the trade between the two nations by national-flag ships is to be assured by the routing of controlled cargoes; i.e., cargoes with respect to which entities of either government have the power to designate the carriage. On the U.S. side, this includes only those cargoes which are subject to U.S. government control under our cargo preference laws. On the Soviet side, all exports and imports for which entities of the U.S.S.R. have or could have the power at any time to designate the carrier are included.

Recognition has been given to the practical commercial consideration that vessels of either nation may not be available to carry the amount of cargo to which they are entitled under the principles of the Agreement. Under such circumstances, a limited variance from the equal and substantial sharing rules is provided. Such variance is permitted where the cargo was offered on reasonable terms and conditions and where the unavailability of national-flag carriers is certified by a representative of the U.S. Maritime Administration or U.S.S.R. Ministry of Merchant Marine, as the case may be. Even though unavailability has been certified by the appropriate representative, there is still an obligation to continue to offer controlled cargo to restore the one-third share if possible within the same calendar year.

Freight Rates. The matter of freight rates to be paid to U.S. vessels is an important provision of the Agreement. With respect to liner service, U.S.-flag carriers should face no significant problems because U.S. vessels can participate in this trade under the conference-rate system with the assistance of the U.S. operating subsidy program. Rates for shipment of bulk cargo, such as grain, however, present a different situation. Bulk cargo is shipped in world trade under charter rates which are set in competition with ships of nations with far lower costs than American ships. The United States has never before had a subsidy system which permit its vessels to compete in the bulk grain trade, although such a subsidy system was legislatively authorized in 1970. In lieu of a subsidy system for bulk cargo, there were regulations which required shipments of grain to the Soviet Union to move 50% in U.S.-flag vessels. This, however, never resulted in significant carriage for U.S. vessels. Freight rates are a substantial part of the cost of grain and without subsidy the rates charged by U.S. flag carriers increased the cost of grain beyond the level buyers were willing to pay.

Under the Agreement, the two governments have worked out rate provisions for two categories of bulk cargo to be carried by U.S. vessels.

For nonagricultural bulk cargoes, the agreement in essence provides that American vessels shall be paid in each year the average of the freight rate for that category of cargo on the route in question over the prior three calendar years.

The other and far more important category of charter rates is for agricultural commodities and products. With respect to these cargoes the Soviet Union will offer to United States vessels the *higher of*:

1. a rate computed on the 3-year average formula described above for the years 1969, 1970, and 1971. This rate for the route most expected to be used for the current grain sales is $8.05 per ton for wheat and other heavy grains, or

2. 110 per cent of the current market rates for the shipment involved.

In addition to these provisions, for agricultural cargo the Soviet Union has also agreed to terms relating to unloading ships in the Soviet Union which are more favorable to United States vessels than would otherwise apply in this trade. Our maritime experts estimate these special terms represent a reduction from typical rates of at least $1.75 per ton.

These special provisions for rates on agricultural cargo apply through June 30, 1973, by which time the parties will negotiate future rates. This will permit review of the actual workings of this rate system near the close of the current unusual grain shipment season.

TERM OF AGREEMENT

The Agreement remains in force through 1975, subject to earlier termination by either party on 90 days' notice.

U.S. SUBSIDY

Although not part of the agreement, a necessary part of achieving its objectives is that the United States pay a subsidy to its own vessels in the carriage of agricultural cargo. This is not a financial advantage to the Soviet Union since it could carry all this cargo in its own vessels or third-flag vessels at lower costs than it will pay United States vessels. The combination of higher than market charter rates, and favorable terms for unloading, afforded U.S.-flag vessels reduces the subsidy costs.

The subsidy system, to be published shortly, is authorized under the Merchant Marine Act of 1970. Because the ships which will be involved in this trade, unlike U.S.-flag vessels carrying freight in the liner trade, have not received United States construction subsidies, the subsidy to be provided will take into account the amount by which U.S. construction costs exceed foreign construction costs. In order to keep the subsidy at a minimum, it has basically been designed to create no more than a break even situation at $8.05 for most ships which will be likely to participate. The estimated subsidy paid to vessels carrying agricultural cargo under the Agreement will be in the range of $8.00 to $10.00 a ton, if market rates stay in the range of $9.00 to $11.00 a ton, which compares to the current subsidy of about $19.00 per ton on PL–480 grain shipments.

Among provisions limiting the subsidy paid for movements under the Agreement will be the following:

1. Where market rates exceed the $8.05, all of the excess paid by the Soviet Union over market (i.e. 10% premium) is used to reduce the subsidy;

2. When the market rate is $9.00 or more, a substantial part of the amount over $9.00 will be used to reduce the subsidy;

3. Each subsidy contract will have a renegotiation clause to ensure that no excess profits are made.

The exact amount of subsidy which will be involved with respect to carrying the American share of the grain cargo is difficult to predict with precision because it depends on factors such as: (1) the volume of the Soviet grain trade actually carried by U.S. ships (which will be reduced to the extent that more attractive carriage is available (such as PL–480 or oil); (2) the level of market rates, since the U.S. subsidy paid will be substantially reduced as market rates go up.

PUBLIC AVAILABILITY OF THE AGREEMENT

A copy of the Agreement, Annexes, and the exchange of letters with respect to the bulk commodity rates is publicly available through the Department of Commerce.

A MODEL FOR THE NATION: BALTIMORE'S EARLY CHILDHOOD LEARNING PROGRAM

Mr. MATHIAS. Mr. President, the first article of the American faith holds that all men should have an equal chance to make as much of themselves as they can, to go as far as their innate abilities and energies and interests can take them. Every man, we have believed, should be the arbiter of his own fate and the architect of his own future; every man should be free to find and fulfill himself.

We have relied, more than anything else, upon education to overcome the effects of economic privation and poverty of environment and put people on a more or less equal footing.

We have believed that, whatever handicaps a child may suffer because of his economic and social and cultural background, the schools would give him the support and the skills he needs to "catch up" to children from more advantaged backgrounds and to compete with them on more even terms.

We have believed, with Horace Mann—often called the father of the American public school—that—

> Education . . . beyond all other devices of human origin, is the great equalizer of the conditions of men—the balance wheel of the social machinery.

But that faith, over the past few years, has become far less firm—that belief far less certain. They have, in fact, been all but shattered by increasing evidence that our public investment in education as a means of equalizing opportunities for the disadvantaged has had very little result.

Compensatory education, we are told, has not worked: programs funded under title I of the Elementary and Secondary Education Act have produced no measurable improvement in the academic performance of disadvantaged youngsters. Others argue that title I was never adequately funded to begin with, and that the funds that have been spent have been spread far too thin. Compensatory education, they insist, has never really been tried and cannot, therefore, be found wanting.

A number of authoritative studies—most notably the so-called Coleman report—have concluded that integrated education, under the proper conditions, raises the academic performance of disadvantaged youngsters without reducing that of more advantaged ones. But other, more recent studies take sharp issue with this conclusion, arguing instead that the disadvantaged reap no significant educational gains from integration.

In a forthcoming book that has already received considerable publicity, Christopher Jencks presents the results of 4 years of intensive research and analysis of all the available data on the impact of schools upon children. His conclusion in brief, is that—

> The character of a school's output depends largely on a single input, the characteristics of the entering children. Everything else—the school budget, its policies, the characteristics of teachers—is either secondary or completely irrelevant . . .

In other words, no matter what the so-called "quality" of a school, children are said to leave it with the same relative advantages and disadvantages they had when they entered it. The school, it is contended, makes no difference at all.

Several years ago, the distinguished educator Dr. John Fischer, the former superintendent of schools of the city of Baltimore, observed that:

> There is substantial evidence that the level of intellectual capability young people will achieve at seventeen is already half-determined by the age of four, and that another 30 per cent is predictable at seven years. This is no ground for believing that a child's academic fate is sealed by his seventh birthday, but it means that a community that seriously wants to improve its children's opportunities will start them to school early. In terms of sheer economy, it can be shown that the earlier the investment in systematic intellectual development is begun, the greater will be the rate of return.

Now Christopher Jencks seems to tell us that our educational programs have accomplished little in providing for the educational advancement of children from disadvantaged backgrounds. But that observation does not enlighten us on whether the task is impossible of fulfillment or whether it is merely difficult and we have not as yet developed the right techniques. Could it be that we have not done enough with very young children who come from deprived circumstances? Were some Headstart programs too short in duration? Were the teachers inadequately prepared? Was the program content insufficiently thought through? All these questions and many others must still be answered.

That the task of improving the intellectual abilities of children from deprived circumstances through a school program may be difficult but not impossible to fulfill is suggested by a demonstration project in my home State.

I had the opportunity, recently, of visiting a school and observing a program in Baltimore that has, in fact, made a marked difference in the academic performance of the children in it. Funded largely under title III of the Elementary and Secondary Education Act, the model early childhood learning program is now in its third year of operation in five Baltimore schools in which a high percentage of the children are both educationally and economically disadvantaged. Although the program stresses cognitive performance, it does not neglect the child's social, emotional and physical development. In the words of the on-site evaluation report at the end of the first year:

> The balance between structure and freedom has reached a "golden mean" in the program. There is time for both during the day and the time can be determined by the individual needs of the child. Neither self-direction nor creativity is destroyed. To the contrary, their development occurs both with spontaneity and with encouragement in a

milieu where parents, teachers, and children take pride in what each other is doing.

After 2 years of operation, the mean IQ of the children in the program rose by what an outside evaluator called a "phenomenal" 16.06 points. In contrast, the mean IQ of a "control" group of children, who were not exposed to preschool, dropped by 3.24.

Earlier this year, this program won a Federal citation as one of the Nation's few outstanding preschool projects.

I call this program to the attention of the Senate because it demonstrates that "quality" education can make a dramatic difference in the academic performance of educationally and economically disadvantaged youngsters—because it strongly suggests that, in our efforts to insure "quality" education for those to whom it is most denied—the poor and the racial minorities—we should turn far more of our attention and our resources and our funds to the preschool years and to the early grades.

There is, in fact, enough evidence to suggest we might well consider turning the present educational system upside down by putting our best teachers and pouring most of our efforts and resources, not into the later years of school, but into the early years where they can really make a difference.

Concern has been expressed that an early childhood education program which places 3-year-olds in a school setting can do more harm than good by separating the child from the parents. The organizers of the Baltimore program shared that concern and placed major emphasis on giving parents an important role in the school. Their efforts were indeed crowned with success, as more than 80 percent of the parents participated in the work of the school in one way or another. To the extent to which it was feasible, parents actually worked in the schools, some as volunteers, others as paid aides. Those who did not join in the day-to-day operations of the school would visit on evenings and weekends and would frequently meet with school staff.

What we must realize when we weigh the relative roles of parents and schools in early childhood education is that an increasing number of mothers are now working full time away from home. Specifically, a recent U.S. Department of Labor study of the participation of mothers in the labor force tells us that the percentage of participation has increased from 9 percent in 1940 to 22 percent in 1950, to 30 percent in 1960, to 42 percent in 1970. Early childhood education programs did not play a significant role in encouraging this trend. As the recent Brookings Institution report on the 1973 budget tells us:

> The most striking fact is that most children of working mothers are cared for in their own homes or someone else's; only a small proportion are in day-care centers.

Whether they are at home or in a day-care center, the arrangement for the care of the children is far too often one of mere baby-sitting, providing no or only little stimulation for the children's minds.

We must also keep in mind that ours is a culture in which great stress is placed on one's ability in verbal expression. The scope of a child's vocabulary may be a crucial factor in determining educational success as early as third grade.

It will play a major role from then on in determining the child's and ultimately the adult's role in society. And it is obvious that if the parents' facility at verbal expression is severely restricted, so will be the child's, unless, at the time the child is ready for it—usually the age period 3 to 5—stimulation from the outside is provided.

Thus, an early child development program can overcome two problems which we face in contemporary American society: First, it can provide intellectual stimulation for the children of working mothers, many of whom are not receiving such stimulation now, and second, it can encourage the development of verbal skills in children whose parents may not be able to accomplish that result. At the same time the persons responsible for the operation of an early childhood development program must recognize that parents will continue to play the single most vital role in the child's growth, that the program should not only not drive a wedge between parents and children but should, to be truly successful, bring them closer together, by improving the parents' ability to play a role in the children's education.

We know that most schooling begins too late. We also know that too often schooling that begins early attempts too little.

And we know that ground lost during these early years can never be regained. For the children of less affluent families, early education is absolutely essential if they are not to fall further and further behind their peers as they grow older.

If schools have, in fact, done little to improve the academic performance of the disadvantaged, it may well be because they do not reach them early enough with an intensive effort to build up their basic learning capabilities and to interest their parents in this educational effort. Because schools do not reach these youngsters early enough, they now spend—perhaps squander is a better word—vast amounts of energy and money in what appears to be a futile attempt to undo the damage done by early neglect.

I am convinced that the promise of equality of opportunity for every American can and must be fulfilled. I am also convinced that the schools can contribute far more than they have to the realization of that promise for the poor and the racial minorities if we put a far greater share of our money and other resources into the early childhood years and into programs that really work—like the model early childhood learning program in Baltimore.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Baltimore Sun and two articles concerning this early childhood program, one by Dr. Louis T. DiLorenzo in American Education magazine, and one prepared by the Maryland State Department of Education.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, April 3, 1972]

HIGHER IQ'S BRING BALTIMORE ACCLAIM

A Baltimore experimental education program is about to receive a federal citation this week as one of the nation's few outstanding pre-school projects. Known as the Model Early Childhood Learning Program, the five-school experiment last year was successful in raising the average I.Q. test score of 181 poor, mostly black 4-year-olds by 16 points. The MECLP program has been expanded this year to include 554 children, ages 3 to 5.

An outside evaluator called the I.Q. gains here last year "phenomenal," outclassing any other comparable test results in this country during the past 10 years, and said the program benefits represented "a functional reclassification of these children from below average to average." The results were all the more significant in that a control group of children who did not have the benefits of pre-school training registered an actual decline in I.Q. levels as they remained at home without a challenge to develop their cognitive abilities.

The MECLP originated in the offices of Dr. Percy V. Williams, a black administrator in the state Department of Education, who believes firmly that time is too precious for the ghetto child to warrant the conventional nursery-school concentration on games and social graces. Under MECLP a 3 or 4-year-old child has an individualized regime of learning tasks for each day, week and month as he works his way upward in a hierarchy of 269 cognitive skills. The staff attention to each child's progress requires three adults for each 20-child classrooms and large amounts of staff planning and paperwork. but it seems to produce excellent results: enough to give Baltimore national acclaim.

Now that MECLP is to receive a "pace-setter's award" a pertinent question is whether this federally funded project is to remain just another experiment, small and localized, or become in fact the forerunner of large-scale efforts to catch learning deficiencies early and erase in pre-school years the demoralizing difference between the below-average and average pupils. MECLP costs money: more money than the big cities of this country can muster. But if the Nixon administration is serious about providing equal educational opportunity for all, MECLP strongly suggests a good place to start.

WHICH WAY FOR PRE-K: WISHES OR REALITY?

(By Louis T. DiIorenzo)

"We must stop letting wishes color our judgments about the educational effectiveness of many special compensatory programs . . ." The words are those of President Richard M. Nixon in his Message on Educational Reform, delivered to the Congress last March. His admonition can have no better or more accurate application than when it is applied to preschool programs for the disadvantaged.

No one likes to be the bearer of bad news, as the President's words suggest, and no one likes to play "the heavy" in education. But the fact is that we only delay the resolution of our educational problems by letting aspirations—what we wish to achieve—color the actual results, which are, after all, the test of whether or not we have put forth the right efforts to make wishes come true.

Maintaining the distinction between expectations and actual results was a fundamental principal in our four-year study of prekindergarten programs for the disadvantaged in New York State. In that study, funded by the U.S. Office of Education, the New York State Education Department, and eight school districts, we reviewed the progress of more than a thousand disadvantaged children. Half of them attended year-long preschool programs before they entered kindergarten; they were compared with a nearly equal number of similarly disadvantaged children who had not had the prekindergarten experience. The project followed an experimental design with new children in each of three years, 1965–66, 1966–67, and 1967–68. The children were pretested on IQ and language development, matched on IQ, age, sex, race, and parental occupation, and randomly assigned to experimental and control groups in each district. The three successive groups were posttested at the end of preschool, and, through 1968–69, were followed into kindergarten, first, and second grades with readiness and achievement measures.

The goals of the prekindergarten programs in all eight districts were the same: increased capacity to learn, improved social development, better self-concept, increased motor development, and more positive attitudes toward school. Furthermore, the physical settings and the equipment used were very similar. However, the programs varied according to district choice, and ranged from traditional nursery school programs designed for general enrichment to innovative, structured programs with a cognitive orientation. This distinction was apparent in the teachers' priorities as well. Some made free play paramount; others gave language instruction first place.

The goals of the programs were a statement of the wishes, the hopes, and the expectations of the program planners, the teachers, and, yes, the researchers, too. Unfortunately, not all of the aspirations were realized. These are some of the outcomes in which wishes conflicted with reality:

The Wish: All types of programs would be effective in furthering language development and the capacity to learn.

The Reality: Cognitively oriented programs produced significantly greater results than traditional nursery education programs in developing language skills and increasing IQ scores. (It should not be surprising that cognitively oriented programs were more effective than noncognitive programs in achieving cognitive goals.)

The Wish: All programs would be effective in producing greater physical development and better self-concepts.

The Reality: None of the programs produced differences between the experimental and control children in physical development or self-concept. The physical gains of the prekindergarten participants were equaled by those of the children who had not participated in any form of prekindergarten program. (This outcome was least expected and most disappointing in the traditional nursery school programs which stress physical and affective goals.)

The Wish: All children would benefit equally from prekindergarten regardless of race, sex, or socioeconomic status.

The Reality: Although black disadvantaged children made significant gains in language and cognitive development, the gains of the white disadvantaged children were even greater.

The Wish: The compensatory preschool programs would close the gap between disadvantaged and nondisadvantaged children so that they would begin kindergarten on an equal basis.

The Reality: In even the most successful cognitive program, the gap between the disadvantaged and nondisadvantaged children at entry into kindergarten was narrowed by only half.

The Wish: Mixing children from low socioeconomic and middle income families in the same prekindergarten classes would provide a special stimulus for the disadvantaged children to improve their language and cognitive skills.

The Reality: Disadvantaged children who were mixed with middle class children in equal numbers showed no significant gain in language and cognitive development as a result of this exposure.

The Wish: The results of prekindergarten experience would be evident in the readiness of the children at the end of kindergarten and in reading achievement at the end the first and second grades.

The Reality: Only the cognitive programs produced effects that showed up in kindergarten and first grade.

The most successful of the cognitive programs used an approach with highly skilled social group activities for language development. In this program, disadvantaged children gained an average of 10 points IQ over the course of the year and changed from below average to average IQ scores. In a traditional nursery school setting the disadvantaged children lost, on the average, one-half point in IQ score.

The realities that faced us at the conclusion of our four-year study are the same realities that have confronted others who have taken a hard look at prekindergarten programs for the disadvantaged. In terms of the ultimate goal of Head Start and other early intervention programs to prepare deprived children for school achievement, it appears that the academic-structured-cognitive programs have been the most successful.

During the last two decades, the kindergarten has served as a battleground where nursery educators with the whole child approach which fosters a free and unstructured environment vied with primary school educators who emphasized the academic. The former attempted to make kindergarten an upward extension of nursery school, while the latter attempted to extend the formal first-grade program downward. These two camps have regarded the recent research on compensatory prekindergartens and the creation of academic-structural-cognitive prekindergarten programs as an attempt to extend the formal school program still further downward into the nursery level.

EFFECTIVE PROGRAMS

This interpretation fails to make the distinction between what is desirable for all children and what is needed particularly by disadvantaged children. There is little to criticize in the whole child philosophy and the nursery education programs when viewed from the perspective of the middle class child. However, for the past five years, the intent of compensatory programs has been to make the disadvantaged successful in school. At the lowest level, success means learning to read; later on, it means academic achievement, and still later, high school graduation with capabilities for employment or higher education. The compensatory preschool has been directly charged to contribute to success at the earliest level. The research has shown that the cognitively focused prekindergarten programs have been the most effective in this. Because cognitive programs have rejected the whole child concept as inapplicable for their special task, many nursery educative programs and the research.

The research findings, however, are being recognized and put to use. One instance is in the Model Early Childhood Learning Centers of the Baltimore City Public Schools, funded through title III of the Elementary and Secondary Education Act. Under the leadership of Thomas Sheldon, superintendent of schools, Baltimore has committed itself to the development of a preschool program that will reflect the reseach and recognize the cognitive-language needs of the disadvantaged child. This developmental effort comes after eight years experience with the Early Admissions Program, a program for deprived inner-city children begun in 1962 and still continuing.

PRIMARY GOALS

In the Model Early Childhood Learning Center, cognitive-language goals are of primary concern; social, emotional, and physical goals are subordinate. Baltimore's proposal for the project is quite explicit in establishing this order. "School failure and retardation among disadvantaged as well as nondisadvantaged children is a judgment made regarding the child's academic or cognitive performance. Although education is also concerned with the child's social, emotional, and physical development, it is the cognitive performance that is critical.

If a child is satisfactorily performing on the school's criteria for academic-cognitive achievement and is not up to the norm in physical, social, and emotional development, he is rarely dubbed a failure. It is by the very definition of failure and school retardation that the objectives for the Model Early Childhood Learning Program must be derived primarily from the cognitive area.

Behavioral objectives are a key element in the Baltimore program. They express the instructional goals of the program in highly specific terms that describe some performance to be achieved by an individual child. A working committee has produced 709 performance objectives in five cognitive areas: concept formation, perceptual-motor development, language, classification, and reading comprehension. For example, given a variety of objects, a child will be able to group them by size, color, material, and form. Or given one stationary object and one moveable object whose relative position is changed (near, far, under, over, and so forth), the child will state the term of relative position. The curriculum is being selected piece by piece rather than as a package, so that all activities will match specific objectives.

A second key element is individualized instruction. Each of the 300 three- and four-year-olds attending the model center will spend at least one-half of his time each day in some mode of individualized instruction. A select staff of teachers and paraprofessionals has been trained to work with individual children and to use new methods of monitoring their performance in relation to individual objectives on a day-to-day basis. The teacher designates a unique set of objectives—average of six—for each child each day. This list is based on pretesting, or the success a child made with his list the previous day, or his standing within the sequentially ordered objectives. The staff, having spent many months in developing the objectives, curriculum, and evaluation exercises, is readily able to shift gears from one child to another, from one objective to another, and from instruction to evaluation in very briefs spans of time. The instructional program has been conceived as a team effort, and in some instances the visitor is unable to distinguish between teacher, teacher assistant, and volunteer parent.

INFLUENTIAL STUDY

The results of a recent study of prekindergarten programs by the National Institute of Child Health and Human Development at Harvard may also have some influence in establishing the cognitive emphasis. This study re-examined all prior research that had been designed to compare relative effectiveness of different kinds of preschool programs with support from both the Carnegie Corporation and the Ford Foundation. It was able to secure the original data from these studies and conduct an independent analysis. It concluded:

"Preschool programs with general objectives of fostering cognitive growth, with specific emphasis on language development, and with teacher-directed strategies that provide highly structured experiences for disadvantaged children are more effective in producing cognitive gains than programs lacking these characteristics."

Baltimore's Model Early Childhood Center

When you organize a pre-school program for disadvantaged children, you had better give some special thought to the involvement of parents, to teacher training, and to individualized instruction.

The Model Early Childhood Learning Center in Baltimore comes down hard on these concepts. At the price of omitting a number of other key features of this exciting new program, these are the ones this article will examine.

To involve parents turns out to be a simple matter in the Baltimore program. It begins with a genuine belief that they have something of value to offer. That such a principle is practical, administrable, and useful in achieving the goals for children is demonstrated almost every day in the Baltimore program.

But simple doesn't mean easy!

How do you apply the principle to militant mothers? "We think of militancy as concern," says Betty Showell, director of the Baltimore center, "and that's something we can build on." Practical experience has demonstrated that the idea works, even where real friction exists. Miss Showell adds that the "indifferent parent" is another label they don't use in the center. "There are some parents we haven't reached yet, she says, but in some cases we're trying to reverse habits of a lifetime. There are lots of ways we haven't tried yet."

"Educators don't own the magic formula to learning," Miss Showell says. "We welcome parents as partners. Parents have as much right to work with their children as teachers do. We're training parents to use the tools that teachers use. Parents are now helping design curriculum activities. I see the day when they will actually write curriculum." Parents are involved in practically everything at the center. Is there a training session? Yes, and it includes everybody. Is there a summer program for teachers and aides? There's one for parents and parents' counselors too. The 1971 summer program was itself unusual. They used it to revamp the whole curriculum. Miss Showell explains: "Last year we hadn't met the children. As it turned out, we grossly underestimated their ability and receptivity to formal learning. Our children will tell you in a minute how smart they are because they believe it and they are."

Parenthetically, Miss Showell adds that she is almost reluctant to see curriculum written down. "We want a dynamic program," she says, "and you know how people tend to stick to the book."

During the six week summer program the staff, with parents' help, scrapped last year's "task boxes," salvaged the useful parts, and made up new ones to support the new curriculum.

About as big as a cigar box, each task box contains learning materials, mostly homemade. One may contain a set of different length sticks which a child is asked to arrange according to size, another, variously shaped pieces of wood, aluminum, and glass, which the children separate according to material. Then there are surprise contents, like soldiers and boats, that help keep interest high. No lesson is repeated. There are no failures.

The whole staff, with parents assisting, made and duplicated most of the contents of the task boxes. They suggested alternate materials. They assembled the boxes and understood the educational purpose behind each lesson. Parents are also encouraged to make similar learning materials for their children to use at home.

During the summer program, besides their work with the task boxes, parents evaluated their own performance of the preceding year. They investigated new possibilities for field trips and planned trips and other experiences for the children.

During the regular term, parents really help teachers with the instructional program. More than once according to Mrs. Olivia Butler, teaching assistant, she has seen parents get the class started in the morning when teachers were involved in other problems, "as though it was the most natural thing in the world." They help with breakfast and lunch routine, serve on parent advisory committees and on staff interview teams. A typical interview team for a teacher applicant will include a teacher, a program assistant, a professional from the school to be served, and two parents.

But the total is really more than the sum of the mechanical parts. Parents know, for example, that their suggestions are welcomed and frequently adopted.

The most dynamic thing about the teachers' role in the model early childhood program is that they write the curriculum. Miss Charlene Cooper, formerly a teacher and now a program assistant, speaks of her personal reaction, "If you helped make it, you're more interested in making it effective. You're sensitive to weaknesses. You can say it wasn't right and why. You want to correct it and you can."

Miss Georgia Kopp, a teacher, says the same thing, "You know more what has to be done."

Miss Cooper goes a little further, "I feel here that I'm in on the ground floor of things; things I didn't even know went on when I taught in other places. The project administration seems to think well of its teachers. It makes teachers seem significant."

Along with the curriculum involvement, teachers in the Baltimore program tell of another significant element in their work experience . . . a strong professional development program. Last summer's program was packed with "Characteristics of Pre-School Learning." "Behavior Modification," consultants, films, discussions, role playing, microteaching, and the like. Miss Showell thinks it was as strong a program as any six-week professional development program in a good university.

Behind the Balitimore City program is a firm emphasis on simple and measurable objectives—instructional goals come first. Physical, emotional, and social development of children are not ignored, but they are distinctly secondary. Says Miss Showell, "If a child does well academically and doesn't come up to norms in these other areas, we rarely think of him as a failure."

As to individualized instruction, each of the 460 three- and four-year-olds in the program spends at least half his time each day in some kind of individualized instruction. Example: Each child's progress is monitored daily in relation to individual objectives for that child. Objectives for each day are based on pretesting, on his performance the previous day, or his standing within sequentially arranged objectives. The teacher designates about six objectives for each child every day.

Victoria, a bright-eyed five-year-old, is being tested by an aide, who reads from a set of prepared directions. "Raise your hand." "Close your eyes." "Nod your head." Asked why she is directing Victoria to do these things, the aide explains that she is testing to find out how well the child can follow directions.

At another little table close by an aide is tutoring another little girl who had been having difficulty with tall and short. "Which of these three books is the tallest?" And then, both standing, "Which of the two of us is shorter?"

Daily testing and tutoring reports, together with a group lesson report and a report on today's performance with the task boxes, all go into tomorrow's prescription with fresh objectives for the child and a new list of task boxes. Needless to say, teachers in the model early childhood center are often at the desks long after regular teachers have gone home.

Baltimore's Model Early Childhood Center, now in its second year, was initiated after the State Board of Education evidenced strong interest in a program for three-year-olds as a project under Title III of the Elementary and Secondary Education Act. A number of people helped shape the proposal, but its principal contributors were Mrs. Frances S. Meginnis and Mrs. Catherine Brunner of the State Department of Education's Division of Compensatory, Urban, and Supplementary Programs. At the time Mrs. Brunner was supervisor of early childhood education for the Baltimore City Schools.

Is the Model Early Childhood Program making headway? The figures say yes. In pre-tests, pupils averaged 86.08 on the Stanford-Binet Intelligence Test. A posttest at the end of a year showed their average had climbed to 102.14—a 16 point risel! No known program of this type anywhere in the country has accounted for more than a ten point rise.

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. GAMBRELL. Mr. President, I was necessarily absent when several votes were taken Thursday, October 12, and Friday, October 13, 1972. I ask unanimous consent that the permanent Record reflect that had I been present, I would have voted as follows:

First. I would have voted "yea" on Legislative No. 551, Senator Cranston's amendment to H.R. 17034 to appropriate $40 million for programs establishing veterans' health facilities.

Second. I would have voted "yea" on Legislative No. 552, final passage of H.R. 17034, the supplemental appropriations bill.

Third. I would have voted "nay" on the Bellmon amendment to the debt ceiling bill which would have added a new title to provide that Congress prescribe annual ceilings on expenditures and new obligational authority, and requiring two-thirds vote of the House and Senate to change such limitations.

Fourth. I would have voted "nay" on the Packwood amendment to the debt ceiling bill which would have stricken title II, limiting to $250 billion Federal expenditures for fiscal year 1973.

Fifth. I would have voted "yea" on the motion to table the Magnuson amendment to the debt ceiling bill which would have extended for 13 additional weeks unemployment insurance benefits to those workers who have exhausted their regular 26 weeks of benefits.

Sixth. I would have voted "nay" on the motion to table the Packwood amendment No. 1687 to the debt ceiling bill to give equitable tax treatment to unmarried individuals.

LETTER FROM SENATOR GAMBRELL TO SENATOR McGOVERN

Mr. GAMBRELL. Mr. President, Senator George McGovern, who is the Democratic Party's candidate for the Presidency, has written me seeking my assistance in his campaign. Because of the importance to the American people of this year's presidential campaign, and for whatever use my comments on this subject might be in the public domain, I ask unanimous consent that my response to Senator McGovern be printed in the Record.

There being no objection, the letter and remarks were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C. October 14, 1972.
Hon. George McGovern,
U.S. Senate,
Washington, D.C.

Dear George: This will acknowledge your letter of October 3 asking whether I can give time for speaking engagements between now and November 7.

Frankly, I am sure that your inquiry was addressed to me in error as I have publicly stated on a number of occasions that I could not support your candidacy for President of the United States. There is no need for me to belabor this point, but your letter does afford me the opportunity of giving you my views on the requirements which the people of this country are making of candidates for the Presidency, and why I think your campaigned for the Democratic nomination, and

I have expressed those views on many occasions, and they are summarized in a speech which I placed in the Congressional Record on May 3 of this year. A copy of my remarks is enclosed.

Certainly the platform on which you campaigns for the Democratic nomination, and the Democratic Party platform adopted at the convention in Miami under your domination, differ widely from the public sentiment which I have tried to express.

The modifications which you have made in your platform since the Miami convention bring you closer to the views of a majority of Democrats, but still not near enough to suit me. And even if they were identical, I would still have some doubt concerning the credibility of your platform, in view of the mixed messages which you have been sending out.

As a lifelong Democrat, and as one who came to Washington with the hope of helping to pull the Party together, I regret having to completely repudiate the Party's candidates for the White House. However, I believe that what took place during the Spring, and at the Convention, amounted to a repudiation of me, and an overwhelming body of sentiment among Democrats throughout the country. My loyalty to the Democratic Party will not justify my supporting it in a program which is intolerant of the views of many longstanding Democrats, which is contrary to the best interests of the country, and which has crippled the Party as an effective political institution in the country.

This letter will serve as a reply to correspondence which I have received from several others seeking my support in this year's campaign.

Sincerely,

David H. Gambrell.

[From the Congressional Record, Wednesday, May 3, 1972]

Workingman's Bill of Rights

Mr. Gambrell. Mr. President, on Thursday, April 20, of this year, I proposed and published in Washington a bill of rights for the American workingman. In an appearance before the Atlanta Legal Secretaries Association on April 29, I elaborated on the bill of rights. I ask unanimous consent to have printed in the Record the text of my remarks to this group as well as my workingman's bill of rights.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Atlanta Legal Secretaries Association

On Thursday, April 20 of this year, I proposed and published in Washington a bill of rights for the American working man.

The working man's bill of rights expresses in common sense terms the rights of American working people who have supported and defended the American system. The bill of rights demands respect for their labor, and respect for the things they believe in, such as patriotism, equal opportunity, equal taxation, law and order, and the right to be heard. The working man's rights are expressed in terms of the responsibilities of citizenship, rather than in terms of the privileges.

This statement of the rights of working men and women has been formulated from my experiences, and from listening to disappointed and frustrated citizens on my "listening tours" throughout Georgia and in other parts of the country.

In publishing this statement of the working man's rights, I am seeking to focus attention on average Americans and their concerns. By their support of the American system, they have earned the right to receive special attention from those who serve them.

During the upcoming senatorial campaign in Georgia, I expect to talk about the working man's rights and to propose specific solutions for the problems that concern them most. I will challenge other candidates in this campaign to join me in giving American working people the recognition they deserve.

I have sent copies of the working man's bill of rights to each of the major candidates for the Democratic presidential nomination, as well as to President Nixon, urging them to support this proposal as a means of recognition and national commitment to American working people. If this Nation is to survive, and in fact if any of these candidates are to be elected, it will only be through the support and efforts of the American working man.

The Democratic Party's presidential primary campaigns in Florida, Wisconsin, Pennsylvania and elsewhere have dramatically displayed a confidence gap between American working people on one hand, and American political leaders and the press on the other. The results of these campaigns demonstrate that the so-called "leading candidates" have been out of touch with the people on the issues that concern the people most. Candidates such as George Wallace and George McGovern, whom the press and political experts discounted, have become the men to beat.

Specific issues may vary from State to State, but it is clear that the public has no use for established politicians, and that a feeling of being used and abused is prevalent among average Americans.

The political analysts, and the public opinion experts, like to refer to working people as the "silent majority." It has been (stylish) (with) the national press to think they are Democrats who are "liberal", and anxious for changes. This is because most of the Democrats with whom the press feels comfortable enjoy tinkering with society and the economy. But make no mistake about it, the working people of this country, even the poor ones, are "conservative." They look for strong governmental action to protect their status and their opportunities. But, as a group in society, they are not interested in radical changes, economically, morally, politically, or socially. In fact, they take pride and comfort in the security of the status which they have. Threats to undermine what they have fought, sweated, and died to hold on to are not welcome.

For some time, the American working man has blindly trusted his leaders to serve him, and he has fallen for the myth about progress for the average American working man.

But what had been only a "pinch", has now become a throbbing pain, and the pain has become too great for him to ignore.

His pocket book has been eroded by taxes and inflation, his moral values have been eroded by permissiveness, his communities have been destroyed by social manipulation, and his sons have been killed and maimed in misdirected warfare.

At the same time, he gets court-martialed while the generals get more medals. His children are bused, while the snobs who support busing send their children to private schools. He lives on take-home pay while the rich have subsidies and tax-free income, and on top of all of that, the smut peddlers, dope peddlers, and rapists are set free on his children by courts that he has paid for.

Talk about pollution of the air and water!

And what is more, he can see that the leaders, political, intellectual, business, military, and trade union, who have conducted this fiasco are still in place, rich, comfortable, and established, full of new so-called "programs" for more of the same, and not only do the bosses keep driving him for more work, blood, and taxes, but they want to exclude him from their participation in the political life of the country. It is popular with the elite commentators to contemptuously refer to him as "Archie Bunker", a face on "the Civic Club Circuit", a hard hat, a blue collar, a redneck (an ethnic) or even a racist.

When a spokeman comes along who begins to express some of his deeply felt views, the top leaders he helped elect to head the Democratic party tell him he is not welcome at the National Convention. He can sleep on the beach. He is not invited to the fundraising banquet. There is no room at the inn. Why, he is so maligned by the established powers, that no so-called respectible politician wants to be identified with him. Well, the feeling is mutual.

He is tired of establishment leadership, He wants one of his own boys, who has sweated and bled a little with him, lately, one who knows how to get the hay down where the goats are.

Politically, he is out for the best deal he can get. Many life-long Democrats among this group no longer see the Republican party as the only enemy of the American working man. They feel as unwelcome among the "intellectual snobs." as they would among the "robber barons." They may even cast a protest vote for a candidate who supposedly "can't win." They are becoming more and more the "independents" of today's political spectrum.

In substance, American working people are fed up with established leadership.

They know that the sweat of American working men and women has supported the American system, and that their blood has defended it. In this political year, they are entitled to have those running for office recognize their concerns, and to commit themselves to protect their interest.

It is for this purpose that I have proposed a bill of rights for the American working man. It is a commitment by me, and any others who will join me, to honor America's working people and the things they believe in.

The working man's bill of rights states that the American system should guarantee to the working man who supports it the following rights:

First, the right to have a voice in running, the system—that is the right to speak out, to be heard, and to get action.

Second, the right to be free of abuse and neglect by those in power—bureaucrats entrusted by the people with power over their lives should not be arrogant or insensitive, and should not manipulate working people for political purposes.

Third, the right to have others share in supporting the system—a favored few should not be exempted from taxation and military service, which the working man and his earnings are heavily burdened with supporting the American system.

Fourth, the right to live and work in dignity—the working man should be respected for supporting himself, his family and his government through honest labor, and his economic security should be protected.

Fifth, the right to equal opportunity—equal access to education, employment and business opportunities should be available under free enterprise and freedom of choice.

Sixth, the right to have law and order—the freedoms and opportunities of the American people are based on equal justice under law.

Seventh, the right to be protected in religious and moral values—community morality is a cornerstone of the American system and it should be protected against those who have no moral values.

Eighth, the right to be respected for their patriotism—American working people do not hesitate to stand up for America, and they should be honored for doing their patriotic duty.

Ninth, the right to be free of free-loading—the earnings of working people should not be squandered through subsidies, give-aways, extravagance and waste, either at home or abroad.

Tenth, the right to be free of brainwashing by the national press—the press should see that the working man's voice is heard, along with those of self-styled "experts" whose views the press prefer. Freedom of the press is a responsibility, as well as a privilege.

These are the concerns of average American people, and this is "the message" which they want to send to Washington.

Now you might ask, who are the American working people who have these rights?

They are a broad mixture of American citizens of all ages, who, because of their station in life, their opportunities, and their education have little opportunity for shaping the political, economic or social directions of the country. Yet, they are concerned about our country. They are concerned about its future as a place in which they and their children can live and work. They are black as well as white, urban as well as rural, many relatively wealthy, as well as the relatively poor. They include men and women, white collar and blue collar, young and old.

Characteristically, they work for a living; They are patriotic; They believe in fair treatment for others; They have a sense of community; They believe in personal responsibility; And they have a strong religious faith.

In summary, they are hardworking, God-fearing, patriotic, tax paying, self-reliant Americans who have been taught to do their duty, and to be respectful of authority, and they expect those entrusted with power to run things right.

These are the working people whose concerns I have sought to express in the "working man's Bill of Rights". I am telling them that I have heard their message, and that I am passing it on at the national level.

I expect to keep talking about the working man and his rights, during the political campaigns this summer and fall. Hopefully, this discussion will develop a positive program for the solution of many of the problems which have been troubling our country. The themes which run through the working man's Bill of Rights are "All-American". They are themes upon which American working people from all sections of the country can agree. They are the themes upon which this great Nation was built, and upon which we can rebuild for the future.

THE WORKING MAN'S BILL OF RIGHTS

The American system should guarantee to the working man who supports it the following rights:

The right to have a voice in running the system—American working people should not be excluded from managing the system. They have the right to speak out and be heard. The working man of this country supports and defends the system, and is entitled to control it, because institutions which exist under the system are the servants of the people. Remedies for the concerns of the working man should be convenient and prompt, and reforms of the system should be easy.

The right to be free of abuse and neglect by those in power—persons entrusted with power have special responsibilities to the working people. They must protect working people, as wel as leave them alone. Bureaucrats should avoid treating working people as statistics to be manipulated for political purposes. They should handle the people's business with clean hands. Those who are arrogant or insensitive to the people they serve should be quickly removed from office.

The right to have others share in supporting the system—neither tax dodging nor draft dodging sould be permitted. People with accumulated wealth should not be favored and exempted, while the working man and his earnings are heavily burdened with supporting the system. Every citizen has an obligation to serve in the defense of the country and to pay his fair share in taxes.

The right to live and work in dignity—the American working man should be respected for supporting himself, his family and his government through honest labor. His personal worth as a contributing citizen should be recognized and his security both now and in future years should not be degraded by economic mismanagement.

The right to equal opportunity—the American working man is entitled to share in the prosperity produced by a fair economic system. A productive economy will be the result of free enterprise and freedom of choice by the working man. Access to opportunities in education, employment and business should be available on an equal basis without arbitrary interference by monopolies, unfair economic controls or discrimination.

The right to have law and order—Law and order must be preserved. This is the foundation upon which the freedoms and opportunities of the working man are based. The system should provide for one standard of justice to be applied without regard to class, race, or station in life among those who support the system. Laws and the officers who enforce them are entitled to respect, and legal technicalities should not be permitted to cripple effective law enforcement.

The right to be protected in religious and moral values—Personal and family morality should be protected against permissiveness and disrespect. Every American community is sustained by the religious and moral values of its people. Religious worship should not only be tolerated, but should be respected and upheld.

The right to be respected for their patriotism—Honor should be the reward of working people who have tried to do their patriotic duty. They are committed to a strong national defense system and are prepared to stand up for America. They have every reason to be proud of themselves and their country, and should not be ridiculed for their patriotism or made scapegoats for mismanagement by higher-ups.

The right to be free of free loading—The earnings of working people should not be squandered through subsidies, give-a-ways, extravagance and waste. The American working man is compassionate, but his generosity should not be taken for granted by those capable of supporting themselves. Charity should not be extended to free-loaders . . . at home or abroad.

The right to be free of brainwashing by the national press—The press should not scorn or ignore the concerns of the working people and should see that the working man's voice is heard. Freedom of the press, air waves, and mail service obligates the media to serve the working people and not cater to special interest groups and power structures. The press is obligated to publish the truth. The American working man does not need to be spoon fed by self-styled "experts" who feed him only what they want him to know.

VOTING BY NONRESIDENT DOMICILIARIES

Mr. ROTH. Mr. President, I join the distinguished senior Senator from Maryland (Mr. MATHIAS) in cosponsoring S. 4082, a bill to amend the Voting Rights Act of 1970 to establish, as Federal law, the principle that a nonresident domiciliary of a State residing abroad may not be denied the right to vote in a Federal election merely because he has relinquished his physical place of abode in his domiciliary State.

The past 10 years have been marked by significant legislative developments in the voting rights field. The Voting Rights Act of 1965, the 1970 amendments to that act, and the 26th amendment to the Constitution have been major breakthroughs in providing effective instruments to meet the problem of discrimination against millions of American voters previously disenfranchised by race, age, or residence. None of these landmark pieces of legislation, however, has clearly resolved the problem of American citizens residing abroad. For this reason, I believe that S. 4082 should be enacted.

At present, there are over three-quarters of a million American civilians residing abroad who are effectively barred from voting in Federal elections by complex and restrictive State laws applicable to voting by nonresidents. These civilians include thousands of businessmen, as well as teachers, lawyers, accountants, engineers, and other professional persons, serving the interests of their country abroad and subject to U.S. tax laws and other obligations of American citizenship. For the most part, these civilians in the Nation's service abroad maintain contact with affairs at home through correspondence, television and radio, and American newspapers and magazines. It seems to me that these individuals and their families should not be denied the right to vote for the presidential candidate of their choice because of restrictive provisions of certain State laws which in terms or effect require physical presence in the State for the exercise of the ballot.

Although Congress, through the Voting Rights Act of 1970, established the requirement that each State provide for absentee registration for persons otherwise qualified to vote in a Presidential election, only citizens of a minority of States are clearly entitled and enabled to register and vote in Federal elections while residing abroad. Some States require a voter to be physically present at the time of voting; others require him to maintain a home in the State. Another State allows temporary absentees to vote for 3 years but no longer. Several States disenfranchise civilians abroad by failing to provide absentee registration or absentee ballots. In each of these instances, overseas domiciliaries are effectively rendered ineligible to vote despite the congressional mandate of 1970.

Recognizing the inequity that may exist under current Federal law, the

Delaware General Assembly recently amended the election laws of my State to insure that civilians temporarily living outside the United States, who are otherwise eligible to vote, would not be denied sufferage.

By enacting S. 4082, Congress will merely extend to all U.S. citizens residing abroad—who otherwise qualify to vote under the election laws of their State—the same protection afforded nonresident domiciliaries of Delaware.

Various American leaders, including distinguished public officials representing both political parties, have stated on many occasions, the importance of the reenfranchisement of Americans residing abroad. President Eisenhower, in submitting his proposal for the Federal Voting Assistance Act of 1955, stressed the importance of legislation to preserve the voting rights of citizens in the Nation's service overseas.

I hope the next Congress will carefully consider this former President's message and to enact the legislation proposed by the distinguished Senator from Maryland (Mr. MATHIAS) to extend to 750,000 Americans the fundamental right of suffrage.

RETIREMENT OF SENATOR KARL E. MUNDT, OF SOUTH DAKOTA

Mr. SCOTT. Mr. President, after 34 years in Congress, KARL MUNDT returns to his beloved State of South Dakota and to earned retirement. We wish him well and we know that his beloved wife, Mary, and he will be happy living among their dear friends and taking up again with old acquaintances.

The senior Senator from South Dakota has left his mark in the Senate after four terms. He has spoken out long and loud for a strong defense and at all times has supported efforts to maintain the strength of our international relations with the rest of the world. We will miss Senator KARL MUNDT; we will miss his sage advice and his wise counsel, and most importantly his friendship.

DEFICIENCIES IN AMERICAN GOVERNMENT

Mr. GAMBRELL. Mr. President, in my view, last evening's debate concerning the proposed spending limit legislation, and the question of legislative authority and responsibility which was involved, brought to the surface one of the most fundamental deficiencies in our American Government today.

I certainly wish to join other Members of the Senate in congratulating the distinguished Senator from Oregon (Mr. PACKWOOD) on the outstanding address which he delivered on this subject during the proceedings. He placed the implications of what we were doing in majestic perspective, not only in terms of the historical development of legislative power and responsibility, but also in terms of the near-complete abdication of it in modern times in this Congress.

However, as I advised Senator PACKWOOD, I differed with him in his conclusion that the adoption of a spending limit would be wrong; in fact, I consider its adoption to have been imminently correct. In fact, to adopt such a spending limit applicable only to the balance of the current fiscal year is in truth only a very minor abdication, and might simply be viewed as a technical adjustment, something which might have been done on the first day of the legislative session rather than the last.

As compared with the unlimited authority delegated by Congress to the President under the Tonkin resolution, to enter into and conduct warfare in Southeast Asia, and the sweeping authority given to the President under the Economic Stabilization Acts, to take control of the national economy, the setting of a 7-month spending limit pales into insignificance.

As Senator PROXMIRE pointed out during the debate, the spending limit is actually a limit on the Executive department in regard to spending, rather than a restriction of the power of Congress to fix governmental policy. The realities of the President's power under the spending limitation passed by the House of Representatives are such that the President's power is more a matter of trimming the congressional budget, rather than fixing priorities and destroying programs.

And to the extent that the Congress has delegated some of its constitutional powers to the President, it is simply a corner into which Congress has painted itself. If the Congress truly believes in a $250 billion spending limit, it has no realistic way of implementing it at this late hour, other than to give the President the discretion.

In my mind, passage of the spending limit legislation is simply a recognition that Congress has spent years in creating a condition of legislative bankruptcy, and by enacting this measure has simply declared the conditions that exist, and has asked the President to act temporarily as its trustee.

That may be a repugnant conclusion to reach, but the sooner that it is acknowledged, in my judgment, the quicker Congress will direct its attention toward fiscal responsibility. Hopefully, the next session of Congress will begin with a spending limit to which it will adhere throughout, thereby avoiding the necessity of an 11th-hour delegation of its authority whether technical or otherwise, to the President.

Hopefully, the amendment added to the bill by Senator MCCLELLAN, seeking the establishment of a joint committee to provide budgetary management for Congress, will result in some fiscal self-discipline in future sessions of Congress. Unless some such self-discipline is instituted, the time will come when it will be more dangerous for Congress to convene, than for Congress not to meet at all.

While dealing with the question of spending limits, might I express my regret that Senator PROXMIRE withdrew from consideration his proposal to reduce the spending limit to $245 billion, instead of $250 billion. I had planned to vote for that amendment, had it come to a vote, either by voice or by record vote.

TRIBUTE TO B. EVERETT JORDAN

Mr. WILLIAMS. Mr. President, our distinguished colleague and friend, B. EVERETT JORDAN, will retire upon adjournment after 15 years of devoted service to America and the State of North Carolina as a U.S. Senator.

On my many visits to the beautiful State of North Carolina, I always try to visit the Outer Banks near Nags Head and Cape Hatteras. In that area stand a few sand dunes several hundred feet high towering over the others. The largest of the sand dunes is made of one grain of sand atop another grain of sand. Over the years, the grains of sand persist and they continue to accumulate until they become mountains, defying age and the selfish and destructive winds.

Mr. President, this allusion to nature and the building of a mammoth sand dune is a fitting analogy to the legislative record of EVERETT JORDAN in the U.S. Senate.

North Carolina is an agricultural State and as such her people and industry are vitally dependent upon flood control, irrigation, water supply, price supports and rural development. For nearly 15 years, EVERETT JORDAN has worked tirelessly to put the grains of sand together to make the sturdy mountains. He has worked for the authorizations and completion of the Scott Reservior, the New Hope Dam, the Falls of the Neuse Reservoir and many other water control projects. He has fought for the interests of farmers and agricultural processors and enabled his State's farmers and farmworkers to recognize some gain from their hard labor on the fields.

North Carolina is quickly developing as a leader in our Nation's maritime industry, but the mountains of jobs and industry created by her maritime development would not have been possible without EVERETT JORDAN combining the grains of sand. EVERETT JORDAN was largely responsible for development of the ports at Wilmington and Morehead City and the improvement of navigation on the Cape Fear River. I concur with Senator ERVIN when he said:

> Surveys and planning for most other flood control, navigation, and beach protection projects now authorized or in progress in the State likewise bear the distinctive Jordan stamp.

The Jordan stamp, the legislative sand dune which will not be blown away by time or the winds of unreasonable partisanship, stands as a monument to 15 years of devoted service to the State and the people of North Carolina he held so dearly.

I am proud that I have served with EVERETT JORDAN and even prouder that I can call him my friend.

CELEBRATING THE 25TH ANNIVERSARY OF ISRAELI INDEPENDENCE

Mr. WILLIAMS. Mr. President, May 1973, will mark the 25th anniversary of the establishment of Israeli statehood. This observance is worthy of worldwide praise and recognition and will be appropriately celebrated by the people of

Israel for an entire year, from September of this year until September 1973.

Since the birth of this country on May 15, 1948, Israel has grown and developed into a proud nation. In only 24 years, Israel has become recognized and respected among the world's powerful nations as an independent and serious member of the world community.

However, these 24 years of existence have also been scattered with bitter hardships. Three major wars within that short time have caused undue and seriout burden on these brave people. Their continuous need for supplies and equipment in order to survive the aggression of the Arab nations has deeply harmed the wealth of that nation. The use of Israeli men and women as soldiers will surely continue to effect the growth and development of the country's sciences and technology.

But the Israeli people have not only survived this economic and social damage, they have developed in spite of it. Products and works of Israel are found throughout the world. Food products are available in markets the world over. Art masterpieces are found in virtually thousands of galleries and museums, and excellent literary works are located in libraries in numerous countries.

In order that Israel be given the opportunity to continue to develop and prosper, I believe it is particularly important that the United States continue to actively and effectively aid and support this young but vital country. It is obvious that the Israeli people wish to maintain international peace, but it is also obvious that her very existence is continuously threatened by outside forces. The Israeli people are brave and determined patriots and are truly worthy of the support and praise of all free men throughout the world.

Mr. President, the next year will be an appropriate tribute to the people of Israel. It will serve as a reminder of the grave and enormous task before those citizens—a task of maintaining independence and struggling for survival.

The year honoring the 25th anniversary of Israel independence will, therefore, be a fitting time for we, in the United States and the free world, to praise and acknowledge their fine achievements and offer our moral encouragement in their quest to remain free.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the Act add a new title as follows:

SEC. 2—That this title may be cited as the "Federal Financing Bank Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress finds that demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit and that such borrowings are not adequately coordinated with overall Federal fiscal and debt management policies. The purpose of this Act is to assure coordination of these programs with the overall economic and fiscal policies of the Government, to reduce the costs of Federal and federally assisted borrowings from the public, and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Federal agency" means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States.

(2) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest in the issuing Federal agency.

(3) The term "guarantee" means my guarantee, insurance, or other pledge with respect to the payment of all or part in the principal or interest on any obligation, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions, or any guarantee or pledge arising out of a statutory obligation to insure such deposits, shares, or other withdrawable accounts.

(4) The term "Bank" means the Federal Financing Bank established by section 4 of this Act.

CREATION OF BANK

SEC. 4. There is hereby created a body corporate to be known as the Federal Financing Bank, which shall have succession until dissolved by an Act of Congress. The Bank shall be subject to the general supervision and direction of the Secretary of the Treasury. The Bank shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

BOARD OF DIRECTORS

SEC. 5. (a) The Bank shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Bank or of any Federal agency. The Chairman and each other member of the Board may designate some other officer or employee of the Government to serve in his place.

(b) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Bank. The Chairman of the Board shall select and effect the appointment of qualified persons to fill such offices as may be provided for in the bylaws, and such persons shall be the executive officers of the Bank and shall discharge such executive functions, powers, and duties as may be provided for in the bylaws or by the Board of Directors. The members of the Board and their designees shall not receive compensation for their services on the Board.

FUNCTIONS

SEC. 6. (a) The Bank is authorized to make commitments to purchase and sell, and to purchase and sell on terms and conditions determined by the Bank, any obligation which is issued, sold, or guaranteed by a Federal agency. Any Federal agency which is authorized to issue, sell, or guarantee any obligation is authorized to issue or sell such obligations directly to the Bank.

(b) Any purchase by the Bank shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration (1) the current average yield on outstanding marketable obligations of the United States of comparable maturity, or (2) whenever the Bank's own obligations outstanding are sufficient, the current average yield on outstanding obligations of the Bank of comparable maturity.

(c) The Bank is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves.

TREASURY APPROVAL

SEC. 7. (a) To ensure the orderly and coordinated marketing of Treasury and Federal agency obligations and appropriate financing planning with respect thereto, and to facilitate the effective financing of programs authorized by law subject to the applicable provisions of such law, the prior approval of the Secretary of the Treasury shall be required with respect to—

(1) the method of financing,

(2) the source of financing,

(3) the timing of financing in relation to market conditions and financing by other Federal agencies, and

(4) the financing terms and conditions, including rates of interest and maturities,

of obligations issued or sold by any Federal agency; except that the approval of the Secretary of the Treasury shall not be required with respect to obligations issued or sold pursuant to an Act of Congress which expressly prohibits any guarantee of such obligations by the United States.

(b) Upon receipt of a request from a Federal agency for his approval under subsection (a) of this section, the Secretary of the Treasury shall act promptly either to grant his approval or to advise the agency of the reasons for withholding his approval. In no case shall the Secretary of the Treasury withhold such approval for a period longer than one hundred and twenty days unless, prior to the end of such period, he submits to the Congress a detailed explanation of his reasons for so doing. Expedited treatment shall be accorded in any case in which the Federal agency advises the Secretary of the Treasury that unusual circumstances require such treatment.

(c) Federal agencies subject to this section shall submit financing plans to the Secretary of the Treasury at such times and in such forms as he shall prescribe.

INITIAL CAPITAL

SEC. 8. The Secretary of the Treasury is authorized to advance the funds necessary to provide initial capital to the Bank. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this section without fiscal year limitation.

OBLIGATIONS OF THE BANK

SEC. 9. (a) The Bank is authorized, with the approval of the Secretary of the Treasury, to issue publicly and have outstanding at any one time not in excess of $15,000,000,000 or such additional amounts as may be authorized in appropriations Acts, of obligations having such maturities and bearing such rate or rates of interest as may be determined by the Bank. Such obligations may be redeemable at the option of the Bank before maturity in such manner as may be stipulated therein. So far as is feasible, the debt structure of the Bank shall be commensurate with its asset structure.

(b) The Bank is also authorized to issue its obligations to the Secretary of the Treasury and the Secretary of the Treasury may in his discretion purchase or agree to purchase any such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(c) The Bank may require the Secretary of the Treasury to purchase obligations of the Bank issued pursuant to subsection (b) in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $5,000,000,0000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Bank in excess of such amount.

(d) Obligations of the Bank issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or any agency or instrumentality of any of the foregoing, or any officer or offices thereof.

GENERAL POWERS

Sec. 10. The Bank shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of proprety, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof;

(9) to enter into contracts, to execute instruments to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct to its business;

(10) to act through any corporate or other agency or instrumentality of the United States, and to utilize the services thereof on a reimbursable basis, and any such agency or instrumentality is authorized to provide services as requested by the Bank; and

(11) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations.

EXEMPTIONS

Sec. 11. (a) The Bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the Bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any obligation issued by the Bank shall be subject to Federal taxation to the same extent as obligations of private corporations are taxed.

(b) All obligations issued by the Bank pursuant to this Act shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)), of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), and of section 304(a)(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)).

(c) Nothing herein shall affect the budget status of the Federal agencies selling obligations to the Bank under section 6(a) of this Act, or the method of budget accounting for their transactions. The receipts and disbursements of the Bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute or expenditures and net lending (budget outlays) of the United States.

PREPARATION OF OBLIGATIONS

Sec. 12. In order to furnish obligations for delivery by the Bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Bank may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Bank. The engraved plates, dies, bed pieces, and other material, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Bank shall reimburse the Secretary of the Treasury for any expenditures made in preparation, custody, and delivery of such obligations.

ANNUAL REPORT

Sec. 13. The Bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

OBLIGATIONS ELIGIBLE FOR PURCHASE BY NATIONAL BANKS

Sec. 14. The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Federal Financing Bank" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

GOVERNMENT CORPORATION CONTROL ACT

Sec. 15. The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Federal Financing Bank in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846).

PAYMENTS ON BEHALF OF PUBLIC BODIES

Sec. 16. (a) Notwithstanding any other provision of this Act, the purchase by the Bank of the obligations of any local public body or agency within the United States shall be made upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such local public body or agency as a result of the purchase by the Bank of its obligations. The head of the Federal agency guaranteeing such obligations, in consultation with the Secretary of the Treasury, shall estimate the borrowing costs that would be incurred by the local public body or agency if its obligations were not sold to the Bank.

(b) The Federal agency guaranteeing obligations purchased by the Bank may contract to make periodic payments to the Bank which shall be sufficient to offset the costs to the Bank of purchasing obligations of local public bodies or agencies upon terms and conditions as prescribed in this section rather than as prescribed by section 6. Such contracts may be made in advance of appropriations therefor, and appropriations for making payments under such contracts are hereby authorized.

NO IMPAIRMENT

Sec. 17. Nothing in this Act shall be construed as impairing any authority or responsibility of the President or the Secretary of the Treasury under any other provision of law, nor shall anything in this Act affect in any manner any provision of law concerning the right of any Federal agency to sell obligations to the Secretary of the Treasury or the authority or responsibility of the Secretary of the Treasury to purchase such obligations.

SEPARABILITY

Sec. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECTIVE DATE

Sec. 19. This Act becomes effective upon the date of its enactment, except that section 7 becomes effective upon the expiration of thirty days after such date.

Mr. PROXMIRE. Mr. President, on June 22, the Senate passed a Federal financing bank bill and sent it to the House. That bill was reported out of our committee unanimously. It is a bill which the Treasury wants very much. It is a bill which, because of the parliamentary situation in the House, has been hard to move. The Ways and Means Committee has reported the Senate bill with amendments but is unable to consider the bill or the floor.

The chairman of the Ways and Means Committee says one way to get this bill enacted is to put it as an amendment on the pending measure.

Mr. PROXMIRE. Mr. President, this legislation would provide for a more efficient financing of Federal and federally assisted borrowings from the public. The House of Representatives has just approved the Senate version of the bill with three amendments. These amendments have been discussed with majority and minority members of the Senate Banking Committee and are acceptable.

The House amendments will not in any way affect the authority or operations of the Federal Financing Bank. As in the Senate version, each Federal agency would be authorized but not required by the House to issue or sell its obligations to the bank and thus reduce the cost of financing its programs.

The House amendments affect only those provisions of the bill dealing with the tax status of the bank's obligations and the authority of the President and the Secretary of the Treasury over the financing of Federal agency programs eligible to be financed through the bank.

First, the House amended section 7 of the bill so that the approval of the Secretary of the Treasury would not be required with respect to the marketing of obligations issued or sold pursuant to an act of Congress which expressly prohibits any guarantee of such obligations by the United States. This amendment would have the effect of exempting the obligations of the Tennessee Valley Authority from the requirement in section 7 that the Secretary of the Treasury approve the marketing terms and conditions of obligations issued or sold by Federal agencies.

TVA is in a unique position among Federal agencies in that the Congress has expressly prohibited any guarantee of its obligations by the United States. The Congress has specifically limited the Treasury's authority over TVA borrowings, and the House amendment would in effect preserve the status quo. TVA would, however, be authorized to borrow from the Federal Financing Bank on a voluntary basis.

Second, the House deleted section 16 which would have authorized the President to limit Federal agency loan guarantee programs when, in view of the overall fiscal requirement and demands for credit, he finds such limitations necessary. This provision went beyond the question of financing efficiency, which is the purpose of the Federal Financing Bank. While I believe that the Congress should provide for a better system of overall review of loan guarantee activities, I do not believe that the establishment of the Federal Financing Bank should be delayed pending the resolution of this broader issue.

Finally, the House amended section 11 of the bill to exempt the obligations of the Federal Financing Bank from State and local taxation. The House bill would thus preserve the status quo, since the obligations of other Federal agencies are also exempt from State and local taxation.

All three of the House amendments are thus for the purpose of deleting from this legislation provisions which do not affect the functions of the Federal Financing Bank itself.

Under the circumstances, I hope the distinguished manager of the bill will be able to accept this amendment.

Mr. HARTKE. Is this the proposal which has been advanced, also, by the chairman of the Ways and Means Committee, Mr. Mills?

Mr. PROXMIRE. That is correct.

Mr. HARTKE. As I understand the intention of this amendment, it is to coordinate all the activities on Federal financing in order to eliminate the duplication of financial experts and other people who are marketing the securities, and to provide for a more uniform method of securing a lower interest rate.

Mr. PROXMIRE. That is correct; and, in addition to time the issues in such a way that the market will not be disrupted.

Mr. HARTKE. I have no objection to the amendment. I think it is a worthy step forward in trying to eliminate some of the duplication and inequities in the present law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. HARTKE. Mr. President, may I have the attention of the Senator from New Jersey (Mr. Williams).

Mr. WILLIAMS. Yes. Mr. President, I want to make the observation that the bill provides for the collection of municipal taxes by Federal tax collection procedures. In one situation, I think this is grossly unjust because I think the tax levied is unjust. I am speaking specifically of the situation where Federal employees work in a Federal establishment in a State other than their residence and are not served in any way by the municipal services of the city that is levying the tax specifically.

As for the residents of New Jersey, many of them go by water, on a ferryboat, to the Philadelphia Navy Yard and they never even go on the streets of Philadelphia; yet this tax is levied. It is rubbing salt in the wounds, in my judgment, for them to have this automatic Federal tax collection in a situation where I think the tax is grossly unjust. Certainly they are being taxed without representation. They do not live there. They do not even travel through Philadelphia.

Mr. HARTKE. Let me say to the Senator from New Jersey that this amendment was inserted on the floor at a time when I was not here and prior to this time this amendment was considered in connection with the revenue sharing bill. The Senator from Ohio (Mr. Taft) raised this question and the manager of the bill indicated that he would accept the amendment at a later time. It was adopted by the Finance Committee and then adopted here on the floor of the Senate.

At that time there was nothing I could do about it.

I understand the concern that the Senator from New Jersey has expressed and I certainly will have that relayed to the conferees of the committee.

Mr. WILLIAMS. I certaily appreciate that.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. FANNIN Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE I—WILDLIFE RESTORATION FUND

Sec. 101. (a) The sentence of section 3 of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669b), is amended to read as follows: "An amount equal to all revenues accruing each fiscal year (beginning with the fiscal year 1975) from any tax imposed on specified articles by sections 4161(b) and 4181 of the Internal Revenue Code of 1954 (26 U.S.C. 4161(b), 4181) shall, subject to the exemptions in section 4182 of such Code, be covered into the Federal aid to wildlife restoration fund in the Treasury (hereinafter referred to as the 'fund') and is authorized to be appropriated and made available until expended to carry out the purposes of this Act."

(b) That part of section 4(b) of such Act of September 2, 1937 (16 U.S.C. 669c–(b)), which precedes the proviso is amended to read as follows: "One-half of the revenues accruing to the fund under this Act each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States:".

(c) The amendments made by subsections (a) and (b) of this section shall take effect July 1, 1974.

Sec. 102. (a) Section 8(b) of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669g–(b)), is amended by striking out "outdoor" each place it appears therein.

(b) The amendments made by subsection (a) of this section shall take effect on the date of the enactment of this Act.

TITLE II—TAX ON SALE OF BOWS AND ARROWS

Sec. 201. (a) Section 4161 of the Internal Revenue Code of 1954 (relating to the imposition of tax on the sale of certain articles) is amended—

(1) by striking out "There is" and inserting in lieu thereof the following:

"(a) Rods, Reels, Etc.—There is";

and

(2) by adding at the end thereof the following new subsection:

"(b) Bows and Arrows, Etc.—

"(1) Bows and Arrows.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(A) of any bow which has a draw weight of 10 pounds or more, and

"(B) of any arrow which measure 18 inches overall or more in length,

a tax equivalent to 11 percent of the price for which so sold.

"(2) Parts and accessories.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(A) of any part or accessory (other than a fishing reel) suitable for inclusion in or attachment to a bow or arrow described in paragraph (1), and

"(B) of any quiver suitable for use with arrows described in paragraph (1),

a tax equivalent to 11 percent of the price for which so sold."

(b) The amendments made by subsection (a) of this section shall apply with respect to articles sold by the manufacturer, producer, or importer thereof on or after July 1, 1974.

Mr. FANNIN. Mr. President, this is a revenue measure that provides that the funds from the sale of archery equipment will be paid into this wildlife restoration fund, the same as is done on other equipment, other firearms, or anything that is used in hunting and fishing. Archery equipment would be the same as other sporting arms and ammunition.

It is a provision that provides for an 11 percent tax and it is, as I say, one that will produce revenue for a very just cause.

I ask the distinguished manager of the bill if he would be willing to accept this measure.

Mr. HARTKE. Mr. President, this measure was inserted in the Finance Committee and was ready to be reported by the Finance Committee and it was only through inadvertence that it was not reported.

It would provide for 11 percent excise tax on certain bows and arrows and the money itself would be put into a fund, which would be used for restoration of wildlife and the acquisition of property for archery purposes.

Mr. FANNIN. That is correct.

Mr. HARTKE. It is a new form of taxation, which is comparable to the present taxation on firearms. It goes for the same general purpose, formerly enacted by the Congress under two different tax acts.

Mr. FANNIN. That is correct. It is in the same category as firearms, shells, and cartridges. And there is a different tax for rifles and pistols, but that is only 10 percent.

Mr HARTKE. As I understand, this applies to the limitation on the size of bows for the purpose of excluding from the tax those bows and arrows not used for hunting purposes.

Mr. FANNIN. That is right.

Mr. PROXMIRE. Would the Senator yield?

Mr. HARTKE. I yield.

Mr. PROXMIRE. Is this a new tax, an 11-percent excise tax?

Mr. FANNIN. This is a tax that will be placed on archery equipment on the same basis as now on other hunting equipment.

Mr. PROXMIRE. So there is no tax at the present time on archery equipment. This would impose a new tax?

Mr. FANNIN. This would impose a new tax.

Mr. PROXMIRE. This tax would be in a special segregated fund?

Mr. FANNIN. To go to wildlife restoration, that is right.

Mr. PROXMIRE. What is the amount involved?

Mr. FANNIN. Eleven percent.

Mr. PROXMIRE. What does that mean? Is there any estimate?

Mr. FANNIN. I do not have an estimate. It is approximately $3.5 million annually. I do have that estimate.

Mr. HARTKE. For the information of the Senator, the best estimate that we have at the present time is that it would raise about $2 million.

Mr. PROXMIRE. Has the sporting goods industry had an opportunity to make recommendations?

Mr. FANNIN. Yes. It has the endorsement of the Department of the Interior; International Association of Game, Fish, and Conservation Commissioners; Archery Manufacturers' Association; Wildlife Management Institute; Citizens Commitee for Natural Resources; and the National Wildlife Federation, among others.

Mr. PROXMIRE. How about the Treasury Department?

Mr. FANNIN. Yes.

Mr. HARTKE. The Treasury Department has endorsed this and hearings have been held on the House side.

Mr. PROXMIRE. Has the House acted on this?

Mr. HARTKE. The House has acted on this.

Mr. PROXMIRE. They have acted favorable?

Mr. HARTKE. They have acted favorably.

Mr. PROXMIRE. Has the Senate committee considered this measure?

Mr. HARTKE. The Senate committee has considered this measure. Frankly, I think the Senator from Arizona was under the impression it had been reported.

I think it was just an inadvertence by someone, otherwise it would have been reported.

Mr. FANNIN. I did mention this to the Senator from Wisconsin.

Mr. PROXMIRE. Yes.

Mr. FANNIN. Because I thought it had been reported. I think it was an oversight.

Mr. HART. I hope very much the able acting manager of the bill can take this amendment. I should add that included among those who endorse it is Representative John Dingell, the able Congressman from Michigan.

Mr. HARTKE. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of H.R. 640, the tariff bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I call up my amendment No. 1628.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record is as follows:

H.R. 640

On page , line , insert the following:

That (a) item 168.15 of the Tariff Schedules of the United States is amended by striking out "94c per gal." in rate column numbered 1 and inserting in lieu thereof "Free".

(b) The rate of duty in rate column numbered 1 of item 168.15 of the Tariff Schedules of the United States (as amended by subsection (a)) shall be treated as not having the status of a statutory provision enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.

Mr. WILLIAMS. Mr. President, this amendment was discussed earlier. It deals with duty on Angostura bitters. This is a company not in competition with others on this product. The removal of the duty would not in any way affect any other company. I have discussed this with the manager of the bill. Earlier we had a debate. I hope the amendment can be accepted.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. I understand this would reduce the present tariff on the importation of bitters and in doing so it would mean a reduction in costs for the company that imports it and also a reduction probably in the cost to the consumer of $100,000 and a loss to the Treasury of about $100,000. It offers no threat to any American industry, because Angostura bitters are not produced in this country.

Mr. WILLIAMS. The Senator is correct. This duty is not there for the protection for domestic business.

The savings to this company if this were taken off could flow to the benefit of the consumer.

Mr. PROXMIRE. The Treasury has no objection to this because they do not deem the customs as a significant revenue raising source. Is that correct?

Mr. WILLIAMS. There is no objection.

Mr. PROXMIRE. Earlier I had been very concerned about this proposal, but I have had a chance to discuss it with the Senator from New Jersey. It seems to me to be in the public interest. This is a company that has been in some little difficulty. It does seem to be in the interest of the consumer and a little help in counteracting inflation.

Mr. WILLIAMS. I appreciate the statement of the Senator. I agree with the Senator. I am glad he views it that way.

Mr. HARTKE. Mr. President, will the Senator explain whether the net effect is about $100,000 on the Federal revenue?

Mr. WILLIAMS. The Senator is correct.

Mr. HARTKE. At the same time it offers no protection to American industry because there is no American industry of this kind.

Mr. WILLIAMS. That is correct.

Mr. HARTKE. It is not designed to deal with trade, but is only a revenue producer at this time.

Mr. WILLIAMS. That is correct. It is an anachronism. I understand tariffs as a means of raising revenue have not been employed since the time of the income tax.

Mr. HARTKE. As far as I understand it there is no objection on the part of the committee. We are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. CANNON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill add a new section as follows:

SEC. —. Section 591(g) of title 18, United States Code, is amended by striking out the semicolon immediately after "persons" and inserting in lieu thereof a comma followed by "*Provided*, That with respect to section 611 this definition shall not include a corporation or labor organization."

Mr. CANNON. Mr. President, for a number of years prior to the enactment of the Federal Election Campaign Act of 1971, Public Law 92–225, the language of section 610 of title 18, United States Code, contained an outright ban on contributions and expenditures by corporations and labor organizations in connection with Federal elections.

These prohibitions, however, were modified by various court decisions based on the free speech guarantee of the first amendment, which had the effect of allowing certain political activities by labor organizations and corporations. These judicial interpretations of section 610 were codified into law in Public Law 92–225 by what is known as the Hansen amendment.

The act thus amended section 610 to provide that the prohibition against corporations or labor organizations making contributions or expenditures in connection with Federal elections does not include: first, communications by corporations to their stockholders and their families or by labor organizations to their members and their families; second, nonpartisan registration and get-out-the-vote campaigns by corporations aimed at their stockholders and their families or by labor organizations aimed at their members and their families; or third, the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a corporation or labor organization, provided that such contributions are entirely voluntary.

From the debate and other legislative background to this legislation, it seems quite clear that section 610 as amended was intended to apply generally to corporations and labor organizations and was intended to set forth the definitive law concerning allowable political contributions, expenditures, and related activities by all such entities.

The difficulty that has arisen is because under another part of Public Law 92–25 the constraints of section 611, which prohibits political contributions by Government contractors, may have been made applicable to corporations and labor organizations.

Section 611 was enacted originally on the theory that individuals and organizations engaged in contractual relations with the Federal Government should be under the same type of restrictions as were placed on corporations, and later extended to labor unions, by section 610. Extension of those prohibitions to corporations at the time of the enactment of section 611 was expressly rejected on the basis that there was no need to do so since corporations were already prevented from making political contributions or expenditures by virtue of section 610.

Corporations and labor organizations were placed under the prohibitions of section 611 by the Federal Election Campaign Act through being included within the coverage of the definition section of title 18 applying to elections. Under the act reference to several sections of title 18 was added to that definition section, section 611 being among them, to conform the definition of terms among more sections of the code concerning elections.

The legislative history does not reveal any indication that any real substantive change or impact was intended by this change, much less a change of the magnitude as would result if corporations and labor organizations who happened to contract with the Government were summarily prevented from being allowed the right to engage in even such limited political activities as were carefully spelled out in section 610 by the act. And certainly no attention was given to the constitutional issues that would arise under an outright prohibition against corporate and union political activities for their employees and members of their families such as codified in 611.

As a result, there is ambiguity and a serious inconsistency in the law. To remedy the situation, H.R. 15276 amends section 591(g) of title 18, United States Code, adding a proviso to specify that the words "person" and "whoever" do not mean a corporation or a labor organization with respect to section 611.

I might say that H.R. 15276 has been reported by the Committee on Rules and Administration and is on the calendar, and this amendment is identical to that bill.

Congressional intent in the enactment of section 610 of the Federal Election Campaign Act of 1971 was to authorize unions and corporations to establish, administer, and solicit voluntary contributions from their members and employees for a separate segregated fund to be utilized for political purposes. However, much confusion has arisen over the interpretation of section 611 of the same act, which it is argued by some, appears to prevent unions or corporations having any government contracts from establishing such funds. It is the purpose of this amendment to remove corporations and labor organizations from the prohibitions of section 611 by amending the definitions of section 591(g) of title 18, United States Code.

I may say, Mr. President, that it does not, contrary to the belief of many people, liberalize the law with respect to contributions from labor unions or corporations to political campaigns. That prohibition still remains in the law.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. CANNON. I am happy to yield.

Mr. PROXMIRE. The Senator from Nevada feels very strongly in favor of this amendment, and he was chairman of the committee that held hearings on it, and I am sure it has a great deal of merit, but this is something that many of us are concerned about. Some Senators who cannot be here have indicated they are strongly opposed to it and would very much like to have an opportunity to come back and discuss it, if necessary. I understand that Common Cause has indicated very strong opposition to it. Under those circumstances, in view of the fact that it is now 8:30 p.m. on, we hope, our last night in session, and that we are going to have difficulty if we continue to Monday and Tuesday in getting a quorum, I hope the Senator will not insist on pressing this amendment. Otherwise the tax bill that is now pending will be in serious jeopardy, because some of us are determined to oppose this amendment in every way we can for as long as necessary.

Mr. CANNON. I deeply regret that some of the Senators who are not here to discuss it or hear the argument are those who are blocking passage of this legislation. I also regret that Common Cause has taken a position against it, because they are complaining about someone else having exactly the same right to do the things they do. They solicit voluntary political contributions from their members who sign up and they use them in political campaigns and for political purposes. I am very disappointed that they would take a dog-in-the-manger attitude and say it is wrong for somebody else to do that, because it happens to be a labor union which has a contract with the Federal Government.

As I said, I am truly sorry indeed that Senators who apparently oppose this sort of proposal have never listened to the arguments, and I doubt if they have read the committee report, because it is quite obvious that, in all fairness, it is not fair to say that a corporation which is a Government contractor cannot do those things that a corporation which is not a Government contractor can do.

My opinion is that the prohibition is not constitutional, and I think the courts, given time to act on it, will probably so hold, as they have in parallel cases which resulted in our removing that very restriction from section 610 when we passed the Campaign Act. But we did not recognize this was a problem at that time. I am sure my colleagues would agree that we would have removed that restriction in the Campaign Act we passed earlier.

Mr. PROXMIRE. It is not only a matter of opposition on the part of Senators who are not here. This Senator opposes it. I am sure there are other Senators on the floor who are against it. There may be some Senators who enthusiastically favor it.

What this amendment would mean is that political activity which is not now possible would be permitted on the part of both labor unions and contractors that have Government contracts. If we permitted that, it seems to me we could be going down a very unfortunate and dangerous road. It could mean that we are going to get terrific political pressure—indirect, it is true, but political pressure—for more Government spending, especially in the military area and other areas.

Government contracts are now so enormous and the number of people employed in them so great that recent estimates indicate that one American worker out of ten is now directly or indirectly employed in our Military Establishment. With that colossal potential political power, it seems to me we would be wise to have some method of circumscribing political activity or the political impact this could have on our system could be overwhelming.

Mr. CANNON. As I said earlier to the Senate, this is, in all fairness, a measure that ought to be enacted, because a person who happened to be an employee of a Government contractor should not be deprived of rights that an employee of some other contractor has to make voluntary contributions to their own political funds and use them for political purposes.

The Senator said this would result in more pressure on the Senate. I seriously doubt that. If we could get more pressure than we get at the present time, it would be quite difficult. I do not think we would get any more.

I do think, in fairness, that corporations and unions that are in this position should not be deprived of their constitutional rights.

As I said, I feel that such a prohibition is unconstitutional, as the courts have held on the cases they have ruled on so far.

I do not want to hold the Senate up. I do not know if there are other Senators who want to speak on the measure.

Mr. PROXMIRE. If the Senator feels that it is unconstitutional and the courts are going to act on it, it would accomplish what the amendment would do. It is too late to have any effect on the 1972 election, which is only a few days away.

Mr. CANNON. No, I do not think it is too late. The 1972 elections can be affected right up to the very day of the election. I think these people are being deprived of a very important right in this election.

I may say that I believe this amendment has the support of both political parties, so it cannot be stated to be in favor of one or the other of the political parties, but is something that, in all fairness, ought to be accomplished.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. DOLE. I cannot speak for the other party, but I think, generally, the Republican Party supports it on the basis outlined by the Senator from Nevada. I think both political parties support it. I think it is a distinction which should not have been made, and probably would not have been made if we had known about it, but it has been made, and now, because of the criticism of John Gardner and Common Cause—the only common cause they have ever had has been to defeat Richard Nixon; at any rate, they are called Common Cause—I assume questions have been raised.

I assume Senators are opposed to it for good reason, but I cannot disagree with the Senator from Nevada. I wish we could pass it tonight. It seems impossible to do that. A live quorum, for example, would end the ball game. I have heard rumors that that might happen. I support the Senator from Nevada. If we cannot do it this evening, maybe we can do it next week.

Mr. AIKEN. Mr. President, if the Senator will yield, it seems to me this is a rather important amendment which is being offered. It is so important that I am sure every Senator would want the folks back home to know how he voted on it in a yea-and-nay vote.

Mr. CANNON. Mr. President, I would be delighted to have a yea-and-nay vote. I could not think of anything better. But I understand that some Senators would expect to talk at length on it before it could come to a yea-and-nay vote. If there were a possibility of getting a yea-and-nay vote right now, or later tonight, I would be for it. I would do it this very minute if my colleagues would permit us to do it.

Mr. PROXMIRE. Mr. President, may I say there is no chance of getting a yea-and-nay vote tonight or Monday or Tuesday or Wednesday. I expect to discuss this amendment for a long time. I think it is very important that we discuss it at considerable length. I can assure the Senate that there will not be a yea-and-nay vote on it tonight or next week, unless cloture is invoked.

Mr. HARTKE. Mr. President, I understand the deep conviction the Senator from Nevada has in this amendment. I understand, with all due respect, that he is entitled to offer his amendment. The measure before us at this time is a tax measure. I point out that his amendment would be subject to a point of order in the House of Representatives even if it went to conference.

So even if we added it on this matter, it certainly would be doomed as soon as it hit the conference under their new rules of germaneness. I would hope the Senator from Nevada could see his way clear to withdraw this amendment and permit us to go ahead and deal with what I consider mostly housekeeping procedures here. I understand that this measure is not veto proof if it reaches the White House, so what we are dealing with is really just an opportunity to take care of items which we normally find it very difficult to get on the calendar.

Mr. CANNON. I thank my colleague. I must have been mistaken; I thought this was a tariff measure rather than a tax measure, because had it been a tax measure I knew it would be subject to a point of order in the House of Representatives. But I thought it was a tariff measure, and therefore the amendment would be appropriate on this particular bill.

But in the light of the sentiment of the Senate, obviously we cannot pass it tonight, and I hope we can adjourn tonight. I certainly am not willing to hold the Senate up in an effort to try to work my will on this particular bill, even though I am sure that a majority of Senators, if they had the opportunity to vote, would vote for it—a majority of both political parties, I might add. This has strong support from both parties and from many different contractors, because they feel that their employees are being deprived of a right granted to other contractors and other corporations, and it has the support of almost all the labor unions, at least all I know of, and I have heard from an awful lot of them, who feel that the labor unions on Government contracts are being discriminated against.

This is a valid provision, but with all respect to the Senator from Wisconsin, on behalf of some other Senators who are not here, I feel I should withdraw the amendment. I certainly do not want to hold up other important legislation.

I deeply regret it. I think it is something we ought to act on, and I can assure the Senate that we will be back here next year with similar legislation again, when we have ample time to give the Senate to make up its mind and work its decision, despite Common Cause or whoever it may be that is opposed to it.

Mr. President, I withdraw the amendment.

Mr. HARTKE. Mr. President, I would like to pay tribute to the Senator from Nevada for being so kind and generous on this matter, as he always is. I know of no man who has done more in the field of trying to make sure the election process in the United States is one of which we can be proud. I congratulate him for his efforts. I am certain he will be back with a measure next year, but I want to express personal appreciation for his action tonight.

Mr. AIKEN. Mr. President, I want to tell the Senator from Nevada that I appreciate his willingness to not get us into another wrangle at this time of night and at this time of year, and I want to assure all my colleagues here that my insistence that we have more Senators here before acting on this important issue is not to be interpreted as indicating that I am satisfied with the so-called clean election law. I voted for that bill about a year ago, as I recall, and the very next morning I looked in the mirror and my face was quite red, because I felt we had enacted legislation that would be difficult if not impossible to administer, and would not correct the things we were trying to correct.

I appreciate the Senator's efforts, but I appreciate even more his not insisting on taking that proposal up at this time.

Mr. HARTKE. Mr. President, I ask for third reading.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MANSFIELD. Hold it! Hold it!

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 640) was read the third time, and passed.

The title was amended so as to read: "An Act to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty; and for other purposes."

Mr. MANSFIELD. Mr. President, this is a bill having to do with the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty. Those items were not even mentioned.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the tax bill.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 7577, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7577) to amend Section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CANNON). Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 1050, H.R. 3786, and Calendar No. 1240, H.R. 4678, both having to do with free entry of carillons, the first one for the use of Marquette University, Milwaukee, Wis., and the second for the use of the University of California at Santa Barbara. These measures were being held on a tariff basis for possible amendments, but those amendments have been taken care of in the bill just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DUTY-FREE ENTRY OF CARILLON FOR MARQUETTE UNIVERSITY

The bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis., was considered, ordered to a third reading, read the third time, and passed.

PROVIDING FOR FREE ENTRY OF A CARILLON FOR USE OF THE UNIVERSITY OF CALIFORNIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1240, H.R. 4678.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 4678. To provide for the free entry of a carillon for the use of the University of California at Santa Barbara.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments on page 1, line 7, after the word "this", strike out "bill" and insert "Act"; after line 9, insert a new section, as follows:

SEC. 3. (a) Subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 907.45 the following new item:

" 907.50	Caprolactam monomer in water solution (provided for in item 403.70, part 1B, schedule 4).	Free	No change.	On or before June 30, 1973. ."

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or before the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after August 15, 1972, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

And, on page 2, after line 18, insert a new section, as follows:

SEC. 4. (a) Paragraph (a) of general headnote 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "Except as provided in headnote 6 of schedule 7, part 2, subpart E, except as provided in headnote 4 of schedule 7, part 7, subpart A," and inserting in lieu thereof "Except as provided in headnote 1 of schedule 3, part 3, subpart C, in headnote 6 of schedule 7, part 2, subpart E, and in headnote 4 of schedule 7, part 7, subpart A,".

(b) Schedule 3, part 3, subpart C of the Tariff Schedules of the United States is amended by inserting the following headnote after the subpart caption:

"Subpart C headnote:

"1. Products of Insular Possessions.—(a) Except as provided in subparagraph (b) of this headnote, any fabric of a kind provided for in item 336.50, 336.55, or 336.60, which is the product of an insular possession of the United States outside the customs territory of the United States and which was imported into such insular possession as a fabric for further processing, shall be subject to duty at the rate applicable thereto under item 336.50, 336.55, or 336.60 with respect to the country producing the fabric which was imported into the insular possession.

"(b) If the requirements for free entry set forth in general headnote 3(a) are complied with, fabrics, not exceeding 60 inches in width, provided for in items 336.50, 336.55, and 336.60, which are the product of an insular possession of the United States outside the customs territory of the United States and which were imported into such insular possessions as a fabric for further processing may be admitted free of duty, but the total quantity of such articles entered free of duty during each calendar year shall not exceed the quantities specified below:

"Calendar year:	*Quantity (linear yards)*
1972 ________	2,500,000 (or, if greater, the quantity entered during 1972 before the effective date of this headnote).
1973 ________	2,000,000.
1974 ________	1,500,000.
1975 and each subsequent calendar year ______	1,000,000."

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an explanation of the amendments be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF AMENDMENTS

This amendment is designed to grant temporary relief from duty for caprolactam monomer in water solution until June 30, 1973. This chemical, which is temporarily in short supply in the United States, is widely used by manufacturers of nylon fiber. These fiber manufacturers cannot obtain adequate caprolactam supplies from domestic sources at this time.

The necessity for importing the partially processed material results from a failure of a chemical manufacturing facility at Augusta, Georgia to come on-stream as planned. One stage in the process has been redesigned and equipment is on order. The caprolactam monomer in water solution which the Augusta manufacturer receives will be further processed in units that are operational to produce finished product caprolactam.

Only Allied Chemical Company and Dow-Badische in the U.S. manufacture caprolactam and they have no product available to supply other than that which is required by their regular customers. As a matter of fact, Allied Chemical Company is also a purchaser of this material from the Augusta concern.

For the benefit of establishing legislative intent for the technicians, the caprolactam monomer in water solution requires further purification (including extraction, hydrogenation, ion exchange, evaporation and distillation) to produce caprolactam suitable for polymerization.

Virgin Island-Processed Wool: This amendment closes the last remaining loophole in our tariff schedules on processed wool. The Congress has on three previous occasions in 1963, 1965 and 1968 attempted to prevent foreign producers of processed wool from manipulating the wool to evade the intended tariff rates. However, in recent years these foreign wool producers have shipped their wool into the Virgin Islands where it was further processed by "showerproofing" and reshipped into the United States duty free. This practice threatened to destroy the New England wool industry. The committee amendment would apply the statutory rates to imports from the Virgin Islands above certain levels of importation.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to provide for the free entry of a carillon for the use of the University of California at Santa Barbara, and for other purposes."

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the joint resolution (H.J. Res. 1331) making further continuing appropriations for the fiscal year 1973, and for other purposes, in which it requests the concurrence of the Senate.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The PRESIDING OFFICER (Mr. CANNON). The Chair lays before the Senate the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 7577, to amend section 3306 of the Internal Revenue Code of 1954.

The Senate resumed the consideration of the bill.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH FEELS FUNDING FOR HOUSE JOINT RESOLUTION 748 SHOULD HAVE AFFIRMATIVE ACTION

Mr. RANDOLPH. Mr. President, I comment briefly on one issue involving the Supplemental Appropriations Conference Report which passed the Senate earlier today. As Senators know, the Conference Committee agreed to eliminate the $40 million approved by the Senate on Thursday evening by a vote of 32 to 28 to begin implementation of the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972. I am genuinely disappointed that this limited amount of funding for this innovative, far-sighted, and far-reaching program to allow the Veterans' Administration to utilize its resources in the establishment of new medical schools and in the training of health manpower, was not accepted by the Conference Committee.

As Senators will recall the $40 million funding proposal was sponsored by the able Senator from California (Mr. CRANSTON). I actively joined him in sponsoring and presenting this amendment to the Senate. We both worked diligently together with many other Senators subsequent to passage of the Supplemental Appropriations bill in the effort to obtain an agreement on the Senate amendment. The Senator from California who is not here today shares my disappointment that funds will not be available to begin immediate planning and implementation of this unique program. As we indicated to the Senate on Thursday evening during debate, the unparalleled opportunity involved in House Joint Resolution 748 and the urgency of securing more and better trained and educated health care personnel in this country, constituted a strong and convincing case for the inclusion of the funds to initiate this program.

We understand and sympathize with the difficult task of the membership of the Appropriations Committee in bringing this supplemental appropriations bill or any supplemental appropriations bill to the floor with such a short time remaining. However, we trust that the Appropriations Committee will give careful attention to the funding of the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 at the earliest possible time in the next Congress and will act affirmatively in providing adequate funds for this innovative and urgently needed program.

FURTHER CONTINUING APPROPRIATIONS, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 1331.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 1331, a joint resolution making continuing appropriations for fiscal year 1973, and for other purposes, which was read twice by title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to its consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. INOUYE. Mr. President, this resolution was passed by the House a few minutes ago and extends the existing continuing resolution which expires October 14, 1972, until February 28, 1973. This continuing resolution is necessary to provide authority for the activities carried in the foreign assistance and related agencies appropriation bill. This bill has been deferred for lack of authorization for several programs.

In the original continuing resolution, Public Law 92–334, which was approved July 1, 1972, the activities for the foreign assistance appropriations bill were continued at the rate provided in the budget estimate for fiscal year 1973 or the rate in fiscal year 1972, whichever was lower. Subsequent to that time, the House of Representatives has passed a foreign assistance appropriation bill, and the Senate has approved a foreign assistance appropriation bill. The Senate appropriations bill omitted those items which were not authorized by law.

In the pending House joint resolution, the House committee in its report said in order to be more responsive to more current actions by the Congress, has inserted a new section 108 providing that obligations could continue at the lower of the two rates provided in the Senate and House appropriations bills. With reference to the items not included in the bill in the Senate for lack of authorization, including refugee relief assistance—Bangladesh—security supporting assistance, military assistance, regional naval training, and foreign military credit sales, under the new section 108 the rate for obligation until February 28, 1973, would be not to exceed the rate permitted under the authorization bill, H.R. 16029, as it passed the Senate.

The budget estimates for the entire bill amount to $5,163,024,000. The Committee on Appropriations of the House of Representatives reports that, under this proposed continuing resolution, the rate of obligation on an annual basis for the entire bill would be $4,010,155,000, or at a rate $1,152,869,000 under the budget estimate.

Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 4, before the period insert the following: ": *Provided further*, Notwithstanding the preceding provisions of this joint resolution, the rate for operations for Foreign Assistance Act Activities and Foreign Military Credit Sales as provided herein shall not exceed the annual rate of new obligational authority provided for fiscal year 1972".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I think we should know a little more about this. What is actually being done?

Mr. INOUYE. This amendment sets the operations for the Foreign Assistance Act and the foreign military credit sales at the rate provided in fiscal year 1972.

Mr. JAVITS. I know. But what does it do in money? We have not even gotten a copy of the bill. It is at the desk. I have browsed through it, but it is very hard to figure it out from a brief reading.

Mr. INOUYE. In terms of what it will do, it will mean a reduction of the House figure by a sum amounting to $355,954,000.

Mr. JAVITS. Why should we do that? What is the reason why we should reduce the House figure?

Mr. INOUYE. Because at this moment we do not have the authorization law.

Mr. JAVITS. I know, but the House had none either and they saw fit to give $355 million more. Why should we reduce it in the Senate?

Mr. INOUYE. Well, ordinarily, as the Senator is well aware, on continuing resolutions Congress has traditionally continued at the rate found in the prior fiscal year. This time the House decided to take the lesser of two figures adopted by either House, but not both.

Mr. JAVITS. If I heard correctly, and one has to rely solely on one's hearing around here, the House applied, apparently, a certain standard to a number of items and certain other standards to certain other items.

As I remember the Senator's amendment, it only applied to two items, credit sales, and one other item, if I heard correctly.

Why should we, in the middle of the night, on a continuing resolution, cut this $355 million below the House?

Mr. INOUYE. We are just continuing the same rates that is presently existing at the moment. As the Senator knows, we are operating under a continuing resolution which expires at midnight on October 14. We are applying the same rate that applies in that resolution.

Mr. JAVITS. Has the House increased it over the present rate?

Mr. INOUYE. The House did.

Mr. JAVITS. In what way?

Mr. INOUYE. By providing a new section which indicated that obligations could continue at the lower of two rates provided in the Senate and House appropriation bills.

Mr. JAVITS. Then the Senator admits that the Senate is unusually low because it did not have appropriations for items which were not authorized. Therefore, should we not take into account the House figure which did deal with items that were not authorized? The Senator said the Senate omitted them. Are we going to blank that out and forget about it? I gather that is what is being done. The Senator is simply accepting the fact that the Senate failed to appropriate for a given number of items because there was no authorization and, therefore, we are accepting not a lower figure but a figure that is false because it did not include certain items included in the House. Am I right?

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. FULBRIGHT. This was not authorized. I thought the Senate had taken a position on all appropriation bills that they should be authorized. If one follows the Senator's reasoning it would circumvent the authorization process from here on. The conference on the authorization broke down over an amendment by the Senator from New Jersey with regard to the so-called treaty clause, with which the Senator is familiar.

If one accepts the Senator's view as he expressed it, it means you need no authorization bill. It is true the Senate did not have the provision entered in the military hearings because it had not been authorized. There was nothing in it for that. So this is substantially above since it is zero—what the Senate had approved for the military.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. BROOKE. We did not do anything in military assistance.

Mr. FULBRIGHT. That is right.

Mr. BROOKE. Or security deployment.

Mr. FULBRIGHT. So we are authorizing at last year's level.

Mr. JAVITS. Why do we not go across the board and take the whole thing at last year's level?

Mr. FULBRIGHT. That is exactly what we did do; for foreign assistance activities that is what we did do.

Mr. JAVITS. If the Senator will yield, what is puzzling me is this: Is the Senator contending that we are continuing just what expires October 14, exactly as it is up to October 14?

Mr. FULBRIGHT. It is my understanding that this amendment applies to foreign assistance activities, credit sales, but it does not affect the International Bank.

Mr. INOUYE. It does not affect title III. It does not affect the Peace Corps. It does not affect assistance to refugees in the United States, migration and refugee assistance, Inter-American Development Bank, Asian Development Bank——

Mr. JAVITS. We got nothing from the Senate on that, so are we giving it nothing in the continuing resolution?

Mr. INOUYE. There is nothing for it in the continuing resolution.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. BROOKE. They cannot get anything because that was a new program and there was never any authorization.

Mr. JAVITS. I understand that. I am trying to see what is being carried over and what is not being carried over. I still have not got an answer to the question as to whether we would carry on with exactly as we were up to October 14 or whether we would not. The Senator has not answered that question.

Mr. INOUYE. This amendment would carry it as we have up to October 14 for obligations under title I, Foreign Assistance Act activities, and title II, Foreign Military Credit Sales.

Mr. JAVITS. What does it not carry on as we were up to October 14?

Mr. INOUYE. Title III, foreign assistance, such as those I have listed.

Mr. JAVITS. So it does not sustain the same rate as the continuing resolution for title III. What is title III?

Mr. INOUYE. Title III contains activities such as Peace Corps, assistance to refugees in the United States, the Cuban program, migration and refugee assistance, Inter-American Development Bank at the House level, the International Bank for Reconstruction and Development, and the International Development Association.

Mr. JAVITS. How much is that being cut as compared to what it was up to October 14?

Mr. INOUYE. It is less than the House level.

Mr. JAVITS. How much is it being cut from what the House did? The Senator says the cut made by his amendment relates to title III. So all I would like to know is, on title III, how much does the Senator's amendment cut as distinguished from what the House did?

Mr. INOUYE. The cut appears in the first two titles, title I, Foreign Assistance Act activities, and title II, Foreign Military Credit Sales.

Mr. JAVITS. How much is that cut as contrasted with what the House did, compared to the time up to October 14? In other words, as I understand it, titles I and II are the same as the amount carried up to October 14. Now he says that is not so, that the cut is being made in titles I and II and in III.

Mr. INOUYE. Because the House has applied a new formula in continuing titles I and II. Instead of continuing the rate in the fiscal year 1973, they have a new formula.

Mr. JAVITS. If the House formula were applied to everything, titles I, II, and III, what would happen? Why are we swapping formulas on I, II, and III?

Mr. INOUYE. If the Senator wishes to go below the House figure for international activities, I would be very happy to support the amendment, sir.

Mr. JAVITS. I find it very difficult to hear the Senator. What was that?

Mr. INOUYE. Title I and II were treated by the House under a new formula.

Mr. JAVITS. That is right.

Mr. INOUYE. My amendment would establish the rate which is presently in effect.

Mr. JAVITS. That is, it would leave the rate which is presently in effect?

Mr. INOUYE. Yes.

Mr. JAVITS. And the new formula resulted in what increase?

Mr. INOUYE. The new formula resulted in an increase in title I and in title II of $55,952,000.

Mr. JAVITS. Now we will be spending at the rate of what?

Mr. INOUYE. The overall sum as it appears in the House joint resolution is $4,010,155,000.

Mr. JAVITS. And that would be reduced by $355 million, according to the Senator's amendment. Is that correct?

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. So it would be $3 billion—some $700 million?

Mr. INOUYE. $3,654,201,000.

Mr. JAVITS. And how does that compare with last year for the same titles which the Senator is now cutting by $355 million?

Mr. BROOKE. Last year it was $3,190,896,000.

Mr. JAVITS. For the same two titles?

Mr. BROOKE. For the whole bill.

Mr. INOUYE. This is an increase.

Mr. BROOKE. Last year it was $3,190,896,000 for the whole bill.

Mr. JAVITS. Are we now spending at the rate of $3.6 billion or $3.1 billion as of October 14?

Mr. INOUYE. $3,190,896,000.

Mr. JAVITS. Up to October 1?

Mr. INOUYE. October 14.

Mr. JAVITS. October 14.

In the reductions the Senator is making, are those reductions for titles I and II below last year?

Mr. INOUYE. It is exactly at last year's rate.

Mr. JAVITS. Exactly last year's rate, and the House has sought to put that up by $355 million.

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. What is the Senator's reason for reducing it below the House figure, and what items will be affected if he reduces them?

Mr. INOUYE. It affects all of the economic assistance, military assistance, security supporting assistance, Inter-American Foundation, and military credit sales.

Mr. JAVITS. How much for each? Does the Senator allocate them at all or is that going to be up to the President again?

Mr. INOUYE. This is fixed at last year's rates.

Mr. BROOKE. We are cutting those figures, are we not?

Mr. INOUYE. For example, if the Senator would like to have comparisons——

Mr. BROOKE. That is what he wants.

Mr. INOUYE. In worldwide technical assistance, under the authority granted in fiscal year 1972, the amount and the rate is $160 million. Under the continuing resolution it is $155 million.

Mr. JAVITS. That is, under the continuing resolution as amended by the Senator from Hawaii?

Mr. INOUYE. No; as it stands.

Mr. JAVITS. As it stands; right.

Mr. INOUYE. The Alliance for Progress.

Mr. JAVITS. What did the House do in that $155 million?

Mr. INOUYE. Their continuing resolution would set it at $155 million.

Mr. JAVITS. What does the Senator's amendment do?

Mr. INOUYE. $160 million.

Mr. JAVITS. I do not follow the Senator. If the Senator is cutting, how can it be more rather than less?

Mr. BROOKE. There are other areas.

Mr. JAVITS. That is what we would like to find out. We would like to find out what the Senator is cutting.

Mr. BROOKE. He is going down the list. In that particular area he is increasing, but in other areas he is cutting.

Mr. JAVITS. Let us find out what he is cutting.

Mr. INOUYE. In 1972, development loans, $200 million.

Mr. JAVITS. Right.

Mr. INOUYE. Under the continuing resolution, it is $350 million. Administrative expenses——

Mr. JAVITS. What is the Senator cutting that $350 million to? Back to $200 million?

Mr. INOUYE. Back to $200 million, which is the 1972 rate.

Mr. JAVITS. Now I have the picture. What does a Senator do who does not want the overall cut? Suppose he wants to be selective. Suppose he wants to provide only $75 million for development loans or no cut for development loans? How does he go about that, the way the Senator has proposed it?

Mr. INOUYE. A substitute can be submitted.

Mr. JAVITS. A substitute amendment?

Mr. INOUYE. Yes.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMISSION ON MULTIPLE SCLEROSIS

Mr. SCHWEIKER. Mr. President, I submit a report of the committee of conference on H.R. 15475, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Advisory Commission on Multiple Sclerosis Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

(2) this disease, known as the "great crippler of young adults", generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

(3) the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

(4) the determination of the most effective program for discovering the cause of and cures and treatments for the disease deserves the highest priority.

NATIONAL ADVISORY COMMISSION

SEC. 3. (a) (1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), after consultation with the advisory council to the National Institute on Neurological Diseases and Stroke appointed under section 342 of the Public Health Service Act, shall appoint a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. Such study and investigation shall give particular emphasis to the need for additional financial support by the Federal Government and the means by which the Federal Government can best participate in the effort to find the cause of and cures and treatments for multiple sclerosis.

(2) The Secretary shall appoint to the commission (A) four members of the advisory council referred to in paragraph (1), and (B) five other individuals from the public who are particularly qualified to participate in the work of the commission. The members of the commission shall select a chairman from among the members appointed under clause (B) of the preceding sentence. Members of the commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the commission. While away from their homes or regular places of business in the performance of services for the commission, members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(3) The Secretary shall provide such administrative support services for the commission as it may request.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the commission, upon the request of its chairman, such information, services, personnel, and facilities as the commission deems necessary to carry out the purposes of this section.

(c) The commission shall transmit to the Secretary for transmittal to the President and the Congress a final report (which shall include recommendations for such legislation as the commission determines is necessary) not later than one year after the date of enactment of this Act, and the commission shall cease to exist thirty days after submitting its report.

And the Senate agree to the same.

HARRISON WILLIAMS,
EDWARD M. KENNEDY,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
PETER DOMINICK,
BOB PACKWOOD,
J. GLENN BEALL, Jr.,
ROBERT TAFT, Jr.,
Managers on the Part of the Senate.
HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
ANCHER NELSEN,
TIM LEE CARTER,
Managers on the Part of the House.

Mr. WILLIAMS. The purpose of this bill, as agreed to by the conferees, is to establish a Commission to conduct a 1-year study to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. The Commission's study and investigation is to give particular emphasis to the need for the Federal Government to provide additional financial support to multiple sclerosis research, and to the means by which the Federal Government can best participate in the effort to overcome multiple sclerosis.

This disease, known as the "great crippler of young adults," is a chronic, usually progressive disease of the nervous system, which generally strikes adults in the prime of life between the ages of 20 and 40. It is estimated that approximately 250,000 individuals in the United States are afflicted. The cause of multiple sclerosis is unknown, and there presently is neither a preventive nor a cure for the disease. However, of all the major neurological diseases, there is none with more promising leads for meaningful research than multiple sclerosis.

Since its incidence varies with geographical areas, it is believed there is an environmental factor associated with the disease. Certain immune responses of the body during various stages of the disease also suggest the presence of a bodily agent which could form the basis of the development of an effective preventive or cure. In addition, there are substantial indications that a virus may be the cause of this disease. Very recently, for example, three medical research teams, operating in different parts of the world, have independently reported having isolated a virus from the brains of multiple sclerosis victims.

It is our hope that one of the additional effects of establishing this Commission will also be to stimulate the interest of both the scientific and lay communities—leading to more creative and scientific efforts in this regard and bringing more investigators into this field.

The Commission established by H.R. 15475, as approved by the conferees, would be appointed by the Secretary of Health, Education, and Welfare. At the request of the National Multiple Sclerosis Society, I had previously introduced a comparable bill, S. 3659, which was cosponsored by Senators RANDOLPH, SCHWEIKER, HOLLINGS, MANSFIELD, CRANSTON, and KENNEDY. That bill, which provided that the Commission would be appointed by the President, was adopted by the Senate as its amendment to H.R. 15475.

The conference agreement, however, places the appointment of the Commission with Secretary of Health, Education, and Welfare, as did the House-passed bill. I am advised by the National Multiple Sclerosis Society that the conference agreement has its full support since it meets two conditions which the society felt to be most important, but which were not met by the House-passed bill. One is that a majority of the members of the Commission will be drawn from the general public. There will be five such members, who, as provided by the conference agreement, must be particularly qualified to perform the work of the Commission. The remaining four members will be drawn from the membership of the existing advisory council of the Institute of Neurological Diseases and Stroke. The other condition which the society believes to be important is that the chairman of the Commission will be one of the public members.

Mr. President, I am pleased to move the adoption of this conference agreement, and I am hopeful that promptly upon its enactment, the Secretary will appoint members of the highest qualifications. I hope, too, that the Secretary will give the Commission the fullest possible support of the resources of his Department, including making available appropriate staff from both within and outside the Department.

The Commission has desperately important work to do, and the conquest of this dread disease is surely a most urgent priority.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. JAVITS. Mr. President, reserving the right to object, and I do not expect to object——

Mr. MANSFIELD. Wait a minute. We want to bring up a conference report.

Mr. JAVITS. Very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEASIBILITY STUDIES OF CERTAIN WATER RESOURCE DEVELOPMENTS

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3959.

The PRESIDING OFFICER (Mr. CANNON) laid before the Senate the amendment of the House of Representatives to the bill (S. 3959) to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments, which was to strike out all after the enacting clause, and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Cache Creek project in Comanche, Cotton, Tillman, Jackson, and Kiowa Counties in southwestern Oklahoma.
2. Garrison diversion unit, M&L water facilities, Pick-Sloan Missouri Basin program, in central North Dakota.
3. Oahe unit, M&I water facilities, Pick-Sloan Missouri Basin program in east-central South Dakota.
4. Ventura County Water Management project, California.
5. Tucumcari project in San Miguel County in east-central New Mexico.
6. Uncompahgre project improvement in Montrose and Delta Counties in the vicinity of Montrose and Delta, Colorado.
7. Dominguez Reservoir project in Mesa and Delta Counties, Colorado.
8. Lower James-Fort Randall water diversion proposal of the Pick-Sloan Missouri River Basin program, South Dakota.

Mr. MOSS. Mr. President, the purpose of the measure is to authorize the Secretary of the Interior to undertake feasibility investigations of six Federal reclamation projects. This authority is required to permit the orderly continuation of the Bureau of Reclamation's program of investigations leading to recommendations for authorization of water resource development projects.

As passed by the Senate on October 2, 1972, S. 3959 included the authorization of six studies which had been requested by the Secretary of the Interior. The House amended the measure as follows:

First, the study of the Three Forks division, Pick-Sloan Missouri Basin program, Montana, which was included in the Senate measure was deleted.

Second, the study of the Uncompahgre Project Improvement and Extension in Colorado was amended to become two studies, one of which would deal with the modifications of the existing Uncompahgre project and another, the "Dominguez Reservoir project," to cover a potential new storage reservoir on the Gunnison River.

Third, two additional studies were added to the measure as follows:

The Ventura County Water Management Study, California, would be a management study of alternative plans for meeting the multiple purpose water demands of a critically water-short area in the central California coastal area.

Lower James-Fort Randall water diversion proposal of the Pick-Sloan Missouri River Basin program, South Dakota, would be a study of a number of potential developments in the James, Big Sioux and Vermillion River basins.

Although this project does not meet the usual criteria demanded by the Senate Interior Committee that a proposed feasibility study has been the subject of a reconnaissance survey, and that the survey indicates a very strong possibility of a favorable feasibility study, the Interior Committee believes that the Secretary can carefully examine the merits of this authorization when he requests funds for carrying it out. Therefore, the committee will not object to it.

However, Mr. President the House deleted one Montana project recommended by the committee and supported by the administration. The junior Senator from Montana (Mr. METCALF) in whose State this project lies, has requested that it be reinserted in the authorization.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House with an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

At the bottom of page 2 add a new paragraph as follows:

"9. Three Forks Division, Pick-Sloan Missouri Basin program, in Gallatin and Madison Counties, northwest Montana."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to concur in the House amendment with an amendment.

The motion was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PISCATAWAY PARK, MD.

Mr. MANSFIELD. Mr. President, I move that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 15597 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged from the further consideration of the bill. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 15597) to authorize additional funds for acquisition of interests in land within the area known as Piscataway Park in the State of Maryland.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, the purpose of H.R. 15597 is to authorize the appropriation of additional funds for the acquisition of interests in land within the area known as Piscataway Park in the State of Maryland. In 1961, Congress authorized the Secretary of the Interior to acquire and administer lands and interests in lands along the Potomac River in Prince Georges and Charles Counties, Md., in order to preserve scenic lands which provide the principal overview from Mount Vernon and Fort Washington. Although the Senate Interior Committee had hoped that no additional funds would be necessary for this particular project as far as land and scenic easement acquisitions are concerned, the result of controversy and litigation over the past several years makes it necessary to provide the Secretary of Interior with the means to acquire additional scenic easement on the balance of some 89 tracts within the scenic protection area. H.R. 15597 will provide this authority by the appropriation of $1,525,000.

Mr. President, this area, so close to metropolitan Washington, offers a wonderful recreational opportunity for the citizens of this area as well as protecting the view from Mount Vernon. It is the hope and expectation of the Senate Interior Committee that appropriate studies will be made by the Department of the Interior to determine what development can be accomplished to maximize the utilization of the area by our citizens for such activities as picnicking, hiking, camping, and other recreational pursuits which will be compatible with the overall preservation of the character of this area. I have been assured that the Representative from Pennsylvania and the author of H.R. 15597, Mr. SAYLOR, intend to pursue the recreational development aspects of this area in the next Congress. With that assurance, I can recommend the bill be passed.

The Senate Interior Committee has also been urged to act on this measure by the very esteemed conservationist, Dr. Spencer Smith, Jr., secretary of the Citizens Committee on Natural Resources. Dr. Smith's judgment is highly valued by the members of our committee on this and other matters relating to conservation measures. Therefore, Mr. President, I move passage of H.R. 15597.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, with an amendment in which it requests the concurrence of the Senate.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOSS). Without objection, it is so ordered.

RECESS TO 10:30 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10:30 p.m. today.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, reserving the right to object, may I ask the leader this—we are trying to straighten this out——

Mr. MANSFIELD. This will give everyone more time—10:30 p.m.

The PRESIDING OFICER. Without objection, it is so ordered.

Whereupon, at 10:06 p.m. the Senate took a recess until 10:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GAMBRELL).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDNG OFFICER. Without objection, it is so ordered.

REFERRAL OF HOUSE JOINT RESOLUTION 1331 TO COMMITTEE ON APPROPRIATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that House Joint Resolution 1331, making further continuing appropriations, and the amendment thereto be referred to the Committee on Appropriations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

Mr. McCLELLAN. Mr. President, then, as chairman of the Appropriations Committee, I announce a meeting of the full committee to consider this bill at 10 o'clock Monday morning. We are going over until Monday. I guess we are going over to next week.

Mr. MANSFIELD. I guess it is out of our hands, may I say to the distinguished Senator. Unfortunately, we are going over until Monday.

ORDER FOR ADJOURNMENT TO MONDAY, OCTOBER 16, 1972, AT 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in adjournment until the hour of 10 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 11 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

At 10:38 p.m. the Senate took a recess until 11 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

H.R. 13895—TO AMEND TITLE 5, UNITED STATES CODE, TO REVISE THE PAY STRUCTURE FOR NONSUPERVISORY POSITIONS OF DEUPTY U.S. MARSHALS

Mr. **ROBERT C. BYRD.** Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13895, and ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER** (Mr. ALLEN). The Chair lays before the Senate the message from the House which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 13895) to amend title 5, United States Code, to revise the pay structure for nonsupervisory positions of Deputy United States Marshals, and for other purposes.

The **PRESIDING OFFICER.** Without objection, the bill will be considered as having been read the first and second time, and the Senate will proceed to its consideration.

Mr. **ROBERT C. BYRD.** Mr. President, I want to commend the distinguished Senator from Alaska (Mr. STEVENS) for his efforts this evening in contacting Members of the Senate on both sides of the aisle in the successful attempt to get the bill cleared; otherwise, it could not have been called up this evening.

Mr. **STEVENS.** Mr. President, I thank the Senator from West Virginia. This is a minor bill but it affects 1,300 nonsupervisory deputy U.S. Marshals presently classified in grades 6, 7, 8, and 9 of the General Schedule. This bill will upgrade them and give them responsibilities and give them a classification more closely alined with their duties which are similar to law enforcement officers in other services, such as State police, and various other police forces of the country.

The Senator from West Virginia is correct, we have cleared the bill with the ranking minority member of the Post Office and Civil Service Committee, with the chairman, and with the Senator from Nebraska (Mr. HRUSKA), and it now has their approval to move.

Mr. President, I move adoption of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. **STEVENS.** Mr. President, I move to reconsider the vote by which H.R. 13895 passed the Senate.

Mr. **GRAVEL.** I move to lay that motion on the table.

The **PRESIDING OFFICER.** The question is on agreeing to the motion to table.

The motion was agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, OCTOBER 16, 1972

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that on Monday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE CONFERENCE WITH THE HOUSE ON THE FEDERAL-AID HIGHWAY ACT

Mr. **RANDOLPH.** Mr. President, I have an announcement to make with reference to the conference on S. 3939, the Federal-Aid Highway Act of 1972.

The members of the conference have given more than 30 hours to this conference over a period of 4 days in the continuing attempt to report the work of the conference to our respective bodies—with, hopefully, an agreement.

We have met with the House conferees, and report that we are in disagreement with the matter contained in the bill, S. 3939.

Mr. President, the failure of the Senate and the House conferees to reach any agreement on the highway bill must be attributed directly to those who were determined to seize this opportunity to make a fundamental change in Federal transportation programs.

I was greatly disappointed by the intransigence of those Members whose only apparent goal was to make the resources of the highway trust fund available for nonhighway related transportation purposes. Their unwillingness to negotiate realistically at this late hour in the 92d Congress led the conference to an impasse from which there was no escape.

It is unfortunate, but both the highway and the mass transit programs were damaged by our inability to agree on a bill. The House conferees and a number of Senators were willing to approve urgently needed operating subsidies and additional construction for mass transit systems. The opportunity to provide this assistance died with the ending of the conference in disagreement a few minutes ago. Programs to accelerate rural highway development and to strengthen bus transit systems, both of which I sponsored in the Senate, also were abandoned in the wreckage of this conference.

On several occasions, Representative JOHN C. KLUCZYNSKI and his colleagues on the House Roads Subcommittee, offered to modify the provision about which they felt most strongly, that of establishing a priority primary highway system. They asked that we accept similar modifications in the Senate provisions relating to mass transit.

The distinguished Senator from New Jersey (Mr. WILLIAMS), who is now in the Chamber as I make these remarks, an acknowledged authority and vigorous supporter of mass transit, was willing to arrive at the accommodations that would have permitted us to report a bill. The continued refusal of some Members to modify their positions, however, prevented us from reaching an agreement.

It was hoped by some that the highway program could be continued substantially as now authorized so that we could consider mass transit funding early next year. The total failure of the conference not only will disrupt the highway program, but I fear that it also will make the task of expanding mass transit programs in the 93d Congress a very difficult task.

Mr. President, I ask unanimous consent that a table showing the amount of funds presently remaining for obligation by the States, in effect what is left after our failure to authorize new spending, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1973 OBLIGATION LIMITATION

FISCAL YEAR 1974 APPORTIONMENT REQUIRED TO FULLY OBLIGATE FISCAL YEAR 1973 LIMITATION

[Thousands of dollars]

State	Interstate funds	Urban area funds			All other funds	Total
		Topics	Urban C and urban systems	Subtotal		
Alabama			$2,545	$2,545	$3,250	$5,795
Alaska		$149	263	412		412
Arizona		1,580		1,580	7,321	8,901
Arkansas	$2,126	1,150	1,610	2,760	657	5,543
California	64,590		25,056	25,056	10,096	99,742
Colorado		2,308	807	3,115		3,115
Connecticut			930	930		930
Delaware	1,395					1,395
Florida	18,948	1,970		1,970		20,918
Georgia						
Hawaii						
Idaho		33		33	1,411	1,444
Illinois			2,275	2,275	6,439	8,714
Indiana					382	382
Iowa						
Kansas	$8,768					$8,768
Kentucky	36,255					36,255
Louisiana						
Maine		$481	$120	$601		601
Maryland						
Massachusetts			3,455	3,455	$1,806	5,261
Michigan	8,051		3,786	3,786		11,837
Minnesota			2,616	2,616		2,616
Mississippi	664					664
Missouri	6,677				2,323	9,000
Montana						
Nebraska						
Nevada	340	220		220		560

State	Interstate funds	Urban area funds				
		Topics	Urban C and urban systems	Subtotal	All other funds	Total
New Hampshire						
New Jersey						
New Mexico	$7,170					$7,170
New York						
North Carolina						
North Dakota		$95		$95		95
Ohio						
Oklahoma	10,500					10,500
Oregon		89		89		89
Pennsylvania						
Rhode Island			844	844		844
South Carolina			1,153	1,153		1,153
South Dakota		105		105	$78	183
Tennessee	$27,941					$27,941
Texas	12,251		$11,212	$11,212	$26,953	50,416
Utah		$246		246		246
Vermont						
Virginia	69,078	911	2,536	3,447	11,023	83,548
Washington			2,530	2,530	7,209	9,739
West Virginia			6	6		6
Wisconsin						
Wyoming		220		220	5,988	6,208
District of Columbia		492		492		492
Puerto Rico						
Total	274,754	10,049	61,744	71,793	84,936	431,483

Mr. RANDOLPH. Mr. President, the conferees representing both the Senate and the House were diligent in their conscientious attention to the task before them. While there were occasions when we disagreed, all were responsive to the questions we faced and all approached their work with a full realization of the importance of transportation of all types to the continued social and economic well-being of the United States. I call particular attention to the role of Senator JOHN SHERMAN COOPER, the ranking minority member of the Senate Committee on Public Works. Senator COOPER, as always, argued his position with great vigor and persuasion. He brought to this conference the knowledge and conviction that has been such a valuable asset to our committee during the years he has been a member. The other Senate conferees, Senators MUSKIE, MONTOYA, GRAVEL, BENTSEN, BOGGS, BAKER, BUCKLEY, WILLIAMS, PROXMIRE, and BROOKE, all participated actively and constructively in the deliberations.

The conferees of the House of Representatives, under the leadership of Representative JOHN C. KLUCZYNSKI, approached their assignments with strength and skill. Each of the others, Representatives JIM WRIGHT, HAROLD JOHNSON, JAMES HOWARD, WILLIAM HARSHA, JAMES C. CLEVELAND, and DON H. CLAUSEN, were active and able participants in our discussions.

I must also express my personal thanks and gratitude for the excellent support provided by the staffs of both committees during this conference. From the Senate committee staff we were greatly aided by M. Barry Meyer, Bailey Guard, Clark F. Norton, John W. Yago, Harold Brayman, Leon G. Billings, Philip T. Cummings, Kathy Cudlipp, Polly Medlin, Margie Powell, and Paul Chimes. The conduct of the conference also was facilitated by members of the House committee staff, Richard J. Sullivan, Lloyd A. Rivard, Lester Edelman, Clifton W. Enfield, Richard C. Peet, Dorothy A. Beam, Erla S. Youmans, and Ludie DeCourcy.

Mr. WILLIAMS. Mr. President, I am glad to have this opportunity to follow the most esteemed chairman of the Public Works Committee in this last review of the failure of the conference. It was more than a conference on the highway program, Mr. President, it was a conference that—for the first time—had an opportunity to respond to metropolitan transportation needs with a balanced program of highways and urban mass transportation giving metropolitan communities the option to arrive at their own decision as to what type of program would best meet their transportation needs.

So I am extremely disappointed that a majority of the Senate conferees on the Federal Aid Highway Act have turned down the most generous compromise which the esteemed Senator from West Virginia (Mr. RANDOLPH), chairman of the Senate Public Works Committee and chairman of the conference committee and the Senate conferees has received from our opposite Members on the House side.

Under this plan which the House conferees approved, the big winner would have been mass transit. In other words, our nation's cities and the tens of millions of citizens who inhabit them. Their lives would have been made better. Traffic congestion and air pollution would have been reduced and of course, transit systems improved.

This is what the majority of the conferees turned down; an additional $3 billion in contract authority for capital grants to urban mass transit systems. This was the exact figure contained in the Senate-passed bill.

Also rejected was the proposal which we in the Senate had advanced for an increase in the Federal contributions to mass transit capital grant projects from the current discretionary two-thirds to a mandatory 80 percent; and, most important of all, a program of operating subsidies almost identical to that which was passed in the Senate earlier in the year by a more than 2-to-1 margin.

In addition, the House agreed to accept all of the Cooper-Muskie amendments, except rather than having the money come directly out of the trust fund for bus or rail transportation, if the local governing bodies so elected, the funds would come from general revenues, via contract authority.

The acceptance of this program would have meant $4.4 billion. I emphasize that, $4.4 billion for urban mass transit. There is not anybody familiar with the problems of our cities in terms of transportation who does not know that this money is urgently needed.

We would have for the first time provided, after over 8 years of effort, a realistic and workable program of operating assistance to the 100 urban mass transit systems which are now operating in the red at a total rate of $360 million a year.

This is a program which both the American Transit Association and the National League of Cities and the Conference of Mayors—the groups which know America's transit needs at the grassroots level—considered the most important and essential transit program now before the Congress—transit's No. 1 priority legislative proposal.

I therefore can only say that the Senate members of the conference who rejected this proposal in my judgment were sadly misguided. I would suggest soul searching on the question of whether the effort was to aid mass transit or to break up the highway trust fund.

Sadly, it seems to me the majority of the Senate conferees chose the latter course.

This course of action undoubtedly will allow the Cooper-Muskie amendment to be considered by the Congress next year, but it also puts off additional Federal aid to urban mass transit—aid which should not be delayed. It defeats a package which is fully endorsed by the great organizations I have mentioned, the National League of Cities, the Conference of Mayors, and the American Transit Association.

Mr. President, I agree with the Senator from West Virginia, who suggested that this rejection makes our job a great deal harder next year.

Finally, I want to say that I came from another committee to this conference, the Committee on Banking, Housing and Urban Affairs. It was that committee's proposals which, through the legislative processes, were added by the Senate to the highway bill.

It was an experience that I will never forget, particularly the wisdom, the patience, and just plain greatness of the chairman of our conference committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I wish to thank the distinguished Senator from New Jersey, the respected leader in the legislative achievements we have wrought to date for mass transit. Would the Senator repeat to the Senate the sum of money which, if we could have had agreement as we proposed, would have brought to this effort?

Mr. WILLIAMS. I am happy to do so. The total figure under the Senate bill and the total figure in the House conference proposal came to $4.4 billion for mass transportation. This was broken down into these compartments of transportation needs

First, $3 billion of contract authority under the ongoing Urban Mass Transit Assistance Act program.

In addition, for that transfusion that is so desperately needed now to keep mass transit systems going until that capital contribution can take hold and bring transit to a self-supporting level, $600 million in operating subsidies; and in addition to all of that there was the $800 million contained in the Cooper-Muskie proposal, which was also part of the House conferees' offer advanced to us for our acceptance.

In other words, the money that we had voted for in the Senate was brought to us intact in their proposal.

Mr. RANDOLPH. Would the Senator from New Jersey, who is very knowledgeable in these fields of mass transit, agree with me that the sum of money that we attempted to authorize for mass transit was greater in amount than even the Senate itself had provided?

Mr. WILLIAMS. The $4.4 billion was more; not more than the Senate had originally proposed, but in final form it was more than the Senate took to conference.

Mr. RANDOLPH. I thank my colleague from New Jersey.

Mr. WILLIAMS. As a matter of fact, the figure that we finally agreed on in the Senate was $3.8 billion.

Mr. RANDOLPH. That is correct.

Mr. WILLIAMS. And the House proposal was $4.4 billion and I say they did not have a penny of mass transportation money in the bill that they brought to conference.

Mr. RANDOLPH. Neither did they have hearings on the subject matter.

Mr. WILLIAMS. The Public Works Committee had no hearings. They did have the benefit of another committee's action. They had a favorable vote out of the House Banking and Currency Committee on contract authority; although it was less than the figure the Senate had. They also had a favorable vote out of the House Banking Committee on their own operating subsidies; but that was in the House bill, and the House bill did not clear the Rules Committee. So they were operating under no mandate to give to the Senate a single penny for mass transportation. Yet they did offer us $4.4 billion.

I would like to make one more point. The members of the Senate conference committee who voted down this offer used the excuse that this administration would impound the authorized contract authority funds. I therefore would like to read into the record the part of our committee report which quotes Secretary of Transportation Volpe on this matter, "I did not start this fight until I was given the assurance that every dollar that the Congress authorized and appropriated would be spent, because the needs are there, and I have that assurance."

Mr. RANDOLPH. I thank the Senator from New Jersey, not because we were in agreement on these matters in the conference, but more importantly because he has spoken as he has tonight with forthrightness and courage.

I shall ever be grateful for the contribution he has made following the collapse of the conference and, of course, during the long hours in which the conferees attempted to reach an agreement.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. The Senator from Alaska is in the Chamber. He was at the conference. I have the greatest affection for the Senator from Alaska. Now I have additional reason to value his friendship. At one point during the conference I had to leave the conference to come to the floor of the Senate to present an amendment to a bill that was very important, specifically and particularly to the State of New Jersey, which I have the honor to represent. While I was absent for those 10 minutes or so the Senator from Alaska, a State that does not have a comparable metropolitan transportation problem to the State of New Jersey, advanced the cause of mass transit for me. I appreciate that, and I wish to make that statement for the RECORD.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. GRAVEL. Mr. President, I wish to thank the Senator from New Jersey because he did, as was indicated by the Senator from West Virginia, stand with us and try to work out a compromise which would be in the interest of the Nation. His patience and tolerance in the course of the conference was laudatory.

I also wish to associate myself with the remarks of both Senators. I would like to be a little more blunt as to what I think really transpired, and that was that it was not a question of whether the conference was going to do something for mass transit as opposed to roads, or at a loss to mass transit, and as stated in detail by the Senator from New Jersey, for the first time in the history of Congress we were taking care of mass transit. The dollars were there. Obviously, the issue did not hinge on whether or not we were appropriating money to meet the needs of the situation in this country.

The issue finally resolved itself into a deadlock over whether the highway trust fund would be inundated. In that regard, no compromise was arrived at. Unfortunately, I think it will not stand us in good stead with respect to a good highway program, but I think Congress will be placed on notice that beginning with the 93d Congress we will have to get to this business, because some States will be painfully hurt until Congress decides to act on this issue.

It is easy for the chairman of a conference to come out feeling, first, good, and second, being highly responsible when the conference wins and something is appropriated; but it is more difficult and discouraging when the chairman comes out and the conference has failed. It is difficult to take that touch of fate that probably came to the Senator from West Virginia, but I would hope to speak to him and to all who value him as a friend and to say that in my opinion just the opposite is the case. The fact that he was able to preside over this conference which was in deadlock almost from its inception, to have a committee where tempers did not flare, where the body was deliberative at all times, is a credit to his leadership and it is the true test as to whether or not the conference succeeded, and this one did not.

Everyone had very strong views of what he felt was in the vital interest, short term or long term. I wish a compromise had been effected because it is with compromise that we can make progress.

I assure my colleagues that next year when we take up this legislation we will still be faced with the same problem and that is to effect a compromise through the committees and come back to the floor.

Again, I thank the Senator from New Jersey for his very fine and able leadership, and the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), who did justice to the cause of transportation in America for the last 30 hours.

Mr. COOPER. Mr. President, I was not here when the distinguished senior Senator from West Virginia (Mr. RANDOLPH) spoke on this subject. I am glad I heard the comments of the distinguished Senator from Alaska, and I understand the distinguished Senator from New Jersey spoke also.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. WILLIAMS. It was the same statement I read following the conference, which the Senator did hear.

Mr. COOPER. It is correct that the Senate conferees and the House conferees on the Federal Highway Act did not come to an agreement.

I would like to join my colleagues in expressing my admiration and regard for the chairman of the conference and the chairman of the Committee on Public Works, Senator JENNINGS RANDOLPH. I have served on that committee for many years, and in recent years have been the ranking Republican member of the committee. The Senator from West Virginia (Mr. RANDOLPH) is a great chairman. He is fair and impartial, he is not partisan on matters which do not relate to politics, and those are usually the kinds of issues we have before our committee.

I wish to say that on the matter of Federal aid highway programs the Senator from West Virginia has been innovative and creative. He has been a leader in finding ways to approach problems of urban areas, moving into that field in the early stages for bus lanes and parking facilities, and in many other ways he has tried to help with the problems of the cities. He has advocated and tried to secure the support of the Committee on Public Works for a provision which would provide funds from the highway trust fund for the purchase of buses for public transportation.

Mr. President, it was hoped that in this conference, with the greatest care and patience, and with determination on the part of the conferees, we would be able to secure a bill on which we could reach an agreement between the Senate and the House.

On the floor of the Senate the entire Senate, by a vote of 48 to 26, adopted a provision, offered by the Senator from Maine (Mr. MUSKIE) and me, providing that only that amount of money apportioned to urbanized areas—areas of 50,000 or more—$800,000 annually, in the Senate bill, could be used by those areas, as local authorities determined under a plan of self-government, in any way they wanted to for public transportation systems, whether it was for highways, buses, or rail transit.

We went to conference on it. It was obvious from the beginning the House would not accept any provision which would provide for the use of any highway trust funds for any purpose except highway construction.

The House conferees offered a proposal which, in effect, was that urban system funds could be assigned to mass transit purposes, provided that it was so determined by the local authorities, and approved by the Secretary of Transportation. Upon approval, these funds would be set aside or locked up in the Highway Trust Fund for later disposition by the Congress, and an equivalent amount would become a contractual obligation against the general funds of the Treasury of the United States.

But it had two points in it which we must look at very carefully. The first is the problem of the contractual obligation upon the Federal Government when we have an overwhelming deficit, and the second is that it provided it should be paid for out of general revenues. When we realize that we have just been laboring here in the Senate over the problem of raising the debt ceiling, and of attempting to place a $250 billion limit upon spending, this proposal really had no meaning. It seemed to me it was unrealistic, and an illusion to think that the administration, whether this administration under the same President or the next President—who I hope will be the same President, but whoever—would increase spending from general revenues.

I say this with high regard for the Senator from New Jersey (Mr. WILLIAMS), because he has been a leader in the field of mass transportation. Those on the committee who, other than myself, come from rural areas, and those who come from urban areas, other than the Senator from New Jersey, did not believe the House proposal had any content at all, and voted against it, and I agreed with them.

It seemed we came to an impasse for other reasons.

There were fine provisions in the Senate bill, which we owe largely to the Senator from West Virginia (Mr. RANDOLPH), but it also had some provisions which were questionable. For one, there was a provision in there which provided, essentially, that when a State submitted to the Secretary of Transportation its program for construction of roads, that became a contractual obligation upon the U.S. Government. That raised a constitutional question. I do not know what would have happened to it.

But I want the Senate to know this. On the House side, in a situation where the Interstate Highway program is proclaimed as very essential to complete, and I agree with that, and when the Interstate System is only 81 percent completed, they put a provision in their bill and in all their proposals creating a new highway system, which they called the "priority primary system" of some 10,000 miles of roads which could be built to interstate standards. Part of the determination was to be made by the States, and a part was to be made by the Secretary of Transportation, as to where those 10,000 miles of highway would go. Under the influence and pressures of those in the U.S. Government, and in the State governments, areas might have been able to secure at least 25 percent of that. There were no hearings on that in the House. They said so. It was never even discussed in the Senate Committee on Public Works.

I asked for a report from the Secretary of Transportation on this problem, and he said that the minimum estimated cost of the so-called priority primary system would be $10 billion. That was the minimum. We all know that, with advancing costs of construction, it would be more than that.

There was never a proposal that the House conferees put before us which did not contain that provision for the 10,000 miles of roads which could be built up to interstate standards, at a time when the interstate system is only 81 percent completed. They would never relinquish that proposal. That was their chief interest, in my view.

The Senate conferees—and I mean all of them, including Senator RANDOLPH, Senator GRAVEL, Senator MONTOYA, Senator BENTSEN, Senator MUSKIE, Senator WILLIAMS, and Senator PROXMIRE on the majority side, and all those on the Republican side—proposed to the House conferees this matter when it seemed we had reached an impasse: It was stated that what we wanted to do was to see that there was no break in the continuity of the Federal-Aid highway programs, I want to make clear what happened at that time, so no one can misunderstand this. In our proposal, we receded from the Cooper-Muskie amendment, adopted by the Senate. We left out that provision. We proposed to the House an authorization for the interstate system for 2 years, that is the usual biennial proposal. Second, we proposed also that all provisions identical in both the Senate and House bills should be accepted; that means that in every case where we were in agreement, we would include those provisions. Third, we proposed that title III of the Senate bill, authorizing $3 billion in mass transit appropriations from the general funds, plus operating expenses, should be approved; that was the proposal made by the Department of Transportation, less the question of operating expenses. It had already been proposed by the House.

In addition to these three parts of our proposal, this was the proposal we made which became, unfortunately I think, controversial: We said that there shall be a 1-year authorization for every other existing Federal aid highway construction program, including primary and secondary roads, rural and urban, public domain, and others. Public domain means Forest Service and Park Service roads. Our proposal included every type of Federal road construction in the United States. That was for 1 year.

The House rejected it.

Now, why did we propose 1 year? Because that would give an opportunity to consider these matters during the next year, before we reach the same situation we have reached this year—in an election year, when one-third of the Members of the Senate are running for reelection and all the House Members are running for reëlection, and when we are faced in the last few days of the Congress with proposals which we cannot, in justice, rationally determine, and we come to some new provision such as the 10,000 mile proposal. I recall in 1968 the Congress added 1,500 miles to the interstate system, when it had not even been completed. I recall other examples, time after time.

We have been at their mercy.

Our proposal was that we should give only a 1-year authorization, which would enable both Houses to begin next year, with time to consult and consider and hold hearings on these issues—not in an atmosphere or climate of haste, which we have been facing this past week, but with time to consider them.

They absolutely refused to do it.

To show the Senate the logic of their position, at one point the House argued that we cannot do that because both sides had 2-year authorizations, and a point of order would be made in the House. Later, they proposed an 18-month period, which was absolutely inconsistent with their earlier argument that other periods would be subject to a point of order.

On a study of that proposal, it appeared that if we went to the 18-month period, the program would continue under existing law until January 1, 1975, so they would really have a 2-year bill.

That is where we ended.

Our proposal was presented several times, and every time the House rejected it.

They proposed matters such as I have discussed. One was the so-called mass transit proposal, which would be a drain on the general revenues. The Senator from New Jersey (Mr. WILLIAMS) felt it was a fine proposal. The Senator from Alaska (Mr. GRAVEL) said so also, but I believe has no urban areas. The other Members who were from urban areas, said it did not amount to anything.

We both thought we should get a bill to continue our programs, and I will leave it to the judgment of the people who read the RECORD, and who read the proposal we made, as to whether ours was a reasonable proposal: that every Federal-aid highway program should continue—the usual 2-year funding for Interstate, with all others the 1 year—the mass transits at $3 billion program which the House had already agreed to, and all items in agreement. The only modification was 1 year for the others, highway programs other than Interstate, so that we could attempt to work out these very difficult problems.

As I have said, all the Senate conferees voted for that, every one of them. It was turned down by the House of Representatives.

I am not here tonight to speak—well, I do not want to cast any reflection upon the spirit of honor and conscience that I suppose all of us think we have.

But I could not say what was between us, except the difference between 18 months and 12 months. I asked them, "What is the difference between 18 months and 12 months." No response ever came.

My conclusion is that what they really wanted was to take out from the Senate bill the proposal we had made, and attach another kind of a $10 billion program, which would probably have ended up at $15 billion or $20 billion, upon the American people, upon the taxpayers, when we have not even completed the interstate program.

I think we have reported a decision which, unhappy as it is, will enable the committees of the Congress, of the Senate and the House of Representatives, through their able leadership, to address these problems next year, and which will require them, under this pressure, to attempt to solve them instead of postponing them.

I am honored to have served under Senator Randolph, and with Senator Gravel and all of you, but I have to give my judgment of the situation we are in.

Mr. COOPER. Mr. President, I ask unanimous consent to have printed in the Record a letter dated October 12, 1972, from the Secretary of Transportation, indicating that for the most part there is sufficient remaining contract authority in the various categories of highway programs to carry the total program along at its current level pending congressional action early in the next session, together with a statement:

There being no objection, the letter and the statement were ordered to be printed in the Record, as follows:

The Secretary of Transportation,
Washington, D.C., October 12, 1972.
Hon. John Sherman Cooper
U.S. Senate, Washington, D.C.

Dear Senator Cooper: Per your request we have reviewed the consequences of having no Federal-aid highway legislation enacted during this session of Congress. Quite frankly my first preference is to have a highway bill this year along the lines suggested in my letter of October 10 to the Conference Committee. However, if agreement cannot be reached on a bill along the lines suggested in my letter, our review indicates that if Congress acts with dispatch upon its return next year, and takes one additional action discussed below, there would be no adverse impact to the overall highway program. For the most part there is sufficient remaining contract authority in the various categories of highway programs to carry the total program along at its current level, pending Congressional action early in the next session.

Funding problems in a few individual States during this interim period could be eased if the 1974 Interstate authorization, which is already available under the 1970 Federal-Aid Highway Act, were apportioned to the States by the end of this calendar year. The only action required to enable the Department to make this apportionment is for the Congress to enact simple legislation to permit the use of the 1972 Interstate cost estimate as the basis for the apportionment. The result of this legislative action would be to insure that every State would be able to carry out its highway program at the full funding level anticipated in the President's 1973 budget.

It is, of course, essential that Congress act with dispatch upon its return next session to enact highway legislation so that the 1973 highway program can be carried out as planned.

If you wish to review in more detail the highway funding situation for the various States, my staff is prepared to meet with you at your convenience.

Sincerely,

John A. Volpe.

Statement of Senators Cooper, Muskie, Boggs, Buckley, Brooke, Proxmire

We have failed to reach agreement on legislation to reform and extend the Federal Aid Highway Program for two years.

When it appeared that agreement might not be reached, the Senate Conferees, by unanimous vote, proposed to the House Conferees the following program to maintain the Federal Aid Highway Program:

1. Authorization of the Interstate System for two years;
2. One-year authorization for every other existing Federal-aid construction program, including primary and secondary roads, rural and urban, public domain and others;
3. All provisions identical in both the Senate and House bills;
4. Title III of the Senate bill, authorizing $3 billion mass transit appropriations from the general fund, plus operating expenses.

The clearly stated purpose of the proposal by the Senate Conferees was to maintain and continue the Federal Aid to Highway programs. It did not change in any way the present use of Highway Trust Funds. It would enable the Committees and the Congress to act next year on the issues dividing the conferees. Principally, these are use by metropolitan areas of highway trust funds apportioned only for the urban system, for alternative transportation modes, including rail transit, if such areas so determined (Cooper-Muskie Amendment); and authorization in the House bill of a new system of up to 10,000 miles of "priority primary" highways, estimated at minimum to cost $10 billion, on which the Senate Committee had not held hearings and the Senate had never considered.

The House Conferees rejected the Senate proposal.

We regret that the House rejected not only the Senate bill, but repeatedly the above proposals by the Senate Conferees to continue the Federal-Aid Highway programs.

The House bill, unlike the Senate bill, did not provide for the use of urban system funds for alternative transportation modes, including rail rapid transit in urbanized areas. The House bill, unlike the Senate bill, did not provide for allocation of urban system funds by population, thus assuring amounts for each urbanized area. And, the House bill, unlike the Senate bill, did not provide for the use and control of urban highway funds by metropolitan area transportation agencies established by State law.

We believe these features of the Senate bill are essential elements to a balanced transportation system in this country. Continuation of present practices will result in continued decay in urban life, and increased deterioration of the environment. We believe that city officials and the people they represent are entitled to choose the best use of their limited transportation resources.

We emphasize again that the bill approved by the Senate—and the proposal of the Senate Conferees—would not diminish in any way funds apportioned to primary, secondary or any other Federal-Aid Highway programs.

The new Congress will again address the Federal-Aid Highway Program. The new Congress will again have an opportunity to determine how urban transportation needs may best be met. We are certain that members of the Congress committed to a balanced transportation program in the United States can and will act expeditiously next year.

Mr. RANDOLPH. Mr. President, I have a personal affection for my colleague from Kentucky, who, through our nearly 14 years together on the Senate Public Works Committee, has addressed himself to the problems of transportation in a very effective way, although we have sometimes disagreed. We have disagreed in connection with the conference and what was done there.

I do not want to continue the comments. We have presented our statements. I do join with the Senator from Kentucky in saying I hope that the members of the Senate will read very carefully, because they are not in the Chamber at this hour, what has been said as a result of this collapse of the conference.

I only add this: I think that in doing what even Senator Cooper would expect me to do, I must reiterate that both bills called for 2-year programs, as he will remember. The House Parliamentarian indicated, and so reported to the conference, that any change of the 2-year period would be subject to a point of order in the House of Representatives. That is a factual statement, for whatever it is worth. Again I thank the Senator from Kentucky. I appreciate as always his participation and his attention to the duties of the conference.

Mr. COOPER. Mr. President, let me say one more thing. The Senator is right, that they said there would be a point of order raised if we varied from 2 years. But it is a very curious fact that they themselves suggested 18 months. So there is some illogic to what they said. I think, even at this late hour of the night of what may be the last day of the 92d Congress, that if we had been able to come out with a conference report which would have done what we suggested, the Members of the House as well as the Senate would all have been most happy to adopt it. In my judgment even they would have been happy.

I must say I come from a rural area, and I live in a State which is primarily agricultural still—I think half its income is derived from agriculture. I live in a county which is agricultural; I live in a town of about 12,000 people; I grew up in a town of about 3,000 people. I was a county judge where one of my duties was to try to administer a road program practically nonexistent because of the lack of funds in the early days, and I have traveled over them, I know what they are.

Nevertheless, on this committee, with all my belief in the rural areas of this country—and I must say I believe in them more than any other areas—I do; I may be prejudiced because I come from them and know the necessity in rural areas for roads, because without them they cannot survive, and I am sure that is truer in the western parts of the United States, the plains, than it is in my own State—in all fairness, 50 percent of the highway trust fund is derived from the people in urban areas, and we know, with all their problems of traffic, congestion and all their problems of air pollution and all those environmental problems, something has got to be done about it.

The records show that for this vast number of automobiles that come into Washington every day, the average load is one and one-third persons. I do not know how they divide them, but I suppose in the total that is the way it comes out.

We have to face this problem.

The House refuses to face it, and they want to put it off for 2 years.

Senator WILLIAMS disagreed with me because of that proposal they made, which all others who are from urban areas on the committee thought had no meaning—and I agreed, because it would be paid out of the general revenues. The point of our 1-year program was to have a situation which would require the Senate and the House of Representatives to consider this problem of urban mass transportation beginning next year, as well as these other difficult problems, so that we would not be forced, 2 years from now, to be where we are tonight—either agreeing upon a program which was not good for the United States of America, or not agreeing at all.

That is my final statement.

Mr. RANDOLPH. Mr. President, I do not know how long Senator COOPER and I will continue——

Mr. COOPER. I am through.

Mr. RANDOLPH. I feel constrained to say that the House conferees even went out to the Parliamentarian of that body when the 18 months were discussed, which has been mentioned by my able colleague from the Commonwealth of Kentucky. They were told that a point of order would be raised against the 18 months. So whatever modification they made of the 2 years' stipulation in both bills would have received a series of objections. We have every reason to believe they were correct, from our knowledge of the rules of the other body.

This final word: Mr. President, I have been conscious of the problems of the cities, of the metropolitan areas of the country. I do not want to be misunderstood, but I am not sure that we shall ever solve the problems of the cities by piling more people on more people on more people, continuing to attempt, by one means or another, to attract people to the metropolitan areas of this country. Today the five largest cities of the United States have 1,700,000 unemployed workers living within their jurisdictions. These five largest cities of the United States have 20 percent of their total population on welfare rolls.

Mr. President, wherever people are in trouble, we, of course, want to attempt to help them. That is the responsibility of the Members of Congress and other legislative as well as administrative bodies. But I hazard the guess tonight that we are causing in this country today an imbalance in our economy, because the large metropolitan areas are sapping the very strength of the country as a whole.

I wish the Senator from Kentucky would be here next January and February and in the years ahead to help us solve these problems. But more and more people moving into the cities, by whatever means of transportation, will not improve the situation in this country.

I hope that sometime—I do not know when it will happen—States like Kentucky, West Virginia, 35 or 40 States in this country, will somehow be able to attract the people who will want to come back to the land, to the smaller cities, to the rural communities, and there have the opportunity to have gainful employment, to have family life, to provide for themselves with cultural strength.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS, 1972

Mr. GRAVEL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16071.

The PRESIDING OFFICER (Mr. WILLIAMS) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, which was in lieu of the matter proposed to be inserted by the amendment of the Senate, to insert:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting at the end thereof the following sentence: "Congress further declares that substantial outmigration from rural to urban areas is aggravating the economic and social conditions of areas of outmigration as well as central cities. National economy policy should anticipate and take into account the dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. (a) Section 101 of the Public Works and Economic Development Act of 1965, as amended, is amended

(1) by striking in subsection (a)(1)(D) the words "a redevelopment" and inserting in lieu thereof "an", and by striking "401(a)(6)" and inserting in lieu thereof "107"; and

(2) by striking in subsection (c) "a project in a redevelopment area designated as such under section 401(a)(6)" and inserting in lieu thereof "any project, including projects in an area designated as such under section 107".

(b) Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "pursuant to" the words "section 105 of".

(c) Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended (1) by inserting after the word "title" the words "(except as provided in section 107)"; (2) by striking the words "$800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973.", and inserting in lieu thereof the words "$800,000,000 for the fiscal year ending June 30, 1972, and $550,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."; (3) by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972,"; (4) by striking in the third sentence the words "redevelopment" and "as such"; and (5) by striking in the third sentence "401(a)(6)" and inserting in lieu thereof "107".

(d) Title I of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $250,000 per fiscal year for the fiscal years ending June 30, 1973 and June 30, 1974."

SEC. 4. Subsection (c) of section 201 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 5. (a) Subsection (b) of section 301 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by inserting immediately after the word "hereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses"; and

(2) by striking out the words "the Federal-Aid Highway Act of 1962" and inserting in lieu thereof "title 23, United States Code".

(b) Section 302 of the Public Works and Economic Development Act, as amended, is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for the initial two years of operation of any such facility constructed after the enactment of this section or for any two-year period during the first five years of operation of any facility constructed previously. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section."

(c) Section 303 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (b) of this section, is amended by striking "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. (a) Section 401(a)(6) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(6) those urban and rural communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low-income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act;".

(b) Section 403(a)(1)(B) of the Public Works and Economic Development Act of 1965 is amended by striking out "two or more redevelopment areas" and inserting in lieu thereof "at least one redevelopment area."

(c) Section 403(a)(1)(D) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(d) Subparagraph (C) of section 403(a)(2) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and adding the following: "; *Provided*, That no area designated as an economic development center under the provisions of this paragraph shall have such designation terminated or modified due to an increase in population."

(e) Section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new subsections:

"(i) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance, to those parts of an economic development district which are not within a redevelopment area when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

"(j) In addition to technical assistance under section 301(a) of this Act, the Secretary is authorized to make grants to an economic development district to pay not to exceed 75 per centum of the administrative expenses, and not to exceed 100 per centum of planning expenses, of such district. In any case where the designation of an economic development district is terminated under subsection (c) of this section before the expiration of the five-year period which begins on the date of designation of such district, grants may be made under this subsection for such additional time as may be necessary to insure that such former district will receive administrative and planning grants during such five-year period. In determining the amount of the non-Federal share of such expenses, the Secretary shall give due consideration of all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, planning grants authorized by this subsection shall be used in conjunction with other available planning grants, such as urban planning grants, authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized by title 23, United States Code, to assure adequate and effective planning and economical use of funds. For the purposes of this subsection there is hereby authorized to be appropriated not to exceed $20,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."

(f) Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 7. (a) Subsection (c) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year out of funds appropriated under authority of section 509(d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(b)(1) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is redesignated as paragraph (d)(1).

(2) Redesignated paragraph (d)(1) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out in the first sentence the words "two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000."; and by striking out in the third sentence the word "authorization" and inserting in lieu thereof "paragraph".

(3) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for the Coastal Plains Regional Commission, not to exceed $100,000,000 per fiscal year for the Four Corners Regional Commission, not to exceed $100,000,000 per fiscal year for the New England Regional Commission, not to exceed $100,000,000 per fiscal year for the Ozarks Regional Commission, not to exceed $100,000,000 per fiscal year for the Upper Great Lakes Regional Commission, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have a comprehensive long-range economic plan approved under section 503(a)(2) of this Act."

SEC. 8. Section 2 of the Act of July 6, 1970, as amended, (Public Law 91-304), is amended by striking out "1972" and inserting in lieu thereof "1974".

SEC. 9. That the Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

SEC. 10. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VIII—ENVIRONMENTAL EFFECTS

"SEC. 801. (a)(1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

"(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of noncompliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

"(3) Whenever feasible, such investigation shall commence six months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within ten days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

"(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) The owner or operator of any commercial or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within thirty days a report disclosing:

"(A) the nature of the enforcement action;

"(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

"(C) the extent of potential employment loss;

"(D) alternatives to the potential employment loss;

"(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

"(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

"(G) the economic circumstances of his including present profitability, market (and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in market patterns), the effect of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

"(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

"(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy-eight weeks.

"(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

"(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

"(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

"(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

"(g)(1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this title, has provided information concerning any matter within the scope of this title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

"(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact, If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

"(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

"POLLUTION CONTROL FACILITIES LOANS

"SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

"(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

"(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

"(3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessary for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be—

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary—

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

"(c) As used in this section, the term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section."

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Senator from Arkansas (Mr. McCLELLAN) to the Senator from West Virginia (Mr. RANDOLPH) on this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
October 14, 1972.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate.

DEAR MR. CHAIRMAN: After conferring with other Members of the Arkansas Congressional Delegation in the House, it is my understanding that the House will today take up H.R. 16071, the Public Works and Economic Development Act amendments of 1972, as passed by the Senate, Thursday, October 12. In order to avoid the necessity of a House-Senate Conference on this important legislation, an effort will be made to amend the Senate bill to reinsert two provisions which the House believes are most important to strengthen the continued existence of Economic Development District programs.

The language contained in the House bill beginning on page 9, line 24, and continuing through line 2 on page 10, provides for the establishment of an Economic Development District to include only one redevelopment area where present legislation requires two redevelopment counties for the creation of an EDD. This amendment, if accepted, would allow the creation of greatly needed local economic development planning and assistance to pockets of poverty or underdeveloped counties that are surrounded by counties not otherwise qualifying for assistance under basic EDA public facilities legislation.

The second amendment which the House is expected to make is the reinstatement of language found on page 13, line 9, and continuing through line 9 on page 13. Acceptance of this amendment would assure specific legislative authorization of the Economic Development District program—where it is now only authorized under Title III of FDA's planning and technical assistance authority—by authorizing $20 million annually for planning and administration of Economic Development District programs for a minimum of five years.

I know that you are aware of the significant contribution which the Economic Development Districts have made to Arkansas' economy. The EDDs and Economic Development Administration program have, in my judgment, provided the most effective delivery system which the Federal Government has to assist local communities in the planning and implementation of a well designed economic development program.

I urge your support of these two amendments should the House, as is expected, return the bill to the Senate for action today.

With all good wishes, I am

Sincerely yours,

JOHN L. McCLELLAN.

Mr. GRAVEL. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ADDITIONAL INTRODUCTION OF A BILL

The following bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOPER (for himself and Mr. BAKER):

S. 4125. A bill to amend the Federal Coal Mine Health and Safety Act of 1969. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOPER (for himself and Mr. BAKER):

S. 4125. A bill to amend the Federal Coal Mine Health and Safety Act of 1969. Referred to the Committee on Labor and Public Welfare.

Mr. COOPER. Mr. President, the Federal Coal Mine Health and Safety Act of 1969, which became effective March 31, 1970, has been in operation now for over 2½ years. Experience with the administration of the act's provisions by the Bureau of Mines during this 2½-year period indicates the need for Congress to consider amendments. Some of the act's provisions are neither workable nor effective and many, rather than contributing to safety, have increased the hazards of working in underground coal mines. In fact, the safety record of all underground mines since the passage of this law has not improved, but has worsened. I think it most important and urgent that these problems receive a hearing and consideration by the Senate Labor and Public Welfare Committee, and that all parties involved, including coal mine operators, miners, union representatives, Bureau of Mine officials and State mine officials have an opportunity to testify and present their comments and recommendations.

With this in view, Senator BAKER and I are introducing today a series of amendments to the Federal Coal Mine Health and Safety Act of 1969. These amendments can be categorized under our headings.

First, amendments to restore the gassy and nongassy classifications in effect prior to the 1969 act, by relieving those mines located above the water table, that have been tested and found free from gas, from the "permissible equipment" provisions of the bill that were originally designed for the large "gassy" mines.

Second, we are proposing an amendment to strike out the mandatory civil penalties' section 109(a)(1) of the present law, which provision requires the mandatory assessment of the civil penalties by the Secretary against an operator for each and every violation of a health and safety standard.

Fines are now assessed almost automatically in flat amounts without consideration for the criteria set forth in section 109(a)(1) which requires the Secretary to take into account the operator's history of previous violations, the appropriateness of the penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation and the demonstrated good faith of the operator to achieve compliance after notified of the violation.

Experience has shown that the assessment officers of the Bureau of Mines have established assessment procedures which are arbitrary and do not comply with the criteria as required by this section.

It should also be pointed out that appeals from these fines are limited to the sizes of the fine and not to the merits of the charge of the alleged violation. The notice of assessment procedures deter operators, for if they appeal a particular fine they are subject to the risk of having such fine increased to a maximum of $10,000.

This arbitrary assessment and collection of fines by the Bureau has not only caused confusion and economic hardship among the operators but has tended to focus a great deal of the time and attention of operators and Bureau officials on these procedures rather than on matters directly related to furthering the safety of the nation's coal miners, which is the chief purpose for Congress enacting the legislation.

On September 5, 1972, Mr. Elburt F. Osborn, Director of the Bureau of Mines, appeared before the Senate Subcommittee on Labor to review the procedures that the Bureau had adopted with respect to the civil penalty provisions of the 1969 act. I read his prepared statement with interest, but I failed to find any reference as to how the administration of these civil penalty procedures as established by the Bureau are designed to advance health and safety. Under the present law, many operators are fined substantial sums for numerous violations that have little or nothing to do with the health and safety of our miners.

In another connection I would like to note that when the Senate considered recently environmental legislation—the air quality bill, the water pollution control bill and the noise abatement bill—efforts were made to incorporate into these bills mandatory civil penalties for violation of the regulatory requirement of these measures. As the ranking member of the Public Works Committee which considered these bills, I moved either in committee to strike the civil penalty provision, and my amendments were approved by the Public Works Committee.

In this connection when the Senate considered amendments to the Public Works and Economic Development Act of 1965, on October 12, I made the comment that, when the Public Works Committee considered the mandatory civil penalties provision of various environmental bills, that the committee struck out these provisions for, as I stated:

> There was not due process and no chance of hearings before the imposition of penalties.

I then went on to point out the same lack of due process in similar civil penalty provisions found in the Coal Mine Health and Safety Act of 1969, and the need for the Committee on Labor and Public Welfare to review and consider amendments to these provisions. I received the assurance of the ranking minority member of the committee (Mr. JAVITS) that he would urge the committee, through the exercise of its powers of legislative oversight, to review and consider the problems raised by the mandatory civil penalties provision of the act in the next session of Congress.

Mr. President, I ask unanimous consent that our colloquy appearing on page 35361 of the RECORD of October 12 be inserted at this point in my remarks.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. Cooper. I am going to return to a subject which has been very much on my mind and that is the Mine Safety Act. In that act are a number of provisions for the mandatory imposition of fines without any hearing at all, with no due process of law. It is left to the arbitrary judgment of an inspector to impose fines, unequally, as they would have to be, and perhaps arbitrarily among different operations—and I may say coercive, too—because in some cases, when the size of the fine has been objected to, the suggestion was made, "If you don't take this, a larger fine can be imposed upon you."

I will not be here next year, but I hope the Senator will follow the principle he has just spoken of in this amendment, that there should be a consultation; and if there is a situation of imminent danger, then the mine should be closed down.

I do contend that this is a situation in which there is no due process of law. Knowing the Senator as well as I do and knowing his judicial temperament, I appeal to him to think of this next year. It is an awful situation.

Mr. Javits. I will consider myself, with deep feeling, a trustee of the great principles for which this very distinguished and famous Kentuckian has stood.

There are many explanations about coal mine safety. They can get a jury trial, and so forth. I will insert those in the Record immediately after what we have discussed.

I assure the Senator that I hold these principles very dear, that I fought for them in my committee, that I will continue to fight for them, and that I will make every effort to use legislative oversight in that process.

Mr. COOPER. Mr. President, third, we are proposing amendments to make certain changes in the law relating to operating efficiency and the use of certain types of equipment.

Last, we are proposing an amendment to provide for improved administrative practices by requiring the Bureau of Mines to hold public hearings on all proposed regulations or revisions, and to provide operators and miners with appropriate information concerning the background for the regulations and thus to provide everyone an opportunity to make counterproposals and suggestions for improvements.

In conclusion, Mr. President, I would point out that in the 2 years since the enactment of the Coal Mine Health and Safety Act, deep mining in Kentucky has decreased by over 10 million tons per year—about one-sixth of the production in 1969—while surface mining for coal has increased by over 22 million tons per year. The environmental blight of strip mining has reached intolerable proportions. And in that same period the safety and health record of deep mining has failed to improve.

These facts alone point up to pressing need for Congress to conduct a searching review of the 1969 act, the Bureau of Mines' policies in connection with this act and the changes that are needed if we are to bring to reality the safety and health goal for which the act was designed.

I had hoped to attach these amendments to the strip mine control legislation when it came before the Senate. I feel that the two form a logical connection in that they both reflect concern for a more sound approach to the impact of coal production on the human environment. However, it appears at this time that the Senate will not have time before adjournment to take up the several surface mining bills before it. I deeply regret that this is the case. Both the problems of coal surface mining and the Coal Mine Health and Safety Act have a major impact on my home State of Kentucky. I had hoped to see some progress toward their solution before I left the Senate. I hope that my activities will prove to have assisted this body in meeting these problems when they come up in the future.

Mr. President, I ask unanimous consent that the text of the amendments I introduce today be printed in the Record together with a memorandum explaining their provisions.

There being no objection, the bill and explanation were ordered to be printed in the Record, as follows:

S. 4125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Coal Mine Health and Safety Act of 1969 is amended as follows:

(1) Subsection (b) of section 101 of such Act is amended by adding at the end thereof the following new sentence: "Such standards (including revisions thereof) shall not become effective until proven by suitable testing and experience that they will improve or contribute to the health or safety of the miner.".

(2) Subsection (e) of section 101 of such Act is amended by adding at the end thereof the following new sentence: "In connection with the publication of proposed mandatory health or safety standards, the Secretary of Health, Education, and Welfare, in the case of health standards, and the Secretary, in the case of safety standards, shall provide supporting information or data to justify the adoption of such standards.".

(3) Subsection (g) of section 101 of such Act is amended by inserting immediately before the period at the end of the second sentence thereof a comma and the following: "and he shall reply specifically to any relevant objections to the proposed standards raised in such hearing".

(4) Subsection (h) of section 101 of such Act is amended by inserting immediately after the word "section", a comma and the following: "after compliance with subsections (e), (f), and (g) of this section,".

(5) Subsection (j) of section 101 of such Act is amended by adding at the end thereof the following: "The Secretary shall, as soon as practicable following the effective date of this Act, but in no event later than March 31, 1973, make a comparison of the effectiveness of health and safety standards and regulations in effect immediately prior to the effective date of this Act, with the effectiveness of health and safety standards and regulations provided by or pursuant to the provisions of this Act. In making such comparison, the Secretary shall analyze the effectiveness of such standards and regulations in advancing health and safety of miners and shall report, as soon as practicable, his findings and conclusions to the Congress.".

(6) Subsection (k) of section 101 of such Act is amended by adding at the end thereof the following: "Such copy, including copies of any proposed regulation or notice of hearings, shall be sent by certified mail to each such operator. Notwithstanding the foregoing provisions of this subsection, the failure of the Secretary to notify any such operator by certified mail as prescribed by this subsection shall excuse such operator from any penalty or fine imposed in connection with a violation of any such standard or regulation with respect to which he was not so notified, except that the provisions of this sentence shall apply only in the case that such violation was an initial violation and where such violation did not involve an imminent danger as provided in section 104(a), 104(c)(1) and elsewhere in the Act.

(7) Subsection (a)(2) of section 102 of such Act is amended by adding at the end thereof the following new sentence: "No funds appropriated pursuant to this Act shall be expended to carry out any such research, make any such grant or enter into any such contract unless, with respect thereto, the Secretary has consulted with, and considered the recommendations of, such Committee."

(8) Subsection (g) of section 103 of such Act is amended by adding immediately after the second sentence thereof, the following new sentence: "Immediately upon receiving such complaint, the Secretary shall notify the affected operator of the nature of such complaint and shall state that the complaint was received from a representative of the miners employed by such operator.".

(9) Subsection (a) of section 104 of such Act is amended by inserting immediately after the word "shall" the following: "immediately notify the operator or his representative of the fact that an imminent danger exists. Such notification shall state the specific conditions or practices resulting in such danger. If the representative of the Secretary determines that such conditions or practices are such that they could be reasonably expected to cause death, physical harm or impairment of health before they can be abated, he shall".

(10) Subsection (b) of section 104 of such Act is amended by inserting immediately after "operator or his agent" the following: "specifying the particular health or safety standard violated and".

(11) Subsection (c)(1) of section 104 of such Act is amended (1) by deleting "significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards," and inserting in lieu thereof "directly and seriously affect mine health or safety, and if he finds such violation is a flagrant disregard by the operator for compliance with the law or a disregard of the health or safety of the miners,", and (2) by deleting in the second sentence thereof the words "and unwarrantable failure of such operator to so comply." and inserting in lieu thereof "such a flagrant disregard for the law or his miners,".

(12)(A) Subsection (a)(1) of section 109 of such Act is repealed.

(B) Subsection (a)(2), (a)(3), and (a)(4) are hereby renumbered as subsections (a)(1), (a)(2), and (a)(3) respectively.

(C) Subsection (b) of section 109 of such Act is amended by deleting "subsection (a) of this section or".

(D) Subsection (c) of section 109 of such Act is amended (i) by deleting "subsection (a) of this section or"; (ii) by deleting "civil penalties, fines, and" and inserting in lieu thereof "fines and"; and (iii) by deleting "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

(E) Subsection (e) of section 109 of such Act is amended by deleting "subsection (d)" and inserting in lieu thereof "subsection (c)".

(13) The second sentence of subsection (h) of section 202 of such Act is amended by inserting immediately before the period at the end thereof a coma and the following: "except that the use of approved respirators shall be permitted on a temporary basis where it is impossible or impractical to reduce the level of respirable dust to the standard required by law for the purpose of correcting the situation creating such hazard.".

(14) Section 302 of such Act is amended

by adding at the end thereof the following new subsection:

"(g) The Secretary shall provide adequate training programs for each individual underground miner in the proper method of testing roof, rib, and face for dangerous conditions and the proper method of preventing accidents from the fall of roof, rib and face.".

(16) Subsection (1) of section 303 of such Act is amended by deleting the words "The Secretary" where they first appear therein and inserting in lieu thereof "In mines located below the water table or in which methane has been detected as prescribed in subsection (b) of this section, the Secretary."

(17) Subsection (z) (2) of section 303 of such Act is amended (A) by deleting "or be sealed,"; (B) by inserting immediately before the last sentence thereof "If the above air cannot be held below 2 per centum methane, the area shall be sealed."; and (C) by deleting "with explosion-proof bulkheads."

(18) Subsection (a) of section 304 of such Act is amended to read as follows: "(a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall not be permitted to accumulate in active workings. Electric equipment shall be kept reasonably clean."

(19) Subsection (b) of section 304 of such Act is amended by inserting immediately before the period at the end of the second sentence a comma and the following: "if necessary for health and safety."

(20) Section 305 of such Act is amended by adding at the end thereof the following new subsection:

"(s) Paragraphs (1), (2), (3) and (12) of subsection (a), and subsection (d), of this section shall be applicable only with respect to mines located below the water table or in which methane has been detected as prescribed in section 303(b)."

EXPLANATION OF PROPOSED AMENDMENTS TO COAL MINE HEALTH AND SAFETY ACT OF 1969

A. Present law: Sec. 101:

Although Section 101(b) requires that no improved mandatory health or safety standards promulgated under this Title shall reduce the protection afforded miners, there are a number of occasions where the Secretary proposed new regulations which were not sufficiently tested by prior experience and which have created in several cases additional risks or hazards to health and safety.

For example, in 1970, the Bureau prescribed by regulation certain fire suppression devices as required equipment. Many operators purchased these devices at considerable expense only to be advised by the Secretary 8 months after the regulation had been put into effect that the Secretary would no longer require this equipment on the grounds that it was not effective for the purposes specified. I am informed, for example, that two operators in Harlan County each spent in excess of $20,000 for this unneeded equipment.

In proposing additional equipment or procedures to improve health and safety, the Secretary should have the burden of demonstrating by testing or prior experience that such equipment or procedures would in fact improve safety.

In support of the requirement for testing, it should be noted that Section 101(c) requires that the "development and revision of mandatory safety standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate". Section 101(d) requires similar testing and experimentation by the Secretary of HEW with respect to proposed changes in mandatory health standards.

The Secretary, in proposing changes in health or safety standards, is not required to provide supporting scientific data on the question of desirability or effectiveness of the proposed or revised standards. The result has been that operators do not have knowledge of the assumptions or bases upon which the Secretary's standards are proposed and are in no position to offer informed objections or counter proposals.

In addition, under Section 101(f), the Secretary is not required to reply to, to reconsider, or to rebut objections made by interested parties concerning the proposed changes in regulations.

Section 101(h) provides that a mandatory health or safety standard promulgated under this Section shall become effective upon publication in the Federal Register unless the Secretary specifies a later date, even though there is no compliance with the requirement for public hearings as provided in Sections 101(f) and (g).

There is no provision in the existing law requiring the Secretary to review the effectiveness of coal mine health and safety standards in effect prior to the effective date of the 1969 Act, and to compare such effectiveness of such health and safety standards with the effectiveness of the standards established by the 1969 Act and regulations promulgated thereunder.

Under Section 101(k) operators are assumed to have received notices of new regulations and, on many occasions, Federal inspectors upon entering a mine will charge them for violations of such regulations, when the operator has not received notice of nor had prior knowledge of such regulations.

B. Proposed Amendments to Section 101:

In Section 101(b) after "safety standards" add the following: "Such standards (including revisions) thereof shall not become effective until proven by suitable testing and experience that they will improve or contribute to the health and safety of the miner".

In Section 101(e) at the end of the last sentence, add the following new sentence: "In connection with the publication of proposed mandatory health or safety standards, the Secretary of Health, Education, and Welfare, in the case of health standards, and the Secretary, in the case of safety standards, shall provide supporting information or data to justify the adoption of such standards.".

In Section 101(g), at the end of the second sentence after "shall be public" add "and he shall reply specifically to any relevant objections to the proposed regulations raised in such hearing".

In Section 101(h), insert after the word "section' a comma and the following: "after compliance with subsections (e), (f) and (g) of this section,".

In Section 101(j), at the end of the last sentence, add the following: "The Secretary shall, as soon as practicable following the effective date of this Act, but in no event later than March 31, 1974, make a comparison of the effectiveness of health and safety standards and regulations in effect immediately prior to the effective date of this Act, with the effectiveness of health and safety standards and regulations provided by or pursuant to the provisions of this Act. In making such comparison, the Secretary shall analyze the effectiveness of such standards and regulations in advancing health and safety of miners and shall report, as soon as practicable, his findings and conclusions to the Congress.".

In Section 101(k), after the last sentence, add the following:

"Such copy, including copies of any proposed regulation or notice of hearings, shall be sent by certified mail to each such operator. Notwithstanding the foregoing provisions of this subsection, the failure of the Secretary to notify any such operator by certified mail as prescribed by this subsection shall excuse such operator from any penalty or fine imposed in connection with a violation of any such standard or regulation with respect to which he was not so notified, except that the provisions of this sentence shall apply only in the case that such violation was an initial violation, and where such violation did not involve an imminent danger as provided in Sec. 104(a), 104(c)(1), and elsewhere in the Act."

A. Present law: Sec. 102:

Section 102 authorizes the Secretary to appoint an Advisory Committee on coal mine safety research, and requires the Committee to "consult with, and make recommendations to, the Secretary on matters involving or relating to coal mine safety research".

I am informed that the Secretary's Advisory Committee on Coal Mine Safety Research has not been consulted by the Secretary on the Department's decisions relating to coal mine safety research projects nor have their suggestions and recommendations for future projects been sought.

B. Proposed Amendment:

1. In Section 102(a) (2), after the first sentence, add the following new sentence: "No funds appropriated pursuant to this Act shall be expended to carry out any such research, make any such grant or enter into any such contract unless, with respect thereto, the Secretary has consulted with, and considered the recommendations of, such Committee.".

A. Present law: Section 103(g):

Section 103(g) provides that where miners or union representatives have reasonable grounds to believe that a violation of a mandatory or safety standard exists or a situation involving "imminent danger" exists, then he "shall have a right to obtain an immediate inspection by giving a notice to the Secretary or his authorized representative of such violation or danger". However, there is no provision in Section 103(g) requiring the miner or his representative to also notify the operator at the same time and to give the operator an opportunity to correct the purported violation and protect his men from serious injury. Experience has shown that some irresponsible complaints originate from individuals not connected with the mine, or employed in the mine.

B. Proposed Amendment:

In Section 103(g), after the second sentence, add the following new sentence: "Immediately upon receiving such complaint, the Secretary shall notify the affected operator of the nature of such complaint and shall state that the complaint was received from a representative of the miners employed by such operator.".

A. Present law: Section 104:

Section 104(a) authorizes the Secretary's representative to issue a withdrawal order where that representative upon inspection of a coal mine finds that an imminent danger exists.

On many occasions an operator is cited for a condition of "imminent danger" and a withdrawal order issued without the operator being advised by the Federal inspector of the nature of the "imminent danger" or the particular condition or conditions constituting such "imminent danger" and thus enable the operator to take steps immediately to correct the condition and to protect the safety of the miners. Experience has shown that many of the conditions cited as violations of this Section are not of a serious nature involving "imminent danger" to the health and safety of the miners.

Closure orders have been issued for violations of standards which do not immediately expose men in the particular mine to physical harm or injury and which should not properly be characterized by the inspector as involving conditions of "imminent danger". A closure order, if unneeded, results in serious economic hardship for the small mines and, under present practices, subjects the operator to a basic fine of $5,000.

B. Proposed Amendment:

Subsection (a) of section 104 of such Act is amended by inserting immediately after the word "shall" the following: "immediately notify the operator or his representative of the fact that an imminent danger exists. Such notification shall state the specific conditions or practices resulting in such danger. If the representative of the Secretary determines that such conditions or practices are such that they could be reasonably expected to cause death, physical harm, or impairment of health before they can be abated, he shall.".

A. Present law: Section 104(b):

Section 104(b) requires a Federal inspector who has found "a violation of any mandatory health or safety standard but the violation has not created an "imminent danger"—to issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation". I am informed that on many occasions the Federal inspector does not specify the particular health or safety standard violated.

B. Proposed Amendment:

In Section 104(b) in the first sentence, after the words "operator or his agent" insert the following: "specifying the particular health or safety standard violated and".

A. Present law: Section 104(c):

It is my view that in writing this section of the law Congress intended to cover those flagrant violators of the health and safety standards who persistently are cited for violations of the law but which violations were not sufficient to be classified as an "imminent danger" requiring a closure order. I am informed that on occasions when a Federal inspector has found a violation or has found a series of non-serious violations that he characterizes such violation or series of violations as constituting "an unwarrantable failure" under Section 104(c) (1), and issues a closure order. Furthermore, the most recent violation or any violation may have no causal relationship to the health and safety of the men in the mine, e.g., failure to record in writing one of many daily reports for the Bureau of Mines.

B. Proposed Amendment:

Subsection (c) (1) of section 104 of such Act is amended (1) by deleting "significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be "caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards," and inserting in lieu thereof "directly and seriously affect mine health or safety, and if he finds such a violation is a flagrant disregard by the operator for compliance with the law or a disregard for the health or safety of the miners,"; and (2) by deleting in the second sentence thereof the words "an unwarrantable failure of such operator to so comply," and inserting in lieu thereof "such a flagrant disregard for the law or the safety of his miners,".

A. Present law: Sections 105–108:

No changes recommended.

A. Present law: Section 109:

Section 109(a) (1) requires the mandatory assessment of a civil penalty by the Secretary for each and every violation of a health and safety standard.

Fines are now assessed almost automatically in flat amounts without consideration for the criteria set forth in Section 109(a) (1) which require the Secretary to take into account the operator's history of previous violations, the appropriateness of the penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation and the demonstrated good faith of the operator to achieve compliance after notified of the violation.

Experience has shown that the assessment officers of the Bureau of Mines have established assessment procedures which are arbitrary and do not comply with the criteria as required by this Section.

It should also be pointed out that appeals from these fines are limited to the size of the fine and not to the merits of the charge of the alleged violation. The notice of assessment procedures deter operators, for if they appeal a particular fine they are subject to the risk of having such fine increased to a maximum of $10,000.

This arbitrary assessment and collection of fines by the Bureau has not only caused confusion and economic hardship among the operators but has tended to focus a great deal of the time and attention of operators and Bureau officials on these procedures rather than on matters directly related to furthering the safety of the nation's coal miners, which is the chief purpose for Congress enacting the legislation. In my view this section violates "due process," sought to be assured by our system of justice.

B. Proposed Amendment:

1. The proposed amendment would delete Section 109(a) (1), the mandatory civil penalties section of the Act. The proposed amendment, however, would not affect other provisions of Section 109(b) through Section 109(e), which prescribe criminal penalties of fines or imprisonment for any operator who willfully violates the health or safety standards of the Act.

A. Present law: Section 202:

Section 202(h) requires that "respirators shall not be substituted for environmental control measures in the active workings".

I am informed that at times it is impossible to reduce the dust level due to a change in ventilation, roof falls, accidents or where excessive dust results from climactic conditions.

B. Proposed Amendment:

1. In Section 202(h) in the second sentence, add the following: "except that the use of approved respirators shall be permitted on a temporary basis where it is impossible or impractical to reduce the level of respirable dust to the standard required by law for the purpose of correcting the situation creating such hazard."

A. Present law: Section 302:

Section 302(a) requires each operator to carry out on a continuing basis programs to improve the roof-control system of each mine. Experience has shown that many of the small operators are either not in a position or do not have the facilities to provide adequate training programs for their men with respect to roof control systems.

B. Proposed Amendment:

At the end of Section 302, add a new subsection (g) as follows:

"(g) The Secretary shall provide adequate training programs for each individual underground miner in the proper method of testing roof, rib, and face for dangerous conditions and the proper method of preventing accidents from the fall of roof, rib and face.".

A. Present law: Section 303(h):

Recent experience has indicated that the provisions of the 1969 Act, classifying all mines as "gassy" whether or not these mines be gassy in fact, do not contribute to safety in those mines located above the water table determined to be free of gas and, in addition, impose unnecessary economic and financial hardship on those mines which will be required in 1974 to purchase at substantial cost the "permissible" equipment formerly required only in the large gassy mines.

B. Proposed Amendments:

Subsection (L) of section 303 of such Act is amended by deleting the words "The Secretary" where they first appear therein and inserting in lieu thereof "In mines located below the water table or in which methane has been detected as prescribed in subsection (b) of this section, the Secretary".

A. Present law: Section 303(z) (2):

This provision requires the sealing of abandoned workings under certain types of situations. A better way to handle gas in these types of abandoned areas would be to ventilate it rather than sealing off the area as required under Section 303(z) (2). Experience would indicate that sealings in these circumstances create an additional hazard of trapping the gas and resulting in explosions.

B. Proposed Amendments:

Subsection (z) (2) of section 303 is amended (A) by deleting "or be sealed,"; (B) by inserting immediately before the last sentence thereof "If the above air cannot be held below 2 per centum methane, the area shall be sealed."; and (C) by deleting "with explosion-proof bulkheads".

A. Present law: Section 304(a):

This provision requires that coal dust shall "not be permitted to accumulate in active workings or on electric equipment wherein". Experience has indicated that it is impractical to keep equipment continuously clean as required by the law and this provision has been interpreted arbitrarily in many instances by Federal inspectors.

B. Proposed amendment:

Section 304(a) is amended to read as follows: "(a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall not be permitted to accumulate in active workings. Electric equipment shall be kept reasonably clean."

A. Present law: Section 304(b):

This section provides for the watering and the wetting of areas around the face for the purpose of reducing the amount of coal dust. In certain situations and with certain types of coal the watering required by section 304 (b) is not only not needed but creates a health problem of pneumonia and a safety problem of slippery floors and possible electrical shocks.

B. Proposed amendment:

1. In section 304 (b), add the words "if necessary for health and safety" at the end of the second sentence.

A. Present law: Section 304(d) and Section 305:

As commented on in Proposed Amendments to Section 303(h), (see above), the classification of all mines as "gassy" when in fact many are not "gassy" has not contributed to safety and, in addition, will require unnecessarily the purchase of expensive "permissible" equipment that is not needed in mines located above the water table in which methane has not been detected.

B. Proposed Amendments:

Section 305 of such Act is amended by adding at the end thereof the following new subsection: "(s) Paragraphs (1), (2), (3) and (12) of subsection (a), and subsection (d), of this section shall be applicable only with respect to mines located below the water table or in which methane has been detected as prescribed in section 303 (b)."

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. MILLER. Mr. President, because of commitments in my home State, I recently missed several rollcall votes. I ask unanimous consent that the permanent RECORD reflect my positions on the following votes:

One. September 30, Leg. No. 488—Byrd amendment to H.R. 1 to lower age at which an individual may draw social security benefits—"yea."

Two. October 12, Leg. No. 546—final passage of H.R. 16071, Public Works and Economic Development Act Amendments of 1972—"yea."

Three. October 12, Leg. No. 551—Cranston amendment to supplemental appropriation bill to appropriate $40 million for programs establishing veterans' health facilities—"nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW HANCHER CENTER FOR PERFORMING ARTS AT UNIVERSITY OF IOWA

Mr. MILLER. Mr. President, the Des Moines Register for October 8 contains an article written by Byron Belt, a New York critic, which gives high praise to the new center for the performing arts at the University of Iowa, in Iowa City. Named after the late Virgil Hancher, longtime president of the university, the center is one of the finest in the world. It was my privilege to attend its premiere opening recently with an outstanding performance by the University's symphony orchestra and chorus. I stated afterward that people would no longer have to travel to the East in order to obtain the finest in cultural entertainment. Mr. Belt's article confirms my statement.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

(Note.—Byron Belt is critic of music, dance, architecture and fine arts for the Newhouse newspapers. He has been an art and music teacher at Kendall College, Evanston, Ill., and serves as artistic director of the Long Island Arts Center, New York City. He writes a weekly "critic-at-large" column.)

(By Byron Belt)

Iowa City, Iowa.—Here, where the Iowa River bisects the town and University of Iowa campus, students move easily from the new Hancher Auditorium or art museum to fish and idle along the riverbank.

Hancher Auditorium is the newest and last major addition to an arts complex that provides college facilities second to none in the United States. The new 2,680-seat concert, opera, dance and theater building was designed by Harrison and Abramovitz of New York City who were also responsible for the superb art museum opened three years ago, and the school of music, which has been in use just over a year.

The inaugural season of Hancher Auditorium (named for the late Virgil M. Hancher, whose tenure as U of I president from 1940 to 1964 was the longest in the school's history) began with a three-day festival which set the style for a busy year ahead.

The opening concert was by the university chorus and orchestra, under the compellingly authoritative direction of James Dixon, a former protege of Dimitri Mitropoluos. The enormous orchestra and choir rose to the challenges of the Mahler "Resurrection" symphony with thrilling impact.

That Hancher Auditorium possesses among the finest acoustics in the world was thoroughly demonstrated by the Mahler, and the world premiere of a spikey, attractive work which composer Charles Wuorinen calls "Grand Bamboula for String Orchestra," as well as the requisite Brahms "Academic Festival" overture.

RARE COOPERATION

From the breathless silences of the Mahler through its most stentorian climaxes, the sound was clarity itself, beautifully balanced and with a warmth totally unexpected in today's era of strident sonics. The success may be credited to rare co-operation between acoustician Paul S. Veneklasen and architect Max Abramovitz.

The campus setting provided ample time for leisurely visits with both Veneklasen and Abramovitz, and the talk threatened to become something of a love-in. Neither gentleman is easily self-satisfied, but each was clearly more than proud of his achievement—as well he may be!

"Saratoga Performing Arts Center and the Portland Auditorium were my most satisfactory solutions to earlier sound problems," Veneklasen commented, "but Hancher should prove the best of all, for Max (Abramovitz) took the sonic needs into consideration first, and solved his sculptural problems around the need for an authentic, quality, multipurpose auditorium."

Designing a hall for recitals, concerts, staged drama, musicals, opera and ballet has caused more than one such facility to end up being suitable for nothing in particular. Only drama will require use of Veneklasen's always subtle sound reinforcement system. The concert shell provided a magnificent setting for Dixon and his superlative student forces.

Abramovitz, who has followed extraordinary acclaim for his University of Illinois Krannert Center for the Performing Arts with an even finer accomplishment on a second Big Ten campus, is a quiet-spoken, thoughtful artist who has changed the course of his own life from that of a potential sculptor to accomplished architect.

CLEAN DESIGN

The geometrical severity of the music center buildings seems to emerge naturally from the edge of the Iowa River. The clean design is warmed by the traditional red plush interior and a striking collection of oversize canvases by American artists in the grand foyer.

Hancher Auditorium fulfills one of the architect's strongest convictions that "theaters must be scaled, lit and ornamented with people and night in mind." The pleasure and pride of the audience that jammed the hall on opening night, and for Van Cliburn's recital the next evening, confirmed the triumph of the achievement.

Here, amidst cornfields and a town-campus of some 50,000 people is an auditorium worthy of the greatest cultural center anywhere.

Abramovitz and Veneklasen also provided the new music building with its rich resources of studios, equipment and recital and study facilities. Among its special joys are outstanding studio organs built by Schlicker and Moller, and a new organ designed by Sasavant for 720-seat Clapp Hall, named for long-time music head Philip Greeley Clapp.

The excellent Casavant organ has the mechanical key action favored by Department Chairman Gerhard Krapf. A hearing of Bach, Clapp and Franck did convince this skeptical listener of Dr. Krapf's contention that the new organ has the tonal resources and flexibility to serve the Baroque sounds he clearly prefers, as well as meet the demands of romantic literature.

Performers and audiences in Iowa City are clearly blessed with more than an abundance of means to create and enjoy much in the years to come.

While music begins belatedly to lay a major claim to enhance the Hawkeye State's reputation, other areas of the arts have been more firmly established in the public mind.

A pioneering program in radio and television production has made the university's School of Speech and Dramatic Art a long-admired division. The School of Letters' celebrated writer workshops are among the most important anywhere. And, thanks to a Legislature impressed by the celebrity of painters as Grant Wood, Iowa has long had funding and support for its visual arts programs.

As part of its teaching and public resources, U of I has one of the finest art museums on any university campus, directed by painter Ulfert Wilke.

Wilke is a man whose boundless enthusiasm is contagious. His concepts of what a collection should be, center on only one word—quality. "While other curators look first at the signature of the artist," Max Abramovitz noted, "Wilke looks first at the work itself. The result is evident—each piece is chosen and mounted with loving attention."

C. R. BENEFACTORS

The curator did not select all the splendid Iowa collection, for its chief benefactors were Owen and Leone Elliott of nearby Cedar Rapids. Thanks to Peggy Guggenheim, Jackson Pollack is represented by one of his largest and finest works.

The Iowa Museum is designed to avoid that boxed-in feeling of many little rooms. The spacious mountings permit careful study and enjoyment for the more than 100,000 persons who visited it this past year.

For excellence, imagination, encouragement of scholarly accomplishment and public participation alike, the Iowa Center for the Arts ranks as one of America's outstanding achievements.

NATIONAL HEALTH INSURANCE LEGISLATION SHOULD BE GIVEN TOP PRIORITY BY THE CONGRESS

Mr. ROTH. Mr. President, I am convinced that our Nation is today faced with a crisis in health care. Recent letters and meetings with constituents have given this problem an urgency never communicated to me by statistical tables. Many Americans justifiably feel that they are forced to go without needed medical care because its cost is too dear or it is not readily available. Similarly, those who receive treatment often must sacrifice other necessities to pay for these services.

I am not, Mr. President, speaking just of the poor. Rather, high medical costs seriously burden the great majority of middle-class Americans, too. This crisis is felt in the suburbs, small towns, cities, and on the farms. I certainly know this to be the case in my own State of Delaware. All Americans have a right to demand adequate medical attention at reasonable costs to themselves. The relative abundance of our Nation and our traditional concern for human welfare dictate that we respond to this demand.

Good health care is primarily justified as a way of giving long lives free of physical and mental anguish to Americans. Yet, we should not overlook the fact that healthy citizens are also more productive citizens. Healthy workers provide the muscle and brainpower which makes up the human capital of our economy. If as much as one-fourth of our economic growth depends on such human capital, as some economists maintain, we certainly cannot afford to waste these vital resources.

Besides providing sufficient health care in the present, we must adequately fund research in improved medical treatments. This is a part of the overall research and development effort which a growing, vital society must maintain. While I am one of those who are attempting to slow the rate at which Federal spending is growing, research and development is too essential to our future to be shortchanged in the allocation of our always scarce resources.

At the end of 1971 I introduced Senate Joint Resolution 180, authorizing the President to proclaim May "National Arthritis Month." This resolution, in the form introduced by Representative DAVID PRYOR in the House, has since passed both Houses of the Congress and received the approval of President Nixon. Improved arthritis research and treatment is of great importance to me because it would increase the well-being and productiveness of at least 17 million Americans.

Among these 17 million citizens are many older Americans. It is a first-order priority that we make it possible for the elderly to participate more fully in the national life. It goes without saying that better and less costly health care is a matter of day-to-day concern for older Americans more than any other group in the United States. Retired or disabled people, even when they have earned good wages and salaries during their working years, are usually at a disadvantage in paying for the expensive medical treatment they so often require.

Why is it that so many Americans in the past few years have come to feel that there is truly a crisis in health care? The most obvious way in which Americans have experienced this growing crisis is in the rapid rise in medical costs. The Department of Health, Education, and Welfare has reported that in fiscal year 1970 (U.S. Department of Health, Education, and Welfare, Towards a Comprehensive Health Policy for the 1970's (A White Paper), May 1971) our Nation spent $67 billion on health care. These expenditures leaped from $38.9 billion in 1965, increasing as a percentage of GNP from 5.9 percent to 7 percent. During the decade of the 1960's hospital charges rose four times as fast as other prices on the Consumer Price Index, and physicians' fees twice as fast. After accounting for payments by Government, private insurance plans, and philanthropy, our citizens still must pay 40 percent of these huge medical expenses out of their own pockets.

While inflation explains over 70 percent of this phenomenal growth in medical costs, poor utilization of resources; incentives to use highest cost facilities; lack of cost control measures; legal barriers in some States to efficient use of medical manpower; and productivity which does not match that of other industries also contribute to the increase in costs. A number of these inefficiencies result from the often unavoidable fact that the market for health services does not operate in the same fashion as markets for goods and other services.

It certainly cannot be argued that the overall health of our Nation as a whole has not greatly improved in recent years. Yet, one could question why the United States ranks below the top 10 nations of the world in life expectancy and infant mortality rates. While there may be many complicated explanations of our poor showing in these statistics, they run contrary to the fact that we are the wealthiest society in the world and one which has normally maximized the well-being of the average citizen.

We should also take note, Mr. President, of the fact that the poor, nonwhite, and rural portions of our population do not receive the same, generally good medical attention enjoyed by the majority of Americans. The high cost of low-income citizens to maintain good of treatment especially limits the ability health. The tendency of doctors and medical facilities to concentrate in metropolitan areas puts rural and small-town people at a disadvantge. Similarly, the availability of health care to all American families, and especially to the groups I have been discussing, suffers from the decline in the number of primary care physicians, as opposed to specialists.

Just what can we in the Congress do to provide all Americans with the quality health care they deserve? I think that, among other things, we must adequately fund medical research; contribute to the search for more creative ways of organizing health services, including improved allocation of our existing health manpower; provide adequate support to medical and dental education; continue to support the construction of medical facilities; and enact new national health insurance. I am pleased to point out that my own State of Delaware has recently set up the Delaware Health Service Authority, to coordinate and improve the delivery of health care services in the States. This sort of State initiative is essential to our national effort to improve health care.

The fact that something like 40 percent of the ever-increasing costs of health services must be met by the average American family earlier led me to conclude that national health insurance should be a high priority matter for the current session of Congress. The same HEW White Paper to which I refered earlier makes it clear that, while governmental and private health plans cover a very considerable portion of medical costs, important groups in the population, as well as significant medical costs, are not adequately covered.

At the very least Congress must soon provide protection against catastrophic illnesses which can without warning destroy a family's financial well-being. The able senior Senator from Delaware (Mr. BOGGS) has offered one of the bills intended to accomplish this end—S. 191, the National Catastrophic Illness Protection Act. This proposal would provide for reinsurance by the Federal Government of private health insurance policies which would provide extended coverage against catastrophic illnesses. I have been pleased to add my name as a cosponsor to S. 191.

In conclusion, Mr. President, I will again express my hope that the appropriate committees and the two Houses of Congress make national health insurance top priority legislation for enactment during the 93d Congress. I for one am convinced that the people, from all walks of life, demand this of us. We cannot reasonably countenance the personal suffering, financial burden, and loss of vital human resources which the failure to act would continue to impose on our Nation.

ORDER OF BUSINESS

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

AUTHORIZATION FOR CONFERENCE COMMITTEES TO FILE CONFERENCE REPORTS FOR PRINTING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 10 a.m. on Monday next, conference committees be authorized to file conference reports for printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M., MONDAY, OCTOBER 16, 1972

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m., on Monday.

The motion was agreed to, and at 12:02 a.m., October 15, 1972, the Senate adjourned until Monday, October 16, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 14, 1972:

IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the appropriate provisions of chapter 837, Title 10, United States Code, as amended, and Public Law 92-129.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Aasen, John C., xxx-xx-xxxx.
Abbuhl, Forest E., xxx-xx-xxxx.
Altman, Gerald G., Jr., xxx-xx-xxxx.
Anderson, Harry A., xxx-xx-xxxx.
Baker, Harvey B., xxx-xx-xxxx.
Bennett, James T., Jr., xxx-xx-xxxx.
Benyunes, Charles B., xxx-xx-xxxx.
Bianco, Sam, xxx-xx-xxxx.
Blalack, Ronald R., xxx-xx-xxxx.
Bolt, Jack L., xxx-xx-xxxx.
Botti, John L., xxx-xx-xxxx.
Bourassa, Joseph W., xxx-xx-xxxx.
Brown, John P., xxx-xx-xxxx.
Bukamier, Walter J., xxx-xx-xxxx.
Burford, Thomas E., xxx-xx-xxxx.
Burney, Ernest L., Jr., xxx-xx-xxxx.

Cabitt, Gerald, [redacted].
Christensen, Stanley M., [redacted].
Clements, Evan E., [redacted].
Costello, David S., [redacted].
Dancy, Edward D., Jr., [redacted].
Davidson, James A., [redacted].
Dejarnette, Thomas L., [redacted].
Denuccio, William J., [redacted].
Dobbins, Jackson W., [redacted].
Doneghy, Herbert H., Jr., [redacted].
Eberle, Milton J., [redacted].
Enmon, William G., [redacted].
Feeney, James J., [redacted].
French, Stuart P., [redacted].
Fried, Abraham S., [redacted].
George, Robert R., [redacted].
Glaze, Lester K., [redacted].
Graf, Vernon F., [redacted].
Grant, August B., [redacted].
Gyerman, Elmer M., [redacted].
Hamilton, Frank R., [redacted].
Hauer, Leslie J., [redacted].
Hepner, Edmund G., [redacted].
Hilton, Wayne A., [redacted].
Hollingshead, Roy G., Jr., [redacted].
Hood, Stobart K., Jr., [redacted].
Howard, William T., [redacted].
Humpert, Frank E., [redacted].
Jacobsen, Ford K., [redacted].
Johnson, Arden J., [redacted].
Jordan, William O., [redacted].
Joyce, Rodger W., [redacted].
Kaczmarek, Edward A., [redacted].
Kahler, Harold, [redacted].
Kathrens, Leroy A., [redacted].
Knickerbocker, Harry C. J., [redacted].
Kovarick, Joseph W., [redacted].
Kozik, Eugene, [redacted].
Krey, Paul G., [redacted].
Landau, Howard B., [redacted].
Laney, John D., [redacted].
Lapanna, Joseph J., [redacted].
Lawrence, Clifford J., [redacted].
Leadlay, Dan L., [redacted].
Lessey, Samuel K., Jr., [redacted].
Letchworth, Troy, Jr., [redacted].
Linehan, Richard W., [redacted].
MacDuff, Robert W., [redacted].
Manson, Jamec P., [redacted].
McAdoo, James E., [redacted].
Merka, Walter J., Jr., [redacted].
Morrissey, William J., Jr., [redacted].
Myers, Richard E., [redacted].
Nolte, Reginald G., [redacted].
Ostrow, Martin M., [redacted].
Page, William E., Jr., [redacted].
Pohle, Jack D., [redacted].
Pohmajevich, Francis, [redacted].
Polstra, Ryan M., [redacted].
Popik, Selig R., [redacted].
Rice, Charles N., [redacted].
Rose, Conrad F., [redacted].
Roth, Everett L., [redacted].
Ruffner, Harold E., [redacted].
Rutledge, Donald R., [redacted].
Ryan, John C., [redacted].
Schell, William C., [redacted].
Schissel, John A., [redacted].
Schweers, Albin H., [redacted].
Seanor, Joseph C., Jr., [redacted].
Sherck, David E., [redacted].
Shook, Elden G., [redacted].
Smith, Dean E., [redacted].
Smith, Rodney H., [redacted].
Soboslay, Walter J., [redacted].
Stanford, David L., [redacted].
Thompson, Victor H., Jr., [redacted].
Thurmond, James D., [redacted].
Tinkoff, Paysoff, Jr., [redacted].
Wade, James L., [redacted].
Watkins, Harry C., [redacted].
West, George R., [redacted].
Wilburn, Woodrow, H., [redacted].
Williams, Bob M., [redacted].
Williamson, Wilburn L., [redacted].
Wilson, John M., [redacted].
Wilt, Marlyn H., [redacted].

CHAPLAIN CORPS

Betzen, Justin H., [redacted].
Brown, Hiram L., [redacted].
Burns, Bradley B., [redacted].
Cornellier, Edmond, [redacted].
Keohane, John J., [redacted].
Reuter, Arnold F., [redacted].

DENTAL CORPS

Krumnow, William E., [redacted].
Nelson, Curtis L., [redacted].
Spiegel, Eugene H., [redacted].
Yanosy, William M., [redacted].

MEDICAL CORPS

Baker, Everett B., [redacted].
Erickson, Clark A., [redacted].
Harter, Alan C., [redacted].
Kostas, Constantine I., [redacted].
Lynch, Richard V., Jr., [redacted].
Mullan, Paul A., [redacted].
Tennant, Edward E., [redacted].
Thicksten, Jack N., [redacted].

NURSE CORPS

Greene, Erna, [redacted].
Leary, Marion G., [redacted].
Metschl, Lyla L., [redacted].

MEDICAL SERVICE CORPS

Jenkins, James H., [redacted].
Martinez, Ralph T., Jr., [redacted].
Nelson, Philip B., [redacted].
Pleasonton, Alfred, [redacted].

VETERINARY CORPS

Andres, Martin Y., [redacted].
Husted, Paul W., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code and Public Law 92–129.

Major to lieutenant colonel

LINE OF THE AIR FORCE

Appling, Charleigh D., Jr., [redacted].
Armbrust, Robert E., [redacted].
Barker, Edward R., Jr., [redacted].
Berlekamp, Leland H., [redacted].
Brennan, Bruce J., [redacted].
Chisholm, Kenneth L., [redacted].
Comine, Frank A., Jr., [redacted].
Crawford, Marcus E., [redacted].
Firman, Donald J., [redacted].
Hamilton, Raymond F., [redacted].
Hauck, Samuel M., III, [redacted].
Hill, Delton W., [redacted].
Hurtienne, Robert W., [redacted].
Jones, Edwin C. Jr., [redacted].
Kueber, Nickolaus A., [redacted].
Pigg, James C., [redacted].
Powell, Leslie A. Jr., [redacted].
Richards, Eldon E., [redacted].
Thieme, Roger E., [redacted].

Chaplain Corps

Fox, James L., [redacted].

Medical Corps

Bornefleth, Leslie R., [redacted].
George, Harold C., [redacted].
James, Louis F., [redacted].
Lohr, David C., [redacted].

The following officers for appointment in the Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code and Public Law 92–129, with a view to designation as medical officers under the provisions of section 8067, title 10, United States Code.

Bauer, Charles R., [redacted].
Cook, James H., [redacted].
Gawecki, Frederick M., [redacted].

The following officer for appointment as a Reserve of the Air Force in grade of lieutenant colonel, Line of the Air Force, under the provisions of section 593, title 10, United States Code and Public Law 92–129.

Grasso, Frank A., [redacted].

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant

Robert D. Hopkins

To be lieutenants (junior grade)

Michael A. Graber
Frederick J. Jones
Jan W. McCabe
Carl F. Peters
Lawrence E. Keister
Eddie N. Bernard
Michael R. Johnson
Max M. Ethridge
Gary L. Sundin
Carl V. Ullman
Keith G. Baldwin
Stephen L. Wood
Robert H. Qualset
Gary M. Adair
Alan P. Vonderohe
David B. McLean
David B. MacFarland, Jr.
Kurt J. Schnebele
Emerson G. Wood
Richard T. Beaupre
Nelson M. Franklin
David W. Yeager
Wayne F. Turnacliff
Kurt D. Coon
Robert K. Norris
William M. Rivers, Jr.
Glenn E. Freirich
William L. Adams

To be ensigns

John F. Cussigh
Jonathan M. Altenhofen
Michael S. Bohle
Pamela R. Chelgren
Kurt X. Gores
Patrick D. Harman
Thomas W. Jackson, III
Robert E. Losey
Michael C. McMillan
Mark A. Miller
Ronald C. Pate
Ronald D. Polvi
Charles L. Rives
Bruce E. Shimano
Hugh H. Sprunt, Jr.
Dirk R. Taylor
H. Bruce Thelen
Stuart H. Thorson
Robin D. Wells
William E. George

NATIONAL INSTITUTE OF EDUCATION

Thomas K. Glennan, Jr., of Virginia, to be Director, National Institute of Education.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 14, 1972:

RAILROAD RETIREMENT BOARD

James L. Cowen, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1972.

PUBLIC HEALTH SERVICE

The following-named person to be a Member of the Board of Regents, National Library of Medicine, Public Health Service, for a term of 4 years from August 3, 1972:

William N. Hubbard, Jr., of Michigan.

FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

Peter J. Bensoni, of Minnesota, to be a Member of the Federal Metal and Nonmetallic Mine Safety Board of Review for the term expiring September 15, 1977.

ACTION

Charles W. Ervin, of California, to be an Associate Director of ACTION, to which office he was appointed during the last recess of the Senate.

U.S. COAST GUARD

The following rear admirals of the U.S. Coast Guard to be commander, Pacific area and commander, Atlantic area, U.S. Coast Guard with the rank of vice admiral, while so serving:

Rear Adm. Mark A. Whalen, Pacific area.

Rear Adm. Benjamin F. Engel, Atlantic area.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare.

HOUSE OF REPRESENTATIVES—*Saturday, October 14, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep yourselves in the love of God.—Jude 21.

Almighty God, who didst lead our fathers to bring forth in this land a new Nation conceived in liberty, give Thy grace to us their children that we may be ever mindful of Thy presence without whom no nation can prosper, no people can dwell secure, and no land can be free.

Pardon, we pray Thee, our shortcomings. We have not kept Thy Commandments nor have we obeyed Thy laws. Now we turn to Thee with hearty repentance and true humility praying that Thou wilt forgive us and reveal to us Thy will in which is our peace. Uphold us in our determinations to serve our country and to guide our people in following wise and sound leadership.

Now as we face the end of this session, give us grace to seek first Thy Kingdom of truth and love that Thou canst bless our Nation and make her a blessing to all mankind.

Now unto Him who is able to keep you from falling and to present you faultless before the presence of His glory with exceeding joy, to the only wise God, our Savior, the glory and majesty, dominion, and power, both now and evermore. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 15735. An act to authorize the transfer of a vessel by the Secretary of Commerce to the Board of Education of the City of New York for educational purposes; and

H.R. 16883. An act relating to compensation of members of the National Commission on the Financing of Postsecondary Education.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16810) entitled "An act to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. BENNETT, and Mr. MILLER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 216. An act to permit suits to adjudicate certain real property quit title actions.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11021. An act to control the emission of noise detrimental to the human environment, and for other purposes.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. ECKHARDT. Mr. Speaker, I object.

The SPEAKER. The question is on the approval of the Journal of the last day's proceedings.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 248, nays 3, not voting 180, as follows:

[Roll No. 444]

YEAS—248

Abbitt
Abernethy
Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, Ala.
Archer
Arends
Ashley
Aspinall
Badillo
Baker
Barrett
Bennett
Bergland
Betts
Bevill
Biester
Bingham
Blackburn
Boggs
Bow
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conover
Conyers
Culver
Daniel, Va.
Danielson
Davis, Ga.
de la Garza
Dellenback
Dennis
Dent
Dorn
Downing
Drinan
Dulski
Duncan
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Findley
Fish
Flood
Flynt
Foley
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Garmatz
Gaydos
Gettys
Gonzalez
Goodling
Grasso
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Halpern
Hansen, Idaho
Harrington
Harsha
Harvey
Hathaway
Hechler, W. Va.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Hull
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keith
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Lennon
Lent
Lloyd
Lujan
McClory
McCloskey
McCollister
McCormack
McCulloch
McDade
McEwen
McFall
McKay
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mink
Mitchell
Mizell
Montgomery
Moorhead
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pepper
Pickle
Pike
Poage
Powell
Preyer, N.C.
Price, Ill.
Railsback
Rangel
Rarick
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rooney, Pa.
Roy
Roybal
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scheuer
Schneebeli
Sebelius
Shoup
Shriver
Sikes
Slack
Smith, Calif.
Smith, Iowa
Spence
Stanton, J. William
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Sullivan
Taylor
Teague, Calif.
Teague, Tex.
Tiernan
Ullman
Vander Jagt
Vanik
Veysey
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Wydler
Wyman
Yates
Young, Tex.
Zablocki
Zion
Zwach

NAYS—3

Eckhardt
Hall
Young, Fla.

NOT VOTING—180

Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baring
Begich
Belcher
Bell
Biaggi
Blanton
Blatnik
Boland
Bolling
Broomfield
Brotzman
Burke, Fla.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Chisholm
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Dowdy
du Pont
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Fisher
Flowers
Ford, William D.
Fountain
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Gross
Gude
Hagan
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Hastings
Hawkins
Hays
Hébert
Heckler, Mass.
Helstoski
Horton
Howard
Hungate
Hunt
Jarman
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Kuykendall
Leggett
Link
Long, La.
Long, Md.
McClure
McDonald, Mich.
McKevitt
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Mills, Md.
Minish
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, N.Y.
Nelsen
Nichols
Pelly
Perkins
Pettis
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Randall
Reid
Rodino
Rogers
Roncalio
Rooney, N.Y.
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Scherle
Schmitz
Schwengel
Scott
Seiberling
Shipley
Sisk
Skubitz
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, James V.
Steiger, Ariz.
Stokes
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Winn
Wolff
Wright
Wyatt
Wylie
Yatron

So the Journal of the last day's proceedings was approved.

Mr. EVINS of Tennessee changed his vote from "present" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 16810, TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. MILLS of Arkansas, ULLMAN, BURKE of Massachusetts, Mrs. GRIFFITHS, Messrs. BYRNES of Wisconsin, BETTS, and SCHNEEBELI.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce the addition of three bills to be called up under the Suspension Calendar: H.R. 7625, to provide for an increase in the pay of police officers at National and Dulles Airports; H.R. 13895, to provide for a reclassification of pay increase for deputy U.S. marshals; and H.R. 14934, an increase in the pay level of certain positions in the Department of Justice.

Mr. Speaker, I might also take this time to say that at this time there are a total of nine suspensions to be called up. There are four travel resolutions, and there are unanimous consent bills that were previously listed from the Committee on Ways and Means, some of which will be brought up under suspensions.

Then of course there are the conference reports that must be called up, the supplemental appropriation conference report, and the continuing resolution.

I am not announcing that the above is all of the concluding business of this Congress, but that is pretty much all of it at this time.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I will be glad to yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I believe yesterday the leadership, or the distinguished majority leader who represents it, announced that some time today we might consider the resolution for adjournment sine die.

Could the gentleman tell us about when that might be coming along today?

Mr. BOGGS. No, I am not prepared to make any announcement at this time. We have been in consultation with the other body, but they are not prepared to set a time. But until I have that assurance we cannot make that announcement. I am sure the gentleman from Missouri knows that.

Mr. HALL. I thought perhaps the gentleman might know. Of course, I understand it would depend on a variety of factors, but I certainly hope that the leadership still has that ambition.

Mr. BOGGS. The gentleman from Missouri knows there are two very vital conference reports, one on the debt ceiling which just went to conference, and the other on H.R. 1, which is in conference. Much depends on what transpires in those conferences.

There are other conference committees which I am told are having some difficulty, one is the highway bill.

Mr. REES. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I will be glad to yield to the gentleman from California.

Mr. REES. Mr. Speaker, is it not probable that we will be meeting next Tuesday to take up H.R. 1, and the debt ceiling bill conference reports, and that we cannot finish the work tonight; that we will have to be back here next week?

Mr. BOGGS. If the gentleman had asked me that question at this time yesterday afternoon I would have said yes. But I would not use the word "probable" at this time, I would use the word that it is possible.

Mr. REES. It is probably possible that we will be here next week?

Mr. BOGGS. I will give the gentleman, if he is interested, the list to which I made a brief reference and the gentleman can get some idea of the amount of work involved. But it is possible, to put it the other way, for us to conclude the work of this session by midnight tonight.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I will be happy to yield.

Mr. BINGHAM. Just for a point of clarification, I understood the distinguished majority leader to say that some of the bills from the Committee on Ways and Means had been transferred to the list of suspensions?

Mr. BOGGS. I would say to the gentleman that they will be added to the list later today.

Mr. BINGHAM. They are not listed here.

Mr. VANIK. But they are subject to call?

Mr. BOGGS. Yes.

WHO SAID IT CANNOT HAPPEN HERE? IT IS HAPPENING

(Mr. KOCH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week the Banking and Currency Committee of which I am a member, had a meeting to discuss the issuance of subpenas to a number of individuals who have engaged in reprehensible banking practices having a bearing on the Watergate espionage incident. The subpenas that should have been issued directing the appearance of those implicated in the banking matters under the direct jurisdiction of my committee could not be ordered because a quorum could not be obtained.

We are witnessing in our political life today the unfolding of events which would have been thought impossible to occur in the United States. An attempt is being made by some supporters of the present administration, to illegally destroy the Democratic Party by breaking in and bugging its Watergate headquarters, issuing bogus literature, disrupting Democratic fundraising dinners, and surveilling the political and private lives of Democratic presidential candidates during the recent primaries, and worse still, members of their families.

The tactics used by these supporters of President Richard M. Nixon can only be compared to the activities of the "Brownshirts" in Germany. Those familiar with history will recall that it was the "Brownshirts" who burned down the Reichstag in 1933 and blamed their political opposition for that dastardly act, using the incident to ban all opposition political parties. In 1935 Sinclair Lewis wrote a book entitled "It Can't Happen Here."

Mr. Speaker, it is happening.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I have a special order today after all legislative business is concluded, and I ask unanimous consent that all Members have permission to revise and extend their remarks on the retirement of the three members of the Mississippi delegation.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ADMINISTRATION AND CONGRESS AT FAULT FOR NOT PROVIDING INCENTIVES TO ATTRACT YOUNG AMERICANS INTO MILITARY RESERVE PROGRAMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, this administration and the Congress are seriously at fault for not providing one single incentive to attract young Americans into the military Reserve programs as we move toward the all-volunteer concept.

Manpower levels in these Reserves are 60,000 below authorized strength and continue to fall off every day.

The full-time life insurance coverage for reservists under the SGLI program was killed in the Senate. The enlistment and reenlistment bonuses for reservists passed only this week in the House will receive no action in the Senate. The national guard technician retirement bill has passed the Senate and will die in the House. Other incentive programs lying dormant in the Congress include proficiency pay and retirement at age 55 after 20 years of creditable service.

Under the Laird total forces concept, the Reserves are partners with the regular forces and have taken over some of the missions of the regulars because of the reductions in the standing Army, Air Force, Navy, and Marines, I sincerely believe we have endangered the security of this country by our inaction on incentives for the Reserves.

PERSONAL ANNOUNCEMENT

(Mr. DRINAN asked and was given permission to address the House for 1 minute.)

Mr. DRINAN. Mr. Speaker, on rollcall No. 428, October 11, 1972, regulation of strip coal mining (H.R. 6482), I was absent. Had I been able to be here, I would have voted "yea." The vote was, yeas 265, nays 75.

Mr. Speaker, on rollcall No. 429, October 11, 1972, copyright protection in certain cases (S.J. Res. 247), I was absent. Had I been able to be here, I would have voted "nay." The vote was, yeas 208, nays 92.

HON. JOHN DOWDY

(Mr. POAGE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. POAGE. Mr. Speaker, it is one of the common failings of mankind that we are prone to forget those who have served as soon as they cease to be of service to us. It is an even more deplorable failing that we are all prone to accept any adverse judgment pronounced against a public figure whether we have any knowledge of the facts or not.

For a number of years, Hon. John Dowdy has represented the Second District of Texas. I have disagreed with John on many occasions. He is one of those individuals who makes his own decisions and who stands by them. He has never been one to seek the views of others or try to impress others with his views. This has probably given many Members the impression that he was cold and unfriendly. I recognize this is not the case. John Dowdy is a good friend and a dependable one.

Unfortunately for John, for the Nation, and for the Capital City, there are a number of "operators" who make their livelihood by destroying those who have earned a good reputation among their fellowmen. Unfortunately for John, he was placed on the District of Columbia Committee where he felt a responsibility to do his best to prevent some of the outrageous practices which have so long characterized many of the local public activities. Again, unfortunately for Congressman Dowdy, there is in this area some kind of feeling that those who abuse and discredit the Congress should be rewarded.

This feeling seems to be shared by several of the Federal courts in the area, and time and again admitted swindlers have been turned loose on the promise to provide testimony—not proof but their own unsupported testimony—that someone else, preferably a Member of Congress, has been likewise guilty.

Some of these unsavory characters tried to use John Dowdy as a member of the committee. Clearly, they failed. They then brought in a witness, who had already been convicted and who readily stated that he had engaged in further frauds, to testify that he had bribed Congressman Dowdy. Although there was a complete failure of corroboration, Congressman Dowdy was found guilty—I think erroneously—and certainly to the benefit of a group of self-confessed fraudulent real estate operators.

His case is now on appeal and I can only hope that the higher courts will exonerate him. I don't believe John Dowdy is guilty of any crime other than that he was bull-headed enough to stay on a committee where it was evident he was not wanted. He refused to submit to blackmail. For that he was framed and was forced to stand trial far from his home before a jury which had known nothing of the man except what the local commentators had wanted to present. John Dowdy is a victim of his determination to serve his Nation and its Capital.

I deeply regret that he should have been so victimized and I take the floor at this time to express my confidence in, and my best wishes for, John Dowdy.

BURBANK NATIONAL HISTORIC SITE

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I am today introducing legislation to create the Luther Burbank National Historic Site in Santa Rosa, Calif.

This new addition to our National Park System will memorialize the brilliant horticulturist by preserving his home, experimental garden and associated lands where Mr. Burbank did most of his internationally known work.

The city of Santa Rosa itself has already insured the protection of this valuable site where Mrs. Burbank still lives. However, the city recognizes the international reputation Luther Burbank earned and is aware that the location for his landmark work is entirely worthy of national recognition.

There is obviously no chance that this legislation can be considered before adjournment but I am introducing it at this time to place it on the calendar of the Interior and Insular Affairs Committee and to give the National Park Service an early opportunity to prepare its comments on the measure.

I shall reintroduce the bill when the 93d Congress convenes in January and I am confident that the preparatory work we can do between now and then will permit early enactment next year.

For the benefit of my colleagues in the House, I include a copy of a letter I have received from Mayor Clement R. Guggiana of Santa Rosa expressing the city's support for introduction and enactment of the bill in the Congressional Record following my remarks.

City of Santa Rosa,
Santa Rosa, Calif., October 10, 1972.

Hon. Don H. Clausen,
House of Representatives, House Post Office, Washington, D.C.

Dear Mr. Clausen: As you know, the City of Santa Rosa has been exploring for the past two years the possibility of having the Luther Burbank Memorial Park designated as a National monument.

The international reputation of the late Luther Burbank has resulted in thousands of tourists visiting this attraction each year which can be documented by the records kept on the usage of this park. As such, the City Council believes the facility to be more of a national character than of local use.

It is my understanding that a bill has been drafted by your office for introduction which would accomplish this end. As Mayor of the City of Santa Rosa, I hope that you will place this bill for introduction as soon as possible in order that the Luther Burbank home and park might appropriately be designated as a National monument.

In the event you desire any additional information, please feel free to contact the City Manager's Office. I am aware that preliminary meetings with representatives from the Park Service have been held and that the introduction of the bill in the House of Representatives is the next step to be taken. If you forsee any difficulties, please feel free to contact me directly by telephone.

Very truly yours,
Clement R. Guggiana, *Mayor.*

PRESCHOOL CHILD DEVELOPMENT

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. RAILSBACK. Mr. Speaker, in recent years great interest has developed in the field of preschool child development.

Although relatively little is known about the actual learning process of very young children, it has been established that learning rates are much more rapid during early years than later in life. Many experiments are currently underway to try to measure early childhood learning and to develop programs to take advantage of this learning capacity.

During the past decade a major consequence of the interest in preschool child development has led many parents to start their children in school at younger and younger ages. A variety of forms of early childhood programs have been considered by the Congress during this period. I have always been a strong supporter of early childhood education.

Because our future action may well have a profound impact on our children and consequently on the development of American society, it is essential that the Members of the House be apprised of all the current information on the effects of preschool programs. I am, therefore, submitting for my colleagues' consideration a controversial and provocative study entitled "Early Schooling For All?" written by Dr. Raymond Moore and Dennis R. Moore for the Hewitt Research Center in Michigan. While I do not fully agree with all of the arguments and conclusions set forth in their report, I commend it to the attention of my colleagues because it raises the kinds of issues and asks the kinds of questions that must be considered if we are to develop a reasonable and responsible policy for this most critical area of concern. I have discussed this educational concept with my colleague from California, DON CLAUSEN, who knows Dr. Ray Moore personally and he believes the concept has great merit and deserves very serious consideration.

The Moores' report has been given considerable attention through articles in the July issue of Harpers magazine, the July 10 issue of Time, and the October edition of the Reader's Digest. In addition, a summary of the report appears in the June 1972 issue of Phi Delta Kappan and an opportunity was given to respond to the article in the same issue. I submit two such articles by Burton L. White, director of the preschool projetc, Laboratory of Human Development, Graduate School of Education, Harvard University, and Wilson Rules, superintendent of public instruction and director of education, California Department of Education.

Mr. Speaker, notwithstanding the fact that it is estimated to cost $2,507.50 to print this research paper, I ask unanimous content to have it, along with two short articles, printed in the Extensions of Remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 17034, SUPPLEMENTAL APPROPRIATIONS, 1973

Mr. MAHON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 13, 1972.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, this is the last appropriation bill of the session except for the fact, of course, that there will be some kind of continuing resolution. It is appropriate it seems to me at the moment to touch briefly on what we have done moneywise at this session of Congress. I shall touch briefly on some of the main subjects and then later I will ask permission to revise and extend my remarks and include more details.

REDUCTIONS IN APPROPRIATIONS BILLS

The RECORD will show that in appropriation bills at this session the Congress has reduced the President's requested new budget—obligational—authority for fiscal year 1973 by approximately $5 billion, which translates into a reduction in expenditures of about $1.5 billion.

That is the general picture on the appropriation bills for fiscal 1973.

SPENDING AUTHORIZED IN NONAPPROPRIATIONS BILLS

Now, with respect to spending that is provided in other bills, I would make reference to the facts in that category. The revenue-sharing bill was an appropriation bill, but it was handled by the Committee on Ways and Means. It provided expenditures above the President's budget in the sum of $3.3 billion for fiscal 1973. That puts us over the budget there in a very substantial way.

In the social security legislation of the Committee on Ways and Means, which was not an appropriation bill, the budget is exceeded by $2.1 billion. In the black lung bill which was handled by the House Committee on Education and Labor, we are about $1 billion over the budget in spending, in this nonappropriation bill.

In the clean water bill which came out of the Committee on Public Works, which is not an appropriation bill, but which authorizes spending—backdoor spending—we are $700 million above the 1973 budget in spending. Then, in railroad retirement, we are, including the overriding of the President's veto about $350 million over the President's budget. To date in veterans' bills, we are approximately $120 million over the budget in mandated spending.

Still in process in nonappropriation bills are some veterans items that could push spending up well over another one-half a billion dollars and H.R. 1, which could add yet several more billions of dollars of spending above the President's budget.

NET CONGRESSIONAL ACTION ON THE SPENDING BUDGET

So this means generally that in fiscal year 1973 appropriation bills for this session we have cut spending by about $1.5 billion. That cut is offset, however, by the considerable increases to the spending budget resulting from action on nonappropriations bills. Including only those bills on which action is now complete, the net result of congressional action on appropriations and nonappropriations bills has been to increase spending by about $6 billion. It is impossible to have a solid estimate on the spending effect on the veterans bills and H.R. 1, which are still in the final legislative stages, but their enactment could add several billions more to the current $6 billion estimated congressional increase.

At this point I would like to amplify my remarks to cover in more detail some of the aspects of our fiscal situation, expanding in some instances on what I have already said.

ALL APPROPRIATIONS ACTION THIS SESSION BY CONGRESS—INCLUDING ACTIONS ON FISCAL YEARS 1972 AND 1973

In this session, Congress has considered 20 appropiration bills. Sixteen of these related to the current fiscal year 1973, and four related to fiscal year 1972. Including the conference agreement on the 1973 supplemental and the obligational levels for foreign asssistance contained in the continuing resolution, Congress has provided new budget—obligational—authority amounting to $180,053,320,364. This is $5,383,196,188 below budget requests totaling $185,436,516,552. I repeat for emphasis that these figures are for the entire session and include actions on fiscal years 1972 and 1973.

FISCAL YEAR 1973 APPROPRIATIONS ACTIONS IN THIS SESSION OF CONGRESS

For fiscal year 1973—that is, the year which began last July 1—Congress has acted upon 14 regular bills, including the vetoed Labor-HEW bill, and two supplemental bills. In these bills, Congress provided new budget—obligational—authority amounting to $172,948,146,035, a reduction of $4,964,951,069 below budget requests of $177,913,097,104. These figures exclude the vetoed Labor-HEW bill and include the obligational level for foreign assistance contained in the continuing resolution.

EXPENDITURE IMPACT OF CONGRESSIONAL ACTION ON APPROPRIATION BILLS FOR FISCAL 1973

The authority to commit or obligate the Government that Congress enacts through appropriations bills, of course, is but the leading edge of spending. Actual expenditures follow appropriations and may be spread out over a considerable period of time. It is estimated that the impact of congressional reductions of close to $5 billion in new budget—obligational—authority will result in a reduction of about $1.5 billion in budgeted Federal outlays in fiscal 1973.

EXPENDITURE IMPACT OF CONGRESSIONAL ACTION ON NONAPPROPRIATION BILLS FOR FISCAL 1973

While Congress did reduce requested amounts of new budget—obligational—authority and outlays for fiscal 1973 through its appropriations process, it is also true that congressional actions on many nonappropriations bill also authorize and in some instances mandate spending. The net impact of all completed actions of Congress on both appropriations bills and nonappropriation bills will probably be to increase outlays by about $6 billion.

But action is still not complete in two major nonappropriations areas, veteran benefits and H.R. 1. It is too early to construct a solid estimate on the spending effect of the final outcome of these bills, but it can generally be stated that their enactment could easily add several billions more in spending to the $6 billion just mentioned.

SOME SIGNIFICANT FISCAL YEAR 1973 EXPENDITURE INCREASES IN NONAPPROPRIATION BILLS

By far the largest single congressional addition to spending estimates to date for fiscal year 1973 is accounted for by action on revenue sharing. As Members will recall this program was both authorized and appropriated for in one bill reported by the House Committee on Ways and Means. Thus, while it is a run of the mill appropriations bill, it did circumvent the regular appropriations process and is treated separately in this account. The spending effect in fiscal year 1973 of congressional action on revenue sharing was to add about $3.1 billion to the estimates.

It should be pointed out, however, that $2.25 billion of that amount goes to the retroactive feature of the bill making the program available from the date the President first proposed. Enacting that feature of the bill resulted in the $2.25 billion congressional increase to the fiscal year 1973 estimates, but it is, nevertheless, the Executive who initiated the original request and has continued to count this program as a top priority.

By now, the most significant nonappropriations actions of Congress, which, taken together, produce the net increase of $6 billion in spending to date, are familiar to most Members. Increases in social security benefits added $2.1 billion to spending estimates for fiscal year 1973. Action to increase black lung benefits added another $1 billion. The clean water bill is estimated to increase spending up to $700 million. Action already taken on certain railroad retirement items will have an estimated spending impact of about $350 million over the budget. Completed action on veterans' items will run spending up about $120 million.

All of these actions listed here in the above paragraph, along with the revenue-sharing increase, when totaled and netted against the $1.5 billion reduction in spending in appropriations bills produce the net $6 billion addition in spending that has been cited so often in the closing weeks of this session.

Some yet uncompleted nonappropriations actions could add several billions to the $6 billion already mentioned. These items are veterans' benefits and H.R. 1.

A WAY OUT

Mr. Speaker, the air is full of solutions to the problem of congressional control of spending. We do face a serious problem and it does need study. At this point, I would make only the observation that whatever solution we embrace, it must include provision for making Members aware that, when they vote for many desirable programs in nonappropriations bills, they are also often voting directly on the budget. The recitation of the bills that contributed to congressional increases over the budget during this session is simple and direct evidence that the bills that have given us the trouble have all been nonappropriations bills.

Mr. Speaker, at this point I include tables which set forth in some detail the appropriations business of the session:

NEW BUDGET (OBLIGATIONAL) AUTHORITY IN THE APPROPRIATION BILLS FOR 1973—REVISED TO OCT. 14, 1972

[Note: As to fiscal year 1973 amounts only]

Bill	Budget request considered	Approved	Change, (+) or (−)
IN THE HOUSE			
1. Legislative	$433,627,004	$427,604,764	−$6,022,240
2. State-Justice-Commerce-Judiciary	4,687,988,600	4,587,104,350	−100,894,250
3. HUD-Space-Science-Veterans	20,173,185,000	19,718,490,000	−454,695,000
4. Transportaton	2,909,181,095	2,791,614,095	−117,567,000
Advance 1974 appropriation	(131,181,000)	(131,181,000)	
5. District of Columbia (Federal funds)	343,306,000	332,306,000	−11,000,000
6. Labor-HEW (H.R. 15417, Vetoed)	(27,327,323,500)	(28,603,179,500)	(+1,275,856,000)
7. Labor-HEW (H.R. 16654, New bill)	28,767,633,500	29,603,448,500	+835,815,000
8. Interior	2,520,340,000	2,529,558,200	+9,218,200
9. Treasury-Postal Service-General Government	5,066,603,000	5,057,145,000	−9,458,000
10. Public Works—AEC	5,489,058,000	5,437,727,000	−51,331,000
11. Agriculture—Environmental and Consumer Protection	12,952,177,400	12,897,010,900	−55,166,500
12. Disaster Relief Supplemental, 1973	1,569,800,000	1,587,300,000	+17,500,000
13. Defense	79,594,184,000	[1] 74,577,548,000	−5,016,636,000
14. Foreign Assistance	5,163,024,000	4,195,155,000	−967,869,000
15. Military Construction	2,661,384,000	2,280,784,000	−380,600,000
16. Supplemental, 1973	3,573,953,325	3,565,048,825	−8,904,500
Total, House bills	175,905,444,924	169,587,844,634	−6,317,600,290
IN THE SENATE			
1. Legislative	519,347,899	514,722,880	−4,625,019
2. HUD-Space-Science-Veterans	[3] 20,498,183,000	20,583,370,000	+85,187,000
3. District of Columbia (Federal funds)	343,306,000	313,706,000	−29,600,000
4. State-Justice-Commerce-Judiciary	4,704,326,600	4,820,717,769	+116,391,169
5. Transportation	2,909,181,095	2,906,994,095	−2,187,000
Advance 1974 appropriation	(131,181,000)	(131,181,000)	
6 Treasury-Postal Service-General Government	5,066,603,000	5,057,186,000	−9,417,000
7. Labor-HEW (H.R. 15417, Vetoed)	(28,767,633,500)	(31,354,930,500)	(+2,587,297,000)
8. Labor-HEW (H.R. 16654, New bill)	28,767,633,500	[4] 30,538,919,500	+1,771,286,000
9. Interior	$2,527,154,000	$2,550,922,800	+$23,768,800
10. Public Works-AEC	5,489,058,000	5,571,696,000	+82,638,000
11. Agriculture-Environmental and Consumer Protection	12,952,190,400	13,561,055,800	+608,865,400
12. Disaster Relief Supplemental, 1973	1,569,800,000	1,587,300,000	+17,500,000
13. Foreign Assistance	5,163,024,000	2,823,897,000	−2,339,127,000
14. Defense	79,594,184,000	[2] 74,571,698,000	−5,022,486,000
15. Military Construction	2,661,384,000	2,337,726,000	−323,658,000
16. Supplemental, 1973	5,016,540,610	5,266,690,610	+250,150,000
Total, Senate bills	177,781,916,104	173,006,602,454	−4,775,313,650
ENACTED			
1. Legislative	519,347,899	513,787,980	−5,559,919
2. Treasury-Postal Service-General Government	5,066,603,000	5,057,827,000	−8,776,000
3. District of Columbia (Federal funds)	343,306,000	316,393,000	−26,913,000
4. Interior	2,527,154,000	2,548,935,300	+21,781,300
5. HUD-Space-Science-Veterans	[3] 20,498,183,000	20,125,951,000	−372,232,000
6. Labor-HEW (H.R. 15417, Vetoed)	[28,767,633,500]	[30,538,919,500]	[+1,771,286,000]
7. Labor-HEW (H.R. 16654, New bill)	28,767,633,500	[5] 30,538,919,500	+1,771,286,000
8. Agriculture-Environmental and Consumer Protection	12,952,190,400	13,434,032,700	+481,842,300
9. Public Works-AEC	5,489,058,000	5,504,914,000	+15,856,000
10. Transportation	2,909,181,095	2,867,937,095	−41,244,000
Advance 1974 appropriation	(131,181,000)	(131,181,000)	
11. Disaster Relief Supplemental, 1973	1,569,800,000	1,587,300,000	+17,500,000
12. Defense	79,594,184,000	[2] 74,372,976,000	−5,221,208,000
13. State-Justice-Commerce-Judiciary	4,704,326,600	4,681,017,850	−23,308,750
14. Military Construction	2,661,384,000	2,323,403,000	−337,981,000
15. Supplemental, 1973	5,016,540,610	4,933,415,610	−83,125,000
16. Foreign Assistance	5,163,024,000	[6] 4,010,155,000	−1,152,869,000
Total, bills enacted	177,781,916,104	172,816,965,035	−4,964,951,069

[1] Does not include $649,500,000 to be available by transfer from other accounts.

[2] Does not include $1,315,900,000 to be available by transfer from other accounts.

[3] Included for comparability $240,000,000 proposed in the 1973 budget under "proposed legislation" for Urban Community Development Revenue Sharing which was considered in the Senate bill.

[4] Section 409 of the Senate bill authorizes the President to reduce the total amount of the bill to $29,603,448,500, provided that no single appropriation or activity is reduced by more than 10 percent.

[5] Section 409 of the bill will authorize the President to reduce the total amount of the bill to $29,300,000,000, provided that no single appropriation or activity is reduced by more than 13 percent.

[6] Assumes amount to be provided in final continuing resolution.

Note: Prepared Oct. 14, 1972, in the House Committee on Appropriations.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONG., 2D SESS.—REVISED TO OCTOBER 14, 1972

[Does not include any "back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions		Enacted	(+) or (−), latest action compared with budget requests
	Budget requests considered	Reported by committee	Approved by House	Budget requests considered	Approved by Senate		
A. Bills for fiscal 1973:							
1. Legislative (H.R. 13955)	$433,627,004	$427,604,764	$427,604,764	$519,347,899	$514,722,880	$513,787,980	−$5,559,919
2. State-Justice-Commerce-Judiciary (H.R. 14989)	4,687,988,000	4,585,054,350	4,587,104,350	4,704,326,600	4,820,717,769	4,681,017,850	−23,308,750
3. HUD-Space-Science-Veterans (H.R. 15093)	20,173,185,000	19,718,490,000	19,718,490,000	[4] 20,498,183,000	20,583,370,000	20,125,951,000	−372,232,000
4. Transportation (H.R. 15097)	3,040,362,095	2,891,060,095	2,922,795,095	3,040,362,095	3,038,175,095	2,999,118,095	−41,244,000
Fiscal year 1973 amounts only	(2,909,181,095)	(2,759,879,095)	(2,791,614,095)	(2,909,181,095)	(2,906,994,095)	(2,867,937,095)	(−41,244,000)

Footnotes at end of article.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONG., 2D SESS.—REVISED TO OCTOBER 14, 1972—Con.

[Does not include any "back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions: Budget requests considered	House actions: Reported by committee	House actions: Approved by House	Senate actions: Budget requests considered	Senate actions: Approved by Senate	Enacted	(+) or (−), latest action compared with budget requests
5. District of Columbia (Federal funds) (H.R. 15259)	343,306,000	332,306,000	332,306,000	343,306,000	313,706,000	316,393,000	−26,913,000
6. Labor-HEW (H.R. 15417, Vetoed)	[27,327,323,500]	[28,239,346,500]	[28,603,179,500]	[28,767,633,500]	[31,354,930,500]	[30,538,919,500]	[+1,771,286,000]
7. Labor-HEW (H.R. 16654, New bill)	28,767,633,500	29,603,448,500	29,603,448,500	28,767,633,500	[7] 30,538,919,500	[8] 30,538,919,500	+1,771,286,000
8. Interior (H.R. 15418)	2,520,340,000	2,529,558,200	2,529,558,200	2,527,154,000	2,550,922,800	2,548,935,300	+21,781,300
9. Treasury-Postal Service-General Government (H.R. 15585)	5,066,603,000	5,057,145,000	5,057,145,000	5,066,603,000	5,057,186,000	5,057,827,000	−8,776,000
10. Public Works—AEC (H.R. 15586)	5,489,058,000	5,437,727,000	5,437,727,000	5,489,058,000	5,571,696,000	5,504,914,000	+15,856,000
11. Agriculture-Environmental and Consumer Protection (H.R. 15690)	12,952,177,400	12,897,010,900	12,897,010,900	12,952,190,400	13,561,055,800	13,434,032,700	+481,842,300
12. Disaster Relief Supplemental, 1973 (H.R. 16254)	1,569,800,000	1,587,300,000	1,587,300,000	1,569,800,000	1,587,300,000	1,587,300,000	+17,500,000
13. Defense (H.R. 16593)	79,594,184,000	74,577,548,000	[5] 74,577,548,000	79,594,184,000	74,571,698,000	[6] 74,372,976,000	−5,221,208,000
14. Foreign Assistance (H.R. 16705)	5,163,024,000	4,195,155,000	4,195,155,000	5,163,024,000	2,823,897,000	[9] 4,010,155,000	−1,152,869,000
15. Military Construction (H.R. 15754)	2,661,384,000	2,278,675,000	2,280,784,000	2,661,384,000	2,337,726,000	2,323,403,000	−337,981,000
16. Supplemental, 1973 (H.R. 17034)	3,573,953,325	3,565,048,825	3,565,048,825	5,016,540,610	5,266,690,610	4,933,415,610	−83,125,000
Total, bills for fiscal 1973	176,036,625,924	169,683,131,634	169,719,025,634	177,913,097,104	173,137,783,454	172,948,146,035	−4,964,951,069
B. Bills for fiscal 1972:							
1. Urgent Supplemental (H.J. Res. 1097)	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	
2. 2d Supplemental (H.R. 14582)	4,775,261,477	4,124,123,358	[2] 3,954,453,358	4,865,943,389	5,063,517,439	4,347,698,270	−518,245,119
3. Special Resolution, Gold Revaluation (H.J. Res. 1174)	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	
4. Supplemental, Disaster Relief (H.J. Res. 1238)	100,000,000	200,000,000	200,000,000	100,000,000	200,000,000	200,000,000	+100,000,000
Total, bills for fiscal 1972	7,432,737,536	6,881,599,417	6,711,929,417	7,523,419,448	7,820,993,498	7,105,174,329	−418,245,119
C. Cumulative totals for the session:							
1. House	183,469,363,460	176,564,731,051	176,430,955,051				−7,038,408,409
2. Senate				185,436,516,552	180,958,776,952		−4,477,739,600
3. Enacted				185,436,516,552		180,053,320,364	−5,383,196,188

[1] The Budget for 1973, as submitted Jan. 24, tentatively estimated total new budget authority for 1973 at $294,813,000,000 gross ($270,898,000,000 net of some $23,915,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $109,754,000,000 does not require current action by Congress: it involves so-called permanent appropriations such as interest, various trust funds, etc., already provided for in various basic laws. The remainder, $185,059,000,000 is for consideration at this session (mostly in the appropriation bills). About $14,394,000,000 of this $185,059,000,000 was shown in the January budget as being "for later transmittal" for new or expanded legislation, pay increases, and contingencies, and about $45,817,000,000 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically.

[2] Reflects deletion on House floor, by point of order, of $170,000,000 for Amtrak.

[3] "Not to exceed."

[4] Included for comparability $240,000,000 proposed in the 1973 budget under "proposed legislation" for Urban Community Development Revenue Sharing which was considered in the Senate bill.

[5] Does not include $649,500,000 to be available by transfer from other accounts.

[6] Does not include $1,315,900,000 to be available by transfer from other accounts.

[7] Section 409 of the Senate bill authorizes the President to reduce the total amount of the bill to $29,603,448,500, provided that no single appropriation or activity is reduced by more than 10 percent.

[8] Section 469 of the bill will authorize the President to reduce the total amount of the bill to $29,300,000,000, provided that no single appropriation or activity is reduced by more than 13 percent.

[9] Assumes amount to be provided in final continuing resolution.

Note: Prepared Oct. 14, 1972, in the House Committee on Appropriations.

SUPPLEMENTAL APPROPRIATION BILL, 1973

Mr. MAHON. Mr. Speaker, the matter before us today is, of course, the conference report on the final supplemental of the session. The bill has 11 chapters, and includes a large number of items. Copies of the conference report are available to Members of the House, and members of the conference committee are here to help explain what action has been taken. There were 84 amendments; 84 differences between the House and the Senate versions and at this point I shall shall insert a summary table reflecting by chapter the conference action on the bill:

SUMMARY OF CONFERENCE ACTION ON SUPPLEMENTAL APPROPRIATION BILL, 1973, H.R. 17034

Chapter No.		Budget estimates	House bill	Senate bill	Conference	Conference compared with—: Budget	Conference compared with—: House bill	Conference compared with—: Senate bill
I	Agriculture—Environmental and Consumer Protection	$16,500,000	$16,500,000	$18,338,000	$17,200,000	+$700,000	+$700,000	−$1,138,000
II	Housing and Urban Development, Space, Science, and Veterans	[1] 250,000,000	276,320,000	303,160,000	269,740,000	+19,740,000	−6,580,000	−33,420,000
III	Interior and Related Agencies	9,937,000	2,825,000	11,149,000	9,149,000	−788,000	+6,324,000	−2,000,000
IV	Labor, and Health, Education, and Welfare	4,284,612,000	3,072,275,000	4,403,654,000	4,190,982,000	−93,630,000	+1,118,707,000	−212,672,000
V	Legislative:							
	New budget (obligational) authority	84,838,885	28,769,100	82,484,885	82,484,885	−2,354,000	+53,715,785	
	Fiscal year 1973	(72,136,785)	(16,067,000)	(69,782,785)	(69,782,785)	(−2,354,090)	(+53,715,785)	
	Fiscal year 1972	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)			
	By transfer	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)	(+143,000)	(+1,160,000)	
VI	Public Works-AEC	2,285,000	1,435,000	6,060,000	3,915,000	+1,630,000	+2,480,000	−2,145,000
VII	State, Justice, Commerce, and Judiciary	187,264,000	11,082,000	198,582,000	189,782,000	+2,518,000	+178,700,000	−8,800,000
VIII	Transportation and Related Agencies:							
	New budget (obligational) authority	49,361,000	44,200,000	117,950,000	54,350,000	+4,989,000	+10,150,000	−63,600,000
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(−25,000,000)		
IX	Treasury, Postal Service, and General Government	76,999,000	56,899,000	70,569,000	61,069,000	−15,930,000	+4,170,000	−9,500,000
X	Claims and Judgments	54,743,725	54,743,725	54,743,725	54,743,725			
	Total:							
	New budget (obligational) authority	5,016,540,610	3,565,048,825	5,266,690,610	4,933,415,610	−83,125,000	+1,368,366,785	−333,275,000
	Fiscal year 1973	(5,003,838,510)	(3,552,346,725)	(5,253,988,510)	(4,920,713,510)	(−83,125,000)	(+1,368,366,785)	(−333,275,000)
	Fiscal year 1972	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)			
	By transfer	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)	(+143,000)	(+1,160,000)	
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(−25,000,000)		

[1] Excludes $32,900,000 heretofore submitted for the Department of Defense.

Mr. MAHON. Mr. Speaker, the conference agreement provides about $4.9 billion in new obligational authority. The House bill was $3.5 billion and the Senate bill was $5,266 million, the Senate having considered some $1.4 billion in supplemental estimates which were not before the House

The conference agreement before us is about $83 million below the budget. It is about $1.3 billion over the House bill and about $333 million below the Senate bill.

Although the bill is, in total, under the budget, it does include numerous nonbudgeted items. I will insert a listing of some of the nonbudgeted items, but before I do that, perhaps it would be well for me to explain where the main cut was made.

The reason why this bill is not above the budget is because the President had requested for emergency school assistance $487 million, and the other body cut that request by about $217 million. So there was a cut in the budget by the Senate of that amount. This was not restored in conference.

ITEMS OVER THE BUDGET

I would like to mention some of the items which are over the budget estimates submitted to Congress.

The Farmers Home Administration is a half million dollars over the budget. This is for salaries and expenses for rural development.

The National Science Foundation is technically $19 million over the budget. The President had asked for five C-130 aircraft for use in Antarctica to replace aging aircraft. That was submitted to Congress in the Navy budget. We eliminated that from the Defense appropriation bill and took credit for the reduction there, so we have to record the amount in this bill as being over the budget. The original budget was $32,900,000 for five aircraft and this bill contains $19,740,000 for three aircraft so from that standpoint we are $13,160,000 under the budget for this purpose.

The Bureau of Indian Affairs is $2.5 million over the budget. The Office of Indian Education is $18 million over. We are over the budget in higher education by $68 million. Social and rehabilitation service is $5.2 million over the budget. We are over the budget for child development by $6.6 million. We are over the budget for the OEO by $30 million. This is for programs in Puerto Rico and for the nutrition component of the emergency food and medical services program.

In Public Works general investigations we are over the budget by $1 million.

In construction we are over the budget by $450,000.

A number of Members expressed interest in that section of the bill which, when it passed the Senate, contained $40 million for new medical schools to be associated with veterans hospitals. There was no budget estimate, and hearings had not been held on this. This matter can be considered next year in the regular bill or in a supplemental bill. We have had no hearings on the subject as yet.

At this point I shall insert a table reflecting some of the conference action that is over the budget in the measure before us.

Selected Conference Actions Over the Budget

Farmers Home Administration	+500,000
National Science Foundation	+19,740,000
Bureau of Indian Affairs—scholarships	+2,500,000
Office of Education—Indian Education	+18,000,000
Higher Education	+68,400,000
Social and Rehabilitation Services	+5,200,000
Office of Child Development	+6,695,000
OEO	+30,000,000
Public Works	
Studies	+1,030,000
(Total Cost)	(22,465,000)
Construction	+450,000
(Total Cost)	(98,450,000)
Mississippi River	+1,000,000
Spokane Ecological Exposition	+3,500,000
Amtrak	+9,100,000

Mr. MAHON. Unless there are questions, Mr. Speaker, I will not discuss this conference report further. As I indicated earlier, the report is here and available to Members. I have a table reflecting selected items in conference and their disposition, which under leave to extend, I shall place in the RECORD at this point:

SELECTED MAJOR ITEMS IN CONFERENCE AND THEIR DISPOSITION—H.R. 17034—SUPPLEMENTAL, 1973

	Senate over House	Conference over House
CHAPTER I		
Agric. Research Service (Amd. No. 1)	+$388,000	0
Farmers Home Administration (Amd. No. 2)	+1,250,000	+$500,000
National Study Commission (Amd. No. 4)	+200,000	+200,000
CHAPTER II		
VA: New State Medical Schools (Amd. No. 7) Floor amendment	+40,000,000	0
CHAPTER III		
Bureau of Indian Affairs:		
Education & Welfare Services (Amd. No. 8)	+4,500,000	+2,500,000
Construction (Amd. No. 9)	+118,000	+118,000
National Park Service Const. (Amd. No. 11)	+350,000	+350,000
CHAPTER IV		
Emergency school assistance (Amd. No. 16) Senate decrease	+270,640,000	+270,640,000
Indian Education (Amd. No. 17)	+36,000,000	+18,000,000
Higher Education (Amd. No. 18)	+689,960,000	+577,500,000
Social & Rehabilitation Services (Amd. No. 24) Includes $17 million floor amendment	+22,820,000	+5,200,000
Model Secondary School for the Deaf (Amd. No. 27)	+7,545,000	0
Child Development—Headstart (Amd. No. 28)	+14,000,000	+7,500,000
OEO (Amd. No. 33)	+79,800,000	+30,000,000
CHAPTER VI		
Corps of Engineers—Civil:		
General investigations (Amd. No. 63)	+1,705,000	+1,030,000
Construction, general (Amd. No. 64)	+1,070,000	+450,000
Flood Control, Mississippi River (Amd. No. 65)	+1,000,000	+1,000,000
CHAPTER VII		
Commerce:		
Participation in U.S. Exposition on the Environment (Amd. No. 70)	+11,500,000	+3,500,000
Commission on Organization of Govt. for Conduct of Foreign Policy (Amd. No. 72)	+1,000,000	+200,000
CHAPTER VIII		
Grants to Amtrak (Amd. No. 74)	+57,000,000	+9,100,000
CAB—Payments to Air Carriers (Amd. No. 75)	+11,400,000	0
Commission on Highway Beautification (Amd. No. 76)	+250,000	+250,000

Mr. MAHON. Mr. Speaker, I yield to the distinguished gentleman from Mississippi (Mr. WHITTEN) the ranking majority member of the Committee on Appropriations.

Mr. WHITTEN. Mr. Speaker, I wish to thank the chairman for yielding to me.

I would like to call the attention of the Members to page 5 of the conference report which shows who is holding up rural development in all its parts.

After noting that the bill contains an additional $500,000 for rural development activities in the Farmers' Home Administration, the report goes on to note that the conferees agree that funds heretofore appropriated by the Congress and unexpended will enable the Department to implement the Rural Development Act, which the conferees fully support.

The report also states that the Department of Agriculture is expected to begin implementation of the act by utilizing the fiscal year 1973 funds for rural development which are currently available under Public Law 92-399—1973 Agriculture-Environmental and Consumer Protection Appropriation Act—but which have not been released by the Office of Management and Budget. At this point in the RECORD, Mr. Speaker, I would like to insert this list which totals $396,325,000.

Cooperative State Research Service	$1,500,000
Extension Service	3,000,000
Farmer Cooperative Service	100,000
Rural environmental assistance program	85,500,000
Rural Electrification Administration loans	177,000,000
Rural water and waste disposal	108,000,000
Rural housing and domestic farm labor	1,250,000
Conservation operations	5,000,000
Resource conservation and development	6,000,000
Watershed planning	500,000
Watershed and flood prevention operations	8,412,500
Great Plains conservation program	62,500

Finally, Mr. Speaker, I would point out that this report calls on the Department of Agriculture to relax personnel ceilings to the degree necessary for the implementation of this program.

Mr. Speaker, we all get much mail as to why we do not have adequate funds for watershed and flood-prevention programs, for rural housing, for rural water and waste disposal grants, and for all the other programs which are so important to help prevent our people from leaving rural America—which they are doing at such an alarming rate.

As chairman of the Appropriations Subcommittee on Agriculture-Environmental and Consumer Protection I believe I am in a better position than almost any other Member of this House to comment on what this Congress has done to help rural development, and it is a very impressive record.

I think the table clearly shows that this Congress is deeply committed to rural development, and has provided adequate funds for this purpose. The problem now is to get the Office of Management and Budget to release these impounded or frozen funds which it is withholding contrary to the desires of Congress and to the detriment of our rural citizens who have suffered too much already.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement, and particularly his elaborating on the position of the Committee on Appropriations thus far, as we consider this final bill, except for the continuing resolution in relation to the executive budget.

Mr. Speaker, I agree that they are simply proposing a project and we should simply dispose of it, and, of course, I am one of the Members who truly believes we should tighten the purse strings and exercise more than a modicum of control and jurisdiction and review through that technique, if none other is available.

However, Mr. Speaker, I wish the gentleman would explain just a little bit more and, in fact, run down through the list of items that I presume were added on in the other body—or in conference—which make a difference of $1½ billion in this supplemental bill over that figure as it was when it left the House.

I am well aware that it is a half billion dollars under what the other body proposed while $1½ billion over ours, but could we just have a quick and a rather terse listing of the areas in which they jumped the appropriation for supplemental matters and deficiencies over in the other body, Mr. Speaker?

BUDGET ESTIMATES NOT CONSIDERED BY THE HOUSE

Mr. MAHON. Mr. Speaker, according to the figures which I have, the supplemental estimates which were not considered by the House because they were not available for submission when we drafted the bill show a total of $1,442,587,285. Now, the large proportion of that is for the HEW chapter having to do principally with education, specifically with higher education, which was not considered by the House.

Mr. HALL. One of the current "sacred cows"—that is busting our treasury—by birds that surely come home to roost?

Mr. MAHON. Well, it is popular with some Members.

Mr. HALL. Mr. Speaker, will the Chairman yield further to me?

Mr. MAHON. I am glad to yield to the gentleman.

Mr. HALL. Further, may I ask the gentleman, was there anything therein in this $1.368 billion add-on in the other body or in conference that established a Defense chapter in the supplemental appropriations bill?

Mr. MAHON. No; there is no Defense chapter in the supplemental appropriation bill.

Mr. HALL. Mr. Speaker, I thank the Chairman.

Now, could we go on down the list a little further than the Department of Health, Education, and Welfare?

Mr. MAHON. I would be pleased to cover the entire list.

Mr. HALL. I would appreciate it, Mr. Speaker.

Mr. MAHON. For the construction of ships, the budget estimate is $175 million for the Maritime Commission. The conference agreement includes that figure for the construction of ships.

Then under HEW, the Education Division, the expenses for the Assistant Secretary of Education are $2.2 million; for the Office of Education, the Emergency School Assistance, the budget request was $487 million, but this was reduced to $270 million.

Mr. HALL. Mr. Speaker, if the distinguished gentleman would let me interrupt again, without me being rude which I fear I am, his very efficient staff has handed me this list, and in the interest of time may I thank the gentleman under the assumption he will put the list in the RECORD?

Mr. MAHON. Yes. I thank my friend, the gentleman from Missouri, and I assure him this will be placed in the RECORD.

The material follows:

Supplemental estimates not considered by House

Commerce	
Maritime Administration, ship construction	$175,000,000
HEW	
Education Division: Salaries and expenses, Assistant Secretary for Education	2,242,000
Office of Education:	
Emergency school assistance	487,500,000
Higher education	509,100,000
Library resources	17,857,000
National Commission on the Financing of Postsecondary Education	1,500,000
Educational renewal	81,165,000
Salaries and expenses	13,905,000
National Institute of Education	92,082,000
Office of the Secretary	0
Office of Civil Rights	$1,322,000
Departmental management	541,000
Subtotal	1,382,214,000
Senate and miscellaneous items	65,373,285
Grand total	1,442,587,285

Mr. MAHON. Mr. Speaker, I have no further requests for time at this time.

Mr. BOW. Mr. Speaker, I agree with the distinguished chairman in the explanation he has given. I think this is a good supplemental bill, with a few exceptions I have taken to it. I think this bill should pass and we should get out of here. I suggest that the chairman move the previous question.

Mr. HAMMERSCHMIDT. Mr. Speaker, in supporting the conference report on the fiscal year 1973 supplemental appropriations bill currently before the House, I would like to express my particular appreciation to the House conferees for their acceptance of the Senate amendment providing funds for a project of great importance to the citizens of Arkansas.

I had been in touch with the House conferees on behalf of the line item appropriation of $100,000 for preconstruction planning of a highway bridge across the Norfork Reservoir in north-central Arkansas.

Construction of the bridge was authorized in the Omnibus Rivers and Harbors and Flood Control Act (H.R. 16832), which was approved by the House on October 2 and is now awaiting the President's signature. Due to this very recent action on the authorizing legislation, the important Norfork bridge project did not come to the attention of the House Appropriations Committee in time for inclusion in the House version of the supplemental appropriations bill. A floor amendment to include the funds in the bill, which I had intended to offer at that time, would also have been subject to a point of order.

The appropriation was included in the Senate version of the bill through the commendable efforts of Arkansas' distinguished senior Senator, JOHN L. MCCLELLAN. With its acceptance by the House conferees, House and Senate approval of the conference report today will constitute the final step in clearing the Norfork bridge appropriation for the President's signature.

Mr. Speaker, this House action will also mark the successful conclusion of extensive efforts on the part of many concerned citizens of Arkansas, numerous organizations and officials of the State government, and the entire congressional delegation from our State to rectify a longstanding inequity and bring about long-overdue relief to a constant transportation problem in north-central Arkansas. The problem originated when the construction of the Norfork Dam and Reservoir in 1943 caused the inundation of the bridge serving U.S. Highway 62 and Arkansas State Highway 101. For almost 30 years transportation along these two routes has been dependent upon what has long since become a totally inadequate and outdated ferry service.

I urge approval of the conference report on H.R. 17034, providing fiscal year 1973 supplemental appropriations.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various amendments in disagreement and the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 250, nays 15, not voting 166, as follows:

[Roll No. 445]

YEAS—250

Abbitt
Abernethy
Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, Ala.
Arends
Ashley
Aspinall
Badillo
Barrett
Bennett
Bergland
Betts
Bevill
Biester
Bingham
Blatnik
Bow

Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Colmer
Conable
Conyers
Coughlin
Culver
Daniel, Va.
Daniels, N.J.
Danielson
de la Garza
Dellenback
Dennis
Dent
Dorn
Downing
Drinan
Dulski
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Fish
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Garmatz
Gaydos
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Hagan
Halpern
Hammerschmidt
Hansen, Idaho
Harrington
Harsha
Harvey
Hathaway
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Hull
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keith
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Latta
Leggett
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McCollister
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mallary
Mann
Mathias, Calif.
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Montgomery
Moorhead
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pepper
Pickle
Pike
Poage
Powell
Preyer, N.C.
Price, Ill.
Quie
Railsback
Rangel
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
St Germain
Sandman
Sarbanes
Satterfield
Scheuer
Schneebeli
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Stanton, J. William
Steed
Steiger, Wis.
Stokes
Stratton
Stubblefield
Sullivan
Taylor
Teague, Calif.
Teague, Tex.
Tiernan
Vanik
Veysey
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Charles H.
Wyatt
Wydler
Wyman
Yates
Young, Tex.
Zablocki
Zion
Zwach

NAYS—15

Archer
Baker
Collins, Tex.
Conover
Findley
Griffin
Hall
Landgrebe
Mathis, Ga.
Rarick
Ruth
Saylor
Sebelius
Spence
Young, Fla.

NOT VOTING—166

Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baring
Begich
Belcher
Bell
Biaggi
Blackburn
Blanton
Boggs
Boland
Bolling
Broomfield
Brotzman
Burke, Fla.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Crane
Curlin
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Dowdy
du Pont
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Fisher
Flowers
Fountain
Fulton
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Gibbons
Green, Oreg.
Gross
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Hastings
Hawkins
Hays
Hébert
Horton
Howard
Hungate
Hunt
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Kuykendall
Landrum
Link
Long, La.
McClure
McCormack
McDonald, Mich.
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, N.Y.
Nelsen
Nichols
Pelly
Perkins
Pettis
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Rees
Reid
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Scherle
Schmitz
Schwengel
Scott
Seiberling
Shipley
Skubitz
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, James V.
Steele
Steiger, Ariz.
Stephens
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Wilson, Bob
Winn
Wolff
Wright
Wylie
Yatron

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Anderson of Illinois.
Mr. Thompson of New Jersey with Mr. Widnall.
Mr. Hébert with Mr. Clancy.
Mr. Boggs with Mr. Martin.
Mr. Waggonner with Mr. Quillen.
Mr. Wolff with Mr. Hastings.
Mr. McCormack with Mr. Thompson of Georgia.
Mr. Hays with Mr. Devine.
Mr. Shipley with Mr. Michel.
Mr. Staggers with Mr. Bob Wilson.
Mr. Celler with Mr. Hunt.
Mr. Davis of South Carolina with Mr. Burke of Florida.
Mr. Delaney with Mr. Horton.
Mr. Dingell with Mr. Nelsen.
Mr. Davis of Georgia with Mr. Scherle.
Mr. Rooney of New York with Mr. Minshall.
Mr. Rostenkowski with Mr. Derwinski.
Mr. Reid with Mr. Bell.
Mr. Roush with Mr. Springer.
Mr. Podell with Mr. Peyser.
Mr. Murphy of New York with Mr. Smith of New York.
Mr. Morgan with Mr. Steele.
Mr Mikva with Mr. Crane.
Mr. Matsunaga with Mr. Broomfield.
Mr. Chappell with Mr. Talcott.
Mr. Cabell with Mr. Kuykendall.
Mr. Howard with Mr. Schwengel.
Mrs. Hansen of Washington with Mr. Andrews of North Dakota.
Mr. Hamilton with Mr. Esch.
Mr. Begich with Mr. Skubitz.
Mr. Biaggi with Mr. Price of Texas.
Mr. Boland with Mr. Conte.
Mr. Denholm with Mr. Mayne.
Mr. Fascell with Mr. Dickinson.
Mr. Flowers with Mr. Scott.
Mr. Fountain with Mr. Davis of Wisconsin.
Mr. Corman with Mr. Mailliard.
Mr. Cotter with Mr. Vander Jagt.
Mr. Carey of New York with Mr. Brotzman.
Mr. Jones of Tennessee with Mr. Steiger of Arizona.
Mr. Hungate with Mr. Pettis.
Mr. Hawkins with Mr. Gallagher.
Mr. Giaimo with Mrs. Green of Oregon.
Mr. Pucinski with Mr. Terry.
Mr. Clay with Mr. Perkins.
Mr. Purcell with Mr. Schmitz.
Mr. Fuqua with Mr. Ashbrook.
Mr. Monagan with Mr. Keating.
Mr. Mollohan with Mr. Thone.
Mr. Clark with Mr. Pirnie.
Mr. Byron with Mr. Whitehurst.
Mr. Anderson of Tennessee with Mr. Snyder.
Mr. Hanley with Mrs. Dwyer.
Mr. Hanna with Mr. Thomson of Wisconsin.
Mr. Stephens with Mr. Blackburn.
Mr. Udall with Mr. du Pont.
Mr. Wright with Mr. Winn.
Mr. Yatron with Mr. Johnson of Pennsylvania.
Mr. Ullman with Mr. Wylie.
Mr. Van Deerlin with Mr. Rousselot.
Mr. Vigorito with Mr. Runnels.
Mr. Nichols with Mr. Keith.
Mr. Evans of Colorado with McDonald of Michigan.
Mr. Dow with Mr. Seiberling.
Mr. Donohue with Mr. McClure.
Mr. Rees with Mr. Long of Louisiana.
Mr. Randall with Mr. Belcher.
Mr. Rogers with Mr. Byrne of Pennsylvania.
Mr. Roncalio with Mr. Pelly.
Mr. Gettys with Mr. Blanton.
Mr. Gibbons with Mr. Aspin.
Mr. Diggs with Mr. Galifianakis.
Mr. Alexander with Mr. Abourezk.
Mr. Collins of Illinois with Mr. Baring.
Mr. Caffery with Mr. Curlin.
Mr. Dellums with Mr. Dowdy.
Mr. Fisher with Mr. Edmondson.
Mr. Foley with Mr. Fulton.
Mr. Haley with Mr. Pryor of Arkansas.
Mr. Waldie with Mr. Landrum.
Mr. Stuckey with Mr. Symington.
Mr. Moss with Mr. Link.
Mr. James V. Stanton with Mr. Gross.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: on page 3, line 1, insert:

1972 RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

The 1972 program of soil-building and soil- and water-conserving practices previously authorized to be carried out under sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended (16 U.S.C. 590g–590o, 590p(a), and 590q) may be carried out through June 30, 1973, and sums appropriated by Public Law 92–399 (86 Stat. 607) for such program may be used for practices carried out under such program through June 30, 1973.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: page 3, line 11, insert:

NATIONAL STUDY COMMISSION

For an additional amount for the National Study Commission authorized by Section 315 of the Federal Water Pollution Control Act Amendments of 1972, $200,000: *Provided*, That this sum shall be available only to the extent authorized by law.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: On page 4, line 23, insert:

Construction

For an additional amount for "Construction", $118,000, to remain available until expended: *Provided*, That these funds shall be available to assist the Lummi Tribe of Indians in the construction of a fish hatchery.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 5, line 1, insert:

Alaska Native Fund

Any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92–306), or the Act of August 10, 1972 (Public Law 92–369), to a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203), may be used by such Regional corporations to contribute or lend to, and such Regional Corporation may also guarantee loans by third parties to, the Alaska Federation of Natives or the Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such Regional Corporation, and in recognition of the service of the Alaska Federation of Natives or the Alaska Federation of Natives, Inc., in advancing land claims settlement legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Alaska Native Fund

Any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92–306), or the Act of August 10, 1972 (Public Law 92–369), to a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203), may be used by such Regional Corporation to loan to, and such Regional Corporation may also guarantee loans by third parties to the Alaska Federation of Natives and/or Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such Regional Corporation, and in recognition of the services of said organizations in advancing land claims settlement legislation.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: On page 5, line 22, insert:

CONSTRUCTION

For an additional amount for "Construction", $350,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: On page 6, line 4, strike out: "*Provided*, That this appropriation shall be available for reimbursement of obligations incurred by the John F. Kennedy Center for the Performing Arts for the same purposes from July 1, 1972,".

And insert: ", of which not to exceed $630,000 shall be available for reimbursement to the Board of Trustees of the John F. Kennedy Center for operation and maintenance costs incurred for the period July 1 to October 31, 1972."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: On page 6, line 20, insert:

RELATED AGENCIES

HISTORICAL AND MEMORIAL COMMISSIONS

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

SALARIES AND EXPENSES

For expenses to carry out the provisions of the Act of July 4, 1966 (P.L. 89–491), as amended, through February 15, 1973, $3,356,000, of which not to exceed $1,200,000 shall be for grants-in-aid as authorized by section 9(1) of the said Act, to remain available until expended: *Provided*, That none of the funds appropriated in this paragraph shall be available for obligation except upon the enactment into law of authorizing legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER. The clerk will report the next amendment is disagreement.

The clerk read as follows:

Senate amendment No. 18: On page 9, line 14, insert:

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, parts A, section 420, B, and E of title IV, and section 1202, of the Higher Education Act, as amended, section 506(b) of the Education Amendments of 1972, the Emergency Insured Student Loan Act of 1969, as amended, and sections 400, 404, and 421 of the General Education Provisions Act, section 207 of the National Defense Education Act, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), and S.J. Resolution 265, $689,960,000 of which $75,000,000 shall be for Veterans Cost of Instruction payments to institutions of higher education, and $215,000,000 to remain available until expended shall be for subsidies on guaranteed student loans: *Provided*, That the funds to carry out S.J. Resolution 265 shall be available only upon enactment of authorizing legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, title I, parts A, section 420, B, and E of title IV, and section 1202, of the Higher Education Act, as amended, section 506(b) of the Education Amendments of 1972, the Emergency Insured Student Loan Act of 1969, as amended, and sections 400, 404, and 421 of the General Education Provisions Act, section 207 of the National Defense Education Act, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), and S.J. Resolution 265, $577,500,000, of which $25,000,000 shall be for Veterans Cost of Instruction payments to institutions of higher education, and $215,000,000 to remain available until expended shall be for subsidies on guaranteed student loans: *Provided*, That the funds to carry out S.J. Resolution 265 shall be available only upon enactment of authorizing legislation.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: On page 10, line 11, insert:

NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

For expenses necessary to carry out section 140 of the Education Amendments of 1972, including compensation for members of the Commission at rates not to exceed the per diem equivalent for grade GS–18, $1,500,000, to remain available until June 30, 1974.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: page 10, line 23, insert:

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $13,905,000 of which $300,000 shall be transferred to Health Services and Mental Health Administration for expenses of the Youth Camp Safety Study.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23 Page 11, line 3, insert:

NATIONAL INSTITUTE OF EDUCATION

For carrying out section 405 of the General Education Provisions Act, and for the necessary expenses of the National Institute of Education, including rental of conference rooms in the District of Columbia; and not to exceed $500 for official reception and representation expenses; $92,082,000, which shall remain available until expended: *Provided*, That funds included in the regular fiscal year 1973 appropriation for "Educational renewal" and "Salaries and expenses, Office of Education" for dissemination activities, except general program dissemination, and the District of Columbia schools project shall be transferred to the National Institute of Education.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

NATIONAL INSTITUTE OF EDUCATION

For carrying out section 405 of the General Education Provisions Act, and for the necessary expenses of the National Institute of Education, including rental of conference rooms in the District of Columbia; and not to exceed $500 for official reception and representation expenses; $92,082,000: *Provided*, That funds included in the regular fiscal year 1973 appropriation for "Educational renewal" and "Salaries and expenses, Office of Education" for dissemination activities, except general program dissemination, and the District of Columbia schools project shall be transferred to the National Institute of Education.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 11, line 22, strike "$893,448,000," and insert "$899,268,000,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert: "$898,648,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 25: Page 12, line 5, insert: *Provided further*, That the $5,000,000 contained within this appropriation for the construction of the National Center for Deaf/Blind youths and adults shall remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein.

The motion was agreed to.

Mr. MAHON. Mr. Speaker, inasmuch as amendments numbered 39 through 53 relate solely to housekeeping operations of the other body, in which by practice the House concurs without intervention, I ask unanimous consent that the Senate amendments numbered 39 through 53, inclusive, be considered as read and printed in the RECORD, and that they be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Senate amendments No. 39 through 53 are as follows:

(39) SENATE

(40) For payment to Allen J. Ellender, Jr., son of Allen J. Ellender, late a Senator from the State of Louisiana, $49,500.

(41) SALARIES, OFFICERS AND EMPLOYEES

(42) OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $8,980: *Provided*, That effective November 1, 1972, the Secretary may appoint and fix the compensation of a clerk in the office of the official reporters of debates at not to exceed $13,468 per annum, an assistant librarian at not to exceed $17,871 per annum in lieu of a senior reference assistant at not to exceed such rate, a senior reference assistant at not to exceed $12,691 per annum in lieu of an assistant librarian at not to exceed such rate, a clerk at not to exceed $9,583 per annum in lieu of a messenger at not to exceed such rate, seven clerks at not to exceed $8,806 per annum each in lieu of seven messengers at not to exceed such rate, and the title of the position chief messenger in the Secretary's office is hereby changed to deputy special assistant.

(43) OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", $42,305: *Provided*, That effective November 1, 1972, the Sergeant at Arms may appoint and fix the compensation of a manager programmer at not to exceed $22,533 per annum, and two senior programmer analysts at not to exceed $20,461 per annum each.

(44) CONTINGENT EXPENSES OF THE SENATE

(45) INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and Investigations", fiscal year 1972, $140,000, to be derived by transfer from the appropriation "Salaries, Officers and Employees", fiscal year 1972.

(46) MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", fiscal year 1972, $1,020,000, to be derived by transfer from the appropriation "Salaries, Officers and Employees", fiscal year 1972.

(47) ADMINISTRATIVE PROVISIONS

(48) SEC. 501. Clause (2) of the fourth paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1972, is amended by striking out "Federal Code Annotated" wherever it appears and inserting in lieu thereof "United States Code Service".

(49) SEC. 502. The first sentence of the third paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1959, as amended by the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 43b), is amended to read as follows:

"The contingent fund of the Senate is hereby made available for reimbursement of actual transportation expenses incurred by each Senator in traveling on official business and such expenses incurred by employees in that Senator's office in making round trips on official business by the nearest usual route between Washington, District of Columbia, and the home State of the Senator involved, and in traveling within that State (other than transportation expenses incurred by an employee assigned to a Senator's office within that State (A) while traveling in the general vicinity of such office, (B) pursuant to a change of assignment within such State, or (C) in commuting between home and office)."

(50) SEC. 503. The first paragraph under the heading "Payment of Sums Due Deceased Congressional Personnel" in the appropriation for the Legislative Branch in the Second Supplemental Appropriation Act, 1951 (2 U.S.C. 36a), is amended to read as follows:

"Under regulations prescribed by the Secretary of the Senate, a person serving as a Senator or officer or employee whose compensation is disbursed by the Secretary of the Senate may designate a beneficiary or beneficiaries to be paid any unpaid balance of salary or other sums due such person at the time of his death. When any person dies while so serving, any such unpaid balance shall be paid by the disbursing officer of the Senate to the designated beneficiary or beneficiaries. If no designation has been made, such unpaid balance shall be paid to the widow or widower of that person, or if there is no widow or widower, to the next of kin of heirs at law of that person."

(51) SEC. 504. The Secretary of the Senate is hereafter authorized to advance, in his discretion, to any designated employee under his jurisdiction, such sums as may be necessary, not exceeding $1,500, to defray official travel expenses in assisting the Secretary in carrying out his duties under the Federal Election Campaign Act of 1971. Any such employee shall, as soon as practicable, furnish to the Secretary a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced.

(52) SEC. 505. Subsection (e)(3)(B) of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, and as modified by Orders of the President pro tempore of the Senate (2 U.S.C. 61-1), is amended by striking out the word "two" and inserting in lieu thereof "three".

(53) SEC. 506. (a) Effective January 1, 1973, and thereafter, the contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

(1) official telegrams and long-distance telephone calls and related services (in the manner authorized immediately prior to January 1, 1973, by the Committee on Rules and Administration, or as may be hereafter authorized by that committee);

(2) stationery and other office supplies procured through the Senate stationery room for use for official business;

(3) reimbursement to each Senator for air mail and special delivery postage for expenses incurred in the mailing of postal matters relating to official business;

(4) rental charges for office space at not more than three places designated by the Senator in the State he represents;

(5) reimbursement to each Senator for official office expenses incurred in his State (other than equipment and furniture);

(6) reimbursement to each Senator for telephone service charges officially incurred outside Washington, District of Columbia.

(7) reimbursement to each Senator for charges for subscriptions to magazines, periodicals, or clipping or similar services; and

(8) reimbursement of actual transportation expenses incurred by the Senator in traveling on official business by the nearest usual route between Washington, District of Columbia, and the State he represents and within such State, and actual transportation expenses incurred by employees in that Senator's office subject to the provisions of subsection (e) of this section.

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred.

(b)(1) Except as otherwise provided in paragraph (2) of this subsection, the total amount of expenses authorized to be paid to or on behalf of a Senator under this section shall not exceed for calendar year 1973 or any calendar year thereafter the aggregate of the following, rounded to the next higher multiple of $12:

(A) the applicable amount authorized for official telegrams and long-distance telephone calls and related services under rules and regulations of the Committee on Rules and Administration in effect immediately prior to January 1, 1973, or such different amount as may be authorized for such purposes under rules and regulations hereafter prescribed by that committee;

(B) the applicable full fiscal year amount authorized by the proviso under the heading "Stationery (Revolving Fund)" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46a), as in effect immediately prior to January 1, 1973;

(C) the applicable full fiscal year amount authorized by the proviso under the heading "Postage Stamps" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 42a), as in effect immediately prior to January 1, 1973;

(D) the amount authorized a Senator for home offices and home office expenses for a full calendar year in the fourth sentence following the proviso in the second full paragraph under the heading "Miscellaneous Items" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 53), as in effect immediately prior to January 1, 1973; and

(E) the applicable full fiscal year amount authorized by the third paragraph, relating to reimbursement of transportation expenses to Senators and their staff, under the heading "ADMINISTRATIVE PROVISIONS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b), as in effect immediately prior to January 1, 1973.

(2) In any such calendar year in which a Senator does not hold the office of Senator at least part of each month of that year, the aggregate amount available to the Senator shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months the Senator holds such office during that year, counting any fraction of a month as a full month.

(c) The aggregate of payments made to or on behalf of a Senator under this section shall not exceed at any time during each calendar year one-twelfth of the amount computed under subsection (b)(1) of this section multiplied by the number of months (counting a fraction of a month as a month) elapsing from the first month in that calendar year in which the Senator holds the office of Senator through the date of payment. Payments for rentals due for office space occupied in the State which the Senator represents shall not exceed at any time during each calendar year $300 multiplied by the number of months (counting a fraction of a month as a month) elapsing from the first month in that calendar year in which the Senator holds the office of Senator through the month of payment.

(d) The Sergeant at Arms shall secure for each Senator office space suitable for the Senator's official use at not more than three places designated by him in the State he represents. That space shall be secured in post offices or other Federal buildings at such places. In the event suitable office space is not available in post offices or Federal buildings, the amount made available to the Senator under this section may, subject to subsection (c), be expended to secure other office space in such places.

(e) Actual transportation expenses incurred by an employee in a Senator's office shall be paid under this section only for such expenses incurred in making round trips on official business by the nearest usual route between Washington, District of Columbia, and the home State of the Senator involved, and in traveling within that State (other than transportation expenses incurred by an employee assigned to a Senator's office within that State (1) while traveling in the general vicinity of such office, (2) pursuant to a change of assignment within such State, or (3) in commuting between home and office). No payment shall be made under this section to or on behalf of a newly appointed employee to travel to his place of employment.

(f) The amount available to each Senator during fiscal year 1973, (1) for air mail and special delivery postage by the proviso under the heading "POSTAGE STAMPS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1972 (2 U.S.C. 42a), as in effect immediately prior to January 1, 1973, (2) for actual transportation expenses under the third paragraph under the heading "ADMINISTRATIVE PROVISIONS" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b), as in effect immediately prior to January 1, 1973, and (3) for stationery by the proviso under the heading "STATIONERY (REVOLVING FUND)" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46a), as in effect immediately prior to January 1, 1973, shall be, notwithstanding such paragraph and provisos, reduced by 50 percent of the applicable amount made available to a Senator under such paragraph and provisos for the entire fiscal year. If, immediately prior to January 1, 1973, any Senator has expended any sum in excess of an amount made available as the result of the reduction made in clause (2) or (3) by this subsection, any such excess sum (but not more than the applicable amount of the reduction) shall be charged against the amount made available to that Senator under this section for calendar year 1973.

(g) In the case of the death of any Senator, the chairman of the Committee on Rules and Administration may certify for such deceased Senator for any portion of such sum already obligated but not certified to at the time of such Senator's death, and for any additional amount which may be reasonably needed for the purpose of closing such deceased Senator's State offices, for payment to the person or persons designated as entitled to such payment by such chairman.

(h) Effective January 1, 1973, the following provisions of law are repealed:

(1) that part of the paragraph under the heading "Contingent Expenses of the Senate", relating to the procurement of air mail and special delivery postage stamps by the Secretary of the Senate, appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1942, as amended and supplemented (2 U.S.C. 42a), insofar as such part and any such amendment and supplement relate to Senators;

(2) the third paragraph, relating to reimbursement of transportation expenses to Senators and their staff, under the heading "Administrative Provisions" appearing under the heading "SENATE" in the Legislative Branch Appropriation Act, 1959, as amended (2 U.S.C. 43b);

(3) the paragraph relating to stationery expenses under the heading "SENATE" in the Act entitled "An Act making appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and seventy", approved March 3, 1869, as amended and supplemented (2 U.SC. 46a), insofar as such paragraph and any such amendment and supplement relate to Senators;

(4) section 106 of the Legislative Branch Appropriation Act, 1969 (2 U.S.C. 46a–3);

(5) the last paragraph under the heading "Administrative Provisions" appearing under the heading "SENATE" in the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 46d–4);

(6) the paragraph relating to the payment from the Senate contingent fund of telegrams under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in the Legislative Branch Appropriations Act, 1947 (2 U.S.C. 46e); and

(7) the proviso and the succeeding six sentences relating to home offices and home office expenses under the heading "MISCELLANEOUS ITEMS" appearing under the heading "SENATE" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 53).

(i) Effective January 1, 1973, clause (2) of the last paragraph under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), is amended by striking out "and of Senators".

(j)(1) $191,100 of the funds appropriated for "STANTIONERY (REVOLVING FUND)", fiscal year 1973, and $55,495 of the funds appropriated for "POSTAGE STAMPS", fiscal year 1973, are hereby transferred to the appropriation "MISCELLANEOUS ITEMS," fiscal year 1973.

(2) $12,575 of the funds appropriated for "POSTAGE STAMPS", fiscal year 1973, are hereby made available for the maintenance of a supply of stamps in the Senate Post Office.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendments of the Senate numbered 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, and 53, and concur therein.

The SPEAKER. The gentleman from Texas is recognized.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. HALL. May I ask the distinguished gentleman from Texas (Mr. MAHON) if these added-on amendments of the other body which we ordinarily honor out of comity include any new Senate Office Building program?

Mr. MAHON. Not in these amendments which are now being considered. The Senate Office Building proposal is not in the block of amendments which are now being considered. That is in amendment No. 58.

Mr. HALL. That's quite all right.

Mr. Speaker, may I ask the gentleman, is there any provision for construction in these comity amendments other than office buildings on the part of the other body, such as a garage, for example?

Mr. MAHON. Mr. Speaker, there is an amendment that concerns a plan on the construction of a garage.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. STRATTON. Mr. Speaker, may I ask the distinguished chairman this question: Is there any money or any consideration in the amendments for the west front?

Mr. MAHON. There is no money in the bill for the west front. I assume the gentleman is speaking about the west front of the Capitol?

Mr. STRATTON. Yes.

Mr. MAHON. No, there is no money in the bill for that.

Mr. STRATTON. Mr. Speaker, I thank the gentleman.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 54: On page 30, line 12, insert:

SEC. 507, Section 1824 of the Revised Statutes (40 U.S.C. 210) is amended by adding at the end thereof the following new sentence: "Such arms so furnished shall be carried by each officer and member of the Capitol Police, while in the Capitol Buildings (as defined in section 16(a)(1) of the Act of July 31, 1946, as amended (40 U.S.C. 193m)), and while within or outside of the boundaries of the United States Capitol Grounds (as defined in the first section of the Act of July 31, 1946, as amended (40 U.S.C. 193a)), in such manner and at such times as the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives may, by regulations, prescribe."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55: Page 31, strike out:

"The provisions of House Resolution 890, Ninety second Congress, relating to compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives, and the Chief of Staff of the Joint Committee on Internal Revenue Taxation, shall be the permanent law with respect thereto."

And insert:

"The provisions of House Resolution 890, Ninety-second Congress, relating to compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives, and the Chief of Staff of the Joint Committee on Internal Revenue Taxation, shall be the permanent law only with respect to the compensation of the Clerk, the Doorkeeper, and the Sergeant at Arms of the House of Representatives. Such House Resolution 890 shall not apply with respect to the compensation of the Chief of Staff of the Joint Committee on Internal Revenue Taxation."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: page 32, line 13 insert:

OFFICE OF THE ATTENDING PHYSICIAN

For an additional amount for the "Office of the Attending Physician", $5,000, to be available as an allowance for a medical consultant.

Upon assuming his duty as Attending Physician to the United States Congress, and while so serving, the incumbent shall be considered to hold the rank of Rear Admiral, Medical Corps, United States Naval Reserve, for all purposes, and shall receive the pay and allowances with his length of service of an officer of the upper half of that grade (O–8) and when retired under any provision of law shall be advanced on the retired list to such grade and shall receive retired pay based on that grade.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: Page 33, line 9, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $110,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 58: Page 33, line 11 insert:

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to provide for the construction and equipment of an extension to the New Senate Office Building, in accordance with plans approved by such Commission and by the Senate Committee on Public Works, on the east half of square 725 including the public alley separating the east and west halves of such square, but excluding lot 885 in such square, containing office rooms and such other rooms and accommodations as may be approved by the Senate Office Building Commission and by the Senate Committee on Public Works, including structural and other changes in the existing New Senate Office Building necessitated by such construction, together with approaches, connections with the Capitol Power Plant and public utilities, and architectural landscape treatment of the grounds: *Provided*, That upon completion of the project, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of the Act of June 8, 1942 (40 U.S.C. 174(c) and (d)), and the Act of July 31, 1946 (40 U.S.C. 193a–193m, 212a and 212b) in the same manner and to the same extent as the present Senate Office Buildings and the grounds and sidewalks surrounding the same: *Provided further*, That during each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take steps as are necessary to insure its economical construction: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $47,925,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein.

Mr. MAHON. Mr. Speaker, I would like to read the following into the RECORD at this point from page 45 of the Senate report on the supplemental appropriation bill before us with respect to the new Senate Office Building completion:

NEW SENATE OFFICE BUILDING COMPLETION

The committee recommends an appropriation of $47,925,000 for the completion of the New Senate Office Building by construction on the east half of square 725. The proposed addition would contain approximately 654,800 gross square feet, as compared to 712,900 gross square feet in the existing new building. Also, studies indicate that the greatest need of the Senate is for additional office rooms, rather than hearing rooms. The new structure would have between 400 to 450 rooms as compared to approximately 500 in the existing new building.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 34, line 21, insert:

ACQUISITION OF PROPERTY AS A SITE FOR PARKING FACILITIES FOR THE UNITED STATES SENATE

To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, in addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), Public Law 91–382, approved August 18, 1970 (84 Stat. 819), and Public Law 92–184, approved December 15, 1971 (85 Stat. 637), to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, as a site for parking facilities for the United States Senate, all publicly or privately owned real property contained in lots 79, 80, 86, 94, 805, 806, 833, 838, 839, 840, and 844 in square 724 in the District of Columbia, and all alleys or parts of alleys and streets contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That for the purposes of this paragraph, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further,* That, upon acquisition of any real property under this paragraph, the jurisdiction of the Capitol Police shall extend over such property, and any property acquired under this paragraph shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further,* That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368; *Provided further,* That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding square 724, shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transfered to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol with the approval of such Commission: *Provided further,* That, upon acquisition of any real property pursuant to this paragraph, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith: *Provided further,* That nothing herein shall be construed to prohibit the continued use of areas in square 724, acquired under authority of the Acts of May 29, 1958, August 18, 1970, and December 15, 1971, hereinbefore cited, for the parking of automobiles, until such times as such areas may be required for construction purposes: *Provided further,* That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, and expenditures authorized by Public Law 91–646, approved January 2, 1971 (84 Stat. 1894–1907) applicable to the Architect of the Capitol, as may be necessary to carry out the provisions of this paragraph; $4,075,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 37, line 15 insert:

PLANS FOR GARAGE AND RELATED FACILITIES FOR THE UNITED STATES SENATE

To enable the Architect of the Capitol to initiate and conduct a study, after consultation with the appropriate Federal agencies and individuals experienced in the design of vehicle parking structures, to explore design and cost alternatives for construction, on square 724, of a parking garage with limited commercial facilities, and report his preliminary findings and recommendations to the Senate Committee on Public Works: *Provided,* That the Architect of the Capitol, concurrently with such study, is authorized to establish, for the purpose of development of a basic concept therefor, an architectural design competition, in order to encourage the preparation of an imaginative design for the garage structure, including limited commercial facilities and landscaping and to assure a pleasant transition to and maximum coordination with the surrounding residential and commercial community in that area of Northeast Washington within sight of or adjoining the Capitol Grounds: *Provided further,* That such design concept may consider and include existing and future land use and structures in said surrounding community, and shall consider any existing model cities or other governmental planning for such Northeast area, including that of the National Capital Planning Commission: *Provided further,* That guidelines and criteria specifically defining the limits, scope, and all aspects of the competition shall be developed and promulgated by the Architect of the Capitol, with the approval of the Senate Office Building Commission, and an award for the best design or designs shall be determined by a committee jointly designated for this purpose by the Architect of the Capitol and the Senate Office Building Commission, in such amount as they may deem to be appropriate: *Provided further,* That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $50,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 39, line 4, insert:

ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further,* That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further,* That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided further,* That upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission: *Provided further,* That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further,* That the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further,* That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further,* That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided further,* That, upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. Mc-

Cormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission: *Provided further*, That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission and the House Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended.

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 70: Page 45, line 6, insert:

PARTICIPATION IN UNITED STATES EXPOSITIONS

For expenses necessary for Federal participation in the 1974 International Exposition on the Environment, $11,500,000, to remain available until expended: *Provided*, That none of the funds appropriated in this paragraph shall be available for obligation except upon the enactment into law of authorizing legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert: "$3,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 71: Page 45, line 13, insert:

MARITIME ADMINISTRATION

SHIP CONSTRUCTION

For an additional amount for "Ship Construction", $175,000,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of S. 4036, 92d Congress, or similar legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 47, line 19, insert:

COMMISSION ON HIGHWAY BEAUTIFICATION

For necessary expenses of the Commission on Highway Beautification, established by section 123 of the Federal-Aid Highway Act of 1970 (84 Stat. 1727–1728), an additional $250,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation by the 92d Congress.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 78:

Page 48, line 18, insert: "*Provided*, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out 'March 31, 1973' and inserting in lieu thereof 'June 30, 1973'."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the language proposed by the Senate, insert the following: ": *Provided*, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out "March 31, 1973" and inserting in lieu thereof "May 15, 1973"."

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 52, line 84, insert:

SEC. 1102. Each department, agency, or corporation shall report to the Congress no later than July 31, 1973, the total amount of appropriated funds used for the support (direct or indirect) of executive dining rooms or similar facilities during the fiscal year ending June 30, 1973.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The SPEAKER. The gentleman from Texas is recognized.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I just want to say that I appreciate the work that is done, and particularly the work that has been done, under pressure, in order to bring this supplemental appropriation bill before the House

I voted against the supplemental appropriation bill. I believe I was one of only about 15 that did. In principle, so-called deficiencies should be better and more promptly handled by both the executive branch and the Congress.

There are many areas here that were deficiencies and did need supplemental help. But it is almost unconscionable, Mr. Speaker, whether we do it in the name of comity with the other body, or whether we do it with our eyes wide open, that we would grant in this supplemental bill, in the blessed name of "deficiency," a new Senate Office Building, plus new land acquisition, when they already have over seven offices each over there not to mention the hideaway ones in the Capitol out of which to run; and where they can put together staff for any one of the 100 or less—and I say less because there has never been, to my knowledge, 100 on the floor at any one time—to run for any high office that they may choose. They get most of their entire staff or equipment at the taxpayers' expense, then added to this there is additional land acquisition for garages—and notably for the last 12 years since I have been here they have always had extra garage space. I must say that by comity they have let House Members park their cars who did not mind walking across the Capitol, and I have parked my car in the Senate garage to get it out of the weather.

Finally, when we are approving here at great expense to the taxpayers the final purchase of old Providence Hospital grounds down there to make a green park and hold in abeyance for the Page School, and all the other flowery language herein, I cannot be charitable about all these expenditures at the sacrifice of the Nation's taxpayers, and whether it was in technical disagreement and we acceded or whether we acceded with amendment or not, the fact is that we are permitting excessive expenditures here and now.

So far as this particular request for this specific unanimous-consent request is concerned, I withdraw my reservation of objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, earlier in the afternoon I asked unanimous consent that all Members be permitted to revise and extend their remarks on the conference report and on the various amendments which have been considered, and I would like to expand that unanimous-consent request to include tables and extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I take this time to supply for the benefit of the Members who are interested a list of four bills, and the description thereof, which will be added to the Suspension Calendar, from the Committee on Ways and Means list which was filed last week.

The four bills are as follows:

H.R. 7175, equipment and repair for U.S. vessels;

H.R. 12991, copying shoe lathes;

H.R. 15442, suspension of duty on istle; and

H.R. 15795, suspension of duty on tanning and dyeing materials.

CALL OF THE HOUSE

Mr. ECKHARDT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 446]

Abbitt
Abernethy
Abourezk
Adams
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baring
Begich
Belcher
Bell
Biaggi
Blackburn
Blanton
Boland
Bolling
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Carter
Cederberg
Caffery
Carey, N.Y.
Celler
Chamberlain
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Curlin
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Dowdy
du Pont
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Fountain
Frenzel
Fulton
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Gibbons
Green, Oreg.
Gross
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harsha
Hawkins
Hays
Hébert
Horton
Howard
Hungate
Jarman
Johnson, Pa.
Jones, Tenn.
Keating
Kemp
Kluczynski
Kuykendall
Link
Long, La.
McCloskey
McClure
McCormack
McCulloch
McDonald, Mich.
McEwen
McKevitt
McMillan
Mailliard
Martin
Matsunaga
Mayne
Melcher
Michel
Mikva
Minshall
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, N.Y.
Nelsen
Nichols
Pelly
Pepper
Perkins
Pettis
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Rees
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Satterfield
Scherle
Schmitz
Schwengel
Scott
Seiberling
Shipley
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Stephens
Stokes
Stuckey
Symington
Talcott
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Wilson, Charles H.
Winn
Wolff
Wright
Wylie
Yatron

The SPEAKER. On this rollcall 241 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1972

Mr. DANIELS of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12006) to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12006

To amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972".

COVERAGE

SEC. 2. (a) Section 2(3) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 902) is amended to read as follows:

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net."

(b) Section 2(4) of such Act is amended by striking out "(including any dry dock)" and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

(c) Section 3(a) of such Act is amended by striking out "(including any dry dock) and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law", and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

STUDENT BENEFITS

SEC. 3. (a) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating paragraph (19) as paragraph (20) and adding a new paragraph (19) as follows:

"(19) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof,

"(B) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body,

"(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States."

(b) The last sentence of section 2(14) of such Act is amended to read as follows: "'Child', 'grandchild', 'brother', and 'sister' include only a person who is under eighteen years of age, or who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 4. Section 6(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out "more than twenty-eight days" and inserting in lieu thereof "more than fourteen days".

MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 5. (a) Section 6 of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) Except as provided in subsection (c), compensation for disability shall not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary under paragraph (3):

"(A) 125 per centum or $167, whichever is greater, during the period ending September 30, 1973.

"(B) 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974.

"(C) 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975.

"(D) 200 per centum beginning October 1, 1975.

"(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 10 are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

"(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after the enactment of this subsection.

"(c) The maximum rate of compensation

for a nonappropriated fund instrumentality employee shall be equal to 66⅔ per centum of the maximum rate of basic pay established for a Federal employee in grade GS-12 by section 5332 of title 5, United States Code, and the minimum rate of compensation for such an employee shall be equal to 66⅔ per centum of the minimum rate of basic pay established for a Federal employee in grade GS-2 by such section.

"(d) Determinations under this subsection with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph (20) thereof as paragraph (21) and by inserting immediately after paragraph (19) the following:

"(20) The term 'national average weekly wage' means the national average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls."

(c) Section 8(d) of such Act is amended to read as follows:

"(d)(1) If an employee who is receiving compensation for permanent partial disability pursuant to section 8(c)(1)-(20) dies from causes other than the injury, the total amount of the award unpaid at the time of death shall be payable to or for the benefit of his survivors, as follows:

"(A) if the employee is survived only by a widow or widower, such unpaid amount of the award shall be payable to such widow or widower,

"(B) if the employee is survived only by a child or children, such unpaid amount of the award shall be paid to such child or children in equal shares,

"(C) if the employee is survived by a widow or widower and a child or children, such unpaid amount of the award shall be payable to such survivors in equal shares,

"(D) if there be no widow or widower and no surviving child or children, such unpaid amount of the award shall be paid to the survivors specified in section 9(d) (other than a wife, husband, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in section 9(d), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each under this subparagraph.

"(2) Notwithstanding any other limitation in section 9, the total amount of any award for permanent partial disability pursuant to section 8(c)(1)-(20) unpaid at time of death shall be payable in full in the appropriate distribution.

"(3) If an employee who was receiving compensation for permanent partial disability pursuant to section 8(c)(21) dies from causes other than the injury, his survivors shall receive death benefits as provided in section 9(b)-(g), except that the percentage figures therein shall be applied to the weekly compensation payable to the employee at the time of his death multiplied by 1.5, rather than to his average weekly wages.

"(4) An award for disability may be made after the death of the injured employee. Except where compensation is payable under section 8(c)(21), if there be no survivors as prescribed in this section, then the compensation payable under the subsection shall be paid to the special fund established under section 44(a) of this Act.

(d) The first phrase of section 9 of such Act, preceding the first colon, is amended to read as follows:

"If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:"

(e) Section 14 of such Act is amended by striking out subsection (m).

MEDICAL SERVICES

SEC. 6. (a) Section 7 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

MEDICAL SERVICES AND SUPPLIES

"SEC. 7. (a) The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

"(b) The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this Act as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

"(c) The Secretary may designate the physicians who are authorized to render medical care under the Act. The names of physicians so designated in the community shall be made available to employees through posting or in such other form as the Secretary may prescribe.

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have requested the employer to furnish such treatment or services, or to authorize provision of medical or surgical services by the physician selected by the employee, and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within ten days following the first treatment the physician giving such treatment furnish to the employer and the Secretary a report of such injury and treatment, on a form prescribed by the Secretary. The Secretary may, however, excuse the failure to furnish such report within ten days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

"(e) In the event that medical questions are raised in any case, the Secretary shall have the power to cause the employee to be examined by a physician employed or selected by the Secretary and to obtain from such physician a report containing his estimate of the employee's physical impairment and such other information as may be appropriate. Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed or selected by the Secretary. The Secretary shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within two weeks from the date ordered unless the Secretary finds that because of extraordinary circumstances a longer period is required. The Secretary shall have the power in his discretion to charge the cost of examination or review under this subsection to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk, in appropriate cases, or to the special fund in section 44.

"(f) An employee shall submit to a physical examination under subsection (e) at such place as the Secretary may require. The place, or places, shall be designated by the Secretary and shall be reasonably convenient for the employee. No physician selected by the employer, carrier, or employee shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the Secretary. Such employer or carrier shall, upon request, be entitled to have the employee examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the employee may select, if any. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination.

"(g) All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community for such treatment, and shall be subject to regulation by the Secretary. The Secretary shall issue regulations limiting the nature and extent of medical expenses chargeable against the employer without authorization by the employer or the Secretary.

"(h) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or that suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 33(b) of this Act.

"(i) Unless the parties to the claim agree, the Secretary shall not employ or select any physician for the purpose of making examinations or reviews under subsection (e) of this section who, during such employment, or during the period of two years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer."

DISFIGUREMENTS

SEC. 7. Section 8(c)(20) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation not to exceed $3,500 shall be awarded for serious disfigurement of the face, head, or neck or of other normally exposed areas likely to handicap the employee in securing or maintaining employment."

SPECIAL FUND

SEC. 8. (a) Section 44(a) of the Longshoremen's and Harbor Workers' Compensation

Act is amended by adding a period after the word "fund" in the first sentence thereof and deleting the remainder of the sentence.

(b) Section 44 of such Act is further amended by redesignating subsections (d), (e), (f), and (g) as (f), (g), (h), and (i), respectively and by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Payments into such fund shall be made as follows:

"(1) Whenever the Secretary determines that there is no person entitled under this Act to compensation for the death of an employee which would otherwise be compensable under this Act, the appropriate employer shall pay $5,000 as compensation for the death of such an employee.

"(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and each carrier or self-insurer shall make payments into the fund on a prorated assessment by the Secretary in the proportion that the total compensation and medical payments made on risks covered by this Act by each carrier and self-insurer bears to the total of such payments made by all carriers and self-insurers under the Act in the prior calendar year in accordance with a formula and schedule to be determined from time to time by the Secretary to maintain adequate reserves in the fund.

"(3) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

"(d)(1) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

"(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

"(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

"(e) There is hereby authorized to be appropriated to the Secretary the sum of $2,000,000 which the Secretary shall immediately deposit into the fund. Upon deposit in the fund such moneys shall be treated as the property of such fund. This sum, without additional payments for interest, shall be repaid from the money or property belonging to the fund on a schedule of repayment set by the Secretary: *Provided*, That full repayment must be made no later than five years from the date of deposit into the fund. Each such repayment, as made, shall be covered into the Treasury of the United States as miscellaneous receipts."

(d) Section 44 of such Act is further amended by adding the following new subsections (j) and (k):

"(j) The proceeds of this fund shall be available for payments:

"(1) Pursuant to section 10 and 11 with respect to initial and subsequent annual adjustments in compensation for total permanent disability or death which occurred prior to the effective date of this subsection.

"(2) Under section 8 (f) and (g), under section 18(b), and under section 39(c).

"(3) To repay the sums deposited in the fund pursuant to subsection (d).

"(4) To defray the expense of making examinations as provided in section 7.

"(k) At the close of each fiscal year the Secretary, shall submit to the Congress a complete audit of the fund."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

SEC. 9. (a) Section 8(f)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows: "(1) In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If, following an injury falling within the provisions of section 8(c)(1)–(20), the employee is totally and permanently disabled, and the disability is found not to be due solely to that injury, the employer shall provide compensation for the applicable prescribed period of weeks provided for in that section for the subsequent injury or for one hundred and four weeks, whichever is the greater. In all other cases of total permanent disability or of death, found not to be due solely to that injury, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only. If, following an injury falling within the provisions of 8(c)(1)–(20), the employee has a permanent partial disability and the disability is found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater.

"In all other cases in which the employee has a permanent partial disability, found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation for one hundred and four weeks only.

(2) After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due out of the special fund established in section 44."

(b) Section 8(f) of such Act is further amended by striking out paragraph (2).

DEATH BENEFITS

SEC. 10. (a) Section 9(a) of the Act is amended by striking out "$400" and inserting in lieu thereof "$1,000".

(b) Sections 9 (b) and (c) of such Act are amended by striking "35" and "15" wherever they appear, and substituting "50" and "16⅔" respectively.

(c) The first sentence of section 9(d) of such Act is amended to read as follows: "If there be no surviving wife or husband or child, or if the amount payable to a surviving wife or husband and to children shall be less in the aggregate than 66⅔ per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term 'dependent' in section 152 of title 26 of the United States Code, but are not otherwise eligible under this section, 20 per centum of such wages for the support of each such person during such dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency."

(d) Section 9(e) of such Act is amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not less than the applicable national average weekly wage as prescribed in section 6(b) but the total weekly benefits shall not exceed the average weekly wages of the deceased."

DETERMINATION OF PAY

SEC. 11. Section 10 of the Act is amended by adding the following new subsections:

"(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries sustained after the date of enactment of this subsection shall be increased by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1.

"(g) The weekly compensation after adjustment under subsection (f) shall be fixed at the nearest dollar. No adjustment of less than $1 shall be made, but in no event shall compensation or death benefits be reduced.

"(h)(1) Not later than ninety days after the date of enactment of this subsection, the compensation to which an employee or his survivor is entitled due to total permanent disability or death which commenced or occurred prior to enactment of this subsection shall be adjusted. The amount of such adjustment shall be determined in accordance with regulations of the Secretary by designating as the employee's average weekly wage the applicable national average weekly wage determined under section 6(b) and (A) computing the compensation to which such employee or survivor would be entitled if the disabling injury or death had occurred on the day following such enactment date and (B) subtracting therefrom the compensation to which such employee or survivor was entitled on such enactment date; except that no such employee or survivor shall receive total compensation amounting to less than that to which he was entitled on such enactment date. Notwithstanding the foregoing sentence, where such an employee or his survivor was awarded compensation as the result of death or permanent total disability at less than the maximum rate that was provided in this Act at the time of the injury which resulted in the death or disability, then his average weekly wage shall be determined by increasing his average weekly wage at the time of such injury by the percentage which the applicable national average weekly wage has increased between the year in which the injury occurred and the first day of the first month following the enactment of this section. Where such injury occurred prior to 1947, the Secretary shall determine, on the basis of such economic data as he deems relevant, the amount by which the employee's average weekly wage shall be increased for the pre-1947 period.

"(2) Fifty per centum of any additional compensation or death benefit paid as a result of the adjustment required by paragraphs (1) and (3) of this subsection shall be paid out of the special fund established under section 44 of this Act, and 50 per centum shall be paid from appropriations.

"(3) For the purposes of subsections (f) and (g) an injury which resulted in permanent total disability or death which occurred prior to the date of enactment of this subsection shall be considered to have occurred on the day following such enactment date."

TIME FOR NOTICE AND CLAIMS

SEC. 12. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after he employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"SEC. 13. (a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

FEE FOR SERVICES

SEC. 13. Section 28 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"FEES FOR SERVICES

"SEC. 28. (a) If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice of a claim for compensation having been filed from the deputy commissioner, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the deputy commissioner, Board, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

"(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner or Board shall set the matter for an informal conference and following such conference the deputy commissioner or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Secretary, as authorized in section 7(e) and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

"(c) In all cases fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Board or any court for review of any action, award, order, or decision, the Board or court may approve an attorney's fee for the work done before it by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the deputy commissioner, Board, or court shall fix in the award approving the fee, such lien and manner of payment.

"(d) In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act.

"(e) Any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the deputy commissioner, Board, or court or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

HEARING PROCEDURE

SEC. 14. Section 19(d) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(d) Notwithstanding any other provisions of this Act, any hearing held under this Act shall be conducted in accordance with the provisions of section 554 of title 5 of the United States Code. Any such hearing shall be conducted by a hearing examiner qualified under section 3105 of that title. All powers, duties, and responsibilities vested by this Act, on the date of enactment of the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, in the deputy commissioners with respect to such hearings shall be vested in such hearing examiners."

REVIEW BOARD

SEC. 15. (a) Section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(b) (1) There is hereby established a Benefits Review Board which shall be composed of three members appointed by the Secretary from among individuals who are especially qualified to serve on such Board. The Secretary shall designate one of the members of the Board to serve as chairman."

"(2) For the purpose of carrying out its functions under this Act, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(3) The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any part in interest from decisions with respect to claims of employees under this Act and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

"(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the hearing examiner for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

"(c) Any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the United States court of appeals for the circuit in which the injury occurred, by filing in such court within sixty days following the issuance of such Board order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court, to the Board, and to the other parties, and thereupon the Board shall file in the court the record in the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and shall have the power to give a decree affirming, modifying or setting aside, in whole or in part, the order of the Board and enforcing same to the extent that such order is affirmed or modified. The orders, writs, and processes of the court in such proceedings may run, be served, and be returnable anywhere in the United States. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the employer, and specifying the nature of the damage."

(b) Redesignate subsections (c) and (d) of such section as (d) and (e), respectively.

(c) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 21 as paragraph 22 and inserting after paragraph 20 the following new paragraph:

"(21) The term 'Board' shall mean the Benefits Review Board."

(d) Section 14(f) of such Act is amended by striking everything after the words "section 21" and adding in lieu thereof the following: "and an order staying payment has been issued by the Board or court."

(e) Sections 23 and 27 of such Act are each amended by adding "or Board" after every reference to "deputy commissioner".

(f) Section 33(b) of such Act is amended by adding the term "or Board" after the term "deputy commissioner".

(g) Section 33(e) (1) (A) of such Act is amended by adding the words "or Board" after the term "deputy commissioner".

(h) Section 33(g) of such Act is amended to read as follows:

"(g) If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this Act, the employer shall be liable for compensation as determined in subdivision (f) only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made."

(i) Section 35 of such Act is amended by adding the words "the Board, or" after the words "deputy commissioner".

(j) Section 40(f) of such Act is amended by adding the words "or Board member" after the words "deputy commissioner," whenever they occur.

APPEARANCE FOR SECRETARY OF LABOR

SEC. 16. Section 21a of the Act is amended to read as follows:

"SEC. 21a. Attorneys appointed by the Secretary shall represent the Secretary, the deputy commissioner, or the Board in any court proceedings under section 21 or other provisions of this Act except for proceedings in the Supreme Court of the United States."

CLAIMANT ASSISTANCE

SEC. 17. (a) Section 39(c) of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating subsection (c) as paragraph (2) of such subsection and by inserting after subsection (b) thereof the following paragraph:

"(c) (1) The Secretary shall, upon request, provide persons covered by this Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this Act with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available."

THIRD-PARTY LIABILITY

SEC. 18. (a) Section 5 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"EXCLUSIVENESS OF REMEDY AND THIRD-PARTY LIABILITY

"SEC. 5. (a) The liability of an employer prescribed in section 4 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this Act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the Act, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

"(b) In the event of injury to a person covered under this Act caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 33 of this Act, and the employer shall not be liable to the vessel for such damages directly or indirectly and any agreements or warranties to the contrary shall be void. If such person was employed by the vessel to provide stevedoring services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing stevedoring services to the vessel. If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel. The liability of the vessel under this subsection shall not be based upon the warranty of seaworthiness or a breach thereof at the time the injury occurred. The remedy provided in this subsection shall be exclusive of all other remedies against the vessel except remedies available under this Act."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 22 as paragraph 23 and inserting after paragraph 21 the following new paragraph:

"(22) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member."

PROHIBITION AGAINST CERTAIN DISCRIMINATION AGAINST EMPLOYEES

SEC. 19. The Longshoremen's and Harbor Workers' Compensation Act is further amended by redesignating sections 49, 50, and 51 as sections 50, 51, and 52, respectively, and by inserting immediately after section 48 the following new section:

"DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

"SEC. 49. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this Act. Any employer who violates this section shall be liable to a penalty of not less than $100 or more than $1,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 44, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void."

MISCELLANEOUS PROVISIONS

SEC. 20. (a) Section 8(i) of the Longshoremen's and Harbor Worker's Compensation Act is amended to read as follows:

"(i) (A) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, notwithstanding the provisions of section 15(b) and section 16 of this Act: Provided, That if the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subsection, to and for the benefit of the persons enumerated in subsection (d) of this section.

"(B) Whenever the Secretary determines that it is for the best interests of the injured employee entitled to medical benefits, he may approve agreed settlements of the interestetd parties, discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of this Act: Provided, That if the employee should die from causes other than the injury after the Secretary has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (d) of this section."

(b) Section 17 of such Act is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) Where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186(c)) established pursuant to a collective-bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, the Secretary may authorize a lien on such compensation in favor of the trust fund for the amount of such payments."

(c) (1) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act as amended by this Act is further amended by striking out subsections (16) and (17) and inserting in lieu thereof the following new section (16) and by redesignating subsections 2 (18), (19), (20), (21), (22), and (23) as 2 (17), (18), (19), (20), (21), and (22), respectively.

"(16) The terms 'widow or widower' includes only the decedent's wife or husband living with or dependent for support upon him or her at the time of his or her death; or living apart for justifiable cause or by reason of his or her desertion at such time."

(2) Section 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by this Act, is further amended by striking the phrase "surviving wife or dependent husband" each time it appears and inserting in lieu thereof the phrase "widow or widower".

(3) The amendments made by this subsection shall apply only with respect to deaths or injuries occurring after the enactment of this Act.

TECHNICAL AMENDMENT

SEC. 21. Section 3(a) (1) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out the word "nor" and inserting in lieu thereof the word "or".

EFFECTIVE DATE

SEC. 22. The amendments made by this Act shall become effective thirty days after the date of enactment of this Act.

The **SPEAKER**. Is a second demanded?

Mr. **ECKHARDT**. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **REUSS**. Mr. Speaker, will the gentleman yield to me?

Mr. **DANIELS** of New Jersey. I yield for a unanimous-consent request only.

Mr. **REUSS**. I thank the gentleman for yielding.

I take this time to ask the distinguished majority leader whether the four items he referred to right before the quorum call; namely, H.R. 15795 with respect to tanning materials, H.R. 15442 with respect to the importation of istle, H.R. 12991, shoe laces, H.R. 12775, oil ships—whether those items which are now to be handled under suspension will have as their order of recognition that they be considered after the 10 items already listed for suspension and before the four listed travel resolutions.

Mr. MILLS of Arkansas. Will the gentleman yield? I do not propose to call up any of these bills under suspension. The only bills that I will call up—and I want to call them up by unanimous consent—are bills that have to do with matters involving the continued suspension of duties on certain articles that come into the United States which are not produced in the United States, such as shoe laces, and I believe one of them is tanning acid and another, the copper one, we will not call up because Mr. RHODES and Mr. STEIGER both told me they had made a commitment to their constituents and would object to the further suspension of the duty on copper. The one Mr. BOGGS introduced having to do with repair of seagoing vessels——

Mr. BOGGS. Will the gentleman yield to me?

Mr. MILLS of Arkansas. I gave you the list.

Mr. BOGGS. Yes. But my understanding was that those bills would not be called up under unanimous consent but they were the ones to be called up under suspension.

Mr. MILLS of Arkansas. I am sorry. I did not mean to convey that impression.

Mr. BOGGS. That was the list that the clerk of the committee gave me.

Mr. MILLS of Arkansas. That is right. I will call them up by unanimous consent.

Mr. BOGGS. Those are the ones by unanimous consent.

Mr. MILLS of Arkansas. That is right.

Mr. BOGGS. Does that mean you want to call up the others by suspension?

Mr. MILLS of Arkansas. No. I am not going to because there is no real emergency about them.

Mr. DANIELS of New Jersey. Mr. Speaker, I decline to yield any further. I yield myself such time as I may consume.

Mr. Speaker, amendments to the Longshoremen's and Harbor Workers Compensation Act are long overue. The benefit structure of the Longshoremen's and Harbor Workers Compensation Act has not been improved by Congress since 1961, 12 long years ago. On September 14 of this year the other body passed a bill similar to the one we are considering here today, and therefore there is very little time remaining in this session to consider this bill.

I wish to point out that this bill has strong bipartisan support as well as the approval of almost all elements of labor and management involved in the maritime industry as well as the administration.

I inserted in the CONGRESSIONAL RECORD of October 10, 1972, the endorsements of the principal unions and organizations supporting this bill. It appears on pages H9440 to H9442.

This bill has the full support and endorsement of Harry Bridges, the president of the International Longshoremen and Warehousemen's Association, on the west coast, Thomas W. Gleason, president of the International Longshoremen's Association, AFL–CIO, which is the leading longshoremen's association on the east coast, as well as the building and construction trades department, the New York Shipping Association, the Greater Washington Central Labor Council AFL–CIO, and Andrew Biemiller, director of the Department of Legislation of the AFL–CIO, the national maritime compensation committee as well as John Hall, president of the Seafarers' International Union, AFL–CIO.

There is a great need for this legislation.

In 1961 the maximum benefit to an injured worker and his family under the act was set at $70 a week. Today the average longshoreman's or ship repairman's wage is over $200 a week in some ports. In order to provide adequate income replacement for disabled workers covered under this law, a substantial increase in benefits is needed.

Although employer groups indicated their willingness to increase worker benefits, they sought a modification of a long line of Supreme Court rulings whereby an injured worker can sue the shipowner for "unseaworthiness."

These decisions ruled that a shipowner was liable, under the doctrine of seaworthiness, for damages caused by any injury, regardless of fault. In addition, shipping companies generally have succeeded in recovering the damages to which they are held liable to injured longshoremen from the stevedore's employer on theories of express or implied warranty, thereby transferring their liability to the actual employer of the longshoremen.

Mr. Speaker, I would like to go into the major provisions of this bill.

A basic requirement of the act is for the injured worker to receive 66⅔ percent of his average weekly wage. As the result of the 12-year freeze, very few workers now actually receive this figure. The bill seeks to correct this deficiency. It provides that the maximum compensation for disability shall not exceed a percentage of the national average weekly wage to be determined by the Secretary of Labor.

With this change, about 90 percent of the work force covered by this act will receive two-thirds of their average weekly wage. In order to accomplish this, the bill provides a four-step sequence.

Specifically, subsection 5(b)(1) of H.R. 12006 states that compensation may not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary.

In the first step, 125 percent, or $167, whichever is higher, before September 30, 1973.

The second step is 150 percent, beginning October 1, 1973, and ending September 30, 1974.

The third step, 175 percent during the period beginning October 1, 1974, and ending September 30, 1975.

And the fourth step, 200 percent, beginning October 1975.

This bill also provides a number of other far-reaching improvements such as a requirement of an annual redetermination by the Secretary which will allow any increase in the national average weekly wage to be reflected by an appropriate increase in compensation under the act. Automatic adjustment of benefit levels on an annual basis in reflected increases in the cost of living. Improved medical service and rehabilitative assistance and hospitalization for injured workers.

It provides free choice of doctors by injured workers.

It provides payment of attorney's fees by employers in contested actions.

It eliminates the maximum of $24,000 on temporary total disability claims.

It provides increased benefits to widows and dependent children.

It increases funeral benefits from $400 to $1,000.

It provides increased benefits to survivors of workers killed as a result of job injuries.

It provides substantial upgrading of benefits to injured workers or survivors, presently receiving payments—now as low as $25 per week in some cases.

It expands the coverage which was limited to the ship in the present law, to the piers, wharves, and terminals.

It provides that minimum benefits would also be increased to not less than 50 percent of the national average weekly or the average weekly wage, whichever is less.

There is also new mechanism for the Secretary of Labor to provide assistance to workers so that they may obtain the maximum benefits due them under the act.

These provisions are regarded as essential to a modern workmen's compensation program by industry and labor experts in workmen's compensation.

With the exception of a few local unions, the strongest opposition to this bill comes from a group of attorneys engaged in the specialized practice of Admiralty law. I know of no opposition to it. And I will talk on that subject in a few minutes later.

I would like to state that given the vast improvement in the compensation benefits which this bill provides, it is now fair and reasonable to place an employee injured aboard a vessel in the same position he would be if he were injured in nonmaritime employment ashore, and to eliminate the special maritime doctrine of unseaworthiness.

Our bill amends the doctrine of the "Ryan case" which permits the vessel to recover the damages for which it is liable to an injured worker where it can show that the stevedore breaches an expressed or implied warranty of workmanlike performance. Under the proposed bill, the vessel may not by contractual agreement or otherwise require the employer to indemnify it, in whole or in part for damages.

We do not believe that the compensation payable to a longshoreman or harbor worker should depend on the fortuitous circumstance of whether the injury occurred on land or over water. Accordingly, section 2 of our bill amends the act to provide coverage of longshoremen, harbor workers, ship repairmen, shipbuilders, shipbreakers, and other employees engaged in maritime employment—excluding masters and members of the crew of a vessel—if the injury occurred either upon the navigable waters of the United States or any adjoining pier, wharf, drydock, terminal, buildingway, marine railway, or other area adjoining such navigable waters customarily used by an employer in loading, unloading, repairing, or building a vessel.

While this bill was pending in the House for this entire week, one of my colleagues, the gentleman from California (Mr. BURTON) inquired whether or not if this bill were to become law, it would apply to a longshoreman who was injured yesterday or a week ago or 6 months ago, and who may have or did institute an action.

I would like the record to establish the legislative history that it is the intention of the committee that any longshoreman who has sustained injuries or whose dependents have a cause of action by reason of his death against a shipowner which cause of action arose prior to the effective date of this act—that such cause of action survives the effective date of this act.

Congress demonstrated a deep concern for providing adequate workmen's compensation protection for injured American workers, when they amended the Federal Employees' Compensation Act of 1966.

Now, we take a reasonable approach in this bill. The objective of the Congress in the matter of workmen's compensation is clear, and it is to provide a modern workmen's compensation program for a substantial number of American workers and their families.

I believe that the bill H.R. 12006, as amended, accomplishes this result, and I urge the support of all of my colleagues in the House for this bill, because I am firmly convinced that it is a fair and reasonable step to take after 12 long years.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. DANIELS of New Jersey. I am happy to yield to the gentleman.

Mr. ECKHARDT. Will the distinguished gentleman from New Jersey inform this Member concerning the net difference in compensation or rather in the insurance payout that would result on the passage of this bill?

What I mean to say is—when one considers the total amount paid out in compensation to longshoremen plus the amount paid out in third-party suits—how would the present situation compare with that which would occur were this bill passed? I do not find that in the report.

The question I am asking might be amplified by this statement. The insurance persons who have contacted me, and who are supposed to know about how much it would cost, tell me that with respect to that portion of the act insuring the stevedoring companies, and available for longshoremen, their payout in the first year of the act would be decreased by 30 percent.

Mr. DANIELS of New Jersey. Let me say in response to the distinguished gentleman from Texas according to a statement of Francis A. Scanlon, a distinguished attorney representing the National Maritime Compensation Committee, who testified before our committee, stevedore companies in the Port of Philadelphia had a manual rate of $34.55 for each $100 of payroll in 1972. Considering the retrospective grading adjustment used by the insurance company, the actual rate is between $40 and $45 for each $100 of payroll in 1972.

In New York on July 1 the manual rate was $29.90 for each $100 of payroll, and the rate in Texas, the gentleman's State, as of 1972, was $23.93.

Mr. ECKHARDT. The gentleman has been saying that the rate would go down because insurance companies would have to pay out less money for injuries if this act is passed; is that correct?

Mr. DANIELS of New Jersey. No, I did not say that.

Mr. Speaker, I reserve the remainder of my time.

Mr. HALL. Mr. Speaker, will the gentleman yield for another type of question?

Mr. DANIELS of New Jersey. I yield to the gentleman from Missouri.

Mr. HALL. I will make it as brief as possible. I appreciate the Member's extremis. I think I could go along with it, barring the technical and legal aspects for which I am not trained for increasing the rate for longshoremen. What about the peculiar area under the old 1928 Compensation Act putting District construction workers under this benefit, which would double or triple in the occupation of construction workers the cost to the construction workers in trades working in the District of Columbia? It seems to me that is an area that needs discussion.

Mr. DANIELS of New Jersey. I might say to the distinguished gentleman that it has been historical for the District of Columbia to be under this act, and I believe, as is the opinion of the committee, that when the District of Columbia has home rule, they can provide for their own compensation act for the people here in the District of Columbia.

Mr. HALL. I think this may be important legislation as far as getting some of the longshoremen's "legal beagles" off of the bonanza and out of the picture, as the gentleman explained. I would hate to remove all construction pending the time that construction workers and the building trades are taken out from under this if it depends on when they have home rule in the District, the Federal City.

Mr. DANIELS of New Jersey. I anticipated that that question would arise by the gentleman, and I had a memorandum on that to respond to the gentleman's question. I just cannot find it among my notes at this moment. Perhaps I can locate it and if so will bring it to the gentleman's attention.

Mr. HALL. I hope the gentleman will make it available and at the proper time put it in the RECORD, because this is an area of real concern. As I say, otherwise I have no objection to it.

Mr. ECKHARDT. Mr. Speaker, Members of the House, the time is extremely short to explain a bill that drastically changes decisions that stem back in 100 years of admiralty law and which affects the rights of longshoremen established through Supreme Court decisions for at least a quarter of a century. Because the time is short I have prepared a brief paper here that runs about 2½ pages of explanation, which is at the back desk and which is at the Speaker's desk.

I shall attempt as well as I can under suspension of the rules to explain a deeply complex item that certainly this House should not be confronted with in this situation in which there is no more time to debate than is permitted here.

This matter is such a difficult question that it should be considered by and it should have been available to members of the Judiciary Committee and members of the Interstate and Foreign Commerce Committee and members of the Merchant Marine and Fisheries Committee to consider their aspects of the bill.

Indeed, the most important change is essentially a legal change, a judicial change: The provision for removing what is called the warranty of seaworthiness from the available bases of recovery for injured workers. For this the worker is traded an increase in compensation rates. The information I have received—though I have not been able to get final tallies on figures in the short time available, from the Insurance Alliance, which is an association including those insurance companies that primarily insure stevedoring companies and who are for the bill—is that if this bill were passed, their payments after the passage of the bill and in the first year would be decreased by 30 percent.

All right, what does that mean? That means that in the Port of New York, where the seaworthiness cases and negligence cases constituted a pay out of approximately $2 million in 1967 to persons desperately injured, that $2 million would not have to be paid out by the insurance companies that underwrite the stevedoring companies.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. Mr. Speaker, I have so little time I would like to complete my explanation and then I will yield.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield? As a member of the subcommittee that attended hearings I would like to ask the gentleman a question.

Mr. ECKHARDT. I am glad to yield to the gentleman.

Mr. WILLIAM D. FORD. Mr. Speaker, on what does the gentleman base the assertion that the third-party cases in New York would come to an end? The cause of accidents in New York would be the same in New York State as in any other State.

Mr. ECKHARDT. I will get to that. I will explain. It is not only in New York. I mention New York first because New York also has a guaranteed annual wage for longshoremen working for the stevedoring companies. For that reason, of course, the difference occasioned by higher compensation rates would be minimized. They in many instances continue to receive their regular wages while away from work on injury.

But now let me talk about the gulf coast, which is where I am from. I shall answer the gentleman's question in just a minute and I will answer it right now if the gentleman likes, but I shall have to explain the doctrine of seaworthiness.

The doctrine of seaworthiness does two things. The courts have determined that because the work at sea and in loading and unloading ships, as the Sieracki case calls it "the work of the ship service" is extremely hazardous work, that therefore the ship should guarantee its equipment and should guarantee that equipment used in its loading and unloading, and if such equipment fails it will result in a reimbursement for injury of the person using that equipment.

Now, the Sieracki case held that the traditional work of a seaman was also to load and unload ships.

At such time as the vessel began to employ an agent, the stevedoring company, to do that job, it nevertheless could not delegate its duty to maintain a safe place to work, so the seaworthiness doctrine includes two important factors:

One, the requirement that the vessel maintain a safe place for seamen and all persons doing the work of the ship's service to work; and two, the requirement that the ship take on that responsibility and not delegate it.

Now, if this bill is passed, you wipe out these decisions of a quarter of a century. You wipe out the nondelegable duty of the ship to protect the worker, and you permit the ship to simply leave the entire job to the stevedoring company; thereby, of course, limiting the remedy of the injured person to that afforded under the Longshoremen's and Harbor Worker's Act, which operates like ordinary workmen's compensation and operates on a percentage of the earnings of an individual rather than reimbursing him for his actual injury, and puts a lid on his recovery.

Mr. WILLIAM D. FORD. Will the gentleman yield for a question?

Mr. ECKHARDT. If I may finish one more point.

Mr. WILLIAM D. FORD. The gentleman certainly does not mean to suggest to this body that this legislation would deprive the worker of his third party claim for negligence against the shipowner or any other third party?

The gentleman is saying that it is being taken away, and that is not true.

Mr. ECKHARDT. I do assert that at least 95 percent of the area in which a longshoremen can now recover on a third party basis would be wiped out by this bill. That is the reason I say that this bill is so important.

I know that there will be debate on this point by those who do not fully understand what this nondelegable duty means. The nondelegable duty means that one cannot substitute the immediate employer of the longshoreman for the vessel. Therefore, most of the work performed by the longshoreman must fall under protection of a duty which is accepted by a third party, the vessel, as a matter of law.

As soon as you remove this doctrine, that third party area, not only involving the seaworthiness doctrine, but also the doctrine of negligence, is wiped out.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman yielding to me.

Let us go back and agree that under section 5 of the Act as presently constituted, there is an exclusive remedy.

Mr. ECKHARDT. That is correct.

Mr. STEIGER of Wisconsin. And the decisions of the courts over 25 years have eroded that exclusive remedy that the Congress——

Mr. ECKHARDT. I do not accept the word "eroded." I think they have enforced the duty of the vessel to protect those who are employed in the work of the ship's service.

Mr. STEIGER of Wisconsin. They have eroded the doctrine of exclusive remedy that was intended by the Congress when it enacted the Longshoremen's and Harbor Workers' Act.

Mr. ECKHARDT. I appreciate the gentleman's comment on that point but I do not agree with his conclusions.

Mr. STEIGER of Wisconsin. Will the gentleman yield further?

Mr. ECKHARDT. Will the gentleman get his time from the other party? I am sorry, I cannot yield further, because I will not be able to finish my statement.

Mr. STEIGER of Wisconsin. I must say, Mr. Speaker, if the gentleman will yield, that I hate to see us arguing the legal doctrines in this situation when the opposition is coming from the American Trial Lawyers and others.

Mr. ECKHARDT. I refuse to yield further on that point.

The SPEAKER. The gentleman from Texas has the floor.

Mr. ECKHARDT. Let me explain, in answer to the gentleman's question, that it is true that there are certain third party actions which would be retained, but those would be limited to a situation, for instance, where a power company's powerline fell on the deck of a ship and electrocuted a person; or a situation in which some workman for a contractor on the ship caused the injury of the workman on board the ship. But, the important thing is the elimination of the duty of the vessel itself to maintain safe premises, regardless of whom it seeks to job out those duties to.

What this bill does is abolish that. In our ports in the gulf—and my city of Houston and my district are in the heart of that area—there was approximately $2.6 million paid out in 1967 in these types of suits. That $2.6 million would be virtually wiped out. That means a lot of people who would otherwise be given relief will be caused to suffer because they cannot receive relief as the result of such third party actions.

Mr. DANIELS of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I am glad to yield to the distinguished subcommittee chairman.

Mr. DANIELS of New Jersey. Based on the amount of money paid out under compensation to the employees, can the gentleman tell this House what the total sum of judgments is in third-party suits throughout the country, as well as the amount of settlements they receive year after year?

Mr. ECKHARDT. These are the actual total sum recoveries plus settlements in the areas I have described.

Now, the total amount which is paid out in the seaworthiness cases and negligence cases, the third-party cases, as compared with the compensation cases, is just at one-third of the total pay-out.

I believe the figures I have received more or less tally. If we strike out something like 95 percent of the third-party cases comprising that one-third—that would reduce the total pay-out of insurance companies to injured workers by about 30 percent, as the insurance alliance informed me.

That is the harm of this bill. Should we treat this bill on suspension, when I have 20 minutes to argue the complicated questions related to the doctrine of seaworthiness, and additionally discuss and balance the very salubrious provisions of the bill concerning compensation against abolishing this avenue of relief?

I have not even touched on the point yet that the bill now covers not only 100,000 longshoremen but 700,000 other employees, and the longshoremen are trading their advantage under the seaworthiness clause for the advantage in increased compensation of others who are not giving up anything.

Should these bills be linked? Should we not be permitted to amend the legislation? Should we not consider this legislation with more deliberation and under circumstances in which compromises may be arrived at?

Mr. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. BURTON. I want to rise in support of the legislation, and insert in the Record at this point statements in support of this legislation by the ILWU and the AFL–CIO:

Telegram

Hon. Phil Burton,
House of Representatives,
Washington, D.C.

ILWU International offices and coast committee give full support to the recently passed Senate bill amending Longshore Harbor Workers Compensation Act. We urge your full support in House of Representatives.

Harry Bridges,
President.

American Federation of Labor and Congress of Industrial Organizations,
Washington, D.C., September 28, 1972.

Hon. Phillip Burton,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Burton: On Monday, October 2, the House of Representatives will vote on H.R. 12006, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act. The AFL–CIO urges that you support this bill. It has the support of the International Longshoremen's Association and all other AFL–CIO affiliates where membership is covered by the bill.

The companion bill, S. 2318, has already passed the Senate and if the House acts favorably on Monday, long overdue improvements in the workmen's compensation benefit structure for approximately 800,000 workers can become a reality. The basic legislation, the Longshoremen's and Harbor Worker's Compensation Act, was last amended in 1961. It covers longshoremen and harbor workers, ship repairmen, workers in private industry in the District of Columbia, workers employed in nonappropriate fund instrumentalities (P. X. etc.), American workers employed on defense bases overseas—who are primarily building and construction trades workers—and workers employed on the outer continental shelf.

After 12 years without amendment, the Longshoremen's Act has become outdated. The amendments, proposed in H.R. 12006, are consistent with recommendations of the National Commission On State Workmen's Compensation Laws, and upon enactment would restore this federal workmen's compensation program to its former place of prominence in the field of workmen's compensation.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

Mr. BURTON. There is one point I should like to have confirmed by the manager of the bill on the other side, which is the point raised by the gentleman from New Jersey (Mr. DANIELS).

Mr. ECKHARDT. I understand the gentleman from New Jersey (Mr. DANIELS) has 2 more minutes. My time is extremely limited.

Mr. BURTON. I am sure my dear friend would realize the wisdom of this question if I have an opportunity to propound it.

Does the gentleman from Minnesota (Mr. QUIE) concur in the judgment of the bill managers and of the subcommittee chairman (Mr. DANIELS) that any cause of action arising prior to the date of enactment of this legislation would be in no way aborted, frustrated, or reduced in any manner, shape or form?

There are no existing remedies available to an injured longshoreman as of this date that would be affected or diminished for any cause of action arising prior to the effective date of this act. Any effort made through motions to dismiss actions in the Federal courts would be unavailing if this clear intention of the Congress is followed.

Mr. ECKHARDT. Mr. Speaker, I do not yield further.

Mr. QUIE. The answer to the gentleman's answer is "yes."

Mr. ECKHARDT. I do not yield further at this time.

I will state, in answer to the gentleman, that of course this bill is not retroactive.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. ECKHARDT. Mr. Speaker, I yield to the gentleman.

Mr. YATES. May I ask the gentleman, what will be the effect of releasing the vessels from liability? Will there be adequate coverage for the longshoremen under the provisions of this bill through the insurance of the stevedoring company?

Mr. ECKHARDT. Well, Mr. Speaker, there will be 30 percent less coverage, and I do not believe that to be adequate.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York, Mr. BINGHAM.

Mr. BINGHAM. Mr. Speaker, I have in my hand a mailgram from two international vice presidents of the ILA stating that if the doctrine of seaworthiness is not to be eliminated from this bill, if that section is not to be eliminated, then they ask for a vote against it.

I also have a telegram of the same date from Mr. Gleason, the president of ILA asking for support of the bill.

May I ask the gentleman, will he enlighten me on that?

Mr. ECKHARDT. Mr. Speaker, I think I can enlighten the gentleman.

I have had the same experience. I have had telegrams from Houston local officials against the bill, from Galveston local officials to the same effect. Both are big locals down there.

In New Orleans, there has been some rocking back and forth, as the distinguished majority leader could verify. Mobile locals are against it; Philadelphia locals are against it; certain San Francisco union leaders are against it; many Washington State local officials are against it; and we have expressions in writing of some 3,500 individuals in ILA against it.

Mr. Speaker, I would say the reason for that is that the membership is simply not behind the leadership, because they know more about the value of these suits than the leadership does.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, may I ask the gentleman, is it not true that for many, many years that with the American Merchant Marine, in the loading and unloading of ships, practically all American bottoms, the shipowners tried time after time to remove the seaworthiness doctrine?

Mr. ECKHARDT. That has been true for approximately a quarter of a century.

Mr. DENT. Is it not true that about 95 percent of all the ships which would be relieved by this act today are foreign-flag ships?

Mr. ECKHARDT. Ninety-five percent are foreign-flag ships in our ports.

Mr. DENT. Is it not true that when a ship unloads, a ship that is containerized comes into port and loads or unloads goods in this country, that ship may only be in port as long as 3, or 4, or 5, or sometimes 15 hours, but seldom more than a day, because that is the essence of the containerization shipping practice: speed and hurry?

Mr. Speaker, may I also ask, is it not true that a negligence case, to be proven against that ship which leaves port would be very difficult, because the ship would have left port long before the extent of the injury has been determined, and perhaps long before it is determined whether the injury will be fatal, and that under no circumstances on the face of the earth can we bring that ship back to that port if it had something wrong with its boom or something wrong with its loading and unloading mechanism, and that may be true even before it got back to its own port?

Mr. ECKHARDT. Mr. Speaker, I agree with the gentleman.

Mr. DENT. Mr. Speaker, is it not true that there is a great deal of difference between conditions of employment under which a man has to work and the conditions which you find that are in his own hands or under his control, that in this situation they are only under the control of the owner of the ship?

When we are talking about third-party cases in automobile accidents and things of that nature, we are not talking about places of employment, because you are there in that place in your own car when the wreck comes about; you are there because you want to be there on your own, and you are not at your place of employment.

We have to put it under the doctrine of compensation.

Mr. Speaker, since the early days of the common law, we have wiped that out in every State of the Union, and we have to prove negligence, and in this instance you never could prove negligence, and now we are not going to be able to pay the widow anything, give her any help at all, because any lawyer that takes a case under those circumstances would have to be dumber than I am about the law, and I will concede that I am pretty dumb when it comes to law.

Mr. ECKHARDT. Mr. Speaker, I do not think the gentleman is at all dumb. I think he has hit the nail on the head.

One of the leading cases on the subject, is one where a man was injured in the hold of a ship because chocks were not properly placed under rolls of cardboard. There was no way that man going in the hold could know that some stevedoring company, say, in Brazil had put dunnage instead of chocks down to hold two heavy rolls of cardboard.

Mr. Speaker, neither the longshoreman nor the stevedoring company can control the workers environment; in that instance he ought to have a cause of action against the vessel.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. ASHLEY. I thank the gentleman for yielding.

It seems to me, Mr. Speaker, in the short time that the gentleman has to present the bill it is clear to all of us that he has raised some very complex questions that this House should have an opportunity to study before being asked to vote upon it.

I think that the procedure that this measure is being considered under today is absolutely wrong, to give this gentleman only 20 minutes to present his side of the issue. It is unfair, not only to us but to the millions of people involved.

Mr. Speaker, it is altogether impossible to discuss intelligently in the time that we have the very substantive issues with respect to the scuttling of the doctrine of seaworthiness and the issues that the gentleman from Texas (Mr. ECKHARDT) has raised.

Mr. Speaker, I certainly support the gentleman and urge that this measure be voted down.

The SPEAKER. The time of the gentleman has expired.

The gentleman from New Jersey (Mr. DANIELS) has 3 minutes remaining.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. DANIELS of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. QUIE.)

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. STEIGER of Wisconsin. Mr. Speaker, I rise in support of this much-needed improvement in the Longshore Compensation Act.

Because the time is so short my extension will include a series of questions and answers which discuss the most substantive issues included in this bill.

Quite frankly, Mr. Speaker, the opposition to this bill from a small group of attorneys is disturbing. There are some who apparently are more interested in clogging port city courts than in effectively updating the inadequate benefits now available.

I hope the House will reject the opposition to the bill so that this bill will soon be on the President's desk.

I urge its passage.

The questions and answers follow:

QUESTIONS AND ANSWERS

Q. The present law covers employees working on navigable waters. Do the amendments change the scope of coverage?

A. Yes. The present law's coverage is limited to employees working on navigable waters, including those working on dry docks. The amenedments will extend coverage to wharfs, terminals, marine railways and other adjoining areas customarily used in building, repairing, loading, or unloading vessels. Also, the definition of "employee" is clarified by the amendments.

The latter change was made so that a determination of coverage can be made on the basis of the definition of "employee." Under the present law that definition is so vague that the determination must be made on the basis of whether the injured individual was working for a covered "employer." The expansion of coverage is intended to bring about a measure of compensation uniformity applicable to persons customarily considered to be working in the business. Thus, even if an employee does not happen to be over navigable waters at the time he is injured, he will be covered as long as he is working as a longshoreman or harborworker, whether engaged in repairing a vessel or unloading it.

Q. Are adjustments the same for persons injured prior to enactment?

A. They too will get adjustments, but the mechanism is slightly different. If a person injured prior to enactment of the amendments was awarded the maximum benefit allowed under law at the time or injury, the Secretary, upon enactment, will consider his weekly wage to be the national average weekly wage, and will compute his benefits accordingly, treating him as though he had been injured just after enactment. Each year thereafter, his compensation will be adjusted in proportion to any increase in the national average weekly wage, just as employees injured subsequent to these amendments.

If a person injured prior to enactment is receiving less than the maximum allowable benefit at the time of injury or death, then the Secretary will look first to see the date of his injury. If it occurred after 1946, the weekly wage which he was earning at the time of injury and upon which his benefits were based, will be considered to be raised in proportion to the increase that took place in the national average weekly wage since the time of injury. His benefits will then be recomputed on the basis of this new higher amount. He will also be entitled to annual increases if the national average weekly wage goes up.

If his injury occurred prior to 1947, the same kind of adjustment will be made. However, since BLS data on national average weekly wage is available only for the years after 1946, the amendments require that the Secretary use whatever economic data he deems relevant in order to determine what the appropriate adjustment for the pre-1947 period should be.

Q. Will this bill change the benefits available under the Act, and, if so, how?

A. The Longshore Act now prescribes maximums and minimums for weekly compensation. A disabled employee may receive no more than $70 per week and, unless his average weekly wage was less than $18, his weekly compensation for total disability may not be less than $18. The bill raises both the maximum and the minimum. The maximum is raised over a three-year period by a sliding percentage scale, so that by October 1975, it is 200 percent of the national average weekly wage. The minimum is raised to not less than 50 percent of the national average weekly wage unless his own wage is less than 50% of the national average. In that case he must receive his own average weekly wage. Finally, under the present law, there is a total compensation maximum of $24,000 applicable in all cases save those involving, permanent total disability or death. The amendments eliminate this maximum.

Q. How does this bill deal with the problem of circular liability suits and how does it affect the existing remedy of unseaworthiness to which longshoremen are now entitled under the law?

A. This question goes to one of the most difficult and controversial subjects with which this bill deals. By way of background, I would say that section 5 of the Longshore Act now provides that the liability of the stevedore to pay compensation shall be exclusive and in place of all other liability. However, under law made by the courts in the last twenty-five years this doctrine of exclusivity has been eroded. Vessels have been held to be liable as third parties for injuries suffered by longshoremen as a result of unseaworthy conditions, even though the unseaworthiness was caused, created, or brought into play by the stevedore or an employee of the stevedore rather than the vessel or any member of its crew. Furthermore, the vessel may recover the damages for which it is liable to the injured longshoremen from the stevedore which employed the longshoreman on the theory that the stevedore has breached an express or implied warranty of workmanlike performance to the vessel. The end result is that despite the provision in the Act which limits an employer's liability to the compensation and medical benefits provided in the Act a stevedore employer is indirectly liable for damages to an injured longshoreman who utilizes the technique of suing the vessel under the unseaworthiness doctrine.

These circular liability suits have been a very controversial aspect of the present law and the committee noted that the controversy surrounding them has had the impact of forestalling any improvement in the present Act for over twelve years. The bill before us today deals with this problem in a sound and responsible way. The committee report on this bill explains in some detail the present state of the law and how this bill would correct what is obviously a most unsatisfactory situation.

I commend to the attention of the House the provisions of the report which deal with these matters, as they describe in considerable detail how the existing law would be changed. That explanation reflects my understanding of what the bill would do. However, I would just note, by way of summary, that the bill would allow a negligence action against the vessel as a third party in the event of injury to a person covered under the Act which is caused by the negligence of the vessel. However, it expressly precludes any action based upon the warranty of seaworthiness. It would end any circularity by providing that the employer shall not be liable to the vessel for any such damages, directly or indirectly, and any agreements or warranties to the contrary shall be void.

Q. How does this bill extend the coverage of the Longshore Act to shoreside areas?

A. The present Act applies only with respect to injuries or deaths which occur upon the navigable waters of the United States. Injuries occurring on land are covered by State workmen's compensation laws. Thus, there is now a disparity in benefits payable for death or disability for the same type of injury depending on which side of the water's edge and in which State the accident occurs.

This bill is designed to correct that disparity. It would extend coverage to injuries or deaths sustained on any adjoining pier, wharf, drydock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in unloading or loading, repairing, or building a vessel. It would cover any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker, including a ship repairman, shipbuilder and shipbreaker. However, it would not include a master or member of a crew or any person engaged by the master to load, unload or repair any small vessel under 18 tons net.

Q. Why is there a difference in the adjustment formula based on whether an individual injured prior to enactment of the amendments was awarded the maximum allowable benefits under the Act?

A. Where a person was awarded the maximum allowable benefit under the Act, it seems just and equitable to substitute the national average weekly wage for his actual wage for the purpose of computing benefits. Some of those awarded the maximum benefit may have had an actual wage higher than the national average and some may have had an actual wage lower than the national average, but the national average provides an overall fair measure. However, if the injured individual was awarded less than the maximum benefit allowable at the time of injury, his actual wages at that time were most likely less than the national average. Since the Act's primary principle is to compensate for disability according to wages being earned at the time of injury, those awarded less than the maximum benefits would receive an unfair windfall if their benefits after enactment of the amendments were keyed to the national average weekly wage. At the same time, it seemed equitable to provide such a person with an increase in benefits which is proportionate to the increase that has taken place in wage levels generally since the time of his injury.

It is my understanding that the primary impact of this lower alternate adjustment formula will occur in the District of Columbia. As you know, the Longshore Act is the workman's compensation statute applicable to private employment in the District. The District has a larger segment of its employees who were awarded less than maximum benefits than in the maritime industries subject to the Longshore Act.

Q. What are some of the administrative changes which this bill would make in the longshore program?

A. The bill would make a number of changes designed to improve the effectiveness of the program. I will mention a few of these. First, the bill would amend the Act to make clear that all hearings under the Act are to be conducted in conformity with the Administrative Procedure Act and that they will be conducted by hearing examiners who are qualified under that Act. Secondly, the bill would establish an administrative Benefits Review Board to review decisions with respect to claims raising substantial questions of fact or law.

Q. What standard of review will the Board use?

A. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence on the record considered as a whole.

Q. Will the Board's decisions be reviewable in the courts?

A. Yes, They will be reviewable in the Court of Appeals.

It should be noted that under the present law, review of decisions by deputy commissioners is through injunction proceedings in the District Courts.

A second change which this bill would make would be to provide for a new procedure to obtain impartial medical evaluations in contested cases.

Q. *How would this new procedure work?*

A. Either party might request an examination by a physician employed or selected by the Secretary, and following that either party, if dissatisfied with the results of this examination, may request a further examination by one or more physicians employed or selected by the Secretary.

Another change provided in this bill would require the Secretary, upon request, to provide persons covered by the Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining this compensation, including assistance in processing a claim. The Secretary would have discretion to provide persons covered by the Act with legal assistance in processing these claims, if requested to do so. The Secretary is required to provide employees receiving compensation information on medical, manpower and vocational rehabilitation services, and to assist these employees in obtaining the best services available.

The bill also gives injured employees freedom to choose their own physicians from among those designated as authorized physicians by the Secretary. Under present law the employee is limited to a panel of physicians chosen by the employer and approved by the Secretary.

The bill also provides for a number of other administrative changes in the existing law.

Q. *Will this bill change the benefits available under this Act, and, if so, how?*

A. There are three parts to the benefit structure of the present law, and the bill affects two of these. The first aspect is that under present law, compensation is based on the injured individual's average weekly wage. Generally, he gets as compensation for his injury ⅔ of his average weekly wage at the time of injury. This basic formula is retained by the amendments. Second, the law prescribes maximums and minimums for weekly compensation. A disabled employee may receive no more than $70 per week and, unless his avearge weekly wage was less than $18, his weekly compensation for total disability may be not less than $18. The bill raises both the maximum and the minimum. The maximum is raised over a three-year period by a sliding percentage scale, so that by October 1975, it is 200 percent of the average nonagricultural weekly wage. The minimum is raised to not less than 50 percent of the national average weekly wage unless the totally disabled individual's average weekly wage at the time of his injury, as adjusted to reflect the subsequent percentage increase in the national average wage, is less than 50% of the national average. In such a case, the individual will receive his adjusted average weekly wage. Finally, under the present law, there is a total compensation maximum, applicable in all cases save those involving permanent total disability or death, of $24,000. The amendments eliminate this maximum.

Q. *Do the amendments change the death benefits?*

A. Yes. Under present law, the maximum allowed for funeral expenses is $400. The bill raises this maximum to $1000. Also, a surviving wife or dependent husband is now entitled to compensatory payments equaling 35 percent of the deceased's average wage, and 15 percent of the deceased's average wage for each dependent child. The percentage for the surviving spouse is raised by the bill to 50 percent and the percentage for each dependent child is raised to 16⅔ percent. The Act's present total compensation maximum of 66⅔ percent of the deceased's average wage is retained, but the bill provides that the average weekly wages of the deceased will be considered to be not less than the national average weekly wage unless his average weekly wage, as adjusted to reflect the subsequent percentage increase in the national average wage is less than the national average. In such a case, the death benefits will be based on the adjusted average weekly wage of the deceased.

Q. *Even with the rate of inflation slowed down, we all expect costs to continue to rise somewhat. The benefit level seems adequate for today's situation, but what about the future?*

A. The amendments include an adjustment feature to cover such contingencies. The adjustment is keyed to wage increases in the nonagricultural sector. It works in this way. Each year the Secretary of Labor will compute the percentage increase of the national nonagricultural average weekly wage over that of the previous year. If there has been no increase, benefits remain unchanged. If there has been an increase, benefit levels will be raised in proportion to the increase.

Q. *How will the initial adjustments for persons injured prior to the enactment of the amendments be financed? Benefits for post enactment injuries can be covered by insurance, but insurance cannot be retroactive.*

A. The "special fund" now provided for in the Act serves primarily as a "second injury fund." The fund is now financed by death benefit payments where there is no survivor and by fines and penalties levied under the Act. The proposed amendments would strengthen the financing of the fund by providing for assessments against carriers and self-insured employers.

The amendments provide that 50 percent of the cost of the initial and annual adjustments made in the benefits of persons injured prior to enactment of the bill will be paid from the "second injury fund." Thus these costs will be borne by the covered industries as a whole. The fund will be beefed up by an immediate interest-free Government loan which must be paid back within 5 years from the fund on a schedule arranged by the Secretary of Labor. The other 50 percent of the adjustment costs will be funded directly by the Government through appropriations.

COSTS

Q. *What are the costs?*

A. The only costs to the Federal Government for increasing benefits under the Longshoremen's bill will be 50% of the increase in benefits for those persons who have been declared permanently disabled, or are widows or survivors of such persons, prior to enactment of this bill. There are only an estimated two thousand persons in this category (1,500 under the current Longshore provisions and 480 in D.C.). Private industry will pay 50% of the cost of the increases for these persons, and the Federal Government will pay the other half. Those costs are estimated to be as follows:

[In millions of dollars]

1973	1.16
1974	1.74
1975	1.86
1976	1.95
1977	2.05

Maximum rate=⅔ of current average weekly wage, or $93. Federal share is 50% of that, or $47.

The only other additional cost to the Government would be that incurred in administering the provisions of the bill. Since there is an existing staff structure the increased administrative costs would be minimal. The Department of Labor has not been able to give a firm estimate of the additional administrative cost, because of the many variables involved, but indicate somewhere around $2.8 million additional will be needed. Current administrative costs are $1.4 million, which would mean a total of $4.27 million upon enactment for administration.

The point should be made that persons injured after the effective date of this act *will not* be compensated with Federal funds. Their benefits will be paid for by employers through compensation insurance.

DISTRICT OF COLUMBIA EMPLOYEE COVERAGE

Q. *What is the impact of this bill on the District of Columbia?*

A. District of Columbia employees have been covered under the Longshoremen's and Harbor Worker's Compensation Act since 1928. At the time this was done as a matter of convenience, but the Longshoremen's Act has become a sort of catch-all for Federal compensation coverage for other special areas. For example, the bill also covers compensation in overseas defense facilities and off-shore oil drilling rigs on the Continental Shelf.

Because the District of Columbia has no home rule, it is the responsibility of Congress to enact compensation laws. Because of the historic development it is felt that the District of Columbia coverage should be continued under the Longshoremen's Compensation Act. The point could also be made, concerning the cost of benefits, that it would be more expensive to transfer District of Columbia employees to the Federal Employees Compensation Act (FECA). The following comparison makes this point clearly:

WEEKLY BENEFITS

Benefit level: Minimum
Longshoremen's

50% of the National average weekly wage (50% of $140=$70).

FECA

70% of the first step of a GS-2 rate ($70.63).

Benefit level: Maximum
Longshoremen's

$167 (upon enactment) to increase to $280 by 1975.

FECA

75% of the top step of a GS-12 rate ($454.66).

Mr. QUIE. Mr. Speaker, as we are about ready to vote now, I think we should again bear in mind an agreement was reached between the employers and the employees' union, the people who are responsible to represent the men who work as longshoremen.

The question also before here is what happens to compensation. We ought to increase the compensation under the Longshoremen's Act. They cannot go to a State in order to have their compensation increased. We are the ones that have to do that. They are way below the Federal Employees Compensation Act, for example, and the same thing is true with respect to the District of Columbia employees. Also it would not be fair to the companies if we raise those presently drawing benefits by just increasing the cost to the companies, so there we provide that the Federal Government shall pay 50 percent of the cost.

We all agree with this. The only thing left, really, on which there is a big argument is on the doctrine of seaworthiness. That doctrine is retained for the seamen.

That is what the gentleman from New Jersey pointed out.

Seamen have a different situation. They are under a situation of obedience, because they are on a vessel for long periods of time, and the vessel has to have complete liability for everything they do. However, the longshoremen, who both work on the dock and on the ships, should not be covered the same way as the seamen.

It appeared so to us and, therefore, we dropped the doctrine of liability for those individuals who work for the stevedoring companies. The shipowner is still liable for any negligence that may be brought against him. So longshoremen are protected in that regard as well. Other than that they are treated as though they were on the docks.

It seems to me, with this problem having faced us so long, this committee came out with an equitable solution that we should go with, and we should not make these individuals who might be injured in the time that we are waiting for another Congress to meet again to be denied the kind of compensation that a person ought to have in this day and age.

I would also like to confirm my reply of few minutes ago to the gentlemen from California (Mr. BURTON) that this bill will not change any rights acquired prior to enactment. This bill will not have any retroactive effect.

Mr. DANIELS of New Jersey. Mr. Speaker, I take this time to point out, with the exception of a few small union locals, the strongest opposition to this bill comes from a certain group of lawyers who specialize in third-party actions. Some of these lawyers have been crawling all over Capitol Hill this past week going from one congressional office to another lobbying against this bill and disseminating false information as to the benefits that will be up-dated and also stating that the longshoremen third-party suits would be abolished. As you know this is absolutely untrue.

I question the motives of these attorneys, and I do so advisedly. I would like to mention to the membership of this House that I, too, am an attorney and have been admitted to the bar in the State of New Jersey more than 40 years ago. I am most familiar with the compensation practices not only in the State of New Jersey but also with the Federal practice. I have a very high regard and respect for the legal profession and its members.

I want to point out, also, I have a great deal of respect and regard for the gentleman from Texas who opposes this bill.

Mr. ECKHARDT. Will the gentleman yield briefly?

Mr. DANIELS of New Jersey. The issue here, Mr. Speaker, is very, very plain and simple: It is whether the Members of this House are desirous of upgrading and improving the benefits of this act for 800,000 longshoremen and their widows and dependent children or helping a small group of lawyers who specialize in third-party suits.

Mrs. HICKS of Massachusetts. Mr. Speaker, I rise in support of H.R. 12006, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act. The revision of the Longshoremen's and Harbor Workers' Compensation Act is urgent and long overdue. The last updating of benefits for longshoremen took place in 1961.

Longshoremen and harbor workers are vitally dependent upon the Longshoremen's and Harbor Workers' Compensation Act for protection against the hardships resulting from industrial injury. There has been for many years a great need for an increase and liberalization of the benefits under the act. Longshoring ranks second only to coal mining as the most hazardous occupation in our Nation and the rate of occupational injuries continues to remain far above the national average.

Longshoremen enter a new and relatively uncontrolled workplace with each ship that ties up to a pier. Cargo loaded elsewhere may be poorly stowed, temporary decks may be overloaded, machinery may not be tied in place, there may be rats and many unforeseen dangers beyond the control of the workers. These are some of the factors that contribute to the high accident rate and mean that every longshoreman stands a good chance of needing the benefits and protection of the act. They are not receiving today that protection.

Longshoremen and their families, who must depend on the Longshoremen's and Harbor Worker's Compensation Act in the event of occupational injury, are being seriously shortchanged by the ceiling set 11 years ago at a maximum weekly benefit of $70. It can change a relatively minor injury into a financial tragedy.

The Longshore Act has served as the compensation program for 98 percent of the longshore injuries reported by the Department of Labor and it should be modernized now to meet the work injury needs of all covered workers and their families.

I have always been and am a great advocate for third-party suits by longshoremen against the ship or shipowners for damages under the "seaworthiness doctrine." Even though testimony before our subcommittee revealed that in recent years third party suits filed in the U.S. courts represent only 2 percent of longshoremen injuries reported under the act.

Because H.R. 12006 does provide direct action against vessels as third parties in suits for claimed negligence; because it increases the maximum weekly benefits in the first year to $167 from $70; because it provides for free choice by doctors by the employees; because it provides for the payment of attorney's fee to be paid by the employer in contested cases; because it eliminates the maximum of $24,000 in temporary total disability claims; and because it extends coverage which was limited to the ship in the old bill—to the piers, wharves, and terminals, I urge my colleagues to support this bill to insure that injured longshoremen and harbor workers and their families will no longer have to face financial disaster resulting from occupational injury in this extremely hazardous industry. It is most necessary to improve and restore the Longshore Act to its former place of prominence in the field of workmen's compensation.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in opposition to the bill H.R. 12006, which is titled the "Longshoremen's and Harbor Workers Compensation Act Amendment of 1971."

I oppose this proposed legislation, because the economic consequences which would result from its enactment would be devastating to many employers, especially those in the construction industry in the District of Columbia.

In the construction business, the workmen's compensation premiums are based upon $100 of payroll, and are determined through various codes. For steel erection, the codes provide percentages ranging from 6 to 25 percent. Thus, the premiums range from $6 to $25 per $100 of payroll. When such benefits are doubled, the effective rates will be doubled also.

On many construction projects, at least 50 percent of cost is direct field labor. Using a figure of $1 million as a project cost as an example, a field labor workmen's compensation premium rate of 15 percent involves a cost of $150,000; and a doubling of benefits in this case will raise this cost to $300,000.

In the District of Columbia, there are many construction projects presently running some 1½ to 2 years into the future, on which contracts have been let. The companies involved computed their workmen's compensation costs in their original bids, of course, and now any increased cost in this area will have to be borne by the individual companies as far as these contracts are concerned. This will involve very heavy losses in some cases.

Inasmuch as the effective date of the provisions of this proposed legislation is 30 days after the date of enactment, this short period of time will create an impossible hardship upon these individual companies, as a result of which some of the smaller construction companies in the District will be facing financial ruin.

For this reason, this legislation would have to be altered substantially as far as its effect upon the District of Columbia Workmen's Compensation Act is concerned, in order to ease the impact of its provisions upon the construction industry in the city. More reasonable limits must be placed on some of the increased benefits, and above all an effective date would have to be provided which would permit a reasonable and workable period of adjustment for all parties.

In its present form, therefore, I oppose this bill as it would create unbearable hardship and financial disaster for some of the companies in the District of Columbia.

Mrs. MINK. Mr. Speaker, I rise in support of H.R. 12006, legislation to amend the Longshoremen's and Harbor Workers' Compensation Act.

The need for updating of the act has long been recognized by all parties concerned. Both workers and management have a strong interest in improving the act so that it will better accomplish its intended purposes. It has not been amended since 1961, when the maximum benefit for a worker was set at $70 a week. With wages now averaging more than $200 a week in some ports, it is time to increase benefits and make other improvements in keeping with current needs.

Adequate workmen's compensation benefits are essential not only for meeting the needs of injured employees, but by assuring that the employer bears the cost of the unsafe conditions, serving to strengthen the employer's incentive to provide the fullest measure of on-the-job safety.

One of the provisions most difficult to resolve has concerned the seaworthiness doctrine under which the shipowner is liable for any injury regardless of fault. At present, shipping companies are generally successful in recovering the damages for which they are held liable to injured longshoremen from the stevedore's employer on theories of express or implied warranty, thereby transferring their liability to the actual employer of the longshoreman. This circuitous method of compensation, however, not only fails to pinpoint safety incentive, but involves excessive legal work and fees. H.R. 12006 provides that the vessel shall be liable for damages as a third party in cases where the worker is injured through the fault of the vessel, just as is the case of land-based nonmaritime industries.

Under the bill, benefits are raised to an expected two-thirds of the average weekly wage for most workers. This added protection for the worker and his family is a primary reason for the adoption of this bill, in addition to further improvements in survivor benefits, and the benefit structure.

In view of the broad support for this measure in the industry and within the House Committee on Education and Labor, I ask its approval by my colleagues.

Mr. ESCH. Mr. Speaker, this brief comment is to indicate my support for the pending bill. When consideration of proposals to amend the Longshoremen's Act began earlier in the Congress, many of us felt that agreement on an acceptable bill would be difficult, if not impossible. However, as the subcommittee gave the matter its sustained attention, progress was made.

All of us, on both sides of the aisle, agreed that benefit levels had to be increased from the present law levels established more than 10 years ago. All of us also agreed that something had to be done to eliminate, or at the very least, diminish the inequities arising out of the third-party suits permitted under the existing law.

Happily, the members of the subcommittee were reasonable and willing to compromise even where the compromise did not fully satisfy them. And then, it became apparent that there was wide agreement among virtually all of the parties in interest on the bill now before us. The employing shipowners, the stevedoring firms, the unions involved, the Department of Labor speaking for the administration, and members of the Labor Committees in both Chambers hammered out the pending measure.

I think it is fair to all who are most vitally and materially concerned. It corrects longstanding inadequacies and inequities. In fact, it is so good a bill that it might well serve in many respects as a model for other public agencies that deal with workmen's compensation. I strongly urge my colleagues to vote for the bill which is identical with the Senate bill, which was unanimously reported favorably by our full committee, and which is not accompanied by any minority report. I hope the measure will not only pass in the Congress, but that it will be signed by the President, and be on the statute books within a very short time.

Mr. ASHLEY Mr. Speaker, I fear that as we hasten toward adjournment, we may not be doing full justice to some of the legislation before us and I am afraid that this is the case with H.R. 12006, the proposed Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972.

There is no question than an increase in the benefits of the Longshoremen's and Harbor Workers' Act is long overdue. Moreover, the extension of those benefits to employees of the stevedore who are injured dockside is certainly warranted. To do so, however, at the expense of the workmen's right to a full damage remedy upon a breach by the vessel owner of its obligation to provide a seaworthy vessel results in little more than bogus legislation.

Contrary to the suggestion in the committee report, the remedy of unseaworthiness was extended to longshoremen because of the singularly dangerous occupational hazard of the industry. As in the case of seamen, a vessel and its appurtenances represent an ever present danger to men working about her; but, unlike seamen who serve aboard her, the vessel and its peculiar dangers are unknown to the longshoremen and its hazards are greatly increased when hatches are broken and gear is operated during loading and unloading.

The doctrine of unseaworthiness was extended to longshoremen by the Supreme Court in recognition that the trade was, is, and will always be, dangerous and that "human overhead" will ever be a part of the industry. The remedy of absolute fault simply shifts the terrible economic burden from those least able to afford these tragedies, the laborer and his family, to the business that benefits from his labors and can spread the cost of this "human overhead" throughout the industry through negligible price increases and insurance.

To relegate the longshoremen's claim to negligence is to ignore the evidentiary problem involved in establishing the elements of notice, control, and basic facts against the defendant several thousand miles away who has complete control over the equipment and men that cause the injury. The abolition of the third-party cause of action of unseaworthiness is tantamount to abolishing all third-party remedies for longshoremen, leaving them in a worse economic and legal position than their shoreside cousins who labor under less dangerous conditions.

Moreover, the legislative repeal of the Yacka decision simply invites a conspiracy of vessel owners and stevedores to obviate entirely all third-party remedies which are otherwise available to shoreside employees.

For these reasons, I urge my colleagues to join with me to defeat this ill-conceived legislation.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. DANIELS) that the House suspend the rules and pass the bill H.R. 12006.

The question was taken; and the Speaker being in doubt, the House divided, and there were—ayes 48, noes 31.

Mr. STEIGER of Wisconsin. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 198, nays 71, not voting 162, as follows:

[Roll No. 447]

YEAS—198

Abzug
Adams
Addabbo
Anderson, Calif.
Archer
Arends
Badillo
Baker
Barrett
Belcher
Bergland
Betts
Biester
Bingham
Blatnik
Boggs
Brademas
Brasco
Bray
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Mass.
Burleson, Tex.
Burton
Byrnes, Wis.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conover
Coughlin
Culver
Daniels, N.J.
Dellenback
Dorn
Downing
Drinan
Dulski
Duncan
Eilberg
Erlenborn
Evins, Tenn.
Fish
Flood
Foley
Ford, William D.
Forsythe
Frelinghuysen
Frey
Garmatz
Gaydos
Goldwater
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Halpern
Hammerschmidt
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Hutchinson
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Karth
Keith
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClory
McCollister
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mallary
Mann
Mathias, Calif.
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Moorhead
Mosher
Murphy, Ill.
Myers
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pepper
Pike
Preyer, N.C.
Price, Ill.
Quie
Railsback
Rangel
Reid
Rhodes
Riegle
Roberts
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Roy
Roybal
Ruppe
Ruth
St Germain
Sarbanes
Scheuer
Schneebeli
Schwengel
Shoup
Sikes
Slack
Smith, Calif.
Springer
Stanton, J. William

Steed
Steiger, Wis.
Stokes
Stratton
Taylor
Teague, Calif.
Tiernan
Ullman
Vander Jagt
Vanik
Veysey
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Wyatt
Wyman
Zablocki
Zion
Zwach

NAYS—71

Abernethy
Andrews, Ala.
Ashley
Aspinall
Bennett
Bevill
Breaux
Brinkley
Brooks
Broyhill, Va.
Camp
Collier
Colmer
Conyers
Daniel, Va.
Danielson
Davis, Ga.
de la Garza
Dennis
Dent
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eshleman
Flynt
Fraser
Gettys
Gonzalez
Griffin
Gude
Hagan
Hall
Hechler, W. Va.
Heckler, Mass.
Hull
Hunt
Jacobs
Jarman
Jonas
Kastenmeier
Kazen
McCloskey
Macdonald, Mass.
Mahon
Mathis, Ga.
Montgomery
Natcher
Passman
Patman
Pickle
Poage
Powell
Rarick
Rees
Reuss
Robinson, Va.
Rosenthal
Satterfield
Saylor
Sebelius
Shriver
Spence
Stephens
Stubblefield
Sullivan
Teague, Tex.
Whitten
Wydler
Yates
Young, Fla.
Young, Tex.

NOT VOTING—162

Abbitt
Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baring
Begich
Bell
Biaggi
Blackburn
Blanton
Boland
Bolling
Bow
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Conte
Corman
Cotter
Crane
Curlin
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dow
Dowdy
du Pont
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Findley
Fisher
Flowers
Ford, Gerald R.
Fountain
Frenzel
Fulton
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Green, Oreg.
Gross
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Hawkins
Hays
Hébert
Horton
Howard
Hungate
Ichord
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Kuykendall
Link
Long, La.
McClure
McCormack
McDonald, Mich.
McMillan
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Minshall
Mizell
Mollohan
Monagan
Morgan
Moss
Murphy, N.Y.
Nelsen
Nichols
Pelly
Perkins
Pettis
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Sandman
Scherle
Schmitz
Scott
Seiberling
Shipley
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, James V.
Steele
Steiger, Ariz.
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Vigorito
Waggonner
Waldie
Widnall
Winn
Wolff
Wright
Wylie
Yatron

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio and Mr. Thompson of New Jersey for, with Mr. Moss against.

Mr. Rooney of New York and Mr. Carey of New York for, with Mr. Caffery against.

Mr. Begich and Mr. Rogers for, with Mr. Price of Texas against.

Mr. Quillen and Mr. Monagan for, with Mr. Winn against.

Mr. Kuykendall and Mr. Cotter for, with Mr. Dowdy against.

Mr. Shipley and Mr. Staggers for, with Mr. McMillan against.

Mr. Delaney and Mr. Rostenkowski for, with Mr. Fisher against.

Mr. Howard and Mr. McCormack for, with Mr. Long of Louisiana against.

Until further notice:

Mr. Hébert with Mr. Gerald R. Ford.

Mr. Waggonner with Mr. Dickinson.

Mr. Wolff with Mr. Peyser.

Mr. Murphy of New York with Mr. Horton.

Mr. Morgan with Mr. Anderson of Illinois.

Mr. Denholm with Mr. Martin.

Mr. Nichols with Mr. du Pont.

Mr. Dingell with Mr. Michel.

Mr. Davis of South Carolina with Mr. Scherle.

Mr. Chappell with Mr. Thone.

Mr. Cabell with Mr. Derwinski.

Mr. Boland with Mr. Conte.

Mr. Biaggi with Mr. Brotzman.

Mrs. Hansen of Washington with Mr. Andrews of North Dakota.

Mr. Hays with Mr. Devine.

Mr. Sisk with Mr. Bell.

Mr. Giaimo with Mr. Broomfield.

Mrs. Green of Oregon with Mr. Crane.

Mr. Flowers with Mr. Blackburn.

Mr. Donohue with Mr. Steele.

Mr. Mollohan with Mr. Steiger of Arizona.

Mr. Mikva with Mr. Dellums.

Mr. Matsunaga with Mr. Nelsen.

Mr. Jones of Tennessee with Mr. Snyder.

Mr. Hawkins with Mr. Byrne of Pennsylvania.

Mr. Hanna with Mr. Mailliard.

Mr. Burlison of Missouri with Mr. Minshall.

Mr. Vigorito with Mr. Mayne.

Mr. Yatron with Mr. Johnson of Pennsylvania.

Mr. Randall with Mr. Pettis.

Mr. Roncalio with Mr. Findley.

Mr. Fountain with Mr. Wylie.

Mr. Fascell with Mr. Burke of Florida.

Mr. Podell with Mr. Clay.

Mr. Corman with Mr. Collins of Illinois.

Mr. Udall with Mr. Talcott.

Mr. Anderson of Tennessee with Mr. Smith of New York.

Mr. Hanley with Mr. Widnall.

Mr. Hamilton with Mr. Clancy.

Mr. James V. Stanton with Mr. Ashbrook.

Mr. Alexander with Mr. McClure.

Mr. Celler with Mr. Sandman.

Mr. Byron with Mr. Skubitz.

Mr. Clark with Mrs. Dwyer.

Mr. Fulton with Mr. Esch.

Mr. Fuqua with Mr. Frenzel.

Mr. Haley with Mr. Mizell.

Mr. Pucinski with Mr. Thompson of Georgia.

Mr. Roush with Mr. Thomson of Wisconsin.

Mr. Runnels with Mr. Davis of Wisconsin.

Mr. Dow with Mr. Rousselot.

Mr. Evans of Colorado with Mr. Keating.

Mr. Gibbons with Mr. McDonald of Michigan.

Mr. Kee with Mr. Pelly.

Mr. Hungate with Mr. Pirnie.

Mr. Ichord with Mr. Bow.

Mr. Link with Mr. Scott.

Mr. Stuckey with Mr. Schmitz.

Mr. Symington with Mr. Gallagher.

Mr. Diggs with Mr. Galifianakis.

Mr. Edmondson with Mr. Waldie.

Mr. Wright with Mr. Baring.

Mr. Blanton with Mr. Aspin.

Mr. Abourezk with Mr. Abbitt.

Mr. Seiberling with Mr. Curlin.

Mr. Pryor of Arkansas with Mr. Perkins.

Mr. Terry with Mr. Purcell.

Mrs. ANDREWS of Alabama changed her vote from "yea" to "nay."

Messrs. HILLIS, BARRETT, and NIX changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADDITIONAL LEGISLATIVE PROGRAM

Mr. ABERNETHY. Mr. Speaker, I would like to announce that later in the day I will move to suspend the rules and pass the Senate bill S. 4032, a bill which just passed the Senate providing for the consolidation of the transportation systems in the metropolitan Washington area.

AUTHORIZING ARMED FORCES MEMBERS IN MISSING STATUS TO ACCUMULATE LEAVE

Mr. PRICE of Illinois. Mr. Speaker, I asw unanimous consent to take from the Speaker's desk, the bill (H.R. 14911) to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, line 7, strike out "37," " and insert: "37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37." "

Page 2, strike out lines 19 and 20, and insert:

"SEC. 3. The first and second sections of this Act become effective as of February 28, 1961."

Page 2, after line 20, insert:

SEC. 4. Chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows:

"§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence

"(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) The Deputy Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

"(c) The Deputy Secretaries take prece-

dence in the Department of Defense immediately after the Secretary."

(2) Sections 135(c) and 136(e) are each amended by striking out "Deputy Secretary" and inserting in place thereof "Deputy Secretaries".

(3) The item in the analysis relating to section 134 is amended to read as follows:

"134. Deputy Secretaries of Defense: appointment; powers and duties; precedence."

SEC. 5. Section 171(a)(2) of title 10, United States Code, is amended by striking out "the" and inserting in place thereof "a".

SEC. 6. Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretaries of Defense (2)."

SEC. 7. Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended to read as follows:

"(c) Notwithstanding section 133(d) of title 10, United States Code, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).".

Amend the title so as to read: "An Act to amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE of Illinois. Mr. Speaker, the Members will recall that the bill (H.R. 14911) passed the House on July 25, 1972. In essence the bill provides that current restrictions upon the total amounts of leave which may be accumulated by military personnel be waived in the case of prisoners of war and personnel listed as missing in action. Present limitations vary according to certain conditions but the maximum is 90 days, which represents the amount of leave which could accrue over 3 years of service.

Inasmuch as some of our POW or MIA personnel have been in such a status for over 8 years, the present limitation would mean that all earned leave over 90 days would be lost. The bill provides for reimbursement for all leave accumulated in a missing or prisoner status without limitation.

The Senate amendment does create one restriction. In those cases wherein a serviceman has been missing for a period in excess of 5 years and is subsequently declared by the Secretary concerned to be presumed to have died, reimbursement to his estate for unused leave accumulated in a missing status is limited to a maximum of 150 days, or 5 years' annual leave credit.

The language is such, however, that if the man were later to be found alive, or that his date of actual death could be determined to have occurred at some time in excess of the 5 years, he or his survivors would be reimbursed for the total amount of leave actually accumulated.

The second Senate amendment offers the House another opportunity to approve the reorganization of the Office of the Secretary of Defense by means of the creation of an additional Deputy Secretary of Defense. The Members will recall that the House passed this measure (H.R. 8856) on December 6, 1971, but later agreed to the Senate amendment to that bill which struck this particular provision. The Senate has now determined that the provision for a new Deputy Secretary is a necessity and has used this amendment as a vehicle to permit the House to reaffirm its previous decision.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 14911.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDING THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Mr. DANIELS of New Jersey. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2318) to amend the Longshoremen's and Harbor Workers' Compensation Act, a similar bill to H.R. 12006, just passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972".

COVERAGE

SEC. 2. (a) Section 2(3) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 902) is amended to read as follows:

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net."

(b) Section 2(4) of such Act is amended by striking out "(including any dry dock)" and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

(c) Section 3(a) of such Act is amended by striking out "(including any dry dock), and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law," and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

STUDENT BENEFITS

SEC. 3. (a) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating paragraph (19) as paragraph (20) and adding a new paragraph (19) as follows:

"(19) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof,

"(B) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body,

"(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States."

(b) The last sentence of section 2(14) of such Act is amended to read as follows: "'Child', 'grandchild', 'brother', and 'sister' includes only a person who is under eighteen years of age, who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 4. Section 6(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out "more than twenty-eight days" and inserting in lieu thereof "more than fourteen days".

MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 5. (a) Section 6 of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) Except as provided in subsection (c), compensation for disability shall not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary under paragraph (3):

"(A) 125 per centum or $167, whichever is greater, during the period ending September 30, 1973.

"(B) 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974.

"(C) 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975.

"(D) 200 per centum beginning October 1, 1975.

"(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 10 are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

"(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the most recent three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after the enactment of this subsection.

"(c) The maximum rate of compensation for a nonappropriated fund instrumentality employee shall be equal to 66⅔ per centum of the maximum rate of basic pay established for a Federal employee in grade GS-12 by section 5332 of title 5, United States Code, and the minimum rate of compensation for such an employee shall be equal to 66⅔ per centum of the minimum rate of basic pay established for a Federal employee in grade GS-2 by such section."

"(d) Determinations under this subsection with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 20 thereof as paragraph 21 and by inserting immediately after paragraph 19 the following:

"(20) The term 'national average weekly wage' means the national average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls."

(c) Section 8(d) of such Act is amended to read as follows:

(d)(1) If an employee is receiving compensation for permanent partial disability pursuant to section 8(c)(1)–(20) and thereafter dies from causes other than the injury, the total amount of the award unpaid at the time of death shall be payable to or for the benefit of his survivors, as follows:

"(A) if the employee is survived only by a widow or widower, such unpaid amount of the award shall be payable to such widow or widower,

"(B) if the employee is survived only by a child or children, such unpaid amount of the award shall be paid to such child or children in equal shares,

"(C) if the employee is survived by a widow or widower and a child or children, such unpaid amount of the award shall be payable to such survivors in equal shares,

"(D) if there be no widow or widower and no surviving child or children, and the benefits payable individually to other survivors, as determined in each case by multiplying such unpaid amount of the award by the appropriate percentage specified in section 9, aggregate less than such unpaid amount of the award, then such unpaid amount of the award shall be paid to such other survivors, divided so that each survivor receives the same proportion of such unpaid amount of the award as his benefits payable bear to the aggregate of benefits payable.

"(2) Notwithstanding any other limitation in section 9, the total amount of any award for permanent partial disability pursuant to section 8(c)(1)–(20) unpaid at time of death shall be payable in full in the appropriate distribution.

"(3) If an employee is receiving compensation for permanent partial disability pursuant to section 8(c–21) and thereafter dies from causes unrelated to the injury, survivors shall receive death benefits as provided in section 9((b)–(g), except that the percentage figures therein shall be applied to the weekly compensation payable to the employee at the time of his death multiplied by 1.5, rather than to his average weekly wages.

"(4) An award for disability may be made after the death of the injured employee. Except where compensation is payable under 8(c–21), if there be no survivors as prescribed in this section, then the compensation payable under this subsection shall be paid to the special fund established under section 44(a) of this Act."

(d) The first phrase of section 9 of such Act, preceding the first colon, is amended to read as follows:

"If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:".

(e) Section 14 of such Act is amended by striking out subsection (m).

MEDICAL SERVICES

SEC. 6. Section 7 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

MEDICAL SERVICES AND SUPPLIES

"SEC. 7. (a) The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

"(b) The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this Act as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer; order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

"(c) The Secretary may designate authorized physicians who are to render medical care under the Act. The names of physicians so designated in the community shall be made available to employees through posting or in such other form as the Secretary may prescribe.

"(d) The employee shall not be entitled to recover any amount expended by him for medical treatment or services unless he shall have requested the employer to furnish such services or to authorize provision of such services by the physician selected by the employee and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within ten days following the first treatment the physician giving such treatment furnish to the employer and the Secretary a report of such injury and treatment, on a form prescribed by the Secretary. The Secretary may, however, excuse the failure to furnish such report within ten days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

"(e) In the event that medical questions are raised in any case, the Secretary shall have the power to cause the employee to be examined by a physician employed or selected by the Secretary and to obtain from such physician a report containing his estimate of the employee's physical impairment and such other information as may be appropriate. Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed or selected by the Secretary. The Secretary shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within two weeks from the date ordered unless the Secretary finds that because of extraordinary circumstances a longer period is required. The Secretary shall have the power in his discretion to charge the cost of examination or review under this subsection to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk, in appropriate cases, or to special fund in section 44.

"(f) An employee shall submit to such physical examination at such place as the Secretary may require. The place, or places, shall be designated by the Secretary and shall be reasonably convenient for the employee. No physician selected by the employer, carrier, or employee shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the Secretary. Such employer or carrier shall, upon request, be entitled to have the employee examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the employee may select, if any. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination.

"(g) All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community for such treatment, and shall be subject to regulation by the Secretary. The Secretary shall issue regulations limiting the nature and extent of medical expenses chargeable against the employer without authorization by the employer or the Secretary.

"(h) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or that suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 33(b) of this Act.

"(i) Unless the parties to the claim agree, the Secretary shall not employ or select any physician for the purpose of making examinations or reviews under subsection (e) of this section who, during such employment, or during the period of two years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer."

DISFIGUREMENTS

SEC. 7. Section 8(c)(20) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation not to exceed $3,500 shall be awarded for serious disfigurement: (A) of the face, head, or neck; or (B) of other normally exposed areas likely to handicap the employee in securing or maintaining employment."

SPECIAL FUND

SEC. 8. (a) Section 44(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by adding a period after the word "fund" in the first sentence thereof and deleting the remainder of the sentence.

(b) Section 44(c) of such Act is amended to read as follows:

"(c) Payments into such fund shall be made as follows:

"(1) Whenever the Secretary determines that there is no person entitled under this Act to compensation for the death of an employee which would otherwise be compensable under this Act, each appropriate employer shall pay $5,000 as compensation for the death of such an employee.

"(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and each carrier or self-insurer shall make payments into the fund on a prorated assessment by the Secretary in the proportion that the total compensation and medical payments made on risks covered by this Act by each carrier and self-insurer bears to the total of such payments made by all carriers and self-insurers under the Act in the prior calendar year in accordance with a formula and schedule to be determined from time to time by the Secretary of Labor to maintain adequate reserves in the fund.

"(3) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

"(4)(A) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

"(B) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

"(C) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1941, as amended (U.S.C., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor."

(c) Section 44 of such Act is further amended by adding the following new subsection (d), and renumbering the subsequent subsections:

"(d) There is hereby authorized to be appropriated to the Secretary the sum of $2,000,000 which the Secretary shall immediately deposit into the fund. Upon deposit in the fund such moneys shall be treated as the property of such fund. This sum without additional payments for interest shall be repaid from the money or property belonging to the fund on a schedule of repayment set by the Secretary, provided that full repayment must be made no later than five years from the date of deposit into the fund. Each such repayment, as made, shall be covered into the Treasury of the United States as miscellaneous receipts."

(d) Section 44 of such Act is further amended by adding the following new subsections (i) and (j):

"(i) The proceeds of this fund shall be available for payments:

"(1) Pursuant to section 10 and 11 with respect to initial and subsequent annual adjustments in compensation for total permanent disability or death which occurred prior to the effective date of this subsection.

"(2) Under section 8 (f) and (g), under section 18(b), and under section 39(c).

"(3) To repay the sums deposited in the fund pursuant to subsection (d).

"(4) To defray the expense of making examinations as provided in section 7.

"(j) At the close of each fiscal year the Secretary of Labor shall submit to the Congress a complete audit of the fund."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

SEC. 9. (a) Section 8(f)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows: "(1) In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If following an injury falling within the provisions of section 8(c)(1)–(20), the employee is totally and permanently disabled, and the disability is found not to be due solely to that injury, the employer shall provide compensation for the applicable prescribed period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater. In all other cases of total permanent disability or of death, found not to be due solely to that injury, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only. If following an injury falling within the provisions of 8(c)(1)–(20), the employee has a permanent partial disability and the disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater.

"In all other cases which the employee has a permanent partial disability, found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation for one hundred and four weeks only. After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due out of the special fund established in section 44."

(b) Section 8(f) of such Act is further amended by striking out paragraph (2).

DEATH BENEFITS

SEC. 10. (a) Section 9(a) of the Act is amended by striking out "$400" and inserting in lieu thereof "$1,000".

(b) Sections 9 (b) and (c) of such Act are amended by striking "35" and "15" wherever they appear, and substituting "50" and "16⅔" respectively.

(c) The first sentence of section 9(d) of such Act is amended to read as follows: "If there be no surviving wife or husband or child, or if the amount payable to a surviving wife or husband and to children shall be less in the aggregate than 66⅔ per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term 'dependent' in section 152 of title 26 of the United States Code, but are not otherwise eligible under this section, 20 per centum of such wages for the support for each such person during dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency."

(d) Section 9(e) of such Act is amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not less than the applicable national average weekly as prescribed in section 6(v) but the total weekly benefits shall not exceed the average weekly wages of the deceased."

DETERMINATION OF PAY

SEC. 11. Section 10 of the Act is amended by adding the following new subsections:

"(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries sustained after the date of enactment of this subsection shall be increased by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1.

"(g) The weekly compensation after adjustment under subsection (f) shall be fixed at the nearest dollar. No adjustment of less than $1 shall be made, but in no event shall compensation or death benefits be reduced.

"(h)(1) Not later than ninety days after the date of enactment of this subsection, the compensation to which an employee or his survivor is entitled due to total permanent disability or death which commenced or occurred prior to enactment of this subsection shall be adjusted. The amount of such adjustment shall be determined in accordance with regulations of the Secretary by designating as the employee's average weekly wage the national average weekly wage and (A) computing the compensation to which such employee or survivor would be entitled if the disabling injury or death had occurred on the day following such enactment date and (B) subtracting therefrom the compensation to which such employee or survivor was entitled on such enactment date; except that no such employee or survivor shall receive total compensation amounting to less than that to which he was entitled on such enactment date. Notwithstanding the foregoing sentence, where such an employee or his survivor was awarded compensation as the result of death or permanent total disability at less than the maximum rate that was provided in this Act at the time of the injury which resulted in the death or disability, then his average weekly wage shall be determined by increasing his average weekly wage at the time of such injury by the percentage which the national average weekly wage has increased between the year in which the injury occurred and the first day of the first month following the enactment of this section. Where such injury occurred prior to 1947, the Secretary shall determine, on the basis of such economic data as he deems relevant, the amount by which the employee's average weekly wage shall be increased for the pre-1947 period.

"(2) Fifty per centum of any additional compensation or death benefit paid as a result of the adjustment required by paragraphs (1) and (3) of this subsection shall be paid out of the special fund established under section 44 of such Act, and 50 per centum shall be paid from appropriations.

"(3) For the purposes of subsections (f) and (g) an injury which resulted in permanent total disability or death which occurred prior to the date of enactment of this subsection shall be considered to have occurred on the day following such enactment date."

TIME FOR NOTICE AND CLAIMS

SEC. 12. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"SEC. 13. (a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

FEES FOR SERVICES

SEC. 13. Section 28 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(a) If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice of a claim for compensation having been filed from the deputy commissioner, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the deputy commissioner, Board, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

"(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner shall set the matter for an informal conference and following such conference the deputy commissioner shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Secretary, as authorized in section 7(e) and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

"(c) In all cases fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Board or any court for review of any action, award, order or decision, the Board or court may approve an attorney's fee for the work done before it by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the deputy commissioner, Board, or court shall fix in the award approving the fee, such lien and manner of payment.

"(d) In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board or court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act.

"(e) Any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of claimant, unless such consideration or gratuity is approved by the deputy commissioner, Board, or court, or who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

HEARING PROCEDURE

SEC. 14. Section 19(d) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(d) Notwithstanding any other provisions of this Act, any hearing held under this Act shall be conducted in accordance with the provisions of section 554 et seq. of title 5 of the United States Code. Any such hearing shall be conducted by a hearing examiner qualified under section 3105 of that title. All powers, duties, and responsibilities now vested by this Act in the deputy commissioners with respect to such hearings shall be vested in such duly appointed hearing examiners.

REVIEW BOARD

SEC. 15. (a) Section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(b) (1) There is hereby established a Benefits Review Board which shall be composed of three members appointed by the Secretary from among individuals who are especially qualified to serve on such Board. The Secretary shall designate one of the members of the Board to serve as chairman."

"(2) For the purpose of carrying out its functions under this Act, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(3) The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this Act and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

"(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the hearing examiner for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

"(c) Any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the United States Court of Appeals for the circuit in which the injury occurred, by filing in such court within sixty days following the issuance of such Board order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court, to the Board, and to the other parties, and thereupon the Board shall file in the court the record in the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and shall have the power to give a decree affirming, modifying, or setting aside, in whole or in part, the order of the Board and enforcing same to the extent that such order is affirmed or modified. The orders, writs, and processes of the court in such proceedings may run, be served, and be returnable anywhere in the United States. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the employer, and specifying the nature of the damage."

(b) Redesignate subsections (c) and (d) of such Act as (d) and (e), respectively.

(c) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 21 as paragraph 22 and inserting after paragraph 20 the following new paragraph:

"(21) The term 'Board' shall mean the Benefits Review Board."

(d) Section 14(f) of such Act is amended by striking everything after the words "section 21" and adding in lieu thereof the following: "and an order staying payment has been issued by the board or court."

(e) Sections 23 and 27 of such Act are each amended by adding "or Board" after every reference to "deputy commissioner".

(f) Section 28(b) of such Act is amended by adding the term "or Board" after the words "deputy commissioner".

(g) Section 33(b) of such Act is amended by adding the term "or Board" after the term "deputy commissioner".

(h) Section 33(e)(1)(A) of such Act is amended by adding the words "or Board" after the term "deputy commissioner".

(i) Section 33(g) of such Act is amended to read as follows:

"(g) If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this Act, the employer shall be liable for compensation as determined in subdivision (f) only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made."

(j) Section 35 of such Act is amended by adding the words "the Board" after the words "deputy commissioner".

(k) Section 40(f) of such Act is amended by adding the words "or Board member" before the words "deputy commissioner," whenever they occur.

(l) Section 44(c)(1) of such Act is amended by adding the words "or Board" after the words "deputy commissioner".

APPEARANCE FOR SECRETARY OF LABOR

SEC. 16. Section 21(a) of the Act is amended to read as follows:

"SEC. 21a. Attorneys appointed by the Secretary shall represent the Secretary, the deputy commissioner, or the Board in any court proceedings under section 21 or other provisions of the Longshoremen's and Harbor Workers' Compensation Act except for proceedings in the Supreme Court."

CLAIMANT ASSISTANCE

SEC. 17. (a) Section 39(c) of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating subsection (c) as paragraph (2) of such subsection and by inserting after subsection (b) thereof the following paragraph:

"(1)(c) The Secretary shall, upon request, provide persons covered by this Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this Act with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available."

THIRD-PARTY LIABILITY

SEC. 18. (a) Section 5 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"EXCLUSIVENESS OF REMEDY AND THIRD-PARTY LIABILITY

"SEC. 5. (a) The liability of an employer prescribed in section 4 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this Act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the Act, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

"(b) In the event of injury to a person covered under this Act caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 33 of this Act, and the employer shall not be liable to the vessel for such damages directly or indirectly and any agreements or warranties to the contrary shall be void. If such person was employed by the vessel to provide stevedoring services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing stevedoring services to the vessel. If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel. The liability of the vessel under this subsection shall not be based upon the warranty of seaworthiness or a breach thereof at the time the injury occurred. The remedy provided in this subsection shall be exclusive of all other remedies against the vessel except remedies available under this Act."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 22 as paragraph 23 and inserting after paragraph 21 the following new paragraph:

"(22) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member."

PROHIBITION AGAINST CERTAIN DISCRIMINATION AGAINST EMPLOYEES

SEC. 19. The Longshoremen's and Harbor Workers' Compensation Act is further amended by redesignating sections 49 and 50 as sections 50 and 51, respectively, and by inserting immediately after section 48 the following new section:

"DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

"SEC. 49. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this Act. Any employer who violates this section shall be liable to a penalty of not less than $100 or more than $1,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 44, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void."

MISCELLANEOUS PROVISIONS

SEC. 20. (a) Section 8(i) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(i)(A) Whenever the Deputy Commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, notwithstanding the provisions of section 15(b) and section 16 of this Act: *Provided*, That if the employee should die from causes other than the injury after the Deputy Commissioner has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subsection, to and for the benefit of the persons enumerated in subdivision (d) of this section;

"(B) Whenever the Secretary determines that it is for the best interests of the injured employee entitled to medical benefits, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of this Act: *Provided*, That if the employee should die from causes other than injury after the Secretary has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (d) of this section."

(b) Section 17 of such Act is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) Where a trust fund which complies with section 320(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186 (c)) established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, the Secretary may authorize a lien on such compensation in favor of the trust fund for the amount of such payments."

(c) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act as amended by this Act is further amended by striking out subsections (16) and (17) and inserting in lieu thereof the following new subsection (16) and by redesignating subsections 2 (18), (19), (20), (21), (22) and (23) as 2 (17), (18), (19), (20), (21), and (22), respectively.

"(16) The term 'widow or widower' includes only the decedent's wife or husband living with or dependent for support upon him or her at the time of his or her death; or living apart for justifiable cause or by reason of his or her desertion at such time."

(d) Sections 8 and 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by this Act, further amended by striking the phrase "surviving wife or dependent husband" each time it appears and insert in lieu thereof the phrase "widow or widower".

TECHNICAL AMENDMENT

SEC. 21. Section 3(a)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out the word "nor" and inserting in lieu thereof the word "or".

EFFECTIVE DATE

SEC. 22. The amendments made by this Act shall become effective thirty days after the date of enactment of this Act.

AMENDMENT OFFERED BY MR. DANIELS OF NEW JERSEY

Mr. DANIELS of New Jersey. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELS of New Jersey: Strike out all after the enacting clause of S. 2318 and insert in lieu thereof the provisions of H.R. 12006, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1206) was laid on the table.

(Mr. PERKINS, at the request of Mr. DANIELS of New Jersey, was granted permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, the Longshoremen's and Harbor Workers' Compensation Act has not been amended since 1961. Amendments are long overdue.

There are approximately 800,000 workers needing the protection of this act—longshoremen, ship repairmen, ship servicemen, harbor workers, other offshore workers, workers at U.S. defense bases outside the United States, workers employed in private industry in the District of Columbia, and workers employed in nonappropriated fund instrumentalities such as PX's and commissaries. All need very badly to have this act, which was a model in its day, upgraded and improved.

This act was intended to provide benefits to workers who suffered injuries on the job. Last year there were more than 900 injuries under the act; 240 covered workers were killed. The majority of these injuries, of course, were to the longshoremen and injuries suffered in the District of Columbia.

Under the 1961 act, the maximum benefits available are $70 a week. This now represents less than 30 percent of the average weekly wage of the longshoremen and something less than 50 percent of the average weekly wage of workers in the District of Columbia.

It is imperative that the House recognize the need for an increase in these benefits which are as important to their families as they are to the injured employees. We can no longer afford to have benefit levels under workmen's compensation afford less than a poverty wage.

The committee bill, H.R. 12006, would substantially improve workmen's compensation protection for covered workers and their families and would in a number of other respects improve and upgrade the procedures and processes under which the program is administered.

I was pleased to note the recommendations of the National Commission on Workmen's Compensation Laws which was created in the Occupational Safety and Health Act of 1970. The provisions of the bill follow in many respects the recommendations of that Commission, and I would hope that in passage of this bill, the Congress will take the first and necessary step toward the implementation of the Commission's report.

Mr. Speaker, there appears to be a certain amount of confusion as to the position of the American labor movement on this bill. To eliminate that confusion I would like to note that we have received communications expressing approval from Frank Bonadio, president of the Building and Construction Trades Department, AFL–CIO; Thomas W. Gleason, president of the International Longshoremen's Association, AFL–CIO; Frank Fitzsimmons, general president of the International Brotherhood of Teamsters; and Harry Bridges, president of the International Longshoremen's and Warehousemen's Union; to mention just a few. There is no question that the American labor movement and the rank and file longshoremen are in favor of this legislation.

To keep the record straight I will insert in the RECORD a few communications that have been received in support of H.R. 12006.

BUILDING AND CONSTRUCTION
TRADES DEPARTMENT, AFL–CIO,
Washington, D.C., October 10, 1972.

Hon. CARL ALBERT,
Speaker of the House, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Before the 92nd Congress adjourns, the House of Representatives is scheduled to vote on H.R. 12006, a bill to correct the gross inequities that now exist under the Longshoremen and Harbor Workers' Compensation Act. The Department, through its seventeen National and International Unions, represents thousands of building tradesmen who are covered under this Act. They join me in urging the support of every member of Congress in the enactment of the long overdue updating of the benefits under this Act. The companion bill, S. 2318, has already passed the Senate by a voice vote.

Since 1961 Congress has seen fit to update the Act covering Federal employees. The maximum allowable benefit has been increased to $479 per week and the minimum floor was set at approximately $90 per week. The Longshoremen's Act has not been updated during this period and still remains at $70 per week with a minimum benefit of $18 per week. It is quite obvious that this protection for private employees covered under the Longshoremen's Act has not kept pace with the periodic updating of standards established by Congress for Federal employees including members of Congress and their staff.

The fact that the Congress has seen fit to enact two Federal laws relating to workmen's compensation (Federal Employees Compensation Act and the Longshoremen's and Harbor Workers' Compensation Act), one of which covers Federal employees and the other private employees does not justify Congress to set one standard for Federal employees and another for employees engaged in the same occupations covered under the Longshoremen's Act. Yet that is precisely what has happened.

For example, a civil service employee working as a carpenter, electrician, engineer, painter, plumber, steamfitter, sheetmetal worker, mechanics employed at naval shipyards, and other skilled trades, including laborers are engaged in the same occupational categories as workers covered under the Longshoremen's Act. The wages of these workers engaged in private employment are closely related to the wages paid to government workers in similar employment.

Other employees covered under both of these laws are office workers, economists, statisticians, accountants, lawyers, including executives and members of their staff. Their salaries are also closely related.

It is wholly inconceivable that Congress should provide such a wide diversion of maximum benefits for similar classifications of employment under both of these laws.

Underlying almost all workmen's compensation laws is the principle that the great majority shall receive indemnity benefits in amount equal to two-thirds of their actual wage loss during the period of total disability. This should be an absolute minimum percentage, since a one-third reduction in actual earnings most certainly represents a serious reduction in normal living standards.

To a large extent Congress has favored this principle in updating the Act covering Federal employees. For this reason Congress has a particular responsibility towards this legislation. It is unthinkable that an Act of this magnitude should have fallen so far behind the provisions of the Federal Employees Compensation Act.

After 12 years without amendments, the Longshoremen and Harbor Workers' Compensation Act has become completely outdated. A further delay in the enactment of this legislation would be a gross injustice to over a million workers and their families covered by the present law against the crippling effects of on-the-job injuries.

The amendments proposed in H.R. 12006 are consistent with the recommendations of the National Commission on State Workmen's Compensation Laws and with the intent and purpose of workmen's compensation laws when they were initially enacted in the first two decades of this century.

On behalf of the Building and Construction Trades Department, AFL–CIO, we fervently trust that the House of Representatives will give favorable consideration to this legislation before adjournment.

With best wishes, I am,
Sincerely yours,
FRANK BONADIO, *President.*

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.

The International Longshoremen's Association, AFL–CIO, strongly urges passage of the Daniels bill, H.R. 12006, which will amend the Longshoremen's and Harborworkers' Compensation Act. This legislation is urgently needed to provide our injured longshoremen with a reasonable amount of compensation during periods of unemployment resulting from injury or illness sustained in the course of their employment. The bill provides for a substantial increase over the present maximum of seventy dollars per week which is beneath the poverty level and extend coverage of the bill to adjoining piers, wharves and terminals where longshoremen are employed. With the extension of coverage, our members will not have to rely on State compensation statutes, many of which provide rates of compensation which are totally inadequate. We request that you and all other members of the House lend support to the bill to insure its passage.

THOMAS W. GLEASON,
President, International Longshoremen's Association, AFL–CIO.

Hon. CARL PERKINS,
House Office Building,
Washington, D.C.:

On behalf of the International Brotherhood of Teamsters, I solicit your support of H.R. 12006 amending the Longshoremen's and Harbor Workers' Compensation Act for the first time in 12 years.

We support without qualification this effort to upgrade the longshoremen's compensation law and strongly urge an immediate and favorable consideration of H.R. 12006.

FRANK E. FITZSIMMONS,
General President.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 28, 1972.

Hon. CARL D. PERKINS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: On Monday, October 2, the House of Representatives will vote on H.R. 12006, a bill to amend the Longshoremen's and Harbor Worker's Compensation Act. The AFL–CIO urges that you support this bill. It has the support of the International Longshoremen's Association and all other AFL–CIO affiliates where membership is covered by the bill.

The companion bill, S. 2318, has already passed the Senate and if the House acts favorably on Monday, long overdue improvements in the workmen's compensation benefits structure for approximately 800,000 workers can become a reality. The basic legislation, the Longshoremen's and Harbor Worker's Compensation Act, was last amended in 1961. It covers longshoremen and harbor workers, ship repairmen, workers in private industry in the District of Columbia, workers employed in non-appropriated fund instrumentalities (P.X., etc.), American workers employed on defense bases overseas—who are primarily building and construction trades workers—and workers employed on the outer continental shelf.

After 12 years without amendment, the Longshoremen's Act has become outdated. The amendments, proposed in H.R. 12006, are consistent with recommendations of the National Commission on State Workmen's Compensation Laws, and upon enactment would restore this federal workmen's compensation program to its former place of prominence in the field of workmen's compensation.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

NEW YORK, N.Y.,
September 26, 1792.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.:

The International Longshoremen's Association, AFL–CIO, strongly urges passage of the Daniels bill H.R. 12006 which will amend the Longshoremen's and Harbor Workers' Compensation Act. This legislation is urgently needed to provide our injured longshoremen wtih a reasonable amount of compensation during periods of unemployment resulting from injury or illness sustained in the course of their employment. The bill provides for a substantial increase over the present maximum of seventy dollars per week which is beneath the poverty level and extends coverage of the bill to adjoining piers, wharves and terminals where longshoremen are employed. With the extension of coverage, our members will not have to rely on State compensation statutes, many of which provide rates of compensation which are totally inadequate. We request that you and all other members of the House lend support to the bill to insure its passage.

THOMAS W. GLEASON,
President, International Longshoremen's Association, AFL–CIO.

SAN FRANCISCO, CALIF.,
September 22, 1972.

CARL D. PERKINS,
Chairman, Labor and Education Committee, Washington, D.C.:

Officers of International Longshoremans and Warehousemans Union urge adoption of H.R. 12006 amending the Longshore and Harbor Workers Compensation Act.

HARRY BRIDGES,
President, IWU.

ASHCRAFT AND GEREL,
Washington, D.C., September 22, 1972.

Hon. CARL PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Rayburn House Office Building, Washington, D.C.

SIR: For the past 20 years, we have specialized in the handling of workmen's compensation cases, exclusively for injured employees, in the District of Columbia, Maryland, and Virginia. We have recently had the occasion to review the long overdue proposed amendments to the Longshoremen's and Harbor Workers' Compensation Act. The reported amendments are set forth in H.R. 12006 as amended.

It is our opinion, after reviewing the bill, that it is an excellent one and should be passed in its entirety. We further feel that, with regard to third party actions, the proposed amendments eliminating unseaworthiness as a basis for third party actions is equitable as long as third party actions can be maintained based on common law negligence. This is, in fact, the basis for liability in these cases in virtually every state and also eliminates some of the inequities present under the existing Act. As previously stated, the proposed amendments found in H.R. 12006 as amended should be passed.

Very truly yours,

LEE C. ASHCRAFT.

WASHINGTON BUILDING AND CONSTRUCTION TRADES COUNCIL,
Washington, D.C., September 26, 1972.

Hon. CARL PERKINS,
Chairman, Committee of Education and Labor, Rayburn House Office Building, Washington, D.C.

DEAR MR. PERKINS: On behalf of the Washington Building and Construction Trades Council representing 30,000 building tradesmen in the District of Columbia, we were extremely pleased to learn of the Longshoremen's and Harbor Workers' Compensation Act that was recently reported out of Committee.

When the Act was last amended in 1961, it was at that time one of the noblest pieces of compensation legislation to be enacted in the United States: It rapidly became apparent that the Longshoremen's Act set a standard because the 1961 amendment was followed by a wave of amendments to State Compensation Acts which substantially increased state compensation benefits throughout the country.

You and all the members of the Committee are to be commended for your progressive action. It will be repeatedly called to mind during the ensuing years as workers across the country receive the benefits arising from what you and your committee have done for them.

Sincerely,

JOSEPH CURTICE,
Executive Secretary.

WASHINGTON, D.C.,
September 22, 1972.

Congressman CARL D. PERKINS,
Rayburn House Office Building,
Capitol Hill, D.C.

On behalf of our 175,000 members and other workers of the District of Columbia we congratulate you on reporting Act H.R. 12006, the Longshoremen and Harbor Workers Act which continues to cover the workers of the District of Columbia under workmen's compensation.

The Greater Washington Central Labor Council and its affiliates wholeheartedly support your legislation and urges the Members of the House to adopt your bill.

GEORGE W. APPERSON,
The Greater Washington Central Labor Council, AFL–CIO.

NEW YORK, N.Y.
October 4, 1972.

Representative CARL D. PERKINS,
Committee on Education and Labor, House of Representatives, Washington, D.C.:

The community services committee of the New York City Central Labor Council, AFL–CIO, strongly urges passage of the Daniels H.R. 12006 which will amend the Longshoremen's and Harbor Workers' Compensation Act this legislation is urgently needed to provide our injured longshoremen with a reasonable amount of compensation during periods of unemployment resulting from injury or illness sustained in the course of their employment. The bill provides for a substantial increase over the present maximum of $70 per week which is beneath the property level and extends coverage of the bill to adjoining piers, wharves, and terminals where longshoremen are employed. With the extension of coverage our members will not have to rely on State compensation statutes many of which provide rates of compensation which are totally inadequate. We request that you and all other Members of the House lend support to the bill to insure its passage.

GERALD R. WATERS, Sr.,
New York City Central Labor Council Community Services Committee.

GENERAL LEAVE

Mr. DANIELS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 12807. An act to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government, and

H.R. 16675. An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for one year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 27. An act to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14911. An act to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 4039. An act to amend Public Law 90-553 concerning an international center for sites for chanceries for foreign embassies.

CONFERENCE REPORT ON H.R. 15657, OLDER AMERICANS ACT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 11, 1972.)

Mr. BRADEMAS. Mr. Speaker, I rise today in support of the conference report on H.R. 15657, the Comprehensive Older Americans Services Amendments of 1972.

Mr. Speaker, I consider this bill to be the most important legislation for older citizens since the Social Security Act was passed in 1935 for it can mean effective action for older persons through a wide range of services, including transportation, preretirement training, health services, senior citizens' community centers, job training, and employment.

H.R. 15657 extends the grant programs authorized by the Older Americans Act of 1965 which expired on June 30 of this year. Prompt action is therefore necessary to provide continued support to State agencies on aging, more than 1,200 local agencies on aging, and the more than 1,700 community projects providing services to older people.

But H.R. 15657 does not simply extend the present program. Rather it marks a significant strengthening of the Older Americans Act in ways which will greatly increase our ability to respond to the many and varied problems of older people striving to live independently in their home communities. The amendments are based on the experience gained after more than 7 years of progress since the programs started under the act were launched, on extensive hearings in both House and Senate committees where many recommendations concerning the needs of older people were made by prominent leaders in the field of aging, and on the many recommendations that came out of the recent White House Conference on Aging.

Mr. Speaker, this bill also dramatically demonstrates that Congress is acting constructively and responsibly to meet many of the needs highlighted at the White House Conference on Aging.

Mr. Speaker, when this measure was originally before the House, it received overwhelming bipartisan support. The vote was 351 to 3, while the other body passed a comparable measure by a vote of 89 to 0.

And, Mr. Speaker, this bipartisan spirit continued in the conference, and I should mention in this regard the outstanding work of the House conferees.

I would cite particularly the contributions to this legislation of the gentleman from Kentucky, the distinguished chairman of the Education and Labor Committee, Mr. Perkins, as well as the gentleman from Minnesota, the distinguished ranking minority member of the committee, Mr. Quie.

And I must also commend the other members of the House conference team, the gentlelady from Hawaii, Mrs. Mink, and the gentleman from Idaho, Mr. Hansen, for their invaluable contributions to the improvement of programs for our older Americans.

And, Mr. Speaker, I want also to express my thanks to the distinguished junior Senator from Missouri, Senator Eagleton, chairman of the subcommittee in the other body, for his fine work on this legislation as well as to the other distinguished Senate conferees, Senators Randolph, Kennedy, Javits, Beall, and Stafford.

Mr. Speaker, by approving this conference report today, the House can help make possible significant improvement in the lives of 20 million older Americans. Our vote today will mean action, not just rhetoric, for America's older citizens.

Choosing specific provisions for special attention makes for a difficult task in considering this measure, but I would cite particularly provisions which strengthen the Administration on Aging within the Department of Health, Education, and Welfare, change and improve the title III grants to States, authorize a variety of information services for our older citizens, provide for multipurpose senior centers, and establish employment programs for middle-aged and older workers.

ADMINISTRATION ON AGING—TITLE II

To address each of these provisions briefly, Mr. Speaker, I would note that the intent of Congress with respect to the creation of the Administration on Aging in 1965 was clearly to create an entity highly visible in the Department of Health, Education, and Welfare to serve as a focal point for dealing with the problems of the aged. In line with this intent, the office was to be headed by a Presidentially appointed Commissioner.

Yet, Mr. Speaker, in 1967 Administration on Aging was placed within the Social and Rehabilitation Service—report to the Administrator of SRS, who is not a Presidential appointee.

I would cite other actions which have diminished the capacity of Administration on Aging to serve as the focal point on problems of the elderly which we in Congress intended when we established this agency. But let me say that the House and Senate, and accordingly, the conferees, have agreed that the position of Administration on Aging must be strengthened within the Department of Health, Education, and Welfare.

I must stress, Mr. Speaker, that it is the intent of the conferees to reaffirm and emphasize the will of Congress that the Commissioner on Aging be the chief spokesman in the Federal Government on the problems of the elderly in the United States. To that end we have provided that the Commissioner's functions may not be delegated without the prior approval of Congress, and that the Commissioner be directly responsible to the Secretary and not to or through any other officer of the Department. And, indeed, in order to stress the intent of the conferees, that higher level attention be paid to the problems of the elderly, H.R. 15657, places the Administration on Aging in the Office of the Secretary.

Through two successive administrations, Mr. Speaker, one a Democratic administration and one a Republican administration, we have seen the intent of the Congress of the United States ignored with respect to the functions and authority of the agency charged with looking after the interests of older Americans.

The conferees mean to see that the highly visible advocacy role originally envisioned for the Commissioner on Aging be restored and, indeed, strengthened.

Next, Mr. Speaker, I call to your attention in H.R. 15657 the expanded and improved provisions for the basic State-grant program authorized under the Older Americans Act.

GRANTS TO STATES—TITLE III

Under the present Older Americans Act, the title III State grant program has the most direct and immediate impact in meeting the needs of older people. H.R. 15657 substantially revises this program in order to provide for better organization at State and local levels; to permit the targeting of limited resources to high priority areas; and to provide more specific direction for the operation of programs.

To qualify for Federal funding, States are required to designate a sole State agency to prepare and submit a State plan to the Commissioner on Aging and to administer the plan throughout the States. States are urged to divide the State into separate planning and services areas; to establish a comprehensive and coordinated service system; and to designate an agency within such areas for the development of such plan. States are charged with the responsibility of approving plans, developed by planning and service area agencies, which provide for the establishment of a comprehensive and coordinated system for the delivery of a range of identified social services to the aging within the area. In small States and rural States, one area plan may cover an entire State when this would be the most effective plan.

Authorizations for the title III program have been substantially increased in H.R. 15657 from the fiscal year 1972 level of $30 million to $100 million for fiscal year 1973, $200 million for fiscal year 1974, and $300 million for fiscal year 1975.

INFORMATION SERVICES

Mr. Speaker, when we speak of the needs of our senior citizens, we frequently first think of the programs and services we make available to them. And while I would recognize and defend the value of such programs, I would also stress that the information and referral services which H.R. 15657 provides are also necessary for the improvement of our programs for older Americans.

For I would remind my colleagues, Mr. Speaker, that the value and utility of the programs and benefits authorized under the Older Americans Act, and other measures for our elderly such as social security, medicare, and medicaid, are lessened if our senior citizens are unaware of them and lack a convenient source of information on them.

H.R. 15657, Mr. Speaker, addresses this problem in two ways.

First, the bill authorizes a National Information and Resource Clearinghouse within the Department of Health, Education, and Welfare, to provide information for both individual senior citizens and the organizations serving them.

Second, in order for a State to receive a grant under title III, a State plan must be presented which provides for establishing and maintaining information and referral sources in sufficient numbers to assure that all older persons in the State will have reasonable access to such information sources.

Mr. Speaker, the conferees are confident that the provision of these information services will greatly enhance the value of the programs authorized under the Older Americans Act and other legislation dealing with our senior citizens.

MULTIPURPOSE SENIOR CENTERS—TITLE V

Next, Mr. Speaker, let me say just a word about the provisions in the bill authorizing the acquisition, renovation, and construction of multipurpose senior citizens' centers.

H.R. 15657 adds a significant new authority to the Older Americans Act, title V, to provide funding for the establishment and initial staffing of multipurpose local senior citizens' centers.

Frequently, Mr. Speaker, the elderly need a single place where they can gather, receive a variety of services, and be referred to other services they require. Title V authorizes the Commissioner to make grants to public and nonprofit private agencies and contracts with any agency to pay up to 75 percent of the costs of construction of new facilities, or for the purchasing, leasing, and renovation of existing facilities. In addition, the Commissioner can make grants for 3 years, at a declining Federal share of 75, 66⅔, and 50 percent, to cover all or part of the costs of professional and technical personnel in such centers in their first years of operation.

Mr. Speaker, H.R. 15657 expressly stipulates that multipurpose senior centers are to be located, whenever possible, within walking distance of the homes of the elderly persons. This provision will help ensure that the elderly across the country will have easily accessible centers nearby where they can receive the information and the services they need.

EMPLOYMENT PROGRAMS FOR THE ELDERLY—TITLES IX AND X

The employment provisions in H.R. 15657, Mr. Speaker, deserve particular mention also, since unemployment and inflation have been particularly cruel facts of life for middle-aged and older workers. Title IX of this measure provides for public service jobs for low-income persons aged 55 or older who would have difficulty in securing other employment, and I must here commend the distinguished senior Senator from Massachusetts, Senator KENNEDY, and my distinguished colleague in the House, Congressman JONATHAN BINGHAM, for their outstanding leadership in sponsoring this provision and championing it so effectively.

As President Nixon noted in his speech to the White House Conference on Aging last year, Federal programs to provide public service jobs for older people "have proven remarkably successful at the demonstration level." But, as the President continued—

> Now we must move beyond this demonstration phase and establish these programs on a broader, national basis.

Mr. Speaker, title IX moves beyond the pilot phase and is intended to establish an identifiable program within the Department of Labor to continue and expand upon a program which has been, as the President noted, "remarkably successful."

I should also mention, in speaking of employment, title X of this measure, sponsored by the eloquent and distinguished senior Senator from West Virginia, Senator RANDOLPH, which would establish a comprehensive midcareer development service program in the Department of Labor to provide training, counseling, and special supportive services for persons 45 or older.

Mr. Speaker, Senator RANDOLPH's program is aimed at assisting individuals at a time of life when joblessness begins to rise, the duration of unemployment lengthens, and occupational mobility is seriously limited. Indeed, I would remind my colleagues that these factors frequently occur when the mature worker's family obligations may be the greatest.

I was pleased to support Senator RANDOLPH's proposal, and I am glad it has been retained in the conference report.

OTHER PROVISIONS

Mr. Speaker, let me also mention other important and significant provisions contained in H.R. 15657.

Title VII authorizes the Commissioner to make grants for up to 90 percent of the costs of model projects aimed at special concerns which Congress has recognized as critical to the well-being of our older Americans.

I refer in particular to the need for improved programs in housing, recreation, transportation, continuing education, employment and preretirement training for other citizens.

The conferees hope that the provision for model projects in these important areas can lead to new ways of improving services.

I should also tell my colleagues, Mr. Speaker, that under title IV, the conference report contains an important provision authorizing the establishment of multidisciplinary centers of gerontology or the support of existing centers, to recruit and train personnel to work with the aged, to conduct research into the process of aging and other factors affecting the elderly, to act as a repository of information related to basic and applied research, and to encourage the incorporation of information on aging into college and university courses in the biological and behavioral and social sciences.

H.R. 15657 increases the authorizations for the volunteer projects, such as the foster grandparents program and the retired senior volunteer program—RSVP—which have proved so successful since they were established.

The bill also authorizes a Federal Council on the Aging which the conferees intend to be more than a passive advisory body, and, indeed, which we would hope would actively promote the interests of older Americans throughout the entire range of Federal programs affecting them.

In this regard, Mr. Speaker, I would recall that the Senate amendment to H.R. 15657 provided for an Older Americans Advocacy Commission to act as a spokesman and advocate for the elderly in the Federal Government. But the conferees, in agreeing that the Commissioner on Aging should be the spokesman for the elderly in our councils of government, decided that the Federal Council on the Aging, as a strong and active advisory body, would better complement the Commissioner's role than an advocacy commission.

Finally, Mr. Speaker, this measure also amends the Library Services and Construction Act so as to assist libraries in the provision of special programs for the elderly, including in-home services, and I must here commend the distinguished junior Senator from Texas, Senator BENTSEN, for his leadership in cosponsoring this provision of the bill.

Mr. Speaker, both President Nixon and Senator MCGOVERN, as well as Senators and Representatives on both sides of the aisle, have expressed their belief that the 20 million older Americans who make up 10 percent of our population deserve greater attention from the Federal Government, and, indeed, deserve a national commitment to meeting their special needs.

Congress, Mr. Speaker, has, in the past, and in this session, demonstrated its desire to support efforts to improve the lives of our elderly, and I believe that H.R. 15657 is an encouraging beginning toward setting the broad national policy we need in this area.

Mr. Speaker, I wholeheartedly and strongly support this conference report, and I urge that it be adopted.

Mr. PERKINS. Mr. Speaker, the Older Americans Act was established in 1965 with a very modest authorization of $5 million for grants to assist States and communities in providing services to elderly persons. Important enactments in 1967 and in 1969 strengthened and expanded the original act. The program grew to a point where in 1971 800,000 persons were being served in more than 1,700 projects. A major addition to the act occurred just last year with the enactment of a new nutritional program for older persons.

Mr. Speaker, I am pleased that we were able to bring back to the House a conference report on the Older Americans amendments which I believe every Member of this body will support with pride. The report before us provides not only for the extension but also for further expansion and strengthening of our effort to provide services for elderly Americans.

For the basic title III program of grants, the authorization is increased from the fiscal year 1972 level of $30,000,000 to $100,000,000 for fiscal year 1973. We can expect a corresponding increase in the number of elderly people to be be served from last year's level of 800,000 to more than 2,000,000.

Under the conference report for title III $200,000,000 is authorized for fiscal year 1974 and $300,000,000 for fiscal year 1975.

The conference report contains a compromise formula for the distribution of title III funds which in my judgment is more equitable than either the House or Senate formulas.

The role of the Administration on Aging is greatly strengthened with the conference report assuring upgrading of its organizational status and that it will become the focal point of Federal concern for older persons.

There is created a strong Federal Council on the Aging to serve as a spokesman on behalf of older Americans. I am particularly pleased that the conference report retains two important Senate provisions dealing with problems of the elderly which have been far too long neglected. The conference report authorizes two programs which will greatly increase opportunity for employment for older workers. Unemployment for middle-aged and older workers is 73 percent higher than it was 3 years ago. There are more than 1,000,000 persons in this category looking for jobs.

A new Older American community service employment program builds upon the success of the present Operation Mainstream, and will provide programs under which unemployed low-income persons 55 years or older will become employed in community service activities; $100,000,000 is authorized this year and $150,000,000 next year for this new program.

The second program establishes a comprehensive midcareer development service program to assist middle-aged and older workers to retain and obtain employment by providing manpower training, counseling, and special supportive services. Too frequently current manpower programs overlook the older workers. Persons 45 and over, for instance, now account for less than 4 percent of our first-time enrollees in our Nation's work and training programs. Yet, they constitute 21 percent of our unemployed. This new measure represents a sound and sensible effort to help assure equitable participation of older persons in our Nation's training programs.

Mr. Speaker, I want to take this opportunity to compliment the distinguished chairman of our Select Subcommittee on Education, Mr. BRADEMAS, for he was instrumental in designing legislation which will have a lasting and significant impact in providing services to our older citizens. His leadership and work on H.R. 15657—together with the contributions of our ranking minority member, Mr. QUIE, and members of the committee from both sides of the aisle—have produced a comprehensive piece of legislation which builds on the successes of the past and incorporates into the Federal effort important innovations in bringing assistance to the elderly.

Mr. BRADEMAS. Mr. Speaker, I now yield to my colleague from Minnesota for such observations as he may wish to make.

Mr. HALL. Mr. Speaker, will the gentleman yield to me at that point for a question?

Mr. BRADEMAS. I yield to the gentleman.

Mr. HALL. I appreciate the gentleman yielding.

As shortly and as succinctly as possible, I would like to know, No. 1, were the amendments to the Older Americans Act, added on in the other body, germane?

Mr. BRADEMAS. Yes; I believe they are.

Mr. HALL. Are there any that are not germane?

Mr. BRADEMAS. No; there are not.

Mr. HALL. Second, what is the addition in cost?

Mr. QUIE. Will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to the gentleman.

Mr. QUIE. The figures I have show in 1973 $128.5 million over the House figures, in 1974 $334 million, in 1975 $33 million, making a total of $496 million over a 3-year period over the House figures.

Mr. HALL. I presume none of this is budgeted?

Mr. QUIE. You cannot say in 1974 and 1975, because it is in the budget, but in 1973 I am trying to get the figures.

I am trying to recall how much it is over the budget while I am trying to get the figures.

Mr. HALL. Finally, Mr. Speaker, if the gentleman will yield further, the other point I wanted to make was the question as to why we yielded in 20 instances in compromising the conference between the two bodies, whereas the other body acceded only in seven instances.

Mr. BRADEMAS. Mr. Speaker, I am impelled to say to my friend, the gentleman from Missouri, that the result of a conference ought not be measured in terms of the number of times of recessions, because the conference report before us maintains almost in toto the structure of the House bill.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's beliefs.

I wonder if my colleague and friend, the gentleman from Minnesota (Mr. QUIE) has anything to add to that?

The SPEAKER. The Chair will state that the gentleman from Minnesota will be recognized on his own time.

Does the gentleman from Minnesota desire to be recognized?

Mr. QUIE. I do, Mr. Speaker.

Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, before I begin, I would say to the gentleman from Missouri that I will be glad to answer his inquiry, and that is to say that on the Older Americans Act part of the bill, and that is the first eight titles of the bill, we really have a bill here that is practically the House bill, and I would say far superior to the Senate bill.

Mr. Speaker, I rise in support of the conference report on H.R. 15657—The Older Americans Comprehensive Services Amendments of 1972.

The title of the act aptly describes its central purpose, which is to establish at all levels of Government arrangements that will be conducive to the delivery of a comprehensive package of services to older Americans who need help. The emphasis is upon State and local area planning and upon carrying out at those levels social and nutritional programs which effectively reach our older citizens. This closely follows the recommendations of the administration.

The House and Senate versions of H.R. 15657 were not far apart in their expansion of State and local programs supported under the Older Americans Act. In fact, the authorizations for the basic State and areawide programs under title III of the act, were identical at $100 million for fiscal 1973 and $200 million and $300 million, respectively for fiscal years 1974 and 1975. Amounts previously authorized for the nutrition for the elderly programs—title VII of the act—remained unchanged at $100 million for fiscal 1973 and $150 million for fiscal 1974. These basic authorizations are not out of line with President Nixon's sharp increases in budget requests for the Administration on Aging.

In fact, the President's request of $257 million for this fiscal year for programs authorized under the Older Americans Act—including the full amount authorized for nutrition programs—represents a fivefold increase over funding for those programs in fiscal 1971. The President is carrying out the pledges he made to last year's White House Conference on Aging, more fully spelled out in his special message of March 23, 1972, to work out "a comprehensive strategy for meeting complex problems" facing older Americans. This bill is a major contribution to the development of that comprehensive strategy.

There were some crucial differences between the House and Senate bills, and one which was perhaps most critical was resolved in favor of the House approach. While both versions of this bill had enhanced the status of the Administration on Aging within the Federal structure, the House bill went much farther in two respects—by making the Commissioner on Aging solely responsible to the Secretary of Health, Education, and Welfare for basic policy decisions and by requiring that any delegation of authority by the Commissioner to any other officer not responsible to him be subject to congressional disapproval in the same manner as Presidential reorganization plans. The intent of the House bill is to so strengthen the Administration on Aging that it would be the principal spokesman and advocate for the aging within the Federal Government.

The Senate took a different route by creating an Older Americans Advocacy Commission, modeled on the Civil Rights Commission, to fulfill that role. It was the view of the House conferees that such a Commission could only serve to weaken the Administration on Aging, so we did not agree to it. Instead, we added some of the Commission's functions to the Presidentially appointed Council on Aging provided for in the House bill and dropped the reference to "advocacy" as well as the structure of the Commission.

Another major bone of contention was the difference between the distribution formulas for program grants to the States under title III. All discussions of distribution formulas tend to become complicated, but the easiest way to explain the difference was that the House version distributed far more funds on the basis of the numbers of elderly persons to be served—with a floor of $250,000 for each State and $50,000 for each territory—while the Senate bill would have distributed a full 1 percent of the appropriations to each State and one-half of 1 percent to each territory before anything was allotted on the basis of the number of persons to be served. Thus the Senate version proved very unfair to all of the medium-sized and large population States—particularly those having higher concentrations of elderly citizens—while it could be argued that the House version might not give enough to the smallest States to permit them to mount an effective effort.

I think that most of the conferees felt that we already had in the act a previously agreed upon formula—the one for the nutrition programs under title VII—which is fair to all. That formula first allots all of the funds on the relative numbers of older Americans—aged 60 and over—to be served and then places a floor of one-half of 1 percent of the appropriation under each State and one-quarter of 1 percent under each territory. The final compromise was to use for the initial year a formula which gives the smaller States a little bit more than under title VII, and then revert to the title VII formula in succeeding years but using the first year allotment as a minimum amount. Given the likelihood of increased appropriations, it is probable that for all practical purposes we shall be utilizing the title VII formula after fiscal 1974 without the first year floor having any effect, because no State will then be receiving less than that amount under the title VII formula. So it appears that the result will be fair to all States, at least after the first 2 fiscal years.

The House conferees, as usually is the case with our committee, found it impossible to resist the addition of two new titles, both administered by the Department of Labor, which have never been considered in the House. The first of these, title IX, "Community Service Employment for Older Americans," I find far more justifiable than the other. This program is analogous to the senior citizens volunteer programs—such as foster grandparents—which have been extremely successful. I did not believe that the beginning age for the program should be as low as 55, but the bill was changed to give priority for persons 60 years old or over, with those between 55 and 59 qualifying only in cases of exceptional need as spelled out in the joint statement of the conferees. It seems to me that unemployed senior citizens can find many useful work opportunities in community service fields to the benefit of both the individual and the community.

However, the new title X—"Middle-Aged and Older Workers Training"—should never have been a part of this bill. In the first place, it is clearly a manpower training program, and should be considered as a part of manpower legislation, rather than as a part of legislation designed to help older persons who for the most part are not in the work force. Second, on the merits of the title, the Department of Labor has ample authority to train and retrain unemployed and underemployed persons aged 45 or above. This is one more categorical manpower training program to burden a system already overloaded with categorical programs. We should be moving in the direction, instead, of eliminating narrowly defined categories of workers to be trained and designing a flexible authority to meet the needs of all persons who need job training. It may well be that in existing programs we do not provide enough opportunities for middle-aged workers. Upon examination, the same may be true of workers aged 35 years and older. We may be paying too much attention to the employment problems of younger men and women. If this is the case, it can best be cured through administrative, not legislative action.

While we ought not to have accepted title X as a part of this legislation, we at least eliminated the authorization of appropriations for fiscal 1973, leaving the authority to carry it out under existing manpower programs. Hopefully, before the beginning of fiscal 1974 we shall have a Comprehensive Manpower Act as President Nixon has long urged which will swallow up this authorization. I do not know of any authorities on manpower training who do not agree that categorical training programs such as title X move in the wrong direction. I hope we can correct our mistake.

Except for these two new titles, the authorization levels were not significantly different. However, with these two titles added, the total 3-year addition of authorizations above the House-passed amounts is $496 million. I cannot be too happy about that fact, either, particularly in view of our action only a few days ago of voting for a ceiling on Federal spending. Authorizing these additional programs may well prove to be holding out hopes for older Americans which cannot be met—and that, too, is counter to our performance and to the spirit and substances of the rest of this bill.

On balance, I think this is an excellent bill and I think the conferees did a very good job of resolving differences with respect to the amendments to the Older Americans Act of 1965. This is excellent legislation which incorporates, complements, and should improve the operation of the nutrition for the elderly program we approved earlier this year. As I have indicated, it provides an effective mechanism for the delivery of services at the State and local level, together with increased assistance to assure that more services will be available. The bill moves toward coordination of programs and services at the local level, designed to meet local needs, while it also tightens up and improves Federal administration. The vast improvement in information about services available to senior citizens which this bill should bring about is in itself a major accomplishment, and it has many other admirable features.

Accordingly I urge my colleagues to approve the conference report.

Mr. HANSEN of Idaho. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. HANSEN of Idaho. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I am very pleased with the outcome of the conference on the Older Americans Act Amendments. While the conference report for the most part adopts the House-approved version of the bill, I think we were able to combine the House and Senate versions in such a way as to bring back a stronger bill than we passed in either body.

It is extremely important that this effort to improve the Older Americans Act succeed. The 20 million Americans who are aged 65 or older do not have problems which differ from those of the younger population; it is simply that their problems tend to be much more acute, and older people need and deserve more help in solving them. Governmental effort alone will never meet the needs of our older citizens, but in many fields it is the major factor and it can be vitally important in galvanizing private action and in coordinating the work of public and private agencies. The heart of this bill is a strengthened and improved system for the delivery of services at the State and local level, as suggested by Secretary Richardson of Health, Education, and Welfare and the Commissioner on Aging, Mr. John Martin.

The authorizations for the amended title III of the act which authorizes these new State and local services have been greatly increased, from $15 million in planning funds for fiscal 1972 to $100 million, $200 million, and $300 million, respectively, for fiscal years 1973, 1974, and 1975, for both planning and program operation. This is in line with President Nixon's large increase in requests for funding of the Administration on Aging. The title III authorizations are separate from those for the nutrition-for-the-elderly program we have authorized at levels of $100 million for fiscal 1973 and $150 million in 1974, which is found in title VII of the act. However, this bill does provide for close coordination of nutrition programs with the comprehensive services authorized under title III, and this is one of the strengths of the bill. We are beginning to see programs for the elderly not as separate things which are useful to a few, but as a part of a comprehensive package of services available to all who need help. We could usefully apply the philosophy of this legislation to a good many other social programs, including education.

In contrast to the Senate bill, a major thrust of the House bill was to substantially upgrade the position of the Administration on Aging in the Federal structure and to make it the principal operating agency for programs authorized by the Older Americans Act. In addition, other departments and agencies of Government having programs affecting older Americans will have to coordinate their activities with the AOA. The Senate bill did not go as far in this direction, but rather placed reliance upon an "Older Americans Advocacy Commission" patterned on the Civil Rights Commission. While we accepted some of the functions of the Commission and gave them to a Federal Council on Aging which follows the structure of the advisory council in the House bill, we rejected the Senate approach.

By vastly strengthening the Administration on Aging and the role of its Commissioner, we made it clear that this is the agency which will serve as the principal spokesman and advocate of the elderly within the Federal Government. We think that this is a role which can be more effectively carried out by and is more appropriate to an agency of the Government itself, rather than an outside group. The new, Presidentially appointed Federal Council on Aging can monitor these activities on a government-wide basis and report its findings and recommendations to the Secretary, the President, and the Congress, but the focal point for action will be the Administration on Aging.

Mr. Speaker, there are many other important and innovative features of this legislation. The establishment of a National Information and Resource Clearinghouse for the Aging is but one step in the improvement of information services at all levels, and particularly at the local level. The best services in the world are of little use if people do not know about them or are not helped to utilize them. This has been a major weakness in our programs for the elderly, and one which we hope to see corrected through this legislation.

The training of skilled personnel in the field of aging, and research and development in general, are both major elements in this legislation, spelled out in title IV of the amended act. The bill also includes authorization for model projects in such fields as transportation, housing, and employment for older Americans and for funding Multidisciplinary Centers of Gerontology which could add to our knowledge in the biological, behavioral, and social sciences as they relate to aging.

Mr. Speaker, this extremely comprehensive legislation may well be among the most significant acts of this Congress, or of several Congresses, even though it has not received the attention it deserves from the general public. The fact that this bill was put together in a spirit of bipartisan cooperation in both the House and Senate, and worked out in the same spirit in the conference between the two bodies, may have something to do with the lack of public attention. That same spirit, however, bodes well for the ultimate achievement of the objectives of this landmark legislation.

Mr. Speaker, I take great pride in having been one of the sponsors of H.R. 15657, and in having served on the conference committee which produced the final legislation. I urge approval of the conference report.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. BINGHAM. Mr. Speaker, as I noted in debate on this legislation when it passed the House on July 17 of this year, H.R. 15657, the Older Americans Comprehensive Services Amendments of 1972, contains a number of very helpful additions and modifications to major programs affecting our senior citizens. I supported it then and I am pleased to support it now, and I want to offer my compliments to the members of the Education and Labor Committee, and particularly the conferees on this bill led by Chairman Perkins and the gentleman from Indiana (Mr. Brademas) for their fine work.

In supporting the bill when it passed the House, I expressed disappointment only in the fact that, while it extended and expanded programs under which older Americans can engage in community service work as unpaid volunteers, it did not contain provisions to give statutory status and earmarked funding to programs currently in existence under the Labor Department which provide community service jobs for senior citizens on a salaried basis. I am pleased to note that that omission has now been remedied, and that the Older American Community Service Employment Act, of which I was the primary sponsor in the House, has been included in the conference version of H.R. 15657.

I introduced the Older American Community Service Employment Act on August 12, 1970, in the 91st Congress, and subsequently reintroduced it as H.R. 603 in the current 92d Congress. It has been sponsored and very ably promoted in the Senate by the distinguished senior Senator from Massachusetts, Edward Kennedy, and by a longtime champion of progressive and innovative programs of assistance to older Americans, Senator Harrison J. Williams of New Jersey. The Senate passed the bill as part of its version of H.R. 15657, and I am gratified that it has been retained by the conference committee.

This important addition, on behalf of which I testified before the House Education and Labor Committee on April 13, 1972, authorizes $100 million in fiscal year 1973 and $150 million in fiscal year 1974 specifically for community service jobs for older persons under Labor Department programs like "Senior Aides," which I was instrumental in getting started some years ago. These excellent programs, which do so much to give involvement, a sense of being useful, and needed extra income to many very capable and energetic older Americans, have existed "from hand to mouth," so to speak. With enactment of this legislation, these programs will have a statutory mandate and separate funding which should assure that they will continue to benefit older Americans and our communities. I am gratified to have been directly involved in the fight to fund and continue these programs, and am happy to have had the support of many Members of the House and Senate, including particularly my good friend and colleague, the gentleman from Indiana (Mr. Brademas).

I would also note, Mr. Speaker, that I introduced legislation in 1970 to establish a program of research into the biological and other aspects of aging, about which we know all too little. I reintroduced that bill as H.R. 601 in the 92d Congress, and title IV of the conference version of H.R. 15657 now before the House establishes much the same type of program of gerontological research that was envisioned in my bill.

Mr. Speaker, I enthusiastically support this legislation for the many fine programs it contains in addition to those I have mentioned here, and I urge my colleagues in the House to join me in approving the conference report so that this legislation may go to the President for signature and final enactment without delay.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1467, AMENDING INTERNAL REVENUE CODE

Mr. BOGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1467) to amend section 152(b)(3) of the Internal Revenue Code of 1954 for the purpose of including nationals of the United States within the definition of the term "dependent" in connection with deductions for personal exemptions, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. MILLS of Arkansas, ULLMAN, BURKE of Massachusetts, BYRNES of Wisconsin, and BETTS

NATIONAL INCONVENIENCED SPORTSMEN'S ASSOCIATION

Mr. JACOBS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15453) to incorporate in the District of Columbia the National Inconvenienced Sportsmen's Association.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15453

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That Douglas Pringle, Daniel McPherson, and Jim Winthers, the present directors and officers of the National Inconvenienced Sportsmen's Association (a nonprofit corporation organized under the laws of the State of California), and their associates and successors, are created in the District of Columbia a body corporate by the name of the National Inconvenienced Sportsmen's Association (hereinafter referred to as the "corporation"), and by such name shall be known and have perpetual succession and the powers and limitations contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act, acting in person or by written proxy, are authorized to do whatever acts as may be necessary to complete the organization of the corporation.

PURPOSES OF THE CORPORATION

SEC. 3. (a) The purposes of the corporation shall be—

(1) to provide veterans and others who are inconvenienced persons an opportunity to experience sports as a recreational activity in which they may participate;

(2) to afford a frequent natural sports environment for inconvenienced persons which has positive psychological and therapeutic results; and

(3) to develop a nucleus of sports programs and competent instructors to carry the program throughout the Nation.

(b) As used in this section the term "inconvenienced persons" includes amputees, blind persons, and persons who are neurologically damaged.

POWERS OF THE CORPORATION

SEC. 4. (a) Subject to all applicable laws of the United States, and of any State in which the corporation operates, the corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal for the sole and exclusive use of the corporation;

(3) to adopt, alter, or amend bylaws not inconsistent with this charter;

(4) to contract and be contracted with;

(5) to acquire, control, hold, lease, and dispose of such real, personal, or mixed property as may be necessary to carry out the corporate purposes;

(6) to choose such officers, managers, agents, and employees as may be necessary to carry out the corporate purposes; and

(7) to do any and all acts and things necessary and proper to carry out the corporate purposes.

(b) For the purposes of this section, the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be set forth in the bylaws of the corporation.

GOVERNING AUTHORITY OF THE CORPORATION

SEC. 6. (a) The corporation shall have a national board of directors as may be provided for in the bylaws of the corporation.

(b) Qualifications of directors on any national board of directors created for the corporation, the manner of selection of such directors, terms of office of directors on the board, and the powers and responsibilities of the board and its directors shall be set forth in the bylaws of the corporation.

OFFICERS OF THE CORPORATION

SEC. 7. The officers of the corporation shall be those provided for in the bylaws of the corporation. Such officers shall be elected in such manner, for such terms, and with such powers and responsibilities, as may be prescribed in the bylaws of the corporation.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 8. (a) The principal office of the corporation shall be in Sacramento, California, or in such other place as may later be determined by the corporation, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the United States and all other locations as may be necessary to carry out the corporate purposes.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept services of process for the corporation. Service upon, or notice mailed to the business address of, such agent shall be deemed notice to or service upon the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the assets or income of the corporation shall inure to any member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make loans to its members, officers, directors, or employees.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and its officers and directors as such shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST THE ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law" approved August 30, 1964 (36 U.S.C. 1102, 1103), shal apply with respect to the corporation.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws, and the laws of the District of Columbia applicable thereto.

TRANSFER OF ASSETS

SEC. 16. The corporation may acquire the assets of the existing organization of the National Inconvenienced Sportsmen's Association, a nonprofit corporation chartered in the State of California upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such corporation and upon complying with all laws of the State of California applicable thereto.

RESERVATION OF THE RIGHT TO AMEND OR REPEAL CHARTER

SEC. 17. The right to alter, amend, or repeal this Act is expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

POP WARNER LITTLE SCHOLARS, INC.

Mr. JACOBS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 15188) to incorporate in the District of Columbia Pop Warner Little Scholars, Inc.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Herbert Barness, 1352 Easton Road, Warrington, Pennsylvania; Joseph J. Tomlin, 1004 Western Saving Fund Building, Philadelphia, Pennsylvania; E. J. Carroll, 611 Shipton Lane, Bryn Mawr, Pennsylvania; G. Martin Brill Watts, 571 Sycamore Mills Road, Media, Pennsylvania; James T. Bryan, Junior, 67 Wall Street, New York, New York; Milton Clark, 5401 Walnut Street, Philadelphia, Pennsylvania; George M. Ewing, Junior, 611 Maplewood Road, Wayne, Pennsylvania; Donald C. Osgood, 1000 Miramar Place, Fullerton, California; Anthony F. Visco, Junior, 1418 Packard Building, Philadelphia, Pennsylvania; Maurie H. Orodenker, 6004 North 13th Street, Philadelphia, Pennsylvania; Charles A. Barsuglia, 7246 Marsden Street, Philadelphia, Pennsylvania; Stanley M. Bednarek, 2607 East Allegheny Avenue, Philadelphia, Pennsylvania; Mitchell N. Daroff, Rittenhouse Plaza Apartments, Philadelphia, Pennsylvania; John D. Scott, City Hall, Philadelphia, Pennsylvania; David G. Tomlin, 3664 Richmond Street, Philadelphia, Pennsylvania; and their successors, are hereby created and declared to be a body corporate in the District of Columbia by the name of Pop Warner Little Scholars, Incorporated (hereafter in this Act referred to as the "corporation"), and by such name shall be known and have perpetual succession. Such corporation shall have the powers and be subject to the limitations and restrictions contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of bylaws, and the doing of such other acts as may be necessary to complete the organization of the corporation.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to inspire youth, regardless of race, creed, or color, to practice the ideals of sportsmanship, scholarship, and physical fitness; and

(2) to bring youth closer together through the means of common interest in sportsmanship, scholarship, fellowship, and athletic competition.

CORPORATE POWERS

SEC. 4. (a) The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers and employees as its business may require and define their authortiy and duties;

(4) to adopt and amend bylaws, not inconsistent with this Act or any other law of the United States or any State in which it is to operate, for the management of its property and the regulation of its affairs;

(5) to make and carry out contracts;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to acquire by purchase, lease, or otherwise, such real or personal property, or any interest therein, wherever situated, necessary or appropriate for carrying out its objects and purposes and subject to the provisions of law of the State in which such property is situated (A) governing the amount or kind of real or personal property which similar corporations chartered and operated in such State may hold, or (B) otherwise limiting or controlling the ownership of real or personal property by such corporations;

(8) to transfer, lease, and convey real or personal property;

(9) to borrow money for its corporate purposes, issue bonds therefor, and secure the same by mortgage, deed of trust, pledge, or otherwise, subject to all applicable provisions of Federal or State law; and

(10) to do any other acts necessary and proper to carry out its objects and purposes.

(b) For the purpose of this section, the term "State" includes the District of Columbia.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Philadelphia, Pennsylvania, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent shall be deemed notice to or service upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as set forth in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the persons named in the first section of this Act.

(b) The initial board of directors shall hold office until the first election of a board of directors. The number, manner of selection (including filling of vacancies), term of office, and powers and duties of the directors shall be set forth in the bylaws of the corporation. The bylaws shall also provide for the selection of a chairman and his term of office.

(c) The board of directors shall be the governing board of the corporation, and a quorum thereof shall be responsible for the general policies and programs of the corporation and for the control of all funds of the corporation. The board of directors may appoint committees to exercise such powers as may be prescribed in the bylaws or by resolution of the board of directors.

OFFICERS; ELECTION OF OFFICERS

SEC. 8. The officers of the corporation shall be those provided in the bylaws. Such officers shall be elected in such manner, for such terms, and with such duties, as may be prescribed in the bylaws of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the corporation's board of directors.

(b) The corporation shall not make loans to its members, officers, directors, or employees. Any director who votes for or assents to the making of such a loan, and any officer who participates in the making of such a loan, shall be jointly and severally liable to the corporation for the amount of such a loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and its officers and directors as such shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102–1103), shall apply with respect to the corporation.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws applicable thereto.

TRANSFER OF ASSETS

SEC. 16. The corporation may acquire any and all of the assets of the Pennsylvania corporation known as Pop Warner Little Scholars, upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such corporation, and upon complying with all laws of the State of Pennsylvania.

EXCLUSIVE RIGHT TO NAMES, EMBLEMS, SEALS, AND BADGES

SEC. 17. The corporation and its subordinate divisions shall have the sole and exclusive right to use the names, "Pop Warner Little Scholars", "Pop Warner Junior League Football", and "Pop Warner Football". The corporation shall have the exclusive and sole right to use, or allow or refuse the use of, such emblems, seals, and badges as have heretofore been used by the Pennsylvania corporation described in section 16 and the right to which may be lawfully transferred to the corporation. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN EX-PRISONERS OF WAR

Mr. JACOBS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14171) to incorporate in the District of Columbia the American Ex-Prisoners of War.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following named persons; to wit: Juan Baldonado, Albuquerque, New Mexico; Harold L. Page, Buckley, Washington; Walter Pawlesh, McKees Rocks, Pennsylvania; Paul R. Richter, San Antonio, Texas; H. W. Goodall, Houston, Texas; Father Albert Braun, Phoenix, Arizona; Reverend Glenn T. Conner, Pittsburgh, Pennsylvania; Jack D. Warner, Hammon, Oklahoma; Ralph Rodriquez, Junior, Albuquerque, New Mexico; Peter Connacher, Portland, Oregon; Grady U. Inzer, Longview, Texas; Ben Vaitkus, Saint Ignace, Michigan; Eugene J. Shannahan, Williamsburg, Ohio; Dan Walmer, Pensacola, Florida; Warren I. Atkeison, Orlando, Florida; D. C. Wimberly, Springhill, Louisiana; George I. Deckert, San Antonio, Texas; Joseph Ray Perry, Portland, Oregon; Dustin Evasavik, Forrest Hills, Pittsburgh, Pennsylvania; Martin Bergman, Philadelphia, Pennsylvania; Otis A. Yates, Clovis, New Mexico; Ray V. Mares, Albuquerque, New Mexico; John W. Lay, Pittsburg, California; James W. Atwell, Winter Park, Florida, and their successors, are hereby created and declared to be a body corporate of the District of Columbia by the name of American Ex-Prisoners of War (hereinafter referred to as the "corporation"), and by such name shall be known and have perpetual succession and the powers, limitations, and restrictions herein contained.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary for such purpose.

PURPOSES OF THE CORPORATION

SEC. 3. The purposes of the corporation shall be—

(1) to preserve the great and basic truths and enduring principles upon which this Nation was founded;

(2) to form a national association for the benefit of persons who have suffered injuries and diseases incurred or aggravated during imprisonment by wartime enemies of the United States;

(3) to acquaint the public with the needs, problems, and handicaps peculiar to prisoners of war;

(4) to promote medical research in the several fields connected with injuries, diseases, and syndromes, including neurology, psychosomatic manifestations, and organic symptoms and diseases resulting from malnutrition stemming from imprisonment, to include parasitic infestations and such diseases as are contractable in geographical regions of the world, to include prognoses of sequelae and aftermath of imprisonment under unsanitary conditions plus improper food fare even though such food consumed during imprisonment may be in quantities to sustain life; and

(5) to advocate and foster complete and effective reconditioning programs for ex-prisoners of war, including a thorough physical reconditioning program, mental readjustment, physiotherapy, adequate guidance both vocational and educational, surgical needs and prosthetic appliances, hospitalization, plus immediate postliberation psychological reorientation and domestic reorientation and rehabilitation to all phases of postliberation livelihood.

CORPORATE POWERS

SEC. 4. The corporation shall have power—

(1) to have succession by its corporate name;

(2) to sue and be sued, complain and defend in any court of competent jurisdiction;

(3) to adopt, use, and alter a corporate seal;

(4) to choose such officers, managers, agents, and employees as the business of the corporation may require;

(5) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States, the District of Columbia, or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(6) to contract and be contracted with;

(7) to take by lease, gift, purchase, grant, devise, or bequest from any private corporation, association, partnership, firm, or individual and to hold any property, real, personal, or mixed, necessary or convenient for attaining the objects and carrying into effect the purposes of the corporation, subject, however, to applicable provisions of law of a State or the District of Columbia (A) governing the amount or kind of property which may be held by, or (B) otherwise limiting or controlling the ownership of property by, a corporation operating in such State, or the District of Columbia;

(8) to transfer, convey, lease, sublease, encumber, and otherwise alienate real, personal, or mixed property; and

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, deed of trust, pledge or otherwise, subject in every case to all applicable provisions of Federal, District of Columbia, and State laws.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in San Antonio, Texas, or in such other place as may be later determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, territories, and possessions of the United States.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation; and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP; VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights, privileges and designation of classes of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

(b) Each member of the corporation, other than honorary, sustaining or associate members, shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

BOARD OF DIRECTORS; COMPOSITION, RESPONSIBILITIES

SEC. 7. (a) Upon the enactment of this Act the membership of the initial board of directors of the corporation shall consist of the following persons: Juan Baldonado, Harold L. Page, Walter Pawlesh, Paul R. Richter, H. W. Goodall, Father Albert Braun, Reverend Glenn T. Conner, Jack D. Warner, Ralph Rodriquez, Junior, Peter Connacher, Grady U. Inzer, Ben Vaitkus, Eugene J. Shannahan, Dan Walmer, Warren I. Atkeison, D. C. Wimberly, George I. Deckert, Joseph Ray Perry, Dustin Evasavik, Martin Bergman, Otis A. Yates, Ray V. Mares, John W. Lay, James W. Atwell.

(b) Thereafter, the board of directors of the corporation shall consist of such number, shall be selected in such manner (including the filling of vacancies), and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and, during the intervals between the meetings of members, shall be responsible for the general policies and program of the corporation and for the control of all contributed funds as may be raised by the corporation.

OFFICERS; ELECTION AND DUTIES OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a chairman of the board of directors, a president, one or more vice presidents (as may be prescribed in the constitution and bylaws of the corporation), a secretary, and a treasurer, and one or more assistant secretaries and assistant treasurers as may be provided in the constitution and bylaws.

(b) The officers of the corporation shall be elected in such manner and for such terms and with such duties as may be prescribed in the constitution and bylaws of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any of its members, directors, or officers as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the board of directors of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan or advance to an officer, director, or employee of the corporation, and any officer who participates in the making of such a loan or advance, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers and directors as such, shall not contribute to or otherwise support or assist any political party or candidate for public office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS; REPORT TO THE CONGRESS

SEC. 14. (a) The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the

United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be made by the corporation to the Congress not later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year, including (1) the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, and (2) a schedule of all contracts requiring payments in excess of $10,000 and any payments of compensation, salaries, or fees at a rate in excess of $10,000 per annum. The report shall not be printed as a public document.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets, if any, of the corporation shall be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 16. The right to alter, amend, or repeal this Act is expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROHIBITING THE UNLAWFUL USE OF A RENTED MOTOR VEHICLE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9604) to prohibit the unlawful use of a rented motor vehicle.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any person within the District of Columbia who, by false statement, or misrepresentation, of a material fact, obtains possession of a motor vehicle under a rental agreement shall be fined not more than $1,000, or imprisoned for not more than three years, or both.

(b) (1) Any person within the District of Columbia who obtains possession of a motor vehicle under a written rental agreement which specifies a particular time at which that motor vehicle is to be returned to the lessor, and with intent to unlawfully deprive the owner of possession of that motor vehicle, fails to return that motor vehicle at that specified time shall be fined not more than $1,000, or imprisoned for not more than three years, or both. Failure to return that motor vehicle within seventy-two hours after an oral demand for the return of that motor vehicle has been made in person upon the lessee of that motor vehicle after that specified time, or within ninety-six hours after a written demand for the return of that motor vehicle has been mailed by registered letter to the last known address of that lessee after that specified time, shall be prima facie evidence of an intent to unlawfully deprive the owner of possession of that motor vehicle.

(c) For the purposes of this Act the term "motor vehicle" means any automobile, motorcycle, truck, truck tractor, trailer, semitrailer, or bus.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

That section 826b. of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 22–2204 et seq.) is amended to read as follows:

"SEC. 826b. UNAUTHORIZED USE OF A VEHICLE.—(a) Any person who, without the consent of the owner, shall take, use, operate, or remove or cause to be taken, used, operated, or removed, from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, enclosure, or space, an automobile or motor vehicle, and operate or drive or cause the same to be operated or driven for his own profit, use, or purpose shall be punished by a fine and exceeding $1,000 or imprisoned not exceeding five years, or both such fine and imprisonment.

"(b) (1) It shall be prima facie evidence of a violation of this section that any person, after renting or leasing a motor vehicle under an agreement in writing which provides for the return of the motor vehicle to a particular place at a particular time, failed to return the motor vehicle *to such place* within five days after the time specified, and thereafter having been served with a written demand, either personally or by registered or certified mail return receipt requested, failed to return the motor vehicle, except for causes beyond his control to the place specified in the written agreement within five days from the time of the service of the written demand.

"(2) Service by registered or certified mail of the written demand specified in paragraph (1) shall be deemed complete forty-eight hours after the deposit in the United States mail of such written demand, postpaid, and addressed to the lessee at the address either set forth on the written rental agreement or otherwise provided by the lessee.

"(3) In any case in which the defense is raised that the lessee of a motor vehicle failed to return the motor vehicle for causes beyond his control, proof that the lessee obtained the rented motor vehicle by reason of any false statement or representation of a material fact, including a false representation as to name, residence, employment, or operator's license shall be admissable to determine whether the failure to return such motor vehicle was for causes beyond the control of the lessee."

The committee amendment was agreed to.

Mr. BROYHILL of Virginia. Mr. Speaker, I wish to commend to my colleagues for their favorable consideration the bill H.R. 9604, which I introduced for the purpose of providing for the first time an adequate and effective means for the prosecution of cases involving the unauthorized use of rented motor vehicles in the District of Columbia.

I am advised that more than 95 percent of all motor vehicles rented from rental and leasing agencies in the Washington metropolitan area are returned in accordance with the terms of the rental contract. Further, nearly all the vehicles which are not returned on time are returned within a period of 1 or 2 days after the specified return date. The small percentage of those not so returned, however, presents a serious and expensive problem of recovery.

Nearly all such cases involve a deliberate retention of the vehicle with no intention on the part of the lessee to pay for its use. Despite the fact that all the motor vehicle rental and leasing operators take all possible precautions with respect to the qualification of prospective renters, including employment verification, checking of telephone numbers and credit cards, driver's license descriptions, and so forth, if the lessee has conversion of the rented vehicle in mind, he is prepared with all the right answers and backup information. He knows, for example, that a stolen credit card will not appear on the stolen list for at least 30 days. He is also familiar with the problem, peculiar to car-rental businesses in the District of Columbia, of obtaining a warrant for his arrest.

Although there are specific conversion statutes in every one of the 50 States which I am informed serve adequately as vehicles for the prosecution of these offenders, I am advised that there is no provision at present in the District of Columbia Code which has proved satisfactory for this purpose. As a result, when such converted vehicles are recovered in the District, the bailee, being in many cases judgment-proof, is allowed to go unpunished and usually not even inconvenienced.

Criminal prosecutions for this offense have been attempted under section 22–2204 of the District of Columbia Code, which deals with the offense of unauthorized use of vehicles, and also under section 22–2201 and 2202, the larceny statutes. Neither has proved to be effective for these prosecutions for conversion, however.

For example, the U.S. District Court for the District of Columbia held, in one such case, that even though a defendant had used a motor vehicle in excess of the express consent given in the contract, this fact could not be equated with use "without the consent of the owner," which is essential for conviction under the unauthorized use law. And in order to prosecute successfully under the larceny statutes, the government must show an intent to steal, and it has been held that a mere unlawful retention of a rented vehicle is insufficient to prove such an intent.

In the absence of an adequate provision in the District's criminal code, the U.S. attorney's office has been reluctant to issue warrants and initiate procedures to reclaim such motor vehicles and to proscute the bailees. I understand that the policy of that office has been to take no affirmative action in conversion cases until 60 days have elapsed after the return date specified in the contract, since that office considers that period of time requisite to justify an inference of criminal action.

Such a lapse of 2 months, of course, hardly offers adequate protection to the rental agencies in such cases. I am informed that as a result of this situation, as of September 13 there were more than 550 rental cars, valued at some $175,000, unaccounted for in the District of Columbia.

As I have stated, this situation exists only in the District of Columbia, as all the States have laws governing and applicable to this offense. The Virginia Code, for example, provides that the lessee of a motor vehicle shall be deemed guilty of larceny if he fails to return the vehicle to the lessor within 5 days from the time he has agreed in writing to return it.

Within the past year, in recognition of the problem besetting this industry in the District of Columbia, the Office of the U.S. Attorney for the District of Columbia engaged in a series of conferences with representatives of the motor vehicle rental business, to develop a set of procedures for the rental agencies to follow, and under which it was thought successful prosecutions in conversion cases, under existing District of Columbia law, might be feasible. This resulted in a written set of conversion guidelines, which have been subscribed to by the industry, and under which some very limited success has been attained.

I am advised, however, that these guidelines have proved not to be effective to the degree which is necessary to offer any real relief to the car rental agencies, for several reasons. Chiefly, this ineffectiveness has resulted from the frequent changes in personnel in the U.S. Attorney's Office, and the differences of opinion among these prosecutors as to interpretations of these guidelines, and from the attitudes of certain judges, one of whom stated that although he would issue a warrant for the arrest of a person who failed to return a rented vehicle within the period specified in the guidelines, he would dismiss the case if it came before him for trial, on the grounds that he does not believe that the "unauthorized use" statute in the District of Columbia Code is applicable in a case of conversion.

This problem to this business in the District of Columbia cannot be taken lightly, for it is serious indeed. One such agency advises that its losses in Washington during the year 1970, stemming from this problem, amounted to approximately $6,500. During this same period, their losses in Virginia amounted to only $3,060, and in Maryland to some $3,000. These figures point up graphically the glaring inequity to this business resulting solely from the lack of adequate law in the District of Columbia on this subject.

This same company reports that not only do they lose the revenues from the rental of these vehicles, but that also they must go to great expense in their recovery, if and when they are found. Some have been found abandoned as far away as California. Also, in most such cases these cars are found damaged, and sometimes stripped.

In addition to these costs to the industry, there are also substantial costs to the community itself. Many of the converted cars are involved in accidents which result in property damage and personal injury to innocent parties. If there were an adequate conversion law, with prosecution assured and warrants issued within a reasonable period of time, the cars would of course be on the street a much shorter period of time.

H.R. 9604 offers a proper relief of this situation by amending section 22-2204 of the District of Columbia Code, the "unauthorized use" statute. The present language of this section, providing for a fine of not more than $1,000 or imprisonment for not more than 3 years, or both, for such unauthorized use, is left intact. However, new language is added, making it prima facie evidence of violation of that section for any person to retain a rented motor vehicle more than 5 days after the time specified in his rental contract, and thereafter having been served with a written demand, to fail to return the vehicle, except for reasons beyond his control, within 5 days from the time of service of this written demand.

Since it is further provided that this service of written demand shall be deemed complete 48 hours after its deposit in the U.S. mail, it follows then that no more than a total of 12 days can elapse after the expiration of the rental period stipulated in the rental agreement, before prima facie evidence of violation under section 22-2204 is established.

I and my colleagues on the District of Columbia Committee believe that this language will effectively remove the present reluctance of the U.S. Attorney's office and of some of the judges themselves to prosecute these conversion cases under the existing statute as so amended, and that thus for the first time there will be an effective law for this purpose in the Nation's capital. Furthermore, I am advised that the Department of Justice favors the enactment of this bill, as amended.

Mr. Speaker, I feel strongly that this inequitable situation existing in the District of Columbia should be corrected, in fairness to the persons engaged in the business of motor vehicle rental and leasing in the city. The neighboring States have taken proper steps to provide this protection for that industry within their borders, and I urge that we take appropriate action at this time, and follow suit, by the enactment of H.R. 9604.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

IMPLIED CONSENT TO TEST OPERATORS OF MOTOR VEHICLES FOR INTOXICATION

Mr. JACOBS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 4059) to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent to a chemical test of his blood, breath, or urine, for the purpose of determining the blood alcohol content.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 4059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act—

(1) The term "Commissioner" means the Commissioner of the District, or his designated agent;

(2) The term "District" means the District of Columbia;

(3) The term "license" means any operator's permit or any other license or permit to operate a motor vehicle issued under the laws of the District, including—

(A) any temporary or learner's permit:

(B) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(C) any nonresident's operating privilege;

(4) The term "nonresident" means every person who is not a resident of the District;

(5) The term "nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of the District relating to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in the District; and

(6) The term "police officer" means an officer or member of the Metropolitan Police force, the United States Park Police force, or the Capitol Police force, or any other person actually and officially engaged in the performance of police duties in connection with guarding the property of the United States or of the District.

(7) The term "specimen" means that quantity of a person's blood, breath, or urine necessary to conduct a chemical test or tests to determine blood alcoholic content.

SEC. 2. (a) Any person, other than one described in subsection (b) of this section, who operates a motor vehicle within the District shall be deemed to have given his consent, subject to the provisions of this Act, to two chemical tests of his blood, breath, or urine, whichever he may elect, for the purpose of determining blood-alcohol content. However, when the election of a particular test, such as a blood test requiring a physician or registered nurse, causes unreasonable delay or inconvenience, the arresting officer or other appropriate law enforcement officer shall elect which chemical test should be administered. In such a case, the operator can only object to a particular test on valid religious or medical grounds. The tests shall be administered at the direction of a police officer who, having arrested such person for a violation of law, has reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within the District while under the influence of intoxicating liquor.

(b) Any person who operates a motor vehicle within the District of Columbia and who is involved in a motor vehicle collision or accident in which death or personal injury results shall submit, subject to the provisions of this Act, to two chemical tests of his blood, breath, or urine, for the purpose of determining blood alcoholic content whenever a police officer (i) arrests such person for a violation of law, and (ii) has reasonable grounds to believe such person to have been driving or in actual physical control of a motor vehicle within the District while under the influence of an intoxicating liquor. However, when the election of a particular test, such as a blood test requiring a physician or registered nurse, causes unreasonable delay or inconvenience, the arresting officer or other appropriate law enforcement officer shall elect which chemical test should be administered. In such a case, the operator can only object to a particular test on valid religious or medical grounds.

SEC. 3. Only a physician or registered nurse acting at the request of a police officer may withdraw blood for the purpose of determining the alcoholic content thereof. This limitation shall not apply to the taking of a breath or urine specimen. The person tested may, in addition to submitting to the two tests administered at the direction of a police officer, also submit to a chemical test or tests administered to him by a physician, registered nurse, or other person of his own choosing who is qualified to administer such test or tests. The failure or inability to obtain an additional test by a person shall not preclude the admission of the tests taken at the direction of a police officer.

SEC. 4. Full information concerning the tests administered under this Act shall be made available to the person from whom a specimen was obtained. Prior to administering the tests the police officer shall advise the operator of the motor vehicle about the requirements of this Act.

SEC. 5. (a) If a person under arrest refuses to submit to chemical testing as provided in section 2(a) he shall be informed that failure to submit to such test will result in the revocation of his license. If such person, after having been so informed, still refuses to submit to chemical testing, no test shall be given, but the Commissioner, upon receipt of a sworn report of the police officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the two tests, shall revoke his license for a period of six months; or if the person is a resident without a license to operate a motor vehicle in the District, the Commissioner shall deny to the person the issuance of a license for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(b) Any person who is unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by section 2 of this Act and the two tests may be given; except, that if such person thereafter objects to the use of the evidence so secured, such evidence shall not be used and the license of such person shall be revoked, or, if he is a resident without a license, no license shall be issued to him for a period of six months.

SEC. 6. (a) Whenever any license has been revoked or denied under the provisions of this Act, the reasons therefor shall be set forth in the order revocation or denial, as the case may be. Such order shall take effect five days after service of notice on the person whose license is to be revoked or who is to be denied a license, unless such person shall have filed within such period written application with the Commissioner for a hearing. Such hearing by the Commissioner shall cover the issues of—

(1) whether a police officer had reasonable grounds to believe such person had been driving or was in actual control of a motor vehicle upon the public street or highway while under the influence of intoxicating liquor; and

(2) whether such person, having been placed under arrest, refused to submit to the test or tests, after having been informed of the consequences of such refusal.

(b) If, following the hearing provided in subsection (a) of this section, the Commissioner shall sustain the order of revocation, the same shall become effective immediately.

SEC. 7. Any person aggrieved by a final order of the Commissioner revoking his license or denying him a license under the authority of this Act, may obtain a review thereof in accordance with section 11 of the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510).

SEC. 8. The Act approved March 4, 1958 (72 Stat. 30; D.C. Code, sec. 40–609a) is amended (a) by striking out the subsection designation "a" in the first section; (b) by striking out in paragraph (2) "fifteen one-hundredths", "eight one-hundredths", and "twenty one-hundredths", and inserting in lieu thereof "ten one-hundredths", "six one-hundredths", and "eleven one-hundredths", respectively; (c) by striking out in paragraph (3) "fifteen one-hundredths" and "twenty one-hundredths" and inserting in lieu thereof "ten one-hundredths" and "eleven one-hundredths" respectively; and (d) by striking out subsections (b), (c), and (d) of the first section, and section 2.

SEC. 9. This Act shall be known and may be cited as the "District of Columbia Implied Consent Act".

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO ENABLE THE BLIND AND THE OTHERWISE PHYSICALLY DISABLED TO PARTICIPATE FULLY IN THE SOCIAL AND ECONOMIC LIFE OF THE DISTRICT OF COLUMBIA

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11032) to enable the blind and the otherwise physically disabled to participate fully in the social and economic life of the District of Columbia, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 15, strike out "guide dog," and insert: "dog guide,".

Page 2, line 18, strike out "guide dog;" and insert: "dog guide;".

Page 2, line 25, strike out "guide dog" and insert: "dog guide".

Page 3, line 5, strike out "guide dog" and insert: "dog guide".

Page 3, line 9, strike out "guide dog" and insert: "dog guide".

Page 4, line 15, strike out "guide dog," and insert: "dog guide,".

Page 4, line 16, strike out "guide dog," and insert: "dog guide,".

Page 4, line 19, strike out "guide dog;" and insert: "dog guide;".

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

EXCLUSION OF PERSONNEL INFORMATION, METROPOLITAN POLICE DEPARTMENT, FROM PUBLIC INSPECTION

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11773) to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection, with Senate amendments thereto, and insist on disagreement to the Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. HALL. Mr. Speaker, reserving the right to object, am I to be advised that the gentleman insists on the House bill as printed in H.R. 11773 and will not under any circumstances take title II, which involves compensation of the District of Columbia Council as an "add-on" by the other body, and would stand as opposed under the presently passed amendments of the other body?

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, that is precisely the situation. I might say, if I may, that in the case of the president or the chairman of the City Council, I believe there is an inequity in his salary, but because of procedural difficulties, I agree with the gentleman from Missouri that inequity is best taken care of under regular provisions, perhaps by a retroactive provision in the next Congress.

Mr. HALL. Mr. Speaker, there is no intention of going to conference? If the other body will accept the House-passed version it would then become law?

Mr. JACOBS. That is correct.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. DANIELS of New Jersey. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 17020) to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers.

The Clerk read the title of the bill.

Mr. WILLIAM D. FORD. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. STEIGER of Wisconsin. Mr. Speaker, I am saddened that an objection has been made to the consideration of the bill (H.R. 17020).

When the Labor HEW bill was being considered the chairman of the Committee on Education and Labor and I both assured the House that we would work to bring a bill to the floor to provide consultation for small employers under the Occupational Health and Safety Act—OSHA.

H.R. 17020 was that bill and the objection to and consideration of the bill thwarts the effort of the distinguished gentleman from New Jersey (Mr. DANIELS) and myself to fulfill the commitment made.

H.R. 17020 was designed to provide a necessary aid to small employers in order to help them comply with OSHA. The bill and the support of the two largest and most active small business organizations, the National Federation of Independent Business and the National Small Business Association. It was also supported by the National Safety Council, the Nixon Administration, the AFL–CIO and a broad cross section of employer organizations.

While the other body has passed this bill as an amendment to another bill it would appear that 1972 will pass with the Congress failing to respond to a real need.

In 1973, H.R. 17020 on a similar consultation amendment to OSHA must be a high priority item.

EXTENSION OF AUTHORITY OF SECRETARY OF HUD WITH RESPECT TO INSURANCE OF LOANS AND MORTGAGES

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1165) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

The Clerk read as follows:

H. RES. 1165

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act, together with the Senate amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

The SPEAKER. Is a second demanded?

Mr. McKINNEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALL. Mr. Speaker, at what time would a point of order lie against this procedure predicated upon the rules of the House?

The SPEAKER. The Chair is not prepared to answer the gentleman without knowing what the point of order might be.

Mr. HALL. Mr. Speaker, as I understand the situation there is a unanimous-consent request for immediate consideration.

The SPEAKER. No, this is a suspension of the rules of the House.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the Clerk reread the resolution.

The SPEAKER. Without objection, the Clerk will re-report the resolution.

There was no objection.

The Clerk reread House Resolution 1165.

The SPEAKER. The gentleman from Texas will be recognized for 20 minutes and the gentleman from Connecticut will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. PATMAN. Mr. Speaker, last Monday, the House passed House Joint Resolution 1301 by a voice vote under the suspension of the rules. The Senate has added three amendments to this resolution. The House-passed version contained extension of the FHA insuring authorities to June 30, 1973. This would continue our Federal housing programs until that date.

The first Senate amendment would extend to June 30, 1973, the existing authority lifting the mortgage ceiling for mortgages eligible for purchase under the Government National Mortgage Association's tandem plan. The second Senate amendment provides an additional $150 million for fiscal year 1973 for the public housing program. The third Senate amendment authorizes $250 million for urban renewal for fiscal year 1973. The additional authorizations for public housing and urban renewal, Mr. Speaker, I believe are vital and have the support of the administration. The additional urban renewal funds are needed in order to provide those cities that were devastated by Hurricane Agnes with funds to assist them in rebuilding the flood-damaged areas in the cities. The $150 million in public housing authorizations is needed to keep this public housing program operating. This is a bare bones authorization for the public housing programs and is needed to keep the program operating during this current fiscal year.

Mr. Speaker, I strongly urge the House to adopt this resolution so that our housing programs can be extended until June 30, 1973.

Mr. Speaker, for the information of the Members, the Secretary of Housing and Urban Development, Mr. George Romney, has endorsed the bill and endorsed the procedure we have here now.

I quote from his letter of October 10, 1972:

> Last Friday, the Senate passed a joint resolution extending the insurance authority until June 30, 1973, which is identical to the extension date contained in the joint resolution approved by your committee and by the House. The Senate-passed joint resolution also contains provisions intended to extend several other authorities and programs of this Department.
>
> The resolution as passed by the Senate is acceptable to the Administration. I urge the House to give quick approval to this measure so that mortgage insurance operations can be resumed without further delay.

Mr. Speaker, I believe this is the only way we will get a bill. This is to extend the existing agencies, the insurance programs, and all the housing acts which expire soon. It will extend them until June 30, the end of the fiscal year 1973. If this is not adopted, I do not know what will happen to those programs because they will have to suspend immediately the paying of insurance or the granting of insurance and the housing programs that are related to it, so it would be a situation of crisis.

I hope that the Members of the House will vote for this bill, because it is very necessary.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I will withhold the remainder of my time.

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. PATMAN. Just a moment. I did not know that the gentleman would be recognized for that purpose.

Mr. HALL. You did not?

Mr. PATMAN. No, I did not, but my associate told me you did, and I recognized you.

The SPEAKER pro tempore (Mr. BOGGS). Will the gentleman withhold his point of order?

Mr. HALL. In view of the backtracking of the gentleman from Texas, I will gladly withdraw my point of order, although the Chair recognizes, I asked that you yield.

Mr. PATMAN. What was that last?

Mr. HALL. About the same as yours. If I offended the gentleman by referring to his great State of Texas, I certainly apologize.

Mr. Speaker, all I want to know from the gentleman is what the total cost of the bill is and whether the Senate amendments are germane.

Mr. PATMAN. It is $250 million plus $150 million; $400 million.

Mr. HALL. That is in the extension only?

Mr. PATMAN. Yes, sir.

Mr. HALL. That is not an increase in the rate per annum, or is it?

Mr. PATMAN. No. It is a cutback of $200 million.

Mr. HALL. I thank the gentleman. Are there any Senate nongermane amendments involved?

Mr. PATMAN. No. The amendments there were adopted——

Mr. HALL. I thank the gentleman.

Mr. PATMAN (continuing). Were adopted by the House.

Mr. McKINNEY. Mr. Speaker, will the gentleman from Texas yield?

Mr. PATMAN. Would the gentleman use his own time?

Mr. McKINNEY. Yes; I would be delighted to.

I wondered if the Chairman could explain to the House, in section 3, item 2 and 3, the Senate amendments which have been added to the bill.

Mr. PATMAN. Yes. With respect to the removal of the statutory limitation on the amount of annual contributions contracts a public housing project may receive, may I say that I have been in contact with the Department of HUD on this matter and I have received strong assurances from them that they will provide assistance over the statutory limit only in cases where the project is faced with a severe emergency situation and only after there has been a very tight budget review which shows that all unnecessary project expenditures have been eliminated. HUD has also assured me that it intends to provide assistance in these cases only in the amount which is absolutely necessary. I fully concur with this policy and believe it accurately reflects the intent of the Congress. This authority is intended to be used only in those cases of dire emergency which may arise between now and next spring when the Congress will have a fuller opportunity to act.

Mr. McKINNEY. If I might question the gentleman further, this would be conducted, solely by the rules and regulations or the decisions of HUD, and totally open-ended in this action. For instance, if there were a rent strike on the part of tenants, it is perfectly possible that HUD, in its own decision and jurisdiction, could go right on paying extra money under dire emergency?

Mr. PATMAN. The Secretary assured us that will not happen, the construction as placed on it.

Mr. McKINNEY. I thank the gentleman for his answers. I am a great supporter of the Secretary, as you know, but it seems to me it is somewhat of a travesty for us to write legislation which is so open ended and upon which we must assume the good and responsible intentions of the Secretary, rather than legislate the type of limits we know should be in this type of legislation.

This is a really permanent change in the law as it stands. This is opening up public housing in this area from now on in.

Mr. PATMAN. If the gentleman will permit me, this was written into the bill that we had by a vote of the committee.

It was also written into the Senate bill by a vote of the Senate. So I do not believe, in view of the assurance from HUD, we have anything to be disturbed about.

Mr. McKINNEY. I would hope the chairman is right. I respectfully remind him that in our bill we had a great many restrictions we placed around and about this situation, whereas now all we have going for us is the word of the Secretary.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Wisconsin.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks with respect to H.R. 17020, today.)

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate my colleague yielding.

Is there a disaster extension here in either the House- or Senate-passed bill that is retroactive to all who have suffered natural or other type disasters?

Mr. McKINNEY. I do not believe so; but I would defer to the chairman.

Mr. PATMAN. The answer is "no."

Mr. BARRETT. Mr. Speaker, I rise in support of House Joint Resolution 1301, as amended by the Senate. The extension of essential HUD programs contained in the resolution is urgently needed.

I would like to make one important point concerning the provision of an additional $150 million in public housing funds which is contained in section 1 of the resolution. It is very likely that a considerable portion of this additional $150 million will be made available by HUD to make up local housing authority operating deficits.

I have no objection to this provision. It was contained in the omnibus housing bill which, as Members know, failed recently to receive a rule from the House Rules Committee. In fact, the omnibus housing bill would have provided an additional $200 million for operating subsidies for the public housing program.

However, the omnibus bill would have directed HUD to condition the availability of further operating subsidies to housing authorities on the adoption by them of effective management procedures. These would have included the following:

> (1) The establishment of tenant eligibility criteria which, within a reasonable period of time, will assure that the project will include families with a broad range of incomes and will avoid concentrations of very low-income and socially deprived problem families;
>
> (2) The establishment of satisfactory procedures to assure the prompt payment and collection of rents; and
>
> (3) The establishment of effective tenant-management relationships which assure that—
>
> (A) satisfactory standards of behavior are required of all tenants, and
>
> (B) satisfactory standards for the safety of tenants and the physical maintenance of the project are established,
>
> and that the public housing agency, together with tenant councils where they exist, enforces those standards fully, effectively, and fairly.

While the absence of this provision in the resolution means that HUD cannot legally so condition operating subsidies, it should be clear that the great majority of House Banking and Currency Committee members desire HUD to take a stronger stance in encouraging improved management. The Secretary should do everything in his power not only to encourage the development of new and improved management techniques, but also to provide technical and other assistance to housing authorities to carry out new operating procedures. I believe I speak for all the members of the Banking and Currency Committee in this respect.

Mr. ST GERMAIN. Mr. Speaker, one of the sections of the unpassed housing bill is a provision to remedy a quirk in the Savings and Loan Law. The House Banking and Currency Committee unanimously approved section 1141 of the housing bill which would postpone for 1 year a provision in the National Housing Act that requires insured savings and loans to prepay premiums to the Federal Savings and Loan Insurance Corporation. The prepayment provision, which we no longer believe is necessary, would cause associations to prepay into the FSLIC approximately $600 million thus diverting this large sum from home mortages. This provision is not contained in this resolution.

If we are unable to enact this provision postponing these prepayments for a year, it is essential that Congress take corrective action early next year. A long-range permanent program for financing the FSLIC needs to be enacted and I understand that the Federal Home Loan Bank Board will submit such a plan early next year.

I am hopeful that we can have hearings on the Administration's plan or other plans to provide for financing the insurance on a sound basis. If we cannot complete a rewrite of the statute early next year, I trust the Congress will agree to a temporary postponement for any prepayments and avoid diverting this large sum of money from the home financing market.

Mr. McKINNEY. Mr. Speaker, I have no further requests for time.

Mr. PATMAN. Mr. Speaker, I ask for a vote.

The SPEAKER pro tempore (Mr. BOGGS). The question is on the motion offered by the gentleman from Texas (Mr. PATMAN) that the House suspend the rules and agree to House Resolution 1165.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 8395, REHABILITATION ACT OF 1972

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 8395) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 11, 1972.)

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I am pleased to rise to urge support for the conference report on H.R. 8395, the Rehabilitation Amendments of 1972. This bill comes as the culmination of 2 years of intensive activity and I believe H.R. 8395 to be the most substantial and significant advance in aid to handicapped persons in half a century.

The conference report, Mr. Speaker, is the result of bipartisan cooperation and compromise. H.R. 8395 passed the House by a vote of 327 to 0 and the Senate by a vote of 70 to 0.

I would like here to express my warm appreciation to the distinguished chairman of the Education and Labor Committee, Mr. PERKINS of Kentucky, and the distinguished ranking minority member of the committee, Mr. QUIE of Minnesota, who have labored long and hard on this legislation to better the lives of handicapped people.

I would be remiss, Mr. Speaker, if I did not also thank the gentlelady from Hawaii, Mrs. MINK, and the gentleman from Idaho, Mr. HANSEN, for their fine efforts in seeing this legislation successfully through the House, and helping guide it through the conference.

Mr. Speaker, I wish also to express my warm thanks to the distinguished chairman of the Senate Committee on Labor and Public Welfare, Senator WILLIAMS; of the Subcommittee on the Handicapped, Senator RANDOLPH, and, in particular, to the distinguished senior Senator from California, Senator CRANSTON, who gave such outstanding leadership on this measure, as well as to the other Senate conferees, Senators JAVITS and STAFFORD.

Mr. Speaker, we all know that one of the most successful illustrations of Federal-State cooperation in working toward a national goal is the vocational rehabilitation program created by legislation enacted in 1920 and amended many times since. The goal of the program through the years, Mr. Speaker, has been to assure that physically and mentally handicapped persons have, as near as it is possible, the same opportunity to succeed as have nonhandicapped persons.

IMPORTANCE OF VOCATIONAL REHABILITATION

Mr. Speaker, for 50 years, vocational rehabilitation has been a great success. Nearly 3 million disabled persons have been returned to productive activities since the act became law in 1920. During fiscal year 1971, a total of 291,272 persons received rehabilitation training and services and returned to the labor market. The earnings of those 291,272 persons increased by an estimated $770 million over what they had earned the year before they entered the vocational rehabilitation program. Average earnings of the persons rehabilitated had been $15.95 a week when they were first accepted into the program, but upon completion, their average earnings rose to $68.86 a week.

The Vocational Rehabilitation Act has often been the difference between poverty and financial independence, between despair and hope. Successful as the program has been, however, there is still much to be done to insure the rehabilitation of the handicapped people of this country. Despite the millions who have successfully completed rehabilitation services, there are even more millions who have not received any services at all. The simple fact is that, contrary to what many people think, the total number of seriously disabled people in the United States is increasing every year. As medical skills improve, persons who in years past would have succumbed to certain types of illness and injuries are today surviving to live lives of disability. An example of this is the thousands of disabled young men who have come out of the Vietnam war. Because of advances in evacuation techniques and treatment of catastrophic injuries, men who would have died on the battlefield in earlier wars are surviving in this war. Of the 400 Americans with spinal paralysis carried off the battlefields of World War I, 90 percent were dead within a year of receiving their wounds. Today soldiers receiving spinal cord injuries are surviving to live long lives in wheelchairs.

The simple fact is, Mr. Speaker, that we have only begun to scratch the surface in meeting the needs of our disabled fellow citizens. The conference report before us today contains provisions that will enable us to improve and enlarge the work of rehabilitating physically and mentally handicapped persons to enable them to return to their places in their families and communities as effective participating members of society.

Mr. Speaker, in my opinion, H.R. 8395 is a historic measure.

The bill is a replacement of the present Vocational Rehabilitation Act, and it contains substantially intact all current provisions of the present law while adding several new ones, all grouped according to purpose under several titles.

BASIC PROGRAM—TITLE I

Title I of H.R. 8395, Mr. Speaker, extends the present section 2 program of basic support grants to the States for vocational rehabilitation services, with some modifications to enable the program to operate more efficiently and comprehensively. These grants are to be used for two types of projects:

The planning, preparing for, and initiating of special programs to expand vocational rehabilitation services; and

The establishment of special programs to initiate or expand services to handicapped individuals who have unusual or severe problems in connection with their rehabilitation.

Mr. Speaker, let me here stress what I consider to be one of the most important features of title I, and, indeed, one of the most important features of H.R. 8395: the conferees intend that while all handicapped individuals be served under title I, priority be given to those individuals suffering from the most severe physical and mental handicaps.

The conferees took this position in light of the overwhelming testimony, in both the House and the Senate, to the effect that those persons with the most severe types of physical and mental conditions were not receiving adequate services.

So while the conferees recognize that there is great justification for serving those suffering from social disabilities and handicaps, such as the drug addict or the alcoholic, we would also note that other sources of funding exist to assist these individuals, and would urge that these sources be utilized first so as to concentrate the limited dollars available for rehabilitation purposes on those suffering from the most severe handicaps.

And I would also note, Mr. Speaker, that although we can hardly expect the Rehabilitation Services Administration to discontinue services in any area where it is now providing services, we can expect that wherever funds are available in other legislative authorities for the socially handicapped, cooperative arrangements will be made to purchase services for these individuals.

SEVERELY HANDICAPPED—NONVOCATIONAL GOAL—TITLE II

Mr. Speaker, title II encompasses a new grant program for States to develop and implement services to those so severely handicapped that a vocational goal for them is likely out of the question. Limitations in present law have meant that those individuals unable to be rehabilitated for employment purposes have frequently had no services made available to them at all. Often, Mr. Speaker, this has meant that those most in need of assistance have been denied it.

But we now know that many handicapped individuals who might never be able to hold a job can be assisted by rehabilitation services to the point that they can be more self-sufficient and independent within their homes and their communities. Title II is addressed to meeting the needs of such persons and we hope that under the provisions of this title we can help the most severely disabled achieve a greater feeling of dignity and self-worth in their communities.

SPECIAL FEDERAL RESPONSIBILITIES—TITLE III

Title III of H.R. 8395, Mr. Speaker, groups together under the title of "Special Federal Responsibilities" a number of special projects which operate outside of but together with the ongoing basic rehabilitative program, and which serve to develop program capacity and otherwise promote services for the handicapped and enhance the environment in which they live.

Title III, Mr. Speaker, includes important provisions providing for the construction of rehabilitation facilities—both by way of direct grants for such construction, as well as mortgage insurance and annual interest grants for rehabilitation facilities.

Title III also provides for the establishment of comprehensive centers for low-achieving deaf youths and adults. These centers will conduct research, train people to work with the deaf, and develop new methods and techniques for serving the deaf.

SPINAL CORD INJURED

One of the most important provisions in title III is the one to establish and operate National Centers for Spinal Cord Injuries. These centers will be used to demonstrate methods of providing those special intensive services needed to rehabilitate handicapped individuals suffering from such injuries. In addition, the centers will train personnel to work with spinal cord injured persons and will conduct research in the problems of persons suffering from such injuries.

Let me just point out, Mr. Speaker, that there are today approximately 125,000 persons in this country who are paraplegics or quadriplegics, and the number is steadily growing. Five to ten thousand more persons with significant spinal cord injuries are added each year.

Up until recent years, most victims of spinal cord injuries survived no more than a few years, at the most, after suffering their injuries. But the great advances of medical science during the war and postwar periods, including the development of antibiotics and new systems of treatment and rehabilitation, have made it possible for many of these victims to leave the hospital and return home to survive to a nearly average lifespan.

Mr. Speaker, the increased survival of spinal cord injury victims presents tremendous challenges and reponsibilities for rehabilitation. We must not allow these persons to vegetate in their wheelchairs. They have so much to offer and to contribute if only they are given the right kind of encouragement and assistance. Rehabilitation of the paraplegic or quadriplegic is an expensive and time-consuming procedure, but it is something we must do. Dr. Howard Rusk, a pioneer in modern rehabilitation techniques, estimates that the cost of rehabilitating a young quadriplegic is about $25,000. Dr. Rusk compared this cost with the cost of institutionalizing a 20-year-old patient with 50 years of life remaining. As Dr. Rusk said:

> Put in a second-rate nursing home with a modicum of attendant care, $15,000 a year would be a bargain. Multiply $15,000 by 50 and that patient will cost $750,000.

So the truth is that we cannot afford not to do something to help the spinal cord injured obtain rehabilitation services. The National Centers for Spinal Cord Injuries established by the provisions of this bill will help to answer these needs that have been largely unmet thus far.

KIDNEY DISEASE

Mr. Speaker, another special group of disabled individuals who will be served by an important provision of this title are those suffering from end stage renal disease. The bill authorizes grants to States and other organizations and agencies to pay part of the cost of providing special services, artificial kidneys, transplantation, and supplies for the rehabilitation of such persons.

About 8 million Americans each year suffer from kidney and kidney related diseases. Of those, about 55,000 patients proceed to end stage kidney disease, for which the principal treatments are hemodialysis—artificial kidney—and transplantation therapies. About 20,000 to 25,000 of the 55,000 end stage renal disease patients could benefit from these life-saving procedures. About 60 percent could be trained for home dialysis and 40 percent maintained in-hospital or in satellite centers. In addition, newly improved transplant capabilities now allow 2,500 to 3,000 transplants per year.

These procedures are literally saving lives every day, but they are very expensive and quite limited in the numbers of persons who are being served. For home dialysis, the costs run about $19,000 for the first year. Broken down, the approximate costs are: for the machine and necessary plumbing and carpentry adjustments to the home, $4,000; a 12-week home training program, $9,000; the cost of dialysis for the remainder of the year, about $6,000. For each year after the initial one, home dialysis costs about $6,000. The cost of in-hospital or satellite center artificial kidney treatment varies from State to State, depending on physician supply and the number of patients, but the national average is around $25,000 per year. The costs for transplantation are $8,000, with very little continuing expenses after the first few months following surgery.

The success rate for kidney transplantation is steadily improving. At the present time, if a patient gets a kidney transplant from a relative, the chance of his surviving 5 or more years is greater than 90 percent. If the patient gets the transplant from a nonrelative, a person who has recently died, the initial success rate is between 70 and 75 percent. Those figures represent great progress from just 5 years ago, when the success rate of a kidney transplant from a relative was much less than 70 percent, and, from a recently deceased person only 30 percent.

Obviously, Mr. Speaker, we are becoming more and more proficient at saving the lives of those suffering from chronic renal failure. The problem is that we have not been able to save nearly enough of those who could be helped. Limitations of personnel, facilities, and funding mean that every year people die unnecessarily. In the subcommittee which I have the honor to chair, Mr. Speaker, we heard testimony that between 20,000 and 25,000 people die each year who could have been rehabilitated. The project grants authorized by this bill will help to cut down this needless loss of life. The grants will enable communities to help people with the cost of services. The grants will help communities develop capacity to provide the necessary services and supplies, pending the establishment of a broad national policy and adequate funding for a long-term approach to the problem.

RESEARCH AND TRAINING—TITLE IV

Title IV, Mr. Speaker, contains provisions for research and training for vocational rehabilitation. I would cite particularly support for new research emphasis, including efforts to bring together in biomedical engineering projects the talents of scientists and engineers to advance prosthetic and other mobility devices.

The research provisions also authorize a special research program for spinal cord injury to support the National Centers for Spinal Cord Injuries established under title III.

The Commissioner is further authorized under title IV, Mr. Speaker, to pay part of the costs of training projects and related activities designed to increase trained personnel to work with handicapped individuals.

EVALUATION—TITLE V

Title V contains new provisions relating to the administration and evaluation of programs and projects undertaken under this act. I should point out that, while the rehabilitation administration has evaluated the effectiveness of programs in the past, the conferees felt that express authorization for this activity was needed, and title V provides that authorization, and also requires that the reports submitted by the Secretary to Congress and the President on vocational rehabilitation include detailed statistics on the kinds of rehabilitation services and closures as well as their number.

OFFICE FOR THE HANDICAPPED—TITLE VI

Finally, Mr. Speaker, title VI of H.R. 8395 establishes, within the Office of the Secretary, an Office for the Handicapped to be headed by a Director.

The duties of the Director are to include an analysis of program operation to determine progress being made toward meeting the needs of the handicapped in America, the preparation and submission to the Secretary of long-range plans effectively to provide comprehensive services to the handicapped, the provision of assistance to the National Advisory Council on Rehabilitation of the Handicapped—established by this act—and to the National Advisory Council on the Education of the Handicapped—established by Public Law 91-230—and the creation of a central clearinghouse for information and resources available to handicapped individuals.

Let me just point out, Mr. Speaker, that the information center which the Director is directed to establish is a necessity in improving our services to the handicapped, and is to include information not only on programs available within the Department of Health, Education, and Welfare, but also within other Federal departments as well as information from public and private agencies and organizations.

I should, however, tell my colleagues, Mr. Speaker, that the conferees did not intend in establishing an Office for the Handicapped to create another layer of Federal bureaucracy between existing agencies dealing with our handicapped and disabled Americans. Rather, we see this Office as a means of assistance to handicapped agencies within the Government and as a central location for the evaluation and planning of rehabilitation services so that Congress and the executive branch of the Federal Government can have the information they need for further initiatives.

Indeed, Mr. Speaker, the conferees specifically intend that no plans developed by the Office be implemented without specific authority from the Congress of the United States.

Let me summarize, this legislation by noting that it:

First. Continues one of the most successful Federal-State cooperative efforts in the area of human services that we have yet devised; and

Second. For the first time provides for programs for those so severely handicapped that they may never be rehabilitated for work, but who can benefit from services to the extent that they may be allowed to live more independently and function more normally in their families and communities.

Mr. Speaker, let me just say to my colleagues that the conference agreement differs in no substantive manner whatsoever from the measure to which we gave such overwhelming bipartisan support last March.

Indeed, I would say with some pride, that the major provisions of this measure still retain substantially the House position, and that my colleagues on the House conference team championed our point of view in the conference with admirable vigor.

The House bill was a good bill, and the conference report is a good bill, and I hope it is overwhelmingly adopted.

Mr. Speaker, a statement of a great President of the United States frequently comes to my mind as I consider legislation to improve the lives of the less fortunate in our society.

I refer to the following remarks from Franklin D. Roosevelt's second inaugural address:

> The test of progress is not whether we add more to the abundance of those who have too much, it is whether we provide enough for those who have too little.

Mr. Speaker, let us act now to provide enough for our fellow citizens in America who are handicapped and disabled.

I urge the adoption of this conference report.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to the distinguished chairman of the committee.

Mr. PERKINS. Mr. Speaker, first let me compliment the distinguished chairman of the subcommittee (Mr. BRADEMAS) for an outstanding accomplishment in bringing this conference report before the House.

There are considerable improvements in the vocational rehabilitation amendments this year, and every Member in this Chamber, I am sure, will take pride in supporting this great piece of legislation.

Since the beginning of the Federal-State program of Vocational Rehabilitation in 1920 over 3 million handicapped people have been rehabilitated. In the early years the number of persons rehabilitated averaged 4,300 per year. The program grew in effectiveness and size to a point in the early 1960's where 120,000 persons were being rehabilitated each year. President Johnson and the Congress in the 1960's set as a goal the rehabilitation of at least 200,000 persons per year. Important legislative enactments in 1965 and in 1968 allowed us to reach that point so that in 1970 in excess of 200,000 persons were rehabilitated to productive and meaningful lives. The conference report before us will move the vocational rehabilitation program ahead at even a faster rate. It is a vocational rehabilitation bill which I believe every Member of the House will support.

I am pleased to report to my colleagues that we were successful in retaining the House position on the formula for fiscal year 1973 and fiscal year 1974. Funds for the basic program will be allocated on the old formula which we all know has been good for vocational rehabilitation. It is a formula which has helped people in poorer States. The program will continue to prosper nationally under this method of allotting funds.

Mr. Speaker, last year vocational rehabilitation services were provided to 1,111,045 persons. 326,000 of these were successfully rehabilitated. Under the Conference Report, we authorize $800,000,000 for the basic program for the current fiscal year. This will allow us to serve 1,600,000 persons and to rehabilitate more than 450,000. Under the conference report, the program will continue to grow through the next year where, under an authorization of $975,000,000, close to 2,000,000 handicapped persons could be served, and we could expect to successfully rehabilitate more than 568,000.

Under the conference agreement, emphasis is given to serving persons with most severe handicaps. This emphasis is important and desirable. I want to make clear, however, that there is no intention to preclude the rendering of services for any eligible person.

I am pleased that the conference report contains a title from the original House bill authorizing a separate program of grants for services to assist in developing and implementing services to persons with severe handicaps. Under the authorizations provided, it is estimated that we can serve 15,000 such handicapped individuals in the current fiscal year, 20,000 in fiscal year 1974, and 25,000 in fiscal year 1975.

Also, Mr. Speaker, the conference report makes significant improvements in the organizational structure of HEW for the provision and coordination of programs for handicapped persons.

Research and training components of the Vocational Rehabilitation program are extended, strengthened and expanded.

Further, Mr. Speaker, the report provides for either the extension or establishment of a series of important rehabilitation efforts, including:

Grants for the construction of rehabilitation facilities;

Vocational training for handicapped persons;

Mortgage insurance and annual interest grants for construction of rehabilitation facilities;

Support for the National Center for Deaf Blind Youths and Adults;

Rehabilitation centers for deaf individuals;

Support for the National Center for Spinal Cord Injuries;

A new program of services for older blind individuals;

And a program of grants for services for end-stage renal diseases.

Finally, Mr. Speaker, I would mention this conference report culminates 2 years of intensive activity at subcommittee and committee levels, on the floor of the House and Senate and in the conference committee. I want to recognize and commend the chairman of the Special Subcommittee on Education, our colleague, JOHN BRADEMAS, for the great leadership and effort he has provided in this endeavor. May I take this opportunity to also commend the ranking minority member, Mr. QUIE, for his untiring work. Members on both sides of the aisle in our committee have actively participated in this legislation and have made significant contributions. The result is a truly comprehensive bill.

One of the great strengths of the vocational rehabilitation program over the years has been its ability to change and meet new demands and problems as they become evident. This conference report, in my judgment, continues that tradition, and I urge its passage.

Mr. BRADEMAS. I thank the distinguished chairman.

Mr. Speaker, I yield to my colleague from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, the House-Senate conference agreement on the Vocational Rehabilitation Act Amendments of 1972 is a source of deep gratification to me. Because of the splendid bipartisan support from our House conferees, we were able to draft new vocational rehabilitation amendments this year which represent a significant step forward in the treatment of severely handicapped individuals.

I must express my appreciation for the dedication and fine work of Representative JOHN BRADEMAS—chairman of the Select Subcommittee on Education—and Representative CARL PERKINS, chairman of the full committee, Representative ORVAL HANSEN of Idaho, and Representative PATSY MINK. Because of our combined efforts, we were able to prevail in conference on the major thrusts in the original House bill.

The conference bill keeps the basic program with its vocational goal for handicapped individuals intact but adds a priority for those who are most severely handicapped. Most importantly, this bill establishes statutorially the Rehabilitation Services Administration within the Department of Health, Education, and Welfare, and provides that RSA will be the principal agency in the Department for carrying out and administering services related to handicapped individuals. In addition, it mandates that the Commissioner of RSA shall be the principal officer for carrying out and administering all programs under this act and that he shall be under the general supervision of the Secretary.

The bill goes a step further in that for the first time it establishes programs for severely handicapped individuals who may not be rehabilitated for work, but who can benefit from services which allow them to live more independently and function normally in their family and community.

During our hearings our committee found that there has been a tendency to play a "numbers game" and treat the most easily rehabilitated individuals, rather than to seek out those with the severest handicaps who are the most difficult to treat. Because of this situation, we have, through these amendments, directed RSA to place a priority on those individuals who are most severely physically and mentally handicapped. The emphasis on the severely handicapped is probably the most significant action taken by the Congress since the inception of the legislation 52 years ago. It was done because many severely handicapped individuals throughout the country are simply not being served since they are traditionally more "difficult" cases and require greater time, energy and skill to place back on the job. The intent of forcing a redirection of priorities for the handicapped is designed to minimize the "one shot" service and referral clients which are now common throughout the country. An example of such a one shot referral is an individual with a slight hearing loss who is referred for a hearing test and fitted for a hearing aid. Another example is an individual who needs a hernia operation or a hysterectomy. Still another is one who merely needs to have teeth straightened.

It should be clearly understood that I am in no way suggesting that an individual with a disability that requires a single referral is not handicapped or in need of some assistance. It is the intention of the conferees that no category of disability be restricted from receiving services and that no individual who applies for rehabilitation services be denied such services because of the new priority that we have placed on this bill. It is the specific intention of this legislation that those individuals who have the worst problems be given priority attention by rehabilitation agencies.

I recognize that providing services to individuals with the severest disabilities is a very real and a very difficult problem. Yet, after reviewing the available vocational rehabilitation statistics and learning about the pressures that have been placed on Federal and State agencies to serve and rehabilitate greater numbers of clients each year, I can understand why it has become necessary to seek out those who could be helped the easiest. This is not to suggest that any disability is a "good one." I realize that the handicap that an individual has because of his disability, regardless of how slight it may be, is a very real and a very personal one to him. It is my feeling, however, that, given the limited dollars, that those who need the services most should receive the services first.

To relieve some of the pressures that have been placed upon rehabilitation agencies and counselors, we have specifically prohibited setting of quotas, case balancing, or anything that suggests greater numbers of individuals must be served each year. We hope that agencies throughout the country will be able to increase their caseloads but I feel that this should only be done if they are able to meet all of those for whom the priority has been set.

I must observe that the bill now contains a definition of "severe handicap." It is in the bill to give guidance to the Commissioner in writing in regulations. Defining "severe handicap" was an attempt to illustrate those disabilities which are judged to be most severe. The list is certainly not complete but it was necessary to put in a definition which could at least be used for guidance. When the bill first passed the House last March 20, we specifically did not attempt to define "severity" because we felt that defining "severity" was at best difficult to do since we recognize that every person has abilities and disabilities which involve his personal state of health, his body structure, his emotional state, his life experiences, his ability to relate to others, his motivations, his expectations, the role he sees himself playing in life, and the role in life others see him playing. For these reasons we felt that it was difficult to put a firm description of what we intended to mean by "severity." However, it became clear as the other body took its actions and the conference tried to reconcile the differences between the two bills, that some specific definition was needed. It is my hope that as rehabilitation agencies throughout the country begin to redirect their efforts that they do so in a manner which will be thoughtful and responsible, and will consider the needs of each client above all and not attempt to comply with the law. Only through thoughtful consideration can the handicapped truly benefit.

Mr. Speaker, I must point out that both the House and the Senate expressed concern about research and training authorized under this act. In the past funds for rehabilitation research have been allocated through the act but have been administered by the Social Rehabilitation Services Administration. It was our feeling that although it was conceptually sound to combine all departmental research and training efforts in one office, there was definite concern that the rehabilitation focus was being lost in such an arrangement. As a result we established a Division of Research, Training, and Evaluation to be responsible for carrying out all of the research and training authorities in this act. Furthermore, we established within it a Center for Technology Assessment and Application which will be responsible for developing, supporting, and stimulating innovative methods of applying medical technology and scientific achievement to rehabilitation services for the handicapped. We felt that this new division was so important that we established the position of Assistant Commissioner, to be responsible directly to the Commissioner, to head it and directed him to work with the National Science Foundation and the National Academy of Sciences in carrying out his duties. In establishing this Division I believe that the Congress has brought new focus and given new emphasis to rehabilitation research needs.

As with research we felt that training had to be refocused as well. When the Congress changed the direction and priority for services under title I and established a new category of services under title II, we recognized that the entire question of training must be reevaluated and refocused to help counselors and other personnel to better understand and cope with these new goals. I would hope that as training needs are evaluated that thoughtful consideration will be given to how to utilize related fields in preparing rehabilitation personnel for their work. I would hope that departments of special education in universities would be utilized to the maximum extent so that their efforts and the rehabilitation training efforts, which are so closely related, begin to dovetail in actual practice.

I think that given the spending limitations imposed because of budgetary restraints I would encourage the Secretary and the Department of Health, Education, and Welfare to initiate whatever steps are necessary to utilize funds from other legislative authorities to assist in the rehabilitation of handicapped individuals through this program wherever possible. In this regard I note that the administration has substantially expanded its commitment in the areas of treating alcoholics and drug addicts by increasing funding from approximately $21 million in 1969 to $129 million in 1973 for the treatment of alcoholics, and by increasing funding from approximately $38 million in 1969 to $126 million in 1973 for the treatment of drug addicts. This year through the Education Amendments of 1972 the Congress has made more money than ever before available to needy students who desire to go to college.

There is a specific requirement in this legislation regarding tuition support for post secondary education that no funds under this act shall be utilized unless a maximum effort has been made to secure grant assistance, in whole or in part, from other legislative authorities. Furthermore, the bill stipulates that no funds may be used under title II for services unless a maximum effort has been made to secure grant assistance from other sources to pay for those services. Since there is money in other legislative authorities within HEW, outside of RSA, such as health, mental health, and social services authorities, I envision that where other Federal programs provide services for the same clientele that RSA might serve, and where the objectives such as rehabilitation and training exist, that the sources from outside of RSA will be utilized by the Department to purchase those services which RSA can best provide. RSA authority should in turn not be used to fund activities which those other authorities can be utilized to provide. Since other agencies have similar goals, it seems consistent and sensible to me and at the same time to be in the best interest of program recipients for other agencies to purchase services in this manner and provide the services they are uniquely equipped to provide in conjunction with the vocational rehabilitation services. What we must strive for is the optimum use of available resources from related programs to assist handicapped people in becoming self-sufficient.

We should assure that all of these programs operate in concert at Federal, State, and local levels to aid in rehabilitating the handicapped. In this way I believe it will be possible for the Department to utilize the limited available dollars to the maximum best interests and of ultimate benefit to handicapped individuals.

Mr. Speaker, there are so many new and far reaching aspects of this bill that

I think it will take years before the true impact of all that we have done here today is felt around the country. But in the coming years I feel that not only will the handicapped throughout the Nation be the direct recipients, but the entire Nation will reap the rewards as well.

Mr. BRADEMAS. Mr. Speaker, I yield to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN of Idaho. I thank the gentleman for yielding.

Mr. Speaker, it is with great pride that I point to the Vocational Rehabilitation Act Amendments of 1972 as an outstanding accomplishment by this Congress. The action we have taken reflects our concern for the handicapped of this Nation. At the same time it also reflects our awareness that some handicapped individuals have not received services in the past but will now be able to under this new legislation. State rehabilitation agencies traditionally have done an outstanding job in behalf of the handicapped individuals in their States. However, in recent years, because of the pressures to serve greater numbers and rehabilitate more people, oftentimes these individuals with the most serious disabilities could not be served. These amendments correct this situation by removing quota pressures that have been imposed upon rehabilitation counselors in the past and places a priority in the bill which directs state agencies to serve those individuals whose handicap is most severe. It should be clear that it is not the intention of this legislation to deny services to any handicapped individual but it does clearly put a focus on those who are in most need.

This bill reflects a truly bipartisan effort and I would like to take this opportunity to strongly commend the chairman of the subcommittee, the Honorable JOHN BRADEMAS, the chairman of the full committee, the Honorable CARL PERKINS, and the ranking minority member, the Honorable ALBERT QUIE, for their truly outstanding contributions to this legislation. Truly it was an effort we all felt will chart a new course for the Federal Government's concern for the handicapped.

I will not attempt to enumerate all of the new concepts and provisions in the legislation but I do want to point to two specific areas which I feel are significant and in which I have a deep interest. The new title II of this bill is designed to provide services for individuals who are so severely handicapped that they will never be able to go to work. What we did in this title was to recognize that there are people in this country who are not able to work and who can never be able to work and who, at the same time, often require attention from another party, thereby tying up another person as well as considerable resources.

It is our hope that through this title people will be helped so that they can live more independently. For example, I have long been concerned about the problems of the elderly and all of the problems which that group normally experiences and I recognize that one which we pay very little attention to is the fact that the majority of people who become blind in America are over the age of 50. The simple problem of caring for oneself, let alone getting around, becomes monumental. I envision that through this title all people can be given mobility training for very little expense and be brought back into a more active and self-sufficient life. I can also envision a handicapped individual who is homebound who requires an attendant because his needs are so numerous. Here, too, such an individual might benefit from this title, giving him the training and assistance he might need to perform many of these functions on his own, thereby freeing his attendant.

This title is a new concept and a new departure for vocational rehabilitation. I was convinced when we developed it in the subcommittee last February that it was an important concept. Today I believe that it has the potential of having a significant impact throughout the country.

Another program which I had a very special personal interest in is the National Center for Spinal Cord Injuries. Through this legislation we established and recognize national centers for the treatment of individuals who are suffering from spinal cord injuries and continue to expand and develop new techniques for working with this very severe disability. I have long recognized that a spinal cord injury is a catastrophic occurrence which sets off any number of physical, psychological, and social traumas. I am also aware that the problems complicating the rehabilitation of the spinal cord injuries and the potential for regression or other added complications in the absence of proper rehabilitation services is enormous. Therefore, I think we have taken a step toward recognizing that there is a substantial body of knowledge about rehabilitation of the spinal cord injured but it is generally too scattered to be utilized effectively. Through this legislation it is my hope than an expanded effort through the country will result and those individuals suffering from this disability will receive every benefit that medical science has to offer.

Mr. BADILLO. Mr. Speaker, I am pleased to rise in support of H.R. 8395, the Rehabilitation Act of 1972.

Both the House and Senate conferees obviously did a great deal of outstanding work in preparing this report. Having been a party to the original deliberations on the House version of this very complex piece of legislation I must compliment the evident desire on the part of the conferees to report a viable, useful, and relevant piece of legislation.

It was the hope of us in the House that the special emphasis placed for the first time in this measure on individuals with severe handicaps that mandate multiple services will give the States a chance to explore the possibility of using, as much as possible, a community-based treatment approach that would bring the handicapped back to where they belong—their communities. Only through such an approach—found to be successful in California—is there a chance of eliminating the Willowbrooks.

There are two other areas touched on by this legislation that have been of particular interest to me and in which I have received considerable help and support from individuals and organizations. The study of sheltered workshops, authorized in section 501, is of extreme importance. I hope that it will take the form of investigating the total needs of those who are presently working in sheltered workshops as opposed to limiting its focus on working conditions, wages, and other contractual matters. While those considerations are of extreme importance, in themselves they fail to reflect the conditions of the life of the handicapped.

I have asked to have included in the committee report the specification that the study should consider explicitly also the gap, if any, that exists between the wages and public supplements received and the amount needed for the proper maintenance of the individual. Members of Congress should know, in detail, what sources of assistance are available to the handicapped. There are instances that I know of where families have to make the cruel choice of providing for handicapped members or neglecting them in favor of others with equally urgent needs. Families should not be forced to face such choices—and no helpless individual should be forced to ask for this type of sacrifice. Only if Congress is apprised in detail of the extent of the need in this area can we hope to take the steps needed to assure that handicapped individuals are given every opportunity to develop to their full potential and lead dignified, productive lives.

My other area of special concern is the field of transportation. It may come as a surprise to some of my colleagues to hear that none of the 50 States at present have rules establishing safety and fare regulations for private limousine companies that furnish transportation to the handicapped. Such rules are urgently needed. The handicapped have transportation needs that must be met. They should, however, be met safely and efficiently.

At present there is a great deal of variation of rates charged for identical services by different companies. Because there is no regulation of rates, in New York State the only recourse an individual has when dealing with a private limousine company is to appeal to the State in each individual instance, since incredibly enough at present the matter of fare between such companies and the handicapped individual is considered to be a matter of private contract.

I need not stress to my colleagues the hopelessness of individual complaints in such situations. Using the prestige of my office, I had to work several weeks in each case to elicit responses. Private individuals, burdened by their disabilities, simply are not in a position to carry on this type of fight on their own behalf.

Moreover, I have learned from the director of vocational rehabilitation in New York that, since in the course of his duties he has to provide transportation for some of his clients, he is forced to use such companies and often finds himself paying their rates on what can best be described as a "on demand" basis. My understanding is that this situation also prevails as far as certain social security recipients are concerned.

I am hoping that the study authorized

in this measure will investigate such situations and come up with some recommendations. There is, of course, always the last recourse solution of forbidding the use of Federal funds for transportation in States where rates and safety standards are not regulated. However, I am certain that no responsible local government would opt for this choice.

Again, I urge passage of this legislation which is urgently needed and should prove to be extremely useful.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

JEAN ALBERTHA SERVICE GORDON

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7947) for the relief of Jean Albertha Service Gordon, No. 209 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jean Albertha Service Gordon may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Laurel Service Gordon a citizen of the United States, may be approved pursuant to section 204 of the Act: *Provided,* That the natural parents, or brothers, or sisters, of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status, under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 6, after the words "the Act," strike out "upon approval of and insert in lieu thereof the word "and".

On page 1, line 8, after the words "of the" strike out the word "Act:" and insert in lieu thereof the following: "Act and the provisions of section 245(c) of the Act shall be inapplicable in this case".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN POSTAL EMPLOYEES AT ELMHURST, ILL., POST OFFICE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 655) for the relief of certain postal employees at the Elmhurst, Ill., Post Office, No. 212 on the Private Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 655

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, on such terms as he deems just, the Postmaster General is hereby authorized to compromise, release, or discharge in whole or in part, the individual liabilities of Louis H. Linneweh, Howard D. Slavik, Edith J. Fainter, William W. Higgins, Thomas Newett, Roger Olson, and the estate of Joseph J. Holloway, employees at the Elmhurst, Illinois Post Office, to the United States for the loss resulting from the burglary at the post office on February 21, 1965.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KENNETH J. WOLFF

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2469) for the relief of Kenneth J. Wolff, No. 213 on the Private Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Kenneth J. Wolff, of Missoula, Montana, is relieved of liability to the United States in the amount of $825.00, representing overpayment (made as a result of administrative error) of his pay while he was on active duty with the United States Marine Corps. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Kenneth J. Wolff, referred to in the first section of this Act, an amount equal to the aggregate of any amounts paid by him, or withheld from sum otherwise due him, with respect to the indebtedness to the United States specified in the first section of this Act. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THEODORE BARR

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 6821) for the relief of Theodore Barr, No. 214 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

H.R. 6821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Civil Service Commission is authorized and directed to pay, out of any money in the Civil Service Retirement and Disability Fund not otherwise appropriated, to Theodore Barr of Fayetteville, North Carolina, the sum of $1,437, plus interest at 4 per centum compounded annually and computed from June 1950 to a date not later than thirty days from enactment, in full settlement of all his claims against the United States for an error in computation of creditable Federal service by omission of his service for a committee of the House of Representatives between February 1, 1935 and July 1, 1936. The error in computation resulted in his not receiving the disability retirement annuity to which he would have been otherwise entitled during the period February 5, 1947 to June 19, 1950. No part of the amount appropriated in this Act thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 1, lines 7, 8, and 9, strike "$1,347, plus interest at 4 per centum compounded annually computed from June 1950 to a date not later than thirty days from enactment" and insert "$450.30".

Page 2, line 6, strike "February 5, 1947 to June 19, 1950" and insert "February 6, 1947 through April 30, 1948".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

1ST LT. JOHN P. DUNN

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8722) for the relief of 1st Lt. John P. Dunn, U.S. Army, retired, No. 215 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to First Lieutenant John P. Dunn, United States Army, retired, of Green Valley, Arizona, the sum certified to him by the Comptroller General of the United States pursuant to section 2 of this Act. Such payment to the said First Lieutenant John P. Dunn shall be in full settlement of all his claims against the United States arising out of his failure to receive the retirement pay due him for the period beginning on November 1, 1954, and ending on March 4, 1958.

Sec. 2. The Comptroller General of the United States shall, within ninety days of the enactment of this Act, certify to the Secretary of the Treasury the sum total of all monthly retirement payments to which the said First Lieutenant John P. Dunn would be entitled for the period indicated in the first section of this Act if his application has been deemed timely filed with the proper officer.

With the following committee amendment:

Page 1, lines 5 and 6, strike "United States Army, retired," and insert "Army of the United States, retired,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of First Lieutenant John P. Dunn, Army of the United States, retired."

A motion to reconsider was laid on the table.

M. SGT. EUGENE J. MIKULENKA

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10907) for the relief of M. Sgt. Eugene J. Mikulenka, U.S. Army, retired, No. 216 on the Private Calendar.

The clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated to Master Sergeant Eugene J. Mikulenka, United States Army (retired), the sum of $33,207.67 in full settlement of all his claims against the United States for a lump sum disability payment for the injury he suffered on March 7, 1968, at Camp Stanley, in San Antonio, Texas. This claim is not cognizable under the Torts Claim Act.

(b) The receipt of said amount shall in no way affect said Master Sergeant Eugene J. Mikulenka's continued receipt of his regular Army retirement pay.

Sec. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Strike all after the enacting clause and insert:

That (a) The provisions of section 8116 of title 5, United States Code, shall be waived to the extent that such provisions would prohibit a payment of Master Sergeant Mikulenka's Regular Army retired pay in addition to an award under chapter 81 of title 5, United States Code, for injuries received by him as a civilian employee on or about March 8, 1968;

(b) The acceptance of said award shall in no way affect Master Sergeant Eugene J. Mikulenka's receipt of his Regular Army retired pay; and

(c) The Secretary of the Treasury is authorized to refund to Master Sergeant Eugene J. Mikulenka any sums heretofore withheld from his retired pay by virtue of his election to receive the benefits under chapter 81 of title 5, United States Code.

Sec. 2. No part of any amount paid in accordance with the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN FORMER EMPLOYEES OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 16179) for the relief of certain former employees of the Securities and Exchange Commission, No. 217 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

H.R. 16179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the following former employees of the Securities and Exchange Commission is relieved of liability to the United States in the amount appearing beside his name, which amount is the overpayment of travel expenses and per diem allowances made as a result of administrative error for the period September 1, 1970, through March 10, 1971, inclusive, or any portion or portions of such period:

Stanley Diller, $3,241.18; Donald E. Farrar, $5,696.32; William F. Hicks, $3,445.59; Keith B. Johnson, $2,735.10; Seymour Smidt, $3,119.72.

In the audit and settlement of the accounts of any certifying or disbursing officer of the United States full credit shall be given for amounts for which liability is relieved by this section.

Sec. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each person named in the first section of this Act an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, with respect to the indebtedness to the United States specified in such section.

(b) No part of the amount appropriated in subsection (a) of this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. DOMINGA PETTIT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10636) for the relief of Mrs. Dominga Pettit, No. 218 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Dominga Pettit, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL A. KORHONEN

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8307) for the relief of Michael A. Korhonen, No. 219 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

H.R. 8307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the United States District Court for the District of Alaska to hear, determine, and render judgment upon any claim filed by Michael A. Korhonen, of Juneau, Alaska, against the United States for compensation for injuries and damages suffered by him due to the crash on June 15, 1967, of a United States aircraft in which the said Michael A. Korhonen was riding as an authorized observer on a search-and-rescue mission, such crash having occurred as the result of the alleged negligent operation of the aircraft by United States Coast Guard personnel.

Sec. 2. Suit upon any such claim may be instituted at any time within one year after the date of enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of such claim, and review and payment of any judgment or judgments thereon, shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1346(b) of title 28, United States Code.

With the following committee amendments:

Page 1, line 4: After "proceeding," insert "or the operation of Section 2680(k) of Title 28, United States Code."

Page 2, line 7: After "United States" insert "Any such claim in the District Court shall be determined according to the substantive law which would apply in such a case if the crash had occurred within the State of Alaska."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIE M. RIDGELY

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2147) for the relief of Marie M. Ridgely, No. 221 on the Private Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Marie M. Ridgely of Suitland, Maryland, is relieved of liability to the United States in the amount of $2,201.75, representing amounts received by her as a civil service annuitant while she was employed by the District of Columbia Board of Education for the period beginning June 1, 1965, and ending November 30, 1967. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Marie M. Ridgely an amount equal to the aggregate of the amounts paid by her, or withheld from sums otherwise due her, with respect to the indebtedness of the United States specified in the first section of this Act.

(b) No part of the amount appropriated in subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN C. MAYOROS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2753) for the relief of John C. Mayoros, No. 222 on the Private Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John C. Mayoros of Middletown, Connecticut, the sum of $529.84, representing the amount the said John C. Mayoros would have received for hospitalization and medical care expenses incurred by him after his separation from active duty in the United States Air Force under a policy of health care insurance but for an administrative error on the part of the United States Air Force personnel who failed to notify the said John C. Mayoros, at the time of his separation from active duty, that there were insufficient pay and allowances due him to cover the required premium on the health care insurance requested by him but not issued.

SEC. 2. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed to be guilty of a misdemeanor and shall be fined in any amount not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CASS COUNTY, N. DAK.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3483) for the relief of Cass County, N. Dak., No. 223 on the Private Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HALL. Mr. Speaker, reserving the right to object, is this the type of bill that ordinarily would be considered a Private Calendar bill?

Mr. DANIELSON. If the gentleman will yield, I understand that it is. It is a private bill, although it is for a public entity which receives special relief.

Mr. HALL. Do I further understand that one State on one side of the river which the bridge traverses has already been paid and the other State has not been so equitably compensated?

Mr. DANIELSON. That is correct?

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, under the provisions of section 125 of title 23, United States Code to Cass County, North Dakota, the sum of $85,000 for expenses incurred by the Cass County, North Dakota, in reconstructing the Wild Rice Bridge across the Red River between Clay County, Minnesota, and Cass County, North Dakota, such amount representing the difference between the amount paid by the United States as emergency disaster relief and the amount the United States would have paid for the reconstruction of such bridge after it was destroyed by a flood in April 1969, if the access road from Stanley Township in Cass County had been designated a Federal aid secondary road at the time such flood destroyed such bridge.

(b) No part of the amount appropriated in this Act shall be paid or delivered by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not in excess of $1,000.

With the following committee amendment:

Page 1, lines 6, 7, and 8: Strike "the Cass County, North Dakota, in reconstructing the Wild Rice Bridge across" and insert "Cass County, North Dakota, in reconstructing that portion of the Wild Rice Bridge which was designated as Federal-aid secondary Route 639, as of September 28, 1971, and which bridge crosses".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN C. ROGERS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 909) for the relief of John C. Rogers.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John C. Rogers of McMinnville, Oregon, is relieved of all liability for repayment to the United States of the sum of $135.17, representing the amount of an overpayment he received from the United States as the result of administrative error in determining the lump-sum payment for accumulated, unused leave to which the said John C. Rogers was entitled upon his discharge from active duty with the United States Navy. In the audit and settlement of accounts of any certifying or disbursing officer of the United States, credit shall ge given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said John C. Rogers, the sum of any amounts received or withheld from him on account of the overpayment referred to in the first section of this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

M. SGT. WILLAM C. HARPOLD

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2714) for the relief of M. Sgt. William C. Harpold, U.S. Marine Corps (retired).

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Master Sergeant William C. Harpold, United States Marine Corps (retired), is relieved of all liability for repayment to the United States of the sum of $2,235.27, representing the amount of overpayments of retainer and retirement pay received by him from the United States Marine Corps during the period October 1, 1949, through June 30, 1971, as a result of an administrative error in computing his years of service for pay purposes, the United States Marine Corps having erroneously credited him for such purposes with a period of inactive service from November 27, 1926, through November 3, 1927.

(b) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Master Sergeant William C. Harpold (retired), the sum of any amounts received or withheld from him on account of the overpayment referred to in the first section of this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed to be guilty of a misdemeanor and shall be fined in any amount not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GARY WENTWORTH

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3257) for the relief of Gary Wentworth, of Staples, Minn.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Gary Wentworth, of Staples, Minnesota, is relieved of all liability for repayment to the United States of the sum of $313.22, representing the amount of an overpayment received by him from the United States Marine Corps, prior to his discharge from such corps, as a result of an administrative error in balancing his pay record.

(b) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Corporal Gary Wentworth, the sum of any amounts received or withheld from him on account of the overpayment referred to in the first section of this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAURICE MARCHBANKS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3055) for the relief of Maurice Marchbanks.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Maurice Marchbanks is relieved of all liability to repay to the United States the sum of $667.20, the amount he was reimbursed by the United States in special expenses incurred in a move from the State of Texas to the State of Arizona for the purpose of employment with the United States Forest Service which expenses the United States Forest Service specially promised to pay and/or reimburse. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the respective amounts for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks, the sum of any amounts received or withheld from him with respect to the indebtedness for which liability is relieved by this Act.

SEC. 3. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL JOSEPH WENDT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14923) for the relief of Michael Joseph Wendt.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Michael Joseph Wendt may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, a petition filed in his behalf by Mrs. Elizabeth Mildred Wendt, citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 6, after the words "the Act," strike out "upon approval of" and insert the word "and".

On page 1, line 7, after the name "Mrs. Elizabeth Mildred Wendt," insert the word "a".

On page 1, at the end of line 7, insert the words "may be approved".

On page 1, line 8, after the word "Act" insert the following: and the provisions of section 245(c) of the Act shall be inapplicable in this case.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAGNUS DAVID FORRESTER

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2270) for the relief of Magnus David Forrester.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of paragraph (23) of section 212(a) of the Immigration and Nationality Act, Magnus Davis Forrester may be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act, upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe. This Act shall apply only to the grounds for exclusion under such paragraph known to the Attorney General prior to the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WOLFGANG KUTTER

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2275) for the relief of Wolfgang Kutter.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Wolfgang Kutter has resided in the United States since his lawful admission for permanent residence on August 13, 1962, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALBERTO RODRIGUEZ

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2822) for the relief of Alberto Rodriguez.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Alberto Rodriguez has resided in the United States and any State since his lawful admission for permanent residence on December 12, 1961, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act. In the case the petition for naturalization may be filed with any court having naturalization jurisdiction.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GERALD VINCENT BULL

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3583) for the relief of Gerald Vincent Bull.

The Clerk read the title of the Senate bill.

The SPEAKER. pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time Gerald Vincent Bull has resided in the United States shall be held and considered to meet the residence and physical presence requirements of section 316 of the said Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUAN MARCOS CORDOVA-CAMPOS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10509) for the relief of Juan Marcos Cordova-Campos.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juan Marcos Cordova-Campos may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Richard C. Nagle, citizens of the United States, pursuant to section 204 of the Act.

With the following committee amendment:

On page 1, line 8, strike out the word "Act." and substitute in lieu thereof the following:

Act, and the provision of section 245(c) of the Act shall be inapplicable in this case: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OPPOSING THE GRANTING OF PERMANENT RESIDENCE IN THE UNITED STATES TO CERTAIN ALIENS

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 1155) opposing the granting of permanent residence in the United States to certain aliens.

The Clerk read the resolution, as follows:

H. Res. 1155

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the aliens hereinafter named in which cases the Attorney General has submitted reports to the Congress pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended:

A-12003151, Andrade, Manuel.

A-11402405, Marshal, Abdul Rahman Khalil.

A-10258715, Sasso, Pietro.

A-12074855, Velasquez-Espinoza, Pedro.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPALACHIAN REGIONAL HOSPITALS, INC.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3326) for the relief of the Appalachian Regional Hospitals, Inc.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HALL. Mr. Speaker, reserving the right to object, I would like a little explanation about this bill before we grant unanimous consent.

I have been given an opportunity by the staff of both bodies to review this bill, and it is very difficult for me to understand that we would not be setting a precedent of forgiveness—and as much of the milk of human kindness as there is in the spirit of forgiveness and, badly as it might be needed, I wonder if this would establish a precedent forgiving due income of the taxpayers' money and recovery to the Treasury that we cannot tolerate nationwide in the present poor state of our Treasury. I further wonder why there is such an urgent need for this particular action in the case of the Appalachian regional hospital.

I have full sympathy for the people of Appalachia, and great admiration for those who survive and have come forth and made their marks in the world and tried to help themselves. My ancestors and I derive from those hills. But I fail to understand, in spite of a careful reading of the report and prior acquaintance with the bill, why we should—here in the closing hours of Congress—with the press of legislation, consider this as urgent and an emergency wherein we will undoubtedly establish a precedent perhaps extending to many loans under the Hill-Burton grants, and the preceding and/or subsequent grants.

Mr. PERKINS. Mr. Speaker, will the distinguished gentleman yield?

Mr. HALL. I am glad to yield to the chairman.

Mr. PERKINS. First let me state that the report makes very clear that this will not be the establishment of any precedent.

These hospitals were constructed back in 1953 to 1957, a chain throughout the Appalachian area which was to serve the coal miners and their dependents, and other needy patients.

Mr. HALL. Mr. Speaker, were these the hospitals that were formed as an experiment immediately after World War II under the direction of Adm. Warren Draper, working with the United Mine Workers, and in a form of prepaid contract insurance for total medical care?

Mr. PERKINS. The gentleman from Missouri is absolutely correct. And it later turned out that the welfare fund could not support the hospitals, and then it was that they turned the hospitals over to the Appalachian Regional Commission for operation.

If you will notice on the first page of the report, it is made very clear that this is not in any way—

> To set a precedent for forgiveness of any other existing or future Economic Development Administration loans since EDA's legal authorization and administrative guide lines presently prevent loans without reasonable prospects for repayment . . .

The forgiveness of this loan is just a drop in the bucket of the amount that it would take to construct these hospitals today. This forgiveness simply means that the Appalachian regional hospitals will be able to expand their services and continue to serve the needy people in the area.

This will perhaps be the last time I will have an opportunity to engage in a dialog on the floor of the House of Representatives with my good friend Dr. Hall from Missouri.

I do want to state that I have never known a more diligent guardian of the public welfare and a protector of the taxpayers' dollar. To my way of thinking, no man serving in the Congress has spent more time on the floor of the House and none certainly has been more diligent in debate, in testing, and probing and questioning the proponents of legislation to make sure that the Members of this body are well aware of the implications of all our actions and to assure himself that those actions benefit the national welfare.

The gentleman from Missouri is well aware of the fact that we have not always agreed; but when Dr. Hall disagrees with any Member, it has always been with the greatest courtesy.

Your service in the House has been characterized by the same dedication, skill, hard work, and intelligence that has marked your entire professional life as a medical doctor, surgeon, and medical officer during World War II.

I am proud to have served with you and I regret that we will not have the opportunity to serve together again in the 93d Congress. I would not want this opportunity to pass without indicating the high regard I have for my friend from Missouri.

The attitude of my colleague from Missouri toward these Appalachian hospitals is characteristic of the humanitarian attitude he has toward everything.

Mr. HALL. Mr. Speaker, if the gentleman would let me interrupt again, were they not turned over to the church?

Mr. PERKINS. That is correct; the gentleman is right.

Mr. HALL. It just happened that I had considerable to do——

Mr. PERKINS. With the Presbyterian Church.

Mr. HALL (continuing). With that organization the work involved not only the States mentioned here, but the Keystone State of Pennsylvania, at the time as far as the United Mine Workers welfare fund precontract practice of medicine is concerned. It just happens that I have often quoted this known experiment in prepaid contract health care in the argument that we have here about today about the support of the vaunted health maintenance organization. If there ever was an example in fact that should be quoted, it was this experiment which we are now bailing out at the taxpayers' expense many years later which everybody—the recipient, the patient, the doctors who were hired, the prepaid medical care experts, laborers, and labor leaders as well as the government people that were diverted from the U.S. Public Health Service, including Admiral Warren Draper, the Deputy Surgeon General of the Public Health Service—admitted was a total failure.

This should be quoted along with the successful Kaiser-Parmenté Foundation in our consideration of Health Maintenance Organizations—HMO's—if and when we are going to think and legislate them as a universal panacea and a way of life for accommodating national health insurance.

Mr. Speaker, without being rude—and I realize I interrupted my friend from Kentucky—I still do not think that the Federal Treasury is subject on-call for charitable donations. Because of that alone, I am against this bill, but because I have known the circumstances under which the EDA finds itself and its predecessor, the ARA, and these other bleeding hearts public assistance programs, and because of my jubilation with the advent of the closing of my last Congress sine die, hopefully today, I am going to withdraw my reservation of objection.

Mr. DELLENBACK. Mr. Speaker, further reserving the right to object, I yield to my friend from Kentucky (Mr. Carter).

Mr. CARTER. Mr. Speaker, permit me at this time to speak in favor of the bill, S. 3326.

The purpose of the proposed legislation is to relieve Appalachian Regional Hospital, Inc., a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, of all liability for repayment to the United States of the sum of $3,607,590, together with accrued interest representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964.

In its report to the committee the Department of Commerce stated that relief should be granted in this case. The Department also stated that such relief would not set a precedent for forgiveness of any other existing or future economic development administration loans since EDA's legal authorization and administrative guidelines presently prevent loans without reasonable prospects for repayment. The record indicated that the ARA loan—EDA's predecessor—never enjoyed any reasonable prospect for repayment.

The acceptance of a loan was regarded by the trustees of the hospital system as an expedient. Indeed, there was a clear understanding on the part of the ARH management and board that the loan would be converted to a grant when additional appropriations were made for ARA public facility grants. Unfortunately, as noted, ARA did not receive additional grant funds in fiscal year 1965 and, thus, the loan remained in existence.

In his letter of September 22 to the distinguished chairman of the Judiciary Committee of the other body, the General Counsel of the Department of Commerce stated:

> Therefore, while we believe relief should be granted in this case, enactment of S. 3326 should not and will not serve as a precedent for forgiveness of any other existing or future EDA loans.

I assure my colleagues that this legislation is vital to the continued availability of adequate health services to the people of Appalachia.

Realizing that this measure would not set a precedent, let us not, therefore, turn our backs upon the people who need the services of these facilities. I urge that this bill pass.

Mr. DELLENBACK. Mr. Speaker, I appreciate very much the remarks of my colleague, the gentleman from Kentucky.

I note the report on this particular bill makes very clear the Department of Commerce expressly states enactment of this bill would not and should not serve as a precedent for forgiveness of any other existing or future EDA loans. Mr. Speaker, in the light of that I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADDITIONAL INVESTIGATIVE AUTHORITY, COMMITTEE ON EDUCATION AND LABOR

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1124 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1124

Resolved, That, notwithstanding the provisions of H. Res. 213 of the Ninety-second Congress, the General Subcommittee on Labor of the Committee on Education and Labor is authorized to send not more than ten members (six majority and four minority) and three staff assistants (two majority and one minority) to Australia, New Zealand, Indonesia, Malaysia, Singapore, the Philippines, Okinawa, and Japan for the purposes of making a full and complete investigation and study of (1) the circumstances surrounding the production in foreign nations of goods which are subsequently sold in the United States in competition with domestically produced goods, and (2) the operation by the Federal Government of elementary and secondary schools, both at home and abroad, with a view to determining means of assuring that the children of officers and employees, and members of the Armed Forces of the United States will receive high-quality elementary and secondary education.

Notwithstanding the provisions of H. Res. 213 of the Ninety-second Congress, or any other provision of law, local currencies owned by the United States shall be made available to the members of the Committee on Education and Labor of the House of Representatives and employees engaged in carrying out their official duties for the purpose of carrying out the authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(5) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may require.

Mr. Speaker, House Resolution 1124 is a supplemental investigative resolution authorizing overseas travel and the use of counterpart funds by the General Subcommittee on Labor of the Committee on Education and Labor.

Not more than 10 members of the committee—six majority and four minority—and three staff assistants—two majority and one minority—are authorized to travel to Australia, New Zealand, Indonesia, Malaysia, Singapore, the Philippines, Okinawa, and Japan to investigate goods being produced in competition with goods being produced in this country. Investigation also will be made of the operation of elementary and secondary schools for the United States Armed Forces.

Mr. Speaker, I urge the adoption of the resolution.

Mr. Speaker, I yield to the gentleman from California.

Mr. SMITH of California. Mr. Speaker, these four travel resolutions will be the last ones I shall present, and I am happy to say that.

I have never felt that I had any more knowledge than any other Member; any more authority. I have always been hesitant to assume the authority to say whether other Members could travel or not. After all, I think the committee chairmen know their jobs and the Members also know theirs.

Some years ago this authority was given to the Committee on Rules with the thought we would stop some junketing.

This will be a very nice trip, Mr. Speaker, for 10 committee members and three staff members who are going to some nice countries. It will be very, very pleasant trip.

Whether there are any counterpart funds in any of these countries, I do not know, because I have not checked in the last 3 or 4 months to see if they are getting a little low or not.

In any event, Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL INVESTIGATIVE AUTHORITY, COMMITTEE ON PUBLIC WORKS

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1147 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1147

Resolved, That, notwithstanding the provisions of H. Res. 142, Ninety-second Congress, the Committee on Public Works is authorized to send not more than seven members of such committee, two majority staff assistants, and two minority staff assistants to the United Kingdom, Sweden, France, Germany, Turkey, Italy, Greece, Yugoslavia, and the Union of Soviet Socialist Republics for the purpose of conducting an investigation and study of public works, which would include mutual problems involving rivers and harbors, flood control, highways, public transportation, highway safety, water pollution, and related subjects; and is further authorized to send not more than seven members of such committee, two majority staff assistants, and one minority staff assistant to the Philippine Islands, Japan, Thailand, India, Turkey, Yugoslavia, Union of Soviet Socialist Republics and the United Kingdom, for the purpose of conducting an investigation of water pollution, public transportation, energy development, and generation.

Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the Committee on Public Works of the House of Representatives and employees engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided*, That (1) no member or employee of said committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954, as amended by Public Law 88–633, approved October 7, 1964; (2) no member or employee of said committee shall receive or expend an amount for transportation in excess of actual transportation costs; (3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee or its employees in any country where counterpart funds are available for this purpose.

Each member or employee of said committee shall make to the chairman of said committee an itemized report showing the number of days visited in each country where local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

House Resolution 1147 is a supplemental investigative resolution authorizing overseas travel and the use of counterpart funds by the Committee on Public Works.

The resolution authorizes seven members of the committee and three staff assistants to travel to the United Kingdom, Sweden, France, Germany, Turkey, Italy, Greece, Yugoslavia, and Russia to investigate and study problems involving rivers and harbors, flood control, highways, public transportation, highway safety, water pollution, et cetera.

In addition, the resolution authorizes seven members and three staff assistants of the committee to travel to the Philippine Islands, Japan, Thailand, India, Turkey, Yugoslavia, Russia, and England to investigate water pollution, public transportation, energy development, and generation.

Mr. Speaker, I urge the adoption of the resolution.

Mr. SMITH of California. Mr. Speaker,

this will be another very nice trip for some Members after the election. I should like to take one of these trips. Perhaps we have some counterpart funds in India. We used to have rupees all over the place over there. Perhaps we could use some of that money.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Missouri.

Mr. HALL. This is just almost too much to swallow. This has to be the junket to end all junkets.

I regret that the performance of district business requires my peppery and beloved colleague from Iowa to be absent today, so that he cannot hear this resolution read and not discussed.

How in the world we can learn the things that are set forth for this committee, under all the exceptions to existing laws of this resolution, by a bunch of committee members, during the lame duck period between two Congresses, making such a trip, is beyond me.

Obviously we cannot understand all the "notwithstandings" and exceptions, but it looks to me like an around the world trip, with one starting out toward the Philippines from the west coast, returning in the other direction, and another starting from the east coast via Russia—they both made certain to get the U.S.S.R. in. I just wonder where they will bypass each other in the circumnavigation?

There are seven Members and four assistants, two from the majority and two from the minority, going in different directions.

I believe it is unconscionable, even though in general I believe that the architect—Congress—should survey and have surveillance over that which is contracted for the Executive. I am not as much against junkets as many people are. I believe that sometimes the labor is worth the hire. But, I repeat this is unconscionable. I hope this will be voted down and returned to the committee.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 202, nays 46, not voting 183, as follows:

[Roll No. 448]

YEAS—202

Abernethy
Abzug
Adams
Andrews, Ala.
Arends
Ashley
Aspinall
Badillo
Barrett
Bergland
Betts
Bevill
Bingham
Blatnik
Boggs
Brademas
Bray
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burton
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Colmer
Conyers
Culver
Daniel, Va.
Danielson
de la Garza
Dellenback
Dent
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Findley
Flood
Flynt
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frey
Garmatz
Gaydos
Gettys
Gonzalez
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Hagan
Hammerschmidt
Hansen, Idaho
Harrington
Harsha
Hastings
Hathaway
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Hosmer
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keith
Kemp
Kluczynski
Koch
Kyros
Landgrebe
Landrum
Latta
Lent
Long, Md.
Lujan
McClory
McDade
McEwen
McFall
McKay
McKevitt
McKinney
Macdonald, Mass.
Madden
Mahon
Mann
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Montgomery
Moorhead
Mosher
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Perkins
Pickle
Poage
Powell
Preyer, N.C.
Price, Ill.
Quie
Rangel
Rarick
Rees
Reid
Reuss
Rhodes
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
St Germain
Sarbanes
Satterfield
Saylor
Scheuer
Schneebeli
Schwengel
Shriver
Spence
Springer
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stephens
Stokes
Stubblefield
Sullivan
Taylor
Teague, Tex.
Tiernan
Vander Jagt
Vanik
Wampler
Ware
Whalen
Whalley
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Wyatt
Wydler
Wyman
Yates
Young, Tex.
Zablocki
Zion

NAYS—46

Archer
Belcher
Bennett
Biester
Blackburn
Brinkley
Broyhill, N.C.
Burleson, Tex.
Byrnes, Wis.
Camp
Clawson, Del
Cleveland
Collier
Conable
Conover
Coughlin
Davis, Ga.
Dennis
du Pont
Eshleman
Goodling
Gude
Hall
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hutchinson
Jacobs
Kyl
Lennon
Lloyd
McCloskey
McCollister
Mallary
Myers
Pettis
Pike
Railsback
Robinson, Va.
Ruth
Sebelius
Shoup
Smith, Calif.
Teague, Calif.
Young, Fla.

NOT VOTING—183

Abbitt
Abourezk
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baker
Baring
Begich
Bell
Biaggi
Blanton
Boland
Bolling
Bow
Brasco
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flowers
Ford, Gerald R.
Fountain
Frenzel
Fulton
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Goldwater
Green, Oreg.
Gross
Haley
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harvey
Hawkins
Hays
Hébert
Horton
Howard
Hull
Hungate
Hunt
Ichord
Johnson, Pa.
Jonas
Jones, Tenn.
Keating
Kee
King
Kuykendall
Leggett
Link
Long, La.
McClure
McCormack
McCulloch
McDonald, Mich.
McMillan
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Miller, Calif.
Minshall
Mizell
Mollohan
Monagan
Morgan
Moss
Murphy, N.Y.
Nelsen
Nichols
Patman
Pelly
Pepper
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Riegle
Roberts
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Sandman
Scherle
Schmitz
Scott
Seiberling
Shipley
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Steele
Steiger, Ariz.
Stratton
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Winn
Wolff
Wright
Wylie
Yatron
Zwach

So the resolution was agreed to.

Mr. GOODLING changed his vote from "yes" to "nay."

Messrs. HELSTOSKI, HAMMERSCHMIDT, and RUPPE changed their from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING DISASTER RELIEF ACT OF 1970

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 16598) to amend the Disaster Relief Act of 1970 to provide that community disaster grants be based upon loss of budgeted revenue.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 16598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 241 of the Disaster Relief Act of 1970 (42 U.S.C. 4460) is amended to read as follows:

"COMMUNITY DISASTER GRANTS

"SEC. 241. (a) The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of revenue. Grants made under this section may be made for the tax year in which the disaster occurred and for each of the following two tax years. A grant under this section for the tax year in which the major disaster occurred shall not exceed the difference between the total revenue received by the local government for such year and the total revenue provided for in the budget of the local government which was in effect for such year. For each of the two tax years following the major disaster, a grant under this section shall not exceed the difference between the total revenue received by the local government for the tax year for which the grant is made and the total revenue provided for in the budget of the local government which was in effect for such year. In no case shall a grant for the tax year following a major disaster exceed the difference between the total revenue received by the local government for the tax year for which the grant is made and an amount equal to 110 per centum of the total revenue provided for in the budget of the local government which was in effect for the tax year in which the major disaster occurred. In no case shall a grant for the second tax year following a major disaster exceed the difference between the total revenue received by the local governments for the tax year for which the grant is made and an amount equal to 120 per centum of the total revenue provided for in the budget of the local government which was in effect for the tax year in which the major disaster occurred.

"(b) For purposes of this section, the term 'revenue' includes revenue generated by the local government derived from property taxes (both real and personal) and other taxes, permits, licenses, fines and costs, departmental earnings, refunds, and reimbursements."

SEC. 2. The amendment made by the first section of this Act shall take effect with respect to grants to local governments for losses resulting from major disaster which occur after June 1, 1972.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 241 of the Disaster Relief Act of 1970 (42 U.S.C. 4460) is amended to read as follows:

"COMMUNITY DISASTER GRANTS

"SEC. 241. (a) The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of revenue. Grants made under this section may be made for the tax year in which the disaster occurred and for each of the following two tax years. A grant under this section for the tax year in which the major disaster occurred, plus a grant from the State in which such local government is located made for the purposes of this section for such tax year, shall not exceed the difference between the total revenue received by the local government for such year and the total revenue provided for in the base budget of the local government which was in effect for such year. For each of the two tax years following the major disaster, a grant under this section, plus such a State grant for such tax years, shall not exceed the difference between the total revenue received by the local government for the tax year for which the grant is made and the total revenue provided for in the base budget of the local government which was in effect for such year. In no case shall a grant for the tax year following a major disaster, plus such a State grant for such tax year, exceed the difference between the total revenue received by the local government for the tax year for which the grant is made and an amount equal to 110 per centum of the total revenue provided for in the base budget of the local government which was in effect for the tax year in which the major disaster occurred. In no case shall a grant for the second tax year following a major disaster, plus such a State grant for such tax year, exceed the difference between the total revenue received by the local governments for the tax year for which the grant is made and an amount equal to 120 per centum of the total revenue provided for in the base budget of the local government which was in effect for the tax year in which the major disaster occurred.

"(b) For the purposes of this section—

"(1) The term 'revenue' includes revenue generated by the local government derived from property taxes (both real and personal) and other taxes, permits, licenses, fines and costs, departmental earnings, refunds, and reimbursements, but does not include extraordinary receipts of a nonrecurring nature.

"(2) The term 'base budget' means the budget of the local government which was in effect on that date prior to the date of the major disaster for which a grant is made under this section.

"(c) For the purposes of computing the revenue received by a local government in any tax year during which a grant is made under this section, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of the major disaster without reduction."

SEC. 2. The amendment made by the first section of this Act shall take effect with respect to grants to local governments for losses resulting from major disasters which occur after June 1, 1972.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 16598, an amendment to the Disaster Relief Act of 1970. This legislation is designed to correct a defect in the current law regarding Federal grants to local governments to aid them in maintaining budgeted services following a major disaster. Many communities suffer not only damage to homes, businesses, and facilities, from a major disaster but also lose tax revenue, because of destroyed buildings and businesses. This adds to the hardships experienced by local governments. In many instances, the need for public services increases following a disaster, but without the predisaster tax base and revenues, local governments find it impossible to finance these services.

Section 241 of the Disaster Relief Act provides for grants for local governments for the purpose of maintaining revenues. Grants are determined on the basis of the average tax receipts for the year in which the disaster occurred and the preceding 2 years, and the difference that computed amount and the amount of taxes actually received is the amount that a community receives for the year in which a disaster occurs and 2 succeeding years.

Due to the expansive nature of many communities, this section is inadequate to meet the actual loss of tax revenues for current years' budgets. Under the grant formula, a town experiencing a budget growth rate of 10 percent a year over the past 3 years could hardly be expected to maintain budgeted services following a major disaster if grants computed under this section allowed for an average receipt of the past 3 years. That amount would be about 10 percent less than the year's budget in which the disaster occurred.

Accordingly, the committee reported H.R. 16598 to correct this deficiency. Simply stated, the total revenue provided for in the base budget which was in effect, for the year in which the disaster occurred, shall be used to determine the amount that would have been received for the entire year had a disaster not affected taxable property and business activity. The committee has also provided a 10-percent projected rate of growth for 2 years following a major disaster for the purposes of grants under this section. The committee also included language to guard against any voluntary reduction in tax revenues which would not normally occur. Local governments should make an effort to maintain revenues from structures in businesses unaffected by a major disaster. This provision is to guard against any windfall gain under this section by a local government following a disaster.

Additionally, the committee does not wish to penalize any local government which sustained a heavy debt in a tax year in which a disaster occurred. If, for example, a local government undertook a bond sale totaling a million dollars, those receipts should be considered extraordinary and nonrecurring, and should not be included in computing tax bases or revenues.

Finally, the committee wished to guard against further windfall gain by providing limitation on a Federal grant when State grants are given for the same purposes of this section. If a local community, under the formula of this bill, were to receive $200,000 and the State in which the local government existed were to give a hundred thousand dollars for the same losses of tax revenue, then the Federal share shall drop to $100,000. The total grant amounts, both State and Federal, should not exceed the amount provided for in the determination of such a grant.

I wish to commend Mr. FLOOD, of Pennsylvania, for pointing out this deficiency of section 241 of the Disaster Relief Act to the committee, and Mr. ROE of the committee for his splendid efforts in successfully guiding this legislation through committee.

Mr. FLOOD. Mr. Speaker, the purpose of this bill is clear—to prevent the fiscal collapse of local governments which have been stricken by major natural disasters. It is easily observed, when a town or city has been devastated, that homes have been wrecked, businesses ruined, and that many lives have been lost. What is not so easily seen is the dramatic impact which a natural disaster has upon the economic and fiscal base of the community.

Tax collections plummet—property values zoom downward—the local governments find themselves with a drastically eroded tax base, and the prospect of not being able to deliver badly needed services both while in the middle of the disaster and in subsequent years. The Congress recognized these terrible side effects of disaster when it passed the Disaster Relief Act of 1970 which contained a provision allowing for community disaster grants, section 241.

Great idea—good intentions—a fine plan of action, but one major fault—it just did not work. And believe me, I know. I can recite for the next 10 minutes a list of small towns and some cities on both sides of the Susquehanna River stretching for some 60 miles which were wiped out by the flooding from Hurricane Agnes; and which would receive either nothing under current law or merely a few hundred dollars. Under my amendment presented to you today, steps have been taken to rectify this unfortunate situation, and to assure that communities hit by disaster in the future will not find themselves in similar straits.

First, the grants are to be based upon loss of budgeted revenue rather than upon an average of tax collections over the past 3 years. In growing communities—and almost all are growing—the average of 3 years tax collections is significantly lower than the current disaster years tax collections. If you use the average figure as a base for making a community disaster grant, the result is zero grant money. What I have done in this bill is the result of practical experience in the field, so to speak. What is done in the bill is that the community will get a grant to make up for the difference in what their expected revenue was in the disaster year, and what they actually did collect. This assures that the effects of a seriously eroded tax base will not be immediately felt, with all the consequences that can mean.

Second, grants are to be made to make up for all locally generated revenues which have been cut due to the disaster. This excludes extraordinary revenues such as bond issues for obvious reasons, but does include property and other taxes, permits, fines, departmental earnings, refunds and reimbursements, et cetera, all of which suffer reduction in amounts collected when disaster strikes.

Mr. Speaker, safeguards have been written into this bill—tax rates and tax assessment valuation factors in effect at the time of the disaster shall be used for purposes of computing the grant, without reduction. Furthermore, any State grants—made strictly for the purposes outlined in this act—will reduce the amount of the Federal grant. In addition, the bill provides for the opportunity of local governments to grow and thus provide the demanded services which are so desparately needed at the local level. The bill allows a 10-percent growth in the budget in the year following the disaster, and an additional 10 percent in the second year, for the purposes of making these grants.

It is my contention that adequate safeguards exist in the bill to prevent abuse of the section of the disaster act; and that the enactment of the bill is a major step in bringing the destroyed area back to full productivity, and back to their role as one of the most important industrial and commercial centers in this Nation. I can assure you that the benefits will rebound to all of us manifold what we expend.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DON H. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the Disaster Relief Act of 1970, H.R. 16598.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

JOHN P. WOODSON

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 10638) for relief of John P. Woodson, his heirs, successors in interest or assigns, No. 203 on the Private Calendar.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by a quitclaim deed, without consideration, to John P. Woodson, his heirs, successors in interest or assigns all right, title, and interest of the United States in and to certain real property, more particularly described as follows:

The southeast quarter of the southwest quarter, south half of the southeast quarter, section 1, township 11 north, range 17 east; and the southwest quarter of the southwest quarter, section 6, township 11 north, range 18 east, Mount Diablo meridian, California.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

STUDIES AND INVESTIGATIONS BY COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1039 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1039

Resolved, That, notwithstanding the provisions of H. Res. 217, Ninety-second Congress, the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, is authorized to send—

(1) not more than four members of such committee and two staff assistants for not more than twenty days, during the period August 18 to September 30, 1972, to conduct full and complete studies and investigations and make inquiries within its jurisdiction regarding foreign and military postal services, statistical agencies, international organizations with statistical and archival responsibilities, and the census programs in the following countries: Spain, Italy, Germany, Turkey, and Israel; and

(2) not more than ten members of such committee and three staff assistants for not more than eighteen days, during the period November 11 to December 23, 1972, to conduct full and complete studies and investigations and make inquiries within its jurisdiction regarding the operation of the overseas teacher programs, foreign postal services, including matters relating to rate-setting procedures, labor-management relations, modernization and mechanization, and the United States military postal services in the following countries: United Kingdom, France, Germany, Turkey, Italy, and Spain.

SEC. 2. (a) Notwithstanding the provisions of H. Res. 217 of the Ninety-second Congress, first session, local currencies owned by the United States shall be made available to the members of the Committee on Post Office and Civil Service of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(b) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

With the following committee amendments:

On page 1, line 5, strike out "four" and insert in lieu thereof "five";

On page 1, line 7, strike out "August 18 to September 30, 1972," and insert in lieu thereof "November 20 to December 20, 1972,";

On page 2, line 3, strike out "ten" and insert in lieu thereof "five";

On page 2, line 4, strike out "three" and insert in lieu thereof "two"; and

On page 2, line 13, strike out "Turkey,".

The committee amendments were agreed to.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1039 is a supplemental investigative resolution authorizing overseas travel and the use of counterpart funds by the Committee on Post Office and Civil Service.

As amended by the Committee on Rules, at the request of the Committee on Post Office and Civil Service, the resolution authorizes five members of the committee and two staff, assistants to travel to Spain, Italy, Germany, Turkey, and Israel during the period November 20 to December 20, 1972. Duration of the trip will be no more than 20 days and working visits will be made to principal statistical agencies of in the various countries and to the United National Food and Agriculture Organization in Rome. Consultations will be arranged for thorough briefings on the census and large scale survey programs in each country also.

In addition, the resolution authorizes not more than five members of the committee and two staff assistants to travel to the United Kingdom, France, Germany, Italy, and Spain during the period November 11 to December 23, 1972. Duration of the trip will be no more than 18 days and an investigation will be conducted regarding pay and benefits for overseas teachers. It is anticipated that dependent schools will be visited in the various countries.

Mr. Speaker, I urge the adoption of the resolution.

Mr. HALL. Mr. Speaker, has the distinguished Committee on Rules considered the fact that the Postal Service is out from under the jurisdiction of the Committee on Post Office and Civil Service and is now only a quasi-governmental organization; that there is very little information on such a junket that could be gained that could be interpreted to assist the U.S. Postal Service by such a trip? In its judgment, does it still feel that this trip is necessary?

Mr. YOUNG of Texas. I say to the gentleman from Missouri, the committee feels that the trip is necessary.

Mr. HALL. Mr. Speaker, having learned what it is to be chastised by only getting 46 votes against such a junket on the part of another committee of the House during the interim between election and reconvening of the next Congress by all the lame ducks, who can and who are truly interested, I shall not pursue the matter any further.

I want to register my real doubt and not object. I just hope that it is sunny and warm in Sunny Italy and Southern Spain.

Mr. YOUNG of Texas. I yield to the gentleman from California (Mr. SMITH).

Mr. SMITH of California. Mr. Speaker, it has always been the custom for the Post Office and Civil Service Committee to take such a trip as this after a session. I have read their reports over the past year, and I must say that I found them very knowledgeable, and thought that they did a very good job.

The gentleman from Missouri (Mr. HALL) brings up a question. I am receiving a number of questions in connection with our Postal Service. Some of the packages I get look like they have been jumped on coming across the country. Postal employees apparently cannot talk to Congressmen. I remember when I presented the rule on changing the Postal Service. I had some reservations, however I voted yea. When the Members finish this trip, I wish they would go around the United States and do a little checking.

Perhaps the House would like to take that service back next year and straighten it out. I think they are having some problems.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL INVESTIGATIVE AUTHORITY FOR COMMITTEE ON EDUCATION AND LABOR

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1127 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1127

Resolved, That the Committee on Education and Labor, acting by the Ad Hoc Subcommittee on Discrimination Against Women, is authorized to conduct full and complete studies and investigations in not more than six countries of Asia and Europe.

For the purpose of carrying out the studies and investigations, the committee is authorized to send not more than nine members of the ad hoc subcommittee and two staff assistants for not more than thirty days during the period November 10, 1972 to December 31, 1972, to those countries within which such investigation and study is authorized to be conducted.

Notwithstanding the provisions of H. Res. 213 of the Ninety-second Congress, first session, local currencies owned by the United States shall be made available to the members of the Committee on Education and Labor of the House of Representatives and employees engaged in carrying out the authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished and the cost of transportation if furnished by police carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman of the Committee on House Administration and shall be open to public inspection.

(5) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of difference in time zones.

Mr. HALL (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

House Resolution 1127 is a supplemental investigative resolution authorizing overseas travel and the use of counterpart funds by the Committee on Education and Labor, acting by the Ad Hoc Subcommittee on Discrimination Against Women.

The resolution authorizes nine members of the subcommittee and two staff assistants to travel to not more than six countries of Asia and Europe for not more than 30 days duration during the period November 10 to December 31, 1972.

Mr. Speaker, I urge the adoption of the resolution.

Mr. SMITH of California. Mr. Speaker, when this resolution was originally introduced I understood the distinguished gentlewoman from Oregon (Mrs. GREEN) was going to head up this trip, which I believe would be excellent. I know if she did there would be some very fine information coming back. Unfortunately, the gentlewoman has suffered an accident and may not be able to make the trip. I am sorry that is the case.

My understanding is that five women and four men are to take this trip. Of course, we are all for women and we are all for equal rights and no discrimination, so I assume we had better vote for this resolution, Mr. Speaker.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDING ADMINISTRATION CONFERENCE ACT

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3671) to amend the Administrative Conference Act, as amended.

The Clerk read as follows:

S. 3671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 575 of title 5, United States Code, is amended—

(a) by amending paragraph (10) of subsection (c) to read as follows:

"(10) organize and direct studies ordered by the Assembly or the Council, to contract for the performance of such studies with any public or private persons, firm, association, corporation, or institution under title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251–260), and to use from time to time, as appropriate, experts and consultants who may be employed in accordance with section 3109 of this title at rates not in excess of the maximum rate of pay for grade GS–15 as provided in section 5332 of this title;";

(b) by redesignating paragraphs (11) and (12) of subsection (c) as paragraphs (14) and (15) respectively and by adding the following new paragraphs:

"(11) utilize, with their consent, the services and facilities of Federal agencies and of State and private agencies and instrumentalities with or without reimbursement;

"(12) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Conference. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairman. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes property accepted under this section shall be considered as a gift, devise, or bequest to the United States;

"(13) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));".

SEC. 2. Section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Appropriations.

"There are authorized to be appropriated sums necessary not in excess of $760,000 for the fiscal year ending June 30, 1974, $805,000 for the fiscal year ending June 30, 1975, $850,000 for the fiscal year ending June 30, 1976, $900,000 for the fiscal year ending June 30, 1977, and $950,000 for the fiscal year ending June 30, 1978, and for each fiscal year thereafter, to carry out the purposes of this subchapter.".

The SPEAKER pro tempore. Is a second demanded.

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. CONYERS. Mr. Speaker, I rise in support of the bill and I yield myself such time as I may consume.

The principal purpose of the pending legislation as amended by the committee is to raise the ceiling on appropriations for the Administrative Conference of the United States.

Identical measures were introduced in the Senate (S. 3671) and in the House (H.R. 13644) to remove the ceiling altogether. On August 18, S. 3671 passed the Senate without amendment. Meanwhile a subcommittee hearing on the House bill was held in May and the chairman of the Conference testified in support of the legislation. The committee also received letters from the then Acting Attorney General, from Clark MacGregor, counsel to the President for congressional relations, and from the American Bar Association favorable to H.R. 13644 as introduced.

The Administrative Conference was established in 1964 as a permanent agency of the Federal Government. The legislation establishing the Conference authorized appropriations not to exceed $250,000 per year. In 1969 this ceiling was increased to $450,000 per year.

The statutory mandate of the Administrative Conference is to develop recommendations for improvements in the procedures by which Federal departments and agencies fixed the rights and obligations of private businesses and individuals through administrative adjudication, rulemaking, licensing, and investigation. The Conference has no regulatory power; it may only make recommendations. It reports to the President, the Congress, the Judicial Conference, and the departments and agencies.

As appears on pages three through 18 of House Report 92-1418, demonstrated to the satisfaction of the committee, the administrative conference has been performing a very substantial volume of valuable and important work. Nevertheless, the committee believed that a relatively minor change should be made in section 1 of the bill and that, although the ceiling on appropriations for the conference should be raised, it should not be removed altogether. Beyond this, the committee would amend the title of the bill.

COMMITTEE CONCLUSIONS AS TO EXPERTS AND CONSULTANTS

The committee approves the provisions of section 1 of the bill which authorize the conference to enter into contracts for the performance of studies and to accept and utilize gifts, including gifts of services. A modification is recommended, however, with respect to the proposed increase in the maximum compensation payable to experts and consultants. The bill as introduced and passed the Senate would increase the present maximum from $100 per day to the maximum daily rate applicable to GS-18, $138.40. An increase seems warranted but the committee recommends that it be limited to the maximum daily rate applicable to GS-15. This now pays $127.92 per day. The GS-15 rate was recently applied by this committee to the compensation of experts and consultants who serve the Commission on Civil Rights and the committee believes that both rates should be the same.

COMMITTEE CONCLUSIONS AS TO CEILING ON APPROPRIATIONS

As I have said, the administrative conference has given a good account of itself and its work. It demonstrated, we believe, that its appropriation ceiling is too low and made a strong argument for eliminating the ceiling altogether.

Such a move would bring the budgetary and appropriations practices of the Conference in line with those of other permanent agencies. The Conference argues that an appropriations ceiling for a permanent agency like the Conference is awkward and unnecessary and that the ordinary budgetary and appropriations process affords adequate legislative review of Conference programs and performance. Undeniably, the delay occasioned by the need to get a ceiling removed or raised aggrevates problems of inflation. Also, elimination of the ceiling would relieve the committee of the necessity of making value judgments and setting priorities with respect to particular projects selected by the Conference within its competence.

Nevertheless, the committee is unable to recommend total elimination of the appropriations ceiling. The existence of a ceiling with respect to relatively new programs tends to retain in the committee at least a modicum of legislative oversight. The committee believes that the appropriations ceiling of the Conference should be substantially raised but that it should not be removed completely. The committee's recommendation is as follows:

COMMITTEE RECOMMENDATIONS AS TO APPROPRIATION CEILING

The ceiling for fiscal year 1973 has been approved and should remain at $450,000.

An increase in programs in the amount of $285,000 is recommended for fiscal year 1974 and subsequent years—this increase approximates the estimated annual cost of proposals by the Administrative Conference to institute additional programs as follows: publication of reports and activities—$60,000 per year; administrative support services—$25,000 per year; statistical evaluation of administrative delay—$100,000 per year; and added large scale projects—$100,000 per year, a total of $285,000.

In addition, the committee would authorize annual increases over the next 5 years—fiscal years 1974-78—that would be somewhat short of 6 percent a year for normal inflation and growth. The resulting ceilings would be as follows:

Fiscal year:	*Amount*
1974 ($450,000 plus $285,000)	$760,000
1975	805,000
1976	850,000
1977	900,000
1978 (and each fiscal year thereafter)	950,000

The average annual ceiling for fiscal years 1974 through 1978 would be $853,000. This compares with a substantially higher estimate of what would be desirable made by the Administrative Conference when it proposed an annual ceiling of $1,250,000 as an alternative to eliminating the ceiling altogether.

OTHER PROVISIONS OF S. 3671

Section 1 of the bill provides for a number of statutory changes designed to deal with problems which have arisen in the recent past or that can be anticipated in the near future. They should be adopted since similar provisions are commonly included in statutes governing advisory bodies such as the Administrative Conference.

Specifically, section 575(c)(10) of ttile 5, United States Code, should be revised to clarify the conference's authority to contract for studies as well as to have them performed by consultants employed on a temporary or intermittent basis. In addition, the revised paragraph should authorize the payment of consultants at a maximum daily equivalent to that of a GS-15.

The other amendments to section 575 (c) authorize the Administrative Conference to utilize with their consent the services and facilities of State, Federal, and private agencies and instrumentalities, and to accept gifts, bequests, and voluntary and uncompensated services. These grants of authority are customary for agencies with research and advisory responsibilities and will enable the conference to participate with public agencies and private institutions in studies and other undertakings of mutual interest which might otherwise be beyond its financial capacities.

COST OF THE LEGISLATION

The cost of the activities of the Administrative Conference for fiscal year 1973 is not affected by this legislation and will remain subject to the present ceiling $450,000 per annum. With respect to subsequent years, the committee estimates that the Administrative Conference will be able to persuade the Appropriations Committee that the conference should be funded up to the limit provided in the amended bill for fiscal years 1974 through 1978. In that event, the program of the Administrative Conference will cost $760,000 for fiscal year 1974, $805,000 for fiscal year 1975, $850,000 for fiscal year 1976, $900,000 for fiscal year 1977, and $950,000 for fiscal year

1978, and for each fiscal year thereafter, as compared to a maximum of $450,000 per year under existing law.

Mr. Speaker, I urge favorable consideration of the measure.

I reserve the balance of my time.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 3671, an act amending the law affecting the Administrative Conference of the United States. This legislation has the support of the Administration, the Department of Justice, and the American Bar Association. It was favorably reported by the subcommittee and the full committee without a dissenting vote.

The legislation before you represents a modified version of a bill which I introduced (H.R. 13987) and which passed the other body by unanimous consent. The version passed by the other body which was amended by the Judiciary Committee would have removed the appropriation ceiling altogether, and increased the maximum to be paid experts and consultants from $100 per day to $138.40 per day. Although a good case was before the subcommittee to remove the appropriations ceiling, your committee chose to retain annual ceilings but to provide higher ceilings on a 5-year graduated basis and a fixed annual ceiling thereafter. Realizing that the Administrative Conference will have to appear annually before the Appropriations Committee even if the ceiling was removed altogether, the Judiciary Committee is of the opinion that it is the responsibility of the committee which authorized the appropriation to carry the primary burden in determining the amount of the authorization. This approach serves two meaningful functions:

First, it relieves some of the burden from the Appropriations Committee by providing guidelines and a record on which they can base a decision, and

Second, it provides a vehicle for a continuing interest in the agency by the authorizing committee and is helpful to that committee in discharging its legislative review responsibilities.

I would not want my colleagues to misunderstand the reasons behind this annual limited authorization. This limitation in no way reflects upon the value and usefulness of the Administrative Conference. If that were the case, the Judiciary Committee would have quickly removed the ceiling. The Administrative Conference is a unique agency performing a very valuable public service. Its basic philosophy is that our Federal bureaucracy can and indeed must make meaningful improvements in their practices and procedures. I envision the conference as a congressional ombudsman, keeping track of our massive Federal bureaucracy. I realize that this is not its principal function nor does it have the regulatory authority to enforce its recommendations. Its principal purpose is the correction of agency unfairness and agency imperfections through recommendations.

Its power of persuasion lies in its quality product. These recommendations are set forth in the subcommittee hearings—May 1972, Serial No. 25, 92d Congress, second session, pp. 44–56. To illustrate my point I would like to read a brief quote from a letter written by the Attorney General of the United States to the Administrative Conference dated March 20, 1972—p. 28 of the hearings:

> I am writing to compliment the Administrative Conference for its work in improving the quality of administrative justice meted out by Federal agencies. A number of studies and recommendations of the Conference have been of great interest and value to the Department of Justice.
>
> As you know, the study by the Conference of this Department's procedures for the remission and mitigation of forfeitures led to our adoption of new regulations with respect to such procedures. Similarly, we have found that the recent recommendation of the Conference with respect to the procedures of the Immigration and Naturalization Service in change-of-status cases rests upon a thorough analysis of this important process. The Service has already adopted some of the suggested changes and is giving most careful consideration to the others. The Department, of course, has a special interest in the recommendations of the Conference establishing guidelines for implementation of the Freedom of Information Act in view of our responsibility to defend the United States in suits brought under the Act.

The hearings contain similar letters from the Department of Health, Education, and Welfare, Civil Aeronautics Board, Food and Drug Administration, and the American Bar Association, the Section of Administrative Law, and so on.

Mr. Speaker, the scholarship of the Administrative Conference has been excellent, its research thorough and its workproduct most useful. For these reasons I urge my colleagues to support the enactment of S. 3671, as amended by the Judiciary Committee.

Mr. CONYERS. Mr. Speaker, I yield to the chairman of the Committee on Government Operations, the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, I want to say just a few words in support of S. 3671. The Administrative Conference of the United States, and particularly its former chairman, Mr. Roger C. Cramton, who has recently been made the legal advisor for the entire executive branch as Assistant Attorney General in charge of the Office of Legal Counsel, have been particularly helpful to the Congress.

I am sure that many committees of Congress, and many Members, have been highly impressed by the superlative assistance the Conference and its Chairman have given them. While it is established in the executive branch, the Administrative Conference and its staff have a close relationship to Congress and to our legislative function. My experience has been that this relationship has been maintained on a nonpartisan basis and on a highly professional level.

During this Congress, the Chairman of the Administrative Conference gave extremely valuable testimony to the Government Operations Committee's Legislation and Military Operations Subcommittee in connection with legislation to create a Consumer Protection Agency and to our Foreign Operations and Government Information Subcommittee in connection with its indepth study of the effectiveness of the Freedom of Information Act. This testimony obviously required many hours of preparation.

Certainly the Administrative Conference of the United States should be given adequate authority and adequate funds.

I want to compliment the Committee on the Judiciary and my good friends Mr. CELLER and Mr. CONYERS for bringing S. 3671 to the floor. Enactment of this bill will help the Conference to continue and to expand its valuable work.

Mr. Speaker, I just want to rise in support of this bill. I happen to know something about this Administrative Conference of the United States and its very excellent chairman until just recently, Mr. Roger Cramton. He has been on call as an assistant to the House Committee on Government Operations in the field of administrative rules and regulations.

I also want to say the President's Commission on Procurement is completing more than 2 years of study on the function of the Federal Government in purchasing more than $50 billion worth of goods and services annually. The commission will make recommendations for improvement and correction of procedure in three fields of Federal functions: one, executive orders; two, statutory changes; and, three, improvement in the vast field of administrative rules and regulations.

The agencies of the Government will be dependent upon the advice from this conference as to how we can improve the vast field of rules and regulations. As we all know, when we pass a bill we always have a clause in there authorizing the administrator to make such rules and regulations as necessary for the implementation of the specific act. Rules and regulations have grown to the point where they are far greater in volume than the statutory language on which they are based. Congress in 1964 decided that it was necessary to have this type of continuing study.

I believe the modest sum required is justifiable, and I hope this bill will pass without objection.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California.

I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill S. 3671, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend provisions of law relating to the Administrative Conference of the United States."

A motion to reconsider was laid on the table.

BUS SYSTEMS ACQUISITION BY WMATA

Mr. ABERNETHY. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4062) to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the National Capital area, and for other purposes.

The Clerk read as follows:

S. 4062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as "National Capital Area Transit Act of 1972".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds that (1) an adequate and economically sound transportation system or systems, including bus and rail transit, serving the Washington metropolitan area is essential to commerce among the several States, and among such States and the District of Columbia, and to the health, welfare, and safety of the public; (2) economies and improvement of service will result from the unification of bus transit and rail transit operations as well as from integration of bus transit facilities within the Washington metropolitan area; (3) the Washington Metropolitan Area Transit Authority is a body corporate and politic organized pursuant to interstate compact among the States of Maryland and Virginia and the District of Columbia, with the consent of Congress, to plan, develop, finance, and operate improved transit facilities in the Washington metropolitan area transit zone; (4) an appropriate solution to the current bus transportation emergency is public ownership and operation of bus transit facilities within the Washington metropolitan area; (5) the cost of such public ownership should be shared by the Federal and local governments in the Washington metropolitan area in accordance with the matching formula authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601–1612); and (6) to these ends it is necessary to enact the provisions hereinafter set forth.

TITLE I

CONSENT TO COMPACT AMENDMENT

SEC. 101. (a) The Congress hereby consents to amendments to articles XII and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact (D.C. Code, sec. 1–1431 note) substantially as follows:

(1) Section 56 of article XII is amended by adding at the end thereof the following new paragraph:

"(e) The Authority may acquire the capital stock or transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to article VII, section 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition as soon as possible of the capital stock or the transit facilities of each of the other private transit companies within the zone requesting such acquisition. Lack of such request however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to section 82 of article XVI."

(2) Subsection (a) of section 82 of article XVI is amended by deleting "or by a private transit company" at the end of such subsection and by inserting in lieu thereof the following: "whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority".

(b) The Commissioner of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth above, to title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

ACQUISITION OF PRIVATE BUS COMPANIES OPERATING WITHIN THE WASHINGTON METROPOLITAN AREA

SEC. 102. (a) Based on the findings set forth in section 2 of this Act, it is the sense of the Congress that the Washington Metropolitan Area Transit Authority (hereafter in this Act referred to as the "Transit Authority") should initiate negotiations as soon as possible with the ownership of D.C. Transit System, Incorporated (and its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company for acquisition by the Transit Authority of capital stock or facilities, plant, equipment, real and personal property of such bus companies of whatever nature, whether owned directly or indirectly, used or useful for mass transportation by bus of passengers within the Washington metropolitan area. It is further the sense of the Congress that representatives of the Transit Authority should participate in any labor contract negotiations undertaken prior to acquisition by the Transit Authority of such bus companies.

(b) The franchise to operate a system of mass transportation of passengers for hire granted to D.C. Transit System, Incorporated, by the Act of July 24, 1956 (70 Stat. 598) is hereby canceled, effective upon the date immediately preceding the date on which the Transit Authority acquires the transit facilities of D.C. Transit System, Incorporated.

(c)(1) The Transit Authority, and any transit company owned or controlled by the Transit Authority, may operate charter service by bus in accordance with title III of the Washington Metropolitan Area Transit Regulation Compact only between any point within the transit zone and any point in the State of Maryland or Virginia, or a point within 250 miles of the Zero Mile Stone located on the Ellipse.

(2) For the purposes of this subsection, the term "transit zone" means the area designated in section 3 of title III of the Washington Metropolitan Area Transit Regulation Compact.

(d) D.C. Transit System, Incorporated, a corporation of the District of Columbia, may—

(1) continue to exist as such a corporation and amend its charter in any manner provided under the laws of the District of Columbia;

(2) avail itself of the provisions of the District of Columbia Business Corporation Act in respect to a change of its name; and

(3) become incorporated or reincorporated in any manner provided under the laws of the District of Columbia.

Nothing in this Act shall be construed so as to cause or require the corporate dissolution of D.C. Transit System, Incorporated.

TITLE II

DISTRICT OF COLUMBIA AUTHORIZATIONS

SEC. 201. (a) The Commissioner of the District of Columbia is authorized to contract with the Transit Authority for payment to it of the District's share of the cost to the Transit Authority of acquiring—

(1) the private bus companies referred to in section 102(a) of this Act; and

(2) any rolling stock, real estate, or other capital resources required for the operation of bus service in the District of Columbia either at the time of acquisition of such bus companies or at some future time.

(b) Subsection (b) of the first section of the Act of June 6, 1958 (D.C. Code, sec. 9–220) (relating to the borrowing authority of the District of Columbia), is amended by adding at the end thereof the following new paragraph:

"(5) Loans may be made under this subsection to carry out the purposes of section 210(a) of the National Capital Area Transit Act of 1972."

TITLE III

FINANCING

SEC. 301. Transit Authority, for the purpose of effecting the acquisition of the mass transit bus system or systems as contemplated by this Act, together with such improvements or replacement of acquired equipment and facilities as may be found necessary or desirable by the Secretary of Transportation (hereafter in this title referred to as the "Secretary") in conjunction with such acquisition and within a reasonable time thereafter, not to exceed six months, is eligible for capital grant assistance pursuant to section 3 of the Urban Mass Transportation Act of 1964. For this purpose, the Transit Authority shall be considered a "local public body" within the meaning of that section and, accordingly, the Secretary may authorize and approve capital grant assistance to the Transit Authority in the maximum amount provided for in the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such bus system or systems, including the cost of improvements to or replacement of acquired equipment and facilities approved by the Secretary in junction with such acquisition. Such assistance shall be provided from funds available to the Urban Mass Transportation Administration of the Department of Transportation.

SEC. 302. (a) If the Secretary should determine that immediate action is urgently required to protect the public interest in the National Capital area, he may waive any or all provisions of the Urban Mass Transportation Act of 1964 (except section 13(c) thereof), and immediately grant to the Transit Authority from funds available to the Urban Mass Transportation Administration of the Department of Transportation such sums as are contemplated under section 301.

(b) The Secretary, after determining that immediate action is necessary in the public interest in accordance with subsection (a) of this section, may, in accordance with subsection (c) of this section, advance from funds available to the Urban Mass Transportation Administration of the Department of Transportation such funds as he determines to be necessary for payment to the Transit Authority to provide temporary financing for that portion of the cost of acquisition of the mass transit bus system or systems contemplated by this Act, together with associated improvements to or replacement of acquired equipment and facilities, which are not provided for by the Secretary pursuant to section 301 of this Act. For this purpose, such advance shall not be construed as a loan made under section 3 of the Urban Mass Transportation Act of 1964. Funds advanced pursuant to this section shall be considered as "other than Federal funds" within the meaning of section 4(a) of the Urban Mass Transportation Act of 1964.

(c) The Secretary shall not advance funds under this section until he has determined that the Transit Authority has the capacity and ability to arrange for repayment of such advance in accordance with section 303 of this Act.

SEC. 303. The advance authorized under section 302(b) shall be repaid by the Transit Authority to the Urban Mass Transportation Administration of the Department of Transportation from contributions by the District of Columbia and other local government jurisdictions or from other non-Federal sources as may be available to the Transit Authority and which were not estimated to be available for financing the mass transit rail rapid system authorized by the National Capital Transportation Act of 1969. Repayment of such advance may be deferred by the Secretary of Transportation, at the request of the

Transit Authority, but not beyond the end of the fiscal year following the fiscal year in which the advance was made. Repayment shall be made with interest at a rate to be determined by the Secretary of the Treasury calculated in accordance with the formula set forth in section 3(c) of the Urban Mass Transportation Act of 1964. Principal and interest repaid pursuant to this section shall be credited to the Urban Mass Transportation Fund and shall be considered a restoration of obligational authority available to the Secretary under section 4(c) of the Urban Mass Transportation Act of 1964.

TITLE IV

SEC. 401. (a) The United States District Court for the District of Columbia shall have complete and exclusive jurisdiction over any proceedings by the Transit Authority for the condemnation of property, wherever situated, of D.C. Transit System, Incorporated (including its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company. Such proceedings shall be instituted and maintained in accordance with the provisions of this section and the provisions of subchapter IV of chapter 13 of title 16, District of Columbia Code, except that the court may appoint a commission in accordance with rule 71A(h) of the Federal Rules of Civil Procedure in connection with the issue of compensation arising out of any such proceedings.

(b) Any such condemnation proceedings shall be commenced by the Attorney General of the United States, upon the request of the Transit Authority, by filing with the United States District Court for the District of Columbia a complaint and declaration of taking containing a description of the land and other assets to be taken, together with a sum of money deposited with the registrar of such court in accordance with the applicable provisions of law set forth in subsection (a) of this section. Upon such filing and deposit, title to the possession of the assets described in any such complaint and declaration of taking shall pass to the Transit Authority and the value of the assets so acquired shall be determined as of that date.

(c) The trial of any such condemnation proceedings shall be a preferred cause and shall be commenced at the earliest date convenient to the court.

(d) Any proceeding brought by the Transit Authority under this section against the Alexandria, Barcroft, and Washington Transit Company shall be transferred, upon motion made by such Transit Company, to the United States District Court for the Eastern District of Virginia, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding. Any action brought by the Transit Authority under this section against the WMA Transit Company, shall be transferred, upon motion made by the WMA Transit Company, to the United States District Court for the District of Maryland, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding.

TITLE V

AUDIT AND REVIEW

SEC. 501. The Comptroller General of the United States shall have access to all books, records, papers, and accounts and operations of the Transit Authority, and any company with which the Transit Authority is conducting negotiations under this Act, and any company eligible to receive or receiving any funds authorized by this Act. The Comptroller General is authorized to inspect any facility or real or personal property of the Transit Authority or of such companies.

TITLE VI

ARLINGTON CEMETERY AND SMITHSONIAN STATIONS

SEC. 601. The National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320) as amended, is hereby further amended by adding at the end thereof the following new section:

"SEC. 13. (a) The Secretary of Transportation shall make payments to the Transit Authority in such amounts as may be requisitioned from time to time by the Transit Authority sufficient, in the aggregate, to finance the cost of designing, constructing, and equipping (1) a rail rapid transit station partially under Memorial Drive designed to serve the Arlington Cemetery with two entrances surfacing adjacent to the sidewalks north and south of Memorial Drive and east of Jefferson Davis Highway, and (2) an additional entrance in the vicinity of the northeast end of the Smithsonian Station surfacing on the Mall south of Adams Drive; except that the aggregate amount of such payments shall not exceed $7,385,000.

"(b) There are authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, not to exceed $7,385,000 to carry out the purposes of this section. The appropriations authorized in this subsection shall not be subject to the provisions of this Act requiring contributions by the local governments and shall be in addition to the appropriations authorized by section 3(c) thereof."

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL of Virginia. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

Is the gentleman opposed to the bill?

Mr. BROYHILL of Virginia. Mr. Speaker, I am in favor of the bill.

Mr. HALL. I thank the Speaker.

There was no objection.

Mr. ABERNETHY. Mr. Speaker, this bill is substantially what the House considered on Wednesday, October 11; it is quite comparable. In fact, the bill before the House a few days ago was H.R. 16724, which would have, as this does, established a public transit bus system in the metropolitan area. That bill was called up under suspension of the rules, and it failed by a very narrow margin.

The only substantial change in the bill now before us from the one that was before the House a few days ago is the condemnation procedure that will be followed in the courts for the acquisition of these transit systems in the event that WMATA and the private bus companies fail in their negotiations.

The House bill provided for a three-judge Federal court for all three jurisdictions in the metropolitan area, that is, the District of Columbia, Maryland, and Virginia. The Senate bill provides that the matter shall be heard before one district judge with power to appoint commissioners, to aid in the condemnation details, if the judge sees fit to refer the matter to such commissioners.

The bill has been well and fully debated heretofore for the benefit of the Members, and I see no good purpose served at this late hour in debating it further.

I will be happy to yield time to some Member if he so desires.

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Minnesota such time as he may consume.

Mr. FRASER. Mr. Speaker, I thank the gentleman from Mississippi (Mr. ABERNETHY) for yielding to me.

I just would like to say, Mr. Speaker, that I was not here during the debate on the bill that came up a few days ago, but I would only like to impress on the Members of the House the seriousness of the bus problem here in the District, and in the adjoining areas. I dislike, I think as much as anyone, the record established by the present owner of the D.C. Transit System, but it is too late to do anything about that.

If we do not act now, everyone who is concerned with our transit problems fears there will be a real collapse of the system before Congress can come back next January. They fear that there might be a total collapse of bus transportation in the area.

So, Mr. Speaker, I would really urge every Member of the House to think very carefully before opposing this legislation because, again, I say they may leave the District without transportation, and that would be a real disaster.

Mr. GUDE. Mr. Speaker, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Speaker, I thank the gentleman from Minnesota for yielding, and I would say to the gentleman that I have here a copy of a letter from one of his colleagues from Minnesota (Mr. NELSEN) the ranking Republican member of the House Committee on the District of Columbia, in which he expressed his deep regret that because of unavoidable commitments back in Minnesota he could not be here today. But this is a copy of a letter to the minority leader (Mr. GERALD R. FORD) which has been reproduced and in it the gentleman from Minnesota (Mr. NELSEN) strongly urges passage of this legislation.

I know that my colleague, the gentleman from Minnesota (Mr. FRASER) is very close to his colleague from Minnesota (Mr. NELSEN) and also knows of Mr. NELSEN's strong support for this legislation.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 14, 1972.

Hon. GERALD FORD,
Minority Leader, House of Representatives, Washington, D.C.

DEAR JERRY: I regret that it was necessary for me to return to Minnesota late Friday night because of certain commitments I had back in my District. However, I have dictated this letter by telephone to express my hope for favorable action by the House of Representatives on S. 4062, a bill that provides for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the national capital area.

As you know, earlier this week the House version of the bus acquisition bill, H.R. 16724, was defeated by a narrow margin of 11 votes under the rules of suspension that provided that it required two-thirds of those present and voting. Had we been able to have our regular District Committee Day on October 9, 1972, a bare majority would have been all that would have been necessary and, of course, the bill would have passed. As it is now, the Congress having enacted legislation to provide for a subway system and having also enacted legislation for its financing so as to provide a subway system for the entire national capital area, we now find that the last necessary piece of legislation to carry through the mass transit operations is a bill to provide for this bus system acquisition.

It would be unfortunate in the extreme if this final necessary piece of legislation could not be acted on favorably in this session. It is my opinion that failure to act now could well precipitate other problems after the Congress adjourns that would cause great inconvenience to the residents of the entire Washington metropolitan area.

I have worked closely with the Subcommittee Chairman, Congressman Cabell, of Texas to enact this legislation, and both he and I are in agreement that the passage of S. 4062 is in the public interest, and I certainly urge its passage.

Kindest regards.

Sincerely yours,
ANCHER NELSEN,
Member of Congress.

I might also state that I know colleagues will be pleased that the track removal costs and any retirement fund inadequacy to place it on a sound footing for transit employees will be treated as liabilities considered by WMATA in negotiations for purchase with the transit companies and by the courts in any condemnation proceedings. This is treated in detail in the Senate report and the debate in that body which took place today.

Mr. FRASER. I know that if Mr. NELSEN were here today he would strongly support this legislation.

I think the legislation has very broad support from the committee on both sides of the aisle, and again I strongly urge support of this legislation.

Mr. BROYHILL of Virginia. Mr. Speaker, Senate bill S. 4062—bus systems acquisition by WMATA—under the heading "Condemnation Procedure" on page 6, states as follows:

> Nothing in this Act shall be construed as granting to the Transit Authority the power to, and the Transit Authority shall not, assume or otherwise acquire any of the liabilities, either contingent or actual, on D.C. Transit System, Inc.

Mr. Speaker, in any takeover of an operating company, there are many liabilities and expenses, which must be assumed and adjustment made therefor by the company taking over operation. This is true with respect to the negotiations that may take place between Transit Authority and D.C. Transit.

It is entirely proper that the Transit Authority shall take over certain liabilities, however, the Transit Authority will be allowed credit for them against the purchase price to be paid by the Transit Authority.

Therefore the Transit Authority must be permitted to assume certain of these liabilities, providing, however, that in assuming them provision is made for compensation to the Transit Authority by D.C. Transit System.

Nothing contained in the Senate report on this point should be construed as prohibiting the Transit Authority from assuming liabilities of D.C. Transit providing the Authority is paid compensation therefor by D.C. Transit System, Inc.

Mr. BADILLO. Mr. Speaker, I rise in support of S. 4062 and urge its speedy passage. Although differing in some respects from the House version, this bill is a necessary measure to establish a sound, modern mass transportation system for the National Capital area. It is unfortunate, indeed, that H.R. 16724 failed by such a narrow margin under suspension of the rules last Wednesday, but I am confident final action will be completed on the Senate bill by the close of business today.

Since it was not in the report accompanying the bill before the House earlier this week, I do want to point out to my colleagues some disturbing language in the Senate report. In that report, under the heading "Condemnation procedure," the Senate committee asserts that—

> Nothing in this Act shall be construed as granting to the Transit Authority the power to, and the Transit Authority shall not, assume or otherwise acquire any of the liabilities, either contingent or actual, of D.C. Transit System, Inc.

Unless this language is qualified in the legislative history, such a restriction could well hinder the negotiation of a contract between the Transit Authority and the transit company operators—a contract which I understand is approaching fruition after months of negotiation. It should be pointed out that some operating liabilities—such as labor contracts, pension funds, fuel and tire contracts, et cetera—are normally assumable liabilities in takeovers such as this and the Transit Authority should be permitted by this legislation to assume them, with the provision for adequate compensation to the Transit Authority from the D.C. Transit System.

Simply by adding the phrase "unless compensation is paid therefor by D.C. Transit System, Inc. to the Transit Authority," the problem created by the Senate report language can be alleviated.

Clearly, the Transit Authority should not be in the position of assuming extraordinary liabilities, but the assumption of usual liabilities is common and to prevent such assumption in this case might well jeopardize a contract on which so much time and effort has been spent in behalf of the citizens of the Metropolitan Washington area.

Mr. VANIK. Mr. Speaker, I rise in protest against this legislation. As presently worded this bill provides for a bail-out of the mismanaged D.C. Transit System with a tremendous gain to the management and a heavy loss to the public. This bill pays Mr. O. Roy Chalk entirely too much, since he has obligations under the existing franchise contracts to remove rails and repair streets, which exceed the value of any assets remaining in the D.C. Transit System.

The present buses and equipment and facilities of the D.C. Transit System have already been paid for by the users of the transportation system.

We owe Mr. O. Roy Chalk nothing—but the back of our hands.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi, (Mr. ABERNETHY) that the House suspend the rules and pass the bill, S. 4062.

The question was taken.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 184, nays 60, answered "present" 1, not voting 186, as follows:

[Roll No. 449]

YEAS—184

Abernethy
Abzug
Adams
Addabbo
Arends
Aspinall
Badillo
Barrett
Bennett
Bergland
Betts
Bevill
Biester
Bingham
Blackburn
Blanton
Blatnik
Boggs
Brademas
Bray
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burton
Byrnes, Wis.
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Collier
Conable
Conover
Conyers
Coughlin
Culver
Danielson
Davis, Ga.
de la Garza
Dent
Diggs
Donohue
Downing
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evins, Tenn.
Findley
Flood

Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Garmatz
Gettys
Gonzalez
Grasso
Gray
Green, Pa.
Griffin
Gubser
Gude
Hagan
Halpern
Hammerschmidt
Hansen, Idaho
Harrington
Hastings
Hathaway
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Jarman
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Landrum
Lennon
Lent
Lloyd
McClory
McCloskey
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Madden
Mahon
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Metcalfe
Mills, Ark.

Mills, Md.
Minish
Mink
Mitchell
Moorhead
Mosher
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Pettis
Pickle
Poage
Preyer, N.C.
Price, Ill.
Quie
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Roy
Roybal
Sarbanes
Saylor
Scheuer
Schwengel
Stanton, J. William
Steiger, Wis.
Stephens
Stokes
Stubblefield
Sullivan
Taylor
Vander Jagt
Ware
Whalen
Whalley
White
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Wyatt
Yates
Young, Tex.
Zablocki

NAYS—60

Andrews, Ala.
Archer
Brinkley
Burleson, Tex.
Clawson, Del
Cleveland
Colmer
Daniel, Va.
Dellenback
Dennis
Dorn
Dulski
Duncan
Eshleman
Flynt
Frey
Gaydos

Griffiths
Hall
Harsha
Heinz
Hutchinson
Jonas
Jones, N.C.
Kyl
Landgrebe
Latta
Long, Md.
Lujan
McCollister
McDade
Mallary
Mann
Miller, Ohio

Montgomery
Pike
Powell
Railsback
Rarick
Robinson, Va.
Ruppe
Ruth
St Germain
Satterfield
Schneebeli
Sebelius
Shriver
Slack
Smith, Calif.
Spence

Stanton, James V.
Teague, Calif.
Tiernan
Ullman
Vanik
Wampler
Whitten
Wyman
Young, Fla.
Zion

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—186

Abbitt
Abourezk
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Baker
Baring
Begich
Belcher
Bell
Biaggi
Boland
Bolling
Bow
Brasco
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Ford, Gerald R.
Fountain
Frenzel
Fulton
Fuqua
Galifianakis
Gallagher
Giaimo
Gibbons
Goldwater
Green, Oreg.
Gross
Grover
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harvey
Hawkins
Hays
Hébert
Horton
Howard
Hull
Hungate
Hunt
Ichord
Jacobs
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Keith
King
Kuykendall
Leggett
Link
Long, La.
McClure
McCormack
McCulloch
McDonald, Mich.
Macdonald, Mass.
Mailliard
Martin
Matsunaga
Mayne
Melcher
Michel
Mikva
Miller, Calif.
Minshall
Mizell
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Patman
Pelly
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Roberts
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Sandman
Scherle
Schmitz
Scott
Seiberling
Shipley
Shoup
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Steed
Steele
Steiger, Ariz.
Stratton
Stuckey
Symington
Talcott
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Zwach

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio and Mr. Thompson of New Jersey for, with Mr. Hébert against.

Mr. Hays and Mr. Brasco for, with Mr. Waggonner against.

Mr. Howard and Mr. Monagan for, with Mr. Delaney against.

Mr. Begich and Mr. Rooney of New York for, with Mr. Rogers against.

Mr. Carey of New York and Mr. Biaggi for, with Mr. Alexander against.

Mr. Boland and Mr. Celler for, with Mr. Byron against.

Mr. Cotter and Mr. Dingell for, with Mr. Chappell against.

Mr. Fountain and Mr. Fulton for, with Mr. Daniels of New Jersey against.

Mr. Giaimo and Mr. Fuqua for, with Mr. Denholm against.

Mr. Hanley and Mr. Jones of Tennessee for, with Mr. Fisher against.

Mr. Leggett and Mr. McCormack for, with Mr. Flowers against.

Mr. Moss and Mr. Randall for, with Mr. Macdonald of Massachusetts against.

Mr. Sikes and Mr. Sisk for, with Mr. Mollohan against.

Mr. Smith of Iowa and Mr. Staggers for, with Mr. Podell against.

Mr. Stratton and Mr. Stuckey for, with Mr. Rostenkowski against.

Mr. Teague of Texas and Mr. Udall for, with Mr. Shipley against.

Mr. Wright and Mr. Mikva for, with Mr. Steed against.

Mr. Clark and Mr. Corman for, with Mr. Wolff against.

Mr. Anderson of Tennessee and Mr. Ashley for, with Mr. Anderson of California against.

Mr. Keating and Mr. Ashbrook for, with Mr. Andrews of North Dakota against.

Mr. Cabell and Mr. Grover for, with Mr. Burlison of Missouri against.

Mr. Mailliard and Mr. Conte for, with Mr. Baker against.

Mr. Johnson of Pennsylvania and Mr. Frenzel for, with Mr. Broomfield against.

Mr. Horton and Mr. Harvey for, with Mr. Clancy against.

Mr. Mizell and Mr. Nelsen for, with Mr. Devine against.

Mr. Pelly and Mr. Smith of New York for, with Mr. Scherle against.

Mr. Springer and Mr. Steele for, with Mr. Wydler against.

Mr. Talcott and Mr. Thomson of Wisconsin for, and Mr. Dickinson against.

Mr. Veysey and Mr. Winn for, with Mr. Widnall against.

Mr. Zwach and Mr. Clay for, with Mr. Burke of Florida against.

Mr. Abourezk and Mr. Collins of Illinois for, with Mr. Clancy against.

Mr. Matsunaga and Mr. Hawkins for, with Mr. King against.

Mr. Kee and Mrs. Hansen of Washington for, with Mr. Hunt against.

Mr. Dellums and Mr. Seiberling for, with Mr. Thompson of Georgia against.

Mr. Van Deerlin and Mr. Vigorito for, with Mr. Esch against.

Mr. Curlin and Mr. Murphy of New York for, with Mr. Whitehurst against.

Mr. Abbitt and Mr. Byrne of Pennsylvania for, with Mr. Ichord against.

Mr. Aspin and Mr. Dow for, with Mr. Mayne against.

Mr. Fascell and Mr. Hamilton for, with Mr. Minshall against.

Mr. Gibbons and Mr. Hanna for, with Mr. Price of Texas against.

Mr. Hungate and Mr. Jacobs for, with Mr. Rousselot against.

Mr. Melcher and Mr. Miller of California for, with Mr. Shoup against.

Mr. Morgan and Mr. Murphy of Illinois for, with Mr. Skubitz against.

Mr. Pucinski and Mr. Roberts for, with Mr. Snyder against.

Mr. Roush and Mr. Runnels for, with Mr. Davis of Wisconsin against.

Mr. Symington and Mr. Yatron for, with Mr. Quillen against.

Until further notice:

Mr. Link with Mr. Belcher.

Mr. Hull with Mr. Bell.

Mr. Long of Louisiana with Mr. Collins of Texas.

Mr. Baring with Mr. Brotzman.

Mr. Caffery with Mr. Crane.

Mr. Davis of South Carolina with Mr. Goldwater.

Mr. Edmondson with Mr. Anderson of Illinois.

Mr. Evans of Colorado with Mr. Derwinski.

Mr. Galifianakis with Mr. Kuykendall.

Mr. Gallagher with Mrs. Dwyer.

Mrs. Green of Oregon with Mr. Bow.

Mr. Haley with Mr. Fish.

Mr. Nichols with Mr. McClure.

Mr. Patman with Mr. McCulloch.

Mr. Purcell with Mr. Terry.

Mr. Pryor of Arkansas with Mr. Wylie.

Mr. Roncalio with Mr. McEwen.

Mr. Thone with Mr. Scott.

Mr. Sandman with Mr. Steiger of Arizona.

Mr. Schmitz with Mr. Pirnie.

Mr. Michel with Mr. Peyser.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order pertaining to the retirement of the following Congressmen from Mississippi: Messrs. Colmer, Abernethy, and Griffin.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills, joint and concurrent resolutions of the House of the following titles:

H.R. 7093. An act to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma;

H.R. 8273. An act to amend section 301 of the Immigration and Nationality Act;

H.R. 10384. An act to release certain restrictions on the acquisition of lands for recreational development and for the protection of natural resources at fish and wildlife areas administered by the Secretary of the Interior;

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension;

H.R. 13158. An act to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge";

H.R. 15763. An act to amend chapter 25, title 44, United States Code, to provide for two additional members of the National Historical Publications Commission, and for other purposes;

H.R. 15965. An act to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers, and for other purposes;

H.R. 16804. An act to rename the Mineola Dam and Lake as the Carl L. Estes Dam and Lake;

H.R. 17038. An act designating the Oakley Reservoir on the Saugamon River at Decatur, Ill., as the William L. Springer Lake;

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary;

H. Con. Res. 710. Resolution extending the greetings and felicitations of Congress to the American Public Health Association on the occasion of the 100th anniversary of its founding; and

H. Con. Res. 718. Concurrent resolution providing for the reprinting of additional copies of House Report 92-1519, entitled "Securities Industry Study."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bills of the House of the following title:

H.R. 13396. An act to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1198. An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado;

S. 1462. An act to provide for the distribution to the Sisseton and Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, and for other purposes;

S. 3358. An act to prohibit the use of certain small vessels in United States fisheries;

S. 3524. An act to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended;

S. 3943. An act to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3230) entitled "An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket numbered 279-A, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 141) entitled "An act to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1852) entitled "An act to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3419) entitled "An act to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16654) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes."

The message also announced that the Senate agrees to the House amendment to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes."

The message also announced that the Senate agrees to the House amendments to the Senate amendments Nos. 10, 18, 23, 24, 61, 70 and 76.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3876) entitled "An act to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. PROXMIRE, Mr. MONDALE, Mr. BENNETT, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate recedes from amendment No. 2 to a bill of the House of the following title:

H.R. 5066. An act to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act.

The message also announced that the Senate agrees to the House amendment to the Senate amendment to a bill of the House of the following title:

H.R. 15375. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1478. An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 4062. An act to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus systems engaged in scheduled regular route operations in the National Capital area, and for other purposes.

FISHERMEN'S PROTECTIVE ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14385) to amend section 7 of the Fishermen's Protective Act of 1967.

The Clerk read as follows:

H.R. 14385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)), is amended to read as follows:

"((e) The provisions of this section shall be effective until July 1, 1977.".

SEC. 2. Clause (1) of subsection (f) of section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977 (f) (1)), is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of Commerce.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, under section 7 of the Fishermen's Protective Act, the Secretary of Commerce is authorized to carry out a program for the reimbursement of certain losses—other than fines, license fees, registration fees, and other direct costs which are reimbursable through the Secretary of State under section 3 of the act—incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States. Section 7 provides that any owner of a United States commercial fishing vessel, upon application, may enter into an agreement for such coverage with the Secretary of Commerce.

The agreement would provide for guarantee payments to participating vessel owners to cover such things as damage, destruction, loss, or confiscation of the vessel, fishing gear or other equipment, dockage and utility fees, payment to the owners and crew of the market value of fish confiscated or spoiled during the detention of the vessel, and payment to owners and crew of up to 50 percent of the estimated gross income lost as the result of the seizure or detention.

The act established a separate account in the Treasury out of which claims would be paid. The authority to carry out this program will expire February 8, 1973.

Since its inception on February 9, 1969, the program has met with considerable enthusiasm and interest by the U.S. commercial fishing industry. Guarantee agreements numbering 45 were effected for fiscal year 1969, 66 for fiscal year 1970, 214 for fiscal year 1971, and 213 as of June 15, 1972, for fiscal year 1972. Of the 213 agreements for fiscal year 1972, 103 are for tuna vessels and 110 are for shrimp vessels.

H.R. 14385 would amend section 7 of the Fishermen's Protective Act of 1967 to extend the effective date of the provisions of this section from February 8, 1973, to July 1, 1977. In addition, the bill would transfer the administration of the program authorized by the act from the Secretary of the Interior to the Secretary of the Interior to the Secretary of Commerce pursuant to the provisions of Reorganization Plan No. 4 of 1970.

Mr. Speaker, the cost of carrying out this program is paid for by the participating vessel owners and the Federal Government on a matching fund basis, the Federal share being approximately 40 percent with the vessel owners' share being about 60 percent.

The cost to the Federal Government in the event this legislation is enacted into law would be approximately $60,000 per year.

Mr. Speaker, H.R. 14385 was introduced at the request of the administration and it was unanimously ordered reported by the Merchant Marine and Fisheries Committee.

I urge its prompt passage.

Mr. GOODLING. Mr. Speaker, I rise in support of passage of H.R. 14385, which amends section 7 of the Fishermen's Protective Act of 1967. Basically, the 1967 act, as amended, provides for reimbursement to those owners of fishing vessels illegally seized by foreign countries on the basis of rights or claims in regard to their territorial waters.

The bill would merely substitute Federal agency authority for administration of the act from Department of the Interior to Department of Commerce in line with the creation of NOAA and the realinement of responsibilities thereto under Reorganization Plan No. 4.

The bill would also extend the life of the temporary guarantee program from 1973 to July 1, 1977. This guarantee program, in essence, is a form of insurance against damage to or confiscation of a vessel, equipment, or catch, and against losses of income, due to illegal detention of such by a foreign country. Your committee is extremely hopeful that the upcoming Law of the Sea Conference of the United Nations will bring a permanent resolution to these illegal harassments of American fishermen so that the need for the continuation of this program will cease to exist. In the meantime, however, continuation of the program is warranted, justified, and desirable pending international resolution of this complex legal issue.

Favorable action on this measure will send the bill to the President for enactment into law as the other body already has passed an identical measure.

Mr. Speaker, this bill has my ardent support, and so far as I know, there is no opposition. It is an administration bill. A similar bill has been passed by the other body. If we pass this tonight, it will be on the way to the White House.

Mr. HALL. Mr. Speaker, will the gentleman from Texas yield?

Mr. DE LA GARZA. I would be very happy to yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I would like to ask the gentleman, would this bill be necessary if we had the backbone and the old-fashioned spirit that made America great, where we could send a "white fleet" around the world and, although speaking softly, carrying a big stick, and refuse to pay millions of dollars for tribute? I might cite some of the other great Americanisms of bygone times, although the people who are "with it" today would probably consider them "square."

Mr. Speaker, what I mean to say is that if we used gunboat diplomacy, would it be necessary to continue to pay ransom and use the taxpayers' money in order to reclaim our own tuna boats?

Why do we not first of all take back some of the gunboats and destroyers we have loaned them down there in the spirit of military training and assistance? And, secondly, why do we not just station one of our cruisers that we have had in mothballs down there? If we did that, I am certain they would not be raiding our fishing fleets quite so much.

Has anybody thought about that, or can anybody answer that question?

Mr. DE LA GARZA. Mr. Speaker, I would say to the gentleman this subject has been brought up. Unfortunately, this committee has no jurisdiction in that field. If the gentleman would make that inquiry of someone on the Committee on Armed Services, for example, or the Committee on Foreign Affairs, he might obtain that information. We do not deal with that particular phase in our jurisdiction.

Of course, that is the problem we are up against. It is one of jurisdiction and oversight, whereas the State Department continues to lead both the executive branch and the legislative branch around by the nose. I think it is wrong. We are voting additional funds.

Although certainly the fishermen need to be protected, they ought to be protected physically instead of by buying off other nations.

I sympathize with the gentleman's thinking. I would hope it would be possible, but, unfortunately, under the present circumstances it is not. We have to do the best we can and this is the only alternative we have at this time.

I have no further requests for time, Mr. Speaker.

(Mr. KEITH (at the request of Mr. GOODLING) was granted permission to extend his remarks at this point in the RECORD.)

Mr. KEITH. Mr. Speaker, I support this extension of the Fishermen's Protective Act of 1967. But I regret that the conferees deleted the so-called Kennedy amendment in the bill H.R. 7117. That provision incorporated the substance of legislation jointly sponsored by myself and our colleagues, particularly Mr. HARRINGTON and Mrs. HECKLER.

Our proposal would in effect have authorized and directed the Secretary of Commerce to compensate vessel owners and their crews for damages caused by illegal acts. This would have been in addition to the compensation for seizures by foreign governments as provided for in the bill before us.

Specifically the amendment would have recognized the problems of American trawlers and lobster fishermen whose nets and gear have been extensively damaged on several occasions by massive foreign fleets. The foreigners oftentimes have callously plotted their courses through our tiny fleets and across the gear of our individual fishing vessels.

And so, although I support passage of this complimentary bill to H.R. 7117, I nevertheless sincerely hope that the 93d Congress will review this entire foreign policy question. We must find some way to furnish more adequate protection to our domestic fishing industry. The next Congress should do it—and I understand the conferees have agreed to the start of extensive hearings on this early next year.

(Mr. GARMATZ (at the request of Mr. DE LA GARZA) was granted permission to extend his remarks at this point in the RECORD.)

Mr. GARMATZ. Mr. Speaker, it gives me great pleasure to rise and speak in support of H.R. 14385, a bill I introduced at the request of the administration.

Mr. Speaker, the guarantee program established by section 7 of the Fishermen's Protective Act authorizes an owner of a U.S. fishing vessel to enter into an agreement with the Secretary of Commerce for the purpose of guaranteeing to such owner payments covering losses—other than fines, fees, and other direct charges, which are covered under section 3 of the act—incurred as a result of an illegal seizure of such vessel by a foreign country. Losses authorized to be covered by the agreement would include such things as damage, destruction, loss or confiscation of the vessel, fishing gear or other equipment; dockage and utility fees; fish confiscated or spoiled; and up to 50 percent of the loss of income occasioned by the detention.

Mr. Speaker, since its inception in 1969, this program has been used by many owners of U.S. fishing vessels. In fact, 100 tuna vessels and 110 shrimp vessels were insured under this program during fiscal year 1972. Of the 70 seizures that have been reported since the inception of this program, only three were not covered by the guarantee agreements. Vessel owners participating in the program are required to pay fees to the Secretary of Commerce which have averaged in the past about 60 percent of the cost of carrying out this program.

Mr. Speaker, H.R. 14385, would extend this program for approximately an additional 5 years—from February 8, 1973, to June 30, 1977—at a cost to the Federal Government estimated to be about $60,000 per year.

Mr. Speaker, this program has been a great success. It expires February 8, 1973, and in order for this worthwhile program to be continued, it is necessary that action be taken on this legislation immediately.

Mr. Speaker, I urge its prompt passage.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill H.R. 14385.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask

unanimous that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 3545) to amend section 7 of the Fishermen's Protective Act of 1967, an identical bill to the one just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)), is amended to read as follows:

"(e) The provisions of this section shall be effective until July 1, 1977.".

SEC. 2. Clause (1) of subsection (f) of section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(f)(1)), is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of Commerce.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14385) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PENNSYLVANIA AVENUE BICENTENNIAL DEVELOPMENT CORPORATION

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10751) to establish the Pennsylvania Avenue Bicentennial Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pennsylvania Avenue Development Corporation Act of 1972".

SEC. 2. The Congress finds and declares—

(a) that it is in the national interest that the area adjacent to Pennsylvania Avenue between the Capitol and the White House, most of which was designated on September 30, 1965, as a national historic site under the Historic Sites Act of August 21, 1935 (16 U.S.C. 461 et seq.), be developed, maintained, and used in a manner suitable to its ceremonial, physical, and historic relationship to the legislative and executive branches of the Federal Government and to the governmental buildings, monuments, memorials, and parks in or adjacent to the area;

(b) that the area adjacent to Pennsylvania Avenue between the Capitol and the White House, because of its blighted character, imposes severe public, economic, and social liabilities upon the District of Columbia as the seat of the government of the United States, thereby impending its sound growth and development and constituting a serious and growing threat to the public health, safety, morals, and welfare of its inhabitants;

(c) that to insure suitable development, maintenance, and use of the area and the elimination of blight, it is essential that there be developed and carried out as an entirety plans for this area which will specify the uses, both public and private, to which property is to be put, the programing and financing of necessary acquisitions, construction, reconstruction, and other activities;

(d) that such duties and responsibilities can best be developed and carried out by vesting the requisite powers in a Federal corporation which can take maximum advantage of the private as well as the public resources which will be necessary;

(e) that the powers conferred by this Act are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised, and the granting of such powers is necessary in the public interest; and

(f) that the area thus to be developed, maintained, and used in accordance with the provisions of this Act (hereinafter referred to as the development area) shall be the area bounded as follows:

Beginning at a point on the southwest corner of the intersection of Fifteenth Street and E Street Northwest;

thence proceeding easterly along the southerly side of E Street to the southwest corner of the intersection of Thirteenth Street and Pennsylvania Avenue Northwest;

thence southeasterly along the southerly side of Pennsylvania Avenue to a point being the southeast corner of the intersection of Pennsylvania Avenue and Third Street Northwest;

thence northerly along the east side of Third Street to the northeast corner of the intersection of C Street and Third Street Northwest;

thence westerly along the north side of C Street to the northeast corner of the intersection of C Street and Sixth Street Northwest;

thence northerly along the east side of Sixth Street to the northeast corner of the intersection of E Street and Sixth Street Northwest;

thence westerly along the north side of E Street to the northeast corner of the intersection of E Street and Seventh Street Northwest;

thence northerly along the east side of Seventh Street to the northeast corner of the intersection of Seventh Street and F Street Northwest;

thence westerly along the north side of F Street to the northwest corner of the intersection of F Street and Ninth Street Northwest;

thence southerly along the west side of Ninth Street to the northwest corner of the intersection of Ninth Street and E Street Northwest;

thence westerly along the north side of E Street to the northeast corner of the intersection of E Street and Thirteenth Street Northwest;

thence northerly along the east side of Thirteenth Street to the northeast corner of the intersection of F Street and Thirteenth Street Northwest;

thence westerly along the north side of F Street to the northwest corner of the intersection of F Street and Fifteenth Street Northwest;

thence northerly along the west side of Fifteenth Street to the northwest corner of the intersection of Pennsylvania Avenue and Fifteenth Street Northwest;

thence westerly along the southern side of Pennsylvania Avenue to the southeast corner of the intersection of Pennsylvania Avenue and East Executive Avenue Northwest;

thence southerly along the east side of East Executive Avenue to the intersection of South Executive Place and E Street Northwest;

thence easterly along the south side of E Street to the point of beginning being the southwest corner of the intersection of Fifteenth Street and E Street Northwest.

SEC. 3. (a) There is hereby created a body corporate to be known as the Pennsylvania Avenue Development Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall be dissolved upon completion, as determined by the Board of Directors, of its implementation of the development plan provided for in section 5 of this Act. Upon dissolution, assets remaining after all the obligations and indebtedness of the Corporation has been fulfilled and paid or satisfied shall be the assets of the United States.

(c) The powers and management of the Corporation shall be vested in a Board of Directors consisting of fifteen members, as follows:

(1) The Secretary of the Interior;

(2) The Secretary of the Treasury;

(3) The Secretary of Housing and Urban Development;

(4) The Secretary of Transportation;

(5) The Administrator of General Services;

(6) The Commissioner of the District of Columbia;

(7) The Chairman, District of Columbia Council; and

(8) Eight, at least four of whom shall be residents and who are registered voters of the District of Columbia, appointed by the President from private life, who shall have knowledge and experience in one or more fields of history, architecture, city planning, retailing, real estate construction, or government.

(d) Each member of the Board of Directors specified in paragraphs (1) through (7) of subsection (c) may designate another official to serve on the Board in his stead if unable to serve in person.

(e) Each member of the Board of Directors appointed under paragraph (8) of subsection (c) shall serve for a term of six years from the expiration of his predecessor's term; except that (1) any Director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the Directors first taking office shall begin on the date of the enactment of this Act, and shall expire as designated at the time of appointment, two at the end of two years, two at the end of four years, and four at the end of six years. A Director may continue to serve until his successor has qualified.

(f) The President shall designate a Chairman and a Vice Chairman from among the members of the Board of Directors, chosen from private life.

(g) The Chairman, upon his appointment, shall invite to serve on the Board of Directors as nonvotinig members the following:

(1) The Chairman of the Commission of Fine Arts;

(2) The Chairman of the National Capital Planning Commission;

(3) The Secretary of the Smithsonian Institution;

(4) The Director of the National Gallery of Art;

(5) The Architect of the Capitol;

(6) The Archivist of the United States;

(7) The Chairman of the District of Columbia, Commission on the Arts; and

(8) The Chairman of the District of Columbia Redevelopment Land Agency.

(h) Members of the Board of Directors who are officers or employees of the Federal or District of Columbia government shall receive no additional compensation by virtue of their membership on the Board. Other members of the Board, when engaged in the activities of the Corporation, shall be entitled to receive compensation at the daily equivalent of the rate of GS–18 of the General Schedule, and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703(b)–(d) and 5707) for persons in the Government service employed intermittently.

(i) The Board of Directors shall meet at the call of the Chairman, who shall require it to meet not less often than once each three months. A majority of the voting members of the Board of Directors (or their designated alternates) shall constitute a quorum.

(j) There shall be established a nonvoting Advisory Board of seven members appointed by the Chairman from among tenants and owners of real property within the development area. The Advisory Board shall meet at least twice annually with the Board of Directors, and shall otherwise offer such advice and assistance as may be of benefit to the Board of Directors during preparation of the development plan.

SEC. 4. (a) The Board of Directors shall have the power to appoint and fix the compensation and duties of the Executive Director and such other officers and employees of the Corporation as may be necessary for the efficient administration of the Corporation; the Executive Director and two other officers of the Corporation may be appointed and compensated without regard to the provision of title 5 of the United States Code governing appointments in the competitive service and chapter 51 and subchapter 53 of title 5 of the United States Code .

(b) Administrative services shall be provided by the General Services Administration on a reimbursable basis.

SEC. 5. (a) The development plan for the development area shall include, but not be limited to: (1) the types of uses, both public and private, to be permitted; (2) criteria for the design and appearance of buildings, facilities, open spaces, and other improvements; (3) an estimate of the current values of all properties to be acquired; (4) an estimate of the relocation costs which would be incurred in carrying out the provisions of section 8 of this Act; (5) an estimate of the cost of land preparation for all properties to be acquired; (6) an estimate of the reuse values of the properties to be acquired; (7) a program for the staging of a proposed development, including a detailed description of the portion of the program to be scheduled for completion by 1976; (8) a determination of the marketability of such development; (9) an estimate of the development costs, both public and private; (10) a thorough study of the economic impact of such development, including the impact on the local tax base, the metropolitan area as a whole, and the existing business activities within the development area; and (11) the procedures (including both interim and long-term arrangements) to be used in carrying out and insuring continuing conformance to the development plan.

(b) The development plan provided for in subsection (a) shall be prepared with the Cooperation of the Department of the Interior, the General Services Administration, and the District of Columbia government with the maximum feasible use of their staffs and other resources on a reimbursable basis by the Corporation.

(c) After the development plan has been completed and approved by the Board of Directors of the Corporation, the plan shall be transmitted to the Secretary of the Interior, who shall consult with the National Capital Planning Commission, and the Mayor and the City Council of the District of Columbia. The Secretary of the Interior shall notify the Corporation of his approval, disapproval, or recommended modifications from the standpoint of the plan's compatibility with his responsibilities for the administration, protection, and development of the areas within the Pennsylvania Avenue National Historic Site and the Corporation shall not initiate or authorize any action which would diminish or dilute the authority and responsibility of the Secretary of the Interior with respect to such areas.

(d) Upon approval by the Secretary of the Interior, the Corporation shall transmit the development plan to the President of the Senate and the Speaker of the House of Representatives. Following the expiration of sixty legislative days after the date of such transmittal, the Corporation may proceed with the execution and implementation of the plans as authorized by the other provisions of this Act unless between the date of transmittal and the end of the sixty legislative day period, either the Senate or the House of Representatives passes a resolution in opposition to the development plan.

(e) Activities under the development plan shall be carried out in accordance with the approved development plan. The Corporation may alter, revise, or amend the plan, but any such alteration, revision, or amendment which is a substantial change from the approved development plan shall take effect only upon compliance with the procedures set forth in subsections (c) and (d) of this section. For the purposes of this subsection, the term "substantial change" shall mean one involving a major alteration in the character or intensity of an existing or proposed use in the development area which in the opinion of the Corporation causes an increase or decrease of 10 per centum or more of the dollar amount of the estimate prepared in accordance with subsection (a)(9) of this section, or one which, in the opinion of the Secretary of the Interior, affects his responsibilities for the administration, protection, and development of the areas within the Pennsylvania Avenue National Historic Site.

(f) To avoid duplication and unnecessary expense the Corporation shall, to the maximum feasible extent in conducting its operations, utilize the services and facilities of other agencies, including the Department of the Interior, General Services Administration, the National Capital Planning Commission, the District of Columbia government, and the District of Columbia Redevelopment Land Agency.

SEC. 6. In carrying out its powers and duties, the Corporation—

(1) shall have all necessary and proper powers for the exercise of the authorities vested in it;

(2) shall have succession in its corporate name;

(3) may adopt and use a corporate seal which shall be judicially noticed;

(4) may sue and be sued in its corporate name. All litigation arising out of the activities of the Corporation shall be conducted by the Attorney General;

(5) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(6) may acquire lands, improvements, and properties within the development area by purchase, lease, donation, or exchange; may hold, maintain, use, or operate such properties; may sell, lease, or otherwise dispose of such real and personal property and any interest therein as the Corporation deems necessary to carry out the development plan: or may lease, repurchase, or otherwise acquire and hold any property which the Corporation has theretofore sold, leased, conveyed, transferred, or otherwise disposed of. *Provided,* That condemnation proceedings for the acquisition of real property (including interests therein), which may be necessary or appropriate in order to carry out the development plan, shall be conducted in accordance with the procedural provisions of chapter 13, subchapter IV, of title 16 of the District of Columbia Code: *Provided further,* That prior to acquiring any residential property there shall be a finding of assurance of adequate replacement housing consonant with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894);

(7) may enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation (including agreements with private utility companies with respect to the relocation of utility lines and other facilities in the development area) as may be deemed necessary or appropriate to the conduct of activities authorized under this Act;

(8) may establish (through covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure development, maintenance, and protection of the development area in accordance with the development plan;

(9) may borrow money prior to July 1, 1981, by issuing marketable obligations, in such amounts as may be authorized in appropriation Acts of the United States Congress. The Corporation's obligations issued under this paragraph shall be in such forms and denominations, shall have such maturities (not in excess of forty years), shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and at such times and prices as may be approved by the Secretary of the Treasury;

(10) may borrow money from the Treasury of the United States in such amounts as may be authorized in appropriation Acts, but not to exceed $50,000,000. Such borrowings from the Treasury shall have such maturities, terms, and conditions as may be agreed upon by the Corporation and the Secretary of the Treasury, but the maturities may not be in excess of forty years, and such borrowings may be redeembale at the option of the Corporation before maturity. Such borrowings shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations of the Corporation. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury but any interest payment so deferred shall bear interest. Said obligations shall be issued in amounts and at prices approved by the Secretary of the Treasury. The authority of the Corporation to issue obligations hereunder shall expire June 3, 1980, except that obligations may be issued at any time after the expiration of said period to provide funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Corporation to be issued under this paragraph and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under the Second Liberty Loan Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Loan Bond Act,

as amended, are extended to include any purchase of the Corporation's obligations under the paragraph;

(11) may invest any funds held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, with the approval of the Secretary of the Treasury, in obligations of the United States Government, or obligations the principal and interest of which are guaranteed by the United States Government: *Provided*, That this authority shall not extend to moneys obtained by borrowing from the Government or through appropriations to the Corporation;

(12) may procure insurance against any loss in connection with its property and other assets and operations;

(13) may contract for and accept any gifts or grants or property of financial or other aid in any form from the Federal Government or any agency or instrumentality thereof, or from any State or any agency or instrumentality thereof, or from any source, and comply subject to the provisions of this Act, with the terms and conditions thereof;

(14) may determine the character of and necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions and laws specifically applicable to wholly owned Government corporations;

(15) may prepare or cause to be prepared plans, specifications, designs, and estimates of cost for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time may modify such plans, specifications, designs, or estimates;

(16) may acquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project;

(17) may grant options to purchase any project or may renew any leases entered into by it in connection with any of its projects, on such terms and conditions as it may deem advisable;

(18) may manage any project, owned or leased by the Corporation, and may enter into agreements with the District of Columbia government or any agency or instrumentality thereof, or with any person, firm, partnership, or corporation, either public or private, for the purpose of causing any such project to be managed;

(19) may utilize or employ the services of personnel of any agency or instrumentality of the Federal Government or of the District of Columbia, with the consent of the agency or instrumentality concerned, upon a reimbursable basis, or utilize voluntary or uncompensated personnel;

(20) shall publish and disseminate information and make known to potential users, by advertisement, solicitation, or other means, the availability for development of lands in the development area;

(21) may execute all instruments necessary or appropriate in the exercise of any of its functions under this Act, and may delegate to members of the Board or the Executive Director such of its powers and responsibilities as it deems appropriate and useful for the administration of the Corporation; and

(22) shall be entitled to the use of the United States mails in the same manner as the executive departments of the Government, and shall have all the rights, privileges, and immunities of the United States with respect to debts due from insolvent, deceased, or bankrupt debtors.

Sec. 7. (a) Nothing in this Act shall preclude other agencies or instrumentalities of the Federal Government or of the District of Columbia from exercising any lawful powers in the development area consistent with the development plan or the provisions and purposes of this Act; but no such agency or instrumentality shall release, modify, or depart from any feature or detail of the development plan without the prior approval of the Corporation.

(b) After the date of the enactment of this Act, no new construction (including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement of existing building, but not including ordinary maintenance or remodeling or changes necessary to continue occupancy) shall be authorized or conducted within the development area except upon prior certification by the Corporation that the construction is, or may reasonably be expected to be, consistent with the carrying out of the development plan for the area: *Provided:* That if the development plan for the area does not become effective under the provisions of section 5 within twelve months of the date of enactment of this Act, this subsection shall be no further force and effect until such time as the development plan does become effective under that section.

Sec. 8. (a) The title to any real property (or interest therein) acquired under the authority of this Act shall be taken by and in the name of the Corporation and proceedings for condemnation or other acquisition of property shall be brought by and in the name of the Corporation.

(b) In the administration of a relocation program or programs pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Corporation may utilize the services of the District of Columbia Redevelopment Land Agency. Costs of such services shall be reimbursed by the Corporation to the District of Columbia Redevelopment Land Agency.

(c) All relocation services performed by or on behalf of the Corporation shall be coordinated with the District of Columbia's central relocation programs.

(d) Owners and tenants of real proprty whose residence, or retail, wholesale, service or other business is terminated as a result of acquisitions made pursuant to this Act shall be granted a preferential right to lease or purchase from the Corporation or its agent such like real property as may become available for a similar use upon implementation of the development plan. Any such preferential right shall be limited to the parties in interest and shall not be transferable or assignable.

Sec. 9. (a) In effectuating the purposes of this Act, the Corporation:

(1) shall consult and cooperate with District of Columbia officials and community leaders at the earliest practicable time;

(2) shall give primary consideration to local needs and desires and to local and regional goals and policies as expressed in urban renewal, community renewal, and comprehensive land use plans and regional plans; and

(3) shall foster local initiative and participation in connection with the planning and development of its projects.

(b) The Corporation shall comply with all District of Columbia laws, ordinances, codes, and regulations in constructing, reconstructing, rehabilitating, altering, and improving any project: *Provided*, That the provisions of section 428 of title 5 of the District of Columbia Code shall apply to all the constructing, reconstructing, rehabilitating, altering, and improving of all buildings by the Corporation. The construction, reconstruction, rehabilitation, alteration, and improvement of any project by non-Government sources shall be subject to the provisions of the District of Columbia Code and zoning regulations.

Sec. 10. (a) Since the exercise of the powers granted by this Act will be in all respects for the benefit of the people, the Corporation is hereby declared to be devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of every kind of the United States and of the District of Columbia.

(b) To the end that the District of Columbia may not suffer undue loss of tax revenue by reason of the provisions of subsection (a), the Corporation, in connection with any real property acquired and owned by the Corporation in carrying out the provisions of this Act shall pay to the District of Columbia government an amount equal to the amount of the real property tax which would have been payable to the District of Columbia government beginning on the date of acquisition of such real property by the Corporation if legal title to such property had been held by a private citizen on such date and during all periods to which such date relates.

Sec. 11. The Corporation shall transmit to the President and the Congress, annually each January and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act.

Sec. 12. (a) The Corporation shall contribute to the civil service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission for the excess, if any, of the Government's share of the normal cost of the civil service retirement system applicable to the Corporation's employees and their beneficiaries over the agency contributions required by section 8334(a)(1) of title 5, United States Code.

(b) The Corporation shall include in the annual billings provided for under subsection (a) above, a statement of the fair portion of the cost of the administration of the fund, which shall be paid by the Corporation into the Treasury as miscellaneous receipts.

Sec. 13. The Corporation is authorized to use in the conduct of its business all its funds and other assets and all funds and other assets which have been or may hereafter be transferred to, allocated to, borrowed by, or otherwise acquired by it.

Sec. 14. (a) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to moneys and property of the Corporation.

(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Any person who with intent to defraud the Corporation (1) receives any compensation, rebate, or reward, or (2) enters into any conspiracy, collusion, or agreement, express or implied, shall on conviction thereof be fined not more than $5,000 or imprisoned not more than five years, or both.

Sec. 15. Section 101 of the Government Corporation Control Act (31 U.S.C. 846) is amended by inserting "Pennsylvania Avenue Development Corporation;" after "Farmers Home Corporation;".

Sec. 16. If any provisions of this Act or the application thereof to any body, agency, situation, or circumstances is held invalid the remainder of the Act and the application of such provision to other bodies, agencies, situations, or circumstances shall not be affected thereby.

Sec. 17. There are hereby authorized to be appropriated not to exceed $1,000,000 for the development of the plan to be prepared pursuant to section 5 of this Act. No appropriations shall be made from the Land and Water Conservation Fund established by the Act of September 3, 1964 (78 Stat. 897, as amended, 16 U.S.C. 4601), to effectuate the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. Aspinall).

Mr. ASPINALL. Mr. Speaker, the bill before the House at this time is H.R. 10751 by Representative Saylor and myself. It provides for the establishment of the Pennsylvania Avenue Development Corp., for the purpose of planning and redeveloping the area which we all know as Pennsylvania Avenue in the District of Columbia.

BACKGROUND

Few streets in America are as important to the people of this Nation as Pennsylvania Avenue. Along this street some of the most important ceremonial functions occur. At this time, the Capital is in the process of preparing for the inaugural ceremony which will take place in a few months. In the past, many Presidents have passed along the Avenue enroute to make their speeches or State of the Union inaugural addresses. For some, this has been their last journey.

I do not believe that anyone could say that Pennsylvania Avenue is unimportant to the American public. It is the most significant, visible evidence of the physical connection between the executive and legislative branches of the Government.

While it is important to the Nation, Mr. Speaker, it has fallen in to a state of neglect which I need not describe for my colleagues since they are familiar with the area. It deserves better. It needs to be upgraded so that it will be the national showcase that we would all like for it to be, and H.R. 10751 provides the mechanism which will make that desire a real possibility. The legislation is now under consideration by the House and will, if enacted, create a public corporation which, after careful planning and due consideration of all points of view, can redevelop and revitalize America's "Main Street."

EXPLANATION OF THE BILL

Mr. Speaker, H.R. 10751 creates a public corporation which would be governed by a 15-member board of directors. Seven are to represent the interested agencies of the Federal and District of Columbia governments, and eight are to be selected by the President to represent the public. Of these eight, four are required to be residents and registered voters in the District of Columbia. In addition to these voting members, the bill provides for eight nonvoting representatives of various governmental entities and it establishes a seven-member advisory board composed of tenants and owners of real property located within the development area.

As contemplated by the legislation, the corporation will prepare a development plan for the area located along and adjacent to Pennsylvania Avenue between the Capitol and the White House. When the plan is completed, it is to be submitted to the Secretary of the Interior. He, in turn, is required to consult with the appropriate officials of the District of Columbia government and with the National Capital Planning Commission before giving his approval or disapproval. If he approves the plan, then it will be transmitted to the Congress where it would be referred to the appropriate Committee so that hearings could be held. After due consideration of the plan, then either House of Congress could disapprove it and, by a vote to that effect, could prevent its implementation. Both Chambers would have 60 legislative days to act on the proposed plan before the corporation could proceed to implement the plan.

Once the plan has cleared all of the necessary hurdles, the corporation would have all of the powers generally granted to a public corporation, including, among others, the power to contract, to borrow money, to employ personnel, and to acquire land and improvements—by eminent domain, if necessary—to sue and be sued, et cetera. For all practical purposes, most of these powers would not come into play, unless and until the plan is approved and the corporation commences the implementation of the plan.

As the plan is implemented, Mr. Speaker, some properties will undoubtedly be acquired and some people will be inconvenienced. As this occurs, there will necessarily be some disruption of existing business operations; however, the committee has attempted to work into the legislation adequate, reasonable, and fair safeguards for those directly affected. The bill specifically provides that existing owners and tenants displaced by construction projects are to be entitled to the first opportunity to occupy, lease, or purchase properties similar in purpose to the ones which they formerly owned or occupied. This preferential right is a right of first refusal and it is a right which cannot be transferred to any other person or group of persons. It is designed specifically to do equity for those who will be most directly affected.

COST

It is not contemplated that the corporation will require direct appropriations after the plan is completed. The bill, however, does authorize the appropriation of not more than $1 million for the development of the plan. It does not authorize any direct funding for the implementation of the plan. I hasten to add, however, that the members of the committee felt that even the borrowing authority of the corporation should be limited and the bill provides that not more than $50 million may be borrowed from the Treasury of the United States for the purpose of implementing the plan. This money is to be repaid, with interest, to the Federal Treasury from the proceeds derived from the sale or lease of the redeveloped property.

CONCLUSION AND RECOMMENDATION

Mr. Speaker, the idea of revitalizing Pennsylvania Avenue is not new. It has been an issue before the Congress for more than a decade. One of the first persons to give the matter his support was President John F. Kennedy. He presented a plan to the Congress, but at that time it seemed too ambitious and too expensive. Then, President Johnson gave it his endorsement, but again the complexity of the program prevented its enactment.

Now, President Nixon has given this project his wholehearted support. H.R. 10751 is the outgrowth of the plan which he presented to the Congress. It is a cautious plan; it is a carefully considered plan; and it is a plan which I believe will work if we give it our support now. There are adequate safeguards all along the way if this program seems to be too ambitious or too expensive.

The interests of the city of Washington are represented in every conceivable way.

The Secretary of the Interior has an opportunity to review it.

The Congress of the United States can veto it.

And the Appropriations Committees can maintain surveillance over it through the purse strings.

It is difficult to perceive a more logical, reasonable approach than that provided by H.R. 10751. I support the bill and I commend it to my colleagues and urge them to approve it.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman from Colorado yielding. I have listened to every word of the gentleman's explanation, and I realize, of course, there is a difference between Pennsylvania Avenue between the White House and the Capitol and Booneville Street between South Springfield, or Commercial Street, as we oldtimers used to call it in Springfield. But that is an awfully important street, too. It was on that street that Wild Bill Hickock shot Mr. Tutt after he had taken his watch away from him the night before in a game of cards. Does the gentleman suppose that the street of Booneville in Springfield could with some such enabling legislation as this get one one-hundredth as much drawdown on the U.S. Treasury as this authorizes, on a loan basis, or maybe $10,000 for planning purposes?

Mr. ASPINALL. May I say to my good friend, I do not know just how much significance would be attached to the situation that he brings to my attention.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TAYLOR. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. ASPINALL. I do know this. I have spent a great deal of my time since I have been in the Congress trying to take care of my colleagues where they have had something of national or international significance, and we have, of course, provided them sums of money—sometimes large and sometimes small.

All I know is that there is not very much about Pennsylvania Avenue, as it now exists, as you go toward the White House—on the righthand side of the road, that pleases me very much. There are some new buildings coming into existence. But even with those new buildings—there are the old buildings and some of them are in disrepair and many of them are vacant which causes them to be more unsightly in my opinion than they have been up to the present time.

I feel this is a worthwhile attempt. I do not believe we are going to have to spend any money other than the one million. I think the plan will come up with the ultimate costs of any place. I know that I have seen plan after plan ever since 1961 that have been provided—and many of them have been expensive—very expensive. This legislation does not appear to me to be too expensive so far as the Federal Government is concerned.

The contribution of the Federal Government will, of course, be the lending of the money. And facetiously, I might say, I hope there is some credit still left in the United States Treasury so that it can be used for that purpose.

Mr. HALL. I must question whether there is much left in the Treasury or not.

I know the value of the historical street, old street down which all Presidents have to ride for their inauguration. I am well aware of the fact that historically the first asphalt was brought from Trinidad to be used as an experiment in paving techniques, and was spread on that street.

Mr. ASPINALL. If the gentleman will permit me—the first place that they used concrete was 12 miles from where I was born in Logan County, Ohio. We have never had too much of a memorial there. So I understand my colleague's feeling.

Mr. HALL. I am speaking, of course, facetiously—I wonder even in spite of the oncoming bicentennial, if this is the best use of the taxpayers' money.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman.

Mr. VANIK. I am concerned about this borrowing and loan authority to issue guaranteed obligations.

Is that within or without the debt limit? Will that borrowing be within or without the debt limit? Because this corporation is going to have the authority to issue marketable obligations and so forth and may borrow from the Treasury in such amounts as may be authorized by appropriations—but not to exceed $50 million.

Just a couple of days ago there was placed on the market $250 million in subway bonds at 7.5 percent, guaranteed by the people of the entire United States. We are getting ourselves into a very difficult situation. We are talking about a debt ceiling and our conferees are engaged in trying to settle it.

The SPEAKER. The time of the gentleman has expired.

Mr. TAYLOR. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. VANIK. I need 3 minutes. I would like to have 3 minutes, if the gentleman will yield.

I would like to point out that the conferees are discussing the expenditure limitation and the borrowing of our Government outside of the Federal debt limit is going to be $224 billion at the end of next year. But we cannot control inflation if we go on spending and fail to hold down borrowing.

This is an important question—is this borrowing that is contemplated by this legislation—is it contemplated to be within the debt, or is it contemplated to be outside of the debt ceiling.

Mr. ASPINALL. The only answer I can give to my colleague is that that will be a part of the plan provided and at that time the Congress can take action on what is involved.

My feeling is that it should be within the debt limit—whatever that debt limit may be.

Mr. VANIK. And it is your opinion, Mr. Chairman, that this legislation will not preclude the Congress from determining that issue at a later date?

Mr. ASPINALL. That is correct.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman.

Mr. TAYLOR. I would like to point out to the gentleman that the act provides that the borrowing will have to be authorized by the appropriations process.

Mr. TIERNAN. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman.

Mr. TIERNAN. Is it my understanding that this corporation is trying to devise a plan for this?

Mr. ASPINALL. There will be a plan that will be proposed by the commission, and that then will be given to the various groups designated in the legislation, and then it will go to the White House, and then come up here before the committees for their review.

The SPEAKER. The time of the gentleman has again expired.

Mr. TAYLOR. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. TIERNAN. Mr. Speaker, what is contemplated in the plan? Are the buildings to be included in the plan going to be Federal buildings, or are they going to be private buildings?

Mr. ASPINALL. The buildings that are going to be built will be built by a corporation, and they will then be operated by the corporation, and rents will be charged.

Mr. TIERNAN. So that they will then be in the business of being landowners in that area; is that right?

Mr. ASPINALL. As I understand it, this will be a part of it.

Mr. TIERNAN. What about the rights of the individuals who have property there?

Mr. ASPINALL. As I said awhile ago, some of them will be hurt, but in my opinion the preferential right which is to be given to each one of those owners is to the owners themselves, not to persons who would be the successors of the owners. They will have a preferential right.

Mr. TIERNAN. It will be similar to what will be provided for in the redevelopment areas?

Mr. ASPINALL. That is right.

Mr. TIERNAN. So the owners will be the only ones to have that right to either build or lease; is that right?

Mr. ASPINALL. That is right.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, H.R. 10751. As its principal sponsor, I strongly support its purpose to establish the Pennsylvania Avenue Development Corp. for the preparation and carrying out of a development plan to revitalize certain areas between the White House and the Capitol, and to further the purposes for which the Pennsylvania Avenue National Historic Site was designated.

This bill has five basic elements. The first is the congressional finding and recognition of the fact that certain areas between the White House and the Capitol are blighted and impose severe economic, public, and social liabilities on the seat of Government, and that it is in the national interest for the area to be developed, maintained, and used in a manner suitable to its historical, ceremonial, and physical relationship to the legislative and executive branches of our Federal Government.

Second, the area to be developed, maintained, and used in accordance with the requirements of the bill are specifically identified and contain approximately 23 acres or about 1 million square feet. The area lies to the north of Pennsylvania Avenue, running from East Executive Avenue adjoining the White House to Third Street NW.

Third is the establishment of the Pennsylvania Avenue Development Corp., a public corporation vested with the requisite powers, duties, and responsibilities to develop and carry out a plan for the revitalization of Pennsylvania Avenue.

The fourth basic element of this bill is the Pennsylvania Avenue development plan. The bill provides in detail the minimum factors which must be included in the development plan. The plan must be prepared in cooperation with the Department of the Interior, the General Services Administration, and the District of Columbia government.

Once the plan is prepared by the corporation, the plan is transmitted to the Secretary of the Interior. The Secretary of the Interior consults with the National Capital Planning Commission and the District of Columbia government. If the Secretary of the Interior approves the plan, it is then transmitted to the Congress of the United States for final approval of the development plan.

The fifth and final element of this legislation is the congressional control and oversight of the development plan. Congress can within 60 legislative days following transmittal of the plan disapprove the plan. If Congress does not so act, the Pennsylvania Avenue Development Corp. can proceed to implement the plan subject to the congressional appropriation process.

I would ask my colleagues to understand that Washington, D.C., is unique. There is no other capital city like it and there is no other avenue like Pennsylvania Avenue.

Washington, D.C., and Pennsylvania Avenue symbolize the majesty and power of this American Republic and the triumphs and tragedies of the American people. It is along Pennsylvania Avenue that our new Chiefs of State travel to accept the mantle of power bestowed by the American people. It is along Pennsylvania Avenue that in death six of our

Presidents and numerous national leaders have traveled in state funerals. And, it is along Pennsylvania Avenue that this Nation has victoriously celebrated the closing of four major wars.

But, in its uniqueness, Pennsylvania Avenue and Washington, D.C., are like every other American city. Since 1960, the central core of our Capital City began to decay. Private commercial activities plagued by crime and desolate after working hours began to seek other locations. Many buildings became outmoded and uneconomic for new enterprises and remain virtually empty. Private investors reluctant to invest capital in an area of uncertain future continues the blighted character of our Capital City along Pennsylvania Avenue.

However, the rebuilding of Pennsylvania Avenue has begun and significant developments have been completed or are in progress. A new 6-acre Capitol Reflecting Pool on the Mall is completed, and the Department of Labor Building and the South Portal Building will complete the western border of the Capitol Grounds. The center leg freeway tunnel is nearing completion, hopefully, to allow traffic to bypass the Capitol.

The National Gallery is moving forward with plans for its major addition at Fourth and Pennsylvania Avenues.

North of the gallery a recognized and completed municipal center and Judiciary Square are beginning to take shape. The General Services Administration has awarded contracts and construction has begun on the Hirshhorn Museum and Sculpture Garden in conjunction with the tunneling of Ninth Street as it crosses the Mall. The Woodrow Wilson International Center is proposed for construction along Eighth Street. The new FBI Building is under construction and the Coast Guard Building has been demolished.

The revitalization of Pennsylvania Avenue and its adjacent area is underway. The temporary buildings on the Mall at 12th and Pennsylvania Avenue is an example of what private interest can do in this area.

One of the unique and vital aspects of this legislation is the partnership that results from requiring both Federal and private participation in the development of Pennsylvania Avenue. The Pennsylvania Avenue Development Corp. will, as provided in this bill, H.R. 10751, through combined Federal and commercial interests, become the vehicle for the commemoration of the dreams and visions of our Founding Fathers.

We must remember that Washington, D.C. is more than the seat of our Government and the residence of its nearly 1 million citizens. It is a second home to every American and the symbol of this Nation to the world. Its problems are the problems of all our cities. And the fulfillment of the plans that began the building of this Capital from swampland will clearly demonstrate our ability to solve these problems and find new opportunities as we begin to embark upon our third century.

Mr. Speaker, I urge my colleagues to suspend the rules and support the passage of this legislation.

Mr. TAYLOR. Mr. Speaker, the House now has before it a bill (H.R. 10751) originally cosponsored by our colleagues the chairman and the ranking members of the Committee on Interior and Insular Affairs (Mr. ASPINALL and Mr. SAYLOR). The legislation provides for the creation of a public corporation to plan and redevelop Pennsylvania Avenue and the adjacent area in the Nation's Capital.

BACKGROUND

I am sure that everyone recognizes the significance of Pennsylvania Avenue as the Nation's main street. As the connecting link between the executive branch and the legislative branch of the Federal Government it functions as the route for our most important ceremonial activities.

Inaugural processions and funeral corteges of the leaders of American Government pass along this famous route from time to time, but it also serves as one of the lifelines of the city of Washington.

Presently, many businesses line the northern side of the street and Government buildings dominate the southern side. Years passed by without any substantial change along the avenue, but now the area is confronted with a double threat—the first involves deteriorating structures which detract from the setting of this important site and the second involves new structures which might be constructed with no reasonably coordinated plan.

The Committee on Interior and Insular Affairs has been confronted with this legislative problem for several years and we have considered it on many occasions, but there has always been some insurmountable problem which has prevented its recommendation to the House. The bill now before the House endeavors to avoid some of the previous problems by authorizing the creation of a public corporation which would study the area, develop a plan, and present it to the Congress. This coordinated plan could not be implemented for 60 legislative days. This would allow ample time for both Houses of the Congress to review the program. If neither House acts to reject the plan, then the corporation could proceed to borrow the money needed to implement the plan if the funds are approved by the usual appropriations process.

Mr. Speaker, I think that everyone recognizes that a coordinated approach is required if this most important area is to be protected from haphazard development in the future. We feel that sufficient controls have been included in the legislation to assure an opportunity for local viewpoints to be expressed and represented at all stages of consideration. At the same time, we believe that the national interest in this historic area must be protected.

COMMITTEE AMENDMENT

Mr. Speaker, the committee amendment strikes all after the enacting clause in the bill and inserts a new text. The objective of the legislation remains unchanged, but the committee modified the provisions of the bill:

To assure effective legislative control over the program by requiring the plan to be submitted to the Congress for review and by permitting either Chamber, by formal action, to terminate it.

To eliminate all references to the Bicentennial celebration which seemed irrelevant to the basic purposes of the bill;

To treat land owners and tenants equitably by allowing them a preferential right to lease or purchase properties within the redeveloped area which are comparable to those that they presently own or occupy; and

To limit the Federal financial commitment to the project to direct appropriations for the development of the plan plus borrowing which would be subject to the usual appropriations process.

COST

Mr. Speaker, under the terms of the bill, the only direct authority to appropriate funds for the purposes of this legislation is the authority to appropriate up to $1 million to develop the plan for the redevelopment of the area. If the plan is approved by the Secretary of the Interior and not rejected by the action of either House of Congress, then the Corporation can borrow up to $50 million from the Treasury of the United States subject to the usual appropriations process. The borrowed money is to be repaid to the Treasury from proceeds derived from the lease or sale of the redeveloped properties.

CONCLUSION

Mr. Speaker, this is not a new proposal. Comparable plans were formulated by previous administrations under the leadership of Presidents Kennedy and Johnson. Those plans were reviewed by the Committee on Interior and Insular Affairs, but they were never brought to the floor of the House.

H.R. 10751 offers a real opportunity to make some progress on this important project and, at the same time, it retains congressional oversight over the program so that it can be terminated if it does not meet the standards imposed.

In my opinion, this offers a real opportunity for a constructive solution to this matter and should be favorably considered by the House. I urge my colleagues to support the enactment of H.R. 10751, as recommended by the Committee on Interior and Insular Affairs.

Mr. VANIK. Mr. Speaker, I oppose the passage of this legislation. It creates another bureaucracy, another Government corporation with borrowing authority. This bill would provide for the creation of a corporation with up to $50 million in borrowing authority—borrowing which will not be clearly reflected in the budget picture of the Federal Government—borrowing which will be relatively uncontrolled—borrowing which will place additional pressures on the money markets.

This is another bill to provide special preferences to the Federal City. I recognize the importance of a beautiful National Capital. But we are building this Capital City out of the tax dollars of the hard-pressed cities of the rest of the Nation. We are building a marble city here on the banks of the Potomac—a city which we can show off to the rest of the world—but in the meantime, the rest of our great cities seem to sink into deeper and deeper difficulties. I have no doubt, Mr. Speaker, that the redevelopment problems of my own city of Cleveland, Ohio, could be largely met and overcome if they could be provided with a Federal Government development corporation.

While I agree with the objectives of this legislation, I do not believe that it should be accomplished through a costly multiplication of agencies. Several days ago, $250 million in 7½ percent District of Columbia bonds were sold to the public—guaranteed by all of the taxpayers of America. Several weeks ago this House passed legislation for a multimillion-dollar convention center in the District of Columbia under another authority guaranteed by the taxpayers of America.

What will be left to save the other cities of America which so desperately need our help?

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 10751, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAYLOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING FEASIBILITY INVESTIGATIONS ON CERTAIN POTENTIAL RESOURCE DEVELOPMENTS

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16554) to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resources developments, as amended.

The Clerk read as follows:

H.R. 16554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Cache Creek project in Comanche, Cotton, Tillman, Jackson, and Kiowa Counties in southwestern Oklahoma.
2. Garrison diversion unit, M&I water facilities, Pick-Sloan Missouri Basin program, in central North Dakota.
3. Oahe unit, M&I water facilities, Pick-Sloan Missouri Basin program in east-central South Dakota.
4. Ventura County Water Management project, California.
5. Tucumcari project in San Miguel County in east-central New Mexico.
6. Uncompahgre project improvement and extension in Montrose and Delta Counties in the vicinity of Montrose and Delta, Colorado.
7. Dominguez Reservoir project in Mesa and Delta Counties, Colorado.
8. Lower James-Fort Randall water diversion proposal of the Pick-Sloan Missouri River Basin program, South Dakota.

The SPEAKER. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado, the chairman of the full committee, Mr. ASPINALL.

Mr. ASPINALL. Mr. Speaker, I rise at this time to discuss and recommend passage of H.R. 16554, a bill to authorize the Secretary of the Interior to conduct feasibility investigations of certain potential water resource developments. This bill is a routine measure which enables the Secretary to seek funds for investigating eight potential programs for authorization under the Federal reclamation law. It is one of a continuing series of measures required to be enacted by the Congress in accordance with the provisions of law forbidding the Secretary to engage in feasibility investigations unless they are specifically authorized by act of Congress.

The eight programs authorized by H.R. 16554 are in six of the western reclamation States. They are programs which have been studied at the reconnaissance level and which have been found to have sufficient prospects of justification to warrant the expenditure of funds for the more detailed study given to projects at the feasibility stage.

This bill is not an appropriations measure. It is an authorization for which there must follow requests for appropriations if and when the executive sees fit to fund the studies. The total amount authorized to be made available for the eight programs is $3,525,000 which will be spread over several years. If the funds were appropriated at the most rapid rate that they could be used, they would spread over a term of 5 or more years. In actual practice, it may be that certain of the programs will never be funded.

I make this observation in the light of trends we see, regrettably, being followed by the Executive toward water resource development generally. The specific trend to which I refer is one of decreasing emphasis on programs which have proven their public worth, such as the Federal reclamation program. The trend is away from these programs toward those that appear to have a quicker political payoff. No longer do we seem to make investments in America's long-term economic stability and strength such as comes from a combining of public funds and the labor of our citizens to produce prosperous self-sustaining communities. Instead, we seem to be obsessed with thinking up doles of one kind or another that neither create economic wealth nor encourage our citizens to work toward such an end.

The plight of western water resource development that has been the result of Executive deemphasis and, in many cases, outright hostility, can best be illustrated by the fact that at this moment there is not pending before Congress a single reclamation project which the administration has recommended for two decades of service on the Committee authorization.

This is the first time in my more than on Interior and Insular Affairs that we have had this situation—and there are two ways to look at this.

One would be that I have left no unfinished work in the reclamation field. If I could truly regard it in this light, I would leave the House and the committee with a feeling of a job completed. More likely, however, it is better to assess the situation as one in which I am in basic disagreement with the sense of public values which has brought the program to this predicament.

Mr. Speaker, I submit that the so-called decisionmakers in the administrative branch are short-sighted and wrong in drying up our rural water programs. The passage of time will prove this. In the meanwhile there is nothing more we can do in this Congress than to leave the seeds out of which may germinate a continuing program. H.R. 16554 represents such. My colleague and friend, the gentleman from California, who is managing this bill will discuss the specifics of the measure. Accordingly I would only take the time to comment on one item included in it. That is item numbered 6, the Uncompahgre project improvement program. This is a study in which ways will be sought to preserve the economy of two western Colorado counties which has developed around one of the original Federal reclamation programs. This project needs help to survive and to remain as a cornerstone of regional economic well-being. The people have done all that can reasonably be expected of them, and they are falling farther and farther behind. The study included for authorization in H.R. 16554 will be a first step toward rehabilitating their physical works and refinancing their debt.

While the other programs in the bill are all worthwhile and deserving of authorization, the Uncompahgre project improvement stands out as one of the most deserving undertakings that I have ever sponsored in this House. I am confident that my colleagues will join with me in giving it a first step on the way to realization.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 16554, to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource development projects or units thereof.

The bill as amended and reported by the Committee on Interior and Insular Affairs authorizes a feasibility study and investigation of eight potential water resource development projects or a unit of a project. These studies will involve potential projects or units in the States of California, Colorado, New Mexico, North Dakota, Oklahoma, and South Dakota.

This bill is in keeping with the passage and enactment of the Federal Water Project Recreation Act of 1965 which required the preauthorization by the Congress of all studies and investigations leading to the preparation of feasibility studies and reports on potential reclamation projects.

The estimated cost of the feasibility studies authorized by this legislation is $3,525,000. The committee report on this legislation contains an analysis of each of the potential projects included in the bill stating the location of the project, the project data as disclosed by reconnaissance studies, the purpose and description of the investigation, project status, justification, local interest, and estimated feasibility investigation costs.

Mr. Speaker. I support the passage of this legislation and urge its enactment.

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume to speak in favor of speedy enactment of H.R. 16554, to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments. This bill results from an executive request by the Department of the Interior to which certain amendments were made in the Committee on Interior and Insular Affairs after full and complete hearings and consideration by the Subcommittee on Irrigation and Reclamation.

The chairman of the full committee, the gentleman from Colorado, has previously described the policy environment within which we are attempting to carry forward a program of orderly development of the water and related land resources of the Western United States. I subscribe to and endorse his assessment of the situation and would digress to add at this point that the gentleman has done more than any other person in our time to provide a sound policy base on which to build this program. Those of us who may be privileged to carry on his work will not find it easy to replace his wise leadership and tireless dedication to the cause of a strong rural west.

Mr. Speaker, H.R. 16554 is not the most important bill that has ever come out of the Subcommittee on Irrigation and Reclamation during WAYNE ASPINALL's association with that body, but it is the last one. Like all other Aspinall bills, it has had a thorough going over. We did not accept all of the administration's recommendations and likewise we did not limit ourselves to the dimensions of the executive request. Members will note from the committee report that we deleted one item, added two others and severed yet another into two parts. This is a typical product of our committee system in which we never rubberstamp anybody.

Specifically, the bill is characterized by its emphasis on municipal and industrial water supply. Five of the eight items are predominantly or exclusively for that purpose. Two of the eight programs are exclusively municipal water oriented. They are the Garrison diversion and Oahe units. The work to be done in each of these cases is to provide a means for delivery regulation, and storage of municipal water from the major facilities of the authorized Garrison diversion and Oahe units to the participating communities in the States of North Dakota and South Dakota. In each of these cases, it is the intent of the bill to authorize studies for all potential participating communities, although such study will likely be staged to coincide with the availability of water from the parent unit.

Three additional programs, Cache Creek, Okla., Ventura County water management, Calif.; and Dominguez Reservoir project, Colo., are predominantly municipal and industrial water supply oriented. Although they have multiple-purpose implications, the corollary purposes do not include irrigation.

The three remaining programs included in H.R. 16554 have a predominant irrigation emphasis, but two of them—Tucumcari, N. Mex., and Uncompahgre, Colo.—are existing projects with varying problems. In the first mentioned case there is a shortage of water while in the latter case, there is a great need for rehabilitation as Chairman ASPINALL described. Only one program in this bill contemplates any measure of irrigation and that is the Lower James-Fort Randall, S. Dak. Here a water supply would be furnished for private and other forms of non-Federal application.

Mr. Speaker, this is, in a sense, a routine bill similar to four or five other bills we have passed in the last 8 years. It is, in another sense, a landmark bill—accomplishing as it does an almost complete change in emphasis from the traditional new-land irrigation program of the Bureau of Reclamation to one meeting a broader spectrum of interests and purposes.

As has been pointed out, it is a modest bill in terms of its monetary impact. It will afford the means of bringing the unquestioned disciplinary competence of the Bureau of Reclamation to bear on a new and different array of western problems. For this reason, it warrants the support of all Members interested in a stronger and better America and I recommend speedy adoption by this body.

Mr. HOSMER. Mr. Speaker, I rise in support of this legislation.

The purpose of this bill is to authorize the Secretary of the Interior to engage in eight feasibility investigations of potential water resource developments.

The eight water resource projects are explained in detail in the committee report on this legislation and involve potential projects in the States of California, Colorado, New Mexico, North Dakota, Oklahoma, and South Dakota. The committee report also includes the estimated cost of these studies to be in the neighborhood of $3.5 million.

The Federal Water Project Recreation Act of 1965 requires congressional authorization of the feasibility studies on all potential reclamation projects. The Committee on Interior and Insular Affairs is advised that completed reconnaissance studies and reports or comparable information indicate preliminarily that these potential projects are economically desirable, financially justified, and enjoy local support and interest. Therefore, the feasibility studies of these potential projects are warranted at this time.

Mr. Speaker, I urge my colleagues to suspend the rules and support the passage of H.R. 16554.

Mr. VANIK. Mr. Speaker, I oppose this legislation which would provide for the expenditure of $3.5 million on new water use feasibility projects. This bill simply prepares the way for more fantastically expensive reclamation projects—despite the fact that we already have billions of dollars of reclamation projects underway and additional billions in projects which have been authorized but unfunded.

These projects, these "feasibility" projects, simply drain money from the rest of the country so that new sources of water can be provided to the growing agribusinesses of the West. The taxpayers and farmers of Ohio are paying billions to open up new farmlands for new production under Department of the Interior programs—while the taxpayers continue to pay additional billions in soil bank and crop removal programs of the Department of Agriculture.

It is my understanding that the General Accounting Office will soon release a report on the way in which these water projects and "feasibility" studies have been used to "serve" the public. I doubt that the report will be favorable and I would hope that the Congress would suspend these projects until a thorough review of this entire area could be made.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. JOHNSON), that the House suspend the rules and pass the bill H.R. 16554, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of a similar bill (S. 3959) to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Cache Creek project in Comanche, Cotton, Tillman, Jackson, and Kiowa Counties in southwestern Oklahoma.

2. Garrison Diversion Unit, M&I Water Facilities, Pick-Sloan Missouri Basin program, in central North Dakota.

3. Oahe Unit, M&I Water Facilities, Pick-Sloan Missouri Basin program in east-central South Dakota.

4. Three Forks Divison, Pick-Sloan Missouri Basin program, in Gallatin and Madison Counties, northwest Montana.

5. Tucumcari Project in San Miguel County in east-central New Mexico.

6. Uncompahgre Project Improvement and

Extension in Montrose and Delta Counties in the vicinity of Montrose and Delta, Colorado.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California: Strike out all after the enacting clause of S. 3959 and insert in lieu thereof the provisions of H.R. 16554, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 16554) was laid on the table.

GLEN CANYON NATIONAL RECREATION AREA, ARIZ. AND UTAH

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, with Senate amendments to the House amendment, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 5, lines 9 and 10, of the House engrossed amendment, strike out "Secretaries of the Department of Interior and the Department of transportation," and insert: "Secretary".

Page 6, of the House engrossed amendment, strike out lines 6 to 18, inclusive.

Page 6, line 19, of the House engrossed amendment, strike out "(d)" and insert: "(c)".

Page 6, line 19, of the House engrossed amendment, strike out "e" and insert: "d)".

Page 6, line 22, of the House engrossed engrossed amendment, strike out "*e*" and insert: "(*d*)".

Page 7, line 4, of the House engrossed amendment, strike out "(f)" and insert: "(e)".

Page 7, lines 4 and 5, of the House engrossed amendment, strike out "Secretaries of Interior and Transportation," and insert: "Secretary".

Page 7, line 13, of the House engrossed amendment, strike out "of the Interior".

Page 7, line 23, of the House engrossed amendment, strike out "$175,000" and insert: "$400,000".

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

LAND ACQUISITION FUNDS, DELAWARE WATER GAP NATIONAL RECREATION AREA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "$68,812,000" and insert: "$65,000,000".

Page 1, after line 6, insert:

SEC. 2. That section 2 of the Act of September 1, 1965 (79 Stat. 612) is amended by adding at the end thereof the following: "*Provided further*, That whenever an owner of property elects to retain a right of use and occupancy pursuant to this Act, such owner shall be deemed to have waived any benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894).".

Page 1, after line 6, insert:

SEC. 3. (a) That the Secretary of the Interior is authorized and directed to issue, subject to the provisions of this section, to Frank W. Whitenack of Georgetown, Colorado, a patent in fee (exclusive of oil, gas, and other mineral rights) to the following described tract of land, situated in the vicinity of Georgetown, Colorado:

Beginning at a stake at corner numbered 1, whence the northeast corner section 5, township 4 south, range 74 west, sixth principal meridian bears north 29 degress 57 minutes west 761.7 feet, thence east 279.7 feet to corner numbered 2, thence south 176.0 feet to corner numbered 3, thence south 82 degrees 16 minutes west 200.5 feet to corner numbered 4 which is also corner numbered 1, survey numbered 18737, Dora Lode, thence south 7 degrees 44 minutes east 150 feet to corner numbered 5, which is also corner numbered 4, survey numbered 18737 Dora Lode, thence north 82 degrees 16 minutes east 180.1 feet to corner numbered 6, thence south 992.6 feet to corner numbered 7, thence west 660 feet to corner numbered 8, thence north 502 feet to corner numbered 9, thence south 60 degrees 20 minutes east 119.4 feet to corner numbered 10, which is also corner numbered 3 survey numbered 408 Mills Placer, thence north 17 degrees 30 minutes east 919.7 feet to the place of beginning.

(b) The patent in fee authorized by this Act shall be issued subject to the payment by the said Frank W. Whitenack to the Secretary of the Interior of an amount equal to the fair market value of the property conveyed as determined by the Secretary after appraisal, exclusive of improvements placed thereon by Frank W. Whitenack and his grantees.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. HALL. Mr. Speaker, reserving the right to object, will the distinguished gentleman from Colorado, the distinguished chairman of the Committee on Interior and Insular Affairs, tell us what the amendment is which the Senate added on?

Mr. ASPINALL. Mr. Speaker, if my colleague, the gentleman from Missouri, will yield to me, it is with some personal embarrassment and hesitation that I tell him what this amendment is, but having talked to him heretofore on the matter I will advise him that the gentleman from Colorado, just as the gentleman from Missouri, is a stickler for rules and he believes in the enforcement of the rule of germaneness.

All I can say is what was done on the other side in my opinion is so little and trivial in its ultimate effect that, even though it is not germane, that I consider it kind of a sneaky way to get a piece of legislation through, but on the other hand the parent bill is of much importance. There is no question about the importance of the Delaware Water Gap legislation.

What is involved is that the other body put on a small private bill known as S. 4064, which provided for the conveyance of a small tract of land to an individual who has had possession of the land for many years, who is not able to get it under the provisions of an act which we passed several years ago, and who, in my opinion, really has a right to property.

The equities are on his side, but I just do not particularly like the legislative procedure which was used any more than my friend from Missouri does. I hope, Mr. Speaker, that he will overlook the transgression of the other body.

Mr. HALL. Mr. Speaker, I certainly must say that I appreciate the continued forthrightness of a great colleague, chairman of the Committee on Interior and Insular Affairs, the gentleman from Colorado, in answering my questions. I almost got more than I wanted to hear.

This is the same bill that we discussed, debated and passed in due course last night, the Delaware Water Gap Authority?

Mr. ASPINALL. It is the same bill we took care of last night.

Mr. HALL. And in order to prevent suspension of a project already underway up there, and to get rid of squatters who have moved in while land was being acquired during the stalemate?

Mr. ASPINALL. The gentleman is correct. It is very necessary legislation.

Mr. HALL. Mr. Speaker, as much as I object to the other body adding on nongermane amendments, and subject as this is to a point of order, and in spite of the fact that it would only take one objection to kill it, I will withdraw my reservation at this time.

Mr. ASPINALL. I thank my friend from Missouri (Mr. HALL).

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

REVISION OF PAY STRUCTURE OF AIRPORT POLICE

Mr. HENDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7625) to adjust the pay of the police force at Washington and Dulles Airports, as amended.

The Clerk read as follows:

H.R. 7625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5366. Police forces of Washington National Airport and Dulles International Airport

"The Secretary of Transportation shall fix the per annum rates of basic pay of positions on the police force of Washington National Airport and the police force of Dulles International Airport in accordance with the rates of basic compensation, including longevity increases, provided in section 101 and sections 201 through 506, as appropriate, of the District of Columbia Police and Firemen's Salary Act of 1958, as amended (D.C. Code, section 4–823 and sections 4–824 through 4–837), for officers and members of the Metropolitan Police force in corresponding or similar classes or subclasses.".

(b) The analysis of subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end thereof—

"5366. Police forces of Washington National Airport and Dulles International Airport."

SEC. 2. Section 5102(c) of title 5, United States Code, is amended—

(1) by striking out the word "or" at the end of paragraph (26);

(2) by striking out the period at the end of paragraph (27) and inserting in lieu of the period of semicolon and the word "or"; and

(3) by adding immediately below paragraph (27) the following new paragraph:

"(28) officers and members of the police force of Washington National Airport and the police force of Dulles International Airport.".

SEC. 3. The amendments made by this Act shall become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act.

SEC. 4. No rate of basic pay shall be reduced by reason of the enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. HOGAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HENDERSON. Mr. Speaker, I rise in support of H.R. 7625 which was ordered reported by the Post Office and Civil Service Committee by a vote of 16 to 0.

The sole purpose of this legislation is to provide a pay scale for the police at Dulles International and Washington National Airports which would equal the pay of similar positions within the District of Columbia Metropolitan Police Force.

To effectuate this purpose the bill proposes to remove the airport police positions from under the classification provisions of title 5, United States Code, and from under the General Schedule pay system.

Under the provisions of this bill the Secretary of Transportation would have the authority to fix the basic pay of airport police positions in accordance with the rates of pay provided for similar positions under the District of Columbia Police and Firemen's Salary Act of 1958, as amended.

According to the testimony presented before our committee, the current starting salary for an airport police officer under the General Schedule is $7,807 per year. In contrast, the starting salary for a private in the District of Columbia Police Force is $10,000 per year.

Not only do the salaries of the airport police compare unfavorably with those of the District of Columbia Police but they compare equally unfavorably with those of other metropolitan area police forces such as Fairfax, Montgomery, and Prince Georges Counties, to name a few.

Under such circumstances it is small wonder that the recruitment of suitable personnel for airport police positions has become increasingly more difficult.

Consequently, the police forces at both airports have deteriorated to the point where the public and air passengers no longer can be assured of adequate protection against crimes and violence at either airport.

To allow such a situation to exist at the two airports that are owned and operated by the Federal Government is inexcusable.

I am convinced that the enactment of this legislation will result in a significant improvement in the quality of law enforcement at the two airports.

I believe that the pay structure proposed by this legislation is fully justified and that it deserves the support of every Member of this body.

Mr. HOGAN. Mr. Speaker, H.R. 7625 is designed to correct an inequity which, though small in the total scheme of Government, is nevertheless significant to the huge number of passengers who use Dulles and National Airports every year.

During the past few years, we have seen a marked increase in airport-related crimes. Hijacking has received the lion's share of publicity. But crimes ranging from bomb threats to automobile thefts have been increasing at an alarming rate.

Much emphasis has been placed on increased airport security throughout the country. Yet, paradoxically, in the only two airports owned and operated by the Federal Government, salaries of police officers have lagged seriously behind police salaries in metropolitan areas, including Metropolitan Washington.

The starting base salary for airport police officers—who must have 3 years of related police work to qualify—is $7,319, GS–5, step 1. Currently, GS–5 police positions have a special range starting at $7,807. However, since this is based on regulatory authority vested in the Civil Service Commission, it can be taken away at any time. This compares with $9,100 in Alexandria, $9,069 in Fairfax County, $9,021 in Montgomery County, and a newly approved $10,000 in the District of Columbia for rookie police officers. We cannot continue to allow these salaries to lag if we hope to have adequate airport security.

H.R. 7625 would exempt airport police positions from the classification and pay provisions of title 5 of the United States Code and authorize the Secretary of Transportation to establish a separate pay system which would be equivalent to similar positions applying to the District of Columbia police force.

This approach is the rule rather than the exception in other major airports throughout the country. Most of them employ airport police whose salaries closely match or are identical to those of the metropolitan area they serve. In many cases, they are actually part of the local or State police force. Those cities where airport police salaries are equivalent to those of the major city in the area include Baltimore, Boston, Cleveland, San Francisco, Chicago, Seattle, Detroit, Miami, and others.

Cities where the starting salaries for airport police are above the $10,000 starting salary for District of Columbia police include Los Angeles, $10,628; Cleveland, $10,742; Pittsburgh, $10,800; Philadelphia, $10,328; Chicago, $10,424; San Francisco, $10,680; Seattle, $10,320; and St. Paul, $10,128.

None of the major airports surveyed paid as little as Washington National and Dulles Airports for their police officers. Yet the National Airport Act, which the Congress passed, insists that these two airports should be models for the country. With these embarassing pay scales at our two Federal airports, we are certainly not a model for other airports to emulate.

However, pay is only one aspect of the problem—though a major one. We hope that the passage of this bill will force the Department of Transportation to improve other aspects of the airport police program.

Finally, Mr. Speaker, let me add that the Post Office and Civil Service Committee generally does not adopt the approach used in this bill. As a rule, it is not a good practice to pull groups out of the Classification Act for special pay considerations. But the failure of the classification system to recognize changing pay and classification patterns outside the Government is particularly evident in protective occupations. We are dealing here with an emergency which can be handled at this time only through legislation. Hopefully, we will soon have a legislative package which will create a new pay and classification system for all protective occupations in the Federal Government.

I urge the House to adopt H.R. 7625.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON) that the House suspend the rules and pass the bill H.R. 7625, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to revise the pay structure of the police forces of the Washington National Airport and Dulles International Airport, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RECLASSIFICATION OF DEPUTY U.S. MARSHALS

Mr. HENDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13895) to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5366. Pay of nonsupervisory deputy United States marshals

"(a) The Attorney General shall fix the annual rates of basic pay of positions of deputy United States marshal (other than supervisory and managerial positions) within each of the following ranges of pay rates and steps:

"(1) a pay range the pay rates and steps of which equal, in amount of pay for corresponding steps and in total number of steps, the annual corresponding step-rates and the total number of steps of GS–7 of the General Schedule, as in effect from time to time.

"(2) a pay range the pay rates and steps of which equal, in amount of pay for corresponding steps and in total number of steps, the annual corresponding step-rates and the total number of steps of GS–9 of the General Schedule, as in effect from time to time.

"(3) a pay range the pay rates and steps of which equal, in amount of pay for corresponding steps and in total number of steps, the annual corresponding step-rates and the total number of steps of GS–11 of the General Schedule, as in effect from time to time.

"(b) In the administration of the pay structure established by subsection (a) of this section, the Attorney General shall adapt and apply, to the maximum possible extent, the principles and provisions of subchapter III of this chapter relating to pay matters generally, including (but without limitation) periodic and meritorious step-increases, pay saving, and promotions to higher pay ranges, and shall establish and operate a system of such promotions.".

(b) The table of sections of subchapter VI of chapter 53 of title 5, United States Code, at the beginning of such chapter 53, is amended by adding—

"5365. Police force of National Zoological Park.".

immediately below—

"5366. Pay of nonsupervisory deputy United States marshals."

(c) Section 5102(c) of title 5, United States Code, is amended—

(1) by striking out the word "or" immediately after the semicolon at the end of paragraph (26);

(2) by striking out the period at the end of paragraph (27) and inserting in lieu of the period a semicolon and the word "or"; and

(3) by adding immediately below paragraph (27) the following new paragraph:

"(28) deputy United States marshals of a nonsupervisory or nonmanagerial level whose pay is fixed under section 5366 of this title.".

Sec. 2. (a) Effective on the effective date of this section, the initial adjustments of the rates of basic pay of employees on the rolls on such date to whom the amendments made by the first section of this Act apply shall be as follows:

(1) an employee in GS–4, GS–5, or GS–6 of the General Schedule immediately before the effective date of this section shall be paid initially, within the range of pay rates described in section 5366(a)(1) of title 5, United States Code, as enacted by the first section of this Act, at that step of such pay range which corresponds numerically to that step of the grade of the General Schedule at which he was paid immediately before such effective date.

(2) an employee in GS–7 or GS–8 of the General Schedule immediately before the effective date of this section shall be paid initially within the range of pay rates described in section 5366(a)(2) of title 5, United States Code, as enacted by the first section of this Act, at that step of such pay range which corresponds numerically to that step of the grade of the General Schedule at which he was paid immediately before such effective date.

(3) an employee in GS–9 of the General Schedule immediately before the effective date of this section shall be paid initially within the range of pay rates described in section 5366(a)(3) of title 5, United States Code, as enacted by the first section of this Act, at that step of such pay range which corresponds numerically to that step of the grade of the General Schedule at which he was paid immediately before such effective date.

(b) An increase in pay by reason of an initial adjustment of pay under subsection (a) of this section shall not be deemed an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code, for purposes of step-increases under the pay structure established by section 5366(a) of title 5, United States Code, as enacted by the first section of this Act. For purposes of periodic step-increases under such pay structure, an employee shall be credited, as of the effective date of this section, with all service since his last periodic step-increase under section 5335 of title 5, United States Code, before such effective date.

(c) No rate of basic pay in effect immediately before the effective date of this section shall be reduced by reason of the enactment of this Act.

Sec. 3. The preceding provisions of this Act shall become effective at the beginning of the first applicable pay period which commences on or after the thirtieth day following the date of enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. HOGAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HENDERSON. Mr. Speaker, I rise in support of H.R. 13895, which was ordered reported by the Post Office and Civil Service Committee by a vote of 18 to 0.

This is a very simple but very necessary piece of legislation. The sole purpose of this bill is to raise the salaries of nonsupervisory Deputy U.S. Marshals.

Under existing law, Deputy U.S. Marshals are compensated in accordance with the General Schedule pay rates, contained in title 5 of the United States Code. Ordinarily, these Marshals are hired at grade GS–6, which has a starting salary of $8,153 per year. Grades GS–7 and GS–8 are considered to be the full working levels for nonsupervisory Deputy Marshals.

Under the provisions of this bill, nonsupervisory Deputy U.S. Marshals would be excluded from the General Schedule, but the Attorney General would be required to compensate them at rates of pay equivalent to the rates contained in grades GS–7, 9, and 11 of the General Schedule.

Thus, the effect of this legislation is to elevate the pay of nonsupervisory Deputy Marshals from the existing range of GS–6 to GS–9, to a range of GS–7 to GS–11.

Deputy U.S. Marshals perform a variety of important and often dangerous functions.

They repeatedly are required to perform emergency services because of their demonstrated ability to handle difficult and potentially explosive situations.

Consequently, their hours of duty are irregular, and the demands on their mental and physical health often are severe.

There can be no question that these Deputy Marshals frequently are exposed to great personal danger while carrying out their assigned duties.

Unfortunately, the pay of these Deputy Marshals is not commensurate with the difficulty of their duties and responsibilities and the personal risks to which they constantly are exposed.

When compared to the salaries of Washington area police forces, such as the District of Columbia Police Force, the pay of the Deputy U.S. Marshals suffers badly.

If the pay of these employees is not increased, the Government cannot hope to compete with the municipal and county police forces for the competent personnel it needs to fill these vital positions.

Therefore, in the interests of equity, competency, and the safety of the American public, I urge the passage of this legislation.

Mr. HOGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13895 would raise the pay of nonsupervisory deputy U.S. marshals from the current range of GS–4 to GS–9 to the range of GS–7 to GS–11. Specifically, the current range runs from a GS–4 starting salary of $6,544 to the maximum rate of GS–9 which is $14,358. The new ranges in the bill would be $9,053—GS–7, step 1—to $17,305—GS–11, step 10.

The normal rate for a deputy U.S. marshal entering on duty is GS–6, step 1—$8,153. However, GS–4's and 5's are being hired now under the Vietnam veteran's readjustment program.

The range of duties performed by deputy U.S. marshals is wide. Among other things they guard important political figures and witnesses; serve civil and criminal warrants; transport prisoners; make arrests; seize and dispose of property under court order; protect key figures in court cases; perform an important role in the prevention of air hijackings; and perform emergency services during riots and demonstrations.

They perform these and other duties at any time during the day and night. They are often called upon to work long hours far away from their homes. And, as crime and violence have increased, their job has become increasingly more dangerous. At least five deputy marshals lost their lives in the line of duty during 1971.

Recently, right here in Washington, we had a dramatic and tragic example of the dangers involved in the job when Deputy Marshal Norman E. Sheriff was killed during a funeral to which he had escorted a Federal prisoner.

The increased emphasis on crime control over the past several years has brought an even heavier workload for marshals. For example, the Organized Crime Control Act of 1970 increased the number of persons for whom marshals must provide protection. And Federal programs to prevent air pirating have deeply involved deputy marshals who concentrate on preventing hijackings by better surveillance on the ground which brings them into close contact with many dangerous criminals.

Yet, with the increased danger and workload, little has been done to recognize the deputy marshal for what he is; a major factor in our efforts to fight crime.

This legislation will help to upgrade the professionalism of the U.S. Marshal Service.

The morale of the Deputy U.S. Marshal's Service is falling to a low level.

While the Post Office and Civil Service Committee does not normally approve legislation which provides special pay treatment for particular groups of employees, we are dealing here, as we are with the airport police, with an emergency situation. Hopefully, the Deputy U.S. Marshals will fall under a new system for all protective occupations which may come before us next year. However, we cannot afford to wait in this case.

I therefore urge the House to pass H.R. 13895.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Texas.

Mr. KAZEN. From what to what will this raise them?

Mr. HOGAN. At the present time the current range is from GS-4 to GS-9. We will be raising them to the range of GS-7 to GS-11. Salarywise, GS-4 starts at $6,544. Under the bill before us the salary will be $9,053, which is certainly not very generous, even at this.

Mr. HANLEY. Mr. Speaker, I strongly support both H.R. 7625 and H.R. 13895. The former would raise the pay of police at Washington National and Dulles Airports to a point of equivalency with the pay of District of Columbia police. The latter would upgrade the pay of Deputy U.S. Marshals.

As chairman of the subcommittee which considered and approved the two bills, I am pleased that in these two cases we are recognizing the need to upgrade the pay and status of our law enforcement officials. Excellent testimony was received showing that the pay of these two categories of law enforcement positions are so seriously underpaid that major recruitment and morale problems have ensued.

The Civil Service Commission, the Department of Transportation, and the Justice Department have the tools to solve the problem, but have failed to use them. During the next Congress, I am hopeful that we may be able to work out a new system which will include all Federal protective occupations, and place them in an equitable pay relationship with similar occupations outside the Federal Government. However, in these two cases, the emergency is now. I urge the House to pass both H.R. 7625 and H.R. 13895.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON) that the House suspend the rules and pass the bill, H.R. 13895, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 5, United States Code, to revise the pay structure for nonsupervisory positions of Deputy U.S. marshal, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXECUTIVE SCHEDULE POSITIONS IN DEPARTMENT OF JUSTICE

Mr. HENDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14934) to amend title 5, United States Code, to make levels III and IV of the Executive schedule applicable to certain positions within the Department of Justice, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 5 of the United States Code is amended—

(a) by adding at the end of section 5314 the following new paragraph:

"(59) Special Assistant Attorney General.";

(b) by adding at the end of section 5315 the following new paragraph:

(97) United States Attorney for the Central District of California."; and

(c) by deleting from section 5216—

"(116) United States Attorney for the Southern District of California.".

SEC. 2. The provisions of this Act shall take effect on the first day of the first applicable pay period which begins on or after the date of enactment.

The SPEAKER. Is a second demanded?

Mr. HOGAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HENDERSON. Mr. Speaker, H.R. 14934 was sponsored on the basis of an official recommendation by the Acting Attorney General.

This legislation has two objectives.

First, it would raise the position of the Special Assistant Attorney General from Executive level IV—$38,000 per year—to Executive level III—$40,000 per year.

Second, it would raise the position of U.S. Attorney for the Central District of California from Executive level V—$36,000 per year—to Executive level IV—$38,000 per year.

The position of Special Assistant Attorney General was created by the President as part of the administration's program to combat drug abuse through law enforcement measures and education and rehabilitation programs.

The Special Assistant Attorney General acts as the Director of the Office for Drug Abuse Law Enforcement and as a special consultant to the President for Drug Abuse Law Enforcement.

The extensive effort which is being made throughout this country to combat drug abuse has created many new responsibilities for the Department of Justice, which primarily are in the hands of the Special Assistant Attorney General.

In view of the importance of the drug abuse program and the dual responsibility of the Special Assistant Attorney General, I am satisfied that the recommendation of the Acting Attorney General is fully justified.

The other position which would be affected by this legislation is that of the U.S. Attorney for the Central District of California.

This position was created in March of 1966 and presently is in level V of the Executive schedule.

However, in terms of criminal and civil cases handled, man-hours in court, and number of personnel employed, the overall workload of the Central District of California is approximately the same as that of the southern district of New York.

Since the United States Attorney for the southern district of New York is in level IV of the Executive schedule, it is only fair and reasonable that the U.S. Attorney for the Central District of California be placed in the same level.

Mr. Speaker, the action proposed by H.R. 14934 is fully warranted and I, therefore, urge the passage of this legislation.

Mr. HOGAN. Mr. Speaker, H.R. 14934 would raise the position of Special Assistant Attorney General from Executive level I—$38,000—to Executive level III—$40,000—and the position of U.S. attorney for the Central District of California, from Executive level V—$36,000—to executive level IV—$38,000.

The position of Special Assistant Attorney General was established pursuant to Executive Order 11641 issued on January 28, 1972. The incumbent in this position is both the Director of the Office for Drug Abuse Law Enforcement, and special consultant to the President for drug abuse law enforcement.

The new Office for Drug Abuse Law Enforcement is a keystone in the Government's effort to stop the drug traffic. Nine regional offices have been established to gather information for use by Federal, State, and local law-enforcement agencies to be used before special grand juries in some 33 cities. The job of Special Assistant Attorney General is to lead these efforts and coordinate the drug abuse law-enforcement efforts of other parts of the Justice Department.

Normally, the position would have been created at Executive level III; however, the President only has authority to create a limited number of positions at that level without legislation.

Because of the program's high priority within the Department of Justice, its great importance to the country, and the dual responsibility of the position of Special Assistant Attorney General, the committee voted overwhelmingly to place it in Executive level III.

The second position affected by H.R. 14934 is that of the U.S. attorney, Central District of California. The position was created by Public Law 89-372, enacted on March 18, 1966, and placed in Executive level V. However, the workload of the position has developed to the point that it compares favorably with the two U.S. attorney positions—Southern District of New York and the District of Columbia—in Executive level IV. Simple equity requires that we raise the position to a level commensurate with its duties and responsibilities.

The administration supports this legislation. I urge that the House pass H.R. 14934.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON) that the House suspend the rules and pass the bill H.R. 14934, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

The SPEAKER. The Chair would desire to make a statement.

The Chair is going to call for special orders at this time.

The Chair desires also to notify the House that there will be business following the special orders. We are merely using this time now because we do not have any business ready for transaction before the House.

Does the gentleman from Missouri desire recognition at this time?

Mr. HALL. Well, Mr. Speaker, is it contemplated that the special orders will follow if we adopt this unusual procedure, and then we will go back into legislative business? Heretofore most of us have always presumed that once the special orders had started we were free.

The SPEAKER. That is why the Chair made that statement, because the Chair always heretofore adhered to the philosophy that there should be no business subsequent to the calling of special orders.

Mr. HALL. The business of the House has been conducted in keeping with that procedure, Mr. Speaker.

The SPEAKER. It is the procedure we have always used heretofore.

Mr. HALL. Well, can the Chair advise the House and the Members and their employees whether or not there will be a recess thereafter, or are we still dangling on the strings of the other body?

Mr. Speaker, why do we not just submit our resolution to adjourn sine die and send it over there and stir them up? They have been in recess, I understand, since 5 o'clock.

The SPEAKER. Will the gentleman address his question to the majority leader on the floor?

Mr. HALL. Mr. Speaker, I certainly would like to know from the majority leader why the other body is standing in recess all of these hours and we are still dawdling on the strings of indecision and indifference here. May I ask, what are the plans for the rest of the evening?

Mr. BOGGS. Will the gentleman yield to me?

Mr. HALL. I will be glad to yield to the majority leader.

Mr. BOGGS. First I will say to the gentleman that we have completed an enormous amount of business today.

Mr. HALL. The gentleman would agree both necessary and unnecessary as far as urgent adjournment is concerned, I am sure.

Mr. BOGGS. That is the gentleman's opinion, and he is entitled to it.

We have three principal matters that are standing in the way of adjournment: H.R. 1, the debt ceiling, and possibly the highway bill conference report. The chairman of the Committee on Ways and Means has informed me very recently that they were making very good progress and he felt they could conclude their work tonight.

Therefore, I am going to ask unanimous consent that the Chair have the power to declare a recess, if and when necessary, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. HALL. Mr. Speaker, reserving the right to object, would it be the intention of the Chair to give the usual 15 minutes notification by ringing the bells prior to the resumption of business, and is this recess, if granted by unanimous consent, a strong step in favor of adjournment yet tonight sine die?

The SPEAKER. Well, it is the expression of the Chair that it desires to adjourn. The Chair cannot speak for other Members. But it is a necessary function right now, or else there will be no hope of adjournment.

Mr. BOGGS. Will the gentleman yield further?

Mr. HALL. I yield.

Mr. BOGGS. If the leadership did not think there was hope for adjournment, the request would not be made.

Mr. HALL. Mr. Speaker, I hastily withdraw my reservation.

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, I am very much interested that we set a time certain when we could return to the Chamber for you to notify the Members whether we might continue this evening.

The SPEAKER. Could the Chair state that we will follow the usual practice of ringing the bells 15 minutes before we reassemble the House whether it is for the purpose of taking up legislation or adjournment?

Mr. MILLER of Ohio. I understand, Mr. Speaker, but we have had times when we have waited many, many hours wondering what was going on. I think with a time certain, at 9 o'clock, we could then meet and you would be able to inform us as to what the activities are to be at that time.

The SPEAKER. Of course, it is possible we may not have to recess until 9 o'clock and, unless the committees are free to function without being given too much limitation on their time, it seems to me we may not adjourn.

Mr. MILLER of Ohio. Mr. Speaker, I would suggest we do have a maximum time set for our return, that is, by not later than 9 o'clock, and at that time we could be brought up to date.

The SPEAKER. Would the majority leader amend his request? He can make additional requests later on.

Mr. BOGGS. Mr. Speaker, my request is at the discretion of the Chair, which, as far as I know, has been the universal custom. I have been here 2 years as majority leader, and I have never known it to be otherwise.

The gentleman knows he is asking a question that is not within our power to answer. We just cannot answer. If the gentleman is asking are we going to sit here all night and then do nothing, I think I can assure the gentleman that that will not happen.

Mr. BROWN of Michigan. Will the gentleman yield?

Mr. MILLER of Ohio. Certainly I yield to the gentleman.

Mr. BROWN of Michigan. What the gentleman from Ohio is attempting to establish is that there will be a certain amount of time when we will be in recess, that is, that we will have more than 15 minutes, so we would have more than that amount of notice. It seems to me a logical request made by the gentleman from Ohio that we have more than 15 minutes so that we are not subject to being back here at a few minutes call all the time.

Mr. BOGGS. Mr. Speaker, if I may attempt to reply on that, it seems to me that if we reach such a stage at 7:30 or 8 o'clock where we could proceed, because there is still business here, then if we say that we will not come back until 9:30 we might be inconveniencing a great many more people by setting such a time. We might actually be able to come back before that, or we might not have to come back until later than that.

Mr. MILLER of Ohio. I believe we could come back at 9 o'clock, and I will find it necessary to object unless we set a time certain.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of OHIO. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, it seems to me we undoubtedly are approaching the end of the session, certainly if not tonight, then Monday or Tuesday. It seems to me that the time has come to pass a continuing resolution and send it over to the other body. That will increase the disposition to come to a conclusion on the whole matter. So I would suggest that the Committee on Appropriations might be recognized very shortly in order to bring up the continuing resolution which is necessary in view of the foreign aid situation.

I thank the gentleman for yielding

Mr. HALL. Mr. Speaker, if the gentleman will yield further, I wonder if the distinguished gentleman from Texas, the chairman of the Committee on Appropriations, would consider doing what the Senate has just done to the House on the Delaware River Basin Authority, where they tacked a private bill on House passed erstwhile legislation, and tack a little bill onto your continuing resolution for an adjournment sine die at 11:59 p.m. tonight?

That would certainly stimulate activity, since they have been in adjournment over there since 4 o'clock.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, would the gentleman consider this, since there are radio phones in the Democratic and Republican cloakrooms where the Members can dial from any point and have the leadership advise on that radio, through the use of that radio telephone, the disposition as to the progress of the negotiations?

Mr. MILLER of Ohio. Mr. Speaker, I recall we had that same condition before, and it was impossible to find out when we would be returning. I recall at that time that I had a plane out, and if I had known at the time what was going to occur I could have taken the plane.

Mr. WHITE. This would be better than nothing, I would suggest.

Mr. BOGGS. Mr. Speaker, I withdraw my request.

ANNOUNCEMENT BY THE MAJORITY LEADER

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, we have enough business to carry on for a while, and I am informed by the chairman of the Committee on Appropriations that the continuing resolution will be available in a few minutes. After we have concluded that business, which will take some time, and there will probably be a rollcall, then we will renew the request.

CONGRESSMAN DENT ON TRADE

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DENT. Mr. Speaker, I want to announce to the House that I will have an article in the RECORD today on trade.

CUTTING THE HEART OUT OF THE AIRCRAFT NOISE AND STOL PROGRAMS

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, by a stroke of the pen, the Office of Management and Budget has cut the heart out of a vital congressionally funded program to reduce aircraft noise and develop an effective short-haul transport aircraft. The Congress has appropriated $50.5 million for noise suppression, retrofitting existing aircraft to reduce noise, and for a quiet STOL experimental airplane, but the Office of Management and Budget has slashed $44.9 million of that amount to hold in reserve. This has the effect of destroying the congressional program.

This amazing and disturbing action leaves the National Aeronautics and Space Administration only a miniscule $56 million in these vital areas. The OMB has not only refused to proceed with programs which Congress has voted, but has also arbitrarily decided that every resident of noisy and congested airport areas simply has to live with the intolerable noise levels and bad service they now experience.

I have the honor to chair the Subcommittee on Aeronautics and Space Technology of the House Committee on Science and Astronautics. Eight of the members of that subcommittee from both sides of the aisle have fired off a telegram of protest to the Vice President of the United States in his capacity as Chairman of the National Aeronautics and Space Council, as follows:

> OCTOBER 14, 1972.
>
> Hon. SPIRO T. AGNEW,
> *The Vice President,*
> *Washington, D.C.*
>
> DEAR MR. VICE PRESIDENT: We are sending this telegram to you in your capacity as Chairman of the National Aeronautics and Space Council.
>
> NASA has submitted its Fiscal Year 1973 budget operating plan and we are amazed and highly disturbed about the following actions. The Office of Management and Budget has held in reserve the entire authorized and appropriated amounts for the Quiet Experimental STOL Transport Airplane ($27.5 million) and the STOL Experimental Engine Program ($2 million). Additionally, $15.4 million of a $21 million Engine Retrofit Program was reserved by OMB. This program is a vital element of NASA's Noise Abatement Program and is intended to lead a retrofit of the existing civil fleet to reduce noise substantially.
>
> The Civil Aviation Research and Development Policy Study jointly conducted by the Department of Transportation and NASA and extensive hearings by our Subcommittee showed without doubt that the future of the air transportation industry was in jeopardy unless the following major problems were solved: (1) aircraft noise abatement; (2) aviation safety and congestion; and (3) the development of an effective short-haul transportation system. The withholding actions taken by the Office of Management and Budget strike at the very heart of efforts to solve these problems. A major element in past delays in solving aviation problems has been the tactic of study, re-study and then study some more. The evidence in the CARD Study and from our hearings show that action, not more study, is required if the critical problems of aviation are to be solved.
>
> We urge you to use your influence to reverse the withholding actions taken by the Office of Management and Budget because they are clearly not in our best national interest. The following eight of nine members of the Subcommittee on Aeronautics and Space Technology agree fully with these views. It was not possible to contact the ninth member in time to dispatch this message.
>
> LIST OF SIGNATURES
>
> Rep. Ken Hechler, chairman.
> Rep. John W. Wydler (R-N.Y.).
> Rep. John W. Davis (D-Ga.)
> Rep. William R. Cotter (D-Conn.).
> Rep. Charles B. Rangel (D-N.Y.).
> Rep. Mike McCormack (D-Wash.).
> Rep. Thomas M. Pelly (R-Wash.).
> Rep. John W. Wydler (R-N.Y.).
> Rep. Barry M. Goldwater (R-Calif.).

WHAT SECRETARY BUTZ DID NOT TELL US IN JULY

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, sometimes the right hand of government does not know what the left hand is doing but this is not the case with the Department of Agriculture's performance in the Russian wheat sales.

Department officials, from Secretary Butz on down, knew in July that huge quantities of wheat had been sold abroad. And it had to be Russia. But, while their reports on wheat subsidy bookings are available, the Department failed to emphasize the significance of these figures and, thus, kept it closely guarded from farmers and other citizens.

Their failure played into the hands of grain companies.

In addition, on August 1 the Department's public report, Demand and Price Situation, was completely untrue in its statement on wheat prices. The Department's Export Marketing Service on July 14 booked 20 million bushels of wheat for export subsidy for Cargill, Inc., and between July 12 and 20 it booked 55 million bushels of wheat for export subsidy for Continental Grain Co. Within a matter of days after their July 8 announcement of a pending sale of grain to Russia, $125 million of American wheat already had been booked for the export subsidy. This was in excess of anything anticipated by the July 8 announcement of pending sales of all U.S. grains to Russia—not just wheat.

Booking of 75 million bushels of wheat is, as a matter of fact, a clear indication that much more wheat already had been sold because it is not the practice of the grain companies to book all their contracted wheat sales at one time. Continental only had booked a little over one fourth of the grain they already had sold to Russia at this particular time and Cargill only was booking a portion of the wheat it had sold to Russia. Had the Department of Agriculture promptly drawn to the attention of the farmers and the small grain elevators across the wheat country the fact that sales already had far exceeded their July 8 announcement—which seemed to say that perhaps 40 to 50 million bushels of American wheat would be sold in the next 12 months to Russia—the clear indication of the upward movement of the wheat market would have been known to all.

Instead, the Department's August 1 Demand and Price Situation report had this to say:

> Depending on the extent of wheat shipments to Russia under the newly authorized grain agreement, carryout next summer could be close to last July 1. With demand continuing firm, wheat prices received by farmers this season may average around the $1.31 per bushel of 1971/72.

I questioned Secretary Butz about this projected price when he appeared before our House Livestock and Grains Subcommittee on September 14 and asked him then:

> Have you any other examples of such publications put out by the Department of Agriculture in August that project such a price?

The Secretary replied:

> No, sir, I do not. At that time, of course, that thing was prepared a few days ahead of the August 1 dateline and the price of wheat started up a few days after that. As we have said already, nobody anticipated the magnitude of these purchases, including the Russians themselves. They sent their team back a second time.

At another point in his prepared statement to the subcommittee, the Secretary said:

> In any case, it should be clear that the Department of Agriculture did all it could to make the situation clear to farmers promptly. This is something that the Department insisted upon in making the agreement with the Soviets.

But it is obvious that the Department already had the information in hand, knew that the sales were in huge quantities and misled farmers and the rest of the public by printing and distributing phony and highly inaccurate statements.

There can be no doubt that the Department is guilty of not only hushing up the obvious sales based on the bookings for export subsidy of just two companies, Cargill and Continental, but they also are guilty of drawing false conclusions and publishing for wide public distribution the August 1 Demand and Price Situation Report.

They set up the farmers and small elevators to be the patsies and it worked in those instances where farmers sold their grain on what appeared to be a slightly better market than they had anticipated in July and the first few days in August.

By the end of August wheat prices had advanced 45 cents from the July 5 price. Most of the advance came in August. Had the truth been publicized and the farmers and small grain elevators been made aware in July of the sales already made to Russia, they of course would have reacted by holding back on the sales of their wheat to take advantage of what then was a certainty—a much higher price. It was, of course, to the grain companies' advantage not to publicize the Russian wheat sales because they were entering into either the cash market to buy the grain or protecting their position by buying wheat futures contracts.

The Department's obligation was to inform the public of the true events, at least as much as they knew. In this they failed. Worse yet, their August 1 statements were entirely misleading. Secretary Butz's explanations so far have been neither adequate nor complete.

Some of the unanswered questions in the dealings of at least one of the grain companies involved can be clarified by the following transactions of Cargill, Inc., supplied to me by Mr. W. B. Saunders, vice president, Commodity Marketing Division of Cargill, Inc. Their bookings for export subsidy as well as their cash and futures purchases of July and August follow:

Bookings for Export Subsidy in:		
July 14	20 mil	13 cents.
Aug. 14	50 mil	36 cents.
Aug. 20	1 mil	35 cents
Aug. 25	2 mil	38 cents.
Sept. 1	17.7 mil	47 cents.
Sept. 6	1.1 mil	30 cents.

Note: Weighted average subsidy is 33.1.

WHEAT PURCHASES BOTH CASH AND FUTURES

	Bushels	Price per bushel
July:		
3	564,000	$1.68½
5	339,000	1.69½
6	759,000	1.72⅛
7	579,000	1.73⅜
10	521,000	1.71⅞
11	1,468,000	1.75¼
12	816,000	1.75½
13	1,083,000	1.76
14	392,000	1.71¼
17	596,000	1.73¾
18	1,187,000	1.77⅞
19	539,000	1.79¼
20	315,000	1.78⅝
21	781,000	1.77¼
24	605,000	1.79¼
25	853,000	1.79⅝
26	1,174,000	1.78⅜
27	1,722,000	1.76⅝
28	693,000	1.79
31	3,487,000	1.79¾
Total	18,478,000	[1] 1.766

[1] Average.

	Bushels	Price per bushel
August:		
1	1,244,000	$1.80½
2	2,829,000	1.80½
3	6,789,000	1.87
4	4,799,000	1.95
7	9,570,000	2.05½
8	6,887,000	2.02½
9	7,874,000	1.99
10	9,249,000	2.03½
11	2,140,000	2.06¾
14	921,000	2.05
15	1,957,000	2.02½
16	1,446,000	2.05
17	529,000	2.07
18	468,000	2.08¾
21	286,000	2.08
22	292,000	2.14¾
23	366,000	2.14¾
24	610,000	2.13½
25	203,000	2.11¼
28	792,000	2.11¾
29	1,803,000	2.14¾
30	1,150,000	2.15¾
31	1,943,000	2.13½
Total	64,144,000	[1] $2.0075

[1] Average.

Note: Weighted average of wheat price less weighted average of the subsidy=$1.622.

ORDER OF BUSINESS

The SPEAKER. The Chair will call the special orders subject to the regular legislative business at any time.

MISSISSIPPI AND THE NATION LOSE SERVICES OF HON. WILLIAM M. COLMER, HON. THOMAS G. ABERNETHY AND HON. CHARLES H. GRIFFIN THROUGH VOLUNTARY RETIREMENT

The SPEAKER. Under previous order of the House, the gentleman from Mississippi (Mr. WHITTEN) is recognized for 60 minutes.

Mr. WHITTEN. Mr. Speaker, it is seldom, if ever that any State has suffered the loss that will come to my State of Mississippi with the end of this Congress, for we will lose through voluntary retirement the services of three of our fine Members of the House of Representatives, WILLIAM M. COLMER, THOMAS G. ABERNETHY and CHARLIE GRIFFIN.

Mr. Speaker, in the retirement of these three of my colleagues not only does the State of Mississippi lose but the entire Nation will also suffer a tremendous loss for their services has been great, far reaching and each has been a prime source of sound counsel.

BILL COLMER concludes more than 45-years service in public life, 38 of which has been as a Member of the House of Representatives. He ends his service, the beloved chairman of the Rules Committee, where he has rendered fine service, respected by all who have appeared before him whether in agreement or not.

TOM ABERNETHY completes more than 40 years' service in public office, coming to Congress 30 years ago after outstanding service as mayor of his town and as district attorney.

Throughout his service there and his service here TOM has justly earned a fine reputation for his energy, for his ability and for his fights for what he believes in.

Next to the top on the Committee on Agriculture he has been most effective in seeing that the consumer has food to consume by working for those laws which have made it possible for producers of food and fiber to stay in business. Truly TOM has realized and made others realize that the basis of our economy as well as our life are those who work the soil.

In CHARLIE GRIFFIN we lose a young man with 25 years service on Capitol Hill, 20 of which were as a Congressman's assistant where his work, his insight, his knowledge was of unlimited value to the entire delegation.

For 5 years CHARLIE has used that knowledge here in the House as an outstanding Member. He is a Member of the Banking and Currency Committee, a committee with a broad and complex jurisdiction, dealing with highly technical and frequently controversial questions. With all this I do not believe there is a Member who has been better informed, kept a better sense of values than has CHARLIE GRIFFIN. Truly we shall miss him.

Mr. Speaker, it is with genuine regret that my remaining colleague. G. L. "SONNY" MONTGOMERY and I come to this parting. As we do we must recognize the great part their lives have played in the success of our friends for truly Ruth Colmer, Alice Abernethy and Angie Griffin have been a great source of strength, and are entitled to recognition in their own right.

To each of our friends and their families we wish the best always and hope and trust that we will be able to continue our close association in the years ahead.

Mr. Speaker, I yield to my colleague, Hon. G. L. "SONNY" MONTGOMERY.

Mr. MONTGOMERY. Mr. Speaker, during the 6 years I have been in this body there has not been a time I have been any prouder to stand in this well to give praise to one of my colleagues than is the case today. I really feel inadequate to pay tribute to a man of WILLIAM MYERS COLMER'S stature. He is without equal in his dedication to duty and devotion to the people whom he has represented for the last 40 years.

During the spontaneous tribute to BILL COLMER this past Wednesday, I was sitting in the Chamber and thinking to myself that there was no person more deserving of the accolades which came his way. The common theme of all the remarks that afternoon was the fairness of Bill Colmer, and certainly there is no one in this body who has been more fair and aboveboard in dealing with his colleagues. He is the very epitome of a true gentleman.

During the last 6 years, Bill Colmer has provided me with immeasurable help and advice. There have been times that his words of encouragement made it all seem worthwhile. Especially during those trying moments when one tends to become quite frustrated, he would remind me that a man could have no greater calling than public service in the U.S. House of Representatives. He exemplified this philosophy since Bill Colmer's service in the Congress is not just a job to him, it is his whole life.

For the last 6 years he has been my dean as head of the Mississippi delegation. I might add that Bill Colmer will always be my dean for I shall continue to look to him for advice and counsel even though he will be entering the less hectic life of retirement beginning next January.

Mr. Speaker, there is no greater measure of a man than the praise of him uttered by those with whom he works the closest. Bill Colmer has received nothing but the highest of praise by his fellow members of the Rules Committee and the committee staff. When he is referred to as Mr. Chairman it is said with great reverence and respect and not just out of courtesy.

Fortunately for the people of Mississippi, Bill Colmer will not be leaving public service entirely when he retires. He has already accepted appointment to the Mississippi State Park Commission. In this capacity he will be able to continue his efforts on behalf of improved parks and recreational facilities for the people of his home State. I feel sure once he becomes resettled on his beloved Mississippi gulf coast he will be accepting many other calls to duty.

Mr. Speaker, in closing I would like to quote the prayer which is a favorite or Bill Colmer and expresses so well the feeling we in the House have for him:

May the road rise to meet you,
May the wind be always at your back,
May the sun shine warm upon your face,
May the rains fall softly upon your fields,
And until we meet again
May God hold you in the palm of his hand.

Mr. Speaker, I rise for the second time this afternoon to pay tribute to another Member of the Mississippi delegation who will be retiring at the end of the 92d Congress. For the last 30 years Thomas Gerstle Abernethy has been a perfect example of a public servant as he has given his all to the people of Mississippi.

I feel very fortunate to have become a close personal friend of Tom Abernethy for the last 6 years, as well as serve as his colleague in the Congress. We served together on the Agriculture Committee for the first 4 of these 6 years. I guess it was on the Agriculture Committee that I really became aware of his outstanding abilities. I hope the farmers of America realize what a true friend they will be losing when Tom retires. He is largely responsible for the major farm legislation passed by the Congress, especially legislation dealing with cotton.

In Mississippi and the U.S. Congress Tom Abernethy is known as one of the best extemporaneous speakers there is. He is never at a loss for words, and even more importantly, what he says has meaning and validity. He is also one of the best campaigners in the history of Mississippi politics. It was indeed a rare feat when he defeated the late John Rankin.

Mr. Speaker, as we all know, Tom is never one to mince words. He always lets you know exactly where he stands and sometimes in no uncertain terms. I guess this is one of the reasons I admire him so much. I have a much greater appreciation for a man who will stand up and be counted.

Another hallmark of Tom Abernethy's career was the manner in which he serviced his constituents. I now represent some of the counties in Mississippi which used to be in Tom's district. There is no doubt that anyone who has ever been represented by Tom has a deep and abiding love for him. He is always ready and willing to listen to any problems anyone might have with the Federal Government. But he did more than just listen. He would immediately go to bat for his people and work until the problem has been solved.

Next January will find Tom and his lovely wife, Alice, splitting their time between Okolona and Jackson, Miss. Tom will be practicing a little law, spending some time with his children and grandchildren, whom he loves so dearly, and, oh yes, he will also be playing a little golf.

I will sorely miss having Tom Abernethy as a confidant and friend in the U.S. Congress. But I know he will only be a phone call away if I ever need him for advice and counsel.

Mr. Speaker, once again I rise to sing the praises of another retiring member of the Mississippi delegation. More than any other member of the Mississippi delegation, I guess I feel a closer affinity with Charles Hudson Griffin since we both came to Congress about the same time and both of us are graduates of Mississippi State University.

It has been said oftentime in Mississippi that Charlie Griffin was better prepared to serve in the U.S. House of Representatives than anyone Mississippi has sent to Congress. He is one of the few members of this body who truly worked his way up through the ranks.

When Charlie first came to Washington in 1949, he worked in the Post Office under the patronage of former Congressman and Governor John Bell Williams for a brief period. Following that he joined Williams' congressional staff and soon became his administrative assistant. When his boss successfully sought the governorship of Mississippi, Charlie very successful sought the Third Congressional District of Mississippi. I think his constituents were very wise in electing a man of Charlie's wide experience and vast knowledge. Since he was no stranger to Capitol Hill, Charlie was able to plunge right into the job of being a Congressman and has done an outstanding job in this capacity for the last 5 years.

I think Charlie's abilities are attested to by the fact that the House leadership immediately chose him for membership on the important Banking and Currency Committee and soon followed this with appointment to the Merchant Marine and Fisheries Committee.

One of Charlie's many accomplishments as a Congressman and the one of which he is probably proudest is his bill to provide for the restoration and public display of the Federal gunboat *Cairo*. He was the driving force behind the efforts to preserve this important artifact of Americana.

When Charles Griffin walks out of his Longworth office for the last time, he will return to his newly purchased home in Jackson from which he will commute to his family's farm in Utica—his birthplace. Somehow I cannot picture Charlie as a farmer, but I know he will do a good job because that is the kind of man he is.

We will all miss having Charlie in the future to give us direction in our deliberations. By an equal amount we will miss his lovely wife, Angie, who has been an inspiration to her husband and has really been an inspiration to all the Members of the Mississippi delegation.

I am proud to say that I have had the privilege of serving in the U.S. House of Representatives with Charlie Griffin.

Mr. BEVILL. Mr. Speaker, it is a pleasure to take part in the tributes paid today here in the House of Representatives to my good friend and colleague, Bill Colmer.

Bill is the third-ranking Member in seniority of this body and as chairman of the Rules Committee is one of the two or three most influential Members of the House of Representatives. He started his career serving the people of this great country as a regimental sergeant major in World War I and shortly thereafter filled the responsible positions of county attorney and later district attorney until his election to the 72d Congress in 1933. He has held a seat in the Congress longer than any other person in the history of Mississippi.

Bill's years here in the Congress have spanned war, peace, depression, and prosperity. His wise leadership in determining the legislative proposals and the rules under which they will be considered here in the House of Representatives will long be a guide to those who succeed him. I wish Bill and his wife and family the best during his well-earned retirement.

Mr. SIKES. Mr. Speaker, I am very happy to join my colleagues in an expression of warm and sincere esteem to our great and good friend, Bill Colmer. His career in the U.S. Congress during these past 40 years warrants warm recognition and deep appreciation of all Americans. His service to his district, State, and Nation has indeed been outstanding and I congratulate him most highly on his great record.

Bill Colmer has been a devoted, patriotic, and able representative of the people of Mississippi. His record has been one of achievement and fidelity to duty. Those of us who have had the privilege of sharing his friendship have learned to admire and respect his virtues. Bill has earned the respect of Members on both sides of the political aisle and his personal example has provided for all of us here, and those who will come after, an inspiring, patriotic service for which our Nation is indeed indebted to him. He has been an effective legislator, zealous in his service to committee and Congress alike. It has been my very good fortune to work closely with Bill, and I am indeed grateful for the friendship which we have shared.

Again, I heartily congratulate Bill on his great record of service and wish for him and his family good health, happiness, and peace for many years to come.

Mr. BURLESON of Texas. Mr. Speaker, the departure from the House of Representatives of William M. Colmer is a loss to the Congress, to the Nation, and to his State of Mississippi and its fifth district. As much as I regret to see him leave, no one could be more deserving of the rest and freedom that shall surely come to him in retirement. Bill has as great a record of public service as any man could want. During his 40 years in the Congress, and in positions of heavy responsibility he has shown wisdom, leadership, and resolution such as few men possess. He has given younger generations an example of public service at its best. He has acquired friendships that will be lasting and memories that will be priceless.

Ruth and I wish for Bill and his wife Ruth years of good health and happiness as they embark upon this new adventure of retirement.

Mr. POAGE. Mr. Speaker, of all the Members of the House in this, the 92d Congress, only five were already here when I took oath of office of January 3, 1937. One of those five was the Honorable William M. Colmer of Mississippi, who had taken his seat 4 years earlier.

Therefore, his retirement will create a real void so far as I am concerned when we returned here in January. Of course he will be missed greatly also by the newer as well as the older Members, for as chairman of the Rules Committee he has influenced the legislative career of every man and woman in this body. His positions have not always suited everyone, but I think there can be no question but that his sound and deliberate judgments have had a stabilizing and salutary effect on the actions of the House. We will miss him. We wish him happiness as he begins this new role in a long and successful life.

Mr. MONAGAN. Mr. Speaker, I am pleased to join all Members in paying tribute to my good friend and colleague, William M. Colmer, dean of the Mississippi delegation. His retirement marks the departure of a valuable and dedicated Member who has served his constituents and the Nation for 40 years in the Congress.

Consistently reelected since the 72d Congress, Bill Colmer is presently the third ranking Member in the House and Senate in terms of seniority. He has served with distinction as a member of the House Rules Committee since 1939 and as its chairman for the past 5 years.

Since his first appointment in 1942, Congressman Colmer has consistently served as a member of the National Forest Reservation Commission. He was chairman of the Special Committee on Post-War Economic Policy and Planning during and after World War II and guided that committee in the planning of the conversion of the Nation from a war time to peace time economy.

Bill Colmer's accomplishment have been well documented and his record of awards is impressive. He is the recipient of the George Washington Good Government Society Award, the Americans for Constitutional Government Award, the Freedom Award from the Order of Lafayette, Watchdog of the Treasury Award from the National Association of Businessmen, and the Man of the Year Award from both the Mississippi Broadcasters Association and the American Legion.

I personally shall miss Bill Colmer and I hope that he will have a happy and fulfilling retirement.

Mr. BLATNIK. Mr. Speaker, it is a distinct personal privilege for me to express my heartfelt appreciation for the warm fellowship and effective leadership which Bill Colmer has provided to the House of Representatives and to the Rules Committee during his full two score years of distinguished service.

During his tenure as chairman of the Rules Committee I have had many occasions to go before him, and each time I was treated fairly and with the utmost courtesy.

The committee, the Congress and the Nation have immeasurably benefited from Bill's outstanding legislative accomplishments. There is surely no one more skilled in legislative strategy and rules of the House than he—and his example will remain with us.

Bill, I wish you the very best in all your future endeavors as you return to your home State of Mississippi.

Mr. GRIFFIN. Mr. Speaker, in acknowledging the service and contributions of William Colmer to his State and Nation, I shall resist the temptation to indulge in the usual superlative cliches. They would simply be insufficient.

Bill Colmer came to Washington in 1933 with Franklin Roosevelt as the new President. He came from an already distinguished career as an attorney, county attorney, and district attorney, in Jackson County, Miss. From the first day he set foot in the House of Representatives as a freshman Member, his record has been marked with political and personal integrity.

He has served longer in the Congress than any other Representative in the history of Mississippi.

Following World War II, Bill Colmer was selected to head the Postwar Economic Policy and Planning Committee with the purpose of heading up the conversion of the Nation from a wartime to a peacetime economy. The committee was brilliantly successful in its goal and in its international role which involved personal contact with such great leaders as Winston Churchill and Joseph Stalin. Portentously, the committee's final report predicted with chilling accuracy the coming cold war.

The preservation of constitutional government has been the guiding principle in Bill Colmer's career and his eloquent advocacy of these ideals has distinguished many historic debates.

In 1967, Bill Colmer assumed the chairmanship of the House Rules Committee. Under his stewardship, the committee has handled all the major legislation of our time. Not all of the battles were won, Mr. Speaker, but he was as magnanimous in defeat as he was in victory. Through it all he remained a gentleman. His consideration and courtesy toward those espousing opposing points of view are recognized by all the House membership.

I have considered it a high personal privilege to serve with William Colmer, and have benefited from his friendship and counsel. He has given generously of his time to me when I sought advice, and I shall miss our association in this body.

He and Mrs. Colmer deserve a rest from the travails of Washington. I wish them both a full measure of happiness and peace.

Mr. MORGAN. Mr. Speaker, I am pleased to join the host of friends of Bill Colmer in paying tribute to him for his outstanding service to his constituents, to his State, and to our country.

Bill's 40 years of congressional service cover some of the most momentous years in our national history. Depressions and recoveries, wars and peace coincided with the period of his service. Each of these has called for congressional responses. When the legislative history of those years is written, the name of Bill Colmer will appear very frequently.

Younger Members may not know that Bill Colmer was chairman of the Special Committee on Post-War Economic Policy and Planning which did pioneer work in the years 1944 to 1946 on the anticipated changes in economic relationships, both at home and abroad, arising from the war. During the 80th Congress, Bill Colmer served with me on the Committee on Foreign Affairs. It was during that short period of service on my committee that I came to recognize his solid qualities. My friendship and respect for him has in no way diminished as he moved up in seniority on the Committee on Rules. Each year, I have appeared before his committee. Such differences as we may have had on the merits of the measures I was presenting to his committee were never reflected in his treatment of me as a witness. He was unfailingly courteous and penetrating in his questioning. Above all, he retained the gentle humor which has been one of his outstanding traits.

Mr. Speaker, I do not know what Bill Colmer's plans for the future are. But, he should know that I, as well as his many colleagues in this body, not only wish him well but hope that his common sense will continue to be available to his country.

Mr. WAGGONNER. Mr. Speaker, I wish to join with my colleagues in paying tribute today to my close and genuine friend from the State of Mississippi, the esteemed and respected chairman of the Rules Committee, BILL COLMER.

As a fellow Southerner from a neighboring State, I have had the distinct pleasure of serving with and working with the chairman for 11 years. And during that time BILL COLMER has always shown me to be a truly dedicated American who has maintained an unabiding faith in his country and the American people. Never have I known him to waiver from his principles, yet he has been tireless in his efforts to preserve and support our constitutional form of government whatever the cost. He has been an outspoken leader in the Congress of all that is good about America and our way of life—things which he has felt should be preserved. BILL COLMER has always been deeply concerned about our national defense and the need to maintain a strong one. He is an outstanding patriot and has been an extremely able and devoted representative of his district, his State and the Nation. He has done so without ever sacrificing principle and always in the manner of a Southern gentleman which he is in the truest sense of the word.

I want to express my personal best wishes to BILL COLMER for the future; he deserves the rest for which he now yearns after 40 years of service to his country. We will miss BILL COLMER's abilities, his wisdom and his leadership, but more than this, we will miss BILL COLMER's example. I will personally miss our cherished friendship. The Nation owes BILL COLMER—a great American—a debt of gratitude which it could never adequately repay.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join my colleagues in honoring BILL COLMER who will be retiring at the close of the current session of the Congress. He has served his constituents and Nation in an outstanding fashion.

BILL has been one of the giants of the House of Representatives during the period in which I have served. As chairman of the Rules Committee, he has earned the respect for his parliamentary skill, and for the political philosophy which he so courageously followed. He will long be remembered by us, and I wish him well.

Mr. DELANEY. Mr. Speaker, the voluntary retirement of the exceptionally able and distinguished gentleman from Mississippi, the Honorable WILLIAM M. COLMER, will leave a void in this House that will be difficult if not impossible to fill.

It has been my good fortune to have known and served with BILL COLMER in Congress for a great many years. He is a man of the highest integrity, deeply patriotic, and profoundly dedicated to the best interests of this Nation. While I and others have disagreed with him on a number of occasions, I believe the overwhelming majority have always yielded to his sincerity of purpose.

Having sat close to BILL over the years in the Committee on Rules, I greatly respected his broad knowledge of parliamentary procedure, and his unique ability to go directly to the heart of a complex problem. As Chairman of the Committee, he carried out his responsibilities conscientiously, and with scrupulous fairness to all.

BILL COLMER is a strong and rugged individualist, and often in debate he would use his dry wit and stories of the backwoods to humorously and effectively illustrate his points.

Men of his stature and dignity are vital to the strength of our form of government, and I have always valued his many useful suggestions and wise counsel.

It is my hope that he will have a thoroughly enjoyable retirement, and that through the coming years he will return often to share his wisdom with us.

Mr. HULL. Mr. Speaker, it is an honor to pay tribute to Congressman WILLIAM M. COLMER, one of the most dedicated men to have worked on Capitol Hill. Of all his distinguished qualities, I shall never forget his unfailing devotion to duty and his willingness to assist a colleague whenever called upon. The people of Mississippi and the entire Nation join to salute your many accomplishments and to say, "Thank you," for all the many services you performed.

Mr. FISHER. Mr. Speaker, I join with my colleagues in honoring our distinguished chairman of the Rules Committee, BILL COLMER, who is voluntarily retiring from the Congress at the end of this year. It would be most difficult to overstate the case in BILL's behalf. His great record of service and leadership has been widely recognized for many years. It is written into the records of the House of Representatives and will become a part of the history of this age in which we live.

There is no point in repeating what has been said. BILL COLMER is and has always been a statesman. His devotion to the cause of good government is well known. His courage and willingness to join the battle for worthy causes are well known. When duty has called BILL COLMER has never faltered. I admire him very much.

In addition, BILL has been to me a valued friend. Those of us who return to the next Congress will miss him very much. It will be a distinct loss to the country. To BILL and Mrs. Colmer I extend my very best wishes.

Mr. RARICK. Mr. Speaker, it is a privilege and an honor to participate in this special order honoring the retiring members of the Mississippi delegation.

The distinguished chairman of the House Rules Committee and dean of the Mississippi delegation, the Honorable WILLIAM COLMER, has an enviable record of long and dedicated service in the House. As chairman of the House Rules Committee, Mr. BILL is one of the most powerful members, yet he has never forgotten the American people and has never used his power in a way that was not in the best interests of his State and Nation.

BILL COLMER is an asset to the American people; he represents all that they hold true and dear. His has been a steadying and guiding hand which I personally have felt during my career in Congress. Words are not sufficient to express my gratitude to him; I can only say thanks for what he has done for me and for what he has done for the American people. It is fitting that this House pause to express the thanks of a grateful Nation for his dedicated service.

I must also extend my thanks to the Honorable TOM ABERNETHY for his friendship and his advice and counsel. It has been my pleasure to serve with TOM on the House Agriculture Committee, where I have seen first hand his outstanding ability as a legislator. The personal warmth and kindness, the human understanding, which TOM ABERNETHY uses in his work in the Congress is seldom found in men and sets him apart and distinguishes him. His life represents the best qualities of Mississippi and the South. He has been a true representative of his people and has dedicated his life and work—both in and outside of the Congress—to them and their best interests. It will be difficult, if not impossible, to replace him. He will be sorely missed.

The third retiring Member of the Mississippi delegation, the Honorable CHARLES GRIFFIN, is a neighbor as his district borders on mine. I have known and respected CHARLIE GRIFFIN for many years, first as administrative assistant to our colleague John Bell Williams, and later when he became a Member in his own right.

CHARLIE GRIFFIN is a capable man, a good legislator, one who truly represents his people. He has been a good friend of the people of Louisiana through his service on the Committee on Merchant Marine and Fisheries. He will be missed.

Mrs. Rarick and I join with the people of the Sixth District in wishing the best of health and happiness to each of these distinguished Members of the Mississippi delegation as they return home to the State and people they love.

Mr. LENNON. Mr. Speaker, our distinguished chairman of the Rules Committee, BILL COLMER, is worthy of our highest accolade as he retires from 40 years of service to his constituency and to his Nation.

No member of this House had had a more demanding and vital position in his legislative assignment. BILL COLMER has executed his duties conscientiously and ably. He has exercised his decisions after evaluating the issues in wisdom, integrity, and the overriding interest of our national welfare.

I have long admired BILL's leadership and significant contributions as a dedicated legislator. To have had the benefit of his counsel and friendship will ever be a fond memory of my years in the Congress.

BILL, I am proud to salute your outstanding record. I truly wish for you a retirement of deserved relaxation and every happiness.

Mr. RUTH. Mr. Speaker, with Mr. COLMER I have been on both sides of issues. Believe me, I like it better when we are on the same side. From this capable, conscientious statesman I have learned a great deal about the legislative process. Every association has led me to admire and respect more this chairman of the Rules Committee. Both Congress and the people of the United States will miss Congressman WILLIAM COLMER.

Mr. FLOWERS. Mr. Speaker, there never have been enough BILL COLMERS in the world and likewise in the U.S. Congress. To say that we will miss him here is perhaps the greatest of all understatements. The entire Nation and all of our citizens will miss him in this House, although some undoubtedly will never realize it.

From the beginning of my time here, his friendship and wise counsel have meant more than I can ever say. His unique sense of humor has sparked many a long day and night on this floor. His richly deserved reputation for integrity and excellence in all of the legislative skills gives us all the highest of standards to work toward.

My wife, who comes from the Mississippi coast and who still considers BILL COLMER "her Congressman," joins me in extending our very good wish for the future to this great American and his family.

Mr. WHALLEY. Mr. Speaker, it has been observed, down through the ages, that the older we get, the more rapidly does not only our hairline, but time itself, seem to move and recede into the past. Now, I would be the last to suggest I have seen any visible changes in our own hairlines—but, I must admit, it is hard to realize just how many years it has been since my good friend and colleague, Congressman WILLIAM M. COLMER, first came to Capitol Hill.

Can it really be 40-some years ago that BILL arrived as a freshman Representative from Mississippi? Is it possible that three wars, six Presidents, and seemingly countless of our colleagues in the House have moved along the swiftly moving stream of time?

Yes, the years have indeed passed by—and with their passing, the world itself has changed. But the dedication and determination of BILL COLMER has remained unchanged in the face of a rapidly changing and sometimes confusing world.

BILL COLMER will be leaving Congress at the end of this session to return to his home in Mississippi to enjoy a much deserved rest. He will certainly be missed.

BILL COLMER's years of dedicated service in the House—a very important portion of it as chairman of the prestigious Rules Committee—has been a position in which his strength of character, coupled with his truly vast and impressive knowledge of parliamentary and legislative procedure, has proved to be a stabilizing source of wisdom through a trying period of change. BILL has demonstrated in his work the principles of prudent expenditures and sound government, and has been an inspiration to those of us who share these principles.

BILL COLMER's chair will be difficult to fill. But if any man in Congress has earned his retirement, BILL has. We wish for BILL all the best in the years ahead—health, happiness, and peace.

Mr. LENT. Mr. Speaker, it is with deep regret that I join with my colleagues in noting the impending retirement of our distinguished colleague from Mississippi's Fifth District and chairman of the Rules Committee, the Honorable WILLIAM M. COLMER.

Chairman COLMER has served in Congress under five Presidents and in 20 Congresses, and has done so with a measure of distinction which has been matched by few Members in the history of this body. The chairman of the Committee on Rules has always been subject to a great deal of criticism, because of the control he has over the legislation coming to the floor for consideration. However, in my short tenure in Congress, it has been my impression, and I am certain that it is shared by the vast majority of my colleagues, that BILL COLMER has acted with honesty and integrity on all matters coming before his committee.

I know that when he leaves this body his services will be sorely missed by the House of Representatives and by his many friends and constituents.

I would like to take this opportunity to offer Chairman COLMER my best wishes for a long, happy, and healthy retirement.

Mr. ICHORD. Mr. Speaker, I wish to join in this testimonial to a truly great American and outstanding Member of this House of Representatives who has so regrettably announced his plans for retirement—the distinguished and inimitable chairman of our Rules Committee, the Honorable WILLIAM M. COLMER.

Frankly, few men have made an equal contribution to the deliberations of the House of Representatives in the history of our Nation. All America owes him a debt of gratitude for the work he has performed. All the world knows that it was he who chaired the Special House Committee on Postwar Economic Policy and Planning after World War II had left most of Europe and much of Asia devastated and destitute. And I am certain that the citizens of Mississippi, especially, will feel the loss of his wisdom and statesmanship in the high councils of the Congress.

His has been a steady and masterful hand on the helmsman's wheel in the Committee on Rules, and he deserves our unreserved thanks for much of the good legislation which has been enacted over the past 40 years of his service and for much of the bad legislation which has—fortunately—been buried. We must remember that it is the responsibility of a Congress to defeat bad legislation as well as to pass good legislation. Through his long years of work in the House, BILL COLMER has established new, high standards for integrity and excellence. His place and role in the history of Congress have been permanently engraved.

Speaking rather personally, Mr. Speaker, I must say that the help this great gentleman from the South has given me since I was first elected to this House has been immeasurable. His understanding and gracious consideration together with his sage counsel have aided me over many a difficult hurdle.

I hope he will find it convenient in his retirement years to visit Washington often to lend us the benefit of his advice and the warmth of his friendship. May his retirement be a happy one. God bless and Godspeed, BILL COLMER. We hate to see you leave. Our country has most assuredly been made a better place in which to live by reason of your great and distinguished service in this body.

Mr. ANDERSON of Tennessee. Mr. Speaker, it is with deep regret and a sense of personal loss that I view the prospect of the retirement from the House of Representatives of Chairman WILLIAM M. COLMER of the House Rules Committee.

Having worked under his guidance in the Rules Committee for the last 6 years, I have learned a great deal about the workings of the greatest legislative body in the world. I wish that all Members of Congress could have the opportunity of serving on this important committee under the tutelage of such an experienced and dedicated public servant as the Representative from Mississippi.

I want to take this opportunity to publicly thank the chairman for the many courtesies and kindnesses he has extended to all the members of his committee, and to me personally, and to wish him only continued success in the years ahead.

I envy our esteemed colleague's return to the garden State of Mississippi on his retirement, but I know him well enough to believe that his retirement will be full of activity, and I hope that he will return often to Washington to share his wisdom and counsel with his former colleagues in the Capitol. The people of the United States will benefit from his advice.

My door will always be open to my former committee chairman, my friend and colleague, Mr. COLMER. I hope he uses it often.

Mr. McMILLAN. Mr. Speaker, the House of Representatives and the people of the United States have suffered a great loss in Congressman COLMER's decision to retire from the House and as chairman of the Rules Committee. I do not know of any man who has a more brilliant record while serving a brief time as chairman of the powerful Rules Committee.

The State of Mississippi and the entire country have suffered a tremendous loss by his decision to retire. However, his record of service in the Congress will distinguish him as one of the most dedicated and brilliant men in our country.

Mr. QUILLEN. Mr. Speaker, the retirement of the Honorable WILLIAM M. COLMER will leave a void in Congress which will be all but impossible to fill. Throughout his outstanding career in the House of Representatives, his voice has been loud and clear for the benefit of all Americans, with the love of our Constitution and our flag always in the forefront.

WILLIAM COLMER has achieved a great record in Congress. He has put America above every other consideration and has constantly fought to preserve the principles of our Founding Fathers. He is an able, hard-working man who has fulfilled, with great distinction, the duties of his office.

It has been my privilege to serve on the House Rules Committee with WILLIAM COLMER, and we will most surely miss the chairman's voice and his wise counsel.

His retirement from this Chamber leaves Congress enriched by his contributions, and I know he will continue his great work as a private citizen.

I am happy to join my colleagues in wishing him a long, healthy, and happy retirement.

Mr. BIAGGI. Mr. Speaker, it gives me great pleasure to pay tribute here today to a great colleague and fine gentleman from Mississippi, Mr. Colmer. I have a good feeling for him in many ways, but one in particular.

The chairman of the Rules Committee is oftentimes referred to as the Chief Cop in Congress. He regulates the flow of bills to the floor in the same way a policeman directs the flow of traffic on a crowded street. As a 23-year veteran on the New York Police Force, I felt a distant kinship to this different breed of cop.

His was the difficult job of managing the activity of Congress to assure that the time used for debate would be well-spent and fruitful. His sometimes-criticized decisions were nevertheless respected and followed.

His is the charm of the Old South. His personality and wit pleases friend and foe alike, but his parliamentary skill and oratorical acumen were matchless. He would overcome you in a debate and charm you at the same time.

He brought with him to Congress, a Populist's fervor to represent the peoples' wishes in Congress, to solve their problems. He leaves Congress as the champion of his people, a true representative of his district, and a skillful problem-solver.

His expertise will be keenly missed here in Congress. Our best wishes for health and happiness go out to him in his retirement.

Mr. MAHON. Mr. Speaker, I am delighted to join with my colleagues in commemorating the service in the House of Representatives of the disinguished gentleman from Mississippi, Thomas G. Abernethy. Through the years, Tom Abernethy has performed a great service to the Congress and the Nation by his dedicated work on the great Committee on Agriculture. He has been a staunch friend of cotton and a powerful advocate in behalf of the farmer. A credit to his district and to this State, he has been a rugged defender of American ideals in every sense.

Others have made detailed reference to the distinguished service of Tom Abernethy, and I shall not repeat what has already been said. I think of Tom Abernethy as a stalwart, strong man who has been a credit to Mississippi and to the Nation throughout the years of his service here. He has been among the strong men of the House. He has reflected credit upon our legislature body.

I think of Tom Abernethy as my friend and as a friend of the people I represent. Many of the people I represent have, throughout the years, called upon Tom Abernethy for assistance and guidance; and he has always sought to be responsive and helpful.

Tom, I wish to salute you and wish you every success and happiness in your future undertakings. I know you will continue to be busy in the service of your fellow man.

Mr. GRIFFIN. Mr. Speaker, the people of Mississippi and the Congress are losing a most able and respected legislator with the retirement of Congressman Tom Abernethy.

Tom Abernethy came to Congress in 1943 and now departs leaving an outstanding record of achievement.

As a member of the Committee on Agriculture, Tom Abernethy has devoted much of his time and efforts to the cause of agriculture and the American farmer. He has rendered extraordinary service to the farmers, consumers, and rural citizens of our Nation. Certainly his devotion and dedication have not gone unnoticed by the people of America who he has so ably served.

The State of Mississippi has benefited greatly from his many years of service. His concern and hard work as chairman of the Cotton Subcommittee has meant much not only to the many cotton farmers of Mississippi but to the cotton industry as a whole.

As a ranking member of the House District Committee, Tom Abernethy has worked untiringly at the task of making the Nation's Capital a better place to live and work.

I have known Tom Abernethy as a member of the Mississippi delegation for many years and I know he is a man of fairness, concern, and understanding. He is the type of legislator that commands the respect of his fellow Members and the admiration of the people he serves. I have often sought his advice and guidance and have always found him willing and helpful. It has indeed been a privilege and a pleasure to have known and worked with such a gentleman as Tom Abernethy.

Thomas G. Abernethy leaves Congress to return home to the people of Mississippi who have come to know and appreciate his representation and service for them these many years in the Congress. I know the people of his District, his State, and the Congress will miss his service. But I know they welcome a great Mississippian home.

Mr. WAGGONNER. Mr. Speaker, I am, of course, happy to be able to pay tribute to my good friend and fellow colleague from the State of Mississippi, Tom Abernethy, but at the same I cannot help but be sad that he is leaving us.

I have had the great pleasure of working with and serving with Tom Abernethy for 11 of the 30 years he has served in the House, and I know him to be a gentleman from the old school, a dedicated and patriotic American whom I will keenly miss personally. Tom Abernethy has been an able legislator and a devoted and conscientious citizen, who has always placed his country and his people above any possible reward or personal gain.

As the third ranking member of the Agriculture Committee, Tom Abernethy's representation of his District and State is unsurpassed; and I know of no other Member of Congress who has worked longer or harder in performing every possible service and task for any constituent in his district, whenever called upon, than Tom Abernethy.

I can think of no greater tribute that a Member of Congress can receive than for his fellow colleagues to say that he was a good man. And Tom, you are a good man. My personal best wishes for the future.

Mr. ICHORD. Mr. Speaker, I rise to express my sincere regret that yet another of our distinguished colleagues who has chosen to retire after this 92d Congress is the fine gentleman from Mississippi, Thomas G. Abernethy.

His has been a remarkable career as an attorney, prosecutor, president of the Lower Mississippi Valley Flood Control Association and lawmaker in this House of Representatives.

His chairmanship of the Agriculture Subcommittee on Cotton has won well-earned acclaim for the astuteness with which Tom Abernethy handles the complex questions that are continually arising with respect to that commodity. He is unquestionably one of the foremost agricultural experts in America today and the farm families of this Nation will sorely miss his presence on Capitol Hill. By the same token, his wise counsel and expertise will be missed on the floor of this House. We hold him in high esteem.

I hope, Mr. Speaker, that Congressman Abernethy will journey back to these old haunts frequently when his retirement becomes effective. We need the benefit of his sagacity, as well as his company. May the years that lie ahead for Tom Abernethy be both happy and rewarding.

Mr. LENT. Mr. Speaker, I would like to join with my colleagues in expressing the affection which all of us feel toward our distinguished colleague from the First District of Mississippi, the Honorable Thomas Abernethy.

Although I have been a colleague of Thomas Abernethy's here in Congress for 2 short years, I am well acquainted with the high esteem in which he is held by his colleagues in the House and by his constituents at home.

It is indeed unfortunate that this body must lose someone who has given it 30 years of dedicated service, but I would like to take this opportunity to wish Thomas Abernethy many years of health and happiness in his retirement.

Mr. WHALLEY. Mr. Speaker, nearly 30 years ago, the wise and good people of Mississippi sent to Washington a man who has exemplified prudence and dedication in Government, whose knowledge and good judgment has earned for him the respect and admiration of not only his colleagues, but the Nation as well. That man is Congressman Thomas G. Abernethy.

Tom has decided not to seek reelection to the 93d Congress. We view this fact with mixed emotions.

Tom has certainly earned the chance to return to his native Mississippi and engage in those activities in which he finds pleasure and relaxation. It will be a much deserved rest.

But his State and our Nation will miss the services of this accomplished legislator. Tom's grasp of issues and his insight into the affairs of, not only Mississippi, but the entire Nation, is an inspiration to all of us who admire and respect this dedicated servant of the people.

Tom's unselfish contributions to the Committees on Agriculture and the District of Columbia will long be remembered. His guidance and encouragement have proved to be a source of strength to many.

Everything that Tom Abernethy does

he does with honor and valor in a manner reflecting credit on himself and his constituents.

For the years ahead, I wish Tom and his fine family all the best. May he find peace and happiness, for that which he has sought over the years, he truly deserves to find.

Mr. LENNON. Mr. Speaker, the State of Mississippi is losing three of her outstanding sons in retirement at the close of this session. Our esteemed colleague, Tom Abernethy, is among them.

Tom has distinguished himself as a member of the Committee on Agriculture. He knows the needs and importance of the farming communities, and he has exercised this wisdom in the total interest of our Nation's agricultural development and economy.

I am happy to join in extending to a dedicated and articulate legislator and personal friend the praise he so eminently deserves for his effective and impressive service.

As you return to Mississippi, Tom, I wish for you a retirement that will be pleasant in every way.

Mr. FLOWERS. Mr. Speaker, it is a pleasure for me to join my colleagues in tribute to Tom Abernethy on the occasion of his retirement from this House. Over a long period of years, he has served his State and his Nation well, and he will be sorely missed. Tom attended the University of Alabama in my hometown of Tuscaloosa and our districts adjoin each other, so I have always felt a special connection with him.

His reasonable and conservative voice has been of immense value in the Congress. Attempting to fill his shoes will be a large order for his successor in office.

I certainly want to wish for Tom Abernethy every happiness in the future.

Mr. RUTH. Mr. Speaker, a freshman soon learns the dependable Members of the House who are also willing to lend a helping hand. Tom Abernethy attained this stature long before I was elected and I appreciated his kindness to me. I am very pleased to join with the colleagues in paying tribute to his outstanding services in Congress. His is one of the most distinguished careers and his service has not only benefited the great State of Mississippi but the entire Nation.

Mr. BURLESON of Texas. Mr. Speaker, as my good friend Thomas G. Abernethy makes his dèparture from the House of Representatives I join with his many colleagues and admirers in paying tribute to his great service in the Congress. For 30 years without interruption he has represented his District, and has done so in a manner that few if any could equal. He has acquired an unusual number of friendships because he is the kind of man that people want as friends, and not because of the influential positions he has attained in the House. His sound counseling and leadership will be missed.

As much as I regret to see Tom leave, no one could be more deserving of the relaxation and escape from the routine that his retirement will surely afford.

Ruth and I wish for Tom and Alice a future of pleasure and good health and hope our paths will be crossing frequently in the years ahead.

Mr. FISHER. Mr. Speaker, Tom Abernethy, as we all know, has throughout his tenure here been a most effective Member of this body. He has always put the welfare of the country ahead of petty partisan politics. This Nation would be much better off today had his policies and his views on legislative matters prevailed. His shoes will not be easy to fill.

Tom came to Congress when I did. He has been my personal friend ever since then. I respect him very much and I appreciate as much as anyone could his vast contribution to the preservation of the Constitution, our traditions, and our priceless institutions. His record here speaks for itself.

To Tom and his family I extend my best wishes.

Mr. HULL. Mr. Speaker, his decision not to seek reelection imparts a sense of loss to the good people of Mississippi, the Congress, and the Nation. The years of outstanding public service Thomas G. Abernethy has faithfully given his country stands as a symbol for all to admire and respect. It has been my honor to serve in the Congress with him and to have considered him a friend.

Mr. DERWINSKI. Mr. Speaker, it is a privilege to join so many of my colleagues in saluting Tom Abernethy on his retirement from an outstanding career as a Member of Congress. Tom's loyalty to principles and dedication to the interests of his constituents have earned him the respect of all those Members who have known him well.

Tom has been a very effective Member both in committee and in general legislative work. He has been an outstanding leader in the great tradition of Southern legislators, and has set the highest standard of public service throughout his career.

Mr. MORGAN. Mr. Speaker, it is with genuine regret that I learned of the retirement of Tom Abernethy of Mississippi. For that reason I feel privileged to join with Tom's many friends in the House to pay a measure of tribute to him for his long and distinguished service.

Tom's service exceeds mine by only 2 years. When I came the country was in the midst of the greatest war in modern times. Tom and I, although we served on different committees and came from different parts of the country, joined with the other Members in this body to do everything we thought was right and proper to assure victory in this great struggle. It was in those early years that I came to recognize his qualities of mind and character that have marked him as one of the outstanding legislators in the House.

I only hope, Tom, that when you leave the Congress you will always remember that you have a host of friends still here. And that they, in turn, may call on you for counsel and advice on the difficult problems that come before us.

Mr. BLATNIK. Mr. Speaker, nothing could please me more than this opportunity to publicly and personally pay my respects to my honored colleague Tom Abernethy, a distinguished statesman and good friend.

Throughout his 30 years in Congress Tom has served his people, the Congress, and the Nation with courage and distinction. He leaves with us a record of legislative accomplishment and personal example which we all will treasure.

Tom, I certainly wish you well in the accomplishment of your dreams and hopes, and know that the coming years will be a rich reward for the services you have rendered your country.

Mr. POAGE. Mr. Speaker, I want to take this opportunity to pay tribute to one of the outstanding Members of the House, the Honorable Tom Abernethy, of Mississippi, who is retiring after 30 years in this body.

We on the Committee on Agriculture especially will miss him, for he has served faithfully and well on our committee for 28 years. He has served ably as chairman of the Cotton subcommittee for many years, and there is no one who is more knowledgeable regarding that commodity nor who has worked more diligently toward enactment of legislation designed to improve the welfare of cotton farmers.

Tom Abernethy has been my close personal friend for a long, long time, and I am grateful for this association, both in and out of the Halls of Congress. As he leaves the Washington scene we wish him and his good wife continued success and happiness as they return home to be nearer their children and grandchildren.

Mr. SIKES. Mr. Speaker, I am pleased, indeed, to join my colleagues in paying a deserved tribute to Representative Tom Abernethy who will be leaving the House of Representatives at the end of this session after 30 years of dedicated and capable service.

Congressman Abernethy has distinguished himself as a man of integrity and tremendous ability, and has been a true asset to the Congress, to his State, and to the Nation. He has been an outstanding leader and a most effective legislator, keenly aware of contemporary problems and ever zealous in pursuing viable solutions for them in the interest of the American people. The people of his district, the First District of Mississippi, have been fortunate to have such a fine, distinguished, gifted gentleman and such an effective, sound, wise, and humane representative serving them in the Hall of Congress.

He has made valuable contributions to the Agriculture and District of Columbia Committees where he demonstrated time and time again his able and forceful manner as a legislator and a leader.

It has been a privilege and an honor for me to serve with Tom Abernethy and I want to heartily congratulate him upon his many years of dedicated service. In particular do I appreciate the friendship we have shared. We shall miss him and his family, and wish for them all the good luck, success, and happiness as he enters a richly deserved retirement from public service.

Mr. LANDGREBE. Mr. Speaker, it has been my great privilege and pleasure to serve on the District of Columbia Committee for the past 3 years with Tom Abernethy.

Let me tell you, Mr. Speaker, and Members of the House, we are losing a fine gentleman, a dedicated statesman, a most able legislator.

Tom Abernethy will be sorely missed

on the District of Columbia Committee and in the House of Representatives.

As he relinquishes his congressional office with all its endless demands, I do extend to him my most sincere best wishes.

Mr. BEVILL. Mr. Speaker, my good friend and colleague, Tom Abernethy, will be missed here in the House of Representatives where for 30 years he has been a figure of importance. We have had a community of interest as the First District of Mississippi which he so ably represents is adjacent to my congressional district.

His work on the Committee on Agriculture where he has served continuously since his second term have made many contributions to improving the quality of rural life here in America. His contribution to the Rural Development Act of 1972 and his revival of the Tennessee Tombigbee Waterway legislation will be most helpful in the future years, to rural areas and the Southeastern part of the United States in particular. He has been highly respected by this body especially in the field of fiscal responsibility with regard to Federal expenditures where he has at all times voted against nonessential and giveaway programs. Tom will be missed by all of us and it is hoped that he enjoys his years of retirement.

Mr. ICHORD. Mr. Speaker, I am pleased and at the same time somewhat sad to join my colleagues today in paying tribute to the Honorable Charles H. Griffin, of Mississippi's Third District. We are losing, Mr. Speaker, not only one of my closest friends in the Congress, but one of the fine young men of this body and a man for whom all of us, regardless of which side of the aisle we occupy, have nothing but respect and warm feelings. Charlie is known to all Members as a man who has worked very hard and long to represent the people of his district and to be their man here in Washington. Sometimes this is not easy and sometimes personal things come along and a man must make a choice. Charlie has decided that in all fairness to his family he must give up his seat in the House of Representatives; not an easy choice, Mr. Speaker, but one which we all must face on occasion. Charlie did not come here easy. It was the war, the GI bill, the want to make things move that brought him here. And to that end he has done so. But now he has decided to leave the House and this is his decision and his alone. I, for one, Mr. Speaker, must say that the House of Representatives and his friends here will miss him very much, as will the people of Mississippi. I am sure that all my colleagues join me in wishing him Godspeed and success in the years to come.

Mr. LENT. Mr. Speaker, I would like to join with my colleagues here in the House in paying tribute to my friend and colleague from Mississippi, the Honorable Charles Griffin.

It has been my pleasure to serve with Charles Griffin on the Banking and Currency Committee during my 2 years here in Congress, and I have known him to be a dedicated and energetic public servant who is held in the highest esteem by his colleagues.

I know that Charles Griffin will be sorely missed by the House of Representatives and by his constituents in the Third District of Mississippi.

Mr. LENNON. Mr. Speaker, it is a privilege to participate in the tribute today honoring our colleague, Charles Griffin.

Charlie has served his constituency in Mississippi first as an assistant to Representative John Bell Williams and subsequently as the appointed and elected successor.

I have been pleased to serve with Charlie on the Merchant Marine and Fisheries Committee and to have him a member of the Subcommittee on Oceanography I have chaired. I have valued his conscientious contributions to our legislative efforts, and I have appreciated his knowledge, efficiency, and dedication. To count him among my close friends in the Congress is a deep personal satisfaction.

My best wishes for a pleasant and successful future are extended to you, Charlie.

Mr. FLOWERS. Mr. Speaker, I count Charlie Griffin one of my closest friends in this House and feel a deep sense of personal loss in seeing him leave us. Although his service as a Member has been only slightly longer than my own, he was an "old pro" long before that as chief assistant in the office of former Congressman John Bell Williams. Of course, Charlie succeeded to the office of Congressman upon John Bell's election as Governor of Mississippi. Charlie has had a long, dedicated, and effective career of public service even though he is still a young man. Along with many others, I hope that this "elder statesman of Utica" will come back and honor us with his presence and counsel from time to time, because we will miss him greatly.

My wife joins me in sending our best wishes for future health, happiness, and prosperity to Charlie and his lovely wife Angie.

Mr. RUTH. Mr. Speaker, one of the warmest and closest contacts made in my first term in the House was with Charlie Griffin. He was especially helpful since, prior to his service, he was one of the few Members of Congress who had served as an administrative assistant.

I appreciate the splendid association I have had with Charlie and wish him the very best in his future years. He has made a great contribution and it has been a great pleasure to work with him.

Mr. FISHER. Mr. Speaker, I am sorry indeed that Charlie Griffin did not choose to seek reelection this year. I am aware of problems which prompted his decision. The high quality of his service here was well known and appreciated by his constituents. Had he chosen to seek reelection he undoubtedly would have been returned handily. But he is retiring from the House, and that is bad news for his district, his State, and for the entire Nation.

Charlie is a relatively young man. He was a valuable aide on the staff of his predecessor, the Honorable John Bell Williams, and very nearly mastered the art of government and the operation of the legislative branch. Had he chosen to remain here Charlie would in my judgment have eventually, with seniority, become one of the leaders of this body.

To my friend and his family I express my sincere regret that he is leaving us, and I also extend my very best wishes.

Mr. HULL. Mr. Speaker, with great pleasure, I express my admiration and appreciation for Charles H. Griffin, an exceptional Congressman and friend. Over his years in Congress, he has time and again demonstrated his devotion to duty and his desire to solve the problems facing our Nation. There can be no doubt he has contributed an enduring record of excellence, one which will challenge all those who attempt to follow in his footsteps.

Mr. DERWINSKI. Mr. Speaker, I would like at this time to pay tribute to a colleague and friend, Charlie Griffin. Throughout his career, he has established a record that will long be remembered by all of us who were privileged to serve with him.

Charlie is a man whose strong sense of dedication to his constituents and Nation was demonstrated by his hard work in the Congress. I will miss his friendship and sound advice, but take this opportunity to wish him well in his retirement.

Mr. MORGAN. Mr. Speaker, I am glad to join with his many friends in expressing my good wishes to Charlie Griffin for the years ahead and my appreciation for his distinguished service as a Member of the House.

Charlie Griffin had many years of experience on Capitol Hill before he was elected to the House 4 years ago, and his long experience has qualified him to serve his constituents and bear his legislative responsibilities well.

While I am sorry that Charlie is leaving us, he is still young, by my standards at least, and can look forward to many productive and pleasant years in the future.

I have enjoyed my association with Charlie over the years, and I wish him all the best.

Mr. BLATNIK. Mr. Speaker, Charlie Griffin has not been among us for nearly as long as the other distinguished Mississippi Congressman we honor today; but he matches in quality where quantity of years' service lack.

Charlie has been a good Congressman—for the people of his district, for the committees and Congress he has served so well, and for the Nation.

He has left his mark; and while we wish him well for the future, we add our regrets that he leaves us so soon.

Charlie, we wish you well.

Mr. GARMATZ. Mr. Speaker, I want to join my colleagues in the House today in paying tribute to Congressman Charlie H. Griffin.

Charlie Griffin was only with our House Committee on Merchant Marine and Fisheries a short time, but the fact that he will be so sorely missed is indicative of the outstanding talents and energy of this dedicated public servant.

As chairman of the committee, I am acutely aware of the contributions Charlie has made in the implementation of important legislation—both to the country and to his native State of Mississippi. Because he is such an avid sportsman, Charlie Griffin brought with him a love and a respect for the fish and wildlife and for all natural resources when he came to the Congress of the United States. Perhaps this explains why he was such a valuable member of our committee and why he gave important impetus to some of our most significant environmental and conservational legislation.

Although Congressman GRIFFIN was active with much legislation, I would especially like to emphasize his efforts in relation to the coastal zone management bill and the ocean dumping bill. I consider these two of the most important pieces of conservation legislation to come out of this or any Congress; if enacted, they will become legislative landmarks, and it should be noted that Congressman GRIFFIN was a cosponsor of both these important bills.

As a member of the Oceanography Subcommittee, he participated in the lengthy hearings and executive sessions on both of these bills, and they reflect his thoughts and feelings as much as any other member of our committee or of the House of Representatives. I think it is especially appropriate that the conference reports on these bills passed the House during this week—the same week that we are saying farewell to CHARLIE GRIFFIN.

I am sorry to see such a talented and dedicated American leave the U.S. Congress, but I am certain that CHARLIE GRIFFIN will continue to make worthwhile contributions to his State and to his country, and I wish him health, happiness and good luck in all his future endeavors.

Mr. BURLESON of Texas. Mr. Speaker, I welcome the opportunity to pay tribute to my good friend CHARLES H. GRIFFIN, a distinguished Member of the House as he makes his departure from the Congress to return to his beloved Mississippi. CHARLIE is not in the category of old timers to whom special achievements have come with years of experience. His achievement of high respect among his colleagues has been the result of hard and conscientious work and his devotion to the office he holds.

I have a special feeling toward CHARLIE, having known him through his years of growth from an office employee to a seat in the House. No one could be more deserving of the achievements he has made. Unanimity is not the most common thing here in this Congress but there is no doubt of the unanimous feeling that CHARLIE GRIFFIN is one of the most likeable individuals any of us have ever known.

Ruth and I wish him and his charming wife Angie every happiness in his retirement and look forward to our paths crossings many times in the years ahead.

Mr. SIKES. Mr. Speaker, I would like to add my voice to that of many others who have expressed best wishes for the gentleman from Mississippi, CHARLIE GRIFFIN, on his retirement from the Congress.

CHARLIE GRIFFIN has distinguished himself as a man of integrity and ability and has been a true asset to the Congress, to his State and to the Nation. His work on both the Committees on Banking and Currency and on Merchant Marine and Fisheries has gained for him universal admiration and respect. It has been my privilege to know him both as administrative assistant to our distinguished former colleague, John Bell Williams, and as a Member of Congress. In all of this time, I found him to be energetic, conscientious, hard-working, and highly capable. He is a devoted public servant and enjoys an excellent reputation.

CHARLIE GRIFFIN is the type of man we need here. He has steadily grown in stature and in recognition. I am very sorry to see him leave Congress. I join with his many friends in wishing him and his family success and happiness in all his future endeavors.

Mr. BEVILL. Mr. Speaker, my good friend and colleague CHARLES GRIFFIN has had a long and distinguished career serving his country. After naval service in World War II, CHARLIE came to the Congress as a staff member and upon the retirement of Congressman John Bell Williams, who assumed the office of Governor, was elected to his seat here in the Congress.

It was my pleasure to serve with CHARLIE on the House Committee on Banking and Currency. His work on the committee for a sound monetary policy has helped to protect the integrity of the dollar. He has also been one of the leaders in the move to preserve freedom of choice for schoolchildren with regard to the schools they attend.

CHARLIE will be missed here in the Halls of the Congress and the best wishes of his colleagues go with him in his well-earned retirement. I wish CHARLIE and his lovely wife Angie the best of luck.

Mr. RHODES. Mr. Speaker, the House of Representatives will lose three of its great Members at the end of this session when BILL COLMER, TOM ABERNETHY, and CHARLIE GRIFFIN return to their native State of Mississippi. Together they have served in the House for a total of 75 years, every hour of which has been dedicated to furthering our American way of life.

BILL COLMER is my neighbor in the Rayburn Building, and, I am proud to say, my good friend. He represents qualities which I respect—integrity, wisdom, and warmth of understanding. In the 40 years that he has been in Congress, he has been a leader among the men and of the committees with which he has been associated. He is a fine Congressman and a fine man—and his country, State, and district are the better for his service to them.

TOM ABERNETHY came to Congress in 1943 and has fulfilled every duty and responsibility of his position since that time with ability and honor. America has benefited from his dedicated efforts to meet her needs and interests—and the First District which he represents has been served with distinction and loyalty second to none. I value our friendship and association over the years.

CHARLIE GRIFFIN receives and deserves the respect and admiration of all who know and work with him. His service in the House began in 1968, and in this too short period of time he has made a record as one of the outstanding Members of Congress. He has given generously of his wealth of knowledge and ability to the service of his constituents and colleagues. His commonsense and good judgment have helped to solve many a problem, and he has been tireless in working for the good of all America. It is a privilege to have been associated with him.

These three fine gentlemen and Congressmen leave a record of service which will be hard to match. They will be greatly missed by all their friends in the House. They have my every good wish for happiness in their retirement, and a future which brings only the best.

Mr. EVINS of Tennessee. Mr. Speaker, I appreciate the gentleman yielding, as I wish to join with the distinguished gentlemen from Mississippi (Mr. WHITTEN and Mr. MONTGOMERY) in paying a brief but sincere tribute to three distinguished Mississippi colleagues—Chairman WILLIAM COLMER, Chairman TOM ABERNETHY and CHARLES H. GRIFFIN.

As has been pointed out, we all know and recognize that Chairman COLMER is chairman of the powerful and influential Committee on Rules.

BILL COLMER is retiring after 40 years of dedicated and devoted public service, during which he has served his district, State, and Nation faithfully, diligently, and well.

BILL COLMER was first elected to the Congress in 1932 during the administration of President Franklin D. Roosevelt, and he has served under five Presidents—Presidents Roosevelt, Truman, Eisenhower, Kennedy, and Nixon.

His career in Congress has spanned two decades of crucial crisis and change in the United States, and as a member of the Committee on Rules he has played an important part in approving legislation to meet this challenge of change.

BILL COLMER, in addition to his outstanding legislative ability, is a grand southern gentleman in the truest sense—he is personable, courtly, genial, and considerate, and he will be greatly missed.

Certainly we wish for BILL all the good luck, health, and happiness as he enters his richly deserved retirement.

My good friend TOM ABERNETHY has served well and faithfully and with great distinction. He has probably served longer on the Committee on Agriculture than any man not to become Chairman. However, he has been chairman of important subcommittees of the committee, and has demonstrated an astute, perceptive and reasoned approach to rural development.

TOM ABERNETHY has a conservative philosophy and is known for his prudent and sound approach to legislation.

TOM is my personal friend—we both attended the old Cumberland Law School at Lebanon, Tenn., in the Fourth Congressional District of Tennessee, which I am honored to represent in the Congress.

TOM ABERNETHY has served his district, State, and Nation faithfully and well, and certainly we wish for him the very best of good luck and success as he enters his richly deserved retirement.

Colleague CHARLES GRIFFIN has had extensive service on Capitol Hill, both as an administrative assistant to former Congressman John Bell Williams, who became Governor of Mississippi, and later as a Congressman in his own right.

CHARLES GRIFFIN has had a long and distinguished career in the House—he is a most genial gentleman, and certainly I also wish him well and much happiness as he returns to his beloved Mississippi.

Mr. REUSS. Mr. Speaker, retirements this year are taking an unprecedented toll of the membership and leadership of the House.

Nowhere is the effect more evident than in the Mississippi delegation, where three of the five Members are completing what they have decided will be their final terms in Congress.

Indeed, these three distinguished colleagues of ours—Congressman William M. Colmer, Congressman Thomas G. Abernethy, and Congressman Charles H. Griffin—are writing a finish to a total 75 years of service in this House.

Bill Colmer himself accounts for 40 years of that total, having arrived in Washington with Franklin Roosevelt and the New Deal. He rose to one of the most powerful positions in Congress—chairman of the Rules Committee, a post which he has filled with dignity and with wit.

The salty Tom Abernethy came on the scene 10 years later and soon became another stalwart of the Mississippi delegation.

While Chuck Griffin may not match his two fellows in length of service, I have come to know him as an able and hard-working colleague on the Banking and Currency Committee.

I want to join in saluting these men for their service to their State and Nation and to wish them continued success and happiness as they return to their homes.

Mr. KUYKENDALL. Mr. Speaker, it is with sincere regret that I note the retirement of the three distinguished Members from Mississippi. Since Chairman Colmer, Congressman Abernethy, and Congressman Griffin come from a neighboring State, we have similar interests and share similar views on many matters. During the 6 years that it has been my privilege to serve in the House of Representatives I have had the occasion to work with all three of these gentlemen and I can honestly say that they have served their constituents with great honor, vigor, and dignity. Their expertise shall be sorely missed in succeeding Congresses.

My wife, Jackie and I wish these three distinguished Members and their families every happiness and much success in their future endeavors.

Mr. HENDERSON. Mr. Speaker, it is a privilege to be able to express my thoughts on the occasion of the retirement from Congress of three men who have been my close friends and colleagues for a number of years.

I know of no Member of this body for whom I have a greater respect or a more abiding affection than I do for Bill Colmer. When I have had responsibility for getting particular legislation to the floor for consideration, I have always been able to confer with Bill Colmer about it and to know exactly what to expect. He has not always been with me, but he has always been fair with me.

When I was initially elected, Sam Rayburn was still Speaker of the House. Judge Smith was chairman of the Rules Committee, Clarence Cannon was chairman of Appropriations, Manny Celler was chairman of Judiciary. These men were the giants of the first half of the 20th century in the House; and Bill Colmer, who was ranking Democrat on Rules at the time, was among that number. At the beginning of the 93d Congress, all of these men will be gone. To me, Bill Colmer is one of the last links with the House I first came to know as a committee staffer in 1951. I shall miss him a great deal.

Tom Abernethy will be missed for some of his hard-hitting and often amusing comments on the floor during debate. He has been a stalwart on the House Agriculture Committee and the District of Columbia Committee. If every Member of the House were as frank as Tom Abernethy and as ready and willing to "tell it like it is," I suspect our floor debate would be far different.

Charlie Griffin has been my friend both as a staff member and as a colleague. I frequently had contact with Charlie when he was administrative assistant to my good friend John Bell Williams. Like me, he was a staffer before he was a Congressman, and I have particularly admired in Charlie the fact that while he conducted himself in a completely proper and appropriate manner as a Member of the House, he never forgot the many, many staffers on the Hill who had been his friends over the years and I am sure that if all of them had the privilege of the floor today, they would say about Charlie the same things I am saying now.

Mississippi, the House, and the Nation will be the poorer for the passing of these three from the legislative scene, and I wish them all Godspeed and a well-deserved and pleasant retirement.

Mr. TAYLOR. Mr. Speaker, I desire to join my colleagues in saluting Bill Colmer, Tom Abernethy, and Charles Griffin—three outstanding Congressmen from Mississippi who did not seek reelection and will not be returning to Congress next year.

All three have demonstrated unshakable integrity and have made a lasting contribution to solid constitutional government. The State of Mississippi and the Nation will lose the service of three extremely able and conscientious legislators.

Those of us in the House will miss the day-to-day associations with these three highly respected colleagues. I wish for each of them good health, happiness, and much success during the years ahead.

Mr. ALBERT. Mr. Speaker, it is with deep regret that we note the departure from the House at the close of this session of our distinguished colleague from Mississippi, Tom Abernethy. Our close friendship dates back to my first days in Congress when I served on the Fertilizer and Farm Machinery Subcommittee which he chaired. Our districts had numerous common problems and we developed a long, close friendship while sitting side by side for 13 years on the Agriculture Committee.

The honorable gentleman's contributions in the field of agriculture have made him a legend to the farmers of this Nation, especially to the cottongrowers throughout the South and Southwest. As chairman and a longtime member of the Cotton Subcommittee, Tom Abernethy has been a guiding force behind virtually all of the legislation affecting cotton farmers and was chief architect of the important cotton provisions of the Agricultural Act of 1970. I have always been impressed with the depth of his knowledge and the skill with which he operates his subcommittee. His effective position will be hard to fill.

After having served in this body faithfully for 30 years, this good gentleman will be keenly missed as both a friend and a legislator. I want to wish him the very best of good luck and success as he enters a richly deserved retirement after a distinguished career of outstanding public service.

Mr. SCHNEEBELI. Mr. Speaker, Tom Abernethy will have served 30 years when he leaves us at the end of this Congress. We will all miss him. Why? Because, first, he is a well-liked and popular figure on both sides of the aisle here in the House. We all know that we can look to Tom Abernethy for leadership and good judgment.

Second, his high position on the Agriculture Committee has earned him respect, not only in the Congress, but across this Nation.

Finally, he has given the people of the First District of Mississippi the finest representation possible. All those who value honesty and good government will regret Tom Abernethy's retirement.

Those of us who remain wish him only the best for many happy years of retirement. He will be missed but not forgotten. He is a great person.

WASHINGTON REPORT FROM CONGRESSMAN HARLEY O. STAGGERS

The SPEAKER. Under a previous order of the House, the gentleman from West Virginia (Mr. Staggers) is recognized for 15 minutes.

Mr. STAGGERS. Mr. Speaker, at the end of each session of Congress, I prepare a report of the activities of that session and send it to the constituents in my congressional district. The following is the text of my 92d Congress report and the results of a questionnaire I sent out in September 1972.

The 92d Congress

Dear Friends: I believe the 92nd Congress which adjourned this month will long be remembered as the Congress which acted to enrich the lives of the nation's older citizens. Including the 20 percent increase in Social Security checks this month, Social Security payments were raised by 32 percent in just two years, the largest increases ever voted by a single Congress.

Since many railroaders are not covered by social security, I introduced a bill to give them a similar 20 percent increase. We were able to win House approval for this increase in near record time.

Another measure to benefit older Americans was also passed by the House. The legislation created a National Institute of Aging. This will bring the special problems of growing old the special attention they deserve.

The fight for a better life for this nation's senior citizens has only begun. This Congress has "started the ball rolling" on a number of proposals, such as increasing the amount a person can earn without losing social security benefits, providing low-cost health insurance, reducing the high cost of medicine, providing relief from high property taxes and offering low-cost transportation to the elderly.

The 92nd Congress made a commitment to the principle that our older citizens should be able to live their lives in comfort and dignity.

The extra money the elderly will be spending will help the economy, not hurt it, by putting idle machines and unemployed men and women back to work.

Everybody will benefit, the businessman, the farmer, the worker and the elderly.

The Congress also acted on a wide variety of issues of importance to you and your family.

HEALTH

I'm particularly proud to report that Congress has approved landmark legislation aimed at improving the nation's health. Foremost among these was my bill to wage an all-out attack against heart disease, the nation's number one killer. The bill has also made lung diseases and strokes the targets of a massive national research effort.

Of particular interest to West Virginians is the recent House action on a bill to provide federal aid to improve local medical emergency service. This legislation, which originated in my committee, is designed to provide vital help to those who are working in many West Virginia counties to provide emergency service for victims of accidents, heart attacks and other emergencies.

Other key health bills passed by the Congress include an expanded research effort against Multiple Sclerosis; additional aid to local communities to combat communicable diseases; and more aid to our medical schools and students which will benefit our fine Medical School at West Virginia University in Morgantown. In addition, the House passed a bill aimed at providing more medical personnel to rural areas.

BLACK LUNG

The Social Security Administration has begun processing claims filed under the Black Lung Benefits Act of 1972. Passed earlier this year by the Congress, the bill is expected to make an additional 136,000 of the nation's coal miners and their survivors eligible for an additional $1 billion in benefits. Claims refused under the old law are being automatically reviewed, but social security officials say it will take a while to clear up the backlog.

CONSUMERS

The House voted to protect consumers by passing legislation which I sponsored creating a Commission on Product Safety. This commission will have the power to make sure that products you buy for your home are safe. The Commission will be able to set safety standards for a wide range of products we use every day and will be able to ban products that are not safe.

CRIME

The House has acted favorably on my bill which seeks to curb air piracy by cutting off air service to nations that welcome hijackers. One of the major efforts of the Congress over the past two years has been anti-crime legislation. I am encouraged with the results of these new laws. However, there is still room for improvement, but at least we are making some progress toward a return to law and order.

EDUCATION

Another major piece of legislation recently enacted by the Congress will soon be aiding students from the 2nd Congressional District and throughout the county. The Higher Education Act of 1972 declares it to be a national policy that a college education should be available to qualified students and sets up programs to provide financial assistance. Another important section of the bill makes direct aid available to colleges and universities whose costs have overtaken tuitions and endowments.

Vocational education was given a boost also. There is great concern in the Congress about the present system of financing our schools. This very complex question will certainly be given a long look in the next session of Congress.

BROADCASTING

A bill which I introduced to keep the nation's educational TV stations on the air is now law. The bill provides funds that are essential for the programing efforts of stations, such as WWVU–TV in Morgantown and WSWP–TV in Beckley.

I have also ordered an investigation of TV "blackouts" of professional sports events. Many sports fans have written asking me why athletic contests cannot be shown on television even when the stadium is sold out. The investigation is underway.

REVENUE SHARING

The Congress passed the revenue sharing bill aimed at helping state and local governments. West Virginia's state government received $8,914,183, while county and town governments in the 2nd District received $4,696,120.

ENVIRONMENT

Great concern for our environment was shown during this session of Congress, and the House acted on many bills aimed at curbing pollution. I hope you will continue to give me your views and suggestions on the environment, whether it is a local problem or your opinion on national legislation.

VETERANS

During my tenure in Congress, I have fought for, supported and voted for several hundred veterans' benefits that have been enacted into law. These include a broad range of programs, including job training, pensions, education, housing, medical care, life insurance, aid to widows and children, and many others. This session of Congress increased the rates of disability compensation for veterans and also increased the subsistence allowance for those studying under the GI bill. Extra money was added to veterans appropriations to prevent cuts in veterans' medical care or closing of any veterans hospitals.

This report is just a brief review of some of the activity of the 92nd Congress. As always, your letters and cards advising me of your thinking on the issues are greatly appreciated and assist me in representing you more effectively.

Sincerely yours,

HARLEY O. STAGGERS,
Member of Congress.

HERE ARE THE "RESULTS" OF CONGRESSMAN STAGGERS' 1972 OPINION POLL

1. What do you think our Nation's priorities should be? (Please check the three items you believe are the most urgent.)

11%—Provide jobs and job training programs.
14%—End the Viet Nam war.
6%—Increase Social Security.
14%—Combat crime.
13%—Lower the cost of health care.
9%—Reform Federal income tax.
4%—Eliminate poverty and slums.
9%—Control drug abuse.
7%—Reduce Government spending.
8%—Control pollution.
4%—Improve consumer protection.
1%—Improve mass transportation.

2. Which policy do you favor on the Viet Nam war? (Please check one.)

43%—Announce that all U.S. troops will be withdrawn from Viet Nam by December 1972, provided that all U.S. prisoners of war are released.

27%—Continue to use American air power but gradually withdraw American troops without setting a deadline.

25%—Keep American troops in South Viet Nam as long as necessary to prevent a Communist takeover.

5%—Undecided.

3. Should the Federal Government undertake a large-scale public works program in an effort to reduce our present high rate of unemployment?

54%—Yes.
34%—No.
12%—Undecided.

4. How well do you think Phase II of wage and price control is working?

4%—Very well—prices haven't increased much and more jobs are becoming available.

30%—Fairly well—but there are still some serious problems.

63%—Not very well—prices are still rising and jobs are still scare.

3%—Undecided—too early to tell.

5. What is your opinion on the present level of military spending?

45%—Too much.
11%—Too little.
32%—About right.
12%—Undecided.

6. Would you oppose amnesty to draft resisters upon the end of our involvement in Viet Nam conditional upon the men involved completing two years of military or alternate service?

57%—Yes.
33%—No.
10%—Undecided.

7. What do you believe are the most important local problems in the Second Congressional District?

Unemployment—need industries.
Transportation—need better highways—no public transportation.
Welfare—Need for reform.
Medical care—Too high—lack of doctors.
Crime—Caused by drugs.

8. If you farm, what agriculture problem do you consider most needs Federal action?

Prices too high on—seed, fertilizer and machinery.
Too many 5th Avenue farmers using farms for tax loopholes.
Middleman makes more profit than farmer.
Government should spray Gypsy Moth.

A WELL-DESERVED TRIBUTE: TO L. B. J. WITH LOVE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 20 minutes.

Mr. HALPERN. Mr. Speaker, I would feel remiss, upon my retirement from Congress, if I did not take out a little time to reflect some impressions from my 14-year tenure in this House.

In this instance, I wish to take this time today to express my admiration for a great President under whom I served for the full 5 years of his incumbency—a man I got to know, not as an intimate, not as a member of his party, but as a member of the opposition party. But, in Lyndon Johnson, despite frequent disagreements, I found no barrier of rigid partisanship. I found a warmth, a sincerity, a dedication, and a determination to shape a better America and to inspire a stable, peaceful world. I found a man of the highest ideals—possessed with the unique combination of pragmatism and realism, of wisdom and foresight—who applied these rare leadership ingredients so successfully toward the attainment of his goals.

The passing of time, the emergence of new faces and new issues on the scene, sometimes have a tendency to push past achievements into the background and, in so doing, due recognition is often neglected. This is just what happened, I feel, in the case of Lyndon

B. Johnson and his administration as illustrated at his party's convention this last summer.

The senseless lack of appropriate recognition as an outstanding leader of his party was a distressing blot on that conclave. I feel it did not, by any stretch of the imagination, represent the true feelings of the rank-and-file Democrats, and the American people as a whole. I am sure countless Americans share this feeling of disheartenment by this disregard of an outstanding President and of a great American. Such a temporary expediency, as reflected by the convention policymakers, is secondary and, in time, will prove meaningless and outright stupid. Lyndon Johnson's achievements have made a lasting imprint and history will reveal this exceptional man to be among the greatest of our Presidents.

The Johnson administrations were concerned, primarily, with the plight of the persecuted, the sick, afflicted, and the handicapped in the United States. The Johnson administrations were concerned with the achievement of world peace, freedom, economic stability, and the dignity of the individual. And the President dedicated himself unrelentlessly toward those aims.

Programs designed to do away with poverty or alleviate the suffering of the underprivileged were the principal product in Washington throughout the Johnson years, and countless thousands of Americans were to benefit from his exertions in their behalf.

It is not surprising, really, that Lyndon B. Johnson should have devoted his attention to problems of this kind, because he has a long and clear memory, and he has not forgotten the economic adversity he witnessed in his youth. As a child, he witnessed economic adversity on every side. As a young schoolteacher, his pupils were the victims of poverty-stricken conditions. And when the depression years arrived, in the 1930's his home State of Texas was seriously affected. In this last instance, he sought and obtained the position of director of the National Youth Administration program in Texas. From this vantage point he of course again encountered the bitter realities of widespread poverty. His mission then was to get young men off the street corners and into productive and renumerative activity, and at this endeavor he proved exceedingly competent. Working long hours at a grueling pace, he moved swiftly and effectively in putting young people to work or getting them in school. The pattern of life then established by this superb young administrator was the same pattern he took with him to Congress in 1937, and to the White House in 1963.

Lyndon B. Johnson brought with him to Washington a burning ambition to right a thousand wrongs in American life. His declaration of a war on poverty in January of 1964, and the subsequent congressional approval of that declaration, can be regarded as a direct outgrowth of one man's contact with human suffering and his humane response to that experience.

Many kinds of people enter the field of public service for many reasons, not all of which are admirable. Public service itself, however, is the noblest and the highest form of endeavor, and those who apply themselves in the proper spirit to that service deserve the applause of all thinking citizens everywhere. Lyndon B. Johnson so applied himself throughout his long and distinguished public career.

In the process, the man became a master of the art and science of politics—that is to say, the master of all the intricacies and diplomatic moves and countermoves of political activity. Traditionally, the master politician is not supposed to be a man of conscientious vigor and moral stamina. But Lyndon B. Johnson could not be confined within the bounds of such tradition. He brought to politics a conscience as big as the State of Texas and a moral stamina to match. There were those who complained of a credibility gap in the presidential performance of this remarkable man. Yet no such gap could be detected in the devotion of Lyndon Johnson to the struggle for the absolute extinction of human suffering and human destitution, to which struggle he devoted himself as President with a diligence to be remembered by the ages.

Under his authority, the Congress was persuaded to enact beneficial social legislation of unprecedented nature, to the great advantage of our country. His purposes, in this regard, were of the finest kind; his accomplishments, extraordinary.

In terms of justice alone, the Civil Rights Act of 1964 was probably the greatest single legislative enactment of the current century. The Economic Opportunity Act and the Omnibus Housing Act were gigantic strides in the direction of the "more perfect union" envisioned by the Federal Constitution. The Elementary and Secondary Education Act of 1965 and the Higher Education Act were two of the greatest blows directed against the curse of ignorance since creation of the American public school system.

Outstanding among his administration's achievements was the enactment of medicare—a program attacked at the time by its critics as socialism in disguise. This landmark legislation has helped lift from the shoulders of elderly Americans the crushing weight of heavy medical costs, and the fear of dependence on their offspring and society.

I could go on and on and on—the Immigration Act of 1965 which abolished the discriminatory immigration provisions of the antiquated McCarren-Walter Act. There was the historic Voting Rights Act of 1965 which granted heretofore disenfranchised millions of Americans the opportunity to vote. There was landmark legislation in the fields of air and water pollution. These Johnson programs pioneered Federal leadership in preserving the environment long before public awareness of this threat to humanity became the popular thing for political and governmental action.

These are only some of the measures resulting from Lyndon Johnson's leadership. But, I believe, they significantly illustrate Lyndon B. Johnson's dream of a better America, and his determination that every single one of us—the poor and dispossessed, as well as the privileged—shall share in the bounty of this land.

Few Presidents' compassion for the people he served have exceeded that of Lyndon B. Johnson's. Having been thrust into authority by tragic circumstances, and confronted by a national divisiveness unequaled since the Civil War, he united the Nation, healed its wounds, and turned to the solving of its problems, with a zealousness of the most admirable kind.

During his incumbency, Lyndon Johnson strengthened the stature of American business and industry in the eyes of the world. He implemented full meaning to America's commitments throughout the world and re-established faith in America's stated obligations. He bolstered our National security, provided for better housing on a National scale, improved the political position of nonwhite Americans of every kind, initiated innovative programs to clean the environment, inaugurated a mighty and responsible war on poverty, came to the defense of the consumers, and fostered new and vital conservation legislation to protect our natural resources. Under his leadership the greatest educational programs in the history of our country were brought to reality.

His purpose was supreme—to make the Nation work for all its people. His signature is written large on the promise of a new day of hope and fulfillment—and for this he deserves the thanks of all America.

It was truly a privilege, as a member of the opposition party, but as an advocate of the good causes that President Johnson championed, to have served during his administration. Although we may have differed at times the goals he achieved far transcended party lines. They are lasting achievements that could have only been attained under bold, innovative, realistic, and, yet, idealistic leadership.

I salute Lyndon B. Johnson. I trust that the years ahead will be happy, healthy, and rewarding ones for this great American, his gracious, lovely lady, and his fine family.

KARL M. LeCOMPTE, RESPECTED CORYDON CITIZEN, IS TAKEN

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. KYL) is recognized for 60 minutes.

Mr. KYL. Mr. Speaker, the Honorable Karl M. LeCompte, who served with distinction in the House of Representatives for 20 years, is gone. Those incumbent Members who served with Congressman Karl have presented a consistent story to me—a story which gives great honor to him, and to his faithful wife, Dorothy.

For, as one, those who knew Karl proclaim,

> There was a great American, a man with uncommon commonsense, a gentleman whose quietness was born of strength and kindness.

In his 85 years, Karl LeCompte touched the lives of unlimited numbers. Even for those who did not know him well, he was an example in honor and integrity, and in concern for anyone who needed help.

We are all better because Karl LeCompte touched our lives. His influence will live as his contribution passes from generation to generation.

Mr. Speaker, I include, as part of my own remarks, an article authored by Robert K. Beck which appeared in the Corydon, Iowa, Times-Republican, a newspaper which was edited by Karl LeCompte for many years.

[From the Corydon (Iowa) Times-Republican, Oct. 5, 1972]

Karl LeCompte, Respected Corydon Citizen, Is Taken

(By Robert K. Beck)

The Honorable Karl M. LeCompte, 85, Corydon's most illustrious citizen, newspaperman, Republican, politician, State Senator and U.S. Congressman, a true gentleman in every sense of the word, Wayne County civic leader, died very suddenly Saturday afternoon while in Centerville attending the annual Pancake Day festivities.

Death was attributed to a heart attack.

A member of the United States Congress for twenty years, he was well known throughout southern Iowa, indeed the state and the nation. He was first elected to the United States House of Representatives in 1938 and continuously served in that capacity until his voluntary retirement in 1958.

WIDELY KNOWN

Thus, while his roots and his first love rested in the Corydon community and the Wayne county area where he was born, reared and subsequently followed his newspaper profession, he was likewise on a first-name basis with thousands of people in many communities and counties throughout Iowa.

He knew Presidents of the United States, high governmental officials at all levels and was a widely respected congressman who became a household name throughout his congressional district which spread from Creston to Newton to Bloomfield.

He was in Centerville Saturday to partake in the annual Pancake Day celebration. Just shortly before he died he reminisced with friends that he had attended each of the 24 Pancake Days except one in 1959 when he was hospitalized. "It's always a great day," he said with enthusiasm.

IN GOOD SPIRITS

He was in good spirits and apparently good health as he greeted numerous friends. He had arrived about 11 a.m., stayed through the parade and watched the marching bands perform, and then prepared to return to Corydon. As his car reached the intersection at Haynes and State near the Elks Club he stopped the car, slumped over in his seat. An ambulance was summoned and he was taken to the hospital, but he was pronounced dead upon arrival by Dr. M. G. Parks.

While he rose to great heights in the political arena, first serving as a State Senator, later in the United States Congress, his basic love was rural Iowa, his home community, and his newspaper, the Corydon Times-Republican.

LOVED NEWSPAPERING

He was content to enter his newspaper office, roll up his sleeves, pound out a news story, or set type on the linotype machine, and become a practicing country newspaper publisher-editor. He often said that printers ink was part of his blood. Publishing a newspaper was more than a responsibility, hard work and effort, it was an obligation, a great love affair, a way of life for Karl LeCompte.

He was born into the newspaper profession. His father, C. F. LeCompte founded the Times-Republican just 100 years ago. For 95 of those years the Times-Republican remained within the LeCompte family, first his father, then Karl's brother, W. R. (Rollie) LeCompte, and in 1910 when Rollie passed away Karl, just graduated from the University of Iowa, returned home and joined his ailing father in publishing the T.R.

Mr. LeCompte retained the T.R. until 1967 when he sold it to News Consolidated Inc., simply because he had reached the age when he felt like he must pass along the burden of publishing a weekly newspaper.

COUNTRY NEWSPAPERMAN

Karl was recognized in the publishing profession as a true adherent of country newspapering. He liked names in print. He wanted his newspaper to stand for those things best for Wayne county. He was not ashamed to get printers ink on his hands, nor hesitant to compose an ad, and sit down and peck-out a column or news story. He was meticulous about writing style and copy preparation.

He was recognized for his outstanding contribution to the profession by the Iowa Press Association in 1962 when he was awarded the highest honor in his profession, the Master-Editor Publisher Award which states that "He has worked hard, lived honorably, thought soundly, influenced unselfishly and is entitled to the highest honor in his profession." He was at one time a member of the Iowa Press Association Board of Directors

He was in the newspaper profession during the days when he would ride a bicycle to the railroad station each day to get the names of people leaving and arriving to record personal items.

In 1912 the Times-Republican was consolidated with the Wayne County Democrat. In 1924 C. F. LeCompte died and Karl became the sole owner.

ELECTED TO OFFICE

While the T.R. was a large part of Karl LeCompte's life, his still greater achievements were in the field of politics. He started his elective office career in 1916 when he was elected to the Iowa State Senate serving until 1920.

One thing that displayed so well his character was the fact that LeCompte voluntarily entered the army as a private during World War I. The country had declared war against Germany in 1917 and even though LeCompte had an exempt status because of his Senate position, he wanted to serve in uniform.

In 1919 he returned to his Senate duties. His father, now enjoying better health, operated the T.R. along with his son Karl.

RAN FOR CONGRESS

Karl continued his active work with the Republican party but did not stand for office again until 1938. Congressman Lloyd Thurston of Osceola decided to contest for the U.S. Senate leaving his congressional post vacant. LeCompte tossed his hat in the ring, won a three-way primary contest, and then the general election in November.

As a member of the House of Representatives in the U.S. Congress he represented the fourth congressional district. He was noted for his prompt attention to constituency requests, his prolific letter-writing. People having birthdays and gaining unusual recognition always received a cordial note from their congressman.

RATHBUN DAM CONNECTION

He was sent back to congress again and, again, standing for ten elections and winning ten times. He was in congress when the Rathbun Dam project was authorized in 1954 and when the initial planning appropriation was made in 1956. Even though it was a highly controversial project in that day, LeCompte gave his approval to this action which started the project on its way to eventual completion.

He served under President Roosevelt, Truman and Eisenhower, knowing each. He likewise served with Richard Nixon while he was a congressman, later a U.S. Senator and Vice President of the United States.

KNEW NIXON

When President Nixon was at the Rathbun dedication in 1971, the President spotted Mr. LeCompte in the massive crowd, made a special effort to reach for LeCompte's hand and extend greetings.

Each year the LeComptes received a Christmas card from President and Mrs. Nixon.

He served on important congressional committees, the Foreign Affairs Committee, as the powerful chairman of the House Administration Committee. He served with such Iowa congressmen as Jim Dolliver of Fort Dodge, Charles Hoven of Alton and H. R. Gross of Waterloo and many others. He knew congressional leaders like the late Joe Martin, House minority leader, and Senator Everett Dirkson and many others.

JAPANESE TRIP

At the time of the Korean War he made a trip to Japan with General George Marshall to visit with General Douglas MacArthur, Supreme Commander in the Asia theater area, and at the time became a great friend of General Romulo who later became President of the Philippine Islands, and still later Ambassador to the United Nations. He and Mrs. LeCompte have remained in contact with him through the years.

Mr. LeCompte wanted to return home during his senior years and spend more time in Corydon so he relinquished his congressional duties in 1958. However, he continued his active interest with the TR along with Lyle Bryan until he sold.

In retirement he kept in contact with his wide circle of acquaintances. He visited his down-town Corydon office each day where he carried on his business, kept up his correspondence and greeted friends.

CIVIC RESPONSIBILITIES

During his younger years he was very much in civic affairs in Corydon and Wayne county. He was an active American Legion member, helping to organize the first American Legion post in Iowa. He was in Corydon Chamber of Commerce work, a one time member of the Rotary club, in recent years took great interest in the Wayne County Historical Building. During one period of his life he was very much in the mainstream of community affairs. He was a member of the Methodist Church, Centerville Elks Club, a Mason.

LeCompte had many valuable attributes. He was particularly interested in young people and was delighted when he could give a young man a special assist, perhaps get them a job, or help them in some way.

A GREAT GENTLEMAN

He was a true gentleman. He spoke courteously to people, always rising when a lady entered the room, tipping his hat and addressed them with decor.

He genuinely liked people, loved to associate with them, be around folks. This was one thing that made him such a political success.

He had a tenacious quality, a determination to undertake an assignment and see it through. He wouldn't give up on something if he thought it was right. He would see the project through to the end.

GREAT LOYALTY

He also had loyalty. He wouldn't desert a friend. His word was his bond. A handshake of agreement meant something to Karl LeCompte This also was a great political asset.

He was born in Corydon May 25, 1887. His parents were Charles Francis and Hannah David Miles. He attended the Corydon schools graduating in 1905. In 1909 he graduated from the University of Iowa, returning to Corydon and his newspaper work. Incidentally, the University recently acquired his memoirs to make them a part of their historical archives.

He married Dorothy A. Tye August 12, 1927 at Indianola, Iowa. Mrs. LeCompte had come to Corydon as a school teacher and was one of Karl's great assets in life. She shared many of his hopes, aspirations and at times disappointments. Dorothy became almost as widely known as her illustrious husband. Dorothy survives.

SISTER SURVIVES

One sister, Miriam LeCompte, Corydon, survives. Two sisters, A. L. Hill, Burlington, North Carolina and J. V. Reaves, Mobile, Alabama preceded as well as parents and brother Rollie.

Funeral services will be held at 2 p.m. at the Methodist church with the Rev. Lawrence Jones officiating and Robert K. Beck making some remarks.

The body is at the Wolf Funral Home in Corydon but will be taken to the church Tuesday morning. The casket will be open. Burial will be at the Corydon cemetery.

Mr. SCHERLE. Mr. Speaker, Iowa lost one of its finest citizens when the Honorable Karl LeCompte died last week. For 20 years, he served the State and the Nation in this Chamber. During that time he earned a well-deserved reputation for unfailing diligence, forbearance and perseverance to his principles.

Even after he retired, returning to his first vocation as a newspaperman, he maintained the tireless concern for his country's welfare that distinguished his career in Congress. We are all the poorer for his passing, but his life will continue to serve as an example to his successors in the Iowa delegation and to all who aspire to unselfish public service.

Jane joins me in expressing our condolences to the very gracious Dorothy LeCompte.

Mr. ASPINALL. Mr. Speaker, it was my pleasure when I first came to Congress to become acquainted with the late former Congressman Karl M. LeCompte of Iowa's Fourth Congressional District. I enjoyed my association with him very much. He was always most friendly and most helpful, especially to a new Congressman from the West.

He was an industrious and effective legislator and had the respect and admiration of all of his colleagues when he left Congress. He lived a long and fruitful life, and not only is his home community and the State of Iowa his debtors, but also is the Nation.

I am most happy to join with my colleagues in paying tribute to his personality and to his service.

Mr. BELCHER. Mr. Speaker, several weeks ago a very great man and former Member of Congress departed this earth. I am referring to Karl M. LeCompte who served as a Member of Congress from the Fourth District of Iowa from January 3, 1939, to January 3, 1959, and chose not to seek reelection in 1958.

I am sure that quite a few of us gathered here today are possessed with many fond memories of our former colleague and friend. Karl was one of my oldest and dearest friends. He was probably one of the most modest men that I have ever known. He always worked and dedicated himself in the manner that epitomizes great statesmen. His efforts were always directed for what was best for the country and for his district, rather than his self-satisfaction or public acclaim. To sum it up, he was a great man and a great Congressman.

Mr. BURLESON of Texas. Mr. Speaker, I have most pleasant memories of Karl LeCompte because of our rather close association for a number of years. He was chairman of the House Administration Committee in 1953–54, at the time I was the ranking Democrat. Subsequently, our positions changed but our understanding of one another made little difference, if any, in the policy and conduct of that committee.

Karl LeCompte was a gentleman in the truest sense of the word. I never knew a more considerate man nor one more dedicated to serving his Nation, his State, and his district. He will long be remembered as a man of the highest integrity and nobleness of purpose.

I extend to his wife, Dorothy, my deepest sympathy and good wishes for her well-being.

Mr. CELLER. Mr. Speaker, I am saddened by the passing of Karl M. LeCompte of Iowa, who served two decades in the House of Representatives.

I recall the innate dignity of Karl and his gentleness of manner. There was no mistaking this gentleman of distinction. He brought with him the openness of the countryside and the wholeness of one with nature. He served his constituency and his country well. His memory will be enshrined in his good deeds in and out of Congress.

I extend my sincere sympathy to his family.

Mr. FISHER. Mr. Speaker, it was my happy privilege to have served with the late Karl M. LeCompte of Iowa. As a Member of the House, Karl was highly respected and wielded a stable and effective influence on many major issues. In many respects he was a model Congressman—always affable, friendly, but at the same time firm and positive in regard to principles.

Our late friend seemed to always put the welfare of the country ahead of party politics. He was a statesman and was deeply devoted to the cause of good government.

Mr. FLYNT. Mr. Speaker, I would like to associate myself with the remarks and tributes which have been paid to the late Hon. Karl M. LeCompte of Iowa.

Karl LeCompte will be especially missed by the people of the Fourth District of Iowa, but he will also be missed by the people of the State of Iowa and of the United States. He was a valuable Member of the House of Representatives from 1939 until 1959. He was a devoted Representative of his district and State. He was a good friend who will be missed by all of us who were fortunate enough to have been included among his associates.

Representative LeCompte's patriotism and outstanding public service to our Nation are credits to his memory. I join with my colleagues in paying tribute to a highly dedicated American. Mrs. Flynt joins me in extending our condolences and heartfelt sympathy to Representative LeCompte's family.

Mr. MILLER of California. Mr. Speaker, it is with deep sadness that I take this occasion to say a few words to honor the late Honorable Karl M. LeCompte, former Member of the House of Represenatives from Iowa, with whom I had the privilege of serving for 13 of my 28 years in the House. Karl was not only my esteemed colleague and good friend, he was my neighbor as well, and I am proud to say that our relationship was a close one.

Karl's dedication to the House of Representatives, his patriotism and his zealous quest for truth gained for him the high respect of his colleagues. His splendid contributions to the work of the Foreign Affairs Committee and the House Administration Committee were invaluable to the Congress. His decision not to stand for reelection in 1958 was regarded with a keen sense of disappointment, and now it is with a further sense of loss that we learn of his recent passing.

With our deep sympathy to his family goes the message that Karl LeCompte leaves behind him many friends who will not forget the inspiration of his conscientious service to our country.

Mr. MORGAN. Mr. Speaker, I was very sorry to hear of the passing of our former colleague, the Honorable Karl M. LeCompte.

He was a respected and influential Member of the House when I came here in 1946, and he served on the Committee on Foreign Affairs during the 83d, 84th, and 85th Congresses.

He took an active interest in matters of foreign policy and was a member of the official U.S. delegation on a number of occasions to meet with the officials of foreign governments.

He was well known to his colleagues in the House because of his service on the Committee on House Administration. He was chairman of that committee in the 80th and 83d Cogresses.

All of us who knew him remember particularly his genial and kindly manner.

He served his constituents and his country well.

His family can derive comfort from the fact that all of his colleagues in the House loved and respected him, and are saddened by his passing.

Mr. RHODES. Mr. Speaker, I was deeply saddened to learn of the passing of our former colleague, the Honorable Karl M. LeCompte. Karl was a dedicated Member of the House for 20 years, and I was privileged to have had the opportunity to serve with him and come to know him well during the last 5 years of his tenure before he returned to private life in January of 1959.

My acquaintanceship with Karl LeCompte began, at first meeting, with a feeling of great respect for his wisdom and statesmanship. This feeling, during our close association during the ensuing 5 years, ripened into a deeprooted and mutual friendship. He was a fine gentleman, a loyal friend, and one whom his colleagues held in highest respect.

The Nation mourns the loss of one of its most dedicated citizens, and I personally miss Karl LeCompte as a close and personal friend.

My heartfelt sympathy is with his family in their bereavement.

Mr. SIKES. Mr. Speaker, I was saddened to learn of the death of former Congressman Karl LeCompte of Iowa. Those of us who knew him respected and admired this wise and good man.

He was in the Congress when I came to Washington and I learned quickly that he was a man whose guidance was sound and a source of inspiration.

When he left the Congress in 1959, he returned to his native city—the city where he was born—and he took up his profession of newspaper publisher anew at Corydon, Iowa.

Now, word has come that Karl LeCompte is no longer with us, that his wise voice is stilled. But what he leaves behind is so much more than that left by most men. He leaves a host of friends and admirers, he leaves his deeds, both as a Member of Congress and as a private citizen. He leaves a legacy of wisdom, an example of honesty, and a life of dedication.

But most of all, he leaves a void which will not soon be filled, and he will be missed by us all.

My sincere sympathies are extended to his family and friends in Iowa and across the world, for truly here was a man who did much for the cause of freedom everywhere.

Mr. SPRINGER. Mr. Speaker, I was saddened to learn of the recent death of our former colleague, Karl Miles LeCompte, who served as a Representative from Iowa for 20 years between 1939 and 1959. Those were critical years in the history of this Republic covering the period of World War II, including the years just preceding that conflict and the "cold war" period that followed. Karl LeCompte, who served as a private during the First World War, furnished us many valuable insights gained from that experience as well as from his journalistic career as publisher and owner of the Corydon Times-Republican. Karl LeCompte did not hesitate to speak out when the best interests of his country were at stake. His was a strong voice and he was always listened to if not always heeded when he expressed the conservative philosophy that guided his judgment on the legislative issues of his time.

Mr. POAGE. Mr. Speaker, Karl LeCompte for many years was a stalwart Member of this House. He came to this body just 2 years after I had taken oath of office. I served with him during all of his service here, and I came to honor and respect him for his ability and his integrity. Word of his passing brings sorrow to those of us who knew and served with him, and I would like to join others in extending my sympathy to members of his family.

Mr. WHITTEN. Mr. Speaker, I learned recently of the passing of my good friend, Karl M. LeCompte.

Karl and I served together many years and were very close friends. He rose to the chairmanship of his committee where he did an outstanding job and enjoyed the confidence of Members of both parties.

In his passing we lost not only a friend, but one who made his many contributions during his years.

To his loved ones we express our deep sorrow.

Mr. GROSS. Mr. Speaker, the sudden death of the Honorable Karl M. LeCompte was a shock to his many friends, both in and out of Congress.

Since his retirement from the House of Representatives in 1958, Karl had been active in the publication of his newspaper and in public affairs in southern Iowa.

Karl had been a Member of the House for several years when I first came to this body in 1949. He was a dedicated Member and he was most helpful to me through the years that we served together.

Mrs. Gross joins me in extending our heartfelt sympathy to his wife, Dorothy, and to the other members of his family.

GENERAL LEAVE

Mr. KYL. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the life, character and accomplishments of our former colleague, Karl M. LeCompte.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

IPU CONFERENCE IN ROME: INTERIM REPORT OF U.S. GROUPS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 10 minutes.

Mr. DERWINSKI. Mr. Speaker, as President of the U.S. delegation to the Interparliamentary Union, I am pleased to present to the House an interim report of the U.S. Group covering the 60th Conference of the Interparliamentary Union meeting held in Rome from September 21 to 29. A full report, with resolutions, speeches made by U.S. delegates, and other Conference decisions, will be made in our annual report to the Congress at the start of the next session.

Delegates from 64 countries and nine international organizations took part in the Conference. The U.S. delegation included Senators Birch Bayh, Vance Hartke, B. Everett Jordan, William Saxbe, Robert T. Stafford, and Robert Taft, Jr., and Representative Jackson E. Betts, John W. Byrnes, Robert McClory, John Monagan, Edward J. Patten, and Alexander Pirnie.

The Conference passed resolutions on terrorism, the Middle East, disarmament, environmental problems, the fight against drug abuse, education in developing countries, and vocational training. The resolution on terrorism was particularly significant. Based on a draft submitted by the U.S. Group, it asked parliaments to exert influence on their governments to support the U.S. proposal in the General Assembly for the adoption of a Convention on the Prevention and Punishment of International Terrorist Acts. It also asked governments to take all appropriate measures to prevent such acts and to refrain from acquiescing in organized activities directed toward their commission.

Representative Bob McClory, in a speech on the agenda item entitled "New Forms of Political Pressure in International Affairs," and I, in my speeceh during the general debate, had urged the organization to take action on this problem. Senator Taft served on the committee which drafted the final resolution.

As Chairman of the U.S. Group, I also stressed that recent terrorist acts had set back prospects for peace in the Middle East and urged that the worldwide trend toward dialog also find its expression in the Middle East. The final resolution of the Conference reaffirmed the IPU's support for Security Council Resolution 242 and urged all parties to cooperate in efforts to achieve peace. The delegation abstained on the resolution when the submission of amendments by various delegations upset a compromise resolution which had been carefully worked out in the drafting committee.

The Educational, Scientific, and Cultural Committee, chaired by Representative Bob McClory, submitted the final resolution on environment adopted by the Conference, Senator Robert Stafford serving on the drafting group which worked out the document. The resolution stressed the importance of the recommendations made at the June 1972 Stockholm Environment Conference and reiterated many of the recommendations made at that Conference. Because their governments had not attended that Conference, parliamentarians from the Communist countries abstained on the final resolution which otherwise was approved overwhelmingly by the Conference.

The Conference also overwhelmingly adopted a resolution on the fight against drug abuse based on a draft submitted by Representative John Monagan to the spring meeting in Yaounde. Representative John Monagan, in his address to the Conference, reviewed efforts in the United States and elsewhere to deal with all aspects of this problem and urged adoption of the Rome resolution as proof that "official indifference is no longer the alley of the drug dealer."

The resolutions on disarmament, education, and vocational training were all adopted essentially as submitted to the conference by the Study Committees which had met in Yaounde during the spring. Senator Robert Stafford presented U.S. views on disarmament to the conference, Representative Patten on education in developing countries, while Representative Betts also spoke to the conference on the responsibilities of parliaments to their electorates.

In addition to the conference, the IPU Council met in Rome on September 21 and 29, with Representative Alexander Pirnie and me. One major order of business was the selection of three new members of the nine-member Executive Committee, for which six countries submitted candidates.

It was my honor to be nominated by the U.S. Group as a candidate for the roughly equivalent to the Security Council of the U.N. As an elected member of the Executive Committee, I also participated in a meeting of that group on September 30. Agenda for future meetings and conferences, resolutions, and personnel and financial matters were under consideration at the meeting. The Council approved the admission of the German Democratic Republic and the Republic of Bangladesh to the Union. It also decided to postpone until January 1973 the holding of a Conference on European Cooperation and Security previously scheduled to be held in Helsinki this November. The postponement was necessitated by the West German decision on the eve of the Rome conference to hold new elections in November which would have made attendance by this key delegation impossible on the date originally scheduled.

The rest of the delegation made an official stop in Madrid, Spain, where they were briefed by Embassy officials. The delegation met with members of the Spanish Foreign Ministry, and made an official call on leaders of the Cortes (parliament) for an informal discussion of legislative responsibilities and procedures.

SOCIAL SECURITY BENEFITS INCREASE INSUFFICIENT

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. Ruppe) is recognized for 10 minutes.

Mr. RUPPE. Mr. Speaker, the social security benefits increase of 20 percent was designed to make the monthly income of our disabled and retired citizens and their families, more appropriate and comparable with the cost of living in 1972 America. The high costs are particularly apparent in medical care, housing, food costs, and basic necessities and services.

But, in our hurry to provide our deserving senior citizens with an appropriate increase in their social security income, we neglected to give our fullest attention to several related programs of major importance, which may be effected by that increase.

The major issue here is the reduction or cancellation of public assistance, medicaid, and food stamps services to people presently receiving any of these services and social security. Since, the income of the individual, including his social security benefits, is used as the criterion for eligibility and benefit level for these supplemental services, people receiving both will experience a dollar-for-dollar reduction in their supplemental benefits because of the social security increase.

The philosophy behind the social security increase is to provide recipients with a more adequate financial base to live on. I believe the intent of Congress is clear, and that social security benefits should be raised the full 20 percent for each recipient, and that this increase should be realized, in full.

The social security increase is intended to provide those of our society, who have contributed to its greatness, a more comfortable existence. It was not intended to allow States to hoard their excess State public assistance funds.

As the situation stands now, for those receiving both social security and any and all other public assistance and State social services programs, the 20-percent increase will cause them to experience a dollar for dollar reduction or ultimate cancellation in those supplemental programs. In fact, it appears that people on public assistance programs and who receive social security benefits will not get any more real income than they had before, because they will be forced to meet the costs of much medical and emergency care and basic needs costs that had formerly been covered by their supplemental assistance payments.

Roughly 26 percent of the blind people of this Nation now receiving public assistance are also presently receiving social security; 60 percent of the disabled people receiving public assistance, are also receiving social security benefits. In many States special programs for the medically needy have been set up, to help those people not on welfare, meet the high cost of medical care, including drugs, medicines, and nursing homes. These people who receive social security also, will lose their eligibility for the medically needy programs, due to the increase in their income resulting from the 20-percent increase.

In some cases, especially the disabled, the cost of the medical necessities, they will now be forced to bear themselves, will greatly exceed the social security increase.

If medicaid is not exempted from the allowance to decrease public assistance payments due to the increase in social security, approximately 190,000 people will lose money benefits and some 100,000 people will lose medicaid entirely.

According to the Commission on Aging in Lansing, Mich., the people who will be hurt the most are those receiving $140 to $150 per month in social security benefits—a bare existence level. The raise in benefits may be enough to push them over the level and make them ineligible for medicaid on an ongoing basis.

Medicaid provides for doctor's care and treatments for chronic illnesses and provides money for medication. Once these people lose medicaid, the elderly ones must go onto medicare, which stipulates such conditions as $50 deductible—the individual must pay the first $50 of the doctor's fee—in addition to the fact that medicare does not cover drugs or medication. This situation is extremely dangerous and problematic for the additional burden it creates, surpasses the increase in Social Security benefits.

In Michigan 41,000 people receive old age assistance; of that number 20,500 also receive social security. In most States, public assistance, or money grants are given as supplemental income to social security benefits and/or any other income, on the basis of individual situations of need. In general the money grants do not effect eligibility for medicaid assistance. Now with the social security increase, the income level may rise over the mark for a money grant, which in turn cancels the special standing allowing increased income with no effect on medicaid services. Thus, such individuals will be forced to bear all emergency and medical costs without the help of public assistance or medicaid.

In Michigan, in the category of aged, blind and disabled, 36,914 people receive social security and money grants. If Congress does not act, 6,800 people will lose their public assistance, entirely, the remaining 30,000 will experience a dollar for dollar reduction in the public assistance. Of these 6,800 some 1,000 will, ironically, have their total incomes reduced, as a result of the increase.

We must act to mandate the States to disregard the entire increase of social security benefits as it is reflected in the eligibility and benefit levels for public assistance and medicaid.

On April 26, 1972, I introduced a bill H.R. 14636, which would do just that. The bill we are now considering, H.R. 16811, does not go the full step, while it exempts medicaid, it provides only a $4 disregard on a previous social security increase, as it applies to other public assistance programs. This certainly stops short of the necessity of the situation.

The Senate has provided a total disregard on the social security increase, as part of H.R. 1. This bill is presently in conference, and because the outcome of H.R. 1 is uncertain, I feel it would be far wiser to adopt the wording of the Senate bill now, rather than risk a cruel oversight on the part of the Congress. To do otherwise would, in my judgment, be a violation of the intent of Congress, as it passed the social security increase 4 months ago.

Let us not stop half-way in improving the living conditions of so many Americans who are in need, especially the old and disabled who have given the best of their years to making this country a better place, and who have contributed more than their fair share for our national well-being.

FREEDOM OF THE PRESS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Findley) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, almost all of my adult life before coming to Congress was spent in the newspaper business. As a reporter, editor, and publisher for several weekly papers in Illinois, I grew to know and understand the importance of the constitutional guarantee of a free press. In a very real sense a free press protects other freedoms guaranteed by the Constitution. Without a free press, violations of other rights might go unreported, and an unaware public might conclude that its democratic government was more secure than in fact it was.

I still retain an interest, as publisher, in the Pike Press, country weekly in Pikefield, Ill. And my interest in preserving the freedom of the press is unabated.

Thus, I was shocked and disappointed by the decision of the Supreme Court in three cases late in June of this year. In U.S. against Caldwell, Branzburg against Hayes, and In re Pappas, the Court rejected the claim of newsmen that the first amendment to the Constitution entitled those newsmen to refuse to testify before a grand jury concerning confidential sources of information or confidential information obtained from news sources. Writing for the Court, Justice White stated:

> We cannot accept the argument that the public interest in possible future news about crime from undisclosed, unverified sources must take precedence over the public interest in pursuing and prosecuting those crimes reported to the press.

Such a decision in my view, gravely compromises the right of a free press to gather news, uncover governmental corruption or stupidity or malfeasance, report crime, drug abuse, or other objectionable activity. Worse, such a decision carries within it the ever-present possibility that unscrupulous public officials could use the mere threat of grand jury exposure to compromise a free press.

Congress should act speedily to repair the damage done to the Constitution and plug up this hole through which our other freedoms might also disappear.

Today I am introducing a bill to accomplish that purpose. Similar to other proposals before the House, the bill exempts newsmen from revealing any information or sources which they have procured for publication or broadcast, unless a U.S. district court explicitly divests the newsman of such protection. The court could order such divestment only if three specific conditions are met.

First, there must be probable cause to believe that the person from whom the information is sought has information which is clearly relevant to a specific probable violation of law. Second, it must be demonstrated that the information sought cannot be obtained by alternative means. Third, there must be a compelling and overriding public interest in the information sought from the newsman.

In my view, this type of legislation protects the public's interests in securing that information which is absolutely vital and which only newsmen may have. At the same time, it also protects the public's most important constitutional guarantee, that of a free press.

The text of the bill follows:

H.R. 17174

A bill to assure the free flow of information to the public

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a person connected with or employed by the news media or press, or who is independently engaged in gathering information for publication or broadcast, shall not be required by a court, a grand jury, the legislature or any administrative body, to disclose before the Congress or any Federal Court, grand jury, agency, department or commission any information or the source of any information procured for publication or broadcast.

SEC. 2. The protection set forth above shall not apply to the source of any allegedly defamatory information in any case where the defendant in a civil action for defamation asserts a defense based on the source of such information.

SEC. 3. In any case where a person seeks information or the source thereof protected by this act, such person may apply to the United States District Court for an order divesting such protection. Such application shall be made to the District Court in the district wherein the hearings, action, or other proceeding in which the information is sought is pending. The application shall be granted only if the court, after hearing the parties, determines that the person seeking the information has shown by clear and convincing evidence that (1) there is probable cause to believe that the person from whom the information is sought has information which is clearly relevant to a specfic probably violation of law; (2) has demonstrated that the information sought cannot be obtained by alternative means; and (3) has demonstrated a compelling and overriding public interest in the information.

SECOND SESSION OF 92D CONGRESS PRODUCED MANY IMPORTANT PIECES OF LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 10 minutes.

Mr. WILLIAMS. Mr. Speaker, in October 1972, the 92d Congress completed its business. This session produced many important pieces of legislation, such as the General Revenue Sharing Act, major increases in social security and railroad retirement benefits, the Federal Election Campaign Reform Act, major increases in veterans' benefits, antipollution laws, the spending ceiling, and for those of us who live in the Philadelphia area, the act which created the Tinicum National Environmental Center.

As usual, I was one of the most active Members of Congress. I responded to 435 of 453 quorum calls and recorded votes, as well as hundreds of unrecorded votes. My attendance record for this session has been 96 percent, far above the average for all Members of Congress. This record keeps my attendance above 95 percent for each year since I was first elected to represent the people of the Seventh District in Congress. Both I and my staffs in Washington and Delaware County are constantly working to help solve constituent problems, or to provide answers to the hundreds of letters received each week requesting information or assistance.

My pledge to you has always been to represent the people of the Seventh District to the best of my ability. In order to keep myself informed of the views and wishes of the people of Delaware County I come home almost every weekend to meet constituents and hear their problems and suggestions. This weekly contact with hundreds of you throughout the county has repeatedly proven to me that my votes accurately reflect the views of the overwhelming majority of Seventh District residents.

The year behind—the year ahead. We will remember 1972 as the first year a President of the United States visited Moscow and Peking. We can all recall the thrill of seeing President Nixon being greeted as the National Anthem was played. These two visits, and the President's obvious determination to bring an end to the tragic war in Vietnam, may well be the first steps toward a real "Generation of Peace." I promise each of you in the year ahead to work for peace throughout the world.

THE IMPACT OF REVENUE SHARING

The historic revenue sharing measure has passed the Congress. The Treasury Department in Washington is already preparing checks for distribution early next month for this year's funds. State, county, and local governments throughout the Nation will be able to put these funds to immediate good use.

Delaware County will receive over $6 million this year alone. The money is allocated by a complex formula based mainly on population, and distribution will be to both the county government and to each individual borough and township as well as the city of Chester.

As an example, the city of Chester will receive approximately $891,000. Since the Treasury Department is still computing the amounts each municipality will receive, a complete list is not available. However, the following approximate amounts have already been computed: Aldan, $15,490; Brookhaven, $22,820; Clifton Heights, $27,340; Collingdale, $33,520; Colwyn, $13,570; Darby, $80,550; East Lansdowne, $13,910; Eddystone, $9,930; Folcroft, $35,990; Glenolden, $29,920; Lansdowne, $43,640; Marcus Hook, $45,870; Media, $19,960; Morton, $8,690; Norwood, $42,420; Prospect Park, $43,710; Ridley Park, $27,950; Sharon Hill, $27,950; Swarthmore, $19,060; Upland, $32,840; Yeadon, $37,590.

In addition, the Delaware County government will receive $2.3 million. Approximately another $2.2 million will be distributed to the other municipalities in the county which are not listed above. This bill marks an important change in the relationship of local governments with the Federal Government. For the first time, we are giving Federal funds to local governments with no strings attached so that they can be put to the best possible use.

VIETNAM—THE FINAL ACT

News reports indicate that agreement may be near in the Paris peace talks. After years of effort at the negotiating table, the end appears to be in sight. President Nixon sent Henry Kissinger to Paris for extended secret talks in mid-October. There has been repeated speculation that a spectacular breakthrough was made and that a peaceful solution is expected any day.

President Nixon has kept his pledge to get us out of Vietnam. In less than 4 years in office, he has reduced American troop levels in Vietnam from a high of 549,000 to less than 30,000. This is a reduction of more than one-half million men. All American ground combat troops have long since left that troubled land. We have retained our naval and air power in the Southeast Asian area only because the final peace negotiations have not been completed, and we are still awaiting the return of American prisoners of war and an accounting for those still missing.

Vietnam has been a tempering experience on American national character. We have learned that General MacArthur was right in warning against American involvement in an Asian land war. We have lost thousands of our best young men and spent millions which could have been used at home. Vietnam has taught us much about ourselves and our position in international affairs. Let us all be thankful that President's Nixon's efforts for peace appear to be bearing fruit and we can look forward to a quick and honorable end to our involvement in Indochina.

THE ECONOMY REBOUNDS

The Labor Department price index only rose a modest 0.2 percent in August, only half as much as in the previous month. The raise was the same both before and after adjustment for seasonal movement. The wage and price controls have now proved their effectiveness in slowing inflation, the thief which futively steals from each of us. Bureau of Labor Statistics figures show that the percentage change in the Consumer Price Index was increasing at an outrageous 6.3 percent when the Nixon Administration took office in 1969. The projected annual change increase rate for 1973 is substantially under 2.5 percent. Thus, inflation has been more than cut in half.

Weekly take-home earnings are up sharply after years of stagnation. Controlling the inflation rate has made each dollar available more valuable. Take-home pay throughout the latter half of the 1960's remained level at $91 per week. This was, of course, based on the constant buying power of the 1967 dollar. The economic controls requested by President Nixon, and provided by the Congress, have brought more than a 5 percent increase in the purchasing power of the average American's take-home pay. President Nixon has won my support for his efforts to make the seventies a decade of economic security for all Americans. My pledge is to continue my support for policies and programs which are economically sound.

OLDER AMERICANS

Congress has amended, with my help, the Older Americans Act with new aid to the elderly. The 92d Congress will be long remembered as the Congress which acted to enrich the lives of this Nation's senior citizens. Only the 74th Congress which passed social security, and the 89th which passed Medicare and the Older Americans Act have done more for the elderly.

Important measures this Congress has passed include social security increases. Benefits under social security have been increased by 32 percent in just 2 years—the largest increases ever voted by a single Congress. Nutrition for the Elderly authorizes money to provide at least one hot, nutritious meal daily, five days a week, to people aged 60 and over. Meals will also be delivered to elderly persons who are homebound.

A new National Institute of Aging as part of the National Institute of Health will conduct research on the aging process and on the special health problems of older people. The emergency services to unemployed and underemployed persons, specifically includes: "older persons who desire to remain in, enter, or reenter the labor workforce."

RELEASE OF POW'S AND MIA'S AND LASTING PEACE ARE KEYS TO A VIETNAM AGREEMENT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, all Americans long for peace. There is no division over the desire for peace in Southeast Asia or elsewhere.

But if our country is to achieve a lasting and durable peace, then consideration must be given to how this war is ended. I believe it must be ended in such a way as not to increase the chances of more war in the future, because of what the result will be if aggression is allowed to be rewarded in Indochina.

It seems to me, Mr. Speaker, that a ceasefire must be one of the prerequisites of any plan of those who seek lasting peace in Southeast Asia. It also is obvious that faith in begging for the release of our prisoners of war and the identification of our men who are missing in action is hardly consistent with the realities of dealing with the North Vietnamese.

Senator McGovern has proposed that the United States purchase peace by accepting the terms dictated by the Communists with no firm guarantee that would even result in the return of American POW's and those missing in action.

In his half-hour address Monday, Mr. McGovern complained profusely over the accidental victims of American military action. But there was not one word of sympathy for the victims of deliberate Communist atrocity. Nowhere was there sympathy expressed for the civilians murdered in a bus last week, the countless victims of deliberate Communist rocket attacks, and the thousands who were wantonly slaughtered at Hue in 1968. The children of the civilians massacred by Communist terror fill South Vietnamese orphanages. Not a word was heard on their behalf. Why the double standard?

Senator McGovern also flatly distorted his own record on Vietnam. He has not always been an opponent of the war, but was part and parcel of the decisions which got America into Vietnam.

Senator McGovern voted for the Gulf of Tonkin resolution. He voted for virtually every war appropriation, even as late as 1969. He voted to kill Senator Wayne Morse's amendment to repeal the Gulf of Tonkin resolution. In 1966, he voted eight times to fund the Vietnam war.

In 1966 and 1967, he voted against Senator Gruening's amendment to prohibit the sending of draftees to Vietnam. In 1968, he voted for approximately $32 billion in appropriations to pay for continued U.S. involvement in Vietnam. He not only voted for the war, he spoke out in favor of it. Mr. Speaker, consider the following quotes:

"We cannot surrender or withdraw from Vietnam, nor have I recommended that." McGovern Newsletter, May 1967.

"I would hope we would be prepared to wage such a conflict rather than to surrender the area to communism." *Congressional Record,* January 15, 1965.

". . . we cannot now abruptly withdraw and leave our South Vietnamese ally at the mercy of the guerrilla forces." *Aberdeen (S. Dak.) American News,* March 13, 1965.

"We can't pull out; we can't go back on our commitment. . . ." *Watertown (S. Dak.) Public Opinion,* April 29, 1967.

"My position on the Vietnam war has not altered one iota." *Detroit Free Press,* July 17, 1972.

Besides misrepresenting his own position, the Senator did a gross injustice to the President's record. Why did it go unmentioned that President Nixon has withdrawn 95 percent of the troops McGovern voted to send there and reduced casualties by nearly 100 percent and removed all ground combat troops?

McGovern acted as though two and a half million Americans went to Vietnam to save one man—President Thieu. That is a falsehood—they are there so 17 million people would not have a Communist regime imposed on them with all the terror that would follow. Senator McGovern reflects a type of historical blindness to the consequences of a Communist takeover of the south.

Senator McGovern's pullout of all American equipment from the south—while Communist guns and planes and artillery continue to pour in from the north—would be an act of betrayal. It would invite and guarantee a bloodbath that would mean death for hundreds of thousands, if not millions, of South Vietnamese whose only crime was to place their confidence in the word of the United States.

Finally, Senator McGovern totally covered up his position of general amnesty. Unconditional amnesty has never been granted by any American President. Senator McGovern's comment that he himself would want to serve in penance for breaking the law still leaves it open for thousands of evaders to be released from prison and free to return from Canada without any penalty whatsoever—a sad commentary on the lives of those who chose to answer the call.

Mr. Speaker, the very able and respected syndicated columnist, Mr. William S. White, has, I believe, captured the real meaning of Senator McGovern's so-called peace proposal. I include his column at this point:

McGovern's Moralisms

(By William S. White)

In his present pursuit of the presidency George McGovern is one by one slamming, locking and nailing up the doors for the future of that office should it in fact fall into his care.

In his offer of a literally unconditional American surrender in Vietnam—a capitulation actually more sweeping than the enemy himself has ever seriously "demanding"—candidate McGovern has foreclosed any remote possibility that a President McGovern could negotiate at all with the Communists. You can't negotiate in the absence of anything on which to negotiate; and McGovern's total submission in advance has left nothing on the table to talk about.

He would simply walk out of Vietnam, not merely abandoning the South Vietnamese allies but also withdrawing from them after our departure even the military hardware with which to try to conduct their own defense. He would invite the destruction of the South Vietnamese government. He would "expect" in consequence of this betrayal of the commitments of three successive American Presidents that the Communists would be so deeply moved as forthwith to release the American prisoners of war even though the United States had nothing remaining with which to bargain for them.

Already, McGovern had put his foreign policy leadership in pawn by an earlier and more general elaboration of his views.

This speech pledged to the world Communists—whose sensitivity to "moral" considerations is, of course, widely known—that "idealism" and not national power would hereafter be the guarantor of American security.

So in two successive addresses George McGovern has dropped the third act curtain on what is surely the most bizarre American presidential campaign in history. Here is a candidate who increasingly quotes the Bible to his ends and invokes the name of "the Lord God" while promising to the United States that he will defend it with his own superior spirituality.

Having said 48 hours beforehand that President Nixon's conduct in Vietnam was "murderous and barbaric," McGovern then says that he does not wish to put blame on anybody and that this "is not the time for recriminations." If the two statements seem a trifle contradictory it would be fair to amend one of them to say that this is a time for recriminations—but only toward the South Vietnam there is no censure; there are only "peasant guerrillas."

Now, there is an old tradition that a challenger for the Presidency is entitled to speak and to act with a degree of irresponsibility that is denied to the incumbent. The reason, of course, is that the one is only seeking power and the other has already got it—along with the obligations that go with it.

In the case of George McGovern, he has so far crossed the line of tolerance as to leave it out of sight. To go on nationwide television to surrender one's own nation's cause—call it a poor cause if you will—is not exactly the act of statesmanship, even among some erstwhile McGovernites who really cannot sit still for this one. For fun is fun and politics is politics. But after all the harm that is being done here is to something that is neither Republican nor Democratic but rather two little things called the United States of America and the American presidency.

When these institutions are so attacked in any way it is deplorable. When it is done with Bible-pounding, with incessant self-righteousness and even with attempts to put God Himself into a partisan suit, it all becomes intolerable.

No other Presidential contender has ever done this. And it may even be that McGovern's technique of fantasizing a vast and dangerous world of reality into a kind of global Sunday School where there are never any duties but only perpetual peace and plenty will strike a chord. If so we are in terrifying trouble. If so, there will be proof at last that what many of the tube people really think about those good dear folks out in television land is really true.

SUMMARY OF BILLS DURING 92D CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 10 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I have compiled a summary of some of the bills passed during this 92d Congress and would like to make a list of them, as follows:

COMMODITY RESERVE

In December, 1971, the House of Representatives passed my bill (H.R. 1163) to establish a strategic commodity reserve (or "food bank") for wheat and such feed grains as corn. The bill would provide for better management of our reserves of grain. Some grain would be purchased and insulated from the market when there is a surplus so it would be available during times of short supply. The bill is designed to aid the farm economy by keeping grain prices from dropping when there is a surplus and to protect consumers by making sure that an adequate supply of wheat and feed grains is on hand in case of an emergency. It also contains other features to promote U.S. exports of grain.

In my testimony in September, 1972, on the Russian grain agreement, I pointed out that a drought in the Soviet Union caused them to buy massive amounts of wheat from the U.S. market. These huge and sudden purchases came as a surprise to U.S. Department of Agriculture officials, at least according to their testimony, and showed again that a commodity reserve is needed for such emergencies.

The Administration was strongly against my bill and managed to get it killed in the Senate, but I feel this legislation is badly needed and plan to keep working for its enactment.

RURAL REDEVELOPMENT

Public Law 92–419, the Rural Development Act, contains a number of important provisions (including improved farm credit, an increase in the maximum size of farm operating loans, improved terms for real estate loans) designed to provide a better life in rural America and cut down on the migration to congested cities. The new law also expands the funding authority for the rural water and sewer program for communities of 5,500 population or less.

In 1970, I secured an amendment appropriating $100 million for this program (the maximum amount available then under the basic authorization law), but the Administration has only allocated about half the amount available. As a result, many applications from communities needing basic water and sewer systems have been turned down.

WATER POLLUTION CONTROL

Congress passed the most comprehensive water pollution control bill in history. The bill includes strict anti-pollution standards for industries and municipal waste treatment plants, plus a program of Federal financial assistance for construction of waste treatment facilities. The over-all purpose of the bill is to make the nation's waterways pollution free by 1985.

At present, it is uncertain whether the bill will become law because of reports that the President may "pocket veto" the bill. On October 5, it passed the House of Representatives by 366 to 11 and the Senate by 74 to 0. These votes indicate that Congress would override a veto, but the President could keep the bill on his desk without signing it until after Congress adjourns, in which case the bill would not become law and there would be no chance to override a veto.

REVENUE SHARING

Public Law 92—— establishes a 5-year program under which Federal funds will be allocated on a "revenue sharing" basis to state and local governments. The main purpose of this legislation is to assist state and local governments in providing needed services and to lessen the burden of local taxpayers.

Under this legislation, Iowa will receive a total of $77 million for the year beginning January 1, 1972, with $25.6 million allocated to the state government and $51.4 million to local and county governments. The City of Des Moines will be allocated about $2.2 million and it is expected that these funds will allow the City's property tax levy to be cut by more than 5 mills.

FOREIGN AID

Twice, once in 1971 and again in 1972, the Senate voted down foreign aid authorization bills. However, the foreign aid program has been kept alive, at the request of the Administration, under bills continuing it on a short-term, scaled-down basis.

LAW ENFORCEMENT

Public Law 92— establishes a commission to recommend improvements in the Federal court system.

Public Law 92–381 amends and extends for 2 years the program for Federal grants to public and non-profit agencies to control and prevent juvenile delinquency.

ANTIPOVERTY

Public Law 92–424 extends the anti-poverty program for another 2 years generally as it currently exists.

Congress in 1971 passed, but the President vetoed, legislation extending the anti-poverty program, establishing a new child day care center program and setting up a National Legal Services Corporation designed to insulate the administration of the current Legal Services Program from outside pressures. The President vetoed the 1971 bill because he objected to the day care program.

GENERAL GOVERNMENT

Public Law 92- establishes an Office of Technology Assessment to aid Congress in evaluating scientific and technical proposals for legislation.

Public Law 92–463 is aimed at abolishing unnecessary advisory committees which have accumulated in the various Federal agencies. According to one estimate, there may be as many as 3,200 of these committees and their cost may be about $100 million annually.

Public Law 92- establishes a Marine Mammal Commission and contains other provisions to protect seals and other marine mammals.

MISCELLANEOUS

Public Law 92- expands the Youth Conservation Corps program, which provides summer jobs in some Federal agencies.

Public Law 92— extends and improves the Older Americans Act to assist the elderly.

Public Law 92–411 authorizes $45 million for public television broadcasting for the fiscal year starting July, 1973. Earlier, the President had vetoed a bill to provide longer ranged funding for public broadcasting.

Public Law 92— authorizes control over pesticides which pose a risk to humans and the environment and provides that they be classified into a "general" category and a "restricted" category for use by qualified applicators.

Public Law 92— establishes a new independent Federal agency to protect consumers against injury or death from hazardous products. This law resulted from a study showing that some 20 million persons are injured each year in the home because of accidents involving consumer products.

Public Law 92–460 provides for a 20-percent increase in railroad retirement benefits from September, 1972, through June, 1973, and was passed into law over the President's veto. The increase was not extended for a longer period at this time because of a need to assure that the system is actuarially sound in the future.

Public Law 92—amends the Airport and Airway Development Act to increase the Federal share of financial support for construction and improvement of airport facilities. The law also prohibits the imposition of a "head tax" on airline passengers, with certain limited exceptions that do not apply to Des Moines.

Public Law 92–32 amends the Child Nutrition Act to continue and expand the program under which the Federal Government provides financial assistance to states and local school districts for breakfasts for needy children.

Public Law 92–65 provides Federal assistance for projects designed to help rebuild the economy in "distressed" areas.

Public Law 92–41 extends the Renegotiation Act for 2 years and includes a provision authorizing the Treasury Department to determine the interest rate on excessive profits by defense contractors.

Public Law 92–394 authorizes funds for the fiscal year starting July, 1972, for Radio Free Europe and Radio Liberty.

GOVERNMENT REORGANIZATION

Public Law 92–305 establishes a National Institute of Arthritis, Metabolism, and Digestive Diseases to enhance the Federal Government's role in medical research.

Reorganization Plan No. 1, approved by Congress, combines the Peace Corps, VISTA (the agency for domestic antipoverty workers) and some smaller programs into Action, a single agency administering Government volunteer service programs.

FOREIGN FINANCIAL POLICY

Public Law 92–126 extends until June, 1974, the operation of the Export-Import Bank, which guarantees and makes loans to promote foreign purchases of American products.

Public Law 92–9 extends for two years the interest equalization tax on the sale of foreign securities in this country. This law is designed to help deal with the balance-of-payments problems.

CONGRESSWOMAN MARTHA W. GRIFFITHS REPORTS TO THE PEOPLE OF THE 17TH DISTRICT OF MICHIGAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan (Mrs. GRIFFITHS) is recognized for 15 minutes.

Mrs. GRIFFITHS. Mr. Speaker, at the end of each Congress, it has been a practice of mine to submit to the people of the 17th Congressional District a report on the legislative activities of the preceding 2 years. This report along with regular correspondence, newsletters, and questionnaires, which I send into the district, is helpful in maintaining two-way communication with my constituency.

Communication between a Representative and his constituents is vital. To reflect the views and interests of a district, a Congressman must constantly be aware of what the people are thinking and the problems they face. The many letters I receive daily as well as telephone contacts and meetings at home with individuals and groups are some of the means by which I maintain a day-to-day contact. The truth is that many inequities I have corrected or am attempting to correct now in social security, our tax laws, and in the area of sex discrimination are the results of individuals having complained to me about how the laws affect them unfairly. Much too often inadequacies in programs and injustices in the law are borne in silence, needlessly to go unrecognized for years and years.

This year the boundaries of the 17th Congressional District were changed with redrawing of Michigan's 19 congressional districts. The new 17th Congressional District includes that part of Oakland County including Farmington, Farmington Township, Lathrup Village, and the city of Southfield. It includes Redford Township, which I represented prior to the 1964 redistricting. It also includes that part of the city of Detroit beginning at Eight Mile and Greenfield and running south on Greenfield to Six Mile; east on Six Mile to Freeland; south on Freeland to Grove; east on Grove to Ardmore; south on Ardmore to the Pennsylvania Railroad tracks; south on the Pennsylvania Railroad tracks to Tireman; west on Tireman to Greenfield; south on Greenfield to West Warren; west on West Warren to the city limits; and west, north, and east along the boundary limits of Detroit.

Again, while I sadly say farewell to the many people cut from the boundaries of the 17th, I welcome those persons coming within the new district for the first time. Already, I have heard from many persons in the new area, and I take this opportunity to thank the entire district for responding so well to the recent 17th Congressional District questionnaire.

In this Congress, my committee assignments have afforded opportunity to shape major legislation. On Ways and Means, I worked on the 1971 tax bill, the social security amendments, the new revenue-sharing bill, and the controversial welfare proposals. This year I also was appointed a conferee, giving added voice to the people of my district and the State of Michigan on issues coming before the committee.

As a member of the Joint Economic Committee, I participated in intensive hearings on problems in the economy and joined in critical examination to identify the impact and cost of the gigantic Federal subsidy system. Joint Economic Committee investigations continued into purchasing practices of the Defense Department, which previously uncovered the cost overrun of the C–5A, and Congress finally acted on the committee's recommendation calling for a halt in funds for the SST.

As chairman of the Fiscal Policy Subcommittee, I undertook at the authorization of Congress, the first complete study of our welfare programs to provide facts needed for meaningful welfare reform. Inability of Congress to reach agreement on a welfare reform package is evidence that more sufficient data is required as to who these programs are helping, who they are neglecting, how they work in combination with each other, and how many people are collecting on how many different programs.

Issues in the 92d Congress centered on Vietnam, the economy, and meeting national priorities while controlling government expenditures.

Debate on Vietnam and amendments to curb expansion of the war as well as to make rules governing the commitment of troops by the President in absence of a declaration of war were attempts by Congress to reassert control over the war powers. Approved was an amendment urging the President to terminate activities in Indochina at the earliest practicable date subject to the release of American prisoners of war.

With unemployment at a 10-year high of 6 percent in 1971 and inflation undermining the purchasing power of all wages, salaries, and pensions, Congress extended authority given to the President in 1970 to control wages and prices. Congress further approved emergency employment legislation and accelerated public works authorizations to push the Federal Government into an attack on joblessness. President Nixon, however, did not initiate a wage-price control program until August 1971, and initially subjected to veto the proposed emergency employment programs opening a million new jobs in the public sector.

To provide stimulation for a lagging economy, Congress approved during the first session $15.8 billion in personal and business tax relief. Included was a 7 percent investment tax credit for industry and a speed-up of personal tax exemption and deduction increases scheduled for subsequent years. The tax package also repealed the 7-percent auto excise tax.

Yet, with national unemployment persisting at 5.5 percent and the cost of living increasing, question is raised as to the effectiveness of Administration policies and the human costs imposed in the effort to control inflation by limit-productive growth. With 12-percent unemployment rate for the Detroit pared to 5.1 percent in 1969, a 9-percent unemployment rate for the Detroit metropolitan area, manufacturing employment in Detroit down 14 percent since 1969, and total unemployment approaching 10.7 percent for the State of Michigan, the suffering of jobless Americans and their families is obvious. Furthermore, unemployed do not pay taxes, and, with the economy operating at only 75 percent of capacity, we are losing $70 billion in Federal revenues every year.

While Congress acted to curb Government expenditures, it engaged in confrontation with the administration in efforts to reorder the Nation's priorities. Cutting a total of $14.5 billion in 3 years from administration appropriations requests, and slashing defense and foreign aid spending, Congress emphasized need for continued public investment in education, health, and the environment. Yet, in light of a rising budget deficit, in part due to continued loss of revenues, the House acted on the President's request authorizing a temporary debt ceiling of $465 billion, placing a $250 billion spending limit on expenditures to assure that further budget outlays do not increase inflationary pressures and demand the necessity of tax increases.

The following is a summary of the major domestic work of this Congress. The record represents a responsible and productive effort by Congress to meet the needs of America.

SOCIAL SECURITY, MEDICARE, WELFARE

For over 27 million Americans, Congress increased social security benefits by 32 percent in 2 years, the largest increase voted by a single Congress. The 20 percent increase effective September 1, boosted the average monthly benefit for a single person from $134 to $162 and for married couples from $224 to $271. Payments for a single person receiving the maximum were increased from $216 to $259 a month and for married couples from $324 to $389. Also authorized was provision for future automatic increases whenever the cost-of-living rises more than 3 percent in 1 year.

The new social security-medicare amendments will provide greater protection and benefits to every worker and pensioner. Social security provisions incorporated into H.R. 1 would raise the amount an individual could earn and still draw full social security from $1,680 to $2,100; entitle widows and widowers to draw 100 percent instead of 82½ percent of the deceased wage earner's annuity if first applied for at 65; permit persons continuing to work after 65 to earn an extra credit of 1 percent for each year between 65 and 72 toward ultimate retirement benefits; provide a special minimum benefit for those in covered employment for 30 years in low-paying jobs of $170 a month—$255 for a couple; and reduce the waiting period for disability benefits from 6 to 5 months. My amendments to allow widowers to collect a reduced annuity at age 60, just as widows, as well as to provide an age 62 computation point for determining men's benefits the same as now applies to women, were adopted in the bill. Also included was my proposal to eliminate for divorced women whose marriages lasted 20 years, the requirement of support from their former husbands for entitlement to benefits. My amendment to allow married working couples to combine their social security credits to draw larger annuities based on their combined earnings was rejected.

Major medicare provisions would extend medicare coverage to persons under 65 receiving social security and railroad retirement disability. Persons 65 not eligible for medicare would be able to enroll on a paid voluntary basis—$33 a month, and the medicare part B deductible currently $50 a year would be increased to $60, reflecting rising medical costs. Other amendments would provide coverage of chiropractic services involving treatment by means of manual manipulation of the spine and improvements in the operating effectiveness of the medicare program, tightening controls on hospital and physicians' charges.

The new bill would set uniform national standards for welfare payments to the aged, blind and disabled, guaranteeing each person without other income a Federal benefit of $130 a month—$195 to a couple. In addition, for those persons receiving social security supplemented by welfare, the bill would disregard the first $20 a month of social security plus $65 of any earned income for purposes of determining welfare eligibility.

The bill would raise the tax rate paid by both employers and employees from 5.2 percent on a taxable wage base of $9,000 to 5.85 percent on a wage base of $10,800 beginning 1973, and a wage base of $12,000 beginning 1974, as scheduled under present law. The tax would increase to 6 percent in 1978 and by further stages to 7.3 percent in the year 2011.

HEALTH

Special attention focused in Congress on the Nation's health problems. Responding to a shortage of 50,000 physicians, 57,000 dentists, and 150,000 nurses, Congress extended programs of financial assistance to help students in the medical professions and expanded grants for the construction and expansion of medical training facilities. Passed were bills authorizing research into the treatment and prevention of the fatal Cooley's anemia, sickle cell anemia, multiple sclerosis, and diseases of the heart, blood, and lungs. Each year, cardiovascular disease kills 1 million Americans and afflicts more than 27 million. Chronic pulmonary diseases, such as asthma, bronchitis, and emphysema directly cause more than 30,000 deaths each year. The toll of disease in life, human misery, as well as economic loss to the Nation, should not be tolerated.

A national attack against cancer was launched with authorization of $1.6 billion over the next 3 years for research into its causes and drugs to improve treatment. Awaiting final action is legislation which would extend help to States and localities in the fight against increasing venereal disease, rubella—German measles—and other communicable diseases. But, despite efforts by Congress to direct more resources for health, cutbacks resulted from Presidential vetoes of health appropriations. The compromise 1973 HEW appropriation bill cut more than $531 million from the budget of the National Institutes of Health and more than $60 million from the National Cancer Institute.

The Ways and Means Committee began hearings on national health insurance proposals, including my bill, H.R. 22, the most comprehensive before Congress. With skyrocketing health-care costs, the average wage and salary earner not only is being priced out of the health-care market, but is threatened with possibility of financial ruin should extended or serious illness strike. My proposal will bring the goal of adequate health care within the reach of all Americans. The committee will pursue this legislation in the new Congress.

DRUGS

With drugs affecting every segment of the population and estimates showing between 200,000 and 250,000 heroin addicts in America, Congress expanded Federal assistance to help States and localities develop treatment and rehabilitative services and created a Special Action Office for Drug Abuse Prevention to coordinate a national program for drug control. Both the House and Senate acted further on legislation to assure drug treatment and rehabilitative services to servicemen.

ENVIRONMENT

With water pollution one of the most imminent dangers not only to the health of our people but to the Nation's survival, a $24 billion water control bill cleared the House and Senate. The goal is to eliminate the discharge of all pollutants into the Nation's waters by 1985. Its tough provisions would require industrial and municipal compliance with clean waters standards and would require all industries discharging waste into waterways to apply the best practicable control technology within several years. The legislation authorizes $18 billion in 75-percent matching grants to help municipalities pay for sewage treatment plants. Less than one-third of the Nation's population is served by an adequate system of sewers and plants. The President had proposed a $6 billion, 3-year program.

To preserve the ecological balance in nature, Congress acted on measures placing controls on the manufacture, distribution, and use of insecticide; prohibiting the shooting of eagles and other species, including fish, from airplanes; and providing protection to the remaining 17,000 wild free-roaming horses scattered in our Western States. Both chambers also approved legislation to curb sharply the killing of ocean mammals, including whales, polar bears, and seals, many of which are dangerously close to becoming extinct.

EDUCATION

Congress held steadfast to the goal of improving the quality of learning and assuring educational opportunity for all children. Despite two Presidential vetoes, Congress acted to restore much-needed money to the national education budget. Administration cutbacks in education have resulted in greater strain on already overburdened local property taxes, which are the principal source of school revenues, and less efforts directed at upgrading the education of disadvantaged children, without having to resort to massive busing as proposed by the courts.

Congress further engaged in continuing battle with the courts over the busing issue. The amendment I cosponsored to prohibit any court-ordered busing from taking effect pending appeals to the Supreme Court became law this past June. However, recent decisions of the Supreme Court have restricted its application. Although the House passed legislation, which I supported, to prohibit cross-town busing of schoolchildren and to preserve the sanctity of the neighborhood school, the bill has been killed in the Senate. The proposed amendment to the Constitution placing an absolute ban on school busing was not scheduled for debate. Earlier this year, I signed the discharge petition, to bring this measure to the House floor for a vote.

CONSUMER

To protect the citizen in the marketplace, action was taken on consumer legislation. Both Chambers reached agreement on a Consumer Product Safety bill establishing an independent agency to protect American homes from hazardous consumer products. The agency would set and enforce safety standards, cracking down on the makers of dangerous products, which kill 30,000 and permanently disable 110,000 persons annually. Establishment of a Consumer Product Agency in the Federal Government, empowered to intervene on behalf of the public interest in a wide variety of consumer cases, was approved by the House but killed in the Senate. Bills increasing enforcement for the Flammable Fabrics Act and requiring automobile companies to make car bumpers more damage resistant were passed, along with legislation to finance a national fire prevention research program.

Testifying before the National Commission on Consumer Finance, I directed public attention to the discrimination that exists against women in consumer credit practices. Single women and widows have difficulty in obtaining mortgage credit and insurance coverage, and some lenders refuse to count a wife's earnings when a couple applies for credit.

PORNOGRAPHY

To stop peddlers and merchants of pornography, the House passed a bill prohibiting the mailing of offensive sexual materials to minors under 17. It is similar to legislation of mine in the 91st Congress, which also failed to secure Senate action.

REVENUE SHARING

Congress approved a revenue sharing bill, authorizing $30 billion in Federal revenues to hard-pressed States and localities during the next 5 years. Funds will be allocated on the basis of population, per capita income and general tax effort of the States and localities. One-third of the money will go to State governments and two-thirds to local governments for high priority expenditures in such areas as public safety, environmental protection, and public transportation. Provision also authorizes a system of Federal piggyback collection of State income taxes. Under the bill, local governments in the 17th Congressional District would received the following amounts: Detroit—$36,530,000; Farmington—$44,460; Southfield—$230,969; and Oakland County government—$1,939,307. Figures for Farmington Township, Lathrup Village, Redford Township and Wayne County government are not yet available.

POVERTY

For the first time in a decade, the number of persons living in poverty rose in 1970 by 1.2 million due to the economic decline and massive unemployment. Yet, Congress scaled down a 2-year extension of the poverty program to avoid threat of Presidential veto. Emergency food, medical services, education, work and job training programs reflect the help these programs offer to 11 million of America's poor including thousands of children, the aged poor, the migrant worker and the American Indian. Dropped from this year's bill was the controversial child care program. The program of school lunches was extended in awareness of the social and economic consequences of illness and retarded mental and physical growth among children resulting from hunger and malnutrition. Congress also rebuffed attempts by the U.S. Department of Agriculture to cut back on the free school lunch program, which threatened to eliminate from participation about 1 million poor schoolchildren.

LAW-ENFORCEMENT OFFICERS

The House is expected to act on a Senate bill to provide a $50,000 Federal death gratuity to the survivors of Federal, State or local public safety officers, firemen, jail guards, and national guardsmen killed in the line of duty.

AIR PIRACY

To curb the menace of air piracy and criminal violence which threatens air travelers throughout the world, both Chambers approved legislation to put teeth into the Hague Convention dealing with criminal acts aboard aircraft. An amendment in the legislation also would permit airlines to institute reduced fares on a standby basis for senior citizens similar to existing youth fares.

DRAFT

A 2-year extension of the draft was approved in the first session, along with a substantial military pay increase as a step toward ascertaining whether the Nation's defense needs can be met with an all-volunteer force.

PRISONERS OF WAR

Increasing concern over the fate of our prisoners of war prompted House approval of a resolution calling for the humane treatment and release of U.S. prisoners of war held by North Vietnam and its allies in Southeast Asia.

CONSTITUTIONAL AMENDMENTS

Two constitutional amendments were submitted to the States for ratification. Congress paved the way for the 26th amendment to the Constitution, which lowered the voting age to 18 in Federal, State, and local elections, opening the polls to 25 million young Americans. The Equal Rights Amendment, which I authored and guided through Congress, now has been approved by 21 of the 38 States required for ratification, including Michigan. The amendment would assure equal seniority rights, equal medical benefits, equal pension rights, and equal pay in governments, and would prohibit governments from denying women equal access to universities, to occupations, to juries, to property control, and to credit.

LABOR

Congress extended emergency unemployment compensation benefits in 1971 to provide an additional 13 weeks of benefits in States where unemployment exceeds 6.5 percent. Legislation now pending would extend these benefits to workers in 20 to 25 States where unemployment currently exceeds 4 percent.

Final action on the minimum wage bill has been stalled. The House version would raise the minimum for most workers from $1.60 to $2. The Senate version would extend the floor to $2.20 an hour and expand coverage to more workers.

PENSIONS

For the veteran who has served his country, Congress provided a $6.5 billion cost-of-living increase in non-service-connected pension rates and boosted VA disability benefits 10 percent for more than 2 million disabled veterans. Housing assistance grants also were raised for "wheelchair" veterans to help them meet rising cost of specially-adapted housing. Final action is expected on a bill to improve medical care for veterans and a measure to expand educational and job training allowances has been cleared for the White House. The goal of the latter is to bring Vietnam veterans up to the level of the GI bill enacted for World War II vets. With unemployment for Vietnam veterans around 8.1 percent, educational benefits can offer immediate help and opportunity for thousands of returning veterans.

My bill to eliminate social security as an income determinant for a veterans' pension was not adopted and once again pensioners are threatened with loss or reduction of their VA pensions with the recent raise in social security benefits. The Senate, however, has just passed a bill to raise the VA income limitations, which would allow 2.3 million VA pensioners to benefit from the full 20-percent social security raise. Hearings in the House also were held on a proposal I cosponsored to create a pension for World War I veterans, subject to an annual income limitation of $3,000 for a single veteran and $4,200 for a veteran with dependents. In Michigan, there are over 7,000 World War I veterans. This bill would help many of them, who are in dire financial need, if not on welfare. A similar bill has passed the Senate.

REFORMS

Operating under the new Legislative Reorganization Act, greater opportunity was afforded the public in observing the deliberations of Congress. Congress also approved the first significant election reform legislation since 1925, setting limits on campaign advertising for Federal office and requiring stringent reporting and disclosure of campaign contributions.

The legislative issues coming before this Congress have been difficult, striking at some of our deepest social and economic problems. In the final hours before adjournment, decisions still are being reached on many bills, and this record is not complete. In closing, I again would like to express my thanks to the many people of my district who have written and contacted me expressing their views on legislation. I have tried to the best of my ability to serve you and to raise your concerns in Congress. If ever I can be of assistance, please write or contact my Detroit office at 14615 Grand River, telephone 273-6991.

STRIP MINING CONTROL ACT, H.R. 6482

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I was unavoidably absent from the floor at the time rollcall 428 was taken on Wednesday, October 11. Had I been present I certainly would have voted in favor of H.R. 6482, the Strip Mining Reclamation Act of 1972.

As a cosponsor of this measure I commend the very responsible action of my colleagues in approving this long needed legislation and call upon the Senate to concur in the wise decision of the House of Representatives prior to the conclusion of the present Congress.

Thus, responsible regulation of strip mining practices could begin without further tragic damage to America's environmental heritage.

CALL OF THE HOUSE

Mr. MAZZOLI. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 450]

Abbitt
Abernethy
Abourezk
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Aspin
Baker
Baring
Begich
Bell
Biaggi
Blackburn
Blanton
Blatnik
Boland
Bolling
Brasco
Bray
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clay
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Dow
Dowdy
Downing
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Esch
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Fountain
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Gross
Grover
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harvey
Hastings
Hawkins
Hays
Hébert
Hicks, Wash.
Hillis
Horton
Howard
Hull
Hungate
Hunt
Ichord
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Keith
King
Kluczynski
Kuykendall
Lennon
Link
Lloyd
Long, La.
McClure
McCormack
McCulloch
McDade
McDonald, Mich.
McKevitt
McMillan
Macdonald, Mass.
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Miller, Calif.
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Patman
Pelly
Pepper
Peyser
Pike
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Riegle
Roberts
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Sandman
Scherle
Schmitz
Scott
Sebelius
Seiberling
Shipley
Shoup
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Zwach

The SPEAKER. On this rollcall 218 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MAKING FURTHER CONTINUING APPROPRIATIONS, 1973

Mr. MAHON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Joint Resolution (H.J. Res. 1331) making further continuing appropriations for the fiscal year 1973, and for other purposes.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1331

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of July 1, 1972 (Public Law 92–334), as amended, is hereby further amended (a) by striking out "October 14, 1972" and inserting in lieu thereof "February 28, 1973" and (b) by adding the following new section:

"SEC. 108. Notwithstanding any other provision of this joint resolution, and section 10 of Public Law 91–672 and section 655(c) of the Foreign Assistance Act of 1961, as amended, obligations may be incurred hereunder for activities provided for in the Foreign Assistance and Related Programs Appropriation Act, 1973 (H.R. 16705), as passed during the second session, Ninety-second Congress, at not to exceed the rate for operations provided for in such Act, but whenever the rate for operations for such activities in such Act as passed by the Senate is different from that contained under such Act as passed by the House, the rate for operations shall not exceed the lower rate: *Provided,* That no restrictive provision which is included in such Act but which was not included in the applicable appropriation Act for the fiscal year 1972 shall be applicable to any appropriation fund or authority provided for in this section unless such provision shall have been included in identical form in such Act as passed by both the House and the Senate: *Provided further,* That any provision which is included in such Act as passed by one House and was included in the applicable appropriation Act for the fiscal year 1972 shall be applicable to the appropriations, funds or authorities provided in this section: *Provided further,* Notwithstanding the rates discussed above, the rate for obligations for refugee relief assistance (Bangladesh), security supporting assistance, military assistance, regional naval training, and foreign military credit sales may equal but shall not exceed the rate provided in the authorization bill for such assistance, training and sales for fiscal year 1973 as passed by the Senate during the second session, Ninety-second Congress."

SEC. 2. This joint resolution shall take effect October 15, 1972.

Mr. MAHON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, we have passed all the appropriation bills with the exception of one. There is no likelihood that the foreign aid appropriation bill will clear the Congress and be sent to the President. Therefore we have to have a continuing resolution.

We passed an appropriation bill for foreign aid on September 21. It was passed by a vote of 169 to 141. On August 10 we passed a foreign aid authorization bill. The Senate has also passed a foreign aid authorization bill, but the Senate has not passed a foreign aid appropriation bill that is all-inclusive. The bill passed by the Senate excluded security assistance and Bangladesh relief. It omitted the items which were in the authorization bill in the House and in the Senate.

The continuing resolution before us now for all purposes other than foreign aid is simply an extension of the continuing resolution which expires today. It just moves the date forward to February 28, 1973.

In other words, we will continue until February 28 as we are now, for measures covered in this resolution, except for foreign aid.

Of course, foreign aid is the principal reason that we bring forward this measure at this time. This continuing resolution will permit the foreign aid programs to operate at a level of $185 million below the House-passed appropriation bill.

In other words, if the House-passed appropriation bill for foreign aid should be enacted into law it would provide $185 million more than we provide in this continuing resolution.

I would point out that while the program levels provided for in this bill are very considerable, this continuing resolution will represent a reduction in the budget estimate of approximately $1.1 billion. It is still a very large bill of about $4 billion.

Mr. Speaker, under leave to extend, I include a tabular analysis of the budget estimates and the amounts provided by this continuing resolution for the foreign aid programs.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, FISCAL YEAR 1973

[Note. All amounts are in the form of "appropriations" unless otherwise indicated]

Item	Budget estimates of new (obligational) authority, fiscal year 1973	Continuing resolution rate
TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES		
Funds Appropriated to the President		
Economic assistance:		
Worldwide, technical assistance	$166,408,000	$155,000,000
Alliance for Progress, technical assistance	88,500,000	77,500,000
International organizations and programs	124,835,000	105,000,000
Programs relating to population growth	125,000,000	100,000,000
American schools and hospitals abroad	15,575,000	25,500,000
American schools and hospitals abroad (special foreign currency program)	(5,350,000)	(5,350,000)
Indus Basin Development Fund, grants	$25,000,000	$10,000,000
Indus Basin Development Fund, loans	18,000,000	12,000,000
Contingency fund	30,000,000	25,000,000
International narcotics control	42,500,000	42,500,000
Refugee relief assistance (Bangladesh)	100,000,000	100,000,000
Alliance for Progress, development loans	206,500,000	165,000,000
Development loans	415,500,000	350,000,000
Administrative expenses:		
AID	50,000,000	50,000,000
State	4,775,000	4,775,000
Subtotal, economic assistance	1,412,593,000	1,222,275,000

Item	Budget estimates of new (obligational) authority, fiscal year 1973	Continuing resolution rate
Military assistance:		
Military assistance	$780,000,000	$600,000,000
Regional naval training		2,500,000
Security supporting assistance: Security supporting assistance	844,000,000	685,000,000
Subtotal	3,036,593,000	2,509,775,000
Overseas private investment corporation: Overseas Private Investment Corporation, reserves	85,000,000	42,500,000
Inter-American Foundation: Inter-American Foundation (limitation on obligations)	(11,000,000)	(5,000,000)
Total, title I, new budget (obligational) authority, Foreign Assistance Act activities	3,121,593,000	2,552,275,000
TITLE II—FOREIGN MILITARY CREDIT SALES		
Foreign military credit sales	527,000,000	435,000,000
Total, titles I and II new budget (obligational) authority	3,648,593,000	2,987,275,000
TITLE III—FOREIGN ASSISTANCE (OTHER)		
Independent Agency		
Action:		
Peace Corps, operating expenses	88,027,000	81,000,000
Limitation on administrative expenses		
Department of Health, Education, and Welfare		
Assistance to refugees in the United States (Cuban program)	161,000,000	145,000,000
Department of State		
Migration and refugee assistance	$8,644,000	$8,500,000
Assistance to refugees from the Soviet Union		50,000,000
Funds Appropriated to the President		
International financial institutions:		
Asian Development Bank (special funds)	100,000,000	
Inter-American Development Bank:		
Paid-in capital	50,000,000	25,000,000
Callable capital	336,760,000	168,380,000
Fund for special operations	450,000,000	225,000,000
Subtotal, IDB	836,760,000	418,380,000
International Development Association	320,000,000	320,000,000
Total, title III, new budget (obligational) authority, foreign assistance (other)	1,514,431,000	1,022,880,000
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES		
Lmitation on program activity	(7,323,675,000)	(7,323,675,000)
Liimitation on administrative expenses	(8,438,000)	(8,438,000)
Total, title IV, Export-Import Bank of the United States, limitations on use of corporate funds	(7,332,113,000)	(7,332,113,000)
Grand total, new budget (obligational) authority, titles I, II, and III	5,163,024,000	4,010,155,000

Mr. MAHON. Now, what does the bill encompass insofar as foreign aid is concerned and why is it above the total for the fiscal year 1972?

The problem is that under the Nixon doctrine the President had asked the Congress for additional funds to help wind down the war in Vietnam by providing additional assistance to Southeast Asia.

Last year we provided $500 million for military assistance. But under this resolution the President will have available $600 million for military assistance, which is considerably below the $780 million he requested for fiscal 1973.

The major countries involved in this item are Cambodia, Korea, Thailand, and Turkey.

For supporting assistance, which is principally for South Vietnam, in fiscal year 1972 we had $550 million.

The SPEAKER. The time of the gentleman has expired.

(Mr. MAHON asked and was given permission to proceed for 5 additional minutes.)

Mr. MAHON. This continuing resolution would provide $685 million for fiscal year 1973 for supporting assistance which is below the President's budget request of $844 million.

For Bangladesh refugee assistance, the House bill provided $75 million. In this action today, we would approve the Senate authorization figure of $100 million in continued aid for Bangladesh. The sum of $200 million was provided last year and this would allow $100 million less for fiscal year 1973.

Mr. FRELINGHUYSEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman.

Mr. FRELINGHUYSEN, Mr. Speaker, as a conferee on the foreign aid bill I have listened with particular interest to the remarks of the gentleman from Texas with respect to the money that would be made available under this continuing resolution. I agree with him that this resolution is necessary. However, I would like to express my deep regret that it was literally impossible for the House conferees to reach an agreement with the Senate conferees on the foreign aid authorization bill. What disturbs me particularly is that the deadlock did not develop over the amount of aid to be authorized or over restrictions on the availability of that aid. The problem leading to the deadlock was over an extraneous issue. The Senators insisted on approval by Congress of all executive agreements involving U.S. military installations overseas, and even any revision or extension of any existing agreements.

It seems to me a reflection, quite obviously, on our committee that we were not able to find a basis for compromise. The House conferees, however, did seek earnestly to reach an agreement. Our failure not only nullified all of the efforts of our committee, but also the efforts of the Appropriations Committee, which must develop an appropriation on the basis of an authorization.

Our inability to agree on a compromise meant that no authorization was provided. A continuing resolution under those circumstances is the only way to provide the necessary funds. I regret the necessity of having to accept this alternative, but a continuing resolution is essential if Congress is to provide funds for programs that both the House and the Senate have decided are needed.

Mr. MAHON. I thank the gentleman. I want to say that the gentleman's Committee on Foreign Affairs did everything in its power to get some sort of authorization, and we waited until this final hour of the session to try to do something about it. It is regrettable, but I do not believe any blame can be placed upon the committee.

Mr. FRELINGHUYSEN. If the gentleman would yield further, I, myself, feel that this is unconscionable that the Senate conferees were unable to find a basis for agreement. In fact, they were not really seeking agreement, in my opinion. I regret this very much.

Mr. MAHON. I thank the gentleman. Other than foreign aid there are no other matters here of which I am aware that would be of special interest to the Members. This is just a straight bona fide continuing resolution, generally speaking, except for the special provisions relating to foreign aid.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I think the gentleman from Texas, our friend, the chairman of the Committee on Appropriations, has done an unusually clear and intelligible job in laying out this continuing resolution. I would only ask if it is fair to presume, even though the other body at one time in this session killed foreign aid, that the exemption from the usual and continuing resolution comes now because it is the least we can get by with and expect them to pass, as we dawdle on the strings of the other body? In other words, as I understand it, all other departments which may or may not have appropriations properly authorized by the time we adjourn, will continue as of the same rate that they did in the last year in the 1972 budget on past appropriations by Congress and enacted into law, except for making this exception for foreign aid—which I think the gentleman has explained very forthrightly and intelligibly as due to the Nixon program and winding down the war in Indochina. Is my presumption true: That this is the only way we can do this is by a resolution that will be acceptable by the other body?

Mr. MAHON. This seems to be the only way. The chairman of the appropriations subcommittee on foreign aid, worked diligently over a period of weeks, indeed months, in connection with this measure, and it appears that this is a solution that may be acceptable. It should be acceptable principally, because the Senate did authorize—it did not appropriate—these special assistance programs under the Nixon doctrine, but the authorization was not enacted into law. The continuing resolution only runs until February 28, when we will have to confront this matter again. I should say the gentleman from Louisiana has worked very hard on the bill and we are recommending this action at this time.

Mr. HALL. The answer to my question is "Yes"?

Mr. MAHON. I believe so.

Mr. HALL. I congratulate the gentleman from Texas and the gentleman from Louisiana.

(By unanimous consent Mr. MAHON was allowed to proceed for 3 additional minutes.)

Mr. MAHON. I yield to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, the current continuing resolution expires today, October 14, 1972.

Because of the failure to pass the authorized bill for the foreign assistance program for fiscal year 1973, it has not been feasible to take final action on the pending Foreign Assistance and Related Programs Appropriation Act which has passed both Houses.

It is therefore necessary to extend the existing continuing resolution to provide further continuing appropriations for the activities covered by the Foreign Assistance and Related Programs Appropriation Act.

This resolution extends the date of the current resolution until February 28, 1973, to permit an adequate opportunity for the 93d Congress, when it convenes next January, to finalize action on both the authorization and the appropriation bills.

The existing resolution has provided a rate for operations for the foreign assistance activities not in excess of the current rate or the rate provided for in the budget estimate, whichever is lower, and under the more restrictive authority.

However, to be more responsive to the more current actions to date by the Congress a new section 108 has been added to the existing continuing resolution providing that obligations may not exceed the rate for operations provided for in the pending foreign assistance and related programs appropriation bill for 1973. Whenever the rate for operations as passed by the Senate is different from that contained in the House bill, the rate shall not exceed the lower rate.

Special provision, however, has had to be made for certain programs which were not included, pending authorization, in the Senate version of the appropriation bill. These include refugee relief assistance—Bangladesh, security supporting assistance, military assistance, regional naval training, and foreign military credit sales. The new section 108 provides that the interim rate for operation for these programs shall not exceed the rates which would be permitted under the pending authorization bill as passed by the Senate.

This basis has been used because the amounts in the Senate version of the authorization bill are lower than the budget estimate or the amount in the House passed appropriation bill except for refugee relief assistance—Bangladesh. In this instance the budget estimate and the amount provided by the continuing resolution is $100 million, as compared with $75 million in the House passed appropriation bill.

Section 108 also provides that restrictive provisions which are included in the pending appropriation bill but which were not included in the 1972 appropriation act shall not be applicable unless included in identical form in the bill as passed by both Houses.

Section 108 also provides that any provision which is included in the pending appropriation bill as passed by one House shall be applicable if it was included in the 1972 appropriation act.

In total, the proposed continuing resolution would provide an annual rate of operation for new budget authority of $4,010,155,000 as compared with the budget estimate of $5,163,024,000.

In most instances the rates provided in the proposed continuing resolution are exactly the same rates provided in the foreign aid appropriation bill (H.R. 16705) for fiscal year 1973 that passed the House on September 21 of this year, last month. The only exceptions to this statement are as follows:

Refugee relief assistance (Bangladesh)	+$25,000,000
Military assistance	−130,000,000
Security reporting assistance	−65,000,000
Military credit sales	−15,000,000
Total under House-passed bill	−185,000,000

These rates are tied to the foreign aid authorization bill as passed the Senate which were below the comparable House figures.

In total the continuing resolution rate would be below the House passed foreign aid appropriation bill by $185,000,000 and under the budget estimate by $1.1 billion.

Attention should be directed to the formula as to the distribution of funds between accounts concerning the Inter-American Development Bank as was set forth in the House report on the foreign assistance appropriation bill for fiscal 1973 (H.R. 16705). This breakdown was as follows:

Paid-in capital	$25,000,000
Callable capital	168,380,000
Fund for special operations	225,000,000
Total	418,380,000

Mr. BOW. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Speaker, as a ranking minority member of this subcommittee I merely want to pay respect to the chairman of this committee, the gentleman from Louisiana (Mr. PASSMAN), for the fine work he has done.

I want to express agreement with what has been accomplished in connection with this continuing resolution. The important thing in this bill as it relates to world events is in connection with the refugee program for Bangladesh, the security supporting assistance, the military assistance, the foreign military credit sales. These are provided for in this bill. The continuation of the Vietnamization program if necessary in South Vietnam is provided for here.

So I want to commend the gentleman from Louisiana (Mr. PASSMAN), and the chairman of the committee, the gentleman from Texas (Mr. MAHON), and the ranking minority member of the committee, the gentleman from Ohio (Mr. BOW), for the work which has been done in connection with this continuing resolution.

I want to say this. It is a disappointment to all of us on this subcommittee to see our work go down the drain because another committee did not fulfill its obligation, its responsibility, and come up with some solution to the problem of foreign assistance and related agencies. But we are reluctantly going along with this continuing resolution, hopefully to come up again next March with a bill.

Mr. FRASER. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to ask the chairman a question or two if I may. This continuing resolution, as I understand it, deals with military assistance and so-called economic assistance only. Is that correct?

Mr. MAHON. And also economic assistance.

Mr. FRASER. I wanted to inquire of the chairman on that score. As I recall it last year we passed a foreign authorization bill in the economic area which had a 2-year program in it. That is, we passed an authorization in the economic bill for 2 years. It is only in the military area that we really had to pass authorizing legislation this year.

Mr. MAHON. The gentleman is correct that we only had to pass authorizing legislation in the military area this year.

Mr. FRASER. So my question is directed to that difference. Why is it that the continuing resolution, if it is so, deals also with economic aid when there is on the books authorization for economic assistance?

Mr. MAHON. But that is authorization and this is an equivalent of an appropriation bill and economic authorization does not make aid available. Last year it was $1,061 million. Under this resolution there is $1,222 million for economic assistance, but this covers all of the foreign aid items, military or otherwise, and it covers the international institutions. It covers everything that the foreign aid bill generally treats of, the Export-Import Bank and others.

Mr. FRASER. My question is, Why is there not a regular appropriation with respect to those economic assistance authorizations which were enacted into law and are still in force and are in force throughout all of fiscal year 1973?

Mr. MAHON. Why did we not have a separate appropriation bill for economic aid, omitting the other items in the bill? Well, it was not thought this was the way to approach this situation. In the view of the fact that the authorizing committees were not able to come to an agreement on the bill, while they passed an authorization bill in the Senate which was not too satisfactory and we passed an authorization bill in the House, it was not possible for the House and the Senate authorizing committees to get together, and so this was the best thing that could be done under the circumstances.

Mr. FRASER. My next question is, Is the amount provided for in the economic assistance here, in the continuing resolution, in excess of that which was authorized for fiscal year 1973 last year?

Mr. MAHON. It is in excess of what was provided in fiscal year 1972 but it is not in excess of the authorization for fiscal year 1973.

It is below the figure. I do not have the exact figure in my head.

Mr. FRASER. I thank the chairman.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. RARICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 163, nays 73, not voting 195, as follows:

[Roll No. 451]

YEAS—163

Adams
Addabbo
Arends
Ashley
Aspinall
Badillo
Barrett
Belcher
Bergland
Betts
Biester
Bingham
Blatnik
Boggs
Bow
Brademas
Breaux
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Byrnes, Wis.
Camp
Burton
Carlson
Carney
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Conable
Coughlin
Culver
Danielson
de la Garza
Dellenback
Dennis
Dent
Diggs
Donohue
Dorn
Drinan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Findley
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Gettys
Gonzalez
Grasso
Green, Pa.
Gubser
Gude
Halpern
Hansen, Idaho
Harrington
Hathaway
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Hosmer
Johnson, Calif.
Jonas
Jones, Ala.
Karth
Kemp
King
Koch
Kyl
Kyros
Leggett
Lent
Long, Md.
McClory
McCloskey
McDade
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mallary
Mann
Mathias, Calif.
Mazzoli
Meeds
Mills, Ark.
Mills, Md.
Minish
Mink
Moorhead
Mosher
Nedzi
Nix
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Pickle
Preyer, N.C.
Price, Ill.
Quie
Railsback
Rangel
Rees
Reid
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Roybal
Sarbanes
Scheuer
Schneebeli
Schwengel
Shriver
Sikes
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Sullivan
Teague, Calif.
Ullman
Vander Jagt
Vanik
Ware
Whalen
Whalley
White
Williams
Wilson, Bob
Yates
Young, Tex.
Zablocki
Pucinski
Purcell
Quillen
Randall
Roberts
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Sandman
Scherle
Schmitz
Scott
Sebelius
Seiberling
Shipley
Shoup
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Steele
Steiger, Ariz.
Stratton
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Wiggins
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Zwach

NAYS—73

Andrews, Ala.
Archer
Bennett
Bevill
Brinkley
Carter
Clawson, Del
Cleveland
Collier
Colmer
Conover
Conyers
Daniel, Va.
Davis, Ga.
Downing
Dulski
Duncan
Eckhardt
Gaydos
Goodling
Griffin
Hagan
Hall
Hammerschmidt
Harsha
Hechler, W. Va.
Henderson
Hutchinson
Jacobs
Jarman
Jones, N.C.
Kastenmeier
Kazen
Landgrebe
Landrum
Latta
Lujan
McCollister
Mathis, Ga.
Melcher
Metcalfe
Miller, Ohio
Mitchell
Mizell
Montgomery
Myers
Natcher
Obey
Pettis
Pike
Poage
Powell
Rarick
Reuss
Ruth
St Germain
Satterfield
Saylor
Slack
Smith, Calif.
Spence
Stephens
Stubblefield
Taylor
Teague, Tex.
Tiernan
Wampler
Whitten
Wilson, Charles H.
Wyatt
Wyman
Young, Fla.
Zion

NOT VOTING—195

Abbitt
Abernethy
Abourezk
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baker
Baring
Begich
Bell
Biaggi
Blackburn
Blanton
Boland
Bolling
Brasco
Bray
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Dow
Dowdy
Dwyer
Edmondson
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Fountain
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Griffiths
Gross
Grover
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harvey
Hastings
Hawkins
Hays
Hébert
Hillis
Horton
Howard
Hull
Hungate
Hunt
Ichord
Johnson, Pa.
Jones, Tenn.
Keating
Kee
Keith
Kluczynski
Kuykendall
Lennon
Link
Lloyd
Long, La.
McClure
McCormack
McCulloch
McDonald, Mich.
McMillan
Macdonald, Mass.
Mailliard
Martin
Matsunaga
Mayne
Michel
Mikva
Miller, Calif.
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Patman
Pelly
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.

So the joint resolution was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gerald R. Ford.

Mr. Thompson of New Jersey with Mr. Widnall.

Mr. Hébert with Mr. Anderson of Illinois.

Mr. Waggonner with Mr. Winn.

Mr. Hays with Mr. Devine.

Mr. Rooney of New York with Mr. Conte.

Mr. Rostenkowski with Mr. Andrews of North Dakota.

Mr. Brasco with Mr. Fish.

Mrs. Hansen of Washington with Mr. Talcott.

Mr. Hanley with Mr. Horton.

Mr. Shipley with Mr. Martin.

Mr. Staggers with Mr. Frey.

Mr. Wolff with Mr. Broomfield.

Mr. Carey of New York with Mr. Grover.

Mr. Celler with Mr. Hunt.

Mr. Matsunaga with Mr. Mailliard.

Mr. Howard with Mr. Sandman.

Mr. Stratton with Mr. Minshall.

Mr. Anderson of Tennessee with Mr. Kuykendall.

Ms. Abzug with Mr. Gallagher.

Mr. Alexander with Mr. Clancy.

Mr. Begich with Mr. Crane.

Mr. Biaggi with Mr. Nelsen.

Mr. Clark with Mr. Johnson of Pennsylvania.

Mr. Monagan with Mr. Steele.

Mr. Morgan with Mr. Michel.

Mr. Murphy of New York with Mr. Ruppe.

Mr. Nichols with Mr. Dickinson.

Mr. Murphy of Illinois with Mr. Harvey.

Mr. Podell with Mr. Bell.

Mr. Fascell with Mr. Burke of Florida.

Mr. Giaimo with Mr. McDonald of Michigan.

Mr. Roncalio with Mr. Davis of Wisconsin.

Mr. Rogers with Mr. Esch.

Mr. Roush with Mr. Derwinski.

Mr. Mikva with Mr. Frenzel.

Mr. Byron with Mr. Ashbrook.

Mr. Denholm with Mr. Goldwater.

Mr. Delaney with Mr. Whitehurst.

Mr. Cotter with Mr. Wiggins.

Mr. Cabell with Mr. Quillen.

Mr. Chappell with Mr. Price of Texas.

Mr. Macdonald of Massachusetts with Mr. Keating.

Mr. Hull with Mr. Hastings.

Mr. Hamilton with Mr. Hillis.

Mr. Anderson of California with Mr. Baker.

Mr. Blanton with Mr. Blackburn.

Mr. Boland with Mr. Wylie.

Mr. Burlison of Missouri with Mr. Wydler.

Mr. Davis of South Carolina with Mr. Scherle.

Mr. Dingell with Mr. Sebelius.

Mr. Corman with Mr. McClure.

Mr. Dow with Mr. McCulloch.

Mr. Evans of Colorado with Mr. Bray.

Mr. Fisher with Mr. Brotzman.

Mr. Flowers with Mr. Collins of Texas.

Mr. Fulton with Mr. Zwach.

Mr. Fuqua with Mr. Thone.

Mrs. Green of Oregon with Mr. Thomson of Wisconsin.

Mr. Purcell with Mr. Thompson of Georgia.

Mr. McCormack with Mr. Snyder.

Mr. Link with Mr. Smith of New York.

Mr. Hawkins with Mr. Rousselot.

Mr. Hanna with Mr. Peyser.

Mr. Sisk with Mr. Pirnie.

Mr. Udall with Mr. Pelly.

Mr. Daniels of New Jersey with Mrs. Dwyer.

Mr. Van Deerlin with Mr. Lloyd.

Mr. Vigorito wtih Mr. Skubitz.

Mr. Yatron with Mr. Springer.

Mr. Wright with Mr. Terry.

Mr. Waldie with Mr. Steiger of Arizona.

Mr. Hungate with Mr. Shoup.

Mr. Ichord with Mr. Scott.

Mr. Kee with Mr. Schmitz.

Mr. Aspin with Mr. Keith.

Mr. Byrne of Pennsylvania with Mr. Abbitt.

Mr. Jones of Tennessee with Mr. McMillan.

Mr. Kluczynski with Mr. Symington.

Mr. Mollohan with Mr. Patman.

Mr. Moss with Mr. Pryor of Arkansas.

Mr. Pucinski with Mr. Garmatz.

Mr. Runnels with Mr. Miller of California.

Mr. Roberts with Mr. Gray.

Mr. Flynt with Mr. Edmondson.

Mr. Randall with Mr. Roy.

Mr. Abernethy with Mr. Abourezk.

Mr. Baring with Mr. Caffery.

Mr. Clay with Mr. Curlin.

Mr. Collins of Illinois with Mrs. Griffiths.

Mr. Dellums with Mr. Seiberling.

Mr. Smith of Iowa with Mr. Stuckey.

Mr. Gibbons with Mr. Lennon.

Mr. Haley with Mr. Dowdy.

Mr. Fountain with Mr. Long of Maryland.

Messrs. EDWARDS of California, DENT, MAZZOLI, and WHITE changed their votes from "nay" to "yea."

Messrs. LATTA and COLLIER changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include tables and extraneous matter, on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORITY FOR SPEAKER TO DECLARE RECESS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare a recess, subject to the call of the Chair, with the understanding that such a recess shall not extend beyond 10:30 p.m. this evening.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENT

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 4 over to and including line 7 on page 23 and insert:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting at the end thereof the following sentence: "Congress further declares that substantial outmigration from rural to urban areas is aggravating the economic and social conditions of areas of outmigration as well as central cities. National economy policy should anticipate and take into account the dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. (a) Section 101 of the Public Works and Economic Development Act of 1965, as amended, is amended

(1) by striking in subsection (a) (1) (D) the words "a redevelopment" and inserting in lieu thereof "an", and by striking "401 (a) (6)" and inserting in lieu thereof "107"; and

(2) by striking in subsection (c) "a project in a redevelopment area designated as such under section 401(a) (6)" and inserting in lieu thereof "any project, including projects in an area designated as such under section 107".

(b) Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "pursuant to" the words "section 105 of".

(c) Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended (1) by inserting after the word "title" the words "(except as provided in section 107)"; (2) by striking the words "$800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973.", and inserting in lieu thereof the words "$800,000,000 for the fiscal year ending June 30, 1972, and $550,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."; (3) by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972,"; (4) by striking in the third sentence the words "redevelopment" and "as such"; and (5) by striking in the third sentence "401(a) (6)" and inserting in lieu thereof "107".

(d) Title I of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a) (1) (B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $250,000,000 per fiscal year for the fiscal years ending June 30, 1973 and June 30, 1974."

SEC. 4. Subsection (c) of section 201 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 5. (a) Subsection (b) of section 301 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by inserting immediately after the words "hereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses"; and

(2) by striking out the words "the Federal-Aid Highway Act of 1962" and inserting in lieu thereof "title 23, United States Code".

(b) Section 302 of the Public Works and Economic Development Act, as amended, is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for the initial two years of operation of any such facility constructed after the enactment of this section or for any two-year period during the first five years of operation of any facility constructed previously. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section."

(c) Section 303 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (b) of this section, is amended by striking "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. (a) Section 401(a) (6) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(6) those urban and rural communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low-income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a) (1) (B) of this Act;".

(b) Section 403(a) (1) (D) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(c) Subparagraph (C) of section 403(a) (2) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and adding the following: "; *Provided*, That no area designated as an economic development center under the provisions of this paragraph shall have such designation terminated or modified due to an increase in population."

(d) Section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance, to those parts of an economic development district which are not within a redevelopment area when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section."

(e) Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

Sec. 7. (a) Subsection (c) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year out of funds appropriated under authority of section 509 (d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(b)(1) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is redesignated as paragraph (d)(1).

(2) Redesignated paragraph (d)(1) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out in the first sentence the words 'two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000."; and by striking out in the third sentence the word "authorization" and inserting in lieu thereof "paragraph".

(3) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for the Coastal Plains Regional Commission, not to exceed $100,000,000 per fiscal year for the Four Corners Regional Commission, not to exceed $100,000,000 per fiscal year for the New England Regional Commission, not to exceed $100,000,000 per fiscal year for the Ozarks Regional Commission, not to exceed $100,000,000 per fiscal year for the Upper Great Lakes Regional Commission, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have a comprehensive long-range economic plan approved under section 503 (a)(2) of this Act."

Sec. 8. Section 2 of the Act of July 6, 1970, as amended (Public Law 91–304), is amended by striking out "1972" and inserting in lieu thereof "1974".

Sec. 9. That the Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

Sec. 10. (a) The heading of section 28 of the Occupational Safety and Health Act of 1970 is amended to read as follows:

"ASSISTANCE TO SMALL EMPLOYERS"

(b) Section 28(a) of such Act is amended by inserting "(1)" immediately after the subsection designation, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)".

(c) Subsections (b), (c), and (d) of section 28 of such Act are redesignated as paragraphs (2), (3), and (4), respectively.

Sec. 11. Section 28 of the Occupational Safety and Health Act of 1970, as amended by this Act, is further amended by inserting at the end thereof the following:

"(b)(1) In order to further carry out his responsibilities under subsections (c) and (d) of section 21 as amended regarding additional assistance to small employers, the Secretary may visit the workplace of any small employer which has twenty-five or fewer employees for the purpose of affording consultation and advice for such employer. Such visit (A) may be conducted only upon a valid request of an employer for consultation and advice at the workplace on the interpretation or applicability of standards or on possible alternative ways of complying with applicable standards, and (B) shall be limited to the matters specified in the request affecting conditions, structures, machines, apparatus, devices, equipment, or materials in the workplace. The Secretary shall evaluate a request by an employer pursuant to this subsection and, if appropriate, may provide for an alternative means of affording consultation and advice other than onsite consultation.

"(2) The Secretary may make recommendations regarding the elimination of any hazards disclosed within the scope of the onsite consultation. No visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no citations shall be issued nor shall any civil penalties be proposed by the Secretary upon such visit, except that nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

"(3) For the purpose of carrying out the provisions of this subsection, there is authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1973, $1,500,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

"(c)(1) When, in the course of any visit carried on under subsection (b), there is discovered an apparent serious violation (as defined in section 17(k)) of the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary shall issue a written notice to the employer describing with particularity the nature of the violation, and the action which must be taken within a reasonable period of time specified by the Secretary for the abatement of the violation. Within such reasonable period of time specified by the Secretary, the employer shall certify that he has complied with the abatement instructions. Where an employer fails to make the certification required by the preceding sentence within the prescribed period, the Secretary shall, without further notice, conduct an inspection under section 8 of this Act.

"(2) In the event of a subsequent inspection, the Secretary shall take into consideration any information obtained during the consultation visit of that workplace in determining the nature of an alleged violation and the amount of the penalties to be proposed, if any. The failure of the Secretary to give consultation and advice regarding any specific matter during the consultation visit shall not preclude the issuance of appropriate citations and proposed penalties with respect to that matter.

"(d) In prescribing rules and regulations pursuant to subsection (b) of this section, the Secretary shall provide for the separation of functions between officers, employees, or agents who conduct visits pursuant to subsection (b) of this section and officers, employees, or agents who conduct inspections or investigations under this Act."

Sec. 12. Section 21 of the Occupational Safety and Health Act of 1970 is amended by adding a new subsection as follows:

"(d) In order to provide additional assistance to small employers the Secretary may conduct onsite consultations pursuant to the provisions of subsections (b), (c), and (d) of section 28."

Sec. 13. The previous three sections take effect thirty days after the date of their enactment.

Sec. 14. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VII—ENVIRONMENTAL EFFECTS

"Sec. 801. (a)(1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

"(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of noncompliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

"(3) Whenever feasible, such investigation shall commence six months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within ten days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

"(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) The owner or operator of any commercial or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within thirty days a report disclosing:

"(A) the nature of the enforcement action;

"(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

"(C) the extent of potential employment loss;

"(D) alternatives to the potential employment loss;

"(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

"(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

"(G) the economic circumstances of his total enterprises (including domestic and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in market patterns), the effect of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

"(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

"(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy-eight weeks.

"(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

"(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

"(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

"(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

"(g)(1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this title, has provided information concerning any matter within the scope of this title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

"(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor as he deems appropriate. Such investigation shall cause such investigation to be made shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

"(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

"POLLUTION CONTROL FACILITIES LOANS

"SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

"(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

"(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

"(3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessary for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be—

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary—

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

"(c) As used in this section, the term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section."

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. HALL. Mr. Speaker, reserving the right to object——

Mr. GAYDOS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. HALL. Mr. Speaker, a parliamentary inquiry. Who objected?

The SPEAKER. The gentleman from Pennsylvania (Mr. GAYDOS).

TO AMEND THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1166) providing for concurring the Senate amendment to H.R. 16071, to amend the Public Works and Economic Development Act of 1965, with an amendment.

The Clerk read as follows:

H. RES. 1166

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, together with the Senate amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting at the end thereof the following sentence: "Congress further declares that substantial outmigration from rural to urban areas is aggravating the economic and social conditions of areas of outmigration as well as central cities. National economy policy should anticipate and take into account the dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. (a) Section 101 of the Public Works and Economic Development Act of 1965, as amended, is amended

(1) by striking in subsection (a)(1)(D) the words "a redevelopment" and inserting in lieu thereof "an", and by striking "401(a)(6)" and inserting in lieu thereof "107"; and

(2) by striking in subsection (c) "a project in a redevelopment area designated as such under section 401(a)(b)" and inserting in lieu thereof "any project, including projects in an area designated as such under section 107".

(b) Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "pursuant to" the words "section 105 of".

(c) Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended (1) by inserting after the word "title" the words "(except as provided in section 107)"; (2) by striking the words "$800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973.", and inserting in lieu thereof the words "$800,000,000 for the fiscal year ending June 30, 1972, and $550,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974"; (3) by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972,"; (4) by striking in the third sentence the words "redevelopment" and "as such"; and (5) by striking in the third sentence "401(a)(6)" and inserting in lieu thereof "107".

(d) Title I of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment. No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $250,000,000 per fiscal year for the fiscal years ending June 30, 1973 and June 30, 1974."

SEC. 4. Subsection (c) of section 201 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 5. (a) Subsection (b) of section 301 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by inserting immediately after the word "hereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses"; and

(2) by striking out the words "the Federal-Aid Highway Act of 1962" and inserting in lieu thereof "title 23, United States Code".

(b) Section 302 of the Public Works and Economic Development Act, as amended, is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for the initial two years of operation of any such facility constructed after the enactment of this section or for any two-year period during the first five years of operation of any facility constructed previously. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section."

(c) Section 303 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (b) of this section, is amended by striking "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. (a) Section 401(a)(6) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(6) those urban and rural commuuities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low-income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403 (a)(1)(B) of this Act;".

(b) Section 403(a)(1)(B) of the Public Works and Economic Development Act of 1965 is amended by striking out "two or more redevelopment areas" and inserting in lieu thereof "at least one redevelopment area".

(c) Section 403(a)(1)(D) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(d) Subparagraph (C) of section 403(a)(2) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and adding the following: "; *Provided*, That no area designated as an economic development center under the provisions of this paragraph shall have such designation terminated or modified due to an increase in population.".

(e) Section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new subsections:

"(i) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance, to those parts of an economic development district which are not within a redevelopment area when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

(j) In addition to technical assistance under section 301(a) of this Act, the Secretary is authorized to make grants to an economic development district to pay not to exceed 75 per centum of the administrative expenses, and not to exceed 100 per centum of planning expenses, of such district. In any case where the designation of an economic development district is terminated under subsection (c) of this section before the expiration of the five-year period which begins on the date of designation of such district, grants may be made under this subsection for such additional time as may be necessary to insure that such former district will receive administrative and planning grants during such five-year period. In determining the amount of the non-Federal share of such expenses, the Secretary shall give due consideration of all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, planning grants authorized by this subsection shall be used in conjunction with other available planning grants, such as urban planning grants, authorized under the Housing Act of 1954 as amended, and highway planning and research grants authorized by title 23, United States Code, to assure adequate and effective planning and economical use of funds. For the purposes of this subsection there is hereby authorized to be appropriated not to exceed $20,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."

(f) Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

Sec. 7.(a) Subsection (c) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year, out of funds appropriated under authority of section 509(d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(b)(1) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is redesignated as paragraph (d)(1).

(2) Redesignated paragraph (d)(1) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out in the first sentence the words "two-fiscal-year period ending June 30, 1973, to be available until expended not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000."; and by striking out in the third sentence the word "authorization" and inserting in lieu thereof "paragraph".

(3) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for the Coastal Plains Regional Commission, not to exceed $100,000,000 per fiscal year for the Four Corners Regional Commission, not to exceed $100,000,000 per fiscal year for the New England Regional Commission, not to exceed $100,000,000 per fiscal year for the Ozarks Regional Commission, not to exceed $100,000,000 per fiscal year for the Upper Great Lakes Regional Commission, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have a comprehensive long-range economic plan approved under section 503(a)(2) of this Act."

Sec. 8. Section 2 of the Act of July 6, 1970, as amended (Public Law 91–304), is amended by striking out "1972" and inserting in lieu thereof "1974".

Sec. 9. The Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsecterian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

Sec. 10. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VIII—ENVIRONMENTAL EFFECTS

"Sec. 801. (a)(1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

"(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of noncompliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

"(3) Whenever feasible, such investigation shall commence six months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within ten days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

"(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) The owner or operator of any commerical or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within thirty days a report disclosing:

"(A) the nature of the enforcement action;

"(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

"(C) the extent of potential employment loss;

"(D) alternatives to the potential employment loss;

"(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

"(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

"(G) the economic circumstances of his total enterprises (including domestic and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in, market patterns), the effect of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

"(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

"(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy-eight weeks.

"(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

"(d) The Secretary is authorized to provide reemployment assistance services under other laws to indiivduals who are certified under this section as unemployed.

"(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

"(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

"(g)(1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this title, has provided information concerning any matter within the scope of this title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

"(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

"(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

"POLLUTION CONTROL FACILITIES LOANS

"SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

"(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

"(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be proved for such assistance by an agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

"(3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessary for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be—

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

"(c) As used in this section, the term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section."

Mr. JOHNSON of California (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JOHNSON of California. Mr.

Speaker, the purpose of the amendment to the Senate amendment is to do the following three things: First, provide an annual $20 million authorization for fiscal years 1973 and 1974 for administrative and planning expenses for economic and development districts.

Second, to require only one redevelopment area for the creation of an economic development district instead of two redevelopment areas. Both of these provisions were in the House bill when it passed the House.

Third, to delete an amendment to the Occupational Safety and Health Act of 1970 which provides onsite consultation services for small businesses of 25 employees or fewer without triggering application of the automatic enforcement provisions required by present law. This amendment is not germane to this legislation, nor is it under the jurisdiction of our committee.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding.

I want to say at the outset that in the rush of legislation, in the freshet of business of trying to adjourn I think this is a shoddy way to legislate. There having been an objection, probably for good cause, at the time I was trying to reserve the right to object and find out what was in the Senate amendments, we are here under suspension of the rules without a prior listing on the suspension list, and we have a bill that is not available, Senate amendments that are not in the hands of the Members, and by suspending the rules we are liable to take a pig in the poke.

For example, Mr. Speaker, I would like to ask my friend, the gentleman from California, whether the add-ons in the other body do not broadly expand the labor unemployment compensation plans in one of the titles; namely, title 8?

Mr. JOHNSON of California. I would say not.

Mr. BLATNIK. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Minnesota.

Mr. BLATNIK. Mr. Speaker, our distinguished colleague, the gentleman from Missouri, raises a question, but I do assure the gentleman that we have restored this bill back as close as possible to the original version as originally passed by the House by a vote of 285 to 92, almost 3 to 1.

We have been in constant communication with the minority both at the staff level and likewise with the gentleman from Arkansas (Mr. HAMMERSCHMIDT) and we are in agreement on it.

The Senate did add on a detail that was not germane to the bill and we are deleting that. In short, while we are accepting some modification by the Senate, we are trying to restore this bill back as close as possible to the original bill that passed this House by a 3 to 1 vote.

Mr. HALL. Tell me please, if the gentleman will yield further, how we communicate this way and how we bring it back to the House position by accepting the Senate added-on amendments without a conference? I do not understand.

Mr. BLATNIK. It was not necessary to have a conference. In spite of the lack of the formal conference there have been informal conferences with the Senate Members on both sides of the aisle and also the Senate staff and we have come to an agreement that they and we would accept the language we are proposing here today.

Mr. HALL. Maybe I misunderstood the move to suspend the rules and consider the House-passed resolution with Senate amendments, but that is certainly what I thought I heard. What is the legislative situation in which we find ourselves? Are we accepting the Senate-passed amendments to the House-passed legislation?

Mr. BLATNIK. We are accepting some minor amendments, but the major one is an amendment to amend the Occupational Safety Health Act of 1970, which provides consultation services to small business. This amendment is nongermane and has nothing to do with the economic development legislation we are now bringing out. That is the main reason we are objecting.

Mr. HALL. The gentleman's words are very reassuring but the information I have had from other sources is that one of the titles added by one of the amendments in the other body to the House-passed resolution, dolls it up with whatever rhetoric the gentleman wants to, boiled down is again having us performing a minuet to the tinkle of the labor requirements, and it grossly enhances unemployment compensation and expands it under this plan.

Second, I would ask the gentleman, does not another title include a nongermane office of OSHA?

Mr. BLATNIK. That is the amendment, OSHA, I referred to which we oppose. It has no business in this bill. It is not germane. It was put on in the Senate at the last moment, and we in the House insisted it be knocked out. That is the main reason we are here. The Senate has agreed to accept our deletion of that OSHA provision.

Mr. HALL. The gentleman is reassuring me that the OSHA is not in the bill we are now considering with Senate amendments?

Mr. BLATNIK. The gentleman is absolutely correct.

Mr. HALL. It is in the Senate amendment, is it not?

Mr. BLATNIK. It is in the Senate amendment, yes, but it was not in our original bill passed by the House and we do not accept it now and do not concur. We urged the Senate Public Works Committee members to go along with us and they have so agreed.

Mr. HALL. Mr. Speaker, I just do not believe the gentleman understands the legislative situation, or else I am very dense; one or the other. Is or is not the OSHA amendment the one that was passed in the Senate and added to the House-passed bill?

Mr. BLATNIK. We have eliminated the OSHA amendment added on to the Senate bill. It is stricken in this version and is not now in this legislation which we are considering.

Mr. HALL. Mr. Speaker, all I can say is, this demonstrates the folly of legislating in this manner.

Mr. BLATNIK. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. May I say to the gentleman from Missouri, to clarify the situation, that what we are offering is an amendment to the Senate amendment to do the following three things:

First, the first provision would require only one redevelopment area for the creation of an economic development district instead of two redevelopment areas in the original House provision.

Second, it also restores the provision that provides an annual $20 million authorization for fiscal year 1973 and 1974 for administrative expenses for economic development districts.

Third, and this is the question you had in mind, and the one you were pursuing; it deletes an amendment to the Occupational Safety and Health Act of 1970, which provides onsite consultation service for small businesses of 25 employees or less, without triggering automatic enforcement provisions required by present law.

As our distinguished chairman says, this amendment is not germane to this legislation, nor is it under the jurisdiction of our committee. So, therefore, we are using this amending process to delete it from the legislation.

Mr. HALL. Would my colleague and friend from across the border yield?

Mr. HAMMERSCHMIDT. Yes.

Mr. HALL. I appreciate the work that you have done on this. As I recall, the OSHA amendment exempted employers of 25 and less. Is that not true?

Mr. HAMMERSCHMIDT. That is true.

Mr. HALL. Now, the amendment passed by the other body knocked that out, from 25 to 3 or less; is that correct?

Mr. HAMMERSCHMIDT. No, we are talking about two different subjects, I believe. One actually exempted 25 or less down to 3. This is a different approach, offering consultation services for 25 or less employees. It is an entirely different approach than the other subject matter, which was an exemption.

Both deal with the Occupational Safety and Health Act, yes; but the amendment in this bill only speaks to furnishing them a consultation service. The other amendment has been on the House floor previously, it involved 25 or less.

Mr. HALL. I say they need a lot of consultation under OSHA, no question about that.

I am still thoroughly confused, but I will yield.

Mr. FINDLEY. Mr. Speaker, will the Chairman yield to me?

Mr. JOHNSON of California. I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. In order to clarify this, am I correct that the OSHA provision which the Senate inserted would assure onsite consultation service to business firms employing 25 or less persons?

Mr. JOHNSON of California. Yes.

Mr. FINDLEY. And the effect of this

motion is to strike that assurance from the bill?

Mr. JOHNSON of California. That is right.

Mr. FINDLEY. I have been laboring under the assumption, at least for the last 10 days, that before this Congress adjourns, that very provision would become law, which is a badly needed service to the small employer who has really been befuddled by the health and safety standards that have been sought to be administered under the new act.

If we approve this motion, am I correct that it strikes this assurance of onsite consultations; that with the success of this motion we kill any possibility in this Congress of assuring onsite consultations?

Mr. JOHNSON of California. If the gentleman will yield, I would say that this was a nongermane amendment added in the Senate. This committee has no jurisdiction.

We are asking for this section to be deleted from this particular piece of legislation.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield so that I may make a parliamentary inquiry?

Mr. JOHNSON of California. I yield.

PARLIAMENTARY INQUIRY

Mr. FINDLEY. May I inquire of the Speaker if a bill is pending that will be called up before adjournment; namely, the bill which provides for on-site consultation for firms employing 25 persons or less?

The SPEAKER. It is not on the list of announced bills, and the Chair does not consider that a parliamentary inquiry.

Mr. FINDLEY. Mr. Speaker, under the circumstances I see no way we can provide on-site consultation for these small firms unless we defeat this motion. If I am incorrect I would certainly like to have clarification.

Mr. BLATNIK. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the chairman of the Committee on Public Works.

Mr. BLATNIK. The material is nongermane. It does not belong in a bill designed to help economically distressed areas. It was merely tacked on.

There is another bill, H.R. 17201, presently in the Committee on Education and Labor, which covers this material dealing with the Occupational Safety and Health Act of 1970. I do not know why the sponsors—and there are a sufficient number—do not go ahead and pass their own legislation. That is how it should be done, not by tacking part of it on as a nongermane item to a bill to which it has no reference.

Mr. FINDLEY. Mr. Speaker, if the gentleman will yield further, I have the greatest respect for the gentleman and the leadership he has provided on the Public Works Committee. I have no reason to question the nongermane character of this, but the need for on-site consultation is very present and very real. This looks like the only way we can provide it. I do not know of anyone in this body who objects to providing onsite consultation for small business firms.

Mr. BLATNIK. Then there should not be any difficulty in passing H.R. 17201 on its own merits.

As a procedural matter, I ask the Members not to clutter up this bill and confuse it and perhaps increase the danger of its being defeated.

Mr. FINDLEY. Yet it appears, from what the Speaker just announced, it will not be considered in any other form in this Congress.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to reiterate this very briefly, because of the concern about this provision that would allow consultation for firms with 25 employees or less.

I wanted to tell the gentleman that I personally am a cosponsor of that bill. I have the same concern the gentleman from Illinois has. But in our opinion the Senate has added an amendment to this bill which is not germane in accordance with the rules of the House, and we cannot recommend that this nongermane amendment be included.

We know further that this amendment has been carefully considered by another committee of the House.

In my opinion, not only would it be presumptuous on the part of this committee to evaluate the merits of the proposal in another committee, but unwise and improper as well.

So rather than risking a point of order against the entire substitute, while at the same time defending our colleagues, we consider it prudent to strike this Senate provision from this current amendment.

Mr. FINDLEY. Would the gentleman yield?

Mr. HAMMERSCHMIDT. Yes, I will yield to the gentleman.

Mr. FINDLEY. Mr. Speaker, the gentleman has indicated his support for this legislative provision. The OSHA standards are sought to be applied right now, and that has caused a great deal of difficulty, with harassment to the small business firm. If we are to provide relief, it must be provided right now.

Mr. Speaker, if there has been any case made against or any objection raised to the onsite consultation service, I have not heard of it, and while I am certainly in accord with being as germane as we can, we are faced with a practical problem right now: We either reject this motion or we do not provide this onsite consultation service for firms under OSHA.

Mr. HAMMERSCHMIDT. Mr. Speaker, I appreciate the remarks of the gentleman. However, I know he would not want to preempt the rules of the House for his zealous concern.

I would like to comment further on this amendment.

Mr. Speaker, included in this amendment are two vital provisions which were contained in the bill passed by the House on August 16, and subsequently deleted by the Senate Committee on Public Works. We understand that these provisions are now acceptable on the other side.

The first provision would reduce the basic requirement for the formation of an economic development district from two redevelopment areas to one redevelopment area. The importance of this provision is clearly evident when an examination is made of the gerrymandering tactics that have been forced upon the formation of districts in complying with the two-redevelopment criteria. Further, 41 States have now subregionalized into State planning and development districts. The current two-redevelopment-area criteria constitutes a deterrent to EDA's ability to form economic development districts along State planning district lines. This provision would not only permit flexibility in creating EDA districts in concert with State districts but would allow flexibility in working with the district programs of other agencies, such as HUD.

The second provision is even more important. It would permit designating economic development districts to receive planning and administrative expenses for a minimum of five years. Before a district can be designated it must prepare an overall economic development plan.

Such plan requires a great deal of time and effort as well as cooperation and agreement from all the communities and counties contained within the proposed district. Under the present law, designated districts become officially extinct if a required redevelopment area is redesignated—this, in spite of all of the efforts, sometimes spanning a year or more, which went into the preparation of the overall economic development plan. This provision would assure that districts could expect from EDA a minimum of 5 years of planning and administrative expenses, not projects, to aid in carrying out the plan which was required.

Further, the second provision would create a modest authorization of $20 million per fiscal year for all the district expenses. There are now in existence more than 100 such districts designated and funded; and, in addition, almost another 100 are eligible for such status. Such expenses under current law are paid out of title III—technical assistance—appropriations. Both the House and Senate bills added to title III a new program to pay the operating expenses of vocational training facilities contained under this act. Such expenses would be paid for out of existing title III appropriations, which action, without the new authorization for district expenses, would serve to dilute the effectiveness of the title III technical assistance appropriation.

I urge the adoption of this amendment.

Section 11 of the Senate substitute amending section 28 of the Occupational Safety and Health Act of 1970 is deleted by our amendment.

In our opinion the Senate's amendment is nongermane. In accordance with the rules of the House we cannot recommend that this nongermane amendment be included. We know further that this question has been given careful consideration by another committee of this House. Not only would it, in my opinion, be presumptuous on the part of this committee to evaluate the merits of a proposal under consideration in another committee but unwise and improper as well. Rather than risk a point of order against the entire substitute, while at the same time offending our colleagues, we considered it prudent to strike the Senate provision from our current amendment.

I urge the adoption of this amendment.

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, the Public Works and Economic Development Act of 1965 establishes an effective program to combat the problems of unemployment and low-income in economically lagging areas.

On August 16 of this year, the House passed by vote of 285–92 and sent to the Senate H.R. 16071, a bill amending the Economic Development Act.

On Thursday of this week, the Senate passed H.R. 16071, deleting some material from the House bill and adding several new provisions.

The committee proposes now to pass the bill as it came from the Senate, with certain modifications which we have reason to believe will be agreed to by the other body.

When the Senate passed H.R. 16071, they deleted several provisions of the House bill, including two very important sections dealing with the development district program of the Economic Development Administration.

These development district provisions—which we have put back in the bill—provide $20 million in annual authorization for districts, a certain 5-year District life and a reduction from two redevelopment areas to one in the requirement for formation of a district.

We have been assured by the other body that the reinsertion of this material—already passed once by the House—will be accepted in the Senate.

Several other provisions of H.R. 16071 were deleted or modified by the Senate. These provisions remain unacceptable to the other body and are therefore not in the bill now being considered.

Among the more important such modifications are the following. The Senate:

Reduced the House bill authorization for regular public facility grants from $800 million per year for 1973 and 1974 to $550 million per year for these years—a return to the current authorization level.

Reduced House bill authorization for accelerated public works from $500 million per year for 1973 and 1974 to $250 million per year for these years—also a return to the current authorization level.

Deleted a House provision to create new development tools such as loan and lease guarantees;

Deleted a House provision for increasing maximum Federal share of a development loan from 65 percent to 75 percent.

Deleted a House provision permitting the Secretary to assist very poor communities in preparing applications.

Deleted a House provision authorizing funds for coordination efforts of agencies involved in economic development work.

Deleted House bill provisions regarding coordination of Regional Economic Development Commission activities with EDA.

Tightened administration and procedures of the provisions for assistance to individuals and to industry for environmental compliance.

The Senate added some of its own material as well as modifying or deleting House provisions.

One of the new Senate provisions, providing forgiveness of a $3.6 million loan made to Appalachian Regional Hospitals, Inc., by the Area Redevelopment Administration in 1964, has been kept in the bill.

A second Senate provision amending the Occupational Safety and Health Act of 1970, has been deleted from the bill now being considered. This action is agreeable to the other body.

This Health and Safety Act amendment is not in any way related to the economic development program which is the substance of H.R. 16071. Furthermore, the amendment applies to legislation within the jurisdiction of another committee, where action on it is now pending.

The House has already acted once upon the substance of H.R. 16071. The bill was a good one when it left the House, where it got a better than 3-to-1 vote; the amendments made in the Senate are reasonable, and I urge passage of this much-needed job-producing legislation, as amended, without delay.

(Mr. CLEVELAND (at the request of Mr. HAMMERSCHMIDT) was granted permission to extend his remarks at this point in the RECORD.)

Mr. CLEVELAND. Mr. Speaker, I feel that I must express my strong distate for the manner in which this legislation is before us. It demonstrates, I think, the evils of rushing legislation through the Congress at the last minute.

It gratifies me that the provision which I sponsored establishing low-interest, long-term loans for enterprises that otherwise would have to shut down as a result of Government environmental orders remains in the bill before us. It distresses me however to see that the other body has seen fit to place restrictions and conditions upon the loan applicants that may prove onerous and frankly, in my view, are unnecessary. There is enough redtape with Government programs; why add more? Commonsense dictates that we should help industry, which produces jobs, meet their pollution problems. Wise administration will be needed so that we can not only improve our environment but foster economic development and the preservation of job-creating industries.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass House Resolution 1166.

The question was taken.

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 155, nays 64, not voting 212, as follows:

[Roll No. 452]

YEAS—155

Adams
Addabbo
Anderson, Tenn.
Arends
Aspinall
Badillo
Barrett
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Brademas
Breaux
Brinkley
Broyhill, N.C.
Burke, Mass.
Burton
Carlson
Carney
Carter
Chamberlain
Chisholm
Clausen, Don H.
Cleveland
Conover
Conyers
Coughlin
Culver
Danielson
Davis, Ga.
Dent
Diggs
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Eckhardt
Eilberg
Eshleman
Evins, Tenn.
Flood
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Gaydos
Gonzalez
Grasso
Green, Pa.
Griffin
Hagan
Halpern
Hammerschmidt
Hansen, Idaho
Harrington
Harsha
Hathaway
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Karth
Kazen
Kemp
Koch
Kyros
Landrum
Leggett
Lent
Lujan
McCloskey
McCollister
McDade
McFall
McKinney
Madden
Mann
Mathis, Ga.
Mazzoli
Meeds
Metcalfe
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Moorhead
Mosher
Myers
Natcher
Nedzi
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Pickle
Pike
Preyer, N.C.
Price, Ill.
Rangel
Rees
Reid
Reuss
Rodino
Rooney, Pa.
Rosenthal
Roybal
St Germain
Sarbanes
Saylor
Scheuer
Schwengel
Shriver
Stanton, J. William
Stanton, James V.
Steed
Stokes
Stubblefield
Sullivan
Taylor
Teague, Calif.
Teague, Tex.
Tiernan
Ullman
Vander Jagt
Vanik
Wampler
Ware
Whalley
Wilson, Bob
Wilson, Charles H.
Wyatt
Yates
Zablocki
Zion

NAYS—64

Andrews, Ala.
Archer
Betts
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burleson, Tex.
Byrnes, Wis.
Camp
Casey, Tex.
Cederberg
Clawson, Del
Collier
Colmer
Daniel, Va.
de la Garza
Dennis
Downing
Edwards, Ala.
Erlenborn
Findley
Frey
Gettys
Goodling
Hall
Hastings
Hosmer
Hutchinson
Jacobs
Jarman
Jonas
King
Kyl
Landgrebe
Latta
McClory
McEwen
Mahon
Mallary
Mathias, Calif.
Montgomery
Pettis
Poage
Powell
Quie
Rhodes
Robinson, Va.
Robison, N.Y.
Ruth
Satterfield
Schneebeli
Sikes
Smith, Calif.
Spence
Steiger, Wis.
Stephens
White
Whitten
Williams
Wyman
Young, Fla.
Young, Tex.

NOT VOTING—212

Abbitt
Abernethy
Abourezk
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Baker
Baring
Begich
Belcher
Bell
Biaggi
Blackburn
Blanton
Boland
Bolling
Bow
Brasco
Bray
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy

Clark
Clay
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Dow
Dowdy
Dwyer
Edmondson
Edwards, Calif.
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Frenzel
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Griffiths
Gross
Grover
Gubser
Gude
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harvey
Hawkins
Hays
Hébert
Heckler, Mass.
Hillis
Horton
Howard
Hull
Hungate
Hunt
Ichord
Johnson, Pa.
Jones, Tenn.
Kastenmeier
Keating
Kee
Keith
Kluczynski
Kuykendall
Lennon
Link
Lloyd
Long, La.
Long, Md.
McClure
McCormack
McCulloch
McDonald, Mich.
McKay
McKevitt
McMillan
Macdonald, Mass.
Mailliard
Martin
Matsunaga
Mayne
Melcher
Michel
Mikva
Miller, Calif.
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Nix
Patman
Pelly
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Railsback
Randall
Rarick
Riegle
Roberts
Roe
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Sandman
Scherle
Schmitz
Scott
Sebelius
Seiberling
Shipley
Shoup
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Steele
Steiger, Ariz.
Stratton
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whalen
Whitehurst
Widnall
Wiggins
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Zwach

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gerald R. Ford.

Mr. Thompson of New Jersey with Mr. Widnall.

Mr. Hébert with Mr. Anderson of Illinois.

Mr. Waggonner with Mr. Winn.

Mr. Hays with Mr. Devine.

Mr. Rooney of New York with Mr. Conte.

Mr. Rostenkowski with Mr. Anderson of North Dakota.

Mr. Brasco with Mr. Fish.

Mrs. Hansen of Washington with Mr. Talcott.

Mr. Hanley with Mr. Horton.

Mr. Shipley with Mr. Martin.

Mr. Staggers with Mr. Bow.

Mr. Wolff with Mr. Broomfield.

Mr. Carey of New York with Mr. Grover.

Mr. Celler with Mr. Hunt.

Mr. Matsunaga with Mr. Mailliard.

Mr. Howard with Mr. Sandman.

Mr. Stratton with Mr. Minshall.

Mr. Whalen with Mr. Kuykendall.

Ms. Abzug with Mr. Gallagher.

Mr. Alexander with Mr. Clancy.

Mr. Begich with Mr. Crane.

Mr. Biaggi with Mr. Nelsen.

Mr. Clark with Mr. Johnson of Pennsylvania.

Mr. Monagan with Mr. Steele.

Mr. Morgan with Mr. Michel.

Mr. Murphy of New York with Mr. Ruppe.

Mr. Nichols with Mr. Dickinson.

Mr. Murphy of Illinois with Mr. Harvey.

Mr. Podell with Mr. Bell.

Mr. Fascell with Mr. Burke of Florida.

Mr. Giaimo with Mr. McDonald of Michigan.

Mr. Roncalio with Mr. Davis of Wisconsin.

Mr. Rogers with Mr. Esch.

Mr. Roush with Mr. Derwinski.

Mr. Mikva with Mr. Frenzel.

Mr. Hungate with Mr. Shoup.

Mr. Ichord with Mr. Scott.

Mr. Kee with Mr. Schmitz.

Mr. Aspin with Mr. Keith.

Mr. Byrne of Pennsylvania with Mr. Abbitt.

Mr. Jones of Tennessee with Mr. McMillan.

Mr. Kluczynski with Mr. Symington.

Mr. Mollohan with Mr. Patman.

Mr. Moss with Mr. Pryor of Arkansas.

Mr. Pucinski with Mr. Garmatz.

Mr. Runnels with Mr. Miller of California.

Mr. Roberts with Mr. Gray.

Mr. Roe with Mr. Galifianakis.

Mr. Flynt with Mr. Edmondson.

Mr. Randall with Mr. Roy.

Mr. Abernethy with Mr. Abourezk.

Mr. Baring with Mr. Caffery.

Mr. Clay with Mr. Curlin.

Mr. Collins of Illinois with Mrs. Griffiths.

Mr. Dellums with Mr. Seiberling.

Mr. Smith of Iowa with Mr. Stuckey.

Mr. Gibbons with Mr. Lennon.

Mr. Haley with Mr. Dowdy.

Mr. Ashley with Mr. Belcher.

Mr. Edwards of California with Mr. Conable.

Mr. Kastenmeier with Mr. Dellenback.

Mr. Long of Louisiana with Mr. Mayne.

Mr. Long of Maryland with Mr. Gude.

Mr. McKay with Mrs. Heckler of Massachusetts.

Mr. Melcher with Mr. McKevitt.

Mr. Nix with Mr. Railsback.

Mr. Rarick with Mr. Riegle.

Mr. Byron with Mr. Ashbrook.

Mr. Denholm with Mr. Goldwater.

Mr. Delaney with Mr. Whitehurst.

Mr. Cotter with Mr. Wiggins.

Mr. Cabell with Mr. Quillen.

Mr. Chappell with Mr. Price of Texas.

Mr. Macdonald of Massachusetts with Mr. Keating.

Mr. Hull with Mr. Hastings.

Mr. Hamilton with Mr. Hillis.

Mr. Anderson of California with Mr. Baker.

Mr. Blanton with Mr. Blackburn.

Mr. Boland with Mr. Wylie.

Mr. Burlison of Missouri with Mr. Wydler.

Mr. Davis of South Carolina with Mr. Scherle.

Mr. Dingell with Mr. Sebelius.

Mr. Corman with Mr. McClure.

Mr. Dow with Mr. McCulloch.

Mr. Evans of Colorado with Mr. Bray.

Mr. Fisher with Mr. Brotzman.

Mr. Flowers with Mr. Collins of Texas.

Mr. Fulton with Mr. Zwach.

Mr. Fuqua with Mr. Thone.

Mrs. Green of Oregon with Mr. Thomson of Wisconsin.

Mr. Purcell with Mr. Thompson of Georgia.

Mr. McCormack with Mr. Snyder.

Mr. Link with Mr. Smith of New York.

Mr. Hawkins with Mr. Rousselot.

Mr. Hanna with Mr. Peyser.

Mr. Sisk with Mr. Pirnie.

Mr. Udall with Mr. Pelly.

Mr. Daniels of New Jersey with Mrs. Dwyer.

Mr. Van Deerlin with Mr. Floyd.

Mr. Vigorito with Mr. Skubitz.

Mr. Yatron with Mr. Springer.

Mr. Wright with Mr. Terry.

Mr. Waldie with Mr. Steiger of Arizona.

Messrs. BROOKS, JARMAN, and KYL changed their votes from "yea" to "nay."

Messrs. PASSMAN, BREAUX, LENT, PICKLE, and O'KONSKI changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 15475, COMMISSION ON MULTIPLE SCLEROSIS

Mr. SATTERFIELD submitted the following conference report and statement on the bill (H.R. 15475) to provide for the establishment of a National Advisory Commission to determine the most effective means to find the cause of, and cures and treatments for, multiple sclerosis:

CONFERENCE REPORT (H. REPT. No. 92–1604)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Advisory Commission on Multiple Sclerosis Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

(2) this disease, known as the "great crippler of young adults", generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

(3) the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

(4) the determination of the most effective program for discovering the cause of and cures and treatments for the disease deserves the highest priority.

NATIONAL ADVISORY COMMISSION

SEC. 3. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), after consultation with the advisory council to the National Institute on Neurological Diseases and Stroke appointed under section 342 of the Public Health Service Act, shall appoint a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. Such study and investigation shall give particular emphasis to the need for additional financial support by the Federal Government and the means by which the Federal Government can best participate in the effort to find the cause of and cures and treatments for multiple sclerosis.

(2) The Secretary shall appoint to the commission (A) four members of the advisory council referred to in paragraph (1), and (B) five other individuals from the public who are particularly qualified to participate in the work of the commission. The members of the Commission shall select a chairman from among the members appointed under clause (B) of the preceding sentence. Members of the commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of

the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the commission. While away from their homes or regular places of business in the performance of services for the commission, members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(3) The Secretary shall provide such administrative support services for the commission as it may request.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the commission, upon the request of its chairman, such information, services, personnel, and facilities as the commission deems necessary to carry out the purposes of this section.

(c) The commission shall transmit to the Secretary for transmittal to the President and the Congress a final report (which shall include recommendations for such legislation as the commission determines is necessary) but not later than one year after the date of enactment of this Act, and the commission shall cease to exist thirty days after submitting its report.

And the Senate agree to the same.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Ancher Nelsen,
Tim Lee Carter,
Managers on the Part of the House.

Harrison A. Williams,
Edward M. Kennedy,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Harold E. Hughes,
Claiborne Pell,
Walter F. Mondale,
Richard S. Schweiker,
J. K. Javits,
Peter Dominick,
Bob Packwood,
J. Glenn Beall, Jr.,
Robert Taft, Jr.,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

HOUSE BILL

The House bill directs the Secretary of Health, Education, and Welfare to establish a National Advisory Commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. In establishing the advisory commission, the Secretary is to consult with the advisory council to the National Institute on Neurological Diseases and Stroke. The advisory commission is to give special emphasis to the need for additional Federal financial assistance and to the means by which the Federal Government can most effectively assist in finding the cause of and cures and treatments for multiple sclerosis.

The advisory commission is to be composed of nine members, five to be chosen from among the members of the advisory council to such National Institute and four to be chosen from qualified members of the public. The usual provisions relating to compensation and travel expenses for advisory committee members is made applicable to members of the advisory commission. Administrative support services, as required by the advisory commission are to be provided by the Secretary, and other units of the executive branch are to furnish the advisory commission, upon request, with personnel and material to carry out its functions.

Within one year of the date of enactment, the advisory commission is to make a report to the President and the Congress and the report is to include recommendations for such legislation as the advisory commission determines to be necessary.

The bill provides for the following short title: "National Advisory Commission on Multiple Sclerosis".

SENATE AMENDMENT

The Senate amendment establishes the National Commission on Multiple Sclerosis. The commission is to be composed of eleven members appointed by the President from among individuals with a demonstrated interest in achieving through research practical means for preventing or arresting the further progress of multiple sclerosis. Five of the eleven members are to be chosen from the medical community and six are to be chosen from the general public. The usual provisions relating to compensation and travel expenses for advisory committee members are made applicable to commission members.

The commission is to make a thorough and complete study and investigation of current research in the field of multiple sclerosis and related neurological diseases to determine the most productive avenues of approaches toward finding causes, cures, and treatments for multiple sclerosis, including recommendations respecting enactment of legislation. The study and investigation is to give particular emphasis to funding needs and the means by which the Federal Government can best participate. Within one year of the date of enactment the commission is to transmit to the President and to the Congress a final report respecting its study and investigation.

The commission is given the usual authority respecting personnel and activities to carry out its functions.

CONFERENCE AGREEMENT

The conference substitute is the same as the House bill, except that (1) four (instead of five) of the nine members of the advisory commission are to be chosen from members of the advisory council to the National Institute of Neurological Diseases and Stroke; (2) five (instead of four) of such nine members are to be chosen from members of the public; and (3) the chairman of the advisory commission is to be selected only from the members selected from the public.

Harley O. Staggers,
Paul G. Rogers,
David E. Satterfield,
Ancher Nelsen,
Tim Lee Carter,
Managers on the Part of the House.

Harrison Williams,
Edward M. Kennedy,
Gaylord Nelson,
Thomas F. Eagleton,
Alan Cranston,
Harold E. Hughes,
Claiborne Pell,
Walter F. Mondale,
Richard S. Schweiker,
J. K. Javits,
Peter H. Dominick,
Bob Packwood,
J. Glenn Beall, Jr.,
Robert Taft, Jr.,
Managers on the Part of the Senate.

The SPEAKER. Does the gentleman wish to call up the conference report?

Mr. SATTERFIELD. Not at this time, Mr. Speaker.

MAJOR MARITIME AGREEMENT

Mr. GERALD R. FORD. Mr. Speaker, I am pleased to advise the House that today a historic agreement was signed culminating months of intensive negotiations between the United States and the Soviet Union. I refer to the major maritime agreement signed this morning by Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This agreement represents another step forward in President Nixon's strategy for peace and a necessary link in the establishment of an expanding commercial relationship with the Soviet Union. According to an announcement by the White House, the agreement has two basic objectives: First, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S.-flag and Soviet-flag vessels; and secondly to afford the U.S.-flag vessels and Soviet-flag vessels, the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

Of particular interest is the fact that this agreement will expedite the shipment of wheat sold to the Soviet Union and provides that national flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972. A number of Great Lakes ports are included among the 40 ports in each nation which ore open to access by vessels of the other nation, including Bay City, Mich., and other Great Lakes ports.

I include in the Record at this point the text of the announcement by the White House:

Announcement by the White House

A major maritime agreement with the Soviet Union was signed today by U.S. Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This Agreement represents another necessary link in the establishment of an expanding commercial relationship with the Soviet Union.

The negotiations which culminated in this Agreement were initiated in the latter part of 1971, and have been the subject of a series of meetings in Washington and Moscow throughout 1972.

By providing a broad framework and a clear set of ground rules for maritime activities between the two countries, this Agreement is an important step toward normalizing and expanding maritime relationships between the United States and the Soviet Union.

OBJECTIVES

The Agreement has two basic objectives; first, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S. flag and Soviet-flag vessels; and, secondly, to afford to US-flag vessels and Soviet-flag vessels the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

SALIENT POINT OF THE AGREEMENT

Port Access

The Agreement provides access to specified Soviet and United States ports to flag vessels of both countries engaged in commercial maritime shipping and merchant marine training activities. Under the Agreement, 40 ports in each nation are open to access by vessels of the other nation upon four days' advance notice to the appropriate authorities. The selection of the ports was based on commercial considerations, reasonable reciprocity and protection of national security interests. The U.S. ports open to access by Soviet vessels are:

Astoria, Oregon. Baltimore, Maryland. Baton Rouge, Louisiana. Bay City, Michigan. Beaumont, Texas. Bellingham, Washington. Brownsville, Texas. Burnside, Louisiana. Chicago, Illinois. Cleveland, Ohio. Coos Bay (including North Bend), Oregon. Corpus Christi, Texas. Duluth, Minnesota/Superior, Wisconsin. Erie, Pennsylvania, Eureka, California. Everett, Washington. Galveston/Texas City, Texas. Honolulu, Hawaii. Houston, Texas. Kenosha, Wisconsin. Long Beach, California. Longview, Washington.

Los Angeles (including San Pedro, Wilmington, Terminal Island), California. Milwaukee, Wisconsin. Mobile, Alabama. New Orleans, Louisiana. New York (New York and New Jersey parts of the Port of New York Authority), New York. Olympia, Washington. Philadelphia, Pennsylvania (including Camden, New Jersey). Ponce, Puerto Rico. Port Arthur, Texas. Portland (including Vancouver, Washington), Oregon, Sacramento, California, San Francisco (including Alameda, Oakland, Berkeley, Richmond), California. Savannah, Georgia. Seattle, Washington. Tampa, Florida. Toledo, Ohio.

While the four-day notice requirement is more than the normal 24-hour notice period applicable to commercial vessels, it is substantially less restrictive than the 14-day advance request requirement now applied by the United States to Soviet vessels and the 30-day advance request required by the U.S.S.R. for U.S. vessels.

Entry of vessels to ports not specified in the Agreement will continue to be permitted in accordance with existing rules and regulations, i.e., the 14 and 30 day prior request provisions will still apply. Requests for entry by Soviet vessels to U.S. ports not specified in the Agreement must be made of the Department of State, Washington, D.C., and must be accompanied by an itinerary complete with ports of call and dates. Maritime training vessels and hydrographic and other research vessels may enter the ports only for purposes of resupply, rest, crew changes, minor repairs and other services normally provided in such ports. The Agreement does not involve any concessions in the policy of the United States with respect to ships which have called on Cuban, North Vietnam or North Korean ports. Soviet vessels which have called or will call on Cuba, North Vietnam, or North Korea will not be permitted to bunker in U.S. ports and Soviet vessels which have called on Cuba or North Vietnam will not be permitted to load or unload in U.S. ports government-financed cargoes such as grains sold on Commodity Credit Corporation credit terms.

In addition, the Agreement contemplates the access of initially 81 U.S. and 50 Soviet vessels engaged in hydrographic, oceanographic, meterological or terrestrial magnetic field research of a civilian nature. The Agreement does not include vessels engaged in fishing or related activities since these matters are covered by separate agreements; nor does it include warships or vessels carrying out state functions other than those mentioned above. It is not intended to cover any liquefied natural gas trade which may develop between the nations.

TONNAGE DUTIES

Under the Agreement, neither nation shall charge vessels of the other tonnage duties which exceed duties charged to vessels of other nations in like situations.

EQUAL AND SUBSTANTIAL SHARING

The Agreement sets forth the intention of both governments that the national-flag vessels of each country will each carry equal and substantial shares of the oceanborne commerce between the two nations. At the same time the Agreement recognizes the policy of both the United States and the Soviet Union with respect to participation in its trade by third-flag vessels.

The intention that a substantial share of the trade between the two nations will be carried by each national flag merchant marine is defined as meaning that the national-flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations, whether by direct movement or by transshipment through third countries. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972.

Equal share of the trade between the two nations is measured on the basis of U.S. dollar freight value of cargo carryings by the national-flag vessels of each party during each calendar year accounting period. Special accounting procedures are established to determine on a uniform basis the U.S. dollar freight value of cargo carryings and to protect against the possibility of disparities caused by the undervaluing of freight rates to increase the volume of cargo carried. These procedures are also designed to permit continuous monitoring so as to maintain parity of carriage throughout the accounting period. Cargoes carried in liner vessels and bulk cargoes carried in nonliner service are accounted for separately under the Agreement due to the difference in the methods of establishing freight rates.

The opportunity for carriage of equal and substantial shares of the trade between the two nations by national-flag ships is to be assured by the routing of controlled cargoes; i.e., cargoes with respect to which entities of either government have the power to designate the carriage.

On the U.S. side, this includes only those cargoes which are subject to U.S. government control under our cargo preference laws. On the Soviet side, all exports and imports for which entities of the U.S.S.R. have or could have the power at any time to designate the carrier are included.

Recognition has been given to the practical commercial consideration that vessels of either nation may not be available to carry the amount of cargo to which they are entitled under the principles of the Agreement. Under such circumstances, a limited variance from the equal and substantial sharing rules is provided. Such variance is permitted where the cargo was offered on reasonable terms and conditions and where the unavailability of national-flag carriers is certified by a representative of the U.S. Maritime Administration or U.S.S.R. Ministry of Merchant Marine, as the case may be. Even though unavailability has been certified by the appropriate representative, there is still an obligation to continue to offer controlled cargo to restore the one-third share if possible within the same calendar year.

Freight rates

The matter of freight rates to be paid to U.S. vessels is an important provision of the Agreement. With respect to liner service, U.S.-flag carriers should face no significant problems because U.S. vessels can participate in this trade under the conference-rate system with the assistance of the U.S. operating subsidy program. Rates for shipment of bulk cargo, such as grain, however, present a different situation. Bulk cargo is shipped in world trade under charter rates which are set in competition with ships of nations with far lower costs than American ships. The United States has never before had a subsidy system which permit its vessels to compete in the bulk grain trade, although such a subsidy system was legislatively authorized in 1970. In lieu of a subsidy system for bulk cargo, there were regulations which required shipments of grain to the Soviet Union to move 50% in U.S.-flag vessels. This, however, never resulted in significant carriage for U.S. vessels. Freight rates are a substantial part of the cost of grain and without subsidy the rates charged by U.S. flag carriers increased the cost of grain beyond the level buyers were willing to pay.

Under the Agreement, the two governments have worked out rate provisions for two categories of bulk cargo to be carried by U.S. vessels.

For nonagricultural bulk cargoes, the agreement in essence provides that American vessels shall be paid in each year the average of the freight rate for that category of cargo on the route in question over the prior three calendar years.

The other and far more important category of charter rates is for agricultural commodities and products. With respect to these cargoes the Soviet Union will offer to United States vessels the *higher of*:

1. a rate computed on the 3-year average formula described above for the years 1969, 1970, and 1971. This rate for the route most expected to be used for the current grain sales is $8.05 per ton for wheat and other heavy grains, or
2. 110 per cent of the current market rates for the shipment involved.

In addition to these provisions, for agricultural cargo the Soviet Union has also agreed to terms relating to unloading ships in the Soviet Union which are more favorable to United States vessels than would otherwise apply in this trade. Our maritime experts estimate these special terms represent a reduction from typical rates of at least $1.75 per ton.

These special provisions for rates on agricultural cargo apply through June 30, 1973, by which time the parties will negotiate future rates. This will permit review of the actual workings of this rate system near the close of the current unusual grain shipment season.

TERM OF AGREEMENT

The Agreement remains in force through 1975, subject to earlier termination by either party on 90 days' notice.

U.S. SUBSIDY

Although not part of the agreement, a necessary part of achieving its objectives is that the United States pay a subsidy to its own vessels in the carriage of agricultural cargo. This is not a financial advantage to the Soviet Union since it could carry all this cargo in its own vessels or third-flag vessels at lower costs than it will pay United States vessels. The combination of higher than market charter rates, and favorable terms for unloading, afforded U.S.-flag vessels reduces the subsidy costs.

The subsidy system, to be published shortly, is authorized under the Merchant Marine Act of 1970. Because the ships which will be involved in this trade, unlike U.S.-flag vessels carrying freight in the liner trade, have not received United States construction subsidies, the subsidy to be provided will take into account the amount by which U.S. construction costs exceed foreign construction costs. In order to keep the subsidy at a minimum, it has basically been designed to create no more than a break even situation at $8.05 for most ships which will be likely to participate. The estimated subsidy paid to vessels carrying agricultural cargo under the Agreement will be in the range of $8.00 to $10.00 a ton, if market rates stay in the range of $9.00 to $11.00 a ton, which compares to the current subsidy of about $19.00 per ton on PL-480 grain shipments.

Among provisions limiting the subsidy paid for movements under the Agreement will be the following:

1. Where market rates exceed the $8.05, all of the excess paid by the Soviet Union over market (i.e. 10% premium) is used to reduce the subsidy;

2. When the market rate is $9.00 or more, a substantial part of the amount over $9.00 will be used to reduce the subsidy;

3. Each subsidy contract will have a renegotiation clause to ensure that no excess profits are made.

The exact amount of subsidy which will be involved with respect to carrying the American share of the grain cargo is difficult to predict with precision because it depends on factors such as: (1) the volume of the Soviet grain trade actually carried by U.S. ships (which will be reduced to the extent that more attractive carriage is available (such as PL-480 or oil); (2) the level of market rates, since the U.S. subsidy paid will be substantially reduced as market rates go up.

PUBLIC AVAILABILITY OF THE AGREEMENT

A copy of the Agreement, Annexes, and the exchange of letters with respect to the bulk commodity rates is publicly available.

NEWSLETTER

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, next week I will be sending to my constituents my October Report, my sixth newsletter of this Congress. At this time I would like to set forth the complete text of the newsletter. It follows:

CONGRESSMAN EDWARD I. KOCH REPORTS FROM WASHINGTON

[Vol. 2, No. 6, October, 1972]

Dear Constituent and Fellow New Yorker:

My second term in Congress has gone by quickly. I thought you might be interested in my observations on how I approach my job representing you and how I attempt to achieve the goals which we have in common.

I believe every Congressman has several roles—national legislator, improving the quality of life in the neighborhood, and service to constituents who have personal problems with which a member of Congress can help.

As a national legislator, my major area of expertise is mass transportation. As a member of the Banking and Currency Committee having jurisdiction over mass transit legislation, I have pressed for federal construction funds and federal operating subsidies which I describe in detail further on in this newsletter.

To me, improving the quality of life in the neighborhood means participating in the resolution of local problems, working with community planning boards and neighborhood associations, and especially doing whatever I can to cope with the ever increasing menace of street crime.

Finally, my staff and I seek to help constituents with their personal problems. To help a returning veteran get benefits which had been unjustly denied, to assist a cripple couple in obtaining a ground floor apartment, and to cut the red tape of government bureaucracy for so many other people has given me great satisfaction.

There are those who say that Congress does not work and that nothing can be achieved through that body. I disagree. If you are committed to an issue, develop an expertise and work hard, you can get support and get legislation passed.

The House and Senate have passed my bill mandating treatment for addicts in prison or on parole.

The House and Senate have passed legislation incorporating provisions of my bill withholding welfare payments to any addict who is not in a drug treatment program.

A tax bill enacted last December adopted parts of my child care bill increasing the tax deduction available to working men and women for child care and household expenses.

Senators Kennedy, Nelson and I co-sponsored legislation which was recently enacted into law providing for an extension of a comprehensive health care program serving the needs of 500,000 children living in poverty.

Certain provisions favorable to New York City in a revenue sharing bill originally introduced by Congressman Hugh Carey and myself have been included in the revenue sharing legislation passed by the House and Senate.

In addition, 11 other pieces of legislation which I co-sponsored have been enacted into law during the 92nd Congress. These include, among others, the establishment of the Office of Drug Abuse Control; funds for a sickle cell anemia detection and treatment program; the protection of wildlife; and a low cost meal program for our elderly citizens.

Finally let me conclude by sharing with you my thoughts on this war in Vietnam.

Can the American people really believe that this war is any less horrifying or costly than it was four years ago? Can we close our minds to all the bombing and not recognize that this war has poisoned every one of us? I don't think we can or want to do that. That's why for the last four years, I have voted against every military appropriations bill containing funds to continue this war. That's why I'm going to keep voting that way. The job remains to end the war and change our national priorities. I know this has all been said many times before. But it happens to be true.

MASS TRANSIT

Mass transportation had the chance of making considerable headway in the 92nd Congress, but has suffered some recent legislative setbacks.

On September 21st, the Banking and Currency Committee, of which I am a Member, reported out an omnibus housing and urban development bill. Included in this bill was a $3 billion increase in mass transit's capital program and my proposal to provide $400 million for mass transit operating subsidies.

A number of forces were working against the bill, including the Administration's opposition to any transit subsidy. Consequently, on September 27th the Rules Committee refused to send it to the Floor for a vote. Instead, a simple extension of the existing housing program, lacking any mass transit aid, was passed.

Another opportunity to assist mass transit came during the House's consideration of the Federal Aid-Highway Act on October 5th. I helped put together a coalition of Democrats and Republicans committed to opening the Highway Trust Fund to mass transit expenditures by giving states and localities the option of spending certain funds on public transportation as well as highway programs. But, the House was prevented from even voting on the amendment through a parliamentary maneuver joined in, unfortunately, by the House Democratic and Republican leadership—a reflection of the highway lobby's influence and its determination to stop a vote they feared they would lose. An amendment similar to ours had already been accepted by the Senate. It is possible that the final bill passed by Congress will have some of the Senate's mass transit provisions. The battle for adequate funding must continue until subway and bus riders are treated equitably.

[Reprinted with permission of the Wall Street Journal]

AND A CONGRESSMAN LOOKS AT N.Y. JUSTICE

(NOTE.—This speech by Rep. Edward I. Koch (Dem.-Lib., N.Y.) appeared earlier this month in the Congressional Record under the heading: "A Short Story on Street Crime.")

I would like to acquaint the House of Representatives of an incident involving street crime in which I was the victim, and how it was resolved. On May 4 of this year I left my home which is in New York City just off Washington Square Park shortly after 6 p.m., intending to attend a dinner given by the American Jewish Committee at the Americana Hotel.

As I walked through Washington Square Park to get to the Sixth Avenue Subway I was stopped by an individual who was about six feet tall and probably weighed over 200 pounds. He was very threatening in manner and became even more so when he said to me, "Give me a quarter, man." I replied, "No." He then said, "Give me a quarter, man, or I am going to beat the - - - - out of you," and he put up his hands as though to strike me.

In response I said, "No, I am Congressman Koch and I am going to have you arrested." Unaccountably the man dropped his fists and started to walk away.

I looked for a police officer in the park. There was none. I thought to myself that I really should go to the dinner where I was expected. It was about 6:10 p.m. But, Mr. Speaker, I decided I could not permit this incident to pass and not take some action, because I knew how the residents—women, children, senior citizens—of the area are afraid to use the park because of incidents like this.

I watched the man stop others who gave him coins in response to his demands. And I followed him as he started to walk up Fifth Avenue. About a block later I saw a police patrol car, stopped it, explained what had happened, and asked that the individual be arrested. The police officer said, "Do you really want to press charges? Do you know how much time it will take?" I told him, "Yes, I do want to and while I know I can't make my 6:30 p.m. dinner appointment I hope I can at least get to the dinner before it ends."

I got into the patrol car, drove a block, to where the individual was now standing and got out of the car. Immediately the man said to the police officers, without any intervening conversation, "I didn't do it." They arrested him and the two of us were taken to the Sixth Precinct headquarters.

By then it was 6:30 p.m. It took 45 minutes for the police to fill out the information forms on the arrested individual. At 7:15 p.m. we were taken by police car down to the Criminal Court Building and arrived there at 7:30 p.m. where again forms had to be filled out, and this took another 45 minutes.

The defendant was charged with intoxication, loitering and harassment. I was told by the assistant district attorney that I should charge him with attempted robbery, but I told him I did not want to make a "Federal case of it" and that I simply wanted to have him punished for what had occurred in some reasonable way.

At 8:15 p.m. I was taken to the court room where the defendant was present with counsel provided by the court. A new assistant district attorney said to me that he did not think that it was worth pressing the matter and that nothing would happen since there were so many cases of this kind. I said, "That is why I have taken the time to come here." He said if I wanted to have something done I should charge the defendant with attempted robbery, but he warned that it would take another three hours. I said no, I would simply press the three original charges. The defendant then pleaded guilty to the charge of harassment and I asked the court whether I might make a statement. The judge said, "by all means."

What I said to the court in substance was that I had taken the time to do this, although I knew that it would be more sensible from the point of view of safety and convenience to pay the quarter because somebody had to stand up and say, "No!" The court sympathized with what I had said, stating that crime was rampant not only in the area in which I lived, but so many places in the city. And then the judge, turning to the defendant said:

"I want you to know that the next time you come into this court I will deal with you very sternly and this time I will fine you $50."

Defendant's counsel told the court that the defendant was employed, giving the court the name of the employer. He said that the defendant earned $4.50 an hour but did not have any money with him that evening; he asked that the court give him time in which to pay. The court asked, "Will three weeks be enough?" Counsel said it would. The defendant and I both left the Criminal Court Building at 8:30 p.m. by the same door. And as he passed me he smiled; he knew something I did not.

I arrived at my dinner at 9 p.m. where the meal was over and all that was left were the speeches.

Having become a statistic, I decided to find out what happens in a case of this kind: And so, approximately three weeks later, I wrote to the clerk of the court and asked whether the fine had been paid. Not receiving a response by June 15, I wrote to Administrative Judge David Ross of the Criminal Court of the City of New York. By letter of June 26, Lester C. Goodchild, the court's executive officer, responded: The defendant failed to appear and pay his fine. A warrant for his arrest was issued, but he could not be found. The residence and employment information he had given the court was false.

Mr. Speaker, one additional statistic and that is there are thousands of bench warrants outstanding in New York City. This will be one more probably never to be executed. Is it any wonder that the people of this country are outraged at the way our courts are administering justice?

THE ELDERLY

First and foremost, I have been working to get substantial increases in social security benefits—to catch up and keep up with the high cost of living. The Congress has passed a 20% increase in social security benefits, but it still is inadequate for those living on fixed incomes.

Another hardship on the elderly is the limitation on income one can earn before age 72 without losing social security benefits. Since coming to Congress, I have pressed my bill to eliminate the income eligibility limitation altogether. A bill soon to be approved by Congress would increase the present $1680 limitation to $3000.

Recently, the medicare program was amended to include the cost of certain outpatient drugs used in the treatment of chronic illnesses afflicting the aged. I have proposed in H.R. 16339 that all prescription drugs not covered by medicare, including hearing aids and eye glasses, be sold to medicare recipients at wholesale prices by federally assisted hospitals until such costs can be covered by a new national health insurance program.

Two other bills that I have introduced to aid the elderly deserve brief mention. H.R. 16492 encourages family support of elderly relatives by giving a $750 tax exemption to any taxpayer who provides at least $1500 in annual support. H.R. 16493 provides for the payment of attorney's fees incurred by an elderly person who successfully challenges a government decision to deny, reduce or limit social security benefits, medicare, old age assistance and disability insurance.

Our elderly citizens who have worked hard all their lives deserve a great deal more than they are now receiving.

STREET CRIME

Street crime remains the chief concern of all New Yorkers. Here is a brief review of some of my efforts to combat this menace.

"Unwanted Night Spots"—Bars and private afterhour clubs, which operate as centers for drug-trafficking, constitute an increasing public nuisance and source of crime. I have helped community groups close down several such establishments, but the process is long and arduous and quicker methods are needed. I have recommended that the City Department of Consumer Affairs license so called "private clubs" which are in fact profit making businesses, thus permitting entry for periodic inspection, particularly if there have been complaints about a specific club. A lawyer from the City Corporation Counsel's office should be designated as an ombusman to represent the public's interest in court; and a special acceleration of court procedures should be established to prevent these businesses from disrupting a neighborhood during months or years of court appeals.

"Hight-Intensity Street Lights"—The effectiveness of bright street lighting as a crime deterrent has been proven in many different cities. New York recently announced a $15 million lighting program for major thoroughfares. However, we must also have high-intensity lighting on residential side streets. The City cannot afford the massive lighting campaign we need. That is why I have introduced legislation to create a national Light on Crime program providing $90 million in three years to light our streets.

"Police Duty at the Consulates"—Continuing acts of international terrorism make it imperative that the Federal government immediately assume its responsibility to guard the U.N. and foreign consulates in New York instead of our local police. The President temporarily sent members of the Executive Protection Service to the City to provide extra security for the recent opening of the U.N. General Assembly. But the problem is permanent and must have a permanent solution which would be passage of my bill that mandates the Executive Protection Service to guard all foreign consulates. It is unfair that the full time responsibility still rests with our police and is paid for with local tax money. We need our police, already undermanned, back on the street protecting our residents and merchants.

AFRICA—STATELESS ASIAN UGANDANS

Over the last several months, I have worked to obtain refuge in this country for some of the Asian Ugandans whose lives are being threatened by the racial dictatorship of Major General Idi Amin.

Finally, on October 2, the State Department informed me that the Attorney General has agreed to permit the entry of 1000 educated and skilled Asian Ugandans into the United States under his parole authority.

This is similar to action taken by the Administration in September 1971 when they finally acceded to my legislative proposal to permit the entry of Soviet Jews into this country without regard to immigration quota restrictions.

I have received assurances from the International Rescue Committee, United HIAS, U.S. Catholic Conference, and the Church World Service that they will assist in the resettlement of the stateless Asian Ugandans in this country.

* * * *

Your comments on this newsletter and any proposals you might have on any subject are of interest to me. Please write to me c/o House of Representatives, Washington, D.C. 20515.

If you need assistance, call my New York City office at 264–1066 between 9:00 a.m. and 5:00 p.m. on weekdays.

Among the pictures included in the newsletter, two were captioned. These captions read as follows:

In the weeks before the highway bill was brought to the House Floor for a vote, a number of meetings were held with those interested in opening the Highway Trust Fund to mass transit expenditures. On September 28th, Secretary of Transportation John A. Volpe met with Members of the Democratic Study Group. The meeting was sponsored by DSG's Transportation Task Force, of which I am Chairman.

On September 28th, I testified before a House Judiciary Sub-Committee on my bill, H.R. 837, the Newsmen's Privilege Act. This bill protects newsmen's First Amendment privileges against forced disclosure of confidential sources and background material. Society has a vested interest in the free flow of information to the press; and so the protections of H.R. 837 are for the public as well as the press.

Also included in the newsletter were pictures of members of my Washington staff: Barbara Downey, Diane Coffey, Ginny Sammon, Barbara Guentert, Sue Silverman and Douglas Adler. These pictures and others appearing in the newsletter were taken by Ronay Arlt, also a member of my Washington staff.

ACCOMPLISHMENTS OF THE 92D CONGRESS: REPORT TO THE PEOPLE OF THE FOURTH DISTRICT OF WISCONSIN

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, as has been my practice since being elected to the House of Representatives, I wish to take the opportunity to report to the people of the Fourth District of Wisconsin on the legislative accomplishments of the 92d Congress.

The record of the past 2 years is a highly productive one. Despite Presidential vetoes of some major bills, this Congress has moved significantly on a broad range of issues, including: tax revision and reform; revenue sharing with States and localities; consumer protection; crime and drug control; water pollution control; aid to education and school lunch program; 18-year-old vote; social security benefit increases; increased assistance to veterans; and control of strategic defensive and offensive armaments.

This report and my legislative record undoubtedly will not be completely pleasing on every issue to each constituent. Suffice to say that in representing the people of my district I have attempted always to work in their interests and the interests of our Nation.

THE ECONOMY

Throughout the 92d Congress, attention has focused on the problems of the economy and the need to limit the rate of inflation and reduce the numbers of unemployed. To curb inflation, the Congress gave the President the power to impose wage and price controls many months before a crisis situation forced him at last to act. To combat joblessness, the Congress enacted two bills—the Emergency Employment Act and the Emergency Unemployment Compensation Act. They are providing $2.5 billion in jobs and benefits to those who otherwise would be unemployed and on the relief rolls.

Despite the fact that Congress has cut administration budget requests for funds by $14.5 billion, the President asked for a budget ceiling which would hold Federal expenses at $250 billion for the current fiscal year and reduce the anticipated deficit. The House passed this anti-inflation measure in order to preclude a possible tax increase next year.

In fact, the movement in Congress during the past 2 years was to lighten the tax burden on the average taxpayer by increasing the individual tax exemption. We also acted to return more Federal tax money to States and localities by passage of the Revenue Sharing Act and thus bring some potential property tax relief for our citizens.

CONSUMER PROTECTION AND CRIME CONTROL

Congress strengthened programs to protect consumers through the creation of an independent agency with authority to establish safety standards for household consumer products, and by enactment of stricter auto safety regulations.

The campaign against crime in the streets was continued by the 92d Congress with passage of bills to develop community-based preventive services to potentially delinquent young people, and establishment of an Interdepartmental Council on Juvenile Delinquency to coordinate all Federal delinquency programs.

Recognizing the key position which narcotics plays in crime, the Congress also established a Special Action Office of Drug Abuse Prevention. It also acted to provide for drug treatment programs at State and local prisons, to compensate innocent victims of violent crime and to provide cash benefits for survivors of police officers killed in the line of duty, or to the officer himself if he becomes disabled.

POLLUTION CONTROL AND CONSERVATION

The 92d Congress approved the most comprehensive water pollution control bill in history. It authorizes $18 billion for the Federal share of constructing waste treatment plants through fiscal year 1975, plus an additional $6.4 billion for other water pollution abatement programs. It establishes as Federal policy the goals of making the Nation's waters suitable for fish propagation and swimming by 1981 and of ending all discharges of pollution into navigable waters by 1985. It would be unfortunate if the President vetoed this bill.

Other actions in the 92d Congress to safeguard the environment include enactment of the Federal Insecticide and Pesticide Control Act which will permit increased Government regulation of the manufacture and use of chemical pesticides; increased funding and an indefinite extension for the Youth Conservation Corps; and amendments to provide more effective administration of natural gas pipeline safety laws.

EDUCATION AND HEALTH

Priority consideration was given to measures designed to improve the Nation's educational and health systems. For example, the Congress enacted the Higher Education Act of 1972, with new programs of direct assistance to colleges and universities. Other major education bills extended and expanded the school lunch program for needy children and provided new funds for secondary school construction and educational expansion.

In spite of the President's veto of four major health bills in the past 4 years, the Congress has made notable progress in that field. Passed into law during the past 2 years were bills: to assist education in the health professions through construction grants and student loans and scholarships; to extend and expand programs to train nurses; to establish dental health projects for children and increase the availability of dental care; and to expand programs for combating heart, blood vessel, lung, and blood diseases.

In order to direct greater effort to finding a cure for cancer, the Conquest of Cancer Act—which I had cosponsored—was enacted. This measure established a National Cancer Authority to coordinate research projects and authorized $1.59 billion over the next 3 years to spur research efforts.

SOCIAL SECURITY AND WELFARE

Certainly the most important legislation benefiting the elderly was the passage of the 20-percent increase in social security payments which went into effect in September. Under the new law the increase for an average retired worker is from $133 per month to $161. For the average couple, the increase is from $224 to $270. The new law also contains a cost-of-living escalator provision; beginning in 1975, benefits will rise whenever the cost of living goes up by 3 percent or more.

Among other actions taken by the 92d Congress on behalf of our senior citizens were: establishment of a nutrition-for-the-elderly program to provide the money and machinery to provide at least one hot, nutritious meal daily for needy people 60 or over; creation of a National Institute of Aging to conduct research on the aging process and the special health problems of older persons; and the broadening of programs to provide a variety of services to the aged, including low-cost transportation, expanded employment centers, retirement training, and other social welfare aid.

GOVERNMENT ORGANIZATION AND OPERATION

The 92d Congress approved two constitutional amendments, to lower the voting age to 18 and to guarantee equal rights for men and women. The new voting age amendment has been ratified by the necessary three-fourths of the States and will be in effect for the national elections of November 7, while 21 States have thus far ratified the equal rights amendment.

Significant reform and regulation of political campaign practices represents another important achievement of the 92d Congress. The Federal Election Campaign Act of 1971 limits the total amounts that candidates for Federal office may spend on media advertising or from personal funds. It also requires more complete reporting of campaign contributions and expenditures.

SERVICEMEN AND VETERANS

The contribution of veterans of the Indochina conflict and prior wars again was recognized by Congress. Because of the increased costs of higher education, we provided a 25.7-percent increase in educational benefits for veterans and expanded programs of vocational rehabilitation and job training for returned servicemen. A 10-percent increase in veterans' and dependents' pension and disability benefits also was approved and became effective in January 1972.

The 92d Congress also took essential steps toward ending the military draft and creating an all-volunteer army by providing a $2.8 billion increase in pay and allowances for military personnel, and by giving statutory authority and funding to the President during the transition period.

INTERNATIONAL AFFAIRS

As a member of the Committee on Foreign Affairs, I have been directly involved in the consideration and passage of a number of important bills affecting our Nation's international relations.

Perhaps the most important from the standpoint of world peace and national safety was congressional approval of the agreements signed in Moscow last May which prohibit construction of comprehensive and anti-ballistics missile systems by both the United States and the Soviet Union, and which place an interim "freeze" on certain strategic offensive weapons systems.

While continuing to keep our national defenses strong through continued support for adequate funding for our armed services, the 92d Congress overwhelmingly endorsed the search for arms control represented by the strategic arms limitation talks—SALT—with the Soviets.

Among other important legislative enactments in the area of foreign affairs was a measure I sponsored which requires all international executive agreements to be transmitted to Congress within 60 days after their signing. In addition, my war powers proposal and my resolution condemning treatment of American prisoners of war in North Vietnam both passed the House but were not, unfortunately, acted on by the Senate. If returned to the Congress, I shall continue to work for legislation on both subjects.

In order to remedy the present breakdown in relations between the Congress and the President over foreign affairs, a new Commission has been formed to study ways of making our Nation's foreign policy formulation more efficient and effective. I have been honored by being selected by you, Mr. Speaker, as one of two Members of the House of Representatives to serve on that Commission, together with representatives of the Senate, executive branch, and six distinguished private citizens.

The 92d Congress did not complete action in several important areas, although in many cases thorough hearings were conducted and specific proposals recommended. Further action is expected in the 93d Congress on establishment of a national health insurance plan, protection of workers' pension contributions, securing the levels of veterans' pensions, measures to help workers and industries hurt by increased imports, and efforts to improve our balance of trade. In addition legislation should be approved to provide an increase in the minimum wage, to clarify the issue of busing in the public school system, and to evaluate Federal programs of housing assistance.

As I have stressed, priority consideration must be given in the 93d Congress to further efforts to control inflation and to reduce the numbers of unemployed, and to close major tax loopholes to develop a more equitable and progressive tax system.

It is vital that efforts to reorder our Nation's priorities will continue, and that all branches and levels of government will join together in the coming year in a determined commitment to improve the quality of life for all Americans.

ROLLCALL AND RECORD AND VOTING SUMMARY

At this point, Mr. Speaker, I wish to insert the record of my attendance and my position or vote on major legislative issues before Congress, together with the present status of each measure:

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 92D CONGRESS

Position	Issue	Status
	NATIONAL ECONOMY	
Voted for	Increased individual tax exemptions and tax incentives for business	Became law.
Voted for	1-year extension of President's authority to control prices, rents, wages, and salaries, and other provisions to combat unemployment	Became law.
Cosponsored	Tax reform legislation to close tax loopholes and provide $7,000,000,000 in additional Federal revenues	Pending in House.
Cosponsored	Legislation authorizing creation of additional jobs in public works programs	Passed House and Senate.
Voted for	Federal Revenue Sharing Act to assist all levels of local government	Passed House and Senate.
Sponsored	An increase in personal and dependency income tax exemptions	Pending in House.
Voted for	Federal guarantee of $250,000,000 in bank loans to Lockheed Aircraft Corp	Became law.
Voted for	2-year extension of interest equalization tax to discourage American investment abroad and to correct our balance of payments	Became law.
Voted for	Extension of President's authority to control exports	Became law.
Voted for	Legislation authorizing the Secretary of the Treasury to establish a new gold par value of the dollar	Became law.
	CONSUMER PROTECTION AND CRIME CONTROL	
Cosponsored	Increased consumer protection through the creation of an independent Consumer Protection Agency	Passed by House.
Voted for	Establishment of a Consumer Product Safety Council	Became law.
Voted for	Legislation calling for promulgation of bumper standards for passenger motor vehicles	Became law.
Voted for	Continued enforcement of Flammable Fabrics Act	Passed by House and Senate.
Supported	Establishment of minimum standards for warranties on consumer products	Passed by Senate.
Voted for	Development of community-based preventive services to potentially delinquent youth	Became law.
Cosponsored	Establishment of a law enforcement officers' bill of rights	Pending in House.
Voted for	Measures to prohibit sending obscene materials to minors through the mail	Passed by House.
Voted for	Establishment of a Special Action Office for Drug Abuse Prevention	Became law.
Voted for	Toxic Substances Control Act	Passed by House and Senate.
	POLLUTION CONTROL, CONSERVATION, AND AGRICULTURE	
Voted for	Increased Federal regulation of the manufacture and use of pesticides	Passed by House and Senate.
Voted for	Legislation requiring that the best available technology be utilized by 1983 to control water pollution, and authorizing $18,000,000,000 to build and improve municipal sewer facilities.	Passed by House and Senate.
Cosponsored	Establishment of a Joint Committee on the Environment	Passed by House and Senate.
Voted for	Stricter Federal standards and coordination of programs relating to noise pollution	Passed by House and Senate.
Voted for	Development of a national program for the management of resources in the Nation's coastal zones, including the Great Lakes	Passed by House and Senate.
Voted for	Establishment of a National Environmental Data System	Passed by House and Senate.
Voted for	Legislation to protect marine mammals from extinction	Passed by House and Senate.
Voted for	$20,000 ceiling per crop on farm subsidies	Rejected by House.
Voted for	Settlement of land claims with Alaska's Natives	Became law.
Cosponsored	Establishment of Kosciuszko home in Philadelphia as a national historic site	Passed by House and Senate.
Voted for	Legislation to protect and control wild free-roaming horses on public lands	Became law.
Voted for	Provisions for criminal penalties for those harrassing or shooting birds or other wildlife from aircraft	Became law.
Voted for	5-year extension for Federal saline water conversion program	Became law.
Voted for	International moratorium on the killing of whales	Passed by House and Senate.
Cosponsored	Imposition of a tax on polluting smoke and other industrial emissions	Pending in House.
Voted for	Legislation to provide additional Federal assistance to rural America	Became law.
Voted for	Federal financing for telephone cooperatives and companies serving rural areas	Became law.
Voted for	Modernization of the farm credit system	Became law.
	EDUCATION, LABOR, AND CIVIL RIGHTS	
Voted for	$19,000,000,000 authorization for aid to higher education, including new program of general financial assistance to colleges and universities	Became law.
Voted for	Funds to aid school districts in court ordered desegregation costs; but not to be applied to busing for purposes of racial balance	Became law.
Voted for	Definition of formulation of remedies to insure equal educational opportunities, including limitations on the use of busing	Passed by House.
Voted for	Increased appropriations for elementary and secondary education	Original measure vetoed by President.
Voted for	Continuation of school lunch programs for needy children	Became law.
Cosponsored	Provision for tax credit of up to $400 for tuition paid for nonpublic elementary and secondary education	Pending in House.
Voted for	Emergency Employment Act, authorizing $2,250,000,000 for creation of public service jobs and job training programs, with special consideration for Vietnam veterans.	Became law.
Cosponsored	Accelerated Public Works measure to direct public service job creation in areas of especially high unemployment	Passed by House and Senate.
Voted for	Federal assistance to States where unemployment is greater than 6.5 percent to provide an additional 13 weeks of unemployment benefits	Became law.
Voted for	Increase in minimum wage	Passed by House and Senate.
Voted against	Legislation authorizing compulsory arbitration to settle west coast dock strike	Became law.
Voted for	20-percent increase in railroad retirement pensions effective Sept. 1, 1972	Became law over President's veto.
Supported	Additional Federal laws to protect contributions to private pension plans	Hearings completed.
Cosponsored	Requirements for safety standards for schoolbuses	Pending in House.
Voted for	Additional authority for Equal Employment Opportunity Commission	Became law.
Cosponsored	Legislation to repeal the Emergency Detention Act	Became law.
Voted for	Constitutional amendment to provide equal rights for men and women	Passed by House and Senate.
Cosponsored	Legislation to reestablish the Menominee Indians as a federally recognized, sovereign Indian tribe	Pending in House.
	SOCIAL SECURITY, HEALTH, AND WELFARE	
Cosponsored	20-percent increase in social security benefits, effective Sept. 1, 1972	Became law.
Voted for	Reforms in social security, medicare, medicaid, and welfare programs	Passed by House and Senate.
Sponsored	Reduced social security benefits for retirees at age 60	Passed by Senate.
Cosponsored	Increase in amount which social security beneficiary may receive without a reduction in his benefits	Passed by House and Senate.
Supported	Supplemental national health insurance programs	Hearings completed.
Cosponsored	Establishment of a House Select Committee on Aging	Pending in House.
Voted for	Establishment of a National Institute on Aging	Passed by House and Senate.
Voted for	Development of low-cost meal programs for senior citizens	Became law.
Cosponsored	Establishment of a Conquest of Cancer Agency within the National Institutes of Health	Became law.
Voted for	Establishment of 10 model cardiovascular disease prevention clinics	Became law.
Voted for	Funds to support expanded programs of grants to health professions, schools, and programs of student assistance loans and scholarships	Initial amounts vetoed by the President.
Voted for	Federal support for diagnosis, counseling, and research programs for sickle cell anemia	Became law.
Voted for	2-year extension in antipoverty program	Became law.

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 92D CONGRESS—Continued

Position	Issue	Status
	GOVERNMENT ORGANIZATION AND OPERATION	
Voted for	Constitutional amendment lowering the voting age to 18	Ratified and became law.
Voted for	Reforms in Federal election campaign procedures	Became law.
Voted against	Legislation to give the President authority to limit Federal expenditures without additional Congressional approval	Passed by House.
Cosponsored	Legislation to require congressional approval of any funds impounded by the executive branch	Pending in House.
Voted for	Voluntary public funding of Presidential elections	Law to be effective in 1976.
Voted for	Legislation creating pay rates for Federal blue collar workers	Became law.
Voted for	Legislation to increase the Government's contribution to Federal employees health benefit programs	Passed by House and Senate.
Sponsored	Constitutional amendment to permit voluntary silent prayer or meditation in public schools	Pending in House.
	SERVICEMEN AND VETERANS, NATIONAL DEFENSE AND SPACE	
Voted for	Reforms in Selective Service System and $2,400,000,000 in military pay increase	Became law.
Voted for	Legislation providing drug treatment and rehabilitation in VA hospitals	Became law.
Voted for	Legislation to increase veterans educational benefits	Passed by House and Senate.
Voted for	Cost-of-living increases in veterans' and survivors' pensions, effective Jan. 1, 1972	Became law.
Voted for	Increased medical benefits for veterans	Passed by House and Senate.
Sponsored	Health benefits for survivors of a serviceman killed in hostile fire areas	Pending in House.
Voted for	Establishment of a survivor benefit plan for the Armed Forces	Became law.
Voted for	Increased compensation for disabled veterans	Became law.
Voted for	Increased Government subsidies for veterans in nursing homes	Passed by House.
Voted for	Continued appropriations for the National Aeronautics and Space Administration, including funds for research and development of a space shuttle.	Became law.
Sponsored	Resolution encouraging international cooperation in satellite broadcasting	Pending in House.
	INTERNATIONAL AFFAIRS	
Sponsored	Resolution requiring the President to report to Congress whenever he committed U.S. forces abroad without prior congressional approval and reaffirming the constitutional power of Congress to declare war.	Passed by House and Senate.
Sponsored	Resolution calling for humane treatment and early release of American prisoners of war held by North Vietnam and the National Liberation Front	Passed by House.
Sponsored	Resolution requiring that international agreements other than treaties be transmitted to Congress	Became law.
Sponsored	Resolution to allow the people of the Trust Territory of the Pacific Islands to express their wishes as to the form of government they desire	Pending in House.
Voted for	Strategic Arms Limitation Agreement	Approved by House and ratified.
Voted for	Extension and revision of U.S. economic and military aid programs to developing countries	Passed by House; rejected by Senate.
Sponsored	Legislation to lower the contributions of the United States to the United Nations	Pending in House.
Sponsored	Legislation to allow U.S. Information Agency materials distributed abroad to be open to public inspection under certain conditions	Pending in House.
Sponsored	Legislation to extend the Export-Import Bank and to expand its functions	Pending in House.
Voted for	Measures to stimulate export industries	Became law.
Sponsored	Resolution expressing the approval of Congress regarding the cooperative agreements on science and technology and other matters signed in Moscow, July 1972.	Pending in House.
Sponsored	Resolution calling for collection of overdue debts due to the United States	Pending in House.

ROLLCALL RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 92D CONGRESS

Session	Total roll and quorum calls	Rollcalls	Teller votes	Not voting[1]	Quorum calls	Absent on quorum[2]	Voting percentage (presence)
1st	470	211	108	12	151	5	96.3
2d	459	244	85	3	133	11	96.9

[1] Paired on rollcall votes when possible; excused when on official business.

[2] Absence on quorum call does not necessarily mean an entire legislative day's absence.

STATEMENT BY CONGRESSMAN JAMES SCHEUER UPON INTRODUCTION OF BILL TO AMEND THE WAR CLAIMS ACT OF 1948

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, I am today introducing legislation that would simply duplicate action taken by the House of Representatives in the 91st Congress. I firmly believe that the action we took then was correct and fair and was very disappointed when the Senate took an alternate approach when it came time to amend the War Claims Act of 1948. Because of the press of time near the end of the second session of Congress, the House chose to go along with the Senate bill. I think that it has become clear that this was a mistake.

In 1948, the Congress provided through the War Claims Act of 1948 for the payment of a limited category of war claims of American citizens out of a fund consisting of the proceeds of vested German and Japanese assets in the United States. A Commission, now known as the Foreign Claims Settlement Commission, was created to administer the act, and to conduct a study to determine and recommend to the Congress additional categories of claims to be paid out of this fund. Recommendations were made to the Congress by the Commission, and in 1962, legislation was enacted establishing a number of categories of claims to be paid out of the fund. In general, the claims allowed were those claims for which compensation had not otherwise been provided either under laws of the United States, treaties with foreign countries, or domestic laws of foreign countries.

H.R. 2669, which was passed by the House in 1969, provided for payment under the War Claims Act of 1948, of the full amount of the unpaid balance of claims of nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes, and would then provide for payment of the unpaid balance of all claims of individuals under title II of that act, with claims for the unpaid balance of awards of corporations not previously paid being relegated to third priority.

The Senate version, which eventually became Public Law 91-571 provided that the first payments out of the War Claims Fund should be made to nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes up to the full amount of the unpaid balance of their award. Payments thereafter would be made on the unpaid balances due to individual and corporate claimants up to a maximum of $35,000. The last priority would go to individual and corporate claimants whose unpaid balances exceed $35,000.

Both bodies agreed that the nonprofit organizations would have first priority on payments. The differences arose on the dispersal of funds as between individual and corporate claimants. The House said the next payments should go to cover the unpaid balance of the claims of individuals with corporate claims getting last priority.

The Senate, on the other hand, after paying the claims of the nonprofit organizations decided that the next payments would be made on the unpaid balances due to individual and corporate claimants up to a maximum of $35,000. Individuals and corporate claimants with claims of more than $35,000 would share the remainder on a prorated basis.

The Attorney General supported the House version because the corporate claimants have received the great bulk of the money which has been paid out of the War Claims Fund. Of the approximately $219 million distributed then, almost $154 million had been distributed to large corporations. Also the corporations have received substantial tax benefits. The Senate bill continued the discrimination against individual claimants and it is now obvious that Public Law 91–571 was a great victory for Standard Oil, American Express, ITT, Columbia Pictures, First National City Bank, and such other hardship cases over the people.

My bill will restore the order of priority that was accepted by the House. I understand that there is little chance of any action on it this session. I am hopeful, however, that it will indicate to the Department of Justice and the Department of the Treasury that Congress is considering a change in the law and that there should be no haste in depleting the fund to the benefit of large corporations.

Following is a copy of my legislation as well as a list of the outstanding individual and corporate claims:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 213(a) of the War Claims Act of 1948 as amended (50 App. U.S.C. 20171(a)) is amended as follows:

Paragraph (3) is amended to read as follows:

"(3) Thereafter, payments from time to time on account of the other awards made to individuals pursuant to section 202 and not compensated in full under paragraph (1) or (2) of this subsection in an amount which shall be the same for each award or in the amount of the award, whichever is less".

Claims Made by the Foreign Claims Settlement Commission Under Title II of the War Claims Act of 1948, as Amended by Public Law 87–846

CLAIM NO., CLAIM OF, AND BALANCE OF ACCOUNT

9537: Universal Leaf Tobacco Co. Inc., $72,133.56.

5886: E. Paul Yaselli, $2,493.47.

1440: Matson Navigation Company, $212,644.42.

8616: California Texas Oil Corporation, $27,455.03.

10921: Borg-Warner Corporation, $4,012.84.

10921: Home Insurance Company, $884.43.

4329: Home Insurance Company, $19,925.30.

6560: Insurance Company of North America, $6,532.38.

13522: California Texas Oil Corporation, $7,192.05.

1257: Archer-Daniels-Midland Company, $16,012.94.

13474: Union Oil Company of California, $331,709.19.

535: Rachel Solomon, $6,028.00.

5602: K. B. Kadison Goldwasser, $22,895.36.

8137: Howard Allington, $6,790.01.

8619: Standard Oil Company of California, $233,431.51.

8619: Texaco Incorporated, $233,431.51.

4319: Home Insurance Company, $13.763.21.

6556: Insurance Company of North America, $14,254.82.

8409: Anna Latecki, $1,843.76.

9525: Shangha Wharf & Warehouse Co. Fed Inc USA, $19,345.61.

20670: United States of America on High Seas, $104,604.61.

20670: United States of America Philippine Limit, $2,494.78.

11762: Martha Stewart Yerkes, $2,462.43.

11180: Westinghouse Air Brake Company, $17,351.09.

5595: Guardian Life Insurance Company of America, $10,285.00.

4267: Fred Barson, $4,988.61.

4308: Werner Steinhart etc, $13,593.85.

7414(2): Louise Mesick, $65,206.10.

11176: America Express Company, Incorporated, $121,658.73.

6561: Insurance Company of North America, $12,061.03.

4331: Home Insurance Company, $10,004.56.

6957: Aetna Casualty and Surety Company, $13,016.34.

6219: Henry Oberdorfer etc., $1,007.18.

12062: Paramount International Films Inc., $25,186.31.

12062: Paramount Pictures Corporation, $37,986.64.

7896: Hermine Rosenthal, $253.57.

13384: Evone Montague Tait, $1,194.71.

13384: Edwin Tait, $1,194.71.

8203: The Rieser Company, Inc., $21,103.42.

4453: Louise Mary Hardy, $35,397.72.

8204: Belle River Holding Company, Inc., $10,582.07.

11238: Else Lane, $11,635.63.

4900: Fred M. Terry, $11,223.56.

9809: Elsa S. Krewer, $15,539.69.

9809: Herbert Silberstein, $15,539.69.

11758: Janina Madaj Stober, $2,515.59.

2298: Mobil Oil Corporation, $511,870.67.

2300: Mobil Oil Corporation, $331,413.64.

10301: Helen Orbach, $3,072.29.

334: Joseph Puzyrewski, $323.62.

2297: Mobil Oil Corporation, $790,333.09.

2299: Mobil Oil Corporation, $1,259,384.79.

2302: Mobil Oil Corporation, $552,429.27.

3346: Tidewater Oil Company, $20,281.16.

12725: Alois J. Chronowski etc., $55,564.00.

9923: (File: Kutzman) Stanley Sigman, $31,350.45.

9923: Hannah Sigman, $98,894.37.

10685: Maria C. Steubben, $4,759.91.

3098: The Robert Dollar Company of California, $16,718.02.

9774: Warren Brothers Company, $10,294.32.

14805: Columbia Pictures Corporation, $62,910.84.

8498: Helen Erdos, $4,438.11.

8498: George Wiss, $3,621.59.

4849: Claire Holt, $2,667.58.

7227: Reliance Motors Federal Inc. USA, $2,812.31.

7819: First National City Bank, $60,626.49.

3006: (File: White Securities) C. R. Breck, 20,194.56.

3006: Louise Breck, $20,189.69.

3590: Raymond S. Shepanek, $2,431.55.

3590: Norbert Shepanek, $2,431.55.

3590: Alice Gloria Shepanek, $2,431.55.

3619: Hilda Nolte Schlag, $4553.65.

8548: Northeastern Insurance Co. of Hartford, $558.95.

8550: Quaker City Insurance Company, $555.48.

8556: Rhode Island Insurance Company, $3,875.61.

10953: Marthe Loyson Gassmann, $1,964.50.

10377: Hugo Kurman, $1,565.89.

7815: Shanghai Power Company, $3,006,906.54.

8592: New York Underwriters Insurance Company, $15,712.31.

8596: Pacific Insurance Company of New York, $5,979.84.

8610: Vigilant Insurance Company, $20,495.79.

8567: Bankers and Shippers Insurance Co. of New York, $5,979.84.

8578: Guaranty Security Insurance Company, $421.14.

10010: S. S. Kresge Company, $20,510.58.

17977: The Gillette Company, $143,599.92

7671: Heinz L. Gumpel: $12,381.57.

8599: Providence Washington Insurance Co., $15,213.93.

8609: Universal Insurance Company, $14,271.85.

8615: Edward Budd, deceased, $55,911.84.

4804: Elizabeth Sibert, $13,651.90.

6810: Aetna Casualty and Surety Company, $11,252.19.

8560: Aetna Insurance Company etc., $77,708.83.

8561: Agriculture Insurance Company, $79,222.78.

3562: Agriculture Insurance Company, $51,019.22.

8563: American Home Assurance Company, $49,864.39.

8564: American Insurance Company, $115,810.67.

8565: American Re-Insurance Company, $25,408.56.

8571: Continental Insurance Company, $131,412.38.

8572: Continental Insurance Company, $157,708.68.

8573: Federal Insurance Company, $166,682.96.

8575: Fireman's Insurance Company of Newark NJ, $115,855.55.

8577: Great American Insurance Company, $206,488.97.

8579: Hanover Insurance Company, $54,357.68.

8580: Hartford Fire Insurance Company, $182,594.39.

8584: Home Insurance Company, $32,220.89.

8590: National Fire Insurance Co. of Hartford, $62,758.90.

8607: St. Paul Fire and Marine Insurance Co. $103,918.45.

8597: Phoenix Insurance Company, $99,448.60.

8598: Providence Washington Insurance Co., $188,019.49.

8600: Reinsurance Corporation of NY $38,476.17.

8593: Niagara Fire Insurance Co., $54,988.66.

8603: Reliance Insurance Co., $6,463.07.

8604: Reliance Insurance Co., $10,242.85.

11252: Lucie Forstenzer, $12,856.13.

12138: Humble Oil Refining Company, $825,571.29.

5041: Standard Car Finance Corporation, $1,971,529.23.

7700: Leo S. Gutmann, $1,658.77.

8557: Aetna Insurance Company, $217,985.73.

8557: Aetna Insurance Company, $215.78.

8558: Aetna Casualty and Surety Company, $197,399.02.

8558: Aetna Casualty and Surety Company, $994.68.

8570: Phoenix Insurance Company, $70,350.22.

8570: Phoenix Insurance Company, $212.41.

8581: Fireman's Fund Insurance Company, $11,483.07.

8582: Fireman's Fund Insurance Company, $13,176.54.

8586: Insurance Company of North America, $27,316.13.

8602: Reliance Insurance Company, $18,999.59.

8606: Monarch Life Insurance Co, $18,421.02.

10662: Alice Sedlak etc, $11,173.77.

10663: Alice Sedlak etc, $6,142.61.

8583: Home Insurance Company, $159,399.92.

8601: Reliance Insurance Company, $61,583.38.

8605: Security Insurance Company, $83,867.06.

8566: Atlantic Mutual Insurance Company, $366,433.74.

17575: Caltex (Asia) Limited, $2,011,774.55.

8576: Glens Falls Insurance Co., $141,402.20.

4500: Isador Farber, $3,297.88.

4500: Milton Farber, $3,297.88.

4500: Estelle Ada Harrison, $3,297.88

4500: Dorothy Florence Shanok, $3,297.88.

4500: Dorothy F. Shanok etc., $824.47.

4500: Milton H. Farber etc., $824.47.

4500: Dorothy F. Shanok etc., $824.47.

4500: Estelle Ada Harrison etc., $824.47.

22740: International Telephone & Telegraph Corp., $35,376.14.

8323: Creole Petroleum Corporation etc., $62,604.47.

8323: Creole Petroleum Corporation etc., $81,987.69.

745: Henry Hakmeyer, $7,305.10.

6558: Walter Heller, $18,007.20.

6558: Eugene Henley, $7,325.22.

7729: Beate Herman, $1,320.14.

9368: Edward John Bell, $796.30.

9368: Christopher Bell, $796.30.

9368: Robert A. Bell, $796.30.

9368: Michael Wm. Bell, $796.30.

9368: Austin Joseph Bell, $796.30.

9368: Raymond R. Bell, $796.30.

9368: Philip Anthony Bell, $796.30.

9368: Mary Frances Bell, $796.30.

93681: James Alfred Bell, $796.30.

9368: Timothy C. Bell, $796.30.

17622: Andrew Kostanecki, $7,835.65.

4745: Olga Neubauer, $2,545.00.

8568: Boston Old Colony Insurance Company, $184,161.91.

8594: North River Insurance Company, $92,680.45.

8611: Westchester Fire Insurance Company, $191,486.63.

8608: United States Fire Insurance Co., $74,812.64.

8608: United States Fire Insurance Co., $208.16.

8585: Insurance Company of North America, $266,140.25.

8585: Insurance Company of North America, $408.82.

8574: Fireman's Fund Insurance Co., $224,001.15.

18450: Adele Christiane Elise Geyer, $19,205.35.

20749: Elizabeth Irene Abt, $7,266.40.

5620: Norman Coliver etc, $2,013.46.

7029: William Gande, $6,149.75.

9603: Eastman Kodak Company, $61,135.82.

9632: Ilse Maron, $10,924.03.

10325: (File: Edith Lobe) Meta Rosenbaum, $2,503.98.

8589: Merchants Fire Assurance Corp. of N.Y., $49,672.18

2301: Mobile Oil Corporation, $1,366,894.06.

17536: Ford Motor Company, $289,049.23.

22724: International Telephone & Telegraph Corp., $98,090.18.

22745: International Telephone & Telegraph Corp., $421,655.85.

18003: George Weiner and Lillian Winters etc., $8,765.49.

16779: Evelyn Parker etc., $29,410.25.

17212: Henry Arnhold, $23,430.36.

17212: Rainer Arnhold, $23,430.36.

17212: Sigrid Edwards, $23,430.36.

8587: Insurance Company of North America, $62,003.31.

8595: Boston Old Colony Insurance Co., $66,343.25.

9462: Ulrich Ollendorff, $5,202.08.

10671: Alfred Walter Maron, $171,331.18.

5896: Otis Elevator Company, $125,972.79.

6744: C. B. Dutton, etc., $118.99.

7280: Arthur Kallman, $10,381.75.

7978: George Markus, $1,674.25.

7978: Gertrude Herrscher, $1,674.25.

9207: Heinz Wolff, 58,144.13.

10120: Stefanie Schwerin, $229,618.02.

10276: Hilde Mosse, $3,568.15.

10276: Jutta Mosse, $18,352.06.

10690: Irma Metal etc., $8,590.98.

11042: Johanne Walter, $714.49.

11418: Carla Palm, $24,165.34.

11927: Isabella Kaufman, $15,364.23.

12987: Hildegard Palm, $25,346.90.

22742: International Telephone & Telegraph Corp., $33,106.93.

8526: Walter Bareiss, $4,798.21.

11788: Emil Hulles, $8,817.11.

11788: Paul Hulles, $8,817.12.

16004: Ernest Lorman, $13,911.25.

18270: International Harvester Company $1,233,404.53.

20235: Corn Products Company, $5,911,912.17.

9468: Chicago Pneumatic Tool co., $85,646.67.

9604: Eastman Kodak Co., $744,527.12.

10686: Peter Galich, $1,636.56.

11293: Rachel Grote Dickey, $48,466.79.

17426: Atlantic Richfield Co., $107,737.66.

$107,614.64.

17528: Esso Standard Eastern Inc., $107,614.64.

17531: Esso Etandard Eastern Inc., $229,367.63.

18151: American Radiator & Standard Sanitary Corp., $769,329.89.

2561: Constantine Stephano etc., $7,621.09.

5420: Annie Ruben, $6,854.63.

18164: Horace Mayer, $11,152.70.

18164: Edward Willis Mayer, $11,152.70.

6234: Alfred Bach, $41,862.52.

6234: Elizabeth Bach, $23,921.44.

7173: Gertrud Riess, $130,177.21.

9796: United Shoe Machinery Corp., $2,009,611.75.

10698: Hella Stanton, $27,918.72.

6502: Mia DePeterse Hecht, $3,597.16.

6502: Hilda Branstrom DePeterse, $3,597.16.

14160: Adalbert Von Gontard, etc., $45,325.57.

14348: Eric Rehfeld, $3,222.25.

731: Joachim Hilton & Sidney Norris, etc., $20,342.36.

3394: Eli Trokenheim, $43,180.00.

7115: F. W. Woolworth Co., $664,405.57.

7116: Byron S. Miller, etc., $6,731.99.

7116: Bennett Chapple, etc., $6,731.99.

7389: Werner Goldschmidt & Eric Nagel, etc., $1,685.09.

13658: Robert Anninger, $16,643.02.

13659: Victor Anninger, $11,814.81.

13660: Ann Unger, $24,505.70.

22697: Elizabeth Konkiewicz, $6,383.11.

22739: International Telephone & Telegraph Corp., $4,966.76.

22741: International Telephone & Telegraph Corp., $40,243.74.

22743: International Telephone & Telegraph Corp., $27,894.97.

4186: Irene Coulter, etc., $13,162.46.

6139: Elfriede Elli Grunfeld, $23,184.87.

9529: Owe Toennies, etc., $12,384.47.

16781: Walter Reinemann, $3,495.06.

674: Mobil Oil Corp., 697,815.57.

6599: Herbert Jewell, $23,830.00.

10129: Francisco Toro, $3,529.69.

10129: Carlos Toro, $3,529.69.

10129: Gisela Walte, $3,529.69.

10129: Nieves Bassler, $3,529.69.

10206: Robert Steckler, $25,667.48.

10619: General Motors Corp., $6,326,705.87.

10619: General Motors Overseas Corp. (China), $47,928.84.

10619: General Motors Overseas Corp. (Philippines), $4,943.39.

10731: Equitable Life Assurance Society of U.S., $471,522.05.

493: Michael Devenis, $70,413.19.

15519: Susanne Von Schuching, $60,459.55.

15519: Isaac Schoenberg, $20,153.18.

15519: Elizabeth Brody, $20,153.18.

15519: Beatrice Rago, $20,153.19.

15520: Erna Menasche, $3,435.10.

16178: Frieda Heller, $1,381.81.

18150: Standard Oil Company of California, $109,522.25.

18150: Texaco Inc., $109,522.25.

17051: Robert A. Stein, $32,286.33.

18884: Worthington Corporation, $23,547.70

18893: Katharina Mimno, $12,949.30.

20237: Corn Products Co., $2,471,341.55.

8470: Swift & Co. (Illinois), $138,704.66.

8734: Samuel C. Coleman etc., $52,553.91.

6195: Randolph Jachman, $9,577.18.

7460: Rudolph Kaufman, $74,237.75.

5499: Aenne Romahn, $5,947.82.

5499: Charles Romahn, $8,921.74.

5499: Alice Romahn, $8,921.74.

7847: Richard Frederick Ury, $3,716.84.

7847: Kathe Ostwald, $3,716.84.

8390: Adam Koc etc., $86,391.84.

12067: Ulrich Strauss, $231,699.70.

17526: Esso Standard Eastern Inc., $253,893.28.

17527: Esso Standard Eastern Inc., $2,156,612.07.

17529: Esso Standard Eastern Inc., $56,420.73.

17530: Esso Standard Eastern Inc., $181,768.48.

17532: Esso Standard Eastern Inc., $9,472,418.27.

17533: Esso Standard Eastern Inc., $1,292,333.09.

17534: Esso Standard Eastern Inc., $438,104.51.

6575: Leon Neustadt, $9,998.62.

22752: Ulrich Strauss, $60,713.07.

1876: Albert Spenner, $167,917.36.

1967: United Fruit Company, $573,338.41.

2295: General Milk Company, $50,272.37.

4214: Harold Nebenzal, $144,574.00.

4323: Lincoln Judd, $382.64.

4323: Jadwiga Judd, $382.64.

4502: Arnold Bernstein, $393,176.96.

6239: Samuel Landau, $26,119.88.

7320: Ernest Rathenau, $1,238.87.

7332: Kathe Ostwald, $4,063.50.

7359: IBM World Trade Corporation, $1,627,787.65.

7625: Standard Oil Company New Jersey, $14,532,010.11.

7630: Luis Roever, $83,667.53.

7630: Rudolf Roever, $83,667.53.

7825: International Telegraph & Telephone Co., $125,843.66.

8243: Manfred Landers, $5,669.44.

8243: Ernest Landers, $2,375.69.

8243: Marie Hallgarten, $2,375.69.

8243: Ilse Hiller, $2,375.69.

8612: General Electric Company, $6,817,335.01.

8613: Texaco Incorporated, $366,806.34.

8617: International Securities Co., $1,814,925.21.

8617: The Singer Company, $81,081.55.

8825: Elsbeth Schultz, $450,374.70.

9333: Marie Garbaty etc., $278,299.21.

9333: Maurice Garbaty decd., $205,898.99.

9528: Ernest Herman, $471,972.32.

9528: Gunter Herman, $471,972.32.

9910: Siegfried Aram, $253.19.

10328: The Anaconda Company, $4,161.89.

11175: Betty Papanek, $116,690.26.

11641: Sea Oil & General Corporation, $73,737.52.

16480: Edith Tietz, $483,818.68.

16480: Herman Tietz, $80,636.45.

16480: Rosli Tietz Jasen, $80,636.45.

16563: Estate of David Paul Joffo decd., $14,929.00.

17341: Ruth Bendix, $21,237.10.

17627: Frederick W. Breuer etc., $21,767.88.

19940: Erwin Strauss, $4,359.06.

20236: Corn Products Company, $307,566.05.

20346: Konrad Valentin, $23,951.90.

22725: International Telephone & Telegraph Co., $10,450,700.51.

4670: Paul E. Hollos, $15,461.26.

8699: Jadwiga Zlobin, $11,206.06.

11622: Eric Warburg, $17,711.18.

11622: Anita Warburg, $8,855.59.

11622: Gisela Wyzanski, $8,855.59.

11622: Eric Warburg, $13,972.37.

8547: Reliance Insurance Company etc., $4,425.48.

9605: Eastman Kodak Company, $16,016.72.

4743: Harry Herrmann, $7,373.83.

8614: The Budd Company, $1,085,782.49.

14622: Monarch Life Insurance Company, $9,219.91.

Total, $101,279,146.54.

NATIONAL NEWSPAPER WEEK

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, it is fitting and proper that the House of Representatives officially recognized and honored the great newspaper community this week, National Newspaper Week. It is a special pleasure for me to commend the dedicated journalists and publishers who play such a vital role in protecting and preserving our representative democracy.

Mr. Speaker, it seems to be the order of the day among certain groups to lambast the press, to put on the pressure for more favorable presentation of the news about certain elements. And today, as in the past, it is the newsaper community that takes the lead in defending our priceless heritage of freedom of the press.

Newspapers have taken an important part in the development of our democracy and our free enterprise system. No other form of enterprise is specifically protected in the Bill of Rights as is the free press.

George Washington, Thomas Jefferson, James Madison, and the other Founding Fathers very wisely recognized that a free and independent press is absolutely essential to the preservation of individual liberty and dignity. One of the first actions of the First Congress in 1789 was to recommend to the States the ratification of the Bill of Rights, which, in the first amendment, contains the guarantee of a free press.

Every American should be familiar with the heroic action of John Peter Zenger, the patriotic New York editor who in 1735 was tried for libel because he had dared to criticize the conduct in office of the British Governor. Zenger's acquittal was the first official recognition in America of freedom of the press.

In our own State of South Carolina, newspapers have since the beginning been directly involved in affairs of the State. Political leaders used newspapers as the means of uniting their following. In other cases courageous editors and publishers have stood almost alone in providing a check and balance to movements that had temporarily taken over all political offices.

Mr. Speaker, we wish to especially recognize the weekly newspapers. Their editors are forthright and close to the thoughts of the people. They are uncontrolled by the giant syndicates. Our hometown newspapers are great bulwarks of freedom—academic freedom, religious freedom, intellectual freedom, and free enterprise. Usually the first move of a dictator is to eliminate freedom of the press. No dictator can exist for long with freedom of the press.

After the independent newspapers are shut down, and the government propaganda takes over, it is only a matter of time before the other fundamental freedoms are whittled away. Even in our own country we have been concerned recently with attacks from all directions. There are always those who would censor the press to provide a slant on the news. But free men have nothing to fear of a free press.

In the newspaper world, as elsewhere, eternal vigilance is the price of liberty. We must be constantly alert against government harassment and intrusion, however, sophisticated and indirect. We must guard against gradual government takeover of the free press.

Mr. Speaker, in my 32 years in public office I have found free enterprise press to be great allies of truth and justice in government. For me personally it has been a wonderful association with the press. Mrs. Dorn, a journalist, joins me in saluting and commending the American newspaper community during this National Newspaper Week.

CLEVIE DUPREE McNEESE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on October 2, Clevie Dupree McNeese, 88, widow of Col. Oswald W. McNeese, and my wife's and my dear friend from 1937 until her passing, went to her reward.

Colonel McNeese who died in 1965 was on General MacArthur's staff and had a distinguished military record. Mrs. McNeese was of a distinguished southern family, the Overton family, closely associated with Andrew Jackson. She was born in Louisiana and received a bachelor of arts degree from Sophie Newcomb College and a graduate degree from Louisiana State University.

Mrs. McNeese not only read dozens of books every week from 1935 to 1963 but she gave a program known as the Friday forenoon book reviews at the Washington Club and the Sulgrave Club in the District. For many years she also conducted a book review program at the Shoreham Hotel.

Mrs. McNeese loved knowledge and she sought it with rare eagerness and joy. She was not only possessed with one of the keenest of minds but of a spirit exceptional for its beauty and sweetness. She radiated warmth and compassion along with the brilliant light of her learning.

She loved people as she loved books because she found in them the richness of character and soul and charm which she found in the intriguing world of knowledge. She was always modest and unassuming, gentle in manner and ever thoughtful of others. To know her was to love her.

Mrs. McNeese was an honorary member of the Colonial Dames of America. In her later years she traveled extensively. But she never lost her thirst for knowledge of the great world behind her and around her.

Colonel and Mrs. McNeese became two of my wife's and my dearest friends shortly after our arrival in Washington at the beginning of 1937, and we remained as close as friends could be until Colonel McNeese, gallant, handsome, soldierly gentleman as he was, finally passed away at 85, and Mrs. McNeese became ill. She and my wife were like sisters and my wife kept loving contact with her to the end.

Mrs. Pepper and I will always be indebted to Mrs. McNeese not only for the happy moments we spent with her but also for the inspiration we received from her. She enriched our lives as she did all the lives she touched and so many are poorer as well as sad that Mrs. McNeese has passed into the other world; into the companionship of that God she so much revered and so nobly served.

Mrs. McNeese has left behind three lovely sisters and three beautiful and noble daughters; Mrs. Fred Youngblood of Alexandria, Va.; Mrs. H. J. Vorder Bruegge of Memphis, Tenn., and Mrs. A. G. Bishop of Falls Church, Va., together with 12 grandchildren and two great-grandchildren.

So Clevie McNeese has left in her loving and honorable family and in the memory of countless friends and in numerous great deeds and thoughts a rich legacy to adorn the world she left behind and the world of the long future.

My wife and I extend our profound sympathy to all the members of Mrs. McNeese's family.

A SPEECH BY ROY D. STUBBS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, sometimes a letter from an old friend stirs within our hearts poignant memories. I have just recently had a letter from Roy D. Stubbs of Atlanta, Ga., a great lawyer, able prosecuting attorney in Florida, and longtime general counsel of the Coca-Cola Co., now 88 years young, sending me a copy of a speech he made in my campaign for the Senate in 1950 on the radio at Clearwater, Fla.

This is in the long ago but it warms my heart to see this eloquent expression of confidence and friendship from a cherished and distinguished friend. So I am pleased to have such an eminent witness of those times of turmoil about my efforts and hopes and dreams for my State and my country.

It will be gratifying to me to have it in the RECORD where some who wish to reexamine that tragic period may find it. So I hope, Mr. Speaker, I will be forgiven for any immodesty which may appear from my offering this able address of my friend for the RECORD. Friends and those who have been through such an ordeal as I experienced in 1950 will understand.

Hence, Mr. Speaker, I include the address of the Honorable Roy D. Stubbs, to which I referred, in the body of the RECORD:

ADDRESS OF ROY D. STUBBS

In behalf of the candidacy of Senator Claude Pepper for reelection to the United States Senate

Ladies and gentlemen of the radio audience:

This is Roy D. Stubbs of Fort Myers speaking in the interest of the candidacy of Senator Claude Pepper for re-election to the United States Senate from Florida.

I am doing this because thinking men and women all over this state are beginning to feel that there has not been an election in Florida for many years, which has meant quite so much to us as this one for the United States Senate. It does not seem to be too much to say that this election has assumed national proportions and has aroused national interest. Apparently, folks everywhere are interested. They are interested to know the "whys" and "wherefores" of this contest, people outside of Florida as well as well as people inside Florida.

That we are in a critical period of our country's history, no man can deny. Conservative people do not feel that this is the moment exactly, to foment friction and disturbance, and stir up dissatisfaction and distrust among our people for our public servants, especially those in high places. But the hustings ring and certain elements are moving Heaven and earth to do that very thing.

At once, therefore, we ask ourselves why we are being urged to change horses during these anxious hours. Why we should discard men of experience for men without experience, in public affairs. Why we should swap the tried for the untried. At least, we are entitled to know what we stand to gain by trading Claude Pepper for some unknown politician who wants to get on the federal pay-roll as a United States senator. We want to know who these men are who aspire so suddenly to the top rung of the ladder. No one seems to know. A majority of the people of Florida have never even heard their names until they came recently into the public eye running for office. Let us not be stampeded, my fellow citizens, but rather, that they at least give us a reason why we should hand over to them the destiny of this state, in times like these.

Lots of us have been listening long to hear what they propose to do for us that Senator PEPPER has not already done, or what they propose, perchance, to undo. And they answer finding fault with the Senator and sanctioning by innuendo a whispering campaign. The people of Florida want constructive statesmanship right now. Not whispers. We are not interested to tear down, and heretofore men have not been elected to office in Florida, especially high office, because they malign the other fellow.

For example, one of the aspirants speaking recently in south Florida complained that Senator PEPPER had accepted invitations to speak on occasions in different parts of the United States, and this aspirant for office was especially upset that the Senator had even gone on one such visit, to Canada. And the opponents of the Senator complain that the acceptance of such invitations prevent the Senator from answering roll-calls and attending some of the other humdrum and drab formalities of the Senate.

They say that for this reason the Senator ought to be defeated. Of course we know that men without great ability are not recipients of such invitations and if the opponents of Senator PEPPER would only look about, they would be able to see that there are plenty of men of the other type already in Washington, making it unnecessary for us to send up any more. Florida is justly proud of the brilliance of our junior senator and the people appreciate his ability, his courage, his industry and his culture. It would be difficult to fill the place of Senator PEPPER under any conditions and it is suggested that we at least wait until some outstanding citizen of Florida makes himself available for this the highest post within the gift of the people of Florida.

And when these office-seekers talk about Senator PEPPER's acceptance of these invitations to appear before distinguished assemblies and huge throngs of people all over the Nation, why do not they tell the people of Florida in the same breath, in all fairness, that Senator PEPPER has become a national figure and has done much by these very speeches to bring Florida into her rightful place on the political map of the United States, and while these speeches were not made with that end in view, it is probably true that they have been worth in advertising for our state the total of the senator's salary for a hundred years.

And if these same office seekers would inquire and learn, they could ascertain from the hundreds of businessmen from Florida constantly in the senator's office in Washington, that CLAUDE PEPPER is one of the hardest working men in this country and that no one has ever been more faithful to his job. There are but few men who would even try to stand up under the amount of work that this man does. This statement is not exaggeration nor the bombastic talk of an enthusiastic supporter, but the plain, simple truth and if the voters of Florida appreciate a man who works and works hard and intelligently for his constituency, they will send CLAUDE PEPPER back to the Senate.

You know a fellow's political opponents are some times hard to satisfy. They want his job and the salary that goes with it. And in their eagerness to feel the prestige and power of high, public office, they say a lot of silly things. For instance, they are dissatisfied that Senator PEPPER being a Democratic senator from a Democratic state has usually supported our democratic president.

They say this makes him a rubber-stamp. And they think this catchy phrase will befuddle somebody. Of course, if Senator PEPPER had not voted with the president, when it was to the interest of the people of Florida, they would have sought to recall him for that reason, and they would have been right. So the truth is that the opposition to Senator PEPPER is in deed and in fact a conspiracy. The Roosevelt haters and the Republicans want to defeat the Democratic administration and they rightfully regard Senator PEPPER as a part of it.

Mind you, they do not tell us one single thing that the present administration has done, one single statute that has been passed, which they propose to repeal. Not on your tin-type. They would not do that. That would be coming out in the open, and they can not stand the sun light. So they talk in vague generalities and lend their support to whispers, slanderous whispers based upon ridiculous nonsense and distortion of the facts, slanders which if brought into the open would not be tolerated by any right-thinking man or woman.

The opposition to Senator Pepper knows that when a republican is elected president of these United States a democratic Senator in Washington is practically without influence; he would not even be able to influence the appointment of a post master at a crossroads hamlet and all of the important federal offices in Florida would be filled by strangers, largely from outside Florida.

They know that the sole business of a democratic senator under a republican administration is to attend those drab formalities of the senate, to which I have alluded. They know that the influence of the South in the nation's capitol would be gone and that in Florida, the strangers within our gates would be in the driving seat, the republican president pulling one way, and the democratic senator from Florida pulling the other, with the ultimate destination, so far as Florida is concerned, of exactly nowhere.

And yet, this is the price that Senator Pepper's opposition would have us pay to rid ourselves of what they are pleased to term a "rubber-stamp." If they want the truth, here it is—listen—Claude Pepper will never be dictated to by any group of people, large or small, powerful or not, whose opposition to him is based upon hate to the head of this nation, and especially, when as now, he is also the commander-in-chief of our armed forces, right now engaged in a deadly struggle for the life or death of our very existence; no.

The fidelity of Senator Pepper to the philosophy of the great masses, like that of the president himself, will not change, and if this constitutes him a rubber-stamp, his opponents will have to make the best of it, political threats to the contrary notwithstanding.

In conclusion, let us reason together after this manner: First, let us remember that our country is at war and that the flower of the young manhood of Florida is in the four corners of the world, laying down their lives in order that we at home may live in peace and happiness and prosperity, and then—let us remember that Claude Pepper, a veteran of the first World War and a ranking member of the Committee on Foreign Relations of the United States senate, has an understanding heart that beats in sympathy with our boys over there.

Remembering this, the fathers and mothers of Florida will not lightly hand over their welfare and security to an inexperienced office-seeker running upon a platform of hate to the commander-in-chief of these boys, a hate so bitter and unreasonable until it would damn any man or woman who supports him even when he is right. And thus remembering, may I suggest that the electorate of Florida will on May 2nd., rise above petty jealousies, and turning a deaf ear to the slanderous rumors and whispers that fill the air, and thinking first of Florida and her sons in her service, they will return to the senate, the man who is already filling with distinction and honor and dignity, the office of a United States senator from Florida: the Honorable Claude Pepper.

TRADE ADJUSTMENT ASSISTANCE ORGANIZATION ACT OF 1973

(Mr. CULVER asked and was given permission to revise and extend his remarks.)

Mr. CULVER. Mr. Speaker, today I am introducing legislation which attempts to develop practical and timely economic adjustment programs to help workers, companies, and communities hard hit by foreign imports.

I introduce the Trade Adjustment Assistance Organization Act of 1973 at the end of the 92d Congress in the hope that my colleagues and the executive branch will fully recognize that the Nation needs workable solutions to the economic issues which confront us—loss of jobs, continuing inflation, and our mounting trade deficit—and that in response to these issues the Congress and Executive will work together to give this or a similar bill a very high priority on the legislative agenda of the 93d Congress.

For the past four decades the United States has pursued an outward looking foreign trade policy—a policy designed to seek freer trade, from which all nations could benefit economically and politically. The United States did not take this course until after learning, in the hard school of the depression and Smoot-Hawley years, the grave disadvantages of indiscriminate trade restrictions—political isolationism and retaliatory trade barriers, which in turn forced many American businesses to lay off workers. Since 1934 and the enactment of the Reciprocal Trade Act, and especially after World War II, the United States has encouraged cooperative and interdependent international economic policies. On balance, the result of our outward looking foreign economic policy has been U.S. economic growth with increased sales abroad, strengthened economic and political relations with foreign countries, and an increased standard of living at lower costs to consumers in the developed countries, including the United States.

Over the last year, however, there has been growing concern in the United States about our mounting trade and balance-of-payments deficits combined with an intolerable 5 to 6 percent unemployment rate. We are confronted with these facts, but have been unable to reach a consensus as to their root cause, and more important have, to date, been unable to develop truly constructive solutions.

Some concerned citizens have pointed to unfair trade practices engaged in by foreign companies and governments, which have gone unchallenged by the Executive. Others have suggested that the root of our employment and trade difficulties are to be found in our domestic economy, through the lack of economic policies effectively controlling inflation, and the lack of economic policies to stimulate innovation, productivity and vigorous competition.

But one fact is clear. Millions of American workers are gripped by the fear that imports are undermining their job security, and they are joined in this fear by diverse industries which feel the pressure of foreign competition.

As a result, we are witnessing the shift of more and more of our Nation's business, labor and economic leaders from an outward looking foreign economic policy to a more protectionist one, and have seen the introduction of legislation which would greatly restrict imports across the board as well as the activities of American companies abroad.

These events are warning signals that the United States must develop and pursue fresh concepts to meet the problems of economic dislocations caused by imports.

THE NECESSITY FOR A WORKABLE TRADE ADJUSTMENT PROGRAM

In the last year, the Subcommittee on Foreign Economic Policy, which I chair, held a series of hearings on the domestic and foreign ramifications of U.S. foreign economic policy. We examined successively the economic impact of enlargement of the European Common Market; the international implications of the new economic policy; and the state of our politico-economic relationship with our two largest trading partners, Canada and Japan. From these hearings there are a few facts on which a consensus did emerge.

First, to the extent the United States reacts unilaterally in the world economic arena to trade and international monetary problems, we risk incurring foreign political losses which could seriously endanger our country's security. Furthermore, there is every reason to believe that the unilateral imposition of trade restrictions by the United States would provoke retaliation in kind by our trading partners. The resulting trade wars can only seriously undermine our general economic well-being. As in the 1930's American jobs will be lost, not gained because of trade wars.

Moreover, import restrictions damage the U.S. consumer by reducing competition for domestic producers and permitting them to raise prices. It is estimated that present U.S. trade restrictions now cost U.S. consumers as much as $10 to $15 billion every year.

In a State such as Iowa, which I represent, both consumers and working people have no cause to rejoice in a trade war since exports are a vital part of Iowa's economic base.

Agricultural exports shipped from Iowa to foreign markets accounted for $620 million in fiscal year 1972; and the State was again second in the Nation in total as well as per capita exports of farm products. Most important, Iowa's growth rate in agricultural exports leads the Nation.

Iowa is also a major exporter of manufactured goods, ranking 11th among the States in per capita exports of these products. Iowa's export trade in manufactured goods nearly doubled in the 1960's and continues to grow.

Cedar Rapids, for example, is the States major producer of manufactured goods for exports, predominately farm and heavy duty road equipment, as well as electrical and food products.

Waterloo also exports large amounts of farm and road equipment: and other important export centers are Dubuque, Des Moines, and the metropolitan area of Davenport.

Second, the concerns being voiced by labor and management in the adversely affected sectors of our economy are real concerns, and cannot be ignored or answered by resorting to the vague conceptual slogans of either "free trade" or "protectionism."

Third, trade adjustment assistance, in its present form as enacted in the Trade Expansion Act of 1962, has been employed so ineffectively and so marginally that continued business and labor criticism of adjustment assistance as nothing but "burial expenses" must be accepted.

For workers the assistance was supposed to be extra unemployment and retraining benefits. For companies the program specified loans and technical advice in modernizing their production facilities or moving them into new product lines. But in 10 years after these laws were placed on the books, the actual record of accomplishment is pitiful. Only two companies and 20,000 workers have been temporarily helped, while another 17 companies and their workers, who did manage to survive the dense bureaucratic jungle necessary to qualify for assistance, have to date, received nothing useful to help them.

We must face the fact that adjustment assistance as it was enacted 10 years ago was unworkable and obsolete the day it was passed.

The emphasis today must be put on a better delivery system, more substantive assistance and an early warning network to spot in advance those industries and companies which are running into trouble. Then Government assistance can be useful before the company is financially beyond hope, and it can enroll workers into training programs before their skills become obsolete. The Government must anticipate problems and identify industries likely to become uncompetitive. But, most important, the assistance must be adequate, practical—and quick. Otherwise, we will always be in a position of doing too little, too late.

As a result of its failure to soften the burdens of foreign competition by the rapid reemployment of workers and resources into more profitable and productive enterprises, trade adjustment assistance has failed to encourage large segments of business and labor to continue to support an outward looking foreign policy. Now, we find that many of those who have grievances against foreign competition are supporting legislation to restrict international trade as the only alternative to deal with damaging foreign imports.

It would be irresponsible to dismiss this understandable action without suggesting any viable alternative. In view of the tremendous impact which imports have had on workers, industries and entire communities, a positive alternative to trade restrictions and trade wars is called for.

THE TRADE ADJUSTMENT ASSISTANCE ORGANIZATION ACT OF 1973

In April and May of this year, the Subcommittee on foreign economic policy held seven days of hearings to examine workable mechanisms for economic conversion as an alternative to trade wars. During these hearings, the subcommittee received testimony from knowledgeable private witnesses drawn from former Government officials, universities, public interest groups, labor, and business, as well as from key Government officials.

The general consensus reached during the hearings was that trade adjustment assistance has not been given a meaningful test. That the trade adjustment assistance program provided for in the Trade Expansion Act of 1962 in its design could not work and therefore has not; and that, most important, a trade adjustment assistance program can be designed to provide prompt and effective assistance to the workers, firms and communities who need it—at a lower cost to the economy than, and without the foreign policy disadvantages of import restricting relief.

For the purpose of providing a workable alternative to trade restrictions and trade wars, I am introducing today the Trade Adjustment Assistance Organization Act of 1973.

This bill is based on the recommendations made in the subcommittee's report on trade adjustment assistance, and is, in my opinion, a reasonable and constructive means of making adjustment assistance, a workable answer to economic dislocations caused by imports. The bill is, however, open for refinement and I welcome any constructive suggestions.

In submitting this legislation I would like to raise an inherent broader issue which presented itself in our hearings—the issue of developing a national industrial conversion and manpower training program.

TRADE ADJUSTMENT ASSISTANCE—A MODEL FOR A NATIONAL PROGRAM

We live in an era of "future shock." The social and human costs of economic dislocation caused by rapid technological change, changes in consumer tastes, Government procurement programs, international trade, and other factors, make the development of effective adjustment mechanisms imperative where such dislocations occur.

Viewed in the context of the various

factors which can cause economic dislocations, it is hard to justify helping workers suffering unemployment for some reasons while neglecting others whose unemployment arise from different causes equally beyond the workers control. To a firm or worker thrown out of business by impersonal forces, it makes no difference whether the cause is increased imports, or changing technology, or rapid and sudden shifts in Government programs. Textile firms and workers in the Northeast were probably hurt far more by the internal relocation of their industry to the South than by imports from the Far East. Similarly, the aerospace engineer in California now driving a taxicab can attribute his misfortune to diminution of the U.S. space program, not construction of the Anglo-French Concorde. And the family farmer who leaves his land because he cannot compete with the mechanized efficiency of large corporations may never have even heard of the variable import levy restrictions on his potential exports to the Common Market.

Moreover, as the Vietnam war and our orientation toward a military economy wind down, and as the 1970's bring a new awareness of the human and environmental problems which confront the Nation, we must develop a national priorities and economic conversion program which would serve to shift industry from less productive areas to those for which there is a need for greatly expanded services, manpower, and capital investments—health, education, energy, low cost housing, pollution control, mass transportation, and rural and urban development.

To deal more effectively with the problems of unemployment, inflation, low productivity, lack of competitiveness, worker dissatisfaction, and redirecting our economic priorities, the United States must commit itself to the development and implementation of national manpower and industrial priority programs. It is time to develop mechanisms to provide adequate training and retraining opportunities with the genuine prospect of a job at the end of the line for all workers.

However, with the imminence of new multilateral trade negotiations, it is all the more timely to develop a workable trade adjustment assistance program, which can also serve as a demonstration model for a national manpower and industrial program. Moreover, a strong trade adjustment assistance program will strengthen our position in international economic negotiations as well as fulfill an important responsibility to our domestic economy.

Mr. Speaker, I am happy to be joined in the cosponsorship of this legislation by my subcommittee colleague, Mr. WHALEN, who took a most active part in the hearings and the preparation of the trade adjustment report. At this point I would like to submit a summary of the Trade Adjustment Assistance Organization Act of 1973:

A SUMMARY OF THE TRADE ADJUSTMENT ASSISTANCE ORGANIZATION ACT

TITLE I—REORGANIZATION

Since the effective administration of an improved adjustment assistance program required a cohesive organization which can provide greater coordination at the Federal and state levels, this title transfers the trade adjustment assistance functions of existing Federal agencies to a newly created Trade Adjustment Assistance Administration, which will be in the Labor Department.

This new Administration will absorb all or parts of the following existing offices:

(1) The Office of Trade Adjustment Assistance of the Commerce Department;

(2) The Office of Trade Adjustment Assistance of the Labor Department;

(3) The adjustment assistance functions of the Tariff Commission; and

(4) other relevant Federal programs.

The Administrator, appointed by the President, will be the chief executive of the Trade Adjustment Assistance Administration. He will be authorized to establish, certify and support training programs, and to coordinate the Administration's activities with local and state bodies.

To help anticipate adjustment problems, identify industries most in need of modernization, establish national economic priorities, and review operations, an Economic Priorities Council will be created. It will consist of twelve members, three from labor, three from industry, three from consumer groups, and the Secretaries of Commerce, Treasury and Labor. Appropriate staff will be provided by the Department of Labor and the Trade Adjustment Administration.

TITLE II—ASSISTANCE

Subtitle A establishes a simple criteria for eligibility for benefits under this Act. This simplified criteria will expand coverage and speed up delivery of benefits. The Secretary of Labor will be responsible for determining the eligibility of workers, companies and communities.

A firm shall be eligible for economic adjustment assistance if it establishes that a significant number or proportion of its workers have become unemployed or underemployed or are threatened with unemployment or underemployment, and that the situation has been caused in substantial part by increased imports of articles competitive with articles produced by the firm without linkage to trade concessions.

Workers shall be eligible for economic adjustment assistance under the same criteria as firms, as well as in the situation where the relocation or proposed relocation of facilities of the firm to a place outside the United States causes, or threatens to cause unemployment or underemployment.

Communities shall be eligible for economic adjustment assistance if—

(1) a firm in such community is eligible for economic adjustment assistance and the economic situation of the firm has been a substantial cause or threat of serious injury to the economic base of the community, or

(2) if the relocation or proposed relocation of facilities of a firm will be a substantial cause or threat of serious injury to the economic base of the community.

To the extent practicable, joint firm-worker and firm-worker-community adjustment proposals and petitions should be encouraged. Such cooperation would expedite economic readjustment. Lacking such coordinated efforts, the Administrator shall notify the authorized representatives of all affected parties of pending petitions and adjustment proposals and consult with them in order to develop a coordinated economic adjustment program.

Subtitle B provides for assistance to firms. Companies deemed eligible for assistance will be entitled to make application for the following forms of assistance:

(1) interim financing pending the approval of longer term loan assistance;

(2) loan terms more favorable than existing commercial rates;

(3) technical assistance; and

(4) research and development assistance for projects which would create new job opportunities.

Subtitle C would expand the present adjustment assistance program under the Trade Expansion Act of 1962 by increasing the amount and availability of benefits to eligible workers. To assure maximum equitable coverage and a minimum of hardship, a 60 day time limitation is placed on final determination of eligibility, and the qualification criteria concerning previous work, earnings and head of household status are liberalized so that there is a broad qualification for those workers who have been separated from their jobs. In addition, the readjustment allowance in this Act is raised from 65 percent to 85 percent of the displaced workers average weekly wage rate.

In order to encourage workers to seek retraining, workers who, in addition to their readjustment allowance, receive assistance from other manpower services—such as State unemployment or retraining programs—will now be eligible to receive 100 percent rather than 75 percent of their former wage. Eligible workers will not, however, be able to receive more than 100 percent of their former wage. Payment of readjustment allowances continues for the entire period of retraining, and the length of the retraining period is left to the determination of the Administration so that the period is adequate to complete the extensive training required for high skilled services and technologically advanced industries. Furthermore, qualified workers will be allowed to pursue technical, professional or academic training as well as the traditional vocational training.

To assist workers, the Administration will develop retraining programs teaching skills needed for priority economic areas, and will provide testing, counselling and job placement assistance.

Workers still employed but who can demonstrate that they are threatened by loss of employment in the future will be eligible for retraining programs.

In addition, the Administration will provide relocation assistance, continuation of health insurance, and speeded up retirement, pension and social security benefits for otherwise eligible displaced workers who are over 60 years of age.

Subtitle D provides economic adjustment assistance to communities. Adjustment assistance under this subtitle consists of technical assistance in the development of programs to enable communities to absorb the effects of economic dislocation and maintain a stable economic base by diversifying its industrial base, and wherever possible to reconstitute the local firm and its work force. In addition, the Administration shall submit to, and coordinate the communities adjustment proposal with the agency or agencies it determines to be appropriate for furnishing the technical and financial assistance to carry out the adjustment proposal.

TITLE III—RELOCATION OF FIRMS

This title provides that any firm which relocates facilities outside the United States must apply for all economic adjustment assistance for which its workers are eligible. In addition, such firms are required to offer first choice of future employment opportunities in their other production facilities to individuals at the old location who have been or will be rendered unemployed or underemployed by reason of the relocation of facilities. This should be done in cooperation with the appropriate labor representatives.

TITLE IV—AN EARLY WARNING SYSTEM

In order to have an effective adjustment assistance program there must be a mechanism which can spot in advance economic hardship among industries and workers so the government can then initiate adjustment programs before the hardship actually occurs.

In recognition of this factor, Title IV directs the Trade Adjustment Assistance Administration to develop an integrated system of foreign and economic statistics. In addition, it requires, on a confidential basis, advance notice of corporate decisions to relocate facilities abroad, which would result in reduction of workers.

GENERAL LEAVE

Mr. ARENDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of Mr. McClory's special order, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

RECESS

The SPEAKER. Pursuant to a previous order of the House, the Chair declares a recess subject to the call of the Chair, but not later than 10:30 p.m.

Accordingly (at 9 o'clock and 38 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 o'clock and 30 minutes p.m.

THE HOMEMAKER-HEALTH AIDE SERVICE, INC., NORTHAMPTON COUNTY, PA.

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Rooney) is recognized for 5 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, I am pleased to bring to the attention of my colleagues a tribute given to the Homemaker-Health Aide Service, Inc., of Northampton County, Pa.

The Homemaker-Health Aide Service, Inc. of Northampton County, Pa., is among the first in the country to be granted a certificate of approval by the National Council for Homemaker-Home Aide Services. The certificate was presented by Dr. Ellen Winston, president of the National Council and former U.S. Commissioner on Welfare, at the National Council's Regional meeting in Boston, Mass., September 21, 1972.

Homemaker-Health Aides in Northampton County give care to children and families, to the aged, to the chronically ill, to convalescents, and to the mentally ill or socially incapacitated.

The availability of Homemaker-Health Aides often means the difference between institutionalization or foster care for children, aged or ill and the chance to remain in their own homes.

Northampton County Homemaker-Health Aide Service has saved tax dollars by keeping the elderly in their own homes rather than in institutions. Some examples of the service are:

Mrs. V., age 65, living on social security, who is suffering from inflammation of muscles and degenerative arthritis of the spine. Homemaker-Health Aide Service has been caring for this woman since 1970, free of charge. Institutional cost would have been $8,000.

Mrs. H., age 70, living on her social security, has a diagnosis of tumor of the right side of face, hiatus hernia, cardiac enlargement and allergic bronchial asthma. Homemaker-Health Aide Service has been caring for this lady since February 1968. It would have cost the taxpayer $20,000 to institutionalize Mrs. H.

Mrs. F., age 60, on social security, has uremia and renal rickets. She must use a dialysis machine and could not possibly remain in her own home without this agency's help. Service began in December 1970, and is provided daily, at no cost to the client. Taxpayers were saved $8,000 by maintaining Mrs. F at home.

This type of service in Northampton County not only has saved dollars, but has made many of our elderly happy, because they are still a part of their community. Home care in many instances is more economical and certainly provides for a more contented elderly population.

Because of lack of funds to employ additional staff, some cases are being rejected by this agency.

More money is needed to continue to provide these services. Local United Funds and county tax dollars are now being used to maintain these people in their homes.

THE HONORABLE CLIFFARD D. CARLSON, MEMBER OF CONGRESS FROM THE 15TH DISTRICT OF ILLINOIS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. McClory) is recognized for 5 minutes.

Mr. McCLORY. Mr. Speaker, I have asked for this special order so that appropriate recognition may be given to our esteemed colleague from Illinois, Cliffard D. Carlson, who represents the 15th Illinois District in the House of Representatives.

Mr. Speaker, although our colleague, Congressman Cliffard D. Carlson, of Illinois' 15th Congressional District, has served only a brief time in the Congress, he has established himself as an able lawmaker and conscientious student of the legislative process.

Mr. Speaker, it is my privilege to be a candidate for office in the new 13th Congressional District of Illinois which includes the major part of Kane County—an area which is now served so ably by Congressman Carlson.

Mr. Speaker, in addition to my intimate contact with Cliff Carlson and the thoughtful and attentive manner in which he has fulfilled his legislative duties, I am privileged to count him as a close personal friend.

Mr. Speaker, I am confident that there will be further opportunities for Cliff Carlson to render useful public service either in a future Congress or in some other appropriate capacity.

Mr. Speaker, I extend to Cliff Carlson and his attractive daughter, Carol, the best wishes of my wife Doris and me for a future of good health and much happiness.

I now yield to the gentleman from Illinois, the distinguished minority whip.

Mr. ARENDS. Mr. Speaker, on April 4 of this year, my warm and good friend, Cliffard Carlson, of Geneva, Ill., was elected to Congress from the 15th District to fill the unexpired term of our former colleague, Charlotte Reid, who had voluntarily retired.

Since Cliff, as we affectionately call him, came to Congress, we have come to realize that his election was a wise choice, indeed, on the part of his voting constituents.

I certainly have enjoyed serving with him here. He has been a diligent, hardworking Member of the 92d Congress. He quickly learned his way around these Halls and has conducted himself in the finest possible way. He has earned the respect and admiration of his colleagues.

When Cliff arrived here, he was assigned to the important Committee on Education and Labor. He served well, and soon became acquainted with the many involved proposals coming before that committee.

Cliff Carlson will be with us as a Member of Congress until January 3, 1973, when the 92d Congress comes to a close. This Congress has benefited from his service here. Not only his Republican friends but many from the other side of the aisle have all benefited by the opportunity to know and work with this fine gentleman.

Whatever Cliff Carlson's future holds, our very best wishes go with him.

Mr. McCLORY. Mr. Speaker, I now yield to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Speaker, I have had a chance to watch many legislators come and go. Some are diligent, some are not. Some are intelligent, some are not. Cliff Carlson from Illinois has been a credit to Congress and to Illinois in both respects. He has worked arduously to see that his constituents have been well represented. His attendance record is unsurpassed and in a relatively short period of time he has grasped the intricacies of the legislative process. As an outstanding businessman, he has time after time demonstrated his concern for cutting out the waste in Government spending. I join with my colleagues in wishing him great success in the future and also to encourage him to continue in Government to further benefit our country.

Mr. McCLORY. Mr. Speaker, I now yield to the distinguished gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, the service of our colleague, Cliffard Carlson of Illinois, has been brief but excellent. In a short time he mastered the legislative process, besides ably representing district interests.

In a sense, he is a stand-in for Les Arends who, hopefully, will represent the district in the 93d Congress.

I hope political fortunes will someday return him to this Chamber, where he has many friends and admirers.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding.

The fact that Cliff Carlson is here this evening at this late hour when he is not a candidate for reelection speaks very highly of his dedication to the responsibilities of this office. It is occasions like we have at the present which tend to prove the great wisdom of this individual who is not seeking reelection to this body.

We all wish Cliff Carlson well in the future, and we are better because he has been here.

Mr. McCLORY. I thank the gentleman from Iowa very much for his kind remarks.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, as the gentleman knows, I have already expressed my high regard for Cliff Carlson, but I would like to take this opportunity, although it departs from the Carlson theme, to take notice in the Chamber tonight of a man who entered this body as the member of the 87th Club, the same class that I was in, and I feel has served as a Member of this body in a very singular way. I am speaking of Durward Hall of Missouri.

He is the total Republican representation from the State of Missouri in this body, and he has held up that responsibility very well. But in a broader way I know that Members on both sides of the aisle have felt that their work here is easier because of the diligence of "Doc" Hall. He has been here every day and all day. On those rare occasions when I have stepped in the Chamber and have noted the absence of Dr. Hall, I have felt that the Chamber was missing something of very great importance. It was not complete. He gets under the skin of some Members. He digs. He asks questions. Nothing ever slips by him. I dare say that he is one of the best, if not the best, informed Member of this body on the rules of procedure of this House, and in my view he is really a priceless Member. He is here even at this late hour, perhaps the very last day of his service, sitting in his seat on the aisle, as he has been for so many weeks, vigilantly watching every piece of legislation, getting on his feet, raising questions, challenging motions. He is really a fine example of public service. He is devoted to this Chamber, to the Congress, to the Constitution, and his country. He has literally guarded the legislative gates for more than a decade. We all owe him around of applause.

Mr. McCLORY. I thank the gentleman from Illinois, and the gentleman from Missouri certainly deserves that round of applause.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, I had the privilege of meeting Durward Hall before he came to Washington. He was the family doctor for my wife's family back in Missouri. They not only thought highly of him as a man, but as a physician. I want to associate myself with the remarks just made by the gentleman from Illinois, and to assure Dr. Hall that we will all miss him very much.

I do not know what in the world H. R. Gross is going to do without his executive officer.

Mr. McCLORY. I thank the gentleman from California.

I placed some remarks in the Record today appropriate for the occasion also directed to our distinguished colleague from Missouri (Dr. Hall).

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman.

Mr. ARENDS. Let me also take this opportunity to make some remarks about our colleague who is likewise in a somewhat similar position to that of Cliff Carlson—and that is Bill Conover—who was elected to fill the unexpired term of our late lamented friend from Pittsburgh, Congressman Fulton. Bill Conover, who served for this short time, has served ably and well and has done an exceedingly extraordinarily fine job in the short time that he has been here serving the people of his district and the Nation.

Mr. PRICE of Illinois. Mr. Speaker, I join the gentleman, Mr. McClory, in his tribute to our distinguished colleague from Illinois, the Honorable Cliffard Carlson.

Cliff Carlson has been a Member of this body only since April of this year, by virtue of a special election to fill the vacancy created with the appointment of the Honorable Charlotte Reid to the Federal Comunications Commission. But in the months he has been here he has earned the respect and admiration of the membership on both sides of the aisle. Active in his committee assignments and floor work, he quickly won he respect of his colleagues.

A successful businessman in Geneva, Ill., he carried his experience into his congressional work, and was effective in his chief efforts to encourage efficiency and economy in the operation of government.

Cliff Carlson, though here only a short time, made many friends and won much respect among the House membership. I am particularly pleased that I had the opportunity to meet and to know this man.

Mr. COLLIER. Mr. Speaker, our colleague Cliff Carlson of Illinois has been a member of this body slightly just a year. He was elected to fill the vacancy of Representative Charlette Reid, for whom he had campaigned arduously each time she ran for office. With the reapportionment of Illinois, Cliff chose not to run for reelection and now reaches the end of his short career in the House. While I knew Cliff in private life, I really did not have the opportunity to know him socially and professionally until he became one of our colleagues.

Like the rest of our Illinois delegation and many others in this body, I am going to miss him. I suppose we all feel a void when a fine gentleman leaves our midst. Cliff has been a dedicated Member of this body and one who has contributed a great deal even in the short time he was here. I wish him well as he retires from Congress; but I draw great satisfaction in knowing that he will continue to make a great contribution to his district and his country when he returns to private life—resuming the achievement which have made him a success in business throughout his life.

Mr. ERLENBORN. Mr. Speaker, for many years the House was graced with the presence of Mrs. Reid of Illinois and we were sorry to have her leave. But her replacement in the few short months of his service has endeared himself to his colleagues. We are glad that he has had this opportunity to serve his district and pleased to have had this time to be associated with him.

I have known Cliff Carlson for many years as Mr. Republican of Kane County, Ill. His service to our party has been acknowledged in his election as State central committeeman and now as Congressman from the 15th District. I shall miss him in the coming Congress both as an Illinois neighbor and as a fellow member of the Education and Labor Committee.

I know that the entire membership of the House joins with me in wishing him good luck, Godspeed, good health, and good luck in the years ahead.

LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I have asked for this time in order to try to inform the Members as to the progress that we have made. As you know I informed the Members a few minutes ago that there were three conference reports still out—on H.R. 1 and on the debt ceiling and on the highway bills.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the distinguished chairman of the Committee on Ways and Means.

Mr. MILLS of Arkansas. I thank my friend, the gentleman from Louisiana.

To inform the membership of the status of two conference reports that we have been working on for some time—we have completed the conference report on H.R. 1. I think we have a complete conference agreement on the debt ceiling—at least when I left the room we did—but before we can bring the first of those two conference reports back to the House our people are going to have to have about 50 more minutes to do the paper work—that is on H.R. 1—and by the time we get through with H.R. 1 I am told that they will have the paper work all done on the debt ceiling so that we can take that up immediately thereafter.

I hate to keep the House in session this late of course, but if we want to adjourn tonight I would say to the majority leader that it is possible for us to do it if you will just be a little bit patient with your House conferees.

Mr. BOGGS. I thank the gentleman from Arkansas.

U.S. ENERGY SECURITY IN A CHANGING WORLD

(Mr. CULVER asked and was given permission to extend his remarks at this point.)

Mr. CULVER. Mr. Speaker, over the past month, the House Foreign Affairs Subcommittee on Foreign Economic Policy has held a series of informational hearings on the Foreign Policy Implications of the Energy Crisis. The purpose of these hearings was to examine the interlocking nature of our domestic energy policies and our foreign economic and political policies. Specifically, the subcommittee focused on our Nation's increasing dependence on Middle East energy imports, the alternatives available to us on both the demand and supply side, and the implications of these projections for the United States as a member of the world community.

As chairman of the Subcommittee on Foreign Economic Policy, I am taking this opportunity today to report to you our basic findings as well as to convey a few personal conclusions which I have reached for alleviating these highly interdependent problems.

WHY THE ENERGY CRISIS?

One certainly cannot look at the pressing foreign policy problems associated with the emerging energy crisis without first asking why there is a crisis at all. Four principal factors have conspired to change radically our Nation's energy picture: First, an ever-increasing consumption demand; second, the recent leveling out in domestic output of oil and natural gas; third, our new environmental consciousness and its attendant restrictions, and fourth, the failure of our Government to exert leadership in developing alternative or unconventional energy sources, with the glaring exception of its single-minded pursuit of the liquid metal fast breeder reactor.

Taken together this means that the United States is no longer self-sufficient and will have to look abroad for a large portion of its energy supplies in the next two decades. We have already passed the crossover point where the question—to import, or not to import—is any longer a live policy option.

In redressing our domestic supply-demand imbalance, the need for statecraft will be great. For the world in which we will have to deal to get our energy will be most difficult. That world will be characterized by potential new stresses in our relations with industrialized, energy have-not allies in Western Europe and Japan, who are also experiencing rising demand and who will continue to consume with us most of the world's energy output, and delicate relations with the oil-producing countries of the Middle East and North Africa, who have the lion's share of the world's reserves and who have recently determined to negotiate the control of their resources away from the once dominant international oil companies.

UNITED STATES AS WORLD'S LARGEST ENERGY IMPORTER

The United States' consumption of primary energy resources—composed primarily of the fossil fuels: oil, natural gas and coal—continues to accelerate at far in excess the rate of our population growth. We are consuming our nonrenewable fossil fuel resources at a rate that doubles every 16 years.

Oil and natural gas together make up 75 percent of the energy used by Americans today. Coal, which we have in abundance, is being used proportionately less and less because of the environmental problems it creates. Nuclear energy has been slow in coming and still represents only a small fraction of our overall consumption. In short, we are a fossil fuel-based economy and we will continue to be so for the next several decades.

The energy problem we face is an arithmetic one of finite resources vs. consumption moving in geometric progression. Some say, for example, that we could dig 16 billion barrels of oil out of the Continental Shelf, but that is only a billion barrels a year over the next 16 years, and we are going to be consuming annually some 15 billion barrels by 1985. Cries for more and more drilling are not going to solve the problem. Oil, gas and coal fields do not reproduce themselves. Every time one is drilled or mined, there is one less to go. Half of the coal ever mined has been taken from the ground since World War II; and more oil will be used in the 1970's than in all previous history. The fossil fuel age will not be with us forever.

The classical view of energy has assumed its natural beneficence, and the more quantity the better. In recent years, however, we have learned the hard way that energy can be the nemesis as well as the servant of man. The environmental consequences of our spiraling use of energy are profound. About two-thirds of any fuel we combust escapes into the environment. New York City and Los Angeles today dissipate from automobiles, air conditioners, and other modern conveniences more energy than falls upon those cities from the sun. To paraphrase Lord Acton's famous dictum, "All Power Pollutes." Unfortunately, foreseeable alternatives to our conventional energy sources also produce their own forms of environmental delegation.

FUTURE ALTERNATIVES ENERGY STRATEGIES

In the course of our hearings, we brought technical and foreign policy experts together so that we might overcome the compartmentalization that has grown up and begin to see these problems as a whole. No one challenges the fact that what we do or fail to do now in the energy field will substantially influence our future relations abroad. One of the principal purposes of the hearings, therefore, was to determine when alternative energy technologies and methods could mature and thus reduce our dependence on foreign supplies.

None of the alternative energy technologies will come on stream in time to meet our soaring demand. Given the long leadtimes involved in developing new energy sources, it is beyond our power at this point substantially to alter the energy picture for the remainder of this decade.

Even for technical experts, there is sometimes a fine line between science fiction and the energy technologies of the future. What unconventional energy sources make their way off the drawing boards, through the pilot stage, and into the homes and businesses of this country, however, are developmental decisions that must be made in this decade. Just as we seek to find the proper balance in our strategic weapons systems, so we must decide upon the right mix of technological options in fashioning our future alternative energy strategy. For the long term, we should aim for greater self-sufficiency with unconventional sources by placing more emphasis on research and development in coal gasification and liquefaction, tar sands, oil shale, geothermal and solar energy, and those nuclear technologies that can be safely made available. Greater funding will be required to develop these technologies to the point where we can better decide on their economic and environmental feasibility.

We must also move vigorously now to curb our prodigal use of energy. Most of the additional barrels of oil we consume in the future will have to come from overseas. And cumulatively these barrels will place a greater strain on our environment. The Office of Emergency Preparedness recently published a major study listing conservation measures which could relieve some of these pressures:

Improve insulation of both new and old homes;

More efficient air-conditioning equipment;

The greatest possible use of rail in the shipment of freight; shifts of intercity passengers from air to ground travel and urban passengers from automobiles to mass transit and freight consolidation in urban freight movement;

The introduction of more efficient industrial processes and equipment.

Priority must be given to the development of incentive and educational programs to put these and other conservation-directed recommendations into practice.

ENERGY SECURITY AND EVOLVING FOREIGN RELATIONSHIPS

In the interval, the solution to our energy problem will have to be found not in technology but in the realm of politics. By 1980, we could reach as much as 50 percent dependency on foreign oil alone, with most of this increase in imports coming from the Middle East. Liquified natural gas, now in its infancy as an internationally traded commodity, will soon pose import dependency problems similar to those already involved with the control of foreign oil. Thus our energy security in the immediate years ahead must be assessed not in terms of self-sufficiency but in terms of the reliability of these hydrocarbon supplies from available foreign sources.

The national security questions associated with energy are serious; but we must keep them in perspective. On the one hand, we should not accept simplistic appeals which picture the U.S. energy tap being shut off at the whim of an ill-humored foreign government. On the other hand, we should be careful not to exaggerate the limitations of boycotts, embargos and other forms of economic pressure.

The reliance that one can place on the security of imports from the different oil-producing countries varies. We quite wisely have a hemispheric preference for Canadian and Venezuelan supplies. But as our need for foreign oil increases, the reliability of these sources will become less significant. Even under the most favorable arrangements now conceivable with Canada, a large portion of our energy will have to come from the Eastern Hemisphere, where the preponderance of the world's oil reserves are located. It behooves us, therefore, to use ingenuity in devising arrangements which will safeguard our interests as well as those of our allies and our unambiguous commitment to Israel as energy trade with this region intensifies.

The United States, through skillful diplomacy, can avoid many of the foreign policy pitfalls that come with its import dependency by taking every reasonable advantage of the mutuality of interest that exists between producers and consumers. Saudi Arabia, which has the largest reserves of any nation in the world and more than the Western Hemisphere combined, has recently offered to sell us their oil in exchange for the opportunity to invest within the United States in the so-called downstream operations of refining, transportation, and marketing. Care will have to be taken in detailing such an arrangement, and the development of standby petroleum reserves will have to be considered. But the concept deserves the fullest exploration because, first, such interdependent relationships improve our balance-of-payments deficit, and second, they decrease the likelihood of an oil interruption in view of the oil-producing country's investment in our country.

I strongly recommend that the United States use this opportunity to devise a program building upon the concept embodied in the Saudi offer which would be available to all petroleum exporting countries that wished to participate. Overdependence on any one oil supplier would thus be avoided while we would reap the many benefits that come from this type of interdependence.

In working out this program, it is essential that our Government consult in advance with our allies who share a common interest in maintaining a secure and continuous flow of oil. Too often the consuming countries have found themselves at a disadvantage in bargaining on a one-by-one basis with the block of producers konwn as OPEC—the Organization of Petroleum Exporting Countries.

Furthermore, the United States should work in unison with other consumers in encouraging the oil-rich Middle Eastern States to invest a greater share of their burgeoning revenues in the development of their part of the world. Countries such as Saudi Arabia and Kuwait have an unprecedented opportunity to provide developmental assistance to other countries in the region who lack the same resource advantages.

There is considerable irony in the way our perceptions of security have evolved. We have begun exploring with the Soviet Union the possibility of our importing natural gas. Despite the difficulties we have experienced in our past relations, we have found that workable arrangements based on mutual interests are possible. The United States may have much to gain from a carefully negotiated complementary trade deal with the Russians, whereby we could have a steadier stream of agricultural exports—in particular, wheat, soybeans, and corn—in return for a secure supply of energy.

The changing role of energy in both international and domestic affairs will require a number of difficult political and technological decisions. Just as we seek a more stable world military balance and undertake the complex task of finding a new set of international monetary and trade arrangements, so we will have to work our way during this decade toward a resolution of our energy problems.

In the 92d Congress, we have begun to illuminate these problems and their spreading implications. The next Congress and those that follow will have to make the hard choices which these new perceptions dictate.

RECESS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the House stand in recess until 11 o'clock and 30 minutes p.m.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Accordingly (at 10 o'clock and 41 minutes p.m.) the House stood in recess until 11:30 o'clock p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 30 minutes p.m.

ADJOURNMENT TO TUESDAY, OCTOBER 17, 1972

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight it adjourn to meet on Tuesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. PICKLE. Mr. Speaker, reserving the right to object, is it the gentleman's intention by this motion to then adjourn for tonight, or to then take up other legislation following this?

Mr. BOGGS. If the gentleman will yield, let me make myself quite clear, we had hoped to adjourn tonight, as the gentleman well knows, but the other body has informed us that they will have to take up further business so that we cannot adjourn tonight.

Members have told me—and this is on both sides of the aisle—that it would be much more convenient to come back on Tuesday rather than on Monday. So what I am trying to do is to get unanimous consent to come back on Tuesday. I cannot commit myself as to what happens here tonight after this, whether we will still be in session or whether we will adjourn.

Mr. PICKLE. Further reserving the right to object, Mr. Speaker, if Members on both sides of the aisle feel it would be more convenient to come back Tuesday, than Monday then it would be the gentleman's intention to proceed on three or four other conference reports to be acted on tonight?

Mr. BOGGS. My intention is that any business that is in order if we are able to take it up, we should proceed. I would like to get agreement at this time to this request. I will be quite frank with the gentleman. Suppose somebody makes a point of no quorum and suppose we do not have a quorum, then I will not be able to get permission to meet on Tuesday. I am trying to get permission in the event that should happen.

Some have asked why not meet on Monday? It is very simple. It is because we have made commitments to both sides of the aisle not to meet on Monday.

The Senate has a whole backlog of work and they have to go back and work also on the continuing resolution.

Mr. PICKLE. Further reserving the right to speak, it might be appropriate to see if we do have a quorum, or not.

Mr. BOGGS. If someone objects, it would simply mean if we do not have a quorum then we would have to meet on Monday regardless.

Mr. PICKLE. Certainly I do not want to place myself in a position of trying to put my needs over and above the others. I am very mindful of that. But the other body has already said they are not going to finish their business and they have gone home. I find it difficult to understand why we want to push with all undue haste at this late hour to pass two or three of the most controversial bills to come before this session.

Mr. MILLS of Arkansas. Mr. Speaker, if the gentleman will yield, let me explain to my friend, the gentleman from Texas, that the House has stayed here hoping to get through here tonight. As far as our program was concerned we could have adjourned tonight had the Senate remained in session, but they saw fit to adjourn until Monday morning. It is all the more important that we dispose of the conference reports with respect to the debt ceiling and H.R. 1 tonight, so the Senate can act on them on Monday.

If there is an understanding that the House itself is to go over until Tuesday as far as business is concerned, if we can dispose of these two conference reports tonight then the Senate can take them up Monday morning. We do have to act first. If we go over until Tuesday, and we do not dispose of these tonight and we have to act first, then the Senate will have to meet after that, and there is no telling how long we will be here next week.

Mr. PICKLE. If we take up these two conference reports the gentleman from Arkansas proposes, we might be here until dawn.

Mr. MILLS of Arkansas. We will not be here that long. I think I can assure the gentleman the matter will be expedited.

There is no agreement for sine die adjournment tonight?

Mr. BOGGS. Of course not. It is impossible to have such an agreement. We do have two coequal branches.

We were hopeful all day that the Senate would go along, and, as a matter of fact, we had rather definite assurances, but that is not the case as of this moment. I am not talking about a theory; I am talking about realities.

Mr. BURTON. Will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from California.

Mr. BURTON. I would like to pose a question to the distinguished chairman of the Committee on Ways and Means. Is it the intention of the distinguished chairman of the Committee on Ways and Means to seek by unanimous-consent request any other consideration of any other legislation except the debt limit and the Social Security Act and related amendments?

Mr. MILLS of Arkansas. No other request will be made by me tonight under any circumstances.

Mr. PICKLE. So, there will be no request made tonight by the chairman of the Committee on Ways and Means for any amendments to the tariff or tax——

Mr. MILLS of Arkansas. None at all. Just these two requests.

Mr. PICKLE. May I ask the gentleman from Louisiana, where do we stand with reference to the highway bill?

Mr. BOGGS. As far as I know, I was informed about an hour ago, and I am looking to see if the distinguished chairman of the committee is available, or any member of the committee, but no agreement.

Mr. JAMES V. STANTON. No agreement.

Mr. ARENDS. Will the gentleman yield?

Mr. BOGGS. I yield to the distinguished gentleman from Illinois.

Mr. ARENDS. I might say, I say to the majority leader, I followed very closely the logic of the request to go over to next Tuesday. I anticipate exactly what he said is going to happen.

I would much prefer that we get out these two proposals tonight and try to finish these tonight, if not pass a sine die resolution to let the other body know how we feel about the matter. Otherwise, we will be here all of next week. The Members might as well make up their minds to that.

Mr. BYRNES of Wisconsin. Will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I just want to ask the chairman of the committee whether he has overlooked the fact that we do have a third conference report, or is it his intention to bring that up?

Mr. MILLS of Arkansas. We will take that up on Tuesday.

Mr. Speaker, would the gentleman from Louisiana yield for a unanimous-consent request?

Mr. BOGGS. Certainly.

Mr. HALL. Mr. Speaker, there is a unanimous-consent request before the House.

The SPEAKER. There is a unanimous-consent request pending from the gentleman from Louisiana.

Mr. PICKLE. I would ask one other question of the gentleman from Louisiana.

I would ask the question, what is the status of the highway bill and the reason there is no agreement on the highway bill?

Are we advised that we will have no highway bill this session? None?

Mr. BOGGS. I would say to the gentleman that I spoke with the chairman of the Committee on Public Works within the hour. He assured me that they were very close to agreement, but he did not assure me that there would be a bill.

Mr. PICKLE. I have been told by members of the committee that there will be no highway bill this year; that there is no agreement, that the other body would not come to any agreement.

Therefore, we are standing here tonight and rushing headlong into these other two very controversial measures, and we have lost the highway bill.

Mr. BOGGS. Well, the gentleman would really have to discuss that question with the chairman of the committee. I do not see him on the floor at the moment.

I am, as a matter of fact, interested in the highway bill, as the gentleman is. I certainly have not abandoned hope that the highway bill will not be available on Tuesday. I am told there is a very small difference between the two bodies.

Mr. PICKLE. I will not object at this point.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana that when the House adjourns today, it adjourn to meet on Tuesday next?

Mr. HALL. Mr. Speaker, reserving the right to object, I will say that this is a prime example of that leadership which I have been accused of castigating, and here we dangle on the threads of the other body, having neither the guts nor the will to pass a sine die resolution so that they will complete their business.

They recessed at 4 o'clock this afternoon. They came back and have recessed and gone home. It is utterly wrong to say that we have no alternative as a coequal body.

It has been done many times in the history of the people's representatives. I should think that the proper thing to do tonight would be to pass the two conference reports we have, if indeed we can do it with intelligence and a complete explanation and understanding, and then insist on passing a sine die resolution and adjourn without any time certain for returning. This would be the only way that they would "get the message" in the other body.

Mr. Speaker, I will not object to the unanimous-consent request, but I certainly insist that we have a quorum present with which to do business at the proper time.

Mr. FINDLEY. Mr. Speaker, reserving the right to object, I wonder if the distinguished majority leader would explain why it would not facilitate sine die adjournment to go over until Monday rather than Tuesday? I am sure there is a good reason for going over until Tuesday instead of Monday, but it escapes me. I would appreciate an explanation.

Mr. BOGGS. I can give the gentleman several explanations.

The first explanation is very simple. We have made a commitment to the leader of his party (Mr. GERALD R. FORD), who is not here now, that we would not have business on Monday. That is No. 1.

No. 2, is that these conferences would have to occur on Monday anyway.

No. 3, is that any number of Members have expressed to me their feelings that Tuesday would be a more convenient day for them.

In addition to that, the way the Senate is moving, I am quite certain they will not complete their business on Monday. We have completed our business except for these conference reports, and the highway conference. We can complete our business on Tuesday in a matter of minutes.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I am happy to yield to the gentleman from Ohio.

Mr. VANIK. Apparently the plan is to consider two conference reports which have just been agreed upon, about which the membership of the House knows absolutely nothing. Why would it not be just as well to pass over the action on these two conference reports and give the membership of the House an opportunity to see what the conferees have done? I have complete confidence in what the conferees have done, but I believe we ought to have an opportunity to examine it.

Mr. BOGGS. I would defer on that to the chairman of the conference.

Mr. MILLS of Arkansas. Ordinarily I would completely agree with the gentleman. If that is what the House wants to do it is all right with me.

The point I am trying to make is that we will expedite the adjournment of the Congress if we take up these two conference reports tonight and allow the Senate to take them up at 10 o'clock on Monday morning. We have to act first. If we adjourn over from today until Tuesday then the Senate probably would be until Wednesday or Thursday disposing of them. Then we will take the entire week next week before we can adjourn.

I do not care. I do not have an opponent. I have a lot of opposition, but nobody is capitalizing on it. I realize that. I do not have to go home. I can stay here with all the Members, if they want to do that. I am perfectly willing to do it.

Mrs. HECKLER of Massachusetts. Mr. Speaker, reserving the right to object, I should like to ask the majority leader, in view of the fact that there are issues of great controversy, whether or not it would be possible for this body to act on noncontroversial conference reports? I specifically refer to the conference report on the National Multiple Sclerosis Commission, which has been returned to this body from the Senate. Will it be possible for us to act upon that this evening?

Mr. BOGGS. I am not prepared to answer that question. I would hope we will not be here until 5 o'clock in the morning. I would think, if it is noncontroversial, it can be handled Tuesday without any trouble.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana that when the House adjourns tonight it adjourn to meet on Tuesday next?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 640. An act to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty; and

H.R. 4678. A bill to provide for the free entry of a carillon for the use of the University of California at Santa Barbara.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 3959. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) entitled "An act to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis."

CONFERENCE REPORT ON H.R. 1, SOCIAL SECURITY AMENDMENTS

Mr. MILLS of Arkansas submitted the following conference report and statement on the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes:

Conference Report (H. Rept. No. 92–1605)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 41, 51, 98, 116, 118, 119, 120, 121, 122, 123, 124, 125, 126, 210, 211, 213, 214, 215, 221, 223, 224, 225, 236, 309, 327, 328, 329, 330, 351, 353, 354, 355, 356, 370, 414, 415, 416, 419, 445, 446, 448, 449, 478, 479, 493, 496, 497, 498, 507, 508, 509, 510, 511, 515, 530, 531, 532, 533, 534, 539, 544, 553, 554, 556, 559, 560, 562, 563, 566, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, and 583.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57, 58, 59, 60, 62, 64, 65, 66, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 127, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 164, 165, 166 167, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 185, 186, 187, 188, 190, 192, 194, 195, 196, 197, 199, 201, 206, 207, 227, 228, 230, 231, 232, 233, 234, 235, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 311, 313, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 348, 349, 350, 352, 357, 358, 359, 360, 362, 363, 364, 366, 368, 369, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 393, 394, 395, 396, 398, 399, 400, 401, 403, 404, 405, 406, 408, 409, 410, 411, 412, 417, 418, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 447, 450, 452, 454, 455, 456, 458, 459, 460, 461, 462, 463, 464, 465, 466, 468, 469, 473, 477, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 494, 499, 500, 501, 502, 503, 504, 506, 512, 516, 517, 518, 519, 520, 521, 523, 524, 525, 527, 528, 529, 535, 536, 537, 538, 540, 541, 543, 546, 547, 557, and 561, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement with the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TABLE OF CONTENTS

TITLE I—PROVISIONS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Sec. 101. Special minimum primary insurance amount.
Sec. 102. Increased widow's and widower's insurance benefits.
Sec. 103. Delayed retirement credit.
Sec. 104. Age-62 computation point for men.
Sec. 105. Liberalization and automatic adjustment of earnings test.
Sec. 106. Exclusion of certain earnings in year of attaining age 72.
Sec. 107. Reduced benefits for widowers at age 60.
Sec. 108. Entitlement to child's insurance benefits based on disability which began between age 18 and 22.
Sec. 109. Continuation of child's benefits through end of semester.
Sec. 110. Child's benefits in case of child entitled on more than one wage record.
Sec. 111. Adoptions by disability and old-age insurance beneficiaries.
Sec. 112. Child's insurance benefits not to be terminated by reason of adoption.
Sec. 113. Benefits for child based on earnings record of grandparent.
Sec. 114. Elimination of support requirement as condition of benefits for divorced and surviving divorced wives.
Sec. 115. Waiver of duration-of-relationship requirement for widow, widower, or stepchild in case of remarriage to the same individual.
Sec. 116. Reduction from 6 to 5 months of waiting period for disability benefits.
Sec. 117. Elimination of disability insured-status requirement of substantial recent covered work in case of individuals who are blind.
Sec. 118. Applications for disability insurance benefits filed after death of insured individual.
Sec. 119. Workmen's compensation offset for disability insurance beneficiaries.
Sec. 120. Wage credits for members of the uniformed services.
Sec. 121. Optional determination of self-employment earnings.
Sec. 122. Payments by employer to survivor or estate of former employee.
Sec. 123. Coverage of vow-of-poverty members of religious orders.
Sec. 124. Self-employment income of certain individuals temporarily living outside the United States.
Sec. 125. Coverage of Federal Home Loan Bank employees.
Sec. 126. Policemen and firemen in Idaho.
Sec. 127. Coverage of certain hospital employees in New Mexico.
Sec. 128. Coverage of certain employees of the government of Guam.
Sec. 129. Coverage exclusion of students employed by nonprofit organizations auxiliary to schools, colleges, and universities.
Sec. 130. Penalty for furnishing false information to obtain social security account number, and for deceptive practices involving social security account numbers.
Sec. 131. Increase of amounts in trust funds available to pay costs of rehabilitation services.
Sec. 132. Acceptance of money gifts made unconditionally to social security.
Sec. 133. Payment in certain cases of disability insurance benefits with respect to certain periods of disability.
Sec. 134. Recomputation of benefits based on combined railroad and social security earnings.
Sec. 135. Changes in tax schedules.
Sec. 136. Allocation to disability insurance trust fund.
Sec. 137. Method of issuance of social security account numbers.
Sec. 138. Payments by employer to disabled former employee.
Sec. 139. Termination of coverage of registrars of voters in Louisiana.

Sec. 140. Computation of income of American ministers and members of religious orders performing services outside the United States.
Sec. 141. Modification of State agreements with respect to certain students and certain part-time employees.
Sec. 142. Benefits in case of certain individuals interned during World War II.
Sec. 143. Modification of agreement with West Virginia to provide coverage for certain policemen and firemen.
Sec. 144. Perfecting amendments related to the 20-percent increase provision enacted in Public Law 92-336.
Sec. 145. Elimination of duration-of-relationship requirements in certain cases involving survivor benefits (where insured's death was accidental or occurred in line of duty while he was a serviceman).

TITLE II—PROVISIONS RELATING TO MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH

Sec. 201. Coverage for disability beneficiaries under Medicare.
Sec. 202. Hospital insurance benefits for uninsured individuals not eligible under transitional provision.
Sec. 203. Amount of supplementary medical insurance premium.
Sec. 204. Change in supplementary medical insurance premium.
Sec. 206. Automatic enrollment for supplementary medical insurance.
Sec. 207. Incentives for States to establish effective utilization review procedures under Medicaid.
Sec. 208. Cost-sharing under Medicaid.
Sec. 209. Medicaid conditions of eligibility for certain employed families.
Sec. 210. Payment under Medicare to individuals covered by Federal employees health benefits program.
Sec. 211. Payment under Medicare for certain inpatient hospital and related physicians' services furnished outside the United States.
Sec. 212. Optometrists' services under Medicaid.
Sec. 213. Limitation on liability of beneficiary where Medicare claims are disallowed.
Sec. 221. Limitation on Federal participation for capital expenditures.
Sec. 222. Demonstrations and reports; prospective reimbursement; extended care; intermediate care and homemaker services; ambulatory surgical centers; physicians' assistants; performance incentive contracts.
Sec. 223. Limitations on coverage of costs under Medicare.
Sec. 224. Limits on prevailing charge levels.
Sec. 225. Limits on payment for skilled nursing home and intermediate care facility services.
Sec. 226. Payments to health maintenance organizations.
Sec. 227. Payment under Medicare for services of physicians rendered at a teaching hospital.
Sec. 228. Advance approval of extended care and home health coverage under Medicare.
Sec. 229. Authority of Secretary to terminate payments to suppliers of services.
Sec. 230. Elimination of requirement that States move toward comprehensive Medicaid programs.
Sec. 231. Repeal of section 1902(d) of Medicaid.
Sec. 232. Determination of reasonable cost of inpatient hospital services under Medicaid and under maternal and child health program.
Sec. 233. Amount of payments where customary charges for services furnished are less than reasonable cost.
Sec. 234. Institutional planning under Medicare.
Sec. 235. Payments to States under Medicaid for installation and operation of claims processing and information retrieval systems.
Sec. 236. Prohibition against reassignment of claims to benefits.
Sec. 237. Utilization review requirements for hospitals and skilled nursing homes under Medicaid and under maternal and child health program.
Sec. 238. Notification of unnecessary admission to a hospital or extended care facility under Medicare.
Sec. 239. Use of State health agency to perform certain functions under Medicaid and under maternal and child health program.
Sec. 240. Relationship between Medicaid and comprehensive health care programs.
Sec. 241. Program for determining qualifications for certain health care personnel.
Sec. 242. Penalties for fraudulent acts and false reporting under Medicare and Medicaid.
Sec. 243. Provider Reimbursement Review Board.
Sec. 244. Validation of surveys made by Joint Commission on the Accreditation of Hospitals.
Sec. 245. Payment for durable medical equipment under Medicare.
Sec. 246. Uniform standards for skilled nursing facilities under Medicare and Medicaid.
Sec. 247. Level of care requirements for skilled nursing home services.
Sec. 248. Modification of Medicare's 14-day transfer requirement for extended care benefits.
Sec. 249. Reimbursement rates for skilled nursing homes and intermediate care facilities.
Sec. 249A. Medicaid certification and approval of skilled nursing facilities.
Sec. 249B. Payments to States under Medicaid for compensation of inspectors responsible for maintaining compliance with Federal standards.
Sec. 249C. Disclosure of information concerning the performance of carriers, intermediaries, State agencies, and providers of services under Medicare and Medicaid.
Sec. 249D. Limitation on institutional care.
Sec. 249E. Determining eligibility for assistance under title XIX for certain individuals.
Sec. 249F. Professional standards review.
Sec. 251. Physical therapy and other therapy services under Medicare.
Sec. 252. Coverage of supplies related to colostomies.
Sec. 255. Coverage prior to application for medical assistance.
Sec. 256. Hospital admissions for dental services under Medicare.
Sec. 257. Extension of grace period for termination of supplementary medical insurance coverage where failure to pay premiums is due to good cause.
Sec. 258. Extension of time for filing claim for supplementary medical insurance benefits where delay is due to administrative error.
Sec. 259. Waiver of enrollment period requirements where individual's rights were prejudiced by administrative error or inaction.
Sec. 260. Elimination of provisions preventing enrollment in supplementary medical insurance program more than three years after first opportunity.
Sec. 261. Waiver of recovery of incorrect payments from survivor who is without fault under Medicare.
Sec. 262. Requirement of minimum amount of claim to establish entitlement to hearing under supplementary medical insurance program.
Sec. 263. Collection of supplementary medical insurance premiums from individuals entitled to both social security and railroad retirement benefits.
Sec. 264. Prosthetic lenses furnished by optometrists under supplementary medical insurance program.
Sec. 265. Provision of medical social services not mandatory for extended care facilities.
Sec. 266. Refund of excess premiums under Medicare.
Sec. 267. Waiver of registered nurse requirement in skilled nursing facilities in rural areas.
Sec. 268. Exemption of Christian Science sanatoriums from certain nursing home requirements under Medicaid.
Sec. 269. Requirements for nursing home administrators.
Sec. 271. Increase in limitation on payments to Puerto Rico and the Virgin Islands for medical assistance.
Sec. 271A. Medical assistance in Puerto Rico, the Virgin Islands, and Guam.
Sec. 272. Extension of title V to American Samoa and the Trust Territory of the Pacific Islands.
Sec. 273. Inclusion of chiropractor services under Medicare.
Sec. 274. Miscellaneous technical and clerical amendments.
Sec. 275. Chiropractors' services under Medicaid.
Sec. 276. Services of podiatric interns and residents under part A of Medicare.
Sec. 277. Use of consultants for extended care facilities.
Sec. 278. Designation of extended care facilities and skilled nursing homes as skilled nursing facilities.
Sec. 279. Direct laboratory billing of patients.
Sec. 280. Clarification of meaning of "physicians' services" under title XIX.
Sec. 281. Limitation on adjustment or recovery of incorrect payments under the Medicare program.
Sec. 283. Conditions of coverage of outpatient speech pathology services under Medicare.
Sec. 287. Termination of Medical Assistance Advisory Council.
Sec. 288. Modification of the role of the Health Insurance Benefits Advisory Council.
Sec. 289. Authority of Secretary to administer oaths in Medicare proceedings.
Sec. 290. Withholding of Federal payments under Medicaid with respect to certain health care facilities.
Sec. 292. Intermediate care services in States which do not have a Medicaid program.
Sec. 293. Required information relating to excess Medicare tax payments by railroad employees.
Sec. 294. Appointment and confirmation of Administrator of Social and Rehabilitation Service.
Sec. 295. Repeal of section 1903(b)(1).
Sec. 297. Coverage under Medicaid of intermediate care furnished in mental and tuberculosis institutions.

Sec. 298. Independent review of intermediate care facility patients.

Sec. 299. Intermediate care, maintenance of effort in public institutions.

Sec. 299A. Disclosure of ownership of intermediate care facilities.

Sec. 299B. Treatment in mental hospitals for individuals under age 21.

Sec. 299D. Public disclosure of information concerning survey reports of an institution.

Sec. 299E. Family planning services mandatory under Medicaid.

Sec. 299F. Penalty for failure to provide child health screening services under Medicaid.

Sec. 299I. Chronic renal disease considered to constitute disability.

Sec. 299K. Elimination of coinsurance payment with respect to home health services under part B of Medicare.

Sec. 299L. Certification of intermediate care facilities located on an Indian reservation.

Sec. 299O. Determinations and appeals.

TITLE III—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Sec. 301. Establishment of program.

"TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

"Sec. 1601. Purpose; appropriations.

"Sec. 1602. Basic eligibility for benefits.

"Part A—Determination of Benefits

"Sec. 1611. Eligibility for and amount of benefits.

"(a) Definition of eligible individual.

"(b) Amounts of benefits.

"(c) Period for determination of benefits.

"(d) Special limits on gross income.

"(e) Limitation on eligibility of certain individuals.

"(f) Suspension of payments to individuals who are outside the United States.

"(g) Certain individuals deemed to meet the the resources test.

"(h) Certain individuals deemed to meet the income test.

"Sec. 1612. Income.

"(a) Meaning of income.

"(b) Exclusions from income.

"Sec. 1613. Resources.

"(a) Exclusions from resources.

"(b) Disposition of resources.

"Sec. 1614. Meaning of terms.

"(a) Aged, blind, or disabled individual.

"(b) Eligible spouse.

"(c) Definition of child.

"(d) Determination of marital relationships.

"(e) United States.

"(f) Income and resources of individuals other than eligible individuals and eligible spouses.

"Sec. 1615. Rehabilitation services for blind and disabled individuals.

"Sec. 1616. Optional State supplementation.

"Part B—Procedural and General Provisions

"Sec. 1631. Payments and procedures.

"(a) Payment of benefits.

"(b) Overpayments and underpayments.

"(c) Hearings and review.

"(d) Procedures; prohibitions of assignments; representation of claimants.

"(e) Applications and furnishing of information.

"(f) Furnishing of information by other agencies.

"Sec. 1632. Penalties for fraud.

"Sec. 1633. Administration.

"Sec. 1634. Determinations of medicaid eligibility.

"TITLE VI—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED

"Sec. 601. Appropriation.

"Sec. 602. State plans for services to the aged, blind, or disabled.

"Sec. 603. Payments to States.

"Sec. 604. Operation of State plans.

"Sec. 605. Definitions."

Sec. 303. Repeal of titles I, X, and XIV of the Social Security Act.

Sec. 304. Provision for disregarding of certain income in determining need for aid to the aged, blind, or disabled for assistance.

Sec. 305. Advances from OASI Trust Fund for administrative expenses.

Sec. 306. Disregarding of income of OASDI recipients in determining need for public assistance.

TITLE IV—MISCELLANEOUS

Sec. 401. Limitation on fiscal liability of States for optional State supplementation.

Sec. 402. Transitional administrative provisions.

Sec. 403. Savings provision regarding certain expenditures for social services.

Sec. 404. Change in Executive Schedule—Commissioner of Social Security.

And the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "$8.50".

And the Senate agree to the same.

Amendment No. 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with amendments, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Strike out the matter proposed to be stricken by the Senate amendment and insert the matter proposed to be inserted by the Senate amendment.

On page 43 of the House engrossed bill after line 8, insert the following:

(2) Section 202(q)(3) of such Act is amended—

(A) by striking out clause (ii) of subparagraph (E) and inserting in lieu thereof the following:

"(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection)".

(B) by striking out clause (ii) of subparagraph (F) and inserting in lieu thereof the following:

"(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection)".

(C) by striking out "had such individual attained age 62 in" in subparagraph (G) and inserting in lieu thereof "as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before".

On page 43, line 9, of the House engrossed bill, strike out "(2)" and insert the following: (3).

On page 44, line 1 of the House engrossed bill, strike out "(3)" and insert the following: (4)

On page 44 of the House engrossed bill, after line 4, insert the following:

(5) Section 203(q)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1)."

And the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "1969, and 1972 (and by Public Law 92-5)"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment; and on page 59, lines 3 and 4, of the House engrossed bill, strike out "and section 3121(a)(9) of the Internal Revenue Code of 1954"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, and on page 59, lines 8 and 9, of the House engrossed bill, strike out "and section 3121(a)(9) of the Internal Revenue Code of 1954"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$175".

And the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$175".

And the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "$175"; and the Senate agree to the same.

Amendment numbered 128: That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment.

On page 98, line 22, of the House engrossed bill, strike out "123" and insert the following: "117"

On page 100, line 10, of the House engrossed bill, strike out "1972" and insert the following "1973".

And the Senate agree to the same.

Amendment numbered 184: That the

House recede from its disagreement to the amendment of the Senate numbered 184, and agree to the same with an amendment as follows:

On page 34, line 17, of the Senate engrossed amendments, strike out "insurance" and insert the following: "insurance)".

And the Senate agree to the same.

Amendment numbered 189: That the House recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "4.85".

And the Senate agree to the same.

Amendment numbered 191: That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "4.80".

And the Senate agree to the same.

Amendment numbered 193: That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "5.85".

And the Senate agree to the same.

Amendment numbered 198: That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "4:85".

And the Senate agree to the same.

Amendment numbered 200: That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "4.80".

And the Senate agree to the same.

Amendment numbered 202: That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "5.85".

And the Senate agree to the same.

Amendment numbered 203: That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with amendments as follows:

On page 36, line 16, of the Senate engrossed amendments, strike out "1.1" and insert the following: "1.0".

On page 36, line 20, of the Senate engrossed amendments, strike out "1.3" and insert the following: "1.25".

On page 37, line 1, of the Senate engrossed amendments, strike out "1993" and insert the following: "1986".

On page 37, line 2, of the Senate engrossed amendments, strike out "1.5" and insert the following: "1.35".

On page 37, line 5, of the Senate engrossed amendments, strike out "1992" and insert the following: "1985".

On page 37, line 5, of the Senate engrossed amendments, strike out "1.6" and insert the following: "1.45".

And the Senate agree to the same.

Amendment numbered 204: That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with amendments as follows:

On page 37, line 13, of the Senate engrossed amendments, strike out "1.1" and insert the following: "1.0".

On page 37, line 16, of the Senate engrossed amendments, strike out "1.3" and insert the following: "1.25".

On page 37 of the Senate engrossed amendments, strike out lines 17 through 22 and insert the following:

"(4) with respect to wages received during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

"(5) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent."

And the Senate agree to the same.

Amendment numbered 205: That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with amendments as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

On page 38, line 5, of the Senate engrossed amendments, strike out "1.1" and insert the following: "1.0".

On page 38, line 7, of the Senate engrossed amendments, strike out "1.3" and insert the following: "1.25".

On page 38 of the Senate engrossed amendments, strike out lines 9 through 14, and insert the following:

"(4) with respect to wages paid during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

"(5) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent."

And the Senate agree to the same.

Amendment numbered 208: That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with amendments as follows:

On page 38, line 22, of the Senate engrossed amendments, strike out "1.15" and insert the following: "1.1".

On page 38, line 24, of the Senate engrossed amendments, strike out "1.40" and insert the following: "1.15".

On page 39, line 2, of the Senate engrossed amendments, strike out "1.60" and insert the following: "1.5".

On page 39, line 5, of the Senate engrossed amendments, strike out "0.83" and insert the following: "0.795".

On page 39, line 7, of the Senate engrossed amendments, strike out "1.00" and insert the following: "0.84".

On page 39, line 9, of the Senate engrossed amendments, strike out "0.935" and insert the following: "0.895".

And the Senate agree to the same.

Amendment numbered 209: That the House recede from its disagreement to the amendment of the Senate numbered 209, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

METHOD OF ASSISTANCE OF SOCIAL SECURITY ACCOUNT NUMBERS

SEC. 137. (a) Section 205(c)(2) of the Social Security Act is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

"(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

"(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and

"(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment;

and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers:

"(IV) to or on behalf of children who are below school age at the request of their parents or guardians; and

"(V) to children of school age at the time of their first enrollment in school.

"(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.

"(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including non-public school authorities)."

And the Senate agree to the same.

Amendment numbered 212: That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with amendments as follows:

On page 53, line 24, of the Senate engrossed amendments, strike out "140" and insert the following: ."138".

On page 53, line 25, of the Senate engrossed amendments, strike out "128(a)" and insert the following: "122(a)".

On page 54, line 14, of the Senate engrossed amendments, strike out "128(b)" and insert the following: "122(b)".

On page 55, line 2, of the Senate engrossed amendments, strike out "during" and insert the following: "for"; and the Senate agree to the same.

Amendment numbered 216: That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment as follows:

On page 57, line 4, of the Senate engrossed amendments, strike out "144" and insert the following: "139"; and the Senate agree to the same.

Amendment numbered 217: That the House recede from its disagreement to the amendment of the Senate numbered 217, and agree to the same with amendments as follows:

On page 57, line 21, of the Senate engrossed amendments, strike out "145" and insert the following: "140".

On page 58, line 9, of the Senate engrossed amendments, strike out "code" and insert the following: "Code".

And the Senate agree to the same.

Amendment numbered 218: That the House recede from its disagreement to the amendment of the Senate numbered 218, and agree to the same with an amendment as follows:

On page 59, line 5, of the Senate engrossed amendments, strike out "146" and insert the following: "141".

And the Senate agree to the same.

Amendment numbered 219: That the

House recede from its disagreement to the amendment of the Senate numbered 219, and agree to the same with amendments as follows:

On page 60, line 13, of the Senate engrossed amendments, strike out "147" and insert the following: "142".

On page 60, after line 15, of the Senate engrossed amendments, insert the following:

"BENEFITS IN CASE OF CERTAIN INDIVIDUALS INTERNED DURING WORLD WAR II"

On page 62, line 1, of the Senate engrossed amendments, strike out "computation" and insert the following: "commutation".

And the Senate agree to the same.

Amendment numbered 220: That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment, as follows:

On page 65, line 5, of the Senate engrossed amendments, strike out "148" and insert the following: "143".

And the Senate agree to the same.

Amendment numbered 222: That the House recede from its disagreement to the amendment of the Senate numbered 222, and agree to the same with amendments, as follows:

On page 69, line 16, of the Senate engrossed amendments, strike out "150" and insert the following: "144".

On page 70, line 7, of the Senate engrossed amendments, strike out "203" and insert the following: "230".

And the Senate agree to the same.

Amendment numbered 226: That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with amendments, as follows:

On page 80, line 18, of the Senate engrossed amendments, strike out "154" and insert the following: "145".

And the Senate agree to the same.

Amendment numbered 229: That the House recede from its disagreement to the amendment of the Senate numbered 229, and agree to the same with amendments as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the matter proposed to be inserted by the Senate amendment.

On page 137, lines 22 and 23, of the House engrossed bill, strike out "paragraph (2) of subsection (a)" and insert the following: "subsection (b)".

On page 138, line 12, of the House engrossed bill, strike out "(a)(2)" and insert the following: "(b)".

On page 138, lines 13 and 14, of the House engrossed bill, strike out "subparagraph (B)(iii)" and insert the following: "paragraph (2)(A)(iii)".

And the Senate agree to the same.

Amendment numbered 253: That the House recede from its disagreement to the amendment of the Senate numbered 253, and agree to the same with amendments as follows:

On page 84, line 7, of the Senate engrossed amendments, strike out "therefor" and insert the following: "for such hospital insurance benefits".

On page 84, lines 8 and 9, of the Senate engrossed amendments, strike out "at the time she filed for mother's insurance benefits".

And the Senate agree to the same.

Amendment numbered 293: That the House recede from its disagreement to the amendment of the Senate numbered 293, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and on page 152, line 23, of the House engrossed bill, strike out "1971" and insert the following: "1972".

On page 153, line 2, of the House engrossed bill, strike out "1971" and insert the following: "1972".

And the Senate agree to the same.

Amendment numbered 294: That the House recede from its disagreement to the amendment of the Senate numbered 294, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment; and the Senate agree to the same.

Amendment numbered 310: That the House recede from its disagreement to the amendment of the Senate numbered 310, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment

And the Senate agree to the same.

Amendment numbered 312: That the House recede from its disagreement to the amendment of the Senate numbered 312, and agree to the same with an amendment as follows:

On page 93 of the Senate engrossed amendments strike out "and" on line 8 and all that follows down to the period on line 11

And the Senate agree to the same.

Amendment numbered 314: That the House recede from its disagreement to the amendment of the Senate numbered 314, and agree to the same with amendments as follows:

On page 93, lines 16 and 17, of the Senate engrossed amendments, strike out "AND NEWLY ELIGIBLE ADULT WELFARE RECIPIENTS".

On page 93 of the Senate engrossed amendments, strike out line 21 and all that follows over to and including line 12 on page 95, and insert the following:

"(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was eligible for assistance pursuant to part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment, shall, while a member of such family is employed, remain eligible for such assistance for 4 calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of the income and resources limitations contained in such plan."

On page 95, line 13, of the Senate engrossed amendments, strike out "(c)" and insert the following "(b)".

On page 95, line 19, of the Senate engrossed amendments, strike out "as defined in" and insert the following: "within the meaning of".

On page 96, line 10, of the Senate engrossed amendments, strike out "1973" and insert the following: "1974".

And the Senate agree to the same.

Amendment numbered 326: That the House recede from its disagreement to the amendment of the Senate numbered 326, and agree to the same with an amendment as follows:

On page 102 of the Senate engrossed amendments, strike out "filed" in line 2 and all that follows down through the end of line 16, and insert the following: "filed with respect to items or services furnished after the date of the enactment of this Act."

And the Senate agree to the same.

Amendment numbered 347: That the House recede from its disagreement to the amendment of the Senate numbered 347, and agree to the same with amendments as follows:

On page 139, line 6, of the Senate engrossed amendments, after "establish;", insert the following: "and".

On page 139 of the Senate engrossed amendments, strike out line 7 and all that follows down through page 140, line 11.

On page 140, line 12, of the Senate engrossed amendments, strike out "(L)" and insert the following: "(I)".

And the Senate agree to the same.

Amendment numbered 361: That the House recede from its disagreement to the amendment of the Senate numbered 361, and agree to the same with an amendment as follows:

On page 142, line 3, of the Senate engrossed amendments, strike out "lower" and insert the following: "lowest".

And the Senate agree to the same.

Amendment numbered 365: That the House recede from its disagreement to the amendment of the Senate numbered 365, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment.

On page 201, line 12, of the House engrossed bill, strike out "1971" and insert the following: "1972".

On page 201, line 23, of the House engrossed bill, strike out "1971" and insert the following: "1972".

On page 202, line 14, of the House engrossed bill, after "directly" insert the following: "from cost increases which the Secretary determines are attributable to the upgrading of services and facilities required by this Act or".

On page 202, line 17, of the House engrossed bill, strike out "1971" and insert the following: "1972".

And the Senate agree to the same.

Amendment numbered 367: That the House recede from its disagreement to the amendment of the Senate numbered 367, and agree to the same with amendments as follows:

On page 143, line 5, of the Senate engrossed amendments, strike out "(iv)" and insert the following: "(iii)".

On page 144, line 15, of the Senate engrossed amendments, strike out "10" and insert the following: "20".

On page 144, line 16, of the Senate engrossed amendments, strike out "costs" and insert the following: "cost".

On page 144 of the Senate engrossed amendments, strike out lines 19 through 21.

On page 144, line 22, of the Senate engrossed amendments, strike out "(III)" and insert the following: "(II)".

On page 145 of the Senate engrossed amendments, strike out lines 5 through 23 and insert the following: "cost of providing such services, the resulting difference (hereinafter referred to as 'losses'), shall be absorbed by such organization, and shall be carried forward and offset from savings realized in later years, with the apportionment of savings being proportional to the losses absorbed and not yet offset;"

On page 145, line 24, of the Senate engrossed amendments, strike out "(iv)" and insert the following: "(iii)"

On page 146, line 5, of the Senate engrossed amendments, strike out "or losses".

On page 147, line 5, of the Senate engrossed amendments, strike out "(v)" and insert the following: "(iv)".

And the Senate agree to the same.

Amendment numbered 371: That the House recede from its disagreement to the amendment of the Senate numbered 371, and agree to the same with an amendment as follows:

On page 150, lines 4 and 5, of the Senate engrossed amendments, strike out "generally".

And the Senate agree to the same.

Amendment numbered 392: That the House recede from its disagreement to the amendment of the Senate numbered 392, and agree to the same with amendments as follows:

On page 153, line 15, of the Senate engrossed amendments, strike out "and losses".

On page 154, line 9, of the Senate engrossed amendments, strike out "its proportionate share of" and insert the following: "the".

And the Senate agree to the same.

Amendment numbered 397: That the House recede from its disagreement to the amendment of the Senate numbered 397, and agree to the same with an amendment as follows:

On page 156, line 2, of the Senate engrossed amendments, strike out "(iv)" and insert the following: "(iii)".

And the Senate agree to the same.

Amendment numbered 402: That the House recede from its disagreement to the amendment of the Senate numbered 402, and agree to the same with amendments as follows:

On page 157, line 20, of the Senate engrossed amendments, strike out "or losses (as the case may be)".

On page 157, line 21, of the Senate engrossed amendments, after "Trust Funds" insert the following: ", or the resulting losses shall be absorbed by such organization,".

And the Senate agree to the same.

Amendment numbered 407: That the House recede from its disagreement to the amendment of the Senate numbered 407, and agree to the same with an amendment as follows:

On page 159, line 3, of the Senate engrossed amendments, strike out "extended care" and insert the following: "skilled nursing".

And the Senate agree to the same.

Amendment numbered 413: That the House recede from its disagreement to the amendment of the Senate numbered 413, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and on page 231, lines 16 and 17, of the House engrossed bill, strike out "and included in the plan" and insert the following: "and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan"; and the Senate agree to the same.

Amendment numbered 420: That the House recede from its disagreement to the amendment of the Senate numbered 420, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, strike out the matter proposed to be inserted by the Senate amendment, and on page 241, line 1, of the House engrossed bill, after "systems" insert the following: "(whether such systems are operated directly by the State or by another person under a contract with the State)"; and the Senate agree to the same.

Amendment numbered 451: That the House recede from its disagreement to the amendment of the Senate numbered 451, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, insert the matter proposed to be inserted by the Senate amendment, and on page 255, line 22, of the House engrossed bill strike out "povider" and insert the following: "provider".

And the Senate agree to the same.

Amendment numbered 453: That the House recede from its disagreement to the amendment of the Senate numbered 453, and agree to the same with an amendment as follows:

On page 166, line 3, of the Senate engrossed amendments, strike out "$10,000" and insert the following: "$50,000"; and the Senate agree to the same.

Amendment numbered 457: That the House recede from its disagreement to the amendment of the Senate numbered 457, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "or regulations of the Secretary"; and the Senate agree to the same.

Amendment numbered 467: That the House recede from its disagreement to the amendment of the Senate numbered 467, and agree to the same with amendments as follows:

On page 172, line 17, of the Senate engrossed amendments, strike out "(16)" and insert the following: "(15)".

On page 172, line 22, of the Senate engrossed amendments, after "person" insert the following: "who".

On page 172, line 23, of the Senate engrossed amendments, strike out "1" and insert the following: "10".

On page 174, line 3, of the Senate engrossed amendments, strike out "homes;" and insert the following: "facilities; and".

On page 174 of the Senate engrossed amendments, strike out line 4 and all that follows down through line 11.

On page 174, line 12, of the Senate engrossed amendments, strike out "(16)" and insert the following: "(15)".

On page 174, line 13, of the Senate engrossed amendments, strike out "(3)" and insert the following: "(2)".

And the Senate agree to the same.

Amendment numbered 470: That the House recede from its disagreement to the amendment of the Senate numbered 470, and agree to the same with amendments as follows:

On page 177, line 4, of the Senate engrossed amendments, strike out "HOMES".

On page 177, line 13, of the Senate engrossed amendments, strike out "1974" and insert the following: 1976.

On page 177, line 14, of the Senate engrossed amendments, strike out "skilled nursing home" and insert the following: "skilled nursing facility".

And the Senate agree to the same.

Amendment numbered 471: That the House recede from its disagreement to the amendment of the Senate numbered 471, and agree to the same with an amendment as follows:

On page 179 of the Senate engrossed amendments beginning with line 5, strike out down through page 181 and insert the following:

MEDICAID CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

SEC. 249A. (a) Title XIX of the Social Security Act is amended by adding at the end thereof (after the new section added by this Act) the following new section:

"CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

"SEC. 1910. (a) Whenever the Secretary certifies an institution in a State to be qualified as a skilled nursing facility under title XVIII, such institution shall be deemed to meet the standards for certification as a skilled nursing facility for purposes of section 1902(a)(28).

"(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any institution which has applied for certification by him as a qualified skilled nursing facility."

(b) Section 1866(a)(1) of the Social Security Act is amended by adding at the end thereof the following sentence: "An agreement under this paragraph with an extended care facility shall be for a term of not exceeding 12 months, except that the Secretary may extend such term for a period not exceeding 2 months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this title and regulations thereunder."

(c) Section 1866(b) of such Act is amended by—

(1) striking out, in the material which precedes clause (1), "terminated—" and inserting in lieu thereof "terminated (and in the case of an extended care facility, prior to the end of the term specified in subsection (a)(1)—"; and

(2) by striking out all of clause (3) appearing after the phrase "Any termination shall be applicable—" and inserting in lieu thereof the following:

"(3) in the case of inpatient hospital services (including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination,".

(d) Section 1866(c) of such Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) In the case of a skilled nursing facility participating in the programs established by this title and title XIX, the Secretary may enter into an agreement under this section only if such facility has been approved pursuant to section 1910, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Secretary pursuant to such section."

(e) The provisions of this section shall be effective with respect to agreements filed with the Secretary under section 1866 of the Social Security Act by skilled nursing facilities (as defined in section 1861(j) of such Act) before, on, or after the date of enactment of this Act, but accepted by him on or after such date.

(f) Notwithstanding any other provision of law, any agreement, filed by a skilled nursing facility (as defined in section 1861(j) of the Social Security Act) with the Secretary under section 1866 of such Act and accepted by him prior to the date of enactment of this Act, which was in effect on such date shall be deemed to be for a specified term ending on December 31, 1973.

And the Senate agree to the same.

Amendment numbered 472: That the House recede from its disagreement to the amendment of the Senate numbered 472, and agree to the same with an amendment as follows:

On page 184, line 17, of the Senate engrossed amendments, strike out "effective January 1, 1972" and insert the following: "effective for the period beginning October 1, 1972, and ending June 30, 1974".

And the Senate agree to the same.

Amendment numbered 474: That the House recede from its disagreement to the amendment of the Senate numbered 474, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

LIMITATION ON INSTITUTIONAL CARE

SEC. 249D. Section 121(b) of the Social Security Amendments of 1965 is amended by adding at the end thereof the following new sentence: "After the date of enactment of the Social Security Amendments of 1972, Federal matching shall not be available for any portion of any payment by any State under title I, X, XIV, or XVI, or part A of title IV, of the Social Security Act for or on account of any medical or any other type of remedial care provided by an institution to any individual as an inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act, if such care is (or could be) provided under a State plan approved under title XIX of such Act by an institution certified under such title XIX.".

And the Senate agree to the same.

Amendment numbered 475: That the House recede from its disagreement to the amendment of the Senate numbered 475, and agree to the same with an amendment as follows:

On page 188, line 6, of the Senate engrossed amendments, after "thereafter" insert the following: "prior to October 1974".

And the Senate agree to the same.

Amendment numbered 476: That the House recede from its disagreement to the amendment of the Senate numbered 476, and agree to the same with amendments as follows:

On page 192, line 8, of the Senate engrossed amendments, strike out "unless" and insert the following: "prior to January 1, 1976, nor after such date, unless".

On page 194, between lines 7 and 8, of the Senate engrossed amendments, insert the following:

"(f) (1) In the case of agreements entered into prior to January 1, 1976, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

"(2) If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.

On page 196, line 12, of the Senate engrossed amendments, after the word "shall" insert the following: "(subject to the provisions of subsection (g))".

On page 203, between lines 9 and 10, of the Senate engrossed amendments, insert the following:

"(g) Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request.

And the Senate agree to the same.

Amendment numbered 495: That the House recede from its disagreement to the amendment of the Senate numbered 495, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "July 1, 1973".

And the Senate agree to the same.

Amendment numbered 505: That the House recede from its disagreement to the amendment of the Senate numbered 505, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "or part A pursuant to section 1818"; and the Senate agree to the same.

Amendment numbered 513: That the House recede from its disagreement to the amendment of the Senate numbered 513, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment; and on page 278, line 7, of the House engrossed bill, strike out "(as amended by section 544(11) of this Act)".

And the Senate agree to the same.

Amendment numbered 514: That the House recede from its disagreement to the amendment of the Senate numbered 514, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "(31), and (33),".

And the Senate agree to the same.

Amendment numbered 522: That the House recede from its disagreement to the amendment of the Senate numbered 522, and agree to the same with an amendment as follows:

On page 234, line 21, of the Senate engrossed amendments, after "spine" insert the following: "(to correct a subluxation demonstrated by X-ray to exist)".

And the Senate agree to the same.

Amendment numbered 526: That the House recede from its disagreement to the amendment of the Senate numbered 526, and agree to the same with amendments as follows:

On page 237, lines 6 and 7, of the Senate engrossed amendments, strike out "the terms 'extended care facility' and 'skilled nursing home'" and insert the following: "the terms 'extended care facility', 'extended care facilities', 'skilled nursing home', and 'skilled nursing homes'".

On page 237, line 9, of the Senate engrossed amendments, strike out "facility,'" and insert the following: "facility' "or 'skilled nursing facilities', as the case may be,".

On page 238, line 10, of the Senate engrossed amendments, strike out "and".

On page 238, line 11, of the Senate engrossed amendments, strike out the period and insert the following: "; and".

On page 238 of the Senate engrossed amendments, after line 11, insert the following:

"(24) section 1121."

On page 238, lines 14 and 15, of the Senate engrossed amendments, strike out "the terms 'extended care facility' and 'skilled nursing home'" and insert the following "the terms 'extended care facility', 'extended care facilities', 'skilled nursing home', and 'skilled nursing homes'".

On page 238, line 17, of the Senate engrossed amendments, strike out "ity,'" and insert the following: "ity' or 'skilled nursing facilities', as the case may be,".

On page 238, line 18, of the Senate engrossed amendments, after "1903(g)" insert the following: "and (h)".

On page 239, line 22, of the Senate engrossed amendments, strike out "and".

On page 239, line 24, of the Senate engrossed amendments, strike out the period and insert the following: "; and".

On page 239 of the Senate engrossed amendments, after line 24, add the following:

"(16) section 1903(j) of such Act as added by section 225 of this Act;

"(17) section 1814(h) of such Act as added by section 228(a) of this Act; and

"(18) section 1866(a)(1) of such Act as amended by section 249A of this Act."

And the Senate agree to the same.

Amendment numbered 531: That the House recede from its disagreement to the amendment of the Senate numbered 531 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

COVERAGE OF OUTPATIENT SPECIAL PATHOLOGY SERVICES UNDER MEDICARE

SEC. 283. (a) Section 1861(p) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The term 'outpatient physical therapy services' also includes speech pathology services furnished by a provider of services, a clinic, rehabilitation agency (including a single service rehabilitation facility), or by a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection; except that the terms 'speech pathology' and 'speech pathologists' shall be substituted for the terms 'physical therapy' and 'physical therapists' as used therein, and for the purposes of this sentence the term 'single service rehabilitation facility' means a facility in which only speech pathology shall be required to be provided.".

(b) The provisions of this section shall apply with respect to services rendered after December 31, 1972.

And the Senate agree to the same.

Amendment numbered 542: That the House recede from its disagreement to the amendment of the Senate numbered 542, and agree to the same with an amendment as follows:

On page 265, line 21, of the Senate engrossed amendments, strike out "REHABILITATIVE" and insert the following: "REHABILITATION"; and the Senate agree to the same.

Amendment numbered 545: That the House recede from its disagreement to the amendment of the Senate numbered 545, and agree to the same with an amendment as follows:

On page 267, line 14, of the Senate engrossed amendments, strike out "1971" and insert the following: "1972"; and the Senate agree to the same.

Amendment numbered 548: That the House recede from its disagreement to the amendment of the Senate numbered 548, and agree to the same with amendments as follows:

On page 268, line 20, of the Senate engrossed amendments, strike out "AND COSTS OF".

On page 268, line 23, of the Senate engrossed amendments, strike out "249D,".

On page 269, line 2, of the Senate engrossed amendments, strike out "(34)" and insert the following: "(33)".

On page 269, line 4, of the Senate engrossed amendments, strike out "(35)" and insert the following: "(34)".

On page 269, line 5, of the Senate engrossed amendments, strike out "(35)" and insert the following: "(34)".

On page 269, line 6, of the Senate engrossed amendments, strike out "paragraphs" and insert the following: "paragraph".

On page 269, line 7, of the Senate engrossed amendments, strike out "(36)" and insert the following: "(35)".

On page 269 of the Senate engrossed amendments, strike out line 19 and all that follows down through page 270, line 11, and insert the following: "supplied." ".

And the Senate agree to the same.

Amendment numbered 549: That the House recede from its disagreement to the amendment of the Senate numbered 549, and agree to the same with amendments as follows:

On page 271 of the Senate engrossed amendments, strike out lines 13 through 16, and insert the following:

"(B) inpatient services which, in the case of any individual, involves active treatment (i) which meets such standards as may be prescribed pursuant to title XVIII in regulations by the Secretary, and (ii) which a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

Beginning on page 272, line 17, of the Senate engrossed amendments, strike out all through page 273, line 2, of such engrossed amendments; and the Senate agree to the same.

Amendment numbered 550: That the House recede from its disagreement to the amendment of the Senate numbered 550, and agree to the same with an amendment as follows:

On page 273, line 22, of the Senate engrossed amendments, strike out "249D,".

And the Senate agree to the same.

Amendment numbered 551: That the House recede from its disagreement to the amendment of the Senate numbered 551, and agree to the same with amendments as follows:

On page 275, line 9, of the Senate engrossed amendments, strike out "100" and insert the following: "90".

On page 276, lines 6 and 7, of the Senate engrossed amendments, strike out "(but only if title IV of such Act does not already so provide)".

On page 276, line 16, of the Senate engrossed amendments, strike out "100" and insert the following: "90".

On page 276, line 22, of the Senate engrossed amendments, strike out "2 per centum" and insert the following: "1 per centum".

And the Senate agree to the same.

Amendment numbered 552: That the House recede from its disagreement to the amendment of the Senate numbered 552, and agree to the same with amendments as follows:

On page 277, lines 17 and 18, of the Senate engrossed amendments, strike out "(but only if title IV of such Act does not already so provide)".

On page 277, line 22, of the Senate engrossed amendments, strike out "2 per centum" and insert the following: "1 per centum".

And the Senate agree to the same.

Amendment Numbered 555: That the House recede from its disagreement to the amendment of the Senate numbered 555, and agree to the same with amendments, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

On page 293 of the Senate engrossed amendments, strike out lines 18 and 19 and insert the following:

SEC. 299I. Effective with respect to services provided on and after July 1, 1973, section 226 of the Social Security Act (as amended by section 201(b)(5) of this Act) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

On page 293, line 20, of the Senate engrossed amendments, strike out "the" and insert the following: "this".

On page 294, lines 11 and 12, of the Senate engrossed amendments, strike out "deductible premium and copayment provision" and insert the following: "deductible, premium, and copayment provisions".

On page 294, lines 14 and 15, of the Senate engrossed amendments, strike out "would begin with the sixth month after the month of onset of chronic kidney failure" and insert the following: "shall begin with the third month after the month in which a course of renal dialysis is initiated".

On page 294, line 17, of the Senate engrossed amendments, strike out "transplant." and insert the following: "transplant or such course of dialysis is terminated."

On page 294, line 23, of the Senate engrossed amendments, strike out "procedure" and insert the following: "procedures".

And the Senate agree to the same.

Amendment numbered 558: That the House recede from its disagreement to the amendment of the Senate numbered 558, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

CERTIFICATION OF INTERMEDIATE CARE FACILITIES AND SKILLED NURSING FACILITIES LOCATED ON AN INDIAN RESERVATION

SEC. 299L. (a) Section 1905(c) of the Social Security Act, as added by Public Law 92–223, is amended by adding after the penultimate sentence thereof the following: "The term 'intermediate care facility' also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clause (1).".

(b) Section 1905 of the Social Security Act, as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(h) For purposes of this title, the term 'skilled nursing facility' also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as being a qualified skilled nursing facility by meeting the requirements of section 1861(j)."

And the Senate agree to the same.

Amendment numbered 564: That the House recede from its disagreement to the amendment of the Senate numbered 564, and agree to the same with amendments as follows:

On page 306, line 20, of the Senate engrossed amendments strike out "$2,500," and insert the following: "(i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living, $1,500,".

On page 307, line 6, of the Senate engrossed amendments, strike out "$2,500," and insert the following: "$2,250,".

On page 314, line 5, of the Senate engrossed amendments, strike out "$600" and insert the following: "$240".

On page 314, line 24, of the Senate engrossed amendments, strike out "$1,020" and insert the following: "$780".

On page 315, line 14, of the Senate engrossed amendments, strike out "1,020" and insert the following: "$780".

On page 315, line 24, of the Senate engrossed amendments, strike out "$1,020" and insert the following: "$780".

On page 312, lines 20 and 21, of the Senate engrossed amendments, strike out "18 years of age or older and".

On page 319, lines 18 and 19, of the Senate engrossed amendments, strike out "18 years of age or older and".

On page 319, line 23, of the Senate engrossed amendments, immediately before the period insert the following: "(or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)".

On page 323, lines 7 and 8, of the Senate engrossed amendments, strike out "twenty-one" and insert the following: "twenty-two".

On page 333, line 17, of the Senate engrossed amendments, strike out "to the maximum extent feasible"

On page 311, after line 23, of the Senate engrossed amendments, insert the following:

"CERTAIN INDIVIDUALS DEEMED TO MEET INCOME TEST

"(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who is blind (as that term is defined under a State plan approved under title X or XVI as in effect in October 1972) and who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title X or XVI, there shall be disregarded an amount equal to the greater of the amounts determined as follows—

"(1) the maximum amount of any earned or unearned income which could have been disregarded under the State plan (above referred to, and as in effect in October 1972), or

"(2) the amount which would be required to be disregarded under section 1612 without application of this subsection.

On page 310 of the Senate engrossed amendments, strike out lines 1 through 19, and insert the following:

"(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

On page 311, after line 23 of the Senate engrossed amendments insert the following:

CERTAIN INDIVIDUALS DEEMED TO MEET THE INCOME TEST

"(h) In determining eligibility under this section in the case of any individual or any individual and his spouse (as the case may be) who is blind (as that term is defined under the State plan approved under title X or XVI) and who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title X or XVI, the amount of any earned or unearned income required as permitted to be disregarded under the State plan (above referred to, and as in effect in October 1972) shall be disregarded in computing the income of such individual or such individual and his spouse under this section.

On page 327, line 7, of the Senate engrossed amendments, after "(c)" insert the following: (1)

On page 327, after line 14, of the Senate engrossed amendments, insert the following:

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

On page 351, line 19, of the Senate engrossed amendments, strike out "Effective January 1, 1974, section" and insert the following: "Section".

On page 353, after line 16, of the Senate engrossed amendments insert the following:

(c) The provisions of this section shall become effective on the date of enactment of this Act.

Amendment numbered 565: That the House recede from its disagreement with the Senate numbered 565, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

DISREGARDING OF INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

SEC. 306. In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act, there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after October 1972, or, at the option of the State, September 1972, and before January 1974 who also receives in such month a monthly insurance benefit under title II of such Act which was increased as a result of the enactment of Public Law 92–336, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under such plan), shall exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for October 1972, plus the monthly insurance benefit which would have been received by him in such month, by an amount equal to $4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise).

Amendment numbered 567: That the House recede from its disagreement to the amendment of the Senate numbered 567, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE IV—MISCELLANEOUS

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION

SEC. 401. (a) (1) The amount payable to the Secretary by a State for any fiscal year pursuant to its agreement or agreements under section 1616 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section).

(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

(B) the benefits under title XVI of the Social Security Act, plus income not excluded under section 1612(b) of such Act in determining such benefits, paid to such individual in such fiscal year, and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

(b) (1) For purposes of subsection (a), the term "adjusted payment level under the appropriate approved plan of a State as in effect for January 1972" means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title, I, X, XIV, or XVI of the Social Security Act, as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed the sum of—

(A) a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan, and

(B) the bonus value of food stamps in such State for January 1972 (as defined in paragraph (3) of this subsection).

(2) For purposes of paragraph (1), the term "payment level modification" with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act.

(3) For purposes of paragraph (1), the term "bonus value of food stamps in a State for January 1972" (with respect to an individual means—

(A) the face value of the coupon allotment which would have been provided to such an individual under the Food stamp Act of 1964 for January 1972, reduced by

(B) the charge which such an individual would have paid for such coupon allotment, if the income of such individual, for purposes of determining the charge it would have paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

(c) For purposes of this section, the term "non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act" means the difference between—

(1) the total expenditures in such quarters under such plans for aid or assistance expenditures authorized under section 1119 of such Act for repairing the home of an individual who was receiving aid or assistance under one of such plans, (as such section was in effect prior to the enactment of this Act)), and

(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act, under section 1118 of such Act, and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures in such quarters.

TRANSITIONAL ADMINISTRATIVE PROVISIONS

SEC. 402. In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act with respect to expenditures for any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act, during such portion of the fiscal year ending June 30, 1975, as may be provided in such agreement.

SAVINGS PROVISION REGARDING CERTAIN EXPENDITURES FOR SOCIAL SERVICES

SEC. 403. In the administration of section 1130 of the Social Security Act, the allotment of each State (as determined under subsection (b) of such section) for the fiscal year ending June 30, 1973, shall (notwithstanding any provision of such section 1130) be adjusted so that the amount of such allotment for such year consists of the sum of the following:

(1) the amount of the total expenditures, not to exceed $50,000,000, incurred by the State for services (of the type, and under the programs to which the allotment, as determined under such subsection (b), is applicable) for the calendar quarter commencing July 1, 1972, plus

(2) an amount equal to three-fourth of the amount the allotment of such State (as determined under subsection (b), but without application of the provisions of this section): *Provided, however,* That no State shall receive less under this section than the amount to which it would have been entitled otherwise under section 1130 of the Social Security Act.

CHANGE IN EXECUTIVE SCHEDULE—COMMISSIONER OF SOCIAL SECURITY

SEC. 404. (a) Section 5316 of title 5, United States Code (relating to positions at level V of the Executive Schedule), is amended by striking out:

"(51) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(b) Section 5315 of title 5, United States Code (relating to positions at level IV of the Executive Schedule), is amended by adding at the end thereof the following:

"(97) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(c) The amendments made by the preceding provisions of this section shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted.

SEPARATION OF SOCIAL SERVICES NOT REQUIRED

SEC. 405. (a) Section 2(a) (10) (C) of the Social Security Act is amended by inserting "(using whatever internal organizational arrangement it finds appropriate for this purpose)" immediately after "provide a description of the services (if any) which the State agency makes available".

(b) Section 1002(a) (13) of such Act is amended by inserting "(using whatever internal organizational arrangement it finds appropriate for this purpose)" immediately after "provide a description of the services (if any) which the State agency makes available".

(c) Section 1402(a) (12) of such Act is amended by inserting "(using whatever internal organizational arrangement it finds appropriate for this purpose)" immediately after "provide a description of the services (if any) which the State agency makes available".

(d) Section 1602(a) (10) of such Act is amended by inserting "(using whatever internal organizational arrangement it finds appropriate for this purpose)" immediately after "provide a description of the services (if any) which the State agency makes available".

MANUALS AND POLICY ISSUANCES NOT REQUIRED WITHOUT CHARGE

SEC. 406. (a) Section 2(b) of the Social Security Act is amended by adding at the end thereof the following new sentence: "At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title."

(b) Section 1002(b) of such Act is amended by adding immediately after the first sentence thereof the following new sentence: "At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for approval of such plan under this title."

(c) Section 1402(b) of such Act is amended by adding at the end thereof the following new sentence: "At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title."

(d) Section 1602(b) of such Act is amended by adding immediately after the first sentence thereof the following new sentence: "At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title."

EFFECTIVE DATE OF FAIR HEARING DECISION

SEC. 407. (a) Section 2(a)(4) is amended by—

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(b) Section 1002(a)(4) is amended by—

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(c) Section 1402(a)(4) is amended by—

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(d) Section 1602(a)(4) is amended by—

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

ABSENCE FROM STATE FOR MORE THAN 90 DAYS

SEC. 408. (a) Section 6(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual."

(b) Section 1006 of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual."

(c) Section 1405 of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual."

(d) Section 1605(a) of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual."

RENT PAYMENTS TO PUBLIC HOUSING AGENCY

SEC. 409. (a) Section 6(a) of the Social Security Act (as amended by section 554(a) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of assistance under such plan".

(b) Section 1006 of such Act (as amended by section 554(b) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan".

(c) Section 1405 of such Act (as amended by section 554(c) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan".

(d) Section 1605(a) of such Act (as amended by section 554(d) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan".

STATEWIDENESS NOT REQUIRED FOR SERVICES

SEC. 410. (a) Section 2(a) of the Social Security Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of paragraph (1).

(b) Section 1002(a) of such Act is amended by inserting "except of the extent permitted by the Secretary with respect to services," before "provide" at the beginning of clause (1).

(c) Section 1402(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of clause (1).

(d) Section 1602(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of paragraph (1).

PROHIBITION AGAINST PARTICIPATION IN FOOD STAMP OR SURPLUS COMMODITIES PROGRAM BY PERSONS ELIGIBLE TO PARTICIPATE IN EMPLOYMENT OR ASSISTANCE PROGRAMS

SEC. 411. (a) Effective January 1, 1974, section 3(e) of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new sentence: "No person who is eligible (or upon application would be eligible) to receive supplemental security income benefits under title XVI of such Act shall be considered to be a member of a household or an elderly person for purposes of this Act."

(b) Section 3(h) of such Act is amended to read as follows:

"(h) The term 'State agency', with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this Act in such State."

(c) Section 10(c) of such Act is amended by striking out the first sentence.

(d) Clause (2) of the second sentence of section 10(e) of such Act is amended by striking out "used by them in the certification of applicants for benefits under the federally aided public assistance programs" and inserting in lieu thereof the following: "prescribed by the Secretary in the regulations issued pursuant to this Act".

(e) Section 10(e) of such Act is further amended by striking out the third sentence.

(f) Section 14 of such Act is amended by striking out subsection (e).

(g) Effective January 1, 1974, section 416 of the Act of October 31, 1949, is amended by adding at the end thereof the following new sentence: "No person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of such Act shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family)."

(h) Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1973.

Amendment numbered 568: That the House recede from its disagreement to the amendment of the Senate numbered 568, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment.

And the Senate agree to the same.

Amendment to title: That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

W. D. Mills,
Al Ullman,
James A. Burke,
Mrs. Griffiths,
John W. Byrnes,
Jackson E. Betts,
H. T. Schneebeli,
Managers on the Part of the House.

Russell B. Long,
Clinton P. Anderson,
Herman Talmadge,
Wallace F. Bennett,
Carl Curtis,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

BENEFIT INCREASES; AUTOMATIC ADJUSTMENTS

Amendment No. 3: The House bill contained provisions for a 5-percent social security benefit increase effective June 1972 and provisions for automatic increases in benefits and the taxable wage base.

The Senate amendment deleted these provisions from the bill in view of the fact that Public Law 92-336 enacted a 20-percent social security benefit increase effective September 1972 and provisions substantially the same as the House bill relating to automatic increases in benefits and the taxable wage base.

The House recedes.

SPECIAL MINIMUM PIA

Amendment Nos. 4–22: The House bill provided a special minimum benefit equal to $5 multiplied by a worker's number of years of covered employment up to 30 years, or $150 a month ($225 for a couple).

The Senate amendments provided a special minimum benefit equal to $10 multiplied by a worker's number of years of covered employment in excess of 10 years, up to a maximum of 30 years or $200 a month ($300 for a couple).

The House recedes with an amendment providing a special minimum benefit equal to $8.50 multiplied by a worker's number of years of covered employment in excess of 10 years, up to a maximum of 30 years or $170 a month ($255 for a couple).

INCREASED WIDOWS' AND WIDOWERS' BENEFITS

Amendment Nos. 23–38: The House bill increased benefits for widows and widowers who have attained age 65 when they make application to 100 percent of the deceased spouse's benefit.

The Senate amendments added provisions to permit the Social Security Administration to simplify the method of computing these benefits in cases in which certain information is not available in computerized form.

The House recedes with technical amendments.

INCREASE IN EARNINGS BASE

Amendment No. 39: The House bill contained provisions to increase the limitation on earnings for benefit computations and tax purposes to $10,200 per year beginning with 1972.

The Senate amendment deleted these provisions which were replaced by provisions in Public Law 92-336 increasing the limitation to $10,800 for 1973 and $12,000 for 1974.

The House recedes.

DELAYED RETIREMENT CREDIT

Amendment Nos. 40–49: The House bill provided a worker's old-age benefit would be increased by 1 percent for each year (1/12 of 1 percent for each month) in which a worker between ages 65 and 72 does not receive benefits under the retirement test because of his earnings. The House provision would take account of months after 1970 for which benefits were not paid because of earnings.

The Senate amendments would take account of months after 1939 for which benefits were not paid because of earnings.

The House recedes with an amendment which would make this provision applicable only to months of earnings after 1971.

PROVISIONS ELIMINATED FROM THE HOUSE BILL

Amendment No. 64: The House bill contained the following three sections:

1. *Additional Drop-Out Years*—Provided that one year of low earnings (in addition to the 5 years provided under present law) for each 15 years of covered work would be dropped in computing benefits. Applicable to persons who reach age 62 or die or become disabled after 1971.

2. *Actuarial Reduction Not Applicable to Subsequent Benefit*—Provided that when a person applied for a subsequent different benefit (e.g., a spouse's benefit), it would not be reduced because the person had earlier applied for a benefit (e.g., a worker's benefit) that was actuarially reduced.

3. *Combined Earnings for Working Couples*—Provided that a married couple each of whom were age 62 and had at least 20 years of covered earnings after marriage could have their earnings combined for each year up to the maximum taxable wage base as an alternative method of computing benefits.

The Senate amendment deleted these provisions from the House bill.

The House recedes.

LIBERALIZATION OF THE EARNINGS TEST

Amendment Nos. 65–72: The House bill increased the annual exempt amount under the earnings test from $1680 to $2000 per year with proportionate increases in the monthly measure of retirement and provided that social security benefits be reduce at the rate of $1 of benefits for each $2 of earnings over that amount.

The Senate amendments increased the annual exempt amount to $3,000 with proportionate increases in the monthly measure of retirement and provided that social security benefits be reduced at the same rate as in the House bill.

The House recedes with an amendment increasing the annual exempt amount to $2,100 with proportionate in the monthly measure and providing that the benefits be reduced as in the House bill.

CHILD'S BENEFITS BASED ON MORE THAN ONE WAGE RECORD

Amendment No. 95: The House bill contained provisions which permit a person who is entitled to a child's benefit on the wage records of more than one worker to obtain the child's benefit which is highest in amount.

The Senate amendment redrafted these provisions without substantively changing them to eliminate technical problems.

The House recedes.

CHILD'S BENEFITS ON GRANDPARENTS' EARNINGS

Amendment Nos. 100–101: The House bill provided for benefits to grandchildren not adopted by their grandparents if their parents have died and if other conditions are met (e.g., the child must have been living with the grandparent before reaching age 18 and before the grandparent qualified for benefits).

The Senate amendment broadened the provision to include a child whose parents are totally disabled.

The House recedes.

REDUCTION OF WAITING PERIOD FOR DISABILITY BENEFITS

Amendment Nos. 116-127: The House bill reduced the waiting period for disability benefits from 6 months to 5 months.

The Senate amendments reduced the waiting period to 4 months.

The Senate recedes.

DISABILITY BENEFITS FOR THE BLIND

Amendment No. 128: The House bill eliminated the special disability work requirement (20 out of 40 quarters) for blind persons.

The Senate amendment provided for paying disability insurance benefits for blind people who have at least 6 quarters of social security coverage. The benefits would be paid regardless of the amount of an individual's earnings both before and after age 65 or his ability to work. The Senate amendment also excluded blind persons from the requirements of present law that disability benefits be suspended for any months during which a beneficiary refuses without good cause to accept vocational rehabilitation services.

The Senate recedes.

OPTIONAL DETERMINATION OF SELF-EMPLOYMENT EARNINGS

Amendment Nos. 139–148: The House bill provided that a person could use a new optional method of determining his self-employment earnings if his net earnings (farm and nonfarm) are $1,600 or more.

The Senate amendments provided that a person could use the new optional method if his nonfarm net earnings are $1600 or more.

The House recedes.

PENALTIES FOR FURNISHING FALSE INFORMATION

Amendment Nos. 162–166: The House bill established criminal penalties for a person who furnishes false information in applying for a social security number with intent to deceive as to his true identity.

The Senate amendments added further provisions to establish criminal penalties for obtaining benefits under any Federal program to which a person is not entitled by willfully using a social security number obtained on the basis of false information or by representing a number to be that of a person to whom it was not issued.

The House recedes.

GUARANTEE OF NO DECREASE IN FAMILY BENEFITS

Amendment No. 167: The House bill contained provisions to guarantee that the benefits of a family would not be reduced by reason of a social security benefit increase.

The Senate amendment deleted these provisions which were included in Public Law 92-336.

The House recedes.

CHANGES IN TAX SCHEDULES

Amendment Nos. 177–207: The House bill contained changes in the social security tax schedule necessary to finance the social security system as modified by the House bill.

The Senate amendments changed these provisions to finance the social security system as modified by the Senate bill.

The House recedes with an amendment providing a new schedule of taxes to finance the system as modified by the Conference agreement.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

Amendment No. 208: The House bill contained provisions changing the allocation of social security revenues to the disability insurance trust fund at the rates necessary to finance disability benefits as modified by the House bill.

The Senate amendment changed the allocation rates to finance disability benefits as modified by Public Law 92-336 and the Senate bill.

The Conference report modifies the realocation rates to finance the disability insurance program as modified by the Conference agreement.

ISSUANCE OF SOCIAL SECURITY ACCOUNT NUMBERS

Amendment No. 209: The Senate amendment added to the House bill a new provision which provides instructions to the Secretary of Health, Education, and Welfare as to the method of issuing social security account numbers. Under the amendment, numbers in the future generally will be issued when a person enters the first grade; in the case of a non-citizen, at the time he enters this country if at that time he may legally work; if he may not legally work at the time he enters the country, the number would be issued when his employment status changes. In addition, numbers would be issued to people who do not have them when they apply for benefits under any Federal program.

The conference report retains the provisions of the Senate bill relating to non-citizens and to people who apply for Federal benefits but deletes the provision that social security account numbers be issued mandatorily when a person enters the first grade and substitutes a provision authorizing the Secretary to issue numbers to persons at such time. The managers urge and direct the Secretary to utilize this authority to the fullest practical extent and to report to the Congress by January 1, 1975, concerning the feasibility of establishing a system requiring the issuance of social security account numbers to persons entering first grade or earlier.

SISTERS AND BROTHERS INSURANCE BENEFITS

Amendment No. 210: The Senate amendment added to the House bill a provision to provide benefits to dependent sisters who have attained age 62 and to dependent sisters and brothers who were disabled before age 22.

The Senate recedes.

REFUND OF SOCIAL SECURITY TAXES TO MEMBERS OF CERTAIN RELIGIOUS GROUPS

Amendment No. 211: The Senate amendment added to the House bill a provision to provide members of certain religious sects that are conscientiously opposed to insurance a refund of their social security employee contributions.

The Senate recedes.

PAYMENTS BY EMPLOYER TO DISABLED FORMER EMPLOYEE

Amendment No. 212: The Senate amendment added to the House bill a new provision which would provide that payments made by an employer to a former disabled employee will not be counted for social security benefit or tax purposes if the payment is made after the calendar year in which the former employee became entitled to social security disability insurance benefits.

The House recedes.

LUMP-SUM DEATH PAYMENT TO COVER MEMORIAL SERVICES

Amendment No. 213: The Senate amendment added to the House bill a new provision which would apply retroactively to 1960 the provisions of Public Law 92-223. That law authorized the payment of the lump-sum death payment as reimbursement for expenses in connection with memorial services for people whose bodies are not available for burial provided that the death occurred after 1970.

The Senate recedes.

UNDERPAYMENTS

Amendment No. 214: The Senate amendment added to the House bill a new provision which provides that if there are no surviving children, spouses or parents and no legal representative of the estate, cash benefits due a deceased beneficiary could be paid to any other relative determined by regulation of the Secretary.

The Senate recedes.

DISREGARD OF INCOME FROM THE SALE OF CERTAIN ARTISTIC ITEMS FOR EARNINGS TEST PURPOSES

Amendment No. 215: The Senate amendment added to the House bill a new provision which would provide for the exclusion from income, for retirement test purposes, the proceeds from the sale of certain literary or artistic items which were created before age 65.

The Senate recedes.

TERMINATION OF REGISTRAR COVERAGE IN LOUISIANA

Amendment No. 216: The Senate amendment added to the House bill a new provision which would permit voter registrars in Louisiana, and their employees, to terminate their social security coverage without affecting the coverage of other State and local employees in the States as a group. The registrars and their employees would have to decide to terminate coverage by December 31, 1973, and the termination would be effective after December, 1975.

The House recedes.

COMPUTATION OF MINISTER'S INCOME OUTSIDE UNITED STATES

Amendment No. 217: The Senate amendment added to the House bill a new provision which would provide that all American clergymen serving foreign congregations outside the U.S. would compute their self-employment income for social security purposes without regard to the $20,000 exclusion of income earned abroad.

The House recedes.

MODIFICATION OF STATE AGREEMENTS WITH RESPECT TO CERTAIN STUDENTS AND PART-TIME EMPLOYEES

Amendment No. 218: The Senate amendment added to the House bill a new provision which would permit the States to modify their social security coverage agreements for State and local employees so as to remove from coverage services of students employed by the public school or college they are attending, and the services of part-time employees.

The House recedes.

BENEFITS FOR CERTAIN WORLD WAR II INTERNEES

Amendment No. 219: The Senate amendment added to the House bill a new provision which would provide non-contributory social security credits for U.S. citizens of Japanese ancestry who were interned by the U.S. Government during World War II. In order to qualify for the wage credits an individual must have been age 18 or older at the time he was interned and the credits will be determined on the basis of the then prevailing minimum wage or the individual's prior earnings, whichever is larger.

The House recedes with a technical amendment.

MODIFICATION OF AGREEMENT WITH WEST VIRGINIA TO COVER CERTAIN POLICEMEN AND FIREMEN

Amendment No. 220: The Senate amendment added to the House bill a new provision which would permit the State of West Virginia to modify its social security coverage agreement to provide retroactive and prospective coverage for certain policemen and firemen who erroneously thought they were covered under social security and have paid social security taxes.

The House recedes.

TERMINATION OF COVERAGE FOR POLICEMEN OR FIREMEN

Amendment No. 221: The Senate amendment added to the House bill a new provision which would permit the States to modify their social security coverage agreements so as to terminate the coverage of policemen and firemen without affecting the coverage of other members of the same coverage group. In addition, it would permit the modification of coverage agreements which were terminated to exclude policemen and firemen so as to reinstate the coverage of other employees.

The Senate recedes.

TWENTY-PERCENT INCREASE PERFECTING AMENDMENTS

Amendment No. 222: The Senate amendment added to the House bill certain technical amendments relating to the 20-percent benefit increase enacted by Public Law 92-336.

The House recedes with a technical amendment.

REDUCTION IN AGE OF ELIGIBILITY FOR ACTUARIALLY REDUCED BENEFITS

Amendment No. 223: The Senate amendment added to the House bill a new provision which would permit the payment of actuarially reduced benefits for workers at age 60.

The Senate recedes.

AGE 55 COMPUTATION POINT FOR WIDOWS

Amendment No. 224: The Senate amendment added to the House bill a new provision which would permit the payment of actuarially reduced benefits to widows at age 55.

The Senate recedes.

STUDY OF EARNINGS TEST

Amendment No. 225: The Senate amendment added to the House bill a new provision which would require the Secretary of Health, Education, and Welfare to conduct a study to determine the feasibility of eliminating or extensively revising the Social Security earnings test.

The Senate recedes.

ELIMINATION OF DURATION-OF-RELATIONSHIP REQUIREMENTS

Amendment No. 226: The Senate amendment added to the House bill a new provision amending the provision of present law which reduces from 9 months to 3 months the duration-of-relationship requirement when death is accidental or in line of duty in the Armed Forces so that there would be no duration-of-relationship requirement in such cases if it is reasonable to expect that the deceased would have lived for at least 9 months.

The House recedes.

COVERAGE FOR DISABILITY BENEFICIARIES UNDER MEDICARE

Amendment Nos. 228-254: The House bill extended medicare coverage to individuals who had been receiving social security benefits on the basis of disability effective with July 1, 1973. The medicare coverage ended with the month in which the disability ceases.

The Senate amendments modified the House bill to extend medicare to women age 50 or older, entitled to mother's benefits who, for 24 months prior to the first month they would be entitled to medicare, met all requirements for disability benefits, except for the actual filing of a disability claim. The amendments also modified the House bill to continue medicare coverage through the month following the month in which notice of termination of disability benefits is mailed, rather than the month in which the disability ceases, as in the House bill.

The House recedes.

HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS NOT OTHERWISE ELIGIBLE

Amendment Nos. 255–271: The House bill permitted individuals who are uninsured for Part A medicare benefits to enroll for those benefits by paying a premium of $31 per month, rising as hospital costs rise.

The Senate amendments modified the House bill (1) to make this provision effective July 1, 1973, instead of January 1, 1972; (2) to change Part A premium amount from $31 to $33 a month; and (3) to add a requirement that persons electing to enroll in Part A must also enroll for Part B. Termination of enrollment in Part B would automatically result in termination of coverage under Part A as well.

The House recedes.

CHANGE IN SUPPLEMENTARY MEDICAL INSURANCE DEDUCTIBLE

Amendment No. 293: The House bill contained a provision increasing the Part B annual deductible from $50 to $60.

The Senate amendment deleted the provision.

The Senate recedes.

INCREASE IN LIFETIME RESERVE DAYS AND CHANGE IN HOSPITAL INSURANCE COINSURANCE AMOUNT UNDER MEDICARE

Amendment No. 294: The House bill increased the number of lifetime hospital reserve days from 60 to 120 and added coinsurance equal to ⅛ of the inpatient deductible for each day beginning with the 31st day through the 60th day of hospitalization.

The Senate amendment deleted the House provisions and instead reduced the amount of coinsurance for each lifetime reserve day from the present ½ to ¼ of the current inpatient hospital deductible; effective after December 31, 1972.

The conference agreement would eliminate the House provisions and the Senate provisions with the result that no change would be made in present law.

AUTOMATIC ENROLLMENT FOR SUPPLEMENTARY MEDICAL INSURANCE

Amendment Nos. 295–298: The House bill provided that people reaching age 65 would be automatically enrolled under Part B unless they chose not to so enroll.

The Senate amendment modified the provision by excluding from its application those eligible Americans living outside the United States and Puerto Rico.

The House recedes.

CHANGES IN MEDICAID MATCHING PERCENTAGE IN CERTAIN CASES

Amendment Nos. 299–307: Section 207 of the House bill provided that there would be:

(1) an increase of 25 percent (up to a maximum of 95 percent) in the Federal medicaid matching percentage to States under contract with HMO's or other comprehensive health facilities;

(2) a decrease in the Federal medical assistance percentage by one-third after the first 60 days of care in a general or TB hospital;

(3) a reduction in the Federal percentage by one-third after the first 60 days of care in a skilled nursing home unless the State establishes that it has an effective utilization review program;

(4) a decrease in Federal matching by one-third after 90 days of care in a mental hospital and provision for no Federal matching after 275 additional days of such care during an individual's lifetime except that the 90-day period may be extended for an additional 30 days if the State shows that the patient will benefit therapeutically from such an additional period of hospitalization; and

(5) authority for the Secretary to compute a reasonable cost differential for reimbursement between skilled nursing homes and intermediate care facilities.

The Senate amendments provided:

Item (1) the increase in Federal matching for Health Maintenance Organizations and comprehensive health facilities is eliminated; Items (2), and (4) would not apply where a State makes a satisfactory showing to the Secretary that it has an effective program of control over the utilization of hospital and mental hospital care and conducts the independent professional audit of patients as required under present law. In addition, intermediate care facilities would be brought under this provision.

Item (5) was retained unchanged.

The House recedes.

COST SHARING UNDER MEDICAID

Amendment Nos. 308–313: The House bill required States which cover the medically indigent to impose premium charges on the medically indigent. The premium would be graduated by income in accordance with standards prescribed by the Secretary. In addition, States could at their option require payment by the medically indigent of deductibles and copayment amounts which would not have to vary by level of income. Finally, with respect to cash assistance recipients, nominal deductible and copayment requirements, while prohibited for the six mandatory services, would be permitted with respect to optional medicaid services.

The Senate amendments would, as the House bill, require the States to impose income-related premium charges on the medically indigent. However, non-income-related deductibles and copayments could be imposed on the medically indigent only for patient-initiated services and no deductibles or cost sharing devices could be imposed on cash assistance recipients.

The House recedes with an amendment restoring the House bill provision except that any deductibles and copayments which would be applied to the medically indigent must be nominal.

MEDICAID NOTCH PROVISIONS

Amendment No. 314: The House bill provided that States without a medically indigent program would be required to provide AFDC families with a deductible equal to one-third of all earnings over $720 a year. The deductible amount is identical to the amount of earnings which families under the Family Assistance provisions of the House bill are allowed to retain as an incentive to work. In those States with programs for the medically indigent, a family assistance recipient would not have to pay the deductible until his retained earnings exceeded the difference between a State's cash assistance level and its medically indigent level. At this point, however, his medicaid deductible would increase dollar for dollar with his retained earnings. The House bill would also not have required States to cover adult assistance recipients who are made newly eligible by the adult assistance provisions in the House bill.

The Senate amendment modified the House bill by retaining this latter provision but the other House provisions would be dropped and the following changes substituted:

(1) When a welfare family loses eligibility for any cash assistance because of increases in earnings, medicaid eligibility would be continued for a period of 12 months after cash assistance is stopped.

(2) After the 12-month period such a family could continue medicaid protection by paying a premium equal to 20 percent of family income in excess of $2,400 a year. The Federal government would cover any costs which were not paid for by the premiums collected.

The House recedes with an amendment, which would (1) continue medicaid for four months, rather than 12 months, after cash assistance is stopped, and (2) eliminate the Senate provision which permits medicaid eligibility to continue beyond 12 months on an optional basis.

MEDICARE SERVICES OUTSIDE THE UNITED STATES

Amendment Nos. 323–324: The House bill provided, for payment of medicare benefits for inpatient hospital services furnished outside the United States if the beneficiary is a resident of the United States and the foreign hospital is closer to, or substantially more accessible from his residence, than the nearest hospital in the United States which is suitable and available for his treatment. For such beneficiaries, benefits would be payable without regard to whether an emergency existed or where the illness or accident occurred. Only patient services furnished by a hospital which has been accredited by the Joint Commission on Accreditation of Hospitals or by a hospital-approval program having essentially comparable standards would be covered.

The House bill also provided for coverage under the medical insurance program of medically necessary physicians' services and ambulance services furnished in conjunction with covered foreign inpatient hospital services.

The Senate amendment retains all of the House provisions but added a new provision which would cover emergency hospital services furnished in Canada to U.S. residents traveling without unreasonable delay by the most direct route between Alaska and another State.

The House recedes.

OPTOMETRISTS' SERVICES UNDER MEDICAID

Amendment No. 325: The Senate amendment added a new provision to the House bill under which a State which once covered optometrists' services under its medicaid program and now specifically covers eye care provided by physicians which an optometrist is authorized to provide must cover such services whether rendered by a physician or an optometrist.

The House recedes.

WAIVER OF MEDICARE BENEFICIARY LIABILITY IN CERTAIN CASES

Amendment No. 326: The Senate amendment added a new provision to the House bill under which an overpayment under medicare could be waived in certain circumstances where a medicare claim was disallowed. The liability for the overpayment would shift to the provider of the health care where it did not exercise due care in avoiding overpayment and the beneficiary exercised due care, the government would assume the liability. The provision is effective for claims for services furnished after June 30, 1971.

The House recedes with an amendment changing the effective date to apply to claims for services provided after the date of enactment of the bill.

MEDICARE COVERAGE FOR CERTAIN INDIVIDUALS AGE 60–64

Amendment No. 327: The Senate amendment added a new provision to the House bill which would permit people age 60 to 64 who are the spouses of medicare beneficiaries, or who are themselves eligible for cash social security benefits, to enroll under both Parts A and B of medicare at cost.

The Senate recedes.

DRUGS UNDER MEDICARE

Amendment No. 328: The Senate amendment added a new section 215 to the House bill amending Part A of medicare to cover the costs of certain specified drugs, purchased on an outpatient basis, which are necessary in the treatment of the most common, crippling or life-threatening chronic disease conditions of the aged. Beneficiaries would be liable for $1.00 of the cost of each prescription of a drug included in the reasonable cost range plus any cost in excess of the top of the reasonable cost range.

Under the provision, the drugs covered are those within specified therapeutic categories which are necessary in the treatment of the following conditions:

Diabetes; high blood pressure; chronic cardiovascular disease; chronic respiratory disease; chronic kidney disease; arthritis and rheumatism; gout; tuberculosis; glaucoma; thyroid disease; cancer; epilepsy; parkinsonism; myasthenia gravis.

The amendment would exclude drugs not requiring a physician's prescription (except for insulin), drugs such as antibiotics which are generally used for a short period of time and drugs such as tranquilizers and sedatives which may be used not only by beneficiaries suffering from serious chronic illnesses, but also by many other persons as well.

The amendment is designed to assure that funds are being targeted toward the most necessary drug entities within each covered therapeutic category, through establishment of a Medicare Formulary.

The Formulary would be compiled by a committee consisting of five members, a majority of whom would be physicians. Members would include the Commissioner of Food and Drugs and four individuals of recognized professional standing and distinction in the fields of medicine, pharmacology or pharmacy who are not otherwise employed by the Federal Government and who do not have a direct or indirect financial interest in the economic aspects of the committee's decisions.

The Formulary Committee's primary responsibility would be to compile a Medicare Formulary which would contain a listing of the drug entities within the therapeutic categories covered by the program which, based upon its professional judgment, the committee finds necessary for proper patient care.

Participating pharmacies would file either their usual and customary markups or professional fee schedules as of June 1, 1972, which would then be applied to the estimated acquisition cost (usually average wholesale price) of the drug product. The usual and customary charge, including mark-up or professional fee, for purposes of program payments and allowances, could not exceed the 75th percentile of charges by comparable vendors in an area.

The Senate recedes.

COVERAGES OF EYEGLASSES, HEARING AIDS, DENTURES, AND PODIATRY UNDER MEDICARE

Amendment No. 329: The Senate amendment added a new section to the House bill which would include under Part B of Medicare the costs of eyeglasses, dentures, hearing aids, and podiatric services to members of families with annual incomes of $5000 or less and to individuals with annual incomes of less than $3000.

The Senate recedes.

INSPECTOR GENERAL FOR HEALTH ADMINISTRATION

Amendment No. 330: The Senate amendment added a new section to the House bill creating an Office of Inspector General for Health Administration within the Department of Health, Education, and Welfare. The Inspector General would be appointed by the President, would report to the Secretary, and would be responsible for reviewing and auditing the Social Security health programs on a continuing and comprehensive basis to determine their efficiency, economy and consonance with the Statute and Congressional intent.

The Inspector General would have authority to suspend (upon at least 30 days' notice to the Secretary) any regulation, practice, or procedure employed in the administration of any of the health care programs if he determines (as a result of any study, investigation, review, or audit) that the suspension will promote efficiency and economy in the administration of the program, or that the regulation, practice, or procedure involved is contrary to or does not carry out the objectives and purposes of applicable provisions of law. Any suspension would remain in effect until an order of reinstatement was issued by the Inspector General except that the Secretary might, at any time prior to or after any such suspension by the Inspector General, issue an order revoking the suspension.

When the Inspector General issued any order of suspension or reinstatement, he would promptly notify the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate and, in the case of an order relating to a State medicaid plan, the Governor or other chief executive officer of the State, of the order, and submit to them information explaining the reasons for suspension or lifting of suspension. Where the Secretary terminates an order of suspension issued by the Inspector General, he is required also to submit an explanation of his reasons to the two committees.

The Inspector General could submit to the Committees on Ways and Means and Finance such reports relating to his activities as he deemed appropriate. He would, upon request of either committee for information, study, or investigation relating to, or within his responsibilities, cause such information to be furnished and such study or investigation to be undertaken.

The Senate recedes.

LIMITATION ON FEDERAL PARTICIPATION FOR DISAPPROVED CAPITAL EXPENDITURES

Amendment Nos. 332–334: The House bill precluded Medicare and Medicaid payments toward the capital costs of health facilities disapproved by health facilities planning agencies.

The Senate amendments modified the House bill by making the provision inapplicable to construction toward which preliminary expenditures of $100,000 or more had been made in the 3-year period ending December 17, 1970.

The House recedes.

DEMONSTRATIONS, EXPERIMENTS, AND REPORTS ON VARIOUS SUBJECTS

Amendment Nos. 335–350: The House bill provided that the Secretary of Health, Education, and Welfare would be required to develop experiments and demonstration projects designed to test various methods of making payment to providers of services on a prospective basis under the medicare, medicaid, and maternal and child health programs.

The Senate amendments added a provision requiring submission of information on such projects in advance to Finance Committee and Ways and Means Committee.

The House recedes.

The Senate amendments modified the House bill to authorize the Secretary to specifically permit experimentation with reimbursement to ambulatory surgical centers.

The House recedes.

Peer Review—The House bill authorized the Secretary to experiment with areawide or community-wide peer review, utilization review and medical review mechanisms.

The Senate bill removed this provision.

The House recedes. (See Amendment No. 476 for related provision.)

Extended Care: Under the House bill, the Secretary is to experiment with eliminating or reducing the present 3-day prior hospitalization requirement for eligibility to extended care benefits.

The Senate amendments made this provision more specific.

The House recedes.

Intermediate Care and Homemaker Services—The Senate amendments authorized the Secretary to experiment with the use of institutional and homemaker services as alternatives to more costly, covered post-hospital services. Authority would include: (a) substituting Intermediate Care Facility care days for Extended Care Facility care days, and (b) covering homemaker services for up to 3 weeks.

The House recedes.

Physicians' Assistants Under Medicare—The Senate amendments authorized the Secretary to engage in experiments and demonstration projects to determine the most appropriate and equitable method of paying for the services of physicians' assistants under medicare.

The House recedes.

Miscellaneous experiments—The Senate amendments authorized experiments to provide day-care services to persons entitled to Part B of medicare and medicaid, to subsidize families who care for aged dependents who would otherwise be institutionalized, to determine whether payments for psychological and psychiatric care provided residents of skilled nursing facilities and ICF's under medicaid are adequate, and to develop methods to improve the rehabilitation of long-term patients and appropriate alternatives to long-term institutional care.

The House recedes with an amendment which would strike all of the Senate amendment except the provision for experiments with day care.

The Senate amendments added a provision to the House bill authorizing the Secretary to study whether the services of clinical psychologists may be made more generally available under medicare and medicaid.

The House recedes.

LIMITATION ON COSTS UNDER MEDICARE

Amendment Nos. 351–357: The House bill provided that provider costs which were found to be excessive would not be reimbursed under medicare and that beneficiaries could be charged for such expenses.

The Senate amendments modified the House provisions to authorize disallowance of provider costs which are "substantially" in excess, rather than, as under the House bill, simply "in excess of", or more expensive than the items or services determined to be necessary in the efficient delivery of needed health services; and modified the House provision authorizing the collection of costs in excess of medicare ceilings from beneficiaries by excluding emergncy care.

The House recedes with the amendment striking out the provision inserting the word "substantially".

REASONABLE CHARGES FOR MEDICAL SUPPLIES AND EQUIPMENT

Amendment Nos. 358–364: The House bill provided that the reimbursement amounts for medical services, supplies, and equipment cannot generally "exceed the lowest charge levels at which such services, supplies and equipment are widely available in a locality."

The Senate amendments modified the House bill by changing these words to "exceed the lower charge levels at which such services, supplies and equipment are widely and consistently available in a locality."

The House recedes with an amendment striking the provision which inserts the word "lower" in lieu of "lowest". The conferees intend that the term "medical services" not include services defined as physicians' services under medicare.

LIMITS ON PAYMENTS TO NURSING HOMES UNDER MEDICAID

Amendment No. 365: The House bill contained a provision which limits the average per diem costs for skilled nursing facilities and Intermediate Care Facilities countable for Federal matching to 105 percent of such costs a year earlier.

The Senate amendment deleted the provision.

The House recedes with an amendment restoring the House provision except that costs resulting from increases in patient services shall be exempted from the computation of average per diem costs for the current year.

HEALTH MAINTENANCE ORGANIZATIONS

Amendment Nos. 366–405: The House bill established an alternative method of reimbursing organizations defined as health maintenance organizations (HMO's) under the medicare program as follows:

Health Maintenance Organizations.—The House bill requires HMO's to provide all services and benefits covered under both Parts A and B. The Senate amendments require provision of all such services which are generally available to persons residing in the area served.

The House bill exempts from annual open enrollment requirement HMO's with more than 50 percent of enrollees age 65 or older. The Senate amendments permit HMO's to limit enrollment from any age group to prevent its membership from becoming nonrepresentative of the population in the area it serves.

The House bill would reimburse HMO's at a rate equal to 95 percent of the estimated amount (with appropriate adjustments) otherwise payable if covered services were furnished by sources other than HMO's. To the extent that medicare reimbursement would yield a higher rate of return for medicare enrollees than for regular enrollees the HMO would provide additional services to its medicare enrollees. Under the Senate bill, HMO's entitled to incentive reimbursement would share in savings (or losses) with the Government in accordance with a prescribed formula. The maximum gain or loss could not exceed 7½ percent of the amount by which actual experience is more or less than the adjusted per capita costs of services provided outside of the HMO. Prior loss amounts could be applied against future savings. The House bill establishes no minimum size or experience requirements for HMO's.

The Senate amendments provide that incentive reimbursement would be available to substantial established HMO's (a) with reasonable standards for quality of care at least equal to standards prevailing in the HMO area and (b) which have sufficient operating history and enrollment to permit evaluation of their capacity to provide appropriate care and to establish capitation rates. Established HMO's would have (1) a minimum enrollment of 25,000 not more than half of whom are 65 or older and (2) have been in operation for at least 2 years. Exception to the size requirement is provided for HMO's in small communities or sparsely populated areas (5,000 members and 3 years of operation).

The Senate bill also added a provision requiring the Secretary to report to Congress annually regarding experience under the HMO provision.

The House recedes with two amendments. The first amendment deleting the word "generally" from the Senate version of the bill. The conferees expect that HMO's will make available, either directly or under other arrangements, such services covered under Part A and B that would otherwise be available to beneficiaries in an area in the absence of HMO's.

The second amendment would authorize incentive payments to qualified Health Maintenance Organizations equal to one-half of the difference between the organization's adjusted costs and adjusted average per capita costs for beneficiaries not enrolled in the HMO. Such incentive payments could not exceed, in any year, 10 percent of, adjusted average per capita costs. There would be no sharing in any losses incurred by the HMO. Types of costs recognized for purposes of calculating allowable costs within and without HMO's shall be those types otherwise allowable to non-HMO providers and practitioners.

REDUCTION OF MEDICAID SERVICES

Amendment No. 412: Under present law a State cannot reduce its expenditures for the State share of medicaid from one year to the next. If a State wishes to modify its State plan so as to reduce the extent of care and services provided or to terminate any of its programs, the Governor must certify to the Secretary that (a) the State share of medicaid expenditures will not be reduced, (b) the State is complying with the provisions in its plan relating to utilization and costs of services, and (c) the modification is not made for the purpose of increasing the standard or other formula for determining payments.

The House bill modified this provision by permitting a State to cut back the extent of coverage of optional services provided that it maintained its total dollar expenditure levels.

The Senate amendment modified the House by repealing the provisions of present law.

The House recedes.

HOSPITAL COST DETERMINATION UNDER MEDICAID

Amendment No. 413: The House bill allowed States, generally, to develop their own methods of reasonable reimbursement of hospitals rather than being required to follow the medicare regulations.

The Senate amendment deleted the House provision.

The House recedes with an amendment restoring the House provision except that the methods used by the States would be subject to approval by the Secretary.

FEDERAL MATCHING FOR MEDICAID ADMINISTRATION

Amendment Nos. 419–420: The House bill provided for Federal matching for the cost of designing, developing, and installing mechanized claims of processing and information retrieval systems at a rate of 90 percent and 75 percent for the operation of such systems.

The Senate amendments deleted the House provisions.

The Senate recedes with a technical amendment making it clear that the 75 percent matching funds would also include expenses incurred in any contracting for operating the system.

INSTITUTIONAL UTILIZATION REVIEW IN MEDICAID

Amendment Nos. 426–431: The House bill provided that hospitals and skilled nursing homes participating under medicaid must meet the same utilization committee requirements which now apply in the medicare program.

The Senate amendments modified the House bill by providing that the provision could be waived where an alternative system has been approved by the Secretary.

The House recedes.

QUALIFICATIONS OF CERTAIN HEALTH CARE PERSONNEL

Amendment Nos. 437–441: The House bill contained a provision which would require the Secretary to explore, develop, and apply appropriate means of determining the proficiency of health personnel disqualified or limited in responsibility under present medicare regulations.

The Senate amendments modified the House bill by setting a time—December 31, 1977—after which determinations of proficiency would not apply with respect to persons initially licensed by a State or seeking initial qualifications as a health care person. The Senate amendments also specified that cytotechnologists are included among the types of personnel to which the provision would apply.

The House recedes.

FALSE REPORTING AND FRAUDULENT ACTS UNDER MEDICARE AND MEDICAID

Amendment Nos. 442–449: The House bill contained a provision defining certain actions under the medicare and medicaid programs to be fraud and setting penalties therefor.

The Senate amendments substituted for "Any provider . . . or other person . . ." the word "Whoever" when discussing fraudulent acts performed in any application for payments or certifications under Medicare of Medicaid and defines the term "whoever" to include individuals and business entities such as corporations, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

The Senate recedes.

PROVIDER REIMBURSEMENT APPEALS

Amendment Nos. 450–464: Under present law a fiscal intermediary determines the amount of reasonable cost to be paid to a provider of services. There is no specific legislative provision for an appeal by the provider of the intermediary's final reasonable cost determinations.

The House bill provided for the establishment of a Provider Reimbursement Review Board which would review cases involving medicare providers of services where the amount in controversy is $10,000 or more.

The Senate amendment modified the House bill by including two additional situations which could serve as a basis for provider appeals. The first provision would enable groups of providers to appeal adverse final decisions of the fiscal intermediary to the Board where the amount at issue aggregates $10,000 or more. The second modification enables any provider which believes that its fiscal intermediary has failed to make a timely cost determination on an acceptable supplemental filing where the initial filing was deficient, to appeal to the Board where the amount in controversy is $10,000 or more.

The House recedes with an amendment to the Senate provision in the case of groups of providers by increasing the amount which must be at issue from $10,000 to $50,000.

ROLE OF THE JOINT COMMISSION ON ACCREDITATION OF HOSPITALS IN MEDICARE

Amendment No. 465: The Senate amendment added a new section to the House bill which would authorize the Secretary to enter into an agreement with any State under which the State certifying agency would survey hospitals accredited by the Joint Commission on Accreditation of Hospitals on a limited basis, or a specific hospital, where, an allegation has been made that a condition exists in the hospital which is adverse to the health and safety of patients.

The House recedes.

DURABLE MEDICAL EQUIPMENT

Amendment No. 466: The Senate amendment added a new section to the House bill which would authorize the Secretary of Health, Education, and Welfare to experiment with reimbursement approaches for durable medical equipment (in various geographic areas) which are intended to avoid situations where total rentals exceed the purchase price, and to implement without further legislation any purchase approach found to be workable, desirable, and economical.

The House recedes.

UNIFORM STANDARDS FOR SKILLED NURSING FACILITIES—MEDICARE AND MEDICAID

Amendment No. 467: The Senate amendment added a new section to the House bill which provided for a single definition of and a single set of requirements for a skilled nursing home under medicaid and extended care facility under medicare. The definition would be the present medicare definition plus the following items:

(1) complete information on the identity of each person with an interest (direct or indirect) of 1 percent or more in the facility would have to be made public,

(2) the facility would have to cooperate with a program of independent medical audit of its patients; and

(3) the facility would have to meet the provisions of the Life Safety Code of the National Fire Protection Association (1967 Edition) except that the Secretary would have limited waiver authority.

In addition, the Senate amendment would require facilities to submit certified statements of their costs within 120 days of close of each fiscal year.

The House recedes with amendments as follows: (1) the amount of the interest in a facility requiring identification would be 10 percent rather than 1 percent; and (2) the provision requiring submission of cost statements is deleted.

SINGLE DEFINITION OF COVERED CARE IN NURSING HOMES FOR MEDICARE AND MEDICAID

Amendment No. 468: The Senate amendment added a new section to the House bill which would establish a single definition of covered care in a skilled nursing home which would apply to both medicare and medicaid. Services covered would be those services provided directly by, or requiring the supervision of, skilled nursing personnel, or skilled rehabilitation services, which the patient needs on a daily basis, and which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis.

The House recedes.

FOURTEEN-DAY EXTENDED CARE FACILITY TRANSFER REQUIREMENT

Amendment No. 469: The Senate amendment added a new section to the House bill which would amend existing law to permit an interval of longer than 14 days between discharge from a hospital and admission to a skilled care facility under certain conditions; when, following discharge, the patient's condition does not permit the immediate provision of skilled nursing or rehabilitation services, or rehabilitation services, or the nonavailability of space prevents admission for not longer than 2 weeks beyond the 14 days.

The House recedes.

REIMBURSEMENT OF SKILLED NURSING HOMES AND INTERMEDIATE CARE FACILITIES UNDER MEDICAID

Amendment No. 470: The Senate amendment added a new section to the House bill which would require States to reimburse skilled nursing and intermediate care facilities on a reasonable cost-related basis by July 1, 1974.

The States would be able to use acceptable cost-finding techniques (not necessarily those utilized for medicare purposes) to determine reasonable reimbursement and apply to the results appropriate methodologies for determining payment.

The new Senate section further provided that cost reimbursement methods which the Secretary would find acceptable for a State medicaid program could also be adopted, with appropriate adjustments, in the State for purposes of medicare reimbursement. The Secretary would be permitted to adjust a rate upward, where appropriate. Where a skilled nursing facility is a distinct part of, or directly operated by a hospital, reimbursement would be made for care in such facilities in the same manner as is applicable to the hospital's costs. Where a skilled nursing facility functions in a close formal medical satellite relationship with a hospital (which would be defined in regulations of the Secretary) reimbursement would be made on the basis of costs not to exceed 150 percent of the adjusted medicaid rate of payment (if the Secretary applies such rates to medicare facilities in that State) for care in that facility (or comparable facility).

The House recedes with an amendment changing the effective date to July 1, 1976.

COMMON CERTIFICATION PROCESS FOR SKILLED NURSING HOMES UNDER MEDICARE AND MEDICAID

Amendment No. 471: The Senate amendment added a new section to the House bill which provides that determination of basic eligibility of skilled nursing homes under medicaid would be made by the Secretary (rather than by the State).

The appropriate State health agency would survey facilities wishing to participate in either (or both) medicare or medicaid and report its findings and recommendations to the Secretary. The Secretary would base his action on the State-supplied information.

The House recedes with an amendment under which the Secretary would act as the certifying agent for medicaid only with respect to facilities which have also requested to be certified under medicare.

INCREASE IN FEDERAL FINANCING OF MEDICAID NURSING HOME CERTIFICATIONS

Amendment No. 472: The Senate amendment added a new section to the House bill which would increase from 75 to 100 percent the Federal share of the costs of certifying and inspecting skilled nursing homes under the medicaid system.

The House recedes with an amendment authorizing such increased matching only from October 1, 1972, to July 1, 1974.

DISCLOSURE OF INFORMATION ON PERFORMANCE OF MEDICARE CONTRACTORS

Amendment No. 473: The Senate amendment added a new section to the House bill which would require that the Secretary make public the following types of evaluations and reports dealing with the operation of the medicare and medicaid programs:

(1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

(2) comparative evaluations of the performance of contractors—including comparisons of either overall performance or of any particular contract or operation;

(3) program validation survey reports—with the names of individuals deleted.

Public disclosure of evaluations and reports would not be required to be made until the contractor, State agency, or facility was given suitable opportunity—not to exceed 60 days—for comments as to the accuracy of the findings and conclusions of the evaluation or report with such comments being made part of the report where the portions originally objected to have not been modified in line with the comment. The reports would not be required to contain information concerning those deficiencies which are known by the Secretary to have been fully corrected within 60 days of the date they were initially brought to the attention of the contractor or provider of services.

The House recedes.

LIMITATION ON INSTITUTIONAL CARE UNDER MEDICAID

Amendment No. 474: The Senate amendment added a new section to the House bill precluding Federal matching for that portion of any money payment which is related institutional, medical, or other type of remedial care provided by an institution which is (or could be) included under the medicaid program.

The House recedes.

ELIGIBILITY FOR MEDICAID OF SOCIAL SECURITY BENEFICIARIES

Amendment No. 475: The Senate amendment added a new provision to the House bill which would require that in those States which limit medicaid coverage to categorically needy persons (recipients of cash assistance or persons who would be eligible for cash payments except that they reside in an institution), no person who was medicaid-eligible in August 1972 could be deemed ineligible for medicaid solely because of the increase in income resulting from the 20% increase in social security benefits voted by the Congress in June 1972. In such cases States would have the option of requiring a person who leaves the cash rolls because of the social security increases to incur medical expenses in the amount of the excess income resulting from the benefit change before he receives medicaid coverage (in effect, instituting for these persons a spend-down similar to that applied in States with programs for the medically needy). Alternatively, a State may simply disregard that amount of the social security benefit increase by which income exceeds the standard for purposes of determining medicaid eligibility. Such a disregard would not be applicable for purposes of the cash assistance program.

The House receded with an amendment which strikes the Senate amendment substituting in lieu thereof a provision requiring that an individual eligible for medicaid and for cash public assistance in September 1972 not be made ineligible for medicaid from October 1972 through September 1973 solely because of the 20 percent social security benefit increase first paid on October 3, 1972.

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Amendment No. 476: The Senate amendment added a new section to the House bill which provides for the establishment of Professional Standards Review organizations consisting of substantial numbers of practicing physicians (usually 300 or more) in local areas to assume responsibility for comprehensive and on-going review of services covered under the medicare and medicaid programs. The PSRO would be responsible for assuring that services were (1) medically necessary and (2) provided in accordance with professional standards. PSRO's would not be involved with reasonable charge determinations. The provision is designed to assure proper utilization of care and services provided in medicare and medicaid utilizing a formal professional mechanism representing the broadest possible cross-section of practicing physicians in an area. Safeguards are included, designed to protect the public interest, including appeals procedures, and to prevent pro forma assumption in carrying out review responsibilities. The provision requires recognition of and use by the PSRO of utilization review committees in hospitals and medical organizations to the extent determined effective.

The House recedes with the following amendment:

(1) Until January 1, 1976, the Secretary would be able to make an agreement only with a qualified organization which represents a substantial proportion of the physicians in the geographical area designated by the Secretary.

(2) A professional standards review organization would not be required to review other than institutional care and services unless such organization chooses to include the review of other services and the Secretary agrees.

(3) Until January 1, 1976, at the request of 10 percent or more of the practicing physicians in a geographical area designated by the Secretary, the Secretary would be required to poll the practicing physicians in the area as to whether or not an organization of physicians which has requested to conclude an agreement with the Secretary to estab-

lish a professional standards review organization in that area substantially represents the practicing physicians in that area.

If more than 50 percent of the practicing physicians in the area responding to the poll indicate that the organization does not substantially represent the practicing physicians in the area, the Secretary could not enter into an agreement with that organization.

COVERAGE OF PHYSICAL THERAPISTS UNDER MEDICARE

Amendment Nos. 478–499: The House bill contained a provision which (1) provided coverage under Part B of medicare for up to $100 per calendar year of physical therapy services furnished by a licensed physical therapist in his office (or in the patient's home) under a physician's plan and (2) modified the reimbursement methods for physical therapists and other health-related personnel when providing services under an arrangement with a provider of services.

The Senate amendment deleted that portion of the House provision authorizing reimbursement for up to $100 annually for physical therapy services in a therapist's office, and modified the House provision limiting reimbursement of therapists to authorize the Secretary, where the services of a therapist are required on a part-time or intermittent basis, to make payment on the basis of a reasonable rate per unit of service greater per unit of time than salary equivalent amounts where such payments, in the aggregate, are less than would have resulted, if the therapist was employed by the provider on a full or part-time salaried basis.

The House recedes with an amendment restoring the first item—coverage of physical therapy in a therapist's office.

COVERAGE OF PTOSIS BARS UNDER MEDICARE

Amendment No. 500: The House bill contained a provision which would cover ptosis bars under Part B of medicare.

The Senate amendment deleted the House provision.

The House recedes.

WAIVER OF ENROLLMENT PERIOD REQUIREMENTS UNDER MEDICARE

Amendment Nos. 505–506: The House bill contained a section which permits waiver of certain enrollment requirements where the beneficiary was given erroneous information.

The Senate amendments modified the House provision by defining the prejudicial action as caused by an employee or agent of the Federal government rather than of HEW as in the House bill.

The House recedes.

SELECTION OF PART B CARRIERS FOR RAILROAD RETIREMENT BENEFICIARIES

Amendment Nos. 507–508: The House bill contained a provision which provided that the Railroad Retirement Board would be authorized to contract with a carrier or carriers for purposes of servicing its beneficiaries with respect to part B benefits, an arrangement presently in effect as a result of the Commissioner of Social Security having delegated his authority to do this to the Railroad Retirement Board.

The Senate amendments deleted the House provision.

The Senate recedes.

PROFESSIONAL SOCIAL WORKERS IN EXTENDED CARE FACILITIES UNDER MEDICARE

Amendment No. 509: The House bill contained a provision which would prohibit the Secretary of Health, Education, and Welfare from requiring that extended care facilities obtain the services of a professional social worker.

The Senate amendment deleted the House provision.

The Senate recedes.

ELIMINATION OF COINSURANCE FOR HOME HEALTH SERVICES

Amendment No. 557: The Senate amendment added a new section to the House bill which would remove the 20-percent coinsurance feature with respect to home health services under Part B of medicare.

The House recedes.

AND SKILLED NURSING INTERMEDIATE CARE FACILITIES ON INDIAN RESERVATIONS

Amendment No. 558: The Senate amendment added a new section to the House bill which would include as intermediate care facilities and skilled nursing facilities under medicaid long-term care institutions on Indian reservations.

The House recedes.

GRANTS FOR NURSES AND TRAINING

Amendment No. 559: The Senate amendment added a new section to the House bill which would establish a grant program for training nurses' aides and orderlies.

The Senate recedes.

MEDICAID SPEND-DOWN LEVEL

Amendment No. 560: The Senate amendment added a new section to the House bill which would provide that any State which extends Title XIX services to the medically needy must provide for a medical assistance standard which is no lower than the payment standard for the related cash assistance program. The limitation under current law, whereby Federal matching is only available for services provided to persons whose income (after medical expenses) is no higher than 133 percent of the AFDS payment, adjusted for family size, would be overridden but only in those cases where the cash assistance standard for the appropriate recipient category exceeded 133 percent of the adjusted AFDC level.

The Senate recedes.

CLARIFICATION OF MEDICARE APPEAL PROCEDURES

Amendment No. 561: The Senate amendment added a new section to the House bill which would make clear that there is no authorization for an appeal to the Secretary or for judicial review on matters solely involving amounts of benefits under Part B, and that insofar as Part A amounts are concerned, appeal is authorized only if the amount in controversy is $100 or more and judicial review only if the amount in controversy is $1,000 or more.

The House recedes.

MEDICARE COVERAGE OF MINERS RECEIVING BLACK LUNG BENEFITS

Amendment No. 562: The Senate amendment added a new section to the House bill which would extend medicare coverage for individuals receiving black lung benefits under medicare.

The Senate recedes.

OCCUPATIONAL THERAPY UNDER MEDICARE

Amendment No. 563: The Senate amendment added a new section to the House bill which would modify the medicare home health provisions by providing that the need for occupational therapy would be added to the list of needs which can qualify an individual for home health services.

The Senate recedes.

LIMITATIONS ON RECOVERY OF OVERPAYMENTS

Amendment No. 529: The Senate amendment added a new section to the House bill which would limit medicare's right of recovery of overpayments to a 3-year period (or less, but not less than one year) from the date of payment, where the provider of services or the beneficiary involved acted in good faith; would enable the Secretary to specify a reasonable period of time (of not less than one year or more than 3 years) after which medicare would not be required to accept claims for underpayment or nonpayment.

The House recedes.

INCREASE IN FEDERAL MATCHING FOR MEDICAL PERSONNEL UNDER CONTRACT UNDER MEDICAID

Amendment No. 530: The Senate amendment added a new section to the House bill which would permit 75-percent Federal matching for the reasonable costs of paying for the services of professional medical personnel under contract with a State to help perform medicaid functions. Present law limits the 75-percent rate to such professionals employed by State agencies.

The Senate recedes.

OUTPATIENT SPEECH PATHOLOGY UNDER MEDICARE

Amendment No. 531: The Senate amendment added a new section to the House bill which would provide additional coverage of speech therapy services under Part B when furnished by an organized health agency, clinic, or public health agency. The "clinic" could be composed of a single speech pathologist. The services must be furnished under a plan of care prepared by a physician.

The House recedes with an amendment revising the provision to cover speech pathology services furnished by an organization now eligible to furnish covered physical therapy services.

SERVICES OF CLINICAL PSYCHOLOGISTS UNDER MEDICARE

Amendment No. 532: The Senate amendment added a new section to the House bill which would remove the Part B requirement that the services of clinical psychologists now covered under medicare be provided under the direct supervision of a physician.

The Senate recedes.

OUTPATIENT REHABILITATION SERVICES UNDER MEDICARE

Amendment No. 533: The Senate amendment added a new section to the House bill which would establish a new benefit category under Part B for outpatient rehabilitation in outpatient settings. The organization providing such services would have to meet standards similar to those applied now to providers of outpatient physical therapy services.

The Senate recedes.

ASSIGNMENT OF FISCAL INTERMEDIARIES BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE, UNDER MEDICARE

Amendment No. 534: The Senate amendment added a new section to the House bill which would authorize the Secretary to assign or reassign providers to available intermediaries wherever such assignment or reassignment would result in more efficient administration. In making an assignment, the Secretary would be required to take the provider's choice of intermediary into consideration but he would not be bound by the provider's choice.

The Senate recedes.

TERMINATION OF MEDICAL ASSISTANCE ADVISORY COUNCIL

Amendment No. 535: The Senate amendment added a new section to the House bill which would terminate the present Medical Assistance Advisory Council which advises the Secretary on matters related to the medicaid program.

The House recedes.

CHANGE IN ROLE OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Amendment No. 536: The Senate amendment added a new section to the House bill which would modify the function of the Health Insurance Benefits Advisory Council so that its role would be to provide recommendations on matters of general policy with respect to Medicare and Medicaid. The Council would only meet as often as the Secretary deems necessary, but not less than annually.

The House recedes.

ADMINISTRATION OF OATHS IN MEDICARE PROCEEDINGS

Amendment No. 537: The Senate amendment added a new provision to the House bill which would permit the Secretary to administer oaths and affirmations in medicare proceedings in the same way and to the same extent he is now permitted in cash social security benefit proceedings under Title II of the Social Security Act.

The House recedes.

WITHHOLDING MEDICAID PAYMENTS WHEN A PROVIDER OWES THE MEDICARE PROGRAM

Amendment No. 538: The Senate amendment added a new section to the House bill which would authorize the Secretary of Health, Education, and Welfare to withhold future Federal financial participation in State medicaid payments to institutions which have withdrawn from medicare without refunding monies which they owe medicare or without filing final cost reports with medicare unless they enter into settlement negotiations with the Secretary.

The House recedes.

MATERNAL AND CHILD HEALTH

Amendment No. 539: The Senate amendment added a new section to the House bill which would extend for an additional year (through June 30, 1974) the present direct Federal grants part of the maternal and child health program.

The Senate recedes.

PERMITTING INTERMEDIATE CARE PROGRAMS IN STATES WITHOUT MEDICAID

Amendment No. 540: The Senate amendment added a new section to the House bill which would allow Federal matching for intermediate care in States which, on January 1, 1972, did not have a medicaid program.

The House recedes.

APPOINTMENT AND CONFIRMATION OF ADMINISTRATOR OF SOCIAL AND REHABILITATION SERVICE

Amendment No. 542: The Senate amendment added a new section to the House bill which would make appointments to the Office of Administrator of the Social and Rehabilitation Service subject to Presidential approval and Senate confirmation.

The House recedes.

DELEGATION OF MAINTENANCE OF EFFORT REQUIREMENT FOR MENTAL PATIENTS UNDER MEDICAID

Amendment No. 543: The Senate amendment deleted the maintenance of effort requirement for care of people 65 and over in mental hospitals under the medicaid program

The House recedes.

GRANTS FOR TRAINING OF INTERMEDIATE CARE FACILITY ADMINISTRATORS

Amendment No. 544: The Senate amendment added a new section to the House bill which would authorize expenditures for fiscal years 1973 and 1974 for the training of Intermediate Care Facility administrators who cannot meet Federal standards.

The Senate recedes.

INTERMEDIATE CARE FACILITIES AS MENTAL HEALTH INSTITUTIONS UNDER MEDICARE

Amendment No. 545: The Senate amendment added a new section to the House bill which provided that when a State chooses to cover individuals age 65 and over in institutions for tuberculosis or mental diseases it must cover such care in intermediate care facilities as well as in hospitals and skilled nursing homes. The provision would be effective after December 31, 1971.

The House recedes with an amendment making the effective date after December 31, 1972.

INDEPENDENT MEDICAL REVIEW IN INTERMEDIATE CARE FACILITIES

Amendment No. 546: The Senate amendment added a new section to the House bill which would require that inpatients of all intermediate care facilities be subject to independent medical audit, not as under present law, just the inpatients of intermediate care facilities which furnish a minimum level of health care.

The House recedes.

MODIFICATION OF MAINTENANCE OF EFFORT PROVISION WITH RESPECT TO PUBLIC INTERMEDIATE CARE FACILITIES

Amendment No. 547: The Senate amendment added a new section to the House bill which would modify the maintenance of effort provision in present law (enacted as part of Public Law 92–223) with respect to public institutions for the mentally retarded by (1) providing for a base year consisting of the four calendar quarters immediately preceding the quarter in which such services were covered and (2) providing that the provisions will expire on January 1, 1975.

The House recedes.

DISCLOSURE OF OWNERSHIP OF INTERMEDIATE CARE FACILITIES

Amendment No. 548: The Senate amendment added a new section to the House bill which would require: (1) the disclosure of the name and address of each person having a 10-percent interest (direct or indirect) in an intermediate care facility; and (2) that intermediate care facilities submit a cost report to the State medicaid agency within 120 days after the close of the fiscal year.

The House recedes with an amendment striking out item 2.

MEDICAID COVERAGE OF MENTALLY ILL CHILDREN

Amendment No. 549: The Senate amendment added a provision to the House bill which would authorize Federal matching for medicaid eligible children under age 21 who are inpatients in institutions for mental diseases. The new section also authorizes the Secretary of Health, Education, and Welfare to conduct, through contracts with State agencies, a limited number of demonstration projects to determine the feasibility of extending medicaid mental hospital coverage to mentally ill persons who are otherwise eligible for medicaid and who are between the ages of 21 and 65.

The House recedes with amendments as follows: (1) by providing that Federal matching would not be available with respect to any otherwise eligible individual unless such individual is formally certified to be in need of the institutional care and services authorized under the Senate amendment by an independent review team consisting of medical and other personnel qualified to make such determination; the review must also include a finding that the active care and treatment to be provided can reasonably be expected to result in significant improvement in the mental condition of such individual leading to the eventual discharge from the institution, and (b) by striking out the provisions authorizing demonstration projects for mentally ill persons between age 21 and 65.

DISCLOSURE OF SURVEY INFORMATION ABOUT HEALTH FACILITIES UNDER MEDICARE AND MEDICAID

Amendment No. 550: The Senate amendment added a new section to the House bill which would require the Secretary of Health, Education, and Welfare to identify, and make available to the public, information derived from a survey of a health facility or organization on the absence or presence of significant deficiencies in that facility or organization.

The House recedes.

CHANGES IN FAMILY PLANNING REQUIREMENTS

Amendment No. 551: The Senate amendment added a new section to the House bill which (1) would increase Federal matching for family planning services to 100 percent and make family planning a mandated service under medicaid, and; (2) would reduce Federal matching for regular AFDC cash payments by 2 percent in any year the State did not inform AFDC adults of the availability of family planning counseling and related medical care.

The House recedes with amendments which (1) would set the matching rate for family planning services at 90 percent and (2) would reduce the 2 percent figure to 1 percent for reductions in AFDC payments for failure to inform or supply recipients with requested family planning services.

PENALTY FOR FAILURE TO SCREEN AND CARE FOR CHILDREN UNDER MEDICAID

Amendment No. 552: The Senate amendment added a new section to the House bill which specifies that the Federal share of AFDC matching funds would be reduced by 2 percent beginning in fiscal year 1975 if a State in the prior year (a) has failed to inform AFDC families of the availability of child health screening services for children of ages eligible for such services; or (b) failed to actually provide for or arrange for such services; or (c) failed to arrange for or refer to appropriate corrective treatment children disclosed by such screening as suffering illness or impairment.

The House recedes with an amendment which would decrease the 2 percent figure to 1 percent.

TITLE XV, AID TO DISABLED NARCOTIC AND ALCOHOLIC ADDICTS, EFFECTIVE JANUARY 1, 1973

Amendment Nos. 553–554: The Senate amendments added a new section to the House bill which: (a) precludes eligibility of medically determined alcoholics and addicts for welfare under AFDC and for benefits, on the basis of disability, under the Supplemental Security Income program, and (b) establishes a program under the new title, Title XV of the Social Security Act designed to require appropriate professional care and treatment of alcoholics and addicts utilizing existing agencies and mechanisms. Maintenance payments could be made only as part of a treatment and rehabilitation program. Matching funds under this title would be at the rates otherwise provided for the type of payments made (medical care and treatment would be matched at medicaid rates and cash payments and defined social services matched at the rates applicable to the category under which the person would otherwise be aided).

The Senate recedes (see related provisions in amendments of programs for the aged, blind, and disabled).

CHRONIC RENAL DISEASE COVERAGE UNDER MEDICARE

Amendment No. 555: The Senate amendment added a new section to the House bill which provided that fully or currently insured workers, and their dependents, with chronic renal disease would be deemed disabled for purposes of coverage under medicare. Coverage would begin 6 months after the onset of the condition providing that such individuals require hemodialysis or renal transplantation.

The House recedes with an amendment which would modify the Senate provision by providing that coverage would begin with the fourth month after the individual first receives hemodialysis services.

W. D. Mills,
Al Ullman,
James A. Burke,
Mrs. Griffiths,
John W. Byrnes,
Jackson E. Betts,
H. T. Schneebeli,
Managers on the Part of the House.
Russell B. Long,
Clinton P. Anderson,
Herman Talmadge,
Wallace F. Bennett,
Carl Curtis,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6180, DEBT CEILING, AND REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4167, AMERICAN SAMOA TAX BILL

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent, in the event there is not a quorum tonight, that the managers have until midnight Sunday night to file conference reports to accompany two bills, H.R. 6180 and H.R. 4167.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. HALL. Mr. Speaker, reserving the right to object, first we need to know what the bills are.

Mr. MILLS of Arkansas. Oh. I am sorry. One has to do with the debt ceiling, H.R. 6180, and the other one is H.R. 4167, which is the bill that passed the House unanimously, to which an amendment was added. I think we accepted two amendments from the State. It is a bill that was introduced by Mrs. MINK, relating to American Samoa.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BURTON. Mr. Speaker, reserving the right to object, may I ask again what the number of the bill on American Samoa is?

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. BURTON. I yield to the gentleman.

Mr. MILLS of Arkansas. H.R. 4167 is the one relating to the American Samoa tax bill.

Mr. BURTON. Mr. Speaker, as to that part of the unanimous-consent request, I object.

The SPEAKER. Does the gentleman withdraw that part of his unanimous consent request?

Mr. MILLS of Arkansas. Yes. Mr. Speaker, I withdraw the request on H.R. 4167, if there is a question about it.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas on the remaining part of his request?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask if there is some urgency for this unanimous consent request, since we are adjourning here?

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. MILLS of Arkansas. Yes, very much so, because I would want to have it available and have the action taken, if we do not have a quorum tonight, so I will be able to get it over here and submit it for printing in the RECORD. We have worked these people to death trying to get these matters together in an attempt to accommodate the wishes of the House.

Mr. Speaker, if we can have until Sunday night to file this report, and if we do not have a quorum tonight, then the managers will have Monday to work, and we can bring it up for Tuesday. Otherwise I cannot file it until some time Tuesday afternoon.

Mr. HALL. Is the work of the conference completed?

Mr. MILLS of Arkansas. The work of the conference is completed, and the conference report is almost if not already completed. It is just a precautionary measure I am taking.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. VANIK. Mr. Speaker, reserving the right to object, with respect to the bill relating to the Samoan question, the Samoan tax bill, am I correct in understanding that language was added in the other body that would provide for an abatement of taxes in the State of West Virginia or providing for a deduction, a special deduction, for gasoline taxes in the State of West Virginia and also another provision on vacation pay?

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. VANIK. I yield to the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, the gentleman is correct. One of the amendments has to do with a problem that concerns West Virginia, that exists in West Virginia, I believe. They have two levels of sales or use taxes, a tax applicable to automobiles which is higher or lower than the legal sales tax, and because of that fact they cannot deduct the tax in the State of West Virginia that is deductible in every other State of the Union from income tax. There is no objection on the part of the Treasury whatsoever.

Mr. VANIK. Is there also an amendment submitted by the other body that relates to the minimum tax?

Mr. MILLS of Arkansas. That was not agreed to in conference; neither was the one involving insurance companies. We did agree to a provision that passed in the Committee on Ways and Means unanimously having to do with vacation pay.

That is with respect to the Mink bill.

Mr. VANIK. That is correct.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas with respect to filing the conference report on the debt ceiling bill H.R. 16180 by Sunday night?

Mr. MILLS of Arkansas. That is the debt ceiling bill. I withdrew the other.

The SPEAKER. Is there objection to that request?

There was no objection.

CONFERENCE REPORT ON H.R. 16810

Mr. MILLS of Arkansas submitted the following conference report and statement on the bill (H.R. 16810) to provide for a temporary increase in the public debt limitation, and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973:

CONFERENCE REPORT (H. REPT. No. 92-1606)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16810) to provide for a temporary increase in the public debt limitation, and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 9, and 11.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, and 7, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b)(1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraphs (2) and (3), reserve from expenditures and net lending, from appropriations or other obligational authority heretofore or hereafter made available, such amounts as may be necessary to effectuate the provisions of subsection (a).

(2) In carrying out the provisions of paragraph (1), the President shall reserve amounts from appropriations or other obligational authority available for any program or activity, except for expenditures and net lending for—

(A) veterans' compensation, pension benefits, and hospital care;

(B) benefits from social insurance trust funds;

(C) medicaid;

(D) public assistance maintenance grants;

(E) military retirement pay, civil service annuities, and railroad retirement annuities and pensions; and

(F) judicial salaries.

Nothing in this paragraph shall preclude the reservation of amounts for administrative costs or construction.

(3) Under the authority of this Act, no amount of any budgetary outlay for any numerical functional category set forth in table 15 (relating to budget outlays by function and agency) of part 7 of The Budget of the United States Government, 1973, (page 526 and following) may be reduced by more than 20 per centum of the revised budget estimate for such outlay. For purposes of the preceding sentence, the following numerical functional categories may be consolidated and the resulting consolidation may be treated as one numerical functional category:

(A) 058 and 059,
(B) 251, 252, 253, 254, and 259,
(C) 352, 354, and 355,
(D) 402 and 403,
(E) 405 and 409,
(F) 506, 507, and 508,
(G) 552 and 555,
(H) 603, 604, and 605,
(I) 802 and 803,
(J) 903 and 904,
(K) 905 and 906, and
(L) 909 and 910.

And the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

On page 5, line 7, of the Senate engrossed amendments, after "Sec." insert: 203.

And the Senate agree to the same.

W. D. MILLS,
AL ULLMAN,
Mrs. GRIFFITHS,
JOHN W. BYRNES,
JACKSON E. BETTS,
H. T. SCHNEEBELI,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
WALLACE BENNETT,
JACK MILLER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16180) to provide for a temporary increase in the public debt limitation, and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment Numbered 1: The bill as passed by the House establishes a ceiling of $250,000,000,000 on expenditures and net lending during the fiscal year ending June 30, 1973, and directs the President to reserve from expenditures and net lending, from appropriations or other obligational authority heretofore or hereafter made available, such amounts as may be necessary to keep expenditures and net lending during fiscal year 1973 within this ceiling.

Senate amendment numbered 1 also directed the President to reserve such amounts as may be necessary to keep expenditures and net lending within the $250 billion ceiling, but provided that, with certain exceptions, such amounts were to be reserved proportionately from appropriations or other obligational authority available for all programs or activities. The program and activities from which no reservations were to be made were—

(1) interest,

(2) veterans' benefits and services,

(3) payments from social insurance trust funds,

(4) medicaid,

(5) public assistance maintenance grants,

(6) social services grants under title IV of the Social Security Act,

(7) food stamps,

(8) military retirement pay, and

(9) judicial salaries.

Senate amendment numbered 1 also provided that no amount specified in any appropriation, or any activity, program, or item within such appropriation, could be reduced by more than 10 percent.

The conference substitute directs the President to reserve such amounts as may be necessary to keep expenditures and net lending within the $250 billion ceiling, but provides that no reservations shall be made (for other than administrative and construction costs) from appropriations or other obligational authority for

(A) veterans' compensation, pension benefits, and hospital care;

(B) benefits from social insurance trust funds;

(C) medicaid;

(D) public assistance maintenance grants;

(E) military retirement pay, civil service annuities, and railroad retirement annuities and pensions; and

(F) judicial salaries.

The conference substitute also provides that the President may not reserve more than 20 percent from appropriations or other obligational authority for any function listed by numerical category in table 15, part 7, The Budget of the United States Government, 1973, or from certain combinations of such categories.

Amendment Numbered 2: Senate amendment numbered 2 provided that the amounts proportionately reserved by the President pursuant to Senate amendment numbered 1 were not to include appropriations or other obligational authority available for fiscal year 1973 to which another statutory spending limitation of 10 percent or more applies. The Senate recedes.

Amendment Numbered 3: The bill as passed by the House establishes a temporary joint committee to review operations of the expenditure ceiling established by title II of the bill, and to recommend procedures for improving congressional control of budgetary outlay and receipt totals, including procedures for establishing and maintaining an overall view of each year's budgetary outlays which is fully coordinated with an overall view of the anticipated revenues for that year. Under the bill passed by the House, the joint committee consisted of 30 members as follows:

(1) Seven members from the Committee on Ways and Means of the House and seven members from the Committee on Appropriations of the House, appointed by the Speaker.

(2) One additional member of the House appointed by the Speaker.

(3) Seven members from the Committee on Finance of the Senate and seven members from the Committee on Appropriations of the Senate, appointed by the President pro tempore.

(4) One additional member of the Senate appointed by the President pro tempore.

Senate amendment numbered 3 increases the membership of the joint committee to 32 members, and provides that (in addition to the 7 members of the House chosen from the Committee on Ways and Means and the Committee on Appropriations and the 7 members of the Senate chosen from the Committee on Finance and the Committee on Appropriations) each House would have two additional members on the joint committee, one from the majority party and one from the minority party, to be appointed by the Speaker and the President pro tempore, respectively.

The House recedes.

Amendment Numbered 4: Senate amendment numbered 4 provides that no person appointed by reason of his membership on the House and Senate committees referred to shall continue as a member of the joint committee after he has ceased to be a member of the committee from which he was chosen. However, the members of the joint committee chosen from the House committees who have been reelected to the House may continue to serve as members of the joint committee notwithstanding the expiration of the Congress.

Senate amendment numbered 4 also provides that a vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as the original selection.

The House recedes.

Amendment Numbered 5: Senate amendment numbered 5 provides that the expenses of the joint committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee, and authorizes expenditures of not to exceed $100,000 through February 28, 1973. The House recedes.

Amendment Numbered 6: This is a clerical amendment. The House recedes.

Amendment Numbered 7: Senate amendment numbered 7 provides that, for purposes of paragraph (6) of Rule XXV of the Standing Rules of the Senate (which limits the number of committee assignments and committee chairmanships of Senators), service of a Senator as a member of the joint committee, or as chairman of the joint committee, shall not be taken into account. The House recedes.

Amendment Numbered 8: Senate amendment numbered 8 adds a new title IV to the bill which added a new section to title II of the Budget and Accounting Procedures Act of 1950. Under the new section, whenever the President impounds any appropriated funds, he is to transmit promptly to the Congress and to the Comptroller General of the United States a report containing specified information with respect to the funds impounded. All such reports are to be published in the Federal Register.

The House recedes with a clerical amendment.

Amendment Numbered 9: Senate amendment numbered 9 added a new title V to the bill containing three amendments to the Legislative Reorganization Act of 1970. Section 501 added a new section to the 1970 Act which established a permanent Joint Committee on the Budget to review all matters relating to the annual budget and information relating to Government expenditures and revenues, and to make reports and recommendations to the appropriate committees of the Congress concerning Government efficiency, spending ceilings, fiscal year estimates of program and project costs, and deviations from basic authorizations of law and appropriations inconsistent with those authorizations. Section 502 amended the 1970 Act to require each Federal agency responsible for carrying out a proposed bill or joint resolution, being reported by a Congressional committee (with certain exceptions), to furnish the committee with cost estimates of the proposed legislation. The Joint Committee on the Budget was to maintain a compilation of, and print, those estimates. Section 503 further amended the 1970 Act by authorizing the Joint Committee to recommend to the Appropriations Committees of the two Houses of the Congress to hold joint hearings.

The Senate recedes.

Amendment numbered 10: This amendment added a new title VI to the bill providing that section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended so that, effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, the State may by law provide that the determination of whether there has been a State "on" indicator or a State "off" indicator beginning or ending any extended benefit period is to be determined without regard to the 120-percent requirement contained in section 203(e)(1)(A) of such Act and without regard to the requirement of a 13-week waiting period between extended benefit periods contained in section 203(b)(1)(B) of such Act.

This amendment is reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in Senate amendment numbered 10 with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE V—MISCELLANEOUS PROVISIONS

AMENDMENT TO FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

SEC. 501. Section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'off' indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof."

Amendment Numbered 11: Senate amendment numbered 11 added a new title VII to the bill relating to the income tax treatment of unmarried individuals. In general, this amendment provided that all individuals, other than married individuals filing separate returns, would be subject to the same rates of tax on their taxable incomes.

The Senate recedes.

W. D. MILLS,
AL ULLMAN,
MARTHA W. GRIFFITHS,
JOHN W. BYRNES,
JACKSON E. BETTS,
H. T. SCHNEEBELI,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
WALLACE F. BENNETT,
JACK MILLER,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. McClory, for 5 minutes, today, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. Carlson) to revise and extend their remarks and include extrane-15 minutes, today.

Mr. Halpern, for 20 minutes, today.

Mrs. Heckler of Massachusetts, for 15 minutes, today

Mr. Kyl, for 1 hour, today.

Mr. Derwinski, for 10 minutes, today.

Mr. Ruppe, for 10 minutes, today.

Mr. Miller of Ohio, for 1 hour, October 17.

Mr. Findley, for 5 minutes, today.

Mr. Williams, for 10 minutes, today.

Mr. Buchanan, for 5 minutes, today.

Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include extraneous material:)

Mr. Smith of Iowa, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mrs. Griffiths, for 15 minutes, today.

Mr. Eilberg, for 5 minutes, today.

Mr. O'Hara, for 20 minutes, today.

Mr. Rooney of Pennsylvania, for 5 minutes, today.

(The following Member (at the request of Mr. Breaux) and to revise and extend his remarks and include extraneous matter:)

Mr. Burton, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Zablocki, in two instances, and to revise and extend his remarks and include extraneous matter.

Mr. Gerald R. Ford (at the request of Mr. Kyl) to extend his remarks in the body of the Record.

Mr. Miller of California, in 5 instances.

(The following Members (at the request of Mr. Carlson) and to include extraneous material:)

Mrs. Heckler of Massachusetts.

Mr. Jonas.

Mr. Dennis.

Mr. Wyman in two instances.

Mr. Sebelius in two instances.

Mr. Grover.

Mr. Hosmer in three instances.

Mr. Harvey.

Mr. Landgrebe in two instances.

Mr. Gubser in the five instances.

Mr. Terry.

Mr. Bob Wilson in three instances.

Mr. Keith.

Mrs. Dwyer.

Mr. Mizell in 10 instances.

Mr. Railsback in three instances.

Mr. Wyatt.

Mr. Buchanan in five instances.

Mr. Springer.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous material:)

Mr. Sikes in five instances.

Mr. Smith of Iowa in five instances.

Mr. Fascell in three instances.

Mr. Johnson of California in two instances.

Mr. Ichord in three instances.

Mr. Anderson of California in four instances.

Mr. Bingham in five instances.

Mrs. Grasso in five instances.

Mr. Flowers.

Mr. Begich in three instances.

Mr. Daniels of New Jersey in 10 instances.

Mr. Gonzalez in three instances.

Mr. Sisk.

Mr. Rarick in eight instances.

Mr. Kluczynski.

Mr. Colmer in two instances.

Mr. O'Neill.

Mr. Flood in two instances.

Mr. McFall.

Mr. Helstoski in two instances.

Mr. Brinkley in two instances.

Mr. Vanik in three instances.

Mr. Adams in three instances.

Mr. Gaydos in three instances.

Mr. Hagan in three instances.

Mr. William D. Ford in seven instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 4039. An act to amend Public Law 90-553 concerning an international center for sites for chanceries for foreign embassies; to the Committee on Public Works.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8756. An act to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes;

H.R. 9727. An act to regulate the transportation for dumping, and the dumping, of material into ocean waters, and for other purposes.

H.R. 10556. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof.

H.R. 14128. An act for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar;

H.R. 14370. An act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes;

H.R. 14424. An act to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging;

H.R. 14542. An act to amend the act of September 26, 1966, Public Law 89-606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes;

H.R. 14989. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 15280. An act to amend the act of August 16, 1971, which established the National Advisory Committee on Oceans and Atmosphere, to increase the appropriation authorization thereunder;

H.R. 16444. An act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes;

H.R. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 16754. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; and

H.R. 16987. An act to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 216. An act to permit suits to adjudicate certain real property quiet title actions;

S. 1852. An act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes;

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 1928. An act to amend the Wild and Scenic Act by designating a segment of the St. Croix River, Minnesota and Wisconsin, as a component of the national wild and scenic rivers system;

S. 2411. An act to establish the Chamberland Island National Seashore in the State of Georgia, and for other purposes;

S. 2454. An act to amend the Youth Conservation Corps Act of 1970 (Public Law 91-378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico;

S. 2741. An act to amend the Act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such act;

S. 3310. An act to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes;

S. 3337. An act to amend the Small Business Investment Act of 1958, and for other purposes;

S. 3507. An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes;

S. 3755. An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes;

S. 4018. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

S.J. Res. 199. Joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., as the first university in the United States to bear the full name of the third President of the United States;

S.J. Res. 204. Joint resolution to authorize the preparation of a history of public works in the United States;

S.J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week"; and

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March 1973 as "National Beta Club Week."

REQUEST FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 1, SOCIAL SECURITY AMENDMENTS

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent—and it does take unanimous consent—for the immediate consideration of the conference report to accompany H.R. 1 and ask unanimous consent that the statement of the managers be read in lieu of the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

CALL OF THE HOUSE

Mr. O'HARA. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 453]

Abbitt
Abernethy
Abourezk
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Baker
Baring
Begich
Belcher
Bell
Biaggi
Blackburn
Blanton
Boland
Bolling
Bow
Brasco
Bray
Broomfield
Brotzman
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Celler
Chappell
Clancy
Clark
Clay
Collins, Ill.
Collins, Tex.
Colmer
Conte
Conyers
Corman
Cotter
Crane
Curlin
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Griffiths
Gross
Grover
Gubser
Haley
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hillis
Horton
Howard
Hull
Hungate
Hunt
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kazen
Keating
Kee
Keith
Kemp
Kluczynski
Kuykendall
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
McCloskey
McClure
McCormack
McCulloch
McDonald, Mich.
McKay
McKevitt
McMillan
Macdonald, Mass.
Mailliard
Martin
Matsunaga
Mayne
Meeds
Metcalfe
Michel
Mikva
Miller, Calif.
Minshall
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nichols
Patman
Pelly
Peyser
Pirnie
Podell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Railsback
Randall
Riegle
Roberts
Rogers
Roncalio
Rooney, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Sandman
Scherle
Schmitz
Scott
Seiberling
Shipley
Shoup
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Steele
Steiger, Ariz.
Stratton
Stuckey
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Whitehurst
Widnall
Wiggins
Winn
Wolff
Wright
Wydler
Wylie
Zwach

The SPEAKER. Two hundred and thirteen Members are present, not a quorum.

ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 22 minutes a.m., Sunday, October 15, 1972), the House adjourned until Tuesday, October 17, 1972, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on small business opportunities in outdoor recreation and tourism (Rept. No. 92–1602). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on the future of smalltown and rural America: the impact on small business (Rept. No. 92–1603). Referred to the Committee of the Whole House on the State of the Union.

Mr. SATTERFIELD: Committee of Conference. Conference report on H.R. 15475 (Rept. 92–1604). Ordered to be printed.

Mr. MILLS of Arkansas: Committee of Conference. Conference report on H.R. 1 (Rept. No. 92–1605). Ordered to be printed.

[*Pursuant to the order of the House on Oct. 15, 1972, the following report was filed on October 15, 1972*]

Mr. MILLS of Arkansas: Committee of Conference. Conference report on H.R. 16810 (Rept. No. 92–1606). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DON H. CLAUSEN:

H.R. 17171. A bill to authorize the establishment of the Luther Burbank National Historic Site in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FASCELL:

H.R. 17172. A bill to establish the Fort Zachary Taylor National Historic Site, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 17173. A bill to assure the free flow of information to the public; to the Committee on the Judiciary.

By Mr. FRASER:

H.R. 17174. A bill to establish a National Domestic Development Bank to provide an alternative source of credit to State and local governments for the purpose of financing public and quasi-public facilities of all types, and for other purposes; to the Committee on Banking and Currency.

H.R. 17175. A bill to amend the Social Security Act to provide for a system of children's allowances, and for other purposes; to the Committee on Ways and Means.

By Mr. GARMATZ (for himself and Mr. Clark):

H.R. 17176. A bill to amend the provision of law prohibiting the transportation of passengers between U.S. ports in foreign-flag vessels to permit such transportation in the case of certain cruising voyages; to the Committee on Merchant Marine and Fisheries.

By Mr. GARMATZ:

H.R. 17177. A bill to authorize amendment of contracts relating to the exchange of certain vessels for conversion and operation in unsubsidized service between the west coast of the United States and the Territory of Guam; to the Committee on Merchant Marine and Fisheries.

By Mr. HEINZ (for himself, Mr. Dellums, Mr. Gude, and Mr. Hosmer):

H.R. 17178. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on the discharge of pollutants; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 17179. A bill to amend title II of the Social Security Act to liberalize the retirement test; to the Committee on Ways and Means.

By Mr. McKINNEY:

H.R. 17180. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any non-market-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 17181. A bill to designate certain lands in the Isle Royale National Park, Mich., as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR:

H.R. 17182. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. SCHEUER:

H.R. 17183. A bill to amend the War Claims Act of 1948, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. SHOUP:

H.R. 17184. A bill to provide a sound program for the development and application of physical theory and operational systems for predicting damaging earthquakes in the United States; to the Committee on Science and Astronautics.

By Mr. VANIK (for himself, Mr. Archer and Mr. Horton):

H.R. 17185. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any non-market-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. WYMAN:

H.R. 17186. A bill to amend the Securities Act of 1933 to provide certain persons with procedures for applying to the Securities and Exchange Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND:

H.R. 17187. A bill to establish the Nantucket Sound Islands Trust, to preserve and conserve the said islands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CULVER (for himself and Mr. WHALEN):

H.R. 17188. A bill to establish within the Department of Labor a Trade Adjustment Assistance Administration, to transfer thereto certain functions and duties of other departments and agencies relating to trade adjustment assistance, to establish a comprehensive program of trade adjustment assistance, and for other purposes; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. TIERNAN introduce a bill (H.R. 17189) for the relief of Maria D'Arpino, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

WEEKLY REPORT TO NINTH DISTRICT CONSTITUENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the text of my last weekly report to Ninth District constituents on the role of the Vice President and the method by which he is nominated:

NOMINATION OF A VICE PRESIDENT

Senator Eagleton's nomination as vice-presidential candidate, and his subsequent withdrawal, has stirred a growing debate on the way we select our vice-presidents, and even on the role of the office itself. The controversy is fired by the realization that 12 of our 39 vice-presidents have become president—three of them since 1945 (Truman, Johnson and Nixon). In eight of the 12 cases, the death of the incumbent president prompted the move.

Several studies, in the Congress and elsewhere, are underway on the role of the vice-president and the method of his selection.

THE ROLE OF THE VICE PRESIDENT

The Constitution assigns the vice-president two roles, one active (to preside over the Senate), and the other potential (to serve as the president in the event of his death or disability).

The primary role of the vice-president continues to be that of being available in the event something should happen to the president. In the words of John Adams, "In this, I am nothing, but I may be everything." Few presidents have given their vice-presidents substantive roles in the administration, choosing to assign them to ceremonial tasks. The role of the vice-president is so vague that some political commentators have even proposed that the office of vice-president be abolished, and that the Speaker of the House of Representatives be made next in line to the presidency.

THE METHOD OF SELECTION

Several proposals have been made for revising the method of selecting the vice-president, among them:

1. Vice-presidential candidates should seek the office at state conventions, or run independent races in state primaries. The presidential candidate would then make his selection from among the top two or three candidates, based on primary or convention results.

2. A national primary, or series or regional primaries, should be established in which presidential and vice-presidential candidates would run. Voters would choose two candidates, and the one with the second-highest total would become the vice-presidential nominee.

3. The presidential and vice-presidential candidates should be elected separately rather than as a team, following the practice of several states in which governor and lieutenant-governor candidates are elected separately, regardless of party.

4. Candidates in presidential primaries should announce their vice-presidential choices before the race begins, then run as a team up until convention time.

5. The second-place finisher in the presidential balloting at the national convention should automatically become the vice-presidential nominee.

6. The presidential nominee should be allowed several days to pick his vice-presidential running mate, then have his choice certified to the party.

NO CHANGE, OR SLIGHT CHANGE?

Those who oppose change argue that the present system has worked well. Vice-presidents who have come to power through the death of the incumbent—Theodore Roosevelt, Coolidge, Truman, Johnson—have compared favorably with elected Chief Executives.

In addition, the present system has the advantage of giving the presidential nominee the chance to assure himself of a compatible running mate, which would not exist under most of the alternatives.

Some effort at reforming the system needs to be made. At a minimum, I support changing the convention schedule so that the presidential nominee has two days to make his selection of a running mate. This could be done by switching the presidential nomination from the third to the second night of the convention, adopting the party platform on the third night, and nominating the vice-presidential candidate on the fourth night.

This minimum reform does not rule out more substantive changes later. It would, however, diminish the chances for another agonizing "Eagleton affair."

TRIBUTE TO SAM FLOOD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. ANDERSON of California. Mr. Speaker, on November 2, the many friends of Sam Flood will honor him with a testimonial dinner.

That night will offer each of us, who know him, an opportunity to pay tribute to his many accomplishments, his community spirit, and his active role in improving the quality of life for the residents of the Harbor area.

Sam Flood is truly "a man for all seasons," and as the poet Ben Jonson said—

> He was not of an age, but for all time.

For, when I think of Sam, I think of the spirit which built this country.

Certainly he knows hard work. A retired shipbuilder, he knows what it is like to put the pieces together, to strain and agonize while reaching toward the perfect blend, to swell with pride for a job well done. Yes, Sam epitomizes the spirit of the early builders of America. But, there is more.

Sam Flood's involvement in community affairs is, perhaps, the highlight of his life, and again, the "man for all seasons" is reminiscent of our forefathers who molded our system with a view toward an active, vibrant, citizenry participating in the community activities.

When a job needs to be done, when a committee is being formed, when a coordinated effort is needed, when the community has a problem; Sam Flood is the first to add his name to the list of those ready, willing and able to lend a hand.

Yes, Mr. Speaker, Mr. Sam Flood is a "man for all seasons." His spirit, his congenial manner, his active quest to aid his fellowman—all are qualities which were admired in every age by every person, and are admired today by all.

Mr. Speaker, I would like to take this opportunity to commend Mr. Sam Flood, and his gracious and charming wife Regina, for their efforts on behalf of all of us, and for their untiring and unselfish deeds which have provided the impetus for the November 2 testimonial dinner.

REPORT FROM WASHINGTON

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. ROYBAL. Mr. Speaker, I am pleased to include in the CONGRESSIONAL RECORD my October 1972 report from Washington to the residents of California's 30th District. The report highlights some of the major legislative and national issues being considered by the 92d Congress.

The report follows:

CONGRESS AND THE TAXPAYER

Over the past 4 years federal deficits have skyrocketed. Instead of a balanced budget, the Administration has piled up a deficit of $76 billion, surpassing the deficits of the last 3 Administrations combined.

It is estimated that over 50% of federal funds support military related programs, including new weaponry. While a strong defense is necessary, we should not lose sight of wasteful military spending that resulted in cost overruns exceeding $28 billion as reported in 1971. Nor should we forget that during this so-called peace economy and rapprochement with Russia and China, we will spend $80 billion for war and armaments, the same amount spent 3 years ago when this country was heavily involved in Vietnam and the arms race.

This policy appears highly questionable in light of our current economic needs. There are over 5 million workers unemployed with 15,000 in my own District. Taxes continue to rise with the brunt being carried by low- and middle-income taxpayers.

One answer to these inequities in our current policy is a fair-share tax reform that closes off profitable corporate and estate loopholes and gears our tax structure to a person's ability to pay. Another is re-evaluation of our national priorities.

While no program should be immune to Congressional scrutiny or criticism, we have set certain fundamental goals for ourselves as a Nation. They include: a full employment economy, equal educational opportunities, proper health care for all, a prosperous economy and the alleviation of poverty.

Congress is currently debating this question of priorities and fiscal responsibility under the Public Debt Limit bill. This measure as proposed by the White House would raise the federal debt ceiling to $250 billion for this fiscal year and grant absolute authority to the President to make budget cuts as he so chooses.

I oppose this bill in its present form for 2 very basic reasons: one, there should be no increase in the debt ceiling without tax reform to finance new expenditures; and two, Congress has the constitutional responsibility to set priorities and limit spending.

The debate on this bill is more than academic, for the taxpayer's right to representation is at stake. If Congress yields to the President and abdicates its budget authority, the taxpayer loses. No longer could his Congressman question and oversee expenditures as he does now.

As one observer noted, the difference between a dictatorial government and our American system is that "Congress controls the purse strings".

Consumer Safety

A decade ago President Kennedy delivered the first Presidential message devoted to consumer problems. His action became the catalyst for an ever growing national movement for consumer rights.

Several major consumer laws were enacted enabling the Government to seize foods, drugs and cosmetics that fail national standards, close plants selling unhealthy or diseased meat and regulate the flammability of fabrics.

With poor quality merchandise and faulty repairs costing the consumer thousands of injuries and deaths and nearly $200 billion last year, it became clear that the laissez faire doctrine of "Let the Buyer Beware" could no longer be tolerated.

Congress began to fashion a product safety bill that could save as many as 6,000 lives, 22,000 disabled and 4 million injuries due to defective products. It found that the current consumer apparatus was highly splintered and too weak to be effective within the federal bureaucracy. Over 200 consumer programs were being administered by some 40 different agencies. What the consumer needed was an advocate with independent authority to represent him before other Government agencies and in the courts.

Last month the House approved the creation of an independent Consumer Product Safety Commission charged with protecting consumers against defective products. Major provisions of this sweeping legislation included:

Authority to issue mandatory safety standards and conduct studies and tests of consumer products.

Authority to seek a court order against a product declared an imminent public hazard.

Requirement that manufacturers certify that a product meets safety standards.

Civil and criminal penalties for persons failing to comply with product safety standards.

Authority to require the manufacturer, distributor or retailer to give public notice of any product declared unsafe, to bring the product into line with safety standards, replace the product or refund its purchase price.

Provision to allow private citizens to sue for damages if injury or death resulted from use of any product failing safety regulations.

Prior to this Act the Government had never offered a comprehensive program of product safety but chose to deal with the problem in a piecemeal fashion. With the adoption of a regulatory independent agency, Congress has reversed its past attitude, providing for effective government and court action to prevent defective products from reaching the marketplace.

Benefits Protected

Over the objection of this Administration which recommended a 5% social security increase, Congress approved a 20% boost to raise the standard of living for 27 million Americans whose fixed incomes had been eroded by inflation and rising costs. The increase, however, lacked pass-along provisions which would prevent states from using the social security boost to reduce their own level of public assistance.

This practice subverts the intent of Congress and perpetuates a cycle of poverty and despair for millions of older, blind and disabled persons.

In seeking to correct this wrong, I introduced legislation that would guarantee the full social security increase to recipients while preventing any decrease in public assistance benefits they may be receiving, whether food stamps, Medicaid, or aid to the blind and disabled. This bill would bring considerable relief to some 8 million older citizens who live near or below the poverty line.

In a recent letter to all House members, I called for a united effort to get Congressional action on the pass-along during this session of Congress. Last week the House Ways and Means Committee which has jurisdiction over the pass-along recommended a narrower proposal covering only Medicaid recipients.

Although I would certainly support even this limited coverage, I intend to fight for a full pass-along when the Ways and Means bill comes before the House.

Legislative Report

UNEMPLOYMENT

Unemployment and inflation remains the most pressing problems facing residents of my District. The impact of this Administration's new economics, which offers billions of dollars in tax breaks to large corporations, has spelled disaster for the American worker. Counted among the unemployed are 15,000 from my own District.

To end this large scale unemployment, the Administration must call off its current freeze of public employment funds and manpower training programs, and adopt a massive public service strategy for more than 1 million unemployed workers.

In working toward this goal, I joined with Rep. John McFall of California in pushing for a 2-year extension of the accelerated Public Works Impact Program. Recently the House approved our bill as part of the total Public Works-Economic Development package. The bill authorizes a ceiling of $1 billion for immediate job-creating public projects in very high unemployment areas and would bring additional jobs to my District.

A recent House Labor report described the impact program as an effective tool in attacking joblessness and relieving the unemployment-inflation crisis which has gripped this country since President Nixon took office 4 years ago.

TAXES

One of the most glaring injustices today is the tax burden shouldered by low- and middle-income taxpayers. I oppose the continuation of special tax breaks for large corporations and the privileged few at the expense of the average taxpayer. Our tax system has become a multibillion dollar giveaway especially during a time when this country faces a budget deficit of $76 billion.

For this reason I have urged emergency legislation to close the glaring loopholes in our federal tax system. Known as "the Tax Reform Act", this measure would yield $7 billion or more a year in new revenues and check staggering increases in our federal debt.

NARCOTICS CONTROL

As a member of the Appropriations Subcommittees on Foreign Operations and Treasury-Postal Service-General Government, I have pushed for stronger international and domestic narcotics control. During this Congress two of my proposals have been adopted. One would cut off aid to countries which fail to curb the flow of drugs to the U.S. The other would increase the number of Customs officers at border stations, as well as improve search procedures and staff recruitment policies.

EQUAL OPPORTUNITY

Congress recently approved a 2-year extension of the federal antipoverty programs. During debate on the bill, I pointed out that this legislation would continue to help 25 million Americans escape poverty and gain access to decent jobs, housing and educational opportunities. The antipoverty bill would enable the Government to continue youth manpower; expand Head Start and Follow Through; extend community action and legal services; and continue senior opportunities and services, emergency food, and drug rehabilitation to develop job opportunities for rehabilitated addicts. New programs included rural housing for low-income families and environmental action to provide for payments to low-income people working on environmental and anti-pollution projects.

District Offices

I have opened another District Office in the Bell City Hall to serve Bell, Maywood and a portion of Huntington Park east of State Street. Beginning on October 25, the office will be open every Wednesday from 9 A.M. to noon to residents of these areas who have appointments to discuss matters with my staff. Please call 588-6211, Ext. 21, to make an appointment during that time. My Los Angeles Office which will continue to serve all residents of my District is located in Room 7110, New Federal Post Office Building, 300 North Los Angeles Street.

District Grants

Our District has received a number of important Federal grants and contracts for various programs. Included among these are:

EARLY EDUCATION

A $2.8 million grant from the Department of Health, Education and Welfare to the Economic and Youth Opportunities Agency, Los Angeles, to provide preschool training for nearly 4,000 children from low-income families, including medical and social services.

OLDER CITIZENS

A $48,000 ACTION grant to the Los Angeles Volunteer Bureau/Voluntary Action Center to operate a Retired Senior Volunteer Program. The grant is the first in a 5-year commitment to the Volunteer Bureau for placing 300 older citizens in volunteer community service during the first year and 2,000 by the end of five.

URBAN PLANNING

A $60,000 contract from the Department of Housing and Urban Development to the Barrio Planners, Inc., to conduct a visual survey and analysis of the East Los Angeles area. Barrio Planners is a nonprofit group offering technical assistance in urban planning to Mexican Americans.

MINORITY EDUCATION

A $353,000 Office of Economic Opportunity grant to the Economic and Youth Opportunities Agency, Los Angeles, for special educational and tutorial programs for minority children, a parent-teacher relations program, and support for 60 teacher aides.

FAMILY PLANNING

A $1.3 million grant from the Department of Health, Education and Welfare to the Los Angeles Regional Family Planning Council, Inc. to provide family planning services and counseling.

THE TOXIC DANGERS FROM ETO

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. WOLFF. Mr. Speaker, a clear danger exists today for every man, woman, and child faced with the necessity of undergoing an operation and the danger to which I refer is not necessarily from the operation or applied treatments involved, but rather takes shape in the type of medical instruments used in the operating room—instruments that have been sterilized with ethylene oxide gas (ETO).

Increasingly since World War II, but especially within the last decade, hospitals and the manufacturers of disposable medical devices used in operating rooms—such as plastic tubing, plastic hypodermic syringes, to cite but two examples—are sterilizing their instruments and products with ethylene oxide gas, a highly toxic substance.

The dangers derived from the use of ETO is found in the fact that rubber and certain plastics do not dissipate the gas absorbed during the sterilization process. The stable derivative that often results can cause toxic reactions and even deaths.

Mr. Arthur Perlin, a former FDA inspector and now a Port Washington, N.Y., pharmacist, informed my office that while working for the FDA in Detroit, he recorded over 100 cases of toxic and sometimes fatal reactions to ETO residues found in disposable hospital gloves, plastic tubings, plastic hypodermic syringes, and even catheters used for heart surgery.

Mr. Perlin reports some instances of surgeons ripping off their gloves in the midst of an operation because of the burns induced by ETO residues that had failed to dissipate following sterilization.

Commissioner Ley, then head of the FDA, in commending Mr. Perlin for his work in exposing the dangers associated with ETO, acknowledged that many unexplained injuries, and in some cases deaths, were related to ETO's use as a sterilizing agent.

But regardless of former Commissioner Ley's commendation of Mr. Perlin's efforts, the fact remains that little, if anything has been done to halt the use of ETO as an agent for sterilization, and thus a great danger remains.

Following Mr. Perlin's report to my office I wrote a letter to FDA Commissioner Charles Edwards in which I stated:

> It is my understanding that residues of ETO have been responsible for severe reactions, other-wise unexplained, and even deaths through contamination of sterilized surgical gloves, heart catheters, Pacemakers, and hemodyalisis (the latter two through polyvinyl or rubber tubing associated with them). I have further been informed by reliable sources that the FDA, though knowing of this problem for years, has resisted making the information public and in other ways failed to take adequate steps to safeguard the health of our populace.

Six weeks later I received a reply, enclosing three articles by Dr. Carl Bruch, who is the director of the Bacteriological Branch of the Division of Microbiology of the FDA, and an expert on the whole ETO problem.

As the FDA's reply shows, the agency has refused to take legal action on those who have been negligent in using the gas. Moreover, it has even refused to issue a general letter of warning on use of ETO, despite reports of its dangerous nature dating back to 1955.

As its reply to my letter explicitly states, the FDA considers 25 parts per million the "acceptable limit" of ETO residue in catheters, gloves, and syringes. This is the limit which has been generally proposed by Dr. Bruch, although he has elsewhere expressed doubts about the safety of any residue exceeding 5 p.p.m.

But the only limits which are publicly available as suggested guides are 10 times that high. They derive from the work of the Z-79 Subcommittee of the U.S. Standards Institute, the Subcommittee on Ethylene Oxide Sterilization. Industry members make up a clear majority of the subcommittee, which has explicitly rejected Dr. Bruch's 25-p.p.m. limit over a 4-year period, and announced a guideline of 250 p.p.m. Although it has no legal force, the subcommittee's standard is generally accepted.

The Government has made no move to work to change it—indeed, it sat in on the committee formulating it—and has acquiesced to it, although it is 10 times what the FDA wrote to us when announcing their "acceptable limit." Meanwhile, Dr. Bruch reports that the majority of the companies which make ETO sterilized devices or ETO sterilizers are not taking appropriate steps to warn their customers of the need to allow proper time after sterilization for the gas to dissipate.

The FDA claims to be making "efforts to determine safe limits for these gases with a view toward publishing such limits." The FDA has been making these efforts for over a decade, while hundreds have been injured and a number have died. The whole emphasis is wrong—instead of waiting for danger to be conclusively proven and then listening to the counsel of manufacturers, the FDA should have come in immediately with tough standards, and then waited for proof that it was too tough before allowing any relaxation.

There can be absolutely no doubt, on any basis, that the FDA is fully aware of the hazards associated with ETO—the FDA's own Weekly Recall reports has on at least two occasions made mention of the dangers of using ETO as a sterilizing agent.

What I here propose is for the FDA to begin at once that process whereby the absolute minimum toxic level of ETO is finally determined and for that level then to be imposed by the FDA as the standard for the entire medical industry.

In addition, I have asked Chairman Paul Rogers of the House Subcommittee on Health and the Environment to hold hearings into the safety factor of ETO with the hope that out of such hearings will come legislation safeguarding all Americans from the known as well as the unknown dangers of medical practices.

ON FREEDOM OF THE PRESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CONYERS. Mr. Speaker, the Founding Fathers of our Nation were foresighted enough to understand that freedom of the press is the cornerstone of a free society, a freedom now threatened by the administration's attempt to use the fourth estate as an arm of the Department of Justice. As a reaction to this insidious threat I cosponsored the Newsmen's Privilege Act, which was later reintroduced as H.R. 14334 by my colleague Mr. Koch. This bill would enable newsmen to research a story without fear of Government reprisal, and fulfill the public's inalienable "right to know." News correspondent Earl Caldwell has firsthand knowledge of the harassment now confronting an investigative journalist. His informative article from The Saturday Review follows:

[From the Saturday Review, Aug. 5, 1972]

Ask Me. I Know. I Was the Test Case

(By Earl Caldwell)

(Note.—Earl Caldwell, a New York Times reporter based on the West Coast, is teaching this summer at the Columbia University School of Journalism.)

New York, N.Y.—At this point I am already so far past my deadline that my editor has given up listening to my excuses. She has parked outside my office and has informed me that she will not leave until the piece is finished. All this to pull loose my reaction to the Supreme Court's June 29 decision that the government has, if it chooses, a perfect right to subpoena me, or any other newsman, to testify before a grand jury—in my case, one investigating the Black Panther party.

The article should be easy to write. I've got so much to say that I feel about to burst. But I can't put anything on paper. I can't let anyone know. I have to keep it to myself. That's the rule of the game. Just this once, though, I'd like to say: The hell with it—the hell with what the Justice Department might do—the hell with what the New York Times thinks. I owe this one to myself. I know what I've been through these past two years. Let me get this off my chest.

The day the decision came down I stayed at home. A friend called to say that I had lost. Later that morning I phoned the Times, and Gene Roberts, the national editor, told me that the decision had been 5 to 4. Justice Rehnquist had made the difference. The deciding vote had been cast by a man who had been deeply involved in the subpoena issue when he was in the Justice Department.

I thought back to the day, February 2, 1970, when the first subpoena was served. It required me to appear in San Francisco before a federal grand jury that was probing the activities of Black Panthers. I had been counseled—not by my attorney, but by other legal experts and by people prominent in the newspaper industry—against being so anxious to go to court to fight the issue. They argued that I risked having a bad law made in an area where none had existed. In other words, I shouldn't go to court because I might lose. It would be better, they said, if we could work something out.

There was nothing to work out. I'm a journalist and, as quiet as it's kept, serious about my work. I grin a lot and try to give the impression that I'm always happy. That's the facade black folks must put up. So when I said that I wasn't going to appear before any grand jury investigating the Black Panther party, nobody believed that I was serious. Perhaps they didn't know where I'd been for the past five or six years.

I was on the balcony with Martin Luther King in 1968, and I saw him die. I saw the blood come out of his neck and stack up around his head. I watched Ralph Abernathy cradle King's head in his arms. I was there, and I looked into King's eyes and watched him die.

Before that I had done my time in the streets. I wasn't just in Newark or Detroit. I was on Blue Hill Avenue in Boston. I was on the west side in Dayton. I was in Cincinnati and Watts and Sacramento and Chicago and a lot of other places where black folks showed their anger and rebelled during the summer of 1967.

I remember being in Newark and visiting a young kid in his home just after his mother had been fatally shot. There were twelve in that family, and their father was dead. Their mother had locked them inside the apartment when the rioting broke out, and she was lying on a couch. She got up—maybe to get a drink of water or maybe to see about the food on the stove. It makes no difference. The thing that's worth remembering is that when she got up a bullet came through a window and tore her neck apart. When I arrived, with my press card, there was only a pool of blood left and holes in the walls that were bigger than your fist. The next morning the stories in my paper were not about police and National Guardsmen firing weapons so powerful that they dug walls apart. The *Times* headlined stories about snipers—snipers who the governor of New Jersey said were operating in the black community and who were highly professional (in spite of the fact that they never killed anyone).

Out of that summer came Rap Brown. I went across the country with him, and I watched thousands of black folks who were fed up, who were so filled with rage that they, too, were about to explode. Out of all that came the Black Panther party.

When I linked up with the Panthers late in 1968 on the West Coast, they called me a cop. I had to be a cop, they reasoned: The *New York Times* was not about to send a black reporter 3,000 miles just to cover them.

I had friends who knew Kathleen Cleaver; she was my first contact with the party. But to make it, you had to be able to deal with the Panthers in the streets, the Panthers whose names you never asked, whose names you never read in the paper. They were the ones who showed me what I needed to know. Late one night in San Francisco they yanked an old couch away from a wall in a cramped apartment, exposing stacks of guns of every sort. I could tell my readers then to take these people seriously, and I did.

I watched the Panthers' breakfast program before other reporters knew it existed. I wrote about it in the *Times*. If I've ever written a page-one story, that was it. The story was all there, but it was buried somewhere in the thickness of the Sunday edition. I told how painstakingly they went about their work, cooking big breakfasts—eggs, bacon, ham, grits, biscuits—they had it all. But they also added politics, in the songs they sang, in the literature they gave to the kids. Nobody tried to hide the political part from me—the reporter from the *New York Times*. Every now and then I'd get the third degree. "C'mon now, Caldwell; we know you're a cop," they'd say. But I kept coming back, and I kept telling them: "I'm a reporter. That's my job. That's the only reason—the only reason I'm here." Somewhere along the line they began to believe me.

On the morning before he went into hiding and eventually slipped out of the country, I visited Eldridge Cleaver in his San Francisco home. I remember him sitting there at his typewriter with his shoes off and telling me that the time was coming when the Panthers would have to move against black journalists. Once, he explained, it hadn't made any difference what we wrote because nobody—nobody black, that is—read us. But with blacks beginning to read more, what was being written about them was becoming more important. "What good do you do, anyhow?" he asked me. I wrestled with the question then; it is even more difficult to answer now.

As I became more deeply involved with the Panthers, I began to keep all kinds of files on them. On Panther personalities. On off-the-record conversations. I kept tapes, too, and I would write my personal reactions to everything involving the Panthers that I covered. At this point they were under attack by police groups across the country. At a time when the party was shutting out reporters, I was closer to it than ever. I would sit nights at the national headquarters on Shattuck Avenue in Berkeley, talking with anyone who would talk. Often I would not leave until 3 or 4 in the morning. The party trusted me so much that, I did not have to ask for permission to bring along a tape recorder. Some writers hinted on occasion that I was a member of the party: I wrote that off as professional jealousy.

But I was never permitted to follow the story through to the end. The FBI saw to that. I had my first encounter with FBI agents when I wrote about the Panthers' guns, but that time they left me alone when I assured them that all the information was available in the newspaper. Then, late in 1969, they began to interfere with my work. They wanted to pick my brain. They wanted me to slip about behind my news sources, to act like the double agents I saw on old movie reruns on TV.

This is not my fantasy. The Times knew what was happening. They knew the FBI was calling me every day. Finally, Wallace Turner, chief of the Times bureau in San Francisco, arranged for an assistant in the bureau, Alma Brackett, to take all my calls. The FBI even had women call. It went on like that for months, until one day an agent told Mrs. Brackett that, if I didn't come in and talk to them, I'd be telling what I knew in court. That's when they subpoenaed me. They asked for all of my tape recordings, notebooks, and other documents covering a period of more than fourteen months—and let me know that, if I did not come in with everything, I would go to jail. As it turned out, when I did refuse to appear before the grand jury, I was found in civil contempt and sentenced to jail until I complied with the court order. Fortunately, the court agreed to stay the execution of that order until I had a chance to appeal.

The rest is history. I met Tony Amsterdam, a good man and a brilliant lawyer, who understood why I could not appear before the grand jury. Tony was beautiful. He never asked about money. He never said that we shouldn't do this or we shouldn't do that because we might get a bad law written. He said that we were right and that we would go all the way to the Supreme Court if we had to. We did. And now the Court has ruled, and it makes me sick that the vote that beat us was cast by one of the very men who earlier sat in the Justice Department, where he could not have avoided being involved in this whole issue. So the records show that we lost—lost in a court that black folks had come to think of as their last resort for justice in the United States of America.

It's no longer important now what the government can get from me about the Panthers. I have nothing to say about them. They are not the same organization now that they were when I covered them. As for the notes and the tapes I spoke of earlier—well, they're all gone. I ripped up the notebooks. I erased the tapes and shredded almost every document that I had that dealt with the Panthers. Many of those items should have been saved, for history's sake, as much as for anything. But in America today a reporter cannot save his notes or his tapes or other documents.

That's not all. From now on no newspaper can hope to cover effectively an organization such as the Panthers. I don't care how black a reporter is, he won't get close. He won't, and he shouldn't try. He won't because he cannot be trusted as a reporter. When he goes out and cuts an interview, he may say that it's only for his paper. He may swear to it. But if he means it, the government can now put him in jail and keep him there. Ask me. I know. I was the test case. And because Justice Rehnquist did not disqualify himself, we lost.

Yes, this should be an easy piece to write. I have a lot to say. It's difficult, though, because I have a lot to think about. I am teaching this summer at Columbia University, but in another month I'll be heading back west to my job as a West Coast correpondent for the *Times*. I still have not figured out how I can go back into the black community—or any community, for that matter—and present myself as a journalist. Hell, even the Supreme Court has now said that there is nothing wrong with forcing a reporter to become a spy. But not all of the Court misunderstood.

In his dissenting opinion, Justice Douglas wrote: "A reporter is no better than his source of information. Unless he has a privilege to withhold the identity of his source, he will be the victim of governmental intrigue or aggression. If he can be summoned to testify in secret before a grand jury, his sources will dry up and the attempted exposure, the effort to enlighten the public, will be ended. If what the Court sanctions today becomes settled law, then the reporter's main function in American society will be to pass on to the public the press releases which the various departments of government issue."

HON. WATKINS M. ABBITT

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. GRIFFIN. Mr. Speaker, Congressman WATKINS M. ABBITT at the close of this session, concludes a distinguished career of over 24 years as a Member of Congress.

Congressman ABBITT has had a long career, contributing to both his State and Nation: as a member of the Virginia Constitutional Convention of 1945; State Democratic Chairman; and as a Member of Congress for over 2 decades.

Serving 24 years with distinction, Congressman ABBITT has made significant contributions as a member of the Agriculture Committee and the Committee on House Administration. His service as a member of the Committee on Standards of Official Conduct speaks highly of the devotion and respect he commands among his peers and as a dedicated public servant.

The guidance and counsel of the gentleman from Virginia, WATKINS ABBITT in the legislative process has indeed been valuable and I know that the Congress will miss his service. I do want to wish him well in the future as he returns home to Virginia.

TABULATED RESULTS FOR POLL CONDUCTED SEPTEMBER 1972

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. VEYSEY. Mr. Speaker, last month I sent a questionnaire to every one of my constituents in the 43d Congressional District of California asking their views on a number of vital issues confronting us here.

We received more than 22,000 responses—enough to be confident that the results represent an accurate survey of public opinion in the district. Several thousand respondents extended their answers with additional comments, which I will read and answer as time permits.

I reprint below for the benefit of all Members the tabulated results of the poll, as well as some personal comments of my own:

1. Do you believe that forced busing of school children from your neighborhood by court order will:

(a) Improve quality of schools: Yes, 9%; No, 91%.

(b) Eliminate segregation in schools: Yes, 23%; No, 77%.

(c) Reduce racial tensions: Yes, 12%; No, 88%.

(d) Add to the cost of local schools: Yes, 97%; No, 3%.

However, few who perceived any benefits from forced busing, almost all agree it will cost money. Except where a community voluntarily undertakes widespread busing. I have consistently voted against forced busing. I want to use the money for upgrading schools and facilities instead of buying and maintaining a fleet of vehicles.

2. Should the President be prohibited from engaging our armed forces in hostilities for more than one month without a declaration of war by Congress? Yes, 59%; No, 41%.

The House and Senate are in a deadlock over how to limit the President's war-making powers, but there is widespread feeling that the Congress—and the people in turn—should be consulted before our Armed Forces are committed on any extensive operations abroad.

3. Do you approve of selling large quantities of agriculture products to the Soviet Union? Yes, 64%; No, 36%.

Although a majority approves the grain sales, a substantial number commented with reservations: Russia is alleged to be transshipping some of the wheat to North Vietnam; the sales will cause our domestic wheat and bread prices to rise as supplies diminish; we are solving Russia's deepening agricultural crisis without extracting enough political concessions.

4. Do you think the federal minimum wage should be increased from $1.60 to $2.00 per hour? Yes, 61%; No, 39%.

Barring a last minute settlement between House and Senate differences, minimum wage hikes do not seem likely in the present Congress. Points of differences are the coverage of youths, State and local governmental employees, and the timing of the proposed increases.

5. Should we start to phase out wage and price controls? Yes, 29%; No, 71%.

The authority for wage/price controls expires next May 1. However, the continued threat of inflation makes it unlikely that controls will be allowed to lapse completely.

6. Would you vote to suspend air service to any country that harbors airplane hijackers? Yes, 96%; No, 4%.

The House passed, and I supported, a measure to authorize the President to cut off all foreign aid to a nation that harbors air pirates. I have introduced H.R. 16343 to suspend air service between the United States and any country that harbors air pirates. Neither is likely to pass the present Congress.

7. Should Congress ban the sale of cheap, concealable handguns (the so-called Saturday Night Specials)? Yes, 76%; No, 24%.

These results verify the findings of pollster George Gallup, who reports that people have consistently favored restricting handguns since 1938. The problem is how to draft a law that would define a "Saturday Night Special" without infringing on the constitutional right to bear arms—much like the problem of drafting an antipornography law that does not violate freedom of speech.

8. Do you approve of unauthorized negotiations between American Citizens and North Vietnam? Yes, 15%; No, 85%.

On October 2 the House voted 230–140 to empower the President to bar private U.S. citizens from visiting or "negotiating" with a country with whom we are in armed conflict. I supported the measure, but unfortunately it required a two-thirds margin for passage. The bill is dead for this session, but could very well be brought up again next year under regular rules that would require only a majority vote for passage.

9. How do you feel about amnesty for those who fled this country to evade military service? (Check one only, please)

(a) For amnesty now 11%.

(b) Would consider individual cases after a cease fire and POW return 26%.

(c) Oppose amnesty of any kind 63%.

The vast majority opposes amnesty to draft evaders so long as Americans are held prisoners of war by the North Vietnamese. After a settlement to the conflict and the prisoners have been returned, attitudes may soften and the evaders considered on a case by case basis.

10. Do you favor a federal law to authorize "no-fault" auto insurance? Yes, 76%; No, 24%.

This was the least answered question in the poll—possibly reflecting uncertainty over what "no fault" auto insurance is. Generally, it provides that insurance companies pay the damages of their clients in an accident without regard to who was at fault. Several States have adopted the plan, and measures are pending in both the national Congress and California Legislature to authorize no fault insurance. The issue is bound to increase in importance next year.

11. Would you stop distribution of food stamps to strikers? Yes, 76%; No, 24%.

An amendment in the Agriculture Appropriations bill to bar food stamps to a family with one member on strike was defeated 199 to 180. I supported the amendment, but a coalition of Southerners who traded their votes in exchange for Northern liberal support for continued agricultural subsidies defeated the motion.

12. Do you think President Nixon was right when he resumed bombing and mined Haiphong Harbor after the North Vietnamese invasion in April? Yes, 92%; No, 8%.

The percentage opposed to the bombing is less than one half of those who voted for immediate withdrawal in our February poll. Many who wanted to end our involvement before the bombing now appear to support the President's actions to conclude the war.

A FIGHTER FOR JUSTICE AND PEACE—FATHER ROBERT REICHER

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. MIKVA. Mr. Speaker, with the recent death of Father Robert Reicher, Chicago and the Nation lost a great fighter for justice and peace.

Father Reicher's tireless efforts on behalf of the farmworkers of Illinois and the downtrodden day laborers throughout America typified his quest for social justice on behalf of all peoples.

We would serve Father Reicher's memory well by turning with equal fervor to the still unfinished agenda of social problems facing America and the world. But without him, our job will be a little bit harder.

I would like to insert in the RECORD the funeral homily given at Father Reicher's funeral by Msgr. John R. Gorman, rector of St. Mary of the Lake Seminary, so that those who were not fortunate enough to know Father Reicher during his lifetime might know of his works and his wonderful humanity.

The homily follows:

FUNERAL MASS FOR REV. ROBERT A. REICHER

(By Msgr. John R. Gorman)

Today we are here because of the untimely death of an uncommon man.

Every man must write a story with his life—a story that tells what he thought his own personal existence was all about—a story that depicts the issues and values he believes in—a story that shares his mission and challenge with all who read it.

Father Reicher was a man who with his life wrote a powerful story. There were three central themes around which his life's energies were focused.

The first theme is suggested in this morning's reading from Daniel (Daniel 12: 1–3). Here the prophet is speaking of a troubled and confused nation of Israel. He promises that men will arise to lead their people. They will be "wise men" who will "lead the many to justice."

Yes, a passionate concern for justice, equity, fairness was a central theme in Father Reicher's life.

Early in his seminary years he delved deeply into the writings of Pope Leo XIII and all the succeeding papal encyclicals that dealt with social justice. In order to understand the human situation of man's social life, he also became an avid student of sociology.

Certainly his classmates in the seminary remember the special seminars Bob Reicher would hold in the barber shop after the evening meal. With characteristic patience and enthusiasm he would explain the issues and challenges to which the social encyclicals addressed themselves. Even in the seminary he began to speak forcefully to a church that was slow to realize the great injustices being suffered by so many segments of our society.

His first assignment as a priest was to St. James Parish in Arlington Heights, Illinois. Here his talent for organization, work and creative ideas brought new life to a fine parish. It was only a short time before his sharp eye for justice and his compassion for the poor brought him into contact with the serious social problem of the migrant farm workers mainly of Mexican descent who lived near St. James Parish. It was through these people and their cause that he became so deeply and effectively involved in the cause of migrant workers across the country.

Sociology continued to be an absorbing study for him and he finished his Ph. D. in this field at Loyola University of Chicago.

It seemed to be just a matter of time until he became part of the staff of the Catholic Council on Working Life. Here his interest in and knowledge of the great social needs of the poor, of minority groups was furthered under the expert guidance of informed and dedicated tutors from the ranks of the clergy and the laity. He learned well from these men and women of vision. With them he studied the injustices that were prevalent in our society—housing, race relations, education, labor problems, business practices and the ethics of international relations.

His career as a teacher took shape quickly as he now was able to wed the theory of Christian social justice to the experiences of his every day life that brought him into close contact with the human problems of society.

He worked closely with many colleges and adult education centers. The faculty and students of Barat College, for example, enlisted his expertise as a teacher for several years.

The future priests of the Archdiocese of Chicago came to understand and be bothered by the great social unrest of our day through the untiring efforts of Father Reicher. His presence as a teacher at Niles College of the seminary system and at the major seminary, St. Mary of the Lake, Mundelein, left a deep impression on hundreds of young men who are priests in the Archdiocese of Chicago. As a teacher he was competent, well prepared, creative, enthusiastic, demanding and patient.

He truly was a wise man who spoke to a confused and troubled world about the dignity of man, the nobility of work, the sanctity of human life and the necessity of justice as the cornerstone of all human interaction. The *justice* of which he spoke was Christian justice—it was based on the gospel values enunciated by the Lord Jesus Christ.

All around him Father Reicher saw a world in which men and women were full of division, suspicion and ignorance of one another. A world of jealousy, contention and conflict. Divisions that brought strife included those between labor and management, long-standing and unaddressed attitudes between various Christian churches and Jewish communities; tensions, unjust laws and unfair political practices that separated racial groups and ethnic cultures; strained relations between members of the Church, bishops and priests, priests and laity; painful disagreements between faculty members and boards of administration; and the agony of war and other military expressions of power—all somehow related to injustice and the lack of peace in the lives of men.

The second theme in the story of Father Reicher was *Peace*.

To bring justice to bear on the actions and decisions of men, Father Reicher knew he must do more than teach. So he gave himself to a life of committee work and commissions to try to implement the principles he held so firmly.

When the Archdiocese of Chicago formed a Commission on Human Relations he was selected as a charter member. Along with other talented and dedicated members of that group, he worked to understand and develop guidelines for policies that would bring greater harmony and peace between churches realizing that, as the Second Vatican Council said, we are living in an ecumenical age. The Commission also addressed the great unrest in the black community as well as the plight of all minority groups and struggled to formulate plans and structures to bring about greater peace to these segments of society.

As Executive Director of the Archdiocesan Office of Conciliation and Arbitration Father Reicher strove to help people live more peaceable with each other. The principle of "due process" that was the backbone of this Archdiocesan Office flowed from the belief in the dignity of each individual man and his right to justice. Under his capable leadership many dedicated people, clergy and lay, worked diligently and patiently to restore peace to various aspects of the human family.

Father Reicher was part of the Coordinating Board of the Association of Chicago Priests. He was a member of the Design Committee for the Presbyteral Senate of the Archdiocese of Chicago.

Each year—at the Holy Name Cathedral—a "Labor Day Mass" would be celebrated. Under his guidance men and women representing various aspects of labor and management and the professional world would come together in faith. They would hear about and celebrate the dignity and worth of their fellowman, the theology of work and the ethical principles that must guide a Christian as he cares for the world.

Just a few short weeks ago, a group of Chicago priests gathered in Holy Name Cathedral to think and pray about the Vietnam War. One of the two talks that evening was given by Father Reicher. In his typical fashion he presented in careful detail the history of the initial involvement of our country in that war. With equal attention to detail, he built a powerful argument that showed the immorality of our continued presence in that war.

Peace—his second life-theme—was pursued relentlessly. His own personality along with the strength of his ideas were his instruments for peace. He was effective because, as St. James says in the second reading of the liturgy this morning, he had a "wisdom from above." Father Reicher was a wise man as a teacher, but his wisdom in dealing with people in pain was "peaceable, lenient, docile, rich in sympathy, impartial and sincere." The words of St. James seem to speak clearly to the first two themes in the story of Father Reicher.—"The harvest of justice is sown in peace for those who cultivate peace." (St. James, 3:17–18).

Death is the final theme of this story. We all used to comment on his driving nature and demanding schedule. He asked little for himself while he demanded much for his fellow man. He lived with abandon, throwing himself into work, running from one crucial problem to another. Many people tried to slow him down—with little success.

Somehow, Bob Reicher seemed to understand that a man must be in control of his life—its direction and its purpose. But he also understood the necessity of addressing death—so it just doesn't happen—but it, too, is chosen and fits into his entire story.

He knew well the meaning of Our Lord's words read in the Gospel of St. John just a few moments ago. "Unless a grain of wheat falls on the ground and dies, it remains only a single grain; but if it dies, it yields a rich harvest." John 12: 22–25.

Father Reicher believed these words and lived them. He knew that a life is no life unless it is shared. This is true whether we speak of the life of an idea, of a cause, or the life of personal care and compassion that supports, encourages and challenges the lives of others.

In this moment of loss and sorrow, we extend our deep sympathy to his mother, brother Paul and to his relatives and friends.

We are sad because we may feel we had to write his personal story in a hurry because not too many years were given to him.

In a more realistic sense, however, we must realize his story was clear—compelling and complete.

We all knew him to be a man who husbanded his time well, worked hard, but expected and demanded a return for his efforts. His life is now laid upon all of us that the issues of justice and the cause of peace so well articulated by this priest be not forgotten. That the conscience he awakened in all of us not be dimmed. That the restlessness and the sense of urgency to work for the Kingdom of the Lord be not compromised.

This harvest of his life is now our continued responsibility.

In a way, the story of Father Reicher is over—in a way, it has just begun.

He took his three themes from the life of Our Blessed Lord.

It's from Him he expects his reward.

Listen to the Words of the Lord that Bob Reicher believed in:

Happy are those who hunger and thirst for justice: they shall be satisfied. Matthew 5:6.

Happy are the peacemakers: they shall be called the Sons of God. Matthew 5:9.

Anyone who loses his life—will keep it for all eternity. John 12/25.

DANNY LEWIS

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. HOGAN. Mr. Speaker, many of our colleagues probably remember the ghastly bus accident last May in nearby Hillcrest Heights, Md., in which five persons were killed and 40 injured when an interstate bus overturned. The scene was tragic, but the situation could have been much worse were it not for Volunteer Chief Danny Lewis of the Silver Hill Fire Department and Rescue Squad.

Upon arriving at the scene of the accident, Chief Lewis and his fire company found that the bus had overturned in such a way as to trap 15 passengers beneath the bus in a ravine. Chief Lewis requested additional equipment and sent one truck to a nearby lumber yard to get as many four-by-four timbers as possible to shore up the bus, so that it would not roll into the ravine.

While waiting for the timbers to arrive, Chief Lewis directed his men to evacuate the less seriously injured persons who were not in or under the bus. They were given first aid and treated for shock. When the timbers arrived, the bus was shored up and the removal of persons in and beneath the bus was begun. In less than an hour all of the trapped victims were removed and transported to nearby hospitals. Witnesses stated that without the professional and experienced manner demonstrated by Chief Lewis' leadership and direction, other lives would undoubtedly have been lost and other passengers would have suffered additional injury.

The American National Red Cross honored Chief Lewis for his heroic deeds on that day by awarding him the Red Cross Certificate of Merit, the highest award given to a person who saves or attempts to save a life by using skills learned in a Red Cross first aid, small craft or water safety course.

Mr. Speaker, I join with the Red Cross in commending Chief Lewis for his quick-thinking and knowledgeable actions in an emergency.

RENT WATCH FOR SOCIAL SECURITY BENEFICIARIES

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. HELSTOSKI. Mr. Speaker, the Cost of Living Council in conjunction with the Internal Revenue Service has published an informational booklet on a "rent watch" program designed to prevent illegal rent increases from cutting into the additional social security payments which go to the elderly, the handicapped, widows, and children.

The "rent watch" program is designed to protect renters from illegal rent practices and to assure that the regulations of the economic stabilization program will be enforced.

The Economic Stabilization Act is being enforced by the Internal Revenue Service offices across the country. In Bergen and Hudson Counties, the two IRS offices are: Internal Revenue Office, 334 Union Street, Hackensack, N.J. 07601, Telephone: (201) 487-8981; Internal Revenue Office, 591 Summit Avenue, Jersey City, N.J. 07306, Telephone: (201) 659-9038.

My constituents who are social security beneficiaries and who may have questions on rent increases should contact the above IRS offices.

Following is the information brochure which provides a summary of rent regulations, as well as question and answers:

"RENT WATCH" FOR SOCIAL SECURITY BENEFICIARIES

DEAR SOCIAL SECURITY BENEFICIARY: You are concerned about living costs, and it is our job to do everything we can to hold down the costs of living. For many, rent is a big part of your monthly bills. Because rents are such a large part of living costs, and because Social Security payments increased by 20 percent on October 2, the Cost of Living Council has developed a special program to help prevent excessive and unjustified rent increases.

We know that the elderly and others who rely on Social Security payments spend a larger percentage of their income on rent than most other Americans.

Our "Rent Watch" program is designed to prevent illegal rent increases from cutting into the additional Social Security payments which go to the elderly, the handicapped, widows and children.

The "Rent Watch" is designed to protect renters from illegal rent practices and to assure that the regulations of the Economic Stabilization Program will be enforced.

The "Rent Watch" is being carried out by the 58 Internal Revenue Service District offices across the country under the direction of stabilization officials in Washington, D.C. The Internal Revenue Service is the enforcement arm of the Economic Stabilization Program.

The "Rent Watch" consists of an audit of housing for older persons; a special rent complaint service for Social Security recipients and increased authority for the IRS to administer rent control regulations and levy financial penalties on violators.

It will be to your advantage to study this brochure carefully. It contains a great deal of practical advice on how to deal with the rent question. On page 2 you will find out what you should do if you have a complaint.

On pages 3 and 4 you will find a summary of the rent regulations.

We want to help you in every possible way with any rent problem so we urge you to make full use of this booklet and the "Rent Watch" program.

Sincerely,

DONALD RUMSFELD,
Director, Cost of Living Council.

HOW TO TELL IF YOUR RENT INCREASE IS LEGAL

To give special quick service to Social Security beneficiaries who wish to ask questions or file complaints about recent rent increases, we have established a "Rent Watch" program in over 300 Internal Revenue Service offices across the nation.

The rent on most apartments is regulated by the rules of the Economic Stabilization Program. If you should receive notice of a proposed rent increase from your landlord, there are several things you can do to find out whether the increase is permissible:

(1). Remember that your landlord must give you a proper 30-day notice of a proposed rent increase.

(2). Visit or call your landlord and ask him to explain how the increase meets the requirements of the Economic Stabilization Program.

(3). If you are not satisfied with your landlord's explanation, write, telephone or visit your nearest Internal Revenue Service office. Be sure to indicate that you are Social Security beneficiary and send or bring with you copies of all notices from your landlord.

(4). Bear in mind that it is illegal for a landlord to harass or threaten a tenant who protests a rent increase to the Internal Revenue Service. Landlords who attempt retaliatory evictions or other such actions face possible criminal or civil penalties.

RENT CONTROL QUESTIONS AND ANSWERS

The Rent Control regulations are designed to help you, the tenant, by keeping rent increases within reasonable limits. Rent controls provide a definite set of rules landlords must follow to increase or decrease rents—plus protection for the tenant from rent gouging and retaliatory actions.

Rent regulations are complex. We admit it. But the basic rules and protections are simple to understand.

If you have unanswered questions, IRS district offices are geared up with rent experts ready to give priority to the questions and complaints of Social Security recipients.

Just call, write or visit your district IRS office—and be sure to say you receive Social Security payments.

You've got questions. We've got answers.

Question. Are all rents under controls?

Answer. No, not all rents are under controls. Units exempt from—not under—controls include:

Units owned by anyone who, along with members of his family, has a direct or indirect interest in no more than four units;

Units renting for $500 or more a month on January 19, 1972;

All nonresidential property;

New construction offered for rent for the first time after August 15, 1971;

Rehabilitated residences where the cost of repair is more than one half of the market value of the dwelling preceding the rehabilitation, and which are offered for rent for the first time and completed after August 15, 1971.

The regulations cover not only apartments and houses but also mobile homes and houseboats, as long as they are used as permanent homes.

Question. If a landlord owns three rental units and his father owns two, are the units under controls?

Answer. Yes, they are. Both have an interest, direct or indirect, in more than four units. The regulations exempt only an owner, who, along with members of his family, has a direct or indirect interest in one to four units. A family includes an individual, his spouse, his parents, children and grandchildren.

Question. I've heard the term "base rent." What does it mean?

Answer. Base rent is the highest monthly rent a landlord can charge for a residence before making any allowable increases. Generally, it is the approximate market level rent for a housing unit before the Freeze began on August 15, 1971. In figuring a rent increase, you ALWAYS start with base rent.

Question. How may my rent be increased above the base rent?

Answer. First, the landlord must give you a proper written notice 30 days before the increase. He can adjust rent to pass through increased state and local real estate taxes and fees. The rent also may be increased to pass through the cost of capital improvements completed after August 14, 1971, until fully recovered. Your base rent may be raised by a flat 2.5 percent a year to cover all other increased costs. Finally, if the majority of the affected tenants agree, the landlord may increase rents to recover costs to him in providing increased property or services.

Question. Let's take those parts of an increase one by one. First, how can the landlord increase my rent for increased taxes, assessments and fees.

Answer. He cannot increase your rent until the month such a bill becomes due. In most cases, the landlord cannot charge you increased rent until your lease has expired.

Now, when there has been a capital improvement, a landlord may charge the tenants benefitted by the improvement 1.5 percent per month of the total cost. For example, if your landlord installs an air conditioning unit costing $500 in your apartment, he may increase your rent only by 1.5 percent per month of the improvement's total cost, or $7.50 a month, until the improvement is paid off.

The cost of increased property or services not called for in your lease may be pro-rated among tenants only if a majority of the tenants who would benefit request the property or services in writing. For example, if a majority of tenants request a guard in an apartment house lobby, the landlord may raise the rents of all tenants on a pro-rated basis to pay the guard.

Question. What kind of rent increase notice must my landlord give?

Answer. A very specific one, written and delivered 30 days before the increase is due. Use this as a checklist of information that must be in the notice:

(1) Monthly rent of the unit before and after the proposed increase.

(2) The base rent and how it was determined.

(3) Percent and dollar amount of the increase and the date it takes effect.

(4) The units involved.

(5) Itemization of the increased costs and how they are prorated to the unit.

(6) A full description of capital improvements and their proration.

(7) The documentation supporting the

increase and the hours when it may be inspected.

(8) If the tenant still has questions, an offer by the landlord to meet with the tenant.

(9) A statement that information in the notice is correct.

(10) That the tenant, after meeting with the landlord, may contact the District Director of the Internal Revenue Service and give him a copy of the rent increase notice and a written statement of why the tenant feels the increase is illegal. The landlord also must provide the address of the IRS office in the notice.

(11) That the proposed increase will take effect on the date specified in the notice. But if all or any part of the increase is later found illegal, the landlord will refund the overcharge within 30 days after it is found illegal.

(12) That it is illegal for the landlord to take retaliatory action against a tenant who asks or complains about an increase and that the landlord will not take any retaliatory action.

Any increase notice that is unwritten, or delivered less than 30 days before the increase takes effect or which omits any part of the checklist is an illegal notice—and the rent increase is therefore illegal.

Question. If I don't think an increase is fair, or I want more information about it, what can I do?

Answer. Ask the landlord to show proof of increased costs or capital improvements being used as the basis for a rent increase. If you still don't feel the increase is proper, meet with the landlord and ask him to explain the increase. If the explanation does not satisfy you, write a statement indicating why you feel the landlord is in violation and submit it, together with your rent increase notice, to the Internal Revenue Service.

Question. If I complain to the IRS about a rent increase, what's to stop my landlord from evicting me?

Answer. Quite a lot. The regulations specifically forbid any retaliatory action, such as harassment or eviction, by a landlord against a tenant who exercises his rights under the regulations. Landlords who attempt to retaliate face possible prosecution and fines up to $5,000 for each offense. In addition, IRS has new powers to impose administrative sanctions—refunds to tenants, rent rollbacks and penalties of double the overcharged rent. Anyone who feels he is the victim of retaliation because he questioned or complained about a rent increase should notify the IRS immediately.

Question. My landlord says his painting of the halls is a capital improvement and he can recover the cost by increasing my rent? Can he?

Answer. No, he can't. Painting of the lobby and halls is maintenance, not a capital improvement. Capital improvements must continue beyond a 12-month period, benefit your residence and be subject to depreciation allowance.

Question. How can I file a complaint with the IRS?

Answer. Gather all the written material you can relating to your problem. If you are coming in, telephone, or send a letter, be sure to have the material on hand. Be sure to identify yourself as a Social Security recipient so that your case can be red-flagged for priority treatment.

TRIBUTE TO HON. WATKINS M. ABBITT

HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ASPINALL. Mr. Speaker, today we pay our respects to our colleague, Hon. Watkins M. Abbitt, who is leaving Congress at the end of this session after a long and fruitful term of office. He is one of our senior Members, having been returned Congress after Congress since 1948.

He has been an industrious Congressman not only in the interests of the people of that district which he served so ably, but also as he has worked with us here in the national legislature. His quiet and pleasing personality has endeared him to all of us. To the best of my knowledge, he has never uttered one word or committed one act which has hurt or offended a colleague.

It has been my pleasure to work on the Committee of Standards of Official Conduct with "Watt," as he is affectionately known to all of us, and I have enjoyed his companionship, respect, and esteem for his colleagues.

He usually has lunch in the Members dining room and on many, many occasions, it has been my pleasure to enjoy his comradeship at such times. I think I can testify that his favorite dish of cabbage is usually the topic of at least short duration at the luncheon table. In this, as well as other matters, he accepts the ribaldry with the grace and courtesy of a real southern gentleman.

In fact, that is what Watkins M. Abbitt is and always has been—a fine southern gentleman dedicated to the interest of the people of his district and to the people of the Nation generally.

He shall be sorely missed and I, for one, wish him well in the days ahead.

"MANNY" CELLER

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. MIKVA. Mr. Speaker, anyone who has ever run for elective office has to respect a man who can keep the confidence of the people for as long a period of time as has "Manny" Celler. But that is only an indication of his perennial magnetism—the test of time is the mark of a man, and the mark of Manny Celler is one that will last as long as there is a Constitution, a Bill of Rights, a concern for liberty, a passion for justice.

The Bible tells us that it is our duty to pursue "justice, and only justice." Emanuel Celler has obeyed that stricture all of his congressional life.

The words we say about him are also only of the moment, and can express only the personal affection that those of us who have had the privilege of serving with him hold for this man. But his pursuit of justice and excellence are his imprimatur on the history of this country, and they set a benchmark for all who will ever serve in the Congress of the United States.

Many men have walked the Halls of this House; few have left an imprint as great as Manny Celler. We are not likely to meet his equal in our time.

For all you have done and all you have meant, thank you Mr. Chairman. I know my great-great-grandchildren will be even more grateful that Manny Celler served his country so long and so well.

CONGRESSMAN LOUIS STOKES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CLAY. Mr. Speaker, on October 2, my colleague, Congressman Louis Stokes, in a speech to the Women's National Democratic Club, eloquently outlined the critical concerns of black Americans in this presidential year.

The impending realization that we may face 4 more years of Richard M. Nixon is a harsh blow to those who have suffered from these past 4 years of neglect. For despite the great problems born of the racism which still afflicts the Nation, progress was slowly being realized. The election of Richard Nixon in 1968 put a swift end to that.

Black and poor Americans cannot afford 4 more years of unemployment, of poverty, lacking health care, and meaningful educational opportunities. Nor can the Nation afford to continue this administration, for the despair of the needy is permeating the spirits of all our citizens.

In the words of Louis Stokes:

> It is time to restructure our national priorities, rededicate ourselves to sensitivity regarding the plight of others, and abandon althogether the hypocrisy of our society . . .

Mr. Speaker, I commend the speech to my colleagues:

SPEECH BY CONGRESSMAN LOUIS STOKES

It was 103 years ago that the voters of Louisiana sent the first black Representative to the U.S. Congress. His name was John Willis Menard and, because his white opponent contested his victory, he was never seated in the Congress to which he was elected. From 1870 to 1901, a total of 20 black Representatives sat in the House and two served in the Senate. All were Republicans—all were elected from Southern States.

Between 1901 and 1928, a period of 28 years, not a single black man or woman served in Congress. Black service resumed again in 1929, and today there are 13 black Representatives and one black Senator.

In 1969, Shirley Chisholm, Bill Clay and I came to Washington—bringing the number of black representatives to nine. 1877 had been the previous high-water mark for black representation in the House—with eight Congressmen. It had taken us 92 years to come back.

The nine of us came together—under the leadership of Congressman Charles Diggs—to form the Congressional Black Caucus. It had been apparent from the start that we would have to serve as congressmen-at-large for minority, poor and disadvantaged Americans—for citizens whose voices had never been heard in Washington before.

In June, 1971, the first annual Congressional Black Caucus dinner brought 3,000 people to Washington. That occasion made it possible for us to hire the staff we needed to follow the exhortation of our keynote speaker, Ossie Davis. As he put it "it's not the man; but the plan—it's not the rap; but the map."

The plan came into being very shortly after that. It was to schedule a series of national conferences and public hearings around specific and urgent issues. We had three goals:

(1) to crystallize black thought throughout the Nation; (2) to provide a national forum for minority, poor and disadvantaged Americans—where their resolutions to their own problems could be brought forth; and (3) to provide information and documentation necessary for legislative and administrative action.

In the year that followed, we had hearings on racism and repression in the military; the mass communications media; and governmental lawlessness. We held a conference with locally-elected black officials from around the country; and conferences on health in the black community; black enterprise; education; national priorities; and Africa. In the course of those hearings and conferences, we collected data that had never been put together before.

The health conference told us how a black child suffers serious disadvantages from the moment of birth. The chances are that his mother had little or no prenatal care available to her.

He is twice as likely to suffer from malnutrition as the white child. It is more likely that he will contract lead poisoning. He may be one of the 2.5 million Americans who carry the sickle cell trait; or he may be one of the 50,000 who has the disease. In later life, he is more likely to be afflicted with hypertension, cancer and heart disease, but less likely to visit a doctor.

Only 3 percent of the 300,000 physicians in this country are black. On Chicago's South Side, there is only one doctor for every 9,000 people. In rural Caswell County, North Carolina, the ratio is 1 to 19,055 people.

At the Black Enterprise Conference we learned that the white to black business ownership ratio is 46 to 1, while the white to black business dollar is a dismal 333 to 1. We learned that only 2 percent of this Nation's 7.3 million businesses are black-owned. White businesses had sales of 1.5 trillion dollars, but black businesses sold only 4.5 billion dollars worth of goods and services. Blacks own or control only a meager 0.5 percent of the liquid assets in this country.

The practice of racism has resulted in a systematic exclusion of blacks from the business market. This racism has denied blacks the opportunity to acquire training in management. Consequently, blacks have been deprived not only of access to capital resources, but also the opportunity to freely enter the marketplace.

The caucus' hearings on the mass media produced further documentation of racism—not only in the hiring of minority employees, but also in the treatment of news in the black community. We learned that in the newspaper industry, only 4.2 percent of all employees, and only 1.5 percent of the professionals, are black. In the broadcast industry, only 2 percent of all officials and managers are black, compared to 45 percent of the service workers. Of the 7,000 radio stations licensed in the United States, 360 are oriented to the black community—but only 19 are black-owned. Out of the four radio stations programmed to serve the black community in this city, three are owned and controlled by whites.

The education conference told us that while black students represent 12 percent of the college age population, only 6.6 percent of those in college are black. We learned that many white teachers are guilty of "blaming the victim," by wrongfully assuming that black children cannot or do not want to learn. And we proved that research and development funds go almost totally to white schools.

At the recent hearings on governmental lawlessness, we learned that title I funds, designed to go to poorer schools for special projects, have had to be spent on the upkeep of old buildings and the purchase of books and other essential materials. We learned of a white school district in New Mexico that buses in little Indian children—120 miles every day—so that it can receive title I funds.

Together, the conferences and hearings that we held produced a massive indictment against the American system. But they also produced concrete suggestions for change, based on the underlying belief that the American system has not become petrified yet. We still believe that a Government based on compassion instead of arbitrary self-righteousness would result in the flexibility that is needed to ensure equal opportunity.

It was with this belief—and the knowledge that the Democratic Party needed full black participation in the 1972 election—that we presented the black declaration of independence and the black bill of rights to the platform committee of the Democratic National Convention. This document was the culmination of a year of talking and meeting with black Americans from every part of this country. It contained the new data that we had gathered, and it was an official record of what minority, poor and disadvantaged Americans see as solutions to their own unique problems.

The 1972 presidential election is less than one month away. As Democrats and as black Americans, we have no alternative but to support Senator George McGovern.

For the past four years we have had to deal with an administration that—even while it was callous and unresponsive—still knew it had to return to the American people in 1972. It frightens me to think what could happen to our unfulfilled commitment to equality and freedom if Richard Nixon wins and does not have to report back in 1976.

The facts that I've shared with you this afternoon—about health, business, communications and education in the black community—are a reflection of our national history, insofar as that history is one of racism, inequality and injustice. But as slow as our society has been to live up to the goals of the Declaration of Independence and the Constitution as far as black Americans are concerned, there were signs of steady progress and growing enlightenment before Mr. Nixon took office in 1969. His administration has turned the clock back for justice and equal opportunity and it is going to take a lot longer than four years to undo the damage he has done and to eradicate the seeds of hate and mistrust he has sown. If he wins the election this year, then I don't know if the damage will be undone in our lifetimes.

Let me tell you how his domestic record looks to black Americans. The economy—unemployment, rising prices, maldistribution of wealth and income—is our most pressing problem right now. It is a rarely acknowledged fact that in times of economic trouble, the people at the bottom of the economic ladder are hit hardest, but helped least. In President Nixon's economic policies, we have proof of that rule.

Since he took office, the unemployment rate has increased by 85 percent. In July, black unemployment stood at 9.9 percent; but the average figure for blacks in cities was 23 percent, and in some neighborhoods it was as high as 45 percent. White teenage unemployment is 14.8 percent, but black teenagers are unemployed at a national rate of 33 percent. In May, while Vietnam veterans were unemployed at an 8.1 percent rate, but black veterans had a figure of 13.8 percent.

We know now that part of the President's new economic policy was to curb inflation by increasing unemployment. He didn't succeed in stemming inflation, as you well know, but he certainly increased unemployment.

On Labor Day this man had the audacity to go on the radio to extol the "work ethic" and condemn the "welfare ethic." Let's examine that so-called "welfare ethic." When President Nixon took office, there were 9.7 million welfare recipients. Today that number is increased by more than half; in May, there were 15.11 million Americans receiving public assistance. I think that it is more than coincidence that the increase in welfare receipients corresponds to the increase in unemployment. If the President really believes in the work ethic, then it is difficult to understand why he chose unemployment as the tool to combat inflation.

Perhaps one of the most serious aspects of this whole picture is the President's recent action that ensures that the situation is going to get a lot worse before it gets better. I am speaking of the elimination of quotas in Federal programs. Many observers see this as the end of a Federal commitment to civil rights enforcement. The full impact of the disembowelment of programs like the Philadelphia plan hasn't been felt yet in the 55 cities that will be affected. But if black unemployment in those cities stand at 23 percent today, I don't want to predict what that figure will be at the end of four more years of a Nixon administration.

It is interesting that while the shock-waves of the elimination of quotas still haven't reached many parts of this country, they've already been felt abroad. I recently came across a South African newspaper which contained an article that had this headline: "No Rush of Negro Diplomats for South Africa." The article reported the President's action on quotas and then went on to analyze what it would mean in South African terms. To them, the elimination of quotas is an assurance that the President will not send black diplomats to their country.

In other words, President Nixon's action over here endorses apartheid over there. I believe that if South Africa approves of something our Government does, then our Government should reexamine its decision very closely.

This, then, is how our country appears on the eve of the 1972 presidential election. Opportunity in all fields is limited and becoming more so. Unemployment is rising. The government is forcing people to go on welfare at the same time that it calls them "cheaters" and "loafers." When and if the economy takes a turn for the better, black Americans may be no better off—because the Federal commitment to equal opportunity has been abandoned.

25.6 million Americans live on less than $4,100.00 a year, and 34 percent of those people are black. In 1970, for the first time in a decade, the number of poor Americans increased. Black families earn only 60 percent of what white families make. The gap between rich and poor is widening.

The distribution of wealth is even more unequal than the distribution of income. The richest 20 percent of all families own 41 percent of all income, but they own 75 percent of all assets. The poorest 25 percent of the population have debts at least as great as their assets.

Somewhere along the line, the President said, "watch what we do, not what we say." and so we did. We watched as "busing", "Law and Order," and now "Quotas" were turned into systematic attempts to deprive black Americans of their constitutional and human rights. We watched as Nixon appointees to the courts began to chip away at hard-earned civil rights. We watched as black Americans became the victims of an economic program that gave industry its biggest profits in history. And we watched our children's schools be deprived of the funds they need to operate. We watched as grain dealers, milk producers, railroad executives and high Republican officials were allowed to use their money and connections to open White House doors. But it took the Congressional Black Caucus over 2 years to get a meeting beyond those doors. We watched as, over the years, less money was available for programs for the poor—because of a war that is draining our economy of $16.7 million A DAY.

This is not what the Nixon Administration said. This is what it did. If Mickey Mouse were running for President in 1972, then I would vote for Mickey Mouse.

But we are fortunate that we don't have to choose between Mickey Mouse and Richard Nixon. George McGovern is an intelligent and sensitive man and his administration would be able to say, "watch what we say because that's what we're going to do."

It is time to restructure our National priorities, rededicate ourselves to sensitivity regarding the plight of others, and abandon altogether the hypocrisy of our society. We can do that with the vote, less than a month from now.

PRIVATE PENSION FUNDS NEED BETTER REGULATION

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. WALDIE. Mr. Speaker, the problems of unemployment in California have brought into focus related and pressing problems of faulty pension plans, and lack of security for retired persons, not only in California, but nationwide.

It is a devastating realization by those who have contributed to funds throughout their working life, to find that their pension company has gone bankrupt. It is disheartening and frustrating for those recently unemployed by the aerospace industry, to find that because of such things as the expiration of the "5-year period of recall rights"—of North American Rockwell Corp.—employees with 8, 9, and 9½ years of pension credits are left with nothing. And often, for those who do find jobs after being unemployed, there are problems of not being able to transfer pension funds from one company to another.

There have been implications made by groups such as the Committee To Protect Pensions that, for example, North American Rockwell is accruing benefits from shabby pension plans. One charge is that North American Rockwell made an unsecured loan from the assets of the NAR fund—a fund which was contributed to by NAR employees and not subject to 52 percent to 48 percent corporate profit tax, as would be the case of net profits of NAR.

Another charge made was that NAR hires new employees under the exact classification of those who have been laid off, thus excluding those employees closer to retirement and replacing them with new employees and making the odds against being a retiree great.

How widespread among corporations these questionable practices are, or whether they, in fact, occur should be the subject of a comprehensive investigation.

The Senate Labor Subcommittee has undertaken a study on the termination of private pension plans and has been critical of the present private system. It was concluded by two members of the committee that:

Pension plans were scrapped immediately after a merger or acquisition by another company, characterized as a larger conglomerate.

Most employees "had been led to believe that their pension rights were guaranteed, and were unaware of the reduction or termination possibilities.

When the pension plans were dropped most participants and retirees were unable to obtain information about what losses they might suffer. Some were misinformed or mislead as to their pension rights.

In view of these findings, and the grave personal losses by victims of poorly managed, poorly regulated private pension plans, it is obvious that there is a clear need for bills insuring reinsurance and systematic funding of pension plans, and a greater need for further study in this area.

A HARD LOOK AT REVENUE SHARING BILL

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BRINKLEY. Mr. Speaker, on September 21, I presented a statement to this body urging my colleagues to take a "fresh look, a close, hard look" at the conference report on the revenue sharing bill.

I personally have taken that fresh look and, quite frankly, I am deeply disturbed.

Only Tuesday this body raised the national debt ceiling to $465 billion. On that measure, the gentleman from Mississippi (Mr. Colmer) quoted the following figures: For the fiscal year 1973, the interest on the national debt will be $23.1 billion. That amounts to $63,287,671 per day, $2,636,986 per hour, $43,950 per minute and $732.50 per second.

The gentleman contended that we needed to approve the $250 billion spending ceiling provision for fiscal year 1973 attached to this measure allowing the President to make the determination as to which programs would be cut because, he reasoned, Congress could not or would not itself do so at this late hour, and the terrible reality of massive inflation, if allowed to go unchecked, would bring about the downfall of the Republic. While I am in complete agreement that we should spend no more than our income, I am unwilling for the President, whoever he may be, to make the choice as to which programs have, and which programs do not have, priority.

That is a constitutional prerogative of the Congress; it is our constitutional duty and responsibility to make those decisions. The Mahon amendment, which I supported, could have achieved the same thing. What is wrong with having the Congress ratify a Presidential recommendation for areas in which cuts are to be made? If, indeed, this is a matter of crisis proportions, as I also consider it to be, what is wrong with staying in session or coming back in early January?

And now about revenue sharing. If it gives with one hand and takes away with the other, it is patently deceptive. Will revenue sharing turn out to be merely substitutionary for the programs which will be cut to get under the $250-billion spending limitation for fiscal 1973—and I am frankly concerned with such programs as Public Law 815 and Public Law 874, important funding for education. I am concerned with Rural Electrification Administration money, and Farmers Home Administration funds for water and sewerage. If money is cut for those programs, for example, and provided to State and local governments in the form of general revenue sharing, it will be a sad commentary on the Federal system.

To my chagrin, the conference report on revenue sharing was held over until today from yesterday. Substantively speaking it made no difference, but Member confidence in the leadership continues to ebb because of its probable well-meaning deferrals to some Members without consideration for the schedules of others of us.

WASHINGTON REPORT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. COLLINS of Texas. Mr. Speaker, now that we are concluding the 92d Congress, I am making my regular report to Texas.

The following is my report to the Third Congressional District of Texas:

Greenbelt Park Success

The biggest environment achievement in the Nation this year has been the addition for the Trinity River Dallas Greenbelt. HUD, through its Legacy of Parks Program, on August 28, 1972, gave a $2,235,187.50 grant to the City of Dallas. This is the largest park grant in America this year. Combined with this, Dallas will add $1,117,593.

The big boost came through John Stemmons, whose Stemmons' Industrial Properties are making an outright matching gift of 933 acres to the Greenbelt.

Both Stemmons and HUD stipulated that all land must be acquired by January 1, 1974. Park Director L. B. Houston and his Park Superintendent, Grover Keeton, will negotiate with 14 other tract owners in this central downtown section of the Trinity overflow area.

The Dallas Park Board has consistently pushed for the complete Trinity Greenbelt Consolidated Park. When this acquisition is completed, the Greenbelt will have about 5,000 acres. The eventual objective is 8,200 acres, which will make it the largest city park in the world.

The Dallas Park Board is to be commended on this farsighted development. The President of the Dallas Parks is Dr. William B. Dean and the V.P. is J.D. Wright. The members of the Board are: Ebby Halliday Acers, Lee Drain, John D. Gilliland, Floyd V. Gish and Pettis Norman.

The Dallas City Council helped make the park possible by including matching acquisition money in the last Bond Issue. It has supported every phase of this Trinity Greenbelt development. The Dallas City Council includes Mayor Wes Wise, Mayor Pro Tem Ted Holland and Councilmen Lawrence E. Ackels, George L. Allen, Doug Fain, Jerry Gilmore, Sheffield Kadane, Anita Martinez, Russel B. Smith, Garry Weber and Fred Zeder.

The Trinity Greenbelt will provide Dallas with extensive recreational facilities such as riding trails, bicycling paths, archery and rifle ranges, basketball courts, baseball diamonds, golf courses, tennis courts, swimming pools, and lake facilities. When complete the park will run 25 miles through the heart of the county along the full length of the Trinity River.

A year ago HUD Under Secretary Van Dusen came down to visit with Collins and Dallas business and park leaders. He viewed the enormous plan by helicopter. As he left Van Dusen remarked "This is the best conceived overall greenbelt proposal that I have seen anywhere."

"This Greenbelt represents another Dallas success story," Congressman Collins said. "All of us remember when John Stemmons, Bill Windsor and David Burton gave the right-of-way land for the Stemmons Expressway. Now John Stemmons has come in again to give the matching share of the land for the greatest park in America. Our City Council covered it with the Bond Issue that you just passed and your Park Board coordinated everything with HUD and all other interested parties to expedite the development. One hundred years from now the Trinity Greenbelt will be recognized as Dallas' great team move for the 70's."

PRIORITIES FOR 1973

As we end 1972 Congress needs to work on legislative planning for 1973 action. Listed here are the priorities I plan to emphasize. Your viewpoint and constructive suggestions would be helpful.

PEACE THROUGH DEFENSE PREPAREDNESS

The major challenge for the 70's is how America can maintain World peace. The only answer is to establish defense parity between the United States and Russia. The current Soviet strategic arms build-up continues to gain momentum and their lead in military defense critically affects the world balance of power.

The Russians are spending 25% of their gross national product on defense while the United States spends only 7%. More importantly, the Russians are spending 75% of their defense dollar on equipment and research, while America spends only 33%. Most American defense dollars go for manpower—salaries, food and housing. Our defense budget must be spent on more planes, electronics, submarines and technical research if we are to maintain world peace.

The most recent report of the Secretary of Defense revealed the following:

The Russians lead us in Intercontinental Ballistic Missile Launchers by a margin of 1550 to 1054; in Fighter-Interceptor Aircraft by 3100 to 593; in Surface-to-Air Missile Launchers by 1000 to 839; and in Anti-Ballistic Missile Launchers by 64 to 0.

In the last 10 years the Russians have developed the world's fastest interceptor aircraft, the world's largest strategic missile and the world's largest helicopter. Russia has produced eight new airplanes while the U.S. has developed only one.

NEIGHBORHOOD SCHOOLS

A Constitutional Amendment is the only permanent way we can end forced busing of school children in this country. This past session of Congress has seen the education and safety of our children disregarded by liberals in Congress who are determined to bus and end our neighborhood schools. President Nixon and the House have taken positive action for ending busing. 1973 could bring a more conservative Senate with more constructive legislation.

TAXES

There will be a strong move by Liberals in Congress in 1973 to raise more tax money by closing "loopholes" in the tax laws. This would mean higher taxes for the average individual and a business slowdown because of the increased tax burden. Legitimate tax deductions which encourage business growth and which afford relief to the already overtaxed American family income would be eliminated. Of particular importance to Texans is the proposal to completely eliminate the Oil Depletion Allowance. Domestic drilling for oil and gas has already been reduced in half. Elimination of the depletion allowance would severely depress activity in the oil and gas industry which is so vital to the Texas economy. The proposals to eliminate tax deductions for mortgage interest payments and property taxes on the home would greatly increase the costs of buying a home. In addition, by elimination of the deduction for contribution to charities, many of our fine community service organizations and the majority of our private colleges and universities would be faced with financial ruin. The need is for lower taxes and less government spending.

BALANCING THE BUDGET

Excessive Government spending has been the major cause of inflation in America. It has created a national debt in the U.S. larger than the national debts of all the other countries in the world combined. It means an increasing tax burden on ourselves, our children, and our grandchildren.

In 1972 the Government overspent its budget by 26 billion dollars and more deficit spending is forecast for 1973 unless Congress takes action. I have consistently opposed measures to require a balanced budget. It is encouraging to see that the Administration and other Congressional leaders are recognizing this problem and are advocating legislation to impose a definite limit on Federal spending in 1973.

BUILDING BETTER NEIGHBORS

South America is developing rapidly. There is much to be done, but the countries do a better job when the people do it by themselves.

Most Texans oppose Government Foreign Aid; they believe there is a better way. I feel the best way to help these growing nations is for the further development of the Foreign Mission programs of our churches.

Texas church missions have played an important role in foreign growth. One of the greatest mission organizations, the Wycliffe Bible Institute, is now building its world headquarters out near Duncanville. The gifts of our American Jewish neighbors have made the growth of Israel possible.

Let me tell you about the trip Dee and I made this summer to Medellin, Colombia. Our oldest daughter, Dorothy, is married and lives there. Every time we visit Medellin we spend an afternoon at the orphanage Granjas Infantiles. The Catholic Charities of Dallas is the largest benefactor of this orphanage.

I wish everyone in the Third District could join us when we visit Granjas and see the 250 smiling girls. The orphanage is one of the cleanest places in South America. They mop and sweep and keep every piece of litter picked up. The dormitories are crowded but the beds are neat.

Probably the greatest reason for the happiness you see in every face is the love of the Mother and the Sisters who take care of the Granjas. While we give our money, these Nuns from France are dedicating their hearts and their lives to these girls.

I once told the Bishop that their faith so permeated the orphanage that you could feel the spirit of Jesus Christ on the grounds.

This trip as we walked through the sewing room, the Mother was very excited. The textile mills in the city had given the orphanage big bags of scrap rags. The girls took these small scraps and made shirts, pants, nightgowns and all types of children's clothing.

The Mother was so thrilled that there in the orphanage they were able to do something for the poor children who lived out in the countryside. Here were orphans who were proud to be doing things for poor people.

It gave us the warmest feeling to see these little girls growing up with smiles on their faces and love in their hearts. Let's do Foreign Aid the right way. Give to the Foreign Mission program in your Church.

LOOP BRIDGE

The Federal funds commitment providing for the Loop 12 Bridge was the major regional legislative achievement this session. Oak Cliff, Grand Prairie and Irving all had listed it as Top Priority.

The urgency was that with an expressway being built to service the entire western half of the area, the roads bottlenecked into a one-lane bridge crossing the Trinity River.

President Nixon provided for the new bridge in next year's budget and in the hearings before the House Public Works Committee no objection was raised to this appropriation item. But then, just before it went to the Floor, the staff director of the Public Works Committee deleted it.

We went to the Senate for help and Senators Tower and Bentsen succeeded in having the Loop 12 bridge appropriations included in the Senate bill. The Trinity River Authority was most effective in expediting action on it.

The big move was to get the Conference Committee to reverse the House position and include the bridge. Fortunately, Dallas has representation on both sides of the aisle. Special commendation goes to Congressman Tiger Teague who led the fight and Jim Wright, Earl Cabell, Ray Roberts, as well as George Mahoney, Chairman of the House Appropriations Committee.

The Texas Highway Commission has already provided the major portion of the bridge cost and is nearing completion on the design. With this bridge constructed, we will move six times as much traffic through the area. But the big victory was in getting a reversal and getting this essential item passed and signed into law.

GOLDEN ANNIVERSARIES

If you have friends or relatives living in Dallas County who are celebrating a 50th Wedding Anniversary write and let Congressman Collins know. He would like to honor them by sending an American flag that has flown over the United States Capitol.

RESOLUTION ON FARE INCREASE

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DANIELS of New Jersey. Mr. Speaker, the Port of New York and New Jersey is extremely vital to the best interests of the people of Hudson County, N.J. I am very concerned by statements made recently by PATH officials and others which indicate a fare increase for persons who use this form of mass transit.

The result of such an unwise decision would be to further increase congestion and pollution in New York City and its surrounding areas as well as cause hardship to thousands of persons, most of whom are persons, of modest means.

The commissioners of the town of West New York, N.J., have passed a resolution opposing this increase. With all Members concerned about pollution and congestion this is more than a local issue, it is one which concerns very vital interest. I urge all Members to ponder the views of the town fathers of West New York.

The resolution follows:

RESOLUTION

Whereas, PATH is Hudson County's lifeline to New York City and vitally affects the economic, cultural and social life of the residents of Hudson County and West New York,

Whereas, The Port of Authority of New York and New Jersey, though it has performed magnificently on many essential projects, has concentrated its activities in vehicular tunnel transit, but has neglected other mass transit,

Whereas, a principal purpose of the Authority was to improve rail transit (Art VI 32:1-7 NJ Revised Statutes, 65 McKinney Sec 6407), and

Whereas, statements by a Port Authority member regarding an increase in the PATH fare has been issued, which if put into effect would be a blow to the mass transportation system of Jersey City with its increasing urban problems and to the waterfront development project and other areas, and

Whereas, The Authority must look at mass transit in its totality, and must not consider PATH as a deficit operation, but must treat it as part of an immensely profitable overall operation, including tunnel and bridge vehicular, and air transit, therefore

Be it resolved, That the Board of Commissioners of West New York opposes any increase in the PATH fare as unwarranted, unjustified, and detrimental to the interests of the residents of Hudson County, and adverse to plans now in formation to rebuild said county, and

Be it further resolved, That copies of this resolution be forwarded to the Authority, Governor William T. Cahill, members of the Hudson County legislative delegation, the County Board of Chosen Freeholders, and the Mayors of all Hudson County municipalities with the request that they pass similar resolutions.

NATIONAL POLICY FOR SNOWMOBILES

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BERGLAND. Mr. Speaker, I am introducing legislation today which would provide for the establishment of a comprehensive Federal-State program to regulate the rapidly growing winter sport of snowmobiling.

In my Minnesota district and throughout the snowbelt States, the coming of the snowmobile has resulted in a revolutionary increase in the number of citizens participating in wintertime outdoor recreational activities. The sport has grown like Topsy and it is clear that the reason for this growth is that snowmobiling offers an opportunity for healthy outdoor recreation and an outdoor way of life to a tremendous number of Americans who would otherwise be kept indoors during the winter. It is also undeniable that snowmobile recreation has had a healthy economic impact on areas of our country that are sorely in need of it and that the snowmobile has made life easier for farmers, foresters, law officers and others who must travel outdoors during the wintertime.

It is also undeniable, however, that the coming of the snowmobile has brought some problems along with the benefits. Nonsnowmobiling users of public lands complain that unrestricted snowmobiling unduly interferes with other competitive recreational opportunities. Conservationist groups allege that uncontrolled snowmobile use has adverse environmental consequences. Accidents are on the increase and such diverse groups as the Center for Automotive Safety and the National Transportation Safety Board have decried the lack of uniform safety standards for snowmobiles used on public lands and elsewhere. All of these diverse groups are calling for Federal action and, since the snowmobile is clearly here to stay, these calls for action will grow louder as more snowmobiles are placed into operation. Because our Government must be responsive to public sentiment, it seems clear to me that there will be Federal laws or regulations affecting snowmobiling in the very near future. The issue before us today is whether these laws and regulations will be developed by piecemeal legislative and/or administrative response to specific concerns of the moment or whether this Congress, in its wisdom, will provide for the kind of comprehensive long term planning which is clearly necessary to adequately promote the safety and enjoyment of the millions of our citizens who will engage in the sport of snowmobiling both this winter and throughout the coming years.

The legislation I am offering today meets the need for a comprehensive Federal policy regarding snowmobiles used on public lands, it provides for Federal-State cooperation in the development of programs for promoting the safety and enjoyment of snowmobiling on lands under State jurisdiction. I believe this bill is entitled to the consideration and support of this body.

JOSEPH F. KOZO: OUTSTANDING LEADER OF DETROIT BOYS' CLUBS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CONYERS. Mr. Speaker, for 25 years, Mr. Joseph Kozo has rendered outstanding service to the Boys' Clubs of Metropolitan Detroit as its executive director. During this time he has served in the organization in many capacities from his first job as physical instructor to his present position as executive director.

Through his complete dedication to the service of youth he has guided and influenced hundreds of boys through troublesome times to an effective and mature manhood. He has helped to establish numerous scholarships benefiting young men who would otherwise be unable to have a college education. As a member of numerous national program committees, he has initiated and carried out new innovations and concepts benefiting Boys' Clubs on local and national levels. He has been especially active breaking down racial discrimination which for so long had created a gulf of ill-will in many youth activities. In addition to his professional activities he has characterized his career with a deep personal interest and regard for the boys under his direction and, as well, for his associates in the Boys' Club field.

This week Mr. Kozo will be honored by his friends and colleagues at a testimonial dinner where he will be given the Heart and Soul Award for 1972. Let me quote to you from the award:

Mr. Kozo began his professional career as an athletic coach at the Boys' Club of Bethlehem, Pa., in 1946. In 1947, he was appointed Physical Instructor at the Boys' Club of Detroit, an organization he has served faithfully ever since.

Currently, the Executive Director (as of June, 1972) of the Boys' Clubs of Metropolitan Detroit, our recipient earned his Bachelor of Science in Education and Master of Arts in Recreation from Wayne State University. He is a certified Boys' Club Worker and the Secretary of the Boys' Clubs Professional Association.

As a Boys' Club Professional, he has given of himself in behalf of the Boys' Clubs of America and the Midwest Region. He was instrumental in developing the Midwest Region's Junior Leaders Institutes and Adult Program Workshops. He has served as a member and chairman of the Boys' Clubs of America National Committee on Physical Education, as a member of the Midwest Region Program Leaders Advisory Committee and as a member of the Regional Steering Committee of the Midwest Region of Boys' Clubs of America.

Widely respected for his total devotion to the movement, outstanding leadership, and example, the recipient stands as the epitome of a Boys' Club professional.

The recipient of this Award has by thought, word and deed exemplified the highest type of professional Boys' Club worker. He has demonstrated unusual initiative, imagination and creativeness in the performance of his duties and responsibilities to his community and given liberally of himself in long and devoted service in behalf of the Boys' Clubs of America and the Midwest Region.

As one who has known Mr. Kozo through the years, I add my heartfelt thanks for a job well done on behalf of many parents who know that Joe Kozo has been a good influence on the lives of their children.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM. J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

CONGRESSMAN BILL ROY CITES RECORD FOR YOUNG CITIZENS

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. ROY. Mr. Speaker, one of my first actions as Congressman was to cosponsor a constitutional amendment to grant the right to vote to all citizens 18 years of age and older in both State and Federal elections. With the adoption of this amendment has come endless analysis of the potential impact of the "youth" vote. Some say that the impact will be great; others say that the effect will be measured. I suppose that only time will tell, but I know that the passage of the 26th amendment has had a large impact on my own family. In 1970, there were only two registered voters in my family, but in 1972, there are six registered voters, four of whom will be casting their first vote this November. If this situation is typical, the "youth" vote will most certainly be an important factor in this election year.

The problems that concern our youth are problems that concern us all. When I came to Congress in 1971, I believed very strongly that it was imperative that we end U.S. involvement in Indochina so that we might direct our limited tax dollars away from the military and war and toward more pressing domestic needs such as education, health care, pollution control, as well as insuring that every American has adequate food, clothing, and housing.

Since I have been in Congress, I have supported every effort to legislate an end to the war in Vietnam, contingent only on the release of Americans held prisoner of war and an accounting of our men missing in action.

Unfortunately, all such efforts have been rejected, and Americans continue to kill and be killed. We presently spend one-half billion dollars a month to pay for the stepped-up bombing activity. I wish desperately that we could spend this money for positive domestic programs, and will continue to do all that I can to end our involvement in this war.

In June 1971, I voted against the 2-year military draft extension. I did this for two major reasons. First, the draft is inequitable and unfair. Second, we were told that the war in Southeast Asia could not be continued without an extension of the draft. As you know, the Congress voted to extend the draft until June 1973. But consistent with my conclusions and vote in June 1971, the Pentagon stopped sending draftees to Vietnam in early 1972, and the President recently indicated that the draft will cease in June 1973. I commend these actions.

Since I have been in Congress, I have worked to strengthen our total educational system. I voted for the Higher Education Act of 1972, the most far-reaching educational measure in our history. This bill recognizes the utmost importance of a balanced educational system—one which includes community colleges and vocational education schools, along side of our 4-year colleges. It is imperative that we recognize the diversity that our community colleges and vocational education schools offer. I also supported the important veterans' education bill.

A matter of concern that affects us all—young and old alike—is the taxing system that is employed by the Federal Government. There are many inequities in the present system, and I have introduced legislation to review and reform our tax structure. I think that the next Congress must work toward revamping the present system so as to provide more equity and fairness.

One of the most outstanding inequities in our taxing mechanism is the problem of unfair tax treatment of single persons. As it stands now, over 30 million unmarried taxpayers will be penalized because of their single status. I have introduced legislation which would extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married persons filing joint returns.

Another special interest of our young people is in the area of ecology. I have received countless letters from my young constituents expressing their very real concerns as to the future of our environment. This interest is very refreshing for it indicates a sense of awareness on the part of our youth. I am especially heartened by this interest because I am a member of the Subcommittee on Public Health and Environment, the subcommittee which has jurisdiction over various environmental measures. Among the environmental legislation that I have cosponsored are the noise control, Youth Conservation Corps, Federal water pollution control amendments, and the Safe Drinking Water Acts.

I have cosponsored two other bills aimed at including young Americans in the process of government. One of these would change the minimum-age qualification for serving as a juror in Federal courts from 21 to 18. The other proposes a constitutional amendment to lower the age of eligibility for service in the House of Representatives and the Senate by 3 years. If this bill is approved, and ratified by the States, persons would be eligible to serve in the House of Representatives at age 22 and in the Senate at 27.

Mr. Speaker, I supported the lowering of the voting age to 18. It is my belief that young people today are ready and able to make wise choices in the voting booth, as well as make major contributions to the political process. The votes of our young citizens will have a constructive effect on our Government and on the continuing efforts to make our political process more responsive and effective.

REPORTS TO TEXANS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. PRICE of Texas. Mr. Speaker, as part of my continuing effort to keep the residents of the Panhandle and northwest Texas informed about my activities in the Congress, I am inserting in the CONGRESSIONAL RECORD at this time, the text of my latest monthly news report, weekly report and annual questionnaire:

"SMALL BUSINESSMAN'S MEETING FIRST STEP," SAYS PRICE OBJECTIVE: BUSINESS OPPORTUNITIES AND MORE JOBS

In twin conferences held in Wichita Falls on September 29th and in Amarillo October 2 local businessmen, giant corporations, federal agencies and the man on the street sat around the conference table and discussed "how we can do more for each other." The two conferences arranged by Congressman Price were termed a great success and the first step in a program to ultimately expand and attract new business. Thirty representatives of the various branches of the government including SBA head Tom Kleppe and FHA head Jim Smith that either purchase or act as consultants attended the conference. Industry representatives from across the U.S. encouraged small firms to actively seek sub-contracts. At the luncheons the 158 participants heard remarks from Price that were summarized by "let's roll up our sleeves and go to work."

PRICE EARNS 100 PERCENT RATING ON NATIONAL SECURITY

Price's reputation as one of the strongest supporters for a strong national defense received a boost when the National Security Voting Index was published. Price received a 100% rating on legislation concerning national defense. The rating is an analysis of the national security voting records of members of the 92nd Congress as compared with majority public opinion. Price who has been cited many times for his stand against liberal proposals regarding foreign and domestic affairs was quoted as saying "Some of these radical proposals would destroy this country. I can't imagine anybody supporting them."

GEORGE WASHINGTON AWARD WINNER JOINS PRICE STAFF

Mary Rando, daughter of Mr. and Mrs. Santos Rando of Friona, Texas, has been appointed to the Congressman's district staff. Miss Rando in 1967 was awarded the George Washington Honor Medal Award for her interest in government and devotion to American traditions and ideals. Miss Rando is a graduate of Friona High School, is working on her degree at New Mexico State University and this summer served as a Congressional Intern in Price's Washington office. Her activities in youth work, church and civic affairs have gained her many honors. She will be in the Congressman's Amarillo office located in the Post Office Building.

PRICE APPOINTED TO GOP POLICY COMMITTEE

Congressman Bob Price has been appointed to the GOP Policy Committee, it was announced in Washington. The committee has as its primary purpose the guiding of legislation through Congress. Working closely with the Administration the committee is active in creating legislation and carrying the legislation through the Congress. The committee consists of a limited number of Congressional leaders. Price commented "my appointment to this committee is really an honor. I believe in the 93rd Congress we will have the opportunity to enact some very important legislation that will coordinate with President Nixon's plans for peace with prosperity and progress with pride."

VIETNAMIZATION, NOT CRAWLING TO HANOI WILL END WAR SECRETARY OF DEFENSE AND CONGRESSMAN PRICE AGREE

In a breakfast address to Air Force Association members, Secretary of Defense Melvin Laird stated the continuation of Vietnamization will lead to the war's end and the return of all U.S. prisoners of war. Secretary Laird and Congressman Bob Price arrived at Sheppard Air Force Base early the morning of September 28th to attend the breakfast, tour portions of the base and to hold a press conference. In his introductory remarks Price pointed out a strong national defense is a major deterrent to war and that Secretary of Defense Laird was an active proponent of this philosophy. Secretary Laird in his closing remarks said that Price had been helpful to him while he served on the House Military Appropriations Committee and continued to be of help to him as Secretary of Defense. Laird and Price served together in Congress and share joint philosophies in regard to national defense.

PRICE OPPOSES PROPOSALS TO ELIMINATE DEPLETION ALLOWANCE

Congressman Bob Price at a meeting in Wichita Falls with Assistant Secretary of the Interior Hollis Dole expressed once again his opposition to proposals that would discourage domestic exploration of oil and gas. Price said, "there are those who propose these radical movements and those who support them. They would have us dependent on foreign oil for our domestic and military needs. We must not support this philosophy."

In addition, Price said he will form a Northwest Texas Petroleum Advisory Committee to assist him in dealing with oil and gas legislation. He said the members of the committee will be announced after the election so that the committee can have a nonpartisan membership. "The committee will present an opportunity for all parts of the new Congressional District to work together in a cooperative effort to fight against those committed opponents of the oil industry," Price concluded.

JOB OPPORTUNITIES WITH THE FEDERAL GOVERNMENT

White House Fellowship Program—Ages 23–26, assignment as assistants to senior White House staff members, the Vice President, Cabinet officers or other top Government officials. For further information write to: Director, President's Commission on White House Fellows, The White House, Washington, D.C. 20500.

Foreign Service Career Opportunities—21 years or older, junior year of college, citizen of U.S. for 7½ years. For further information, contact: Board of Examiners for Foreign Service, Department of State, Washington, D.C. 20520.

NORTHWEST TEXAS JOB LOCATER SERVICE

For information regarding current job vacancies with the Federal Government in the Northwest Texas area, any resident may dial free from anywhere within our state this telephone number: 1-800-492-4400.

CONGRESSMAN PRICE AND SECRETARY BUTZ ATTEND HISTORIC MEXICO CITY CONFERENCE

Because of his firsthand knowledge and experience as a lifelong rancher and livestock producer, Congressman Price was extended an invitation by Secretary of Agriculture Earl Butz to attend the recent conference in Mexico City as part of the American delegation which concluded a historic screwworm eradication agreement with the Mexican Government. This important agreement will establish a new screwworm control barrier in Southern Mexico and will upon taking effect save U.S. livestock producers the over $50 million in losses suffered this year.

This agreement is the latest in a long series of actions taken by Secretary Butz designed to bolster farm and ranching income, and further enhances his growing reputation as being the most effective Secretary of Agriculture in many years.

PRICE BILL TO ALLOW 65 YEAR OLDS TO WORK AND STILL COLLECT SOCIAL SECURITY

Congressman Price has introduced legislation that would stop deductions of outside earnings from the Social Security benefits of 65 year olds. Price said, "A person can pay into Social Security for a lifetime and if he continues to work can find himself unable to collect one dime at the time he needs the money the most."

The bill will abolish the limitation placed on the amount of outside money a 65 year old may earn in order to continue to receive his or her Social Security benefits.

The House has approved a proposal to raise the income limitation for workers drawing benefits. The Price bill would remove the limitation altogether.

OCCUPATIONAL HEALTH AND SAFETY

This week House liberals delivered an almost fatal blow to some small businessmen and their employees when they voted down an amendment to the Occupational Safety and Health Act which would exempt employers of 15 or less people from the stringent OSHA regulations.

The financial burden placed on small businesses by OSHA will in effect cut employee chances for extra income and in some cases may cost employees their jobs. Some businessmen have indicated to me that the costs of meeting these requirements will cause them to cut back their number of employees in order to pay for meeting arbitrary health and safety standards.

I firmly believe that all people should have adequate, safe working conditions but this should be worked out between labor and management, and not by legislative decree. This is just one more function of private business that we are yielding to federal government interference.

In April, I introduced an amendment to the HEW-Labor Appropriations Act which would exempt employers of 25 people or less. The defeated amendment was a modified version of my bill.

WATCHDOG AWARD

For the third year in a row it has been my honor to receive the Watchdog of the Treasury Award from the National Associated Businessmen. This award is in recognition of my fiscally conservative voting record.

It has long been my contention that our policy of chronic deficit spending is largely responsible for the many problems of inflation, the balance of payments deficit, the dollar-confidence crisis and the like which have seriously eroded our Nation's position as a world economic leader and placed great burden on our taxpayers.

It gave me a great deal of satisfaction this week to follow this fiscal policy and vote for the $250 billion debt limitation. Passage of this measure is the first ray of hope I have seen in this free-spending majority controlled Congress. I hope this attitude will continue.

TOWN HALL MEETINGS

As soon as the Congress adjourns, I will again be travelling the District and visiting with you at our Town Hall Meetings.

Time, date and place of these non-partisan, open to the public sessions will be posted with your local radio station and newspaper.

I urge your attendance at these meetings to share with me your views on government issues.

MINIMUM WAGE

This week the House again rejected efforts of the labor-liberals to stack a conference committee on the minimum wage. Spurred on by the Senate, this group hoped to increase the minimum wage immediately to $2.20, a figure which would place an enormous burden on the small businessman.

I believe people should be able to earn a decent living wage; nevertheless wages must be set at a realistic level and ought to be determined by agreements between labor and management, and not by the dictates of government.

I fear the adoption of this extravagant $2.20 proposal would, in the long run, mean the closing of thousands of small businesses as well as the loss of thousands of jobs and millions of dollars in wages.

MEAT INSPECTION

Under pressure of the Meat Cutters Lobby and their cohorts, the House voted down a measure which would have given financial assistance to State meat inspection programs.

This legislation, designed with the federal government underwriting 80% of meat inspection costs, would have left control of these programs at the local level.

The whole scheme of preventing passage of this legislation has been aimed at causing the failure of the small processors (who do not wish to be unionized), the folding up of the state programs, and the complete federalization of meat inspection. This will make it possible for the unions to organize the larger processors vastly increasing their membership, fattening their treasury with dues and greatly enlarging their power.

The defeat of this measure will also guarantee their goal. It is unfortunate that the interests of some Congressmen seem to lie with the unions instead of the housewife who buys meat for the family table or the small businessman and his employees.

RAILROAD RETIREMENT BENEFITS

I voted with an overwhelming majority to override the President's veto of increased benefits for retired railroad employees.

I feel it is only fitting that these people be given the same benefit of an increase as that given to retirees who are on Social Security. The cost of living is the same for all our senior citizens and it would be totally unjust to ignore the needs of this group.

CONGRESSMAN BOB PRICE ASKS YOUR OPINION

DEAR FRIEND: As part of my continuing effort to keep informed about the views and concerns of the citizens of Northwest Texas-Panhandle Counties, I am writing to ask your opinion about the issues of importance facing our Nation.

Would you please take a few moments to respond to this questionnaire by marking your answer in the space provided. Should you care to give me your additional views or comments on any issue, or if you feel I can be of assistance to you on any matter effecting the Federal Government, please feel free to write me a separate letter. However, to help facilitate the processing of this questionnaire and to insure that any special comments or problems will be given proper attention, *Please Do Not Write on This Questionnaire.*

18–21 Over 21 Please indicate your age category by circling the appropriate group.

YES NO PLEASE ANSWER EACH QUESTION BY MARKING AN "X" IN THE SPACE TO THE LEFT.

——— ——— 1. Do you support the President's policies affecting the withdrawal of American forces from Vietnam, conditioned on the release of U.S. POW's and MIA's, a ceasefire throughout Indochina, and the holding of an internationally supervised Presidential election in South Vietnam?

——— ——— 2. Do you believe this Nation should expand its trade with Communist countries in "non-strategic" materials?

——— ——— 3. Would you favor a drastic cut of as much as $30 billion in U.S. defense expenditures?

——— ——— 4. Do you support legislation to prohibit busing of school children solely for the purpose of obtaining racial balance in the classroom?

——— 5. Do you favor Federal programs to curb pollution even if they result in higher taxes and a loss of job opportunities?

——— 6. Do you favor legislation to exempt small businessmen with 25 or fewer employees from the Occupational Safety and Health Act of 1970?

——— 7. Should the Congress enact welfare reform legislation which would give every family a guaranteed annual income, even if this raises taxes paid by working citizens?

——— 8. Do you favor Federal legislation to register and restrict the ownership of hand guns?

——— 9. Do you believe the Federal Government should be required to balance its annual budget except in time of war or grave national emergency?

——— 10. Do you favor a comprehensive mandatory system of health insurance operated by the Federal Government even if this means an increase in your payroll taxes?

——— 11. Do you believe the minimum wage should be raised from its present rate of $1.60 per hour for non-farm workers even if this causes higher prices for consumers and a reduction in the number of available jobs?

——— 12. Would you favor the adoption of a Federal no-fault auto insurance program if the States fail to reform their laws?

——— 13. Do you approve of the way Secy. of Agriculture Butz is handling his job?

——— 14. Would you favor enactment of a "bracero" law to allow farmers to employ alien agricultural workers?

TO RETURN QUESTIONNAIRE

Fold; tape or staple closed; attach 8 cents stamp and write your return address on outside. Mail to: Congressman Bob Price, 430 Cannon Office Building, Washington, D.C. 20515.

Thank you sincerely for taking the time to give me your opinion on these issues.

PRESS FREEDOM MEANS PUBLIC FREEDOM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. EILBERG. Mr. Speaker, in a democracy it is important for citizens to be fully informed if they are to exercise their power at the polls in a responsible manner.

The press is the most vital link in communications. It is essential that the press remain free, as prescribed by our Constitution. The Government must never force or intimidate the Nation's newspapers so as to squelch any point of view.

For this reason I include into the RECORD this excellent article by Albert Blank of the Philadelphia Bulletin.

PRESS FREEDOM, A PUBLIC FREEDOM

(By Albert Blank)

The week of October 8 to 14 is being observed as Newspaper Week in communities throughout the nation. Anyone who reflects on the role of modern newspapers in today's society is reminded anew how wise were those men who wrote into the First Amendment to the U.S. Constitution the guarantee of a free press.

Thomas Jefferson once said he would prefer to live in a country with newspapers but without a government rather than a country with a government but no newspapers.

"No experiment can be more interesting than what we are now trying," he wrote on another occasion, "and which we trust will end in establishing the fact that man may be governed by reason and truth. Our first object, therefore, should be to leave open to him all the avenues of truth.

"How do you go about giving the citizen a clear shot down the avenue of truth?

"The most effectual (method) hitherto found," said Jefferson, "is freedom of the press." It still is.

Newspapermen throughout the English-speaking world are well aware of Edmund Burke, who first referred to them as the Fourth Estate, 200 years ago in the British House of Commons.

"In this Parliament," said Edmund Burke, "are three estates: The Lords Spiritual, the Lords Temporal and the Commons. But, in the Reporter's Gallery, yonder sits a Fourth Estate, more important by far than all.

"What then remains?," he asked Parliament. "Only the liberty of the Press, which no influence, no power, no minister, no government, which nothing but the depravity or corruption of a jury can ever destroy. It will be the nation's most awful moment, it will be the first grasp of tyranny, and how pregnant is the example. What remains if the public press is extinguished, the people enslaved, and the prince undone?"

"As an advocate of society, of peace and of liberty, I conjure you to guard the liberty of the press, the great sentinel of the state, the grand detector of public imposture. Guard it and cherish it, because whenever it ceases to flourish, there will die with it the liberty of the people and the security of the Crown."

To benefit from a good press, the public should zealously defend press freedom even when it hurts.

Freedom of the press is not a press freedom but a public freedom, a public possession and right, and in many ways the public's stoutest weapon.

To deserve its freedom, the press should strive to be full, fair and factual. But a free people does not leave it to the government to decide what is full, fair and factual.

The greatest strength of a free press is not points of similarity, but in the points of difference. In the production of news every step involves the conscious intervention of some news-gatherer, and two accounts of the same event will never be the same.

The threat to the liberties of the individual is always possible. External vigilance on the part of the public is essential, and that is why once a year Newspaper Week seeks to focus attention on Freedom of Expression—a priceless heritage bought with blood and tears over many years.

TRIBUTE TO THE HONORABLE SEYMOUR HALPERN

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DELANEY. Mr. Speaker, when the 93d Congress convenes next January those of us who look forward to returning will greatly miss the presence of our distinguished and amiable colleague from New York, the Honorable SEYMOUR HALPERN.

SY HALPERN is a true gentleman, and a highly skilled and effective legislator. It has been my privilege to know at first hand his intense dedication and exemplary devotion to service, not only to his own constituents in Queens County, an area in which both our districts are located, but to the people of New York and throughout the Nation.

He is a warm and gracious human being, who genuinely and thoroughly enjoys helping his fellow man. His colleagues respect him highly as a man of deep conviction, who always has the courage to do what is right. Those who have found themselves in disagreement with his position on some issues know him as a vigorous and able debater who never yields his principles, and is as gracious in defeat as in victory.

Prior to entering politics, SY served as a reporter with the Long Island Press, and was a feature writer for the Chicago Herald-Examiner. In 1938–40, he was assistant to the president of the New York City Council, and from 1951 to 1954 was widely acclaimed as an outstanding member of the New York State Senate. During his seven terms in Congress, he contributed significantly to important legislative measures reported out by the Committee on Banking and Currency, and was a highly valued member of the Committee on Foreign Affairs.

In addition to his manifold congressional duties, SY devotes considerable time to a multitude of philanthropic, cultural, and medical causes.

While he may be absent in body from this Chamber in future sessions, SY HALPERN will always have a place in the hearts of those who have had the privilege of serving with him.

I am confident he will not be inactive in retirement, and I wish him and his lovely wife, Barbara, every success and much happiness in the years ahead.

THE ATHLETIC SAFETY ACT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DELLUMS. Mr. Speaker, each year hundreds of thousands of young Americans are injured participating in scholastic sports competition. Obviously, there is no way to fully eliminate the inherent hazards of competitive and contact sports, but I am convinced that the extremely high rate of injury can be reduced by the application of stringent safety standards for school sports.

I have introduced the Athletic Safety Act in an effort to establish the type of standards required to cut down on such sport injuries. The Athletic Safety Act amends the Occupational Safety and Health Act to put high school and college athletes and contests within OSHA coverage.

On September 13, 1972, I was privileged to be able to appear before the Special Labor Subcommittee chaired by my distinguished colleague from New Jersey

(Mr. Daniels) to discuss H.R. 16447. At this point, I insert my testimony before the committee into the Record:

Statement of Representative Ronald V. Dellums on the Athletic Safety Act

Mr. Chairman, I want to thank you for this opportunity to testify in support of the Athletic Safety Act which I introduced on August 17. Your committee is holding hearings on the administration of the Occupational Safety and Health Act, one of the most important pieces of legislation from the point of view of the public benefit that has been enacted in years. The workers in our fields and factories desperately needed protection against the hazards to which their life and health was constantly exposed—and this committee sponsored the legislation to provide that protection.

I want to speak today on behalf of another group whose lives and health are also regularly put at hazard—but who have no protection against unsafe conditions to which they are exposed. I am talking about athletes in America's high schools and colleges. They are the cream of your youth, and they are injured wtih a frequency we should not tolerate. For example, can you believe that every year one out of every two high school football players is injured? Since there are about 1.2-million high school football players, it means that there are 600,000 football injuries in high schools alone each year.

These statistics are appalling—but they are accurate. They come from a scholarly study by Drs. Robey, Blyth and Mueller published in the Journal of the American Medical Association. The definition of injury used—a condition requiring medical treatment or which resulted in restriction of usual activity for a day beyond that in which the injury was received—is comparable to that used in occupational injury statistics—but there is *no* occupation which has an injury frequency rate that even approaches that of the high school football player.

Yet this is not the only study to show incredibly high injury rates among such players. In fact, previous studies based on medical records or direct interviews come up with similar results—only the studies based on insurance company records show a significantly lower frequency—and the reason for that is obvious; many injuries never result in a claim.

When your committee was considering occupational safety and health protection for our nation's workers, you regularly heard that federal legislation wasn't necessary, that employers would look after their workers, and that injuries were inevitable or just due to the carelessness of the workers. Your committee rejected those false arguments—and I ask you also to reject equally false arguments that athletes deserve no statutory protection because the schools will look after them or that there is nothing that can be done about injuries anyway. We know that too many schools and colleges do *not* follow sound safety practices; we know the pressures on the schools and the coaches to produce winners; and we know those pressures result in sacrificing the safety of the athlete for the athletic prestige of the school. We know that accidents are not inevitable—they can be reduced with proper practices, equipment and availability of care.

We cannot rely on the benevolence of the schools or the coaches; we must protect the health and safety of our athletes with federal legislation—and that is exactly what the "Athletic Safety Act" does. The Act applies provisions of the Occupational Safety and Health Act to high school and college athletic contests. It also expands the definition of national consensus standards to include the code of the National Collegiate Athletic Association and similar state and national athletic associations so that the expedited rulemaking procedures of the Act can be used for athletes as they were used for workers.

Mr. Chairman and members of the Committee, literally millions of our young men and women need the protection that the Athletic Safety Act can give them. I ask for your support of it. Thank you.

Also appearing, at my invitation, before the panel were three young men who know firsthand of the dangers of school sports. Bill Richardson, from Annandale, Va., is a former football captain at the University of North Carolina, and an All-Atlantic Coast Conference lineman in 1970; Michael Ritz is head athletic trainer at American University; Gary Shaw, a former University of Texas football player and author of a new book, "Meat on the Hoof: The Hidden World of Texas Football."

The following two stories, written by J. D. Bethea of the Washington Star-News, aptly summarizes the reasons I feel that athletic safety legislation for the school level is direly needed:

Legislation Proposed: Empathy for Abused Football Players

(By J. D. Bethea)

For Rep. Ronald V. Dellums, D-Calif., yesterday was only the beginning of a drive to gain support for his new bill which, if enacted, would affect millions of high school and college athletes.

The hearing, at least the part concerning Dellums, before the House subcommittee on labor was short and routine. Yet, his amendments, proposed August 17th, to the original Occupational Safety and Health Act of 1970 would have far-reaching ramifications as the Athletic Safety Act of 1972.

Citing statistics published in the Journal of the American Medical Association that there are 600,000 football injuries in high schools alone every single year, Dellums said that although the nation's workers are protected under the present act, there is no occupation with an injury frequency rate approaching that of the high school football player.

Much of the impetus for the Athletic Safety Bill came as a result of the death last year of University of North Carolina lineman Bill Arnold, who was stricken during practice.

Flanking Dellums, as witnesses, were Bill Richardson, co-captain at the University of North Carolina in 1970 and All-Atlantic Coast Conference lineman the same year; Mike Ritz, head athletic trainer at American University; and Gary Shaw, who did not testify.

Shaw is a former University of Texas football player and author of "Meat on the Hoof: The Hidden World of Texas Football" a book to be published in late November. It is a scathing denunciation of college football as practiced by Texas Coach Darrell Royal, whom, Shaw feels, is not a typical, but rather representative of coaches throughout the country on a certain level.

Richardson, who lives in Annandale, had played out his eligibility and was not a member of the UNC squad when Bill Arnold died. He was, however, part of a Committee of Concerned Athletes who issued a report to refute what they felt was a whitewash job by the Faculty Athletic Committee dealing with Arnold's death last September.

"It was 86 degrees and we had high humidity on the day Arnold collapsed from a heat stroke," said Richardson. "Arnold was obviously in trouble. They practiced for an hour and 50 minutes without a break. I'd like to know why there was no trainer on the field? Why wasn't a doctor present? Why wasn't the team allowed to take a rest or liquid break?"

The answer to these questions, according to Richardson, is that in big time college football today, player safety has a low priority. What's more, Richardson continued, the coaches are not in a position to be objective about a player's condition or ability to play. "They have to win. That's what counts. Nothing else."

Rich testified that school administrations look first for a winning team and secondarily on the health and welfare of the athlete.

"We need rules and regulations setting up facilities and personnel for athletic trainers. There are no such regulations now," Ritz asserted. As an example, he cited the case of a wrestler who came to A.U. on a full scholarship but who couldn't flex his elbows. The athlete was not allowed to participate but Ritz's point was that the youth had spent the previous five years wrestling.

"Unless the high school athlete is cared for in his growth years, there is nothing we can do when he comes to us."

Chairman of the select subcommittee, Dominick V. Daniels, D–N.J., said, "The committee would certainly like the view of other witnesses as well as the views of school administrators, college administrators, and we look forward to your help."

Those in depth hearings, should be scheduled for the beginning of the year.

Player Abuse: Gary Shaw Tells Why It's "Meat on the Hoof"

(By J. D. Bethea)

When he entered the University of Texas in 1963, Gary Shaw took with him visions of crisp, colorful autumn afternoons, beautiful coeds and the glory of being part of a football legend.

Four years later, Shaw's football career, such as it was for a marginal player who managed to rise briefly to second-string level, ended. His illusions were gone. So were his dignity, self-respect and past identity, all victims of the daily eroding effect of major college football.

The result of Shaw's personal trauma is the book "Meat on the Hoof: The Hidden World of Texas Football," to be published by St. Martin's Press in late November.

Shaw was in Washington this week for the opening of House subcommittee hearings on the Occupational Safety and Health Act of 1970. The 26-year-old graduate student from Texas was one of the witnesses present when Rep. Ronald V. Dellums, D-Calif., spoke to the panel on behalf of his Athletic Safety Bill. Dellums' amendments to the original legislation would include protection for high school and college football players.

Of all the things Shaw found wrong with college football as practiced at Texas, he says the deepest scar was left by the manner in which the coaching staff used fear as a weapon against the player himself. Shaw is not so much interested in trying to expose conditions at Texas, as he is in "showing kids on football scholarships that it's not all a pipe dream. It's a business.

"We have to do away with that 'Super Stud' myth, romanticizing the college football player. You can't imagine what it does to you psychologically, trying to live up to it, trying to prove that you're a man.

"At first I used to think that this feeling was just applicable to sports," Shaw said. "But it gets into every phase of your life. You spend your life going from one victory to another, or trying to, anyway. Winning becomes the only thing that matters. No tenderness or warmth, just playing a game and trying to prove you're a man."

Between 1961 and 1964 Texas issued 207 full scholarships to football players. At that time, Southwest Conference rules would not allow more than 100 men on full scholarships at any one time, and the conference rules governing the cancellation of scholarships or other aid were strict. The problem then was convincing more than 100 youngsters to "voluntarily render himself ineligible for intercollegiate competition."

Shaw said Darrell, the head coach, and his assistant came up with a special set of drills for the marginal players they wished to get rid of so their scholarship money could be used for other recruits.

The physical abuse in these drills was great and damage to the psyche even greater. Shaw began to wonder why anyone would continue to put up with such treatment.

"I used to ask myself why the hell these guys didn't quit. What's wrong with them? But I came to realize that they were trying to be men. And the first rule is that you don't quit. That masculine myth again.

"What worse is that everybody knew what the coaches were trying to do and why. And you also knew that nobody was supposed to talk with or associate with the losers who had to do these drills. Sometimes it might be a friend and, even though you knew it was wrong, you began falling into that pattern."

One of the participants in the infamous drills was a good friend of Shaw's. He was Charles Owens, who despite having one badly separated shoulder and that was severely bruised, was one of 15 survivors.

So the coaches came up with an all-against-one or sideline drill which Shaw describes in the book.

"One ball carrier stood 10 yards away from all the rest. To make sure everyone got up enough momentum, they were to run 25 yards before turning upfield. All were to meet (at the same time) between the two dummies which were five yards apart. Fifteen en masse on one side a lone ball carrier on the other. Charlie Owens told me what happened to him the first time he was this lone ball carrier.

"Five guys got there first and tackled me, the other 10 ran over me. Someone's cleats ripped my calf open. I didn't get up fast and Culpepper (assistant coach) came screaming for me to get up. He took one look at my open leg and gagged, then called the trainers, who slowly walked over. The doctor and I walked a block and a half to his truck, and he drove me to the health center. There it took about a hundred stitches to close my calf."

For Owens, getting hurt saved his career, perhaps his life, because he told Shaw he didn't think he could have taken four more weeks of drills. Yet, he too refused to quit.

There is a statement in the book by Charley Taylor of the Washington Redskins which best sums up Shaw's feeling:

"In spring training my sophomore year (at Arizona State), I broke my neck—four vertebrae. 'Hey coach,' I said, 'my neck don't feel good.' 'There's nothing wrong with your neck, you jackass,' he said. So the numbness went away a little and I made a tackle. When I went to get up, my body got up but my head just stayed there, right on the ground. The coach says, 'Hey, get this jackass off the field.' So the trainer put some ice on my neck and after practice they took me up to the infirmary for an X-ray. The doctor said, 'Son, your neck is broken. If you had been 10 minutes later, you'd be dead.' Dead! Man, that scared me. I mean those colleges let you lie right out there on the field and die. That's something to think about."

Finally, I insert an article from the September 19 Washington Post, which in four paragraphs makes evident the pressing importance of such legislation:

Three Southern Youths Die After Football

Three high school football players in the South and Southwest died over the weekend after becoming ill during or shortly after their week's games. At least two of the deaths apparently were caused by excessive heat.

The deaths occurred in Eatonton, Ga., Newton, N.C. and Harleton, Tex. The victims were Tony Carter, 16, a tackle at Eatonton's Monticello High; Gary Gene Butler, 14, of Newton's Bandy High; and Terry Ray Muse, 16, the starting quarterback for Harleton High.

Carter, a 5-foot-11, 200-pounder, collapsed because of heat during the third quarter of a game Thursday night. Butler collapsed in a dressing room following a Thursday game. Muse fell face down during a game Friday.

An autopsy on Carter was inconclusive, doctors said. Butler's death was attributed to heat exhaustion, and Muse's to unknown factors. Muse had complained of headaches for the past week and had been taking sinus medicine, his coach said, but had not been injured in the game.

This is important legislation. Already, professional sports are covered by the Occupational Safety Act. A recent survey of my constituents found that nearly two-thirds of those responding to my questionnaire support this legislation, and I am sure that similar results would be found nationwide. I urge consideration of this critical proposal.

THADDEUS KOSCIUSZKO HOME NATIONAL HISTORIC SITE

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. PUCINSKI. Mr. Speaker, I am most grateful that both Houses of Congress have now favorably acted upon legislation establishing a memorial to the great Polish patriot, Thaddeus Kosciuszko.

The legislation which creates this fitting tribute to the Revolutionary War hero was cosponsored by some 40 Members.

Kosciuszko came to our country in order to help us gain our independence. He was a leader at the Battle of Saratoga in 1777. His ability as a military engineer was instrumental in helping to fortify our positions along the Hudson River.

After the war Kosciuszko maintained a residence, for a time, in a Philadelphia boarding house. This building at 301 Pine Street still stands and the legislation which Congress has passed will make it a national historic site. The property is to be donated to the United States.

Much credit for the enactment of this fitting memorial to Thaddeus Kosciuszko belongs to Mr. Edward J. Piszek of Philadelphia. Mr. Piszek is an outstanding American businessman who has quietly engaged in many acts of philanthropy. In addition to Mr. Piszek's great efforts to honor Gen. Thaddeus Kosciuszko, he is the man behind "Project: Pole."

Through Mr. Piszek's work, Polish Americans, as well as all Americans, are becoming aware of the many and great contributions made by the Polish people throughout history. We have come to discard the melting pot theory. Rather, we now realize America is a majestic mosaic made up of citizens with different ethnic backgrounds, each contributing something important and unique to our culture.

Mr. Speaker, I am pleased we were successful in our efforts to make the Kosciuszko home a national historic site and wish to commend Mr. Piszek for his great works.

POWERFUL STANDARDS INSTITUTE LEVELS NEW BLOW AT INDUSTRY DEMOCRACY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DINGELL. Mr. Speaker, a recent development in the internal affairs of a private corporation, the American National Standards Institute, should gravely concern the House.

I have used the term private corporation, although ANSI as it is called plays a prominent role in writing many public regulations of various Federal agencies. Therefore, no Member of this House can be indifferent to the procedures under which that body develops and approves private industrial standards. This is more particularly the case because it was only 2 years ago that Congress enacted the Occupational Safety and Health Act. During these 2 years, scores of industrial safety standards developed under the procedures of ANSI have become the law of the land with little or no amendment by Federal administrators. Under OSHA and many other public laws as well, ANSI is destined to play a continuing prominent role which can only be described as quasi-legislative.

The latest change of which I speak is an amendment to the constitution and bylaws of ANSI calling for the elimination of the Member Body Council of that corporation and the transference of the control over the development of standards to a small, handpicked group appointed by the president of the corporation.

During the 90th Congress, the Small Business Subcommittee on Activities of Regulatory Agencies, of which I was and am chairman, took a close look at the internal operations of that body, mainly with reference to the revision of the so-called national plumbing code. The code of which I speak was a nongovernmental document, a model code or set of plumbing regulations suitable for adoption by a State or local government.

The conclusions of our investigation may be best summarized by saying that ANSI procedures provided many of the forms of democracy, but little of the substance. Nevertheless, it was possible for a trade or professional association, by paying annual dues of $750, to obtain voice and vote in the standards development and the standards approval process at all levels. There was also an extensive right of appeal, up to and including the body known as the member body council.

It was disconcerting to see ANSI late in 1969 remove the standards-approval function from its member body council and vest control over approval of standards in a small appointive committee known as the board of standards review. The development of standards, as distinguished from their approval, remained with the member body council and its subordinate boards and committees.

Now, in its latest constitutional change, ANSI leadership has acted to remove even the development of its standards from the supervision of its dues-paying members. The member body council becomes a relic of the past. Direction and control of standards development will be vested in a new 21-member group to be known as the executive standards council. All 21 members will be appointed by the president of ANSI.

For those Members of this House and the general public who believe that industrial standards are best left to private organizations such as ANSI, I say that this latest development is a sad event indeed. For my own part, I find considerable difficulty vesting any public function in a private organization such as ANSI, particularly when that private organization remains unregulated, not subject to any kind of public oversight. It was in the hope of correcting this situation that during the course of the 91st Congress, I introduced the bill, H.R. 10123. With the same end in view, I have repeatedly called upon the Federal Trade Commission to undertake the most thorough and searching investigation of organizations such as the American National Standards Institute, the American Society for Testing & Materials, the Building Officials & Code Administrators International, Southern Building Code Congress and such like organizations which engage in the publication of industrial standards, whether product specifications, safety standards, model plumbing codes, sets of definitions, or other types of standards.

Now that ANSI has acted to do away even with the forms of democracy, I suggest that the time is ripe for a new investigation by the appropriate committee of this House. As if to add support to this suggestion, I have just been informed that ANSI has undertaken anew the revision and updating of the old national plumbing code.

THE HONORABLE EMANUEL CELLER—A GREAT AND COMPASSIONATE LEADER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. EDWARDS of California. Mr. Speaker, it has been my high privilege for a decade to serve under the chairmanship of EMANUEL CELLER on the Committee on the Judiciary of the U.S. House of Representatives. There is little I can tell you about him which is not a matter of record—his defense of civil liberties, his work on judicial reform, the four constitutional amendments to his credit, the 350 public laws which bear his name. These are facts which will be found in the history books. But I want to talk about the man himself—the man of humor, the man of innate gentleness, the man who sought as well as gave advice, the man of inner dignity whose humility shown through the years of his service.

Under his leadership, a situation which was tense could be dissipated by the soft voice of reason. Differences were reconciled. Many are of the impression that he rode herd. I can assure you he did not. We met, we talked, and we respected areas of disagreement. But there is one strain that runs through all of our dean's accomplishments, one philosophy that explains so much of his commitments. And so I sum this up in one word; Compassion. Compassion for the hurt, the deprived, the lame, the hurt whether in mind or in body. He understood pain. He understood loneliness. He understood alienation. I think his compassion, more than anything else, explains this legislative giant.

His strength is not easily understood. It is a remarkable fact that at 84 he retains the vigor and the commitment which many of us envy.

Men are strong so long as they represent strong ideas. And what is stronger than the dedication to the civilizing forces of the world—justice and equality of opportunity for all? It is his commitment to these ideas that makes EMANUEL CELLER one of the great men of our time.

MISSION INVISIBLE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. SCHMITZ. Mr. Speaker, last spring three members of a United Nations committee claimed to have visited "liberated areas" in the Portuguese overseas province of Guinea. This report has now been exposed as a fraud and a hoax. But since this alleged visit is being used as a pretext to push for recognition of a foreign revolutionary regime instead of Portugal as sovereign in this area, it is important to set the record straight. Following are excerpts from a paper entitled "Mission Invisible," prepared by the Ministry of Foreign Affairs in Lisbon, which clearly shows that the visit of the committee to alleged "liberated areas" actually never took place:

[Excerpts from "Mission Invisible"]

II.—UNDER THE SIGN OF CLANDESTINITY

On March 2, 1972, the Special Committee on Decolonisation, commonly known as the Committee of 24, took the decision to send a Special Mission constituted by 3 of its members to visit so-called "liberated areas" in Angola, Mozambique and Portuguese Guinea. The 3 members in question were the representatives of Ecuador (Horacio Sevilla-Borja), of Sweden (Folke Lofgren) and Tunisia (Kamel Belkhiria).

On April 4, 1972, the United Nations Office of Public Information issued a press release announcing the departure, *on the same day,* of the Special Committee of 24 for Africa via Paris. The Committee—the press release added—would meet in Conakry from April 7 to 12, in Lusaka from April 17 to 22 and in Addis Ababa from April 25 to 28.

No information was, however, disclosed, *on that day or earlier or indeed for some days after,* about the departure of the three members of the Special Mission, who had already left New York, even as no details were revealed of their eventual movements in Africa. Which parts of Angola, Mozambique and Portuguese Guinea did they intend to visit? By which entry points? On what dates? *All such details were kept a closely guarded secret.*

If the areas to be visited were indeed "liberated", as claimed, the Special Mission should have been interested in carrying out its programme openly, if only to prove that in those areas they had only friendly hosts around and nothing to fear from anyone else.

Instead, the Special Mission *chose to go into clandestinity* right from New York.

It left New York without notice. Its objective was *to join terrorists* who recognize no law and who are recognized by no law. Its declared intention was *to violate at undisclosed dates* the national territory of a Sovereign State, Member of the United Nations. Its method would be to operate *in the dark,* not unlike law-breakers who are afraid of detection and of the consequences thereof.

This is hardly a proper, dignified conduct for a Mission acting in the name of the United Nations. Furthermore, the conduct of the Special Mission signified an attempt to defy the universally accepted principles of international law as well as the principles enshrined in the Charter of the United Nations in respect of the inviolable rights of Sovereign States.

Portugal's sovereignty in Angola, Mozambique and Portuguese Guinea is beyond question, *whatever the view taken of the status of those territories.* Moreover, the Portuguese Government has consistently and categorically declared that there are no "liberated areas" or areas outside the control of the Portuguese authorities, whether in Angola, Mozambique or Portuguese Guinea.

For several days nothing was heard about the Special Mission, except that its members had disappeared from New York. On April 8, 1972, it was suddenly announced in Conakry and in New York that the Special Mission had accomplished its task, that is, it had visited "liberated areas" in Portuguese Guinea.

In marked contrast with its previous attitude of secrecy, the Special Mission, appearing in the Republic of Guinea, now showed a keen sense of publicity.

Its information officer sent a story to the United Nations Office of Public Information, which made it the subject of a press release (GA/COL/1276, of April 10, 1972). The following is taken from that press release:

The mission returned to Guinea with the Commander of the Revolutionary Forces of the African Party for the Independence of Guinea (Bissau) and the Cape Verde Islands (P.A.I.G.C.), Constantino dos Santos Teixeira, and the Party's Political Commissioner of the South Forces, José Araújo.

The three-member mission had left New York on 28 March had arrived in Guinea (Bissau) on 2 April.

The Chairman of the Mission, Mr. Sevilla-Borja, said that the group had travelled mostly on foot, day and night, during the seven-day journey; it had been able to establish direct contacts with the people of Guinea (Bissau) and had observed various reconstruction programmes being undertaken by the national liberation movement, as well as witnessing, at first-hand, the social, economic, educational and other conditions in the liberated areas.

Members of the mission, he said, were extremely impressed by the heroic efforts of the people of Guinea (Bissau) in their determination to achieve the total liberation of their fatherland from the oppressive colonialist rule.

He said that, on their return trip, the members of the mission had walked all night, from 8 p.m. on 7 April till they arrived in the Republic of Guinea at 7.25 a.m. on 8 April. (They all had seven-day beards, wore military camauflage fatigues, caps and boots, and carried knapsacks supplied by the P.A.I.G.C.

They also wore United Nations insignia and armbands and carried a United Nations flag.)

IV. MAKE-BELIEVE THAT FAILED

Rejoining its parent body, the Committee of 24, at Conakry, the Special Mission undertook to make propaganda of its "visit" to Portuguese Guinea. But its efforts met with scant success. Significant indeed was the reaction of the Secretary General of O.A.U., Mr. Diallo Telli, who stated that *"he hoped that the Special Committee would be able to produce factual proof that it had in fact visited Guinea* (Bissau)."

Thus we have it from no less a source than the Secretary General of O.A.U. that, at least up to April 28, the Special Mission had furnished *no factual proof that it had in fact visited Portuguese Guinea.*

Meanwhile, on April 27 the Permanent Mission of Portugal to the United Nations had commented as follows on the statements made by the Special Mission:

Concerning the recent activities of the Committee of 24, presently touring African countries, and the alleged visit by its "Special Mission Group" to so-called "liberated areas" in Portuguese Guinea, the Permanent Mission of Portugal to the United Nations wishes to offer the following comments:

1. The "Special Mission" has issued, somewhat strangely, until now, only an "oral report", that is full of spurious material which can be added to or altered, to suit the demagogic stance of the moment, at the will and pleasure of the Committee of 24.

This suspicious circumstance alone should provide sufficient grounds for consideration.

2. Until the Committee arrived in Luzaka, Zambia, the Special Mission Group did not care to name any localities they claim to have visited. Only then, seeing that the Portuguese Government had issued a formal denial of their claim on 11 April, its leader stated to the press that the group had marched "more than 100 kilometers into the interior of the sector of Balana-Ketafine and Cucubaro, on the south of Guinea (Bissau)" according to a telegram of France Press published in *Bulletin d'Afrique*, n. ° 7774.

3. If the Special Mission Group did indeed penetrate over 100 kilometers from the region of Balana and Ketafine—both of which localities are within 10 kilometers of the border with the Republic of Guinea—then they must have reached the capital city of Bissau or even by-passed it, reaching the proximity of the northern frontier with the Republic of Senegal. It is to be remembered that the entire length from north to south of the territory is around 120 kilometers (vid. Map annexed to U. N. Document A/AC. 190/L. 768 of 27 March 1972).

All of which renders the claim of the Special Mission Group absurd and ridiculous, unless its members now choose to improve upon their earlier statements by asserting that they traversed in their terrorist uniforms the entire length of Portuguese Guinea!

4. As stated in the Press-Release n.° 3 of the Permanent Mission, the Governor of Portuguese Guinea himself was in the area throughout the period in question and the frontier was kept under close surveillance.

5. And yet, it is on the basis of such dubious and fraudulent claims that the Committee of 24 proceeded, in its usual irresponsible manner, to approve a resolution condemning Portugal, appearing in Document A/AC. 109/400, of 20 April 1972.

6. In approving that resolution, and recording a finding that the P.A.I.G.C. is the "only authentic representative of the territory" which, in its opinion, "some States are prepared to recognize", the Committee of 24 clearly acted beyond the competence conferred by its mandate, which, Portugal, as a matter of fact, has never accepted.

7. The Portuguese Mission once again reiterates for all useful purposes that:

(i) No such visit as is alleged by the Special Mission Group ever took place to any place or places in Portuguese Guinea;

(ii) There are no "liberated areas" that are under the control of the P.A.I.G.C.;

(iii) The territory of Portuguese Guinea is, as always, open to all people who in good faith want to visit it, and

(iv) The resolution circulated in document A/AC. 109/400 is contrary to the principles of national sovereignty enshrined in the United Nations Charter, and constitutes a clear violation of all norms of friendly relations between nations and States, basic to the Purposes and Principles enunciated in that Document.

V. TANGLED WEB

Let us now look a little more closely at the description of the alleged trek as found in the Report of the Special Mission.

The maximum claimed by the Special Mission is that its members entered Portuguese Guinea *clandestinely and at close to midnight* and that they followed a particular route *on foot, most of it gone round in a circle and through the jungle,* covering a distance of 160 km, leaving the territory after a whole night's march to the frontier.

This cannot mean that the Mission may claim to have penetrated that distance or even half of it into the interior of Portuguese Guinea. It is worth stressing that, on its own showing, the small area the Mission claims to have gone round in a circle is situated at a distance of not more than 30 km from the frontier, at the outside limit. This then is the maximum penetration that could be conceded to the Mission on its own terms. But Portuguese Guinea is *at least* 300 km by 120 km.

Furthermore, it is easy to see, from the map exhibited by the Special Mission and from other parts of its Report, that it cannot claim to have traversed a route of more than 80 km, of which some 20 km were trekked twice and the remaining *in a circle.* Therefore, the Mission cannot claim to have seen places except along a route of some 60 km at the utmost, most of it circular and in a forest.

But, again on its own showing, the Special Mission did *all* its trekking *by night*. According to Annex I of its Report, the Mission halted only at two points—at one, from 7.29 (this precision is indeed impressive!) to 21.30 on April 3; at another, from 10.30 of April 4 to 17.30 on April 6. Hence, in daylight, it could have seen places only around and close to those points. Thus, after making the utmost allowance to the Special Mission's story, it becomes evident that the Mission cannot claim to have seen, in daylight, more than some 20 km of the territory, most of it in a jungle. *And Portuguese Guinea has an area of 36 125 km.*

Yet it is on the basis of such "knowledge" that the Special Mission concludes that more than two thirds of Portuguese Guinea is in the hands of P.A.I.G.C.

Yet it is on the basis of such "knowledge" that the Special Mission talks about "shocking experience of Portuguese repression."

Yet it is on the basis of such "knowledge" that the Special Mission feels able to report enthusiastically on conditions in "liberated areas."

We thus come back full circle to the gratuitous and invariably malevolent allegations which the Committee of 24 has been habitually accepting as true—without the slightest evidence or demonstration and indeed in the teeth of the reality attested by independent observers.

The Committee of 24 was obviously conscious of this weak point in its anti-Portuguese campaign. Accordingly, it detailed a Special Mission *to fill the gap by any means it could.*

But what evidence does the Special Mission provide?

Nothing more than some photographs taken in a jungle where the surroundings cannot be identified. We are *merely told* of marvels of administration and development said to exist in "liberated areas," including schools, hospitals, people's stores and what not. But the Special Mission offers no more evidence of these marvels than the Committee of 24 has done during all the time it has been accepting them as the quintessence of truth.

Even what is described as a flourishing "boarding school" is found to be (according to the photographs exhibited by the Special Mission) no more than a clearing in some forest (in which country?) where boys are seen sitting at a meal in the open air around an improvised (for the benefit of the Special Mission?) table made of sticks. And we are *merely told* of classes in Mathematics, Geography, Natural Science, etc., but the single photograph exhibited shows the Special Mission sitting with two boys reading a book in a bush (where?).

The story was subsequently put out that this famous "boarding school" was strafed by the Portuguese from the air. This was found to be a facile way not only to *dispose of a school that never existed in Portuguese Guinea* but also *to obtain high dividends* in terms of another anti-Portuguese resolution sponsored by the ever obliging Committee of 24. There is, however, a curious point which seems to have escaped the attention of the imaginative authors of the story: in spite of the alleged strafing, no victims have been "reported", among the 65 inmates of the "boarding school", where boys and girls are said to have been living together—one hopes on proper terms, if only not to spoil the idyllic picture. A simple comment would not, however, be out of place: apparently the inmates of the "boarding school" were more self-reliant in escaping imaginary air raids than the sophisticated diplomats from the United Nations who took with them a *ground* escort for protection against aerial surprises!

If the Special Mission wished to practise on the credulity of the world, it has put up a regular performance. But it is not surprising. The statements made by the members of the Special Mission and by their colleagues in the Committee of 24 in the preparatory phase of the "visit" indicate that the "visit" was conceived only as a *mise-en-scene* for a conclusion pre-arranged in combination with P. A. I. G .C. and with O. A. U.

The Portuguese Government reacted with an invitation to the Secretary General of the United Nations to send a team of his own staff members to Portuguese Guinea on an informative mission. This invitation was declined on the plea that "in the circumstances it would not be appropriate for me to act without a decision of a competent deliberative organ".

The Portuguese Government held that the Secretariat required no mandate to send a team merely to gather information, if only to elucidate one of its organs—the Office of Public Information—which has been giving publicity to false and one-sided reports about Portuguese Guinea. On the other hand, the Portuguese Government could not seek a mandate in contradiction with its coherently held position that Portuguese Guinea is a part of its national territory falling, in terms of the Charter, outside the competence of the deliberative organs of the United Nations.

The Portuguese Government thus went as far as it could, without prejudice to its judicial position, to enable at least one organ of the United Nations—the Secretariat—to know the truth.

But the Committee of 24 has developed a special technique to manufacture its own "truth". And it is on the basis of such prefabricated "truth" that its conclusions are arrived at and its resolutions are voted.

In the case of Portuguese Guinea, the Committee of 24 found it convenient, for its own political purposes, to qualify P.A.I.G.C. as "the only and authentic representative of the people of the territory."

The basis for this conclusion is a mysterious "visit" to the territory, of which a very small portion is claimed to have been seen, and that too, except at two points, in the darkness of night. No evidence is, however, provided even of such obscure contacts, in themselves extremely unlikely, as demonstrated above. One is expected to take for granted the world of three persons who had taken a position *in advance*, never having made a secret of their political bias against Portugal and in favour of P.A.I.G.C., and who, naturally, were only too willing to oblige their terrorist hosts.

Accordingly, they were shown places, which cannot be identified; they were told of bombardments, which did not take place; they were led to a "boarding-school," which never existed in Portuguese Guinea. In short, they were told fables which they were only too eager to believe or pretend to believe. But, in the process, they proclaimed their intention to enter the territory of a Member-State illegally and in defiance of its legitimate Government—an inadmissible attitude on the part of a Mission operating in the name of the United Nations. They and the Committee of 24 as a whole have thus made themselves responsible for an avowed attempt against the sovereignty of a Member-State—a lamentable attitude which, it is hoped, will, as it must, evoke unqualified condemnation from the law-abiding Members of the United Nations.

For the Committee of 24 has involved the United Nations itself in an attempted violation of an indisputable norm of international law and of the Charter of the Organization. Failure to condemn this attempt would expose the United Nations to the charge of indifference to international law and to the sovereignty of Member-States no less than to its own reputation as a law-abiding organization.

Finally, what about the "liberated areas"? *Nothing can alter the fact that there are no "liberated areas" whether in Portuguese Guinea or in Angola or in Mozambique.*

There are some frontier areas—relatively small portions of each territory—which are rendered more or less unsafe by terrorists *infiltrating clandestinely from the neighboring countries giving* them sanctuary. *But the terrorists do not control any part of the territory or, to put it another way, no area has been cut off from the Portuguese authorities.*

The Portuguese Government has proved this fact and *is ready to prove it again, if need be, at any time to any one who wishes to be informed*, not in the darkness of night but in broad daylight, not in clandestinity nor in a haze of mysterious treks through unidentifiable jungles but openly as befits men who care for truth and prize their own personal self-respect.

A BETTER WAY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. GUDE. Mr. Speaker, to celebrate Montgomery County's 195th birthday last month County Executive James P. Gleason invited the former president of the Maryland Constitutional Convention, H. Vernon Eney of Baltimore to address 800 outstanding community leaders. Mr. Eney's message challenged his listeners to apply their talents to an improved method of amending the Maryland constitution. As the county plans its bicentennial it was an appropriate topic. I am submitting here the comments on this thoughtful address as they appeared in the Gaithersburg Gazette, of October 12, 1972:

A BETTER WAY

When those 600 Montgomery County leaders tured out to celebrate the County's 195th birthday last month their luncheon speaker was H. Vernon Eney, prominent Baltimore attorney and the president of Maryland's Constitutional Convention.

Mr. Eney's speech turned out to be a scholarly paper on the State Constitution and the preferred way to amend it. It will be recalled that when the proposed new state constitution was rejected by the voters four years ago there were so many sections that caused controversy that approval of the total package became impossible.

But if the total package approach was impossible, Eney points out, so is the present method which has resulted in 17 proposed amendments that will be voted on at the November election. Obviously the Legislative Council proposes to update the Constitution by following a piecemeal approach.

To many people it has become a gross mystery to determine how a sensible change of the Constitution can come about under such a procedure. It is beyond the capability of the Legislative Council they say to come anywhere near accomplishing by legislative action that which can best be determined by thoughtful studious understanding of the document and the careful weighing of proposed changes from something other than a political viewpoint.

At the County Birthday luncheon Mr. Eney offered the citizens of Montgomery County a flattering challenge. Considering the astuteness of his audience the president of the Constitutional Convention urged its members to take the leadership in the establishment of a commission that would evaluate and endorse proposed amendments before they found their way to the election ballots. Indeed this would be a decided improvement over the present method. We are hopeful that the leadership Mr. Eney expected the County to generate will soon be forthcoming.

CENTRAL NEW YORK MOURNS DEATH OF STATE SENATOR JOHN H. HUGHES

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. TERRY. Mr. Speaker, this calendar year has seen the passing of many giants in American government. Today, the central New York area was stunned with the news of the sudden death of another giant in government. New York State Senator John H. Hughes died of a heart attack while conferring with the counsel of the joint legislative committee on crime.

Senator Hughes has been a force in New York State politics since he was first elected to the New York State Senate in 1946. This year he was the dean of the Republicans in the Senate and served as chairman of the prestigious and important senate committee on the judiciary.

In recent years, John Hughes has emerged as a major spokesman for our Nation's all-out fight against organized crime. Chairing the New York State joint legislative committee on crime, Senator Hughes put together an investigatory staff which was making major inroads in destroying the cancer of organized crime in New York. His accomplishments through this committee were gaining recognition throughout the country for effectiveness and uniqueness in dealing with this most serious domestic American problem.

Senator Hughes has served in a variety of positions in the central New York area in addition to his political offices. A tireless Republican county chairman in Onondaga for a number of years, Senator Hughes also served in civic capacities. A member of the New York State, American, and Onondaga County bar associations, Senator Hughes also served as president of the county bar association and the Federation of Bar Association of the Fifth Judicial District.

It is impossible to list the accomplishments of this man. They range over such a broad number of topics that it is difficult to comprehend that one individual could make such a large impact on a community.

But that is exactly what John Hughes did for central New York and the entire State. He was a strong advocate of responsibility in government. He fought doggedly for what he felt was the best interests of his community.

I served for 8 years in the New York State Assembly while John Hughes was in the senate. His leadership, dedication, and integrity always provided a center for concerned legislators to support.

The legacy of most men is memory of the past. John Hughes' memorials are yet to come. Future generations of New Yorkers will remember his name and his leadership as they view the progress and achievements which will continue to bear fruit for many years to come.

FOXCROFT SCHOOL-WASHINGTON WORKSHOPS—A PARTNERSHIP IN LEARNING

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DU PONT. Mr. Speaker, recently I had the pleasure of speaking once again to the Washington Workshops Congressional Seminar. I am sure many of my colleagues are already quite familiar with the fine work of this organization, as it annually enrolls many hundreds of our finest young people from across the country who come here to Washington to glean some firsthand and effective knowledge of their National Government.

In attendance at this recent seminar session, were a sizable group of young ladies from the Foxcroft School in nearby Middleburg, Va. This splendid school has a long tradition of excellence in secondary education, and it was gratifying to me to see such a large group of their students in attendance at an extended study session on Capitol Hill.

Appearing in a recent edition of the Foxcroft Alumni Association's magazine, "Gone Away," were three articles pertaining to their student's participation in the Washington Workshops Congressional Seminar. These articles were written by Foxcroft's assistant headmaster, Robert Leipheimer, social studies department chairman, Vernon Frost, and a student who attended the study session, Miss Kelly Louise Bowles. I think their comments are quite illustrative of the effective work and study concepts of the Washington Workshops Foundation, and I append these articles at this time:

Foxcroft's Washington Workshop in American Government

(By Robert Leipheimer, assistant headmaster)

Underneath the cries for "relevance" and contact with the "real world" in education today, there is often a sincere and healthy eagerness to find ways of relating academic learning and human experience—not by rejecting the books and the classroom, but by bringing the topics they deal with to life. Can you imagine a better way to make the study of American government and politics come alive than to spend a whole week in the nation's Capital watching Congress at work and talking face-to-face with Senators, Congressmen, political journalists and executives from various agencies and departments? Add to that an evening session with an ambassador and another with a CBS White House correspondent, plus informal "rap sessions" on campus on other evenings, two visits to the Kennedy Center, a special program at the White House, a model-Congress session in which students debate proposed legislation which they have drafted themselves, a reception at the Georgetown Club, and many heated discussions which rage on into the night, and you will have some *idea* of what Foxcroft's first Washington Workshop was like—and, perhaps, of why we were all totally exhausted when it was over!

The idea of using Washington for an off-campus study program in government has been under study for a couple of years.

When Eleanor Todd and Alex Uhle asked me to organize and implement the venture, my first thought was, "Great! Now how in the world do we make it happen?" As it turned out, our ability to launch the program this year was due in large part not only to the willing assistance provided by a number of trustees and alumnae, but also to the very successful partnership formed between Foxcroft and Washington Workshops, an independent organization with five years' experience in arranging similar programs for selected secondary school students from all over the nation. We pooled our ideas and contacts and shared the lining-up of speakers, and the Workshops' staff handled the scheduling and logistics.

Our special Workshop session ran from April 30 to May 6. During that time all of the participants lived in a new dormitory on the campus of Mount Vernon College, where the informal evening sessions, debates and discussions also took place. The Foxcroft contingent included a pilot group of the 20 students enrolled in the American government course, although we intend to expand the program in the future and make it available to all Foxcroft students. To add variety in terms of perspectives and backgrounds, a group of 40 boys and girls from other schools throughout the country were admitted to the session, and as both Mr. Frost and Kelly Bowles point out later, the added ferment turned out to be one of the most exciting features of the program.

The format of the Workshop permitted not only group contact with officials in the form of briefings, discussions, question-and-answer periods—and, in several cases, lively arguments!—but also individual contact when students were given time to visit Congressmen and Senators in their offices or over lunch. At other times students went to committee hearings or to the galleries to watch the House or Senate in action. Representative James Symington held his briefing session with us right on the floor of the House and seated the entire group in the Congressmen's chairs.

The following two articles provide further description of the program and reactions to it from the point of view of teacher and student. You will notice among the names mentioned here and in Kelly's article a number of people who are "related" to Foxcroft in one way or another. That list also includes Charles A. Meyer, Assistant Secretary of State and husband of Suzanne Seyburn '37, and Clement Conger, White House Curator and a Foxcroft father. Altogether, we met as a group with three Senators, four Congressmen, four top officials of executive departments, an assistant to the President, two reporters, an ambassador, the Co-Chairman and Deputy Chairman of the Republican and Democratic Parties respectively, officials for the Environmental Protection Agency and the Secret Service, the House Majority Floor Officer, and several administrative assistants to Congressmen and Senators. The week came to a close with a special buffet dinner followed by a performance of *Richard II* at the Kennedy Center.

Foxcroft stands alone in its ability to offer this kind of program to all of its students. Selected students from many other schools do come to Washington for educational tours and special internships, but Foxcroft is the only girls' school we know of that offers everyone an opportunity which includes breadth and depth, direct contact with a wide range of political leaders, and a series of sequential, well-planned seminars and briefings. The Washington Workshop is significant in all of the ways mentioned in these three articles; it also suggests that boarding schools such as Foxcroft can seek to maintain the special strengths of the on-campus residential experience and at the same time provide exposure to the problems and joys of the larger world with which students are increasingly concerned.

A Teacher's Viewpoint

(By Vernon Frost, chairman, social studies department)

The Washington Workshop was one of the most significant additions to the Foxcroft curriculum this year. Although the number of students in this first-year pilot program was relatively small, it was obvious when evaluating our initial experience that the program should be expanded so many more students can have the opportunity to share in the program.

As an American government teacher, I was originally attracted to Foxcroft because of its close proximity to Washington and the opportunity to teach government and public affairs, not just from a textbook, but also from firsthand observation. In the years I have taught here, I have taken my students on field trips into the city, but I was never completely happy with the results. A one-day visit, with a long bus ride to and from Washington proved to be merely superficial observation, not in-depth study.

The strength of the Washington Workshop program is that the participants spend an entire week in Washington, totally immersed in governmental affairs. They have the opportunity not only to observe how the government works, but also to talk to and question public figures and to discuss issues among themselves. It is this many-faceted dialogue which makes the program a unique learning experience. Living and learning as a group without outside distractions, the students get a genuine sense of how the issues confronting our policymakers are resolved.

I spent the entire week with the group. Many things impressed me. I was impressed with the willingness of so many high ranking officials to take the time to speak to the Workshop group. Many commented that they consider the program a fine educational enterprise which they endorse through their willingness to participate. I was impressed with the broad spectrum of opinions and points of view represented by the speakers. It led to sharp questioning and brisk exchanges between the students and the speaker, and among the students themselves.

I was impressed with the format of the program and its lack of regimentation. The meetings were relaxed and informal, and, interspersed between group sessions, free time was given to allow the students to visit congressional committee meetings, sessions of the House and Senate, and to seek out individual Congressmen and Senators on a one-to-one basis. There was a strong sense of group cohesiveness without the herded regimentation characteristic of so many school group visits to Washington, D.C.

Without a doubt, the greatest value of the Workshop for our Foxcroft girls was the opportunity to participate in the program as a part of a large group of students selected from all over the United States. There were 60 students in the group, with 30 Foxcroft students among them. One half of the students were boys. Six were black students. Most were from public schools. Many were from rural areas or small towns. Every geographical area of the U.S. was represented. In point of view, they ranged from very conservative to the militantly skeptical. All were bright and eager to learn. As a result of this diversity, there was an almost ideal climate for spirited discussion of public issues within the group. It was these informal discussions in the dormitory, at mealtime, on the bus, and in the snackbar which seemed to mean the most to the Foxcroft girls.

I believe that through the Washington Workshop program, Foxcroft has found the vehicle for adding an important new dimension to its program. Preparing our students for informed and involved citizenship is one of our most important tasks. The Washington Workshop program can help us with that task.

A Student's Viewpoint

(By Kelly Louise Bowles, 1972)

When I first heard about the government field trip I was not at all interested. In fact, I did all I could to get out of going. Yet I found that reading about government and actually seeing it operate and talking to its leaders are two entirely different things. The Washington Workshop program gave us the chance to go beyond the printed words of our textbook and feel the frustration, prejudices and satisfactions that exist on Capitol Hill.

Each day we met with four or five speakers from all over the Hill's complex network. Three speakers came out to Mt. Vernon College for evening sessions. A few of these speakers were Mel Johnson, Washington correspondent, Senator Adlai Stevenson III, and Robert Pierpoint, CBS White House Correspondent, who gave us a great, humorous review of our last few Presidents. We also met with the Austrian Ambassador, Congressman Pierre duPont, Mrs. Anne Armstrong (Anne Legendre '45), National Republican committee Co-Chairman, and Mr. James Burke, a Secret Service man who quite generously gave me $700 worth of counterfeit bills. Other speakers were Mrs. Patricia Hitt, Assistant Secretary of Health, Education, and Welfare, Mr. Peter Flanigan, Assistant to the President and Mr. Stanley Greigg, Deputy Chairman of the Democratic Party.

During the week of the program we were given time to see our congressmen, make appointments with them, and get gallery passes to see them at work in their respective houses.

The program ended with a "Sense of the Seminar Resolution" in which the participants in the Workshop played Congress and experienced the frustrations and satisfactions a congressman must feel with the rejecting or passing of a bill that interests him. Don Anderson, House Majority Floor Officer, headed our session of Congress with his gavel, a timer and a great sense of humor.

Yet more meaningful than the lectures and sessions was the chance to talk with people our age from all over the United States, both male and female. With them they brought different views, opinions and backgrounds. It was as if we were a microcosm of American youth, brought together to share ideas and opinions on our government and its policies.

A CITIZEN'S VIEW OF PHASE II

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. ALEXANDER. Mr. Speaker, we have heard the views of many leaders in the administration, in the Congress and in special interest groups on the effects of phase II.

Today I thought it might be of interest to my colleagues to have an opportunity to review the reactions of one of my constituents who operates a small, independent business. His comments were inspired by an editorial which appeared in the Forrest City, Ark., newspaper—The Daily Times-Herald. This citizen's view of phase II was contained in a letter which he wrote to me. His letter said:

FORREST CITY, ARK.

I quote herewith from the Times Herald Editorial, of yesterday's paper, "Price commission authorities sometime ago acknowledged that Phase II price controls might force smaller inefficient supermarkets out of the business and might also compel large concerns to close some stores."

My comment on this is—the people who thought up this price commission, etc., were smart enough and are smart enough to know what its results will be. On the one hand they are distributing money from the national treasury for welfare and on the other hand we are closing businesses so eventually those people so displaced in the economy will help feed the welfare rolls. Also, there is no rhyme, nor reason to encourage people to enter businesses by loans from SBA on the one hand, and then try to put them out of business on the other hand by using the Price Commission, ad infinitum.

Further the editorial says, "An official of the Price Commission claims that Phase II program encourages retailers to make up the cost increases through more efficient methods, higher volume and securing stepped up productivity."

My comment. The smaller businesses are now starved by the bigger ones to the extent that they don't have the money to fight the advertising campaigns of the big businesses. If the smaller businesses cannot have volume they cannot install "more efficient methods", and the people who are behind this Price Commission, which is nothing more than a commission to help the big businesses gobble up the small ones, know this.

Again quoting from the editorial. "This is precisely what the free market has encouraged. That is why many large retailing firms today operate on a profit margin of less than 1 percent per dollar sales. The free market has always penalized inefficiency. Dissatisfied customers can take their business to another establishment. Retail stores have accommodated themselves to the stern—but fair—realities of our competitive system—a system that has not only brought an abundance of goods to consumers at minimal prices but also has left the way open for an efficient, imaginative merchant to build a successful business. There is little leeway in this system for abuse of the public interest or for arbitrary price control authorities to compel merchants to absorb the rising cost of inflation. Official decrees that 'encourage' retailers to absorb these costs through still greater efficiency are merely attempts to distort the workings of the free market, in order to throw on the back of retail distribution. Just how forcing the closure of stores and narrowing the freedom of choice of consumers is in the public interest is difficult to figure out."

My further comment is—Mr. Nixon's high interest is killing business. Of course he points to the upturn this year—but, let me point out that this upturn is his forty billions of deficit spending. Next year it will be worse than ever.

High interest does this. Instead of families buying clothes, higher priced foods and more food. Instead of buying a new auto, they take their surplus and soak it into the building and loan where they get six percent interest. Six percent interest will double in ten years and people consider this when the decision of whether to, or whether not to spend has to be decided. Also, with a reduced demand (because of delayed spending), more manufacturers, and retailers go out of biz, and those that remain cut down. No one in their right mind will buy a retail business now, except at a give away price. The retailers can't stay in, and can't get out and our government continues to think up ways that make it more and more difficult to stay in.

One of the new ways the Republicans are advancing is the Value-added Tax, which will increase sharply as time goes on, and the government spenders find that it will work—but, starting out it will be a $250.00 drain on every citizen's pocketbook, and the buying public will blame the merchant, because this VAT is added in the purchase price.

The merchant does not have too much time to figure out more efficient ways of running his business. He is kept busy making tax deductions for the city, state, and federal governments, and making reports, which you people have passed laws stating that if the reports are not made, and made on time, then the merchant gets "fined". There is an amendment to the Constitution that says USA citizens will not be compelled to perform involuntary servitude, but it means nothing where the merchant is concerned. He does not agree to the involuntary servitude of collecting taxes for the government but he must do it, or have the government come in and take his property away from him.

This Republican administration is the worst ever—they are determined that only a few conglomerates will run all the businesses. If the labor supply gets low, they will run in a bunch of foreigners, then cut down on the business and place them on the welfare rolls for the merchants and other citizens to support.

If anything can be found that is right in this country, you have to look hard. Perhaps for the rich—as Mr. Nixon, is the rich man's boy.

ROY W. HARZEL, Sr.

HON. EMANUEL CELLER

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. KOCH. Mr. Speaker, others will dwell on the major contributions that the dean of the New York delegation, EMANUEL CELLER, has given to this House and to the Nation. Some of the greatest legislation enacted by Congress was the product of his brilliant mind and tireless efforts.

To me, "MANNY" has been almost a father. When I came to this Congress in January 1969 he took me under his wing and enabled me to adjust very quickly to a strange and exciting milieu. When there were problems and doubts, he could be relied upon to unravel these complexities and dispel the anxieties. He made it possible for me to see legislation I had introduced passed by providing hearings on several of my bills which he and I both felt deeply about.

He is never without a perceptive comment or a kindly joke when tempers are frayed, as occasionally happens here in the House. He is a dear friend and I will miss him sorely.

KANELLOPOULOS: A STIRRING SUMMONS TO DEMOCRACY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. EDWARDS of California. Mr. Speaker, the 1967 military coup in Greece and the subsequent dictatorship, looked upon so tolerantly by a vase-conscious U.S. policy, has done long-term damage to our interests.

The Greek right, center, and left have a feeling that America has agreed to the suppression of political freedom, and many assign the United States an even darker role. Moreover, the far right, represented by the junta, has come to believe that the United States can be easily duped, as evidenced by our habit of accepting as true one deceptive junta promise after another. In other words, a large segment of the Greek world views us as partners to suppression; another part views us as fools.

And what do we gain? The bases previously granted by democratically elected governments were never really in jeopardy.

An alliance based on consent of peoples is fundamentally stronger, it seems to me, than one where decisions of one government are made by decree.

One of the bitter ironies of the Greek political tragedy is that American conservatives have been virtually silent about the dictatorship. It will be a sad day in America when our liberals are silent about left-wing dictatorships and our conservatives are silent about right-wing dictatorships.

In Greece, on the other hand, the "responsible right," the conservatives, have regularly and daringly taken the lead in stating the case for freedom and democracy.

Foremost among them has been Panayotis Kanellopoulos, a conservative and former prime minister, a distinguished scholar who has experienced the dust of battle.

Kanellopoulos, now nearing 70, deserves to be recognized as an international figure of the stature of Dag Hammarskjold, Pandit Nehru, and Adlai Stevenson.

His record is indeed formidable: professor of sociology at the University of Athens, 1929–35; arrested and exiled during the dictatorial regime, 1936–40; served as a volunteer on the Albanian front, 1940–41; escaping from occupied Greece in 1942, he became Deputy Prime Minister and Minister of the Greek Government-in-exile in the Middle East. Following World War II, he had a brilliant parliamentary career and was Prime Minister at the time of the coup of April 1967. He was one of the first to be seized, remaining under house arrest for many months. He is the author of over 20 books on history, sociology, and philosophy.

Recently, Mr. Kanellopoulos wrote a probing and stirring essay on democracy in a preface to a book by a colleague. His words have meaning for Greece and for everyone.

Under leave to extend, the essay, translated for me by an American scholar, follows:

There is no greater sin than that committed by a government which, regardless of its long-range objectives, tortures human bodies and debases (or attempts to debase) the will and conscience of human beings.

The killer—the common criminal—is not a government. He, too, turns to some extent against the whole society—not only against those whom he has harmed. But the common criminal hurts society only indirectly and never with overwhelming success. The government—i.e. the state—protects society from danger by prosecuting and punishing common criminals. When, however, the State itself tortures human beings, no one can protect them (they resemble lonely and weak reeds exposed to the wind) since they are under the exclusive jurisdiction of the State. And when the State (using its monopoly of psychological means of violence) tries to smash the wills and usurp the consciences of those who disagree with it, then the State turns directly against society and indirectly against the whole humanity.

Once I wrote: "The greatest producer of pain and unhappiness in history is ideology. No ideology is guilt-free in this respect; no one, even the loftiest. We kill and persecute and torture humans, body and soul, for ideology's or faith's sake; in other words, we brutalize because others don't want and don't believe as we do. Of course, we have the right to want to believe. But we don't have the right to reject others' wishes merely because they are contrary to ours. Despite this, we take this right for granted. If we don't act against others, we fear they will act against us. So countries fight against each other and societies or movements clash. And so, history is written. How many billions of people have been killed, maimed, tortured and hurt by causes other than disease, accident or individual acts of commission or omission?

The history of humanity resembles a vicious circle. From a certain angle, perhaps it is. Let us limit ourselves to the ethical aspects of life. There are acts which break through this vicious circle and which lead Man toward the vindication of "humanness" or at least crack the armor of "brutishness". The voice of Antigone, when she resisted Creon was such an act. Creon's victory was only an illusion. Creon died. Antigone lives. The Christian catacombs are also blows against brutishness. Nero did not win. Neither did Galerius. They have been enveloped in darkness. But the catacombs have risen to the brilliance of the surface. Christianity, when assuming the role of state authority, has been often implicated in the vicious circle of history. But Gregory from Nazianzus, Francis of Assissi, Maximus (the Greek) and so many (known and unknown) Christians through their own ethos and their "deeds" have managed to safeguard within the bosom of Christianity the holy words of Jesus: "Blessed be the peacemakers, for they shall be called the children of God. Blessed be those persecuted in the name of justice, for theirs will be the kingdom of heaven."

No one who has exercised power and authority is totally free of brutishness. All of us—owe it to include myself—have been at some time or instant, directly or indirectly, consciously or unconsciously guilty of it. And while acting as the authorities, we have been guilty not only in time of civil and international wars but also in "peacetime". During war, the vicious circle becomes an impenetrable vise—where if you don't kill the enemy he will kill you, and if you are not victorious the enemy will crush you with his barbarous might of arms. During "peacetime" we brand any man as an "enemy" who offends our authority and who questions the "ideological" base of our "power"—which we equate consciously with "legitimacy". But, there are certain types of political authority which make brutishness inevitable and which render it essential to the rules of the game, rather than tolerating it as a mere exception or an occasional deviation. Brutishness, then, appears to be the rule rather than the exception in all political systems but one. The only type of political authority which does not elevate brutishness to systematic usage is that authority which is implemented within the limits of democracy, in the classical and the Greek sense of the word.

Democracy, in this sense, regardless of internal variations in different countries, is that polity where power is exercized by a "representative" government. This government may not always be genuinely and perfectly representative, but—at least—it establishes firmly the freedom of public debate and institutionalizes the public accountability of the authorities. In such a type of government, not even Pericles, while in power, could avert the prosecution and trial of his most dear friends Damon, Anaxagoras, Phoedias and Aspasia.

Democracy, in the classical sense, has never worked and will never work in a perfect manner. We must, in fact, accept that it operates everywhere and always less efficiently than tyranny. Vice can be perfect. But virtue—on earth—never.

All the enemies of Democracy, who for some reason or other do not admit that they are its enemies, but whose interests are apparently served by denying freedom of opinion and the ballot box to their fellow-countrymen, have devised a grandiose and self-justifying theory as follows: Since Democracy is the best, if not the ideal, political system, it must work perfectly or not at all. But, for Democracy to work perfectly, or even with relative perfection, a people must be educated in advance so as to become mature prior to being given their political freedoms. This theory is based on the illogical assumption that the authoritarian leaders are considerably more mature than their fellow-countrymen—in fact, so very mature as to usurp the right to administer their country without any checks and balances. While, under similar circumstances a representative government would have operated under the continuous and critical evaluation of both its supporters and opponents. And even if we were to admit that the authoritarian rulers are more mature—either by the grace of God or because—like Hercules—they were born of Zeus in an adulterous relationship with Alkmini—their "theory" falls flat in the face of a single argument. In one of my books I wrote: "As one cannot learn about life without living, thus one cannot learn about freedom without freedom."

But let us return to the great subject. The history of the world has moved incessantly between the poles on humanness and brutishness. Man is not self-evidently "man". He tends toward "brutishness." Yet, even Attila had moments of "humanness." The Great Constantine, who has been proclaimed a Saint, had on the contrary moments of brutishness—especially in his parental capacity.

In our time, the time of breath-taking achievements in management and the practical sciences, one notes the tremendous "progress" made by governments in suppressing and neutralizing individual consciences. This "progress" has been facilitated by the modern methods of science and technology, but it is also a function of "ideologies." I call "ideologies", in the specialized sense of the term, only those systems of sociopolitical ideas whose basic trait is the displacement of the center of political gravity from the "present" to the "future." Thus, these systems hope to justify historically the employment of authoritarian techniques by promising a future which when it comes (if it ever comes) will not find alive all those who are tortured today and who undergo the ordeal of psychological and material violence for the sake of this elusive future.

Democracy is not an "ideology", in the above sense. Democracy, like "ideology", establishes goals which go beyond the immediate present. But Democracy's basic goals, indistinguishable from its very essence, involve the freedom of consciences, free speech, the choice of leaders by the led, the accountability of those in power, and the continuous public dialogue. These democratic goals are equatable and equated with the means employed every day—every moment—by the State. "Ideology" is messianism. Democracy is not. Even Democracy, however, has had its messianic elements. At a time when authoritarian regimes predominated in Europe, Democracy was only a "movement", a "revolution". But once it predominated, Democracy expelled its messianic elements. I am speaking especially about the modern era. In ancient times—in Athens—Democracy never possessed anything "messianic". It was, besides, born as "experience" and not as "idea". The "citizen" and the "polis", which are primarily Greek inventions, took substance first and then they were conceived as abstract constructs. But even in the modern times, Democracy abandoned every "messianic" element when it broke the hold—either through violent revolution or peaceful and gradual reform—of systems of traditional or patrimonial authority and privilege. "Ideologies", acting as modern auxiliary religions, keep prodding men living today to make great sacrifices to an ultimate goal whose fulfillment is progressively postponed, sometimes beyond the life span of the living. Democracy, on the contrary, as a political system, fulfills its goals today and in *this life*.

Political authority in democratic polities often succumbs to the temptation of brutishness. This happens when Democracy transforms itself to an "anti-ideology". Naturally, there is an explanation for this phenomenon. The "ideological" movements of our era tend toward ecumenism or universalism. These are also elements of "ideology" in its specialized sense. Such elements, which were fundamental traits of early religions, despite the lack then of effective means of mass communication, are so strong and violent that they often tempt Democracy—which is continuously threatened—to take actions and set policies which exceed the bounds of self-defense of freedom against its enemies. But in Democracy, these excesses form a partial rather than totalitarian phenomenon. And, besides, Democracy as a regime, always supplies the opportunity for the opposition party to come peacefully to power and to curb such excesses.

The worst kind of "anti-ideology" is not the governmental authority which, within the bounds of a democratic polity, emulates

> some of the tactics which are systematically employed by messianic regimes. The worst kind of "anti-ideology" is the government which—using the excuse of protecting freedom or the "Fatherland" from the dangers of messianic ideologies—cancels itself Democracy and applies generously the methodology of violence used by messianic regimes. This is indeed the most vicious bend in the vicious circle of history.
>
> The history of the human species is—or becomes—a vicious circle when men detach absolutely their "means" from their "ends". The means are the present. The ends are the future. When we sever completely the ends from the means, then the choice of means, i.e. our present behavior, moves outside the boundaries of mortality. We must then emphasize the quality of means. The means are our deeds. The ends are beyond the range of action. If we want to be "human" (and not brutish) then our means, at this time and every time, must serve to ameliorate evil conditions, to avert injustice, to wipe away tears, to assist those who are unlucky or oppressed. Albert Camus, in resisting the temptation of every "ideology", said epigramatically: "The true magnanimity toward the future lies in the giving of everything to the present."
>
> In other words, no purpose—regardless of its loftiness—sanctifies brutish actions. If this is true, if the criterion of behavior for each individual is his relationship with his neighbor, then—for a thousand added reasons—the same criterion must be used as a guideline for the behavior of political authority. In the case of a political authority, the "neighbor" is every man within its jurisdiction. Only democracy enjoys, by definition, the benefits of this humanistic guide to action. Whether it is followed faithfully and effectively—in every instance—is in itself a big question. Democracy is, at least, the only type of polity which to a historically feasible degree allows us to state that it does not consciously and systematically violate the humanistic guidelines of behavior.

FELIPE GUTIERREZ, JR., A CARNEGIE HERO

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. PICKLE. Mr. Speaker, at its recent awards meeting, the Carnegie Hero Fund Commission awarded a bronze medal to Mr. Felipe Gutierrez, Jr., of Round Mountain, Tex., for his heroism in saving two people from certain death in a fiery auto crash.

According to the Carnegie Commission, Stephen Connaster and his wife, both aged 24, were involved in a highway accident and trapped inside their automobile, which had turned over onto its right side.

Flames broke out, and there was an explosion in the fuel tank. But undaunted, Mr. Gutierrez ran to the car, as did a college student and a member of the U.S. Air Force.

They pulled Connaster from the vehicle. Then the four of them righted the car and pulled out the unconscious Mrs. Connaster.

Moments later flames engulfed the vehicle—but the Connasters have recovered from their injuries and burns.

Felipe Gutierrez, only 23 himself, put thoughts of his own life aside and saved two other people from an untimely death.

His is the type of concern and courage that is the best mankind has to offer.

The praises of the Carnegie Commission are well deserved and I am sure all the Members of this great legislative body join me in sending our own tributes and commendations to Felipe Gutierrez, Jr.

APPOINTMENT OF ANTONIN SCALIA TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. GUBSER. Mr. Speaker, I first became aware of Antonin Scalia because of his work as general counsel of the Office of Telecommunications Policy. His outstanding efforts during the early months of OTP, particularly in the public broadcasting area, enabled the Office to move quickly into the communications area with authority and competence.

Now I am happy to report that Nino Scalia, at the age of 36, has been selected by the President and confirmed by the other body to be chairman of the Administrative Conference of the United States. There Mr. Scalia will direct efforts to develop improvements in the legal procedures of Federal agencies in administering regulatory benefit, and other Government programs in addition to fixing the rights and obligations of private persons and business interests through agency adjudication, rulemaking and investigative proceedings.

As the members will recall, OTP was created in 1970. Of course, it was confronted with the difficult position of annonymity and like all new agencies I was concerned that without dynamic leadership OTP would become just another agency around town. However, with the leadership that Clay T. Whitehead had demonstrated from the outset, it became clear to me that any general counsel of OTP would have to be a person of the same mold. Antonin Scalia clearly fit the mold. An alumnus of Georgetown University, Nino Scalia went on to graduate magna cum laude from Harvard Law School where he was Note Editor of the Law Review. He practiced law in Cleveland for several years before going to the University of Virginia where he was a professor at its law school. In addition, Mr. Scalia's experience as a consultant to various State and Federal agencies gave him a familiarity with the operations of the Federal Government. With this invaluable experience, Nino Scalia provided innovative direction to OTP in the vast areas in communications. For example, he helped to end the freeze on cable television by bringing together all interested parties to formulate a compromise which truly has served to enhance the prospects of cable TV in this country. Perhaps more than any other issue to which Mr. Scalia gave direction was public broadcasting. In a speech before for Telecommunications in San Francisco earlier this year, he said:

> I do not believe we agree on the goals which the permanent structure for public broadcasting should seek to achieve . . . but to suggest that the matter should not be vigorously discussed—by private individuals and public officials, by educators, station managers, producers . . . is to avoid not only controversy but responsibility.

Mr. Speaker, herein lies the qualities of leadership; a man who possesses courage and determination to address the difficult issues. As OTP's first General Counsel, he helped to give OTP the leadership it needed. Now as the new chairman of the U.S. Administative Conference he will provide the same innovative and leadership direction which has marked his career in both private and public life. I applaud his appointment and wish him every success.

CALVARY PRESBYTERIAN CELEBRATES 100TH ANNIVERSARY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CONYERS. Mr. Speaker, this year the Calvary Presbyterian Church of Detroit is celebrating 100 years of Christian service, as well as the fourth anniversary of its pastor, Rev. Sven E. Anderson.

At a time when man's inhumanity toward man pervades national and international life, it is reassuring to find real working examples of eternal Christian principles. That is what makes the Calvary Presbyterian Church special to the people of Detroit.

I had the pleasure of briefly participating in the 100th anniversary celebration of Calvary Presbyterian, thanks to the invitation of a distinguished civic leader and friend, Mr. Reginald McGee. While there I asked myself what was so unusual about this church? The answer was a simple one. Here black and white citizens were worshipping together. They did not consider it unusual in the least, something which spoke more eloquently of what the Christian religion is all about than anything I had recently heard or read.

Calvary's good vibrations spread throughout the city in a number of other ways. To facilitate its participation in worthwhile community projects, New Calvary of Detroit, Inc., was formed. A nonprofit corporation begun in 1970, it operates with broad objectives and purposes, and draws funds from a variety of sources, including governmental agencies and corporations. New Calvary of Detroit, Inc., is presently helping to create a senior citizens residence next to the church with the financial assistance of the city, State, and Federal Governments. It is my hope that Calvary Presbyterian will continue its good work and enjoy another 100 years of prosperity. And, perhaps, if others can learn from Calvary's fine example, we will all be a little closer together when we celebrate its 200th anniversary.

CONGRESSMAN HENRY HELSTOSKI REPORTS TO COUNTY AND MUNICIPAL OFFICIALS IN THE NINTH CONGRESSIONAL DISTRICT OF NEW JERSEY ON ESTIMATED REVENUE-SHARING ALLOCATIONS

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. HELSTOSKI. Mr. Speaker, the following information is a distribution of funds to be made available to Bergen and Hudson Counties, as well as the municipalities in those counties, under the 1972 Revenue Sharing Act, as agreed to by the House and Senate conferees.

It is to be borne in mind that all of these figures are estimates and subject to revision. These figures will be updated by the Department of the Treasury as data becomes available.

The Treasury Department has been using 1967 adjusted tax data to calculate the allocation of funds under the Revenue Sharing Act. This means that when the 1971 adjusted tax figures become available, Treasury will recompute the figures to better reflect the allocation in Bergen and Hudson Counties.

The Treasury Department is also using data based on the 1970 census which, in many instances, is being updated.

Treasury will continue to recompute the revenue-sharing figures until the revised tax data and census data are available. This is to insure that the Treasury Department distributes funds in the most equitable manner possible.

Treasury plans to mail out the first checks the end of this month. These checks will cover the period of January 1 to June 30, 1972. The second check will be mailed out at the beginning of the new year, which will cover July 1 to December 31, 1972. Thereafter, checks will be mailed out on a quarterly basis, at the end of each quarter.

Treasury will mail out separately the checks and a general explanation of revenue sharing, some background information for administering revenue sharing, and some initial regulations.

Following is a list of the allocation of funds under revenue sharing. It is to be noted that township money comes out of the county government funds. Because of the fact that these units of government were defined as townships, the Treasury computer did not provide for a comprehensive basis on a computer readout for the townships and their totals. However, for allocation purposes, these will read out of the computer when Treasury mails the checks.

County:	*Total grant*
Bergen County area	$8,353,532
Bergen County government	3,177,499
Total to all cities over 2,500	5,149,801
Total to all cities under 2,500	26,233
Total to all townships	859,515
Allendale	18,990
Bergenfield	187,368
Bogota	77,583
Carlstadt	92,377
Cliffside Park	144,483
Closter	44,349
Cresskill	40,714
Demarest	15,621
Dumont	$131,550
East Paterson	155,101
East Rutherford	132,825
Edgewater	108,183
Emerson	135,433
Englewood City	213,094
Englewood Cliffs	18,070
Fair Lawn	186,611
Fairview	52,653
Fort Lee	93,216
Franklin Lakes	22,976
Garfield City	341,711
Glen Rock	50,899
Hackensack City	411,274
Harrington Park	14,732
Hasbrouck Heights	73,774
Haworth	12,315
Hillsdale	55,325
Hohokus	13,232
Leonia	52,675
Little Ferry	59,739
Lodi	186,595
Maywood	64,366
Midland Park	37,354
Montvale	26,318
Moonachie	65,108
New Milford	104,321
North Arlington	115,446
Northvale	31,909
Norwood	13,384
Oakland	80,893
Old Tappan	14,701
Oradell	38,584
Palisades Park	96,055
Paramus	236,767
Park Ridge	42,152
Ramsey	85,292
Ridgefield	130,178
Ridgefield Park (figures available even though a township)	100,839
Ridgewood (figures available even though a township)	108,127
River Edge	71,527
Rutherford	139,312
Tenafly	54,134
Upper Saddle River	24,190
Waldwick	73,929
Wallington	55,390
Westwood	71,943
Woodcliff Lake	16,756
Wood Ridge	107,359
Hudson County area	13,442,333
Hudson County government	4,720,427
Total to all cities over 2,500	8,695,748
Total to all cities under 2,500	26,159
Total to all townships	834,616
Bayonne	737,602
Guttenberg	33,641
Harrison	260,588
Hoboken	1,001,226
Jersey City	4,860,207
Kearny	385,872
Secaucus	158,836
Union City	723,679
West New York	534,098

The following towns are not listed:

BERGEN COUNTY

Alpine Boro.
Lyndhurst Twp.
Mahwah Twp.
River Vale Twp.
Rochelle Park Twp.
Rockleigh Boro.
Saddle Brook Twp.
Saddle River Boro.
South Hackensack Twp.
Teanneck Twp.
Teterboro Boro.
Washington Twp.
Wyckoff Twp.

HUDSON COUNTY

East Newark Boro.
North Bergen Twp.
Weehawken Twp.

According to an official in the Revenue Sharing Office of the Treasury Department, the above listed towns and cities were not allocated funds because they are not incorporated or did not have a tax effort in 1967. That supposedly means that no set amount of funds were set aside to take care of the towns and cities which do not meet the formula of population, per capita income, and tax effort.

Those officials who do not receive checks at the end of this month should write to the following individual providing the necessary information on incorporation and tax effort: Mr. Dennis Kernahan, Office of Revenue Sharing, Washington, D.C. 20220.

Copies of letters to Mr. Kernahan should be sent to my Washington office to facilitate matters.

THE CONTINUING SLAUGHTER OF THE UNBORN

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. SCHMITZ. Mr. Speaker, the following passage appears in the book, "Respectable Killing: The New Abortion Imperative" by K. D. Whitehead:

> An Egyptian plague of abortions has descended upon America. The slogan is abortion-on-demand, and events are proving that the demand is all too real . . . There are those in our society—in the organized pro-abortion movement—who are determined that no legal, medical, moral or practical considerations shall any longer stand in the way of widespread, permissive, deliberate destruction of existing unborn human beings.

The national debate about abortion continues to be carried on in curiously unreal terms—like discussing war without mentioning casualties, or medicine without mentioning illness. The actual humanity of the unborn child is dodged or simply ignored, and the sheer volume of abortions remains unknown to most Americans. One New York clinic performed 7,000 abortions in just 5 months. The total death toll of unborn babies in New York State during the first 18 months after its abortion-on-demand law took effect July 1, 1970, was 278,122—far exceeding the total of all American casualties in the Vietnam war. In my own State of California, in the first year after the "liberalized" abortion law of 1967 took effect, there were 5,030 abortions, which jumped to 15,539 in 1969 and then to an appalling 62,000 in 1970. About 25,000 of the 1970 abortions in California were paid for by the taxpayers—including many who regard abortion as, in every sense of the word, murder.

The only realistic legislative hope for ending this slaughter now lies in a constitutional amendment explicitly guaranteeing the unborn child's right to life, such as I have introduced as House Joint Resolution 1186. Those who still look hopefully to the courts for relief have not yet grasped the fact that the issue before the courts today is no longer whether the unborn child has any inalienable rights, but whether any State will be allowed to protect the lives of its unborn children. This is the only real question now pending before the U.S. Supreme Court in its forthcoming major abortion decision which, under the direction of President Nixon's handpicked Chief Justice, will almost certainly not be announced until after the election so as not to spoil the President's antiabortion image.

The truth about the administration's position on abortion, as distinguished from the image, begins to emerge from the push now being made to promote and publicize the recommendations of the President's Committee on Population Growth, which called for abortion on demand in no uncertain terms. A 1-hour filmed presentation of the committee's recommendations is now being prepared and is scheduled for airing on television late in November by the Public Broadcasting Service, which is funded 60 percent by tax dollars and 40 percent by the Ford Foundation.

WGBH, the "experimental television" station which will be broadcasting this film, is heavily financed by the Rockefeller Foundation, from which it received a single grant of $149,000 3 years ago. It is hardly coincidental that the chairman of the President's Committee on Population Growth is John D. Rockefeller III and that when a grassroots movement to stop the abortion carnage in New York succeeded in getting a bill through the New York Legislature restoring the old law prohibiting abortion except to save the life of the mother, it was vetoed by Gov. Nelson Rockefeller.

It would be interesting to know just what the Rockefeller family really has against babies.

The film on the Population Committee's report is expected to be distributed nationwide in the public schools by Population Education, Inc., which in June received $50,000 in tax money from the U.S. Office of Education. The use of the Public Broadcasting Service as a vehicle for this film is an example of just the kind of abuse which I expected when I wrote a minority report on this year's bill keeping it in operation.

LEGISLATION COMMITS NATION TO RESTORE AND PRESERVE WATER RESOURCES

HON. JOHN A. BLATNIK

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BLATNIK. Mr. Speaker, today, members of the House-Senate Conference Committee who labored long, hard, and successfully to produce a monumental piece of legislation that commits this Nation to the restoration and preservation of our water resources paid tribute to the man who chaired that conference and contributed immeasurably to its success—the Honorable ROBERT E. JONES of Alabama.

I call the attention of the House to another much-deserved tribute paid to BOB JONES by a member of the Fourth Estate, Joseph McCaffrey, of WMAL-TV, who has long observed our friend and colleague in action in the House of Representatives with the impartial eye of a veteran Washington newsman. In his newscast commentary on October 10, Mr. McCaffrey said in part:

> The people who keep Congress ticking are men like Bob Jones, the man who, more than anyone else in Congress, is responsible for the clean water bill which the President views with such disfavor.
>
> Here was a bill that many thought would never get through both chambers, and when it passed the House and the Senate, there was talk that it would never survive a Conference.
>
> But it did—thanks to Bob Jones!
>
> That Conference took almost four months, there were 39 meetings, and more than 500 votes were taken by the Conference Committee.
>
> The Conference was a success because Alabama's Bob Jones was the Chairman, and during the more than 500 votes Bob Jones was upheld on every one.
>
> He could do this because Jones is a legislative craftsman, a man who knows his subject.
>
> Yet, yet when I read the news stories about the success of the Conference, against great odds, I found no mention, no mention at all, of Bob Jones.
>
> Congress is kept moving by men like Bob Jones, and a lot of others like him who never get the front-page treatment, but who do the real hard, heavy work!

FORT HUACHUCA: THE FUTURE IS BRIGHT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. UDALL. Mr. Speaker, before we get to the end of this session, I wanted to clear up what I think is a major misunderstanding concerning the relocation of the U.S. Army Intelligence School to Fort Huachuca, Ariz.

I do not believe that certain allegations regarding this move can be justified on the basis of the facts.

For example, it has been alleged that available water in Fort Huachuca is forcing or will force a curtailment of intelligence activities there.

If there is one best authority on water availability there, it is the Arizona Water Commission. On August 31, 1972, the commission asserted:

> The argument that the Intelligence School should not be moved to Fort Huachuca because of water supply limitations is without foundation. There is no rational basis for concluding that available water supplies cannot support many times the present population of the Fort and the arbitrary ceiling that someone seeks to enforce.

The alleged lack of water must come as somewhat of a surprise, too, to Tenneco, Inc., the Nation's 16th largest corporation in total assets. After 2 years of detailed study of all aspects, Tenneco has just launched its Pueblo del Sol development on 6,000 acres immediately adjacent to Fort Huachuca. When complete, Tenneco will have invested at least $25 million in fixed facility costs alone to accommodate 40,000 people.

Selection of Fort Huachuca as the new home for the Army Intelligence School and related activities was done on the basis of long and careful study. It was a wise decision and the relocation has been executed in a highly efficient manner.

Fort Huachuca possesses special characteristics unmatched anywhere. These are recognized by the Army and I am confident that the future holds only growth for this unique facility.

PROBLEMS OF SMALL BUSINESSMEN UNDER OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DUNCAN. Mr. Speaker, I am enclosing a statement by Mr. Tom Ray of the National Federation of Independent Business. Mr. Ray's pointed statement makes clear some of the problems small businessmen are encountering as a result of the 1970 Occupational Health and Safety Act. Mr. Ray's insight into this subject is most astute and worthy of consideration by each member of the House.

STATEMENT OF TOM RAY

The Federation represents the small enterprises of this Nation, with two-thirds of our 318,000 members employing fewer than nine workers, and 60 percent of them having gross annual receipts of under $200,000. Because of the deep concern these small firms have shown in their vote on our Mandate ballot, and in the high volume of mail they have sent in to us, we are particularly grateful for this opportunity to testify before you today on the Williams-Steiger Occupational Safety and Health Act (OSHA).

May I begin, Mr. Chairman, by emphasizing that the independent business community is greatly concerned about industrial safety. Frankly, a safe working place is desirable to the small businessman from an economic as well as from a humanitarian point of view.

Despite this attitude, however, the Williams-Steiger Act and the Occupational Safety and Health Administration have become the most controversial issues to hit the business community in recent years.

A poll by Mandate ballot indicates that 79 percent of NFIB members favor H.R. 12068, a bill that would reduce the coverage of OSHA to manufacturing businesses having more than 25 employees. Thus, the Federation supported the recently-passed amendments to the Labor-HEW appropriation to temporarily exempt small businesses from inspection by OSHA. Although small businesses do not seek to shun their responsibilities to provide a safe working environment, such action was necessary to provide relief from the whims of the Occupational Safety and Health Administration.

THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

The prevailing bitterness in the business community stems, more than any other factor, from this agency. OSHA even threatens to undermine the faith in the American system of the small businessmen, the very backbone of that system. "Gestapo" is a word being used constantly, and our members are asking, "Is this still America?"

Publication of the rules

The Occupational Safety and Health Administration's primary failure has been in communication. The most elementary OSHA publication available is "A Handy Reference Guide to the Williams-Steiger Occupational Safety and Health Act of 1970." This booklet outlines the Act in the most general terms. Of the thousands of standards which the employer must meet, the "Guide" lists two.

Slightly more helpful is "Recordkeeping Requirements under the Williams-Steiger Occupational Safety and Health Act of 1970." Most of the text is taken from the "Handy Reference Guide," but the forms required are included and explained. Again, however, nothing tells a manager specifically how to make his shop safe.

The same is true of the "Compliance Operations Manual." In fairness, the "Manual" was originally published as an internal organ for use by the inspectors, not as an aid to the public. Unlike the other publications, it is not provided free, when available, by OSHA, but it does provide the most substantive information available on procedural matters.

The final information source available is at the opposite extreme from vagueness and utter simplicity, being instead microscopically detailed and excruciatingly technical. It is the Federal Register, beginning with Vol. 36, No. 105, Part II. The reliance of OSHA on the Federal Register as the only means of disseminating the standards illustrates its lack of awareness of the realities of the business world.

Although publication in the Federal Register meets the legal requirements for disseminating a law, realistically speaking it does not inform the public, since few independent businessmen have ever seen a copy of the Federal Register. While the Occupational Safety and Health Administration is correct technically, it is not really helping the workers of America by hiding the rules in a book that employers never read.

Sending a copy of the Register to every small businessman in the country would not remedy the situation, either. The original regulation consisted of 248 pages of fine print, charts, and technical diagrams. The Federal Register recently published a codification of the regulation, Title 29 of the United States Code, complete with amendments and applicable documents. The material is in three volumes totaling over 900 pages. The language is difficult reading for anyone but a lawyer or an engineer. This is no major problem for the largest firms, of course, but the firms this Federation represents frequently have a staff of one bookkeeper, if they have a staff at all.

One barrier to understanding is the format of the regulations. For example, the most common type of query received by the NFIB is, "What are the requirements for a retailer?" or "a small manufacturer?" or other industrial classification. But no breakdown of the regulations by industries exists.

Format is not the only problem. Standards were adopted wholesale, with little apparent thought as to need, applicability or practicality. Assistant Secretary of Labor Guenther, for example, has tentatively admitted that portions of section 1910.106 do not apply to occupational safety and health at all. (See Appendix B, letter of May 12, 1971, from Secretary Guenther to the National Oil Jobbers Council.) Most Members of Congress must by now be familiar with the problems created by the failure to distinguish between light and heavy construction. And of course, Mr. Guenther has now admitted that the notorious subsection entitled Toilet Facilities had "little direct relationship to occupational safety and health."

A more distressing subsection is 1910.25, "Portable Wood Ladders." This is obviously an extremely important regulation, pertaining to a very common, and potentially very dangerous, implement. But for a small businessman, the requirement might as well be in Latin. (Indeed, there is some Latin terminology in this subsection.) Table D-5 lists the 55 types of wood permissible for the construction of ladders, and classifies them according to the stress to which they may be subjected. A formula is provided for determining stress, as follows:

$$S=3LD(P + W/16)/2B\ (D^3 - d^3) =$$
$$15LD(25 + W/16)/B\ (D^3 - 0.67)$$

Perhaps General Motors can buy its ladders based on such decision parameters. The corner grocery store cannot.

OSHA's inscrutable rules are creating a new industry in America. "OSHA can make your head hurt," begins an advertisement by an insurance company. The ad goes on to explain how the company will aid a business in the "formidable, even frightening task" of "coping" with the Williams-Steiger Act.

Keeping up with the voluminous changes in the standards is such a challenge, even for large businesses, that there are now at least three regular periodicals devoted to the Act. Along with the initial six months subscription (which costs $84), "Frontiers in OSHA," one of the periodicals, includes an index of the regulations and a list of most common violations under the Walsh-Healey Act. (See Appendix C) This information is, of course, known by the Department of Labor, but is not made readily available.

OSHA's attempts in providing helpful, meaningful guidance on safety and health are most disappointing. Mr. Guenther indicated in testimony before the House Small Business Committee that he expects trade associations to take the responsibility of extracting appropriate rules and providing them to their members.

We do not believe that "passing the buck" in this manner will accomplish the purpose of OSHA. Although various trade associations have made excellent efforts in this area, this is not a job for them. We understand that the Department of Labor has hired a staff of highly competent, professional and experienced safety and health authorities. These people are the experts, if they cannot write a book that can be read and used by the layman, who can? We do not suggest a "Dick and Jane" primer for every SIC classification, but there is room for a great deal of simplification.

An additional aspect of Mr. Guenther's reliance on private organizations is his implicit assumption that all of the five million firms under his jurisdiction are members of a trade association. We believe that many of them, primarily the smallest businesses, are not so affiliated, and that they should be able to receive meaningful advice from their government in dealing with the high-priority problem of safety and health. This illustrates OSHA's orientation toward middle- and large-size firms, ignoring the realities of the small firm.

Personal contact

The inadequacy of OSHA publications is paralleled by the unsatisfactory program of "training seminars." While none of the NFIB's Washington staff has had the opportunity to attend one of these meetings, we gather that, as in the "Handy Reference Guide," the information is general in nature. In addition to being of little help, however, the presentation of the seminars can actually create a backlash and may be responsible for some of the bitterness surrounding OSHA.

Mr. Lee Scott, of Carol Lee Products, Lawrence, Kansas, for example, gives his impression of a compliance officer at an OSHA "seminar" as follows: "His arrogant, belligerent attitude made me wonder if it is the government's intent to intimidate all business into total submission to the government. Some of his statements in regard to one's attitude toward the inspector tend to verify his feeling, because he indicated if one wasn't *nice* to the inspector, the fines could be higher. Also, his implication that, like a mule that had to be hit in the head with a 2x4 to get his attention, he was going to get ours." Mr. Scott added that when he left the meeting he looked up at the building to see if the American Flag was still flying.

We believe that this outlook is not an official one. The staff people in Washington want to be fair to everyone involved, reflecting Secretary Guenther's attitude in his interview in *Dunn's Review*, of February, 1972.

Unfortunately, Washington seems unable to create this same attitude among all of the field personnel. An appeal procedure exists, for example, but many of the letters we receive complain that the appeal procedure as "explained" by compliance officers is too complicated to undertake.

It is impossible for us to determine at present the extent of this abrasive, domineering, brow-beating attitude. It could be a few inspectors (and we do get some comments on courteous inspectors), or a majority. But a problem exists, and there is more here than "rumor."

THE WILLIAMS-STEIGER ACT

Even if the Occupational Safety and Health Administration were to adopt a reasonable, responsible attitude, however, there would still be problems remaining due to the nature of the Act itself. The weakness of the Williams-Steiger Act is that, in some respects, it is punitive rather than corrective.

On-site counseling

Specifically, it is difficult to understand why an employer cannot ask OSHA for a "dry run" inspection or some other form of on-site counseling without the threat of fines. Again, this is particularly significant for small businessmen who do not have a "safety director" on their staffs. OSHA could provide the technical knowledge needed for compliance. By giving the compliance officer the opportunity to enter the business as advisor rather than as enforcer, this would also help establish the rapport between business and government that has been absent from this program.

A related problem is explained by Mr. Kenneth B. Shartzer, President, Kenley Company, Inc., of Janesville, Wisconsin. A number of his customers have begun including a clause in their purchase orders requiring that equipment purchased be warranted as complying with OSHA. Mr. Shartzer's company, with annual sales of about $100,000, did not really know if their products met the standards. Guidance was therefore requested from OSHA.

As the Department of Labor understands the law, however, the design of a product cannot be checked for safety before it is sold.

Why, we ask, are government experts prohibited from ruling on the safety of equipment before it is in use and possibly endangering workers?

Penalties

Penalties are another area of the law where change is needed. While a fine may be a valid tool in enforcement, we feel it should be used only against those who willfully evade or refuse to obey the law. In many cases a businessman honestly does not know a hazard exists, and will move to correct it when it is pointed out. Like the consumer who purchased an unsafe model of automobile, he often simply assumes that equipment purchased from a large, reputable manufacturer is safe. For example, how can the owner of a small paint and body shop know that a given paint mask really protects his workers' respiratory systems? In these circumstances, why should an employer be fined if he corrects his violation within the abatement period? As we understand Section 9 of the Act, he could even be fined for violations corrected within six months before the inspection.

In 1971, 14,452 firms, or less than one-third of one percent of those covered, were inspected by OSHA. For the businessman to have one chance in a hundred of being inspected, 50,000 firms would have to be inspected in a given year, assuming the sector of the economy covered does not increase in size. Given these odds, and the difficulty of getting information on safety and health regulations, and the severe staff limitations of small business, the independent businessman would probably choose to take his chances, if his only incentive to act were a fine.

CONCLUSION

Fortunately, most independent business people earnestly desire a safe working environment. It is to this desire that our national safety program must be keyed. Show the independent what must be done, and he will do it voluntarily. Save the punishment for those who willfully evade their responsibility.

OSHA is a small business problem. It is the independent who lacks the expertise to interpret the complex and obscure rules; who lacks the staff to apply those rules to his plant; and who lacks the finances to make the drastic changes in capital investment often required to comply.

It is these limitations that have caused independents to write their Congressmen, and that have brought us here today seeking relief. The small businessman still wants to be a friend to safety, but he needs education and assistance from the government, not mere punishment. The Department of Labor must be reminded that OSHA was intended as a safety program, not a fundraising project.

If this Committee will deal with the problems we have discussed, we believe it will have performed a signal service to the workers of this country, as well as to the independent businesses of America.

Thank you, Mr. Chairman.

PULASKI DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. RODINO. Mr. Speaker, at this time of year, I am again pleased to join with my many friends of Polish descent who honor the memory of Gen. Casmir Pulaski. In an era of increased awareness of the importance of ethnic traditions, Casmir Pulaski is remembered as a forerunner to the American way of bringing about meaningful and diverse change in this Nation. He typifies the combination of an intense devotion to an ancestral heritage and an overpowering commitment to democratic ideals which are the feelings which propelled the countless immigrants who colonized our shores to fight for their dreams of opportunity, progress, and freedom from oppression.

As we all recall, Casmir Pulaski left his homeland to fight to preserve the independence of this Nation. He voluntarily served in Washington's army, participating with distinction in the Battle of Brandywine and organizing the first independent corps of cavalry and light infantry. His constant response to the needs of our country is why those of all descents remember October 11 with a mixture of sadness and pride at the sacrifice of this great hero of the American Revolution.

Now, more than ever, our Nation must keep in mind that its strength and its beauty lie in the diversity of its citizens. When one, such as Casmir Pulaski, joins the attributes of his ethnic heritage with the concepts of independence, freedom, and liberty, there evolves an individual of monumental dignity and ultimate fortitude. It was men and women like these that built America; it is men and women who accept this reality that will always keep America strong.

YOU CAN MAKE MONEY BY RECYCLING YOUR PAPER WASTE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. FINDLEY. Mr. Speaker, everyone is talking about improving the environment today, the need to recycle products and preserve our precious natural resources. One company in my district is doing something to meet its responsibility. In fact, it has been doing so for years.

Alton Box Board Co., with headquarters in Alton, Ill., is a national leader in the collection and use of wastepaper and paperboard in the manufacture of paperboard. This position of leadership has been reached by Alton after more than 50 years of experience in recycling wastepaper.

A network of 10 paper reclamation plants has been established in urban areas in the Midwest to collect and process wastepaper and paperboard fibers which can be reused in the manufacture of paperboard. These plants are located at Springfield and Decatur, Ill.; St. Louis, Springfield, and Maplewood, Mo.; Evansville, Ind.; Bowling Green and Louisville, Ky.; Memphis, Tenn.; and Kansas City, Kans.

Last year Alton's paper reclamation plants collected and processed approximately 400,000 tons of wastepaper. Most of this was utilized by Alton's four paperboard mills in the manufacture of paperboard, which in turn was converted by over 30 of its converting plants into shipping containers, folding cartons and tubes, cores and cones.

In consonance with the nationwide efforts to reduce the volume of usable wastepaper going into the solid waste stream, and to utilize the fibers being wasted, Alton is continuously seeking new processing innovations and products to be made from recycled paper. One new line of products which has been developed is furniture components, such as chair seats and backs, bookcases, tables, and merchandising displays.

This new line of products utilizing recycled fibers is an example of the potential value of wastepaper as a source of material for new products which heretofore have been made from other materials.

The expanded use of wastepaper and paperboard, however, depends upon adequate sources of supply. While the need for these fibers continues to increase, millions of tons of usable wastepaper continue to enter the solid waste stream.

Alton Box Board has just published a brief list of questions and answers which outline the problem, and the opportunity, in recycling paper products. I think that many will benefit from reading it and ask that it be included at this point in my remarks:

YOU CAN MAKE MONEY BY RECYCLING YOUR PAPER WASTE

With accelerating business conditions, demands for paper packaging are increasing, particularly in corrugated shipping containers. At the same time, our Nation faces an ecological challenge. Experts claim we all must find ways to recycle fibre to conserve natural resources and fight problems of solid waste disposal.

Used corrugated is in short supply and is needed by paper mills to produce additional paperboard which will make new corrugated shipping containers. Other fibrous materials like old newspapers, tab cards, envelopes and ledger stocks are also needed by paper mills.

Unfortunately, at a time when used papers of many kinds are needed, some manufacturers, wholesalers and retailers pay trash haulers to dispose of this valuable commodity. If you are now paying scavengers or commercial haulers to haul away trash that contains paper, you might be able to eliminate part of this expense. Furthermore, if properly segregated, your waste corrugated or other paper can be sold to Alton Box Board Company.

Many towns and cities are experiencing difficult problems of solid waste disposal. With sanitary landfill sites becoming increasingly scarce, communities continue to fill disposal sites with many forms of paper that are useful to paper mills.

According to government statistics, solid waste collection in urban areas of the United States has grown from 2.75 pounds per person in 1920 to 5 pounds per person in 1970. This rate is expected to increase to about 8 pounds per person daily in 1980. In addition, with the rapid expansion of our cities, the scarcity of sites for sanitary landfill is compounded by the phase out of incineration due to air pollution regulations. These all combine to multiply the scope of our solid waste problems.

Becoming acutely aware of the problem, the General Services Administration, at the direction of President Nixon, has undertaken a role of national leadership to encourage recycling. It is hoped that recycling will greatly relieve the pressures on sanitary landfills since about 50% of urban waste consists of paper and paper products. Paper waste when recycled contributes to the economy and can be looked on as a resource rather than a liability.

If up to half urban waste could be recycled, great progress could be made in diverting the bulk from incinerators and landfills. In order to use post-consumer waste in its recycled paper products whenever feasible, many common use paper products purchased for Federal Agencies by GSA are now require to contain recycled fibres. Specifications for percentages of recycled fibres in government purchases now range from 3 to 100 percent.

Everyone can participate in solving this national problem of waste disposal by diverting waste paper of all kinds to companies like Alton Box Board Company that collects and recycles fibres into new products. Furthermore, many companies are now specifying that recycled paperboard be used in new corrugated shipping containers and folding cartons. You should establish a program of recycling your waste paper and buying recycled packaging now. The following questions and answers may be helpful to you to start your own program of recycling:

Question: Who should we contact to discuss a program of recycling waste papers?

Answer: You will find it worthwhile to contact a company like Alton Box Board Company which is a single outlet for papers of all types, grades—mixed or unmixed. Alton Box Board Company is a packer, broker and consumer of waste paper. We will work out a program which is satisfactory to you by removing your paper and possibly all waste materials.

Question: What kinds of papers are wanted?

Answer: Many grades and types of papers are desirable for recycling.

(1) Old corrugated—corrugated containers free of wax or poly.

(2) Newspapers — sorted newspapers, unused overrun newspapers, and normal amount of rotogravure of colored sections.

(3) Tab cards—colored and manila tabulating cards used in data processing machines.

(4) Brown kraft—consisting of brown kraft paper, kraft bags free from objectional plastic liners or coatings, brown kraft paperboard, and similar brown papers.

(5) White bleached—including clean, white paperboard food containers, white envelopes, white ledger sheets, white manifold forms, continuous forms and similar office forms.

(6) Mixed paper—consists of a mixture of various grades of paper not limited as to type packing or fibre content.

Question: In what form does Alton want paper?

Answer: Paper is most valuable to packers and brokers when it is clean and sorted. There should be no other materials mixed in with the papers such as metal, wire, plastic sheets, rags, or other refuse. When these materials are included with the paper, they must be hand sorted and removed which diminishes its value.

In addition, paper should be sorted by type. All corrugated should be segregated. All newspapers should be separated. Mixed paper is acceptable but its value is greatly diminished. Therefore, when a system is set up to sort and keep paper clean, it will become more valuable to you.

In addition, paper is most valuable when it is baled. Paper of all kinds is normally shipped to the paper and board mill in one-thousand pound bales. This is economical for best freight rates and handling at the mill. Many large generators of waste paper purchase a baler or bulk compactor for easy handling and adding greater value to waste paper. If you have large supplies of paper available for recycling, it might be to your advantage to purchase a baler or compactor. For additional information on the use of a baler, or compactor, contact your Alton Box Board Company representative. He can offer helpful suggestions.

Question: Does Alton pick up papers?

Answer: Alton Box Board Company picks up papers at some plants. Some papers are also delivered to our plants. Trash haulers, scavengers, and groups like the Boy Scouts and schools who collect newspapers, deliver to our plants regularly. We also receive shipments in baled form. However, we are versatile and flexible. We'll assist you in working out problems that best suit your situation about delivery and pick up of recycled paper at your plant.

Question: How much can I save by offering paper to Alton?

Answer: This can only be determined after studying your waste paper volume. The value of paper to you depends on the type of paper that you are available. It depends on whether you are paying a trash hauler to dispose of the paper for you. It also depends on the volume of paper that you have available. The best method of arriving at a conclusive answer on this question is to call in a representative of Alton Box Board Company to survey your situation.

Question: Since waste paper is valuable, will Alton pay for this material?

Answer: Yes, in many instances we will pay for the paper. The payment for paper depends on the form of paper and the type of stock you have available. The price of waste paper varies constantly. This is a commodity item that increases and decreases with market demands. Other factors also determine the potential price which we would pay for the paper. These include pickup at your plant and distance from our plant. Value to us depends on volume and whether it is clean, sorted and baled. It's purely a matter of simple economics. Again, the only way we could answer this question would be to survey your situation and discuss the alternatives with you.

There is a growing desire on the part of almost everyone to participate in National environmental problems. Therefore, if you should want to dispose of your waste paper and remove it from the solid waste system with the possibility of saving some costs which you may now be incurring, we would highly recommend that you consider a program of recycling of paper. Alton Box Board Company would like to participate with you in this decision which could be highly satisfactory to you and our shared National interests.

THE OUTLOOK FOR CHILD DEVELOPMENT LEGISLATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD an article I have written which has been published in the October 1972 issue of the journal, National Business Woman.

The article, "The Outlook for Child Development Legislation" follows:

THE OUTLOOK FOR CHILD DEVELOPMENT LEGISLATION

(By JOHN BRADEMAS, U.S. House of Representatives)

In February, 1969, President Nixon told Congress:

"So critical is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first five years of life."

In December, 1971, the President vetoed a measure passed by Congress—the Comprehensive Child Development Bill—aimed at achieving precisely this goal.

Between the President's eloquent statement of 1969, and his veto message of 1971, the Select Education Subcommittee, which I have the honor to chair, of the House Committee on Education and Labor, and a Senate Subcommittee headed by Senator Walter F. Mondale (D.-Minn.), conducted the most extensive hearings Congress has ever held on early childhood programs.

On June 20, 1972, the Senate passed a modified version of the vetoed bill, and even as I write, members of both the House and Senate are continuing the bipartisan effort to write legislation to provide opportunities for health, nutrition, education, and other services for pre-school children, not only from families of the poor, but for children of all income groups.

This bipartisan initiative on the part of Congress suddenly received significant impetus from the two major political parties when, last summer, both the Democratic and Republican National Conventions included in their Platforms specific endorsements of legislation to provide America's children, on a voluntary basis, exactly the kind of quality services authorized both in the Comprehensive Child Development Bill President Nixon vetoed and the bills passed in June by the Senate and later considered in the House.

I recite this background in order to make clear that both Democrats and Republicans are on record in support of legislation that would provide "all American children an opportunity for healthful and stimulating development during the first five years of life." Indeed, the overwhelming bipartisan support which such programs enjoy is indicated by the 79–12 vote by which the Senate passed the modified bill.

THE CRISIS IN CHILD CARE (CAB)

In spite of the endorsement by both Democratic and Republican leaders, many people sincerely question the need for a child care measure. Here, however, are two of the fundamental reasons that explain why President Nixon, Senator McGovern, both party platforms, and Members on both sides of the aisle in Congress have called for such a "national commitment"—again to quote the President's words.

First, there is increasing research evidence of the significance for the rest of human life of what happens in the earliest years. We now know that these years are critical to the future development of the child. Good food and health care, emotional security, and a stimulating environment contribute immensely to the growth of a child's intelligence and ability.

For example, Benjamin Bloom, a distinguished authority on young children, has said that:

"In terms of intelligence measured at age 17, about 50% of development takes place between conception and age 4."

A second reason for the rise in support for such a measure is that there are today some six million preschool American children, below the age of six, whose mothers work. Yet day care services are available to less than 700,000 of these children. One might well ask who is taking care of the other children. Frequently the answer is, "No one." The Women's Bureau ofthe Department of Labor has identified at least 18,000 "latch-key" children—children left to care for themselves while their parents work.

Working mothers discussing day care services almost always mention the frustration involved in the makeshift and temporary arrangements they can obtain for their children. The need for quality, dependable services for these children is self-evident to women who work.

Some persons contend that making child care services available will encourage mothers to enter the job market. The reality, however, is not that mothers might go to work, but that millions of mothers with pre-school children are already working. And Department of Labor statistics indicate that by 1980, whether there is a child development program or not, a total of 7.6 million mothers will be working—a 43% increase over the 1970 total.

COMPONENTS OF QUALITY CARE

There can be, of course, reasonable differences about how best to meet the needs of children. But there is, happily, remarkable consensus on the components of quality child care programs.

First, the care should be comprehensive, that is to say not merely custodial, and should include educational, nutritional, medical, and social services.

I cite but one example: Dr. Herbert G. Birch of Yeshiva University, who recently surveyed studies of malnutrition around the world, concluded that in the earliest months of life, when the human brain achieves 70 percent of its adult size, "the data leave no doubt that the coincidence of malnutrition with rapid brain growth results in decreased brain size and in altered brain composition."

Surely, in this wealthy country we can insist that a child's intellectual development not be impaired because his diet is deficient.

Second, child care programs should be voluntary. Indeed, the legislation we in Congress have written expressly declares that children would participate only on the specific request of the parents.

There is wide agreement as well on the need for direct involvement of parents in the planning and operation of the programs—an agreement also reflected in the legislation before Congress—for parents must have the right to choose, or reject, the services available to their children. And if parents are to choose these services, they must also be guaranteed the opportunity to participate, through membership on local and regional policy councils in decisions on the content of the programs.

Third, there must be a significant role for the state and local agencies, including schools and churches, which have traditionally participated in the education and development of young children.

There is yet another component which Democrats and Republicans in Congress who support child development legislation feel is important. It is that child care programs be open to children on all socio-economic levels. The Coleman Report demonstrated that poor children develop much more rapidly, at least in cognitive terms, when they participate in programs with children of middle income backgrounds than when segregated by family income. A child development measure must thus encourage the mixture of children from different economic groups.

To conclude this discussion of the components of quality child care, I think most people will agree that the overriding consideration is that child care programs benefit the child.

One would assume this statement to be self-evident, yet Federal child day care programs have not always been established chiefly for the benefit of children.

For example, the principal motivation for Head Start was to help attack poverty. President Nixon urges day care centers in his welfare reform proposal not so much for the children's welfare as to make it easier for women to work; the Lanham Act of World War II had a similar goal, to increase defense production by providing day care centers for mothers in the plants.

But the most compelling reason for providing opportunities for "healthful and stimulating development during the first five years of life," is as the President noted in 1969, that "the matter of early growth" is "critical to the lives of children.

THE NEXT STEP

So where are we now on child development legislation?

As I write in mid-September, the outcome is in doubt. Those of us in Congress, both Democrats and Republicans, who initiated this effort are still hopeful of constructive action on a bill that can win broad support on Capitol Hill and approval by the White House.

We are, to reiterate, particularly encouraged by the strong endorsements of our position by both the Democratic and Republican National Conventions this year.

The Democratic Platform, noting that, "child care is a supplement, not a substitute for the family," calls for:

"The Federal government to fund comprehensive developmental child care programs that will be family centered, locally controlled, and universally available."

In like fashion, the Republican Platform urges:

". . . the development of publicly or privately run, voluntary, comprehensive, quality day care services, locally controlled, but Federally assisted . . ."

With such unequivocal statements of support, from both major parties, it now seems likely that the next time Congress presents a President—whether President Nixon or President McGovern—a child care measure, he will sign it into law. It will mean a better life for America's children, and a better life for America's families.

REVENUE SHARING AND THE CITY OF DAYTON

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. WHALEN. Mr. Speaker, today marks a historic shift in intergovernmental relationships in the United States. This morning the Senate repeated yesterday's House action by approving the Fiscal Assistance Act of 1972 conference report. This measure, if signed by the President, will return to State and local governments a share of revenues collected by the Federal income tax.

I, of course, am pleased that the political subdivisions within my congressional district will benefit financially from this new revenue sharing concept. A word of caution is in order, however. This program should not be viewed as the answer to State and local fiscal problems. Indeed, the fund allocation formula contained in the Federal Assistance Act of 1972 makes this clear. Incorporated in this bill is a bonus provision which encourages State and local jurisdictions to raise revenues to meet their respective needs.

The city of Dayton, the largest municipality in my district, is undertaking, in fact, just such a tax effort. During the past several years Dayton officials have been confronted with a dual fiscal problem. Inflation, with the attendant rise in salaries and pension contributions, has generated a substantial increase in Dayton's operating budget. Concurrently, the city's revenues have declined due to rising unemployment. As a result, an austerity program, involving significant cutbacks in community services, was inaugurated.

The Federal grants authorized by the Fiscal Assistance Act of 1972 will help restore some of the facie cuts However, these funds will not be sufficient to return to Dayton citizens the quality level of services which they enjoyed a few years ago. Police and fire protections still will be inadequate. Nor will the Federal revenue sharing program provide the moneys necessary for needed capital improvement and job development efforts.

The Dayton City Commission, fully cognizant of this fact, has placed on the November 7 ballot a proposed one-half percent increase in the municipal income tax. Approval of this issue will give to Dayton residents, and those who use the city's facilities, the law enforcement, public safety, job development, and capital improvement funds which Federal revenue sharing alone cannot provide.

Thus, the action of Congress today, assuming the concurrence of the President, will provide only a part of the solution. The remainder is up to the citizens of Dayton when they go to the ballot box on November 7 and, hopefully, vote to approve the proposed increase in the city income tax.

OSHA AMENDMENT VICTORY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. FINDLEY. Mr. Speaker, four million small businessmen will be protected from Government harassment by OSHA as a result of action by the House of Representatives today in adopting the conference report on the HEW-Labor Appropriations bill.

As the author of the original OSHA amendment, I feel the final congressional action is a singular victory for small businessmen everywhere. Although finally altered the OSHA amendment stood the Labor Department on its ears and forced it to listen to the pleas of small businessmen for reasonable and fair regulations.

The conference report on the HEW-Labor Appropriations bill contains my modified amendment to exempt certain small businesses from enforcement of the onerous regulations promulgated under the Occupational Safety and Health Act of 1972. Although the number of employees in a firm qualifying for the exemption was dropped by the Senate from 15 to 3 or fewer, the impact of this amendment is being felt on a far wider basis.

First, about 4 million small businessmen will directly benefit from the amendment. These are employers with three or fewer employees who would otherwise be confronted with a mountain of disorganized, confounding, and unreasonable Government regulations. Under the terms of my amendment, the Department of Labor has until July of 1973 to simplify the OSHA requirements and make them more reasonable for these 4 million small businessmen.

Second, the threat that Congress might pass an even broader exemption has stimulated the Department of Labor to comb out many unnecessary and undesirable regulations in recent weeks. No longer does OSHA try to prescribe the type of toilet seats for employees' restrooms. Originally, toilet seats with a split in front were prohibited. Protests from small businessmen, and the threat of congressional intervention, forced revision of this regulation. In addition, the Department of Labor has moved swiftly to simplify recordkeeping and modify other nuisance regulations.

Third, passage of the OSHA amendment has assured the success of legislation providing for onsite consultation for small businessmen with OSHA inspectors, without threatening liability for violations found. One of the great complaints of small businessmen has been that they have no way to determine whether they are in compliance with OSHA regulations or what they need to do to come up to standards. Legislation to correct this inequity, largely prompted by adoption of the OSHA amendment is now assured of passage.

A VIEW OF THE 92D CONGRESS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. ROSTENKOWSKI. Mr. Speaker, I am planning to send the following "end of Congress" report to my constituents in the Eighth Congressional District. I would like to insert it in the RECORD at this point for my colleagues' attention:

THE WAY I SEE IT—A VIEW OF THE 92D CONGRESS

(By Congressman DAN ROSTENKOWSKI)

DEAR FRIEND AND NEIGHBOR: The close of the 92d Congress will mark the 14th year that I have had the privilege of representing you in the United States House of Representatives. These fourteen years have been very exciting ones for me. I have had the opportunity to serve our country in "both the best of times and the worst of times." For in these years we have evolved into a paradoxical society that has been able to have its citizens walk safely on the moon, but unable to have them walk safely on their own streets.

I do believe though that the Congress has made significant progress in many areas over the last two years. Revenue Sharing, effective water pollution legislation, expansion of many educational programs and the eighteen year old vote are just some of the areas on which this Congress has left its mark. However, there is much work left to be done in the areas of crime control, welfare reform and the continuing war in Southeast Asia.

In the next few pages, I shall try to outline some of the significant highlights of my last two years in Congress.

MUSEUM HEARINGS HELD IN CHICAGO

On September 23, 1972, I had the opportunity to welcome to Chicago members of the House Education and Labor Committee. They had come to our city to hold hearings at the Field Museum of Natural History on a bill that I authored, the Museum Services Act. It was especially fitting that these early hearings were held at the Field Museum, for it was the particular needs of this museum which first prompted me to draft this legislation.

Although my museum bill did not come to a vote in the 92nd Congress, the interest that the Education and Labor Committee displayed in holding these hearings in Chicago, leads me to believe that this measure will be one of the first items to be taken up in the 93rd Congress.

FEDERAL INCOME TAX 1959–1972

The ever-increasing burden of taxes, both federal and local is a fact which troubles all Americans, especially in this time of continuing inflation. But since I have been a member of the Committee on Ways and Means, the Congress has enacted several major proposals designed to lower the federal tax burden on our individual citizens. The illustration in the accompanying box shows the effect of those federal tax reductions on the average American family.

Unfortunately, each of these laws resulted in only initial savings to the taxpayer. These reductions were quickly forgotten as the consumer faced skyrocketing state and local taxes together with ever-increasing prices. Our efforts to combat these high local taxes, the ones on property in particular, have resulted in the enactment of the "revenue sharing" bill of 1972, which is presently awaiting the President's signature.

FEDERAL INCOME TAX REDUCTIONS 1959–1972

In 1959, John Martin and his wife had a total income of $8,000. Because they had two children and computed their income tax by the standard deduction method, they paid $976 in *federal* income tax that year. During that year, they also paid *federal excise* tax on admissions to movie theaters, baseball games and other entertainment activities.

It is now 1972. If the Martin family's income had remained the same, $8,000, they would now only be paying a *federal* income tax of $569—a reduction of 41% over 1959. Also, they no longer have to pay *federal excise* tax on most items, such as the ones they paid in 1959.

Today, the Martins' two teenage youngsters help the family and save for college by working after high school. Each child can earn up to $2,050 free from federal income tax. A young person working in 1959 would have had to pay income tax on all his earnings over $675. If each of the youngsters earns the maximum tax-free amount, the Martin family will receive an additional $4,100 without additional federal tax. For the family, this represents $2,750 more tax-free dollars than was possible in 1959.

These statistics represent an average taxpayer, i.e., a man with an $8,000 income, a wife and two children, assuming he computes his income tax by using the standard deduction method.

Federal tax liability

1959–63	$976
1964	840
1965–1967	772
1968 (includes tax surcharge of 7.5%)	830
1969 (includes tax surcharge of 10%)	849
1970 (includes tax surcharge of 2.5%)	772
1971	669
1972	569

REVENUE SHARING CLOSE TO REALITY

The financial soundness of our state and local governments is essential to the preservation of our federal system. But in recent years it has been these local governmental units that have had to bear the brunt of our more difficult domestic problems. Our local communities have had to pay the higher costs of education, police and fire protection, and sewage treatment. Unfortunately, in order to pay for these additional services the only recourse open to many of these governments has been to increase local property taxes.

The State and Local Fiscal Assistance Act of 1972, of which I am one of the original sponsors, was the result of much deliberation on the part of the Ways and Means Committee. The final version of this legislation recently was reported out of a Conference Committee between the House and Senate and now must only go to the President for his signature. Under this bill, Chicago will now receive $69,477,000 during the first year and slightly more for the remaining four years of the program. This money can be used to defray the cost of public safety, environmental protection, health, recreation, and social services. I sincerely hope that these funds will help prevent further increases in Chicago's already inflated property taxes.

THE 92D CONGRESS AND EDUCATION

Education is truly the cornerstone of our future. However, due to rising costs and lagging revenues, school systems have had to cut-back on their commitment to provide quality educational for all. The problem is not an isolated one. Recently, in our nation's capital, teachers went on strike in an effort to achieve cost of living increases. While in Chicago, early closing of our schools is forecast as a result of an acute shortage of funds.

Congressional efforts to fill the void in this area have been stymied by Presidential veto. The administration is of the opinion that too much of the budget is being spent on education and related services. In light of the growing financial crisis in America's urban areas, I think that this is one area that cannot be slighted when determining federal priorities.

Although our efforts to relieve the educational burden from hard-pressed local governments have met with strong opposition, I am pleased to say that the Committee on Ways and Means has been making great strides on my legislation to provide a tax credit for tuition paid to non-public elementary and secondary schools.

RECREATION AWARD RECEIVED

For some time now, it has been my opinion that our national park and recreation philosophy has not been properly geared to meet the needs of our nation's urban population. In both 1971 and 1972, I led the fight in the House of Representatives in the successful efforts to obtain additional funds for both the Neighborhood Youth Corps and the Recreation Support Programs. I am happy to say that these extra funds have enabled thousands more of Chicago's children to have a more productive recreational experience.

On October 5, it was my honor to receive the 1972 National Recreation and Park Association's Congressional Award. The award which cited my "many years of significant support for improving park and recreation services nationwide", was presented to me at the Association's annual convention.

In the past few years, the sessions in Congress have grown progressively longer. As a result, the time that I am able to spend in the Eighth Congressional District is confined to weekends and the occasional recesses that Congress takes.

I use these opportunities to meet with as many of my constituents as I am able. Although these meetings are usually highly informative for me, there is never enough time to accomplish everything desired. So, I would like to again take this time to invite you to write me in Washington or stop by my Chicago office if you have a problem with which I may be of assistance.

GOVERNMENT IS AWASH IN RED INK

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BRINKLEY. Mr. Speaker, in conjunction with my earlier remarks on revenue sharing, I wanted to call to the attention of our colleagues the following editorial from the October 10, 1972, Columbus Ledger:

GOVERNMENT IS AWASH IN RED INK

The irony of it all.

Sharing of federal tax revenue with state and local government is an idea that has been kicking around for a dozen years and is on the verge of becoming reality. A House-Senate conference committee recently reached agreement on revenue-sharing legislation, and approval by both houses of Congress is virtually certain.

The irony of it all, however, is that the federal government has a greater need at this time for additional funds than do the states and localities.

Andresen and Co., a New York investment house, calculates that the fiscal 1973 federal budget deficit will reach $33 billion. On the other hand, the firm says, state and local governments will record in the aggregate, a $7 billion budget surplus in calendar 1972 and $4 billion in 1973.

The primary reason why state and local governments are in such good shape, on the whole, is that they already receive a large amount of federal aid—and revenue sharing will swell the total. State and local receipts from taxes and other sources have mounted steeply over the past decade, but federal grants-in-aid have more than kept pace. Between 1962 and 1972, these grants grew from $8 billion to $41 billion.

Modern interest in revenue sharing dates from a June 6, 1960, speech by economist Walter W. Heller. He argued that an agreed share of federal income-tax receipts should be diverted to the states, with no strings attached, to ward off recurrent federal budget surpluses. Using surplus revenue solely to reduce the national debt, he contended, would produce "fiscal drag," or economic stagnation.

So now the federal government is preparing to share its revenue when it is awash in red ink.

The irony of it all. It just doesn't make sense. Somewhere something has to give.

SPAIN AND THE NEW WORLD

HON. ELIGIO de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DE LA GARZA. Mr. Speaker, Thursday, October 12, was a day of special significance to all of the nations of the Western Hemisphere, to the whole world—more particularly to Spain, the Spanish people and to all Americans of Spanish descent. On that date, 480 years ago, a group of Spaniards, outfitted and financed by King Ferdinand II at the request of the great and gracious Queen of Spain, Queen Isabella, landed on an island in the Western Hemisphere—an event known in history as the discovery of America.

This Spanish expedition overcame almost unbelievable obstacles to launch, with the help of the Queen of Spain, this historical voyage into the then uncharted regions of the western Atlantic. The expedition was led by a sailor named Christopher Columbus who believed that he would find a new route to the East Indies. This Spanish group with their small sailing vessels, the *Nina*, the *Pinta*, and the *Santa Maria*, set sail on August 3, 1492, with the blessings and at the direction of the Queen of Spain, from Palos, Spain.

Finally on October 12, this group of Spaniards came in sight of land and the opening of the New World for the other Spaniards which were to follow and colonize in the 1550's and 1600's. I am proud and happy to inform my colleagues that not too long after these dates the members of my family came to the New World.

It is worthwhile to remember that the Spaniards returned again and again to the New World with more ships and more men and landed on what are now Puerto Rico, Santo Domingo, and the Virgin Islands. Later on they returned into the area which is now South America, Central America, and North America. I am happy to pay tribute to King Ferdinand and Queen Isabella, to the Spanish people—to that courageous group of sailors for their outstanding example of courage and determination and to the dedication which has marked the Spanish people in their great history. We should further pay tribute to them for the exploration of what is now Florida, Louisiana, the States of the Southwest and the Far West, and for bringing to the New World all of the people who were to begin the making of America.

Yes, we have much for which to be thankful to Spain and to all those courageous Spaniards who launched the New World and if we are today the greatest nation in the world we should never forget that it is so because a gracious Queen of Spain so willed it, and her subjects so made it. So to all Spaniards, and the descendants, we offer a special tribute, and our everlasting gratitude.

OLDER AMERICANS ACT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. WALDIE. Mr. Speaker, the House will act today on an important piece of legislation—important not only to the immediate beneficiaries, but also important as an indication that the Congress is not disregarding its responsibilities to a large segment of its population. This group to which I refer, is America's older citizens.

These people have made countless contributions to America. They have already paid their share of the support of many, many Federal and State programs through payment of Federal and State taxes in the years in which they were active in the American labor force. Now it is time for the American people to show their support for these people.

All too often, our older Americans find themselves forgotten and neglected in their later years. Older Americans are beset by a number of hardships—the financial hardships of retirement, made even more difficult in these days of inflation and high prices; the physical hardships of declining health and decreasing mobility and the psychological hardships of the loneliness and isolation that often besets the older person. We, of a slightly younger generation must exhibit a deep commitment to those who have already given so much of themselves.

The conference report that the Members will have an opportunity to vote on today strengthens and improves the Older Americans Act of 1965. The bill would make available comprehensive programs for health, education, and social services to our older citizens. I am especially pleased that a bill which I sponsored, to provide facilities for the development and delivery of social services and nutritional services, has been incorporated into this more comprehensive measure. This particular section would also provide staffing for the initial operation of the new community centers for senior citizens. However, as much as possible, the bill intends for the centers to be staffed by volunteers and part-time employees from the ranks of senior citizens. This, I feel, is a most important item—for who knows better than those for whom the services are provided what activities they would prefer to engage in.

JIM OAKLEY, SR.—IN MEMORIAM

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. FLOWERS. Mr. Speaker, in the death of Jim Oakley, Sr., of Centreville, on October 1, Alabama lost one of her foremost sons, and newspaper publishing lost one of its truly great ones. As editor and publisher of the Centreville Press, he was not content with the hard work and responsibilities of one of the Nation's widely read weeklies, but he also involved himself intimately in the affairs of his community and his State.

Along with many others in public life, I often sought his wise counsel and have been proud of the friendship of all of his family. The Jim Oakleys of this world are few and far between and we will sorely miss him.

Mr. Speaker, the newspaper that Jim Oakley, Sr., breathed life into for so many years is an institution in Alabama, and its fine traditions will be ably carried on now by Jim, Jr., Mrs. Okley and others on the staff. The editorial by Jim, Jr., on the death of his father, which I would offer for inclusion in the RECORD, gives a rare insight into the life of this unique man:

[From the Centreville Press, Oct. 5, 1972]

MY FATHER

(By Jim Oakley, Jr.)

My Father and my Friend is gone. He passed away Sunday, October 1, 1972, in Druid City Hospital in Tuscaloosa, Alabama, at the age of 61. To say that I will miss him would be a gross understatement, but what I say here I say with mixed thoughts because as my Father I certainly loved him as anyone should their own and as a man I deeply respected him and admired him for his ability to get things done. For me to start out writing about his accomplishments during his short life is truly more than I am capable of doing. And even though he was my Father, I can still boast of his works here on this earth. He began as Editor and Publisher of this newspaper at the age of 16. He kidded about sending me through college and told people he got his education at the school of hard knocks. To say he learned his lessons well would also be an understatement. He was a perfectionist and a strong believer in doing the right thing. It made no difference to him if the majority of the people believed otherwise. He used to tell me if you were right, you could sleep good at night and with a clear conscience. He exercised this throughout his entire life. He was a friend of all people, big, little, rich or poor. He communicated easily and often with people high up in government both on the state and national level. He possessed the ability that few have in that he could walk right into the office of the Governor or some other official and bend his ear. He could do this because these people knew him and respected him for what he was. Though he maintained this respect he never once used it for his personal gain.

He did use it many times for the personal gain of hundreds of our people and for the betterment of Bibb County. Helping people were his greatest joy in life and undertaking projects were the only recreation he had. There are roads, factories, bridges, schools, our hospital and other buildings that will forever bear witness that he had a hand in it. His footprints are deeply imprinted in the sands of time all over Bibb County and we are all better off for his efforts. He was a modest man in terms of claiming credit for things. He had no interest, during his lifetime, in having his name tagged to something he worked hard for. His relaxation, after completing a project, was seeing his people benefit from his labors. Those who knew my Father knew that he was tireless. He knew not when to stop and rest for he thought rest was for the weak and told me on numerous occasions that he would have plenty of time for rest when he passed away. He said man was only here for a short time and he lived and believed it. He was not a clock watcher and many times saw the sun rise over the courthouse in Centreville, while the rest of us were getting up from a good nights rest. My Father was ready to die. He was a Christian and had made his testimony of faith many times. Though he was not well for several years prior to his death, he told his family he was ready any time the Lord needed him. And only in the last few months that his illness got him down, did he ever slack in his work. Even then he was on the telephone carrying on the best way he could. He loved his work, he loved his family and he loved people. His life should be an example for us all to follow. His shoes will be hard to fill and to say that he will be missed is understood. For what he meant to me as a Father and a Friend and to those employed in this newspaper as a friend and boss, we are dedicating this issue to his memory. He would most likely not approve of this were he here to direct, but as for me and for the rich heritage and for the challenge in my life that he left for me it is the least I could do for him. Brag on my Dad in this newspaper, certainly. Be proud of him, of course. Follow the course he laid out for me in life, I can only try in my feeble way. But love him I will forever. Respect him I will forever. Admire him I will forever. To be what he wanted me to be I will try, God being my helper. It was one of his requests that the production of this newspaper not be hindered in any way should his passing come at a time like it did. The crew, at his request, reported to work early Monday morning and began with this issue. They worked right up to the time of his funeral as he requested and closed this newspaper office until all services were completed. They returned to work Tuesday night and completed their work. It has not been pleasant this week, but without saying a word to each other about it, each one knew that this was the way he wanted it and they dedicated themselves to carrying out his wishes.

HON. WATT ABBITT RETIRING

HON. OMAR BURLESON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BURLESON of Texas. Mr. Speaker, I take great pleasure in joining today in praise of my friend and colleague, WATT ABBITT, who will soon be retiring from this body. Over the years we have worked closely together on many important problems pertaining to our respective States, particularly farm programs and farm legislation. He has left a deep imprint on this kind of legislation and his knowledge and dedicated service to the betterment of our rural areas will certainly be missed by those of us who relied on the advice of this effective legislator.

WATT ABBITTS' leaving the House of Representatives will be a special loss to me not only because we worked closely together on many matters but also because of a very special closeness in our friendship.

I wish for him health and happiness in his retirement and hope he will find a perfect contentment in the knowledge that he has rendered his Nation, his beloved State of Virginia, and his district the impeccable service one strives for in this position.

WELCOME TO OUR WORLD

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Saturday, October 14, 1972

Mr. SCOTT. Mr. President, recently I had the pleasure of reading an address by Mr. Joseph Friedman of St. Louis, Mo., the distinguished Chairman of the Board of the Chromalloy American Corp., a corporate family of some 75 highly diversified companies. The occasion for the address, given in St. Louis, was the ninth annual seminar for key officials of the many businesses now encompassed by Chromalloy throughout the Nation.

Recognizing that American big business is under increasing attack from a great many segments of our own society, Mr. Friedman urged his audience of corporate officers to respond to this challenge with a program dedicated to a "vigilant defense of our system, our world."

I believe Members of Congress from both sides of the aisle will find a useful and timely perspective in Mr. Friedman's thoughtful presentation. Therefore, I ask unanimous consent that excerpts from his address, entitled "Welcome to Our World," be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

WELCOME TO OUR WORLD

I have tried over the years, in these seminar talks, to keep abreast of the times in more ways than one. Each year I've tried to "cover the water-front", so to speak, of the subjects which I thought were cogent to our corporate posture at those points in time.

But each year I have also tried to emphasize most strongly—to "zero in" on the one theme that appeared to be most important. You have all listened to me—and the depth of my gratitude for this is only exceeded by the fact that you have also reacted!

Today—while we retain, and I hope will always retain—all the lovely, warm and natural characteristics of a small business in our relationships with each other—we must come to the realization that, in our communications and relations with the outside world—actually we are a big business. I don't make this observation because of pride—quite the contrary! It make it with total gratitude and deep humility—and from this comes a sense of duty. Duty to the community—the community of humanity—not just that of business and industry.

I'd like you all to have somewhere in the back of your minds all the time—, that each of you is an important part of a big business not for the purpose of inflating your ego either, but to bring about a recognition of our ever-increasing obligations to the rest of the world. I don't think I need to list those duties and obligations for you tonight—because I'm sure each of you knows what they are. But there's one duty I do want to highlight—that's a duty to ourselves.

All of you are aware that over the past 30 years there have been repeated attempts on the part of individuals, organizations, Government agencies and "cranks" to blame all the problems of our society on "big business". Attempts to change or repeal the basic fundamentals of a capitalistic society and, by some mysterious chemistry, to establish a system of increasing benefit to mankind on the one hand—while eliminating the financial growth and profits which make such benefits possible on the other. To encourage and foster an ever-broadening freedom in our society on the one hand—while imposing increasingly restrictive precepts on the other. To gain so-called rights for one group by denying rights to others.

In a word—gentlemen, to "mix oil and water"—without the chemical catalysts that such an attempt at homogenization would require.

Why do I open such a controversial and unhappy subject here? This should be no surprise—I want you to help us do something about all this muck. How do we go about this procedure? We've got to go on a continuous "round-the-clock" program of vigilant—(not militant)—defense of our system, our world! We—the business and industry of America have got to cope (mind you I don't say defend) with these attacks—at every opportunity we may have—and at every level at our command.

Our society and our system are for a fact threatened from within as never before. The attackers are not aliens or foreigners to our land and way of life. They are, in most cases, cross-section Americans, often the very people who have benefited most from the social, political and economic institutions they seek to abuse. The most venomous of these self-ordained critics make no secret of their determination to slander free enterprise, to erode public confidence in business, and ultimately to tear down our economic system . . .

Who better than business can respond with authority to the idiotic and non-economic nonsense put forth by our Nation's self-appointed saviors? They presume on the authority of their professions. Though they are lawyers, they discourse on automotive engineering. Though they are sociology professors, they speak about chemical engineering. But, sad to tell, the public spreads their ersatz expertise and thus dignifies their babble, no matter the subject!

We must be just as profuse in presenting opposing arguments. To counter the fictitious, illusory assertions, we have facts. In 1970, the profit margin on sales of manufacturing corporations was at the lowest level in the past quarter century. Out of the long-term average five percent margin must come dividends to shareholders, capital for necessary growth and expansion, and the funds needed to seek out solutions to the Nation's social problems. In the past ten years, national income climbed 92 percent, compensation of employees increased 105 percent, yet corporate profits went up only

42 percent. There is no such thing as excess profits, and there is no justification to limiting profits by any means other than the free-market mechanism. . . .

We need to stop talking to ourselves and face our critics on whatever level we find them . . . if they make a speech, we must make another. If they write a letter to the editor, we must respond in kind. If they query us direct, we must be just as direct in our reply. . . .

Business alone has the nearest thing to the right combination of facilities, techniques and talents needed to rebuild our cities, to raise the quality of our natural environment, to create jobs and abolish poverty, to extend the benefits of the American system to all our people, and to restore the sense of balance and direction we seem to have lost.

The one irredeemable mistake we dare not make is to stand silently and let oncoming change sweep away all that is good in America, all that men of courage and vision, across two centuries, have built up in this blessed land.

If we remain silent now, at this hour in history, it can only be that we have lost faith in America. And that I shall never believe.

We, each of us in the room, must become aware of the responsibilities I refer to, and—more importantly, must share in those responsibilities. Why? Because you are not an ordinary audience. You are men who have shown superior intelligence, executive and leadership abilities and, (as successes in the business field) have shown that you can move and influence people. Having joined chromalloy, the larger, more powerful expression of that which each of you have been able to build—you must always be aware, that you are not under some huge, comfortable umbrella which protects you from responsibility. On the contrary, now that you are an integral part of the larger picture, you should grow individually and personally—into that larger picture and join and add to the forceful scene which it represents.

In the old testament—and in the new—you will find the admonition—"Love thy neighbor as thyself." At first glance, that seems a simple thing to do. Most folks oversimplify it—then if they try to practice the principle of "Love thy neighbor",—all they are aiming for is a "mutual admiration society"—whose first admission requirement is—"I love me". I think those words meant—that you should first inquire into you—that you should set up minimal requirements and impose them upon yourself—then, depending on how well you qualify—should be the first determination of whether you could love yourself in the proper meaning of the word.

If only a small bit of that analysis were used by the "disturbers"—the critics—we probably wouldn't have the problems I refer to because they would see their own weaknesses—would find how little they could love themselves before embarking on their destructive courses.

But more than that, if we only would do the same—we could find the heart and courage to pick up the cudgels on our own behalf—the ability to do it right with the assurance that all—or most all—of the "disturbers" would stop trying to destroy it, but would hear us say "welcome to our world" and would respond in a way that even Kipling saw when he wrote:

If you can keep your head when all about
you are losing theirs and blaming it on
you:
If you can trust yourself when all men doubt
you, but make allowance for their
doubting too:
If you can wait and not be tired by waiting,
or, being lied about, don't deal in lies,
Or being hated, don't give way to hating,
And yet don't look too good, nor talk too
wise:
If you talk with crowds and keep your virtue, or walk with kings—nor lose the
common touch,
If neither foes nor loving friends can hurt
you, if all men count with you, but
none too much:
If you can fill the unforgiving minute with
sixty seconds worth of distance run,
Yours is the earth and everything that's in
it,
And—which is more—you'll be a man, my
son!"

That's about it, fellows—"welcome to our world!"

HIGHWAY DINOSAURS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. WALDIE. Mr. Speaker, today many people are concerned with automobile pollution. To combat this problem many people are suggesting various methods of mass transit to cut down the number of people that drive on our Nation's highways. Another concern to many people is the rising costs of automobile insurance. There are many States that have already inaugurated no fault insurance laws to help solve some of the insurance cases that bog down our court systems and end up in increasingly high automobile insurance rates for the average driver. Another problem that faces our Nation is a highway accident rate that is soaring. In the article that follows Mr. Hart deals with a partial solution to all of these problems. Mr. Hart is a civil and structural engineer who is now involved in planning an engineering study of the relationship between frequency of accidents and size of vehicles. I think it would be in the best interests of all my colleagues, especially those of us that drive "highway dinosaurs," to read the following article.

The article follows:

SIZE IS THE KEY—DINOSAURS ON U.S. ROADS

(By Stanley I. Hart)

Does the large size of American automobiles cause accidents?

One of my friends recently lost his mother-in-law. She suffered a heart attack at the wheel of her Cadillac and the car plunged through a freeway divider fence at 70 m.p.h. In the collision that followed, five people were killed.

One of the significant factors which contributed to those unnecessary deaths was her choice of a large prestige automobile.

If she had been driving a lighter and smaller car, it might have plowed through the fence because, as Newton's Second Law of Motion states, force is the product of the mass of an object and its acceleration. Thus, the heavier the car, the greater the force it will exert in a collision.

Moreover, even if the lighter car had broken through the fence, its remaining energy would have been far less, greatly reducing the chance of serious injury or death. Being smaller, it might have missed the other car entirely.

While I was driving on the freeway not long ago, my Ford was struck on the left rear fender by a Lincoln that had wandered into my lane. The dent was half an inch deep and 12 inches in diameter. It cost $71 to repair.

If one of our two cars had been one inch narrower, everything else having been precisely equal, there would have been no collision, no dent; I would have been on time for my appointment; all of the insured drivers as a group would have been richer by $71; and the owner of the Lincoln would not have had an embarrassing explanation to make to his insurance company.

The present design of the automobile (particularly its size) has an enormous and unfortunate impact on the public interest. This impact is shown in the increasing death and injury toll on the highways, in the increasingly rapid depletion of our resources of petroleum, in the pollution of our environment, in urban sprawl and in the congestion and inconvenience of our cities.

We could save tens of thousands of lives and hundreds of thousands of maimed and injured each year on American highways. We could save ourselves more than $50 billion in wasteful expenditures annually; we could free American highways ad parking spaces of unnecessary congestion and we could reduce air pollution.

We could accomplish these things by creating and enforcing standards for the automobile industry that would establish optimum vehicle size, weight and power. These standards would also regulate the engine system; the suspension, the braking system, the body and chassis. The goal of these standards would be to prevent further abuse of the public interest and to obtain for it the greatest possible benefits.

Utopian? Perhaps. But let's examine the idea carefully.

Why do large cars have more accidents?

Your next accident, like almost all accidents, will be a random happening. Your automobile, out of control, will hurtle toward another car or toward a tree or a bridge abutment. The hurtling automobile is like a projectile, the bridge abutment its target.

The probability that your automobile will hit its target depends very much on the dimensions of your automobile and on the dimensions of its target. Smaller cars, narrower and shorter, are smaller projectiles, smaller targets. When a projectile is smaller, it is less likely to strike its target. When the target is also smaller, the probability of a "successful" hit is even less.

It is possible to show this "projectile-target" effect mathematically. Within limitations, we can calculate the probability of occurrence of a collision. For certain given and equal conditions, for instance, the probability of collision is reduced 27% when Volkswagen-sized automobiles are substituted for standard-size automobiles.

Secondly, standard cars are not only larger, they are also much heavier. Their suspensions are notably less firm. The huge mass and the "Detroit mattress" suspensions have become part of our automobiles in response to our marketplace criteria. The American public, in its innocence, identifies the soft rides with "elegance," "prestige" and "comfort."

These elephantine automobiles on their tender springs are capable of high speeds. And because many drivers are not aware of the limitations of their cars in an emergency, they may find themselves trying to maneuver one of these monsters through a tight spot—with predictably unhappy results.

Another factor which contributes to the accident rate of large cars is, simply, scale. There is an upper limit to the size of machines which man can control with ease. Human beings also have dimension. Men can handle huge trucks, enormous ships and great airplanes if their crews are qualified by proper training and experience. But our automobile drivers are not properly trained.

The fourth factor may be the marked early depreciation of the larger automobiles. There is little prestige in a 10-year-old veteran of highways. A 10-year-old Cadillac, provided it is in excellent condition, might be worth just as much as a 10-year-old Volkswagen. However, it is far less expensive to buy new tires and parts for a smaller car than for a larger car. It is likely, therefore, that old large automobiles will be in a poorer state of repair than old small ones.

The New Jersey Highway Authority, in late 1969, conducted a study of accidents on its Garden State Parkway. And that small cars won the safety test.

Among the results of the study was the observation that, although the small cars were 36% of the total mix of small and large cars using the parkway, the small cars were involved in only 24% of the accidents. The large cars, 64% of the mix, were involved in 76% of the accidents.

The Garden State Parkway study shows that the large automobile is almost twice as likely to be involved in an accident as is the small car.

The California Highway Patrol says exactly the same thing. It studied statewide accidents (almost 100,000) for the year 1961. This is how it stated the results:

"The small cars in the California vehicle population show a lower rate of accident involvement than do conventional passenger cars."

The California report is similar to the New Jersey report in its proportionate breakdown of accident involvement by automobile size class. The smaller cars, 16.5% of the total mix of cars in California in 1961, had an accident involvement of only 11.5%. The larger cars, 83.4% of the mix, were involved to an extent of 88.6%.

This immunity to accident involvement on the part of small cars was unfortunately overlooked in the main thrust of these reports. The reports emphasized that the small cars, when they *were* involved in an accident, more frequently suffered serious injury to their occupants and damage to the machine.

Considering both the New Jersey and the California mixes of automobiles, which were one-third or less small cars, it is clear that the small car usually had its collision with a large car. The deceleration of the smaller car in such a collision will certainly be several times that of the larger car. It is equally clear that the occupants of the smaller car, subjected to a comparatively rapid deceleration, will be more seriously injured than the occupants of the larger car.

But the principal cause of the more serious threat to the occupants of the smaller car is the *difference* in the sizes of the two cars—not the *smallness* of the small car.

There are three other pieces of evidence: First, Allstate Insurance Co. gives a preferred premium rate to small cars—which seems to be witness to the fact that small cars have a better claim record.

Second, it was recently announced that the national accident rate for the first nine months of 1971 had inexplicably leveled out. This had occurred once or twice before in the past 25 years but had apparently been explained on one basis or another. In this case there appears to be no convenient explanation. It is suggested that the great increase in 1971 of smaller automobiles on the streets and highways of America is responsible for the decrease in accidents.

Third, the California Highway Patrol has announced that the traffic death toll on Los Angeles freeways for 1971 has declined, inexplicably, by 25%. During the years 1962 to 1969 our domestic cars increased their dimensions 10%. In 1969 their dimensions stabilized. The accident statistics did the same.

Since 1968 the sale of imported subcompacts has skyrocketed. After 1969 the domestic subcompacts entered the market with some success. The proportion of subcompacts on Southern California highways is now approaching 50%. Result: the accident rate is declining!

Is it utopian to hope that the automobile industry can be required by law to use reasonable criteria in the engineering and in the design of its products?

Some safety and air pollution standards are being slowly adopted by the federal agencies, but these are vigorously opposed by the industry on the ground that its freedom to manufacture and sell dangerous, wasteful and frivolous vehicles is somehow akin to those civil freedoms protected by the Constitution.

Advances are slow and the measures which have been adopted, such as the collapsible steering column and improved braking, are important, but they seem almost superficial compared to those measures which are technically possible. Vehicle size is not even in the question stage at the present time—presumably because it is sacred to the marketplace.

There is nothing new or unusual about such standards. The building industry has long operated under building codes which, despite some inefficiencies and occasional stupidities, have long protected the public interest from the abuses of the marketplace.

The aircraft industry is protected from marketplace pressures by FAA regulation. The American aircraft industry owes its success to the fact that its design standards are not allowed to deteriorate. The FAA airworthiness certificate has established and protected safety and efficiency in air travel throughout the free world.

The automobile industry has taken the firm position in the past that nothing can be done about traffic accidents—that the automobile accident toll is caused by foolish drivers. There is a half-truth in this. Certainly the foolish driver (and who among us has not been foolish on occasion) is often responsible for beginning the chain of events which leads to an accident. However, far too often the oversized and poorly designed automobile contributes critically to the unfortunate end of the chain.

Foolishness is not recognized as a capital offense in our law. Why then should we allow our fools (and the innocents they meet on our highways) to be sentenced to death or disfigurement by an automobile stylist?

At the present rate, one person in 50 will die in traffic accidents; one in five will be seriously injured. Half of these casualties will be unnecessary.

We must insist that the automobile be purged of marketplace gimmicks—the excess size and power, the fake, the frivolous and the waste—and that it be remade into an honest and efficient mode of transportation once again.

UCLA INTERNSHIP PROGRAM

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. MONAGAN. Mr. Speaker, last summer I had an opportunity to observe the activities of an intern who was participating in the UCLA Government internship program. This young man performed very competently and his work reflected favorably on his school and the internship program.

The UCLA Washington internship program was conceived during the summer of 1966 as a joint venture of the associated students and the university.

All students at UCLA who are in good academic standing are eligible to participate in the internship programs. The program strives to achieve a diversified group of students, in terms of age, sex, cultural background, major or graduate versus undergraduate status. Campus selection procedures are rigorous and competition for positions has been intense.

Financial support for the programs has come from the following sources: University administration, the Undergraduate Students Association, the Graduate Students Association, the UCLA Alumni Association. Unsalaried interns are provided with a round trip air transportation and a small stipend, while each intern must support the cost of his room and board. The UCLA student fund provides a limited number of $500 grants to students who otherwise could not participate in the program.

I commend UCLA for initiating this fine program which provides an opportunity for students to "learn by doing" and at the same time provides the Congress and other Government agencies with the assistance of talented young men and women who can make a real contribution to the office in which they work.

COOPER IS HONORED AT WASHINGTON

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CARTER. Mr. Speaker, it is with great pleasure that I insert in the Record an article concerning the recent Kentucky Society of Washington reception in honor of one of the most distinguished U.S. Senators in the history of the Commonwealth of Kentucky, the Honorable John Sherman Cooper.

The article follows:

[From the Lexington Herald-Leader, Oct. 1, 1972]

Cooper Is Honored in Washington

(By Drew Von Bergen)

Washington.—Kentucky's retiring senior U.S. Senator, John Sherman Cooper, was honored by his fellow Kentuckians and Congressional officials Friday night on Capitol Hill at a reception mixed with nostalgia and humor.

Cooper, 71, will leave office at the end of this term after more than 20 years of service, broken twice by election defeats.

The affair, sponsored by the Kentucky Society of Washington, attracted more than 100 well-wishers, including several senators and congressmen.

Among them were Reps. Dr. Tim Lee Carter and Frank A. Stubblefield of Kentucky.

Cooper, with his wife, Lorrain, at his side, broke into tears as a U.S. Navy chorus sang "My Old Kentucky Home," and was visibly choked up while addressing the gathering briefly.

"Tonight, it seems I've come full circle," he said. Reminiscing about the day he first came to Congress and later that evening attended a welcoming reception by the same Kentucky society.

"I remember that evening very well," Cooper said, noting that Supreme Court Justice Stanley F. Reed, a Kentuckian, was present. Reed also was present Friday night.

MET WITH BARKLEY

He chatted about experiences with former Sen. and Vice President Alben W. Barkley, former Sen. Earle C. Clements and Carter.

He mentioned a meeting with Barkley in the fall of 1948 as the latter was the running mate of President Harry S. Truman.

"Well, John," he quoted Barkley as saying, "I was thinking of voting for you, but since they've nominated me for vice president, I guess I better stick with my party."

As Cooper finished, his voice breaking with emotion, he reminded the group what it meant to be a Kentuckian "because it is the root, the land from which we spring."

"A Kentuckian will never become nothing," he said.

Society President L. Ray Smart presented Cooper with a plaque of appreciation, and Carter, who served as master of ceremonies, praised Cooper as "one of the greatest senators our state or any state has ever had."

Numerous telegrams flowed into the gathering from those unable to attend, including one from Gov. Wendell H. Ford of Kentucky, congratulating Cooper on his distinguished career.

THE QUESTION OF PENSION REFORM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. HORTON. Mr. Speaker, in recent months, I have heard from a number of my constituents who, because the company for which they work was sold and the new management decided to discontinue the established pension plan, will either be denied a pension or suffer a reduction in their pension. This is not the first time that this situation has arisen in my district; I have worked on a number of such cases on a company-by-company basis over the past several years. Because of increased industrial mobility, this is not a problem which is localized in my congressional district, but is widespread throughout the Nation. Thousands of workers who have been with companies for most of their lives suddenly find themselves with virtually no financial security at the time of retirement. What are they to do? The handling of this situation on an individual basis is not the answer. The Congress has dragged its feet too long on the question of pension reform, and because of this lack of action too many people have been placed in the frightening position of having nothing in their later years. The entire question of pension reform must receive the highest priority in the Congress.

Because of the seriousness of this problem, I am pleased to include in the proceedings a release by my good friend and colleague, Senator JACOB K. JAVITS, which fully outlines his findings on the plight of these people:

PENSION REFORM—WHERE DO WE STAND?

(By Senator JACOB K. JAVITS)

The following is a statement prepared for delivery on the Senate floor today by Senator JACOB K. JAVITS, ranking Republican on the Senate Committee on Labor and Public Welfare:

Mr. President, in the last few days, there have been pleas to the leadership from Senators from both sides of the aisle to bring to the floor for a vote. S. 3598, the Retirement Income Security for Employees Act.

Lest any Member of this body think that those of us who are urging the leadership to bring this bill up are "tilting at windmills" this late in the session, I would like to report to my colleagus the facts of yet another recent plan termination involving Hickok Manufacturing Company, Inc., of Rochester, New York.

As of October 1, 1972, the Hickok Manufacturing Co. informed its employees that the company had discontinued the Hickok pension plan. According to information gathered by my staff, the result is that there are 350 retired employees who will be compelled to take a 12% cut in their pensions; there are approximately 400 vested employees not yet retired, i.e. employees who have rights to a pension but who will receive absolutely nothing, and there are 96 active employees who have not earned vested pensions and they also will receive nothing. A substantial number of the 400 vested employees who will be entitled to nothing have worked for Hickok over 15 years, many over 25 years, and they are in the higher age brackets.

The history of this particular plan termination is highly illuminating. The Tandy Corporation of Fort Worth, Texas purchased Hickok in July of 1971. Tandy began phasing out belt manufacturing and distribution during the period January to June of 1972. Tandy then moved the belt production to Texas and layed-off 500 employees in the process. None of these 500 employees was offered a job transfer to Texas. Now according to the notice of plan termination sent to the employees, it is claimed that "when the Tandy Corp. purchased Hickok Manufacturing Co., Inc. a little over a year ago, Hickok had a long history of operational losses and the company was not far from having to close down."

The notice then goes on to state: "we have regretfully concluded that this action on the pension plan is a necessary part of our effort to make Hickok into a secure company." Yet in the 6 months ending December 31, 1971, it appears that Tandy's net income increased by more than one-third. Income rose from $7.23 million to $9.85 million. Sales rose from $13.89 million to $17.93 million. And it is interesting to note that in July of 1971 when Tandy purchased Hickok, Tandy's stock split 2 for 1.

Despite this increasing record of profit for the Tandy Corp., they are choosing to terminate the Hickok pension plan, leaving 400 vested employees with absolutely nothing and 350 retired employees with a 12% cut in their pension.

Mr. President, I ask unanimous consent that the letter sent to the beneficiaries of the Hickok pension plan, notifying them of the discontinuance of the plan, be inserted in the RECORD following my remarks.

Mr. President, in light of this example, which is just one among many that have been uncovered by the Senate Labor Subcommittee, is there any justification whatsoever for preventing the Senate from voting on pension reform legislation? Is it really "tilting at windmills" to let 30 million American workers know that the Senate of the United States is committed to protect them against loss of their earned pension benefits? Is it really too late in the session to let the Senate take a stand on this issue and repudiate the action of the Senate Finance Committee which stripped all the key provisions from S. 3598 as it was unanimously reported by the Committee on Labor and Public Welfare?

I am particularly gratified by the remarks made on Wednesday by the Senator from Michigan (Mr. GRIFFIN), the minority whip, who urged the majority leadership to schedule Senate consideration at the earliest possible date. The Senator from Michigan has made a convincing case for bringing this bill to the floor and I commend him for his sustained effort on behalf of pensions earned by American working people.

Yet the majority leadership seems reluctant to bring this matter up. Speeches are made attacking the Administration and press releases are issued by the campaign of the Democratic Presidential candidate excoriating the Administration for its position on pension reform: But when the opportunity to act is presented, the majority seems unwilling or incapable of grasping the initiative.

I believe the public is entitled to know the reason. I believe that 30 million American workers ought to know why this bill cannot be brought up. I would like to hear the explanation myself. As the distinguished Chairman of the Committee on Labor and Public Welfare (Mr. Williams) stated on Wednesday, there is now close to 50% of the Senate cosponsoring S. 3598. This, it seems to me is a rather substantial showing of concern over this subject. I would think the majority would wish to respond to that concern and give the Senate the opportunity on an extensively studied and carefully constructed bill to express its will.

There is some possibility, I have heard, that we may come back into session after the November election. I do not know whether that is true or not, but I do know that it is more important that we bring this bill to a vote than to engage in partisan bickering over who is responsible for frustrating effective pension legislation at the session.

Partisan debate accomplishes no good whatsoever for the 400 employees of the Hickok Co. who lost all their vested pension benefits; and does nothing for 30 million American workers.

Mr. President, I think the majority owes the members of this body, close to half of whom have cosponsored the bill, some kind of indication of their intent on this subject. Let us have an answer now before it is too late to act and the issue disappears into the heat of campaign and the need for acting on it de novo next year.

I hope that the majority will do us the courtesy of giving us an answer.

HICKOK MANUFACTURING CO., INC.,
Arlington, Tex., September 25, 1972.

A TANDY CORPORATION COMPANY

I am writing to tell you that, pursuant to the terms of the plan, the company has discontinued the Hickok Revised Basic Pension Plan under which you are currently receiving a pension. The effect of this discontinuance on you will be to eliminate the possibility of a pension when you reach the eligible age as provided for by the plan.

The change will be made effective with pension payments made on October 1. The decision to discontinue the plan was a very difficult one to make. We have tried for more than a year to find some alternate course that could be taken which would permit the continuance of these pension payments, but we have not been successful. When the Tandy Corporation purchased Hickok Manufacturing Co., Inc., a little over a year ago, Hickok had a long history of operating losses and the company was not far from having to close down. There were many costly programs and practices that had to be discontinued if the company were to be saved. The changes have affected active employees, retired employees, and employees who have terminated. We have done our best to be as fair as we could be to each of these groups and at the same time to the Tandy stockholders whose money was invested in Hickok. There have been terminations, salary reductions, benefit plan changes, etc., that have affected all of us. We believe that our obligation to those who depend on us required these changes. We have regretfully concluded that this action on the pension plan is a necessary part of our efforts to make Hickok into a secure company.

The terms of the pension plan included

specific rules for the manner of distribution of the total assets accumulated in the Pension Fund in the event of discontinuance. Connecticut General Life Insurance Company, who are administrators of the plan, have made the calculations necessary to allocate the money in the manner prescribed by these rules. Total available funds were first applied (as long as they lasted) to provide pensions to persons currently retired and receiving pensions. When this group has been provided for, the rules say that remaining funds are next to be applied to provide for persons not yet retired but having sufficient amount of service to have acquired a vested right to a pension upon retirement. Unfortunately, total funds in the plan at discontinuance were only sufficient to assure about 88% of pensions to persons currently retired. No funds were left for persons with a vested right or for any other participants not currently receiving retirement benefits, and of course, no funds revert back to the company.

I am sorry it is necessary to write you of this change which I assure you was made only after most careful consideration of all possible alternatives.

Sincerely yours,
HICKOK MANUFACTURING CO., INC.,
LAWRENCE H. FLYNN,
Vice President-Treasurer.

THE ISSUE OF WITHDRAWAL FROM VIETNAM

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. LLOYD. Mr. Speaker, calm voices, dispassionately separating fact from emotion and helping to build firmness under stress are sorely needed as we approach the ending of our military operations in Southeast Asia.

My own feeling about the strongest course for the United States, in this election October of 1972, is well expressed this week by Stewart Alsop in Newsweek for October 16, and I commend it to thoughtful Americans everywhere. Mr. Alsop's essay follows:

TAKING THIEU AT HIS WORD

(By Stewart Alsop)

WASHINGTON.—Something is up, although at this writing only President Nixon, Henry Kissinger and maybe one or two others know what the something is. It just might be a settlement of the Vietnamese war that would be, in President Nixon's words, "right for South Vietnam, right for North Vietnam and right for us." But that would take a real miracle, and if the miracle does not come to pass, President Nixon has a simple option, which is to take President Thieu at his word.

A few days ago, while he was himself conferring with a White House emissary, Gen. Alexander Haig, a message from President Thieu was read, not at all coincidentally, to the South Vietnamese National Assembly. The message repeatedly made this point: "The Republic of Vietnam is the sole body that has a right to solve the war."

The immediate purpose of the message was, of course, to serve notice on the White House that the South Vietnamese Government was not about to buy any Communist-front regime in the guise of a "tripartite" coalition. This purpose is understandable, since President Thieu and those around him have no desire to be shot, hanged or otherwise disagreeably disposed of.

REPEATED MISTAKE?

But President Thieu's message also raised some serious questions that ought to be seriously asked. Is Thieu not quite right when he says that the South Vietnamese Government is "the sole body that has a right to solve the war"? And are we Americans not making the same mistake we have made in Vietnam from the very beginning—taking it upon ourselves to do what the Vietnamese ought to be doing?

As these questions suggest, the President's option is to turn over to the South Vietnamese "the right to solve the war." This is not at all what President Nixon is now doing, and it is not at all what Senator McGovern proposes to do. The President is himself trying to "solve the war," using the stick of bombing and blockade, and the carrot of a settlement that would offer the Communists a share of power in a South Vietnamese Government.

President Nixon certainly had good reason to respond with the bombing and the blockade to what Senator McGovern himself called "a clear-cut invasion" by the North Vietnamese. The invasion evoked the awful spectre of a collapse of South Vietnamese resistance and the capture of most of the more than 50,000 Americans then still in Vietnam. No President could flaccidly accept such a risk. But the United States cannot go on forever bombing and blockading North Vietnam.

President Nixon and Henry Kissinger have also good reason to try to negotiate a settlement, since an agreed settlement is the best way to end the war. The obvious fact remains that the North Vietnamese want the whole carrot—not a share of power in South Vietnam, but total control of South Vietnam. There is no visible reason why they should settle permanently for anything less than the whole carrot, and no visible reason why the South Vietnamese should agree to play the role of the carrot.

CONSEQUENCES

Moreover, there is one great danger in a settlement negotiated by Washington with Hanoi. It would be *our* settlement—an American settlement. Its consequences could be very ugly, and we would be responsible for those consequences. This is one good reason for turning over to the South Vietnamese "the right to solve the war." Any "solution" would be theirs, not ours.

Of course there is another way to "solve the war"—by offering the North Vietnamese the whole carrot on a platter. This is what Senator McGovern proposes to do. He would meet the key Communist demand. He would, in his own words, "cut off any further military support to the Thieu regime in Saigon." If he changes this often-repeated position, it will be the biggest switcheroo of his campaign, which is saying a lot. Cutting off support for Saigon would, as the senator himself has acknowledged, insure a Communist take-over in South Vietnam. It could have no other result, as long as the Russians and the Chinese continue to provide the North Vietnamese with generous "military support," including better weapons than we have supplied to the South Vietnamese.

The rationale for insuring a Communist take-over in South Vietnam is that the Saigon regime is "corrupt" and "undemocratic." This is a smarmy cop-out. It is an insult to the intelligence to suppose that a small Asian country, desperately endangered from within and without, is going to be a model of incorruptible democracy. Moreover, to deny to those who have fought on our side the means to defend themselves against a "clear-cut invasion" would be an act of gross immorality that would haunt this country for a long time to come. It would be an act of gross immorality even if it assured the return of our prisoners, which it does not.

But it is not immoral to take President Thieu at his word. Taking Thieu at his word would mean cutting back to the pre-Kennedy level of a few hundred American specialists to insure logistic support for the South Vietnamese. It would mean, sooner or later, ending the bombing and the blockade. It would mean turning over entirely to the South Vietnamese the responsibility for defending their country and making the best deal they can make with their enemies.

It may be that, given the means to defend their country, the South Vietnamese would lack the will to do so. But this is by no means certain. The current national intelligence estimate is that for at least two years the Communist side will lack the military capability to mount again the kind of offensive that could lead to a Communist take-over.

SELF-RESPECT

Given generous logistic support and a really serious effort to build up their air power during those two years, the South Vietnamese ought then to be able to defend themselves on their own. They should also be able to make, on their own, an accommodation with the Communist side, based on the Vietnamese military and political realities.

It may be that the President and Henry Kissinger will produce that miracle, an agreed and stable settlement. If not, we ought to take Thieu at his word. We ought to match or better the Russian and Chinese logistic support for the North Vietnamese, and then let the South Vietnamese do their own negotiating and their own fighting, their own winning or losing. One reason something is up is that President Nixon still has this option, and the Communists know that he has it.

TRIBUTE TO CONGRESSMAN BILL COLMER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DUNCAN. Mr. Speaker, Hon. BILL COLMER, an outstanding and dedicated Member of Congress will soon end 40 years of distinguished service in this body and return to his native Mississippi. Representative COLMER's departure from Congress comes as a great loss to the American people and to those of us who have had the privilege to serve with him.

BILL COLMER, as chairman of the House Rules Committee, demonstrated time and time again his unique insight into the lawmaking process. Few men can match his legislative skills.

In addition to his legislative expertise, BILL COLMER possesses all of the essential strengths that make a superb human being and a very effective public servant. BILL has always been most articulate and persuasive in his representation of the needs and concerns of his constituents.

In BILL COLMER, Mississippians have sent to the Congress a man of immense wisdom and great integrity. Certainly his guidance and courage has enabled this Nation to survive hard times as well as enjoy the benefits of a better life.

I join with all of my colleagues in wishing great happiness and peace to BILL and his loved ones during his years of retirement.

REPORT TO CONSTITUENTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. BOB WILSON. Mr. Speaker, at the close of each session of Congress, I prepare a report for my constituents on the past year's activities of the Congress and would like to share this report with you and other Members of the House. Below is my report:

REPORT BY CONGRESSMAN BOB WILSON

HEFTY LEFTOVERS

That is what awaits next Congress because of the huge pile of unfinished business left behind by the 92nd Congress. Stranded were important measures such as environmental cleanup, welfare reform, government reorganization and anti-school bussing to name a few. All were high on President Nixon's list of 60 "must-pass" pieces of legislation which he submitted to Capitol Hill to implement his various domestic programs. Unfortunately, the majority leadership of Congress permitted action on only about one third of these bills. The remainder will have to be reconsidered next year.

For my own legislative program, we were able to win congressional approval of a number of bills that are of importance to San Diego area residents. Below is a partial listing of these measures that are or soon will become law.

WILSON LEGISLATIVE BOXSCORE

Ocean dumping—Pollutant discharges into coastal waters will be prohibited under this bill due for President's signature.

Tunaboats—Payments for losses suffered by U.S. tunaboats seized illegally off South America will be expedited under this bill sent to White House.

Veterans—Education benefits under GI bill will be increased 25 percent by compromise measure cleared by Congress and awaiting President's signature.

Cemeteries—The Veterans Administration to take over from Army and Interior Departments control of national cemeteries under this bill now at White House.

Federal buildings—A new lease-purchase plan to finance federal buildings, speeding up start of work on the San Diego project. Signed into law.

POW—Military incomes of Americans while held captive or missing in Vietnam are exempt from federal tax. Signed into law.

MEET THE STAFF

The newest member of my staff in Washington is Jere Tedford, a gracious young lady who helps out our constituents when they visit Washington.

She is the one who arranges tours of the White House and counsels visitors on sights to see while on Capitol Hill. All of this is sandwiched in between her important tasks of taking dictation and pounding the typewriter so that we can get our mail answered each day.

Before joining us, she worked several years in another congressional office and even tried her hand at being a private detective for awhile.

Jere spends all of her free time with her lovely 4-year-old daughter, Christine, who has her mother's charm and blonde hair. Both adore riding horses over the Maryland countryside near their home.

Born in Georgia, Jere hasn't had a chance to go West yet, but she's longing for her first San Diego visit to see why we are so proud of our wonderful city.

COMMITTEE WORK

Mention the House Armed Services Committee and most people think of work on bills to provide new ships, aircraft, tanks and other hardware needed for a strong defense.

However, just as much effort is spent on bills that seldom get headlines but are equally as important to the serviceman and his family. For example, our committee initiated the standing proviso that gives the military a pay raise whenever civilian federal workers get one. As a result, on Jan. 1, San Diego servicemen will recive a 6% pay increase, boosting the Navy's annual payroll in San Diego to more than $625 million.

At the urging of several of us, the committee this month held hearings on bills to recompute retired military pay, basing it on current active duty pay rates. Hopefully, this legislation will be approved in the next Congress.

Another personnel bill initiated by the Committee and signed into law establishes a new survivor benefits program for military retirees similar to the current Civil Service plan.

These are just a few examples to point out that the welfare of our serviceman is just as important as military hardware in maintaining a well-rounded defense.

CONSTITUENTS RESPOND TO WILSON POLL

[In percent]

	Age—				
	18 to 25	26 to 35	36 to 49	Over 50	Total
Would you favor an extensive San Diego area rapid transit system, costing over a billion dollars and requiring major reduction of freeway construction?					
Yes	62	60	48	44	50
No	33	35	46	49	43
Do you feel the Government honestly informs you on the issues confronting the country?					
Yes	11	16	21	30	22
No	85	80	74	64	72
Would you favor the reestablishment of the death penalty by Constitutional Amendment					
Yes	52	62	75	81	71
No	44	34	21	14	23
Would you favor bussing to achieve full equal education and racial balance?					
Yes	22	18	9	7	12
No	73	78	87	89	83
Would you support a Federal program to curb pollution even if it requires higher taxes?					
Yes	78	71	60	59	64
No	18	25	34	34	30
If Mission Bay still were undeveloped sloughs and mudflats, would you vote to develop it as a public recreation area like it is today?					
Yes	71	75	76	75	74
No	23	19	18	18	19

	Age—				
	18 to 25	26 to 35	36 to 49	Over 50	Total
Would you favor a national no-fault insurance plan?					
Yes	67	69	69	66	67
No	23	23	23	23	23
Would you favor the legalization of marijuana if placed under controls similar to those for alcoholic beverages?					
Yes	61	47	24	16	30
No	36	50	71	80	65
Do you favor stricter Federal gun control legislation?					
Yes	61	58	53	58	56
No	35	38	43	37	38

Do you think the current wage-price controls: (A) are fair, (B) favor labor, (C) favor business, (D) no opinion?	Percent
A	23
B	14
C	38
D	25

For those who left the country rather than fight in Vietnam would you favor: (A) full amnesty, (B) amnesty with 3-year Government service obligation, (C) no amnesty, (D) no opinion?	
A	13
B	33
C	48
D	6

POLLUTION CLEANUP

Important environmental improvements are in store for the San Diego area as part of the Navy's military construction program approved by Congress.

Included in the Navy's $70 million building program in San Diego is a $5 million project to eliminate the dumping of shipboard sewage into the Bay. Collection systems will be built to receive the sewage and pump it into the city's metropolitan sewer system.

Also, the Navy has received funds to build a $3 million aircraft power check facility which will reduce and contain aircraft engine noise now reaching out over Coronado and Point Loma residential areas. These funds had been denied by the Senate but with the help of North Island Association officials we were able to have them restored.

YOUR VIEWS

As your Representative, it is important that I know your views on a major issue facing the Congress. For that reason, I welcome your letters and comments.

I was pleased with the huge response to my recent questionnaire. It reflects the great interest the people of San Diego have in national affairs.

BEST WISHES TO REPRESENTATIVE ABBITT

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SCHNEEBELI. Mr. Speaker, WATKINS M. ABBITT has represented the Fourth District of Virginia since 1948. That is almost one-quarter century of dedicated service that has been rendered, both for his constituents and the Congress.

His balanced judgment and fine leadership is an inspiration to all his colleagues, and he will be sorely missed. His high ranking position on the Agriculture Committee has earned him respect in Congress and in the minds of the American people.

Watkins Abbitt has served here with distinction and it is only proper that we honor him here, today. He deserves our thanks and the thanks of all the people of his district who value honesty and high standards in government.

Regardless of party, Watkins Abbitt is a popular figure in the House of Representatives. He has our best wishes for many happy years ahead in his retirement from exemplary congressional service.

HEALTH AND SAFETY HAZARDS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. WALDIE. Mr. Speaker, a recent HEW report estimates that up to 100,000 persons die each year from the hazards of their jobs. The failure of the Federal Government to perform its function of carefully overseeing the administration of the Occupational Safety and Health Act of 1970 is clearly pointed out in an article written by Franklin Wallick, editor of the United Auto Workers' Washington Report. In view of the recent tragedy that has befallen many mine workers and their families, I think it is very timely that Mr. Wallick has enumerated the health and safety hazards that threaten the lives of workers throughout the Nation. It is advisable that we all familiarize ourselves with these health and safety hazards and that we are aware of the need for action, as the article points out, before tragedy forces us to become aware. I include Mr. Wallick's article entitled "Creeping Perils on the Job" at this point in the Record:

Creeping Perils on the Job

(By Franklin Wallick)

Textile workers are killed by a "brown lung" disease caused by breathing in lint. Workers with significant exposure to asbestos die of lung cancer at five times the rate of the general population. Steelworkers who inhale coke fumes run a higher-than-average risk of contracting lung cancer.

These are a few of those who lose their lives. A recent HEW-Labor Department report to Congress estimates that up to 100,000 persons die each year from the perils of their jobs. Considering the scant attention paid to these victims—and to the many others whose health is seriously impaired in offices and factories across the country—one would think Americans accept this waste of life as a necessary by-product of economic growth, a small offering to the gods of cost-consciousness.

Not that we lack laws to protect workers' health; we are overflowing with them. Since the early 1900s every State has adopted some kind of job safety legislation. Only these laws have not been especially strong or well enforced.

To correct this, we also have a sweeping federal law, the Occupational Safety and Health Act, enacted in 1970. On paper, it proclaims that 57 million persons working in 4.1 million stores, plants, trucks, offices, fields and other locations shall not have their lives shortened or their health injured by what they breathe, touch, hear or taste.

But in practice, as with many of Washington's legislative creations, the law has had relatively little effect, other than to give the incorrect impression that much is being done.

Now, a year after the government geared up to administer the new law, we are faced with the tragicomic prospect that the Nixon Administration, in line with its general decentralizing philosophy, may return the bulk of the responsibility for policing job safety back to the states, whose failures largely created the need for federal action in the first place. It is all like a deadly merry-go-round.

The failure of the federal law to date cannot be traced to one easily blamed culprit. The fault is widely shared by government officials, workers' bosses, quasipublic groups that set job safety standards and by unions and workers themselves.

Perhaps the greatest villains of all are the invisibility and gradualness of many of the perils—the quiet violence of pollution-infested air seeping into an office worker's lungs over a number of years, the slow deafening of an employe exposed for an extended period to excessive noise.

There can be little doubt that excessive noise, for example, is a serious health hazard. Besides causing deafness, persistent loudness has been shown in animal studies to produce nervous breakdowns, high blood pressure, glandular disorders and lowered sexual drives.

Despite all this, the fedreal agency chiefly responsible for carrying out the law—the Labor Department's Occupational Safety and Health Administration—has adopted a permissible noise standard well above what is generally considered safe. In fact, its limit of 90 decibels for continuous noise—roughly a level that forces one to shout to be heard six inches away—condemns about 15% of the nation's workers to some degree of deafness.

The Labor Department unit, of course, does not merely create such inadequate standards out of thin air. It must rely on outside sources dealing with job health and safety.

The noise criteria, for example, were influenced largely by the American Conference of Governmental Industrial Hygienists. It is difficult to say why this group's proposals are often so weak, but one factor, presumably, is that the state job-health officials who make up the membership do not want to anger industries in their areas.

Even with the meager existing standards, however, worker health protection could be improved significantly with anything close to proper staffing and funding of the Labor Department unit. But the fact is that the agency currently has fewer than 50 industrial hygienists trained to do sophisticated measurements of, say, air pollution at a work place.

The reason for the short-staffing obviously is insufficient funding. The first-year expenditure under the act was $55 million—about $1 per worker. The Nixon Administration budget for the fiscal year that began July 1 calls for an increase to $96 million—about $1.80 per worker—and less than a quarter of this would go for enforcement.

At the same time $30 million of the total is earmarked for the states, which supposedly would use the cash to develop acceptable job health and safety plans. This is part of a move promoted by Labor under Secretary Lawrence Silberman to return much of the responsibiltiy for job health and safety to states whose plans are "as effective as"—some would say "as ineffective as"—the federal law.

Perhaps the most ironic point about the federal job-health law is that it has not been given a very high priority by unions themselves. Whatever the calcified sins of the American labor movement, most unions do have qualified people who could train union leaders in the identification and prevention of health and safety hazards. But this has not happened except in the feeblest way. The law remains a mystery, even a secret to most union workers today.

Not that union members are unconcerned. A University of Michigan survey completed last year showed that health and safety hazards, unpleasant working conditions and work-related illness or injury rank higher than inadequate income as problem areas for most workers.

The union members are simply not aware of the remedies available. Workers generally also seem to have a fatalistic attitude toward dirty and disagreeable work.

What all these flaws add up to is the glacier-like pace of the federal law so far. Big employers with multiple hazards have not yet been measurably hurt or goaded into significant reform.

Some occupations, by their natures, may never be reasonably hazard-free. But most can if we are determined to make them so. Perhaps the only thing that will move us is one great visible tragedy where many lives are lost. And even then, how long would the momentum for reform last?

BARBARA W. TUCHMAN: ON A CIVILIAN'S OBLIGATION TO THE MILITARY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. NEDZI. Mr. Speaker, Barbara W. Tuchman is one of America's greatest historians.

A probing and brilliant essay by Mrs. Tuchman, "On a Civilian's Obligation to the Military," appeared in the October 8, 1972, Detroit News magazine. It deserves our most careful attention.

Accordingly, I insert her essay in the Record.

The article follows:

On a Civilian's Obligation to the Military

TO BLAME THE MILITARY FOR THE WAR AND RENOUNCE ANY SHARE IN THEIR PROFESSION IS A FORM OF ESCAPISM

(By Barbara W. Tuchman)

The relation of the civilian citizen to the military is a subject usually productive of instant emotion and very little rational thinking.

Peace-minded people seem to disapprove study of the soldier on the theory that if starved of attention he will eventually vanish. That is unlikely.

Militarism is simply the organized form of natural aggression. The same people who march to protest in the afternoon will stand in line that evening to see the latest in sadistic movies and thoroughly enjoy themselves watching blood and pain, murder, torture and rape.

To register dissent from war by expressing disgust for the military and turning one's back on whatever shape the military wears is a natural impulse. But the controversy over the Vietnam war, together with the newly acquired permanence of the military role in our society and the shift to an all-volunteer force, are powerful, urgent reasons why more enlightened and better-educated citizens should NOT turn their backs and not abdicate their responsibility for controlling military policies.

A fundamental change in the role of the American military has taken place over the last 25 years since the advent of the atomic bomb. Paradoxically, total war has been backed off the stage by the total weapon with its uncritical capacity for overkill. Because there is enough of it around to be mutually devastating to both sides in any conflict, nuclear firepower has become the weapon that cannot be used.

Contrary to the general impression, it has reduced, not enlarged, the scope of war, with the secondary and rather sinister result that while unlimited war is out, limited war is in, not as a last resort in the old-fashioned way, but as the regular, on-going support of policy.

War used to be the extension of policy by military means. Since no political objective can now be secured with benefit by opening a nuclear war, we have narrowed ourselves to wars on the "advisory" or "assistance" level so as to mold the affairs of the client country to suit the adviser's purpose.

Traditionally, the American Army has considered itself the neutral instrument of state policy. It exists to carry out the government's orders and when ordered into action does not ask why or what for. But the more it is used for political ends and the more deeply its influence pervades government, the less it can retain the stance of innocent instrument. The same holds true of the citizen. Our innocence too is flawed.

The fundamental American premise has always been civilian control of the military. The Vietnam war is a product of civilian policy shaped by three successive civilian presidents and their academic and other civilian advisers. The failure to end the war is also in the last resort civilian.

And where does that failure trace back to? To where the vote is. I feel bewildered when I hear that easy empty slogan, "Power to the People!" Is there any country in the world whose people has more power?

To blame the military for the war and renounce with disgust any share in their profession is a form of escapism. It allows the anti-war civilian to feel virtuous and uninvolved in any blame. It allows someone else to do the soldier's job which is essential to an organized state and which in the long run protects the security of the high-minded civilian while he claims it is a job too dirty for him.

Certainly the conduct of this war has led to abominations and inhumanities by the military and for which the West Pointer is as much responsible as the semi-educated Lieutenant Calleys. But as one officer said, "We have the Calleys because those Harvard bastards won't fight"—Harvard being shorthand for all deferred college students.

The liberal's sneer at the military man does himself no honor, nor does it mark him as the better man. Military men are people. There are good ones and bad ones, some thoughtful and intelligent, some dim-wits and dodos, some men of courage and integrity, some slick operators and sharp practisers, some scholars and fighters, some braggarts and synthetic heroes.

The profession contains perhaps an oversupply of routinized thinking, servility to rank and right-wing super patriots, but every group has undesirable qualities that are occupationally induced.

WE WILL HAVE AN ARMY EVEN MORE ISOLATED FROM CIVILIAN SOCIETY

It is not the nature of the military man that accounts for war, but the nature of man. The soldier is merely one shape that nature takes. Aggression is part of us, as innate as eating or copulating. As a student of the human record, I can say with confidence that peace is not the norm. Historians have calculated that up until the Industrial Revolution belligerent action occupied more man-hours than any other activity except agriculture.

"Our permanent enemy," said William James in 1904, "is the rooted bellicosity of human nature. A millennium of peace would not breed the fighting instinct out of our bone and marrow." Has anything occurred in our century—the "Terrible Twentieth" Churchill called it—to suggest that James was wrong?

What this suggests is that we should face the military element rather than turn our backs on it, learn about it, even participate in it through ROTC. If the college-educated youths become the reserve officers upon whom the Army depends then they are in a position to exert influence.

Recently a retired Army colonel suggested that all Army career officers, not only reserve officers, "should be obtained through civilian college scholarship programs and direct entry from college ROTC." Now if that could be arranged, the educated civilian would really be at the controls. If the young want to make a revolution, that is the way to do it. Oliver Cromwell did not spend his time trying to close down Oxford. He built the New Model Army.

Our form of democracy—the political system which is the matrix of our liberties—rests upon the citizen's participation, not excluding—indeed especially including—participation in the armed forces.

That was the great principle of the French Revolution: the nation in arms, meaning the people in arms as distinct from a professional standing army. The nation in arms was considered the safeguard of the Republic, the guarantor against tyranny and military coups d'etat.

The same idea underlies the fundamental American principle of the right to bear arms as guaranteed by our Bill of Rights for the specific purpose of maintaining "a well-regulated Militia" to protect "the security of a free state."

To serve the state is what the Constitution meant, not, as the gun lobby pretends, the right to keep a pistol under your pillow and shoot at whomever you want to. To serve under arms in this sense is not only a right but a criterion of citizenship.

To abdicate the right because you feel that the armed forces are being used in a wrong war is natural. Nobody wants to share in or get killed in an operation he thinks is wicked. But we must realize that this rejection abdicates a responsibility of citizenship and contributes to an already dangerous development—the reappearance of the standing Army.

That is what is happening as a consequence of the change-over to an all volunteer force. We will have an Army even more separate, more isolated and possibly alienated from civilian society than ever.

For the United States the draft was the great corrective—or would have been if it had worked properly. The draft has an evil name; yet, it remains the only way, if administered justly, to preserve the principle of the nation in arms. The college deferrals made it a mockery.

The deferral system was an anti-democratic and elitist (to use the favorite word of those who consider themselves equalizers) as anything that has ever happened in the United States. I may be happy that it kept my kin and the sons of some of my friends out of Vietnam, but I am none the less ashamed of it.

We need to re-admit some common sense into conventional liberal thinking—or feeling about the military. It seems to me urgent that we understand our relationship to the soldier's task free of emotion.

I know of no problem so subject as this one to what the late historian, Richard Hofstadter, called "the imbecile catchwords of our era like 'repression' and 'imperialism' which have had all the meaning washed out of them." Those who yell these words, he wrote, "simply have no idea what they are talking about."

The role of the military in our lives has become too serious a matter to be treated to this kind of slogan-thinking, on non-thinking.

THE RYAN POLL

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BURTON. Mr. Speaker, the late Congressman William F. Ryan was dedicated to serving all the citizens of his 20th Congressional District in New York, as well as his country and this Congress.

Each year, in keeping with his dedication to service, he conducted a mail survey of constituents telling each individual, "To best serve you, I need your opinion."

In the days immediately before his death, he was concerned about publication of the questionnaire he had sent out earlier this year. The answers were in, and he wanted the tabulation completed and the survey results inserted in the CONGRESSIONAL RECORD so they would be available.

On request of his office, I am pleased to insert the results of the 1972 Ryan poll of the 20th Congressional District.

According to the poll, citizens of Manhattan's West Side, Washington Heights, Innwood, and other areas of the 20th District, favor an immediate end to American involvement in the Vietnam war.

More than 7,000 citizens and families answered the questionnaire.

They said they also favor some form of amnesty for young men who have refused to serve in the military as a protest to our continued involvement in the Indochina war.

More than 68 percent indicated they would be willing to pay higher prices or taxes to combat air and water pollution. And more than half felt that reducing expenditures for defense would best correct our national priorities.

The following are the complete results of the poll.

QUESTIONNAIRE RESULTS

1. Draft—I favor continuing the draft, 18.6%; an all-volunteer Army, 36.9%; alternate service in non-military ways, 39.4%; no opinion, 8.2%.

2. Vietnam—I approve of the Nixon Administration's policy in Vietnam. Yes, 23.7%; no, 70.9%; no opinion, 5.7%.

3. Vietnam—I favor ending all American involvement in the Vietnam War immediately, 54.3%; only after release of American POW's, 25.3%; only if the Saigon government is strong enough to survive, 8.0%; only after a military victory; 4.3%; none of these, 5.0%; no opinion, 5.3%.

4. Taxes—To increase Federal spending for social programs, I favor increasing individual income taxes, 5.2%; increasing corporate taxes, 51.7%; a national sales tax "value added" tax, 5.3%; no increase in Federal spending, 19.4%; none of these, 16.9%; no opinion, 6.4%.

5. Taxes—I favor Federal tax reform to reduce individual income taxes, 28.3%; reduce corporate taxes, 2.4%; close tax loop-

holes such as the oil depletion allowance, 70.2%; none of these, 4.7%; no opinion, 5.6%.

6. Health Care—Comprehensive health care should be provided by the Federal government through a Social Security type of program, 35.3%; through present private health industry, 8.7%; to cover all medical expenses, 42.9%; to cover only major expenses, 13.6%; no program, 3.9%; no opinion, 6.6%.

7. Inflation—Under the Nixon Administration's New Economic Policy and its wage and price controls, I believe prices are rising at an unacceptable level, 75.5%; rising at about the right level, 8.5%; actually going down, 1.6%; staying just about the same, 7.5%; no opinion, 7.6%.

8. Equal Rights—I favor the Constitutional Amendment which guarantees women equal rights by stating that "equality and rights under the law shall not be denied or abridged on account of sex." Yes, 82.4%; no, 11.1%; no opinion, 6.6%.

9. Narcotics—To help heroin drug addicts, I favor methadone maintenance, 25.6%; making heroin available at clinics, 26.1%; drug free treatment, 27.2%; prosecution and imprisonment of addicts, 9.6%; some other form of treatment, 17.9%; no opinion, 8.0%.

10. *Controls*—I favor changing present wage and price controls so that controls are stronger, 40.9%; include agricultural products, 25.1%; include local rents, 45.1%; none of these, 13.7%; no opinion, 8.7%.

11. *Social Security*—I favor increasing Social Security benefits by 20%, 11.5%, 50%, 12.0%; the Ryan bill minimum of $3375 for a single person and $4500 for a couple, 55.3%; an increase but none of these, 11.6%; no increase, 4.5%; no opinion, 8.4%.

12. *Guaranteed Annual Income*—I favor a Federal guaranteed annual income for a family of four of $2400, 4.2%; $4000, 17.3%; $6500, 34.8%; no guaranteed income, 34.1%; no opinion, 10.0%.

13. *Transit*—I favor the use of Highway Trust Funds for mass transit. Yes, 78.1%; no, 10.6%; no opinion, 11.4%.

14. *Jobs*—I favor the Emergency Employment Act of 1971 to create at least 500,000 new public service jobs. Yes, 66.3%; no, 19.2%; no opinion, 14.6%.

15. *Amnesty*—Men who protested U.S. involvement in the Vietnam War by refusing to serve should be granted total amnesty, 34.1%; amnesty conditional on some national service, 39.8%; no amnesty, 18.3%; no opinion, 8.5%.

16. *Pollution*—All other things being equal, I would be willing to pay higher prices or taxes to end air and water pollution. Yes, 68.4%; no, 20.4%; no opinion, 11.4%.

17. *Priorities*—To correct our priorities, I favor reducing expenditures the *most* in defense, 53.3%; foreign aid, 20.8%; agriculture price supports, 15.2%; welfare, 16.6%; education, 2.7%; no opinion, 8.3%.

18. *China*—I approve of President Nixon's trip to China. Yes, 80.7%; no, 8.9%; no opinion, 10.5%.

19. *China*—The United States should accord full diplomatic recognition to China. Yes, 77.6%; no, 9.9%; no opinion, 12.5%.

20. *Israel*—The United States should provide Israel with greater economic assistance, 30.7%; aid to help resettle Soviet Jews, 26.9%; credit for the purchase of military equipment including Phantom jets, 38.4%; no opinion, 30.5%.

21. *Nixon*—The Nixon Administration has been doing a generally good job in foreign affairs. Yes, 37.1%; no, 52.1%; no opinion, 11.2%.

22. *Nixon*—The Nixon Administration has been doing a generally good job in domestic affairs. Yes, 16.2%; no, 75%; no opinion, 9.1%.

23. *Candidates*—Of the following, which person would you now prefer as the next President: Chisholm, 4.8%; Humphrey, 7.8%; Jackson, 3.0%; Kennedy, 7.1%; McGovern, 50.3%; Muskie, 5.0%; Nixon, 15.6%; Wallace, 4.3%; no opinion, 8.9%.

HILLSDALE COLLEGE COMMENCEMENT ADDRESS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. CRANE. Mr. Speaker, at the 120th commencement of Hillsdale College in Hillsdale, Mich., an important address was given by Dr. Leonard E. Read, noted economist and writer, and founder and president of the Foundation for Economic Education.

Dr. Read urged his young listeners to live their lives on the basis of a basic premise and fundamental point of reference. He began by setting forth his own.

He declared that:

> My first assumption is founded on an observation, namely that man did not create himself . . . Therefore my first assumption is the primacy and supremacy of Infinite Consciousness . . . My second assumption is also demonstrable, namely the expansibility of the individual human consciousness.

His third assumption, said Dr. Read, cannot be so easily demonstrated:

> I merely know it to be true: the immortality of the human spirit or consciousness, this earthly moment not being all there is to it.

Once such assumptions are accepted, the question remains: What is man's purpose in the world? To this, Dr. Read replies:

> It is to see how close one can come during his earthly moments to expanding his own consciousness into a harmony with Infinite Consciousness. Or, in lay terms, to see how close one can come during his earthly moments to a realization of those creative potentialities uniquely his own . . ."

Without individual liberty, however, such individual potential cannot develop. In order to maintain liberty it is essential that men consider the role of government—what it should do, and what it should not do.

Writing in 1900 in his volume, The State, Woodrow Wilson declared that:

> The essential nature of government is organized force.

Dr. Read stated that:

> It can inhibit, restrain, prohibit, penalize. The next logical question is, what in all good conscience should be restrained, penalized, prohibited? . . . The answer is . . .the destructive actions of men such as fraud, violence, predation, misrepresentation, thou shalt not steal. Force can accomplish this, and this alone . . . physical force is definitely not a creative force . . .

Government, he points out, "should be confined to inhibiting the destructive actions of men, and all creative actions . . . should be left to men acting freely."

To his young audience, Dr. Read asked the question, "Who is the world's most important person?" His answer:

> That person is you, whoever you are, wherever you may be, or whatever your race, creed, color or occupation. This is not flattery; it is to remark the obvious, for you are the only person in the world—your world, that is.

At the Hillsdale College commencement, Dr. Leonard Read was presented with the Hillsdale College Independence Award by President George Roche, III, following his address.

I wish to share Dr. Read's address with my colleagues, and this address, presented in Hillsdale, Mich., June 3, 1972, follows.

THE WORLD'S MOST IMPORTANT PERSON

(By Dr. Leonard E. Read)

Thank you, Dr. Roche, and a good Hillsdale afternoon to all of you.

I am here not to attend your graduation but to share in your commencement. Bear in mind, please, that I am addressing myself to the world's most important person, a point I shall dwell on later.

But first you should know my ideological and philosophical position. As John Ruskin suggested, it is never fair for a speaker to leave an audience in doubt as to where he stands.

I can give you my position by relating a true story. I had been invited to address 200 clergymen at a Monday luncheon in Kenosha, Wisconsin, and that evening in the same community 400 high school teachers. I left New York on an early morning jet for Chicago. Thirty minutes before touchdown the pilot said over the intercom, "This whole area is socked in; we are landing you at St. Louis." Of course, that was 350 miles from Kenosha, making the luncheon engagement impossible and grave doubt could I keep the dinner date. Anyway, at 12:40 p.m. a DC-3 Ozark took off with scheduled stops at Springfield, Peoria, Moline, Rockford, Clinton, Iowa, and Milwaukee. We landed in Milwaukee at 5:00 p.m. with the fog right down on the deck. A man was waiting and drove me to Kenosha just in time to sit down with the high school teachers. When the emcee stood up to introduce me, he said nothing about me at all but merely berated the weather—"this awful weather our speaker has gone through . . ." Anyway, I began my speech by saying, "Mr. Chairman, ladies and gentlemen, I would like you to know that I love this weather today. As a matter of fact, I love hot, cold, sleet, snow, rain, hail, fog. This is my way of expressing appreciation that God, not the government, is in control of it."

You may wonder why I am here, way out in the future, more than five decades in front of you. To put it briefly, I have traveled a great deal of life's road, the one you are now commencing, and therefore I wish to share with you some of the lessons I have learned along the way.

True, your road will have many zigs and zags different from those I have experienced; nonetheless, there are a few guidelines that are fitting for everyone to observe.

First, do not wait until middle age, as I did, to adopt and live by a basic premise, a fundamental point of reference. Do it right now—at your commencement!

Twenty-five years ago I realized that there was no chance of living the consistent life unless one did his reasoning from a basic premise; and one should not be in my business unless he can be reasonably consistent. Perhaps I did one thing right. I went as deep for my premise as I knew how, because if one does not go deep the premise will serve only shallow and peripheral matters. So I asked myself the hardest question I could think of: what is man's earthly purpose? I could find no answer to that question without bumping head-on into three of my basic assumptions.

My first assumption is founded on an observation, namely, that man did not create himself, for it is easily demonstrable that man knows practically nothing whatsoever about himself. Therefore, my first assumption is the primacy and supremacy of an Infinite Consciousness.

My second assumption is also demonstrable namely, the expansibility of the individual human consciousness. While difficult, it is possible to expand one's awareness, perception, consciousness.

I cannot demonstrate my third assumption. I merely know it to be true: the immortality of the human spirit or consciousness, this earthly moment not being all there is to it.

I do not ask that you agree with my assumptions, but if you will concede them then the answer to the question, what is man's earthly purpose, is perfectly simple. It is to see how close one can come during his earthly moments to expanding his own consciousness into a harmony with Infinite Consciousness. Or, in lay terms, to see how close one can come during his earthly moments to a realization of those creative potentialities uniquely his own, all of us being greatly varied in this respect.

What, then, is man's purpose as I see it? It is to grow, develop, emerge, evolve, or to use an expressive term, hatch. Heraclitus, the Greek philosopher, observed, "Man is on earth as in an egg." This inspired C. S. Lewis to write, "You cannot go on being a good egg forever. You must either hatch or rot."

If adopted, how does one use such a premise? He merely listens to his own or anyone else's ideas, stands the ideas up against his premise, and if they do injury to it or are antagonistic to it, he is, perforce, against them. Or, if, on the other hand, they are in harmony with it, promotive of it, he is, perforce, in their favor. In a word, one's own position can be quickly established once this idea gets to working.

This has had many benefits for me. For instance, I no longer argue with anyone. If you say to me, "Mr. Read, I do not agree with your premise," my reply is, "I could not care less. That is your business, not mine." And if you say, "You are not reasoning logically and deductively from your premise," and you happen to be right, I shall thank you for I do not like to be caught thinking illogically or not deductively from my premise.

The premise serves me even more than this. I no longer engage in philosophical or ideological discussion with anyone unless he is seeking light from me or I from him. And that eliminates a great deal of talk.

I am suggesting that you get for yourself a premise as soon as possible. Let me give you another premise. A scholarly friend of mine gave me a book and insisted that I read it. The title of the book itself would scare one, *The Foundations of the Metaphysics of Morals* by Immanuel Kant. That philosopher was a pro at being obscure. I read the book and had very little idea of its meaning. Later on I began the writing of a piece entitled "Importance of the Premise," and half way through a line in the book came to mind. I reread it and on the second reading most of the book tumbled into sense.

Immanuel Kant had a premise that he called "good will." By "will" he did not mean what we mean when we say peace on earth good will toward men. It had nothing whatsoever to do with intentions. By "will" he meant an individual's ability rationally to will his own actions. And if the adjective "good" could be used only if one could apply the principle of universality to his maxims. If that line comes through easy to you, I am disappointed in me. I did not know what it meant. But I have learned that if I lean up against a door long enough it will cave in, and I leaned up against that one long enough to clear it of its obscurity.

Let me give you a sample maximum: I have a moral right to my life, my livelihood, my liberty. Is that good? According to Kant, that is good only if you can concede that same right to every other human being—universality. Can I? Yes, I can. Therefore, it is good. Let me reverse the maxim and watch it come through. I have a moral right to take the life, the livelihood, the liberty of another. Is that good? According to Kant, that is good only if you can rationally concede the right of murder, theft, enslavement to every other person on earth. Can I? I cannot. Therefore, it is not good.

Anyway, is it not obvious that with such a premise as Kant's one can be reasonably consistent in his positions, provided he reasons logically and deductively from his premise.

Of course one has to live in the world as it is, but this should not alter one's proclaimed positions. Never approve or condone anything that is not consistent with what you believe to be right: in a word, one's eye should always be on the search for truth which is possible only as one expands his own consciousness.

Admittedly, expanding consciousness is no simple matter. Indeed, no one can prescribe the technique for another.

Our variation—uniqueness—precludes any fixed formula. Among a few rare individuals it appears to come as easily and naturally as physical growth, but for the most of us this growth requires disciplines and exertions so difficult that acceptance and adoption are often thwarted. However, there are three generalities that apply to all of us:

1. Expanding consciousness is a wholly introspective exercise, that is, concentration of an improvement of the self.

2. It requires a passionate wanting-to-know-itness.

3. It demands integrity, an accurate reflection in word and deed of whatever one's highest conscience dictates as right. In a word, go down life's road standing ramrod straight.

The world's most important person is interested in individual liberty, for unless this prevails self-development is restrained. This objective requires a knowledge of what government should and should not do. You have no chance to assist in the advancement of liberty short of knowing where to draw the line between activities appropriate to government and those appropriate to individual choice and decision. In order to know what government should and should not do, you must know what government is and is not.

I have been saying for years that the essential nature of government is organized force. I have been saying it for so long that I had begun to think of the idea as original with me. Several years ago, one of my associates put on my desk a huge tome entitled *The State*. It was written in 1900 and the author was Professor Woodrow Wilson. On page 572 that professor used the same words. He must have been clairvoyant, able to look ahead seventy years and see what I was saying.

It is easy to demonstrate the corrections of Professor Woodrow Wilson's position. The distinction between you as an agent of government and you as a private citizen is as an agent of government you have a constabulary—an organized force—behind you: you issue an edict and I obey or take the consequences. If this organized force be removed from behind you, you are restored to private ctiizenship: you issue an edict and it has the same effect on me as a resolution of the League of Women Voters. I do as I please.

All I am trying to point out is that the essential nature of government is organized force which I can symbolize by the clenched fist. If you will find out for yourself what this fist can and cannot do, you will have a precise idea as to what government should and should not do.

What can this fist do? I think I know. It can inhibit, restrain, prohibit, penalize. The next logical question is, what in all good conscience should be restrained, penalized, prohibited? The answer to that question comes clear and clean in the moral codes over the millennia, long before Christianity, namely, the destructive actions of men such as fraud, violence, predation, misrepresentation, thou shall not steal. Force can accomplish this, and this alone. What we have to recognize is that this physical force is definitely not a creative force. The creative force is in every single instance a spiritual force, in the sense that an idea is spiritual; or discoveries, inventions, intuition, insight. Everything by which we live has its origin in the spiritual before it shows forth in the material. For instance, this microphone is inconceivable had not some cave dweller eons ago discovered how to harness fire; and that jet on which I flew here would have been impossible had not some Hindu centuries ago invented the concept of zero. All modern chemistry, physics, astronomy, and the like, are out of the question without the concept of zero. These are impossible accomplishments with Roman numerals.

These spiritual experiences, inventions, insights, intuitions, doubtless number in the trillions since the dawn of human consciousness. You never use physical force to increase them.

All of this is by way of saying that we should confine government to inhibiting the destructive actions of men, and that all creative actions, without any exception whatsoever, should be left to men acting freely, privately, cooperatively, voluntarily, competitively. That is how I draw the line.

Finally, who precisely is the world's most important person?

It's impossible, runs the first reaction, to single out the world's most important person. But on second thought one has the answer: That person is you, whoever you are, wherever you may be, or whatever your race, creed, color, or occupation. This is not flattery; it is to remark the obvious, for you are the only person in the world—your world, that is!

In the same sense that "beauty is altogether in the eye of the beholder," so is your world altogether in the eye of you, the beholder. Your world is what you perceive it to be—no more, no less.

If you think of the world as earth, what of earth do you see? Trees, grass, or maybe the soil a plowman scratches? Or mountains, valleys, seas? Or do you perceive the mystery of a sprouting seed shafting itself into outer space? Or roots drinking of nature's bounty, topped by leaves which, in turn, use solar energy to take food from the atmosphere? There is nothing else to your world beyond the capacity you bring to your acts of perceiving. The world flows into your ken through your particular bottleneck, which you have the power to expand or contract.

If you think of the world as the universe, do you see only twinkling stars, blue skies, and the like? Or do you behold the process of Creation before your very eyes? Radiation? Galaxies racing into an infinite unknown at the speed of light? A mysterious attractive force at work?

If you think of the world as Old World and New World, what do you behold? Only the celebrities who featured various periods or the wars fought? Or do you perceive the liberating ideas that led from special privilege and the freezing of human energy toward the amazing creativity that flows out of equal opportunity for all? And perhaps the current decadence in ideas and moral scruples that are taking us from the New back toward the Old? Whatever you behold, this alone defines the boundaries of your world. "Knowledge is a mode of being," runs an ancient axiom; what you are defines the limits of what you know.

The idea of my world changed while I was writing the above paragraph as did yours while listening to it. Your world and mine are never identical from one moment to the next. I alone inhabit my world, and you yours. The thought, the concept, the idea is the thing, now and forever, and this, like everything else, is in constant motion.

Aged and well supported is the idea that all reality is in the eye of the beholder, that is, reality is circumscribed by each individual's awareness, perception, consciousness, however correct or faulty it may be. Yet, rarely is this concept employed in what may well be its most effective use; thinking our way into a better relationship with others.

Merely bear in mind that there are as many different worlds as there are human beings and that being human obliges one to live not only with his own world but with many of the other worlds as well. These other worlds are as much a part of the infinitely real as yours; isolation is not a viable prospect. It is conceded that these worlds have a record of conflict, clashing, bumping into each other. But perhaps a slight shift in thinking can lessen this destructive tendency; there may well be a rational basis for more tolerance than is generally practiced.

For instance, would I esteem you less yesterday than today because your world has smaller then than now? To the contrary, your world of yesterday spawned today's broadened perception. Do I not more esteem the inventor than his invention, more respect the perceiver of a thought than the thought itself? Is this a valid way of looking at our relationships? I think so; at least I bear no intolerance toward the less perceptive person I was fifty years ago. So, how can I logically be intolerant of, or unhappy with, those who do not see exactly what I behold? Not a soul on earth who does!

The greatest danger to your world or mine is error for "all error has poison at its heart" and "so long as truth is absent, error will have free play." (Schopenhauer) Clearly, such personal and societal solutions as lie within our reach are the truths we perceive. And this is precisely where our respective worlds can meet to our mutual advantage—*provided* we seek every means to grow, including tolerance enough to look into every nook and cranny for truth.

Of course, look to one's peers, sages, seers for truth; but stop not there. Not only from the "mouths of babes" does truth proceed, but on occasion truth flows from those we declare insane. However far that other person's world may seem to be from your own—philosophically, ideologically, religiously, or whatever—be on guard, perhaps, but bend an ear. Truth has a way of seeping through crevices entirely unsuspected. But it is far more likely to enter an open and perceptive mind than one that is closed and intolerant. Indeed, the inquiring mind encourages others to give forth the best that is in them.

By way of example, I have cited from the major work of Arthur Schopenhauer, a philosopher whose world, in numerous respects, is sharply at odds with my own. However, in his works I find many gems—truths to me. To disregard or fail to embrace them, because our worlds do not coincide would, indeed, be error; by such intolerance I would shortchange myself, limit my own world.

In any event, you are the world's most important person, and everyone else on earth, whether or not he may realize it, is in need of you at your perceptive best. The enlargement of our respective worlds is the sole means we have of moving toward a more harmonious existence, of cooperating to free, rather than freeze, our perceptions and relationships.

Two additional thoughts that will help along the way:

1. Never fret about anything that is beyond your power to control.

2. If at any time an action is not joyous, more than likely you have made a wrong zig or zag. I wish you as much fun along the way as I am having. This is assured if you will regard each day of your life as commencement. You will then be in tune with the Infinite.

God bless you in your venture!

IT IS A LITTLE DIFFERENT IN JOLLY OLD ENGLAND

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. FLYNT. Mr. Speaker, the October 12 edition of Roll Call featured a very informative article by Mr. Marvin Cox which compares certain aspects of the British Parliament with those of the U.S. Congress. Mr. Cox is a close friend of mine who has had wide experience in both the legislative and executive branches of government and is well known to many of our colleagues.

His most recent article is very timely and is of special interest to us as we approach the November elections. It is of more than casual interest for us to reflect on the type of campaign we might run under conditions which obtain in the British election system.

The text of this fine article follows:

IT'S A LITTLE DIFFERENT IN JOLLY OLD ENGLAND

(By Marvin Cox)

LONDON.—Hundreds of American Congressional candidates striving to meet expenses for the November elections may well cast envious eyes across the Atlantic where their British counterparts are restricted to total campaign outlays of well under $4,000.

And there are no "committees," clandestine or open, to circumvent the strict limits on campaign expenses imposed by British law.

Thus a wealthy Parliamentary candidate or one with affluent supporters has little financial advantage over a competitor with limited funds.

Candidates for Parliament are effectively restricted to campaign expenses of about $1,900 American dollars, plus an additional one or two cents for each voter in his constituency. The average electorate of a Parliamentary constituency in England and Wales is close to 60,000; in Northern Ireland around 75,000; and in Scotland near 50,000.

Legal campaign expenses even in the largest Parliamentary constituencies would be limited to roughly $3,200 American dollars, while the outlay in less populous constituencies would be considerably less.

These limitations on campaign spending are not required to cover the candidate's personal living expenses during the campaign. But if his hotel bills, meals and similar expenses exceed about $250 they must be paid by his election agent and reported in his election expenses.

Election campaigns in Britain are of far shorter duration than those in the U.S., seldom exceeding three weeks. Further the selection of candidates is not made by Party primaries as it is in the States. This candidate selection process cannot be dealt with here, but it is in sharp contrast to the lengthy and expensive Primary elections that are so much a part of the American election process.

The life of a Parliament is fixed by statute at five years although it is usually dissolved—another interesting political process—before the expiration of the legal five year term.

Thus, a Member of Parliament is elected for a term of five years although it may turn out to be far less than this period before he has to "stand" for reelection.

Evidence of the zeal with which these campaign spending restrictions are enforced may be seen in a case currently before the British courts where a recent candidate for local office is seeking relief from the serious legal consequences of having exceeded his limit by about $57.

Television and radio play very little part in British elections. Newsworthy contests in key constituencies may attract coverage by the government-owned British Broadcasting Corporation. But when this occurs each candidate must be given equal time in the broadcast debate, and if any candidate declines to participate the broadcast cannot be put on the air.

Selection of races to be given broadcast coverage is made entirely by the BBC and not by parties nor candidates.

The privately owned TV network in Britain only covers the contests as news events. Candidates do not buy TV and radio time for their own broadcasts.

One unique campaign service available to British Parliamentary candidates is a postage-free mailing to each of the electors (registered voters) in their constituencies.

The text of these postage-free communications must be identical in all cases, and the stationery and printing or typing is at the candidate's expense, but the cost of postage is borne by the government.

In computing the election expense allowances, candidates in rural areas or "county" constituencies are allowed slightly more per elector than those in "borough" constituencies, towns and cities where more compact populations make the voters more accessible to the campaigner.

Candidates in rural areas are allowed one shilling for each six electors: borough candidates are permitted to spend one shilling for each eight eligible voters. A shilling is worth at current exchange rates about 13 cents, American.

British political practices and procedures vary widely from those in the U.S., as do the countries vary despite their common language and antecedants. The success of the British in effectively controlling political campaign costs, however, is in marked contrast to the sporadic and often futile American efforts in this direction.

HONORABLE ALTON A. LENNON

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. COLLIER. Mr. Speaker, one of the many Members of this great body who will retire at the close of the 92d Congress is the distinguished gentleman from North Carolina's Seventh District.

ALTON A. LENNON and I took the oath of office on the same day, January 3, 1957. The 16 years that he and I have served together in the House of Representatives have given me ample opportunity to become well acquainted with him. For several years we were next-door neighbors, having offices across the hall from each other.

During his eight terms in this body, Congressman LENNON combined his ability as a legislator, his background as a judge, and his wealth of knowledge for the benefit of his constituents, his fellow North Carolinians, and the people of the rest of the United States. To this recognition of his many sterling qualities, I would add that he was a good neighbor, one who was ever ready to be of assistance, a delightful companion, and an entertaining raconteur.

An almost unique feature of ALTON LENNON's service in the House is the fact that he came here after having been a Member of the other body; only one of his colleagues shares that distinction. In our system of government there is no such thing as an upper body or a lower body. John Quincy Adams considered it an honor to sit in the House of Representatives after he left the White House and our able colleague did not feel that he was stepping down when he became a Member of the popular branch of the national legislature.

Mr. Speaker, my best wishes go with my fellow-lawmaker, my fellow-member of the class of 1957, and my good neighbor as he leaves the excitement of the Nation's capital for the tranquility of North Carolina. May good health and good fortune accompany him as he begins another chapter in a long and useful life.

RETIREMENT OF THE HONORABLE FRANK T. BOW OF OHIO

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. SHRIVER. Mr. Speaker, it is difficult to say goodby to a friend and colleague like FRANK Bow. Many deserved compliments have already been paid to this distinguished gentleman who has served with distinction the people of Ohio and our Nation for 22 years in this great legislative body.

His decision to retire from the Congress will leave a great void in this House, and on the Committee on Appropriations. How do you replace a great American like FRANK Bow who has been a champion of fiscal responsibility and integrity throughout his legislative career? His actions have always been in the best interest of the Nation.

It is encouraging to note that his service to his country does not end with the adjournment of this 92d Congress. He soon will take up the responsibilities of Ambassador of the United States to Panama.

I would be remiss if I did not express my personal appreciation and gratitude to FRANK Bow for his understanding, wise counsel, and warm cooperation during the past 8 years that it has been my privilege to serve with him on the Committee on Appropriations. He has been outstanding as the ranking member of the committee, and on many, many occasions has been helpful to me in my assignments on this important committee.

He will be greatly missed not only by his colleagues in this body, but also by his constituents who have come to recognize his integrity, his experience and his dedication to their interests and those of the Nation.

Martha Jane joins me in extending our sincere best wishes to Caroline and FRANK as they prepare to being a new chapter in what already is a most productive life. We wish them good health, happiness and contentment.

THE WONDERFUL SECRET OF READING, PA.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. YATRON. Mr. Speaker, the following article appeared in the autumn issue of Travel and Leisure, which tells of a most unique dining establishment in my congressional district. I know my colleagues will find the article of great interest.

I wish to extend an invitation to all members of the Congress to visit Reading, Pa., and spend a most delightful evening at this fine restaurant. I am certain that you will enjoy the food and service and you will have a memorable experience.

The article follows:

THE WONDERFUL SECRET OF READING, PA.

(By Silas Spitzer)

To the casual glance of a stranger, there is nothing exciting or different about Joe's, a small, unpretentious restaurant wedged into the residential ranks of Reading, Pennsylvania. It stands on the corner of a street lined shoulder-to-shoulder with modest dwellings and blends unobtrusively with its neighbors.

Reading is an industrial town known more for its iron foundries than for elegant cuisine. Joe's is the single brilliant exception among the city's eating places. The food there, though essentially simple, has unexpected sophistication and is cooked with a high degree of professional skill. Service, provided by several pleasant young women who are not the chatterbox sort, is unhurried and serene. These are definite advantages but by no means the reason why this restaurant is a thing apart, perhaps the only one of its kind in America.

The newcomer, unless previously briefed, would never guess that the place attracts a large and devoted following, not only from Philadelphia and New York but from as far away as San Francisco and Montreal. At certain seasons of the year, cars with widely assorted license plates are parked along the curb outside. During those busy periods, tables must be reserved days ahead.

There is obviously something curiously different about Joe's to justify such celebrity. One evening not long ago, my wife, Helen, and I discovered exactly what that was and why it made dinner there such a pleasant happening.

On that early visit (we've since made several more), we were shown to a secluded corner of a long, narrow room, capacious enough for about 60 without crowding. The light-toned walls were without special adornment. There were plain gray hangings at the far end. A well in the center of the ceiling was flooded with soft rose-colored light, and there were matching lamps on the tables. We noticed a few fine pieces of antique furniture. There was nowhere to be seen a single trace of what is known in the trade as "drama." The drama, it turned out, was all in the kitchen. If you were to enter those immaculate premises, you would probably find Joe Czarnecki, a small, roundish, white-haired man with a habitually mild expression, bending over the range or sniffing the soup pot.

We sensed the first hint of the driving force that motivates this restaurant when our martinis arrived. Instead of an olive or a twist of lemon peel, each contained a plump, little pickled mushroom. Like the late Bernard De Voto, mentor of all martini purists, I have strict views on its composition. Juggling with the proportions, adding dashes of Scotch, Pernod or sherry or odds and ends of vegetables are all taboo. But these particular martinis, concocted by Joe's wife, Wanda Czarnecki, could not be faulted. They were as ice-cold and as crisp as any I have ever stirred for my guests or myself. And that fat little mushroom lent a faint woodsy flavor that actually pointed up the dryness of the drink.

When we looked over the menu we noted that mushrooms either dominated or played a part in about half of the twenty-odd appetizers, soups, salads, entrées and sauces on the à la carte listing. These mushrooms were not the tame, commercially cultivated kind, but poetically shaped and colored nomads that spring up at random in heavily shaded forest soil or the damp recesses of mountainside and meadow. Later we were to learn that 90 percent of them grew within a 50-mile radius of the restaurant and were collected by foraging parties consisting of the owner, his wife and customers who had become friends.

Dinner began that evening with wild mushroom soup, a sublime creation from which the restaurant was launched on its present course many years ago. Today it has become the most widely known and revered of all Joe's specialties. It was originally a recipe of his mother's, cooked from mushrooms growing in the lowlands of the Carpathian Mountains. Travelers often stop overnight at Reading to gratify their yearning for this soup. It is dark, velvety, with a body between thick and thin. The first spoonful is a miracle of concentrated earthy flavor, the very soul of the wild mushroom.

With the soup, we nibbled oven-warm *pirozhki*—small, flaky pastries filled with a succulent mushrom puree. All bread, cakes and pastry are baked by Mrs. Czarnecki, a smiling, motherly person who shares her husband's mycological fixation. A woman of many gifts, she runs the restaurant when Joe is busy in the kitchen, bakes with God-given lightness of hand and is a meticulous mixer of drinks.

We went on to eat baked Maryland lump crabmeat and filet mignon with a delectable *sauce duxelles*. Both dishes were transformed by the exquisite fragrance and flavor of woodland mushroms, a taste impossible to convey in words, probably because there is no other flavor in nature exactly like it.

Among other dishes sampled on subsequent visits, our notebooks mention tiny shrimp La Maze, tenderloin *en brochette* (chunks of sizzling beef alternated on the broiler-spit with savory mushrooms), Javanese steak with fried rice and Veal Rymanow, named after the town in Poland where Joe's mother was born. Supreme among the desserts is Wanda's subtle, almond cream cheesecake.

As any connoisseur will tell you, wine is the only drink worthy of wild mushrooms. Which wine mates best, however, is another and more debatable question. Joe believes that the subject calls for discussion between guest and host and for that reason does not provide the conventional wine list. His cellar reveals a studied selection, without either waste or showcasing of extravagant bottles. French and German wines predominate. There are those who prefer a lightly fragrant Rhine or flowery Moselle to the more assertive French Burgundies or Bordeaux, but the choice is large enough to accommodate all personal prejudices.

When coffee was served, we were joined by Joe and Wanda. The conversation was absorbing and midnight arrived before we knew it. This soft-spoken but forthright man was plainly no typical restaurant owner. Joe attended Bucknell and graduated with a B.A. from Albright College. Originally the premises were occupied by a tavern run by his father. When Joe inherited this saloon, with Wanda's help, he gradually transformed the noisy place, with its crowded 77-foot bar, into the distinguished restaurant it is today.

"I love to cook and eat," he told me, "but the real fun is in the woods."

On Sundays and Mondays, when Joe's is closed, and during the vacation months of August and September, his broad-beamed jeep, specially built for rough going, takes off for the wilds, packed with family, friends and food. Treasured specimens from these periodic excursions were displayed in jars and bottles on the shelves of a sideboard behind which we were seated. Several varieties of dried mushrooms were strung in loops, like fairy necklaces. Most were unknown to us, but we recognized tawny chanterelles and crinkled, cone-shaped morels, graduated in size from a kernel of corn to a child's fist.

All mushrooms are scientifically identified and classified by the owner in his laboratory upstairs. The microscopes and other instruments are among the latest of their types. I asked him which mushrooms he cooked most often. He rattled off the Latin names: *Tricholoma equestre, Tricholoma portentosum, Tricholama terreum,* to accompany meat; dried *Boletus edulis* for soups and sauces. Over the years, thousands of guests have partaken rapturously of these and other kinds, without the slightest mishap.

Joe is a member of the Mycological Society of America, and from time to time kindred spirits—mostly scientists, teachers, doctors, lawyers and literary folk—get together to hunt, talk about and feast upon wild mushrooms to the virtual exclusion of everything else.

When the pickings are good on Joe's hunting forays, the treasure, piled high in baskets, is meticulously examined by Joe before it is released for consumption. Tales of these jeep expeditions, which combine rugged physical exercise with the excitement of the treasure hunt, have spread widely among people who are students, gastronomes or simply lovers of wild mushrooms. Among these about a year ago was Mrs. Craig Claiborne, at that time food editor of the *New York Times*. Intrigued by what he had heard, he arrived one day to join the hunt, impeccably dressed in a dark business suit, white shirt, necktie and highly polished shoes. Joe and Wanda tactfully persuaded him to change to jeans, a hunting jacket and heavy boots belonging to one of their sons. After tramping most of the day in the Blue Mountain woods, they returned, muddy and scratched but laden with edible wild fungi. The guest's back ached painfully, but he was grinning and insisted he had enjoyed the time of his life. Everybody went to the kitchen and ate Wanda's Pennsylvania Dutch sausages and sauerkraut, drank floods of beer and sorted out mushrooms. The Timesman left, a friend and disciple.

Joe Czarnecki is one of the few genuinely happy men I have ever known. Unlike the overwhelming majority of humans, he has been able to weave his private passion into the texture of his business. To an astonishing degree, the restaurant reflects his character and his obsession and all without a glimmer of flamboyance or self-consciousness. There is a quiet air of assurance about his place, the sort of low-keyed sophistication one expects to find at the Grand Véfour in Paris or the Connaught in London, but hardly on an obscure back street corner in a dreary Pennsylvania town. Year after year, patiently and with singleminded purpose, Joe has created a restaurant that affords a rare kind of pleasure to others and richly fulfills his private dream.

ADDRESS BY ADM. T. H. MOORER BEFORE THE UNIVERSITY OF GEORGIA'S BLUE KEY NATIONAL HONOR SOCIETY

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. STEPHENS. Mr. Speaker, on the evening of October 6 in Athens, Ga., the Blue Key Chapter of the University of Georgia gave honorary memberships to Congressman ROBERT L. F. SIKES of Florida, a distinguished graduate of the University of Georgia; to Dr. Fred Davison, a Georgia graduate and now president of the University of Georgia; and to Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff of the United States.

After an impressive introduction by Congressman SIKES, Admiral Moorer made a great address on the defense of America which was received with a fine display of approving applause by the audience of students, faculty members, State officials, and townspeople of Athens.

Because of the need I feel for more people to understand our defense objectives, I insert the text of Admiral Moorer's address:

ADDRESS BY ADM. T. H. MOORER

I welcome this opportunity to return once again to the great State of Georgia and to speak to the members and guests of this renowned national honor fraternity.

I know that the people in this section of the country are steadfast in their support of a strong national defense posture for this country. But I also know that the ink devoted to this subject is of such volume, flowing in so many different directions, that the average American doesn't have the time to examine carefully all that is written and separate fact from fiction. So I think it may prove beneficial if I spend my time with you tonight in setting forth some of the facts and refuting some of the fiction about national defense.

Let me start with the issue of defense spending for it is one on which much of the current discussion centers. Over the past eight years the matter of military spending has been at the forefront of public discussion. Critics would have the public believe that defense spending has, over the years, robbed non-defense programs of much needed funds to meet other urgent requirements in the domestic sector. These same critics of defense spending trends often ignore, however, that during the same period in question—FY 1964 to FY 1973—non-defense Federal spending has risen by $109 billion, including $92 billion for social and economic spending. And during the same period, state and local spending has risen by $113 billion. In either case, the increase in spending for other domestic needs, whether it be at the Federal or state and local levels, not only exceeds the increase in defense spending, it far exceeds the entire defense budget. To me, this just doesn't add up to the picture often painted of a domestic sector squeezed of resources by the defense budget. And it doesn't add up either to a picture of a greatly reduced defense budget's being the sole solution to the fiscal problems of the United States.

Let me turn for a moment to a comparison of the FY 64 and FY 73 defense budgets to examine the interim rise in defense spending from just under $51 billion to $76.5 billion. One factor stands above all others in its explosive impact on defense budget trends—increasing pay costs. In FY 1964, the costs of manpower within the Department of Defense accounted for about 43% of the military budget. For the current fiscal year—1973—56% of the budget is allocated to these same costs. What this means in dollar terms is that we are now paying over $20 billion more in manpower costs than we did in the last prewar year, and this is in spite of the fact that military and civil service manpower will be 326,000 lower at the end of FY 73 than it was in FY 64. If one combines these increased manpower costs with the price increases in goods and services purchased from industry, the true picture of the relative buying power of the defense budget comes more into focus. The figures show that the 50 percent increase in current dollar spending is, in actuality, an 8% reduction in constant dollar purchasing power.

The reduction of defense manpower—326,000—which is being absorbed in the active duty military force strength, has been a hard trade-off decision made in order to make funds available for needed modernization and improved force readiness. During the course of the Vietnam War, especially during the high cost years of our peak involvement, the U.S. was forced to deter a significant amount of weapons development and modernization in order to help pay the costs of the war. We were spending for attrition and not for modernization. With war costs now sharply reduced we are trying to play catch-up ball. Let me further clarify this point.

During the same time span in question, 1964 to the present, the United States has spent well over $100 billion more than the Soviet Union in Southeast Asia. Since both countries maintained roughly equivalent defense expenditures during that time, the Soviets were able to allocate much more to weapons development and modernization than were we. They were able to develop a momentum in their arms programs which resulted in a dramatic shift in the balance of military power—and particularly strategic nuclear power—between the two countries. Early this year, I testified before the Congress that short of an effective agreement on strategic arms limitations, the momentum of the Soviet strategic force build-up was likely to carry it well beyond the level currently planned for our forces in the mid- or late 1970s. I further testified, as did Secretary Laird, that the failure of the United States to press forward expeditiously with our own strategic force initiations could force us into a position of strategic inferiority in the years ahead.

This brings me to the Strategic Arms Limitations Talks and to the agreements which derived from these talks just a few months ago. I believe it is most important to our national security that the American people understand what these agreements do and do not do.

As you have undoubtedly read, the agreements are in two forms. The first, which concerns strategic defensive systems, is in treaty form and is of unlimited duration. The second, which is in the form of an Executive Agreement, is an interim agreement on certain offensive systems and is to remain in force for a period of five years. Let me briefly explain the provisions of these agreements.

The treaty on Anti-Ballistic Missile Systems is best described as a treaty of equivalence. Both parties are limited to two ABM sites; both parties are limited to an equal number of launchers and radars at these sites; and both parties are permitted to protect their nation's capital. In fact, one of the sites must be around the nation's capital. As you know, Washington, D.C. is not now so protected, whereas Moscow is. This is one of the issues the Congress must pursue. Nonetheless, the Treaty is one which permits and limits both parties to equivalence in ABM defenses.

The interim agreement on offensive systems is, on the other hand, not one of equivalence. It is not one of equivalence because it involves only two types of forces which affect the strategic balance; namely, intercontinental and submarine-launched ballistic missiles. It does not include bombers, it does not include forward-based tactical systems, and it does not include factors such as quality and payload of missile systems. It is an agreement which limits, solely, the total quantity of land and sea-based ballistic missiles which each party may deploy during the next five years.

Under terms of the agreement the United States is limited to 1710 missiles versus 2360 for the Soviet Union. There has been wide concern expressed over this approximate 3 to 2 missile advantage which the Soviet Union is permitted to achieve. I understand this concern, but let me emphasize that this Soviet advantage would have obtained with or without the agreement. There is nothing we could have done to alter that fact, and without the agreement the Soviet quantitative advantage could have widened measurably more.

Because of decisions made in the 60s, our missile deployments reached their existing level in 1967 and we have since had no programs which would allow us to expand this capability quantitatively, either now or during the next five years. In contrast, the Soviets, with the benefit of their great momentum, were deploying ICBMs at the rate of about 250 per year and SLBMs at about 128 per year. Had the Soviet Union continued their missile deployments at these rates during the next five years, their total number of offensive missiles would have been well over 3000. Instead of the 3 to 2 advantage, which is the maximum the interim agreement allows, they could have achieved a 2 to 1 advantage by 1977. So I ask you to view the agreement not so much in terms of what it permits but in terms of what it prevents. The interim offensive does put a brake on the Soviet momentum in their strategic arms build-up and this was one of our prime objectives in the initial negotiations.

It is a first step—and let me emphasize that it is but a first step—in our efforts to achieve arms accords and it serves as a sound basis for follow-up negotiations in which we will strive for a more comprehensive agreement on offensive systems to parallel the ABM treaty.

There is no guarantee, however, that such an agreement can be negotiated. Thus, the only prudent course for the United States to take is to continue those programs which will preserve our strategic position in the years ahead. Just as the decisions of the 60s determined the types of weapon systems we have today, the decisions we make today will determine the types of systems we have in the late 70s and 80s. We cannot make the wrong decisions at this juncture and then in the future retrace our steps.

The leadership of the Soviet Union has made it clear that they are going forward with weapon programs which are not limited by the agreements. We must do likewise. Thus, we are moving forward with the B-1 and TRIDENT programs and we will ask the Congress to approve and fund other programs, as necessary, to provide assurance that the national security of this country will not be placed in jeopardy. The cost of this assurance, measured in dollars, may be high. But my knowledge and experiences with the American people tell me that they will not accept a position of inferiority. I am dedicated to insuring that they will never have to be told that they are in such a position—and I will remain so dedicated.

Thank you.

PETTIS SENDS NEWSLETTER TO CONSTITUENTS

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. PETTIS. Mr. Speaker, I wish to share with my colleagues, the latest official communication sent out by my office in an effort to provide an up-to-date report on items of local interest and my activities as the Representative of California's 33d Congressional District. I hope my fellow Members of the House will find volume VI, No. 2, of my periodic newsletter of interest:

Pettis Readies Los Angeles Pollution Suit

A legal suit has been prepared on behalf of the residents of the 33rd Congressional District to compel the Los Angeles Air Pollution Control District to release detailed information on sources of emissions which are directly responsible for the menacing increase of smog in our Inland Empire air basin.

In a September 18 letter to Robert L. Chass, Director of the LA-APCD, I requested full disclosure of data on all pollution sources. Past requests for this information from local governments, environmental groups and individual citizens have met with adamant refusals from Mr. Chass and his staff to divulge information on stationary pollution sources.

Although statistics are not yet available for 1972, data compiled by the San Bernardino County Air Pollution Control District indicate that the number of days oxidants, carbon monoxide and nitrogen dioxide in our local air exceeded State standards increased from 149 days in 1969 to 168 days in 1971.

Unfortunately, we do not need statistics to tell us our eyes are smarting, it is difficult to breathe, we can no longer see the mountains and sometimes find it hard even to see across the street. These conditions have become all too familiar, all too often. Nor is it necessary to have scientific data to see the clouds of pollution rolling in from the West. However, we do have this information. The Statewide Air Pollution Research Center in Riverside indicates that smog from the Los Angeles basin starts moving Eastward toward San Bernardino and Riverside about 7 a.m., with the movement becoming increasingly bad around 3 p.m.

LOS ANGELES ENFORCEMENT CHALLENGED

In February of this year, twenty-two charges of inadequate enforcement by the LA-APCD and an attack on their refusal to release industrial pollution information were brought before the State Air Resources Board by environmental groups, a regional government organization and several individuals. Final ARB action on the result of their investigation has not been revealed.

Last year, an exhaustive study of the LA-APCD by student and faculty researchers from the Claremont Colleges' Program in Public Policy Studies reached the following conclusions:

"... the automobiles' contribution to L.A.'s pollution has rather consistently been exaggerated. Our explanation ... discounts auto emissions as the only major factor. Rather, we suggest that the L.A. community continues to suffer the ill effects of air pollution because the LA-APCD has placed economic and political considerations above the protection of public health."

Our problem in the 33rd Congressional District is that we suffer right along with our neighbors to the West.

Our health is endangered, our environment is damaged, and our own economy is jeopardized because we not only have to contend with our own pollution, but also that which blows in from Los Angeles. It is imperative that further action be taken to identify and control the sources of this pollution. This is why I wrote to Mr. Chass in the first place.

APCD RESPONSE QUALIFIED

A letter has now been received from the LA-APCD stating that I will be given access to all information publically available under the law. I am scheduled to meet with Mr. Chass after Congress adjourns in October. His rather qualified response leads me to believe that data on some pollution sources will again be withheld.

If this is the case, I will sue to have this information made public. I have received wide-spread support from local officials, citizens and environmental groups for my action. These supporters believe as I do that the public has a right to this information and the need to safeguard our environment and our health takes unparalleled precedence over any deliberate attempts to twist the language of the law.

PETTIS ACTION LINE

Dear Mr. Pettis: I have been attending Chaffey College at night under the G.I. Bill. I have not received any checks at all for the last two quarters. I am a family man and the money is important, but more important is that I can't get my records straightened out to transfer to Cal Poly in Pomona. Mr. M., Chino.

I called the Veterans Administration in Los Angeles and was assured a check covering the missing payments is being sent to you and your records have been corrected.

Dear Mr. Pettis: You were so good recently in getting our Social Security started again when it was withheld by mistake that perhaps you can help us with another problem. We have read of helpful, parttime employment, such as serving as Foster Grandparents, which utilizes the experience and energy of older people who need to supplement their Social Security income. Can you tell us who to contact? Mr. and Mrs. K., Highland.

Many of these programs are headquartered in Los Angeles County, but may be worth pursuing. You can contact the Neighborhood Adult Participation Program at (213) 331-4412, and the Foster Grandparents Program at Pacific State Hospital in Pomona. Locally, you can try the Senior Citizens Service Division at 884-8517, or the Dependency Prevention Commission, 106 North 6th Street, San Bernardino. (NOTE: A follow-up letter from these two fine people was received and they are now working with the "Meals on Wheels" programs in San Bernardino County. There is also a Foster Grandparents Program through Patton State Hospital.)

Dear Mr. Pettis: I would appreciate whatever assistance you can give in getting my Veterans disability rating increased. I was injured in World War II and got along very well until an accident in 1969 severely aggravated the old injury and it is now almost impossible for me to work. Mr. M., Ontario.

I contacted the V.A. and as a result of their findings at the medical examination which was set up, your disability compensation has been increased.

ISSUES AND ANALYSIS: FEDERAL SPENDING CEILING

There is a great deal of Congressional debate at the present time on establishing a ceiling on Federal expenditures in order to fight inflation and ensure continuation of the present economic upswing. Such a limitation has never been established before in history, but with the growing complexity of Federal spending programs and the rapidly increasing impact these have on our economy, I am convinced it is time to impose a firm and formal lid on government expenditures.

It is understandable that Congress, working on the budget in bits and pieces, invariably winds up with a total spending chart substantially exceeding that which the country can afford. Imposing a ceiling, based on an overall budgetary view, would demand conscientious efforts to establish national priorities—emphasizing high-priority needs and cutting back sharply on lower priority programs which contribute to inflation.

Chairman Arthur F. Burns of the Federal Reserve System recently urged Members of the Ways and Means and Appropriations Committees to meet and coordinate income and expenditures before approving Federal spending bills for each new fiscal year. It is only logical that those charged with spending the money should know how much is being raised so they can work with a set budget amount and, in time, reduce the burgeoning national debt.

While our economic outlook has improved over the past year, runaway spending can plunge us back into an inflationary spiral.

With these facts in mind, we were able in the Ways and Means Committee to add provisions to the Debt Limit Bill setting a $250 billion limit on spending in fiscal year 1973 and establishing a joint budget committee, to be composed of Members from the House Ways and Means and Appropriations Committees and the Senate Finance and Appropriations Committees to control future expenditures.

It is clear to me that positive action on this bill is absolutely necessary if we are to ensure a stable national economy.

FEDERAL FUNDS VITAL TO DISTRICT PROGRAMS

The 33rd Congressional District received over $780 million in vitally needed Federal funds for the 1972 fiscal year according to the latest information available from major contributing Departments and Agencies. This is an increase of over $30 million over 1971 totals and marks the sixth year San Bernardino County has ranked consistently above average in obtaining Federal support. By voting this money, the Congress has begun to recognize many of the long-overdue needs which exist in our area and deserve attention. The items below represent a cross-section of some local projects financed by Federal funds.

(Photo) The picture, above, was taken from the window of my airplane when I toured the Mojave River Dam in July. Costing a total of over $18 million, the Dam is vital to the flood control safety of the entire Mojave River Basin and is one of the most obvious examples of what Federal aid to the 33rd District can accomplish.

(Photo) Happy faces, shown right, were in abundance for those of us attending the recent groundbreaking for the Lytle and Warm Creeks Flood Control project. This project, along with the Mojave Dam and projects slated for the Santa Ana, Cucamonga, Warm Creek and Tributaries, and Day, Etiwanda and San Sevaine Creeks brought in almost $6 million in Federal aid for local flood control last year.

(Photo) At right, complete with hard hat and friend, I take the first scoopful of earth to begin seismic investigation work on the new $30 million Veterans Hospital being built in Loma Linda.

To date, almost $3 million in Federal construction funds have been appropriated and are available for initial use on the 630-bed facility. After a number of meetings with the architects and builders, I have been most impressed with the design and workmanship involved in planning and executing the hospital, which will serve approximately 500,000 veterans in our area of Southern California.

Completion date for the V.A. Hospital is projected for 1975. Once in operation, the facility will employ a staff of 1,200 with an annual Federal payroll of more than $12 million.

(Photo) San Bernadino National Forest (the Nation's most heavily used—10 million visitors last year) also receives Federal funds. On a recent inspection trip, I met with Forest Supervisor Don Bauer and Dr. Paul Miller for a tour of the forest smog research facilities. As Director of research, Dr. Miller is working to pinpoint causes of pollution damage to the forest and to identify and develop smog resistant trees.

(Photo) At another stop, Supervisor Bauer points out an example of the current reseeding program, which he estimates can be completed 10 times as fast with my accelerated reforestation bill which has now become law.

Funding for San Bernardino National Forest management, research and protection programs totaled $4,682,859 in the last fiscal year.

(Photo) Congressman Pettis talks with students at University of Redlands after making announcement of his efforts to obtain Los Angeles pollution data. Pettis was on campus at the University's invitation to participate in the opening day of their "Political Awareness Week."

(Photo) Watchdog of the Treasury Award (above) was presented to Congressman Pettis by the National Associated Businessmen, Inc., to honor his 100% Economy Voting Record in the 92nd Congress. NAB President H. Vernon Scott praised Pettis' record as "outstanding" and commended the Congressman's fiscal responsibility in voting against inflationary spending. The twelve votes used to determine ratings included farm subsidy limitations, foreign assistance and increased funding for the U.N. Pettis was similarly honored in 1968.

THE FOLLOWING IS A PARTIAL LIST OF OTHER FEDERAL AID TO THE DISTRICT FOR FISCAL YEAR 1972

	Million
Law enforcement education and assistance	$0.2
Job training and emergency employment programs (PEP)	11.6
Social security payments	105.0
National defense installations (personnel, civilian employees, construction)	338.0
Education (ESEA, higher education, student loans, grants)	10.9
Highway construction (2-year program)	56.7
Small business assistance	2.9
FHA loans and grants	1.5
Airport/Airways improvements and development	1.7

PETTIS VOTES ON KEY ISSUES

A number of significant votes have been taken in the House of Representatives during this Second Session of the 92nd Congress. Listed below are some of the major legislative issues and how I voted.

Setting a Federal Spending Ceiling, Yes.

Federal Election Reform Act, Yes.

Social Security cost of living benefit increases, Yes.

Temporary Railroad Retirement increase, Yes.

Equal Education Opportunity Act (anti-forced bussing), Yes.

2-year Emergency Employment Act (PEP), Yes.

Consumer Product Safety Act, Yes.

Foreign Assistance Act, No.

Water Pollution Control Amendments, Yes.

Hathaway Quality Education Amendment, Yes.

Reducing Interest Rates on Small Business disaster loans, Yes.

Comprehensive Older Americans Act, Yes.

Treatment and rehabilitation programs for drug-dependent servicemen and civilians, Yes.

Higher Education Act, Yes.

Congressman Pettis' voting attendance record for the 92nd Congress to date is 87%, despite 34 trips to California to maintain person-to-person contact with his constituency.

(Photo) Robin Backhaus, Bronze Medalist, 200 Meter Butterfly.

(Photo) Mabel Fergerson, Silver Medalist, 1600 Meter Relay.

SALUTE TO AREA YOUTH

Robin Backhaus, left, is the pride of Redlands, and sisters Mabel and Willa Mae Fergerson, right, are Pomona's favorite daughters, after Robin and Mabel both brought home Olympic Medals from the 1972 Summer Games ih Munich. Willa Mae was an alternate on Mabel's winning relay team. Robin excels in swimming, the girls in track, but they all display the same outstanding qualities I have found in 33rd District Academy appointees and other young people I have met on visits to local high schools, colleges and universities.

These fine athletes exemplify not only the spirit and determination of the new generation, but also the traditional values that have made our Nation great throughout the years. They deserve a salute of pride.

CLIP AND SAVE

If you have a problem involving the Federal Government, please write or call:

Congressman Jerry L. Pettis, 427 Cannon House Office Building, Washington, D.C., 20515. Phone: 202/225-5861.

In the District:

San Bernardino, California 92408, 242 North Arrowhead Avenue, 1-A. Phone: 884-8818.

Claremont, California 91711, 114f Indian Hill Boulevard. Phone: 624-5091.

Barstow, California 92311, Civic Center, 220 East Mountain View. Phone: 256-4913.

EMANUEL CELLER

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. JOHNSON of California. Mr. Speaker, it is a privilege to join my colleagues in paying tribute to the Honorable Emanuel Celler, dean of the New York delegation, who will be leaving the Halls of Congress after 50 years of loyal, dedicated service to his district, the State of New York, and to the Nation.

As chairman of the powerful Committee on the Judiciary he has played a major role in the enactment of legislation so vital to the welfare of our great Nation. His leadership, guidance, and dedication will be missed by all of us who have been privileged to serve with him.

I want to thank Mr. Celler for his cooperation and support throughout the years, and to commend him for a job well done.

Mrs. Johnson joins me in wishing him every success in his future endeavors.

NATIONAL DEBT COMMENTARY

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, October 13, 1972

Mr. SCOTT. Mr. President, William D. Pardridge is a local economist known to many of us because his forthcoming book, "Economic Inequities," will be based in large part on insertions which Members of Congress have placed in the RECORD. One finds in his writings a unique, though often controversial, approach to economic thought.

Such is the case with his recently completed study entitled "Debt Analysis For 1967–1971" in which Mr. Pardridge contends that the Nation's private and public net debt had reached an astonishing $2 trillion by the end of 1971. The study is too long for inclusion in the RECORD, but it was the basis for an article by syndicated columnist John Chamberlain which appeared in a number of newspapers including the Wilkes-Barre, Pa., Times-Leader, Evening News, Record. Because I believe it will be of interest, I ask unanimous consent that the column entitled "Is a Two Trillion Dollar Debt Disastrous?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS A TWO TRILLION DOLLAR DEBT DISASTROUS?

(By John Chamberlain)

The private and public debt of the U.S. stood at $2 trillion at the end of 1971, which represents an increase of $152 billion over 1970. William D. Pardridge, the self-designated "disagreeable" economist of Washington, D.C., and Standardsville, Va., thinks the figure is frightening. His argument, which is backed by his recent paper on "Debt Analysis for 1967–1971," involves a study of what he calls the debt-production ratio, which shows that private debt has been increasing at a faster rate than production over a five-year span.

In essence, the doom-saying that Pardridge derives from contemplation of his figures boils down to a commonsensical observation that if debt doesn't create enough production to pay for its own retirement, plus an added increment for interest and taxes, it must feed the inflation or else end in widespread bankruptcies.

I wouldn't know whether $2 trillion of debt is too much for the American economy to swing, but I do know the country would be healthier if Pardridge's work were made the center of a lively controversy. Instead of provoking a good ventilating fight, however, Pardridge meets with denials from both businessmen and economists that his figures are correct. His reply here is that he gets his information from Uncle Sam himself through the Department of Commerce.

In his effort to smoke out his brother economists, Pardridge persists in asking mean questions. Some of them are real posers. For example.

(1) For each of five years, new debt has been greater than dividends paid to stockholders. Does this mean that no dividends were paid from economic profit?

(2) Each year interest on old debt becomes due. For each of five years, new debt has been greater than interest due. Does this mean that no interest was paid in terms of economic transactions as distinguished from accounting procedures?

(3) Each year corporate business paid more to the money markets than to the stockholding owners of the businesses. Does this encourage ownership?

(4) New net debt each year has been greater than tax obligations. Does this mean that aggregate corporate business was unable to earn in the marketplace the funds to support government operations?

The conventional wisdom of the orthodox economist would presumably say that Pardridge overlooks the fact that industrial borrowings create industrial assets. There are two sides to the ledger. Machine tools, even when called into being by a debt that may seem excessive, represent tangible wealth that, sooner or later, could be counted on to return a profit.

The question is whether Pardridge's five-year span of adverse debt-production ratios is enough on which to base real doom-saying. Conceivably, if the government itself would balance its budget and find the proper relationship between the dollar and foreign currencies, an efflorescence of world trade would turn the physical plant represented in that two trillions of private debt into a most productive asset.

I think that Bill Pardridge would not contest this "iffy" statement. But he would certainly argue that if debt continues to outpace production there will be a severe comeuppance.

Pardridge's analysis recalls the late Prof. Irving Fisher's theory of the business cycle, which insisted that when the relations of debt to equity became too unbalanced, with the cost of money constantly rising, enterprisers would stop borrowing. People working in the capital goods side of the economy would then be thrown out of work, with the unemployment bringing on deflation and depression. The trouble now is that nobody dare stop borrowing; we are on the tiger's back.

Pardridge's cure for our ailments, which is to put a temporarily tight lid on both private and public debt, would involve some suffering. The man who calls himself the disagreeable economist would say that it is better to suffer a little now than to go the way of Brazil, which had to invoke a dictatorship to keep the inflation from going through the roof.

I myself think that private debt would be less onerous if public debt, which involves a government seizure of production to serve non-economic ends, could be reined in. But in a welfare state this is unlikely. Pardridge's problem is greater than even he imagines. It is to change the whole sociological climate in which our economists now move and have their being.

WATKINS M. ABBITT

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. COLLIER. Mr. Speaker, when the 93d Congress convenes in January, it will seem strange not to hear the Clerk begin the call of the roll with the name ABBITT. The gentleman from Virginia is retiring at the end of this Congress.

WATKINS M. ABBITT has been here for almost a quarter of a century, having entered this body on February 17, 1948. During his 13 terms in the House of Representatives, he has made a host of friends on both sides of the aisle.

My best wishes go with my good friend as he leaves this historic Hall. May he find happiness and enjoy good health during the years of his retirement.

CONGRESSMAN SAM STRATTON REPORTS TO THE PEOPLE OF THE 29TH CONGRESSIONAL DISTRICT ON THE ACCOMPLISHMENTS OF THE 92D CONGRESS

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. STRATTON. Mr. Speaker, in keeping with my practice of previous years I take this opportunity, as Congress moves closer to final adjournment, to report briefly to the people of my district on some of the key accomplishments of this 92d Congress.

While we have not done all the many things we had hoped to do, I believe we have enacted some very important legislation. Besides that, I think this Congress has done a remarkable job of subordinating partisan political concerns to cooperate with the President in the best interests of the country and the people.

For example, we passed a historic revenue-sharing bill which will bring almost $600 million a year into financially hard-pressed New York State for our State government and its local communities, aid that has already made possible reductions in local tax rates in Schenectady and elsewhere.

For our senior citizens we put through a sizable 20-percent increase in social security benefits, a measure I am proud to say I had a substantial share in pushing through the House as a result of a year-long campaign to pass social security increases without waiting for a final decision on welfare reform.

Likewise we worked with the executive branch in dealing with the problem of controlling inflation by providing the basic economic stabilization legislation which—while not perfect—has in fact managed to slow down the earlier rapid inflationary spiral.

We cooperated in the adoption of crime control legislation, and in the speedy ratification of the SALT nuclear arms limitation agreements, which have considerably reduced the dangers of an all-out nuclear arms race.

This Congress has carved out significant new legislative ground in passing a historic Higher Education Act, providing direct help for the first time to the Nation's colleges as well as to its college students. We in the House have reformed many of our outmoded procedures, have curtailed the major drawbacks of an undiluted seniority system, and adopted an improved new Federal campaign spending and reporting act.

And while final action has not yet been taken at this point, it seems clear we will enact an extension of our clean waters legislation which will not only tighten water quality standards but will also permit New York State communities—including Scotia, Colonie, and other areas—to move ahead on new pollution control programs by reimbursing New York State for expenditures already made under New York's generous prefinancing legislation. We made a major step in the direction of creating a volunteer Army, by bringing military pay into a competitive position with civilian pay scales. We passed emergency unemployment legislation, and we substantially raised GI educational benefits for our Vietnam veterans.

But perhaps our biggest achievement is that we proved wise enough and big enough not to allow ourselves to make a partisan political issue out of our Nation's defense and foreign policies. Though there have been hundreds of speeches made and many votes cast, this 92d Congress has supported the President in his efforts to achieve some honorable negotiated settlement of the conflict in Southeast Asia. And likewise—to some extent as a result of a detailed report submitted by a subcommittee of which I was a member—we have supported the position of the administration in not reducing our NATO forces in Western Europe until some comparable reduction has also been agreed to by the Soviets. I am also proud that as a result of action recommended by another subcommittee of which I served as chairman, we have been able this year to retain the use of our vital NATO antisubmarine base in Iceland.

The same cooperative spirit has been demonstrated in our handling of the Nation's finances, when we took the unusual step of acceding to the President's request to put a top limit of $250 billion on spending for the fiscal year. Nobody particularly liked this method of holding the line, delegating spending authority to the President. But time gave us no reasonable alternative if we genuinely wanted to exercise real economy.

On the other hand, several important programs appear, at this stage at any rate, to have fallen by the wayside: the administration's novel and rather expensive welfare reform bill; the effort to use some of the funds in the Federal highway trust fund for mass transit purposes; a consumer protection bill; and legislation to set more specific guidelines to govern the use of busing of schoolchildren for purposes of achieving racial balance.

SPECIFIC AID TO OUR DISTRICT

During this 92d Congress we have also seen important aid from the Federal Government coming into our district. Some of the purposes are as follows: Funds for the new Capital District Transit Authority; funds for hospital expansion in Albany, Schenectady, and Amsterdam; substantial sewer aid to Colonie, Albany, Guilderland, Bethlehem, Schenectady, and Niskayuna; and for bridges in Schenectady County; a new Federal building for downtown Albany, named in honor of my very distinguished colleague, former Congressman Leo W. O'Brien of Albany; continuing funds for the Cohoes Model Cities program; housing and urban renewal for Watervliet, Albany, and Amsterdam; continued maintenance of employment levels at the Watervliet Arsenal; substantial contracts for area industries, including the very promising Trident nuclear submarine program for the GE Knolls Atomic Power Laboratory in Schenectady; a new drug treatment center at the Albany VA hospital, in response to my request; and a decision to consider a number of alternate locations for the northern end of Interstate Highway 88 in Albany and Schenectady Counties.

This does not in any way exhaust the list, nor does it give the dollar totals, which are really impressive. But it makes it clear, I think, that our area has received at least its fair share, and very probably even a bit more, of recognition from Washington during the past 2 years of this 92d Congress.

OTHER STRATTON ACTIONS

Finally, let me mention a few other areas where your Congressman has been active during these past 2 years.

Following through on my earlier association with an in-depth investigation of the My Lai massacre, I have continued to push for adequate corrective measures from the Executive branch, finally succeeding in getting discipline handed out to the two top Army generals involved, and in the blocking of the promotion of the major State Department official referred to in our 1970 report.

Climaxing a 6-year-long battle against the House leadership on both sides of the political aisle, I succeeded in defeating a costly and unnecessary $70 million "boondoggle" project to deface and "extend" the historic west front of the U.S. Capitol.

In the same vein, and again as an outgrowth of a subcommittee investigation which I chaired some 3 years ago, I led a successful fight to end a wasteful billion-dollar program to build the Army's super tank, the MBT–70. In Armor magazine for July and August, 1972, Gen. Bruce Palmer, Acting Chief of Staff of the U.S. Army, not only concedes that this is the first time that Congress had ended a major, on-going military weapons system, but also, reluctantly, that our subcommittee's criticisms were pretty well justified.

Two other aspects of my service on the Armed Services Committee may be of interest. As chairman of its Real Estate Subcommittee I have worked closely with the administration in its program of making excess military lands available for park purposes—including a special seashore in the New York harbor area, called Gateway East, a similar one near the Golden Gate Bridge in San Francisco, called Gateway West, and a recreational seashore project on part of the Marines' Camp Pendleton in California.

Still underway as Congress moves toward adjournment is a special investigation, which I have been asked to chair, into possible changes in military retirement pay policies, including both the so-called recomputation of retired military pay, a fairly expensive proposal in which most military retirees are deeply interested, and possible abuses of disability retired pay, especially on the part of high-ranking military officers. Our subcommittee expects to have some concrete recommendations dealing with both matters to make to our full committee before the end of the year.

Finally, I know many people in our area will be interested in the fight I have been waging to persuade the Tennessee Valley Authority to purchase American-built turbine-generators, such as those built at Schenectady G.E., rather than foreign-built products. We have not yet been able to change TVA's mind on this point; but in a matter which is so vital to the continued economic health of the Schenectady area, I have only just begun to fight.

So this is a brief summary of some of the things we have been able to achieve for our district and for the country during this Congress. I believe it is a record you will find of interest. If I can be of further service to you, I do hope you will call on me, either at my main office in the Schenectady Post Office, 374–4547, or at my Albany, 465–0700, or Amsterdam, 843–3400, offices.

ECONOMY NO. 1 CONCERN

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DANIELSON. Mr. Speaker, I am sending a report to my constituents which shows that a very large number of the Members of Congress agree that the major issue in their districts is the state of our economy. This report also shows the steps Congress has taken in its efforts to spur the economy. The text of this report follows:

ECONOMY NO. 1 CONCERN, CONGRESSIONAL SURVEY SHOWS

The state of the economy is the number one concern of Americans in every part of the country, according to a recent survey taken in the House of Representatives. More than 200 of my colleagues and I were asked what, in our judgment, are the five major issues among our constituents this year.

Responses were based on letters and telephone calls we receive from voters back home . . . on personal contact with our constituents . . . and on our own surveys which many Members of Congress conduct.

Among those Congressmen responding, 87 percent said that the economy is foremost on the voters' minds this year. This was followed by the war in Vietnam (75%), taxes (64%) and pollution and environment (44%).

Here are some of the specific economic areas which the poll showed are of immediate concern to the American people:

INFLATION

Rising prices—particularly food prices—have become a heavy burden on Americans of every economic level. They represent a "hidden tax" on the wage earner. Each month they erode the savings of those living on Social Security and retirement pensions. Consumer prices have already risen 18 points since the beginning of 1969—more than in the previous eight years combined. Meat and poultry prices are up 23 percent. Hospital care is up 35.5 percent.

UNEMPLOYMENT

More than 4.9 million Americans are unemployed. By early 1969, unemployment had dropped to 3.3 percent of the workforce. Today it is up to 5.6 percent. That means over two million more people unemployed since January 1969—and six million more added to the welfare rolls.

GOVERNMENT SPENDING

The recession has cost the federal government more than $40 billion in lost tax revenues, yet government spending continues at unprecedented levels. This revenue-spending "gap" has resulted in record budget deficits and record increases in the national debt.

TRADE DEFICITS

Last year—and again this year—the United States has experienced its first trade deficits since 1893.

INCREASED POVERTY

Soaring inflation and increased unemployment have forced more and more families below the poverty line. During the decade of the 1960's, we were winning the war against poverty. The number of poor people decreased from 40 million to 24.3 million. Since 1969, however, that trend has been reversed, with a million and a half people added to the poverty rolls.

Clearly, the state of economy has been a major concern of the Congress. And we have acted in a bipartisan manner to give President Nixon the tools he needs to strengthen the economy. We have passed emergency legislation to put men and women back to work. We have increased Social Security benefits to protect older Americans against rising costs.

But the economy remains a serious national problem. When Congress meets again in January, bold new action will be at the top of the agenda.

(Pie-graph illustrating that inflation has eroded the 1969 dollar making it worth 87.5¢ in July, 1972.)

(Graph illustrating that 2.7 million were unemployed in 1969, with 4.9 million unemployed in July, 1972.

92d Congress Acts To Spur Economy

After three years of economic uncertainty and stagnation, many Americans have begun to equate the economy with Mark Twain's famous remark about the weather: Everybody talks about it, but nobody does anything about it.

Fortunately, however, we can do something about the economy—and Congress has done something.

It was the 91st Congress—in 1969—which granted the President authority to instruct the Federal Reserve Board to regulate credit. Congress acted at a time when interest rates had climbed to the highest point since the Civil War.

It was Congress which gave the President authority to establish controls on prices, rents, wages and salaries. President Nixon did not seek this authority. He said, in fact, that "Price and wage controls simply do not fit the economic conditions which exist today . . . They are incompatible with a free enterprise economy and must be regarded as a last resort appropriate only in an extreme emergency . . ." But as economic conditions worsened—as unemployment shot up, as the stock market plummeted, as inflation increased—the President correctly concluded that we were in an "extreme emergency" and so, a little over a year ago, he did freeze prices and wages. The economy is still not out of trouble, but some progress has been made—in large measure because of the far-sighted action of Congress.

It was Congress which came to the aid of small businesses—when business failures began mounting at an alarming rate—by increasing the amounts of loans and guarantees provided by the Federal government.

Finally, it was Congress which passed four different emergency bills to help put the unemployed people back to work:

The 1970 Public Service Employment Act: Authorized 7½ billion, a third of which would have gone for public service employment, a third for expansion of Federal manpower services, and a third for Department of Labor manpower programs. President Nixon vetoed this legislation.

The Accelerated Public Works Act of 1971: Authorized $2 billion to create an estimated 170,000 jobs in the public sector. This legislation was also vetoed by President Nixon.

The Emergency Employment Act: This legislation—signed by the President—authorized $2¼ billion to provide transitional public service jobs and special state employment assistance programs.

The Emergency Unemployment Compensation Act: Earmarked $275 million for unemployment benefits and allowances.

In addition, the House passed the Public Works and Economic Development Act Amendments of 1972 to create jobs in areas which are lagging economically. (The Senate has not taken up this bill as yet.)

So Congress has done more than just talk about the economy. It has acted, and in a bipartisan spirit, to get the nation moving again.

(Bar graph illustrating that the national debt was $367.1 billion on June 30, 1969, and has risen to an estimated $477 billion on June 30, 1973).

Congress Moves To Cut Spending

During the past three years, Congress has cut a total of $14.5 billion from the Administration's appropriations requests—and the total appropriations this year are again expected to be several billions dollars under the President's budget.

These cuts have not been made just for their own sake. They were not made in a partisan spirit. Where there has been a clear national need for funds—in health and education, for older Americans and to protect the environment, for example—Congress has met the President's requests and often exceeded them. But when cuts could be made in wasteful and unneeded programs, we have not hesitated to make them.

For it is clear to most of us on Capitol Hill that the Federal government faces serious economic problems.

In the past four years (counting the current fiscal year), the Administration has run up budget deficits exceeding the total deficits of the 16 years of the Eisenhower, Kennedy and Johnson Administrations combined:

Fiscal year 1970—a $2.8 billion deficit.
Fiscal year 1971—a $23 billion deficit.
Fiscal year 1972—a $23 billion deficit.
Fiscal year 1973—a $27 billion deficit.—(Administration estimate).

How do we pay the bill to cover those deficits?

By raising the national debt.

It's your debt. It's my debt. It's our children's debt. And it is increasing at an alarming rate. In fact, by the end of this fiscal year, the national debt will have gone up $110 billion since 1969 alone. That's one-fourth of the total. That's more than all the debt accrued from George Washington's Administration through FDR's third term!

Fully aware that we cannot continue on this course indefinitely, Congress has met the test of fiscal responsibility—cutting the fat out of the Administration's budget while seeking to meet the nation's genuine needs.

(Bar graph illustrating that the budget deficits during 16 years of the three previous Administrations total less than the deficit during 4 years of the present Administration.

Deficit figures shown are as follows:
1953–1961 (Eisenhower): $15.8 billion.
1961–1963 (Kennedy: $17.8 billion.
1963–1969 (Johnson): $36.1 billion.
Total 1953–1969: $69.7 billion.
1969–73 (Nixon): $75.8 billion. (Includes administration's fiscal year 1973 estimate of $27 billion.)

SPECIAL TRIBUTE TO EMANUEL CELLER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. BIAGGI. Mr. Speaker, it gives me great pleasure to pay special tribute to my friend and colleague from New York (Mr. CELLER). When I first came here as a freshman representative, "MANNIE" CELLER was there with help and guidance.

Under his able leadership, the New York congressional delegation was molded into a cohesive unit that worked together for legislation of importance to the people of New York. His periodic luncheons helped to serve as a sounding board for New York problems and a think tank for solutions.

Such leadership and expertise in problem-solving is not unknown to the many who have passed through these halls over the last half century. Since coming to Congress, "MANNIE" CELLER has demonstrated over and over again his keen ability to grab the bull by the horns and bring about results.

His outstanding role in the fight for civil rights for all Americans in the late fifties and sixties will go down in history as one of the major legislative efforts of this Nation. Millions of Americans have been assured of their right to vote, to go to school, to live as Americans because of the work of EMANUEL CELLER.

A skillful debater, a keen wit, a quick tongue. His verbal acuity will long echo through this Chamber. There was always a hush when the Dean of the House rose to address his colleagues. I know I and the other Members of this body will sorely miss his skill and competence, his advice and guidance. I wish him the very best of health and happiness in his retirement.

CUMBERLAND ISLAND NATIONAL SEASHORE

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. FLYNT. Mr. Speaker, on October 10, 1972, the House passed H.R. 9859, to make Cumberland Island, Ga., a national seashore.

Cumberland Island, Ga., is one of the few remaining areas on the east coast which has been spared the effects of man's encroachment. It is a natural wonderland consisting of marshlands, beaches, upland meadows, and mixed hardwood forests. Cumberland will provide a great number of opportunities for those who will use it for its miles of beaches and for those who will simply appreciate it for its esthetic beauty.

By preserving this natural wilderness from destruction, we are providing a unique opportunity for the study and preservation of the various endangered species of animals represented on Cumberland Island, one of the most threatened being the loggerhead turtle which lays its eggs in Georgia's Golden Isles. In declaring Cumberland Island a national seashore we have spoken for Nature's creatures whose voices, more often than not, are drowned out by the rumbling gears of progress. We have spoken for the generations of Americans, yet unborn, who otherwise might never have had the chance to speak.

THE 92D CONGRESS, A CONGRESS OF TOUGH DECISIONS WHICH BROUGHT MAJOR ACHIEVEMENTS

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. JOHNSON of California. Mr. Speaker, with the final adjournment of the 92d Congress approaching, many of us pause to evaluate what has been accomplished. In this connection I was asked this morning by a newspaper reporter "What was the most important piece of legislation I had worked on during the 92d Congress? Which was the toughest vote I had to cast during these 2 years?"

Many of the bills which I sponsored were enacted into law. Bills included: Authorize financial assistance to local government policing our national forests; create a national historic site at the Abraham Lincoln homesite in Illinois; repeal authority to Federal agencies to operate detention camps; extend benefits to survivors of retired servicemen; establish wilderness areas in Lassen Volanic National Park and Lava Beds National Monument; protect wild horses and burros; extend marketing order to pears; expand cooperative forest management and fire protection; establish an urban environmental forestry program; extend and expand our water resources planning; continue our saline water conversion programs; offer relief to hospitals hit by natural disasters; extend the Small Reclamation Projects Act, extend rail passenger service program; establish the Seal Beach Refuge in southern California; expand rural development efforts; establish a reforestation fund; and require inspection of all dams throughout the Nation.

In addition to these public laws, all of which I authored or coauthored, we also have my Economic Development Act and accelerated public works program, once vetoed by the President and then extended last year and hopefully to be extended further today. And the Older American Act, which I coauthored, and I hope the Congress also will approve today before we go home.

On each of these bills of mine, I had an active role in their passage. But of all the bills, one is outstanding—the Water Pollution Control Act Amendments of 1972. This bill demanded more time, effort, concentration than any I have worked on in recent years. This included the most comprehensive consideration at Public Works Subcommittee and Committee levels and again in the floor consideration by the House of Representatives followed by 39 meetings of the House-Senate conferees on the act. To my knowledge, few bills have been more thoroughly considered than this one.

Additionally, the scope of this historic bill which I coauthored is tremendous.

In brief, the legislation sets a goal of achieving water quality in all our rivers, streams, and lakes suitable for recreation and fish and wildlife propagation by 1983 and 2 years later the elimination of all pollutants into our waterways. This indeed is an ambitious undertaking, but one which is long overdue. In order to get the work underway, this legislation authorizes the expenditures of $24.5 billion in the next 3 years, including $18 billion for grants to local agencies fighting the pollution battle.

Without question this is the most important piece of legislation I have worked on and I feel could well be the most significant legislation to be passed by the 92d Congress.

The "most difficult" votes I have had to cast in this Congress related to the war in Vietnam. As we all do, I have hoped and prayed for the day, which now appears coming, when a cease-fire could be accomplished, our prisoners of war released and all our forces removed from this troubled area of the world. Over the years, I have talked with and listened to and read the letters of literally thousands of people, all of whom share the common desire to end our involvement in Southeast Asia. The question has not been one of desire, but one of how to accomplish this long sought after goal.

In 1971, I joined in support of the Mansfield amendment to the Military Procurement Act of 1971—Public Law 92-156—which declared it to be the policy of the United States to terminate at the earliest practical date all military operations of the United States in Indochina and to provide for the prompt and orderly withdrawal of all U.S. military forces at a date certain, subject, of course, to the release of the POW's and accounting of those missing in action. The President signed the law, but indicated he would not be bound by this section of the law.

Since that time, other attempts have been made to force similar action. In most instances, these have related to cutting off the funds—in other words, stopping the war by refusing to finance it. As much as I support the idea of ending the war, I could not bring myself to vote to cut off the funds to provide weapons, material, and equipment for those American servicemen, Army, Navy, Marines, and Air Force, who have been kept in combat by their Commander in Chief. For this basic reason, I could not support these "end-the-war" amendments. This was personally the most difficult decision I had to make in this Congress.

Today there seems to be a glimmer of hope that a cease-fire may be attainable and all our troops, including the POW's, may be brought home. Let us all pray that this is true.

As the books close on the 92d Congress, there will be many evaluations of its success. Personally, I believe it to have been a hardworking Congress, one which faced tough decisions. But as a result of the thorough consideration of the issues, I believe we have achieved a solid record.

In addition to those which I sponsored, there were such things as revenue sharing, to ease the heavy burden on the local property taxpayer; more realistic social security and railroad retirement benefits, in spite of a Presidential veto in the latter case; improved farm credit programs; extended REA programs; expanded educational assistance, especially in the area of higher education and student loans; approval of agreements to limit strategic weapons; reform of congressional operations and campaign financing laws; extension and expansion of a host of health professions assistance programs; a variety of attacks on disease such as cancer, sickle cell anemia, arthritis, heart and related diseases, and drug abuse; expansion of the juvenile delinquency program; expansion of emergency employment and unemployment compensation programs; controls on wages and prices; additional help for small businesses; and expansion of some veterans benefits.

Top these off with an excellent record in conservation of natural resources and preservation of the environment and I think we have a record of which we can be justly proud.

Mr. Speaker, in conclusion may I, as I have at the end of each Congress in which I have served, publish here a recap of my complete voting record. As you will see, I have indicated my position on each issue, even on those few rollcall votes which I missed because of official business, so that my record is complete and available to all who are interested.

My stand	Issue	Status
For	Election of Carl Albert as Speaker of the House of Representatives	Albert elected.
Against	To delete funds for the SST	Approved.
Against	To cut off debate on the rules for the 92d Cong	Rejected.
For	To amend the House rules relative to the operation of the Rules Committee	Approved.
For	To adopt the rules of the House for the 92d Cong	Approved.
For	To halt debate and bring to a vote naming of House committee chairmen	Approved.
For	To authorize the House Internal Security Committee to release certain documents	Approved.
For	An amendment to prohibit increased interest rates on certain bonds	Approved.
For	To permit an increase in the national debt ceiling	Public Law 92–5.
For	To extend through Mar. 31, 1973, discretionary power of the President to impose wage and price ceilings	Public Law 94–15.
For	To extend interest equalization tax through Mar. 31, 1973	Public Law 92–9.
For	An amendment to increase social security benefits by 10 percent	Approved.
For	To approve additional funds for unemployment compensation	Public Law 92–4.
For	To approve funds for Department of Transportation programs in fiscal year 1971	Public Law 92–7-
For	To permit the 18-year-old vote	Approved.
For	To debate extension and expansion of REA telephone bank program	Approved.
For	To approve REA telephone bank program	Public Law 92–12.
For	To consider extension until March 1973 of presidential price and wage control authority	Approved.

My stand	Issue	Status
For	To require that price and wage controls not be imposed against only a small segment of the economy	Public Law 92–8.
Against	An amendment to halt inductions on June 30, 1972	Rejected.
Against	An amendment to end the draft July 1, 1972	Rejected.
Against	An amendment to continue at 2 years the term for alternative service for conscientious objectors	Rejected.
Against	An amendment to exempt draftees from Indochina service effective Dec. 31, 1971	Rejected.
Against	An amendment to prohibit use of draftees in an undeclared war	Rejected.
Against	An amendment to extend the draft for 18 months in lieu of 24 months	Rejected.
For	To extend the draft for 2 years and increase military pay	Public Law 92–129.
For	To begin debate on a feed grain proposal	Approved.
For	A motion to block corn subsidies for midwest sugar beet growers who had not grown corn	Approved.
For	An amendment to provide more adequate Federal aid to education	Rejected.
For	An amendment to strike out prohibition against forced busing	Rejected.
For	To make education appropriations for next fiscal year	Public Law 92–48.
For	To allow aliens 50 years of age or older to become citizens if they have lived in the United States for 20 years or more	Passed House.
For	To authorize a national maritime program	Public Law 92–53.
Against	A motion to kill the public works program	Rejected.
Against	A motion to recommit the bill to eliminate the District of Columbia Canine Corps	Rejected.
For	To reduce the number of retail liquor licenses in the District of Columbia	Died in House.
For	To grant a 10-percent increase for railroad retirees	Public Law 92–46.
For	To authorize expanded program for the Committee on Internal Security	Approved.
For	To extend the President's authority to reorganize the executive branch	Public Law 92–179.
For	To authorize Postal Service to execute passport applications and collect fee	Public Law 92–14.
For	To wish Harry S. Truman a happy birthday	Approved.
For	To extend Small Business Administration programs	Public Law 92–16.
For	To grant additional investigative authority to the Committee on Education and Labor	Rejected.
For	To stiffen penalties for assaults on District of Columbia firemen	Public Law 92–92.
Against	An amendment to increase District of Columbia subway funds prior to completion of total transportation package	Rejected.
For	To continue funding for the SST	Approved.
For	To continue the Commission on Civil Rights	Public Law 92–64.
For	To provide a school lunch for needy children	Public Law 92–32.
For	To establish a national environmental data system	Before President.
For	To provide criminal penalies for shooting of specified birds, fish, and other animals from aircraft	Public Law 92–159.
Against	An amendment to reduce drastically the Federal community relations program	Rejected.
For	Departments of State, Justice, and Commerce appropriations for fiscal year 1973	Public Law 92–77.
For	To appropriate funds for Treasury Department, Post Office, and Executive Office	Public Law 92–49.
For	To appropriate funds for the Forest Service and Department of Interior agencies	Public Law 92–76.
For	To table a request for the text of the "United States-Vietnam Relationships, 1945–67"	Tabled.
Against	An amendment to eliminate welfare reforms from the Social Security Act	Rejected.
For	To approve the social security and welfare reform programs	In conference.
Against	An amendment to appropriate $11,600,000 for international labor organizations	Rejected.
For	An amendment to remove embargo on importation of chrome ore from Rhodesia	Approved.
For	To approve the Military Construction Authorization Act	Public Law 92–156.
For	To expand investigative authorities for the Education and Labor Committee	Approved.
For	To extend student loan and scholarship programs under Public Health Service Act	Public Law 92–52.
For	To implement an international agreement on the protection of industrial property	Public Law 92–358.
For	To establish an American Revolution Bicentennial Commission	Public Law 92–33.
For	To authorize Federal assistance to local and State law enforcement agencies within the national forests lands	Public Law 92–82.
Against	An amendment to reduce military research and development programs	Rejected.
Against	An amendment to prohibit the expenditures after Jan. 2, 1972, of funds for purchase of new equipment for Southeast Asia	Rejected.
For	To extend the Sugar Act of 1948	Public Law 92–138.
For	To provide for payment of medical services for the totally disabled firemen and policemen in the District of Columbia	Public Law 92–121.
For	To extend the Appalachian Regional Development Act of 1965	Vetoed.
Against	An amendment to limit the ABM funding programs at Grand Forks and Malmstrom AFB	Rejected.
Against	An amendment to strike out funds for development of a new B-1 manned bomber	Rejected.
For	To expand Federal procurement programs to include commodities produced by severely handicapped individuals	Public Law 92–28.
For	To remove restrictions now in effect against domestic wines	Public Law 92–42.
For	To continue National Science Foundation programs	Public Law 92–86.
For	To extend the International Coffee Agreement Act	Public Law 92–262.
For	To establish a Micronesian Claims Commission	Public Law 92–39.
For	To continue the National Aeronautics and Space Administration programs	Public Law 92–68.
For	To appropriate funds for the legislative branch of the Government	Public Law 92–51.
Against	To prohibit strikes or lockouts in earlier railway labor disputes	Public Law 92–17.
Against	To disapprove executive reorganization	Rejected.
Against	To establish another committee to investigate energy resources of the United States already under study by existing House committees	Rejected.
For	To establish a National Advisory Committee on Oceans and Atmosphere	Public Law 92–125.
For	An amendment to eliminate $3,000,000 for counseling services for the Federal Housing Administration	Rejected.
For	To authorize Emergency Employment Act	Public Law 92–54.
For	To provide increase manpower to health professions	Public Law 92–157.
For	To expand nurses training programs	Public Law 92–158.
For	To require the Department of State to provide information relative to U.S. operations in Laos	Tabled.
For	To exclude from the mail certain obscene matter	Passed House.
For	An amendment to prohibit Eximbank from financing exports to Communist countries	Approved.
Against	An amendment to eliminate exemptions relative to Eximbank receipts and disbursements as they relate to the U.S. budget	Rejected.
For	To expand and extend desalting programs by the Federal Government	Public Law 92–60.
For	To provide administrative assistant to the Chief Justice of the United States	Public Law 92–238.
Against	To return to committee contempt citation against Frank Stanton and CBS	Approved.
Against	An amendment to eliminate funds for a national waste facility in Kansas	Rejected.
For	An amendment to authorize a treatment and rehabilitation program for servicemen and veterans suffering from drug abuse	Passed Senate.
For	To authorize Veterans' Administration to assist in establishing new State medical schools and improve existing facilities	Approved.
Against	A motion to recommit proposals relating to motorbus sizes (passed House)	Rejected.
For	To authorize construction at military installations	Public Law 92–145.
For	To approve agriculture appropriations	Public Law 92–73.
Against	An amendment to add unsought funds for various health programs	Rejected.
Against	An amendment to add unsought funds for various vocational rehabilitation programs	Approved.
For	An amendment to add funds for child welfare services	Rejected.
For	To approve Departments of Labor and Health, Education, and Welfare appropriations	Public Law 92–80.
For	To extend public works and economic development programs	Public Law 92–65.
For	To appropriate funds for the Departments of Housing and Urban Development and Veterans' Administration	Public Law 92–78.
For	To appropriate funds for the Department of Transportation	Public Law 92–74.
Against	An amendment to forbid Federal expenditures for testing of nuclear weapons in the Aleutian Islands	Rejected.
Against	An amendment to eliminate funds for study of the Dickey Lincoln project in Maine	Approved
For	To make public works appropriations including the 2d district flood control and reclamation programs	Public Law 92–134
Against	An amendment to require that emergency loan guarantees to major businesses be augmented by private lending institutions	Rejected.
For	To authorize emergency loan guarantees to major businesses	Public Law 92–70.
For	To require the Secretary of Health, Education, and Welfare to provide certain documents to the House of Representatives	Approved.
For	To provide equal treatment for married female Federal employees	Public Law 92–187.
For	To urge the continued operation of Public Health Service hospitals and clinics	Approved.
For	To authorize continued expenditures by Federal agencies until mid-October	Public Law 92–71.
For	To extend the foreign assistance program on a reduced basis	Died in Senate.
Against	An amendment to permit distribution of Emergency Employment Act funds solely on unemployment figures	Rejected.
For	An amendment to restrict the use of Emergency Employment Act funds	Rejected.
For	To appropriate funds for the Emergency Employment Act	Public Law 92–72.
For	To approve the Export Expansion Finance Act of 1971	Public Law 92–126.
For	To regulate dumping of waste materials into oceans, coastal and other waters	Through conference.
Against	An amendment to permit imprisonment of American citizens under the provisions of the Emergency Detention Act	Rejected.

My stand	Issue	Status
For	To prohibit establishment of emergency detention camps, such as those in which Japanese were interned during World War II	Public Law 92-128.
Against	An amendment to substitute court enforcement powers for administrative enforcement authority under the Equal Employment Opportunity Act	Approved.
For	To promote equal employment opportunities for American workers	Public Law 92-261.
Against	An amendment to cut Peace Corps appropriations	Rejected.
For	An amendment to broaden comprehensive child development program under the Economic Opportunity Act	Approved.
Against	An amendment to complicate administration of the comprehensive child development program by mixing it with other day-care operations	Rejected.
For	An amendment to insure adequate funding of the Economic Opportunity programs in U.S. territorial areas	Approved.
Against	An amendment to eliminate legal services provisions from the Economic Opportunity Act	Rejected.
Against	An amendment to make the Economic Opportunity Act day care provisions conform with still not approved Family Assistance Act	Approved.
For	To continue the Economic Opportunity Act programs	Vetoed.
For	To disapprove the President's order delaying pay adjustments to place Federal employees on comparable basis with private enterprises	Rejected.
For	To call for humane treatment and release of all U.S. prisoners of war	Approved.
For	To provide temporary insurance for Federal credit union accounts	Public Law 92-221.
For	To provide better personnel, working, and training conditions for air traffic controllers	Public Law 92-267.
For	To appropriate funds for unemployment compensation	Public Law 92-141.
Against	An amendment to weaken the equal rights for men and women constitutional amendment language	Rejected.
For	Constitutional amendment to improve equal rights for men and women	Approved.
Against	An amendment to limit the Consumer Protection Agency's intervention in agency and courts proceedings to an advisory status	Rejected.
For	To approve the Consumer Protection Act of 1971	Passed House.
For	To assure that every needy school child will receive a free or reduced price lunch	Public Law 92-153.
For	To expand the authority of the Secretary of Agriculture to work with other countries to retard the spread of communicable diseases in animals	Public Law 92-152.
For	To extend the safety of ports, harbors, waterfront areas and navigable waters of the United States	Public Law 92-340.
Against	An amendment to prohibit a vote on the Mansfield amendment to the Military Procurement Authorization Act	Approved.
Against	An amendment to modify the Alaskan Native land claims proposal	Rejected.
For	To provide settlement of certain land claims of Alaskan Natives	Public Law 92-203.
For	To establish a survivor benefit plan for widows and children of retired military service career personnel	Public Law 92-425.
For	To permit Guam and Virgin Islands to be represented in the House of Representatives	Public Law 92-271.
For	To appropriate funds for military construction	Public Law 92-160.
For	To adopt the Emergency School Aid Act	Rejected.
For	To provide rehabilitation of drug users now confined in jails	Passed Senate amended.
For	To permit the temporary transfer of Federal judges from one district to another	Public Law 92-239.
For	To extend the Narcotic Addict Rehabilitation Act	Public Law 92-420.
For	To extend the Small Reclamation Projects Act	Public Law 92-167.
For	To adopt the Farm Credit Act of 1972	Public Law 92-181.
For	To establish a uniformed services university of the health sciences	Public Law 92-426.
Against	An amendment to eliminate general assistance for higher education	Rejected.
Against	An amendment to change the system of distributing educational opportunity grants	Rejected.
Against	An amendment to terminate the International Education Act	Rejected.
For	An amendment to require institutions of higher education to perform greater maintenance of effort	Approved.
Against	An amendment to terminate higher education funds under certain conditions	Rejected.
For	An amendment to eliminate political intern programs	Approved.
For	To establish a National Institute of Education	Approved.
For	An amendment to eliminate requirements that schools provide specific curriculum	Approved.
Against	An amendment to call for a study of Federal youth camp safety standards rather than on establishing the standards at this time	Approved.
For	An amendment to require the postponement of any busing district court order until the case has been reviewed by the Supreme Court	Approved.
For	An amendment to prevent Federal agencies from forcing States to expend State or local money for purposes for which Federal funds cannot be spent	Approved.
For	An amendment to prevent the use of Federal funds for busing of students or teachers to overcome racial imbalance	Approved.
For	An amendment to exempt men's and women's colleges from prohibition of sex discrimination language	Approved.
For	To approve the Higher Education Act	Public Law 92-318.
Against	To modify the 1st amendment to the Constitution	Rejected.
Against	An amendment to broaden the judicial review provisions in the Pesticide Act	Rejected.
Against	An amendment to forbid compensation of producers for pesticides removed from market	Rejected.
For	To approve the Federal Pesticide Act	Before President.
Against	An amendment to lessen disability payments for miners suffering from black lung disease	Rejected.
For	To extend black lung disease benefits to orphans	Public Law 92-303.
Against	An amendment to cut off all defense funds after Nov. 15 (Public Law 92-162)	Rejected.
Against	An amendment to reduce Federal payment to the District of Columbia	Rejected.
For	To meet Federal financial responsibilities to the District of Columbia	Public Law 92-196.
For	To enact Conquest of Cancer Act	Public Law 92-218.
For	To authorize payment of dues in International Criminal Police Organization	Public Law 92-380.
For	To extend duration of copyright protection	Public Law 92-170.
For	To liberalize veterans disability and death pensions	Public Law 92-198.
For	To liberalize veterans dependence and indemnity compensation	Public Law 92-197.
For	To provide equitable tax treatment for firms whose lands were taken from them for the Redwood National Park	Died in House.
Against	An amendment to halt the development of the F-14 aircraft	Rejected.
Against	An amendment to prevent payment of certain active duty military	Rejected.
Against	An amendment to deny our combat forces in Southeast Asia the equipment with which to defend themselves after June 1, 1972	Rejected.
Against	An amendment to cut by 5 percent the funds needed by our forces in Southeast Asia to defend themselves	Rejected.
For	To appropriate funds for the Department of Defense during the current fiscal year	Public Law 92-204.
For	To fund those Federal agencies on an interim basis where regular appropriations have not been approved	Approved.
For	To provide assistance to Radio Free Europe	Public Law 92-264.
Against	An amendment to weaken campaign reform legislation	Rejected.
Against	An amendment to set charges which may be made by broadcasting stations during campaigns	Rejected.
For	An amendment to prevent unions from using dues paid involuntarily for political activities	Approved.
For	An amendment to change the present responsibilities for reporting of campaign expenditures	Approved.
For	To limit campaign expenditures in Federal elections	Public Law 92-225.
For	To authorize the sale of certain passenger vessels	Public Law 92-296.
For	An amendment to appropriate funds for the operation of District of Columbia	Approved.
Against	An amendment to add funds to the District of Columbia appropriations which would result in an unbalanced transportation system	Approved.
For	To appropriate emergency funds for a variety of projects and programs including public works construction in the 2d district	Public Law 92-184.
For	To authorize a loan of naval vessels to friendly countries	Public Law 92-270.
For	To authorize additional expenditures for the International Aeronautical Exposition to be held in Washington	Public Law 92-252.
For	To establish an institute for continuing studies of juvenile justice	Passed House.
For	To extend the National Flood Insurance Act of 1968	Public Law 92-213.
For	To include the U.S. Postal Service property in the impacted areas school assistance program	Public Law 92-277.
For	To establish a marine mammal commission	Before President.
Against	An amendment to add $50,000,000 to the U.S. contributions to the U.N	Rejected.
For	To fund the foreign aid program for the current fiscal year	Public Law 92-242.
For	To approve the Strategic Storable Agricultural Commodities Act	Passed House.
For	To approve the Tax Reform Act of 1971	Public Law 92-178.
Against	An amendment to restrict the retroactive pay provisions under the Economic Stabilization Act extensions	Approved.
Against	An amendment to provide special tax treatment for certain pension and other retirement plans	Rejected.
For	To approve the Economic Stabilization Act extension	Public Law 92-210.
For	To authorize grants and loans for modernization of District of Columbia hospitals	Died in House.
For	To broaden the Social Security Act	Public Law 92-224.
For	To fund until next year agencies for which regular appropriations have not been approved	Public Law 92-201.
For	To authorize the basic foreign aid program	Public Law 92-226.
For	To establish the Sawtooth National Recreation Area in Idaho	Public Law 92-400.
For	To increase appropriation ceiling for national park facilities	Public Law 92-272.
For	To permit payment of Inter-American Development Bank obligations	Public Law 92-246.
For	To authorize U.S. participation in a special fund of the Asian Development Bank	Public Law 92-245.
Against	An amendment to provide for International Development Association participation at a reduced figure	Rejected.
For	To increase the International Development Bank by 100 percent	Public Law 92-247.
For	To authorize metals commemorating the bicentennial of the American Revolution	Public Law 92-228.
For	An amendment to provide needed additional judgeships in the State of Lousiana	Approved.
For	An amendment to permit the Veterans' Administration drug abuse programs to be independent of the new Drug Abuse Office	Rejected.
For	To establish a special drug abuse prevention agency	Public Law 92-255.
For	To establish an American Revolution Bicentennial Commission	Public Law 92-236.
For	To provide low-cost healthy meals for elderly people	Public Law 92-258.

My stand	Issue	Status
For	To establish an environmental center in Pennsylvania	Public Law 92-326.
For	To strengthen penalties for killing bald eagles	Reported in Senate.
For	To extend until June 30, existing Federal water pollution control programs	Public Law 92-240.
For	To establish a Select Committee on Privacy, Human Values and Democratic Institutions	Rejected.
For	To establish an Office of Technology to assist Congress in identification of technological impacts upon the Nation	Through conference.
For	To provide a temporary increase in the public debt limit	Public Law 92-250.
Against	To force compulsory arbitration between Pacific Coast shippers and employees	Public Law 92-235.
Against	An amendment to reduce the economic opportunity program	Rejected.
For	To provide for an improved economic opportunity programs	Public Law 92-424.
Against	An amendment to limit economic and other programs for the benefit of rural America	Rejected.
For	To approve the Rural Development Act	Public Law 92-419.
For	To restrict the noises detrimental to the environment	Passed House.
For	To fund the Committee on Internal Security	Approved.
For	To fund the Committee on Education and Labor	Approved.
For	To expedite research and development of high speed ground transportation	Public Law 92-348.
For	To improve Federal juror qualifications	Passed Senate.
For	To increase GI bill educational benefits	Passed Senate amended.
For	To improve witness regulations in the District of Columbia courts	Passed House.
For	To approve supplemental appropriations including an emergency forest fire prevention fund	Public Law 92-256.
Against	An amendment to limit the salaries paid Amtrak officials	Approved.
For	To provide Federal financial assistance to Amtrak for purchasing new equipment	Public Law 92-316.
For	To improve vocational rehabilitation programs	Passed House.
For	To authorize participation in the International Conference on Private Law	Passed Senate amended.
For	To increase the par value of the dollar	Public Law 92-268.
For	To authorize a sickle cell anemia prevention program	Public Law 92-294.
For	To fund legislative appropriations for this current year	Public Law 92-342.
Against	An amendment to modify the 1981 industrial requirements relative to treatment of industrial wastes	Rejected.
Against	An amendment to provide EPA vetoes which would hurt effective California water pollution control programs	Rejected.
Against	An amendment to require private firms to pay municipal treatment system user charges in addition to their fair share of taxes levied for sewer treatment plants.	Rejected.
Against	An amendment to establish an additional waste discharge permit system	Rejected.
Against	An amendment to eliminate the contract authority provisions for an $18,000,000,000 waste treatment grant programs	Rejected.
Against	An amendment to provide public hearings for employees of industries moving because of waste discharge limitations	Approved.
Against	An amendment to encourage use of spray irrigation in recycling of waste	Approved.
Against	An amendment to give the States the right to control discharges from vessels in coastal waters	Approved.
For	To approve the Federal Water Pollution Control Act Amendments of 1972	Before President.
For	To tighten cruise ship regulations under the Merchant Marine Act	Public Law 92-323.
For	To fund maritime programs at the Department of Commerce	Public Law 92-402.
For	To authorize the purchase of ships and aircraft for the Coast Guard	Public Law 92-343.
For	To extend the Arms Control and Disarmament Act	Passed House.
For	To seek relief for Soviet jews	Passed House.
For	To provide interim licensing for certain already constructed thermoelectric generating plants	Passed House.
Against	An amendment to interfere with the development of a specific facility desired by the Postal Service	Approved.
For	To authorize development and maintenance of various public buildings	Public Law 92-313.
For	To continue the National Aeronautics and Space Administration	Public Law 92-304.
For	To fund the National Science Foundation	Public Law 92-372.
For	A motion to table a request to make public certain defense information relative to Indochina	Tabled.
For	An amendment to appropriate supplemental funds for the current fiscal year	Approved.
For	An amendment to improve Postal Service employees health benefits program	Approved.
For	To improve health benefit programs for other Federal employees	In conference.
For	To continue treatment for narcotic addicts released from prison	Public Law 92-293.
For	To extend a commission on civil rights for 5 years	Before Senate.
For	To convey public lands to the University of Tennessee	Before President.
For	To establish a National Institute of Arthritis, Metabolism and Digestive Diseases	Public Law 92-305.
For	To accelerate national reforestation programs	Public Law 92-241.
For	To meet our commitment to international financial institutions	Public Law 92-301.
Against	To subsidize District of Columbia bus system	Died in House.
For	To reect a memorial to the Navy Seabees	Public Law 92-422.
For	To make the appointment of Federal advisory committee more systematic and efficient	Public Law 92-463.
Against	An amendment to weaken the minimum wage proposals	Approved.
For	An amendment to require overtime pay for transit employees working over 44 hours a week	Rejected.
For	An amendment to require minimum wage rates being paid to young teenagers	Rejected.
For	To approve the Fair Labor Standards amendments	Passed Senate amended.
For	To establish a commission to seek more efficiency in the Federal courts	Before President.
For	To design a memorial to Franklin Delano Roosevelt	Public Law 92-332.
For	To approve supplemental appropriations for fiscal year 1972	Public Law 92-306.
For	To authorize State Department and USIA appropriations	Public Law 92-352.
For	An amendment to add $25,100,000 for the United Nations	Rejected.
For	An amendment to provide increased salaries for Bureau of Prisons officials	Approved.
For	An amendment to fund an expanded Federal probation program	Rejected.
Against	An amendment to eliminate Subversive Activities Control Board funds	Rejected.
For	An amendment to cut off salaries of Federal employees refusing to testify before Congress	Rejected.
For	An amendment to restrict the use of wiretaps	Rejected.
For	To establish mining and minerals research centers	Before Senate.
For	To promote competition among automobile manufacturers to design safer vehicles	Before President.
For	To appropriate funds for housing, space and veterans programs	Public Law 92-383.
For	To appropriate funds for the Department of Transportation	Public Law 92-398.
For	To modify the Subversive Control Act	Passed House.
Against	An amendment to limit firms which may receive grants from the Public Broadcasting Corp	Rejected.
Against	An amendment to reduce the Public Broadcasting Corp programs	Rejected.
Against	An amendment to prevent the Public Broadcasting Corp from tak ng public opinion surveys	Approved.
Against	An amendment to withhold funds for fiscal 1973, until an audit is made of fiscal 1972 appropriations	Rejected.
For	To approve the Public Broadcasting Act of 1972	Vetoed.
For	To appoint delegates to the international labor organizations conference	Approved.
For	To establish a national cemeteries system within the Veterans' Administration	Passed Senate amended.
For	To establish the Seal Beach National Wildlife Refuge	Public Law 92-408.
For	To prohibit the shooting of birds, fish, and animals from aircraft	Passed Senate.
For	To expand the Water Resources Planning Act	Public Law 92-396.
For	To appropriate funds for the District of Columbia	Public Law 92-344.
For	To continue the atomic energy program	Public Law 92-314.
For	To increase the small business loan ceiling	Public Law 92-320.
For	To authorize a drug rehabilitation program for GI's	Passed House.
For	To appropriate funds for Forest Service and Department of Interior agencies	Public Law 92-369.
Against	An amendment to reduce Occupational Safety and Health Administration appropriation by $20,000,000	Rejected.
Against	An amendment to exempt firms employing 25 persons or less for the provisions of the Occupational Safety and Health Act	Approved.
For	An amendment to authorize $364,000,000 for OSHA education programs	Approved.
For	An amendment to add $15,000,000 for bilingual programs	Rejected.
Against	An amendment to cut all Occupational Safety and Health Administrations by 5 percent	Rejected.
For	To appropriate funds for the Departments of Health, Education, and Welfare and Labor	Vetoed.
For	To strengthen the American Revolution Bicentennial Commission program	Died in House.
For	To make grants for specially adapted housing for disabled veterans	Public Law 92-341.
Against	A motion to recommit the revenue-sharing bill and eliminate the retroactive provision	Rejected.
For	To authorize the program of revenue sharing with State and local agencies	Before President.
For	An amendment to reduce funds for the Office of Telecommunications Policy	Rejected.
Against	An amendment to cut funds for the Commission on Executive, Legislative and Judicial Salaries	Rejected.
Against	An amendment to arbitrarily reduce the President's staff	Rejected.
Against	An amendment to prohibit the use of chauffeur-driven automobiles	Rejected.
For	To appropriate funds for the Department of Treasury, Postal Service, and Executive Office of the President	Public Law 92-351.
For	To guarantee District of Columbia subway funds	Public Law 92-349.
Against	An amendment to cut $350,000,000 from Safeguard programs	Rejected.

My stand	Issue	Status
Against	An amendment to delete $450,000,000 from aircraft development	Rejected.
Against	An amendment to prohibit the development of an ABM site near Washington, D.C	Rejected.
Against	Amendment to cut off funds effective Sept. 1, from our military personnel in Southeast Asia	Rejected.
For	To authorize the procurement of Military ships, aircraft, and other equipment	Public Law 92-436.
For	An amendment to provide for a 20 percent increase in social security benefits	Approved.
For	To extend for 4 months the temporary limits on the public debt	Public Law 92-336.
For	To provide a 6-month extension of emergency unemployment compensation program	Public Law 92-329.
Against	An amendment to prohibit the issuance of food stamps to families in need because of a labor dispute	Rejected.
For	To appropriate funds for the Department of Agriculture and environmental and consumer protection programs	Public Law 92-399.
For	A motion to permit debate of a bill to aid farmers whose domestic animals are killed by predator animals	Rejected.
For	To reduce interest rates on small business disaster loans	Public Law 92-385.
For	To make emergency appropriations for disaster relief	Public Law 92-337.
For	To assist schools and community agencies to prevent juvenile delinquency	Public Law 92-381.
For	To strengthen and improve the Older American Act	Before House.
Against	To restrict the use of certain materials in the control of predatory animals	Passed House.
For	To speed up the national attack on heart and related diseases	Public Law 92-423.
For	To provide assistance in the control and prevention of communicable diseases	Public Law 92-449.
For	To establish a National Institute of Aging	In conference.
Against	An amendment to restrict the implementation of a new water and sewer construction project	Approved.
For	To approve a new water and sewer program providing for 100 percent financing of local project	Died in House.
For	To authorize construction at military installations	Before President.
For	A motion to recommit the bill to provide a retroactive pay increase for District of Columbia policemen	Rejected.
For	To indemnify any farmers and others who suffered losses from the ban on cyclamates	Passed House.
For	To authorize temporary increase in the Air Force grade structure	Before President.
Against	An amendment to restrict architectural design work to competitive bidding	Rejected.
For	To permit use of surplus Liberty ships for fishery conservation	Passed House.
For	To extend the Merchant Marine Act	Public Law 92-374.
For	To designate appellate court libraries as depositaries	Public Law 92-368.
For	To authorize a Cooley's anemia research program	Public Law 92-414.
Against	An amendment to permit the Secretary of Interior to manage resources on coastal zones	Approved.
For	To establish a national policy on management of coastal zones	Before President.
For	An amendment to extend the Export Administration Act	Approved.
For	An amendment to remove the President's authority to control exports of cattle hides	Approved.
For	To approve the Export Opportunity Act	Public Law 92-412.
For	To provide annuities to widows of Supreme Court Justices	Public Law 92-397.
For	To extend protection for foreign officials	Before President.
For	To extend the U.S. Information and Education Exchange Act	Public Law 92-394.
For	To expand the Uniform Relocation Assistance and Real Property Act	In conference.
Against	An amendment to increase employee contributions under the railroad retirement system	Rejected.
For	To provide a 20-percent increase in railroad retirement	Public Law 92-460.
Against	An amendment to eliminate aid to Brazil	Rejected.
Against	An amendment to change effective date in U.S. withdrawal resolution	Rejected.
For	An amendment to strike language which could not be implemented calling for Oct. 1 withdrawal from Indochina	Approved.
Against	An amendment to refuse to restore the President's authority relative to chrome import	Approved.
For	To extend Foreign Assistance Act	In conference.
For	To establish rules concerning the use of armed forces in the absence of a declaration of war	In conference.
For	To appropriate funds for disaster relief	Public Law 92-393.
For	To appropriate funds for continued operation of Federal agencies	Public Law 92-390.
For	To continue the Corporation for Public Broadcasting programs	Public Law 92-411.
Against	An amendment to reduce unemployment benefits	Rejected.
Against	An amendment to eliminate unemployment benefits for those who lost their jobs due to environmental orders	Rejected.
For	To extend Public Works and Economic Development Act	Passed Senate amended.
For	A motion to override the President's veto of Labor-HEW appropriations	Veto sustained.
For	An amendment to establish neighborhoods as the appropriate basis for determining school assignments	Approved.
For	An amendment to allow court orders and desegregation plans be reevaluated and modified accordance with the Equal Education Opportunity Act	Approved.
Against	An amendment to legislatively declare the constitutionality of the Equal Education Opportunity Act	Rejected.
Against	An amendment to approve the freedom of transfer provision	Rejected.
For	To approve the Equal Education Opportunity Act	On Senate calendar.
For	To approve the Strategic Arms Limitation Treaty interim agreement	Public Law 92-448.
For	To express great concern over the tragic killing of the Olympic athletes	Approved.
For	To establish a research, education and promotion program for wheat and wheat product	Rejected.
For	A motion to recommit the bill to convey certain Federal lands to the city of Alexandria, Va	Recommitted.
Against	To reject a bill prohibiting the employment of aliens not legally in this country	Rejected.
For	To authorize procurement of military equipment	Public Law 92-436.
For	To approve the Child Nutrition Act	Public Law 92-433.
For	An amendment to authorize the use of civilians for KP duty on military bases	Approved.
Against	An amendment which would seek to terminate U.S. involvement in Indochina	Rejected.
Against	An amendment to cut arbitrarily defense spending to levels 5 percent below expenditures for last year	Rejected.
For	To appropriate funds for the Department of Defense	Before President.
Against	An amendment to provide certain exemptions from the Occupational Safety and Health Act	Approved.
For	An amendment to fund a bilingual education program	Rejected.
For	To appropriate funds for the Departments of Labor and Health, Education, and Welfare	In conference.
For	To provide consumer protection against unreasonable hazards	In conference.
For	An amendment to prohibit the use of foreign aid funds to insure foreign investments	Rejected.
For	To approve the foreign aid program	In conference.
For	To authorize the President to approve an interim agreement between the United States and U.S.S.R. with respect to limitation of strategic offensive arms	Approved.
For	To establish the Gateway National Seashore	Before Senate.
For	To authorize the Secretary of the Interior to construct various Federal reclamation projects	Before President.
For	To restrict travel of U.S. citizens to hostile countries	Died in House.
For	To approve the Antihijacking Act of 1972	Through conference.
For	To approve the Emergency Medical Services Act	Passed House.
Against	To prohibit construction of a civic center without the approval of House and Senate committees	Approved.
For	To provide for the construction of the Eisenhower Memorial Bicentennial Civic Center	Passed House amended.
Against	To reject Federal participation in meat inspection costs	Died in House.
Against	An amendment to prohibit judicial review of the construction of the Three Sisters Bridge in Virginia	Rejected.
For	To approve the Federal Aid Highway Act	In conference.
Against	To provide for a temporary increase in the public debt limit	Reported in Senate.
For	To insist on provision which forbids salaries for Federal employees who inspect firms employing 15 or less employees for compliance with the Occupational Safety and Health Act.	Before Senate.
For	To revise the special pay structure for members of the armed services	Passed House.

DEPARTURE OF THE DISTINGUISHED REPRESENTATIVE ALTON LENNON

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. HÉBERT. Mr. Speaker, it is a very special pleasure for me to have an opportunity to participate in paying farewell tribute to one of the great gentlemen in the House of Representatives, ALTON LENNON, of North Carolina.

Very few men who have ever walked the aisles of this Chamber have more appropriately combined the virtues of unshakable integrity, unrelenting hard work, and unfailing courtesy.

ALTON LENNON leaves us of his own volition after 16 years in the House of Representatives. At a time when politicians more and more seem to be, like the lines from Oscar Wilde, capable of "bending with every passion till the soul is like a reed on which all winds can play," it is regrettable indeed to lose from this House one of ALTON LENNON's steadfastness. I am sure that his constituents feel that same regret at his departure from the public service which is felt by all of us here in the House.

A graduate of Wake Forest College, ALTON LENNON began his public service as a judge and later served in the North Carolina General Assembly, before coming to Washington in 1953 to fill an interim appointment to the U.S. Senate. He was first elected to the House in the 85th Congress and has been reelected in every Congress since, and it is a mark of his esteem among the people of the Seventh District of North Carolina that he seldom had serious opposition and sometimes none at all.

On the Committee on Armed Services we came early to learn that we could depend on ALTON LENNON as a man of principle. His first criterion was always what is in the best interest of all of the people in the United States, a man who could be given the tough assignments because he was not likely to bend under enormous political pressure. On our investigating subcommittee his tremendous knowledge of the law and his incisive mind made him a particularly effective member. No one in my time was more thorough in interrogating witnesses in difficult investigations and his unfailing courtesy of manner was such that often the witness was still smiling after the harpoon had gone in.

ALTON LENNON is properly regarded in especially high esteem by enlisted members of our Armed Forces. He chaired an extraordinarily difficult and lengthy hearing in the 90th Congress into the enlisted promotion procedures of the Armed Forces which brought about sweeping changes in the promotion process, resulting in a much more fair and understandable system and resulting also in great improvement in the morale of our Armed Forces.

When I had to pick a subcommittee to look into the difficult question of military retired-pay revisions, I naturally turned to ALTON LENNON and asked him to serve.

I can name numerous other instances where his service was simply invaluable to the Committee on Armed Services. I am aware that at the same time he was chairing a permanent subcommittee of the Merchant Marine and Fisheries Committee and was carrying a workload which was simply back breaking.

But there is something more beyond the solution of hard and knotty problems that ALTON LENNON has contributed not just to this Congress but to the American political scene that I would like to take note of. Rousseau said:

> Those who would treat politics and morality apart will never understand the one or the other.

ALTON LENNON was always conscious that the questions you address in the public service are essentially moral questions and he never allowed the vicissitudes of politics to change the firmness of his moral conviction. He had the faith in the people to believe that if the true facts were explained to them properly they could accept the right answer and that this is the true function of a politician—not to pander to public wants.

I think in the future when we think back on ALTON LENNON we will remember him in the words of the poet Robert Hillyer,

"We whom life changes with its every
  whim
Remember now his steadfastness. In
  him
Was a perfection, an unconscious
  grace,"

Perhaps the outstanding contribution of his public service is what he has contributed to the image of the politician. By the steadfastness of his position and by the manner in which he has conducted himself he has truly graced the House of Representatives with his presence and we shall be the lesser for his parting.

A BILL TO FREE FEDERAL EMPLOYEE RETIREMENT ANNUITIES FROM INCOME TAXATION—H.R. 17069

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. BEGICH. Mr. Speaker, earlier this week, I introduced H.R. 17069, which would exclude from gross income under the income tax provisions, all amounts received as annuities under the Civil Service Retirement Act. More important than the specifics of the bill itself is its objective, which is to make Federal employee retirement annuities more meaningful.

According to the American Federation of Government Employees, which represents 650,000 active employees, there are 662,223 retired civil service employees and 296,606 survivors. These figures are as of June 30, 1970.

The following table shows there are 240,069 annuitants, most with spouses and 256,164 survivors drawing less than $2,500 per annum. These people, under present laws, pay no taxes on their annuities.

However, there are 422,154 annuitants, most of them with spouses, who receive no tax credits beyond $2,500. Most of these people had to reduce their annuities to provide survivorship to their spouses.

The table shows that more than half of all annuitants and survivors receive less than $2,500 per year; another 38 percent receive between $2,500 and $5,000; and about 10 percent receive annuities over $5,000 per year.

The railroad retirement system allows, as a minimum tax-free annuity, $6,716.40 per year or $408 monthly and the spouse $151.70.

It seems only equitable, pending a full reform of the entire system, that the Nation should allow retired civil servants tax exemptions on all annuities, in order to balance their retired incomes against other similar groups.

My bill is designed to do this and I introduce it now, so that it might be discussed along with other bills having similar objectives. As you know, my bill states its exclusion in the most generous terms for the civil service annuitant, but other approaches have been introduced. These include the exclusion from gross income of all annuities up to a limit of $3,000, $4,000, or $5,000 per year. I look forward to a discussion of the relative merits of the different approaches.

For my own part, I will continue to seek a fair way to accomplish this objective. I hope you will consider the following table, which indicates the magnitude of the program being considered:

TABLE A-9.—NUMBER OF EMPLOYEE ANNUITANTS AND SURVIVOR ANNUITANTS ON THE RETIREMENT ROLL AS OF JUNE 30, 1970, BY MONTHLY RATES OF ANNUITY

Monthly rates of annuity	Employee annuitants			Survivor annuitants			
	Total	Prior to Public Law 854	Under Public Law 854	Total	Prior to Public Law 854	Under Public Law 854	Under Public Law 85–465
Under $10	118	89	29	272	95	176	1
$10 to $19	2,566	2,271	295	6,015	3,913	2,063	39
$20 to $29	10,882	9,126	1,756	12,429	5,183	6,626	620
$30 to $39	10,615	7,401	3,214	12,791	4,518	7,072	1,201
$40 to $49	10,765	6,994	3,771	13,626	3,002	9,879	745
Subtotal, under $50	34,946	25,881	9,065	45,133	16,711	25,816	2,606
$50 to $59	11,411	6,359	5,052	19,536	5,235	12,832	1,469
$60 to $69	12,800	5,920	6,880	18,548	7,230	9,505	1,813
$70 to $79	8,015	3,559	4,456	53,257	5,595	46,678	984
$80 to $89	14,620	6,189	8,431	21,329	10,637	8,471	2,221
$90 to $99	10,209	3,459	6,750	16,061	5,478	9,992	591
Subtotal, under $100	92,001	51,367	40,634	173,864	50,886	113,294	9,684
$100 to $109	12,949	3,933	9,016	9,435	3,121	6,314	--------
$110 to $119	13,072	3,596	9,476	11,361	4,182	7,179	--------
$120 to $129	15,424	3,354	12,070	8,939	2,772	6,167	--------
$130 to $139	11,886	2,662	9,224	6,919	1,627	5,292	--------
$140 to $149	17,166	3,420	13,746	13,141	3,124	10,017	--------
Subtotal, under $150	162,498	68,332	94,166	223,659	65,712	148,263	9,684
$150 to $159	13,139	2,176	10,963	7,905	3,108	4,797	--------
$160 to $169	16,324	2,854	13,470	6,603	1,969	4,634	--------
$170 to $179	14,993	1,923	13,070	6,850	2,187	4,663	--------
$180 to $189	17,262	2,291	14,971	5,884	1,883	4,001	--------
$190 to $199	15,853	2,181	13,672	5,263	1,442	3,821	--------
Subtotal, under $200	240,069	79,757	160,312	256,164	76,301	170,179	9,684
$200 to $249	91,958	12,580	79,378	19,629	4,269	15,360	--------
$250 to $299	82,336	16,522	65,814	9,536	1,405	8,131	--------
$300 to $349	61,513	8,320	53,193	4,677	622	4,055	--------
$350 to $399	50,651	4,801	45,850	2,704	345	2,359	--------
$400 to $449	36,644	2,356	34,288	1,564	149	1,415	--------
$450 to $499	26,779	1,099	25,680	953	54	899	--------
Subtotal, under $500	589,950	125,435	464,515	295,227	83,145	202,398	9,684
$500 to $599	31,674	1,094	30,580	867	28	839	--------
$600 to $699	16,491	515	15,976	336	7	329	--------

TABLE A-9.—NUMBER OF EMPLOYEE ANNUITANTS AND SURVIVOR ANNUITANTS ON THE RETIREMENT ROLL AS OF JUNE 30, 1970, BY MONTHLY RATES OF ANNUITY—Continued

	Employee annuitants			Survivor annuitants			
Monthly rates of annuity	Total	Prior to Public Law 854	Under Public Law 854	Total	Prior to Public Law 854	Under Public Law 854	Under Public Law 85–465
$700 to $799	9,487	229	9,258	110	5	105	--------
$800 to $899	5,922	82	5,840	36	1	35	--------
$900 to $999	3,588	1	3,576	14	--------	14	--------
Subtotal, under $1,000	657,112	127,367	529,745	296,590	83,186	203,720	9,684
$1,000 and over	5,111	13	5,098	16	1	15	--------
Grand total	662,223	127,380	534,843	296,606	83,187	203,735	9,684

WHY LEARN HOW TO WRITE?

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DORN. Mr. Speaker, quality education is not as sudden as a massacre, but it is far more deadly in the long run to those forces who wish to destroy our great democracy—our freedom and our security. Yes, Mr. Speaker, education is the least expensive defense for our Nation, an education which teaches how to think, not what to think.

The public today is being taunted and badgered, led into the plight of not being able to think and reason for themselves. The unity of our freedom has never relied on the uniformity of opinion. What type of government would we have if everyone were to become the victim of one certain opinion?

Mr. Speaker, I have never read an article that was more outstanding or timely regarding education than a column in the Washington Post of October 9 by Mr. Colman McCarthy. I recommend this article to the attention of students, educators, the Congress, and to the American people:

THE SYSTEM NEEDS ILLITERATES: WHY LEARN HOW TO WRITE?

(By Colman McCarthy)

By now, the nation's high-school and college English teachers have assigned the first homework paper and have received back the ghastly and spiritless results. Run-down grammar, misspellings, sentences lacking verbs or nouns—not to mention a lack of meaning—aimless paragraphs, feeble vocabulary and vague style: All of it is loose change in the worthless currency in which countless students trade. At this time of year, English teachers have plenty of zeal and the assignment papers are attacked with the ferocity they deserve; too bad only corporations can afford paper shredders.

But as the classes wear on through the year many of the teachers will doubtlessly wear out. They will be no match for the constancy of flawed English, always beating in, like tidal waves of ignorance, and drowning all hopes for clear thinking. Through it all, the major horror is not that so many students are helpless in the skills of writing but that so many ask, either in smugness or laziness, why they should be bothered to learn the skill of writing in the first place.

No easy answer exists—if it did, some alert kid-huckster would mimeograph it and brazenly be making sales in the corridor outside class—but teachers and writers serious about their vocation are forever probing. Someone has to care, even by self-appointment. Professor J. Mitchell Morse has been a college English teacher for 24 years and currently labors at Temple University in Philadelphia. This month, he published "The Irrelevant English Teacher" (Temple University Press), a masterful justification for the importance of language. Prof. Morse gets to his point quickly, that the person who has limited writing skill will also have limited intelligence, and thus is easily duped and manipulated by dealers in guff and other enemies of thought. "To the extent that the establishment depends on the inarticulacy of the governed," he believes, "good writing is inherently subversive . . . We are perishing for lack of style. Style is a matter of intellectual self-respect. To write well, a certain moral courage is essential."

America is full of uncourageous citizens who can't write well, but that isn't the sadness; what's tragic is they are easy to fool, and that the foolers constantly ply their craft. Take some of the advertisers. The other evening on ABC-TV, during the football game, language received a saturation bombing: polysteel tires from Goodyear, chromacolor television sets from Zenith, and quatrecolor from Panasonic, powerpoint pens from Papermate. What gibberish words are those—polysteel, chromacolor, quatrecolor and powerpoint? They have no obvious meaning outside the context of the ad, so how can meaning exist inside? It doesn't. But since the clever copywriters who concoct these ads persist in the misconception that millions of viewers have no intelligence that can be insulted, well, then insult them with empty language that sounds impressive. Fool them. Lure them to the store. Get their money. Meanwhile, the question on the mind of the knowing viewer is not, say, whether a company makes a chromacolor or quatrecolor TV set, but whether or not the product will catch fire—as 10,000 televisions did in 1969, most of them color sets.

It is no coincidence that politicians rely on advertising techniques. They know the advantage: People think in words but if they're used to empty words then they must have empty heads. Feed them any kind of word salad, a leafy and green slogan, that is easily digested. Thus, Commander-in-Chief Nixon says he wages war to win peace with honor, a slogan on a level wtih his predecessor's Great Society. Some politicians talk in brand name idiom not because they have evil minds but because they too operate on the theory that most people have dull minds. They get away with it, Prof. Morse believes, partly because literary sensitivity is not cultivated in the young: "I therefore believe in the development of a critical, skeptical, humorous habit of mind—in the development of a liberally educated consciousness, a sensitivity to nuances and unstated implications, an ability to read between lines and to hear undertones and overtones, both for the sake of political and social enlightenment and for the sake of our personal enlightenment and pleasure as individuals. I am a teacher of literature and of writing because I believe that precision, clarity, beauty and force in the use of language, and appreciate perception of these qualities in the language of others, not only make us harder to fool but are good things in themselves . . . I believe that the more sensitively we perceive things the more fully we can live and the less likely we are to be imposed on by the advertisers, politicians and other saviors."

For institutions and parties to function smoothly—meaning the private interest is served before the public interest—the system needs lazy minds, intellects of low literacy and souls seldom touched by refinement. Minds that have never been challenged can never, in turn, challenge entrenched power; the blockhead is no more a threat than the hothead. In the classrooms, how can even the most tireless English teacher not feel frustrated when the students come in having logged thousands of hours of television since babyhood? In a scrimmage putting arts and letters against call letters, there is no doubt which is smeared. Many school officials believe that students should be required to take a foreign language—Spanish usually, sometimes French or German. The officials have been too long in the front office; many students down the corridor are already being taught a foreign language: English.

Discipline is needed to write well, from the discipline of avoiding television's junk shows to that of developing the habit of using the dictionary. Perhaps this is one reason why few students can write with a style and with clarity. Too often, they are children of open marriages who were sent to the open classroom; who talks of discipline among all these blessings of the new openness? Norman Mailer once told of a friend "who always had a terrible time writing. He once complained with great anguish about the unspeakable difficulties he was having with a novel. And I asked him, 'Why do you do it? You can do many other things well. Why do you bother with it?' I really meant this. Because he suffered when writing like no one I know. He looked up in surprise and said, 'Oh but this is the only way one can ever find the truth. The only time I know that something is true is at the moment I discover it in the act of writing.'"

An irony of discipline is its relationship to freedom; the two are not opposite blacks and whites but are part of the same gray. The sprinter disciplines his muscles with years of running around a track so that those muscles will gain the freedom to run fast. Writing is similar. One disciplines the mind by repeatedly running over the rules of grammar, style and syntax so that the mind will gain the freedom of clear thinking. Learn the fundamentals and you are free for the nuances, subtleties and shadings, a source of pleasure not only in writing and reading but in all life. More crucial, you are free from the thought control and political control of the sloganeers, ones who reactively avoid nuances and subtlety. They don't want to engage the intellect, they want to engage the instincts and the senses. Products are easier to sell that way, elections easier to win.

English teachers have bravery, at least the ones who stick it out year after year. Faced with ignorance and laziness piled as high as mountains, they keep climbing nevertheless. "We must not silently let our students accept, as many of them do accept," Prof. Morse writes, "the reactionary notion that they are innately incapable of successful intellectual effort . . . That is how we, as English teachers, can work to change a repressive society into one that must respect personal freedom." Is the professor a dreamer, a man with bugs in his eyes from seeing too many blackboards? Hardly. His vision is only too clear. The rest of us may have been looking at the problems, but his eye has been on one of the causes.

A TRIBUTE TO JESSE L. DICKINSON

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BRADEMAS. Mr. Speaker, recently I had the privilege of attending a dinner in South Bend, Ind., at which over 500 people gathered to pay tribute to an outstanding leader in our community and State, Mr. Jesse L. Dickinson.

Few persons in our community could have won the applause of so many different kinds of leaders as Mr. Dickinson.

Born in Oklahoma in 1906, a graduate of Newton High School in Newton, Kans. in 1925, Jesse Dickinson attended Bethel College and Western University in Kansas; Indiana University South Bend campus; and the LaSalle Extension School of Law.

He came to South Bend in 1928 where he was in charge of youth programs at Hering House and then worked as a playground director for the South Bend schools from 1929 to 1933.

He helped organize and supervised the St. Joseph County recreation program under the Works Progress Administration and also organized and conducted the Dickinson Plantation Singers and, in the 1930's, operated his own music studio.

Reverend Dickinson conducted choirs for the Pilgrim Baptist, St. John's Baptist, and First A.M.E. Zion Churches. He organized and conducted a 100-voice choir for the South Bend Music Festival, sponsored by the Progress Club.

He was as well a correspondent and columnist for the Pittsburgh Courier and Kansas City Call, and he owned and operated a shoe renovating and leather dyeing business.

He served six terms in the Indiana House of Representatives and two sessions of the Indiana Senate.

While in the general assembly, Mr. Dickinson chaired and served on many committees and commissions and was a leader in bringing reforms and improvements in the field of probation, mental health and hospitals, mental retardation, prisons, the establishment of the Youth Camp and Diagnostic Center.

He was also an important legislative leader in the fields of civil rights, municipal government, education, and the aging.

From 1957 to 1972 Mr. Dickinson served as executive director of the Housing Authority at South Bend.

Mr. Speaker, I believe the best way in which I can indicate the appreciation felt by the people of his home community for the contributions of Jesse L. Dickinson is to insert at this point in the RECORD the text of an article in the August 31, 1972, issue of the South Bend Tribune reporting on the testimonial dinner to which I have earlier referred.

The article follows:

COMMUNITY TURNS OUT FOR JESSE

(By William Stoner)

The diversity of talents represented by those who came Wednesday night to honor Jesse L. Dickinson was perhaps the most significant tribute at his testimonial dinner.

Over 500 people gathered at the Indiana Club for the candlelight dinner, and they represented all races, the rich and poor, the powerful and those not, those with several degrees and the uneducated all of whom Dickinson worked for and with.

At the end of tributes delivered by 11 area leaders, Dickinson was given a gift certificate for the 1973 car of his choice, purchased with proceeds from the banquet.

Frank E. Sullivan, who presided at the dinner, read telegrams from well-wishers, including Cassell Lawson, former director of the Urban League; the priests of St. Patrick's Parish; South Bend Tribune President Franklin D. Schurz, Sr.; David Staples, chairman of the Indiana Civil Rights Commission, and Jesse Pavey, former South Bend mayor.

Those delivering tributes discussed areas in which they worked with Dickinson.

Speaking on civil rights was Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame and chairman of the U.S. Civil Rights Commission.

Hesburgh, who flew from New York for the banquet, said, "The greatest thing he (Dickinson) has done is to have us all here tonight. I don't think it would be possible to visualize the white power structure gathering 40 years ago to pay honor to a black man."

To Dickinson he said, "You've demonstrated to all us white folks that we can be served and learn from a black man. If you give any lesson to us, it is that a good man can bring people together and inspire all of us to be good men and do a little bit of what you've done."

Dickinson's work on reforms in prisons and correctional institutions was discussed by Dr. Walt P. Risler of Indiana University at South Bend. He said Dickinson has worked for decades to get better professional help for prisoners and to provide alternatives to prison for the youthful offender.

BRINGS NEW INITIATIVE

"He has brought a new initiative to Indiana to rehabilitate those in prison and help them return to society."

Dr. Harold G. Nichols described Dickinson's work in mental health, mainly his accomplishments while serving six terms as a state representative and two terms as a state senator. He said Dickinson consistently fought for funds for the mentally ill and those suffering from alcoholism.

He said it was Dickinson who sponsored the bill which created the Indiana Department of Mental Health and Dickinson who personally led the expansion of mental health services in this community.

Dickinson was one of 50 citizens who reestablished the National Assn. for the Advancement of Colored People (NAACP) in South Bend, according to J. Chester Allen Sr.

While in the legislature, Dickinson was instrumental in promoting the passage of bills concerning fair employment practices, the prohibition of segregation in schools and the Civil Rights Act, which gave minorities a legal recourse in discrimination cases.

Said Allen, "his work will have far reaching effects on generations to come."

Mrs. Nathan Levy spoke of Dickinson's association with the Hering House, the forerunner of community projects for the underprivileged. She said Dickinson was the "champion for social justice when it was taboo to take such a position." Because of this work, she said, he was called upon by many groups "to interpret, advise and sometimes intercede."

Speaking of the Logan School and retardation, Joseph J. Newman said that "many of the adversities challenged by Dickinson were shunned by others. He gave the initiative, leadership and direction to areas where some people were embarrassed."

Dickinson was a member of the legislative study group which introduced to the General Asembly 11 bills concerning mental retardation. "The movement he started has provided Indiana with the realization that the mentally retarded are indeed part of the total garden of life, not something to hide in the cellar," said Newman.

Van E. Gates spoke of Dickinson's association with the United Way, saying that "in the years of greatest challenge, he was the prodder for getting the United Way to expand its services. Complete involvement is Jesse's style."

Rabbi Albert M. Shulman, speaking on public housing, said Dickinson is "the man who dedicated his life for the betterment of others." Dickinson was associated for 30 years in seeking better housing for the underprivileged. He retired last May as director and secretary-treasurer of the South Bend Housing Authority. He had been its only director. The authority has grown to about 1,000 housing units in the city.

Of his experience in government, M. Edward Doran said that Dickinson acquired the entire respect of both houses at the General Assembly. "They'd better have had a good bill or Jesse, a Democrat, had enough influence even with the Republicans that he could change that bill."

HAILS LABOR EFFORTS

Stanley J. Ladd lauded Dickinson for the effects he had in educating those in labor about the inequities suffered by minority workers. Dickinson, while employed at the Bendix Corp., became a member of Bendix Local 9 in 1942. "As a union man he convinced several local labor leaders to fight for the welfare of all workers."

Religion and Dickinson's life was discussed by Rev. Bernard White who said, "after my first meeting with Jesse, I held my head high and shoulders back, having realized in him the American dream of dignity, work and fairness for all people."

Rt. Rev. William C. R. Sheridan, Episcopal Bishop of Northern Indiana, delivered the invocation and the Most Rev. Joseph R. Crowley, Auxiliary Bishop of Fort Wayne-South Bend Diocese, offered the benediction. Mrs. Bertha Norman, of St. John's Baptist Church, sang three selections in tribute to Dickinson.

AMERICA TRUSTS "MANNIE" CELLER

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1972

Mr. LEGGETT. Mr. Speaker, books can be written and will be concerning the contribution made to this country's welfare by the distinguished senior Member of the Congress of the United States from New York.

Perhaps the most complimentary thing that can be said to this octogenarian is that MANNIE CELLER, the distinguished Congressman from New York, is a man over 30 who America can trust and has trusted for nearly half a century.

RACISM IN THE MILITARY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. STOKES. Mr. Speaker, almost 1 year ago, the Congressional Black Caucus began its investigation of racism in the military. We began with onsite visits to 10 military installations in this country followed by 3 days of open hearings in Washington. Our findings and recommendations, as set forth in the following "Congressional Black Caucus Report on Racism in the Military," have been forwarded to the Department of Defense and the House Armed Services Committee.

In the year that has elapsed since the initiation of our investigation, little, if anything, has been done by the military to eliminate the racial discrimination we found. In fact, it now appears that the only accomplishment in this area has been to change the nature of the discrimination practiced. Today, acts of discrimination are subtle and covert, rather than the overt practices of the past. The problem continues as one of the most critical issues before the Congressional Black Caucus.

For far too many years, the military has lagged in its efforts to end discrimination within its ranks and has begged the issue by pointing out that it is only since World War II that integration has been enforced in its structure. We, the members of the Congressional Black Caucus, can no longer accept this excuse and have dedicated ourselves to the immediate and total elimination of racism in the military. Because of the crucial nature of this problem, we urge our colleagues to join us in this effort. Mr. Speaker, Congressman RONALD DELLUMS chaired these hearings on behalf of the Congressional Black Caucus and had the primary responsibility for the preparation of this report. As chairman of the Congressional Black Caucus I commend the gentleman from California (Mr. DELLUMS) for an excellent job and urge my colleagues to read this report:

RACISM IN THE MILITARY: A NEW SYSTEM FOR REWARDS AND PUNISHMENT

(The Congressional Black Caucus Report, May 15, 1972)

I. INTRODUCTION

On November 16, 17 and 18, 1971, three days of hearings on Racism in the Military were held under the sponsorship of the Congressional Black Caucus. The hearings were preceded by one-day visits made on November 15th by ten of the thirteen members of the Caucus to ten United States military installations.

It was not the intention of the Caucus to spend three days merely demonstrating the widespread existence of racism, open and covert, throughout the military. The members of the Caucus were perfectly aware of the fact of military racism through the numerous and continuous complaints of their constituents. The hearings were undertaken with that basic assumption.

Neither did the Caucus accept the often advanced premise that racism in the military is merely a microcosm of the racism which prevails within the larger society. This kind of assumption only prolongs the time before real action is taken to combat the problem. For the Caucus, there were two major areas of concern. They were:

1. Determining the nature and extent of discrimination within the military.
2. Proposing the specific action and programs required to alter this situation.

During the hearings, it became evident that racism has become institutionalized at all levels of the military. For example, just prior to the hearings, a package was anonymously sent to the office of Congressman RONALD DELLUMS. This package contained a classified Department of Defense file setting out in very candid language a history of Department of State and Department of Defense asquiescence to the desires of the government of Iceland to limit the assignment of Black servicemen to Iceland. The file indicated that such agreements date back over ten years, and that the terms of these agreements have been under fairly constant renegotiation at high levels within the Defense and State Departments throughout the Kennedy, Johnson, and Nixon administrations.

Another example showing the lack of a clear United States Government policy for dealing with discrimination in the military is the continued failure of the Department of Defense to instruct, in clear and unequivocal terms, host countries where Blacks and other minority servicemen are stationed—especially Korea, West Germany, and the Far East—of official intolerance of racial injustice to minority servicemen in their dealings with the local populations.

Many may contend that it is contradictory for a country that itself condones discriminatory practices to instruct host countries of intolerance of racial injustice against minority servicemen. Yet, the Caucus, while recognizing the contradiction, suggests that the self-contained atmosphere of the military makes such a policy statement entirely feasible.

The absence of a clearly-stated position to this effect not only severely damages the interests of minority servicemen overseas, but creates the ironic and hypocritical situation of Black servicemen prepared to risk their lives for a country that itself places little value on those lives. Many do sacrifice their lives in this way. And those that escape only with wounds and injuries come back to a society at home that practices the same racial inequities. This is the second major contradiction and the biggest source of frustration for minority servicemen.

There appears to be no stated official policy urging or encouraging discriminatory practices within any of the services, (with the exception of Iceland). In fact, there is strong language in Department of Defense regulations that condemns discrimiation. The most recent example is the Department of Defense directive issued by Secretary Melvin R. Laird on December 14, 1970 (number 1100.5). However, much of the testimony heard by the Caucus suggests that these official policies are effectively subverted by lower grade commanders and senior NCO's, the people with whom the ordinary GI must deal most of the time. Thus, despite the existence of progressive policies, day to day practice of arbitrariness, unfairness, and blatant discriminatory practices render the stated policy almost meaningless.

During the three days of the hearings, the Caucus tried to find basis in the testimony for remedies on either the administration or legislative levels against racism in the military. Generally, the testimony underscored the fact that racism in the military takes many of the same forms as in civilian life: slow advancement; over-literal interpretations; punishment disproportionately borne by the minority; the difficulty or even impossibility of obtaining fringe benefits; subtle and not-so-subtle harassments; and many others familiar to Blacks in civilian life.

Yet the unique feature of the military, which offers the hope of real change, is its authoritarian reward-punishment mechanism which conditions the survival and the chances for advancement of members of the military. We must look forward to the day when compliance or non-compliance with equal opportunity policies becomes an effective part of this reward-punishment system, even to the extent of making racial discrimination punishable by court martial. In order for this to happen, the system requires that those at the top prosecute these policies with seriousness and energy.

Even as the hearings proceeded, reports of disturbances with racial overtones at Fort McClellan, Alabama, captures the headlines. And yet once again, the Army saw fit to punish only Blacks. It is clear that attention must be focused on the institutional nature of the problem. A major goal of the hearings was to present to the American people the responsibility borne by those at the top of the command structure of the military and the government for perpetrating racism at all levels of the Armed Forces.

It is not the purpose of this report to do an in-depth analysis of each area of complaint reported. Both the NAACP report, *The Search for Military Justice* by Nathaniel Jones, General Counsel for the NAACP, and the Department of Defense report to the House Armed Services Committee, *LeJune, Travis and Beyond: A Survey of Progress in Equal Opportunity*, can be said in many ways, to have accomplished this goal. Rather, the report which follows, is primarily a summation of the major problems faced by minority servicemen brought to the attention of the Caucus members on their visits to military bases and during the testimony of witnesses during the three days of hearings. Major emphasis has been placed on the recommendations. While not a panacea for restructuring the military along more just and equitable lines, the recommendations if taken seriously, will be a major step in that direction.

The hearings and base visits brought out one over-riding, inescapable conclusion: Black and other minority servicemen are victims of discrimination from the time that they enter the services until the time that they are discharged. Furthermore, these discriminatory practices too often follow the minority veteran into civilian life because of the highly disproportionate number of less than honorable discharges meted out to Black servicemen; the lack of meaningful job skills developed while in service; the wide range of psychological and emotional maladjustments brought on through protracted contact with military racism.

While there may be some small merit in the claim that "the problems of the military are only a reflection of the problems of the larger society", the unique command structure of the military works to reinforce the individual racism and to intensify the effects of institutional racism found in the larger society. But even more important, the command structure of the military, operating with an almost absolute control over individual action, gives us a unique chance to begin the work of eliminating discrimination and racism.

This is the paradox uncovered by the Caucus hearings; the military, which is such a blatant example of the worst in American racism, can become a source of reform for the whole society.

II. COMMITMENT AND COMPLIANCE

A. Job assignment

The Black serviceman usually receives his first dose of military racism on the day that he is inducted. Upon entering the service, each enlisted man is given a series of tests to determine his suitability for placement in one of the many military occupational specialities. The racial and cultural biases in these tests combine with the often low educational training and experience of the minority inductee to insure that he is assigned primarily and permanently to those low-skilled, dead-end jobs which the military terms "soft core".

As Department of Defense tables show, in 1971 when the Black servicemen represented 12.1% of all enlisted personnel, they were vastly over represented in low skilled Combat Specialties (16.3%) and in Service and Supply Specialties (19.6%). At the same time they comprise only 7.0% of the Communication and Intelligence Specialists and a smaller 4.9% of the Electronics Equipment Specialists.

This disproportionate amount of Blacks in low-skilled training within the military has a tremendously negative impact on Black servicemen both while they are in service and after discharge. Especially to the Black veteran it means that after serving his duty he will be in a worse position in the job market than before he entered the military. For example, Army regulations give the civilian related occupation for Combat Engineer as a Construction worker, woodchopper, or blaster. The civilian related occupation for Service and Supply Specialists are stock clerk, shipping clerk, or cashier. On the other hand, Electronic Equipment Specialists are qualified as radar repairmen, radio repairmen or guided missile control inspectors. Even among Black officers, who represented only 2.2% of the total officer strength in 1971, the largest assignment category was Supply and Procurement Officer which means that they are still not qualified for professional civilian occupations.

B. Promotion

When the time for promotion occurs, the Black serviceman finds once more that he is at the complete mercy of a system stacked against him. And it is here that the racism of individual officers and NCO's makes its appearance. Testimony by Black servicemen as well as the military's own data give ample evidence of the systematic exclusion of Blacks from promotion lists. Locked into a promotion system dominated by White NCO's and officers. Black servicemen stand by, sometimes quitely, while his White barracks-mate easily advances to higher grades. In 1971 while Blacks made up 12.1% of enlisted strength, they were concentrated most heavily in the second lowest pay grade (15.7% at E–2 level) and they were represented in the smallest proportion at the top enlisted grade (4.2% at the E–9 level).

Grade levels for Black officers present an even more disheartening picture. While representing a paltry 2.2% of total officer strength, Black officers like Black enlisted men were over represented in the lowest grade. Department of Defense figures showed only 1.9% Black 1st Lieutenants and only 5 Blacks as Generals (Army—3; Navy—1; Marines—0; Air Force—1).

Of equal interest as the promotion statistics is the attitude of Black servicemen regarding their potential for advancement. Discussing the findings from a study he undertook in 1969, Mr. Wallace Terry, former Saigon Bureau Chief for *Time* magazine, testified that,

". . . seventy-two percent of the Black enlisted men said that the military treats Whites better than Blacks, forty-eight percent of the officers agree. In the questions of promotion, sixty-four percent of the Blacks felt that Whites are promoted faster than Blacks, forty-five percent of the officers agree. Half of the Black enlisted men and twenty-nine percent of the Black officers believe that Blacks are getting more dangerous duties than Whites. Sixty-one percent of the enlisted men and forty-one percent of the officers believe Whites are winning more medals than Blacks. You will find Black soldiers who would be in a country a year before they went from E–2 to E–3. Some White soldiers as soon as they hit the country would be promoted immediately to E–3 or better."

C. Command

One particular tactic often mentioned by Black officers is the practice of refusing to give them command level positions so necessary to advancement in the officer ranks. As Major Eugene Wise, who spent eighteen years in the Air Force, testified that,

"Statistics show that Black airmen are promoted more slowly and in fewer numbers than their non-Black contemporaries on a proportionate basis. I have attended numerous retirement ceremonies and have never seen a non-Black three striper retire with twenty years of service. Invariably the lowest ranking man at most retirement ceremonies is most always the Black man."

As a consequence Blacks not only receive fewer promotions, receive less pay while in the service, and of course, receive smaller benefits upon retirement. Faced with discrimination in the promotion system, it is not surprising that both morale and reenlistment rates have reached new lows for the Black soldier. According to figures supplied on the Army for 1970, 87.2% of those eligible to reenlist refused to do so, while in 1969, 84.7% chose not to reenlist.

It is interesting to note that in 1972 for the first time a Black general has been placed in command of a division. (General Fred Davidson, U.S. Army, Europe.)

D. Equal opportunity

Adding to the problem of inequities in the job assignments and promotion areas is the realization that the only appeal the Black serviceman can make regarding discriminatory practices is into the system from which the discrimination originated. As Thomas Culver, former Air Force JAG officer stated,

"When a man has been oppressed because of his race he has two places to go. He can go to the inspector general's office on his installation. He can go to the equal opportunity officer. The IG is usually the Deputy Wing Commander. The equal opportunity officer is usually a Major, possibly a Lieutenant Colonel in the combat support group. Both of these men are subject to the individual command of the installation. Their primary loyalty is to their commander."

This means that charges of racism and discrimination in the military wind up in the hands of the local equal opportunity officer. It is when one views more closely the relationship between these equal opportunity officers and the command structure and the men whom they are supposed to serve that we realize how difficult it will be for the military to eliminate discrimination from within.

The equal opportunity officer—whether Black or White—is hand-picked by the local commander and he realizes quickly and accurately that his primary function and obligation is to protect the local commander. As a result, the equal opportunity officer spends his time quieting or eliminating personnel who complain of discrimination, instead of dealing with the root causes of discrimination.

The rare equal opportunity officer who might decide to actually attempt to address the causes and sources of racism soon realizes that the military equal opportunity programs are carefully designed so that he has no access to authority outside of his immediate command structure. Formal charges of racial prejudice and discrimination invariably wind up with a whitewash by the serviceman's superiors and a black mark in the victim's military folder. The military, probably to a greater extent than any other American institution, has built in numerous devices and practices to protect itself from both internal and external tremors.

E. Housing and medical problems

Racism and discrimination as it affects housing and medical problems in the military are magnifications, rather than reflections, of the same problems which affect Black civilians. Because of the location of most military bases, away from the major urban centers, the Black serviceman in the United States finds that the level of discrimination and open hostility which block him in his attempt to find suitable housing near his duty station is even greater than that which he faces as a civilian.

Congressman Charles Rangel, during his one day visit to Fort Bragg was greeted with a big sign which said, "Welcome to Fayetteville, Home of the Klu Klux Klan. Fight Communism and Integration." Such a welcome from the local branch of the KKK, which for many years has greeted Black and White servicemen arriving at Fort Bragg, is an accurate indication of the problems which will face the Black serviceman once he goes outside the base in search of housing for himself and his family. And upon being transferred to an overseas duty station, the Black serviceman will find to his dismay, that the military has effectively exported the American attitude and practice of discrimination to foreign soil. Whether he is stationed in Europe or the Far East he is plagued by the same discrimination in housing, education, and social activities that he experienced in the United States.

While each branch of the service has issued numerous guidelines and directives aimed at assuring compliance with open housing regulations, the experiences of hundreds of Black servicemen, adequately point up the military's dismal record of acquisescence to local practices. It would not be an overstatement to suggest that local commanders often expend more of their energy conspiring with local agents in an effort to circumvent open housing regulations, than they spend in the effort to obtain decent accommodations for minority personnel.

Even in the field of medicine, the military's record is one of neglect. While the Air Force enforces its regulations barring personnel who show the sickle cell trait from flying status, the military has shown no interest in researching or treating this disease which usually affects only non-whites. However, without research, there is no way of determining whether having the sickle cell trait alone is a sufficient basis for restricting Blacks from flying status.

Another area brought out during the hearings was the Air Force which allows a medical excuse for shaving up to three months. For Black servicemen with the beard condition (pseudofollicultitis) commonly known as shaving bumps, this could mean that they will have facial scars for the rest of their life. As Dr. Robinson, a former Air Force doctor stationed at Lackland Air Force Base, testified, "There is only one way to cure, mind you now "cure", and that is for the patient to grow a beard . . . Although growing a beard will cure the disease, military regulations allow that option only on a temporary basis."

III. MILITARY JUSTICE

A. Article 15

No military procedure has brought forth a greater number of complaints and evidences of racial discrimination than has administration of non-judicial punishment (Article 15). Article 15 punishments, administered at the discretion of individual commanders for "minor" offense, has without doubt, resulted in irreparable damage to the service careers of Blacks vastly out of proportion to Black enrollment in the military.

Testimony was received during the base visits from one young man who had just received punishment that morning under

Article 15. He was given 14 days restriction and 14 days of extra duty for wearing a black armband—a small armband that is worn around the wrist which to the Black soldier is symbolic to the history of slavery of Black people. We additionally talked with a young man there that was told that morning that if he did not pull a black ring off of his finger, which was his way of showing proudly his symbolic history, that he would be court martialed immediately. Both testimony and military statistics demonstrate that Blacks received Article 15 punishments more often than their white counterparts for identical offenses.

Nathaniel Jones, General Counsel for the NAACP, in discussing the arbitrary manner in which Article 15's are given, stated:

"So I looked at his file. In his file was a lengthy list of misconducts by White GI's. Billy Jones was late to work four days out of the month of August. Tom Smith hit so and so on such and such a day. Nothing was done. One Black GI did the same thing, he was late. He got an Article 15. Another Black G.I. was involved in a fight. He got an Article 15 or a court martial. Here, gentlemen and ladies, is where I feel the greatest racism comes out. It is in the discretionary use of military justice. When the White soldier commits an offense, this offense is excused. When the Black soldier commits the same offense, he is dealt with harshly. It is these minor punishments, the Article 15, the summary courts martial that lead to the discharges."

The severity of the punishment for the same offense is greater for the Black than for the White. Besides creating an imbalance against Blacks in terms of promotions, the accumulations of Article 15's is a common device used by insensitive NCO's and commanders to administratively discharge Black servicemen with a resultant loss of veteran's benefits.

A report by the equal opportunity officer, USARSO, revealed that in the period from June 1, 1970 to July 31, 1971, that 39% of those receiving Article 15 punishment were Blacks, whereas they comprised only 27.5% of the men assigned to the 193d Infantry Brigade.

B. Pretrial confinement

Another judicial area in which the discretionary powers of commanders exerts itself to the detriment of Black servicemen is through the use of pretrial confinement. Although Black enlistment in the Air Force was only 10.6% in 1971, Department of Defense figures show that more than 50% of the airmen being held in pretrial confinement were Black. While pretrial confinement is designed to detain offenders whom the authorities believe might otherwise escape to avoid prosecution for a serious offense, testimony and military records amply substantiate the charges that, for Blacks, pretrial confinement is more often used as punishment for trivial offenses and is even used where there has been no offense. For example Mr. Terry explained how he had talked to Marines in Da Nang who actually did serve fifteen to thirty days in jail for having their hair too long. Supporting this latter contention is evidence that up to one-third of the Black servicemen in pretrial confinement in West Germany in 1970 were released without ever having formal charges brought against them. Without a doubt, Blacks in the military are subjected to pretrial confinement for longer periods of time and for less serious offenses than their White counterparts.

C. Court martial

Even when a Black serviceman is brought before the formal military court martial system, he does not escape the racism so prevalent in the non-judicial forms of punishment. Instead of being free of the prejudices of his white NCO or commander, he finds that his former prosecutors have now banded together into a lily-white trial board. As states by Thomas Culver, "Military justice is white justice. There are White judges, White court members, and White lawyers. Very often a great weakness is in the defense counsel." Mr. Culver stated further,

"Now I think one of the most serious faults of the military justice system, the most glaring inequity, is in the selection of court members. The military commander, the very same man that decides a case is going to trial, the very same man that has a personal interest, generally, in seeing that a conviction is obtained certainly in cases involving racism, is the man who selects the jury."

Bernard Segel, the counsel of the "Darmstadt 53", in response to questions concerning the breakdown of military justice, stated,

". . . what is ruining the military system of law today is that the head man, the commander, picks the judge, he picks the juries and he picks the results. Until this Congress of the United States abolishes that system, gives us federal judges, gives us a fair selection of juries, we don't want any part of this business of making the system more credible."

As he enters this system the Black serviceman may predict with virtual certainty that he will be the only Black person in the courtroom and that his case will proceed through its various stages, guided by white lawyers, and judges. Blacks constitute less than 1% of all military lawyers. Such lily-white justice generally results in harsher sentences and a tremendously greater proportion of less than honorable discharges.

D. Discharges

Given the affect of discharges on both the military and civilian survival of GI's, generally, the disproportionate number of less than honorable discharges given to Black GI's is of major concern to the Caucus. There can be little doubt as to the impact of the arbitrary standards used in the dispensing of military discharges. In 1970 Black servicemen made up 11.7% of the total Air Force strength. In the same year, they received 28.9% of the Air Force's discharges issued under other than honorable conditions. For the combined Armed Forces, Black servicemen are many times more likely to receive a less than honorable discharge than are Whites. For example, recent Department of Defense figures show that of the total of all discharges given Blacks in 1970, 5% were given under conditions other than honorable, as compared to only 3% given to Whites under the same condition.

The ease with which Article 15's are administered to Blacks, no matter how minor or non-existent his alleged offense, plays a major role in the ability of the services to administratively discharge Blacks. Accumulations of Article 15's are used as evidence of unsuitability and thus results in larger numbers of undesirable discharges.

The total effect of a Black serviceman's encounter with the military is that when he leaves the military he is usually in worse condition than when he entered. He has generally received little training in the service which can be used in civilian life; he has been subjected to harassment and discrimination at the hands of his superior officers with little recourse to correct it and in return for giving time out of his life, even risking his life, he too often winds up with a less than honorable discharge which guarantees that his civilian life will be at least as difficult as his former military life.

IV. RECOMMENDATIONS

While the primary focus of these hearings has been on military racism as it affects the Black serviceman, the Congressional Black Caucus realizes that its evidence, conclusions, and recommendations also bear greatly on the plight of other minorities in the military. Certainly the military discriminates against its other non-white minorities in the same ways, and with the same negative results, as it does against Blacks. The findings and recommendations of this Caucus are seen as being applicable to all non-white military personnel.

The recommendations of the Congressional Black Caucus are based on the belief that racism in the military must be eleminated not only because of its debilitating effect on racial minorities, but also because racism in the military poses a serious threat to our National Security. Certainly this nation can not be secure as long as the forces which are more concerned with protecting themselves against their fellow servicemen than with fighting an external enemy. The increasing polarization of Blacks and whites in our armed forces is rapidly approaching the point where the overall effectiveness of the military as a fighting force will be seriously hampered if not completely stalemated, by its inability to effectively eliminate this internal racial strife. It is therefore obvious that drastic and far reaching changes must be immediately initiated to insure that discrimination in the military is eliminated.

The Congressional Black Caucus therefore recommends that the following action be taken.

1. We recommend that definite goals be established and adhered to, in order to assure that minority servicemen and women are equally represented with all the military occupational specialties. To accomplish this task, special efforts will have to be made to recruit minorities for the specialized fields of medicine, law, and those technical fields which require previous educational experience. It is upon induction that the minority serviceman must be assigned to the "hard-core" occupational specialties wherever possible. In addition, programs must be established for men presently in service to be cross-trained into these occupations. However, it is important to remember that once these men have been trained they must indeed serve in this specialty and not transferred to a "soft-core" skill. At the same time, attention must be given to providing civilian job training to those remaining in these low skilled specialties so that they will not be further handicapped upon discharge.

2. We recommend that promotion boards be restructured to include a certain percentage of blacks, other minorities, and women. This percentage could be based in the percentage of these groups in the Service as a whole.

3. We recommend that officer fitness reports also include an evaluation in the area of race relations by the officer's own men. Since an evaluation of equal opportunity effectors are now included on the officer fitness reports, we believe that the best group available to comment on his fairness in this area is his own men. This evaluation could be done much the same as college professors receive ratings from his students. Although this would not be used as the only basis for promotion, it would provide a more complete profile of the officer and in effect enhance the Board's ability to judge his performance.

4. We recommend that definite goals be established to place all minority groups in ranks and in command positions by a definite date. As the Caucus report states very clearly, minorities make up over 11% of the service personnel while they comprise only 2.2% of the officers. If minorities are to be recruited and retained in the Armed Forces, they need to be assured through example, that they can also progress at the same rate as their White counterparts. However, the solution is not simply in placing minority servicemen equitably throughout enlisted and officer ranks, they must be in positions of command responsibility. It is evident that the top level command positions in the country control the system. Since most of the present officers come either from ROTC or the Service Academies, more attention must be given to recruiting minority groups for these programs.

The Caucus is deeply concerned over the recent decision by the Navy to close several ROTC programs at Black colleges. If the services are determined to enlarge the number of Black officers, this is not the proper action to take.

Department of Defense statistics show that about the same percentage of minority students graduate from the academy as do white students; however, in the last nine years this has amounted to only 105 Blacks as compared to 18,782 whites.

5. We recommend the creation of an assistant secretary of defense for civil rights, who would have direct access to the Secretary of Defense as well as the Secretaries of each branch of service. The hearings pointed out repeatedly, the failure of the Equal Opportunity Programs both in the Pentagon and on the bases to deal effectively with the problems of discrimination. Much of the concern was over the inability of these officers to get anything done since they were under the control of the local commanders and not free to communicate with Washington. Therefore some way had to be found to get the complaints of racism outside of the command structure.

The Caucus is aware of and appreciates the recent efforts of Mr. Donald Miller, the newly appointed Deputy Assistant Secretary for Civil Rights, to make his office more responsive to the needs of Black servicemen by instituting the Military Justice Task Force and attempting to deal directly with these problems. However, we are also aware that his overall effectiveness is hampered by the lack of direct access to those with the ultimate power to create change—The Secretary of Defense and the Secretaries of each of the services.

It is therefore imperative that the office of the Assistant Secrtary of Defense for Civil Rights be structured in such a way as to also give him direct access to the Equal Opportunity Officers in each branch of the service. This would establish, in effect, a structure outside the chain of command whereby complaints could be taken directly to Washington by either the servicemen involved or the Equal Opportunity Officer if they felt the investigation might be hampered by the commanding officer. In like manner the Assistant Secretary and the Equal Opportunity Officers could initiate investigations without going through the local commanders. This would insure an avenue whereby action could be taken swiftly and decisively by the Assistant Secretary to gather needed information and to avert possible violence.

Included in this office would be the Armed Forces Discrimination Evaluation Board that would have administrative authority to recommend appropriate action be taken against anyone found to be discriminating. This would mean that the Board could make recommendations based on their investigation that an individual be removed from command, retired, or court martialed for this offense. In each instance the appropriate official would be contacted to initiate action. The composition of the Board would be 15 members, 6 of whom would be members of the Armed Services and 9 of whom would be from private life (civilian) appointed by the President with the advice and consent of the Senate. Not less than seven members would be representatives of racial and ethnic minority groups.

6. We recommend that off base housing problems and policies behandled by the Assistant Secretary of Defense for Civil Rights.

7. We recommend that article 15's be removed entirely from any discharge action in the future. Testimony was received throughout the hearings that the Article 15 punishments were administered at the discretion of the commanding officer and used as a basis for undesirable discharges. It is proposed that they be removed entirely from any discharge action. To insure this is done, the Article 15 will be removed from both the base and Department of Defense personnel files exactly one year after the article was given.

8. We recommend that the military code be amended to allow the accused adequate time to confer with counsel before accepting or rejecting an article 15. The administration of justice differs from the problems of discrimination in housing, in restaurants, and in bars, in that the dispensation of justice is totally within the control of the American military officials. We propose that since they have been issued with such arbitrary authority that strong controls be placed on their use.

9. We recommend that more explicit pretrial confinment conditions be established, allowing the accused to be released upon his request or that of his legal counsel unless substantial and convincing evidence was presented to the appropriate JAG official as outlined in Department of Defense directives. The testimony revealed the extremely discriminatory use of pretrial confinement, based on the disproportionate numbers of Black servicemen being held in this manner. Testimony revealed that Black servicemen were confined more often in the utilization of Article 15's, since in many cases upon refusing Article 15 punishment, they were given courts martial and placed in confinement pending trial.

10. We recommend a complete revision of the Uniform Code of Military Justice which would remove from it's jurisdiction any offense which is already covered by existing civilian law. This would mean that such charges as rape, assault, murder, theft, etc. would be tried in civilian federal courts instead of by the military. The military courts would have jurisdiction only over those offenses considered peculiar to the military such as AWOL, Desertion, disrespect, missing movement. As one reads the Uniform Code of Military Justice, one realizes that it is an arm of discipline of the commander. It is not set up to resolve disputes between those in authority and those who are supposed to be commanding. It is a tool by which the commander compels the men to do whatever the commander wishes, rightly or wrongly, and that kind of system is not a law system, it is certainly not justice.

11. We recommend that the Uniform Code of Military Justice be amended so that discrimination be an offense considered punishable by court martial just as any other form of misconduct. At the same time the court martial conviction would be removed from the code as a federal offense, but would remain as a form of military punishment.

12. We recommend that the court martial boards be organized to insure representation by all minorities, by women and by rank to be drawn from the total population of the base.

13. We recommend that the Department of Defense contract with civil rights organizations such as the National Association for the Advancement of Colored People, Legal Defense and Educational Fund, Inc., The National Association for the Advancement of Colored People, and The National Conference of Black Lawyers to provide counsel for Black servicemen until the proportion of Black attorneys in the military begin to equal the percentage of Blacks in the military. Meanwhile, it is desirable that Department of Defense finance the legal education of Blacks to increase their numbers in the services. Those assisted in this manner would be obligated to spend a certain amount of time as military lawyers in similar programs to those currently under way to increase the number of Black doctors in the military programs.

14. We recommend that legislation be introduced to eliminate all punitive discharges and to establish in their place a certificate of service. This certificate would be applicable to the diploma issued upon completion of high school. However, the certificate of military service would indicate the length of service, any special awards or decorations received and a notification as to whether it was issued for medical reasons. Each person upon completion of 181 days of service, would be eligible for any veteran's benefits provided for under current law. The military would continue to have the authority to discharge a soldier and to punish him for violations of their law; however, they will not be able to mark him for life. Therefore, if the service decides to discharge an individual after this given period of time they will not be able to strip him of his benefits. The ability to function well in the Army bears little relationship to being able to function in civilian society.

15. We recommend that the military justice task force be given the power to evaluate current reglations of the military which are felt to be discriminatory against minority servicemen (e.g. handshake, hair length, beards, arm bands).

16. We recommend the elimination of foreign aid and the removal of all military bases from host countries failing to insure fair treatment of minority servicemen. Without such action there exists a kind of tacit approval of such practices. (e.g. Korea)

17. We recommend that the Department of Defense set timetables for the implementation of these recommendations at the earliest date practicable. The Caucus should be informed as soon as possible of these timetables.

TRANSCRIPT [1]

Congresswoman CHISHOLM. Ladies and Gentlemen, the Ad Hoc Hearings on Racism in the Military will now convene. On behalf of the Military Affairs Committee of the Congressional Black Caucus, we are calling together witnesses for the next few days in order to bring to us the testimonies that are very essential in terms of getting to the underlying problems confronting blacks in the military system.

We feel that the time has just come in America when all of the investigations and all of the studies and all of the analyses of the problems pertaining specifically to the military must now be dramatically brought down front and be put together in terms of relevant meaningful legislation for the next session of Congress so as to be able once and for all to eradicate the problems that confront blacks in the military.

Statement of Nathaniel R. Jones, General Counsel, National Association for the Advancement of Colored People

Mr. JONES. Thank you.

My approach will emphasize the Army's handling of the problem which is more or less representative of that which is found in each of the services.

Last January, in response to numerous direct appeals from black GI's in West Germany and noting widespread complaints about conditions facing Negro troops, Mr. Roy Wilkins, our Executive Director, asked three of our staff people to go to Europe and personally assess the problems. The result of our efforts was the report, "The Search for Military Justice," which Mr. Wilkins personally presented to Secretary of Defense Melvin Laird on April 22.

In our report we described the administration of justice as the most intense of the problems that we surveyed. The maladministration of justice is the cancer that erodes America's ability to maintain an effective fighting force. It differs from the problems of housing discrimination and complaints of discrimination in restaurants and bars, in that the dispensation of justice is totally within the control of the American military officials.

---

[1] The enclosed transcript has been edited. The complete transcript can be seen in the Congressional Black Caucus office.

There are two levels of justice—judicial and nonjudicial. With the respect to the judicial, we have concluded that its defects relate not as much to its operation as it does to its lack of credibility. The feeling is widespread among black troops that they will not receive a fair shake because it is white controlled. The near total absence of black judges and total absence of black military lawyers reinforces this perception of the system.

Thus, when given a chance to avoid that system—with all of the safeguards set forth in the Code of Military Justice, blacks opt, when possible, for nonjudicial punishment—the Article 15 punishment—devoid as it is of safeguards and as replete as it is with indications of bias.

The uneven imposition of Article 15 punishment is the mother of Chapter 10 and 212 discharges that are sending black young men back into our Chicagos, Clevelands, Philadelphias, and Detroits with general and bad conduct discharges. These discharges are tantamount to lifetime sentences. By far the greatest number of blacks are affected by the nonjudicial punishment. By the Article 15, the ratio is something like one to fifteen.

The pretrial confinement powers of commanding officers resulted in a disproportionate number of blacks being incarcerated in the stockades. The total prisoner population reflects the black confinement rate of approximately 48 percent. As of October 25, 1971, nearly 50 percent of the prisoners in pretrial confinement in West Germany were black while the black military population in West Germany is only 14 percent.

Clearly, the commanding officers to a disparaging degree converted pretrial confinement into a form of nonjudicial punishment. As we pointed out in the report, nearly one-third of the persons released from the stockade in 1970 in West Germany were released for the reason, "Pretrial confinement no longer required."

Thus, the grievance of the black troops that they were being confined as a means of removing "trouble makers" from their units was thoroughly supportable by the military's own statistics.

In order to deal with the crisis in confidence growing out of the lack of black defense lawyers in the Judge Advocate General's Corps, we recommend that the Army Contract with civil rights organizations, such as the NAACP Legal Defense and Educational Fund, Inc., and the NAACP, and the National Conference of Black Lawyers.

We further recommend that persons facing Article 15 punishment, the nonjudicial punishment, be offered legal advice and an ample period of time within which to seek this advice before deciding upon whether to accept it or requesting a court-martial.

Although the policy of placing a man in pretrial confinement is spelled out in the military regulations, these are often perverted in application. It is to be imposed, I am speaking of pretrial confinement, only to insure a person's presence for trial or when the seriousness of the offense warrants it.

Clearly, then, the offenses for which a substantial number of blacks are incarcerated do not achieve that magnitude or gravity considering that nearly one-third of those held last year were released without any charges of any type being placed against them.

What must be developed are measures to check the ease with which the original jailing takes place.

Another recommendation of ours was the need to institute a paralegal program under which young men of enlisted rank would be trained in the provisions of the Code of Military Justice.

Congressman Dellums. Thank you very much for your particular contribution of publications.

I have one question I would like to ask. Are there any grievance mechanisms that you know of in the military today that are independent of the regular chain of command?

Mr. Jones. It depends largely upon the command itself.

Congressman Dellums. In your evaluation of the military justice, would you concur that there is need for the entire military judicial process to be outside the chain of command, in an independent capacity?

Mr. Jones. Yes, I would think so if for no other reason than to give credibility.

What is very essential to this issue is appearance, to the black private and even to the white private. He knows that the officers who handle the justice system, all go to the officers club, that they all play golf together, that they all socialize together, they all live in the same area of the military establishment.

So his view of their independence is jaundiced and I think if for no other purpose it should be operated outside of the command structure.

Mr. Fauntroy. I had the unfortunate experience yesterday while at the hearings at Quantico Marine Base, not far from here in Virginia, of being told by the Commanding General that he had orders from the Pentagon that I should not visit the stockades there and not talk to men who were being confined there.

Mr. Jones. I could not offer an explanation as to why the Pentagon made such a ridiculous decision. What you would have found there, I think, would have been perhaps a disproportionate number of blacks confined. I think in your conversation with them you would have a number of them on pretrial confinement, because they had violated some petty regulation. Perhaps someone had not gotten a haircut, or he had had an encounter with an NCO or with his captain or lieutenant.

You perhaps would have found a great deal of anger and frustration—a great deal of hostility.

Mr. Diggs. Mr. Jones, among the approaches to resolving this problem, the Secretary has ordered the formation of a joint task force to make an indepth analysis of the administration of military justice and then forward these recommendations to him for remedial action.

Congressman Diggs. Do you know anything about the composition of the task force?

Mr. Jones. No, I do not.

Congressman Diggs. Has the NAACP or any other national organization, with this kind of sensitivity and understanding necessary, to your knowledge, been invited to be a part of this task force?

Mr. Jones. I was asked some time ago, very informally whether the NAACP would participate in such a task force, and I indicated that in all probability that we would, but I have heard nothing since that time.

I might say that the GIs with whom I spoke, each time I had been to West Germany, and those with whom I had contact in the States, are very leery of any further studies. There are enough specific recommendations for correcting the problem both short term and long term to obviate the necessity for any further investigation or study.

Statement of Capt. Thomas Culver, Air Force (JAG) attorney 6 years, Darmstadt 53 and other cases

I would like to first address myself to what I feel are the sources of racism in the military. I do not think that any of the military departments make racism the policy. If we look at their verbiage, they use very strong language in condemning racist policies.

These policies, I feel, are subverted very effectively by the lower grade commanders and senior NCOs with the men in the shops and of course the men that the ordinary GIs deal with most of the time.

There is a prevalence among military officers which I am sure you are all familiar with that they have come from the South. Certainly a disproportionate number of southern whites are in the officer corps of the military services. This is also true of the senior NCO.

These officers have a great deal of discretion and it is in the imposition of Article 15 which Mr. Jones mentioned, and in the use of pretrial confinement that you find the most serious evidence of racism. I had a young man come to me last week. He had a file with him. He said look at the file. He was a Sergeant Hildreth from RF. He said look at the racism in my squadron.

So I looked at his file. In his file was a lengthy list of misconducts by white GIs. Billy Jones was late to work four days out of the month of August. Tom Smith hit so and so on such and such a day. Nothing was done. One black GI did the same thing, he was late. He got an Article 15. Another black GI was involved in a fight. He got an Article 15 or a court-martial.

Here, gentlemen and ladies, is where I feel the greatest racism comes out. It is in the discretionary use of military justice. When the white soldier commits an offense, the offense is excused. When the black soldier commits the same offense, he is dealt with harshly. It is these minor punishments, the Article 15, the summary courts-martial that lead to the discharges.

Now the second source of racism that I feel has been overlooked very often is in the host countries.

Once again I do not believe that the military departments do anything whatsoever to try to alleviate this.

Now this sort of host country prejudice that we have heard of, which the NAACP study documents so carefully regarding Germany, affects the GIs in a number of ways. It restricts their social life, it restricts the places that they live, and generally makes their trips overseas very difficult.

When a man such as Sergeant Hildreth feels that he has been oppressed because of his race, in the military, he has two places to go. He can go to the inspector general's office on his installation. He can go to the equal opportunity officer.

The IG is usually the Deputy Wing Commander. The equal opportunity officer is usually a Major possibly a Lieutenant Colonel in the combat support group. Both of these men are subject to the individual command of the installation. Their primary loyalty is to their commander.

And I can tell you from lengthy experience of my own that they were nearly always whitewashed. And that is because their job is to protect their commander. That is what they view their obligations to be. I feel that this is one of the great weaknesses in the military system of trying to cope with racism as they put the responsibility within the command and these officers will prejudice their own careers if they expose the racism within their own command.

Now a second great fault that I feel is in the area of military justice, as Mr. Jones said, it is white justice. There are white judges, white court members, and white lawyers. Very often a great weakness is in the defense counsel.

You tend to have two kinds of officers serving in the JAG Corps. Those who are JAGs to avoid the draft. They are there because they have to do some military service. They want to get it over with. They don't care. They find it a bore. They want to do their time quietly. They want to keep out of trouble so they go through the motions of making a defense.

And the second sort of JAG lawyers are the career lawyers. Those lawyers who decided that they will make a career of the military, and these men know very well what they can do is restricted.

Now if I may presume to suggest some solutions; someways of approaching this problem. I certainly endorse the suggestions already made. The first thing I would suggest is that there must be someway to get complaints of racism outside of the command structure—outside the immediate command structure.

Now the second thing I suggest is someway of coping with the commander or very often the senior NCO, the shop chief. This is the level that which the prejudice really hits.

My suggestion is that for him, the services establish a system of eliminating racist NCO officers. I think it should be made a specific grounds for discharge just as other misconduct is.

The earlier military justice can only be corrected by congressional action. I personally feel that the weaknesses in the system are such there is such a conflict between military injustices, that we would be better off to scrap the whole system.

The Germans, realizing the terrible abuses of military justice during the Nazi regime, did just that in 1947 or 1948 when they set up their present paramount. There is no military justice in Germany. Military offenses are tried in civilian courts just the same as any other offenses.

This would be one way of guaranteeing our soldiers at least the same standards of judicial protection that they can get in civilian courts.

Now I think one of the most serious faults of the military justice, the most glaring inequity, is in the selection of court members. The military commander, the very same man that decides a case is going to trial, the very same man that has a personal interest generally in seeing that a conviction is obtained certainly in cases involving racism, is the man who selects the jury. I can tell you from six years experience that hand-picking juries by senior Judge Advocates is common place.

I feel that this is a terrible inequity. I feel that a system should be established for random selection of court members. And I would recommend that the selection not be solely among the military, but among the military dependents as well, because this would get a few women on military courts which I think would do a great deal for military justice.

I think we could supply civilian defense counsel at Government expense.

I feel it would be helpful to eliminate the grade in courts-martial. The present system is that the military court comes in, you will have a Colonel, in a senior case, a full Colonel on down to some junior lieutenant.

How can a man who spends all his time deferring to those of senior grade suddenly go into the jury room, the antechamber of the military court, and ignore the fact that the person he is talking to is a Colonel. One way of getting around that of course would be random selection and there are very few Colonels. I feel there should be much stricter standards regarding pretrial confinement.

I think it will be very difficult to eliminate racism from the military until racism is eliminated from the American society. But I feel that a great deal can be done by using the authoritarian structure of the military towards coercing fair behavior among the junior officers and the senior NCO.

Congressman DELLUMS. You mentioned in your opening statement that you recommend that you do away with the military judicial system and have military personnel tried in civilian courts, which I think has extraordinary merit. Short of that, would you concur that the entire military judicial process should be outside the regular chain of command in an independent posture?

Mr. CULVER. I certainly would. And I would recommend that it go beyond the depths that have already been taken. As you probably know an independent judiciary has been established for general courts-martial only. I would recommend that it go to the extent that a civilian body of judges be established so that at least the judges are entirety independent of the military. I would recommend that it be administered, as well, outside of the command.

Congressman DELLUMS. Now in the case of Black officers being adequately represented on the panel and not being represented in any reasonable numbers, would you then attach to that recommendation that a quota system be established for racial minority officers on the panel?

Mr. CULVER. Yes, I think this should be at the election of the accused.

I think that the court should be primarily enlisted men because these are the men that understand other enlisted men.

Congressman DELLUMS. You mentioned that one potential avenue of redress was writing a congressman. What happens, in terms of your experience, when a GI writes his congressman and does this become part of his permanent record, and does it mean any negative factors for the GI?

Mr. CULVER. It does in fact. The GIs can get into trouble by writing their congressman. Although their right to write the congressman is protected by all kinds of regulations and of course the Constitution of the United States. No one ever gets a punishment for writing his congressman, but the next time his button is undone or he is two minutes late for work, he gets an Article 15 or other punishment.

Congressman DELLUMS. Our next witness, Mr. Maurice Anthony, whose testimony will go into the question of the administrative discharging procedures. Mr. Anthony is an unemployed black veteran who was administratively discharged from the military.

Statement of Maurice Anthony, an unemployed black veteran who was administratively discharged from the military

Mr. ANTHONY. Congressman Dellums, Members of the Black Caucus, my name is Maurice Anthony. I am unfit, unemployed, due to an undesirable discharge from the military in June of last year.

I had problems in the military whereas my wife tried to kill herself. The Red Cross called and told me that my wife was dying. I couldn't come home. When I asked about it, they told me things like, "damn it, forget about it."

So I made up my mind that I wasn't going to stay there, you know, and I left. I left Fort Riley, Kansas, on the last day of February 1969. I was picked up by the FBI in 1970 of April.

I went back to Fort Riley, Kansas. There in the stockade, I saw people handcuffed to the cells, in segregation, beat unconscious, just harassed and mistreated, you know.

Now that I am out of the military, I am still being stigmatized by this discharge. My employer told me as long as I didn't have a dishonorable discharge, I didn't have to worry about it, that is until I got out of the military, and now it is a different story. Since I have been out, I have had one job whereas I worked for the City of Chicago. I lied to get the job, you know, I had an honorable discharge as far as they were concerned.

Now I was told that I don't qualify for unemployment compensation, I don't qualify for welfare, so what am I to do. I have been told that my request for change of discharge has been denied. My case came up before the board the 21st of January this year.

I am tired of people passing that thing along on me like, hey, you ain't good enough. If I was good enough for you to draft me, good enough for you to ask me to give my life, then I am good enough to work when I come back. But yet, you know, they talk about the veterans coming home, we are going to give them a job. There are no jobs for you. And with an undesirable discharge, there is nothing going to happen because you don't qualify, you aren't good enough.

I am the same man that left Chicago, Illinois, in 1968, and the same one that came back in 1970. But my record, as far as the military goes, is like I am a hardened criminal, you know, I cannot be trusted, I am not worthy of taking care of myself, really, you know. Oh, you know, with this piece of paper, man there is nothing we can do for you. Well, there is something I am going to do myself. I have tried to get this discharge changed, and I am here today and hope that something can and will be done, because if there isn't, I am going to be just like that undesirable discharge say!!

I don't care what I do or how I do it to survive, I am going to survive because I must survive.

Well, that piece of paper and what it says on that piece of paper, it shouldn't be a basis as to my eligibility to work or not to work because I am the man that has to do that work, you know. And if I qualify, I qualify. And if I don't then disregard it.

The military has, to me, done me a great injustice because what I did in the military over a year ago, that is behind me, and if they did not punish me enough for what I did, then that is too bad, because I am out now. And as long as I am out, I have to live and eat just like you and any of the members up there or anybody out there. And if I cannot work in order to support myself, I am going to rip somebody off. And it doesn't make any difference who. And if it means taking a life, I will take it. It doesn't mean anything. But I am trying to go about getting this thing straightened out, you know, I am going to go about it the right way. By that I mean, going through the procedure, getting my papers filled out, waiting, hearing something like a, oh yeh, Anthony, here is a letter, next week we are going to send you some papers to fill out.

I am tired of filling out papers. And I am tired of getting messed around, you know. In the military, I put up with a lot of that. If you are Black and you speak up, you are crazy. You go to the psychiatrist twice a week to get a mental evaluation of really what is to you. They should have found out and known that I was undesirable before I came into the military.

But now that I am out for the rest of my life, get a job wherever I can, if I can. I am not going through that. And I refuse to go through it. I am here today and I will be back here again if I have to walk. Somebody is going to change my discharge and not when they feel like it, but right now. Either change it now, or I will be the most worse and fearsome dude out here on these streets.

And it doesn't make any difference to me who it hurts because I am suffering right now. I cannot tell my landlord, hey man, dig, I will pay you your money when I get a job, oh money ain't everything, because he is going to send me out there in the streets to see everything that money ain't. And I am just not, I am just not willing to go through that.

If I go out to a job, I got to lie. I am tired of lying to people. I should be able to be hired on the merit that I am qualified and if I am qualified, then take care of business and just tell me we are not doing no hiring. Don't run me all over the city and then tell me, well you ain't qualified for ADC. I don't want it no way. I want a job.

Congressman DELLUMS. I would like to

thank you Mr. Anthony for a very powerful and candid presentation.

Congressman Clay. Just tell us how you felt when you got that letter from the draft board?

Mr. Anthony. Well, I really felt like—it shocked me more than anything. I felt like I wasn't going to go to Vietnam if they had shipped me over there in a casket. Why should I go to Vietnam? You know, they are turning over buses on kids, blowing up churches, little kids getting runned over. Why should I be willing to give up my life for somebody 14,000 miles away, and when I come back I am treated worse than those people 14,000 miles away? For what? What would really come out of it? I wouldn't achieve anything. Once I get back here, I am just a nigger on the street, and that is it.

Congressman Clay. I happen to agree with you. I think that no Black man in this country should go to the United States services under any circumstances.

Congressman Jacobs. I would like to ask when you asked for a leave to go home to see your wife and she had a difficulty, I would like for you to say for the record, whom you asked and what his response was?

Mr. Anthony. Kriener, K-r-i-e-n-e-r. Raymond L. He told me damn it. Don't worry about it. You will get home when we decide to let you go home. That is what the man told me.

Congressman Jacobs. Sir, you said that you were told that you were ineligible for welfare or——

Mr. Anthony. Welfare and unemployment. Both of them.

Congressman Jacobs. On unemployment then what reason was given for that?

Mr. Anthony. They said that the Government had my records.

Congressman Jacobs. And finally, on your induction when you were drafted, would you repeat for the record exactly what your physical disability was and what your, what the reaction of the inducting officer was to your statement about this disability?

Mr. Anthony. I had a low back disorder which was to be guarded, supposed to be guarded and proper care was sedation, medication. There was no officer that examined me at the draft board induction station.

Congressman Fauntroy. Specifically, to whom have you applied for the changing of your discharge?

Mr. Anthony. I have written to Congressman William F. Murphy, Congressman Morgan, U.S. Senator Birch Bayh, Congressman Raymond J. Madden. I have written up to the Pentagon to Major General Kenneth D. Wickham, Senator Percy, Senator Stevenson. I have went to Concerned Veterans in Vietnam Chicago, where Congressman Roman Pucinski was supposedly to have been working on the record, and I get the same reply, like, everything is going great just hang on in there because we are doing our best.

You know, like, don't worry about it. If you ain't got no money, dont' worry about it. You are going to live anyway. You are going to make it because you were taught to survive in the military. Like, how are you to live without money, but yet you know if you have to live, you are going to make it someway, but keep on in there brother and we are going to help.

Don't help me. Change my damn discharge. And if it means for me while I am in Washington, I am going to see somebody. Some of those white people who can change this damn piece of paper. If it means grabbing them in the collar, I am grabbing. If it means hitting them in the head, I am hitting them because I am being hurt from now on with this piece of paper.

I have had too many setbacks. I am still trying to get this paper changed before I do something drastic.

I don't have a record. I don't want a record. But something is going to happen because I am on file as being out of it, you know. Man don't trust this dude. He is undersirable.

Congressman Dellums. Our next set of witnesses will include defendants from the Darmstadt 53 case, Charles Dean, David Clark, Herbert Quarry, to be joined by their defense counsel Bernard Segel.

Statement of Bernard Segel, Defense Counsel for the Darmstadt 53 Defendants

Mr. Segel. One comment I want to make preliminary to describing that the Darmstadt case is, and that is I want to express the most vigorous disagreement that I can with the statement made by your opening witness Mr. Nathaniel Jones the General Counsel of the National Association for the Advancement of Colored People. Mr. Jones opening remarks urged the support of reforms of military law system we have now because as he said we want to give it greater credibility for the Black soldier. That is sheer nonsense. We do not want to give it, the system, any greater credibility. It is a disgrace to the American system and the American ideal. We must support Congressional total reform of the military law system and that means scrapping the system as we have it now.

There is only one answer to give Black soldiers justice in the military and for the matter for White soldiers too. And that is the establishment of a photo system of courts manned by civilian judges with juries that are drawn from the total population of military men, and as Mr. Culver suggested even from civilian dependents on post. We want federal judges who are civilians. And as a matter of fact one of the footnotes of that legislation which is going to create those federal courts also says that no federal judge in a military case will ever fraternize with officers, he will be like baseball umpires. He will never talk to them. Because what is ruining the military system of law today is that the head man, the commander, picks the judges, he picks the juries and he picks the results. Until this Congress of the United States abolishes that system, gives us federal judges, gives us a fair selection of juries, we don't want any part of this business of making the system more credible. Now the Darmstadt 53 case which brings these people before you this morning, very simply arose out of what seems to be a story of a conflict over music. But music of course is only the way that our hatred and our feelings are expressed. White soldiers and Black soldiers in a mess hall, white soldiers making obvious racial expressions against the Blacks, playing their little tape recorders, country, western music, making it louder and louder. Black soldiers resenting it, putting on soul music on the juke box and words being exchanged. And a general melee resulting in the mess hall and then, out of a fight in which there was equal participation by white and Black enlisted men, one man was arrested and guess who that was, that was a Black soldier. None of the white soldiers who had equal culpability—because it was not my word and it is not my word that they were culpable—but the word of the army investigator, were ever charged with that.

When a group of men in the same unit who ultimately became the Darmstadt 53, sought to express their protest, their disagreement with the fact not only that one Black soldier was charged in a general melee between whites and Blacks but that he was going to be held in a stockade at Menheim; that when they sought to protest their commanding officer, a totally inadequate individual, said he would not meet with them as a group, he would meet with individuals. He would refuse to meet with a group of men who had a grievance because they were all Black. He didn't need physical meetings to prove that. He didn't need physically receptive meetings to explain that a single individual had been brought out. This totally inadequate officer, a Lieutenant Colonel of the United States Army, not only, refused to meet with the men but months later when their lawyers arrived we asked them in the most sympathetic manner possible, each of the three lawyers who wanted to meet with them had all been officers in the Armed Forces and had some understanding at least of legitimate command problems. He would not meet with the lawyers as a group until ordered by a superior office to do so.

Statement of David Clark, Defendant in the Darmstadt 53 Case

Mr. Clark. Mr. Chairman, I have another important point to bring out right now because it is taking place right now. For instance, after they dropped the charges, like right now some of the guys lives have been threatened. The point is that they have been shipped out. In other words although the charges are supposed to have been dropped, they are still being punished. They are being sent out in groups of twos and threes all over Germany. As I said some of the guys' lives have been threatened. I think it should be acted on right away because these commanders they work in a chain thing and these commands that they are sending them to, they are being telephoned ahead to warn them and tell them about it. So the Colonel said the reason they were transferred was to protect them from the racial prejudice on the base.

Well, on these grounds, if they have got to give the Black GIs a run-around to protect them from racism, I think they should be brought home, personally. If the commanders can't control the racism on the base, he shouldn't be there. He can't do his job. Those guys are suffering right now because of the fact that they have gone through this thing and they should be brought home because they will suffer as long as they are in Germany.

In addition to the Black GIs who were shipped out I believe that there have now been over 60 people that were shipped out. There were whites who were shipped out. Who were the whites? The whites that were going to come forth and testify for us. So this is a clear pattern for discrimination. It shows a tentative intent.

Congressman Dellums. Are you making this presentation because it is an isolated aberration or are you making this presentation because this is a typical case?

Mr. CULVER. One thing I wanted to certainly advise the Caucus, is that this is not an isolated case. These cases are happening every three weeks or a month, that Black soldiers feel so oppressed that the only thing they can do is to react by grouping together and expressing themselves as a group. Generally their reactions take just the form it did in this case. They stand in place, they say "No we will not be moved, we are not going to obey your orders" and then passively they are hustled off to courts and are punished.

This is not an isolated case. But the sad thing about it is that the justice that was done because of the massive civilian support in this case is isolated. Most of these cases are hustled through to conviction and punishment for the men.

When you are dealing with a Black soldier you have to fight not only the case but you have to fight the institutional racism that is built into the military law system. I want you to be very aware that I choose not to call it the Military Justice System. Justice has no bearing to it.

As you read military law, you read the code, you realize it is an arm of discipline of the commander. Get that. The Military Law System is not set up to resolve disputes between those in authority and those who are supposed to be commanding. It is a tool by which the commander compels the men to do whatever the commander wishes, rightly or wrongly, and that kind of system is not a law system. It is certainly not justice. That is why it must be scrapped and supplanted by a real system of federal courts.

Mr. SIEGEL. The remaining numbers of the Darmstadt 53 who are in Germany will never be free from the fact that they challenged the military system until they are brought back to the United States.

Mr. Wallace Terry.

Congressman DELLUMS. Our next witness,

Statement of Wallace Terry, former deputy Saigon bureau chief of Time Magazine

Author: "The Bloods: The Black Soldier From Vietnam"

Mr. TERRY. I am Wallace Terry a Fellow in journalism and public policy of the Metropolitan Applied Research Center in New York. As Deputy Saigon Bureau Chief of Time Magazine I covered the war for more than two years. In that period I interviewed six hundred Black soldiers of all ranks and of all services. I visited more than fifty bases and outposts for that specific purpose. I conducted the first survey ever of Black and White racial attitudes in the Military in the midst of a war.

What were the complaints that I heard among Black soldiers in Vietnam, and they are mirrored of course all across Europe and here in the United States?

First of all slow promotion. You will find Black soldiers who would be in a country a year before they went from E2 to E3. Some White soldiers as soon as they hit the country would be promoted immediately to E3 or better.

Secondly, assignment. The average soldier would spend approximately four to six months in field and then he could count on a nice soft, less hazardous, less dangerous rear area assignment. Too many White sergeants and White officers were not making those kinds of assignments available for the Blacks. Worse, whenever, they got a Black trouble maker or a Black who was too militant for them, in other words, a Black who was a Black and not a colored boy, he might find himself on the point duty the next day or more tragically, sent to the most dangerous areas of the war zone such as the DMZ. That is the cost for being militant in Vietnam.

The question of hair. If you grew your hair too long, never as long as some White boys are able to wear their hair and get away with it, you risk thirty days in jail, being fined, and often times having your hair shaved in public in front of your peers. I talked to Marines in Da Nang who actually did serve fifteen to thirty days in jail for having their hair too long. Now I do not understand the relationship between hair and ability to fire a weapon.

The question of music. There was not enough music and other kinds of entertainment that appealed to Black soldiers. And if Blacks can account for up to twenty-two percent of the dying, they should at least have twenty-two percent of the juke box or the music on armed forces radios. Black accessories such as Afro-Combs. Jet Magazines, Ebony Magazines were too infrequent whenever I looked and wherever the Black soldiers happened to be.

Too many times Blacks whenever they moved in a group or sat together in a mess hall or just alone listening to music were suspected of planning revolts or riots, or accused of treason simply by being together. Now if you see a group of White people walking around whether it is in Vietnam or the United States, nobody suspects that they are planning a revolt or treason. But don't be Black and be in a crowd of more than two people, not in Vietnam.

And then of course the slurs and the trouble over just hopping a ride. When a White man drives his truck down the road and the Black soldier wants to hitch from Quang Tri down to Da Nang, he would not be picked up by the White Man. And this is enough to spark a riot, "I would not compare a gook to a nigger." This is one of the milder forms of remarks that Whites paint all over the bulwarks, all over the barracks and on any edifice that they can find. Of course the Blacks did not sit still, nor were the Whites sitting still. There were cross burnings at Cam-ranh Bay following the death of Martin Luther King, at a Navy base called Market Time facility at a little island called Bien Bah Bay.

In Que Viet, another Navy installation, in the northern most part of Vietnam, some of the White groups put on make shift clan costumes to celebrate the death of King, and in Da Nang there were flag raisings and the flags were not Black power flags or United States flags, they were confederate flags. And you will find them in Vietnam above the tanks, on backs of trucks and above jeeps.

I think most of us are familiar with the troubles inside the stockades. The most celebrated case was to the Long Binh jail where Blacks accounted for forty to fifty percent of inmate population. As a result of that riot most of the installation was destroyed and one White man was killed. There were killings as well in Tenshaw and in Plang Tri and there have been incidents since I returned from Vietnam in other places.

Blacks move first to protect themselves, late to assault Whites in such areas as Bien Hoa and Dong Tang. Now there has been a proliferation of "fragging", throwing grenades at White sergeants, and White officers that they consider their enemy. Some Blacks have formed their own organizations called Mau Mau's. Ju Ju's, among the Marines. Sometimes they go without any names at all. What they do then is to wear into combat black shirts and black gloves as symbols of their black pride and of their inability to accept the status quo.

The Marines in Da Nang, for example, design their own flags. These are the flags that you see here. (Exhibiting flags). This one in particular shows red for the blood shed by American Blacks in all wars, green standing for youth and new ideas. "Hofu Ni Kqenu" is Swahili, meaning "I will stand by you brother if you want my help." The spears represent violence if necessary, the reef, peace is possible, and the black background represents black pride in black Africa. I put before you some survey data drawn from my survey of eight hundred and thirty-three Black and White servicemen. Three hundred and ninety-two enlisted men, one hundred and seventy-five Black officers, one hundred and eighty-one White enlisted men, and eighty-five White officers. I have three basic observations to make. After looking over the data which was compiled at Harvard University, I noticed that there was little difference, service by service, in Black attitudes. To give you an example, Black enlisted men in the Army, seventy-five percent considered the Army a poor place for Blacks to be, sixty-four percent of the Black sailors felt the same for the Navy, seventy-three percent of the Marines felt the same for the Marines, and seventy-seven percent felt the same for the Air Forces.

I also noticed that there was no difference between combat and support troops. For too long I have heard that once you are in combat, racial differences subside. "We only had this trouble in the rear areas, in the support areas where the brothers are drinking or having a good time and relaxing and then each gets on the others' nerves." Well, it took a 9th Division soldier to explain to me why this is so. He said, "You know, when I am out in the bush carrying a grenade launcher. No White man is going to call me nigger." But when he sat down and took my survey, his attitudes were no different from the attitudes that I found among those who are stationed in the rear areas, he felt the same way.

I also notice that many of these Black soldiers were a lot hipper they were reading serious material, they were reading Eldridge Cleaver, Malcolm X, George Jackson, and so on. The White soldiers were reading funny books. The Black soldier is getting himself together. He may be more together than any other element in American society, certainly in that age group.

Most Black officers agree with Black soldiers. For instance, seventy-two percent of the Black enlisted men say that the military treats Whites better than Blacks, forty-eight percent of the officers agree. In the question of promotion, sixty-four percent of the Blacks felt that Whites were promoted faster than Blacks, forty-five percent of the officers agree. Half of the Black enlisted men and twenty-nine percent of the Black officers believe that Blacks were getting more dangerous duties than White. Sixty-one percent of the enlisted men and forty-one percent of the officers believed Whites were winning more medals than Blacks.

I also noticed a growing feeling, not of separation but of togetherness. Fifty-seven percent preferred an all Black military because they felt that they would get fairer treatment. Sixty-percent would even prefer living with Blacks. Sixty-nine percent said they would rather eat their meals with Blacks. It doesn't mean that they don't want a mixed Army, it simply means that they want an end to the harassment that they have to take when they are in their barracks or when they are in the chow line.

Now, you will find that White officers, among White officers only two percent believe Blacks were getting more dangerous duty, only six percent thought the Whites were winning more medals, yet twenty-five percent thought that conditions in Vietnam were getting worse and forty-seven percent for a total of seventy-two percent, believed that the race trouble is continuing at the same rate. What I do not understand is why White officers and some White enlisted men can believe the situation is bad, but they deny that the conditions exist. I believe as Black officers have told me in Vietnam and on my return, many of our young Black men in the military and returning from the military are bordering on psychotic. Negroes where they have been spit on all their lives, have suddenly been given Black pride, something to stand for for the first time in their life, they have been told everything is equal in the military, they have been sent to die in Vietnam or to come home maimed and scarred for their life, physically or psychologically. And when they came home they find nothing has changed. I think it is an explosive condition within our society. I think they could turn to guerrilla warfare.

I think any little incident could set them off, could trigger them, just a policeman yanking them out of a car, knocking them in the back of the head simply because they look different, their hair is too long or they don't say "sir" fast enough. The military has not changed, I don't believe. I think the reason we are having unrest today is because the Black population has changed. I went to see the Chief of Staff for the Navy in Da Nang. He knew I had grown up in the Mid West and he was from Kentucky and he wanted to relax, put me at ease. He said, "You know, son, several years ago when I was a boy your age I liked to play basketball. I bet you played some basketball up in Indiana?" He said, "I remember a colored boy, we called him 'Nigger Joe'. Boy, could he play basketball. And do you know if I saw him today I guess I'd just have to call him 'Nigger Joe' ". When I left his office I went to see that leader of the so-called militants at Camp Ten Shaw, Ron Washington, a seaman. I said, "Ron, have you met our Chief of Staff?" He said, "Yes.", and began to smile. I said, "Why are you smiling?" He said, "Did he tell you the story of 'Nigger Joe'?"

The military is our society in microcosm. The same Whites in the military in 1940 are the same ones we got there today. But the Blacks that we have there now are determined to take no more licks, no more name calling, no more slurs, no more cross burnings, no more confederate flags.

I don't know where to being on the recommendations for changes. Certainly this is what this panel is striving for. I have some brief ideas. First, we need more Black officers, lawyers, and doctors, in our services. For a Black boy to have trouble in Vietnam, and God knows anybody in Vietnam should be having trouble. He must go to a White sergeant for permission to see a White officer for permission to go to a White psychiatrist, with sealed envelopes all the way up and all the way back, to find out why he's having a problem.

I think it really comes down to the question of priority. When this problem is on the desk of the Joint Chiefs of Staff, not once a year, as it has already been, once in history, but every month, possibly every week, maybe everyday, then something will happen. When it is as important to have good race relations as it is to keep barracks clean and rifles clean. Then we will have some progress. The old adage has it, if you ground a ship in the Navy you can forget about being an admiral. Well, I believe that if you have a cross burning on your base or a race riot, you could forget about being an admiral or a general.

Military base visits, November 15, 1971

Caucus Members and base visited

Shirley Chisholm; Fort Dix, New Jersey.

George Collins; Great Lakes Naval Bases, Illinois.

Ralph Metcalfe, Great Lakes Naval Bases, Illinois.

John Conyers; Fort Campbell, Kentucky.

Ronald Dellums; Travis Air Force Base, California.

Charles Diggs; Westover Air Force Base, Massachusetts.

Walter Fauntroy; Quantico Marine Base, Virginia.

Augustus Hawkins (staff); Camp Pendelton, California.

Parren Mitchell; Fort Meade, Maryland.

Charles Rangel, Fort Bragg, North Carolina.

Louis Stokes; Fort Hood, Texas.

Congressman Dellums. Today the Congressional Black Caucus resumes its hearings on the question of racism and oppression in the United States Military. I am sure that I echo the sentiments of my colleagues on the Caucus when I say the eloquent manner in which testimony was given before this committee yesterday at times was distressing and at other times disturbing, but at all times provocative and far reaching in its implications. Even as we proceed with these hearings, reports of disturbances with racial overtones at Ft. McClellan, Alabama, are pounded in the news. Once again the Army has seen fit to punish only Blacks. (With these hearings we hope to put squarely before the powers that be in government, and the American people, who issue command responsibility in perpetuating racism in all levels in the Armed Forces.) Attention must be focused on the institutional nature of this problem.

This morning, however, testimony will go to the issue of equal opportunity policies and before we call our first witness this morning I would like to recognize the various members of the Caucus to give us a brief statement with respect to their experiences Monday at the various military installations that they conducted hearings on. I yield to my distinguished colleague from Illinois, Congressman Metcalfe:

Congressman Metcalfe. At the direction of both of you, Congressman George Collins and I visited the Great Lakes Naval Training Base, right out of Chicago, last Monday. There had been quite a bit of correspondence between your offices and Hawkins' office and the two Congressmen's office and thus we went there with the idea that things were going to be in good shape. We heard of an advisor-council composed of 50% Blacks, 50% Whites and of that group 50% were under 21. We were advised that there were courses being given in human relations. We were advised that there were special officers assigned to human relations.

As to what we found, I can summarize it in very succinct language: I was shocked, absolutely shocked at the separation that existed on the base where it was a policy only to assign one Black person to one barracks, where there was complete harassment any time two Blacks would gather, three Blacks or any number of Blacks; where there was a wide discrepancy in the treatment of those who had been involved in conflict. Where a White and a Black were involved in conflict we found that the Black received extreme punishment and the White got off. There were instances where they were initially charged with a minor condition and then later on other trumped up and false charges were put before them. When we talked with the group of the Judge Advocate of the Base and raised the question with him about the amount of time for the detention of the assailants and the fact that there were no Black lawyers, and that they had not made any effort to work out an arrangement with the NAACP in Chicago to get Black lawyers, he indicated that they were following regulations to the letter. At the same session there were three Black enlisted men and they spoke up and completely contradicted the charges that he made, because I said to him this: That it seems to me that your undesirable discharges are too easily gotten. We found out from the testimony that they were thrust upon the men.

The question of discrimination in housing was raised, and they have filed three suits against landlords outside of the base for discriminatory treatment of the troops. There was a question asked whether or not there was a secret code because the Armed Forces had said that there shall not be any racial identity, this form 1080 is in fact decoded so that certain numbers represent Whites and others represent Blacks so there is in fact decoding of the racial identity. We ran into the problem of lack of opportunities for promotion. But I will summarize my statement by saying that while there was trouble at the Helm Club, the enlisted men's club, that throughout the base there was an air of suspicion of every Black person. And if a Black sailor had an unusually long Afro dress, he was more suspect than the rest of them. So I can conclude by saying that there was complete harassment. I frankly think that there is a complete breakdown between Admiral Kaufman's office and what he believes in and what he is attempting to do and what the officers and the enlisted men are actually doing.

Congressman Rangel. I visited Fort Bragg, North Carolina, home of the 82nd Airborne as well as other supporting troops. Fort Bragg is the home of World War II veterans and heroes, Korean veterans and as you might suspect of Vietnam veterans. These veterans Black and White are greeted with a big sign "Welcome to Fayetteville, home of the Ku Klux Klan. Fight Communism and Integration." This is the type of thing that one sees whether he is a civilian or whether he is a member of the military.

Upon meeting the commanding general and reflecting some of the problems that were and have been reported to our various officers, I asked whether or not he and his administrative staff had some Blacks I could speak with who could communicate with the troops in an effort to get a better objective picture prior to the time of speaking to the troops themselves. He indicated that he had a very fine young man that was working in that capacity on staff. I asked to meet with him and unfortunately the commanding general had no idea as to what his name was nor did he know his rank. I then met with the equal opportunity officer of Fort Bragg, he turned out to be a retired Southern gentleman who had spent 30 years in the military and he indicated that pictures of his employees were posted in his office so that people would know that he hired Blacks.

Army regulations are used to suppress legitimate demands of Black soldiers many of whom were prepared to give their lives for their country, many of whom came back wounded. Those that attempt to redress their grievances are given several options, to be court martialed and go to the stockade, to be transferred out of the unit against their will or to accept a Chapter 10 discharge. And 9 out of 10 people that I visited in the stockade were asking for the opportunity to carry this heavy burden in civilian life of being discharged with conditions other than honorable.

The Army regulations themselves prevent a Black person from attempting to buy houses by using a White person in order to determine the degree of discrimination. This is prevented by Army regulations. The result being in Fayetteville that the Blacks have to take what is left and even the White enlisted men manage to find better quarters than the Black commissioned officers.

That even though there are no Army regulations to specifically charge the GI with, he can be charged with disrespect. And I think that anyone who has served in the military would recognize that when somebody wants somebody else there are ways to ask questions and give orders and there are ways to harass, so eventually one can find himself in the stockade.

Congressman Mitchell. The witnesses selected by the command in Fort Meade, to a man, spoke in glowing terms about what had been achieved at Fort Meade. Our witnesses spoke in terms of what had not been achieved, spoke in terms of racism, the repression, all the things that are happening to all Black men at that post. We heard the story of a White MP who slapped a Black WAC in the face in front of some 40 odd on-lookers and no action has yet been taken against that White MP. We heard the story of a 26 year old sergeant who when he reported to his command the 1st Cavalry at Fort Meade was greeted by his colonel in language, "Well, boy, at last you are here," and the sergeant said "I don't want anyone calling me, a 26-year old man, a boy." What did we hear? We heard from the drug addict in the stockade who came out on cold turkey, and if you know what cold turkey is that means that withdrawing without any medicine at all. And I witnessed men who had come out on cold turkey and they are reduced to an animal under that kind of situation. This man talked about this cost and asked for some kind of treatment so that he could break his addiction while he was in the stockade. This has not been forthcoming. We heard from Captain Jeff Hayes indicated very clearly for the record that hardship applications, compassionate reassignments are given to Whites much more frequently than they are given to Blacks.

But I wanted a chance to talk with those brothers and here is what they said: They disclosed a climate of intimidation and fear which is almost impossible to gauge the dimensions of. Three of the men are being discharged and they said as other colleagues have indicated that they are willing to take any kind of discharge in order to get out from under the repression.

The problem with the military it seems to me are of two dimensions: Number 1. It refuses to recognize the fierce pride that burns inside of a young Black man, and Number 2. It fails to recognize that young men of today are fully aware of the senselessness of the killing and maiming of war and militarism, and therefore they are not going to yield to Army pressures. I submit to you that unless that racial problem takes the position of recognizing the legitimacy of Black awareness and Black identity in young men, and unless that racial harmony program recognizes the legitimacy indeed the morality of fighting against militarism, then it is doomed to fail.

One such man testified before us and his testimony was like this: "All Black militants are no good. All they want to do is rule the world. All they want to do is make trouble." And then he went on further to testify that the problem at Fort Meade was with the Black soldiers for the most part because they drank too much liquor and they were no good. Now this was a Negro testifying.

But my point is that when you select a man like that to head up a racial harmony unit, a man who uses the language of a Bilbo and a Eastland, a man who is willing to surrender his own identity with his own Black brothers in order to further his own aim then such a program is doomed to fail.

I think the dimensions, the pervasiveness, the extent of racism in the military is so deep and so wide and so effective that we cannot possibly cope with it. Thank you very much.

Congressman STOKES. Significant about the group whom I talked with were many Whites who were part of that hearing along with Puerto Ricans and Chicanos, who wanted to affirm the fact that racism did exist on that post as it relates to Black GIs.

Now we found that there was a very disproportionate number of Black soldiers who were in stockades there. At Fort Hood the Black population is approximately 16%, as of that day there were 195 servicemen in the stockade, 31% of whom were Black. Testimony revealed the fact that the vehicle by which Black soldiers are given the stockade kind of punishment is the utilization of Article 15 where in many cases if a man refuses to sign and take punishment under Article 15 he then of course is given a court martial. We found that in many cases there were disparities under Article 15 between the kind of punishment meted out to a White soldier or to a Black soldier. In most cases for the same offense the White soldier was either not punished or given a lesser degree of punishment.

We heard testimony from White soldiers who said that for those of them who chose to socialize with Black soldiers on the post, they found themselves being harassed and being treated in a different manner from those white soldiers who did not associate with Blacks. We received a great deal of testimony with reference to the discontentment of soldiers who are not permitted to function with them, their military occupational specialty.

I found many of these young Black and White servicemen to be quite hostile, quite pessimistic with reference to whether or not there is any real hope, any meaningful hope for them. They spoke of the fact that people have come down there from Washington before and after investigations which they put in the category of being for the purpose of pacifying them, they saw absolutely no changes take place on that post.

Congressman CONYERS. The important consideration in my judgment was the fact that the commanding general and his supporting officers had a completely different view of the state of race relations as opposed to the Black servicemen who came before us to complain.

I would only tell you of one GI whose eloquence to me is all that we need to add to this record. He was from the South, he was young, he was of a very low rank, and he said that there is no place for the Black soldier in the military on that base, and that he said most of the Black soldiers felt that, that it was made clear to them in every kind of activity unofficially and officially that could be made clear to them, and they felt that there was no way for them to even work into the military establishment, that by being Black they were separated out from all of the rules and the statements that were of significance in terms of racial understanding.

But it seems to me that the question that we are confronted with is how do we begin to tear off the attitudes and protestations of good will, good faith attempts to resolve this problem. Everybody now is developing programs and activities that are only superficially dealing with the problem.

Congressman FAUNTROY. If what I heard on Monday is any indication of the racial climate of other bases around this nation, I think the public ought to be forewarned that there is serious possibility of violent reaction on the part of abused and mistreated Black servicemen in this nation. Many of the Black Marines there complained that their manifestations of Black awareness, and Black dignity were greeted often with discriminatory actions with respect to their housing, with respect to promotional opportunities.

With respect to housing for example, they told us of how many Black Marines who lived in substandard housing on the base, housing that has been condemned by the civilian authorities, and which housing was really unfit for many of them to live in with their families. The reason given by the authorities was that of course they recognized it was condemned and substandard housing but it was the best that they could do for the range of Marines who lived in terms of the cost of housing.

With respect to promotional practices and job classifications, we ran into the usual story of Black Marines being relegated to the menial and custodian type jobs which are generally considered dead end jobs where they develop no skills which are marketable beyond their service in the Marines, and how very often, they were diverted from jobs which on their volunteer status they sought as a means of developing skills that were marketable after their service.

While there were only 15 to 16 percent of Blacks on the base, that I would probably find 40 to 50 percent of those in the stockades to be Black. Now for some reason, when I asked to see the stockade, and to talk to some of the men confined there the commanding general informed me that he had instructions from the Pentagon and from the Department of Defense that I, a Congressman, was not to be allowed to go in to the stockade.

It was a high level of dispair and desperation among the Black Marines at Quantico. It was one fellow who said that they had one more time to cross him and he is going to kill some White man on that base. I sensed the anger and frustration in that voice.

Until the system is forced to function in the fashion that noncommissioned officers know, that if they violate the rights and the dignity of Black Marines, they are going to be subjected to the same kind of court martial consequences as are included in other aspects of discipline. It is my strong recommendation that we concentrate our efforts therefore in responding to the immediate problems of Black servicemen in bringing them directly in contact with their commanding generals and creating the kind of continuing dialogue that enables the military programmatic to address himself to raising the level of thinking of many of the racists who come into the services to the level that they will be fearful of the use of epithets, the use of the penalties that are imposed upon those who are Black and who affirm their Blackness through manifestations of Black awareness.

Congressman DELLUMS. I would only add one comment prior to turning the Chair over to my Co-Chairman, Mrs. Chisholm. Because one statement that has been made this morning I think we have to deal with because I do not believe we should leave the Department of Defense or any of the Armed Services free to cop out of the results of these hearings. As result of the testimony we have heard, and that is to comment that racism in the military may be in fact such that there may be no hope to deal with it. The fact of the matter is that racism does exist in the military to the marrow, the bone of the military, and perhaps to the same degree that it is reflected in the general society, but there is one very important difference and that is that the military has the ability to control behavior and that is something very different from racism in the general population. The military is an institution with an elaborate reward and punishment system. It has people as captive clients for two, three or four years or more. The fact remains that the military can and should control behaviors, therefore it may be even easier for the military to come to grips with the problems and discrimination in the military as we ponder and blunder our way through that question outside the military. And it is within the framework of that position that I think that we as Members of the Congressional Black Caucus and our colleagues in the House can press the Armed Services to deal openly and honestly and directly and forthrightly on issues that are grinding up the lives of thousands of Blacks and other racial minorities.

Congresswoman CHISHOLM. First of all the somewhat deep pessimism from the parts of some quarters leaves that maybe there is no hope at all, that maybe nothing can actually be done. I do not believe that to be the answer. I think what has to be done is to actually scrap the whole structure as it currently exists. First of all a large number of the persons in the military in the high command level are persons who come from the southern section of our country. This has been a way of life, this has been a career for many of these persons because of a lack of certain other opportunities for these white individuals. Then you have on the other hand, on the opposite side, Black persons in a society where these persons have been relegated for the most part to a nonrelevant and subservient status . . . now being under the control of persons on the other end of the scale who have helped to propogate that theory over the years. Therefore if we are going to do anything about the inherent racism in the military system, we are going to have to scrap the manner and the way in which many of these persons who are holding the top level command positions in this country have been controlling the system.

Statement of Frank Render, fellow with the Joint Center for Political Studies and Metropolitan Applied Research Center. Former Deputy Assistant Secretary of Defense (Equal Opportunity).

Mr. RENDER. The problem simply stated is the failure of civilian and military leadership to carry out its equal opportunity responsibilities. From freshly-striped NCOs to top brass with long-term bureaucrats as well as high ranking political appointees the problem exists . . .

I am convinced that in the well-structured military world that command leadership is the key to our rapidly moving to the ideal of universal racial harmony. A properly administered and controlled system of rewards and extensions must be maintained. This is not the present case. There is some positive leadership, but too often a neutral or negative pattern of behavior in equal opportunity exists. It can in some ways be equated in the now familiar "Moynihanesque" benign neglect.

There are several examples as to how the services reacted very reluctantly and oftentimes with disdain to inquiries, observations, and strong recommendations from the Office of the Deputy Assistant Secretary for Equal Opportunity. For example, we were not permitted to acquire reports of racial incidents from the services transmitted to us on a periodic basis. More often than not we read about an outbreak in the daily print media and found it difficult to obtain further information about these events.

The Office of the Deputy Assistant Secretary for Equal Opportunity is too far removed from the Secretary of Defense who apparently wants to achieve racial harmony and understanding. The two positions in between, the Assistant Secretary for Manpower and his deputy create too much distance and hamper the communication which is necessary for a meaningful appreciation of the problem and steps towards solution.

Racial problems are complex and deeply rooted in our culture and are not therefore susceptible to simple remedies or instant solutions.

There is a significant movement in the Defense Department towards the development, promotion and production of very limited race relations, educational programs, equal opportunity seminars and other approaches that have some long range effect on attitudes. There is still not enough being done for the here and now to insist upon and to effect proper behavior in the equal opportunity area.

Congresswoman Chisholm. Being on the inside for quite a while, would you say that there is a kind of internal struggle going on between the uniform command and the civilian command in terms of affirmative programs?

Mr. Render. I will answer that categorically, yes! I think that the military services act on the basis of what the Defense Department directives state, they at least formulate policies based on overall policy, and as I felt in my tenure that many times when we were trying to implement these policies that the services themselves resisted and found ways to circumvent or subvert what we were trying to do.

There is a basic answer that most people do not want to face, that there is blatant racism within the military and people are very resistant to making changes. You see the Army, the Navy and other services have operated for so long with this kind of mentality, and people have risen to high positions by using the methodology and certainly some methodology that is negative to the aspirations of minorities.

In other words we found many situations wherein people were pushed to the wall, wherein some of the young men were harassed to the extent that they felt so frustrated that they would lash out without thinking sometimes and do something that would get them into difficulty, then as soon as they did the slightest thing for which there is some rule or regulation that could get them into difficulty.

Congressman Rangel. When I went into the stockade, I was asked the question, "How many of you would take the Chapter 10 of it were offered to you?" And while a lot of hands did go up the warden at Fort Bragg said: "Tell the truth, tell the truth, how many of you really want a Chapter 10? In other words the warden was in a position as the one that was offering the Chapter 10. So that without going into the guilt of the defendant of the innocence it appeared to me unequivocally in going to cellblock to cellblock that Chapter 10's were being offered as an opportunity for the warden to reduce his population at that point by having the person discharged undesirably and then to bring other people and go through the same process.

Mr. Render. The people who were in charge in many situations were saying "Go ahead, do this, it won't hurt you, and six months later after you get out you come back to your Veterans office or your Selective Service office or some office and we will be able to remand that and give you an honorable discharge. But at this present time take that and get out and you will be happy and we'll be happy and it will be a better situation."

. . . it doesn't just deal with having chitlings in the snack bar, it does not just deal with having a Soul band, it deals with very serious interpersonal relations that affect the daily lives of these individuals, these young men. The acceptance of people as individuals, the acceptance and understanding of the different life styles and so forth that people have, this is the strategy that I think must be taken.

Statement of Cornelius Cooper, 1969 West Point graduate, former first lieutenant in the artillery division, Fort Bragg

Mr. Cooper. I am a conscientious objector and my relations and separation from the Army stems from that.

The Army is a feudal society, possessing class and even caste lines which can be crossed only with difficulty. And like all feudal societies it is also possessed of its own series of illusions and myths.

In this environment of strange values and obtuse standards, the Black man is asked to compete. He finds that in order to be successful, he does not have to think at all; many of the jobs are totally alien to anyone's experience, for once he is merely on the same footing as his contemporaries—or has the illusion that he is because he still cannot read (understand). If his uniform is always clean and pressed, if he is tougher than his contemporaries, if he can wheel and deal, if he is loyal to his immediate chain of command, he will be honored. I think here is a point to me that is important, because Black soldiers in the service, Black officers, Black NCO's end up becoming super soldiers. They are the most militaristic acting individuals in the Army. Many times they are more racist than their white counterparts. I think for members of Congress the best thing you could do as far as rectifying it would be to create a meaningful program to train people to get out of the service. Right now there is supposed to be a program where people for the last three months are able to be cross-trained and can learn to be something besides a cannoneer or a squad leader.

So I think that to me the only meaningful program that you could really do is to create extensive, an extensive comprehensive program to give people an alternative to the military once they have decided they do not like it anymore so they can learn another trade.

I have gone to the military academy at West Point, if you understand the nature of how an army must run, you have to realize that it has to run by demeaning the individual. No person is really going to walk out and take a kill or be killed unless he has been somewhat emotionally aroused to do this type of gesture, this really destroys an individual. You find only "partial" people in the military.

Congressman Dellums. These hearings have started with the premise that racism exists in the military. It starts with the assumption that maybe there are some things that can be done, and then you start to deal with those questions, hopefully in the process of these kinds of hearings where we are trying to effect not only the public opinion of our colleagues but the public opinion of the masses of people that these hearings are an important step.

Statement of Lt. Col. Dowdy, General Staff; Major Roscoe Byrd, Veterinarian; Captain Charlie Smith, Infantry; Captain Charles Johnson, Military Police; Captain Philip L. Robinson, Infantry; Captain Burns, Military Police; 1st Lt. Lacy Haith, Engineer; Captain Fulton Burns, Military Police; and 1st Lt. Cornell Jackson, Infantry; Black Officers Stationed at Fort Devens, Massachusetts

Congresswoman Chisholm. Black officers from Fort Devens in Massachusetts come before us:

Captain Smith. We are concerned Black officers that want to see a change in the institutionalized racism that has wrapped itself around the military system. We sit before you today because time is running out:

I would also like to bring up and I contend that if the Black officers in the military had the proper backing, eighty percent of the racism in the military would not exist at the troop level. Two and two-tenths percent of the officers corps of three hundred eighty-nine thousand officers, we make up two and two-tenths percent, about a thousand, and they are afraid.

Captain Johnson. Being relieved from command is very serious in any officer's career because a command is very important for promotion. It was knowledgeable at the time that I needed command time in my career because this was the first command that I had had in a seven-year career.

Just before I was to take over the company I had to go to the stockade and be an assistant correctional officer because as the group commander at the time stated, we need a Black officer in the stockade.

Captain Burns. The way things are going, when you are a second lieutenant, first lieutenant, people don't expect you to know anything or to be able to do anything. I served as a Second and First Lieutenant in Vietnam. I was wounded, I guess quite seriously, I spent six months in the hospital and was awarded a Silver Star. When I came out of the hospital at Fort Devens in 1968 I was assigned to post headquarters as a snow removal officer. Also, the difference in a Black officer who all of a sudden wakes up one day and gets his set of orders and he is a captain is that nobody has bothered to tell him anything about what he should do or anything. He is given these menial jobs except when he is in combat. Then one day you are a captain and they say okay, you are a captain, here is a company and it is yours. Whereas a white officer, he is constantly, every time he makes a mistake no matter how menial it may be, he is counseled on his mistake, told what he has done wrong and what not to do. Whereas a Black officer, he makes a mistake, nothing is said to him about it until efficiency report time comes around.

Captain Smith. I have walked down white commanders' rows and looked, and when I start seeing eleven barred to re-enlistment, five of their names are Diaz, Sanchez, I know who they are, they are Chicanos or Puerto Ricans, one or the other. And then I look around, I find Brown, Thompson, Williams and maybe a Brinkley. Now wait a minute, how many in there are Black and how many are white? Five Chicanos, five Blacks and one white, and you only have seven Blacks in your company and you have barred five of them from re-enlistment. What is this? One company commander was not even aware that he was a bigot. . . .

Congressman Dellums. The first question I would like to ask you is do you have or have you been provided with any specific training in this regard or is this another one of those Black jobs?

Colonel Dowdy. No, I have not had any training in that area. Just that I was assigned this responsibility because when I arrived at the post there were a lot of problems involving the Black officers, these officers sitting here today, so they all came to me with the problems.

Congressman DELLUMS. That is one of the recommendations that goes to the fact that in the military you are in a controlled situation and that the ratings are extremely important and if they are so important to the officer's career, then he would have to respond in this area as effectively as he would respond to firing a weapon.

Colonel DOWDY. Sociability, adaptability, yes, this should be in a numerical part of the report. If I might add, another recommendation would be to assign more high-ranking officers into key positions. This is not being done now!

Congresswoman CHISHOLM. Today we are going to focus on the problems pertaining to medical problems, housing problems of our servicemen here and abroad.

Statement of Captain Edmond Robinson, M.D., U.S. Air Force, stationed at Lackland Air Force Base, Texas

Captain ROBINSON. I am Captain Edmond Robinson, M.D., United States Air Force, stationed at Wilford Hall Medical Center, Lackland Air Force Base, San Antonio, Texas. . . . Now, I would like to say without reservation that I feel that the Air Force's racism, which is a foregone conclusion, does exist, is the most sophisticated of all the Services, and I say that because I have noticed where always the Air Force is last to change, even if it is a simple matter such as hair. The Air Force has this elitist attitude that they are the top service so-to-speak, therefore the way we have been doing things must be right and we are not going to give in, we are not going to change. . . .

Now, I will have to give you personal observations as a physician, and as a military man, things that I have witnessed, in career job assignments. . . . Lackland is where many policies are decided, it is decided there what technical fields people will go into, what career fields, et cetera, et cetera. . . .

There are four categories the Air Force enlisted men go into, administrative, general, mechanical and electronics. Now of course most Blacks end up in the general field. You have very small selection of things you can do, of meaningful jobs you can do. And it has been my observation that most Blacks end up in security police. Now at Lackland this has assumed the atmosphere of being a catch-all job. . . .

In staffing patterns, people who are put in supervisory positions, I have seen that there is a tendency to do anything necessary to ensure that Blacks will not be put in supervisory positions. I have personal experience with this. On OER's and APR's, which are rating systems, it is like a report card which is not very important to a medical doctor unless he is going to be a career military man. But I have found that Blacks find this very intimidating to think that there is somebody who is going to subjectively grade them and put down on their APR or OER whatever their thinking is. On-the-job training, or OJT, first of all with this kind of system it is very important that there be communication when a person goes to OJT. And I have seen that seemingly English is a second language for many Blacks.

I have observed the handling of dissent and militancy in the military, especially the Air Force. One is this catch-all type law governing possession of marijuana. Just as in society with this law filled with all kinds of loopholes, all kinds of interpretations, even the Federal Government has made it a misdemeanor, possession of marijuana, but it is still a felony under the United Code of Military Justice.

Homosexual charges, this is another way they have of dealing with dissidence and militancy. For example, to show you how asinine the situation was, although the Air Force has now corrected it somewhat, a young man would come in and say that, for whatever reason he did not want to be in the Air Force any longer and he said I am a homosexual. Immediately he is withdrawn from training, placed in the so-called "queer barracks" until he could prove collaboration. Finally there was a near riot over in this "queer barracks" because some people were getting general discharges and some people were getting honorable discharges. The Air Force based that on the fact that on the Form 89 that you fill out where it says homosexual tendencies, if you left that blank and some question arose in the future, you were given an honorable discharge.

Medical problems peculiar to Blacks. First of all, sickle cell anemia, now those of us know that recently sickle cell anemia has been given a lot of publicity in the press. Sickle cell anemia, which is a crippling and severe hereditary blood disorder and it is found almost exclusively in Blacks. And it was estimated that there are approximately fifty thousand Blacks who have this disease in its active form and another 2.5 million who have the sickle trait. Now this becomes very important in the Air Force in that if you have a sickle trait, you cannot be placed on flying status. Flying status involves more money, it involves getting into career fields that are much more important. So we can see where having sickle cell anemia does thwart the progress of many Blacks. Air Force has demonstrated a high degree of insensitivity to this problem by not providing any money for research, any interest in the problem that precludes and automatically eliminates many Blacks from choice career fields. They have no interest in it seemingly whatsoever. Another problem is the so-called pseudofolliculitis of the beard which is commonly known to Black males as shaving bumps. Now this disease does not threaten the patient's life or general health although his appearance may be permanently damaged, his comfort impaired and his career adversely affected. Dermotologists have long agreed that there is only one way to cure, mind you now, "cure" and that is for the patient to grow a beard. This was also taken from an article deduced. Although growing a beard will cure the disease, military regulations allow that option only on a temporary basis. Air Force Regulation 3510 allows a medical excuse for shaving up to three months for patients with diseases of the beard area, and patients with pseudofolliculitis of the beard, as the Air Force puts it, should be granted this. But there is no established policy. The Air Force is totally insensitive.

The military does not respond to a sense of what is right, what is just and all of this. They only respond to political pressure and a sense of publicity and this kind of thing, these are the only things they respond to. We need legislation designed to liberalize and to update the Funiform Code of Military Justice, especially the parts dealing with drugs and homosexuality. I see no need for a man going to get a job in the private sector of our society to have to answer a question about what kind of military discharge did you get, you know, two years of his life spent in the military and this is going to influence forever his type of employment. I think that is giving too much emphasis to the military.

Now, I have observed, and I have extensive experience with drug abuse—the official attitude of the Air Force seems to be, well this is something, this drug rehabilitation, that was sort of crammed down our throats by politicians, therefore we are not really going to be concerned about rehabilitating anybody, all we are going to be concerned about is making a nice report and making sure that this goes back to the Surgeon General.

But there is a complete insensitive thing about that, they are turned loose into society without having been rehabilitated.

Statement of Major Eugene Wise, Jr. U.S. Air Force, Stationed at Lockbourne Air Force Base, Ohio

Major WISE. Statistics show that Black airmen are promoted more slowly and in fewer numbers than their non-Black contemporaries on a proportionate basis. I have attended numerous retirement ceremonies and have never seen a non-Black three striper retire with twenty years of service. Invariably the lowest ranking man at most retirement ceremonies is most always the Black man.

Rank and promotions are directly related to the system of military justice. If an airman accepts an Article XV, which is non-judicial punishment, he is automatically placed on a control roster which makes him ineligible for consideration for promotion; and this Article XV is also used to downgrade his efficiency report, effectiveness report. This report can be then used to limit further opportunities for promotion. In the officer ranks, this effectiveness report is the primary document used for evaluation for promotion. This annual report is supposed to be a description of individual performance as it compares to his contemporaries. . . . However, it is equally difficult or impossible for the person receiving the unjustified lower rating to successfully argue against accepting them. And it is at this point that the discretionary evaluation of the Effectiveness Report for officers and airmen's performance reports can so easily become discriminatory against the Black serviceman. One then finds . . . On the other hand, those who do acquire rank seldom are given jobs that require supervision of other people in significant numbers. I am aware of the few Black squadron commanders in the Air Force and none in the operations or flying field. This is important to Black career officers because without command responsibility, it is very unlikely that you will be promoted beyond the field grade or the rank of Major.

Many Black career non-commissioned officers and airmen find it necessary to seek extra jobs to provide in an adequate manner for their families. This problem is compounded by the fact that housing is assigned by rank.

Base housing presents another variation of the problems in the minority situation. The base is often equipped so as to handle most of the essential and recreational needs of those living there. If it seems like a case of not getting satisfaction on the base or off the base as regards to housing, this is true in most instances.

I do not know the number that are pilots but percentage wise, there is 1.7 percent Black Air Force officers in the Air Force. So I would say, I would guess that it has to be less than one percent.

Congresswoman CHISHOLM. I would like to ask a question or perhaps you can give some insight here because I know that it has been very obvious that in terms of the equal employment opportunity officers on these bases, it is always a Black person that has been moved into these positions. Because I found in talking to a number of these servicemen at Fort Dix, appreciation of the human relations chairman and of the equal opportunity officer is nil. Because in many instances the title is there but in terms of really being effective and able to do the kind of job which that officer might feel deep down inside needs to be done, he is hamstrung and curtailed because of the regulations and the rules and also because of his own military career.

Major WISE. Well, I must first say I was appointed to this office and I was relieved two months later. It depends on the man under whom they work because as Equal Opportunity Officer you have direct access to the Wing Commander, and if he is a man of integrity then you can deal directly with him and really be effective.

Congressman Dow. You indicated that housing was allotted according to rank. Well, that being the case, would not the housing be allotted on the basis, on that basis? Where does racism enter into it if housing is assigned according to rank?

Major Wise. It is because of the difference, the way punishment, discretionary punishment, and discretionary writing of Effectiveness Reports that cause a man with eighteen years of service to be a Staff Sergeant, a four-striper or a buck sergeant, a three-striper, while his counterpart is a Tech Sergeant or a Master Sergeant. It is not the housing itself, it is meted out according to regulations but you can make a difference.

Congressman Stokes. We find Article 15 being utilized for purposes of punishing those found in violation of the Afro haircut regulation, it is utilized against those who dare wear the Black arm bracelet or the Black rings, and often times we find these servicemen who, rather than face a court-martial, go ahead and submit to the non-judicial punishment under Article 15. Certainly we know it is exercised to a large degree in the Air Force where the percentage of Black servicemen in the stockades are some fifty-three percent of the total stockade population I am just wondering what your observations are.

Major Wise. There is this sophistication and this resistance to change, and anything that indicates a change is a threat to their authority, and I do not have the answer. I do not have a recommendation for this because I have seen too many commanders circumvent regulations and I do not think we need any more regulations, I do not think we need any more legislation. I think too many commanders have been relieved of their jobs under fire whereas I think they should be exposed for the bigots they are and make the people, the commanders, the supervisors realize that when they take a young airman give him, a Black airman, give him an Article 15 and for the same offense give a white a letter of reprimand, a verbal reprimand, that he is placing his career on the line.

I do not condone the policy of rule by fear but I have learned it in the military and they respect it. All people in the military respect it. And if a man knows that his career is on the line, something he has dedicated his livelihood to, he is more likely to attempt a change than he is if we put some legislation that he can circumvent . . .

Statement of Major and Mrs. Washington Hill[2]

Major Hill. First of all, one of the efforts by the military in this area and why aren't they working? The housing referral officers, better known as HRO, have been established since our long and bitter fight in mid-December of last year. The specific objectives of this program are to make more economy housing available to the United States forces which it has, not to provide equal opportunity in securing off-post housing, which it has not. The housing referral program now provides as we first recommended last November that:

a. All personnel in the military or Department of Army civilians seeking economy housing must do so through the Housing Referral Office. This is not being obeyed.

b. Tenants who find their own apartments are requested to have their landlords register with the housing referral offices, and this is not being obeyed.

c. Written assistance on non-discrimination will be obtained from the landlords or agents and retained by the housing referral offices, and this is being done. And finally,

d. Then off-limits sanction will be used against landlords who will not rent to Blacks, and this is being done.

The existing problems in the face of this "effective" program are these:

a. The housing referral offices for the most part still have an inadequate number of economy apartments listed which forces individuals to find his own housing where, if he is Black, he quickly runs into discrimination. For example, in one housing referral office there is only eight places listed on the economy.

b. All personnel do not, I repeat do not, go through the Housing Referral Office. This can be easily, and has been easily documented. Many landlords have stated to white tenants and to prospective tenants that they would not rent to Blacks. Whites do not cooperate by reporting these landlords to the housing referral offices and will rent their apartments anyway. This happens all over Germany.

Now there are several recommendations:

One, the housing allowance and station allowance received by those living on the economy be withheld until they can show that they have gone through the Housing Referral Office.

Two, more Black NCOs, officers and Department of the Army civilians and less local nationals, less Germans, assigned to the Housing Referral Office to assure compliance of the landlords and agents with the system and to decrease the behind-the-scene maneuvers of these German landlords.

Three, follow-up on landlords who sign forms to assure their full compliance.

Four, the Department of Defense should immediately proceed to assume all leasing responsibilities relating to off-base housing of American servicemen in West Germany. The Department would then be free to sublet these units of housing to American GIs without any discrimination.

Five, discussion on the subject on the treatment of Blacks must be initiated at the highest levels of the West German Government. There is no reason why, repeat, no reason, why we must tolerate racism by the Germans. There is no German organization to which the Black GI can address his grievances. He must turn to the Army which has already shown it will tolerate racism in the military.

The Black GI is frustrated and has lost faith in the military system. He is discriminated against by the Germans in housing and off-post entertainment. He is discriminated by the military in promotion, military justice, legal counsel and administrative discharges. We need no one else to come to Germany and tell the Blacks, you are subjects of racism. What we do need is your support in getting recommendations we have made previously implemented.

One, effective, compulsory human relations councils at every level, elected by the people who they are supposed to help, to meet regularly with their commanders. Equal opportunity officers are a farce, for his job his to protect the MAN and not our rights.

Two, more Blacks in the positions of responsibility such as NCO's, company and battalion commanding officers, etc.

Three, more Black judges, lawyers and MP's who can give help to the Black GI in trouble. There are only two Black JAG Corps officers out of a hundred and thirty-six.

Four, replacement of the insensitive and prejudiced NCO and officers who are making the lives of the average Black GI in Germany miserable because of his Afro or his handshake, or him saying brothers instead of soldiers when he is speaking to his commanding officer.

Five, and elimination of the harassment of the Black who attempts to change the system in a peaceful way before he attempts to do it in a militant way.

Other areas of major concern are the schools, employment and PX facilities. In the schools there is a desperate need for Black teachers, as counselors, principals and coaches. In one elementary school in Frankfurt, there are seventy teachers and only five are Black, and two of those were appointed this year. And to my knowledge there is only one Black principal in Europe and he was appointed this year after thirteen years of working in the school system in Germany.

There are many dependents who are teachers but they cannot get jobs because they are constantly being told that there are no vacancies. The majority of the teachers are hired from the States and this is one of the reasons why it is difficult for dependents to get a job, but there are many of them available and they do apply immediately upon arriving in Europe but if they are hired they are usually hired as substitute teachers and they work as substitutes year after year but many white teachers after substituting for a year are hired on a permanent basis the following year.

There is a lack of Black Studies in the schools and the schools are given a choice of whether or not they want to teach Black students and most of them have elected not to.

In regard to employment, the Status of Forces Agreement gives local nationals priority in securing jobs. Supervisory, managerial, secretarial positions are taken by the local nationals and the Americans, Black and white, must take the menial jobs if they want to work, and they need to work.

Many of the dependents are beauticians, but until five months ago there were no Black beauticians employed in Germany. They had to do hair in their homes and this is the choice that we had.

Under PX items, we thought we would start with cosmetics, but this is such a small thing. There is a lack of choice of cosmetics. There are no cosmetics by Black manufacturers available, and when we approached the officials about securing such cosmetics, we were told that this had been recommended.

Number one on the list is to clean house in the school system in Europe. From the administrators down to the teachers, the deadwood has to go.

Dependents must be given a better opportunity to secure jobs and this will probably mean a change in the Status of Forces Agreement.

Congressman Dellums. Thank you. Do you believe that it will serve any useful purpose if NCOs and commissioned officers would be numerically rated as a significant part of their proficiency rating on their ability to address equal opportunity directives handed down through the Department of Defense or through their individual branches of service?

Major Hill. Definitely.

Congresswoman Chisholm. Thank you. I would like to hear your reaction to this. Would it seem to you that we should move in the direction of the establishment of the Department of Civil Rights in Germany, staffed by Blacks both in and out of the military, to address themselves to the multitude of problems that you are confronted with there in Germany? In other words, we cannot approach this in a patchwork fashion. The problem of housing, of education and promotion.

Mrs. Hill. I would just say very definitely yes, we do need such an organization. In fact that was one of my recommendations and I don't know how I could possibly overlook that. But it is very very important.

Statement of Clarence Chisholm, a Black veteran recently returned from Vietnam

Mr. Chisholm. One of the most serious problems the Black GI is confronted with in Vietnam is the insensibility of white senior NCO's and officers. They seem to forget that the Black man is as much a part of their command as the white, and until they realize this and begin to function as true leaders, responsible and dedicated to all of their men, American forces are headed for great calamities and chaos . . . This polarization took place out of a need for psychological security and of a need for a forum from which to voice opinions of the Blacks. It was thought that strength was in numbers and that a more positive reaction could be obtained speaking as a group rather than as individuals. Further polarization led to the pseudo concept in the mind of many Blacks, whom I came in contact with, that his white counterpart was the true enemy and more of a threat than the North Vietnamese or Viet Cong. To support this change, it is a matter of record that many fraggings, which is a term used in Vietnam to describe premedicated detonation of fragmented grenades to injure or kill, and killings in Vietnam of American men which were noncombatant. I have also visited camps in Quang Tri, Phu Bai, and other areas, and a condition of terror, fear and distrust between Blacks and white existed in many if not all of the camps at which I served or visited. In or around the month of March 1971, as a result of a shooting incident involving a Black soldier and a white soldier, a very serious racial confrontation took place on Camp Baxter, DaNang. Because of the high degree of racial tensions and because of past experience of shooting incidents, weapons were issued to men only during guard duty, or to everyone if a Red Alert occurred, which is a condition of enemy attack. But when word of Blacks forming to protest the shooting incident was heard by the commanding officer of 329th Trans Company, also on Camp Baxter, the white soldiers were barricaded and armed with two to three M-60 machine guns pointed toward the center of the compound, thus creating a very paradoxical situation whereas the whites considered the Blacks their enemy and the Blacks, already polarized, considered the whites their enemy. This is a perfect example of the beginning of chaos and weakening of the so-called "world's" strongest military force. This is also an example of the day-to-day confrontation which took place in various camps throughout Vietnam. I state further that unless racism within the ranks of the military is arrested, further polarization of Blacks and whites will continue and a dangerous breach will exist, detrimental to the security of the United States of America.

---

[2] Major Hill is a physician in the U.S. Army. Mrs. Hill is a former nurse and currently a representative for an educational consultant firm who has visited numerous Army bases.

I am also now a victim of unemployment. This is a very serious problem and quite a few veterans are concerned, especially Blacks. Many Blacks are unprepared to face this condition back in America. They hope that something will be done in the near future that will eliminate this problem.

Statement of Sam Barry, former Army Sergeant, who is a veteran of Vietnam and Germany, presently a student at Bowie State College, Bowie, Md.

Mr. Barry. We request an unannounced investigation of all military confinement facilities. We request that intensive studies of pre-trial confinement procedure be initiated and acted upon. We request a review and revisement of the military inspector-general system. We request a review of job of MOS placement procedures. You see, when you are inducted into the military, one of the vehicles that they use to perpetuate racism and job discrimination is that they place Blacks in these menial type jobs and I am sure the testimony you have been hearing in the last couple of days have pointed that out.

We request a review of the need for the endless parade of unnecessary field of exercises.

We request a study of U.S. soldiers being used for labor purposes that the German labor services are supposedly being paid to do. Realizing that most GIs are in these menial type jobs supposedly eliminates the need for GIs to be used to scrap paint and et cetera around the different military installations.

We request the nationwide elimination of kitchen police. Now one of the reasons that we request, that they make this request is that a GI who is below the rank of sergeant can look forward to an extensive relationship with kitchen police.

We request an end to discrimination against soldiers in off-post housing and in civilian-social establishments.

They respond to things economical. We found that to be true.

We request an end to the requirement that GIs in civilian attire stand for the playing of the national anthem. This is a very sensitive area with most GIs E4 and below who in the first place, they do not believe . . .

We request that the special service be required to make standing policies the practice of inviting white, and especially Black notables of all political, religious and cultural persuasions to appear at nonviolent and peaceful functions.

We would like to ask the members of the Caucus to review these testing procedures and indeed the test themselves, that once given on being inducted into the military. We feel that this is a very critical area . . . . the process of, once they get us into the military, once we . . . they have a thing in the military where they will get you to sign up for an extra year or an extra two years above the normal two-year tour of duty, promising you a certain job or a certain MOS.

Far too often Northern white officers and NCOs become infected with racism after marrying into white Southern families and/or being stationed at military installations in the south where most of these large military installations are located. That is a very important point.

Congressman Dellums. Along with the specific recommendations of Mr. Barry, we will consider an attempt to move on additional recommendations, some of which overlap.

1. I think a need for a Federal Court jurisdiction over the military court of justice matters.

2. A need to build a reward and punishment system compliance with Equal Opportunity Directives;

3. A need to re-evaluate and restructure promotion policies regarding Black GIs.

4. A need to re-evaluate foreign policy regarding those governments that discriminate against Black GIs stationed there.

It would seem to me that to provide a foreign aid to nations blatantly involved in racism means that this country is subsidizing racism in its foreign policy. I would think that the Black Caucus would move very openly in that regard to attempt aggressively to limit and to stop foreign assistance to all nations that are involved in racism. It is one thing for a country to say to GIs "Yanks go home", because there are many countries where we should be home. I think probably one of the reasons why we have so many problems in Germany is because we don't have a damned thing to do there. But there is a very different response when you see signs saying, "Nigger go home", because that does speak to the racism of that country and that does speak to a major problem in America.

5. Involving Black social and political action groups, have race relations training in the military. I might add, synthesize the military to the fact that Blacks and Browns, Reds and Yellows, and Whites who have different political points of views are going to continue to be organized because of their own needs, values and political ideas of which they do not leave outside the gates of basic training.

6. The need to begin to see Blacks in command positions in the military. It seems disgraceful that this country that lodges itself in justice and democracy and freedom can continue to have a microscopic number of Blacks commanding anything, still having us in the position of being foot-shuffling, ministerial men and women. We have to attack that very strongly, because as long as this country considers itself a democracy, until you make maximum utilization of all races, classes, sexes and generations of this country, you are not utilizing the intellectual capacity and leadership ability and the potential of millions of people.

7. The need to evaluate Equal Opportunity programs and training procedures and restructuring them where we believe it is detrimental to Blacks and other racial minorities.

8. The need to evaluate punishment of Black GIs for such culturally-oriented gestures as handshakes and wearing our hair long and kinky.

9. The need to evaluate military regulations which have had a negative effect on Blacks and other racial minorities.

10. The need for the Caucus to follow up with the Pentagon regarding specific and general problems raised during the one-day and the three days of hearings here in Washington.

I would only say that as one Member of the Black Caucus and as Co-Chairman of these hearings, that I think the hearings have only served to dramatize and to point out something we all know, that racism exists in this country. It exists in the world and it exists in the military. There are those who are about the business of building a movement in this country and a political alternative to expedient liberalism and reactionary politics, who choose to focus on changing fundamental institutions in this country so that they relate to human pride and human dignity.

As powerful as the military is, it will change.

It cannot stand outside of change.

I will say only to Mr. Barry and others that one factor I think we have to fight against very desperately and that is the practical effect of psychological genocide, and what I mean by that is the psychology of the notion that the military-industrial complex, the government, the powerful institutions that make decisions that affect our lives are too powerful to change. Because when you destroy a human being's will to hope, will to struggle, to realize the dream that comes from his hope, you have destroyed that human being and that is genocide.

We have to turn around and start talking about our ability to come together. I appreciate Mr. Barry's statement that he understands the policies of oppressed people in this country. Because we as Blacks no longer have a monopoly on "Niggerism" any longer; that there are all colors of Niggers in America. If we can pull those oppressed forces together, it seems to me that the Blacks, the young, the women, the poor people, the people who are overworked and underpaid and overtaxed, would come together, we are not operating within the framework of a minority, we have a majority. If we are able to pull that majority together, we will not have to hold these kinds of hearings.

The last point I would like to underscore for you as well as the press, is that it seems tragic that in 1971 that the Congressional Black Caucus, a handful of Black Congressmen and women, had to try to find independent resources to hold Ad Hoc hearings when there are millions of dollars at the disposal of the United States Congress that do not go to serious issues that have been well documented in all forms of media, that have been well documented by most civilian and military personnel, that we sit here holding Ad Hoc Hearings while our colleagues are on the floor calling irrelevant quorum calls, and the Armed Services Committee not seeing fit to address the very serious problems that have been outlined during the past four days.

Congresswoman Chisholm. Thank you very much, Mr. Dellums. These have been hearings that should have been called by the

Armed Services Committee that has the money and the personnel and the jurisdiction and the responsibility to see that there should be a complete eradication of racism in the military, and has not seen fit to do so because this does not concern them in terms of being top-level priority. So despite the fact, we have . . .

At least now served notice to everyone here in Washington, D.C., and all over this country, that the Blacks in the military now are tired of tokenism, that together we are going to bring all of the pressures that we know how to bring to bear on the Department of Defense.

FRANKING PRIVILEGE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. HELSTOSKI. Mr. Speaker, as I had indicated and upon receiving unanimous consent Tuesday, October 10, I herewith include in the RECORD the following:

First. Verified complaint of Alfred Schiaffo, plaintiff, versus Henry Helstoski, defendant; Robert Budelman, attorney.

Second. Plaintiff's proposed findings of fact and conclusions of law.

Third. Reply of brief on behalf of Henry Helstoski, defendant; Alfred Porro, attorney.

Fourth. Brief, on leave granted, on behalf of Committee on House Administration versus House of Representatives, as amicus curia; Eugene Dinallo, attorney.

Fifth. Reply memorandum in support of application by plaintiff, Alfred Schiaffo for a permanent injunction.

Sixth. Post hearing memorandum in support of application by plaintiff, Alfred Schiaffo, for a permanent injunction.

Seventh. Transcript of proceedings before Hon. Leonard I. Garth, U.S. District Judge. Continuing oral opinion delivered in open court. Written opinion still unprepared as of October 13, 1972.

[U.S. District Court, District of New Jersey, Civil Action No. ——]

Alfred D. Schiaffo, Plaintiff, against Henry Helstoski, Defendant.

VERIFIED COMPLAINT

Alfred D. Schiaffo, plaintiff herein, by his attorney, Robert B. Budelman, Jr., complaining of the defendant, alleges upon information and belief as follows:

1. This action is brought to enjoin defendant, Henry Helstoski, from misuse and abuse of the congressional franking privilege and for damages as a result thereof. Jurisdiction is conferred on this court by 28 U.S.C.A. Sec. 1338, Sec. 1348 and also by Sec. 1331, since the matter in controversy exceeds the sum or value of $10,000.00 and arises under the laws of the United States.

2. Plaintiff Alfred D. Schiaffo is a resident of Closter, Bergen County, New Jersey, and is presently a New Jersey State Senator from Bergen County.

3. Defendant Henry Helstoski is a resident of East Rutherford, Bergen County, New Jersey, and is presently the United States Representative for the Ninth Congressional District of New Jersey.

4. Plaintiff Alfred D. Schiaffo is the Republican candidate and defendant Henry Helstoski is the Democrat candidate for the United States House of Representatives from the Ninth Congressional District of New Jersey in the general election set for November 7, 1972.

5. On or about June 16, 1972, defendant sent unsolicited to an undetermined number of persons in the Ninth Congressional District of New Jersey as franked mail, a book entitled "The Yearbook of Agriculture 1963" in violation of the franking privilege and 44 U.S.C.A. Sec. 732.

6. On or about August 23, 1972, defendant sent unsolicited to an undetermined number of persons in the Ninth Congressional District of New Jersey as franked mail, a 1961 87th Congress publication entitled "The Capitol, Symbol of Freedom" in violation of the franking privilege and 44 U.S.C.A. Sec. 732.

7. In the latter part of August, 1972, defendant sent unsolicited to an undetermined number of young, newly registered voters in the Ninth Congressional District of New Jersey as franked mail, a "1972 Young Voter Opinion Survey". Said "survey", while stating that it was not printed at government expense, was prepared and sent at public expense in an envelope printed at government expense, which stated it to be "Official Business" all in violation of the franking privilege.

8. On or about September 1, 1972, defendant sent unsolicited in a mass mailing to an undetermined number of persons in the Ninth Congressional District of New Jersey as franked mail, a consumer product information index of selected federal publications. Said index, while stating that it was not printed at government expense and bearing the picture of defendant, was prepared and sent at public expense addressed to "Postal Patron—Local, 9th Congressional District, New Jersey" and designated on its mailing face as "Official Business" all in violation of the franking privilege.

9. On or about September 15, 1972, defendant solicited funds for a special section of a county chapter of a national charitable organization by sending to an undetermined number of persons in the Ninth Congressional District of New Jersey a letter under the heading "Congress of the United States, House of Representatives" and the signature designation, in part, "Member of Congress" and in an envelope printed at government expense bearing the address "Congress of the United States, House of Representatives, Washington, D.C. 20515, Official Business". Said letter soliciting funds was not official business of the Congress of the United States.

10. On or about September 13, 1972, defendant sent unsolicited in a mass mailing to an undetermined number of persons in the Ninth Congressional District of New Jersey as franked mail a "Washington Report". Said report, while stating that it was not printed at government expense and bearing 4 pictures of defendant, was prepared and sent at public expense in an envelope printed at government expense and was addressed to "Postal Patron—Local, 9th Congressional District, New Jersey" stating it to be a "Public Document—Official Business" all in violation of the franking privilege. A copy of said "report" and envelope are annexed hereto.

11. The aforesaid franked mailings were an abuse and illegal use of the franking privilege in violation of the Postal Reorganization Act Title 39 U.S.C. sections 3201, 3210 and 3211.

12. The sole purpose of the aforesaid mailings was to publicize and promote the political campaign of defendant.

13. The public has an overriding interest in being protected against abuses of the franking privilege.

14. The aforesaid franked mailings constitute campaign literature mailed by defendant at government expense and such mailings do not constitute "Official Business" under Title 39 U.S.C. section 3210 and thereby are not eligible for mailing without payment of postage.

15. The aforesaid mailings at government expense violate the civil rights of plaintiff and his right to run for public office in that they give defendant a distinct and unfair advantage to further his political campaign.

16. The aforesaid mailings and further similar free mailings resulting from defendant's abuse and misuse of the franking privilege, are a continuing harm to plaintiff in his effort to conduct a fair campaign.

17. The aforesaid mailings at government expense have resulted in the public and plaintiff being damaged in the amount of the cost of the items used in mailings and the cost of postage on franked mail.

Wherefore, plaintiff, Alfred D. Schiaffo, demands:

(1) That pending the final hearing and determination of this cause upon its merits, this court issue a temporary restraining order, or a preliminary injunction enjoining defendant from mailing or allowing to be mailed any additional items as above described by use of the franking privilege;

(2) That an injunction be granted during the pendency of this action, permanently restraining and enjoining defendant from mailing or allowing to be mailed any further similar mailings by use of the franking privilege;

(3) That a permanent injunction be granted restraining and enjoining defendant from mailing or allowing to be mailed any further similar mailings by use of the franking privilege;

(4) Judgment in an amount equal to the cost of the items mailed and the cost of postage on franked mail; and

(5) Such other and further relief as may be just and proper.

ROBERT B. BUDELMAN, Jr.,
Attorney for Plaintiff.

STATE OF NEW JERSEY, COUNTY OF BERGEN

Alfred D. Schiaffo, of full age being duly sworn according to law, upon his oath deposes and says:

1. He resides at 60 Anderson Avenue, in the Borough of Closter, Bergen County, New Jersey; that he is the plantiff herein; and that he has read the foregoing complaint and knows the contents thereof and that the same are true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes them to be true.

ALFRED D. SCHIAFFO.

[U.S. District Court, District of New Jersey, Civil Action No.——; Hon. Leonard I. Garth]

PLAINTIFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Alfred D. Schiaffo, Plaintiff, against Henry Helstoski, Defendant.

1. Defendant, a democrat, has served eight years in the Congress, is in his fourth term, commenced his first term in February, 1965, and is running for election to the newly reapportioned Ninth Congressional District (T–7).

2. The Ninth District consists presently of the following municipalities in Bergen County (T–9).

"Ninth District—Bergen County: That portion embracing the boroughs of Alpine, Bergenfield, Bogota, Carlstadt, Cliffside Park, Closter, Cresskill, Demarest, Dumont, East Rutherford, Edgewater, Englewood Cliffs, Fairview, Fort Lee, Haworth, Leonia, Montvale, Moonachie, New Milford, North Arlington, Northvale, Norwood, Old Tappan, Palisades Park, Ridgefield, Rockleigh, Rutherford, Tenafly, Teterboro, Wallington and Wood-Ridge, city of Englewood and Townships of Lyndhurst, Ridgefield Park, Rivervale, and Teaneck. Population (1960), 390,134; estimated to July 1969, 510,000, Congressional Directory 92nd Congress, Second Session, P. 108.

3. On April 26, 1972, the United States District Court for the District of New Jersey, in the case of *David* v. *Cahill, 342 F. Supp. 463 (1972)* Ordered, adjudged and decreed that Governor William T. Cahill and all election officials of the State of New Jersey "shall conduct the primary election on June 6, 1972 to choose candidates for membership in the House of Representatives from New Jersey and the general election on November 7, 1972, for membership in the House of Representatives from the following single member districts:"

4. As of January 1, 1973 the following towns will be included in other Congressional districts:

Montvale, North Arlington, Wallington, Wood-Ridge, Ridgfield Park, Teaneck, Bogota and the following towns will be included in the Ninth District:

Bergen County: Harrington Park, Little Ferry, Park Ridge, River Edge, Portion of South Hackensack; Hudson County: Secaucus, Union City, North Bergen.

THE YEARBOOK OF AGRICULTURE 1963

5. On or about June 16, 1972, after the primary election approximately 280 copies of a House Document entitled "The Yearbook of Agriculture 1963—A Place to Live" was mailed under defendant's franking privilege to public officials in the thirty-six municipalities he currently represents and also in the seven municipalities which will be added by Court order reapportionment and in which he is currently running for election as a candidate.

6. Approximately 230 of these nine year old books were obtained by defendant in 1964 when he hired Joseph Brzostowski as his Secretary (T–21).

7. Brzostowski had been a Secretary to Congressman Ryan of Michigan and had brought Congressman Ryan's allotment of these books with him when he became a member of defendant's staff (T–21).

8. Congressman Ryan served in the 88th Congress 2nd Session beginning February 7, 1964 but was not elected to the 89th Congress 1st Session beginning January 4, 1965, which was the beginning of defendant's first term of office. See Congressional Directories for each Session.

9. The remaining amount, about 50 books, were obtained from two other New Jersey Congressmen (T–18).

10. With the exception of some vague request for material on zoning and planning (T–26) from Councilman Tony Riccio of Little Ferry (T–27) a town not presently included in defendant's district and a town which might have received this book in 1963 from the Ninth District's former Congressman Frank C. Osmers, Jr., the mailing of 280 books was unsolicited (T–25, 26, 27).

THE CAPITAL SYMBOL OF FREEDOM 1961

11. On or about August 23, 1972, prior to the Republican convention, he sent out unsolicited (T–37) approximately 500 copies of the 1961 edition of some other edition of a picture magazine entitled "The Capitol, Symbol of Freedom" in a House document.

12. The magazines were mailed under defendant's franking privilege to Republican County Committee people in the 36 municipalities he currently represents and also in the 7 municipalities which will be added to the District in January 1973 and to which he is currently running for election as a candidate (T–33).

13. Defendant had some of the Our Capitol magazines "left over" (T–32) and they were "laying around" the office (T–32).

14. They were sent only to Republicans because the Democrats got them last year (T–32).

15. Defendant's office stamped these magazines "Best Wishes Henry Helstoski, Congressman New Jersey Ninth District" (T–34).

16. Defendant did not know when he had obtained the magazines (T–33) or how many copies of the 1961 edition were mailed out (T–34) and he did not know if the 1961 edition had been mailed out of his office with the letter of August 23, 1972.

17. Defendant mailed these magazines "only to Republicans because they work in *political matters,* in civic matters and the Democrats got a prior mailing from me. The Democrats—naturally, I am a little biased in that respect and I did it first" (T–36); and that the reason why defendant did the Republicans second was "because if I did the Democrats second, it would probably be something with *greater political overtones*" (T–40, 42).

18. Sometime on or about August 23, 1972 (T–46), defendant prepared a letter on an automatic typewriter (T–47) and mailed out the letter and magazine prior to the Republican convention (T–45) "to tie in with the fact that they might be going down to the convention" (T–46). (T(2)–35) *

19. In contradiction to this testimony defendant admitted at a continuation of the hearing on September 29, 1972 that other similar letters were prepared on September 16, 1972 and sent out with the magazine.

20. When asked about his prior statement that they were mailed out prior to the Republican convention defendant stated that the statement was correct because there would be a convention in 1976. (T(2)–43)

21. Mr. Gynn resides in North Bergen, a town not presently represented by defendant; is a Republican County Committeeman, and he received the letter dated August 23, 1972 about that date at his home in North Bergen. Both the capitol magazines were shown to Mr. Gynn and he identified the 1961 magazine as being the one received by him. (T(2)–166)

1972 YOUNG VOTER OPINION SURVEY

22. In February and March of 1972 defendant sent his annual legislative questionnaire to each postal patron in the 36 municipalities he currently represents. This resulted in 180,000 questionnaires being distributed to each household and mailing address in the existing Ninth District. (Defendant's Exhibit D–5)

23. In May, 1972 after the court's order reapportioning the district, defendant mailed out a supplementary edition to the seven added municipalities. This resulted in 26,000 more questionnaires being distributed to each household and mailing address in the 7 added municipalities which defendant is running for election as a candidate. (T(2)–71)

24. As a result of these two mailings, 31,812 completed questionnaires were returned (Defendant's Exhibit D–4).

25. Shortly after June 28, 1972 and after the primary the defendant mailed under his franking privilege 206,000 copies of the results of the questionnaire which he had printed in the Congressional Record on Wednesday, June 28, 1972. These items were also sent to the 36 municipalities he currently represents and also to the 7 newly added municipalities in which he is now running for election. (T(2)–74)

26. After having surveyed his entire district and the newly added municipalities and after having reported the results of the questionnaires, which resulted in 360,000 pieces of postal patron mail being sent unsolicited into his current district and 52,000 pieces of postal patron mail being sent unsolicited into the newly added municipalities, defendant then mailed under his franking privilege 15,000 more questionnaires (T–59) which state that they are "not printed at government expense" (Plaintiff Exhibit P–3).

27. These questionnaires were mailed in envelopes marked "Official Business" (T–53) but said envelopes were allegedly purchased by defendant (T–53) and the address labels were also purchased by defendant (T–57).

28. After June 1972, defendant's office started compiling the lists of graduates (T–48) and two summer interns prepared the questionnaire (T–48). One of these interns was employed under a Congressional Intern Fund (T–51). The survey was sent to the printer in the beginning of August and it was mailed out in the latter part of August (T–48). The questionnaires were mailed out by the House folding room (T–49).

29. Of the 10 questions which appear on the 1972 Young Voter Opinion Survey, 2 questions are substantially similar and 2 questions are identical to 4 questions which appear in the 1972 Legislative Questionnaire (Plaintiff's Exhibit P–3 and Defendant's Exhibit D–4(a).

30. Question No. 9 in the 1972 Young Voter Opinion Survey is "Do you plan to vote in this year's election?" (Plaintiff's Exhibit P–3).

31. Unlike the earlier questionnaire the result from 15,000 surveys mailed in August 1972 will not be mailed out unless a specific request is received (Plaintiff's Exhibit P–3).

32. These results will not be mailed out because they will not be tabulated until just prior to election day when Congress is in recess (T–61, 62).

33. Defendant targeted these 15,000 questionnaires to new young voters in the communities he currently represents and in the 7 newly added towns where he is running for election because the young voter is a prime target for both political parties in this year's election. (T(2)–86).

CONSUMER PRODUCT INFORMATION INDEX

34. On or about September 1, 1972 defendant began a mass mailing under his franking privilege of 206,000 consumer product information index to each postal patron in the 30 municipalities he currently represents and the 7 municipalities added by court ordered reapportionment in which he is now running as a candidate. (T(2)–47).

[U.S. District Court, District of New Jersey,
Civil Action No. ——]

Alfred D. Schiaffo, Plaintiff, against Henry Helstoski, Defendant.

Plaintiff's Proposed Findings of Fact and Conclusions of Law

35. With regard to the Consumer Product Information Index marked Defendant's Exhibit D–5, sometime in July or August 1972, defendant received an allotment of 20,000 (T–69) from the Consumer Product Information Coordinating Center of the General Services Administration (T–71).

36. The front of the outside page was in blank (T–69, 70) and the address side was also in blank except for the words "Consumer Product Information an index of selected Federal Publications on how to buy, use and take care of consumer products" (T–69).

37. The material content of the item, contrary to the statement "not printed at government expense", was printed by the Executive Department at government expense (T–70).

38. Defendant printed at his own expense and by his own printer a "Dear Friends" letter with picture on one side and "Congress of the United States, House of Representatives, Official Business, Henry Helstoski m.c., Postal Patron—Local 9th Congressional District, New Jersey" on the address side (T–73).

---

*T(2) refers to the Transcript of testimony taken on September 29, 1972.

39. Defendant mailed out his allotment of 20,000 under his franking privilege (T–73).

40. Because of the good response to this item defendant printed 30,000 more at his own expense (T–72) which were returned to his office and sent to the House folding room (T–73) with identification tags indicating the municipality where they would be sent (T–74) to be mailed under the franking privilege (T–73).

41. When asked if defendant was having any more printed he testified "No. If I raise additional monies for this purpose, then I'll mail them" (T–76), and when asked what he was referring to when he said "raise additional monies" defendant testified "well personal friends, associates, parents, my brother." (T–76).

42. Defendant was asked if he solicited funds and he stated that he solicited funds for printing but not mailing because it was "free" (T–76).

43. Prior to the aforesaid testimony defendant filed with this court an affidavit which, in contradiction of his oral testimony, states:

"In the case of the consumer product information, this document is a U.S. Government Printing Office Publication and was sent from my official allotment as a Congressman."

44. At the continuation of the hearing on September 29, 1972 defendant further contradicted his earlier testimony stating now that the 50,000 were from his allotment, that he had printed an added 30,000 and that he was now printing 126,000 more. (T(2)–47).

45. Between defendant's testimony on September 25, 1972 and September 29, 1972, he apparently was able to solicit funds for this added printing of 126,000 more indexes.

46. This item is prepared quarterly and defendant is now sending out the edition for the "Summer 1972" (Defendant's Exhibit D–5).

47. Defendant has changed the manner in which he is mailing these items. They now appear as they come from the Executive Department but stamped "Compliments of Henry Helstoski" and inserted in a brown envelope stating "public document" and bearing his frank. (Plaintiff's Exhibit P–12)

48. At this court's request defendant agreed to restrain from any further mailings of this item from 4:00 P.M. on Friday, September 29, 1972 until this court finally determines this matter on October 10, 1972.

WASHINGTON REPORT

49. On or about September 13, 1972 defendant sent unsolicited in a mass mailing as franked mail 206,000 items so called "Washington Report". Said report, while stating that it was "Not Printed at Government Expense" was prepared and sent at government expense in an envelope printed at government expense addressed to "Postal Patron Local, 9th Congressional District, New Jersey" and being stamped "Public Document, Official Business". (Exhibits D–6 and P–4)

50. The "Washington Report" was prepared sometime prior to August 29, 1972. (T(2)–100)

51. The "Washington Report" was mass mailed to postal patrons in the 36 municipalities defendant currently represents and to the postal patrons in the 7 municipalities which will be added by court ordered reapportionment and which he is currently running for election as a candidate. (T(2)–97)

52. Postal Patron mailings go to each household as well as each mailing address in the municipality.

53. The "Washington Report" contains the following bold headlines: "Economy Sluggish . . . Cost of Living continues to Rise", "The Vietnam War Continues", Helstoski Supports Revenue Sharing", "Communication with Congressman Helstoski" and "Helstoski Active in Legislative Role" and has four separate pictures of defendant.

54. The "Washington Report" in four pages contains political statements such as:

(1) "Congressman Helstoski has been actively involved in writing legislation. . . ."

(2) "Here are some of the legislative gains supported by Congressman Helstoski. . . ."

(3) "Some of the major bills passed by this Congress, with the strong support of Congressman Helstoski, are. . . ."

(4) "Helstoski Honored"

(5) "Helstoski has also introduced various plans that would aid our Senior Citizens. . . ."

(6) "Congressman Helstoski has opposed the war since coming to Congress. . . ."

(7) "Congressman Helstoski's Commerce Committee is concerned with several major areas including the environment. . . ."

(8) "Congressman Helstoski has also been pressing for action on other bills he has filed. . . ."

(9) "Congressman Helstoski has continued to play an active role in the lawmaking process. . . ."

(10) "The Administration's policy of massive bombing of North Vietnam is costing billions"

(11) "The administration has consistently overestimated the size of tax revenues. . . ."

(12) "Were the administration to adopt such a bargaining position . . . this tragic conflict could at last be brought to a close."

55. The "Washington Report" attacks the plaintiff, a Republican State Senator, indirectly when it indicates the reapportionment was the result of a 3 Judge Court adopting a bill "sponsored by Republican State Senator J. Turner." (Defendant's Exhibit D–6).

56. A prior "Washington Report" issued by defendant several years ago clearly indicates that not all his reports qualify for the franking privilege under the opinion issued by the Postal Department in 1963. (Defendant's Exhibit D–16.) That report in four pages of pictures of the defendant (Plaintiff's Exhibit P–14).

57. Defendant intends to mail under his franking privilege (a) 206,000 copies of a brochure on the drug problem which will be prepared by private individuals and printed at his own expense (T(2)–99); (b) 5,000 copies of the Declaration of Independence together with a statement he will insert in the Congressional Record which have been printed at his own expense and have been in his office since August 1, 1972 (T(2)–109, 114); (c) 126,000 copies of the Consumer Product Information Index which he is printing at his own expense (T(2)–72); (d) 500 copies of a report on Revenue Sharing which he will print at his own expense; and (c) a survey to be sent to police chiefs. (T(2)–100).

58. The aforesaid intended franked mailings will be sent as official business to communities he currently represents as well as the 7 newly added municipalities in which he is now running for election. T(2)–107, 114).

59. From the primary until September 29, 1972, defendant has mailed under his franking privilege more than ½ million items, more specifically 507,780 tiems referred to in the complaint and at the hearing of this matter.

60. Defendant now seeks to mail under his franking privilege about 337,500 more items. This will result in about 845,000 items being mailed during a four month period while a political campaign is in progress into the district he currently represents and the 7 newly added municipalities in which he is now running for election as a candidate.

61. The purpose of the aforesaid mass mailings was to publicize and promote the defendant during a political campaign.

DEFENDANT'S PROPOSED COMPULSIONS OF LAW

1. This court has jurisdiction of the parties and the subject matter of this action.

23 U.S.C.A. Sec. 1339.

28 U.S.C.A. Sec. 1348.

28 U.S.C.A. Sec. 1331.

2. The Postal Service no longer provides advisory opinions on the frankability of matter and on the general use of the franking privilege to members of Congress.

Law and Regulations Regarding Use of the Congressional Frank, Committee Print No. 14, November 11, 1971 at (1).

3. Though Postal Service regulations provide that official correspondence transmitted under frank of a member of Congress must be on "Official Business", the Postal Service will not detain said mail even though there are indications of abuse of official mailing privileges.

39 C.F.R. sections 137.1 and 137.9

4. The Congress has taken the position that both its statutory enactments and the regulations are vague and not entirely satisfactory and that a member must determine for himself whether specific actions are proper.

"Law and Regulations Regarding Use of the Congressional Frank" Committee Print No. 14, November 11, 1971 at (1).

5. Postal patron mailings to communities added to a congressional district may not be made prior to the effect date of the new reapportioned district. 1963–77 Stat. 818

6. A member of Congress may send as franked mail, i.e., mail transmitted under an autographic or facsimile signature of said member, only the following:

(a) matter, not exceeding 4 pounds in weight, upon official business to a government official;

(b) correspondence, not exceeding 4 ounces in weight upon official business to any person;

(c) all public documents printed by order of Congress;

(d) the Congressional Record, or any part thereof, or speeches or reports therein contained; and

(c) seeds and agricultural reports emanating from the Department of Agriculture.

39 U.S.C.A. sections 3210, 3211, 3212 and 3213.

7. A comparison of the franking privilege of a member of Congress and a former President indicates that the former's franking privilege is restricted as to use.

39 U.S.C.A. section 3214.

8. Public documents printed by order of Congress are those publications being a series of documents consecutively numbered in a continuing unbroken sequence throughout the entire term of a Congress.

44 U.S.C.A. section 719.

9. The items entitled "The Yearbook of Agriculture 1963—A Place to Live" and "The Capitol, Symbol of Freedom 1961" are public documents.

10. The items entitled "1972 Young Voter Opinion Survey", "Consumer Product Information Index" and "Washington Report" are not public documents within the meaning of 39 U.S.C.A. section 3211.

11. The item entitled "Consumer Product Information Index" is not one of the particular documents enumerated under Chapter 13 of Title 44.

12. The Congressional allotment of public documents printed after the expiration of the term of a member shall be delivered to his successor.

44 U.S.C.A. section 731.

13. Public documents to the credit of a member of Congress at the expiration of his term of office unless taken by June 30th next following the date of expiration is forfeited to his successor in office.

44 U.S.C.A. section 731.

14. Defendant was not entitled to possession of about 200 copies of an item entitled "The Yearbook of Agriculture 1963—A Place to Live" since those books properly belong to the successor in office of Congressman Ryan of Michigan, and were not to his credit or the credit of district.

44. U.S.C.A. section 731, 732.

15. Since Defendant was not entitled to possession of about 200 copies of an item en-

titled "The Yearbook of Agriculture 1963—A Place to Live" the transmission of said items by mail under the frank was improper.

16. 39 U.S.C.A. section 3201 (3) and (4) is not to be interpreted as to eliminate all protections against the abuse of the franking privilege.

Rising vs. Brown, 313 F. Supp. 824 (1970).

17. Material is not "Official Business" when it is closely related to campaign material i.e. when it is substantially devoted to other matters which strongly lends itself to the suspicion that it is promotive of getting votes for the sender.

Rising vs. Brown, 313 F. Supp. 824 (1970).

18. The public has an overriding interest in being protected against abuses of the franking privilege and the court has the injunctive power to prevent the abuse.

Rising vs. Brown, 313 F. Supp. 824 (1970).

19. Defendant's franked mailings were an abuse and illegal use of the franking privilege in violation of the Postal Reorganization Act, Title 39 U.S.C. sections 3201, 3210 and 3211.

20. Defendant's franked mailings constitute campaign literature mailed by defendant at government expense and such mailings do not constitute "Official Business" under Title 39 U.S.C. section 3210 and thereby are not eligible for mailing without payment of postage.

21. Defendant's mass mailings at government expense violate the civil rights of plaintiff and his right to run for public office in that they give defendant a distinct and unfair advantage to further his political campaign.

White v. Snear, 313 F. Supp. 1100 (E.D. Penn. 1970).

22. Defendant's mass mailings into the 7 communities he currently does not represent and in which he is running for election as a candidate is an abuse of the franking privilege.

Hoellen v. Annunizo, 72 Civ. 1302 (N.D. Ill. 1972).

23. Defendant's so-called "Washington Report" was used as a means of developing support in this election and being political in nature was not entitled to the franking privilege.

U.S. v. Brewster, 92 S.Ct. 2531 (1972).

24. Defendant's mailings and any further similar free mailings during the remaining 28 days of this campaign are a continuing harm to plaintiff in his effort to conduct a fair campaign.

ROBERT B. BUDELMAN, JR.,
Attorney for Plaintiff.

[U.S. District Court, District of New Jersey, Civil Action, No. ——; Hon. Leonard I. Garth]

REPLY BRIEF ON BEHALF OF HENRY HELSTOSKI, DEFENDANT

Alfred D. Schiaffo, plaintiff, against Henry Helstoski, defendant

Alfred A. Porro, Jr., On the Brief.

TABLE OF CONTENTS

Counter-Statement of Facts.

Argument

Point I—The Legislative History, Administrative Interpretation and Case Law Regarding the Congressional Franking Privilege Dictate that a Congressman has Broad Latitude in the Utilization of that Privilege and that the Court Should not Interfere with the Utilization Thereof where it has been Exercised within its Broad Boundaries and where it has not Clearly Been Shown to have been Outrightly Abused.

A. The Franking Privilege—A Statutory Grant.

B. Legislative History of the Franking Privilege.

C. Postal Service and House of Representative Guide Lines, Rulings and Memorandums.

D. Judicial Interpretation.

Point II—The Public Document Entitled "A PLACE TO LIVE" is a Department of Agriculture Year Book Frankable Under 39 U.S.C.A. 3213.

Point III—The Public Documents Entitled "The Capitol" and "The Consumer Product Information" are Frankable Under 39 U.S.C.A. 3211.

Point IV—The Survey Polling the Opinions of Young Constituents and the "Washington Report" Advising the Constituency as to Matters Pending before Congress and Matters Occurring in the Congressional Office are Frankable as Official Correspondence Under 39 U.S.C.A. 3210.

Point V—The Federal District Court is Without Jurisdiction in an Action for Injunctive Relief Regarding the Congressional Franking Privilege and for the Recovery of Postage on Frank Mail Where:

A. The Question Involved is of a "Political Nature";

B. The Discretion Exercised by Congressman is Protected by Congressional Immunity as Provided by the Speech and Debate Laws of the Federal Constitution Article I, Section 6.

C. The Determination of "Official Business" as the Same Relates to the Franking Privilege is a Legislative Matter not Subject to Judicial Review.

D. The Plaintiff has not Established a Standing to Sue.

(i) There is no Civil Rights to Appeal Opportunity in a Political Campaign.

(ii) Plaintiff has no Standing to Institute an Action for Damages Which Would inure to the General Treasury of the United States.

Conclusion.

CASES CITED

Austin vs. Nedzi, Docket No. 38488 (E.D. Mich. 1972).

Baker v. Carr, 269 U.S. 186 (1962).

Caren v. Clark, 78 F. Supp. 29 (1948).

Hoellen vs. Annunzio, Docket No. 72 C 1302, (N.D. Ill. 1972).

League of Nebraska Municipalities v. Marsn, 209 F. Supp. 189 (1962).

Louisiana v. McAdoo, 234 U.S. 677, 58 L.Ed. 1806, 34 S. Ct. 938 (1914).

Massachusetts v. Nellon, 292 U.S. 4471, 43 S.Ct. 597, 67 L.Ed. 1078 (1933).

Powell v. McCormick, 395 U.S. 48 6 (1969).

Rising v. Brown, 313 F. Supp. 824 (C.D. Cal. 1970).

Straus v. Gilbert, 293 F. Supp. 214 (S.D. New York, 1968).

Tenney v. Brandhove, 341 U.S. 367, 375–377, (1951).

U.S. v. Brewster, U.S. 92 S. Ct. 2531 (1972).

Vehel v. Johnson, 287 F. Supp. 846 (1968).

AUTHORITIES CITED

Affidavit of Ruth Novich, Executive Chairman, Bergen County, Chapter, March of Dimes.

Congressional Record—House—April 29, 1969, Report Number 91–173.

Congressional Record, House, April 11, 1962, P. 6356, 6357.

Congressional Record—House—October 20, 1893, P. 2748, 2749.

Report Number 91–173, House of Representatives 91st Congress, 1st Series, April 29, 1968.

P.O.P. Publication, 126, April, 1968.

The Franking Privilege of Members of Congress. Congressional Research Service, January, 1971.

Law and Regulations Regarding use of the Congressional Frank, Sub-Committee on Postal Service of the Committee on Post Office and Civil Services, House of Representatives, Nov. 11, 1971.

Memorandum, Morris K. Udall, Chairman Postal Service Sub-Committee, House Post Office and Civil Service Committee.

Letter and Ruling of September 28, 1972 of the Committee of Official Conduct, U.S. House of Representatives.

Letter from General Services Administration, June 19, 1972.

The Congressman, Doubleday, Anchor Book, Charle L. Clapp (1964) 26 Am. Jur. 369, page 36, 42 Am. Jur. 2nd 172.

42 Am. Jur. 2nd 86.

STATUTES CITED

39 USCA 3201.
39 USCA 3210.
39 USCA 3211.
39 USCA 3212.
39 USCA 3213.
39 USCA 3216.
42 USCA 1971.
44 USCA 719.
44 USCA 731.
44 USCA 732.
44 USCA 733.
1 Stat. 70.
55 Stat. 739.

Public Law 92–399, 92nd Congress, H.R. 15690, August 22, 1972, An Act Making Appropriations for Agriculture—Environment and Consumer Protection Programs.

H. Con. Res. 193 91st Congress, 1st Session, April 1, 1969.

U.S. Const. Art. I, Sect. 6.

COUNTER STATEMENT OF FACTS

The defendant an incumbent Congressman of eight years, four terms, for the Ninth Congressional District of New Jersey is sued in this action by the plaintiff, his political opponent in the pending election. The plaintiff alleges in his Complaint and attempted to embellish in his testimony a theory that his civil rights and rights to run for public office is being violated by the plaintiff in his use of the Congressional franking privilege. (T II–178 through 179). The Complaint was filed on September 19, 1972 and served upon the plaintiff at the Court House on the return day of an application for a temporary restraint on September 25, 1972. The Motion for a temporary restraining order was denied and the matter immediately proceeded to final hearing. The final hearing was on September 25 and September 29, 1972.

The specific matter complained about and the subject matter of this action are three publications of the federal government, a survey of young voters in the Ninth Congressional District conducted by the defendant relating to various timely federal matters, a newsletter entitled "Washington Report" distributed to persons within the Congressional District regarding matters before Congress and pertaining to subjects relating to the Congressional Office and lastly a mailing soliciting funds for the March of Dimes on the letterhead of the Congressman. The defendant Congressman testified voluntarily and fully as to all of the items in question.

The first of the publication in question is the Agricultural Yearbook entitled "A Place to Live". (Exh. p–1). The Congressman explained that this publication of the Department of Agriculture was and has been made available to Congress for distribution under the frank. (T I–13 through 29; T II–8 through 23 and T II–110 through 111; and T II–125 through 137). He explained that the practice and procedure with regard to this publication and others of similar nature was to "mail them to all the high school libraries, the public libraries, and college libraries. After that, we mailed them based on a determination of ours in certain specific interest area mailings, public officials, mostly; but they take other forms."

"Then there are specific requests from constituents and we try to meet each of those requests". (T II–135 through 136). Specifically with regard to the Yearbook in question it was explained that due to the subject matter of this Yearbook they were mailed to all municipal public officials within the

District, regardless of party affiliation. (T I–11 and T I–20). This particular publication contained articles relating to the environment, water resources, planning and other similar subject matter.

The second publication of the government is one entitled "The Capitol, Symbol of Freedom". (Exh. P–2) With respect to this publication the Congressman testified that the same procedure with regard to priority mailings to libraries and then to specific interest areas was followed (T II–135 through 136). The specific interest area that was mailed to in this instance was that of Democratic and Republican County Committee people "without distinction to party" (T II–137). The content of this particular publication relates to the structure and operation of the Federal Government. The county committee people were chosen as the special interest group in that "they are one of the prime moving forces of the total operation of the structure of the two party system and I think that they, at least, should have some knowledge of the availability of some knowledge in terms of this kind of booklet, 'Our Capitol'." (II–137). The nature of the publication related directly to the county committee position and their interest (T II–137).

The last publication is the Consumer Product Information publication (Exh. P–5). The Congressman explained that these were mailed Postal Patron, due to the widespread interest in the subject matter (T I–69 through 83 and T II–138 through 140). He explained that this was the practice and custom of other Congressmen with respect to this particular publication (T II–140).

As to the surveys of the constituency in question (Exh. P–3 and P–4A) the Congressman testified that the practice of surveying one's constituency on public issues, questions and matters of a federal nature is a common practice of his and other Congressmen. (T II–140). He testified that the function of these particular surveys was to obtain "an indication of what the people are thinking. It gives me an opportunity to form judgments and exercise my opinion on various matters of a legislative nature on the floor, and to provide the basis and foundation perhaps of a new legislation that could respond to a certain problem or problems that might be evident in my Congressional District" (T II–141). The results of such surveys are by practice submitted into the CONGRESSIONAL RECORD (T II–44) and the data collected will then make "other Congressmen aware as to the feeling and tempo on the issues within your district" (T II–145).

With respect to the "Washington Report" (Exh. P–6) the Congressman testified that the purpose and function of the Report was "informational to my constituents, so they are aware of some of the problem areas, what Congress has done, and what some of the intentions are." In this particular case, this one marked in evidence, D–6—it's a brief explanation of what occurred in two of my committees to which I am assigned, how to get some benefits out of the flood relief program that was instituted by Congress. How to apply for Academy examinations or how to communicate with a Congressional Office. What yearbooks are available. What other publications are available. That kind of information that goes through or they take a special form as the other one that was submitted in evidence or as a problem of drugs, for example. (T. I–46 through 147.) The Congressional Newsletter or Report is a common practice and mode of informing a constituency utilized by many Congressmen (See Exh. D–12 through 15). (T II, p. 147 through 153).

As to the letters soliciting funds on behalf of the March of Dimes it was established that in fact the letters were not sent out under the franking privilege; they were individually stamped by the March of Dimes and on stationary paid for by the Congressman (See Affidavit of Ruth Novich and T I–187 through 189).

The documents, surveys and reports unequivocally were established and admitted to be non-political in content and not of a campaign nature. (T I–43 and and T II–87.)

The plantiffs testimony consisted of an identification of his party affiliation, the office that he was running for, a reaffirmation that he has seen the documents in question, a declaration that "Viet Nam" is an issue in his campaign and the presentation of a legal argument why he feels that his civil rights are being infringed upon by the mailings in question (T II–172 through 184). When questioned by the Court whether or not an inquiry to the constituency by a Congressman as to whether or not he should vote for particular bills immediately prior to election "on November 1" he indicated that the "intent" is "controlling". (T II–182 through 183). The plaintiff also produced the executive director of his political campaign who stated where their campaign office is and that he received Exhibit P 12, The Consumer Product Information Index. (T II–169 through 171). He further produced a running mate from Hudson County who established his party affiliation, position in the party and that he received Exhibit P2 (T II–164 through 168).

At the conclusion of the hearing the Court granted permission to John T. Walker, Chief Counsel, Congressman of the United States, House of Representatives Committee on House Administration, to file a brief amicus curiae. (T II–193 through 194).

POINT I

The legislative history, administrative interpretation and case law regarding the congressional franking privilege dictate that a congressman has broad latitude in the utilization of that privilege and that the court should not interfere with the utilization thereof where it has been exercised within its broad boundaries and where it has not clearly been shown to have been outrightly abused.

A. The franking privilege—A statutory grant

The statutory grant of the franking privilege to all Members of Congress is found in the Postal Reorganization Act 39 U.S.C.A. 3201, et seq. The "frank" is the "autographic or facsimile signature" of the Congressman and may "transmit matter through the mail without payment of postage". 39 U.S.C.A. 3201(3). The pertinent sections of the Act and the pertinent questions in the case at bar deal with the subject matter of *what* and *where*. The inquiry of this Court should be directed similarly i.e., what is the document or correspondence being transmitted under the frank and where is it being transmitted to. Attempts by the plaintiff to delve into speculative motivations, collateral effects and timing are nowhere contemplated nor can they be read into the clear statutory language of the statute. Nowhere does the statute limit the privilege where possible motivation and possible collateral effect of properly utilizing the same might be during election of a dedicated Congressman fully utilizing the statutory mode granted to his office. Nor, can it be read into the statute in any way whatsoever that there is a restriction on the utilization of the frank during an election year. It should be pointed out however that the record is clear in the case at bar that no such motivation or timing existed here. It is clear from the testimony that Congressman Helstoski has exercised this privilege and transmitted the matter permitted thereunder to the benefit of his constituency, regardless of party affiliation, during his four terms, eight years, as a Congressman without distinction to whether or not it was an election or nonelection year—the frequency of such mailings remained consistent. (T II–156.)

The statutory grant can be summarized as allowing the utilization of the frank for official correspondence, 39 U.S.C.A. 3210, public documents printed by order of Congress, 39 U.S.C.A. 3211, matter appearing in the Congressional Record, 39 U.S.C.A. 3212, and reports from the Department of Agriculture, 39 U.S.C.A. 3213.

It is interesting to note that there is absolutely no limitation with regard to the number of such sanctioned matters that may be mailed. The plaintiff attempts to confuse the issue by arguing that the provisions of 44 U.S.C.A. 719, 731, 732 and 733 place restrictions upon the privilege. Clearly an exaggerated and stretched interpretation of the sections in question. Title 44 of the U.S. Code deals strictly with the matter of public printing and documents, their classification and numbering, 44 U.S.C.A. 719, the free allotments (without charge) to Members of Congress, 44 U.S.C.A. 731, the time for distribution of these documents, 44 U.S.C.A. 732, and the ordering of additional documents "on prepayment of the cost" and the "request and printing" upon franks or envelopes used for mailing public documents. 44 U.S.C.A. 733.

B. Legislative history of the franking privilege

The most comprehensive document compiling the legislative history of the franking privilege appears to be found in a publication entitled *"The Franking Privilege of Members of Congress"*, Congressional Research Service, January 1971. The establishment of postal facilities was one of the first problems taken up by the Continental Congress when it began to exercise sovereign powers. The Congress resolved that a committee be appointed to consider the best means of establishing a post and on November 8, 1775 enacted a "free franking" privilege for Members of Congress. On October 18, 1782 the franking privilege was extended to letters, packets and dispatches to and from Members of the Continental Congress. The first Congress by Act approved on September 22, 1789, (1 Stat. 70) established the same regulations promulgated under the resolution of the late Continental Congress. The policy with respect to permitting various government officials to use the frank varied. There were years when restrictions did occur (Act of 1845, 5 Stat. 739) but a review of the development of the privilege to the present time shows a constant trend of liberalization of the franking laws.

In 1875, members and delegates were permitted free mailing of the Congressional Record, speeches or reports made in Congress and reports from the Department of Agriculture. In 1877, official stamps were abolished and official envelopes were substituted. The weight limitation was increased to four ounces in 1904.

The plaintiff in the case at bar cites at length at page 11 and 12 of his brief an excerpt from the Congressional Record—House October 20, 1893, at 2748 and 2749. The 1893 discussion occurred at a time immediately following the resurrection of the franking privilege, after its demise for such abuses as members utilizing the same "to send their washing home under the franking privilege". The 1893 discussion among some of the Members of Congress at that time, although interesting indeed, has since been very specifically clarified and expanded throughout the many years that have elapsed since 1893. The notions, conjecture and ambiguities expressed in that discussion have been clarified by extensive postal service regulations, administrative rulings, memorandum and the like throughout the many years that have elapsed since.

On July 29, 1916, a very pertinent presentation entitled "The Franking and Newspaper Privileges" was given by the Hon. Thomas B. Schall of Minnesota which is published in the Appendix to The Congressional Record for that day at page P1608 through 1611. Congressman Schall expressed the more liberal interpretation of the franking privilege and its essential role in the day to day functioning of a Congressman. It is respectfully submitted that the legislative interpretation from the July 29, 1916 presentation has continued to be one of great liberalization. Schall's remarks are truly pertinent in the case at bar.

"The problem of the endurance of our democracy is the problem of having all the people understand the questions upon which legislation is proposed, and in order that all the people might have the fullest opportunity to know what is going on in their Government Congress has very wisely provided what is known as the franking privilege, by which system any public document, letter or information *pertaining in any way* to the business of the Government can be mailed free to *any citizen* throughout the country. * * * This so-called franking privilege is one of the bulwarks of the people's liberties, upon which the foundation of our Republic must stand, for it is upon the education and understanding of our people that our republican institutions must rely for their perpetuation. Every citizen has a right to know what laws are proposed, what are enacted, what are defeated, the attitude of the Congressman or public officials upon each of these and their reasons for or against them. The franking privilege is expressly given the people, and it is the Congressman's duty, through his frank, to see that the people are informed as to the public business, and the closer he keeps in touch with them the more efficient and democratic will be his vote. * * * The franking privilege is at times abused, no doubt, as is also the mailing privilege given to newspapers. But the occasional evil is so far outweighed by its necessity and benefit in both instances that they should remain lasting institutions."

More recently, on April 11, 1962, in the *Congressional Record* House at page p. 6356 and 6357 the Congress discussed the matter of simplifying the form of address under the franking privilege, i.e. "Patron", mailings. In this context Congressman Weaver, referring to the privilege, stated that "this privilege is extended to the Congress as one branch of the Government, but in our case it goes even further. Any Member of Congress, can, under the present law and with the appropriations contained in this bill, blanket every home in the nation with his own personal point of view. It may be called a questionnaire or it may be a letter on a farmers' bulletin list, but it accomplishes the same purposes. * * * It is not confined to our own districts, nor is it confined to our own states. If one Member opposes another Member's position on some bill, he could, under this privilege, flood every city with mail, outlining his position and critical of the position someone else may have taken."

It will be noted, however, that since then through subsequent regulations imposed by the postal service and the guide lines issued by the sub-committee on postal service of the committee on post office and civil service, House of Representatives, that postal patron mass mailings have been self-restricted by the Congress through the "geological designated district" of the Member and "to such other areas of the State as may be encompassed in his district under a re-apportionment" as "finally determined". *Law and Regulations Regarding Use of the Congressional Frank, Sub-Committee on Postal Service of the Committee on Post Office and Civil Service, House of Representatives,* November 11, 1971, at page 1–2.

Thus, it must be concluded that the history of the interpretation of the fanking privilege as it was reflected on the floor of Congress has been one of considerable liberalization from the 1893 discussion quoted by the plaintiff.

Since 1893 the Post Office and now the House of Representatives have published extensive guide lines, interpretations, memorandum and rulings clarifying the 1893 notions. A modern society, a growing Congress and an extensive new gamet of social federal problems, legislation and programs demanded it.

C. Postal Service and House of Representatives Guide Lines, Rulings and Memorandum

A wealth of material has been published throughout the years in the form of postal service and House of Representatives guide lines, rulings and memorandum to provide a clear and conclusive interpretation of the questions involved in the case at bar. These items are controlling. These items have documented the practice and custom of Congress. These items provide the expertise on the subject. These items, it is respectfully submitted, should be conclusive.

The January 11, 1971 compilation entitled *"Franking Privilege of Members of Congress"*, supra, provides an extensive compilation of relevant data, rulings, guide lines, memorandum and the like on the subject. Likewise, the aforementioned November 11, 1971 compilation entitled *Law and Regulations Regarding Use of the Congressional Frank,* supra, provides similar mandates. It is interesting to note that in the recent memorandum from Morris K. Udall, Chairman, Postal Service Sub-Committee, House Post Office and Civil Service Committee, the problem of the re-apportioned district was specifically dealt with. This memorandum expressly permitted use of the frank in that portion of a revised district where the same was "finally determined". However, it should be noted that this restriction only applies to "postal patron mass mailings". Individually addressed letters "may be sent under the frank to any address in any of the fifty states." Other guide lines can be culled from Exhibit D–16 *The Congressional Franking Privilege*, a publication of the Post Office Department, POD publication 126, April 1968, particularly the postal manual, section 123.44–2(a) which expressly permits mailing into the portion of a newly re-apportioned district.

Excepting the proposition for purposes of argument that the Court has jurisdiction to rule on a legislative management matter such as is involved in the case at bar, it is respectfully requested that that ruling should strictly adhere to the guide lines, rulings, publications, memorandum of the postal service and House of Representatives. In this respect the Court should give full and due respect to Exhibit D7, the letter and ruling of September 28, 1972 of the Committee of Standards of Official Conduct, U.S. House of Representatives, addressed to the defendant, Honorable Henry Helstoski, specifically ruling on each and every item being challenged now before the Court, including the letters of transmittal. This House Committee, specifically endowed with the function of reviewing such material, specifically "found nothing in these (all materials in question here) which appears to be beyond the scope of "official business".

D. Judicial Interpretation

Although it is the position of the defendant that the Court should not accept jurisdiction in the case at bar, assuming arguendo the acceptance of such jurisdiction, it will be helpful to review the four cases on the subject matter that research has disclosed. They are *Straus* vs *Gilbert* 293 F. Supp. 214 (S.D. New York 1968); *Rising* vs *Brown* 313 F. Supp. 824 (C.D. Cal. 1970); *Hoellen* vs *Annunzio* Docket No. 72 C 1302 (N.D. Ill. 1972) and *Austin* vs *Nediz* Docket No. 38488 (E.D. Mich. 1972).

The *Straus* case, much like the case in question, involved an attack by a candidate running against the incumbent defendant Congressman seeking injunctive relief. He complained that the Congressman sent franked mail into areas recently incorporated within his district as a result of re-apportionment. He complained that the matter sent, a portion of the *Congressional Record*, was not reprinted exactly and without variation in that the Congressman's picture appeared on the same. He complained that the inserted material was primarily for purpose of campaigning. The Court denied relief on all complaints. The strict statutory construction was applied by the Court. The language of the statute was taken as "dispositive of this controversy". It is extremely relevant to note that the Court also held:

"Neither do we believe that inserting a cover letter nor the addition of a picture removes the reprint from the ambit of the statute." *Straus*, supra at p216.

The Court pointed out that the statute contained no such prohibition regarding campaigning purposes, letters that do not mention the campaign or any restriction as to what Congress can print in its journal. The Court also decreed the utilization of the frank for mailing material into the new municipalities re-apportioned in the district. Finally the Court expressed its hesitancy to "intrude on a political dispute in any event". It is respectfully submitted that the decision in *Straus* should provide a strong guideline for similar disposition in the case at bar. The facts are strikingly similar and the issues the same.

In the *Rising* case, quite a different factual situation existed. A Congressman running for U.S. Senate attempted to utilize his franking privilege to disseminate material throughout the whole state. Note: Not within the new communities incorporated within his present district as a result of re-apportionment, but rather throughout the whole state of California. The materials were prepared by a public relations office which was managing his Senate campaign. The envelopes were stuffed by volunteer campaign workers. The materials were not sent out throughout his whole term, as in the case at bar, but merely and solely two weeks before election. Obviously, the Court here held that the public relations brochure was not "official business" within the statute. The case is so different and so extreme as compared to the case at bar that little guidance can be gained from it in the determination of this case. It is interesting to note, however, that the Court relied for its guidance as suggested here, on the postal service publication, the *Congressional Franking Privilege*, supra.

The Court also distinguished the *Straus* case. Likewise, the *Hoellen* case factually is extremely different from the case at bar. There the Congressman was not mailing into new communities made a part of his old district, but rather was utilizing his franking privilege to run in a completely different district. He was a candidate for office in a new district and not an incumbent Congressman, as here, who had some additional or different communities incorporated in his old district. The lack of over-lapping of districts and the fact of being a candidate in a completely new and distant district constituted the gravamen of the Court's decision to deny the use of the franking privilege in the foreign district. It is also interesting to note that the Congressman there had never sent questionnaires before, as compared to the defendant here who testified that he had continuously through his eight years as a Congressman utilized the questionnaire method as a mode of obtaining data important to him in performing his official functions as a Congressman. (T II–141). The Court, but for the fact that the defendant was the present congressman in the Seventh Congressional District, now running as a candidate for Member of Congress in the Eleventh Congressional District, would have upheld the subject matter of the materials sent. It expressly recognized as proper the reprinting of the picture of the Member of Congress on the materials.

Lastly, the *Nedzi* case involved an attack, similar to the case at bar, where the franking privilege was utilized to send materials to new municipalities incorporated in the old district. Here the Court utilized as its primary guide, as in *Straus*, the postal regulations. The Court pointed out that it is these regulations and guidelines that the Congressional staffs follow—it is "their Bible". The material in question in the *Nedzi* case was a "report from Congress" similar in nature to those sent out by Peter H. D. Frelinghuysen (Exh. D 12), Congressman Ed Forsthye (Exh D 13) and Congressman John E. Hunt (Exh D 14).

It is respectfully requested that the plaintiff's attempt to apply the *Rising* and *Hoellen* cases to the factual situation at bar is much strained. Ironically the plaintiff's brief in discussing those decisions at page 13–14, is surprisingly silent with regard to the factual situations involved there. It is respectfully requested and submitted that the *Straus* and *Nedzi* cases are more pertinent factually and certainly better guides for the Court in this case.

POINT II

The public document entitled "A Place To Live" is a Department of Agriculture Year Book frankable under 39 U.S.C.A. 3213.

The plaintiff attacks specifically the sending of the agricultural Year Book published by the Department of Agriculture entitled "A Place to Live" (Exh P–1) (T I–13 through 29; T II–8 through 23 and T II–110 through 111; T II–125 through 137).

Public Law 92–399, 92nd Congress, H.R. 15690, August 22, 1972 "An Act Making Appropriations for Agriculture—Environmental and Consumer Protection Programs for the Fiscal Year Ending June 30, 1973, and For Other Purposes" specifically appropriated the necessary funds and authorized the printing of the Year Book of Agriculture which shall be available to be delivered to or sent out under the addressed franks furnished by the Senators, Representatives and delegates in Congress. The Act further provided that "* * * not less than 232,250 copies for the use of the Senate and House of Representatives". This Act is similar to acts passed every year authorizing the printing of the Year Book of Agriculture as a Department of Agriculture report.

There can be no argument—this Year Book (Exh D–1) is expressly frankable as a report from the Department of Agriculture under 39 U.S.C.A. 3216. Plaintiff argues that this publication is a "public document" under 39 U.S.C.A. 3211. It is respectfully submitted that even if that were the case, the same is expressly and specifically frankable under that section. The arguments advanced with regard to the provisions contained in Title 44 of the U.S. Code, as stated above, are extremely stretched and untenable.

POINT III

The public documents entitled "The Capitol" and "The Consumer Product Information" are frankable under 39 U.S.C.A. 3211.

The plaintiff alleges a misuse of the frank in the mailing of two publications, namely "The Capitol" (Exh P–2) and "The Consumer Product Information" (Exh P–5).

Pursuant to H. Con. Res. 193, 91st Congress, first session, passed by the U.S. House of Representatives on April 1, 1969, the publication in question was authorized for reprinting and distribution for the Members of the House of Representatives. That Resolution specifically provided:

"That there be printed as a House document with illustrations, a revised edition of "The Capitol", compiled under the direction of the Joint Committee on Printing; and that four hundred and sixty-nine thousand additional copies shall be printed, of which four hundred and thirty-nine thousand copies shall be for the use of the House of Representatives and thirty thousand copies shall be for the use of the Joint Committee on Printing."

Further, see Report Number 91–173, House of Representatives, 91st Congress, first session, April 29, 1969, appropriating the funds for the estimated cost of printing of the same. Also see *Congressional Record*—House, April 29, 1969 (Exh D–8).

There appears to be little doubt that the publication entitled "The Capitol" is a public document specifically frankable under 39 U.S.C.A. 3211. To attempt to read into this section of the Statute any limitation as proposed by the plaintiff on page 18 of its brief because some of the publications "were eleven years old", is extremely outside the scope of the granting of the privilege under 39 U.S.C.A. 3211. It is interesting to note also that so long as this publication was specifically addressed, as the case is here, it could be mailed to anyone pursuant to the memorandum of the postal service sub-committee, November 11, 1971, supra. Postal Patron mass mailings would be limited to mailings within the old and newly expanded district.

Likewise the "Consumer Product Information" publication must be deemed a public document within the scope of 39 U.S.C.A. 3211. By executive order, October 1970, the same was authorized under the General Services Administration. See letter of June 19, 1972, from General Services Administration to Honorable Henry Helstoski. Similarly no such restrictions, as the plaintiff attempts to read into 39 U.S.C.A. section 3211 exists.

It is interesting to note that the mailing of this document by Congressman Helstoski was not at all novel; in fact it was the practice and custom of other Congressmen who similarly get this relevant data to their constituencies. (T II–140).

POINT IV

The survey polling the opinions of young constituents and the "Washington Report" advising the constituency as to matters pending before Congress and matters occurring in the Congressional office are frankable as official correspondence under 39 U.S.C.A. 3210.

The plaintiff urges that the surveys polling opinions of young constituents (Exh P–3 and P–4a) and "The Washington Report" (Exh P–6) were not frankable. Both must be tested under the criteria of "official correspondence" and whether or not the same are relevant to the customary official operation and business of a Congressional office.

The role and function of a Congressman is wide, indeed. The umbrella of "official business" of his office cannot be readily envisioned by a meticulous student of the legislature approach of memorizing all of the pertinent constitutional provisions, statutes and procedural rules. In practice and in fact the essence of the office is a "constituent-representative" relationship. A Congressman is a representative of the people on an apportioned area. It is these people who comprise constituency, representing different interests, aggregations, as well as individual interests whose deeds must be acknowledged. In order to best understand these deeds, the Congressman must have a direct relationship with them. He must know and feel the tempo of the district. He must go to them, inform them and advise them regarding laws pending, enacted, defeated—programs, policies and issues of the day. He must, as a duty solicit from them advice and suggestions, i.e., questionnaires and surveys concerning legislation and federal matters. He must find out what his constituents want and do not have. All of this is best accomplished by corresponding directly to the people. Congressman Helstoski's testimony in this action emphasized the function and purpose of the particular surveys and Washington reports that he has utilized for eight years in serving his constituency:

"Well, it gives me an indication of what the people are thinking. It gives me an opportunity to form judgments and exercise my opinion on various matters of a legislative nature on the floor, and to provide the basis and foundation, perhaps, for new legislation that could respond to a certain problem or problems that might be evident in my Congressional District." (T II–141)

Congressman Steed of Oklahoma stated in debate in the House in considering H.R. 6868 concerning the franking privilege "these questionnaires . . . are of the best methods devised for Members of Congress to advise themselves on how the people back home feel on various public issues." (Dec. 17, 1963) the franking privilege, supra.

The correspondence between the representatives and the constituents is not only the best tool but, in fact, the only feasible tool available to extract constituent views.

The franking privilege, as granted by Congress, facilitates the maintenance of this relationship and nourishes its growth as the growth of the relationship occurs. It means that a Member of Congress does not bear the burdening costs of carrying mail to his constituent. In essence it "frees" the flow of correspondence between him and his constituent. To attempt to restrain the surveys and reports in question would be tantamount to isolating and insulating Congressman Helstoski from his constituency.

In a House debate of July 29, 1916, the Honorable Thomas D. Schall alluded to the "franking privilege as one of the bulwarks of the people's liberties, upon which the foundation of our republic must stand, for it is upon the education and understanding of our people that our republican institutions must rely for their perpetuation."

Also significant in this respect is the ever increasing and more highly complex workload of the Congressman. He, too, must be equipped to joust with a civilization of specialists and professionals. For an extremely interesting and enlightening discussion of the expanding official role of a Congressman see *The Congressman*, A Doubleday Anchor Book by Charles L. Clapp (1964). In aiding the Congressman to relate more extensively and thoroughly with his constituents Congress has enacted certain laws to aid this communication, the primary one being franking privilege. Charles L. Clapp calls the franking privilege the "most valuable service" provided the Legislator, permitting him to send free any official communication. Clapp notes that the Post Office Department reports that the franked mail increased from 44.9 million pieces in 1955 to 63.4 million pieces in 1958 and 111 million pieces in 1962. Compare statistics gathered in publication of franking privilege of Members of Congress, supra, at page CRS–47.

Thus, it is respectfully submitted that the survey in question and the Washington report in question must be deemed to be an integral part of the effective functioning of the role of Congressman Helstoski and deemed "official correspondence".

POINT V

The Federal District Court is without jurisdiction in an action for injunctive relief regarding the congressional franking privilege and for the recovery of postage on frank mail where: A. The question involved is of a political nature"; B. The discretion exercised by the congressman is protected by congressional immunity; C. The determination of "official business" as the same relates to the franking privilege is a legislative matter not subject to judicial review; D. the plaintiff has not established a standing to sue.

In the alternative, it is respectfully submitted that this court has no jurisdiction in the action in question. Although it is recognized that other Federal District Courts have accepted jurisdiction such as the cases of *Straus*, supra., *Rising*, supra., *Hoellen*, supra., and *Nedzi*, supra., it appears that the jurisdictional question should be discussed and determined.

A. *The question involved is of a "political" nature*

The Court in the case at bar is without jurisdiction to act in that the questions presented are "of a political" nature. The gravamen of the Complaint and the further amplification thereof by the plaintiff is purely political in nature. (T II 176 through 184). The judicial test to be employed to determine whether a case involves a political question is found in *Baker* v. *Carr* 369 U.S. 186 (1962) and *Powell* v. *McCormick* 395 U.S. 486 (1969):

"For a case to be held to involve a political question it must have one of the following: a textually demonstrable constitutional commitment of the issue to a coordinate political branch; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy by determination of a kind of clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

Clearly there is a lack of judicially discoverable and manageable standards for resolving the issues at bar. A determination of "official business" without such judicially discoverable and manageable standards would constitute a usurping of the jurisdiction of the legislature. Any policy determination in this regard must be legislative. Any corrective measure must be determined by the legislature and not the judiciary. The performance of official duties are duties designated by Congress. c.f. *Vehel* v. *Johnson* 287 F. Supp. 846 (1968) where the court refused to question the action of the president in performance of his duties. Due respect for coordinate branches of government is a principal of highest significance which must be maintained here. In *League of Nebraska Municipalities* v. *Marsn* 209 F. Supp. 189 (1962) the Court pointed out that "A controversy dealing with an election should not be considered by a federal court unless absolutely necessary." Specifically referring to injunctive relief in *Caren* v. *Clark*, 78 F. Supp. 295 (1948) the court stated "In the case of a political controversy, federal courts of equity have no jurisdiction to grant an injunction."

Thus it is respectfully submitted that due to the "political nature" of the questions submitted in the case at bar this court should not accept and does not have jurisdiction to hear the same.

B. *The discretion exercised by Congressman Helstoski is protected by congressional immunity as provided by the speech and debate laws of the Federal constitution Article I, Section 6*

The Speech or Debate clause of the United States Constitution provides that "for any speech or debate in either House, they (Senators or Representatives) shall not be questioned in any other place". The Supreme Court has held that the protection of this clause was confined to members acting in the fear of "legitimate legislative activity". (*Powell*, supra and *United States* v. *Brewster* U.S. 92 S.Ct. 2531 (1972). The conduct of Congressman Helstoski in the within action is within the penumbra of that protection. The franking privilege to communicate with the public is within that sphere of direct legislative activity for which a Congressman's motivation is immunized from judicial inquiry. Clearly the Congressman's activity, i.e. mailings under the franking privilege is within the immunity afforded by the Constitutional provision. Any motivational inquiry is foreclosed by that clause and this court is unable to entertain the complaint in the action at bar. It should be noted that the *Brewster* holding is restrictive to disallowing that immunity where the question raised is of a criminal nature and well beyond the intent and scope of Article I Section 6. That action involved the power of the court to entertain a prosecution on a federal bribery charge. There the court speaks of purely legislative activities and legitimate errands performed for constituents. It affirms the protection of purely legislative activities and states that other errands performed are not immuned from a prosecution of bribery and thus not afforded the same protection of immunity. However the court in no way applied or intended to hold that the veil of immunity should be pierced in a purely civil action. Nor did *Brewster* imply or intend to hold that Congressional discretion could be interfered with. The case at bar does not involve Congressional action constituting a criminal abuse and releases. In no way did the *Brewster* case intend to give the judiciary power to set up standards and delineate guidelines or prescribe allowable and nonallowables for the House of Representatives.

It is well established that a Congressman has a duty to disseminate news of legislative activity to his constituents. The exercise of that duty is within his judgment and discretion. Thus, Congressman Helstoski in disseminating news regarding pending, proposed or even passed legislative proposals, federal programs and policies, surveying the tempo of the opinion of his District and disseminating data contained in public documents was zealously pursuing the duty and responsibility bestowed upon him by the office to which he was elected.

Any attempt of the judiciary to saddle the exercise of those duties would be in direct violation of the immunity granted under the Article I, Section 6 of the United States Constitution. No where in the case at bar is it alleged or has it been established that the actions of the Congressman were outside of the broad scope of his legislative duties, functions and errands.

In the case of *Tenney* v. *Brandhove* 341 US 367, 376–377 (1951) actions of State legislators in the course of their activities as member of a legislative committee of the California State Legislature were attempted to be attacked. The plaintiff alleged, much like plaintiff in the case at bar, that he had been injured by the actions of the legislative committee and attempted to hold the legislators libel for civil remedies under the federal civil rights statute. (8 USC Section 43, 47 (3)). The Supreme Court there held that the legislatures had acted within the wide scope of their legislative duties and that the federal law was not intended to afford a judicial remedy in such cases. Although the District Court in *Hoellen* v. *Annunzio*, supra, accepted jurisdiction and dismissed the argument of the immunity granted by the Speech and Debate clause, it did so relying solely and exclusively on the *Brewster* case. This was error. The *Brewster* case in no way and in no manner involved, nor could its doctrine be extended to matters involving the use of the franking privilege for "entirely legitimate activities".

The Court in Brewster expressly acknowledged and recognized the wide scope of non "purely legislative activities" as being within the gamet of "entirely legitimate activities" of a legislator. It is interesting to note that in *Annunzio* the court did not find that the sending of franked mail is not a part of the direct legislative process itself. In this regard motivation of the legislator is immaterial and motivational inquiries foreclosed. *Tenney* v. *Brantove*, Supra at p. 377. The court in *Annunzio*, Supra, found that the sending of questionaires under the franking privilege is not within the protection of the Speech and Debate clause in that it is not part of the legislative process, citing *Brewster* as decisive.

C. *The determination of "official business" as the same relates to the franking privilege is a legislative matter not subject to judicial review*

Congress created the franking privilege for the use in "official business" by its members. 39 USCA, Section 3210 (1972 cum. supp.). The administration of this privilege is closely involved with the conduct of legislative business and therefore a matter of importance to the Committee on House Administration and to the US House of Representatives as a whole. The ascertainment as to what is official business and how that business is to be conducted by duly elected Congressman is, within broad limits, a matter which is exclusively reserved to the legislative branch of government.

As a general rule equity does not undertake the revision or supervision of governmental action lawfully exercised through the legislative branch of the government (42 Am. Jur 2nd 172). Equity will not attempt by injunction to substitute its own discretion for that of such official in matters belonging to their proper jurisdiction. (*Louisiana v. McAdoo* 234 U.S. 677, 58 L.ed 1506, 34 S. Ct. 938 (1914).)

Thus, even if the mailings in question are categorized as "legislative errands" they are still "official business" protected under 39 U.S.C.A. 3210. Judicial intervention in this regard is inherently inconsistent with the basic governmental principle of separation of powers of government. A judicial attitude of restraint is essential, particularly, as in the case at bar, where the House Committee on Official Standards has formerly and officially ruled and sanctioned the materials in question. Timing and motivation are of no import.

Every member of the United States House of Representatives is elected for a term of only two years. In the process of performing his official duties and in the governing process is the inevitable task of disseminating data relating to public matters, soliciting the opinion of his constituency and setting before the district his record of action on their behalf. Dangerous indeed would be the concept of judicial intervention based upon timing of the performance of these duties or the intangible concept of alleged motivations. Dangerous indeed would be the concept of intervention and judicial interference in each and every election year. Thus historically, the matter in question has been one left to the regulation and interpretation of the Postal Service and now the U.S. House of Representatives. An unwarranted intrusion of one branch of government upon another in the case at bar would result in a direct conflict of interpretation of the exercise of the Congressional privilege.

The franking laws are matters truly of interest to the Congressional branch. It has meticulously set its own guidelines and it should be the judge of any violation of them. Any complaints with respect to these laws should be made with the House on Standards of Official Conduct and not the Federal District Court. An acceptance of jurisdiction, at this time, in this particular case, would be an open invitation to a bombardment of political actions not only regarding the franking privileges but other rules, standards and procedures of the House of Representatives. As said in the *Powell* case this would set forth the seeds for "the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

D. The plaintiff has not established a standing to sue

(i) There is no Civil Rights to appeal opportunity in a political campaign.

The gravamen of the Complaint of the plaintiff in a weak attempt to establish standing is that the mailings involved "violate the civil rights of plaintiff and his right to run for public office in that they give defendant distinct and unfair advantage to further his political campaign". When given the opportunity to amplify on this vague allegation the plaintiff stated "any abuse of an official power I think violates my civil rights, your Honor, in terms of I am not being given the same equality, the same opportunity to make the same statements to the same people whom we are both attempting to represent a new district which does not—for which, as I remember a court decision, says we can run for a primary and general election and is kind of silent with respect to when that new district began". (T 178) A vague, unfounded and wild theory.

The law regarding civil rights and the protection hereof is much clearer than the plaintiffs distortion. In dealing with "voting rights" the protection of equality relates to race, color or previous condition not to affect right to vote. (42 USCA 1971). No where, but absolutely no where, does this Act or any interpretation of it encompass the wide umbrella attempted to be open here. Also see 28 USCA 1342 relating to civil rights and elective franchise.

The plaintiff is challenged to set forth his basis in law to the wide allegations he puts forth to this court.

It is axiomatic that equity cannot be invoked to protect the right of a citizen to be voted for at an election or his right to be candidate for any office. 26 Am. Jur. 2nd, Elections, Sec. 369; Also see 42 Am. Jur. 2nd, Injunctions, Sec. 86.

(ii) Plaintiff has no standing to institute an action for damages which would inure to the general treasury of the United States.

The plaintiff in the complaint and in oral argument urges that he has standing to press for damages which would inure to the benefit of the United States. (T II 195–196). No legal basis can be found to support this allegation.

In the case of ***Massachusetts v Mellon*** 292 U.S. 447, 43 S. Ct. 597, 67 L.Ed. 1078 (1933) the court stated that "the general interest of the citizen to have government administered according to law and not to have public funds wasted, does not give standing to a private citizen to challenge the constitutionality of statutes by which he is not injured."

CONCLUSION

It is respectfully submitted that on the basis of the foregoing reasoning the action of the plaintiff should be dismissed.

PORRO, CONAGHAN & MURRAY.

[U.S. District Court for the District of New Jersey, Docket No. 1571–72]

BRIEF, ON LEAVE GRANTED, ON BEHALF OF THE COMMITTEE ON HOUSE ADMINISTRATION, U.S. HOUSE OF REPRESENTATIVES, AS AMICUS CURIAE

Alfred D. Schiaffo, Plaintiff vs. Henry Helstoski, Defendant.

Eugene L. Dinallo, Esq., Appearing for John T. Walker, Esq., Chief Counsel of Committee on House Administration.

Malcolm Blum, Esq., on the Brief.

PRELIMINARY STATEMENT

This brief is filed with the Court, with the Court's permission, as amicus curiae on behalf of the Committee on House Administration, United States House of Representatives. Due to the fact that Counsel for the Committee did not participate in the trial hereof, and in an effort not to be redundant, the Committee shall rely upon the Statement of Facts as set forth in the brief submitted by the defendant.

However, the Committee feels, that prior to the argument portion hereof, an explanation of the Committee's position regarding this controversy is in order.

The administration of the law involved herein is closely involved with the conduct of legislative business and, therefore, is a matter of importance to the Committee on House Administration and to the United States House of Representatives as a whole. The Committee believes that the ascertainment of what is official business and how that business is to be conducted by duly elected Congressmen is, within very broad limits, a matter which must be reserved to the legislative branch of government.

The creation of the franking privilege by a statute which defines the material to be covered is indicative of a congressional intention that the privilege not be unlimited, and, of course, the Committee does not urge that statutory interpretation. Nevertheless, the Committee believes that, in general, the regulation of the privilege is a congressional and not a judicial matter. The Committee further believes that only this approach is consistent with the basic governmental principle of separation of powers and therefore takes the position that the federal courts should adopt an attitude of restraint in passing upon usages by members of Congress of the franking privilege.

Members of Congress participate in a political process in both the narrow sense of standing in contested elections and the broad sense of governing once elected. Elections are the test of the effectiveness of a Congressman's performance, and the things he does in the day-to-day conduct of his official business are inevitably and properly part of both the governing process and the record he puts before the people when he seeks re-election. Since every member of the United States House of Representatives is elected for a term of only two years, a substantial part of each term of office is a campaign period for any member who plans to seek re-election. Therefore, legal proceedings which seek to inquire into political motivations of what is otherwise official business, even if confined to campaign periods, raise the real possibility of impingement on the powers and functioning of Congress.

The Committee believes that the Court should not in any event adopt an approach which will subject Congressmen to detailed inquiries regarding their motives and purposes in the conduct of their offices. This would be an absolutely unwarranted intrusion of one branch of government upon another and would serve to chill the exercise of the Congressional privilege.

Finally, the Committee is concerned that plaintiff has requested an injunctive remedy directed toward future franked mailings. The Committee believes that injunctive relief would be improper and would impair proper utilization of the franking privilege.

As the Court is aware, there are few cases challenging uses of the franking privilege by Members of Congress. Resort to the Courts by political opponents of Congressmen to attack the use of the frank is a recent development. The United States House of Representatives through its Committee on House Administration considers the issues raised regarding the administration of the Congressional franking privilege as potentially significant for all members of the House and for proper administration of the privilege. The Congress also has concern respecting the intervention by the Judicial Department in the affairs of the Legislative Department. Therefore, the Committee on House Administration requested that the Court permit it to file this present brief.

ARGUMENT—CONGRESSMAN HELSTOSKI HAS NEITHER ABUSED NOR MISUSED HIS FRANKING PRIVILEGE

By virtue of 39 U.S.C. Sec. 3210, et seq., a privilege or right, known as the "franking privilege" has been conferred on certain persons, by virtue of which they may transmit certain matters through the mail free of postage. Clearly the franking privilege, as accorded by the aforesaid statutory provisions, applies to a Member of Congress; and, equally clear, is the fact that defendant is an incumbent Member of Congress entitled to same.

A. Legislative history

The earliest mention of the franking privilege, as it applies to Members of Congress, that counsel's research can uncover is located at 18 *U.S. Statutes at Large* 343 (43rd. Cong., Sess. II. Ch. 128, 1875). This early statutory provision provided, at Sec. 5:

"That from and after the passage of this act, the Congressional Record, or any part thereof, or speeches or reports therein contained, shall under the frank of a member of congress, or delegate, to be written by himself, be carried in the mail free of postage . . . and that public documents already printed, or ordered to be printed, for the use of either House of Congress may pass free through the mails upon the frank of any member . . . of the present Congress. . . ."

Section 7 of the same stautory provisions permitted seeds, together with agricultural reports of the Department of Agriculture, to pass through the mails free of charge when sent by a Member of Congress.[1]

The franking privilege was referred to again by Congress in 19 *U.S. Statues at Large 336* (44th Cong., Sess. II, 1877). It was reiterated therein that Members of Congress may send and receive through the mail, all public documents printed by order of Congress, free upon their frank.

Thus, clearly the franking privilege initially granted to Congressman only applied to the Congressional Record (or exceprts therefrom), public documents ordered printed by the Congress, and reports emanating from the Department of Agriculture.

It is this background that must be kept in mind when we review the debate referred to in Volume 25 *Congressional Record pgs.* 2748 and 2749, also referred to in plaintiff's brief at pages 11 and 12. This debate covers the then proposed extension of the franking privilege to cover "correspondence . . . upon official or departmental business". Undoubtedly, as suggested in that Congressional debate and as underscored by plaintiff in his brief. there had been, prior to the debate, abuses of the franking privilege. But, then it must be remembered that Congresmen had not, up to that time had their franking privilige extended to "correspondence".

History shows that, subsequent to the aforesaid 1893 debate, rather than annul the congressional franking privilege to do away with any alleged abuses thereof, the Congress reacted by extending the privilege. Thus, by virtue of 28 *U.S. Statutes at Large* 622 (53rd. Cong., Sess. III, Ch. 23, Sec. 85, 1895), the forerunner of the present 39

---

[1] It should be noted that by virtue of 18 *U.S. Statutes at Large* 237 (43rd Cong. Sess. I Ch. 456, 1874), Congressman could mail out all publications printed by order of Congress at a reduced rate (not free) as long as they franked the matter mailed.

U.S.C. Sec. 3210 was enacted into law. By its provisions, Congressmen were given the privilege of sending "correspondence . . . upon official or departmental business" free through the mails upon their frank.

Congress, thus, answered any questions relating to the expansion or contraction of the franking privilege by obviously expanding it. Plaintiff's excerpts from the Congressional Record, which are reprinted in his brief, are best rebutted by the words of Congressman Thomas D. Schall, who in a speech to the House, dated July 29, 1916, stated:

"This so-called franking privilege is one of the bulwarks of the people's liberties, upon which the foundation of our Republic must stand, for it is upon the education and understanding of our people that our republican institutions must rely for their perpetuation.

Every citizen has a right to know what laws are proposed, what are enacted, what are defeated, the attitude of the Congressman or public officials upon each of these, and the reason for or against them. The franking privilege is expressly given the people, and it is the Congressman's duty, through his frank, to see that the people are informed as to the public business, and the closer he keeps in touch with them the more efficient and democratic will be his vote . . ." *Appendix to the Congressional Record* 1608 (1916).

Hence, the intent of Congress, then and now, has been to accord the greatest latitude to its Members to communicate with their constituents. The only limitation being that Congressmen communicate on official business as opposed to private concerns. This is the attitude Congress adopted subsequent to the 1893 debate pointed out by plaintiff, and continues to countenance today. This intent is readily perceived by Congress' readoption of the franking privilege, without diminishment, when it overhauled the postal department structure in 1970, and established the United States Postal Service. 39 U.S.C. 101, et seq.

As has been provided for several decades, a Congressman may send through the mails, without charge, and upon his frank, as franked mail:

(A) Matter, not exceeding 4 pounds in weight, upon official or departmental business, to a Government official, 39 U.S.C. Sec. 3210 (1);

(B) Correspondence, not exceeding 4 ounces in weight, upon official business to any person, 39 U.S.C. Sec. 3210 (2);

(C) All public documents printed by order of Congress, 39 U.S.C. Sec. 3211;

(D) The Congressional Record, or any part thereof, or speeches or reports therein contained, 39 U.S.C. Sec. 3212; and

(E) Seeds and agricultural reports emanating from the Department of Agriculture, 39 U.S.C. Sec. 3213.

It is, therefore, respectfully submitted that this legislative history portrays an intent by Congress to expand the franking privilege to include anything reasonably relating to a Congressman's work; that aside from the Congressional Record, public documents ordered printed by Congress and agricultural documents, a Congressman may correspond with anyone (especially his constituents) concerning his work in Congress, or Congress' work as a whole.

The legislative history of this matter warrants a liberal interpretation as to what matter may be considered franked mail. It is submitted that only private mail of a Congressman, or such mail as cannot reasonably be denominated as correspondence relating to the Congressman's work in Congress, or Congress' work as a whole, (e.g., blatant campaign literature), should be held to be without the category of franked mail. Unquestionably, every piece of mail challenged by plaintiff herein directly pertains to either Congressman Helstoski's work as a Congressman, to Congress' work as a whole, to the Congressional Record, or public documents printed by order of Congress.[2]

No document sent out by Congressman Helstoski requests that the recipient vote for him, nor do they contain partisan political messages. The message and intent of each document is information; official information on the working of Congress, Congressman, Helstoski's committee in Congress and his work as a Congressman, and publications made available to the citizenry by Congress. It is also of vital importance to note at this time that the record is uncontradicted that Congressman Helstoski has sent these documents and information sheets throughout his tenure in office, and not just before election.

Under these circumstances, it is submitted that plaintiff's suit merits dismissal.

B. Judicial history

There is an obvious dearth of judicial history affecting the Congressional franking privilege. In fact, diligent search by counsel can uncover only three (3) cases covering this topic; and all three (3) are of recent vintage.

The first decision on the franking privilege was *Straus* v. *Gilbert*, 293 F. Supp. 214 (S.D. N.Y. 1968). In this decision, the Court, echoing the words of Congressman Schall, supra, held that Congressmen undoubtedly have a responsibility to inform their constituents, and that the provisions of 39 U.S.C. Sec. 3210 (2) allow the use of the frank to supply such information. The Court in *Straus* even went further and stated that the statutory provisions, relating to the franking privilege of Congressmen, have no limitation preventing the insertion of campaign material when the material sent is otherwise legitimate franked mail.

The efficacy of the *Straus* decision was to make any literature sent by an incumbent Congressman "correspondence . . . upon official business", as long as some part of it pertained to congressional business. The attitude of the Court in *Straus*, one which the House of Representatives supports, was that the question of abuse or misuse of the franking privilege lies predominantly in the political sphere; it is a question that must be regulated by the Congress itself.

A step away from the hands-off decision of *Straus* was taken in the decision in *Rising* v. *Brown*, 313 F. Supp. 824 (C.D. Calif. 1970). In the latter case the Court found that a brochure sent by the defendant under his frank was an obvious campaign pamphlet, and was not correspondence pertaining to official business of Congress. However, the decision in *Rising* was not a radical departure from the *Straus* decision because the literature involved in *Rising* was a blatant electioneering brochure, not primarily dedicated to informing the constituency of congressional work: it was mailed to constituents not in the incumbent congressman's district, was mailed two weeks prior to the election, and was primarily devoted to extolling the Congressman's personal thoughts and attitudes.

A review of the documents involved in the matter subjudice reveals an entirely different situation than existed in *Rising*. Congressman Helstoski's mailings are overwhelmingly addressed to residents of his present district, the materials have been sent out periodically during his entire term (not just before the election), and the subject matter of his franked mail is devoted to the Congressman's committee, the decisions of Congress, how Congressman Helstoski participated in these decisions, matters, relating to the Congressional Record, and publications printed by order of Congress. In no way can the printed matter involved herein, and challenged by the plaintiff, be categorized as campaign literature as the materials in *Rising*.

The third decision rendered on September 15, 1972, was *Hoellen* v. *Annunzio*, 72 Civ. Doc. No. 1302 (N.D. Ill.). In this decision the Court appears to take an intermediate course between *Straus* and *Rising*. The defendant was the incumbent congressman in the Seventh Congressional District of Illinois. However, due to reapportionment, defendant was running for re-election in the new Eleventh Congressional District of Illinois: in this latter district he was an incumbent.

Congressman Annunzio sent out a questionnaire requesting opinions from the recipients. This questionnaire was sent out under his frank during the election campaign and contained the Congressman's picture. The overwhelming percentage of the mailing went to the new Eleventh District, while a small percentage went to his old Seventh District, the districts did not overlap. Congressman Annunzio had not sent out a prior questionnaire during his four terms in Congress. As a result of the foregoing, his opponent requested that he be enjoined from any such further mailings.

The Court held that the mailing was proper as to the Seventh District wherein the defendant was the incumbent. In so holding, the Court decided that the questionnaire, even though it contained the defendant's picture and contained public relations features, was official business between the Congressman and his constituents.[3] It was only where the questionnaires were sent to the new Eleventh District, where the Congressman was not the incumbent, that the Court held the very same questionnaire was not entitled to be sent as franked mail undoubtedly the Court felt the use of franked mail in a district where the defendant was not an incumbent was unfair, and here it enjoined any further such mailings until the defendant became the Congressman elect for the new Eleventh District. Clearly the facts, that the overwhelming percentage of the mailing went to the new Eleventh District, and that this was the first questionnaire sent out in four terms by the defendant, led the Court to make the decision it did. Likewise, the decision in *Rising* appears to have been primarily prompted by the fact that the franked mailing went outside the Congressman's district.

Contrariwise, the franked mailings involved in the present controversy were overwhelmingly sent to the incumbent's present district and were part of a series of similar mailings sent by Congressman Helstoski since 1965.[4]

It is, therefore, respectfully submitted that the official business character of the mailings involved herein merit a holding that they were entitled to receive the franking privilege. Accordingly, plaintiff's complaint warrants dismissal.

---

[2] It must be pointed out at this juncture, that the text "The Yearbook of Agriculture 1963—A Place to Live" was sent to only governmental officials, 39 U.S.C. Sec. 3210(1), albeit local government officials.

[3] The Court in *Hoellen* v. *Annunzio* also held that three press releases sent to the defendant's old district, where he was still the incumbent, were official business correspondence because they contained references to official matters. The Court held thusly even though they contained pictures of the Congressman and referred to his personal stance on Congressional business.

[4] Another recent case which involved the franking privilege, though not precisely on point here, was *Austin* v. *Nedzi*, Civ. Act. No. 38488 (E.D. Mich. 1972), wherein a newsletter containing a Congressman's picture was challenged as improperly franked in an election year suit, was dismissed upon defendant's motion.

C. Executive and administrative history

As set forth in the decision of *Hoellen* v. *Annunzio*, supra, prior to 1968, the Post Office Department, as part of the Executive Branch of Government, undertook the responsibility of determining whether mail was sent improperly under the frank.

In *Post Office Department Publication* No. 126 (April 1968), entitled "The Congressional Franking Privilege", the Post Office Department set out what, in its opinion, was proper use of the franking privilege (this opinion is also set out at length in *Rising* v. *Brown*, supra, at p. 827). Basically, it provides that "correspondence upon official business" is:

". . . that in which the member deals with the addressee as a citizen of the United States or constituent, as opposed to the relationship of personal friend, the relationship of candidate . . . and voter, or when the member writes in the capacity of a member of a political party of faction."

Clearly, the mailing materials which are the subject of this suit cannot be classified as though they were sent to a personal friend, as though they were campaign literature sent by a candidate, nor as though they were the correspondence of a member of a political party. They obviously fall into the category of all such prior mailings sent by Congressman Helstoski to his constituents; they all are information materials notifying citizens of the work of their Congressman or their Congress.

The aforesaid Post Office Department Publication goes on to say that:

"Appeals for political support, reference to what a member expects to do in the next Congress sent out before an election, discussion of a prior political campaign, and reference to campaign opponents as such are all matters beyond the official business concept." A mere perusal of the challenged materials verifies that none of them violate the above criteria.

The aforegoing is advanced to this Court for the purpose of showing what the agency previously designated to review charges of abuse or misuse of franked mail, determined to be such abuse or misuse. In 1968, and again in 1971, the Post Office Department determined that it, as a unit of the Executive Department, should not become involved in the business of the Legislative Branch of the government.

Pursuant to the decision of the Post Office Department, the General Counsel wrote a memorandum in December 1968, wherein he stated:

"The Congress has by statute (39 U.S.C. Sec. 3210) determined the nature of material which a congressman may send free of charge under his congressional frank. This statute simply says that the privilege is available for 'correspondence . . . upon official business'. This statute . . . is really . . . a guideline for the conduct of its own members . . ."

Thus it appears that by decision of the Executive Department, and obviously by decision of the Legislative Department, the Legislature of the United States has the necessary expertise and background to determine for itself what constitutes abuse and misuse of the franking privilege. The issues before this Court could readily have been brought before the House Committee on Standards of Official Conduct, see Yadlosky, *The Franking Privilege of Members of Congress*, or the Committee which is arguing on this brief. As an aid to this Court, there is attached hereto a letter from the Chairman of the House Committee on Standards of Official Conduct which illustrates that Committee's determination on the articles and materials involved herein. The letter clearly states that the Committee staff and the Chairman, after review of the items in question, found them to be totally compatible with P.O.D. Publication No. 126, supra, and in keeping with the accepted definition of "official business".

It is, therefore, respectfully submitted that the items in question are within the franking privilege, that the determinations of the two other equal branches of our federal government hold these materials to be entitled to be sent free as franked mail, and that, accordingly, this Court ought give due regard to these determinations in deciding this matter.

CONCLUSION

The legislative, judicial, executive, and internal administrative history of the franking privilege mandates a conclusion that Congressman Helstoski has not abused or misused his franking privilege. At a minimum, the history of franked mail makes it unquestionable that only a clear abuse of the privilege should move this Court to restrain an incumbent congressman's use of the privilege. Every benefit of doubt should be given to support the free use of franked mail.

Nowhere has plaintiff shown an abuse or misuse of the franking privilege, within all of its definitions and decisions, by Congressman Helstoski. Hence, plaintiff's suit merits dismissal.

Respectfully submitted.

EUGENE L. DINALLO,
Attorney for Committee on Housing Administration.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, D.C., September 28, 1972.

Hon. HENRY HELSTOSKI,
House of Representatives,
Washington, D.C.

DEAR HENRY: Along with the Committee staff, I have reviewed copies of the several mailings you left in the Committee office some time ago, and found nothing in these which appears to be beyond the scope of "official business".

The items reviewed were: letters of transmittal for two Yearbooks of Agriculture, The Capitol-Symbol of Freedom, and Consumers Product information—all government publications; a newsletter dated August 1972; and two editions of a new-voter questionnaire. Each of these was examined against the illustrative rulings on determinations of "official business" contained in P.O.D. Publication 126, dated April 1968.

As you know, this Committee has no specific jurisdiction over the congressional franking privilege; however, we are always happy to respond to such inquiries as yours with our best advice, based on the above, which is the best—if not only—source of opinion in this area.

I trust this is responsive to your inquiry.

With kind personal regards.

Sincerely yours,

MELVIN PRICE,
Chairman.

[U.S. District Court, District of New Jersey, Civil Action No. ——; Hon. Leonard I. Garth]

Alfred D. Schiaffo, Plaintiff, against Henry Helstoski, Defendant.

REPLY MEMORANDUM IN SUPPORT OF APPLICATION BY PLAINTIFF, ALFRED D. SCHIAFFO, FOR A PERMANENT INJUNCTION

Robert B. Budelman, Jr., John J. Cudas, Jr., on the Brief.

Robert B. Budelman, Jr., Attorney for Plaintiff; Alfred D. Schiaffo, Office and P.O. Address, 510 Howard Street, Westwood, New Jersey 07675, (201) 666-2188.

STATEMENT

At the conclusion of the hearing, this court ordered that findings of fact, conclusions of law and memoranda be filed and exchanged by plaintiff on Tuesday, October 3, 1972, and by defendant on Thursday, October 5, 1972 (T(2)-190[1]). An amicus curiae brief by John T. Walker, Chief Counsel, Congress of the United States, House of Representatives, was to be filed on Wednesday, October 4th, 1972 (T(2)-198). Plaintiff was given an opportunity to respond by Friday, October 6th, 1972 (T(2)-197).

Plaintiff was served with defendant's brief on Thursday, October 5th, 1972, but was not served with any proposed findings of fact or conclusions of law.

Plaintiff understands that local counsel not John T. Walker will file a brief on Friday, October 6th, 1972. Thus, at the time of preparation of this brief plaintiff has not had the opportunity to review, consider, or respond to the amicus curiae brief.

FACTS

Contrary to defendant's statement the items complained about, in part, are not "three publications of the federal government."

"The Yearbook of Agriculture 1963—A Place to Live" and *"The Capitol, Symbol of Freedom 1961"* are both public documents printed by order of Congress. An examination indicates the term of Congress, the session and the particular House Document number.

The other item *"Consumer Product Information Index—Summer 1972"* is a publication printed by Executive Order of the President. This item is not a public document printed by order of Congress within the meaning of 39 U.S.C.A. section 3211 nor is it one of the particular documents enumerated under Chapter 13 of Title 44. In any event defendant received only an official allotment of 20,000 (T-69) or 50,000 and is now printing at his own expense 126,000 more (T(2)-47). Thus, by defendant's own testimony the 30,000 he already has printed at his expense and the 126,000 he intends to print are *not being printed by* order of Congress (T(2)-47).

Defendant states on page 1 of his brief that those items mentioned in the complaint which are the subject of this section were "distributed to persons within the Congressional District". It is clear from a reading of the testimony that defendant has and is mailing within and *outside* of his Congressional District.

With regard to the distribution of public documents defendant testified as to practice and customs and specifically testified as follows:

"The first thing we do is mail them to all the high school libraries, the public libraries, and college libraries."

"That is what my staff does" (T(2)-135, 136).

When asked if he had mailed the 1963 Yearbook to libraries, defendant testified:

"A. Oh yes. I think we sent that out in 1965 or 1966".

"Q. '65 or '66".

"A. That's correct". (T-18)

The distribution of documents is governed by law 44 U.S.C.A. section 730 and contrary to defendant's testimony it is the Superintendent of Documents, not defendant's staff, who distributes the documents to libraries named to him by Representatives.

Since defendant was not in Congress in 1963, it is fair to assume that the prior Congressman for the Ninth District, Frank C. Osmers, Jr., would have given the Superintendent of Documents a list of libraries in his District as is the alleged custom. (T(2)-135).

As to the *Yearbook* an examination of this item reveals that it is nine years old and was prepared primarily for rural areas. (Exhibit D-1)

Defendant says he mailed the picture magazine *"The Capitol—Symbol of Freedom"* either the 1961 edition or some other edition (T-34) to Democratic and Republican County Committee people "without distinction to party" and because the nature of the publication "related directly to the county committee position" (D.B.-3 [2])

---

[1] T refers to Transcript of hearing on September 25th, and (T(2)) refers to Transscript of hearing on September 29th.

Thus, while defendant admits that "the persons receiving the items were chosen by political affiliation and the time of sending was determined by political overtones" (T-40, 42) he does not state how a 1961 or later magazine mailed to Republicans "to tie in with the fact that they might be going down to the convention" (T-40; T(2)-35) directly relates to his county committee position. As to those mailed after the convention defendant stated they still had value because there would be "another one coming in '76" (T(2)-43).

With regard to the 1972 young voters opinion survey, defendant states that it is the practice of "surveying *one's constituency* on public issues" and that it gives him a basis for new legislation on problems "that might be evident in *my Congressional District*". (D.B.-4) While it is true that defendant surveyed *his* Congressional District, he fails to mention that he also surveyed seven municipalities he *does not represent* (T(2)-69); that he had sent out 180,000 questionnaires to survey all households in *his* Congressional District in February and March 1972 and 26,000 questionnaires to survey seven municipalities he does not represent in May, 1972 (T(2)-74); and that he mailed out 206,000 results after June 28th, 1972 (T) 2-74). The young voter is a prime target for both political parties in this year's election (T(2)-86) and defendant especially targeted 15,000 similar questionnaires to new young voters and graduates in his Congressional District and the seven municipalities he does not represent and in which he is running for election.

When asked why he had sent out the survey to young voters, after he had surveyed each household, defendant responded:

"There is a different category of people that has been added to the body of the electorate specifically as a result of the constitutional amendment. It wouldn't be valid last year". (T(2)-81)

When defendant was asked if his testimony would be changed if the constitutional amendment was certified as valid in July 7th, 1971, he answered:

"It has nothing to do with it". (T(2)-83)

With respect to the *"Washington Report"* defendant states that the purpose and function is "informational to my constituents" (DB-4). If that is so, why were 26,000 copies of the so-called report sent to persons in municipalities where he is only running for election and who are not his constituents. (T(2)-97) It is respectfully submitted that the contents of this document with four pictures of defendant and headlines such as "Helstoski Honored" and "Helstocki Active in Legislative Role" is less informational and more in the nature of political campaign material being sent about sixty days prior to the general election. (T(2)-100)

The facts show that defendant, since February or March of this year, has to date sent as franked mail *at least* the following:

1. Washington Report No. 1 [3]	180,000
2. Questionnaire	206,000
3. Congressional record results	206,000
4. 1972 Young and Graduate Voter Opinion Survey	15,000
5. Yearbook of Agriculture 1963	250
6. The Capitol	500
7. Consumer Product Information Index	80,000
8. Washington Report No. 2	206,000
Total	893,750

Defendant intends to send out the following:

9. Consumer Product Information Index	120,000
10. Drug Brochure	206,000
11. Declaration of Independence	5,000
12. Revenue Report	500
13. Police Chief's Survey	41
Total	331,541

Thus, the total mailing under the franking privilege during an eight to nine month period until the general election would be *1,225,291* items. If the six month period from the date of the court's order reapportioning the District to the election be considered then the mailings would total *865,291* items of which about *130,000* items would be sent into municipalities defendant does not represent and is only running for election. These *1,225,291* items, of course, do not include all the free mailing defendant would have completed during this period.

It is respectfully submitted that to allow defendant to dump 331,541 more items of questionable value, which he is printing himself into his District and those municipalities he does not represent by "Postal Patron" free mailings would be an abuse of the franking privilege and give defendant a distinct and unfair advantage to further his political campaign.

POINT I—CONTRARY TO DEFENDANT'S POSITION THAT THERE IS A "TREND OF LIBERALIZATION OF THE FRANKING LAWS", THE LAW INDICATES THAT THE FRANKING PRIVILEGE IS RESTRICTED

(a) *Test:*

Defendant contends that the test is *what* and *where*. (DB-7). Assuming that this is a correct test, the defendant is abusing the franking privilege. He has or intends to mail free 1,225,291 items into a Congressional District he represents and other municipalities where he is now running for election. His operation is to saturate the entire area with material as a means for developing support for this election.

An examination of the *"Washington Report"* shows that it is, as the Supreme Court said in *U.S. vs. Brewster*, 92 S. Ct. 2531 (1970), "political in nature".

The young voter and graduate survey is a duplication of a survey previously sent to all households.

The *"Consumer Product Information Index"*, now out of date, the drug brochure and copies of the Declaration of Independence are all printed by defendant but mailed free. These items are not public documents printed by order of Congress.

Where are these items going? By "Postal Patron" mail to every household within and *outside* of the current congressional district.

(b) *Frequency:*

Defendant says that "The frequency of such mailings remained consistent". (DB-8). The record does not support that statement. The question was only were the *surveys* and *newsletters* sent out in non-election years in the same frequency as election years and the defendant answered: "Yes. More or less." (T(2)-156).

If defendant sends out 1,225,291 items each year the franking privilege is still being abused but on a more consistent basis. It would then seem that, as the court stated in *U.S. v. Brewster, supra*, the defendant is saturating his Congressional District by mass mailing as a means of developing "continuing support for future elections".

(c) *Title 44 Public Printing and Documents:*

Defendant says that plaintiff "attempts to confuse the issue by arguing the provisions of 44 U.S.C.A. sections 719, 731, 732 and 733 place restrictions upon the privilege". (DB-8).

Title 44 does place restrictions upon the privilege. An examination of 28 Stat. 622 (53rd Congress—1895) indicates that prior to codification of Title 44 and 39 the franking privilege was included within "An Act Providing for the Public Printing and Binding and Distribution of Public Documents". This Act later became part of Title 44 and the franking privilege provided under Section 85 of said Act became 39 U.S.C.A. sections 3210 and 3211.

On pages 10, 11 and 12 of plaintiff's "Post Hearing Memorandum" the debate on the franking privilege as included in this Act is set forth. Volume 25 Congressional Record P. 2748, 2749.

(d) *Postal Service and House Rulings:*

Defendant contends that the Postal Service and House of Representatives guide lines, rulings and memorandum "are controlling" (DB-13); that this court should "strictly adhere to the guide lines" (DB-14); and that this court should specifically follow the ruling on each item by the Committee of Standards of Official Conduct (DB-14).

In *Law and Regulations Regarding Use of the Congressional Frank*, Subcommittee on Postal Service, Committee Print No. 14, November 11, 1971, Morris K. Udall, as Chairman of the subcommittee states:

"Both the statute and the regulation are *vague* and not entirely satisfactory. In large part, the member and member-elect must determine *for himself* or Committee on Standards and Ethics whether specific actions are proper.

* * * * *

"I emphasize that in some cases there is *doubt* that these are *my own* informed judgments on legality and propriety.

* * * * *

"The Post Office Department, through the General Counsel, attempted to *police* in some fashion the use of the frank . . . the Postal Service explained that it no longer would perform this function as the responsibility was primarily a matter for Congress to resolve if disputes occurred. The result is that each member must decide what is frankable.

* * * * *

"What constitutes official business must be decided by the member." (P.1) (Emphasis added).

It is difficult to follow defendant's proposition that this court should "strictly adhere" to the past rulings and guide lines of the Postal Service and the House because they are controlling when the leading member of the House on this subject says that the Postal Service will not "police" this matter; that he finds the statute and regulations "vague" and each member must make determination "for himself".

It is plaintiff's position that these rulings and memoranda are not controlling on this court in any manner but are useful to this court in arriving at the proper interpretation of the statutes involved.

As to the letter from the Committee on Standards of Official Conduct dated September 28, 1972, after this hearing commenced, it was admitted that certain items were not sent to the Committee (T(2)-132, 133).

The letter indicates that the Committee examined whatever was presented against former post office rulings and states that the committee "has no *specific* jurisdiction over the Congressional franking privilege."

In *Hoellen* vs. *Annunzio*, 72 Civ. 1302 (ND Ill. 1972) the U.S. House of Representatives, Committee on House Administration, submitted a memorandum as amicus curiae which indicated that the Postal Service Subcommittee had reviewed the questionnaire and found it to be official business which could be mailed into the new Congressional District. (A copy of the amicus curiae brief is submitted with this Memorandum for the assistance of this court). The court rejected the Postal Service Subcommittee's finding and the House's position and found that the "mass mailing" of questionnaires into a district which the Congressman did not represent but in which he was running for election was not "official business".

---

[2] D.B. refers to Defendant's Brief.

[3] The "Washington Report" in evidence indicates it to be the second this year.

(*e*) *Liberalization:*

It is difficult to understand defendant's position. He first says that there is a "constant trend of liberalization of the franking laws" (DB–9) and then argues for strict statutory construction (DB–15).

Plaintiff contends that the legislative history of the franking privilege shows the intent that the privilege be restricted as to items and use.

POINT II—THE FRANKING PRIVILEGE

There is a rather good historical survey of the franking privilege in *"The Franking Privilege of Members of Congress"*, Congressional Research Service, Library of Congress, Yadlosky, 71–35, 497/218, a copy of which was furnished to this court by plaintiff.

An Act approved by the Second Congress on February 20, 1792 (1 Stat. 237) stated that "All letters and packets, not exceeding two ounces in weight, to or from any member of the Senate or House of Representatives" could be conveyed "free of postage".

In 1845 the Twenty-Eighth Congress repealed an Act of 1825 regarding free postage and specifically provided that "Members of Congress . . . shall be . . . authorized to transmit, free of postage, to any post office . . . any documents which have been or may be printed by order of either House of Congress". (5 Stat. 735 sec. 7); that "each member of the House . . . may . . . **send, and receive** through the mail, free of postage, any letter, newspaper, or packet, not exceeding two ounces in weight . . ." and that they had the "right to frank written letters . . . as now authorized by law." (5 Stat 735 sec. 8); and that one half of any penalty under the Act would go to informers and the other half to the Postmaster General and that "all causes of action arising under the Act" may be prosecuted in the United States District Courts (5 Stat. 738, 739 sections 17 and 20).

In 1873, the Congress abolished the franking privilege because of abuses and then within the next thirty years restored the privilege to what it is today.

1873—17 Stat. 421.

"CHAP. LXXXII.—An Act to abolish the franking Privilege.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the franking privilege be, and the same hereby is, abolished from and after the first day of July, anno Domini eighteen hundred and seventy-three, and that thenceforth all official correspondence, of whatever nature, and other mailable matter sent from or addressed to any officer of the government or person now authorized to frank such matter, shall be chargeable with the same rates of postage as may be lawfully imposed upon like matter sent by or addressed to other persons: *Provided,* That no compensation or allowance shall now or hereafter be made to senators, members, and delegates of the House of Representatives on account of postage.

APPROVED, January 31, 1873."

1874—18 Stat. 237.

"Sec. 13. That hereafter the postage on public documents mailed by any member of Congress, the President, or head of any Executive Department shall be ten cents for each bound volume, and on unbound documents the same rate as that on newspapers mailed from a known office of publication to regular subscribers; and the words "Public Document" written or printed thereon, or on the wrapper thereof, and certified by the signature of any member of Congress, or by that of the President, or head of any Executive Department shall be deemed a sufficient certificate that the same is a public document; and the term "public document" is hereby defined to be all publications printed by order of Congress, or either House thereof: *Provided,* that the postage on each copy of the daily Congressional Record mailed from the city of Washington as transient matter shall be one cent.

Approved, June 23, 1874."

1875—18 Stat. 343.

"For official postage stamps for the Post Office Department, nine hundred and eighty-six thousand dollars.

* * * * *

Sec. 5. That from and after the passage of this act, the Congressional Record, or any part thereof, or speeches or reports therein contained, shall, under the frank of a member of Congress, or delegate, to be written by himself, be carried in the mail free of postage, under such regulations as the Postmaster General may prescribe; and that public documents already printed, or ordered to be printed, for the use of either House of Congress may pass free through the mails upon the frank of any member or delegate of the present Congress, written by himself, until the first day of December anno Domini eighteen hundred and seventy-five.

* * * * *

Sec. 7. That seeds transmitted by the Commissioner of Agriculture, or by any member of Congress or delegate receiving seeds for distribution from said Department, together with agricultural reports emanating from that Department, and so transmitted, shall, under such regulations as the Postmaster General shall prescribe, pass through the mails free of charge. And the provisions of this section shall apply to ex-members of Congress and ex-delegates for the period of nine months after the expiration of their terms as members and delegates.

Approved, March 3, 1875."

1877—19 Stat. 336.

"Sec. 7. That Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives, may send and receive through the mail, all public documents printed by order of Congress; and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the first day of December following the expiration of their respective terms of office."

1891—26 Stat. 1079.

"Sec. 3. That the members and members elect of Congress, shall have the privilege of sending free through the mails, and under their frank, letters to any officer of the Government when addressed officially.

Approved, March 3, 1891."

1895—28 Stat. 612, 622.

"Sec. 72. Any Senator, Representative, or Delegate having public documents to his credit at the expiration of his term of office shall take the same prior to the convening of the next succeeding Congress, and if he shall not do so within such period be shall forfeit them to his successor in office."

* * * * *

"Sec. 85. The Vice-President, Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send and receive through the mail all public documents printed by order of Congress; and the name of the Vice-President, Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the first day of December following the expiration of their respective terms of office.

The Vice-President, members and members-elect of and Delegates and Delegates-elect to Congress shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government official or to any person, correspondence not exceeding one ounce in weight, upon official or departmental business."

1904—33 Stat. 441.

"Sec. 7. That hereafter the Vice-President, Members and Members-elect of and Delegates and Delegates-elect to Congress shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government official or to any person, correspondence, not exceeding four ounces in weight, upon official or departmental business."

POINT III—DEFENDANT MAY NOT SERVE "POSTAL PATRON" MAIL TO THE SEVEN MUNICIPALITIES HE DOES NOT CURRENTLY REPRESENT

The history of the extension of the "Postal Patron" or "junk mail" privilege indicates that a majority of the Senate and some members of the House opposed the extension of "Postal Patron" mail for only Congressmen in the cities and limited this use only to the District the member of the House currently represents.

The following are excerpts from the Congressional Record:

"I am not speaking of the trouble and expense that it is to the Members, but I am talking of the expense to the Post Office Department in handling this mail. You will send out a batch of mail of, perhaps, 2,000 or 3,000 pieces. Five or ten percent of that mail will come back to you because of a wrong address. The Post Office Department has had to handle it."

* * * * *

Mr. Bailey. Is there any way to limit the use of the frank by Members of Congress?

Mr. Thomas. No. I think it encourages them to use it.

Mr. Bailey. I am thinking of an incident that occurred here some 2 or 3 years ago where one Member of Congress mailed out 840,000 pieces of mail in opposition to proposed legislation.

Mr. Thomas. Mr. Speaker, I ask for a vote. (Vol. 107 Congressional Record P. 21528, Sept. 26, 1961).

On November 27, 1963 the Senate voted 88 to 2 against the extension of Postal Patron mail to the cities stating in debate:

"Mr. Robertson. As a matter of policy, the Senate has consistently objected to what it regarded as an improper expense to the taxpayers of the Nation of permitting Members of Congress, *primarily for campaign purposes to send franked mail into the cities,* to be distributed without addresses, only to boxholders.

As the Senator from Georgia has said, in a legislative appropriation bill, not a bill dealing with the Post Office Department, again the Senate is confronted with a similar provision in the conference report. What is desired is to have the Senate agree that only the House may send such mail, but not the Senate. Is that correct?" (Emphasis added.)

* * * * *

"Mr. Robertson. I am relying on the statement of one of the conferees that the issue is one that applies to the Senate. If the House gets the privilege, the Senate gets it too.

I wish to emphasize that, as a matter of public policy, the Senate for a number of years, starting with the bill that I handled in 1960, has stood practically unanimously, so far as I can recall, against this practice." (Vol. 109 Congressional Record P. 22891)

On December 18, 1963 the Senate again debated this matter and this time it narrowly passed with Senator Case of New Jersey voting against the extension of Postal Patron mail and Senator Williams of New Jersey voting for it.

"Mr. Williams of Delaware. Mr. President, I hope the Senate will again reject the House amendment which would allow *junk mailing privileges* for Congressmen. As the Senator from Nebraska has pointed out, in New York

City there are several Representatives. It is physically impossible for this proposal to be administered. One Representative could circularize the entire city of New York. How could the postman in the State which I represent in part or in any State tell where the mail should properly be delivered?

There are many post offices in towns that are adjoined in Maryland and Delaware, and in Pennsylvania and Delaware. The address may be Delaware. The Representative could circularize box holders in that whole area. How would he know whether the mail would go to people in Maryland or across other State lines? In States in which only one Representative is elected, that Representative could circularize the entire State. The Senator from that State would enjoy no such privilege.

The only basis for the argument in favor of the proposal is to give Members of the House of Representatives an opportunity to circulate in their congressional districts tons of *political propaganda in the* 1964 *election.* Congress has always had the same rule for both the House and the Senate. I do not know of a single instance in which there has been a different rule. Why should the taxpayers be required to pay the postage on *political propaganda* of a Member of the House? Let them pay their own postage.

Two years ago the Senate by a vote—the House later concurred—abolished that privilege and limited both Houses to using the frank for the purpose of answering legitimate mail only. Now the House wants to reinstate this junk mail provision for their Members.

I believe the Senate amendment should be adopted and the conference report rejected.

Mr. MILLER. Mr. President, I concur in what my colleague, the Senator from Delaware, has said.

It has been mentioned in the newspapers that one of the reasons for the difficulties over the mailing controversy is that some Members of the Senate are concerned that Members of the House might be able to take *unfair advantage* in a possible future contest, particularly a primary election. This is not the reason why I feel as I do against the adoption of the House amendment to the Senate amendment.

Congress has been subjected to much criticism already, and much of it I believe is unjustified. We should not invite further criticism by agreeing to the House amendment.

Many people get the idea that if a House Member is allowed to do something, everyone in the Congress—all Members of the Senate and the House alike—are doing the same.

I venture to say that if the *junk mail* privilege is extended to House Members, even within their own congressional districts, soon Senators will receive mail suggesting that Senators are doing the same. This will only add fuel to the fire which is already spreading around the country with respect to some of the 'loose' operation in which I fear a few of our colleagues may have been engaged.

We should not be a party to permitting the *junk mail privilege* to anyone, either Senators or Members of the House. Both should be treated alike.

We should be thankful for the franking privilege Senators now enjoy, without running the risks of abuse.

Mr. LAUSCHE. Mr. President, I shall vote against the House amendment to the Senate amendment. I shall do so because I am convinced that at present the Congress is receiving lacerating condemnation. My mail indicates that clearly. The letters are of a character difficult to answer.

I agree with what was said a moment ago, that we now enjoy a privilege in the franking rights which is great. I do not believe we have any right to load the mail boxes of citizens against their will. That is being done with *junk mail.*

For my own protection and for the protection of the honor of Congress, I do not believe we should in any way in the Senate give approval to the flooding of the mail with propaganda.

It is argued that it is for the service and enrichment of the knowledge of the citizenry. That, in my opinion, is not the fact. It is used for political purposes and for *political purposes alone.* (Vol. 109 Congressional Record P. 25026) (Emphasis added)

POINT IV—PUBLIC DOCUMENTS

Defendant says that *"The Yearbook of Agriculture, 1963"* is frankable as a report from the Department of Agriculture, yet he cites the specific statutory provision by Congress for the printing of this document. Defendant apparently has failed to look inside the front cover of the document where the House Document number appears. It is clearly a public document and as indicated under Point I of Plaintiff's Post Hearing Memorandum defendant was not entitled to possess or distribute this public document. Defendant does not argue this point in his brief.

"The Capitol—Symbol of Freedom" is recognized as a public document by defendant, but here again, he was not entitled to possess or distribute an 11 year old book. In any event, they were used for political purposes.

The *"Consumer Product Information Index—Summer 1972"* is clearly not a public document *printed by order of Congress,* since as defendant indicates (DB–22) it was printed by Executive Order. Plaintiff has not seen the letter of June 19, 1972 referred to in defendant's brief.

With regard to this item and the Declaration of Independence which defendant has or is printing at his own cost, the House in the past has ordered printed the United States Constitution Sec: 87th Congress, 1st Session House Document No. 206 and Senate Document No. 49.

POINT V—THIS COURT HAS JURISDICTION

In the *Law and Regulations Regarding Use of the Congressional Frank,* supra, the Chairman of the Subcommittee on Postal Service recognized that an "Opponent or interested citizen" could seek injunctive relief in the U.S. Courts and ask for an interpretation of pertinent law. (P. 2).

What was said by the court in *U.S. v. Brewster,* supra, is applicable here.

"*. . . but Congress is ill-equipped to investigate, try, and punish its Members for a wide range of behavior that is loosely and incidentally related to the legislative process.*" (CCH B4183) (Emphasis added).

"The *process of disciplining a Member* in the Congress is not without countervailing risks of abuse since it is not surrounded with the panoply of protective shields that are present in a criminal case. An accused Member is judged by no specifically articulated standards 13 and is at the mercy of an almost unbridled discretion of the charging body that functions at once as accuser, *prosecutor, judge, and jury from whose decision there is no established right of review.*" (CCH B4184) (Emphasis Added).

"The only reasonable reading of the Clause, consistent with its history and purpose, is that *it does not prohibit inquiry into activities which are casually or incidentally related to legislative affairs but not a part of the legislative process itself.*" (CCH B4194) (Emphasis added).

[U.S. District Court, District of New Jersey, Civil Action No. ——; Hon. Leonard I. Garth]

Alfred D. Schiaffo, Plaintiff, against Henry Helstoski, **Defendant.**

POST HEARING MEMORANDUM IN SUPPORT OF APPLICATION BY PLAINTIFF, ALFRED D. SCHIAFFO, FOR A PERMANENT INJUNCTION

Robert B. Budelman, Jr., Attorney for Plaintiff; Alfred D. Schiaffo, Office and P.O. Address: 510 Howard Street, Westwood, New Jeresy 07675, (201) 666–2188.

Robert B. Budelman, Jr., John J. Dudas, Jr., on the Brief.

STATEMENT

By this action, plaintiff, Alfred D. Schiaffo, seeks a permanent injunction restraining and enjoining defendant from mailing or allowing to be mailed the items described in the Complaint and any further similar mailings by use of the franking privilege; a judgment in an amount equal to the cost of the items mailed and the cost of postage on mail which this court finds to have been improperly franked and for such other and further relief as may be just and proper to protect plaintiff's right to run for public office in a fair campaign.

FACTS

On September 19, 1972, plaintiff commenced this action against defendant seeking injunctive relief and damages as a result of defendant's abuse and misuse of the franking privilege to publicize and promote his political campaign.

On September 25, 1972, a motion was made before this court (1) for a temporary restraining order, (2) for an order for a hearing on a preliminary injunction, (3) for leave to take depositions, and (4) to shorten time to answer interrogatories.

On September 25, 1972, upon the hearing of the motion this court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, commenced a hearing of an application for a permanent injunction as prayed for in the verified complaint and consolidated the trial of the action with the hearing on the application.

The complaint alleges, in part, that the franked mailings mentioned in paragraphs "5", "6", "7", "8" and "10" of the verified complaint were an abuse and illegal use of the franking privilege; that the sole purpose of the aforesaid mailings was to publicize and promote the political campaign of defendant; that the public has an overriding interest in being protected against abuses of the franking privilege; said franked mailings constitute campaign literature mailed by defendant at government expense and do not constitute "official business"; that said mailings at government expense violate the civil rights of plaintiff and his right to run for public office in that they give defendant a distinct and unfair advantage to further his political campaign; and that said mailings are a continuing harm to plaintiff in his effort to conduct a *fair campaign.*

The plaintiff produced four witnesses, including testimony of the plaintiff and defendant, in support of his application for a permanent injunction. The defendant produced no witnesses but requested permission, which was granted, to allow the United States House of Representatives Committee on House Administration to submit a memorandum as amicus curiae.

After taking of evidence, but before the conclusion of the hearing, plaintiff moved this court, pursuant to Rule 15(b) of the Federal Rules of Civil Procedure, to amend the pleadings to conform to the evidence, which motion was granted by this court. Thus evidence given concerning other franked mailings or intended franked mailings shall be treated in all respects as if those issues had been raised in the pleadings.

The first witness to be called was the defendant, an adverse party within the meaning of Rule 43 of the Federal Rules of Civil Procedure. He testified about each of the items referred to in the complaint and also about other items he had mailed or intended to mail under the franking privilege.

A detailed statement of the facts developed at the hearing of this matter are submitted with this brief as Plaintiff's Proposed Findings of Fact.

STATEMENT OF QUESTIONS INVOLVED

The following questions are raised in this matter:

(1) Whether the franked mailings pleaded in the complaint, as filed and amended by this court to conform to the evidence, are an abuse and misuse of the franking privilege in violation of the Postal Reorganization Act, Title 39 U.S.C.A. sections 3201, 3210 and 3211.

(2) Whether the franked mailings pleaded in the complaint, as filed and amended by this court to conform to the evidence, have the purpose and effect of publicizing and promoting the political campaign of defendant and as such are not eligible for mailings under the franking privilege without payment of postage.

(3) Whether the franked mailings pleaded in the complaint, as filed and amended by this court to conform to the evidence, violate the civil rights of plaintiff and his right to run for public office in that mass mailings of hundreds of thousands of unsolicited items shortly before a general election give defendant a distinct and unfair advantage to further his political campaign.

(4) Whether continued franked mailings of 337,000 unsolicited items just prior to the general election are a continuing harm to plaintiff in that they would result in an unfair campaign and therefore a misuse of the franking privilege.

(5) Whether defendant should be required to pay as damages the cost of the items used in mailings and the cost of postage required on mailings where there has been an abuse or misuse of the franking privilege.

POINT I—THE FRANKING PRIVILEGE EXTENDS TO THOSE PUBLIC DOCUMENTS CREDITED TO A MEMBER OF CONGRESS OR HIS DISTRICT

All public documents printed by order of Congress may be sent as franked mail by a member of Congress. 39 U.S.C.A. section 3211.

Documents printed by order of Congress are in a consecutively numbered series continuing in unbroken sequence throughout the entire term of Congress. 44 U.S.C.A. section 719.

The book entitled *"The Yearbook of Agriculture 1963—A Place to Live"* is a public document under section 719 of Title 44.

However, defendant was not entitled to possession of about 200 1963 Yearbooks he had acquired since these books had been alloted to Congressman Ryan of Michigan and should have been delivered to Congressman Ryan's "successor in office". 44 U.S.C.A. section 731.

Defendant was only entitled to distribute under his franking privilege those public documents he had to his credit or the credit of his district. 44 U.S.C.A. section 732.

Since the statute relating to distribution of public documents indicates that a member may distribute "documents to their credit, or the credit of their respective districts . . . until their right to frank documents ends" it is questionable whether defendant could allegedly trade documents and send out documents which he never had to his credit or the credit of his district. 44 U.S.C.A. section 732.

It is clear that defendant was not entitled to use his franking privilege on the 200 or 210 1963 Yearbooks he had acquired (T–17[1]) and he probably should not have used the franking privilege on the remaining 70 books he obtained from other Congressmen.

Defendant cannot rely on the "official correspondence" statute 39 U.S.C.A. section 3210(2) because the article mailed exceeds the 4 ounce limitation.

POINT II—THE FRANKING PRIVILEGE EXTENDED TO MEMBERS OF CONGRESS IS RESTRICTED TO CERTAIN ITEMS

Title 39, United States Code, was revised and reenacted on August 12, 1970 under the Postal Reorganization Act 39 U.S.C.A. section 1 et seq. At that time and in view of the court decision in *Rising* v. *Brown* 313 F. Supp. 824 (Calif. 1970) the Congress could have enacted a broadly worded statute but instead reenacted the same statutory provisions that were in existence under the prior Postal Service law.

The franking privilege extended to Members of Congress is restricted to the following:

(1) *matter*, not exceeding 4 pounds in weight, upon official . . . business, to a Governmental officials, 39 U.S.C.A. section 3210 (1).

(2) *correspondence*, not exceeding 4 ounces weight, upon official business to any person. 39 U.S.C.A. section 3210 (2).

(3) *public documents* printed by order of Congress. 39 U.S.C.A. section 3211.

(4) *Congressional Record*, or any part thereof, of speeches of reports therein contained. 39 U.S.C.A. section 3212.

(5) *Seeds* and *agricultural reports* emanating from the Department of Agriculture. 39 U.S.C.A. section 3213.

The fact that members of Congress are restricted in their use of the frank can easily be seen by comparing the above sections with 39 U.S.C.A. section 3214 which provides that a former President may send "all his mail" within the United States and its territories and possessions as franked mail.

A debate in the House of Representatives on October 20, 1893 indicates that the franking privilege formerly existed to an almost unlimited extent and that by reason of abuses the privilege was practically entirely done away with. Volume 25 Congressional Record p. 2748, 2749.

The matter before the House was Bill H.R. 2650 providing for the public printing and binding and distribution of public documents. Section 88 of said bill provided that Representatives could send and receive through the mail as franked mail "all public documents printed by order of Congress", that members of Congress could send as franked mail "any mail matter to any Government official", "or to any person, correspondence not exceeding 2 ounces in weight, upon official or departmental business". These provisions are similar to 39 U.S.C.A. sections 3210 (1) and (2) and 3211.

The following is excerpted from that debate with regard to the amendment to permit as frank mail *correspondence* to any person upon *official business* (at 2748, 2749):

"Since then it has been allowed to send letters to Government officials, but no provision has been made for sending what we get from the Departments to the persons to whom the letters or documents are to be sent, and it is by no means universal that penalty envelopes are sent for that purpose by the Departments. It seems to me this ought to be made to cover that deficiency, and it is so worded as to guard it against abuses, limiting it to departmental and official business, and also limiting the weight to 2 ounces.

* * * * *

Mr. McMillin. I was going to ask the gentleman where it varies from the present law? We now have the right to send letters to the heads of Departments.

Mr. Hayes. Yes; but there is no provision made in the law for sending what you get from the Departments to those for whom you make the inquiry; and the return letters are not sent in all instances They are generally from the Pension Office, but not from the other Departments.

* * * * *

Mr. McMillin. But what I was calling the attention of the gentleman to was that when the franking privilege was abolished the present stationery account was given in lieu of that, as I have been informed, although I have not made an examinat'on of the fact.

Mr. Hayes. There is no doubt about that.

Mr. McMillin. And the Stationery account remains still if this amendemnt is adopted.

Mr. Hayes. There is no reason to change that, because this only relates to letters from the Departments; and the franking privilege was for all purposes. I do not know how true it is; but to illustrate what was said about the franking privilege, I have heard it said a dozen times that members used to send their washing home under the franking privilege. (Laughter.) Perhaps that was really meant as an illustration of the extent to which it was used.

* * * * *

Mr. McMillin. This would not include a letter addressed to a constituent in connection with that business.

Mr. Hayes. Yes, sir.

Mr. McMillin. It is intended only that when you get a response from a Department to inclose it in an envelope and send it to the party?

Mr. Hayes. That is the way I illustrated it; that it was governmental and official business.

Mr. Sibley. Would it preclude me from inclosing a letter in respect to the official and departmental business?

Mr. Hayes. I think it would not . . ."

It appears from the above quoted debate that Congress intended that the statute be given a restrictive interpretation in view of the fact that it had established the stationery account for mailing purposes Defendant testified that he has a statonery account in the amount of $3,000

Thus it is necessary to determine in each instance whether a particular item mailed by defendant is within one of the four sections indicated above.

POINT III—THE FRANKING PRIVILEGE MAY NOT BE USED FOR POLITICAL OR CAMPAIGN PURPOSES

Correspondence in which a Member of Congress deals with the addressee in the relationship of candidate and voter or when he writes in the capacity of a member of a political party or faction may not be franked. *Rising v. Brown,* 313 F. Supp. 824 (Calif. 1970).

In *Rising* the court found that the public had an overriding interest in being protected against abuses of the franking privilege; that the brochure contained at least 50% of matters which "strongly lends itself to the suspicion that it is promotive of getting votes"; that it was significant that the 300,000 copies of the brochure were privately prepared and paid for by the Congressman; and that of "critical importance" was the fact they were being sent out just before election day and were not "confined to persons within his congressional district".

In *Rising* the court rejected *Strauss v. Gilbert,* 293 F. Supp. 214 (S. D.N.Y. 1968) on the basis that it did not believe that 39 U.S.C.A. section 3212 could be interpreted as abuse of the frank, also a congressman could cause undisputed campaign material to be inserted into the CONGRESSIONAL RECORD for the sole purpose of allowing him to disseminate it among the people of his district or state by using the franking privilege" 313 F. Supp. at 827.

In *Hollen v. Annunzio,* 72 Civ. 1302 United States District Court (N.D. Illinois 1972) the court granted an *injunction against* "mass mailings" including questionnaires, into a district which the congressman did not represent but was running for election in, stating:

---

[1] T refers to the Transcript of the Hearing in this matter.

"Whether a mailing is 'upon official business' depends not only upon its contents but upon the purpose for which it is sent, which may be inferred from the circumstances" P. 18

"The only reasonable inference that can be drawn is that the mailing into the Eleventh District was for the purpose of advancing his candidacy, and that, therefore, it was not 'upon official business' ". P.19

". . . in determining whether the business of the mailing was 'official' the Court cannot close its eyes to the obvious inferences which can be drawn from the persons and the locale to which the franked mail was sent, in addition to what is contained within the four corners of the mailing itself." P.20, 21

It is clear from *Rising* and *Hollen* that even if the matter to be mailed is by definition within the restricted items set forth in Title 39, that they may not be mailed under the franking privilege if the purposes of the mailing from an examination of the contents of the matter or the inferences drawn from the manner or persons or locale involved are determined to be political or in furtherance of the sender's campaign for election.

Aside from the contents of the items mailed by defendant, this court must also consider the inferences which naturally arise from the facts (1) that defendant mailed some items only to members of the Democratic party first one year and then to members of the Republican party the following year; (2) that defendant admitted that the mailing to Republicans had political overtones; (3) that defendant targeted 15,000 questionnaires to voters in communities he had recently surveyed with 206,000 questionnaires going to each household; (4) that from the primary until September 29, 1972 defendant has mailed under his franking privilege more than ½-million items; (5) that defendant now seeks to mail 337,500 more items resulting in about 845,000 items being mailed during a four month period while a political campaign is in progress; (6) that defendant testified he had mailed no campaign literature to date; and (7) that defendant has been mass mailing into communities he does not represent.

POINT IV—GOVERNMENTAL POWER MAY NOT BE USED IN SUCH MANNER AS DIRECTLY EFFECT THE OUTCOME OF AN ELECTION

In *White* v. *Snear,* 313 F. Supp. 1100 (E. D. Penn. 1970) the court held that the conduct of county commissioners in recording employees present at their posts on primary election day when in fact they were away electioneering and performing valuable services for endorsed candidates had the effect of favoring a certain segment of a political party in perpetuating its power through an abuse of authority, the result of which was to discriminate against all other segments and candidates. The court issued an injunction stating (at 1103):

"What plaintiff does attack is the abuse of the patronage system whereby the weight of state power (here municipal power) is brought to bear directly to effect the outcome of an election."

In *Rising,* supra, the court in commenting on the abuse of the franking privilege by inserting campaign material into the Congressional Record said (at 827, 828):

"In instances where persons possessing the franking privilege were running for public office against persons not possessing this privilege, the former would be given a distinct and unfair advantage ". . . but the public has an overriding interest in being protected against abuses of the franking privilege especially where, as here, the size of the mailing is so large."

White, Rising and *Hoellen* stand for the principle that governmental power, by use or abuse of the franking privilege, may not be used in such a manner as to directly effect the outcome of an election and deny a person his right to run for public office in a *fair campaign.*

The evidence before this court indicates that defendant by abuse of the franking privilege has gained a distinct and unfair advantage to further his political campaign. If defendant is allowed to continue more mailing of 337,500 more items unsolicited into the district he is running for election, it would irreparably damage plaintiff in his effort to conduct a fair campaign.

POINT V—DEFENDANT'S MAILINGS WERE AN ABUSE OF HIS FRANKING PRIVILEGE

As indicated under Point I of this memorandum defendant was not entitled to use the franking privilege for mailing nine year old *"The Yearbook of Agriculture, 1963—A Place to Live".*

As indicated under Point III of this memorandum defendant was not entitled to use the franking privilege for mailing *"The Capitol, Symbol of Freedom",* some of which were 11 years old, because said mailing was to Republicans, persons chosen by political affiliation.

The "1972 Young Voter Opinion Survey" was printed at defendant's own expense and sent in envelopes stating the matter to be "official business". Since defendant had surveyed the entire district he currently represents and the 7 newly added communities as late as May, 1972, with 206,000 questionnaires and since the young voter is clearly a target of this campaign by both major political parties, the inference this court should draw is that the mailing of 15,000 surveys to "young voters" and recent graduates was an attempt by defendant to further his political campaign among that particular segment of the population. Though questionnaires have been sent by members of Congress at various times, a proper reading of the "official correspondence" section of Title 39 would indicate that this item may not be sent franked.

The commencement on about September 1, 1972 of an unsolicited mass mailing of 206,000 "Consumer Product Information Index" in envelopes printed at government expense and bearing the designation "Public document—Official Business" to the communities defendant represents and the 7 newly added communities where he is now running for election, is an attempt by defendant to obtain support for his political campaign. In any event, the item is not (1) matter sent upon official business to a governmental official; (2) correspondence upon official business (the later consumer index being stamped "Compliments of your Congressman"); (3) a public document printed by order of Congress.

In *U.S. v. Brewster,* 92 S. Ct. 2531, (1970), the court stated that "so called 'Newsletters' to constituents" were a means of developing "continuing support for future elections" and although an entirely legitimate activity it was "political in nature". An examination of defendant's 1966 Newsletter (P-14 in evidence), a year in which he was also running for election, shows that it is by any standard un-frankable. Though it would appear that under the Supreme Court's Statement the "Washington Report" issued about September 1, 1972 is un-frankable because it is "political in nature", it is respectfully submitted that the only inference that can be drawn, from the time, the persons and places to which it was directed and from an examination of the contents of said item, is that it is a means for developing support for this election—and thereby un-frankable.

CONCLUSION

Plaintiff's request for relief and damages should be granted in all respects.

Respectfully submitted,

ROBERT B. BUDELMAN, Jr.,
Attorney for Plaintiff.

[U.S. District Court District of New Jersey, Newark, N.J., October 10, 1972]

TRANSCRIPT OF PROCEEDINGS

Alfred D. Schiaffo, Plaintiff, vs. Henry Helstoski, Defendant.

Before: Hon. Leonard I. Garth, U.S.D.J.

Appearances: Robert B. Budelman, Jr., Esq., (New York bar), Attorney for the plaintiff; Alfred A. Porro, Jr., Esq., Attorney for the defendant; and Eugene L. Dinallo, Esq., Attorney for House of Representatives of the United States.

The COURT. Gentlemen, I have read your briefs, your initial briefs, your supplemental briefs, your brief submitted in response of questions that I had, your brief submitted with respect to the 1895 legislative history that we turned up and the various issues that have been presented. Is there argument that is not covered in your brief, Mr. Budelman, in your numerous briefs, Mr. Budelman, that you feel that you must necessarily make at this time?

Mr. BUDELMAN. Your Honor, in view of the Court's statement I have an affidavit which I served on my adversary this morning.

The COURT. Well, I have not seen that one, have I?

Mr. BUDELMAN. No, Your Honor.

The COURT. Why am I getting an affidavit after we have left the starting gate and are practically approaching the finish line?

Mr. BUDELMAN. Well, first of all, Your Honor, on Friday afternoon, September the 29th was the conclusion of the hearing; subsequent to the conclusion of the hearing we came into possession of another document which has been sent out by the Congressman.

The COURT. When did you come into possession of that?

Mr. BUDELMAN. It was the latter part of the week. Your Honor, it must have been—I did not physically get possession of this document, I guess, until Thursday or Friday.

The COURT. All right. Let us see what you have, Mr. Budelman. The reason I ask you as to whether or not either counsel have anything further to say is that I have a draft of a memorandum that has been prepared on the basis of your respective briefs, but there is no point, if you have something else which might influence my thinking or decision then I obviously will hold that until after I have heard from you gentlemen, if not then I will be prepared to announce my decision at this point.

Mr. BUDELMAN. Your Honor, here is the affidavit I have, the affidavit also includes, Your Honor, the copy of a face page of a booklet called *"The Constitution"* which was printed by order of Congress and also includes a copy of a statute which deals with the distribution of an article called *"The Declaration of Independence,"* and I bring both of these to the attention of the Court on the question of public document.

The COURT. With exception of the affidavit is there anything else you desire to address the Court on?

Mr. BUDELMAN. Your Honor, I would like to limit myself on one item that was not questioned in the brief and that was on a question of the postal patron mailings, Your Honor, and I would like to limit my comments to that.

The COURT. I am not restricting you, but I just want to know, sir.

Mr. Budelman. Your Honor, I think from the legislative history of the postal patron mailings it indicates that prior to 1963 that the members of Congress could send out postal patron mailings in rural areas, whereas they did not have that privilege in city areas, and that after 1963 they were given the privilege to send it out to city areas. But the public is not given that privilege, insofar as the regulations are concerned postal patron mailings can still only be sent by the public into rural areas. So that when you talk about a candidate for public office he is not on equal footing insofar as——

The Court. Isn't the issue before me on the terms of what is known as official business and isn't it so that the postal patron mailings do not lend any gloss to the definition of official business, do not restrict or expand it but say whatever is official may or may not be sent by postal patron mailings, is that correct?

Mr. Budelman. Yes sir. But with the further caveat that postal patron mailings cannot be sent into an area which is not encompassed in the Congressman's district. One of the problems here is the extent of the amount of mail which is going into seven municipalities which are not encompassed within the district and as I understand this Court's decision in the Reapportionment Case that the district is set up for elections and in the dissenting opinion the Court indicates that "These districts are created only as an interim change which will be changed apparently by the Legislature after November."

So that, Your Honor, I think that the constituents of the Ninth Congressional District as it existed prior to this Court's decision had the right of representation by Congressman Helstoski. I think the Court, insofar as I had understood the decision, changed this only insofar as of January 1, there would be elections held which would then encompass a new district, but the Court did not intend to disinfranchise people who were already members of the Ninth Congressional District. And for that part, Your Honor, we say that those mailings which went into the seven municipalities which were not in the Ninth Congressional District as of January 1 of this year are entirely improper and not provided for by the postal regulations.

The Court. All right. I have some questions I would like to put to you, Mr. Porro, if I may, and I just want to clear my mind on something. It is conceded, is it not, that of the 50,000 consumer index pamphlets alloted to Congressman Helstoski that they have all been distributed, is that not correct?

Mr. Porro. Yes, sir.

The Court. Is it also the fact, is it not, that the "Declaration of Independence" which the Congressman wanted to send out was on a partial basis and not actually in the Congressional Record. Is that correct?

Mr. Porro. The Congressional piece I have with me, Your Honor, does not reprint, so to speak, the Declaration itself.

The Court. All it has is comments of the Congressman?

Mr. Porro. Yes, sir.

The Court. I do not think that appears in the exhibits.

Mr. Porro. I did not consider it as part of the subject matter of the case.

The Court. That came out in the colloquy toward the end of the hearing when I inquired of other matters, and I would like to have that marked as C–2, it troubled me at the time I made my findings of fact and I thought this would be the case, but I wanted to be absolutely certain, sir.

(Reprint of September 21, 1972 Congressional Record, Number 148, marked Exhibit C–2 in evidence.)

The Court. C–2 in evidence is a reprint of a September 21, 1972 Congressional Record, Number 148, of the proceedings and debates of the 92nd Congress, Second Session, and it reflects comments by Mr. Helstoski, but it does not reflect the exact verbiage of the "Declaration of Independence", it just refers to it.

Mr. Porro. The record should show, however, I do not think there was much question that the "Declaration of Independence" has in fact not only been referred to, but cited in whole and in part many and many times throughout the Congressional Record.

The Court. But it is not that which the Congressman expects to distribute, he expects to distribute about 5,000 facsimile copies?

Mr. Porro. Yes, sir.

The Court. I have two questions that I desire to direct to the both of you: I have furnished to you either the citations or a copy of the 1885 Act which had not initially been referred to by either of you gentlemen pertaining to the franking privilege and I should like your views as to whether or not you regard that, and on what you base your views, as being a restrictive act and as to whether or not it should or can control the determination of the Court. Who wants to start? I will hear either of you or both of you or you may submit just on your papers of what you have already given me; because I have some views of my own in that regard.

Mr. Budelman. Your Honor, I think the 1895 Act has to be taken into consideration with the debate which occurred in 1893 which definitely shows the intention by the House at that time, which is the only portion of the debate which I had in the Congressional Record, shows the intention to limit the word "Correspondence" to——

The Court. I am familiar with the debate, that is the one I cited to you, is it not?

Mr. Budelman. Yes, sir.

The Court. You contend that it is controlling npon the Court?

Mr. Budelman. Yes, sir. And I think if the Congress intended to expand the item of correspondence it could have done so at any particular time.

The Court. What about you, Mr. Porro?

Mr. Porro. Quite frankly, Your Honor, I am looking for the section you are talking about. I think that we here today are bound by one thing: The statutes as they read today. The legislative history gives us the indication of interpretation over the years and the reason for certain changes; I have found nothing either in the citation or in the discussion, that discussion that was referred to was not a legislative history kind of discussion as I see it. But, as we said in our brief, and I will rest on that, that since that point of discussion many of the details of the franking privilege has been clarified. And I think Your Honor must decide this case on the backdrop of those clarifications throughout the years.

The Court. Thank you, gentlemen. I do not think that the material submitted to me this morning, although I will direct that they be filed, the affidavit that is Mr. Budelman's, that Mr. Budelman submitted, I do not think that they are controlling with respect to the issues which I intend to discuss with you. By virtue of the fact that we have had a relatively short period of time between the conclusion of the testimony this morning, that time I might parenthetically note has been shortened by the imminence of election and the activities which both parties should or may desire to utilize for their own benefit, I do not have as yet a written opinion for you gentlemen so I am going to have to trespass upon your time in reading into the record, you may have the transcript, of course, the decision that I have reached with respect to the submissions made and my own research and my own views of the matter. To the extent that I may eliminate in the reading of this some of the citations then you may get them from the final opinion. I do not think they are going to be essential to you for the purposes of any review that you may desire to make of my decision, and my own thought was it was more important to get this immediately out to you than it was to wait for the refinements and the polished, hopefully polished opinion that you might otherwise expect.

First, let me deal with the findings of fact that I have made as a basis of my opinion.

Defendant, a Democrat, has served eight years in the Congress, is in his fourth term, commenced his first term in February, 1965, and is running for election to the newly reapportioned Ninth Congressional District.

Plaintiff, a Republican, is presently a State Senator in the New Jersey State Senate and is his party's candidate for the defendant's Congressional seat in the November, 1972 election.

The Ninth District consists presently of the following municipalities in Bergen County:

"Ninth District—Bergen County: That portion embracing the Boroughs of Alpine, Bergenfield, Bogota, Carlstadt, Cliffside Park, Closter, Cresskill, Demarest, Dumont, East Rutherford, Edgewater, Englewood Cliffs, Fairview, Fort Lee, Haworth, Leonia, Montvale, Moonachie, New Milford, North Arlington, Northvale, Norwood, Old Tappan, Palisades Park, Ridgefield, Rockleigh, Rutherford, Tenafly, Tererboro, Wallington and Wood-Ridge, City of Englewood and Townships of Lynhurst, Ridgefield Park, Rivervale, and Teaneck. Population (1960), 390, 134; estimated to July 1969, 510,000, Congressional Directory 92nd Congress, Second Session, P. 108.

For ease in reference throughout this opinion I shall refer to the aforesaid district as area A.

On April 26, 1972, the United States District Court for the District of New Jersey, in the case of *David B. Cahill*, 342 F. Supp. 463 (1972) Ordered, adjudged and decreed that Governor William T. Cahill and all election officials of the State of New Jersey "shall conduct the primary election on June 6, 1972 to choose candidates for membership in the House of Reperesentatives from New Jersey and the general election on November 7, 1972, for membership in the House of Representatives from the following single member districts, which districts were thereafter designated and resulted in a redistricting of the Ninth District, as well as other Congressional districts."

By reason of the redistricting decree the following municipalities will be included in Congressional districts other than area A: Montvale, North Arlington, Wallington, Wood-Ridge, Ridgefield Park, Teaneck, Bogota. And the following municipalities will now be included in the new Ninth District: Bergen County: Harrington Park, Little Ferry, Park Ridge, River Edge, Portion of South Hackensack. Hudson County: Secaucus, Union City, North Bergen.

The additional towns to be included in the Ninth Congressional District will be referred to as Area B.

With respect to the particular mailings and publications brought into issue by the complaint and hearing I will refer to four different groups.

GROUP I: *The Yearbook of Agriculture, 1963.* On or about June 16, 1972, after the primary election, approximately 280 copies of a Department of Agriculture Publication which is also a House Document entitled "The Yearbook of Agriculture 1963—A Place to Live" was mailed under defendant's franking privilege to specifically-addressed public officials in Areas A and B. Enclosed between the cover and the first page of each Yearbook was a brief "cover" letter explaining the purpose of the book and identifying its sender. With the exception of three or four requests, the mailing of these 280 books was unsolicited. Defendant intends to continue distribution of various editions of this publication under his frank.

The Capitol, Symbol of Freedom. On or about August 23, 1972, defendant sent out unsolicited approximately 500 copies of the 1961 edition or some other edition of a magazine entitled "The Capitol, Symbol of Freedom" a House document printed by order of Congress. Defendant had made similar mailings of this magazine for the past eight years. The magazines involved in the 1972 mailing were mailed under defendant's franking privilege to Republican County Committee people in Areas A and B. They were sent only to Republicans because (1) defendant had previously mailed similar publications to Democratic Committee persons the year before, and (2) defendant had copies of the magazine left over in his office.

Defendant's office stamped these magazines "Best Wishes Henry Helstoski, Congressman New Jersey Ninth District" and enclosed with them a cover letter explaining the purpose of the distribution as well as inviting the recipients of the magazine to call upon the defendant any time they had need of other Federal publications made available to him for distribution. Defendant intends to continue mailing these publications in various editions as before.

Consumer Product Information Index. On or about September 1, 1972, defendant began a mass mailing under his franking privilege of 50,000 copies of a publication entitled "Consumer Product Information" to postal patrons in the Areas A and B. The publication is an index of pamphlets available from the Consumer Product Information Coordinating Center of the General Services Administration (GSA) and contains on its inside back cover order forms for such pamphlets on which postage has been paid by the GSA. The Index itself is printed by the GSA.

With regard to this Index, marked Defendant's Exhibit D–5, sometime in July or August 1972, defendant received an allotment of 50,000 from the Consumer Product Information Coordinating Center of the General Services Administration.

The front of the outside page of the Index as received was in blank and the address side was also in blank except for the words "Consumer Product Information, an index of selected Federal Publications on how to buy, use and take care of consumer products."

On certain copies of the GSA publication (D–5) defendant printed at his own expense and by his own printer a "Dear Friends" letter reproducing his letterhead which letterhead displayed his picture on one side and "Congress of the United States, House of Representatives, Official Business, Henry Helstoski m.c., Postal Patron—Local 9th Congressional District, New Jersey" on the address side. As to the rest of the 50,000, GSA Publications, defendant stamped one side of the brochure with the legend "Compliments of Your Congressman Henry Helstoski 9th District, New Jersey" and enclosed the pamphlet in a brown envelope marked "public document" and bearing his frank. Defendant has already distributed his 50,000 allotment of these GSA publications throughout Areas A and B under his franking privilege.

There is no prospect of defendant distributing any further of these particular allotted pamphlets as his entire allotment has already been distributed.

Group II: Consumer Product Information Reprints. In addition to the allotted 50,000 GSA Index's already distributed, defendant has printed or is in the process of printing 156,000 additional copies of the Consumer Product Information Index at his own expense which copies of the Index are to be mailed unsolicited under the franking privilege as postal patron mail to Areas A and B. These additional 156,000 copies of the Index have not been provided to defendant by any official allotment, either from the Executive or the Congress, nor has their printing been in any way officially authorized.

Newsletters. On or about September 13, 1972 defendant sent unsolicited in a mass mailing as postal patron mail under his frank 206,000 newsletters entitled "Washington Report" to Areas A and B. These newsletters were addressed to "Postal Patron Local, 9th Congressional District, New Jersey" and the envelopes in which they were sent were stamped "Public Document, Official Business." Other copies of the newsletter have been sent to specific addressees outside Areas A and B.

The "Washington Report" was prepared sometime prior to August 29, 1972 at defendant's own expense. Its publication was not authorized by order of resolution of Congress. Various editions of the "Washington Report" have been distributed on a regular and unsolicited basis to defendant's constituents. Defendant intends to continue sending to postal patrons in Areas A and B copies of the "Washington Report" on an unsolicited basis.

February or March Questionnaire

From February, 1972 through May, 1972, the defendant mailed his annual legislative questionnaire to each postal patron in Areas A and B. The questionnaire had not been solicited by any of the postal patrons. It had been printed at defendant's own expense and was mailed under his frank.

Young Voter Questionnaire: In or about August, 1972, defendant mailed under his franking privilege to 15,000 specifically addressed young voters, and/or graduating students in Areas A and B, a Young Voter Opinion Survey. This questionnaire was printed at defendant's own expense and had been unsolicited.

Drug Brochure: Defendant intends to mail unsolicited under his franking privilege 206,000 copies of a brochure on the drug problem which will be prepared by private individuals and printed at defendant's expense; the mailing will be sent to postal patrons in Areas A and B.

Group III: Results of February or March Questionnaires. Shortly after June 28, 1972, the defendant mailed, unsolicited to postal patrons in Areas A and B under his franking privilege, 206,000 copies of the results of the questionnaire which result had been printed in the Congressional Record of Wednesday, June 28, 1972. The copy of these results had been printed at defendant's own expense.

Declaration of Independence. Defendant intends to mail unsolicited under his franking privilege, prepared on parchment for framing purposes, 5,000 copies of the Declaration of Independence together with a statement inserted in the Congressional Record by defendant in the early part of September, 1972, both of which have been printed at his own expense. This mailing will be sent to the Republican and Democratic County Committee people, officials, schools and libraries with a letter indicating that more copies will be available upon request.

Group IV: Revenue Sharing Report. Defendant has mailed 280 copies of a report on Revenue Sharing printed at his own expense to public officials in Areas A and B and will mail unsolicited six or seven hundred updated versions of these mimeographed reports to public officials in Areas A and B. These reports will be mailed under defendant's frank.

GUN CONTROL SURVEY

Defendant intends to send an unsolicited Gun Control Survey to 40 police chiefs in Areas A and B under his franking privilege. These surveys will be printed at defendant's own expense.

General Findings. I find that as a result of advisory opinions issued by Congressional Committees and previously by the post office department that defendant had reasonable cause to believe that all his mailings under discussion to date and all his intended mailings would be permitted under the distribution of these materials could not be characterized as the type of electioneering aids which were found in Rising v. Brown, 313 F. Supp.

Jurisdiction. This is an action alleging abuse by the defendant of his Congressional franking privilege in violation of defendant's civil and Constitutional rights.

Plaintiff, Alfred Schiaffo, presently a State Senator of New Jersey, and the challenger in the current election scheduled for November 7, 1972 for the seat presently held by the defendant as Representative of the Ninth Congressional District, filed his complaint against the defendant on September 26, 1972.

Essentially, the complaint addressed itself to various types of franked mailings and activities on the part of the defendant which plaintiff asserts are not permitted and which he, the plaintiff, wishes to be enjoined. It should be noted here that the charges with respect to paragraph nine of the complaint dealing with the defendant's participation in the March of Dimes Solicitation have been withdrawn.

A temporary restraining order sought by plaintiff was denied by the Court by reason of disputed matters of fact and law and within about four days hearings were commenced respecting the issuance of a preliminary injunction; both parties then agreed that the hearings when concluded would suffice as and constitute the final hearing for permanent relief. The testimony and evidence resulted in the findings of fact hereinbefore noted. Although not asserted in the complaint as a jurisdictional basis, jurisdiction with respect to a claim that the franking privilege has been violated rests with this Court by virtue of 28 U.S.C. 1339 which provides:

> The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to the postal service.

See Christian Beacon v. United States, 322 F. 2d 512 (3rd Cir. 1963); Straus v. Gilbert, 293 F. Supp. 214 (D.C.N.Y. 1968). Jurisdiction may also be found in 28 U.S.C. 1331 insofar as a question concerning more than $10,000 arising under the alleged violation of Federal statutes 39 U.S.C. 3210, 3211 is involved.

Despite these specific jurisdictional statutes, this Court would be without jurisdiction to entertain plaintiffs complaint if plaintiff could not show that he was standing so as to present a case or controversy to this Court under Article III, section 2 of the Constitution. To establish his claim to standing, plaintiff asserts that by virtue of defendant's abuse of the franking privilege, 39 U.S.C. 3210, 3211, 3212 and and 3213, defendant has and will continue to communicate without costs of postage with all of his present constituents as well as with voters in those towns of the newly formed Congressional district which defendant seeks to, but does not currently represent. Such impermissible communication, plaintiff contends, unfairly enhances defendant's election chances by affording defendant broad access to the electorate without having to pay for postage. Although plaintiff claims that he is thereby injured, the harm allegedly to be suffered by him as the opposition candidate is not only a personal one, but also rather a harm to the detriment of the voters whom plaintiff seeks to represent. But the fact that plaintiff may not be asserting only his own personal right in this matter does not necessarily bar him from standing. See Bullock v. Carter, 40 U.S.L.W. 4211 (U.S. Feb. 24, 1972). As the candidate of a major political party whose campaign is allegedly disadvantaged by the opponent's use of the frank in alleged violation of the statutory standard, plaintiff sufficiently demonstrates the necessary qualification for standing, i.e., the requisite adversity of interest and strong personal stake in the outcome of the litigation. Thus, the Court is insured that it will be presented with concrete rather than abstract propositions of law. Association of Data Processing Service Organizations v. Camp, 397 U.S. 150, (1970); Baker v. Carr, 369 U.S. 186, 204 (1962).

Plaintiff has also alleged (in paragraph 15 of his complaint) a violation of his civil rights and his right to run for office. This claim rises to the level of the constitutional claim asserted by the plaintiffs in Bullock v. Carter, supra, in which the Supreme Court assumed that the plaintiffs who were candidates for political office had standing to challenge the constitutionality of an election practice which placed them at a severe disadvantage vis-a-vis other candidates. Plaintiff thus has standing to assert that defendant's use of the franking privilege violates plaintiff's constitutional rights.

Plaintiff finally asserts the right to challenge defendant's receipt of government publications allegedly in violation of Federal statutes such as 44 U.S.C. 732 (complaint, paragraphs 5 and 6), which regulate the distribution of government publications among members of Congress. As to this last claim, plaintiff does not possess the strong personal stake sufficient to warrant standing. Plaintiff has not shown in what manner he will be demonstrably injured by virtue of the fact that Congressman Helstoski may have received more than his authorized allotment of government publications from the Government Printing Office. The injury which plaintiff alleges, and which he has standing to assert, derives from the distribution of materials by defendant, not from the manner in which such materials were received by him.

Plaintiff has not asserted taxpayer status in his complaint. The effect of plaintiff's possible status as a taxpayer on standing with respect to the relief sought has therefore not been considered.

Justiciability. Having determined that this Court has jurisdiction over the subject matter of plaintiff's complaint insofar as it relates to the distribution of materials under the Congressional frank, I must now determine "Whether the claim presented and the relief sought are of the type which admit of judicial resolution," and

"Whether the structure of the Federal Government renders the issue presented a 'political question'—that is, a question which is not justiciable in federal court because of the separation of powers provided by the Constitution." Powell v. McCormack, 395 U.S. 486, 516, 517 (1969).

Under the standards set forth in Baker v. Carr, supra, at 198, the claim presented admits of judicial resolution. First, the duty asserted, that which consists in proper use of the frank, can be judiciary identified. Since the duty here is prescribed by statute, its identification involves merely statutory interpretation and construction, a task traditionally within the province and competence of the courts. Second, a breach of that duty can be judicially determined. Having established the general standard of frankability, the Court can, with respect to the mailings alleged, determine by its fact-finding process which mail is not frankable. Finally, the right asserted, that of plaintiff to be free from the deletorious effects of defendant's alleged abuse of the frank is susceptible to judicial protection. As was the situation in J. I. Case Co. v. Borak, 377 U.S. 426, 433 (1964), the existence of a general right of civil action here under 39 U.S.C. 1339 can give rise to a private right of action with appropriate remedies that serve to deter abuse of the federally-created privilege. See Hoellen v. Annunzio, Civ. No. 1302–72 (D. ILL. 1972); Rising v. Brown, 313 F. Supp. 824 (C.D. Calif. 1968). Effective relief can be rendered here in the form of damages or injunctive relief. The Speech and Debate Clause which affords immunity to certain kinds of Congressional conduct, does not apply here and will not bar relief against the defendant, if otherwise appropriate. United States v. Brewster, 40 U.S.L.W. 4996 (U.S. June 29, 1972); Powell v. McCormack, Hoellen v. Annunzio, supra.

Under the second prong of inquiry as to justiciability, I find that no political question is involved. Again the standards set forth in Baker v. Carr, supra, at 217, are controlling. The resolution of what constitutes permissibly franked mail does not involve a basic question as to the structure of the government or the interplay of its branches. At stake is simply the propriety of the individual actions of a Congressman, a considerably lesser "political" involvement that was the case in Powell v. McCormack, supra, in which the Supreme Court rejected the motion of nonjusticiability on political question grounds. At any rate, any possibility of interference with interbranch regulation of the frank that may at one time have existed has since ceased to exist by virtue of the current express policy of the U.S. Postal Service not to be involved in "determinations as to what is or is not the 'official business' of a Member of Congress." Letter of August 12, 1971, from David A. Nelson, Senior Assistant Postmaster General and General Counsel to Thaddeus J. Dulski, Chairman, Committee on Post Office and Civil Service, in Subcommittee on Postal Service of the Committee on Post Office and Civil Service, laws and regulations regarding use of the Congressional frank 6, 7 (1971).

Finally, I reject defendant's contention that ("The ascertainment as to what is official business and how that business is to be conducted by duly elected Congressman is, within broad limits, a matter which is exclusively reserved to the legislative branch of government.") not only does this last contention of defendant ignore the fact that it is the Court's role and not that of the Congress to interpret legislation, but also it ignores the fact that the appropritae Congressional Committee has not sought to exercise any official control over the matter. In his letter to his House Colleagues, Morris K. Udall, Chairman of the Postal Service Subcommittee of the House Post Office and Civil Service Committee acknowledges that opinions he is rendering as to the scope of the frank are only to be general guidelines: "I emphasize that in some cases there is doubt and that these are my own informed judgments on legality and propriety." Letter in Id. at 1. As a matter of fact Udall suggests the very situation that has here occurred—that "an opponent or an interested citizen could seek injunctive relief in the U.S. courts and ask for an interpretation of pertinent law or regulation." Congress has not in fact created any internal policing mechanism by which relief can be afforded to those, such as the plaintiff, who allege injury by virtue of defendant's violation of the franking privilege.

I do not decide today whether or not the existence of such an internal policing method would have any effect on the disposition of the Court as to justiciability.

On the merits, I consider first plaintiff's contention that defendant violated federal law in distributing government documents, those described in Group I in my findings of fact, specifically, the Yearbook of Agriculture, "Capitol, Symbol of Freedom," and the "Consumer Product Information Index." Distribution of public documents printed by order of Congress is authorized by 39 U.S.C. 3211 which provides in pertinent part: Members of Congress, until the thirtieth day of June following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress.

Then again in 1958, Congress extended the franking privilege for public documents to the Secretary of the Senate. Act of July 25, 1958, P.L. 85–560, S3 (a) 72 Stat. 420. The legislative history, as far as can be ascertained, indicates no substantive change whatsoever as to the scope of the public document franking privilege. 1968 U.S. Code and Cong. Adm. News 3155 (1968). In 1960, S85 of the 1895 Act as amended in 1934 and 1958 was codified as 39 U.S.C. § 4162. Act of Sept. 2, 1960, P.L. No. 86–682, 74 Stat. 758. Although the precise wording of the provision was modified, there was no intent to change the provision's meaning. 1960 U.S. Code & Cong. Adm. News, 86th Cong., 2d Sess. at 863–67. For example because "members of Congress" was defined in 39 U.S.C. § 4151 to include Senators, Representatives, Delegates and Resident Commissioners, explicit reference to these persons was omitted. Also omitted, but without explanation, was the provision requiring the persons sending out public documents under the frank to write their . . . them to libraries or constituents except at their own expense. See 16 Op. Atty. Gen. 511 (1880); 17 Op. Atty. Gen. 264 (1882). As a result, large stockpiles of valuable Government documents appeared to have accumulated in the Congressional basement. The granting of the frank to Congress for the purpose of distributing such documents to the public at large was seen as necessary to clear out this burgeoning inventory and thereby to bring to the public the benefit of information contained in the documents. House Debates on H.R. 2650, 53rd Cong., 1st Sess., 25 Cong. Rec. 1463 (Sept. 13, 1893); 25 Cong. Rec. 2626 (Oct. 17, 1893); 25 Cong. Rec. 2667 (Oct. 18, 1893); 53rd Cong. 3rd Sess., 27 Cong. Rec. 34, 35 (Dec 4 1894.)

Subsequent amendments to the 1895 Act did not change its substance. By the Act of June 18, 1934, ch. 606, § 2, 48 Stat. 1018, the franking privilege was extended to Resident Commissioners in Congress, and the date of expiration of the privilege was extended from December 1 to June 30 following the expiration of the respective terms of office of the Congressmen and other officials encompassed under the Act.

This statute has its genesis in the Act of June 12, 1895, Section 85, ch. 23 28 Stat. 622 which provided, in pertinent part: Representatives may send and receive through the mail all public documents printed by order of Congress and the name of the Representative shall be written thereon, with the proper designation of the office he holds. Members of Congress shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government official or to any person upon official or departmental business.

Section 85 was part of a comprehensive Act providing for the public printing, binding and distribution of public documents. The first paragraph alone is relevant for preparation purposes. It is intended to confer the franking privilege upon Congressmen and others for distribution of public documents. Prior to the passage of this Act, it appeared that Congressmen could receive public documents from the various departments responsible for their publication, but could not distribute name and office upon the documents. In view of the explicit statement in the Report from the Committee of the Judiciary concerning the codification of this provision that anything departing from existing law was precluded from consideration in the bill, Id. at 865, by omitting the language, Congress could not have explicitly intended to extinguish the "name and office" requirement.

The final amendment to the public documents franking provision occurred in the Postal Reorganization Act of 1970, Act of Aug. 12, 1970, P.L. 91–375, Section 66, 84 Stat. 719, in which the franking privilege was further extended to the Sergeant at Arms of the House of Representatives. Again the legislative history reveals no substantive change as to the scope of the public document franking privilege. See 116 Cong. Rec. 20445 (June 18, 1970) (House Debate on H.R. 17070); see also 1970 U.S. Code & Cong. Adm. News 3469.

The final version of the public document franking provision as it now appears in 39 U.S.C. S3211 is thus identical with the original statute of 1895 as respects public documents sent out by Congressmen during their terms. Since no change in substance of Congressional intent has occurred since the original enactment, the original Congresssional intent has occurred since the original intent and purpose behind the statute is controlling.

The Government publications, "The Yearbook of Agriculture" and "Capitol, Symbol of Freedom" distributed by defendant clearly come within the purview of the 1895 Act, and thus within the scope of 39 U.S.C. 3211. Each has been printed by express Congressional authorization and thus comes within the category of "public documents printed by order of Congress."

I have been unable to ascertain the specific authorizations for each of the editions of the publications sought to be enjoined. However, I find that the appearance upon each government publication of a government document number is prima facie evidence that each is a government document authorized by Congress.

As to the Consumer Product Information Index, it appears that this document was printed by Executive Order. It may well be that the Executive has been empowered by Congress to effectuate the printing of this publication, but I so far have been unable to discover the source of the Executive's authority here nor have counsel offered me information in this regard. However, in view of the fact that I find today that the 50,000 copies of the Index printed by Executive order and alloted to defendant have already been distributed and in view of the disposition I shall reach as to possible damages, I need not and do not decide whether distribution of documents printed by order of the Executive comes within the scope of 39 U.S.C. 3211. Definitely not included, however, under Section 3211 is the 156,000 copies of the Consumer Product Information bulletin which defendant had reprinted from the Government Publication, at his own expense, and which he is in the process of distributing by mass mailing throughout his district and throughout the municipalities which are in the district in which he is presently a candidate. I find that since these particular documents were not printed "by order of Congress," but rather at defendant's own expense and initiative, they cannot be distributed under authority of 39 U.S. Sec. 3211. Although it may be argued that distribution of such unauthorized reprints which contain the identical information as authorized government publications serves the broader purpose of informing the public, this view does not accord with the restricted scope given to the public document franking privilege by the framers of S85 of the 1895 Act. Whether or not such reprints may be frankable under another section of the franking statutes is a matter which will be taken up shortly.

Plaintiff contends that even though public documents may be distributed under the frank, such distribution must be limited to a Congressman's constituency. Plaintiff thus seeks to enjoin public documents sent to municipalities in the new district which are not in defendant's current district. I find that the 1895 Act makes no such distinction between a Congressman's constituency and any other persons. Thus, a Congressman can distribute section 3211 documents under his frank to any person.

With respect to the Agricultural Yearbooks, an additional reason exists for finding that their distribution is not in violation of the Congressional franking privilege. Contrary to the Plaintiff's contentions such publications of the Department of Agriculture, do come within 39 U.S. 3213, which provides that Agricultural Reports emanating from the Department of Agriculture may be mailed "until the thirtieth day of June following the expiration of their terms of office, as franked mail by Members of Congress."

Plaintiff's last contention is that although government documents may be distributed under the frank, defendant's inclusion of cover letters in the Agricultural Yearbooks and other publication render the mailings unfrankable under 39 U.S.C. 3211. (See e.g., Plaintiff's exhibit, P-I (a)). I find that the inclusion of such letters that serve to identify the Congressmen and explain briefly the reason for the distribution of the particular document is in accordance with the spirit of the requirement in the original statute of 1895, namely that distributors of such documents stamp their name and office upon them. Such a cover letter also is permitted under 39 U.S.C. S3210, as discussion of the statutory history of that provision will soon reveal. Since Congressional intent as revealed by the statutory history, section 3211, has not varied from that expressed in the 1895 Act, the inclusion of such letters does not disqualify defendant from ending out public documents under 39 U.S.C. S3211.

I shall next consider the propriety of defendant's distribution of materials included in Group II, i.e., the Consumer Product Information reprints, the newsletters, the voter survey questionnaires, and the Drug Brochures. Defendant contends that such distributions are authorized by 39 U.S.C. 3210 which provides in pertinent part: Members of Congress, until the thirtieth day of June following the expiration of their respective terms of office, may send as franked mail correspondence not exceeding 4 ounces in weight, upon official business to any person. At issue here is the meaning of "official business" in section number 2. To determine what Congress meant by this term, I must examine into the statutory history of section 3210.

The forerunner of section 3210 is to be found in the second paragraph of section 85 of the Act of June 12, 1895, ch. 23, 28 Stat. 622 which I cited in full earlier. That second paragraph reads: "The Vice-President, members and members-elect of and Delegates and Delegates-elect to Congress shall have the privilege of sending free through the mails, and under their frank, and mail matter to any Government official or to any person, correspondence not exceeding one ounce in weight, upon official or departmental business."

As has already been seen in the discussion of the public document franking privilege, section 85 was a part of a comprehensive Act concerning the printing, binding and distribution of public document. When originally reported to the House, the second paragraph of section 85 (then being considered as section 88 of H.R. 2560) read as follows: "The Vice-President, members and members-elect of and Delegates and Delegates-elect to Congress shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government officials." 25 Cong. Rec. 2748 (Oct. 20, 1893). On October 20, 1893, Congressman Hayes of Iowa introduced on the floor of the House an amendment to that second paragraph, adding the following: "Or to any person, correspondence, not exceeding 2 ounces in weight, upon official or departmental business."

The dialogue which followed is set forth in 25 Cong. Rec. 2748, 2749. See Appendix A. It demonstrates that in proposing the amendment, Congressman Hayes in no way intended to reinstate the formerly broad franking privilege that had been entirely revoked for members of Congress in 1873. (Act of January 31, 1873, 17 Stat. 421, ch. 82.)

Although neither party brought this dialogue of history to the Court's attention, after discovery by the Court in its own research the citations thereupon were afforded counsel for comment in supplemental briefs. The restrictive nature of this franking privilege was emphasized by the ready acceptance by Hayes of Congressman Richardson's motion to reduce the maximum weight limitation from two ounces to one. When asked how this Amendment would change the existing law under which the franking privilege of Congressmen had been restricted to a $150 stationery account, Hayes explained that formerly, Congressmen who were receiving letters or documents from departments intended to be forwarded to non-government persons, could not forward such correspondence under their own frank. See, e.g., 16 Op. Atty. Gen. 511 (1880); 17 Op. Atty. Gen. 264 (1882). The Amendment would cover that deficiency, Hayes explained, by allowing Congressmen to forward to the intended addressees all such correspondence—that is, less than one ounce in weight—under the Congressmen's own frank. The privilege accorded by the Amendment was so restricted that Hayes deemed it would not even include an independent letter addressed to a constituent in connection with the departmental business from which had originated the departmental communication in need of forwarding. However, under the amendment, a Congressman would be allowed, Hayes further explained, to enclose his own letter with the correspondence or document originating from the department.

The Amendment was then adopted by a close vote of 42 to 40, and receiving no further discussion in the House or Senate, it became a permanent part of the Act of 1895 as the end of the second paragraph of section 85.

The explanation given by Hayes as to the restrictive nature of the amendment, along with the one ounce limitation, and the specific problem to which the amendment was addressed—i.e., the inability up to that time of Congressmen to forward departmental communications to constituents under their own frank conclusively establish that the provision was by no means intended to grant a general franking privilege which would permit the distribution of unsolicited correspondence or mailings to constituents or other non-government officials on topics considered by individual Congressmen to be of general public interest.

Although it is certainly true that comments made by individual Congressmen as to the meaning of particular provisions need not necessarily be afforded any particular weight in construing a statute, statements by sponsors of provisions have traditionally been used by courts as persuasive as to Congressional intent. See, e.g., Mitchell v. Kentucky Finance Co., 359, U.S. 290 (1959); United States v. International Union, 352 U.S. 567, 585–87 (1957); United States v. Wrightwood Dairy Co., 315 U.S. 110, 125 (1942). And of special importance are statements made by sponsors of provisions in the House where the provisions originated. See, e.g., Steiner v. Mitchell, 350 U.S. 247, 254 (1956); United States v. McKesson & Robbins, 351 U.S. 305, 313, 14 (1956).

Without deciding where the actual line of demarcation between permissible and impermissible mailings under the 1895 Act lies, I conclude that under that Act, the unsolicited mailings of other than section 3211, 3212 or 3213 documents or correspondence to other than government officials made by defendant would violate that Act. The question then remains: Has Congress changed the scope of the franking privilege in subsequent amendments and reenactments of this provision?

The first Amendment of the 1895 Act was adopted in the Post Office Appropirations Bill of 1898, Act of June 13, 1898, ch. 446, 30 Stat 443, 444, in which the one ounce limitation was raised to two. The amendment was offered by Senator Cockrell on the Senate floor who explained: "It simply increases the weight of official matter from one ounce to two ounces. Repeatedly I and other Senators have had letters from the department sent back because they happened to weigh a little over one ounce." Sen. Debate on H.R. 9008, May 5, 1898, 31 Cong. Rec. 4604.

The Conference Report on the Bill incorporated the proposed change in the weight maximum directly into the language of the 1895 Act, 31 Cong. Rec. 5589 (June 7, 1898), 31 Cong. Rec. 5662 (June 8, 1898), and on the basis, the Amendment passed both Houses and was enacted into law. Thus no substantive change by the 1898 amendment was effected.

The same conclusion can be drawn from the next Amendment to the second paragraph of section 85 of the 1895 Act. By the Act of April 28, 1904, ch. 1759, section 7, 33 Stat. 441, the two ounce limitation was raised to four. Except for the change in weight, the language of the 1904 provision is identical to that of the 1895 Act. Senator Lodge, the proponent of the provision on the Senate floor, explained that the two ounce limitation had become inconveniently small. He concurred with Senator Cockrell who had had the experience of having letters in excess of two ounces returned to him only to have to divide a long piece of correspondence into two envelopes to keep within the weight limitation. The purpose of the Amendment was to remedy this inconvenience. Sen. Debate, April 5, 1904, 38 Cong. Rec. 4299.

The provision which appeared as section 7 of the 1904 Act thus incorporated the exact language of the 1895 Act except for the weight limitation. The legislative history makes clear that no change in the scope of the franking privilege was intended by the Amendment.

The next Amendment to the forerunner of section 3210 is to be found in the Act of March 2, 1917, ch. 145, section 36, 39 Stat. 963 which extended the franking privilege to the Resident Commissioner of Puerto Rico. Again, since no substantive change in the language occurred, I can infer no deviation at this point from the original intention of the Act. Defendant calls to my attention a presentation given by the Hon. Thomas B. Schall of Minnesota on July 29, 1916, published in the Appendix to the Cong. Rec. at pp. 1608–1611 in which Mr. Schall understands the franking privilege to allow information "pertaining in any way to the business of the Government" to be mailed free to any citizen. Mr. Schall's remarks, however, are not properly part of the legislative history of the provision in question. They were not even part of a legislative debate on the franking question. See 53 Cong. Rec. 11813 (July 29, 1916). I cannot give these remarks any more weight than those which represent the personal views of an individual member. Such personal views cannot be considered as part of the legislative history. See National Woodworkers Mfrs. Ass'n v. NLRB, 386 U.S. 612, 639n. 34 (1967). So to do would permit an enactment of Congress to be subject to changes in meaning every time an individual member of Congress decided to comment thereon.

An individual Congressman's views become pertinent only insofar as they are addressed to a particular provision subsequently enacted into law during a debate or other official proceedings such that an inference can be drawn that the personal views of the member of Congress as to the meaning of a particular provision constitute the construction adopted by those who vote upon the measure.

Legislative consideration to the portion of the franking privilege now under discussion appears to have been next given by Congress in 1958. Section 3(b) of the Act of July 25, 1958, Pub. L. 85–560, 72 Stat. 420 amended Section 7 of the Act of April 28, 1904, by extending the franking privilege originally created by the Act of 1895 to the Secretary of the Senate and the Sergeant at Arms of the Senate. Moreover, it provided that: "In the event of a vacancy in the office of the Secretary of the Senate or Sergeant at Arms of the Senate, such privilege may be exercised in such officer's name during the period of such vacancy by any authorized person."

This Amendment was part of a bill entitled "Business Reply Mail," H.R. 10320. No discussion as to the scope of the franking privilege appears anywhere in the legislative history. See 1958 U.S. Code and Cong. Adm. News 3155. Thus, without changing the scope of the privilege, the 1958 amendment merely extended it to two additional officials.

Thus, in 1960, when the Act of 1895 as amended in 1898, 1904, 1917, and 1958 was codified into 39 U.S.C. 4161, no change whatsoever had occurred in the scope of the franking privilege. And although section 4161 changed the language of the original Act, the 1960 codification, as I discussed earlier with respect to the codification of the Public Documents franking provision—did not purport to effect any change in the substance of the provision. See, in particular, Revision Notes, 1960 U.S. Code and Cong. Adm. News 924–26 which discusses the changes in language. Pursuant to the codification, the provision which concerns us now read, in pertinent part: "Members of . . . of Congress . . . may send as franked mail . . . correspondence, not exceeding four ounces in weight, upon official business to any person." Although this language on its face is susceptible to a variety of constructions, in view of Congress' express intent that no substantive change was intended, I find that "correspondence upon official business to any person" merely restated the meaning and intent of the original Act of 1895.

Defendant next directs my attention to remarks made apropos of legislation proposing that members of the House, but not the Senate, be permitted to avail themselves of the postal patron, simplified mailing address service under their frank in their respective districts. Representative Steed, for example, who proposed the provision finally enacted for 1964 (88 Stat. 818) was heard to justify postal patron mailings as facilitating, among other things, the distribution of questionnaires. 109 Cong. Rec. 24832 (Doc. 17, 1963). Such a distribution under section 4161 as I have construed it would not have been permissible since it was not within the narrow scope of the 1895 privilege. I cannot infer from the remarks of Congressman Steed, or for that matter from those at an earlier time of Congressman Weaver (Defendant's brief at 12) that Congress had change its intent as to the scope of the franking privilege. In none of the postal patron legislation did Congress address itself to section 4161 or any other provision having to do with the scope of the franking privilege.

Thus, even if I were inclined to find that the postal patron franking history of legislation bore on this problem, I would have no guidance as to the standards to apply in extending, or for that matter, in restricting postal franking beyond the 1895 boundaries.

By passing legislation on a related matter, Congress could not and did not change its legislative intent with respect to section 4161. The franking privilege thus possessed the very narrow scope provided by the 1895 Act when in 1970, Congress passed the Postal Reorganization Act, Act of August 12, 1970, P.L. 91–375, in which appears section 3210 at 84 Stat. 719. Section 3210 of that Act, now 39 U.S.C. 3210, brought forward the language of section 4161 as respects a Congressman's franking privilege.

Neither the Senate Report, No. 91–912, of June 3, 1970, nor the House Report, No. 91–1104, of May 19, 1970, nor finally the Conference Report, No. 91–1363, of August 3, 1970, discusses the franking privilege. The only relevant discussion occurred on June 18, 1970, when an Amendment to section 660 of the House Bill, H.R. 17070, which eventually became section 3210 of the Act, was proposed by Congressman Henderson, Vice-Chairman of the House Post Office and Civil Service Committee, and was agreed upon by the House. The Amendment merely extended the franking privilege to the Sergeant at Arms of the House and to the Clerk of the House, Congressman Henderson explained, as "their counterparts have in the other body." 116 Cong. Rec. 20445. Thus, the Amendment of the language of 4161 provided no substantive change. As Thaddeus Dulski Chairman of the House Committee from which the Bill emanated, explained: "This is only corrective language. All it does is clarify the situation in the House."

The House version of the bill containing this amendment was presented to the Senate for consideration and, after referral to a Conference Committee, was adopted in its present form. No other discussion of what is now section 3210 occurred.

I conclude, therefore, that 39 U.S.C. 3210 as adopted in 1970 encompassed the same franking privilege as did its precursor, 39 U.S.C. 4161, and thus embodied the narrow restrictive franking privilege of the 1895 Act. Doubtless this may come as a surprise to Congressman Helstoski and to other members of Congress who voted on Section 3210. As far back as 1916 (see Cong. Rec. 13916–13919, Sept. 6, 1916), and up until 1968, Congress had received advisory opinions from the Post Office Department as to the scope of the then section 4161 under which section 4161 had been construed as permitting all of the mailings which Congressman Helstoski has made and intends to make. See P.O.D. Publication 126, April, 1968. Also, it appears from Congressman Helstoski's testimony that large, unsolicited public mailings of newsletters and voter opinion surveys, etc., have constituted a widespread practice among members of the House for years.

But on these grounds I cannot and do not conclude that Congress in 1970 adopted a franking privilege consonant with either what might have been the current practice or with the scope expressed in the P.O.D. rulings prior to 1968. First I must point out that by 1968, the P.O.D. had ceased offering these advisory opinions, properly recognizing that "The P.O.D. is not vested with any authority by Congress to make binding determinations as to what is and what is not the 'official business' of a member of Congress." Memorandum of Dec. 26, 1968, in Law and Regulation Regarding Use of the Congressional Frank. Thus, it is fair to say that in 1970, when Congress readopted the language of section 4161 which in turn embodied the substance and scope of the Act of 1895, the individual members were not relying upon or responding to any particular official determination as to the then scope of the franking privilege. And even if they were so relying, the legislative history is devoid of any mention of such reliance or any intent to make a change. It may be true that defendant and his co-legislators individually had in mind the scope of the franking privilege as it had been expressed by the P.O.D. when they voted on the legislation. But if they did, they did not make their state of mind or their understanding known as the official expression of intent of a legislative body.

Nor can I construe section 3210 consonant with what is evidently the current practice or usage. What "usage" would I avail myself of to construe the provision and construct a standard? Would I have to poll all the members of Congress individually and ask them what they thought they were voting for? Obviously such a procedure is within neither the competence nor practical capabilities of this Court. And even if it were, such a practice would open to question the construction and interpretation of every statute passed by every legislature.

A law must set cognizable standards so as to be able fairly to regulate conduct and afford public scrutiny. When standards are so broad or vague so as not to be understood, they are struck down as constitutionally infirm. Importing practice or usage into statutory construction would import the same kind of infirmity. If a law passed by Congress can be changed and altered, not by official legislative Act, but rather by practice of usage, no scrutiny over legislative action is ever afforded the public. Congress can legislate by legislative Act alone. It is for Congress and not for this Court to enlarge, restrict or otherwise modify Congressional franking privileges. Congress acted in 1895; in every subsequent Amendment or re-enactment of the law, up and through 1970, it did not evince an intent, in its official action, to deviate from its original intent. Nor was this intent altered in the final amendment of this section by P.L. 92–51, section 101, July 9, 1971, 85 Stat. 132 in which the franking privilege under 3210 was extended to the Legislative Counsel of the House. Again, there is no indication in the legislative history of any intention to change the scope of the privilege.

I, therefore, conclude, as a matter of law, that section 3210 as it is given meaning by the Act of 1895 prohibits all unsolicited mailings of defendant to non-government officials that are not otherwise frankable under section 3211, 3212, or 3213. Since none of the other decisions brought to my attention which deal with the franking privilege has considered the 1895 Act and its bearing upon the statutory history, I do not feel bound to follow their reasoning. See Hoellen v. Annunzio, Civ. No. 1302–72 (N.D. 111 1972); Austin v. Nedzi, Civ. No. 38488 (E.D. Mich. July 17, 1972); Rising v. Brown, 313 F. Supp. 824 (D. Cal. 1970); Straus v. Gilbert, 293 F. Supp. 214, (S.D.N.Y. 1968).

I next consider the propriety of the mailings in Group III—that is, the results of the Young Voter Opinion Survey, and the Declaration of Independence. These mailings, with the exception of the Declaration of Independence, are all properly within the franking privilege section 3212 which permits members of Congress to send as franked mail "The Congressional Record, or any part thereof, or speeches or reports therein contained."

I find nothing in the legislative history which prohibits defendant from copying matter that appears in the Congressional Record, printing it at his own expense, and distributing it under his frank. Unlike the public documents section, there seems to have been no intention to restrict distribution to actual editions of the Congressional Record as printed by order of Congress. In fact, the very language of the section which permits frankable distribution of parts of speeches or reports certainly does not contemplate that Congressmen tear them out of official publications. The only restrictions on such mail appear to be regulatory: "The words Congressional Record or Part of Congressional Record-Free and the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side." 39 C.F.R. §137.1 (chart).

As to the Declaration of Independence, however, which defendant desires to distribute as suitable for framing along with comments inserted in the Congressional Record, no showing has been made that these copies of the Declaration are intended as matter taken from the Congressional Record. They, therefore, are merely reprints of public documents and stand in the same stead as the Consumer Product Information reprints discussed earlier. The inclusion in the mailing of introductory remarks taken from the Congressional Record does not bring the sending of the entire Declaration of Independence within the authorization of S3212.

Although defendant may thus distribute copies of the Congressional Record or any part contained therein through the mail under his frank, the question is raised whether or not such mailing may be made by postal patron mailings to areas outside the district which defendant currently represents into Area B, the municipalities which have become part of the Ninth District by virtue of Court-ordered reapportionment. This question did not arise with respect to the public documents in question, since neither the Agricultural Yearbooks nor the editions of "Capitol, Symbol of Freedom" were distributed to postal patrons' addresses.

A direct answer is provided by 39 C.F.R. 122.4(D) (2) which explicitly permits mailing under the simplified address form for a member of the House under his frank: "To customers within the district the Member or Member-elect was elected to represent; and within such other areas of the State as may be encompassed in his district under a reapportionment law."

Since the towns to which defendant has been sending and intends to send the mass-mailings of reprinted sections of the Congressional Record are within the area encompassed by the reapportioned district as so formed by Court order in April of 1972, these mass mailings are permitted by the regulation.

I turn last to the mailings included under Group IV—that is, the unsolicited mailings of the Revenue Sharing Reports and the Gun Control Surveys to State and local officials within defendant's district or within the reapportioned Ninth District. The question presented is whether these mailings under the frank are authorized by section 3210 which permits "matter, not exceeding 4 pounds in weight, upon official or departmental business, to a Government official" to be mailed under a Congressman's frank. I have already traced in great detail the statutory history of section 3210 and have determined that it does not vary substantively from section 85 of the Act of 1895. That section permitted members of Congress to send under their frank "any mail matter to any Government official." The first question that must be answered is whether or not State and local officials are encompassed by the term "Government Officials" under this provision. The question is not free from doubt since the legislative history of the 1895 Act does not address this term specifically. But the meaning of "Government Official" is addressed in the Postal Laws and Regulations of the United States as compiled in accordance with the Act of Congress, March 3, 1891 in House Misc. Doc. No. 90 of the 52d Cong. 2d Sess (1893), in reference to a similar, but earlier Act, the Post Office Appropriation Act of 1891, ch. 547, 26 Stat. 1081. I will attach the appropriate pages from the House Document to the Appendix of this opinion. Section 3 of that 1891 Act provided: "That the members and members-elect of Congress shall have the privilege of sending free through the mails, and under their frank, letters to any officer of the Government, when addressed officially." The Postal laws and regulations which were operative with respect to that Act when section 85 of the 1895 Act was being considered state with reference to the 1891 Act: "The term 'Officer of Government' includes only officers of the United States, Senators, Members and Delegates in Congress." House Misc. Doc No. 90, Supra. at 157.

There being no other pertinent discussion of the term "Government Officer" brought to my attention by counsel or by my own research, I conclude that the meaning of "Officer of the Government" attributed to the 1891 Act is the same that should be ascribed to "Government Official" in section 85 of the 1895 Act, the language of which, in pertinent part, closely tracks that of the 1891 Act. Thus defendant is not authorized by section 3210 to send the Revenue Sharing Report or the Gun Control Survey to state or local officials under his frank. This being the case, and there being no other section under which such mailings are justified, I find that defendant cannot send these mailings under his frank.

Constitutional Claims: Since I have found impermissible all of defendant's franked mailings other than those which are frankable (1) as mail to Government officials under 3210 and (2) as correspondence, documents, reports, etc., under sections 3211, 3213, and 3213, it is only with respect to the permissible mailings that I need decide whether or not plaintiff's constitutional rights are violated. The question raised is whether permissible frankable mailings of, for example, large quantities of public documents or Congressional Record reprints to a Congressman's constituency during an election campaign might so adversely affect an opponent's chances as to provide an effective bar to candidacy of the kind that in Bullock v. Carter, 40 U.S. L.W. 4211 (U.S. Feb. 24, 1972) was struck down as Constitutionally impermissible. In Bullock, the Supreme Court found unconstitutional an election practice which exacted exorbitantly high candidacy registration fees that effectively barred poorer candidates from running. The facts in this case show no such bar. All mass-mailings have been found impermissible under the statute or have been completed thus mooting the Constitutional question.

Moreover, the situation in Bullock can be distinguished from that here. In Bullock the Court rejected as insubstantial the justification offered by the State for its high candidacy registration fees.

The State interest in the case at hand is not at all insubstantial. Congress has determined that the dissemination of public documents, matter appearing in the Congressional Record, and Agricultural Reports, as well as communications with Government officials, are an essential part of the political process, and has encouraged such communication by virtue of the franking privilege. I find that whatever incremental disadvantage may accrue to plaintiff here by virtue of any publicity gained by defendant through his proposed mailings, such disadvantage does not rise to the level of a violation of plaintiff's constitutional rights.

Relief: Having decided that plaintiff has a private remedy under the theory enunciated by the Supreme Court in J. I. Case V. Borak, Supra, which I discussed earlier, I now turn to the question of appropriate relief. Under the theory of Borak, the private action inferred at law is designed to deter violations of the statute. See Pearlstein v. Scudder & German, 429 F. 2d 1136 (2nd Cir. 1970). Deterrence can be achieved by affording the private litigant either injunctive relief and/or damages. In the present situation, I find on balance, that the deterrent effect of damages is outweighed by the resulting inequity and disruption that might ensue. I cannot, for example, turn away from the fact that defendant has acted in good faith and on the example of many others who have used their frank for similar mailings. In fact, defendant had received advisory opinions from the House Committee on standards with respect to many of his mailings, which informed him that such mailings were permissible. The opinions were, of course, merely advisory, and have no binding force on this Court. They have not been enacted into law nor been incorporated into the code of Federal regulations. But they do point to the Congressman's good faith. This is not to say, of course, that defendant's ignorance of the law provides an excuse for its violation. I do not condone the fact that many individual members of Congress have apparently adopted a practice of franking which in my view is in violation of a statute, the substance of which they have never amended by an official Act. But I am also not unmindful of the fact that to permit damages against the defendant, and thus to open the floodgates for damage actions against large numbers of Congressmen could wreak havoc with the daily workings of the Legislative Branch. Furthermore, the real damages that have accrued are those to the taxpayer which comes from abuse of the frank. Although assessment of damages at the face value of postage which defendant should have used to distribute the unsolicited material which has been impermissibly distributed under the frank would certainly serve to deter further violations of the statute, such damages would prove an unfair windfall to the plaintiff.

Having determined that the plaintiff is entitled to relief, but that the appropriate relief as revealed by the record is not to be found in damages, but rather is injunctive in character, I will sign an order in accordance with my opinion granting an injunction against impermissible mailings as found herein.

The parties will make such an order at the earliest possible time consistent with my opinion. Each party will bear its own costs. Inasmuch as the resolution of this problem required a rather extensive and detailed study of Congressional statutory and legislative history, and inasmuch as I have been obliged to deal with these issues within a relatively short period of time, I reserve the right to prepare my opinion in final and complete form.

This opinion shall constitute findings of fact and conclusions as to the law as I am obliged to make under the Federal Rules of Civil Procedure.

Each party will bear its own costs.

Mr. Porro. There is just one fact that I think should be clarified for the record, Your Honor, I think it is a misinterpretation of testimony, and that is with regard to the reprints on those Consumer Product items, in fact it was just the cover page, the reprints were allotments of other Congressmen.

The Court. Am I not correct that the Congressman testified that there were—

Mr. Porro. The reprinted material, Your Honor, was the cover page, the list itself were allotments from other Congressmen. I think in your opinion, in your finding, you found that the whole item was reprinted. I do not know if it is going to make any substantial difference.

The Court. I have a very distinct recollection of what the testimony was, that does not mean, of course, that it could not be corrected, which may affect my decision, in effect I have held that what has been alloted by a Government agency to a Congressman may be mailed as a frank.

Mr. Porro. This issue will take us a step further when the allotment is to another Congressman and Congressman B then uses that allotment.

The Court. I do not recall testimony with respect to the 156,000 copies as coming to the Congressman from another Congressman: I recall that testimony as being that those 156,000 were printed. If you desire to take—am I incorrect in what the transcript shows?

Mr. Budelman. No, Your Honor, that is my understanding, that is my understanding that the testimony does show that 50,000 were from his allotment, pursuant to the letter that was given to this Court, and that the remaining portion were the amounts he was having printed, he was specifically examined on that as to where he was going to get the funds and so forth, Your Honor.

The Court. This is a problem, because of its importance and particularly in light of the forthcoming election, certainly the Court has attempted to take as great pains as possible in the resolution of the issues no matter who might be unhappy or surprised by it, but if you feel, Mr. Porro, that the record needs supplementation——

Mr. Porro. I think the record is clear, Your Honor.

The Court. Well, that is the way I read the record. And I do not understand where you get this——

Mr. Porro. There was much testimony, Your Honor, about the practice of taking allotments and shifting them around.

The Court. I do not recall that with respect to the Consumer Product——

Mr. Porro. There may have been some testimony in that regard. Quite frankly, I do not think that is going to make a major difference here, but I do want the record to be clear in that regard.

The Court. If you feel, after you have digested an undigestable amount of material, that you must supplement the record or correct it in some respect, then I will give you the opportunity to do so, because this order, although I may not sign it today, depending upon your own and Mr. Budelman's view of what I said, does go into effect immediately; I know that the Congressman would not count it as being a violation of it, but I would not count it being a violation today even by inadvertent mailings that are not permitted.

Mr. Porro. Your Honor, that question is moot, if there is any misunderstanding there, as to the day we were here on Friday, all of those reprints are out, all of them, I thought we said we were in the last stage on that day.

The Court. I think the record deserves to be clear on something: When I had addressed all counsel at our last meeting I had only asked whether or not there was contemplation on the part of the Congressman to send out anything, I did not ask him to submit to a restraint, I did not indicate whether I would impose a restraint, I felt that if there had been no contemplation that he would send out anything then it would be a moot thing for the Court to get into the area of what I consider to be, in any event, a delicate area, not that I shy away from it, but a delicate area where I need not proceed. And on being assured that there was nothing in contemplation then I left the matter as it was.

This Court has imposed no restraint up to this point, it has just relied upon the word of Congressman Helstoski and Mr. Schiaffo with respect to this representation. And I want to clear that up because I do not want any misunderstanding to be taken with respect to our last colloquy.

Mr. Budleman. It is my understanding, Your Honor, that this injunction stands to the remaining ones that have not been sent out as so testified by the defendant.

Mr. Porro. Those were out before our discussion of, I guess it was, the 29th. The Consumer Product publication is a moot question, it was when we were here before, Your Honor, and I said we would not send out any mass-mailing, so there is no misunderstanding here.

The Court. I will sign the order as I have indicated and I would suggest that you get it to me as soon as possible in the event that either of you desire to review with respect to it in sufficient time to make it effective, practically speaking, with respect to the current election; although this is not the thrust of the opinion, because it has a thrust beyond November 7, 1972.

Thank you, gentlemen.

CERTIFICATION

Fred M. Caruso, the undersigned, deposes and states as follows: that the foregoing is a true and accurate transcript of the within proceedings taken by him in the aforementioned matter on the 10th day of October, 1972.

My Commission Expires: June 2, 1976.

Reprint From Congressional Record—House, October 20, 1893, Pages 2748, 2749

Mr. Richardson of Tennessee. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 377 and 378 strike out the words "appointment clerk" and insert the words "superintendent of documents."

The amendment was agreed to.

The Clerk, proceeding with the reading of the bill, read as follows:

Sec. 88. The Vice-President, Senators, Representatives and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send and receive through the mail all public documents printed by order of Congress; and the name of the Vice-President, Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the 1st day of December following the expiration of their respective terms of office.

The Vice-President, members and members-elect of and Delegates and Delegates-elect to Congress shall have the privilege of sending free through the mails, and under their frank, any mail matter to any Government official.

Mr. Hayes. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Add to section 88 the following:

"Or to any person, correspondence not exceeding 2 ounces in weight, upon official or departmental business."

Mr. Hayes. Mr. Chairman, it is well known that the franking privilege formerly existed to an almost unlimited extent, and that by reason of abuses of that privilege it was practically entirely done away with. Since then it has been allowed to send letters to Goverment officials, but no provision has been made for sending what we get from the Departments to the persons to whom the letters or documents are to be sent, and it is by no means universal that penalty envelopes are sent for that purpose by the Departments. It seems to me this ought to be made to cover that deficiency, and it is so worded as to guard it against abuses, limiting it to departmental and official business, and also limiting the weight to 2 ounces.

Mr. Richardson of Tennessee. I cannot hear the gentleman from Iowa (Mr. Hayes), and I am quite sure other gentlemen are unable to hear what he has said. I will ask the gentleman to repeat the substance of what he has said.

Mr. Hayes. Let the amendment be again read. That will explain itself.

The amendment was again read.

Mr. Hayes. I do not care about the question of weight; but I thought that would be small enough.

Mr. Richardson of Tennessee. I move to strike out "two" and insert "one."

Mr. Hayes. I accept the amendment. That is entirely satisfactory.

The Chairman. The Chair understands the gentleman from Iowa to modify his amendment?

Mr. Hayes. I do.

Mr. McMillan. I was going to ask the gentleman where it varies from the present law? We now have the right to send letters to the heads of Departments.

Mr. Hayes. Yes; but there is no provision in the law for sending what you get from the Departments to those for whom you make the inquiry; and the return letters are not sent in all instances. They are generally from the Pension Office, but not from the other Departments.

Mr. McMillin. But we have a stationery account now. That was given originally in lieu of the franking privilege, as I understand it.

Mr. Hayes. That is very true; but this does not give full franking privilege. It simply gives a very limited amount, so far as weight or bulk is concerned, and refers entirely to departmental and official business.

Mr. McMillin. But what I was calling the attention of the gentleman to was that when the franking privilege was abolished the present stationery account was given in lieu of that, as I have been informed, although I have not made an examination of the fact.

Mr. Hayes. There is no doubt about that.

Mr. McMillin. And the stationery account remains still if this amendment is adopted.

Mr. Hayes. There is no reason to change that, because this only relates to letters from the Departments; and the franking privilege was for all purposes. I do not know how true it is; but to illustrate what was said about the franking privilege, I have heard it said a dozen times that members used to send their washing home under the franking privilege. [Laughter.] Perhaps that was really meant as an illustration of the extent to which it was used.

Mr. McMillin. Congress cut off the washing, but gave $150 of stationery account. Now, are we to add the washing? [Laughter.]

Mr. Hayes. No; it simply applies to letters such as relate to departmental and official business; and it seems to me that there can be no objection to the amendment.

Mr. Oates. If the gentleman from Iowa will permit me. As I understand, the franking privilege was abolished by Congress because it was very much abused. It had been carried to a ridiculous extreme; then we have gone to the other extreme, and allowed $150 on stationery account.

Mr. Hayes. I think the gentleman is right in both propositions, and this is just to rectify the matter.

The Chairman. The Chair will direct the attention of the gentleman from Iowa to the reading of the amendment.

The Clerk read as follows:

"Or to any person, correspondence not exceeding an ounce in weight."

Mr. Hayes. That is as I want it.

Mr. McMillin. This would not include a letter addressed to a constituent in connection with that business.

Mr. Hayes. Yes, sir.

Mr. McMillin. It is intended only that when you get a response from a Department to inclose it in an envelope and send it to the party?

Mr. Hayes. That is the way I illustrated it; that it was governmental and official business.

Mr. Sibley. Would it preclude me from inclosing a letter in respect to the official and departmental business?

Mr. Hayes. I think it would not, under the ruling that was made in the case of the gentleman from Massachusetts, by the Assistant Attorney-General.

Mr. McNagny. He held just the other way.

Mr. Hermann. Had the Commissioner of Pensions the right to make that rule?

Mr. Hayes. I am speaking of the ruling of the Assistant Attorney-General, in which he held that he had the right to send that letter.

Mr. Hermann. Is it under that clause of the law that permits members of Congress to avail themselves of this particular privilege?

The Chairman. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. Hayes. Division.

The committee divided, and there were—ayes 42, noes 40; so the amendment was agreed to.

The Postal Laws and Regulations of the United States of America

(Compiled, revised, and published in accordance with the Act of Congress approved March 3, 1891)

CHAPTER 13—OF FREE MATTER

Of matter to be franked

Sec. 362. Congressional Documents.—That from and after the passage of this act Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send and receive through the mail, free, all public documents printed by order of Congress; and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named herein until the first Monday of December following the expiration of their respective terms of office. (Act of March 3, 1879, part of § 1; 20 Stats., 356.)

Sec. 363. Congressional Record.—That from and after the passage of this act the Congressional Record, or any part thereof, or speeches or reports therein contained, shall, under the frank of a member of Congress or Delegate, to be written by himself, be carried in the mail free of postage, under such regulations as the Postmaster-General may prescribe. (Act of March 3, 1875, part of § 5; 18 Stats., 343.)

Sec. 364. Seeds and Agricultural Reports.—That seeds transmitted by the Commissioner of Agriculture, or by any member of Congress or Delegate receiving seeds for distribution from said Department, together with agricultural reports emanating from that Department, and so transmitted, shall, under such regulations as the Postmaster-General shall prescribe, pass through the mails free of charge. And the provisions of this section shall apply to ex-members of Congress and ex-Delegates for the period of nine months after the expiration of their terms as members and Delegates. (Act of March 3, 1875, § 7; 18 Stats., 343.)

Sec. 365. Special Grants of Franking Privilege.—All mail matter carried to the following-named persons, or sent by them under their respective written autograph signatures, will, in pursuance of the acts respectively referred to, be conveyed free of postage during their respective natural lives; namely:

Lucretia R. Garfield, by act of December 20, 1881 (22 Stats., 1).

Julia D. Grant, widow of the late President, Ulysses S. Grant, by act of June 28, 1886 (24 Stats.).

No signature or mark is necessary to the free carriage of mail matter to either of the above-named persons. The address is sufficient.

Sec. 366. Regulations of Franking Privilege.—No matter can be transported under the franking privilege unless admissible to the mails under the provisions of chapter 11. To entitle to free carriage the word "free" should be printed or written and signed with the name and official designation, if any, of the person entitled to frank it, on the address face of the package, except in case of matter addressed to the persons named in the preceding sections. In the case of the Congressional Record the name of the Senator, member, or Delegate must be written by himself; in other cases the name may be written by anyone duly deputed by him for that purpose. A Senator, member, or Delegate who holds his certificate of election is entitled to the franking privilege from the commencement of his term.

All franked matter may be forwarded like any other, but such matter, when once delivered to the addressee, can not be remailed unless properly franked again. A bulk package of franked articles may be sent to one addressee, who, on receiving and opening the package, may place addresses on the franked articles and remail them for carriage and delivery to the respective addresses.

"So far as foreign countries are involved, the "frank" is good only for articles for Canada and Mexico."

"That the members and members-elect of Congress shall have the privilege of sending free through the mails, and under their frank, letters to any officer of the Government when addressed officially." (Act of March 3, 1891, 26 Stat., 1079.) Post Office Approp. Bill, ch. 547-8.

In carrying out this enactment, which is now operative, the following rules must be observed:

1. The privilege conferred applies to members of both branches of Congress—Senators, Representatives, and Delegates—including not only those who have taken their seats as such, but those who have been elected, have received their certificates of election, and hold the *prima facie* right to seats. Senators and Representatives whose terms have expired are not entitled to the benefits of this act.

2. Letters to be entitled to free transmission under the act must in every case be addressed to a Government official—not necessarily at Washington, but anywhere in the United States—whose office title must be given in the superscription of the latter, either with or without his name. For example, "Brigadier-General Samuel B. Holabird, Quartermaster-General, U.S.A., Washington, D.C.;" "Postmaster, New York, N.Y.;" "Hon. David M. Key, U.S. District Judge, Chattanooga, Tenn." The term "officer of Government" includes only officers of United States, Senators, Members, and Delegates in Congress.

3. The name of the franking Senator, Representative, or Delegate, written or impressed, must appear on the envelope of the letter, in connection with the initial of his office, and preceded by the word "Free." For example, "Free—John R. Smith, U.S.S.;" or "Free—Richard Roe, M. C."

4. The term "letters" as used in this law means such communications as are denominated in the laws mail matter of the first class.

RETIREMENT OF THE HONORABLE DURWARD G. HALL OF MISSOURI

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DERWINSKI. Mr. Speaker, among the many Members who are retiring there is one gentleman who, I believe, deserves special commendation. I refer to our respected colleague from Missouri, "Doc" Hall.

In the 12 years that "Doc" has represented his district, he has carved out a record that will long be remembered by all of us who were privileged to serve with him. He became a master of House Rules of Procedures, a stalwart champion of the taxpayer, and a zealous defender of minority-party rights in the Congress.

But above all else, Mr. Speaker, "Doc" Hall is a truly great individual. He has a magnificent sense of humor, an appreciation of ironic and frustrating circumstances, an ability to properly disarm some of our colleagues who occasionally develop illusions of grandeur, and he is as fine an all-around Member as we have had in this era of Congress.

In addition, Mr. Speaker, I value him as a friend, adviser, and a solid, responsible statesman whose encouragement, support, and inspiration has been of great assistance to me.

I know we all will miss "Doc," but I take this opportunity to express my personal commendation and wish him well in his retirement. We will certainly maintain the friendship that has developed between us.

NATIONAL FIRE PREVENTION WEEK

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. DORN. Mr. Speaker, our dedicated and devoted, firefighters not only fight fires and save lives and property, but they also lead the way in fire prevention. They are a constant source of inspiration which properly makes them the point of admiration from young and elderly alike. Children especially respect and appreciate the fireman.

The individuals we honor during this National Fire Prevention Week are on the alert night and day, this day, and every day. They are the bulwarks of strength in any community disaster or misfortune; they constantly lend assistance to other law enforcement officials and our rescue squads and Civil Defense.

Our firefighters, both engineers and volunteers, are insurance against chaos and anarchy. They have earned the respect of the American people throughout the Nation. It is with great pride that I salute our firefighters during National Fire Prevention Week.

Mr. Speaker, I noticed this week, in my home town paper, the Greenwood Index-Journal, a splendid article on fire prevention by the noted and renowned Mrs. Abigail Van Buren. During National Fire Prevention Week, I particularly commend this superb article to my colleagues in the Congress and to the American people:

[From the Greenwood, S.C., Index Journal, Oct. 9, 1972]

Abby's Tips On Fire Prevention

(By Abigail Van Buren)

Dear Readers: Even if statistics bore you, please read this. I ran it last year and had hundreds of requests to repeat it. The information may come in handy if you're ever on a quiz show. It could even save your life:

Q. When was the Chicago fire?

A. Oct. 9, 1871. Exactly 101 years ago today!

But let's get more current, shall we? Did you know that last year more than half a million fires occurred in the United States? More than 12,500 lives were lost. Even more tragically, a large percentage of deaths were children, elderly persons and invalids who had been left alone for just a few minutes.

The chief causes of fires, in order of the toll taken, were: 1. smoking, 2. electrical wiring, 3. heating and cooking equipment, 4. children playing with matches, 5. open flames and sparks, 6. flammable liquids, 7. suspicion of arson, 8. chimneys and flues, 9. lightning, 10. spontaneous ignition.

The total fire loss in 1971 was an estimated $2.845 billion. [No misprint—that's two billion, eight hundred forty-five million dollars.]

Now for some tips that could save your life:

Be sure your cigaret is out. Matches, too. And never leave matches or lighters within the reach of children.

Don't overload electrical outlets with too many appliances.

Don't run cords under rugs or over radiators where they may get damaged. And replace a cord if it is frayed.

Never leave small children alone in the house. Not even for a few minutes.

Have your wiring and electrical installations done by a professional.

Store oily rags and paints in a cool place in tightly sealed metal containers.

Never use flammable liquids for dry cleaning indoors.

Never smoke in bed.

Have a fire drill in your home to be sure everyone knows what to do in case of fire.

Invest in a compact, easy-to-use fire extinguisher and keep it handy in your kitchen, or be a sport and buy one for your cottage, car, boat and the back bedroom, too.

Now, in case of fire:

Most fires occur between midnight and 6 a.m., so always sleep with your bedroom door closed. If you suspect fire, feel the top of the door. If it's hot, don't open it. Escape thru the window. But first alert the rest of the household.

If you can't open the window, break it with a chair. Cover the rough edges with a blanket and sit on the window ledge with one leg hanging outside and one inside, and wait for help.

The phone number of your fire department should be taped on every telephone. If it isn't, don't fumble around trying to call them. Call from a neighbor's house.

If you live in an apartment building, use the stairway. Don't take a chance on the elevator. If it fails, you're trapped.

Once out, stay out. No treasure—not even the family pet—is worth risking a human life.

It took less than three minutes to read this column. Was it worth it? I hope so. God bless. Have a good day!

Abby.

HON. CHARLES RAPER JONAS

HON. ALTON LENNON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1972

Mr. LENNON. Mr. Speaker, there is no more esteemed and respected Member of this Congress than our colleague, Charlie Jonas.

I have known and admired this outstanding fellow North Carolinian for many years. In 1946, he was the first Republican to be elected president of our North Carolina Bar Association. This honor attests to his early recognition as an able and popular leader.

As a member of the Committee on Appropriations, Charlie Jonas has earned the reputation of being efficient and responsible in weighing the fiscal needs and interests of our country. His dedication to our national welfare, his conservative and fair judgments, and high integrity have been an inspiration to Members in both political parties.

Charlie, I am proud not only of your remarkable career and contributions to your constituency and Nation, but I am also proud of our privileged personal friendship. Kay and I look forward to an even closer association with you and Annie Elliott in our retirement days ahead. You have our best wishes for years of good health and much happiness.

PANEL FINALLY RULES IN HEMENWAY CASE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. ASHBROOK. Mr. Speaker, on October 10 the Washington Bureau chief of the Des Moines Register, Mr. Clark Mollenhoff, featured a story under his byline which was of more than passing interest to myself. According to Mr. Mollenhoff, State Department sources indicated that a decision had been reached in the case of John B. Hemenway, a selected-out Foreign Service officer who has fought for over 3 years to prove, in a grievance hearing, that he was the victim of grossly unfair treatment by State Department officials involved in his dismissal. If the sources are correct, the three-man panel hearing the Hemenway case has voted 2 to 1 to reinstate the former officer of the Foreign Service. According to the Mollenhoff account, all three panel members had agreed that State's treatment of Hemenway had been unfair. The findings of the panel have not been officially released and, in any event, the final decision, made within the State Department, could still be unfavorable to Mr. Hemenway.

It was for this reason that I first introduced in 1968 legislation calling for the final ruling in such cases to be made by a panel outside of the State Department itself. The makeup of the panel called for by the legislation would consist of a chairman from the Civil Service Commission and two other members selected by the chairman of the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The Mollenhoff article, "Panel Urges Reinstating Hemenway," follows:

[From the Des Moines Register, Oct. 10, 1972]

Panel Urges Reinstating Hemenway

(By Clark Mollenhoff)

Washington, D.C.—A State Department grievance hearing panel has recommended reinstatement of John B. Hemenway as a Foreign Service officer with a one-grade promotion, according to State Department sources.

The report of the three-man panel voted 2 to 1 urge reinstatement of the 46-year-old Hemenway on grounds that he was the victim of malicious and erroneous reports by his superiors.

Phillip H. Burris, an employe of the State Department personnel office, vote against the reinstatement of Hemenway but agreed with the other two hearing officers that Hemenway had been unfairly treated, sources said.

CITES BITTERNESS

His reason for opposing the reinstatement and promotion of Hemenway was reported to be because he felt the bitterness that was caused by the Hemenway challenge to the State Department Foreign Service system would create an unsatisfactory personnel situation if Hemenway was reinstated.

Burris has worked directly under Deputy Undersecretary of State William Macomber and former State Department Personnel Director Howard Mace, who had backed the firing of Hemenway under the "selection out" procedure. They also were opposed to permitting a grievance hearing to let Hemenway air his complaints about the false reports that were used to bar him from promotion during the crucial period when promotion was required to avoid "selection out."

The chairman of the grievance panel is Paul A. Toussaint, a career Foreign Service officer. The other member besides Burris' is retired Air Force Maj. Gen. Richard C. Hagan, the judge advocate general in the Air Force Reserve who has also served as a Foreign Service officer.

The report of the hearing panel has been given to Foreign Service Director General William O. Hall, but he declined to make the report public or to give a copy of it to Hemenway or to Hemeway's lawyer, William Joyce.

Hall said the report would not be made public "until I make my decision," which he said will "require a review of the entire 18 volumes of the hearing record."

Hall declined comment on the reports that the findings were "favorable" to Hemenway, and said "it doesn't become public until I make my decision."

GIVES TESTIMONY

Hall said he is handling the case personally because Robert C. Brewster, the deputy director general and director of personnel, had "disqualified himself because of involvement" that might cause him to be biased against Hemenway.

In the more than three years of bitter controversy involved in Hemenway's fight to get a grievance hearing, he has given testimony before congressional committees in support of legislation to guarantee grievance hearings and not leave it to the whim of the personnel officers at the State Department.

In the course of that testimony, Hemenway charged that many brilliant officers are frequently fired while mediocre and unqualified Foreign Service officers are promoted because they have political connections within the Foreign Service system.

He placed much of the blame on Director General Hall, who he charged was himself the beneficiary of favoritism by the personnel office, in receiving a promotion from FSO-1 to career minister. This was "an exception" to the hard and fast rules of the Foreign Service with a special understanding that Hall's promotion was "not to be a precedent," Hemenway told a Senate committee, and he produced memoranda from State Department files to back his testimony.

Hemenway said Monday that "I understand that the report is favorable. But the State Department will not have it available to me or my attorney, which is a violation of their own recently instituted rules."

NOTES "FAVORITISM"

"If Brewster stood aside because he was prejudiced, then Hall should also stand aside, for he has been benefited by the very favoritism that I have been opposing," Hemenway said.

The Hemenway case has been a controversy since early 1969 when he was notified he was to be "selected out" of the Foreign Service because he had not been promoted in eight years.

Hemenway, a Naval Academy graduate and a Rhodes scholar, had uniformly excellent performance reports. He contended he was not promoted because of discrimination resulting from his refusal to change reports to satisfy his superiors. Hemenway also charged that he was the victim of malicious false reports that could not be sustained by the record.

Against the wishes of Macomber and Mace, Hemenway pushed for and finally won a hearing before the grievance panel. It was the first such hearing in State Department history.

After being "selected out," Hemenway was hired by the European division at the Defense Department at a slightly higher job rating than he held as an FSO-4 at State, and so was able to continue his fight for a hearing far beyond what others had found to be practical.

IS AMERICA READY FOR THE COMING AIR AGE

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BURKE of Florida. Mr. Speaker, planning for the future is a difficult job, but it must be done if development and growth are to come about in an orderly manner. Recently, on October 7, the Honorable John H. Shaffer, Administrator, of the Federal Aviation Administration, delivered a speech in my congressional district about the lack of public understanding and appreciation of the benefits of air transportation. His speech applied not only to Broward County, Fla., but to the rest of the United States as well. The following is the text of Mr. Shaffer's speech:

Remarks by John H. Shaffer

I have been looking forward to this meeting with you because I am anxious to discuss with you a tremendous education job we have before us, one that, if it is going to be done, will have to be accomplished by us, and no one else. By us, I mean the Federal Aviation Administration, aircraft owners and pilots, and aviation educators.

Let us consider the situation: since the Wright Brothers first flew at Kitty Hawk a short 70 years ago, aviation has evolved into the dominant intercity and international public carrier. Last year, commercial carriers moved more than 173 million passengers and more than 5 billion ton miles of freight. Our general aviation fleet, numbering some 133,000 aircraft, accounted for the intercity movement of another 50 million passengers while logging upwards of 26.5 million flying hours.

This, however, is just a beginning. In terms of where we are and where we are going, we are on the low part of the growth curve with airline travel expanding at the rate of 9,000 new passengers a day. We estimate that by 1985, airlines will carry 580 million passengers. We predict that within the next ten years, the general aviation fleet will have grown to more than 200,000 aircraft and will be hauling two to three times as many as the 50 million last year. The domestic fleet grows at the rate of 150 new aircraft per week. And presently we believe that air cargo, which has been growing steadily at about 15 per cent per year, will have reached 34 million tons annually by 1985, or about 12 times the current volume.

In other words, we are looking at a truly fantastic rate of growth. Although it is already a tremendous national enterprise, the U.S. aviation industry stands poised for a new surge of still greater growth. As large as we are now, we are only now entering the true air age. The first American jet flew in October 1942 and the first American commercial jet, the 707, entered service in 1958—a very few years ago in the contest of civilization's progress.

Now the question arises: are we as a Nation ready for this coming air age? My answer, at this point, is "no." And therein lies the educational challenge for both you and me.

How are we going to prepare for this new air age that is coming? For one thing, we are going to have to build some new airports, expand a lot of our existing ones, and modernize the airways system so that we can utilize it more efficiently. President Nixon and a bi-partisan Congress provided us with the means to accomplish this, with the Airport and Airway Development Act of 1970. The Act authorizes the Federal Aviation Administration to spend $5.4 billion over the next ten years for this task. Combined with matching funds from state and local agencies, this means that we will be pumping over $11 billion into the Airport and Airways system over the next decade.

But we are going to need people to man and operate this expanded system. My own work force may grow from its present 51,000 men and women to approximately 67,000. Currently, we have 350 air traffic control towers in operation, but we are going to have to add many more over the next eight years, and we are going to need the controllers to man them. We also operate 27 air route air traffic control centers and 334 flight service stations. These flight service stations provide a broad range of vital aeronautical service to general aviation, including preflight briefings, weather guidance, in-flight broadcasting about airport and navigational conditions, and even search and rescue assistance to bring lost pilots safely home. Obviously, with the huge expansion of the general aviation fleet that we foresee, we are going to have to upgrade and automate this support to meet the increased demand.

Our need, however, does not end with air traffic controllers and personnel to man the flight service stations. Keeping the support systems operating at peak efficiency, accuracy and reliability is the job—in fact the pride—of the agency's electronics maintenance technicians. And we are going to need many more of them.

Actually, we are going to need professionals in many, many disciplines: scientists, mathematicians, and engineers to blueprint tomorrow's technological support systems; lawyers, economists, and planners to assure that the public interest is served by proper regulations; biochemists, pharmacologists, physicians and psychologists to study human factors affecting flight. The list goes on and on: contract administrators, auditors, secretaries, management analysts. Scores of different specialists woven together in the FAA fabric. Each is an important profession and career in itself, but it becomes even more vital in the context of the FAA's huge aeronautical complex.

All of these people still represent only the needs of the FAA itself. What about the huge airline industry, already one of the Nation's largest employers and preparing to grow still larger? It will need many, many of these same people. Where are they going to come from? Now when I speak of an educational challenge, I am not talking about the specific training for the jobs within the FAA and the airlines. For the most part, we take care of that, as do the airlines, with in-house training.

I am speaking now about the education of the general public. Here we are on the brink of a fantastic new air age, and the general public is only faintly aware of it, if at all. And if people are not thinking about aviation, how are we going to attract them into aviation careers? If the public is not educated with regard to the value of aviation, how are we going to get their permission to build and expand those airports we desperately need? We have the money, but we can't spend it unless the local communities say they want a new airport or they want their current ones expanded or improved.

I am deeply disturbed by our failure thus far in making the public more aviation conscious. As a small example of the kind of thing I am talking about, consider the elementary school mathematics book that invariably poses the problem of the closing velocity of two vehicles moving toward one another. They are always trains and automobiles. Why not airplanes? People simply do not think today in terms of airplanes.

This is a very serious matter. Various transportation modes go through life cycles. We have seen the blooming and then the decay of both the passenger ship and the passenger train as they gave way to the airplane. We now can see that the airplane is going to be the dominant mode of long-haul passenger travel throughout our lifetimes, at least, and probably our children's lifetimes as well. But the question arises, how smart are we as a Nation going to be managing our aviation system, in utilizing it to our maximum advantage?

The public must be educated about the significance of aviation. They must be made to understand the economics of aviation, about the value of time. We have all known about the hundreds of studies that have demonstrated the increased productivity of the businessman who flies, who perhaps pilots his own plane. We know about the corporate aviation departments and the flying doctors and all the rest. But does the public know? I don't think so.

We all know about the economic studies that show how an airport generates new business for a community, how it attracts new industry and how it serves as the life-sustaining heart of a community's or region's economy, pumping people and goods through the arteries of society. But does the public know? I don't think so.

We all know the value of our general aviation system, how it serves as a critical adjunct to our commercial carrier system, how it provides the capillaries to connect with the arteries served by our commercial carriers to form the blood stream of our civilization. But does the public know? I don't think so. I would guess that when the majority of the public think of general aviation, if they do at all, they probably think of a covey of weekend pilots in sports planes.

This is not a problem of image. And it is not a problem of merely flattering our egos, that we want to be appreciated. We need the public's cooperation. If we are to prepare properly for the coming air age, we are going to need the public's understanding and its support. We need those airports. We need a continuing flow of local funds to generate FAA funds. We need an ever-growing patronage of our aviation system. And we don't need any more misguided restrictions or rebuffs from communities who do not understand the value of aviation.

For its own benefit, the public needs to better understand this air age. It needs to think of the airplane in its community planning processes, in zoning, in building codes, in land use. It needs to think of the airplane in planning its economy, in understanding how the aviation system interfaces and integrates with the rest of the economy. It needs to think of the airplane in planning the rest of its transportation system so as to avoid duplication of services and to provide maximum coordination. Individuals within our society need to know much more about aviation so as to best fulfill their own personal and business needs, so as to make the fullest and most effective use of this marvelous service that is afforded to them.

Yes, the public needs a lot of education, and we are the people who are going to have to do it. Nobody else is going to do it. It's up to us, you and me. We are going to have to do it in our schools and universities, in public meetings such as this one, and perhaps most important of all, in our person to person contacts with the general public.

Today, competition is the password. Our trillion dollar economy rests in the final analysis on our 88 million member labor force. How well that force is used today, how well that force which our young men and women are preparing to become a part of tomorrow, these are the crucial questions for our Nation. They are particularly important questions in the decade before you. This is a time of stiff economic challenge and burgeoning opportunity. For those educationally and vocationally equipped, the future is bright indeed.

The Secretary of Transportation, John Volpe, has been given a mandate. President Nixon has wisely determined that this Nation is to have an all pervasive transportation system—both air and surface, within the decade of the seventies. And we must if we are to remain a Nation that is socially, culturally and economically strong. But believe me, if we are to build this great system, and this is particularly true of the National Aviation System, American industry and your government are going to need all the professional help they can get.

It's a big job and a crucial one. But if we don't do it, we are all going to suffer the consequences, you, me and the entire Nation. I don't want that, and I know that you don't either. I'm confident that you all understand the problem. So let's get on with it.

HON. KARL LeCOMPTE

HON. WILLIAM S. MAILLIARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 1972

Mr. MAILLIARD. Mr. Speaker, I wish to extend my sincere condolences upon the death of our former colleague, Karl M. LeCompte, of Iowa. Karl was a senior Member of the House when I came here nearly 20 years ago. I will remember his kindness and helpfulness to the large number of freshmen Members in the 83d Congress.

EDUCATIONAL ASSISTANCE—AN ESSENTIAL INGREDIENT FOR EFFECTIVE PRISONER REHABILITATION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. BADILLO. Mr. Speaker, one of the greatest tragedies today is the failure by the vast majority of penal institutions and prison systems throughout the country to effectively rehabilitate prisoners or to properly prepare them for return to civilian life. A very large percentage of prison inmates are uneducated and unskilled. During the period of their confinement they are not usually afforded an opportunity to receive even a basic education or to acquire usable skills. Thus, when they are released they are hard pressed to find employment and all too often they return to crime as the only means of survival. It is for this reason that the rate of recidivism continues to remain at very high levels.

Clearly efforts must be undertaken by State officials to provide essential educational services to prison inmates. A commitment must be made not to serve simply as the caretakers of prisoners but to furnish these men and women with a well-structured and relevant educational program.

Recognition of the serious failings in this area has been recently given by a few States. In Texas, Connecticut and Illinois full-fledged school districts have been established for prisons and these institutions are or will benefit from Federal and State educational assistance programs. Massachusetts and New Jersey are taking similar steps.

A very perceptive and illuminating article on this important subject appeared in Thursday's Christian Science Monitor. I insert this article herewith for inclusion in the RECORD and commend it to our colleagues' attention as this is an area which has been ignored for far too long:

[From the Christian Science Monitor, Oct. 12, 1972]

FEDERAL FUNDS BECOME AVAILABLE—SCHOOL DISTRICTS FOR U.S. PRISONS

(By Richard C. Halverson)

BOSTON.—Willie, a 22-year-old black, couldn't even write his own name when he landed in Connecticut's Cheshire state prison.

But after just eight months of full-time schooling—which is a rarity in prison education—Willie got his reading and writing up to the third-grade level.

His crime: forgery, using tracing paper to copy signatures.

Whether he appreciates it or not, Willie is caught up in a prison reform drive intended to give more than lip service to education for convicts. Texas, Connecticut, and Illinois have already established full-fledged school districts for their prisons. A bill to establish such a school district now awaits action before the New Jersey Legislature.

And the Massachusetts Secretary of Educational Affairs, Joseph M. Cronin, is drafting a similar proposal for the Bay State.

Setting up a separate school district means that a state-prison system can qualify for millions in federal and state school aid. Texas gets about $1.3 million in state education aid, and is applying for federal education grants under various programs.

Connecticut's prison-school district is getting $86,000 this year in state aid to education, or $215 per inmate-student. More importantly, the prison-school district is getting almost $550,000 in federal funds for various remedial, vocational, and job-training education grants.

In comparison, the corrections department allots $350,000—about 2 percent of its 1972 budget of $19.9 million—for inmate education. And having a separate school district means that education funds can't be raided to pay for such things as guard overtime for riot duty, says Edmond J. Gubbins, superintendent of the Connecticut prison-school district.

EDUCATORS BROUGHT IN

Besides money, a school district means that the education profession is being brought into prison education. "The education profession has been completely divorced," Mr. Gubbins says. He is a former teacher and a public-school superintendent, rather than a career prisons official.

About 90 percent of inmates have a poor education. Nonetheless, prison education traditionally has had low priority.

Concerning the importance of education in criminal rehabilitation, U.S. Chief Justice Warren E. Burger has said, "The figures on literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner has learned to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the marketplace of the outside world to which he must some day return and in which he must compete."

Figures on Massachusetts outlays on education, however, show how low a priority inmate education gets. Of a total state prison budget of $23.9 million, $247,918 (1 percent) goes for inmate education. That amounts to $73.35 per inmate, notes a special report on prison education from Secretary Cronin.

The prison education figure is about one-tenth the average outlay per student for public education in Massachusetts.

Budgets for individual prisons paint even a more dismal picture in Massachusetts. At Bridgewater—housing the criminally insane, sex offenders, and mentally retarded—0.7 percent of its $8.2 million operating budget goes for education. That equals $47.58 per inmate.

At Walpole, the state's maximum-security prison—housing the worst offenders—0.8 percent of a $5.5 million budget goes for education, or less than $80 per inmate.

NATIONAL AVERAGE—4 PERCENT

Nationally, the outlays for education average 4 percent of a prison's budget, the Cronin report says, while the ideal goal has been set at 7 percent.

Though the vast majority of inmates are unskilled, Massachusetts spends no state money on occupational training for inmates aside from $20,500 for hiring an auto-mechanics teacher, a carpentry teacher, and a part-time barber instructor, the Cronin report says.

Federal funds for prison education in Massachusetts total $917,891, the report notes, or more than three times the State commitment to inmate education.

With a school district, Massachusetts prisons would be eligible for $1.3 million in additional federal and state aid to education, the Cronin report estimates—more than double present funds for convict education.

LEAA MONEY

A major source of federal funds for education is the state share of crime-fighting money from the Law Enforcement Assistance Administration (LEAA). The state LEAA office allots $260,000 for prison education. Of that total $60,000 goes to the Elma Lewis School of Fine Arts for "cultural and theater arts education." That amounts to $600 each for 100 inmates.

A spokesman for LEAA says that Miss Lewis, whose school specializes in African music, dance and theater, has tremendous rapport with inmates in presenting her basically cultural activities.

The Elma Lewis cultural-education program equals three times what Massachusetts appropriates for occupational training for unskilled inmates.

HONEYWELL DONATION

Another figure which shows how low a priority Massachusetts sets on job education spending is the $140,000 that Honeywell, Inc., has donated over the past five years to train computer programmers in Walpole State prison. The sum includes a $55,000 computer donated to the program, plus about $16,000 a year in services by Honeywell teachers.

Texas has been operating a school district in its prisons for three years, says John Rathke, one of its school principals. Out of some 16,000 inmates, 7,500 are enrolled in elementary and high-school programs.

The Windham School District in Texas helps 1,000 inmates a year complete their high-school education through classes leading to passing the GED test (General Education Development).

Inmates who have less than a fifth-grade education have to attend school, Mr. Rathke says. Prisoners go to school one day a week for six hours a day, he says.

Texas prisons have a reputation for being disciplined and for working prisoners extremely hard, says a legislative aide to Massachusetts State Rep. John F. Cusack (D) of Arlington, who is supporting the education move in Massachusetts.

"The new education program is making inmates a lot easier to handle in prison," says Mr. Rathke of the Texas system.

Does better prison education help criminals stay out of trouble when released?

"There has been no follow-up," Mr. Rathke says. "Statistical proof is lacking."

ILLINOIS READIES PLAN

Working with an $89,000 federal grant, the Illinois Department of Corrections is planning to open its prison-school district next July. A state law of June, 1972, gave the legal go-ahead.

A New Jersey bill to establish a school district for Garden State prisons awaits legislative action after the elections, says Salvatore J. Russoniello, deputy director of the division of corrections and parole. Again a key lure is the prospect of federal funds.

The New Jersey bill seeks $3 million in state appropriations for prison education, but Mr. Russoniello says he expects that provision to be struck out. "We want to expand the educational challenge," the prisons official says, "but we don't have the where withal."

PRAISE FOR SAVE THE BAY, INC.

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. ST GERMAIN. Mr. Speaker, Narragansett Bay has long been hailed as Rhode Island's most valuable natural resource.

It is the home of the America Cup races and has been the scene of numerous international sailing events. Its many and varied beaches ranging from heavy surf to quiet waters provide Rhode Island residents and many visitors with a delightful summer vacationland. The bay at Newport makes that city the yachting capital of the east coast.

There are few places which offer finer sports fishing or shellfishing opportunities. With its many islands and inlets and scenic waters the bay is a place of great natural beauty. It is indeed our State's most valued natural treasure.

Keeping it that way has been the daily work of a nonprofit organization known as Save the Bay, Inc., which was brought into existence to insure that the proper economic development and use of the Narragansett Bay and its environs would be consistent with preserving and protecting the natural resources of the bay.

Comprised of a membership of over 16,000 in the State of Rhode Island and adjacent Massachusetts, the organization has been hard at work with the people of Rhode Island creating a deeper awareness of the bay's rich and unique qualities and its ecological characteristics.

Save the Bay has been seriously involved in all aspects of bay activity, including sewage treatment, tanker traffic, oil transfer, electric generation, shoreline development, and boatmen's responsibilities.

Save the Bay, its offices, staff and membership have committed themselves in a serious and responsible way to the preservation and development of Narragansett Bay and have dealt with complex problems in a knowledgeable, forthright, and resourceful manner.

I feel that the people in this organization deserve to be recognized for their important and valuable work. I know that I speak for many Rhode Islanders when commending them for their initiative, their leadership, their deep concern and constant vigilance in preserving and protecting a natural resource whose value is priceless to all of us.

THE GOLDEN BULL OF HUNGARY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1972

Mr. STRATTON. Mr. Speaker, this year the people of Hungary and of Hungarian descent observe the 750th anniversary of the issuance of the Bulla Aurea, or Golden Bull, which is the cornerstone of the Hungarian constitution.

Issued 7 years after the Magna Carta of England, the Golden Bull provided a guarantee of human rights not only for the powerful barons as was the case in England, but extended that guarantee to

all landowners. As a result, a much greater part of the population of Hungary enjoyed personal liberties than did people in other medieval European countries.

What the forward-looking drafters of the Golden Bull accomplished in having the document ratified in 1222 was a limitation of the power of the king and of higher nobility. All landowners were protected from arbitrary arrest and given the right to forcefully resist the king or magnates against a violation of their rights.

To this day, the people of Hungary adhere to their belief in the basic rights espoused in the Golden Bull, in spite of the oppression of those rights by their Communist captors. The brave efforts of the Hungarian Freedom Fighters in 1956 dramatically demonstrated that spirit.

It is appropriate that on this 750th anniversary of the Golden Bull, one of the earliest formal pronouncements of individual rights, we join with our Hungarian friends in recognizing and paying tribute to the contribution the people and history of Hungary have made to the cultural development of our own great Nation and in reaffirming our commitment to the basic rights of all human beings.